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of America

PROCEEDINGS AND DEBATES OF THE 100th CONGRESS, SECOND SESSION

SENATE—*Thursday, March 3, 1988*

(Legislative day of Wednesday, March 2, 1988)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Blessed be the God, even the Father of our Lord Jesus Christ, the Father of mercies, and the God of all comfort, who comforteth us in all tribulation that we may be able to comfort them which are in trouble, by the comfort wherewith we ourselves are comforted of God.—2 Corinthians 1:3-4.

Merciful Father, full of compassion, we pray for Your gracious comfort for those among this large Senate family who are hurting.

We are grateful for Senator BIDEN's recovery. May it continue to complete restoration, and may Mrs. Biden, their family and friends, rest in Your grace.

Thank You for Abraham McPhail's successful surgery. May his recovery be rapid and total.

We pray for total health and strength for Bill Eschinger and Sean Hart. We pray for Your presence, blessing, and comfort for Officer Clinton Johnson and Bill Dietrich.

We remember Sheila Burke in the sudden loss of her mother, and ask Your special blessing upon her in her hours of grief. We pray for Doris Underwood in the hospital and pray for her recovery.

And, gentle Lord, there are probably many others of whom we are uninformed. Embrace them in Your loving care and provide in mercy and grace whatever their need.

Thank You, kind Heavenly Father, for Your unceasing care. We pray in His name who is love incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 3, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

THE JOURNAL

Mr. BYRD. Mr. President, even though the Senate did not adjourn, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEVELOPING THE IMPLEMENTING LEGISLATION FOR THE UNITED STATES-CANADA FREE TRADE AGREEMENT

Mr. BYRD. Mr. President, the Speaker of the House, Mr. WRIGHT and along with the chairman of the Senate Finance Committee, Mr. BENTSEN, and the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, engaged in an exchange of letters on February 17, 1988, with the administration's principal officials on international trade matters, Secretary of the Treasury James Baker and Trade Representative Clayton Yeutter, concerning the United States-Canada free trade agreement. Legislation must be developed to implement this highly complex agreement, and the exchange of letters was intended to establish some basic ground rules for this process.

Under so-called fast-track procedures of the Trade Act of 1974, the administration may forward legislation to the Congress to implement this agreement, and that legislation must be considered within 60 legislative days of its submission and is not amendable. Traditional practice under the fast-track has been to develop such implementing legislation jointly, in close consultation with the Congress. The administration in its letter has pledged to follow the spirit of this practice, and to work closely with this Congress to develop such legislation. The administration has agreed not to forward the legislation prior to June 1, 1988, unless there is a mutual agreement with the congressional leadership to submit it earlier.

Lastly, the congressional leadership has committed itself to disposing of the legislation before the 100th Congress adjourns sine die.

Mr. President, the preparation of the implementing legislation is going to be a complex and difficult undertaking. Six standing committees have jurisdiction over laws which may have to be amended to implement the agreement. Beyond this, there are a number of questions and uncertainties which have arisen over, first, the implications of the agreement for specific industries and sectors in the U.S. economy; second, over the precedents that are being set in the agreement for future bilateral and multilateral trade agreements; and, third, concerning the ratification and implementing procedures in Canada, particularly as between the Canadian national govern-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ment and the Canadian provincial governments.

This is a very important agreement, involving America's most important trading partner. Each year the United States and Canada exchange more goods, services, and capital than any two countries in the world. Bilateral trade goods and services exceeded $150 billion in 1986, for instance. There can be no more critical ally for the United States than our northern neighbor. It is going to take very intensive and very responsible action on the part of both the Congress and the administration to make these consultations work successfully. To that end, Mr. President, I have created in the Senate a coordinating body to serve as the focus of our efforts in preparing the implementing legislation, and to work with the administration in this effort. I have asked the chairman of the Senate Finance Committee, Mr. Bentsen, to serve as the overall Senate coordinator, and the chairmen of the other relevant five committees, including Agriculture, Banking, Energy, Governmental Affairs, and Judiciary, to cooperate closely with Mr. Bentsen. In addition, I have written Mr. Baker and Mr. Yeutter, informing them of this arrangement, and indicating that I believe the consultative process should begin immediately.

I indicated in my letter of yesterday, Mr. President, that I was concerned with a number of matters related to the Canadian agreement. These concerns are shared by a large number of Senators. I would note that the distinguished Senator from Montana, Mr. Baucus, and the distinguished Senator from New Mexico, Mr. Domenici, are leading a bipartisan effort to raise their concerns at an early stage in the process, in the hope and expectation that their concerns will be adequately addressed as the consultations with the administration proceed. Roughly a third of the Senate has now signed a letter that they have circulated in this regard.

My own State of West Virginia, for instance, is a major producer of coal and natural gas. There is not yet any certainty about the specific impact of the agreement on the American import of subsidized Canadian electricity and its implications for natural gas and coal production in the United States. The uncertainty is compounded by question marks over the future of Canadian subsidy programs under the agreement and also over the range of independence of action permitted to provincial authorities in the Canadian system.

In addition, this agreement contains a provision for binding arbitration applied to antidumping and countervailing duty cases, the first such mandatory arbitration provision in any United States trade law. It eliminates the power of judicial review of such cases by United States courts and therefore has the obvious effect of reducing United States sovereignty to make and adjudicate final decisions in trade disputes. Since the provision may well be used as a model for use in future multilateral trade negotiations, it will require very close scrutiny by the Senate.

As I wrote Messrs. Baker and Yeutter, I hope that Congress and the administration will be able to work closely together to resolve the questions which are being raised, and to develop the appropriate implementing legislation. The Senate is ready and organized for that challenging task, and I have encouraged them to begin the consultative process immediately.

Mr. President, I ask unanimous consent that the letter by me to Messrs. Baker and Yeutter, their letter to Speaker Wright and Mr. Rostenkowski, Mr. Bentsen and me, and my letter to Senator Bentsen dated March 1, 1988, be included in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate,
Office of the Majority Leader,
Washington, DC, March 1, 1988.

Hon. James A. Baker,
Secretary of the Treasury,
Washington, DC.
Hon. Clayton Yeutter,
U.S. Trade Representative,
Washington, DC.

Dear Mr. Secretary and Mr. Ambassador: Thank you for your letter of February 17, 1988, regarding the process by which you intend to approach the crafting of the legislation to implement the U.S.-Canada Free Trade Agreement. I appreciate your statement that you intend for the development of that legislation to be a "cooperative effort between the Administration and the Congress, in keeping with past practice under the fast track", and not to submit such legislation prior to June 1, 1988. We will need all of that time, and perhaps more, for this effort to be successful.

I cannot emphasize too strongly the importance of comprehensive and intensive consultations in the preparation of such legislation, and of beginning this process immediately. To facilitate it, I have today created a Senate coordinating body which will work with the Administration's representatives. I have asked Senator Bentsen, Chairman of the Senate Finance Committee, to act as the overall Senate coordinator, and the chairmen of the Agriculture, Banking, Energy, Governmental Affairs, and Judiciary Committees to work closely with Senator Bentsen in this effort. All six committees have jurisdiction over laws that may need to be amended in order to implement the agreement.

I have not taken a position on the Agreement, because it is as yet unclear to me what the actual benefits and costs will be to the United States and to my own state of West Virginia. There are also a number of unresolved questions as to the precedents that are being set in the Agreement for future trade pacts, both bilateral and multilateral, as well as the method by which Canada will ratify and implement the Agreement. The range of these complex issues is wide, and you should be aware that many Senators are concerned about the disadvantageous effects the Agreement may have on a number of American industries.

West Virginia, for instance, is a major producer of coal and natural gas. There is not yet any certainty about the specific impact of the Agreement on the American import of subsidized Canadian electricity and its implications for natural gas and coal production in the United States. This highlights a general uncertainty in the Senate over the future of Canadian subsidy programs under the Agreement. A number of my colleagues are concerned that the negotiators failed to eliminate certain trade barriers, such as subsidies, the effect of which will be to institutionalize them, and at the same time have made it more difficult for the United States to construct remedies for them.

Although it appears from a reading of the Agreement that progress was made in opening markets in some sectors, I would also point out that new energy investments on lands owned by the national Canadian government must still have majority Canadian participation. This has raised questions about the range of opportunity which will exist for Americans to make new investments in Canadian energy resources.

I am also concerned about certain basic institutional questions raised by the creation in the Agreement of a bi-national dispute settlement mechanism regarding anti-dumping and countervailing duty cases, and which eliminates the power of judicial review by United States courts. This is the first instance of binding arbitration applied to a United States international trade agreement, and, I understand, was agreed to after strenuous Canadian insistence. This has the obvious effect of reducing United States sovereignty to make and adjudicate final decisions in trade disputes, and may well be used as a model for use in future multilateral trade negotiations. The implications of this appear to be far reaching, and demand very close scrutiny.

Lastly, there seem to be serious questions regarding the procedure for Canadian ratification and implementation of the Agreement. Although the Canadian national government asserts that ratification is its exclusive prerogative, I understand that some Canadian provincial authorities disagree with that assessment.

The situation is even more complex regarding the implementing legislation. For instance, in return for a further opening of the United States market for energy imports, the Agreement would give the United States more assured access to Canadian energy resources. Such access is important for New England and in order to reduce our national dependency on insecure supplies from Middle Eastern countries. Under the agreement Canada will remove some of its current barriers to energy exports. If Canada imposes national security or short supply controls on energy exports, Canadian and American producers are to share equally in any cutback. However, many of these resources are owned or controlled by the Provincial governments. It is unclear whether the Provinces will be bound by the terms and conditions of the Agreement and its implementing legislation.

I recognize the importance of this trade agreement, and the need to develop the best possible relationship with Canada. It is my hope that Congress and the Administration will be able to work closely together to settle the unresolved questions and uncertainties which are being raised, and to develop the appropriate implementing legislation. The Senate is ready and organized for that challenging task, and I encourage you to begin the consultative process immediately.

Sincerely,

Robert C. Byrd.

U.S. Trade Representative,
Executive Office of the President,
Washington, DC, February 17, 1988.

Hon. Jim Wright,
Speaker, House of Representatives, Washington, DC.
Hon. Robert Byrd,
Majority Leader, U.S. Senate, Washington, DC.
Hon. Dan Rostenkowski,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.
Hon. Lloyd Bentsen,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

Gentlemen: We are writing to confirm our earlier conversations regarding Congressional consideration of the U.S.-Canada Free Trade Agreement implementing legislation.

Based on our conversations and understandings, the President will not forward implementing legislation to the Congress prior to June 1, 1988, unless we mutually agree to an earlier submission date. We welcome your agreement to have a vote in both Houses under the fast track no later than the end of this session and, we hope, before the August recess.

We understand fully the preparatory work necessary to make the fast track work successfully. We want and intend to live up to the spirit as well as the letter of the fast track.

Obviously, the President cannot make an absolute guarantee that he will be bound to legislation that has not yet been drafted, just as you cannot guarantee Congressional approval of such legislation. The Administration intends, however, for the drafting of the implementing legislation to be a cooperative effort between the Administration and the Congress, in keeping with past practice under the fast track.

Therefore, the Administration is committed to a process which would enable the President to submit to the Congress for approval the product of this joint effort. The Administration will accept the provisions worked out in the consultative process, provided they are consistent with the Agreement and its implementation and are appropriate to carrying out its fundamental purposes.

We greatly appreciate your efforts to enable this historic agreement to be enacted into law.

Sincerely,

James A. Baker, III,
Secretary of the Treasury.
Clayton Yeutter,
U.S. Trade Representative.

The Speaker's Rooms,
House of Represenatives,
Washington, DC, February 17, 1988.

Hon. James A. Baker, III,
Secretary of the Treasury,
Washington, DC.
Hon. Clayton Yeutter,
U.S. Trade Representative,
Washington, DC.

Dear Mr. Secretary and Mr. Ambassador: Thank you for your letter of February 17 regarding Congressional consideration of the U.S.-Canada Free Trade Agreement.

Based on the understandings contained in your letter, we commit that each House of the Congress will vote on the legislation submittted by the President to implement the Agreement, without amendment, no later than the end of this session. Moreover, we will use best efforts to expedite this process and vote in each House before the August recess, if at all possible.

Sincerely,

Jim Wright,
The Speaker.
Robert C. Byrd,
Majority Leader.
Dan Rostenkowski,
Chairman Committee on Ways and Means.
Lloyd Bentsen,
Chairman, Committee on Finance.

U.S. Senate,
Office of the Majority Leader,
Washington, DC, March 1, 1988.

Hon. Lloyd Bentsen,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

Dear Lloyd: Secretary James Baker and Trade Representative Clayton Yeutter, as you know, wrote us on February 17, 1988, indicating an intention to work in "a cooperative effort" to develop the legislation necessary to implement the U.S.-Canada Free Trade Agreement. They have also indicated that they would not forward such legislation under fast track procedures prior to June 1, 1988.

A preliminary evaluation of the Agreement indicates that there are a range of complex and uncertain issues which must be settled before Senators can make an informed judgment regarding the advantages and disadvantages of the Agreement. Furthermore, in addition to the Finance Committee, five other Senate standing committees have jurisdiction over laws that may need to be amended in order to implement the Agreement.

It is important that the Senate be well-organized to work closely with the Administration in this process, and I am appointing you to act as overall Senate coordinator of this effort. I have written today to the Chairman of the Senate Committees on Agriculture, Banking, Energy, Governmental Affairs and Judiciary, indicating that you will act in this capacity and soliciting their cooperation. Also, I have written to the Secretary James Baker and U.S. Trade Representative Clayton Yeutter outlining a number of my concerns over the Agreement and identifying you as the coordinator of the Senate effort. I have encouraged them to begin the consultative process immediately.

This is another major challenge for you, Lloyd, and I have complete confidence that you will, as always, rise to meet it.

Sincerely,

Robert C. Byrd.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is now recognized.

Mr. SIMPSON. Mr. President, I thank the Chair.

SENATE RULES DISCUSSION

Mr. SIMPSON. Today, we will go forward with our work to conclude the polygraph legislation, to begin and perhaps conclude the intelligence oversight legislation, and tomorrow go on to the Price-Anderson legislation. So rather than take my ordinarily allotted 10 minutes with regard to something extraneous, let me just preface what will take place later in the day with regard to the unanimous-consent agreement, an allocation of 4 hours toward this side of the aisle, 1 hour toward the other side of the aisle to discuss what has been described as sensitive, extraneous matter, and that is a good title for it. That is the majority leader's definition of it.

It is an issue which has to do with the use of the rules in an appropriate way, the other evening with regard to the compelling of the attendance of absent Senators, and then the use of warrants executed by the occupant of the chair or the Presiding Officer. And there is a difference in definition that should be discussed and will be.

It is an issue which has generated some very strong feelings among many, and all of those who have expressed those feelings will be speaking on the issue today. It has created, as I say, strong feelings and a sense of some confusion and conflict. So it is an issue which we will be discussing later today because it has come to our attention that several on our side feel it needs to be addressed and not wait until our return after the 1 week recess after we have had a very productive 3 weeks of activity. It is typical of the generosity and acuity of the majority leader when I express to him this burgeoning need of some on our side to unburden their very strong feelings about it. I do not say this lightly. He fully realizes that there will be some rather intense discussion, and he is fully prepared for that and will have his opportunity to share with us further at the conclusion of the time ordered.

Whatever opinion one might have regarding the events of last Tuesday night and the issuance of warrants and the arrest of Senators and the way in which it was performed—and it was done in good humor in the sense of Senator Packwood. The minute he arrived at the Chamber in his condition of apprehension, we immediately said the quorum is present and there was not a sense of outrage at that time—but we must deal with the questions that have been raised. Some of those questions have to do with procedure, and future activity. If the event were to occur again, could we clarify that? Can we define it better? It is an issue that will not go away. Some of the troubling questions will not go away. In order that we not face this same situation in the future, we should clarify our existing rules and procedures.

That is the intent of what will be in the form of a sense-of-the-Senate resolution which will be referred to this Rules Committee and, just as importantly, referred to the ad hoc committee which is informally chaired by Senators PRYOR and DANFORTH as to quality of life and the possibility of rules changes, whether it is filibustering a motion to proceed or whatever it may be. That committee will have the referral of this in an informal way.

Certainly there should be no inference that any of this is personal or vindictive. The leader used the rules in compelling the Members. The minority used the rules in not making a quorum. That is an act with regard to the will of the Senate.

So indeed none of that should be directed in a personal way toward the majority leader who acted within the rules as they are currently constituted. It is part of the sense-of-the-Senate resolution that those rules be redefined; nor should any of it be directed to the Sergeant at Arms, Henry Giugni, who carried out instructions of the Senate with extraordinary good grace and good humor in what is best described as a troublesome thing for him.

Indeed as we all know him, he is a gentle man who is also very intense in carrying out his duties as they should be carried out. He is that way. He should be commended for the manner in which he carried out what was surely a very unpleasant task for him, and yet one perfectly required to be done.

So I commend him. I have known him, and I have known his brother even longer. They are both extraordinary law-enforcement personnel. He did a very credible job without delegating that duty which could have given rise to a perhaps more contentious situation, knowing the sensitivity and the necessity to do one's duty rather than delegate.

So we will then go through this procedure. Senator SPECTER will be perhaps the lead element of our group. There are many Senators to speak, and I will share the list with the majority leader. Senator SPECTER with his incisive and sagacious mind will begin the probing of it. As I say, even though the arrest warrants of last week were within the rules as they now exist some feel that the rules and procedures should be looked at very carefully, clarified certainly, and perhaps changed so that we do not disrupt the decorum and efficacy and effectiveness of the Senate.

So that is what some will be discussing today, a proposal in the form of a sense-of-the-Senate resolution for clarification of existing rules regarding arrest warrants for Senators. I hope that will be conducted in a civil way. I am sure it will be intense. Some feel intense. That is the reason we were able to place this arrangement together so that we could avoid the intensity of disruption of Thursday and Friday, and that has been avoided.

I have much appreciation for the majority leader and his willingness to expose himself to the—whatever. And that will be again expressive of his love of the Senate, knowing that the other side needs to vent itself from time to time, and this is one of those occasions.

I thank the Chair.

I reserve the balance of my time, if there is any left.

I thank the Chair.

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished acting Republican leader. I was going to call him the Republican leader. He is here at all times, and he works very closely with this leader and certainly at this particular time he is not only the acting leader, assistant leader, but he is the leader.

Was the order entered that the distinguished acting leader on the other side of the aisle was allotted 4 hours under the control of the acting leader, and 1 hour under our control?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

Mr. BYRD. That has been done. All right. I thank the Chair. I thank the distinguished Senator.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for a period not to exceed 2 minutes.

INF TREATY WOULD MAKE NATO STRONGER

Mr. PROXMIRE. Mr. President, does the INF Treaty diminish the military security of Western Europe? The answer is a loud and emphatic "No." Quite the contrary, the treaty increases the security of free Europe. After all, what does it do? It eliminates all nuclear missiles on both sides with a range of between 300 miles and 3,000 miles. Which side would destroy the larger number of missiles under the INF agreement? The answer is that the Warsaw Pact and the Russians would destroy about three times as many missiles as the North Atlantic Treaty Organization and the United States. Would any intermediate missiles remain? Yes, indeed. France and the United Kingdom would retain their intermediate missiles under the agreement. By contrast, no member of the Warsaw Pact would retain intermediate nuclear missiles.

But would NATO as an organization have any nuclear response to a Soviet-Warsaw Pact invasion of Western Europe? You betcha. NATO is fully equipped with tactical nuclear weapons. These are nuclear warheads launched less than 300 miles from their target. Such warheads would wreck havoc on any attacking pact force, on its troop concentrations, on its supply depots, its airfields and other military concentrations. It is true that tactical nuclear weapons have never really been tested in actual combat as defensive weapons against a land attack. But the Soviets know that NATO has these weapons in spades. They know these weapons have been deployed by NATO forces. They know the NATO forces have extensively tested and experimented with them. And the Soviets know that this new weapon could utterly devastate their conventional attack.

The Soviets also fully understand that behind the tactical nuclear weapons and backing them up is a second line of NATO defense which will have no counterpart in pact force. This is the intermediate range nuclear weapons that the United Kingdom and France will retain after the U.S.S.R. as well as NATO proper and the United States have destroyed their intermediate nukes. The Soviets must fully understand that with pact forces threatening to overrun France and England, neither the United Kingdom nor France could be counted on to refrain from using their own intermediate nuclear weapons that could take out military forces deep into the Soviet Union itself. And the Soviets also fully understand that any Soviet retaliation with their strategic nuclear arsenal at any point would bring the total holocaust that would leave the civilized world a steaming radioactive and very dead corpse.

So the INF Treaty leaves NATO with as strong—in fact a stronger nuclear defense relative to the Soviets than ever. This is, first, because the Soviets will destroy more intermediate missiles. It is, second, true because only the United Kingdom and France will retain intermediate nuclear missiles. It is true in the third place because the deployment of tactical nuclear warheads by NATO forces enable NATO to make a totally new and devastating defense against any pact aggression.

In addition to all this, the excellent recent analysis of Warsaw Pact and NATO conventional strength by Senator CARL LEVIN should make it very clear to any unbiased observer that the NATO military alliance has to be rated at the very least as a standoff in strictly conventional weapons in comparison the the pact. This analysis concedes the superior number of tanks, planes, artillery and military personnel in the pact command. Senator LEVIN points out, however, that the NATO forces have a sharp advantage in the quality and modernization of weapons. NATO troops are also better trained. NATO pilots have far more flying time. Its naval personnel has much more time at sea. All NATO forces, including land forces, have been through more maneuvers to test and refine and improve performance. In addition, the NATO countries could be counted on as far more faithful and loyal allies than the sullen and resentful Eastern European Soviet allies. Also, the recent defeat of Soviet forces in Afghanistan by ill-equipped, poorly supplied rebels has exposed the weakness of the Soviet forces operating in a neighboring country and enjoying short supply lines.

In an excellent editorial on February 15, the New York Times makes many of the points in support of the INF Treaty that I have made in this speech. They also make one additional and specially impressive point. They call attention to the virtually unanimous support of the INF Treaty by the European leaders in NATO. Here, Mr. President, are the countries that are literally on the firing line. If the NATO military alliance were weakened and NATO was unable to withstand a pact attack these are the countries that would suffer. Many of their people would lose their lives. All of them would lose their freedom. The leaders of these countries know the INF Treaty makes NATO stronger. This is why, Mr. President, the Senate should promptly ratify it.

Mr. President, I ask unanimous consent that the editorial to which I have just referred be printed in the RECORD.

There being no objection, the editorial ordered to be printed in the RECORD, as follows:

THE TREATY, EUROPEANS AND THE JITTERS

What does Europe think of the treaty to eliminate Euromissiles? The answer, as the Senate weighs ratification, is clear: Virtually all West European leaders support the treaty. Some Americans say that behind the official blessings lie deep divisions and doubts. But they confuse genuine support for this treaty and equally genuine concern about the state of the alliance. Failure to ratify the treaty would only deepen those concerns.

European leaders support the I.N.F. agreement because it would leave NATO stronger, not because somebody's twisting their arms. It would eliminate a class of weapons threatening to Europe in which the Russians hold a clear superority. It is the first arms accord dealing directly with European security. Not least, it holds the door open for further diplomatic opportunities with Mikhail Gorbachev's Soviet Union. That's strongly desired by Europeans from far left to far right.

Still, Americans who insist they know the real European mind ignite charge after charge. They contend that the treaty weakens deterrence. But why? More than 300,000 American troops remain in place. So do 90 percent of U.S. nuclear weapons in Europe—4,000 warheads on various delivery systems, including bombers that can reach Soviet territory.

The critics see it all leading to a denuclearized Europe, leaving Moscow with a threatening superiority in conventional forces. But European leaders are well aware that deterrence still requires nuclear weapons on their territories and they won't be suckered into that game by Moscow. The critics maintain that the treaty will make Europe safe for conventional war. How will eliminating Soviet advantages in missiles with ranges between 300 and 3,000 miles do that? They say it will neutralize Bonn. Did Bonn feel safer when Moscow had the edge in mid-range missiles?

Reagan Administration policies have undermined European confidence in America. In its early years, the Administration unsettled Europe with talk of the possibility of limited nuclear war. Then it undercut the doctrine of nuclear deterrence with talk of rendering nuclear weapons impotent with a space shield over the U.S., not Europe. Then in Reykjavik, President Reagan proposed eliminating all ballistic missiles, having breathed nary a word of that remarkable idea to his allies.

Little wonder that many Europeans worry loudly about American thinking and the balance of strategic and conventional forces. The treaty may give a focus to this fretting. But it did not create the worries nor does it exacerbate the underlying problems. On the contrary, it strengthens the alliance militarily and demonstrates its political strength. In the face of dire Soviet threats, Europeans went ahead with deployment of the U.S. Euromissiles, and through the alliance's steadiness, brought about the agreement to destroy all such missiles.

The Senate will serve both the alliance and the ratification process best by doing what the treaty's critics fail to do: take the treaty on its merits—and the Europeans at their word.

POLYGRAPH PROTECTION ACT

Mr. SPECTER. Mr. President, although I strongly support this bill, I am voting against cloture at this time because I strongly believe such a procedure establishes an attitude of undue rush to judgment by the Senate.

This bill was called for floor action 2 days ago on the afternoon of Tuesday, March 1. The bill was considered by the Senate for only a few hours that afternoon and a cloture motion was filed the same afternoon without any indication of a filibuster or extensive debate.

Extended discussion is unnecessary to emphasize the importance of debate, appropriate consideration and the Senate's deliberative process. That does not occur when a cloture motion is filed virtually contemporaneously with a bill's reaching the Senate floor.

Yesterday, on March 2, amendments were considered with a 10-minute time limitation so that each side had 5 minutes for the presentation of arguments. That rush-atmosphere is hardly conducive to appropriate consideration.

An amendment was considered yesterday on their bill expressing the sense of the Senate to oppose a $400 million loan from the World Bank to Mexico to establish a steel industry. Debate on that important matter was limited to 15 minutes, slowing the prevailing attitude that the Senate should rush to judgment on such important matters. That procedure, in my judgment, is most unwise and the Senate should take the time which it needs to give appropriate consideration to such issues.

Accordingly, I believe that it is unwise to establish a practice for premature resort to cloture. The Senate has ample time to consider these matters.

On Monday last, 6 hours of debate were set on a resolution which, most agreed, did not require that much time. In any event, the 6 hours were not used.

There is ample time during the course of the workday for the Senate to be in session to give appropriate time to consider issues like the pending bill and the World Bank loan. Accordingly, while I strongly support the pending substantive legislation, I am equally strongly opposed to this cloture practice and believe the Senate should reject it.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I simply take a moment to remind all offices that the rollcall vote on the motion to invoke cloture will begin at 9:30 a.m., some 5 minutes from now. That will be a 30-minute rollcall vote and the call for the regular order will be automatic at the conclusion of the 30 minutes.

So if there are any offices that are listening and I am sure there are, I suggest that they make preparations for reminding all Senators that the vote is rapidly approaching.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be closed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the mandatory quorum was waived. So I will not suggest the absence of a quorum. Morning business has been closed.

The ACTING PRESIDENT pro tempore. The majority leader is correct.

Mr. BYRD. Very well.

Mr. President, I suggest what I intend to be a short quorum, and if no Senator objects to the calling off of this quorum, it will be a short quorum. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

POLYGRAPH PROTECTION ACT OF 1987

The ACTING PRESIDENT pro tempore. Under the previous order the hour of 9:30 o'clock a.m. having arrived the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators in accordance with the provisions of Rule XXII of the Standing Rules of the Senate hereby move to bring to a close the debate upon the committee substitute to the bill S. 1904, Polygraph Protection Act of 1987.

Senators Edward M. Kennedy, Howard Metzenbaum, Brock Adams, Lowell Weicker, Patrick Leahy, John F. Kerry, Tom Harkin, Thomas Daschle, Orrin G. Hatch, Don Riegle, Christopher Dodd, Barbara A. Mikulski, Timothy E. Wirth, J.J. Exon, Dale Bumpers, and Robert Stafford.

VOTE

The ACTING PRESIDENT pro tempore. By unanimous consent the quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the committee substitute to S. 1904, the Polygraph Protection Act of 1987, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. DOLE] is necessarily absent.

The PRESIDING OFFICER (Mr. DIXON). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 77, nays 19, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—77

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Stafford
Stennis
Weicker
Wilson
Wirth

NAYS—19

Cochran
Garn
Gramm
Hecht
Helms
Karnes
McCain
McClure
McConnell
Nickles
Pressler
Quayle
Specter
Stevens
Symms
Thurmond
Trible
Wallop
Warner

NOT VOTING—4

Biden
Dole
Gore
Simon

The PRESIDING OFFICER. On this vote, the yeas are 77 and the nays are 19. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

POLYGRAPH PROTECTION ACT OF 1987

The Senate continued with the consideration of the bill S. 1904.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, may I ask a question of the distinguished acting Republican leader? Included in the order last evening was a provision to allow for up to three amendments to be called up from the other side of the aisle. What are the prospects, may I ask of the distinguished acting Republican leader, on that matter?

Mr. SIMPSON. Mr. President, I would advise the majority leader that the Senator from Texas has indicated to me that he would not be presenting those amendments. He will withdraw those amendments. Perhaps the Senator from Texas wishes to comment upon that.

Mr. BYRD. I yield.

Mr. GRAMM. If the distinguished majority leader would yield.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I had a discussion this morning with the distinguished Senator from Massachusetts, a discussion dealing with the area of the pharmaceutical industries. He gave me assurances that would be dealt with, and based on that, we are not offering additional amendments.

Mr. BYRD. I thank all Senators. I ask unanimous consent that no further amendments now be in order, which would leave the debate time in position for Senators to speak on the matter. I believe it is 40 minutes equally divided.

Mr. SIMPSON. That is correct.

Mr. BYRD. I thank the acting Republican leader, and I thank all Senators, particularly the Senator from Texas [Mr. GRAMM] and the Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, I know the Senator from Utah wants to speak on this bill. We just had a vote. We will be glad to do whatever the leadership wants, as long as we wind up the consideration, have third reading, and have the vote after that. I imagine that will be in a short period of time.

Mr. BYRD. Very well. Mr. President, shall we count on the full use of the 40 minutes?

Mr. KENNEDY. Mr. President, I think it will be less. I plan to speak just briefly, 4 or 5 minutes. The Senator from Utah wants to speak for 4 or 5 minutes. He is at the Judiciary Committee now, and he wanted to be notified.

I do not believe anyone has contacted us on our side. I think most of those who wanted to speak have spoken.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The acting Republican leader.

Mr. SIMPSON. Mr. President, let me suggest, if I may, 20 minutes are allocated on our side, the side in opposition to the bill. Senator GRAMM has a conflict, and perhaps if he goes forward for 5 minutes and perhaps if Senator KENNEDY would like to go forward, we can do it a bit in reverse. We can have Senator QUAYLE speak in opposition, and then yield back.

Mr. KENNEDY. Fine.

Mr. BYRD. Mr. President, for the time being, I believe the Senators would prefer to leave the 40 minutes in place, if it is needed. It may not be needed, and the respective offices on both sides should take that into consideration, that the vote on final passage may occur earlier than anticipated.

The PRESIDING OFFICER. There remain 40 minutes of debate evenly divided on the bill.

Mr. KENNEDY. Mr. President, I would be glad to yield such time as the Senator from Texas desires.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I will be brief. We have debated this bill now for several days. I think Members at least have come to a conclusion as to where they stand on it. I for one think the issues are not as clear as I wish they were.

No one believes that polygraphs are an infallible tool in ferreting out information. I think one thing that we have all come to understand is that the polygraph is a very dull tool. It is a procedure that has inherent problems, and I think, quite frankly, all of us are concerned about the intrusive nature of the polygraph examination in terms of putting people under stressful situations and creating the potential that people are going to turn up negative tests when, in fact, they are telling the truth.

I think everyone in this great body is concerned about the impact on people who test negative and who are affected by it. I think also there is real and legitimate concern about how the tests are administered. But I feel this bill goes far beyond the response that is justified by these concerns.

What a great paradox it is that we go on at great length about the problems with the polygraph exam, and we take steps that deny the private sector the right to use it in prescreening and severely restrict its use, under any circumstances, for the private sector, and yet we totally exempt the Federal Government, State governments, and local governments.

It is as if what government does is so important, so critical to the future of the Republic, that we are forced in government to use dull, inefficient, intrusive tools, but the private sector is so insignificant, so irrelevant to the future of America that the sector of the economy that pays the bills and pulls the wagon is excluded from the use of a tool which government clearly finds in some circumstances indispensable.

I know the distinguished Senator from Massachusetts feels strongly about the use of polygraph. He has spoken with great effectiveness about the inherent problems with the test. I would like to remind my colleagues that with all the problems we have with polygraph, polygraph is used by all of the intelligence agencies that work on behalf of our Nation.

We found out one thing clearly from the Walker spy case, and that is, if the Soviet Union viewed polygraph in the same way that the GAO study viewed it, they clearly have not shown it in terms of their policy because they told Walker: "You are so important to us that we don't want you to put yourself in a position where you have got to take a polygraph examination."

So do I think there are problems with private use of polygraph today in the Nation? Yes. But I think we are going too far, for all practical purposes, in excluding the use of polygraph for prescreening and so severely limiting it in other uses as to render it virtually ineffective.

I think there are many uses. Whether we are talking about polygraph for people who are flying airplanes, driving trucks and buses, driving trains, where drug tests have an inherent problem that if you are not using the drug at the time you are given the test it does not show up, I for one am loath to preclude the use of this test, imperfect though it be.

Forty States have responded to the problems discussed here. It is not as if no other element of government has become concerned about this problem. I, for one, do not understand why suddenly this is a Federal problem. I happen to believe that the State that I represent, the great State of Texas, is perfectly competent in setting standards for the use of polygraph, whether it is being used to detect whether airline pilots are using cocaine or whether it is being used to determine where convenience store cash register operators are stealing from the company and therefore stealing from the people who are buying milk, bread, and eggs from the store.

I think the State of Texas is competent to determine what kind of standards ought to be used, in using polygraph, to ask people who are going to work in day care centers whether or not they have ever been indicted or convicted for child molesting.

Now, I know that there are always other ways of going back into all these records. I am not saying that a failed polygraph examine is in and of itself proof of anything other than a failed polygraph examine, but at least it allows you to then go back and look at the records more carefully. I think this bill goes too far. I think it unnecessarily and unreasonably tramples on States rights and I urge my colleagues to vote no.

Do I think this bill is going to pass? Yes, I do. Do I think, given the fact that the House has already cast a vote that would sustain a Presidential veto, that the President may look at the final product and decide that this is not the way to go and veto it, and therefore the vote would be on sustaining that veto, I do not know whether that is going to happen or not, but I think it is a clear possibility. If we get a substantial vote here, I think that gives the President more leeway to look at this bill.

I do not believe this is a wise bill. I do not think it is in the public interest. I do not think it balances the rights of people who do not want to take polygraph examination with the rights of people who do not want someone using narcotics while they are flying planes or driving buses or driving trains. There ought to be some reasonable compromise. If the problem is with private sector testing and the procedures, perhaps we need some Federal guidelines. But to come in and simply outlaw prescreening, to so severely limit the use of polygraphs for the private sector when we in no way affect the ability of the public sector, it is as if we are not concerned about privacy and the rights of people. If those people happen to be working in wild flower research at the Department of Agriculture, suddenly we are not concerned about their rights and the problems with this test. If they happen to be working as security guards at a bank or if they happen to be working in child day care centers or they happen to be flying an aircraft, suddenly we are concerned that no one should have a right to ask them a question and have some ability to determine whether they are answering that question honestly so that they might look behind that question. So I know there are those who are concerned about abuses, and so am I. But one abuse does not justify another.

In my humble opinion this bill is not in the public interest. I urge my colleagues to vote no.

I reserve the remainder of my time.

Mr. President, I am not sure who controls time on this side. I think it was equally divided.

The PRESIDING OFFICER. That is correct.

Mr. GRAMM. I would like the distinguished Senator from Indiana to control the time since I have to leave the floor.

The PRESIDING OFFICER. The Senator from Texas has yielded the floor. Who yields time?

The Senator from Indiana controls the time in opposition. Who yields time?

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Indiana is advised there are 11 minutes and 8 seconds remaining on his side. The Senator from Indiana is recognized for such time as he may need.

Mr. QUAYLE. I yield myself 8 minutes.

Mr. President, first, I congratulate the chairman of the committee, Senator KENNEDY, on the legislation before us. He and Senator HATCH have fought valiantly, and I think that they will in fact have an overwhelming vote. There was friendly but adversarial discussion on this bill.

My opposition goes to this bill on two fundamental points. One, I do not believe that the Federal Government should involve itself in something in which the State governments and State agencies are doing quite well. It has been pointed out that a number of States which in fact already have either a ban or requirements on polygraphs are taking it very seriously. I think this is the beginning of getting into preemployment screening, and I do not know where it is going to end.

Once we start with lie detectors, we will get on to perhaps drug testing, although the Senate went on record yesterday saying it would not do that. But drug testing is not reliable in many cases either. We will get into all sorts of other preemployment things, perhaps like the preemployment psychological tests that some might say are harassing or intimidating. Once the Federal Government starts down this road, I do not know where it will end.

As far as principle, I think that is a very fundamental point that I simply cannot overcome in trying to support this bill, even though I, like others, have a great lack of confidence in lie detector tests. I cannot help if employers want to rely on information that is not valid. If they want to make dumb mistakes, I do not think it is the role of the Federal Government to clear up those mistakes.

Second, I do believe there is a tinge or perhaps a bit of hypocrisy in this bill. What we do is say it is OK to do in certain instances, particularly for the Federal Government, but it is not OK for the private sector. As a matter of fact, even if we would apply the standards of polygraphers for the Federal Government, that still would not be OK for the private sector. Once again we are saying that Washington knows best.

Unfortunately, I had the Washington syndrome come home last night as I was unable to attend the game but Washington beat the very capable, skillful, dedicated Indiana Pacers at the Capital Centre, devastating them. Washington won out in that basketball game last night and now Washington is going to win out once again today. I could not control or influence the outcome of that basketball game. I do believe, however, we have had some impact on what Washington is going to do now to my State and to the rest of the country on this particular vote.

Mr. President, many Senators have come to me and asked how they should vote on this bill. And I am going to say now to Senators who have asked me that, if they have any desire whatsoever to vote for this bill, they ought to go ahead and vote for it. I have philosophical concerns about it, particularly the Federal preemption and the Federal Government getting involved in something I do not believe it should, and I do not know where that road leads us, but I say this is going to be construed more as a political vote.

It is very important to some political constituencies. I know that organized labor has this very high on their agenda. To many of the so-called civil rights groups, I am sure this will be cast as perhaps a civil liberties vote.

So I would say that Senators on this side of the aisle particularly that are inclined to give maybe the administration the benefit of the doubt and want to go along in case, as the Senator from Texas said, there may be a veto, I would say there is almost no chance at all for a veto. I do not think it is going to happen. Therefore, I do not think Senators, who have some concern about this and are worried about maybe not changing their vote on it when the veto comes back—there is not going to be a veto. This administration will sign this bill.

This administration a year ago opposed this bill on the fundamental philosophical point that this was an unreasonable Federal intrusion and something that was clearly relegated to the States. This year they did not. This year they set up a statement of opposition on three minor concerns that they had. This administration on this bill is caving like a house of cards. They in fact will not veto this bill. And therefore why should, unless you are just really philosophically opposed to this, you go out on a limb on something that is not politically popular, and vote in opposition to it?

So I would say to those Senators who have still not made up their mind that as far as my advice to them, if you want to vote for this bill, you have any inkling that you want to be on record on the political right side of the issue, and you do not have the major philosophical objection as far as the Federal Government, go ahead and vote for it. Do not worry about a veto. A veto is not going to happen. This administration does not have the backbone at this time to veto this bill. They will not do it. As a matter of fact, you could probably almost send anything down there under this bill, and it will get passed. They will sign it.

They may say if you go too far in conference we might not sign it. Well, there will be lots of threats, a lot of joking. But I know this administration pretty well. I deal with them, dealt with them for a number of years. And on this issue from a year ago their position has changed dramatically. They have folded up shop like a house of cards, and they will not veto this bill.

I might just say, Mr. President, that this has been a debate on what I consider to be a very minor bill. I do not consider this a major piece of legislation. I think it is a piece of legislation that did not warrant the Senate's attention. I do not think it warranted the 3 days we took on this bill. There could have been ways to delay this bill even further. We decided not to because it just simply was not beyond the few that have the philosophical opposition. So there is no use to prolong debate.

The cloture has been invoked. We can see where the votes are. There were something like 122 amendments that were filed that could have been called up in a postcloture type of filibuster. It could have gone on and on and on on a very minor piece of legislation. It could have been a very long and protracted debate but we decided there was no reason to be a Don Quixote on this, that there will be other issues that will come along that will be far more important legislation.

But even on this matter, having 120-some amendments on the desk on postcloture, spending 3 days invoking cloture, also we now have an arrangement for not putting a sense-of-the-Senate resolution on the arresting of Senators on this bill. We now have 5 hours I believe dedicated to the issue after this bill. So it became much more entangled with much more debate than it indeed deserved. But I think that these issues are important. I am still, as I said, principally philosophically opposed.

The **PRESIDING OFFICER.** The Senator's 8 minutes have expired.

Mr. **QUAYLE.** I yield myself an additional minute.

Mr. President, I am still opposed to this bill. I think the role that we are on involving ourselves in is something that has been relegated to the States properly—they have done a good job—and is something that I cannot support. I will vote in opposition to that because of the double standard I think it sets. It is a philosophical opposition that I have.

But once again, those Senators that are inclined to vote for this or trying to think this issue through, if you have any inclination at all to vote for this bill, you might as well do it. It will be signed. You will not have to face a veto because the administration will simply sign this legislation in my judgment.

I reserve the balance of my time.

The **PRESIDING OFFICER.** Who yields time? The Senator from Indiana has 2 minutes and 32 seconds remaining.

Mr. **HATCH** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Utah.

Mr. **HATCH.** Mr. President, I would like to take a few minutes to say why we are here today and why we are where we are today. After 3 days of debate and numerous amendments, we are on the verge of passing a significant change in Federal labor laws. Why? Because the bill before us, S. 1904, is a carefully crafted compromise designed to protect both individual rights and employer rights.

Mr. President, I believe my record in this body is second to none when it comes to defending the rights of the private sector. But I have been a willing participant in fighting for employee rights as well. That is why I am proud to be the lead cosponsor of this legislation along with the sponsor, Senator KENNEDY. It protects both employers and employees and does so in a manner that does not violate the other fundamental interests.

The record is fairly clear on the limitation of the polygraph. But do not take my word for it. Do not take the committee word for it. Look at the scientific record. All the scientific data indicates that preemployment polygraphs cannot—I reemphasize that word "cannot"—predict future performance. The machine was simply not designed to predict future performance.

Given this fact and the fact that more than 2 million Americans are given polygraphs every year, we know that even under the best of circumstances, with the best polygrapher doing the best test and performing the best analysis, 300,000 honest Americans are branded as liars every year. That is pure and simply wrong.

That is a stigma that they are going to wear like a scarlet letter every day of their remaining lives. Let us change the world "lies" to "careers."

The evidence also indicates that a carefully crafted polygraph test given in conjuction with an investigation can be of assistance. This bill permits all employers to use the polygraph in such instances so long as the results of the exam are not the sole basis of the resulting employment action. In other words, the bill is a reasonable and responsible attempt to focus use of the polygraph where it is likely to be the most accurate.

Mr. President, if polygraph testing is so critical to screening of felons and drug abusers, if polygraph testing was the last defense against anarchy in the workplace as the opponents on the floor have argued, then one would imagine that States like New Jersey where the polygraph is already banned would be awash in criminality. The State's economy should be devastated on the brink of collapse but of course everybody knows that it is not.

Over the last 3 years I have asked every employer organization that has met with me on this issue to pull together data, hard evidence, that demonstrates how the polygraph ban has hurt these States. To this date, I have received absolutely no data because there is none. We have also heard about how effective the polygraph is in scaring confessions out of applicants.

I do not doubt for a minute that the polygraph is a very terrifying experience. But really, is this body really ready to say that we feel it is so important for employers to be able to terrify a few applicants into confessions that we are willing to pay the price of branding 300,000 honest Americans as liars every single year? I think not. I am not willing to do that.

Mr. President, I wonder how many of my colleagues would like to take a polygraph on a regular basis. I wonder how many of them would like to take a polygraph, period. I wonder why anybody would want to take one. There are some instances where perhaps we have to utilize them. This bill takes care of those instances. But I do not think anybody wants to take them.

I wonder how many of us would like to see our chances to represent our respective States hang upon a 15-minute special polygraph given by some ill-trained, unbonded examiner of, you know, someone else's choosing.

Well, that is disturbing to me. I think it is disturbing to many other people. Of course, with that understanding, let us just welcome everybody to the real world of the polygraphing in the private sector. This bill is going to change that.

Mr. President, employers are not without tools to screen applicants. But unfortunately some, I would say the best, tools really take some time: Checking résumés, references, personal involvement in interviews, testing where appropriate, and knowing how to ask the applicant questions. These methods are still the key to hiring people. We all know that, because that is the way we hire our staffs here.

Finally, Mr. President, some have argued that the banning of free employment polygraph tests will destroy the private sector. As the ranking member of the Committee on Labor and Human Resources, I can say with great confidence that this bill is not an economy destruction bill. I can guarantee that a lot of them will come out of this committee in the future, in this year. You will be able to know when they come, because I will be right here arguing against them, and I will be arguing vociferously against them, but this is not one of those bills. S. 1904 is a carefully crafted compromise designed to protect employer rights and the rights of employees. I hope my colleagues will support this bill and give individuals throughout the Nation some needed added protection.

Mr. President, I appreciate the efforts made by our staffs on this bill, and I appreciate the leadership of Senator KENNEDY on this bill. He has been prepared and has done a terrific job, and he has explained many good reasons why this bill is important. I have enjoyed working with him and will enjoy working with him through the rest of this process.

This bill deserves to be passed for the benefit of employers and employees. It is the right thing to do.

I am sick and tired of people using this instrument in an improper way, knowing that with 15-minute quickie polygraphs, virtually all of them are not accurate.

I ask unanimous consent to have printed in the RECORD a letter from the National Federation of Independent Business and a letter from the National Restaurant Association.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, March 1, 1988.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR ORRIN: On behalf of the more than 500,000 small business members of the National Federation of Independent Business (NFIB), I want to convey our support for your efforts to delete the mandatory posting requirements (Section 4) contained in S. 1904, the Polygraph Protection Act of 1987. If a roll call vote occurs on your amendment, it will be a Key Small Business Vote for NFIB in the 100th Congress.

As our field representatives travel the country each day renewing memberships, we ask our members to respond to a survey of eight questions. The questions on the survey are changed each quarter. Though not taken from a statistically valid stratified sample, the responses are certainly indicative of the pulse of small business at the time they are taken.

On the issue of polygraph examinations, 94.7 percent of those surveyed do not administer polygraph tests to prospective employees. With regard to current employees, 93 percent do not administer polygraph exams.

Government paperwork, whether state or federal, remains a burden to small businessmen and women. The notification requirement in S. 1904 serves no useful purpose in our view. It is patently absurd to require employers to post a notice for an action they cannot take. Therefore we support your efforts to relieve small business of this improper burden.

Once again, Orrin, I thank you for your efforts on behalf of our nation's small employers.

Sincerely,

JOHN J. MOTLEY III,
Director, Federal
Governmental Relations.

NATIONAL RESTAURANT ASSOCIATION,
Washington, DC, February 26, 1988.

Senator ORRIN G. HATCH,
Washington, DC.

DEAR SENATOR HATCH: It is my understanding that Senate floor action is expected on S. 1904, the Polygraph Protection Act of 1987, in the near future. As always, thank you for your efforts on behalf of the National Restaurant Association in crafting this legislation.

S. 1904 addresses a primary concern of the business community—it preserves the ability of employers to utilize polygraphs in the event of theft or misconduct in the workplace. This bill is significantly less restrictive than the House bill proposing an absolute ban on polygraph testing, which the association adamantly opposes.

I urge your ardent protection of S. 1904 section 7(d) provisions that preserve incident-specific polygraph testing. Only if these provisions are retained during floor consideration and in conference, can the association maintain its support of polygraph legislation.

Many thanks for your continued interest in the foodservice industry.

Sincerely,

MARK GORMAN,
Senior Director,
Government Affairs.

S. 1904—POLYGRAPH PROTECTION ACT

(Kennedy (D) Massachusetts and 13 others)

S. 1904 differs in various respects from its House counterpart, H.R. 1212. The President's senior advisors have indicated that they would recommend that H.R. 1212 be vetoed. However, the Administration also strongly opposes S. 1904 unless amendments including the following are made:

Expand section 7(d) (which would permit polygraph examinations to be administered in connection with ongoing investigations of business loss or injury) to allow the investigation of serious workplace problems that threaten not only material loss, but also the health, safety and well-being of other employees;

Revise section 8 to transfer from the Department of Labor to a more appropriate agency the responsibility for establishing standards governing certification of polygraph examiners; and

Delete provisions in section 6 which would authorize private civil actions by employees or job appliants against employers who violate the provisions of S. 1904. These provisions are unnecessary given the other enforcement provisions contained in the bill.

Mr. HATCH. Mr. President, I should like to make a statement on administration policy.

While it is clear that the administration still opposes S. 1904, they have not sent us a veto threat.

I find this shift of position encouraging. I look forward to working with the administration during the conference, and I hope we can report a bill that the President will be able to sign.

Mr. President, I believe that the administration has been able to look and realize that there are some really good arguments for this particular legislation. I think they also understand that this legislation is a carefully crafted compromise among all sides and that we have worked hard to pass this legislation.

I hope that by the vote today, we send the message that this legislation deserves to become law. I will do everything I can through the remaining part of this process to see that it does.

I compliment our committee and our staff members, and certainly Senator Kennedy and others who have played an important role.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts is advised that his side has 11 minutes and 41 seconds remaining.

Mr. KENNEDY. I yield myself 8 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 8 minutes.

Mr. KENNEDY. Mr. President, as we come to the final moments of discussion of this legislation, I want to take a moment of the Senate's time. First, I wish to express my appreciation to the Senator from Utah [Mr. Hatch], who is the ranking minority member of the Committee on Labor and Human Resources, the former chairman of this committee, with whom I have had the opportunity to work closely in the shaping and the drafting of this legislation. It has been an ongoing and continuing challenge.

Senator Hatch had introduced other legislation dealing with polygraphs in the last Congress. We were unable to get floor consideration of that legislation, and we have gone back to the drafting board. We now come to the Senate and urge our colleagues to vote favorably on what we consider to be an extremely important piece of legislation that will provide a much greater degree of dignity to the American worker, fairness to the worker, and a greater sense of realism in terms of the use and abuse of polygraphs in the workplace.

Mr. President, we do not take the Senate's time lightly. We believe that this legislation is important. Over the course of this past year, we have been able to work with a number of individuals, corporations, and trade associations in the private sector in fashioning and shaping this legislation. I, for one, am very grateful for their help, their assistance, and their insights as well as for their cooperation and support. We have worked with a number of the representatives of workers who have given enormously revealing testimony of what has happened to many of them and is happening to many of them in different job sites all across this country. It is indeed a chilling story that has been revealed to us, not only during the course of our hearings but also in private conversations. We are grateful to them for their help and support.

In the past hours, we have received some information from the administration in connection with reservations they have expressed about this particular approach. We have been very much aware of the division that had existed within the administration with respect to their official position. Some of the agencies within the Justice Department, who have commented upon the value of polygraphs in the past, had differing views from the position which has been taken by the Department of Labor.

By and large, I feel that their involvement has been a constructive one; and we hope that before the ink is dry on this legislation, we might be able to persuade them, and to gain their support. I think their impact has been important and useful, but I think the legislation must come into law with or without their support. I would prefer that we have their support.

Mr. President, as we come to a final conclusion on this matter, I want to remind our colleagues why this measure is of importance. We have more than 2 million polygraphs given in this country every year, and that number has grown dramatically, almost exponentially, all across our Nation.

It is fair, I believe, in evaluating the effectiveness of the polygraph, in trying to tell the difference between truth and deception, for Members of Congress to speak on the issue. In many instances, it is a instrument which is abusing the rights of millions of workers and in many instances scarring those individuals in ways that they will remember for the rest of their lives, and that their families will remember for the rest of their lives.

We have been extremely fortunate in having the Office of Technology Assessment do a very thorough and comprehensive review of all the studies that have been done on polygraph over a period of some 18 years, right up to the most modern ones. We have a number of experts in this area. One of the most significant and thoughtful is Professor Raskin, of the State of Utah.

What we find are some undeniable truths: With the current number of polygraphs taking place in this country, there are going to be up to 320,000 individuals, workers, who will be wrongfully labeled by the polygraph. Two-thirds of those individuals will be telling the truth but labeled deceptive. What that means in terms of those families, what that means in terms of the possibilities of future employment, what that means in terms of their future is one of the most heartrending stories that affect working men and women in this country.

That problem is growing. Somehow or other even on the floor of the Senate, we have the false understanding or false impression that we are getting truth with the administration of the polygraph.

The scientific and medical information is that truth is only part of the story and a small part of the story.

We have not ruled out all polygraphs, Mr. President, and we have recognized that under certain circumstances when you have a reasonable suspicion that individuals have been involved in a specific economic loss or injury, we permit under limited circumstances the use of the polygraph. Under these circumstances, the possibility of gaining the truth is enhanced dramatically, and under these circumstances the polygraph itself will not be used solely in making the ultimate judgment in terms of the employment possibilities for that individual, without additional supporting evidence. So, we believe that we have here recommended to the Senate an equitable balance.

The PRESIDING OFFICER. I must reluctantly advise the Senator the time has expired.

Mr. KENNEDY. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 2 minutes.

Mr. KENNEDY. With this balanced bill, that has been described in the past days, we believe that we are meeting our responsibilities both to the workers and to the private sector.

Mr. President, in just making some concluding remarks, I want to remind our colleagues who are concerned about the Federal aspects of this legislation that this is an intrusion in the States, that one of the great States righters of this body and one of the great libertarians of this body was a distinguished Senator from North Carolina, Senator Ervin. No one ever accused Senator Ervin of wanting to extend the long arm of the Federal Government, but those of us who had the opportunity to serve with him know of his deep devotion to the constitutional civil liberties of this country, and it was Senator Ervin who said over a decade ago that the polygraph is "20th century witchcraft". He was right.

So, Mr. President, we understand that the polygraphs do not stop lies; in too many instances they tell lies.

It is important that we in this body are going to put the polygraph, which has been used as an instrument to intimidate and to terrify so many workers in this country, on the scrap heap, so to speak, with other instruments which have been used in the same manner in the past.

I again think that with this legislation we are going to see the day when the average worker in this country is going to be able to walk into his or her workplace with the sense of dignity and self-respect.

With this legislation, I think we are striking a blow for greater sense of decency not only for millions of workers but for American society.

I urge my colleagues to vote in favor of this legislation.

I withhold the remainder of the time.

The PRESIDING OFFICER. The Senator from Massachusetts is advised he has 1 minute and 15 seconds remaining.

Who yields time to the Senator from Mississippi?

Mr. QUAYLE. I yield the remainder of my time to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi has 2 minutes and 32 seconds.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Indiana for yielding to me. He has provided strong leadership in our committee on this issue and I commend him for that.

In looking at the proposal before us, one aspect jumps out at the Senate. Here again we are being asked to substitute Federal regulations, Federal judgment on issues such as qualifications for the performance of a job, licensing in the States, for the judgment and wisdom of State legislators and State government officials, for no good reason.

I say that, Mr. President, because in States such as mine—where for 20 years there has been a law on the books regulating the administration of polygraph examinations and the licensing of polygraph examiners—State regulation has worked very well.

While workers and prospective employees are protected, those who have a legitimate interest in the use of polygraphs as an investigative technique—the State government, city governments, police departments, other investigators—are permitted to use them because they have been shown to be useful tools in the investigative process.

One witness before our committee testified that in States where there are no restrictions on the use of polygraphs for prospective employees or those in the workplace, losses from inventory are 25 percent less than in States where polygraphs are banned, such as in Massachusetts and other States.

The evidence is clear that passage of this legislation today will increase consumer costs in many areas and increase losses in certain businesses.

Others who testified in opposition to the bill included the Jewelers of America, American Retail Federation, and others who have had day-to-day practical experience, in the workplace in selective use of the polygraph examination.

Obviously, the committee felt that the polygraph examination could be useful and was appropriate in some circumstances, since it exempted many areas of Government activity and many contractors who do business with the Federal Government.

So, in the wisdom of the Federal Government, on the one hand, the polygraph is lawful and appropriate to be used and, on the other, it is not.

I suggest, Mr. President, that we vote against this bill. Let us leave the regulation of the use of polygraphs to the States where it rightfully belongs.

Mr. FOWLER. Will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. I certainly will yield for a question from the Senator from Georgia.

Mr. FOWLER. We need the continued use of the polygraph for preemployment screening of those who handle controlled substances. The House passed by a very wide margin such an exemption to the Williams bill—by a vote of 313 to 105. Would the Senator from Massachusetts be willing to accept that language in the conference between the two bodies on this legislation?

Mr. KENNEDY. Senator HATCH and I have discussed this, we have discussed this with the other Senate conferees, discussed this with the sponsors of the House amendment, and discussed this with the principal sponsors and likely House conferees. We will be willing to agree to recede to the House conferees insistence on the amendment dealing with the employees who handle controlled substances.

Mr. FOWLER. I thank the Senator from Massachusetts, and will not offer my amendment.

Mr. DURENBERGER. Mr. President, I rise today in support of S. 1904, the Polygraph Protection Act of 1987. This bill is designed to curb the abuses of widespread polygraph testing and to protect the rights of individuals who are subjected to the lie detector test. I applaud the efforts of my distinguished colleagues from Massachusetts and Utah, Mr. KENNEDY and Mr. HATCH, in crafting a sensible, fair response to the growing misuse and abuse of polygraph examinations.

Over the last decade, private employer's use of polygraphs has increased dramatically. The American Polygraph Association estimates that approximately 98 percent of the over 2 million polygraphs given each year are administered by private employers. Only 2 percent of all tests are administered by the public sector. Mr. President, I find this fact alarming. Over 2 million tests are being given each year; yet, there are no uniform standards for polygraph machines, there are no uniform licensing requirements for examiners, and there are no uniform protections for individuals who take a polygraph examination. Up until now, the Federal Government has relied upon State legislatures to regulate the use of lie detector tests. However, I believe that the time has come for Congress to establish national minimum standards for polygraph examinations.

S. 1904 bans the use of lie detector testing for preemployment and random employee screening. Employers have increasingly been using lie detectors to test job applicants and current employees to determine character traits such as honesty and trustworthiness. However, there is no scientific evidence to suggest that a polygraph test can accurately or reliably predict the honesty or dishonesty of an individual. The polygraph test does accurately measure stress by plotting changes in three physiological responses—blood pressure, respiration, and sweat gland activity—but it cannot pinpoint the cause of stress. And because there is no physiological response unique to lying, stress caused by anger, fear or anxiety will produce the same physiological reaction as stress caused by deception.

As a result, many honest individuals are being denied employment because they have failed a polygraph exam, while many dishonest individuals are being employed because they were able to outsmart a machine or an examiner. Mr. President, polygraph examiners simply cannot identify stress caused by deception, nor can they assess such obscure qualities as honesty or trustworthiness in a 15-minute interview. Even in criminal investigations, where there is a scientific basis for using the polygraph, interviews of suspects regarding their involvement in a specific incident last at least 2 hours.

S. 1904 does recognize the scientific basis for using the lie detector test in investigations of specific incidents. The bill allows employers to use the polygraph examination when investigating an economic loss; however, the employer must meet the following requirements before requesting an examination. First, the employer must have experienced an economic loss, such as theft, embezzlement, or industrial espionage. Second, the employer must have reason to believe that the employee had access to the property in question. Third, the employer must have reason to suspect that the employee was involved in the incident. Finally, the employer must file a police report; an insurance report; or an internal statement describing the details of the situation. Once an employer has met these requirements, he or she may request an employee to take a polygraph test as long as the test does not violate State or local law, or any collective bargaining agreement.

Under the bill, an employee has the right to refuse to submit to the polygraph examination. And, his or her employer is prohibited from taking any adverse employment action based solely upon that refusal. An employer may only discipline or dismiss an employee when there is additional supporting evidence.

If an employee does submit to a polygraph examination, S. 1904 provides important protections. For example, an employee must be advised of his or her rights in writing prior to the examination, and the employee must be given an opportunity to review all questions which will be asked in the interview. S. 1904 also defines the types of questions an examiner may ask, and specifies that the employee may terminate the test at any time.

Again, once the interview is completed, an employer may not take disciplinary action against an individual based solely upon the results of the polygraph examination. However, evidence used to support dismissal may include statements or confessions made during an examination.

To protect the privacy rights of the tested employee, S. 1904 provides that the information disclosed during an examination may not be released to anyone other than the employee or employee's designee, the employer, government agencies authorized to conduct such tests, or any person authorized by a warrant to obtain such information. Because irrelevant, yet highly personal, details are often disclosed in a polygraph examination, I believe that this provision is a particularly important safeguard against the misuse of information obtained in an interview.

The final component of S. 1904 governs the regulation of polygraph machines and examiners. This legislation requires the Secretary of Labor to set minimum standards for polygraph examiners relating to conduct, competency, bonding, instrumentation, training, and recordkeeping. I believe uniform standards are necessary to ensure a minimum degree of accuracy in an already unreliable test, and to prevent employers from taking employment action based on bad results obtained from a faulty instrument or an inexperienced examiner.

Federal, State, and local governments are all exempt from the provisions of S. 1904, as are Federal Government contractors with national security responsibilities. As former chairman of the Senate Select Committee on Intelligence, I recognize the necessity of a "national security" exemption. The polygraph examination has limitations, but it does play a role in the effort to protect highly sensitive information.

Mr. President, opponents of S. 1904 use the above exemptions to argue that polygraph testing should be good enough for use in the private sector if it is good enough for use in the public sector. I don't buy this statement, because the Federal Government has in place very strict rules governing lie detector testing. For example, the Federal Government trains its own examiners, defines who can be tested, and prohibits the denial of employment based solely on the results of a polygraph. In general, Federal Government uses the lie detector test as only one component of an extensive background investigation.

Because S. 1904 sets minimum national standards for use of the lie detector test, this bill will only affect States which have no polygraph regulations or have less strict laws. Therefore, in States where use of the lie detector test has been banned, such as my home of Minnesota, S. 1904 will have little effect.

Mr. President, I would also like to express my support for the amendment offered by my distinguished colleague from Ohio, Mr. METZENBAUM, on an issue unrelated to polygraph testing. My colleague's amendment, which I am pleased to cosponsor, expresses this body's opposition to the proposed $400 million World Bank loan to the Mexican steel industry. The World Bank has proposed to lend Mexico $400 million to restructure and modernize an inefficient steel industry. However, I cannot understand how this loan will assist economic development when there is already an excess capacity of world steel production. Mexico will be unable to repay its World Bank loan and unable to repay its loans to American banks if it cannot sell steel. And although I agree that it is in the best interest of the United States to promote growth in the Mexican economy, I do not believe that a $400 million loan to the Mexican steel industry will provide steady jobs and stable growth. This loan will only put Mexico deeper into debt and will further harm an ailing United States steel industry. I urge my colleagues to send a strong message to the World Bank that it should reject the proposed loan to Mexico.

Mr. President, I support S. 1904 because I believe that American workers need protection from the widespread abuse and misuse of the lie detector test. The bill crafted by my colleagues from Massachusetts and Utah is a sensible and balanced response to a growing problem, and it has broad support in both the public and private sectors. I am pleased that S. 1904 is being considered by this body. I urge all of my colleagues to support the Polygraph Protection Act of 1987.019060

Mr. KERRY. Mr. President, I support S. 1904, the Polygraph Protection Act of 1987. I believe that this legislation represents an appropriate balance of the interests of employees and employers, and is a reasonable and fair solution to the problems inherent in widespread polygraph testing. This bill has bipartisan support, and also has support from labor, business, and civil liberties organizations. As a member of the Labor Committee in the 99th Congress, I cosponsored similar legislation. I commend Senator KENNEDY for bringing this bill before the Senate.

I oppose the use of polygraphs in preemployment screening, which this bill would prohibit. This bill does not prohibit the use of polygraphs in post-employment investigations of economic loss, with appropriate safeguards. This is a reasonable and balanced approach. The bill contains appropriate exemptions where they are needed, and I oppose the attempts of some to carve out additional industry exemptions. This legislation does not need amendments to cater to specific special interests, beyond the carefully crafted amendments included in the bill as amended by the Senate.

S. 1904 already has the support of a number of organizations which opposed other polygraph bills, including the American Association of Railroads, the American Bankers Association, the National Association of Convenience Stores, the National Grocers' Association, the National Mass Retailers Institute, the National Restaurant Association, the National Retail Merchants Association, and the Securities Industry Association.

The use of polygraphs has tripled over the past 10 years. As industry reliance on this device grows, Congress has an obligation to decide whether the use of this tool constitutes an infringement of the rights of employees and prospective employees. I believe that polygraph use in preemployment screening, because of questions about its reliability as well as the possibility of abuse, constitutes such an infringement.

The polygraph instrument, sometimes called a lie detector, cannot actually detect lies. It is wholly dependent on a subjective reading by a polygrapher. A 1983 OTA study by Dr. Leonard Saxe of Boston University concluded that lies were detected between 50.6 percent to 98.6 percent of the time, and that true statements were correctly classified between 12.5 percent and 94.1 percent of the time. That represents not much better than a toss of the coin in many instances. These statistics refute the use of the polygraph as a means of judging the veracity of a subject.

As a prosecutor in Massachusetts, I found the polygraph to be sometimes a useful tool in criminal investigations. I am pleased, therefore, that this legislation contains an exemption for Federal, State, and local governments as well as for contractors doing sensitive defense work. I also believe that an exemption for private employers in the areas of armored-car personnel, security alarm systems, and other security personnel is warranted as a law enforcement tool, in conjunction with other law enforcement measures.

But of the estimated 2 million people a year who are administered polygraph tests, 98 percent of them are given by private business, with 75 percent of those tests being given for preemployment screening.

The OTA study concluded that "the available research evidence does not establish the scientific validity of the polygraph test for personnel screening." Yet the increasing amount of preemployment testing means an increasing number of our citizens who are dependent on the results of this often unreliable machine. American courts cannot compel defendants to take these tests, and employers should not be able to mandate the test as a condition of employment.

I also have other concerns about the use of the polygraph as a tool of intimidation. A Florida polygrapher noted that the polygraph was "the best confession-getter since the cattle prod." Many polygraphers say that the bulk of their confessions take place just prior to the actual examination when the subject is told about the high accuracy of the machine. They believe that the specter of an infallible lie detector causes people to confess rather than be caught by the machine. This technique is unfair to prospective employees, who are not guilty of any crime, and is more reminiscent of the methods of a totalitarian country than of the United States of America.

For this reason I have opposed efforts to add an exemption to this bill for voluntary polygraph examinations. I have serious questions about how voluntary these tests would actually be in many instances, given the balance of power between employer and employee and the inherent potential for coercion in a so-called voluntary test. I have also opposed other efforts to open up loopholes in this bill by granting exemptions for specific industries. Given the unreliability of polygraph testing, particularly the 15 minute quickie tests given in many commercial and industry situations, these tests are unwarranted, unnecessary and unfair.

The State of Massachusetts long ago banned the use of the polygraph for employment purposes. In 1959, we became the first State in the country to bar its use in employment. As is well known, the economy of Massachusetts has thrived without the use of this device in industry. Merchants and industries in Massachusetts have not suffered the huge losses that some have alleged would take place with a polygraph ban. I am told that some national companies which operate in States like Massachusetts, or the 20 other States that ban or restrict polygraph use, do test prospective employees out of State on a regular basis. This bill would end this wholesale circumvention of our State laws.

This is an important and timely piece of legislation. Last year, we celebrated the 200th anniversary of our Constitution. This year, let us remember that the Constitution is a living document, and let us protect the constitutional rights of American workers. I am pleased to join with my colleagues in supporting the passage of S. 1904.

Mr. MATSUNAGA. Mr. President, I rise to urge my colleagues to pass, as amended, the Polygraph Protection Act of 1987. As reported by the Labor and Human Resources Committee the bill strikes a delicate balance between protecting the rights of employees and ensuring that employers have appropriate means to protect their businesses in cases of specific illegal incidents.

Mr. President, the polygraph test is administered over 2 million times each year. In the private sector, most polygraph tests are administered for preemployment screening purposes of random tests of employees. The test measures changes in blood pressure, respiration patterns, and perspiration. The test does not measure deception. Changes in these physiological conditions may also indicate fear, anxiety, embarrassment, or resentment rather than deception.

Mr. President, the testimony presented to the Committee on Labor and Human Resources, of which I am a member, indicates that the broad, prospective questions which are common to preemployment and random polygraph examinations are often inaccurate. The inaccuracy of polygraph examinations does not vary by industry. Although we may be particularly sympathetic to the concerns of some industries in their effort to protect themselves from unscrupulous potential employees, there is no evidence which leads us to believe that the use of polygraphs is any more effective for preemployment and random screening in these particular industries. I urge my colleagues, therefore, to avoid diluting the protections offered in this measure by adopting industry-wide exemptions to the bill.

The committee did find that a polygraph test used to investigate specific illegal incidents under strictly regulated conditions can be effective, though it is far from infallible. The bill, therefore, allows the use of a polygraph test in the course of an ongoing investigation if an employee had access to the property that is the subject of the investigation and the employer has a reasonable suspicion that the employee was involved in the incident. However, adverse action may not be taken against an employee based solely upon the results of a polygraph test; additional supporting evidence must be presented to justify such action. Furthermore, the bill requires that employees may refuse to take the examination without fear of recrimination. In addition, the bill established specific conditions under which the test may be administered and establishes minimum qualifications for polygraph examiners.

Finally, Mr. President, though many would like to leave the resolution of this issue to the States, it is clear that State regulation has not been and will not be effective. State policy on polygraph use varies widely. In fact, nine States have no laws governing the use of polygraphs. Without interstate uniformity, employers and examiners have been able to circumvent the intention of State laws, and individuals are often uncertain about the rights they may have with respect to polygraphs. It is clearly time that a uniform national policy be adopted.

Mr. President, I wish to congratulate the two principal sponsors of this legislation, the senior Senator from Massachusetts, Mr. KENNEDY and the senior Senator from Utah, Mr. HATCH. I am pleased to be an original cosponsor of this bipartisan measure to protect employees and job applicants from unjust employment actions. I strongly urge my colleagues to support S. 1904.

Mr. GRASSLEY. Mr. President, I would like to address the subject before us, namely, the use of polygraphs in the workplace.

The employment relationship is one which we, in our free market economy, value highly. Businesses, large and small, depend upon their workers to make goods and deliver services. Likewise, individuals look to employers to provide an opportunity to earn a living. A cooperative and trusting relationship between employees and employers generally creates the best environment for good profits, as well as good wages.

In regulating the workplace, Congress should strive to foster cooperation between workers and business owners. The current proposal before the Senate on polygraphs, does not, however, advance that spirit of cooperation. Rather, the legislation is a piecemeal approach to supposed-employer abuse of polygraphs.

First, the bill exempts government employers, from State and local to Federal offices. If the polygraph is so untrustworthy, why are we allowing Government officials to continue to use it? It seems to me that we in the Government, especially we in the Congress, must begin to live by the legislation we impose on private industry.

Second, the bill attempts to create a narrow situation in which an employer may require an employee to take a polygraph. But, the exception may swallow the rule. As long as an employer has a "reasonable suspicion" that an employee was involved in an incident where the employer suffered a loss or injury, the employer can order a polygraph. The only thing the employer must do is file a report, and that report can, at a minimum, be filed in the employee's personnel file.

As a result of this exception, a host of new litigation will arise. The courts will pass upon whether the employer was justified in ordering the polygraph—whether the employer had "reasonable suspicion." And, the courts will decide whether the employer filed an appropriate report about the incident leading up to the polygraph.

Finally, the bill creates a blanket prohibition on the use of polygraphs as a preemployment screening device. Before there is any employment relationship between the applicant and the employer, we are telling the employer that he may not use the polygraph as a final check on the applicant, to confirm or corroborate the judgment about the applicant.

The vast majority of employers in this country do not use the polygraph—it is costly and its value is limited. But there are industries which may find the polygraph to be worthwhile—those involved in child care, security services, financial services or narcotics, just to mention a few. The complete ban may unnecessarily limit these employers.

Clearly, the polygraph cannot be a substitute for good management and supervision. And Americans must be protected from unwarranted invasions by employers and those who administer the polygraph. The use of polygraphs may have gotten out of hand in the last few years, and while the problem needs to be addressed, I do not believe that this bill is our best step forward. I will vote against S. 1904.

Mr. METZENBAUM. Mr. President, I am an original cosponsor and a strong supporter of the Polygraph Protection Act of 1987. I want to congratulate my chairman, Senator KENNEDY, for leading this effort to correct an unjust situation facing America's workers. He is a tireless champion for the working men and women of this country and the polygraph bill is another fine example of his commitment in this area. I also want to congratulate Senator HATCH for his leadership on this bill.

It is settled that polygraph tests are not accurate "lie detectors." The American Medical Association, testifying before the Labor Committee, stated that polygraph tests "measure nervousness and excitability, not truth." Honest workers and job applicants may well be nervous when strapped to a machine and asked a series of intimidating or personal questions. We cannot have careers and reputations depending on the results of such a frightening, unscientific test. But currently there is no Federal protection for millions of workers subjected to these tests by private employers. The Kennedy-Hatch bill corrects this critical problem.

The Polygraph Protection Act strikes a careful balance. It bans polygraph use in the two areas where the results are most suspect: preemployment screening and random testing. This will eliminate the most abusive uses of the polygraph in the private sector. The bill allows polygraph use where the employer has reasonable suspicion that a particular employee was involved in an internal theft. Under such limited circumstances, polygraph tests can serve as one tool to help reduce the serious problem of internal theft.

This bill has a broad range of support from labor, civil liberties groups and a number of business associations. I again commend Senators KENNEDY and HATCH. I enthusiastically support the Polygraph Protection Act of 1987 and I urge all my colleagues to support it.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I am prepared to yields back the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts yield back the remainder of his time.

All time has expired or been yielded back.

The question is on adoption of the committee substitute as amended.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the rollcall vote is imminent and the order was entered last evening making the call for the regular order automatic at the conclusion of 15 minutes. Therefore, I would suggest that Senators be on their way to the floor now as soon as possible.

Mr. President, I take a minute just to compliment and thank the two managers of the bill, Senator KENNEDY and Senator HATCH. They have demonstrated good teamwork on this bill, good cooperation and skill in managing the bill, handling it in committee and in bringing it to final conclusion shortly. They are to be commended.

I especially, though, commend Mr. KENNEDY. He has been in considerable physical pain during this debate, yet has not asked for any special consideration. He did not ask to end the debate last night. He, as a matter of fact, was wanting to press on all the time. And so I admire him for that extra effort that he has put forth over and above the common effort that is ordinarily needed in his position as manager of the bill.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I thank the distinguished majority leader and my colleague for his remarks.

Mr. KENNEDY. Mr. President, I ask unanimous consent that I may proceed for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I want to also thank the majority leader. We know that there is a very full calendar and there is a great deal of business for this body, and we know that there were several who had some concerns with the legislation. It is always a challenge to the leadership to try to work these matters out. I am grateful to the leader. I know I speak for all the members of our committee and, hopefully, for those who will vote in support and even those who might express some opposition.

I thank the leader very much, as well as the Senator from Utah.

The PRESIDING OFFICER. The question is on agreeing to the committee substitute, as amended.

The committee substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1212, Calendar Order No. 431, the House companion bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1212) to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce.

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and the text of S. 1904, as amended, be substituted for the House language.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the vote ordered on final passage of the Senate bill be transferred to final passage of H.R. 1212.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. DOLE] is necessarily absent.

The PRESIDING OFFICER (Mr. BREAUX). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 27, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—69

Adams
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Harkin
Hatch
Hatfield
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Weicker
Wirth

NAYS—27

Armstrong
Bond
Cochran
Garn
Graham
Gramm
Grassley
Hecht
Helms
Karnes
Kassebaum
McCain
McClure
McConnell
Murkowski
Nickles
Pressler
Quayle
Roth
Rudman
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—4

Biden
Dole
Gore
Simon

So the bill (H.R. 1212), as amended, was passed, as follows:

H.R. 1212

Resolved, That the bill from the House of Representatives (H.R. 1212) entitled "An Act to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce," do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Polygraph Protection Act of 1988".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) COMMERCE.—The term "commerce" has the meaning provided by section 3(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(b)).

(2) EMPLOYER.—The term "employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee or prospective employee.

(3) LIE DETECTOR TEST.—The term "lie detector test" includes—

(A) any examination involving the use of any polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device (whether mechanical, electrical, or chemical) that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual; and

(B) the testing phases described in paragraphs (1), (2), and (3) of section 8(c).

(4) POLYGRAPH.—The term "polygraph" means an instrument that records continuously, visually, permanently, and simultaneously changes in the cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards.

(5) RELEVANT QUESTION.—The term "relevant question" means any lie detector test question that pertains directly to the matter under investigation with respect to which the examinee is being tested.

(6) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(7) TECHNICAL QUESTION.—The term "technical question" means any control, symptomatic, or neutral question that, although not relevant, is designed to be used as a measure against which relevant responses may be measured.

SEC. 3. PROHIBITIONS ON LIE DETECTOR USE.

Except as provided in section 7, it shall be unlawful for any employer engaged in or affecting commerce or in the production of goods for commerce—

(1) directly or indirectly, to require, request, suggest, or cause any employee or prospective employee to take or submit to any lie detector test;

(2) to use, accept, refer to, or inquire concerning the results of any lie detector test of any employee or prospective employee;

(3) to discharge, dismiss, discipline in any manner, or deny employment or promotion to, or threaten to take any such action against—

(A) any employee or prospective employee who refuses, declines, or fails to take or submit to any lie detector test; or

(B) any employee or prospective employee on the basis of the results of any lie detector test; or

(4) to discharge, discipline, or in any manner discriminate against an employee or prospective employee because—

(A) such employee or prospective employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act;

(B) such employee or prospective employee has testified or is about to testify in any such proceeding; or

(C) of the exercise by such employee, on behalf of such employee or another person, of any right afforded by this Act.

SEC. 4. NOTICE OF PROTECTION.

The Secretary shall prepare, have printed, and distribute a notice setting forth excerpts from, or summaries of, the pertinent provisions of this Act. Each employer shall post and maintain such notice, in conspicuous places on its premises where notices to employees and applicants to employment are customarily posted.

SEC. 5. AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—The Secretary shall—

(1) issue such rules and regulations as may be necessary or appropriate to carry out this Act;

(2) cooperate with regional, State, local, and other agencies, and cooperate with and furnish technical assistance to employers, labor organizations, and employment agencies to aid in effectuating the purposes of this Act; and

(3) make investigations and inspections and require the keeping of records necessary or appropriate for the administration of this Act.

(b) SUBPOENA AUTHORITY.—For the purpose of any hearing or investigation under this Act, the Secretary shall have the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49 and 50).

SEC. 6. ENFORCEMENT PROVISIONS.

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—Subject to paragraph (2), any employer who violates any provision of this Act may be assessed a civil penalty of not more than $10,000.

(2) DETERMINATION OF AMOUNT.—In determining the amount of any penalty under paragraph (1), the Secretary shall take into account the previous record of the person in terms of compliance with this Act and the gravity of the violation.

(3) Collection.—Any civil penalty assessed under this subsection shall be collected in the same manner as is required by subsections (b) through (e) of section 503 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1853) with respect to civil penalties assessed under subsection (a) of such section.

(b) Injunctive Actions by the Secretary.—The Secretary may bring an action to restrain violations of this Act. The district courts of the United States shall have jurisdiction, for cause shown, to issue temporary or permanent restraining orders and injunctions to require compliance with this Act.

(c) Private Civil Actions.—

(1) Liability.—An employer who violates this Act shall be liable to the employee or prospective employee affected by such violation. Such employer shall be liable for such legal or equitable relief as may be appropriate, including but not limited to employment, reinstatement, promotion, and the payment of lost wages and benefits.

(2) Court.—An action to recover the liability prescribed in paragraph (1) may be maintained against the employer in any Federal or State court of competent jurisdiction by any one or more employees for or in behalf of himself or themselves and other employees similarly situated.

(3) Costs.—The court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

(d) Waiver of Rights Prohibited.—The rights and procedures provided by this Act may not be waived by contract or otherwise, unless such waiver is part of a written settlement of a pending action or complaint, agreed to and signed by all the parties.

SEC. 7. EXEMPTIONS.

(a) No Application to Governmental Employers.—The provisions of this Act shall not apply with respect to the United States Government, a State or local government, or any political subdivision of a State or local government.

(b) National Defense and Security Exemption.—

(1) National defense.—Nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to—

(A) any expert or consultant under contract to the Department of Defense or any employee of any contractor of such Department; or

(B) any expert or consultant under contract with the Department of Energy in connection with the atomic energy defense activities of such Department or any employee of any contractor of such Department in connection with such activities.

(2) Security.—Nothing in this Act shall be construed to prohibit the administration, in the performance of any intelligence or counterintelligence function, of any lie detector test to—

(A)(i) any individual employed by, or assigned or detailed to, the National Security Agency or the Central Intelligence Agency, (ii) any expert or consultant under contract to the National Security Agency or the Central Intelligence Agency, (iii) any employee of a contractor of the National Security Agency or the Central Intelligence Agency, or (iv) any individual applying for a position in the National Security Agency or the Central Intelligence Agency; or

(B) any individual assigned to a space where sensitive cryptologic information is produced, processed, or stored for the National Security Agency or the Central Intelligence Agency.

(c) Exemption for FBI Contractors.—Nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to an employee of a contractor of the Federal Bureau of Investigation of the Department of Justice who is engaged in the performance of any work under the contract with such Bureau.

(d) Limited Exemption for Ongoing Investigations.—Subject to section 8, this Act shall not prohibit an employer from requesting an employee to submit to a polygraph test if—

(1) the test is administered in connection with an ongoing investigation involving economic loss or injury to the employer's business, including theft, embezzlement, misappropriation, or an act of unlawful industrial espionage or sabotage;

(2) the employee had access to the property that is the subject of the investigation;

(3) the employer has a reasonable suspicion that the employee was involved in the incident or activity under investigation; and

(4) the employer—

(A) files a report of the incident or activity with the appropriate law enforcement agency;

(B) files a claim with respect to the incident or activity with the insurer of the employer, except that this subparagraph shall not apply to a self-insured employer;

(C) files a report of the incident or activity with the appropriate government regulatory agency; or

(D) executes a statement that—

(i) sets forth with particularity the specific incident or activity being investigated and the basis for testing particular employees;

(ii) is signed by a person (other than a polygraph examiner) authorized to legally bind the employer;

(iii) is provided to the employee on request;

(iv) is retained by the employer for at least 3 years; and

(v) contains at a minimum—

(I) an identification of the specific economic loss or injury to the business of the employer;

(II) a statement indicating that the employee had access to the property that is the subject of the investigation; and

(III) a statement describing the basis of the employer's reasonable suspicion that the employee was involved in the incident or activity under investigation.

(e) Exemption for Security Services.—

(1) In general.—Subject to paragraph (3), this Act shall not prohibit the use of a lie detector test on prospective employees of a private employer whose primary business purpose consists of providing armored car personnel, personnel engaged in the design, installation, and maintenance of security alarm systems, or other uniformed or plainclothes security personnel and whose function includes protection of—

(A) facilities, materials, or operations having a significant impact on the health or safety of any State or political subdivision thereof, or the national security of the United States, as determined under rules and regulations issued by the Secretary within 60 days after the date of the enactment of this Act, including—

(i) facilities engaged in the production, transmission, or distribution of electric or nuclear power;

(ii) public water supply facilities;

(iii) shipments or storage of radioactive or other toxic waste materials; and

(iv) public transportation; or

(B) currency, negotiable securities, precious commodities or instruments, or proprietary information.

(2) Compliance.—The exemption provided under paragraph (1) shall not diminish an employer's obligation to comply with—

(A) applicable State and local law; and

(B) any negotiated, collective bargaining agreement,

that limits or prohibits the use of lie detector tests on such prospective employees.

(3) Application.—The exemption provided under this subsection shall not apply if—

(A) the results of an analysis of lie detector charts are used as the basis on which a prospective employee is denied employment without additional supporting evidence; or

(B) the test is administered to a prospective employee who is not or would not be employed to protect facilities, materials, operations, or assets referred to in paragraph (1).

(f) Nuclear Power Plant Exemption.—This Act shall not prohibit the use of a lie detector test by an employer on any employee or prospective employee of any nuclear power plant. This subsection shall not preempt or supersede any state or local law that prohibits or restricts the use of lie detector tests.

(g) Nothing in this Act shall be construed to preclude the use of a lie detector test to any expert or consultant or any employee of such expert or consultant under contract with any Federal Government department, agency, or program where a security clearance is required by the Federal Government for such expert or consultant and such expert or consultant, as a result of the contract, has access to classified and sensitive Government information.

SEC. 8. RESTRICTIONS ON USE OF EXEMPTIONS.

(a) Obligation to Comply With Certain Laws and Agreements.—The exemptions provided under subsections (d) and (e) of section 7 shall not diminish an employer's obligation to comply with—

(1) applicable State and local law; and

(2) any negotiated collective bargaining agreement,

that limits or prohibits the use of lie detector tests on employees.

(b) Test as Basis for Adverse Employment Action.—Such exemption shall not apply if an employee is discharged, dismissed, disciplined, or discriminated against in any manner on the basis of the analysis of one or more polygraph tests or the refusal to take a polygraph test, without additional supporting evidence. The evidence required by section 7(d) may serve as additional supporting evidence.

(c) Rights of Examinee.—Such exemption shall not apply unless the requirements described in section 7 and paragraphs (1), (2), and (3) are met.

(1) Pretest phase.—During the pretest phase, the prospective examinee—

(A) is provided with reasonable notice of the date, time, and location of the test, and of such examinee's right to obtain and consult with legal counsel or an employee representative before each phase of the test;

(B) is not subjected to harassing interrogation technique;

(C) is informed of the nature and characteristics of the tests and of the instruments involved;

(D) is informed—

(i) whether the testing area contains a two-way mirror, a camera, or any other device through which the test can be observed;

(ii) whether any other device, including any device for recording or monitoring the conversation will be used; or

(iii) that the employer and the examinee, may with mutual knowledge, make a recording of the entire proceeding;

(E) is read and signs a written notice informing such examinee—

(i) that the examinee cannot be required to take the test as a condition of employment;

(ii) that any statement made during the test may constitute additional supporting evidence for the purposes of an adverse employment action described in section 8(b);

(iii) of the limitations imposed under this section;

(iv) of the legal rights and remedies available to the examinee if the polygraph test is not conducted in accordance with this Act; and

(v) of the legal rights and remedies of the employer; and

(F) is provided an opportunity to review all questions (technical or relevant) to be asked during the test and is informed of the right to terminate the test at any time; and

(G) signs a notice informing such examinee of—

(i) the limitations imposed under this section;

(ii) the legal rights and remedies available to the examinee if the polygraph test is not conducted in accordance with this Act; and

(iii) the legal rights and remedies of the employer.

(2) Actual testing phase.—During the actual testing phase—

(A) the examinee is not asked any questions by the examiner concerning—

(i) religious beliefs or affiliations;

(ii) beliefs or opinions regarding racial matters;

(iii) political beliefs or affiliations;

(iv) any matter relating to sexual behavior; and

(v) beliefs, affiliations, or opinions regarding unions or labor organizations;

(B) the examinee is permitted to terminate the test at any time;

(C) the examiner does not ask such examinee any question (technical or relevant) during the test that was not presented in writing for review to such examinee before the test;

(D) the examiner does not ask technical questions of the examinee in a manner that is designed to degrade, or needlessly intrude on, the examinee;

(E) the examiner does not conduct a test on an examinee when there is written evidence by a physician that the examinee is suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the test; and

(F) the examiner does not conduct and complete more than five polygraph tests on a calendar day on which the test is given, and does not conduct any such test for less than a 90-minute duration.

(3) Post-test phase.—Before any adverse employment action, the employer must—

(A) further interview the examinee on the basis of the results of the test; and

(B) provide the examinee with—

(i) a written copy of any opinion or conclusion rendered as a result of the test; and

(ii) a copy of the questions asked during the test along with the corresponding charted responses.

(d) Qualifications of Examiner.—The exemptions provided under subsections (d) and (e) of section 7 shall not apply unless the individual who conducts the polygraph test—

(1) is at least 21 years of age;

(2) has complied with all required laws and regulations established by licensing and regulatory authorities in the State in which the test is to be conducted;

(3)(A) has successfully completed a formal training course regarding the use of polygraph tests that has been approved by the State in which the test is to be conducted or by the Secretary; and

(B) has completed a polygraph test internship of not less than 6 months duration under the direct supervision of an examiner who has met the requirements of this section;

(4) maintains a minimum of a $50,000 bond or an equivalent amount of professional liability coverage;

(5) uses an instrument that records continuously, visually, permanently, and simultaneously changes in the cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards;

(6) bases an opinion of deception indicated on evaluation of changes in physiological activity or reactivity in the cardiovascular, respiratory, and electrodermal patterns on the lie detector charts;

(7) renders any opinion or conclusion regarding the test—

(A) in writing and solely on the basis of an analysis of the polygraph charts;

(B) that does not contain information other than admissions, information, case facts, and interpretation of the charts relevant to the purpose and stated objectives of the test; and

(C) that does not include any recommendation concerning the employment of the examinee; and

(8) maintains all opinions, reports, charts, written questions, lists, and other records relating to the test for a minimum period of 3 years after administration of the test.

(e) Promulgation of Standards.—The Secretary shall establish standards governing individuals who, as of the date of the enactment of this Act, are qualified to conduct polygraph tests in accordance with applicable State law. Such standards shall not be satisfied merely because an individual has conducted a specific number of polygraph tests previously.

SEC. 9. DISCLOSURE OF INFORMATION.

(a) In General.—A person, other than the examinee, may not disclose information obtained during a polygraph test, except as provided in this section.

(b) Permitted Disclosures.—A polygraph examiner, polygraph trainee, or employee of a polygraph examiner may disclose information acquired from a polygraph test only to—

(1) the examinee or any other person specifically designated in writing by the examinee;

(2) the employer that requested the test;

(3) any person or governmental agency that requested the test as authorized under subsection (a), (b), or (c) of section 7; or

(4) any court, governmental agency, arbitrator, or mediator, in accordance with due process of law, pursuant to an order from a court of competent jurisdiction.

(c) Disclosure by Employer.—An employer (other than an employer covered under subsection (a), (b), or (c) of section 7) for whom a polygraph test is conducted may disclose information from the test only to a person described in subsection (b).

SEC. 10. EFFECT ON OTHER LAW AND AGREEMENTS.

This Act shall not preempt any provision of any State or local law, or any negotiated collective bargaining agreement, that is more restrictive with respect to the administration of lie detector tests than this Act.

SEC. 11. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), this Act shall become effective 6 months after the date of enactment of this Act.

(b) Regulations.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue such rules and regulations as may be necessary or appropriate to carry out this Act.

SEC. 11. EXEMPTION FOR PREEMPLOYMENT TESTS FOR USE OF CONTROLLED SUBSTANCES.

(a) In General.—An employer, subject to section 7, may administer a scientifically valid test other than a lie detector test to a prospective employee to determine the extent to which the prospective employee has used a controlled substance listed in schedule I, II, III, or IV pursuant to section 202 of the Controlled Substances Act (21 U.S.C. 812).

(b) Exceptions.—

(1) Accuracy and confidentiality.—Paragraph (1) shall not supersede any provision of this Act or Federal or State law that prescribes standards for ensuring the accuracy of the testing process or the confidentiality of the test results.

(2) Collective bargaining agreements.—If prospective employees would be subject to a negotiated collective bargaining agreement, paragraph (1) shall apply only if testing is conducted in accordance with such agreement.

SEC. 12. MEXICO STEEL LOAN.

The Senate finds—

(1) during the past decade the United States steel industry has witnessed significant economic disruption and employment losses due to increased foreign competition;

(2) the United States steel industry has lost more than $12,000,000,000, more than half its workforce, and closed scores of plants throughout the country;

(3) in order to regain its competitive posture, the United States industry has invested more than 8 billion dollars on modernization, obtained painful wage concessions from its remaining workforce, and slashed production capacity by one-third;

(4) there are more than 200,000,000 excess tons of steel capacity worldwide, causing severe financial strains on steel industries in many countries;

(5) the proposed loan by the International Bank for Reconstruction and Development (hereafter referred to as the "World Bank") would provide Mexico's steel companies with subsidized financing to further the glut of worldwide steel production;

(6) the proposed loan could do irreparable damage to the United States steel industry, therefore, it is the sense of the Senate that the proposed loan is not in the best interests of the United States or in the best interests of Mexico's own economic revitalization; and the World Bank should reject the proposed loan.

SEC. 13. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), this Act shall become effective 6 months after the date of enactment of this Act.

(b) Regulations.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue such rules and regula-

tions as may be necessary or appropriate to carry out this Act.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATCH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I just want to say a few words about the staff who worked so hard to help us pass this legislation. Tom Rollins and Jay Harvey on Senator KENNEDY'S staff and Kevin McGuiness on my own staff all did an excellent job of putting together this compromise. I also want to thank Deanna Godfrey, Jeannette Carlile and Angela Pope on my Labor Committee staff who are so critical to my efforts on the floor. All have spent hours on this legislation and other issues, and their efforts often go unacknowledged. I hope they know how much their work is appreciated.

Finally, I would like to express my gratitude to Mike Tiner, who has lived and breathed this issue for 3 years. His efforts were key to our success.

Mr. HATFIELD. Mr. President, I ask unanimous consent to be able to proceed out of order on very important remarks for my State for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

OREGON TIMBER SALE APPEALS

Mr. HATFIELD. Mr. President, I would like to take a few minutes of the Senate's time to discuss a very serious situation that has developed in my home State over the last few days.

Beginning last Wednesday, a very small segment of the environmental community in Oregon filed appeals on 36 timber sales being reoffered for sale on the Siskiyou National Forest under the provisions of the Federal Timber Contract Payment Modification Act of 1984. Then, on the first 3 days of this week, the same group filed 189 more appeals on 3 more national forests in Oregon: 80 appeals on the Siuslaw National Forest, 41 appeals on the Umpqua National Forest, and 68 appeals on the Willamette National Forest. These 225 appeals are more than were filed on all timber sales in both Oregon and Washington during the last 3 years combined.

They were filed in spite of the fact that most of these reoffered sales were modified to improve them under the most current environmental standards.

They were filed despite the knowledge that most or all of the timber sale programs of each of the national forests involved would be delayed or completely halted, which would result in serious economic disruption through unemployment and lost Federal forest and tax receipts to local governments.

These appeals were filed despite clear evidence that it is the forest products industry that is among the leaders in Oregon's effort to move out of the economic recession that has burdened the State for nearly a decade. And of no apparent concern to the fringe. And I emphasize this, did not represent the mainstream of environmental organizations. But a fringe environmental group precipitating this tidal wave of potential litigation, as many as 9,000 jobs hang in the balance.

And therein lies our dilemma, Mr. President. It is the continued unwillingness of one environmental faction to accept the lawful decisions of the Congress regarding the management of our public lands by awaiting the final forest plans, which leads us to these appeals. In their haste, and in pushing frivolous appeals by using word processors and simply inserting the name of a timber sale, these actions constitute an end-run around a consensus process crafted through compromises made by all sides.

My major concern is that this action is a polarizing affront to the consensus-building, earnest discussion-process which has been the hallmark of Oregon natural resource legislation. These appeals constitute a collapse in trust, a reckless provocation that actually could serve to harm the environmental values they purport to protect.

I am confident that the public will see this action for what it is and reject it so that there can continue to be a consensus approach to timber management and environmental protection issues.

Mr. President, the bottom line is simply this: you cannot call yourself an environmentalist and at the same time support this type of irresponsible behavior. We environmentalists recognize that the very essence of the word is responsible stewardship of the Earth's natural resources. We debate how many jobs must be maintained. We debate what must be protected at all costs and what should be subject to compromise. We debate amongst ourselves as to the proper balance of development and preservation. And though these in-house disagreements occur frequently—and sometimes quite emotionally—the debate remains within the parameters of common sense. Some of these people have crossed that threshold more times than I can count, but today they have exhausted the last ounce of reasonableness. The challenge to every person in my State who thinks of himself or herself as a true environmentalist is to let these people know that their masquerade party is over. We cannot allow them to exploit Oregon's reputation as reasonable people with a passionate love of the Earth. Let us call it like it is: these people are not environmentalists. They seek to set back the clock of environmental progress leaving behind the wreckage of people out of work and communities in collapse. Such action tears down the well-earned reputation of the Oregon environmentalist community.

Mr. President, those of my colleagues with whom I have worked on national forest issues over the years, know that I have definite views about the importance of national forest management to my State, indeed, to the entire Pacific Northwest. I have long believed that predictable multiple use forestry, implemented by using the best sustained-yield silvicultural methods available, results in vital environmental protection and contributes to economic stability in our timer-dependent communities. This is especially important considering that almost 60 percent of the forest products industry in Oregon is dependent upon public timber for its supply of raw material.

But let me remind my colleagues that the sale of public timber from our national forests did not begin until after World War II. Until that time, all of the forest products required by users in the United States and around the world came from those same private landowners who are now so reviled.

It should not be construed from these comments that I support the unsustainable harvesting of timber. My record in this body establishes clearly my strong support for sustained-yield public forestry, as well as support for research that will lead to even greater yields from an increasingly narrower land base.

Over the years I have supported these principles in the face of increasing assaults on balanced national forest management in my region by pseudo-environmentalists who do not speak for mainstream environmental concerns.

In 1969, Congress passed the National Environmental Policy Act [NEPA], which established the process by which environmental impact statements were to be prepared. Through this process, the Federal Government would be required to analyze fully the potential effects of all its actions on our natural resources. I can recall Senator Scoop Jackson offering the prediction that these EIS's would be documents about a page long by which the public could easily determine alternative options for proposed actions. Today, in fact, these EIS's frequently run more than thousands of pages in length and are even heavier than those famous continuing resolutions about which the President is so fond of railing against the Congress.

In our efforts to improve national forest management, we enacted the National Forest Management Act

[NFMA] in 1976, in response, I might add, to an environmental lawsuit. NFMA went a step beyond the 1960 Multiple Use Sustained Yield Act by setting forth specific management criteria for such resource values as wildlife, watershed, timber, and recreation in a comprehensive national forest planning process. Oregon and Washington are developing new management plans using these new guidelines. The plans are late, and there is much debate and discussion over their content, but they are proceeding ahead.

But for some, waiting is difficult. Some do not accept the process by which we manage our vast resources. And I am not referring to the Sierra Club, the Friends of the Columbia Gorge, the Wilderness Society, the Oregon Rivers Council, the National Wildlife Federation, the Audubon Society, and other groups with which I have worked—and I add that they disagree with me often and vigorously, but they are reasonable about it and never abuse the process in the manner we are now witnessing.

In fact, much of the last two decades has been spent working with these organizations to shape natural resource policy. These fruitful efforts in Oregon were embodied in the two Roadless Area Review and Evaluation studies [RARE I and RARE II], a wilderness-bill-a-year for 20 years, and various other natural resource debates.

During my years in this body I have had the pleasure of drafting and/or assisting in the passage of several pieces of resource legislation relating to Oregon. These efforts include the Oregon Dunes National Recreation Area, the Hells Canyon National Recreation Area, the Yaquina Head Recreation and Research Area, the Cascade Head National Research Area, all four of Oregon's Wild and Scenic Rivers, additions to Crater Lake National Park, the prohibition of mining in Crater Lake National Park, the buyout of mining claims in the Three Sisters Wilderness, the John Day Fossil Beds National Monument, the Columbia River Gorge National Scenic Area, the quadrupling of Oregon's Federal wilderness, and I will soon introduce a major Wild and Scenic Rivers bill for my home State.

The environmental process that has been established through this record of coalition and consensus-building is now being abused through frivolous appeals and lawsuits, and the predictable resource allocation that provides community stability for scores of timber-dependent economies is constantly jeopardized.

But in this instance, Mr. President, the interests of the majority are being subjugated to those of a fringe minority. In this instance, a system I still regard as workable and viable is being misused in a way that has nothing to do with merit or substance. Most challenges to these timber sales have failed on their merits. And having failed on the merits, the challenges are now being directed at an already overburdened agency on procedural grounds. One could quickly draw the conclusion that these appeals have been offered to delay, distract, and harass. Sincere attempts to improve forest management are one thing, but sabotage of the process is another.

I have labored for many years to ensure that the legitimate claims of concerned environmentalists are heard and acted upon. During a 1985 crisis involving the Mapleton Ranger District of the Siuslaw National Forest, Congress authorized the substitution of reoffered timber sales for new green sales which were halted because of a court injunction. The purpose of this action was to ensure a smooth flow of raw material to timber-dependent communities while still ensuring that legitimate environmental concerns about new sales on lands without EIS's were protected.

In 1986, in response to yet another challenge to timber sales—this time on the BLM's Medford District—Congress again provided for the agency to move reoffered sales forward while protecting the appeal rights of concerned environmentalists.

The theme has been consistent: the protection and balancing of competing legitimate interests in environmental disputes.

I must admit that I cannot understand the motive for this latest attack on western Oregon's timber sale program. If the Forest Service or the Congress had pushed through the irrational harvesting of public timber on lands that had not been subjected to close planning, I might understand. But this is not the case. Over half of the sales being reoffered for sale under the 1984 Timber Contract Payment Modification Act have been modified for environmental considerations. That has been done in spite of the fact that the land base remains narrower than it should be because lands released for multiple use management under the 1984 Omnibus Oregon Wilderness Act have not yet been put into appropriate production. The new forest plans, once implemented in final form, will establish the appropriate land allocations for those released lands.

Mr. President, this brief recounting of natural resource policy in Oregon over the last 20 years illustrates that cooperation and reason are the two crucial elements for the successful resolution of difficult public land conflicts. Accordingly, I encourage those interested in resource protection issues to choose this proven path which leads to fairness, equity, and wise management, and to reject those irresponsible methods which lack respect and civility for the process so many have worked so long to create.

Mr. President, I yield the floor.

CONDITIONS FOR THE EXECUTION OF ARREST WARRANTS COMPELLING THE ATTENDANCE OF ABSENT SENATORS

The PRESIDING OFFICER. Under the previous order, there will now be 5 hours of debate: 4 hours will be under the control of the acting Republican leader, and 1 hour will be under the control of the majority leader.

Who yields time?

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the time sequence has been established, and we have a number of speakers, approximately 15 in total, on this side of the aisle, with allocations having been arrived at. The time is technically under the direction of the distinguished assistant Republican leader, Senator SIMPSON. I yield myself on his behalf such time as I may consume during the presentation of my comments.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ARMSTRONG. Mr. President, before the Senator begins his statement, would he yield to me for just a moment?

Mr. SPECTER. I do.

Mr. ARMSTRONG. I note with dismay there are at this moment only two Senators from the majority party on the floor, one of whom is presiding.

The purpose and intent of the next presentation is of utmost seriousness, and Democratic Senators and, for that matter, Republican Senators will miss an important procedure if they fail to attend what is being presented by the Senator from Pennsylvania, the Senator from Wyoming, and others.

We have not come here simply for a showdown. We have not come here to create a further controversy or make an existing bad situation worse.

We have come here to appeal to the good judgment, conscience, and friendship of our colleagues, but I think it is important that they attend to what is being said. It is evident, at least at this moment, that that is not the case.

I thank my friend from Pennsylvania for yielding.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. SPECTER. I do.

Mr. BYRD. Mr. President, would the Senator also point out what other Senators are on the floor?

Mr. ARMSTRONG. If the Senator would yield further.

Mr. SPECTER. I do.

Mr. ARMSTRONG. I believe I made the point, and I will make it again, that few Senators from either side of the aisle are on the floor and, may I say to the leader, the purpose of this is to communicate with our colleagues. It is not just to fill the printed RECORD with our prose. It is to actually communicate with our colleagues.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. SPECTER. I do.

Mr. BYRD. Mr. President, I have no quarrel with what the Senator has said except for the fact he makes a point which implies the Democrats are not here, but the Republicans are.

Let the RECORD also show the majority leader is here and the acting Republican leader and the distinguished Senator from Pennsylvania [Mr. SPECTER]. That is all. I thank the Senator for yielding.

Mr. ARMSTRONG. Mr. President, the Senator from Colorado is here, too.

Mr. SPECTER. Mr. President, I send a resolution to the desk and ask that it be read by the clerk.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

> A resolution (S. Res. 390) to express the sense of the Senate with respect to establishing conditions for the discussion of arrest warrants compelling the attendance of absent Senators.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the resolution which has been presented specifies that it is the sense of the Senate that the standing rules of the Senate should be changed to set forth rules under which warrants of arrest would be issued.

The resolution has been submitted on behalf of the Republican leadership: Senator SIMPSON, Senator CHAFEE, Senator ARMSTRONG, Senator BOSCHWITZ, Senator COCHRAN, and in addition, on behalf of a number of other Senators: Senator QUAYLE, Senator HEINZ, Senator MCCONNELL, Senator BOND, Senator EVANS, Senator KASTEN, Senator D'AMATO, Senator WALLOP, Senator HUMPHREY, Senator WARNER, Senator GARN, Senator, GRAMM, Senator GRASSLEY, and as of this moment, as the expression goes, the list is still incomplete.

Under the arrangements which have been worked out, there has been an allocation of time, some 4 hours to this side of the aisle and 1 hour to the other side of the aisle, and in the crowded agenda some 17 Republican Senators have asked for time. Then, 1 hour is under the control of the majority leader. After he has spoken for a period of time, under arrangements worked out by Senator SIMPSON, with Senator BYRD, there will be an opportunity for rebuttal by this Senator, and some discussion.

It is the hope of this Senator that during the course of these presentations and discussion we will arrive at a meeting of the minds as to what ought to be done on this very important matter.

Mr. President, the essential issue here is the need for a rule which will establish standards for arrest warrants. At the present time there is no rule dealing with the issue of arrest warrants. The basis in the law for compelling the attendance of Senators is set out in a very abbreviated fashion without any specifications as to what circumstances would justify the issuance of warrants of arrest.

Article I, section 5 of the United States Constitution states that there may be authorization "to compel the attendance of absent Members." But nothing more is said in the Constitution about what would be required on the procedures for compelling the attendance of absent Senators.

A reference is made in Senate rule VI, paragraph 4,

> Whenever upon such rollcall it shall be ascertained that a quorum is not present, a majority of the Senators present may direct the Sergeant at Arms to request, and, when necessary, to compel the attendance of absent Senators * * *

There is nothing more, Mr. President, in the rules of the Senate on what procedures ought to be employed by way of warrant of arrest. The issuance of a warrant of arrest has been occasioned only by practice and custom. There is scant, little practice or custom to establish any such procedure, with the last warrant of arrest having been served and executed to compel the attendance of an absent Senator in 1942, some 46 years prior to the issuance of the warrant of arrest served last week on Senator PACKWOOD.

It is the view of this side of the aisle that the procedures ought to be established in a reasonable and comprehensive way; that we should not focus on recriminations of the past but really should focus on the future; that our efforts here ought to seek bipartisan support. We had extended discussion last week as to the circumstances which had created the impasse leading to the issuance of the warrants of arrest. Without unduly laboring that point, it was the concern of those on this side of the aisle that the Senate was not realistically conducting any meaningful business; that it was apparent there was an absolute impasse due to the fact that some 45 Senators had taken a firm position that S. 2 would not come to a vote; that those on this side of the aisle considered the convening of the Senate in an all-night session to constitute harassment; that it was demeaning to the individual Senators and demeaning to the Senate as a whole; and, that the procedures employed were not reasonably calculated to accomplish any legitimate business of the Senate.

There was sufficiently strong feeling about this matter so that the Republicans caucused and made a conscious decision that the only way to express ourselves on this issue was to absent ourselves from the Senate Chamber. The majority leader later replied that in his view the Republicans had overstated their position because they could have prevailed without resorting to that tactic. That was, I believe, Mr. President, a candid statement by the majority leader that the position against S. 2 was going to prevail with or without Republican Senators absenting themselves and nothing that was being done by the majority leader was realistically or reasonably calculated to acheive any legitimate Senate business.

It is my hope, Mr. President, that we will move on from the events of last week to try in a very constructive way to resolve this issue to the satisfaction of all Senators. We in this body enjoy a very unique privilege to be U.S. Senators, to be, each of us, one of two representatives of each State, really ambassadors from the States which we represent, in a body which has evolved over the course of 200 years, of complex historical background, of substantial sovereignty residing in each of the original States, and Senators being in effect ambassadors from the States.

The procedures in the Senate have changed and there has been an evolution of the filibuster rule from two-thirds to an absolute number now of 60, and it may well be that there are circumstances where warrants of arrest would have to be issued. It is the view of this Senator that that should occur only under the most extraordinary circumstances, and that it is a matter of really great importance which the Senate ought to address and for which it ought to establish rules of procedure.

Whatever is specified in the Constitution in article I, section 5 that I read with the generalized language of compelling and whatever is specified in the section of the Senate rules again on the generalized language of compelling, those statements are subordinate to constitutional law in this country which has established a vast body of rules as to when compulsory process may be issued, when warrants may be issued.

Warrants may be issued as a constitutional mandate only upon probable cause, only supported by affidavit. I am not suggesting that the rigorous procedural requirements applicable to other warrants are necessarily to be applicable to warrants of arrest for Senators. But I do say whatever this body does, it does with the umbrella protection of the United States Constitution.

Some have said, perhaps jokingly, perhaps seriously, that this resolution seems to treat Senators like criminals. And, if so, it would be better treatment than was accorded last week when Senators were not even treated as well as criminals, because if warrants are issued for suspects or for those accused of crime, for those where there is substantial evidence of criminality, there has to be compliance with rules, probable cause, and affidavits on the establishment of the legal prerequisites constitutionally to take someone or to deprive someone of his or her liberty.

Mr. President, it is not beyond adventure that such issues, if not properly resolved by this body, could eventually end up in the Federal courts, which is the final adjudicator of what citizens' rights are, and Senators still are citizens. That, I suggest, would be very unseemly. It could even be that the events of last week could involve court action on the issue of false arrest or court action on the issue of unconstitutional process and the issuance of false arrest warrants. It would be my hope that we would address these issues in a calm, detached way, really removed from the events of last week, with our sole effort being to achieve a reasonable standard, and a reasonable recall for when the Senators are taken into custody in the extraordinary circumstances where that might be necessary.

Mr. President, it is generally known, and certainly appreciated by every one of the 100 Senators, how diligently we strive to be present for the business of the Senate and to be present when rollcall votes occur. Senators come back great distances for a single vote. This Senator came back especially—4 hours of train rides on a Friday for a vote on a resolution which was passed unanimously—because of my own concern about attending the Senate business, and because of my humble concern about my voting record, which last year was 99 percent-plus.

While many Senators were assembled in the cloakroom right off of the Senate floor and stood by while two votes were recorded in the Senate Chamber, it was not an easy position for those of us who are very much concerned about our duties, and those of us who are very much concerned about our voting records, to be a foot away from the door, being able to register our presence, and to maintain those recording records to absent ourselves which is a significant indication of the seriousness with which we took that issue, and is a further indication of the underlying factors that Senators will be on this floor, will vote, and will conduct the Senate business, I think, uniformly without the need to resort to being asked or importuned, let alone arrested.

But should the circumstance ever exist where compulsory process has to be issued, it is the submission of this Senator and the submission of virtually all of those on this side of the aisle, many of whom already cosponsored this resolution and others of whom have signed up—some 17 Senators—to speak, that the rules ought to be established.

Now, Mr. President, what are the rules which we feel ought to be established before warrants of arrest are issued? Before taking up the four items, I would say that we are open to suggestions as to their modification. We do not insist that the phraseology or even the substance which we are suggesting be the exclusive approach. We are prepared to discuss the matter. It is my understanding that this resolution will be referred to the Senate Rules Committee, as well as to the ad hoc committee on quality of life. And we are prepared to discuss these proposals at that time or we are prepared to discuss these proposals at this time.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. SPECTER. I do.

Mr. BYRD. Just an observation: The resolution will be referred to the Rules Committee but will not be referred to the ad hoc committee. The Senator himself is being appointed to that committee, I am told, and he himself can bring that resolution before that ad hoc committee. That will be a proper forum for him to address that resolution.

Mr. SPECTER. I thank the majority leader.

Mr. BYRD. I thank the Senator.

Mr. SPECTER. In that event, then, this resolution will be referred to the Rules Committee by the Senate under the Senate procedures. This resolution will be referred to the ad hoc committee by Senator SPECTER. So the reference will be made, and I appreciate the standing that I will have as the point of referral.

But I prefer in this matter not to stand on any technicalities or any protocol, but to try to address the substance, to try to address the underlying issue, and to try to improve the procedures under which we operate because I think it is apparent to all that there are very strong feelings on the matter on this side of the aisle.

I have talked to a number of my colleagues on the other side of the aisle, and I think there is considerable sensitivity to the need for some resolution of the matter. I would urge that this issue be considered in the bipartisan sense, as U.S. Senators, not as Democrats or as Republicans, but with a view to improving the operation of this great body.

Mr. President, I would like now to go, albeit briefly, to the specific proposals which are encompassed in this resolution.

The No. 1 item is, "No arrest warrant shall be executed between the hours of 11 p.m. and 8 a.m. unless the pending business is of a compelling nature."

The generalized rule against middle-of-the-night warrants is well established in the practice and procedure of this country and of any civilized society. The midnight rap on the door, the midnight process, the middle-of-the-night action has long been decried as being inconsistent with appropriate if not basic decency and basic civilized procedure unless there is some extraordinary reason. This rule or proposal would allow for that extraordinary reason.

This body operates frequently around the clock when it is necessary to do so to complete important legislation such as, for example, the continuing resolution. We are on a time problem to complete the business of the Senate so that the Government will not be shut down.

We have completed around-the-clock sessions on other important legislation. I recollect a tax bill which was finished a few years ago at 6:30 a.m. On those occasions, there are virtually 100 Senators here, 93, 94, 97, and the same turnout is here as on most Senate business days. A few Senators are compelled to be absent, some for illness, some for other very important reasons. But on our all-night sessions this body is attended as well as it is during our daytime sessions when there is work to be done.

So I would quite frankly doubt that there would be any reason to issue warrants between the hours of 11 p.m. and 8 a.m., based on the record as to what Senators have done. But let the rules be broad enough so that if some extraordinary circumstance does exist, business of a compelling nature, that exception would remain operative. But it would be the exceptional case.

This body can transact its business during normal working hours; certainly, in the 15 hours which are comprehended outside of the exception from 11 p.m. until 8 a.m.

The second requirement, Mr. President, would be: "Any arrest warrant shall be signed by the Vice President, the President pro tempore, or Acting President pro tempore, or his official designee named in open session, or, if absent, in writing."

Mr. President, the rules of the Senate require that the President pro tempore or his designee, established in open session, or in writing if not in open session, shall affix his signature to resolutions and to the formalized documents which are required for the Senate. The preferable practice should be that where a warrant of arrest must be executed, it ought to be signed by ranking Senate officials.

The practice in the 1942 warrant of arrest was that it was signed by the Vice President of the United States at that time. The warrants of arrest signed last week were signed by Senator ADAMS, who had taken the Chair in customary rotation, without the designation as required by the formal rules of the U.S. Senate.

Mr. President, the purpose in having someone like the Vice President or the President pro tempore as the officer of the Senate who signs the warrant is realistically significant, because it provides a degree of detachment. It provides a degree of seniority. It provides a degree of extra maturity which would be a countercheck for what is going on on the Senate floor by the person who moves for the warrant of arrest, which would customarily be, as it was last week, the majority leader.

There is an analogy in this kind of detachment with that of a magistrate who signs warrants of arrest for criminal process or who signs warrants for search and seizure. In many situations where those warrants are presented to magistrates, as a matter of due course it constitutes a rubber stamp where, very frequently, magistrates will act on the request of a police officer; or magistrates will act, really, in a perfunctory way; or, as cited in Sam Dash's book on wiretaps, in the 1950's some Federal judges, in issuing warrants for wiretaps, would cover the statement of probable cause because they did not want to know the secret information provided, so that they would not slip and disclose secret, confidential information.

I suggest that the formality of the detached magistrate or someone of the elevation of the Vice President or the President pro tempore has some real value and that it ought to be embodied in a formal rule of the Senate.

The third requirement set forth in the resolution is as follows: "Any arrest warrant shall include a written statement establishing the reasons for arrest."

Note that this requirement does not call for an affidavit of probable cause. It may be that some would like to see that greater level of protection where it ought to be supported by oath—the affidavit then making a statement that all the facts set forth are true and correct, subject to the penalties of perjury; and perhaps some might say that probable cause ought to be established in a more formalistic way. My own choice would not be to go to that level, although, as I say, some may disagree.

I think there is great value and great merit in having a written statement which establishes the reasons for the arrest. There is nothing like taking the time to sit down and write it out. In that process, the person who is seeking the warrant will be giving it some extra thought, will have to be putting it down on paper, will be reflecting about it for a few moments. Even the process of writing it out may lead to a change of heart or may lead to reflection or thought as to whether it really is appropriate that, under the circumstances which are then written out, there ought to be the very, very serious action taken on the issuance of a warrant.

Mr. President, in the intervening days which have passed since the warrants were issued last week, this matter had been discussed far and wide. I have discussed the matter with many people, and in a sense it was treated somewhat lightly by some last week.

I can understand the approach of my distinguished colleague, Senator PACKWOOD, in treating it with a certain air of lightness, because it certainly would have potentially adverse consequences if the people of his State or the people of this country were to think that Senator PACKWOOD had been arrested for something that was serious. After the fact and notwithstanding the intrusion into his office, notwithstanding the inconvenience, and notwithstanding being carried feet first into this Chamber, I can understand Senator PACKWOOD's treatment of the matter as he did handle it.

However, to have a warrant of arrest issued for yourself is a very serious matter; because when a warrant of arrest is issued, that authorizes the person carrying that warrant to take the individual into custody and to deprive that individual of his freedom, and to take that individual to a place where the individual does not choose to go. I suggest that it is a matter which is really very, very serious. It may be a laughing matter for those who have never been subjected to arrest and it may be a laughing matter for those for whom an arrest warrant has never been issued; but, having had only this one experience, I can speak firsthand.

I have had the responsibility, as district attorney in Philadelphia for 8 years, and an assistant district attorney for some years before that, to have to act to have warrants of arrest issued for many people. I can tell you firsthand that it is very different seeking a warrant of arrest from being the target of a warrant of arrest.

When the person who is seeking the warrant of arrest has to write down reasons, it is a sobering experience and may well lead to a change of heart. In any event, that would be a record set down in black and white which would justify the action which was taken on that occasion.

Mr. President, the fourth requirement is as follows:

> Whenever an arrest warrant is to be issued for an absent Senator, arrest warrants also shall be issued, contemporaneously, for all Senators absent without excuse, without regard to party affiliation; and the Sergeant at Arms shall make equivalent efforts to execute all such arrest warrants.

Mr. President, it is a matter of fundamental fairness that all Senators ought to be treated equally. We need not talk about equal protection of the law or have any extended discussion on basic fairness for it to be understood that it ought not be a matter of party affiliation, whether you are a Democrat or a Republican, or what position you have taken on the underlying bill.

When Senator McKellar was arrested in 1942, there is the suggestion in the RECORD that he was sought out because he had opposed certain legislation that was pending.

We are unable to really know all the facts of the issuance of the warrants of arrest last Wednesday morning, because the Sergeant at Arms—at least according to information provided to me in my conversation with the Sergeant at Arms—destroyed the warrants of arrest, including the warrants which he had served on Senator PACKWOOD and Senator WEICKER.

There is a requirement, as set forth in the rules, that there be a return of service where a warrant is served. That was not done by the Sergeant at Arms, notwithstanding the form set forth in the Senate procedure book. There is a rule of the Senate that all Senate documents have to be maintained.

That was not done by the Sergeant at Arms who inexplicably destroyed those warrants of arrest, and they really ought to be available so we could examine whether there was basic fairness and whether warrants were issued for all Democrats as well as for all Republicans.

Representations have been made that warrants were issued for Democrats, but those records ought to be available so that we would know for sure in black and white.

We have not made the inquiry and perhaps it is unnecessary to look back to last week to make an inquiry as to what efforts were made, if any, to serve Democrats as well as Republicans, but certainly that is a factor to be considered.

Mr. President, that outlines the basic reasons which this Senator sees for a sharpening of our procedures.

We have, as I say, some 17 Senators who have asked for time to speak on the pending resolution. Our acting Republican leader, Senator SIMPSON, has already spoken on this matter as part of his leadership time this morning. Senator ARMSTRONG is on the floor and I am about to yield the floor, and it will be Senator ARMSTRONG's opportunity to take the floor and to make his presentation.

I would join Senator ARMSTRONG in urging our colleagues to come to the Senate floor and participate in these discussions, perhaps to engage in debate or really hopefully to engage in debate with questions and exchanges between the Senators.

When Senator SIMPSON worked out with the majority leader, Senator BYRD, the sequence of events I had asked for some time to reply to whatever it was that Senator BYRD would advance by way of any arguments he would choose to make, and I do have some time after a portion of Senator BYRD's presentation made during the hour which the majority leader has following our 4 hours.

I do not seek that time for any rhetorical purpose or for any forensic purpose. I seek that time so that I may have the opportunity to reply to any issues which the majority leader may raise.

But I would emphasize the desirability of frank and candid exchanges on the underlying merits, in a dispassionate way, removed as much as we can from the events of last week with Senators in good faith addressing this issue, Democrats and Republicans alike, in trying to improve our institution and trying to set decent standards.

Who knows? It is not totally inconceivable that one day there could be a Republican majority leader. Who knows? There could be a Republican majority leader who might seek warrants of arrest for absent Democratic Senators. Who knows? Protections work for everyone, and we have a greater responsibility. We have the greatest responsibility. Our responsibility runs to the people of the United States to conduct the Senate's business. And last week, as I have spoken at length and will not repeat here, the issue of comity and the issue of doing the Nation's business as our foremost responsibility and again and again, hour after hour, day after day, the two most frequently used words of the Senate are "unanimous consent." If we do not have unanimous consent and we do not have comity, we cannot conduct the business of the Senate, and there is no more important aspect of our lives than our personal freedom. That is No. 1.

From our personal freedom comes our integrity, our ability to act, and our ability to make our contributions, and that personal freedom is jeopardized when there is a process for the issuance of warrants of arrest which is not fundamentally fair, and these rules and these suggestions go to that issue.

I would hope that we could have that exchange and perhaps interrupt one another and deal with the basics and the substance and try to come to an understanding which will be agreeable to all.

I thank the majority leader for staying on the floor during the course of my presentation.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

Who yields time? The Senator from Pennsylvania has consumed 37 minutes and 13 seconds.

Mr. SPECTER. Mr. President, on the applicable sheet Senator ARMSTRONG is listed for 20 minutes. So time is yielded to Senator ARMSTRONG.

The PRESIDING OFFICER. Senator ARMSTRONG is recognized for 20 minutes.

Mr. ARMSTRONG. Mr. President, I thank my colleague from Pennsylvania for yielding time for me to speak on this matter, and I congratulate him for his statement and leadership both today and last week while this matter has been seething on the floor and in the Cloakrooms and beneath the surface.

His has been a voice of thoughtful reason, as he has put it, dispassionate consideration of what I regard to be as an issue of utmost importance.

What began, Mr. President, as a debate on a proposed change in campaign law ended up last week in an episode which prompted the acting Republican leader to use the phrase "The tyranny of the majority" and accurately so in my opinion, an episode which prompted another Senator, one of the foremost authorities on the Constitution in this body, to term it "The tactics of a banana republic."

Mr. President, it is probably too soon to judge fully the consequences of what occurred here last week, but my colleagues and I, all of the Members of the Republican leadership who are in the city, that is to say all except Senator DOLE, and most of the Republican Members of the Senate, perhaps all of them before this day is over, have joined with the Senator from Pennsylvania in presenting this resolution and come to the floor, as I noted a moment ago, not to have a shootout or a showdown, not to make the existing hard feelings any more tense, but to have a frank and friendly exchange with our colleagues and to let our friends on the other side of the aisle know how seriously we take the events of the past several days.

Mr. President, last night I had dinner with one of my best friends in the Senate, a Democrat, a man on the other side of the aisle, a man who voted to have me and a number of other Senators arrested last week, a person whom I have admired and whom I still admire, whom I regard as a person of integrity and as a friend.

It was instructive to me how utterly surprised, indeed how dumbfounded he was, when I and some others around the table confided to him freely how we felt about what happened last week.

I honestly think it never quite occurred to him how it looked to be on the receiving end of a warrant for arrest, particularly when it resulted from actions which we believe not only were within our rights, but in fact were proper, appropriate, timely, and to find ourselves absolutely without any expectation on our part suddenly subject to arrest.

Well, Mr. President, we did not take it lightly.

Now, when we tried to think through what we might do to respond to this occurrence, a lot of ideas came forth. I mean frankly there were some on our side of the aisle whose instinctive reaction was they wanted to punch somebody in the nose, they wanted to create and inflame the situation that they wanted to have a showdown, they wanted to use some kind of highly inflammatory resolution to a vote.

Upon reflection, however, we decided that our interest is not to get even, our interest is not to vindicate our conduct. I do not think this situation is likely to ever arise again during the years I am in the Senate. I would be very surprised if any leader, whether a Republican leader or a Democratic leader, would ever arise again to offer a similar motion and if he or she were to do so it would surprise me greatly if the motion were to pass because I think in the light of everything, cooler heads would undoubtedly prevail so long as there are Senators in the Chamber who recall the events of last week and what has come out of it. Our greater concern is not whether it is likely to happen the rest of this year or next year or during the next several years. It is what might happen at some future date if a similar circumstance should arise.

So rather than pushing some measure to a vote, the probable outcome would be to polarize the situation completely along party lines, which would not in my opinion reflect the actual underlying feelings and beliefs of those in the Chamber, the Senator from Pennsylvania has brought forth a resolution which at his suggestion and with the concurrence of the other sponsors will be referred to the Rules Committee for the kind of thoughtful dispassionate consideration that he has called for.

Mr. President, what happened was perceived in the press and by the public as a sort of a comic-opera development. Here they are, those carefree, fun-loving Senators, playing hooky in the middle of the night, arresting each other, running around, being carried into the Chamber. To hear it on television or to read it in at least some segments of the press, it sounded more or less like college students on spring break.

Well, it was not fun-loving. It was not good humor. It was much more serious in the view, at least, of Senators on this side of the aisle, and the fact that it was perceived in that way is due to some unique circumstances.

First, the fact that the Senator from Oregon, who is the only Senator, as far as I know, who actually was physically carried into the Chamber, was a good sport about it. That, in turn, resulted from the fact that the person who came to arrest him, who entered his office with a passkey and then physically pushed his way into the office against a barricaded door, happened to be the Sergeant at Arms, who is a friend of Senator PACKWOOD and a friend of many of us in this room and, according to our reports, conducted himself not only with dignity but with deference and courtesy and in an apologetic manner. The upshot of it was that it did not have the ominous proportion that it might otherwise have had.

That does not, in my opinion, make the matter any less serious. At the very least, relationships have been strained, and the traditional comity, traditional trust among all Senators, has been strained to the detriment of doing business in this Chamber, as the Senator from Pennsylvania has correctly pointed out.

Mr. President, I want to send to the desk in a few minutes two papers which I ask to be printed in the RECORD. First is a statement simply setting forth in detail my understanding of the events which actually occurred, just a chronology of the situation, together with a discussion of the legal issues, including citations to relevant portions of the law and cases which have been heard before various courts, so that, if anyone is interested tomorrow or next year or 25 years from now, there will be in the RECORD a thoughtful and detailed summary of how I responded to the situation.

Then, second, I want to send to the desk at the same time, along with the written statement to be published at the end of my remarks, a proposed amendment of the Senator's resolution, not that the amendment will be taken up or considered today, but it will simply accompany his resolution to the Rules Committee for the consideration of those Members.

I do ask unanimous consent to have that material printed at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

(See exhibit 1.)

Mr. ARMSTRONG. Mr. President, I want to make about four or five points and I believe I can do so quickly.

First of all, I believe the all-night session to which we are referring was an illegitimate session of the Senate. It was a session of the Senate which never should have occurred, in my opinion.

Senators accord the majority leader great discretion in scheduling the business of the Senate, and properly so. Whether the majority leader happens to be a Democrat or Republican, there is a recognition on both sides of the aisle that somebody, for Heaven's sakes, has to schedule the business. Somebody has to call the shots and make the decisions. And, for the benefit of all Senators, there is a longstanding and proper deference to the right of the majority leader to schedule legislation, to decide, even though we grumble about it, within very broad limits what time we come to work and what time we quit and what bill we will take up on what day and how long we will stay and whether we switch on or off of it, whether we single track or double track. In short, somebody has to make those decisions.

But, Mr. President, it seems to me fundamental that there is a limit to that discretion. It seems to me that that discretion is not unlimited, nor is it permanent. It may be withdrawn at any time a majority, or even a minority, of the Members of the Senate conclude that the discretion is being improperly exercised, as I believe that it was last week.

I say so because I do not think the session last week was in furtherance of any legislative aim. It was not to pass S. 2, because I think there was a general—in fact, I believe, a unanimous, I could be wrong about this—but I believe that there was a unanimous understanding that S. 2 was not going to pass last week. It did not pass any time last year. It has been under debate relentlessly.

I do not want to go into the merits of it, but it is clear from the record that there are a lot of Senators in this body who think it should never pass. That is not the point. The point is it is not going to pass in its present form. It had been debated at great length and was subject to no less than seven cloture votes; more, I am advised, than any piece of legislation in the history of this Republic.

So it is clear that the session last week was not going to produce a bill that would be passed and enacted into law, nor were Senators on this side of the aisle trying to delay still another cloture vote. In fact, I was on the floor when the Senator from Oregon [Mr. PACKWOOD] offered to have still another cloture vote.

The point is this: If we were not going to pass a bill, why were we having that session? Under the circumstances, and particularly given the description and the game plan which preceded this session, I believe it was, by its very nature, intimidating and coercive and, therefore, an improper session. Under the circumstances, when the prospect of passing legislation did not seem reasonably in view, I just do not think we should have been here debating that issue. That may be a matter about which reasonable men will disagree. My view is that it was improper, intimidating, and coercive.

My second point is this: under those circumstances, and having that belief—which I think is widely shared almost unanimously on this side of the aisle and, to a surprising degree, may I say, on the Democratic side of the aisle—that we should not have been in session, I think it was proper, as a thoughtful, deliberate decision of many Members, 40-some Members, to be off the floor, to not participate, not give a quorum, not validate by our presence a session which we think was improper to begin with. We were not hiding out, as someone said. We were not playing hooky. We were not engaged in childish games.

In fact, we were following the well-established precedent in which I imagine—I cannot be certain—a precedent which I imagine has been participated in by all or virtually all of the Members of the Senate at some time or another. It is a precedent that is denying a quorum for proceedings of which you disapprove. It has been used, not frequently but on a number of occasions, in committee by Members of both parties. It is a tactic which has been used in the other body. It is not something which has been often resorted to in the Senate, but it was, in my view, a proper decision, particularly with the threat that such sessions might extend over a period of several days, session which we believe should never have been held in the first place.

Now, Mr. President, the response of voting to issue arrest warrants for Senators not in the Chamber I believe to be totally inappropriate. I believe it to be an experiment with a very dangerous idea that somehow if some Members—in this case it did not happen to be a majority of the Members—but if some Members, a near majority, wish to be in the Chamber at midnight, or 1, or 2, or 3 o'clock, that they have a right to vote to compel the attendance of other Senators. It seems to me that that is a pretty far-fetched notion, except under compelling circumstances.

Now, it is hard for me to justify that a compelling circumstance arises when a bill which has been under consideration for months and has been clotured seven times is up for still further consideration. It is not when we are on the brink of war. It is not when the economy is at the state of collapse. It is not when somebody's civil rights are being violated. It is not when there is an environmental emergency. It is just because somebody's pet bill that we have been working on for a year or more has not yet passed.

Mr. President, let me also make the point that, in addition to being an improper action, in my view the actual process by which this action was implemented also appears to be deeply flawed. The orders, as the Senator from Pennsylvania has pointed out, are highly suspect. Some of them, I am told, claim to be warrants; others claim to be subponeas. They do not appear to be signed by anyone with the authority to arrest anybody. They are, at least, possibly a violation of the fourth amendment of the Constitution which prohibits unreasonable search and seizure.

But I do not want to dwell too much on the legal issues. We all like to have a large crowd around when we are making speeches, but the question is: Does a group of Senators, barring the most extraordinary circumstances, have the right—and I am not talking about the legal right, I am talking about the right, the good judgment, the authority in a moral sense—to compel by force the attendance of other Senators who are unwilling to participate and be present?

I think not. This is not Panama. This is not Nicaragua. This is not the Italian Parliament under Mussolini. This is the U.S. Senate. And what distinguishes us from nations like that, and from what one of my colleagues called a banana republic, is precisely our respect for law, for the kind of judgment that tempers the use of force and corrects the imperfections of individual men and women who wield power.

The bottom line is that there ought to be great restraint in the exercise of compulsory powers, restraint which was not present last week.

Mr. President, I want to note in passing that no one was seriously injured by what happened last week. No one was seriously physically injured. Senator PACKWOOD, I am told, suffered a minor injury but it could have been a lot worse in that respect. At least two Senators have confided to me—and I did not go around and take a survey, I just overheard them say it—that had they been approached by the Sergeant at Arms and if he offered force to compel their attendance they would have resisted with force. Whether they would have done it I do not know. That is what they said and I believe them. One even indicated that he would resist using a weapon. A tragic situation could well have ensued.

So I think that Senators ought to have that in mind if they should ever again be tempted to offer or vote for a motion to arrest other Senators.

Mr. SPECTER. Would the Senator yield for a question?

Mr. ARMSTRONG. Yes, of course,

Mr. SPECTER. Is the Senator aware of the circumstances under which Senator WEICKER was not taken into custody with the use of physical force?

Mr. ARMSTRONG. I am not.

Mr. SPECTER. Well, as I understand this, I have discussed this matter with Senator WEICKER, who was in his hideaway and the Sergeant at Arms came and sought to place him under arrest. I shall not repeat what Senator WEICKER is alleged to have said, but the Sergeant at Arms desisted.

From Senator WEICKER's office on the third floor—I went up with him to look at his warrant because I wanted to see what the form said—there is a winding staircase and I would say that it would have been difficult to physically take someone down that winding staircase if it were Senator HECHT, let alone Senator WEICKER.

So that when the distinguished Senator from Colorado speaks about the possibility of the use of force and the possibility of injury, the circumstances were full of that potentiality on the occasion where the effort was made to arrest Senator WEICKER and considering the physical locale.

I would suggest further it is a difficult matter for the Sergeant at Arms. I do not know of his experience in executing warrants of arrest, but I dare say it is probably not extensive. It is not easy to execute a warrant of arrest. It is a tough matter.

There was also the occasion where, as reported and as I heard it personally from the Senator involved, one Senator, seeing the Sergeant at Arms, departed with some haste—ran, to put it bluntly. There are some of us who are not in the greatest shape to run. Some of us are, and play squash and exercise regularly, but some are not. But I think when the Senator from Colorado makes the point about the potentiality for injury, for damage, he is correct.

Mr. ARMSTRONG. Mr. President, I do not want to dwell on that. My concern is the very principle of arresting Senators, particularly in the manner in which this was done, in the middle of the night on the spur of the moment with an improperly signed warrant, destroying the warrants afterward, without taking it before—and I believe the Senator from Pennsylvania has made the point—an independent magistrate as would be a warrant of another character.

Honestly, does a single Senator think that if this had been done at 10 o'clock in the morning and if someone had been required to go to the Vice President and look him right in the eye and say: Mr. Vice President, please sign these warrants, does anybody really think that any of that really would have happened? Of course not.

That brings me to my final point. I hope nothing like this will ever happen again. Neither this nor anything even remotely resembling it.

Mr. President, the Constitution says that each House shall be the judge of the elections, returns and qualifications of its Members and has very broad discretion under the Constitition to make its own rules, and this includes compelling the attendance of its Members. But I want to point out that simply because one enters the Chamber of the Senate, one does not lose his or her rights under the fourth amendment and the fifth amendment of the Constitution.

The rules of the Senate are ordinarily, and the proceedings of the Senate are ordinarily, not reviewed by courts but there are exceptions to that.

This can be readily seen if one just contemplates questions like: Could a majority of the Senate, even a two-thirds majority or even a 75-percent majority, exclude people that they did not like? Could we exclude all the Baptists from this Chamber or all the Lutherans or Republicans or all the people who did not agree on S. 2? I think not.

Less obvious but no less important is the question: Does a Senator shed his fourth amendment rights when he comes in the door of the Senate? That, you will recall, in its relevant consideration, provides the right of people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated and no warrants shall issue but upon probable causes.

It is very clear to me that this was violated last week.

Mr. President, I have had my say and I appreciate the attention of Senators who are on the floor and any of those who may be watching this proceeding on television or any who may be disposed to read about it in the RECORD.

I am not sure whether we have done the right thing. The relatively sparse attendance on the floor suggests to me that maybe this is not the right way to have handled it. Maybe we would have gotten more attention had we decided to take a more confrontational approach. Or maybe we should have called for a closed session of the Senate. Or maybe we should have had a meeting off the floor where we invite all Senators to come. We did that when the issue was the quality of life and I think we got almost 100 Members of the Senate to come and have that kind of frank exchange. We will have to see how that turns out.

But I want to close as I began, by simply saying that my colleagues and I have come here today to express our profound and heartfelt concern and to make it clear that we hope, Senators of the majority party, because they have the power, Senators of the majority party will take note of our concerns, set right what has happened, and take steps to assure that nothing like this ever happens again.

Mr. President, I thank the Chair and I thank my colleague for yielding.

Exhibit 1

Senators Under Arrest—Statement of Mr. Armstrong

Mr. President, Tuesday of last week, at about 11 p.m., the Senate voted 45-to-3 to approve the following motion of the Majority Leader: "I move that the Sergeant at Arms be instructed to arrest the absent Senators and bring them to the Chamber. . . ."[1] 134 Congressional Record S1152-53 (daily ed. Feb. 23, 1988). The motion to arrest arose in connection with consideration of S. 2, a proposal to amend campaign law.

The Senate had already had seven cloture votes on S. 2; seven times the Senate had refused to end debate on S. 2. Cloture was defeated five times in June 1987, and two times in September 1987. On February 26, 1988, it was defeated again. The eighth defeat—which came just days after the motion to arrest—surprised no one.

Let me just review briefly the events of Tuesday night, February 23: Between 4:30 p.m. and 5 p.m. there was a vote on a motion to request the attendance of absent Senators [legislative roll call vote no. 19]. Eighty-nine Senators voted; a quroum was present. The next vote was on another motion to instruct the Sergeant at Arms to request the attendance of absent Senators. That vote began at 8:30 p.m. and 74 Senators answered the roll; a quorum was present [legislative roll call vote no. 20]. At 9:50 there was another vote on a motion to request attendance [legislative roll call vote no. 21]. That motion passed 57-to-21; a quorum was present.

Just an hour before the Senate approved the motion to arrest, that was at about 10:30 p.m. Tuesday night, Senator Simpson suggested the absence of a quorum and the clerk began to call the roll. The Majority Leader asked unanimous consent that the order for the quorum call be rescinded but Mr. Simpson objected. The roll call continued and 13 Senators answered to their names. The Majority Leader then moved that the Sergeant at Arms be instructed to request the attendance of absent Senators. On that roll call vote, which began at about 10:45 p.m., there were 47 yeas and 1 nay; the motion was agreed to although a quorum was not present [legislative roll call vote no. 22]. The Presiding Officer then instructed the clerk to "continue the call of the roll for the absent Senators." 134 Congressional Record S1152 (daily ed. Feb. 23, 1988). I must emphasize that the motion to have the Sergeant at Arms request the attendance of the absentees was agreed to. But the Sergeant at Arms never got his chance to request anything of anybody. Immediately after the result of vote no. 22 was announced, the Majority Leader moved that the Sergeant at Arms be instructed to arrest absent Senators. That vote began at 11 p.m. and ended some 15 to 20 minutes later. As noted earlier, the motion to arrest passed 45-to-3, a quorum was not present [legislative roll call vote no. 23].

It is now necessary to emphasize certain facts about the Senate's activities of last week:

First, The Senate has already spent tens, perhaps hundreds, of hours on S. 2. The issue had been debated and debated and debated. No other bill in the entire history of the Senate has been taken to seven cloture votes. S. 2 had had seven votes in 1987 and has now had another in 1988. The S. 2 minority (which includes members of both parties) refused to end debate on S. 2, but we certainly had not refused to debate it. This fact was disappointing to certain members of the S. 2 majority, but we were fully within our rights—and doing our duty as we saw it.

Second, even on the night of the 23rd, the Republicans were ready to vote again. For example, I draw your attention to a colloquy between Senator Packwood and me that appears on page S1139 of the Record of February 23. Senator Packwood, who at the time was something to a Republican floor manager, said, "I would be happy to go to a cloture vote tonight. . . . " I replied, "I, for one, would have no objection to that."

Third, every Member of this body knew that no vote had shifted. No legislative purpose was being served by another cloture vote. S. 2's return was a matter of politics. The Senate is a political body; we don't shy from politics around here, in fact we thrive on it. But I did not think we would attempt to arrest people for failing to play the majority's political game.

Fourth, the Senate had taken a series of procedural votes and there was every prospect of going straight through the night with a string of essentially meaningless procedural votes. Since no votes had changed and since we were then ready to vote on cloture yet again, the prospect for an all night session punctuated by calls for the Sergeant at Arms to do something seemed to me to be harassment. Now I suppose a legislative majority is entitled to harass a legislative minority; the question is, "Can harassment include arrest?"

Fifth, the motion to arrest came at midnight. This is hardly the hour at which United States Senators should be rousted out of their beds by the Sergeant at Arms to vote taxpayer subsidies for the political campaigns of United States Senators. If the security of the country was at risk, I would say the Sergeant at Arms should be sent to roust Senators from every roost. But are midnight raids necessary for taxpayer funded Senate campaigns? I think not.

Sixth, the Sergeant at Arms was "instructed to arrest the absent Senators and bring them to the Chamber." Both the Constitution and the Senate Rule (see footnote 1) speak of "compel[ling] the attendance of absent Senators." Warrants are not mentioned. Warrants are mentioned in Senate Procedure, page 176, where a recommended motion to arrest Senators is found. But when we are speaking of serving warrants for arrest in the middle of the night we are treading on very dangerous ground.

Seventh, it is important to remember that when the Majority Leader moved to have Senators arrested that the Senate had just moments before adopted a motion to have the Sergeant at Arms request the attendance of absent Members. The Sergeant at Arms was never given that opportunity.

Eighth, nor was the Sergeant at Arms given the opportunity to compel the attendance of absent Members. As we know, the normal course of procedure is for the Sergeant at Arms to first, request the attendance of absentees, to second, compel the attendance of absentees, then finally—as a rare last resort—to arrest absentees. The middle step was omitted on February 23. It has been held that a motion to compel attendance is out of order prior to a motion to request attendance. Riddick, Senate Procedure 175 n. 20. I hope the precedents of the Senate will one day show that it is out of order to move for the arrest of Senators until a motion to request and a motion to compel have both been made.

Ninth, Rule VI of the Standing Rules of the Senate (see footnote 1) allows a majority of Senators to direct the Sergeant at Arms to "compel the attendance of the absent Senators" "when necessary," "When necessary," Mr. President. Now to be honest, the majority has wide latitude to determine the meaning of the term, "when necessary." The majority can determine that it means, "when the urgent business of the United States relating to the national security makes it imperative" or it can determine that it means, "when we are trying to give tax money to our own Senate campaigns and we are dissatisfied with seven previous votes on the same subject." The majority may have the power to define the term in both these ways, but does it have the right?

Tenth, who is to sign these warrants for arrest? Can any member of the majority party sign so long as he happens to be sitting in the presiding officer's chair when the Secretary of State puts the papers in front of him? This seems to be the current position of the majority. The President pro tempore did not sign the warrants even though he had voted on the motion to arrest and was, therefore, available to the Secretary. Nor did the President pro tempors's designee to "perform the duties of the Chair" for February 23 (Senator Proxmire) sign the warrants although he too had voted to issue them and was available to the Secretary.

Several of these points have been raised by our colleague, the Junior Senator from Pennsylvania, Mr. Specter. He is a respected lawyer and already is a foremost student of the issues that were raised last week. I wish to associate myself with his four recommendations on this subject which can be found in 134 Congressional Record S1361 (daily ed. Feb. 23, 1988).

Mr. President, there are serious constitutional concerns about the activities of last week, as well. The relevant constitutional text, what is now Article I, sec. 5 was crafted primarily on August 10, 1787. On that date, the delegates to the Philadelphia Convention took up a proposed section that read, "In each House a majority of the members shall constitute a quorum to do business; but a small number may adjourn from day to day." More than ten members spoke to the topic. (Following the debate, James Madison, a delegate from Virginia and the chief architect of the Constitution, moved to add at the end of the text the following: ". . . and may be authorized to compel the attendance of absent members in such manner and under such penalties as each House may provide." Madison's motion was agreed to by ten States (Pennsylvania was divided).)

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[1] The Majority Leader's motion to arrest was based on Rule VI of the Standing Rules of the Senate:

"1. A quorum shall consist of a majority of the Senators duly chosen and sworn.

"2. No Senator shall absent himself from the service of the Senate without leave.

"3. If, at any time during the daily sessions of the Senate, a question shall be raised by any Senator as to the presence of a quorum, the presiding Officer shall forthwith direct the Secretary to call the roll and shall announce the result, and these proceedings shall be without debate.

"4. Whenever upon such roll call it shall be ascertained that a quorum is not present, a majority of the Senators present may direct the Sergeant at Arms to request, and, *when necessary, to compel the attendance of the absent Senators,* which order shall be determined without debate; and pending its execution, and until a quorum shall be present, no debate nor motion, except to adjourn, or to recess pursuant to a prevous order entered by unanimous consent, shall be in order." (Emphasis added.)

"Rule VI is, in turn, based on specific constitutional language:

"Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a majority of each shall constitute a Quroum to do Business; but a smaller Number may adjourn from day to day, and *may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.*

"Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a member." U.S. Const. Art. I, sec. 5, cls. 1 & 2. (Emphasis added.)

Speaking to the provision, George Mason, another delegate from Virginia who is often called the Father of the Bill of Rights, said:

"This is a valuable & necessary part of the plan. In this extended Country, embracing so great a diversity of interests, it would be dangerous to the distant parts to allow a small number of members of the two Houses to make laws. The Central States could always take care to be on the Spot and by meeting earlier than the distant ones, or wearying their patience, and outstaying them, could carry such measures as they pleased. He admitted that inconveniences might spring from the secession of a small number: But he had also known good produced by an apprehension of it. He had known a paper emission prevented by that cause in Virginia. He thought the Constitution as now moulded was founded on sound principles, and was disposed to put into it extensive powers. At the same time he wished to guard against abuses as much as possible. If the Legislature should be able to reduce the number at all, it might reduce it as low as it pleased & the U.S. might be governed by a Juncto—A majority of the number which had been agreed on, was so few that he feared it would be made an objection agst. the plan." II Farrand, The Records of the Federal Convention of 1787 251-52 (1937 rev. ed)

Mr. President, Colonel Mason's words could have been uttered last week. He recognized that "inconveniences might spring from the secession of a small number" of Members who would deny a quorum. But he also knew of a case in his own State where the inability to obtain a quorum (or the threat of a quorum disappearing) "produced" as "good" result, namely protecting the value of their coined money.

The Constitution says, "Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members . . . and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide." (The complete text can be found in footnote 1.) This clear language gives to each House extremely broad latitude to establish is own rules and judge its own Members. Within these broad bounds, the rules of the Houses are not reviewable by the Judiciary. This fact requires each House to observe the most solemn consideration of its rule and the rights of its Members. This solemn judgment was missing last week, in my judgment.

The Houses of Congress do not, however, have absolutely unreviewable power to determine their own rules:

"[The House of Congress may not] ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained. But within these limitations all matters of method are open to the determination of the House. . . . The power to make rules is . . . a continuous power, always subject to be exercised by the House, and within the limitations suggested, absolute and beyond the challenge of any other body or tribunal." *United States* v. *Ballin*, 144 U.S. 1, 5 (1892). Cf., the leading modern case, *Powell* v. *McCormack*, 395 U.S. 486 (1969), in which the Supreme Court showed less deference to legislative rules than its earlier cases would have led one to believe.

Senators do not shed their constitutional rights at the Senate door. This can be seen readily by simply asking whether the Senate could constitutionally expel all Baptists, or Catholics, or Republicans, even if two-thirds of the Members concurred. The obvious answer is "no". Less obvious, but no less important is the question, "Does a Senator shed his Fourth Amendment or Fifth Amendment rights when he enters the Senate door?" The Fourth Amendment provides, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." The Fifth Amendment provides in pertinent part, "No person shall . . . be deprived of life, lib-erty, or property, without due process of law. . . ."

Mr. President, the Legislative Branch, to quite as great an extent as the Judicial Branch, is the protector of our liberties and constitutional prerogatives. Our duty to vigilance is even greater when we consider a matter that may not be reviewable by another branch. Last week's order to arrest Senators implicates the most serious constitutional and prudential considerations, but I am afraid that we fell short of the high obligations that must guide us in such sensitive matters.

It would be a mistake to let last week's action stand as precedent. I urge us to clarify certain questions that were raised last week, and retreat from certain determinations that were made in haste and perhaps in high emotion. No rule or practice of the Senate deserves more careful scrutiny than those which permit the Sergeant at Arms to search out and arrest Senators.

I thank the Chair.

ADDENDUM—SENATOR SPECTER'S FOUR RECOMMENDATIONS

Senator Specter said:

"Mr. President, I have sought recognition to address the subject of the issuance of warrants of arrest on the matter which arose in the Senate after midnight on February 23 and to seek a procedure to establish rules to govern such conduct in the future. What I essentially seek are standards to bring some rationality to the practice where it may be necessary, under extraordinary circumstances, to issue warrants of arrest for U.S. Senators.

"The Constitution speaks about compelling the attendance of Senators. There is nothing in the Constitution or in the rules which talks about warrants. And there may be extraordinary circumstances where warrants of arrest would have to be issued. But I submit that we ought to establish some standards and some rules. And I propose that four rules be established and will outline a procedure where the Senate may, today, take action to correct the practices of yesterday morning.

"Those standards, I submit, should be as follows. First, no middle of the night warrants. There are rules, Mr. President, which limit nighttime activities of enforcement procedures in a wide variety of ways, including no-knock statutes. It is different to seek a warrant of arrest during business hours. There are differences in requiring a Senator to be present during business hours and perhaps as late as 10 o'clock, perhaps as late as 11 o'clock. But there should not be middle of the night warrants.

"Second, that there should be compliance with rules that warrants be signed by the Vice President or the President pro tempore or the designee of the President pro tempore, as specified by the Rules of the Senate, so that there can be an independent review of the application for a warrant very much as there is an intervening magistrate who takes a look at and authorizes any warrant of arrest or any search and seizure warrant or any warrant calling for compliance; to put that level of scrutiny and objectivity into the process.

"Third, that there be a written statement establishing the reasons for the arrest so that there will be a requirement that someone sit down in a thoughtful manner and write out why someone is being subjected to arrest.

"The current warrant form has a blank which approximates that requirement, where it states: 'Bring to the bar of the Senate blank[] given Senator,[′] Bob Packwood on one, L. Weicker on another, 'who is absent without leave,' colon—'to wit' and then a blank appears. It wasn't filled in in the Weicker or Packwood warrants.

"So that there would be the thoughtfulness as to why a Senator is being brought in under a warrant of arrest.

"And, fourth, that there be equal treatment of Democrats, Republicans, or whatever party the absent Senators may belong to so that when warrants are sought, we do not have a situation, as recorded in this morning's Philadelphia Inquirer, that, 'Senator Bob Packwood, a filibuster leader ranked high on the Democrats' most wanted list was sought out to have a warrant of arrest served.'" 134 Congressional Record S1361 (daily ed. Feb. 23, 1988).

PROPOSED AMENDMENT

AMENDMENT TO BE PROPOSED BY MR. ARMSTRONG

At the end of the resolution, add the following new sections:

"5. No motion to instruct the Sergeant at Arms to arrest absent Senators shall be in order until the Senate shall have, first, adopted a motion directing the Sergeant at Arms to request the attendance of absent Senators and shall have, second, adopted a motion directing the Sergeant at Arms to compel the attendance of absent Senators. No motion directing the Sergeant at Arms to arrest absent Senators shall be in order until two hours shall have passed since the result of the vote on the motion to compel the attendance of absent Senators was announced. No motion to instruct the Sergeant at Arms to arrest absent Senators shall be agreed to between the hours of ten o'clock post meridian and eight o'clock ante meridian unless no Senator votes in the negative. All votes required or permitted by this paragraph shall be determined by the yeas and nays, and the names of the persons voting for and against such motion or question shall be entered on the Journal.

"6. No arrest warrant for any absent Senator shall be issued unless under the signature of the Vice President or President pro tempore and attested by the Secretary."

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I am advised that Senator QUAYLE is on his way and should be here momentarily. I am further advised that Senator CHAFEE, and then Senator EVANS will be here to speak as well, and pending the arrival of Senator QUAYLE I would urge my other colleagues who have stated a concern and asked for time to come to the floor as well.

But, with the arrival of Senator QUAYLE—he does not need a chance to catch his breath—I shall yield the floor and give him an opportunity to seek recognition.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, first let me congratulate my dear friend from Pennsylvania for all the time and effort that he has put into this resolution. He, with his great agility and capability was able to come to the floor, I am sure very tired as the rest of us were, the very next day, and to lay out some real concerns that we have, not only from the constitutional point of view, but with respect to Senate procedures, the comity that in fact should be accorded, and pointing out in the resolution that we now have before us, which is very similar to a resolution that he had introduced before, what we ought to do about the situation. It was not that he was going to just sit back and complain about what we felt was something that should not have happened, did not need to happen, and in other circumstances, hopefully, in the future, will not happen again; and him leading the Senate through this discussion and through a very positive and constructive recommendation—I certainly congratulate him.

I think, also, he will be a very good, valuable member of this quality of life ad hoc committee.

As he knows, and he has worked with me in the past, I had the responsibility—the former majority leader Howard Baker appointed me—to look at the form of the committees which dealt a lot with the quality of life. He, at that time, offered some good, positive comments. I think that he will prove to be a very valuable asset to that committee.

Though this is not being referred to it technically, that committee will be discussing this issue along with a lot of others.

So I really congratulate him for his leadership and his keen intellect into some of the legal nuances and the rules of procedure of the Senate.

Let me just say, Mr. President, before I get into some of the particulars, what, in fact, bothered me the most about this.

The thing that bothered me the most about this is that resorting to the arrest of Senators to compel their attendance by issuing arrest warrants, going out in the middle of the night and carrying one Senator back in feet first, to not pass legislation, not deal with legislation that was of the utmost importance to the Nation, but to establish a quorum to continue a filibuster that we all know was going to continue.

If this arrest warrant had been made with due consideration, if the minority, in fact, decided not to show up to vote on an issue that was of major national importance, or maybe even vote on passage of a bill or establishing a quorum before a major bill could be passed, I think on such issues, going back in history, such as the Jay Treaty which was before the first Congress at that time, because Senators were not in town they thought perhaps they ought to send out warrants and have Senators notified that they better come back and vote. They needed a quorum to establish a vote on the Jay Treaty.

I can assure you, this was not the Jay Treaty. This was not even the campaign finance bill. This was to continue a filibuster, and the minority had their leader on the floor ready to participate in the filibuster. We were able to conduct the business of the Senate. It is not the minority's responsibility to furnish the majority a quorum. That is simply not our responsibility. If the majority Members do not want to show up, that is their problem. It is not the minority's problem. That is their problem. Since they had some people that were not here and were absent, and they did not have enough to conduct a filibuster, to conduct a talkathon, they entered into arrest warrants.

I must emphasize, Mr. President, that is the most troubling aspect of this whole episode to me. That on a bill of taxpayers' subsidy of congressional elections, the majority leader felt he had to resort to arresting Senators to come back and to participate in that talkathon.

The minority's responsibility in a filibuster is this: To provide speakers to talk. The minority's responsibility is to have somebody present on the floor who is ready and willing to engage in discussion of the issue at hand. I want to point out, the minority had its leader on the floor ready to participate in discussion of this filibuster.

There is no doubt about it, we were prepared to move forward. We decided, as a matter of fact, that we were not the ones who were required to fill a quorum, and on this bill, this bill that everybody knew was not going anywhere and had been voted on seven times before, and we had the eighth vote, we resort to the arresting of Senators.

Given those circumstances on a bill that was not going to go anywhere, given the circumstances that this was a filibuster, not a vote on the bill, given the circumstances that this was late at night, we are going to have a cloture vote later on, for some reason we had to stay here all night, which is fine. We can do it the old-fashioned way, and the minority was prepared to do it the old-fashioned way. But the old-fashioned way really is not that demanding of the minority. The old-fashioned way is that the minority will furnish speakers and will be here to speak and, every once in a while, we will have a quorum call. Then if the majority leader wants to see if a majority is here, he can go ahead, call off the quorum, instruct and take a bed check, and see who is here.

We took a bed-check vote. Not enough showed up. Is that of such national emergency that you have to resort to arresting Senators? Come on.

Those are the circumstances of the event, giving that kind of flavor to where we were and what the responsibilities of the minority are, that we were prepared to go ahead with the debate on an issue that was not going to be passed by the Senate, that was not going to go anywhere, that was of little importance. As a matter of fact, I daresay, when you are back home, ask your next Rotary meeting or ask the next UAW hall meeting how many people there are for the taxpayers' picking up the tab on Senators' and Congressmen's elections. I daresay, you will not have too many of them raise their hands. This is not even a beltway issue. It is sort of an issue right within the Senate. This is one of those issues that does not get beyond the Senate, except for the little bit of publicity it gets, and people turn the page and look for something else to discuss: "What are these guys talking about now?"

We had to arrest Senators to come back and participate in a filibuster on a bill to have the taxpayers pay for our elections.

Given those circumstances, is there little wonder that many have interpreted this act as an act of harassment, intimidation, and things of that sort? Put yourself in this position, that kind of tactic, which certainly was thought out beforehand. I do not know, but I presume it was not just the spur of the moment. The majority leader is the expert on the rules. He knew what he could and could not do. He decided to resort to arresting Senators at that hour of the night.

I believe that we need to understand the flavor of the situation, we need to understand the circumstances that we are involved in, and what precipitated, I think properly so, a very important response from the minority. The minority does not have a lot, but it does have certain rights.

I would just like to quote Sir Henry Maine, and English historian on the rights of the minority:

> The substance of liberty is secreted in the intricacies of procedure. The minority can protect itself only about the firm and explicit understanding of the rules of procedure.

As Sir Henry Maine said, the concept of even liberty is wrapped up in understanding the rules of procedure. The way that I interpret the rules of procedure, not saying that he could not do it, because he did it, the question is: Should it have been done? Is this a fair procedure? Is this a procedure and a precedent that we want to continue?

The minority knows where it is, as far as the minority. But we also have to have an understanding of procedure, and that is what this resolution tries to do: to establish a fair procedure, where certainly the rights of the majority are going to be protected, because they are the majority, and a fair procedure where the rights of the minority are going to be protected.

I thought of another quote, and I cannot attribute it to an author. It has been used before, and I think it is rather appropriate for this situation in which we find ourselves.

It goes along the lines, "It is easier to rub red pepper into the poor devil's eyes than to go out and get evidence in the hot sun." It is easier to sort of take that hot pepper and rub it in the old devil's eyes than it is to go out and get the evidence in the hot sun.

It was easier perhaps to go ahead and rely on this kind of arrest warrant rather than going out and doing what you should do, find the absent Members of the majority and say, "Come in; we want to proceed." The minority was prepared to proceed, to talk. That was the minority's responsibility.

In fact, being in the minority, in the old-fashioned school of filibustering, some of us may not want to stay around every night. We might want to go home, get a few hours' sleep, and we might miss a bed-check vote. We might miss a bed-check vote, not a vote on substance, not a vote on the issue, just a bed-check vote. We might be prepared to do that. That is the old-fashioned way.

That is what, I point out, Mr. President, helps the minority to sustain the filibuster, because what is going to happen is that the majority has to show up to provide the quorum and the minority can be home getting rest to come up and participate in the debate. Let me tell you something, Mr. President. We all speak a lot, perhaps we speak too much, but it takes a lot more energy out of one to get up here and speak than to walk through those doors back there and say "present." You can do that all night, Mr. President, just say "present."

Well, if you are going to have a filibuster the old-fashioned way, you are going to do that all night. That is the old-fashioned way. That is the kind of filibuster we wanted to have. So we had it. We had the old-fashioned filibuster, and guess what? The majority did not want to show up. The minority was here ready to go. So that is the flavor, Mr. President, in which this Senator found the situation.

And now to some of the particulars of the warrant that was issued. The Senator from Pennsylvania has already, I think, pointed out that procedurally this warrant was flawed; that the Presiding Officer was not authorized in writing to sign it. It should have been the Vice President or the President pro tempore. The Senator from Pennsylvania has also pointed out that the warrants were improperly executed, blanks were not filled in, done in great haste, done in great haste, to come back and to participate in a filibuster of taxpayers' subsidies for congressional elections. That was the urgent, compelling business before this Senate that demanded Senators to be arrested in the middle of the night. The warrants were not even properly executed.

If we are going to go ahead and have this kind of draconian measure, at least we ought to do it right. That is what the Senator from Pennsylvania is saying. He is going to set up some standards and hopefully maybe a rule for when we want to arrest Senators.

I also understand that the warrants were destroyed. Some of the Senators on this side make light of the issue. I want to have it to frame, to say one night to my dear grandchildren, "I had a warrant for my arrest issued by the majority leader to come back and conduct compelling national business."

And as you have your grandson or granddaughter on your lap there and they look up and say, "Well, gee, grandpa, what was that national compelling business that you had to get arrested for to come back and do business?" You can say, "Oh, my dear, sweet child, that was to make sure that we would participate in a filibuster so that when you grow up, you can work hard and earn taxpayers' money to fund your granddaddy's election."

"Huh?" Can you hear that conversation down the road?

"Oh, grandpa."

To the grandson or granddaughter seeing that arrest warrant on the wall, showing how it was so important, you come back and say, "They did it during the Jay Treaty."

"Jay Treaty?"

"They were thinking about maybe doing it on a declaration of war."

"Declaration of war? They were important, granddaddy?"

"Yes, they were very important."

So the idea of having a filibuster to continue to subsidize Senate, and congressional elections, we equate this to war and the Jay Treaty, things for which it has been properly used.

But we understand those warrants are not here so those folks who want to put it on the wall will not be able to do it.

Now, I do not know whether they went through the Ollie North shredder or what, but they went somewhere. We cannot get our hands on them. I do not know how many speeches I have heard on this floor about shredding, about destroying documents. I do not know how many speeches I have heard condemning that kind of act. I do not think there is probably too many Senators who have not spoken to the subject.

Boy, I tell you, there has been some righteous indignation on that issue. I mean to tell you, Mr. President, I have heard emotional speeches right from the heart, sometimes from the head but right from the heart on this very fundamental issue of shredding documents. And we understand these warrants are destroyed.

Now, these warrants were, interestingly, only served on minority members. It is our understanding that somehow the majority was excluded—just arrest minority members. Now, if you are going to arrest Senators, you have to do it on a bipartisan basis. We are all Senators. If they are going to be absent and we are going to be absent, the arrest warrants ought to be on an equal basis.

I also might say when you arrest Senators, you should not pick and choose what Senators you are going to arrest. As a matter of fact, the reports are that they went to one Senator who was about to be arrested and this Senator—I think everybody knows who he is. I can use his name—the distinguished Senator from Connecticut, according to the reports, was ensconced on the couch of his office. He is a man known to have a great deal of intellect, a man who everyone knows that when he says something, he means it, and as a matter of fact probably not too afraid or bashful about carrying out what he says. And he sort of informed according to the report, the Sergeant at Arms it would not be a good idea to arrest the Senator in the middle of the night. According to reports, the Sergeant at Arms said, "OK," and left the room.

Let me tell you something. If you are going to arrest a Senator, you are not supposed to arrest him according to size. You cannot just arrest the little guys. You have to arrest the big guys. I mean the big guys ought to be arrested, too. And do not just arrest guys who are injured. I mean we believe in nondiscrimination. And I mean to tell you, I heard the big guys got away and they went and picked on somebody who had a broken hand. I mean to tell you, what is this? What is going on, this is the U.S. Senate. I mean, boy, what a proud day. I cannot wait to tell my grandchildren about this event. This is really something I am proud of. I mean this was Keystone cops, folks. What a Senate. I sure am glad I am here, but I mean to tell you that point ought to be made.

We just talked about lie detector tests. We just passed these polygraph tests saying they are bad things. We got into this thing about all sorts of harassment and intimidation. I want you to know that when these people go out and arrest folks, they should not get intimidated, but just do their jobs and, by golly, do not pick on the people who are hurt, the little guys. Pick on the big guys, too. Give the Senate a fair round.

Mr. President, I believe that this resolution before the Senate is right on target, and again I congratulate my dear friend from Pennsylvania for bringing this to our attention.

When all is said and done, hopefully we will collect our wits about us; that if in fact you have to resort to some sort of tactic like this, it is certainly not going to be done like it was done in the past. I hope that upon proper reflection people will see that this is a serious matter and something that ought to be discussed in the Senate.

The circumstances did not call for this. I believe, in looking at the circumstances, one can conclude that, unfortunately, this was perceived by many, rightfully so, as one of harassment, one of perhaps getting back at the minority. That is not the reason for the arrest rule in the Senate.

The arrest rule in the Senate is there for a very important purpose, and that very important purpose is if there is compelling business to be done and Senators are not here, like the Jay Treaty, like a declaration of war, some nationally important legislation, and Senators are not here for whatever reason, at that time under those circumstances, and according to the procedure then an arrest warrant under the most extreme situation would be proper at that time.

Let us not get into these kinds of conduct done at sort of late at night, in a way that this was carried out. I hope this is something that is not repeated. If it is, if it is done under the same kind of mindset with the same type of results, and the same type of circumstances, we can go through this exercise again until we get it resolved.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first of all I want to congratulate the junior Senator from Indiana for that excellent speech. It was amusing but I think an important matter, and it is true that that instance the other night was a Keystone Cops event in many respects.

I rise today to address the subject of the issuance of warrants of arrest on the matter which arose after midnight on last February 23 during the debate on S. 2.

I think everybody knows I have been a supporter of S. 2. I voted eight times to invoke cloture to bring that measure to the floor. But the facts are that 60 votes are needed to invoke cloture, and the 60 votes were not there.

It seems to me it was unnecessary to have eight cloture votes to reach that conclusion. I further think we all agree that it was certainly unnecessary to issue arrest warrants. That is not to say that I do not acknowledge the sincere efforts of the majority leader to move forward with S. 2. I have great respect for his work and the work of the senior Senator from Oklahoma on the issue of campaign finance reform. But last week the Senate was in an extraordinary situation. After many hours and days of debate several Senators absented themselves from the Chamber on the reasonable and thoughful conclusion that further debate was not going to do any good.

Even as a supporter of S. 2, I understood that position, and indeed I went home myself. We voted seven times, the most in the history as I understand it of the Senate—seven cloture votes on one measure. It was evident that S. 2 was not going to be voted on. Positions had become locked in, and indeed many Senators felt it was impossible, unwise for them to change their positions one way or the other. They voted and voted and voted, and there was no need to change and indeed it was, many thought, unwise for them to change having made that many votes.

In addition, I think it is reasonable to say that it was highly unlikely that as many votes were going to be present for the eighth vote on cloture as had been present in the prior votes because there were some Senators it was quite clear who were not going to be here, either for illness or for reasons that they were on the Presidential campaign trail.

In that setting it seems to me, Mr. President, that the issuance of arrest warrants was at the very least unnecessary, and at the most clearly unwise. No arrest warrant was going to change any Senator's mind. The Senate had worked its will. The result was clear. But, Mr. President, that is water over the dam. Let us see where do we go from here.

My concern is that the practice which took place the other evening, that experience of issuing warrants, might possibly set a precedent for the future. And it would be a bad one. Are we as Senators to worry that during the middle of the night the Sergeant at Arms or his assistants are going to appear and physically bring us to the floor of the Senate to participate in a debate that we do not wish to participate in? Is there some measure going to be taking place to force Senators to debate an issue for no reason at all, and if they refuse to, then would be the issuance of warrants which I believe is demeaning to this body?

Our colleague from Pennsylvania, Senator SPECTER, has outlined the possible technical defects of the issuance of the warrants. And he in his usual way did it in a scholarly and legal manner. In fact, there is much discussion, as he pointed out, as to whether there was proper authority to issue the warrants in the first place. But the real issue is not so much technical but what is fair, what is reasonable, and what is going to happen in the future? We must assure the rights of both the majority and the minority, and see that they are respected. And that is the principle that has guided this body through its history and obviously we want all of us to see that that continues.

Unfortunately there is very little precedent to rely on with regard to the issuance of arrest warrants. That is why I support Senator Specter's resolution. He sets forth very specifically some conditions for the issuance of these arrest warrants. Hopefully we will not see that happen again for many, many years. But should it come up, should it be required in the judgment of those who are permitted to issue the warrants, as set forth in the resolution, then there is a procedure to follow. And I think that is very, very important.

What are they? Well, in his resolution he says:

"* * * the Sergeant at Arms shall comply with the following condition:

"1. No arrest warrant shall be executed between the hours of 11 o'clock p.m. and 8 o'clock a.m. * * *" No one can argue with that—"* * * unless * * *"—and there is an "unless" there—"* * * unless the pending business is of a compelling nature."

Certainly that is not too restrictive. I do not think we want these arrest warrants to be taking place in the middle of the night.

Second, "Any arrest warrant shall be signed by the Vice President, the President pro tempore, the acting President pro tempore, or his official designee named in open session, or, if absent, in writing."

It seems to me that gives some official imprimatur to these warrants. We do not want these things issuing willy-nilly.

Third, another extremely reasonable requirement, "Any arrest warrant shall include a written statement establishing the reasons for the arrest." Who can argue with that? Why does this warrant have to issue? What are the reasons for it?

Fourth, "Whenever an arrest warrant is to be issued for an absent Senator, arrest warrants also shall be issued, contemporaneously, for all other Senators absent without excuse, without regard to party affiliation; and the Sergeant at Arms shall make equivalent efforts to execute all such arrest warrants."

This addresses the matter that the junior Senator from Indiana just spoke to in amusing manner, but nonetheless there is seriousness to it. We want to make sure that the physically strong, large Senators are arrested just as quickly as the smaller Senators are. We want to make sure that these arrest warrants go out regardless of party affiliation. We want to make sure that they go out to all absent Senators, not just to a selected few. We want to make sure that those warrants for all, regardless of party affiliation, are issued contemporaneously—will at the same time. I believe no one argue with those specific conditions that are set forth in the resolution.

This measure is going to be referred to the Rules Committee, and there they will have a full examination of this issue and the technical procedures for arrest warrants.

The rules as they currently stand are extremely vague. Should arrest warrants be issued in the middle of the night, and under whose authority should warrants be issued? These are all questions that can be worked out in committee on a bipartisan basis. We have a lot of learned people on that committee, people who have been around here and are familiar with the rules of this body. I hope that, in a bipartisan spirit, they will meet and go over those rules, or the absence thereof, as they pertain to arrest warrants, and come up with something. If it is not the Specter resolution, if somebody has a better idea, let us hear it.

The Specter conditions that are set forth in his resolution appear to me to make sense. There may be others. Clearly, I think we want to make certain that these warrants are not issued in the night between the hours of 11 and 8, except for compelling reasons. Certainly, we want them to have some official designation to them—who issues them. Certainly, we want to make certain that there is a statement accompanying the warrant as to why it is being issued; and, finally, that, regardless of party affiliation, they are issued to everyone who is absent, and that equivalent efforts are made by the Sergeant at Arms to arrest all.

Regardless of the unfortunate incident last week, I think we have a chance to do something constructive for the future. It may well be true that in future days, it may be necessary to have arrest warrants. The Constitution, as we know, discusses it very briefly: "may be authorized to compel the attendance of absent Members in such manner and under such penalties as each House may provide." There it is, in article I, section 5, of the Constitution. But let us codify that; and the proper approach in the Rules Committee is in a bipartisan manner.

So I urge Senators on both sides of the aisle to support the efforts of the Senator from Pennsylvania, and I hope we work together to clarify these rules for the benefit of this distinguished body in the future.

Mr. ARMSTRONG. Mr. President, I congratulate the Senator from Rhode Island on his statement. As usual, he has gone right to the heart of the matter.

His observations are particularly pertinent and timely because he comes at this from a completely different point of view about the underlying legislation, which emphasizes the fact that what we are concerned with here today is not the legislation but the integrity of the legislative process and the treatment of all Senators.

Mr. President, it appears to be that our next speaker has been delayed momentarily; and unless someone seeks recognition, I will suggest the absence of a quorum, while I determine who is to speak next.

Mr. BYRD. Mr. President, on whose time?

The PRESIDING OFFICER. From the time allotted to the Republican leader.

Mr. ARMSTRONG. With that understanding.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kentucky is recognized.

Mr. McCONNELL. Mr. President, we have before us today a very important measure that addresses the question of how we relate to each other and how we function under the rules of the Senate.

For the last few weeks, we were engaged in a debate on a very contentious issue, an issue that divided us, almost without exception, right down the middle of the aisle in the Senate. It is an issue upon which Republicans felt strongly one way and Democrats felt strongly another. I have no desire to rehash that. We addressed that issue eight times in the last 10 months. The result has been the same each time. It is clear that that measure is not going to pass the U.S. Senate. I guess the question is, where do we go from here in terms of the way we function in stressful situations?

The Specter resolution, in my judgment, is not designed to embarrass anyone but to deal with an issue that developed in the course of that contentious debate, which raises serious questions about how we function and how we relate to each other in this body. The Specter resolution, as has been indicated by a number of speakers, suggests four provisions which I think are worthy of consideration and adoption by the Senate. It is a sense-of-the-Senate resolution with respect to the conditions which would be appropriate for the execution of arrest warrants compelling the attendance of absent Senators.

The first provision is:

> No arrest warrant shall be executed between the hours of eleven o'clock p.m. and eight o'clock a.m., unless the pending business is of a compelling nature.

The second provision of the Specter amendment is:

> Any arrest warrant shall be signed by the Vice President, the President pro tempore, the Acting President pro tempore, or his official designee named in open session, or, if absent, in writing.

The third provision is:

> Any arrest warrant shall include a written statement establishing the reasons for arrest.

And fourth:

> Whenever an arrest warrant is to be issued for an absent Senator, arrest warrants also shall be issued, contemporaneously, for all other Senators absent without excuse, without regard to party affiliation; and the Sergeant at Arms shall make equivalent efforts to execute all such arrest warrants.

Now, with regard to the matter last week, I think it would be fairly safe to say that the security of the Nation was not at stake. It was not an issue that involved the Government directly in any sense. It was not an issue of overriding concern out in the land, and it had been voted on seven times. Clearly, it seems to me, that would not have been a situation where the issuance of an arrest warrant might have been appropriate under the Specter amendment.

Clearly, Mr. President, what the Specter proposal seeks to do is to establish some parameters, some guidelines for the issuance of arrest warrants when we are trying to do the Senate's business, and those parameters, it seems to me, add up to fundamental fairness and approaching the issue in as bipartisan a manner as possible.

I know that this amendment will be referred to the Rules Committee for consideration. I hope that after due consideration we will be able to report to the floor of the Senate a bipartisan proposal that deals with the situation in which we unfortunately found ourselves last week.

Mr. President, I think that the Senator from Pennsylvania has done an outstanding job of coming up with a recommended solution to that dilemma. I think we ought to give his proposal serious consideration and at some time during the course of this year pass a bipartisan provision dealing with this situation in which we found ourselves.

Mr. President, I am not going to belabor the issue further. We have had a number of speakers already on the issue. Senator SPECTER has spoken at great length.

I commend him for his most important contribution to the way in which the Senate functions. His suggestions, it seems to me, are extremely constructive, and I hope they will be accepted in that spirit.

Mr. President, I suggest the absence of a quorum.

Mr. CHAFEE. On the Republican time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I rise to speak a bit about campaign reform, about some of the events of last week and about some of the election procedures in my home State which may be related.

Let me say, first of all, that I think as a result of all the controversy surrounding S. 2, it has caused us all to think about campaign limitations, about campaign reform, if we can use that term—of course every bill that passes here in the Senate is called a reform bill—and it causes us to think a bit about the long-term functions of this institution, the Senate of the United States.

Wherever I go people say to me, "Well, you are 1 of 100, the most exclusive club in the world," et cetera, et cetera, and, indeed, I do feel that way. It is a great privilege to serve in it. But, also, and I suppose because of our rules necessarily so, there are 100 strong-willed people in this body representing different parts of a great country. There are going to be times of strife and conflict.

Let me say that I personally strongly disagree with this business of arresting Senators. I am not criticizing any individuals personally, but it seems to me that in 1988 and in the period that we are in in our history it makes us look very bad.

I know there are all sorts of legal niceties on both sides of it and there are moments when the leadership perhaps is frustrated and must go to extreme steps, but it just struck me that this is something that is very inappropriate.

I think we have to carry on here with a sense of decorum, a sense of respect for one another and a sense of respect for one another's ideas.

On the particular evening in question last week I was not here, Mr. President. I was in my home State of South Dakota. In fact had the marshals come for me, they would have had to experience a 40-degree below zero chill factor. So perhaps they decided against arresting me.

But in any event, we had our Presidential primary on that day. And it was a primary in which everybody can vote. We had a good turnout, a very high turnout, and are very proud of the response on both the Democratic side and the Republican side.

Mr. GEPHARDT won on the Democratic side and Mr. DOLE on the Republican side. But the citizens of our State had a very good feeling.

Mr. President, I ask unanimous consent to print in the RECORD some brief materials in reference to the South Dakota primary.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[1988 Republican National Convention Delegate Selection Process South Dakota]

CERTIFICATION OF DELEGATE AND ALTERNATE SLATES

I, Dwight L. Adams as South Dakota Executive Director of the Dole for President Committee, do hereby certify that the delegates and alternates for candidate Bob Dole listed below were arrived at in accordance with South Dakota state law and the bylaws of the South Dakota Republican State Central Committee.

DELEGATES

Name, address, and city

(State Chairman) Larry Pressler, Humboldt.
George S. Mickelson, State Capitol Bldg., Brookings Pierre.
Karen Dvorak, 605 South Williams, Sioux Falls.
Don Peterson, 406 James Place, Yankton.
Chester A. Groseclose, Jr., PO Box 1030, Aberdeen.
Jack G. Rentschler, 5303 North Cliff, Sioux Falls.
Thomas C. Adam, 215 W. Broadway, Pierre.
Carole Hillard, 2809 Frontier Dr., Rapid City.
Howard Owens, 1255 Country Club Dr., Spearfish.
Robert L. Cullum, 48 Montgomery St., Custer.
Bonnie Roesch, HCR 2, Box 46A, Rescoe.
James Simpson, 3102 Meadowbrook Dr., Rapid City.
Sharon J. Haar, 613 East First, Wagner.
Gene Warkenthien, Star Rt., Box 9, Willow Lake.
Gordon Mydland, RR 2, Lake Preston.
Doris Kumm, 521 6th St. SE, Watertown.
Glenn Roth, Box C, Olivet.
Lyla R. Hirsch, RR 1, Box 520, Yankton.

ALTERNATES

Name, address and city

Vance Goldammer, 2432 South Main, Sioux Falls.
W.E. Dorsey, 1509 South Main, Redfield.
Bruce Dahl, 3710 Holly Ct., Rapid City.
Veldon Blair, RR 3, Box 23B, Vale.
David Bogue, RR 3, Box 40, Beresford.
George M. Nohava, Rt. 1, Box 41, Tyndall.
Michael P. Ortner, 505 South 6th, Hot Springs.
Perry Hier, 1514 S. Lloyd, Aberdeen.
Barbara Terca, Box 446, Presho.
Jack Meyer, Jr., 536 Ashmont Rd., Madison.
J. Shanard Burke, 503 N. Grand, Pierre.
Milton Lakness, Rt. 1, Box 36A, Hazel.
Richard (Dick) Peterson, 1703 Victory St., Brookings.
Thomas R. Hills, 620 Harvard, Spearfish.
John C. Fischer, Box 607, Long Lake.
Doreen Kayl, Box 447, Clear Lake.
Paul Guiser, PO Box 517, Martin.
Dennis E. Hultgren, RR 2, Box 147, Akron.

Mr. PRESSLER. Mr. President, I say this because it was a contrast or a shock or whatever to me to fly from South Dakota, where we had the primary, with the citizen participation, good will, some candidates won, some lost, but when I arrived here, I called my secretary and she told me of the events of the evening before, and it was like going from out among people who really believe in our system and who believe in it so strongly, to come back to the Capitol where things had occurred that, in my judgment, should not have occurred.

Mr. President, on the issue of S. 2, the whole business that we were in this fight over, let me say that I believe strongly in campaign reform. I believe in limiting spending. I think we have to do something about the power of special interests here in Washington.

I have practiced limited campaign spending in my own campaigns. In fact, I have always made it a point that I run low-budget campaigns and people have responded to that. In fact, in the last election, there were several elections where the person spent less but made a point of it and actually won the election. So there are choices that the public can make. There are choices that candidates can make.

This Senator would not mind if we eliminated political action committees, although I do not think anything is wrong with them particularly. In terms of their basic nature, when they were formulated they were a reform in and of themselves. In fact, when I first came to the House of Representatives in 1974, I was told the political action committees were a reform and I believe originally supported by Common Cause. I could stand corrected on that.

But I think that the idea was that after the Nixon era and Watergate and all that, people did not know where the money was coming from. There might be 20 checks from individuals from General Motors but people would not know that they were bundling or that they were all from General Motors or from a labor union or something. So they formed political action committees so you would know the source of the money and that was the big reform. Everybody was talking about it, how that was going to clean up politics, and so forth.

I really do not agree that this body is for sale. I know most of the Senators personally here and they work under great pressures and great strains. They work hard at fundraising and they work hard at a lot of things.

But I still believe that our political system produces some very high quality people who are very dedicated to the United States of America. So I am not one of those who says that everything here is corrupt. We have a lot of problems, granted. But before we pass a bill without looking into it, let us think a little bit about where we are and where we want to go.

Now, this legislation that was proposed, in my judgment, would have opened the door to public financing. I do not care how you slice it. Under the first S. 2 we voted on a year ago, I would have received $1 million in cash when I run for reelection in 1990. Now, granted that has been changed. Now we have a postal subsidy and we have a provision that if one side spends more than public financing will come in.

But it is amazing how quickly we forget things around here. In the Watergate Committee, Sam Ervin's committee, one of the principal recommendations was never to have public financing of congressional or Senate campaigns. The reason was that you have a Federal Election Commission deciding who the candidates are.

Let us just think about that for a minute. Let us say we have public financing of campaigns. There certainly is going to be a proabortion and antiabortion candidate running in my State for the Senate. There is going to be all sorts of different political parties taking advantage of the free Federal funds. There is going to have to be a huge agency down here in Washington, DC deciding who gets the money, who is a legitimate candidate, which is a legitimate party. Sam Ervin and his committee unanimously adopted a resolution that it was dangerous to have taxpayer financing of campaigns because you have Federal bureaucrats deciding who the candidates are.

Now, let us say that we have this new form of S. 2 where there is a triggering mechanism and public financing comes only when one side exceeds. Who is going to decide if one side exceeds? It is going to be some bureaucrats in Washington, DC. The Federal Election Commission is going to have to be made as big as the State Department or the Department of Commerce to deal with all these things quickly.

So, let us say that 2 weeks before the election I exceed my limits. Who is going to determine that? You really cannot determine that without an audit that takes months to carry out.

The fact of the matter is, there is going to be Federal money pouring into every campaign. Let us say it is a primary. Let us say there are 20 candidates running for the U.S. Senate in Florida, which there now are; probably more than that. Are all of their campaigns going to be paid for by the taxpayers? Who is going to decide? Who sits down and decides?

That is why the Sam Ervin committee warned, because they were concerned about the IRS going after private citizens during the Nixon administration, allegedly. They said the Federal Government would have far more power over American politics if you have public financing of Senate and House races because they would be deciding who the candidates are.

Think of the power in the last 2 weeks of a Senate race in California if a group of unknown bureaucrats here in Washington, DC, decide who qualified for $12 million of taxpayers' money. Think of that power. That is really something.

So, the point I am making is that in my brief time in Washington, since 1974, when I came here and the big reform was the Ervin committee recommendations, the Watergate Committee recommendations, the principal recommendation was: Do not get involved in taxpayer money in Senate or House races. I do not hear anybody talk about that. I have not read any editorials about it. It has been forgotten.

Why do we have these reform committees? Let us read their recommendations and learn something from them.

Now, some people say, "Well, this taxpayer financing has worked pretty good in the Presidential campaigns." Now, wait a minute. Has it really? Let us think about that for a minute. Has it limited spending in the Presidential campaigns? No. In fact, the spending ceilings have been raised and increased and, in fact, there are ways around the ceilings.

For example, one Presidential candidate slept in Sioux Falls many nights to avoid getting up to the Iowa ceiling. Another would always land his plane in South Dakota, have a meeting there, and go over into Iowa and campaign. It is a fraud and it is just being added to the Federal deficit.

There are fringe candidates who receive $12 million to $14 million. As I understand it, Mr. Lyndon LaRouche, a candidate of some party, has received over the years literally millions of dollars of taxpayers' money which has been added to the Federal deficit. And he is legally qualified, from everything I have read in the papers. And there have been many others that you have not heard of who have found ways to qualify.

So, is it really reform? In the Presidential elections, what about PAC money? There is still PAC money in Presidential campaigns. In fact, there is more PAC money in Presidential campaigns than there ever was before. It has just been added on.

There is individual contributions, there is bundling, all the same things are there, just the ceilings have gone up. And the Federal dollars are being added to the national debt, because when you check off your dollar, you are not paying a dollar's more taxes. That means the Federal Treasury is putting a dollar toward the Presidential campaigns. That dollar has to be made up by other taxpayers or added to the national debt.

So this good government thing has not resulted in any reform. The PAC's are still there. All the problems are there. The ceilings have gone up. There is more money being spent and we walk around and say that is reform.

Now, let us think about all these bills called reform. There is the tax reform bill that was passed here which I do not think had any reform in it. Some of my colleagues would disagree with that.

Mr. President, I think before we start down this path, let us take a look at the constitutional amendment to limit spending in these races. That would be fine. You do not need public money. You could have limitations. There are contributions available. Make limitations. Eliminate PAC's. Let us pass a constitutional amendment. We can do it in 9 months. We would have it for the elections in 1990. Let us apply it to the House as well as the Senate.

So all those things come to my mind. But that is what this body was debating about and there was a lot of self-righteousness on both sides, I suppose.

But this was topped off by arrest warrants being issued and one Senator, at least, being arrested and supposedly carried onto the Chamber floor. I think that is a very sad thing in this age, that we cannot have a debate and we cannot disagree among ourselves without it reaching that point. I think it was the low point of the Senate since I have been a Member of the Senate, and this is now my 10th year.

I think it adds to the public perception that inside the beltway we are unable to do our job. We cannot deal with deficits. We cannot seem to deal with moving legislation.

It has deepened feelings. I would predict that we probably will not be able to pass a campaign reform bill limiting spending now because such hard feelings have arisen over this matter.

So, Mr. President, it is with a sense of sadness that I speak today. I did not intend to speak on this. It is with a sense of hope that the United States Senate will overcome this.

Let me say that during my time in the Senate I have not engaged in some of the stalling tactics or I have not engaged in—I hope I have not engaged in—confrontations with my colleagues that were unnecessary, but I have tried to be a cooperative Member of this body with both sides. I have served under a variety of leaders on both sides. I respect them all and I like them.

But, how we got ourselves into this situation I do not know, but I do know that, somehow, this Senate must rise above it, put it behind us, take some steps to make sure it does not happen again, because it diminishes every one of us when something like that happens.

Mr. President I ask unanimous consent that two articles from the Rapid City Journal be printed at this point in the RECORD and I yield the floor.

There being no objection, the articles were order to be printed in the RECORD, as follows:

DOLE, GEPHARDT RUNAWAY FAVORITES IN STATE

GEPHARDT MARGIN SURPRISE

(By Chet Byokaw)

SIOUX FALLS. Rep. Richard Gephardt turned back Massachusetts Gov. Michael Dukakis in the South Dakota Democratic presidential primary Tuesday night, as the Missouri congressman won support from fellow Midwesterners.

"Dick's message appealed to the workers, the farmers and the senior citizens," Gephardt's wife, Jane, said at a campaign rally in Sioux Falls. She said she had not expected her husband to win by such a large margin.

Aides from the Gepahardt and Dukakis campaigns had predicted the contest would be close, but Gephardt won convincingly to rebound from his loss to Dukakis in last week's New Hampshire primary.

With 99 percent of the precincts reporting, Gephardt had 44 percent of the vote, and Dukakis had 11 percent. Sen. Albert Gore Jr. of Tennessee was third with 9 percent, and Illinois Sen. Paul Simon was fourth with 6 percent. Gary Hart and Jesse Jackson each had 5 percent of the vote.

Gephardt's state campaign manager, Julie Gibson, said the Missouri congressman won South Dakota because he drew heavy support from farmers. A win in South Dakota should help Gephardt as he campaigns in the 20 Super Tuesday states that hold primaries and caucuses on March 8, she said.

But Dukakis' state director, Fritz Wieking, said the campaign was pleased with the South Dakota results and expected to win the Southern primaries next month.

"We did real well in South Dakota," Wieking said, "If you asked people six months ago if a Massachusetts liberal would come in second in South Dakota, they would have said no."

"We are confident that we will mop up Dick Gephardt in the South," Wieking said.

Television ads run by Gephardt late in the campaign hurt Dukakis, Wieking said. The ads criticized Dukakis for his stands on farm, tax and trade issues.

"We knew that the negative ads were having a disastrous impact," Wieking said.

He also said the Dukakis campaign expected to split the South Dakota delegates with Gephardt because other candidates wouldn't get enough votes to meet the threshold for receiving delegates.

George Cunningham, the state chairman of Simon's campaign, said the Illinois senator's effort in South Dakota "was too little, too late."

"I had hoped we would come in a strong third," he said, adding that he understood Simon was finishing fourth. "If so, that's a disappointing finish."

Simon's national campaign had promised a $300,000 budget for South Dakota, but as of Feb. 8, only $11,000 had been received, Cunningham said.

The Simon campaign pumped more money and staff into South Dakota after the New Hampshire primary, but that effort came too late, Cunningham said.

"You cannot come into South Dakota a week before the primary and mount a campaign," he said.

The vote in the Democratic primary was legally non-binding because the South Dakota primary occurred before the national party's rules allow, but a compromise was worked out so the results would still help determine the allocation of delegates to candidates.

South Dakota Democratic Party officials said that while the primary wouldn't directly award delegates, a March 12 statewide caucus would apportion delegates according to the primary results.

Only a small number of delegates were at stake in the primary, which was to help determine 10 of the 19 delegates South Dakotans would send to the Democratic National Convention this summer.

But candidates spent a lot of time visiting the state and a lot of money advertising on television as they hoped to gain a boost or at least avoid a setback before heading into March 8, when 20 states will choose delegates in Super Tuesday primaries and caucuses.

Gephardt stressed his plans for increasing farm income by limiting the production of grain and forcing other nations to accept the import of U.S. grain. He ran a television ad criticizing Dukakis for not supporting those programs, but the Dukakis campaign said the ad misrepresented the Massachusetts governor's stand.

Dukakis focused on his economic plans, which he said would help revitalize the economy in South Dakota and other rural states, while Simon stressed his theme of compassion for farmers, workers and other members of the traditional Democratic coalition.

The balloting Tuesday offered South Dakota Democrats the first chance to vote in a primary since the Legislature moved the presidential portion of the primary from June to February.

DOLE CREDITS HARD WORK

(By Dennis Gale and Bob Irnrie)

SIOUX FALLS.—U.S. Sen. Bob Dole of Kansas easily won South Dakota's Republican presidential primary Tuesday, notching another victory in the Midwest and gaining momentum in his battle with Vice President George Bush.

With 99 percent of South Dakota's 1,151 precincts reporting News Election Service said Dole had 56 percent of the vote compared to 20 percent for Pat Robertson and 19 percent for Vice President George Bush. Rep. Jack Kemp trailed with 5 percent.

"I took South Dakota very seriously. I worked hard in South Dakota," Dole told a cheering crowd at a Sioux Falls motel.

"It's a lot more fun winning."

Dole had the backing of Gov. George Mickelson and U.S. Sen. Larry Pressler of South Dakota during the campaign. Both officials were with Dole as he celebrated victory at a GOP rally.

Dole said the nation was focusing on the South Dakota results, and Wednesday's papers would say "Dole wins South Dakota."

"Much of my victory is because . . . I'm an issues person," Dole said. "In my view, that made a difference."

"Bob Dole understands agriculture. Bob Dole understands Rural America."

Bush surprised supporters last week when he canceled television ads that had been slated for South Dakota. Campaign aides said Bush was withdrawing to concentrate on the 20-state Super Tuesday races March 8. He had visited South Dakota at least nine times since July 1986.

Bush was backed by two-term former Gov. Bill Janklow and by current Lt. Gov. Walter Dale Miller.

Bush made a mistake by pulling out of South Dakota in the last days before the primary to concentrate on the Super Tuesday races, Dole said.

The Kansas senator said he expected Bush to downplay his big loss in South Dakota.

"I hope America's farmers are listening. I don't think they're going to want to be abandoned by candidates."

Dole has said the vice president was turning his back on the Midwest. A key Bush aide in South Dakota has said she was angry when she learned of the decision to withdraw from the state.

"Bob Dole has demonstrated that if people listen to the issues and look at my record, they understand I can make a difference as president," Dole said.

Robertson's strong showing in South Dakota Tuesday also demonstrated that the Baptist minister can do well in primary states, Dole said.

"I imagine a lot of people will be light sleepers in the South tonight, like the Bush people," Dole said.

But Bush backers in South Dakota wasted little time in trying to remove the shine from Dole's victory.

Janklow, co-chairman of Bush's state campaign, said the vice president was "better off staying out."

Bush was behind Dole anyway, Janklow said, and Bush risked damaging his national "perceptions" by staying in the race.

"(Dole's win) will be a half-day story and that's all there is to it," Janklow said.

The new early primary election capped a campaign that lured the candidates to the state as early as July 1986 and featured more than two dozen combined visits.

Eighteen delegates were at stake in the election. The Republican Party set a threshold of 20 percent, meaning any candidate getting less than 20 percent of the popular vote gets no delegates in South Dakota.

Dole said he would do well in South Dakota. Bush forces cited Dole's standing in the state in the decision to spend campaign money elsewhere.

Robertson raised GOP eyebrows when he finished ahead of Bush and behind Dole in the Iowa caucuses. He followed that up with a campaign trip to Watertown Feb. 10 but

> did not reappear in South Dakota after that.
>
> Kemp's last South Dakota visit was in December, but he made at least six other trips to the state last year.
>
> All four of the active candidates spent money on television commercials. Dole appeared to put the most resources into campaign ads, while Kemp concentrated on large wooden signs erected in many towns in the state.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the Senate has been called the greatest debating society in the world. It certainly is the crucible of our democracy in regard to the attempts to resolve long-term problems that face our society. I am a member of the Rules Committee, to which this proposal will be referred, so I do not intend to talk about the proposal itself. I would attempt to try to calm the waters a little bit, if that is possible.

It may not be possible for a while, Mr. President, because, as I have learned from my good friend from West Virginia, there is nothing so instructive as the history of the Senate. So we went back to the RECORD.

It was in 1942 that arrest warrants were issued the last time by the Senate. It involved not a partisan debate, but an intraparty dispute over keeping a quorum by the majority at the time of the consideration of a bill dealing with poll tax.

The problem occurred when Senator Barkley was the majority leader and he asked that a quorum be procured to proceed with the bill that was before them, November 14, 1942.

I mention this history because it is interesting to look it over. It is interesting because the event took place on the 14th and the discussion continued, as this has, on November 16, on November 17, and on through the period following. There was acute disagreement, as a matter of fact, between Senator McKellar and Senator Barkley.

One person who was writing concerning the Capitol at that time, his name was Richard Langham Riedel, wrote "The Halls of the Mighty, My 47 Years in the Senate." In that, on page 89, he talks about Mark Trice, and his role in this. He says:

"A greater challenge for Mark Trice came late one evening in 1943—" that was an error. It was 1942.

> When Majority Leader Alben Barkley was determined to get a quorum, come what may. "Do you mean Senator McKellar, too?" asked Mark. "I mean *everyone!*" answered Barkley. With more than a few misgivings, Mark set out for the Mayflower Hotel to seek the volatile bachelor from Tennessee. When Senator McKellar did not answer the house telephone, Mark enlisted the aid of a hotel official who suggested that they get a maid to knock on the door. Obviously the hotel man knew McKellar well! The Senator opened the door at the maid's request to discover Mark Trice outside. McKellar welcomed him and seemed surprised to learn that he was needed at the Senate. Though Mark carried a subpoena in his pocket, it never became necessary to mention it.
>
> The old Senator came along in a friendly spirit, chatting with Mark as though they were on a normal trip together. Then suddenly, as the car climbed Capitol Hill, the light in the dome made McKellar put two and two together. He realized that he was about to help the leadership get a quorum that would foil his fellow Southerners. He stopped talking to Mark. His face grew redder and redder. By the time the car reached the Senate entrance, McKellar shot out and barrelled through the corridors to find the source of his summons to the Capitol in the middle of the night. He was so angry with Barkley that he would not speak to him for months, though as senior Democrat, Senator McKellar sat beside the Majority Leader in the front now. Then came the day when Barkley dramatically resigned the leadership in protest against President Roosevelt's tax bill veto.

It goes on to say that the two became friends again after that. I mention that because the interesting thing about history is how history can warp the record. The RECORD shows, on November 14, that Senator McKellar answered the roll and a quorum was present upon his appearance at 3:42 in the afternoon. I wonder if history is going to warp this occasion.

McKellar was not brought out of a hotel at midnight, in the middle of the night at all. He was asked to come down, he came down, they did not even serve their warrant on him, as a matter of fact, the subpoena.

My point is that I hope we can try to see, now, this whole collision in perspective. Since we represent two great opposing parties on an issue of great philosophical difference now, in terms of Federal financing and limitation of expenditures, we can expect a collision. We did have a collision.

There were people on our side who felt that if we were to continue debate on that, the majority had the responsibility to produce a quorum, if one was demanded, or else to go out of session and to await the cloture vote that was scheduled for the next day. Or, as I understand it, and I left to go to my room to await the next vote, we were prepared to talk through the night and to have a discussion on the issues. I am still prepared to do that. I am still prepared to proceed with a reform bill this year. I think one is very necessary, as I tried to explain.

But at the time we determined that the majority should produce a quorum, we, too, became part of the process that set in motion a real collision and the majority leader was faced with a determination of what options he should use when the quorum was not present. He did not face the same problem Senator Barkley faced because we were here, we were not absent. I was in my room. Our side had just determined, as I said, that the majority ought to produce a quorum if it wanted to continue talking on this bill prior to the cloture vote the next day.

I think that we should expect these clashes. Having served in the State legislature, as many of us did, we had similar clashes. But they are different here. They are different here because what we develop as a national precedent now, concerning the use of the constitutional power that is available—and the strange thing is, as we go through it, we may be educated by the majority leader because he will undoubtedly know a great deal more about the history of this than I have been able to look up in this short period of time. But as far as I can determine, there are no guidelines for the use of these. As a matter of fact, it was discussed at the time, at length, in November 1942, concerning that procedure could be used. Senator Barkley made this interesting statement. He said:

> Mr. President, there seems to have taken place an exodus from the Senate equal to the exodus of the Children of Israel from Egypt; but there is a sufficient number of Senators in town to make a quorum. I therefore move that the Vice President be authorized and directed to issue warrants of arrest for absent Senators, and that the Sergeant at Arms be instructed to execute such warrants of arrest upon absent Senators.

There was a discussion that ensued about that. Clearly the question that was faced at the time was similar to what we face here.

Mr. Connally asked:

> I wish to ask if the execution of warrants would require the Sergeant at Arms to go to the home States of Senators?

And Mr. Barkley said, after some discussion:

> Of course, when the Sergeant at Arms produces a sufficient number to make a quorum, which is five—and there are more than that many Senators in Washington, as reported to the Sergeant at Arms—it is not expected that warrants of arrest will be sent to the home States of those who are absent.

That is a nice question, but what happened on the record exists so far if they were indeed absent. In my home State legislature, we have what we call a call of the house. If there is not a quorum present, you can be compelled as a member to come, and until you come, everyone else is locked in the chamber. It becomes a very interesting procedure. It is not used very often because of the restriction you place on your colleagues who are present if you are, in fact, absent. We in the State legislature developed a process of being excused, which is the process we have here. Very few people use it. I use it from time to time. I think it should be used.

But the real point is, in all probability, now that this matter has arisen again, the Rules Committee ought to address it and, as a matter of fact, while it may be difficult to do, particularly after this debate, the Senator from West Virginia probably ought to be one of those who is involved in the review of this constitutional power of the majority of the Senate and the determination of the rules that ought to be used in the future, if it is used again.

I say that to the Senate and to my good friend from West Virginia, advisedly, Mr. President, because I have personally told him in a conversation I had with one Member on this side who told me about the way he felt as he sat in his room waiting for the footsteps to come down the hall. It suddenly struck him that this was a feeling that others had had in other places in the past which had instilled great fear in them, and he started to become afraid. It is a strange feeling that developed in some of our Members' minds as they though they might literally be arrested.

I think we ought to step back from the issue that developed the other night and really look at the power and see if we have the wisdom in future days. It may not be this Congress. We may have to wait until the next Congress, but I hope we can look at it in this Congress and see if we can develop a set of rules that say under what circumstances Members might be brought back to the floor and what are the responsibilities of those who are here.

Apparently, the indication from this RECORD is there was sort of a rolling quorum from the majority, and as some people left, as some people here voted to compel the production of absent Senators, they, too, left, and the question was raised as to whether there was really a quorum at the time these five appeared.

This is 1942 when this power was used before.

The question was raised, and you can find it in the RECORD, during substantial debate: when is a quorum a quorum? Do they all have to stay here or do they just come through and say they are here and put on their hat and leave? But is there still a quorum to do business?

It is a difficult problem for anyone who has the responsibility of the majority leader to face, to maintain a quorum, particularly in that circumstance. It was an intraparty fight, as I mentioned before. This was a total collision of the two major parties of our country. Almost total. There were very few on each side crossing the aisle on the issue, but it was, and still remains to be, a very meaningful dispute between us. We will have to see in the future if we can resolve it.

My purpose for entering into this discussion now is to see if there is not some way we can use this resolution as a vehicle, not only for the restoration of the amicable relationships that have to exist in the Senate across this aisle, but also to draw up on our own feelings now and on the history of the prior use of this constitutional authority, to see if we can set down some guidelines for when should this power be used and under what circumstances; whether or not people out of town should be ruled out from the issuance of subpoenas, and that was the case, by the way, in 1942; whether subpoenas should be tried first, which are different from warrants of arrest; or whether we should go immediately to warrants of arrest. It is possible that we could just issue a subpoena as a preliminary incident.

When I was a district attorney, that is what I used to do. If we had a reluctant witness, we would send out a subpoena and tell him to come. If he would not come, then we would have to go to the court and get a warrant of arrest and arrest him.

There is a great distinction in terms of the power that is employed. If we have the power to issue documents to compel attendance, I assume we could use the lesser power before we use the more stringent power. At least that is my feeling.

I have to ask my good counsel about that, but we ought to look at this now, and we ought to determine how the power should be used, when the power should be used, what are the restraints on the power, and what are the terms under which it might be used. For instance, out of town, in neither of these instances has it been used out of town. But that day might come, and maybe, in the calm that I hope will develop in the Senate in the near future, we could explore that.

Mr. ARMSTRONG. Mr. President, would the Senator yield for a moment?

Mr. STEVENS. Yes.

Mr. ARMSTRONG. I thank him for doing so. The point that the Senator makes about the sequence in which motions are offered is a very interesting one. I would just like to mention to him, as he reflects on this, that in Dr. Riddick's commentaries on the procedures of the Senate, he cites that a motion to compel attendance is out of order prior to action on a motion to request attendance.

I do not know that that is precedential in this case. I hope it will at some point be precedential. It certainly is evidence to support the point that the Senator was making, that we should not proceed to the most extreme remedy, but proceed in an orderly way through those remedies that are in increasing order of extremity, depending on the situation.

Mr. STEVENS. I thank the Senator. It is not directly related, but I do want to say I did have a conversation recently with my good friend from West Virginia—and I hope he does not mind my saying this—that I feel sometimes we ought to find ways not to use as often as we do the motion to instruct, which requires us to come over and vote on whether we should ask the Sergeant at Arms to compel attendance. By virtue of doing that so much, people ignore it.

When I first came here, when you had the three bells, the live quorum, we came. No matter what the issue was, we came. We had very few instances in which we had the actual recorded vote on whether we should be compelled to be present.

In connection with the problem that I perceive of the opening of the Senate, we open the Senate with a prayer in the morning, and there are usually two people. I do not think any man in history has stood here more than the Senator from West Virginia, in terms of the opening of the Senate, as leader; and there is always someone on our side. I have been here quite often where it is just the two of us, the Presiding Officer, and the Chaplain of the Senate.

I believe we ought to adopt the policy of trying to encourage Senators to be here to keep a quorum on the floor in the event it goes back to debating.

Mr. BYRD. Mr. President, would the distinguished Senator yield?

Mr. STEVENS. Yes; I will.

Mr. BYRD. I believe Senator ARMSTRONG earlier quoted Dr. Riddick. Would the Senator quote Dr. Riddick again? Would the Senator allow me to propound this question?

Mr. STEVENS. I will be happy to do so.

Mr. ARMSTRONG. Mr. President, I will be happy to do so. The Senate procedure at page 174, cites that. The point I was making was simply in response to that which the Senator from Alaska has made that there ought to be some sense of proceeding with the less extreme measure before going to the more drastic measure. At least in the case cited on pages 174 and 175, that was held to be the rule of the Senate. Let me just read it briefly. It is only a few lines:

> During the absence of a quorum, an order may be adopted to direct the Sergeant at Arms to compel the attendance of absent Senators. Such an order should not be resorted to until after an order requesting their attendance has been adopted, and it has been held not in order prior to a motion to request.

Mr. BYRD. Mr. President, would the distinguished Senator yield?

Mr. STEVENS. I am happy to yield to my good friend.

Mr. BYRD. If the distinguished Senator from Colorado will research further he will find that more recent precedents do not support that. I read from George H. Haynes, on "The Senate of the United States," as follows:

> Must Sergeant at Arms first be directed to request before being directed to compel the

> attendance of absent Senators? In 1879 by a vote of 24 to 12 the Senate determined this question arising under the old rule in the affirmative.

In other words, the Sergeant at Arms must first be directed to request before being directed to compel. That was February 24, 1879. When the point was raised in 1915, on the rule in its present form, however, Williams declared:

> The Senate has never ruled that you could not compel until after you had requested and the Presiding Officer, Ashurst, ruled that it was in order to compel the attendance of absent Senators before requesting them to return.

February 8, 1915, Congressional Record, 3276, page 353, "The Senate of the United States," by George H. Haynes.

I thank the Senator for yielding.

Mr. STEVENS. I thank the Senator.

Mr. ARMSTRONG. Mr. President, I have no desire to pursue the point. The fact that precedent has been subsequently overruled does not change my view of the propriety of the matter. Obviously, new precedents are established routinely around here and in many cases are established on nothing more than a majority vote.

My point was that on some occasions, at least, in the past it has been held a proper sequence of events and it seems to me to be one which is wise and a good practice. Whether it is binding precedent of the Senate, I would defer to the leader's interpretation.

Mr. BYRD. Mr. President, if the distinguished Senator from Alaska will yield, I will not ask him to yield again, and I will be brief. I would not cite Haynes, necessarily, except for the fact that the distinguished Senator from Colorado was citing Dr. Riddick on a certain precedent. I thank the Senator.

Mr. STEVENS. Mr. President, let me come to an end soon here, but I think the record ought to show that in 1942, when this power was used before, as I said, the feelings persisted for a period of time after that. Senator Russell of Georgia was one of those who—he actually offered a motion to amend the record. That was suggested on this side, by the way, and I was one of those who suggested that, instead of getting into a constant battle over this, we ought to see if we could not find some way to refer this to the Rules Committee or to a committee. I think I suggested a bipartisan ad hoc committee to review this.

Senator Russell said this on November 17, remember this is 3 days later. He said, "I was incorrect as I read it. It was not 15, it was 8 * * *" for a sufficient quorum. He wanted the record to disclose the names of those who refused to answer their names. Some of them were present and refused to answer present. Some were in the building and refused to come. Others were out of the building, others were out of town. And he said he thought that, I am picking up at the end of his quote:

> * * * the Journal ought to disclose the names of those who were here and those who did not respond when their names were called.

He said:

> That is more important, Mr. President, when you consider the very unusual proceedings in this body * * * Saturday last. At that time a quorum was called, and disclosed that 52 Senators were absent from the Senate. The rules of the Senate proscribed the method of procedure following less than quorum present. Those rules were not followed on last Saturday. On the contrary, although the rollcalls disclosed 52 Senators were absent from the body, and unusual heard of procedure was adopted whereupon motions were made, and warrants were issued for the arrest of 8 of the 52 who were absent.

I have to say to my good friend, I do not know, I have not even asked how many warrants were issued the other night. But this feeling persisted for a great period of time in 1942, and I am afraid it is going to persist for a great period of time now, unless we step back, as I said, from this, and say: Should we learn something from this collision, and should we use our experience and knowledge, and try to define the ways in which this power should be used in the future, if ever, and under what conditions, and to whom it should be applied?

But furthermore, should we turn this over and should we look at the whole question of how the Senate runs itself? I note, for instance, as I go back in the Congressional Record—I am sure the Senator from West Virginia has noted this, too—in many Congresses, the Senate adopted the policy of having a quorum call after the prayer without a motion to compel. They just appeared, they just had a rollcall, they just appeared, and that was it.

In the very first page in this volume of the Congressional Record I have of October 20, 1942, they had the Journal read, the message from the President, and a quorum call, and it was completed very quickly, obviously. It appears to me that from the timeframe in it, they were here on the floor.

Senator Heflin is just back from a visit to the Philippine Senate, and others have been visiting senates around the world. Many institutions have a concept of just custom that the Members come to the floor when it opens, listen to their prayer, and then go to their business.

I think we might learn from what has gone on. We ought to have some sort of a quorum-proof procedure, procedure to prove the presence of a quorum but does not require us to come and vote on a motion to authorize the Sergeant at Arms to compel our attendance unless it is really needed, and reserve that motion for the extreme cases. And we would know it was then an extreme case. If we could change the procedure of the Senate so we would appear voluntarily more often I think it might restore some of the meaning to that motion.

I think I dragged on.

Mr. BYRD. Mr. President, would the Senator yield?

Mr. STEVENS. Yes.

Mr. BYRD. I want to compliment the Senator on his suggestion with respect to having Senators present on the floor at the time the Chaplain delivers the prayer. I am very wholeheartedly in favor of that suggestion. And I would hope that we would give our thought to efforts to encourage that. The distinguished Senator discussed this with me, I believe, just last evening or a day or so ago. I very much appreciate his proposal.

Mr. STEVENS. I thank the Senator. As the Senator from West Virginia knows, I sometimes just wonder—and I am not part of the leadership anymore, although I come to listen to the prayer in the morning when I particularly feel that maybe I need some guidance from somewhere or someone before I start the day here. But it seems to me, and I mentioned it to the Senate prayer group the other morning, I think we ought to do that because it must be a lonely thing for the Chaplain to stand up there and look at 100 seats and 2 people standing in front of 2 seats. It ought to change in my opinion. We ought to show great respect for the Chaplain himself, not only the procedure that he is part of, but the Chaplain himself.

Mr. President, I urge on the Senate, first, the majority understand the feelings of the minority in this instance because having gone through seven cloture votes, the minority was prepared for another cloture vote, but they were not prepared for the battle over whether or not we should have a quorum during the debate that took place prior to that cloture vote through the night that was contemplated. And if there was to be a quorum, it was the feeling of many on this side that the majority had the responsibility as the majority to produce that quorum.

But, second, and even more importantly, I think in my conversations with the Members of the Senate who were deeply, deeply affected now by the procedure that was followed, it is not a partisan reaction. It is more the reaction of someone, as I said before, who suddenly found, as McKellar did, that he was liable to be the person who would be responsible for changing the circumstance from the side that he represented.

Even my good friend, Senator Packwood decided not to walk in the door.

He wanted to make sure they carried him in so all of us would know he did not come here to break the solidarity of our group's position. I have to say I think he handled that with good humor and in the whole concept the Sergeant at Arms was and is a gentleman in the way he carried out his duties. But it demonstrates to me that the feelings that exist over on this side are not political, they are not related to S. 2. They genuinely want us to explore whether or not Senators, in this Congress or future Congresses, will be subjected to similar feelings they had that night and under what circumstances should that power be exercised.

Third, my point in being here is that it would be a great symbol to many on this side if the majority leader and our good friends on his side of the aisle would recognize those first two points and in a spirit of comity say, OK, let us go to the Rules Committee, let us do some research, let us take advantage of this vast knowledge that the Senator from West Virginia as the majority leader possesses. And no one on my side is ever going to challenge my claim that nobody now in the Senate knows more about the history of the Senate than the Senator from West Viriginia. If he truly understands—and I think he will—the roots of this request made today, then I think we will find some way to evolve a procedure that would be followed in the future and we will not rely on the ad hoc judgment of the person in the chair, the majority leader, who, by definition, at that time will be under deep stress, and the Parliamentarian, who is trying to devise an answer to questions that are coming from all sides of how do you do this if you really want to do it.

I think we ought to take the task on now. I think this Senate has had an experience from which we ought to learn a lesson. One of the lessons ought to be that we can assure that if the power the Constitution gives the Senate is ever used again, it will be used in a manner which attempts to the greatest extent possible to avoid the reaction that came in 1942 and is present in the Senate today.

Mr. President, I ask unanimous consent that I be permitted to place in the RECORD following my statement some press accounts of the 1942 incident. I think they go to the same point I am trying to make. The Senate at that time was urged to set down some rules as to how this would be done if it was ever used again, and it did not.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

ARRESTS COMPEL SENATE QUORUM—3 OF 8 RESPOND TO WARRANTS ISSUED AS POLL-TAX FILIBUSTER TURNS TO ABSENTEE TACTICS

WASHINGTON, Nov. 14—With filibuster tactics against the poll tax repeal bill turning on the second day from sustained oratory to absenteeism which prevented a quorum, the Senate ordered the arrest of eight of its missing members, six of them from Southern poll-tax States.

This drastic action, taken for the first time since the conflict over Boulder Dam in May, 1928, was directed on motion of Senator Barkley of Kentucky, the majority leader, to instruct Vice President Wallace to sign the warrants.

Senator McKellar of Tennessee was actually arrested by a deputy sergeant at arms after a maid unlocked a door of his suite at the Mayflower Hotel.

Senators Maybank of South Carolina and Bunker of Nevada were put under "technical" arrest. Mr. Maybank, reached at his home by telephone, accepted a ride to the Capitol in an automobile sent for him. Mr. Bunker walked into the chamber while he was being sought elsewhere.

FIVE WARRANTS OUTSTANDING

When the debate got under way, three hours and forty minutes after the chamber was called to order at noon, warrants were still out for five others, including Senator Hill of Alabama, the majority whip, whose job it is to round up Democratic absentees, Senators Doxey of Mississippi, O'Daniel of Texas, Russell of Georgia and Overton of Louisiana.

As Senator Bilbo of Mississippi resumed the debate which he began yesterday afternoon, he denounced the press, radio and other channels for distributing news suggesting that a filibuster was in progress. He predicted that consideration of this legislation would continue until Jan. 3, when the present Congress expires and the new one takes over.

From the outset of the day's session Senator Barkley kept at the task of getting a quorum. When only twenty-six members responded to the first calling of the roll, a call for absentees was ordered.

When only five more members appeared, Mr. Barkley moved that the sergeant at arms, Chesley W. Jurney, be directed to inform absent members that their presence was wanted in the chamber.

Thirteen members entered, but the Senate still lacked five to make a quorum.

Mr. Barkley then moved that the Vice President be directed to issue warrants for the arrest of the eight still missing members who, he had been informed, were in the city.

The warrants, "commanding" the sergeant at arms "forthwith to arrest and take into custody and bring to the bar of the Senate" the designated members who were "absent without leave," were turned over to Mr. Jurney.

Finding doors locked at the offices of missing Senators, Mr. Jurney deputized John J. Kearney, custodian of the Senate Office Building, to unlock them with his master key.

While this fruitless search was going on, Senator Herring of Iowa and Senator Aiken of Vermont, who were not known to be in the city, and therefore had no warrants issued against them, appeared in the chamber. This left three members to be found to make a quorum of forty-nine.

Then Mr. Bunker came in, followed by Mr. Maybank. Neither believed himself to be under even technical arrest, but Mr. Jurney said they were. Mr. McKellar made up the quorum and Mr. Bilbo began speaking.

NEW START NOW REQUIRED

Throughout the actual session, which lasted until nearly 6 P.M., no mention of the move to compel the presence of absentees was made.

When the Senate adjourned tonight it wiped its slate clean, leaving nothing, not even Mr. Barkley's motion to take up the poll tax repealer.

Mr. Bilbo lost the floor, because also expiring with the adjournment was the appeal from a presiding officer's decision yesterday that the measure was reported in regular order to the Senate by the Judiciary Committee.

Mr. Barkley said that he would renew his motion to call up the bill when the Senate met on Monday, and Senator Pepper of Florida, author of the measure, joined him in declaring that the fight for it would not be dropped.

Meanwhile, however, word was sent to forty-two members of the Senate who were known to be out of the city to be here on Monday. The outstanding warrants, it was said, were being held in abeyance.

PRESS FILIBUSTER IN POLL TAX FIGHT—SOUTHERN SENATORS CONTINUE TACTICS OF OPPOSITION TO REPEAL BILL

WASHINGTON, Nov. 16.—Southern opponents of the House bill to outlaw poll tax payments as a requirement for voting in eight Southern States won the third day's round today in their effort to prevent Senate consideration of the measure.

They achieved this victory by preliminary maneuvering which resulted in nine delaying quorum calls in two hours and promised later that they have another parliamentary trick ready to spring tomorrow, when Senator Barkley, Democratic leader, will make his fourth attempt to make the bill the Senate's pending business.

As the day's two-and-a-half-hour session ended futilely for the bill's proponents, they indicated that their chief hope of being able to get action before Dec. 31, when this Congress ends, lay in aroused public antagonism to the Southerners' tactics.

However, Senator Bilbo of Mississippi, who has promised to speak for thirty continuous days against the bill if it can be brought up, voiced confidence tonight that his group will prevail.

Senator Barkley's defeat today resulted in clever use of seldom invoked Senate rules. One such rule provides that the full list of all bills already reported to the Senate for action can be taken up on any Monday and that a motion is in order to make any one of these bills the pending business until it is disposed of. Such a motion is non-debatable and must be voted on at once, but it can be made only in the first two hours of the session devoted to running through this list of bills and only when the bill in question is reached in its order on the calendar.

Since sixty-seven bills, mostly minor ones, preceded the poll tax bill, the delaying tactics of the opposition were easily accomplished.

Senator Bilbo later told gleefully what his tactics will be tomorrow.

"The Senate," he said, "has got into a sloppy habit of approving the journal of the previous day's proceedings without having it read. This is bad. The journal should be absolutely letter-perfect as a record for all future generations to depend upon without question.

"Tomorrow we are going to insist on following the rule providing for its reading if any member demands it, and I am sure we will find misplaced commas and semicolons and such like that must be corrected to consume the two hours which the rules permit for such consideration."

The opposition did not attempt today to use its Saturday tactic which resulted in the technical arrest of several Senators—that of persuading a majority of the members not to answer quorum calls, thus blocking any Senate procedure. The number answering today on the nine roll-calls ran an average of four or five above, the forty-nine required for a quorum.

However, Saturday's action brought some tart comment today from Senator Barkley and some critical remarks from Senator Connally, one of the bill's opponents.

Mr. Barkley said he had noted that quite a few members "who were for this measure or pretended to be for it before election" had joined its opponents in absenting themselves from Saturday's quorum calls. Any member had the right to be for or against the bill, he said, but he did not believe any had a right to seek to delay or block action by such procedure, or by such as those resorted to today.

Mr. Connally retorted that his party leader was "taunting" Senators who did not want the bill brought up because they believe it will disrupt the Democratic party at a time when national unity is imperative.

"We came out of the recent election with our legs almost shot off and our heads bandaged," he said, "and now the Senator wants to give us the coup de grace when we are just barely able to wabble."

[From the New York Times, Nov. 18, 1942]

BARKLEY ASSAILED IN POLL TAX FIGHT

(By Frederick R. Barkley)

WASHINGTON, November 17—Senators from eight Southern States which tax the right to vote for candidates for Federal office succeeded today for the fourth successive day in blocking efforts to bring up the recently passed House measure which would abrogate such taxation.

Using the fourth device pulled from their bag of parliamentary tricks, the Southerners kept the Senate in session more than five hours, during which nothing was accomplished. They said they would continue using the new tactic, reading and correcting the journal of the previous day's proceedings, to the same end for nearly two weeks more.

Outside of the parliamentary maneuverings, the chief event of the day was a personal attack by Senator McKellar upon his party leader, Senator Barkley, because the Senate ordered his "arrest" on Saturday for failing to respond to quorum calls. Mr. McKellar said this action, for which he blamed Mr. Barkley, had "besmirched" a lifelong record on which there was no stain.

In reply, Mr. Barkley said that while he had compiled from records provided by Senate attachés the names of eight members who were in town but not in Senate attendance and moved that they be brought into the chamber, it was the Senate, not he, which ordered this action.

MCKELLAR ASSAILS COLLEAGUE

Standing at his seat next to the majority leader, Mr. McKellar shouted that as the result of Saturday's action he had removed his name from a joint Senatorial letter to President Roosevelt which he composed only last week, asking the President to nominate Mr. Barkley for the Supreme Court vacancy.

His face flushed with indignation, he also recalled that when there was a contest for the majority leadership six years ago between Mr. Barkley and the late Senator Harrison he had voted and worked for Mr. Barkley and that Mr. Barkley had won by only one vote.

"And that was my vote," he shouted, "my vote which I switched from my dear lifelong friend, Pat Harrison, to the man who has now turned against me and had me arrested.

"The only heritage my respected father left me was the admonition: 'Keep your record clean.' For more than fifty years as a man and twenty-six years as a Senator I thought I had kept it clean, even to the matter of attendance in the Senate. Why, even in the last year I have been absent from only eight of the 267 roll-calls, while Senator Barkley has been absent from twenty-one.

"And yet this man has me arrested and brought here to give him a quorum—something he couldn't do anything with even after he got it."

"Being called a filibusterer holds no terrors for me," he shouted at another point, pounding the adjoining desk of Mr. Barkley, who sat impassive within reach of the Tennessean's fist. "I will filibuster to the last breath and by every means, if necessary, to defeat this iniquitous measure."

Commenting on reports that he sat in another than his usual seat yesterday because he wanted to get away from Mr. Barkley, with whom it is reported he has not spoken since Saturday, Mr. McKellar said:

"No, my friends in the press gallery, I just moved over temporarily to confer with my new leader, Senator Connally. I expect to occupy my regular seat for many years to come."

At another point, he said that Mr. Barkley had referred to the flights of opposition by Senators from the chamber to prevent a quorum as like "the exodus from Egypt."

"But the people who made that exodus had a real leader who led them to the promised land," he shouted. "Our so-called leader is leading us straight into the Republican party."

BARKLEY EXPLAINS ACTION

In reply, Mr. Barkley said it was always unfortunate when legislation turned on personalities.

"What I did Saturday was not aimed at any of my colleagues," he said quietly. "It was my duty under the Senate rules to obtain a quorum, unless indeed we wanted to notify the nation that the Senate is impotent to act—an idea which the Senate rejected.

"But I don't intend to be goaded into animosity or resentment against any member of this body, even the Senator from Tennessee. It may be only a coincidence that most of the eight absentees cited in Saturday's order were opponents of this bill, but my action would have been the same if they had all been for it."

Then, turning to the issues in the bill, Mr. Barkley declared that if the only way the Democratic party could survive was to tax the right of poor people to vote for Federal officials, "then the Democratic party is built on sand."

The moves in today's filibustering were first to demand reading of the journal of yesterday's proceedings and then to move to amend it by inserting the names of all Senators who did not answer the day's nine quorum calls and one roll-call vote.

Senator Russell, who operated the scheme, moved to include the names of absentees on only one of these calls. As the day ended, Mr. Barkley moved to table this motion, an undebatable move which must be voted on early tomorrow. But then any poll-tax supporter who can gain the floor can move to amend a second quorum call in the same way and hold the floor all day talking on any subject that he fancies.

Mr. Russell today spoke on Georgia's history in all the wars of the past for the hour or more necessary to block Mr. Barkley's chance to move effectively to make the poll-tax bill the pending business until disposed of.

Mr. Barkley said today that the bill's supporters would make the best fight for it that they could, and that even if they failed, the Senate debate might lead the Southern States to repeal the poll taxes by their own action.

NATION ENRAGED, SAYS MURRAY

WASHINGTON, November 17.—Philip Murray, president of the Congress of Industrial Organizations, sent a letter to members of the senate today, declaring that "the nation stands aghast and enraged at the tactics of a small bloc which is seeking to frustrate majority rule in this nation."

He called for speedy enactment of the anti-poll tax legislation, asserting:

In this period of national crisis, the opening of our polling places to every qualified citizen in the nation by the elimination of poll-tax restrictions which disenfranchise large numbers of American citizens is a measure essential to our war effort."

GROUP HERE HITS FILIBUSTER

A telegram, signed by twenty-one persons, was sent from New York yesterday to Senators Barkley, Norris and La Follette, condemning the Senate filibuster on the anti-poll tax bill and urging adoption of the measure.

The telegram, as made public at Freedom House, read as follows:

"Senator Bilbo and other 'poll tax' Senators are committing two crimes against the American democratic idea. They are employing the filibuster, in which a minority resists the majority's will to act; they are endeavoring to continue the discriminatory poll tax, which is a subterfuge for defiance of the Thirteenth Amendment to our Constitution.

"We, the undersigned, therefore record our condemnation of the present filibuster in the United States Senate against the anti-poll tax bill and earnestly hope that the long-delayed measure will be speedily adopted. Unquestionably our enemies, particularly Japan, will use this situation to convince the colored peoples of the Orient that we have been hypocritical in our declarations for a free world. We believe that immediate repeal of those laws which encourage discrimination because of race, color or religion is an important step in our march to victory.

The signers were S. Stanwood Menken, Harry D. Gideonse, Herbert Bayard Swope, Dr. Harry A. Atkinson, Stephen Vincent Benet, Mme. Alma Clayburgh, the Rev. Vincent Donovan, William Jay Schieffelin, the Rev. George B. Ford, John Farrar, Freda Kirchwey, Fannie Hurst, Mrs. Albert Lasker, Mrs. Harold Guinzburg, George Filed, Mrs. Andrew Jackson, Mrs. Ward Cheney, Mrs. Herbert Agar, Mr. and Mrs. William Agar and Mrs. Elsie B. Wimpfheimer.

[From the Washington Post, Nov. 15, 1942]

"ARREST" OF ABSENTEE SENATORS HALTS FILIBUSTER ON POLL TAX—NOW THEY'LL START AGAIN

(By Edward Ryan)

The Senate late yesterday called a halt to the filibuster against poll-tax repeal after staging its first full-scale manhunt for absent members in 15 years.

By adjoining at 5:50 p.m. the chamber swept aside a parliamentary blockade laboriously constructed during two days, and agreed to begin again from scratch tomorrow.

The manhunt was ordered when not enough members showed up to hear Senator (The Man) Bilbo (Democrat) of Mississippi, begin the second installment of his projected 30-day discussion of the poll-tax repeal bill in all its ramifications.

Before the hunt ended, three members had been "arrested," or at least shown the formal Senate warrants for their arrest and appeared in the chamber. They were Senators Bunker (Democrat) of South Carolina and McKellar (Democrat), of Tennessee. Warrants for five others were left unserved.

With the appearance of Senator McKellar at 3:42 p.m. the roll of Senators listed as present was boosted to the 49 necessary for a quorum and Senator Bilbo resumed his analysis of the poll tax bill—with less than a score of members actually in evidence on the floor. He continued for about two hours, until adjournment was proposed.

Before adjourning. Majority Leader Barkley (Democrat) of Kentucky ordered Senate officials to notify all members to return for the session tomorrow.

Principal aim of the adjournment, it was learned, is to get the poll tax repeal bill actually before the Senate before any filibuster gets rolling again. So far the legislation had not been before the Senate. Instead, this was the situation.

Barkley had moved Friday to consider the poll tax bill. Senator Doxey (Democrat) of Mississippi had shot in a point of order that the bill could not be brought up since no quorum of the Judiciary Committee had been on hand to report the measure to the Senate. Doxey's point was overruled, whereupon Senator Connally (Democrat) of Texas appealed the ruling. His appeal opened the way for unlimited debate—and for Bilbo's 30-day speaking campaign.

TO BE REPEATED TOMORROW

This process was scheduled to be repeated exactly, tomorrow—up to the appeal. At that point, it was understood, supporters of the legislation will move to table the appeal—a motion which cannot, be debated, but can be settled by majority vote. If the poll-tax repealers win in. Barkley's proposal to consider the bill can then be approved by a majority vote. The bill would then be before the Senate—and the way cleared again for unlimited debate, and the filibuster.

Said Bilbo: "I'm getting along fine.

"I'll be sitting around, loaded for bear, and ready to shoot when I see the whites of their eyes. It will take me five days to introduce the subject, 20 days to argue it, five to conclude. I'm rarin' to go."

Yesterday's standstill session got under way at noon. By agreement of the day before Bilbo had the floor to continue his speech. But Senator Connally objected that no quorum was present.

26 ANSWER ROLL CALL

A roll call produced 26 Senators, a recheck brought two more. Senator Barkley, at 12:20 p.m. asked that Sergeant at Arms Chesley W. Jurney be instructed to notify the absent members that "their presence was desired" on the Senate floor. Thereafter, a partial timetable of the session ran about like this:

12:55 p.m.—Forty-four of the necessary 49 Senators had turned up. Senator Barkley proposed that Jurney be ordered to "compel" the attendance of absent members.

1 p.m.—Senator Connally asked, "When a Senator answers to his name and then gets his hat and walks away, is he still counted for a quorum?" and received the answer that his was not a parliamentary inquiry.

1:20 p.m.—Sergeant at Arms Jurney reported 42 Senators as being out-of-town, and eight more as being in Washington but not to be located at their homes or offices. Senator Barkley observed that exodus from the Senate appeared like that of the children of Egypt, and proposed that warrants be issued for the arrest of the eight.

CONNALLY OBJECTS IN VAIN

Over Connnally's objection, Senator Green (Democrat) of Rhode Island, acting president of the Senate, signed the first warrants for the arrest of absent members since the Boulder Dam fight of February, 1927. The warrant commanded Jurney to "arrest, take into custody, and bring before the bar of the Senate," these members:

Senators Bunker, Maybank, McKellar, Doxey, Hill (Democrat) of Alabama; Overton (Democrat) of Louisiana; O'Daniel (Democrat) of Texas; and Russel (Democrat) of Georgia. All but Bunker are opponents of the poll tax repeal.

Senator Connally protested the action as "outrageous," charging that custodians of the Capital were being ordered to break into the offices of Senators. He observed: "If anyone broke into my office he'd not be able to break into anyone else's office for at least 24 hours."

2 p.m.—Jurney dispatched Deputy Sergeant at Arms J. Mark Trice, and Special Deputy William Cheatham to round up the eight members. Asked whether he would join the search, Jurney said no, explaining that someone would have to stay at the office and receive reports.

HERRING SHOWS UP

2:08 p.m.—Senator Herring (Democrat) of Iowa, one of those earlier listed as out of town, entered the Senate chamber.

2:10 p.m.—Senator Bunker, located at his office by the searching party, came in, and shortly afterward replaced Senator Green as presiding officer.

2:45 p.m.—Senator Aiken (Republican) of Vermont, another on the out-of-town list, arrived.

3:19 p.m.—Senator Maybank arrived from his home at 2420 Sixteenth Street Northwest, remarking later that he had just enjoyed his first limousine ride at Government expense since coming to Washington. He said he had planned to go to his office, and the "arrest" had saved him taxi fare. Denying that it had been an arrest, he said, "They just called me up." (While deputies said they had served the warrants, Jurney said rather that the three members had been "shown the warrants.")

3:42 p.m.—Senator McKellar, located at his apartment in the Mayflower Hotel after telephoning had brought no response, arrived at the chamber, answered to his name, making the forty-ninth Senator "present," and promptly entered the Democratic cloakroom off the floor. He was reported to have left the cloakroom by another door a few moments later. He was said to have been provoked by the "arrest," protesting it had interrupted preparation of a speech on the poll tax. He did not return to the floor. Service of the other warrants was deferred.

3:45 p.m.—Senator Bilbo was in full swing.

ATTENDANCE DROPS TO FOUR

He charged that the sponsors of the legislation were to blame for bringing an "impasse in the orderly processes of government in the midst of war." There were more important bills on the calendar, he said, and the sponsors of the poll tax bill knew in advance that their measure would bring a long debate. "We oppose the legislation on the ground that it is clearly unconstitutional," he declared.

Why, he demanded, were sponsors of the bill "willing to split the Solid South and crucify the party they claim they belong to in the midst of a war?"

4:57 p.m.—Attendance on the floor dropped to four (including Bilbo), low for the day.

5 p.m.—"in conclusion" cried Bilbo—and Senators Barkley, Aiken, and Langer (Republican) of North Dakota, looked up from their conversation in apparent surprise—but it developed that Bilbo was simply quoting a transcript of testimony before the Judiciary Committee.

5:05 p.m.—Connally asked whether Senator Bilbo had named "one of the most distinguished sponsors of this legislation, Carl Browder (the Communist leader)."

"I haven't got to him yet," said Bilbo. "I'm saving him for the third week."

5:35 p.m.—Barkley stepped back and conferred with Connally, who walked over and spoke to Bilbo. Said Bilbo: "If my distinguished friend, the majority leader, wants to adjourn, I have no objection, so long as I would be permitted to continue my speech."

Barkley replied that if the Senate adjourned the proceedings of the two days would lapse. "You mean I would not be able to continue my line of thought?" asked Bilbo.

Barkley said that Bilbo had been at fault in not claiming the floor at the beginning of the day—a move which would have blocked the point of no quorum. Bilbo complained that the chair "would not look my way."

However, Barkley said he could not agree to having Bilbo continue to hold the floor and continue his speech tomorrow, and Bilbo said that "out of deference to my colleagues," he would take his chances on being recognized when the Senate meets again.

SENATORIAL ANTICS

[From the Washington Post, Nov. 15, 1942]

The Senate punched a gaping hole in its reservoir of good will yesterday. Senator Bilbo's filibuster had previously sloshed a good deal of water over the sides of that same reservoir. Today it is leaking in much the same way that it leaked several months ago when Congressmen voted pensions for themselves. And the precious fluid that is running out is the faith of the American people in their chief instrument of representative government.

The necessity of issuing warrants for the arrest of absentee Senators to obtain a quorum is a severe reproach even in time of peace. In wartime such drastic measures to compel delinquent legislators to attend to their duty are the gravest sort of reflection upon their patriotism. And that is particularly true when some of the absent members appear to be hiding out to thwart legislative action. The impotent minority is to be congratulated on its forthright efforts to round up the slackers by force, but that will not save the Senate from another critical sinking spell so far as the esteem of the public is concerned.

Mr. Bilbo's filibuster threat was bad enough. Even if the Senate had faced that threat courageously, the Mississippian's slurring remark to the effect that he doesn't need his mind very much in the Senate would have reechoed loudly in circles where representative government is under attack. But the situation was made much worse when more serious-minded Senators apparently lent their support to Mr. Bilbo's sabotage tactics. So news has gone out to all the country that, while our soldiers are fighting and dying on far-flung fronts and while momentous wartime issues await legislative action, the Senate is paralyzed by a little game of peanut politics.

We think that the sponsors of the bill to abolish the poll tax are ill-advised in pressing for action on that measure. Its constitutionality is open to grave doubt. But the tactics by which some Southern legislators are fighting it are so indefensible that they will likely alienate whatever sympathy remained for full State control over election machinery. Certainly this bill is insignificant compared to the preservation of faith in Congress as a responsible legislative body in this world-wide crisis. And that faith begins to crumble dangerously every time Congress indulges in such frivolous antics as those which have been witnessed in the Senate during the last two days.

[From the New York Times, Nov. 18, 1942]

THE SENATE FILIBUSTER

The old question of majority rule vs. minority rights is raised whenever the business of the Senate is held up by a filibuster. The delaying tactics of empty debate and incessant demands for a roll-call can be defended up to a certain point. There have been occasions when a small minority, deeply convinced of the justice of its cause, has served the country well by postponing action on some controversial question until the merits of the issue were better understood or the will of the people was revealed more clearly.

We do not believe that any justification of this kind can be found for the filibuster which is now in progress against Senate action on the proposal to outlaw the poll tax in Federal elections. This issue is well understood. It has been debated, times without number, over a long period of years. There is no need for delay in order to clarify the question. On logical grounds the proposal justifies itself. Elective Federal officers, from the President down, have a voice in the affairs of every citizen of every State. There is no desire, or intention, on the part of the States which have no poll taxes to interfere in the local business of the eight States which have such requirements for voting. The real question is whether or not the citizens of forty States have a right to see to it that the citizens of eight States are not misrepresented or under-represented in Federal elections.

That is the issue. Its merits should be decided by the democratic process of a full and fair debate, to be followed by a vote. The Senate minority which is now deliberately obstructing such a vote, and delaying the work of Congress in wartime, is giving a poor exhibition of democracy.

[From the New York Times, Nov. 19, 1942]

SENATE FILIBUSTER DECRIED—ROW OVER POLL TAX REPEAL CONDEMNED AS BAR TO NEEDED LEGISLATION

TO THE EDITOR OF THE NEW YORK TIMES:

Many Americans besides myself who are greatly concerned that our country should become truly democratic in every aspect of its life welcomed, I am sure, the wholehearted support which the Times gave the anti-poll tax bill and the clear statement of the reasons for its passage expressed in several editorials.

Now we are confronted by the unhappy spectacle of the Senate of the United States being prevented from a consideration of that bill and of other legislation vital in an hour of national emergency by a small group of obstinate and selfish Senators who are attempting to obstruct the normal progress of legislation by filibuster.

These Senators would answer that the Senate can get on with the business of winning the war if the proponents of the bill, who must be in the majority or there would be no need for a filibuster, will give up their efforts and a vote. That is, the policy of the Senate in regard to an issue of fundamental importance, involving as it does democratic principles which must be affirmed or denied by our actions, is to be dictated by a small minority.

Both the opposition to the bill itself and the methods which are being used to prevent its consideration are dangerously un-American and undemocratic.

The vast majority of the American people bitterly resent having the institutions which they are willing to defend if need be with their lives made a hollow mockery in the eyes of the world. They realize—even if most of Senate does not—that the fight for freedom must be waged in the Senate chamber as well as on the coasts of North Africa and the Solomon Islands.

MIRIAM A. HUFFMAN.

New York, Nov. 17, 1942.

STALEMATED SENATE SHELVES CAMPAIGN MEASURE

(By Janet Hook)

An acrimonious, weeklong debate over campaign-finance legislation (S. 2) in the Senate has left its Democratic backers stymied, Republican opponents bitter and the Senate as a whole nursing deep partisan wounds.

The bill was shelved Feb. 26 after three days of round-the-clock Senate sessions aimed at wearing down the opposition and heightening public awareness of problems in the campaign-finance system.

But neither goal was fully realized.

Democrats could not break a GOP filibuster against the bill, which would limit campaign spending and the role of political action committees (PACs) in the Senate elections.

And substantive debate on the campaign-finance issue was overshadowed by the controversial tactics deployed by both parties—most notably, the midnight mayhem surrounding the Feb. 24 arrest of Republican Bob Packwood of Oregon, who was carried onto the Senate floor for a quorum call. (Packwood, p. 487; history, p. 486.)

The legislation was pulled from the Senate floor after a record-setting eighth cloture vote Feb. 26 failed to limit debate. The 53-41 vote fell seven votes shy of the 60 needed to cut off a filibuster. (Vote 30, p. 547.)

"We have fought the good fight . . . [but] we have not finished the course," said Majority Leader Robert C. Byrd, D-W.Va., who said the issue could still be revisited later this year.

But most senators assume the bill is doomed for the rest of this Congress.

"We have now slain the dragon eight times," said assistant GOP leader Alan K. Simpson of Wyoming. "I don't know what else you can do to send a message to the people that seem obsessed with this that it's over. We must now move on to other things."

David L. Boren, D-Okla., a principal sponsor of S. 2, acknowledged, "There is no sense going up and down the same hill 15 times."

But he and Byrd said they believed the talkathon on S. 2 had been an important step toward building public support for campaign spending curbs.

"One thing has been achieved, and one thing is certain—this issue is on the national agenda to stay, until we deal with it," Boren said.

But some S. 2 backers were frustrated not only with GOP obstructionism but also with Byrd's hardball floor strategy of non-stop sessions and the controversial arrest of Packwood.

"We lost the high ground with the confrontation and the comedy that came about as a result of the last two nights," said, a freshman Democrat, adding that Byrd's tactics fueled dissatisfaction with his leadership among junior members.

With the debate coming at a time of doubt about Byrd's future as leader, this senator said. "I think it lends further support to those who are beginning to make the case for the next generation of leadership in the Senate. This is old-time politics." (Byrd, p. 490.)

But Common Cause, the lobbying group that has been a principal force behind S. 2, praised Byrd's "tenacity, perseverance and extraordinary leadership" on the issue.

The week's siege on the Senate floor opened schisms between the parties unusually deep for the Senate, which generally operates more by consensus than does the House.

Richard G. Lugar, R-Ind., said the debate was marked by the "most egregious partisanship since I've been here. I chalk it up as a bad dream."

Said Bob Graham, D-Fla., "It's going to require some assertive acts of friendship and comity to restore some of the feelings bruised from this week."

ELECTIONS AT STAKE

It's hardly surprising that a subject as intensely political as the role of money in elections generates such bitter partisanship.

Campaign finance is a subject on which each one of the 535 members of Congress has strong views. They see their own and their parties' political future at stake in every provision of every proposal to overhaul congressional campaign-finance law. Interest was spurred by the record high costs of 1986 Senate races.

"Is this body going to become the fortress of special interests and the citadel of men of wealth?" asked Byrd, who is deeply distressed by the growing amount of time and energy senators spend raising funds. S. 2 had become for him practically an idée fixe in the 100th Congress.

Although the bill has 52 cosponsors, Democrats have been unable to muster the 60 votes needed to invoke cloture and thus cut off filibusters. Last year the bill was the subject of seven cloture votes—the most ever made on a single matter. (1987 Weekly Report p. 2252.)

In the course of 1987, Byrd and Boren made modifications in S. 2 designed to pick up additional support—principally by scaling back the proposed system of public financing for Senate campaigns.

In its latest version, the Byrd-Boren bill would provide financial incentives—such as reduced broadcasting and postal rates—for senatorial candidates to abide by specified campaign spending limits. It would provide public funds only to candidates whose opponents do not abide by limits in the bill. It also would impose limits on contributions from PACs.

The cornerstone of the Democratic bill is the proposal for overall campaign spending limits, specified on a state-by-state basis, which S. 2 backers see as the key to curbing sky-rocketing election costs. But such limits are anathema to Republicans, who think a spending cap would institutionalize the Democrats' majorities in Congress. They maintain that challengers are at a disadvantage when they cannot spend freely to overcome the benefits of incumbency.

"To get right down to the nub of it," Simpson said of S. 2, "if this bill passes in its present form, there will never be another Republican majority in the Senate for 40 years."

Democrats saw a glimmer of hope that the impasse could be broken when Simpson indicated on Feb. 17 that Republicans might be willing to discuss spending limits, if Democrats would consider tighter rules on the sort of in-kind campaign contributions—such as labor unions' telephone banks—that are bread and butter to Democratic campaigns.

Seizing that opening, Byrd and Simpson appointed four members from each part to discuss a possible compromise. (Weekly Report p. 385.)

However, it quickly became clear that the group of eight had run aground on familiar shoals: Both sides regarded their positions on overall spending limits as non-negotiable.

One of the negotiators, Nebraska Democrat J. James Exon, called it the "closest thing to a total impasse as I've seen here for a long time."

After negotiaitons stalled, Byrd let it be known he would not let Republicans conduct the kind of "gentlemen's filibuster" against S. 2 they did last year, in which members were not forced to make good in their threats to talk around the clock. True marathon filibusters have been rare in recent years. (1987 Weekly Report p. 2115.)

Byrd said he would force Republicans to hold the floor around the clock beginning the night of Feb. 23, or else push the bill to a vote if the GOP was not there to stop him.

"If there's going to be a filibuster, it can't be a filibuster carried out in the back room," Byrd said. "It has to move to the Senate floor."

The first evening, Republicans responded in kind. They moved repeatedly for quorum calls, then boycotted the floor. That forced Democrats to keep enough members present to maintain the quorum needed for the Senate to remain in session.

It was when the Democrats came up short around midnight that Byrd resorted to seeking the arrest of absent senators and had Packwood carried onto the floor.

That night's events were followed by a day of vitriolic debate about the propriety and legality of the arrest.

Byrd and Simpson finally called a truce late Feb. 24. They agreed to restrict the second all-night debate to the substance of the bill—something Democrats felt was getting short shrift in the Packwood aftermath—and to call off the talkathon the next day at the dinner hour, with a final cloture vote Feb. 26.

The agreement was a retreat from earlier Byrd threats to keep the bill on the floor into the following week and possibly longer. But the strong-arm tactics were wearing thin among some of Byrd's own troops.

By the time the cloture vote was taken, the only question was how far Democrats would fall short of last year's high-water mark, when 53 members supported cloture Sept. 10.

In the end, S. 2 supporters did not pick up a single new ally, but neither did they lose one.

COMPARISONS WITH THE HOUSE

As the controversy wound down, some Republicans warned that the week's events had eroded the Senate's traditional "comity."

"The judgment mistake that Sen. Byrd made is that this is not the House," Packwood said. "He doesn't have a 2-to-1 majority."

Packwood compared the long-term threat of partisan bitterness to the ill will that has lingered among House Republicans since Speaker Jim Wright of Texas in October 1987 used heavy-handed tactics to push through a controversial budget bill. (1987 Weekly Report p. 2653.)

Senate Republicans were particularly infuriated by Byrd's pushing a bill they felt was destined to die.

"People were irate," said one Republican who worked closely on the issue. "A good leader knows when to go to the mat—that's when you have a shot at something."

The clash left Democrats equally embittered by Senate Republicans' behavior, which they believed smacked of the desperation tactics that the Senate GOP has generally left to their badly outnumbered colleagues in the House.

But Byrd said he did not expect the battle to leave lasting scars.

"When this matter is put behind us and we turn to other matters, the work of the Senate will continue," Byrd said. "I've seen these storms come and go."

AN ARRESTING CASE, WITH LITTLE PRECEDENT

(By Phil Kuntz)

The Feb. 24 arrest of Sen. Bob Packwood, R-Ore., sent Capitol Hill history buffs scrambling for precedents, but by the end of the week it remained unclear whether Packwood was the first, second, third or fourth senator to be arrested to compel attendance.

"At this point, I really don't care; too many hours have been wasted on this already," snapped Greg Harness, the Senate Library's head reference librarian.

One thing is certain: Packwood was the first senator to be carried into the chamber under arrest.

Article 1, Section 5 of the Constitution says: "Each house . . . may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide."

The Senate's history includes several attempts to address the attendance problem. In 1798, the Senate changed its rules to allow use of the sergeant-at-arms to enforce attendance. Attempts also were made to require absent senators to cover the cost of fetching them.

"The Senate's records for those early days do not reveal any occasion where a senator was either fined or physically compelled to enter the chamber," said Majority Leader Robert C. Byrd, D-W.VA.

The Senate also tried to force attendance by paying its members on a per-day basis, but in 1856, it switched to an annual salary. The result: Sessions got shorter, from an average of 265 days to 203, Byrd said.

In 1864, the Senate tried to shame members into showing up by recording members as "absent" for missed votes. Thirty years later, that method was abandoned, and the phrase "not voting" was used.

Frustrated by failed attempts to adjourn for lack of a quorum, the Senate in 1877 loosened its rules to allow adjournment motion without a quorum.

During the next few decades, there were several unsuccessful attempts by sergeants-at-arms to persuade senators to come to the floor. One sergeant-at-arms was denied entrance to a dinner party that he thought included several members. Another made repeated attempts between 4:20 a.m. and 6:30 a.m. to awaken sleeping senators, to no avail.

One of the first times the Senate approved a motion to order the arrest of absent members was on Feb. 23, 1927, during a debate over the construction of what became the Hoover Dam. The sergeant-at-arms, dispatched with warrants, returned without any senators at 6:30 a.m., reporting a variety of excuses, including one by a senator who said he was just too tired.

The next test came on Nov. 14, 1942, during a debate over a bill to abolish poll taxes. The Senate issued warrants for eight members, seven of them Southerners opposed to the bill. It is unclear, however, how many were actually arrested, if any. "It turns on the definition of arrest," said Senate Historian Richard Baker.

Press accounts of the time said three senators—Burnet Maybank, D-S.C.; Berkeley Bunker, D-Nev.; and Kenneth D. McKellar, D-Tenn.—were arrested.

Bunker, however, insisted Feb. 25 that he was not arrested and walked into the chamber unescorted. Maybank, who died in 1954, said on the floor in 1950 that he and Joseph Lister Hill, D-Ala., had been arrested that day. But the sergeant-at-arms said in a report in the Congressional Record of the day that he could not find Hill. (The report does not say who was arrested.) And press accounts say that Maybank only accepted a ride to the Capitol from a deputy sergeant-at-arms and walked into the chamber on his own. McKellar was taken by car from a nearby hotel by another deputy although he was not told he was under arrest, nor was the warrant actually produced. He, too, walked into the chamber on his own. "He was hotter than a pistol," Bunker recalled.

Until Feb. 24, there were only two other successful motions to arrest absent senators, in 1950 and 1976, but none was arrested either time because the threat itself prompted a quorum.

PACKWOOD ARRESTED, CARRIED INTO CHAMBER

An arcane tool of Senate discipline was hauled out in the wee hours of Feb. 24, in an incident that proved to be the turning point of a week's acrimonious debate over campaign-finance legislation (S. 2).

When the episode was over, Oregon Republican Bob Packwood had been arrested, had reinjured a broken finger and had been physically carried onto the Senate floor at 1:19 in the morning.

Touching off the skirmish was Majority Leader Robert C. Byrd's decision to resurrect the Senate's little-known power, last wielded in 1942, to call for the arrest of absent members to bring them to the floor. (Campaign finance, p. 485; history, p. 486.)

Packwood's finger was not the only casualty. Also lost in the scuffle was the last shred of hope that a bipartisan approach on campaign-finance changes could emerge from the debate. And the incident shifted the focus of the week's debate from the substance of the bill to partisan pyrotechnics.

Republicans warned that the incident could leave lasting scars. "Remember Packwood" will become a GOP rallying cry, the Oregon Republican said.

But Byrd, D-W.Va., called the flap over Packwood a "sideshow" designed to divert public attention from Republicans' opposition to controlling the costs of congressional campaigns.

STALKING THE HALLWAYS

The escapade began the first night of the Senate's three-day non-stop session on S. 2. Byrd attempted to wear down the opposition by forcing them to talk all night.

Republicans responded with a clever maneuver that allowed them, in effect, to sustain a midnight filibuster without showing up. Only one Republican remained stationed on the floor to keep watch over the proceedings. The GOP tactic was to force a series of quorum calls and then boycott the votes, forcing the Democrats to come up with the 51 bodies needed to establish a quorum and keep the Senate in session.

After a series of procedural votes in which a declining number of Republicans participated, Democrats after midnight found themselves one vote short of a quorum. They then approved, 45-3, Byrd's motion to request the sergeant-at-arms, Henry K. Giugni, to arrest absent senators and bring them to the floor. (Vote 23, p. 546.)

Republicans met quickly in the cloakroom off the Senate floor to plot strategy, and then scattered.

Giugni gathered a posse of Capitol police, armed them with arrest warrants, and began combing the halls, hideaways and other habitats of Capitol Hill for delinquent senators. The sight of the approaching officers at one point sent Steve Symms, R-Idaho, scampering out of sight. Giugni and company, on a tip from a Capitol cleaning woman, finally tracked Packwood down in his office, where the senator had bolted one door and blocked the other with a heavy chair.

"I thought I was safe," Packwood said, telling the story with relish at a press conference the next afternoon.

Giugni unbolted the door with a pass key, and when Packwood tried to hold it shut with his shoulder, forced it open. In the process, Packwood reinjured a finger he had broken a few weeks earlier.

"Frankly, I thought there was a miscommunication," Giugni deadpanned when he joined Packwood at the press conference. "I was trying to help him open the door."

Packwood agreed to walk over to the Senate chamber, but refused to go inside under his own steam. Two of Giugni's officers lifted Packwood carefully and carried him feet-first to the Senate floor.

"Here," Packwood said, at last establishing the quorum of 51.

"BANANA REPUBLIC" TACTICS

Packwood was jocular at his post-mortem press conference, but other Republicans expressed a deep bitterness over the incident—much of it directed at Byrd—that poisoned the rest of the week's debate.

"Tyranny of the majority leader," Arlen Specter, R-Pa., called it.

Utah Republican Orrin G. Hatch said the Democrats were trying to turn the Senate into a "banana republic."

They questioned the constitutionality of the arrests and of using physical compulsion. Specter tried Feb. 25 to force Senate reconsideration of the vote to arrest absent senators, but his move was killed on a 47-45 vote, largely along party lines. (Vote 29, p. 547)

Byrd was affronted by GOP criticism of his tactics and responded at length. Accusing the Republicans of "a calculated effort to obstruct this Senate," Byrd said in an agitated floor speech, "I had no doubt where my duty lay."

"I don't have any regret whatsoever in what I did. I only regret that I had to do it."

BYRD-WATCHING INTENSIFIES IN SENATE

Will he or won't he? That's what every Senate Democrat wants to know for sure about whether Robert C. Byrd will seek another term as Senate majority leader after the 1988 elections.

The West Virginia Democrat, who survived challenges the last two times he ran for majority leader, had been widely expected to announce his plans this month.

Byrd's continuing silence has frustrated those who aspire to succeed him, but Senate sources say the leading candidates intensified their campaigning significantly in the last two weeks. That activity was part of the background against which Byrd followed a controversial hardball strategy for pushing campaign-finance legislation (S. 2) the week of Feb. 22. (Campaign finance, p. 485)

George J. Mitchell, D-Maine, has been telling members he wants the job if Byrd doesn't. So has Daniel K. Inouye of Hawaii, who reportedly has met with almost all his Democratic colleagues in the last two weeks. J. Bennett Johnston, the Louisiana Democrat who ran an abortive race against Byrd in 1986, said he also had stepped up his unofficial campaign this month.

"I'm talking to people with more intensity," Johnston said. "We don't yet know who's in the race yet. But now's the right time."

In talking to colleagues, Johnston said, "I'm saying I'm in the race. "I've assumed all along Byrd is not running, and I'm running on that assumption."

When Johnston ran for majority leader, there were widespread reports—never confirmed—that Byrd had blunted opposition by telling members this would be his last term as majority leader. Byrd is in line to succeed the retiring John C. Stennis, D-Miss., as chairman of the powerful Appropriations Committee and as president pro tempore of the Senate.

Byrd, characteristically, is playing things close to his vest. Some Senate Democrats are questioning the conventional wisdom that Byrd is withholding an announcement to forestall becoming a lame duck. A long-time adviser said many Democrats had approached Byrd to volunteer support if he decided to seek re-election as leader.

"I would've guessed a month ago that the chances were 75-25 that Byrd would step down," J. James Exon, D-Neb., said Feb. 24. "I would guess today the odds have been reversed: there's a 75 percent chance he'll stay."

But with the informal campaign to succeed Byrd already so far along, some members say trouble lies ahead if he tries to keep the job. "It would cause incredible discontent," said a Democrat who is supporting Mitchell.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Thank you, Mr. President.

We have been treated today and over the last week with a good many references to history, both recent and distant, in terms of the U.S. Senate. I have just finished reading a fascinating book, a biography of three Senators, and I recommend it to all of my colleagues. It is called "The Great Triumvirate." It is the story of Clay, Calhoun, and Webster. It is the story of what was known as the golden age of the Senate.

That was a time of great passions, perhaps greater passions than any of us have today, for the times almost demanded it. That was a time of great debates and a time of raucous disagreements. The Senate was not always a place of calm and peace.

I was struck by several things in reading that history; first, that most of us are familiar, especially this year, with our constitutional forbearers and the Constitution they wrote just 200 years ago. And we are even familiar with the early days of the Republic and how those constitutional fathers brought this Nation into existence. We seldom really think about, nor do we read about, that second generation of Americans, those who served in this Congress and in this body during the early stages of the 19th century. They were the ones who put flesh on the constitutional skeleton. They were the ones who, as second generation public servants, had to decide just what their constitutional fathers had in mind as those forbearers finally drifted away.

I was struck in reading the book by the nature of debate, by the fact that not this Senate Chamber but the old Chamber down the hall was packed during debates of importance. Not only packed with Senators and with those watching from the very narrow and small gallery but by the wives of the Members who came in and the Senators, being gentlemen, would stand and let their wives sit in their own seats, with most Senators standing during the course of debate. Lobbyists were on the floor looking from all sides. It was a scene of immense excitement because it was so crowded and every orator had an audience.

I came to the Senate 5 years ago awed and challenged by what I thought I would find. I have been saddened much of the time by empty debate, by the fact that we too often are speaking to empty chairs and an empty Chamber. Seldom, if ever, even on the most important of issues, do we attract a sufficient audience to even come close to making a quorum. There are flashes occasionally. In fact, I was interested last night, fairly late in the evening, when an amendment was brought forward by the Senator from Ohio [Mr. METZENBAUM] an issue which he thought would gain almost unanimous support. Fortunately, there were maybe 30 Senators or 35 Senators in the Chamber, enough of an audience to listen to debate, even though the debate was limited to 20 minutes, 10 on each side. I thought Senator DODD from Connecticut in 5 or 6 minutes set forth the case against that particular proposition. I am confident he changed votes on the floor, as true debate ought to do or is aimed at doing. And that resolution which was designed to have almost unanimous support passed by 3 votes, 48 to 45. I suspect that if all Senators had been in attendance during that debate, the resolution would not have passed at all.

I think it is time to find ways in which we can encourage participation. Participation comes in two ways: by those who are debating, those who are speaking, and by those who are listening and understanding and learning and occasionally opposing what is being said.

I have been excited by some of the changes the majority leader has instituted this year. He has given us an opportunity to regularize our schedules by establishing a 3-week-on-and-1-week-off schedule, which we can look forward to for the entire year. But, I am afraid that events of the last week have shattered many of those illusions of change.

Never in my 63 years have I ever had an arrest warrant issued. In fact, because it was unique, I asked if I could have a copy so that I could put it in my scrapbook and have it available to show my children and grandchildren about my arrest—or, at least, a warrant for my arrest. I find that they are, somehow, not available.

Well, that is a minor thought. But I thought more and more about the actions taken last week and what the consequences or potential consequences might be. I was not involved in the decisions to not come or not respond or not answer a quorum call. I was home asleep, prepared to come at any time there was business to be done on the floor. I live just two blocks away from this Chamber and can get dressed and get here in less than 10 minutes. Of course, because of the strategy that was chosen during that night, they did not call me.

I thought to myself, what if they felt that I had turned out to be the nearest and most available and the Sergeant at Arms had come knocking on my door? What then?

Under this arrest warrant for Senators, does he have the right to enter my home? Does he have the right to search? Does he have the right to seize me from my bed, for Heaven's sake, in order to return me to the Senate floor? Where does that right begin and where does that right stop? Where does the Constitution begin and where does the Constitution stop? I am afraid that we are playing a giant game of "gotcha," to see who can get the other side.

It is really not the rules or distortion of rules in the Senate which is at stake. It is pure comity. It is people understanding one another. It is recognizing that there is a difference between the passion and strength of ideas and issues, as separated from the respect we must hold for each other as individuals.

Let me speak about some other elements that I hope may evolve out of this event and that may take us forward, rather than backward.

This Senator, I do not believe, under the present circumstances, would agree with the Senator from Alaska in his suggestion that there be a quorum call at the beginning of each daily session, that we be here at the time of the morning prayer. That may be a good idea, but several other things need to be done as well.

First, the morning rollcalls, where the Sergeant at Arms is asked to bring in the absent Members, is unnecessary, demeaning, and distracting, and I hope the practice ceases, and ceases soon.

I have talked to a number of colleagues during the past few days, and the recent requirements for a morning rollcall, for absolutely no purpose, has been to disrupt committee meetings. We were engaged in a very important markup in the Committee on Energy and Natural Resources. We all had to quit, come down here, respond to a rollcall, just to prove that, somehow, we were here and working. It took more than a half-hour to regain the quorum and to get us back into business so that we could get on with the business. That has happened in committee after committee in the Senate.

Frankly, I resent the continual suggestion, represented by those unnecessary rollcalls, that, somehow, I am not at work or that I am not in town or that it is necessary to run every Senator into this Chamber. For what purpose?

Division and warfare have occurred during the course of the last week. In all wars and in all divisions, peace must come. I hope that peace will come sooner rather than later.

We have a good start in annual scheduling which the majority leader has instituted. I think the requirement that we meet the rollcalls during the 15 minutes for which they are called is an appropriate thing to do. It is interesting how readily we can all find our way to the Chamber in 15 minutes, now that we know that is the time to be here.

I would hope, and offer as a modest suggestion, that we could expand some of what we do in making our jobs easier. We should attempt to meet with various committee chairmen to try to establish a full 5-day working week for the regular meetings of committees, and to establish those committee meeting times so that they minimize the conflict of Senators forever having to choose between one committee and another.

This Senator has a particular problem because of his major committees meeting at precisely the same time on the same days, and I always have to make a choice as to which committee I meet with.

I would hope we could begin our sessions at a regular time every day, with the recognition that there may well be some days we must veer away from that. But if we knew more precisely and regularly when we were to come in, and if there was an announcement that we would not stay late at night, except on a specific night of the week, as a regular course, then all could plan for their family activities, plan their workday.

I recognize quite clearly that the rhythm and the work of the Senate do not make it easy to get into fixed or set schedules. But we can aim at regularity, knowing that occasionally we must go away from it.

These and other actions are not dramatic, but I think that collectively they could change dramatically the way in which we do business. More important, they could change dramatically the comity and the feelings we have for one another.

Most of all, I think it is necessary for each of us to give up something of our own individual course of action for the common good.

I think it is time that all of us stop the demand for incessant and unnecessary rollcalls whose only purpose is to try to politically "get" somebody else or some others. It is seldom necessary, really, to have a rollcall when the end result is 96 to 0 or 90 to 2, or a vote that really has little meaning.

I think it is time that we all agreed to quit abusing the concept of holds on bills and holds on appointments, instead of using the filibuster as it was honestly meant to be used.

I would hope that maybe, with all of this, we could regularize a little bit more of what we do and emphasize our committee activities in the morning. Then, if Senators recognize that in the late afternoons we could have an amendment, particularly an amendment of consequence or an amendment we know would be controversial, an amendment that ought to be debated, and maybe, if we understood that each of us was going to aim at that time to have those amendments in front of us, we might even attract our colleagues back to the floor. We might even just voluntarily recreate the kind of live debate and exchange that would elicit information and would give us help in the votes we ultimately cast.

That I think is more important than any of the rules changes or the declaration of intent on an arrest warrant or all of the other things we are talking about today.

The real importance is to find a happy medium if we can. A happy medium between the old tyranny of yesterday where committee chairmen had autocratic power and now, where we have moved clearly over to the other side of the spectrum where we have the chaos of 100 different fiefdoms, each one quick to speak up, each one slow to compromise.

I think in many of our actions we ought to let the leaders lead. I was struck last night again by another scene. The two leaders, the majority and minority leaders, had gotten together on the schedule for today's activities. When the two of them have worked together on procedure like that and laid out the next day in an effort to give us some regularity we ought not to stand up and threaten to object and take more time in asking questions than could be saved by any alternative solution.

I would hope that we would seldom find it necessary to do that, that when leaders get together on procedures they ought not to be repeatedly challenged.

I hope that this incident will not create longstanding rancor. It should not, because we, each of us, have too much respect for our fellow colleagues. But I hope that it may help all realize the importance of mutual respect which far transcends anything we can do in the change, modernization or becoming more explicit in how we deal with rules.

I yield the floor.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Missouri.

Mr. DANFORTH. Madam President, consider what we are doing today on the floor of the U.S. Senate.

We are debating suggested rules changes on the subject of when Members of the Senate can arrest other Members of the Senate. That is the debate. We are debating four suggested changes of the rules on the circumstances under which Members of the U.S. Senate can be arrested.

I support these suggested rules changes. They seem to be minimal to me. But I do not think that these changes cure whatever ails the Senate. That is to say, I do not think that a rules change saying that we cannot be arrested after 11 o'clock at night is going to fix the Senate.

If we get to the point where there is some solace in being arrested at 10:59, I do not think we have accomplished very much.

Sitting in my office a few minutes ago, watching on TV what was going on, on the floor of the Senate, I was struck by the scholarly presentations of the majority leader and the Senator from Alaska on the question of exactly what the precedents of the Senate were with respect to instructing the Sergeant at Arms to compel attendance or to arrest Senators. I suppose that is very interesting to historians.

It just seems to me that if we have reached the point where what we are debating is technical rules changes on the circumstances of an arrest, or the history of what comes first, an instruction or an arrest, then we have not really solved any problems.

I think that we tend to put such great stock in our rules and in our precedents that sometimes we feel that the rules alone are going to save us.

I am in no way diminishing the importance of the rules of the Senate. What I am suggesting is that the rules are not enough. The rules are not enough to make this place function. I cannot count the number of filibusters that I have witnessed in the time that I have served in the U.S. Senate. I do not believe that any of them have been terminated simply becaue we have exhausted everything under the rules.

Therefore, I think that exhausting the rules, sticking with the details of the rules, has a limited consequence.

I remember watching the debate a week ago when the majority leader and the acting minority leader stood on the floor and talked about what was in store for the ensuing night and how everybody was going to exercise every right that he had according to the rules. The majority leader said that he understood that the rules could be utilized by the minority, and vice versa. I thought when I watched that we are in for real trouble around here because it is clear that the rules permit us to do all kinds of things. The rules permit us to delay things for endless periods of time and to stay here all night and to arrest each other, and all of these things are provided under the rules and if all we do is to exhaust what is permitted under the rules then we create real havoc.

So I think that these four suggested changes are fine, but I do not think that they are going to solve any problems.

It seems to me that what happened last week was brought about because we had a very partisan issue. At least it was perceived as a partisan issue. Republicans felt that the campaign reform bill was a threat to our party, and we were not about to just give up on it.

Then the majority leader announced that we were going to start meeting around the clock and then the Republicans got their backs up and said if we are going to be here all night they are going to be here all night, and it went back and forth.

It was kind of a bringing to a head a sense of partisanship, a reaching of an extreme status of partisanship.

But it just seems to me that we are going to search for some ways in this body, not to end partisanship—we are Republicans or Democrats—but to figure out ways in which we can live together and not torture each other or humiliate each other. All-night sessions, if they are unnecessary, are a form of torture. Arrest warrants are a form of humiliation.

We are going to have to figure out ways to get along short of physical torture and short of personal humiliation.

I know that Senator BOREN has thought about this at some length, not in the context of what went on last week, but he has pointed out to me some things that are very obvious that they are worth flagging.

On Tuesdays, the Republicans meet in room S-211 and the Democrats meet in S-207; party caucuses, every Tuesday. On Wednesdays, I do not know what the Democrats do, but I know there are a couple of luncheon groups for Republican Senators only, and we get together at lunch on Wednesdays.

On other days, any day, when you want to go down to the Senators' dining room and have a bite to eat, you either sit at the Republican table or you sit at the Democratic table, one or the other.

Maybe what we should be doing, instead of tightening the precise rules under which Senators can arrest one another, is to give some thought as to ways of creating more bridges so that the kind of hard feeling—and it was very hard feeling that existed last week—is at least minimized. Maybe we should eat at separate tables downstairs. Maybe there should be some systematic way of literally breaking bread together, Republicans and Democrats.

Some of the wonderful and very infrequent moments in the Senate have been when we have gotten together for dinner. As I remember, one of the few, maybe the only times we have done it was 2 years ago when half a dozen or so Senators were retiring and the leadership gave a dinner party in the Senate caucus room for retiring Senators. It was a wonderful time of Republicans and Democrats getting together in a more social situation.

Maybe we should have some weekend gatherings. Republicans go down to Williamsburg, VA. Democrats go down to Williamsburg, VA. Maybe there should be some opportunities for us to do some things together.

Perhaps the leaders should get together socially from time to time—maybe they could even have a Budweiser together—not for the sake of necessarily talking about what is on the Senate agenda, but just attempting to build bridges.

I do not think that the problem of last week is going to be solved by rules changes, although I think that these four changes are fine. I think that what we need is the word that was used by Senator EVANS a few minutes ago—"comity"; mutual respect, mutual tolerance; trying to look out into the future and realize in advance what is possible and what is not possible, what can be legislated and what cannot be legislated.

I can remember so often Senator Baker, when he was the majority leader, saying that he just could not figure out how to push the Senate any further or any faster than it wanted to be pushed. That is a tough recognition. I would not have the patience to come to that recognition, I do not think; very, very tough. But maybe a sharing of that kind of sentiment is necessary.

So, again, Madam President, I would suggest that rules changes are fine, but maybe there can be some consistent way of giving some thought as to how we could move beyond rules changes, how we can learn to live together in the Senate for the good of the country.

The PRESIDING OFFICER. Who seeks recognition? If no other Senator seeks recognition, time will be divided equally.

Mr. BYRD. Madam President, the agreement was the Republicans would control the first 3 hours and 45 minutes, and then I would take 15 minutes or 30 minutes from my hour, after which Mr. SPECTER would take 15 minutes, and then I would take the remainder of my hour. So the first 3 hours and 45 minutes, according to the understanding between the distinguished Senator from Wyoming, Mr. SIMPSON, and myself, the first 3 hours and 45 minutes are under the control of the Republicans. So if there is a quorum call, it should come out of their time at this point.

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. Madam President, I yield myself 1 minute.

How much time remains on both sides?

The PRESIDING OFFICER. The Chair will advise the majority leader that the Republican side has 54 minutes and the Democratic side has 59 minutes.

Mr. BYRD. I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Madam President, I have listened with interest to those who have spoken before me and would agree, in most respects, this is not particularly a time to launch spears at the majority leader or at the Democratic Party or anything else; but to try to explain what a serious event occurred last week, an event that I think is perhaps lost in its pain that it caused and in the change in mood which continues since that moment.

I know that many Members, friends and colleagues of mine on the other side, are wholly unaware of the depth of feeling that most Senators on this side feel. I do not know as anybody who has not experienced it can quite understand what it is like to have police, agents of the Sergeant at Arms, walking outside your door and wondering whether you ought to keep the light on or not.

It sounds like the kind of thing over which many in America might snicker. I think perhaps some on the other side did, viewing this as more of a political lark than a serious exercise. But Madam President, that is not what America is all about and certainly not what the Senate is all about.

You should not have to make the decision as to whether to keep the light on in the middle of the night in your office, as to whether the lock on your door would be breached or not. Those on either side of me downstairs reacted in different ways.

I think it is important to keep in mind that the reason there was no quorum was that the majority could not muster a quorum; the thing which gives them the leadership was not available to the leadershp to call upon. To then issue warrants only to the minority side and to destroy those warrants after the quorum had been established. I think causes great and serious pain. And it ought to.

I think the depth of feeling has been lost on many Members on the other side. I repeat that. I think there were three Members of the majority and two—including two members of the Judiciary Committee who voted against this motion. I think another time, calmer heads might well have prevailed. Consequences of it are legendary distrust of the circumstances under which we serve and the oath that we have offered, not only to the people of our State but to the people of our Nation. The whole consequence, and the whole concept of the Senate of the United States is the embodied concept of the system of government which exists in America.

The reason that I, as a Senator from a State with 450,000 inhabitants, can share my service with the acting minority leader, also of that State with the same 450,000 inhabitants, with the Senators from California or the Senators from New York or the Senators from Texas or the Senators from Florida, in the same number, is to protect us from the concept and to protect our constituents from the concept of the tyranny of a majority of one.

The Senate's rules embodied that concept. The whole business of the United States is that there is no minority without protection. And yet last week we saw that minority stripped of its protection and its rights under the rule.

I guess my point here this afternoon is not so much to care about how changes in the rules for the arrest of Senators might take place. It would be my wish that there was no rule for the arrest of Senators. I would not have liked to see exercise it while we were in the majority. I did not like to see it exercised last week, as we are in the minority.

I think what we are looking at is somehow or another the means by which to make decisions in this body when the whole Nation's interest is involved. And the whole Nation's interest was not involved the other night in a bill which was up to which we could make no amendment because the tree was filled; to a majority whose ears were shut because they were not present enough to establish a quorum. Somehow or another that misses the concept that America's interests were part and parcel of those actions.

So it is not now a question of reacting in rage. It is not now a question of, indeed, a change in the rules. It is now a question of change in attitude.

I cannot remember a time in my 10 years in the Senate of the United States, now nearly 12, 11 going on 12, in which the Senate and indeed the Congress and indeed the Capitol is operating more on political autopilot and less in behalf and in consequence of the direct interests of the country.

Some doing the bidding of big labor, some doing the bidding of a minority of liberals, who have controlled the caucus of the Democratic Party in the House, some on our side making people jump through hoops, some on the Democratic side making people jump through hoops. This is not the purpose for which the Founding Fathers dreamed of the Senate.

It was to be one of the world's great debating societies. That is one of the names which we call ourselves. The problem is that since the advent of television and a number of other things, that we rarely debate. We now come down to give speeches on television. One has but to look at the attendance in the Chamber this afternoon to recognize that this is no longer a debate but a sequence of speeches. I think the majority leader would agree with me that one of the things lacking is debate. Debate was not part and parcel of what we were up to the other night in the continuing saga of S. 2, because there were no minds to change, there was no place to go.

There was but for us to participate in our own funeral.

The majority, not being able to muster its own majority, sent warrants out to arrest the minority so that we might continue in what we viewed as our own demise. Fortunately, it was a scene viewed mostly by America's insomniacs, those who were perhaps not listening to talk shows and things in the middle of the night. And, while we view all of this as something other than a serious matter, I think it is important to go back and view it and take it seriously and understand fundamentally how deeply and badly hurt was comity and the consequences to life in the Senate.

I think it is interesting to note that in 1988 we have been celebrating the 200th anniversary of the ratification of the Constitution; large celebrations all over America. And well they ought to be, as the most incredible political document in the history of world politics.

My colleague from Alaska has discussed some aspects of the Senate history which reflect on last week's incident and the history of why we formed this Union has some relevance to what happened last week.

I think it is wise to remember that some 200 years ago these American Colonies, which then formed the basis of what is now our 50 States, were being terrorized by an English king and a Parliament, and the reason common law was being thrown aside by a Parliament seeking to exercise extraordinary power over the Colonies.

The Parliament approved what was called writs of assistance, which permitted the English authorities to enter any home or office without restraint. A man named James Otis argued on behalf of all Americans that the writs were against the fundamental principles of law. So while the absolute powers of the star Chamber had been banned in England, such abuse of power was still applied in the Colonies and was one of the reasons why we set about becoming our own Nation through a revolutionary war, which is still celebrated.

Parliament passed the declaratory act. It was a statute asserting the power of the Parliament to enact any laws to bind us—that is, the American Colonies—in all cases whatsoever. Thomas Jefferson and John Dickenson wrote in the declaration about the causes and necessity of taking up arms. The question was, what was to defend us against such an enormous and unlimited power?

We faced a question not unlike that last week. A group of Senators, not a quorum of the Senate of the United States, not even a unanimous vote of the Senators remaining of the 45 in the majority party that were still here, sent out warrants for the arrest of us.

The result of the declaratory act was the glorious revolution, whereby we asserted certain inalienable rights, and those rights still exist. They cannot be repealed by a minority of the majority party. And yet, that is precisely what happened last week. To what end?

Were America's shores threatened? Were America's people in the depths of famine? Were America's people on the edge of catastrophe of disease? Was fire sweeping our land? Was the Soviet Union preparing for war? Was recession imminent? Was any catastrophe of any dimension on the horizon that could not wait until the morning? The answer is precisely no.

Now we see the dimension of the actions which the majority instigated. I do not think the majority saw it then and, in many respects, I do not think the majority sees it now as that kind of an action. Yet, precisely that is the way it is viewed by those of us against whom that action was perpetrated.

So while the Rules Committee may contemplate the suggestions of the Armstrong amendment or the suggestions of the distinguished Senator from Pennsylvania, more important is to ask ourselves again who we are, what we are, and why we do what we do, and is a triumph of politics a sufficient cause and reason to engage in actions so destructive of the concept of protection of the rights of the minority which occurred last week?

I think the answer, Mr. President, is no. I think if Senators were to think about the consequences of an action so drastic, as that which was perpetrated last week, I know and can guarantee that there would be no set of circumstances under which this Senator would vote for the arrest of any other Senator under any other circumstances but for pending national crisis and violence. It is certainly not to satisfy a political whim or political purpose, not a whim, in the middle of the night.

That is and that becomes the depth, the dimension, and the circumference of the hurt that was done to the Senate last week; a hurt, which depth, dimension, and circumference, will take many years to breach; a hurt which needs to be understood by those in the majority party, who I do not think set out to create and consciously cause a hurt of that dimension, but, nevertheless, whose thoughtless actions in the middle of the night did just that.

Madam President, I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, how much time remains on the Republican side?

The PRESIDING OFFICER. The Republican side has 33 minutes.

Mr. SPECTER. And that is out of the 4 hours which was allocated to this side of the aisle?

The PRESIDING OFFICER. The Senator is correct.

Mr. SPECTER. Madam President, there have been, up to the present time, according to my calculation, 11 Senators who have spoken from this side of the aisle and quite a number of other Senators who have appeared. Other speakers were in process, but they were not able to speak at that time.

We have 8 other Senators who have requested time but who have not appeared as of this moment.

I believe in light of the fact that we have used approximately 3½ hours of our time, and 15 minutes of the time has been reserved after the majority leader uses a portion of his time, at this time, in the absence of any other Republican Senators, we would yield back all but 15 minutes of our time, in which it would then arise that the majority leader can exercise his time.

The PRESIDING OFFICER. The time has been yielded back.

Mr. BYRD. Madam President, I thank the distinguished Senator from Pennsylvania for not utilizing the 15 or 16 minutes that remain on his side of the aisle.

I have listened with great interest to the speeches that have been made. I have heard some thoughtful proposals made, and I have heard some, in my judgment, which were not quite so thoughtful; some that were reasonable and some that, in my humble opinion, were not so reasonable. But be that as it may, the Senators had their say. They had a right to speak their opinion.

Madam President, 199 years ago tomorrow, the Senate of the United States, under the Constitution, was to have met to organize itself as a legislative body—199 years ago tomorrow, on March 4, 1789.

There were only eight Members present, and so there was a quorum lacking. The Senate had not organized itself, and all that those Senators could do was to wait until a quorum assembled. And so they waited a week and then sent out a letter to the other Senators who had been chosen and urged them to attend. Another week went by and they sent still another letter.

Finally, Madam President, 1 month and 2 days later, on April 6, which was a Monday in 1789, a quorum finally assembled itself and organized the Senate. That same day there was a committee of five, lawyers by the way, appointed to recommend rules for the orderly procedure of the Senate. Those five lawyers met and, on April 16, 10 days later, reported back 19 rules which were "observed," or in our modern parlance, I would say, were adopted. Two days later, a 20th rule was subjoined to those first 19 rules.

Among those 19 rules was the 19th rule which provided that Senators should not absent themselves from the services of the Senate without leave of the Senate. That was rule XIX among the first 19 rules of the Senate. That rule today is carried over into our current rules and appears in rule VI of the rules of the Senate today: "No Senator shall absent himself from the services of the Senate without leave."

And so since April 6, 1789, this Senate has been a continuous body. There has never been a new Senate. This Senate is a continuing body and it has time-tested rules by which it operates.

We have heard a great deal said about the events of last week, and, particularly, the arrest warrants that went out, and all that. Many suggestions for improvements, made heretofore and today, are certainly worthy of consideration.

The quality of our life, and our work, in the Senate, as important a concern as it is, is a recurring theme.

Madam President, will the Chair let me know when I have consumed 15 minutes.

The PRESIDING OFFICER. The Chair certainly will.

Mr. BYRD. It is a theme in which I am particularly interested. I would like to take a moment today to reflect on some of the problems that the Senate as an institution faces and how we both individually and collectively, might go about resolving them. My goal is to improve the quality of the Senate's work. We hear a lot about the "quality of life" in the Senate. I suppose the coal miners in West Virginia, the farmers in Iowa, and the sailor on the high seas could all talk about the quality of life and with good reason. I, too, am interested in the quality of life, but, more importantly, I am interested in the quality of work here. If we improve the quality of our work here, I think we will have a sense of feeling that the quality of life has been also improved.

So my goal is to improve the quality of the Senate's work and enhance the Senate's ability to function as a deliberative body while retaining those elements that contribute to its unique and fundamental duties.

The efforts to improve the Senate have often borne fruit.

Witness the major restructuring of the Senate committee system in 1977 and the rules changes on filibusters in 1979 and 1986. Other changes, notably the televising of Senate sessions beginning in May 1986, have contributed to a resurrection of the Senate's role as a forum for debate on significant public issues. The coming deliberation on the INF Treaty will highlight the important place that the Senate occupies in the national exchange of ideas.

Yet, for all the improvements that have been made in the operation of the Senate, the body frequently finds itself beset by a host of problems—some perceived, some real—that detract from the ability of this body and its Members to do the public's work.

We are fortunate to have a small group of Senators, led by Senator DAVID PRYOR on this side of the aisle and by a similar group from the other side of the aisle, that is working with Mr. PRYOR, examining some aspects of the Senate's operation with an eye to improving its procedures. The Rules Committee, under the chairmanship of Mr. FORD, is, likewise, constantly reviewing procedural changes that would help to streamline the Senate and at this particular time is reviewing some particular changes that have been recommended by Senator PRYOR and me and others. I am hopeful that these efforts will lead to improvements in the quality of work and of life in the Senate.

As we look at our procedures, it is important to keep in mind the unique qualities of the Senate that are integral to the balance of constitutional powers in our Government. The Senate is not a city council. It is not a State legislature. It is not the House of Representatives. It is a body in which the will of the majority must remain tempered by the rights of the minority, and in which both have responsibilities. It is a body in which day-to-day efficiency must often be sacrificed to preclude a tyranny of the majority. And keep in mind that there can also be a tyranny of the minority.

There are times when the delays and inaction here are not the result of strongly held beliefs, but of more parochial concerns. Chief among these is what I have referred to as the money chase. The average Senate campaign cost $3 million in the last election. The most expensive race cost $11 million for each candidate.

The situation has reached the point that a Senator must raise some $10,000 per week, every week, beginning the day after he is elected, to finance the average reelection campaign 6 years hence. And those campaigns are getting more expensive, even as we speak. With the escalation in campaign costs, Senators are forced to spend more of their time away from the Senate floor in pursuit of contributions.

It is interesting to me that some Senators today have said the Senate last week was discussing a matter that was not of great national interest and that it was a partisan matter, and yet, they continued to maintain that we must improve the quality of life in the Senate.

Somebody is mixed up in their thinking. The matter before the Senate last week was of great national interest and, in addition to that, was of importance to "the quality of life," a term that is used so much in the Senate. Both were involved in S. 2. Those who say, on the one hand, that S. 2 was not a matter of great national interest but, oh, we have to improve the quality of life in the Senate, should sit down and take a look at what they have said. S. 2 is important to the Nation and would have a great impact on "quality of life in the Senate."

What we were talking about in that legislation, S. 2, was the escalation in campaign costs. Senators are forced to spend, as I have said time and time before, days, weekends away from the Senate floor in pursuit of contributions. That is time away from their legislative duties and responsibilities.

These absences detract significantly from the ability of the Senate to get its work done in an orderly, efficient manner. I know of no greater blow that could be struck to improve the operation of the Senate, to improve the "quality of life" in the Senate, than to pass campaign finance reform legislation and reduce the need for Senators to be away from their duties here.

Not all changes to facilitate the operation of the Senate require new legislation, or even rules changes. I am reminded of the cartoon character Pogo, who upon discovering the true source of his plight exclaims, "We have met the enemy, and they are us." That situation, unfortunately, bears a strong resemblance to that in which the Senate finds itself so often.

The dissatisfaction toward the Senate and its operation is often directed against rules and procedures and organization—as well as against the majority leader, which is all right. "I would rather be envied than pitied" someone else had said. In so many cases, it is not the rules or the procedures or the organization that is at the root cause, Madam President. "The fault, dear Brutus, is not in our stars, but in ourselves." Of course, that does not mean that there are not improvements in the procedures that can be desired.

One start is to begin enforcing our existing rules. We are already proceeding to do that. Rollcall votes are now a strict 15-minute affair. Some Senators have been surprised at that and there were a few who missed votes but now that all Senators are on notice that the time limit is being enforced, there will be less delay while we await the attendance of a tardy Senator.

There has also been a frequent problem with slow starts on legislation.

There have been a good many references to "bedcheck votes." Well, when a bill is called up the leaders and the managers are on the floor. That is why we have to have "bedcheck" votes sometimes. I have come to the floor on many occasions, seen the managers and ranking managers sit here for hours waiting on Senators to come to call up their amendments. So when a bill is called up the managers are on the floor but there are no Senators present to offer amendments.

We have the "bed check" votes. They require Senators to come to the floor early for the vote so that Members will be available, and floor action on legislation can begin expeditiously. I believe that these votes have assisted the managers of the bills to start action on the bills sooner, and therefore help to complete the action sooner.

The PRESIDING OFFICER. The leader has used 15 minutes.

Mr. BYRD. I thank the Chair.

I shall proceed for an additional 5 minutes and I ask the Chair to inform me when I have used 5 minutes.

In our search for solutions we have tended to encumber the Senate with additional rules and "expedited" procedures, all done in the name of causes, worthy or otherwise, and with the intent of speeding consideration of those issues. It is ironic that too often those new procedures serve merely to add further delays and increase the opportunities to resurrect issues over and over again. In effect, Mr. President, we have sought refuge from painful or difficult decisions in parliamentary procedures. We have substituted activity for achievement. Reversing this trend may require less in the way of rules changes than changes in our individual behavior.

Of course, that does not mean that there are not improvements in our procedures that can be made. One start is to begin enforcing our existing rules. We are already proceeding to do that. Rollcall votes are now a strict 15-minute affair. Some Senators have been surprised at that, and there were a few missed votes. But now that all Senators are on notice that the time limit will be strictly enforced, there will be less delay while we await the attendance of a tardy Senator.

There has also been a frequent problem with slow starts on legislation. When a bill is called up, the leaders and the managers are on the floor, but there are no Senators present to offer amendments. That requires our respective cloakrooms to repeatedly contact Senators' offices individually—a time consuming process, and one that should be unnecessary.

Last year, I began to schedule a floor vote early in the day so that Members would be available and floor action on legislation could begin expeditiously. I believe that these votes have assisted the managers of bills to start action on their bills sooner, and therefore helped complete that action sooner.

The schedule this year is another change that should facilitate Senate operation. Given the long distances that some Senators must travel to return to their States, it has often been difficult to reconcile travel time and airline schedules with the need for attendance so that the Senate can proceed on legislation. This frequently resulted in the Senate not starting work on legislation until Tuesday afternoon and concluding its week with the last vote early Friday morning, or, sometimes, Thursday evening. Late nights became commonplace and the legislative schedule became backlogged, especially when controversial matters were considered. This year with 3 solid weeks of work and then a week for Members to travel to their States, it should be possible to maximize the time Senators can spend with their families and constituents without detracting from the ability of the Senate to conduct its business.

It should also mean conclusion of Senate business at a reasonable hour on most days. I will caution however that the success of this schedule will require the cooperation of all Senators. If this schedule works as I hope it will, it could become a model for future Congresses. There are some changes in the rules that I have referred to as being studied by Senator PRYOR and also by Senator FORD in the Rules Committee.

For instance, I believe the recommendation of Senator PRYOR's group with regard to minimum cosponsorship on sense-of-the-Senate resolutions to be offered as amendments is worthwhile. While such a requirement may not prevent those amendments from being used to debate an essentially nongermane matter when germaneness would otherwise be required, it should reduce that practice.

The notion of considering bills section-by-section, with amendments being in order only to the pending section, is also worth looking into. While it may not produce the kind of dramatic results that some of its sponsors may hope for, it could be helpful in allowing the managers of large and complex bills to schedule the debate in a more organized fashion.

The budget process has become the focus of discontent on fiscal matters in particular. And with congressional processes in a jumble, the specter—some might say spectacle—of the continuing resolution and reconciliation bills of last December is still fresh with us.

The Budget Act of 1974 provided a process in which debate over national fiscal priorities could take place, and it gave Congress access to independent budget expertise by creating the Congressional Budget Office. Unfortunately, as the deficit has grown under this administration the ability of the budget resolution to be a meaningful forum for debate on budget priority has eroded. The evolution of increasingly complex budget procedures has led to a process that now is so technical, so confusing, and so prone to irresolution as to have lost much of its usefulness. The budget has become almost exactly what its authors sought to avoid in 1974, namely an accumulation of actions on individual legislative items rather than the overall fiscal plan for the Government.

Differences between the administration's spending priorities and those of the Congress have been an important source of procedural stalemate. Currently, the resolution of these budget differences is left to the implementing legislation; in other words, appropriation bills and a reconciliation bill. This process encourages the postponement of important decisions that delays compromise until the last minute, start of the fiscal year, which is the worst possible time, because the President and the Congress need to come to terms with each other and before the clock is almost out.

So the President threatens vetoes based on his budget, the Congress passes appropriations bills based on the budget, and the result is what neither side wants, an omnibus spending resolution. Some way must be found to bridge this gridlock before the 11th hour by forcing the issue earlier in the process, in the spring, rather than waiting until fall. The prospects for successsful and orderly completion of the budget and appropriation process could be greatly improved.

When the President and the Congress agree on the budget resolution, appropriation bills could go forward secure in the knowledge that veto threats need not be the order of the day.

My intention in these remarks has been to stimulate thought and discussion about some fundamental issues confronting the Senate and the Government. I have suggested a few areas. There are certainly others, and they should be explored. What I hope to do is to stimulate thought and action in respect to the budget process in particular that would help us to complete our work earlier, help us to improve the quality of our work, and at the same time improve the "quality of life" for those who continue to talk about it. I am interested in the quality of life as well.

There are other budget process changes that should be examined. Many of these are highly technical, such as the use of budget baselines or the inclusion of a capital budget. Others are complicated and interwoven with other processes, such as the change to a 2-year budget cycle. It is not my intention to delve into these areas now. I would suggest that the leadership of the Budget and Rules Committees meet to discuss what actions they could take this year to explore further the areas that I have mentioned, as well as other ideas to reform the budget process.

I would make one caution, however. We should not rush headlong into an area as complex as the budget without considerable forethought. To do otherwise is to risk making the process even worse, and destroying whatever chance there may be to salvage the credibility of the Congress on budget issues.

If there is any chance to reform some of our procedures and processes to improve the quality of our work and focus our efforts on truly important issues, we must proceed with deliberation. These issues are worth addressing and they are worth addressing seriously. I ask my colleagues to also share their thoughts on these issues.

How much time do I have remaining?

The PRESIDING OFFICER (Mr. WIRTH). The Senator has consumed 20 minutes.

Mr. BYRD. Mr. President, I yield the floor now so that Mr. SPECTER may use his 15 minutes.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the Chair.

Mr. President, when the majority leader and the acting Republican leader worked out the time arrangements, it was initially proposed that the Republicans would have 4 hours, the Democrats 1 hour, those on this side of the aisle would speak first, and the majority leader would have the last hour. I asked the assistant Republican leader if there might be some rebuttal for this Senator so that I could comment on the responses raised by the majority leader to the intentions which had been advanced in support of the resolution, and this 15 minutes was worked out. But, regrettably, there is little to comment upon, because in the opening 20 minutes of the majority leader's 1 hour, he has chosen as is his right, really not to comment on the resolution.

The resolution relates to a change in the arrest procedures in the Senate, and the majority leader has elected, in the 20 minutes he has taken up, to talk about the strict 15-minute rule on rollcall votes, about the bedchecks to avoid slow legislative starts, about the 3-week on and 1-week off rule, about the omnibus spending resolution.

The critical questions which are raised by the pending resolution are what procedures are to be followed for U.S. Senators who are subjected to arrest. Should there not be both a motion to request the attendance of absent Senators and, second, a motion to compel the attendance of absent Senators, as provided in the rules, before there is a motion to arrest?

The majority leader, on seeking the arrest last Tuesday night and Wednesday morning, made a motion to request the attendance, but no motion to compel the attendance, of absent Senators.

A critical issue in this matter has been the equality of application to Democrats as well as Republicans. Not a word has been mentioned about that really important subject.

Another critical issue has been the destruction of the warrants of arrest. Inexplicable. Warrants were issued about 1 a.m. on Wednesday morning; and when this Senator talked to the Sergeant at Arms later that same afternoon, the records had been destroyed, so that there could be no inquiry on the record, black and white, to see what happened here, notwithstanding the fact that the rules of the Senate say that Senate records are to be maintained; they are not to be destroyed.

The question has arisen about the issue of physical force and the appropriateness of that conduct, all factors considered. No mention of that.

I have an instinct that we will hear something about the issues, probably, perhaps, I hope. It was my hope, which I expressed in the opening statement, that during the course of this 5-hour session there would be a joinder of issues, that there would be an effort to deal with the substantive problems to see if we could identify the problem. Perhaps no problem exists. Perhaps the majority leader can convince the dozen Republican Senators who have spoken and the 45 Senators who voted to reconsider the arrest motion, including the Democratic Senators from Alabama—2 from that side of the aisle who joined all those on this side of the aisle. Perhaps there could be some persuasion that the warrants of arrest were properly issued. But that really has not happened.

Then we have the really fundamental question that is not an issue, one that Senator KERRY and I discussed briefly, and it is that someone has to set the rules. We all understand that, and we all understand the heavy responsibility that the majority leader bears.

Perhaps it was Senator ARMSTRONG, in his argument, in his presentation, who put it best when he talked about no legitimate purpose for having the Senate in session, in the context which we faced, in the context that there had been seven cloture votes and 45 U.S. Senators had spoken emphatically, within our rights, that S. 2 would not come to the floor for debate.

The majority leader has said that the Republicans overplayed their hand; they did not have to resort to the tactics of absenting themselves from the Chamber. In that statement there is a recognition that S. 2 was not to come to the floor. Given that recognition, what, then, the purpose of the all-night session? What, then, the purpose of calling Republican Senators to the floor?

Those are the issues, Mr. President, that have not been addressed. Do we have an obligation to be here? Yes, of course, we do.

When the majority leader reads about rule XIX, that no Senator shall absent himself from the service of the Senate without leave, we understand our requirements; and it was a very forceful statement taken by the Republicans because of the exigencies of the situation.

Senator QUAYLE PUT IT BEST: It is true that we have responsibilities, but so does the majority leader. If it is a classic filibuster, then the filibusterers stay on the floor, but they can suggest the absence of a quorum, and the majority has to maintain the quorum.

Mr. President, those are the issues. In the 20 minutes taken by the majority leader, talking about the 15-minute rule and the slow start and the bed checks and the 3-week on and 1-week off and the omnibus spending resolution, we have not gotten to what this resolution is all about. So there is no purpose in my taking any more time, and I yield the floor.

Mr. BYRD. Mr. President, as I understood it, in the time under my control, I would make the decision as to what I would say.

The distinguished Senator from Pennsylvania has made reference to his resolution. I will comment on the resolution. My comment will be brief.

The first paragraph, numbered 1: No arrest warrant shall be executed between the hours of 11 o'clock p.m. and 8 o'clock a.m., unless the pending business is of a compelling nature.

Mr. President, who is to determine? What does "compelling nature" mean? Who is to determine whether it is of a compelling nature or not? The Senate. The Senate determines that. We determined on the other evening that it was of a compelling nature.

To confine the time or the period during a 24-hour day during which the Senate could issue warrants of arrest to only the hours between 11 o'clock p.m. and 8 o'clock a.m., Mr. President, would render the Senate unable to operate in situations in which the Senate might feel, indeed, that the matter was of such compelling nature that there ought to be warrants of arrest issued.

Let me just insert in the RECORD a list of major items that were considered in the Senate between the years 1975 and 1987, inclusive, on which votes were conducted during the hours between 11 p.m. and 8 a.m. I ask unanimous consent to have this material printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAJOR LEGISLATION ON WHICH VOTES WERE TAKEN BETWEEN 11 P.M. AND 8 A.M.

1975—Tax Reduction, H.R. 2166, Public Works Appropriation, H.R. 8122, and New York City Assistance, H.R. 10481.

1976—Tax Reform, H.R. 10612.

1977—Natural Gas Pricing, S. 2104.

1978—Sugar Stabilization, H.R. 13750, and Energy Taxation, H.R. 5263.

1979—First Budget Resolution, S. Con. Res. 22, Continuing Appropriations, H.J. Res. 404, Windfall Profit Tax, H.R. 3919, and Chrysler Loan Guarantee, H.R. 5860 and H.J. Res. 467.

1980—Draft Registration, H.J. Res. 521, First Budget Resolution, S. Con. Res. 521, Employee Retirement, H.R. 3904, Military Procurement Authorization, H.R. 6974, Railroad Deregulation, S. 1946, and Continuing Appropriations, H.J. Res. 610 and H.J. Res. 640.

1981—Budget Reconciliation, S. 1377, Tax Act, H.J. Res. 266, Farm Bill, S. 884, Continuing Appropriations, H.J. Res. 325 and H.J. Res. 357, and DoD Appropriations, H.R. 4995.

1982—Justice Department Authorization, S. 951, Defense Authorization, S. 2248, First Budget Resolution, S. Con. Res. 92, Voting Rights, H.R. 3112, Tax Increase and Medicare/Medicaid Cut, H.R. 4961, Balanced Budget Constitutional Amend., S.J. Res. 58, Gas Tax-Highways-Jobs Bill, H.R. 6211, Natural Gas Prices, S. Res. 515, and Continuing Appropriations, H.J. Res. 631.

1983—Supplemental Appropriations, H.R. 1718, First Budget Resolution, S. Con. Res. 27, Social Security Reform, H.R. 1900, Defense Authorization, S. 675, Public Debt Limit, H.J. Res. 308, Civil Rights Commission, H.R. 2230, and Continuing Appropriations, H.J. Res. 413.

1984—Budget Reconciliation, H.R. 2163, Defense Authorization, S. 2723, Math/Science Education, S. 1285, Commerce-Justice-State Appropriations, H.R. 5712, Supplemental Appropriations, H.R. 6040, Continuing Appropriations, H.J. Res. 648, and Public Debt Limit Increase, H.J. Res. 654.

1985—Budget Resolution, S. Con. Res. 32, Defense Authorization, S. 1160, Public Debt Limit/Gramm-Rudman, H.J. Res. 372, Public Debt Limit Extension, H.R. 3669, and Farm Bill, S. 1714 and H.R. 2100.

1986—Budget Resolution, S. Con. Res. 120, Budget Reconciliation, S. 2706, Supplemental Appropriations, H.R. 4515, Tax Reform, H.R. 3838, Public Debt Limit/Gramm-Rudman, H.J. Res. 668, Public Debt Limit Extension, H.R. 5395, Sequestration Resolution, S.J. Res. 412, Federal-Aid Highway Authorization, S. 2405, and Continuing Appropriations, H.J. Res. 738.

1987—Budget Resolution, S. Con. Res. 49, Trade and Competitiveness Act, S. 1420, Defense Authorization, S. 1174, Budget Reconciliation, S. 1920, and Continuing Appropriations, H.J. Res. 395.

Mr. BYRD. In each of those years, I have set forth important issues on which votes were conducted between 11 p.m. and 8 a.m.

This will show, Mr. President, that important votes are not confined to the hours between 8 a.m. and 11 p.m., but that, indeed, many important votes through the years have occurred in the hours that could, in the future, be off limits if this resolution offered by the distinguished Senator, Mr. SPECTER, and others, were to be agreed to and if the Senate found itself without a quorum.

What my suggestion would be as far as point No. 1 in Mr. SPECTER's resolution is that he and the other Senators ought to offer a resolution to amend the Constitution. I respect the distinguished Senator from Pennsylvania—I have observed him on the Judiciary Committee—I think he is a great constitutional lawyer. I have high regard for him. But, Mr. President, I respectfully suggest that he and the other cosponsors need to give careful thought as to what they are proposing in article No. 1:

> No arrest warrant shall be executed between the hours of eleven o'clock p.m. and eight o'clock a.m., unless the pending business is of a compelling nature.

Mr. President, may I point out that in the book Formation of the Union—the account of actions that were taken at the Federal Convention in 1787—when Gouverneur Morris, who was from the State of Pennsylvania, said, "The secession of a small number ought not to be suffered to break a quorum," and by secession he meant walking out of the Chamber in order to prevent a quorum.

That was a Senator from the State of Pennsylvania who made that comment—the State now represented by Senator SPECTER.

Gouverneur Morris also said this: "If a few can break up a quorum, they may seize a moment when a particular part of the continent may be in need for immediate aid to extort by threatening secession some unjust and selfish measure."

Mr. President, Mr. Randolph and Mr. Madison, both of Virginia, moved to add to article VI, the language that was finally agreed upon, "and may be authorized to compel the attendance of absent Members, in such manner, and under such penalties as each House may provide."

That was agreed to by all except the Pennsylvania Senators, who were divided, one Senator voting for the motion and one against.

The Constitution says that a majority of each House shall constitute a quorum: "but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent Members, in such manner, and under such penalties as each House may provide."

The Constitution does not say that a smaller number may adjourn from day to day and may be authorized, "except during the hours of 11 p.m. and 8 a.m.," to compel the attendance of absent Members, in such manner, and under such penalties as each House may provide. No such exception is made in the Constitution.

Mr. President, the Constitution does not limit the hours of the day when Members may be "compelled" to attend in order to establish a quorum.

So much for the Senator's resolution. I am sure that the ad hoc committee on this side of the aisle, chaired by Mr. PRYOR, and the Rules Committee, chaired by Mr. FORD, which is the official, formal standing committee, will carefully consider the resolution in its entirety.

I could make further comments on the Senator's resolution but I will not do so at this time.

Mr. President, now as to the general tone of what has been said today, and heretofore, by Senators who have taken great umbrage because they deliberately engaged in a tactic which resulted in the issue of warrants of arrest.

Public office is a public trust and a public responsibility.

Being a U.S. Senator is not a 9-to-5 job.

The Senate is a slow-moving body. It is set up to allow for unlimited debate to protect the rights of the minority. That is what makes it unique.

The fight on S. 2 is a good example of the ability of a minority to hold up a piece of legislation, indeed even killing it by refusing to permit it to be voted on. The minority is within its rights when it kills a bill or holds it up.

But I submit that the minority does not have a right to deny the Senate a quorum by deliberately not coming to the floor. That is the tactic that amounts to a tyranny by the minority and, even worse, to the evasion of responsibilty. That is a filibuster by absence.

I have listened to several Senators tell me what my responsibility is as majority leader. It seems to me that every Senator has a responsibility under the Constitution to be here and to vote. We get paid for our work. A good many people in this country think we are overpaid, and I am sure they believe that we ought to be here to vote when voting is going on.

We are sent to this body to represent our people and to protect their rights. We are paid to be on hand to register our vote on behalf of our people. We are not paid to avoid the duties of the Senate. That is why the Senate is empowered to compel the attendance of absent Senators.

It is folly to set time limits during which the Senate may not "compel" attendance to conduct the people's business. Often we are in session late because the minority is exercising its right, the right to which it is entitled, to hold the floor to make its views known or to kill a bill.

There are those who today have said that the majority has the responsibility—in other words, the Democrats in this instance—has the responsibility to establish a quorum. Mr. President, the majority has the responsibility to produce a quorum, but the minority also has a responsibility to help produce a quorum. It was the responsibility of the majority to take whatever action was necessary to produce a quorum and it was the responsibility of the minority to help produce that quorum.

I hope that those who offer this resolution have thought through what it means.

What we are doing here if we were to approve this resolution would be to cement in stone the ability of Senators to stop any action simply by hiding in their offices.

I heard comments today by the Senator from Indiana about "Keystone cops."

Mr. President, the Senate arrest order was not a game. It was a serious matter, and Senators have a serious responsibility to be present in order to keep a quorum, because without a quorum there can be no business transacted, only a motion to adjourn or motions to establish a quorum.

Compelling attendance is a legitimate action, seldom used, which is meant to avoid the possibility of a forced adjournment. The option exists because the people's business is supposed to be done and must not be stopped by such a tactic.

There was some reference made to its having been a laughing matter. Mr. President, it was not a laughing matter. Imagine Senators who are supposed to be grown up people, adults, elected by the people to serve here—and most Senators would have given their right arm to get here—imagine seeing them run down the hall, run when they see the Sergeant at Arms. They were in the Republican Cloakroom to my right when the motion was made. Faces were peering out of their door. There were Senators there. They made a calculated decision to run and hide, barricade their offices, put chairs against the doors.

Mr. President, we are not elected to play games like children. Then, because warrants of arrest were issued under the authority given to this body by the Constitution of the United States, now they want to cry about it. We have a little crybaby stuff going on here because the Senate issued an order that Senators should come to this floor and answer the quorum call.

Senator PACKWOOD did not have to be carried in through the door. He was very gracious when he came into the Chamber. But he could have walked in. The Sergeant at Arms and his associates did not ask to carry Senator PACKWOOD into the Chamber. Senator PACKWOOD made that request of them. He walked most of the way until he came to the Chamber door. Then he asked the officers to carry him in.

And the warrants were not issued just against Republicans. The order was for the Sergeant at Arms to arrest "absent" Senators. All Democratic Senators came, with the exception of one Senator who was campaigning. I do not know where he was in these United States in that particular instance. But Senators BIDEN and KENNEDY were very ill and Senator HOLLINGS was away because of a death in his family. So there was not anyone left to arrest but Republicans. And they were the people who made the calculated decision to run and hide and barricade themselves in the offices and avoid arrest by the Sergeant at Arms, avoid coming to the floor and doing their duty. They brought it on themselves. Now they would like to pretend that it was harassment. The purpose of the arrest was to obtain a quorum, not to harass Senators. Only one Senator was actually brought into the Chamber because that was all that was needed to obtain a quorum and allow the Senate to proceed. The remaining warrants were not pursued, precisely because there was no desire to harass. Harassment would have meant continuing the arrests even after the quorum was established. And that was not done.

So, legitimate debate, fine. If our Republican friends want to oppose S. 2, fine. Legitimate debate, good. Opposition to a measure, fine. But stopping the majority from proceeding with the people's business by evading the Senate floor was not, in my view, a legitimate exercise of minority rights.

When we take the oath of office as U.S. Senators, we swear to "well and faithfully discharge the duties of the office." Nowhere in that oath does it stipulate that those duties are to be carried out only during certain working hours.

I submit that the people are tired of hearing certain Members complain about the tough life that they have here in the Senate. What about the millions of Americans who work 6 days a week or 7? What about the farmer who has to be out early planting his seed and out early and late harvesting his crops; the sailor, the soldier at his post of duty?

I suggest that there are several million Americans who would be glad to trade places with U.S. Senators. We asked for this duty. We swear to the people we will be on the job and represent their views and protect their rights. I wonder what they are now thinking, listening to all the tales of woe that are being told in the Senate here today. Let us all remember that it was only 10:43 p.m. when this tactic of not showing up on the floor began to be used.

Instead of thanking the good Lord for the privilege of serving in this body, we have bored the American people today with the rehash of a week-old incident. I have heard almost 4 hours of complaints about the tough lives that we live.

Let me just take a minute and remind us all about what the outrage is about. It is about an attempt to get the big money out of politics. That prospect is so odious to some Senators that they chose to prevent the Senate from even debating it. What must the American people think of that? Money is so important in this body that we cannot even have a floor debate about putting limits on campaign spending, so extraordinary tactics were used to prevent that discussion. And that fact, in and of itself, convinces me more than ever that we will have to revisit the issue in some way at some point.

Money has become so important to Senators that last week it stopped the Senate cold. And that is not acceptable.

Let anybody who thinks that I enjoyed taking the step I had to take last week, think again. I did it because it was my duty to keep the Senate from being stopped cold by a calculated, deliberate tactic.

What happened last week did not reflect well on the Senate, as I heard today—nor did it reflect well on the Senators who elected to use the tactic.

But it was not the arrest that caused us to look bad. It was the spectacle of Senators running to avoid coming to the Senate floor and hiding in their offices that reflected badly on the Senate. No wonder the public trust continues to erode. No wonder the common view of politicians is so cynical. No wonder the American people think we always have our hand out for money.

I hope that something other than wrangling or rancor comes out of the discussion today. It is probably a vain hope, but I still hope that those who have been wanting to bring this up and rehash it, will stop and reflect on Senator JOHN STENNIS. Senator STENNIS came out of his bed to be here. He even offered to do night duty during all-night sessions. I have not heard any complaining by Senator STENNIS. I would think that that fact alone should shame some of those who are crying here today.

I also hope that Senators might stop and reflect on what it means to hold public office. It means that the people have put their faith and trust in us as officeholders. Our people have given us a mandate to represent their collective interests. It is a serious mandate and a sober responsibility. It means sacrifice, and it often means personal sacrifice. It means giving your best to your work all the time. And when we do not like it, nobody is going to force any of us to run for reelection. It means setting an example for our young people.

It is human to complain about late hours and inconvenience. Everybody does it. But we who serve in this body have been given an extraordinary privilege and solemn responsibility and a promise to "faithfully discharge the duties" of the office before God and the people on the day that we begin each new term of service in this body. That is the oath we take when we are sworn in as Senators.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The majority leader has 19 minutes remaining.

Mr. BYRD. Mr. President, how much time does the Senator desire?

Mr. BREAUX. May I have 3 minutes?

Mr. BYRD. Mr. President, I yield 3 minutes to the distinguished Senator from Louisiana, [Mr. BREAUX].

Mr. BREAUX. Mr. President, I thank the majority leader for yielding.

I was not going to participate in this debate, but I became increasingly disturbed by some of the voices and words that I heard from our good friends on the other side about how incensed, how resentful, how insulted they were by the actions of the majority leader in carrying out the rules of the Senate.

You know, when I heard them speak of the tyranny of the majority, I really considered the situation in the U.S. Senate where the rights of the minority are protected unlike any other institution. Over in the House, where I served for 15 years, the rights of the majority were that you could do anything if you had a majority vote. You did not have to have two-thirds of a majority. If you had one plus half, you could take any action you wanted.

The rights of the minority in this body are protected. They are protected in a number of ways when bills come up. If the minority does not like the bill, the minority can argue against it and they can vote against it. If they want to do more than that, and they do not want to vote, they have the unique privilege of filibustering. They do not even have to vote unless we can find 60 votes, more than a majority, to come in here and say we are going to stop their filibuster.

But they do not have the right, I would submit, to run away. They do not have the right to go to their offices and not participate as happened that night.

It was not an accident, I say to the distinguished majority leader, if you look at what happened during the night, if you look at the votes that occurred. At 9:57 p.m., we had 33 Republicans answer the call who were here and ready to do work. Something must have happened between then and 10:43 p.m., because at 10:43 p.m. we lost all the Republicans. Zero Republicans responding.

And then at 11 o'clock, again on the motion to compel the attendance of Senators, zero Republicans showed up to answer that rollcall.

Then I guess their minds changed again because at about 2:09 a.m. we had another vote in the morning. All of a sudden 41 Republicans showed up and answered the roll. Where were they between those two timeframes? I would suggest that they were here in the Capitol. They were refusing to come to work.

Now, the Constitution and the rules of this Senate tell us what to do, as a body, when we cannot find the Members. The first thing the majority leader can do is make a motion to request the attendance of the Senators. The majority leader did that and no Republicans answered. So what is the majority leader supposed to do at that time? Is he supposed to shut down the U.S. Senate?

No, we go to the next stage of the rules. The next stage of the rules say that after a motion to request the attendance, where you are literally pleading with people to come and do work, if they do not show up after that the next stage is a motion to compel the attendance of the Members of the U.S. Senate. The rules were then followed and the majority leader made a motion to compel the attendance of the Senators. And this, apparently, is what the other side is all upset about, the motion to compel their attendance. This is the rules of the Senate. How can they object to the majority leader following the rules of the Senate?

I would ask them, what are you supposed to do? What is the majority leader supposed to do to get the other side to come to work? Take an ad out in the Washington Post?

Should the majority leader take an ad out in the Washington Post saying: "Please come, all Republican Senators, to the Senate to do work?" Are we supposed to shoot off roman candles on the floor of the Senate to get their attention to let them know that business is being conducted?

I would suggest the majority leader is acting the way we were supposed to act. He followed the rules of the Senate. The motion to compel is not unique, it is not a tyrannical act, it is part of the established procedures of the U.S. Senate when Members, regardless of which party they happen to be in, refuse to come to work and that was the situation at that time. If they do not like the bill, they can argue against it. If they do not like the bill, they can vote against it. If they do not like the bill, they can filibuster; but they do not, I would suggest, have the right to run away and hide and that is what happened and the motion to compel is the only thing we have to get order in the Senate and I commend the majority leader for doing that.

Mr. BYRD. I thank the distinguished Senator.

Mr. CRANSTON. Will the majority leader yield?

Mr. BYRD. I yield to Mr. CRANSTON. I yield 2 minutes.

Mr. CRANSTON. Mr. President, I rise to speak in behalf of the action necessarily taken by our distinguished majority leader when the Senate was without a functioning quorum. I know that the leader has cited the Constitution and the rules of the Senate as the basis for his action, but just to reiterate that foundation for the action that the Senate took following the leadership of the majority leader, I want to read from the Constitution. Section 5 comes very early in article I, the very first article of our Constitution. This part was written by the Founding Fathers, the geniuses who provided the basis for our country's great survival and leadership in the world and our great society, written over 200 years ago. The 5th section of the very first article states: "Each House"—meaning the House and the Senate—"shall be the Judge of the elections, returns, and qualification of its own Members and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day and may be authorized"—that smaller number—"may be authorized to compel the attendance of absent Members, in such manner, and under such penalties as each House may provide."

And that is exactly what the Senate did under the motion offered by the distinguished Senator from West Virginia, our majority leader.

Turning to the rules of the Senate, the rules state, rule VI, item 2: "No Senator shall absent himself from the service of the Senate without leave." It goes on to say: "Whenever upon such rollcall it shall be ascertained that a quorum is not present, a majority of the Senators present may direct the Sergeant at Arms to request, and, when necessary, to compel the attendence of the absent Senators, which order shall be determined without debate."

Plainly the Constitution and the rules provide for exactly what we did because this body could not function if a number of Senators absented themselves for one reason or another. Partly it was illness the other night, partly it was a death the other night, and it was other reasons which were less compelling which caused us to be without a majority able to function.

Whenever the Senate gets into that situation it cannot function. We would be without a government. We have to take the sort of action the Senator from West Virginia, our majority leader, asked us to take and we did take.

Mr. BYRD. Thank you. I yield to the Senator from Montana, 3 minutes.

Mr. MELCHER. Mr. President, the Senate is certainly a different legislative body than other legislative bodies. One of the most significant differences is the right to filibuster and that right can be exercised by one Senator. He can speak at length, if he gains the floor and holds the floor and he can hold that floor as long as he wants to. He can hold up any action of the Senate.

A small group of Senators can do the same and it is done frequently and it is what makes the Senate different. A determined minority can block a bill. They can block it even though a majority wants to pass a bill. That is a right of Senators and that is what makes the Senate a different legislative body. But I do not believe that my group can win a filibuster by lack of quorum unless the majority leadership refuses to use the Senate rules. Whether it is a Republican or Democrat in the majority here, it makes no difference. The floor is controlled by the leadership and using the Senate rules means that the majority leader enforces a quorum under the rules.

I favor what our majority leader did the other night because we cannot have, under the guise of a filibuster, winning it by the majority leadership just rolling over and refusing to exercise those rules that clearly are there to establish a quorum for the Senate to operate under.

I favor filibusters. I do not think that is any surprise to this body. I think that is what makes the Senate what it is; the type of legislative body where a minority can block action if they are determined enough and if there are at least 40 to prevent cloture. But you cannot win it, nor would I want it to be won, simply by a minority being able to control the floors and refuse or have the majority leadership refuse to exercise those rules to establish the quorum.

I commend our leader for taking the action that he did.

Mr. BYRD. Mr. President, I thank the Senator. I believe Mr. SPECTER has some time left and I believe under the agreement he was to use his first and I was to use mine last.

How much time does each have remaining?

The PRESIDING OFFICER. The Senator from Pennsylvania has 7 minutes. The majority leader has 8½ minutes remaining.

Mr. SPECTER. I thank the majority leader for yielding the floor and permitting this side to take some more of its time. There were a number of my colleagues who wished to speak who did not have an opportunity to do so. If they would come to the floor directly, I believe that there would be some time left yet for them to make some comments. And in the interim, until they arrive, I shall reply to the comments which have been made.

Those on this side of the aisle are fully aware of our responsibilities, and our voting records are good. In the first session of the 100th Congress, this Senator's voting record was 99 percent plus. We do not like to miss votes. It was especially problemsome being immediately off the Senate floor. We do not take our voting records lightly, nor do we take our public responsibilities lightly.

We acted because we felt inappropriate action was being taken by the majority, and our assistant Republican leader has characterized it as a tyranny of the majority. A response has been made that there was tyranny of the minority, and I regret to say that this discussion, at least in this Senator's opinion, has not advanced the cause of compromise, comity, or resolution of these issues.

When names are called, like crybaby stuff, I do not believe that advances the cause here, nor do I believe there is any advancement when we are lectured about our responsibilities, because each of us was selected by the people of our own States, just as those who made the accusations. We have to answer to the people of our States. This Senator is prepared to do so. I believe people will understand that when there is no legitimate legislative business to be performed, and that has been conceded, in effect, that there is no point in subjecting ourselves and this body to what is conclusively a demeaning process. We are prepared to answer that. We are prepared to contest the conduct of the majority in terms of their discharge of their own responsibility, as those questions are answered by the electorate.

This issue, as it is evolving, seems to me to be one for appropriate debate in the electoral process, and so be it. It had been the hope of this Senator that we might come to some conclusion and some resolution, but when the majority leader takes up the resolution, which has four points, and makes a comment only about point 1 and says it will be unconstitutional for this body to limit the exercise of warrants of arrest from 11 to 8 because the Constitution says that there is authority to compel, that argument is hardly worth answering. There can be obvious authority to compel, and this body had set its own rules, as the Constitution says, and delimit it.

There are other provisions: that the appropriate officer sign warrants of arrest in accordance with the rules of the Senate. There was significant silence on the other side. There is the important consideration that the warrants of arrest ought to be uniformly applied for Democrats and Republicans alike.

There is the issue of the warrants being destroyed. No explanation was made by the majority in control of this body who appoints the Sergeant at Arms as to why those warrants were destroyed and what happened to them.

It is very significant for the proposed rule to state the reasons for the arrest. There was not a word in rebuttal; not a word in commentary. That is the fundamental point of telling somebody why they are being subjected to the extraordinary process of a warrant of arrest. I notice the Senator from Maine is on the floor.

I am going to cease talking at this time and reserve the remainder of my time and ask the Senator from Maine the question, as a former U.S. district court judge, about the importance of the statement of reasons in a warrant of arrest or a search warrant. It has to be done with particularity backed up with an affidavit. Why not a simple statement of reasons before you chase a Senator down the hall? We are not hiding. We were exercising our rights. This Senator went about his regular business, did not hide from anybody, and does not hide from anybody.

Why not address these important issues of a statement of reason, proper signatory and party equality of treatment?

I thank the Chair.

Mr. BYRD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 1 minute and 20 seconds. The majority leader has 8 minutes and 30 seconds.

Mr. BYRD. Mr. President, I yield 4 minutes to Mr. MITCHELL. I call attention to the fact that under the understanding, the Senator was to have finished his rebuttal, and then I was to close. That is all right. The Rules Committee will look at his resolution and treat it appropriately.

I yield to the Senator from Maine.

Mr. MITCHELL. Mr. President, the ability to compel the attendance of absent Members is fundamental to the ability of any legislative body to conduct its business. The Senate requires a quorum to do business. It cannot function without a quorum being present. For that reason, the Senate, the House, every legislative body, must be able to compel the attendance of absent Members.

In the case of the Senate, as has been made clear here, that authority is directly grounded in the Constitution. That is a fundamental, inescapable part of any legislature's ability to resolve itself in a quorum for the conduct of its business. Senators are elected and are compensated by the American people to be here to conduct the Nation's business, not to deliberately avoid coming to the Senate floor to do the business of the Senate.

Mr. President, I accept the assertion of the Senator from Pennsylvania that he did not deliberately avoid coming to the Senate, but I believe it is indisputable that several other persons, who have acknowledged doing so, did deliberately avoid coming to the floor of the Senate to do the Nation's business.

Regardless of our individual perceptions of the relative importance of any specific bill, it is our duty to be here to deliberate and vote on it. Our responsibilities do not disappear when the Sun goes down, and it is not appropriate for any individual Member of the Senate to determine that a bill is partisan or unnecessary or inappropriate and thereby use that to form a subjective judgment to deliberately absent himself or herself from the Senate's activities.

So I think what we are talking about here is a power so fundamental that a legislative body could not function without it, and it is for that reason that it is explicitly set forth in the Constitution and the rules of the Senate.

I believe that the central issue remains campaign finance reform, not the question of authority to compel the attendance of absent Senators or the process by which that was conducted in this case. That was the issue, and the only issue, in fact, before the Senate, whether or not there will be limits on the amount of money spent in American political campaigns.

The eight votes, the hours and days of debate all focused attention on that single issue. And the fact is, the minority of the Senate did not want limits on the amount of money spent in the American political campaigns. The majority did. By virtue of the rules of the Senate, the minority was able to prevent a vote from occurring on that central issue. We ought not, throughout any of this debate, lose sight of that central fact. The issue then, the issue today, the issue tomorrow is whether or not there are going to be any limits on the amount of money spent in political campaigns. My time is up. I thank the Chair.

Mr. SPECTER. Will the Senator yield for a question? Will the majority leader yield?

Mr. BYRD. Would the distinguished Senator from Pennsylvania now use his remaining time, as was the understanding, and we will close this debate?

Mr. SPECTER. I thank the majority leader. That was the understanding. The majority leader again referred to my time remaining, so I do utilize that time.

I did not hide, but I did absent myself from the Chamber along with my colleagues. I did not run. I did not hide. I exercised my rights in free America as a U.S. Senator.

The question I would address to the Senator from Maine, or perhaps the majority leader is: Given your experience, Senator MITCHELL, as a Federal judge who has doubtless approved many warrants of arrest and search and seizure warrants which have particularized statements of facts and probable cause supported by affidavits, why should not there be a statement of reasons in writing before a U.S. Senator is arrested? Why should a U.S. Senator be subject to arrest for less cause than a common criminal?

Mr. MITCHELL. Will the Senator permit me to answer on his time? I do not have any time remaining.

Mr. SPECTER. To the extent that I have time, I yield.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania has expired.

Mr. BYRD. I ask unanimous consent that the Senator from Pennsylvania may have 2 additional minutes.

Mr. SPECTER. I thank the majority leader.

Mr. BYRD. And that I may have 2 additional minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Pennsylvania is recognized for 2 additional minutes.

Mr. SPECTER. My question to Senator MITCHELL is, given his experience as a Federal judge where he has signed search warrants and arrest warrants which have particularized and detailed statements of fact and supported by affidavit, why should not a U.S. Senator at least have the right to have a statement in writing of the reasons for his arrest? Why should a U.S. Senator be subject to arrest on grounds to be treated worse than a common criminal?

Mr. MITCHELL. If a U.S. Senator were subject to arrest for a crime in a manner comparable to that of what the Senator refers to as a common criminal, the warrant would have to have a particular statement. The warrant in this case was to merely compel the attendance of the Senator's presence on the Senate floor, that is, to do that which the Senator was elected to do. I do not believe it is a proper analogy to compare the proceeding to compel a Senator to do that which he is elected to do with an arrest and charging of a crime.

Mr. SPECTER. But is not the Senator from Maine missing the point, that the act of taking someone into custody, not for later trial or not subjected to punishment on conviction but the act of taking someone into custody and subjecting that person to arrest and depriving that person of his liberty, for however a short period of time via the arrest process, requires under our Constitution a statement of probable cause and is not that essential ingredient the same when a U.S. Senator is arrested as Senator PACKWOOD was?

The PRESIDING OFFICER. The 2 minutes of the Senator from Pennsylvania have expired.

Mr. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The majority leader has remaining 6 minutes.

Mr. BYRD. I yield 2 minutes to the Senator from Maine and then 3 minutes to the Senator from Maryland.

Mr. MITCHELL. I think what is occurring here is a confusion of terms. I believe that the use of the worl "arrest" in the procedures utilized in this case has led to a confusion of thought that produces the analogy comparing it to the arrest as the Senator has described it. The reason that the particularization of the warrant occurs is that a person is to be deprived of custody and charged with a crime for which punishment may ensue if conviction occurs. In this instance the Senator is not charged with a crime. There is no punishment involved. The only compulsion is to have the Senator do his duty, that is, to perform those acts for which the Senator was elected and for which the public pays.

I do not believe that the analogy drawn by the Senator from Pennsylvania, whose legal background is impeccable and for whom I have greatest respect, with all due respect I do not believe the analogy between this process and that goes any deeper than the use of the same word "arrest."

I think that has led to a confusion of thought on the part of many who have attempted to pursue that analogy and I simply do not share it.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. SPECTER. Mr. President, I ask unanimous consent for an additional 2 minutes to pursue this issue with the Senator from Maine.

Mr. BYRD. Mr. President, I am not going to object. The distinguished Senator is a former district attorney. Let us remember, however, that we are not in the courtroom here. We are in the U.S. Senate. The U.S. Constitution and the rules clearly tell us what our responsibilities are as Senators. I have no objection to the Senator having 2 minutes. I hope he will use it now.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 2 minutes.

Mr. SPECTER. I thank the majority leader. I shall use the 2 minutes now. After 5 hours, we are finally getting 2 minutes of debate.

My response to the Senator from Maine is that an arrest is an arrest. It constitutes taking someone into custody, whether the person is charged with murder or some more heinous offense, like Senator PACKWOOD was charged with, and taken into custody. What the Senator from Maine refers to as to what follows later on the charge of a crime, there are additional remedies—challenging the legitimacy of custody through habeas corpus.

When a person is charged with a crime, there are additional remedies of the presumption of innocence and proof on evidence beyond a reasonable doubt, but the segmented portion of an arrest is the same whether Senator PACKWOOD is arrested in his office or a man charged with murder is arrested in his home. The critical issue is what happens when a person is taken into custody. And since anybody charged with any crime has an absolute right not to be detained absent probable cause and a statement of reasons, my submission is that those minimal rights ought to be afforded to a U.S. Senator, and we at least ought to have a statement of reasons to justify that detention and arrest.

I thank the Chair.

Mr. BYRD. Mr. President, the critical issue here is whether the Senate is going to be allowed to exercise its powers under the Constitution and under its own rules to establish a quorum in order to do the people's business. That is the critical issue—not some question that we might be discussing if we were all in a courtroom and the distinguished Senator from Pennsylvania were demonstrating his great abilities as a district attorney.

The question is, Is this Senate going to be allowed to function? And if a minority can close down this Senate for one night by boycotting the floor, it can close the Senate down for 1 week or 1 month. That does not make sense.

Mr. President, I yield 2 minutes to the distinguished Senator from Maryland.

Mr. SARBANES. Mr. President, I think it is important to realize that the genesis of this entire issue is the fact that a faction of the Senate willfully and deliberately absented themselves from doing the Senate's business. They made a conscious decision not to participate in doing the Senate's business, thereby left the Senate without a quorum so it could not proceed with the work at hand.

Now, the Constitution clearly provides power in legislative bodies in order to correct that situation. This so-called arrest was an effort to require Members of the Senate to do their duty. They were elected as Senators by the people. They are paid by the taxpayers as Senators to do their job. The punishment that was connected with the arrest was to bring the Senator to the floor of the Senate. That was the punishment. Senators deliberately walked away from the Senate, refused to answer the quorum calls, refused to answer the motions to instruct, in effect sought to bring the institution to a dead halt.

The Founding Fathers thought of that possibility. It has occurred previously in history. It has occurred prevously in this institution. What was done in this institution on prior occasions was exactly what was done the other evening.

This lamentation about the arrest punishment was to bring the Senator from where he was found in his office to the floor of the U.S. Senate in effect saying, "Senator, come to the floor of the Senate; do your job."

The PRESIDING OFFICER. The Senator's 2 minutes has expired.

Mr. SARBANES. "Meet your responsibilities. Help to make the institution function, and let democracy be practiced instead of walking away and seeking in effect to destroy the ability of the institution to do the people's business."

I thank the leader for yielding me time.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania has 20 seconds.

The majority leader has just over 30 seconds remaining.

Mr. BYRD. I yield back my time, Mr. President.

Mr. SPECTER. Mr. President, when the Senator from Maryland talks about the punishment, to be brought back to the Senate floor it is not punishment at all. The punishment arose when Senator PACKWOOD had his office entered without his consent with a passkey, when Senator PACKWOOD had someone leaning on him, and when Senator PACKWOOD had someone physically carry him into this Chamber.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HATCH. Mr. President, the fundamental set of rules which governs our system of free government is the Constitution. Above all else. This body owes fidelity to that document of freedom and fairness. Accordingly, when the Constitution's rules and spirit of fairness awaken the Nation to an awareness that its government may not be protecting individual liberties, this body has a duty to stop and examine the Constitution and the offending actions. This duty is magnified even further when the offending action is perpetrated within the Halls of the Senate itself.

Several days ago, a Senator was arrested and literally carried onto the Senate floor in the middle of the night during a heated political confrontation. The passion of that moment has passed, but its significance to the way the Senate is run and to the respect the Senate shows for the Constitution require us to pause a moment and reexamine the propriety and constitutionality of those moments. Today, several days after the events of that charged midnight affair, we can better measure what happened against the standard of the Constitution.

I do not propose this inquiry to tear the scabs off of political wounds. Those I hope remain healed. I propose this inquiry out of a sense of duty that the Constitution must be followed by this body above all others. If this body, in a moment of passion has flaunted our document of freedom, then this body must take corrective steps to ensure it never happens again.

ARTICLE 1, SECTION 5

Immediately after a Senator was arrested against his will in the middle of the night, this body was presented with explanations that this action was justified by the Constitution. Indeed article 1, section 5, states that:

> Each house * * * may be authorized to compel the attendance of members, in such a manner, and under such penalties as each House may provide.

Thus, by its terms, the Constitution places the interpretation and implementation of this provision within the discretion of "each House."

This senatorial discretion, rather than an excuse for lax treatment of constitutional protections, is a requirement that this body adhere to exacting standards of constitutional conduct. The Senate must be profoundly careful to fulfill the letter and the spirit of the Constitution under article I, section 5, because no other branch can or will correct our mistakes and because the Nation will watch closely to observe how the Senate follows the Constitution when it has no fear of correction from the executive or the judiciary. This is the ultimate test. The entire Nation—students, teachers, lawyers, judges, citizens everywhere—will observe whether the Senate attempts to stretch the meaning of the Constitution beyond its intended purposes or whether the Senate attempts to ignore some precious protections of the document. In short, the Nation will observe whether the Senate will adhere to the Constitution with consummate care or whether it will allow passing political agendas to color its interpretations of the document.

With this solemn responsibility in mind, the Senate should carefully consider the purposes of article I, section 5. That section sets forth some basic procedures for congressional proceedings. Two overriding objectives of this section are clear: First, each house is given independent authority to set its own rules. Second, a corollary to the first objective, each House is made independent to prevent interruption of its essential business.

The framers knew that Congress had the responsibility to set national policy and appropriate funds for the Government. Thus, they provided protections to ensure that the essential functions of Congress could not be stopped. For instance, neither House can adjourn without consent from the other House. The "compel attendance" language falls in this category. Its primary intent was to prevent interferrence with Congress' essential function of running the Government.

This is the first point where we must examine what happened several nights ago. This provision was not invoked to protect the essential functions of Government, but for political advantage. This stretches the provision far beyond its intended use. The essential functions of Government were not threatened in the middle of the night when no quorum was present.

Article I, section 5, also states explicitly that it is to be implemented "in such manner" as Congress provides. Some have leaped to the conclusion that the compel language of the Constitution means use of arrest and bodily force are appropriate. To the contrary, the Constitution clearly states that attendance of Senators may be sought in many different manners.

In fact, the day after the unfortunate midnight event, the majority leader made a similar motion several times, but with the instructions that the Sergeant at Arms request the attendance of Senators. This affirms that an alternative manner would have been a request instead of an arrest order. Moreover, if that request had been ignored the Senate as a body might have imposed ethical sanctions for dereliction of duty. The majority leader had many options beyond an arrest order. In fact, this suggests further that the arrest order was a political ploy because less onerous and offensive options were clearly available and indeed used the following day. Those less offensive and more constitutional options were not employed. Instead Senators were taken into custody in the middle of the night in a scene reminiscient of the Gestapo.

In short, article I, section 5, was stretched far beyond its purpose. It was meant as a protection for the essential business of Congress, not as a political tool to be wielded for partisan advantage against one party in the middle of the night.

CONSTITUTIONAL CONTEXT

The Constitution gives many explicit powers to the Congress and the U.S. Senate. It is clear that the Congress has the power to regulate commerce, to raise and support armies, to lay and collect taxes, and to compel the attendance of absent members. It is equally clear that Congress and the U.S. Senate may not exercise those constitutional powers in a manner that violates other provisions of the Constitution. The Constitution must be read as a whole and no single constitutional provision must be allowed to override other guarantees within that document.

No one questions that the entire Senate has the power to compel the attendance of absent Members. No one should question either that the Senate may not do this without guaranteeing to the absent Senators full due process rights, the 5th and 14th amendments, full rights against seizure without warrants, the 4th amendment, full rights to be informed of the nature of the accusations against him, the 6th amendment, full rights against unusual punishments, the 8th amendment, and all the other rights protected by the entire body of the Constitution.

Due process prior to the deprivation of liberty entails many standards that were not met when Senator PACKWOOD was taken into custody. Due process requires evenhandedness and fairness to all. Fairness to all prevents use of constitutional powers to perpetrate a vendetta against any single group or political party. We refer to this in other contexts as selective prosecution. The requirements of fairness found in the due process clause argue strongly against the selective use of constitutional powers against one political party.

Beyond this, due process clearly requires strict attention to the procedural guarantees of the Constitution. The fourth amendment protects individuals and Senators against unreasonable searches and seizures. Seizures are patently unreasonable when ordered without a warrant issued by a neutral officer pursuant to probable cause.

Some have suggested that many of these protections only apply in criminal investigations and do not apply outside that context. Once again, the Senate is the sole arbiter of the question of the arrest of other Senators by the Sergeant at Arms, but the Supreme Court has specifically rejected the argument that fourth amendment protections are limited to criminal cases. In a case involving a routine administrative inspection, the Court ordered compliance with the fourth amendment in these terms: "It is surely anomolous to say that the individual and his private property are fully protected by the Fourth Amendment only when the individual is suspected of criminal behavior." *Camara v. Municipal Court* (1967).

I submit that if the Senate intends to seriously implement the protections of the Constitution, it must apply no less a standard than that applied by the Supreme Court. If the Supreme Court acknowledges that mere administrative inspections are subject to the fourth amendment, that standard must also apply to the more egregious use of constitutional power involved in bodily seizures and deprivations of personal liberty.

To return a moment to the fourth amendment in connection with the midnight raid, no warrant was issued for that arrest by a detached and impartial magistrate or nonpolitical officer. The need for such detached review of warrants for arrest have always been a hallmark of constitutional protection under due process and the fourth amendment. Once again, I would urge us to observe the language of the Supreme Court:

> If a * * * warrant be constitutionally required, the requirement cannot be flexibly interpreted to dispense with the rigorous constitutional restrictions for its issue. *Frank v. Maryland* (1959).

The Court has also said:

> * * * a search * * * is unreasonable unless it has been authorized by a valid search warrant. *Camara*, supra.

Issuance of a valid warrant requires many rigorous steps as the Court suggests. None is more important, however, than the necessity of issuance by a neutral nonpolitical officer. In the words of the Supreme Court:

> The Fourth Amendment's protection consists in requiring those inferences of probable cause to be drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprize of ferreting out wrongdoing. *Johnson v. U.S.* (1948).

In the unfortunate heat of the midnite raid, no neutral officer was consulted. Instead those with the greatest political stake and the strongest political motivations issued the arrest order in the passion of the moment without detached review.

My time is short, but I might also suggest that if the arrest order was found by the Senate to be issued in a punitive fashion, then it may well be an "unusual punishment" violative of other constitutional guarantees. After all, midnight raids and excessive bodily force are hardly hallmarks of the American system of constitutional government.

Mr. President, we could probably continue this examination of these regretable events and find many more constitutional deficiencies in the means used to conduct the midnight raid on Senators. Even a single constitutional deficiency should not be tolerated by this body which was created primarily to resist the heat of moment and the passion of politics and, above all, to protect the Constitution. Yet we have found many reasons to consider the Senate's conduct gravely suspect.

In the first place, the power of article I, section 5, was misappropriated by the Senate when it was employed beyond its purpose of protecting the core functions of Congress. When article I, section 5, was exploited for political gamesmanship, the Senate may well have been acting on its own without the blessing of the Constitution.

Moreover, when that power was exercised in a manner that offended other constitutional guarantees, it clearly lost its propriety and legality. The Senate may not presume to exercise its constitutional powers unconstitutionally. It may not ignore due process by engaging in selectivity against particular parties or individuals. It may not ignore due process guarantees or fairness. It may not ignore the forth amendment protections against unreasonable seizures. It may not ignore the requirement of warrants and neutral oversight of the issuance of warrants. It may not employ unusual punishments.

Accordingly, I propose that the Senate repeal the rule permitting the Sergeant at Arms to compel the attendance of Members by arresting them. Instead the Sergeant of Arms could be sent to request the attendance of Members, but no authority to arrest would be permitted.

Mr. President, we need to look closely at the Constitution. Article I, section 5 says that the Senate's power with respect to absent Members is to be exercised" in such manner and under such penalties as each House may provide." Thus, the Senate does not need to empower the Segeant at Arms to arrest Members, but may choose any number of other remedies to ensure Members attend sessions. The Senate may wish to suggest, by a vote after the fact, an ethics investigation for dereliction of duty in the event that a Senator ignores the Sergeant at Arms' request to come to the floor. Other remedies might be considered by the Senate if it became necessary, but arresting Senators without due process must never happen again.

This Senate stands as an example of how the Constitution must operate. If this body allows due process protections to be flaunted, I shudder to contemplate the example we have set. Once again, I am reluctant to relive the unfortunate events that may well be judged by history as one of the Senate's darkest hours. Nonetheless we cannot allow mistakes to be repeated. Our duty is to the Constitution. If it has been flaunted, we must make corrections, even if those corrections occur right here in the Senate.

Mr. D'AMATO. Mr. President, I will be brief. I support this amendment. More to the point, I support the point that my good friend from Pennsylvania is making in offering it.

That point, when all of the dramatics and legalities are set aside, is simply this: This Senate cannot operate, or be seen as operating, in this fashion. I say "be seen," Mr. President, because our example is as important as our action in this body. In this case, that example has been shoddy indeed.

I applaud the good grace and humour with which the Senator from Oregon has handled his unsolicited starring role in this affair. His approach, in my view, has helped at least to partially mitigate the damage this unfortunate and unnecessary episode has otherwise caused.

Likewise, Mr. President, I have nothing but admiration for the way the Sergeant at Arms of the Senate, Henry Giugni, conducted himself in this matter. Compelled by duty to be an instrumentality in this exercise, his tact, judgment, and personal sensitivity helped keep the operational aspects in a somewhat more appropriate perspective. He is to be commended.

Nevertheless, Mr. President, damage has been done. That damage has been done on two fronts, I believe; it has been done outside the Senate in terms of the quality of the example we set for the world, and it has been done here within this body, in how we deal with and feel about each other.

Outside the Senate, Mr. President, we have embarrassed ourselves, and reduced faith in and respect for what goes on here. The people who sent us here can be forgiven, I think, for wondering whether we are serious. What happens in a democracy, Mr. President, when those who govern are not taken seriously?

The other evening we looked like some kind of low comedy about a legislature in a banana republic. At a time when the free world is watching carefully our deliberations on an historic arms reduction agreement, and on a comprhensive trade bill. What kind of confidence can our allies have in light of this behavior?

They're looking for "advise and consent," and instead we present something more like "Mr. Smith meets the Marx Brothers".

The damage within the Senate is more difficult to quantify. Let me say, Mr. President, that I don't see this, as some may, as a purely Republican versus Democrat issue.

Although a loyal Republican, I do not consider myself a particularly partisan person. I have, I like to think, friends here on both sides of the aisle. That's the way it should be. That's the way things work around here, and it has long been my belief that that's the way they should work.

That bipartisanship is based on a fabric of trust, Mr. President. That trust is essential to our ability to function here under the pressures we do. It is that trust which is endangered when arrest warrants are issued, under authority that can be questioned and in circumstances where they are unnecessary; when those warrants—their own best evidence—are then destroyed; when only absent Senators from one party are subjected to arrest; and when a Member is brought to the floor via process that would not be adequate to apprehend a common criminal.

My friend from Pennsylvania, one of the Senate's ablest lawyers, has sought a procedural remedy by which to repair this. As an experienced counsel, he knows that procedural fairness is often the path to substantive justice.

But his resolution, Mr. President, is really a plea—a plea that this body reaffirm and abide by its commitment to fairness and civility, two values without which it cannot function. In the name of that fairness and civility, I urge its adoption by my colleagues.

Thank you, Mr. President.

The PRESIDING OFFICER. All time has expired.

INTELLIGENCE OVERSIGHT ACT

The PRESIDING OFFICER (Mr. LAUTENBERG). Under the previous order, the Senate will now proceed to the consideration of S. 1721, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1721) to improve the congressional oversight of certain intelligence activities, and to strengthen the process by which such activities are approved within the executive branch, and for other purposes, which had been reported from the Committee on Intelligence, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That this Act may be cited as the "Intelligence Oversight Act of 1988".

SECTION 1. Section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422) is hereby repealed.

SEC. 2. Section 501 of title V of the National Security Act of 1947 (50 U.S.C. 413) is amended by striking the language contained therein, and substituting the following new sections:

"GENERAL PROVISIONS

"SEC. 501. (a) The President shall ensure that the Select Committee on Intelligence of the Senate and the Permanent Select Committee of the House of Representatives (hereinafter in this title referred to as the 'intelligence committees') are kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activities, as required by this title: Provided, however, That nothing contained in this title shall be construed as requiring the approval of the intelligence committees as a condition precedent to the initiation of such activities: And provided further, however, That nothing contained herein shall be construed as a limitation on the power of the President to initiate such activities in a manner consistent with his powers conferred by the Constitution.

"(b) The President shall ensure that any illegal intelligence activity is reported to the intelligence committees, as well as any corrective action that has been taken or is planned in connection with such illegal activity.

"(c) The President and the intelligence committees shall each establish such procedures as may be necessary to carry out the provisions of this title.

"(d) The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish, by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information and all information relating to intelligence sources and methods furnished to the intelligence committees or to Members of Congress under this title. In accordance with such procedures, each of the intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter re-

lating to intelligence activities requiring the attention of such House or such committee or committees.

"(e) Nothing in this Act shall be construed as authority to withhold information from the intelligence committees on the grounds that providing the information to the intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods.

"(f) As used in this section, the term 'intelligence activities' includes, but is not limited to, 'special activities,' as defined in subsection 503(e), below.

"REPORTING INTELLIGENCE ACTIVITIES OTHER THAN SPECIAL ACTIVITIES

"SEC. 502. To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities shall:

"(a) keep the intelligence committees fully and currently informed of all intelligence activities, other than special activities, as defined in subsection 503(e), below, which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including any significant anticipated intelligence activity and significant failures; and

"(b) furnish the intelligence committees any information or material concerning intelligence activities other than special activities which is within their custody or control, and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities.

"PRESIDENTIAL APPROVAL AND REPORTING SPECIAL ACTIVITIES

"SEC. 503. (a) The President may authorize the conduct of 'special activities,' as defined herein below, by departments, agencies, or entities of the United States Government only when he determines such activities are necessary to support the foreign policy objectives of the United States and are important to the national security of the United States, which determination shall be set forth in a finding that shall meet each of the following conditions:

"(1) Each finding shall be in writing, unless immediate action by the United States is required and time does not permit the preparation of a written finding, in which case a written record of the President's decision shall be contemporaneously made and shall be reduced to a written finding as soon as possible but in no event more than forty-eight hours after the decision is made;

"(2) A finding may not authorize or sanction special activities, or any aspect of such activities, which have already occurred;

"(3) Each finding shall specify each and every department, agency, or entity of the United States Government authorized to fund or otherwise participate in any significant way in such activities: Provided, That any employee, contractor, or contract agent of a department, agency, or entity of the United States Government other than the Central Intelligence Agency directed to participate in any way in a special activity shall be subject either to the policies and regulations of the Central Intelligence Agency, or to written policies or regulations adopted by such department, agency or entity, to govern such participation;

"(4) Each finding shall specify whether it is contemplated that any third party which is not an element of, contractor or contract agent of, the United States Government, or is not otherwise subject to United States Government policies and regulations, will be used to fund or otherwise participate in any significant way in the special activity concerned, or be used to undertake the special activity concerned on behalf of the United States;

"(5) A finding may not authorize any action intended to influence United States political processes, public opinion, policies or media; and

"(6) A finding may not authorize any action that would violate any statute of the United States.

"(b) To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods, or other exceptionally sensitive matters, the Director of Central Intelligence and the heads of all departments, agencies, and entities of the United States Government involved in a special activity shall:

"(1) keep the intelligence committees fully and currently informed of all special activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including significant failures; and

"(2) furnish to the intelligence committees any information or material concerning special activities which is in the possession, custody or control of any department, agency, or entity of the United States Government and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities.

"(c)(1) Except as provided in subsections (2) through (4), below, the President shall ensure that any finding approved, or determination made, pursuant to subsection (a), above, shall be reported to the intelligence committees prior to the initiation of the activities authorized, and in no event later than forty-eight hours after such finding is signed or the determination is otherwise made by the President.

"(2) On rare occasions when time is of the essence, the President may direct that special activities be initiated prior to reporting such activities to the intelligence committees: Provided, however, That in such circumstances, notice shall be provided the intelligence committees as soon as possible thereafter but in no event later than forty-eight hours after the finding authorizing such activities is signed or such determination is made, pursuant to subsection (a), above.

"(3) When the President determines it is essential to meet extraordinary circumstances affecting vital interests of the United States, the President may limit the reporting of findings or determinations pursuant to subsections (1) or (2) of this section, to the chairmen and ranking minority members of the intelligence committees, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate. In such case, the President shall provide a statement of the reasons for limiting access to such findings or determinations in accordance with this subsection.

"(4) Notwithstanding the provisions of subsection (3) above, when the President determines it is essential to meet extraordinary circumstances affecting the most vital security interests of the United States and the risk of disclosure constitutes a grave risk to such vital interests, the President may limit the reporting of findings or determinations pursuant to subsections (1) or (2) of this section to the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate. In such cases, the President shall provide a statement of the reasons explaining why notice to the intelligence committees is not being provided in accordance with subsection (c)(1), above. The President shall personally reconsider each week thereafter the reasons for continuing to limit such notice, and provide a statement to the Members of Congress identified herein above on a weekly basis, confirming his decision, until such time as notice is, in fact, provided the intelligence committees.

"(5) In all cases reported pursuant to subsections (c)(1), (c)(2), and (c)(3), above, a copy of the finding, signed by the President, shall be provided to the chairman of each intelligence committee. In all cases reported pursuant to subsection (c)(4), a copy of the finding, signed by the President, shall be shown to the Members of Congress identified in such subsection at the time such finding is reported.

"(d) The President shall ensure that the intelligence committees, or, if applicable, the Members of Congress specified in subsection (c), above, are notified of any significant change in a previously-approved special activity, or any significant undertaking pursuant to a previously-approved finding, in the same manner as findings are reported pursuant to subsection (c), above.

"(e) As used in this section, the term 'special activity' means:

"(1) any operation of the Central Intelligence Agency conducted in foreign countries, other than activities intended solely for obtaining necessary intelligence; and

"(2) to the extent not inconsistent with subsection (1), above, any activity conducted by any department, agency, or entity of the United States Government in support of national foreign policy objectives abroad which is planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activity, but which does not include diplomatic activities or the collection and production of intelligence or related support activities".

SEC. 3. Section 502 of title V of the National Security Act of 1947 (50 U.S.C. 414) is redesignated as section 504 of such Act, and is amended by deleting the number "501" in subsection (a)(2) of such section and substituting in lieu thereof "503"; and is further amended by adding the following new subsection (d):

"(d) No funds appropriated for, or otherwise available to, any department, agency, or entity of the United States Government, may be expended, or may be directed to be expended, for any special activity, as defined in subsection 503(e), above, unless and until a Presidential finding required by subsection 503(a), above, has been signed or otherwise issued in accordance with that subsection.".

SEC. 4. Section 503 of title V of the National Security Act of 1947 (50 U.S.C. 415) is redesignated as section 505 of such Act.

The Senate proceeded to consider the bill.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, while awaiting the managers of the bill to come to the floor, I have discussed with the distinguished acting Republican leader, Mr. SIMPSON, the schedule for the rest of the day, and tomorrow.

I would hope that before the Senate completes its business on tomorrow, the Senate could complete action on the pending measure, the intelligence authorization bill. And there is a nomination on the calendar which the Senate should be able to dispose of. I would also like to lay down the Price-Anderson legislation, the House bill.

Whether the Senate completes that action today or tomorrow is equally all right with me. I do not know how many amendments may be called up, and offered to the intelligence authorization bill. If there are a great number, of course it is obvious that the Senate would not be able to complete action on that matter today. If there are not many, or not any, it is quite possible that the Senate could complete action on that bill today, and have a rollcall on the nomination; and, I would like to lay down the Price-Anderson bill, and that is it. We could go out.

But that all depends on whether or not all of those objectives can be achieved. So, Mr. President, I suggest the absence of a quorum hoping that the managers will come to the floor promptly.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BYRD. Mr. President, while awaiting the arrival of the managers there is a little morning business that may be transacted.

I inquire of the distinguished leader on the other side of the aisle whether or not Calendar Order No. 510 on the calendar of business has been cleared.

Mr. SIMPSON. Mr. President, that has been cleared for processing on this side of the aisle.

Mr. BYRD. I thank my friend.

TRUCK AND BUS SAFETY ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 510.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 861) to require certain actions by the Secretary of Transportation regarding certain drivers of motor vehicles and motor carriers, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That this Act may be cited as the "Truck and Bus Safety Act of 1987".

Sec. 2. As used in this Act, the term—

(1) "driver" has the meaning given to such term in section 390.11 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act; and

(2) "motor carrier" has the meaning given to such term in section 390.15 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

Sec. 3. (a) Except as provided in subsection (b) of this section, not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall, by regulation, amend the regulations contained in parts 390, 391, 392, 393, 396, and 397 of title 49, Code of Federal Regulations, to include within such regulations those motor carriers and drivers operating wholly within a municipality or the commercial zone of a municipality (as defined in part 1048 of title 49, Code of Federal Regulations).

(b) The Secretary shall not apply the provisions of section 391.41 (other than the provisions of section 391.41(b) (12) and (13)) of title 49, Code of Federal Regulations, to any driver operating wholly within a municipality or the commercial zone of a municipality—

(1) who drove exclusively within such municipality or zone for a period of 1 year before the date of enactment of this Act,

(2) who was not subject to the provisions of section 391.41(a) and (b)(1) through (11) of title 49, Code of Federal Regulations, during such period,

(3) to whom a license to drive has been issued on or before the date of enactment of this Act, and

(4) who has received a waiver from the Secretary under subsection (c) of this section.

(c) After notice and opportunity for public comment, the Secretary shall waive, in whole or in part, application of any provision of section 391.41 (other than the provisions of section 391.41(b) (12) and (13)) of title 49, Code of Federal Regulations, to any driver who has not been shown to have unsafely operated wholly within a municipality or the commercial zone of a municipality, for such time as such driver continues to safely operate wholly within a municipality or the commercial zone of a municipality, if the Secretary determines that such waiver is not contrary to the public interest and is consistent with the safe operation of commercial motor vehicles.

Sec. 4. (a) Not later than 3 months after the date of enactment of this Act, the Secretary shall initiate rulemaking proceedings on the need to adopt methods for improving safety with respect to compliance by drivers with hours of service regulations, including vehicle onboard monitoring devices in trucks to record speed, driving time, and other information. Any rule which the Secretary determines to promulgate as a result of such proceedings regarding such devices shall ensure that such devices are not used for the purpose of harassment of any driver, but such devices may be used for the purpose of monitoring the productivity of any driver. The Secretary shall conclude the proceedings required by this subsection not later than 1 year after the date of enactment of this Act.

(b) The Secretary shall transmit to Congress not later than September 30, 1988, a report on the need to adopt methods for improving braking performance standards for trucks and truck trailers, including in such report an examination of available information and data on antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing.

(c) Not later than October 31, 1988, each of the appropriate authorizing committees of the Congress shall conduct an oversight hearing to obtain public testimony on the report required under subsection (b) of this section.

(d) The Secretary shall initiate rulemaking proceedings not later than December 1, 1988. Such rulemaking proceedings shall concern the need to adopt methods for improving braking performance standards for trucks and truck trailers and shall include an examination of antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing. Any rule which the Secretary determines to promulgate as a result of such proceedings regarding improved braking performance shall take into account the necessity for effective enforcement of such a rule. The Secretary shall conclude the proceedings required by this subsection not later than September 30, 1989.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The Senate proceeded to consider the bill.

Mr. HOLLINGS. Mr. President, I congratulate the sponsors of S. 861—Senators ADAMS and DANFORTH, along with the chairman of the Surface Transportation Subcommittee, Senator EXON—for their diligent efforts to craft this important safety legislation and bring it to the Senate floor.

Right to the point, this legislation will save American lives by improving the overall safety performance of our motor carriers. I want to make it absolutely clear that the Commerce Committee stands foursquare for safety. There can be no compromise or retrenchment when it comes to the protection of life. Our paramount function is to provide for the safety of our citizens—on the highways, on the Nation's rail system, and in the skies. S. 861, the Truck and Bus Safety Act of 1988, is one example of how our committee—and, I hope, the entire Congress—will turn this commitment into action.

The Truck and Bus Safety Act of 1988 is an excellent piece of legislation that will accomplish three aims. First, it will close a loophole in Federal regulations that currently allows unsafe drivers and vehicles to operate within metropolitan areas. Second, it will require the Department of Transportation to study ways to improve compliance by drivers with hours of service regulations. And finally, the bill will require DOT to report to Congress by the end of the current fiscal year on methods of improving truck brake performance.

The accomplishment of the three basic goals associated with this legislation—getting more unsafe motor carriers and drivers off the road, preventing safety hazards associated with driver fatigue, and improving safety technology—will save lives. It's that simple, Mr. President.

Salus populi suprema lex—the people's safety is the highest law. And we are derelict in our duty as public servants so long as we do not ensure that the protection of innocent lives is our first priority. It is with this in mind that I urge my colleagues to give S. 861 their overwhelming approval.

Mr. ADAMS. Mr. President, every year, there are over 5,500 deaths and 175,000 injuries from truck accidents. With over 1 million trucks on our Nation's highways, Congress has a continuing duty to ensure the safest transportation system possible. This is why Senator DANFORTH and I introduced the Truck and Bus Safety Act of 1987.

As a recent editorial put it: "One look in the rear view mirror on a rainy day is enough to convince most Americans that tractor-trailer trucks need the most advanced brake technology available." The bill that is before the Senate would substantially further this effort.

The Truck and Bus Safety Act would enhance truck safety in three principal areas.

First, it would require the Department of Transportation to take up the issue of truck brake standards and consider rulemaking alternatives. Brakes are the No. 1 equipment problem on trucks today. In a recent study of heavy trucks, DOT has estimated that brake performance may be involved as a contributing factor in up to one-third of all truck accidents. One way to improve truck brakes and reduce the number and severity of highway accidents is to use antilock brake technology. Antilock brakes work. Tests and experience show that antilock brakes stop vehicles in shorter distances even under the worst road conditions.

Ten years ago, when I was Secretary of Transportation, we tried to require America's truck owners to install antilock brakes, then a relatively new technology. That effort failed. In the meantime, other nations, particularly those in Europe, have pressed ahead, refining and now requiring antilock and other advanced brake technology on heavy trucks. It is time we caught up here in the United States.

Let me point out that this bill does not immediately mandate the installation of antilock brakes on all trucks. Since the bill was initially introduced, we have worked hard with the trucking industry, safety advocates and employee groups to craft a bill that all interested parties can support. To encourage the continuation of cooperative research efforts between industry and DOT on truck brake research, DOT would be required to submit a report to Congress by September 30, 1989 on methods to improve truck brake performance. This report would reflect the current state of DOT's research and testing efforts and would be the basis for a rulemaking proceeding, to begin no later than December 1, 1989. While the legislation requires rulemaking, it does not prejudge the outcome. Rules to require antilock brakes would be required, however, if they would meet the need for motor vehicle safety, and would be reasonable and practicable.

The second area that this bill addresses is driver fatigue. Tired drivers are unsafe drivers and, unfortunately, too many truckers are driving 14, 16, 18 hours at a stretch. Truckers are under enormous financial pressure, in part a result of deregulation of the industry. The drive to cut costs has heightened the pressure to violate Federal hours of service regulations, which limit drivers to 10 hours at a stretch or 60 hours in any week.

The log book system used to enforce the hours of service regulations has become so permeated with abuse that these logs are commonly referred to in the trade as "comic books". Computerized, on-board monitors are now available in the market which would provide a more accurate and more easily enforced way to keep track of drivers' hours. This legislation requires the Department of Transportation to investigate the installation of on-board monitors, or black boxes, to improve compliance with the hours of service regulations.

This legislation also eliminates the so-called commercial zone exemption from the Federal Motor Carrier Safety Regulations. It might interest my colleagues to know that while Federal regulations establish minimum safety standards for trucks and drivers on our highways, these regulations do not apply to dense traffic in and around some of our Nation's largest cities. Washington, DC's beltway is a commercial zone, as are New York City, Boston, Chicago, Pittsburgh and Seattle. Exempting these commercial zones from safety regulations is completely without justification. There is no reason why a westbound truck with bald tires and faulty brakes, outlawed on rural Interstate 90, should suddenly become legal when the driver arrives within sight of the Seattle Space Needle.

These three specific changes are steps in improving highway safety. They should be only a beginning, however, in our continuing struggle to stop the frightening carnage occurring daily on our Nation's highways. I urge my colleagues to support the Truck and Bus Safety Act of 1987.

Mr. EXON. Mr. President, I am pleased the leadership has scheduled time for consideration of S. 861, the Truck and Bus Safety Act of 1988. As chairman of the Surface Transportation Subcommittee, I want to commend the members of the Senate Commerce Committee for this effort to improve the safety of truck and bus transportation in the United States. The Surface Transportation Subcommittee held a hearing on this legislation in July of last year. Prior to and since that hearing, this legislation has been a bipartisan effort that seeks to benefit all members of the motoring public.

This legislation was introduced by the ranking minority member of the Commerce Committee, Senator DANFORTH, along with Senator ADAMS, and addresses several safety related issues affecting motor carrier transportation.

First and foremost, the Truck and Bus Safety Act of 1988 would eliminate the commercial zone exemption from the Federal Motor Carrier Safety Regulations. This loophole has allowed some unsafe drivers and vehicles to operate in metropolitan areas known as commercial zones without meeting driver qualifications and equipment requirements imposed on other drivers and vehicles traveling in interstate commerce. Often, the areas these zones comprise are those with the greatest traffic congestion and therefore the greatest potential accident scenarios.

The members of this committee feel strongly that safety has been compromised by this loophole and that the time has run out on this exemption.

Second, this legislation requires the Department of Transportation to initiate a rulemaking proceeding on the need to adopt methods to improve compliance by drivers with hours of service regulations. A report issued in September of last year by the Insurance Institute for Highway Safety indicates that drivers at the wheel for more than 8 hours at a stretch are nearly twice as likely to be involved in a crash as drivers who have been at the wheel less than 2 hours. Since there are onboard monitoring devices available to curb the abuses of driving longer periods than the current regulations allow, I believe these devices should be carefully examined by DOT—with an eye toward their potential to increase fuel efficiency, reduce speeding, and facilitate billing, as well as substantially curtail violations of hours of service requirements.

Third, this legislation requires DOT to report to Congress by September 30, 1988, on methods of improving truck brake performance. Issues covered in the report are to include compatibility between tractor brakes and trailer brakes, uniform manufacturing labeling of replacement brake parts, and antilock braking systems. Additionally, the report should assess the European experience with antilocks where widespread use of these systems has occurred since 1982.

I am committed to working with Senators DANFORTH and ADAMS; the chairman of the Commerce Committee, Senator HOLLINGS, and others to ensure passage of this legislation. It is also my intention to continue working to encourage improved motor carrier related technology as well as driver and vehicle performance standards in an effort to achieve greater levels of motor carrier safety.

Mr. DANFORTH. Mr. President, over the last 4 years the Congress has made great strides in improving truck and bus safety. I am proud to have been associated with this effort. I authored the Motor Carrier Safety Act of 1984 (Public Law 98-554), which requires that trucks and buses pass a safety inspection at least once a year. The 1984 act also requires that the Department of Transportation [DOT] develop a system for rating the safety fitness of motor carriers. Carriers with unsatisfactory ratings are to be prohibited from operating until they take remedial action.

Mr. President, in 1986 I authored another bill that should greatly improve truck and bus safety, the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570). That legislation prohibits drivers from using a wallet full of licenses to spread bad driving records. In addition, it eliminates the 20-State practice of giving commercial licenses to applicants who may have taken a driving test in nothing more than a subcompact car. It also increases the funding for roadside inspections of trucks and buses. Finally, it establishes stiff license suspension penalties for commercial drivers caught operating under the influence of drugs or alcohol.

We have made progress, but even with the new legislation there are a number of truck and bus safety problems that still need to be addressed. Over 5,000 Americans are being killed annually in heavy truck and bus accidents. You can hardly pick up a newspaper or turn on a television without seeing a report of a serious truck or bus accident.

Mr. President, we need to do more to prevent these accidents. For this reason, I introduced with Senator ADAMS the Truck and Bus Safety Act of 1987, S. 861. I am pleased that Senator ADAMS joined me as the primary cosponsor of this legislation. As a former Secretary of Transportation, he is well acquainted with the truck and bus safety problem.

On November 19, 1987, the Commerce Committee ordered, without opposition, that S. 861 be reported. I am glad that the full Senate is acting on this important bill. S. 861 addresses three truck and bus safety problems that contribute to the highway death toll.

ELIMINATING THE COMMERCIAL ZONE EXEMPTION

Mr. President, our bill would eliminate the commercial zone exemption from the Federal Motor Carrier Safety Regulations [FMCSR]. The FMCSR establish minimum qualification requirements for all commercial drivers and commercial equipment that travel in interstate commerce. These requirements do not apply to drivers in hundreds of metropolitan areas known as commercial zones.

This exemption may have made sense when it was created in 1935, but today it is a big safety loophole. In 1935, local truck operations were limited, drivers operated within a few miles of their home bases, and speeds and traffic volumes were relatively low. Today, many exempt trucks and drivers are operating in metropolitan areas that are crisscrossed by high speed, heavily traveled highways.

Washington, DC's Capital Beltway is an example of one of these commercial zones. According to the American Trucking Associations, approximately 120,000 vehicles pass a given point on the Capital Beltway each day. About 12,000 of these are commercial vehicles and they are involved in more than 11 percent of the accidents on the Capital Beltway. These accident figures are not surprising. A report by the Office of Technology Assessment found that commercial vehicles operating solely within commercial zones are more likely to be in violation of safety standards than other commercial vehicles. Other examples of exempt commercial zones include Boston, Chicago, Indianapolis, New York, Pittsburg, Seattle, as well as Kansas City and St. Louis in my home State of Missouri.

Mr. President, S. 861 would close this loophole by requiring that all interstate commercial drivers and equipment comply with Federal safety regulations.

CONTROLLING HOURS OF SERVICE ABUSE

Under existing Federal safety regulations, commercial drivers are not supposed to drive more than 10 hours at a stretch or 60 hours a week. Many drivers exceed these limits because of economic pressures. Drivers who ignore these limits are likely to become fatigued. This can present safety problems. An Insurance Institute for Highway Safety study released on September 16, 1987, indicates that drivers at the wheel for more than 8 hours at a stretch are nearly twice as likely to be involved in a crash as drivers who have been at the wheel less than 2 hours.

Currently, drivers are required to record their driving time in logbooks. Some drivers cynically refer to these logbooks as comic books because there is widespread falsification of these records. Some cheaters keep two sets of driving records, others simply make up fictitious numbers. For example, the Federal Government conducted 18,966 safety inspections in 1984. Twenty-four percent of these inspections revealed hours of service violations, including trucks with no logs, incorrect logs, and related violations. State inspections show similar problems. Tennessee conducted 15,000 truck inspections in the first 6 months of 1986. One-third of the drivers Tennessee checked had no logbooks or had incorrect logbooks.

An alternative to the ineffective logbook system is the onboard recorder. These monitoring devices are capable of mechanically or electronically recording driver and equipment performance, including driving time and speed. It is widely thought that these devices have the potential to increase fuel efficiency, reduce speeding, and facilitate billing, as well as substantially curtail violations of hours of service requirements. The Europeans have used tachographs, a mechanical type of recorder, since the 1930's. Since 1971, European Common Market countries have required heavy commercial vehicles to have a tachograph. A number of U.S. companies are using tachographs, and others are using onboard computers as recorders.

Mr. President, our bill would require DOT to conduct a rulemaking on the need for onboard recorders to improve truck drivers' compliance with hours of service rules.

IMPROVING TRUCK BRAKES

Mr. President, our bill would also seek to improve truck braking performance. In March 1987, DOT completed a congressionally ordered study of truck braking performance. The study concluded that among all vehicle-related topics, efforts to improve truck brake systems should receive the highest priority. The study estimated that brake system performance could be involved as a contributing factor in up to one-third of all truck accidents.

A number of safety groups believe that a major method of improving truck braking performance would be the use of antilock braking systems. An antilock system prevents sustained lockup of any wheel under its control. Without antilock, a driver who tries to brake his vehicle too quickly faces the problems of jackknifing and steering loss.

DOT wrote a rule requiring antilock brakes in 1975. There were complaints about failures of the antilock brakes available at that time. As a result, the antilock requirement was struck down by the courts in 1978.

In the intervening years, a new generation of antilock brakes that work very well has been developed. This new generation of antilocks is widely used in Great Britain and on the European continent. Approximately 80 percent of all new truck trailers over 20,000 pounds sold in the United Kingdom since 1982 have antilock brakes. Last December, the nations of the European Economic Community agreed to require antilock brakes on all new tractors and trailers registered after October 1991. Austria already requires antilock brakes on hazardous materials trucks.

Mr. President, our bill would direct DOT to report to Congress by September 30, 1988 on the need to adopt methods for improving truck braking performance. The report would cover issues including antilock systems, brake compatibility, and effective brake timing. In addition, by October 31, 1988, the relevant congressional authorizing committees would be required to conduct oversight hearings to obtain public testimony on the report. Finally, DOT would have to commence a rulemaking no later than December 1, 1988, to be completed by September 30, 1989, on the need to adopt methods for improving truck braking performance.

CONCLUSION

Mr. President, I urge all my colleagues to support this important truck and bus safety legislation.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is Shall it pass?

So the bill (S. 861), as amended, was passed, as follows:

S. 861

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Truck and Bus Safety Act of 1987".

SEC. 2. As used in this Act, the term—

(1) "driver" has the meaning given to such term in section 390.11 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act; and

(2) "motor carrier" has the meaning given to such term in section 390.15 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

SEC. 3. (a) Except as provided in subsection (b) of this section, not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall, by regulation, amend the regulations contained in parts 390, 391, 392, 393, 396, and 397 of title 49, Code of Federal Regulations, to include within such regulations those motor carriers and drivers operating wholly within a municipality or the commercial zone of a municipality (as defined in part 1048 of title 49, Code of Federal Regulations).

(b) The Secretary shall not apply the provisions of section 391.41 (other than the provisions of section 391.41(b) (12) and (13)) of title 49, Code of Federal Regulations, to any driver operating wholly within a municipality or the commercial zone of a municipality—

(1) who drove exclusively within such municipality or zone for a period of 1 year before the date of enactment of this Act,

(2) who was not subject to the provisions of section 391.41 (a) and (b)(1) through (11) of title 49, Code of Federal Regulations, during such period,

(3) to whom a license to drive has been issued on or before the date of enactment of this Act, and

(4) who has received a waiver from the Secretary under subsection (c) of this section.

(c) After notice and opportunity for public comment, the Secretary shall waive, in whole or in part, application of any provision of section 391.41 (other than the provisions of section 391.41(b) (12) and (13)) of title 49, Code of Federal Regulations, to any driver who has not been shown to have unsafely operated wholly within a municipality or the commercial zone of a municipality, for such time as such driver continues to safely operate wholly within a municipality or the commercial zone of a municipality, if the Secretary determines that such waiver is not contrary to the public interest and is consistent with the safe operation of commercial motor vehicles.

SEC. 4. (a) Not later than 3 months after the date of enactment of this Act, the Secretary shall initiate rulemaking proceedings on the need to adopt methods for improving safety with respect to compliance by drivers with hours of service regulations, including vehicle onboard monitoring devices in trucks to record speed, driving time, and other information. Any rule which the Secretary determines to promulgate as a result of such proceedings regarding such devices shall ensure that such devices are not used for the purpose of harassment of any driver, but such devices may be used for the purpose of monitoring the productivity of any driver. The Secretary shall conclude the proceedings required by this subsection not later than 1 year after the date of enactment of this Act.

(b) The Secretary shall transmit to Congress not later than September 30, 1988, a report on the need to adopt methods for improving braking performance standards for trucks and truck trailers, including in such report an examination of available information and data on antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing.

(c) Not later than October 31, 1988, each of the appropriate authorizing committees of the Congress shall conduct an oversight hearing to obtain public testimony on the report required under subsection (b) of this section.

(d) The Secretary shall initiate rulemaking proceedings not later than December 1, 1988. Such rulemaking proceedings shall concern the need to adopt methods for improving braking performance standards for trucks and truck trailers and shall include an examination of antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing. Any rule which the Secretary determines to promulgate as a result of such proceedings regarding improved braking performance shall take into account the necessity for effective enforcement of such a rule. The Secretary shall conclude the proceedings required by this subsection not later than September 30, 1989.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

H.R. GROSS POST OFFICE BUILDING

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to consideration of H.R. 3689.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3689) to designate the U.S. Post Office Building located at 300 Sycamore Street in Waterloo, IA, as the "H.R. Gross Post Office Building."

The Senate proceeded to consider the bill.

Mr. BYRD. Mr. President, I served in the House when H.R. Gross was a Member of the House of Representatives. He was a great Representative, and a great American. He was what we sometimes refer to in West Virginia parlance as a "watchdog."

He was on that floor all the time, and it was an amazing thing how he seemed to know the contents of every bill that was called up in the House of Representatives. And in many instances H.R. Gross would ask questions. He was there to protect the interests and the rights of his people, and I shall always remember him as long as I live. He was tough, he was fair, he was alert, and on the job.

I am glad to see the U.S. Post Office Building in Waterloo, IA, being designated the H.R. Gross Post Office Building.

I am happy to be a Member of the Senate at this time, when the Senate is proceeding to consider that measure, naming that building in his honor.

Mr. SIMPSON. Mr. President, may I add a note? When my father was a Member of the Senate, he introduced me to H.R. Gross. Representative Gross was all the things the majority leader describes—a persistent and dogged man. He was much like Senator Williams, of Delaware. He was the House version of that remarkable man.

One of the interesting anecdotes about Representative Gross was that he always loved to number one of his bills H.R. 144, which was a "Gross" number. He was particularly fond of that. He had a great sense of humor, too, as the majority leader knows.

I certainly join the majority leader in his remarks. This is a fine tribute.

Mr. HARKIN. I raise today to support the legislation formally naming the Post Office Building in Waterloo, IA, for our distinguished colleague, H.R. Gross. Congressman Gross, who served the Third District of Iowa from 1948 through 1972, is very deserving of this honor.

I first met Congressman Gross in 1962 when I was an intern in the other body. During the years that followed, I was always impressed with the hard work and dedication which marked H.R. Gross' terms in office. H.R. always stuck by his high principles. He embodied some of the best aspects of what it means to be a representative of the people. He was a man of high integrity and sought to serve the best interest of Iowa.

It is indeed appropriate that we name a post office after Congressman Gross. As the former ranking member of the Post Office and Civil Service Committee, H.R. gained the reputation of the "conscience of the House." While I may not have always agreed Congressman's votes or the way he stood on issues, I can say this: H.R. Gross' demeanor and his approach were always that of a gentleman. I had a lot of respect for H.R. Gross and urge the adoption of this legislation.

Mr. GRASSLEY. Mr. President, I want to thank the majority leader and the acting Republican leader for bringing up H.R. 3689 which will name the Post Office Building in Waterloo, IA, for H.R. Gross.

On September 22, 1987 America lost one of its finest people.

Former Congressman H.R. Gross, who represented the Third Congressional District in Iowa for 26 years, died at the age of 88.

On December 1, 1987, I introduced S. 1909 which would name the Post Office Building after H.R. I stated than that: "While serving in Congress, Gross led the fight to hold Government spending down. His work gave him the reputation of being the watchdog of the Federal Treasury." Some have estimated that he saved our Government millions, perhaps billions of dollars that would have gone unchecked for boondoggles, bad spending or just pure waste. The statement in the front room of his office stated it best—"Nothing is easier than the expenditure of public money. It does not appear to belong to anybody. The temptation is overwhelming to bestow it on somebody."

Gross combined his concern for the budget with his wry sense of humor when he introduced H.R. 144. The title of the bill was a play on words "HR" being the name he went by as well as standing for House of Representatives and 144 being the number of units in a gross. Gross introduced this year, every year for over a decade.

The bill would require the Federal budget to be balanced except in times of war or national emergency and would earmark up to 5 percent of the Government's net annual revenue for reduction of the national debt. He once stated, "There is no fiscal or monetary discipline. And there will be a day of accounting. I fear there can be a lethal result that will be the loss of our system of government. We are getting ripe for a demagogue."

Gross studied every line of every bill that came to the House floor. He would spend long days in the office and would be on the floor of the House during each legislative session. He was always ready to jump up and attack any bill that he felt wasted taxpayer's dollars. A skilled parliamentarian, Gross used the House rules to kill many special interest bills. Gross' reputation as a champion of taxpayer's money, insured him a role in major pieces of legislation. Committee chairman would clear their bills with H.R., to insure objections weren't raised against their legislation. The chairmen would occasionally rewrite their bills to evade the objections of H.R. Gross.

Mr. President, it has been said that if the House of Representatives didn't have an H.R. Gross, they would have to invent one.

I had the privilege of following Mr. Gross in representing Iowa's Third District. I am very proud to have had that opportunity. There were many things we could all learn from H.R. Gross. If we all had the drive to hold down the Federal spending like H.R., we would not be faced with the problems we have today.

I also want to thank Congressman NAGLE for shepherding this bill though the other body.

I appreciate the Senate passing this bill naming the new U.S. Post Office Building in Waterloo, IA after H.R. Gross.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRINTING OF "DEVELOPMENTS IN AGING: 1987"

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration of Senate Concurrent Resolution 98, authorizing the printing of the annual 3-volume report, "Developments in Aging: 1987" prepared by the Special Committee on Aging, and I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objections, it is so ordered.

The concurrent resolution will be stated by title.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 98) to authorize the printing of the annual 3-volume report "Developments in Aging: 1987," prepared by the Special Committee on Aging.

The concurrent resolution was considered and agreed to, as follows:

S. CON. RES. 98

Resolved by the Senate (the House of Representatives concurring), That there be printed as a Senate document "Developments in Aging: 1987", a three volume report, as prepared by the Special Committee on Aging of the Senate.

SEC. 2. Such document shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Special Committee on Aging.

SEC. 3. There shall be printed 3,000 copies of volume I of the report, 1,000 copies of volume II of the report, and 5,000 copies of volume III of the report.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STAR PRINT OF S. 2104

Mr. BYRD. Mr. President, I ask unanimous consent that there be a star print of S. 2104, the text of which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROVIDING FOR A CONDITIONAL ADJOURNMENT OF THE SENATE

Mr. BYRD. Mr. President, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 101) providing for a conditional adjournment of the Senate from March 3, or 4, 1988, until March 14, 1988.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

Mr. BYRD. Mr. President, I am authorized by the distinguished acting Republican leader, Mr. SIMPSON, to proceed with this resolution at this time.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 101) was agreed to, as follows:

S. Con. Res. 101

Providing for a conditional adjournment of the Senate from March 3, or 4, 1988 until March 14, 1988.

Resolved by the Senate (the House of Representatives concurring), That when the Senate adjourns at the close of business on Thursday, March 3, 1988 or on Friday, March 4, 1988, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand adjourned until 12 noon on Monday, March 14, 1988, or until 12 o'clock meridian on the second day after the Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

Sec. 2. The Majority Leader of the Senate, after consultation with the Minority Leader of the Senate, shall notify the Members of the Senate to reassemble whenever, in his opinion, the public interest shall warrant it.

COMMITTEE REFERRAL OF LEGISLATION CONCERNING NATIONAL SCIENCE FOUNDATION

Mr. BYRD. Mr. President, I ask unanimous consent that any legislation providing authorization of appropriations for the National Science Foundation be referred in the first instance to the Committee on Labor and Human Resources, and if such legislation is reported by the committee, or if the Committee on Labor and Human Resources reports legislation providing authorization of appropriations for the National Science Foundation as an original bill from that committee, that legislation be sequentially referred to the Committee on Commerce, Science, and Transportation for a period of not to exceed 30 calendar days, not to include days when the Senate is not in session, for the purpose of such committee considering matters relating to the National Science Foundation's scientific and engineering research and related activities, and antarctic and special foreign currency programs, including the programs and types of programs, as well as similar initiatives to be undertaken in the future in these programs and types of programs that were included in the categories specified in section 2(A)(1) through (8) of Public Law 99-383.

If such legislation has not been reported by the Committee on Commerce, Science, and Transportation by the end of such 30-day period, I ask unanimous consent that such committee be automatically discharged from further consideration of the legislation, and that the legislation be placed on the Senate calender.

I further ask unanimous consent that, in the consideration of committee amendments to such legislation, amendments reported by the Committee of Labor and Human Resources shall be considered first, and that thereafter, amendments that may have been reported by the Committee on Commerce, Science, and Transportation shall be considered before other amendments, and that the bill as amended by such committee amendments be considered as original text for the purpose of further amendment.

In addition, I further ask unanimous consent that two conferees from the Committee on Commerce, Science, and Transportation be appointed, one majority and one minority, should a conference with the House of Representatives be required on such legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, today there is proposed an important unanimous-consent agreement regarding Senate jurisdiction over bills to authorize appropriations for the National Science Foundation [NSF]. This agreement has been reached by the Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation. I recommend that the Senate approve the proposed agreement, and I want to express my appreciation to the chairman and ranking member of the Commerce Committee, Senators Hollings and Danforth, for their cooperation in arriving at this agreement.

Mr. HOLLINGS. Mr. President, I take this opportunity to thank the distinguished chairman of the Labor and Human Resources Committee for his leadership and courtesy in this matter. Both are very much appreciated. I also want to commend Senators Hatch and Danforth. The NSF agreement that Senator Kennedy and I are proposing today is based on the arrangement that these two Senators worked out in the last Congress.

Mr. President, I also take this opportunity to explain the provisions of this agreement to our colleagues. Under the terms of this agreement, three of the four parts of each NSF authorization bill would, after the Labor Committee files its report on the legislation, be sequentially referred to the Commerce Committee for a period not to exceed 30 calendar days, not to include days when the Senate is not in session. Since the current NSF authorization bill (S. 1632) has already been reported by the Committee on Labor and Human Resources, this year the 30-day sequential referral to the Committee on Commerce, Science, and Transportation shall commence when the Senate approves this unanimous-consent agreement.

The first of the three parts to be sequentially referred to the Commerce Committee consists of what the Foundation's budget currently calls "research and related activities." This category includes the research programs of the Foundation, now divided among five research directorates, as well as the programs and activities of what are now called "scientific, technological, and international affairs" and "program development and management." The second and third parts to be referred sequentially to the Commerce Committee are the programs and activities dealing with U.S. Antarctic operations and special foreign currency. I want to emphasize that the fourth component of National Science Foundation authorizations—currently called "science and engineering education"—is to remain solely within the jurisdiction of the Labor Committee. The Commerce Committee is well aware of the expertise of the Labor Committee with respect to this particular component of the National Science Foundation.

Mr. KENNEDY. Mr. President, the Senator's interpretation of the proposed agreement is correct. It is our intention that those portions of current and future NSF authorization bills dealing with these three subjects, including new initiatives in the three areas, would be sequentially referred to the Commerce Committee, even if formal budget or program categories are changed. However, as the Senator said, all current activities in the science and engineering education area, and all related future activities in this area, would remain solely within the jurisdiction of the Committee on Labor and Human Resources.

Mr. HOLLINGS. I thank the distinguished chairman of the Labor Committee.

Mr. President, I would mention two other features of the proposed agreement. First, under this proposal any committee amendments from the Labor Committee would have first precedence in any floor debate on an NSF authorization bill. Commerce Committee amendments would come second. The bill as amended by such committee amendments would be considered as original text for the purpose of further amendment.

Second, in the event of a conference between the Senate and House of Representatives concerning an NSF authorization bill, the Chair is to appoint from the membership of the Commerce Committee two conferees, one majority member and one minority member. I emphasize that this provision does not limit in any way the number of Labor Committee conferees that may be appointed.

Mr. KENNEDY. The Senator is correct in his interpretation of these two features of the proposed UC agreement.

Mr. HOLLINGS. I thank the Senator.

In closing, Mr. President, I believe that this agreement is in the best interests of both committees and will guarantee that the Senate maintains a strong voice in authorization decisions regarding the National Science Foundation.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask the distinguished Republican leader if the four nominations that appear on page 4 of the Executive Calendar, calendar orders numbered 540 through 543, inclusive, have been cleared on his side of the aisle.

Mr. SIMPSON. Mr. President, those items on the calendar, numbered as the majority leader has indicated, have been cleared.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, I ask unanimous consent that the Senate go into executive session to consider the aforementioned nominations; that they be considered en bloc, confirmed en bloc, the motion to reconsider en bloc be laid on the table; that the President be immediately notified of the confirmation of the nominations; that the nominations appear severally in the RECORD; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

SECURITIES INVESTOR PROTECTION CORPORATION

Frank G. Zarb, of New York, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1989, vice James W. Fuller, term expired.

DEPARTMENT OF COMMERCE

Paul Freedenberg, of Maryland, to be Under Secretary of Commerce for Export Administration (New Position)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mark E. Buchman, of California, to be President, Government National Mortgage Association, vice Glenn R. Wilson, Jr., resigned.

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

Howard W. Cannon, of Nevada, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term of four years. (New Position)

CONFIRMATION OF HOWARD W. CANNON TO BARRY GOLDWATER FOUNDATION

Mr. REID. I would like to take this opportunity to commend my colleagues on the Labor and Human Resources Committee for their recent approval of Senator Howard Cannon's nomination to serve on the Board of Directors of the "Barry M. Goldwater Excellence in Education Scholarship Foundation."

The "Barry M. Goldwater Excellence in Education Scholarship Foundation" was created in 1987 as a part of the defense authorization bill to award scholarships to both undergraduate and graduate students interested in pursuing careers in the hard sciences and mathematics. It will also provide honorariums to academicians throughout the United States who encourage our Nation's youth to pursue careers in these fields.

Howard Cannon's record of outstanding service and commitment to education make him an exceptional choice of individuals to serve on this Board.

Howard Walter Cannon was born in St. George, UT on January 16, 1912. He graduated from Dixie College, received a bachelors of education degree at the Arizona State Teacher's College, and a law degree from the University of Arizona in 1937, the same year he was admitted to the bar. He served in the U.S. Air Force during World War II, and was awarded the Legion of Merit, the Distinguished Flying Cross, the Purple Heart, and a long list of other honors. He was shot down over Holland, and remarkably evaded capture for 42 days before reaching allied lines.

At the end of the war, he resumed his law practice in Las Vegas, NV, and went on to become the Las Vegas city attorney for 9 years. In 1958 he was elected to the first of what became 24 years of distinguished service in the U.S. Senate. As a Senator, he served as chairman of the Commerce, Science and Transportation; Armed Services; and Rules and Administration Committees. He is a retired major general in the U.S. Air Force Reserve, and was recognized by the U.S. Senate Commerce Committee with fondness and admiration as "Mr. Aviation."

Again, let me commend Senator Howard Cannon for this special recognition of his service and future contributions to the education of our Nation's youth.

LEGISLATIVE SESSION

The Senate resumed the consideration of legislative business.

CONDITIONS FOR THE EXECUTION OF ARREST WARRANTS COMPELLING THE ATTENDANCE OF ABSENT SENATORS

Mr. SIMPSON. Mr. President, my remarks will be brief. We are ready to do business, I believe.

I do want to comment on the past 5 hours of activity. We have had almost 5 hours today on a very serious issue. I made my remarks earlier on the measure, in the leadership time this morning, with regard to the issue of the rules and the arrest of Members. It was an exercise worth doing. I think it was conducted with civility, for the most part, much as we express at times, and with thoughtfulness by all, and I appreciate that on this side of the aisle, particularly Senator DANFORTH indicating that both sides should visit more together, Democrat and Republican alike, formally and informally—I think that is so important—Senator EVANS saying his concern about where the entire Senate and the congressional process is going, not on a partisan note; Senator STEVENS with his historical perspective; and many others sharing genuine concern without rancor.

We all share our great respect for this institution and for each other and no more so than the majority leader, and I have to congratulate him and commend him.

We are in a situation where we had many who wished to discuss that issue. It could have gone on for a long time. He in good grace allowed it to go on for 4 hours as we put together a unanimous-consent agreement and, as I say, it could have been disruptive, it could have gone on, all sorts of activity could have taken place, and he was able to say "take 4 hours to do that and I will take an hour," a very generous act, and he became the focal point for some of that, not directed to him personally.

But it takes a very large person, and I mean that in just that word, in scope to do that and to take the slings and arrows of outrageous fortune which he knew would be coming and to handle those and all of it done really in form of actually a gentleman's agreement as to what would take place. That has been a distinct pleasure and my admiration for the majority leader is ever-increasing after observing him allowing the Senate to "work its will" and that is what that was. The majority leader often uses that phrase and that is what has just been witnessed here.

I thank the Chair.

Mr. BYRD. Mr. President, I thank the assistant Republican leader.

I am glad that the Senators on the other side of the aisle had an opportunity today to speak out on this matter, as they had been wanting to do this for several days. I hope now that this discussion has transpired, we will all stop looking back and look ahead.

This is a subject on which I could speak literally for hours and hours, but I saw no purpose in that. I felt it would be an undue imposition on other Senators' time for me to take much time.

I did what I saw as my duty in offering the motion on Tuesday of last week. I do not say this in any way as a threat of throwing down the gauntlet, but under the same circumstances, I would have to do it again.

I am going to do my duty as I see fit, and I know in many instances that

Senators will not agree with me. I have not attempted to unduly impose on other Senators by speaking of what I see as the responsibilities of all of us as Senators, nor will I impose on Senators by speaking of my responsibilities as I see them as majority leader.

I did my duty. I do not have any regrets for having done my duty.

I regret that circumstances occurred that necessitated my doing that duty. But as far as that is concerned, that is behind us. I have tried to keep my voice down today and not to be too shrill.

There have been some good words said today. I hope that we will all just look ahead and not backward and do our best to fulfill our responsibilities to the Senate and to the people of the Nation and work together. Those of us in the majority have responsibilities sometimes that are difficult to fulfill.

I must say about the Republican leadership that I have received the utmost cooperation from this tall man from the West, and I think he made a fine contribution in helping to make the arrangement for today that I hope, will enable us now to not look over our shoulders but to look ahead and work together. We have much work to do.

I thank him, and I yield the floor.

Mr. SIMPSON. I thank the majority leader for his words.

Mr. BYRD. Mr. President, the Senator from Oklahoma, Mr. BOREN, is here. I am going to move away from this desk. I note that Mr. COHEN is also here.

So I yield the floor and wish them Godspeed in their efforts.

Mr. SIMPSON. Good luck.

INTELLIGENCE OVERSIGHT ACT

The Senate continued with consideration of S. 1721.

Mr. BOREN. Mr. President, I thank the Senators for the kind words just spoken to me by the majority leader and also by the distinguished acting Republican leader as they were leaving the floor. They wished us well and began to leave the floor. I hope that is not a sign.

I think that we have before us a very important piece of legislation, one which is the product of long work in our committee.

Mr. President, the Select Committee on Intelligence reported S. 1721, the Intelligence Oversight Act of 1988, on January 27 by a vote of 13 to 2, a strong bipartisan majority on both sides of the aisle in the committee. This legislation is an important step in establishing a framework for bipartisan cooperation between the Congress and the executive branch on U.S. policy initiatives abroad that must be covert in order to serve the national interest.

At the outset, I would like to emphasize that S. 1721 is the culmination of the Intelligence Committee's lengthy and comprehensive study of the need for changes in the oversight statutes. We began the current phase of that study over a year ago, on December 1, 1986, when the committee initiated its preliminary investigation of the Iran-Contra matter.

In fact, however, since 1981 the committee has continuously analyzed the issues raised by ambiguities in the applicable statutes, in current law. Indeed, the full legislative record makes clear how extensive has been committee consideration of these issues. They were considered by the Intelligence Committee long before I became a member of that committee.

For just the past year the record includes, first of all, the committee's preliminary Iran-Contra investigation which was completed with a public report on January 27, 1987. During that inquiry, we discussed the interpretation and application of the oversight laws with the Secretaries of State and Defense, the Attorney General, the President's Chief of Staff, one former National Security Adviser, the Deputy Director of Central Intelligence and his predecessor, the CIA General Counsel and his predecessor, and other executive branch officials. While this testimony was not public, it remains part of the committee's legislative record.

A second part of the record begins with the confirmation hearings for a new Director of Central Intelligence, where Bob Gates and then Judge Webster made very strong oversight commitments. After Judge Webster's confirmation, the committee developed a set of recommendations for immediate action by the executive branch under current law that might also serve as the basis for legislation. On July 1, 1987, we sent them to Frank Carlucci, the President's National Security Adviser at that time. This led to consultations with the administration on a new Presidential directive, which contains many of the provisions in the pending bills.

Let me say, Mr. President, those consultations with the White House I think were a model in demonstrating how we can have bipartisan cooperation, cooperation between the Congress and the President in these most sensitive national security areas. I hope they will serve as a model for us to find common areas in which we can work together in the general foreign policy arena.

At the same time, our House colleagues introduced and held hearings on legislative proposals covering the same issues.

Finally, of course, the year-long work of the special Iran-Contra committees is part of our record. The 10 members of the Senate committee included 4 members of the Intelligence Committee—Senator COHEN, Senator NUNN, Senator HATCH, and myself. Through this overlapping arrangement, which included significant involvement by committee staff as well, the Intelligence Committee was able to take full advantage of the deliberations of the Iran-Contra committees.

In order to receive its final recommendations, we postponed hearings on S. 1721 until after the Iran-Contra report was approved. Then we immediately began the final phase of our work with a public hearing on November 13 where the sponsors testified on a number of bills in this area and a closed hearing on November 20 where Judge Webster testified on the practical impact of the bills on the intelligence community.

At a public hearing on December 11, the committee received testimony from the vice chairman of the Iran-Contra Committee, Senator RUDMAN, who cosponsored S. 1721. Also testifying at that hearing were the authors of similar House legislation, Representative LOUIS STOKES, Chairman of the House Intelligence Committee, and Representative MATTHEW F. MCHUGH, Chairman of its Subcommittee on Legislation.

On December 16, the committee held a final public hearing with testimony from Secretary of Defense Frank Carlucci and Under Secretary of State Michael Armacost on behalf of the administration, and from former Secretary of Defense Clark Clifford and former Deputy Director of Central Intelligence John McMahon, who supported the notice requirements in S. 1721.

Before marking up the bill, we also consulted with former senior Government officials and experts in the intelligence field and in intelligence law.

Finally, as part of the markup process that concluded on December 16, we worked with the administration to ensure that all concerns, except for one, had been fully and adequately addressed; that concern being the question of the President's constitutional prerogative. But on all other matters, we were able, I think, to fully address the concerns raised not only by the White House but as to any concerns that might ever be raised by the Intelligence Committee.

Therefore, S. 1721 reflects the results of an exhaustive study of the need for changes in the current oversight statutes. Indeed, few issues have received such detailed consideration by so many people over so great a period of time. Even then, to ensure that all relevant concerns could be taken into account, the committee postponed reporting the bill from December 16 until after a meeting January 27 of this year so that any member could move to reconsider if new information or issues had emerged.

We wanted to do that, Mr. President, because, after fully considering this matter, after every member of the committee had imput into it, after long circumstances in which members discussed among themselves the basic principles involved in the bill and after listening to the intelligence community, we wanted to give those, particularly in the administration, another opportunity to overlook the product and see if they could find any difficulty with it. So we postponed the actual reporting. We voted to report it, but we held the actual reporting for virtually another month to make sure that we had covered any problem that might arise.

This did not occur. No new information came about and the committee reaffirmed its decision to report the bill favorably, as I said, by a final vote of 13 to 2. In short, the process of developing this bill has been deliberate, open, thorough, and comprehensive.

The final vote in the Intelligence Committee reflects the wide agreement that has been reached on the need to clarify the statutory requirements for covert action operations. The bill applies to covert action by the CIA or any other part of the Government that might be called upon by the President to conduct such operations—including the National Security Council Staff. It specifies the requirements for Presidential authorization of covert actions in formal, written findings. It provides a secure procedure for notice of these findings to the Congress through the Intelligence Committees or key congressional leaders. It eliminates ambiguities in the law that allowed the Justice Department to claim that withholding notice of covert arms transfers to Iran for 10 months did not violate the current statutory requirement for "timely" notice to the Intelligence Committees.

It is important to make clear at the outset the extent to which this bill maintains existing law and conforms to the President's policies, as set forth in a directive issued by the President last year after consultation with the Intelligence Committees.

Since 1974, the Hughes-Ryan amendment has prohibited CIA covert action without a Presidential finding and "timely" notice to certain congressional committees. In 1980, the Congress passed section 501 of the National Security Act which reduced the number of committees notified of CIA covert actions from as many as eight to the two Intelligence Committees.

This was because of the strong feeling in Congress that we should reduce to the number absolutely necessary the number of people that would be notified so that we could preserve the confidentiality of the information that is needed to preserve the security of our country.

S. 1721 concentrates on the requirements for covert action operations, which are called special activities in the bill because that term is used in the executive orders and Presidential directives. The bill is not intended to make any substantive change in the current statutory requirements under section 501 for keeping the Intelligence Committees "fully and currently informed" of intelligence activities other than special activities, except to make the President responsible for ensuring compliance and for reporting illegal activities.

It is important that it be made clear that it is the President's responsibility to make sure members of his administration fully comply with this requirement.

S. 1721 restates the principles in current law that approval by the Intelligence Committee is not—I repeat, is not—a condition precedent to the initiation of any intelligence activity. We do not have to give an affirmative approval under current law before an activity is commenced. We do not have to give an affirmative approval prior to the action being commenced under this bill. The bill also retains the definition of "special activities" contained in current law as set forth in the existing Hughes-Ryan amendment, which applies to the CIA, and in the executive order which applies governmentwide.

The bill maintains the protections for sensitive intelligence sources and methods that have been carefully developed over the years. The requirements to keep the Intelligence Committees "fully and currently informed" of intelligence activities, including special activities and significant failures, and to provide information to the committees upon request, are still subject to a clause expressly recognizing the need to ensure protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods and other exceptionally sensitive matters.

Mr. President, the Intelligence Committee, with its current membership, is absolutely committed to the protection of these sensitive intelligence sources and methods and we have held to an absolute minimum any passage of information, even to the committees, which might in any way seek to endanger those important sources and methods.

The bill also reaffirms the obligation of both Houses of Congress under current law to establish procedures to protect from unauthorized disclosure all classified information and all information relating to intelligence sources provided to the intelligence committees. We have gone beyond the letter of the law in our own procedure. We do not allow Members to take classified documents out of our space. We do not allow them to take notes on classified briefings out of our space. We have sought and won the support of the leaders of both parties in the U.S. Senate for our efforts to cause an immediate removal of any staff member or member or Senator from committees found guilty of having compromised sensitive information important to the national security of this country.

It should be noted that almost all the changes made by S. 1721 in current law parallel the procedures adopted in 1987 by President Reagan in National Security Decision Directive 286. I applaud the President for issuing that directive. As I said, Mr. President, that was a directive entered into through cooperative negotiations between our committee. All the members of our committee participated in drawing those proposals. The President, who virtually accepted all of our proposals, issued that national security directive.

Presidential findings must be in writing or reduced to writing when oral approval is given in an emergency. A finding must be obtained before any department, agency, or other entity of the U.S. Government can conduct a special activity. We must have a finding in advance before any Government agency can begin to conduct such an activity. Findings may not be retroactive and may not violate existing statutes and law. And findings must specify whether a special activity involves a third party who is not under the supervision of a U.S. Government agency.

These are vital procedures to ensure that covert action operations are conducted properly and in the national interest. They reflect agreement between the President and the Intelligence Committee on many of the lessons of the Iran-Contra matter. As long as they have only the status of a Presidential directive, however, that can be set aside or ignored with relative impunity. They can be set aside by a future President, for example, who might not agree with the order President Reagan has issued. We have to legislate for the long term, when a future President may lack the experience with recent problems that has made the need for such procedures clear to President Reagan and the members and staff of his National Security Council.

Mr. President, we feel the need to put these changes in statutory form, even though the President has issued many of them in his own national security directives, because they would not be binding otherwise upon future administrations and future Presidents, and we do not want to ever have our country again, Mr. President, have to go through the kind of experience with the kind of problems that we have faced over the last few months as a result of the Iran-Contra affair. It has been so damaging to our country to have to air before the rest of the world these kinds of problems within our own Government itself and our own foreign policy and national security apparatus. So we must prevent this damage from being done again to our country in the future, and that is why it is very necessary that we pass this legislation.

It is a protection also for the President. If his orders have to be in writing, if they have to be in advance, people cannot go around within the Government claiming to have Presidential authority. The obvious challenge will be: Let us see his order in writing before we proceed. That is a protection not only for Congress and its involvement, it is a protection for the President of the United States. Ultimately it is a protection for the American people themselves to make sure that these policies are carried out in an appropriate way.

The committee took special care to ensure that S. 1721 did not place undue burdens on the executive branch and the intelligence community. As introduced, the bill appeared to cause some practical problems for the agencies concerned. The committee heard those concerns expressed in both closed and public hearings. Our staff then met with representatives of the executive branch and the intelligence community to draft an amendment in the nature of a substitute that would resolve those concerns. As I have said, at the markup session last December, the committee heard again directly from executive branch representatives before adopting the final language. The committee received assurances at that time that the language, as approved by the committee, resolved every issue other than the requirement to notify Congress within 48 hours of Presidential approval of special activities. That was the only issue that remained. It was a matter of philosophical difference between the two branches of Government.

At the markup session, I offered an amendment which I hoped might bridge the gap on this last remaining issue. The executive branch has a legitimate concern that in exceptional cases where, for example, the lives of Americans being held hostage by terrorists are at stake, a covert operation to aid a rescue attempt should be very tightly held to avoid leaks. If the President limits the number of people in the executive branch to a very few, then Congress should accommodate those tight "need to know" requirements.

That is why I proposed the language in paragraph 503(c)(4) of the bill which gives the President a new option for notifying Congress. Under the current law, the President is supposed to notify the two Intelligence Committees, unless he determines that extraordinary circumstances affecting vital U.S. interests require limiting the information to a smaller number. In that case, he may limit notice to the chairmen and ranking minority members of the Intelligence Committees, the Speaker and minority leader of the House, and the majority and minority leaders of the Senate. The bill retains this provision for notice to the so-called gang of eight in paragraph 503(c)(3).

My amendment in committee added another option for the President to report only to the four elected leaders of the House and Senate. I am talking about the Speaker and minority leader of the House, majority and minority leader in the Senate. This may be done when the President determines that it is essential to meet the most vital security interests of the United States and that risk of disclosure constitutes a grave risk to such vital national interests.

As a safeguard against misuse of this special provision, the President must give the leaders a statement of the reasons explaining why notice to the intelligence community is not being provided, why only the four leaders are being notified. The President must personally reconsider each week thereafter the reasons for continuing to limit such notice and give an explanation of his decision to the leaders. This amendment helps minimize, I believe, any adverse impact of the congressional notice requirement on legislative concerns about the President's ability to exercise his constitutional authorities.

Mr. President, this is something, an issue with which I struggled for a long time. I do not want to see our President have to incur grave risk by notifying too many people. I believe these sort of secrets must be closely held. I understand the special responsibility that the President and Commander in Chief must exercise and that is the reason I provided that in exceptional circumstances only those four people should be notified because they are really the only four that are elected fully by the Members, the entire membership of both the House and the Senate.

I was willing to move the extra mile, so to speak, in saying that even as chairman of the Intelligence Committee there might be exceptional circumstances in which I should not be notified or the vice chairmen of the two committees; that notice could be limited only to the four legislative leaders.

Surely, Mr. President, if we are going to have any hope for bipartisan action, if we are going to have any modicum of truth in being able to work together effectively in our own Government, the President should not hesitate to at least discuss these most sensitive matters with the four leaders, two from each House, elected as leaders of the two parties in both the House and Senate.

I have never known of a situation in which scores of people in the executive branch would not of necessity have to be notified to have an action carried out. If that is the case, surely, surely, Mr. President, the four leaders of the Congress should be included in that group.

I do not know of any situation in history, and there have been some, of course, where Presidents have very carefully contained and held close certain information including the development, for example, of the atomic bomb during World War II. This information at the same time was invariably conveyed to the four leaders, the two leaders in each House.

Another provision in S. 1721 is designed to accommodate the President's constitutional authorities. Subsection 501(a) includes new language that is not in the existing statute and that provides that nothing in the bill shall be construed as a limitation on the power of the President to initiate intelligence activities in a manner consistent with his powers conferred by the Constitution. While the President must tell the Congress, or at least its key leaders, he is free to exercise his authorities as he sees fit.

The vital element is consultation. We cannot build bipartisan support for U.S. foreign policy in the years ahead without a firm commitment to consultation by the President with the Congress.

Mr. President, time and time again I argued for bipartisanship, even to the point that at times there have been those in my own party who thought that I have gone too far. It is something that I believe in with great passion. We must speak to the rest of the world with a single voice. When we get beyond our shores, America must act as one. We must be united, we must forget being Democrats or Republicans, Members of Congress, or members of the executive branch. I believe in that.

I have tried to support this President when I felt he was on the right path. I have tried to minimize public disagreements with him as he entered into negotiations because I think we must be united and present a united front, even when we may have some internal differences of opinion within the family. This simply cannot happen. We cannot have this kind of bipartisanship unless we have adequate consultation between the two branches of Congress.

We have had problems when communication has broken down, and we must make sure we put in place a system that assures that communication. In most areas that can be done in the open, and the President can test public and legislative sentiment through public statements and the give and take of open debate. Even when the President must act at once to deploy military forces, he does so with the knowledge that their use will be subject to public and congressional scrutiny. In other words, the President is normally accountable to the Congress and the people through the open processes of government.

Convert action operations are an exception. They require secrecy in order to be effective. The statutory notice requirements in the existing oversight statute, and the clarification of those requirements in S. 1721, serve to provide a surrogate for the open processes of government where covert action is required in the national interest.

The joint report of the Iran-Contra committees concluded its chapter on "covert action in a democratic society" with a statement of principles that the Intelligence Committee has followed in developing this legislation:

First, covert operations are a necessary component of our Nation's foreign policy. They can supplement, not replace, diplomacy and normal instruments of foreign policy. As National Security Adviser Robert McFarlane testified, "It is clearly unwise to rely on covert action as the core of our policy." The Government must be able to gain and sustain popular support for its foreign policy through open, public debate.

Second, covert operations are compatible with democratic government if they are conducted in an accountable manner and in accordance with law. Laws mandate reporting and prior notice to Congress. Covert action findings are not a license to violate the statutes of the United States.

Third, as the Church Committee wrote more than a dozen years ago, "covert actions should be consistent with publicly defined United States foreign policy goals." But the policies themselves cannot be secret.

Fourth, all government operations, including covert action operations, must be funded from appropriated moneys or from funds known to the appropriate committees of the Congress and subject to congressional control. This principle is at the heart of our constitutional system of checks and balances.

It is the Congress that must appropriate funds. It is through this methods that Congress exercises its appropriate voice in policymaking for this Nation.

Fifth, the intelligence agencies must deal in a spirit of good faith with the Congress. Both new and ongoing covert action operations must be fully reported, not cloaked by broad findings. Answers that are technically, true, but misleading, are unacceptable. and will not rebuild the kind of trust we need between the committees, Congress, and the intelligence agencies.

Sixth, Congress must have the will to exercise oversight over covert operations. The intelligence committees are the surrogates for the public on covert action operations. They must monitor the intelligence agencies with that responsibility in mind.

We are trustees not only for the rest of the Congress, but for the American people. We take that responsibility seriously in the Intelligence Committee.

Another principle set forth is the following:

Seventh, the Congress also has a responsibility to ensure that sensitive information from the executive branch remains secure when it is shared with the Congress. A need exists for greater consensus between the legislative and executive branches on the sharing and protection of information.

We must come to the Congress with clean hands. If we are going to be asked to be trusted, we must prove ourselves worthy of that trust. Let me say that the leadership and the members of our Intelligence Committee are working every day to demonstrate that we are worthy partners, that we are worthy of that trust in our relationship with the executive branch.

Finally, the gathering, analysis, and reporting of intelligence should be done in such a way that there can be no questions that the conclusions are driven by the actual facts, rather than by what a policy advocate hopes these facts will be.

These principles are being implemented in practice today. The intelligence community under Director Webster's leadership is providing the Intelligence Committee with the information we need to do our job. We are pursuing our oversight responsibilities vigorously. At the same time, the committee had reemphasized its commitment to protecting the security of the sensitive information entrusted to us by implementing stricter security procedures, as I have mentioned.

Vigilant oversight and strict security go hand in hand. We have established a relationship of trust with the intelligence community that serves both the national security of the country and the system of checks and balances under the Constitution.

That is our goal. It gives me great satisfaction and pleasure to be able to say that to my colleagues and my fellow Members of the Senate.

The legislation before us today should help cement that relationship for years to come. I hope that the broad support for this bill in the Intelligence Committee can be matched in the Senate as a whole, so the President will be persuaded to accept this measure. Indeed, it may be worth noting that the President himself has never formally asserted as administration policy the statutory and constitutional interpretations put forth by the Department of Justice. And Director Webster has recently testified before the House Intelligence Committee that the notice requirements in S. 1721 do not, in and of themselves, place undue burdens on the intelligence community. Furthermore, Director Webster has not endorsed the Justice Department's statutory and constitutional interpretations.

In other words, based on our exhaustive effort to consult the executive branch, and the merits of the many important features of this bill, I feel there is every reason to be hopeful that the President will decide this bill strikes an acceptable balance between the constitutional interests of the branches. It provides the framework for collaboration in an area that requires the most careful attention to security and to defining the rules with precision. We do not want a President ever again to be faced with misguided legal advice that tells him he has the legal right to delay notice of a covert action operation indefinitely.

Indeed, as long as there are those who believe the current statute means something other than Congress intends it to mean, which was the testimony before our committee from representatives of the Justice Department, we have no alternative but to legislate. And in so doing, we have the opportunity to clarify the law in other areas where agreement has been reached between the Intelligence Committee and the executive branch.

Finally, I want to pay special tribute to the vice chairman of the Intelligence Committee, the Senator from Maine, who took the initiative to introduce this bill and carry it through the committee.

He is the one who carried it through the committee. He is the one who put it on our agenda. He is the one who turned our attention to this important policy matter. His tireless efforts have made this important legislation possible and have contributed greatly to the pervasive atmosphere of bipartisanship that characterizes all the work of our committee.

I only wish, for the sake of this country, that we could have the same kind of spirit of bipartisan cooperation for the good of our country that prevails in our committee. I want to say publicly that is largely due to the attitudes and to the leadership of Senator COHEN of Maine, with whom I am privileged to work.

As we move toward a vote on this landmark legislation, I urge my colleagues to recognize that the bill before the Senate is very much a product of compromise and accommodation of different views. As many of you know, this Senator was reluctant at first to legislate a binding notice requirement for covert action. But I am convinced that the final bill, as reported by the Intelligence Committee, meets the legitimate concerns of the executive branch and those who respect, as do I, the solemn constitutional responsibilities of the Presidency. In my judgment this bill helps the President meet those responsibilities. I strongly recommend its adoption.

Again, I thank my colleagues for their attention. I ask unanimous consent that an article, which appeared in the Washington Post, by Haynes Johnson entitled "Best Proposal of 1988," which describes this bill, appear in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Jan. 1, 1988]

BEST PROPOSED LAW OF 1988

For the new year, here's old business on my personal congressional wish list:

No matter how otherwise frustrating the inevitable 1988 presidential election bickering in Washington proves to be, passage of only one pending bill will ensure that at least something significant will have been achieved in the last session of Congress. That's S. 1721, the so-called Cohen/Boren bill.

Admittedly, Cohen/Boren is not a household term, but it ought to be. It addresses a critical national issue: proliferating U.S. covert intelligence operations, with the Iran-contra affair as the latest terrible example.

"In the last year or so, we have witnessed the recurrence of an all too frequent problem: covert activities that get out of control and embarrass the nation and undermine our credibility and our capability to exercise world leadership," Clark M. Clifford told the Senate Intelligence committee in strongly backing Cohen/Boren a few days before Christmas. "Moreover, this problem is getting worse, the costs are getting higher and the damage is getting greater. For this reason I say that, unless we can control covert activities once and for all, we may wish to abandon them."

No one is more qualified to speak on this subject than Clifford, key counselor of many presidents and former secretary of defense.

In 1946, President Harry S Truman asked Clifford to study the idea of establishing the first peacetime intelligence agency in American history. Out of that assignment came the drafting of the National Security Act of 1947, which, when passed by the Congress, created the Central Intelligence Agency. For 40 years, that act has remained the only statutory authority for covert operations.

Clifford and others who drafted that original act were aware that in giving the nation a regular secret operational capacity for the first time they were dealing with a new, potentially risky enterprise. While Soviet expansionism and the Cold War's advent justified taking bold actions, Clifford worried about the United States creating a Frankenstein—a monster that, in the name of safeguarding U.S. democracy, would jeopardize basic democratic principles. As Clifford put it, "There was concern that our nation not resort to the tactics of our enemies in order to resist them."

With that in mind, the act contained a carefully worded "catchall" clause providing that the CIA shall "perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct."

These were intended to be separate and distinct from normal CIA activities, Clifford recalled in his recent testimony, "and they were intended to be restricted in scope and purpose. The catchall clause was crafted to contain significant limiting language: 'affecting the national security.' "

That original limiting intent has been repeatedly thwarted. Clifford again:

"We have seen an egregious deviation from the original conception of how that act was supposed to function. Covert activities have become numerous and widespread, practically constituting a routine component of our foreign policy. And with these activities have come repeated instances of embarrassing failure—where the goals of the operations themselves were not fulfilled and unforeseen setbacks occurred instead. I believe that on balance covert activities have harmed this country more than they have helped us. Certainly efforts to control these activities, to keep them within their intended scope and purpose, have failed."

Hence, Cohen/Boren in the wake of the Iran-contra debacle and the failure of Congress to exercise its proper constitutional oversight role.

The bill would require the president to sign a written "finding" describing the particulars of a covert activity to Congress within 48 hours of approving it—a change in law opposed by the Reagan administration. If he chose to limit notification to the smaller group of eight congressional leaders, the president would have to explain why and give notice of any significant changes in any covert activity.

These are important changes, but in Clifford's expert opinion they don't go far enough. He'd add provisions automatically cutting off any funds for covert activities if the president failed to follow the prescribed 48-hour notification timetable—and also ensuring that criminal penalties would face any government employe who tried to get around the ban against spending funds for covert activities, as happened in the Iran-contra affair.

Pass it, with the suggested Clifford amendments. It's in the national interest, for 1988 and beyond.

The PRESIDING OFFICER (Mr. Adams). The Senator from Maine.

Mr. COHEN. Mr. President, first let me thank my colleague and good friend from Oklahoma for his generous and gracious remarks concerning my participation in the development of this legislation.

From time to time, I refer to the Senator from Oklahoma as the Governor of Oklahoma. I do that not only in jest or in admiration, I must say, because as Governor Boren, now Senator Boren, the title means something. It means that he has, in fact, served as a chief executive of an important State. He is sensitive to the needs for executive action, executive discretion.

He is also, I am sure, sensitive to the need to develop a relationship with the Congress to make that relationship function effectively and as smoothly as possible. I must say candidly that Governor Boren initially was not in favor of a key element of this legislation dealing with the mandatory notice.

I commend him for the role which he played in developing this legislation to the point where he became personally persuaded that it is the best way to achieve the common goals that we have, to have not only a chief executive who can act but also one who has a better chance to act wisely, with more deliberation and a greater source of wisdom perhaps, or at least with the benefit of recommendations coming from a coequal branch of this Government. I thank Senator Boren for his words and also praise him for his participation in the development of the bill itself.

It would not be here today without his help. It would not be here without his amendments. And I might say—and I will talk about this in a few moments—I did not necessarily agree with the amendments that he offered but in a spirit of compromise agreed that perhaps this was the best way to bring this bill on to the floor. I will talk in a few moments about some of the possible liabilities in making a concession which I did not consider wise at the time and only reluctantly accepted because I believed that it was important we have a bipartisan approach to something that we all should be sharing in any event. That is an attempt to build a bipartisan coalition to support a foreign policy on a sustained and continuous basis if at all possible. So I thank him for his words and his effort.

Mr. President, I will not duplicate what Senator Boren has stated here very thoroughly and comprehensively today but, rather, address a few comments to perhaps several myths dealing with foreign policy.

One myth is, and you will hear this perhaps later today, that the President is the sole architect of American foreign policy. Mr. President, he may be the sole spokesperson, he may be the sole implementer, but he is not omniscient nor an omnipotent Frank Lloyd Wright of foreign policy. That is a myth. To the extent that there is anyone in this Chamber who claims that he is the sole architect of foreign policy, that is a misreading of the Constitution and a misunderstanding of our role in formulating foreign policy.

Congress, if not a full and coequal partner in the formulation of foreign policy, is far more than the simple limited advisory council that most Presidents would like to maintain.

Now, why do I say that? There are at least four, perhaps five, reasons why I suggest it is a myth to state or believe that the President is the sole architect of foreign policy. We have one very important clause in the Constitution. It is called the appropriations clause: "No money shall be drawn from the Treasury but in consequence of appropriations made by law." The President can formulate no policy and try to implement it without Congress appropriating the dollars in order to make that possible.

So through that appropriations clause we retain the power, a very significant amount of power in the field of foreign policy as we do in domestic policy. It is called the appropriations clause.

Second, by statute, funds appropriated by law can be expended only for purposes authorized by Congress. The President cannot spend a dime that has been authorized for one program and then turn it to another without some support from Congress.

Third, the Constitution gives Congress the exclusive power to determine whether it will be at war or peace with other nations. Once again, there is a notion that somehow because the President is the Commander in Chief he determines whether we go to war or remain at peace. The Constitution vests in Congress, House and Senate working together, the determination as to whether we will be at war or peace. The fact is, particularly in the field of covert actions, the President might, indeed, formulate a covert activity which could bring us to the brink of war with another nation, and yet somehow the argument is made the President must have the exclusive power to determine whether or not this action is visible.

I suggest to my colleagues that nothing could be further from the truth from a reading of the Constitution.

The fourth point I would make is that Congress is charged with the responsibility to raise an army, to maintain a navy. That is not the President's charge in the Constitution. That is our power, not the President's. So the notion that somehow the President, being the Commander in Chief, has the exclusive ability to exercise power in this domain I think is mythical. And we have allowed it perhaps to accumulate through repetition, but it is not well founded or grounded in constitutional law.

A fifth point I make in terms of Congress' role in the shaping are, formulating of foreign policy has to do with treaties. The President can make no treaty commitment with any other government without the advice and consent of the Senate.

Now, hopefully the advice will come before the signing of the treaty but surely must come thereafter. We discovered during President Carter's administration that the President can ignore perhaps the advisory role of Congress but only at his or her peril. And that happened in my judgment during the discussion of the SALT II Treaty which was signed but never ratified by the Senate.

So there are at least five key reasons why we should dismiss this notion that somehow the President is the mythical, exclusive possessor of power in the field of foreign policy.

I would like to turn now to the context of covert activity. Senator **Boren** mentioned this during the course of his opening statement. Sometimes it is necessary to accomplish a legitimate foreign policy goal through a secret or covert means. We support that principle for the first time. In statutory language we in the U.S. Congress are saying we recognize the need to occasionally resort to a covert action to achieve a legitimate foreign policy goal, because, generally speaking, we formulate foreign policy in this country—as other policies—in the open.

We have a Foreign Affairs and a Foreign Relations Committee. That is where the debate takes place. That is where the arguments are ventilated. That is where opinions clash and mesh, and hopefully are resolved, in an open, spirited debate on foreign policy. But we now have specific examples where that may not be wise. And so we say we recognize that it may be necessary to achieve a foreign policy goal, a legitimate foreign policy goal, through a secret means. But if we do that, if the administration decides to achieve a foreign policy goal which they otherwise would have to go to the Foreign Relations Committee or the Foreign Affairs Committee to get authority to pursue, we say we will make an exception; you can go, you can authorize a covert activity but first you must do a couple of things, very simple.

First, you must have a finding, you must sign a document saying exactly what the goals are, what we hope to achieve and how we hope to achieve them. That is the first point. It is a written document telling your administration exactly what you intend to achieve.

Second, you must notify Congress. You must notify Congress, or some Members of Congress. That is the price we say you have to pay if you are going to indulge in covert activities. You cannot just do it in the dark and in secret and never notify us. You must have a finding and you must give notification.

We assume, and this has been the practice for the most part, that notice will come prior to the institution of the action itself. The President will sign a finding. He will send the Director of the Central Intelligence Agency up to see us in the Intelligence Committee and they will notify us of the parameters, the goals, the objectives, and the means by which this particular legitimate foreign policy objective shall be achieved. Ordinarily, the notice comes first.

Now, there may be circumstances, as the bill was originally written, there may be circumstances in which the President does not have time to notify Members of Congress of an important action that must be taken immediately. So, an exception was created. The exception said that in that case in which he does not notify us in advance, he shall do so in a timely fashion. That is the way the law reads today, "timely fashion."

It has always been contemplated that the phrase "timely fashion" means within a matter of hours or certainly a matter of days. Those who have testified in open and closed sessions before the Intelligence Committee have indicated that 48 hours has generally been the practice. Some of us may recall, for example, that when Robert Gates came before the Intelligence Committee during his confirmation hearings—he was nominated to be Director of the Central Intelligence Agency—he was asked whether or not he would recommend notifying the Intelligence Committees within a 48-hour period and he said, as I recall, "I can conceive of no situation in which I wouldn't be notifying the committee within that timeframe." Judge William Webster, during his confirmation proceedings, repeated essentially the same thing. John McMahon, the former Deputy Director of the Central Intelligence Agency, supports the 48-hour notice requirement categorically and with no qualification.

So that has been the practice in the past. Now, what happened? The Iran-Contra affair, as we call it, revealed what takes place when the President and his advisers seek to either circumvent or exclude the institutional checks and balances provided by Congress. We know, for example, that there were at least two transfers made of weapons back in August and September of 1985.

There was no finding, no written finding, and there was no notice to Congress. Those were the sales that took place in the late summer, early spring of 1985. There is some dispute as to whether or not the President actually made an oral finding. If you listened to Bud McFarlane's testimony and accept that, then the President gave an oral direction to him to authorize the Israelis to indulge in these sales to the so-called Iranian moderates, but never gave any notice to Congress. If you reject Mr. McFarlane's testimony, then you need only turn to a timetable some 6 months later, January 1986, in which the President on two occasions signed findings authorizing sales of weapons to Iran.

Again, it was a finding here, a written finding, but with an expressed direction not to notify the Intelligence Committee of the Congress of the United States. How do they come to that direction? The Justice Department took section 501(b) of the National Security Act under which we conduct our oversight responsibilities, and interpreted it to mean that the President could ignore the restraints of an existing law by taking it covert, to use the parlance of the intelligence community, taking it black. He could circumvent an existing law on the books by simply declaring it is now going to be a covert action, taking it covert, and then withholding notice as long as he might deem it to be in the national interest to do so.

Unlimited, unfettered discretion to withhold notice to the Congress of the United States could be hours, it could be days, it could be weeks, or it could be months. It might even be years; no restriction upon his ability to withhold notice to the U.S. Congress. This is totally inconsistent with any notion that we have of accountability, or of meeting the checks and balances test of our Government. It stands the whole notion of checks and balances right on its head. Because without notice, we can give no advice.

Clark Clifford, one of the most distinguished public servants we have had certainly during this century, who was principally involved in the writing of our National Security Act back in 1947, has followed this from its inception, and has seen systematically over the years the kind of abuses that have taken place. He said that really, Congress is looking not for a veto, but simply a voice.

We have a right to have a voice about certain activities that are being undertaken in our name, with the imprimatur of this country. And yet with no notice to the Congress of this country, no notice to the Congress of the United States, we cannot know. Congress provides the only external review of covert activities that in a way protects the President from unwise decisions.

We are not the only people outside of the executive branch who have an opportunity to give the President the benefit of our advice. Those Members who have had the privilege of serving on the Intelligence Committee know that in the past there have been occasions in which the President has submitted a finding for a particular covert action, and a person sitting around that Intelligence Committee room, Republican or Democrat, liberal or conservative, said, "Wait a minute. This does not make good sense. It does not make sense for this country. We think if it were ever carried out, not only would the American people not support it, but it would be either ridiculed or condemned by those who are our allies or our enemies. It does not make good sense. Take a second look at it, Mr. President."

And I would say that almost without exception the President has cooperated in that spirit, has taken our advice, and has canceled certain proposed findings. That is our institutional responsibility. That is what we are here for.

So we are looking for not a veto but a voice. I recall when we filed the Iran-Contra report there was a majority report, the minority report, and some of those in the minority suggested or blamed not the President for undertaking the action, but they blamed Secretary Shultz. They condemned Secretary Shultz because he did not resign. He did not fight hard enough, he and Secretary Weinberger. I disagree with that. But that was the view contained in the minority report by some. He should have resigned if he felt so strongly according to that view.

We do not have to resign. We are coequal to the executive branch, and we have an opportunity to provide the President with advice. We do not have to resign and say, "Mr. President, take our advice or we are walking out and surrendering our membership in the U.S. Senate." The Secretary of State may have to be faced with that kind of alternative. We do not. That was the purpose of setting up a system of checks and balances. So those who argue that the President has the exclusive right to undertake covert actions and withhold for an indeterminate period of time any notice to Congress I think are misreading the Constitution and are in fact not doing a service to the President, but doing a disservice to the President.

There was a notion that was articulated by a number of people during the course of the Iran-Contra investigation. It was captured in the phrase by Colonel North called "lives or lies." I find it somewhat ironic that in the age of nuclear weapons it is Congress under the Constitution that has the power to decide whether we go to war or remain at peace.

We are living in an age of nuclear weapons in which we can vaporize this planet almost instantly, but the power does not reside with the President to decide that. It resides with us. Yet, in dealing with covert actions, some of which might precipitate a conflict or indeed a war, we are told, "We will tell you after the fact, maybe tomorrow, maybe 48 hours, maybe next month, maybe on a weekly basis if someone will tell you why we are not telling you on a weekly basis—can't tell you what the details are, Mr. Senator, or Congressman, we will tell you maybe next week." But then we get to next week, and perhaps wait another month. "We are not sure when we are going to tell you, if at all." There are some people who take that position.

An amendment may be offered to accomplish that goal—simply notifying Congress of a covert activity, but not telling us what it is and saying that sometime in the future we may be willing to tell you.

I find it ironic that we have the war power under the Constitution, and yet the President is now claiming exclusive authority in the field of covert activity and retaining or reserving for himself the right to determine whether or not Congress will be a partner, limited or full or nonexistent.

Another issue strikes me about "lives or lies." They are saying in covert activity that Congress cannot be trusted, that Congress is unworthy of trust in this field. I find it somewhat ironic, to say the least, what is taking place now with the administration lobbying against this bill. They are saying publicly through the Secretary of Defense, and now through Director Webster, that if this 48-hour notice requirement is included, our intelligence community will be undone. And I find that really ironic.

Here is an administration, and I believe them, that said we have complied with the law, we have notified you on each and every occasion prior to Iran-Contra. Senator MOYNIHAN may come to the floor and dispute that, and he will talk about the mining of the harbors of Nicaragua.

But aside from that issue right now, they have said on every occasion in which we have undertaken a covert activity we have complied with the law by notifying you in advance or within a 48-hour period or roughly that period of time. If that is the case, they have jeopardized our intelligence community for almost 8 years now. They have engaged in the undermining of our intelligence community. And I say that is nonsense. That is absolute nonsense.

So for them to argue now that if you pass a law which says you must notify Congress within a specified period of time, you will undo our intelligence community, it seems to me to be a gross exaggeration, one that is politically inspired rather than grounded in the merits.

The reason that the administration did not notify Members of Congress this time on Iran-Contra was quite clear in my judgment.

No. 1, it contradicted this country's public policy—no dealing with terrorists. It contradicted the policy of Operation Staunch.

Here we had Secretary Weinberger and Secretary Shultz going to our allies, saying, "Don't trade any weapons with Iran. We cannot affort to continue this war, the means by which they operate the war with Iraq and win it."

So this covert action violated that policy. It would have put us in a very embarrassing position, and rightly so. It would not only be a very embarrassing position, but also, it would put the backs of the American people on the cruel rack of extortionists. Everybody in this Chamber knows that an extortionist's price is never paid. It will always be one more hostage or five or more TOW's, or whatever the system might be. That is what we did in selling weapons to the Iranians as part of an overall plan to open up a new dialog with Iran.

Second, I believe that the reason they did not notify the two committees is also very clear. Several of us, or all of us, would have asked: "Do you mean to say, Mr. Director of the Central Intelligence Agency, that the Secretary of State supports this activity, the Secretary of Defense supports this activity, the two key, principal foreign policy and military advisers of the President of the United States, who are now openly supporting Operation Staunch, now favor this?"

Of course, the administration, if they were going to testify candidly—and I believe they would have—both Secretaries would have come before the committee and said, "No, we don't agree with this policy of covert activity." They would have reiterated the very strong arguments they made to the President. I think the adminsitration did not want to hear any more advice on this issue.

So it was not a question of lives being at stake and lies having to be told to protect those lives. It was a question of the adminsitration knowing they were engaged in a policy that was certainly controversial, because it was, at a minimum, somewhat hyprocritical, having a public policy and a private one that were different and over which the administration, itself, was deeply divided.

I believe Secretary Weinberger testified before the Iran-Contra Committee that it was perhaps the first time that he and Secretary Shultz agreed on a particular matter on which they were overruled, that the President disregarded the joint recommendations of the Secretary of Defense and the Secretary of State.

So, that was the reason why Congress was not notified—not because they could not be trusted, but because of the division within the administration.

S. 1721 provides in covert actions that the President give notice prior to undertaking a covert activity; but, in addition, if he fails to do so, he must give notice within 48 hours.

In the field of foreign policy, Congress shares a major role of responsibility, to help shape, formulate, and support those foreign policy objectives.

When the executive branch ignores Congress or seeks to mislead it or circumvent it, then the ship of state is going to be grounded; it is going to sink in political paralysis. That is penalty I think executives will pay, have paid in the past, and will pay in the future when they seek to do this.

The rule of thumb for me is that what the executive cannot persuade, it should not pursue. If it cannot persuade Congress and the American people to support the policy, it should not pursue it. A policy that the American people do not feel, they cannot be forced to accept. Cooperation and conciliation is the only policy worth pursuing, so far as the executive branch's relationship with the Congress of the United States is concerned.

In conclusion, let me try to sum up what this bill does.

This bill does no more than what the President of the United States has agreed to do in his NSDD. It says that all findings should be in writing or reduced to writing immediately; that that finding cannot be retroactive in application; that third parties must be identified to the Intelligence Committees if they are going to be beyond the jurisdiction of the United States. Also, what the President pledged publicly is that he would undertake no covert action unless he could stand before the American people and say, "This is what we tried to accomplish, and we are proud of that particular activity." This bill does not do anything more than that, with one exception.

The only thing we have added is the 48-hour notice. I picked that 48-hour period, as I indicated before, because Mr. Gates, Mr. Webster, and Mr. McMann have all indicated that that is entirely reasonable; that is the practice. That is why we put it in the bill.

The final point I want to make is that Senator BOREN indicated that some proposed amendments were adopted. One dealt with trying to accommodate the executive—not because constitutionally we have to, but in a spirit of comity we said: "Let's try to work out something where your fears about possible leaks of information are in fact reduced and minimized. Let's not simply notify the Intelligence Committee at large."

Under existing law, they can notify the group of eight: the chairmen and vice chairmen of the House and Senate committees, plus the four leaders.

Senator BOREN said: "Let's go further. Let's really minimize their anxieties, real or illusory. Let's minimize their anxieties and confine it to a group of four—just four people now."

If anybody really objects to notifying Senator DOLE, Senator BYRD, Congressman WRIGHT, and Congressman MICHEL, measure that against the people who were notified in the private sector, like Mr. Ghorbanifar. He was notified about the covert activity. He was described by the CIA as being not a pathological liar but at least a persistent liar. They set out a series of polygraph tests—we just debated a polygraph bill—and he passed only two questions, his nationality and his name. He was notified. We could not tell Senator BYRD or Senator DOLE.

How about Adnan Khashoggi? Mr. Khashoggi, international financier, arms dealer, was notified. He knew what was going on. We have Mr. Richard Furmark, a business associate of Mr. Khashoggi. He knew what was going on.

We had a couple of Canadian businessmen. They were engaged—if they existed at all—in blackmail. They tried to blackmail Director Casey into coming up with $10 million they allegedly had fronted for this covert action, or they were going to blow the story wide open. They knew about the covert action. BOB DOLE did not know. BOB BYRD did not know.

I could go on and on from the Israelis who were involved to the pilots of Southern Air Transport, and on a whole list of people who knew about the covert action. But no Member of Congress could be trusted.

It finally ended up in a Lebanese newspaper, where the story was divulged, we believe, through the services of Mr. Ghorbanifar.

I think we should all take great resentment that, somehow, four Members of Congress cannot be trusted to keep a secret, when history is to the contrary and the power as contained in the Constitution is quite to the contrary.

But, nonetheless, Senator BOREN suggested let us put these fears aside. Let us just notify four people under extraordinary circumstances. Do not notify the Intelligence Committee. Do not notify the chairman of the Intelligence Committee or the vice chairman. We cannot trust them. This is so tightly held. Let us just notify four people: the majority leaders and the minority leaders of the House and the Senate. Those are the only Members we can trust.

I might say to my colleagues, and I do not see the majority leader on the floor right now, I am not so sure that is a great idea in limiting the notice to those four. If I had my druthers, if you are going to limit it to four people, I would limit it to the chairman and vice chairman of the Intelligence Committees of both Houses.

Why do I say that? I say it because from my experience I can foresee the day when someone from the Central Intelligence Agency, the Director or someone else in the agency, will go to the President and say, "Mr. President, we have a very, very dangerous mission under way. We don't think you can trust Congress generally. We know you cannot trust the Intelligence Committee. We are not sure about the chairman and the vice chairman, but we are not even sure of how we should share this with the leadership of the House and Senate. Let us just give them a nice, broad description of the finding."

And the finding, I must tell you, can be phrased in a way in which, if you do not know the history behind the covert action, that particular type of action, and do not know who the players are and the right questions to ask, you can find yourself being notified of a covert action which sounds terrific on the fact of it, one that everyone would enthusiastically support on the surface, but if you do not know which questions to ask, you will not get the right answers certainly. If you do not know what the preceding activities have entailed, you are unlikely to appreciate the full consequences of what is about to be undertaken.

And then a President will be in a position of saying, "Look, we complied with the law. We notified the two leaders. They did not object."

And they are going to be put in the position of saying, "We did not know all the facts."

I think we will rue the day that this occurs but, nonetheless, it is foreseeable and predictable, in my judgment. However, I decided to compromise in an effort to produce a bipartisan approach. But that is the only compromise I think that any of us should make, a final compromise. Otherwise we must be willing to say this Iran-Contra affair was a simple aberration, that we should go back to where we were because under the President's NSDD, under an amendment that may or may not be proposed, what the proposals will do—and the NSDD allows the President to do—is precisely what occurred prior to the Iran-Contra affair. And that is declare it to be an exceptional circumstance, an extraordinary circumstance. Iran-Contra was an extraordinary circumstance and we should not notify any Member of Congress, carry it on for months, maybe years, if we can get away with it, but never confide in any Member of the U.S. Congress.

That is what some of the proposals will do, not their intent. They will phrase it and wrap it in the garb of executive authority, executive privilege and executive power, but the fact remains what they are seeking to do is to return us to the status quo which, in fact, allowed the Iran-Contra affair to be undertaken in the first instance.

So I hope, Mr. President, that our colleagues who are listening or watching will take that into account as proposals are brought to the floor to eliminate the 48-hour notice. I will suggest to my colleagues respectfully that those who will support such a proposal will return us to precisely where we were.

We have learned nothing from history. And I would hope that we had the capacity to learn from our mistakes.

This bill cannot guarantee that future abuses will not occur but they certainly will help to minimize that by giving the President the benefit of our advice in these extremely important covert actions.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Nevada.

Mr. HECHT. Thank you, Mr. President.

I have heard our distinguished chairman and vice chairman of the Senate Intelligence Committee, and I would like to say to my colleagues who might be listening I strongly opposed the bill in committee. We had one public hearing in which I openly said I would not support the bill and I voted against it in committee.

Let me tell you why: The argument is not about the division of power between Congress and the President on development and substance of foreign policy. The disagreement is about executions, the operations to carry out foreign policy.

Mr. President, S. 1721 is unnecessary and unwise legislation:

It is unnecessary because the President has already corrected the procedural and managerial deficiencies highlighted by the various Iran-Contra inquiries.

I am not here today to condone the Iran-Contra affair in any way, shape, or form. We have rehashed this up and down the line.

S. 1721 is unwise because it attempts to change the historical and constitutional division of authority between the President and the Congress in the conduct of foreign relations and because it attempts to embed in statute increased congressional committee micromanagement of the executive branch intelligence agencies.

I would remind fellow Senators that we have much to do to improve management of our own constitutional responsibilities, without injecting ourselves further into the daily operational decisions and actions of the executive branch. Congress has come under justified and severe public criticism for inefficiency. I give you the handling of last year's budget process.

S. 1721 attempts to legislate good judgment. What a wonderful world it would be if we could just write enough procedures into our laws to guarantee brilliant, correct decisions on all national security and foreign affairs activities every day or if the rest of the world would just stand quietly by each day while we tried to reach action decisions in committees or Congress and could get our "orders for the day" into the hands of the Federal bureaucracy. We know better, and I suggest that we vote based on that knowledge.

A distinguished and highly respected public servant, Secretary of Defense Frank Carlucci, has explained clearly to us another reason why this legislation is unwise.

In his December 16 public statement to the Intelligence Committee, Secretary Carlucci made clear that this legislation could have a serious negative effect on support from friendly foreign intelligence services. Although some revisions were made in S. 1721 in an effort to overcome this adverse impact, overall the legislation would require a breadth and depth of current congressional knowledge about specific foreign intelligence sources and cooperating agencies which those services will regard as too much of a risk. I think the Congress made it clear during the Iran-Contra Select Committee hearings how far we will go in publicizing the details of secret support from foreign governments and individuals in pursuit of our institutional and partisan political conflicts.

Sponsors of S. 1721 argue that prior notification to Congress of specific covert actions—or at most within 48 hours of a Presidential decision—will avoid foreign policy failures, pain, and embarrassment. I suggest that recent history of direct congressional "operational" involvement in specific foreign policy actions demonstrates that the administration has no exclusive rights to failure, pain, and embarrassment.

The spectacle of congressional leaders, Members, and staff negotiating specific diplomatic steps with foreign governments or groups is an opening to foreign relations and national security chaos.

In a sense, this legislation uses justification for the proper congressional role of "oversight" as a rationale for another step to congressional micromanagement of daily operations within the executive branch agencies. We have already gone too far in that direction.

I opposed this legislation in the Intelligence Committee. I oppose it here.

I urge the Senate to reject this legislation and start on the path of restoring a balanced and efficient relationship between the Congress and the executive branch.

The distinguished chairman of the committee quoted from the Washington Post. I would like to read an editorial from the Wednesday, March 2, 1988, Washington Times, "The Destruction of Covert Action." I am going to take just a couple moments and read this because unfortunately our colleagues are very busy and do not have time to read every item in the daily RECORD.

Senate Intelligence Committee Vice-Chairman William Cohen says that covert action is like "a damn good drug," and he wants to cure what he considers the government's addiction to unacknowledged foreign policy measures with a bill that requires 48-hour notification to Congress of any covert action programs approved by the president. So dangerous is Mr. Cohen's proposal that Defense Secretary Frank Carlucci and the White House say President Reagan will veto it if it remains in its present form.

Mr. Cohen's bill, and a similar House companion, require the president to authorize covert action—"special activity," in the current euphemism—in a written "finding" within 48 hours after deciding to proceed with the action. The finding must be reported to the congressional intelligence committees within 48 hours of being signed and must specify all government agencies involved as well as any "third party" (e.g., friendly foreign governments) "who it is contemplated will be used to fund or otherwise participate in any way in the special activity concerned."

The bill's authors allow some exceptions to the rules. The president may postpone a written finding if "immediate action by the United States is required and time does not permit the preparation of a written finding"—although the president still must draft a written record of the decision immediately and draft a written finding "as soon as possible." The president also may limit access to the finding if he believes extraordinary circumstances demand, but he still must inform the chairmen and ranking minority members of the intelligence committees, the speaker and minority leader of the House and the majority and minority leaders of the Senate—eight people, that is, outside the intelligence community who normally would have no "need to know" at all.

Mr. Cohen's bill offers mind-boggling opportunities for security leaks. It gives congressional staffers, secretaries, clerks and other employees a bird's-eye view of what the intelligence agencies are up to, who is doing it and who is helping them among Americans or foreign governments. The bill also offers a bonanza for ambitious journalists, who would like to have written confirmation for their stories instead of the usual "anonymous sources." And, of course, it really helps foreign spies, for whom presidential findings would make fascinating reading.

Mr. Carlucci, deputy director of the CIA under President Carter, has testified that "our intelligence assets would dry up" if they perceive that "the CIA is obliged to disgorge whatever the committees want." Mr. Carter's national security adviser, Zbigniew Brzezinski, says Mr. Cohen's bill ensures "there won't be any covert action." Mr. Carter's director of the CIA, Adm. Stansfield Turner, has testified that when he recruited an American or foreign agent for covert action, he "would have found it very difficult to look such an individual in the eye and tell him or her that I was going to discuss this life-threatening mission with even half a dozen people in the CIA who did not absolutely have to know." The CIA under Mr. Carter was not exactly a first-rate intelligence organization, but even its major officials find Mr. Cohen's bill positively chilling.

Its red-tape requirements aside, the bill's conception of "timeliness" is simply silly. The 48-hour notification requirement would impose an artificial constraint on covert action that may not accord with the fast-track schedules of terrorists, spies and international emergencies in the real world. "Timeliness," Adm. Turner testified, "is not measured by the clock. Timeliness should be measured by the risk." Mr. Cohen's bill not only seeks more congressional control of presidential authority in foreign policy but also tries to make the real world conform to the neat formulas of statutory law.

This latest foray into the usurpation of presidential foreign policy powers demonstrates just why Congress shouldn't be in the business of micromanaging our foreign policy. The bill would isolate us from the rest of the world's intelligence communities and would make embarrassments—embassy seizures, terrorist acts, compromising of agents—the rule, not the exception. The Senate Intelligence Committee reported out Mr. Cohen's bill by a vote of 13-2, and the full Senate could consider it as early as this week. The lawmakers ought to save Mr. Reagan the trouble of sending it back, but if not, the president should keep his veto pen handy.

In closing, Mr. President, the Intelligence Committee recently received an analysis of S. 1721 prepared for a committee of the American Bar Association by four prominent attorneys with extensive national security experience.

This analysis—which is outstanding in terms of brevity and clarity—indicates that S. 1721 is unwise legislation.

I commend this analysis to all, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ANALYSIS

The Chairman of the Standing Committee on Law and National Security of the American Bar Association asked four individuals with prior government experience in intelligence matters to study S. 1721 and report to the Standing Committee. Mr. Frederick P. Hitz (formerly Legislative Counsel, CIA). John H. Shenefield (formerly Associate Attorney General of the United States), Daniel B. Silver (formerly General Counsel, CIA and NSA), and Robert N. Turner (formerly Counsel, President's Intelligence Oversight Board) met as a working group and prepared the attached report on S. 1721. It has been sent to the Standing Committee for its consideration.

The views expressed in the draft report are those of the four individuals who contributed it. Pending review, they do not represent the views of the Standing Committee on Law and National Security, nor of the American Bar Association.

DRAFT REPORT TO THE STANDING COMMITTEE ON LAW AND NATIONAL SECURITY OF THE AMERICAN BAR ASSOCIATION ON S. 1721

This report to the Standing Committee on Law and National Security considers S. 1721, the "Intelligence Oversight Act of 1987" (the "Bill"), as reported by the Senate Select Committee on Intelligence on January 27, 1988. A companion bill is currently the subject of hearings in the House of Representatives. Our conclusions are that the Bill, while considerably improved in certain respects from the Star Print version of September 25, 1987, should not be enacted in its present form. There are additional changes which ought to be made in the Bill to which we address ourselves below:

(i) As regards intelligence activities other than "special activities" the Bill would change delicately-crafted provisions of the Intelligence Oversight Act of 1980, without apparent justification but with a potential for adversely affecting both the conduct of such intelligence activities and the oversight relationship between the Executive Branch and the Congress as it relates to them.

(ii) As regards all intelligence activities, but special activities in particular, the Bill risks infringing on the constitutional powers of the President. By purporting to create statutory requirements inconsistent with those powers, it would encourage and institutionalize constitutional confrontation and could inhibit necessary presidential action in situations seriously affecting the national security.

OVERSIGHT OF INTELLIGENCE ACTIVITIES OTHER THAN SPECIAL ACTIVITIES

The main impetus for the Bill is to cure perceived deficiencies in the provisions of the Intelligence Oversight Act of 1980 relating to presidential findings as a condition precedent to the initiation of special activities, and to require prior notification of the Congress concerning such findings. It also seeks to remedy other drafting oversights and ambiguities highlighted by the Iran-Contra investigation, such as the elimination of oral and ex post facto findings. Nonetheless, the Bill also substantially revises the provisions of the Intelligence Oversight Act of 1980 relating to the obligations of the President, the Director of Central Intelligence and the heads of departments and agencies to inform the Congress about intelligence *collection* activities and to furnish information regarding them to the Congress. These changes do not seem warranted by evidence from hearings on the Bill or statements by the Bill's proponents that the relationships on these matters between the Executive Branch and the Congress reflected in the 1980 Act have proved insufficient.

The most significant changes that the Bill would bring about are as follows:

1. Section 501(a) would, for the first time, impose a direct obligation on the *President*, as distinguished from the Director of Central Intelligence, to ensure that the intelligence committees are kept "fully and currently informed on the intelligence activities of the United States, including any significant anticipated intelligence activities, as required by this title."

The substantive scope of the obligation does not in itself differ from that which Sec. 501(a) of the 1980 Act places on the Director of Central Intelligence and the heads of other U.S. government departments and agencies. In the 1980 Act, however, these reporting obligations are conditioned by the prefatory language: "[t]o the extent consistent with all applicable authorities and duties, including those conferred upon the executive and legislative branches of the Government and to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods."

This language was central to the willingness of the Carter Administration to accept the enactment of the 1980 Act.

The provisions of the Bill weaken the force of the 1980 Act's prefatory clause in two ways: The first is to remove the clause entirely from the provisions in Section 501(a) imposing reporting obligations on the President. In its place there is only a narrow constitutional savings clause which states that nothing in the Bill "shall be construed as a limitation on the power of the President to *initiate* [intelligence] activities in a manner consistent with his powers conferred by the Constitution" (emphasis added). This does not appear to be intended to recognize the existence of any presidential power to *conduct* intelligence activities without informing the Congress about them, but rather suggests acknowledgment only of a narrow possible constitutional authority to defer notification temporarily. Moreover, there is no reference to the protection of classified information, unless the words "as required by this title" be construed to import into Section 501 the prefatory language of Section 502, which imposes a reporting requirement on the Director of Central Intelligence and the heads of other departments and agencies, a construction which is by no means clear. It would be bizarre to deny to the President the same right to protect information as is granted to his subordinate officers. This ambiguity should be eliminated.

The second change which the Bill would make to the prefatory language of the 1980 Act is to restrict the scope of the information that may be protected. The 1980 Act referred to "classified information and information relating to intelligence sources and methods." In Section 502, the Bill refers only to "classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters." This narrows substantially the category of information the protection of which might provide a basis for withholding disclosure from the Congress (not on the grounds that the Congress is an unauthorized recipient but solely on the basis of added risks of disclosure which follow from increasing the number of people holding the information, the "need-to-know" principle).

The elimination of unclassified information regarding intelligence sources and methods from the prefatory language may be relatively insignificant, since information regarding intelligence sources and methods of sufficient sensitivity to warrant withholding from the Congress is likely to be classified or eligible for classification. The narrowing of the protected category, however, to refer only to "*sensitive* intelligence sources and methods or other *exceptionally sensitive* matters" seems unwarranted. Neither the term "sensitive" nor the term "exceptionally sensitive" has any precise meaning. No doubt the drafters intend by these terms to express the thought that justification for withholding information from the Congress should be a rarity rather than a regular matter. No attempt has been made so far in the legislative history to give examples of the kind of rare circumstances that might be considered "sensitive" or "exceptionally sensitive." Such an exercise, in our view, would be both unwise and unnecesary. The basic principle already existing under the 1980 Act is that disclosure to the Congress should be made for the purposes described by the Act, except where compelling reasons exist to withhold such disclosure, grounded under the 1980 Act either in due regard for the protection of information from unauthorized disclosure or in constitutional considerations. Either basis carries with it an inherent and sufficiently high threshhold of seriousness.

While certain of the modifications that the Bill would introduce to the prefatory language of the 1980 Act might be argued to have little or no effect, the elimination of the acknowledgment of constitutional limitations on what disclosures the law can compel is highly significant. In our view, the legislation should make no changes to the portions of the 1980 Act that deal with intelligence *collection* activities. The changes embodied in the Bill do not appear to be justified by any record of significant inadequacy of the 1980 Act as it applies to intelligence collection activities of which we are aware. While it is possible that problems have occurred which have not been reflected in the public record, we consider it unlikely that this could be the case to any significant degree without there having been some public comment by the intelligence committees of dissatisfaction with the agencies' performance under the 1980 Act.

The prefatory provisions of the 1980 Act, which would be significantly narrowed by the Bill, represented a carefully crafted compromise between the positions of the Executive Branch and the Congress, a compromise which recognized several key points. One was that there exists no bright line defining the respective constitutional authorities of the President and the Congress with respect to intelligence activities and thus no absolutist formulation, either affirming or denying a constitutional right of the President to withhold information, could be accepted by either side. A second was that the conduct of intelligence activities—and particularly intelligence collection—required that the intelligence agencies be capable of giving credible assurances of protection to foreign sources of information and assistance, both governments and individuals, to whom the notion of legislative branch oversight is both unknown and alien. On rare occasions such assurances must extend to a promise that the identity or activities of the foreign source will not be revealed to the Congress. Thus it was thought important to leave in the 1980 Act a prefatory clause containing a measure of ambiguity and to leave to the evolution of the oversight relationship, out of the public eye, the development of an appropriate level of disclosure relating to collection activities.

These considerations, in our view, are still valid. To remove any statutory acknowledgment that the provisions of the Bill are not to be interpreted to invade the constitutional powers of the President generally (as opposed to a limited disclaimer which reads only on the *initiation* of activities by the President, does not refer to the constitutional role of the Executive branch in general and is not made applicable to the reporting duties of subordinate officials) is to invite future constitutional confrontations or to encourage inaction on the part of the Executive Branch, and to deprive the intelligence agencies of an important basis on which credible assurances can be offered to their sources.

The intelligence committees of the Congress (and the appropriations committees also, for that matter) are provided a wealth of information on collection programs of the intelligence agencies in the course of the annual intelligence program budget reviews. To our knowledge the committees have never contended that this budgetary information was insufficient to keep them informed about the risks inherent in highly sensitive collection operations. The enterprise of intelligence collection in vital to our nation's security. It would be irresponsible for the Congress to enact a statute for purposes only of political symbolism which could have an adverse effect on the effectiveness of intelligence collection.

THE REQUIREMENT FOR PRIOR NOTICE OF SPECIAL ACTIVITIES

Section 503 of the Bill would impose on the President a requirement of notice to the Congress prior to initiation of a special activity and no later than 48 hours after the making of a finding, subject only to a limited exception under subsection (c)(2), when time is of the essence, permitting notice no later than 48 hours after the finding but after initiation of the special activity. While the constitutional saving clause in Section 501(a) disclaims limitation of the President's power to "initiate such activities in a manner consistent with his powers conferred by the Constitution," that provision, as noted above, does not appear to extend to the President's power to *conduct* a special activity once initiated without notice to the Congress. This seems to reflect the view of the provision's drafters that the President's constitutional powers to withhold notice from the Congress exist at most in situations of exigency and cover only the *commencement* of special activities which are thereafter promptly reported to the Congress.

The question of the respective constitutional powers of the President and the Congress with respect to special activities is too complex to address here. At a minimum, however, it seems clear that serious constitutional issues would be raised not only by legislation that attempted to deny the President the right to initiate such activities without notice to the Congress but by legislation denying the President the right to continue to conduct special activities without such notice. For so long as the President's constitutional prerogatives and duties justified the withholding of notice upon initiation of a special activity, those constitutional powers would seem equally applicable to the on-going conduct of the special activity.

Because the constitutional issues mentioned above have not been definitively resolved by the Supreme Court and continue to engage constitutional scholars in debate, it seems unlikely that the proponents of the Bill can be proceeding on the basis of a certainty that the reporting requirements imposed by the Bill represent a correct statement of the respective constitutional roles of the President and the Congress in this area. Instead, it appears to be the view—one expressed in discussions by members of the staff of the Senate Select Committee on Intelligence—that, while the constitutional issue is indeterminate, the Bill at least would have the virtue of forcing the President to "climb a steep hill" whenever contemplating the initiation or conduct of special activities without prior notice. Thus, by tipping the balance in favor of a statutory requirement of prior notice, the Bill appears intended to put the President's constitutional powers to conduct such activities without prior notice at their lowest ebb and to set the stage for a constitutional crisis should any President ever again proceed in such a manner.

We consider this not a virtue of the Bill but its greatest shortcoming: it would create conditions of permanent constitutional conflict and might precipitate future constitutional crises which inevitably can only be harmful to our system of government. After the body blow to Executive-Congressional relations represented by the Iran-Contra investigation, the task at the present time, in our view, is to rebuild the structure of those relations across the entire spectrum of foreign policy issues, of which special activities are a part. Within that spectrum, special activities by their very nature must occupy a somewhat different position than those foreign policy initiatives which are capable of being debated either in advance of their initiation or in the course of being conducted. Working out the proper relationship between the President and the Congress in this delicate area demands the concerted efforts of both branches to reestablish a climate of trust and comity between them. It requires flexibility on both sides and the nurturing of an institutional structure in which there is room for the development of pragmatic solutions.

In the particulars cited above, this Bill runs counter to these objectives. Adoption of these provisions would be bad policy, regardless of the constitutional merits of the position it represents. By inviting a constitutional crisis whenever the President steps outside the rigid procedural confines mandated by the Bill, there is a considerable likelihood that the Bill will produce dangerous results.

The argument has been made that the Bill cannot deprive the President of his constitutional powers and therefore does no real harm if in fact it would infringe on them as applied in a specific future situation. This is unrealistic. The constitutional point is one easily forgotten by the press and the public, particularly if the special activity is a failure or unpopular (neither of which necessarily proves that there was not a compelling national interest to undertake it in the first place). If the President acts in the face of a statutory prohibition of unclear constitutionality, he must pay a heavy political price or worse. To any President not supremely confident of his political unvulnerability, this could be a potent force in favor of inaction.

A second danger is that the consequence of any such presidential action, once brought to the attention of the Congress, will be a debilitating confrontation of the kind that surrounded the Iran-Contra affair and that this will occur regardless of the merits of the underlying factual situation. Confrontations of this kind are harmful to the national interest. They benefit neither the Congress nor the President, regardless of who appears to be the "winner." It is a serious mistake to build into the statutory structure of Presidential-Congressional relations a permanent invitation for such crises to occur.

THE DEFINITION OF "SPECIAL ACTIVITY"

The proposed statutory definition of "special activity" in Section 503(e) carries forward the old language of the Hughes-Ryan Amendment as regards the Central Intelligence Agency, but adds a new definition, inspired by Executive Order 12333, applicable to all other agencies and departments of the government.

If special activities are to be subject to findings and notifications when carried on by any agency of the government, it is unclear why a distinction should be made between the CIA and other agencies of government. The implication which arises from the two subsections of Section 503(e) is that there may exist a category of activities conducted by the CIA which does not meet the definition found in subsection 503(e)(2) but which is not "intended solely for obtaining necessary intelligence." If such a category of activities exists—which seems open to question—there is no apparent reason why they should be burdened by a requirement for a presidential finding as a condition precedent when conducted by the CIA, any more than they should be if conducted by any other agency. If legislation in the area of special activities is to be adopted it should cure this defect of the Hughes-Ryan Amendment, which was left essentially intact by the 1980 Act. The authors of the Hughes-Ryan Amendment, in lieu of hazarding a definition of special activities, took the blunderbuss approach of requiring a presidential finding for everything done abroad by the CIA which did not meet the purity of purpose test embraced in "intended solely for obtaining necessary intelligence." It is now almost 15 years since passage of that law. The formulation found in Section 503(e)(2) of the Bill has been in use for a substantial part of that period and is generally understood as describing the kind of activity about which the Congress is concerned. It is a known and workable definition of "special activity" which should be applied to the CIA as well as other U.S. departments and agencies, letting the imperfections of the Hughes-Ryan definition rest in peace. The time is long past to free the President from the unnecessary burden of making findings about low-level activities carried out by the CIA abroad merely because they arise in circumstances that cast doubt on whether intelligence collection is the sole and unalloyed purpose.

The appropriateness of removing subsection 503(e)(1) from the Bill is confirmed by the Report of the Senate Select Committee on Intelligence on the Bill, Report 100-276, which indicates that the definition found in subsection 503(e)(2) represents an Executive Branch interpretation, acquiesced in by the intelligence committees, of what kinds of activities are within the ambit of Hughes-Ryan. Thus, for the last several years the language embodied in subsection 503(e)(1) has been interpreted by CIA and the intelligence committees as meaning what is described in subsection 503(e)(2) and the Senate Report states that such interpretation would continue to be applicable, leaving it entirely unclear what CIA operations would fall under subsection 503(e)(1) and what justification there is for including them.

CONCLUSION

It is to be expected that the trauma caused by the Iran-Contra episode to Executive-Legislative relations would prompt the Congress to seek to redress its grievances in legislation, just as the Church Committee sought to do more than a decade ago in 1976 in reaction to previous intelligence community excesses. However, just as the Church Committee investigations after lengthy hearings and extensive Executive-Legislative deliberations produced the constitutionally ambiguous and delicately balanced Intelligence Oversight Act of 1980, so it is our hope that this Bill will benefit from the observations and suggestions we have made above to achieve a similar balance and freedom from constitutional confrontation. While it is understandable that the intelligence committees wish to make as explicit as possible the rights and duties of both partners to this constitutional duet, in our view it is unwise to push the process too far. For in the end, in the matter of secret intelligence information and activities, it is trust, comity and respect between the Executive and Legislative branches of government which ensures a successful national intelligence effort not a bare listing of legal rights and obligations. If the Executive feels constitutionally hamstrung by congressional requirements, its recourse is to evasion, inaction or to the courts—but not to the production of first-rate intelligence in the national interest. By the same token, if the Congress believes that the Executive is free to ignore meaningful legislative oversight, its reaction is to investigate or oppose, using the power of the purse, which is likewise not in the national interest. Our country is better served if neither side of this constitutional argument is seen to hold sway over the other, and the inevitable power struggles which ensue are sorted out through negotiations between the parties in an atmosphere of mutual respect and concern for the national interest. We believe that adoption of the above comments would help move the Bill in this direction.

Respectfully submitted.

FREDERICK P. HITZ.
JOHN H. SHENEFIELD.
DANIEL B. SILVER.
ROBERT F. TURNER.

ADDITIONAL VIEWS OF JOHN H. SHENEFIELD

The events at the center of the Iran-Contra fiasco invite once again in this decade, as did revelations of other such activities not too many years ago, the effort to define with mathematical precision the constitutional responsibilities of the Executive and Legislative Branches in the field of intelligence activities, including special activities. We believe such an effort is unwise now, as it was then. Instead, all of those involved in the policy and practice of intelligence oversight ought to dedicate themselves to rebuilding the trust and confidence that must characterize inter-branch relationships in this most sensitive of areas.

Two ideals must be high on the agenda of that reconstruction of trust. First, officials of the Executive Branch cannot continue to challenge the congressional purpose to participate in the governance of intelligence activities that are at once so essential and so controversial. In every options paper proposing an intelligence activity of significance, there ought to be careful consideration of the potential for damage to the constitutional fabric, whether or not the operation is disclosed to Congress in advance and on the assumption it may turn out to be both a failure and politically unpopular. The price of prolonging the Executive Branch record of arrogance and miscalculation is likely to be a frittering away of the very constitutional power now so vigorously defended. In that direction lies national weakness, not international strength.

Second, the Legislative Branch must organize itself to share the grave responsibility it seeks to exercise. There must be no occasion that justifies allegations of sloppiness or indiscretion. Those in the Congress entrusted with confidence ought to succeed to that position on the basis not of seniority but of fitness, which must itself be confirmed by conventional personnel security procedures.

In short, we are as a nation beyond the point where either branch may rest upon its prerogative alone. The challenge is to build the most efficient and most responsible intelligence community in the world. Both the Executive Branch and the Legislative Branch have an essential part in that effort. But that part must be played at both ends of Pennsylvania Avenue with modesty and a determination not just to foster pet schemes or amass political capital, but to make the system work.

Mr. COHEN. Mr. President, if I might just quickly respond before I yield the floor. I know the Senator from Nevada did not intend to do this, but he was quoting from an editorial comment from the Washington Times which contains a good deal of misinformation, and I think the RECORD should not go unanswered in that respect.

First of all, when it talks about wrapping the administration up in redtape, that is nonsense. This bill does not require any more redtape than what the President has already pledged to do in the NSC document. So if this imposes anything additional, I would like to know what, other than notification to the Congress.

The President has already agreed that it only makes sound policy to have findings in writing, so there is no misunderstanding, that you cannot and should not ratify retroactive deeds that are undertaken without authority, and that certainly Members of your Cabinet and your National Security Council members ought to know about what the administration is up to.

As far as some of the information or misinformation contained in the Senator from Nevada's statement about the Intelligence Committee's seeking information that will be damaging to the intelligence community, let me just point out it was the President who sent Chairman BOREN and myself a letter. And this is not coming from the Senator from Maine or the Senator from Oklahoma, but the President of the United States. Item No. 4 in that letter states:

> The Intelligence Committee should be appropriately informed of participation of any Government agencies, private parties, or other countries involved in assistance with special activities.

Now, that is what the President said we should be apprised of.

You know something? We did the President a favor. We struck that from the bill. We said, "You don't have to do that, Mr. President."

So what you are quoting from, I say to Senator HECHT, is inaccurate in terms of who is suggesting that third parties and identifications have to be given to the committee. That is not in the bill at all. I am surprised the Washington Times would include that as part of their editorial.

The second point I would make is that, while the Secretary of Defense is making these very heavy pronouncements about apocalyptic results in the event the bill should pass, let me point out that the person who is in charge of covert activities normally, is not the Secretary of Defense. It is the Director of the Central Intelligence Agency. Let me just quote from Director Webster's testimony before the House Intelligence Committee.

> I am also pleased that neither the House nor the Senate bills require that the finding specify the identity of foreign countries assisting the Agency in the conduct of special activities. The proviso on protection of sources and methods, and the ability to protect the identity of foreign countries assisting us will go a long way in assuring friendly services and potential agents that source identifying information will not be widely disseminated and possibly compromised.

So the information reported by Secretary Carlucci is totally inconsistent with what has been stated by the Director of the Central Intelligence Agency. After he looked at the bill, he said that we have removed that potential threat of undermining our covert capability.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I rise in support of the Intelligence Oversight Act of 1988. I do so with considerable pride in this body, in the Senate Select Committee on Intelligence, in its distinguished chairman, Senator DAVID L. BOREN, and its distinguished vice chairman, Senator WILLIAM S. COHEN who have produced this measure.

I rise also with a sense of the precariousness and tentativeness of all institutions, not least those of government. The Intelligence Oversight Act of 1988 is our first major legislative response to the Report of the Congressional Committees Investigating the Iran-Contra Affair. In the history of the American Republic, I do not believe there has ever been so massive a hemorrhaging of trust and integrity. The very processes of American Government were put in harm's way by a conspiracy of faithless or witless men: sometimes both.

In the course of those hearings our learned and incisive colleague, PAUL SARBANES of Maryland, began using the term "junta" to refer to individuals engaged in the assorted conspiracies that are subsumed under what we have come to call Iran-Contra. In an extraordinary series of articles in the New York Review of Books, one of which is entitled "The Rise of the American Junta," Theodore Draper noted that when Senator SARBANES began using that term "Secretary of Defense Caspar Weinberger did not demur at its use."

Draper begins his series with this portentous summation:

> If ever the constitutional democracy of the United States is overthrown, we now have a better idea of how this is likely to be done.[1]

I would note that Mr. Draper is a scholar of great eminence whose special interest has been the rise of totalitarian governments, especially totalitarian Marxist-Leninist governments.

I was present at the outset of this challenge to American constitutional government. I am witness to the first acts of deception that gradually mutated into a policy of deceit.

I saw a program of opposition to subversion abroad transformed into a policy of subversion at home.

I would wish to share this witness with the Senate today, and especially with the managers of this legislation.

Specifically, I became a member of the Senate Select Committee on Intelligence in 1977, the second year of its existence and the first of my service in the Senate. I was clearly a junior member, but well recall my conversation with the then-chairman, the distinguished Senator for Hawaii, Mr. INOUYE. I was, he said, and as I suppose I still am, the only member of the body to have served as an American Ambassador—in India and at the United Nations—and thus had direct experience with the intelligence services. Hence, I might be of some use to my otherwise more experienced colleagues. I was happy to accept Senator INOUYE's invitation.

Four years later I became vice chairman, serving opposite a revered friend, Barry Goldwater of Arizona. Might I note for others who might read these words that only in the most special circumstances do Senate committees have a vice chairman, who presides in absence of the full chairman. This is, among other things, a charge to the strictest bipartisanship.

Now the essence of the legislation concerning oversight by the House and Senate Committees was that Congress be informed in advance of important covert actions. More specifically, the Intelligence Oversight Act of 1980 established the principle that the Intelligence Committees would be kept "fully and currently informed of all intelligence activities" within the responsibility of the CIA, including any "significant anticipated intelligence activity." Moreover, the Intelligence Authorization Act for fiscal year 1981 amended the Foreign Assistance Act of 1961 to make clear that "each operation conducted by or on behalf of the Central Intelligence Agency in a foreign country, other than activities intended soley for obtaining necessary intelligence, shall be a significant anticipated intelligence activity * * *" There was also a provision that if a matter of great urgency and sensitivity was involved, the President could inform the Congress in a timely fashion, and he need only inform the chairman and vice chairman of the Intelligence Committees, the Speaker, House minority leader and majority and minority leaders of the Senate.

This was an exception provided for situations of great urgency or great delicacy, and was understood by all. The committee, for example, was not told in advance of the Iran rescue effort of April 25, 1980. Nor need we have been. But these are special occasions; most intelligence is routine, and soon a routine seemed in place.

On the occasion that our great good friend EDWARD P. BOLAND finished his 8-year term on the House Select Committee on Intelligence, there was a reception. I was asked to speak briefly and said this: It being well established that in order for an activity in the executive branch to flourish, it needs a pair of committees in the Congress to look after it, future historians would wonder that it took almost a generation for something called the Intelligence community to figure this out.

For indeed the intelligence community did flourish. Budgets grew—beginning in the Carter administration—as never before. And trust burgeoned. Or such was my impression.

An informal practice commenced of the CIA briefing only the chairman and vice chairman in situations of special sensitivity, leaving it to them to decide whether to brief the full committee.

I can further attest that during my 4 years as vice chairman, these briefings were frequent—sometimes to the point of seeming endless. Some had a measure of the dramatic: I was summoned from a lecture hall at the Woodrow Wilson Center in the Smithsonian Building to be told of the impending invasion of Grenada. I was happy to have the information, although I recall asking the then-Deputy Director of the Agency in what sense this was to be a covert operation. No matter; the briefings grew more extensive and were, I think, useful to the community. On more than one occasion a particularly exotic notion failed to survive Senator Goldwater's incredulity. Well, that is what oversight is supposed to be.

Then came The Fall.

For reasons not as yet fully understood, and in any event not central to this discussion, the Reagan Administration decided to involve the United States directly in the conflict in Nicaragua. Specifically, on January 7, 1984, magnetic mines were placed in Sandino Harbor under the direction of the Central Intelligence Agency.[2]

By any standards, this was a significant event. It was arguably a belligerent act, and a violation of international law. (The International Court of Justice has so ruled.) In any event, it was something the Intelligence Committees should have been told about in advance, and which by any previous experience we would have expected to have been informed of in advance.

We were not.

Now to an essential detail.

Senator Goldwater and I, and I assume anyone the least interested in the area, knew full well that beginning in early January harbors were being mined in Nicaragua. Much effort was made by the Contras to publicize this fact. After all, the putative object of the mining was to keep shipping away. (I forbear comment on the dimness of using mere percussion mines, which might keep away Mexican oil tankers but would certainly not dissuade Bulgarian freighters crammed with Soviet armaments.) What we did not know was that this mining was carried out by the United States. This was concealed from us.

On April 6, 1984, this fact was revealed in the Wall Street Journal in an article by David Rogers.

UNITED STATES ROLE IN MINING NICARAGUAN HARBORS REPORTEDLY IS LARGER THAN FIRST THOUGHT

WASHINGTON.—The Reagan administration's role in the mining of Nicaraguan harbors is larger than previously disclosed, according to sources who say that units operating from a ship controlled by the Central Intelligence Agency in the Pacific participated in the operation.

Though anti-Sandinista insurgents have claimed credit for the mining, a source familiar with CIA briefings on the operation said that the units operating from the ship are self-contained, and are composed of Salvadorans and other Latin Americans from outside Nicaragua * * *

The Senate Intelligence Committee hasn't had a full briefing on the operation, but CIA Director William Casey recently appeared before the House Intelligence Committee, where details of the mining were apparently first disclosed to Members of Congress.[3]

This news came as a shock to Senator Goldwater and to me. We had felt a system was in place; we realized it was not. On April 9, Senator Goldwater sent a public letter to Mr. Casey.

UNITED STATES SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, April 9, 1984.

Hon. WILLIAM J. CASEY,
Director of Central Intelligence, Washington, DC.

DEAR BILL: All this past weekend, I've been trying to figure out how I can most easily tell you my feelings about the discovery of the President having approved mining some of the harbors of Central America.

It gets down to one, little, simple phrase: I am —— off!

I understand you had briefed the House on this matter. I've heard that. Now, during the important debate we had all last week and the week before, on whether we would increase funds for the Nicaragua program, we were doing all right, until a Member of the Committee charged that the President had approved the mining. I strongly denied that because I had never heard of it. I found out the next day that the CIA had, with the written approval of the President, engaged in such mining, and the approval came in February!

Bill, this is no way to run a railroad and I find myself in a hell of a quandary. I am forced to apologize to the Members of the Intelligence Committee because I did not know the facts on this. At the same time, my counterpart in the House did know.

The President has asked us to back his foreign policy. Bill, how can we back his foreign policy when we don't know what the hell he is doing? Lebanon, yes, we all knew that he sent troops over there. But mine the harbors in Nicaragua? This is an act violating international law. It is an act of war. For the life of me, I don't see how we are going to explain it.

My simple guess is that the House is going to defeat this supplemental and we will not be in any position to put up much of an argument after we were not given the information we were entitled to receive; particularly, if my memory serves me correctly, when you briefed us on Central American just a couple of weeks ago. And the order was signed before that.

I don't like this. I don't like it one bit from the President or from you. I don't think we need a lot of lengthy explanations. The deed has been done and, in the future, if anything like this happens, I'm going to raise one hell of a lot of fuss about it in public.

Sincerely,

BARRY GOLDWATER,
Chairman.

Three days after that Mr. Bud McFarlane, then National Security Advisor, gave an address at the Naval Academy in which he stated that "Every important detail of [the mining operation] was shared in full by the proper congressional oversight committees."

The same day, Mr. Casey issued the following Employees Bulletin to CIA employees:

APRIL 12, 1984.

EMPLOYEE BULLETIN

RECENT PRESS ARTICLES

1. Knowing that all Agency employees are interested in a number of recent press articles saying that the Agency had not briefed Congress on covert action programs in Central America, it is important for all of us to know the facts.

2. What you may have read in the press on this subject is not true. In accordance with prevailing practice, the Agency did indeed brief our two Oversight Committees on the matters discussed in the press during this week. In particular:

a. We briefed the members of the House Permanent Select Committee on Intelligence (HPSCI) on 31 January and 27 March 1984.

b. We briefed the members of the Senate Select Committee on Intelligence (SSCI) on 8 March and again on 13 March 1984;

c. In addition, we responded to specific detailed questions on these activities to individual Senators on 28 and 30 March, and briefed the SSCI staff members in detail on 2 April 1984;

d. Also, we have over the past several months replied in writing to written questions on this activity from the SSCI and the HPSCI.

3. In sum, we have fully met all statutory requirements for notifying our Intelligence Oversight Committees of the covert action program in Nicaragua. This Agency has not only complied with the letter of the law in our briefings, but with the spirit of the law as well.[4]

WILLIAM J. CASEY,
Director of Central Intelligence.

A report of Mr. McFarlane's Naval Academy address appeared in the Washington Times on April 13: "McFarlane Says Hill Knew About Mining."

On April 15, I announced that I would resign as Vice Chairman:

I have announced today that I will resign as Vice Chairman of the Senate Select Committee on Intelligence.

This appears to me the most emphatic way I can express my view that the Senate Committee was not properly briefed on the mining of Nicaraguan harbors with American mines from an American ship under American command.

An Employee Bulletin of the Central Intelligence Agency issued April 12 states that the House Committee was first briefed on 31 January, but the Senate Committee not until 8 March. Even then, as Senator Goldwater has stated, nothing occurred which could be called a briefing. The reference is to a single sentence in a two-hour Committee meeting, and a singularly obscure sentence at that.

This sentence was substantially repeated in a meeting on March 13.

In no event was the briefing "full," "current," or "prior" as required by the Intelligence Oversight Act of 1980—a measure I helped write.

If this action was important enough for the President to have approved it in February, it was important enough for the Committee to have been informed in February.

In the public hearing on the confirmation of John J. McMahon as Deputy Director of Central Intelligence I remarked that with respect to intelligence matters the oversight function necessarily involves a trust relationship between the committee and the community because we cannot knowwhat we are not told, and therefore must trust the leaders of the community to inform us.

I had thought this relationship of trust was securely in place. Certainly the career service gave every such indication. Even so, something went wrong, and the seriousness of this must be expressed.

I will submit my resignation when Senator Goldwater returns from the Far East.[5]

Now here is the point.

All references by Mr. Casey and his associates were made to committee hearings or individual briefings which had taken place after the event. Two to three months after the event, to be exact.

This was an immensely successful deception. Individuals came forward to attest that they had, in fact, been briefed, or that there was indeed such and such a sentence on such and such a page of testimony.

This completely obscured the essential fact that the committee had not been briefed in advance.

Senator Goldwater knew this. I knew this. Clearly few others knew it save those who were trying to throw sand in our eyes.

May I say to the Senate that I realized at the time that my action would not be understood. There was just too much to explain: briefing before as against briefing after; the direct involvement of the United States; the clear effort at deception by Mr. Casey. Clear to me, that is, but to few others. The best journalists were skeptical; the harshest editorialists were, well, derisive.

I wish to record my judgment that Mr. McFarlane was misled along with many others. After my proposed resignation, he volunteered to me, in a telephone conservation, that either what he had been told was "disingenous or outright wrong." I believe Mr. Casey lied to him, as to so many others. In the Iran-Contra hearings, this exchange took place with Senator SARBANES.

Mr. SARBANES. Did you know about the mining of the Nicaraguan Harbor?

Mr. MCFARLANE. Yes, sir.

Mr. SARBANES. Did you think that should have been consulted with the Intelligence Committee?

Mr. MCFARLANE. Yes, sir.

Mr. SARBANES. It wasn't done.

Mr. MCFARLANE. No, sir.

On the other hand, Mr. Casey understood. On April 25, he sent a handwritten note of apology to Senator Goldwater, and the next day apologized in person to the committee. I thereupon agreed to stay on as vice chairman.[6]

Senator Goldwater and I wondered whether the whole matter might simply have been a misunderstanding. The statute spoke of significant anticipated activities. Very well, what was significant? Perhaps Mr. Casey and the intelligence community hadn't thought the mining was such, even though we did. We decided we would try to interpret the statute, much as judges often do. What was "significant"? I believe it was I who came up with a working definition. To wit, anything the President signed. Only so many pieces of paper get to the President's desk. There are things the military, the Agency, whatever, would not do without his direct order—things they would not do without his certain knowledge. Very well. If you see the President's signature, report to the committee.

We drew up an accord, as we called it. An accord between the committee and the Agency, but with the approval of the President. This was obtained by Mr. McFarlane. Again evidence, in my view, of his innocence in this sordid conspiracy. It was signed by Mr. Casey, Senator Goldwater, and by me, and dated June 6, 1984:[7]

PROCEDURES GOVERNING REPORTING TO THE SENATE SELECT COMMITTEE ON INTELLIGENCE (SSCI) ON COVERT ACTION

The DCI and the SSCI agree that a planned intelligence activity may constitute a "significant anticipated intelligence activity" under section 501 of the National Security Act of 1947 (the "Intelligence Oversight Act of 1980") even if the planned activity is part of an ongoing covert action operation within the scope of an existing Presidential Finding pursuant to the Hughes-Ryan Amendment (22 U.S.C. 2422). The DCI and the SSCI further agree that they may better discharge their respective responsibilities under the Oversight Act by reaching a clearer understanding concerning reporting of covert action activity. To this end the DCI and the SSCI make the following representations and undertakings, subject to the possible exceptional circumstances contemplated in the Intelligence Oversight Act:

1. In addition to provide the SSCI with the text of new Presidential Findings concerning covert action, the DCI will provide the SSCI with the contents of the accompanying scope paper following approval of the Finding. The contents of the scope paper will be provided in writing unless the SSCI and the DCI agree that an oral presentation would be preferable. Any subsequent modification to the scope paper will be provided to the SSCI.

2. The DCI also will inform the SSCI of any other planned covert action activities for which higher authority or Presidential approval has been provided, including, but not limited to, approvals of any activity which would substantially change the scope of an ongoing covert action operation.

3. Notification of the above decisions will be provided to the SSCI as soon as practicable and prior to the implementation of the actual activity.

4. The DCI and the SSCI recognize that an activity planned to be carried out in connection with an ongoing covert action operation may be of such a nature that the Committee will desire notification of the activity prior to implementation, even if the activity does not require separate higher authority or Presidential approval. The SSCI will, in connection with each ongoing covert action operation, communicate to the DCI the kinds of activities (in addition to those described in Paragraphs 1 and 2) that it would consider to fall in this category. The DCI will independently take steps to ensure that the SSCI is also advised of activities that the DCI reasonably believes fall in this category.

5. When briefing the SSCI on a new Presidential Finding or on any activity described in paragraphs 2 or 4, the presentation should include a discussion of all important elements of the activity, including operational and political risks, possible repercussions under treaty obligations or agreements, and any special issues raised under U.S. law.

6. To keep the SSCI fully and currently informed on the progress and status of each covert action operation, the DCI will provide to the SSCI: (A) a comprehensive annual briefing on all covert action operations: and (B) regular information on implementation of each ongoing operation, with emphasis on aspects in which the SSCI has indicated particular interest.

7. The DCI and the SSCI agree that the above procedures reflect the fact that covert action activities are of particular sensitivity, and it is imperative that every effort be made to prevent their unauthorized disclosure. The SSCI will protect the information provided pursuant to these notification procedures in accordance with the procedures set forth in S. Res. 400, and with special regard for the extreme sensitivity of these activities. It is further recognized that public reference to covert action activities raises serious problems for the United States abroad, and, therefore, such references by either the Executive or Legislative Branches are inappropriate. It is also recognized that the compromise of classified information concerning covert activities does not automatically declassify such information. The appearance of references to such activities in the public media does not constitute authorization to discuss such activities. The DCI and the SSCI recognize that the long established policy of the U.S. Government is not to comment publicly on classified intelligence activities.

8. The DCI will establish mechanisms to assure that the SSCI is informed of planned activities as provided by paragraphs 1 through 4, and that the Committee is fully and currently informed as provided by paragraph 6. The DCI will describe these mechanisms to the SSCI.

9. The SSCI, in consultation with the DCI when appropriate, will review and, if necessary, refine the mechanisms which enable it to carry out its responsibilities under the Intelligence Oversight Act.

10. The DCI and the SSCI will jointly review these procedures no later than one year after they become operative, in order to assess their effectiveness and their impact on the ability of the DCI and the

Committee to fulfill their respective responsibilities.

BARRY GOLDWATER,
Chairman, SSCI.
DANIEL PATRICK MOYNIHAN,
Vice Chairman, SSCI.
WILLIAM J. CASEY.

JUNE 6, 1984.

Note the provision that we would review the matter in a year's time. This review did not occur until June 1986. By that time Senator Goldwater and I had rotated off the committee, and were succeeded by our friends, Senators DURENBERGER and LEAHY. I perhaps shouldn't say, but I gather Mr. Casey simply delayed matters as he was inclined to do. (On June 6, 1984, we had to send the committee counsel out to CIA headquarters with instructions not to return until he had Mr. Casey's signature. He had to wait the whole day.) Nonetheless, 2 years later the review did finally take place, and the second written understanding was signed. (Hence the term "Casey Accords").[8]

ADDENDUM TO PROCEDURES GOVERNING REPORTING TO THE SENATE SELECT COMMITTEE ON INTELLIGENCE ON COVERT ACTION

1. In accordance with Paragraph 10 of the Procedures Governing Reporting to the SSCI on Covert Action, executed on June 6, 1984, the SSCI and the DCI have jointly reviewed the Procedures in order to assess their effectiveness and their impact on the ability of the Committee and the DCI to fulfill their respective responsibilities under section 501 of the National Security Act of 1947.

2. The Committee and the DCI agree that the Procedures have worked well and that they have aided the Committee and the DCI in the fulfillment of their respective responsibilities. Procedures set forth below:

In accordance with the covert action approval and coordination mechanisms set forth in NSDD 159, the "advisory" format will be used to convey to the SSCI the substance of Presidential Findings, scope papers, and memoranda of notification.

Advisories will specifically take note of any instance in which substantial nonroutine support for a covert action operation is to be provided by an agency or element of the U.S. Government other than the agency tasked with carrying out the operation, or by a foreign government or element thereof. It is further agreed that advisories will describe the nature and scope of such support.

In any case in which the limited prior notice provisions of section 501(a)(1)(B) of the National Security Act are invoked, the advisory or oral notification will affirm that the President has determined that it is essential to limit prior notice. It is further agreed that in any section 501(a)(1)(B) situation, substantive notification will be provided to the Chairman and Vice Chairman of the SSCI at the earliest practicable moment, and that the Chairman and Vice Chairman will assist to the best of their abilities in facilitating secure notification of the Majority and Minority leaders of the Senate if they have not already been notified. It is understood that responsibility for accomplishment of the required notification rests with the Executive Branch.

It is understood that paragraph 6 of the Procedures, which requires that the SSCI shall be kept fully and currently informed of each covert action operation, shall include significant developments in or related to covert action operations.

The DCI will make every reasonable effort to inform the Committee of Presidential Findings and significant covert action activities and developments as soon as practicable.

3. In accordance with paragraph 4 of the Procedures, the DCI recognizes that significant implementing activities in military or paramilitary covert action operations are matters of special interest and concern to the Committee. It is agreed, therefore, that notification of the Committee prior to implementation will be accomplished in the following situations, even if there is no requirement for separate higher authority or Presidential approval or notification:

Significant military equipment actually is to be supplied for the first time in an ongoing operation, or there is a significant change in the quantity or quality of equipment provided;

Equipment of identifiable U.S. Government origin is initially made available in addition to or in lieu of nonattributable equipment;

There is any significant change involving the participation of U.S. military or civilian staff, or contractor or agent personnel, in military or paramilitary activities.

4. The DCI understands that when a covert action operation includes the provision of material assistance or training to a foreign government, element, or entity that simultaneously is receiving the same kind of U.S. material assistance or training overtly, the DCI will explain the rationale for the covert component.

5. The DCI understands that the Committee wishes to be informed if the President ever decides to waive, change, or rescind any Executive Order provision applicable to the conduct of covert action operations.

6. The Committee and the DCI recognize that the understandings and undertakings set forth in this document are subject to the possible exceptional circumstances contemplated in section 501 of the National Security Act.

7. The Procedures Governing Reporting to the SSCI on covert action, as modified by this agreement, will remain in force until modified by mutual agreement.

DAVE DURENBERGER,
SSCI Chairman.
PAT LEAHY,
SSCI Vice Chairman.
WILLIAM J. CASEY.

JUNE 5, 1986.

It is painful, of course, to record what all Senators know. Five months earlier, on January 17, 1986, the President had signed what we call a finding which authorized the shipment of arms to Iran and explicitly provided that the Intelligence Committees would not be told.

Thus had the practice of deception mutated into a policy of deceit.

I will not detain the Senate longer, but would like to ask my distinguished colleagues whether this account of events comports with their understanding?

I see the distinguished chairman of the committee has risen.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank my distinguished colleague from New York for the history which he has presented to the record and the information which he has shared with our colleagues tonight. The Senator from New York performed invaluable service during his time on the Intelligence Committee and his service as the distinguished vice chairman of that committee.

So often as we deliberate on legislative matters of great importance, we have missing the historical record, we do not have the perspective with which we should be viewing the current issue. I think the Senator from New York has given us that record and that perspective in the remarks he has just made. He has, indeed, given fully accurate rendition of the events that occurred during that period of time. He has given us an indication of the kind of agreement that was worked out partly through his efforts with the executive branch at that time. It indicates to us how long this issue has been with us, how long there have been ambiguities in the statute that the committees and the executive branch have tried to clarify through joint agreements. But, unfortunately, this history also indicates to us the reason why we must now consider statutory enactments. We have had letters of agreement, we have had memoranda of understanding. Actually, we have reduced to writing and jointly executed agreements in the past. But those agreements, unfortunately, do not have the force of law. They can be changed. They do not have the force of statutory enactment. And the history in many ways is a sad history, but it is a history that we cannot disregard. It is a clear indication that those things that are agreed upon in letter can be changed, can be ignored.

I commend the Senator from New York. I thank him again personally for bringing this history to us. The Senator from New York has performed a very great service to this body in recounting this history for us. I think he has, in the information he has given to us, given a very clear presentation to the Sentate that argues for the necessity of the statutory enactment that we are now considering.

So again I salute him. I pay tribute to him for the contribution he has made to the deliberations on this issue. He is, indeed, one of the pioneers in the Senate in terms of giving thought and in dedicating his own very substantial intellectual energies to this particular question.

I thank him again and indicate again that the record as he has given it is accurate. I hope that my colleagues will consider it because it is certainly instructive as to why we must now act if we are to set up a system that will serve us well and with certainty in the future.

Mr. MOYNIHAN. I thank the distinguished chairman for his generous remarks which are more appreciated by the Senator from New York than perhaps he realizes. Those were not easy times in the spring of 1984.

Might I also say to the distinguished Senator from Oklahoma that the bill he and the distinguished Senator from Maine have introduced addresses this problem of congressional notification most effectively? It is of particular importance that under this legislation, "special activities"—that is, covert actions—would have to be authorized by a written finding; and this finding would have to be:

> Reported to the Intelligence Committees prior to the initiation of the activities authorized, and in no event more than forty-eight hours after such finding is signed or the determination is otherwise made by the President.

The bill also provides that "On rare occasions when time is of the essence," special activities may begin prior to such reporting, but notice shall be given no later than 48 hours after the signing of the finding which authorizes the activities. And under extraordinary circumstances, the President may limit this reporting to the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate.

However, while the Intelligence Oversight Act of 1988 provides a much-needed statutory response to the Iran-Contra affair, we must not assume that enactment of this legislation will create an absolute bar to future abuses. Executive officials both ignored and sought to evade the law in Iran-Contra; they may do so again. Law, no more than less formal understandings, cannot be proof against deliberate deceit. That is why Bryce Harlow used to say that trust is the coin of the realm. Debase that coin and all is lost.

Mr. Draper concluded the last of his New York Review articles with these two paragraphs:

> Institutional changes have been tried without long-term success. A conniving CIA director with the backing of a President who thinks in slogans can change or get around the rules whatever they are. The congressional oversight committees usually know as much as they are told and often do not wish to be responsible for knowing too much. When the Nicaraguan harbors were mined by the CIA in 1984, the Senate Intelligence Committee learned about it after the damage was done. To his credit, Senator Daniel Patrick Moynihan resigned from the committee in protest—an act now so rare that it was regarded as a personal eccentricity. Casey apologized and Moynihan relented. Casey did not change his ways; he merely became stealthier and soon inveigled Oliver North into covering for the CIA.
>
> Yet Moynihan's short-lived protest suggests what is needed to hold covert operations in check. It is too much to expect an administration to police itself. In our system the only safeguard is the old one of checks and balances. It is as old as it is because no one has thought of anything better in a democratic, constitutional order. It is easy for Senators and Representatives to strike a high and mighty moral pose in congressional hearings on executive malfeasance. During the entire Iran-Contra hearings, almost no attention was paid to the inattention and ineffectiveness of Congress while all the skullduggery was going on. If checks and balances cease to work in our system, the rogue elephant will almost surely rampage again.[8]

I include this as a caution to those who will succeed to these responsibilities, and with what I hope is an ample understanding that in our brief authority, for all that we tried, we failed.

Mr. President, I ask unanimous consent that the footnotes to my statement be printed in the RECORD.

There being no objection, the footnotes were ordered to be printed in the RECORD, as follows:

FOOTNOTES

[1] Theodore Draper, "The Rise of the American Junta," New York Review of Books, Oct. 8, 1987, p. 47.

[2] "Report of the Congressional Committees Investigating the Iran-Contra Affair," p. 36. Mines were later laid at El Bluff on Feb. 24 and 25, and at Corinto on Feb. 29.

[3] David Rogers, "U.S. Role in Mining Nicaraguan Harbors Reportedly Is Larger Than First Thought," Wall Street Journal, Apr. 6, 1984, p. 6.

[4] CIA Employee Bulletin No. 1113, Apr. 12. 1984, signed by DCI William J. Casey.

[5] Public statement by Senator DANIEL PATRICK MOYNIHAN, Apri. 15, 1985.

[6] Please see Philip Taubman, "Moynihan to Keep Intelligence Post," New York Times, Apr. 27, 1984, p. 1.

[7] "Procedures Governing Reporting to the Senate Select Committee on Intelligence (SSCI) on Covert Action," June 6, 1984.

[8] Theodore Draper, "An Autopsy," New York Review of Books, Dec. 17, 1987, p. 75.

AMENDMENT NO. 1623

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

> The Senator from Idaho [Mr. MCCLURE] proposes an amendment numbered 1623.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (On page 16, after line 19 in Section 503 add the following new subsection (c)(5) and redesignate the following subsections accordingly.
>
> (5) Notwithstanding the provisions of subsections (2), (3) and (4) above, when the President determines that the risk of disclosure would pose an additional, direct and immediate threat to the life of a U.S. official or agent of the U.S. Government, or a foreign national who is assisting the U.S. Government in a special activity, or a hostage or other person for whose benefit the activity is being conducted; or that compliance with the provisions of subsections (2), (3) or (4) would jeopardize the cooperation of other intelligence services when this cooperation is critical for U.S. interests or for the success of the operation, the President may for a limited time withhold transmission of findings or determinations pursuant to subsections (1) or (2) of this section. In such cases, the President shall notify the chairmen and ranking members of the intelligence committees, the Senate Majority and Minority Leaders, and the Speaker and Minority Leader of the House of Representatives, that a special activity which meets the above criteria is being conducted. However, at this time, the President shall not be required to report the finding or determination authorizing the operation or otherwise disclose the details of the activity in question. The President shall personally reconsider each week thereafter the reasons for continuing to limit such notice, and shall provide a statement on a weekly basis to the Members of Congress identified herein above confirming his decision. The President shall immediately provide full notice when he determines that the circumstances described above no longer exist. At this time the President shall provide a detailed accounting of the reasons explaining why full notice to the intelligence committees, the Chairmen and Ranking Members of these committees, the Majority and Minority Leaders of the Senate, and the Speaker and Minority Leader of the House, was withheld.

Mr. McCLURE. Mr. President, the Iran-Contra affair demonstrated the need to review and improve the procedures for executive branch consultation with Congress on intelligence activities. This had been done, and the President has adopted the recommendations of the Tower Commission and critical recommendations of the majority report of the Iran-Contra Committee. These include:

A requirement that findings be in writing and may not be retroactive;

Any special activity by any Government agency or entity would require a finding;

A requirement that the intelligence committees be informed when a special activity involves a third party that is not under the supervision of a U.S. Government agency.

These provisions are included in S. 1721.

The administration has also created procedures so that, in all but extraordinary circumstances, the congressional intelligence committees will be informed of findings within 48 hours. The administration has thereby demonstrated its willingness to maximize cooperation and consultation with Congress.

However, S. 1721 goes too far by creating a statutory requirement that the Congress be informed of all special activities within 48 hours. The exemptions that would allow notification to be limited to the so-called Gang of 8 or so-called Gang of 4 do not address the fundamental problems, which are that this provision:

Could endanger American lives and the lives of others who have taken the risk of assisting the United States;

Could jeopardize the cooperation of other intelligence services; and

Unconstitutionally infringe on the President's constitutional authority to ensure effective management of our intelligence resources or undermines his flexibility in carrying out his constitutional duties in the conduct of foreign affairs.

Mr. WALLOP. Will the Senator yield for just a second for an observation?

Mr. McCLURE. I am happy to yield, if I may do so without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. I compliment the Senator when he suggested this bill will cost some lives. One of the lives that potentially may be lost is that which we would endeavor to save, not only the people that cooperate with us but those who might be of our own Nation's hostages or somebody else's. I just recall so clearly the little effort done for us by the Canadian Ambassador with the several American hostages that escaped from Teheran, and I am telling you that this bill will cost lives in a circumstance like that, perhaps even the life of the man that cooperates with us but specifically the lives we set out to save.

So I compliment the Senator for bringing that point out.

Mr. McCLURE. Mr. President, I thank the Senator from Wyoming for that statement because, indeed, I believe that to be the truth. I think that is one of the reasons why it is imperative for us to find a way in which the President can exercise some judgment to avoid that consequence when he finds it necessary to do so. I thank the Senator for the comment.

Former CIA directors from Republican and Democratic administrations have testified against the 48-hour notification requirement on the grounds that it would endanger the lives of those involved in carrying out special activities.

I quote from the statement of Adm. Stansfield Turner before the House Intelligence Committee, April 1, 1987:

> . . . I would suggest there is one case in which notification to the Congress in 48 hours poses a genuine concern to the intelligence professionals. That is when a chief of intelligence finds that it is desirable to ask an American employee, or a foreign agent, to put his or her life on the line in some covert activity. I did this on three occasions. I would have found it very difficult to look such an individual in the eye and tell him or her that I was going to discuss this life-threatening mission with even a dozen people in the CIA who did not absolutely have to know . . .

Before my colleagues take offense let me make it clear that Admiral Turner is not saying Congress can't be trusted, and he clarifies this point later in his testimony:

> It is not a question of "Are they Members of Congress," it is a question of looking a person in the eye and saying "I am going to tell even one person who isn't involved in this in a way that is necessary to support your activities."

Former CIA Director William Colby agreed that the cases Admiral Turner cites are the kind of situations in which immediate notification is inappropriate, and I think we would all agree. One case involves the well-known rescue of American hostages in Teheran by officials of the Canadian Government. We sent a CIA officer into Teheran to assist with the rescue. The other cases involved the ill-fated Desert One rescue attempt. United States personnel flew into the desert of eastern Iran to take soil samples to ensure that the ground was firm enough for tankers carrying fuel for the rescue helicopters to land. In the third case, U.S. personnel flew into Teheran to reconnoiter and obtain trucks for the rescue teams.

Let me add that Chairman STOKES of the House Intelligence Committee, a colleague of mine on the Iran-Contra Committee, agreed that these instances are "very difficult to argue with * * *" Chairman MCHUGH of the House Intelligence Subcommittee on Legislation also agreed with Admiral Turner that operations of this type are legitimate cases for possible delay in notification. I mention what these gentlemen have to say because they are certainly as concerned as anyone else about the legitimate role of Congress in intelligence oversight. And they seem to me to be saying that, "Yes, there are circumstances where it is better to maintain some flexibility."

Let me point out that the standard Admiral Turner recommends for determining when Congress should be informed is the same standard set by this amendment. As Admiral Turner says in his testimony:

> The timeliness is not measured by a clock. The timeliness should be measured by the risk. . . . When that risk to human life is diminished sufficiently is when it is timely to notify the Congress in my opinion sir.

In the cases he described, the Carter administration waited for 3 months in the Canadian operation and 6 months in the other instances. And I don't recall anyone complaining at the time that this did not constitute timely notification.

CHILLING EFFECT ON COOPERATION

Another risk of this legislation is that the 48-hour requirement would have the effect of deterring foreign intelligence services from cooperating with us. This kind of cooperation is often critical for a successul operation.

I am aware that steps have been taken to partially resolve this problem. The original bill required that cooperating services be named in the finding. A number of services approached us to express their concern about the bill, and that requirement was eliminated. Nevertheless a chilling effect remains.

Let me read from the testimony of former CIA Director William Colby:

> With a 48-hour requirement, we would once again have to go around and hold the hands of our agents, of our liaisons, as they say, "Well now, wait a minute, the Congress is going to demand knowing everything you do within 48 hours, are you kidding? We are not going to get involved in that with you. Not a chance. . . ." Some countries still have a reservation because some of them don't have the same high respect for the membership of the committees that we do.

Mr. President, this is not a hypothetical situation. During the Canadian rescue operation in Teheran, the Canadians explicitly conditioned their assistance on President Carter's promise not to notify Congress.

This chilling effect would not only apply to other services, it could also have the effect of stifling initiatives from within our own intelligence community. This point was also made in testimony before the House Intelligence Committee. Our own people might be tempted refrain from sensitive and difficult—and completely legitimate—operations if they think these operations might be endangered by bringing in people who do not have an operational "need to know."

As Admiral Turner said:

> The problem will be that we won't know which covert actions are not proposed by the professionals because they have this concern inside. The people at the top won't hear about them, I'm afraid.

CONSTITUTIONAL PROBLEMS

The problems I have outlined so far are primarily operational problems. They involve the risk to the people involved in the operation, and the risk that other services might be scared off from cooperating with us.

But there is another problem with this legislation and that is that it unconstitutionally infringes on the President's ability to conduct intelligence operations and foreign affairs.

Lloyd Cutler, counsel to President Carter, testified that:

> It does seems to me that none of us is bright enough to devise an absolute 48 hour rule that will cover all situations and to drive the President into the refuge of a constitutionally inherent right to do something which the Congress cannot interfere with, it seems to goes too far.* * *
>
> I think myself, you have to leave a certain amount of initiative to the President, although you require him to account to you afterward.

Mr. President, Mr. Cutler in testimony before the House of Representatives on April 1, 8, and June 10 in the hearings as reported on those dates stated, and I quote from page 145 of that particular report, "I do think, though, that any kind of sooner or later duty to notify will be a powerful deterrent. It is very hard to be precise on what the right number of days is.

Whatever you pick, somebody can think of something that would take longer for which there might be a justification of secrecy, continuing secrecy."

On page 122 and 123 of those hearings, Mr. Cutler testified, and again I quote, "I do think though that you should do something about the timely notice requirement. Either put in a deadline. and as far as I am concerned I see nothing wrong with a deadline of even 3 months or 6 months, if it is as soon as feasible, but in no event later than a deadline that would be sufficient to cover most operations. Another alternative might be to impose on the President, and I do not think it can really go any lower, a duty to notify you when he has initiated a special intelligence activity but has not informed you about it. If he simply said to you, if he was required to say to you, 'I have initiated an activity which for the highest reasons of state of protection of sources or dealings with foreign powers or whatever, I cannot tell you about now,' at least then you would be alert, and every time the director of the agency came back to see you as he must, you can say 'When are you going to tell us about that particular activity?' Something like that might be a better remedy than a flat time period, particularly a 48-hour period."

Mr. President, these items that I have referred to in testimony of witnesses before the Congress are the specific items that are addressed in my amendment. My amendment would allow the President to withhold notification of the terms and precise conditions of a covert operation only, only if there is danger to the personnel that are involved, either U.S. citizens or those with whom they are directly operating. Second, if it jeopardized the cooperation of our intelligence services when this operation is critical for the U.S. interests or for the success of the operation. It would allow the President, for a limited time, to withhold transmission of findings or determinations pursuant to subsections 1 or 2 of this section. But it requires that the President shall notify the chairmen and ranking members of the Intelligence Committees, the Senate majority and minority leaders, and the Speaker and minority leader of the House of Representatives that a special activity which meets the above criteria is being conducted.

The President would not be required to report the specific finding or determination authorizing the operation or otherwise disclose the details of the activity in question.

However, lest the President use that opportunity and then withhold notification for an extended period of time, as is the concern of many, the amendment further provides that the President shall personally reconsider, each week thereafter, the reasons for continuing to limit such notice, and shall provide a statement, on a weekly basis, to the same persons who were above notified.

I believe that the combination of criteria for the withholding and notification requirements are sufficient to guard against the likelihood that the President might try to use this as a kind of broad escape hatch from the notification requirement.

Mr. COHEN. Mr. President, will the Senator yield?

Mr. McCLURE. I yield.

Mr. COHEN. Under the amendment of the Senator from Idaho, would it be possible for the President to notify the chairmen and vice chairmen of the Intelligence Committees and the leadership that he had a covert activity underway; that he could not divulge the details of it; that he would keep us apprised, on a week-to-week basis, when it would be possible to divulge that; and thereby have carried out the sale of weapons to Iran over a 10-month period without telling any Member of Congress?

Mr. McCLURE. I do not think it would have been possible, and I will tell the Senator why.

I think it would have been possible if he had to make that determination and that report once and then could just ignore it. I think that when he is required, as this would require, that he personally review and renew that—both the determination and the notification—on a weekly basis, that will limit the length of time in which a President can carry that forward.

Mr. COHEN. I say this to my good friend, with whom I served on the Iran-Contra Committee. As I recall the facts of that particular case, the President was apprised, almost on a weekly basis. Every time they had a meeting with John Poindexter and Colonel North and others, he inquired about the hostages. It seems to me the record is rather clear that he was very much concerned with their security and safety; that this matter was reviewed over a period of 10 to 15 months, if not on a weekly basis, perhaps more often. Yet, there was never any provocation on the part of anyone in the administration to notify Members of Congress. In fact, I think it was just the opposite: "Don't let any of them know what we are doing." They would not have notified any of us if the leak had not come from Mr. Ghorbanifar in the Lebanese newspaper.

Mr. McCLURE. I think the difference from that circumstance to this is that under this amendment, he would be required to make that a weekly determination and a weekly notification to Congress that that activity was continuing. I submit to the Senator that that simply would not have gone on for 10 months under these circumstances, under this amendment.

Mr. COHEN. I respectfully suggest to the contrary.

There would be nothing that Senator Boren and I could do about this situation, where the President sends a notice to us, saying: "Mr. Chairman and Vice Chairman, I have a covert activity. I have signed a finding. It is underway, and it has been underway for a week. I will keep you posted on a weekly basis as to when I believe lives are no longer in jeopardy. And when that determination is made, I will notify the two committees."

Under that particular circumstance, it seems to me that we would be helpless, under this particular amendment of the Senator from Idaho, to do anything about it, other than saying: "Keep us posted next week. We will tune in, and if you think the circumstances have changed, we would like to know."

Mr. McClure. I can understand that my friend may differ with me in the conclusions as to the effect of the legislation. But I strongly feel that the notification requirement is the appropriate balance between those in Congress who do not trust the President and those in the executive branch who do not trust Congress. That is really what we are talking about here.

There have been instances in the past, and certainly they are happily in the past. I should certainly say to my friends, the chairman and the vice chairman of the Intelligence Committee—more than just parenthetically—that there have been no breaches of security or leaks from the Senate Intelligence Committee in the last months, since they have adopted the policies and taken on the leadership. I commend them for that. But I think we would both be naive and wrong to contend that there had not been leaks from the Senate prior to that time.

If I suggest that, it is also to say that, in spite of the youth and vigor and health of my friend from Maine, he may not always be here and in this role, and someone else will take that position.

So there is reason for people from the executive branch to look at Congress in its several branches and committees and say: "You have not always been as secure as is justified when lives are at stake, when U.S. security is at stake, as is the case in some cases."

The opposite side of that has to be, indeed, the concern that there have been instances when the executive branch has undertaken activities which might well have benefited from congressional oversight and congressional opinion.

I agree with the Senator from Maine in the earlier statement that certainly you cannot have sustained governmental policies that will not stand the test of suasion. If the President and the executive branch cannot persuade

Congress that it is a wise policy, and if Congress is unwilling to accept that policy, and the President cannot sell it to the American public, it is not a policy that will live long. But there are times when policies can be undertaken and activities undertaken on a much shorter basis.

I suspect, and most of us would agree, that the Grenada operation was a successful operation. I think most of us would also say that it was successful primarily because it was brief; and had it not been successful enough to be that brief, it probably would have fallen subject to the kind of criticism that divides Congress and the administration on policy.

So I agree with the Senator from Maine that consultation is important. But I do not believe we can become so concerned about the likelihood that the executive will err, that we must unduly restrict their opportunities to take actions which are in our national interests; and we cannot ignore the danger to some such operations that we have already seen occur because of the lack of security on the side of Congress.

Mr. COHEN. Let me make some general observations about the Senator's amendment.

First of all, the Senator indicated——

Mr. McCLURE. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. KERRY). The Senator from Maine is recognized.

Mr. COHEN. A few brief comments concerning the Senator's amendment.

It was a privilege to work with him and share that experience of serving on the Iran-Contra Committee. The Senator from Idaho made a number of important contributions during that debate and deliberation.

But what the Senator is saying is, how would you feel it you had to go in the field and tell your intelligence operatives, "We are going to tell Congress everything about this covert action."

That is overstating the case in order to prove a point that the Senator would like to make. But the fact is that Congress, that means first, the entire Congress, is not notified. It is confined generally to the Intelligence Committees.

Under existing law and indeed under this law that we proposed to amend the existing law, only a very few people would be notified, eight, possibly four.

So how would you feel about telling ROBERT DOLE or ROBERT BYRD about the general outlines of a covert action? That is quite different from saying what do you think about telling Congress everything about a covert activity?

Second, the reference to the Canadian intervention or help in extracting hostages out of Iran is cited as the premier example of why we should not have a mandatory notice.

The fact is that this law of notification was not in place at the time that that took place. The law was modified and changed in 1980 which was after the extrication of those hostages occurred.

So we cannot cite the Canadian example as evidence that notice was not given or timely notice was not given and not complained about.

The fact is there was no notification requirement as there was in 1980. This occurred prior to that time.

Third, I should say have everyone consider what the implications of what the amendment of the Senator from Idaho would do.

If we write into the law that the President may withold notification to Congress, if in the opinion of some third country they would not cooperate otherwise, you have invited on a wholesale basis every other country with whom we may be doing business or trying to construct a covert operation to simply say, "Don't tell Congress."

Under those circumstances in which you write such an amendment into law you have invited other countries to dictate the policy of the United States. And that would be, in my judgment, a very, very bad mistake.

For that reason alone we should not even accept the Senator's proposal.

Another point, the fourth point, is on deadlines. Perhaps it has been suggested we should have a 2-month or 3-month or 6-month deadline. The deadline does not serve any purpose for Congress' role in the formation of foreign policy, participation in foreign policy decisions.

Does it do any good for a President to say to Chairman BOREN or myself or the House, "By the way, we have had this covert action for the past several months, 3 months, 6 months. We are sorry that 200 or 300 people were killed by accident in the process of the execution of this action. We wish it had not occurred, but that was done and it was done under my executive power."

I think there would be general outrage expressed by Members of Congress. They would say, "Wait a minute. If you were to try to carry this policy out as a major foreign policy, the Foreign Relations Committee would have a role to play in this. We would have the debate as to the wisdom or lack of wisdom on this. But you undertook an operation of this consequence with these kinds of results and now you are telling us 6 months later that you are sorry. We did not take the proper precaution. We did not train the right people," or whatever the case might be.

I would like to know at that point what Members of Congress who might be tempted to support a seemingly innocent or appealing amendment such as this might respond to their constituents who would say, "Do you mean to say you allowed the President to carry out this kind of a policy with no notice? He tells you after the fact? What is your role?"

The role for the Congress can be several things. We can adopt a procedure which requires some participation and that is the purpose, frankly, of the President notifying us in advance, but if he does not notify us in advance it should be, at the very minimum, within a 2-day period. And that is so that we can go to the President and say, "Mr. President, we think this is not a good idea. You can reject our advice. You are not bound by our advice."

But if the advice comes from across the table, Republicans and Democrats alike, that this is not a wise endeavor, the President will know at some future time when it comes time for appropriations he will not have the support of that committee. It gives him pause to think about it.

As I indicated during my opening statement, there have been a number of occasions in which a finding was proposed, the committee considered it, and we went to the President. We said, "This is not a good idea. We think the bad consequences far outweigh any opportunity for success, and that will be a disaster if it is carried out, or, indeed, if it fails."

The President heeded our advice. That is our role. Not a veto but a voice.

What this would do would be simply to say Congress has no voice, not to mention no vote, but no voice in that particular policy objective. And, therefore, we are stuck with the consequences whether we like it or not.

That to me would only lead to one other consequence. If that type of amendment is ever adopted then we will be faced with simply saying no more covert actions. That is our constitutional authority to do. We can say no more appropriations for covert actions. And that is the ultimate power that the Congress has.

I think it would be a mistake. I think it would be a mistake to take that portion. But if we are left with the alternative of a time certain, 3 months, 6 months, 9 months, 10 months after an action has been initiated and carried out, it seems to me I would rather say "Mr. President, I can no longer support the agency or any other agency carrying out covert activities. From now on they will have to be conducted in public. They will be public foreign policy, no more private actions, because in fact what you are doing is you are circumventing the role of Congress in these major decisions."

With respect to Grenada I would point out in the invasion of Grenada notice was given. Do not cite Grenada as an example justifying this amendment. In Grenada they notified the congressional leaders.

So, Mr. President, I will have more to say on this tomorrow, but for all the reasons I have tried to express, I think the Senator's amendment would undercut the very basis of what we are trying to achieve, and that is to see to it that Congress does play its role as defined within the Constitution. This notion once again that somehow the President is the sole architect and executor of foreign policy is wrong. And tomorrow I will take some time perhaps to go through some of the constitutional arguments about that, but for this evening, I know there is an effort being made to terminate relatively soon, and I will reserve any comment for the time being.

Mr. BOREN. Mr. President, I have listened with great interest to the discussion between my colleagues from Idaho and the distinguished Senator from Maine, the vice chairman of the Intelligence Committee.

Let me say I understand exactly the feeling that has motivated the Senator from Idaho in offering this amendment. As the vice chairman indicated in an earlier discussion on the floor, when he in some humor referred to me as Governor Boren and referred to our earlier discussions within the committee and my concern, having had experience in the executive branch of Government, having been charged with being the chief executive of a State, I am very sensitive to the need for executives, those who bear ultimate responsibility, and certainly the responsibilities of a Governor of the State as chief executive of a State pale in comparison with the ultimate responsibilities exercised by the President of the United States as Commander in Chief.

But that experience has made me very sensitive to those special responsibilities as the Commander in Chief.

When the Members of the legislative body go home for the evening when their work is finished, just as work will be finished here in a few minutes tonight. When votes are taken, we have done our duty. We have introduced the bills. We have voted on the bills that are pending. And we go home for the night.

But the President is on duty, in essence, 24 hours a day as the final guardian of the national security interests of this country.

I felt a very, as I say, inadequate experience compared to that of the President, but one that again was instructive. I was struggling when I was Governor with a very serious prison problem in my State. We had terrible overcrowding. We had inadequate security within the prison. We had one tragic prison fire in which the institution was largely destroyed, and I worried about the lives that were at stake. I worried about the security of the guards who worked in that institution, whether they were safe and the other staff.

And once the members of the legislature voted up or down on the appropriations bills that I presented, they had done their duty and they went home, but I knew that if a problem broke out at 2 o'clock in the morning at that prison, they would not round up the State legislators in the middle of the night, but they would say, "Governor, what are you going to do about it? You have the ultimate responsibility. How much force will you use? For example, will you call out the National Guard? Will you negotiate with inmates? What if hostages are taken?"

Those are the kinds of responsibilities with which executives have to deal.

So I am very sensitive to the question and the problem raised by the Senator from Idaho, and I am not unsympathetic to it and, as he knows, I have great respect for any idea that he advances on this or any other subject. He is an able Senator and one for whom I have great respect.

I have to say, however, that on this particular question I come down on the side of the bill and come down in opposition to the way this amendment is put together.

I offered the amendment in committee, as has already been indicated, which reduced down from the so-called gang of eight all the way down to just four people in the Congress of the United States that would have to be notified if there were an extremely sensitive covert action undertaken in which lives might be at risk.

I would point out that even in the most sensitive operations of this Government in the past—the Canadian example has been mentioned—key Members of Congress, not all of Congress, not the entire Intelligence Committees, perhaps not even all of the leadership of the two Intelligence Committees were notified but key Members of Congress were notified and were kept posted on this matter.

In the commencement of the Grenada incursion and the rescue operation into Grenada—not only to rescue Americans at risk, but also help restore democratic government and operations, which I strongly supported—again key leaders in Congress were informed.

Mr. McCLURE. Will the Senator yield at that point?

Mr. BOREN. I am happy to yield.

Mr. McCLURE. I thank the Senator for yielding. I apologize for interrupting, but the Senator from Maine made reference to my reference of Grenada and said we surely should not use that example with respect to notification. I did not use that example with respect to notification. I used that example with respect to the need for consultation and the desirability of having consultation with the Congress.

Mr. BOREN. I thank my colleague. I had misunderstood the point and I appreciate his clarification of it.

But it comes down to this: I think what we have crafted now in the bill is a fair compromise between the two points of view, the two competing ideas that really have validity. One is that the President must have flexibility to act instantly, if he has to, as Commander in Chief. Nothing in this bill prevents him from doing that. He does not have to have prior approval of anyone in the Congress to act in an emergency.

He does, however, have to give notice within 48 hours to a key group of congressional leaders. We want to keep as confined as possible information about something that is highly sensitive that might be very damaging if it were revealed. We always want to hold to the smallest number possible for that information to be given. That is the reason that I have said, "let us reduce the number even further from 8 down to 4," knowing full well that I might be taking myself, as chairman of the Intelligence Committee, out of that loop.

But I was not elected by the full U.S. Senate to be chairman of the Intelligence Committee. I was appointed by the leadership in our caucus to serve on that committee and, by virtue of staying on that committee long enough, I became chairman of the Intelligence Committee under our rules.

But the Speaker and the minority leader in the House and the majority leader and minority leader of the Senate are elected by all of the Members. They bear special responsibilities. Therefore, I think we reach a point at which we finally go down as far as we can go in terms of giving any kind of meaningful notification or participation of the Congress in this process. We reduce to a bare minimum that kind of notification when we say that those four leaders, if the President deems it absolutely necessary, and only those four leaders can be notified.

It is hard for me to believe or for me to envision the situation in which a covert operation could possibly be conducted without several people in the executive branch being informed; usually a fairly large number, several score. It is almost impossible to envision that it would only be the number of the number of fingers on one hand. But surely it would not expand knowledge too far to say that these four leaders of the Congress would be notified.

And there is another purpose and let me say this: When we work in the Intelligence Committee, we are very sincere about this. When we are notified of a covert operation, I think there is a great benefit that can come from the committee's input. There is an old saying: Two heads are better than one. And it is appropriate, from the point of view of building bipartisan consensus for foreign policy, where there would be a participation and communication between both parties of Government. And that is exceedingly important.

We have seen the damage done to our country when you have an executive that starts a policy but a Congress that refuses to continue it.

We send mixed signals all around the world. So it is not just a matter of bipartisanship and important relationships and partnership between the two branches of Government that is at stake here. It is not just a matter of constitutional need for Congress which must appropriate money for these projects to also have some notification and knowledge as to what is going on.

Mr. CHAFEE. I wonder if the Senator might yield.

Mr. BOREN. If I could, I am going to complete in about 60 seconds and then I will yield the floor. I will be happy to respond to a question.

It is also the question—and I go back to the wisdom in that old saying of two heads are better than one. We in the Intelligence Committee endeavor not only to provide oversight, we try to be a valuable sounding board for the intelligence community and for the executive branch. We try to give those who are conducting these policies the benefit of our best judgment to try to help our country. We try to think of things that perhaps they have not thought about. We try to think about the impact perhaps they have not anticipated.

Mr. President, I cannot help but believe that, under our system of government, those leaders, those four leaders chosen by the two Houses of Congress, who also have a great dedication to this country and its national interests, along with the President of the United States, I cannot help but believe that some meaningful discussion of actions to be taken, some true communication, some sharing of ideas, some sharing of insight, some pooling of talent to try to help this country, I cannot help but believe that that is preferable to having the President act solely alone without the benefit of that advice, without the benefit of that knowledge, without the benefit of that communication so that if problems develop in the implementation—and sometimes they do with very sensitive programs—the congressional leaders will have been informed and be much more likely to be supportive of the President as he tries to steer the country through a very difficult passage in a sensitive situation.

So, Mr. President, I think merely noting that covert actions are taking place without telling at least the four leaders what they are would only tend to breed suspicion and distrust between the branches of Government and would only tend to drive a wedge between the branches of Government at a time when we need bipartisanship, cooperation between the two branches of Government. And, with all the challenges facing this country, above all, we need to pool out talents and our best efforts to come up with the right policy decision.

So I believe that we have struck—and it is an uneasy compromise. The Senator from Maine, quite frankly, has indicated on the floor that he felt in some ways that my amendment that was put on this bill in committee went too far in reducing the notice. I understand why there are some misgivings and why these leaders may not have the background the members of the Intelligence Committee may have to ask the right questions. But to go even further and say we will not give the four leaders information about what is going on I think simply tilts the balance too far. It is a careful balance which must be struck. I believe that we have struck it in this bill and I believe to go further would be unwise.

Mr. COHEN. Will the Senator yield?

Mr. BOREN. I am happy to yield.

Mr. COHEN. Mr. President, on the point of the benefit adhering to the administration, I would like to quote just a colloquy that occurred between myself and Mr. McMahon, the former Deputy Director of the Central Intelligence Agency, during an open hearing.

I made the statement:

> I find it hard to accept the proposition now that we are looking at a 48 hour period that suddenly there may be circumstances we can't notify Congress. That this would somehow jeopardize our national security interests. Now you come forward and I believe you support the 48 hour requirement?

I would like to read what Mr. McMahon said. He said:

> I do. I come from the position that this oversight Committee has to be an integral part of our intelligence program. And as such it has to be a partner, particularly since it holds the purse strings, as well as the conventional wisdom of our nation. And I also believe very strongly that unless covert action has bipartisan support it is eventually doomed for failure. I would feel very reluctant as an individual to be commissioned not to advise the committee of something and then come back in a week or two and ask the committee to support a program that requires more money and what have you. I think you have to develop a relationship of trust. And I hearken back to Mr. [Clark] Clifford's comment, it there is concern regarding the security of a Committee member, then that should be addressed immediately upon his appointment. And I believe that the Congress itself bears a burden to make sure that the membership of this Committee is the kind that won't be either a fast or slow leak.

I think that statement should be responsive to those who say that the Agency is opposed. Here is someone who has had several decades of service to the Central Intelligence Agency, and who comes out strongly in favor of 48-hour notice serving the administration and achieving a bipartisan foreign policy objective.

I thank the Senator for yielding.

Mr. BOREN. I thank the Senator from Maine. I certainly agree with the comments he has made and I think the words of Mr. McMahon speak for themselves. I think it might be the ironic result and unintended effect of this amendment offered by the Senator from Idaho that if it is passed it will be more unlikely in the future that any covert action would be appropriated or funded by the Congress. As one that feels that there are times when it is absolutely essential to the Nation to be able to undertake these operations, I think the best way for us to assure that we have the flexibility to use every tool, including sometimes the tool of secrecy on behalf of our national security interests, I think that as one who feels strongly that way, I would urge my colleagues to defeat this amendment when it comes to a vote tomorrow.

I apologize to my colleague from Rhode Island. I would be happy to yield the floor for a question to him. Also, I know my colleague from New York is waiting patiently and I apologize to him for the time that I have taken. I yield the floor and would be happy to respond.

Mr. CHAFEE. I would just like to ask a couple of questions, if I might.

Mr. BOREN. I would be happy to respond to the Senator from Rhode Island.

Mr. CHAFEE. I appreciate this. These will be relatively brief.

When the notification is given to, let us say, the chairman and ranking member of both committees, plus the leaders of the Congress, they are not asked for approval or disapproval. All they are is informed; am I not correct?

Mr. BOREN. The Senator is absolutely correct. It is purely notification and we make it clear in the bill that no veto authority is granted in the committees. If the President feels that he must proceed, whether the committees approve or not, he has the right to proceed.

Mr. CHAFEE. What constraints are made upon Members? Let us take first the four members of the Intelligence Committees that are notified. What constraints are placed upon them as far as notifying staff? Making a record of it? What takes place there?

In other words, eight people are notified, but let us just take those four. Now what happens?

Mr. BOREN. We have underlined in the law again, restated in the law and, of course, we have enforced this additionally by committee rule, that Members have an absolute responsibility, and it is stated in the bill that Congress itself has the responsibility, to safeguard information under terms in which it is given. So that would apply to notification where there is clearly a limited notice intended, those particular people notified, the four or the eight, whichever the case may be.

Mr. CHAFEE. Let us take those four.

Mr. BOREN. Those four would not have the right to notify or give information to others.

Mr. CHAFEE. Including any staff?

Mr. BOREN. That is correct.

Mr. CHAFEE. Now, let us take the other four, the majority leader, the minority leader, the Speaker and the minority leader in the House. What about them? What constraints are made on them?

Mr. BOREN. The same would be true. They would not even be free to notify even the chairmen of the Intelligence Committees. If notification was given to the President under conditions that notification be only given to those four people, those four people would be obligated to keep that notification to themselves.

Mr. CHAFEE. Now, is that spelled out in the statute?

Mr. BOREN. Let me yield to the—I think it is spelled out, and I want to make sure that it is. Let me yield to my colleague from Maine to give further answer to that question.

Mr. COHEN. It is spelled out in the statute itself. That has been our practice.

Mr. CHAFEE. I know the practice of the members of the committee, but I am talking about the leadership. Is there anything statutorily that says that they—leaders are busy. The Speaker of the House, the leader of the majority, minority leader as we all know are extremely busy people.

I think the natural reaction would be to turn to some faithful deputy and say: Make a record of that and also note that I was opposed to it, for example.

Now, is there any statutory constraint on that?

Mr. COHEN. I believe there is, in terms of the notice going only to the leadership itself.

But if the Senator would feel——

Mr. CHAFEE. I am not going to press you on that tonight, because obviously we will be on this in the morning, and perhaps if one of your staff or somebody could check, I would appreciate that.

Mr. BOREN. I would answer the Senator from Rhode Island, there is no explicit language in the pending bill which says word for word that four people so notified may not share this information with anyone else. However, the general provisions of Senate Resolution 400 under which we operate plus the rules of the Senate, I believe, would give us a sufficient capability of assuring that that notice would not be given to others.

Of course, the political approach and ultimately, I suppose, many of these sanctions are political—the consequences, the political consequences of the failure of even the gang of four or the gang of eight to keep notification, given under those conditions, solely to themselves would, I think, be so dire as to be a very important enforcement mechanism. But I would be glad to look at that and if the Senator from Rhode Island has additional suggestions to make that clear, to make that provision, this Senator would certainly be amenable to looking at those.

Mr. CHAFEE. I would like to share the confidence of the distinguished chairman of the committee that the consequences on anybody leaking information would be so dire. But I think we all recognize professional courtesy in this body; so-and-so, there is a little lapse that he said this, but so be it. Who is going to take any public outrage and demonstrate any censure on the individual? I think we recognize that those things happen.

I must say I have deep concern out of what we are doing. We all have known situations that have been of extreme importance to the security of the Nation's secrets that have not been passed on. Not all covert action has, such as the breaking of the Japanese code in World War II. Some of the instances have been outlined here on the floor by the senior Senator from Idaho. But let us just take the situation of where the proposal, in the judgment of the leadership, is outrageous, that it is the most ridiculous, preposterous undertaking they have ever heard of.

Now, what?

Mr. COHEN. Let me respond to the Senator. You served on the Intelligence Committee for a time that I served on there as well. As I recall, such a proposal in fact came before the committee while you were on it. And I recall your words, which I cannot repeat on this floor. But they were quite critical, very critical. Something to the effect that this is the most outrageous thing I have heard. I will not go into the exact details.

Mr. CHAFEE. Preposterous.

Mr. COHEN. And I was struck by the power of your feeling on that particular matter. You did not go to your staff member. You did not go out to the Senate floor. You conveyed your reaction to the Director or the Deputy Director who brought us the message and it really had an impact because they went back down to the President, back down to the While House and said, "Look, Senator CHAFEE is pretty outraged about this. Now, he has no veto, but, boy, we want to listen to him. Here is a person who served as Secretary of the Navy, knows something about the need to keep security in this country. And he is upset about this." And that had an impact.

I say that is exactly what we are trying to achieve here, so we are on the same side.

Mr. CHAFEE. Well, I would tell my friend from Maine, if his purpose in describing my role in that episode is to flatter me, he has done so.

I do remember it clearly, indeed, they did reverse their course. But what bothers me is that the tendency of somebody—in this particular situation, it did not come up because we had a discourse with the Director of the Agency—it seems to me that when somebody is outraged by a proposition and the administration says they are going to go ahead, the tendency toward keeping the security on it is greatly reduced. I do not want to go into these arguments, because the Senator from New York is waiting, but I must say I think some of the points made by the Senator from Idaho are telling ones, particularly as you recall the problems we had dealing with agents representing other nations.

We had the Freedom of Information Act that was disturbing. And that was changed. We had the disclosure of agents' names, and we cut that off, finally. I am talking about publications, of which you recall so well. We closed that off. But there is no question but what other nations are reluctant to deal with the United States in intelligence activities, and particularly when it involves their individual agents putting their lives on the line.

Mr. COHEN. Could I respond just for a moment?

First, I would ask a hypothetical question of the Senator from Rhode Island. How could you feel about being in a situation in which the amendment of the Senator from Idaho was, in fact, adopted. Under that provision the notification given before under that particular operation that you were so outraged about would not have come to you. It would say, Senator CHAFEE, I am sorry, we have a covert activity underway, but it is so sensitive—and this outrageous—but it is so sensitive that we cannot afford to trust you or any member of the committee, and certainly not the leadership with this. We will keep you posted. We will come back to you next week and let you know next week and a week after and maybe 6 months from now. We will tell you what it involved after it has occurred, and maybe after it has failed, which it would have under the circumstances you remember.

What you are doing by endorsing—I do not know whether you are endorsing the bill, or only lending moral support to the Senator from Idaho—who is, in fact, setting forth a position which will put you or put us in a position of finding out months later after the operation is complete. I would say to my friend that while you may be concerned about leaks coming from the committee, I dare say that I am not aware under our leadership, or the prior one, of any leak involving a covert operation. I remember Oliver North. Colonel North made a very dramatic presentation before the Nation about lies or lives, and about leaks coming out of the Hill. The fact is that most of the former Directors will tell you that 90 to 95 percent of all leaks come out of the executive branch, not Congress. We may get blamed for them, but most of them come from the executive branch.

But you may recall how he went on for pages of testimony talking about Congress being irresponsible and leaking. Then Newsweek magazine really took an unusual step of disclosing who the source of the leak was. It was not Members of the Congress. It was Colonel North himself. I think we have to keep that in mind before we start laying the blame of the feet of the Congress saying that we cannot keep secrets. I am not aware of any leak involving a covert activity under any prior administration as far as the Intelligence Committee is concerned.

But you say these accusations often enough and repeat them often enough, it is a notion that becomes a reality.

Mr. CHAFEE. We will have a chance to go into this further tommorrow.

Mr. BOWEN. Mr. President, let me say to my good friend from Rhode Island, if the Senator will yield, I understand his concern, and I have wrestled with this legislation a long time. I thought about it a long time before I joined in the cosponsorship. We did make changes, however, to reflect the concern that the Senator raised. For example, we changed the provision which specified what would be in the finding as it related to third countries, and to try to take into account the exact thing you are talking about.

We took it out of the finding itself and said appropriate procedures would need to be developed for providing information necessary to committees in order to reassure third countries.

So we have gone a long way, I think, in addressing that particular concern. I guess it just comes down to this: You have to weigh the pluses and minuses. We are striking a balance, and I think you have to ultimately decide is it better to have a situation where the President of the United States could conduct a covert operation potentially without ever notifying a single soul in Congress until perhaps such time as it became public through some sort of difficulty in the program itself. Unfortunately, we have been through that experience.

Is that good for the country in the long run? I have to say it is not. I think it is dangerous for the country from a number of respects. It deprives the President of the opportunity to seek the cooperation of the congressional leadership. We are not here talking about notifying the Congress. I would be against that. We are not even talking about notifying the two Intelligence Committees. In some instances, we are not even talking about notifying the chairmen and vice chairmen of the two Intelligence Committees. We are saying, should the Speaker of the House and minority leader and the majority and minority leader of the Senate be notified?

I just have to say to my good friend from Rhode Island, while I worry about every concern that he worries about, I worry about notifying anybody who does not have to be told about something that is underway where secrecy is important to the national interest of the United States. I worry about it. I think the risks run in notifying those four people who have a keen understanding of their responsibilities in this Government who know that they can exercise their opposition, express their opinions, in this case directly to the President. He is the one who will tell them and only them.

I would have a hard time in believing that you have very many, if any, situations, as we look ahead to the next century, in which this country might be operating under this law, in which that kind of procedure would be breached by those four particular individuals, and, on the other hand, balancing that minuscule risk that four people selected by their peers in these two bodies of Congress would ever violate that trust even when they had strong disagreement, weighing that minuscule risk against the great benefit and gain, both in terms of advice, shared expertise, communication, and the building of bipartisan support that the President would gain from this kind of procedure.

I think the balance clearly tilts in favor of the provision of the bill.

I think the Senator is absolutely right. We should vote down the provision every way we can to make sure the individuals, if it is a small group, four or eight who are notified, have the responsibility not to share that with others.

I have been looking at S. Res. 400. Clearly, the Intelligence Committee would be bound by it. I am not sure about the others. I would like to pursue that.

Mr. CHAFEE. I would appreciate it if by the morning somebody could check on that.

I appreciate the very eloquent presentation that both the chairman and the vice chairman have made.

Mr. BOREN. I thank the Senator from Rhode Island.

Mr. MURKOWSKI. Mr. President, during the 100th Congress, U.S. intelligence agencies have received a good deal of public scrutiny. Examples include the Iran-Contra investigation into covert programs involving the Middle East and Central America, the confirmation of a new Director of Central Intelligence, a current investigation into a FBI Counterintelligence Program, and public discussion about whether the intelligence agencies are able to adequately verify Soviet compliance with the INF Treaty—and in the future—with a START treaty.

These public issues represent only a tiny fraction of the programs and activities of the intelligence community. But, together they give a hint of the importance that intelligence has assumed in the making and conducting of U.S. foreign policy. The intelligence agencies spend vast sums of money, employ large numbers of people, and play a central role in our most vital national security programs.

For these reasons, it is crucial that the congressional oversight of intelligence be as effective as possible. The law requires that the intelligence committees of the House and Senate be kept "fully and currently informed of all intelligence activities." As a consequence, the committees are custodians of some of the Nation's most sensitive secrets.

The members of the Senate Intelligence Committee, of which I am one, take their responsibilities very seriously indeed. They fully appreciate the sensitivity of the information they possess. The professional staff of the committee has been carefully selected; over half previously worked for civilian and military intelligence agencies.

Mr. President, this bill will assist the Intelligence Committee in meeting its responsibilities by tightening up the oversight provisions, by clarifying ambiguities, and by closing loopholes in existing law. The bill has been exhaustively reviewed in a bipartisan fashion within the Intelligence Committee. Its provisions are consistent with the recommendations of the Iran-Contra Select Committee.

Mr. President, I urge my colleagues to give this bill their overwhelming support.

Mr. HEINZ. Mr. President, I support the legislation now before the Senate. The Intelligence Oversight Act is an attempt to restore order and trust to the relations between Congress and the Executive in the area of covert intelligence operations.

We all are very familiar with the horror story that goes by the name of the Iran-Contra affair. At the heart of that scandal was the failure of the oversight system to give the Congress its proper input into the review of covert operations. The law we are considering today codifies many changes to the oversight system that have already been adopted informally by the Reagan administration. I believe that this legislation will lay the basis for effective congressional oversight of covert operations without undercutting the President's constitutional responsibilities in the area of foreign policy.

The law leaves the President the option of informing only the top four leaders of the Congress in cases of dire threat to the national security. I believe this provision adequately addresses the two competing needs in the oversight of covert operations: the need for secrecy, and the need for congressional participation.

Mr. President, I think that most observers would agree that the Iran-Contra affair would never have happened had regular congressional oversight been allowed to play its proper role. Congressional oversight of covert operations is not a form of competing authority in foreign policy—it is a check on unwise projects that cannot win the support of the Congress in the long term. It is clear that foreign policy is most effective and sustainable when Congress is part of the support for that policy. Oversight of intelligence operations has proven to be a secure and effective way of providing that congressional support.

I believe the Intelligence Committee has done a good job with this legislation, and I am hopeful that it will help make policy disasters such as occurred in the Iran-Contra affair a thing of the past.

ORDER OF PROCEDURE

Mr. D'AMATO. Mr. President, I ask unanimous consent to speak for no more than 10 minutes as if in morning business.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

(The remarks of Mr. D'AMATO, Mr. KERRY, Mr. HEFLIN, and Mr. MURKOWSKI pertaining to the introduction of legislation appear later in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 94-201, appoints William L. Kinney, Jr., of South Carolina, to the Board of Trustees of the American Folklife Center, effective March 19, 1988, for a 6-year term.

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I understand that the distinguished Senator from Alaska, Mr. MURKOWSKI, may have to leave, and so I shall proceed with the morning business that we have to transact.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967 STATUTE OF LIMITATIONS EXTENSION

Mr. BYRD. Mr. President, I ask that S. 2117, a bill to extend the statute of limitations applicable to certain claims under the Age Discrimination in Employment Act of 1967 now at the desk be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill.

The assistant legislative clerk read as follows:

A bill (S. 2117) to extend the statute of limitations applicable to certain claims under the Age Discrimination in Employment Act of 1967 that were filed with the Equal Employment Opportunity Commission before the date of enactment of this act.

Mr. BYRD. Mr. President, I now ask for the second reading.

Mr. MURKOWSKI. Mr. President, I must object on behalf of our side of the aisle.

The PRESIDING OFFICER. Objection is heard.

Objection having been heard, the bill will lay over a legislative day pending its second reading.

INDEFINITE POSTPONEMENT OF S. 1904

Mr. BYRD. Mr. President, I ask unanimous consent that S. 1904, the Polygraph Protection Act of 1987, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT AND SURVIVOR ANNUITIES FOR BANKRUPTCY JUDGES AND MAGISTRATES ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 570, S. 1630, a bill to provide for retirement and survivors' annuities for bankruptcy judges and magistrates.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 1630) to provide for retirement and survivors' annuities for bankruptcy judges and magistrates, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HEFLIN. Mr. President, today I urge the passage of Senate bill 1630, the Retirement and Survivor Annuities for Bankruptcy Judges and Magistrates Act. The purpose of this legislation, as stated in the committee report, is "to provide bankruptcy judges and magistrates with an adequate pension upon retirement from service on the bench" (committee report, 100-293). Under the current retirement system, a bankruptcy judge or magistrate must remain on the bench for many years to assure an adequate pension. However, because of the qualifications required of these judicial offices, many individuals do not "assume these offices" until they are in the middle of their careers. In fact, many of these individuals leave very lucrative law practices in order to seek these judicial appointments.

I introduced this legislation, along with my colleagues, Senator GRASSLEY and Senator DECONCINI, in August 1987. Since introduction, several of my colleagues have joined as cosponsors, including Senator THURMOND, who is the ranking member of the Senate Judiciary Committee, and Senators KASSEBAUM, COCHRAN, CHILES, JOHNSTON, HATCH, COHEN, DURENBERGER, INOUYE, LUGAR, MATSUNAGA, PRYOR, and BUMPERS.

The Subcommittee on Courts and Administrative Practice held hearings on October 28, 1987, and the subcommittee reported the bill to the Judiciary Committee on November 18, 1987, without amendment. The committee ordered the bill to be reported on December 3, 1987, again without amendment.

We are all aware of the tremendous burdens placed upon our Federal judicial system, but I am not certain that we appreciate the tremendous contributions made by bankruptcy judges and magistrates.

Bankruptcy judges are appointed for 14 year terms and magistrates are appointed for 8 year terms. The responsibilities assigned to magistrates and bankruptcy judges, while of different character, are of equal importance. The committee report clearly illustrates the tremendous workload of these judicial officers.

> Since the passage of the Bankruptcy Reform Act 1978, the number of bankruptcy petitions filed each year has increased from 226,471 in 1979, to 561,278 in 1987. The Administrative Office of the United States Courts projects further filing increases to 775,000 petitions by 1989. The caseload of bankruptcy judges includes many routine consumer cases which require minimal judicial involvement. Yet, a significant 16% of the total filings consist of business cases, both reorganizations, and liquidations. During the 1987 reporting year, there were more than 22,500 chapter 11 business reorganization cases filed. As a result of the enactment of bankruptcy relief provisions for family farmers in 1986, more than 5000 petitions have been filed under new chapter 12 created by that legislation. The impact of the decisions of bankruptcy judges on the national economy is substantial and felt on a daily basis. During the fiscal year that ended June 30, 1987, magistrates handled approximately 466,000 proceedings. In particular, magistrates conducted over 134,000 preliminary proceedings in felony cases; handled more than 197,000 references of civil and criminal pretrial matters; reviewed more than 6,500 Social Security appeals and more than 27,000 prisoner filings; and tried more than 95,000 misdemeanors and 4,900 civil cases on consent of the parties. A substantial portion of the work of magistrates is performed in cases assigned to article III judges. Absent the assistance provided by magistrates, the number of judgeships clearly would have to be increased. (Committee report 100-293, at 2-3)

It is incumbent upon us to ensure that the judicial branch is able to attract and retain qualified individuals for these positions.

These judicial officers are compensated at 92 percent of the pay of district court judges. But the retirement system for these individuals falls far short.

This legislation provides that a bankruptcy judge or a magistrate is entitled at age 65 and after the completion of 14 years of judicial service to an annuity equal to the salary of the position at the time he or she left office. Judicial service performed since October 1979, is eligible for credit under this legislation. Service of less than 14 years in office but equal to or greater than 8 years, is eligible for a pro rated annuity benefit. No contribution is required by the judicial officer for this plan. This legislation will also include spouses and dependents of bankruptcy judges and magistrates within the judicial survivor annuities if the bankruptcy judge or magistrate elects to participate in the judicial survivor's annuity system.

The retirement benefits proposed under this legislation are necessary if we are committed to an experienced and stable judicial system.

Without an enhanced retirement system, qualified judicial officers will continue to leave the bench for more profitable service in the private sector. This causes instability in our judicial system and weakens the system from within. Our courts are only as good as the individuals who administer justice from the courtroom. We demand excellence from our judicial officers. We should be willing to provide them with a retirement system that provides an adequate pension after their service on the bench.

There is an amendment which I will offer for consideration which changes the effective date of the legislation from the date of enactment to July 31, 1987. Several bankruptcy judges and magistrates have retired since the introduction of this legislation and I have heard from many of my colleagues who believe that it is unfair to arbitrarily draw a date that excludes some individuals who have been on the bench for many years. I quite agree. The other changes to the bill are technical in nature and simply correct a numbering mistake and, add the phrase "of title 5" in a section where it is omitted when the bill was originally introduced.

I would like to thank the ranking member of the subcommittee, Senator GRASSLEY, for his assistance in moving this legislation, as well as the other members of the judiciary committee, particularly, Senator BIDEN the chairman of the committee, Senator THURMOND, the ranking member and Senator DECONCINI.

I would also like to express by gratitude to the Staff members who have worked on this legislation for the past several months: Sam Gerdano with Senator GRASSLEY; Terry Wooten and Kevin McMahon with Senator THURMOND; Ed Baxter with Senator DECONCINI; and Diana Huffman, of the full committee, for her assistance.

I hope this legislation can be enacted without further delay.

Thank you Mr. President.

Mr. THURMOND. Mr. President, I rise today in strong support of S. 1630, the "Retirement and Survivor Annuities for Bankruptcy Judges and Magistrates Act of 1987". I am a cosponsor of this legislation which provides a much needed revision of the current retirement system in place for bankruptcy judges and Federal magistrates.

Unquestionably, bankruptcy judges and Federal magistrates play an important role in our Federal judicial system. Because of their vital role, an equitable retirement system is necessary to encourage exceptionally well-qualified individuals to seek these judgeships and serve for many years before retirement.

With the steady growth of litigation in our Federal system, we have placed a greater responsibility on the shoulders of both bankruptcy judges and Federal magistrates. These enhanced burdens and responsibilities, along with the shortcomings in the current retirement system, have contributed to an increased turnover rate among these judges in the last several years.

If enacted, S. 1630 will establish a retirement system similar to the current retirement system in place for territorial judges. After serving a period of 14 years, and upon reaching the age of 65, bankruptcy judges and Federal magistrates would be entitled to a retirement pension at full salary.

I believe legislation such as this will go a long way toward ensuring that we continue to attract and retain quality individuals dedicated to serving the public. Therefore, I support S. 1630, and urge my colleagues to do the same.

Mr. GRASSLEY. Mr. President, I would like to commend our subcommittee chairman, Senator HEFLIN, for his leadership on this bill to make badly needed improvements in the retirement system for bankruptcy judges and magistrates. I am pleased to be an original cosponsor.

This bill addresses the current disparity in retirement benefits between bankruptcy judges and magistrates, and other Federal judges. The bill provides for a new retirement system and survivors' benefits based on the system already in place for territorial judges. The bill recognizes that bankruptcy judges and magistrates, each with fixed terms of office, may have limited years of Federal service compared with article III, life tenured, judges.

Accordingly, the bill provides for retirement at age 65 on the full salary being paid at the time a retiree left office if 14 years of service as a bankruptcy judge or magistrate had been completed. The bill also provides for reduced retirement benefits for those judicial officers who have served at least 8 years but less than 14. Such benefits would be based on the percentage of the years of service compared to 14 years.

Mr. President, we need to enhance the retirement system for bankruptcy judges and magistrates. Current law acts as a powerful disincentive to the recruitment and retention of qualified judges and magistrates. In fact, since 1980, more than 160 bankruptcy judges have left the bench. Many have gone on to lucrative private law practice.

Since 1985 alone, nearly one-third of our 232 bankruptcy judges have resigned or retired. To give some context to this statistic, only 7 percent of district and appeals court judges have resigned or taken senior status during this same period.

In large measure, these judges have left the bench because of an inadequate retirement policy.

Mr. President, although we often fail to realize it, I think it's fair to say that no Federal court touches the Nation more than our bankruptcy courts. Its caseload, already the largest of any Federal court, recently surged past 725,000—more than double the size of 6 years ago. By one estimate, the court's reach extends to more than $100 billion in corporate and individual assets and 35 million creditors. More and more, bankruptcy courts are forced to make tough choices on the survival of entire industries. So I appreciate the importance of the Bankruptcy courts and the critical role they play in our legal system.

As we all know, the 99th Congress authorized the creation of 52 additional, and badly needed, bankruptcy judgeships. In this Congress, we have provided funding for these judgeships in the supplemental appropriations bill. The continuing appropriations bill increased bankruptcy judges and magistrates salaries back up to 92 percent of that of district court judges. But without a sufficient benefits package to offer these applicants. We will continue to have difficulty attracting and keeping qualified judges.

I urge my colleagues to support the bill, and hope the other body will act in accord.

AMENDMENT NO. 1624

(Purpose: To clarify the application of the Act and to make technical corrections)

Mr. BYRD. Mr. President, on behalf of Mr. HEFLIN I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia, Mr. BYRD, for Mr. HEFLIN proposes an amendment numbered 1624.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 16, strike out "the effective date of this Act" and insert in lieu thereof "July 31, 1987".

On page 11, line 1, after "(c)" insert "of title 5".

On page 11, line 3, strike out "(5)" and insert in lieu thereof "(7)".

On page 11, line 15, strike out "the date of enactment of this Act." and insert in lieu thereof "July 31, 1987. A bankruptcy judge or magistrate retiring on or after July 31, 1987, but before the date of enactment of this Act, shall be entitled to make an election under section 2(c)(2) of this Act within 90 days after such date of enactment.".

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1624) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider that vote by which the amendment was agreed to.

Mr. MURKOWSKI. I move to lay that motion on the table. The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1630

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Retirement and Survivor Annuities for Bankruptcy Judges and Magistrates Act of 1987".

BASIC RETIREMENT PROGRAM

SEC. 2. (a) Chapter 17 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 377. Retirement of bankruptcy judges and magistrates

"(a) A bankruptcy judge or magistrate to whom this section applies who retires after serving at least 14 years, whether continuously or otherwise, as such a bankruptcy judge or magistrate shall, subject to subsection (e), be entitled to receive, upon attaining the age of 65 years and during the remainder of the judge's or magistrate's lifetime, an annuity equal to the salary being received at the time the judge or magistrate left office.

"(b) A bankruptcy judge or magistrate to whom this section applies who retires after serving less than 14 years but at least 8 years, whether continuously or otherwise, as such a bankruptcy judge or magistrate shall, subject to subsection (e), be entitled to receive, upon attaining the age of 65 years and during the remainder of the judge's or magistrate's lifetime, an annuity equal to that proportion of the salary being received at the time the judge or magistrate left office which the aggregate number of years of service bears to 14.

"(c) A bankruptcy judge or magistrate to whom this section applies who has served at least 5 years, whether continuously or otherwise, as such a bankruptcy judge or magistrate and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (e), be entitled to receive, during the remainder of the judge's or magistrate's lifetime, an annuity equal to 40 percent of the salary being received at the time of retirement or removal or, in the case of a judge or magistrate who has served for at least 10 years, an amount equal to that proportion of the salary being received at the time of retirement or removal which the aggregate number of years of service, not to exceed 14 years, bears to 14.

"(d) A bankruptcy judge or magistrate who is entitled to an annuity under this section is also entitled to a cost-of-living adjustment in such annuity, calculated and payable in the same manner as adjustments under section 8340(b) of title 5, except that any such annuity, as increased under this subsection, may not exceed the salary then payable for the position from which the judge or magistrate retired or was removed.

"(e) A bankruptcy judge or magistrate shall be entitled to an annuity under this section if the judge or magistrate elects an annuity under this section by notifying the Director of the Administrative Office of the United States Courts. A bankruptcy judge or magistrate who elects to receive an annuity under this section shall not be entitled to receive any annuity to which such judge or magistrate would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84, of title 5.

"(f)(1) For purposes of calculating an annuity under this section—

"(A) full-time service as a bankruptcy judge or magistrate to whom this section applies may be credited; and

"(B) each month of service shall be credited as one-twelfth of a year.

"(2)(A) In the case of an individual who is a bankruptcy judge to whom this section applies and who retires or is removed from office upon the sole ground of mental or physical disability, service of that individual as a United States magistrate to whom this section applies, if any, shall be included for purposes of calculating years of service under subsection (a), (b), or (c), as the case may be.

"(B) In the case of an individual who is a magistrate to whom this section applies and who retires or is removed from office upon the sole ground of mental or physical disability, service of that individual as a bankruptcy judge to whom this section applies, if any, shall be included for purposes of calculating years of service under subsection (a), (b), or (c), as the case may be.

"(g) This section applies to—

"(1) any bankruptcy judge appointed under—

"(A) section 152 of this title;

"(B) section 34 of the Bankruptcy Act before the repeal of that Act by section 401 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2682); or

"(C) section 404 of the Act of November 6, 1978 (Public Law 95-598, 92 Stat. 2549); and

"(2) any United States magistrate appointed under section 631 of this title,

only with respect to service on or after October 1, 1979, as such a bankruptcy judge or magistrate.".

(b) The table of sections at the beginning of chapter 17 of title 28, United States Code, is amended by adding at the end the following new item:

"377. Retirement of bankruptcy judges and magistrates.".

(c)(1) A bankruptcy judge or United States magistrate in active service on July 31, 1987 shall, subject to paragraph (2), be entitled to, in lieu of the annuity otherwise provided under the amendments made by this section—

(A) an annuity under subchapter III of chapter 83, or under chapter 84, of title 5, United States Code, as the case may be, for creditable service before the date on which service would begin to be credited for purposes of subparagraph (B), and

(B) an annuity calculated under subsections (b) and (f) of section 377 of title 28, United States Code, as added by this section, for any service as a full-time bankruptcy judge or magistrate on or after October 1, 1979 (as specified in the election pursuant to paragraph (2)), without regard to the minimum number of years of service as such a bankruptcy judge or magistrate, except that—

(i) in the case of a judge or magistrate who retires with less than 8 years of service, the annuity under subsection (b) of section 377 of title 28, United States Code, shall be equal to that proportion of the salary being received at the time the judge or magistrate leaves office which the years of service bears to 14, and

(ii) the aggregate amount of the annuity initially payable on retirement under this subsection may not exceed the rate of pay for the bankruptcy judge or magistrate in effect on the day before the retirement becomes effective.

(2) A bankruptcy judge or magistrate shall be entitled to an annuity under this subsection only if the judge or magistrate files a notice of that election with the Director of the Administrative Office of the United States Courts specifying the date on which service would begin to be credited under section 377 of title 28, United States Code, in lieu of chapter 83 or chapter 84 of title 5, United States Code.

(3) A bankruptcy judge or magistrate who makes an election under paragraph (2) shall be entitled to a credit under section 8342 or section 8424 of title 5, United States Code, as the case may be, for any service which is covered under section 377 of title 28, United States Code, as added by this section, pursuant to that election, and with respect to which any contributions were made by the judge or magistrate under the applicable provisions of title 5, United States Code.

(4) With respect to any bankruptcy judge or magistrate receiving an annuity under this subsection who is recalled to serve under section 375 of title 28, United States Code—

(A) the amount of compensation which such recalled judge or magistrate receives under subsection (c) of such section shall be calculated on the basis of the annuity received under this section; and

(B) such recalled judge or magistrate may serve as a reemployed annuitant to the extent permitted in subsection (e) of section 375 of such title.

JUDICIAL SURVIVORS' ANNUITIES

SEC. 3. (a) Section 376 of title 28, United States Code, is amended as follows:

(1) Subsection (a)(1) is amended by—

(A) striking "or" at the end of subparagraph (D);

(B) adding "or" after the semicolon at the end of subparagraph (E); and

(C) inserting after subparagraph (E) the following:

"(F) a full-time bankruptcy judge or a full-time United States magistrate;"; and

(D) inserting after the semicolon at the end of clause (iii) the following: ", or who, in the case of a full-time bankruptcy judge or United States magistrate, notifies the Director in writing of his or her intention to come within the purview of this section on or before the date of an election to retire under section 377 of this title;".

(2) Subsection (a)(2) is amended by—

(A) striking out "and" at the end of subparagraph (D);

(B) inserting "and" after the semicolon at the end of subparagraph (E); and

(C) adding at the end the following:

"(F) in the case of a bankruptcy judge or United States magistrate, an annuity paid under section 377 of this title;".

(b) In the case of a bankruptcy judge or magistrate who elects an annuity under section 2(c), only service for which an annuity under subsections (b) and (f) of section 377 of title 28, United States Code, as added by section 2 of this Act, is calculated under section 2(c) may be used in the computation of an annuity under section 376 of title 28, United States Code, as amended by subsection (a) of this section.

AMENDMENTS RELATED TO RECALL

SEC. 4. (a) Section 155(b) of title 28, United States Code, is amended—

(1) by inserting "section 377 of this title or in" after "annuity in"; and

(2) by inserting "which are applicable to such judge" after "title 5".

(b) Section 375 of title 28, United States Code, is amended—

(1) in subsection (a) by inserting "under the provisions of section 377 of this title or" after "was retired";

(2) in subsection (c) by inserting "under the provisions of section 377 of this title or" after "annuity provided"; and

(3) in subsection (g) by inserting "who retired under the applicable provisions of title 5" after "section".

(c) Section 636(h) of title 28, United States Code, is amended in the second sentence—

(1) by inserting "section 377 of this title or in" after "annuity set forth in"; and

(2) by inserting "which are applicable to such magistrate" after "title 5".

TECHNICAL AMENDMENTS

SEC. 5. Section 631(e) of title 28, United States Code, is amended—

(1) by striking out "(j)" and inserting in lieu thereof "(k)";

(2) by striking out "(i)" and inserting in lieu thereof "(j)"; and

(3) by striking out "(h)" and inserting in lieu thereof "(i)".

CONFORMING AMENDMENTS

SEC. 6. (a) Section 8334(i) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(4) Notwithstanding any other provision of law, a judge or magistrate who is covered by section 377 of title 28 or section 2 of the Retirement of Bankruptcy Judges and Magistrates Act of 1987 shall not be subject to deductions and contributions to the Fund, if the judge or magistrate notifies the Director of the Administrative Office of the United States Courts of an election of a retirement annuity under those provisions. Upon such an election, the judge or magistrate shall be entitled to a lump sum credit under section 8342(a) of this title.".

(b) Section 8402(c) of title 5 of the United States Code, is amended by adding at the end the following new paragraph:

"(7) A judge or magistrate who is covered by section 377 of title 28 or section 2 of the Retirement of Bankruptcy Judges and Magistrates Act of 1987 shall be excluded from the operation of this chapter if the judge or magistrate notifies the Director of the Administrative Office of the United States Courts of an election of a retirement annuity under those provisions. Upon such election, the judge or magistrate shall be entitled to a credit under section 8424 of this title.".

EFFECTIVE DATE

SEC. 7. This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act and shall apply to bankruptcy judges and magistrates who retire on or after July 31, 1987. A bankruptcy judge or magistrate retiring on or after July 31, 1987, but before the date of enactment of this Act, shall be entitled to make an election under section 2(c)(2) of this Act within 90 days after such date of enactment.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DULLES RESOLUTION

Mr. MURKOWSKI. Mr. President, I send a concurrent resolution to the desk on behalf of Senator DANFORTH and others and ask that it be placed on the calendar.

The PRESIDING OFFICER. Without objection, the concurrent resolution will be placed on the calendar.

THANKS TO SENATOR SANFORD

Mr. BYRD. Mr. President, I wish to thank the distinguished Presiding Officer, Mr. SANFORD, for returning to the floor. After I had announced there would be no more rollcall votes earlier today, Senator SANFORD went home, but he returned when no other Senator was available to do the Chair duties. I thank him for returning and I thank him for presiding over the Senate so ably. I always appreciate his courtesies which are very characteristic of him.

SENATOR MIKULSKI INDUCTED INTO MARYLAND WOMEN'S HALL OF FAME

Mr. BYRD. Mr. President, on Tuesday evening our colleagues, the able junior Senator from Maryland [Ms. MIKULSKI], was inducted into the Maryland Women's Hall of Fame in recognition of her many valuable contributions to the State of Maryland and the Nation.

This is an honor which the junior Senator from Maryland richly deserves. Prior to her election to the Senate, Ms. MIKULSKI had an illustrious career as a Member of the House of Representatives and as a member of the Baltimore City Council.

She was elected to the Senate for the 100th Congress. In the short period of time that she has served in this body, the junior Senator from Maryland has rapidly become an effective legislator and a tenacious advocate for the needs of Maryland. She is an efficient Presiding Officer over the Senate and she has performed excellently during her assigned presiding times and she very actively participates in committee work.

The junior Senator from Maryland is a valuable Member of the U.S. Senate and I congratulate her on this most recent honor. I look forward to serving with BARBARA MIKULSKI during the rest of the 100th Congress and for many years to come.

PHILIP T. CUMMINGS

Mr. BURDICK. Mr. President, I rise to acknowledge nearly two decades of service to the Environment and Public Works Committee by Phil Cummings, chief counsel to the committee.

Phil began his work with the committee under the direction of my good friend and former chairman, Senator Jennings Randolph of West Virginia. Since 1970 by his work for the committee and through his actions Phil has epitomized the definition of public service. In no small measure, the quality of the air Americans breathe and the water we drink are better because of his dedicated efforts. Day in and day out, by the strength of his intellect and his understanding Phil proved that an individual can make a difference.

Mr. President, the Congress is blessed with capable and dedicated staff. They labor in obscurity. They believe that public service is an honorable calling. They have deep interest in and genuine concern for public affairs. The quality of Government, and therefore of life in America, depends to a very large degree on who serves as congressional staff and how they serve. Phil Cummings is one of the best. The Committee on Environment and Public Works, the Senate and indeed this country have been the beneficiaries of his work. Phil has left his mark.

I know that I speak for all the present and former members of the Environment and Public Works Committee in expressing our appreciation to Phil for his years of dedicated service and wish him nothing but the best in his new career. He will be missed.

TRIBUTE TO PHILLIP CUMMINGS

Mr. STAFFORD. Mr. President, earlier this week Mr. Phillip Cummings, counsel to the Committee on Environment and Public Works, left the employ of the U.S. Senate.

Mr. Cummings and I arrived in the Senate within months of each other nearly 18 years ago, so it is fitting that the two of us—he at the staff level and myself at the Member level—are leaving this institution.

There are those who distinguish sharply between the role of staff and the role of Senators in this body. But the truth is that staff often become as much a part of the institution as the Members whom they serve, and make contributions which are just as enduring, though often less visible. Such is the case with Mr. Cummings.

Mr. Cummings drafted and helped enact every major environmental law of almost two decades, and many public works statutes as well. No member of the staff has made a contribution exceeding his and few have equalled it. Despite this, his contribution was often less than obvious. He was, and I am sure shall remain, a master at allowing others to take the credit for his work.

There are some Members who would say that a generation of staff learned their skills at his knee, in a manner of speaking. Usually that has been intended as a pejorative. Nevertheless, there is a great deal of truth in that statement. Many of us—staff and Members alike—learned from him and, hopefully, he from us. That has been the strength of the Committee and Environment and Public Works through the years: a collaborative spirit in which each of us borrowed the strengths of others to overcome our weaknesses. Phil Cummings is a man who brought strength, skill, intelligence, and insight to those dealings, and we shall miss him.

I wish him the very best and, on behalf of the millions of Americans who have benefited from his 18 years of public service, express appreciation.

I ask unanimous consent that the RECORD record a list of some of the legislation that bears Phil Cummings' imprint.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A FEW OF THE LAWS WHICH BEAR PHIL CUMMINGS' IMPRINT

Public Law No.	Title	Bill No.	Date
91st Congress 1969–70			
91–137	Clean Air Act Research Appropriations.	S. 2276	Dec. 5, 1969.
91–224	Water Quality Improvement Act of 1969.	H.R. 4148	Apr. 3, 1970.
91–304	Public Works and Economic Development Act.	H.R. 15712	July 6, 1970.
91–512	Resource Conservation and Recovery Act of 1970.	H.R. 11833	Sept. 26, 1970.
91–604	Clean Air Amendments of 1970.	H.R. 17255	Dec. 31, 1970.
91–605	Federal-Aid Highway Act of 1970.	S. 4418	Dec. 31, 1970.
92d Congress 1971–72			
92–500	Water Pollution Control Act Amendments of 1971.	S. 2770	Oct. 18, 1972.
92–532	Marine Protection, Research Act of 1971 (Ocean Dumping).	H.R. 9727	Oct. 23, 1972.
92–574	Noise Control Act of 1971.	H.R. 11021	Oct. 27, 1972.
99d Congress 1973–74			
93–87	Federal-Aid Highway Act of 1973.	S. 502	Aug. 13, 1973.
93–207	Federal Water Pollution Control Act Amendments.	S. 1776	Dec. 28, 1973.
93–239	Emergency National Maximum Highway Speed Limit Act (55 MPH).	H.R. 11372	Jan. 2, 1974.
93–319	Clean Air Act Amendments.	S. 2680	June 22, 1974.
93–611	Solid Waste Disposal Act Extension.	H.R. 16045	Jan. 2, 1975.
94th Congress 1975–76			
94–280	Federal-Aid Highway Act of 1976.	S. 2711	May 5, 1976.
94–369	Public Works Employment Act.	S. 3201	July 22, 1976.
94–580	Solid Waste Utilization Act of 1976.	S. 2150	Oct. 22, 1976.
94–587	Water Resources Development Act of 1976.	S. 3823	Oct. 19, 1976.
95th Congress 1977–78			
95–95	Clean Air Act Amendments of 1977.	H.R. 6161	Aug. 7, 1977.
95–190	Safe Drinking Water Act Amendments of 1977.	S. 1528	Nov. 11, 1977.
95–217	Water Pollution Control Act Amendments of 1977.	H.R. 3199	Dec. 27, 1977.
95–599	Federal-Aid Highway Act of 1978.	H.R. 11733	Nov. 6, 1978.
96th Congress 1979–80			
96–502	Safe Drinking Water Act Amendments.	H.R. 8117	Dec. 5, 1980.
96–510	Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund).	S 1480	.
97th Congress 1981–82			
97–23	Clean Air Act Amendments (steel stretchout).	H.R. 3520	July 17, 1981.
97–327	Federal-Aid Highway Act...	S. 2574	Oct. 15, 1982.
98th Congress 1983–84			
98–313	Environmental Programs Assistance Act.	S. 518	June 12, 1984.
98–616	Solid Waste Disposal Act Authorizations.	H.R. 2867	Nov. 9, 1984.
99th Congress 1985–86			
99–339	Safe Drinking Water Act Amendments of 1986.	S. 124	June 19, 1986.
99–499	Superfund Amendments and Reauthorization of 1986.	H.R. 2005	Oct. 17, 1986.
99–519	Asbestos Hazard Emergency Response Act.	H.R. 5073	Oct. 22, 1986.

TRIBUTE TO JUDGE JOHN B. SOCKWELL

Mr. HEFLIN. Mr. President, it is with sadness that I rise, today, in tribute to Judge John B. Sockwell, of Tuscumbia, AL, who passed away several weeks ago. Judge Sockwell served for many years as the probate judge of Colbert County, my own county in Alabama, and also served in various other county positions. He was a great man who was devoted to public service, for its own sake, and for its own rewards. He served the people of my county in an outstanding capacity.

There is vanishing from the American scene the truly great county officials. Judge Sockwell's life signifies the best in service to his area. He possessed a combination of rare qualities which made service to our community, our county, and our State his only goal. He was a man of impeccable integrity, of tireless energy, and of tremendous intelligence which resulted in true service to his fellow citizens.

We are thankful for his efforts and will never forget his work.

Judge Sockwell first started as sheriff of Colbert County. He was an outstanding sheriff, and people recognized his willing efforts to serve the public interest. He was then promoted by the support and vote of the people to the highest position which can be held by a county official, that of probate judge, which is the head of the county governing body. Judge Sockwell was an excellent judge. He was the embodiment of wisdom and jurisprudence. Like all good judges, his most notable accomplishments were made through his hard work and great judgment. During his tenure, he earned the trust, the respect, and the admiration of the people of Colbert County. Perhaps more tangible—although not more important—accomplishments were his work in overseeing the construction of the Muscle Shoals Airport and the north addition to the Colbert County Courthouse.

Mr. President, there are a few elected officials who the public does not allow to retire from public office. Judge Sockwell enjoyed this type of support. Even after he retired from the position of probate judge, he was drafted by public demand back into office, being elected as the chairman of the Colbert County Board of Revenue—now the county commission.

Throughout his lifetime, Judge Sockwell worked to contribute to our community in civic affairs and in trying to attract business to the county in addition to his work in public office. He was chairman of the First Baptist Church of Tuscumbia Board of Deacons, was a charter member of the Helen Keller Property Board, and he assisted with organizing Hope Haven. Additionally, he was president of the Tuscumbia Chamber of Commerce, the Tuscumbia Kiwanis Club, was district chairman of the Boy Scouts of America, and was on the board of the Salvation Army.

Judge Sockwell devoted his life to our community and region. His efforts remain as an example of selfless service to others. He was also a great friend and I will miss him, a sentiment I am sure that is shared throughout Colbert County. Yet, I believe that his example stands as a guide for others to follow. The values and attitudes that he held should be embraced by all, for that is our duty as citizens of this great Nation.

I ask unanimous consent that the attached newspaper article be printed in the Congressional Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

EX-COLBERT PROBATE JUDGE SOCKWELL DIES

Tuscumbia.—Former Colbert County Sheriff and Probate Judge John B. Sockwell, 92, 109 E. Second St., died Saturday, Feb. 13, 1988, at Helen Keller Memorial Hospital, Sheffield.

He was chairman of the Colbert County Board of Revenue (now the County Commission) during construction of the Muscle Shoals Airport and the north addition to the County Courthouse. He was chairman of the First Baptist Church—Tuscumbia Board of Deacons, a charter member of the Helen Keller Property Board, which developed Ivy Green, and he assisted with organizing Hope Haven.

He was also president of the Tuscumbia Chamber of Commerce and Kiwannis Club, District Chairman of the Boy Scouts of America, and was on the Salvation Army Board.

The funeral will be 2 p.m. Monday at First Baptist Church—Tuscumbia with the Rev. William Austin officiating. Burial will follow at Colbert Memorial Gardens with Morrison Funeral Home, Tuscumbia, directing.

The family will receive friends from 6-8 p.m. tonight at the funeral home. The body will be at the church one hour before the service. Memorials may be made to the First Baptist Church—Tuscumbia Educational Trust Fund.

Survivors include his son, Leon D. Sockwell, Tuscumbia; daughter, Dorothy S. Kennemer, Tuscumbia; sister-in-law, Ella H. Sockwell, Florence; five grandchildren and three great-grandchildren.

Honorary bearers include members of the mens class at the First Baptist Church—Tuscumbia.

TRIBUTE TO WILLIAM H. MITCHELL III

Mr. HEFLIN. Mr. President, I am honored to rise, today, to pay tribute to my good friend, William H. Mitchell III, of Florence, AL. Throughout his life, Bill Mitchell has worked to contribute much to the people of the city of Florence, to the quad city area, and, indeed, to my home State of Alabama. He is one of those rare individuals who believes that each citizen owes something to society and he has endeavored to enrich his community and our State with his care and efforts.

Because of his extended work on behalf of the Shoals area, Bill was honored earlier in the year by the Shoals area Chamber of Commerce with the Lifetime Achievement Award. I know that Bill greatly appreciates this recognition by his fellow citizens. He is a quiet person and moves without a lot of noise to accomplish a great deal. Knowing him the way I do, however, he probably offered some protests that he did not deserve the award and that he had merely been performing his civic duties. Yet, I can think of no individual who was more deserving of this recognition. Bill Mitchell has made tremendous contributions on behalf of our communities in the Shoals area, and throughout his life he has won the respect, the admiration, and the gratitude of the people of the area, and the people of Alabama.

Bill Mitchell is from a family that has a distinguished history and a long tradition of public service and involvement in my State. His great grandfather, Rev. William H. Mitchell, was a Presbyterian minister who was arrested and taken from the pulpit of the First Presbyterian Church of Florence by Union Troops during the War Between the States for praying for the success of the Southern Confederacy. Bill's father, William H. Mitchell II, was a great attorney in Florence who served during his career as the president of the Alabama State Bar. His grandfather, J.J. Mitchell, was a well-known judge. Both of these gentlemen made many notable contributions to the law in Alabama and to the Shoals area.

Bill has followed in the outstanding example of his family and has continued the Mitchell family's tradition of being a cornerstone in the community and our State. I believe that his record demonstrates his tremendous service. He attended Davidson College. Soon after the outbreak of World War II he joined the Army and served to the rank of technical sergeant, earning the Legion of Merit, and the Bronze Star with Oak Leaf Cluster. In 1946 he received his law degree from the University of Alabama, and then joined the Florence law firm of Mitchell & Poellnitz, the firm which his father had founded.

In 1958 Bill became president and chief executive officer of the First National Bank of Florence. As a result of his able leadership, the bank has grown from $23.6 million in assets with three offices to almost $300 million in assets and eight offices today. Bill has been recognized by his colleagues in the banking business for his outstanding abilities. He has served as president of the Alabama Banking Association, as State vice-president of the American Bankers Association, and as a former director of the Birmingham branch of the Federal Reserve Bank of Atlanta.

In addition to the contributions Bill Mitchell has made to his professions, He has been active in working to recruit business to the quad cities area and to Alabama. He served as director of the Florence-Lauderdale Industrial Expansion Committee, as president of the Florence Chamber of Commerce, and as director of the Alabama State Chamber of Commerce. He has played an instrumental role in making possible the coordinative efforts that now mark the Shoals area and the spirit of partnership that now mark Lauderdale and Colbert Counties, and he has really set the example for all to follow in these efforts.

I remember once when Bill made a speech to the officials and directors of one of the largest industries in north Alabama. He admitted that, at times, the four cities and two counties have been divided under certain circumstances. However, he continued to say that in times of great need, or in times when the possibility arose that the quad city area and Alabama as a whole would benefit, citizens and officials in the Shoals area have always combined efforts and pulled together. He cited as an example the work of Colonel Worthington, who had brought the area together when the Tennessee Valley Authority Act was passed. Bill Mitchell has reminded the citizens of our communities that we all need to pull together to reach our full potential, and accomplish all of our goals.

Bill Mitchell has also played a leading role in civic affairs and in organizations that serve the community. He has given willingly of his time and his efforts to ensure the vitality and success of various organizations. He has served as a director of the public hospital board of Lauderdale County and the city of Florence, as past chairman of the American Red Cross chapter, and as past director of the United Way of Lauderdale County. He is a member and past president of the Florence Rotary Club. He has served as chairman of the Muscle Shoals Regional Library, and as a trustee of the Alabama Department of Archives and History.

Among his most important contributions have been those on behalf of the University of Alabama, for which he has served as a trustee. His father also served as a trustee for the University, and it has been appropriate for Bill to follow in that capacity and further the already significant contributions that the Mitchell family has made to education in our State. Bill has served the University of Alabama in other capacities, as well, having been a member of the University of Alabama Presidential Advisory Search Committee, and the board of visitors of the University of Alabama College of Commerce and Business Administration, and having served as vice president of the University of Alabama Alumni Association.

Finally, Bill Mitchell has been an active member of his church, the First Presbyterian Church of Florence, and has been a ruling elder of the church.

Mr. President, I believe that the real tribute to my friend Bill Mitchell lies in a review of the many activities in which he has been involved, the good works for which he is responsible, and the many close friends with which he is blessed. He is the kind of person who is not content to leave things the way he sees them, but wants to make them better. More importantly, he is a person who helps others to become better. At the awards banquet where he received the lifetime achievement award, Bill said that, "I have never met a person who I did not learn something from and who did not mean something special to me." Bill Mitchell is the kind of person whose actions speak louder than his words. Yet, I believe these words come close to describing him and his special personality. I know that his family is very proud of him and that his many friends join me in this tribute.

Mr. President, I ask unanimous consent that the attached newspaper article which describes the lifetime achievement award Bill Mitchell received be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MITCHELL RECEIVES HONOR

(By Leonard Kransdorf)

SHEFFIELD.—In his 66 years, Bill Mitchell says he has never met someone he did not learn something from.

Tuesday, the community showed it has learned from Mitchell by giving him a Lifetime Achievement award.

"Life in this community has been a glorious experience," Mitchell said after he was presented the award at the annual Chamber of Commerce of the Shoals banquet at the Ramada Inn.

Also honored was Grady Liles, who received the Citizen of the Year Award, and last year's winner, Mary Settle Cooney. The guest speaker for the banquet was slated to have been Gov. Guy Hunt but because of bad weather conditions he had to cancel his trip to the Shoals.

Mitchell was given his award for his years of involvement in the community with such groups as the United Way and the American Red Cross and as a trustee for the University of Alabama and service since 1958 on the board of Eliza Coffee Memorial Hospital in Florence.

"He is a quiet man who does not ask for plaudits," said Dick Biddle, owner of WOWL-TV, who presented the award to Mitchell.

During his life in the Shoals, Mitchell has seen many changes, most notably the coming together of the two counties and four cities.

"That can be seen right here at this gathering," said Mitchell, retired president of the First National Bank of Florence, referring to the 1986 merger of the chambers of commerce in Lauderdale and Colbert counties.

One of the advantages to growing up in the area has been the ability to develop lifelong relationships, he said.

"I have never met a person who I did not learn something from and who did not mean something special to me," he said to the crowd at the sold-out banquet.

One of the reasons he became so involved in the community was his desire to help, Mitchell said.

"I basically just like people and feel that if an individual is going to spend time in a community he should help that community," he said before the banquet. "A lot of people have helped this area out and I am just one of them."

Also recognized at the banquet were four men who worked to bring the Lauderdale and Colbert chambers together. Cited were Dan David, Renny Breazeale, Robert Redd and Greg Lewis.

REPORT ON THE PHILIPPINES LOCAL ELECTIONS

Mr. HELMS. Mr. President, when Corazon Aquino became the leader of the Philippines in 1986, most Americans had high hopes that her administration would bring about a restoration of peace and democracy in that troubled land. Unfortunately, as the months went by, Mrs. Aquino failed to consolidate her political base. Not only did she lose the confidence of the military leaders who were trying to fight the Communist insurgents, she also lost the support of the political leaders who had helped her to supplant the Marcos rule.

The most recent evidence of the disintegration of the political systems in the Philippines is found in the results of the recent local elections—elections which began in January. The complete tallies are still not in because of the high level of violence, and the failure to maintain the integrity of the vote-counting and certification process.

Mr. President, an American scholar, Garrett N. Scalera, was one of the few Americans to visit the Philippines for the purpose of observing the election process. Mr. Scalera spent many days there talking with officials of all parties and the U.S. Embassy. He has furnished me with a copy of his report for the use of the Foreign Relations Committee and other Senators. I commend him for his keen interest in the status of democracy in the Philippines.

Mr. President, I ask unanimous consent that this report be printed in the RECORD at the conclusion of my remarks.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

AN ANALYSIS OF THE PHILIPPINE LOCAL ELECTIONS

(By Garrett N. Scalera)

(Report to the U.S. Senate Foreign Relations Committee March 2, 1988)

Nationwide elections for 16,457 Gubernatorial, Mayoral, and town Councilor posts were held in the Philippines in 63 of the 73 provinces on January 18, 1988. Because of anticipated high levels of violence, elections in the remaining ten provinces were staggered over the next few weeks to insure adequate security (with seven towns in Mindanao still to be scheduled). Contrary to initially high expectations, however, it now appears unlikely that these elections will serve as a basis for a true "restoration" of democracy or provide a much hoped-for basis for renewed political stability. More than a month after the first returns, accusations of electoral irregularities and fraud continue to mount and election related violence continues unabated. Tragically, despite her coalition's candidates strong showing, the biggest loser appears to be the President herself.

When Corazon Aquino came to power as President in 1986 she had the overwhelming backing of the Philippine people, the political leadership, and the good will of proponents of democratic systems throughout the world. In just two years her political coalition has disintegrated and her immense popular support has begun to sharply decline.

Mrs. Aquino's problems began with her decision to proclaim a "Revolutionary" government, to renounce the constitution she had sworn to uphold, and to dismiss virtually all appointed and elected officials ranging from the members of the Supreme Court to the elected captains of every baranguy (village) in the country. Many of those who had enthusiastically supported her in the expectation of her championing a return to democracy abandoned her at this point. Nevertheless, it was not long before these political leaders—her initial supporters—rather than the leaders of the KBL party headed by former President Marcos, who banded together to form her most affective opposition as the Grand Alliance for Democracy (GAD) in the Senate and House elections in May of this year. The atmosphere which resulted in accusations of massive fraud in three elections as well as Mrs. Aquino's apparent sympathy for representatives of the extreme left and the communist party led these and other concerned citizens who had initially enthusiastically supported her to become her most vocal opponents.

At the same time a failure to deal effectively with the nation's pressing problems and a growing suspicion of a serious amount of corruption on the part of her numerous relatives in high positions and favored cronies further eroded confidence in her ability to accomplish the lofty goals she had set for her administration.

More than anything before, this election was the test for Mrs. Aquino's administration; a critical turning point in determining her commitment to the ideals of the "EDSA Revolution." Her popular support was already seriously waning during the early stages of the campaign. A highly respected polling organization supportive of her (Ateneo), for example, found that her popularity early this year had fallen from 70% to 55%. Open criticism by her Vice President, Salvador Laurel, last year led to his resignation as foreign minister in her cabinet. During the election campaign the Senate Majority leader, Jovita Salonga, head of the Liberal Party, one of the four parties within her coalition, began to criticize her relatives, accusing her family of creating a "dynasty" comparable to that of Marcos and expressly forbidden in the New Constitution.

By the time of the elections the ruling coalition had become seriously fragmented with Laurel's UNIDO party and Salonga's Liberal Party emerging more as opposition parties than as coalition members. Even the LAKAS Party, headed by her brother-in-law "Butz" Acquino and the PDP LABAN Party, headed by her brother "Peping" Cojuanco, were at odds. Mrs. Aquino's credibility was further undermined by the decision of both Butz Aquino and Peping Cojuanco to make deals with former president Marcos political cronies and reputed communists to run under their banners. Some of these people did very well indeed in the elections, including virtually across-the-board sweeps in their home provinces, but these victories understandably have fanned rumors of fraud and a return to the corrupt politics of the Marcos era.

One tragic aspect of these elections has been the high level of violence. A high level of violence has been traditionally characteristic of Philippine elections. Unfortunately these elections proved to be no exception. According to a daily tally kept by the *Globe* newspaper, 137 had died in election related violence as of January 23, 116 had been wounded, and 46 kidnapped. What distinguishes the violence in these elections from previous ones is the unprecedented number of gubernatorial and mayoral candidates among the victims—42 dead. To give a sense of perspective, one of the best campaigning points of the late Ramon Magsaysay in his successful 1953 Presidential bid, was the unacceptably high level of election related violence evidenced by the assassination of just one mayoral candidate, Lopez Padilla.

Delayed polling in 10 regions as well as delays in proclaiming winners and dealing with election complaints are prolonging the violence. In the Lanao Sur region where elections have been delayed, for example, there have been more than 100 killings are just the last few weeks. Throughout the nation violence continues unabated as delayed proclamations of results and increasing election complaints have increased tensions. Most winning candidates were not officially proclaimed until a week or more after the elections. On February 2nd, 12,000 elected officials were administered their oath of office. Nevertheless, more than 4,000 winning candidates remained unproclaimed due to unfinished canvassing, suspended proclamations, and the setting aside of proclamations, already made. By way of contrast, during previous administrations, election results could be expected within several days or at most a week after elections.

Much of the problem of election delays can be attributed to confusion and ineptness on the part of COMELEC. COMELEC—the National Commission on Elections—has sole authority for arranging and overseeing elections and proclaiming results, and for adjudication of formal complaints. Under the previous constitution, COMELEC's impartiality was perceived to be in great part due to the involvement of opposition party representatives at all stages of the election process as well as by representation on the commission itself. Most of these safeguards were abolished under the new constitution apparently in the idealistic belief that safeguards, checks and balances, need no longer be required under a government committed to honesty and implementing the will of the people. Unfortunately, this has not proved to be the case.

As election returns began to come in COMELEC began to be delayed with formal complaints of election fraud and irregularities. Many of these were leveled against COMELEC officials themselves and a substantial number of these have already been substantiated. These problems were dramatically compounded when the terms of office of COMELECs ruling board of commissioners were allowed to expire on February 2, leaving no authority to deal with over 600 formal complaints already filed or other problems such as COMELEC's decision on January 28 that 128 proclaimed winners in 26 areas across the nation were in fact invalid. Incredibly, only as of now, one month later, has a full new commission been reconstituted.

As might be expected the major perpetrators of violence are thought to be the communist and this appears to be so. But they are by no means the only culprits. As overall violence throughout the nation, far exceeding the election related violence, has mounted, prominent private citizens have sought to defend their families and interests by forming private "armies" or vigilante groups. Additionally, the long quiescent Moro National Liberation Front has made a stunning comeback over the last year and thousands of individual peasants have felt compelled to arm themselves. Although it is still too early to make a detailed analysis, this election might will come to be seen as a turning point to a return to the pre-martial law era of fuedal-like warlords or political barons; an ominous trend which if it continues could well lead to a general disintegration of law and order and ultimately civil war.

SOVIET ARMENIA

Mr. PRESSLER. Mr. President, I have closely followed recent events in the Armenian Soviet Socialist Republic. What is occurring there, and the eventual official Soviet Government response to it, will tell us much about the future direction of Soviet nationalities policies. This is a subject which always has created problems for those who wield power in the Kremlin. It will continue to be the source of centrifugal forces in the Soviet political system.

Mr. President, in case some may not have had the opportunity to see the excellent series of articles on the Armenian question published in the New York Times, I ask unanimous consent that they be printed in the RECORD at the close of my remarks. We depend on outstanding reporters such as Philip Taubman and Felicity Barringer to let us know what is happening at this critical time in the Soviet Union.

So long as the Armenian national spirit is kept alive, as it surely will be, we will see Armenians struggling in the Soviet Union for stronger rights to develop and preserve their culture and unique identity. I am confident that all Americans wish them well in their heroic efforts.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 24, 1988]

SOVIET SAYS ARMENIAN UNREST BROKE OUT IN SOUTHERN AREA

(By Philip Taubman)

Moscow, February 23.—The Soviet Union today reported major Armenian nationalist disturbances in an ethnically volatile area in the southern part of the country.

The actions, including a rare show of defiance against Soviet policy by local government officials, appeared to be the most serious outbreak of nationalist protests since two days of anti-Soviet rioting shook the central Asian city of Alma-Ata in December.

The press agency Tass said there had been a "breaching of public order" in the Nagorno-Karabakh Autonomous Region, a remote mountainous area within the Azerbaijan Republic near the border with Iran.

NATIONALIST PROTESTS ARE BUILDING

Tass said part of the Armenian population, the predominant ethnic group, was demanding that the territory be attached to the neighboring Armenian Republic. The region has long been a source of dispute between the two republics.

The protests are the latest in nationalist demonstrations around the Soviet Union that have alarmed party leaders in Moscow.

The protests apparently led Mikhail S. Gorbachev, the Soviet leader, to call last week for a Central Committee meeting devoted to nationalities policy, which he described as "the most fundamental, vital issue of our society."

The Government newspaper Izvestia said the Armenian protests began 10 days ago and included public rallies and school boycotts. It said they had spread to the Armenian capital, Yerevan, where a "noisy" demonstration demanded the transfer of Nagorno-Karabakh to Armenia.

Unofficial accounts reaching Moscow said that large demonstrations were held in Yerevan the last four days and that the local party leader, Karen S. Demirchyan, had appealed for calm on television Monday evening.

In an indication of Moscow's concern, Izvestia said two nonvoting members of the Politburo, Pyotr N. Demichev and Georgi P. Razumovsky, had been sent to Stepanakert, capital of Nagorno-Karabakh. There were unconfirmed reports that Vladimir I. Dolgikh, a nonvoting member of the Politburo, and Anatoly I. Lukyanov, a Central Committee secretary, had been sent to Yerevan.

DEMANDS ARE REJECTED

Tass said the Central Committee had rejected demands for uniting Nagorno-Karabakh with Armenia and had called for maintaining order. Soviet officials said the decisions were made last week in a full meeting of the committee.

Izvestia reported that a group of members of the Nagorno-Karabakh Soviet, the region's legislature, approved a resolution Saturday calling for high-level consideration of the transfer of the region to Armenia.

Several factors apparently prevent the unification of Nagorno-Karabakh with Armenia, including Azerbaijani objections and a reluctance by the authorities in Moscow to adjust internal political boundaries. Giving in to nationalist pressure would also be considered a dangerous precedent.

The Soviet Union is composed of more than 100 ethnic groups that were united under Soviet control in the 1920's, in some cases by force. Many remain hostile to Moscow and, encouraged by Mr. Gorbachev's calls for increased openness and democracy, have agitated for greater autonomy.

Armenians, along with Jews and ethnic Germans, have sought to emigrate to the West in greater numbers than other Soviet national groups. More than 1,000 Armenians a month have been receiving permission to emigrate since late last year. Many have moved to the Los Angeles area, where there is a large Armenian population.

Russians make up 51.5 percent of the Soviet population, but Soviet experts expect Russians will be a 49 percent minority by 2000.

The force of nationalism is viewed by some Western analysts as the most serious long-term threat to the integrity of the Soviet state.

The Government has reported incidents of nationalist protest during the last 18 months in the Baltic cities of Vilnius, Riga and Tallinn as well as the central Asian cities of Alma-Ata and Tselinograd and the Siberian area of Yakutia.

The Government today temporarily closed a Baltic republic, Estonia, to foreign diplomats and journalists. Estonian nationalist groups have called for demonstrations in the republic Wednesday to mark the 70th anniversary of Estonia independence day. The republic was independent for 20 years between the World Wars. Estonia and its sister republics, Lithuania and Latvia, were annexed in 1940.

The disturbances in Nagorno-Karabakh began Feb. 11 when leaflets started appearing around the region calling for unification with Armenia, Izvestia said.

The region is an area of arid mountains that is known for the longevity of many residents and the production of sheep, pigs, grapes and tobacco. It is composed of 126,000 Armenians, who are predominantly Christian, and 37,000 Azerbaijanis, who are Moslem.

Although the vote of the local Soviet on Saturday favoring a review of Nagorno-Karabakh's status was declared invalid because of unspecified procedural violations, a text of the resolution was printed in Russian and Armenian in the region's main newspaper, Soviet Karabakh, according to Izvestia.

Izvestia reported that Mr. Razumovsky, who is also a Central Committee secretary, said at a meeting of the local party organization in Stepanakert on Monday evening that any attempt to break Nagorno-Karabakh away from Azerbaijan was unacceptable.

The local party organization adopted a resolution that conformed with his statement, Izvestia said. Tass said the demands for secession "contradict the interests of the working people in Soviet Azerbaijan and Armenia and damages interethnic relations."

[From the New York Times, Feb. 25, 1988]

SOVIET TRYING TO QUELL ETHNIC UNREST

(By Philip Taubman)

Moscow, February 24.—The authorities in two southern Soviet republics moved today to quell Armenian nationalist protests that appeared to be developing into a major problem for Mikhail S. Gorbachev and the Communist Party.

Reports by the press agency Tass indicated that disturbances were continuing in the Armenian and Azerbaijani republics and that local government and party agencies were having difficulty restoring order.

Tass said party officials in the two republics held a series of meetings today to consider "urgent measures to normalize the situation."

The substance and tone of the government reports suggested that the problems constituted the most serious officially confirmed case of nationalist unrest in the Soviet Union in many years.

REGIONAL PARTY LEADER DISMISSED

The demonstrations center on demands that the Nagorno-Karabakh Autonomous Region, a predominantly Armenian area within Azerbaijan, be attached to Armenia. Most Armenians are Christian, most Azerbaijanis Moslem. The issue has provoked disturbance for several days in both Nagorno-Karabakh and Armenia.

Tass said today that the autonomous region's party leader, Boris S. Kevorkov, believed to be either a Russian or an Azerbaijani, was dismissed today and replaced by Genrikh Pogosyan, an Armenian.

A British tourist reached by telephone in Yerevan, the capital of Soviet Armenia, said late today that "large crowds" were visible throughout the city during the day.

The Briton, who said his tour group arrived in Yerevan this morning from the Azerbaijani capital of Baku, said tens of thousands of people, divided into groups, paraded through the city during the day. He said that the mood of the demonstrators seemed "cheerful" and that he saw no evidence of violence or confrontations with the police and no signs of a rumored general strike.

Unofficial reports from Yerevan had said that more than 100,000 people gathered in a downtown square each of the last three days to petition the authorities to transfer political control of Nagorno-Karabakh to Armenia.

PAUCITY OF INFORMATION

The tourist said the authorities in Yerevan had made no effort to limit sightseeing by his group. By evening most of the demonstrations had dissolved, he reported.

His account was one of the few descriptions of the unrest that did not come from the Government, which has provided no information about the number of demonstrators, or from dissidents, who often exaggerate such figures.

A Foreign Ministry spokesman, Gennadi I. Gerasimov, said in Moscow today that he had been told by a senior Armenian official that the protests in Yerevan "were of a peaceful nature." But he declined to provide any other information that had not already been reported by Tass or published in Izvestia, the Government daily.

Western correspondents, who must notify the Government about travel plans several days before departure, cannot visit the troubled areas until the weekend at the earliest. Government officials reached by telephone in Yerevan refused to comment, and direct dialing of calls to Armenia, usually routine from Moscow, was not possible in most cases today. Calls were intercepted by operators and placed after a delay of several hours, if at all.

A number of nationalist protests around the country in the last 18 months have alarmed Mr. Gorbachev and the party leadership, raising concerns that increased agitation by many of the country's more than 100 ethnic groups could pose a threat to the cohesion of the Soviet state.

One Tass report said party leaders in Nagorno-Karabakh concluded at a meeting today in the regional capital of Stepanakert that "unless responsible measures are taken now," the actions and demands "might lead to unpredictable consequences and even to consequences difficult to remedy."

The statement suggested to Western diplomats a concern on the part of local political leaders that if the unrest does not abate, some form of martial law might be imposed by Moscow.

The autonomous region is home to 126,000 Armenians and 37,000 Azerbaijanis. Several factors apparently prevent the unification of the autonomous region with Armenia, including Azerbaijani objections and a reluctance by Moscow to alter internal political boundries. Acceding to nationalist pressure would also be considered a dangerous precedent.

AN ECHO IN ESTONIA

Far to the north, in the Baltic republic of Estonia, there was a peaceful nationalist demonstration today, according to Urmas Reitelmann, an Estonia television reporter.

Mr. Reitelmann said in a telephone interview that a gathering of about 4,000 Estonians took place this evening in Tallinn, the capital, to mark the 70th anniversary of the beginning of the republic's brief period of independence between the world wars.

Estonia, along with two other Baltic republics, Latvia and Lithuania, was annexed by the Soviet Union in 1940, and nationalist sentiment is strong in all three.

Mr. Reitelmann said the authorities made no effort to break up the rally, which lasted two hours.

[From the New York Times, Feb. 26, 1988]

NEWS CUT OFF AS ARMENIAN PROTESTS CONTINUE

(By Philip Taubman)

Moscow, February 25.—Armenian nationalist protests continued today in two southern Soviet republics as the authorities in Moscow moved to limit the flow of information from the area.

Almost all telephone connections from Moscow to the affected areas in the Armenian and Azerbaijani republics were cut off, and the Government temporarily banned travel to the region by foreign reporters.

The press agency Tass, which had provided a modicum of information about the protests earlier in the week, made almost none available today.

The demonstrations appear to be the most serious case of nationalist unrest in the Soviet Union in many years.

A CIRCUITOUS NETWORK

Most new information about the disturbances to reach the capital today came from dissidents who said they had received news through a circuitous network of phone calls from Moscow through other cities to Yerevan, the Armenian capital.

The dissidents, who are not always reliable sources of information, said the large demonstrations continued to disrupt Yerevan today.

The demonstrations center on demands that the Nagorno Karabakh autonomous region, a predominantly Armenian area within Azerbaijan, be attached to Armenia. Most Armenians are Christian, most Azerbaijanis are Moslem.

The Feb. 23 edition of Kommunist, the main newspaper in Yerevan, reached Moscow today. It contained the text of a televised speech Monday evening, in which the party leader of Armenia, Karen S. Demirchyan, appealed for the restoration of order.

RALLIES AT OPERA HOUSE

Noting that there had been rallies in front of the Yerevan opera house for several days, Mr. Demirchyan called the situation "serious."

Also reaching Moscow today was a document that appeared to be a copy of a resolution approved by members of Nagorno Karabakh's nominal legislature last week calling for the unification of the region with Armenia.

The resolution, which was approved Saturday by a vote of 110 to 7, with 13 abstentions, was renewed Wednesday, according to one Muscovite who said he was in touch with residents of Stepanakert, the capital of Nagorno Karabakh.

It is rare in the centralized Soviet system for Government officials to defy policies set in Moscow. Last week the Communist Party Central Committee rejected demands that Nagorno Karabakh be incorporated into Armenia.

Tass reported that the Deputy Procurator General of the Soviet Union, one of the country's top law enforcement officers, was in Stepanakert to investigate reports that Armenians were being harassed by the authorities.

The report cited one rumor of an attack by militiamen on a car owned by a resident of Stepanakert and a report that 60 Armenians had been murdered.

Tass reported that the official, Aleksandr Katusev, had found these, and most other accusations, groundless.

Mr. Katusev, according to Tass, said, "At present, explanatory work is being conducted among the population in the autonomous region with the aim of normalizing the situation and asserting a businesslike atmosphere."

"I will not conceal that there have been offenses punishable by criminal law," he said.

[From the New York Times, Feb. 28, 1988]

ARMENIAN PROTESTS REPORTEDLY SUBSIDE

(By Felicity Barringer)

Moscow, Feb. 28.—The streets of Yerevan were quiet today for the first time in more than a week, as organizers of huge nationalist demonstrations that had paralyzed the Armenian capital met to discuss a planned month-long suspension of the protests, Armenian nationalists said.

Smaller demonstrations continued, however, in the Nagorno-Karabakh Autonomous Region, the predominantly Armenian area within the Azerbaijan republic, according to reports reaching Western reporters in Moscow. The demand that the region be incorporated into the neighboring Armenian republic has been the focus of the protests.

In Yerevan, according to Armenians there who were reached by telephone, some nationalists were challenging the protest leaders, saying that the leaders had given an unduly optimistic assessment of Soviet leader Mikhail S. Gorbachev's desire to accommodate Armenian demands.

ASSURANCES FROM GORBACHEV

After receiving assurances from Mr. Gorbachev that he would personally study their demands, the protest leaders on Saturday had argued in favor of the suspension of protest before about 100,000 demonstrators gathered in Yerevan, who then appeared to give their approval of the proposal with a show of hands, according to Armenians there.

While Mr. Gorbachev's call for a return of order was being read over Armenian and Azerbaijani televison Friday, the Soviet leader was meeting with two leading Armenian writers, Zori Balayan and Silva Kaputikyan, who said later in interviews that Mr. Gorbachev had given the assurances during the meeting.

The Armenian protesters are following the lead of the Nagorno-Karabakh governing council in demanding that it be united with Armenia. The disturbances sparked by the Communist Party Central Committee's rejection of the request appear to be among the most serious incidents of nationalist unrest in Soviet history.

A Soviet prosecutor today confirmed the deaths of two Azerbaijani residents of Nagorno-Karabakh in the early days of the protests. In a Soviet radio broadcast monitored by the British Broadcasting Corporation, the prosecutor, Aleksandr Katusev, said that the deaths had occurred in the Agdamsky district of Azerbaijan. It was the first official confirmation of fatalities, which a nationalist leader had reported Saturday.

A videotape said to be taken of protests in Yerevan has been brought to Moscow by Sergei I. Grigoryants, a dissident journalist who said he spent 24 hours in the Armenian capital last week. He turned the tape over to the ABC News Moscow bureau, which played it for reporters here today.

The videotape, which appeared to be authentic, offered evidence that last week's peaceful protests, which drew hundreds of thousands of Armenians, had caught the imagination of the Armenian people and rendered the Communist government temporarily irrelevant.

The videotape was said to be taken last Thursday and Friday, and offered confirmation of accounts that hundreds of thousands of people gathered in front of Yerevan's opera house singing nationalist songs, chanting and thrusting their hands in the air.

The Armenian protests were "perhaps the most significant democratic event in the Soviet Union in the past 70 years," said Mr. Grigoryants.

According to other reports from Yerevan, thousands of Armenians continued to stream into the capital "from all corners of the republic," as one Armenian put it.

Although the demonstrations did not seem particularly anti-Soviet, the image of a city in the Soviet Union temporarily out of the control of the authorities illustrated the potential dangers posed by nationalist forces that are pulling against the cohesion of the Soviet state.

For anyone accustomed to the order and calm of Soviet cities, where even a handful of demonstrators are usually quickly dispersed by the police, the scenes shown in Yerevan on the tape seemed extraordinary.

Thousands of protesters streamed through the streets. Normal traffic and business seemed to have come to a halt. The central opera house square filled with protesters, many of whom carried banners and flags. Some banners said, "Karabakh is a test of perestroika," a reference to Mr. Gorbachev's policy of restructuring the economy and expanding political freedoms. Another said, "Self-determination is not extremism."

NO-DRINKING ORDER

The organizers, who formed a committee representing various regions and various enterprises in Yerevan, also were said to have maintained discipline, including a no-drinking order that lasted throughout the week.

Armenians reported last week that a large contingent of Soviet troops was in the area but they did not interfere with the demonstrations.

The Communist Party leadership has traditionally made public order a cardinal value, and has been quick to contain nationalist political expressions. Last year some demonstrations by Crimean Tatars and nationalists from the Baltic republics were permitted, but more recently such activities have been suppressed.

Events reported in Yerevan Sunday indicated that the authorities were moving to gain control over the group leading the demonstrations.

The organizing group formed during the protests met Sunday and reconstituted itself with a new membership, excluding all but one member of the original group, according to an Armenian nationalist, Paruir Airikyan. Among those excluded was the most visible leader from Nagorno-Karabakh, theater director Vache Sarukhanyan.

"The people took this not as an anti-Soviet or anti-Russian movement, but a struggle with the bureaucratic elements of the party," said Igor Muradyan, an economist originally from Nagorno-Karabakh.

TV WORKERS' REPORTED THREAT

"We never had any idea it would get this big," added Mr. Muradyan, who is a member of the organizing committee.

One sign of the unexpected support in official quarters, according to Mr. Grigoryants and Rafael Popoyan, a Yerevan resident, was an announcement at one mass meeting that workers in the republic's television studios had threatened to cease all broadcasting if they could not show the demonstrations.

[From the New York Times, Mar. 1, 1988]

SOVIET REPORTS A MAJOR OIL CENTER IN AZERBAIJAN IS SHAKEN BY RIOTS

(By Philip Taubman)

Moscow, February 29.—The Soviet Union reported today that one of its key oil and natural gas centers was shaken Sunday by an outbreak of rioting apparently related to recent nationalist unrest in the same region.

The press agency Tass said the industrial city of Sumgait, on the Caspian Sea, was the scene of the rampage. The city is in the Azerbaijan Republic, which along with the neighboring Armenian Republic, has been shaken by nationalist protests and clashes in the last two weeks.

The eruption of voilence is Sumgait, about 20 miles from the Azerbaijani capital of Baku, suggested that the temporary suspension of massive protests in the Armenian capital of Yerevan over the weekend did not mean a quick end to one of the most serious cases of nationalist unrest in the Soviet Union since the 1920's.

CHRISTIANS AND MOSLEMS

Unofficial information reaching Moscow indicated that the rioting in Sumgait, a city of 220,000, involved fighting between Azerbaijanis and Armenians.

Clashes between the two groups in recent weeks in other parts of Azerbaijan left two Azerbaijanis dead and several dozen Armenians and Azerbaijanis injured, according to Government reports.

The two groups are divided by religion—the Armenians primarily Christian, the Azerbaijanis primarily Shiite Moslem—and by a history of conflict predating the formation of the Soviet Union.

PROTESTS IN NAGORNO-KARABAKH

The report about Sumgait came as protests reportedly continued in the Nagorno-Karabakh Autonomous Region, a largely Armenian area within Azerbaijan.

The recent wave of nationalist unrest began with, and has centered around the revival of longstanding demands that the region be unified with Armenia. Sumgait is about 150 miles northeast of Nagorno-Karabakh.

Residents and government officials in Stepanakert, the capital of Nagorno-Karabakh, said in telephone interviews today that Armenian demonstrators were again marching through the city.

DEMONSTRATIONS BEGAN FEBRUARY 13

Demonstrations began in Nagorno-Karabakh on Feb. 13, then spread to Yerevan a week later, where hundreds of thousands of Armenians boycotted schools and jobs, pouring into the center of the capital for the largest nationalist demonstrations witnessed in the Soviet Union in decades.

Yerevan was quiet again today, as life and work returned to normal after Mikhail S. Gorbachev's personal intervention Friday.

After Mr. Gorbachev called for restoring order Friday, and told two leading Armenian writers that he would review the grievances that touched off the protests, Armenian nationalist leaders appealed Saturday for a one month suspension of the demonstrations in Yerevan.

Tass, following the Government's policy of disclosing only the sketchiest reports about the unrest, said the disturbances in Sumgait were provoked by "a group of hooligans."

"Rampage and violence followed," Tass reported.

The press agency added: "Measures have been adopted to normalize the situation in the city and safeguard discipline and public order. An investigation has been launched."

BACKGROUND TO THE CONFLICT

The Azerbaijani Republic, like Armenia, lies in a centuries-old border area between the Christian world of European Russia to the northwest and the Moslem world of Turkey and Iran to the southwest and southeast.

Within the Moslem world, the Azerbaijanis are part of the Shiite Moslem sect that holds sway in the Iran of the Ayatollah Ruhollah Khomeini. Soviet officials have long been concerned about the spread of Islamic fundamentalism to the religious and ethnic cousins of the Iranian Azerbaijanis.

Among other things, the 5 million or more Soviet Azerbaijanis—the figure is from the 1979 Soviet census—share a common history and language with their 5 million ethnic cousins in Iran.

But Moscow's worries now focus on the Christian-Islamic disputes that have rent the southern Caucasus for more than 150 years.

Not only is the predominantly Armenian region of Nagorno-Karabakh wholly separated from Armenia by the boundaries drawn in the 1920's, but the largely Azerbaijani Nakhichevan Autonomous Republic is separated by Armenia from the rest of Azerbaijan, though it is governed from Baku.

These two territories reverted to Azerbaijani control in 1923 as part of a Soviet effort to accommodate the wishes of Moslem Turkey, whose help it sought in subduing the ethnically Moslem areas of Central Asia.

Few, if any, issues raise greater concern in Moscow than nationalist agitation because it cuts to the stability of the state.

The Soviet Union is a nation of more than 100 ethnic groups uneasily united under the Communist banner and governed by members of a Russian majority that is likely to become a minority by the turn of the century if current demographic trends continue.

Soviet officials like to talk about their society as one of the multinational harmony, where Soviet patriotism and allegiance to Communism override regional and cultural interests.

But in reality many ethnic groups—including Lithuanians, Latvians and Estonians, as well as nationalists in the Kazakh city of Alma-Ata who rioted in December 1986—have maintained a distinct national character and pride, and chafe at Soviet rule, which in many cases was imposed by force as first Russia, and later the Soviet Union, extended its boundaries.

The suspension of the latest round of demonstrations did not end the problem for Mr. Gorbachev.

For one thing, he may be held accountable by other party leaders for creating a permissive climate that helped produce the Armenian and other nationalist protests.

Mr. Gorbachev has said repeatedly in recent months that his policies were coming under criticism for eroding discipline and increasing the chances of disorder. He strenuously rejected these assertions.

A number of banners carried by protesters in Yerevan underlined the possible link between the nationalist unrest and Mr. Gorbachev's policies.

"Karabakh is a test of Perestroika," one banner said, referring to Mr. Gorbachev's policy of restructuring the economy and liberalizing the Soviet system. Another said, "Self-determination is not extremism."

[From the New York Times, Mar. 3, 1988]

SOVIET REPORTS DEATHS IN RIOTING; UNOFFICIAL TOLL IN AZERBAIJAN IS 17

(By Philip Taubman)

Moscow, March 2.—A Soviet spokesman said today that an unspecified number of people were killed in nationalist rioting Sunday in the southern Soviet city of Sumgait.

The spokesman, Gennadi I. Gerasimov, declined to give a precise number but indicated that the total was close to an unofficial figure of 17 deaths reported in Moscow by a journalist who is also a dissident.

"That number may be slightly exaggerated, there were no more than that," Mr. Gerasimov said in a brief telephone interview.

Mr. Gerasimov's confirmation that people were killed in the rioting, like his report Tuesday that troops had been sent into Sumgait to quell the unrest, represented a degree of candor about a sensitive subject that is rare even in the more open atmosphere encouraged by Mikhail S. Gorbachev.

NOT DUPLICATED IN PRESS

The Candor, however, has not been duplicated by the Soviet press and television, which have yet to inform the Soviet people about the deaths or the presence of troops in Sumgait.

The journalist, Sergei Grigoryants, who has generally proved to be a reliable source of information about the nationalist unrest, said he was told 17 people died, and dozens injured, in clashes in Sumgait on Sunday between Azerbaijanis and Armenians.

Sumgait, an industrial center on the Caspian Sea, is in the Azerbaijan republic, which along with the neighboring Armenian republic had been shaken by nationalist protests and clashes in the last two weeks.

The disturbances have been among the most serious outbreaks of nationalist unrest since consolidation of the Soviet Union in the early 1920's.

HUNDREDS FLED HOMES

Government officials is Baku, the Azerbaijan capital, said today that hundreds of Azerbaijanis fled from their homes in Armenia during the disturbances last week and now needed assistance.

The officials, reached by telephone from Moscow, said a Government commission had been formed to help the refugees return to their homes in Armenia.

About 160,000 Azerbaijanis live in Armenia, a republic with a population of 3.1 milion.

Azerbaijan has a population of 6.3 million, including about 475,000 Armenians.

TRAIN REPORTED DAMAGED

Mr. Grigoryants reported that violence flared across the two republics last week, and said one passenger train traveling from Baku to Yerevan, the Armenian capital, was badly damaged by vandals as it made the journey.

Last week the Government confirmed that two people were killed and several dozen hurt during nationalist unrest in the two republics.

The Government reported Tuesday that military forces were called in Sunday to quell the rioting in Sumgait and had remained there to enforce a nightime curfew.

Mr. Gerasimov said today that troops were still patrolling the city and that, as far as he knew, the curfew was still in effect between 8 P.M. and 7 A.M.

ARMENIANS SEEK DISTRICT

The recent wave of nationalist unrest has centered on longstanding demands that a predominantly Armenian district within Azerbaijan, the Nagorno-Karabakh Autonomous Region, be attached to Armenia.

The two nationalities are divided by religion—the Armenians are primarily Christian, the Azerbaijanis primarily Shiite Moslem—and by a history of conflict predating formation of the Soviet Union.

Telephone links from Moscow to Nagorno-Karabakh were not operating again Wednesday, preventing Western reporters in Moscow from talking to Government officials in the region who had provided information about the protests in recent days.

The Government has not allowed Western reporters to travel to Armenia and Azerbaijan. Mr. Gerasimov said Tuesday that the ban was imposed "because the presence of foreign reporters could only excite extremist elements."

The demonstrations began Feb. 13 in Stepanakert, then spread a week later to the Yerevan, where hundreds of thousands of Armenians gathered daily downtown.

Yerevan was reportedly quiet again today. The demonstrations there dissipated Saturday after Armenian nationalist leaders proposed a one-month suspension of the protests to allow party leaders in Moscow to review their grievances.

Although the unrest has apparently preoccupied the party leadership in recent days, the Soviet people have received only a smattering of information about the developments.

THE NOMINATION OF WILLIAM L. BALL III

Mr. DECONCINI. Mr. President, I would like to take just a few minutes to compliment President Reagan for his wise and prudent decision to nominate William L. Ball III as Secretary of the Navy. Mr. Ball has served as a commissioned officer in the U.S. Navy aboard a missile destroyer, the U.S.S. *Sellers.* He also worked for 3 years for the Navy Department in Washington. He has extensive experience with this branch of the armed services in his work on the Hill, and subsequently, in his role in the executive branch.

Mr. Ball faces some difficult decisions in his new appointment, should the Senate decide to confirm him. The Navy has assumed its fair share of cuts conveyed in the President's budget request, having taken approximately $12 billion in reductions. Many arduous decisions remain in the next few months as Congress marks up the defense bill in each respective committee. Additionally, should the INF Treaty pass with the necessary 67 votes in the Senate, more decisions will have to be made on our conventional weaponry and force structure.

I believe there are difficult and trying times ahead for the next Secretary of the Navy. Mr. Ball is highly regarded and respected on Capitol Hill and would be able to make these decisions with the Navy and the Defense Department's best interests in mind. He worked up here on the Hill for Senator Tower and Senator Talmadge, before joining the executive branch. He has an excellent relationship with both sides of the aisle. He will have bipartisan support from the Hill on his confirmation. I believe he has represented the President well in his role with the administration and I look forward to working with him at the Navy Department. I will strongly support the President's nomination of Mr. William Ball as the new Secretary of the Navy.

MR. JUSTICE POWELL

Mr. WARNER. Mr. President, it has been over 8 months since Justice Lewis F. Powell, Jr. retired on June 26, 1987, after 16 years on the U.S. Supreme Court.

It is my distinct pleasure, now that the Supreme Court has been restored to its full complement of Justices, to focus the attention of the Senate on the contributions to our Nation by Justice Lewis F. Powell, Jr.

In preparing these remarks I would like to extend my appreciation to Mr. Cabell Chinnis, an attorney with Latham and Watkins, Washington, DC, who served as a clerk to Justice Powell from June 1985 until July 1986. I would also like to extend my appreciation to Miss Sally Smith, who came to the U.S. Supreme Court with Justice Powell in 1972 and has faithfully rendered her expert services to the Justice for so many years.

The remarks follow:

REMARKS BY SENATOR JOHN WARNER ON THE RETIREMENT OF JUSTICE LEWIS F. POWELL, JR.

Lewis F. Powell, who served as an Associate Justice on the United States Supreme Court, epitomized Virginia's long tradition of public service. Throughout his career, he has made enormous contributions to the Nation reflecting tribute on his beloved state of Virginia. Now that he has retired as an active Justice, it is timely to reflect on the career and character of this remarkable citizen.

Justice Powell was born in Suffolk, Virginia, in 1907. He received both his undergraduate and LL.B. degrees from Washington and Lee University (W&L). It was my privilege and that of my father to attend this same university. Throughout his work at W&L, he showed the mental acumen and leadership that was to distinguish his later work. He was graduated magna cum laude and elected to Phi Beta Kappa. His peers elevated him to President of Student Government at W&L.

In 1936, he was joined in life by his wife Josephine Rucker who faithfully and lovingly was a partner in his distinguished career.

Justice Powell's devotion to public service is intense. He interrupted a flourishing private practice in Richmond to volunteer for active military duty and served as Chief of Operational Intelligence for U.S. Strategic Air Forces in Europe in World War II. For his exemplary work there, notably with the "Ultra Code" that was of critical importance to the Allied war effort, Justice Powell received the Legion of Merit and Bronze Star and the Croix de Guerre with Palm from France.

Justice Powell's contributions to public service continued throughout his private law career. He was an active leader in the American Bar Association, and was its President from 1964 to 1965. He served on the National Advisory Committee on legal services to the poor from 1964 to 1965, and President of the American College of Trial Lawyers from 1969 to 1970. He served also on two Presidential Commissions—President Johnson's National Commission on Law Enforcement and Administration of Justice and President Nixon's Blue Ribbon Defense Panel within the Department of Defense.

Justice Powell also made equally great contributions within Virginia. He served on the Virginia School Board from 1961 to 1969 (and was its President from 1968 to 1969) and the Richmond Public School Board from 1952 to 1961. In both positions he quietly and effectively carried the heavy and then-controversial burden of implementing the mandate of *Brown* v. *Board of Education of Topeka.* He also currently acts as Trustee to both the Colonial Williamsburg Foundation and Washington and Lee University.

In 1971 President Nixon appointed Lewis Powell as an Associate Justice of the Supreme Court. As a jurist, he began service on January 7, 1972. He brought to that most trusted and respected position in this country the commitment to public service that had been a hallmark of his past work.

"A lawyer's lawyer and a judge's judge," as he has been aptly praised many times, Justice Powell always studied with meticulous care both the applicable law and the facts of the case. His opinions reflect this approach: They are remarkable for the clear presentation of the facts of each case and the careful formulation of the issues presented. What is most impressive about the opinions, however, is the guidance and direction they provide. Justice Powell took care to provide realistic and effective guidelines for litigants and judges in future cases, whether in examining official immunity, Due Process, discrimination in juries, or any number of other difficult Constitutional areas. Members of both the bar and the bench have said that an opinion by Justice Powell is an assurance that they will have workable, flexible guidance in adjudicating their own, later cases.

What is most striking for me about Justice Powell's judicial career, however, with its opinions and dissents too numerous to detail here, is the image of Justice Powell himself, a man of unquestioned intellectual and moral integrity. Whatever may be history's ultimate verdict on his judicial opinions and dissents, there is no doubt that Justice Powell brought to his work not only a powerful mind but also a character of "dispositions that are lovely in private life."

Other tributes to Justice Powell have uniformly spoken of his "integrity." With Justice Powell, these went far beyond the simple insulation of personal affairs from judicial office. It extended to an intellectual and judicial integrity that caused him to approach each issue before the Court with a meticulous attention to the case itself, an openness to argument, an oft-noted freedom from idealogical biases, a dedication to the Constitution, and a commitment to the role of the Court as the protector of "a system of ordered liberties" essentials to a free people.

Another frequently encountered note in examining Justice Powell's career is his modesty accompanied by a soft spoken, but firm, demeanor. Although Justice Powell was justifiably proud of what he had done, his pride was always expressed with a sense that "self-limitation is the mark of a master." HIs unassuming, and gracious manner bespeaks such modesty in his personal life as well as his professional, this unwillingness to fashion sweeping principles that run far beyond the facts of the case or to impose his individual value judgments on other branches of Government and the fifty States manifest will be among the hallmarks of his judicial legacy.

Finally, Justice Powell's life and career have been marked by the quality of his unfailing courtesy. As anyone who has met him can attest, this courtesy goes beyond simple good manners, and extends to a genuine interest in and respect for the people around him. HIs questions to counsel from the Bench, although not always gentle or easy, never bullied. His care and concern for the law clerks and staff who worked for him were renowned at the Court, whether it was sending flowers, or anonymously arranging for babysitting for a clerk's beleaguered spouse. His quiet manner and his unfeigned interest in others puts visitors immediately at ease. Justice Powell is quintessentially "the courtly Virginia gentleman."

No tribute to Justice Powell would be complete without a mention of his wife, Jo. Her gaiety, wit, and charm make her delightful company, and her generous heart makes her a valued friend. During their 52 years of marriage, Jo has helped raise four wonderful and devoted children, and has uncomplainingly made the many sacrifices demanded in public service, including moving from her beloved Richmond when Justice Powell was appointed.

The words written in tribute to the late Justice John Marshall Harlan are particularly appropriate here in closing these remarks on Justice Powell:

"The man and the judge were one: a gentleness that pervaded all he said and wrote; a respect for others that made him always ready to listen and to reconsider; a love for his country and for his fellow-man that gave him an unshakable faith in our ability not just to survive but to grow stronger in the process."

We will miss Justice Powell's presence in the Court. I take consolation, however, that he has assumed duties as an "active retired Justice." His public-minded and giving spirit will, I am sure, move him to further work with the Courts. The Federal Bar and the Nation will benefit from the further contributions of this wise and wonderful gentleman.

To paraphrase a line which Virginia's beloved son Thomas Jefferson might have uttered were he here today to comment Justice Powell: "God grant that men of principle will always be our principal men."

CONVENTIONAL ARMS BALANCE IN EUROPE

Mr. WIRTH. Mr. President, I want to continue this afternoon to share with my colleagues various analyses of the conventional arms balance in Europe. Today I would summarize and include in the RECORD the analysis "Conventional Shrinksmanship" from the November 28, 1987 edition of the Economist.

A most cogent analysis of the strategic imperatives and opportunities facing the alliance in future conventional force reduction talks is presented in the November 28, 1987 issue of the Economist. The switch from the mutual and balanced force reduction talks, which dealt with forces in Poland, Czechoslovakia, the two Germanies and the Benelux countries, to new efforts covering all forces from the Atlantic to the Urals, holds both promise and danger.

Forging a common bargaining position for the diverse Western contingent ranging from Spain to Turkey will pose a great and continuous challenge in the face of a monolithic East block approach. Security, and not economics, the Economist warns, must dictate the course of arms control negotiations. Thus, the West should not be too eager to embrace Mikhail Gorbachev's call for 25 percent conventional force reductions from current levels. Once NATO has made big cuts, it will be politically and logistically all but impossible to restore them in time of crisis. The 6-percent cuts envisaged in MBFR are a much better starting point for the West, and can be increased at a later date if the agreement works properly. Moreover, the West should have no problem taking up the East's call for including heavy equipment in the reduction talks. Equipment is not only easier to count, but NATO has fewer tanks per soldier than the Warsaw pact, and so has more to gain in balancing the number of tanks and guns.

The Economist believes, however, that Soviet calls to include battlefield nuclear weapons in the talks should be resisted, as history, it claims, has proven that nuclear weapons backed by strong conventional forces prevent war, while conventional ones alone decidedly do not. The West should also be cautious of equating United States troops and forces withdrawn to American shores with Soviet forces more easily reintroduced to the Atlantic-to-Urals theater. Nor should the West settle for anything less than verifiable pact force levels. Nevertheless, the conventional force talks, properly approached, offer the West the opportunity to reduce forces selectively while maintaining an adquate conventional deterrence.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONVENTIONAL SHRINKSMANSHIP

The conventional forces of NATO and the Warsaw pact gobble up money and manpower. It is in reducing them, much more than in scrapping arsenals of missiles, that America could trim its budget deficit and Russia find the resources it so badly needs to improve the lot of its people.

All efforts to reduce them have so far failed. The MBFR (mutual and balanced force reduction) talks between the two blocks started in 1973 with a remit to cut forces in Poland, Czechoslovakia, the two Germanies and the Benelux countries. These talks achieved little in their 13 years—except provide some of the reassurance against nasty surprises that comes of constant mutual scrutiny. They were eclipsed last year by a new effort, promoted by Mr. Mikhail Gorbachev, to deal instead with all forces in the vast area from the Atlantic to the Urals. Diplomats in Vienna are now trying to work out a formula for this more ambitious set of talks. The betting is that negotiations will start in earnest in the spring.

The switch to a much larger zone holds promise as well as danger. The main problem with the MBFR area was that geography would have made any pact unfair. American forces withdrawn as a result of it would have had to go back to the United States, more than 3,000 miles and an ocean away. The Russian ones would have pulled back only a couple of hundred miles, to the eastern border of Poland, barely an overnight rail trip away. If cuts in forces in the new zone are agreed, the American troops will still go home, but the Russian ones will have to roll back a lot farther than before.

Many more countries will be drawn into the broader negotiations: Spain, Portugal, Denmark, Norway, France, Italy, Greece and Turkey on the NATO side; Hungary, Bulgaria and Romania on the Warsaw pact side. British and American forces in Britain will now be counted, along with the American air-force units in Iceland. The NATO newcomers have ground forces of some 1.6m men and air forces of about 312,000; the three extra Warsaw pact countries have only 334,000 soldiers and 88,000 airmen. All in all, NATO outnumbers the Warsaw pact by about 90,000 men in the new zone. (See map on next page.) In the MBFR area the Warsaw pact had an advantage of some 200,000 men, and this margin, which was certainly there but never precisely admitted to, bedevilled the talks.

Politically, the new zone will be troublesome for the West: the NATO newcomers to the talks will include prickly ones such as France, Spain and Greece. In MBFR the western powers could negotiate as a team, its position co-ordinated by the NATO headquarters in Brussels. In the new talks the western stance will be worked out by a task force of senior officials from all NATO countries. It is unlikely to be able to show the coherence on the main issues that the MBFR steering group was able to command. The Warsaw pact will have no such problem: its attitudes, will flow directly from the Kremlin, and no internal dissent within its alliance is likely to confuse them.

The new reduction zone may be unwieldly but it makes it more possible than with MBFR to imagine a deal that would provide truly equal security for both sides. Here are the required ingredients:

Equal force levels.—This was agreed to as a principle in the MBFR talks, but never attained. In the "Budapest Declaration" of

June 1986, which launched the Atlantic-to-the-Urals idea, Mr. Gorbachev proposed that each side's forces should be cut by 100,000-150,000 men immediately, and by "approximately 25 percent from current levels" by the early 1990s. Given that the manpower of the two sides in the new area is roughly equal this proposal seems reasonable. But (see later) 25 percent is too much of a reduction to agree upon at the outset. The 6 percent cuts from the NATO troop levels envisaged in MBFR would be a better starting point.

Heavy equipment.—The Soviet Union has always wanted to include limits on heavy weapons such as tanks and heavy-guns as well as on manpower, NATO toyed with the idea early in the MBFR talks, but after 1979 favoured counting soldiers only. However, because it will be difficult to check the number of men scattered across the huge new area, the NATO side will drop its insistence on precisley equal numbers of soldiers and push for a deal involving equal numbers of the most important weapons. Although Mr. Gorbachev has talked mostly about manpower so far, the Russians have been briefed on the NATO change of heart and seem willing to along with it.

Shifting the main negotiating currency from men to equipment has several advantages. Equipment is easier to count than men. And concentrating on equipment will sidestep one of the most vexing issues of MBFR—how to equate Russian servicemen with NATO civilians who did militarily vital but unsoldierly things like cook or drive lorries.

Counting equipment has other advantages for NATO too. The Warsaw pact has more tanks per soldier than the West, so the West could do better to balance tanks and guns than men or divisions. However, the western side cannot ignore manpower completely; there needs to be some sort of limit on it if only because the balance of weaponry cannot cover everything. Limits on tanks and artillery pieces are probably about far as talks could go without bogging themselves down in the attempt to define "anti-tank missile" or "armoured personnel carrier" to everyone's satisfaction. Yet by placing huge numbers of lesser weapons in the hands of a vast army, the Warsaw pact could build a force that would leave NATO nervous.

Collective ceiling.—Should the limits on men and weapons be set collectively or by individual countries? The argument was only half settled in the MBFR talks. The Russians wanted individual ceilings in order to put a tight limit on the size of the West German army; which is exactly why the West didn't buy the idea. The matter was papered over in 1979 with a tentative agreement to impose individual limits only on American and Russian forces.

Russia's desired individual ceilings would have limited the West German army to just over 300,000 men, regardless of what its allies were up to. Thus, if all the American and British troops had gone home and the Benelux countries had disarmed themselves, West Germany would still have been held to that number. Under a collective MBFR ceiling, all of the men in the zone on the NATO side could theoretically have been German. Even this ceiling—700,000 was the American counter-proposal—was not one that the Germans felt comfortable with. Russia may return to its idea of individual ceilings in the enlarged negotiations. The West should fend it off. Countries such as West Germany and Turkey are prime targets for invasion and need to reserve the right to field extra men in their own defence if allies wind down their forces in the future.

Conventional forces only.—The Russians have always wanted to include battlefield nuclear weapons in the calculus of conventional force reductions. When Mr. Gorbachev proposed the new talks, he said he still wanted them to be there. The NATO side has generally been against this idea, although in the mid-1970s it wavered briefly and proposed the inclusion of some nuclear weapons in an MBFR deal. It was a bad wobble then, and it would be an even worse one now. Once a deal is struck eliminating medium-range nuclear missiles from Europe, the remaining nuclear weapons, such as bombs and artillery shells, will be the only devices that will keep the cost of a conventional attack incalculable. It might be argued that if conventional forces are evenly matched there should be no need for deterence-through-incalculability. This involves a wishful view of history. Evenly matched armies have repeatedly gone to war in Europe; and small ones have attacked big ones and won.

If it had the same number of soldiers, NATO could probably win a conventional war with the Warsaw pact because its equipment is better. But this might not deter an ambitious Russian leader, chosen in reaction to an ill-fated attempt to increase Russian wealth through liberal reforms, and seduced by the idea that he could acquire a bit of Western Europe with a quick conventional grab. Even reduced armed forces are there to prevent a war in Europe, not to ensure that one side will win a bloody conflict. Nuclear weapons backed by strong conventional forces seem to have done this preventive job; conventional ones demonstrably have not.

CRUNCHING THE NUMBERS

One of the first problems for the more ambitious negotiations will be to set limits on the size of the American and Russian forces. In the MBFR talks this task was simple: cut the forces deployed by the two super-powers in the MBFR area (American forces in West Germany and Holland; Russian ones in East Germany, Czechoslovakia and Poland) to the same level. It was agreed that the Russians and Americans would make the first cutbacks in the zone and that the Russians would withdraw more.

The new zone will stretch far beyond an area near the inner-German border to include a big chunk of the Soviet Union as well. In this chunk the Russians keep not only combat formations but also a huge number of training bases, schools and other support establishments. Doubtless they will seek to exempt some of these forces, including tanks and heavy guns, on the grounds that they are "non-combatants", and that America has similar sorts of establishment back in the United States.

The NATO side will have to stay obdurate here: the negotiations are about forces in Europe, and it was Mr. Gorbachev himself who proposed the present Atlantic-to-the-Urals region. In an emergency, large, highly-trained forces can be squeezed out of training establishments to reinforce combat formations. Most NATO countries plan to do just this, and the western attitude in the MBFR talks has always been to insist on counting all uniformed soldiers within the zone: cooks, bakers, bottle washers, the lot.

But there is another, even greater, problem with absolute numbers. It is one thing to insist on including all types of Russian soldiers west of the Urals; it is quite another to demand that the Russians reduce their numbers in this vast region to those of the American forces in Europe (200,000 soldiers and 90,000 airmen; 5,000 tanks and 620 guns). The Russians now have some 1.8m soldiers and airmen stationed in the zone.

The simplest solution is probably to revive the old MBFR reduction zone, or something like it, and agree that within this subzone the Americans and Russians should reduce their forces to equal levels. Within the larger, Atlantic-to-the-Urals region a NATO-Warsaw pact balance would apply.

Two main problems plagued MBFR throughout its life: "data", and the arrangements for checking that the agreements were honoured. Data was shorthand for the swapping of the numbers of men and units that each side admitted it had to start with—the base-levels on which the agreed cuts would operate. The NATO side wanted a full exchange before any withdrawals; the Warsaw pact merely wanted NATO to take its word that it would do the right thing. This was hard to swallow. For years the Russians had insisted that a rough parity of forces already existed; it clearly did not, and eventually the Russians admitted as much.

Although Mr. Gorbachev has proposed an exchange of information about forces in the larger area, most western observers are waiting to see the colour of his money. In the MBFR talks the Warsaw pact's negotiators paraded figures 170,000 short of what NATO was convinced they had, and refused to help clear the matter up. This particular problem may be eased if the talks concentrate on tanks and guns instead of troops. But it could still be troublesome. Russian analysts have long insisted that NATO actually has superior forces west of the Urals. This is true (just) of men, but not of equipment.

In MBFR, NATO eventually gave up its insistence on data and proposed that the two sides get on with their initial reductions even without agreeing on the starting points. This was a ploy to show the West's flexibility and to call the Russians' bluff on their professed willingness to withdraw forces at all. There may have been some satisfaction in it for the weary and patient western negotiators in Vienna, but it was clearly no way to achieve an equitable pact. The West's reward would have been to see Russians marching away from an army whose initial size it was never to know and whose final size it could not check.

The Warsaw pact at first resisted all efforts to negotiate on-site inspections of force levels or force withdrawals. In the later years of MBFR it relaxed a bit and conceded that western observers might witness soldiers passing through a few checkpoints on their way out of the zone. Right to the end they would not hear of inspections at short notice to check that troops withdrawal had not somehow crept back into the zone.

IT'S A LONG WAY FROM KANSAS CITY

What is now being proposed, even if the cuts are balanced and limited to 6%, would result in a worrying thinning of the NATO shield. Cuts will save money and big ones will save both blocks a great deal. But security, not economy, remains the most important thing to achieve through disarmament. Cuts that would leave, say, 500,000 men and a few hundred tanks scattered about Western Europe with perhaps fewer than half of them in West Germany, might well invite attack and a calling of the remaining nuclear bluff. Even if the Warsaw pact and the

West had the same number of tanks overall, the defenders of the West German frontier would be so thin on the ground that a few divisions of eastern block armour might roll through them to Rotterdam before NATO could put a blocking force into place.

There is another ineradicable danger for the West that Mr. Gorbachev appears particularly well aware of: inertia, both political and physical. Once NATO has made big cuts in its forces, it will find it all but impossible to restore them even if Russia reverts to a menacing posture. Millions of voices in the west would shout against breaking the rules of any arms-control agreements, regardless of whether the Warsaw pact continued to honour it. (The Russians never complied with the SALT-II limits on nuclear weapons, but President Reagan caused ructions throughout the alliance when he allowed the United States to exceed them even after the treaty had expired.)

Physical inertia could be more troublesome still. If American troops were withdrawn from Europe most of them would probably be demolished, because there would be literally nowhere in the United States to put them without building new barracks, airfields, and training grounds. Their bases in Germany, too, might well be dismantled or returned to civilian use. Once all this had been done, it would be very difficult to send the Americans back except belatedly, in response to an actual attack. Geography and totalitarianism mean that both these inertias would not restrain the Warsaw pact as strongly.

This western disadvantage will always exist, and no fiddling with the numbers or the terms of a troop-reduction treaty will change it; hence the great danger for the West in moving too far, too quickly in cutting its conventional forces. The watchword for NATO has therefore to be caution: the West could try for a small cut (around 5-6% below exiting NATO numbers), to equal force levels, with tough arrangements to check that the Warsaw pact plays by the rules. Only if the agreement seems to work properly over a number of years of peace should the West contemplate deeper cuts.

Mr. Gorbachev clearly wants a deal on conventional forces, if only to save money. Although the unhappy experience with MBFR indicates problems ahead for such a deal, the Russian leaders' drive to push through the agreement on medium-range missiles shows that he can make things happen when he wants them to. However, the opposition he has recently run into in his quest for economic reform raises new doubts about his ability to impose controversial change. The Russian Army is likely to resist fiercely any effort to trim its size, power and prestige. Even if Mr. Gorbachev can only deliver small force-cuts, the West will have to react to them with care to keep its conventional deterrence intact.

MESSAGES FROM THE HOUSE

At 11:40 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolutions, without amendment:

S. 557. An act to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964;

S. 1447. An act to designate Morgan and Lawrence Counties in Alabama as a single metropolitan statistical area;

S.J. Res. 251. Joint resolution designating March 4, 1988, as "Department of Commerce Day"; and

S.J. Res. 262. Joint resolution to designate the month of March 1988, as "Women's History Month."

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 90. An act to establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes.

The message further announced that pursuant to the provisions of section 9031 of Public Law 100-203, the Speaker appoints Mr. Robert J. Myers of Silver Spring, MD, to the Commission on Railroad Retirement Reform, on the part of the House from the private sector.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 3:15 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 557. An act to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964;

S. 1447. An act to designate Morgan and Lawrence Counties in Alabama as a single metropolitan statistical area;

S.J. Res. 251. Joint resolution designating March 4, 1988, as "Department of Commerce Day"; and

S.J. Res. 262. Joint resolution to designate the month of March 1988, as "Women's History Month."

The enrolled bills and joint resolutions were subsequently signed by the Acting President pro tempore (Mr. REID).

At 7:46 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 101. A concurrent resolution providing for a conditional adjournment of the Senate from March 3, or 4, 1988, until March 14, 1988.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2117. A bill to extend the statute of limitations applicable to certain claims under the Age Discrimination in Employment Act of 1967 that were filed with the Equal Employment Opportunity Commission before the date of enactment of this act.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, March 3, 1988, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 251. Joint resolution designating March 4, 1988, as "Department of Commerce Day."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2649. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on the reapportionment of an appropriation for Radio Free Europe/Radio Liberty, Inc.; to the Committee on Appropriations.

EC-2650. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget recissions and deferrals dated February 1, 1988; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC-2651. A communication from the Administrator of Veterans' Affairs, transmitting, pursuant to law, a report on a violation of the Antideficiency Act; to the Committee on Appropriations.

EC-2652. A communication from the Director of the Defense Assistance Agency, transmitting, pursuant to law, a report containing an analysis and description of services performed by full-time USG employees as of September 30, 1987, for which reimbursement is provided: to the Committee on Armed Services.

EC-2653. A communication from the Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a listing of contract award dates for the period March 1, 1988 to April 30, 1988; to the Committee on Armed Services.

EC-2654. A communication from the Secretary of Defense, transmitting, for the information of the Senate, his views and those of the Joint Chiefs of Staff concerning the security issues involved in funding for the Nicaraguan Democratic Resistance; to the Committee on Armed Services.

EC-2655. A communication from the Secretary of Defense, transmitting, pursuant to law, the annual report of the Department of Defense for fiscal year 1989; to the Committee on Armed Services.

EC-2656. A communication from the Chief, Program Liaison Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a report on experimental, developmental, and research contracts of $50,000 or more, by company; to the Committee on Armed Services.

EC-2657. A communication from the Assistant Secretary of the Army (Research, Development, and Acquisition), transmitting a draft of proposed legislation to grant the Secretary of a military department, or his designee, authority to loan without reimbursement materials, supplies, and equipment to foreign governments for the purpose of cooperative research, development, testing or evaluation; to the Committee on Armed Services.

EC-2658. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, notice that the Defense Logistics Agency intends to exercise authority for exclusion of the clause concerning examination of records by the Comptroller General; to the Committee on Armed Services.

EC-2659. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on a transaction involving United States exports to the Republic of Indonesia; to the Committee on Banking, Housing, and Urban Affairs.

EC-2660. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual Monetary Policy Report of the Board; to the Committee on Banking, Housing, and Urban Affairs.

EC-2661. A communication from the Assistant Attorney General (Legislative Affairs), transmitting, pursuant to law, the annual report on the administration of the Equal Credit Opportunity Act for calendar year 1987; to the Committee on Banking, Housing, and Urban Affairs.

EC-2662. A communication from the Fiscal Assistant Secretary of the Treasury, transmitting, pursuant to law, a report on a study concerning methods for increasing the use of underutilized minority thrift institutions as depositories or financial agents of Federal agencies; to the Committee on Banking, Housing, and Urban Affairs.

EC-2663. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Monetary Policy Report of the Board; to the Committee on Banking, Housing, and Urban Affairs.

EC-2664. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report of the Fish and Wildlife Service on the administration of the Marine Mammal Protection Act for calendar year 1986; to the Committee on Commerce, Science, and Transportation.

EC-2665. A communication from the Secretary to the Federal Trade Commission, transmitting, pursuant to law, the annual report pursuant to the Federal Cigarette Labeling and Advertising Act for 1985; to the Committee on Commerce, Science, and Transportation.

EC-2666. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report on the administration of the Pipeline Safety Act for calendar year 1986; to the Committee on Commerce, Science, and Transportation.

EC-2667. A communication from the Acting Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, notice on leasing systems for the Beufort Sea, Sale 97, scheduled to be held in March 1988; to the Committee on Energy and Natural Resources.

EC-2668. A communication from the Acting General Counsel of the Department of Energy, transmitting, pursuant to law, a new plan of action to implement the Agreement on an International Energy Program; to the Committee on Energy and Natural Resources.

EC-2669. A communication from the Acting Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, notice on leasing system for the Central Gulf of Mexico, Sale 113, scheduled to be held in March 1988; to the Committee on Energy and Natural Resources.

EC-2670. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of excess offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2671. A communication from the Secretary of the Interior, transmitting, pursuant to law, the financial statements of the Colorado River Basin Project for fiscal year 1986; to the Committee on Energy and Natural Resources.

EC-2672. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report of Safeguards Information by the Nuclear Regulatory Commission for the quarter ended December 31, 1987; to the Committee on Environment and Public Works.

EC-2673. A communication from the Deputy Administrator of the Federal Highway Administration, transmitting, pursuant to law, a report on the status of demonstration projects authorized by the Surface Transportation and Uniform Relocation Assistance Act of 1987; to the Committee on Environment and Public Works.

EC-2674. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, prospectuses for the fiscal year 1989 General Services Administration's Public Buildings Service Capital Improvement Program; to the Committee on Environment and Public Works.

EC-2675. A communication from the Director, United States Arms Control and Disarmament Agency, transmitting, pursuant to law, a report entitled "Fiscal Year 1989 Arms Control Impact Statement;" to the Committee on Foreign Relations.

EC-2676. A communication from the Assistant Secretary (Legislative Affairs), Department of State, transmitting, pursuant to law, a report on a Presidential Determination relative to keeping the U.S. Embassy Antigua open; to the Committee on Foreign Relations.

EC-2677. A communication from the Assistant Secretary (Legislative Affairs), Department of State, transmitting, pursuant to law, the tenth 90-day report to Congress on the investigation into the death of Enrique Camerena; to the Committee on Foreign Relations.

EC-2678. A communication from the Secretary of State, transmitting, pursuant to law, a report that Israel is not being denied its right to participate in the activities of the International Atomic Energy Agency to the Committee on Foreign Relations.

EC-2679. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Evaluation of the Rural Hospital Swing-Bed Program;" to the Committee on Finance.

EC-2680. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on rural teaching hospitals and referral centers; to the Committee on Finance.

EC-2681. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, a report on program allocations for fiscal year 1988; to the Committee on Foreign Relations.

EC-2682. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, reports for the period April 1987-September 1987 listing voluntary contributions made by the United States Government to International Organizations; to the Committee on Foreign Relations.

EC-2683. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law the annual report of the Commission on competition advocacy for fiscal year 1987; to the Committee on Governmental Affairs.

EC-2684. A communication from the Director of the Office of Government Ethics, transmitting a draft of proposed legislation to extend the authorization of appropriations for the Office of Government Ethics for six years; to the Committee on Governmental Affairs.

EC-2685. A communication from the Assistant Secretary of Transportation (Administration), transmitting, pursuant to law, notice of a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2686. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, a report entitled "Performance Management and Recognition System: Linking Pay to Performance"; to the Committee on Governmental Affairs.

EC-2687. A communication from the Executive Director of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the annual report of the Corporation on competition advocacy; to the Committee on Governmental Affairs.

EC-2688. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the annual report of the Commission on competition advocacy for fiscal year 1987; to the Committee on Governmental Affairs.

EC-2689. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, the annual report of the Board on the number of appeals submitted, the number processed to completion, and the number not completed by the originally announced date for fiscal year 1987; to the Committee on Governmental Affairs.

EC-2690. A communication from the Administrator of General Services, transmitting, pursuant to law, the annual report of the General Accounting Office on competition advocacy for fiscal year 1987; to the Committee on Governmental Affairs.

EC-2691. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-141 adopted by the Council on January 19, 1988; to the Committee on Governmental Affairs.

EC-2692. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-142 adopted by the Council on January 19, 1988; to the Committee on Governmental Affairs.

EC-2693. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-143 adopted by the Council on January 19, 1988; to the Committee on Governmental Affairs.

EC-2694. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-144 adopted by the

Council on January 18, 1988; to the Committee on Governmental Affairs.

EC-2695. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the annual report of NASA on competition advocacy for fiscal year 1987; to the Committee on Governmental Affairs.

EC-2696. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the annual report of the Agency on competition advocacy for fiscal year 1987; to the Committee on Governmental Affairs.

EC-2697. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report of the Department of Energy on competition advocacy for fiscal year 1987; to the Committee on Governmental Affairs.

EC-2698. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, actuarial reports on the judicial survivors' annuities system and the judicial retirement system for calendar year 1986; to the Committee on Governmental Affairs.

EC-2699. A communication from the Chairman of the Federal Labor Relations Authority, transmitting, pursuant to law, the annual report of the Authority on competition advocacy for fiscal year 1987; to the Committee on Governmental Affairs.

EC-2700. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the Department of Commerce on competition advocacy for fiscal year 1987; to the Committee on Governmental Affairs.

EC-2701. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a list of reports issued by the General Accounting Office during January 1988; to the Committee on Governmental Affairs.

EC-2702. A communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, the annual report of the Commission on competition advocacy for fiscal year 1987; to the Committee on Governmental Affairs.

EC-2703. A communication from the Acting Attorney General, transmitting, pursuant to law, the annual report of the Department of Justice on competition advocacy for fiscal year 1987; to the Committee on Governmental Affairs.

EC-2704. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, an interim report on the Senior Executive Service dated February 1988; to the Committee on Governmental Affairs.

EC-2705. A communication from the Acting Attorney General, transmitting, pursuant to law, a report on the amounts deposited in the U.S. Trustee System Fund and a description of the expenditures; to the Committee on the Judiciary.

EC-2706. A communication from the President of the National Endowment for Democracy, transmitting, pursuant to law, the annual report of the Endowment under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2707. A communication from the Special Counsel to the Merit Systems Protection Board, transmitting, pursuant to law, the annual report of the Board under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2708. A communication from the Assistant Vice President of the National Railroad Passenger Corporation (Government and Public Affairs), transmitting, pursuant to law, the annual report of the Corporation under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2709. A communication from the Chairman of the Federal Labor Relations Authority, transmitting, pursuant to law, the annual report of the Authority, the General Counsel of the Federal Labor Relations Authority, and the Federal Impasses Panel under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2710. A communication from the Executive Secretary to the National Security Council, transmitting, pursuant to law, the annual report of the Council under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2711. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the annual report of the Department of State under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2712. A communication from the Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2713. A communication from the solicitor of the U.S. Commission on Civil Rights, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2714. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the annual report of the Administration under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2715. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, annual report of the Board under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2716. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2717. A communication from the Administrator of Veterans' Affairs, transmitting, pursuant to law, the annual report of the Veterans' Administration under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2718. A communication from the Chairman of the Commodity Futures Trading Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2719. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, the annual report of the Administration under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2720. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the annual report of the Agency under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2721. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report of HHS on the Freedom of Information activities as required by the Freedom of Information Act; to the Committee on the Judiciary.

EC-2722. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report for fiscal year 1987 of the Administration on Aging; to the Committee on Labor and Human Services.

EC-2723. A communication from the Chairman, President's Cancer Panel, transmitting, pursuant to law, the Chairman's 1987 report to the President; to the Committee on Labor and Human Resources.

EC-2724. A communication from the Secretary of Education, transmitting, pursuant to law, the 10th annual report of the Department of Education on the progress being made toward the provision of free appropriate public education to all handicapped children; to the Committee on Labor and Human Resources.

EC-2725. A communication from the Under Secretary, National Society of the Daughters of the American Revolution, transmitting, pursuant to law, a report on the "Annual Proceedings of the Ninety-Sixth Continental Congress;" to the Committee on Rules and Administration.

EC-2726. A communication from the Executive Secretary, Office of the Secretary of Defense, transmitting, pursuant to law, the report on Department of Defense procurement from small and other business firms for October through December 1987; to the Committee on Small Business.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-410. A resolution adopted by the Council of the County of Hawaii, Hawaii, favoring the appropriation of Federal funds for improvements to Saddle Road; to the Committee on Appropriations.

POM-411. Joint resolution adopted by the Legislature of the State of California; to the Committee on Banking, Housing, and Urban Affairs.

"Whereas, A sound, stable monetary system is vital to a free nation to protect the economic and political well-being and liberty of its citizens; and

"Whereas, The present monetary system administered by the federal reserve was established to (1) end the prior "boom and bust" cycles of the United States economy, (2) stabilize the currency, (3) end farm foreclosures, and (4) provide for expansion of the money supply when needed; and

"Whereas, Past history indicates that the federal reserve has failed to achieve the objectives laid down when it was established in that, under the monetary system, our states and our people have suffered (1) recurring recession cycles, (2) a loss of 90 percent of the purchasing power of the dollar, and (3) farm foreclosures of thousands per week during the Great Depression of the 1930's; and

"Whereas, No other issue affects our states and our people as directly, in that labor, farmers, and business are absolutely dependent on the nation's monetary system; and

"Whereas, The Congress enacted the Federal Banking Agency Audit Act of 1978, which required the Comptroller General to audit the Federal Reserve Board and federal reserve banks; and

"Whereas, The Federal Banking Agency Audit Act was instituted as a result of a federal study and congressional oversight hearings which discovered significant inadequacies in the operation of federal banking agencies; and

"Whereas, The Federal Banking Agency Audit Act prohibited the Comptroller General from auditing Federal Reserve deliberations, discussions, or actions on monetary policy matters; now, therefore, be it

"Resolved, by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to amend federal law to require the Comptroller General to annually audit the federal reserve's conduct of the nation's monetary policy, including the efficacy with which that policy has been and is conducted with regard to achieving the purposes for which the monetary system was established; and be it further

"Resolved, That the Legislature recommends that the audit include, but not be limited to: (1) deliberations, decisions, or actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, and open market operations; and (2) transactions made under the direction of the Federal Open Market Committee; and the Legislature also recommends that the results of the audit be transmitted to the appropriate oversight committees of the Congress; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States and to each Senator and Representative from California in the Congress of the United States."

POM-412. A resolution adopted by the Commission of the City of Miami, Florida favoring an increased Coast Guard presence in South Florida; to the Committee on Commerce, Science, and Transportation.

POM-413. A petition from citizens of Agana, Guam praying for a redress of grievances; to the Committee on Energy and Natural Resources.

POM-414. Joint resolution adopted by the Legislature of the State of Maine; to the Committee on Environment and Public Works.

"JOINT RESOLUTION

"Whereas, for nearly a decade, the State has sought to develop a new marine dry cargo terminal with rail and highway access on Sears Island in Searsport; and

"Whereas, the project is designed to meet certain specific objectives of the State and its export-import dependent industries. These objectives are:

"1. To provide transportation cost savings to Maine-based industries, especially the forest products industry, through reduced overland travel distances to a port;

"2. To generate jobs and other economic activity within Maine directly related to the export-import traffic;

"3. To induce jobs and economic growth in Maine-based industries indirectly benefiting by proximity to a modern port;

"4. To target state investments in port facilities where new jobs and economic activity is most needed; and

"5. To concentrate economic development along Maine's coastline in localized areas to protect the environmental values of the coastline consistent with state environmental and conservationist objectives; and

"Whereas, the encouragement of exporting by United States business and industry is a national priority due to this nation's serious foreign trade imbalance; and

"Whereas, the value of the American dollar is at a record low, offering United States exporters an excellent opportunity to establish new foreign markets and to recapture markets lost when the dollar was at a record high; and

"Whereas, the Federal Highway Administration, acting as lead agency, has recently issued and approved a Final Environmental Impact Statement on the Sears Island Project and this document now serves as a basis for review of application to the United States Army Corps of Engineers and the United States Coast Guard for permits to proceed with the project; and

"Whereas, the proposed Sears Island cargo teminal is strongly supported by Governor McKernan, the entire Maine Congressional Delegation, the Waldo County Commissioners and the Town of Searsport and in 2 separate bond issues the voters of Maine have also given their approval to this project; and

"Whereas, the proposed dry cargo terminal for Sears Island would make a valuable contribution toward the expansion of export trade and thereby greatly assist the Maine and national economy; now, therefore, be it

"Resolved, That the 113th Maine Legislature calls upon President Ronald W. Reagan to request immediate assistance and support in securing prompt action by the Federal Government on all pending permits and requests for federal aid associated with the construction of the proposed Sears Island Dry Cargo Terminal Project; and be it further

"Resolved, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the President of the Senate and the Speaker of the House of Representatives in the Congress of the United States and to each Member of the Maine Congressional Delegation."

POM-415. A resolution adopted by the Board of Chosen Freeholders of the County of Monmouth, New Jersey favoring an investigation of insufficient reimbursements by the Medicare program to HMO-NJ; to the Committee on Finance.

POM-416. A concurrent resolution adopted by the Legislature of the Commonwealth of Pennsylvania; to the Committee on Governmental Affairs.

"A CONCURRENT RESOLUTION

"Whereas, The population count as ascertained at the decennial census is used by the United States Bureau of the Census in the automatic apportionment formula by which representation in the United States House of Representatives is apportioned among the several states following each decennial census; and

"Whereas, The Bureau of the Census includes in this population figure all persons living in the United States on the day of the census without regard to legal residence in this country; and

"Whereas, Aliens illegally residing in this country and aliens without permanent resident status clearly are not entitled to vote and exercise other rights of participation in the political process and the inclusion of such persons in the figures upon which representation is to be based is inconsistent with this fact; and

"Whereas, The counting of such aliens demonstrably does distort the apportionment of representation in the United States House of Representatives; and

"Whereas, It is imperative that the United States Bureau of the Census use its resources and expertise to achieve the highest possible degree of accuracy in the actual numbers counted in the 1990 decennial census and thereafter; and

"Whereas, The implementation of an adjustment of the actual numbers counted in the census through a post-enumeration survey will detract and divert resources from the effort of achieving the most accurate count possible of actual numbers in the census itself; and

"Whereas, The implementation of an adjustment will discourage various interest groups from working to ensure that the most accurate count possible will be obtained in the actual census; and

"Whereas, The post-enumeration survey should be used only to evaluate the census and to improve its process in the future and should not be used to replace the actual numbers counted in the census; and

"Whereas, Implementation of adjusted figures will provide a census with two sets of numbers and will likely result in lawsuits challenging the validity of the adjusted figures over the actual count and raise constitutional issues for states desiring to use the actual count for intrastate reapportionment; and

"Whereas, The United States Bureau of the Census currently excludes from its official census figures United States citizens who are temporarily residing overseas, including missionaries, service personnel, business representatives, students and the spouses and dependents of such people; and

"Whereas, These citizens temporarily residing overseas have the right to vote through the absentee voter process and are thereby entitled to representation; and

"Whereas, The exclusion of these citizens from the official census figures results in their home states being denied proportional representation in the United States House of Representatives; therefore be it

"Resolved, That the Senate of the Commonwealth of Pennsylvania memorialize the Congress of the United States to enact legislation to:

"(1) require the United States Bureau of the Census to adopt procedures for the census of 1990 and thenceforth which will exclude illegal aliens and aliens admitted for temporary residences pursuant to the Immigration Reform and Control Act of 1986 from the figures upon which apportionment in the United States House of Representatives will be determined;

"(2) prohibit the United States Bureau of the Census from adjusting the actual census figures in the 1990 census and thereafter through the use of a post-enumeration survey; and

"(3) require the United States Bureau of the Census to develop and adopt procedures for including United States citizens temporarily residing overseas in the census of 1990 and thereafter; and be it further

"*Resolved,* That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania."

POM-417. A concurrent resolution adopted by the Legislature of the Commonwealth of Pennsylvania; to the Committee on Governmental Affairs:

"A Concurrent Resolution

"Whereas, American clock and watchmakers were among the most ingenious craftsmen of the 19th century; and

"Whereas, The greatest achievement of American clock and watchmakers during the 19th century was the mass production of clocks and watches with completely interchangeable parts; and

"Whereas, Modern horologists have carried the skill of the 19th century craftsmen forward, refining the intricacies of clock and watchmaking beyond ordinary comprehension; and

"Whereas, The National Association of Watch and Clock Collectors, Inc., a nonprofit, scientific and educational oganization founded in 1943 to bring people interested in horology together, is headquartered in Columbia, Pennsylvania; and

"Whereas, The United States Postal Service has honored numerous groups and individuals for their contributions to the United States; therefore be it

"*Resolved (the House of Representatives concurring),* That the General Assembly of the Commonwealth of Pennsylvania urge the Citizen Stamp Advisory Committee of the United States Postal Service to issue a stamp honoring American horology; and be it further

"*Resolved,* That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress, to each member of Congress from Pennsylvania and to Mr. Belmont Faries, Chairman, Citizen Stamp Advisory Committee of the United States Postal Service."

POM-418. A concurrent resolution adopted by the Legislature of the Commonwealth of Pennsylvania; to the Committee on Governmental Affairs:

"A Concurrent Resolution

"Whereas, On October 1, 1990, the Pennsylvania Turnpike Commission will be celebrating the 50th Anniversary of the opening of the Pennsylvania Turnpike; and

"Whereas, Opened on October 1, 1940, the Pennsylvania Turnpike was the first high-speed, multi-lane highway in the United States; and

"Whereas, Today, the Pennsylvania Turnpike extends from the Ohio state line to the Delaware River Bridge on the New Jersey state line and from Norristown to Scranton along the Northeastern Extension, a total of 470 miles; and

"Whereas, The opening of the Pennsylvania Turnpike established Pennsylvania as a leader in highway design, construction and maintenance and set the pattern for turnpikes in other states and for the Interstate highway system; and

"Whereas, Today, the Pennsylvania Turnpike handles nearly 200,000 motor vehicles daily and remains an essential part of the national super highway system; therefore be it

"*Resolved (the House of Representatives concurring),* That the General Assembly of the Commonwealth of Pennsylvania urge the Citizen Stamp Advisory Committee of the United States Postal Service to issue a stamp commemorating the 50th Anniversary of the opening of the Pennsylvania Turnpike; and be it further

"*Resolved,* That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress, to each member of Congress from Pennsylvania and to Mr. Belmont Faries, Chairman, Citizen Stamp Advisory Committee of the United States Postal Service."

POM-419. A resolution adopted by the Nineteenth Guam Legislature; to the Committee on Governmental Affairs:

"A Resolution

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, the role of the U.S. Veterans Administration is to administer the benefits to several million veterans of the U.S. Armed Forces who served in World Wars I and II, the Korean Conflict, Vietnam, and Granada; and

"Whereas, the VA has an annual budget ranked fifth among existing federal departments; and

"Whereas, the Veterans Administration ranks second only to the Department of Defense in number of personnel (over 253,000 employees); and

"Whereas, the Veterans Administration operates a 10,000 acre National Cemetery system consisting of 111 cemeteries in 38 states and the territories of Puerto Rico and Guam; and

"Whereas, H.R. 3471, "The Department of Veterans Affairs Act of 1987", will elevate the U.S. Veterans Administration to a Cabinet-Level department within the Federal Government; and

"Whereas, major provisions of the bill propose to designate the VA as the Department of Veterans Affairs, an Executive Department; provides for Presidential appointment and Senate confirmation of a Secretary of Veterans Affairs and a Deputy Secretary; upgrades the current VA Medicine and Surgery Department to that of the Veterans Health Services Administration as well as the Department of Veterans Benefit to that of a new Veterans Benefit Administration; and

"Whereas, President Ronald Reagan announced his support of the measure in a meeting at the White House on the eve of Veterans Day; and

"Whereas, this agency operates the largest health care system in the free world, employing over 12,000 physicians and over 35,000 registered nurses; and

"Whereas, the VA administers one of the largest home loan guaranty programs in the federal government, having extended some $263 billion in home loan guarantees since 1944; and

"Whereas, almost $15 billion in annual compensatiuon and pension benefits are disbursed to some four million veterans and their survivors; and

"Whereas, this governmental entity operates a gigantic life insurance program which presently provides some $200 billion in coverage for 7.2 million veterans and military personnel; and

"Whereas, H.R. 3471 received favorable testimony in a recent congressional hearing in which as distinguished national legislative leaders as the Honorable Jack Brooks (D-Texas), Chairman of the House Governmental Operations Committee; the Honorable G.V. "Sonny" Montgomery (D-Mississippi), Chairman of the House Veterans Affairs Committee; the Honorable Strom Thurmond (R-S. Carolina); the Honorable Gerald B. Solomon (R-New York), ranking minority memnber of the House Veterans Affairs Committee; and the Honorable Douglas Applegate (D-Ohio) emphasized the equal obligation of the nation to care for the men and women who have defended our country in times of peril; and

"Whereas, the VA implements a variety of education and training programs that have rehabilitated and educated over 188 million beneficiaries since World War II; and

"Whereas, all the national veterans organizations have sought this goal of upgrading the VA in order that services, programs, and benefits for the veterans and their survivors would be enhanced; and

"Whereas, it would be reasonably safe to conclude that the results of the passage of H.R. 3471 would positively affect the delivery of services and benefits to over 12,000 Guamanian veterans; now, therefore, be it

"*Resolved,* that the Nineteenth Guam Legislature endorse and support the passage of H.R. 3471, "The Department of Veterans Affairs Act of 1987", which would elevate the U.S. Veterans Administration to cabinet-level status; and be it further

"*Resolved,* That the Nineteenth Guam Legislature also solicit affirmative action from each Member of the U.S. Congress for the expeditious passage of H.R. 3471; and be it further

"*Resolved,* That the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Honorable Ronald Reagan, President of the United States; the Honorable Jim Wright, Speaker, U.S. House of Representatives; to the Honorable George Bush, President of the U.S. Senate; to the Honorable Strom Thurmond, President Pro Tem of the U.S. Senate; to the Honorable Jack Brooks, Chairman of the House Governmental Operations Committee; to the Honorable John Glenn, Chairman, Senate Governmental Affairs Committee; to the Honorable G.V. "Sonny" Montgomery, Chairman of the House Veterans Committee; to the Honorable Gerald B. Solomon, ranking minority member of the House Veterans Affairs Committee; to the Honorable Douglas Applegate; to the Honorable Ben Blaz, Guam's Washington Delegate; to General Turnage, Administrator, U.S. Veterans Administration; to the presidents of Guam's Veterans organizations; to the national veterans groups; to John Blaz, of the Guam Veterans Affairs Office; to Robert Bennett of the Guam Veterans Regional Medical Clinic; and to the Governor of Guam."

POM-420. A resolution adopted by the Senate of the Commonwealth of Massachusetts; to the Committee on Labor and Human Resources:

"A Resolution

"Whereas, one of the most important basic resources of a country is the health and vitality of its citizens; and

"Whereas, many citizens of the United States are financially prohibited from obtaining adequate health care; and

"Whereas, in the world health community the United States ranked with such countries as the Union of South Africa who also lack a national health care plan; now therefore be it

"*Resolved,* That the Massachusetts Senate respectfully urges the Congress of the United States to enact legislation providing for a comprehensive national health care plan and to fund such plan; and be it further

"Resolved, That a copy of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, the Presiding Officer of each branch of Congress and to each member thereof from the Commonwealth."

POM-421. Joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

"JOINT RESOLUTION

"Whereas, There is a state and federal jurisdiction over employee welfare plans which provide health benefits pursuant to the Employee Retirement Income Security Act of 1974 (ERISA); and

"Whereas, The Employee Retirement Income Security Act's preemption of state control over self-insured plans in areas such as mandated benefit packages and continuation of coverage hampers solutions to uncompensated care problems at the state level; and

"Whereas, Information is sparse regarding the impact of self-insured plans on the delivery of health care in the United States; now, therefore be it

"Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to authorize and provide funding for a study by the General Accounting Office, to analyze health care policy and delivery systems for the purpose of guiding the Congress of the United States and state legislatures in the enactment of health care legislation; and be it further

"Resolved, That the study consider all of the following:

"(a) The effect of the Employee Retirement Income Security Act's preemption of state regulation of self-insured plans.

"(b) The effect of the cost shift from the federal government to state governments and private payers.

"(c) Cause of inflation of health care costs.

"(d) The role of the federal and state governments in the health care area; and be it further

"Resolved, That the Legislature of the State of California requests the National Conference of State Legislatures to urge Congress to make changes in the ERISA preemption in order to allow the state to address adequately the issue of uncompensated care; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the Governor of the State of California to request the National Conference of Governors to urge Congress to make changes in the ERISA preemption in order to allow the states to address adequately the issue of uncompensated care; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Governor of the State of California, and to the National Conference of State Legislatures."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S.J. Res. 235: Joint resolution deploring the Soviet Government's active persecution of religious believers in Ukraine.

S. Con. Res. 82: A concurrent resolution urging the German Democratic Chief of State Erich Honecker to repeal permanently the order directing East German border guards to shoot to kill anyone who, without authorization, attempts to cross the Berlin Wall, and to issue an order to tear down the Berlin Wall.

By Mr. BENTSEN, from the Committee on Finance, with an amendment in the nature of a substitute and an amended preamble:

S. Con. Res. 94: A concurrent resolution to express the sense of the Congress regarding relief for the U.S. soybean industry under section 301 of the Trade Act of 1974.

By Mr. PELL, from the Committee on Foreign Relations, with an amendment and an amended preamble:

S. Con. Res. 99: A concurrent resolution condemning North Korea's support for terrorist activities.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance:

Mark Sullivan III, of Maryland, to be general counsel for the Department of the Treasury.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Eugene J. McAllister, of Virginia, to be an Assistant Secretary of State:

Bill K. Perrin, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cyprus.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Bill K. Perrin.

Post: Cyprus.

Contributions, amounts, date, and donee:

1. Self: $5,000.00, 1984 Texas Victory Committee.

2. Spouse: Kathleen M. Perrin (AKA Courtenay): $100.00, 1983, Republican Party of Texas; $30.00, 1983, Presidential Task Force; $25.00, 1983, Republican National Committee; $500.00, 1984, Friends of Phil Gramm; $35.00, 1984, Republican National Committee; $10.00, 1984, Presidential Task Force.

3. Children and Spouses Names: William Bret Perrin, None.

4. Parents Names: Cecil F. Perrin (Deceased), Helen J. Perrin (Bass), None.

5. Grandparents—Paternal: W.H. Perrin (Deceased), None. Cora Perrin (Deceased), None. *Maternal:* Gwenda B. Armour (Deceased), None. Albert Armour (Deceased), None.

6. Brothers and Spouses Names: None.

7. Sisters and Spouses Names: Janice M. Howard, None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Edward Morgan Rowell, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Portugal, to which position he was appointed during the last recess of the Senate.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Edward Morgan Rowell.

Post: Lisbon.

Contributions, amount, date and donee:

1. Self: None.

2. Spouse: None.

3. Children and Spouses Names: Edward Oliver Rowell, None. Christopher Douglas Rowell, None. Karen Rowell Schuler, None. Timothy D. Schuler, None.

4. Parents Names: Edward Joseph Rowell, deceased 1974. Mary Helen Mohler Rowell, deceased 1971.

5. Grandparents Names: Edward Francis Rowell (d. 1937), Anne W. Clark Rowell (d. 1959), Frederick Mohler (d. 1947), Mary Tietje Mohler (d. 1950).

6. Brothers and Spouses Names: Frederic Clark Rowell, None. Barbara Elizabeth Erdman Rowell, None.

7. Sisters and Spouses Names: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurante.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated.

By Mr. PROXMIRE:

S. 2125. A bill to amend the Internal Revenue Code of 1986 to terminate the exclusion from gross income of Americans working abroad, and for other purposes; to the Committee on Finance.

By Mr. HECHT:

S. 2126. A bill to require the construction of certain facilities at the Ioannis A. Lougaris Veterans' Administration Medical Center in Reno, NV; to the Committee on Veterans' Affairs.

By Mr. HECHT (for himself and Mr. REID):

S. 2127. A bill to direct the Secretary of the Interior to transfer a certain parcel of land in Clark County, NV; to the Committee on Energy and Natural Resources.

By Mr. WARNER (for himself, Mr. CHAFEE, Mr. TRIBLE, Mr. MURKOWski, Mr. Cohen, Mr. Mitchell, Mr. Stevens, and Mr. Pell):

S. 2128. A bill to amend the Internal Revenue Code of 1986 to permit tax-free sales of diesel fuel for use by fishery vessels; to the Committee on Finance.

S. 2129. A bill to amend the Internal Revenue Code of 1986 to repeal the application of the uniform capitalization rules with respect to animals produced in a farming business; to the Committee on Finance.

By Mr. WILSON:

S. 2130. A bill to provide that the Consumer Product Safety Commission amend its regulations regarding lawn darts; to the Committee on Commerce, Science, and Transportation.

By Mr. D'AMATO:

S. 2131. A bill to amend the Immigration and Nationality Act to provide lawful temporary resident status for certain aliens based upon petitions submitted to the Attorney General on behalf of such aliens by sponsoring employers and labor unions, and for other purposes; to the Committee on the Judiciary.

S. 2132. A bill to authorize the original enlistment of certain aliens in the Armed Forces of the United States and the militias of the several States, to provide temporary and permanent resident status to such enlisted members, and for other purposes; to the Committee on the Judiciary.

S. 2133. A bill to provide for the legalization of certain aliens and to provide for units of assessment to determine the qualification of aliens for such status; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Mr. Helms, Mr. Kerry, Mr. Kennedy, Mr. Durenberger, Mr. Graham, Mr. Heflin, Mr. Dole, Mr. Specter, Mr. Thurmond, Mr. Murkowski, Mr. Cranston, Mr. DeConcini, Mr. McClure, Mr. Leahy, Mr. Garn, Mr. Grassley, Mr. Symms, Mr. Simpson, Mr. Trible, Mr. Domenici, Mr. Cochran, Mr. Pressler, and Mr. Wilson):

S. 2134. A bill to impose sanctions against the Republic of Panama; to the Committee on Foreign Relations.

Mr. WEICKER (for himself, Mr. Hollings, Mr. Inouye, Mr. Kerry, Mr. Lautenberg, Mr. Pell, and Mr. Stevens):

S.J. Res. 269. To designate the week beginning October 30, 1988, as "National Marine Technology Week"; to the Committee on the Judiciary.

S.J. Res. 270. Joint resolution designating June 26 through July 2, 1988, as "National Safety Belt Use Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER (for Mr. Simpson (for himself, Mr. Chafee, Mr. Armstrong, Mr. Boschwitz, Mr. Cochran, Mr. Specter, Mr. Quayle, Mr. Heinz, Mr. McConnell, Mr. Bond, Mr. Evans, Mr. Kasten, Mr. D'Amato, Mr. Wallop, Mr. Humphrey, Mr. Warner, Mr. Garn, Mr. Domenici, Mr. Gramm, and Mr. Grassley)):

S. Res. 390. A resolution to express the sense of the Senate with respect to establishing conditions for the execution of arrests warrants compelling the attendance of absent Senators; to the Committee on Rules and Administration.

By Mr. BYRD:

S. Con. Res. 101. A concurrent resolution providing for a conditional adjournment of the Senate from March 3 or 4, 1988, until March 14, 1988; considered and agreed to.

By Mr. DANFORTH (for himself, Mr. Pell, Mr. Bond, and Mr. Sarbanes):

S. Con. Res. 102. A concurrent resolution to express the sense of the Congress regarding the contributions of John Foster Dulles in international affairs; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE:

S. 2125. A bill to amend the Internal Revenue Code of 1986 to terminate the exclusion from gross income of Americans working abroad, and for other purposes; to the Committee on Finance.

TERMINATION OF EXCLUSION FOR CITIZENS OR RESIDENTS OF THE UNITED STATES

Mr. PROXMIRE. Mr. President, I am today introducing legislation to close a $1.2 billion tax loophole. This loophole allows Americans who work and reside abroad to exclude $70,000 from their earned income in calculating their taxes.

When the current exclusion was proposed in 1981, it was looked to as a means of lowering our trade deficit. Congress hoped to increase the number of Americans working abroad and lower the costs to U.S. firms of doing business overseas, thus giving a great boost to U.S. companies trying to market their products in a foreign market.

Some of these people, however, are working for foreign companies, helping them to increase their share of the U.S. market or to compete with U.S. firms in overseas markets. At a time when too many U.S. companies are buying parts from abroad or moving their production facilities altogether out of the United States this loophole just doesn't make sense. It is not based on need or situation.

Over the past 10 years this exclusion has jumped from $20,000 to $70,000 for every person. Meanwhile, the trade deficit has ballooned to over $159 billion per year.

Most economists would agree that reducing the budget deficit would be a major step toward improving the trade deficit. This $1.2 billion tax loophole would be a good place to start.

In the face of these huge budget deficits, how can we in Congress ask our citizens at home to tighten their belts while those abroad continue to live high on the hog?

It is ludicrous to give people nearly a $20,000 break on their taxes to help them face the hardships of living in Toronto, London, Paris, or other places favored by Americans overseas. These people are using many of the services of the U.S. Government. They receive the protection of the American military and the benefit of the U.S. Embassy in their area. They should pay taxes just as American citizens at home.

This legislation will go much further in reducing the twin deficits of trade and budget than this tax break ever has. I would urge my colleagues to cosponsor this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TERMINATION OF EXCLUSION FOR CITIZENS OR RESIDENTS OF UNITED STATES.

(a) In General.—Section 911 of the Internal Revenue Code of 1986 (relating to exclusion of earned income of citizens or residents of the United States living abroad) is amended by adding at the end thereof the following new subsection:

"(g) Termination.—This section shall not apply to taxable years beginning after December 31, 1988."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1988.

By Mr. HECHT:

S. 2126. A bill to require the construction of certain facilities at the Ioannis A. Lougaris Veterans' Administration Medical Center in Reno, NV; referred to the Committee on Veterans' Affairs.

CONSTRUCTION AT THE IOANNIS A. LOUGARIS VETERANS' ADMINISTRATION MEDICAL CENTER

● Mr. HECHT. Mr. President, I rise today to introduce legislation which will provide the veterans of Nevada with the first-rate health care they deserve. Specifically, my legislation will help to rebuild and modernize the Ioannis Lougaris Veterans' Administration Medical Center in Reno, NV.

Currently, this is the only VA hospital located in Nevada, so you can see how important it is to have a facility in good condition. Quite frankly, Mr. President, the Reno VA Hospital is badly in need of repair. It was designed before World War II and constructed from 1945 to 1948. The building falls considerably below modern building standards. Central air-conditioning is nonexistent in patient rooms, which can be especially dangerous because of the extreme variation of temperature in Reno's high desert climate. The mechanical, electrical, and plumbing systems in this building are 30 to 40 years old and nearly at the end of their useful lives. Even basic fire sprinklers and smoke evacuation systems do not exist in the main building. Mr. President, this hospital just isn't safe anymore for Nevada's veterans.

And, yet, the need, Mr. President, for a modern state-of-the-art facility is growing as the number of veterans in the State increases. Nevada has one of the fastest growing veterans populations in the country. Because of the State's beautiful dry climate, many veterans are attracted to Nevada for retirement. In both Clark County and the remainder of the State, Nevada's veterans population increased by about 2,000 individuals a year.

In fact, Mr. President, considering the small population of our State, the percentage of veterans in Nevada compared to the rest of the population is one of the highest in the country.

Not only is the Reno VA Medical Center the only acute care facility in the State, but it also draws patients from one of the largest geographical areas in the VA system. This hospital serves all veterans of Nevada except those in Clark County and those in counties which border Utah. In any given year, the hospital in Reno treats about 5,000 inpatients. It also serves veterans in California who are located in the eastern slope counties of the Sierra Nevadas.

Mr. President, we have been sucessful in moving up the construction date for a joint Air Force/Veterans' Administration Hospital at Nellis Air Force Base near Las Vegas to 1990. Nevertheless, Nevada's veterans can't wait until 1990. They need top-flight health care now.

This is why it is so crucial, Mr. President, that this project get under way now. For the veterans who have given so much to protect this country and the world, my legislation to rebuild and modernize the Reno VA Medical Center must be passed by this Congress.●

By Mr. HECHT (for himself and Mr. Reid):

S. 2127. A bill to direct the Secretary of the Interior to transfer a certain parcel of land in Clark County, NV; to the Committee on Energy and Natural Resources.

TRANSFER OF CERTAIN LAND IN CLARK COUNTY, NEVADA

● Mr. HECHT. Mr. President, I rise today to introduce important legislation on behalf of Nevada's senior citizens. My legislation will ensure the establishment of a low-income mobile home park for senior citizens in southern Nevada.

In 1978, the Las Vegas Jaycees asked the Bureau of Land Management [BLM] for a specific parcel of land for a low-income mobile home park for senior citizens. Since this exchange had never been tried in the past by a nonprofit group, the Jaycees agreed to develop and run the project through the Clark County Housing Authority. Unfortunately, a lawsuit then occurred with a competing interest, and for the next 6 years plans to establish the mobile home park were blocked.

Mr. President, my legislation will ensure that the Federal land in question will be transferred to Clark County, NV, by the Secretary of the Interior for a low-income mobile home park for senior citizens. Mr. President, there is a great need in Nevada for low-cost housing for seniors. Because of the State's beautiful dry climate, many retirees are attracted to Nevada for retirement. Las Vegas is home to approximately 103,000 seniors, who comprise roughly 18 to 20 percent of the population. Though retirement projects are being built at a rapid rate everywhere in Nevada, these projects are priced for the middle- to upper-income seniors. Rental prices which often include meals and other services run from $895 to $1,870 or more per month for a two bedroom apartment. Many retirees just can't afford these prices and so they are often forced to accept inadequate housing or even leave for other States where more housing options are available to them.

Mr. President, the number of senior citizens is growing rapidly in the United States. Researchers predict that by the year 2025, one in every four Americans will be over the age of 65. The older population in this country today is the largest it has ever been. It is growing almost twice as fast as the rest of the population. The reason for this rapid growth is clear. Americans are simply living longer today than they ever have before. Moreover, they find themselves in excellent health and while maybe not maintaining the hectic schedules of their youth, wish to remain creative, active members of society. But how can they be contributing members of our society if they are prevented from living in affordable and comfortable housing.

Mr. President, in these troubled economic times, it would be very shortsighted indeed to shut our retirees out of housing. The most important gift America's younger generation can offer to our retirees is the ability to enjoy their golden years viably, in economic security, and in a comfortable home.

This is why, Mr. President, this project to create a low-income mobile home park for Seniors is so critical. For retirees, who have decided to come to Las Vegas to retire or who have been lifelong Nevada residents, this legislation to establish a mobile home park in southern Nevada cannot wait. I urge my colleagues to give their full support to this important legislation.●

By Mr. WARNER (for himself, Mr. Chafee, Mr. Trible, Mr. Murkowski, Mr. Cohen, Mr. Mitchell, Mr. Stevens, and Mr. Pell):

S. 2128. A bill to amend the Internal Revenue Code of 1986 to permit tax-free sales of diesel fuel for use by fishery vessels; to the Committee on Finance.

TAX EXEMPTION FOR DIESEL FUEL USED BY FISHERY VESSELS

● Mr. WARNER. Mr. President, today I am introducing legislation cosponsored by Senators Trible, Murkowski, Cohen, Mitchell, Stevens, Chafee, and Pell to make several important changes in the procedure for collecting diesel enacted Budget Reconciliation Act.

The Reconciliation Act contained a revenue provision that would change the collection point for the diesel fuel excise tax on Federal highway users from retailers to wholesalers. Clearly, this new tax collection procedure, which is scheduled to take effect April 1, was intended to strengthen enforcement and collection of the diesel tax from those who use our Nation's highways. I am sure we all agree that this is a worthy goal.

However, the unintended effect of this provision will be to force virtually all diesel consumers to pay the tax up front on their fuel. Only thereafter can those who can demonstrate that they did not use the fuel on a federally funded highway be eligible to apply for a refund from the Internal Revenue Service.

Before this act passed, a retailer, who was collecting the tax, was presumed to be able to distinguish between sales of fuel to highway and nonhighway users. Under the new procedure a diesel wholesaler will have no idea who the end user of the fuel will be and will thus have to charge the tax on all fuel sales.

The Reconciliation Act does provide for several exceptions: commercial aviation, home heating oil, State and local governments, and railroads are excepted. These exceptions are provided because it was generally believed that those categories of users could be easily identified as nonhighway users at the wholesale level. Because the same generally holds true for the fishery industry, my bill would simply add them to the list of exceptions already enacted into law.

If there is one group that clearly is not purchasing fuel for highway use it is the fishery industry, yet they are nonetheless "netted" under the law.

Other bills which have been introduced in recent weeks, seek to relieve the burden on other nonhighway users, such as farmers, who will have to forfeit the tax up front and then apply later for a refund. My bill merely seeks to ensure that the fishery industry receives adequate and fair consideration.

I know there is currently a great deal of congressional concern over the effects of this new tax collection procedure on industries which are particularly sensitive to the price of diesel fuel. However, I am skeptical that Congress can act in time to avoid the April 1 effective date. Up front diesel fuel costs will rise by approximately 20 percent as fishermen have to pay for taxed fuel and then wait, in many cases up to a year, for their refund from the IRS. There is no doubt that this new procedure will impose a severe cash drain in fishery vessel operators.

As my colleagues know, these small businessmen operate on a narrow margin. They cannot affort to lend the Federal Government thousands of dollars interest free, which are needed to make mortgage and insurance payments on vessels, meet payrolls for crew members, and repair boats and replace gear. In fact, in many fisheries, fuel cost is the most significant cost associated with vessel operations. Fuel purchases accounts for over 27 percent of operating costs for vessel operators in the southeastern United States.

Further, this change in tax collection procedures will impose an onerous recordkeeping burden on these small businessmen, who are least able to comply with it. Fishery vessel operators and owners will have to maintain meticulous records of all fuel purchases for IRS inspection in order to obtain refunds of a tax they were never meant to pay.

Although I believe an unfair tax procedure should be corrected even when that correction may cost the Federal Government some revenue, I believe equally as strongly that we must continue our efforts to reduce the Federal budget deficit. Therefore, I intend to have the Joint Committee on Taxation prepare a revenue estimate on this legislation.

I appreciate the improved tax enforcement intentions behind the original legislation contained in last year's Reconciliation Act, to elimate documented as well-known abuses. However, the application of this new tax collection procedure across the board to all users of diesel fuel, no matter how unrelated their activities are to use of the Nation's highways, is a prime case of an over reaction to correct a specific problem. It seems ludicrous to think that a fisherman working, way, several miles off the coast of the Commonwealth of Virginia will be burning fuel that is taxed, even if temporarily, because the IRS believes it might just possibly be used on the highway.

I hope my colleagues will join with me in cosponsoring this legislation to free fishery vessel owners and operators from this bureaucratic nightmare that will descend upon them on, ironically, April Fool's Day. I ask unanimous consent that the full text of the bill and an accompanying letter from the Alaska Factory Trawlers Association in support of this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX EXEMPTION FOR DIESEL FUEL USED BY FISHERY VESSELS.

(a) IN GENERAL.—Section 4093 of the Internal Revenue Code of 1986, as added by section 10502 of the Revenue Act of 1987, is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) FISHERY USE.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on the sale of any taxable fuel for use by a fishery vessel. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to the sale of any taxable fuel for resale for use by a fishery vessel.

"(2) FISHERY VESSEL.—The term 'fishery vessel' means a fish harvesting vessel, a fish tender vessel, or a fish processing vessel.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987.

ALASKA FACTORY TRAWLER ASSOCIATION,
Seattle, WA, February 22, 1988.

Hon. JOHN WARNER,
U.S. Senator, Senate Russell Office Building, Washington, DC.

DEAR SENATOR WARNER: The Alaska Factory Trawler Association (AFTA), the trade association which represents the factory trawler fleet operating in the North Pacific groundfish fishery, seeks your assistance in a matter of significant economic importance to us and to other segments of the fishing industry—establishing an up-front exemption for fishing vessels from the 15.1 cent per gallon federal highway excise tax on diesel fuels.

This federal excise tax, passed December 22, 1987, was designed to tax highway users. However, current exemptions from diesel fuel taxes for off-highway users, including fishing vessels, has been eliminated. Loss of this up-front exemption means that fishermen will be required to pay the tax up front, then apply for a refund on a quarterly basis. This needlessly increases the recordkeeping and paperwork for both the fishermen and the government, and costs the fishermen significantly due to the loss of the time value of the money deposited with the government.

While this is a problem for all fishermen, the problem becomes particularly acute for the factory trawler operators. These large American owned and operated vessels participate in high volume, low margin fisheries and must compete in the world market against foreign producers who enjoy lower operating costs. As illustrated in the attached fact sheet, factory trawler operators can expect to have between $22,500 and $67,950 awaiting rebate at any time. This amount increases if rebates aren't made in a prompt manner.

At a time when prices for our products have declined and other operating costs have increased, many operators cannot afford this additional drain to their cash flow.

One of the objectives of doing away with the exemption was to deter tax-evasion schemes, in which fuel which is ostensibly purchased for off-highway use is diverted to use in a highway vehicle. Such a scheme is only a remote possibility for an operator of a vessel fishing in the Gulf of Alaska or the Bering Sea, and a burden of the magnitude imposed by this law is unjustified. If deterring such schemes is the goal of Congress, a provision applying the exemption only to fuel pumped directly into the fishing vessel would be appropriate.

You can help with this issue by supporting a bill, such as the one enclosed, which amends the Internal Revenue Code by providing fishing vessels, fish processing vessels, and tender vessels an up-front exemption from this highway tax.

The members of AFTA would like to thank you for the assistance you have given us in the past, and hope that you will work with us to resolve the problem we are facing today.

Sincerely,

WILLIAM R. ORR,
Director, Government Affairs.

FACTORY TRAWLER FUEL CONSUMPTION

An informal survey was conducted among factory trawler operators to determine fuel consumption patterns. The results, which are rough averages, are categorized into three categories: vessels less than 200 feet, vessels 200-250 feet, and vessels greater than 250 feet. The number of vessels include vessels which will enter the fishery this year.

Factory Trawlers less than 200 feet:

Number of vessels: 16;

Fuel carrying capacity: 75,000-100,000 gallons;

Daily fuel consumption: 2,000 gallons/day;

Quarterly fuel consumption: 150,000 gallons;

Quarterly tax @ $.151/gal: $22,500.

Factory Trawlers between 200 and 250 feet:

Number of vessels: 14;

Fuel carrying capacity: 150,000 gallons;

Daily fuel consumption: 2,600 gallons/day;

Quarterly fuel consumption: 200,000 gallons;

Quarterly tax @ $.151/gal: $30,000.

Factory Trawlers larger than 250 feet:

Number of vessels: 10;

Fuel carrying capacity: 200,000 to 325,000 gallons;

Daily fuel consumption: 6,000 gallons/day;

Quarterly fuel consumption: 450,000 gallons;

Quarterly tax @ $.151/gal: $67,950.

Nearly all of the fuel is taken at Alaskan ports. The average price of fuel (#2 diesel) purchased in Alaska is $.75/gallon. (A quarter is figured as 75 days of operation.)

PROPOSED AMENDMENT

To amend the Internal Revenue Code of 1986 to permit tax-free sales of diesel fuel for use by fishery vessels.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled

SECTION 1. TAX EXEMPTION FOR DIESEL FUEL USED BY FISHERY VESSELS.

(a) IN GENERAL.—Section 4093 of the Internal Revenue Code of 1986, as added by section 10502 of the Revenue Act of 1987, is amended by redesignating subsections (d) and (e) as (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) Fishery Use.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on the sale of any taxable fuel pumped directly onto a fishery vessel. For the purposes of this subsection, the term 'fishery vessel' means a fish harvesting vessel, a fish tender, or a fish processing vessel.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987.●

● Mr. CHAFEE. Mr. President, together with Senator Warner, I am introducing legislation to correct a problem created by a provision in the recently enacted budget reconciliation law.

Currently, fishermen are exempt from paying the 15-cent-per-gallon excise tax on diesel fuel, because this tax is collected for the highway trust fund for use on highways. However, as a result of this change in law, fishermen will now be forced to pay this tax at time of purchase, and apply to the Internal Revenue Service for a refund.

This is government intrusion at its worst. It is as if the Government was purposely trying to make life more difficult for fishermen by collecting a tax from them which they don't even owe, and withholding it for a year. For fishermen this creates a particularly onerous burden, because fishing crews normally divide up the profits from a fishing trip. If a portion of these profits were withheld for a year, it would be difficult, if not impossible, to ensure that each fisherman receives his fair share when the refund check comes in.

I want to make it clear that I agree with the intent of the Budget Reconciliation Act, which is to collect more efficiently the diesel excise tax from highway users. Since fishermen clearly do not fall into this category, it is unfair to burden them with the excessive recordkeeping necessary to comply with this act.

A fishermen's cooperative in Rhode Island informed me that it would cost over $320,000 a year for this relatively small club to pay the diesel tax at the pump.

For many fishing vessels, fuel cost is the most significant cost associated with fishing. We should not be adding to this cost at a time when our fishermen are struggling to cope with dwindling fish stocks and tough foreign competition.

I urge my colleagues to join with me in supporting this legislation to exempt fishermen from paying an unfair and onerous tax.●

By Mr. BAUCUS (for himself, Mr. Boren, Mr. Burdick, Mr. Conrad, Mr. Daschle, Mr. Domenici, Mr. Ford, Mr. Fowler, Mr. Garn, Mr. Gramm, Mr. Grassley, Mr. Harkin, Mr. Hecht, Mr. Helms, Mr. Karnes, Mr. McClure, Mr. Nickles, Mr. Pressler, Mr. Simpson, and Mr. McConnell):

S. 2129. A bill to amend the Internal Revenue Code of 1986 to repeal the application of the uniform capitalization rules with respect to animals produced in a farming business; to the Committee on Finance.

REPEAL OF THE "HEIFER" TAX

● Mr. BAUCUS. Mr. President, today Senators Wallop, Melcher, and I, along with Senators Boren, Burdick, Conrad, Daschle, Domenici, Ford, Fowler, Garn, Gramm, Grassley, Harkin, Hecht, Helms, Karnes, McClure, Nickles, Pressler, and Simpson are introducing legislation to repeal the so-called heifer tax that was adopted in the 1986 Tax Reform Act. I hope that this legislation can be enacted quickly, so that our agricultural producers will be relieved of the unfair administrative burdens that the heifer tax imposes.

BACKGROUND

Up until 1986, agricultural producers could immediately deduct the preproductive expenses of managing their breeding herds (for example, feed, veterinary costs, rent, depreciation, taxes), then receive favorable capital gains treatment of the proceeds when the breeding stock was sold. In some cases, this may have created a deferral/conversion opportunity that attracted outside tax-shelter investors. For this reason, some agricultural groups proposed revising the tax treatment of preproductive expenses. For example, the American Farm Bureau Federation proposed that "all gains on the sale of breeding, draft, and sporting livestock and dairy animals * * * be treated as ordinary income, not capital gains."

The President's tax reform proposal went even further, by both requiring that preproductive period expenses be capitalized rather than deducted immediately (if the preproductive period exceeded 2 years) and denying capital gains treatment to proceeds from the sale of breeding stock and all other "section 1231 assets."

Eventually, the House version of the tax bill contained a similar proposal. The Senate version of the bill did not, but the House provision was included in the conference report, as code section 263A. This provision changes the accounting rules for preproductive expenses. It requires agricultural producers to use one of two options. First, they can capitalize their preproductive expenses rather than deduct them immediately. Alternatively, they can deduct them immediately, but only if they recapture the expenses when each animal is sold and use a less favorable depreciation method for all of their agricultural machinery and equipment.

PROBLEMS WITH THE HEIFER TAX

Section 263A creates an administrative nightmare. Agricultural producers are required to keep track of their preproductive expenses animal-by-animal. This is simply impractical. Agricultural producers are having a hard enough time making ends meet, without having to keep up with this additional paperwork.

In addition, section 263A increases agricultural producers' taxes substantially: the National Cattlemen's Association estimates that it may increase taxes by $50 to $100 for each animal placed back in the herd.

What's more, it's unnecessary; when originally proposed in the House version of the Tax Reform Act, section 263A was aimed at tax shelter operations; however, many other provisions that were eventually adopted deal effectively with the agricultural tax shelter problem.

Our legislation would make the preproductive period expense rules inapplicable to farmers who use the cash method of accounting. They could, therefore, continue to deduct preproductive expenses as they are incurred. This would result in a revenue loss of between $100-$200 million a year. Given the need to keep reducing the Federal budget deficit, I understand that this revenue loss must be offset by revenue-raising provisions, and I am working with agricultural groups to develop an appropriate offset proposal.

CONCLUSION

Mr. President, I supported the Tax Reform Act. Taking everything into account, it makes the system more fair. In my own State of Montana, it reduces individual Federal income taxes by 10 percent. But, at the same time, it contains mistakes. And section 263A is one of the most glaring. I hope that we can improve the Tax Reform Act by repealing this ill-conceived heifer tax and I urge my colleagues to join me, Senator Wallop, Senator Melcher, and the others who are cosponsoring our bill, to enact repeal legislation as quickly as possible.

I ask unanimous consent that a copy of the bill, be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. TREATMENT OF ANIMALS PRODUCED IN FARMING BUSINESS.

(a) In General.—Subparagraph (A) of section 263A(d)(1) of the Internal Revenue Code of 1986 (relating to exception for farming businesses) is amended to read as follows:

"(A) In general.—This section shall not apply to any of the following which is produced by the taxpayer in a farming business:

"(i) Any animal.

"(ii) Any plant which has a reproductive period of 2 years or less."

(b) TECHNICAL AMENDMENTS.—

(1) The heading of paragraph (1) of section 263A(d) of such Code is amended to read as follows:

"(1) SECTION NOT TO APPLY TO CERTAIN PROPERTY.—".

(2) Subsections (d)(3) and (e) of section 263A of such Code are each amended by striking out "or animal" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 803 of the Tax Reform Act of 1986.●

● Mr. WALLOP. Mr. President, I rise today with the Senators from Montana, Mr. BAUCUS and Mr. MELCHER, and 18 other Senate colleagues to repeal a provision in the Tax Reform Act of 1986 which is now commonly referred to as the "Heifer Tax."

The "Heifer Tax" is shorthand for Internal Revenue Code Section 263A: The burdensome requirement that forces agricultural producers to apply the uniform cost capitalization rules to animals and plants with preproductive periods in excess of 2 years. For livestock producers, this means the preproductive period begins when the animal is conceived and ends when the animal is ready for its intended use. For cattle, this period spans two gestation periods. Producers must now capitalize, rather than expense, the direct and indirect costs of production such as feed, vet bills, rent, depreciation, interest and taxes. The capitalized costs are then depreciated over 5 years.

The enactment of the Heifer Tax was a mistake and has created an administrative and bookkeeping nightmare for my Wyoming cattle producers. The practical problems with capitalization of preproductive costs may force the use of subjective cost estimates to prepare tax returns and determine the tax owed. The use of estimates, be they developed by the taxpayer or by the Government, is questionable tax policy and leaves the stockgrower vulnerable to the judgment of an IRS agent who may think he knows more about cattle production than does the stockman.

Mr. President, I wish to touch on some of the practical problems with the capitalization rules. Since the capitalization period begins at conception, and well before the sex of the animal is known, this means the cost of animals that will not remain in the herd, such as bull calves, will be capitalized for 9 months. Another problem is the allocation of costs between cow and unborn calf when preproductive periods overlap. This allocation is needed to determine the depreciation base for each animal. Another problem is that the recordkeeping may be for naught if the animal is not used as replacement breeding stock. Typically, only a small fraction of the herd is used as replacement breeding stock and this determination is made when the animal has reached breeding age, not when it is born.

The code does allow producers to make an election to continue deducting preproductive period costs as they are incurred, but not without a catch. The catch is that the producer must use straight line depreciation over longer lives on farm assets acquired after the election is made and then must recapture as ordinary income, when the animal is sold, all the costs that would have been capitalized had the election not been made. The difference in depreciation methods could wipe out the benefits of expensing preproductive costs and the producer will still need to properly account for preproductive costs in order to determine the amount of recapture.

The preproductive cost capitalization rules will substantially raise a producers tax bill. The National Cattlemen's Association expects that cattlemen will see a $50 to $100 increase in their tax bills for each animal placed back in the herd.

In 1987, Wyoming stockgrowers experienced what I like to call a "one-hundred year season." This is a once-in-a-life-time combination of good grass, plenty of water, good prices, and a mild winter. So the increase in taxes hits at a time when some Wyoming stockgrowers made money for the first time in many years and are able to begin the long climb out of a deep hole.

Mr. President, our legislation exempts agricultural producers from the burdensome and costly capitalization requirements of code section 263A and will allow them to continue to deduct preproductive costs as they are incurred. I urge my colleagues to cosponsor this legislation and send a signal to the agricultural community that Congress is willing to correct its mistakes.●

● Mr. DASCHLE. Mr. President, I also rise as an original cosponsor of this legislation. I believe that the approach taken in this bill is a good one. It allows farmers who use the cash method of accounting and therefore do not normally keep track of expenses for each of their farm animals on an individual basis to continue deducting preproductive expenses in the year in which they are incurred.

While the notion of uniform capitalization of expenses across the board for all taxpayers is an intriguing concept, we have seen that for some groups of taxpayers, including farmers, it is an administrative nightmare come true. It is a deceptively simple idea that is nearly impossible on taxpayers who can least afford it.

I plan to assist my colleagues in doing all we can to pass the legislation we introduce today, but I would also like to offer a ray of hope for these farmers in the meantime. I have been in contact with officials at the Treasury Department who are responsible for issuing implementing guidelines under the new uniform capitalization rules. Some farmers and C.P.A.'s from my State have spoken directly to individuals at the Treasury about these new requirements. We understand that guidelines are forthcoming from Treasury that would provide a safe harbor for farmers.

Under these proposed guidelines, farmers would be permitted to choose as one option a standard amount to expense per animal. If they decide upon this course, they would not have to keep track of their expenses for each animal. It is perhaps an imperfect solution, but would at least provide an avenue for avoiding the administrative quagmire of the uniform capitalization provisions.

Thus, while I have great hopes for passage of the bill we are introducing today and encourage my colleagues in the Senate to lend their support, I would also like to take this opportunity to urge the Treasury to act quickly in issuing the guidelines that I have just mentioned.●

By Mr. WILSON:

S. 2130. A bill to provide that the Consumer Product Safety Commission amend its regulations regarding lawn darts; to the Committee on Commerce, Science, and Transportation.

REGULATIONS RELATING TO LAWN DARTS

● Mr. WILSON. Mr. President, today I am introducing legislation to ban the sale of lawn darts, a seemingly harmless toy which actually has caused serious injuries to scores of children, and is responsible for the death of a small child in Riverside, CA, a little less than a year ago.

In 1970, the Food and Drug Administration determined that "law darts and other similar sharp-pointed toys usually intended for outdoor use and having the potential for causing puncture wound injury, or other injury" should be banned. However, the FDA also declared that such darts not intended for children not be banned; rather, that their packaging be marked in such a way as to warn parents that their children should not use them.

Mr. President, this warning system has not worked. I know that it has not worked in part because a parent of the child killed last year in Riverside, a constituent of mine named David Snow, has become a one-man crusade for the banning of lawn darts. David Snow is right.

The staff of the Consumer Products Safety Commission [CPSC] estimates that at least 500,000 law dart sets are sold annually. Others estimate that upwards of 1.5 million sets are sold each year. At least 10 percent of the sets are sold in the same package as badminton sets and other lawn games. Approximately 6,100 people were treated in U.S. hospital emergency rooms for injuries from lawn darts between January, 1978 and December, 1986. Over 80 percent of the victims were children under the age of 15; over 50 percent of the victims were under the age of 10. At least three children have died after being struck by a lawn dart.

The CPSC, however, still does not recognize the dangers to children inherent in lawn darts. Yesterday, the Commission voted against banning lawn darts. In addition, it even went so far as to ban its own staff from bringing civil suits to invoke penalties against lawn dart distributors who violate CPSC regulations. Instead, it made mandatory five provisos: that the front panel warning label on a lawn dart package be made more conspicuous and readable that a warning label be placed on one fin of each lawn dart in the set; that there be a warning against modifying a lawn dart; that each shipment of lawn darts to retailers include information on how to display lawn darts; and that lawn darts should not be packaged with other lawn games.

Yet, Mr. President, these are only warnings. In the last 6 months, CPSC staff visited 31 retail stores selling lawn darts and found that packages in half were in violation of these standards, and 12 of those in violation are part of three major retail chains. Seventeen of eighteen distributors were found to be violating label standards, and some importers have said that they may implement some of these five standards if they become mandatory.

It is clear that to ensure that all distributors and importers comply with these five standards would be impossible, unless the CPSC spends an immense amount of Federal funds to do so—funds that it does not have. It is further evident that lawn darts is such an easy game to play that children will continue to play it if they have the chance to do so. Parents can not supervise their children all the time. Therefore, unless lawn darts are banned, we will continue to see small children being injured, and possibly killed.

Therefore, Mr. President, I am introducing legislation to ban the sale of lawn darts. The language in this bill is identical to language which Senator GORE and I have agreed upon and is present in S. 1882, the Consumer Products Safety Commission reauthorization bill.

Unfortunately, this legislation has been stalled in the Committee on Commerce, Science, and Transportation for reasons unrelated to the proposed ban on lawn darts. I ask permission to have printed in the RECORD, a copy of the legislation, and a letter to President Reagan from my constituent, David Snow, regarding the lawn dart problem. In order to prevent more children from being injured, I urge my colleagues to cosponsor this important legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, not later than 60 days after the date of enactment of this Act, the Consumer Product Safety Commission shall amend its regulations to revoke exemption regarding lawn darts and other similar sharp-pointed toys contained in section 1500.86(a)(3) of title 16, Code of Federal Regulations, unless the Commission finds that such products do not have the potential for causing puncture wound injury.

AUGUST 28, 1987.

The PRESIDENT OF THE UNITED STATES,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: On April 5, 1987, my seven year old daughter Michele was struck in the head by a toy lawn dart and died as a result of her injury. Michele was playing with her dolls when the dart tossed by another child sailed over a fence and hit her.

Since her death I have learned that lawn darts exert 23,000 pounds of pressure per square inch when dropped from 15 feet. Lawn darts severely injure almost one thousand children a year requiring treatment in the nations hospital emergency rooms. These injuries include brain damage, paralysis, lost eyes, hearing loss, lacerations etc. This carnage started in the mid 1950's when lawn darts were first marketed. In 1970, the government banned lawn darts in response to the injuries up to that point. However, the manufactures of lawn darts sued for relief. It resulted in an exemption of lawn darts as a banned toy if a cautionary statement was placed on the lawn dart package. The court felt that this would solve the problem with the darts. It did not.

On June 4, 1987, I testified at the reauthorization hearing of the Consumer Product Safety Commission, chaired by Representative James Florio. My Testimony related to the violations of federal regulations by marketers of lawn darts. These violations factored in the death of my child. The CPSC followed up on my testimony and discovered in a survey of 21 lawn dart marketers that all 21 were in violation of labeling standards. They also found that a substantial number of retailers were in violation as to the required location of sale of lawn darts. These violations have continued unchecked for a number of years and consumers were denied their right to vital information.

The CPSC has been dangerously negligent. Chairman Terrence Scanlon's insistencies on a policy of voluntary compliance is misguided. This policy is unrealistic. It is causing the needless injury and death of children and adults. Voluntary compliance should not be substituted where mandatory enforcement by the commission is clearly called for. The CPSC is nothing short of a disgrace to the nation and your administration. I strongly believe that Congressman James Florio is correct when he stated that; "This agency is not doing it's job and as a result hundreds of consumers are being killed or seriously injured because of unsafe products on the market unregulated." You stated Mr. President, in your proclamation of National Consumers Week in April 1985, that; "Consumers have the right to healthful and safe products and the right to be heard when products do not meet standards." O.K., I want to be heard.

I have been perplexed at the Commissions failure to act on any safety issue since 1984, Not one safety rule has been promulgated under Terry Scanlon's leadership. I realize that before any positive corrective action of lawn darts or other dangerous products can occur, changes must be made within the CPSC. That is, we must fix the solution before we can fix the problem. I have spoken with many individuals on both the Senate and House consumer committees and CPSC staff. A clear consensus is evident. Mr. Scanlon lacks the ability to lead and has rendered the CPSC useless. The Commissions staff is demoralized and has no sense of direction.

On August 21, 1987, Chairman Scanlon further destroyed the CPSC. He removed the Commissions strongest advocate of product safety, Mr. David Schmeltzer Esq. as Director of Compliance and Enforcement. Mr. Schmeltzer has served the CPSC in an exemplary manner as the Compliance Director under four administrations and three former CPSC chairpersons. This change was made by Mr. Scanlon without the consent or approval of Commissioners Anne Graham or Carol Dawson. Mr. Schmeltzer was replaced by an individual who does not have a law degree. How is this person going to perform the duties of Enforcement and Compliance as a judicator without a trained knowledge of law. I would request that Mr. Schmeltzer be returned to his former position so we can get on with the serious business of protecting the public. Mr. Schmeltzer disagreed with Chairman Scanlon's ardent policy of voluntary compliance, believing that compulsory enforcement is necessary when companies fail to cooperate with safety regulations and issues. Mr. Schmeltzer was trying to function with one hand tied behind his back like the commissioners and staff of the CPSC must do when Chairman Scanlon sabotages any productive effort towards consumer protection.

Enough is Enough! I am requesting immediate intervention by you Mr. President. I am asking for the removal of Terrence Scanlon as Chairman of the CPSC.

Please investigate. You will find my assessment of the situation correct. Please share with me my desire to protect the sanctity of life above all other considerations in memory of my precious little girl.

Attached is material for your review and consideration.

Sincerely,

DAVID A. SNOW.

By Mr. D'AMATO:

S. 2131. A bill to amend the Immigration and Nationality Act to provide lawful temporary resident status for certain aliens based upon petitions submitted to the Attorney General on behalf of such aliens by sponsoring employers and labor unions, and for other purposes; to the Committee on the Judiciary.

S. 2132. A bill to authorize the original enlistment of certain aliens in the

Armed Forces of the United States and the militias of the several States, to provide temporary and permanent resident status to such enlisted members, and for other purposes; to the Committee on the Judiciary.

S. 2133. A bill to provide for the legalization of certain aliens and to provide for units of assessment to determine the qualification of aliens for such status; to the Committee on the Judiciary.

IMMIGRATION LEGISLATION

● Mr. D'AMATO. Mr. President, I rise today to introduce three bills, representing three ways of attacking the same problem: The very serious inequity in our present immigration system. These bills are identical to three being introduced in the other body by my distinguished friend, Congressman DIOGUARDI of New York.

Viewed another way, these bills are three potential gateways of opportunity—gateways open to those prospective Americans most likely, and best equipped, to make immediate and meaningful contributions as American citizens.

There is growing recognition in this body that the present immigration system, even with all the improvements made in the last Congress, discriminates against many who, ironically, are potentially among our most productive citizens. These are aliens, many already here under illegal circumstances, who are nonetheless equipped by language, custom, skills, and education to be a vital part of our country's economy and cultural fabric. The loss, Mr. President, is clearly ours, if we fail to find a way to open the gates.

That recognition is reflected in a bill recently reported out of the Judiciary Committee, S. 1611, by Senators KENNEDY and SIMPSON. Mr. President, I think that the compromise version of that bill approved by Judiciary on February 23 of this year is a good bill; I cosponsored the original when it was introduced last October. It is a step in the right direction—a big step—because it recognizes that would-be citizens from countries such as Poland, Ireland, and my own ancestral homeland of Italy have been left out, in fact discriminated against, by the recent changes in our laws.

But the step doesn't go far enough. The system proposed by the compromise is an improvement; why not apply it more broadly? Why not provide more fairness, more opportunity, to those most able to contribute in return?

I will only briefly describe the bills here. Each is designed to open a gateway only to those determined and able to enhance, rather than burden, a society from which they deserve a chance.

The first bill provides a number of temporary visas to persons both presently here and abroad, for a 5-year period, to those wishing to work, if a labor organization or employer petitions for a visa for such person. After 5 years, such individuals would be eligible to apply for permanent residence status.

The second bill provides for ultimate residence and citizenship to a limited number of persons through service in the U.S. Armed Forces or the militias of the several States. Such people would be granted legal status to serve; they would also have to apply simultaneously for permanent residence status. The enlistee would be required to serve a minimum of 3 years. Applicants from abroad would be ineligible for service in any militia, and would have to enlist in the regular Armed Forces.

The third bill I will describe in somewhat greater length, as it represents the broadest and most fundamental attempt at repairing the inequities left by previous immigration legislation. Essentially, if legalizes a small but significant number of aliens, primarily from countries like Ireland, Italy, and Poland, who entered the United States after January 1, 1982, and before October 1, 1988.

Not every illegal alien is legalized by this bill. Instead the applicant must meet the eligibility criteria established under the Kennedy-Simpson bill (S. 1611) based on the following point system:

Aliens successfully completing grade school through high school: 10 units; bachelor degree: 10 units; graduate degree: 5 units; vocational education: 10 or 20 units, as determined by the Secretary of Labor; aliens between the ages of 21 years and 35 years: 10 units; aliens between the ages of 36 years and 44 years: 5 units; skills (as determined by the Secretary of Labor) to be needed in the United States: 10 units; work experience related to skills where there is or where there will be a shortage of skilled individuals: 5 units or 10 units; for demonstrating an understanding of the English language and for the ability to communicate in English: 20 points.

A spouse or child shall be entitled to immigrant status if his spouse or parent qualifies under this point system. The minimum number of points necessary to qualify for legalization is 80 points. One hundred thousand visas shall be made available under this system each year for 5 years. Those who attain a score of 80 or more units will be eligible first. Those who attain a score of 40 or more units will be eligible for any remaining visas through a lottery system.

Mr. President, I hope this Congress will open its minds, its hearts, and America's doors to these people. They seek to be Americans for the same reasons our own forebears did: To live in freedom, and make their contribution to the American dream. The legislation is intended to make that opportunity available to those likely to make good use of it. Their eagerness to come here is there best evidence we can offer the world of the continuing vitality of our way of life. They need us, and we need them.●

By Mr. D'AMATO (for himself, Mr. HELMS, Mr. KERRY, Mr. KENNEDY, Mr. DURENBERGER, Mr. GRAHAM, Mr. HEFLIN, Mr. DOLE, Mr. SPECTER, Mr. THURMOND, Mr. MURKOWSKI, Mr. CRANSTON, Mr. MCCLURE, Mr. LEAHY, Mr. GARN, Mr. GRASSLEY, Mr. SYMMS, Mr. SIMPSON, Mr. TRIBLE, Mr. DOMENICI, Mr. COCHRAN, Mr. PRESSLER, and Mr. WILSON):

S. 2134. A bill to impose sanctions against the Republic of Panama; to the Committee on Foreign Relations.

DEMOCRACY IN PANAMA ACT

Mr. D'AMATO. Mr. President, I rise to offer legislation with Senators HELMS, KERRY, KENNEDY, DURENBERGER, GRAHAM, CRANSTON, HEFLIN, DOLE, THURMOND, SPECTER, MURKOWSKI, DECONCINI, MCCLURE, SYMMS, LEAHY, GARN, GRASSLEY, DOMENICI, SIMPSON, TRIBLE, PRESSLEY, and COCHRAN, to impose a total trade embargo on Panama.

This legislation would:

Prohibit all imports from Panama;

Prohibit all United States exports to Panama;

Revoke air travel between our two nations, including foreign flights which land at Panama; and

Prohibit depository institutions from transferring any funds to any bank or financial institution located in Panama.

This legislation does not affect the Panama Canal Zone, the export of medicine and humanitarian assistance to Panama, and would provide for the immediate termination of the embargo upon the departure of General Noriega.

Many in the administration and some here in the Senate would prefer to be cautious on this issue. Mr. President, a cautious U.S. policy has done more to keep Noriega in power, than help get him out of power. These creatures of caution would have us wait.

Wait for what?

Wait for Noriega to consolidate his power? Wait for him to find President Delvalle? Wait for more Panamanians to be beaten, imprisoned, or perhaps murdered?

Mr. President, let us not confuse caution with inaction.

Recently, Senators KENNEDY and DURENBERGER introduced a resolution expressing support for President Eric Delvalle's struggle against Gen. Manuel Noriega.

Well, Mr. President, let us back up that expression of support. Let us heed the call of President Delvalle's and impose a complete trade embargo.

Mr. President, earlier this week, I received a copy of a communication from President Delvalle of Panama to the United States Ambassador to Panama, Author Davis. I would like to share that message with my colleagues, in which he states:

> Other economic pressures including a trade embargo should be implemented immediately to help the people of Panama to get rid of the Narco-Military Communist dictatorship of Noriega.

Delvalle does not command troops, but we can demonstrate to General Noriega that Delvalle still has power, economic power, against which General Noriega cannot stand for long.

Are we only willing to do battle against drug trafficking when it is easy?

I understand the reluctance to impose a trade embargo. Many believe that such sanctions are ineffective. Mr. President, in the case of Panama, such action would be the most effective tool we have right now.

Panama relies heavily upon the special relationship with the United States for its economic well-being. The United States is Panama's largest buyer of goods; the United States imports nearly 60 percent of Panama's exports. The United States is also Panama's largest provider of goods, accounting for nearly 30 percent of Panama's imports. The immediate and dramatic impact of a U.S. trade embargo would be devastating.

Of course, such a step will cause economic suffering to innocent Panamanians. But President Delvalle and Ambassador Sosa have consistently indicated that this is a sacrifice their countrymen are willing to make for a chance at democracy.

Mr. President, if we do nothing, if we just sit on our hands, at the most crucial period in Panama's history, then we will be hurting the people of Panama more than economic sanctions ever could.

In 1986, the last year in which we have figures, Panama exported to the United States $412 million in goods. This figure has increased from $289 million in 1982. Most of Panama's exports are agricultural goods, such as fruits, coffee, sugar, as well as various seafoods. These markets cannot be replaced quickly or easily.

This legislation will also prohibit the transfer of funds from United States banks to Panama. If we go after Panama's banking, we go after Panama's jugular.

Banking has far surpassed the Panama Canal as Panama's most lucrative business. Thanks mostly to the use of United States currency, liberal disclosure and accounting laws, and billions in laundered funds, Panama has more banks per capita than any other country.

This body, however, cannot help Panama by itself. Mr. President, I hope the administration will quickly realize the urgency of this move and enact this embargo immediately without the need for legislation. This would clearly demonstrate to the people of Panama our Nation's full and undivided support.

The U.S. Government must act quickly. Any equivocation, any vacillation, any hestitation, will be viewed by General Noriega and his allies as a positive signal. As long as Noriega perceives that U.S. policy is in a state of flux, the pressure against him is minimized.

We are in a war, Mr. President. This is a battle for our youth and the very fiber of society. If we allow allied nations to facilitate the trafficking of drugs into our cities, how can we even dream about fighting the drug war against the likes of the Medellin Cartel and Fidel Castro.

I once said that General Noriega didn't amount to a pimple on the behind of an elephant. In the sum total of drugs he allowed to be shipped and the dollars he allowed to be laundered through Panama, he has been strictly minor league. But his close relationship with our Government over the past 20 years has been significant—and highly visible—foreign policy mistake. Drug traffickers around the world can only have been encouraged by this cozy relationship.

If we learn anything from our misadventures in Panama, I hope it is that we cannot countenance illegal activities, particularly drug trafficking, from friendly governments—even for national security reasons.

As we have seen, Mr. President, such policy can lead to a much larger threat to our national security.

We have an opportunity to act on the side of the Panamanian people. When this legislation is introduced, I strongly urge my colleagues to join me as sponsors of this important legislation.

I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

Mr. President, I ask unanimous consent that Senator WILSON be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, we reach a time in our Nation's history when we can talk about yearning and working for democracy. Here we have an opportunity to demonstrate that we are willing to take certain risks for that action, that we are willing to back it up with more than rhetoric.

We talk about the war on drugs. That war has been little more than lip service to date. Now we have an opportunity to confront the narco-terrorists, and if we fail to take on this challenge here in Panama, then who will ever believe that we are serious? Why should the drug lords in Colombia then recognize that we are serious? Why should the people in Bolivia believe that we are serious? Why should our neighbors in Mexico believe that we are committed to undertaking a real effort, a meaningful effort? Here is an opportunity for us to begin that war in a most meaningful way.

I yield the floor, Mr. President, to the senior Senator and my colleague from Alabama. I commend him for his support in this effort.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that democracy has been suspended in the Republic of Panama, and that the situation constitutes a threat to the national security, foreign policy, and economy of the United States.

The Congress further finds that the absence of democracy in Panama has created an emergency in the international relations of the United States and Republic of Panama within the meaning of the General Agreement on Tariffs and Trade Article XXI(b)(iii).

Finally, the Congress finds that the emergency in international relations between the United States and the Republic of Panama requires that the United States protect its essential security interests through the application of certain economic sanctions until such time as democracy has been restored in the Republic of Panama.

SEC. 2. TRADE SANCTIONS.

(a) IN GENERAL.—After the date of enactment of this Act—

(1) no product of the Republic of Panama may be imported into the United States, and

(2) no goods or technology subject to the jurisdiction of the United States may be exported to the Republic of Panama, except for medicine and humanitarian assistance.

(b) ADMINISTRATION.—The prohibition provided under subsection (a)(2) shall be administered under the Export Administration Act of 1979.

(c) PRODUCTS OF THE REPUBLIC OF PANAMA.—For purposes of this section, the term "product of the Republic of Panama" means any article grown, produced, or manufactured (in whole or in part) in the Republic of Panama.

SEC. 3. AVIATION SANCTIONS.

(a) IN GENERAL.—

(1) On the date of the enactment of this Act, the President shall notify the Government of the Republic of Panama that the President will, within 10 days, order the revocation of the rights of any air carrier to provide service pursuant to any aviation agreement entered into by the Government of the United States and the Government of the Republic of Panama.

(2) By no later than the date that is 10 days after the date of enactment of this Act, the President shall direct the Secretary of Transportation to—

(A) revoke the right of any air carrier to provide service pursuant to any aviation agreement entered into by the Government of the United States and the Government of the Republic of Panama.

(B) refuse to permit or to designate any United States air carrier to provide service between the United States and the Republic of Panama pursuant to such an aviation agreement.

(C) prohibit the landing in the United States of—

(i) any aircraft of a foreign air carrier owned, directly or indirectly, by the Government of the Republic of Panama, or by nationals of the Republic of Panama, or

(ii) any aircraft of a foreign air carrier that has taken off from the Republic of Panama at any time during the preceding 48 hours, and

(D) prohibit the takeoff and landing in Panama of any aircraft by any air carrier owned or controlled, directly or indirectly, by any national of the United States or by any corporation or other entity organized under the laws of the United States or any State.

(b) The Secretary of Transportation may provide for such exceptions from the prohibitions contained in subsection (a) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(c) For purposes of this section, the terms "aircraft", "air transportation", and "foreign air carrier" have the respective meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

SEC. 4. PROHIBITION OF UNITED STATES BANK TRANSFERS.

Notwithstanding any other provision of law, no depository institution (as defined in section 19 of the Federal Reserve Act) may transfer any funds to any bank or financial institution located in, or organized under the laws of, the Republic of Panama.

SEC. 5. SUSPENSION OF SANCTIONS.

The economic sanctions enacted herein shall be suspended for any period during which the President certifies to the Congress that progress toward genuine democracy has been achieved in the Republic of Panama.

SEC. 6. PANAMA CANAL ZONE.

Nothing in this Act shall be deemed to effect the status of the 1977 Panama Canal Treaty or the agreements related thereto, or the 1977 Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, provided further that none of the prohibitions contained in the Act shall be interpreted to impede or restrict any existing statutory authority of the Panama Canal Commission (or the Department of Defense) to take such actions as may be necessary or desirable to carry out effectively and efficiently all aspects of its (their) mission(s) with respect to the Panama Canal, including, but not limited to, the procurement of supplies and services, official travel and the health and welfare of employees and their dependents.

Mr. HEFLIN. Mr. President, I am delighted to join Senator D'AMATO, and others as a joint sponsor of a bill that would inpose a complete trade embargo against Panama and would also prohibit banks in the United States from transferring funds to Panamanian banks or financial institutions. I believe that this legislation will send a strong, clear, and necessary message to General Noriega and his cohorts that the United States will not tolerate their dealings in drug trafficking, and their actions to undermine democracy.

While I am afraid that, if enacted, this trade embargo may result in some harm to the people of Panama as a whole, the great majority of whom share no responsibility for General Noriega's abuses, I am hopeful that action on this bill, or perhaps even the fact that it has been introduced and enjoys strong bipartisan support, will motivate the responsible citizens in Panama to actively oppose General Noriega, limit his power and take steps to end the abuses of the Panamanian Government. I am also hopeful that the people of Panama will now recognize that the United States will not sit by as their government officials serve as traffickers for drugs bound for the United States. Finally, I am hopeful that the people of Panama will recognize that Noriega and his henchmen are a liability not only to their relations with the United States but to themselves, to their happiness, their freedom, their democracy, and, indeed, their future.

Mr. President, when the U.S. Senate voted to ratify the Panama Canal Treaties in 1978 I had not yet been elected by the people of Alabama to serve in the Senate. However, it was no secret that I was opposed to the Panama Canal Treaties. I made that clear in my campaign for the U.S. Senate that year. I believed that the Panama Canal was too important to our national security and to the economic well-being of the people of America to risk to a corrupt, undependable or irresponsible Panamanian Government. In fact, I worked as a private citizen against ratification of the Panama Canal Treaties. My predecessor in the Senate, the Honorable Jim Allen, was the leader in fighting the ratification of those treaties.

Nevertheless, the treaties were ratified, and our Nation is now scheduled to give the Panama Canal to the Panamanian Government in 1999. As an advisor to General Noriega said on the television show, "Meet the Press," on this past Sunday:

> You have a commitment with Panama whereas on the 31st of December of 1999, the last American soldier will be leaving our country.

Thus, in just over 10 years, we are required to abandon the canal, for better or for worse, to the Government of Panama.

That prospect frightens me. At this juncture, I believe that going ahead with the treaties will be for the worse.

Furthermore, there is some evidence that General Noriega has established closer ties with Cuba and the Soviet Union, that he has sold high-technology equipment to the Cubans, that he has provided arms to the Sandinistas in Nicaragua and the leftist guerrillas in El Salvador. In light of these claims, I believe the United States should seriously consider rescinding the Panama Canal Treaties. We cannot afford to allow even the most remote possibility of Panama or the Panama Canal falling under the influence of the Soviet Union or Cuba.

Therefore, in the months to come, in an effort to address and salvage the situation with which we are now faced. The Senate should study all options that are available, including the rescission of the Panama Canal Treaties which are currently in existence. I believe it is our duty to serve and protect the interests of the people of the United States of America, and I will examine all possibilities and take every appropriate action in fulfilling this sworn responsibility.

There is no doubt that the Panama Canal is vital to the defense of our country and to our economic vitality and strength. It was build with the hard-earned dollars of the taxpayers of America, and has been defended by American soldiers. Now, and in the future, we must protect our rights and interests in Panama. We must protect our right of passage through the canal. We must protect our people in Panama. I am afraid that the instability and corruption which is so rampant in Panama today will not go away in just 10 short years—the time by which United States soliders are required by the treaty to leave the Canal Zone.

I fear that the Government of Panama is not strong enough to maintain the canal and defend it against threats which may arise. I fear the Government of Panama may even gravitate toward the Soviet Union. This situation needs to be reexamined in light of recent events, and as a nation we should take every appropriate action to preserve our interests in Panama.

Mr. HELMS. Mr. President, once again I am privileged to join with Senators D'AMATO and KERRY, and others, to try to assist the people of Panama in their struggle to oust General Manuel Antonio Noriega. During the past 2 years a broad bipartisan group of Senators have succeeded in passing four pieces of legislation regarding Panama.

Last August Senator D'AMATO and I offered legislation to cut off aid to Panama. The bill was incorporated into the continuing resolution and signed into law in December. Included were the cancellation of Panama's sugar quota and instructions to American representatives to vote against loans to Panama in multilateral institutions.

Since December the crisis in Panama has deepened.

Mr. President, in February the civilian head of Panama was deposed after he courageously exercised his constitutional right to remove Noriega as Commander of the Panama Defense Forces. After being threatened with expulsion from the country, President Delvalle managed to escape, he is still in Panama, but Noriega cannot find him. Noriega meanwhile appointed his own hand-picked successor to President Delvalle.

President Delvalle and his government officials have begun economic warfare against Noriega. The Delvalle government ordered all Panamanian consulates to withhold all fees from shipping companies for registering ships in Panama. They have called for all funds, taxes, and fees owed to Panama to be placed in an escrow account.

The Delvalle government has received quick recognition from governments throughout the hemisphere. Only five countries now recognize Noriega, and three of them are Communist dictatorships.

Mr. President, more than a decade ago—on February 20, 1978—during Senate debate on the Panama Canal I said that the American people would be rightfully angered if they discovered that they had given away the Panama Canal to an international gangster. That is precisely what has happened.

Noriega is planning to take full control of the canal, and the American people know that the United States has major national interests in Panama—and that those interests are now at grave risk. The United States has two standing indictments against Noriega and his cronies. I have written to Attorney General Meese requesting that Noriega is extradited. Two days ago the administration refused to certify that Mr. Noriega's government was cooperating with the United States to halt drug trafficking and money laundering. That is good, but it is now time to take much stronger and much more effective measures.

I well remember the harsh actions taken by the State Department and many in the Senate against the heads of state of other nations who were much better friends of the United States than Noriega. Noriega is in fact, no friend at all of the United States. He much prefers the company of Fidel Castro and Mr. Ortega in Nicaragua. Noriega has not one redeeming quality, and the longer the Congress waits to move directly against Noriega, the more U.S. vital interests will be in danger.

Mr. President, the United States is not at war with the Republic of Panama or the Panamanian people. We were early supporters of Panamanian independence and will continue to support the legitimate aspirations of the Panamanian people. However, because of the suspension of democracy in Panama by General Noriega, and his narcotics assault on the United States, there exists today an emergency in our relations with Panama. With great reluctance, the United States feels that it has no option but to protect its essential security interest by means of a temporary series of economic sanctions on Panama.

The sanctions contained in this bill have one purpose: It is to convince General Noriega that he must relinquish power to the legitimate Government of Panama. Once that aim is achieved, the sanctions will be lifted.

Mr. President, Senators D'AMATO, KERRY, and I propose a total embargo of all products to and from Panama. The sanctions are in three parts, import prohibition, suspension of aviation landing rights, and a prohibition on United States bank transfers to Panama. Last year the United States imported $343 million worth of goods from Panama. Under the terms of this bill, the right of importation would be suspended.

All flights to and from Panama would be suspended upon enactment. The United States and Panama have very close banking relations. The United States dollar circulates freely in Panama. Our bill would suspend interbank transfers between United States banking institutions and Panama.

To be effective, the sanctions will have to hurt. They will have to cause sufficient economic disruption to convince Noriega that his rule is leading Panama to ruin. We would not propose these sanctions unless we sincerely believed that the people of Panama are ready to make the required sacrifices in order to regain their freedom.

The people of Panama are tired of waiting to see where the United States stands. They want Noriega out, and they want their country back.

Mr. President, we have major security interests at stake in Panama. The American people deserve to know whether the U.S. Congress is willing to defend their interests. I urge Senators to move quickly to approve this legislation.

Mr. GRAHAM. Mr. President, Panama over the last few months has experienced some of the most widespread anti-Government protests in recent history. A 48-hour strike has just ended which virtually shut down the country. Domestic Panamanian banks are closed and American banks in Panama are severely restricting withdrawals. More general strikes are planned.

The message that Panamanians from all sectors of that society are sending is that they want General Noriega out. They want the opportunity to elect their leaders freely and fairly. In a word, they want democracy. Legitimate and credible democracy. Not the despotic rule of a General Noriega who has brought shame to all Panamanians and danger to all Americans through his heavy-handed involvement in the international drug cartel.

The United States faces a stark choice. We must act now in concert with the Panamanian people to bring the strongest possible pressure on Noriega. We cannot continue to temporize and avoid taking the tough steps necessary to end quickly this sad chapter in Panama's history.

Mr. President, we shouldn't delay in taking this action. As we saw in the case of Haiti, where we failed utterly to send the kind of tough signal in support of democracy, situations like this only get worse when we avoid making tough decisions.

I believe the choice is clear. We must stand with the Panamanian people in their fight against Noriega. This bill provides us an opportunity to do so.

This bill commits us to a course of action which will rapidly escalate the economic and political pressure on General Noriega. It calls for a total trade embargo, cuts airline traffic between the two countries and bans all direct bank transactions between United States banks and their Panamanian counterparts. Nevertheless, it has the full support of the overwhelming majority of the Panamanian people.

President Delvalle, who is now in hiding after being illegally removed from office by Noriega, has called for this action. The United States still recognizes President Delvalle as the President of Panama. We should also recognize and respect his request for this legislation.

Mr. President, the time for action is now. We must not let events pass us by without sending a strong signal of solidarity with the people of Panama. We have a change to influence a democratic outcome. This is not the time for timidity.

Mr. DURENBERGER. Mr. President, I rise today as an original cosponsor of legislating a trade embargo with the Republic of Panama.

The bill would sever all trade between the United States and Panama, cut off direct air traffic, and prohibit all direct bank transfers from the United States to Panama. There is strong language that states no section of this bill should be misconstrued as an attack on the Panama Canal Treaties. The issue facing us is not adherence to the treaties—the issue today is a nation of 2 million people held hostage to what one prominent Panamanian calls narcomilitarism.

As a member of the Senate Finance Committee, I have been opposed to using trade as an instrument of first resort in foreign policy but in this case, a trade embargo is the next logical step in pressuring Noriega and his cronies to relinquish their stranglehold on Panama.

There are many reasons why Panama is a unique case and why the United States must act forcefully to cut off trade.

First, the events in the last week have led to a serious crisis in Panama. President Delvalle dismissed Noriega in a courageous and legal move. Noriega responded by getting his front men in the legislative to dismiss Delvalle in an unconstitutional maneuver.

Others have done their part to support the legitimate Government of Panama. A general strike has paralyzed Panama this week. Many Latin nations have recalled their ambassadors in protest over Noriega's de facto coup.

The United States must, now, get tough and send a powerful signal of support of the legitimate Government of Panama. The introduction of this legislation shows concerned Senators are willing to cut off trade with Panama.

Second, the legal President of Panama supports this effort as do many Panamanian business, civic, and political groups. Trade embargos are not generally supported by the leadership of the nation at which they are directed.

Third, this embargo has a real chance of working. I have opposed sanctions in the past because they are not effective—such as the misguided penalizing of American farmers after the Soviet Union invaded Afghanistan. But this measure can work because Panama is uniquely vulnerable. Panama has no currency of its own—they rely on the United States dollars. And while exports to Panama account for less than 1 percent of our total trade, 60 percent of all Panamanian exports come to the United States. Noriega and his thugs will not easily find alternative markets.

The issue in Panama is simple—Noriega must go. The No. 1 goal of U.S. policy must be to hasten the day he leaves power. Cutting off trade will increase the pressure on Noriega and let the people of Panama know the United States supports their democratic efforts.

Mr. KENNEDY. Mr. President, recent events in Panama require a response from the United States. That response should go beyond rhetoric. The time for words is over. It is time for the United States to act.

The legislation that we are introducing today—the Democracy in Panama Act of 1988—is not our idea. We are introducing this legislation in response to President Delvalle's direct and specific appeal. President Delvalle has asked for our moral and political and diplomatic support—and that support has been forthcoming. But he has also asked the United States to put pressure on the Noriega regime—by imposing a trade embargo. This legislation responds to that request.

This legislation is only one part of President Delvalle's own effort, as President of Panama, to put pressure on the Noriega government. He has himself taken heroic action. He has frozen Panamanian assets in United States banks. He has ordered Air Panama to halt all flights to the United States. He has requested that payment for the Panama Canal Commission to the Government of Panama be held in escrow. This legislation, which he has requested, is the Senate's contribution to President Delvalle's broader effort to return civilian rule to Panama and to restore democracy in that country.

General Noriega has been responsible for two political miracles. First, he has united the American political spectrum in a way that is unprecedented in my 25 years in the Senate. The coalition that is introducing this legislation comes from both parties and it also represents all elements of American political activity and thought—from the left to the right. And second, with his decision to defy President Delvalle's lawful order, General Noriega has achieved the same miracle in Panama. There is a real rainbow coalition in Panama today composed of representatives of all the political parties, even from General Noriega's own party, the PRD, working in support of President Delvalle's action.

We hope that the Congress will act rapidly and enact this legislation. But the realities of the legislative process are that it will take some time for Congress to act. The administration need not wait.

The President can impose economic sanctions against the Noriega regime with a stroke of his pen, and it is my hope that he, too, will respond to President Delvalle's appeal and impose certain economic sanctions against General Noriega's regime.

I have spoken with representatives of the Panamanian political parties, and they support a wholesale trade embargo, but they have also identified certain specific actions that could be taken which would have a narrower, more targeted impact. If the President declines to impose the kind of trade embargo that we are proposing in this legislation, there are still a series of actions that he could take that would increase the pressure on General Noriega. Some of those actions include the following:

A ban on all direct bank transactions between the two countries;

An embargo on all commercial transactions within the free zone;

An embargo on the importation of all dry goods from Panama;

An embargo on the importation of all sea products from Panama, including fish, shrimp, lobster, and scallops;

An embargo on the importation of all leather goods from Panama, a sanction that would have direct impact on General Noriega's own personal holdings;

An embargo on the importation of coffee from Panama; and

A ban on all airline traffic between the United States and Panama.

I would hope that the administration will act soon—and that, finally and at long last, all the departments, agencies, bureaus, and offices of the executive branch will be singing from the same hymnal.

I urge my fellow Senators to join us in this effort and support this legislation.

Mr. KERRY. Mr. President, I am delighted to join with my colleague, the Senator from New York, in introducing this legislation. I would like to express my appreciation to him for his diligent efforts with respect to this entire issue over these past months. The Senator sat in with me during his time when the Senate was out a week and a half, 2 weeks ago, for the entire hearings that were held with respect to Panama because of his interest in the area. And he has really been tireless in helping to advance not only the cause of democracy in Panama but also the very important issue of the war against drugs and the question of narcotics flowing into this country.

So I thank him for the support, for the effort, and for his commitment.

Mr. President, I think that both Senator D'AMATO and I wish to make it very clear that while we welcome totally the support of the Senator from Alabama, and others in this effort, this is not about the Canal Treaty, and none of us who are involved in this matter want any incorrect message sent to any part of Latin America, or Central America regarding that treaty. This Seantor supports that treaty. Almost all of the Senators involved in the efforts to create an embargo support that treaty. And nothing that we are doing, nothing that we are doing, is a surreptitious, overt, or any other kind of effort to reexamine that treaty or otherwise.

Where we wind up in the future with General Noriega is another issue. But that is not what this is about. This is about two things, Mr. President. This is about the democracy in a country from which that democracy is now being robbed by a petty dictator, and it is about the effort to restore that democracy for a people who want it. That is one thing it is about.

The second thing it is about is the integrity of the war against drugs and the effort of this country to maintain our own streets, school yards, homes, and cities free of this evil that continues to pour across our borders from other countries.

I think—and other Senators, I think, share this thought—this administration is at a crossroads, Mr. President. For years they have talked about the war against drugs. For years, they have tried, and in fact successfully at times, to make that a core element of their approach to the politics of this country. Eighty percent of the cocaine that comes into the United States comes from Colombia. And General Noriega is in conspiracy with the Colombian cartel to reap the profits of those drugs coming into this country as well as to assist them to come into this country. That has got to stop.

If we are going to ask the kids of this country to just say no to drugs, then we have to have the courage as a country to just say no to General Noriega. That is what this is about—whether we are going to make real war against drugs, whether we are going to give reality to the rhetoric or whether we are going to lend credence to the people who believe we are not really serious.

For years, General Noriega has played us like a fine tune, Mr. President. He has been able to hand over a fellow here, a fellow there, to DEA. He has been able to give up a few middle men; he has been able to serve as an informant, all the while reaping the profits, buying a chateau in France, fattening accounts in Switzerland, and living off the fat of the land, not to mention the kids and others in this country who died as a consequence.

Mr. President, no one knows with a certainty that a full embargo is going to end what has happened. No one knows with a certainty that a full embargo is going to get rid of General Noriega, but we do know with a certainty that if we do nothing General Noriega will stay. We do know with a certainty that if we do not take strong steps to send a message to the people of Panama who are trying to conduct a strike, who are trying to win back their country, General Noriega will consolidate his power and he will be there.

Mr. President, we must send the strongest possible message to the people of Panama as well as the people of our own country that we are serious, that we are serious. And one of the problems is that General Noriega was on the payroll of the CIA while bringing drugs into this country, and has helped Panamanians to believe that the United States is not really serious about making a difference. He has changed Presidents before in Panama. Why should they believe that all of a sudden all of this hoopla is serious?

The people of Panama are waiting for the United States to do something, and people in the United States are waiting for the United States to do something. That is the reason that Senator D'AMATO, I, and other Senators have joined in this effort to try to take the initiative now to send the message that must be sent in order to move Panama closer toward its democracy hopefully and, Mr. President, in order to move us once and for all into the real world of trying to take the adequate risks that are necessary to stop what is happening with drugs.

You know, Officer Eddie Byrne was killed in New York the other day, sitting in a squad car, guarding a witness because he called up about narcotics transactions on the streets of New York. So a gunman comes up and pumps a few bullets through the window and he is gone. You know, it is ironic that the Senator from New York is one of the ones working so hard on this, because the Senator from Massachusetts with the citizens of Massachusetts lost a cop by the name of Sherman Griffiths. He walked up into an apartment building about a week ago to deliver a warrant to arrest some drug people. You know what? The door opened, and he walked into a bullet. And he is gone.

Forty-four people have died in the streets of Washington, DC, since January 1 of this year, Mr. President. We have a drug war in our streets. It is like all the movies we saw. You walk out on a street corner and the chances are you may see somebody killed. A couple of kids were standing on the corner and people were rubbed out right in front of them. We have to get serious.

As a former prosecutor, I know darned well you are not going to interdict all the drugs. I know that. I can remember from my days in Vietnam when we were trying to interdict the weapons the VC were bringing in. We had destroyers, gun boats, airplanes, and you cannot interdict it all.

But I do know we have not begun to leverage other countries in this war. We have not begun when the banks are sitting there freely transacting millions of dollars and bankers are vying for the drug money. We have not begun to make that fight, Mr. President. It is sickening. It is demoralizing, it is depressing, it is disgusting, and it is dishonorable. There are countless law enforcement officers who are being left in the lurch as a consequence of this.

You know, it is in a sense like a Vietnam all over again where you send the troops out and say here, you guys go do this and you have not clearly defined the goals, you have not clearly defined the strategy, and you do not know how you are going to get there in the end but the troops are out there doing their best. That is where the law enforcement community is, running risks, and we are not willing to back them up. But if we do not back them up by taking the strongest steps possible against General Noriega then we make a mockery of our obligations and our responsibilities, and of the goals that we are trying to achieve.

That is why I think this is so important, Mr. President. I hope we will take the action.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let me congratulate my colleague, Senator KERRY, for his eloquence in his statement and his dedication to this effort.

Let me say also, Mr. President, that if we cannot undertake the kind of action that will bring Noriega to his knees and rid Panama, not only of his corruption but those of his lieutenants who have dominated and seized this country, then I think it would be impossible for us to think we are going to be successful here in the United States.

This is a battle. It is not just about Panama. It has nothing to do with the Panama Canal, as my friend and colleague, JOHN KERRY, has indicated. It has to do with reclaiming domestic tranquility here in the United States. It is a battle for the streets, for the neighborhoods of our cities and hamlets, for the parks.

It is just a beginning. But if we cannot even begin to undertake it, what a sorry plight! All our protestations that we are working, that we are concerned, will be falling on deaf ears.

Mr. MURKOWSKI. Mr. President, Americans have watched the development in Panama, the deterioriation over the last several days, with certain justifiable alarm. Those of us who are sensitive to the sources of our Nation's energy supply have looked at it with somewhat broader perspective than perhaps has been expressed in this Chamber today.

The comments of my good friend, the junior Senator from New York, and his efforts to initiate appropriate requirements are efforts that I certainly support. We have a situation in Panama where not only has the lawful President of Panama been forced out of office and into hiding by what is essentially a military dictatorship, but also, these same military leaders have turned the once-proud republic into a major international bazaar, involving money laundering and illegal drug traffic; and that is generally conceded by all those who have observed the Panamanian deterioration.

The United States, with out continuing concern for human rights, our stated intent to war on drugs, and our strategic interests in the peninsula, cannot ignore the situation in which the Panamanian people find themselves. Unfortunately, we seem to be caught in a Catch-22.

We have the reality that there has been a parliamentary process under the auspices of the dictator, and the significance of that is that the human rights of the Panamanian people are jeopardized. It is evident that Noriega, in the manner in which he is conducting the affiars of that nation, s certainly not in concert with the wishes of the Panamanian people.

What we have to address further, and my reason for being here at this late hour, are some other key strategic interests that have not been discussed, as we reflect on what action we should initiate with regard to the deteriorating Panamanian situation.

Mr. President, I would like to focus for a moment on a transportation system across Panama other than the Panama Canal, and that is the trans-Panama pipeline.

Beginning at the Pacific coast of Panama, at Puerto Armuelles, and running 81 miles to the Atlantic coast port of Chirique Grande, the trans-Panama pipeline serves our Nation—our Nation's critical link between the west coast crude oil supply reserves, including those coming from Alaska, and our Midwestern and Eastern refineries.

Approximately 600,000 to 800,000 barrels of oil originating in my State of Alaska, per day, are pumped through the pipeline. This represents roughly 10 percent of the total U.S. crude oil production each day in this country.

I think we should reflect on who has the responsibility of the security of this pipeline. The responsibility rests with Noriega and his National Guard. Even a temporary disruption in the flow would cause severe supply disruptions, in this country. The market for oil on the west coast would be thrown into disarray as the oil would be forced into the market there.

There would be problems with storage on the west coast. We lack the ability to store that volume of oil.

Undoubtedly, we would have to limit oil production on the west coast and Alaska, while American consumers on the east coast and the Midwest would have to turn to foreign suppliers—namely, our friends in the Mideast—and be subject to being held hostage again.

The alternatives to the trans-Panama pipeline are not very promising. We have the availability of the Panama Canal, but it would be necessary to put into place smaller vessels to shuttle the oil. We could not possibly do it in a short period of time to meet the requirements of our refineries in the Gulf States.

The other alternative, of shipping the oil around the tip of South America, is infeasible, given the realities of time and distance.

What we are looking at is a real, potential threat. We are talking about taking action, as we should, with regard to the deteriorating situation in Panama. But we also have to look to the reality of retribution, and that retribution could be very real; because of the pipeline which is little known by a majority of my colleagues but is known to me because it is a crucial artery for moving a good deal of oil production from the State of Alaska.

The point I wish to make is that this pipeline does not go through the Panama Canal corridor. It is not covered by the security aspects of the Panama Canal Treaty.

The pipeline is located roughly 200 miles from Panama City in the Canal Zone. I have been there; I have flown over it. It goes right through the jungle.

Its ownership, interestingly enough, consists primarily of an American private corporation, Petroterminal of Panama, which is a joint venture between a group in New York, Chicago Bridge and Iron Corp., and, most important, the Panamanian Government.

So the current Panamanian Government owns a major portion of a pipeline through which 12 percent of the domestic oil produced in the United States flows every day.

Make no mistake about it. It would be interesting for this body to have some idea where the revenues are currently going because I am sure that most of my friends would assume that the major contributions to the Panamanian economy probably comes from the transit of the Panama Canal.

Figures indicate that the Panamanian Government receives revenues from the Panama Canal transit of about $94 million. However, the pipeline contribution to the Panamanian Government also represents a substantial aspect of their earnings

This is a 40-inch type line capable, as I said earlier, of handling approximately 800,000 barrels per day.

So, Mr. President, I think as we continue to debate the merits and as I join with the members of the Foreign Relations Committee tomorrow, who will again be taking up this issue as to what action we can take, we should consider our exposure.

Now, I have discussed this matter of our national security with the Secretary of Energy and asked him to look into just what safeguards we have taken, knowing very well that there are not very many alternatives available to us since this pipeline is outside the Panama Canal area where we have a security interest.

But in any event, Mr. President, it is a problem that we must deal with the realistic exposure we have and as we deal with this issue in the next few days meetings with the administration and discussions in the Committee on Foreign Relations and here on the floor we must reflect on all aspects of the situation and focus on the importance of the trans-Pananmanian pipeline as well.

We must do nothing to jeopardize its flow and we must allow no one else to do so either.

In conclusion, Mr. President, it is indeed unfortunate that any action which we contemplate taking is going to have an action, of course, an unfortunate effect on the Panamanian people, so we must make our decisions based on an objective reality that we are charting a new course in foreign policy in our hemisphere as we reflect on the position that we have been put in in Panama.

I thank the Chair at this late hour for allowing me to conclude my speech.

By Mr. WEICKER (for himself, Mr. HOLLINGS, Mr. INOUYE, Mr. KERRY, Mr. LAUTENBERG, Mr. PELL, and Mr. STEVENS):

S.J. Res. 269. Joint resolution to designate the week beginning October 30, 1988, as "National Marine Technology Week"; to the Committee on the Judiciary.

NATIONAL MARINE TECHNOLOGY WEEK

● Mr. WEICKER. Mr. President, I rise today to introduce a Senate Joint Resolution to designate the week beginning October 30, 1988, as "National Marine Technology Week." I do so on behalf of myself and my distinguished colleagues Senators HOLLINGS, INOUYE, KERRY, LAUTENBERG, PELL, and STEVENS.

Those who practice the marine sciences and marine engineering in the United States are all too infrequently recognized for the tremendous contributions they make to the well-being of our Nation. Only through their efforts are we able to utilize the many resources of the oceans that we do today; and only through their future efforts we will be able to continue to explore, wisely I hope, new uses of the world's oceans.

For years I have been working with my colleagues here in the Congress, and with assorted Federal agencies, to bolster the financial support for, and enhance the public appreciation of, our country's significant efforts in the marine sciences. The resolution I am introducing today takes this appreciation a step further by dedicating 1 week to the commemoration of the accomplishments of the United States' marine research community.

Our Nation has a rich heritage of maritime achievement, with more than two centuries of technological excellence and innovation in the study of the global seas and the development of their vast resources. In 1769, for example, Benjamin Franklin and Timothy Folger published the first chart which showed the course of the Gulf Stream, one of the most significant oceanographic features of the North Atlantic ocean. Some 40 years later, President Jefferson authorized the establishment of the U.S. Coast Survey to chart the waters of our country.

The need for knowledge about the seas has spurred the continuous development of technologies necessary to make further exploration possible. This technological progression can be seen in our manned exploration of the deep sea. In 1934 Otis Barton and William Beebe took a dive to just over 3,000 feet in a steel bathysphere suspended from a cable. By 1964 manned undersea technology had developed to the point where Dr. Jacques Piccard and Lt. Don Walsh, U.S. Navy, could dive to the deepest point in the ocean. Piccard and Walsh, in the bathyscaph Trieste I, descended to a depth of 35,800 feet in the Challenger Deep of the Marianas Trench.

Today there are many manned submersibles available for undersea research. One of these, the Alvin, became famous in 1986 for its role in extensively photographing the wreckage of the R.M.S. *Titanic*, which had lain undisturbed for 75 years under 13,000 feet of the North Atlantic Ocean.

We also have undersea laboratories available to us today where scientists can spend weeks at a time living and working on the sea floor, studying in situ the life forms and processes thriving beneath the surface. I am proud to have been on several missions in one of these undersea labs, the National Oceanic and Atmospheric Administration's Hydrolab, which is now on permanent display at the Smithsonian's Museum of Natural History. The opportunities made available to our Nation's research community by these undersea vessels and laboratories are indeed significant.

Today's ocean engineers and scientists must carry on the traditions of these pioneers. Many unanswered questions remain for our marine researchers. There are significant pressures on the marine environment today, and there is an ever increasing need to understand the interaction of the atmosphere and the oceans which so greatly influences our global climate. It is important that we honor their past achievements and spur them on to meet the challenges ahead.

By establishing National Marine Technology Week we acknowledge the contributions of academic, Federal, and industry scientists and engineers whose diligence, innovation, and dedication to excellence continues to bring international recognition to America's achievements in marine technology. Mr. President, I hope that my colleagues will join me in cosponsoring this legislation, and in seeing it enacted into law.●

By Mr. RIEGLE (for himself and Mr. DANFORTH):

S.J. Res. 270. Joint resolution designating June 26 through July 2, 1988, as "National Safety Belt Use Week"; referred to the Committee on the Judiciary.

NATIONAL SAFETY BELT USE WEEK

● Mr. RIEGLE. Mr. President, Senator DANFORTH and I are today introducing legislation to designate June 26 through July 2, 1988 as "National Safety Belt Use Week."

Since 1984, 32 States and the District of Columbia have enacted safety belt laws. These statutes affect more than 200 million people in the United States. Child safety seat laws are in effect in all 50 States.

The results of these laws can be seen in the traffic fatality and injury statistics. The Department of Transportation estimated that in 1986 more than 2,200 lives were saved by the use of seatbelts, with 80 percent of those in States with mandatory laws on the books. Thousands of critical injuries are avoided each year, as well, through the proper use of safety belts.

Mr. President, seatbelts have been shown to be very effective in reducing death and injuries from automobile accidents. Indeed, most people know that fact, yet less than one-half of all Americans use their safety belts on a regular basis. The number of people using belts, however, shows improvement every year, and this improvement will continue with continued educational efforts.

These efforts will be aided by the passage of this resolution, which will permit promotional efforts to be undertaken around the country. We hope that our colleagues will join us in sponsoring this resolution which will serve to further the goal of universal seatbelt usage in the United States.

Mr. President, I ask that the text of this resolution be printed in the RECORD at the conclusion of my statement.●

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 270

Whereas safety belts and child safety seats have proven to be effective in reducing highway fatalities and injuries;

Whereas the legislatures of 32 States and the District of Columbia have recognized the benefits of safety belt use and have enacted safety belt use laws;

Whereas these laws apply to nearly 205,000,000 persons;

Whereas child safety seat use laws are in effect in every State;

Whereas as a result of safety belt and child safety seat use laws and other activities, millions of Americans are regularly wearing safety belts and using child safety seats;

Whereas use of these safety systems by all drivers, passengers, and children would prevent thousands of fatalities and injuries each year;

Whereas use of safety belts and child safety seats should be encouraged even as passive restraint systems are phased into the vehicle fleet; and

Whereas numerous public interest and safety organizations are working to encourage more extensive use of safety belts and child safety seats: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 26 through July 2, 1988, is designated as "National Safety Belt Use Week", and the President is authorized and requested to issue a proclamation—

(1) to urge the people of the United States—

(A) to wear safety belts and to have their children wear safety belts, and

(B) to use child safety seats, and

(2) to encourage State and local governments, schools, health agencies, public safety and law enforcement agencies, motor vehicle manufacturers, the insurance industry, the military, media organizations, the business community, the entertainment industry, and other concerned organizations and officials to promote greater use of these essential safety devices.

ADDITIONAL COSPONSORS

S. 556

At the request of Mr. CRANSTON, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Illinois [Mr. SIMON], and the Senator from Connecticut [Mr. WEICKER] were added as cosponsors of S. 556, a bill to prohibit investments in, and certain other activities with respect to, South Africa, and for other purposes.

S. 703

At the request of Mr. SPECTER, the name of the Senator from Maryland [Ms. MIKULSKI], was added as a cosponsor of S. 703, a bill to amend title 18, United States Code, including the Child Protection Act, to create remedies for children and other victims of pornography, and for other purposes.

S. 1220

At the request of Mr. KENNEDY, the name of the Senator from New Jersey [Mr. BRADLEY], was added as a cosponsor of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk deduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1332

At the request of Mr. MOYNIHAN, the name of the Senator from Minnesota [Mr. DURENBERGER], was added as a cosponsor of S. 1332, a bill to establish a remedial education treatment program as an alternative to criminal incarceration for first time juvenile offenders who are determined to be learning disabled as a means of reducing recidivism rates among such offenders.

S. 1366

At the request of Mr. KENNEDY, the name of the Senator from Michigan [Mr. LEVIN], was added as a cosponsor of S. 1366, a bill to revise and extend the programs of assistance under title X of the Public Health Service Act.

S. 1761

At the request of Mr. Durenberger, the name of the Senator from Montana [Mr. Melcher], was added as a cosponsor of S. 1761, a bill to amend the Internal Revenue Code of 1986 to provide that a decedent's spouse may enter into a cash lease of farm and other real property with family members and still qualify for the special estate tax valuation of the property.

S. 1776

At the request of Mr. Armstrong, the names of the Senator from Michigan [Mr. Levin], and the Senator from Utah [Mr. Hatch] were added as cosponsors of S. 1776, a bill to modernize United States circulating coin designs, of which one reverse will have a theme of the Bicentennial of the Constitution.

S. 1787

At the request of Mr. Daschle, the name of the Senator from Hawaii [Mr. Inouye], was added as a cosponsor of S. 1787, a bill to amend title 38, United States Code, to prescribe certain presumptions in the case of veterans who performed active service during the Vietnam era.

S. 1911

At the request of Mr. Hatfield, the names of the Senator from Tennessee [Mr. Sasser], the Senator from Arizona [Mr. McCain], and the Senator from Montana [Mr. Melcher] were added as cosponsors of S. 1911, a bill to amend title 5, United States Code, to allow all forest fire fighting employees to be paid overtime without limitation while serving on forest fire emergencies.

S. 1929

At the request of Mr. Bumpers, the name of the Senator from New York [Mr. D'Amato] was added as a cosponsor of S. 1929, a bill to amend the Small Business Investment Act to establish a corporation for small business investment, and for other purposes.

S. 1943

At the request of Mr. Kennedy, the name of the Senator from Washington [Mr. Adams] was added as a cosponsor of S. 1943, a bill to amend the Public Health Service Act to revise and extend the authority of the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, including revising and extending the program of block grants for the provision of services with respect to mental health and alcohol and drug abuse.

S. 1998

At the request of Mr. Breaux, the name of the Senator from Iowa [Mr. Grassley] was added as a cosponsor of S. 1998, a bill to regulate interstate natural gas pipelines providing transportation service which bypasses local distribution companies and to encourage open access transportation by local distribution companies at cost-based costs.

S. 2025

At the request of Mr. Melcher, the name of the Senator from North Carolina [Mr. Sanford] was added as a cosponsor of S. 2025, a bill to amend title II of the Toxic Substances Control Act.

S. 2075

At the request of Mr. Daschle, the names of the Senator from Louisiana [Mr. Johnston] and the Senator from Tennessee [Mr. Sasser] were added as cosponsors of S. 2075, a bill to amend the Internal Revenue Code of 1986 to permit tax free purchases of certain fuels, including purchases by farmers.

S. 2077

At the request of Mr. Kasten, the name of the Senator from Utah [Mr. Garn] was added as a cosponsor of S. 2077, a bill entitled the "Livestock Producers' Recordkeeping Act of 1988."

S. 2095

At the request of Mr. Metzenbaum, the name of the Senator from Vermont [Mr. Stafford] was added as a cosponsor of S. 2095, a bill to strengthen the protections available to private employees against reprisal for disclosing information, to protect the public health and safety, and for other purposes.

S. 2098

At the request of Mr. Hollings, the name of the Senator from Iowa [Mr. Harkin] was added as a cosponsor of S. 2098, a bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

S. 2114

At the request of Mr. Hollings, the name of the Senator from Florida [Mr. Graham] was added as a cosponsor of S. 2114, a bill entitled the "Public Telecommunications Act of 1988."

S. 2117

At the request of Mr. Melcher, the name of the Senator from North Dakota [Mr. Conrad] was added as a cosponsor of S. 2117, a bill to extend the statute of limitations applicable to certain claims under the Age Discrimination in Employment Act of 1967 that were filed with the Equal Employment Opportunity Commission before the date of enactment of this act.

S. 2129

At the request of Mr. Baucus, the name of the Senator from Kentucky [Mr. McConnell] was added as a cosponsor of S. 2129, a bill to amend the Internal Revenue Code of 1986 to repeal the application of the uniform capitalization rule with respect to animals produced in a farming business.

SENATE JOINT RESOLUTION 235

At the request of Mr. DeConcini, the name of the Senator from Delaware [Mr. Roth] was added as a cosponsor of Senate Joint Resolution 235, a joint resolution deploring the Soviet Government's active persecution of religious believers in Ukraine.

SENATE RESOLUTION 377

At the request of Mr. Lugar, the mane of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of Senate Resolution 377, a resolution to express the sense of the Senate regarding negotiations on a new long-term agreement on agricultural trade with the Soviet Union.

SENATE RESOLUTION 383

At the request of Mr. Lautenberg, the name of the Senator from Delaware [Mr. Roth] was added as a cosponsor of Senate Resolution 383, a resolution to express the sense of the Senate regarding future funding of Amtrak.

SENATE CONCURRENT RESOLUTION 101—PROVIDING FOR A CONDITIONAL ADJOURNMENT OF THE SENATE

Mr. BYRD submitted the following concurrent resoluton; which was considered and agreed to:

S. Con. Res. 101

Resolved by the Senate (the House of Representatives concurring), That when the Senate adjourns at the close of business on Thursday, March 3, 1988, or on Friday, March 4, 1988, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand adjourned until 12 noon on Monday, March 14, 1988, or until 12 o'clock meridian on the second day after the Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

Sec. 2. The Majority Leader of the Senate, after consultation with the Minority Leader of the Senate, shall notify the Members of the Senate to reassemble whenever, in his opinion, the public interest shall warrant it.

SENATE CONCURRENT RESOLUTION 102—RECOGNIZING THE CONTRIBUTIONS OF JOHN FOSTER DULLES

Mr. DANFROTH (for himself, Mr. Pell, Mr. Bond, and Mr. Sarbanes) submitted the following concurrent resolution; which was read and placed on the calendar:

S. Con. Res. 102

Whereas February 25, 1988, marked the 100th anniversary of the birth of John Foster Dulles, a commanding Secretary of State who confronted issues his Nation had not previously faced: the changing configuration of power in the nuclear age and relations with other nations, the links between national economic structures, competing systems of government ideology, and the dilemmas posed by great power status for a democratic society;

Whereas John Foster Dulles has, in his contributions to the peace of reconciliation through the treaty with Japan and the securing of the Austrian State Treaty, and in his steadfast support of a bipartisan approach to foreign policy as exemplified by his advocacy of the North Atlantic Treaty Organization and the Marshall Plan, served the highest calling of creativity and dedication in international relations;

Whereas on the anniversary of his birth, Princeton University convened a conference—bringing together a unique combination of scholars of diplomatic history, journalists, associates of Dulles, and practitioners of the craft of diplomacy—to evaluate Dulles's contributions to America's international policies and to explore the many parallels between international affairs today and during the period in which Dulles played a creative role in shaping international policy; and

Whereas Princeton University has initiated a program of research, study, and publication addressing leadership in international affairs named for John Foster Dulles, using the resources of the Dulles Diplomatic Library at Princeton and linking it to the Woodrow Wilson School's Center of International Studies for the purpose of supporting the efforts of graduate students, scholars early in their careers, and visiting scholars from other countries: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that, on the centennial of the birth of the statesman of the nuclear age, John Foster Dulles, Americans should examine the contributions of John Foster Dulles in international affairs and the importance of his leadership in international affairs and should study our Nation's past in order to gain insight and inspiration in meeting the challenges that are strikingly similar to those faced by John Foster Dulles.

Mr. DANFORTH. Mr. President, Senators PELL, BOND, SARBANES, and I are today submitting a concurrent resolution expressing the sense of the Congress regarding the important contributions of John Foster Dulles in international affairs, on the occasion of the centennial of his birth. The concurrent resolution also takes note of and commends a program initiated last weekend at Princeton University, in honor of Secretary Dulles, for the study of leadership in foreign affairs.

Mr. President, I encourage my colleagues to support this worthwhile concurrent resolution and ask unanimous consent that two statements prepared for Princeton's John Foster Dulles Centennial Conference—one, a remembrance by Secretary Dulles's sister, Eleanor Lansing Dulles; the other, a description of the new Princeton program—be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOHN FOSTER DULLES REMEMBERED

(By Eleanor Lansing Dulles)

["I summon up remembrance of things past."—William Shakespear, Sonnet III]

In the blizzard of 1888 in Washington, a child was born. The child, John Foster Dulles, was the first for Edith and Allen Macy Dulles. His mother was struck down with puerperal fever. It was not until April that mother and son were able to travel to their home in Watertown, New York.

As a boy he was reared in the shadow of his grandfather, a great soldier and former Secretary of State from Indiana, John W. Foster. He sailed the rugged waters of Lake Ontario, fishing, swimming long distances, and enjoying the unspoiled islands. Inland, he roamed the woods of Northern New York with his father. He caught the spirit of the gospels in the Presbyterian church on Washington Street in Watertown as he listened to his father's sermons.

Later, as a developing teenage student at Princeton, he found the ideals of the philosopher Professor Hibben and of President Woodrow Wilson of compelling force. He was still an undergraduate in 1907 when he accompanied John W. Foster as his aide to the Hague Peace Conference. Then, in 1908, with a bachelor's degree as valedictorian and a fellowship, he went to Paris to study under Henri Bergson, the philosopher of continuity and change.

He knew the bright snows of Zermatt and the Breithorn and saw many of Europe's art treasures. He learned of European ways and customs.

Back in Washington, he studied at George Washington University, completing his law courses in 1911.

When war came, his abilities were tested as Woodrow Wilson sought his services to deter several nations to the south from succumbing to enticements of the Central Powers to join their cause. Denied the possibility of combat because his eyes had been weakened by malaria while in the Caribbean, he still was given the rank of major and served the War Trade Board.

At the war's end—to the surprise of his uncle, Secretary of State Robert Lansing—he was requested to join the peace commission in Paris. There, in agreement with John Maynard Keynes, he tried to lessen the tragedy of defeat by reducing the demands on Germany for reparations. The struggle for restraint left him with a resolve that carried through two decades to another war. As he drafted the Japanese Peace Treaty in 1950 he remembered 1919. Also, in his later plea to Khruschev in 1955 for "deeds, not words," he had the past in mind as he gained agreement on the Austrian State Treaty.

Although success at Paris was limited, Foster was recognized with an appointment to the Reparations Commission. This post he resigned shortly to return to New York.

Life was not easy for the young lawyer. At first he earned $100 a month, subsidized somewhat by his grandfather, and rose slowly to higher levels. He had married his love of a lifetime, Janet Avery, and in 1913 they had the first of three children—John Watson Foster Dulles. From the first Foster was associated with some of the keenest minds in the profession and had to apply all his talents to demanding problems of international corporations and financial operations.

His interests in international affairs were soon broadened by his work with the Federal Council of Churches. Here his moral principles and his concern for world order and peace were deeply involved. For more than a decade, Foster found churches a useful vehicle in striving for world peace, seriously threatened by dictators. His efforts took the form of speaking and writing, including the pamphlet *The Six Pillars of Peace.* But war came.

In 1944, Foster was called to Washington by the State Department to join those working under Roosevelt on plans for the United Nations. As he worked on the charter, he pondered the questions of sovereignty, the veto to protect national interest, and regional pacts. In 1945 in San Francisco and later in the Council of Foreign Ministers, he faced the hard rock of Soviet resistance. Communism, as he further learned from reading Stalin's *Problems of Leninism,* was unacceptable and aggression must be stopped. But even as he took refuge in his solitary cabin on Duck Island in Lake Ontario, he faced the fact the nations must somehow live together on the one planet available.

The art of bipartisanship was complicated and demanding. Foster testified in support of NATO and the Marshall Plan.

His burdens became heavier as Eisenhower, assuming the presidency, called on him to be Secretary of State. The similarities of ideals and the differences of methods of the two men were striking. Here was real cooperation in statesmanship.

The years of crisis, of deterrence, were spectacular. They involved Korea, Indochina, Guatemala, Suez, Hungary, Quemoy and Matsu, Lebanon, Berlin and many vulnerable areas. They showed how a nation at the brink of conflict could move to more secure areas and remain at peace. The NATO alliance survived. Israel built a dynamic future; Austria was free, Germany grew in strength. Europe's economy wove a texture of opportunity. Great Britain, Italy, France, Belgium, came through hard times to better days.

In February 1959, Foster, though ill, was in England and Germany. His last talk with Adenauer was warm and understanding. The Chancellor knew he was suffering. Foster had been at the helm of the ship of state for more than six years, after serving the nation for more than fifty, when the illness of 1958 became the fatal cancer of 1959. He entered Walter Reed. There, for more than three months, he endured the pain, keeping medication to a minimum so his mind was clear for work.

Eisenhower, the friend and leader, sadly visited him. Churchill, MacMillan and others came to the hospital.

The journey from the snows of 1888 to the May morning 71 years later had been a long adventure. There had been wars and rumors of war, high endeavor and rough encounters—he had relished them all. His death in 1959 ended a life-long service to his country. Now, as we look back, we can say, "he brings your time some honour." [1]

THE JOHN FOSTER DULLES PROGRAM FOR THE STUDY OF LEADERSHIP IN FOREIGN AFFAIRS

For some time, family and friends of John Foster Dulles have explored ways to honor his courage and leadership and his contributions to world peace. It is fitting that any memorial—tangible or of the mind and spirit—should focus on Princeton University. Dulles was a graduate of the Class of 1908, and Princeton remained for him a life-long source of renewal.

The Dulles Library of Diplomatic History, a two-story hexagonal addition to the University's Firestone Library, was built to contain the personal papers that the Secretary of State and other members and associates of the Dulles family gave to Princeton. Now a second endeavor is underway. Again with the backing and support of friends and family, the John Foster Dulles Program for the Study of Leadership in Foreign Affairs has been created at Princeton.

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[1] Martial, VII, xciv (p. 491).

Centered in the Woodrow Wilson School of Public and International Affairs, the program will sponsor research and publications relating to leadership in international affairs and will appropriately be named for John Foster Dulles—whose career illuminates the relevance of an individual's principles of statesmanship to the diplomacy of the present and future.

It is expected that the program will include a professorship named for Dulles and that it will also support visiting senior scholars designed as John Foster Dulles Fellows. The dean of the Woodrow Wilson School has named an interdisciplinary faculty committee to recommend appointment of Dulles Fellows and to oversee the continuing program. Professor Fred I. Greenstein, chairman of the Department of Politics, is the committee's first head.

The Dulles scholars' association with their counterparts in the Woodrow Wilson School's other programs will bring to the school's major studies in international relations that sharp focus on leadership so appropriate to John Foster Dulles and so relevant to all periods.

The objective is to create an endowed fund of $2.7 million. That amount would endow a chair ($1.5 million) as a permanent memorial to Secretary Dulles, while also providing endowment funds to support visiting scholars and graduate students. This support, provided under the auspices of the Dulles Memorial, would fill a need that cannot be met by Princeton's available funds for research and teaching in this field.

SENATE RESOLUTION 390—RESOLUTION RELATING TO CONDITIONS FOR THE EXECUTION OF ARREST WARRANTS COMPELLING THE ATTENDANCE OF ABSENT SENATORS

Mr. SPECTER (for Mr. SIMPSON, for himself, Mr. CHAFEE, Mr. ARMSTRONG, Mr. BOSCHWITZ, Mr. COCHRAN, Mr. QUAYLE, Mr. HEINZ, Mr. MCCONNELL, Mr. BOND, Mr. EVANS, Mr. KASTEN, Mr. D'AMATO, Mr. WALLOP, Mr. HUMPHREY, Mr. WARNER, Mr. GARN, Mr. DOMENICI, Mr. GRAMM, and Mr. GRASSLEY) submitted the following resolution; which was referred to the Committee on Rules and Administration.

S. RES. 390

Resolved, That it is the sense of the Senate that the Standing Rules of the Senate should be changed to include the following:

"In exercising his authority to compel the attendance of absent Senators pursuant to paragraph 4 of rule VI of the Standing Rules of the Senate, the Sergeant at Arms shall comply with the following conditions:

"1. No arrest warrant shall be executed between the hours of eleven o'clock p.m. and eight o'clock a.m., unless the pending business is of a compelling nature.

"2. Any arrest warrant shall be signed by the Vice President, the President pro tempore, the Acting President pro tempore, or his official designee named in open session, or, if absent, in writing.

"3. Any arrest warrant shall include a written statement establishing the reasons for arrest.

"4. Whenever an arrest warrant is to be issued for an absent Senator, arrest warrants also shall be issued, contemporaneously, for all other Senators absent without excuse, without regard to party affiliation; and the Sergeant at Arms shall make equivalent efforts to execute all such arrest warrants."

AMENDMENTS SUBMITTED

CONDITIONS FOR THE EXECUTION OF ARREST WARRANTS COMPELLING THE ATTENDANCE OF ABSENT SENATORS

ARMSTRONG AMENDMENT NO. 1622

(Ordered referred to the Committee on Rules and Administration.)

Mr. ARMSTRONG submitted an amendment intended to be proposed by him to the resolution (S. Res. 390) to express the sense of the Senate with respect to establishing conditions for the execution of arrest warrants compelling the attendance of absent Senators; as follows:

At the end of the resolution, add the following new sections:

"5. No motion to instruct the Sergeant at Arms to arrest absent Senators shall be in order until the Senate shall have, first, adopted a motion directing the Sergeant at Arms to request the attendance of absent Senators and shall have, second, adopted a motion directing the Sergeant at Arms to compel the attendance of absent Senators. No motion directing the Sergeant at Arms to arrest absent Senators shall be in order until two hours shall have passed since the result of the vote on the motion to compel the attendance of absent Senators was announced. No motion to instruct the Sergeant at Arms to arrest absent Senators shall be agreed to between the hours of ten o'clock post meridian and eight o'clock ante meridian unless no Senator votes in the negative. All votes required or permitted by this paragraph shall be determined by the yeas and nays, and the names of the persons voting for and against such motion or question shall be entered on the Journal.

"6. No arrest warrant for any absent Senator shall be issued unless under the signature of the Vice President or President pro tempore and attested by the Secretary."

INTELLIGENCE OVERSIGHT

McCLURE AMENDMENT NO. 1623

Mr. McCLURE proposed an amendment to the bill (S. 1721) to improve the congressional oversight of certain intelligence activities, and to strengthen the process by which such activities are approved within the executive branch, and for other purposes; as follows:

On page 16, after line 19: In Section 503 add the following new subsection (c)(5) and redesignate the following subsections accordingly.

(5) Notwithstanding the provisions of subsections (2), (3) and (4) above, when the President determines that the risk of disclosure would pose an additional, direct and immediate threat to the life of a U.S. official or agent of the U.S. government, or a foreign national who is assisting the U.S. government in a special activity, or a hostage or other person for whose benefit the activity is being conducted; or that compliance with the provisions of subsections (2), (3) or (4) would jeopardize the cooperation of other intelligence services when this cooperation is critical for U.S. interests or for the success of the operation, the President may for a limited time withhold transmission of findings or determinations pursuant to subsections (1) or (2) of this section. In such cases, the President shall notify the chairmen and ranking members of the Intelligence committees, the Senate Majority and Minority leaders, and the Speaker and Minority leader of the House of Representatives, that a special activity which meets the above criteria is being conducted. However, at this time, the President shall not be required to report the finding or determination authorizing the operation or otherwise disclose the details of the activity in question. The President shall personally reconsider each week thereafter the reasons for continuing to limit such notice, and shall provide a statement on a weekly basis to the Members of Congress identified herein above confirming his decision. The President shall immediately provide full notice when he determines that the circumstances described above no longer exist. At this time, the President shall provide a detailed accounting of the reasons explaining why full notice to the intelligence committees, the Chairman and Ranking Members of these committees, the Majority and Minority leaders of the Senate, and the Speaker and Minority Leader of the House, was withheld.

RETIREMENT AND SURVIVORS' ANNUITIES FOR BANKRUPTCY JUDGES

HEFLIN AMENDMENT NO. 1624

Mr. BYRD (for Mr. HEFLIN) proposed an amendment to the bill (S. 1630) to provide for retirement and survivors' annuities for bankruptcy judges and magistrates, and for other purposes; as follows:

On page 5, line 16, strike out "the effective date of this Act" and insert in lieu thereof "July 31, 1987".

On page 11, line 1, after "(c)" insert "of title 5".

On page 11, line 3, strike out "(5)" and insert in lieu thereof "(7)".

On page 11, line 15, strike out "the date of the enactment of this Act." and insert in lieu thereof "July 31, 1987. A bankruptcy judge or magistrate retiring on or after July 31, 1987, but before the date of enactment of this Act, shall be entitled to make an election under section 2(c)(2) of this Act within 90 days after such date of enactment."

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GLENN. Mr. President, I would like to announce that the Governmental Affairs Committee will hold hearings on Tuesday, March 15, at 10 a.m., on proposed legislation relating to the elevation of the Veterans' Administration to Cabinet status. For further information, please call Len Weiss, staff director, on 224-4751.

Mr. President, I would like to announce that the Governmental Affairs Committee will hold markup on Tuesday, March 15, at 9:30 a.m., on S. 2037, the Presidential Transition Effectiveness Act; S. 1856, reauthorization of National Historical Publications and Records Commission Amendment Act of 1987; S. 1381, the Cash Management Improvement Act of 1987; and the nominations of Frank Schwelb, to be an associate judge of the District of Columbia Court of Appeals; and Cheryl Long, to be an associate judge of the District of Columbia Superior Court.

SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY

Mr. President, I would like to announce that the Governmental Affairs Subcommittee on Government Efficiency, Federalism, and the District of Columbia will hold a field hearing on Friday, March 11, at 10 a.m., on Federal-State cooperation in job training. The field hearing will be held in McKeesport, PA. For further information, please call Andrew McElwaine, minority staff director, on 224-4508.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Energy and Natural Resources Committee, Subcommittee on Public Lands, National Parks and Forests, be authorized to hold hearings on S. 1544, to provide for cooperation with State and local governments for the improved management of certain Federal lands, and H.R. 2652, to revise boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, during the session of the Senate Thursday, March 3, 1988.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL SPENDING, BUDGET, AND ACCOUNTING

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Federal Spending, Budget, and Accounting of the Governmental Affairs Committee be authorized to meet during the session of the Senate on Thursday, March 3, 1988, to hold a hearing on legislation dealing with the Former President Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, March 3, 1988, to conduct a hearing on proposals to improve the efficiency and effectiveness of management of public buildings.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PATENTS, TRADEMARKS, AND COPYRIGHTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary be authorized to meet during the session of the Senate on March 3, 1988, to consider S. 1301 and S. 1971, regarding the Berne Convention.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Manpower and Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 3, 1988 in open session to review Department of Defense officer promotion procedures.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on March 3, 1988, to hold hearings on the nomination of William E. Evans, of California, to be Under Secretary of Commerce for Oceans and Atmosphere.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 3, 1988, to hold hearings on S. 1848, the Minority Business Development Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 3, 1988, in open session to consider the nomination of Mr. Jack Katzen, to be Assistant Secretary of Defense for Production and Logistics.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, March 3, 1988, to review those programs which fall within the jurisdiction of the committee as contained in the President's proposed budget for fiscal year 1989, focusing on the Forest Service, and the Federal Energy Regulatory Commission beginning.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 3, 1988, to consider the nomination of Mark Sullivan, to be General Counsel of the Treasury Department, to consider Senate Concurrent Resolution 94, to approve the Finance Committee rules of procedures, and to hold a hearing on the President's budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 8, 1988, to hold a hearing on Intelligence Matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, March 3, 1988, to hold a markup on S. 721, the Indian Development Finance Corporation Act; and, S. 802, lands held in trust for the Blackfeet Indian Tribe, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BICENTENNIAL MINUTE

MARCH 3, 1873: FIRST CONGRESSIONAL RECORD

(By request of Mr. SIMPSON, the following statement was ordered to be printed in the RECORD:)

● Mr. DOLE. Mr. President, on March 3, 1873, 115 years ago today, Congress authorized the Government Printing Office to publish the first issue of the CONGRESSIONAL RECORD.

Publication of the RECORD marked the end of a long debate that had begun in the First Congress. The Constitution required that each House of Congress keep a journal of its proceedings. These journals are the minutes that the Secretary of the Senate and the Clerk of the House began to keep back in 1789, and still publish today. But various private stenographers, connected with various newspapers, attempted to record a more complete version of the debates. Stenography was a much cruder art in the 18th century, and many Members of those early Congresses felt unhappy with the published accounts of their speeches. They proposed that Congress hire its own reporters of debate. But Representative James Madison strongly opposed this plan, warning that once reporting become official, Members would suffer the task of correcting their remarks in perpetuity. So reporting remained a private venture.

In 1848, after decades of complaint over shoddy and often politically slanted stenography, the Senate hired its own official reporters of debate to furnish the editors of the privately published Congressional Globe with verbatim transcripts of the floor proceedings. In 1855, Congress decided to pay the Globe's reporters directly to perform this service. But with the increased congressional activity during the Civil War and Reconstruction, the Globe proved unable to publish the debates as quickly as Congress desired. Finally in 1873, the Senate and House voted to give charge of publishing their debates to the Government Printing Office. Two days later the first issue of the CONGRESSIONAL RECORD appeared, as it has for every day that Congress has met over the past 115 years.●

HONORING RON AND WINNIE NORMAN

● Mr. LEVIN. Mr. President, on March 11, 1988, Ron and Winnie Norman of Berkley, MI, will be honored for their long and dedicated service to their community.

Ron and Winnie both grew up in Berkley, attended Berkley schools and graduated from Berkley High School. They have four children and three grandchildren.

Ron Norman served the city of Berkley for 13 years, 9 years as a member of the city council and 4 years as its mayor. Winnie put in long hours as the personal secretary to the mayor and served graciously as Berkley's first lady.

Ron and Winnie both worked at Michigan Bell and also served as officers in the Berkley Community Church. They continue to serve as members and officers of many community organizations.

I join the city of Berkley in saying thank you to Ron and Winnie Norman for their continuous good works and wish them good luck and good health in the future.●

A REBUTTAL OF THE DOE OIL IMPORT FEE STUDY

● Mr. JOHNSTON. Mr. President, in March of 1987, the Department of Energy [DOE] released a report entitled "Energy Security: A Report to the President of the United States." The report was in response to the President Reagan's request that the Department review the nature and scope of the Nation's energy security concerns and evaluate policies that might meet national objectives in this area. The report examined the adequacy and security of all of our energy supplies, giving particular attention to oil.

One key element of the Department's report was an evaluation of the use of an oil import fee to reduce dependence on foreign supplies and encourage domestic production. DOE performed an economic analysis that attempted to quantify the costs and benefits of import fees. This cost-benefit analysis concluded that the costs of import fees far exceed the benefits. The methodology and conclusion of this part of the report were controversial from the start and were criticized by analysts in both the oil industry and academia.

Given this controversy, and my own doubts as to the objectivity of the DOE analysis, I asked Karl Hausker, the committee staff economist, to first, review the cost-benefit analysis of oil import fees presented in "energy security," and assess whether it was done in an objective and unbiased manner; second, make any changes in methodology or assumptions that would lead to a more objective appraisal of costs and benefits; and third, report any changes in the analysis or conclusions.

Dr. Hausker's report describes a number of flawed assumptions made by DOE that biases the analysis toward the conclusion that oil import fees carry far more costs than benefits. Using more defensible assumptions, the report estimates that import fees would provide positive net benefits to the Nation's economy.

I recommend this report to all my colleagues; its title is "The Costs and Benefits of Oil Import Fees: A Critique and Revision of the Analysis in the DOE Energy Security Report." It corrects a major misperception in DOE's original study. The energy security problem is one of the most difficult, tangled problems we face. This report is one step toward untangling it.

Mr. President, I ask that this report be printed in the RECORD.

The report follows:

THE COSTS AND BENEFITS OF OIL IMPORT FEES: A CRITIQUE AND REVISION OF THE ANALYSIS IN THE DOE ENERGY SECURITY REPORT

(By Karl Hausker, Staff Economist, Senate Energy and Natural Resources Committee)

OVERVIEW

In March 1987, the Department of Energy (DOE) released its Energy Security report to the President. One section of that report presents a cost-benefit analysis of three different oil import fees. In each case, the analysis concludes that the cost of the import fee would exceed the benefit. Some of the assumptions underlying DOE's analysis create a bias against oil import fees. This paper demonstrates that if one used more objective assumptions, the DOE analysis would conclude that the oil import fees would provide net economic benefits to the nation.

Any cost-benefit analysis is useful only to the extent its assumptions are realistic and defensible. In the case of the Energy Security report, the conclusion of the analysis rests largely on one very questionable assumption: the treatment of the macroeconomic "adjustment losses" associated with oil import fees. DOE assumes that there would be large, unending macro adjustment losses. This paper critiques this assumption and presents an alternative, namely, that the adjustment loss will be significant but will last only one year.

A second somewhat questionable assumption in the DOE study involves the discount rate. DOE uses a relatively high discount rate (10 percent real). The analysis presented here uses a 5 percent discount rate, a rate more in the middle of the range of rates suggested by economists.

Lastly, the DOE study performs some sensitivity analysis on the year a supply disruption occurs. The base case value is 1995; the Department also examines disruptions in 1990 for a $10 per barrel fee. This paper gives a more comprehensive analysis by examining three disruption scenarios (1988, 1991, and 1995) for three types of import fees.

This paper evaluates the costs and benefits of oil import fees using the assumption changes summarized above. The analysis is based on the same DOE computer models used in the Energy Security report. However, the Department in no way endorses the changes in assumptions or conclusions discussed in this paper.

In the section below, the DOE analysis is summarized and the importance of the treatment of macroeconomic losses is highlighted. The next section critiques the DOE methodology for estimating marcoeconomic losses and presents an alternative. We then turn to a discussion of discount rates and the timing of an oil supply disruption. The final section presents the results of the cost-benefit analysis using the specified changes in assumptions. The results are summarized in the table below. For all three fees analyzed ($5/bbl, $10/bbl, and $24/bbl variable), and for each of the three disruption years, the net benefits of a fee are positive. (The floor of the variable import fee was raised from $22 per barrel in the DOE analysis to $24 per barrel to make it consistent with Senate Bill 971.)

NET BENEFITS OF AN OIL IMPORT FEE

[Billions of 1985 dollars]

Type of fee	Year of disruption		
	1988	1991	1995
$5/bbl	11.9	31.0	22.3
$10/bbl	10.3	41.6	23.8
$24/bbl (variable)	13.1	31.8	5.2

Computer print-outs of the DOE model (as modified by the Committee staff) appear in the Appendix to this paper. One final caveat: cost-benefit analysis should never be the sole determinant of a policy decision. Non-quantifiable benefits and costs can be equally important in shaping policy.

SUMMARY OF OIL IMPORT FEE ANALYSIS IN DOE STUDY

The DOE report Energy Security presents a cost-benefit analysis of three different oil import fees: $5 and $10 per barrel fees, and a variable fee that would create a $22 per barrel floor price. The time period of the analysis is 1988-1995. The models assumed a significant supply disruption would occur in 1995.

The two benefits of import fees estimated by the model are a reduction in the nation's payments for oil imports, and a security benefit gained from lower price and lower imports in the event of a disruption. The import fee would raise the domestic price of oil, thus lowering U.S. demand. Lowered U.S. demand would tend to lower the world price of oil because U.S. demand is such a large part of world demand. Therefore, the U.S. will pay a lower world price (plus the import fee) for its imported oil. The import fee, of course, is not a cost to the nation; it is simply a transfer from consumers to government.

The security benefits are summarized well in Energy Security (DOE 1987, p. D-17):

1. An import fee will cause the United States to enter an oil supply disruption with a lower level of imports, and consequently lower payments for imported oil during a disruption due to this lower import level.

2. If an import fee actually exerts an effect on the disrupted oil price, it would imply a lower disrupted world oil price with a fee than without a fee. If this situation occurs, an additional benefit will accrue due to this difference in disrupted price.

3. The impact of a supply disruption on the economy will be smaller because the oil import level before a supply disruption is smaller. In addition, if the import fee is waived during a supply disruption, the impact of disrupted price on GNP will be smaller.

The two costs of import fees estimated by the model are a permanent welfare loss to the economy resulting from higher domestic oil prices, and a macroeconomic adjustment loss that would result from the transition from lower to higher oil prices. The welfare loss stems from the drop in demand from higher prices: those consumers who reduce oil consumption permanently either switch to a higher-cost substitute or go without. In either case, the benefits of the lower-cost oil are lost. In contrast, those consumers who maintain their oil consumption are still getting some benefit while paying a fee to the government. Once again, those fees are not costs to the economy but simply transfers from consumers to government.

The macroeconomic adjustment loss is a transitional phenomenon: the increase in oil prices temporarily decreases aggregate spending and causes a reallocation of resources within the economy. This reallocation causes some temporary idling of capital and labor, hence the economy produces below its potential. The next section will examine macro losses in detail.

It is essential to understand the pivotal role the macro loss plays in the DOE analysis. The size of the macro loss dwarfs that of the other three components of the analysis. Its large size effectively ensures that any small variation in the estimates of the other components will not change the conclusion that import fees would be costly to the nation. The table below reveals the relative size of the macro loss and its effect on the net benefit calculation. For each of the three fees, the net benefits would be positive if not for the macro loss which swings the net benefit calculation sharply negative.

COST AND BENEFITS OF AN OIL IMPORT FEE

[Billions of 1985 dollars]

	$5/ billions per barrel	$10/ billions per barrel	$22/ billions per barrel
Reduction in oil imports	22.5	36.9	27.6
Security benefits	6.5	9.3	2.4
Welfare loss	−2.9	−11.3	−6.6
Net benefits Without macro loss	26.1	34.9	23.4
Macro loss	−99.3	−188.8	−134.8
Net benefits With macro loss	−73.2	−153.9	−111.4

CRITIQUE OF DOE METHODOLOGY FOR ESTIMATING MACROECONOMIC LOSSES

DOE's calculation of the two components of benefits and of one of the two components of cost (welfare loss) is done in a straightforward and defensible manner. However, the methodology underlying the estimation of the macroeconomic adjustment loss is controversial. This is a complex issue that requires some background.

Any sudden, substantial price change can cause a macroeconomic adjustment loss. A price shock can change the distribution of income among consumers and producers and lead to a temporary reduction in aggregate spending. This can depress the overall level of economic activity.

A price change can also mean that resources must be reallocated within the economy. If oil prices go up, the price of goods ranging from gasoline to plastic wrap goes up, and the demand for these products goes down. The demand for goods such as insulation and fuel-efficient cars goes up. The output of some firms goes up, while that of other firms goes down. Capital and labor must be reallocated to bring about these changes. This reallocation cannot take place quickly or painlessly. Machines may lay unused for some time. Workers may have to move or retrain for other jobs. Decreased aggregate spending and idle economic resources mean the economy is producing below its potential, producing fewer goods and services, thus incurring a macroeconomic adjustment loss.

The DOE methodology for estimating the macro loss caused by an import fee is easy to describe. A percentage change in oil price is translated to a percentage change in gross national product by a GNP elasticity multiplier. DOE uses a multiplier of −0.021. This implies, for example, that a doubling of oil prices would lead to a 1.4% decline in GNP.

DOE draws its GNP elasticity multiplier from empirical work by Darby (1982). The Department uses Darby's estimate of a long-run (permanent) GNP elasticity multiplier despite DOE's own acknowledgement that the estimate is not statistically significant (a point we will return to later). The result of using Darby's estimate is that DOE predicts macro losses of tens of billions of dollars each year.

DOE buttresses these numbers by citing the estimates of macro losses from two elaborate computer models (the DRI Annual Model and EIA's MINMAC model). These models produce macro loss estimates of similar magnitude. DOE also cites a recent survey of macroeconomic models conducted by the Stanford University Energy Modeling Forum (EMF) as providing additional support for its use of a GNP elasticity multiplier of −0.021.

The Department's approach in estimating macro losses requires one to assume that the economy never adjusts to higher oil prices. Furthermore, DOE assumes that the import fee revenues are used to reduce the federal deficit, and that there is no fiscal or monetary policy instituted to cushion the effect of the import fee.

The Department's methodology in estimating macro losses is questionable on a number of grounds. First of all, DOE's reliance on Darby's work is puzzling, given its inconclusive nature. Darby's estimate of the long-run GNP elasticity multiplier is statistically insignificant. In other words, using conventional standards, Darby could not be confident that oil price changes had any long-run effect on GNP. In contrast, Darby's one-year, short-run estimates were significant, lending credit to the notion of a short-run macro loss. Note also that Darby examined the effect of external oil price shocks in which revenues flowed out of the consuming country. Common sense argues that import fees would have less of an impact by keeping more revenue inside the consuming country.

Another consideration is that import fees of the size contemplated in Energy Security would lead to oil prices equal to or below those levels experienced in the past. Darby's research covered the oil price shocks of the 1970s when prices climbed to unprecedented heights. However, in 1980-1981, the world oil price was above $40/bbl. In 1985, it had dropped to $27/bbl—still relatively high by today's standards. Expectations in the early 80's were that oil prices would remain in the $30/bbl range for some time and then continue escalating in the 1990's (e.g., DOE's Energy Projections to the Year 2010, 1983, p. 4-4). Five or ten dollar import fees would cause oil prices to rise to levels at or below those experienced in the first five years of this decade. Therefore, some of the economic adjustments one would otherwise expect from a oil price increase have already been made, and Darby's estimates of the impact of higher oil prices are overstated. For instance, homeowners did not remove insulation from their attics when oil prices dropped in 1986, nor did businesses mothball energy-efficient equipment purchased prior to the price collapse.

To support its position, the Department also points to the more elaborate DRI and EIA models that forecast large and long-lasting macro losses. However, the Congressional Budget Office has examined these models and reaches a very different conclusion: GNP probably would decline in the short run due to an import fee, but could be somewhat higher or lower in the long run. The CBO study concludes (1986, p. 3):

> [U]nder a broad range of assumptions, the various forces tend to offset each other and it is difficult to imagine real GNP undergoing large deviations from its baseline path in the long term.

CBO questions two major assumptions in the models: first, that an oil import fee would not affect world oil prices. (This assumption was maintained in the DRI study cited in Energy Security, but not in the report itself.) Second, the models assume that the increased income of oil producers does not significantly offset the decreased income of oil consumers, hence the decrease in aggregate spending is quite large.

The third source of support for the DOE position cited in Energy Security is the Energy Modeling Forum (EMF) survey. The survey did indeed conclude that macro losses similar to those calculated by DOE could occur if there were no fiscal or monetary policies to cushion the impact. However, the study goes on to argue that if such policies were in place the macro loss could be a small fraction of what it would otherwise be, or might be avoided altogether. Thus the bottom line of the EMF survey is that large macro losses are not an inevitable consequence of oil price rises.

EMF examined several policies that could cushion the impact of higher oil prices. In the area of monetary policy, government could allow faster growth of the money supply. In the area of fiscal policy, income taxes or payroll taxes could be cut, or an investment tax credit could be increased. These policies tend to increase aggregate consumption, investment, and/or employment. Recent actions by the Federal Reserve Board in coping with the October 1987 stock market crash illustrate the ability of monetary policy to ease the effect of an economic shock. The collapse of stock prices created a sudden surge in the demand for money to handle the huge volume of stock transactions. The Fed is widely credited with easing the money supply at the time of the crisis, and thus averting potentially larger damage to the economy (Wall Street Journal, 1987).

While the arguments above do not provide certain proof that the DOE methodology is wrong, they do establish that there is little empirical or intuitive support for the use of Darby's long-run GNP elasticity multiplier. Nevertheless, the subject of macro losses is a murky area, with plenty of disagreement among the experts. Bohi (1986, p. 2) summarizes the state of knowledge on the subject: "[R]esearch to date has failed to yield clear evidence regarding either the importance of energy or the manner in which changes in energy prices work their influence on economic activity. The literature on this topic reveals wide differences of opinion about the effects of the oil price increases. To cite two prominent extremes, Rasche and Tatum (1981) argue that the economic upheavals of the 1970s are due entirely to energy, while Nordhaus (1980) argues that energy played almost no role. After an empirical evaluation of several possible connections, Darby (1982) concludes that the diversity of empirical results matches the diversity of opinion. Adding to the puzzle is the absence of obvious positive effects resulting from the decline of oil prices in January 1986 . . ."

Clearly, there is a range of opinion on how oil prices affect economic performance. At a bare minimum, an objective analysis of an import fee should acknowledge this range of opinion. Ideally, an objective analysis should make a balanced, middle-of-the-road assumption on the extent of macro losses. Hogan (1987, pp. 17-18) describes the range of opinion on macro losses as follows:

> At one end, plausible assumptions, explicit or implicit in other studies, yield little or no cyclical macroeconomic impact of an oil tariff. For example, if the tariff is fully anticipated and the funds recycled, there need be no "surprise" and no aggregate reduction in income. In such an "accommodation" policy, the tariff revenue might be used to avoid an increase in social security taxes, and the domestic oil industry would spend its increased revenue, resulting in no increase in aggregate unemployment. . . . [At the other extreme] would be the "no accommodation" policy: leave the money supply unaffected and use the tariff revenue to reduce the deficit. The fixed money supply, coupled with the tariff-induced price increases, would maximize the recessionary effect of inflation, producing a contraction in the economy in order to reduce other prices and eliminate all or most of the aggregate price increase. . . . In this spectrum between frictionless accommodation and no accommodation, the DOE study falls towards the end of no accommodation.

DOE's assumption of virtually no accommodation policy is extremely pessimistic and introduces an unfair bias into the cost-benefit analysis, a bias against oil import fees. The CBO and EMF analyses argue strongly that macro losses can be short-run phenomenon, and can be minimized with appropriate fiscal and monetary policies (e.g., easing of the money supply, selected tax cuts). In contrast, DOE assumes a fiscal policy of deficit reduction by using import fees to decrease the Federal deficit. Thus DOE is really evaluating two policies together: oil import fees and deficit reduction. This biases the analysis against oil import fees because deficit reduction will likely cause some macroeconomic losses no matter how it is achieved, whether through spending cuts or tax increases. An unbiased analysis of an oil import fee policy cannot be performed if that policy is coupled to a second policy certain to cause macro losses.

Hogan (1987, p. 18) states this argument eloquently:

> In evaluating an oil tariff, . . . tying the tariff to deficit reduction is a distraction from the evaluation of energy policy. To the degree that an oil tariff and deficit management are separable, they should be evaluated on their own merits. If an oil tariff is good, because it produces net benefits of $35 billion under a policy of accomodation, and deficit reduction is bad, because it creates $200 billion in macroeconomic loss, then adopt the tariff and live with the deficit. But don't mistake the costs of deficit reduction for the unavoidable costs of an oil tariff.

Hogan provides a thoughtful critique of DOE's macro loss estimate. He recommends that an even-handed approach would be to apply Darby's long-run GNP elasticity multiplier and assume the economy adjusts in one year. This is consistent with Darby's finding of statistically significant estimates of short-run GNP multipliers similar in magnitude to his statistically insignificant long-run estimate. Darby's long-run GNP elasticity estimate, as noted earlier, is 0.021. His four short-run estimates (corresponding to the four quarters of a year) are −0.021, −0.022, −0.009, and −0.018.

Hogan's approach assumes that appropriate fiscal and monetary policies avert some but not all of the macro loss. This treatment of macro losses is adopted in the cost-benefit analysis presented in this paper.

THE CHOICE OF DISCOUNT RATE

Although the macro loss estimate is the most controversial part of the Energy Security analysis, the choice of discount rate is also worth discussing. A discount rate is used to reduce the magnitude of costs and benefits occurring in the future to reflect the time value of money (i.e., a dollar today is worth more than a dollar one year from now). The bottom line of a cost-benefit analysis can vary significantly with different discount rates, particularly if the time pattern of benefits is substantially different from that of costs.

The DOE report used a real discount rate of 10 percent which is consistent with the longstanding policy of the Office of Management and Budget (OMB, 1972). However, this figure is at the high end of the range of rates that most economists recommend for use in evaluating public sector actions. Lind et al (1982) provides a thorough and wide-ranging examination of the issue of choosing a discount rate. Lind concludes that for most cost-benefit studies, a discount rate of 4.6 percent is appropriate. Lower rates, he argues, are justified in certain cases involving public investments and particularly long-lived programs. Following Lind's reasoning, a rounded rate of 5 percent (real) is used in the cost-benefit analysis presented in this paper.

EXPANSION OF DISRUPTION SCENARIOS

The analysis incorporated a third change to the original DOE model by expanding the number of disruption scenarios. The Committee requested that DOE run its models for disruptions in 1988, 1991, and 1995 in order to get a sense of how the cost-benefit analysis changes with the year of disruption. This kind of sensitivity analysis adds to our understanding: if the conclusion of the analysis is roughly the same regardless of the year of the disruption, we can give added weight to a policy recommendation.

RESULTS OF COMMITTEE STAFF ANALYSIS

So far we have reviewed the questionable assumptions in Energy Security, and presented some alternatives. This section presents the results of the cost-benefit analysis of oil import fees using the alternative assumptions. In the revised analysis, the macro loss is assumed to take place in one year rather than being permanent; the discount rate is 5 percent rather than 10 percent; and disruptions in 1988, 1991, and 1995 are analyzed.

The result is a complete turnaround from the conclusions of Energy Security. The DOE study concluded that the costs of oil import fees substantially exceeded the benefits. With the change in assumptions, the oil import fees examined are estimated to create net benefits to the nation in the tens of billions of dollars. The crucial factor in turning the analysis around is a dramatic drop in macro losses. The results are summarized in the table below; the detailed computer print-outs appear in the Appendix.

NET BENEFITS OF AN OIL IMPORT FEE

[Billions of 1985 dollars]

Type of fee	Year of disruption		
	1988	1991	1995
$5 billions per barrel	11.9	31.0	22.3
$10 billions per barrel	10.3	41.6	23.8
$24 billions per barrel (variable)	13.0	31.8	5.2

To illustrate how the analysis changes, consider DOE's estimates for a $10 per barrel fee with a disruption in 1995. The macro loss estimate is $189 billion, welfare loss is $11 billion, total benefits are $45 billion, giving a net benefit of negative $154 billion. With a one-year macro loss assumption and a 5 percent discount rate, the macro loss drops to $24 billion, the welfare loss and total benefits increased slightly (being discounted less heavily), giving a net benefit of $23.8 billion.

A disruption in 1988 means that there are no security benefits—only a reduction in imports in later years. This is reflected in relatively low net benefits for fees when the disruption is in 1988. Note also the relatively low benefit for a variable fee when the disruption is in 1995. This occurs because the fee drops to zero as world oil prices climb above $24 per barrel.

No cost-benefit analysis can be absolutely definitive or certain. However, this paper demonstrates that DOE used a pessimistic assumption regarding macro losses, one that allows for virtually no fiscal or monetary policies to cushion the impact of oil import fees. This assumption leads one to believe that oil imports are terribly costly to the nation. A very different conclusion is reached if one changes that assumption to a more realistic view, in which government does try to accomodate the price increase with an easing of monetary policy and/or selected tax cuts. With these more realistic assumptions, oil import fees are estimated to provide net benefits measured in the tens of billions of dollars.

As mentioned at the outset, cost-benefit analysis should never be the sole determinant of a policy decision. Non-quantifiable benefits and costs can be equally important in shaping policy. This certainly applies to oil import fees. Benefits include a more independent foreign policy, one that is not unduly influenced by our reliance on imported oil. In addition, an oil import fee will lead to a stronger, more stable domestic petroleum industry, one better able to cope with supply disruptions. Other benefits include a reduction in the U.S. trade deficit and a possible decrease in the probability of a major disruption due to lower U.S. import volumes. Non-quantifiable costs must be considered also. An oil import fee might blunt the drive to lower trading barriers in general among nations. It may also reduce the international competitiveness of certain oil-intensive U.S. products. These factors should be considered along with a fair and balanced cost-benefit analysis as the debate over import fees continues.

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APPENDIX

This appendix contains a summary of the assumption changes in the DOE model made by the Senate Energy Committee staff. Following this are ten pages of model output presenting the results of the revised cost-benefit analysis. The first page presents the original DOE analysis of a $10/bbl fee (disruption in 1995). Following this are the analyses of the nine scenarios listed below:

$5 Fee—Disruption in 1988;
$10 Fee—Disruption in 1988;
$24 Nominal Floor—Disruption in 1988;
$5 Fee—Disruption in 1991;
$10 Fee—Disruption in 1991;
$24 Nominal Floor—Disruption in 1991;
$5 Fee—Disruption in 1995;
$10 Fee—Disruption in 1995; and
$24 Nominal Floor—Disruption in 1995.

SUMMARY OF ASSUMPTION CHANGES

The DOE study calculated macroeconomic adjustment losses with the following formula:

$\text{Loss}=\text{GNP}-\text{GNP}*(P_f/P_b)^e$

Where: GNP=Gross National Product;
P_f=Oil price with import fee;
P_b=Base oil price (without fee); and
^{e}=GNP elasticity multiplier (-0.021);

Using the same approach as Hogan (1987), this study calculated macroeconomic adjustment losses with the following formula:

$\text{Loss}=\text{GNP}-\text{GNP}*((P_{f,t}/P_{f,t-1})/(P_{b,t}/P_{b,t-1}))^e$

Where: $_t$=current year;
$_{t-1}$=previous year

The DOE study used a real discount rate of 10 percent. This analysis used a rate of 5 percent. Three oil disruption scenarios were examined: 1988, 1991, and 1995. (DOE focuses almost exclusively on 1995.) Finally, the Committee staff examined a variable fee with a $24 per barrel floor rather than a $22 per barrel floor used in Energy Security.

[Computer print-outs omitted. They appear in "The Costs and Benefits of Oil Import Fees: A Critique and Revision of the Analysis in the DOE Energy Security Report," Printed at the Request of the Committee on Energy and Natural Resources, United States Senate, 100th Congress, 2d Session, S. Prt. 100-85, March 1988.]●

UNITED STATES-JAPAN SECURITY RELATIONS

● Mr. ROCKEFELLER. Mr. President, the winter, 1988, issue of the Fletcher Forum is entitled "The U.S.-Japan Trade and Security Relationship." That issue contains an article by Gregg Rubinstein on "U.S.-Japan Security Relations" which outlines in a succinct way the history of our security relationship and tries to correct misperceptions about the positive contributions Japan has made as one of our most important allies. I recommend Mr. Rubinstein's article to any serious student of Japan.

Mr. President, I ask that the full text of this article be included in the RECORD.

The article follows:

U.S.-JAPAN SECURITY RELATIONS: A MATURING PARTNERSHIP?

(By Gregg A. Rubinstein)

Much has been written in recent years of a transition in the United States' relations with Japan. Some observers have seen the emergence of a U.S.-Japan alliance or "equal partnership." Others have taken a more negative approach in warning of the end of an indulgent American view of Japan and insisting that Japan assume international responsibilities commensurate with its wealth and power. These arguments are variation of the same theme—the ending of a post-wear generation of U.S. patronage and Japanese dependence.

As other articles on this issue make clear, this change in perspective is all too contentiously evident in economic issues. Less attention has been given to an equally important trend in U.S.-Japan relations, the evolution of what was for many years a static security relationship toward more active defense cooperation. On the whole a very positive development, security relations must continue to overcome the misunderstandings and tensions that mark a shift from the patron-client attitudes of earlier years to a more mature partnership appropriate to the 1980s and 90s.

EVOLUTION OF THE SECURITY RELATIONSHIP

Security arrangements developed during the early post-war period were finalized in the 1960 U.S.-Japan Treaty of Mutual Cooperation and Security. The Security Treaty remains the framework of U.S.-Japan security relations; its key provisions are:

Article V: Each Party recognizes that an armed attack against either party in the territories under the administration of Japan would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional provisions and processes . . .

Article VI: For the purposes of contributing to the security of Japan and the maintenance of international peace and security in the Far East, the United States of America is granted the use by its land, air and naval forces of facilities and areas in Japan . . .[1]

Implementation of Security Treaty provisions during the 1960s reflected America's position as the preeminent Asia/Pacific power. Japan's contribution to mutual security was seen—in both countries—primarily as the provision of a base from which U.S. forces could ensure regional stability and in so doing protect Japan. Most problems in the security relationship focused on U.S. bases in Japan, the presence of which was a source of constant political tension. In the strongly anti-military atmosphere of early postwar Japan, concern with Japan's fledgling Self Defense Forces (SDF) centered more on their political legitimacy than their operational effectiveness. While U.S. and Japanese military counterparts established close relations, joint planning for U.S.-Japan cooperation in an emergency was seldom given serious attention by civilian superiors. Japanese officials were reluctant to face military issues and their American counterparts generally did not press them to do so.

The end of the Vietnam War, the reversion of Okinawa to Japanese sovereignty in 1972, and an extensive reduction of U.S. military facilities throughout Japan in the early 1970s greatly eased the burden of U.S.

Footnotes at end of article.

base problems. U.S.-Japan security relations had entered a period of relative calm. The lull of the detente years, improved relations with China, America's Nixon Doctrine-inspired disengagement from post-Vietnam Asia, and the absence of any apparent threat to Japan all tended to lower the priority of defense issues in U.S.-Japan concerns. An emphasis on management of Security Treaty-related operations over concern with defense policy continued well into the Carter administration.

The low-key nature of U.S.-Japan security relations finally shifted in the wake of the Iranian revolution and the Soviet invasion of Afghanistan in December 1979. Faced with suddenly expanded defense commitments, major increases in Soviet military capabilities, and what had become a steadily shrinking base of American military resources, Washington began calling on its allies for greater contributions to common security concerns. In the case of Japan, providing a base for U.S. operations was no longer enough. Increasing U.S. trade deficits with Japan reinforced the perception among many Washington officials and members of Congress that, by allocating less than one percent of its GNP to defense, Japan was getting a "free ride" on security from the United States. Japan had to "do more" to share the defense burden. But what did this mean? Washington still lacked a conceptual approach to defense cooperation with Japan. This being the case, pressing Japan for more defense spending without a clear understanding of how these funds were to be used soon proved a pointless and aggravating exercise.

ROLES AND MISSIONS

A few weeks after President Reagan's inauguration, then Secretary of Defense Caspar Weinberger stated that a rational division of labor among the United States, NATO allies, and Japan would be a central theme of U.S. defense policy. Administration officials were determined to avoid confrontations over percentage increases in allies' defense budgets. Rather, necessary expenditures were to be encouraged through an agreed allocation of defense tasks—a concept of "rules and missions." [2] The United States outlined a roles and missions approach to Japanese officials in early 1981. Washington's position emphasized that:

The United States would continue to provide a credible nuclear deterrent as well as offensive strike forces in the Northwest Pacific—capabilities that Japan is constrained from developing itself;

Japan should strengthen its defense forces to assume primary responsibility for the security of its territory, coastal waters, and airspace, as well as protect economically vital sea lanes out to some 1,000 miles from its major Pacific ports;

The United States would maintain its security commitment to the Republic of Korea and protect sea lanes beyond the Northwest Pacific critical to Japan's security (e.g. oil lifelines).

This proposed policy was formalized in a joint communique issued following talks between President Reagan and then Prime Minister Suzuki in May, 1981.[3] There may have been nothing original in the substance of roles and missions—experts in both countries had long understood the need for some such allocation of defense responsibilities—but this more dynamic approach to security relations had never before been the subject of public agreement between American and Japanese political leaders. Significantly, it was here that the word "alliance" was first used officially to describe U.S.-Japan ties.

Though Tokyo accepted the roles and missions concept in principle, initial Japanese reactions to an increased defense effort were hesitant and skeptical. The controversial nature of military issues in Japan and a sense of complacency drawn from many years of stability in Northeast Asia underlay a widespread reluctance among the Japanese to assume a stronger defense posture. Nonetheless, growing Soviet military strength in the Far East, truculent Soviet behavior toward Japan, and continued turmoil in Southeast Asia and the Middle East have all prompted a more sober view of security problems in Japan and encouraged a greater willingness to identify Japan's interests with those of a Western alliance. Despite differences in thinking on many security issues, Japan has gradually become more responsive to the need for strengthened defense ties with the United States.

The intent of the roles and missions rationale has often been misunderstood by critics in both countries. In advocating increased Japanese defense capabilities, neither Washington nor Tokyo intend that Japan somehow substitute for U.S. forces in Northeast Asia or become an independent regional power potentially threatening to its neighbors. The issue is one of complementarity rather than substitution. Greater Japanese defense efforts would make no sense unless strong U.S. forces were available to work with Japan in meeting Soviet threats close to home as well as maintain those security commitments beyond the Northwest Pacific that Japan is not in a position to undertake. The point is that U.S. resources are needed for U.S. tasks. They cannot be stretched to cover what should be Japanese missions (such as escort of merchant shipping). Thus, defense cooperation is not a zero-sum game between the United States and Japan. Japan is not "doing more" so that the United States can do less. Both countries have had to do more to meet their responsibilities.

IMPLEMENTING DEFENSE COOPERATION

Implementation of the roles and missions policy has depended on both improved Japanese defense capabilities and closer U.S.-Japan cooperation. Current activities are mostly a continuation of programs in effect prior to 1980, but with increasingly tangible benefits that, again, are not fully appreciated in either country.

Host Nation Support (HNS)

Japan's Security Treaty obligation to provide facilities for U.S. forces amounts to much more than leasing property. Since the 1960s, the Japanese government has also provided financial support for the operation of U.S. bases in Japan. At first limited to the construction of housing and other service facilities, the scope of HNS has been widened to include contributions to offset the rising cost of Japanese labor on U.S. bases and, since 1979, the construction of operational facilities (e.g. aircraft hangars) as well. At current exchange rates, Japan's contribution to HNS amounts to more than $1.5 billion per year.[4]

American bases in Japan serve U.S. interests at least as much as Japan's. The bases represent the U.S. commitment to Japan's security, but they are also indispensable to U.S. deployments in the Asia/Pacific region. Even as U.S. facilities face reduction or closure elsewhere, Japan has authorized (and helped pay for) a major expansion of U.S. forces at Misawa Airforce Base. Critics who have advocated the withdrawal of U.S. forces from Japan over trade problems and Japan's perceived free ride on defense would do well to consider this Japanese support for U.S. strategy. (Compare the situation in the Philippines, where the tenure of our bases has depended on our payment of hundreds of millions of dollars in "aid" since 1981. What will the price be for the United States to remain beyond the end of the current Philippines Base Agreement in 1991—assuming that we are allowed to remain at all?)

Joint Military Planning and Training

Since the 1960s senior American and Japanese officials have held periodic consultations through various committees established under the Mutual Security Treaty. However, though the Security Treaty commits the U.S. and Japanese forces to joint action in meeting a threat to Japan, detailed planning to handle such contingencies did not begin until the conclusion of "Guidelines for U.S.-Japan Defense Cooperation" in 1978.[5] Planning discussions focused first on measures in response to a direct attack on Japan. Subsequent studies were directed to sea lane defense and to what degree of cooperation would be appropriate in meeting various regional contingencies. As is perhaps true of most planning efforts, it is not the resulting plans per se, but the planning process itself that is of greater value in providing each side with a more realistic perception of the other's capabilities.

Developments in military planning have been matched by steady growth in the frequency and scope of joint military training. Confined for many years to small-scale (and generally unpublicized) naval maneuvers, U.S.-Japan exercises now include joint training by air and ground as well as naval forces. A further step was taken in 1986 when the United States and Japan held their first combined (all services) exercise. Japan's increasingly high profile participation in the U.S. Pacific Fleet's bi-annual RIMPAC maneuvers has become a significant indicator of progress in U.S.-Japan defense cooperation.[6]

Defense Sales and Coproduction

Under the Mutual Defense Assistance Agreement of 1954, the United States has been Japan's primary source of advanced defense equipment. Originally delivered as military aid, U.S. defense systems have since the 1960s been transferred to Japan through both government and commerical sales as well as license production programs. Japan has continued to purchase such advanced U.S. systems as the E-2C early warning radar aircraft, the HARPOON anti-shipping missile and the PHALANX anti-missile cannon. Initial funds for what will become an almost $1 billion purchase of the AEGIS naval air defense system are included in Japan's proposed 1988 defense budget. Current coproduction programs include the F-15 fighter, P-3C anti-submarine patrol aircraft, and a number of air defense missiles.

Japan's coproduction of American defense systems has often been criticized in the United States over cost-effectiveness (it costs more to coproduce small. numbers of a system in Japan than to buy off the U.S. line), the trade balance, and technology transfers to Japan through licenses that are potentially damaging to U.S. competitiveness.[7] For their part, the Japanese have had both strategic and economic interests in building up a defense industrial base. Domestic interests have often complained that U.S. sales and coproduction agreements have withheld vital technology from Japan and they have thus pressed for development of indigenous systems rather than adoption of U.S. equipment.

While each coproduction arrangement must be examined on its own merits, such projects have often presented the best compromise between U.S. and Japanese interests. A flexible approach to coproduction allows Japan to acquire a degree of experience and self-sufficiency in defense production while at the same time promoting interoperability with the United States and often discouraging redundant efforts at indigenous development.

Technology Transfers

Until recently the flow of defense equipment and technology was almost entirely one-way from the United States to Japan. However, by the late 1970s U.S. defense officials had become interested in obtaining access to Japan's rapidly growing technological capabilities. This interest led to the establishment in 1980 of the Systems and Technology Forum between the U.S. Defense Department (DOD) and the Japan Defense Agency (JDA) to promote cooperative efforts in developing defense technologies. Despite this gesture of good intent, transfers of Japanese defense technology were still blocked by Japanese policy banning arms exports.[8] Stressing the incompatibility of this position with efforts to broaden defense burden-sharing, Washington pressed Tokyo to make technology transfers to the United States an exception to Japan's weapons export restrictions. Japan's eventual agreement to do so is embodied in a 1983 Exchange of Notes on "Transfer of Japanese Military Technologies to the United States."[9]

Since conclusion of the Notes, DOD has sponsored several teams to study Japanese technologies and concluded negotiations on the first technology transfers to the United States. More importantly, the United States and Japan have agreed on terms covering potential Japanese participation in SDI programs.[10] Despite such measures, there is little to show thus far for defense technology cooperation. This has partly been due to bureaucratic complications on both sides, but also reflects a continued reluctance by many government and industry officials in the United States as well as Japan to enter a previously unexplored area of collaboration and risk the sharing of advance technologies. Nonetheless, the legal and bureaucratic framework for defense technology cooperation is now largely in place. The potential value of projects that could lead beyond simple transfers of data to joint research and development is enormous. It remains to be seen whether the United States and Japan are sufficiently committed to pursue such opportunities.

Economic Aid

Japan's approach to security burden-sharing has covered not only defense, but political and economic measures. Most significant among these is overseas development assistance (ODA). Through the 1970s, Japanese ODA was largely confined to the Asia/Pacific region and usually tied to the purchase of Japanese goods and services. Since the 1980s, Japan has substantially increased its ODA budget ($5.6 billion in 1987, the world's second largest), expanded the proportion of untied assistance, and targeted more funds to countries of strategic importance outside the Pacific region (e.g., Egypt and Pakistan).[11]

Japanese ODA has, in other words, become the economic counterpart of the roles and missions concept, a significant but non-threatening contribution to global security. Some Japanese have been unhappy with the shift from a strictly "North-South" to more of an "East-West" focus in ODA disbursements, while others hoped that increased ODA could somehow substitute for defense spending. While Japan's ODA and defense spending are complementary, they are not interchangeable. Despite its size, Japan's ODA budget is still around 0.3 percent of GNP; this can be raised without having an impact on necessary defense expenditures. The Japanese government has already committed itself to doubling its 1985 ODA disbursements by 1990 and recently announced a $30 billion plan to recycle part of its current account surplus to developing countries.

JAPAN'S DEFENSE CAPABILITIES—HOW MUCH IS ENOUGH?

Evolution of the Self Defense Forces

Reflecting both U.S. Occupation policy and political sentiments of the immediate postwar period, Article 9 of Japan's Constitution renounces war as an instrument of state and forbids the maintenance of military forces. However, even before the end of the Occupation period, both the U.S. and Japanese governments had concluded that Japan needed armed forces for self-defense, and that such "self-defense forces" would not be incompatible with the provisions of Japan's Constitution.[12]

This policy allowed the creation of the Japan Defense Agency and the Japan Self Defense Forces (SDF) in 1954. Japan adopted a "Basic Policy for National Defense" in 1957 and embarked on a series of four Defense Build-up Plans covering the years 1958 to 1976. Under the Basic Policy's vague directive "to develop progressively the effective defense capability necessary for self-defense, with due regard to the nation's resources and the prevailing domestic situation," the SDF accumulated a substantial amount of hardware, but had little in the way of strategic rationale for its employment.[13]

In 1976 the Japanese government attempted to define such a rationale in its National Defense Program Outline. Assuming a world in which superpower equilibrium made the outbreak of full scale war unlikely, the Outline justified the existence of defense forces capable of dealing with "limited and small-scale aggression" while relying on the Mutual Security Treaty with the United States to meet greater threats. The Outline also stipulated the "minimum necessary level" of defense forces needed by Japan, with emphasis on qualitative improvements rather than quantitative expansion. The JDA is to meet Outline force levels through successive five-year procurement programs known as Mid-Term Defense Plans. It was also at this time that the Japanese government announced its intent of reaching Outline goals with defense budgets that were not to exceed one percent of Japan's GNP.[14]

Together with the Mutual Security Treaty, the Outline and Mid-term Plans are the basic instruments of Japan's defense policy. A product of the détente years, the Outline not only assumed that a general war was unlikely, but reflected a widespread Japanese belief that the SDF would not need to fight in the foreseeable future. Indeed, for many years domestic critics repeatedly challenged the constitutional legitimacy of the SDF and Japan's defense forces were obliged to assume a very low public profile. Only recently have they and the JDA attained a respectable standing in Japanese government and society.

Japan's defense capabilities appear impressive on paper. Much has been written, in both praise and fear, about the SDF's quantities of army divisions, ships and aircraft. Even within one percent of GNP, Japan's defense budget is one of the world's ten largest (at current exchange rates, Japan's 1987 defense budget of $23 billion almost equals that of Britain, France, or West Germany).[15] However, tables of equipment and budget figures are not necessarily indicators of real strength. Having lacked firm political backing and a clearly perceived incentive for readiness, Japan's defense forces have been handicapped by major deficiencies in infrastructure, logistics, communications, and realistic training. There has been good reason to doubt whether the SDF could fulfill even the modest expectations of the National Defense Outline.

Since 1980 a more serious approach to security issues in Japan and a closer defense cooperation with the United States have encouraged a gradual improvement in the SDF's situation. Japan's defense forces have benefited from the acquisition of advanced equipment and, of equal importance, from increased attention to logistics, training, and inter-service coordination necessary to put these new systems to effective use. Within the next five to 10 years the SDF may in practice as well as principle be able to thwart preemptive air attacks, block Soviet access to the Pacific through the straits between Japan's islands, help to protect economic lifelines in the Northwest Pacific, and thus become a true asset to the U.S.-Japan alliance.

The One Percent Trauma

Upon its announcement in 1976, the Japanese government's policy of keeping defense budgets within one percent of GNP became a political touchstone for domestic opponents of increased Japanese defense efforts and, conversely, "free ride" critics in the United States. By the early 1980s, it was clear that in a period of low economic growth, Japan could not hope to meet the procurement goals of its Mid-term Defense Plans without budget increases that would eventually cross the arbitrary one percent line. Still, so sensitive had the issue become in Japanese politics that even the relatively pro-defense Prime Minister Nakasone felt it necessary to postpone the one percent reckoning for as long as possible.

The other shoe finally dropped late last year when the Japanese Cabinet approved a fiscal 1987 defense budget that placed expenditures at 1.004 percent of GNP. After considering various formulas to replace the one percent barrier, Tokyo decided to use the attainment of Japan's current (1986-90) Mid-term Defense Plan as a ceiling for defense spending.[16]

The end of the one percent era does not presage a rapid expansion of Japanese military power. A combination of low economic growth, political sentiment, and a government policy of fiscal austerity in effect since the late 1970s would have ensured no more than a modest increase in recent defense spending whether a one percent policy had been in effect or not. For the foreseeable future, these same factors should continue to govern a slow but steady growth in defense budgets to meet the goals of the present and follow-on Mid-term Plans.

Regional Considerations

Criticism of increase Japanese defense efforts dwells not only on fiscal constraints and political problems in Japan, but on the sensitivities of Japan's neighbors to any perceived resurgence of Japanese militarism. There is certainly some truth in such assertions. Countries that experienced the consequences of expansionist Japanese policies in the 1930s and 40s (and face unequal trade relationships with Japan today) are predictably wary of any developments that suggest a major Japanese military presence in the Asia/Pacific region. Feelings between Japan and South Korea, for example, are such that direct defense cooperation, however strategically advantageous, remains politically unapproachable in either country.[17]

Despite such misgivings, Korea, Taiwan, the ASEAN nations, Australia, and even the PRC have largely accepted a more credible defense posture for Japan as a barrier to Soviet expansion. As long as Japan's military capabilities remain limited to defense in the Northwest Pacific and dependent on close cooperation with the United States, Japan's neighbors are not likely to sense a threat to regional stability from Tokyo.

DEFENSE AND TRADE—LINKED AFTER ALL

In parallel with the concept of roles and missions, recent U.S. defense policy toward Japan has emphasized a strict separation of security issues from trade frictions. There is much sense to this separation—the trade balance does not determine the need for increased Japanese defense capabilities, while a greater Japanese defense effort would not affect most trade problems. Nonetheless, attempts to isolate defense from other aspects of U.S.-Japan interactions are increasingly at variance with political realities.

As a recent Japan Economic Institute study shows, there has been an interplay of defense and economic considerations in U.S.-Japan relations throughout the postwar period.[18] During and immediately after the Occupation, Washington strongly supported Japan's decision to emphasize economic recovery over defense concerns. By the 1960s Japan's rapid economic growth justified the end of what had been substantial U.S. military aid. Calls for Japan to make a greater contribution to common security interests were first heard as a reaction to the mounting costs of the Vietnam War.

It was with the escalation of serious trade problems in the late 1970s that "free ride" criticisms of Japanese defense efforts became popular in Washington. Numerous Congressional resolutions were introduced over the next several years in an effort to pry more defense funds from Japan. None directly affected Tokyo's actions, but collectively they made a telling point. While Japan has shown a more positive approach to strengthening its defense capabilities, there is little doubt that Japanese defense budgets have taken U.S. trade concerns into account.

Nowhere do defense and trade issues coincide more clearly than on defense industrial and technology transfer programs. Coproduction and technology cooperation agreements will be subject to increasingly critical scrutiny as the United States and Japan interact in a growing number of advanced technology fields. Despite numerous agreements on particular programs, the Pentagon has yet to announce a general policy supporting defense industrial cooperation with Japan. The danger in such ambiguity is underscored by three recent incidents that demonstrate the convergence of defense and economic interests in security relations:

Fujitsu-Fairchild: An attempt earlier last year by Fujitsu to acquire Fairchild Semiconductor Corporation was opposed by the Pentagon on grounds of national security.[19] Defense Department concern over foreign control of a major U.S. semiconductor maker may or may not have been well-founded (though interestingly, the issue never arose during Fairchild's ownership by the French firm Schulmberger Ltd.). However, it has appeared to contradict other Pentagon efforts to draw Japan into closer technology relations.

Toshiba: Toshiba Machine Company's sale to the Soviet Union of sophisticated milling machinery has become a major knot in both trade and security relations. The incident has done much to jolt Tokyo out of its lax posture toward oversight of strategic exports under COCOM (Coordination Committee for Export Controls), and Japan has already enacted measures to tighten its administration of export control laws.[20] The United States may also be in a position to renew its long-standing campaign for a formal agreement with Japan covering the security of defense information. This has so far been beyond reach because of Japanese sensitivities over enacting stricter espionage laws claimed to be necessary for their adherence to such an agreement. As long as this issue remains open, it will encourage doubts over Japan's ability to protect sensitive information and thus impede further defense cooperation.

FSX: More than two years ago, Washington and Tokyo began discussing Japan's planned procurement of a new "support fighter" aircraft (FSX). The Pentagon emphasized cost-effectiveness, inter-operability, and trade concerns in pressing for use of a U.S.-derived aircraft. But Japanese officials, sympathetic to inflated claims that Japanese industry could develop the FSX with little or no foreign assistance, rejected U.S. proposals as inadequate for a turn-of-the-century aircraft. Tensions mounted as Washington, stung by Congressional pressure, made agreement to buy American on the FSX a litmus test of the security relationship. After months of indecision, Japan announced last October that it would adopt a modified version of the U.S. F-16 aircraft for the FSX.[21]

U.S. defense officials have praised this decision for its strategic and economic soundness, but Japan's concession on FSX was primarily a gesture to trade pressures. Though one can still argue that trade and defense concerns should be separate in principle, the FSX confrontation has done much to undermine the credibility of such assertions. At best, a U.S.-Japan effort to develop an advanced F-16 can still set a precedent for future defense technology projects—without the rancor that has marked the FSX.

FUTURE TRENDS

The use of the term "U.S.-Japan Alliance" during the 1981 Reagan-Suzuki Summit was at the time considered so extraordinary that it caused a media sensation and prompted questions in the Japanese Diet. That those words are today commonplace is in itself a tribute to the positive development of the U.S.-Japan security relationship. Could Japan have done more, faster? Could the United States have been more adroit in dealing with Japan? The answer is probably yes to both questions, but the roles and missions approach has on the whole worked well. Some critics of this concept continue to argue for major increases in Japanese military capabilities that would end the "free ride" and relieve the United States of much of its burden in the Asia/Pacific region. Others fear that any strengthening of Tokyo's defense posture risks unleashing the demons of Japanese militarism.[22]

Glib presentations can be made for both these points of view, but neither reflects reality. The roles and missions approach to burden-sharing may be unexciting in its reliance on evolutionary measures, but the result has been an increase in Japan's contribution to common security interests that has benefited both countries and still poses no plausible threat to Japan's neighbors. The alternatives—the illusion of "unarmed neutrality" for Japan, the prospect of "armed neutrality" with Japan acting independently of the United States, a loss of U.S. strength in the region and perhaps a gain in Soviet influence—can hardly be seen as beneficial to a stable Asia/Pacific community.

Some elements of the U.S.-Japan security framework have had to change to meet new conditions (one percent of GNP, transfers of military technology, etc.) and others may have to be altered over the next few years. Still, in general the policies and agreements that underlie U.S.-Japan security relations have proven adaptable to changing circumstances. Based on them, security burden-sharing can continue to evolve in a manner favorable to both the United States and Japan in the following areas:

Japanese Defense Forces

There has been discussion of revising the SDF structure presented in Japan's 1976 Defense Program Outline (particularly in some categories of naval and air strength), but SDF improvements will continue to be more qualitative than quantitative. The priorities of the present (1986-90) Mid-term Defense Plan will most likely be reflected in its 1991-95 successor—air defense, anti-submarine warfare, increased ground force mobility, and improvements in communications and logistics. With comparable developments in planning and training, the SDF will at last become an effective instrument of security policy. Japanese defense budgets needed to meet these goals will exceed one percent of GNP, but probably stay within 1.5 percent. American critics mesmerized by GNP percentages should consider what military strength Japan might obtain at some higher, arbitrarily defined percentage of GNP—and whether such capability would truly be in the interest of the region or the United States. Perhaps those funds would be better spent on economic aid and support for international peace-keeping operations.

Facilitative Assistance

An example of the ways in which Japan can provide more support for U.S. defense commitments can be seen in Japan's recent announcement of measures to assist Persian Gulf deployments:

Japan's purchase of a sophisticated land-based navigation system to support Gulf shipping; increased ODA to friendly Middle East states (Oman and Jordan); financial contributions to UN peace-keeping operations; and more Host Nation Support for U.S. forces in Japan. Japan can continue to raise the levels of cost-sharing for labor expense and facilities construction on U.S. bases. If necessary to achieve this, both countries should be prepared to renegotiate the cost-sharing provisions of the Status of Forces Agreement that has covered the operation of U.S. bases in Japan. Japanese

ODA should not only increase, but give more emphasis to grant aid rather than loans. Strategic considerations are now more important than trade benefits.

Defense Industry/Technology Cooperation

This is potentially one of the most productive areas of defense cooperation, but so far it has been the least developed. The Pentagon should publicly clarify its commitment to industrial cooperation with its key Pacific ally and pursue technology programs with greater vigor and consistency. Japanese officials must be less defensive in their response to such initiatives. Japan is becoming able to contribute vital technologies to future U.S. defense programs, and continued Japanese access to advanced U.S. technologies will increasingly depend on their willingness to reciprocate. Japan's recent SDI agreement with the United States as well as congressionally supported efforts to fund joint defense research and development programs offer real incentives to improve defense industrial ties. Such "positive linkage" of defense and economic issues can do much to offset the trade-related pressures that increasingly threaten U.S.-Japan security relations.[23]

The area of defense cooperation that may most need improvement is also the least tangible—that of attitudes and assumptions. Over the past 10 years the United States and Japan have undergone a wrenching adjustment in economic relations. Whatever the outcome of various trade and monetary issues, it seems clear that the patron-client attitudes formed in the early postwar years have largely been supplanted by a more realistic appreciation of cooperation and competition. However reluctantly, the United States and Japan are starting to deal as economic equals who find it increasingly implausible to blame each other for their problems and mistakes.

The security relationship has yet to complete this transition. No one who has experienced the ritualistic process of U.S.-Japan security consultations or the posturing over Japan's defense budgets can be but struck by the persistence of patron-client attitudes on both sides. Though the situation has improved in recent years, the Japanese government still finds it necessary to cite (and even solicit) U.S. pressure to justify any potentially controversial development in security policy. The formulation of Japan's annual defesne budgets seems incomplete without an elaborate Tokyo-Washington minute to determine what percentage increase will suffice to appease the Americans for another year. For their part, U.S. defense officials are quick to dispense guidance and blessings for each step that their Japanese counterparts take—even when, as happened with the FSX, such guidance degenerates into blatant arm-twisting.

Such conduct belies pretensions of equality in an alliance. Some degree of patron-client interaction may have been necessary to move the United States and Japan toward closer defense cooperation, but this pattern of behavior is no longer appropriate or helpful. The Japanese government should be able to articulate and implement a sound defense policy without leaning on (or blaming) the United States. While allies must consult closely, U.S. defense officials no longer need—nor should expect—to lead and push their Japanese colleagues to the degree to which they are still accustomed. It is increasingly unlikely that measures perceived as being derived from such pressure will be accepted in Japan.

The United States and Japan have managed to resolve most of the legal and political problems that have constrained their defense cooperation to date. Despite continuing and inevitable economic friction, U.S.-Japan security relations rest on a more solid foundation than ever before. Both countries can afford to leave postwar attitudes behind; only by doing so will the U.S.-Japan alliance become a mature partnership.

FOOTNOTES

Gregg A. Rubinstein is Director of Policy and Planning at Grumman International, Inc.

[1] For full text, see Japan Defense Agency, *Defense of Japan* 1986 (Tokyo: The Japan Times Ltd., 1986), pp. 262–64.

[2] Caspar Weinberger, testimony before the Senate Armed Services Committee, March 4, 1981. For a recent official statement of U.S. defense policy toward Japan see Richard L. Armitage, "The US.-Japan Alliance," *Defense* 86 (July/August), pp. 20–22.

[3] *Defense of Japan*, pp. 326–27.

[4] *Ibid.*, pp. 187–90.

[5] *Ibid.*, pp. 87–89 and 265–69.

[6] *Ibid.*, pp. 175–79.

[7] For example, see U.S. Government Printing Office, *U.S. Military Coproduction Programs Assist Japan in Developing its Civil Aircraft Industry* ID–82-23, 13-205192 (Washington, D.C.: USGAO, 1982).

[8] Announced in 1967, Japan's Three Principles on Arms Exports restrict arms sales to 1) Soviet Bloc nations; 2) countries under UN sanctions; 3) countries at war or likely to become involved in war. A stricter interpretation since 1976 in effect precludes all military exports. See *Defense of Japan*, p. 181.

[9] For texts of the Notes and subsequent implementing arrangements see U.S. Department of Defense (OUSDRE/IPT) *Japan Military Technology: Procedures for Transfers to the United States* (Washington, D.C.: USGPO, 1986).

[10] *Defense News*, 27 July 1987, p. 8.

[11] Japan Economic Institute, *Japan's Foreign Aid Policy: 1986 Update* No. 41A, 1987, pp. 3–7.

[12] *Defense of Japan*, pp. 72–73.

[13] *Ibid.*, pp. 73–74.

[14] *Ibid.*, pp. 77–83.

[15] See International Institute of Strategic Studies, *The Military Balance 1986–87*, (London: Institute of Strategic Studies, 1986) for comparative figures.

[16] Japan Economic Institute, *Japan's Defense Policies in the Post-One Percent Era* No. 18A, 1987, pp. 3-6.

[17] There have been some low-profile security consultations between Japanese and Korean officials as well as indirect participation in joint U.S. exercises, but as yet no serious consideration of more open cooperation.

[18] Japan Economic Institute, *The Trade-Defense Linkage* No. 35A, 1987.

[19] *Washington Post*, 30 March 1987, p. A1.

[20] *Wall Street Journal*, 31 July 1987, p. 8.

[21] See Japan Economic Institute, *JEI Report* No. 38B, 1987, pp. 1–2 and Gregg A. Rubinstein, "FSX: The Benefits of Codevelopment" in *Defense News*, 19 January 1987, p. 32 for details.

[22] Recent examples of these two approaches are Edward A. Olsen, *U.S.-Japan Strategic Reciprocity* (Stanford, California: Hoover Institution Press, 1985) Malcolm McIntosh, *Japan Rearmed* (New York: St. Martin's Press, 1986).

[23] The author has addressed these issues at greater length in "Guidelines for Increased U.S.-Japan Defense Technology Cooperation," Heritage Foundation Asian Studies Center *Backgrounder* No. 70, October 26, 1987.●

PUEBLO, CO

● Mr. ARMSTRONG. Mr. President, an announcement today confirmed something that many of us have known for a long time: Pueblo, CO is a great place to live.

Mr. President, today, an exhaustive study by the University of Kentucky has ranked Pueblo County the best place to live out of 253 urban counties nationwide.

The study focused on three categories—urban conditions, climate, and environment—and gave Pueblo very high marks for all three.

The quality-of-life experts speculated that their study might influence businesses considering moving to other places; I think it will and it should. Pueblo's got a great story to tell, and more and more smart businessmen are listening to the tale of how a city got together and pulled itself up to become No. 1.

THINGS LOOKED GRIM

In 1974, the Army cut back 2,000 jobs at the Pueblo Army Depot, it was the first jolt to Pueblo's economy. As the 1980's began, Pueblo was feeling the effect of big steel's collapse.

In 3 years, from 1979 to 1982, unemployment soared to 18.9 percent 9,584 people were out of a job, in a community of less than 51,000 people. Unemployment finally peaked at 24 percent in 1984; 17,000 jobs had been lost since 1965. That is when civic pride and tough determination took over.

THE TURNAROUND

The people of Pueblo got together and, in a classic case of hard work paying off, they turned their city around. They formed the Pueblo Economic Development Corp., as a small business incubator and began to beat the drums to let people know Pueblo was open for business. There was a new spirit of cooperation in the air and you could just feel the sense of new optimism that it inspired.

Here's just one example that I like to quote. When the Colorado State Fair in Pueblo needed two new 4-H dormitories, Puebloans by the hundreds showed up to build them, all with locally donated materials and all in one weekend.

NEW BUSINESSES AND NEW JOBS

New businesses moved to Pueblo and that meant new jobs. Eighteen companies have moved operations to Pueblo, bringing 4,400 new jobs when they are all up to speed. Those managers have made a $500 million investment in Pueblo and its people.

Today, people come to Pueblo and ask with amazement: "How did you ever do it?" They want to know Pueblo's secret of success. Others come to Pueblo just because it is such a special place to live. Puebloans have always felt their town was No. 1. And now the rest of the country also knows it's No. 1. I say: "Congratulations to Pueblo on a job well done."●

UNITED STATES/JAPAN NUCLEAR AGREEMENT

● Mr. GLENN Mr. President, the United States and Japan have had a long and productive history of cooperation on the peaceful uses of nuclear energy, a relationship governed by a

20-year-old agreement that doesn't expire until early in the 21st century.

Under this agreement and the Atomic Energy Act, the United States has a right to approve Japanese requests to make various uses of the nuclear materials that we export to Japan—such as the alteration, reprocessing, or retransferring of nuclear fuel, and the enrichment of uranium. Such approvals are issued only after interagency reviews of the facts in specific cases—including physical security threats—and a 15-day review by Congress.

Why do we have these rights? Because the materials involved are the stuff nuclear weapons are made of, an inviting target for terrorists, and an extreme hazard to the environment. Very simply put, our national security interests and just plain common sense require such prudent controls.

THE CASE-BY-CASE REVIEW PROCESS

Over the last 7 years, this review process has worked remarkably well in promoting nuclear cooperation with responsible nations, without undercutting our security interests. To illustrate the predicability of this review process, the United States has never turned down such a request by Japan. Indeed, on 1 day early last month, the United States authorized Japan—after an interagency review of 14 separate proposed shipments—to ship over 16,000 pounds of plutonium contained in United States origin spent fuel to Europe for reprocessing.

We simply don't need to sacrifice our security reviews to continue the expeditious processing of these Japanese requests. Indeed, I have always supported the transfer of sufficient plutonium to Japan for testing the economics of plutonium use in appropriately protected, small scale R&D facilities.

PROPOSED REVISION OF UNITED STATES/JAPAN NUCLEAR AGREEMENT

Last November, however, the President sent to Congress a major revision of this agreement—a revision that would eliminate this case-by-case review process. Under a new and extremely ill-advised, and in my view illegal, policy of "programmatic prior consent," the United States would grant Japan a blanket 30-year United States consent to recover tons (not just pounds) of plutonium—one of the most dangerous substances on Earth—from United States-origin nuclear fuel, and to receive additional tons of this material from Europe via air shipments most probably through United States airspace. The result would be:

Abandonment of key aspects of a U.S. nuclear export control policy that has served us well for a decade.

Massive international commerce in weapon-usable plutonium, well before international environmental and security controls can handle such commerce.

No more case-by-case reviews, neither by the Executive nor Congress, and no congressional role in approving uses of United States nuclear fuel at future Japanese facilities, or in evaluating future changes in applying safeguards.

No compensating Japanese commitments to require full-scope safeguards as a nuclear export condition, or to abandon planned commercial fuel cycle facilities—including large-scale enrichment and reprocessing plants that would only reduce Japan's purchases of United States nuclear materials and services.

Irresistible pressure to forge similar agreements with countries having poorer nonproliferation credentials.

ACTIONS BY CONGRESS

Fortunately, the Atomic Energy Act gives Congress a say in ensuring that "any exports as contemplated by such agreement will not be inimical to or constitute an unreasonable risk to the common defense and security."

Congressional opposition to this agreement is—as it should be—both strong and bipartisan. I gave my detailed objections to this agreement in testimony before the Senate Foreign Relations Committee on December 15—CONGRESSIONAL RECORD, February 2, 1988, page S626. A few days later, the Senate Foreign Relations Committee voted 15 to 3 against this agreement, and 23 members of the House Foreign Affairs Committee wrote to the President to challenge the agreement's wisdom and legality. Many of these concerns could have been addressed if the State Department had not kept Congress and other agencies in the dark during the talks over the accord.

OPPOSITION FROM NRC AND DEFENSE

Last July, the NRC complained to the State Department about "its exclusion from essentially all aspects of the negotiations on this agreement." Four months earlier, Assistant Secretary of Defense Richard Perle testified before my Governmental Affairs Committee that "I am afraid that much of the negotiation between the United States and Japan had taken place without being reported to us." When the NRC and Defense finally saw what had resulted from these negotiations, they both opposed the agreement—in no uncertain terms and in writing.

THE WEINBERGER LETTER

Secretary Weinberger wrote to Secretaries Shultz and Herrington last April and spelled out the legal and national security grounds for the Defense Department's opposition. Although its "Secret" classification prevents me from attaching a copy of that letter, the State Department has advised me that the letter may be read by "all interested Members and cleared staff."

I have seen the Weinberger letter and it is a real eye-opener. I can't imagine how any Member of Congress can make an informed judgment on the security risks of this agreement without seeing this letter and its attachments. Although the Defense Department's new leadership now supports the agreement, I have seen nothing that seriously addresses the concerns identified in that letter.

I strongly urge all my colleagues to read the letter, its 12-page annex with its important tabs A-C, and related materials before the mid-April deadline for Congress to act. To set a time to read this material, you may phone Mr. Sheldon Krebs of the State Department's Legislative Affairs Office, at 647-8732. Read the letter—you be the judge.

VIEWS OF PERLE AND GAFFNEY

There is another letter that I would like to make available to all Members who are concerned about the national security implications of the so-called programmatic approval policy found in this agreement. Mr. President, I ask to enter into the RECORD at the end of my remarks the text of a recent letter I have received from former Assistant Secretary of Defense Richard Perle, and former Deputy Assistant Secretary of Defense Frank Gaffney, who provide several compelling reasons why the proposed agreement should not be approved.

The candid assessment by Perle and Gaffney raises several disturbing aspects of this agreement that deserve very close attention. If it is true that the Defense Department was, as their letter claims, "for all intents and purposes unrepresented on the interagency team" that prepared the draft agreement, and that the Department was "kept uninformed about the policies and instructions which guided that team," this is a sad commentary on the Executive's handling of our national security interests in this agreement.

I intend to examine these revelations in closer detail in the weeks ahead, and to look in particular at the adequacy and effectiveness of the interagency process not just for reviewing this draft agreement for nuclear cooperation, but for handling all nuclear nonproliferation issues that bear on U.S. national security. We simply cannot afford to delay such a review much longer.

CONCLUSION

In summary, I believe the proposed agreement is a dangerous departure from past U.S. policy, is unneeded to continue nuclear cooperation with Japan, would create an artificial—noneconomic—demand for massive amounts of plutonium, and would pose new difficulties for the nonproliferation regime. I urge your support for efforts to revise or reject this flawed agreement. We must eliminate this dangerous notion of "programmatic prior consent"—it has no place in our laws and no role to play in serving the national interest.

The letter follows:

AMERICAN ENTERPRISE INSTITUTE FOR
PUBLIC POLICY RESEARCH,
Washington, DC, March 2, 1988.

Senator JOHN GLENN,
Chairman, Senate Committee on Governmental Affairs, Senate House Office Building, Washington, DC.

DEAR SENATOR: As the Congress considers the proposed new United States-Japanese Agreement on plutonium, we would like to share our view of that accord and the process by which it was negotiated.

We were the Defense Department officials responsible for nonproliferation matters during the period this agreement was under negotiation and review by the Executive Branch. Our concerns about the agreement were reflected in the Department's official position on the accord, expressed in a memorandum from Secretary Weinberger to the Secretary of State on April 20, 1987. That position reflected our judgment and advice over several years, and nothing that was subsequently done to gloss over our concerns would lead either of us to abandon that position now.

The Defense Department regarded this agreement as seriously flawed. Two aspects were especially troublesome: First, it gives to Japan advance U.S. consent to reprocess and use U.S.-originated plutonium in any Japanese facility it chooses, without restriction as to quantities, purpose or economic justification and for a very long period into the future.

Second, it imposes extraordinary and unprecedented restrictions on the right of the United States to suspend that prior consent should future circumstances warrant such action during the life of the agreement.

In advocating the new accord some proponents have suggested that ill-defined safeguards "concepts" and the right to suspend the agreement are sufficient to protect American interests. As a practical matter, however, the ability to detect a diversion or to respond by withdrawing our approval after it has been abused, cannot substitute for our present right to make a priori determinations of proliferation risks on a case-by-case basis. Such determinations are not only preferable—they are required by the Atomic Energy Act. The new accord's failure to permit us to make them is clearly inconsistent with the letter, spirit and intent of the law.

The point is not that we are particularly concerned that Japan may wish to divert weapons grade material to military purposes. It is, rather, the importance we attach to the case-by-case approach to acting on these matters. We believe that the case-by-case approach is fundamental to a policy of discouraging nuclear proliferation. Abandoning it now, as the new agreement would do, even for a close friend like Japan, will expose the government to other such requests. And we will find ourselves faced with diplomatic and political pressure to accord other friends the same treatment we are about to extend to Japan. The case-by-case standard, which is itself a discouragement to the use of plutonium, will soon give way and existing law will have been undermined.

To argue that we now know enough about the circumstances under which future transfers would take place to consider this agreement a reasonable approximation of the case-by-case approach is ludicrous. It is a little like saying that a physician can now write 30 years worth of prescriptions because he can anticipate future illnesses today.

It should be noted that the Defense Department was not permitted to play a meaningful role in the negotiation of this agreement. Defense was, for all intents and purposes, unrepresented on the interagency team that prepared it and kept uninformed about the policies and instructions which guided that team. In our view, had the Department of Defense been able to participate fully in such activities, the strong position that the Department has taken against nuclear proliferation would have helped to shape the accord differently. That, we are quite sure, is why the Department of State went to such lengths to work around us.

Unfortunately, this procedure is standard practice in the State Department's management of non-proliferation matters, a problem about which one of us has testified extensively. State's petty bureaucratic behavior and secrecy with respect to control of the flow of information between responsible U.S. Government departments has effectively prevented informed interagency consideration and constructive criticism of proliferation-related negotiations and activities. While subsidiary to the immediate question of Congressional approval of the accord so produced, this chronic problem merits attention and correction.

In our judgment the issue for the Congress to decide is whether we should dispense with the reasonable and prudent protection against the unexpected that derives from approaching these proliferation issues on a case-by-case basis. Approval of the accord will abandon that approach which is now required by our law, our past policy and by the humble recognition that we cannot see with confidence 30 months, much less thirty years, into the future. We hope the Congress will address this issue squarely by rejecting the new agreement with Japan.

Sincerely,

FRANK J. GAFFNEY, Jr.,
Senior Fellow, The Hudson Institute.
RICHARD PERLE,
Resident Scholar, American Enterprise Institute.●

GULF SHRIMPER PROTECTION

● Mr. SHELBY. Mr. President, I have sent a letter today to Mr. Verity, the Secretary of the Department of Commerce, requesting that he hold in abeyance the TED's regulations which became effective in the gulf area on March 1, 1988. I believe that this action is required in order to protect gulf shrimpers from unnecessary financial hardship. I am referring to the financial burden which these shrimpers would incur by being required to use turtle excluder devices or TED's as they are commonly called.

By now, I'm sure that most of you have heard of TED's, the cage-like devices attached to shrimp nets to prevent the incidental catch of sea turtles. Of particular concern is the Kemps Ridley turtle, an endangered species.

I am very supportive of protecting endangered species; however, to quote the senior Senator from my State, "We don't want to make the gulf coast shrimper an endangered species." The use of TED's may indeed do just that.

There has been little evidence to date to indicate that the use of TED's will significantly affect the survival rate of sea turtles. Shrimpers contend that they rarely encounter turtle; and, when shrimpers do accidently catch turtles, the majority of the turtles are returned to the water alive. It appears that the National Marine Fisheries Service has taken what can be viewed as a somewhat overzealous approach in its effort to protect the endangered turtles. There simply is no conclusive evidence, presently, that shrimpers are to blame for the dwindling sea turtle population. Conversely, there is ample evidence that TED's pose a hazard in rough weather and unnecessarily weigh and drag shrimper's nets.

For many in the shrimp industry, shrimping is not just a job, but a way of life. The art of shrimping is passed down from generation to generation; and, families in the shrimping business are proud of their heritage. A shrimper's life can be a hard life; however, shrimpers possess that special pioneering character of rugged individualism embodied in the founders of our country—believing that if one works hard and long, he can be successful. We, in the Congress, cannot allow the TED's regulations to shatter this ideal.

I believe that the only viable solution at this point is to hold the TED's regulations in abeyance until the National Marine Fisheries Service [NMFS] or the National Oceanic and Atmospheric Administration [NOAA] collects more definitive data on the factors contributing to the high mortality rate among sea turtles. We already know that the high mortality rates are due to a variety of factors such as the use of underwater explosives to remove oil rigs, the development of beach resorts, the robbing of turtle nests for eggs, the illegal capture of turtles for human consumption, the changing climatic conditions, and the pollution of marine waters.

The shrimp industry is being treated unfairly in being asked to risk economic ruin while others are not required to do similarly. The burden of saving the sea turtles should be shared equally. No quantitative studies have been completed to estimate the relative contributions to total turtle mortality from different impacts. The National Marine Fisheries Service [NMFS] has incomplete information on the causes of the high mortality rates for sea turtles. Yet small family businesses are being asked to endure an enormous hardship which may be unnecessary.

The shrimp industry generates about 10 million pounds of shrimp annually with a dock value of about $20 million. Shrimpers say that TED's would reduce their catch by one-third. The initial cost of TED's to the shrimp industry during the first year is estimated at $4.6 to $8.13 million. By 1990, the cost is expected to be $7.85 to $15.7 million. The enormous cost of TED's is obvious. There are not many businesses that can cut their revenues by one-third, increase their costs, and still survive.

Mr. President, I urge my colleagues, not just from the Gulf Coast States, but from all States across this country, to consider the broad effects of regulating action of this sort. I believe that we can work together to find a suitable alternative to the turtle excluder device—an alternative that will protect the Kemps Ridley turtle, as well as other endangered species—and yet not overburden the vital shrimp industry.●

THE CONGRESSIONAL CALL TO CONSCIENCE: THE CASE OF YULI KOSHAROVSKY

● Mr. HEINZ. Mr. President, today I call the attention of my colleagues and the American people to a Soviet human rights case that deserves all of our energy and support. Last May I visited Moscow to assess the state of human rights under Mikhail Gorbachev. In 4 busy days I met with a fascinating variety of Soviet dissidents and ordinary citizens who have run afoul of the Soviet state's restrictions on freedom of expression, conscience, and emigration.

One of the most compelling and engaging Soviets I met at that time is Yuli Kosharovsky. Yuli is a Jewish refusenik, who has waited 17 years for the right to emigrate to Israel. This makes Yuli perhaps the senior refusenik still in the Soviet Union. But Yuli is more than this. He is also a Hebrew teacher, who has suffered additional punishments because of his commitment to the promotion of Jewish culture.

Yuli and his family intend to begin a hunger strike next week to dramatize their case. It is a case that involves key principles related to the right to emigrate from the Soviet Union. Yuli has been denied a visa because of his access to state secrets and the lack of a first-degree relative outside the Soviet Union with whom he can be united. These are the two issues that are the principal obstacles to progress in giving freedom to Soviet Jewry.

Yuli Kosharovsky is not the only Soviet Jew whose right to emigrate is denied on the basis of state secrets, or because he lacks a first-degree relative abroad. Nor is he the only one to suffer through the years for his devotion to Jewish culture. But his case has languished for 17 years. His case epitomizes the struggle Soviet Jews now face to leave the Soviet Union.

Efforts are underway to bring our concern about the Kosharovsky case to the attention of Soviet authorities. The Kosharovsky family plans a hunger strike beginning next week. It is time the Kosharovskys were set free. They have paid a high price to exercise a fundamental human right—far too high a price. We have to let the Kremlin know that we respond to real progress in human rights—and we are waiting for such progress. Resolving cases like that of Yuli Kosharovsky is a necessary first step.●

TIMBER APPEALS

● Mr. PACKWOOD. Mr. President, in the past week, more than 200 U.S. Forest Service timber sales in Oregon—representing several million board feet of timber—have been appealed by an environmental group called the Oregon Natural Resources Council. I am very concerned the probable effect of their appeals may be to shut down a significant portion of the Forest Service's Oregon Timber Sale Program. The possibility of such action could have significant and serious impacts throughout my home State affecting thousands of Oregonians.

Pursuant to the Timber Contract Modification Act of 1984, the Forest Service is allowed to resale timber contracts originally sold prior to 1982. These are contracts which have been returned unlogged or were defaulted.

In challenging these sales, ONRC argues the contracts have not been adequately modified incorporating new environmental information since they were originally sold. They point out the Forest Service uses different standards today to protect fish, wildlife habitat and other forest uses. I am told that each appeal represents a site-specific concern.

ONRC's approach is not one shared by several of the other major environmental groups including the National Wildlife Federation, the Wilderness Society, and the National Audubon Society. In fact, the National Wildlife Federation attempted to dissuade ONRC from taking such a blanket approach.

Currently, the Forest Service is in the process of drafting final long term plans on management for Oregon's national forces. Unfortunately, these appeals by the ONRC will only delay completion of these plans so important to Oregon.

We simply cannot afford to be deadlocked on such important decisions affecting the future of the State. We must act now to develop a consensus in the protection and management of our national forests. I will work toward this goal with the delegation and other interested groups.●

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTELLIGENCE OVERSIGHT ACT

Mr. BYRD. Is the Senate back on the intelligence authorization bill?

The PRESIDING OFFICER. That is correct.

The Senate resumed consideration of the bill.

EFFECTIVE U.S. FOREIGN POLICIES

Mr. BYRD. Mr. President, I commend the committee for this important piece of legislation. It is a very appropriate response to the excesses which were so thoroughly documented by the investigation of the select committee, chaired by the distinguished Senator from Hawaii, Mr. INOUYE, into the secret policy of trading arms for hostages with Iran. I note that the distinguished chairman of the Intelligence Committee, Mr. BOREN, and the distinguished ranking member of that committee, Mr. COHEN, both served on that investigating committee, and this piece of legislation exemplifies the kind of followup work that can be done, putting into the law the timely and appropriate recommendations of that Senate investigation. I congratulate them on their work.

This is an excellent bill, and the provisions contained therein are worthy of the Senate's support. The provisions, requiring written findings submitted in a specific timeframe to the Congress, and including information on who is participating in the special activities, private parties, contractors, third countries and so on, are all matters which close loopholes in the current law, and close off excuses which were used by administration officials to avoid informing the Congress of its activities in the Iran affair.

This legislation, Mr. President, cannot force an atmosphere of trust between the branches. It cannot stop men from deceptions when they want to deceive. It can make it harder to justify deception. It can make circumvention of the law harder to justify when such circumvention is finally discovered. In a word, it can force the appropriate atmosphere wherein U.S. foreign policies are made and implemented in a way which makes them more sound and more defensible.

We all want the United States to stand with the highest degree of stature in the world. We all want to support sound foreign policies, which are justifiable, will stand the test of time, and which we can defend openly. The framers of our Constitution gave sufficient powers to each branch, to the executive and Congress alike, that make it essential that foreign policies be developed through consensus, for each branch can check the other, and if they are at loggerheads the result is most likely to be frustration and failure. So, effective foreign policies must be built through an often difficult, wrenching process of consensus building—consensus building between the two branches, and also in the development of the necessary support for them by the American people at large. There is really no adequate substitute for this process. There is no easy way out.

The method which was tried in the case of the arms-for-hostages fiasco, the formation of the policy in secret, by a narrow group of policymakers, and at variance with the stated policy of our Government in the matter of dealing with terrorists, failed because it could not stand the light of scrutiny. It could never have been agreed to through the consensus-building process I have referred to, and so that process was deliberately avoided. The consequences of failure for such policies is very high, as we have learned. The result of the revelations of our secret policy was to damage the credibility of the United States in the Arab world, and beyond the Arab world.

Covert actions, or special activities, however one calls them, are by their very nature secret and because of this they fit only awkwardly into a democratic framework.

They are, by their nature, not subject to wide consensus-building and this is all the more reason for key members of both branches to scrutinize them and review them. There is always the potential that they can cause more mischief for the very democratic process they are supposed to protect than the evil they are designed to combat. They should never, as this legislation makes clear, be at variance with stated U.S. foreign policies, but be a special method of implementing such policies. They have to be limited, they cannot be the centerpiece of our operations in the world. Thus, they must be subject to the kind of tight and rigid rules that are embodied in this legislation.

Mr. President, the rationale that some are fond of using, to justify secret policies, kept out of the reach of the Congress entirely, is that the legislative branch cannot be trusted, that it leaks, and that would endanger the lives of the men involved, and the success of, the operation being engaged in. There are protections in this bill against the wide dissemination of the sensitive information involved. And, beyond that, I would have to take exception to the allegation. I would point out that Colonel North, in his testimony before the Iran investigating committee, tried to argue that leaks from the Congress endangered the Libya raid of April 14, 1986, for instance. The distinguished chairman of the committee, Mr. INOUYE, shredded that allegation. He demonstrated convincingly that the leaking of information about the imminence of that raid was, in fact, a torrential downpour for many days before the raid, but was a downpour which originated exclusively from the executive branch itself. So, the question of a leaky Congress is a red herring. Further, the protections in this bill effectively rebut that argument.

Mr. President, the ways in which the two branches cooperate in the formation of our policies are still incomplete. This legislation makes an important contribution in the area of special activities. We still have a lot of work to do to improve the situation regarding the commitment of the Nation to enter hostilities, or to go to war, or to enter into situations where commitments may be inferred by our very presence. The War Powers Resolution, which is the current law, needs to be improved in order to regularize the sharing of policymaking power which the framers intended in this area, and in order that effective and sound policies may be developed through consensus-building. I am in the process of constructing a legislative proposal to make adjustments to the War Powers Resolution, to make it more workable, to improve consultative procedures, to address situations where rapid actions are contemplated, and to not signal timetables or withdrawal scenarios to adversaries and potential adversaries. This is a difficult area, and it demands our attention. I know the distinguished chairman of the Foreign Relations Committee, Mr. PELL, has established a special panel to deal with this very critical subject, and I hope that he will be able to carve out the time to address the issue after the Senate has disposed of the INF Treaty.

Today, we have before us a commendable, positive step in the right direction, a balanced piece of legislation which responds to recent abuses in a responsible way. I hope it is passed overwhelmingly.

Mr. MURKOWSKI. Mr. President, I thank the leadership at this time for accommodating the minority's schedule and I indicate my deep appreciation. It is always a pleasure to have the opportunity to be with the leader.

Mr. BYRD. I thank the Senator and I reciprocate in kind.

ORDERS FOR FRIDAY

RECESS UNTIL 8:45 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 8:45 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order, there be a period of morning business not to extend beyond 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask unanimous consent that Senators may speak during that period for the transaction of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE ON TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent—and this is not needed—but I ask unanimous consent that the Senate resume consideration of the intelligence authorization bill at 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I understand that the pending question is on the McClure amendment; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. Mr. President, I will not schedule a vote at 9:30 a.m., in view of the fact that the amendment is pending. Senator MCCLURE will be here early and there should be a rollcall vote on that amendment or on a motion in relation to it on tomorrow. There may be other rollcall votes on the bill. I expect the bill to be acted upon tomorrow, and there may be other rollcall votes as well.

It will be my intention on tomorrow hopefully to lay down the Price-Anderson legislation before the Senate goes out for the week.

RECESS UNTIL 8:45 A.M. TOMORROW

Mr. BYRD. Mr. President, there being no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 8:45 a.m. tomorrow.

The motion was agreed to; and, at 8:13 p.m., the Senate recessed until Friday, March 4, 1988, at 8:45 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 3, 1988:

SECURITIES INVESTOR PROTECTION CORPORATION

FRANK G. ZARB, OF NEW YORK, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 1989.

DEPARTMENT OF COMMERCE

PAUL FREEDENBERG, OF MARYLAND, TO BE UNDER SECRETARY OF COMMERCE FOR EXPORT ADMINISTRATION.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MARK E. BUCHMAN, OF CALIFORNIA, TO BE PRESIDENT, GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

HOWARD W. CANNON, OF NEVADA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM OF 4 YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Thursday, March 3, 1988*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, that Your spirit makes available to us the gifts of faith, hope, and love. We pray for faith to transcend the difficult times that test the human soul; we pray for hope to rise above any cynicism which denies a better day; we pray for love to accompany us and touch our hearts all the days of our life. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. DORNAN of California. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DORNAN of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 270, nays 136, not voting 27, as follows:

[Roll No. 21]

YEAS—270

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Hubbard
Hughes
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ravenel
Ray
Richardson
Rinaldo
Robinson
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Weldon
Whitten
Williams
Wilson
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—136

Armey
Badham
Ballenger
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Coughlin
Craig
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Frenzel
Gallegly
Gallo
Gekas
Goodling
Gradison
Grandy
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Hopkins
Hunter
Hyde
Inhofe
Ireland
Jacobs
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lott
Lowery (CA)
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Murphy
Nielson
Oxley
Packard
Pashayan
Penny
Pursell
Quillen
Regula
Rhodes
Ridge
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Wheat
Whittaker
Wolf
Young (AK)
Young (FL)

NOT VOTING—27

Baker
Biaggi
Boulter
Courter
Crane
Dixon
Dowdy
Dymally
Fields
Ford (MI)
Ford (TN)
Gephardt
Gingrich
Gray (PA)
Holloway
Huckaby
Kemp
Leath (TX)
Leland
Lightfoot
Parris
Porter
Rodino
Roemer
Savage
Skelton
Towns

☐ 1122

So the Journal was approved.

The result of the vote was announced as recorded.

PERMISSION FOR SUBCOMMITTEE ON AVIATION OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY DURING 5-MINUTE RULE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that the Subcommittee on Aviation of the Committee on Public Works and Transportation be permitted to sit on today, Thursday, March 3, 1988, during the 5-minute rule in the House.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

POINT OF PERSONAL PRIVILEGE—RIGHTS OF MINORITY MEMBERS IN COMMITTEES

Mr. SWINDALL. Mr. Speaker, pursuant to rule IX, I rise to state a point of personal privilege.

The SPEAKER. The gentleman from Georgia seeks recognition under rule IX on a point of personal privilege.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The Chair is aware of the newspaper accounts which give rise to the question raised by the gentleman from Georgia.

Under rule IX, questions involving the reputation or conduct of a Member are such as to entitle that Member to recognition, and under rule IX such recognition, if sought on a point of personal privilege is a privileged matter taking precedence over any other motions, save a motion to adjourn.

The Chair believes that the gentleman from Georgia under the circumstances does qualify to be heard on the point of personal privilege.

Mr. SWINDALL. Mr. Speaker, let me state that the issue that gives rise to this point of personal privilege is, I think, both a substantial and a serious issue. It relates to the rights of a minority Member, that is, specifically the ranking member of a subcommittee that has been invited expressly to participate in a hearing that is being conducted relating to a fairly serious matter, in this case, the source or reason of the Cuban detainee riots that occurred last November.

I would like to submit to the RECORD a letter dated January 6, 1988, addressed to the Honorable PETER W. RODINO, chairman of the full House Judiciary Committee, over the signature of ROBERT W. KASTENMEIER, chairman of the Subcommittee on Civil Liberties and Administration of Justice.

The letter follows:

COMMITTEE ON THE JUDICIARY,
Washington, DC, January 6, 1988.
Hon. PETER W. RODINO,
Chairman, House Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I have received your letter of December 18, 1987 in which you inquired about the plans of the Subcommittee on Courts, Civil Liberties and the Administration of Justice to investigate and hold hearings on the Mariel Cuban uprisings.

As you are aware, my interest in the Mariel Cuban situation is longstanding. My involvement in this issue has included two visits to the Atlanta Penitentiary, one on which I was accompanied by two Committee counsel in February 1986 and one on which I sent an additional Committee counsel in October 1987. After the first visit, the Subcommittee issued a report urging a quick and just resolution of the inhumane detention of thousands of Cuban detainees. The Subcommittee was in the process of evaluating the information acquired during the second visit when the detainees began rioting at the Oakdale and Atlanta facilities.

It has been my intention since those two institutions were sieged to conduct hearings on the Mariel Cuban detainee situation. So as not to adversely impact the hostage situation or the subsequent transfer of detainees to other institutions, however, I decided to postpone any public action until both hostage crises had been resolved and the Bureau had been given time to recover from the trauma of the riots. In the meantime, I had instructed my staff to obtain as much information as possible regarding the events surrounding the rioting by the detainees.

Unfortunately, the informal gathering of information by the Subcommittee staff has been much more difficult than I had expected. From the first day of rioting at Atlanta until last week, the Department of Justice had cut off the normal lines of communication between the Bureau of Prisons and the Subcommittee staff, requiring the staff to speak only with Department of Justice spokespeople from the Office of Legislative Affairs about the detainees. The information provided by these spokespeople was, at best, slow in coming and the staff often found themselves reading newspaper articles which cited Department of Justice sources and contained information that the Department of Justice had refused to provide directly to the staff.

In addition, I have attempted to schedule briefings with the State Department, Department of Justice, Bureau of Prisons and Immigration principals involved with the Mariel Cubans. Though the State Department representatives met with me within days of my request, two meetings scheduled with the other principals were cancelled at the last minute by the Department of Justice. (The second meeting was to have been held with members of the Subcommittee staff after I was unexpectedly called out of town to attend a funeral.) This frustrating interaction with the Department of Justice further confirms the need for formal hearings on this topic, particularly in light of information provided by the State Department that directly contradicts certain representations made by the other agencies.

As you recognized in your letter, the issues raised by the Mariel Cuban uprisings span the jurisdiction of two Subcommittees, my own and the Subcommittee on Immigration, Refugees and International Law. Because it is impossible to bifurcate the issues along jurisdictional lines, the hearing that will be conducted by my Subcommittee will necessarily include some witnesses and information that might properly be brought before the Immigration Subcommittee. I, therefore, welcome any member or staff of the Immigration Subcommittee to attend and participate in the hearing that we will conduct on this issue.

With warm regards,
Sincerely,
ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties and the Administration of Justice.

As a result of that letter, I chose in keeping with my responsibilities and rights as a ranking member of the Immigration Subcommittee to attend and participate in the hearing.

Mr. Speaker, let me take this opportunity to state that I did call the chairman of the subcommittee yesterday and invited him to participate in this very significant debate. He declined that offer and stated, in effect, that he was not interested.

I do see the gentleman here, and I would invite the gentleman at any point, should he choose, to let me know, and I will be happy to yield to the gentleman with respect to some of the statements which I will make.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. SWINDALL. I am happy to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, I do not think it is accurate to say I indicated to the gentleman I was not interested, nor did I know precisely when or in what content the gentleman would raise this point today.

I have meant, however, to respond to this issue in due course, although I must say to the gentleman, I think it is a waste of the House's time, but the gentleman has invoked a special privilege and the gentleman may proceed, of course.

Mr. SWINDALL. Mr. Speaker, I thank the gentleman. I appreciate that.

Let me state that the purpose of the call, if the gentleman will recall, was to state that I would bring it at any time that was convenient to the gentleman's schedule.

At that point, the gentleman said, and I think I am quoting, that he was not interested in participating, and I will not use the exact language that the gentleman used, but in any event, I do think this is a substantial issue. I am pleased that the gentleman is here, because it relates to very important fundamental civil liberties and rights.

But specifically, at the outset of the hearing, the chairman made the statement that the purpose of the hearing was to "fully comprehend the significance of these events, and in order to do that we must go back to 1980 when over 125,000 Cubans came to this country via the Cuban port of Mariel."

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He then called on the gentleman from Kentucky [Mr. MAZZOLI], who is the chairman of the Subcommittee on Immigration, Refugees, and International Law, who was not able to be there, but did read into the record a statement stating that he was unfortunately unable to attend, but that he would continue to participate.

Then the chairman recognized the gentleman from Georgia [Mr. LEWIS] as the first witness.

I mention that because a substantive part of the gentleman from Georgia's [Mr. LEWIS] testimony was that, and I quote from page 10 of the transcript, "the action of the administration"—clearly that is the Reagan administration—"regarding the Cuban detainees will be remembered as a mockery of our justice system in this country, a country that has prided itself on welcoming oppressed people yearning for freedom."

When the time came for me to ask questions, I was recognized by the chairman, the gentleman from Wisconsin [Mr. KASTENMEIER], and at that point I was recognized by the chairman and this is the form of the recognition.

"We have Mr. SWINDALL. I referred to him at the outset. He had been a member of this subcommittee up to this time and has always been interested in obviously the Atlanta penitentiary and the situation down there. As I indicated, he has a long and abiding interest as well. I yield to the gentleman from Georgia."

At that point I proceeded to ask a series of questions with the following preface, at that point I stated on the record, "I would like to just for the record ask a series of questions if you will, Mr. LEWIS, with respect to some of the basic differences of opinion which we have. My first question is, given the current immigration as it read at the time these individuals were admitted into this country and given the fact that roughly 125,000 individuals came into this country, the INS was placed in the unprecedented situation wherein they had to screen these individuals once they arrived on our shores, as distinguished from before they arrived on our shores, and further given the fact that it was necessary once they were screened for these individuals who informed the screeners that they had conducted criminal activities in Cuba or had been released from mental institutions, given all those facts my question, Mr. LEWIS, is what precisely would you have recommended the INS do?"

The gentleman from Georgia [Mr. LEWIS] gave a nonresponsive answer because my next question was, "I am not sure you have responded to my question. What would you do with those individuals?"

Then the gentleman from Georgia [Mr. LEWIS] gave an answer which I said the following to, "You are aware, Mr. LEWIS, that with the exception of roughly 100 individuals each and every individual with whom we are dealing here was in fact released into society and chose on their own volition to commit crimes and to engage in activities that were expressly stated to them as a condition precedent to their being able to remain in this country?"

Then I proceeded to say, "I do not think it is fair to the INS or the Justice Department to state that somehow because individuals chose to violate the terms of their parole that they should not be picked up and brought back into detainment. Do you?"

At that point the gentleman from Georgia [Mr. LEWIS] again was nor responsive to my question. We went back and forth and then the chairman, the gentleman from Wisconsin [Mr. KASTENMEIER], made the following statement, "I, too, feel it is too far afield, and I really resent the gentleman from Atlanta attempting to"—then he states, "It is the administration witnesses that we are principally here today to engage."

At that point he terminated my right to ask further questions, a very significant point because so long as I chose to stay within the confines that the chairman found acceptable, he was willing to tolerate my questions but once I asked questions that were outside his preconceived notion of the hearing process, he terminated those rights.

Mr. Speaker, that was at a time that the hearing was being held before C-SPAN live. Because I was confident the chairman, the gentleman from Wisconsin [Mr. KASTENMEIER], could not have been aware of the letter of invitation, I chose not to engage the chairman at that point and instead took the letter behind the cameras, addressed the gentleman from Wisconsin's [Mr. KASTENMEIER] attention to the letter, and he stated he would not recognize my right to ask further questions.

At that point I proceeded to tell the gentleman from Wisconsin [Mr. KASTENMEIER] that if he would not recognize those rights I had no choice but to make an issue of it.

I then returned to my seat, waited until the appropriate time after the second witness had been dismissed, and asked the gentleman from Wisconsin [Mr. KASTENMEIER] if he would allow me to ask questions, and he said, "No."

At that point, Mr. Speaker, my rights pursuant to this letter of invitation were in fact violated. But here is the part that concerns me the most. After I left the room, the gentleman from Wisconsin [Mr. KASTENMEIER] then made this statement on the record, that he was disappointed that I chose to conduct my own minirights.

Then off camera, apparently according to Rydell article, he made the statement, "After the hearing KASTENMEIER said he simply wanted to move the hearing along and added that the incident could have been avoided if the two had agreed beforehand on Mr. SWINDALL's participation."

Mr. Speaker, I state that because the chairman, the gentleman from Wisconsin [Mr. KASTENMEIER], knew perfectly well at the time of his own letter because I had presented the letter to him and it has to be stated with that knowledge, yet he chose to state to the media present that it could have all been avoided had we worked out the participation agreement beforehand.

As the record will show, that had been worked out.

Second, the gentleman from Wisconsin [Mr. KASTENMEIER] made the statement, and this is according to an AP story, that I had "abused the privilege of being a guest of his subcommittee. We have some cameras from Fox Broadcasting of Atlanta here, and I am sure he hoped to use this hearing for a wider audience."

Mr. Speaker, my point is this: there is no more fundamental right than the right for a Member of Congress, having been invited to participate in an important hearing, to participate without restraint from a chairman who perceives his role to be much broader obviously than the rules of this House, and also given the fact that I was expressly invited. But what also concerns me is that this is a civil liberties subcommittee, and yet here I was trying to pursue a line of questioning that did not in effect fit within the chairman's narrow scope and that was according to his own statement, to focus in on the administration witnesses.

My question to the gentleman from Wisconsin [Mr. KASTENMEIER] would be, why then did we call the gentleman from Georgia [Mr. LEWIS] to come in and talk about the Reagan administration's "mockery of justice"?

Mr. Speaker, my other question would be, why was I not allowed to at least correct the record when he made those statements, to point out some very substantive facts including the fact that with the exception of 125 individuals all of these people chose to violate the law and were picked up because we, the Congress, passed laws stating that as a condition precedent to their right to remain free they cannot violate any of the 30-some specific commissions?

The point is this, this happens all the time in this body. We are narrowly defined in terms of what we may pursue. We saw that yesterday, of course, with the so-called Civil Rights Restoration Act where there were no amendments allowed. Then we will see it today when we debate democracy and freedom in Central America where no amendments are allowed. But one of the great realizations at that moment was, as I listened to the Subcommittee on Courts, Civil Liberties, and the Administration of Justice pursue an agenda, it occurred to me that if that is our definition of the democratic process in the United States of America, and in the Congress of the United States of America, I now have a whole new understanding as to why a majority of this body believes that we have democracy or the democratic process in Nicaragua. By that definitional standard, of course, we do, but my point is that this is not Nicaragua, this is the Congress of the United States of America.

Mr. Speaker, I would also say in closing that the gentleman from Wisconsin [Mr. KASTENMEIER] stated that he resented my questions.

Mr. Speaker, at what point in our important democratic process does the fact that the chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice resent a question does he have the right to terminate the rights of a duly elected Member of Congress?

Mr. Speaker, my point is, as the gentleman from Wisconsin [Mr. KASTENMEIER] addresses the microphone, I would like for him to kindly state to his constituents as well as mine and all of our colleagues here in the House, by what possible authority does the gentleman from Wisconsin [Mr. KASTENMEIER] believe that he can terminate the rights of a Member of Congress after giving an express invitation to attend and participate before national news coverage, before C-SPAN, by simply stating that he resents the questions which the gentleman asked which were very deliberately stated to be probative and directly within the confines of the scope as originally stated, not as subsequently diminished.

Mr. Speaker, I would be happy to yield to the gentleman from Wisconsin [Mr. KASTENMEIER], the chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. SWINDALL. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, I will first state that my reply will be brief. Mr. Speaker, I have chaired the Subcommittee on Courts, Civil Liberties, and the Administration of Justice for 20 years, and I have never had a problem such as that which is presented by the gentleman from Georgia [Mr. SWINDALL].

If indeed, Mr. Speaker, I violated the rule, let the gentleman cite the rule. The fact is the gentleman from Georgia [Mr. SWINDALL] was as he suggested invited to this subcommittee proceeding in what I construed to be as a guest of the subcommittee, and I had intended that the gentleman from Georgia [Mr. SWINDALL] participate, notwithstanding the fact that there were a large number of members of this 15-member subcommittee present and we had a substantial agenda in terms of a witness list. As a matter of fact, I made reference to the gentleman from Georgia [Mr. SWINDALL] at the outset which he has quoted, which was certainly in no sense derogatory, if not in positive terms.

Mr. Speaker, it is true that the gentleman from Georgia [Mr. LEWIS] was the first witness. He was not originally scheduled, as the gentleman from Georgia [Mr. LEWIS] will remember, but asked to speak briefly at the outset which I agreed to do. I recognize that he, as the gentleman from Georgia [Mr. SWINDALL], are from one of the areas in question; namely, Atlanta, GA.

Mr. Speaker, I was appalled at the confrontational tone that the first questioning took.

Mr. SWINDALL. Mr. Speaker, I am going to reclaim my time.

Mr. KASTENMEIER. Other committee members did not ask the gentleman from Georgia [Mr. LEWIS] questions of this kind.

Mr. SWINDALL. Mr. Speaker, I would wish to reclaim my time for a comment, and lead the first question in contention.

The SPEAKER. The gentleman declines to yield at this point.

The gentleman from Georgia has the floor.

Mr. SWINDALL. Mr. Speaker, I am glad the gentleman from Wisconsin [Mr. KASTENMEIER] stated a reference to the question because I would like to read the confrontational tone of the question. I do think it strikes at the heart of this matter.

Here it is, and I quote:

> My first question to you would be that given the current—

Mr. Speaker, let me read this question in its entirety because this certainly is an important point:

> First of all, let me compliment the chairman for holding these hearings and state at the outset that the reason I am no longer in fact a member of this subcommittee is that I chose to become a member of the Immigration Subcommittee in order to address this very issue, because in reality, of course, the Immigration Subcommittee controls the very law that in effect binds our judiciary system in terms of how to deal with individuals such as these individuals.
>
> I also want to compliment my colleague from Georgia, Mr. LEWIS, for his concern about this issue as he and I both know we have dealt on many occasions with this issue prior to this and sometimes in public forums.
>
> I would like to just for the record ask a series of questions if you would, Mr. LEWIS of Georgia, with respect to some of those basic differences of opinion.
>
> My first question to you would be that, given the current immigration law as it read at the time these individuals were admitted into this country—

And I read the rest of the question. But my point is that if that is the gentleman from Wisconsin's [Mr. KASTENMEIER] definition of a question that was confrontational, I plead guilty.

Mr. KASTENMEIER. Mr. Speaker, would the gentleman yield further?

Mr. SWINDALL. Mr. Speaker, I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, in my view, and I think in the view of many of those present, it was, notwithstanding the reading of it, and I would ask that the relevant transcript of that hearing be made part of the RECORD at this point.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

OVERSIGHT HEARING—MARIEL CUBAN DETAINEES

THURSDAY, FEBRUARY 4, 1988

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES, AND THE ADMINISTRATION OF JUSTICE, COMMITTEE ON THE JUDICIARY,
Washington, DC

The subcommittee met, pursuant to call, at 9:30 a.m., in room 2237, Rayburn House Office Building, Hon. Robert W. Kastenmeier (chairman of the subcommittee) presiding.

Present: Representatives Kastenmeier, Berman, Cardin, Moorhead, Hyde, Lungren, DeWine and Coble.

Also Present: Representatives Frank and Swindall.

Staff: Susan Coskey, Counsel; David Beier, Assistant Counsel; Joseph V. Wolfe, Minority Counsel; and Veronica L. Eligan, Clerical Staff.

Mr. KASTENMEIER. The committee will come to order.

Mr. HYDE. Mr. Chairman.

Mr. KASTENMEIER. The gentleman from Illinois.

Mr. HYDE. I ask unanimous consent that the subcommittee permit the meeting today to be covered in whole or in part by television broadcast, radio broadcast, and/or still photography pursuant to Rule 5 of the Committee Rules.

Mr. KASTENMEIER. Without objection, that will be permitted.

At today's hearing we will review the events surrounding the November riots by the Mariel Cuban detainees at the Oakdale Federal Detention Center and the Atlanta Federal Penitentiary.

To fully comprehend the significance of these events, we must go back to 1980, when over 125,000 Cubans came to this country via the Cuban port of Mariel. Since that time, the saga of the Mariel Cuban detainees has been an issue that has strained our criminal justice system, plagued our consciences, as thousands of Cubans have been permitted to remain indefinitely detained in our penal institutions.

In 1987, the State Department announced that it had reached an agreement, an immigration agreement, with Cuba that paved the way for the return to Cuba of perhaps as many as 2,500 or, in the longer term, even more, or perhaps fewer of these Mariel Cubans.

This subcommittee has been interested for some time. Two years ago yesterday, on February 3, 1986, together with the minority and majority counsels of this subcommittee, I went to the Atlanta Federal Penitentiary to see what conditions 1,862 Cubans were subjected to in that institution. We wrote a report in April, 1986, in which we urgently commended the administration to some course of action, either a combination of resuming negotiations or reaching a favorable agreement with Mr. Castro, and as an alternative, to move those Cubans out of Atlanta to other institutions more suitable to their condition.

Many of them were mentally ill, others needed education and training, to take their place ultimately in the society if ever they were to be released. And so this agreement of last November was, I think, a welcome agreement. Nonetheless, obviously we also, I must say, breathed a sigh of relief when the riots at both the Oakdale and Atlanta facilities ended with minimal bloodshed and loss of lives. We realize the patience with which the Bureau of Prisons, directed by Michael Quinlan, managed the situation, and the persistence of the Department of Justice in negotiating the agreement with the Cubans. On the other hand, I think it is appropriate to look at that situation to see whether or not for future reference that situation could be avoided.

In conjunction with the negotiated immigration agreement with Cuba, the Attorney General of the United States committed to each Cuban detainee that he would receive one more full, fair, and equitable review of his file before a decision was to be made possibly to deport him to Cuba.

I know we are all anxious to hear about the circumstances surrounding this agreement with Cuba, the rioting by detainees, and the administration of the Attorney General's review plan. We are informed that a report is now in the Attorney General's hands from the Bureau of Prisons and other officials with respect to a review of that situation. So to enable us to look at these and other issues, we this morning call upon a distinguished and undoubtedly informative group of witnesses.

Before I introduce them, I would like to read a letter from my companion and colleague, the Chairman of the Subcommittee on Immigration, Refugees and International Law, Congressman Romano Mazzoli, who states as follows:

"Mr. Chairman and members of the subcommittee: The recent uprisings at the Atlanta and Oakdale Federal Detention facilities undescore the urgent need for a coherent national policy that reconciles potential conflicts between detention objectives and immigration objectives. Today's hearing is an important step in that direction, and I commend you, Mr. Chairman, for the diligence and sensitivity you have brought to this effort.

"Regrettably, business in my home district prevents me from joining you at today's hearing. Nonetheless, I have directed staff to be present and will recieve a full briefing upon my return. Beyond that, I hope to work closely with you in the weeks and months ahead to ensure that the Mariel Cuban situation is fairly and sensibly resolved.

"I ask that this statement be made a part of the record." Without objection, it will be, that statement from the Chairman of the Judiciary subcommittee that deals with immigration and nationalization aspects of the situation.

Mr. KASTENMEIER. If there are no statements from members of the committee, I would like to introduce the witnesses. Our first witness this morning is a Member of Congress from the area in which the Atlanta Penitentiary is located. He, along with several others, have been interested in this situation. I know Congressman Swindall of the full committee has been interested in this question, and Senator Breaux, surely in the Oakdale situation, from Louisiana. But I would like to call upon the Honorable John Lewis for a brief statement, the Congressman from Georgia, for his review of the situation of last November. We're delighted to have you this morning.

Mr. Lewis.

STATMENT OF HON. JOHN LEWIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. LEWIS. Thank you, Mr. Chairman.

Mr. Chairman, I have a prepared statement that I would like to present for the record.

Mr. KASTENMEIER. Without objection, your statement will be received and printed in the record, and you may proceed as you wish.

Mr. LEWIS. Thank you, Mr. Chairman. I will be summarizing my prepared statement.

Mr. Chairman and Mr. Hyde, I want to thank you for giving me the opportunity to appear before your committee. The Atlanta Federal Penitentiary, the site of the prison takeover by Cuban inmates on November 23, 1987, is in the heart of the 5th Congressional District of Georgia, which I have the honor to represent.

Mr. Chairman, some of the Cubans that came here during the summer of 1980 violated our laws and served time in our correctional facilities. Upon release, these individuals were picked up by the Immigration and Naturalization Service and put in indefinite detention with no hope of due process or parole. Remember, these Cubans were not serving any prision sentences. They had already paid their debt to society. They were being incarcerated for a second time for violating immigration rules. But this time, no judge, no jury, no attorney, and no due process. Just locked up and the keys literally thrown away. Eventually, most of the Cuban detainees were consolidated in two facilities in Oakdale and Atlanta.

On Good Friday, April 17 of last year, I paid an unannounced visit to the Atlanta Penitentiary. I spent almost four hours in the facilities. Some of these young men have been in prison since the 1980 boat lift and had not received a hearing during this seven-year period.

During the tour I visited the medical center and saw how some of the inmates had tried to slash their wrists. Many patient-inmates appeared to be heavily sedated.

I talked with many of these young men who had been there since they were 15 or 16. None of the inmates I spoke with had any idea when or if they would ever be released. I learned that there had been over 150 serious suicide attempts at the Atlanta Penitentiary in the last six years. There was a sense of hopelessness and despair that permeated the entire facility. I found the situation at the Atlanta Penitentiary truly appalling.

My remarks in the Congressional Record of April 27, 1987 reflected my concerns following this visit. You have a copy of those remarks. On April 28 I wrote to INS Commissioner Alan Nelson and asked what policy the INS had developed to address the indefinite detention of the Cuban inmates.

On June 15, 1987, the INS announced the Cuban Review Plan. The process would examine the cases of the Cuban detainees and decide who among them might be eligible for release. The detainees were not allowed to present witnesses on their behalf. The detainees did not have timely access to their Government files which the INS would use to support its decision. And there was no neutral decision maker. The "judge" was an INS officer who had participated in a one-day training session, and who would have this assignment for an average of ten days.

Two weeks after the Cuban Review Plan was announced by INS, nine of my colleagues joined with me in writing to Commissioner Nelson of the INS. We stated that the plan was inadequate and recommended changes. When months went by and it was clear that the INS was unresponsive to the recommendations made by ten Members of Congress, I asked the Office of Legislative Counsel to draft legislation calling for due process procedures with respect to the INS Cuban Review Plan.

The draft legislation was delivered to my office on Friday, November 20, the same day the State Department released its communique revealing secret negotiations with the Republic of Cuba aimed at deporting detainees. Riots broke out at the Alien Detention Center in Oakdale, Louisiana on that Saturday night, and the Atlanta Prison takeover started Monday morning.

Mr. Chairman, the initial cause of the prison uprising is obvious. When news broke Friday, November 20, 1987, that the United States and Cuba had reached an agreement on deportation, the detainees reacted. But the announcement by the State Department only triggered the waiting time bomb.

The events in Oakdale and Atlanta showed once again what happens when men in prison are given no hope for basic human justice. When those who are incarcerated feel they have nothing left to lose, you see the kind of behavior exhibited in Oakdale and Atlanta. When men are held in indefinite detention, with no hope of minimal due process, then are not apprised of an international agreement which may depart them to a country against their will, it should be less than surprising when they revolt against this system of justice.

Mr. Chairman, allow me to close by saying that the action of this administration regarding the Cuban detainees will be remembered as a mockery of our system of justice in this country, a country that has prided itself in welcoming oppressed people yearning for freedom. The last seven years have been wasted years for these Cuban detainees. We have wasted a significant portion of their lives. In Atlanta, the heart of my congressional district, an entire institution was wasted with the dubious duty of imprisoning these refugees at a cost of between $30- and $40 million a year, according to the Bureau of Prisons. Let us stop this waste and injustice now.

Thank you, Mr. Chairman, and Mr. Hyde.

Mr. KASTENMEIER. Thank you, Congressman Lewis, for your observations and reciting your own interest in this matter. I think many of the concerns you reflect will be discussed here this morning.

It seems to me, as a result, it is clear that the administration was caught in between a situation where people were held in unsuitable conditions—after all, presumably the Helsinki Accords refer not to just other countries but presumably to us as well. On the other hand, many of the people who were detained, it seems fairly clear, were not in a position to take their place in the community in the United States. So some middle ground had to be found and some hope had to be given, it seems to me, to the detainees. Through treatment and education and training and so forth, many of them could eventually become released into the community, if they were not otherwise deportable. That is something that had to be reconciled.

It seems to me that the agreement, however, reached last November was the unlocking of the situation, and the administration is now moving forward—and we're going to see in what fashion. I don't think anyone contemplated the catharsis of that resulting in the riots, but at least out of some of that I think can come a realization of some of the ends that you have suggested in your testimony, and certainly your concern for really a sort of lost generation of illegal aliens, Cubans in this case, is commendable.

Does anyone else have any questions? If not, we thank you.

Mr. SWINDALL. Mr. Chairman, I would like to just ask my colleague a few——

Mr. KASTENMEIER. Incidentally, I would suggest here that in addition to Mr. Hyde and Mr. DeWine, and Mr. Cardin and Berman, that we have Mr. Swindall. I referred to him at the outset. He had been a member of this subcommittee up to this term and has always been interested in obviously the Atlanta Penitentiary and the situation down there. As I indicated, he has a long and abiding interest as well.

I yield to the gentleman from Georgia.

Mr. SWINDALL. Thank you, Mr. Chairman. First of all, let me compliment the Chairman for holding these hearings and state at the outset that the reason I am no longer, in fact, a member of this subcommittee is that I chose to become a member of the Immigration Subcommittee in order to address this very issue. Because, in reality, of course, the Immigration Subcommittee controls the very law that, in effect, binds our judiciary system in terms of how to deal with individuals such as these individuals.

I also want to compliment my colleague from Georgia for his concern about this issue. As he and I both know, we have dealt on many occasions with this issue prior to this, and some times in a public-type forum. I would like to just for the record ask a series of questions, if you would, Mr. Lewis, with respect to some of those basic differences of opinion.

My first question to you would be that, given the current immigration law as it read at the time those individuals were admitted into this country, and given the fact that of the 125,000, roughly, individuals that came to this country, the INS was placed in an unprecedented situation wherein they had to screen these individuals once they arrived on our shores, as distinguished from before they arrived on our shores, and further given the fact that it was necessary, once they screened these individuals and were informed by the individuals themselves that they had histories with respect to criminal activities in Cuba or mental institution confinement, what precisely would you have recommended that the INS do—given their dual responsibility of, one, protecting the American public, and two, making certain these individuals in this unprecedented situation of screening once on our shores as opposed to before arriving on our shores—do to meet that dual obligation, given these admittedly unprecedented circumstances.

Mr. LEWIS. Mr. Swindall, I felt from the very outset that the basic constitutional rights—Now some people in INS and our Department of Justice took the position that these people didn't really exist, that they didn't have any constitutional rights. But I felt, by housing and holding these people indefinitely, without giving them any idea when they would be released, was a violation of certain basic, not only constitutional rights, but basic human rights.

We don't treat our own people like that, and we shouldn't be put in a position of treating other people like that. We argue that they are not citizens of America so they don't have rights. But they have rights as human beings. They were brought to this country and incarcerated. Some of them committed very minor crimes and were locked up indefinitely.

Mr. SWINDALL. I'm sure you responded to my question. What would you do with those individuals—and in this case you're aware, of course, that of the 125,000 individuals that were processed by the INS, within short order roughly 120,000 people were immediately released into society. And by immediately, I'm talking about after the processing had been done, and we're talking about less than a month's period of confinement.

What would you have done with those individuals who stated unequivocally that they had been confined in Cuba for acts of violence or had been released directly from Cuban mental institutions where they were dependent on drugs and various sedations to control their behavior? What would you have done?

Mr. LEWIS. Most of the people—I'm talking about the people that I came in contact with, not the 125,000 or the 100,000, but the young men that I spent more than four hours with in the Atlanta facility, a great majority of these young men would have been, I think, allowed under my plan to go out into the larger society and become valuable citizens of this country.

Mr. SWINDALL. Well, you are aware, of course, Mr. Lewis, that with the exception of roughly 100 individuals, each and every individual with whom we are dealing here was, in fact, released into society and chose on their own volition to commit crimes, or to engage in activities that was expressly stated to them as a condition precedent to their being allowed to remain in this country, something that they could not do, and they chose to do it anyway.

Now, I will grant you that that is different from the type of activity that a U.S. citizen could be detained for. But the point is we, Congress, delineated some 30 specific conditions precedent to allowing individuals to stay in this country. And in each of these cases, we are talking about individuals that were released into society and chose to violate, if you will, the terms of their parole.

Now, I don't think it's entirely fair to the INS or to the Justice Department to state that somehow, because these individuals chose to violate the terms of their parole, that they should not have been picked back up and brought back into detainment. Do you?

Mr. LEWIS. But, Mr. Swindall, you would agree that there should be due process, there should be hearings, they should have the right to an attorney, should have an opportunity to get their Government files.

Mr. SWINDALL. Of course, Mr. Lewis, you and I both know that I agree that the due process requirements—and I'm going to talk with Judge Shoob, because I really think that Judge Shoob has stated as clearly as anyone that is familiar with this case what due process entails——

Mr. LEWIS. I agree with the decision. I think if the Department of Justice and this administration would have followed the guideline and the order of Judge Shoob, we wouldn't be here today.

Mr. SWINDALL. Well, rather than focusing on our agreement——

Mr. KASTENMEIER. I think we are getting just an argumentative problem here.

Mr. SWINDALL. Mr. Chairman, if I may——

Mr. KASTENMEIER. It's too far afield and I really resent the gentleman from Atlanta attempting to—It is the administration witnesses that we are principally here for today, not to engage in an internecine debate between two Members from——

Mr. SWINDALL. Mr. Chairman, I'm not attempting to debate.

What I am attempting to do is, rather than focus upon our agreements, to focus upon some very legitimate disagreements. Because, if you will, Mr. Chairman, I do believe that there have been a number of statements made throughout the course of this admittedly tragic chapter of American history that are misleading with respect to what, in fact, these individuals were being detained for.

Now, that is separate and apart from the due process issue, and I will be the first to admit that due process is a very important element that has not been followed here. But let's not at the same time confuse the status of these individuals in terms of what they themselves did, whether it was choosing deliberately to violate the terms of their parole, or choosing deliberately to maliciously destroy property. Those are, in fact, things we ought to be focusing on as well, Mr. Chairman.

Thank you.

Mr. KASTENMEIER. We thank the gentleman from Georgia for his appearance this morning.

Mr. LEWIS. Thank you.

Mr. KASTENMEIER. Our first administration witness this morning will be Mr. Michael Kozak. I say that because our principal witness today following Mr. Kozak will be the Honorable Arnold Burns, Deputy Attorney General. But in terms of maintaining a sequence of events, we have asked the State Department witness to precede the Deputy Attorney General and he graciously accedes in that.

Mr. Michael Kozak is the Principal Deputy Legal Adviser at the State Department and was United States chief negotiator of both the 1984 and 1987 immigration agreements with Cuba. Mr. Kozak, we're delighted to have you here and we're interested to have the details leading up to the negotiated immigration agreement with Cuba. I know you have a long statement here, which you may proceed from as you wish, or summarize it.

STATEMENT OF MICHAEL G. KOZAK, PRINCIPAL DEPUTY LEGAL ADVISER, U.S. STATE DEPARTMENT ACCOMPANIED BY KENNETH N. SKOUG, JR., COORDINATOR OF CUBAN AFFAIRS, U.S. STATE DEPARTMENT

Mr. KOZAK. Mr. Chairman, thank you. With your permission, I will try to summarize it. I have not too much voice today and, both to save your ears and my voice, I will try to summarize my statement.

Mr. COBLE. Thank you, Mr. Chairman.

Mr. Chairman, because of my belated arrival—I had another meeting—I will have no questions at this time.

Mr. KASTENMEIER. I think probably our witness will appreciate that. He has been here over an hour and his voice has about given out.

I join Mr. Moorhead in complimenting you on arriving at an agreement. I think that is the key to being able to respond to this whole problem that perplexed us for some years and hopefully it will work out.

We thank you, Mr. Kozak, for your appearance here this morning.

Mr. KOZAK. Thank you.

Mr. SWINDALL. Mr. Chairman. May I be permitted to ask——

Mr. KASTENMEIER. No, you may not. You are not a member of this subcommittee.

I would like to now call the next witness. Our principal witness today is the Deputy Attorney General, the Honorable Arnold I. Burns, and he is here to discuss roles of the Department of Justice and two of its agencies of the Immigration and Naturalization

Services and the Bureau of Prisons, in context to the Mariel Cubans.

* * * * *

Mr. KASTENMEIER. I would like to yield now to the gentleman from California, Mr. Moorhead.

Mr. MOORHEAD. Thank you, Mr. Chairman.

Mr. SWINDALL. Will the gentleman from California yield for a brief statement?

Mr. KASTENMEIER. Of course, the gentleman from California can suit himself on that.

If the gentleman from Georgia has questions of General Burns, the Chair will recognize him.

Mr. SWINDALL. Mr. Chairman, I have questions of the last witness. As you well know, you sent a letter to our chairman, Mr. Rodino, on January 6, in which you stated that because of the jurisdictional lines being split between the Immigration Subcommittee and the so-called Courts, Civil Liberties and the Administration of Justice——

Mr. KASTENMEIER. I have not yielded to the gentleman for——

Mr. SWINDALL. Mr. Chairman, if you will not continue to yield, I am going to step outside the chamber and hold my own press conference——

Mr. KASTENMEIER. You may do so.

Mr. SWINDALL [continuing]. Because I was invited to this subcommittee to participate and you have attempted to basically focus the direction of this subcommittee on those questions that you deem necessary.

Mr. Chairman, I, for one, am fed up with a House that is run by rules that basically focus on what the majority wants to focus on. The chairman, I think, tipped his hand when he said that the purpose of this subcommittee is to focus on the Administration's handling of this issue. I think it is broader than that. I think that we ought to be looking at all the issues that caused the riot, not those are predetermined by the chairman.

So, Mr. Chairman, if you would like to call back the last committee witness and allow me to ask the questions that I would have asked, I will remain. Otherwise, I am going to hold a press conference outside and state exactly what the chairman is attempting to do here.

Mr. KASTENMEIER. The gentleman is invited to hold his press conference.

Mr. SWINDALL. Thank you, sir.

Mr. KASTENMEIER. I will say that there have been clearly a number of minority members here this morning, Congressman Hyde, Congressman Moorhead, Congressman Lungren, Congressman Coble, Congressman DeWine. They, I hope, feel that they are entitled to ask any questions they wish about this matter.

This is not an attempt to blame this Administration. Indeed, the problem started, the Chair will observe, under President Carter in his invitation, presumably, to Mr. Castro to send any and all people from Cuba. So the purpose of this is to look at how this problem was administered and what the prospects are, no matter what administration would have this responsibility, I might say, and indeed, I assume, this responsibility will go over to the next administration, whatever character that administration will have. We will not be able to solve this problem that General Burns is describing this year, so there will be a new administration, of what character those of us on the committee know not, that will have to deal with this and carry it through.

I think, respecting all Americans, we hope that this can be successfully dealt with and resolved. I am sorry that the gentleman from Georgia sought to conduct his own miniriot here, but the committee will proceed.

The gentleman from California.

Mr. MOORHEAD. Thank you, Mr. Chairman. I would like to commend General Burns, indeed, all the people in the Department of Justice, for their role in settling the uprisings in the way that they did. It is amazing that you were able to get them settled with so few injuries and casualties.

Assuming you had had more notice of the agreement, what additional precautions might you have taken at Atlanta and Oakdale?

Mr. KASTENMEIER. Mr. Speaker, if I may continue, as a matter of fact, after the completion of the second witness, a State Department witness who had been on for quite a while, and it is true I did not recognize the gentleman from Georgia [Mr. SWINDALL] at that point in time, the gentleman from Georgia [Mr. SWINDALL] raised a point at the point the third witness, the Deputy Attorney General, Mr. Burns had testified, and he did not tell us this but I had asked the gentleman from California [Mr. MOORHEAD] to yield, and he is the ranking minority member of my subcommittee, and I said that the gentleman from Georgia [Mr. SWINDALL] would be recognized for asking questions of that witness.

Mr. Speaker, the gentleman from Georgia [Mr. SWINDALL] said at that point that unless I recalled the preceding witness, he would have a press conference in the hall, and I said, "Well, be my guest if that is the course of action you wish to follow."

□ 1145

Mr. SWINDALL. Reclaiming my time, Mr. Speaker, that is absolutely accurate and correct. And let me state the heart of why we disagreed at that point, because I really think that it expresses the real heart of the issue here.

Mr. Speaker, I think it is evident that the chairman of this subcommittee, the Subcommittee on Courts, Civil Liberties and the Administration of Justice, believes that it is within his purview, one party having ruled continuously since 1954 I can understand that perspective, but the point is he believes it is within his purview to pick and choose the witnesses that a participatory Member has the right to confront.

I knew the gentleman was still sitting in the front seat. I wanted to save the taxpayers the expense of my subcommittee having to recall him, to have to come up and retestify to what I knew but for the discretion or resentment of the Chair would have otherwise been available to me, and of course I am not going to do that any more, so then if I were a trial attorney and the judge said I will let you cross-examine this witness but not this witness, if I am going to present my case I think it is important that all aspects, not just those aspects which the Chair sees fit to probe are probed.

Specifically I would state that in light of the Chair's statement that we are here to focus on the administration witnesses, that is not what the gentleman said at the outset of the hearing. At the outset he said we are here to find why the riots occurred. It is interesting how we begin to narrow the focus as the gentleman pursues what has to be a different agenda from the gentleman from Georgia, myself.

So at that point I would state that yes, the gentleman is correct. I found that an incredible violation of a right that I have as a Member of Congress, having been invited expressly to attend and participate, and I would like to now address the question that the gentleman raised earlier. What rule did I rely on when I came to ask those questions, and the answer is the rule of the Constitution of the United States of America, because under our Constitution I was elected as a Representative of my district. It may well be true that those individuals that I represent may not like the questions that I ask, and in that case, every 2 years they have an opportunity to either reject or accept my representation. But, Mr. Speaker, and this runs really to the heart of the issue, we cannot have a democratic process that is meaningful if any chairman, whether it is the chairman of the majority party when the Democratic Party rules, or the chairman of the Republican Party when the Republican Party rules who believes that it is within his purview to pick and choose the witnesses or the tone or the nature of the questions asked, any more so than it would be right if a judge said I am going to let you only interview the witnesses that are helpful to the prosecution's case.

At this point I would be happy to yield back to the gentleman from Wisconsin, chairman of the Subcommittee on Courts, Civil Liberties and the Administration of Justice.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield further?

Mr. SWINDALL. I am happy to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, I have no further comment to make other than the gentleman has been unable to cite any rule that has been violated. He was, as I say, in my view a guest of the committee. He was not a functioning member of the subcommittee. The subcommittee members, and there were at least five minority members present during that hearing, interceded not one word in behalf or in support of the gentleman's complaint.

Mr. SWINDALL. Reclaiming my time, I might add that I am sure that my colleagues believe that I am capable of taking care of myself.

Mr. KASTENMEIER. If the gentleman will yield further, nor do they have any complaint that parallels the gentleman's as to the partisan nature of this hearing. And he did get up and give a long comment about partisan nature of the hearing itself.

The hearing was conducted in an otherwise orderly and fair fashion, and I have had no member of the minority other than the gentleman, who is not a member of the subcommittee, issue a word of complaint about that hearing, nor indeed any member of the administration as far as that goes.

Mr. SWINDALL. Reclaiming my time, let me in fact read the colloquy which the gentleman mentioned because I think it is very important to the point he just mentioned. If this is a partisan statement, I think the record speaks for itself, and I will quote from page 81.

Mr. Chairman, I have quesions of the last witness. As you well know, you sent a letter to our chairman, Mr. RODINO, on January 6, in which you stated that because of the jurisdictional lines being split between the Immigration Subcommittee and the so-called Courts, Civil Liberties and the Administration of Justice—

At that point you interrupted and said:

I have not yielded to the gentleman—

Then I stated:

Mr. Chairman, if you will not continue to yield, I am going to step outside the chamber and hold my own press conference—

Then you stated:

You may do so.

Then I stated:

Because I was invited to this subcommittee to participate and you have attempted to basically focus the direction of this subcommittee on those questions that you deem necessary.

Mr. Chairman, I, for one, am fed up with a House that is run by rules that basically focus on what the majority wants to focus on. The chairman, I think, tipped his hand when he said that the purpose of this subcommittee is to focus on the administration's handling of this issue. I think it is broader than that. I think that we ought to be looking at all the issues that caused the riot, not those predetermined by the chairman.

So, Mr. Chairman, if you would like to call back the last committee witness and allow me to ask the questions that I would have asked, I will remain. Otherwise, I am going to hold a press conference outside and state exactly what the chairman is attempting to do here.

At that point you said:

The gentleman is invited to hold his press conference.

After I walked calmly out of the room, the gentleman then stated that, "This basically constitutes a mini-riot" on my part.

Mr. KASTENMEIER. Will the gentleman yield at that point because the gentleman is not quoting the transcript in full. Will the gentleman yield?

Mr. SWINDALL. The gentleman is correct, I have not yielded, if the gentleman pleases. The transcript is, in fact, 151 pages long. I have not attempted to quote it in its entirety. But I am happy to yield if the gentleman would be respective of my rights. I would be happy to yield for the purpose of the gentleman quoting other portions.

Mr. KASTENMEIER. The gentleman having yielded, he quoted the gentleman, that I said the gentleman is invited to hold his press conference, and Mr. SWINDALL then said, "Thank you, sir."

I said, "I will say that there have been clearly a number of minority Members here this morning, Congressman HYDE, Congressman MOORHEAD, Congressman LUNGREN, Congressman COBLE, Congressman DEWINE. They, I hope, feel that they are entitled to ask any questions they wish about this matter.

"This is not an attempt to blame this administration. Indeed, the problem started, the Chair will observe, under President Carter——"

Mr. SWINDALL. Reclaiming my time——

Mr. KASTENMEIER. The gentleman has carefully——

Mr. SWINDALL. Mr. Speaker, reclaiming my time——

Mr. KASTENMEIER. Failed to make reference to the comments.

Mr. SWINDALL. Mr. Speaker, I have reclaimed my time. I have a question to ask the gentleman.

My question is, Why does the gentleman feel that civil liberties and rights of certain Members are appropriate but not my right given the fact that I am the ranking member of the Subcommittee on Immigration, Refugees, and International Law? I was invited at the gentleman's insistence expressly to participate, and given the fact that I was participating until I asked some questions that "you resented."

I am happy to yield for purposes of the gentleman answering that question.

Mr. KASTENMEIER. If the gentleman will yield, I will once again repeat, Mr. Speaker, the gentleman was invited, but he was not invited as a member of the subcommittee holding the hearings.

Mr. SWINDALL. Reclaiming my time, does that mean, Mr. Chairman, that so long as individuals stay within the gentleman's framework and within the questions that he prescribes and determines to be OK, that individuals could continue to participate? Had I chosen not to ask questions the gentleman found resentful or resented, I should say, would I have been allowed to participate in full just as any other Member of the Congress invited to participate?

I am happy to yield for purposes of the gentleman's reply.

Mr. KASTENMEIER. If the gentleman will yield, it was not necessarily the questions alone but the gentleman's manner, the sort of contentious spirit in which the questions were asked, frankly, that I thought or that led me, as I say, and I have been a subcommittee chairman for 20 years, to think that the hearing would not be assisted by that sort of questioning. I called off what I thought was overconfrontational questioning in terms of the gentleman from Georgia [Mr. LEWIS]. I was called to gavel the committee to order. I frankly used my position as chairman to make that judgment.

As I say, I treated the gentleman as a guest in that room, and I thought he abused, frankly, the privilege, and that was a judgment this chairman made. If I violated any rule, the gentleman has failed to cite it.

Mr. Speaker, I think the matter should be brought to a close.

Mr. SWINDALL. Reclaiming my time, I would just ask the gentleman one other question then. What specifically did the gentleman have in mind when after the hearing he stated to a reporter that this entire incident could have been avoided if the two had agreed beforehand on my participation, given the fact that the gentleman had sent a letter stating that I should participate, does that in fact mean so long as my participation is within the framework of the gentleman's agenda for the hearings which he stated specifically was to focus on administration witnesses?

I am happy to yield.

Mr. KASTENMEIER. Mr. Speaker, what I had in mind was discussing with the gentleman how long he wanted to question witnesses. We do not have or we do not exercise a 5-minute rule in this subcommittee. But if the questioning becomes unduly protracted, I do have a problem. And whether the gentleman, for example, wanted, as the gentleman from Colorado [Mr. LEWIS] did, even to address the committee at the outset, those are things we might have discussed.

As I said, I felt that we could have determined the nature of the gentleman's participation at that point in time and probably what has occurred would not have occurred. But that is what I meant by it.

I have not had a problem with the gentleman from Georgia before when he was a member of the subcommittee in the 99th Congress. I was not looking for any difficulty in this particular hearing with the gentleman from Georgia.

The gentleman will also recall that the second witness said he had difficulty speaking, and he had a cold, he had already been examined for a protracted period of time I thought by the subcommittee, and I thought that the gentleman would probably unduly prolong the examination of that witness, quite candidly, and I elected not to call on him. That, of course, was the major problem the gentleman had. But, in any event, as I say, that was an exercise, a judgment that chairmen occasionally have to make. I would rather accommodate people than be engaged in a contest with them. That is the way I have operated for 20 years, and members of my subcommittee know that.

Mr. SWINDALL. I thank the gentleman.

Let me just state that is certainly not consistent with what the gentleman said at the time that he cut me off. What he stated, and I am stating it in its entirety, "Too far afield," no mention of time, "Too far afield and I really resent the gentleman from Atlanta attempting—it is the administration witnesses that we are principally here for today, not to engage in an internecine debate between two Members."

In other words, Mr. Speaker, the gentleman did not state at the time that there was a time restraint, he did not state at the time that I was not a member of the subcommittee. He stated that he resented my questions.

Mr. Speaker, I would close by saying that is certainly nothing personal here. I do not intend this to be an engagement based on personality. It is an engagement based on a very fundamental right, one of the most fundamental rights. It has nothing to do with the rules of this House, it has everything to do with the Constitution, which is the supreme law of the land, which describes exactly how members of the United States at large that are called citizens are to elect Representatives to represent them.

I would close by saying the heart of the issue is not whether I am there to represent the views of the chairman or whether I am there to follow the very close rein that the chairman obviously feels he has over every Member's right to freedom of speech, so that if I choose in the future to ask questions I have to be very careful not to in any way offend the chairman's notion of the scope of the hearings, but rather I have got to walk on a very tight line to make sure that I am within that scope. That, Mr. Speaker, is not my definition of the democratic process. It is certainly not what our Constitution stands for.

It is true, I could have avoided this confrontation. But to have avoided this confrontation would have I think been a violation of the gentleman's constituents' rights, my constituents' rights as well as the constituencies of every one of the 435 Members of the House of Representatives. I would certainly seriously hope that every Member of this body would think about the fact that when a minority Member is cut off because one Member of Congress feels that the questions are inappropriate, then every Member of Congress is ultimately at risk of being similarly severed of their rights, but worse than that, the American people. If this were not the "Civil Liberties" Subcommittee, perhaps I would have a slightly different attitude. But this is after all the "Civil Liberties" Subcommittee.

I would hope that the next time we pass a Civil Rights Restoration Act that we think in terms of restoring of the minority party in this House who are trying to participate, despite rules that say Members may not amend the Civil Rights Restoration Act, may not amend the aid for freedom and democracy in Central America, a bill which we are debating here today.

Mr. Speaker, I appreciate the Chair's time and appreciate the chairman of the Subcommittee on Courts, Civil Liberties and the Administration of Justice taking his time. I think this should be instructive to all of us in terms of exactly what our rights are, whether a Member be a minority or majority member.

Mr. Speaker, I submit for the RECORD the aforementioned letter dated January 6, 1988.

COMMITTEE ON THE JUDICIARY,
Washington, DC, January 6, 1988.

Hon. PETER W. RODINO,
Chairman, House Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I have received your letter of December 18, 1987 in which you inquired about the plans of the Subcommittee on Courts, Civil Liberties and the Administration of Justice to investigate and hold hearings on the Mariel Cuban uprisings.

As you are aware, my interest in the Mariel Cuban situation is longstanding. My involvement in this issue has included two visits to the Atlanta Penitentiary, one on which I was accompanied by two Committee counsel in February 1986 and one on which I sent an additional Committee counsel in October 1987. After the first visit, the Subcommittee issued a report urging a quick and just resolution of the inhumane detention of thousands of Cuban detainees. The Subcommittee was in the process of evaluating the information acquired during the second visit when the detainees began rioting at the Oakdale and Atlanta facilities.

It has been my intention since those two institutions were sieged to conduct hearings on the Mariel Cuban detainee situation. So as not to adversely impact the hostage situation however, I decided to postpone any public action until both hostage crises had been resolved and the Bureau had been given time to recover from the trauma of the riots. In the meantime, I had instructed my staff to obtain as much information as possible regarding the events surrounding the rioting by the detainees.

Unfortunately, the informal gathering of information by the Subcommittee staff has been much more difficult than I had expected. From the first day of rioting at Atlanta until last week, the Department of Justice had cut off the normal lines of communication between the Bureau of Prisons and the Subcommittee staff, requiring the staff to speak only with Department of Justice spokespeople from the Office of Legislative Affairs about the detainees. The information provided by these spokespeople was, at best, slow in coming and the staff often found themselves reading newspaper articles which cited Department of Justice sources and contained information that the Department of Justice had refused to provide directly to the staff.

In addition, I have attempted to schedule briefings with the State Department, Department of Justice, Bureau of Prisons and Immigration principals involved with the Mariel Cubans. Though the State Department representatives met with me within days of my request, two meetings scheduled with the other principals were cancelled at the last minute by the Department of Justice. (The second meeting was to have been held with members of the Subcommittee staff after I was unexpectedly called out of town to attend a funeral.) This frustrating interaction with the Department of Justice further confirms the need for formal hearings on this topic, particularly in light of information provided by the State Department that directly contradicts certain representations made by the other agencies.

As you recognized in your letter, the issues raised by the Mariel Cuban uprisings span the jurisdiction of two Subcommittees, my own and the Subcommittee on Immigration, Refugees and International Law. Because it is impossible to bifurcate the issues along jurisdictional lines, the hearing that will be conducted by my Subcommittee will necessarily include some witnesses and information that might properly be brought before the Immigration Subcommittee. I, therefore, welcome any member of staff of the Immigration Subcommittee to attend and participate in the hearing that we will conduct on this issue.

With warm regards,

Sincerely,

ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties and the Administration of Justice.

□ 1200

PROVIDING FOR CONSIDERATION OF A JOINT RESOLUTION TO PROVIDE ASSISTANCE AND SUPPORT FOR PEACE, DEMOCRACY, AND RECONCILIATION IN CENTRAL AMERICA

Mr. BONIOR of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 390 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 390

Resolved, That immediately without intervening motion upon the adoption of this resolution it shall be in order for Representative Michel of Illinois, or his designee, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of a joint resolution to provide assistance and support for peace, democracy, and reconciliation in Central America consisting of the text printed in section one of the report of the Committee on Rules accompanying this resolution, and the first reading of the joint resolution shall be dispensed with. After general debate, which shall be confined to the joint resolution and which shall not exceed two hours, equally divided and controlled by the majority and minority leaders, or their designees, the joint resolution shall be considered as having been read for amendment under the five-minute rule. No amendment to the joint resolution shall be in order except the amendment printed in section two of the report of the Committee on Rules accompanying this resolution, by and if offered by, Representative Foley of Washington, or his designee, said amendment shall be considered as having been read, shall be debatable for not to exceed one hour, equally divided and controlled by the proponent and a Member opposed thereto, and shall not be subject to amendment. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendment as may have been adopted and the previous question shall be considered as ordered on the joint resolution and amendment thereto to final passage without intervening motion except one motion to commit which may not contain instructions.

SEC. 2. If the joint resolution made in order by section one of this resolution is not considered, it shall be in order to consider in the House a joint resolution to provide assistance and support for peace, democracy, and reconciliation in Central America, if offered by Representative Foley of Washington, or his designee, consisting of the text printed in section two of the report of the Committee on Rules accompanying this resolution. The joint resolution shall be debatable for not to exceed two hours, equally divided and controlled by the majority and minority leaders. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to commit which may not contain instructions.

The SPEAKER. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR of Michigan. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Mississippi [Mr. LOTT] and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resoulution 390 provides for the consideration of a house joint resolution providing assistance to support the peace process in Central America printed in section 1 of the report of the Committee on Rules accompanying this resolution.

Under the rule, it is in order for Mr. MICHEL or his designee, immediately after adoption of the rule, to move that the House resolve itself into the Committee of the Whole for the consideration of the joint resolution printed in section 1 of the report of the Rules Committee.

General debate is confined to the joint resolution and is limited to 2 hours equally divided and controlled by the majority and minority leader or their designees.

The joint resolution is not amendable except by an amendment printed in section 2 of the Rules Committee report, by and if offered by Representative FOLEY or his designee.

The amendment is debatable for 1 hour equally divided and controlled by a proponent and a Member opposed thereto. The amendment is not subject to amendment.

The rule also provides for one motion to commit.

Mr. Speaker, the rule further provides that should the joint resolution printed in section 1 of the Rules Committee report not be considered, it would then be in order to consider a joint resolution to provide assistance and support for peace and democracy and reconciliation in Central America if offered by Representative FOLEY or his designee.

The joint resolution would consist of the text of the amendment printed in section 2 of the Rules Committee report.

General debate on this joint resolution shall be 2 hours equally divided and controlled by the majority and minority leaders. Because the joint resolution is considered in the House, it is not amendable.

The rule also provides one motion to commit.

Mr. Speaker, this is a fair rule under which to consider assistance and support for the peace process in Central America. As you will recall on February 3, 1988, this House considered the President's proposal for aid to the Contras. The package was not amendable. There was an up-or-down vote. The understanding among Members was that if the February 3 proposal was defeated, there would be an opportunity to vote on an alternative package.

In the past month, a broad-based group of Members of this body have worked on such an alternative. The leadership made repeated offers to the administration and the minority to work together to craft this package. But, much to our regret, the minority did not choose to come to the table.

Mr. Speaker, today we avail ourselves of the opportunity to present a positive package to support the peace process in Central America. It is only fair that the first vote be on this alternative package.

The administration had a chance to present its package on February 3. If the minority were to vote first today, it would have had two consecutive opportunities to present its unamended proposal before the House, before any alternative was even considered.

Mr. Speaker, the minority requested an opportunity to present its proposal. In this rule we have provided to them what was denied us on February 3 to have structured the vote any other way than we did would have been unfair to the majority of the Members of this body who want to vote for an alternative package that supports the peace process in Central America.

The alternative package I will offer on behalf of a broad-based coalition of Members—liberals, moderates, and conservatives—will put this Nation squarely in support of the peace process in Central America. It is a balanced package which provides incentive to both sides to reach a negotiated settlement in Nicaragua.

Specifically, the total aid package is $30.56 million over 4 months. It includes $16 million over 4 months to provide only food, clothing, shelter, communication equipment, medical services, medical supplies, and payment for transportation of these items to the Contra forces.

In the absence of a cessation of hostilities between the Contras and the Nicaraguan Government, the Department of Defense would deliver the supplies. The DOD supply operation would be subject to inspection by both the House Intelligence Committee and the General Accounting Office. The DOD will contract out delivery services to non Government personnel very much like the Central Intelligence Agency did. There are strict prohibitions against any U.S. military personnel in the war zone.

In the event there is a cessation of hostilities, responsibility for delivering the aid would be transferred to a nonpolitical private voluntary organization or an international relief agency such as the Red Cross.

The package also includes $360,000 per month in aid to the Miskito Indians with whom there is currently a cessation of hostilities. The aid would continue through the International Red Cross or other independent agency as long as the cessation of hostilities lasts and there is progress toward a cease-fire.

Should there be a negotiated cease-fire between the Nicaraguan Government and the Contras, assistance would be continued after July 1 through December 31, 1988 as long as the cease-fire was still in effect. The assistance would be provided through the International Red Cross or another nonpolitical voluntary organization or international relief agency. The aid would be provided in terms consistent with the cease-fire agreement.

This Democratic package also includes $14.56 million for medical care and other relief for children who are victims of the Nicaraguan war. The funds would be channelled through the Agency for International Development to a nonpolitical private voluntary organization or relief agency already in operation in the area.

Mr. Speaker, the package also includes expedited procedures. The special procedures are triggered if, any time after June 1, 1988, the Intelligence Committee of the House reports that there is no negotiated cease-fire in place as a result of a lack of good faith efforts by the Nicaraguan Government while the Contras have been making a good faith effort to negotiate.

If the Intelligence Committee makes such a finding, the majority leader or his designee may introduce a resolution calling for additional assistance to the Contras, which will be considered within 10 legislative days.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have asked unanimous consent to revise and extend my remarks, and also to include extraneous matter, because I would like to begin today by reading some quotes from various articles into the RECORD. The first one is from the Washington Post of Wednesday, March 2. This is an article entitled "GOP Opposes Contra Aid Voting Plan." I will read one paragraph:

> Several times in the past week Wright has said that the House minority would have an opportunity to have its contra-aid plan voted on. Last Thursday, for example, when asked about the displeasure of some liberal Democrats with that pledge, Wright said, "I don't think you win by denying other people" a vote on the Republican plan.

Mr. Speaker, in a release issued by the House Republican leader, the gentleman from Illinois [Mr. MICHEL], on March 1, consisting of only three brief paragraphs, he said this:

> Seldom in my tenure in Congress has the Democratic majority exercised such abuse of the legislative process as they have in the procedures which have been forced upon us for considering the Speaker's Contra aid proposal.
>
> The Rules Committee's action in effect denied the bipartisan coalition's proposal for effective Contra aid any real chance of passing or even being voted on.
>
> In over 30 years as a Member of this institution, I have kept my word. I expect others to do the same.

I have one other quote to offer. This is not on the rule itself, but it was on the UPI wire service this morning, and it says this:

> In Managua, President Daniel Ortega called for direct talks with the Contra rebels next week in a small border town inside Nicaragua, saying Roman Catholic Cardinal Miguel Obando y Bravo no longer is needed as mediator.

Mr. Speaker, we see reports that the Soviet Union continues to build up its arms support that they are providing to the Sandinistas in Nicaragua. I have to ask my colleagues, "Don't these things concern you? Aren't you concerned about each one of these four points I have made?"

I would begin my remarks on the rule today by asking this question: Is there any honor and trust left between us in this institution? If there is, can we not this morning come up with a better and a fairer rule than the one we have before us as reported by the Rules Committee?

This is not a fair rule. One can make the argument: "Oh, you will have a chance to make your case for the Michel alternative proposal." But will we have a chance to have a vote on it? Not if the majority proposal passes, no chance at all.

□ 1215

Ordinarily, I would think that the Rules Committee would have done what we have done in the past in this sort of situation, still giving the majority position the primary one, with the so-called king of the hill process; debate your proposal, your alternative; debate our alternative; vote on our alternative, and if it wins or it fails, then you go to the majority proposal, and if it wins, you prevail because it is the king of the hill. The last to be voted on that passes, wins. That would have been fair. Everybody could have had their chance. Everybody could have debated their proposal, had a vote on it, but the last one that wins prevails.

I thought that was what we were going to have; so I was stunned by what I found the Rules Committee prepared to do, a process that does not give the substitute that would be offered by Mr. MICHEL or his designee an opportunity to be voted on. No, that is cut out.

Now, let us take a moment to look back at the history of this issue. We voted "yes" on February 3 on the President's package, but it was defeated by eight votes, and we all know that one of the reasons it was defeated on that close vote was because a promise was made at the last minute, "Oh, but we'll give you an opportunity for another vote for some kind of aid before the end of the month of February." That promise was made and it affected some votes. As the Republican whip, I know it affected some votes, just enough to make the difference.

Well, we did not get that vote before the end of February, for some strange reasons. The Rules Committee was to meet in time to have that rule allowing this additional vote or votes to come up. I thought everything was all worked out. I was prepared to support the rule, which would have had an alternative proposal from the majority and an alternative from the Republicans that would be debated and voted on, but for some reason the Rules Committee did not come back and vote like we were supposed to, and all of a sudden it was even off the agenda. It was not going to be considered on the floor of the House.

I was puzzled, but I was told, "well, it is because the Members do not know much about either proposal." That is true, because no committee has considered the substance of this, not even the Rules Committee. But there was more.

Yes, the Rules Committee would come back this week to meet again on the Contra aid rule. And the agenda put out by the Rules Committee indicated that we would take up one other issue first and then we would take up the rule on the Contra aid package. But when I arrived, to my amazement, the order had been reversed and, whammo, a rule had already been reported out by the Rules Committee, without hearing any further comments from anybody.

Frankly, only moments before had the Republican leader been advised that the opportunity for him to have a substitute and have it voted on, as a matter of fact, had vanished.

Then, when he came to the Rules Committee to testify on the so-called Grove City bill, he tried to make some comments on this rule, and he was at least tapped down, if not gaveled down, and told, "Hey, you're here to talk about this other bill. We don't want to hear that."

Well, after a little tete-a-tete back and forth, I have to say that majority was kind enough to allow our leader to at least make his comments, and he was as kind as he could be in saying, in effect, "The agreement I was told is not here. It is gone."

So that is why we find ourselves where we are today. There is no need for it.

What are you afraid of? You have got these hordes of votes over here. Why can you not give everybody a fair shot and let us vote on both issues?

It is a different issue. These are different times. A lot has happened since February 3, but now under this rule, we are not going to have that opportunity.

Now, let us talk about the differences between the two bills, the main differences. The Democratic leadership package totals around $30.5 million, of which $16 million is purely humanitarian assistance, foreign aid, if you will, over 4 months and $14.5 million is relief for children who are victims of the war in Nicaragua.

The Michel proposal, or his designee, on the other hand, totals $36.2 million, of which $22.25 million is in nonlethal aid to the Contras over roughly 2 months, and $14 million is in medical assistance to children injured in conflicts in Central America.

But now we come to the critical differences between the two packages, and that is, what do we do if the peace process collapses?

First of all, one other point. It does say that the DOD, the Department of Defense, will have to deliver whatever aid we do send forward, not the CIA.

You know, I tell you, this is step one, getting the Defense Department directly involved, which many of us on both sides of the aisle have been saying from the beginning that we do not want to get into.

The Michel substitute permits the President, though, if the peace process does not work, to submit a request for further Contra aid, which includes military aid, if after April 15 he certifies that an agreed-upon cease-fire is no longer in place due to bad faith on the part of the Sandinistas, and not the Contras.

The Democrats' package simply hints at the prospect—hints at the prospect of a vote on further Contra aid after June 1, but that is conditional on a finding by the House Intelligence Committee—the House Intelligence Committee, get that, not even the Senate Intelligence Committee, no involvement by the administration, that the Sandinistas, and not the Contras, are to blame for a cease-fire breakdown.

There is nothing in the language to mandate the Intelligence Committee to report to the House one way or another. It is purely discretionary; but in the event that it does make such a finding, expedited consideration or additional Contra aid would only apply to a joint resolution introduced by the majority leader in the House or his designee, but again, it is purely discretionary. He is not required to introduce a resolution even if the Sandinistas are exterminating the populace.

And keep in mind that the majority leader has been one of the most outspoken opponents of aid to the Contras. But, if by some miracle the majority leader should introduce such a resolution, it would be referred then to the appropriate committees. And if not reported after 7 days of session, it would be discharged and placed on the calendar; but it would only be privileged for consideration if called up by the majority leader, or his designee, after it has been on the calendar for 3 days of session.

No other Member can call up the resolution, if the majority leader decides to let it die on the calendar.

Moreover, it would not be subject to amendment unless the Rules Committee reports a special rule making amendments in order. In other words, even if the President makes a request for military assistance, it is unlikely that it would receive floor consideration.

Keep in mind that the majority leader's resolution does not have to go through the Rules Committee, and yet only the Rules Committee can make an amendment in order.

The Republican leader's proposal, on the other hand, gears the expedited procedures to a Presidential finding and a request for further aid, the way we traditionally have treated this important foreign policy initiative and others like it.

Moreover, any Member can introduce the necessary joint resolution of approval and call it up as privileged after 15 days of session.

So unlike the Democrats' proposal, the Michel plan ensures that a Presidential request for Contra aid will be considered. It does not depend on Contra aid opponents to trigger the process.

While it is true that the Michel proposal does not permit amendments, it is evident that the Rules Committee could easily intervene and make an alternative in order, and I assume they would, and we would probably have no problem with that.

This is facilitated by explicit language carried forward from the CR from last year that permits the House to change the Contra aid procedures at any time by a simple majority vote.

So the key questions in this whole procedure are, first, do we want to leave the question of further Contra aid solely in the hands of the Contra opponents; and second, do we want to shift responsibility for major foreign policy findings and initiatives from the President to the Congress?

Mr. Speaker, as far as I am aware, this is the first time in the history of our Republic that Congress has not only invested itself with the executive right to initiate a major foreign request, but has shut the President completely out of the process. For some 200 years now the President has been recognized under our system as the chief policymaker and spokesman for this country, but no more.

This Democratic leadership bill is not just a partisan flap. It is a radical departure and repudiation of our constitutional system of executive preeminence in matters of foreign policy.

Keep in mind here that nobody is talking about giving the President a completely free rein. The Congress must still enact any further Contra aid requests. We still have the power of the pursestrings under the Constitution.

Mr. Speaker, let me just conclude by observing that the Michel proposal honors and protects those traditional and constitutional roles and prerogatives of both branches. By ensuring a vote on any Presidential request, it applies real pressure on the Sandinistas to abide by any cease-fire agreement.

The Democratic proposal, on the other hand, offers no assurance that a certification report will ever be made by the Intelligence Committee. It offers no assurances that the expedited Contra aid resolution will even be introduced.

It offers no realistic prospect that a Presidential request would be permitted a vote.

Some of you might say, "Oh, well, this is still the normal process. We will get it on the appropriation bill if we need to."

Do you know when we are going to get a Defense appropriation bill through the whole process? Not May, not June, not July, not August, maybe September, but probably the last vote of the last day of the session the first of October, wrapped up, I am sure, in some continuing resolution, but certainly not before sometime in December.

The Michel proposal, on the other hand, it our best hope for a genuine peace with freedom and democracy in Central America, because it puts real pressure on the Sandinistas to produce, rather then merely posture until the Contras fade away.

Mr. Speaker, I urge adoption of the Michel plan and, in order to ensure that the House will even have a chance to vote on the Michel plan, as promised by the Speaker, I urge defeat of the previous question and adoption of the king of the hill substitute rule, which I will be prepared to offer at the proper time.

I thank you for your patience. I urge you to defeat this rule if the previous question is not defeated.

Mr. BONIOR of Michigan. Mr. Speaker, let me make just a few brief comments with regard to my dear friend, the gentleman from Mississippi. Then I would yield to my friend, the gentleman from Massachusetts.

Mr. Speaker, we considered long and hard how we would deal with this rule, and we tried to look at this issue from the perspective of both people in our party and people in your party. It just seemed fair. I should point out that there was a good deal of comment to the leadership from Members on our side of the aisle with respect to not making any alternatives in order for you.

The argument went that you had your chance on February 3. Let us put our alternative package up without any opportunity to have it amended, just like the February vote when we did not have the opportunity to amend yours, but we rejected that. The Speaker felt it was necessary, and I think correctly so, to allow the Republicans to come forward with a substitute.

The question then was, who goes first, who goes second? Had we allowed the Republican substitute, the Michel substitute, to go first, it would have been quite possible that not only would you have gone first on February 3 and had your vote, gone first today and had your vote, but if you had prevailed today you would have had an opportunity under expedited procedures submitted by the President to have another vote sometime down the road within a month or a month and a half, and you would have had three shots in a row. That just did not seem fair to our side.

So what we have here is a situation today somewhat similar, but a little more fair, than what we did on February 3. It is similar in the sense that the burden will be on your side to defeat our proposal, and if you are successful, you will immediately have an opportunity to get a vote on your proposal. We did not even have that opportunity on February 3. Once it was defeated, the package was gone. There were a good deal of numbers, as the gentleman correctly pointed out, who wanted to see something passed, and the Speaker made a commitment that we would be able to provide an alternative, and he said we would be able to do that at the end of February, sometime in February.

Well, we tried. We worked hard to come up with something to meet that February deadline last week.

We asked you all to participate. We were not successful in getting your cooperation on that, for reasons that may completely have been legitimate. I do not begrudge you for not partaking. I wish you would have come up, but you did not.

Then on Thursday when we had our Rules Committee meeting, we heard witnesses. We still had not seen the Democratic product or the Republican product, and it was felt by Members, and I think a reasonable request was made by a good deal of the Members, that they have a little bit of time to digest what you have put together and what you showed us at 6 o'clock on Thursday evening and what we frankly showed you at 6 o'clock on Thursday evening.

Mr. LOTT. Mr. Speaker, if the gentleman will yield, we were looking for your proposal at 6 o'clock, and it was not available.

Mr. BONIOR of Michigan. No, but we came together at 6 o'clock with proposals, and there was a lot of confusion on what was in those packages. We decided to delay it over for a couple days, and that is basically what we have done, and I think we have kept our commitment in bringing this to the floor in an expeditious manner.

Now, the gentleman from Mississippi has made four points. The gentleman talked about the rule. Let me go to a second point.

The gentleman mentioned the talks in Nicaragua, the cease fire talks, and the article that was in the paper today.

I would point out to my friend, the gentleman from Mississippi, that for 3 or 4 years Members on his side of the aisle have been pleading with the Nicaraguan Government: First, to meet face to face with the Contras and with their directorate; and second, to do it inside Nicaragua. That was accomplished by last night when the Government of Nicaragua agreed to meet the directorate of the resistance for the Contra forces, and they agreed to meet them inside Nicaragua.

□ 1230

This does not take y Bravo out of the process. He is still head of the reconciliation commission. He will be an important player in reconciling the problems of that country.

The third point the gentleman from Mississippi [Mr. LOTT] made is that arms are still flowing into Nicaragua from the Soviet Union. I would suggest to my friend that if he is so concerned about that, that he would go to the White House and meet with his friends and get them to take up on Gorbachev's offer on cutting off the pipeline of arms to Nicaragua. Gorbachev has made that offer on a number of occasions, and the administration has not picked it up off the table.

It seems to me if they were really interested in reaching a ceasefire and reconciling problems in that country, that that would be one of the first things to do.

Mr. Speaker, I might point out in our alternative package we encourage that. We encourage bilateral talks as well.

The fourth point that the gentleman from Mississippi [Mr. LOTT] mentioned was the question of timing last week on the February vote. I think I have alluded to that. I think Members on both sides of the aisle were pleased that we did not take that vote last week and we had time to digest it.

Mr. LOTT. Mr. Speaker, would the gentleman yield?

Mr. BONIOR of Michigan. Mr. Speaker, I yield to my friend, the gentleman from Mississippi.

Mr. LOTT. Mr. Speaker, I have two or three points in response to what the gentleman from Michigan [Mr. BONIOR] has said.

First of all, he makes it sound like this vote on February 3 was something that we insisted on, or that we forced on our colleagues in the House where there would be only one vote.

I remind the gentleman from Michigan [Mr. BONIOR] that that was a bipartisan agreement, and as a matter of fact Members on your side of the aisle and I think probably the gentleman from Michigan [Mr. BONIOR] himself was very much involved in that, insisting that it come up in the way that it did and that it not be subject to amendment because I presume they wanted to see what the President had proposed and to just try to defeat that. But that was a bipartisan agreement that was reached late last year in the continuing resolution. That is point No. 1.

Mr. BONIOR of Michigan. Mr. Speaker, I will reclaim my time, and I would be happy to yield right back to the gentleman from Mississippi [Mr. LOTT], but that was a concession that we made to Senator STEVENS over in the Senate. I was not for putting the procedures in that manner together, but we agreed to that for the sake of comity and getting the reconciliation bill through. My colleagues should know that that was a Republican proposal that was part of the package that was put together and it did not come from our side. I frankly did not agree with.

Mr. Speaker, I yield to the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. Mr. Speaker, I was not in the negotiations myself, but my understanding is that it was a bipartisan arrangement.

Second, as far as the order, I really think that maybe if I could have talked to the gentleman from Michigan [Mr. BONIOR] before we had this rule, we could have worked out a different rule that would have been fairer and that would have been satisfactory to all parties. Our colleagues on your side of the aisle can set up this king-of-the-hill voting any way desired and if your side wanted to have the first vote it could be set up that way. At least it would have been a vote on both substitutes, and the last one prevailing would win. I do not say that that is a perfect process, but it is one that we have used before here and generally speaking everybody has been satisfied with that. If the order of vote was so important, I say to my friend the gentleman from Michigan [Mr. BONIOR], your proposal could have gone first, or we could have gone first. Or we could have mixed it either way. Traditionally your side does have control over which one goes first, but at least we would have each had a shot on a vote. In this process, if your side wins, that is it. There will be no vote on the alternative package.

As far as Gorbachev's offer to stop sending arms into Nicaragua, maybe the gentleman from Michigan [Mr. BONIOR] knows more about that offer than I, but I have not heard the proposal. I presume there is a second step to that tied to something. I do not know what that might be. I know they have not shown any inclination to stop flooding arms into that area.

Mr. HUNTER, Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. Mr. Speaker, for purposes of debate only, I yield 30 seconds to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank the gentleman from Michigan for yielding.

Mr. Speaker, looking at the numbers of arms that are coming into Nicaragua and the agreements that have been made by Soviet advisers with Cuban advisers together with the Sandinistas all the while the Arias peace talks were ongoing to increase military strength of the Sandinistas to 600,000 men, and to provide for contingency plans for attacks on Costa Rica, and in the event of emergency to put Mig aircraft at Punta Hueta, I think it is ridiculous to state that if Mr. Gorbachev, if only asked, would remove the Soviet presence from Central America.

Mr. BONIOR of Michigan. Mr. Speaker, reclaiming my time, the fact of the matter is that Gorbachev put it on the table and the President has already admitted and so has the State Department that the offer was made. The question is whether this Government is willing to pick it up. To date they have not.

I say to my colleagues on the minority side that they are in a better position to get the administration to address this issue than we are. I would suggest that they start doing it if they really want to stop the flow of Soviet arms to Nicaragua.

Mr. HUNTER. If the gentleman will yield, is the gentleman from Michigan [Mr. BONIOR] stating that Mr. Gorbachev has offered to get out of Central America and stop the flow of arms if we will only ask him, or is the gentleman from Michigan [Mr. BONIOR] offering to become a player in diplomatic relations?

Mr. BONIOR of Michigan. I do not know of private offers, but I do know that publicly he suggested that he would stop sending military arms into Nicaragua. The real question is, Is there going to be a followup by this administration on that important point?

Mr. Speaker, I will yield further to the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. Mr. Speaker, I think we need to clear this point up because I am sure if there is such an offer it is a two-step offer and I do not know exactly what it would involve but perhaps it would involve something in Afghanistan or something of that nature because this is strictly news to me.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I am glad to follow the gentleman from Mississippi's [Mr. LOTT] two-step.

Mr. Speaker, I want to address the procedural aspects of this rule.

If inconsistency was legal tender, the Republican leadership position on rules would have paid off the national debt a long time ago. I asked my staff and they worked very hard, and I got a small staff like most of us in the House, and they could not get all of these bills but I asked a simple question, how many times has the Republican leadership supported closed rules in the House keeping Members of this House from offering amendments?

Mr. Speaker, I just have some highlights here. There was the trade bill, the tax bill, reconciliation in 1981, the budget reconciliation involving Gramm-Latta, the Reagan tax cut of 1981, Social Security amendments of 1983, all major pieces of legislation. The Committee on Rules brought out a closed rule with the support of the Republicans. They did not even ask for a rollcall on that one.

In 1984 there was another tax reform, the 1985 Tax Act, the minority leadership voted for closed rules on all of them. In some cases I wanted to offer amendments, and sometimes I voted against them. There are people in this body who are consistently in favor of always allowing things to be amended, but none of them seem to be in the Republican leadership. That is OK, but allowing amendment at any time is not like a hot water faucet. One cannot turn it on and off when one finds it convenient and claim then to be a principal supporter of openness. The charge that somehow the Republican leadership is being unfairly treated because a particular rule structures things, is wholly at variance with their behavior since I have been here. When they find it convenient, they will vote for no amendment at all. This includes votes on tax bills, trade bills, budget reconciliation, the most important legislation we deal with and it all comes here with Members unable to offer any amendments which the Republican leadership supports.

So spare us the lamentation. One cannot be a virgin every other month. One cannot have a principle to which one occasionally is deeply committed and spend the rest of the time violating.

There is simply no commitment on the minority leadership to an open rule.

What is wrong is the air of injured innocence, "My goodness, we are not going to get the amendment voted on in the form we want," from people who have time and again voted to allow no Member at all to offer any amendment on some of the most important legislation we have.

As to the specifics of this rule, what they are complaining about, by the way, is not that their proposal cannot be considered. They apparently think they have a right to have it considered unamended. The Republican proposal, over the objections of many on the Democratic side, and I have heard it, in full conformance with the pledge of the Speaker, and I want to say that we are here dealing with this because the Speaker made commitments and he has been absolutely scrupulous in carrying them out. What he said is that we will have a choice, so the Republican bill is on the floor, and what is the objection? What is the horror that has been perpetrated on this Republican bill? It is subject to amendment. That is the violation of civil liberties from which we have been hearing complaints because all the rule says is here is the Republican bill and the Democrats may offer a substitute. That is the procedure which is almost always what we get with the other side. We have a bill, and they offer an amendment. If a majority of the House votes for an amendment, the amendment carries. If a majority of the House votes against the amendment, the amendment does not carry, and lo and behold, if a majority of the House were to agree with the minority leadership, what would we have before us? Their bill. Pristine, and open for a vote.

So their complaint is not that their bill cannot be voted on, it is that the rule would allow a majority of the House if it chooses, to amend their bill, but if a majority of the House declines to amend the bill, then that bill is voted on and it will be before us.

So this is one of the new horrors of the age that the Republican leadership, since I have gotten here, has voted for absolute closed rules banning amendment on some of the most important legislation to come before us, and they are upset because their bill which they are allowed to bring forward is subject to an amendment. If a majority of the House does not agree with their position, then somehow that is a violation of democratic procedures.

Mr. Speaker, I have heard arguments around here that lack merit, but if we had a category in the winter Olympics for the least consistent, least justifiable complaint that I have ever seen, the Republican leadership would have won the gold, the silver, the bronze, and the tin on this one because there is absolutely no substance to their argument.

Here is what the Committee on Rules has said to the House. "Choose."

Mr. Speaker, let me add one other thing, and I have to agree that the Speaker broke his word, he said February 29, and here it is March 3. I will have to say that in the history of the Republic, slippage from February 29 to March 3 is probably not in the first 7 billion problems, but that is the only problem they can legitimately complain about. Everything else is not only fair, it is a lot fairer than the rules they have helped consistently to foist on this House.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I must respond to what we have just heard.

It is obvious that the gentleman from Massachusetts [Mr. FRANK] does not know a virgin when he sees one because first of all he has a lot of his information wrong. A lot of those rules that the gentleman from Massachusetts mentioned as a matter of fact did have amendments made in order including the legislation on trade, and the legislation on the tax bill. That is point No. 1.

Point No. 2, we will go with an open rule on this. If my colleagues want to go with an open rule, yes, sir, offer that as an alternative and we will vote to defeat the previous question and go with an open rule on this. But what is at stake on this, and this is may final point. Quite often we do work together across the aisle. Our leadership works with your leadership. Our leader works with your Speaker, and while we might not approve of the rules that are agreed to in the give-and-take, and when it is worked out, that is what happens. Members uphold what has been agreed to.

Our biggest complaint here today is that we were led to believe one thing and that is not what we are getting in this rule.

What I am talking about here and what we are the most upset about today, frankly, beyond the substance is the question of trust, the trust that we thought we could rely on on what we were going to get.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. LOTT. Mr. Speaker, I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I think the violations of trust are frankly misrepresentations which I think we are getting because the fact is the minority is getting a vote. I want to respond to what the gentleman from Mississippi [Mr. LOTT] said specifically. In some cases the closed rules allowed no amendments whatever. In other cases they did allow one amendment, sometimes two. They kept people from offering other amendments. This bill also allows an amendment. This bill gives people more choice as to the basics than most of these other rules.

I never said that they allowed no amendment at all in every case. I said they were closed rules which occasionally allowed one amendment and often offered none, and the gentleman from Mississippi [Mr. LOTT] voted for them in most cases. The gentleman from Mississippi did not always vote for them. The gentleman from Illinois [Mr. MICHEL] did.

As to breaking of someone's word, the Speaker said we would have a vote. We are going to have a choice, and I think the problem of the gentleman from Mississippi [Mr. LOTT] is that he thinks he does not have the votes.

Mr. LOTT. Mr. Speaker, I yield 6 minutes to the gentleman from Illinois [Mr. MICHEL], our minority leader.

Mr. MICHEL. Mr. Speaker, if I might quickly pick up on that argument, a simple answer is available there, too, that in all 32 years that I have been in the House of Representatives the Democrats have controlled this body, have controlled the Committee on Rules, and if it was a closed rule, modified rule or whatever, it was a majority proposition that we may or may not have subscribed to at the time but it was not on our initiative.

Mr. Speaker, let me put my rejection of this rule in language as delicate as the situation allows.

The rule stinks. It smells to high heaven.

We were promised a fair shot at a substitute. We got a shot, all right, a shot in the head.

The analogy of the gentleman from Massachusetts [Mr. FRANK] to the Olympics in Calgary reminds me that I could make one, too. If I were a judge, I would have to give this rule a 5.9 for artistic impression, I suppose, and a zero for technical merit.

□ 1245

There is a British expression for this sort of thing, "Too clever by half." This rule is too clever by half because what the Democratic leadership may have won in the short term they have lost in the long term in terms of respect and trust and good faith on both sides of the aisle.

As bad as this rule is, the Democratic leadership's aid plan is worse. The Democratic majority, which for years has been yelping and howling about the horror of using American Armed Forces in Nicaragua, has now introduced American forces, Armed Forces, into the situation for the first time.

I will not even go into the so-called expedited procedure provision in the Democratic bill. But you put chains around the President's arms, put a gag in his mouth, shackle his legs, and then tell us those fetters constitute an expedited procedure.

And then there is the question of accountability.

How many Americans know, how many members of the majority know that the tax dollars of American families are going to be handed to the Communist Sandinistas if the Democratic majority has its way? That is a fact.

Under section 10 of the children's survival assistance, one-half of the funds involved shall be provided through nonpolitical, private and voluntary organizations operating inside Nicaragua.

Funds means cash, dollars, money.

But in Nicaragua, all foreign currency must be turned into the Communist government.

There is a list of preferred organizations in the bill, all worthy groups who would get this hard earned American cash. But how long do my colleagues think that cash is going to stay out of the hands of the Communists? What happened to all of those cries for accountability?

And this is what the leadership calls compassion. I call it corruption.

The Democratic leadership's proposal, as well as its rule, is designed not to win peace in Central America but to win votes in this House. It is not worthy of this body.

Mr. Speaker, I find this sordid episode personally offensive. But for a moment, let us turn our attention to an incident in 1982 right on this floor, because it shows how far we have fallen.

Our late and beloved colleague, Dan Daniel, had just spoken out against those who, in his words, were selling out El Salvador. As an aside, I regret that Dan's passing leaves us with only one conservative Democrat on that House Intelligence Committee today. But Dan said:

> In our recent history, they are the same groups who supported the Castroists in Cuba, the guerrillas in Vietnam, the followers of Ayatollah Khomeini in Iran, and the Sandinistas in Nicaragua.

Then Dan finished his remarks and another distinguished Member of this body came to the well.

Mr. Speaker, it was you who then said, "I cannot imagine our succumbing once again to the siren song of those who would sell down the river the responsible people who are trying to have a stable, free democratic government."

Those were harsh words. They were true about El Salvador in 1982 and they are true about Nicaragua in 1988.

You did not name names, Mr. Speaker, but you did not have to. You knew who they were and we knew who they were, and we both know who they are today.

So here we are 6 years later. Your words of 1982 are more true today and more relevant than ever.

You were great that day so long ago, Mr. Speaker, really great, telling the truth bluntly in the cause of freedom. And to think we have descended from that height of eloquence and courage to the swampland of this shoddy, contrived, slick, oh so clever rule.

And for what? For what you call giving peace a chance.

This rule and your package does not give peace a chance. This sort of thing never serves a good end.

You have your rule, you have your proposal crafted so that those the Speaker excoriated in 1982 will join him in 1988.

You had better make the most of it now because it will turn infamous with time. I am afraid as well that it will break the sacred bonds of trust so necessary for true cooperation in this institution, and so much a part of our legislative character and integrity.

Out of respect, Mr. Speaker, I prefer to think of you as you were in 1982, standing tall in the great tradition of Roosevelt and Truman and Kennedy fighting totalitarianism and willing to openly condemn those who refuse to do so.

I much prefer that brief, shining moment of truth, that great memory to the tawdry, sad condition we have to deal with here today.

Mr. Speaker, I urge Members to vote down the previous question, vote up the substitute rule offered by the gentleman from Mississippi [Mr. Lott] who made such an eloquent speech earlier in the day in support of his proposal versus what we have before us at this hour.

Mr. BONIOR of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I can understand the minority's concern about the rule, and although I do not agree with it I can understand it. And while they find that personally offensive, I would just like to say that the distinguished minority leader's comments about our substitute I find personally offensive, and I will tell my colleagues why.

To get in the well of this House and to portray what we have suggested as introducing United States military personnel into Nicaragua is wrong, inaccurate, and I think he knows it.

We specifically say in our proposal that the Foley amendment applies which prohibits, and I will be happy to send a copy over to the gentleman so he can read it, prohibits United States military personnel in Nicaragua, or to train or to advise or for logistical support.

Second, we referenced the Mrazek amendment which prohibits United States personnel within 20 miles of the Nicaraguan border.

Third, we made it very clear, very clear that the deliveries would be contracted out by the DOD and would not be shipped or flown by U.S. military personnel to the Contra forces.

That is the first thing I find offensive.

The second thing I find offensive is the characterization of our children's survival fund, for a war that has gone on for 7 years, kids without legs and arms, and we provide a package of aid through your agency, through the International Agency for Development, through a Reagan administration appointee to administer, not through the Sandinista Communist government. Let us be clear about that.

Mr. LOTT. Mr. Speaker, while we are trying to check out the accuracy of some of those statements, I yield 1 minute to the gentleman from California [Mr. Dornan].

Mr. DORNAN of California. Mr. Speaker, I too remember your 1982 speech and found it excellent, and I too find this a sordid affair. It is offensive because of what Gorbachev is sending into the Western Hemisphere. Whatever happened to the Monroe Doctrine?

Here are the figures of Soviet military aid to Nicaragua for the month of January: $75 million in United States equivalent dollars, of direct military aid. In the very month that we began on February 3 by haggling over $3 million for the Contras which would not buy the landing gear for one United States jet fighter for the Navy, Marine Corps or Air Force, we were haggling over $3 million while the Soviets sent $75 million. That means in 10 months they will deliver $750 million if Gorbachev keeps up this pace. And the biggest year they ever had was 1986 at $600 million.

So they are reaching new highs of sending military aid onto the soil of the North American continent. What a dream fulfilled for Lenin.

Yesterday was General Secretary Gorbachev's 57th birthday, and we are here acting as though he is sincere in these offers. We are on the phone to the White House right now in the Cloakroom trying to find out the particulars of whether this little walk in the woods, or in the Rose Garden or wherever this statement that Gorbachev offered to stop aiding Nicaragua ever took place was even true at all.

Mr. LOTT. Mr. Speaker, so that we may have an opportunity to respond to some of the things the gentleman from Michigan [Mr. Bonior] described as personally offensive, I am glad to yield such time as he may consume to our distinguished leader, the gentleman from Illinois [Mr. Michel].

Mr. MICHEL. Mr. Speaker, I appreciate the gentleman yielding me this time.

Of course, my reference in my remarks was to page 11 in the committee's report which says:

> *Provided further*, That at least one-half of the funds transferred under this section shall be provided through nonpolitical private and voluntary organizations and international relief organizations operating inside Nicaragua.

Who are they? Who are they? This is not AID. It is somebody we do not know.

Then furthermore I read from the Democratic Study Group's report here, and I do not know the page, but it is the sixth paragraph:

> More important, it represents the first American assistance to the people of Nicaragua since 1979 and the beginning of a change in our national policy toward Nicaragua.

Now you put those two things together, and so who is giving what to whom and how is it going to be administered, while all of the time on that side we hear, where is the accountability?

I know you have a prejudice against the Central Intelligence Agency for whatever reason, but when you deny them, a recognized governmental unit that has in fact done a good job, to be injected, for example, and say maybe it ought to be by the Defense Department, I do not know how that is couched. All I know is that the Defense Secretary yesterday morning at breakfasttime personally said if there is anything I do not need it is anything to have to do with helping to administer what the CIA has been doing heretofore.

Mr. BONIOR of Michigan. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Michigan.

Mr. BONIOR of Michigan. Mr. Speaker, on page 11 of the report, section 10, Children's Survival Assistance:

> There are hereby transferred to the Agency for International Development $14,560,000. The preference in the distribution of these funds shall be given to organizations presently providing similar services such as the Catholic Relief Services, International Committee of the Red Cross, CARE.

Does the gentleman suggest he opposes the Catholic Relief Agency providing funds to children through AID? Does the gentleman suggest that he is opposed to the Red Cross, to CARE providing those funds?

Mr. MICHEL. Excuse me, I did not hear the question, but the other proviso that I read, frankly, forecloses what the gentleman has just said.

Mr. BONIOR of Michigan. I accept that, I accept that.

Mr. LOTT. Mr. Speaker, I have only a couple more requests for time.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. Traficant] my colleague.

Mr. TRAFICANT. Mr. Speaker, I rise to support the rule and allow this debate, but I am not changing my position. I am opposed to all aid.

Very simply, this is not an issue of not wanting to help Nicaragua or to protect ourselves. In 7 years the record is clear. The Contras have not overthrown an outhouse. They do not control a crossroad. To the best of my knowledge, they have not even overwhelmed a bordello in Central America. The Philadelphia Inquirer said they had not even conquered fear.

But most importantly, the Nicaraguan people do not trust nor support nor have confidence in these Contras.

Robert Owens said publicly he is for the Contras, but privately, in a memo to North, he said they are liars, they are all fluff, no substance, and if you give them any money it is like pouring money down a sinkhole.

Folks, here is how I feel around here today. We are not worried about Ortega, we are worried about a Soviet presence in our hemisphere. President Reagan said when he was elected, "I am going to stop communism." Now is the time for Reagan to be Reagan. Now is the time to challenge them in our hemisphere. Now is the time for this President who talked like John Wayne but performed like Woody Allen to look Gorbachev in the eye and tell him to get out, tell Gorbachev to take his advisors with him, take the Cubans with him, because we are not going to stand for it. And if this House thinks that the Contras are going to protect America from communism in our hemisphere, then they are as crazy on this as we are on the budget and the deficit.

I am saying here today, and I have had a lot of people talk to me, I think we have one of the greatest Speakers in this House, and history will come to prove it, but I am standing as a Democrat that says this is the same group of Contras, whether it is a Democrat bill or a Republican bill, and let us give a chance for something in Nicaragua to develop that will really challenge Ortega.

I am not against sending money. Find a political opponent down there that can do the job, and I might change my stance. But I am not going to sink money any further down the washtub of nonfeasance, malfeasance, misfeasance, and ineptitude, and those are Mr. OWENS' words, not Mr. TRAFICANT'S.

By the way, I need some jobs.

Mr. LOTT. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. BILIRAKIS].

□ 1300

Mr. BILIRAKIS. Mr. Speaker, here we are again—yet another vote on aid to the Nicaraguan resistance. But this time it's different, isn't it?

This time it's the House leadership's plan. Fair enough, but why is the alternative proposal not being given a fair hearing?

Yesterday this Chamber passed a rule that effectively barred any chance to fairly debate or amend the civil rights bill. Today we will vote on a rule permitting a parliamentary maneuver I can only describe as bizarre. We all know that it will preclude debate and any vote on the alternative piece of legislation to the leadership's plan.

The Speaker of this House promised to allow a clear vote on the merits of this alternate and we are not getting it.

Mr. Speaker, to pass this rule is to put parliamentary trickery before freedom of speech—before the opportunity to fairly debate peace with freedom in Central America.

I, for one, will not support such a maneuver by voting for this rule.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, today we are continuing the democratic effort to replace American influence in our own hemisphere with Soviet influence. Very simply the Democrats have given away the Panama Canal to Mr. Noriega and it is evident now this will not be the property of the country of Panama, the General Assembly, the President—the guy who fired Noriega is in fact fired himself. We are going to be moving the 193d Army Brigade from Panama in 12 years, we are going to remove the special forces group, the Air Force south and the Navy forces south from Panama.

At the same time, because of this series of votes, the Democrats have removed the only means of resistance to the Soviet intrusion in Nicaragua. We are giving Nicaragua to the Soviet Union. There are naval bases being built at Corinto on the Pacific side for the first time that will house attack submarines, that will put the Panama Canal at risk. They are building naval bases at El Bluff in Bluefield on the Atlantic side. They have already completed the bomber base at Punte Huete, complete with revetments, for a squadron of Mig aircraft. The Democrats, Mr. Speaker, are trading American influence in our own hemisphere for Soviet influence. This is not a liberal problem, a conservative problem, it is a strategic issue that you must address, because you claim to have taken the leadership in the Central American issue.

The President cannot address this problem without your help. What are you going to do?

Sixty-five percent of the goods that exit or transit the Panama Canal are American goods; they are imports; they are exports.

During World War II Adolf Hitler sunk 114 American cargo ships near the Panama Canal, 560,000 gross tons. Soviet admirals refer to the canal as the American jugular.

You are giving control of the American jugular to the Soviet Union. And I think that Mr. Gorbachev does not care whether La Prensa is printed tomorrow. I think he does not care who is on the Peace Commission or what Mr. Ortega says or does. The only thing that Mr. Gorbachev and his generals care about is whether the bases continue to be built because once the Soviet presence is manifested in those bases in the form of attack submarines on both sides of the continent, and bombers and Mig aircraft at Punta Huete, Soviet influence in this hemisphere and in the land bridge between North and South America is dominant. That is a strategic question, Mr. Speaker, it is not a Republican question or a Democratic question or a liberal question or a conservative question.

What are you going to do?

Mr. Rayburn would have been very concerned about this situation. He would have been very concerned about Americans leaving the canal, American forces, and Soviet forces going in. He would have had a plan.

What is your plan?

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I would be happy to yield to the gentleman from Arizona [Mr. KYL].

Mr. KYL. I thank the gentleman for yielding.

Mr. Speaker, would the gentleman care to comment on the situation with respect to the air base there and Maj. Roger Miranda's suggestion that by 1990 the Soviets would be delivering Mig's to Nicaragua.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker and my colleagues, I am not a fellow who is shy about standing in this well and saying when I think a rule is unfair. I think this rule is fair and I am going to tell you why.

One month ago, one month ago today we stood in this Chamber, we sat in this Chamber and we debated another administration proposal on Central America. We did not have the opportunity under the procedure of that debate to offer a substitute. We did not have the opportunity under the procedure of that debate to offer any amendment at all. We had the opportunity that day to vote "yes" or to vote "no." One month later we in the majority had the opportunity to present our proposal. I think it would be altogether fair coming 1 month on the heels of the events of February 3 for us to simply have an up or down vote, a yes or no vote on the proposal that the Democrats have readied.

We are not doing that. We are not doing that. And I suppose fairness, like beauty, rests in the eye of the beholder. But in this instance today to the extent that our proposal is voted down, it may be—I hope it is not—but to the extent that it is voted down, the Republican proposal will be heard and will be voted on. To the extent that our proposal is carried, there will be an opportunity to vote on a motion to recommit.

Now that may not be perfect Jeffersonian democracy in the eyes of everybody in this Chamber today, but as far as I am concerned, it is a heck of a lot better deal that the rest of us got 1 month ago when we had no opportunity on a motion to recommit, we had no opportunity on amendments.

I hope that when we finally get past this hurdle and we approve the Democrat alternative or the Republican alternative, I would hope that we could put this partisan bickering on this particular issue behind us and that we could begin to talk like Americans, that we can begin to formulate a bipartisan foreign policy. We are awfully close to doing it. It takes a little extra effort and I for one will make that effort.

The SPEAKER. The gentleman from Mississippi [Mr. LOTT] has 1 minute remaining; the gentleman from Michigan [Mr. BONIOR] has 1 minute remaining.

Mrs. MORELLA. Mr. Speaker, I rise in opposition to the proposed rule. This rule does not provide the majority leader and the minority leader with an equal opportunity to offer their proposals for aid to further the Central American peace process. I am opposed to the minority leader's aid proposal, but I, nevertheless, feel that he should be allowed to bring it up for a vote. To do otherwise is undemocratic.

The minority leader has proposed, and I would have preferred, a rule that set up a "king-of-the-hill" procedure. Under this procedure, there would first be a vote on the minority leader's alternative, then a vote on the majority leader's alternative, and the last amendment adopted would be reported back to the House for a final passage vote. This procedure gives both leaders a clean shot, up or down, and actually gives the majority leader the last shot and a chance to prevail, no matter what happened with the minority leader's amendment. The minority leader's rule proposal is moderate, reasonable, and democratic.

A vote against the present rule proposal is a vote for fairness, openness, and equality when it comes to framing the rules under which we debate the issues.

Mr. LOTT. Mr. Speaker, I will take this last 1 minute to close.

Mr. Speaker, I would like to urge my colleagues once again to vote against the previous question so that we can make in order a rule that will provide for the king-of-the-hill process and give us an opportunity to debate both alternatives and have a vote on each of those alternatives.

Failing that, vote against this rule. And if worse comes to worse, I would agree with the gentleman from Delaware, vote "no" on this Democratic proposal, let it go down and then in a couple of weeks or a month maybe we can get together on a legitimate, viable bipartisan alternative.

I yield back the balance of my time.

Mr. BONIOR of Michigan. Mr. Speaker, the gentleman from Mississippi misunderstood the gentleman from Delaware. The gentleman from Delaware will be voting "yes" on the Democratic proposal.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LOTT. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 225, nays 187, not voting 21, as follows:

[Roll No. 22]

YEAS—225

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clay
Clement
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Flake
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Hubbard
Hughes
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—187

Archer
Armey
Badham
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Fish
Flippo
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Grant
Green
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison (WA)
Myers
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Patterson
Petri
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schuette
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wilson
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—21

Baker
Bevill
Biaggi
Boulter
Clarke
Dickinson
Dowdy
Ford (TN)
Gephardt
Huckaby
Jones (TN)
Kemp
Leath (TX)
Leland
Lightfoot
Porter
Roemer
Schneider
Schulze
Skelton
Towns

☐ 1328

The Clerk announced the following pair:

On this vote:

Mr. Jones of Tennessee for, with Mr. Boulter against.

Mr. PICKLE changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LOTT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 231, noes 183, not voting 19, as follows:

[Roll No. 23]

AYES—231

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio

Anthony
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Garcia
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Hubbard
Hughes
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOES—183

Applegate
Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Hopkins
Horton
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Kasich
Kastenmeier
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wilson
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—19

Biaggi
Boulter
Dickinson
Dowdy
Ford (TN)
Gaydos
Gephardt
Holloway
Huckaby
Jones (TN)
Kemp
Leath (TX)
Leland
Lightfoot
Porter
Roemer
Schneider
Schuette
Towns

☐ 1345

The Clerk announced the following pair:

On this vote:

Mr. Jones of Tennessee for, with Mr. Boulter against.

Mr. SKELTON and Mr. WELDON changed their votes from "aye" to "no."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1345

GENERAL LEAVE

Mr. BONIOR of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ASSISTANCE AND SUPPORT FOR PEACE, DEMOCRACY, AND RECONCILIATION IN CENTRAL AMERICA

Mr. EDWARDS of Oklahoma. Mr. Speaker, as the designee of the gentleman from Illinois [Mr. Michel], and pursuant to House Resolution 390, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 484) to provide assistance and support for peace, democracy, and reconciliation in Central America.

The SPEAKER. The question is on the motion offered by the gentleman from Oklahoma [Mr. Edwards].

The motion was agreed to.

☐ 1346

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 484) to provide assistance and support for peace, democracy, and reconciliation in Central America, with Mr. Hughes in the chair.

The Clerk read the title of the joint resolution.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Oklahoma [Mr. Edwards] as the designee of the gentleman from Illinois [Mr. Michel] will be recognized for 1 hour, and the gentleman from Michigan [Mr. Bonior] as the designee of the gentleman from Washington [Mr. Foley] will be recognized for 1 hour.

The Chair recognizes the gentleman from Oklahoma [Mr. Edwards].

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. DeLay].

Mr. DeLAY. Mr. Chairman, I rise today in opposition to the liberal Foley substitute and in strong support of the Michel resolution. I want to propose to this House that the liberal's substitute is, in fact, a cleverly disguised foreign aid bill to Nicaragua. It cannot possibly have a positive effect on the peace process in Nicaragua. I ask the American people to blacken this day on their calendars—this day will be remembered as the day the liberals in the House of Representatives who vote in favor of the Foley substitute to introduce American soldiers, our own boys, into the Central American conflict.

I fail to see any component within the Foley substitute that will help bring peace to Central America. Irreconcilably crippling the Contras under the farce of an "aid package" will only bring the consolidation of an expansionistic Communist government on the American mainland.

Equally important, I am concerned about the increasing Soviet and Cuban military buildup in Nicaragua. Daniel Ortega must be sitting in his office, signing Soviet shipping receipts as he watches C-SPAN, and laughing at the United States Congress for being naively duped into accepting his unusual definition of "peace."

Since 1979, the Soviets have delivered over $2 billion of military aid to Nicaragua—advanced bloc weaponry including tanks, helicopters, patrol boats, and multiple rocket launchers, just to name a few. An additional $300-500 million has been spent on military infrastructure development. There are currently approximately 2,000-2,500 Cuban advisors in Nicaragua, primarily concentrated in the Defense and Interior Ministries.

AIR FACILITIES

A wide range of military air services are currently available at the Sandino International Airport. This facility will be soon augmented by the Punta Huete military airbase, currently under construction on Lake Managua. The Punta Hueta facility features a 10,000-foot runaway, which is capable of handling any aircraft in the Soviet inventory. It is also well suited for intelligence and reconnaissance operations. This airbase, along with bases in Cuba and Angola, will greatly enhance the Soviet's ability to disrupt and jeopardize critical sealanes in the Caribbean and South and Central Atlantic areas. Secondary facilities are being constructed and/or upgraded at five additional sites.

NAVAL FACILITIES

The Soviets have access to two major ports, El Bluff on the Caribbean and Corinto on the Pacific. Currently, regardless of the peace plan, efforts are underway by the Soviets and Cubans to expand these ports and turn them into deep water facilities to enhance their capability for the Soviet navy. I, for one, don't see the need for the Sandinstas to have deep water ports for their "navy"—it is obvious for whom these ports are designed. Three secondary facilities exist as well.

Soviet and Cuban military aid to the Sandinistas since the signing of the peace plan stands at $170 million—what do you think that says about the Sandinista's commitment to peace on the American mainland?

"Wait for peace," you say. Why? We've been waiting for peace for 9 years. And although we've been waiting—Ortega has not. He has not waited to build up the Soviet and Cuban military presence; he has not waited to ship over 2 billion dollars' worth of Communist military equipment to Nicaragua; and, he has not waited in his persecution of basic human rights.

We all know that the Sandinistas have, overall, failed to fulfill their signed human rights commitments. In an amendment which passed the House on December 8, 1987 by a vote of 346 to 58, we identified over 30 areas of essential steps necessary for genuine compliance. Of those steps, only six have been partially addressed. The major reforms, that we clearly defined, have not been implemented—and I would like to give a few examples of these violations.

Private Nicaraguan human rights defenders continue to be beaten by the turbas—divine mobs—denied food rations, and threatened by state security. Within 1 week of the signing of the peace plan, the Sandinistas arrested and imprisoned the heads of the two principal human rights groups. Concurrently, the Sandinistas directed increased turba harassment against the Mothers Movement for Political Prisoners. For example, on October 26, 1987, approximately 2,000 turbas, some trucked over by the Sandinistas, surrounded the headquarters of a principal human rights group [CPHD], illegally entered the premises by force, and proceeded to harass and threaten the members. Again in October, turbas violently attacked members of the Mothers Movement for Political Prisoners.

Opposition political parties have not been allowed to operate freely and effectively. Outdoor meetings and rallies have been severely restricted and leaders have been jailed. The military draft threat is frequently used against opposition leaders and their families. For example, after a rally in September celebrating the anniversary of the Social Christian Party, young men who participated in the rally were forcefully inducted into the military the next morning.

Labor unions still cannot strike, bargain collectively, or take collective action. A La Prensa journalist was attacked and beaten by the turbas—after the signing of the peace plan—and warned that "the revolution will not tolerate your actions."

And what about the political prisoners who were to be freed after the signing of the peace plan—they are still locked away. Even the Red Cross and other independent international observers are still barred from visiting prisoners. A general, encompassing amnesty, also promised, has not been granted.

In no way whatsoever have the Sandinistas sincerely lived up to their signed commitment to peace and democracy in Central America. Let's not forget exactly what the Sandinistas are—they are admitted Communists. And, they continue to seek their Communist consolidation under the guise of a peace plan. The Foley substitute is merely a prescription for disaster—vote against communism and in favor of our national security by voting down the Foley substitute and supporting the Michel resolution.

Mr. BONIOR of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today marks a new beginning in United States policy toward Central America.

The United States has entered into a new partnership with Central America, a partnership based on peace and reconciliation, instead of war and retribution.

The determined and courageous efforts of the five Central American Presidents have given us an opportunity rare in a lifetime, an opportunity to end war and create a firm and lasting peace.

Just 1 month ago, the House rejected the President's request for military and nonlethal aid. This was a critical first step toward peace and reconciliation in Central America.

Today we must take the next essential step to support the peace process by adopting the proposed package of assistance now before us.

Today's vote signals that congressional support for the military solution has ended. Serious negotiations must begin.

Today's vote provides space, and opening, for both sides to pursue cease-fire talks. Achieving a cease-fire between the Nicaraguan Government and the Contras must now become our highest priority.

The alternative we propose grants incentives to both sides to negotiate.

To the Contras we say, Congress will no longer support further bloodshed. The path to peace and democracy in Nicaragua is through the ballot, not the bullet.

To the Nicaraguan Government we say, the promise of peace lies in completion of the democratic commitments made under the Guatemala accords.

Clearly, this strategy is not without risk. Either side can stall or throw up roadblocks to progress.

But if true peace and reconciliation is to occur, trust must be given and good faith granted by both sides.

We must follow the lead of President Arias, the author of the peace plan, who has called on all of us to take a risk for peace.

He says this proposal is consistent with the spirit of the Guatemala accords.

More than half of the $30 million in economic assistance we propose is truly humanitarian in nature; $14.5 million will be used for prosthetics and medicines to treat child victims of the war.

We have all been moved by pictures of children mained for life by a land mine they thought was a toy. Surely no task could be more important than binding the wounds of war and easing the suffering of these innocent victims.

The sum of $1.4 million will be distributed to the Miskito Indian group, Yatama, which has reached a separate truce agreement with the Nicaraguan Government.

The aid will be delivered through nonpolitical private voluntary organizations such as the International Red Cross so long as there is a cessation of Hostilities and progress toward a negotiated cease-fire.

Our support for the Yatama agreement sets a crucial precedent, the United States will support those who are willing to cast their lots for peace.

Finally, under our proposal, food, medicine, clothing, and shelter will be provided to the Contras at the current rate of delivery during the time they are trying to negotiate a cease-fire.

The alternative we propose moves us step by step away from war. The Republican resolution, on the other hand, leads in the opposite direction.

It includes $22 million in nonlethal assistance. This means spare parts and other military-related aid. Delivery would be continued through the CIA.

In just 45 days, the President could initiate another vote in Congress. Speaking to the American Legion just 3 days ago, he told us he will ask for more military aid.

The choice before us is clear—either we adopt our alternative or military aid will resume. The resumption of military aid will kill the peace process; the war will escalate.

Our alternative affords us the opportunity to take the United States step by step toward peace.

Today we enter a new phase in Central America. It is a beginning, not an ending, of our commitment to the region.

The time has now come for the United States to sit down in direct face-to-face talks with the Nicaraguan Government.

The time has now come for all the nations of Central America to comply fully with the Guatemala accords.

Never before have the prospects for peace been so promising; never before have our actions counted for so much.

Our commitment to bind the wounds of war, and to address the social and economic inequalities in the region, must now increase.

Our commitment to self-determination and democracy for the people of Central America must be sustained.

And our respect and acceptance of the nations of Central America as equals must remain steadfast.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Michigan [Mr. BONIOR] has consumed 6 minutes.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, my friend the gentleman from Michigan [Mr. BONIOR] is right. We are entering a new era in Central America. It is an era in which there are new leaders, and as of today the most influential leader in Central America is this gentleman, Andrei Gromyko, former foreign minister of the U.S.S.R., and his colleagues on the Soviet Politburo, because as we are withdrawing American forces from the Panama Canal, and we have to do that in 12 years, the Soviets are installing bases in Nicaragua. They are taking over a monopoly, a military monopoly on the land bridge between North and South America. There are going to be bases at Corinto on the Pacific side, El Bluff on the Atlantic side, they are naval bases, and at Punta Huete, a bomber base located north of Managua.

In this picture of Punta Huete, it becomes clear that what the Democrats are doing in Nicaragua is giving Mig's a chance. We are not giving peace a chance, we are giving Mig's a chance.

Mr. Chairman, the Soviets are building jet revetments at Punta Huete and they have now completed the first set of revetments for the first squadron of Mig aircraft that has been agreed to be sent by the Soviet Union to the Sandinistas. We are entering a disastrous situation in which the Democratic majority has given the Panama Canal to Mr. Noriega as his personal property, thereby depriving us of an American presence in the canal area and we are giving Nicaragua to the Soviet Union, thereby displacing the United States as an important foreign influence in Central America.

Mr. Chairman, let me say that I agree with my colleague the gentleman from Michigan [Mr. BONIOR] on this, it would be good if Central Americans at some point have the right to have plurality, democracy, peace, et cetera, but I would remind him that this guy Mr. Gromyko and his colleagues have killed about 500,000 children now in Afghanistan and persons who come under their sphere of influence rarely get to see things like ballot boxes.

For the time being, it is important for us to maintain a sphere of influence in Central America and the Democrat majority is displacing our influence by giving away the canal and the American presence with the Soviet influence at Corinto, El Bluff, and Punta Huete.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Arizona.

Mr. KYL. Will the gentleman point out the jet revetments and tell us how many there are and the significance of them?

Mr. HUNTER. As my colleagues can see, there are 12 at Punta Huete, and they have been constructed and that will provide jet revetments for one squadron of Mig aircraft.

□ 1400

Mr. BONIOR of Michigan. Mr. Chairman, I yield the balance of my time to the gentleman from Wisconsin [Mr. OBEY], and I ask unanimous consent that he be allowed to yield time.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. OBEY. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. STOKES] the distinguished chairman of the Intelligence Committee.

Mr. STOKES. Mr. Chairman, I thank the distinguished gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the Bonior substitute. I want to take this opportunity to commend the gentleman from Michigan [Mr. BONIOR] for this leadership in crafting this substantial substitute which I think is a substantial move toward peace in Central America.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. STOKES. I am delighted to yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding. I would like to ask the gentleman a question.

It has been suggested to me that some of the communications equipment which will be provided pursuant to section 4(c)(2) of the Bonior substitute could be modified for use in weapons systems and, specifically, for use in surface-to-air missiles. Is that accurate?

Mr. STOKES. It is not accurate. Batteries and spare parts associated with the communications equipment that will be provided pursuant to section 4(c)(2), as well as the communications equipment itself, such as replacement radios, are incompatible with the operation of any weapons system in the possession of the Contra forces. In particular, batteries associated with the communication equipment could not be used to operate surface-to-air missiles.

The Intelligence Committee will monitor the provision of communications equipment to ensure that it is not the kind that can be used to operate any weapons.

Mr. LOWRY of Washington. Mr. Chairman, will the gentleman yield?

Mr. STOKES. I am delighted to yield to the distinguished gentleman from Washington.

Mr. LOWRY of Washington. Mr. Chairman, I thank the distinguished gentleman for yielding and I compliment him on his very important leadership on this issue and on the Intelligence Committee.

I would like to enter into a colloquy for purposes of clarification.

Mr. STOKES. I am delighted to yield to the gentleman from Washington for that purpose.

Mr. LOWRY of Washington. Mr. Chairman, it has been suggested that adoption of the Bonior substitute well result in an increase in the number of United States military personnel deployed to Central America and an accompanying increase in the threat to those military personnel because they will be engaged in supplying an army in a war zone. Are these two predictions the necessary and unavoidable result of the adoption of the Bonior substitute?

Mr. STOKES. The answer to that is an unqualified "no." First of all, the substitute prohibits United States military personnel from entering the territory of Nicaragua. It also prohibits any United States Government personnel, including all military personnel, from approaching within 20 miles of Nicaragua. This is the Mrazek amendment.

There will be "no" United States military personnel and "no" United States military aircraft involved in delivering assistance to the Contras in Nicaragua. And finally, although the Hamilton substitute requires that the Department of Defense manage Contra supply during the period provided for by the substitute, it requires the Department to contract with those firms and their foreign national pilots who were providing the delivery services up to this point. It also provides that the Department may request the assignment to DOD of personnel from any other Government agency to assist in this process. That is both to ensure an orderly transfer of responsibility, to ensure that the DOD-managed system will be credible, and to permit the Department to assign a minimal number of its personnel—whether civilian or military—to manage the program.

There is absolutely no need, nor would it be wise, to assign large numbers of military personnel for this purpose. Up to now, this delivery system has been managed by a small number of people. It should continue to be managed by a small number of people.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, the saddest words known to men are the words it might have been.

This is a situation that really did not have to be.

Members who are interested in providing humanitarian aid and assistance to those Contras within Nicaragua find ourselves basically wanting to do the same thing, but because of the difficulty of political considerations, because of mistrust, we are unable to send the message as it would have been so good to do, of 300-plus votes speaking as one, together with the administration for humanitarian aid. That is not to be.

Because of that I am irresistibly driven to be against the substitute and in favor of the initial bill as provided, not just because of a recent happening where Cardinal Obando in Nicaragua has been dismissed as the mediator by the President of Nicaragua, Mr. Ortega, but we must look at the substitute itself. One of the major considerations that this body should have is the portion that is set forth in section 10. This provides for over $14 million of unobligated funds coming from other accounts. And it says that:

> At least one-half of the funds transferred under this section shall be provided through nonpolitical private and voluntary organizations and international relief organizations operating inside Nicaragua.

Let us look at the exact language. On page 12 we see:

> *Provided further,* That at least one-half of the funds transferred under this section shall be provided through nonpolitical private and voluntary organizations and international relief organizations operating inside Nicaragua.

Mr. Chairman, there are no organizations operating inside Nicaragua that are not under the control or direction or both of the Sandinista Marxist Government. Furthermore, in a more literal reading of this, there are no nonpolitical private and voluntary organizations as such within that country because of the nature of that country being what it is.

It also refers to certain organizations, one of course being the International Committee of the Red Cross, which we know from various sources is under the direct control of the Sandinista Marxist regime. Thus, we find half of the obligated money going to be controlled or under the direction, according to this language in the substitute, of the Sandinistas.

I cannot agree with that. I will not vote for that.

It has been said that we should take a risk for peace. Those of us who have had the opportunity to read a bit of history know that the same thing was done by Britain's Prime Minister Chamberlain in 1938 taking a risk for peace, and as a result of not taking a firm stand at that time this world was engulfed in the bloodiest of all conflicts: World War II.

We hope that this substitute will be defeated, that a stronger more straightforward version will pass.

Mr. OBEY. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Indiana [Mr. HAMILTON], the former chairman of the Intelligence Committee.

Mr. HAMILTON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of this amendment in the nature of a substitute to provide sustenance assistance for the Contras and to support the Central American peace plan.

Central America is at an important turning point. A moment has come in that region's history to move away from war toward peace. This amendment seeks to push and prod Nicaragua in the right direction. No matter how we may have voted in the past, we have an opportunity today to construct a united position on Nicaraguan policy for the first time in over 8 years. We must not lose this chance to create a consensus in the House and to support Central American peace efforts.

I. SUMMARY OF THE AMENDMENT

This amendment is for a period of 4 months. It is balanced, responds to a fluid situation on the ground, and keeps open our options for the future.

It has five principal elements:

It provides $14.6 million in food, clothing, shelter, and medicine for the Contras, sustaining current levels of such assistance;

It provides another $14.6 million for the treatment of children who are victims of the war;

It provides an additional $1.4 million in humanitarian aid for the Miskito Indians in Nicaragua;

It provides for delivery of sustenance aid to the Contras through the Department of Defense before a cease-fire, and through international relief organizations following a cease-fire; and

It provides for onsite inspection of shipments of sustenance aid to the Contras by the Intelligence Committees and the General Accounting Office.

This sustenance assistance would be provided on the understanding and with the expectation that the Contras will not take offensive military actions, and will negotiate in good faith on a cease-fire.

This substitute amendment is also important for what it does not include;

It contains no lethal aid and prohibits the delivery of any lethal assistance; and

It contains no nonlethal military assistance, such as trucks, helicopters, or other military equipment as contained in the President's recent request.

This amendment addresses U.S. security interests in Central America.

It underscores the goals outlined by President Reagan and Speaker WRIGHT in their statement last August:

No Soviet or Cuban bases;

No subversion;

No export of revolution; and

Progress toward democracy.

It calls for the United States to act to preserve the security of the United States and its allies; to protect the security and territorial integrity of Central American nations; and to take appropriate military action if Nicaragua takes offensive military action against its neighbors or obtains a military capacity that directly threatens the United States.

This amendment also calls for the United States to conduct negotiations to protect and promote those security interests:

Bilateral negotiations with the Government of Nicaragua on matters affecting the national security interests of the United States; and

Multilateral negotiations with the Central American nations on matters of regional concern.

Finally, this amendment invites the President to propose long-term assistance for Central America in order to:

Promote economic stability;

Expand educational opportunity;

Foster progress in human rights;

Strengthen judicial institutions; and

Bolster democracy.

II. REASONS TO SUPPORT THIS AMENDMENT

Mr. Chairman, there are several reasons to support this substitute amendment:

A. U.S. OBJECTIVES AND INTERESTS

First, this amendment promotes United States objectives in Central America, to stop the wars in the region and to encourage the growth of democracy in Nicaragua and other states in the region. It bolsters our view that democracy is the precondition for peace in Central America.

This amendment serves American interests. Because it lacks deadlines and is ambiguous about what happens at the end of the 4-month period, the amendment preserves American options and flexibility.

Because it imposes no deadlines for diplomacy, it reduces the incentive of either party to stall.

Because it does not specify what happens next, it creates uncertainty about future U.S. actions. This uncertainty pressures the Sandinistas to carry out their promises, and the Contras to negotiate in good faith.

Above all, this amendment says that the United States should turn away from a military approach toward Nicaragua, and toward a political, diplomatic, and economic approach. If that approach is skillfully and diligently pursued, it will help the Contras and U.S. interests as well.

This amendment provides the United States with the opportunity:

To decide how much Central America really matters to the United States; and

To decide what we really want to accomplish in the region, what we want to defend, and what resources we are prepared to commit to achieve our goals.

B. REINFORCES TRENDS IN CENTRAL AMERICA

Second, this amendment reinforces a trend in Central America away from war and toward peace. It will help force the contest into the political arena, the only place where there is hope for a resolution. It supports the peace efforts of the five Central American Presidents.

This amendment is sensitive to the fluid and evolving situation in Central America.

Given the deep political conflicts in the region, the 7-year-old war in Nicaragua, and the repression of human rights, progress toward peace will be slow. Expectations should be realistic. Achieving a cease-fire will take time. Ending the war in Nicaragua will not come suddenly. Achieving democracy will take years.

What is important today are the trends in the region. They are moving in the right direction. This amendment reinforces those trends, and supports an intricate process aimed at establishing peace and providing a chance for democracy.

This amendment is a balanced, mixed package of incentives for a transition period from war toward negotiations, cease-fire, reconciliation, and holding the Sandinistas to their promises.

These incentives will help the peace process work. They pressure both the Sandinistas and the Contras to reach agreement. If either party fails to negotiate in good faith, then it will be clear who is at fault, and that party will be isolated. Congress will, then, revisit the issue.

For the Contras, this amendment provides sustenance aid to keep them together during this critical transition period, as they negotiate a cease-fire and a means to return to political life inside Nicaragua. It says the United States is not going to provide them with the means to make war, but neither is the United States going to turn away from them. It gives them a chance to bargain for a passage from civil war to pluralism. By denying them lethal aid it encourages them to negotiate. It lets them know that while the United States is not committed to putting them into power by force, it will help them get a fair chance to compete for power through peaceful means.

For the Sandinistas, this amendment provides a U.S. commitment, during a transition period, to not provide lethal aid to the Contras so long as good faith negotiations continue. But it also reminds the Sandinistas that if they do not make further concessions in the days ahead lethal aid to the Contras could be restored. The ball is in their court.

It will give the Sandinistas a chance to begin to straighten out the mess they have made of the economy, and to achieve peace. It will give them a chance to choose between a military or a political fight. It will give them the opportunity to understand that the United States wants democracy in Nicaragua. It pushes the Sandinistas toward democracy, to make good on their pledges under the peace plan.

III. CONCLUSIONS

Mr. Chairman, this amendment will:

Aid children who are victims of the war in Nicaragua;

Promote U.S. objectives in Central America to stop war and encourage democracy; and

Through a balanced package of incentives, reinforce the trends in Central America away from war and toward peace.

I urge my colleagues to vote for this amendment.

□ 1415

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, in spite of my good friend, the distinguished chairman of the Subcommittee for European and Middle Eastern Affairs of my Foreign Affairs Committee, who talks of peace and getting money to children, but carefully ignores two items in the newspaper this morning. Two more high-ranking Nicaraguans defect, this time in Geneva and they had a press conference this morning. Ivan Villavicencio said he had been an appeals prosecutor in the district of Managua since 1983, for the last 5 years. Norman Jose Miranda said he was a Foreign Ministry official for 8 years and an alternative representative of the Sandinistas at the U.N. Human Rights Commission in 1985, 1986, and 1987. The two men have resigned because of torture and capital punishment and lying and rigging the judiciary and holding thousands of political prisoners. They maintain that there still are 8,600 political prisoners in Nicaragua at this very moment.

Now this morning we also had one of the two Ortega brothers who have modeled themselves after the Castro brothers, the younger brother, Humberto controls all the guns as the Defense Minister has replaced the Catholic cardinal, Obando y Bravo as mediator for the cease-fire talks. This cardinal, a compesino, a peasant priest who served nine parishes on a mule, arose to become a prince of his church has been replaced by Humberto, the younger brother of the Communist dictator. This Communist, Humberto Ortega shakes hands with his left hand because he has a wounded right hand, like one of our great Presidential candidates, the Republican leader in the Senate.

But unlike BOB DOLE who received his wound fighting fascism, how did he have his right hand crippled? By holding up a bank in San Jose, Costa Rica, where he came that close to killing two people. What he did was to give them spine shots. Both men, coincidentally, are paralyzed from the waist down because of shots fired by him and his bank-robbing cohorts, robbing a bank in San Jose to fund terrorism in the early days of the Communists who were infiltrating a just revolution against the oligarchy of Somoza. Recently, we found out Humberto Ortega's secret bank account, the Geneva secret bank account, the Paris Bank of Geneva, the Paris Bank. Here is his account number. I want my colleagues on both sides of the aisle to memorize it, 58946. I ask all American citizens who follow the written RECORD of our proceedings here or follow it by national technical means, memorize that bank account. There is the amount. This was given to us by the man who was his accountant, the man who administered this secret bank account, $1,495,596. That is what he has in the secret account. I ask my good friend, Mr. HAMILTON, don't you think possibly that some of this money for wounded children on both sides, will get squirreled away into Humberto Ortega's account or Tomas Borge's secret bank account or Jaime Wheelock's account?

These corrupt officials were middle-class kids who are engaging in the slaughter of Nicaraguan peasants in the field.

Mr. Chairman, I submit the newspaper article for the RECORD along with the remarks of CLAUDE PEPPER on February 3.

The documents referred to are as follows:

[From the Washington Post, Mar. 3, 1988]

NICARAGUA PROPOSES DIRECT TALKS WITH CONTRAS

(By Julia Preston)

MANAGUA, NICARAGUA, March 2.—In a surprise move, President Daniel Ortega tonight proposed direct, top-level cease-fire negotiations with the U.S.-backed rebels, without any mediator present and to be held inside Nicaraguan territory.

Ortega informed Cardinal Miguel Obando y Bravo that his role as mediator had ended and he named Defense Minister Gen. Humberto Ortega, his brother, to head the government delegation for a new round of cease-fire talks that the president suggested should take place March 9-11 in Sapoa, three miles north of the border with Costa Rica in southwestern Nicaragua.

In Miami, a spokesman for the rebels, Bosco Matamoros, said they were "shocked" by the Sandinista proposal and would have no immediate response. But Matamoros said, "The Sandinistas were very uncomfortable with the presence of the cardinal. Their purpose is to withdraw from the negotiations the only witness who is credible to the whole Nicaraguan nation."

Ortega's initiative, coming on the eve of an expected vote in the U.S. Congress on nonlethal aid for the rebels, known as contras, marked the first time that the leftist Sandinista government had agreed to meet face to face with the contras' highest leaders on Nicaraguan soil.

Previously the Sandinistas had refused to hold the talks in Nicaragua, demanding that the rebels accept a government amnesty before being able to enter the country.

The proposal also conferred new legitimacy on the contras as a counterpart in negotiations.

"We are doing our maximum," Ortega said.

The president's announcement came after a 10-day exchange of sharply worded letters between Ortega and the cardinal in which the government rejected a ceasefire proposal by Obando that could have introduced political topics into the talks.

Ortega made his announcement on the steps of the offices of the archdiocese of Managua after a brief meeting with Obando.

The government has insisted that the negotiations, begun under the terms of a regional peace accord, be limited to technical discussions to arrange a cease-fire as a way for the contras to lay down their arms and return to political life. Ortega indicated tonight the government will stick to that agenda.

The government expects the contras to respond by sending at least one of the five top directors of the Nicaraguan Resistance, the contra alliance, to the new round of talks, Ortega said.

The contras have called for broad political reforms in Nicaragua before they renounce the fighting or agree to a cease-fire.

Ortega thanked Obando for his "indispensable contribution" in bringing together the two warring sides in the first phase of the cease-fire negotiations, which began last Nov. 5. He asked the Cardinal, in his last act as mediator, to communicate the government's new offer to the contras.

"His mediation was necessary when the conditions did not yet exist for direct discussions," Ortega said. The Nicaraguan Resistance had strongly supported the cardinal as mediator.

In a letter he released this morning, Obando criticized the government's performance during a failed round of talks Feb. 18 and 19 in Guatemala City. But he reiterated his willingness to continue to mediate.

The government delegation will include Sandinista Army Chief of Staff Gen. Joaquin Cuadra, Ortega said. Deputy Foreign Minister Victor Hugo Tinoco will continue to be a member.

Referring to bills under consideration in the U.S. Congress, Ortega said both the Republican and Democractic version show a "complete lack of respect for international laws."

Moments after Ortega left his offices Obando accepted the president's decision with resignation and said, "As soon as one side says we no longer need the services of the mediator, he can no longer mediate."

But Obando curtly declined an invitation by Ortega to inaugurate the Sapoa sessions. Although he picked his words carefully, Obando made clear his doubts that the new talks will produce results.

"To be honest, I never thought these talks would succeed right away. I thought it would be very difficult at this time to settle only for a halt to military hostilities."

[From the CONGRESSIONAL RECORD, Feb. 3, 1988]

Mr. PEPPER. Mr. Chairman, let me say to my colleagues in the House that I join my colleague, the gentleman from Pennsylvania, in paying our highest tribute to our revered and distinguished Speaker, for whom we all have such great affection for the courage and wisdom he has shown throughout in trying to find a peaceful solution to this tragic situation in Nicaragua.

Mr. Chairman, today I am reminded of the sound inaugural address of Abraham Lincoln when, in speaking of the War Between the States, he said, "Each side, thinking it supported a just cause, prayed to the same God for victory."

Today I do not see Democrats and Republicans debating an issue; I see Americans trying to determine what is the best way to achieve peace and democracy in Nicaragua, Central America, and in the Western Hemisphere. It is no different than the issues that we constantly debate on this floor. This is not a Republican proposal; it is not a Democratic proposal; it is an American question. How can we best do it?

May I say that some of us, of course, feel a little more sensitive to this subject than others due to our location. We who live particularly in south Florida live as neighbors to at least 75,000 Nicaraguans who have been forced to flee from their country to find sanctuary and to find the freedom of America, and this House last year passed a resolution permitting them to stay in America until conditions in that country permitted their safe return. So we are concerned because we are more proximate in miles to Nicaragua and we have more association with the people.

Furthermore, we have a large part of our population who have known what persecution means in the Cuba from which they fled with our help. They had to leave their homes, their furniture, and their businesses. Most of them escaped with their lives but they lost everything else. So we are close to the problem, and we are very much concerned about how we can solve that problem.

What are the objectives? Is there any difference in our opinions on that subject? We all want peace, and we all want democracy. All we are talking about is this: What is the best way to get it?

I submit to my friends of the opposition that I believe there is a policy in that position. They are going on the assumption that if we kill the Contra aid, we will let the world know tonight when we leave this Chamber that there is at least not going to be any military aid and maybe no more humanitarian aid to the Contras, and that somehow or other will advance the peace process with which we are all concerned.

I agree with the position of the New York Times stated on January 31. It says that Congress seems "eager to support the peace plan of President Arias of Costa Rica," and that Congress "seems ready to pull the plug on the Contras.

"That risks creating a perverse result."

As President Arias says, "The future of aid to the Contras is in the hands of the Sandinista government of Nicaragua. That being so, the threat to continue aid, at this precise moment, could put constructive pressure on the Sandinista government to keep up its grudging toward peace. Congressmen who truly support the Arias plan will see that and avoid a final decision to end aid now."

In this morning's Washington Post, I think the matter was properly stated, and this is a very brief summary of their view:

"The record of the last 6 months demonstrates, we believe, that a carrot-and-stick combination has moved the Sandinistas.

With cease-fire talks scheduled to resume next week, this is no time to demobilize the forces of one side alone. We think the same combination can move the Sandinistas further without capsizing the peace plan, and on the basis we support the President's request."

Why do we have to hurt the peace plan if we adopt this resolution? The President in his letter of February 3 to ROBERT MICHEL has said that he first defers the release of the $3,600,000 worth of military aid until the end of March to see how the peace program is progressing. Then he says:

> If even at that time in my opinion it is not progressing satisfactorily, I will consult with the leaders of the Congress, and then if in Congress within 10 days there is the passage of a concurent resolution stating that the peace program is proceeding satisfactorily and I should not release the military aid, I will not do so.

□ 2215

What endangers the peace plan with a proposal like that?

On the other hand, what is going to be the effect of our decision tonight if it is against this resolution upon the Contras?

Is it not really the intention of this opposition, my beloved friends and colleagues, to let the world know we are not going to give ever any more military aid to the Contras? Is that not really what we are seeing?

Now, what is going to be the effect of that? Suppose the Contras are not able to continue their pressure. Suppose the peace plan fails with a weak Contra opposition facing the Sandinista government. Who is going to save the peace, those for weak small Central American countries? Can they do it? Do you think they would undertake it? Would they be a match for the Soviet Union helping the Sandinistas to have a 600,000-man army? Would they be able to stand against the power of Castro? Would they survive another Contra organization? What strength would there be behind the peace movement then? Would they go back and try to pick up the pieces and reconstruct the Contras, put them in the field again, let them make another contribution to another era?

I say to you, my fellow Congressmen, my dear colleagues, it is a mistake for us to defeat this resolution. It does not endanger the peace process. It strengthens it.

The Washington Post is right. It is a stick and a carrot. The peace plan has not done all this by itself. It had the aid of the Contras who have been winning battles lately.

Why do we want to dispense with the stick if we are willing to be careful about its use and use it only when it is consistent with the progress of the peace plan?

So, my colleagues, I beg of you, I hope and pray that the decision we make tonight will be a wise one. I hope that we will be governed, not by petty considerations or selfish interests, but by what is good for America, who is good for our beloved hemisphere and what is good for this blessed part of the globe.

I ask you, let us continue the course that has brought us to the satisfactory conclusion that we enjoy today and let us hope and pray that that decision in its wisdom will be such that down the long lane of future years will contribute to achieving those goals for which we all hope and work and pray, peace and democracy for all the nations and all the people of our beloved hemisphere.

Mr. OBEY. Mr. Chairman I yield 1 minute to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. McCLOSKEY. I thank the distinguished chairman. Mr. Chairman, I would like to go on record as strongly associating myself with the very wise remarks of my distinguished Hoosier colleague, the gentleman from Indiana [Mr. HAMILTON].

Mr. Chairman, in the past I have strongly opposed Contra aid. This proposal however marks a sharp departure from other Contra-aid requests. This proposal will provide food, clothing, medical supplies, and communication gear—not weapons and ammunition—to the Contras and to Miskito Indian groups. In addition, this compromise provides over $14.6 million for children on both sides of the conflict who are innocent victims of this long civil war. But most importantly, this legislation, by not providing lethal materials, unlike previous Contra-aid proposals, will not directly contribute to continued or escalated violence in Nicaragua. I support this humanitarian Contra-aid request.

This request also incorporates safeguard measures, including GAO inspection and oversight by congressional intelligence committees, to ensure that Congress and the American people know that only food, medicine, clothing, and other nonlethal supplies are being sent to the Contras. This aid is not hidden in the shadows of covert operations. Because this is an aid program that is open and honest and is of a humanitarian nature, this proposal has been endorsed by many religious and civic groups which have previously opposed other funding for the Contras. The governments of the Central American nations, who have been working together to establish a lasting regional peace, have indicated that this aid request is not inconsistent with the framework of the Arias peace plan.

This proposal is humane, is open to public monitoring, and does promote regional peace in Central America. If this proposal fails, the likely alternatives are worse. I urge my colleagues to join in support of this aid request.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Chairman, I rise in opposition to this bill—it is sugarcoated surrender and nothing more.

This bill is a weak effort by those who voted against the President's proposal for aid to the Contras 4 weeks ago to buy back their self-respect. Either they had pangs of conscience or too many telephone calls and now they want to go through the pretenses of doing something for the Contras.

But this bill does little for the Contras. Providing $1.8 million a month to the Contras for uniforms, medicine, and shelter means that we can patch 'em up, rest 'em up, and dress 'em up. But when they run out of ammunition—some time next month—they still will only have two options, to march to death or to exile.

One other thing that seriously bothers me about this bill is the role the Defense Department gets to play in the delivery of the little aid it does provide. I just do not understand it.

One of our central goals throughout our involvement in Nicaragua was to keep the United States military out of it. And we have managed to do that very well. It does not make sense, at this point in time, while there are still people in Nicaragua who are willing to fight for their own freedom, to directly involve United States military personnel.

It is dangerous. It is illogical.

Mr. Chairman, this bill is a sellout. It is an outrageous attempt by some Members of this body to wash their hands of any responsibility for what might happen to the freedom fighters in Nicaragua now that they have been denied further military supplies. We are hanging them out to dry—and die.

I urge my colleagues to vote against this travesty.

Mr. Chairman, I yield back the balance of my time.

Mr. OBEY. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. CROCKETT].

Mr. CROCKETT. Mr. Chairman, I rise in support of the Democratic substitute.

As my colleagues know, I do not favor any aid to the Contras. I do not think Contra aid has served U.S. interests or the interests of peace in Central America, and I believe Contra aid violates international law.

If I had the option of a vote to cut off all Contra aid, I would do so. But the votes are not here and the option of cutting off all aid is not now open to us. Some kind of aid is going to be passed in the House today.

The vote today is between a Republican aid proposal that would destroy hope for a cease-fire, and a Democratic proposal that would put pressure on both the Sandinistas and the Contras to conclude a cease-fire.

There are three principal differences between the two proposals. First, the Democratic proposal would permit only humanitarian aid—food, clothing, medicine, and shelter. The Republican proposal would permit any nonlethal aid, including jeeps, helicopters, communications equipment, and spare parts.

Second, the Republican proposal keeps the CIA in the business of delivering the aid; the Democratic proposal cuts out the CIA.

But the most significant difference is that, under the Republican proposal, the President could get another vote in 2 months and get that vote under expedited procedures. This is a clear incentive for the Contras to hold out for military aid in 2 months, instead of seeking in good faith to negotiate a cease-fire. Such short term, artificial deadlines encourage those who do not want peace to be intransigent. The Democratic proposal contains no such deadlines. It continues humanitarian aid for 4 months, with no guarantee of further congressional action.

It is primarily for these reasons, I suspect, that President Arias of Costa Rica has pronounced the Democratic proposal to be compatible with the Guatemala peace process. He has made no such comment about the Republican proposal. In the end, the endorsement of President Arias is what really persuades me that the Democratic alternative constitutes the only responsible course of action in this situation.

I would urge my colleagues who feel as I do to recognize that a vote for no aid is not an option. One or the other of these alternatives is going to pass. The Democratic alternative furthers the interests of peace. I congratulate my colleague from Michigan [Mr. BONIOR] for his leadership in putting this package together, and I ask my colleagues to support it.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Chairman, I rise in strong support of the Michel resolution. It is not as strong as I would like it to be. I would prefer that we at least allow the delivery of military aid which this House previously approved. But in the spirit of compromise, mixed deliveries as well as new military aid was left out of this bipartisan resolution.

But other key provisions of the Michel resolution are vitally important to keeping the democratic resistance viable as a pressure on the Sandinistas to negotiate. These provisions maintain the current network for supplying the fighters and provide an expedited process for considering a future aid request if the President finds it to be necessary.

The Foley proposal seeks to take the President out of the equation altogether, in an apparent effort to make the House Intelligence Committee and the majority leader the architects of U.S. foreign policy. This is contrary to the Constitution, to tradition, and to the spirit of bipartisanship. In fact, this entire exercise, from the delayed vote last week to the rule this week, shatters any illusion that the Democratic leadership is sincerely interested in bipartisanship.

The democratic Nicaraguan resistance is made up of Nicaraguans of all backgrounds and beliefs. They are fighting for freedom in their country against the incredible odds of a Sandinista military backed by billions of dollars worth of Soviet hardware and assistance. I cannot believe that anyone in this Chamber who has been to a Contra hospital tent and has seen the sacrifices made by these young men and women could vote to abandon them. And if you vote for the Foley resolution, that is exactly what you are doing. I urge you to defeat the Foley resolution and approve the Michel resolution, thereby honoring at least a part of our commitment to the freedom fighters in Central America.

□ 1430

Mr. OBEY. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. OLIN].

Mr. OLIN. Mr. Chairman, I thank the gentleman very much for yielding time to me.

Mr. Chairman, I rise in opposition to the Michel resolution and in strong support of the Foley-Bonior substitute that will be offered here a little bit later. Like a great many Members of the House, I have not supported Contra aid. I do not support Contra aid now. I am a great believer in the Arias peace process that is under way, and I hope we will do what we can to foster that process.

A great many people try to make the argument that the Sandinistas need more pressure on them and only the Contras will accomplish that. Having been to Nicaragua, as many other Members have, I can say that there is so much pressure on the Sandinistas now that they can hardly stand it. Their country is in a shambles, their economy is in bad shape, they have no basis for exports, the Russians are backing off, they need technicians, and their infrastructure has been destroyed. There is enough pressure on the Sandinistas to cause them to be thinking about a better solution for probably another generation, and it is not realistic to think the Contras are going to open up their country, and that they will go to an acceptable degree of democratization while there is a shooting war going on against them. That is not realistic. We need to get the shooting stopped.

I hope that this Foley resolution that we are going to be voting on today will help to bring that about. I do not know whether it will or not. I am going to support it, but whether we have Contra aid or we do not have Contra aid, it is very evident to me that we are going to be working with the Sandinistas for a long time to bring them around to the point where they are going to be acceptable as citizens and as a nation of the world.

The thing that really bothers me about this whole thing—and it has been talked about here today—is the question of the Soviet military establishment in Nicaragua. I do not know whether the stories about the Mig base and the submarine bases, and so on, are valid or not, but if they are, my point is all the more important. This Nation needs to be doing something about that subject.

A week ago I wrote a letter to the President that was signed by 66 other Members of the House, some Republicans and some Democrats, Members on both sides of this issue. The letter asked the President to start giving some attention to whether or not he can find a way of making it clear to the Soviet Union that they should start withdrawing their military equipment from the country of Nicaragua, that they ought to recognize this is in our hemisphere, we do not need them here, we want them out, and the sooner they can get out, the better.

We are negotiating with the Soviet Union on many items. We are talking about Afghanistan, we are talking about the INF Treaty, and we are talking about the START Treaty that is coming up. We have all kinds of issues here. This is the time to get this issue on the table.

Mr. WALKER. Mr. Chairman, will the gentleman yield on that point?

Mr. OLIN. I will yield in a moment when I have finished.

Mr. Chairman, to stand here and talk about the threat to Nicaragua, gloating about the fact that the Soviets are bringing about all this military hardware and doing nothing about it, is incomprehensible to me.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. OLIN] has expired.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, this bill is misguided. This is the cover-your-posterior bill of the appeasement group here in Congress.

Since they didn't do what was necessary to stop communism in Central America, the appeasement group is now using this bill to make it look like they're concerned, when in fact, they're just trying to save their jobs if things go wrong, as they will if this is all we do. They can tell their voters—my record shows I tried—baloney.

They're just throwing crumbs at the freedom fighters in order to make it appear they're concerned.

This plan is nothing more than a Pan-American road map for millions of Central American refugees who'll be flooding our southern border in order to escape Communist tyranny and oppression. Again, this is the same Communist oppression that the white flag appeasers in this Congress refuse to take any action to stop.

All they're trying to do in this plan, is throw a bone to the freedom fighters without any meat on it. Is this what we stand for in this great country of ours?

We now find that the Communists in Nicaragua, along with Fidel Castro of Cuba, are offering their support to General Noriega, the narco-military leader of Panama. Nicaragua and Cuba, the only two Communist countries in our hemisphere, are the only two countries to pledge support to Noriega. How clear does the picture have to be drawn before you can see it. The Communists in Nicaragua want their revolution without borders to not only involve Central America, but the Panama Canal—as well. The Panama Canal—a main artery of the body of the United States of America.

We'd better help the freedom fighters because it is now even clearer—this fight involves more than just freedom in Nicaragua, it ultimately involves the freedom of this entire hemisphere.

Other great leaders like Winston Churchill who listened to the appeasers of their time trying to buy peace with the freedom of others, must be flipping in their graves.

Have we learned nothing from history? You won't buy peace by giving this pittance to the freedom fighters. But, of course, you're not trying to gain peace with this bill—this is just a bill to ensure you look truly concerned—so you can get reelected.

Give peace a chance? How about giving freedom a chance. Because peace without freedom isn't peace, it's slavery.

Mr. OBEY. Mr. Chairman, I yield myself 1 minute to respond to what has been said by the gentleman.

Mr. Chairman, I would suggest at the beginning stages of this debate that we all try to practice one rule today, and that is to avoid the temptation if we cannot deal with the arguments of the other side, to deal with motives instead. I hope that no one on this side of the aisle questions the motives of anyone on that side of the aisle, and I find it distasteful, as well as sometimes boring, to listen to it.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. OBEY. No, I will not yield. The gentleman can get his own time.

Mr. WALKER. The gentleman is very generous.

Mr. OBEY. Mr. Chairman, I ask for order.

The CHAIRMAN. The gentleman from Wisconsin [Mr. OBEY] has the time.

Mr. OBEY. Mr. Chairman, I simply suggest that if somebody wants to take on the arguments, that is fine. That is what this place is all about. We should not be questioning other people's motives.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, I am pleased to take the well to start talking about some of the arguments, which is what Mr. OBEY seems to want. I think that it is important for us to remember that just about 10 weeks ago, on December 13, President Ortega said, as they were discussing this entire issue of the Esquipulas II agreement and implementation said: "In the hypothetical case that the Sandinista front lost an election, the Sandinista front would hand over government, not power."

Well, they have not yet held that election, and they have not lost it, but we have certainly seen power demonstrated very clearly by President Ortega. How did he do that? By throwing out that tremendous individual whom many of us have met on many occasions both here and in Nicaragua, that is, Cardinal Obando y Bravo. He is an individual who desperately wants peace, like all of us do. Yet he is one who realizes very clearly that that four-point promise of free and fair elections, an end to human rights violations, a nonaligned foreign policy, and political pluralism should in fact be implemented as promised in the 1979 revolution.

One of the tragedies and one of the arguments that has been pointed out came from one of our meetings that we held when we were in Honduras. Ambassador Briggs told us that what he had heard from many of the Contra leaders is that the United States of America continues to provide just enough to survive but not enough to fight. Many people have also argued that we in this country have the exact same interests as the Central American presidents.

Well, again that is not always the case. It seems to me that some of the Central American presidents have the same interests that a number of my colleagues have on the other side of the aisle. We desperately want to ensure that we never have to send a single U.S. combat troop to the region. Yet this package which may provide just enough to survive but not enough to fight may create a situation where we would be forced to send U.S. combat troops to the region. President Arias has said that that may be the solution, that that may be what they want, and, unfortunately, many of our colleagues on the other side of the aisle have said the same thing.

Mr. OBEY. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I rise today in support of this legislation.

This will be one of the most difficult votes I have cast in my 14 years as a Member of this body. For years, I have stood on this floor and argued against providing any aid, in any form, to the nondemocratic, terrorist Contras in Nicaragua.

I have steadily opposed that policy because I felt that it could not succeed in its goal of either democratizing the Nicaraguan Government, or achieving its downfall. Most recently, in December and on February 3, I also voted against Contra aid because it was clear that for our Government to provide additional lethal assistance to the Contras would fatally wound the Arias peace process—which offers the best hope in a generation for an end to the killing and the beginning of national reconciliation.

Yet today, I urge my colleagues—including those who have long stood with me in opposing Contra aid, to vote for this compromise, because it will facilitate an end to the war, perpetuate the peace process, and simultaneously send a renewed message to the Contras that the Congress is not willing to provide lethal aid.

This bill in no way sanctions the destructive and counterproductive policy of the Reagan administration in Central America.

Far from it.

Our policy of underwriting an army of mercenaries has destabilized, pauperized, and radicalized both the Sandinistas and the people of Nicaragua. It has rekindled the dimmed fires of gunboat diplomacy and condescension toward so-called banana republics of Central America.

And it has damaged our democracy here at home as well, as we all learned in excruciating detail last summer.

I vote for this legislation today, and I ask my colleagues to support it, in spite of our long fight against the Contra policy.

One of two parties is going to be terribly affected by the vote we cast today.

It could be those of us who have long stood against any form of aid to the Contras. And voting for that aid now, in any form and for any reason, causes us anguish because we must compromise on a policy we despise. It is true: credentials are on the line, and voting for this package may do some damage to them.

But the people of Central America are also on the line—the people whose peace process will be destroyed by the resumption of military aid; the people whose children will be blown apart and murdered by the resumption of military aid; the peoples whose futures, whose prayers for an end to the fighting and a chance for tranquility, will be so diminished by the resumption of military aid.

If one party must be damaged—credentials or the last hopes of millions of people in Central America for peace—then I must cast my vote for this humanitarian aid package.

I do so without the certainty that its passage assures peace; but I do so with the certainty that its failure prolongs war.

Ending this war has been our goal, and remains our unshakable goal with the passage of this bill.

I have been asked, "How is this situation any different than our vote in December, or our vote in February, when we fought any aid?"

And the answer is: Today, we have ended the military support for the Contras, and we have provided an environment where the peace process can be pursued.

Defeat of this package will undoubtedly return us to a policy which promotes war, and will strengthen the administration's policy of indifference to the peace negotiations.

Three weeks ago, we who have long opposed any Contra aid went to some of our friends who had not shared that viewpoint and asked them to "give peace a chance" by casting a vote they would have preferred not cast, a vote which took some courage, a vote which was perhaps inconsistent with some of their long-held views.

And enough of them took that chance for peace to stop military aid—a crucial, and hopefully irreversible, step toward peace.

Now, it is our turn to take a risk, to cast the tough vote to give peace a chance. Because if this vote fails, make no mistake, the policy of arming the Contras, wins.

If this package fails, make no mistake, the undermining of our national goals and our national conscience will be given new life.

I speak to my troubled colleagues with much reservation, because I cannot assure anyone that this package is not the first step on a slippery slope that puts the Congress on record in renewed support of the Contras. Preventing that requires the vigilance and commitment of every Member of this body who shares our view on the Reagan policy in Central America.

But I can assure you—and you know it is true—that defeat of this package of nonlethal, highly supervised aid will leave many of our courageous colleagues with no alternative but to vote for the arms that the Senate, or the President, will propose.

We are not the only ones who have to make the difficult decision. Throughout this country are tens of thousands of church people, peace activists, labor leaders, and concerned citizens who have shared with us the burdens of this campaign for peace. Many of them cannot support this package, and I respect their conscience and I wish this vote were not necessary.

But there are many others, including the leadership of Countdown 87, the national coalition against Contra aid, which understands that this is a vote for peace, for the Arias plan, and against the resumption of military assistance which will end the hope for peace.

We will have to take that message back to our constituents, and ask their understanding that this course is the most likely to perpetuate the peace process and prevent the resumption of military aid. I would rather take that message home than an explanation that military aid was resumed, but my voting record remained 100 percent consistent.

That is the only real choice which faces us today—the lesser of two evils. A vote for the ideal is, effectively, a vote for the worse evil, and it is a vote which inadvertently and unfortunately will provoke far more severe consequences than an "aye" vote.

So I ask my colleagues, once again, to "give peace a chance" by voting for this compromise, and then to reinvigorate the effort to strengthen the peace process and prevent the resumption of military aid in Central America.

In the spirit of sustaining the movement toward peace in Central America, this legislation is supported by a wide range of organizations which have long opposed any form of aid to the Contras, including: Friends Committee on National Legislation; Lutheran Office for Governmental Affairs, Jesuit Social Ministries, Network: the Catholic Social Justice Lobby, the Presbyterian Church [USA], and Countdown 87: A Campaign To End Contra Aid.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Chairman, on February 3, I stood in this well in front of this body and said that those who entreat us not to forget the lessons of Vietnam were talking about the wrong lesson. They have always entreated us not to forget the lessons of Vietnam which relate to the piecemeal introduction of a United States force into a war zone without a clear, coherent plan, without a clear, coherent sense of policy.

I said instead that the lesson of Vietnam we should be remembering is not to abandon our allies. Well, it appears that I was half right and half wrong. It definitely appears to me that the package which is being proposed by the majority is a definite abandonment of the democratic resistance in Nicaragua. It also is very clear that the democratic package being proposed to us today is the very first step to a piecemeal, unthoughtful, unplanned and without-policy introduction of the U.S. military into Central America. This plan calls for the abandonment of an in-place operating and efficient delivery system carried out by the Central Intelligence Agency, and it replaces the responsibility with the Department of Defense and with U.S. military personnel.

□ 1445

There has been no consultation with the Department of Defense to determine if they want this responsibility, if they have the capability of carrying it out, or how they would carry it out. Is it being done simply because there are people in this body who do not like the Central Intelligence Agency and, therefore, they are imposing this obligation on the Department of Defense? That is not policy. That is not planning. That is not thinking through the consequences. What that is doing is taking us on the first step of introducing American force into Central America, a war zone or a potential war zone. We should be ashamed of doing something like that. I sincerely hope that none of us will ever have to explain to a mother or a father of an American serviceman just exactly how we got into that kind of a posture.

Mr. OBEY. Mr. Chairman, I yield 4 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I appreciate the gentleman yielding me this time.

Let me say in light of what the previous speaker in the well said about motives, all of us I think share the same goal, seek the same goal in Central America. We have a difference of what strategy might accomplish that goal. We all want peace and protection against real threats to our security. I think we ought to understand that when we engage in these discussions.

There is a peace plan underway in Central America, and the question is what do we do here and how does it affect that peace plan? Some of us feel very strongly that to provide lethal aid which would derail the peace plan will be very counterproductive to us and to the people in the region. We need to do what we can to give that peace plan a chance to work.

The real question before the House of Representatives is what are we going to send to Central America? Are we going to continue to send guns to guerrillas and guns to governments, or are we finally going to begin to send what our neighbors so desperately need, food, medicine, and clothing, the kind of help one neighbor would normally give to another neighbor.

Are we also going to help pursue peace, not try to derail it?

The proposal before us offers two fresh approaches and combines them as a transit or a bridge to peace. For a short time period we say to the Contra soldiers that we will provide you with sustenance needed to maintain life. We have a responsibility for this peaceful aid, this short-term survival assistance of food and medicine to the young men and women in the hills while the final step of being taken in a peace process to provide lasting peace so that these folks can come back and join their families.

But more than this sustenance to the Contras, there is another part of this package providing aid to the children of that region. The second part of the package is the Children's Survival Fund of genuine humanitarian aid, which I helped write. It recognizes the thousands and thousands of children who are victims of this war, the children who have lost their limbs, children who have known the agony of burns and bullets, who are hungry or homeless. We need to start the healing process to bind up the wounds of war. We need to start with these children.

The Children's Survival Fund will provide basic food, medicine and shelter for the children victims of this war, prosthetic devices for amputees, treatment for the burn victims, lifesaving immunization and oral rehydration therapy for victims and orphans.

During a trip to that region some while ago I met a young woman in a refugee camp on the border between Nicaragua and Honduras. She was holding her 6-month-old son in her arms who was desperately ill. It appeared he would probably not live. The mother asked for help and there was not anything I could do and there was precious little medical help in that refugee camp. The tears from that sick child I saw that day are our tears, too. They are tears that Congress should not and cannot ignore.

In this child survival package we finally begin converting what would have been lethal aid to assistance that will give hope and give life to the children of that region.

Let me make one final point. In many cases these children live in refugee camps. They do not understand or care about the difference between democracy and communism, but they know the difference between happiness and sadness. They know what suffering, pain and injury is.

I want them also to know what healing is and what opportunity is. If we take these steps for both the Contras and the war victims in this bill, I believe we will promote regional peace, and frankly we will help tens of thousands of innocent victims. We will be taking two steps, the first step and the right step.

I think the Congress can be proud of that. Again we share the same goal. The goal is peace and democracy in that region and the promotion at genuine hemispheric security I think we are close to that goal. What we do in this package can assist that goal immeasurably. We keep the Contras until a peace settlement, we help the children, and we move this region toward peace. I am proud to support this package.

I would also insert for the RECORD a more complete statement on the elements on the child survival package.

Mr. Chairman, section 10 of this resolution, children survival assistance, is the most remarkable and important part of this legislation. The intent of this section should be clear: aid to children, as defined under this section, is to be distributed based on need, not on politics. Our aim is to provide effective assistance as rapidly and efficiently as possible to children in need and to convert military aid into lifesaving help.

The language of this section allows the Agency for International Development [AID] the flexibility and responsibility to determine the precise amounts to allocate to each of the named types of assistance and designated groups, with the understanding that the aid is for, and only for, innocent children who need these types of assistance. The aid, therefore, should be allocated equitably by AID, based on need, both inside and outside Nicaragua, with at least one-half of the funds benefiting children living in Nicaragua.

NO AID THROUGH NICARAGUAN GOVERNMENT

Children's survival assistance is to be provided to children on both sides of the conflict, through the Agency for International Development's Office of Foreign Disaster Assistance [OFDA], which should contract for delivery of services only with nonpolitical private and voluntary organizations, such as Catholic Relief Services and CARE, and international relief agencies, such as UNICEF. Those agencies and organizations which already provide such services or similar ones in the region are to be given preference in the allocation of these funds. None of this money is to go to or through the Government of Nicaragua.

As many as 2,000 Nicaraguan children have lost a limb, usually a leg, because of mines planted as part of this war. It is our intention that some of the funds provided under section 10 be used to provide noncombatant children with artificial limbs as well as the essential complement of rehabilitation services so that they can function adequately with their prosthetic device.

Many children have suffered severe burns as a result of flying shrapnel and explosions associated with armed attacks. It is our intention that they be helped under children's survival assistance.

CARE FOR ORPHANS AND REFUGEES

More than 10,000 Nicaraguan children have been orphaned by war, and we intend that some of these funds be distributed to nonpolitical private and voluntary organizations and/or international relief agencies to better provide for the health needs of these children, tragically deprived of their parents.

An international relief agency such as UNICEF and/or private and voluntary organizations should be provided funds to immunize a sizable number of the more than 100,000 Nicaraguan children who remain unprotected against killer diseases such as diphtheria, tetanus, polio, measles, and whooping cough.

A category for additional medicines and other essential health supplies is contained in the language to permit AID to supplement these essential health needs as necessary. It should be clear, though, that it is intended that the focus of any AID activity be to provide for the most pressing health needs of these children.

Hundreds of thousands of children in Nicaragua do not have access to adequate medicine or medical treatment. Even simple treatments, such as oral rehydration therapy [ORT] and vitamin A supplements, are not available to many of these children. Yet ORT is an effective, low-cost treatment (a few pennies per dose) against diarrhea, and diarrhea remains one of the leading causes of child disease and death in Nicaragua. Vitamin A, which costs less than 2 cents per dose, prevents blindness and reduces child mortality. It is our intention that such treatments, as well as other effective medicines, be provided to Nicaraguan children facing life-threatening conditions.

STANDARDS OF TRAUMA CARE AND FIELD TRIAGE

While both alternatives before us today recognize the need for a special Child Survival Program, neither will achieve its goals without a well-defined plan for treating severely injured or at-risk children.

The Democratic package envisions emergency care for several groups of children: amputees, orphans, burn victims, and those inflicted with life-threatening diseases or malnutrition. Each group will require special attention and treatment. I want to emphasize for the record that whichever voluntary or international agencies AID selects for child survival activities, they should follow medically accepted guidelines in providing care.

I am indebted to the Pan American Trauma Association for recommending, in particular, that trauma care be delivered in accordance with the guidelines of the American College of Surgeons Bulletin entitled "Hospital and Prehospital Resources for Optimal Care of the Injured Patient" (Vol. 71, No. 10). The bulletin carefully describes the key delivery and patient components of trauma care, the appropriate levels of care, and criteria for effective field triage.

As one of the authors of the child survival assistance in section 10, I would underscore that such professional and medical standards must guide the delivery of authorized care wherever possible.

HUNGER COMMITTEE WORKING GROUP ON CENTRAL AMERICA

Finally, I want to emphasize that the child survival initiative stems from the Hunger Committee Working Group on Central America. As part of our agenda for the year, the committee is examining nutritional and child survival requirements of the region. Section 10 of this bill reflects, in part, our effort to address the specific needs of children injured and dislocated by the war in Nicaragua.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. STRATTON].

Mr. STRATTON. Mr. Chairman, we have before us again a problem that we have been trying to evade for indeed over almost a number of years. Someone has referred to the "Arias peace process," but where is the peace process? Where is Mr. Arias?

Mr. Arias has indicated that Daniel Ortega is not carrying out the peace process. He is violating it. But what has Mr. Arias done?

The purpose of the Contras is suppose to provide pressure to force Daniel Ortega and his band of ruffians to carry out the promises made when they promised democracy for Nicaragua.

The purpose of the Contras is to put pressure on the Ortega government and pressure that can be applied on Ortega, and can be applied in other ways.

About a month ago, the distinguished Speaker of the House of Representatives, Mr. WRIGHT, was able for a brief moment to bring together Cardinal Obando and at the same time Daniel Ortega; but that did not bring about peace. In fact Ortega has already dumped the cardinal as the mediator.

The only way we can provide peace in Central America is to get some kind of pressure that will bring back the promises a pressure that will not go away that is the reason for the Contras.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, an interesting letter came into the possession of Members on our side of the aisle from the Democratic study group sent out to so-called peace groups from a number of Members on the other side of the aisle indicating why they should support the Democratic package, and in there it says:

> This bill does something that we and they—

That is, the groups—

> have consistently and strongly opposed for the last several years. It provides aid to the Contras in the form of food, clothing, medical supplies and shelter.

Then it goes on and tells us that the reason they do that is not because they support that, but because it is the only thing they can win with on the floor. So let us be clear about what the intent actually is. It is at some time to deny the Contras food, clothing, medical supplies and shelter, and absolutely destroy them as any effective force whatsoever in Nicaragua.

Many of us here are debating. We are not questioning motivation, but we are questioning what the outcome is going to be of our decision here. We wonder what is going to happen 20 or 22 years from now. What are people going to say about what we did here? What are the consequences of what we do here?

I would commend your attention to the book, "Against All Hope," by Armando Valladares. He can tell you what is going to happen in Nicaragua, because it has happened in Cuba. For 23 years he was a political prisoner in the prisons of Fidel Castro, despite all the same things happening in Cuba that are happening in Nicaragua today. When I spoke with him a couple months ago, he said that the East Germans came in and instructed the Cubans in the use of terror in the prisons.

He said, "The head of one of the prisons that I suffered in during my 22 years is now in Nicaragua," doing what—"instructing the Nicaraguan Communist government in how to use terror and torture in the prisons for political purposes."

The question is are we in 22 years going to look back and say, "We were taken in by the Ortegas of the world."

Why do we have to learn this all over again?

Armando Valladares says, "Against all hope."

Let us not write a new book that says, "Abandon All Hope."

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. COATS].

Mr. COATS. Mr. Chairman, for better or for worse, it is clear that the House of Representatives has assumed a major role in shaping U.S. foreign policy. That means that each of us has to make critical decisions as to what we think that role should be and what that policy should be, and we are making one of those decisions today.

I would hope that each of us would have the courage to vote our convictions. There are few Members left in this body who do not think there are major problems in Nicaragua, major problems in Central America.

The Sandinistas have demonstrated the nature of that regime to all of us, but we are divided in how to respond to that problem. Half have said repeatedly that assistance to the Contras is the only viable means available to us for deterring the Sandinistas, short of direct U.S. military intervention, which none of us want. We would rather those who support the Contras send their money to pay Nicaraguans to fight Nicaraguans than risk United States troops.

The other half passionately argue that any aid to the Contras or any support to the Contras by the United States is a barrier to peace and democracy in Nicaragua and Central America, two opposing views, both strongly held on what course of action we are to take in Central America.

But what do we have before us today? We have a democratic package that is designed not to advance their foreign policy view, but simply to provide political cover for some members of that party who do not want to be caught in case their policy fails. So instead of having the courage to vote their convictions and say, "We don't think there should be any aid to the Contras," they are providing a package of blankets and Band-aids and some Bufferin to assuage their consciences and give political cover in case the thing becomes a cropper in a few months or a few years.

As we advance and move toward this vote today and if we are going to assume that foreign policy role, let us at least be honest and do it up front. Let us at least state what our policy is going to be, vote our convictions. You cannot have it both ways.

Mr. OBEY. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, today the Members of this body are faced with a stark choice, a choice between peace and war. The Democratic substitute will move the peace process forward and help bring an end to the fighting in Central America.

The Republican alternative will allow the Contras to continue their war, endanger the peace process, and ensure that the killing continues.

This should not obscure the fact that this is an extremely difficult vote for those of us who have consistently opposed Contra aid in the past. While the Democratic aid package is an effort to end the war, and, therefore, moves us toward humanitarian assistance, the fact remains that it is aid to the Contras—something I have never, in the past, supported.

However, this aid package is fundamentally different than any of the aid packages which have come before us in the past. It includes no helicopters, it includes no jeeps, it includes no trucks. It contains only food, clothing, and medicine. More importantly it includes assistance for the most deserving victims of the Contra war—the children of Nicaragua who have been caught in the crossfire.

There are a number of other important differences between the Democratic and Republican plans. The Democratic plan provides for strict monitoring of all aid shipped to the Contras and requires that U.S. Government involvement in aid distribution end in the event of a cease-fire. The Democratic plan also contains language preventing further distribution of the military equipment already stockpiled for the Contras, a very significant departure from other proposals and one I will help stop the aid from flowing.

President Arias supports the Democratic plan and has said that it is fully consistent with his efforts to bring an end to the fighting in the region. In addition, the Democratic package clearly establishes that any further assistance to the Contras will only be sustenance aid—food, clothing, medicine, and shelter.

The "non-lethal" aid contained in the Republican package, essentially military aid by another name, violates the Arias plan and endangers the peace process.

This is not an easy vote—either for me or my colleagues who, like me, have opposed Contra aid. However, we must consider the alternative to passage of the Democratic substitute. Any vote against the Democratic plan is a vote for the Republican plan. Any vote against the Democratic alternative is a vote for military aid to the Contras. I would hope that any of my colleagues who are considering voting against the Democratic alternative will consider this before casting their vote.

This vote today will send a message to the people of Central America. Passage of the Democratic plan will tell the people of the region that the United States is committed to finding a peaceful resolution to the conflict, that the United States wants to support the work of President Arias—the people of Central America to achieve peace and end the war. That is the message I want to send. I hope it is the message a majority of my colleagues also wish to send.

I urge my colleagues to join with me and support the Democratic substitute.

□ 1500

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Mr. Chairman, I am a little discouraged to hear the gentleman from California [Mr. LEVINE] talk about a Democratic plan and a Republican plan. I am very disappointed because it is a dark day in the development of American foreign policy. After World War II the sitting President was a Democrat, Harry Truman, who worked very closely with the Republican chairman of the Senate Foreign Relations Committee, Arthur Vandenberg from Michigan. Vandenberg, who was at one time an isolationist, worked with Truman to develop NATO and some of the most important foreign policy initiatives for this Nation as a new world leader.

In July 1983 President Reagan appointed a commission, proposed by Scoop Jackson and chaired by Henry Kissinger to develop a long-term bipartisan foreign policy for Central America.

Where is that commission now when we need it?

It has disappeared from the scene.

Mr. Chairman, today we are here trying to develop foreign policy for Central America one from the left, another from the right. We are not working together harmoniously to build a bridge between the peoples of the United States and Central America. A successful bipartisan foreign policy for Central America must have some basic elements in it: an element of strategic decisions, an element of cultural decisions and policies, an element of education and scholarship.

But where are we today? Central American countries are sending thousands of students to Moscow, to be educated in Marxist institutions as teachers, doctors, and lawyers.

We have no provisions relating to the Caribbean Basin Initiative or our trade policy with our Latin American neighbors in this bill. This is a major deficiency. To me historically it is a dark day for this Nation.

The membership of the Kissinger Commission was bipartisan in nature and included Robert Strauss recognized as a reputable and outstanding leader of the Democratic Party; John Silber, president of Boston University; Potter Stewart, a former Supreme Court Justice; Lane Kirkland of the AFL-CIO; and others. I think we need to reestablish that commission. We need to begin to talk together in a bipartisan way to craft a decent long-term foreign policy for Latin America, our good neighbors. We need to build a partnership between the United States and Central America for the future, not the short sighted, crisis-oriented policy that we are looking at today.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I agree with my colleague the gentleman from Michigan [Mr. PURSELL] about the need for bipartisanship. I wish we could reach that consensus on a bipartisan policy toward Central America, and in looking at the alternative plans that are under consideration today, it is clear we are moving closer. I would hope that in the future we could find that kind of consensus so that we could have a consistent policy that is adopted by a greater majority than just a handful of votes.

Mr. Chairman, I want to talk about that portion of our aid package today that would send humanitarian aid to those other than the Contra resistance. A lot of the debate has focused on the humanitarian aid for the Contras. However, the portion of the bill that I want to speak about is the provision that establishes a child survival fund for the innocent victims of the strife in Nicaragua.

I would like to stress that child survival funding represents nearly 50 percent of the total aid package, an amount equal to the humanitarian relief provided to the Contras. Furthermore, it is a program that those of us on a Hunger Committee task force have spent some time in formulating.

During a Hunger Committee investigative tour of Nicaragua in August of 1987, I witnessed, firsthand, the conditions in which many of the children of Nicaragua live, conditions created in part by United States funding of the Contra rebels and in part by the misdirected policies of the Sandinistan Government. In Nicaragua clinics are underequipped, understaffed and overcrowded. Immunization programs in most parts of rural Nicaragua now have been abandoned in spite of the earlier successes in this area of health care. Children have been burned and have lost limbs from land mines and battles between the Contra and Sandinista forces. Hospitals, clinics, and health care services that could provide these children with care have been severely damaged and in some cases closed due to Contra attacks. The Hunger Committee fashioned the Nicaraguan child survival program to address these problems. We created the program and worked with AID, private volunteer groups, and others to determine the type of programs and levels of funding needed to make an impact on the children of Nicaragua.

Mr. Chairman, I urge adoption of the package particularly because of the importance to the children of that region.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Chairman, I rise neither to support the Republican nor the Democratic alternatives, but to suggest a pox on both approaches.

There has been a good deal of discussion today on the distinctions between the two packages before us but in a philosophical sense, they are surprisingly similar. The key distinctions are procedural; matters of degree, not substance.

One approach, for instance, gives the CIA administrative authority over our Contra aid, the other the Department of Defense. This distinction is not great. Both are agencies of the U.S. Government, manned by individuals who are patriots willing to serve their country in dangerous circumstances.

At issue in the largest sense is the message, not the deliverer; the composition of the order, not who articulates it.

Unfortunately, both the Democratic and Republican packages contain the same message: more of the same.

If the Boland amendment was a Gulf of Tonkin resolution in reverse, the approaches being considered today represent a capitulation to executive violation of law. In this respect, it is key we understand what the law is.

In its opinion on June 27, 1986, the World Court wrote, "if the provision of 'humanitarian assistance' is to escape condemnation as an intervention in the internal affairs of Nicaragua, not only must it be limited to the purposes hallowed in the practice of the Red Cross, namely to 'prevent and alleviate human suffering', and 'to protect life and health and to ensure respect for the human being'; it must also, and above all, be given without discrimination to all in need in Nicaragua, not merely to the Contras and their dependents." The aid included in this bill which would be administered by the CIA in the Republican approach and the Department of Defense in the Democratic one clearly violates this injunction.

Whatever package prevails in the first vote today, my advice is for this Congress to summon the courage to follow the law, to just say "no" to wean itself from the drug of war.

It is time to cease supporting an illegal war, immorally prosecuted; time for the majority party to stop criticizing and start standing for principle.

It's time for accountability, not rationalizations; time to end remonstrations against the President, while giving remunerations to advance his policies.

Above all, it is time a sense of law is applied to our foreign policy.

Mr. OBEY. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, make no mistake about it, this package is the best of a bad choice, but I would submit that the bad choice we face is not one created simply by the politics of votes in this House. It is a bad choice created by history and by our past policies.

Those policies and history had three stages. First there was the 40-year dictatorship of Somoza, unfailingly backed until the very end by this very country, which kept Nicaragua impoverished and without freedom, developing an anti-American attitude on the part of the people of Nicaragua.

The second part of the bad choice was the revolution that occurred, not the revolution itself but the fact that a totalitarian faction of that revolution, the Sandinistas, gained the upper hand.

The third part of that bad choice were the Contras, remnants of the Somoza regime by and large, former members of the National Guard who were hated in Nicaragua and brought back to memory the 40 years of support for Somoza that is a blot on our record.

They are the very Contras of whom, and let me quote Rob Owen writing to Ollie North, said, "These are not first-rate people. In fact, they are liars and greed and power motivated. They are not the people to rebuild a new Nicaragua."

So that is where we are, I say to my colleagues. We have the best of a bad choice that history has thrust upon us. The process of peace which we seek to encourage with this package today is a step-by-step process, a stage-by-stage process, a slow process. If we are serious about peace, we certainly do not want to send helicopters and communications equipment to the very people who the Nicaraguan people hate, the Contras.

If we are serious about peace as well, we do not want to let up all pressure on the totalitarian Sandinistas and just tell them to go ahead and go about their merry way.

For once, there is a glimmer of light in this sad part of the world, and that is the peace process. I would submit to my colleagues that by maintaining humanitarian aid and by eliminating all lethal aid we will do most to aid the process of peace and to aid the process of democracy which we cherish.

Mr. Chairman, I urge support of the Substitute. I urge opposition to the Republican proposal.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, we have before us a question of choices, and our choice is very much going to depend on how we view the situation.

I will tell my colleagues how I view the situation.

We are dealing, in my opinion, with a pro-Communist Soviet client state that is heavily militarized, has plans to use that military against its neighbors, and is willing to sacrifice its own economy to finance its military and ultimately represents a security threat to this country and particularly to one of our prime economic assets, the Panama Canal.

Therefore, my choice is to take those rational steps necessary to deal with that Communist threat. There are others who disagree. They see this situation as one where we the people of the United States are to blame, where the Communist threat is insignificant, and in fact we have heard in this debate earlier today that we ought to learn to trust the Communists there, and any danger to our security or the security of the embryonic democracies in Central America is secondary to the goal of peace even if it threatens freedom.

Why do I say they do not believe there is any real Communist threat? The Democratic study group letter was referred to earlier. I have been through the whole letter, and there is not one mention made in there of any Communist threat. In fact the only problem they see in Central America in this letter is poverty and maldistribution of wealth, something which is strikingly similar to the Communist Sandinista analysis of what is going on down there.

□ 1515

It seems to me also that you have got a situation where their measure that they bring forth advocates a position that is necessary to abandon our commitments there and accommodate the Communist regime that will inevitably result. Is that too strong?

They have a Presidential candidate, one of our leading presidential candidates, who told us recently that we should be willing to accept an inoffensive Communist state in Central America. If my colleagues look at the two reports they will find out that our version of what we should do says, and I quote, we should put an "end to Soviet, Cuban and other Communist bloc military or security assistance to, advisors in, and establishment or use of bases in, Nicaragua."

What does their substitute proposal say? It says only that what we ought to do is take care of any potential offensive capabilities. We ought to accept an inoffensive Communist client state in the Central American mainland in this hemisphere.

So what are the choices before us today? Those who believe that we should take a firm stand against the Soviet threat in this hemisphere oppose the Bonior substitute. Those who believe America is to blame for the problem in Nicaragua support that substitute. It would pay reparations to the Soviet Government, it would make anti-Communist forces into refuges and for the first time involve our military in that conflict.

There has been some controversy on the floor about involving our military in the conflict. Let me quote from the Democratic proposal. I have it right here. It says, "The Department of Defense shall be responsible for the direction, management and delivery of assistance authorized by this joint resolution."

My friends, the Department of Defense is our military, in case you had not heard lately.

The question is one of choices. My choice is to try to help the Nicaraguans who want to stand up against communism.

Mr. OBEY. Mr. Chairman, could I inquire how much time is remaining on both sides?

The CHAIRMAN pro tempore (Mr. PANETTA). The gentleman from Wisconsin [Mr. OBEY] has 18 minutes remaining, and the gentleman from Oklahoma [Mr. EDWARDS] has 24½ minutes remaining.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I will not vote to put American military personnel in danger in Central America. The Democratic alternative will do just that. It is portrayed by its sponsors as humanitarian aid for the Contras.

It is, in fact, nothing more than a thinly disguised recipe for unilateral disarmament in Nicaragua. It removes all pressure against the Sandinistas but does nothing to reduce the Sandinista military threat or the Soviet-Cuban presence in Nicaragua. The proposal places too much emphasis on the good faith of the Sandinistas to comply with the Arias peace plan and gives too little incentive to the Sandinistas to make the reforms necessary to bring democracy to Nicaragua. It is designed to appeal to those who want peace, but it is peace without freedom.

It is hard to place much confidence in the sincerity of the Sandinistas for the Arias peace plan. One month after they signed the peace accords in Guatemala in August, the Sandinistas signed an agreement with Cuba and the Soviet Union to double the size of their military, and to escalate the offensive weaponry available to the Sandinistas by providing them with surface-to-air missiles and Mig jets.

How can the Sandinistas be believed that they truly want to carry out the Democratic measures required by the Arias peace plan? They made the same commitments to the OAS in 1979; then, last fall, in his address to the OAS Daniel Ortega—the same Daniel Ortega who goes regularly to Moscow and who also supports Panamanian General Noriega—ridiculed and expectation that the Sandinistas should have complied with their 1979 commitments to the OAS. He told the other Western Hemisphere leaders that there was no legal, binding commitment on Nicaragua to honor its 1979 promises to the OAS. If the Sandinistas can so easily get away with discarding their 1979 commitments, what is to keep them from discarding their 1987 commitments to the Arias peace plan? And just today it is reported Ortega fired Cardinal Obando y Bravo as mediator.

The single, most effective pressure on the Sandinistas to reform has been the existence of the Contras. Removing the Contras as an effective impediment to consolidating their Communist regime in Nicaragua has been the primary goal of the Sandinistas in supporting the Arias peace plan. The Democratic alternative accomplishes the Sandinista goal for them. It is done in the name of humanitarian assistance; but, it is the same as giving the Contras no aid at all. It is even more insidious than giving no aid because it accomplishes what the Communist Sandinistas want: The surrender of the Contras, and it does it while making it look like Members of Congress are humanitarians.

I reject this deception. I urge my colleagues to vote against it and to vote for the Michel language.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Chairman, I know it was just February 3 when we considered the very, very moderate Republican package here in the House. It is really mind-boggling that it was not approved. Of course, it came very, very close. With the slip of just 4 or 5 votes we would have had approval.

Now we have this Democrat package up here which is a political figleaf for liberals to be able to vote for something to try to argue at home that they have sustained the Contras. We all know that this is a silly package. We know it has virtually no chance of becoming law, because if we send this thing over to the Senate they are frankly going to laugh at it because it has no impact and has no effect and has no real substance. We all know that.

I do not get as worked up as some of my colleagues and my friends on our side of the aisle about how bad your package is because we all realize this is gamesmanship being played right now. The vote today is not the critical vote. I guess the critical side of it is whether this package gets out of the House, which I think it clearly will because of the political muscle being applied. But that is not the crucial vote for the men and women in this House to have to consider. The crucial vote is whether the liberals in this House are going to be responsible when this package comes back from the Senate, because you know what, the package that comes back from the Senate is going to be remarkably like the Republican package that was offered in this House in the beginning of February. You know it and I know it. Then you are going to have to decide whether you are going to reconcile yourself to the point of voting for a package that provides the kind of assistance that needs to be provided to the freedom fighters in Nicaragua, and I submit to you that you will. I submit that the majority will prevail in this House and we will provide the essential money that the Contra leaders need in Nicaragua in order to enforce a peace plan.

I cannot believe that we are considering this vote a day after Daniel Ortega decides to fire Cardinal Obando y Bravo. What an incredible act of bad public relations again by Mr. Ortega. My colleagues cannot keep making excuses for him.

So what I say to my colleagues is have your fun today, play your games today. The crucial vote is coming and I hope we are going to be responsible and deal with the problems in Central America, not just within Nicaragua, but send a message to the entire region that we are going to be responsible.

Mr. OBEY. Mr. Chairman, I yield myself 1 minute to respond.

Mr. Chairman, there are two lines of baloney that we heard in the previous speech. The first is that this provision provides that military personnel might be put in danger.

The fact is that section 216 of the 1987 CR specifically prohibits that. That is included in this provision, and that guarantees that the only action that is going to take place by the Defense Department will be by contract in precisely the same manner as under existing law.

The second point that has been suggested is that the cardinal has been fired. That is also a lot of baloney. The cardinal is still in Nicaragua, he is still a cardinal, he is still chairman of the Reconciliation Commission. The Sandinistas have simply said that they will now, for the first time, accept the demand made by the U.S. Government and the Contras themselves that they negotiate directly with the Contras.

The administration on that point, instead of nitpicking, ought to simply declare victory and go home.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, for weeks now—since the narrow defeat of the President's request—the majority has been trying to agree on renewed assistance for the Nicaraguan Contras.

Even the Speaker's plan recognizes it is necessary to sustain the freedom fighters. Our assistance is essential to maintaining the Contras as a viable force to keep pressure on the Sandinistas.

Unfortunately, in my view the majority plan amounts to a surrender package. It could ultimately turn the freedom fighters into refugees in their own country.

Either we provide the necessary assistance to the Contras or they will be at the mercy of the Sandinista Army. It's that simple.

Mr. Chairman, I came to the House during President Eisenhower's term. I have served with seven Presidents from both parties, as a minority member of the Foreign Affairs Committee.

No one understands better than I the need for consensus and bipartisanship in foreign policy.

In all my years here, never have I seen such a partisan attempt to assert congressional influence in foreign affairs.

I am deeply concerned about the precedent the Speaker's plan would establish. In the future, are we going to have the congressional leadership formulating foreign policy and committees of Congress performing executive functions?

The Speaker's plan turns everything upside down. It virtually rewrites the Constitution.

Think about it. The majority's plan puts the Speaker in the role of the President.

It puts the Intelligence Committee in place of the State Department. And worst of all, it puts our Armed Forces at risk in Central America.

What are foreign governments to think? Who should they deal with—the President or Congress?

Let's get it straight. Let's put our own house in order and send a clear message of support for democracy in Nicaragua.

Mr. OBEY. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, let me start out by expressing my appreciation to the gentleman from Wisconsin [Mr. OBEY] for yielding this time to me and to commend the Speaker of the House, the gentleman from Texas [Mr. WRIGHT], for taking the political risk of accepting the invitation of the President of the United States to become involved in the peace process in fashioning a negotiating process there.

Mr. Chairman, I rise to speak today in support of the Democratic alternative Contra aid proposal.

I do so as a strong opponent of the Reagan administration's policy of sending military aid to the Contras. The United States has no right to overthrow other sovereign governments simply because we disagree with their ideology. We have no business providing funds to an insurgent armed force which engages in acts of terrorism against the innocent people of Nicaragua. We should be promoting opportunities for a negotiated settlement in the region, not continuing to sabotage any possibilities for peace that emerge.

On February 3, I voted against the President's request for more military aid to the Contras, as I have against every other aid package in the past. I stated then that I believed that sending military aid to the Contras would only ensure a continuation of the war in Nicaragua. To pass the President's request would have dealt a death blow to the Central American peace process—a process which has achieved more in 7 months than 7 years of Contra war.

By rejecting the President's request on Feburary 3 for over $60 million of lethal and so-called nonlethal military aid we sent a clear signal to the Contras that we wanted an end to the bloodshed in Nicaragua. Today we are at another major crossroads in the struggle for peace. I support the Democratic proposal for humanitarian assistance to the children of Nicaragua, to a Nicaraguan Indian community and subsistence aid to the Contras.

I have come to the conclusion after extended soul searching that adoption of the Democratic proposal both as a substitute for the Republican plan and on final passage is absolutely essential to move the peace process forward and to hold off renewed military assistance.

I would like to explain my reasoning especially to those of my colleagues who like myself have consistently opposed aid to the Contras in whatever form.

First and foremost I am convinced that it is morally right to support an action which will save lives. As inconsistent as it may appear to be with prior votes we cast, it is, I believe, absolutely consistent in principle with those earlier votes.

Second, adoption of this proposal will send a clear message to the Contras that military assistance will not be forthcoming from the United States and that the peace negotiations are the only option that can be pursued fruitfully.

Finally, it will send a message to President Reagan that Congress will not any longer permit him the use of American taxpayers' moneys to continue the shedding of Nicaraguan blood.

I think the American people understand and support the Democratic plan. That is why organizations such as these all urge a yes vote: the AFL-CIO, Americans for Democratic Action; the Washington Office on Latin America, Countdown '87, Common Cause, Neighbor to Neighbor, U.S. Catholic Conference, Pax Americas, Lutheran Office for Governmental Affairs, NETWORK: A Catholic Social Justice Lobby, the Presbyterian Church, Jesuit Social Ministries, the Episcopal Church, Friends Committee on National Legislation, Womens Strike for Peace and the Center for International Policy.

The defeat of the President's proposal on February 3 was an important first step in formulating a new U.S. policy toward Nicaragua. However, the vote 219-211 was extremely close and the truth is that the vote simply could not have been won if the Democratic leadership had not promised to offer this alternative humanitarian aid package. I am convinced that if the Democratic alternative is not adopted we will have opened the way for the resumption of military assistance, the full scale resumption of the war and the destruction of the Arias peace process. I do not want that on my conscience and so I will vote yes for the Democratic plan and urge my colleagues to do so.

Mr. EDWARDS of Oklahoma. Mr. Chairman, how much time remains on both sides?

The CHAIRMAN. The gentleman from Oklahoma [Mr. EDWARDS] has 17½ minutes remaining, and the gentleman from Wisconsin [Mr. OBEY] has 14 minutes remaining.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. DONALD E. LUKENS].

□ 1530

Mr. DONALD E. LUKENS. I thank the gentleman for yielding.

Mr. Chairman, I have been five times to Nicaragua in the last 10 months at my own expense. I just came back 3 days ago from speaking to people in the street, a farmer who hosted a reception of some 700 people who were merely entertaining children having a pinta party. So we distributed toys and clothing that I had brought down.

I was astounded by the reception. They said simply, "Why is it you Americans are willing to help the Russians bring in their Communist tanks and their Communist guns but you are going to cut off the freedom fighters? It is very dangerous to be a friend of the United States throughout the world. The Communists always manage to support their friends, why don't you support yours? We would have no hope for democracy in Nicaragua if it were not for the Contras, the freedom fighters. But you are willing to turn off the American assistance for a group of freedom fighters and not even mention the Russian Communist support." One lady told me that they had not seen tanks inside a year in Managua. The day that this group in the left wing control area of this group voted to cut off the assistance for the freedom fighers, 36 tanks rolled out that night under her window and they have been going back and forth ever since. The only country in Central America with any tanks at all is the Communist government of Nicaragua.

Why do we insist on a one-sided deal? Why do the left wing jump off the cliff to protect the Russian Communists? They are allowed to send tanks, they send guns. You would think that someone somewhere would be embarrassed by the one-sidedness of this deal, the unfairness of people willing to die, who die every day for a little bit of the freedom of which we have so much. This country has grown selfish and self-centered. We have forgotten the price of freedom; Nicaraguans have not.

Mr. OBEY. Mr. Chairman, I yield 30 seconds to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Democratic plan for assistance to the peace process in Central America.

Enactment of the Democratic plan is a step toward a political solution to the conflict in Central America. A vote for this resoluton supports the peace process the Central American nations, themselves, set in motion of August 7, 1987, in signing the Arias peace plan.

The Arias plan is directed at ensuring the right of the people in Central America to freedom, peace, and open and freely elected self-government. It is directed at freeing the Central American people from overt and covert foreign government involvement, intervention, or interference with their affairs.

And, a vote for this resolution today is a recognition of the failure of the military solution that has been the centerpiece of the Reagan policy on Central America for the past 7 years.

I urge the passage of this resolution.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. Kyl].

Mr. KYL. I thank the gentleman for yielding.

Mr. Chairman, I have two questions for my colleagues who have opposed aid in the past but who support the Bonior substitute resolution. The first question is how long do we have to wait? In our earlier debates we were told that the only impediment to peace and democracy in Nicaragua was United States aid to the Contras. "Give peace a chance" our colleagues said. And on February 3 the Congress finally removed that impediment by voting to end all Contra aid. Did the Sandinistas respond in good faith by finally democratizing the country? Sadly the answer is no.

If anything they have regressed. Most recently they declared they will no longer be needing the services of Cardinal Obando y Bravo as a mediator. You see, he was becoming a real pest. In his way he had complained that the Sandinistas were no longer negotiating in good faith.

As one of our great civil rights leaders lamented, "How long, oh how long, indeed how long must we wait" for freedom in Nicaragua. It has been over a month now since the Congress removed that supposed impediment to democratization.

How long will it take for some in this body to realize that they have been had, that Daniel Ortega has taken them for suckers and having gotten rid of Contra aid has no intention of granting the freedoms all of us in this body support?

The second question is why this illusory aid package now? How can anyone claim aiding Nicaraguan children puts pressure on Ortega? This does not send any message to Ortega except that he can prevail if he holds out long enough.

In practical terms, it provides virtually nothing, it cannot be delivered and is not what is needed. It is just enough to keep some good people exposed to being killed.

No, Mr. Chairman; better nothing now with the strong expectation of truly meaningful aid later than an illusory conscience-salving political-covering resolution such as that proposed here today.

That is why I will vote no, including no on final passage.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Georgia [Mr. Rowland].

Mr. ROWLAND of Georgia. Mr. Chairman, although there are probably as many different views over our policy in Central America in Congress as there are Members, I believe the Contra aid package before us today is something all of us should be able to support. It serves the interests of the United States and I hope the cause of freedom in Central America.

If you support the Nicaraguan resistance, this is a positive approach. In addition to the basic assistance it provides, the measure offers everything the Contras themselves say is essential for their survival in the field including a credible delivery system, an expedited vote on Contra aid in June, and communications equipment to enable the Contras to maintain control over their forces. It will give the Contras everything they need to stay alive and continue to put pressure on the Sandinistas to cooperate with the negotiations now underway. Alfredo Cesar of the Nicaraguan Resistance Directorate has confirmed to me in writing that an aid package which contains these essential provisions will assure the integrity and security of the Contras.

If you have not been in agreement with our policy in Central America, this plan should also be acceptable. It does not conflict with the current diplomatic efforts. In my view, it is supportive of those efforts. It certainly does not undermine them.

Needless to say, today's action will not end the debate on Central America in Congress. We will be back on this issue again before the session is adjourned. But it is a good approach under the conditions which now exist.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, I think it is great we have a vote out here on Contra aid but I think everybody involved has to realize that the folks giving us this substitute alternative from the Democratic side are the same ones that voted down the aid the last time. We are in the process of trying to come up with some hopeful negotiated results that are favorable to the cause of freedom in Nicaragua. I am not very optimistic about that. I think the signs so far point to what many of us have believed all along, and that is the Sandinistas are truly Communists who are interested only in the power and the long-term interests of the dictatorship that they are fostering, and the suffering of the people in that country that they will sustain as a result of that.

But nonetheless we want to see something happen.

The question today for us, now that we are down here looking at this, is which package of these two minimal packages is appropriate to provide the carrot and the stick that might bring some progress involved in this. It seems to me that while there may seem to be only minor differences there are some very significant differences.

There is more money in the Republican alternative than there is in the Democratic; there is certainly the hope in the Republican alternative that maybe we will actually be able to sustain these folks inside the country.

I do not believe for one minute that the kind of humanitarian assistance in the Democratic package here today is going to allow the Nicaraguan Contras to stay in the country more than a few weeks, certainly not until June when we may or may not really vote for some additional support for them. It seems to me that when you are going down and talking about who is trying to get us involved militarily down there that the very party that has accused the Republicans of wanting to get us involved, when I have known all along that that is not the case, is finally going to use our Defense Department to deliver the goods. It makes no sense to do that.

Why change the delivery mechanism at this point? Why put the Department of Defense, get them involved in this case?

The real concern I have always had with the entire proposition in Central America is that someday we will desert the Contras, they will have to come out of Nicaragua, they will disperse as refugees somewhere and then we will see the light, that the Communists are really there all of a sudden, they have control over Nicaragua, then for real they are going to spread the revolution to the next-door countries and the American public will demand we do something about it and our only alternative would be to send in the American troops.

I do not want to do that. I do not think the American people want to do that. We do not have to do that. But if we do not provide a stick there is no reason to believe that the carrot is going to work by itself. There is no reason to believe we are going to see Ortega and his crew suddenly come to some terms to provide true freedom and meaning in Nicaragua.

So I urge defeat of the Democratic alternative today.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina [Mr. Derrick].

Mr. DERRICK. Mr. Chairman, today I will be voting to send an aid package to the Contras in Central America. My vote today does not stem from any great belief in the Contra forces, for time has shown these forces to be fragmented and unable to productively change the course of Nicaraguan politics.

My vote today stems from an institutional acknowledgment of the United States' responsibility for its past and present activities in Nicaragua.

As you are all aware, the Democratic aid package was designed under the assumption that some aid would be sent to the Contras. Thus, the questions for those of us who oppose Contra aid now center on the type and amount of aid, rather than whether or not to send aid at all.

This congressional insistence on spending some amount of aid is a reflection of the fact that the United States has been largely responsible for the creation of the Contra forces. We cannot now simply walk away from them.

The insistence on sending some aid also acknowledges the fact that the United States has a definite interest in maintaining political freedom in Central America. By sending limited aid to the Contras at this time, it can be seen that the United States will not be reluctant to take more substantive action against Nicaragua, should its Government backslide on democratic reforms or attempt to incite Central American revolutions. This is a statement that must be heard in Nicaragua.

At the same time, this particular aid package rejects sending more military aid to the Contra forces in Central America. For we in the Congress have recognized that the time has come for reconciliation, not more fighting.

Finally, this package sends an equal amount of money to both the Contras and to the young victims of the war in Nicaragua. This package then acknowledges the fact that the war in Nicaragua is not an abstract, geopolitical struggle. It is a war in which civilians themselves are targets; in which children lose their lives and limbs. And it is a war in which, like it or not, the United States is involved.

I will vote for this substitute aid package for the Contras, and I encourage my colleagues to do the same.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. BUECHNER].

Mr. BUECHNER. Mr. Chairman, I have sat and listened to many of the speeches on both sides and I have been intrigued by the change in the way the Central American process has been rephrased. People who have said in the past that the Contras were irregulars, that they were untrustworthy, that they were bandits, that they were Fascists, that they did not deserve one bit of consideration, that they did not deserve a dollar of anything, have now come forth and said, "Look, personally, I don't like them but from a national standpoint maybe we ought to give them this little crumb because we don't want to look like what we have done in the past has been wrong even though the process has moved forward and people on all sides have admitted that the Contras have had a salutary effect on moving the Sandinistas toward the peace table, toward the minimal, minimal movement toward peace." What has changed? I do not understand. Are there new Contras? Has something come down from heaven, do they have 8,000 new Contras, 9,000 new Contras? The old Contras are gone, the new Contras they should have Kansas Spam and bandages, they should not have bullets though. They should not be given anything that will help them win a war, but we need to do something, we in Congress who voted against Contra aid, not me but a small majority that was able to push it over and say, "Now we have changed our minds, we are in effect a group of nudists who have now decided that some other people ought to have clothes. We do not believe in clothes but somebody ought to have clothes. We don't believe clothes really make the man but we think that is is something that we as a Congress ought to move towards." It is disingenuous. It does not have any logic to it. Either the Contras have a beneficial part in moving the Sandinistas toward peace or they do not. I think what we should do, Mr. Speaker, is reject the proposal of the Democratic majority.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 1½ minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, there is an important issue in the Contra aid legislation before us today that involves helping the young victims of the conflict in Nicaragua. But there is an important difference in the measure offered by the majority and the substitute offered by the minority.

I support assisting the children of Central America who are the innocent victims of the fighting there and have spearheaded an effort to bring young victims of land mine explosions in El Salvador to the United States for prosthesis treatment and rehabilitation.

While the contra aid package offered by the Democrats before us for consideration recognizes the problems faced by the wounded children of Nicaragua and provides for a program to assists these youngsters, that package fails to include injured children in El Salvador.

Members of the House have the opportunity to help the children in both Nicaragua and El Salvador by supporting the Republican substitute which includes provision for a humanitarian assistance program to aid maimed children throughout Central America.

The young people of both Nicaragua and El Salvador need our help and I urge your vote for the Republican substitute legislation which would provide assistance to these innocent children.

□ 1545

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, the Republican plan before us today is clear. It could perpetuate the killing and violence in Central America in an effort to overthrow the Sandinista government, but the Democratic plan actually strikes a Faustian bargain, a bargain which says, if we will provide crutches and bandages for the infant victims of the bloody war we have perpetuated in Nicaragua, we can in return provide so-called humanitarian assistance to the Contras.

The object of the Democratic plan is to cut off the arms to the Contras in Nicaragua, but it is questionable. We have seen clearly that this administration would violate U.S. law and international law and entangle our allies in an effort to provide arms in the bloody struggle in that country. But if in fact arms are cut off, where will the $14 million in humanitarian assistance to the Contras go, It will go to keep the Contras clothed, comfortable, and poised to return to armed conflict. In the name of the people, we would garrison the Contra terrorists until President Reagan can rally enough votes to resume military aid. And rally they will. Let us not believe for 1 second that the bully boys on the right will have their blood lust for a war in Nicaragua sated by this measure. We will be back, as we have been time and time again, to vote on Ronald Reagan's plan to send lethal aid to this country.

This side of the aisle, which has consistently mocked the chimera of humanitarian assistance, will have to explain this unfortunate proposal we vote on today.

Mr. Chairman, I will vote no on final passage if either the Democratic or Republican alternative is presented. The tangled web we weave today will come back to haunt us.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, let me say to my colleagues that there are three practical problems with the mechanism of the Democratic alternative. The faults with the mechanism are so significant that they will lead us into major policy errors.

For example, the aid to the children is a good idea, but it is going to be sent down not through AID but through nongovernment voluntary organizations in Nicaragua. Who are those voluntary nongovernment organizations? Are they going to be the Sandinista unions, or are they going to be the free unions? Are they going to be the church that supports the government?

Are they going to be the free Catholic Church or the Protestant churches? In fact, we run the danger of using American tax dollars to strengthen the power of the Sandinista government that hardly any Member of this body says is governing in the interest of the Nicaraguan people.

Let us look at the humanitarian assistance to the Contras. It will go down through a mechanism that is so cumbersome that it will not arrive for weeks and possibly months because new staff will have to be hired in this body before a dollar of that aid can flow. It is a long process, hiring and training staff.

Last, let us look at the trigger. The only thing that started those negotiations was the threat carried out by Members of this body that military aid would come if negotiations did not start. It has been only that trigger, and we can see from the stalled negotiations and the failure of the process in intervening weeks that the threat of the possibility of military aid is essential to progress in negotiations. The Democrats' trigger that will bring another vote is such a weak trigger that it will not work. It will not require the Senate to act even if tis cumbersome mechanism results in House action. Only the Republican alternative and its expedited procedures replace that trigger.

Mr. OBEY. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Chairman, let me say to my friends that the gentleman from Michigan [Mr. CROCKETT] and I have voted in the last 7 years against every issue affecting the Congras because we believe it is illegal and immoral to provide any kind of aid. We did not invite them to invade Nicaragua, and, therefore, we believe we do not have any obligation to them.

I do not know of any issue in the last 7 years which has divided the Congressional Black Caucus as this issue, because many Members believe, unjustifiably so, that the Contras are not entitled to any kind of aid.

During the last recess I learned through news reports that the Democratic leadership was putting a package together. My diligent staff got in touch with the Nicaraguan network, and we began working on a counterproposal. In fact, I introduced legislation to that effect. Basically, we were saying that the aid should not be administered through CIA but some other agency. The result was that I hope it influenced the final package.

But even at that, I was still opposed to any Contra aid in principle and in practice. But considering the alternative, which I anticipate may be $100 million in arms, considering the fact that even some of the Contras and the Sandinistas believe that this Democratic alternative will expedite the peace process, I have decided to vote for the Democratic package. I do so fully aware of the fact that yesterday Ortega, as I anticipated, made in terms of public relations a bad move by easing out the Cardinal. But let me say that that might be a blessing in disguise—pardon the pun—because the Contras and Sandinistas will have direct, face-to-face negotiations on their soil, and I am willing to concede that the Sandinistas are entitled to some space in Nicaragua.

So, Mr. Chairman, for all these reasons, I am voting aye on the Democratic alternative.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Chairman, 4 weeks ago a majority of the House, including me, voted against the Republican Contra aid package. Today, strangely, we are voting on a Democratic Contra aid package. That curious turn of events raises a number of questions.

Are the Democratic Contras different people from the Republican Contras? Do the Democratic Contras have fewer Somocistas in their ranks than the Republican Contras? Have the Democratic Contras done a better job than the Republican Contras of winning the hearts and the minds of the Nicaraguan people?

Is nonlethal aid to the Democratic Contras any less likely to free up money for weapons purchase than nonlethal aid to the Republican Contras?

In the last 4 weeks has there been any change in the Arias peace plan which opposes outside aid to rebel groups in Central America?

Mr. Chairman, the answer to all those questions is, plainly, "no," and, therefore, "no" is how I shall vote on the Democratic Contra aid package.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, on February 3, along with a majority of my colleagues, I voted "no" on the Contra aid package for the purpose of ending the military approach to working for peace and democracy in Central America and in support of moving toward a humanitarian and negotiated approach to advancing our values and our concerns throughout Central America.

Today I will vote yes for the Democratic package as the best alternative for advancing those goals. I had hoped, as many of my colleagues did at that time, that we would be able to move directly from our vote on February 3 to a fully humanitarian approach based on a cease-fire, but it is far preferable to move by steps in that direction than to move back to the military option. And let no one have any doubt, if the Democratic package does not prevail and it is instead the Republican package which is passed, we will be back on the track to military support for the Contras, military support immediately in terms of so-called nonlethal aid, and an immediate vote in a few short weeks on full military support of the Contras.

The package put together by the Democratic leadership is one which is far preferable. It has true humanitarian aid. It has incentives for a cease-fire that will move both parties to get advantages out of a negotiated cease-fire, and it has important restrictions on the release or shipment of any military supplies currently in stockpiles that would otherwise be available to the Contras or that might come from third parties.

Mr. Chairman, the package is not ideal, but few of our choices are. Ending the military approach in Central America is the essence of the Arias peace plan. The Democratic plan is the preferable way to move in support of that peace plan.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, we have heard so much today about cutting off American military assistance to those fighting the Sandinista Communist government in Nicaragua. I, for the life of me, cannot understand why we have heard nothing from those opposing aid to the resistance about cutting off Soviet military aid to the Communists. Where has there been one word from the Democrats on the floor today about a parallel, a balanced cutoff?

Costa Rican President Oscar Arias, after the February 3, Contra aid cutoff vote, has said, "Now that aid has been cut to the Contras, we must also ask the Soviets as well as the Cubans and all those who have been supporting the guerrillas in El Salvador and Guatemala to cut that aid."

We haven't heard a word from the Democrats about that today.

We know that last year the Soviets sent in 600 million dollars' worth of military equipment and supplies and that overall, 2.5 billion dollars' worth of Soviet military aid has gone in to boost the Communist government in Nicaragua. Why are our Democratic colleagues not denouncing Soviet military assistance to Communists, only ours to a democratic resistance? Why are they not calling for a balanced cutoff in military supplies to both sides, why only ours?

My Colleagues, this year is the 50th anniversary of the infamous Munich agreement when Neville Chamberlain came back from his disasterous discussions with Hitler and proclaimed "peace for our time." Shortly thereafter, Hitler, his appetite whetted by appeasement, dragged the world into war. What a 50-year commemoration we have before us!

The Democratic Party's answer is to create a new stream of well-fed refugees. Give them beans but no bullets.

Their answer is to turn over the assistance program to American military personnel.

The Democratic proposal accepts a Soviet client state on the mainland of this hemisphere.

The Democratic proposal commits the United States to "take appropriate military action if Nicaragua takes offensive military action against its neighbors or obtains a military capacity that directly threatens the United States." That's just great; they want to get our boys involved in a war that Nicaraguans who seek freedom are being kept from fighting. What logic! And when does that happen? Everyone knows the Sandinistas are helping Communist insurgents right now undermine elected governments in El Salvador and Guatemala.

I say we defeat this turkey, this "cellophane fig leaf," according to Representative HENRY HYDE, and stand up once again for peace and freedom.

☐ 1600

Mr. OBEY. Mr. Chairman, I yield myself 1 minute for the purpose of responding to two comments that have been made.

The first comment, and a very good point, was raised by the gentleman from Virginia [Mr. WOLF] who raised concerns about the necessity and the wisdom of our providing additional humanitarian aid for children in El Salvador, not just Nicaragua.

I agree that we ought to be doing that, and the fact is that we are. The fact is that right now we are providing, through AID, programs assistance to help kids who have stepped on land mines, who have lost arms, who have lost legs and who need prosthetic assistance. Part of the reason for that is the gentleman from Virginia brought the attention of the Congress to the need to do that over a year ago.

The second point I would make is that through the aid program we provide in El Salvador, we have rebuilt the Children's Hospital in El Salvador. We have committed a substantial amount of money under the Earthquake Relief Program to do just that, and I think we ought to remember that in considering this package.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I voted against the Contra funding proposal presented to the Congress by the administration 2 weeks ago, I rise in support of the proposal submitted by Mr. MICHEL and against the substitute proposed by Mr. FOLEY. The previous administration proposal failed, in my opinion, in two critical areas: First, It did not sufficiently guarantee against a comingling of lethal and nonlethal aid; and second, it did not allow for the guarantee of a clean vote on the subsequent possible release of lethal aid should the administration, in its judgment, find such a request necessary.

The Michel proposal clearly rectifies those problems. Further, Mr. MICHEL has made extraordinary efforts to bridge the partisan gulf which has undermined our search for coherence and consistency in regard to this issue. He was, as the Speaker is well aware, willing to go even further in this regard. Unfortunately, his efforts to reach out still further to the other side were ultimately rejected by the Democratic leadership. But the fact remains that the Michel proposal does address the shortcomings of the administration proposal, does allow the peace process an opportunity to work its will, and does move toward a broader, bipartisan base of support for our policy in Central America than does the Democrat alternative.

The Michel initiative is consistent with those who wish to first test the attempts to diplomatically resolve the issues in dispute in Central America. And it is also honest in recognizing the fact that once the Sandinista regime has been so tested, the Congress must allow the President an opportunity to put to the Congress the question as to whether or not the Sandinista regime has passed the test.

Mr. Chairman, Congress has the right to reject administration policy. Congress has the right to give advise and consent—or to withhold it—on matters of policy. But it does not have the right to conduct its own foreign policy, separate and independently of the executive branch. And that is exactly what your proposal seeks to do.

The Foley substitute would create a two-headed monster, with the executive and legislative each seeking to conduct their own independent foreign policies. Rather than moving us toward consensus and bipartisan agreement, it further divides us. Rather than exercising the Constitution's "balance of powers," it suspends the Constitution and seeks to bifurcate legislative and executive policy.

I urge rejection of the Foley substitute, and urge approval of the Michel bill.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. GUARINI].

Mr. GUARINI. Mr. Chairman, I rise in support of the substitute before the House.

I was privileged to serve on the task force that drafted the proposal. From the beginning, I asked myself several questions.

1. Is it consistent with the peace plan supported by the Central American Presidents?

According to President Arias, it is. New military aid is not included, nor is delivery of stockpiled military aid.

Does it make a cease-fire more likely? I believe the answer is clear. The answer is yes. There is enough aid to sustain the Contras during negotiations. There is not aid to expand the war.

Is it fair to the Contras? If they want a cease-fire, it is. It provides food, shelter, clothing and medicine. It provides a credible delivery system. It provides for some communications which will help in organizing a cease-fire. It provides a procedure to assess the situation again in June.

But, Mr. Chairman, the hard fact is this. There is no consensus to terminate Contra funding, but there is no consensus, either, to continue this war.

Today with this proposal we are trying to chart a different course. We are trying to promote negotiations. We are trying to promote a cease-fire. We are trying to challenge all parties to seek a political solution.

The Contras say they want a cease-fire. The Sandinistas say also that they want a cease-fire. By voting "yes" we put them both to the test. By voting yes, we begin to seek a new consensus for peace, for democracy, and for hope for Central America.

Mr. OBEY. Mr. Chairman, I yield myself the final 30 seconds.

Mr. Chairman, I simply urge Members to vote for the Bonior amendment when it is offered after the next speaker.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield the final 1 minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I have come across an interesting book written by Robert Pastor, who served on the National Security Council under President Carter and was intimately involved in the affair in Nicaragua where we lost Nicaragua to the Communists. I would like to quote from his fascinating book, "Condemned to Repetition." It is a brandnew book. He says at page 156:

> If Nicaraguan history contained any lessons, the key issue would be who had the guns?

Now, Mr. Pastor, who learned the hard way under President Carter about a Communist takeover of a country, is telling us something. In Nicaraguan history, the key question is, who had the guns?

This proposal of the Speaker is unilateral disarmament. It is designed and crafted to foreclose not only any military aid now, but to prevent a future vote on military aid.

What it amounts to is surrender on the installment plan. It is a search for the lowest common denominator on the left to protect themselves from the charge that they have lost Central America to communism.

Mr. GUNDERSON. Mr. Chairman, today, for the 16th time since December 1982, the House of Representatives will reexamine United States policy toward Central America. Whatever the outcome of the votes today, let us hope that the Congress and the American people will grow to realize that this endless process, with no prospects for consensus among Americans in sight, damages the effectiveness of American foreign policy in the Western Hemisphere, and inhibits the development of peace, freedom, and democracy in Central America.

The Democratic leadership's aid package to a number of groups in Nicaragua totals $30.8 million, to last through June. Just over $14 million is for food, clothing, medicine, shelter, and transport for the Nicaraguan democratic resistance. An identical amount is targeted to Nicaraguan children who have become victims of the war. The package also provides $1.4 million for the Indian resistance forces.

There is nothing wrong with these numbers. In fact, the substitute offered by Minority Leader ROBERT MICHEL proposes similar funding levels—$22.3 million for the democratic resistance, with $450,000 earmarked for human rights protection activities, and $14 million for medical aid for children injured in wars throughout Central America.

There are other similarities. Both packages prohibit the delivery of previously acquired lethal assistance, although the Michel plan allows the exceptions of trucks and other logistical gear. Both proposals adhere to the same policy objectives—the fulfillment of the Arias peace plan, and the end of Soviet bloc military influence in Nicaragua.

The problems with the Democratic leadership's aid package are in the details—and these are disastrous details. Their package would change the entire character of United States involvement in Central America, by shifting authority to deliver the aid from the Central Intelligence Agency to the U.S. Armed Forces. In this gesture, the Democrats would do what we have tried to avoid doing for 8 years—that is, involve American military personnel in the Nicaraguan conflict.

What's more, the language of their proposal is such that funding for medical aid to Nicaraguan children must go through the Sandinista regime. The Democrats' package provides $14 million in U.S. dollars for children's aid, rather than in medical supplies. The money cannot be exchanged into Nicaraguan currency other than through the government. It is extremely naive to expect the Sandinistas, famous for secret Swiss bank accounts, to treat this money with integrity.

Finally, the Democrats' aid proposal does not provide adequate safeguards in the event the Sandinistas renege on the terms of the Arias peace plan. Under the plan, should a cease-fire not be in place by June 1, and the House Intelligence Committee decides that the Sandinistas are at fault, the House majority leader can propose additional aid to the Contras. Not only does this block out the President from any part of the policymaking process, which raises constitutional questions, but it effectively insulates the Sandinistas from any further concerns of a threat from the Nicaraguan resistance.

The Michel aid package is more responsible in these respects. Authority to deliver aid to the resistance is retained with the CIA. The President correctly controls the timing of further requests for aid; anytime after April 15 he may submit another request. If the cease-fire process in Nicaragua fails due to the Sandinistas, the House must vote on the President's request within 16 days of such a finding. What's more, the Michel aid package does not entrust funds intended for Nicaraguan children into the hands of Daniel Ortega; it offers medical supplies, rather than money for that purpose.

A thorough examination of the two assistance packages, while similar at first glance, reveals such striking differences that they demand our rejection of the Democrats' package and our support for the Michel proposal.

And thousand of miles to our south, the conflict in Nicaragua continues. Daniel Ortega today removed Cardinal Miguel Obando y Bravo, the most credible voice for peace in Nicaragua, as the mediator in the Sandinista-Contra cease-fire talks. Mr. Ortega also dissolved his Ministry of Justice, turning over its functions to the Ministry of the Interior, led by Tomas Borge, a known advocate of torture. Two high officials of the Nicaraguan government defected in Geneva, because, according to their statement, they could no longer stomach the torture, lying, and corruption of the Sandinista regime.

Yet here in Congress, the Democratic leadership would put forward a flawed, toothless package, in spite of the events of the past 48 hours and with little regard to the consequences of their proposal. Should their package pass, I hope my objections turn out to be ill-founded, and that American military personnel do not find themselves in crisis situations. For the Nicaraguans' sake, I hope the package contributes to the cease-fire process, and that the Sandinistas do not attempt to siphon off funds for children's medical supplies for their own bank accounts. But given all that has transpired over the years, I fear the opposit will occur.

Mr. LOWERY of California. Mr. Chairman, I want to express my support for an aid package for the Nicaraguan resistance that will contribute to the achievement of real peace in Nicaragua. Only the aid package proposed by the Republican leadership will meet this goal.

The Sandinista Junta has demonstrated that it will permit greater freedom for its domestic political opposition only when faced with the prospect of continued military pressure from the resistance. Disarming the resistance now will end the chance for any permanent political reform in Nicaragua. The Democratic aid proposal would essentially turn the resistance from a viable fighting force into a refugee group. It would certainly remove the incentive for the Sandinistas to continue their negotiations with the resistance.

Mr. Chairman, since taking power in 1979, the Sandinistas have followed a pattern of denying rights to the Nicaraguan people, while making promises to restore these rights. They did not begin to live up to the latest promises made in the context of the Guatemala Agreement until it was apparent they would be faced with continued opposition from the Nicaraguan resistance.

The Democratic aid package is a thinly disguised attempt to eliminate the Nicaraguan resistance. The Republican alternative would provide real support for the resistance to remain in the field while negotiations proceed. The cause of peace will not be served by turning the resistance into refugees. We must support them until a negotiated agreement for peace in Nicaragua is fully in place.

Mr. GALLO. Mr. Chairman, as we debate the Foley resolution, being billed as humanitarian aid for the Nicaraguan freedom fighters, I think we owe it to the American people to fully explore the implications of this resolution, as it was authored by members of the majority party in this body.

As I read this legislation, it is, quite frankly, a blueprint for disaster.

First of all, the Foley resolution gives the responsibility for delivering this humanitarian aid to the U.S. Department of Defense.

The Armed Forces, who are trained to defend our country at times of national emergency, are being ordered to assume the role of messengers into the Central American region.

They are neither prepared nor equipped to undertake this role and to assume this responsibility under the conflicting terms of this legislation.

Second, the Foley resolution shifts the responsibility for determining our foreign policy with regard to Central America from the State Department to the Intelligence Committees of the House and Senate. Our Constitution mandates that the executive branch is responsible for development of our foreign policy. By placing the judgment for determining whether or not a cease fire has been agreed to on or before June 1, we are setting a dangerous precedent and raising the possibility that the courts will find this law to be unconstitutional under the separation of powers provisions.

Clearly, the President and those of us today who plan to vote on the Foley resolution want to see aid continue in the region, because we believe that a well-equipped force of freedom fighters will prevent the need for U.S. military involvement in the region.

We want aid now, including aid to treat injured children in the region. We also want the commitment of our colleagues to include in this measure an expedited, constitutionally sound procedure for resumption of lethal aid if the peace process fails.

Why do we want this assurance? Because there are deeply disturbing signs from the region that our failure to pass an aid bill earlier this month is having all of the negative results that we expressed during debate on that earlier aid package.

The Ortega government has undermined the positive work being done by the internationally recognized mediator, Cardinal Obando y Bravo, and has moved its defense minister, who is also Daniel Ortega's brother, into a position of responsibility within the negotiating process.

Just today, the Ortega government abolished the Nicaraguan Department of Justice and placed the powers for enforcement and due process in the hands of the military.

Based on past experience, I think it is safe to assume that Mr. Ortega's actions are just the beginning and that there is much more to follow in the way of underhandedness in Sandinista foreign policy and Sandinista repression within Nicaragua.

The Foley resolution, taken in context, is a slap in the face of the Arias peace plan and is truly a blueprint for disaster.

If this resolution becomes law, the responsibility for the consequences will fall completely on those who supported it.

I urge my colleagues to vote "no" on the Foley resolution and to support the Michel resolution, if it is allowed to come up for a vote today.

The CHAIRMAN. All time has expired for general debate. Pursuant to the rule, the joint resolution is considered as having been read for amendment under the 5-minute rule.

The text of the joint resolution is as follows:

H.J. RES. 484

A Joint resolution to provide assistance and support for peace, democracy and reconciliation in Central America

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. POLICY.

(a) GENERAL POLICY.—It is the policy of the United States in implementing this Act to advance democracy and security in Central America, and thereby to assist in bringing a just and lasting peace to that region, in a manner compatible with the Guatemala Peace Accord of August 7, 1987 and the Declaration of the Presidents of the Central American Nations at San Jose, Costa Rica on January 16, 1988, and consistent with the national security interests of the United States.

(b) SPECIFIC POLICY OBJECTIVE.—In pursuing the policy set forth in subsection (a), it is the objective of the United States to enhance its security as well as that of the democratic countries of Central America by assisting in the achievement of—

(1) genuine democracy in Nicaragua;

(2) an end to Soviet, Cuban, and other Communist bloc military or security assistance to, advisers in, and establishment or use of bases in, Nicaragua;

(3) an end to Nicaraguan aggression and subversion against other countries in Central America; and

(4) reduction of the military and security forces of Nicaragua to a level consistent with the security of other countries in the region.

SEC. 102. TRANSFER OF PRIOR DEFENSE APPROPRIATIONS FOR ASSISTANCE.

(a) TRANSFER AND USE.—There are hereby transferred to the President $22,250,000 of unobligated funds, from the appropriations accounts specified in section 105, to provide non-lethal assistance for the Nicaraguan democratic resistance, to remain available until expended.

(b) EARMARK FOR HUMAN RIGHTS.—Of the funds transferred by subsection (a), $450,000 shall be available only for strengthening programs and activities of the Nicaraguan democratic resistance for the observance and advancement of human rights.

(c) PROHIBITION ON PURCHASE OF AIRCRAFT.—Funds transferred by subsection (a) may not be obligated or expended to purchase aircraft.

(d) INDEMNIFICATION OF LEASED AIRCRAFT.—(1) The President is authorized to transfer unobligated funds, from the appropriations accounts specified in section 105, solely for the indemnification of aircraft leased to transport assistance for which this Act provides and non-lethal assistance previously, specifically authorized by law for the Nicaraguan democratic resistance.

(2) Not more than $5,000,000 may be transferred under the authority granted by paragraph (1).

(3) The President shall transfer the balance, if any, remaining of funds transferred under paragraph (1) to the appropriations accounts from which such funds were transferred under the paragraph when the funds transferred by subsection (a) have been expended.

(e) PASSIVE AIR DEFENSE EQUIPMENT—(1) The Department of Defense shall make available to the department or agency administering this Act passive air defense equipment (including ground-based radio detection and ranging equipment) to ensure the safety of transportation provided pursuant to this Act.

(2) The Department of Defense shall not charge the department or agency receiving equipment under paragraph (1) for such equipment, and shall bear the risk of loss, damage, or deterioration of such equipment during the period of its use under the authority of paragraph (1).

SEC. 103. PROHIBITION ON DELIVERY OF LETHAL ASSISTANCE.

None of the funds made available by this Act may be used to deliver lethal assistance to the Nicaraguan democratic resistance.

SEC. 104. GENERAL AUTHORITIES AND LIMITATIONS.

(a) RELATED STATUTES.—The requirements, terms and conditions of section 104 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100-178), section 8144 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100-202), section 10 of Public Law 91-672, section 502 of the National Security Act of 1947, section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use consistent with this Act of the funds made available by section 102(a) and (d), and the transfer and use of equipment as provided in section 102(e).

(b) CONTINUATION OF AUTHORITY TO SUPPORT, MONITOR, AND MANAGE.—The authority to support, monitor and manage activities for which funds are provided under this Act or a law which previously, specifically authorized assistance to the Nicaraguan democratic resistance shall continue until the funds transferred by section 102(a) have been expended.

(c) CONTINUATION OF LIMITATIONS.—Sections 203(e), 204(b), 207, 209(b), 209(c) and 216, and the first sentence of section 203(d), in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Law 99-500 and 99-591), shall apply with respect to funds made available under this Act.

SEC. 105. DEFENSE APPROPRIATIONS ACCOUNTS.

The appropriations accounts to which sections 102(a) and 102(d) refer are—

(1) Missile Procurement, Army, Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99-190);

(2) Aircraft Procurement, Army, Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99-190);

(3) Shipbuilding and Conversion, Navy, Department of Defense Appropriations Act, 1984 (Public Law 98-212); and

(4) Missile Procurement, Air Force, Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99-190).

SEC. 106. MEDICAL ASSISTANCE FOR CHILDREN.

(a) The Agency for International Development is authorized and directed to provide, or to arrange for the provision of, medical assistance to children injured in the conflicts in Central America.

(b) There are hereby transferred to the President $14,000,000 of unobligated funds, from the appropriations accounts specified in section 105, to carry out subsection (a) during the fiscal year 1988, notwithstanding section 10 of Public Law 91-672 (relating to authorization of appropriations for foreign assistance).

SEC. 107. FUTURE REQUEST FOR AID FOR THE RESISTANCE.

(a) The amendments made by subsection (b) shall not take effect until the day the President determines and certifies, after April 15, 1988, to the Speaker of the House of Representatives and the President of the Senate that—

(1) at the time of such certification no ceasefire is in place that was agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance;

(2) the failure to achieve the ceasefire described in paragraph (1) results from the lack of good faith efforts by the Government of Nicaragua to comply with the requirements of the Declaration of the Presidents of the Central American Nations at San Jose, Costa Rica on January 16, 1988; and

(3) the Nicaraguan democratic resistance has engaged in good faith efforts to achieve the ceasefire described in paragraph (1).

(b) Effective on the day specified by subsection (a), Section 111 of the joint resolution making continuing appropriations for the fiscal year 1988 (Public Law 100-202) is amended—

(1) in section 111(j)(2), by striking "Only if a joint resolution approving a request made pursuant to subsection (j)(1) has been enacted into law, the" and inserting in lieu thereof "The";

(2) in section 111(j)(11), by inserting the period after "session" and striking ", except that it shall not be in order to consider such joint resolution prior to July 1, 1988.";

(3) in section 111(j)(12), by striking "September 30, 1988" and inserting in lieu thereof "the end of sixteen days of session after the resolution was introduced";

(4) in section 111(l)(3)(A), by striking "in July, August or September 1988";

(5) in section 111(l)(3)(E), by striking ", September 30, 1988" and inserting in lieu thereof "of the day which is seventeen days of session after the resolution was introduced".

SEC. 108. DEFINITIONS.

As used in this Act—

(1) the term "lethal assistance" means weapons, weapon systems, and ammunition; and

(2) the term "non-lethal assistance" means assistance other than lethal assistance.

The CHAIRMAN. No amendments to the joint resolution are in order except the amendment printed in section 2 of House Report 100-507 by, and if offered by, Representative Foley, or his designee. Said amendment is considered as having been read, is not subject to amendment, and is debatable for 60 minutes, equally divided and controled by the proponent and a Member opposed thereto.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BONIOR OF MICHIGAN

Mr. BONIOR of Michigan. Mr. Chairman, as the designee of the gentleman from Washington [Mr. Foley], I offer an amendment in the nature of a substitute, printed in section 2 of the report of the Committee on Rules accompanying House Resolution 390.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. Bonior of Michigan:

Strike all after the resolving clause and insert in lieu thereof:

Sec. 1. General Policy.—It is the policy of the United States to advance peace and democracy in Central America, and to preserve and protect its own security interests in the region. Pursuant to that policy, it is the purpose of this joint resolution to assist in bringing peace and democracy to Central America, in a manner compatible with the Guatemala Peace Accord of August 7, 1987 and the Declaration of the Presidents of the Central American Nations at San Jose, Costa Rica on January 16, 1988, and consistent with the national security interests of the United States.

Sec. 2. Policy Toward Nicaragua.—United States policy toward Nicaragua should include the following:

(1) a commitment to preserving the security of the United States and its allies by preventing the Soviet Union and its allies from developing or deploying an offensive military capability in Central America that directly threatens the United States or its allies;

(2) a commitment to protect the security and territorial integrity of any nation of Central America in conformance with the Charter of the Organization of American States and the Inter-American Treaty of Reciprocal Assistance, which provide for collective action; and

(3) a commitment to take appropriate military action if Nicaragua takes offensive military action against its neighbors or obtains a military capacity that directly threatens the United States.

Sec. 3. Negotiations.—The Congress urges the President forthwith to pursue bilateral negotiations with the Government of Nicaragua on matters affecting the national security interests of the United States, and to pursue multilateral negotiations with the Central American nations on matters affecting the security of the Central American region.

Sec. 4. Purpose of Additional Assistance for the Nicaraguan Democratic Resistance.—(a) Congressional Intent.—It is the intention of Congress in providing additional assistance to the Nicaraguan democratic resistance to reinforce the Central American peace process by supporting negotiations leading to a negotiated ceasefire agreement. Such an agreement is seen by the Congress as an essential step towards the establishment of peace and democracy in Nicaragua. The Congress provides assistance under this section with the understanding and strong expectation that the Government of Nicaragua and the Nicaraguan democratic resistance will cease offensive military activities and engage in good faith negotiations towards a ceasefire.

(b) Transfer and Use.—There are hereby transferred to the President $16,000,000 of unobligated funds from the appropriations accounts specified in Section 8 to provide assistance for the Nicaraguan democratic resistance, to remain available consistent with this joint resolution through June 30, 1988.

(c) Description of Assistance Allowed.—(1) As used in this section, "assistance" means only food, clothing, shelter, medical services, medical supplies, and payment for such items or services, as well as transportation of such items or services or identical items or services previously, specifically authorized by law for the Nicaraguan democratic resistance.

(2) The term "assistance" under this section may also include not to exceed $1,000,000 for the purchase and transportation of communications equipment, of which $750,000 shall be available only if, at any time prior to July 1, 1988, a ceasefire is agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance.

(d) Limitation.—The average amount expended each month for purchasing food, clothing, shelter, medical services, medical supplies provided under subsection (b), and section 5(a) (if applicable), shall not exceed the average monthly amount expended for purchasing such items and services pursuant to section 111(a) of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202).

(e) Prohibitions.—(1) Funds transferred by subsection (b), and section 5(a) (if applicable), may not be obligated or expended to purchase aircraft or to purchase or transport weapons, weapons systems or ammunition or any other item or service not permitted under subsection (c).

(2) No item or service authorized by "Title II—Central America" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591) or section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202), other than an item or service described in subsection (c), may be provided to the Nicaraguan democratic resistance after February 29, 1988.

(3) Transportation provided under this joint resolution for the delivery of items or services described in subsection (c) may not also be used to deliver any other items or services for the Nicaraguan democratic resistance.

(f) Delivery of Assistance.—(1) If, at any time prior to July 1, 1988, a cessation of hostilities is reached between the Government of Nicaragua and the Nicaraguan democratic resistance, the unobligated balance of funds described in subsection (b) shall be transferred as expeditiously as possible to the Agency for International Development which shall make such funds available to the International Committee of the Red Cross or non-political private and voluntary organizations or international relief organizations recommended by the mediator in the ceasefire talks between the Government of Nicaragua and the Nicaraguan democratic resistance, in order to provide assistance in accordance with subsection (c).

(2) Unless section 5(c) applies if the Administrator of the Agency for International Development certifies to Congress that he is unable to obtain a commitment from the International Committee of the Red Cross or any such organization to provide such assistance, the provisions of this subsection shall not apply.

(g) Assistance for Yatama and the Nicaraguan Resistance, Southern Front.—(1) In order to support efforts by all elements of the Nicaraguan democratic resistance to reach a negotiated ceasefire with the Government of Nicaragua, of the funds transferred by subsection (b), assistance in the amount of $1,440,000 shall be provided only to the Indian resistance force known as Yatama, and assistance in the amount of $3,200,000 shall be provided only to the Nicaraguan Resistance, Southern Front.

(2) Assistance under this subsection for Yatama shall be administered by the Agency for International Development, which shall ensure that such assistance is provided through the International Committee of the Red Cross or other non-political private and voluntary organizations or international relief organizations.

(3) The requirements of this subsection with respect to Yatama shall cease to apply if Yatama is unwilling to cease hostilities and negotiate a ceasefire with the Government of Nicaragua.

Sec. 5. Ceasefire Assistance.—(a) Ceasefire Agreement.—If, at any time prior to July 1, 1988, a ceasefire is agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance, assistance to the Nicaraguan democratic resistance shall be continued beginning July 1, 1988, through December 31, 1988, but only for the duration of an agreed upon ceasefire: *Provided*, That such assistance shall be only assistance as described in section 4(c) and at a rate of obligation not to exceed $4,000,000 per month, of which (1) $360,000 per month shall be provided to Yatama in accordance with section 4(g)(2), subject to section 4(g)(3) of that section, and (2) $800,000 shall be provided to the Nicaraguan Resistance, Southern Front: *Provided further*, That funds for the assistance described in this section shall be transferred to the Agency for International Development from unobligated funds from the appropriations accounts described in Section 8.

(b) Method of Delivery.—Assistance described in this section may be provided only through the Agency for International Development to the International Committee of the Red Cross, or other non-political private and voluntary organizations or international relief organizations and only consistent with the terms of the ceasefire agreement.

(c) Administration of Ceasefire Assistance.—Immediately after a ceasefire referred to in this section has been agreed to, the unobligated balance of funds transferred under section 4(b) shall be transferred to the Agency for International Development for the administering of assistance to the Nicaraguan democratic resistance provided by this section.

Sec. 6. Department of Defense.—(a) Direction and Management.—The Department of Defense shall be responsible for the direction, management, and delivery of the assistance authorized by this joint resolution, other than the assistance required to be administered by the Agency for International Development. The Secretary of Defense shall establish a separate office within the Department which shall be responsible only for implementation of the responsibilities and authorities of the Department under this section.

(b) Contracts.—In order to perform those functions relating to the delivery of assistance to the Nicaraguan democratic resistance which were performed pursuant to contract under section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202), the Department of Defense shall, with respect to the delivery of assistance under this joint resolution, enter into contracts with the same nongovernmental persons who performed those functions under that section or with other appropriate nongovernmental persons.

(c) Authorities.—In carrying out its responsibilities under this section, the Department of Defense may exercise the same authorities, including authorities relating to procurement and expenditure of Government funds, as the agency administering the assistance provided pursuant to section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202) could exercise with respect to the provision of that assistance.

(d) Accountability Standards, Procedures, and Controls.—In implementing this section, the Department of Defense shall adopt standards, procedures, and controls for the accountability of funds comparable to those applicable with respect to the assistance for the Nicaraguan democratic resistance provided under section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202).

(e) Interagency Cooperation.—All Government agencies shall cooperate with the Department of Defense to ensure the orderly, effective direction, management, and delivery by the Department of assistance for the Nicaraguan democratic resistance. Such cooperation shall include—

(1) detailing to the Department, on a reimbursable basis, such personnel as the Department may request; and

(2) making available for use by the Department, on a nonreimbursable basis, such logistics equipment as was purchased in implementing the programs of assistance for the Nicaraguan democratic resistance authorized by section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202) or "Title II—Central America" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591).

(f) Limitation.—The Central Intelligence Agency shall not be responsible for the direction, management, or delivery of any assistance to the Nicaraguan democratic resistance under this joint resolution.

(g) Indemnification of Aircraft.—(1) Funds in the same amount previously transferred pursuant to section 111(d) of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202) for the indemnification of leased aircraft shall be transferred to the President and be available for the same purpose through June 30, 1988.

(2) On July 1, 1988, the President shall transfer the balance, if any, of remaining funds described in paragraph (1) to the accounts from which such funds were transferred.

(h) Passive Air Defense Equipment.—(1) The Department of Defense shall make available passive air defense equipment (including ground-based radio detection and ranging equipment) to ensure the safety of transportation of assistance provided under this joint resolution through the Department of Defense.

(2) Funds transferred under section 4(b) shall not be charged for such equipment, and the Department of Defense shall bear the risk of loss, damage, or deterioration of such equipment during the period of its use under the authority of paragraph (1).

Sec. 7. General Authorities and Limitations.—(a) Requirements Deemed Satisfied.—The requirements, terms and conditions of section 104 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100-178), section 8144 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100-202), section 10 of Public Law 91-672, section 502 of the National Security Act of 1947, section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use consistent with the provisions of this joint resolution of the funds made available, and transfer and use of equipment, as provided in this joint resolution.

(b) Continuation of Authority to Support, Monitor, and Manage.—Authority to support, monitor and manage activities for which funds are provided by this joint resolution shall continue with respect to the Agency for International Development, for as long as the funds being administered by that Agency remain available and, with respect to other elements of the United States Government (to the extent consistent with section 6), through June 30, 1988.

(c) Continuation of Limitations.—Sections 203(e), 204(b), 207, 209(b), 209(c), and 216 in "Title II—Central America" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591), shall apply with respect to funds made available by this joint resolution.

(d) Agency for International Development.—Any funds provided to the Agency for International Development by the provisions of this joint resolution shall be transferred to the Agency for International Development, "International Disaster Assistance" and used in accordance with the policies and general authorities contained in section 491 of the Foreign Assistance Act of 1961 except that the authority contained in section 492(b) of the Foreign Assistance Act of 1961 shall not be available to provide additional assistance to the Nicaraguan democratic resistance.

Sec. 8. Defense Appropriations Accounts.—The appropriations accounts to which this resolution refers are:

(1) Missile Procurement, Army, Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99-190);

(2) Aircraft Procurement, Army, Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99-190);

(c) Shipbuilding and Conversion, Navy, Department of Defense Appropriations Act, 1984 (Public Law 98-212); and

(4) Missile Procurement, Air Force, Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99-190).

Sec. 9. Inspection and Monitoring.—(a) Intelligence Committees' Responsibilities.—The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate (hereinafter referred to as the "Intelligence Committee") shall inspect, monitor and review the provision of all assistance to the Nicaraguan democratic resistance under this joint resolution, including all deliveries of assistance provided through the Department of Defense, except that nothing in this section shall be deemed to affect the jurisdiction and authority of any other committee of the Congress.

(b) Comptroller General.—The Intelligence Committees shall consult the Comptroller General in establishing procedures for verifying the provision of assistance as permitted by this joint resolution and shall request the assignment of appropriate General Accounting Office personnel to assist the Intelligence Committees in inspecting, monitoring and reviewing the provision of all assistance to the Nicaraguan democratic resistance.

(c) Funding.—There shall be paid out of the contingent fund of the House of Representatives such funds as the Speaker shall authorize for the expenses of the Permanent Select Committee on Intelligence under this section.

(d) Executive Branch Cooperation.—The relevant Government agencies shall cooperate fully with the intelligence committees in the exercise of their responsibilities under this section.

Sec. 10. Children's Survival Assistance.—There are hereby transferred to the Agency for International Development, $14,560,000 of unobligated funds from the appropriations accounts specified in Section 8 which shall be made available to provide medical care and other relief for non-combatant children who are victims of the Nicaraguan civil strife: Provided, That assistance for such children shall be used to make available prosthetic devices and rehabilitation, provide medicines and immunizations, assist burn victims, help children who have been orphaned, and otherwise to provide assistance for children who have been physically injured or displaced by the Nicaraguan civil strife, giving priority to those children with the greatest needs for assistance: Provided further, That assistance shall be provided only through non-political private and voluntary organizations and international relief organizations: Provided further, That at least one-half of the funds transferred under this section shall be provided through non-political private and voluntary organizations and international relief organizations operating inside Nicaragua: Provided further, That preference in the distribution of these funds shall be given to organizations presently providing similar services such as the Catholic Relief Services, International Committee of the Red Cross, CARE, United Nations Childrens' Fund, United Nations High Commissioner for Refugees, Partners of the Americas, and the Pan-American Health Organization.

Sec. 11. United States Policy Concerning Economic Aid for Central America.—As part of an effort to promote democracy and address on a long-term basis the economic causes of regional and political instability in Central America, in recognition of the recommendations of groups such as the National Bipartisan Commission on Central America, the Inter-American Dialogue, and the Sanford Commission, and in the context of an agreement to end military conflict in the region, the Congress would welcome bilateral and multilateral proposals by the President to:

(1) provide additional economic assistance to the democratic countries of Central America to promote economic stability, expand educational opportunity, foster progress in human rights, bolster democratic institutions, and strengthen institutions of justice;

(2) facilitate the ability of Central American economies to grow through the development of their infrastructure, expansion of exports and the strengthening of increased investment opportunities;

(3) provide a more realistic plan to assist Central American countries in managing their foreign debt; and

(4) develop these initiatives in concert with Western Europe, Japan and other democratic allies.

Sec. 12. Consideration of Additional Assistance for the Nicaraguan Democratic Resistance.—(a) Absence of a Ceasefire.—The procedures contained in this section shall apply in the House of Representatives during the 100th Congress to a joint resolution described in subsection (b) if at any time after June 1, 1988, the Permanent Select Committee on Intelligence of the House of Representatives reports to the House that—

(1) no ceasefire is in place that was agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance;

(2) the failure to achieve such a ceasefire results from the lack of good faith efforts by the Government of Nicaragua to achieve such a ceasefire; and

(3) the Nicaraguan democratic resistance has engaged in good faith efforts to achieve such a ceasefire.

(b) Joint Resolution Defined.—As used in this section, the term "joint resolution" means only a joint resolution introduced in the House by the Majority Leader or his designee, after the report described in subsection (a) is filed, and which is entitled "Joint Resolution pursuant to Public Law 100-__.", with the Public Law number of this joint resolution inserted in the blank.

(c) Referral.—The joint resolution shall, upon introduction, be referred to the appropriate committee or committees of the House.

(d) Discharge of Committees.—If all of the committees of the House to which the joint resolution has been referred have not reported the joint resolution within seven days of session after the resolution was introduced, any committee which has not reported the joint resolution shall be discharged from further consideration of the joint resolution and the joint resolution shall be placed on the appropriate calendar of the House.

(e) Motion to Consider.—At any time more than three days of session after the joint resolution has been placed on the calendar, it shall be in order for the Majority Leader or his designee to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution. The motion is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution and against its consideration are waived. If the motion is agreed to, the joint resolution shall remain the unfinished business of the House until disposed of.

(f) General Debate.—General debate on the joint resolution shall not exceed ten hours, which shall be divided equally between the Majority Leader or his designee and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(g) Amendments.—At the conclusion of general debate, the joint resolution shall be considered as read and open for amendment at any point. Only such amendments as may be made in order by a resolution reported by the Committee on Rules and adopted by the House shall be in order.

(h) Final Passage.—At the conclusion of the consideration of amendments to the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution, and any amendments thereto, to final passage without intervening motion.

(i) Day of Session Defined.—As used in this section, the term "day of session" means a day on which the House of Representatives is in sesion.

(j) Rulemaking Authority.—This section is enacted—

(1) as an exercise in the rulemaking powers of the House of Representatives, and as such is deemed a part of the rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of a joint resolution under this section, and it supercedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House to change its rules at any time, in the same manner and to the same extent as in the case of any other rule of the House, and of the right of the Committee on Rules to report a resolution for the consideration of any measure.

POINT OF ORDER

Mr. WALKER. Mr. Chairman, I make a point of order against the consideration of the amendment on the grounds that it violates clause 6 of rule XXI, and I ask to be heard on my point of order.

The CHAIRMAN. The Chair will hear the gentleman from Pennsylvania on his point of order.

Mr. WALKER. Mr. Chairman, clause 6 of rule XXI states that: "No general appropriation bill or amendment thereto shall be received or considered if it contains a provision reappropriating unexpended balances of appropriations. * * *"

Section 4(b) of the Foley substitute reappropriates $16 million in unobligated DOD funds to the President to assist the Contras through June 30, 1988;

Section 5(a) of the substitute reappropriates $4 million a month from the same unobligated DOD funds to AID to assist the Contras through December 31, 1988, if a cease-fire is still in effect;

Section 10 of the substitute transfer to AID $14.6 million in the same unobligated DOD funds to AID to provide medical care to children who are victims of the conflict in Nicaragua.

The substitute clearly reappropriates unexpended balances in violation of clause 6 of rule XXI. The question remains, however, is this a "general appropriations" bill to which the amendment is being offered? The precedents indicate that, and I quote from 4 Hinds' Precedents, section 3566-3568: "An appropriation bill covering several subjects may fairly be considered a general appropriation bill within the privilege conferred by the rule," referring to what is now clause 4(a) of rule 11 which confers on the Appropriations Committee the "privilege to report at any time" on "general appropriations bills."

Now it is true, Mr. Chairman, that the precedents indicate at section 835 of the House Rules and Manual that a general appropriations bill is not, and I quote, "a joint resolution providing an appropriation for a single government agency and permitting a transfer of a portion of those funds to another agency, nor a joint resolution transferring funds already appropriated from one specific agency to another" (March 6, 1980, pp. 6716-7).

However, in this instance, we are not dealing with the mere transfer of funds from one agency to another agency for a single purpose; we are dealing with the transfer of funds from the Department of Defense to both the Office of the President and to the Agency for International Development—two diverse agencies, for two distinctive purposes: aiding the Contras and providing medical relief for noncombatant children.

While it might be argued that this is for the single purpose of "providing assistance and support for peace, democracy, and reconciliation in Central America," as the title of the substitute indicates, this cannot qualify as a single purpose according to the precedents. I cite here Procedure in the House, 97th Congress, chapter 25, section 1.2, under the heading: "General Appropriations Bills; Privileged Status." The precedent reads, and I quote: "The Committee on Appropriations filed as privileged a joint resolution making supplemental appropriations to two diverse departments for the balance of the fiscal year."

An examination of the Congressional Record of the date cited, April 22, 1975, at pages 11925-26 reveals that the resolution in question, House Joint Resolution 407 was, in the words of its title, a "joint resolution making emergency supplemental appropriations for assistance to the Republic of South Vietnam for the fiscal year ending

June 30, 1975, and for other purposes." Specifically, the joint resolution "appropriated out of any money in the Treasury not otherwise appropriated, $165 million to the Department of Defense for military assistance to the South Vietnamese forces, and $165 million to the President for "Indochina postwar reconstruction assistance."

In short, the earlier precedent is clearly analogous to the present case in which unobligated appropriations are being transferred to two diverse agencies for two distinct forms of assistance in the same country. In the former case it was military assistance and reconstruction assistance for Vietnam; in the present case it is humanitarian assistance for military forces and medical assistance for children in Nicaragua. Had the 1975 joint resolution not been considered a general appropriation bill, it could not have been filed as privileged as it was. That precedent affirms that a dual purpose bill like this is a general appropriations bill.

Mr. Chairman, it might be argued that this does not qualify as a general appropriation bill because it also includes legislative and authorizing language. But there is no precedent to disqualify this on those grounds. Our Appropriations Committee reports numerous legislative provisions in each of its 13 regular appropriations bills. So that argument can hardly be used to prove this is not a general appropriations measure. However, the distinction might be made that, had this measure been introduced rather than simply called up as permitted by the rule, it would have been referred to several committees, as similar measures have been in the past, whereas, if a regular appropriation bill would be referred exclusively to the Appropriations Committee under House rules. In other words, that this is really a hybrid bill—half authorization and half appropriation.

But, such an argument is irrelevant precisely because this has not been introduced and referred. The legislative history of clause 6 indicates that it was another protection against unauthorized appropriations. Because this has not been introduced and referred to the appropriate committee, it is all the more important that the clause 6 of rule XXI be available for use to prevent this reappropriation for new purposes without committee scrutiny. And keep in mind that clause 6 differs from clause 2. Clause 2 of rule XXI applies only to reported appropriations measures. Clause 6 on the other hand, prohibits any general appropriation bill or amendment thereto from being received or considered. Obviously this anticipates the possibility that a general appropriation bill like this could be received or considered without being reported.

In conclusion, Mr. Chairman, clause 6 deals with one of our most important powers under the Constitution, the power of the purse. We cannot apply a loose interpretation to those purse strings and hope to responsibly manage them. I urge that the point of order be sustained.

□ 1615

Mr. OBEY. Mr. Chairman, I would like to be heard on the point of order.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin for the purpose of addressing the point of order.

Mr. OBEY. Mr. Chairman, I rise in opposition to the point of order and simply make these points.

The amendment being considered is not in violation of clause (6), rule XXI since it is not a general appropriation bill. It is first of all a single appropriation bill, not a general appropriation bill.

The title itself is simply a "Joint Resolution to Provide Assistance in Support for Peace, Democracy, and Reconciliation in Central America."

Clause (6) of rule XXI states that no general appropriation bill or amendment thereto shall be received or considered if it contains a provision reappropriating unexpended balances of appropriations. The amendment under consideration is not in violation of this rule for the following reasons: the bill was not reported by the House Committee on Appropriations and therefore has never been considered as a general appropriations bill, and the bill transfers unobligated balances and does not appropriate any new funds or reappropriate unexpended balances or contain any new budget authority.

The CHAIRMAN (Mr. HUGHES). Do any other Members seek recognition on the question of the point of order?

If not, the Chair is prepared to rule.

The question which the Chair must address is whether the pending joint resolution, House Joint Resolution 484, is an appropriation bill within the meaning of rule XXI or whether it is a legislative bill which contains transfers of obligated balances and thus not subject to the provisions of clauses (2), (6), and (7) of rule XXI.

The Chair finds that it is in fact not a general appropriation bill. It only transfers unobligated funds and does not appropriate new budget authority. It was not reported from the Committee on Appropriations as a general bill. It could not have been reported as a general appropriation bill under the circumstances, and for that reason the point of order is overruled.

Under the rule, the gentleman from Michigan [Mr. BONIOR] will be recognized for 30 minutes, and a member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR of Michigan. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, I rise in strong support of the bill under consideration.

Mr. Chairman, last month, I joined my colleagues in defeating House Joint Resolution 444, which would have continued United States aid to the Nicaraguan Contras. Today, we are again being asked to consider legislation which would provide aid to the Contras in the form of food, clothing, medical supplies, and shelter.

Being a longtime opponent of the Reagan administration's policies in Central America, I am particularly disappointed with the Republican substitute legislation. Under its provisions, the $22.25 million for so-called nonlethal assistance would include military-related equipment such as jeeps and helicopters.

There are several other provisions of the Republican substitute that also disturb me. For example, if the administration decides to deliver the nonlethal aid over the next 2 months, the $22.25 million represent a monthly rate of more than $11 million. This figure would almost triple the current rate of $4 million per month. In addition, the $5 million for the indemnification of aircraft would more than double the current figure of $2.8 million. The obvious end result would be the doubling the Contra air force. We would be naive to believe that more war planes would expedite an end to hostilities in the region.

Those of us who respect the provisions of last summer's Arias peace agreement were appalled to learn that the Republican substitute would allow the Central Intelligence Agency to deliver aid until funds are expended. President Oscar Arias does not support this idea, and we'd be hard pressed to find large numbers of peace-loving Central Americans who do.

While war is tragic for all innocent victims, our hearts can't help but go out to the children on both sides of the Nicaraguan conflict. Photos of their maimed bodies haunt each and everyone one of us. Democrats and Republicans, liberals and conservatives, have compassionately proposed that U.S. assistance be approved to give these children essential medical assistance. Unfortunately, however, the Republican plan we are considering today does not specify that the aid be distributed through nonpolitical private organizations such as the International Red Cross or CARE.

The Reagan administration just can't seem to get enough of congressional votes on this issue. Under this latest Republican plan, the President would be guaranteed an expedited vote on still more military aid in May. Now, more than ever before, we must send the President the unequivocal message that we are tired of his policies that perpetuate war and misery in Central America.

For those of us who are committed to doing all we can to promote peace in Nicaragua, today's vote is a difficult one. But it would be naive to suggest that we have the votes to cut off all aid to the Contras. Morally and politically, supporting the Democratic alternate is the most reasonable approach for us to take. To do otherwise would only fan the flames of additional death and destruction in that region.

Tranquility has eluded the Nicaraguans for too many years. Therefore, I am supporting the Democratic proposal which offers the children of that country hope for a peaceful future.

Mr. BONIOR of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY], a distinguished member of the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, the main difference between this amendment and the other provision before us is that the Michel plan builds a bridge toward renewed war, and the Bonior amendment pushes both sides to the bargaining table.

Mr. Chairman, I talked with Mr. Calero in my office last week. It is obvious to me that the Contras think that if we pass the Michel amendment they can simply wait out the Congress. He told me for instance that if we had just left them alone, that they could have been in Managua in 7 months.

Mr. Chairman, I do not know of anyone who seriously believes that.

Mr. Chairman, the Michel amendment has two telltale provisions. First, it sets up a new vote after April 15. Second, it allows delivery of tools of war such as helicopters and logistics equipment. It would send the message to the Contras, "Just wait, boys, and after April 15 the cavalry will be on the way and so will the bullets and so will the artillery and we will be back at war."

Mr. Chairman, the delivery of military equipment would send the message to the Sandinistas that they ought to move away from the bargaining table because we are trying to gin up the war again.

Both messages should not be sent.

Under the Bonior amendment we would deliver only the truly humanitarian assistance which is consistent with the Arias peace plan as indicated by President Arias himself. The next vote is far enough away on the calendar so that neither side can wait us out because both sides will know that their conduct is going to be judged and that we will be making another determination down the road.

To those who, like myself, have always opposed Contra aid and who would like to simply "say no," as has been suggested today, I would simply make this point. It is nice to be able to "say no" if one has the votes, but if one does not have the votes, one has to have a strategy that is a little more innovative and a little more involved.

This is the third step in a three-stage process to create momentum for peace. The first came on the continuing resolution when we set up a freestanding vote on this issue so it would not be encumbered by other budgetary considerations. We also at that time were able to cut off remaining military deliveries after February 29. We won that freestanding vote in the second stage on February 3. This is the third stage today, to fulfill the promise we made to those on the fence when the question arose when we said that we would bring to this floor an alternative to let people be for something, not just against something, if they voted with us on February 3. That is what we are doing today.

In addition to that, we are providing assistance directly to some of the kids who are the most sad victims of this war, the kids in Nicaragua who have lost arms and lost legs because of that fight.

If we pass the Bonior amendment, we will preserve the cutoff of military aid which is now in effect since February 29. It is supported by a whole host of religious organizations who up to this time have opposed any kind of assistance to the Contras, and I think we ought to listen to them and vote for that package today. It is not enough to simply hate war. One also needs tactics and strategy to win the fight for peace. We have to recognize that as long as Ronald Reagan is President, we are going to be voting on this again and again. So it is important that we not just win the vote today, but keep together the coalition that can preserve the best options for peace in June, in July, and in October when those future votes come along.

Let me simply make one additional point. If the peace effort eventually fails in Central America—and I hope to God it does not—but if it does, let it be because it failed on the ground in the region. Do not let that failure be because Congress failed to recognize a critical opportunity to keep the flow of military aid shut down and to push both sides to the negotiating table. Leadership requires determination. It requires courage. It also requires the ability to distinguish between morality and mere moralizing. It also requires us to measure every event to determine whether or not there are changed circumstances which requires a change in approach and strategy.

Mr. Chairman, I ask Members on both sides of this question today, do not throw away this opportunity simply because it is hard to explain. It does take some effort to explain it, but it is well worth it because it is the best shot this Congress is going to have this year at forcing both parties towards peace and negotiation.

PREFERENTIAL MOTION OFFERED BY MR. SAVAGE

Mr. SAVAGE. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. SAVAGE moves that the Committee do now rise and report the joint resolution back to the House with a recommendation that the resolving clause be stricken.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois [Mr. SAVAGE].

Mr. SAVAGE. Mr. Chairman, I want to take this time to point out that a dollar is a dollar. It is some strange logic that says this: That if a person is a drunk and they want $2 to buy a drink and that person is also hungry and needs $2 to buy a hamburger, and they only have $2 and they come and ask for $2.

Let me say that if whoever is asked for that $2 is a member of some temperance league, you would not presumably be asked for $2 for a drink, they may ask for $2 to buy a hamburger, but if $2 is given to that drunk to buy a hamburger one has contributed to that drunk buying a drink because it frees up the $2 that the drunk already has.

What I am saying here is that any aid is aid to the Contras whether it is called humanitarian aid or something else, and the purpose of the Contras is to kill, kill, and kill. I say to my colleagues, having the hypocrisy to propose giving money in this bill to help heal the children after the Contras have shot them down, that is a shame, a disgrace, and the height of immorality to vote $1,000 per Contras to kill while voting some money to try then to heal the children after they are shot or killed.

I say to my colleagues, if there is $1,000 of taxpayer money to send down to Nicaragua, I could use it better. I have some senior citizens in my district who can use that $1,000 to help pay the part B premium of their Medicare insurance. I have some high school graduates who could use it to help pay the rising tuition for college. I have some unemployed people who could use it to help pay their mortgage and avoid foreclosure.

I tell my colleagues, the argument that some kind of aid will pass anyway is an unprincipled and illogical one. That is why the Democratic candidates for President are losing, because my liberal Members of my party, when it comes to principle and morality, find some gobbledygook way to get around it.

Mr. Chairman, if this aid is killing women and children in Nicaragua, then vote against killing. To argue there is a little less killing in the Democratic bill than there is in the Republican bill, $31 million in your bill and $36 million in the Republican bill, if my colleagues are against killing, we cannot argue that we would rather have a little killing than a lot of killing.

I am against a little killing. I am against a lot of killing. I am against the Democratic bill. I am against the Republican bill. I do not believe this House should take another dime of American taxpayer money to spend on killing in Nicaragua. Send it to the Second District in Illinois. Ask some of your constituents if they could use $1,000 for a percentage reduction of their own tax dollars back. Mr. Chairman, I say not a dime for killing in Nicaragua.

The CHAIRMAN. Is there a Member wishing to speak in opposition to the preferential motion?

Mr. BONIOR of Michigan. Mr. Chairman, I rise in opposition to the motion.

Mr. Chairman, I yield back the balance of my time.

Mr. EDWARDS of Oklahoma. Mr. Chairman, may I be heard in opposition to the motion of the gentleman from Illinois [Mr. SAVAGE]?

The CHAIRMAN. The Chair announces that under the rule only one Member opposed to the preferential motion can be heard.

Mr. EDWARDS of Oklahoma. I was going to yield to the gentleman from Illinois [Mr. SAVAGE] and give him more time.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Illinois [Mr. SAVAGE].

The preferential motion was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, a great deal has been spoken on this bill before us. I do not want to prolong unnecessarily the agony.

But I would like to tell you something that is bothering me. I was one of the 12 Republicans to vote against giving more military aid to the Contras 1 month ago.

I did so for two reasons:

First. The first and primary objective of the U.S. Government all along has been to get the Sandinistas to the bargaining table. This has now been accomplished. I thought it wrong to violate, right off the bat, the intent of the Arias peace plan by doing exactly what we had accused the Russians of doing—sending in third-party arms. In my experience, when you negotiate, you don't let the other side off the hook even before you sit down at the table.

Second. The second reason I voted against military shipments was a direct result of your promise to BOB MICHEL and indirectly to some of us, who with more than a little anguish, left our friends and voted another way—a promise to submit your bill—a Democratic bill for nonmilitary aid to the sufferers in that tragic land—a bill to which people like myself who voted with you could make some suggestions—in other words a substitute recommendation.

But what happens. Once you secured our vote—and won that battle—you turn your back, give us no independent voice—and in what to me seems at best a far too smooth political move, position the legislation in such a way that I must swallow whole what you have decided to be in my best interests with no free-standing alternative.

God knows, I'm no legislative expert, but my stomach tells me that this is just not right. It cuts too fine a corner; it is not in keeping with my understanding of what you originally presented. How can I in good conscience support this substitute bill? I will not.

Mr. BONIOR of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to comment to my friend, the gentleman from New York [Mr. HOUGHTON], whom I have the greatest respect for and who I think is one of the finer legislators that came to this Congress.

Mr. Chairman, I want to reemphasize the fact that we indeed left our negotiation open to anyone who wanted to participate, Republican or Democrat. They were free to come in and make their suggestions. It was completely open. I made that clear to everyone and I just want the Members to know that we shut the door to no one. We wanted people to participate so we could come up with a bipartisan package.

Mr. Chairman, I yield 3 minutes to the gentleman from Vermont [Mr. JEFFORDS].

□ 1630

Mr. JEFFORDS. Mr. Chairman, I am distressed that once again, at a very inappropriate moment in the Central American peace process, we find ourselves embroiled in a debate over United States policy toward Nicaragua.

Now is not the time for a policy debate in Washington.

Now is the time to enable good-faith conduct of the negotiations in Central America.

I am further disappointed by the lack of bipartisan discussion on a broadly acceptable alternative. If we must vote today, we should at least be sending a strong signal to Central America that a large majority of Congress supports the peace process. Instead, we are arguing over specifics of a policy, and losing sight of the shared goal of peace in the region. Such rancor is detrimental to the difficult task of forging peace.

We all had hoped there would be a cease-fire before Congress returned to this issue. Certainly, our task would be much easier if that had occurred. Unfortunately, that is not the case. But we must continue to support the efforts of President Arias and urge progress in the negotiations between the Contras and the Sandinistas.

The question then is which of the alternatives before us today best advances the cause of peace. The Michel proposal insists on maintaining the military capabilities of the Contras. The Foley substitute would strike this nonlethal aid and limit assistance to food, medicine, and clothing.

President Arias has indicated that providing humanitarian assistance to the Contras is not inconsistent with the Guatemala peace agreement. However, providing the type of military supplies contained in the Michel proposal clearly violates the terms of the agreement. A decision by this House to resume military assistance could have a dramatic and regrettable effect upon the fragile peace process.

The Foley substitute is certainly not perfect. However, it's clearly preferable to the resumption of military-related assistance and far better than settling into a series of votes on military aid over the next few months. I am encouraged that this approach would shift delivery of all humanitarian assistance to the International Committee of the Red Cross or other international relief agencies as soon as hostilities cease. The substitute also prohibits delivery of currently stockpiled military supplies. Further, this proposal encourages both sides to reach a formal cease-fire agreement by providing for continuation of humanitarian assistance through the end of the year in that event.

Mr. Chairman, let me reiterate. I regret that we are once again delving into contra policy in the midst of the Central American peace process. But we are faced with only two options today—military aid or sustenance aid to the Contras.

Thus I will support the Foley substitute because it is the most policy neutral; it has the best chance of moving the peace process forward; it is consistent with the Arias peace plan; and it will allow us to vote in good conscience knowing we are not advocating overthrow, nor denying the Contras the ability to pursue the peaceful road to restoring democracy in Nicaragua.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield myself 30 seconds just to inform my colleagues that the President of the Nicaraguan Government, Mr. Ortega, having already dismissed Cardinal Obando y Bravo as the negotiator, has now abolished the Ministry of Justice in Managua and transferred the prosecutorial powers to the Ministry of the Interior and turned those responsibilities over to Mr. Tomas Borge, and I just thought that the Members of this House ought to be aware of that.

Mr. BONIOR of Michigan. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding me this time and I rise in support of the Bonior-Foley Democratic substitute.

I have reservations here. I probably, if I had my own choice, would not have asked that this aid bill be on the floor today, but if we have to make a choice, and we do, then I certainly think that the provision put together by my friend from Michigan [Mr. BONIOR] and my friend from Washington [Mr. FOLEY] is much the preferable approach, and for these reasons:

This is truly a humanitarian aid bill. It is not just nonlethal, it is not just nonmilitary assistance. This is truly humanitarian assistance. It is sustenance to the tune of $14.6 million of sustenance aid, food, clothing, shelter, medicine, $14.6 million in aid to the children who have suffered so much so that medically they can be made whole again as far as possible and $1,400,000 for aid and assistance to the Miskito and other Indians in Nicaragua who have been displaced by reason of that war.

Once again, this is completely humanitarian assistance, and therefore I support it.

The second reason is that the Democratic Bonior-Foley substitute prevents the use of these funds to deliver previously approved military assistance. There is much in the pipeline. This bill would prevent that being delivered by the use of these funds.

This further, in my opinion, Mr. Chairman, underscores the truly humanitarian character of this aid package.

Finally, I support the substitute because it transfers authority for delivering this assistance from the CIA to the Defense Department. The CIA is a very honorable agency, one which I worked with closely when I was on the House Intelligence Committee. But it is an intelligence-gathering organization. It is not a military operational organization, it is not meant to be involved in covert activities. It is meant to be an intelligence-gathering activity, and the bill which is before us in the form of the substitute does make that cleavage and clearance, and I think it is much to be preferred.

Finally let me say I do support once again the Foley-Bonior Democratic substitute because it more clearly and more definitely and more surely than the alternative offered by our friend, the gentleman from Illinois [Mr. MICHEL] does actually serve the peace process. It does give peace a chance, and we think, and I think that the Arias peace plan is innovative and interesting and is very potentially promising. It needs a chance. This substitute gives it that chance, and I ask the House and urge my colleagues to support the substitute and vote down the bill.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Chairman, it is really disturbing news to learn that this morning Cardinal Obando y Bravo was dismissed, the chief negotiator of the peace process, and that the Ministry of Justice has been abolished. I honestly would not be surprised if La Prensa, Mrs. Chamarro's newspaper, is not next on that list.

Mr. Chairman, I rise in opposition today to the Democratic alternative because, in my opinion, it severely weakens the package of aid to the Nicaraguan democratic resistance which has been brought to the floor today.

There are a number of flaws in the Democratic amendment, and my colleagues have addressed these in detail. The bill will not provide the aid that is necessary to keep the Contras as a viable force, and therefore will not aid the peace process as needed.

One of the areas where the bill is unlikely to function is its intention to provide aid to the Nicaraguan children who have been injured by the civil war. I am in agreement with the intentions, and they are good intentions, and we should focus assistance on these innocent victims. However, the bill specified that the $7 million in aid which is designated for Nicaraguan children should be a cash payment to internal Nicaraguan organizations which have somewhat credible names but have been ineffective in the past. For instance, none of these organizations, and some of them have had the opportunity, have been allowed to visit the thousands of political prisoners imprisoned in 13 prisons in Nicaragua, 12 of them built in the last 8 years.

Make no mistake about it, my friends, we are dealing with a Communist government in Nicaragua. This was a lesson soon learned by my own constituent, President Carter and his administration, which grew disenchanted with the Sandinistas after sending them $120 million in aid to encourage them toward democracy and humanitarian causes.

I want to remind my colleagues that the Sandinista government has an inner circle of more than 60 members who received for the most part their education and training in Cuba, in East Germany, Libya, and the Soviet Union. On February 3, I inserted these names in the RECORD and their backgrounds for all to see. Every one of these people, including Daniel Ortega, have sworn to the Sandinista creed, and they subscribe to its philosophy. Let me just quote it.

> I believe in the doctrines and struggles of Marx, Engles, Lenin, and Che Guevara—the great teachers, and guides of the working class which is the productive force and true driving force of the class struggle.
>
> I believe in the building of the Marxist-Leninist Socialist society.

That is the creed which the Government subscribes to.

My colleagues, if we are indeed serious today about voting aid to the Contra forces, then we should pass the very strongest legislation possible, legislation which will keep the pressure on for the next 5 months and encourage the implementation of the ongoing peace process.

The strongest and most effective vote is the Michel amendment. The Democratic alternative is a weak initiative, in my opinion, and will simply encourage the Sandinista government to milk the process for all that it is worth.

Mr. Chairman, we know there are lobbying organizations for the Sandinistas in Washington, DC, and we know the Sandinistas pay a public relations firm $20,000 per month to lobby for their country in New York City. Simply put, a lot of misinformation is getting out into print which people take as gospel, and they are well intended when they are opposed to this particular aid. But, Mr. Chairman, the Catholic Church, the labor unions, the internal opposition, the La Prensa newspaper, the mothers of political prisoners know the truth, and those people say that they want the very strongest legislation possible.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this is new news that all Members should be aware of. President Ortega has just announced the abolishment of the Ministry of Justice and the transference of its powers to Tomas Borge in charge of the Interior Ministry. That is like giving the court to the police. That is like putting the Supreme Court under the KGB.

Do Members really believe that American tax dollars should go to organizations that are controlled by the Sandinista government when this is the kind of government they are, and they are proving it right now when they ought to be in negotiations, and be a part of those negotiations which are to accomplish a society in which the courts would have independence? It is positively bizarre.

President Ortega is demonstrating his true colors at the very time we are here saying give peace a chance. For heavens' sake, defeat the Democrat proposal, pass a proposal that at least allows us through expedited process to come back on this issue if President Ortega continues to "negotiate" by putting the Justice Department under the Interior Department, by transferring law and the enforcement of law to the KGB and the police department.

This is the time for us to show Mr. Ortega that yes, we care about negotiations because they are essential to accomplishing the goals of the Arias peace proposal, and that if the goals of that peace proposal are not accomplished that indeed American policy will continue to support those who want to see a free and diverse government of the people in Nicaragua.

Today's action by the President in Nicaragua is simply too much. Vote "no."

Mr. BONIOR of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Georgia [Mr. RAY], my friend, spoke about the children's survival fund that we put together and he alluded to the fact, I think incorrectly, that those funds would be somehow garnered by the Nicaraguan Government. I want to for the third time today, and I think it is important, reemphasize for the third time and refer people to page 11 of the Rules Committee report in which the amendment that we are now discussing is listed.

□ 1645

On page 11 it reads as follows in section 10:

> There are hereby transferred to the Agency For International Development $14,560,000 of unobligated funds from the appropriation accounts specified in section 8 which shall be made available to provide medical care and other relief for noncombatant children who are victims of the Nicaraguan civil strife.

Now we are talking about children, not Sandinista children, not Contra children. We are talking about children who may have been involved in this war and who in fact may be in Contra camps, they may be Miskito kids, they may be in combat areas. None of this money will go to the Nicaraguan Government. It goes to the Agency for International Development which is controlled by the Reagan administration, a Reagan appointee. They in turn can look at different organizations. We state further in section 10 that they might want to consider giving preference in distributing these funds to such agencies as the Catholic Relief Services, International Committee of the Red Cross, CARE, organizations which have a high degree of respectability and reliability.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding, because the problem is not with what you specify in the language, it is the fact that you specify funds. The gentleman must know that under Nicaraguan law any foreign funds coming into the country automatically go to the government. That is the Nicaraguan law. That is what we are referring to. We are not referring to the intent, we are referring to the fact that the funds have to go to the government because that is Nicaraguan law for all foreign currencies.

Mr. BONIOR of Michigan. These funds will go to the organizations who will purchase the goods and then deliver them to the people who need them.

Mr. WALKER. But that cannot be done under Nicaraguan law, that is what I am saying to you. Our Government cannot get by Nicaraguan law on this issue. The fact that you have specified funds, not assistance, means money and the money under Nicaraguan law has to be taken through the Government. You have made a mistake in your proposal is the problem.

Mr. BONIOR of Michigan. We have not made a mistake. That is not the interpretation under Nicaraguan law or any other law.

What can in fact happen is that these organizations through the AID can purchase these goods and services, medical supplies, these artificial limbs in a variety of different ways. They do not have to purchase them in Nicaragua. They can purchase them in Honduras, they can purchase them in the United States.

Mr. RAY. Mr. Chairman, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to my friend, the gentleman from Georgia [Mr. RAY].

Mr. RAY. I thank the gentleman for yielding.

I appreciate my colleague, the fact that he has given us a chance to focus on this just a bit. I understand the honesty and sincerity that the gentleman has in this area. But I was recently for 2 days in Managua meeting with the internal opposition, with the Catholic church, the human rights people who, when I asked—particularly when they were concerned about political prisoners—why was not Amnesty International or the Red Cross, and I mention many of these agencies that you are referring to, why were they not doing anything? They said, "Well, we don't have confidence in some of them and others are prohibited from doing anything in this country."

I think my intent, based on the fact, as Mr. WALKER pointed out, that the law does exist, that the Sandinistas do control that situation so tightly down there that I am fearful—I would be hopeful—but I am very fearful that that $7 million would ever see the light of day in a children's atmosphere.

I thank my friend.

Mr. BONIOR of Michigan. Mr. Chairman, I yield 3 minutes to my distinguished friend, the gentleman from Massachusetts [Mr. BOLAND].

Mr. BOLAND. Mr. Chairman, 4 weeks ago, this House opted for a new approach to the situation in Nicaragua.

We compared the dismal results of 6 years of war with the hope for the future, embodied in the Arias peace plan.

And we voted to stand with our allies, the elected leaders of the Central American democracies, in support of their proposal, to replace the sounds of battle, with dialog around a negotiating table.

I believe we made the right choice.

But a fair question was asked during our last debate on this issue: If we are against military aid to the Contras, what is it that we are for?

"Give peace a chance" may make for a memorable musical lyric, but it is not, in and of itself, a policy.

Today we begin the task of defining, what we are prepared to do, to further efforts to bring peace to Nicaragua.

In so doing, we must confront several realities.

The first of these realities, obviously are the Contras.

The Contras exist in the numbers that they do, in large part, because of years of support either provided directly by, or facilitated through, the efforts of, the U.S. Government and its representatives.

We have played a major role in arming, sustaining, and encouraging the Contras.

Whether you like it or not, the issue is not whether we have a responsibility to the Contras.

We do.

The issue is, how to discharge that responsibility, in a manner consistent with the goals, of the Arias peace plan.

The Bonior amendment now before us provides a solution which I believe meets that test.

It allows for the provision of truly humanitarian aid—food, clothing, shelter, medical supplies, and a small amount of communications equipment necessary for the delivery of that aid—until June 30.

The Bonior amendment also guards against a unilateral decision by the Sandinistas to torpedo the peace process.

I hope we do not reach that point.

I hope that the humanitarian aid this bill contains will provide the Contras with sufficient support, both substantively, and from the standpoint of perception, to enable an agreement with the Sandinistas.

I know, however, that whenever the war ends, we will have to be prepared to further assist the Contras in Nicaraguan society.

In addition, I know, that if our country, as it should, wants to remain a partner in the peace process, we will need to be concerned with issues other than the Contras.

That is why I am especially pleased with two provisions of this bill that address additional realities about Central America.

There is a tremendous need in Nicaragua to care for the most innocent of the victims of the fighting—the children.

We can begin to ease their suffering through the provision of the medical care, food, and health supplies authorized in the bill.

There is also a need to deal with the critical economic problems in central America that can, if not resolved, overwhelm fledgling democratic institutions.

The measure we are considering invites the President to work with us on the kind of economic plan for the region that, in the long run, will protect our security interests better than additional planeloads of mortars, rockets, and automatic weapons.

Make no mistake about it.

If we are interested in working with our neighbors in Central America to bring peace to their region. A long-term commitment is required.

The Bonior amendment is but a step in that direction.

But it is an important step in the right direction.

It represents an opportunity to craft a positive policy that can be built on in the future.

It is an opportunity that we cannot afford to ignore.

The CHAIRMAN. I might advise the parties that the gentleman from Michigan [Mr. Bonior] has 11½ minutes remaining and the gentleman from Oklahoma [Mr. Edwards] has 21½ minutes remaining.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. Hyde].

Mr. HYDE. Mr. Chairman, today is a marvelous day for Danny Ortega. He has done two strange things. He has fired Cardinal Obando y Bravo as a mediator saying he isn't needed any more and he has dissolved the Ministry of Justice and folded that operation into the secret police operation of the Department of Interior. What he is doing is thumbing his nose at you and the sad thing is you do not even know it.

Please spare us the sophistries about bipartisanship. There is no role for the President or the administration in this scenario here.

The Intelligence Committee in the House, 11 to 6, Democrat, one vote on the Democrat side for the Contras, is going to be the operative force in this. That is not bipartisan.

Centuries ago, my friends, there were people called alchemists who, through incantations and formulas, tried to change base metal into gold. What you have here is an effort at political alchemy whereby with the magic formula of negotiation you are going to change base Communists into golden liberal Democrats.

What a glorious time this is, may I say, to hand over Nicaragua to the Communists. With Colombia near chaos, being controlled by a cocaine cartel, with Panama overwhelmed by corruption and a 400-mile trip from Nicaragua to the canal, and you hand over Nicaragua to the Communists.

Chaos, cocaine, communism, that is the legacy of this sort of legislation.

The Arias peace plan and the Speaker's plan are based on a fantasy that the Sandinistas will do what no Communist regime has ever done in history, voluntarily yield power.

These are the same leaders who said, "What was won by the gun can only be lost by the gun." They have also said, "Why would we lose 50,000 lives to surrender the revolution?"

But, my friends, you have got to understand that many of the most fervent advocates of the Speaker's plan before us are indiffernt to the takeover of Nicaragua by the Communists. They do not see that as a problem at all. All you have to do is to read the Democratic Study Group's letter that they sent to the peace groups, where it says, and I quote:

> Like the refusal to provide more military aid, these provisions send a strong message to the Contras that our support for their war is over, the sooner the Contras understand that fact, the sooner the fighting will end and the sooner we can begin addressing the real problems of Central America, of poverty, maldistribution of wealth.

Well, poverty is a problem. Communism is not going to fix that. Maldistribution of wealth is a problem; Marxism has never fixed that anywhere in this globe. But what about a Soviet base on the land bridge between Texas and the Canal? That is a matter of blithe indifference to the people pushing this plan. At least they do not advert to it in their letter.

So I just ask them: "Doesn't a Soviet base in our hemisphere, in addition to Cuba, bother you?" It bothers me. Now the Speaker's plan achieves the supreme goal of every Communist government, unilateral disarmament of the resistance, meanwhile the Sandino Communists are arming to the teeth.

My friends, we have had 70 years of experience with the Communists, with the Soviet Union. Do we not learn anything? Refusal to learn from history goes beyond invincible ignorance, I think it approaches what is called cognitive dissonance, the refusal to see reality when it bites you in the neck. That is precisely what the Speaker's plan does. It is a manipulative cellophane fig leaf, it is a search for the lowest common denominator on the left to avoid responsibility for losing Nicaragua.

My friends, it takes away much more than it gives. It gives a token of beans and bandages and blankets that are undeliverable. You cannot deliver them. There is no mule train going to carry them into Nicaragua. You have got to fly them in. But if you fly them in you had better have antiradar jamming equipment because the Sandinistas have Soviet radar and they are not going to let you feed and clothe and bolster the Contras except on their terms, which are surrender. So who are you kidding? Who are you kidding? You are not even going to get the humanitarian aid that you are so proud of in to the people who need it. So you are not giving them much, but you are taking away much, you are taking away their hope.

This bill is an invitation to a funeral, the funeral of freedom.

I say to you in all sincerity when the last freedom fighter is huddling in a refugee camp somewhere shivering and hungry, I say to you as you are proceeding down this course or when the last freedom fighter is being lowered into his grave, you are going to understand what Lady MacBeth meant when she said, "All the perfumes of Arabia won't sweeten this little hand. You will understand what she meant because you will bear the guilt that you deserve for being an accessory to the murder of democracy and freedom in our hemisphere.

Mr. BONIOR of Michigan. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma [Mr. McCurdy].

Mr. McCURDY. Mr. Chairman, I rise in support of this package.

Mr. Chairman, exactly 1 month ago the House was witness to 10 long hours of debate on an issue that has come to symbolize the lack of a bipartisan foreign policy in America. The question of aid to the Nicaraguan resistance has generated more divisive debate than perhaps any other issue in this decade. As is often said about matters such as this, reasonable people can reasonably disagree. Yet on this question people seem to lose their reason and their ability to remain civil.

In January I was joined by 19 Democratic colleagues in urging the President to delay his request for aid to the Nicaraguan resistance. We made our request on the grounds that, given the intense domestic opposition that faced Daniel Ortega and the strengthened position of the Contras in their upcoming negotiations with the Sandinistas, more military aid to the Contras would have given Ortega a convenient excuse to revoke concessions recently won inside Nicaragua and to abandon the Arias peace plan. Among concessions were a lifting of the state of emergency, reopening La Prensa, a partial amnesty, and most importantly, committing his government to direct negotiations with the Contras. This last concession can be seen as a de facto recognition by the Sandinistas of the Contras as a legitimate political force within Nicaragua.

Unfortunately, the President refused to consider our request and, as we all know, his aid package was defeated. Since then, many of us have been criticized for our votes against the President's package. However, moderates in the House voted with the Democratic leadership because we were promised another vote on an alternative package that would sustain the Contras during their negotiations with the Sandinistas and would not violate the Arias peace plan by escalating the war. And despite the inflamed and exaggerated rhetoric to the contrary, the leadership has acted in good faith. Defeat of the President's package did not signal the death knell of the Contras. The resistance is alive and well in Nicaragua with plenty of arms stockpiled, and we have before us today a vote on a humanitarian aid package that will provide a steady commitment to the contras as they continue negotiating with the Sandinistas.

As a member of the task force responsible for drafting the Democratic aid package, I am confident that today we have an opportunity to arrive at a bipartisan consensus on the question of how best to achieve peace and democracy in Central America. The Democratic package answers many of the concerns of liberals, moderates, and conservatives on this issue. In addition, Alfredo Cesar, a member of the Resistance Directorate, has said that the Contra leadership needed three conditions for its support of an aid package: a credible delivery system, an opportunity for another vote in June to consider "the overall situation in Nicaragua, and funds for communications equipment. This package meets those conditions.

The Democratic leadership's proposal provides incentives for both sides in the Nicaraguan conflict to negotiate a cease-fire by June 30. The House Select Committee on Intelligence and the appropriate body in the Senate will monitor these negotiations. If no cease-fire is reached by that date, the two committees will determine who is responsible. If the Sandinista government is found to be negotiating in bad faith while the Contras are making a good faith effort to reach a cease-fire, Daniel Ortega faces the real possibility of renewed military aid to the Nicaraguan resistance. The Contras will not be immune to pressure either. If they do not engage in serious efforts to achieve a cease-fire, they run the risk of a cutoff in aid.

Defeat of the administration's aid package was not the last vote on aid to the Contras and today's vote will not be the last either. The Democratic package offers the best strategy for the United States Government to promote a negotiated settlement in Nicaragua. If a cease-fire is not achieved, we will revisit this issue in the summer. But the Sandinistas should be warned. A majority of this body will not tolerate an expansionist totalitarian state in Central America. The Sandinistas have said they want peace under the terms of the Arias plan, which links peace with democracy. Now they must prove it.

Mr. BONIOR of Michigan. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Democratic alternative on Contra aid.

This is a difficult vote for many in this Chamber—especially those of us who have opposed all forms of aid to the Contras. In fact, if it were within my power, I would like to see a total cutoff of direct aid to the Contras. The only assistance I would favor is true humanitarian aid, in compliance with the principals outlined in the Geneva conventions.

But, Mr. Chairman, the reality is that some form of aid will be approved. And we must choose between a Democratic plan which moves us away from the military approach that has been embraced by the Reagan administration and a Republican plan which paves the way for more military aid to prolong the war and add to the killing in Nicaragua.

Mr. Chairman, given that choice I feel compelled to support the Democratic package. In spite of my strong reservations about this plan, I know that if it fails we will be faced with a resumption of military aid to the Contras—and a deterioration of the peace process. Let there be no misunderstanding, a vote against the Democratic alternatives is a vote for military aid.

Mr. Chairman, we should therefore adopt the Democratic proposal and start planning for peace. In that spirit, I would like to ask my colleagues to review an article I wrote for the Christian Science Monitor 2 years ago. Though I wrote the article in 1986, the issues I raise remain relevant in 1988. I submit it for the Record.

HUMANITARIAN AID VERSUS "CONTRA" AID

(By Hon. Joe Moakley)

In the debate over aiding the "contra" forces in Central America, an important point has emerged that should be respected by both supporters and opponents of such aid. None of the assistance that has been or may be sent by the United States government directly to the contras can properly be called humanitarian aid.

Many of the church-based and private voluntary agencies that provide relief and development assistance around the world have correctly insisted that all forms of direct aid to the contras violate the longstanding, internationally agreed-on criteria for humanitarian aid.

As stipulated in the Geneva Conventions and Protocol, humanitarian aid must be made available solely on the basis of human need and not for any political purpose; it must be offered impartially to all sides in a conflict; it must go only to civilians and noncombatants; and it must be provided through independent agencies that have not taken sides.

Direct U.S. assistance to the contras cannot meet any of these three basic tests for true humanitarian aid. What we have sent is clearly intended to enhance the combat effectiveness of one faction in a conflict rather than to alleviate suffering among civilians and noncombatants.

When Congress voted $27 million in so-called "humanitarian" aid to the contras last year one U.S. senator suggested that the contra forces would now be better fed, better clothed, and better shod, and that they would fight better as a result. Such an approach utterly defies the rudimentary meaning of humanitarian aid.

The relief agencies' experience in Central America makes clear that contra attacks, in fact, increase the number of displaced persons and victims of violence and hamper effective delivery of aid.

The false usage of "humanitarian" is further demonstrated by the fact that more than $15 million of the $27 million in aid approved last summer has been spent in ways that are classified and are impossible to audit through the very government accounting procedures that were mandated in the law. Genuine acts of mercy are not subject to such secrecy.

The ultimate outrage against the concept of genuine humanitarian aid came in March when President Reagan asked for $100 million in renewed assistance to the contras. The White House text of a promised executive order released on the eve of the first vote in March identified ground-to-air missiles and Green Beret training as forms of "humanitarian" aid.

Blatant manipulation of the term is further illustrated in administration responses to requests to send aid to Nicaragua. While a wide variety of paramilitary gear has been purchased for the contras using the $27 million for "humanitarian" aid, traditional relief agencies have been blocked by licensing restrictions from sending needed, totally nonmilitary supplies into Nicaragua. Oxfam America has been waiting for months for permission to send seeds, agricultual tools, and similar goods for distribution inside Nicaragua through church networks. By contrast, private groups backing the contras received an export license in just four days to send a Huey helicopter to the contras for "humanitarian" purposes.

Providers of genuine humanitarian aid operate in conflict situations at the sufferance of the warring parties, who, from a partisan perspective, view the activities of relief workers with considerable suspicion. Misuse and political exploitation of the term "humanitarian," therefore, erodes the integrity of genuine humanitarian aid, adds further danger to the work of bona fide aid providers in conflict situations, and puts at jeopardy the future of those in need whose lives depend upon delivery of such assistance. It also increases the risks that many relief workers already face in their efforts to provide true humanitarian assistance.

The time has come to remove the term and concept of "humanitarian" from any aid that Congress may approve in support to the contras. If new funds are voted and the current Nicaraguan Humanitarian Assistance Office in the State Department is asked to administer any portion of the funds, then the office should be renamed so as to delete "Humanitarian" from its title. For those in need in Central America, assistance should be provided through the Red Cross and the United Nations High Commissioner for Refugees under arrangements that fully conform to the traditional criteria for humanitarian aid.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. I thank the gentleman from Oklahoma for the time.

Mr. Chairman, today like Alice in Wonderland we step across the looking glass.

Five years ago we made an East-West policy decision. We decided to confront communism in Central America by aiding the freedom fighters called Contras on the home turf of the Communist presence in Nicaragua.

It was a policy I agreed with. It was a policy many of you disagreed with, but it was a policy we could all understand.

On February 3 we made a new East-West policy decision. On February 3, this House voted to end that confrontation, to end our support for the freedom fighters who are confronting communism in Nicaragua. It was a decision I disagreed with. I pointed out we are abandoning forces in the field we had helped place there. It was a bad decision, but it was a decision nevertheless. It made some sense to some and it is one that we could all understand.

But today like Alice in Wonderland we step across the looking glass. Today we are asked to vote on a proposal that says let us aid both sides of the conflict.

□ 1700

"Let's send money to both parties in this conflict between East and West in Nicaragua."

It is the equivalent, if you will, to a decision to send aid to Nazi Germany during World War II. After all, Hitler had innocent civilians who were victims of that war. Did we decide to send aid to Nazi Germany in the middle of that conflict? Of course not.

A decision to send aid to both sides in this conflict would be just as silly and just as ridiculous. No, this is not an East-West policy vote any more. It is simply a foreign-aid vote. It is simply a decision to send a whole bucket of money to Nicaragua, to everybody over there on both sides of the conflict. It is simply a foreign-aid vote now.

We have people in America who are hurting as much as anyone is hurting in Nicaragua, and if what we want to do is send some money to somebody, I suggest that we look at our districts and look at things at home. If you want to defend in a 30-second commercial a decision that you sent money to both sides in an East-West conflict, that you added to the foreign-aid budget of this Nation on this vote today, that you could make no real policy decision about which side you wanted to fall on in this East-West conflict, then perhaps you can vote for this program. But I suggest in the meantime that the comment made to me by a Cajun friend is beginning to make more and more sense as we face this proposal this afternoon.

I was riding with him in my car, and he said, "You know, Billy, things are not like they are. No?"

I said to myself, "What on Earth does he mean?"

Then it dawned on me that he could be in this Congress today. He could be proposing this ridiculous offer to send money to both sides, because, let me say to the Members, things are not like they are anymore in the Congress.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I hope our colleagues were listening to the previous speaker. It has been curious to me today to realize how little time we have spent talking about the Soviet-backed Sandinistas and how much time we have spent talking about the United States-backed Contras.

Let there be no doubt in anyone's mind whose side I am on and why I believe the first vote we cast today is a very significant one, because it is a vote on the Bonior foreign-aid plan. It is not a Contra aid plan. Only one-third of the money in this Bonior foreign-aid plan will go to the Contras. The other two-thirds of these dollars in this foreign-aid bill are going to go to anybody else but the Contras, and that is a fact. In fact, 25 percent of the money in this first vote will go to the Sandinistas, and let nobody try to explain that that is not the case, because I ask the Members to show me one Communist country anywhere in the world that allows free and independent agencies to make independent decisions of how those dollars we are going to give to the Ortega brothers, that we allow them to distribute that money as they see fit, and believe that is going to go to children that need help. Come on, who are we kidding?

This is a mini-Marshall plan for Central America before the war is over. Who are we kidding? Who are we kidding to send money we do not have to both sides before the negotiations have in fact ended? This is crazy.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I am happy to yield to the Speaker.

Mr. WRIGHT. Mr. Chairman, my friend from Texas knows of my affection for him. I had not intended to get into this debate, but for anyone to stand in the well of this House and say that the plan that our colleagues put together carefully gives money to the Ortega brothers to distribute in any way they want to is just lying, or he does not understand it. So I must say the gentleman from Texas does not understand it.

We have read it repeatedly. It has been clear, unequivocal, unambiguous. The money does not go to the Ortega brothers, and to say so is to commit error. I know the gentleman would want that corrected.

Mr. STENHOLM. Mr. Chairman, let me say this: I deeply respect you, Mr. Speaker. If I am in fact in error, it is because of error of judgment. I can read the same language as well as anyone else can read it, and I believe I stand by my previous statement. If we must disagree, we must in fact disagree. But that is for all of us to decide on the floor of the House. I have to cast my own vote, and I certainly do not believe that I am lying by that which I have stated.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield so that I might read the language of the bill?

Mr. STENHOLM. I yield to the Speaker.

Mr. WRIGHT. "Children's Survival Assistance.—There are hereby transferred to the Agency for International Development, $14,560,000 of unobligated funds from the appropriations accounts * * * which shall be made available to provide medical care and other relief for noncombatant children who are victims of the Nicaraguan civil strife."

It says further that "distribution of these funds shall be given to organizations presently providing similar services such as the Catholic Relief Services, International Committee of the Red Cross, CARE, United Nations Children's Fund," and so forth, "and the Pan-American Health Organization."

I think the gentleman surely would know, and if not, I think that others know, that these organizations are not under the aegis or control of the Ortega brothers, and that surely that which is delivered by our Agency for International Development is not under their control.

The CHAIRMAN. The time of the gentleman from Texas [Mr. STENHOLM] has expired.

Mr. STENHOLM. Mr. Chairman, may I ask the gentleman if I may have an additional 2 minutes?

Mr. EDWARDS of Oklahoma. Mr. Chairman, may I ask how much time is remaining on either side? I think it would be fair if the other side would yield some time to make up for some of the time the Speaker has used.

The CHAIRMAN. The gentleman from Oklahoma [Mr. EDWARDS] has 9 minutes remaining and the gentleman from Michigan [Mr. BONIOR] has 11½ minutes remaining.

Mr. BONIOR of Michigan. Mr. Chairman, I yield an additional minute and a half to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for yielding me this additional time.

Mr. Chairman, I have been reading the same language in the bill that the Speaker has just quoted, and it is my interpretation that no one in this House casting a vote for this substitute bill can beyond a reasonable manner of doubt assume that money dispersed in a Communist country to those organizations will in fact be free and independently dispersed. That was my point, and I continue to stand by that point.

Mr. Chairman, I would conclude by saying that the major reason for opposing the substitute bill today comes in section 12, in which it says: Consideration of Additional Assistance for the Nicaraguan democratic resistance. Do we really want to cast a vote in this House to shift foreign policy from the State Department to the Intelligence Committee of this House? Do we really want to shift, as we will do if this substitute amendment passes, from the Speaker of the House to the President or from the President to the Speaker of the House? I believe that this presents grave constitutional problems.

For the reasons above, I believe that this amendment or this substitute is a foreign-aid bill. I respectfully still call it a foreign-aid bill, not a Contra-aid bill, because although one-third of it goes to the Contras, the rest of it does go to foreign aid, of which 25 percent of it could show up in the hands of the Sandinistas before the negotiations are over.

Mr. Chairman, I respectfully ask that my colleagues defeat the substitute bill.

Mr. BONIOR of Michigan. Mr. Chairman, I yield 3 minutes to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the Democratic substitute. I was one of the ones who helped shape this package, and as it began to take form, I went over the elements of our efforts on three different occasions with the leaders of the Nicaraguan resistance, the Contra leadership. We had three different meetings. They gave me their responses orally, and to make their position and their authority clear, they put it in writing.

On February 24, the Contra leadership composed and delivered a letter written over their letterhead, addressed to five of us on the Democratic task force which was then drafting this response. There were, said the Contra leadership, three essential elements to any package of effective aid to them.

First, they said the aid must be delivered by a credible U.S. Government delivery system. In this connection, the Contra leadership made it absolutely clear they could care less whether this aid was delivered by the Department of Defense or by the CIA. All they said they needed, wanted, or sought was the U.S. Government to back up the delivery system, and that is what we provided for in this resolution.

Second, they asked that any package of aid specifically include and provide for communications equipment so that they could maintain command and control of their forces. Without this kind of aid, they said, "a cease-fire cannot be put into effect."

I asked them expressly, "How much aid do you need for this purpose, for communications equipment?"

They answered me specifically: "$250,000 before cease-fire and $750,000 during the cease-fire period." And that is exactly what we have provided for in this package, exactly what the Contra leadership sought.

Finally the leadership of the Nicaraguan resistance asked as a request, as the third essential element, for an expedited vote in the month of June revealing the overall situation. That is what we provided for in section 15 of this resolution.

So this resolution, the Democratic substitute, meets the requirements of the Contras, the Nicaraguan Resistance, as their own leadership defined those requirements, those essential conditions.

But it does more than satisfy the Contras. In effect, it threads three needles. First, it says to the Contras that as aid goes along, they will not be abandoned in the field. It recognizes that the Contras will be useful in leverage if they remain intact and in force while the negotiations go on, but at the same time it says, "We expect you to negotiate in earnest and in good faith."

It says to the Sandinistas on the other hand, "If you are unwilling to negotiate in good faith, another day of judgment awaits you, and it will come soon in the month of June." And it says to the Central American Presidents, to President Arias and his counterparts, "We support your efforts to bring peace and democracy to Central America. We are not going to abandon the Contras, but at the same time, while we try to make the peace process work, we are not going to fuel the conflict."

Mr. Chairman, this is a good package, and I urge support from Members on both sides of the aisle.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, I rise in opposition to the Democratic measure. The Contras cannot defend themselves by means of Band-aids.

Mr. Chairman, I rise in opposition to this measure which offers only a paltry sum of humanitarian assistance to the brave Nicaraguan freedom fighters. They cannot defend themselves with beans and Bandaids against the most militarized nation in Latin America. I share the concern of this body for peace in the Central American region but I strongly believe that we cannot be naive about the totalitarian nature of Nicaragua under Sandinista domination. True peace cannot result from a nation under tyranny with the continued intervention and participation and partnership wtih the Soviet Union.

Do we remember that the United States provided Nicaragua with $78.1 million in economic assistance following the success of the Sandinista revolution? Can we recall that President Carter suspended an additional $75 million in aid in January 1981 following revelations that the Sandinistas were arming the Marxist guerrillas of El Salvador? And now we are about to provide $14.6 million for aiding children injured or displaced by the war, part of which will benefit the Sandinistas. Haven't we learned our lesson?

From the first days of the Sandinistas as a political movement, they have attempted to export their revolution and subvert other area governments, persecuted the church—except those ministers who are allied with the Sandinistas—and imposed censorship on the media and strict control of most aspects of Nicaraguan society. They have even attempted to wipe out an entire culture by forcibly relocating members of the Misquito Indian society.

When Somoza left the country in 1979, he had a military force of about 14,000. Today, the Sandinistas are over 120,000 strong and they continue to receive new, advanced helicopters and other military equipment from Cuba and the Soviet Union. In fact, we all know that Defense Minister Humberto Ortega confirmed the statement of Maj. Roger Miranda that the Sandinistas plan another huge military buildup which would bring 600,000 Nicaraguans into the armed forces. That means one in every five Nicaraguans will be required to serve the ambitious aims of the Sandinistas. And, according to Major Miranda, the Nicaraguans developed this plan soon after they signed the Guatemala peace accords.

We can no longer ignore that the Sandinistas will do anything to keep themselves in power even to the point of mouthing soothing words of "peace". That is why I voted for the President's original package of military and humanitarian aid to the Nicaraguan freedom fighters. Without this pressure, no concessions towards cracking the totalitarian Sandinista society would be possible.

The Sandinistas were brought to the negotiating table because of the growing strength of both the peaceful and armed opposition to Soviet and Cuban plans for Nicaragua. Was it mere coincidence that before every Guatemala peace accord deadline the Sandinistas miraculously came up with new concessions? Did we also happen to notice Daniel Ortega's hardline reaction to the February 3 vote? He suggested that the political opposition should have no role in Nicaraguan society. Yesterday, in another about-face, Ortega came up with a new concession for direct talks with the resistance inside Nicaraguan territory. Let's give the opposition something to negotiate with—not surrender instructions.

Mr. Chairman, I urge my colleagues to defeat this capitulation package and support the Republican alternative as the way to regain leverage in the negotiations. Peace without freedom is slavery.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 1 minute to the gentleman from New Hampshire [Mr. SMITH].

Mr. SMITH of New Hampshire. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, the choice we face in Nicaragua is very clear. It is between freedom and communism. Unfortunately, what we are faced with today is an attempt to cloud this issue. It seems opponents of Contra aid simply do not have the courage to accept the consequences of their previous actions—of their decision to abandon the Contras, our only hope for freedom in Nicaragua.

So what do they do? They bring out a package containing a token amount of humanitarian assistance. A package which they proudly claim contains the first American aid to the "people of Nicaragua since 1979." But we should not be deceived. Their substitute amounts to a joke that provides bandages and bananas to the poor peasants that will be fleeing the tyranny which they will have allowed to take hold, and it is reparations to the thugs running Nicaragua. In short, this proposal represents more of the same old politics and tired political sloganeering. "Give peace a chance" is what we hear, but if we adopt the substitute, we will only give communism a chance.

Mr. BONIOR of Michigan. Mr. Chairman, I yield such time as he may consume to the gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. Mr. Chairman, I rise in support of the Democratic proposal.

Mr. Chairman, I rise in support of the humanitarian aid package offered today to assist the Contra forces in Nicaragua. I sincerely hope that my colleagues on both sides of the aisle will support it as well.

Since 1984, I have been working closely with a small group of House Members seeking to fashion a truly bipartisan, long-term United States policy in Central America. I am optimistic that a vote today for humanitarian aid will mark an important step in accomplishing that goal. I know that for many of you this vote will not be easy. I recognize that Members on both extremes of the debate, from the strongest supporters to the most critical opponents of Contra aid, are being asked to compromise and to accept a more moderate course. Nonetheless, I hope that all Members understand that this package offers the only promise of peace.

I am partially responsible for today's vote. Last January, along with 19 of my colleagues, I signed a letter to the President asking that he delay the military aid request that this House ultimately rejected on February 3.

Obviously, however, the President ignored our request, and he lost as we warned. After failing to persuade the President, we approached Speaker WRIGHT to seek a guarantee that a second vote on humanitarian aid would be allowed should the President's request be rejected as it was. When the guarantee was made, I opposed the President's package. I said no to a military aid request during a delicate time in the peace process when such aid would likely destroy it.

So here we are today, 1 month later, voting again on aid to the Contras. But this is a different kind of aid and its passage will have a fundamentally different kind of impact on the peace process.

The package before us appropriates $30.8 million in assistance over the next 4 months—$14.56 million for food, clothing, and medicine for the Contras; $14.56 million for medical assistance for children, on both sides of the conflict, who are victims of the war; and $1.44 million for humanitarian aid to the Miskito and other Indian groups in Nicaragua.

In addition, this package transfers authority to deliver the aid from the Central Intelligence Agency to the Department of Defense. All aid would be inspected onsite by the House and Senate Intelligence Committees and the General Accounting Office. If the Sandinistas and Contras agree to a cease-fire, delivery would be transferred to an international voluntary agency, such as the Red Cross.

Finally, the package cuts off delivery of previously authorized, but undelivered lethal assistance and provides a mechanism controlled by Congress for a vote on more aid sometime this summer.

Given these provisions, I am satisfied that the proposal offers the balance and compromise needed to nurture and to sustain a bipartisan United States policy in Nicaragua and Central America. It reconciles the two principal, but opposing concerns that further aid to the Contras will upset the peace process and that more aid is needed to pressure the Sandinista government.

By cutting off existing authorization of military aid, limiting any new aid to food, clothing, and medicine, and eliminating the role of the CIA in delivery, the package addresses the principal concerns of Contra opponents. It has the support of President Arias of Costa Rica, the author of the Guatemala accords, and guarantees that the peace process will continue. In addition, the $14.6 million for medical treatment of all children who are victims of the war introduces a new, responsible dimension to U.S. policy.

On the other hand, the package asserts reasonable pressure on the Sandinistas to comply with the peace plan—the principal concern of Contra supporters. The aid would be provided before a cease-fire is agreed to, thereby deterring the Sandinistas from stalling during negotiations. Also, it further encourages the Sandinistas to negotiate by shifting delivery of the aid to an international organization, such as the Red Cross, should a cease-fire commence. Finally, the provision for a summer vote signals to the Sandinistas that we retain the option to change course should progress toward democracy in that country be unsatisfactory.

Mr. Chairman, before concluding, I would like to comment on one other subject that must be part of any sustainable, long-term U.S. policy in the region.

On February 23, I cosigned a letter with 66 of my colleagues, Republicans and Democrats alike and Contra supporters and opponents as well, urging the President to initiate negotiations with the Soviet Union to cease Soviet military aid to the Sandinista government.

To be sure, the United States has legitimate security concerns in Central America. We are all aware that Soviet support of the Sandinistas has been substantial and continues. And it must end.

The only way to cease such aid is by direct negotiations with the Soviet Union. It is clear that, regardless of the level of aid, the Contras are incapable of preventing the importation into Nicaragua of the kind of hardware that would present a threat to our country. Nor are the Contras capable of stemming the supply of arms, as alleged by Contra supporters, from Nicaragua to the armed opposition in other Central American countries.

The press reported during the recent summit between the President and Secretary Gorbachev that the Secretary offered to withdraw or reduce aid to Nicaragua. At this point, the rumor has not been confirmed. It has also been claimed that the Soviets are tiring of their support and in fact refused to increase oil exports to Nicaragua last year, resulting in a serious gasoline shortage inside that country. But whether or not either or both rumors are true, the administration should initiate negotiations. If we can turn off the pipeline, the Sandinistas will be further encouraged to negotiate. I think that all of us here can and should support this effort.

Mr. Chairman, I would like to congratulate the members of the task force who drafted the proposal before us today. It is a sensible package that reflects political reality. Not everyone will be satisfied, particularly those at the extremes who oversimplify the debate. The vote today is not a vote for or against communism, as Contra supporters often claim. Nor is it a vote for or against violence and murder, as Contra opponents allege. And it is not a vote about goals, but about means. It is a vote on a package that seeks to apply subtle pressure during a delicate stage of diplomacy in order to obtain our goal of democracy in Nicaragua in the surest and most effective way.

I urge a "yes" vote.

Mr. BONIOR of Michigan. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, I rise in strong support of the Democratic plan.

Mr. Chairman, I am sure that many of my Democratic colleagues are hesitant to vote for any assistance for the Contras. I share that hesitation. However, I will vote for the Democratic plan today because it is the next step on the road to peace and its alternative, the Republican plan, provides military aid for the Contras.

I have heard from constitutents who feel that this plan is a betrayal of our work to promote peace in Nicaragua. This is not really the case. We Democrats are working for peace, but we have realized that we must proceed toward our goal gradually if we are to ultimately succeed.

Our struggle to end Contra aid has been difficult. Once we lost a vote because we pursued an "all-or-nothing" strategy, and military aid for the Contras was approved. But since the Central American peace plan was signed last August, we have been moving ahead steadily toward peace.

One month ago the House rejected the Reagan administration's request which included lethal military aid. Today, by passing the

Democratic package we will be assuring that no military aid of any kind, lethal or nonlethal, will be approved. This is important progress.

What would happen if we were to try to immediately cut off all aid to the Contras? Well, we could pat ourselves on the back for being morally pure; but in the mean time the Republican package of military aid would be passed, and thousands more would die in Nicaragua. Make no mistake about it. To block continued military aid for the Contras we must vote for the Democratic package.

The Democratic package will not bring immediate peace to Nicaragua. But it will provide help for the Nicaraguan children injured in the conflict, and it will move us ahead toward our goal of ending the conflict in Nicaragua.

Mr. BONIOR of Michigan. Mr. Chairman, I yield 3 minutes to my friend, the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, first of all, let me point out that 30 days ago I voted against the Contra aid package that was on the floor at that time. I did so because it contained military assistance, which was clearly in violation of the Arias peace plan.

The plan before us today, Mr. Chairman, neither abandons the Contras nor violates the peace process. I urge my colleagues to support it for those reasons.

Unfortunately, during these kinds of debates the rhetoric gets a little hot on both sides of the issue, and there are two points I want to speak about that I think need some additional clarification.

As one who is involved in this task force, let me just point out again for those who are concerned that if we are going to involve the Department of Defense and uniformed servicemen in the delivery of this aid, I categorically reject that, and I call the attention of my colleagues to section 6, subsection (b) where it clearly states unequivocally that the Department of Defense would enter into contracts with those people that are currently delivering this assistance.

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I repeat, there is no way that uniformed military personnel from the United States Government will be involved in the Nicaraguan delivery of this assistance, none whatsoever. I think the language in the act is very clear on that point.

Again I refer you to section 6(b) of the legislation before us where it is very clearly stated.

The other point, Mr. Chairman, that I want to bring the attention of the Members to is section 10, the Children's Survival Assistance Act. Some of my good friends are deeply concerned, as I would be, if we were talking about giving assistance to the "Nicaraguan Government," the Sandinista government.

Mr. Chairman, we are not doing that. I would submit that those people appointed by President Ronald Reagan to run the Agency for International Development are not about to give any of this money to any agency within Nicaragua that is not going to be doing what they are supposed to be doing, and that is helping children, the victims of this war, with the money we are talking about. Not a dime of this money would fall into the hands of the Sandinistas if the President's appointees running the Agency for International Development do it right and pursuant to the language in section 10. So I think it is very important for us, Mr. Chairman, to set the record straight on those two points.

If there are some concerns about exactly what we mean on these two points, this is the kind of thing that can clearly be clarified in a conference committee. There is no reason why we should vote against this proposal for those two reasons.

Beyond that, Mr. Chairman, let me just point out that today is sort of a historic day in that for the first time many Members of this body who have never voted for aid to the Contras are doing so.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Chairman, I rise in opposition to the Bonior substitute.

Mr. Chairman, although I commend the speaker for putting together a package which I believe the majority of the Democratic Party will support, I am quite frankly, very disappointed, that a truly bipartisan package, which could be supported by the vast majority of Democrats and Republicans in this body was never seriously considered. There was a real opportunity for such a package to be put together when the Democratic alternative package was pulled from consideration last week. As usual, though, we let partisanship get in the way of forging sound bipartisan foreign policy.

I have two fundamental problems with the Bonior substitute. First, it ignores the President's role in making foreign policy and second, the substitute allows the Department of Defense to deliver aid to Contras, whereas that responsibility clearly falls under the purview of the CIA.

It appears to me, Mr. Chairman, that we have already forgotten the lessons of the Iran-Contra affair. As the report states in its executive summary, "the policies of the United States cannot succeed unless the President and the Congress work together." The report also states that "the principal recommendations emerging from the investigation are not for new laws but for a renewal of the commitment to constitutional government and sound processes of decisionmaking." This premise is certainly overlooked in the substitute—it doesn't even permit the President to trigger the cease-fire certification. This is clearly a breach of separation of powers and it is an impediment in creating sound foreign policy.

Second, under the Bonior substitute, we have a CIA operation for delivering the aid in everything but name only. I would like someone to tell me why using the Department of Defense as cover for a CIA operation is good policy? Isn't this legislative slight of hand, the type of thing that makes our constituents so cynical about the congressional process? We had a similar scenario under the Hamilton amendment a few years ago when we set up an agency within the State Department to deliver humanitarian aid to the Contras, and we all know what a disaster that was. Why repeat the same mistake? Doesn't the Iran-Contra report talk about the need for clear lines of authority and the delegation of responsibility. How soon we forget.

Let me finally conclude by saying that it is difficult for me to vote against the Speaker for whom I have the highest respect. But today, I have been put into a position of choosing between the Speaker or the President on a very important foreign policy question. I have stood by our President on this question in the past, and in good conscience I must stand by him again, today.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Washington [Mr. LOWRY].

Mr. LOWRY of Washington. Mr. Chairman, I thank the gentleman from Michigan for yielding this time.

Mr. Chairman, I rise in support of the Bonior substitute and in support of the final passage of the Bonior substitute, if it passes.

Like many in this body, I have labored hard over the last few weeks on bringing us to where we are now. I want to say that it has been an experience that has made me very proud of this institution, because I have seen people on all sides come together to look for what can give us peace in Central America and what is our right position for peace in Central America. I know those were tough decisions to be made by people from all sides.

I want to say thank you to those people who came together within this compromise who had previously voted with the President for military Contra aid that did not work for peace. They said this did not work for peace and we are willing to work for a compromise that will work for peace. So they said we are willing to make a very tough vote at home because we are willing to take a position for peace.

I want to say thank you to the overwhelming number of people of this body, especially in my party, who have consistently opposed all Contra aid, who said that did not work because we always lost in the vote, and what happened when we always took the position of opposing all Contra aid is the President's package always passed, and then those things that kept the war going in Central American kept happening, so we are willing to take the very tough position at home of saying that we will go for the alternative, for the Bonior alternative that will give us a chance for peace.

Why does it give us a chance for peace? Because what the Bonior alternative does is keep the Central America peace process going. As President Arias said, the Bonior alternative meets the letter and the intent of the Central American peace process. If the Bonior alternative goes down, then those things that follow are outside of the Central American peace process and they go back to war in Central America.

So those members of our coalition who have come together for peace from the side who have previously been on the President's side and whose side I have always been on, who oppose Contra aid, that said no, what we will do is come together and come up with a package that will truly give us peace.

Thank you for your courage.

If the Bonior package goes down, then the package to follow will surely pass, that is undebatable, that will provide military aid and will blow the peace process apart, and that terrible war that has cost 40,000 deaths in Central America and Nicaragua will continue to go on.

Please vote for what will make the Arias peace plan have a chance to work. Please vote for that thing that will stop that war.

I have before read on the floor a message taken from a reporter that went to an orphanage in Central America where children who are orphans because of their parents dying in the Nicaraguan war were.

Tom Weber from the San Francisco Chronicle said, and let me read that:

> Sleep would not come. There were about 16 children in the room, both boys and girls, and the sounds of their sadness made sleep impossible. Some wept in their sleep or hummed their lonely tunes in a harmony of sorrow that I never heard before.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. LOWRY of Washington. Mr. Chairman, I ask unanimous consent to proceed for another 30 seconds, because these people over here were making so much noise.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

Mr. EDWARDS of Oklahoma. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield the remaining time to myself.

The CHAIRMAN. The gentleman from Oklahoma is recognized for 5 minutes to close debate.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I will not take all the 5 minutes. We have certainly had enough debate on this question.

Mr. Chairman, a month ago this House voted on a proposal to provide aid for the Contras. We had been promised an honest up-or-down vote, but when the gentleman from Michigan [Mr. BONIOR] discovered he did not have the votes to stop Contra aid, conservative Democrats were told, "Wait. We have a better idea. We will give you a better option."

This is a better idea?

The Bonior substitute will send cash money instead of supplies, money that will be impossible to trace and that will almost certainly fall into the hands of the Sandinista government, and it will through Government-controlled relief agencies.

Do you remember how upset you were when we could not trace the money we sent to the Contras, how you insisted on accountability, and you got it? Now you propose to get us back into the same mess again. That is a better idea?

Remember how concerned you say you were about the slippery slope of United States involvement in the war in Nicaragua? Now you propose to send the United States military to run the war in Nicaragua. Are you serious? That is a better idea?

You are going to vote to involve our military in that war?

Mr. Chairman, the Bonior amendment would tell the Sandinistas not to worry. There is not going to be any future military assistance to the Contras, no future pressure on the Sandinistas who have complied neither with the Arias peace plan nor with the Byron-Chandler resolution that was adopted by this House; no future pressure on the Sandinistas who according to the Permanent Commission on Human Rights continue to imprison and torture potential political opponents; no future pressure on the Sandinistas who in the past 48 hours have fired Cardinal Obando y Bravo as the peace negotiator and abolished the Ministry of Justice and turned Nicaraguan justice over to the secret police.

How can Mr. Ortega do such outrageous things? It is because he knows that apparently nothing he can do will bother some Members of this House.

This is the Bonior amendment, Mr. Chairman, an amendment supported by the lobbyists for the Sandinista government in Washington and by all the leading opponents of using pressure to bring peace and democracy to Nicaragua, and because they hate the CIA so much they are turning the war effort over to the United States military.

Mr. Chairman, this ridiculous amendment, which is now nothing more than a foreign aid package, is a camel designed by a committee wearing blindfolds, and it looks like it.

I cannot imagine how anybody on either side of this issue could vote for this amendment. I urge my colleagues to vote "no."

Mr. KOSTMAYER. Mr. Chairman, today many of us are preparing to cast one of the most difficult votes of our careers. This will be our first vote ever in favor of any form of aid to the Nicaraguan Contras. It goes without saying that this is a very, very difficult vote for those of us who have opposed, and still oppose, the Reagan administration's Central America policy.

I have received hundreds and hundreds of letters from the people in the Eighth District of Pennsylvania who support my position against military aid for the Contras. And I hope and believe that they will understand that I am not voting for this proposal because I believe the Contra war is a constructive policy. On the contrary, I would prefer to vote against this package and any further Contra aid.

But the hard reality is that there are no good choices before us.

If we vote against this humanitarian aid package now, we'll end up with a military aid package later. Unless this proposal is approved, we just won't be able to hold together the fragile coalition that defeated military aid on February 3. In other words, the only way we can reach a consensus against military aid is to reach a consensus in favor of humanitarian aid. It's that simple. It's a compromise, Mr. Chairman, the purpose of which is to preclude military aid.

Ironic as it is, if our strategy is to end the Contra war and Contra aid, our best tactic is to support this humanitarian aid package today. That is why so many House Members who have opposed previous aid proposals, as I have, will soon be voting for humanitarian aid.

Mr. Chairman, it is also important to note that the Democratic humanitarian aid package is not like the administration's humanitarian aid packages. There are no helicopters, no jeeps, and no lethal-aid delivery funds.

The Democratic package totals $30.8 million. It contains $14.8 million for food, clothing, and medicine for the Contras. It also contains $14.6 million in medical aid to the innocent children who are victims of the war.

This children's survival assistance money may be used only for emergency health services. It will provide artificial limbs and rehabilitation services to the 2,000 Nicaraguan children who have lost limbs in the war. It will provide assistance to some of the more than 10,000 Nicaraguan children who have been orphaned by war, and anesthesia for hundreds of children who, up until now, have had to undergo painful surgery without any pain killing drugs at all. This package is more children aid than Contra aid.

The choice is this: the Democratic package or military aid. And of the two, the Democratic plan is clearly better.

Mr. Chairman, I will not cast my vote for this package with enthusiasm. But I will cast it with the hope that this vote will ensure that the days of U.S. military aid to the Contras are gone forever.

Mr. AuCOIN. Mr. Chairman, I stand in opposition to any further aid to the Contras.

So long as the Contras continue to engage in attacks on civilians in Nicaragua it doesn't matter what the aid is called—"nonlethal," "humanitarian," or "sustenance." It doesn't matter who puts together the package—Democrats, Republicans, or the capitol garden club. And it doesn't matter who delivers it—the CIA, the Department of Defense, or the Pony Express. Aid to any army conducting lethal operations is lethal aid, and Congress should have no part of it.

Mr. Chairman, for the last 7 years this Contra war has been a travesty of foreign policy and a tragedy for the people of Nicaragua. It was conceived in the shadow of secrecy and pursued in the darkness of death and destruction against civilians. We put guns in the hands of children down there and we put documents in the shredder up here; 40,000 in that country have died, and faith in the democratic process and the rule of law in this country has been sorely tested.

Nothing we can do today will restore to their families the lives of those killed in this war. Many were children; they are missed, and they will not be forgotten in our lifetimes, nor will the circumstances under which they died. We will reap a harvest from the suffering we have sown for many years. Surely the least we can demand is that the attacks on farms, clinics, schools, homes, and other civilian places stop before we reward the attackers with more assistance. Once hostilities cease, I will not hesitate to support truly humanitarian aid to those in need who renounce the use of indiscriminate violence to obtain their ends.

We need a new policy in Nicaragua, not the perpetuation of a failed policy. A new policy will reject the war and encourage the peace process. It will include talks between our Government and the Nicaraguan Government about the whole range of problems that confront us, including security concerns and opportunities for economic cooperation. It will encourage the reintegration of the Contras into the political life of Nicaragua. It will work for economic growth and development throughout Central America. It will recognize the historical realities of Central America, where for too long tiny minorities in control of wealth and resources have slammed the door of opportunity in the faces of the majority, leaving a bitter legacy of oppression and injustice.

In my view, neither choice offered here today meets these tests, and for that reason I oppose them both. I am ready and eager to work for an alternative which promises to restore peace to Nicaragua and the United States to our highest values.

Mr. ATKINS. Mr. Chairman, I rise in support of the Democratic package. It is with great sadness that I do so. I have never voted for any form of aid to the Contras, and I am fully convinced that the Reagan administration's policy of creating and arming the Contras has led to more war, more bloodshed, and more poverty and dislocation in Nicaragua and the surrounding countries.

Thus, I am extremely skeptical of any provision of aid to the Contras, that must be passed through the Department of Defense, even if it is only food and medicine. But I have become convinced that the alternatives to this package are much worse. It is clear that, in the political climate of this House today, defeat of the Democratic package would ensure passage of the Republican package of logistical aid or a future Presidential request for lethal aid.

I wish that I could vote today for a package that provides for the final resettlement of the Contras in a peaceful and democratic Nicaragua. But that choice is not yet available to me. So, until that day, the Democratic alternative offers the best hope for resolution of this conflict.

Mr. PANETTA. Mr. Chairman, exactly 1 month ago, this House faced the choice between the administration's military aid package to the Contras or no assistance at all. This House defeated the administration's request for military aid to the Contras that day. Today the choice before us is more difficult. We must decide whether to support a modified humanitarian aid package to aid the victims of war or set a strategy that will result in approving the administration's military aid package. The choice today is military aid or humanitarian aid. By the nature of that choice, it forces approval of an aid package that hopefully begins to heal the terrible wounds of war and moves our Government a small step forward toward facilitating peace in Central America.

The key to finding a peaceful solution to the conflicts in Central America has and will be adherence to the Guatemala peace process led by Costa Rican President Oscar Arias. The basis of our policy in that region must be to work with and respect the other nations of Central America to obtain a diplomatic solution through the peace effort underway. They requested that we stop military aid. We showed respect for the peace process and people of Central America when we defeated a request for military assistance 1 month ago. And the House must continue in that path for peace by defeating any and all military aid requests so that the peace process can continue toward a permanent cease-fire and a return to regional stability.

The time has come to undo the destruction of life fostered over the past 7 years to the tune of $1 billion. Now is the time for the American people to regain control of our options in Nicaragua. Now is the time to pressure the administration to hold bilateral and multilateral talks with Nicaragua. And now is the time to turn our resources in the region from supplying weapons of war to building instruments of peace.

The bitter choice is that in order to prevent the passage of military assistance to the Contras, we must provide some modified humanitarian aid to victims of the war in Nicaragua and the Contras. We now have a congressional majority and majority of Americans working fervently toward peace. We have a strong coalition in the House committed to rejecting lethal and nonlethal military aid. We must retain that coalition.

The Democratic aid package is not perfect and it does not take the preferred step which would be an end to all forms of aid to the Contras. However, this package does make some important strides toward encouraging compliance with the Central American peace plan as well as a necessary step toward an orderly and humane withdrawal of United States military aid to the Contras.

For the first time since 1979, a truly humanitarian aid package will be sent to the people of Nicaragua. President Arias is on record stating that this package is "not inconsistent" with the spirit and letter of the peace accord. This package sets an essential precedent by designating half of the $30 million for the children, victims of war. Over 10,000 orphans and thousands of youthful casualties have been caused from land mines, attacks on civilian villages and targeting of health clinics in Nicaragua.

This $14.6 million children's survival assistance will be distributed by the Agency for International Development to private voluntary organizations like the Red Cross and the United Nations' Children Fund already in operation within Nicaragua and along the Honduran and Costa Rican borders to noncombatant children under the age of 15. The aid will be distributed by giving highest priority to those children on both sides of the war with the greatest need for assistance by making available prosthetic devices and rehabilitation, provide medicine and immunization for more than 100,000 children, assist burn victims and provide relief to all Nicaraguan children physically injured or displaced by the Nicaraguan conflict. No funds will go to or through the Government of Nicaragua.

This humanitarian aid package will also include $1.4 million in assistance to the Miskito Indians through the International Red Cross so long as there is a cessation of hostilities and progress toward a negotiated cease-fire continues. The Miskito Indians and the Government of Nicaragua reached a cease-fire agreement earlier this year.

The Democratic package also includes an immediate end to all lethal aid to the Contras including weapons and ammunition. The leadership of Congress and the GAO will monitor the shipment of food, blankets and medical supplies to the Contras which will be accomplished by DOD private contractors to assure no lethal aid is quietly included. Deliveries will be inspected onsite by officials of the GAO while oversight of the operation lies with the Intelligence Committees of Congress. If a cease-fire is in place before the end of June 1988, then U.S. humanitarian assistance automatically continues through international agencies in accordance with a cease-fire agreement. If no cease-fire is in place by the end of June, U.S. assistance comes to a halt.

The one clear fact is that this war, despite the efforts of the administration is winding down. The humanitarian aid package is not designed to encourage continued warfare, but to assist those who have fought in the transition to peace. The Contras are not nor will they ever be the solution to the conflict in Central America. That policy has failed for 7 years. And never again will the America people tolerate millions of taxpayer dollars to go unaccounted for and countless spending violations to occur in carrying out this administration's thoughtless policy toward Central America.

The humanitarian aid package that I will support today prevents misuse of the public trust and money. It also prevents the escalation of the war in Nicaragua. This alternative ensures a commitment by our government to economic development, social justice and true humanitarian aid to the children of Nicaragua.

The primary effort for peace in Central America must continue to rest with people of that region, not the United States. A negotiated cease-fire can only be accomplished by factions currently involved in the conflict continuing to meet and work out their differences. American negotiators did not bring about the peace accord; the five Central American presidents accomplished the agreement not imposed on them from the outside and it is up to those leaders to bring about a lasting cease-fire and cessation of the conflict.

Although our vote today will not finally end the war, it can help end the administration's United States military option in Nicaragua. It will strengthen the congressional coalition aimed at supporting peace and ending military aid. It will strengthen President Arias and the peace plan by keeping diplomatic solutions alive. Let today's vote reflect another chapter in the effort to explore every avenue for peace while moving toward diplomacy, human rights and multilateral solutions in Central America.

Mr. MARKEY. Mr. Chairman, we are voting today on the prospects for peace process in Nicaragua.

I oppose any aid to the Contras. The Contra war is morally repugnant to me.

But I am going to vote for the Democratic package, because it is the best way available to wind down the war and push forward the peace process.

The question between Republican and Democratic packages is this: do you want to wind down the Contra war, or do you want to keep it going?

The alternative to the Bonior amendment is a Republican package which tells the Contras to balk, not talk, and wait for more lethal military aid. If the Bonior package is defeated, it will not be long before we vote on sending bullets, rifles, mortars and hand grenades to the Contras.

I think we should just say no to Contra aid. But this Congress, unfortunately, is not likely to do that.

So we have a choice between a Democratic approach that tells the Contras to make peace and a Republican approach that tells the Contras to make war.

Since we have officials in the White House and State Department who are determined to wreck the Guatemala peace plan, it is time for Congress to take responsibility for moving the peace process forward.

U.S. TROOPS IN COMBAT

Mr. Chairman, some have claimed that switching the air supply program to the Department of Defense will get our forces involved in combat. That is nonsense.

No Member is more opposed than I to involving American troops in combat in Central America. Five years ago, I offered an amendment to prevent the deployment of United States forces in Central America without congressional approval. Three years ago, I offered an amendment to keep United States forces 20 miles from the Nicaraguan border. Those amendments have developed into the Foley Mrazek amendments. They remain in effect, and they are not in conflict with this bill.

This bill does not allow DOD to do Contra airdrops itself, but to contract for the air drops.

Let's be honest about what we are talking about. This aid will be delivered by the same contracted planes flown by the same contracted pilots. It will be the same operation on Swan Island, just switched to a different payroll.

And the Nicaraguan Government will, of course, try to shoot them down.

But they will not be CIA planes. They will not be DOD planes. They will be and are Contra planes.

If my colleagues on the other side of the aisle are so concerned about putting American soldiers in harm's way in Central America, why have they been so ready to accept the deployment of tens of thousands of American troops in Honduras on so-called maneuvers? Nonetheless, I welcome their concern, however late, and I am ready to join my Republican colleagues to pass legislation to keep American soldiers out of harm's way in Central America.

And I urge my colleagues to vote for the Bonior package.

It's time to draw a close to the bad old policy of war, war, war, and open a new period of negotiation, reconciliation, and recuperation.

The Democratic package closes the door to lethal aid to the Contras.

It opens the door to genuine humanitarian aid to the victims of the Contra war. It provides medical and survival help to children in Nicaragua, who have been victims of the mortars and bullets and landmines of the senseless Contra war.

It starts us on a transition away from the senseless and immoral policy of Contra war, and toward success for the peace process.

The Democratic package sends a message to administration ideologues like Elliott Abrams and Jose Sorzano who prefer the Contra war to the Guatemala peace plan—that the game is up. It sends a message to Contras like Adolfo Calero and Enrique Bermudez who are making a living off the war—that the party is over. It's time to go back to your condos in Miami and live off your bank accounts in Switzerland.

As far as I am concerned, this is severance pay for the Contras.

And it is the first installment on a constructive program that will finally help the innocent children inside and outside of Nicaragua who have been the victims of this misguided war.

Ms. PELOSI. Mr. Chairman, my vote today is a vote to stop the Reagan policy in Central America and to ensure the continuation of the peace process. I join with my colleagues, Representatives GEORGE MILLER and DAVID BONIOR, whose leadership and tireless efforts for peace in Central America are unmatched, in voting to stop the Reagan policy in Nicaragua.

I am convinced that given the stark nature of the current political situation, a defeat of the Democratic alternative would mean certain approval of a lethal aid package within 2 months. Passage of the Republican bill means continuation of the war; and additional pain, suffering and death for the Nicaraguan people.

In the context of the unfortunate political reality, a vote for the democratic alternative is a vote for peace; a vote against the Democratic alternative supports the President's continued desire to overthrow the Nicaraguan Government and opens the door to further military aid for the Contras. As long as Ronald Reagan is President, the issue of military aid for the Contras will continue to be brought before the Congress. The coalition against the President's policy is fragile—we do not have enough votes to defeat outright this misguided, destructive and wrong policy.

I continue to oppose aid for the Contras. My vote was a vote for peace, not war. Many of the peace groups active in the community I represent, including, but not limited to Countdown, Women's Strike for Peace, Neighbor to Neighbor and the U.S. Catholic Conference have recognized the truly unfortunate reality of the political situation and support passage of the Democratic alternative. I will continue to work in Congress, in our community and around the Nation to change this political reality.

Now what is important is where we go from here. It is essential that the new political reality recognize that economic and true development assistance to the region is crucial and that the embargo must be lifted.

The Nicaraguan Government today made major concessions in the peace process by calling for direct bilateral negotiations to be held in Nicaragua. We must not squander this opportunity for peace.

Mr. BONKER. Mr. Chairman, Members of the House will be asked to make a decision whose significance reaches far beyond the question of whether the United States should provide aid to the Nicaraguan Contras. This vote is of paramount importance to United States policy in Central America as well as to the success of the peace process there. I, for one, believe that United States interests in achieving a negotiated settlement of the conflict in Central America are best served by not providing any assistance to the Contras.

The vote has also become a test for those who throughout the last 6 years have steadfastly opposed any aid to the Contras. Unfortunately, there have been assertions that the more courageous votes will be cast by those who have traditionally opposed Contra aid. In my view this is not, nor should be the issue here; rather, we should be asking how $16 million in aid to the Contras will contribute to progress under the Arias plan.

The Arias plan calls for the termination of military, logistical, financial, and propaganda aid to armed rebels in the region. The Contras are still armed rebels. A vote in favor of the proposed package—coming barely 3 weeks after a vote to terminate aid to the Contras—would not only send mixed signals to the Central Americans, but contravene this provision of the Arias plan and undermine the peace process generally.

Giving the Contras $16 million for essentials such as food, clothing, and shelter simply enables them to redirect their resources to the purchase of weapons and logistics. This aid would indirectly allow the Contras to sustain their armed insurgency against the Sandinistas.

And what greater irony than with one hand to provide the Contras $16 million in aid that indirectly reinforces their war effort, and with the other hand to offer $14 million in funds to help child victims of the very same war? Assistance to children caught in the crossfire of this conflict is certainly an idea that merits support in and of itself. Such aid would undoubtedly enjoy widespread support if pursued as separate legislation.

I fear that our preoccupation with legislative procedures is increasingly diverting our concentration away from the substance of the peace process. The failure of this package should not necessitate yet another vote on military aid for the Contras. It is the Democratic leadership which controls the House agenda, not the Reagan administration.

The House vote on February 3 to terminate aid was a rejection of Reagan's Contra-based strategy for Central America. This vote finally allowed the United States to join the Central Americans on their path to peace in the region. We must resist attempts to revive a failed policy.

Mr. BRENNAN. Mr. Chairman, today, the House of Representatives will vote again on the issue of further aid to the Contras. I have lost count of the number of times this body has voted on Contra aid in the 100th Congress. I know that we have devoted more time and energy to this issue than any other.

It is with mixed feelings that I feel compelled to cast my vote against the aid package my colleagues from the Democratic Party have put together. I applaud the efforts of the task force members who worked long and hard in trying to craft a compromise acceptable to all persons interested in resolving the conflict in Central America.

Unfortunately, I cannot support the bill. I have been an outspoken opponent of Contra aid, and do not find sufficient evidence in this bill that leads me to the conclusion that it will do anything to stop the killing in Nicaragua.

The package before us today does not first require a cease-fire before aid can be distributed. Nor does it contain any real incentive for the Contras to work for a cease-fire. And while the goods will be delivered not by the CIA, but by the Department of Defense, the difference between the two is largely a change in name only.

But this is not to say that I make this decision easily. I do have one regret in voting against the package: I support the children's survival program provisions of the bill.

Both as a member of the House Select Committee on Hunger and as a Congressman who has traveled to Nicaragua to witness firsthand the situation that country and its people face, I have a deep compassion for the children caught in the conflict. Children suffer the worst punishment in any war, and this one is no different from all the wars that have been fought in the history of mankind.

The $14.65 million earmarked to helping to ease the suffering of these children is much needed. The money would go to vaccinations, artificial limbs, oral rehydration solution and medicines to fight the high infant mortality rate in the region. The war, and devastation it has wrought, has left its mark on the children. For every 1,000 Nicaraguan children born, 100 will die before the age of 5.

These funds represent the best humanitarian traditions our country has consistently stood for.

I would support a similar children's survival program if one came to the House floor free from the contamination of continued military aid to the Contras.

I welcome an attempt by my colleagues to help the victims of the war in Nicaragua. But I will not support efforts to help the combatants continue operating in the field of combat.

Mr. BROWN of California. Mr. Chairman, I rise today in support of the Democratic alternative Contra aid package. In good conscience, I cannot claim that my support for this package is strong or unqualified. Nor can I state that I am pleased with the situation in which my colleagues and I have found ourselves. After so many years of struggle against a morally repugnant and politically ineffective policy, it is unnerving to find our own party asking for our support for aid to the Contras. Decisions such as this are unpleasant and certainly unwelcome. While politics has been called the art of compromise, I do not find it easy to compromise on the issue of aid to the Contras.

It cannot be denied, however, that the debate over our Nation's policy in Central America has changed dramatically over the past year. The past year has, indeed, witnessed a watershed in Central America. After 6 years of war, repression, and economic decline, we can now look to the development of a fragile process toward peace and political reform. The correlation of forces at work in Central America is vastly different today than in past years, and, concurrently, the corelation of forces here in Congress has also changed. Therefore as we work to preserve and promote the peace process in Central America, it has become necessary to modify our approach to the issue in Congress.

In order to garner the votes needed to defeat President Reagan's most recent military aid package, the House Democratic leadership promised to put forward an alternative package of humanitarian and nonlethal aid to the Contras. This promise was not necessary to obtain my vote against the President's aid package, but it was needed to obtain the slim, eight-vote margin by which military aid was defeated. The Democratic leadership has developed an alternative aid package, which has led to the difficult decision facing this body today.

Although my fundamental desire is to vote against any further aid to the Contras, I recognize the complexity of the situation—both in Central America and in Congress—and have thus sought counsel from the many religious and lay organizations devoted to promoting peace in Central America. While the Democratic aid package has created a split in this community, many organizations have come out in favor of the package. Some of the most prominent national organizations supporting the Democratic alternative include Americans for Democratic Action, Common Cause, Countdown '87, the Friends Committee on National Legislation, the U.S. Catholic Conference, the Washington Office on Latin America, and the Presbyterian Church. These groups, as well as the many others supporting the Democratic alternative, represent an impressive degree of authority—both moral and academic—on Central America. I trust their judgment, and have found the reasons they put forward for supporting the Democratic alternative to be persuasive.

The most compelling of these reasons is the simple fact that approving the Democratic alternative may be the only means of forestalling a Republican package that would pave the way for military aid. There is side agreement that if the Democratic alternative is defeated, the crucial swing votes on Contra aid will fall in favor of the Republican aid package. The choice, therefore—as unpleasant as it may be—is not between no Contra aid and some Contra aid, but between two significantly different packages, one of which is almost certain to be adopted. While we are unable to prevent any further aid to the Contras, we can ensure that this aid is not detrimental to the Central American peace process. Costa Rican President Oscar Arias has, in fact, stated that the Democratic alternative is "not inconsistent" with the peace plan he authored. Ensuring the continued progress of the peace process must be our highest priority at this time. Supporting the Democratic alternative is the best means of accomplishing this objective.

By providing medical aid for children who are the victims of the Contra war, the Democratic alternative recognizes our obligation to the people who have suffered so much at our hands. Nearly half of the aid, or $14.6 million, appropriated under the Democratic alternative would go toward a child survival fund for medical and prosthetic services. Children have been the hardest hit and most innocent victims of the war in Nicaragua. The United States—Democrats and Republicans alike—bear responsibility for these children, and the Democratic alternative would provide care for one of the most unfortunate results of the Reagan administration's war against Nicaragua. This would be the first United States aid to the people of Nicaragua since 1979, and would, in my view, represent a positive change in our Nation's approach to Nicaragua.

Finally, in the context of the political battle at home, approving the Democratic alternative would continue the process through which the initiative on Central American affairs has shifted from the administration and its Contra war, to the Congress, with its emphasis on indigenous diplomatic efforts such as the Arias peace plan. In contrast, the Republican package would allow President Reagan to request additional military and nonlethal Contra aid after little more than 1 month. According to the widely respected Washington Office on Latin America, "There are important differences between the Democratic and Republican alternatives. * * * The latter turns back to a failed policy. The Democrat package, in contrast, sustains the movement out of our present straits. It offers hope that from here the United States may develop a policy consistent with its responsibilities in the region."

We must sustain the fragile coalition in the House of Representatives through which we were able to defeat President Reagan's original aid package. Approving the Democratic alternative will continue our efforts to change the direction of United States policy in Nicaragua, and further assure that there will be no more military aid to the Contras. These must clearly be our top priorities, and they can be best achieved by approving the Democratic alternative.

In conclusion, I must state unequivocably my anguish and distress at providing even nonlethal humanitarian aid to the Contras. Like many of my colleagues, I have strongly opposed the Reagan administration's creation and funding of the Contras. This policy was immoral from the very beginning, and has now proven to be quite plainly ineffective in promoting our Nation's interests in Central America. Despite these reservations, I cannot help but recognize that the Democratic alternative is the lesser of two evils confronting us at this time. By approving the Democratic package we will not only defeat the damaging Republican aid package, but also help prevent the Reagan administration from regaining control over the fate of Central America. Those who have struggled to foster a more humane and effective United States policy toward Central America have made important gains during the past year. While supporting the Democratic alternative Contra aid package does not come easy, I feel that it is, at this time, the best means of safeguarding these gains and preserving the fragile process toward peace and freedom in Central America.

Mr. WALGREN. Mr. Chairman, today the House of Representatives is considering the Democratic alternative aid package to the Nicaraguan Contras, a package that would provide $14.6 million of nonmilitary aid to the Contras in the form of food, clothing, medicine, and shelter through June 1988. It also includes an additional $14.6 million child survival fund, to be channeled through the Agency for International Development and distributed by international relief agencies. This fund would provide emergency medical assistance to the most tragic victims of the Nicaraguan war, children maimed, orphaned and uprooted on both sides of the conflict.

It is important to note that President Arias, architect of the original peace accords, believes that this aid package is consistent with the goals and conditions set forth in the Central American Peace Plan.

The Democratic alternative would provide for on-site inspection of all deliveries to the Contras by the Government Accounting Office. Oversight of the operation would be moved from the executive branch to the intelligence committees of Congress. The proposal would prohibit delivery of all previously appropriated military aid, terminate CIA involvement in the delivery of nonmilitary aid, and include clean incentives for both sides to negotiate. Most importantly, this legislation contains no military aid, lethal or nonlethal, and would allow the peace process to move forward.

Today's vote forces a painful choice for those of us who have believed deeply that American support of the Nicaraguan rebels can only result in unnecessary suffering and fought bitterly against the administration's continued role in the violence there. If I believed that by voting against this package, we could bring an end to aid to the Contras, I would oppose it without question.

However, failure to pass the Democratic alternative will almost certainly result in approval of more military aid in the near future. And, it is a certainty that more military aid would be a fatal blow to the present prospect for a peaceful settlement.

Our choice is not between aid or no aid. It is between two very different kinds of aid. The other choice is the administration's substitute proposal which would not be strictly limited to nonmilitary aid, specify no cut-off date, and set in motion the ability of the President to secure another vote on military assistance as early as May 1988 under expedited procedures in the Congress.

Today's vote follows by 1 month the House defeat of the administration request for $36.2 million in lethal and nonlethal aid to the Contras by a narrow eight-vote margin. The swing votes on this issue based their opposition on the assurance that the House leadership would offer an alternative providing some strictly humanitarian aide. The present package which includes food, clothing, and medicine for the Contras is the only way to prevent the administration from reclaiming the initiative to secure further military aid.

While I remain generally opposed to Contra aid, I believe that passage of this bill is necessary to avoid further appropriations of military aid and further escalation of the Contra war. I hope that today's vote will promote prospects for peace in Nicaragua and make further aid unnecessary. I urge my colleagues' support for the Democratic alternative.

Mr. KENNEDY. Mr. Chairman, it is with great reluctance that I support the Democratic package to provide food, medicine, and shelter to the Contras in Nicaragua. Unfortunately, politics sometimes provides us with equally unpleasant alternatives, and we are forced into a position of choosing the one that will do the least harm. The Democratic package is such an alternative.

This aid package has been billed as one that will allow the peace process to move forward, and it may possibly do that. But it does not address the issue of third-party or third-country payments to the Contras, which keep that force alive despite the efforts of Congress. It does not provide any real pressure to get the Contras to lay down their arms and go to the negotiating table. And by giving aid in spite of the fact that a cease-fire has not been reached, it violates certain principles of the Arias peace accord.

However, the Republican package will certainly bring the Nicaruguan people deeper into war.

I have always voted against Contra aid in the past because I believe in the principles of self-determination for the Nicaraguans. But today—with the smoke and mirrors that are so common here on Capitol Hill, a vote against the Democratic plan will translate into a vote for the Republican alternative. The notion of sending so-called non-lethal aid, in the form of the trucks and helicopters and communications equipment in the Republican package, is one that I find even more difficult to stomach.

I have reservations about the Democratic substitute, but I support it in an attempt to harm the people of Nicaragua somewhat less. However, I cannot in principle provide sustenance to the Contras as long as they remain combatants. Therefore I will vote "no" on final passage whether the Democratic or the Republican package prevails.

Mr. VENTO. Mr. Chairman, I rise in support of the Democratic proposal before the House. This measure provides $14.6 million in nonlethal sustenance aid to the Contras to assist them in the transition from being a fighting force to being reintegrated into Nicaragua or resettling elsewhere. This proposal also includes $1.4 million in earmarked aid for the Miskito Indians and $250,000 for replacement parts in communications equipment. Significantly, this measure for the first time designates $14.6 million to aid the children of Nicaragua and other Central American countries who have been the most tragic victims of the war in this region. These funds will be distributed by private voluntary organizations already established within Nicaragua and by organizations operating along the Honduran and Costa Rican borders.

Mr. Chairman, several weeks ago, this House defeated President Reagan's proposal to provide new lethal aid, which would continue the war in Nicaragua and Central America. The House narrowly decided to reject a continuation of the Reagan administration's policy of military confrontation and opted instead to give the Arias peace plan a chance to succeed. The measure which we are considering today is a ratification of that earlier decision. The Bonior substitute amendment will provide truly nonlethal assistance and answer the humanitarian concerns that have persisted.

This legislation endorses a transition; a transition from a failed policy which has led to increased bloodshed and a political stalemate in Nicaragua and throughout Central America, to a policy that leads all parties back to the bargaining table to resolve their differences. The Arias peace plan calls for the repatriation of the Contra rebels, for direct talks between the Sandinista government of Nicaragua and the Contras, and for further democratic reforms by the Nicaraguan Government which will insure full political participation. Objective observation does indicate that real progress is occurring today toward these goals.

If this Congress truly supports the peace process which is continuing in Nicaragua and Central America, we should support the Democratic proposal. It is designed to further that process rather than to prolong the regional military conflict.

The alternative package that the administration is offering in the Republican alternative would fail a "truth in labeling" test. It is designed to continue lethal assistance and equipment and provide yet another vote in about 6 weeks on full-blown military assistance to the Contras. The Republican alternative is the path of armed conflict and rejects the hope for a political settlement that exists in Central America today. We must not turn our backs on the real chance for peace that exists today. This Congress must not break faith with the people of Central America who have endured faulted policies these past years.

Eventually, Congress and the administration will have to address the fundamental underlying causes of the social and political turmoil in Central America.This must be done by providing an appropriate level of economic and development assistance. We will never have that opportunity unless the peace process goes forward. I hope that my colleagues will join me in supporting the Democratic proposal offered by Majority Leader FOLEY.

Mr. GARCIA. Mr. Chairman, again the Congress is faced with a vote on Contra aid. The Democratic leadership has constructed a package quite different from the administration's earlier aid request or the Republican plan in that it doesn't include any lethal aid or military nonlethal aid such as helicopters or trucks. This plan is also different in that the Defense Department would be responsible for dispersal of the aid instead of the CIA. Because of this, I will vote for the alternative.

Certainly, after 6 years of war in Nicaragua it seems evident that a military solution to a political problem will not work. I have consistently opposed military assistance and financial support of the Contra movement. Many diplomatic proposals have been introduced by lawmakers in this country as well as by our counterparts in the Central American region. It is heartening to see so many plans for peace. As Representatives each of us must do our best to evaluate these peace plans and choose which one to support.

The plan I have chosen to support is the Arias peace plan, known as the Esquipulas II agreement, signed last August by the leaders of the five Central American countries. I support this plan because it is comprehensive and provides a structure for steady progress toward peace. The plan has the commitment of the regional leaders and the compliance to the plan has become the responsibility of those leaders.

My conclusion is that I can continue to support the Arias plan by voting "yes." I applaud the efforts of my colleagues to reach such a compromise. My decision was not by any means an easy one, but it is a decision that I believe is the best one under the circumstances.

Mr. ANNUNZIO. Mr. Chairman, I rise to express my support for Congressman BONIOR'S substitute to House Joint Resolution 484, a bill to provide United States assistance for the Contras of Nicaragua.

This administration has invested 7 years and over $200 million, both legitimate and illegitimate, in its efforts to overthrow the Government of Nicaragua. A lot of innocent people have been killed and wounded, families disrupted, villages destroyed, and national treasure expended.

We have encouraged our fellow men to form clandestine armies and offer combat to the Sandinista government. We equipped them, trained them, and turned them loose in the jungles of Central America. We hoped that they would succeed. They have not.

The time has come to stop the killing. We have to stop the violence. In the Judeo-Christian tradition, we cannot continue to supply arms and bullets to prolong this endless war.

The people of the war-torn country of Nicaragua need food—they need clothing—they need shelter. They don't need mortars, antitank guns, rockets, or rifles. We have a moral obligation to help them. And this bill will do that, by offering strictly humanitarian assistance. This legislation provides $14.6 million for food, clothing, and medicine, and another $14.6 million for aid to the children who have been injured in this devastating war. Also, $1.4 million is provided in aid to the Miskito and other Nicaraguan Indians who have been fighting the Communists in this conflict. The medical supplies, the food, and clothing are urgently needed. Let us open our hearts and help.

I must say that I do not trust this administration to administer this humanitarian aid. Their record does not give any of us confidence. I don't want the CIA, or NSC, or "Ollie North networks" to have anything to do with this money. I want it to buy the necessities of life for those people in need. I don't want it to end up in a Bahamas bank or a Swiss account.

To insure that this money will go for the purpose which Congress intended, this bill provides for on-site inspections by the General Accounting Office and the Intelligence Committees. So long as there is a cease-fire in effect, these supplies will be distributed by a nongovernmental humanitarian group—like churches or the Red Cross—which have always been there in times of need and distress.

Americans have always responded to the needs of people in trouble anywhere in the world. We will respond to these people, and we will help them. Although we give them our humanitarian support, we can't condone the shooting, the burning, the destruction which our arms shipments have encouraged.

Mr. Chairman, I am for humanitarian assistance to provide food, medical supplies, clothing, and the necessities of life. I support assistance for the innocent children who have been victims of this cruel war, and I urge my colleagues in the House of Representatives to support this humanitarian aid proposal.

Mr. COLEMAN of Texas. Mr. Chairman, I rise in support of the substitute offered by the majority leader. By now, we are used to hearing that support for Contra aid resolutions is "reluctant." My own misgivings arise because I recognize that this is a short-term solution to a long-term foreign policy problem. But at least we are willing to face up to that problem. The majority leader and the chief deputy majority whip have kept their word. We said we would provide an alternative to the military package developed by Elliot Abrams and we have done so.

There are widely divergent views in my own party. As one Member, I have never believed that Contra aid by itself—no matter what the amount, no matter how it is described—constitutes a policy that will advance our interests or set the scene for an end to the war. But I recognize that aid that is truly humanitarian—no spare parts, no CIA delivery—poses no immediate threat to the peace process.

In particular, there are two aspects to this substitute that I fully endorse. First, I am pleased that we have finally returned to explicit references to the need to provide economic assistance throughout Central America. Every reputable study of the causes of political instability in the region has called for such an approach. Yet none of the aid requests brought forward by the White House treats the Kissinger Commission as anything more than an afterthought or a sweetner to bring in more "swing votes".

Second, I think it is wholly appropriate for the Intelligence Committee to issue the cease-fire finding after June 1. We will need a reasonable assessment of the situation in Nicaragua on that date. I will be blunt—I cannot believe that this administration will ever find that noncompliance with the Arias plan is anyone's fault but the Sandinistas. We assuredly need to help the innocent victims of this war—and this substitute does that. But most importantly, we need to ensure that our policy is moving forward, by carefully outlining the conditions even for considering additional aid in the future and then by reviewing those conditions objectively.

I urge my colleagues, particularly those whose reluctance to vote for Contra aid of any kind is even greater than my own, to support this substitute.

Mr. MCMILLEN of Maryland. Mr. Chairman, in assessing United States policy toward Nicaragua, far too much emphasis is placed solely on the issue of aid to the Contras. There are other important factors in U.S. policy that are overlooked or ignored in the debate, to the detriment of American interests. To view U.S. interests in Central America and the needed policy actions only in the context of whether or not to support aid to the Contras is a classic case of "missing the forest for the trees" as there are more significant global issues concerning Central America that have received too little attention in Washington.

The first matter that should be addressed is elevating the issue of Central America at the bargaining table. General Secretary Gorbachev stated during his summit visit that he is willing to suspend the $600 million in Soviet aid to Nicaragua. The United States must capitalize on this opportunity and extend negotiations on Central America beyond those between the White House and Congress and to United States-Soviet talks.

Moscow has become more amenable to negotiate on global issues due to its serious economic problems. Hard currency earnings, needed to purchase vital import items, fell over 40 percent in the last years due to the collapse in prices for oil and gas, threatening Gorbachev's economic modernization program: Soviet hard currency earnings of $26 billion in 1986 were only a third of General Motor's revenues that year. Compounding this loss in export revenue has been the escalating costs of maintaining Moscow's global commitments, financing its military expenses and initiating a series of internal economic reforms. These considerations have led the Soviets to embrace arms control proposals that before were scorned, and to consider reducing its presence in such areas as Afghanistan and Angola. According to Jan Vanous, president of PlanEcon, a Washington international consulting firm, "The Soviets recognize they are in for hard times and need to become more integrated into the Western financial system so they can get more credit." Despite the obvious opening for United States-Soviet talks to reduce Moscow's presence in the region, American negotiators have rendered little attention to the issue. With the Soviets appearing to prepare for a withdrawal in Afghanistan, the time has come for the United States to push for a corresponding contraction in Central America.

To encourage this Soviet move, the United State must look toward options that have been not yet been considered. While the United States has been funding the Contras and undertaking other measures to alter the behavior of the Sandinistas, Western financial institutions have been lending billions to Soviet bloc nations in funds that have no restrictions, allowing for Nicaragua to be indirectly subsidized by our credit markets. Average monthly lending by European and Japanese banks to the Soviet bloc in 1986 was $2 billion; 80 percent of which took the form of untied, general purpose loans. Japan alone now provides 40 percent of the Soviet block's credit needs. In one case, a consortium of Western banks advanced a $500 million loan to East Germany. Within days, it was reported that $20 million was transferred to a Nicaraguan account in Panama. Overall, an estimated $100 billion has been provided to the Soviet bloc in loans; Moscow's goal for new hard currency borrowing was $5 billion in 1987, almost double the amount of 3 years ago.

Soviet activity in Western credit markets is becoming more pervasive and sophisticated. For the first time since 1917, the Soviet Union dipped into the public bond market. A Moscow bank raised $80 million through a Swiss bank controlled by West German financial institutions earlier this year. If the Soviet Union can raise almost $100 million in the traditionally conservative Swiss bond market, much more will come from other avenues if Western financial institutions cooperate. And as the Wall Street Journal recently commented, "We doubt that the bond prospectus will include information on the targeting" of Soviet nuclear missiles. Or, what percentage of the proceeds will finance weapons for Nicaragua, for that matter.

The next administration will have to better utilize capital as a strategic asset in United States-Soviet policy, to prevent Moscow from financing its guns and butter program of a military build up and internal economic reform through the largesse of Western creditors. It does little good for the United States to suspend aid and trade with Nicaragua and Cuba only to have Western banks counter with loans or the underwriting of bonds. If American troops are to defend Japan and NATO Europe against external threats, then these nations should not increase the costs of U.S. policy actions in other areas of the globe.

While it would be impossible to halt the flow of capital from the West to the Soviet bloc, it would not be difficult for Western bank loans to be tied to specific, nonlethal projects so that funds could not be diverted for military usage. This would require lending in traditional forms: equipment loans, structured project loans, and other controlled activities. As Senator BILL BRADLEY of New Jersey observed:

> The West, while not overstating its importance, should treat its capital as a strategic asset and develop a plan for its flow eastward. The flow of capital should be limited and proportionate to the degree of systematic reform. I question the wisdom of helping the Soviets avoid the choice between civilian investment and military buildups.

If Central America is considered crucial to the United States by the Reagan administration, as it should be, then policy actions for the regions should reach beyond negotiations between the White House and Congress and extend to talks with our allies and the Soviet Union. The United States must now coordinate all aspects of foreign policy with its allies, particularly capital flows to the Soviet bloc, or the West will find itself in the unenviable position of financing both sides of global conflicts.

□ 1730

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. BONIOR].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. EDWARDS of Oklahoma. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 215, noes 210, not voting 9, as follows:

[Roll No. 24]

AYES—215

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
Barnard
Bates
Beilenson
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Borski
Boucher
Boxer
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Crockett
Darden
de la Garza
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fazio
Feighan
Flake
Flippo
Foglietta
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Hubbard
Hughes
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Moody
Morella
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal
Nowak
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Richardson
Robinson
Rodino
Roe
Rose
Rowland (GA)
Roybal
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wright
Yates
Yatron

NOES—210

Archer
Armey
AuCoin
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Bonker
Bosco
Boulter
Brennan
Brooks
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeFazio
DeLay
Dellums
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Fascell
Fawell
Fields
Fish
Florio
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Johnson (CT)
Kasich
Kemp
Kolbe
Kolter
Konnyu
Kyl
Lagomarsino
Latta
Lent
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morrison (WA)
Murphy
Myers
Nelson
Nielson
Oakar
Oxley
Packard
Parris
Pashayan
Pepper
Petri
Porter
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge

Rinaldo
Ritter
Roberts
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Saiki
Savage
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Sisisky
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tauke
Tauzin
Taylor
Thomas (CA)
Traficant
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wilson
Wolf
Wortley
Wyden
Wylie
Young (AK)
Young (FL)

NOT VOTING—9

Biaggi
Dowdy
Ford (TN)
Gephardt
Jones (TN)
Leath (TX)
Lightfoot
Nichols
Roemer

□ 1751

The Clerk announced the following pair:

On this vote:

Mr. Jones of Tennessee for, with Mr. Gephardt, against.

Mr. SUNDQUIST changed his vote from "aye" to "no."

Mr. THOMAS of Georgia changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. HUGHES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 484) to provide assistance and support for peace, democracy and reconciliation in Central America, pursuant to House Resolution 390, he reported the joint resolution back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the adoption of the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. EDWARDS of Oklahoma. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 208, noes 216, not voting 9, as follows:

[Roll No. 25]

AYES—208

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Borski
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Crockett
Darden
de la Garza
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Hubbard
Hughes
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Nagle
Natcher
Neal
Nelson
Nowak
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Richardson
Robinson
Rodino
Roe
Rose
Rowland (GA)
Russo
Sabo
Sawyer
Scheuer
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Whitten
Williams
Wise
Wolpe
Yates
Yatron

NOES—216

Applegate
Archer
Armey
AuCoin
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Bonker
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeFazio
DeLay
Dellums
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Durbin
Early
Edwards (OK)
Emerson
English
Fawell
Fields
Fish
Florio
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Gonzalez
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Johnson (CT)
Kasich
Kastenmeier
Kemp
Kennedy
Kolbe
Kolter
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Molinari
Mollohan
Montgomery
Moody
Moorhead
Murphy
Myers
Nielson
Oakar
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Roybal
Saiki
Savage
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Skelton
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tauke
Tauzin
Taylor
Thomas (CA)
Traficant
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wheat
Whittaker
Wilson
Wolf
Wortley
Wyden
Wylie
Young (AK)
Young (FL)

NOT VOTING—9

Biaggi
Dowdy
Ford (TN)
Gephardt
Jones (TN)
Leath (TX)
Lightfoot
Nichols
Roemer

□ 1812

The Clerk announced the following pair:

On this vote:

Mr. Jones of Tennessee for, with Mr. Gephardt against.

Mr. RAY changed his vote from "no" to "aye."

So the joint resolution was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 101. Concurrent resolution providing for a conditional adjournment of the Senate from March 3, or 4, 1988 until March 14, 1988.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1049

Mr. GOODLING. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1049, the Ratepayer Refund Act.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MESSAGE FROM THE SENATE

The SPEAKER. The Chair lays before the House a message from the Senate.

The Clerk read as follows:

S. CON. RES. 101

Resolved by the Senate (the House of Representatives concurring), That when the Senate adjourns at the close of business on Thursday, March 3, 1988 or on Friday, March 4, 1988, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, it stand adjourned until 12 noon on Monday, March 14, 1988, or until 12 o'clock meridian on the second day after the Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

SEC. 2. The majority leader of the Senate, after consultation with the minority leader of the Senate, shall notify the Members of the Senate to reassemble whenever, in his opinion, the public interest shall warrant it.

The SPEAKER. The question is on the Senate concurrent resolution.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO HAVE UNTIL 5 P.M., FRIDAY, MARCH 4, 1988, TO FILE REPORT ON H.R. 1430, MERCHANT MARINE MEDALS AND DECORATIONS ACT

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries have until 5 p.m., March 4, 1988, to file its report on H.R. 1430, as amended, the Merchant Marine Medals and Decorations Act. This request has been cleared with the minority leadership of the committee.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

□ 1815

EMPLOYMENT OF CERTAIN SCHOOLBUS DRIVERS UNDER CERTAIN CONDITIONS IN NORTH CAROLINA AND SOUTH CAROLINA

Mr. ROSE. Mr. Speaker, I ask unanimous consent for immediate consideration of the bill (H.R. 4063) to require the Secretary of Labor to permit North Carolina and South Carolina to continue to employ 17-year-old schoolbus drivers under certain conditions until June 15, 1988.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SCHUMER). Is there objection to the request of the gentleman from North Carolina?

Mr. COBLE. Mr. Speaker, reserving the right to object, I take this time to ask the gentleman from North Carolina [Mr. ROSE] if he would explain the bill to us.

Mr. ROSE. Mr. Speaker, will the gentleman yield?

Mr. COBLE. I yield to the gentleman from North Carolina.

Mr. ROSE. Mr. Speaker, I thank my colleague, the gentleman from North Carolina, for yielding.

Mr. Speaker, the delegations of both North Carolina and South Carolina have unanimously endorsed this legislation which extends for 2 months the rights of our States to use certain schoolbus drivers. The committees involved have been consulted, and they have no objection to this legislation being brought up under unanimous consent.

I thank my colleague, the gentleman from North Carolina, for helping me cosponsor this bill. I also thank my friends from North Carolina for their assistance, and I repeat that there is no objection to this legislation.

Mr. TALLON. Mr. Speaker, student busdrivers have been serving school districts across our State and Nation for more than half a century. For these students and their communities, this work has been a source of great pride.

Not only are these jobs vital to our school systems but they have also provided an education for thousands of student busdrivers in dedication, hard work, and responsibility. And, the importance of these young drivers as an example to their peers can not be overstated.

Unfortunately, the Department of Labor has determined that in North and South Carolina 17-year-old students can no longer drive school buses. Citing the Fair Labor Standards Act, Labor decided on February 25, over halfway through the school year, that all our 17-year-old-student drivers must be dismissed.

Maybe this seemed like a good decision within the confines of the Department's bureaucracy, but from the "real world" perspective it makes no sense.

Let's take a step back and look at the facts. In South Carolina 1,200 of the 6,000 bus drivers are 17-year-olds. To come up with this many replacement drivers, on such short notice, in a State that is predominantly rural is simply impossible.

Local school officials in my district have said that if they cannot find suitable drivers, buses will be parked and routes doubled up. Double-up routes will mean some students will have to leave home much earlier and will get home much later.

The Department of Labor has said that this is a safety issue. Yet, they have proposed to eliminate student drivers, all of whom have safe driving records and bring in 1,200 others with no experience to be trained and put behind the wheel for only 2 months. Not only is this dangerous, it's completely illogical.

Today we have an opportunity to inject some reason back into this situation. This legislation would allow our 17-year-old school busdrivers to drive until June 15, 1988.

It's a simple bill, but for thousands of South Carolinians it's a vital one. I strongly urge my colleagues to join me in its support.

Mr. PRICE of North Carolina. Mr. Speaker, last Thursday, the U.S. Department of Labor announced its decision to terminate, effective April 1, 1988, an exemption granted to the State of North Carolina which allowed 17-year-olds to drive schoolbuses. This exemption was permitted, until now, under the Child Labor Hazardous Occupations Order No. 2 under the Fair Labor Standards Act.

North Carolina already faces a severe shortage of school busdrivers. Under last week's ruling, North Carolina will be forced to find and train nearly 2,000 school busdrivers in 1 month's time. According to Governor Martin of North Carolina, 20 percent of the 13,000 schoolbuses currently in service will be inoperable leaving 100,000 schoolchildren without public schoolbus transportation, 2 months before the end of the school year. The Labor Department's decision places an intolerable burden on the local school districts of North Carolina.

The Labor Department said its decision was based on evidence that North Carolina was not complying with regulations allowing the exemption under the Fair Labor Standards Act. Ten out of 140 school districts were investigated. Of these 10 districts, 7 were found to be in violation of these regulations. These violations have since been corrected. Governor Martin has also recommended to the North Carolina State Legislature that $27 million be set aside in next year's budget to allow for the hiring of an all adult school busdriver fleet.

Certainly, all of us in North Carolina share the Department of Labor's concern for the safety of our children. No one wants reckless or unqualified drivers behind the wheel of our schoolbuses. But the drivers who violate the conditions of the Labor Department's exemption surely constitute only a small fraction of the total number of 17-year-old busdrivers in North Carolina. The Labor Department's decision to disqualify thousands of safe and fully trained drivers, I believe, will work contrary to the interests of safety for our children.

For these reasons, I urge support for Representative CHARLIE ROSE's bill, H.R. 4063, which would permit North Carolina to continue to employ 17-year-old school busdrivers under certain conditions until June 15, 1988.

Mr. LANCASTER. Mr. Speaker, as one who drove a schoolbus at age 17, I am personally offended that the Department of Labor has ruled that adult bus drivers must be used in North Carolina beginning in April. I know that if schoolbus drivers are chosen carefully, that student drivers are as responsible and safe as adult drivers. Of course, local school administrations have a heavy burden to ensure that the young people they choose are responsible students who are well trained and to deny this privilege of driving a schoolbus to those students who have unsafe driving records.

I have called upon the Secretary of Labor, Ann McLaughlin, to at least delay her ruling until the fall of 1988. There is no way that student drivers can be removed and well-trained adult drivers put in place by the deadline set by the Department of Labor. Since no action has been taken to delay the ruling, I have joined in the cosponsorship of this legislation in an effort to avoid chaos in the school system of North Carolina.

I commend this legislation to my colleagues.

Mr. SPRATT. Mr. Speaker, I rise today to ask support for legislation to allow the States of North and South Carolina to continue to employ 17-year-old schoolbus drivers—until the end of the current school year.

Last December, the Department of Labor informed the Governors of North and South Carolina that school districts in their States could continue to employ student bus drivers.

But an accident in January in South Carolina—involving a student bus driver—prompted an investigation by the Labor Department.

The Department concluded that—in the name of safety—the 17-year-olds must go. I have no problem with strict safety standards. But I do have a problem with the deadline the Department set for compliance—April 1—just 3 months from the end of the school year.

There are hundreds of good, experienced, 17-year-old schoolbus drivers in North and South Carolina. You simply cannot replace them in midyear with less experienced drivers and expect safety to be improved.

This bill—cosponsored by the entire North and South Carolina delegations—simply allows our two States to keep their 17-year-old schoolbus drivers—who have clean driving records—until the end of this school year. This bill represents the safest approach, and I urge its adoption.

Mr. COBLE. Mr. Speaker, I concur in what the gentleman from North Carolina [Mr. ROSE] just said, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the administration of the Fair Labor Standards Act of 1938, the Secretary of Labor shall permit North Carolina and South Carolina to continue to employ 17-year old school bus drivers until June 15, 1988, notwithstanding section 3(1) of such Act, if each of the drivers—

(1) was trained as a school bus driver on or before August 31, 1987,

(2) during the 1986-1987 school year, did not receive a ticket for a moving violation and was not involved in an accident for which the driver was legally responsible,

(3) is either a student or a high school graduate, and

(4) is at least 17 years of age.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TALLON. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked to proceed for 1 minute for the purpose of inquiring about the program for the balance of the day and the week, and if the distinguished majority leader would inform us of what he perceives for next week, we would be most appreciative.

Mr. FOLEY. Mr. Speaker, will the distinguished Republican leader yield?

Mr. MICHEL. I am happy to yield to the majority leader.

Mr. FOLEY. Mr. Speaker, we have concluded the program for the day and for the week, and it will be my intention to ask unanimous consent later that when the House adjourns tonight, it adjourn to meet at noon on Monday next.

On Monday next we expect to have a pro forma session.

On Tuesday, March 8, the House will meet at noon to consider five bills under suspension of the rules, as follows:

H.R. 1430, Merchant Marine Decorations and Medals Act;

H.R. 2032, to authorize the conveyance of the Liberty ship "Protector" to a nonprofit organization;

An unnumbered House concurrent resolution regarding the situation in Panama;

An unnumbered House concurrent resolution regarding free press in Paraguay; and

An unnumbered House resolution regarding policy toward Afghanistan.

We would intend to postpone any votes ordered on suspensions debated on Tuesday until Wednesday, March 9.

On Wednesday, March 9, the House will meet at 2 p.m. and would consider any recorded votes postponed from Tuesday. Any further program for Wednesday, March 9, and for Thursday, March 10, will be announced later. We assume there will not be a session on Friday, March 11.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

ADJOURNMENT TO MONDAY, MARCH 7, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

REQUEST TO DISPENSE WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

CONSIDERATION OF AFGHANISTAN RESOLUTION

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, I rise today to urge our colleagues to join my friend, the gentleman from Texas [Mr. WILSON] and me in cosponsoring House Concurrent Resolution 252. I introduced this resolution yesterday along with 39 of our colleagues who share my concern over the United States position on a political settlement to the bloody Afghan war.

The resolution calls for maintaining U.S. military and humanitarian assistance to the Afghan resistance until Soviet troops have completely withdrawn from Afghanistan and the Afghans are assured of self-determination.

U.N.-sponsored talks on a Soviet withdrawal proposal resumed yesterday in Geneva, Mr. Speaker. It now appears that Pakistan's representatives to these talks are still formulating their negotiating position. Due to an apparent lack of support from our Government, President Zia may decide to rescind his earlier call for the formation of an interim Afghan Government prior to signing an accord in Geneva. It is imperative that the Paks know that they have the support of Congress for taking a tough line in these critical negotiations.

Mr. Speaker, we and the Pakistani Government have a moral responsibility to force the Soviets to end material support for their puppet government in Kabul along with a troop withdrawal. Equally important, the Soviets must agree to the formation of an interim Afghan Government which truly represents the Afghan people. These two conditions are essential to guaranteeing freedom and independence for Afghanistan.

Mr. Speaker, I urge cosponsorship of this resolution.

RESCINDING THE CLOSING OF THE PLO OFFICES

(Mr. CROCKETT asked and was given permission to address the House for 1 minute.)

Mr. CROCKETT. Mr. Speaker, last evening the 42d United Nations General Assembly—to which I have the honor of being a congressional delegate—voted overwhelmingly that our enactment of legislation mandating the closing of the PLO mission to the United Nations, "would be contrary to (our country's) international legal obligations."

The vote was 143 to 1, with every one of our allies, except Israel, voting against the closing. A second unanimous vote referred the matter to the World Court of Justice for resolution.

I would point out that our own State Department opposed the closing of the PLO mission to the United Nations and the U.S. delegation did not participate in the vote.

Mr. Speaker, I submit that this is a matter of national and international embarrassment that the Congress can and should resolve.

That is why, I, along with 17 of my colleagues are, today, introducing a bill to repeal that portion of the State Department authorization bill that calls for the closing of all PLO offices in this country.

Any compulsory closing of PLO offices for ideological reasons violates the constitutional rights of U.S. citizens. To deny any American access to lawful information and association is a clear violation of the first amendment.

And so, I urge my colleagues to join us as cosponsors of this legislation—not just out of respect for our duly-enacted, treaty obligations, but also to protect the constitutional rights of American citizens.

THE ORTEGA BROTHERS AND THEIR COHORTS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, if I have told you once, I have told you a hundred times that every time you cozy up to those Communists down there in Managua, they are going to stick a rusty knife right in your back.

On the day of your big vote, Ortega fires a prince of the Roman Catholic Church and replaces him with his brother, a fallen-away Catholic thug-bank robber. I am speaking of Humberto, he of the hidden bank account in Switzerland. We all have it memorized now. Right? I ask the gentleman from Washington; 58946, that is the hidden bank account in Geneva, the Paris Bank of Geneva. That is where the Ortega brothers and the other Communist Sandinistas hide their money.

I said last night I would do a special order for another hour tonight. I will not. I am signed up for a special order for 1 hour each on Tuesday, the 9th, and Wednesday, the 10th. I am off to California on a 7 o'clock airplane. I will come back with more facts and figures, and I will ask unanimous consent to put in the RECORD—and I do not care if it costs thousands of dollars, and it will, at the Government Printing Office—the RAND report on communism on the southern part of the North American mainland. I want that whole report in the RECORD, available to all the schools and libraries across America and everybody who follows the proceedings in this House through the written Record and national technical means—that is electronic.

A SEDATIVE FOR A MEMBER

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, I simply wanted to ask the gentleman from California if any of us could help get him a sedative.

CONGRATULATIONS TO JAMES CORREA, OF HAWAII

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, today I have the distinct privilege and honor of offering my congratulations and best wishes to James Correa, of Hawaii, who was recently named the Volunteer Amateur Baseball Coach of the Year by the U.S. Baseball Federation. This is a high honor which Jimmy richly deserves. He coached baseball since 1942 when he started with the Army 298th Warriors in the Solomon Islands.

Jimmy has spent a lifetime coaching the youth on our big Island of Hawaii in the great all-American sport of baseball, and his coaching is replete with successes. From 1955 until his retirement in 1986, he coached the St. Joseph Cardinals. His team won the Big Island Interscholastic Federation title in 1959 and 1965; our State titles in 1962 and 1963; and in 1982, the Colt Northwest Regional championship. In 1981, his team won the Colt World Series at Lafayette, IN. They won the Big Island AJA championships in 1979, 1980, and 1984, and six AJA crowns.

These victories while important in themselves are more significant as a reflection not only of Jimmy's skills as a coach but of his dedication to his community and his ability to bring out the best in his charges, his youth who rose to the challenge, not only on the diamond, but on the playing field of life. There are many in Hawaii today who are the better for having come in contact with Jimmy Correa.

Jimmy, I salute you for the great honor you have brought to Hawaii and for the many years of service you have given to the youth of our community. While virtue may be its own best reward, let me add my accolades and mahalo to you for a job well done.

□ 1830

OUR UNHEALTHY THRIFTS

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, yesterday's Washington Post reported that officials at the U.S. Treasury Department are now estimating that $60 billion will be needed to close or merge all of the unhealthy thrifts in the United States.

For those who thought that we took care of the FSLIC problem last year—think again. This Congress authorized borrowing of $10.8 billion over a 3-year period. This amount was inadequate then, and as the losses continue to grow, its impact shrinks ever more.

The House and Senate Banking Committees must wake up and face the reality of this situation. It is estimated that the thrift industry itself will lose $4.6 billion this year. The insolvent institutions by themselves are losing nearly $8 billion a year—$2 billion more than the Bank Board will have available to it under the recap plan.

I have said on many occasions that a merger of the funds is inevitable, because I do not believe that the industry will nor can afford to support an additional recapitalization. The Congress should act this time instead of reacting. We need to begin now to look at what I call severability that being the separation of the good thrifts from the bad. Putting the healthy thrifts into the FDIC, and leaving the FSLIC to dispose of the unhealthy institutions. It can be accomplished by a combination of exit fees, retained earnings from the home loan banks, and possibly borrowing from the FDIC, and getting appropriations from the Treasury if necessary.

The losses continue to grow out of control. Three years ago, Ed Gray, Chairman of the Federal Home Loan Bank Board, told me there was nothing to worry about. Two years ago this month, he testified that the total resolution cost was anywhere between $10 to $14 billion. Now it's estimated that the cost is $60 billion.

By not addressing this problem we are doing a disservice to the taxpayer who eventually will be required to pick up the tab.

For these reasons, I have written to the chairmen of the Senate and House Banking Committees suggesting that in the immediate term we do the following: First, remove the annual cap on borrowing authority for the Financing Corporation [Fico]; second, consider legislation to enhance a thrift charter; third, consider allowing the FSLIC to borrow from the FDIC subject to certain conditions; and fourth, appoint a congressional study group to begin considering future alternative solutions to the FSLIC crisis.

The Banking Committees may be weary after considering new powers legislation, but the FSLIC situation still demands our attention.

LEGISLATION REGARDING UNDERGROUND STORAGE TANKS

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAY. Mr. Speaker, today I am introducing, along with 11 of my colleagues, legislation which will delay for 1 year the $1 million financial requirement for owners of underground storage tanks. A GAO report on insuring underground petroleum tanks recently made a similar recommendation of delaying the implementation of the financial requirement.

The Superfund Amendments and Reauthorization Act of 1986 imposed a requirement that owners or operators of underground storage tanks have a minimum of $1 million insurance coverage per potential occurrence of a leak. This financial requirement may be met through commercial insurance, a State assurance fund, a risk retention group, or self-insurance.

Since the enactment of the Superfund bill, the commercial insurance market has virtually dried up. Efforts are being made to set up State funds and risk retention groups, but these programs will take time to fully implement. Self-insurance is not even an option except for very large businesses. EPA's final regulations for the financial requirement should become effective later this year.

My concern is that there are many small businesses who are making a good faith effort to meet the financial requirement but are not able to do so at the current time. Large businesses will be able to self-insure to meet the requirement. The Small Business Subcommittee on Energy and Agriculture, of which I am a member, held a hearing on this issue late last year. The response from small businesses was overwhelming. This requirement has the potential to put thousands of convenience stores, petroleum marketers, and other small businesses out of business.

The bill I am introducing today would delay the financial requirement for 1 year and would give EPA the authority to suspend enforcement of the requirement in the first instance for 360 days. The suspension is currently for only 180 days. Under current law, EPA has the authority to suspend enforcement of the financial requirement in areas where insurance is not available and tank owners are making an effort to meet the financial requirement. Also, my bill directs EPA to assist States in setting up State assurance funds and working with insurers to encourage them to offer insurance which will meet the requirement.

Many of the businesses which testified at the Small Business Subcommittee hearing advocated a reduction in the financial requirement from $1 million to $500,000. In addition, many of them asked for a 3-year delay. I am sympathetic to these arguments, but this legislation I am introducing today will not affect the amount of the financial requirement and only asks for a 1-year delay. This bill is a measured response to this serious problem, and I believe the Congress should act expeditiously to address this matter.

Mr. Speaker, I encourage my colleagues to support this much-needed legislation.

PATENT LICENSING REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KASTENMEIER] is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, today I am introducing the Patent Licensing Reform Act of 1988. This bill reflects the concerns of certain high technology industries regarding the ability of patent owners to fairly and freely license patented products and processes.

The basic thrust of the bill is to restate in statutory language much of the judicially developed doctrine of patent misuse. The subjects addressed in the bill—patent misuse and fraud in obtaining or enforcing a patent—are extremely complex areas of law. I recognize that by introducing the bill in this form it is not realistic to expect it to be enacted with precisely the same language. Rather, I hope that by raising this subject to the level of legislative debate, my colleagues will become more familiar with the issues presented by legislation in this area.

There are two arguments in favor of the legislation. First, innovations are not reaching the consuming public because of a fear on the part of patent owners that if they engage in patent licensing, they will not be able to enforce the patent because of a finding of misuse. The proponents of this view will attempt to substantiate it despite the obvious widespread licensing of patents which occurs today. It may be that there is a difference in licensing practices based on the size of the company or the type of product involved.

The other argument offered in support for changes in the law of misuse basically comes down to doctrinal consistency. Proponents of change have frequently relied on the Chicago economic school theories of Judge Posner. *See USM* v. *SPS Technologies, Inc.*, 694 F. 2d 504 (7th Cir. 1982). Supporters of this view argue that patent misuse doctrine grew up in response to allegedly anticompetitive behavior and that an antitrust standard is the only appropriate criterion to use in judging such effects. This view has already been adopted by the Senate,[1] as a result of the efforts of Senator LEAHY. Whether this view represents sound public policy will clearly be the focus of any hearings on this topic.[2]

This bill continues the policy of treating the property rights granted by the issuance of a patent different from those which attach to other forms of property. The bill also ramifies the proposition that the enforcement of patents is a matter of "great moment to the public". *Hazel-Atlas Glass Co.* v. *Hartford-Empire Co.*, 322 U.S. 238, 246.

Section 2 of the bill strikes out existing subsection (d) of section 271 of title 35 and replaces it with a new subsection (d) which is further divided into three subparagraphs.

Proposed subsection (d)(1) provides that a person who has been found guilty of patent misuse shall be denied the right to enforce that patent until the misuse terminates and the effect of the misuse is dissipated. This provision is derived from current case law.[3]

Proposed subsection (d)(2) provides a positive definition of patent misuse. The proposed subsection provides six examples of conduct which is deemed to constitute patent misuse. First, it provides that it is an act of patent misuse to tie the sale of a patented product to an unpatented staple. This provision is derived from current case law.[4] In addition, this provision also includes an exception which precludes a finding of misuse when the patent owner cannot fairly be said to hold market power.[5] This provision, of necessity, means that the mere ownership of a patent does not by itself confer market power; there is no presumption of market power based on the ownership of a patent. Unresolved in this bill is the question of what constitutes the relevant market.[6] Parties are invited to comment on whether the concept of market should include only actual market in the relevant product—an antitrust standard—or market according to the scope of the patent claim.[7]

The second example of misuse is the imposition of covenants not to compete. This provision is derived in part from current law.[8] The third example of misuse is the imposition of a condition in a license that the licensee accept another and different patent license. This formulation is also suggested by current case law.[9]

The fourth example of patent misuse is a license royalty agreement which calls for the payment beyond the expiration of the term of the patent. This provision is derived from the Supreme Court decision in *Brulotte* v. *Thys*, 379 U.S. 29 (1964). This provision also contains an exception which authorizes such post-expiration royalties when the parties, for

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Footnotes at end.

their convenience, agree to such an approach after the issuance of a patent.[10]

The fifth example of misuse is price fixing or resale price maintenance. This provision roughly parallels the standards found in the antitrust laws.[11]

The sixth example of patent misuse is a license conditioned on a grant back to the licensor of patent rights which the licensee may develop or acquire. This provision is similar to current case law.[12] This provision also includes an exception authorizing a grant back requirement consisting of nonexclusive licenses when alternatives exist for achieving the same result.[13]

The examples of patent misuse are modified by the term "unreasonably" so as to continue the flexibility inherent in the current case law which allows courts to evaluate a particular licensing practice in light of the facts of a particular case.

Subsection (d)(3) provides the negative half of the definition of patent misuse by stating six examples of conduct which is not misuse. First, patent misuse does not occur if a person derives revenue from acts which, if performed by another without the consent of the person deriving such revenue, would constitute contributory infringement. This provision merely restates current law, 35 U.S.C. 271(d). Second, it is not an act of misuse for a person to license or authorize another person to perform an act which, if performed without the consent of the person licensing or authorizing the act, would constitute contributory infringement. This provision also derives from section 271(d) of title 35. Third, also from current statutory law, the bill states that it is not an act of misuse for a patent owner to seek to enforce his or her rights to the patent. Fourth, the bill provides that it is not an act of patent misuse for a patent owner to refuse to license or use the rights to the patent. This provision is derived from judicial decisions.[14] Fifth, the bill provides that it is not an act of patent misuse to impose royalty differential or to charge allegedly excessive royalties. This provision is derived from current caselaw.[15] Sixth, the bill provides that it is not an act of patent infringement to grant licenses which impose territorial or field of use restrictions on the patented product or process. This provision is derived from the decisions of some courts which have addressed this question.[16] This provision also reiterates the provisions of 35 U.S.C. 261. While there are some older cases which appear to reach a different result,[17] these cases do not appear to represent the better view of the law or desirable public policy.

Section 3 of the bill contains proposed subsection 271(g) which provides that fraud or other similar inequitable conduct in procuring or enforcing a patent constitutes misuse. The bill provides a definition of fraud and provides that fraud is an affirmative defense to an infringement action. Fraud is defined as including the intentional or grossly negligent failure to meet the duty to disclose information to the Patent and Trademark Office which would, if disclosed, have resulted in the patent claim being rejected. This definition is derived in part from the proposed rulemaking of the Patent and Trademark Office, and, in part, from decisions of the Court of Appeals for the Federal Circuit.[18]

Proposed subsection (g) also authorizes the Commissioner of the Patent and Trademark Office to issue regulations concerning fraud on the Office.

The final provision in the bill establishes an effective date. Because patent owners and licensees have a reasonably well settled set of expectations about current law, this bill applies only to cases filed on or after the date of enactment. Thus, these amendments would not apply to pending court cases.

In sum, the proposed legislation represents a modest step forward in the area of patent licensing. It is my hope that this bill will stimulate debate on this topic. Because the existing doctrine of patent misuse has been developed by the courts sitting in equity, it is important for the Congress to understand completely the practices that are being codified. Some commentators may suggest that this bill is too complex. Others may argue that the better way to proceed on this question is to tie patent misuse to each of these perspectives. From the perspective of the legislative process, it is my hope that this bill will stimulate debate about the nature of patent protection, the attributes of patent protection, and answer the question of whether the misuse doctrine is—or should be—exclusively a matter of anticompetitive concern.

Parties with views on this bill should communicate with the Subcommittee on Courts, Civil Liberties and Administration of Justice, 2137B Rayburn HOB, Washington, DC 20515, phone (202) 225-3926.

FOOTNOTES

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[1] The Senate adopted title II of S. 1200 as an amendment to H.R. 3. See Senate Rept. 100-83 at 61-68 (1987).

[2] This bill is not premised on the assumption that enactment of a patent misuse bill will enhance our ability to compete internationally. *See* Marks, Patent Licensing and Antitrust in the United States and the European Economic Community, 35 Am. Univ. L. Rev. 963 (1986). In addition, to the extent that an American innovator does business overseas and has obtained patent protection in a foreign country, the law of that country governs the enforcement of those patent rights.

[3] D. Chisum, Patents, section 19.04.

[4] *See, e.g.,* International Salt Co. v. United States, 332 U.S. 392 (1947); D. Chisum, Patents, section 19.04[3][a], n. 1.

[5] See generally USM Corp. v. SPS Tech. Inc., 694 F.2d 504 (7th Cir. 1982).

[6] It can be argued that since the markets for specific technologies are often "thin"—with few direct substitutes available for particular inventions—that patent misuse cases should adopt a standard different from that used by the Supreme Court in antitrust cases. *See* Caves, Crookell, and Killing, The Imperfect Market for Technology Licenses, 45 Oxford Bulletin of Econ. & Statistics 249 (1983).

[7] See Senza-Gel v. Seiffart, 231 U.S.P.Q. 363 (Fed. Cir. 1986).

[8] D. Chisum, Patents, section 19.04 [3][b].

[9] D. Chisum, Patents, section 19.04 [3][b].

[10] Some misuse cases have not prevented the enforcement of the patent for such temporal extensions, but rather have merely barred the collection of royalties beyond the 17th year. Boggild v. Kenner Products. 776 F.2d 1315 (6th Cir. 1986).

[11] D. Chisum, Patents, section 19.04[3][g].

[12] Transparent Wrap Machine Corp. v. Stokes and Smith, 329 U.S. 637, 646-647, (1947); D. Chisum, Patents, section 19.04 [3][j]; *see also* Duplan Corp. v. Deering, 444 F. Supp. 648, 700 (D.S.C. 1977), aff'd, 594 F.2d 979 (4th Cir. 1979).

[13] Sante Fe-Poweroy, Inc. v. P and Z Co., 569 F.2d 1084 (9th Cir. 1978).

[14] Continental Paper Bag Co. v. Eastern Paper Bag Co., 210 U.S. 405, 426-430 (1908), SCM Corp. v. Zerox, 695 F.2d 1195 (2d Cir., 1981)

[15] USM Corp. v. SPS Technologies, Inc. 694 F.2d 504 (7th Cir., 1982)

[16] S. Chisum, Patents, section 19.04[3][h] and [i].

[17] *See* Adams v. Burke, 84 U.S. 453 (1873) and Robintech, Inc., v. Chemidus Wavin, Ltd., 628 F.2d 142, 146-49 (D.C. Cir., 1980); but see General Talking Pictures Co. v. Western Elec. Co., 304 U.S. 175 (1938) (field of use restrictions do not constitute misuse.

[18] There are two well defined elements of a defense of fraud or inequitable conduct: (1) materiality of the information not disclosed, and (2) the intentional failure to disclose. In re Jerabek, 229 U.S.P.Q. 530 (Fed. Cir. 1986): see generally Adamo and Ducatman, The Status of the Rules of Prohibited Conduct Before the [Patent] Office, 68 J. Pat. and Tr. Off. Soc. 193 (1986).

U.S. MINT REFUSAL TO OBEY LAW RESULTS IN POOR SALES OF GOLD BULLION COINS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, in 1986 the American eagle gold bullion coin was chosen a "Product of the Year" by Fortune magazine. There was tremendous interest in the gold bullion coins, and in less than 2½ months, the U.S. Mint sold 1,788,000 ounces of gold bullion coins.

During that period, I was one of the few voices that was heard warning that the mint's decision to sell the coins using a cartel of about 2 dozen distributors worldwide was not only illegal, but a poor way to sell the coins.

Sales figures for 1987 bear out the folly of the mint's ways. Last year the mint sold only 1,253,000 ounces of gold bullion coins, a stunning decline of 30 percent over 1986, even though the mint had 9½ more months in which to sell the coins. That disappointing performance has dropped the American eagle bullion coin behind the Canadian maple leaf as the world's best selling bullion coin. Preliminary estimates are that the Royal Canadian Mint sold 1,445,000 ounces of maple leafs in 1987, 16 percent higher sales than the American eagle.

Figures for the first 2 months of 1988 are even more discouraging. In the first 2 months of 1988, the mint has sold only 144,500 ounces of gold bullion coins, an annual rate of only 867,000 ounces. That projection is not an aberration, since in the past 12 months the mint has sold barely a million ounces of gold bullion coins. In fact, in 9 of the past 12 months the mint has sold fewer than 90,000 ounces of gold coins.

There are two major reasons that the American eagle bullion coin program is in retreat. Both are a direct result of the U.S. Mint's refusal to obey the Gold Bullion Coin Act as it was enacted by the Congress.

First, the legislation required that the coins be sold to the public. Despite the plain meaning of this term and despite a warning from me before the program began, the mint restricted its sales to a cartel of 25 dealers. As a result, the mint was sued by a company that wished to become a distributor, much as I had predicted. Rather than risk defeat in the courts, the mint settled the suit and allowed that company to become a distributor. Despite a de facto loss in the lawsuit, the mint continues to refuse to sell the coins to anyone other than the members of the cartel.

Not only does the mint refuse to sell the coins directly to the public in small lots, but it refuses to sell the coins in bulk as well. To further enhance the monopolitic position of the cartel members, the mint set nonfinancial qualifications for anyone wishing to become a distributor of the coins that effectively preclude virtually any new firms from entering the business. In the 15 months of the program, only two more distributors have been admitted by the mint.

The firms that are American eagle bullion coin distributors are also distributors of other competing gold bullion coins. Such firms have a built-in conflict of interest in that they do not wish to push one coin too hard for fear of offending their other suppliers. This is particularly true in the case of the Canadian banks which are distributors, who have a vested interest in seeing the maple leaf succeed.

The second way in which the mint has violated the law and hurt the program is in its pricing of the bullion coins. Under the Gold Bullion Coin Act, the mint is required to charge the price of bullion plus the cost of minting, marketing and distributing the coins. Instead, the mint has set its prices at the same premiums charged by Canada on its maple leaf coins and by South Africa on its krugerrands.

Information submitted to the subcommittee by the mint last year indicates that the premiums charged by the mint are higher than its costs for minting, marketing and distributing the coins. The mint's pricing scheme in matching the wholesale price for the maple leaf and krugerrand was a decision on its part not to compete vigorously against those coins. This decision not to compete on price apparently was influenced by the distributors who did not want to touch off competition among the different coins they market. That lack of competition is now taking its toll in decreasing demand for the American coins, particularly in the world market.

Purchasers of gold bullion coins overseas, particularly in Asia, seek to purchase bullion coins at the lowest possible price. The mint, rather than aggressively marketing its coins with a price advantage over its competition, entered into the gentlemen's agreement not to compete, and to take a short-range profit by overcharging on its premium over the bullion value of gold.

Like many private American firms, the mint failed to learn the primary lesson of Japanese marketing, which is to set market share as the primary goal. Once market share is established, profits will follow.

Even today in America, we can see that the increasing value of the yen has not led to corresponding increases in Japanese car prices in the United States. A recent study indicates that is partly due to the Japanese aggressively cutting costs, but also their willingness to cut profit margins to maintain their share of the market.

Congress was aware of the importance of market share when it established the statutory formula for pricing the American eagle bullion coins. The pricing formula was established to maximize the number of bullion coins that could be sold by pricing them as close to bullion as possible. The mint, in disregarding that formula, wrote the prescription for the declining sales it is now experiencing.

Mr. Speaker, the American bullion coin can retain its No. 1 place among gold coins if the mint will comply with the law as Congress wrote it. If not, the mint can look forward to more years of declining sales and a status as an "also ran."

CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEAR 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. Gray] is recognized for 5 minutes.

Mr. GRAY of Pennsylvania. Mr. Speaker, Pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget and Impoundment Control Act of 1974, as amended, I am submitting for printing in the Congressional Record, the official letter to the Speaker advising him of the updated current level of spending and revenues for fiscal year 1988.

House of Representatives,
Committee on the Budget,
Washington, DC, March 3, 1988.
Hon. James C. Wright, Jr.,
Speaker, U.S. House of Representatives, Washington, DC.

Dear Mr. Speaker: I am herewith transmitting the status report under H. Con. Res. 93, the Concurrent Resolution on the Budget for Fiscal Year 1988.

This report reflects the budget resolution aggregates and an estimate of current level of spending and revenues consistent with the economic and technical assumptions of H. Con. Res. 93, adopted by Congress on June 24, 1987. These estimates will govern in determining whether legislation causes the aggregate spending ceilings or the revenue floor to be exceeded. The Committee will file a more detailed current level report when the estimates are available from the Congressional Budget Office (CBO).

Sincerely,
William H. Gray III,
Chairman.

Report to the Speaker of the U.S. House of Representatives From the Committee on the Budget on the Status of the Fiscal Year 1988 Congressional Budget, Adopted in House Concurrent Resolution 93

REFLECTING COMPLETED ACTION AS OF MARCH 2, 1988

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	1,146,000	1,034,700	932,800
Current level	1,144,964	1,031,660	922,250
Amount under ceilings	1,036	3,040	
Amount over ceilings			
Amount under floor			10,550
Amount over floor			

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $1,036 million in budget authority for fiscal year 1988, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 93 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $3,040 million in outlays for fiscal 1988, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 93 to be exceeded.

REVENUES

Any measure that would result in a revenue loss which is not included in the current level estimate, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 93.

HUMAN RIGHTS ABUSES IN CUBA

The SPEAKER pro tempore. (Mr. Dymally). Under a previous order of the House, the gentleman from California [Mr. Shumway] is recognized for 60 minutes.

Mr. SHUMWAY. Mr. Speaker, I rise this evening to talk about a subject which I think is of great interest to the House of Representatives, because we discussed this subject on prior occasions and have by a bipartisan majority expressed ourselves in a very responsible fashion. That subject deals with our neighbor to the south, Cuba, and in particular, the status of Cuba insofar as it recognizes human rights of political prisoners. This subject is presently being addressed in Geneva, Switzerland, as the Human Rights Commission of the United Nations has been meeting.

Mr. Speaker, the United Nations was established following the conclusion of the Second World War and its purpose was to promote and encourage respect for fundamental freedoms without distinction among countries. In an effort to fulfill that portion of its charter, the U.N. Human Rights Commission was established in 1946 to investigate and make recommendations concerning the violation of human rights and fundamental freedoms.

No doubt in the many years that it has been in existence that Commission has made some major contributions in the field of human rights, including its reports on the very tragic situations in Iran and Afghanistan among others; but the Commission has not been asked for several years to address the civil rights situation in Cuba and each time it has refused to do so.

In recent years, Mr. Speaker, the world has gained more and more information about the status of human rights, particularly insofar as they are denied political prisoners in Cuba, because there have been prisoners released. They have written about their experiences and have spoken very widely about them. So many of us believe that as the Human Rights Commission reviews things like this in the various countries of the world, they should now begin to focus on the subject of Cuba and not let it go unnoticed by all the member nations of the United Nations, the atrocities and abuses and shortcomings in that country, particularly insofar as human rights political prisoners are concerned.

Last year our delegates to the Human Rights Commission introduced a resolution requesting that Commission simply place Cuba on its agenda. That modest resolution failed by 1 vote on a procedural motion which was introduced by India.

Again this year we are going to make that same request and perhaps a vote on that request will be taken as early as sometime next week, and because this body and the Senate as well has expressed strong bipartisan support for the efforts of this administration to bring the human rights situation to the attention of the international community, I think it is very appropriate that we discuss this matter tonight and urge Americans who are concerned about the status of human rights and, indeed, members of that Commission when they vote this week to vote with their consciences and not turn their backs on the courageous people of Cuba.

Mr. Speaker, I would like to just share with you a few words that emerged from Cuba last year. These words were written by some 30 prisoners who are being held in the Boniato political prison, and because they are fresh and they address themselves to this very subject, I think they are appropriate this evening.

DECLARATION BY CUBAN POLITICAL PRISONERS IN PROTEST OVER INFAMY AT GENEVA,

The undersigned, political prisoners at the Boniato Prison in Santiago de Cuba, Cuba, with due, deep respect depose for the record:

First: That we feel profoundly defrauded in our hopes for justice through the United Nations Organization because of developments at the 43rd Session of the Human Rights Commission.

Second: That an attitude of indifference might have seemed understandable if from countries in those areas of the world where the horrors, barbarianism and repression endured by the Cuban people in general, and by the political prisoners in particular, remain unknown. But that the countries which have remained indifferent and, even worse, the ones which have joined our oppressors and inflictors of tortures are Latin-American countries, is something that goes from disbelief to shame.

That in so voting, those countries have expressed that it is correct that political prisoners remain incarcerated after having served their sentences; that political prisoners be arbitrarily and savagely tortured, when not beaten with sticks or massacred with bayonets and gunshots; that political prisoners be forced into hard labor. Like in colonial times, inmates are subjected to all types of humiliations, from nakedness, hunger and coexistence with common criminals, to being stripped of the few, precious possessions allowed; that political prisoners be tortured, subjecting them to biological starvation experiments with many fatal results; that political prisoners be tortured, locking them up in the infamous "tapiadas" (minimal cells with steel-planked windows and doors) and the "gavetas" (drawers), subjecting them to unbearable electronic sounds; that political prisoners receive scarce or no medical assistance at all; that years and years go by with not one single visit from their families and in complete nakedness.

Mr. SHUMWAY. Mr. Speaker, those touching words describe the situation in Castro's Cuban jails today. Many of us have been privileged to hear some of those things directly from the Ambassador who is now representing the United States at the Human Rights Commission discussions, Armando Valladares, who have written a best seller book about his 22 years in Castro's prisons. The conditions are deplorable. Many of them I would not even want to describe in this Chamber tonight, because I think they would bespeak things that should not appear in the Congressional Record, but I do think all of us as concerned Americans, and certainly as lawmakers and part of this body, should be concerned about the fact that these conditions have persisted for years and essentially have gone unnoticed by the international community.

We now have convincing evidence, we have firsthand evidence, and I think the time is here for us to urge the Human Rights Commission to take the kind of action that we have been urging and certainly would be responsible action in this regard.

With that, Mr. Speaker, I am delighted to yield to the gentleman from New York [Mr. Solomon].

Mr. SOLOMON. Mr. Speaker, I certainly thank the gentleman for yielding, and as the senior ranking Republican on the Foreign Affairs Human Rights Subcommittee, I congratulate the gentleman from California.

As we meet here today, in the Capital City of the free world, in a Chamber that symbolizes the rule of the people under law, the hopes of 10 million people living in the prison known as Cuba are focussed upon us. At least 1 million more Cubans—who are exiled from their own land—are likewise looking to us: looking to America as their only hope.

And so I congratulate the gentleman from California for taking this special order today. Because even as we speak here today, United States diplomats in Geneva are engaged in an all-out effort to place the issue of Cuba on the agenda of the U.N. Commission on Human Right. Since 1961—for 27 years—evidence has been accumulating in Geneva about the massive, systematic, and relentless campaign by Fidel Castro to suppress any and all vestiges of human rights and human dignity on the island of Cuba and for 27 years, the U.N. Human Rights Commission has engaged in a conspiracy of silence.

This is a conspiracy that is aided and abetted, I am sorry to say, by democratic countries—countries like Argentina, Venezuela, Colombia, and India. India: A country that prides itself on being the world's largest democracy, but yet that government cannot seem to find anything wrong with Cuba—or with the puppet regime in Afghanistan, for that matter.

Leading our efforts in Geneva is a man named Armando Valladares. He spent 22 years suffering in Castro's gulag. More than any other man, he is responsible for stripping the mask away from Castro. For so many years, in fashionable circles, it was in vogue to treat Castro with indulgence: To look upon him as an intellectual, as the architect of a new kind of society. Sure, there may be few abuses, but what are they when so many other worthwhile things are happening? It is precisely this kind of decadent intellectualism that has been exposed by the life and testimony of Armando Valladares.

No, Mr. Speaker, the Cuban experience since the revolution 29 years ago explodes all of the prevailing myths about so-called popular revolution in the Third World. There is more to achieving a true revolution than the chanting of slogans and the manipulation of public opinion leaders in Western countries.

The promise of freedom, prosperity, and justice that greeted the Cuban revolution in 1959 has given way to massive repression, economic chaos, and the establishment of a personality cult around Castro. The proud and vibrant Cuban people have been reduced to serfdom, indeed slavery, as their country has become nothing more than a vassal state under the heel of the Soviet Union. If this is what leftist revolutionaries mean about the self-determination of oppressed peoples, I cannot think of any country whose people would willingly follow the Cuban model.

The Castro regime in Havana is propped up by the Soviet Union to the tune of over $10 million a day. These massive subsidies make up at least one-fourth of Cuba's gross national product. So weak is the Cuban economy now that even sugar has to be rationed. It brings to mind the statement attributed to William F. Buckley, Jr., that if Communists were given the management of the Sahara Desert, within 5 years there would be a shortage of sand.

The tyranny of the Castro regime has no precedent in the history of this hemisphere. It may be without precedent, but, unhappily, it is not without parallel—just witness what Castro's friends are doing in Nicaragua now. The establishment and consolidation of a brutal Communist regime on the island of Cuba—and in the nation of

Nicaragua—represents a cancer in this hemisphere.

Cuba today has a larger share of its population under arms than does any other country in the entire Western Hemisphere. And many of these unfortunate young men find themselves stationed in distant outposts, particularly in Africa, doing the bidding of the tyrants in the Kremlin.

Finally, Mr. Speaker, I would like to conclude by giving the Members of this House a name to remember. The name is Santos Mirabal Rodriguez. His name first came up several years ago during a hearing of the Human Rights Subcommittee, on which I serve as senior Republican. This young man was imprisoned in Cuba when he was 12 years old. He is now in his midthirties, and still he suffers in Castro's jails. We can only wonder what offense a 12-year-old child can commit that justifies keeping him in prison for over 20 years.

Let it never be said, Mr. Speaker, that this House joined in the conspiracy of silence about Cuba.

Mr. SHUMWAY. Mr. Speaker, I thank the gentleman from New York. I appreciate that contribution.

Mr. Speaker, I am happy to yield to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I am pleased and honored to join my colleague and good friend from California [Mr. SHUMWAY] in his special order to call attention to the brutal repression of human rights in Cuba.

The lack of concern and attention given to gross violations of internationally recognized human rights in Cuba is a clear example of the double standard employed by international organizations. Until now, the United Nations, guardian of the U.N. Commission on Human Rights, has refused to consider Cuban violations of human rights, while it condemns countless other regimes and dictatorships for human rights failures.

At a hearing last year, conducted by the Congressional Human Rights Caucus, U.S. Ambassador to the United Nations General Vernon Walters testified that some 14,000 to 15,000 persons are in prisons and labor camps in Cuba for political crimes. Those political prisoners are subjected to torture, pyschological abuse, biological experiments and repeated extensions of their sentences.

Probably the best account of any political prisoner in Cuba is the book written by Armando Valladares, entitled "Against All Hope." published only a few years ago, after Valladares spent 22 years as a political prisoner in Cuban prisons, "Against All Hope" is a chilling and vivid indictment of Cuban crimes against humanity.

I can think of no better way to convey the brutality and repression inflicted by the Castro regime than to read to you passages from Valladares' book. The following are taken directly from "Against All Hope":

> There is nothing more humiliating or more degrading than forced nakedness before your oppressors—you feel especially vulnerable. The authorities knew that, and they use our nakedness against us, another in their arsenal of psychological weapons. The interrogators from the Political Police never failed to keep prisoners, both men and women, naked. They took the women in naked for interrogations by groups of officers. If for a man it's embarrassing to be forced to stand there completely stripped before a phalanx of interrogators, for a woman it is much more terrible, and many of the suicides and attempted suicides among the women were triggered precisely by that humiliation. Even today the government still employs this practice with women political prisoners. When they are confined to solitary, they are completely undressed and then officers from the jail, Prison Headquarters, and the Political Police stop by to see them.

Pedro Luis Boitel was one of the prisoners who became a close friend of Armando Valladares while in Cuban prisons. They attempted to escape together and were later punished by being put in solitary confinement. Eventually, Boitel was allowed to die while on a hunger strike, by the personal order of Castro. In the following passage, Valladares describes part of the torture used by the Cubans against him and Boitel while they were in solitary confinement:

> Boitel told us he had been jabbed with a pole. Actually, I didn't understand what he was talking about until the guard walking along the roof of the cells came to mine. He had a long wooden pole, rounded at the end, and I immedately understood what had happened.
>
> Boitel had been sleeping, and the guard has slyly stuck the pole through the holes in the chain-link ceiling and poked him with it to wake him up. From that day on, the "Ho Chi Minh poles" would be used to torture us and send us to the verge of madness. There was no way to escape them, since the guard, up on top there, dominated the whole cell, and he could prod us whenever he wanted. The end of the pole was blunt and didn't wound us, but it hurt, and it didn't let us sleep. That was what they wanted.

The following passage describes how the Cuban Government punishes the family of political prisoners and how Valladares' family was no different:

> The Revoluntionary Government passed a law which allowed all the property that belonged to men found guilty of crimes against the State to be confiscated. After the confiscation, CDR mobs would picket in front of the homes of the prisoners, as they had done in front of mine. Agents from the Cuban Gestapo, dressed in civilian clothes, led "spontaneous" demonstrations of the people's repudiation of the families of counterrevolutionaries. The family was then marked forever and its members outcasts. The wife and children of a "traitor to the Revolution" were fired from their jobs, mistreated and discriminated against at school.
>
> The children would come home crying from the insults their classmates had yelled at them. They were like pariahs, kept out of all extracurricular activities, and this with the tacit approval of the teachers, who were forced to acquiesce to such practices, since otherwise the teachers themselves would have run the risk of losing their jobs.
>
> The repression of family members condemned them, therefore, to poverty, misery, and perpetual harassment. Their water would even be shut off, as happened to my family. We lived on the second floor; my mother and sister had to go to another prisoner's house to get water, across the street, and carry it upstairs in pails. They suffered all sorts of humiliations, and were the daily butt of outrageous discriminations. For example, my mother was once standing in a long line with her ration card, in front of the store she always went to. When her turn came, the militiaman who was handing out whatever item it was, in company with the president of the Defense Committee, told her that they were all out of the desired product. My mother knew that wasn't true, but there was nothing she could do. She turned around to leave and immediately saw them go on distributing the item they had refused her and that legally she was entitled to.

In "Against All Hope," Valladares describes how Castro sought revenge against those who felt betrayed by Castro's revolution:

> The men who fought alongside Castro to establish democracy had been tricked; some fled the country, others took up arms again or formed conspiracies against him. The army officers, police agents, and officials of the deposed regime who had been charged with crimes—unproven in many instances—had already been shot. But Castro had found a new enemy—the enemy within—and no one was safe from this threat of "instant justice."
>
> It was during those months that a group of women dressed in black would come into the galeras, peering intently, scrutinizing every face. All it took was for one of those women to lift a finger and point: "That one! That's the one who killed my son!" The man stood accused. That testimony, without any other corroboration, was enough. The prisoner was shot. This situation lent itself, obviously, to personal vendetta; it didn't necessarily require any real criminal action. The execution as often carried out without any trial, in fact.

The torture and brutality inflicted on political prisoners in Cuba was intended to terrorize not only the prison population but also the general populace. Valladares, in the following passage, describes the brutal murders of four prisoners who were intended to be examples of the terror the Communists had imposed on Cuba:

> Some rebels captured in the mountains of Escambray lived in Circular 4. One afternoon shortly after the visit they were called to trial. The tribunal was assembled from militiamen and soldiers of the presidio; it sat in a little garrison theater. All four of the rebel campesinos were sentenced to death. They were transported in a dump truck with their hands handcuffed behind them, under heavy guard, to the foothills of Escambray, the rebel zone, in the province of Las Villas. Another prisoner was being carried in a military jeep separate from the others. He was also handcuffed.
>
> Two of the prisoners in the dump truck, Aquilino Cerquera and Macario Quintana,

> were taken out of it and executed in the town square of their hometown, the city of Trinidad, so as to inspire terror in the other inhabitants of the region. The truck then went on toward La Campana, and the trip continued over highways curving up into the mountains. The truck stopped, the guards got out and surrounded it, and they began to fire their machine guns and rifles into the two handcuffed men. It was simple butchery. That spectacle unfolded before the horrified eyes of the prisoner traveling in the jeep, Cristōbal Airado. He was the only survivor. After the machine-gunning, the soldiers engaged the dump-truck mechanism and the bodies rolled out of the back of it to the ground. One of the officers said to Cristōbal, "This is so you'll know what we do with people who oppose the Revolution."
>
> They had taken Cristōbal along so he could tell others what had happened. The Communists knew that soon the event would be common knowledge throughout Cuba, and the people themselves would spread the message of terror.

And another example of terror and cold-blooded murder is recounted in the following passage from Armando Valladares' book "Against All Hope:"

> The year 1962 was one of great events in Cuba. Late in the year there was the Soviet missile crisis on the island, which brought the world to the threshold of atomic war. This crisis certainly was the gravest and most memorable event of 1962, but even earlier in the year there was a high-level military conspiracy aimed at bringing down the government; the Political Police infiltrated and aborted the plan, in which the Army, the Navy, and the National Police were all implicated, but the crisis left its marks. The government's reaction when the conspirators were found out was a true bloodbath. Dozens of detained soldiers were put into the jails at La Cabaña and Castillo del Morro and immediately executed, without trials, sentenced solely by the decisions of the high command of the Political Police. Those without a doubt were the most terrible nights that La Cabaña ever witnessed. Because of that conspiracy, which became known as the August 30th Plot in Cuban prisons, 460 soldiers were shot by firing squads across the island.
>
> All the time those massive executions were being carried out, visits in the prisons of El Morro, La Cabaña, and others continued uninterrupted. That way the government could be sure the prisoners' families would spread the word of the terror of those days to all the rest of the population of Cuba.
>
> When the conspiracy crisis was over, Castro created three different armies—the Army of the West, of the Central Region, and of the East—so that there could never again be a nationwide conspiracy mounted in Cuba. Each of these armies has its own general staff, and they are totally independent of one another. Any contact between them is considered high treason and is punishable by immediate execution.

□ 1845

Mr. Speaker, I thank the gentleman from California [Mr. SHUMWAY] for taking out this special order. It is certainly a worthy cause. I hope other nations of the world, many of whom did not vote with us last time, will see their way clear to agree with us this time that we should at least look into these horrible allegations of human rights violations.

Mr. SHUMWAY. Mr. Speaker, I thank the gentleman from California [Mr. LAGOMARSINO] for bringing to our attention those quotes from the book, "Against All Hope."

I likewise read that book last summer and it is a very powerful book, a very moving experience that I hope all Americans, if they have not already done so, will read. At least read the excerpt of it contained in Readers Digest of sometime last year.

Mr. Speaker, I would like to conclude my remarks by reading a few paragraphs from a speech which Ambassador Valladares presented last week before the U.N. Human Rights Commission because I think these summarize very well the U.S. position and add impetus to the message we are trying to get out this evening.

I will quote from Mr. Valladares:

> I am not a career diplomat nor am I an expert on the technical aspects of this Commission. I will not, therefore, make a detailed presentation on the reports and subjects that are considered under item 10. We will listen to other interventions on those important subjects.
>
> Mr. Chairman, I would like to talk today about torture, of what it means for a human being to be tortured, humiliated, and, what is almost worse, of what it means to watch a friend or a companion or a relative being tortured.
>
> As many of you know, I spent twenty-two years in prison for political reasons. Perhaps I am the only delegate in this Commission that has spent such a long time in prison, although I do know that some of you here know in your own flesh what torture means. I do not care what your political ideology might be; human beings are more important than any ideology—I offer you my solidarity, that of one tortured person to another.
>
> I had many friends in prison. One of them, Roberto Lopez Chavez, was practically a child. He went on a hunger strike to protest abuses. The guards denied him water. Roberto, on the floor of his punishment cell, delerious and in agony, asked only for water * * *. water. The guards entered his cell and asked: You want water? They urinated into his mouth and onto his face. He died the following day. We had been cellmates. When he died, I felt something wither inside me.
>
> I remember when they had me in a punishment cell, naked, my leg fractured in several places—fractures that were never treated and eventually fused into a mass of deformed bones. Through the wire mesh that covered the cell, the guards would pour over me buckets of urine and excrement that they had collected earlier.
>
> Mr. Chairman, I know the taste of other men's urine and excrement * * * that form of torture leaves no physical trace. What does leave traces are the beatings with metal bars or bayonets. My head is covered with still detectable scars and wounds. But what is more harmful to human dignity? Buckets of urine and excrement thrown in one's face or blows from a bayonet? Under which item should we discuss this question? Under which technical point should this be discussed? Under what mass of numbers, hyphens, or strokes should we include this trampling of human dignity?
>
> For me and for so many others around the world, human rights violations were not a matter of reports, negotiated resolutions, and elegant and diplomatic rhetoric. For us, it meant daily sorrow. For me, it meant eight thousand days of hunger, systematic beatings, forced labor, solitary confinement, sealed punishment cells, solitude. Eight thousand days struggling to show that I was still a human being. Eight thousand days trying to prove that my spirit could triumph over the exhaustion and the pain. Eight thousand days of testing for my religious convictions, my faith, of struggling not to allow the hatred that my atheist guards sought to sow with their bayonets to flower in my heart. Eight thousand days of fighting not to become like them, not to think of torture as a weapon, of trying to forgive, of trying never to think of vengeance, of retaliation, and of cruelty.
>
> And when cruelty is extended to one's relatives, is that not a form of torture? My father is an elderly man. He is very ill. He also served time in political prisons. Because he is my father he is not allowed to leave the country. Over the past two years the authorities have been tormenting him—revenge for my activities. They do not beat him, but they call and tell him that he may leave the following day. My father makes the long trip to the capital full of hope. And when he is almost on board the airplane, they tell him that there was a bureaucratic error, that he has to return to his town. They do this to him every four or five weeks. They are torturing him in the same way that they tormented my sister, who now finds herself under psychiatric care.
>
> The world of those who suffer and endure pain often has certain poetic characteristics. I think it was in a book by Victor Frankel, a survivor of the Nazi extermination camps, where I read that in the midst of their total despair, the camp inmates were kept alive by a violinist—a companion in misery who every afternoon played a piece of classical music. Everyone in the concentration camp would suddently become quiet to hear him. That violin, with its musical notes scraped out in the midst of so much pain, was a ray of hope.
>
> Bertold Brecht, the German playwright, tells a similar tale about a young Jewish couple imprisoned in a labor camp and separated by a fence. They had never talked, but had seen each other and loved one another. On the wall that separated them both left a daily testimony of their love: a little flower picked from the fields. One day, her flower was missing. The next day his would not be their either. Despair killed them.
>
> Totalitarians treat their adversaries like animals. They bind them, lock them up, beat them with no explanations. The tyrant's arbitrariness reduces victims to beasts. It dehumanizes them. At times, when one is treated like a beast, the only thing that saves him from humiliation, that keeps him strong, is knowing that somewhere, someone loves him, respects him, fights to return to him his dignity. I was lucky, Mr. President: I had someone to fight for my freedom; I had my wife, who travelled the world knocking on doors and on the consciences of peoples and governments, pressuring them to demand my freedom. But the majority of those that suffer violations of human rights have only the hope that the international community, against all hope, will think about them. You are their only hope.

About these painful matters, unfortunately, I have some personal knowledge. Many years ago, perhaps twenty, a political prisoner named Fernando Lopez de Toro, came to my cell. In a tone of despair, he said to me that what hurt the most out of all of the torment, the beatings, the hunger we suffered, was that our sacrifice might be in vain. It was not the pain, but the apparent uselessness of enduring it that was defeating Fernando. I sought to explain to him that despite the ignorance and indifference of the rest of the world, our suffering still had a purpose and a transcendental significance. I do not believe that I convinced him.

Some years later, we were now in different prisons, I found out that one night Fernando could no longer endure; he took his life. Later, I learned the details of his death from his cellmates, who, almost almost annihilated by the physical and moral abuses they had undergone, had stood by immobile. Fernando climbed up on his bunk, coiled a dirty towel around his neck, and with a sharp piece of metal tore open his skin, searched with his fingers for the jugular vein and in one stroke cut it. He died a few minutes later. It was said that his jailers had direct responsibility for his death; I know that Fernando was also the victim of indifference, of silence, of that terrible echoless universe in which, in this century of horrors and violations, so many good men and women die.

Torture, violations of human rights, come from where they might, are offenses against all and must be fought with equal vigor. That is what will make our message efficacious. International condemnation is the only thing capable of pressuring the torturers, it is the only thing capable of forcing them, in order to repair their public image, to free prisoners, to be more careful, to transgress less.

Denouncing the criminal does not always ensure his punishment, but, possibly, it could prevent new crimes. We must raise our voices without fear and use all available means in defense of those who are persecuted, of the tortured of the world. We have to shout about the pain that they suffer and we must accuse their executioners without fear. We have to reach into the cells of all the world's Fernando Lopez del Toros to tell them with firmness and solidarity, "Listen, do not take your life; men of good will are with you. Your dignity as a human being will prevail. In some corner, in your honor and in your memory, there will always be a flower, the note of a violin, or the voice of compassion of those who feel they are your brothers and who will defend you. Look, you are not an animal. Do not take your life. Liberty will never disappear from the face of the earth".

HUMAN RIGHTS SITUATION IN CUBA

The State Department's 1986 report on human rights practices contains the following description of the situation in Cuba:

Repression of basic rights today is so pervasive that Cuba holds the dubious distinction of being the Western Hemisphere's most serious violator of human rights and fundamental freedoms.

Dr. Ricardo Bofill has been imprisoned on several occasions for his activities as president of the Cuban Committee for Human Rights. I would like to read from a report he prepared last March on the human rights situation in Cuba:

CUBA 1987, THE HUMAN RIGHTS SITUATION

(By Ricardo Bofill Pages)

(Preliminary report for the 1988 United Nations Human Rights Commission meeting.)

THE RIGHT TO LIFE

The continued violation of the guarantees of human life, due to political motives, remains the worst of all the human rights violations under the regime of Fidel Castro.

Such acts as the firing squad execution of 21 year old Ivan Hernández Beluja by Ministry of the Interior guards demonstrate the customary contempt of the Cuban repressive forces for the integrity of the prisoners.

The deaths of political prisoners Eugenio González Alpizar and Nardo Saquero, both of Cienfuegos, while imprisoned in Alambrada de Manacas in Las Villas, as a consequence of the cruel and degrading treatment they received and the subhuman conditions that reign in Cuban prisons constitute further evidence of the political crimes the Governmental Authorities of this Country commit against their opponents. In a similar instance, on November 15, 1986 in Combinado del Este prison in Havana, a common prisoner, Francisco Massip Suárez, was beaten to death.

The executions by shooting in February 1987 of railroad workers Ernesto Llanes Sotolongo and Efraim Montero Quesada, both from the Province of Camaguey, are another tragic example of how Fidel Castro continues to smother even the slightest trace of resistence to his authority. These men were sentenced through supposed "trials" without any guarantees of due process; their defense attorneys received their salaries from none other than the prosecution.

According to only partial data, specifically from the pavilions of death of the Combinado del Este prison in Havana, between July 1986 and June 1987, seventeen men were taken to the execution wall for alleged crimes against the security of the State.

TORTURE

All of the police agencies of Cuba utilize violent methods of interrogation as an expedient means to obtain, ad hoc, "confessions." The guards, as well as all other personnel of the repressive departments, also use torture, physical mistreatment and psychological and moral coercion against those who are deprived of their liberty. The headquarters of the Security of the State in all of the provinces of the nation, especially the one located in the city of Havana, known as "Villa Marista," as well as the Neighborhood Police Stations and the Offices of the Technical Departments of Investigation constitute, as a whole, agencies of institutionalized torture.

Within the period analized, the cases of the most scandalous tortures, cruel and degrading treatment and infamous pressures were those of the four leaders of the Cuban Committee Pro Human Rights who were detained by the Security of the State on September 25, 1986. They were imprisoned for many months in "Villa Marista" in dark cells with steel-planked windows and doors, completely incommunicado, in solitary confinement, without any medical assistance and forced to suffer interrogations and extorionist pressures along with other physical and moral pressures. Mr. Elizardo Sánchez Santa Cruz, Mr. Enrique Hernández Mendez, Dr. Adolfo Rivero Caro and Dr. Samuel Martinez were subjected to treatment alien to its objective that they consent to making false declarations concerning the Committee Pro Human Rights before video tape cameras.

In the same headquarters of the Political Police of the City of Havana, a group of peasants from the Municipality of Malena del Sur, Province of Havana were victims of atrocious torture. They had resisted integrating them selves into the Cooperative of Agriculture and Livestock Production of the Zone of the Barrio "El Zapote." The treatment they suffered included their confinement in the so-called "drawers," and in the cells of refrigeration, as well as simulated executions and beatings. All this so that they would admit that they had sabotaged the planting of the sugar cane in this region. Using similar methods, G-2 obtained the confessions of Octavio Herrera Rodriguez, 70 years old, sentenced to 4 years imprisonment; Alberto Pereira Bernald sentenced to 16 years; Lázaro Changarera, sentenced to 10 years; Armonda Rodriguez Madrigal sentenced to 12 years, Julian López Ross, 59 years old, sentenced to 16 years and 8 months imprisonment and Santiago Alvarez Cardo, 69 years old, sentenced to 5 years imprisonment. In addition, all of their land which they had denied to the Cooperative was confiscated.

From the sadly famous prison "Alambrada de Manacas" in Las Villas, we received a report of savagely tortured prisoners. José Felipi Santos, Minister President of the Jehovah's Witnesses of the Province of Las Villas, was sentenced to 10 years imprisonment in 1968 on a charge of "Possession of enemy propaganda," in other words, religious literature. Mr. Felipe Santos was arrested a few months after his release in 1978 and sentenced to another 10 years imprisonment for the same crime. Now, we have been informed that he was cruelly beaten by the guards at "Alambrada" because he had copies of the magazine "Awaken." Another member of the Jehovah's Witnesses recently tortured in the same prison was Sergio Rodriguez Millares, 69 years old. While completing a 6 month sentence of confinement he was taken from the prison by the G-2 and sentenced to another 10 years for proselytizing the prisoners.

Political prisoner Jorge López Pinos, 25 years old and a native of Cienfuegos, was also savagely beaten by the Sargeant of the Minint, Guillén, on August 17, 1986. Another political prisoner, Bartolomé MacFarlane, 69 years old and a citizen of Jamaica, who is completing a 10 year sentence on a charge of "enemy propaganda," is regularly confined to the punishment cells because he is unable to stand up during the roll calls due to his precarious state of health. Rubén Saguero, 65 years old, who has been imprisoned since 1969 has been held incommunicado for the past nine years in adobe punishment cells, was also brutally beaten.

At the Headquarters of the Police for Security of the State for the Province of Pinar de Rio monstrous tortures were carried out against the peasants of that region in order to force them to confess to crimes they had not committed. Among them were Andrés Alvarez Friol, Alberto Puentes Pérez, Felix Padroso Alvarez, Flores Galvez Contreras, Carmelo Herrera Galvez, Enrique Gálvez Alvarez, Lázaro Pérez Alvarez, Jorge Juviel Alvarez and the youngest, Marcelino Reinoso García. Presently, all of these citizens are imprisoned in Combinado del Este prison in

Havana completing sentences of 10 to 20 years.

Eduardo Delgado de la Puente, a former medical student, is one of the many political prisoners barbarously beaten at the Combinado del Este Prison in Havana. (From February 25 to March 12 he was kept in the Pavilions of Death). Armando Martinez Madru, who is kept in the Hospital Salvador Allende due to the delicate state of his health, was assaulted by Minint Major G. Calzada, the Chief of Prison Security. Edmigio López Castillo was struck on the head in the presence of the Director of the Prison, Coronel Herrera.

At this same prison, over 250 common criminals suffered terrible beatings. Among these we can highlight: Arístides Villavicencio Corrales (October 30, 1986). Manuel Herrera Baga (March 7, 1987); Jose Angel Amores Barró (March 5, 1987); and Omar Hernández Montes de Oca (October 31, 1986).

INDIVIDUAL RIGHTS

Arbitrary arrests continue to be a scourge that plagues the Cuban citizenry. The so-called "proceedings of danger," a summary procedure by which the chief of a police department in collaboration with a CDR possesses the power to jail a person without any kind of a trial, is still the primary cause of imprisonment in the Country. There are an estimated five thousand people imprisoned, between June 1986 and July 1987, with sentences that range from one to four years. Of these, at least some two thousand are political prisoners.

The director, poet and painter Nicolas Guillén Landrián, who has been imprisoned for political reasons on four different occasions, received his first warning of a "proceeding of danger" in March 1987 after he refused to make false declarations denigrating the Cuban Committee Pro Human Rights before a video tape camera.

As a result of the events that took place before the French Embassy in Havana in May 1987 during which nearly four thousand citizens gathered in front of that diplomatic headquarters in hopes of obtaining visas in order to leave Cuba, some 2,500 people were arrested, interrogated, fingerprinted and imprisoned for almost a month. Some 200 were in jail even two months after their arrest. A large number of these people hoping to leave the Island were harshly beaten by civil officials of the Ministry of the Interior. The same occurred throughout the nation during the Mariel Boatlift in 1980 when these officials assaulted with chains, dowels and sticks. Some of the aggressors shot into the crowds, thus leaving over ten men wounded, one of which, Lázaro Dueñas Gómez, 25 years old, came close to death.

RELIGIOUS PERSECUTION

The Jehovah's Witnesses have continued to be the favorite target of repression for anti-religious raids. In Havana, Artemisa, Colón, Ciego de Avila, Holguin and Guantánamo during the period studied there were massive arrests of parishioners belonging to this congregation. The majority of them received severe prison sentences. Throughout the national territory there were individual detentions of Jehovah's Witnesses, thus bringing the total number imprisoned to more than 150 for this year alone.

The veiled harassment and open and institutionalized social, economic and political discrimination against other religions has not ceased. The Major Means of Communications, completely controlled by the State, persistently ridicule, denigrate and verbally abuse those who practice their religion.

An apparent opening toward religion which was glimpsed after Fidel Castro granted an interview to the Brazilian priest Frei Betto and the publication in Cuba of the book "Fidel and Religion," which recorded this dialogue, as well as the Celebration of the National Ecclesiastical Meeting of Cuba which the Catholic Church held in early 1986, has been reduced to nothing. The convolution of Government pronouncements regarding tolerance and respect for the religious faith of the Cubans and its previous actions has become obvious. We can once more affirm that the open practice of religion does exist in the Cuba of Fidel Castro, but it is sustained in an officially hostile climate and at a high price in status and standard of living for the practicants.

RESTRICTIONS UPON LIBERTY OF MOVEMENT

In the past year, the old policy of the Castro Authorities, which tramples upon the principle of the equality of all citizens before the law, of determining the immigration and the emigration of Cuban citizens according to its whims has continued unchanged. Reveling in this policy of discrimination and extortion, the General Board of Immigration of the Ministry of the interior denies the exit or the entering to the country to all people who, for hidden and never explained reasons are placed on a doomed "black list." Involved in this flagrant abuse of power, the government of Cuba trades in human beings, demanding high ransoms as a prerequisite for granting its consent to the emigration of some citizens.

This violation of a fundamental human right sets the stage for violent acts that lead to the loss of lives. In early 1987 at the International Airport of Havana various people who had been systematically denied the opportunity to leave Cuba unfortunately resorted to attempting to highjack an airplane. Another shameful consequence of this squelching of the liberty of movement of the citizens are the constant adventures men, women, children and the elderly launch from this land in an attempt to cross the Straits of Florida in fragile boats resulting in a frightening number of deaths and disappearances.

The following are a few of the notorious examples, from tens of thousands, of this coercive policy: Dr. Abdo Canasí, a psychiatrist who has been separated from his family for 17 years and is awaiting permission to emigrate; Nicolas Guillén Landrián, director, poet, painter and former political prisoner who has been waiting for 10 years; Professor Enrique Hernández Mendez who has been waiting seven; singer Meme Solís who has been waiting nine; radio and television actor Severino Puentes who has been waiting six; Doctors Jose I. Vidosola, Samuel Martinez, José Redondo, Pedro Raimundo, Miguel Pinto Pereira who have been waiting for seven and the former capitan of the Rebelde army I. Yanes Peletier who has been waiting eight.

EUROPEAN PARLIAMENT RESOLUTION ON CUBA

Last year the European Parliament passed a resolution on the situation of political prisoners in Cuba.

The European Parliament is one of the institutions of the European Community which now has 12-member states.

Mr. Speaker, I include for the RECORD a document on the European Parliament resolution of Cuba:

RESOLUTION ON THE SITUATION OF POLITICAL PRISONERS IN CUBA

THE EUROPEAN PARLIAMENT

A. Whereas human rights are universally valid and must be respected by all governments,

B. Whereas the Cuban Government is at present holding several hundred political prisoners in prison, internment camps, labour camps or psychiatric hospitals, including in particular persons who persist in rejecting the ideological indoctrination practised by the current regime,

C. Whereas most of the political prisoners are "guilty" only of defending or practising their natural right to freedom of expression, association or belief, since these basic rights are respected neither by the legal order nor by the authorities in Cuba,

D. Whereas the following cases of political prisoners are among the most serious:

(a) Alberto Valdés Teŕan, born 7 April 1916, former member of the Cuban Transport Workers' Association, imprisoned with his son, Calixto Alberto Valdés, who was later shot at the age of 16; Alberto Valdés Teŕan, who was sentenced to 30 years' imprisonment on 16 July 1963, in Case 484/63, was first sent to Cabana prison on the island of Pinos and is now in the prison of Combinado del Este; he has consistently resisted indoctrination by the Cuban authorities and has been put into solitary confinement a number of times; he is 71 years old and seriously ill, but is not given medicine or allowed visits from his friends or relatives,

(b) Amado Rodriquez Fernández, born January 1943; at the age of 18 he was sentenced to 30 years' imprisonment, in Case 216/61; he was sent to Boniato prison, in Santiago de Cuba, on 11 November 1961 and released on bail 18 years later, in 1979; he was again detained in 1983 and on 1 March 1985 was given a further sentence of 15½ years in the same prison, after being kept in the meantime in total isolation in wing 4-C of the prison, accused by the public prosecutor of having "entertained thoughts of rebellion". He has already spent 22 years, more than half his life, in prison; he is now ill and is not receiving the medical attention he requires;

(c) Many others including for example: Angel A. Fliciano Bango y Pérez, Eugenio Silva Gil, Teodoro González, Alberto Grau Síerra, Jose Pujals Mederos (Combinado del Este prison); Jésus Cairo Ceballos Juan Alberto Fernández Cabrera (Camagüey prison); and Igmaldo Fernández Guerra (Boniato en Oriente prison), all of whom have been in prison for more than 20 years,

1. Reaffirms its faith in and commitment to the universal validity of human rights;

2. Strongly urges the present Cuban authorities to release Alberto Valdés Terán, Amado Rodriguez Fernández and the other political prisoners currently held in jail;

3. Requests the Human Rights Commission of the United Nations, of which Cuba is a member, to draw up a comprehensive report on the human rights situation in Cuba, with special reference to the conditions under which political prisoners are kept;

4. Calls for safeguards for the independence of the law courts in Cuba;

5. Urges the Foreign Ministers of the Member States of the European Community meeting in political cooperation to exert as much pressure as possible on the Cuban Government to secure the release of the political prisoners;

6. Instructs its President to forward this resolution to the Foreign Ministers meeting in political cooperation, the Commission, the United Nations, the Latin American Parliament and the Government of Cuba.

□ 1900

Mr. Speaker, this is a very appropriate time for us to voice these sentiments this evening. I know that many of my colleagues join in what I have said here tonight because this House has acted affirmatively on passing such a resolution asking our representatives at the Human Rights Commission to take the action that we desire.

I think the time is here for us to not be silent about these flagrant abuses anymore, but we must insist that the United Nations speak out and condemn those abuses in our Communist neighbor to the south, Cuba.

Mr. SMITH of New Jersey. Mr. Speaker, I commend my friend from California, Mr. SHUMWAY, for organizing this special order regarding Cuba's human rights record. I share his concern that it is, indeed, "time to speak out" about Cuba's abuse of human rights and its manipulation of the United Nations system to protect itself from international scrutiny on this question.

As you know, Mr. Speaker, during the 1987 session of the United Nations Human Rights Commission, the United States effort to have Cuba's human rights abuses on the agenda of the Commission was defeated during a procedural motion by one vote. Again, in this year's session the United States has offered its resolution to the UNHRC, simply seeking a Commission investigation of the human rights situations in Cuba. The vote on the resolution is expected early next week.

Mr. Speaker, I believe that the UNHRC can regain much respect if the United States resolution calling for an inquiry into the situation in Cuba is approved. Following my statement this evening, I would like to include for the RECORD, an insightful article written by Richard Williamson, Assistant Secretary of State for International Organization Affairs, which takes the UNHRC to task for seemingly having a double standard by which the "unfree majority of nations" in the U.N. are protected from the Commission's examination. I agree wholeheartedly with Secretary Williamson and believe the UNHRC has a responsibility to address this question without hesitation or ambiguity—the 10 million Cubans living in that "island prison" deserve our attention.

Mr. Speaker, it was a great disappointment that the U.S. resolution was turned down last year in a procedural vote at the United Nations. Even more frustrating was the fact that the outcome of the vote was determined by one vote! Among those voting against the United States were Venezuela, Argentina, and Colombia—three democracies! I commend Costa Rica for their vote which supported the Cuban people—not a coverup for Castro's policies.

The international attention which focused on Cuba as a result of last year's debate in the United Nations, Mr. Speaker, prompted a few positive developments. A number of notable platados—the political prisoners who reject the political "rehabilitation" which is conducted in the prisons—were released. Dr. Richardo Bofill Pages, founder and president of the Cuban Committee for Human Rights, was granted permission to return to public life after 6 months of taking refuge in the French Embassy in Havana. Several other prominent members of the committee who had been arrested and imprisoned since early fall 1986 were also released.

With respect to religious activity in Cuba, Mr. Speaker, Castro's regime has stressed that religious believers and their activities are counterrevolutionary. As one Cuban emigre described the regime's treatment of the church, the harassment has always been "aimed at slowly suppressing religion but without creating martyrs." The authorities have been deligent to discourage religious activity and basically thwart the growth of churches in Cuba.

Mr Speaker, one prevalent form of religious repression against the believers is outright discrimination. Because the government is completely totalitarian and the party governs everything, those who participate in religious activities can easily be deprived of higher education and promotions at work. Children are often rediculed and questioned in primary school about their religious activities. On the job, one's religious activities and convictions are regarded as a personal demerit—this can be detrimental to one's chances for advancement. In fact, many believers are given only menial jobs. Many others, Mr. Speaker, hide their religious activities and religious articles in order to continue their public lives without interference or demotion.

Since Castro's takeover of all 250 Catholic schools in Cuba in the early years of his dictatorship, religious schools have been prohibited. Nonetheless, Mr. Speaker, the deep yearning of the human spirit to pursue and exercise religious convictions has sustained the struggling Christains in Cuba. Certainly small Christian communities, strongly committed to their faith, exist but have been compared to the Church of the Catacombs which struggled for survival during the Roman Empire.

Mr. Speaker, the abuses of human rights in Cuba have basically been ignored—for the last three decades the world—and especially the United Nations—has turned its face away from Castro's abusive policies. The Government of Cuba has so tightly restricted outside observers that extensive details have ben difficult to obtain. The International Committee for the Red Cross is denied access to the prisons (although the Cuban Representatives have claimed that the ICRC visits the prisons regularly). In fact, no human rights organization such as America's Watch or Amnesty International have been allowed access to the prisons. Last year, Castro did allow several individuals from human rights groups to visit several prisons but they were unable to gain access to the maximum security areas.

One only has to read Armando Valladares' memoirs, "Against All Hope," which I have read, Mr. Speaker, to understand the brutality of the Cuban gulag system and to be awakened to the suffering which is a reality in Castro's prisons. These prisons are horrific. The prisoners are subjected to beatings, shootings, solitary confinement in pitch black cells, insufficient food and medical care and abusive interrogations for years on end. As Valladares himself has said, "Someday, when the whole truth is known in detail, mankind will feel the revulsion it felt when the crimes of Stalin were brought to light." Mr. Speaker, the free world has not been vocal enough about the truth in Cuba. I encourage our allies at the United Nations to support the United States in at least having Cuba placed on the agenda of the U.N. Human Rights Commission. Mr. Speaker, what a dreadful responsibility the free world has to ensure that the crimes of Castro are brought to light. I believe an investigation by the U.N. Human Rights Commission is the first step.

DOUBLE STANDARDS ON RIGHTS?

(By Richard Williamson)

Earlier this month, the 44th session of the U.N. Human Rights Commission convened in Geneva. For six weeks, government representatives from around the world will debate issues on an agenda that includes religious intolerance, torture and summary execution, as well as particular problem areas such as Afghanistan, South Africa and Chile.

At last year's session of the U.N. Human Rights Commission, a U.S. sponsored initiative to put Cuba's human rights abuses on the agenda was defeated when a procedural motion to take no action was passed by a single vote. That motion, introduced by India, came after extensive pressure from Havana, springing from Fidel Castro's fear of a vote on the merits of the case.

Making the outcome doubly bitter for the United States was the fact that several of our friends in this hemisphere, democracies themselves, failed to vote with us and thereby helped to stifle any meaningful debate on the ways in which Mr. Castro has brutalized his people.

We look to the Human Rights Commission as the primary body within the United Nations for establishing international norms of human rights and monitoring compliance with them. Much of the commission's work is based on the standards for conduct established in the Universal Declaration of Human Rights, which was adopted first by the UNHRC and then by the General Assembly in 1948.

This seminal document, much as the Bill of Rights does for our own Constitution, sets forth positively individual liberties and fundamental freedoms and the duty of governments to uphold these rights for their citizens.

Although looking back 150 years to the liberal tradition of the Enlightenment, the U.N. declaration also grew out of the immediate experience with World War II. A world in which totalitarianism flourishes behind national boundaries is a warprone state system. We had learned that governments which abuse their own citizens will abuse those of other states, if given the chance.

Tragically, over the years, the UNHRC has departed from the role envisioned for it by the U.N. founders. Instead of carrying out its mandate for impartially upholding the norms of fundamental freedoms and individual liberty, the UNHRC too often has been exploited cynically in order or to reflect the political whims of the U.N. majority.

The UNHRC has become distinguished by a double standard in which countries that enjoy good standing with the unfree majority of nations in the General Assembly are politically immune from scrutiny by the rights commission.

The implication is that in the United Nations human rights standards are only applicable to embarrass and isolate the weak and the universal application of human rights standards is undermined.

Those who charge that, by endeavoring to bring Mr. Castro's record before the commission, the United States is politicizing its work must address the present imbalance of the UNHRCs agenda. Recent years have seen Chile, El Salvador and Guatemala become fixtures on its agenda, while the single-largest abuser of human rights in this hemisphere, Cuba, not only evades scrutiny, but often is a principal sponsor of resolutions critical of other nations. It is morally offensive for a country such as Cuba to set itself up as an arbiter of international human rights.

It is vital to the credibility of the UNHRC that its members demonstrate a capability to consider the human rights conduct of governments and to expose serious abuses of human rights wherever they occur. It is because we share the human rights standards of the U.N. declaration, abhor their trespass and the consequent human misery, and believe that the commission can contribute to advancing human rights that its failure last year to address the situation in Cuba is especially disturbing.

In his 29-year rule, Fidel Castro has institutionalized repression. One-tenth of Cuba's population at the time he gained power have fled the island. According to Amnesty International, Cuba under Mr. Castro has imprisoned more persons per capita for political reasons than any other nation. In Cuba, it is even a political crime to distribute the U.N. Universal Declaration of Human Rights. In 1986, a 17-year-old boy was arrested on that charge and later died in prison under unexplained circumstances.

At all levels of society, Cuba maintains a regimented repressive system enforced by all-pervasive local committees which report to the secret police. Mr. Castro's Cuba ia a place where political terror masquerades as law.

Although seemingly immune from quiet solicitations from governments to improve his human rights performance, Mr. Castro seems to have felt the heat from last year's UNHRC debate on Cuba. Recently, he has undertaken such steps as agreeing to increase immigration of political prisoners and releasing members of an unofficial human rights commission from jail, which he hopes will deflect further scrutiny by the UNHRC. However, thousands of political prisoners still languish in Cuban prisons.

It is clear that Mr. Castro is responsive to the threat of public international censure, and, accordingly, it is all the more imperative that Cuba's dismal human rights record be scrutinized formally by the UNHRC.

This year the U.S. delegation to the UNHRC is led by Armando Valadares, the distinguished poet and human rights activist who, as a political prisoner in Cuba for 22 years, has firsthand experience of Mr. Castro's repression.

Past persistent double standards have ratcheted down the moral authority and practical force of the U.N. Human Rights Commission. This can be reversed only by demonstrating that it is capable of evenhanded treatment of human rights offenses wherever they occur.

We are convinced that by any objective standard the body of evidence of continuing and systematic denial of human rights in Cuba commands the commission to put Cuba on its agenda. To do less will be to confirm that the UNHRC is losing its ability to uphold the basic norms of human rights and will brand the UNHRC just another political tool of the undemocratic and unfree majority at the United Nations.

Mr. HERGER. Mr. Speaker, there are times when each of us is confronted by a tragedy of such enormous proportion that it is impossible for us to ignore. The suffering of our fellow human beings in Cuba is one such example.

Reading through the transcripts provided by those fortunate men and women who have survived what some have described as Fidel Castro's death camps, I am struck by the extreme sentences that the Communist regime so frequently gives for actions that in our country are not only tolerated but encouraged. Amnesty International pointed out in its 1987 report that Cuban citizens have been arrested and sentenced to years in prison for crimes such as drawing cartoons critical of government economic policy, or writing seemingly innocuous letters to Western officials in Havana.

How strange that Fidel Castro, who sets himself up to the Third World as an apostle of national liberation, should feel so threatened by cartoons. How shocking it is that his government would respond to such meek acts of protest by brutality aimed at crushing the human spirit.

The Cubans provide none of the benefits that we Americans consider central to any responsible system of incarceration. Political prisoners are fed barely enough necessary to survive. The food is neither nutritious nor healthy. Former prisoners tell of friends, deprived of water for weeks at a time, dying of dehydration, while buckets of water lie just outside their cell. Exercise is impossible when enclosed in a cell barely the size of a coffin. These cells are often unlit, and inevitably lack proper ventilation. Visits from relatives are frequently denied for months at a time. Some never see their relatives during their sentence. As one former prisoner testified, the Cuban Government treats their prisoners "like animals. They bind them, lock them up, beat them with no explanation * * *" they take away any hint of human dignity.

It is this behavior that the United Nations refuses to investigate. It is this behavior that Argentina, Venezuela, India, Mexico, and the Soviet Union, among others, refuse to acknowledge. Make no mistake about it. To ignore the torture and the resulting damage that these governments inflict upon their citizens is nothing short of reprehensible. We in the House of Representatives must do all that we can to demand that the U.N. recognize how desperate this situation has become. The world can no longer ignore the growing tragedy taking place in Cuba. It is time for us to unite in our opposition to Communist repression in our hemisphere. Let us listen to the testimony of one who knows the fate of a Cuban political prisoner from personal experience. Ambassador Valladares, the United States representative to the U.N. Human Rights Commission, and a former inmate of Cuba's prisons, said last week: "The majority of those that suffer violations of human rights have only the hope that the international community, against all hope, will think about them." We are their only hope.

GENERAL LEAVE

Mr. SHUMWAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore [Mr. DYMALLY]. Is there objection to the request of the gentlemen from California?

There was no objection.

THE OTHER CISPES CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. EDWARDS] is recognized for 60 minutes.

Mr. EDWARDS of California. Mr. Speaker, the files of the FBI contain literally millions of allegations, from a multitude of sources, including informants, wiretaps, interviews, phone calls and letters—some of them anonymous—reports by private "research" groups from across the political spectrum, State and local police files, documents provided by third parties, and newspaper clippings.

None of this information can be assumed to be true, as the FBI would be the first to admit. Little of it has been tested by the traditional safeguards of oath and cross examination. Much of it is uncorroborated. Some of its comes from parties seeking to advance their own interests. Some of it was fabricated by the source in order to hurt someone. Some of it is just plain rumor and gossip.

For obvious reasons, access to investigative files must be severely limited. I remember the days when congressional committees, chiefly the House Un-American Activities Committee, recklessly disclosed allegations and smears involving hundreds of loyal Americans who had never engaged in criminal conduct. The record of broken lives and injured reputations from that time in our history attests to the damage that results from the release of government investigative information.

The FBI must be particularly diligent in guarding its files. It is the most prestigious police organization in the world. When the FBI speaks, its voice is that of the U.S. Government. If the FBI says that an individual or group is suspected of terrorist or other ceiminal activity, that individual or group is forever so labeled. The FBI thereby becomes investigator, prosecutor, judge and jury. There are no defense attorneys, no rights of rebuttal and no appeals.

Thus it was deeply disturbing to read the public testimony of Oliver B. Revell, FBI Executive Assistant Director, before the Senate Select Committee on Intelligence on February 23. The Committee had asked the FBI to testify regarding its investigations of the Committee in Solidarity with the People of El Salvador, or CISPES, under the Foreign Agents Registration Act from 1981 to 1982 and then as a suspected international terrorist organization from March 1983 to June 1985, when the FBI closed the investigation because no evidence of criminal activity had been developed.

In trying to justify the nationwide scope of the investigation, which involved survillance of legitimate political activity by unions, campus groups, churches and others, Mr. Revell did not limit himself to the information previously released under the Freedom of Information Act to the Center for Constitutional Rights in New York. Nor did he ask the Senate committee to go into executive session when he was about to reveal unsubstantiated file information regarding CISPES.

Instead, Mr. Revell opened wide the FBI's confidential files, including previously classified information. In the 14 pages of his testimony and an accompanying 11 page "public report," not one criminal act was expressly charged to CISPES, yet through innuendo and guilt by association, CISPES was prosecuted, tried, and found guilty of subversion.

The first seven pages of Mr. Revell's testimony described the commendable success of the FBI in resolving a number of terrorist cases in the past decade. There was no allegation that CISPES was in any way involved in any of these cases, yet the impression was left that CISPES was on the same order as groups actually convicted of violent acts.

CISPES was alleged to be "involved in the distribution" of a Soviet-forged document to the media (testimony, p. 8), yet there was no indication—and when pressed, Mr. Revell could offer none—that CISPES knew the document was forged.

Mr. Revell stated that CISPES was "believed to have been established with assistance of" the Communist Party USA, the U.S. Peace Council and the Salvadoran Communist Party (testimony, p. 9), but he failed to point out that any such assistance, if in fact it was given, could have been entirely legal. Instead, he left the impression that it was something sinister.

The FBI's report stated that CISPES supports the FMLN, the Salvadoran guerrilla group. The report then said that the FMLN was "principally responsible for anti-government military and terrorist activity directed against the Salvadoran government and U.S. interested in El Salvador," including "bombings, kidnappings, assaults, and assassinations." (Report, p. 2.) Thus it was suggested that CISPES was somehow connected with these actions, based on its unspecified support for the FMLN.

The report also said (p. 2) that the FMLN was "a principal component" of the DRU, which it said was formed as a result of a meeting in Havana, Cuba in 1980 where Fidel Castro set unity among the rebel groups as a condition for further Cuban aid. Thus the FBI tried CISPES to Fidel Castro, based on CISPES' support for a group that was affiliated another group that was set up with the involvement of Castro.

The FBI report stated that an unidentified source stated that the FMLN and the FDR "were planning to establish clandestine cells in the United States for political, ideological and military support, as well as intelligence activities. The military cells allegedly would commit killings, sabotage and other illegal acts such as bank robberies." (Report, p. 3.) The FBI report suggests that the only connection between the illegal acts of these clandestine "military cells" and CISPES was the acknowledgement by CISPES that it supported the FMLN through political activity.

Guilt by ideological association was stretched to the breaking point when the FBI suggested a link between CISPES and two bombings in Washington: one that took place at "about the same time" a CISPES rally was held in Washington (report, p. 13) and one that was actually claimed by another group espousing positions "similar" to those of CISPES.

The FBI report states that an informant reported that a CISPES member in Dallas had been tasked to make maps of government buildings and to time the response times of "public safety vehicles," which the report stated "may well be consistent with the activities of terrorists" preparing an act of violence. (Report, p. 5.)

Another example of guilt by association is found on page 6 of the FBI report which states that "a CISPES chapter in the Midwest received communications from the United Freedom Front, a left wing domestic terrorist organization," again suggesting some sinister connection without stating whether the communications were solicited or not and whether the CISPES chapter responded or not.

Ironically many of these allegations were based on information provided by an informant from whom the FBI has been vigorously trying to distance itself and whose information Revell himself characterized as in part "blatantly false" and "concoctions."

My point, however, is not to prove or disprove these allegations regarding CISPES. My concern is that the FBI's response to the widespread criticism of its CISPES investigation was an unprecedented release of defamatory file information, suggesting links to Communists or terrorit groups. This release of unsupported allegations, few of which involve possible criminal conduct, is a major violation of the key rule for police investigatory files—that none of the information can be published except according to established rules and safeguards. This issue is just as important as whether or not the CISPES investigation itself was properly conducted.

Thirty-eight years ago, on February 9, 1950, Senator Joseph McCarthy, speaking to the U.S. Senate, said that he had in his hand a list of 205 State Department employees who were known to be card-carrying Communists. What McCarthy had was investigatory information from the FBI, a list of 205 security cases, most of them pertaining to individuals who were no longer in the Department.

During the McCarthy era, it was a common practice of the FBI to secretly disclose investigative, file information to congressional committees. That period is well behind us. But if the FBI responds to criticism by doing publicly, before TV cameras, what it once did privately, then we have not come very far at all. If we abolished HUAC only to give the FBI a forum for derogatory accusations, then the reputations of groups and individuals in the FBI's vast files are never secure. The FBI's response to criticism in this case was wrong, and I hope that it is never repeated.

Mr. Speaker, the FBI's investigative files are highly sensitive. Improper release of file information by the Government—the FBI—is a violation of the constitutional and statutory right of privacy and can cause grave injury to innocent people or groups.

I urge the distinguished new Director of the FBI, William S. Sessions, to issue instructions immediately to all FBI offices, reaffirming the Bureau's commitment to due process and respect for privacy in the handling of investigative files. The Director's message should be loud and clear: the FBI cannot respond to criticism by circulating unproven accusations.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SHUMWAY) to revise and extend their remarks and include extraneous material:)

Mr. DORNAN of California, for 60 minutes, each day on March 8 and 9.

Mr. DREIER of California, for 5 minutes, today.

Mrs. BENTLEY, for 60 minutes, each day on March 24, 29, 30, and 31.

(The following Members (at the request of Mr. LOWRY of Washington) to

revise and extend their remarks and include extraneous material:)

Mr. Kastenmeier, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gray, of Pennsylvania, for 5 minutes, today.

Mr. Conyers, for 5 minutes, today.

Mr. de la Garza, for 60 minutes, on March 15.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Shumway) and to include extraneous matter:)

Mr. Hefley.

Mr. Donald E. Lukens.

Mr. Gunderson in two instances.

Mr. Dreier of California.

Mr. DioGuardi in two instances.

Mr. Courter in two instances.

Ms. Snowe.

Mr. Stangeland.

Mr. Lowery of California.

Mr. Whittaker.

Mr. Duncan in three instances.

Mr. Lewis of Florida.

Mr. Dannemeyer.

Mr. Lagomarsino.

Mr. Hansen.

Mr. Gallo.

(The following Members (at the request of Mr. Lowry of Washington) and to include extraneous matter:)

Mr. Torres.

Ms. Kennelly.

Mr. Jones of North Carolina.

Mr. Garcia in two instances.

Mr. Clay.

Mr. Fascell.

Mr. Hochbrueckner.

Mr. Traficant.

Mr. Miller of California.

Mr. Dingell.

Mr. Vento.

Mr. Solarz.

Mr. Markey.

Mr. McMillen of Marland.

Mr. Manton in two instances.

Mr. Kleczka.

Mr. Morrison of Connecticut.

Mr. Studds.

Mr. Bryant.

Mr. Rowland of Georgia.

Mr. Bonker in two instances.

Mr. Thomas A. Luken.

Mr. Brennan.

Mr. Kolter.

Mr. Darden.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills, and joint resolutions of the Senate of the following titles:

S. 557. An act to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964;

S. 1447. An act to designate Morgan and Lawrence Counties in Alabama as a single metropolitan statistical area;

S.J. Res. 251. Joint resolution designating March 4, 1988, as "Department of Commerce Day"; and

S.J. Res. 262. Joint resolution to designate the month of March 1988, as "Women's History Month".

ADJOURNMENT

Mr. EDWARDS of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 13 minutes p.m.), under its previous order, the House adjourned until Monday March 7 1988, at 12 noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and an amended report of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the third and fourth quarters of calendar year 1987 and the first quarter of calendar year 1988 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1987

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Qrest Deychakiwsky	8/30	8/31	Munich, Germany		132.00						132.00
Committee total					132.00						132.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

STENY H. HOYER, Feb. 10, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1987

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Michael Barrett	10/30	11/03	Korea		826.00						826.00
	11/04	11/09	Japan		1,563.00						1,563.00
Commercial air fare							3,891.00				3,891.00
David Nelson	10/30	11/03	Korea		826.00						826.00
	11/04	11/09	Japan		1,563.00						1,563.00
Commercial air fare							3,891.00				3,891.00
Russell Smith	10/30	11/03	Korea		826.00						826.00
	11/04	11/09	Japan		1,563.00						1,563.00
Commercial air fare							3,891.00				3,891.00
Peter D.H. Stocton	10/30	11/03	Korea		332.00						332.00
	11/04	11/09	Japan		1,563.00						1,563.00
Commercial air fare							3,891.00				3,891.00
Wm. M. Kitzmiller	11/04	11/08	Cayman Islands		1,246.34						1,246.34
Commercial air fare							403.66				403.66
John A. Riggs	11/07	11/12	West Germany		188.00						188.00
Commercial air fare							822.00				822.00
Ripley Forbes	11/08	11/11	Japan		1,108.00						1,108.00
Conference fee									330.00		330.00
Commercial air fare							2,408.59				2,408.59
John A. Riggs	12/04	12/07	Great Britain		153.06						153.06
Commerical air fare							819.00				819.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1987—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Peter Budetti			Japan								
Conference fee									330.00		330,00
Committee total					11,757.40		20,017.25		660.00		32,434.65

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN D. DINGELL, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT OPERATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1987

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Leslie L. Megyeri	12/1	12/11	Germany	2,241.25	1,400.00					2,241.25	1,400.00
	12/12	12/17	Italy	910,360	758.00		862.00				1,620.00
Chris D. Aldridge	12/1	12/11	Germany	2,241.25	1,400.00					2,241.25	1,400.00
	12/12	12/17	Italy	910,360	758.00		862.00				1,620.00
Hon. Howard Nielson	12/11	12/13	Nicaragua		306.00		1,605.00				1,911.00
Committee total					4,622.00		3,329.00				7,951.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JACK BROOKS, Chairman, Jan. 31, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1987

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
C. Duncan	11/11	11/13	Canada		525.42						525.42
Miltiary transportation							1,380.60				1,380.60
J. LaFalce	11/11	11/13	Canada		525.42						525.42
Military Transportation							1,380.60				1,380.60
M. Lancaster	11/11	11/13	Canada		525.42						525.42
Military transportation							1,380.60				1,380.60
R. Orban	11/11	11/13	Canada		525.42						525.42
Military transportation							1,380.60				1,380.60
D. Terry	11/11	11/13	Canada		525.42						525.42
Military transportation							1,380.60				1,380.60
Committee total					2,627.10		6,903.00				9,503.10

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN J. LaFALCE, Chairman, Feb. 17, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1987

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Steny H. Hoyer	10/8	10/10	Austria		352.00		[3] 8,450.00				8,802.00
	10/10	10/13	Germany		564.00		80.00		51.00		695.00
Timothy Wirth	10/8	10/12	Austria		704.00		[3] 8,450.00				9,154.00
	10/12	10/13	Germany		188.00						188.00
Samuel G. Wise	10/10	10/13	Germany		564.00		80.00		51.00		695.00
	10/10	10/13	Germany				[4] 4,041.00				4,041.00
	10/13	10/13	Germany			4,160	[5] 324.00				324.00
Mary Sue Hafner	10/8	10/10	Austria		352.00		[3] 8,450.00				8,802.00
	10/10	10/13	Germany		564.00		80.00		51.00		695.00
Jane S. Fisher	10/8	10/10	Austria		352.00		[3] 8,450.00				8,802.00
	10/10	10/13	Germany		564.00		80.00		51.00		695.00
Erika B. Schlager	10/8	10/10	Austria		352.00		[3] 8,450.00				8,802.00
	10/10	10/13	Germany		564.00		80.00		51.00		695.00
Henry H. Janin	10/8	10/10	Austria		704.00		[3] 8,450.00				9,154.00
	10/12	10/13	Germany		188.00						188.00
Samuel G. Wise	9/14	10/17	Vienna, Austria		[6] 1,856.00		[7] 1,392.00				3,248.00
	10/25	12/19	Vienna, Austria		[6] 3,283.00		[7] 1,049.00				4,332.00
Robert A. Hand	9/14	12/19	Vienna, Austria		12,008.00		[7] 1,392.00				13,400.00
Ronald J. McNamara	9/19	12/19	Vienna, Austria		11,476.00		[7] 1,186.00				12,662.00
Meredith B. Brown	9/19	12/19	Vienna, Austria		11,598.00		[7] 1,186.00				12,784.00
Michael J. Ochs	11/30	12/18	Soviet Union		3,186.00		[7] 1,449.00		[8] 100.00		4,735.00
	12/18	12/19	London, England		242.00						242.00
John J. Finerty	11/30	12/18	Soviet Union		3,186.00		[7] 1,546.00		[8] 3.00		4,735.00
	12/18	12/19	London, England		242.00						242.00
Catherine Cosman	11/30	12/18	Soviet Union		3,186.00		[7] 1,546.00		[8] 3.00		4,735.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1987—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	12/18	12/19	London, England		242.00						242.00
R. Spencer Oliver	12/10	12/12	Brussels, Belgium		435.00		[7] 3,907.00				4,342.00
	12/13	12/16	Vienna, Austria		408.00						408.00
Committee totals					57,360.00		70,118.00		361.00		127,839.00

[1] Per diem constitutes lodging and meals. [2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended. [3] Round trip military. [4] One-way military. [5] One-way commercial. [6] One-half per diem. [7] Round trip commercial. [8] Ground transportation and food costs.

STENY H. HOYER, Feb. 10, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON HUNGER, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Jeffrey Clark	1/12	1/13	Italy		200.00						200.00
	1/14	1/21	Angola		1,700.00						1,700.00
	1/21	1/22	Brazil		200.00		4,254.00				4,454.00
Edward Swanson	1/12	1/13	Italy		200.00						200.00
	1/14	1/21	Angola		1,700.00						1,700.00
	1/12	1/22	Brazil		200.00		4,254.00				4,454.00
Robert Jackson	1/12	1/13	Italy		200.00						200.00
	1/14	1/21	Angola		1,700.00						1,700.00
	1/21	1/22	Brazil		200.00		4,254.00				4,454.00
Committee total					6,300.00		12,762.00				19,062.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MICKEY LELAND, Chairman, Feb. 4, 1988.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3040. A letter from the Deputy Secretary of Agriculture, transmitting a draft of proposed legislation to amend the United States Grain Standards Act to extend through September 30, 1993, the authority contained in section 155 of the Omnibus Reconciliation Act of 1981 and Public Law 98-469 to charge and collect inspection and weighing fees, and for other purposes; to the Committee on Agriculture.

3041. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a copy of the report on the coproduction or coassembly of the M1 or the M1A1 tank, pursuant to Public Law 100-180, section 1023; to the Committee on Armed Services.

3042. A letter from the Secretary of Education, transmitting a copy of notice of final priority for the Fund for the Improvement of Postsecondary Education [FIPSE] Lectures Program for fiscal year 1988, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3043. A letter from the Secretary of Education, transmitting a copy of final regulations—assistance for local educational agencies in areas affected by Federal activities and arrangements for education of children where local educational agencies cannot provide suitable free public education, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3044. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report of the agency's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3045. A letter from the Administrator, Small Business Administration, transmitting a report of the agency's action taken to increase competition for contracts during fiscal year 1987, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

3046. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting a report of the Corporation's compliance with the Government in the Sunshine Act during calendar year 1987, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3047. A letter from the Chairman, Federal Election Commission, transmitting a report of the Commissions activities under the Freedom of Information Act during 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3048. A letter from the Executive Secretary, Office of the Secretary, Department of Defense, transmitting the Department's annual report of its activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3049. A letter from the Executive Director, Pension Benefit Guaranty Corporation, transmitting a report of the Corporation's actions taken to increase competition for contracts during fiscal year 1987, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

3050. A letter from the Secretary to the Board, U.S. Railroad Retirement Board, transmitting the Board's report of its activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3051. A letter from the Administrator, General Services Administration, transmitting an informational copy of a lease-purchase prospectus for Foley Square in New York City, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

3052. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting a draft of proposed amended legislation to authorize appropriations for the Nuclear Regulatory Commission for fiscal year 1989 and for other purposes, pursuant to 31 U.S.C. 1110; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BOEHLERT:

H.R. 4074. A bill to amend the Federal Aviation Act of 1958 to provide for use of the Nation's airports on a cost-recovery basis; to the Committee on Public Works and Transportation.

By Mr. HUGHES (for himself, Mr. Saxton, Mr. Carper, Mr. Dyson, Mr. Howard, and Mr. Smith of New Jersey):

H.R. 4075. A bill to impose special fees on the ocean disposal of municipal sludge, to prohibit disposal of municipal sludge into the ocean after December 31, 1991, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BOUCHER (for himself and Mr. Dingell):

H.R. 4076. A bill to amend title 18, United States Code, to extend penalties for the operation of a locomotive, and to provide increased penalties for the operation of a common carrier, under the influence of alcohol or drugs if such operation results in serious bodily injury or death; to the Committee on the Judiciary.

By Mrs. BOXER:

H.R. 4077. A bill to permit persons who will be eighteen years of age on the date of a Federal election to vote in the related primary election; to the Committee on House Administration.

By Mr. CROCKETT (for himself, Mr. Dymally, Mr. Frank, Mr. Fauntroy, Mr. Hawkins, Mr. Hayes of Illinois, Mr. Gonzalez, Mr. Savage, Mr. Wheat, Mr. Owens of New York, Mr. Bonior of Michigan, Mr. Clay, Mr. Leland, Mr. Rahall, Mr. Morrison of Connecticut, Mr. Bates, Mr. Rangel, and Mr. Conyers):

H.R. 4078. A bill to repeal the Anti-Terrorism Act of 1987; to the Committee on Foreign Affairs.

By Mr. DioGUARDI:

H.R. 4079. A bill to amend the Immigration and Nationality Act to provide lawful temporary resident status for certain aliens based upon petitions submitted to the Attorney General on behalf of such aliens by sponsoring employers and labor unions, and for other purposes; to the Committee on the Judiciary.

H.R. 4080. A bill to provide for the legalization of certain aliens and to provide for units of assessment to determine the qualification of aliens for such benefit; to the Committee on the Judiciary.

H.R. 4081. A bill to authorize the original entlistment of certain aliens in the armed forces of the United States and the militias of the several States, to provide temporary and permanent resident status to such enlisted members, and for other purposes; jointly, to the Committees on Armed Services and the Judiciary.

By Mr. DUNCAN:

H.R. 4082. A bill to amend the Internal Revenue Code of 1986 to provide that the Internal Revenue Service may waive interest on underpayments attributable to retroactive tax legislation; to the Commitee on Ways and Means.

By Mr. EDWARDS of California (for himself, Mrs. Schroeder, Mr. Pashayan, Mr. Solarz, Mr. Horton, and Mr. Dymally):

H.R. 4083. A bill to amend title 5, United States Code, to authorize the establishment of the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. GARCIA:

H.R. 4084. A bill to amend the Bretton Woods Agreements Act to require the United States Executive Director of the International Monetary Fund to propose the establishment of an independent audit unit within the Fund; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HUTTO (for himself, Mr. Jones of North Carolina, and Mr. Davis of Michigan):

H.R. 4085. A bill to authorize appropriations for the Coast Guard for fiscal year 1989, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. KASTENMEIER:

H.R. 4086. A bill to amend title 35, United States Code, to set forth the basis for determining whether a person has engaged in conduct constituting misuse or illegal extension of a patent, and for other purposes; to the Committee on the Judiciary.

By Mr. KENNEDY:

H.R. 4087. A bill to provide for adjustment of status of certain aliens who arrived in the United States before September 1, 1987, and who have continously resided in the United States since such date; to the Committee on the Judiciary.

By Mr. KOLTER:

H.R. 4088. A bill to amend the Internal Revenue Code of 1986 to terminate the exclusion from gross income of Americans working abroad, and for other purposes; to the Committee on Ways and Means.

By Mr. MARKEY (for himself and Mr. Rinaldo):

H.R. 4089. A bill to coordinate the regulatory authority of the Federal Energy Regulatory Commission with that of State or local regulatory agencies relative to service which would bypass local utility service and to facilitate the resolution at the State or local regulatory level of competition policy issues relating to local service; to the Committee on Energy and Commerce.

By Mr. RAY (for himself, Mr. Hatcher, Mr. Combest, Mr. Barnard, Mr. Kyl, Mr. Lagomarsino, Mr. Marlenee, Mr. Montgomery, Mr. Rowland of Georgia, Mr. Sisisky, Mr. Sundquist, Mr. Wilson, and Mr. Stenholm):

H.R. 4090. A bill to amend the Solid Waste Disposal Act to modify the requirements respecting liability insurance for underground storage tanks, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SCHUETTE:

H.R. 4091. A bill to provide for the issuance of educational savings bonds a portion of the interest on which is exempt from taxation, and for other purposes; to the Committee on Ways and Means.

By Mr. SMITH of New Jersey:

H.R. 4092. A bill to continue until January 1, 1990, a reduced rate of duty on ceramic statues, statuettes, and hand-made flowers; to the Committee on Ways and Means.

By Mr. ROBERT F. SMITH (for himself and Mr. Denny Smith):

H.R. 4093. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Umatilla Basin Project, OR, and for other purposes; to the Committee on Interior and Insular Affairs.

By Ms. SNOWE (for herself and Mr. Brennan):

H.R. 4094. A bill to require the provision of certain employee protection arrangements in certain railroad transactions involving parties under common control unless the Interstate Commerce Commission imposes employee protection arrangements within 6 months; to the Committee on Energy and Commerce.

By Mr. SOLOMON:

H.R. 4095. A bill to reform procedures for the imposition of capital punishment, and for other purposes; to the Committee on the Judiciary.

H.R. 4096. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mrs. VUCANOVICH (for herself and Mr. Bilbray):

H.R. 4097. A bill to direct the Secretary of the Interior to transfer a certain parcel of land in Clark County, NV; to the Committee on Interior and Insular Affairs.

By Mr. WALGREN (for himself, Mr. Thomas A. Luken, Mr. Mazzoli, Mr. Hubbard, Mr. Gray of Illinois, Mr. Applegate, Mr. Murphy, and Mr. Gaydos):

H.R. 4098. A bill to amend the provisions of the Solid Waste Disposal Act regarding the regulation of storage tanks containing hazardous substances; to the Committee on Energy and Commerce.

By Mr. EDWARDS of Oklahoma:

H.J. Res. 484. Joint resolution to provide assistance and support for peace, democracy and reconciliation in Central America; considered and amended; failed of passage.

By Mr. DINGELL (for himself and Mr. Shuster):

H.J. Res. 485. Joint resolution designating June 26 through July 2, 1988, as "National Safety Belt Use Week"; to the Committee on Post Office and Civil Service.

By Mr. JONES of North Carolina (for himself, Mr. Biaggi, Mr. Anderson, Mr. Studds, Mr. Hubbard, Mr. Lowry of Washington, Mr. Hutto, Mr. Tauzin, Mr. Hertel, Mr. Dyson, Mr. Borski, Mr. Carper, Mr. Tallon, Mr. Thomas of Georgia, Mr. Manton, Mr. Brennan, Mr. Hochbrueckner, Mr. Davis of Michigan, Mr. Young of Alaska, Mr. Fields, Mr. Lent, Mr. Bateman, Mr. Miller of Washington, Mrs. Bentley, Mr. Coble, Mr. Weldon, and Mrs. Saiki):

H.J. Res. 486. Joint resolution to designate the week beginning October 30, 1988, as "National Marine Technology Week"; to the Committee on Post Office and Civil Service.

By Mr. CROCKETT (for himself, Mr. Lagomarsino, Mr. Studds, Mr. Hyde, Mr. Gejdenson, Mr. Dornan of California, Mr. Kostmayer, Mr. Mack, Mr. Weiss, Mr. DeWine, Mr. Fuster, Mr. Solarz, and Mr. Bonker):

H. Con. Res. 259. Concurrent resolution marking the fourth anniversary of the closing of ABC Color, the only independent newspaper of Paraguay; condemning the refusal of the Government of Paraguay to permit the reopening of ABC Color; and urging the Government of Paraguay to guarantee freedom of the press; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. FISH introduced a bill (H.R. 4099) for the relief of Melissa Johnson; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 387: Mr. Kostmayer, Mr. Manton, and Mr. Wolpe.

H.R. 570: Mr. Smith of New Hampshire.

H.R. 593: Mr. Lewis of Georgia.

H.R. 612: Mr. LaFalce and Mr. Thomas A. Luken.

H.R. 671: Mr. Markey.

H.R. 680: Mr. Markey.

H.R. 925: Mr. Foley.

H.R. 958: Mr. Bartlett, Mr. Chandler, Mr. Gregg, Mr. Hansen, Mr. Konnyu, and Mr. Morrison of Washington.

H.R. 1076: Mr. Bevill, Mrs. Boxer, Mr. Chappell, Mr. DeFazio, Mr. Emerson, Mr. Fauntroy, Mr. Grant, Mr. Hochbrueckner, Mr. Horton, Mr. Hughes, Mr. Hutto, Ms. Kaptur, Mr. Konnyu, Mr. Latta, Mr. Lent, Mr. Markey, Mr. Matsui, Mr. Rodino, Mr. Stark, Mr. Swift, Mr. Swindall, and Mr. Weber.

H.R. 1201: Mr. Lowry of Washington.

H.R. 1352: Mr. McHugh.

H.R. 1531: Mr. Donnelly and Mr. McCurdy.

H.R. 1580: Mr. Lantos and Mr. Donnelly.

H.R. 1597: Ms. Snowe.

H.R. 1638: Mr. Penny.

H.R. 1729: Mr. Slaughter of Virginia.

H.R. 1765: Mr. Durbin, Mr. Porter, and Mr. Myers of Indiana.

H.R. 1766: Mr. Torricelli.

H.R. 1808: Mr. McHugh.

H.R. 1832: Mr. Staggers, Mr. Lancaster, Mr. Martinez, Mr. Bereuter, and Mr. Gilman.

H.R. 1957: Mr. Rhodes, Mr. Gejdenson, Mr. Huckaby, Mr. Grandy, Mr. Dwyer of New Jersey, Mr. Gallo, Mr. Morrison of Washington, Mr. Skeen, Mr. Robert F. Smith, Mr. Borski, Mr. Donald E. Lukens, Mr. Marlenee, Mr. Walgren, Mr. Lehman of California, Mr. Brennan, Mr. Rogers, Mr. Wilson, Mr. Weldon, Mr. Hayes of Louisiana, Mr. Davis of Michigan, Mr. Lujan, Mr. Kanjorski, Mr. Carper, Mr. Brown of California, Mr. Lightfoot, Mr. Coelho, Mr. Florio, Mr. Pashayan, Mr. Barton of Texas, Mr. Gephardt, Mr. Frost, Mr. Coyne, Mr. Swindall, Mr. Shaw, Mr. Parris, Mr. Slaughter of Virginia, Mr. Coughlin, and Mr. Stenholm.

H.R. 1966: Mr. Frank, Mr. McHugh, and Mr. Owens of Utah.

H.R. 2057: Mr. Obey.

H.R. 2522: Mr. Hawkins, Mr. Bonker, Mr. Stokes, Mr. Ackerman, Mr. Coleman of Texas, Mr. Moody, Mr. Kleczka, and Mr. Sikorski.

H.R. 2532: Ms. Oakar, Mr. Jones of North Carolina, Mr. Wolpe, and Mr. Valentine.

H.R. 2640: Mr. Whitten, Ms. Oakar, Mr. Hefley, Mr. Erdreich, Mr. Wheat, Mr. Pashayan, Mr. Harris, Mr. Bevill, Mr. Jontz, Mr. Kanjorski, Mr. Staggers, Mr. Callahan, Mr. Oxley, and Mr. Craig.

H.R. 2642: Mr. Nielson of Utah.

H.R. 2666: Mr. Wortley, Mr. Berman, and Mr. Ford of Tennessee.

H.R. 2854: Mr. Atkins and Mr. Lehman of Florida.

H.R. 3250: Mr. Gordon and Mr. Lantos.

H.R. 3334: Mr. Ravenel, Mr. Gilman, and Mr. Fish.

H.R. 3390: Mr. Smith of Texas, Mr. Courter, Mr. Frank, Mr. Chandler, Mr. Fawell, Mr. Glickman, Mr. Bilbray, Mr. Oxley, Mr. Lujan, Mr. Fields, Mr. Hiler, Mr. Hefley, Mr. Henry, Mr. Roe, Mr. McEwen, Mrs. Martin of Illinois, Mr. Armey, Mr. Campbell, and Mr. Shumway.

H.R. 3490: Mr. Kemp.

H.R. 3511: Mr. Hoyer.

H.R. 3562: Mr. Bennett, Mr. Bateman, Mr. Smith of New Hampshire, Mr. Flake, Mr. Chapman, Mr. Grant, Mr. Gregg, Mr. Howard, Mrs. Schroeder, Mr. Lipinski, Mr. Hatcher, Mr. Kastenmeier, Mr. Darden, Mr. Craig, Mr. Lujan, Mr. Gilman, Mr. Martin of New York, Mr. Pursell, Mr. Roybal, Mr. Torres, Mr. Boland, Mr. Dymally, Mr. Bonior of Michigan, Ms. Slaughter of New York, Mr. Ballenger, Mr. Staggers, Mr. Frost, Mr. Hayes of Illinois, Mr. Thomas of Georgia, Mr. Bustamante, Mr. Wylie, Mr. Applegate, Mr. Nielson of Utah, Mr. Gonzalez, Mr. Murphy, Mr. Evans, Mr. Dwyer of New Jersey, Mr. Perkins, Mr. Owens of Utah, Mr. Mica, Mr. Hutto, Mr. McCloskey, Mr. Gejdenson, Mr. Harris, Mr. Rowland of Georgia, Mr. Savage, Mr. Scheuer, Mr. Sisisky, Mr. Skelton, Mr. Tallon, Mr. Davis of Illinois, Mr. Traficant, Mr. Coleman of Missouri, Mr. Leland, Mr. Gingrich, Mr. Wolpe, and Mr. Stratton.

H.R. 3588: Mr. Weiss, Mr. Owens of Utah, Mr. Berman, Mr. Jontz, and Mr. Moody.

H.R. 3602: Mr. Frank, Mr. Hall of Ohio, Mr. Ford of Tennessee, Mr. Johnson of South Dakota, and Mr. Matsui.

H.R. 3619: Mr. Alexander, Mr. Mineta, Mr. DeFazio, and Mr. Frost.

H.R. 3696: Mr. Fish and Mr. Mavroules.

H.R. 3769: Mrs. Saiki, Mr. Ford of Tennessee, Mr. Wyden, and Mr. Leland.

H.R. 3791: Mrs. Saiki and Mr. Neal.

H.R. 3844: Mr. Denny Smith, Mr. Slaughter of Virginia, Mr. Taylor, Mr. Wolpe, and Mr. Dyson.

H.R. 3878: Mr. Dowdy of Mississippi.

H.R. 3893: Mr. McEwen, Mr. Neal, Mr. Hoyer, Mr. Ballenger, Mr. Clarke, and Mrs. Byron.

H.R. 3903: Mr. Wortley.

H.R. 3907: Mr. Ballenger, Mr. Leach of Iowa, Mr. Stump, Mr. Taylor, Mr. Armey, and Mr. Ravenel.

H.R. 3951: Mr. Hall of Texas.

H.R. 3953: Mr. Rodino, Mr. Owens of New York, Mr. Solarz, Mr. Ackerman, Mr. Roe, Mr. Conte, Mrs. Schroeder, Mr. Moakley, Mr. Wise, and Mr. Garcia.

H.R. 3955: Mr. Ortiz, Mr. Synar, Mr. Chapman, Mr. Davis of Illinois, Mr. Horton, Mr. Dyson, Mr. Goodling, Mr. Nichols, and Mr. Shuster.

H.R. 4002: Mr. Gunderson and Mr. Houghton.

H.R. 4011: Mr. Harris, Mr. Glickman, Mr. Robinson, and Mr. Kasich.

H.J. Res. 48: Mr. Craig and Mr. Dyson.

H.J. Res. 148: Mr. Conte and Mr. Lantos.

H.J. Res. 232: Mr. Owens of New York and Mr. Martinez.

H.J. Res. 287: Mr. Green and Mr. Markey.

H.J. Res. 330: Mr. Fazio, Mr. Vento, Mr. Dixon, Mr. Fauntroy, Mr. Florio, Mr. Rodino, Mr. Dwyer of New Jersey, Mrs. Patterson, Mr. Neal, Mr. Evans, Mr. Feighan, Mr. Bonior of Michigan, Mr. Matsui, Mr. Skelton, and Mr. Hughes.

H.J. Res. 371: Mr. Atkins, Mrs. Collins, Mr. Evans and Ms. Pelosi.

H.J. Res. 378: Mrs. Morella, Mr. Hopkins, Mr. Hoyer, Mr. Nowak, Mr. Jones of North Carolina, Mr. Martin of New York, Mr. Cardin, Mr. Kemp, Mr. Donnelly, Mr. DioGuardi, Mr. Fazio, Mr. Davis of Michigan, Mr. Traxler, Mr. Fascell, Mr. Martinez, Mr. Goodling, Ms. Snowe, Mr. Shaw, Mr. Mack, Mr. McDade, Mr. McCloskey, Mr. Atkins, Mr. Coelho, and Mr. Feighan.

H.J. Res. 386: Mr. Feighan and Mr. Houghton.

H.J. Res. 405: Mr. Saxton, Mr. Weldon, Mr. Williams, Mr. Buechner, Mr. Erdreich, Mr. Bosco, Mr. Bliley, and Mr. Torricelli.

H.J. Res. 408: Mr. Vento, Mr. Lowry of Washington, Mr. Hefner, Mr. Brown of Colorado, Mr. Young of Florida, Mr. Boland, Mr. Lehman of Florida, Mr. Wortley, Mr. Crockett, Mr. Frost, Mr. Walgren, Mr. Richardson, Mr. Davis of Michigan, Mr. Flippo, Mr. Wise, Mr. Bennett, Mr. Gray of Pennsylvania, Mr. Mineta, Mr. Kastenmeier, Mr. Conte, Mr. Brown of California, Mr. Levin of Michigan, Mr. Towns, Mr. Russo, Mr. Kostmayer, Mr. Scheuer, Mr. Garcia, Mr. Gonzalez, Mr. Hayes of Illinois, Mr. Schaefer, Mrs. Vucanovich, Mr. Wolf, Mr. Mack, Mr. Dicks, Mr. Sunia, Mr. Coelho, Mr. Matsui, Mr. Jones of North Carolina, Mr. Tallon, Mr. Carper, Mr. Dorgan of North Dakota, Mr. Fascell, Mr. Bilbray, Mr. Boucher, Mr. Howard, Mr. Nelson of Florida, Mr. Bateman, Mr. Ortiz, Mr. Murphy, Mr. Pepper, Mr. Gray of Illinois, Mr. Hyde, Mr. DeWine, Ms. Oakar, Mr. Atkins, Mr. Oberstar, Mr. Montgomery, Mr. Bliley, Mr. Foglietta, Mr. Nichols, Mr. Bosco, Mr. Levine of California, Mr. Visclosky, Mr. Natcher, Mr. Sabo, Mr. Dowdy of Mississippi, Mr. Skelton, Mr. Volkmer, Mr. Rodino, Mr. McDade, Mr. Fuster, Mr. Cooper, Mr. Dellums, Mr. Dixon, Mr. MacKay, Mr. Akaka, Mr. Craig, Mr. Early, Mr. Torricelli, Mr. McHugh, Mr. Martin of New York, Mrs. Bentley, Mr. DioGuardi, Mrs. Lloyd, Mr. Borski, Mr. Hall of Ohio, Mr. Kolter, Mr. Bonior of Michigan, Mr. Panetta, Mr. Hamilton, Mr. de Lugo, and Mr. Ravenel.

H.J. Res. 420: Mr. Fuster, Mr. Garcia, Mr. Jenkins, Mr. Hyde, Mrs. Collins, and Mr. Rowland of Georgia.

H.J. Res. 449: Ms. Snowe, Mr. Dornan of California, Mr. Morrison of Washington, Mr. Stallings, Mr. Morrison of Connecticut, Mr. Martin of New York, Mr. Blaz, Mr. Lagomarsino, Mr. McCloskey, Mr. McDade, Mrs. Lloyd, Mrs. Patterson, Mr. Fawell, Ms. Pelosi, Mr. LaFalce, Mr. Smith of Florida, Mr. Daub, Mr. Fuster, Mr. Weiss, Mr. Skelton, Mr. Smith of New Jersey, Mr. Chapman, Mr. Ackerman, Mr. Bevill, Mr. Ray, Mrs. Boxer, Mr. Evans, Mr. Dwyer of New Jersey, Mr. Owens of Utah, Mr. McMillen of Maryland, Mr. Neal, Mr. McGrath, Mr. Moorhead, Mr. Atkins, Mr. Thomas of Georgia, Mr. Tallon, Mr. Owens of New York, Mr. Lehman of Florida, Mr. Roe, Mr. Valentine, Mr. Hall of Texas, Mr. Wolf, Mr. Rodino, Mr. Moakley, Mr. Bliley, Mr. Mrazek, Mr. Chappell, Mr. Gray of Illinois, Mr. Hatcher, Mr. Florio, Mr. Schuette, Mr. Hutto, Mr. Denny Smith, Mr. Kostmayer, Mr. Fauntroy, Mr. Levin of Michigan, Mr. Porter, Ms. Kaptur, Mr. Horton, Mr. Wortley, Mrs. Martin of Illinois, Mr. Rangel, and Mr. Bryant.

H.J. Res. 453: Mr. Wolf, Mr. Brown of California, Mr. Ravenel, Mr. Horton, Mr. Grant, Mrs. Boxer, Mr. Fawell, Mr. Kildee, Mr. Russo, Mr. Hiler, Mr. Martin of New York, Mr. Hall of Ohio, Mr. Richardson, Mr. Erdreich, Mr. Montgomery, Mr. Jenkins, Mr. Tallon, Mr. Daub, Mr. Oxley, Mr. Hyde, Mr. Wolpe, Mr. Thomas of Georgia, Mr. Roe, Mr. Michel, Mr. Kasich, Mr. Akaka, Mr. Manton, Mrs. Roukema, Mrs. Lloyd, Mr. Yatron, and Mr. Craig.

H.J. Res. 464: Mrs. Boxer, Mr. Florio, Mr. Schuette, Mr. Volkmer, Mr. Weiss, Mr. Campbell, Mr. Neal, Mrs. Collins, Mr. DeFazio, Mr. Quillen, and Mr. Brown of Colorado.

H.J. Res. 476: Mrs. Kennelly, Mr. Wyden, and Mr. Pursell.

H. Con. Res. 67: Mr. Gallegly and Mr. Gilman.

H. Con. Res. 126: Mr. Tauzin, Mr. Gray of Illinois, Mr. Henry, Mr. Young of Alaska, Mr. HATCHER, Mr. MURPHY, Mr. RODINO, Mr. WALGREN, Mrs. KENNELLY, Mr. BROWN of California, Mr. DYMALLY, Mr. PASHAYAN, Mr. JACOBS, Mr. SCHUETTE, Mr. TAYLOR, Mr. SMITH of New Jersey, Mr. NIELSON of Utah, Mr. BUECHNER, Ms. OAKAR, Mr. BRENNAN, Mr. DONNELLY, Mr. BRYANT, Mr. ARMEY, Mr. MCGRATH, Mr. WEISS, Mr. ROWLAND of Connecticut, Mr. MORRISON of Connecticut, Mr. FISH, Mr. EMERSON, and Mr. GEJDENSON.

H. Con. Res. 239: Mr. MILLER of Washington, Mr. MILLER of California, Mr. CLARKE, Mr. KOSTMAYER, Mr. ROE, Mr. PORTER, Mr. HOCHBRUECKNER, Mr. LAGOMARSINO, Mr. LEVIN of Michigan, Mr. HARRIS, Mr. CONTE, Mr. BILBRAY, Mr. JONTZ, Mr. WORTLEY, Mr. OWENS of New York, Mr. RODINO, Mr. CLAY, Mr. LOWRY of Washington, Mr. GREEN, Mr. BONIOR of Michigan, and Mr. ATKINS.

H. Con. Res. 252: Mr. FIELDS, Mr. RICHARDSON, and Mr. ARCHER.

H. Res. 300: Ms. PELOSI and Mr. VENTO.

H. Res. 306: Mr. BRYANT.

H. Res. 350: Mr. PACKARD.

H. Res. 392: Mr. HYDE, Mr. HUNTER, Mr. WORTLEY, Mr. FAWELL, Mr. JOHNSON of South Dakota, and Mr. DYSON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows.

H.R. 1049: Mr. GOODLING.

EXTENSIONS OF REMARKS

CIVIL RIGHTS RESTORATION ACT

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. MATSUI. Mr. Speaker, by voting today to enact the Civil Rights Restoration Act, we will restore this Nation to the path toward equal rights for all of its citizens. Should this bill be defeated, our Government will stray into tolerating prejudice, undermining equality, and even funding organizations that practice discrimination.

We must approve this legislation if we are to restore the original intent and spirit of the 1972 Education Amendments and the Civil Rights, Rehabilitation, and Age Discrimination Acts. These landmark pieces of legislation, laws which have made this country a bastion of liberty and equality, have been seriously weakened by the Grove City decision.

Mr. Speaker, I urge my colleagues to consider the words of the late John F. Kennedy, who said:

> Justice requires us to insure the blessings of liberty for all Americans and their posterity—not merely for reasons of economic efficiency . . . and domestic tranquility—but, above all, because it is right.

For this reason, "because it is right," we must vote today to pass the Civil Rights Restoration Act.

CIVIL RIGHTS RESTORATION ACT

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. BONKER. Mr. Speaker, the Civil Rights Restoration Act is one of the most significant civil rights bills to come before the Congress in the past 20 years.

In simple terms, the bill would restore the original intent of several landmark antidiscrimination laws, reaffirming that no institution that receives any form of Federal funds can engage in discrimination on the basis of race, color, age, or gender.

Mr. Speaker, in 1964, Congress passed the Civil Rights Act in an effort to eliminate discrimination in voting, education, housing, public accommodations, and other settings. The clear purpose of this legislation was to prevent federally funded institutions from using taxpayers' dollars to advance discrimination.

Later, Congress passed additional antidiscrimination laws to prevent gender discrimination in educational institutions. Title IX of the Education Amendments of 1972 was designed to insure that educational institutions receiving Federal financial assistance could not discriminate on the basis of gender.

On February 28, 1984, the scope of these landmark antidiscrimination laws was dramatically curtailed by a Supreme Court ruling. In the Grove City College versus Bell case, the Supreme Court found that the title IX antidiscrimination law applied only to the specific "program" that was receiving the funds, and did not mandate compliance by the entire institution. In the case of Grove City College, the Court decided that only the Pell grant or guaranteed student loan program that received Federal funds would be subject to the antidiscrimination provisions of title IX. In other words, all other programs were free to discriminate on the basis of gender.

I strongly disagree with the Court's interpretation, and support efforts to restore the original intent of Congress, that any part of any institution receiving Federal funds cannot discriminate on the basis of race, color, gender, age, or any other factor.

As this legislation has moved forward, questions have arisen on the issue of whether or not the bill would require hospitals receiving Federal funds to provide abortions or related services. The central question is whether a health facility operated by a religious group would be required to provide abortion services if those services run counter to their deeply held beliefs, while existing law does require that these services be provided for patients, exemptions for religious affiliates have always been in place. The legislation before the House today simply continues existing policy, granting an exemption only to "an educational institution which is controlled by a religious organization if the application of this subsection (in title IX) would not be consistent with the religious tenets of such organization. . . ."

The bill would maintain stringent criteria to insure that this religious exemption is not used as a loophole for institutions to circumvent our antidiscrimination statutes. It is interesting to note that, currently, there are no exemption requests pending.

I understand the strong feelings on both sides of this issue, and I think that the legislation strikes the appropriate balance. This bill should protect the rights of religious-oriented health facilities, but still protect the right of patients to choose abortion if they believe it is the most appropriate procedure for their health care needs.

Beyond this difficult question, the Civil Rights Restoration Act is a straightforward and important bill. By passing the Civil Rights Restoration Act today, we will extend our antidiscrimination laws to ensure that any organization that receives Federal assistance will be unable to use Federal funds to discriminate. This legislation will restore our effective antidiscrimination laws as they existed prior to the Grove City decision.

I urge Members to support the Civil Rights Restoration Act.

CIVIL RIGHTS RESTORATION ACT

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. ROYBAL. Mr. Speaker, 4 years ago, the Supreme Court issued a ruling in the Grove City College case that has had a devastating impact on enforcement of our Federal antidiscrimination laws. The decision was completely contrary to the original intent of Congress, as I can unequivocally testify, having been there when these laws were passed. It is disgraceful that we have not yet been able to clear legislation overturning that ruling.

For years, opponents have been able to stall the Civil Rights Restoration Act by predicting all kinds of dire consequences if it should pass. Those of us who have long championed civil rights legislation have seen these tactics too many times before. In spite of their attempts to obscure their motives, it was clear that the main purpose of the tirades against the bill was to torpedo any legislation to restore the broad applicability of the antidiscrimination laws.

If there were any doubts about the true motives of most opponents of the Grove City bill, none should remain after the communication we have all received this week. Opponents are still using the same scare tactics as an excuse to campaign against S. 557. They have just had to shift their focus, since an amendment clearly resolving their primary concern has been adopted.

Please do not be misled by these tactics. Let us not turn back the clock on a quarter century of progress in the struggle to ensure equal opportunity for all—especially when so much remains to be done. As we salute the accomplishments of individuals as diverse as Olympic skater Bonnie Blair, our distinguished colleague Representative CLAUDE PEPPER, Redskins quarterback Doug Williams and actress Marlee Matlin, let us not forget the millions of Americans who depend on Federal laws prohibiting discrimination because of sex, age, race, or disability to ensure them a fair shake. I urge your support of S. 557.

CIVIL RIGHTS RESTORATION ACT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. STOKES. Mr. Speaker, S. 557, the Civil Rights Restoration Act, reaffirms the intent and scope of our Nation's civil rights laws. Moreover, the time for such a reaffirmation is now.

Four years ago, the Supreme Court seriously narrowed the scope of Federal antidiscrimination laws. In Grove City College versus Bell, the Court held that Federal laws prohibiting discrimination do not apply to entire institutions, but only apply to the program or activity receiving Federal assistance. This holding has seriously diluted the substantive provisions of title IX of the Education Amendments of 1972; the Civil Rights Act of 1964, which prohibits discrimination based on race; the Rehabilitation Act of 1974, which prohibits discrimination against disabled persons and the Age Discrimination Act of 1975 which prohibits discrimination against the elderly.

As a result of the Grove City decision, Federal funds—taxpayers' money—have been used to subsidize discrimination in many instances. Consider, for example, the case which involved a first-year medical student at the University of California at Davis. In that case a young woman alleged that she had been sexually harassed by a professor who made explicit sexual remarks to her, offered to give her better grades in exchange for sexual favors, and finally threatened to use his alliances with other professors to manipulate her grades. Even though the medical school received Federal funding through the Department of Education, no money had been earmarked for the educational program for first year students or the Department of Surgery in which the professor taught. Consequently, the Office of Civil Rights closed the case in January 1986 because it decided the Grove City "program or activity" requirement could not be satisfied.

Consider, also, that since the Supreme Court handed down the Grove City decision in 1984, the Department of Education and the Office of Civil Rights have dropped an overwhelming number of discrimination cases. In a recent report published by the leadership conference on civil rights, it is noted that over 800 discrimination cases were closed or scaled back between 1984 and 1986.

Not only am I deeply disturbed by these developments, but such occurrences contradict the spirit and purpose of the laws Congress has enacted to ensure the provision of equal rights and opportunity to disadvantaged groups in education, and other areas.

When we look at the legislative history of the Civil Rights Act of 1964, we see that Congress intended that this legislation be given broad coverage. In 1963, when President John F. Kennedy submitted the Civil Rights Act to Congress, he said:

> Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes or results in racial discrimination. Direct discrimination by Federal, State or local governments is prohibited by the Constitution. But indirect discrimination, through the use of Federal funds, is just as invidious, * * *

Mr. Speaker, keeping this legislative history in mind, I would like to encourage and offer support for the expeditious passage of S. 557, the Civil Rights Restoration Act, without amendment. By taking such action today, we take one step closer to sealing the chasm, running long and deep, which continues to separate minorities, women, disabled persons and the elderly from participating in and enjoying many of the activities our Nation has to offer.

CIVIL RIGHTS RESTORATION ACT

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday March 2, 1988

Mr. DREIER of California. Mr. Speaker, I rise in opposition to S. 557, the Civil Rights Restoration Act, and in support of the Michel substitute. There is a need to strengthen and expand coverage of the four civil rights statutes banning various forms of discrimination in programs and activities that receive Federal funds. However, I am troubled by various aspects of S. 557 as it seeks to expand Federal jurisdiction far beyond the pre-Grove City coverage. When we expand Federal authority, we expand the burdens that go with it and we had better be sure a need exists. The record does not justify the far-reaching expansion of S. 557.

First, it is hard for me to believe that this legislation, which the Department of Justice describes as "a vast expansion of Federal power over State and local governments and the private sector, including churches and synagogues, farmers, businesses, voluntary associations, and private and religious schools," is being voted on without ever receiving a congressional hearing in this Congress. I think this is an irresponsible way to pass the greatest expansion of civil rights legislation in two decades.

Second, I do not believe that S. 557 adequately protects the free exercise of religious beliefs. In 1972, when Congress enacted title IX, which bans sex discrimination in education programs or activities receiving Federal financial assistance, it adopted an exemption to educational institutions controlled by a religious organization. Many educational institutions were controlled by religious organizations at that time. Today, many of these institutions, while they retain their tie with religious tenets, are governed by boards, consisting of many lay persons.

The religious tenets exemption would no longer apply to these institutions. The religious tenets exemption is a very narrow exemption which recognizes religious freedom and religious beliefs. These church colleges and universities are freely chosen by students, often times for the family and religious values they teach in addition to a traditional education. To deny these institutions an exemption would be to deny them the freedom to teach the values and tenets that they believe in.

Third, I am concerned about the impact of this legislation on small businesses. S. 557 would require expansive new Federal control of private employment practices, increased Federal paperwork requirements, random onsite compliance reviews by Federal agencies, thousands of pages of Federal regulations, costly structural and equipment modifications, and more. Rather than protecting the disadvantaged in our society, S. 557 represents a threat.

The response of many small business employers to the imprecise and subjective language in this bill would be to withdraw from participation in Federal job programs, training programs, and social service programs because of the potential costs, administrative burdens, and legal liabilities. I do not think it is our intention to have the corner grocery store refuse food stamps because they cannot afford to build a ramp and widen store aisles to accomodate wheelchairs. Yet, this may well be the outcome of S. 557 as written.

Mr. Speaker, S. 557 is simply too far reaching. I urge my colleagues to support the Michel substitute, as it is the ideal bill which limits the jurisdiction of Federal statutes to that originally intended before Grove City, and protects our freedom of religion.

CIVIL RIGHTS RESTORATION ACT

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. ATKINS. Mr. Speaker, I rise in strong support of the Civil Rights Restoration Act.

Over the last 25 years, the Federal Government has led the way in removing discrimination and prejudice in our society. But since the Grove City decision, the Federal Government's role in enforcing civil rights laws has been severely restricted.

Since 1984, the Education Department alone has dropped its investigation into 834 complaints because of Grove City. More than 100 complaints to the Department of Housing and Urban Development have been affected by Grove City. Again and again, individuals who have been discriminated against have turned to this Government. Again and again, they have heard this answer: "Sorry, we have no jurisdiction. Case closed."

This situation is intolerable in the United States. And there is only one way for it to be corrected. The Congress must pass this bill. We have a duty to fulfill in restoring basic rights to all Americans.

I urge my colleagues to support the bill.

CIVIL RIGHTS RESTORATION ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. MILLER of California. Mr. Speaker, I rise today in strong support of the Civil Rights Restoration Act, legislation which will reaffirm the principle that Federal funds should not be used to support discrimination on the basis of race, color, national origin, sex, disability, or race. As an original cosponsor of this legislation and similar bills in the 98th and 99th Congresses, I feel strongly that the time to restore these basic protections is long overdue.

Twenty years ago, the Kerner Commission warned us that "our Nation is moving toward two societies, one black, one white—separate and unequal." Regrettably, in 1988 we find that we are still a nation divided by racism. Although Jim Crow may no longer be with us, discrimination persists no less invidiously in our communities. It has surfaced recently in Howard Beach, NY, and Forsyth County, GA, at the Universities of Massachusetts and Michigan, and the Citadel. It is a daily fact of life for black and Hispanic children in low-income neighborhoods across the country. A decade ago, we thought that racism, if not cured, was certainly in remission. Today, the cancer of racism continues to eat away at our Nation.

Four years ago, the Supreme Court issued an opinion in the case of Grove City College versus Bell which made a mockery of Federal civil rights enforcement. At issue in the Grove City case was whether Grove City College, which received Federal assistance only in the form of student financial aid, was barred from discriminating on the basis of sex under title IX of the 1972 Education Amendments. While the Court ruled that the title IX did, in fact, apply to the college, the Court ruled that the statute's application was limited to the department that directly received the Federal aid—in this case, the financial aid office.

The Court's decision reversed the record of a decade during which Democratic and Republican administrations alike had enforced title IX in all programs or activities of any educational institution receiving Federal funds. It defied the logic that such funds flow through entire institutions and support all activities either directly or indirectly. It thwarted the intent of Congress that where taxpayer dollars go, taxpayer prohibitions on discrimination must follow.

As devastating as the Court's decision initially appeared, it soon became obvious that the damage was even more extensive. Because title IX, which bars sex discrimination in education, was modeled closely after the title VI of the 1964 Civil Rights Act and is similar in design to section 504 of the 1973 Rehabilitation Act designed to protect the disabled, and the Age Discrimination Act, coverage and enforcement of these three laws was also thrown into question.

Since 1984, claims of discrimination on the basis of race, sex, age, and disability have gone unaddressed because Federal funds could not be traced directly to the allegedly culpable department or program even if the institution itself received large amounts of Federal support. Just 1 week after the Grove City decision, the U.S. Department of Education dropped sex discrimination charges against the University of Maryand's intercollegiate athletics program because it was not a direct recipient of Federal funds. Despite clear evidence of discrimination, female athletes and coaches had no avenue of recourse. As of September 1986, by the Department's Office of Civil Rights own account, 674 complaints—alleging violations of all four statutes—had been closed or scaled back as a result of the ruling. Eighty-eight compliance reviews were dropped and another 72 were narrowed.

Enforcement has been affected at other Federal agencies as well. In 1987, the Department of Housing and Urban Development reported that since March 1985 more than 100 complaints under section 504 had been affected by the Grove City and related Consolidated Rail versus Darrone, 1984, decisions. Health facilities have also cited the decision in defense against complaints of section 504 violations under the jurisdiction of the Department of Health and Human Services.

In short, the Grove City decision has undone two decades of progress in protecting the rights of our Nation's most vulnerable and historically disenfranchised citizens. As chairman of the Select Committee on Children, Youth and Families, I am especially concerned about its impact on our young people. How can we explain to black and Hispanic children, to girls, and to disabled children that their civil rights are protected only some of the time? How do we tell these children that the principle of equality matters only when Federal funds are specifically engaged?

Mr. Speaker, we have heard arguments that the Civil Rights Restoration Act is a thinly veiled attempt to expand the power of the Federal Government into uncharted territory. In truth, this legislation simply restores the coverage of civil rights laws to exactly their scope prior to the Grove City decision.

We have also been told by this legislation's critics that it will impose new paperwork burdens on Federal agencies and recipients of Federal funds. In truth, the Grove City decision has created an administrative nightmare, just as former Education Secretary Terrel Bell predicted. Where agencies once conducted periodic compliance reviews, now they must trace Federal funds to each program or activity they wish to investigate. The paperwork for recipients has also increased as they are asked to show precisely where Federal funds are being used.

Finally, I would like to comment on two changes made by the Senate during its consideration of this legislation. First, I regret that the bill sent to us repeals the longstanding title IX regulations, issued by the Ford administration, that protect students and employees from abortion-related discrimination in education programs. It is lamentable that in an effort to restore some rights we have been forced to place limits on others.

On a more positive note, the Senate approved an amendment which codifies the well-reasoned *School Board of Nassau County* v. *Arline* decision (107 S.Ct. 1123 (1987)) which provides protection to persons who have contagious diseases or infections. In that 7-2 decision handed down by the Supreme Court on March 3, 1987, the Court concluded that because persons with contagious diseases are considered handicapped under section 504 of the Rehabilitation Act, they have the right to have their cases heard and decided on their merits.

The Court further concluded that a handicapped person is not automatically entitled to relief; there still must be an individualized determination that he or she is otherwise qualified. In employment, this means that the individual can, with reasonable accommodation, perform the essential functions of the job without risking the health or safety of others. In addition, the decision as to whether there is a health or safety risk must be made on the basis of sound medical judgment, rather than on generalizations or irrational fears. Only those handicapped persons with a contagious disease who can demonstrate that they do not pose such a risk to others are entitled to a job or to participate in programs or activities receiving Federal financial assistance.

By codifying the Arline decision, this bill strikes the proper balance between protecting the civil rights of those with contagious diseases and infections, and the health and safety of those who come in contact with them. I ask that my colleagues note that the new language added by the Senate changes nothing with respect to current law and is not intended to displace the two-step process or the reasonable accommodations requirement under section 504.

Mr. Speaker, when we speak of civil rights, we speak of human lives and dreams. Broad coverage and strong enforcement of these statutes have allowed children, black and white, male and female, handicapped and able-bodied, to reach their full potential and to fulfill the American dream.

If we do not pass the Civil Rights Restoration Act, how can we expect today's children to believe in the principles of justice, freedom, and equality and to carry our Nation into the 21st century. Are we prepared to tell a sick black child that the hospital refuses to treat him because of the color of his skin? Are we prepared to tell a little girl that she cannot be an astronaut or an engineer? Are we prepared to tell handicapped children that they can never attend school with their peers?

Mr. Speaker, enactment of the Civil Rights Restoration Act is imperative. I urge my colleagues to join me in voting for its passage.

CIVIL RIGHTS RESTORATION ACT

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. PICKLE. Mr. Speaker, with the decision of the Supreme Court in Grove City College versus Bell, the basic civil rights laws of this Nation were set back by many years. This single incident holds the potential of making the Federal Government powerless in preventing discrimination in agencies, State and local governments, and other organizations operating with the assistance of Federal money.

I support the Civil Rights Restoration Act because I believe our civil rights laws have been seriously weakened. This is evident by the fact that numerous antidiscrimination suits have been dropped by the Justice Department. I believe now, as I did when I supported the original Civil Rights acts, that the Federal Government does have a role to serve in the fight against discrimination. That role should never again be reduced to the level established by the Supreme Court in Grove City College versus Bell.

I personally voted on all of the Civil Rights laws in discussion here today and I can attest to the fact that the intent of Congress was for these laws to prohibit discrimination in any organization that receives Federal assistance. I believe this measure will clarify the original intent of the civil rights laws and I urge my colleagues to join me in voting in favor of this bill.

CIVIL RIGHTS RESTORATION ACT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. CONYERS. Mr. Speaker, today we consider the single most important civil rights legislation of the 100th Congress: the Civil Rights Restoration Act of 1988.

The bill amends four major civil rights statutes to prohibit all the operations of an institution, not just specific operations, that receive Federal funds, from discriminating on the basis of race, age, gender, or disability.

We consider today a principle that I believe is fundamental to the American constitutional scheme, and to the role of government: Government should never support or subsidize discriminatory practices in any way whatsoever, and should do everything it can to eliminate the unfair and un-American results of discrimination.

Presidents Kennedy, Johnson, Nixon, Ford, and Carter all also believed that. That is why their administrations followed broad based interpretation of the civil rights statutes that we today seek to codify. Both the House and Senate, after 4 years of hearings and debate have voted overwhelmingly in favor of broad coverage.

A recent Supreme Court Decision, Grove City versus Bell, interpreted the civil rights laws as they were written to apply only to recipient operations and not the entire institution. This legislation overturns that decision, and the opportunities for discrimination and unequal access that the decision created.

Consider the everyday importance of the law:

A black man could be denied hypertension medication in a large clinic receiving Federal funds if those funds were not earmarked for hypertension treatment.

A victim of sexual harassment in a classroom would not be protected if Federal construction funds received by the school were not used to construct the building in which that classroom is located.

A qualified disabled employee could be denied a promotion in a nursing home corporation if the specific department involved received no Federal money though the corporation was a recipient of such funds.

An older couple could be denied flu shots in a privately built city clinic which decides to reserve vaccine for the so-called working-age population, even if the city health department got Federal health funds.

Literally hundreds of discrimination suits before the courts and administrative agencies have been dropped already—even when discrimination was found—due to the Grove City decision. According to the Department of Education's Office of Civil Rights, 834 cases in the administrative enforcement process have been affected between 1984 and 1986. Consider the kinds of cases and instances of discrimination we are debating:

A black high school student ranked fifth in her class who sued her school's chapter of the National Honor Society for allegedly denying her admission into the program due to race. The Office of Civil Rights dropped the suit because the alleged discrimination did not occur in a program directly receiving Federal assistance.

A first year medical student's charges that she had been sexually harassed by a professor who offered her good grades in exchange for sexual favors and who threatened to have other professors manipulate her grades were dismissed because no Federal money was earmarked for first year students or the department in which the professor taugh.t

The Office of Civil Rights also dismissed a suit against a community college which offered insurance policies that discriminated on the basis of age and sex, and which did not treat pregnancy and related disabilities the same as any other temporary disability. The case was closed because the college office which generated the mailing labels for the insurance company and the Dean who wrote the letter to the students to introduce the plan were not part of the program that benefitted from Federal funding.

Clearly the primary vehicles for attacking the specter of discrimination for the last 25 years have been eroded.

The effects of discrimination, race based, gender based, are clear and undeniable. Just look at statistics on employment, income, representation in professional communities. This measure stops short of affirmative measures to corrrect those wrongs, it simply helps prevent the potential for more discrimination, and their lasting effects.

The so-called abortion neutral provision, commonly known as the Danforth amendment, is unusual law, and probably redundant. Current law requires medical recipients of Federal aid to provide all the available medical services for all citizens. And America's courts have said that abortion is a legitimate and legal medical service. Once the courts have decided on issues of law, it is dangerous for Congress to decide what legal medical services are legitimate. The amendment is also unnecessary for its stated purpose of protecting organizations' ethics and principles. Religious institutions for that reason have traditionally been exempt from abortion related requirements.

The bill is not as expansive as its opponents claim:

It does not cover churches, synagogues or religious institutions in their entirety simply because one facility or program receives Federal funds; current exemption rules have worked well for more than 2 decades so there is no reason to change them now.

It does not cover farmers who receive crop-subsidies, persons receiving Social Security or Medicaid/Medicare benefits, or individuals receiving food stamps; as shown during the Senate debates, these are nonissues that have already been settled in both House and Senate report language.

For those of you who do not want to fight the old battles and reopen the healed wounds from the civil rights movement; for those of you who truly want Dr. King's vision of justice and equality to become a reality in American life, the Civil Rights Restoration Act is an essential piece of legislation. I therefore urge you to vote in favor of this bill, and to oppose any substitutes or weakening amendments.

CIVIL RIGHTS RESTORATION ACT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. MAZZOLI. Mr. Speaker, I was pleased to have been able to join with the majority of my colleagues last night in approving S. 557, the Civil Rights Restoration Act.

S. 557 makes a clear point with which I fully agree: Congress, in its various civil rights enactments, has intended that discrimination on the basis of sex, race, age, or handicap is to be broadly outlawed in all federally funded programs. S. 557 reverses the 1984 Supreme Court decision in Grove City versus Bell, which applied antidiscrimination language quite narrowly.

The addition to S. 557 of language allowing universities and hospitals, which receive Federal funds, to refuse to pay for or perform abortions broke a 4-year logjam and gave the bill an impressive winning margin in the House, 315 to 98, more than enough to override any veto.

I'm happy that Congress finally—after 4 years of effort—has reached agreement on action to overturn the Grove City decision. Action was long overdue. I urge the President to promptly sign S. 557 into law.

CIVIL RIGHTS RESTORATION ACT

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mrs. COLLINS. Mr. Speaker, in 1964 a great victory was won in the struggle for civil rights. The 1964 Civil Rights Act finally allowed the obvious to be stated clearly, once and for all—that all people are created equal regardless of race, religion, creed, or gender. And because of this equality, every person is entitled to fair and equal treatment. Finally discrimination was made illegal in this country which prides itself on its doctrine of freedom, liberty, and equality.

But in 1984 the Supreme Court began to chip away at the progress made in the struggle against discrimination. Its decision in Grove City versus Bell effectively condoned discrimination by claiming that only the particular program receiving Federal aid should be subject to scrutiny, not the institution as a whole. This decision to turn a blind eye to an overall policy of blatant discrimination was an act of regression—it turned back the clock to the days when it was permissible and acceptable to discriminate. What we are talking about is a decision which gave in to discrimination instead of fighting it at the source of its evil.

The question is this: Should the U.S. Government be funding any institution which would practice discriminatory policies in its non-federally funded programs? The answer is obvious to those who realize that no foothold can be given to discrimination. The U.S. Government would be placed in the position of being an accomplice to the crime of discrimination.

Many legislators seem to have missed the point of the whole discussion surrounding this bill. It's not a question of how much Federal assistance an institution receives, or in which programs it chooses to discriminate. Discrimination was outlawed in 1964, and whether you receive a lot of Federal aid, a little, or none at all—discrimination is an unacceptable practice.

It must be noted that the latest victims of discrimination are people with infectious diseases, particularly AIDS patients. Because of the rising controversy caused by the mistreatment of these people as a group, language—which I wholeheartedly support—has been added to include them in S. 557. It is now explicitly against the law for recipients of Federal assistance to discriminate against disabled persons, which includes persons with infectious diseases such as AIDS. Legislators who oppose S. 557 must remember that a law only works if the people believe that those who govern them believe in that law. I believe in equality. And I believe in the fact that discrimination in any form or amount is wrong. And finally, I believe that we must pass S. 557 in order to right the wrong that Grove City versus Bell has perpetrated. We must put the civil rights movement back on the right track, and move forward in our effort to bring every American to an understanding and agreement about the importance of equality.

CIVIL RIGHTS RESTORATION ACT

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. CLINGER. Mr. Speaker, my reason for supporting the Civil Rights Restoration Act is simple; I believe Federal funds should never be used to support discrimination against any American based on age, disability, sex, race, or national origin.

Since the Supreme Court in the Grove City College case narrowed the application of title IX, there is no longer any Federal law which comprehensively prohibits sex discrimination in education. The decision also affected the application of the other civil rights laws in federally assisted programs. As a result, civil rights investigations were halted by the Department of Education in a number of cases and similar problems developed with respect to civil rights enforcement in a number of other Federal agencies. So clearly, it is time to restore our civil rights laws to their full intent and purpose.

The bill before us today has been carefully crafted over the years and with the addition of the abortion neutral amendment, it is a package I support and is essential to preserve equal justice and equal opportunity for all.

CIVIL RIGHTS RESTORATION ACT

HON. DOUGLAS H. BOSCO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. BOSCO. Mr. Speaker, I rise in support of S. 557, the Civil Rights Restoration Act, and I urge my colleagues to join me in sending to the President's desk this critical and overdue antidiscrimination measure.

I have long been a supporter and cosponsor of legislation in the House to overturn the U.S. Supreme Court's 1984 decision in Grove City College versus Bell because I believe that it is our duty in Congress to hasten the demise of all forms of discrimination in America.

For nearly 20 years, our Nation's fundamental antidiscrimination laws were applied broadly to any institution that received Federal aid, under the theory that the taxpayers did not want their money to support prejudice or discrimination in even an indirect manner. The Supreme Court changed these circumstances drastically with its Grove City decision.

Grove City was specifically concerned with title IX of the Education Amendments Act of 1972, which prohibits discrimination on the basis of sex. The Court ruled that only the particular programs, departments, or divisions within agencies and institutions that received Federal assistance were required to abide by antisex discrimination laws. The institutions themselves were thus exempted from this coverage.

The impact of Grove City worked as follows—if a particular university's biology laboratory were receiving Federal funding while the university's athletic department did not, sex discrimination within the athletic programs could go unchallenged. This marked a serious departure from the prior means by which our civil rights laws were enforced.

Moreover, even though Grove City was seemingly only about sex discrimination, in its wake the impact of three other fundamental Federal antidiscrimination laws were severely curbed. The Civil Rights Act of 1964, the Rehabilitation Act of 1974, and the Age Discrimination Act of 1975, which prohibited discrimination on the basis of race, disability, or age, ceased to be effective guardians of our civil liberties.

The Grove City ruling, especially when it was viewed in the context of a Justice Department that already paid scant attention to the civil liberties of minorities, women, the aged, and those suffering from diseases such as AIDS, greatly concerned many of us in Congress. We in the House have endeavored ever since to overturn this ruling, and this year, despite the fervent objections of the Reagan administration, the Senate overwhelmingly acceded to this momentum.

Mr. Speaker, by coincidence this week marks the 20th anniversary of the release of the Kerner commission report on race relations in America. While we have made great strides in the battle against prejudice and poverty in America, many of the dilemmas of the underclass in our cities have gone unaddressed.

I believe it is fitting to ponder the issue of race relations in America as we consider this major civil rights legislation today, and I am inserting for the RECORD articles that discuss the faces of poverty and discrimination 20 years after the Kerner commission report.

[From the New York Times, Mar. 1, 1988]

'SEPARATE AND UNEQUAL': A VIEW FROM THE BOTTOM

(By Isabel Wilkerson)

CHICAGO, Feb. 28—Like a war veteran's reminder of old battles, Mark Jenkins' left arm aches in cold weather just below the shoulder, where a bullet lodged when it shattered the bone last winter.

Unlike the veteran, Mark Jenkins is 15 years old. And his war goes on.

In the Cabrini-Green housing project on Chicago's Near North Side where Mark lives, families wake up and go to sleep to the sounds of sirens and gunfire.

A year ago, he was caught in the crossfire between rival gangs fighting outside his apartment building.

SEPARATE AND UNEQUAL

"They sniped me," he recalled. "I couldn't get out of the way in time 'cause it was an automatic rifle. I knew it was an automatic 'cause I hear it every day. You have to be careful coming into the building. They could be right around the corner. They just shoot to be shooting. They don't care who it is."

Mark's life in an all-black housing project recalls the warning 20 years ago by the Kerner commission that the nation was "moving toward two societies, one black, one white—separate and unequal." The progress of the black middle class in the intervening decades has eluded him, and the commission and its landmark report are meaningless to him.

Like thousands of other black youths isolated in the inner city, Mark lives a life filled with violence and frustration. He knows few working people, homeowners or professionals to give him inspiration or hope and he has little access to the world of most Americans.

Like other impoverished, black, male teenagers, he is statistically more likely to drop out of school, commit crimes and sell or use drugs than a member of virtually any other demographic group.

AT A CROSSROADS

Mark is struggling to be different. He has not joined the gangs that recruit youths like him. He goes to school even though many of his friends and relatives have dropped out. And he sells newspapers on the weekends. He often surprises his mother Eunice, by cleaning the family's apartment, and then frets when his siblings make a mess.

But he has already had brushes with the law and is now standing at the crossroads of a hard young life.

He lives in a 12th-floor apartment with his mother and two of his three siblings a building that looks like a prison. When he rides the bus to school, the world changes. He passes people hurrying to big jobs in tall office buildings and people in furs buying strange food he cannot pronounce. They are like characters in a movie to him.

His world is an urban war zone ruled by three competing gangs. "I don't hang around them that much," he said. I don't want to end up dead. They're already shooting at me now."

TOO OLD FOR GRAMMAR SCHOOL

But the violence around him has affected him. He spent two weeks in a juvenile detention center last summer on assault charges. The charges were later dropped and his probation officer says Mark was at the wrong place at the wrong time and wrongly accused.

In school, he is not doing as well as he should be, his counselors say. He earned good grades early in elementary school, but repeated the sixth grade, where, based on standardized tests, he was reading at the second-grade level. Last semester, he was forced to transfer to Lincoln Park High School, despite poor grades, because he grew too old for his elementary school.

Lincoln Park, one of the best public schools in the city, brings together some of the brightest students in Chicago, and, from nearby Cabrini-Green, some of its most troubled.

The two groups generally do not mix. In the hallways, Mark passes middle-class white and black students wearing Harvard T-shirts and imagines that they live in nice homes and don't have to dodge bullets to get to school. He says they deserve to live better than he does because "they're smarter than me."

NO WHITE FRIENDS

Experts say it is not surprising that Mark feels undeserving of a better life. "While delinquents are angry at society and tend to blame society for their problems, nondelinquents tend to blame themselves," said Robert Herrnstein, a professor of psychology at Harvard and co-author of the book "Crime and Human Nature."

Mark's isolation in an all-black housing project has made him wary of whites in general. "I don't have no white friends," he said. "We don't have nothing in common. I wouldn't take no whites to Cabrini anyway."

Mark is the youngest son of an unemployed file clerk and a man who, Mark says, has not worked in years. His parents were not married, and two of his other siblings, a 17-year-old brother and an 18-year-old sister, have different fathers as well.

Mark met his father three years ago. He was walking past a Cabrini-Green apartment building when a woman he had never seen before called him from a window. The woman was his grandmother. She wanted to know if he wanted to meet his father, who lives at Cabrini-Green too.

"My grandmother showed me to him and we shook hands," Mark said.

THE FAMILY MONEYLENDER

Mark is the only person in his family who works. While the others sleep, he gets up at 6 A.M. to hawk Sunday newspapers on street corners and at conventions, earning 25 cents a newspaper. On a busy weekend he makes $50 or $60, which he saves for things like Nike shoes and Levi's.

Sometimes he is the only one in his family with money, so he makes loans to his relatives and charges interest. "If I give them a dollar, I want two dollars back," he said.

He says he works because, "I don't want to go around broke."

The family has not fared as well in the seven years since his mother lost her job and her husband, Ronnie. Now Mrs. Jenkins, who is 36, is taking classes to prepare for the test for a high school equivalency diploma so she can get a job.

And because she dropped out of school herself, she is urging her children, all of them still in school, but several grades behind, to stay there. "I tell my kids, 'If you have to stay in there till you're 50 years old, you're getting a diploma,'" Mrs. Jenkins said.

POVERTY'S CONCENTRATED EFFECTS

But studies show that because of the cumulative effects of extreme proverty, many disadvantaged people who do earn high school diplomas are graduating to unemployment. A study last year of 16,000 recent graduates of Chicago public schools showed that only 31 percent had jobs; 32 percent were unemployed.

"They suffer from the concentrated effects of poverty," said William Julius Wilson, a professor of sociology and public policy at the University of Chicago. "They don't develop habits associated with regular work because their lives are not organized around work. They are crippled in inner-city schools. They don't express themselves as freely. And they are isolated from the job network so important in finding employment."

The experiences of people so isolated from mainstream society appear tragically limited. Mark, for example, has never been on an airplane, has no friends who have been on an airplane and has never been out of Chicago. "I've been to the South Side," he said.

He has never been in a swimming pool or to summer camp, although he figures he wouldn't like summer camp anyway. "Bugs," he says.

His knowledge of current events and prominent newsmakers betrays either a failure of the school system or a complete lack of interest in matters that have no relevance to his life.

WANTS TO VISIT NEW YORK

In an interview, he said he could not remember who Martin Luther King Jr. was, but thought he might have been a President. "I heard about him, but I forgot," Mark said. "That was a long time ago."

Mark's hopes in life are basic. "I'd like to go to New York," he said. And he wants to go either to college or to the Navy after high school. His mother is urging him to follow in the footsteps of a neighbor who joined the Navy and now is a security guard.

But Mark is failing several of his classes. His circulation manager is cutting back the number of the paperboys, and Mark will lose his job next month. And he is still being recruited by the gangs at Cabrini-Green.

Still, Mark is at lower risk than his friends who have already gone astray, criminal justice experts say. "The most serious offenders start the youngest, often before the age of 10," Professor Herrnstein said. "The fact that he is still putting up a struggle is a good sign. It would be a pity to lose him."

CIVIL RIGHTS RESTORATION ACT

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. MFUME. Mr. Speaker, the Civil Rights Restoration Act is the most important civil rights legislation that will come before the 100th Congress and I see the protection and promotion of civil rights as a fundamental test of the justice of our society.

Last month, this Nation celebrated the history of African Americans and the month before, the birthday of Martin Luther King, Jr. Are we going to now move into March deserting everything that these celebrations stood for? Are we going to fail this test?

The damage done by the 1984 Supreme Court ruling in Grove City College versus Bell has been allowed to exist too long. We all know that the Congress has always intended that any institution that receives Federal funds must not engage in discrimination. The Senate has reaffirmed this commitment with passage of S. 557 last month and it is my hope that the House of Representatives will act accordingly today and close the loophole through which institutions can now discriminate.

A strong society needs equal opportunity and we cannot waiver in the fight to secure civil rights for all citizens. I urge all of my colleagues today to please come forth and support efforts to assure the equitable and vigorous enforcement of the civil rights statutes. It is important that we pass this test. The eyes of the Nation are upon us.

CIVIL RIGHTS RESTORATION ACT

HON. ALBERT G. BUSTAMANTE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. BUSTAMANTE. Mr. Speaker, I would like to take this opportunity to remind my colleagues of our long and noble history of fighting the forces of discrimination in this country. For the past 3 decades we have made known our opposition to all forms of discrimination and have repeatedly passed legislation to make our intentions clear.

Unfortunately, despite the forceful voice with which we spoke in the past, our words were misinterpreted by the Supreme Court. As a result, we have been given the opportunity to restate our commitment to the ideals of equality and fairness. By passing the Civil Rights Restoration Act, we can assure millions of Americans that as they pursue an education and seek employment, they will truly be judged by the power of their mind and the quality of their character.

Today we have the chance to make our voices heard again. Today, we can remind the Nation of our resolve not to permit discrimination in this country. We can let it be known that the U.S. Government will do all in its power to ensure that discrimination has no place in our Nation's institutions.

I urge my colleagues to reaffirm our commitment to the ideals of equality and vote in favor of the civil rights restoration bill.

CIVIL RIGHTS RESTORATION ACT

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. FEIGHAN. Mr. Speaker, I rise in strong support of the Civil Rights Restoration Act. Although this bill is not perfect, we cannot afford to delay passage of this important civil rights legislation any longer. Until the Civil Rights Restoration Act becomes law, we will continue to provide Federal subsidies to institutions that practice discrimination. This is not our public policy—it cannot be our public policy.

Since the Supreme Court's mistaken 1984 decision in Grove City, schools, hospitals, and other federally funded institutions have been free to discriminate, as long as they do not do so in the specific program or activity that receives the Federal funds.

This means that a college whose budget includes Federal student loans can refuse to fund a woman's athletic program. It means that this same school can deny a black student admission to an honors science program. It means that a teacher subjected to sexual harassment has no recourse under title IX if the harassment occurs in a building that was not constructed with Federal funds.

This is not what Congress intended when it passed our civil rights laws. It cannot be what we will accept today.

Critics of the bill contend that it greatly broadens the Federal Government's regulatory power and restricts religious rights. But the bill does no more than restore the original scope of the laws prohibiting discrimination. Years of debate over this bill and this year's clarifying amendments have made Congress' purpose crystal clear.

I agree that religious schools should be protected against intrusive government regulation. However, title IX already contains an exemption for schools controlled by religious organizations. Since title IX was enacted no school that has applied for this exemption has been denied it.

I also agree with the bill's critics that religious hospitals should not be required to perform abortions. However, this bill has never required Catholic hospitals to offer abortion services to the public. An amendment added this year makes it clear that they would never be forced to perform or pay for abortions.

In short, Mr. Speaker, there is no reason to delay passage of this important civil rights bill. I commend the chief sponsor, GUS HAWKINS, for bringing it to the House floor expeditiously. I urge my colleagues to pass it without amendment.

CIVIL RIGHTS RESTORATION ACT

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. FAUNTROY. Mr. Speaker, I rise in strong and enthusiastic support of the Civil Rights Restoration Act, S. 557, important legislation that will amend title VI of the Civil Rights Act, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act, and the Age Discrimination Act to make it the law of the land that discrimination under each act is prohibited throughout an entire institution if any section of such agency or institution is the beneficiary of Federal revenues.

The purpose of this much needed civil rights legislation is to overturn the 1984 Supreme Court decision in Grove City versus Bell, that narrowed the coverage of Federal antidiscrimination laws to the specific program or activities receiving Federal financial assistance.

Mr. Speaker, this legislation is vitally needed if we are to enforce civil rights law in those institutions in our Nation which benefit from Federal moneys.

I urge all of my colleagues to vote for the Civil Rights Restoration Act.

CIVIL RIGHTS RESTORATION ACT

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. WOLPE. Mr. Speaker, I rise in strong support of the Civil Rights Restoration Act.

Mr. Speaker, in 1977, a South Carolina science teacher was fired from his job in a community college lab. His superiors told him informally he was fired because he was an epileptic, a condition they felt was unsafe in a lab situation. The teacher suffered from abscence seizures, a relatively mild and controllable form of epilepsy. He filed discrimination charges against the college, but when his case finally reached the Office of Civil Rights in 1984, they said he was a little too late. Earlier that year, the Grove City decision had come down from the U.S. Supreme Court, stating that Federal laws prohibiting discrimination in federally funded institutions applied only to the specific programs that receive Federal funds. And although the college received Federal funds, its science department did not.

In the 5 years since Grove City took a bite out of antidiscrimination law, countless cases like this have arisen. Frankly, I am amazed that it has taken us 4 years to pass legislation righting this wrong. This is particularly troublesome given that the sole purpose of the Civil Rights Restoration Act is to restore the full and originally intended effect of four civil rights laws prohibiting discrimination on the basis of sex, race, age, or disability in federally funded institutions.

Not only has Grove City narrowed the scope of these four civil rights laws, but it has also made it more difficult to enforce what little is left of them. Rather than fulfilling its stated purpose of investigating discrimination claims, the OCR is spending all of its time figuring out whether specific programs actually receive any Federal money.

Meanwhile, federally funded schools, businesses, and hospitals are receiving this Government's message on civil rights loud and clear: Go ahead and discriminate, but just make sure you do it selectively.

And what does Grove City say to women, minorities, senior citizens, and handicapped individuals in this country? Well, to female students it says that if your university's athletic department has discriminated against you, but Federal funds can't be traced to it, don't expect the Government to take steps against your school. To a black patient in a nonfederally funded unit of a federally funded hospital, it means that if you are denied medical care, your tax dollars will still be going to subsidize that hospital. To a 70-year-old, it says don't look to the OCR for help enforcing the Age Discrimination Act if you're applying for a job at a division within a federally assisted corporation that doesn't actually receive Federal money itself. And the South Carolina teacher I mentioned knows through painful experience what Grove City says to disabled persons in the absence of Federal funding: sorry, pal, you're out of luck.

Mr. Speaker, it is my hope that the 100th Congress will be remembered for its efforts to cut the Federal deficit and trim the fat from this Nation's budget. Surely, there is no worse misappropriation of Federal funds, no greater boondoggle, no more egregious misuse of taxpayer dollars than the subsidization of discrimination in federally assisted institutions.

I urge my colleagues to vote in favor of this necessary application.

CIVIL RIGHTS RESTORATION ACT

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. GUNDERSON. Mr. Speaker, there is a strong sense of "deja vu" surrounding today's consideration of S. 557, the Civil Rights Restoration Act, because we have, in fact, all been here before.

Ever since the Supreme Court's Grove City College decision in 1984, we have had restoration legislation under consideration every year. In fact, the House passed its own version of S. 557 in 1984—H.R. 5490 in the 98th Congress—as did its Education and Labor Committee again in 1986—H.R. 700 in the 99th Congress.

The differences between that legislation, which I supported, and today's bill are minimal at best. My vote today, then, reaffirms the position I took at those times.

That support did not come immediately, but was rather a product of hard work, time, and compromise. As I noted during a public hearing we held in Atlanta in 1985, there have been many controversies surrounding this legislation which needed clarification and resolution.

After participating in countless hearings, drafting sessions, and other meetings addressing these concerns, it is my opinion that the legislation before us today satisfactorily resolves each of the potential problems of the original legislation much as H.R. 5490 did in 1984 and H.R. 700 did in 1986. It would be worthwhile to briefly discuss some of these issues at this point.

ABORTION

From the beginning, I have insisted that the legislation be abortion-neutral. Those concerns were noted extensively in the supplemental views to H.R. 700 which I and eight of my colleagues on the House Education and Labor Committee signed in October 1986.

That goal is achieved in S. 557 before us today which contains not just one, but two, sections making the Civil Rights Restoration Act abortion neutral—sections 3(b) and 8.

PRICE SUPPORT PROGRAMS

There are those suggesting that individuals receiving Federal price support payments may be subject to the provisions of the various Civil Rights Acts by the passage of S. 557.

Such an assertion ignores the basic provision of coverage under these acts—that coverage does not extend to the "ultimate beneficiaries" of the Federal assistance in question, but rather to the individuals and institutions administering the "program or activity" for which funds are received.

Accordingly, individual farmers and farm operations would not be subject to the provisions of these various civil rights acts since they are, indeed, the ultimate beneficiaries of the Federal farm programs in question.

RELIGIOUS TENETS

When considering the "religious tenets exemption," it is important to remember that this is the "Civil Rights Restoration Act"—that is, we are trying to restore the law to where it was before the Grove City decision, not add to or subtract from it.

Title IX already contains a provision which exempts from compliance any institution which is "controlled by" a religious organization which asserts that the requirements of the law are contrary to the religious tenets of that organization.

Since 1972, the Department of Education has approved 150 such exemptions based on religious tenets. No application has ever been denied. Neither has there been any allegation that the current definition has not worked or is not working.

The Sensenbrenner amendment would alter that exemption significantly to cover institutions which were closely identified with the tenets of a religious organization. That was not the law before Grove City and, quite frankly, ought not be part of legislation which bills itself as a restoration act.

SMALL BUSINESSES

Concern hs been expressed as to the coverage of so-called mom and pop operations. As before, that concern is addressed by section 4(2) of S. 557 which gives existing regulations the force of law by specifically exempting small operations from having to make significant structural alterations to existing facilities when alternative means of providing services are available.

INDIVIDUALS WITH CONTAGIOUS DISEASES

Finally, since our 1984 and 1986 work on this legislation, a new concern has arisen with the advent of the recent AIDS epidemic that a restoration of the four civil rights laws in question might impact on an employer's right to exclude individuals infected with the AIDS virus from the workplace.

Again, this potential problem has been specifically addressed by section 9 of S. 557 which excludes from the definition of individuals that is those persons protected by the various civil rights legislation is applicable—any person with a contagious disease or infection who constitutes a threat to the health and safety of other individuals.

Thus, with each of these issues resolved by specific provisions in S. 557 or otherwise satisfactorily addressed in current law, I have found the Civil Rights Restoration Act deserving of my support.

For, as Cicero suggested many centuries ago, "What people have always sought is equality of rights before the law. For rights that are not open to all alike, are no rights at all."

IN SUPPORT OF S. 557

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. LEVINE of California. Mr. Speaker, I rise in strong support of S. 557, the Civil Rights Restoration Act. This is the most important civil rights vote that this Congress will cast this year, and I am proud to support this legislation. I am also an original cosponsor of H.R. 1214, the House companion to S. 557, and I voted for this legislation when it passed the House overwhelmingly last Congress.

This legislation will prevent the terrible injustice of Federal tax dollars going to support institutions which discriminate against minorities, women, handicapped individuals, or older Americans, and restore the full protection Congress intended our civil rights laws to provide.

Four laws have formed the cornerstone of this civil rights protection. Title VI of the Civil Rights Act of 1964 protects racial and ethnic groups in education, voting, and housing. Title IX of the Education Amendments of 1972 prohibits discrimination against women in education, insuring equal access to programs and facilities. Section 504 of the Rehabilitation Act of 1973 is the only Federal statute protecting qualified handicapped individuals from employment discrimination, and the Age Discrimination Act of 1975 offers protection to older Americans.

The Supreme Court decision Grove City versus Bell narrowed the scope of these laws, prohibiting discrimination in only the specific programs receiving Federal funding within institutions. To successfully fight discrimination, victims must now pursue a paper trail of accounting transactions to provide that the specific program received direct Federal funds.

Congress did not intend victims of discrimination to have to overcome these barriers to obtain justice. Since the Grove City versus Bell decision, over 800 cases of discrimination in education have been affected or closed. Congress did intend these laws to end all discrimination at institutions receivng Federal funding, and this bill reaffirms that intention.

I am disturbed by inclusion of language which exempts education institutions from providing coverage for abortions under health care plans which cover similar medical services. I have consistently worked to protect women's reproductive freedoms, and I am committed to continuing my efforts here in Congress to insure that women are not discriminated against either in their health care plans, or for having had an abortion. Under different circumstances inclusion of this language in the bill would compel me to oppose its passage. However, this legislation is so important that I will support it despite this major shortcoming.

Mr. Chairman, we are involved in a momentous debate. We are again voting to reaffirm the scope of some of the most important civil rights advances of the last quarter century. I urge my colleagues to vote for S. 557.

CIVIL RIGHTS RESTORATION ACT

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. DE LUGO. Mr. Speaker, I rise to support the Civil Rights Restoration Act that is under consideration today and, on behalf of the people of the U.S. Virgin Islands, to express our unfailing support for the protection of civil rights for all Americans.

The people of the Virgin Islands have closely followed and participated in the civil rights movement for decades. They have supported the legislation, from the Civil Rights Act of 1964 onward, which has broadened the rights of everyone in this country.

The bill before us today is necessary to strengthen the enforcement of civil rights laws as they apply to all institutions in this society. If we do not believe in discrimination against people on behalf of their race, religion, sex, age, or physical handicap, then we have no reason to oppose this bill today.

Such discrimination is morally and legally wrong, and the Civil Rights Restoration Act simply emphasizes that point by making sure the Federal funds do not go to any institution that does engage in such discrimination. There is no reason for us to tolerate discrimination by making Federal funds available to any institution that will not abide by our civil rights laws.

The Civil Rights Restoration Act includes safeguards that allow religious institutions to abide by the tenets of their faith. Such safeguards are more than adequate to protect our freedom of religion at the same time as we protect the precious rights of racial and religious minorities, women, the elderly, and the handicapped.

THE CIVIL RIGHTS RESTORATION ACT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. MINETA. Mr. Speaker, I rise in support of S. 557, the Civil Rights Restoration Act of 1987.

Mr. Speaker, our Nation cries out for this bill! Who here cannot support its basic premise? Who here can shrug their shoulders at the fundamental duty we have to ensure that Federal dollars are never used to support discrimination?

The Federal Government has long insisted that if an institution wants taxpayer moneys, that institution must agree not to discriminate. That's not only common sense, that's common decency!

The sad truth is that since the Supreme Court issued its opinion in the infamous Grove City case, more than 650 discrimination cases have been dropped or scaled back because of this shortsighted ruling. And we can only wonder how many more cases were never even pursued since the Supreme Court decision.

Congress worked to prevent such travesties when it passed the landmark civil rights legislation of 1964—when he spoke boldly about the evils of racial discrimination—and again in 1972, 1973, and 1975—when we prohibited discrimination on the basis of sex, disability, and age.

Contrary to some of the arguments we have heard today, this bill does not expand the scope of our civil rights laws. If you were not covered by legislation before the Grove City decision, you won't be covered under this bill.

Many of us have heard from some industry groups which have announced their last minute opposition to S. 557. But let me assure you, if they were not subject to this legislation in the past, they will not be subject to the bill we are voting on today. Don't let any last-minute smoke obscure the real light this bill offers.

S. 557 simply puts this body back on record as opposing discrimination on the basis of race, sex, age, and handicap.

We must not allow so much as one penny of Federal funds to be used to discriminate against our fellow citizens. We must support this legislation if we are to uphold the duty of this Chamber as a body representative of the American people. I urge all my colleagues to honor that trust and support the Civil Rights Restoration Act.

CIVIL RIGHTS RESTORATION ACT

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. PRICE of North Carolina. Mr. Speaker, the passage of the Civil Rights Restoration Act, I believe, marks, symbolically and practically, an unmistakable reaffirmation of this Congress' and this country's commitment to civil rights and nondiscrimination.

The Supreme Court's unfortunate pronouncements in the Grove City case stripped the Federal Government of one of its indispensable tools for fighting unconstitutional racial, sexual, and religious discrimination. By effectively sanctioning discrimination by institutions receiving Federal funds, the ruling put the Federal Government and the American taxpayer in the position of subsidizing, and hence perpetuating, these attitudes and actions.

Today, the House has seized the opportunity to renounce and remedy this unacceptable retreat in this country's battle for equality and justice. To me, it is remarkable only that it has taken 4 years for us to correct and clarify the Court's clear distortion of congressional intent as spelled out in a long series of civil rights statutes.

The Supreme Court, by drastically narrowing the traditional statutory interpretation of the phrase "program or activity" as employed in four fundamental civil rights statutes, made enforcement of these statutes difficult, unpredictable, piecemeal, and often illogical.

For instance, at some colleges, under this ruling a student's ability to sue for remedy for a violation of his civil rights would depend only upon a determination of whether or not Federal funds were used to construct the building or subsidize the academic program in which the violation occurred. That is, the Federal Government could protect this student's constitutional rights in the biology building but not in the English building next door.

Clearly, it was not the intention of Congress to leave these statutes virtually unenforceable. Clearly, it was the intention of Congress to make these hard-won civil rights laws applicable to entire institutions where they receive Federal funds.

President John Kennedy said:

> Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination . . .

It is this simple proposition that the House today has affirmed in unmistakable terms. We shall not be made a party, by the expenditure of public funds, to racial, sexual, or religious discrimination. And we shall not sit idly by and watch these wrongs go unchallenged when we have in our possession the tools to remedy these wrongs.

CIVIL RIGHTS RESTORATION ACT

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. BRENNAN. Mr. Speaker, the Civil Rights Restoration Act is about a very simple, basic concept that we sometimes overlook if not reminded, that we sometimes take for granted in our everyday lives.

It's about the American dream—having the opportunity to pursue it, knowing you won't be hindered by discrimination. It's about equality.

When the Civil Rights Act was created in 1964, it was intended to eliminate discrimination in Government. Private entities that receive Federal funding were also subject to the act. With few exceptions, I support this inclusion because I believe that when one department or program of an entity receives Federal funding, it allows dollars that would have been spent in that department or program to be used elsewhere. Therefore the entire entity benefits from this funding.

However, in 1984, civil rights took a step backward with the Supreme Court ruling in Grove City College versus Bell. As a result, only those departments that actually received Federal funding were prohibited from discriminating against their employees and students.

With the passage of S. 557 this week, we have returned to the original intent of the law. We have restored equality in the classroom and the office. To the extent that is possible in this democracy, we have assured that discrimination will not hinder our efforts to achieve our dreams.

That means knowing that the person working beside you will not take home a larger paycheck simply because that person is of the opposite sex, is a different color, or worships another god. That means knowing that if you work hard, rewards will follow. That means knowing that the dream is still alive for those who pursue it.

I believe equality and fairness should not hinge on when we were born, who we love, and where we work. However, realistically, we can only ensure that the official Government of our Nation will give us a fair shake. By approving S. 557, we also can reextend that arm to private entities that receive Government funding. Let us at least do that.

CIVIL RIGHTS RESTORATION ACT

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mrs. LLOYD. Mr. Speaker, on March 2, 1988, the House overwhelming voted to overturn a 1984 Supreme Court decision that has limited the scope of Federal law prohibiting discrimination on the basis of sex, race, age, or physical disability, sending the legislation to the White House.

I strongly supported the Civil Rights Restoration Act which would effectively overturn the 1984 Supreme Court ruling in Grove City College versus Bell, which said that laws barring discriminating do not apply to entire institutions, only to the specific program or activity receiving Federal funds. This bill would make clear that title IX of the Education Act, the Civil Rights Act of 1964, the Rehabilitation Act of 1974, and the Age Discrimination Act of 1975 apply to an entire organization if any part of it receives Federal money.

This legislation contained a hard fought for, landmark amendment which makes it clear that the law does not require any hospital or other institution to perform or pay for an abortion. I strongly supported the inclusion of this language in the bill and believe it is a monumental victory for the prolife movement.

Title IX of this act provides that an institution "controlled by a religious organization" may become exempt from compliance with any title IX nondiscriminatory requirement that institution believes is contrary to its religious tenets." I am a strong advocate of this language and believe that it was most unfortunate that the House did not have the opportunity to fully debate and vote on a separate amendment to allow such an exemption for any institution "closely identified with the tenets of a religious organization." I would have strongly supported such an amendment had it been offered and fully debated on its own merits. Unfortunately, the only amendment which was offered, Representative SENSENBRENNER's went beyond religious tenet language to addressing private companies who receives Federal financial assistance and are also covered by Federal antidiscrimination laws.

The passage of this legislation reestablishes the basic principle that in order to benefit from Federal funding, an institution must agree to operate its programs free from discrimination. I urge President Reagan to expeditiously sign this measure into law.

CIVIL RIGHTS RESTORATION ACT

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. FRENZEL. Mr. Speaker, I rise in support of S. 557, the Civil Rights Restoration Act. This bill is the most important civil rights legislation facing us this session, which will overturn the Grove City versus Bell Supreme Court decision. The Court had ruled that only individual programs of institutions receiving Federal aid would be eligible for coverage of Federal antidiscrimination laws. However, the intent of Congress has always been that entire institutions would be subject to civil rights laws if Federal aid is received. For that reason, the Congress has pursued passage of the Civil Rights Restoration Act of the past 4 years.

While I would prefer that we pass our own bill using our own regular process. Nevertheless, there is sufficient legislative history to make a case for accepting the Senate version, including House passage in 1984 and reporting by two committees in 1985. It is evident that the bill will not be reported by a House committee in the 100th Congress without some resolution of the so-called abortion neutral issue. I do not see any possibility of such a resolution of the stalemate. It appears to me that the only way we can pass this important legislation is to vote on the Senate's bill, which was passed by a 75-to-14 margin. The Senate bill does include the abortion neutral language.

The Senate bill is supported by a wide variety of groups, including the League of Women Voters, labor groups, and many church organizations. Unfortunately, there has been opposition as well, including the Justice Department which believes the Senate bill's coverage is too broad.

There have been complaints that this bill will subject many small businesses and farmers to coverage by the four civil rights laws covered in this bill. However, the Senate bill does include a small provider exemption to the Rehabilitation Act Amendment section of the bill. Farmers would be exempt under section 7 of the bill which excludes ultimate beneficiaries excluded prior to enactment. I have a tough time understanding why other small providers should be exempt from the three remaining statutes, even though I can sympathize with the extra paperwork burden on smaller businesses.

Mr. Speaker, the issue which has received the most constituent interest in the past few days is the need for a broader religious tenet provision in the title IX section of the bill relating to the Education Act Amendments. Current religious tenet language would make the bill abortion neutral in the first place by permitting organizations that are controlled by religious institutions to seek exemptions from title IX coverage if application was inconsistent with the religious tenets of such organization. This would have enabled church-run hospitals with teaching facilities or church-run schools to refuse to perform abortions or to refuse to hire homosexuals as teachers.

There was a Senate amendment to broaden the religious tenets language to include organizations "closely identified," not just controlled, by a religious organization, but it was defeated by a substantial margin. There will be a substitute offered today by Mr. SENSENBRENNER which will include the same language. In my judgment, the S. 557 language is enough protection for religious affiliates. The language to broaden is opposed by such noted religious institutions as the American Baptist Churches, Evangelical Luthern Church in America, Presbyterian Church U.S.A., Union of American Hebrew Congregations, United Methodist Church, and the U.S. Catholic Conference.

Mr. Speaker, this issue has been around a long time. The opposition is not well founded. Civil rights progress has been stifled as a result of the Grove City decision. If this is the only way we can reverse the decision, we should aggressively move to pass this bill today.

CIVIL RIGHTS RESTORATION ACT

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. DIXON. Mr. Speaker, I proudly join a majority of my colleagues voting for S. 557, the Civil Rights Restoration Act of 1988.

After 4 years of struggling to enact legislation to overturn the 1984 Supreme Court decision in Grove City versus Bell, Congress today has made it unequivocally clear that it will not allow the use of taxpayers dollars to subsidize discrimination in any segment of our society. This action reaffirms our Nation's commitment made a generation ago, to equality of opportunity and justice for all.

By ruling that the prohibition on discrimination did not apply to an entire institution receiving aid but only to a specific program or activity, the Court misinterpreted the intent of Congress in the passage of title IX of the Education Act Amendments of 1972 barring sex discrimination in educational institutions. The Grove City decision also threatened to reverse much of the progress made toward eliminating discrimination on the basis of sex, race, age, and handicapped condition.

We can ill afford to return to those days when discrimination and racism relegated some of us to second-class citizenship. The historic struggle of the civil rights movement 25 years ago commanded the attention of this Nation and forced our Government to make the commitment to equal justice under the law for all of its citizens. With the passage of the Civil Rights Act of 1964 this Government promised that no person shall be subject to discrimination on the basis of race, color, or national origin in any program or activity receiving Federal financial assistance. Realizing the need to protect all segments of our society the Congress subsequently moved to protect the rights of women in the passage of title IX of the Education Act Amendments of 1972, the rights of the handicapped in section 504 of the Rehabilitation Act of 1973 and the rights of the elderly in the Age Discrimination Act of 1975. These laws have been powerful weapons for minorities, women, the elderly and the handicapped in their struggle against discrimination in education, housing and employment. Enactment of the Civil Rights Restoration Act will strengthen the enforcement of civil rights laws weakened by the Grove City decision.

President John F. Kennedy clearly stated the principle that discriminatory practices have no place in federally funded programs when he transmitted his first civil rights legislation to the Congress:

> Simple justice requires that public funds to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes or results in racial discrimination.

It is a sad reality that a generation after the passage of the first sweeping civil rights law of this land, discrimination continues to rear its ugly head. Since the 1984 Grove City decision, a substantial number of civil rights cases have been suspended or dropped. Although the educational opportunities lost and equal justice denied many citizens since the Grove City decision cannot be recaptured, the Federal Government must continue to take the lead in eradicating this disease in our society. The message to all who receive Federal funds is clear—the Government must not and will not subsidize discrimination.

It is time for us to stop this deplorable reenactment of the civil rights battles of previous decades and move forward to restore the full force and effect of the civil rights laws of this Nation. I am pleased that the 100th Congress has acted to halt further erosion of our civil rights laws and restore the basic protections our citizens have every right to expect.

THE NATURAL GAS TRANSITION ACT OF 1988

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. MARKEY. Mr. Speaker, today I am introducing the Natural Gas Transition Act of 1988, together with my colleague, Mr. RINALDO. This legislation addresses an important and a growing problem in the area of natural gas regulation—the growing trend of natural gas bypasses of local distribution companies [LDC's] by large gas users.

A bypass occurs when a large natural gas user hooks up directly to an interstate pipeline, going around the LDC. Small business, agriculture, residential and other ratepayers who continue to purchase gas from their LDC face two negative impacts. First, they are denied access to discounted gas. Second, they may end up paying more than their fair share of fixed costs because they pick up those costs that should be borne by large users. If the bypass trend continues, utility ratepayers could be faced with hundreds of millions of dollars in added costs.

Our bill does not ban bypasses but it does limit the Federal Energy Regulatory Commission's ability to grant bypasses in two instances. First, FERC cannot override any decision by a State or local commission to deny authorization for a bypass based on a finding that it would "prejudice the present or future interests" of other ratepayers. Second, it would prohibit bypasses where the LDC is willing to provide transportation on behalf of the bypass customer under terms set by the State or local commissions. In summary, the bill is designed to give State and local commissions the choice of deciding whether a bypass is or is not in the best interests of a majority of ratepayers. Those bodies, and not a faraway Federal agency, are best able to weigh the needs of all gas consumers, determine rate impacts, and set local conditions in making those decisions.

I would like to take this opportunity to draw my colleagues' attention to the following explanation and section-by-section analysis of the Natural Gas Transition Act of 1988:

EXPLANATION

The purpose of this Act is to limit the power of the Federal Energy Regulatory Commission (FERC or Commission) to permit new natural gas service which would displace or "bypass" local public utility service to end use customers. As such, it would function as an overlay to the Natural Gas Act (NGA) and the Natural Gas Policy Act (NGPA), without specifically amending either statute. The Act explicitly recognizes and clarifies the role of the state and local utility regulatory agencies in this area of essentially local concern and provides specific procedures under which proposed service that would bypass local utilities must be evaluated by FERC before any approval may be granted or any blanket authorization may be relied upon to perform the bypass service.

Until recently, the Commission's long-held policy was to prefer that natural gas service to end users be provided by their local distribution companies (LDCs), which are regulated as public utilities. *See, e.g., Panhandle Eastern Pipeline Co.*, 36 FPC 1107 (1966), *Missouri Edison Co.*, 47 FPC 849 (1972); *Southern Natural Gas Company*, 25 FPC 925 (1961); and *American Louisiana Pipe Line Company, et al.*, 20 FPC 575 (1958). Of the many rationales underlying this policy, the most important consideration was the extent to which the loss of large industrial customers of the LDC economically and operationally impacts its remaining customers.

Recent federal policies deregulating wellhead prices and providing for "open access' transportation, however, have restructured the way gas is bought and sold in the interstate marketplace. In furtherance of its new policy to encourage competition in the natural gas industry, the Commission has shifted its focus on public interest considerations away from the long-term rate consequences on residential customers of the LDC and onto the short-term economic benefits realized by the industrial customer. *See e.g., American Distribution Co.* (Alabama Div.), 37 FERC ¶ 61,282 (1986); *Panhandle Eastern Pipe Line Company*, (Hayes Albion), 29 FERC ¶ 61,338 (1984). The Commission's campaign to relax market entry in the name of competition, however, is at the same time highly disruptive of traditional public utility service and the local regulatory responsibilities of the States. It imposes huge economic costs upon those consumers who must continue to rely on the local utilities for service—economic costs that may well exceed any benefits realized by the pipelines and end users seeking to bypass.

Importantly, the Act does not protect LDCs from the threat of bypass in all instances. Nor is it intended to insulate distributors from the pressures of a more competitive marketplace for natural gas. Rather, it achieves a blend of (1) encouraging competition for natural gas supply itself, which furthers the Congressional policy of wellhead competition established in the NGPA and (2) recognizing the primacy of state and local interests in retaining a regulated monopoly in the provision of local natural gas distribution service.

SECTION-BY-SECTION SUMMARY

SECTION 1

This section designates the title of the Act as the Natural Gas Transition Act of 1988. The reference to "transition" recognizes the fact that the natural gas industry is moving to a more competitive, less regulated environment, and this Act is intended to protect the interests of consumers of gas nationwide during that transition.

SECTION 101

This section, entitled "Bypass Restraint", consists of four parts. The first, Subsection (a), provides new limits on the Commission's authority, pursuant to either the NGA or the NGPA, to authorize a new service where that service would displace service which is being provided or which could be provided by an LDC. Subsection (a) also provides a new legal standard under which FERC must evaluate proposals for such service.

The second part of Section 101, Subsection (b), creates a prior public notice requirement for any proposed service that would bypass an LDC. The third part, Subsection (c), defines the term "local distribution company" for purposes of this Act. Finally, Subsection (d) provides for immediate effectiveness of the Act upon enactment, and further clarifies the universe of services to which it applies.

Subsection 101(a)

The first subsection of Section 101 is cast in prohibitory language. It states that the Commission may not permit any interstate natural gas service (*i.e.*, service authorized pursuant to the NGA or the NGPA) that would displace service offered by an LDC in the event of either of two occurrences. One relates to actions taken by the state or local regulatory authority, and the other is triggered by the local utility threatened with the bypass itself.

State/Local Commission Certification. The first situation in which bypass is prohibited, Paragraph (a)(1), is where the state or local regulatory authority that has jurisdiction over the "affected" LDC certifies to FERC that the proposed service would prejudice the present or future interests of the remaining customers of that utility.

The reference to "state or local" authority parallels the term "state commission" as such is defined in NGA Section 2(8), see 15 U.S.C. § 717a(8) (1982). The NGA definition of "state commission" is "the regulatory body of the state or municipality having jurisdiction to regulate rates and charges for the sale of natural gas to consumers within the state or municipality." Likewise, the referenced term is meant to include both state regulatory commissions, the most common regulator of local distribution companies, as well as other local regulatory bodies, such as municipal authorities, which have comparable jurisdiction to state authorities.

The concept of a local commission "certifying" to the Federal Commission its determination—which certification is to be treated by FERC as conclusive—is also found in the NGA. The "Hinshaw exemption" in NGA Section 1(c) states that certain interstate activities are exempt from FERC jurisdiction if, among other things, the entity performing those activities is subject to state regulation. The exemption language states that "[a] certification from such State commission to the Federal Power Commission . . . shall constitute conclusive evidence of such regulatory power or jurisdiction."

The term "affected local distribution company" means the LDC that is currently providing, or that could otherwise provide, service to the end user; in other words, the LDC that would be bypassed. Note also that "local distribution company" is defined later in the statute, at Subsection 101(c).

This provision is intended to recognize the essentially local nature of natural gas utility bypass issues. Generally, large industrial end users of gas seek to bypass their local utilities when they are dissatisfied with the rates and/or other terms of service that the utility can provide. Those rates and terms of service are subject to the regulatory authority of the state or local commissions that have jurisdiction over the LDCs. These commissions are charged with balancing the needs of the utility as a business enterprise with the broader, public interest of all of its customers, residential and commercial as well as industrial, in secure, long-term service at reasonable rates. It is well recognized that a utility's loss of customers due to bypass by an interstate or intrastate pipeline may have a tremendously adverse impact on the remaining customers of the utility.

As the U.S. Supreme Court has recognized with respect to sales of natural gas, the attempt by an interstate pipeline to "compete for the cream of the [LDC's] volume business without regard to the local public convenience and necessity" is a matter of "'essentially local' concern and of vital interest to" the affected State itself. *Panhandle Eastern Pipe Line Co. v. Michigan Public Service Commission,* 341 U.S. 329, 373-74 (1951). Thus, the language of Paragraph 101(a)(1) places an appropriate level of authority over proposals to bypass LDCs where it rightfully belongs—in the hands of the local or state regulatory authority. If this body determines that the bypass should not take place given the resultant detriment to the remaining customers of the affected LDC, and certifies so to the Commission, then the bypass may not occur.

It should also be noted that the Act does not dictate or in any way foreclose the procedures to be undertaken at the state level in advance of a state or local commission's certification of the effects of a proposed bypass arrangement. It simply shifts the forum for consideration of the relevant public interest issues in the first instance from the federal to the state level. Thus, an industrial end user that believes a bypass of its local public utility for direct pipeline service would be justified and in the public interest should make its arguments to the local regulatory authorities.

Local Distribution Company Protest. The second occurrence under which the Act prohibits a new bypass service to be undertaken is set forth in Paragraph 101(a)(2). This is where the affected LDC protests the proposed bypass (after receiving advance notice of such proposal, as required in Subsection 101(b) described below) and the would-be bypasser is unable to demonstrate, in a hearing proceeding at FERC, that that LDC is not willing to provide transportation service on terms and conditions that are "in effect, or accepted or approved by" the LDC's state or local regulatory authority. Stated differently, if the affected LDC files a protest at FERC, then the Commission must order an evidentiary hearing. The required procedure is characterized in the Act as a hearing "on the record," which, under the Administrative Procedure Act means a formal proceeding with adequate opportunity both to present evidence and argument and to meet the presentation of opposing evidence and argument. 5 U.S.C. §§ 554 and 556 (1982). At the hearing, the proponent of the bypass (most likely an interstate or intrastate pipeline) bears the burden of proving that the affected distributor is not willing to transport gas to the end user.

The significance of the determination whether the affected LDC is willing to provide transportation service is grounded in competition considerations. As noted above, during the past several years, the natural gas industry has undergone a dramatic metamorphosis from its traditional structure based on sales (from producer to pipeline, pipeline to distributor, and distributor to end user) to a more flexible national market based on transportation. *See generally, Associated Gas Distributors v. FERC,* 824 F.2d 981 (D.C. Cir. 1987), *petitions for cert. filed,* (U.S. Dec. 8, 1987) (Nos. 87-976, *et al.*); *Maryland Peoples' Counsel v. FERC,* 761 F.2d 768 (D.C. Cir. 1985); *Maryland Peoples' Counsel v. FERC,* 761 F.2d 780 (D.C. Cir. 1985). Many non-traditional sellers of gas now compete for sales, both at the retail and wholesale levels, and rely on transportation by one or more other parties to deliver the gas. To take a concrete example, where an end user in New England traditionally had but a single natural gas supplier—its local public utility—it now may contract for the purchase of gas from a producer located in the Southwest or a marketer headquartered in Chicago, so long as it can arrange for transportation of the gas to its facilities.

At the federal level, the Commission has been aggressively promoting the opening, by interstate pipelines, of access to transmission (as distinct from sales) capacity. *See, e.g.,* Order No. 436, *Regulation of Natural Gas Pipe-lines After Partial Wellhead Decontrol,* FERC Stats. & Regs. (Regulations Preambles) ¶ 30,665 (Oct. 9, 1985), *modified on rehearing,* Order No. 436-A, FERC Stats. & Regs. (Regulations Preambles) ¶ 30,675 (Dec. 10, 1985), *vacated and remanded, Associated Gas Distributors v. FERC, supra.* Several States have followed suit, either with "mini-Order No. 436" open access programs (*e.g.,* Wisconsin, New Mexico), generic transportation rate design guidelines, (*e.g.,* Virginia, California), or even stronger mandates to their LDCs to offer transportation (*e.g.,* Kansas, Michigan, Pennsylvania, Maryland). In other States, however, LDCs may still retain substantial discretion to decide whether, and on what terms, to provide transportation services for their end-use customers.

The requirement that an LDC must be willing to provide transportation for its end users, in order to satisfy the statutory inquiry in Paragraph 101(a)(2) and thereby prevent a bypass, is a strong incentive for LDCs to offer such service. By doing so, they provide their end users with competitive alternatives to the LDCs' own sales gas. This, in itself, may eliminate many end-users' incentives to seek a bypass arrangement in order to gain access to lower-priced supplies of gas. For those endusers served by "recalcitrant" distributors who refuse to offer them access to transportation as well as sales service, the option of bypass remains viable under the statute.

It should also be noted that, with respect to bypass services proposed under NGA Section 7(c), the evidentiary test of whether the affected LDC is willing to provide transportation service is in no way intended as a replacement for the statutory Section 7 requirement that the proposed service be found to be in the "present or future public convenience and necessity." In other words, if the pipeline cannot meet its burden of proof with respect to availability of LDC transportation, then the certificate cannot be issued. If, however, a pipeline meets its evidentiary burden, then the Commission is still statutorily obligated, under NGA Section 7, to determine that the proposed bypass would serve the public convenience and necessity before a certificate may be issued authorizing the service.

Subsection 101(b)

This subsection of the "Bypass Restraint" provision states that in no event may the Commission authorize a bypass service until 30 days after it has published a notice of same in the Federal Register. The purpose of this requirement is to insure that the affected state or local regulatory commissions, LDCs and other interested parties have prior notice of the proposed bypass service and, moreover, that they have an adequate opportunity to prepare and file a certification (in the case of a state or local commission acting under Paragraph 101(a)(1)) or a protest.

This prior notice provision is particularly important given that the Commission currently authorizes self-implementing transactions under both NGPA Section 311 and so-called "blanket" certificates pursuant to NGA Section 7. In other words, once it has obtained a blanket authorization, in many cases a pipeline may begin service without seeking any further approvals. FERC regulations authorize new transportation, undertaken pursuant to a blanket certificate, for up to a 120-day period with no prior notice whatsoever. 18 C.F.R. § 284.223(a)(1) (1987). With respect to transportation undertaken pursuant to NGPA Section 311 that would bypass an LDC, regulations require the pipeline merely to certify that before transportation commenced, it gave written notice to the LDC and its state or local commission. 18 C.F.R. §§ 284.106(a)(4) and 284.126(a)(6). Only long-term transportation for a shipper other than an interstate pipeline requires not only prior notice, but an opportunity for interested parties to protest and obtain a hearing. 18 C.F.R. §§284.223(b) and 157.205. The statutory requirement in Subsection 101(b) will provide the opportunity for protest and a hearing in all cases of proposed bypass.

It should also be noted that this subsection modifies existing "blanket" authorizations by requiring, at the very least, the specified notice and protest period before commencement of a new service. For additional discussion about the impact of this statute upon pre-existing authorizations, see Section 101(d) below.

Subsection 101(c)

This subsection provides a statutory definition of the term "local distribution company." As it is used in the Act, LDCs are those companies which are (1) "engaged in the distribution of natural gas for consumption," and (2) "regulated or operated as a public utility by a state or local government or agency thereof."

This definition is slightly different from the definition of LDC that appears in Section 2(17) of the NGPA. 15 U.S.C. § 3301(17) (1982). The reason for this is to bring within the definition of LDC those companies that are clearly engaged in the local distribution of gas and are regulated by state or local regulatory authorities, but whose facilities also happen to be located in more than one state. By virtue of their "interstate" facilities, those companies are considered by FERC to be interstate pipelines, though they may fall under a special exemption from federal certification requirements pursuant to NGA Section 7(f). They are also technically excluded from the NGPA definition of an LDC. As state-regulated local public utilities, however, they are subject to the same regulatory responsibilities as other LDCs. As such, they are equally vulnerable to the threat of bypass and equally deserving of the protections provided under this Act.

Subsection 101(d)

This subsection provides for immediate effectiveness of the Act upon its date of enactment. It also specifies that the provisions of the Act, including the Subsection 101(a) bypass prohibitions and procedures, shall apply to all new services (i.e., service not previously provided), whether they require a new approval from the Commission or can be undertaken pursuant to existing (i.e., NGPA Section 311 selfimplementing or NGA Section 7 blanket certificate) authority.

Importantly, the Act does not reach back retroactively to affect a bypass arrangement that is currently in operation. Thus, no services for which facilities have already been constructed and/or for which service has commenced will be jeopardized or subject to additional regulatory scrutiny by virtue of this Act. Rather, only new bypass arrangements will be subject to the greater scrutiny and procedural protections of Subsections 101(a) and (b).

HOUSING CRISIS IN CONNECTICUT

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mrs. KENNELLY. Mr. Speaker, the Governor of the State of Connecticut, the Honorable William A. O'Neill, recently testified on housing issues before the Banking, Finance and Urban Affairs' Subcommittee on Housing and Community Development. His powerful and compelling articulation of the housing needs in the State, and especially his description of the need to extend the mortgage revenue bond program this year, leads me to insert his testimony in the RECORD for the benefit of my colleagues.

TESTIMONY OF THE HONORABLE WILLIAM A. O'NEILL, GOVERNOR OF THE STATE OF CONNECTICUT

Good afternoon Mr. Chairman, Members of the Subcommittee, I would like to take this opportunity to thank you for your kind invitation, extended through the National Governor's Association, to appear before you this afternoon to discuss what has developed into one of the most important issues in Connecticut at this time—housing, lack of housing at all for some, deplorable conditions for others, rent levels and entry level homeownership prices that are making hard work and saving yield an increasingly meager return on the "American Dream" for the majority of young households of modest means.

However, before discussing Connecticut and what we have been doing over the past couple of years and hope to do in the future let me take a moment to compliment this Committee—and indeed the whole Congress—for the action which you took recently in passing the Housing and Community Development Act of 1987.

THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987

Knowing the resistance, and at times virtual hostility, that you all have faced from the Administration over the past several years, I would be remiss if I did not take note of and commend the persistence, even tenacity, with which this Committee has pursued housing and community development legislation over the past several years.

I think that the passage of the 1987 Act is a positive sign for those of us who are concerned with housing issues—that after so many years of impasse and frustration we may be able to see our way to an agreement on the future of Federal housing programs. I, for one, hope that an era ended with the passage of the 1987 Act, and that in the future your lives will be easier when it comes to passing housing authorization bills.

I would like to commend the Committee for several aspects of the legislation which we, in Connecticut, look at positively:

The Nehemiah Housing Opportunity Grants Program: This innovative concept provides needed assistance to neighborhood revitalization efforts and lower income homeownership that often have not received adequate attention in recent years; I can assure you that the State of Connecticut will do all that it can through its agencies to ensure that in cooperation with local governments successful use is made of this program in our State; Notably, the late Stewart McKinney was a strong advocate of this initiative and Representative Morrison worked hard to ensure that it was useful in our urban centers of New Haven, Hartford, Bridgeport and Waterbury as well as those of New York and Los Angeles;

The permanent reauthorization of FHA single family insurance, a cause championed by our own Senator Dodd among others, provides significant relief for those homebuyers who need to make use of this important and valuable homeownership tool and can now count on its availability whenever they need to purchase a new home;

The increase of FHA single family home mortgage maximums in high cost areas is also a significant help to those trying to purchase homes in those areas, such as Connecticut, where even the current national maximum is a severe limit on the program;

The FHA pilot program for the insurance of home equity conversions is an intriguing initiative which we in Connecticut will be looking at closely; through its Reverse Annuity Mortgage (RAM) Program the Connecticut Housing Finance Authority (CHFA) is one of the largest home equity conversion lenders in the country; it recently has been charting some new territory of its own by using this mechanism to finance long-term care expenses for the elderly; this initiative was undertaken upon the recommendation of a Commission which I established to investigate the issue of long term care finance; we look forward to the opportunity to share our experience and expertise in this area with the FHA as it moves to implement this program.

Finally, I would like to commend the Committee for all its work in passing the Stewart B. McKinney Homeless Act. Connecticut has had a long commitment to the homeless. We currently provide state grants to non-profit agencies and municipalities engaged in emergency shelter and transitional living operations. Additionally, the Department of Housing operates programs for the renovation of shelters and the preservation or development of Single Room Occupancy (SRO) structures. Recently CHFA approved its first loan, for $1.4 million, to finance the preservation and renovation of a SRO hotel. The McKinney Act funds are being used for shelter renovation, follow-up housing services, mental health services and primary health care.

This Act was a moving and fitting final tribute to a man who labored long and hard, often alone, for the issues in which he believed. His knowledge of and concern for the housing issues facing the people of Connecticut was well known and respected. His passing was a true loss for our state.

HOUSING ISSUES IN CONNECTICUT

In Connecticut, housing issues are receiving a level of attention that is unprecedented in recent years. This concern and attention focuses on a wide range of issues—from the homeless to the problems that employees of many of our state's local governments and firms experience when trying to buy a home in reasonable proximity to work. Without dwelling too long on the specifics, let me briefly describe to you our problem in general terms.

Spurred by several years of high levels of economic growth, rising personal income and falling interest rates, local residential real estate markets have been very strong. Annual double-digit increases in value are common. Some areas have experienced annual increases in home sales prices of 20 to 30 percent. For example, the median sale price for a single-family home in north central Connecticut was recently reported to have increased from $132,000 in the third quarter of 1986 to $165,400 in the third quarter of 1987, an increase of just over 25 percent. Some recent predictions hold that these increases will "moderate" this year, falling back into the teens.

While the level of building activity has been high by historic standards, it has not kept pace with burgeoning demand. In the single family home market for first-time homebuyers, significant condominium conversion has been taking place to meet the demands of the traditional first-time homebuyer. This has had serious implications for the supply of rental housing in our state, which in some suburban communities is virtually disappearing.

Recent economic growth has provided the means for many in our state to survive reasonably well and even prosper in this climate—especially if they are fortunate enough to own real estate purchased before the recent significant run-up in value. However, I fear that many in our state are being left behind. Homeownership is becoming an increasingly solid dividing line between the "haves" and the "have-nots". It is becoming an increasingly improbable aspiration for many young households in our state. Most cannot afford to live in the communities in which they are raised—and neither could their parents if they were forced to purchase their home now under current market conditions with their present level of income.

You can be sure that if the "middle class" is having serious housing affordability problems—the situation facing low income families often is desperate. A limited supply of affordable rental housing contributes to increased rents. Poorer families are paying an extremely high portion of their income in rent. The Connecticut Blue Ribbon Commission on Housing has estimated that there is currently a need of an additional 161,444 units in our state to adequately address the issues of rental and homeownership affordability and inadequate physical condition.

While different communities across the state have different concerns, all are grappling with symptoms of the same basic issue—the supply of housing has not increased enough to meet demand.

Regarding homeownership, this basic problem has set up strong price competition. Those who have insufficient savings and income can not compete and as a result witness a deterioration in their standard of living and the frustration of their dreams. I think this issue has serious long term consequences or our young people and communities—as the aspirations traditionally satisfied through sacrifice and hard work are frustrated or denied, and many of our towns are denied the life and energy that young families bring to a community.

Regarding rental housing, the problems are numerous and many are often related to the problems that are being faced by those trying to purchase their first home. As many families with incomes that have traditionally made homeownership an expectation have been forced to rent longer, lower income individuals are displaced, adding to already serious housing problems these lower income groups face, including discrimination. Tragically, those least able to compete in these circumstances eventually end up on the streets or in our homeless shelters.

CONNECTICUT'S RESPONSE: STATE PROGRAMS

This Committee needs no briefing on the severe budgetary reductions that housing programs have witnessed over the past several years.

Facing this reality, and the housing problems that I have just noted, I believe that Connecticut is well on its way to developing a broad-based approach to addressing our problems.

Housing issues have been the subject of annual statewide conferences, bringing together some of the best in our state to discuss our housing problems and their ramifications, and to develop a concensus around practical and realistic solutions.

My administration and the General Assembly have convened a special "Blue Ribbon" commission, with participants from a wide range of interested parties in the state, to consider the serious housing issues that face us and recommend solutions that will address changes in state programs and policies including the manner in which local governments exercise their granted power of land-use control.

Over the past two years, I have requested, and the Connecticut General Assembly is approving, dramatic and unprecedented increases in state funding for housing programs—the total funding requested by me and subsequently approved by the General Assembly being well over $200 million.

For the 1987-1988 state fiscal year our program included: $6.5 million from the General Fund, for rent subsidies, building on a pilot program, and to gradually increase our experience and commitment to a direct income subsidy approach; $94.5 million in capital spending to finance a broad range of state housing programs. These funds were allocated for specific programs for projects for the poor, elderly, homeless, sweat equity housing development, site development, down payment assistance for lower and moderate income first-time homebuyers, the development of affordable rental housing, and for neigborhood revitalization;

In 1987, I also designated the Connecticut Housing Finance Authority (CHFA) as the statewide administrator for the new Federal Low Income Housing Tax Credit (LIHTC) program.

This year's budget request, which I just recently submitted to the General Assembly, again called for additional funds of well over $100 million for housing programs: From the state's capital budget, I requested that the State Department of Housing be allocated $100 million more for its housing development programs, giving my Commissioner of Housing total budgetary discretion on how to allocate these funds to the wide range of housing programs which we will operate this year. This discretion affords the Department the opportunity to be a flexible partner in collaboration with other state agencies, local governments and the private sector to bring to reality the development of more housing.

Additionally, I recommended: a $1.5 million increase in the funding for our state's rental assistance program, an increase in funding for assistance to the homeless with greater emphasis on social services for those living in our shelters and assistance in locating permanent housing arrangements, an increase of $50 per month to AFDC families in private housing whose rent exceeds 30 percent of their income and who are not receiving other continuing housing assistance.

Additionally, the legislative package which I submitted to the General Assembly this year contained a number of proposals designed to foster the development of affordable housing including: modifying certain state programs to make them compatible with the new Federal LIHTC program, requiring that all state surplus property be reviewed for possible use in the development of permanent housing, a requirement of one year's notice by any owner of a federally-financed rental development in Connecticut of intention to pre-pay their federal mortgage, combining state programs to fund up to ⅔ of the cost of necessary infrastructure activities related to the development of low and moderate income housing.

I anticipate that this package will be supplemented by a package of legislative recommendations arising out of the final report of the Blue Ribbon Commission.

ROLE OF THE CONNECTICUT HOUSING FINANCE AUTHORITY

Additionally, our state housing finance agency, CHFA, has been active in supplementing the state budget with crucial loan programs for moderate and lower income first-time homebuyers and for the development of rental housing.

Housing programs have received a significant portion of the "private activity" bonding authority remaining to the state after the passage of the Tax Reform Act of 1986. This reflects the strong priority given to housing in our state and the continued commitment of my administration to make resources available for housing programs.

In 1986 the CHFA was allocated $50 million or 20 percent of the $250 million statewide "private activity" volume limitation. This authority was carried forward under the act to provide part of the financing for a major urban revitalization in the city of New Haven.

Of the $250 million statewide limit in 1987, CHFA was allocated $150 million, or 60 percent of all authority available. These funds were also carried forward from 1987 to finance both single and multifamily programs throughout the state within the next three years.

In 1988 I anticipate that CHFA will also receive similarly significant portion of the available bonding authority.

A CENTRAL CONCERN: HOMEOWNERSHIP PROGRAMS

The State of Connecticut since 1970 has recognized the importance of homeownership for the well-being of our communities and young people by providing assistance through CHFA to lower and moderate income first-time homebuyers. The CHFA Home Mortgage Program has had strong bipartisan support in Connecticut, as witnessed by the fact that its operating reserves are backed by the State. As a result its bond issues have been rated the same as State of Connecticut paper in the marketplace.

Over the years this program has raised over $2.0 billion in mortgage capital to assist over 46,000 households, nearly all of which are first-time homebuyers. Since January of 1985, the Authority has financed nearly $565 million in mortgages for approximately 8,600 such lower and moderate income homebuyers. This role has continued over the past three years despite the devastating impact that the Tax Reform Act of 1986 has had on all state and local programs financed with various types of revenue bonds. I have attached to this testimony tables and charts which summarize major aspects of the performance of the CHFA Home Mortgage Program over the past three years.

Our experience with CHFA's Home Mortgage Program since January 1985 demonstrates clearly that this program serves households of modest means. The average household income of a CHFA mortgagor ranged from 26,734 in 1985 and $26,881 in 1986 to $31,509 in 1987. HUD estimated statewide median income in 1986 was $34,500 and $38,500 in 1987. The average purchase price of a home financed with a CHFA mortgage increased from $63,358 in 1985 and $72,491 in 1986 to $91,884 in 1987. Given the historically high home purchase prices in most of the state's major real estate markets during the past few years, it is clear that the Home Mortgage Program serves those facing the most difficulty in financing their first home purchase today in Connecticut.

It should be of interest to the Committee to know that over the past three years an increasing share of the mortgages purchased by CHFA have been insured by the FHA. In fact, CHFA has recently become the major purchaser of FHA loans in Connecticut. Informal estimates indicate that in the past year 70 to 80 percent of all FHA business in our state was the result of the CHFA Home Mortgage Program, and recently this figure has risen. This figure should also be a matter of concern to the Committee because it indicates that FHA was having serious difficulty providing service to conventional borrowers in Connecticut. While the new mortgage maximums provided in the 1987 Act will help, it may be unable to restore to FHA the role it once had in our state.

We view this relationship between our state programs and FHA to be appropriate, productive, and beneficial for all. FHA is more able to provide insurance to many borrowers who would not be able to otherwise make use of this fine program. CHFA is able to use FHA's generous underwriting criteria in order to qualify buyers that otherwise would be ruled ineligible by present private mortgage insurance underwriting standards. Struggling first-time buyers are able to realize the opportunity to achieve homeownership that would have been beyond their reach otherwise.

The level of cooperation between the Hartford FHA office, CHFA with its Home Mortgage Program, and the Department of Housing Down Payment Assistance Program has been outstanding. The Down Payment Assistance Program is a state funded second mortgage program for those eligible households lacking sufficient cash to make closing. Our commitment to this special program has been strong, with $19 million committed over the past two years, and $25 million scheduled for release later in 1988.

Many of the reforms that you have enacted in recent years, such as the direct endorsement process, have helped dramatically to improve the level of service that these agencies, working cooperatively, can provide. This cooperation is a quiet but impressive example of true Federalism at work—different levels of government with complementary abilities working together for a common goal which benefits all.

In addition to being important to FHA, the CHFA Home Mortgage Progam is also critical to neighborhood and housing revitalization efforts that are much more valuable to the state's urban communities than can be understood from a strictly "dollars and cents" perspective. Through the support of such efforts, the Authority has been a partner in working with the state's cities and nonprofit neighborhood development organizations in their neighborhood improvement programs, and has developed and offered its own special programs directly aimed at fostering new construction and homeownership for lower income families.

CHFA Home Mortgage Program Faces Termination

In the midst of all of the concern and activity addressed to the housing problem or crisis we face in Connecticut, it seems almost inconceivable to me that we are in real danger of losing this program in the Congress in 1988. Although all of the Members of Congress from Connecticut have cosponsored legislation extending the ability of state housing finance agencies to continue to issue Mortgage Revenue Bonds, this important legislation was not acted upon in 1987 and must be acted upon in the 1988 session.

Unless the Congress acts this year to extend the authority of the state to choose to issue mortgage revenue bonds under the statewide volume limitation, there will be no more new funds raised to finance our Home Mortgage Program after December 31, 1988.

I must tell you, that as a Governor who is a strong believer in the need for state government to address housing issues, and as a strong believer in state government responsibilities, as well as rights and prerogatives, I find this situation wholly unacceptable and intolerable. When the Tax Reform Act of 1986 was passed, and the volume of all revenue bonds was dramatically reduced—an aspect of this legislation that I strongly opposed—I remember being told that if housing was a priority we would be able to use what was left of the state's ability to issue to finance housing programs. Well, in Connecticut that happened, and now we're faced with losing what remains.

In the face of the substantial reductions in direct spending programs over the past several years for housing assistance and lower income homeownership, it was said that states would need to step to the plate and "do more for housing." We in Connecticut have done so, and are committed to a sustained effort, using a broad-based approach for the forseeable future. The CHFA Home Mortgage Program is the basic homeownership component of this broad-based approach and its loss would leave our overall state effort dramatically lacking by comparison to what we have been able to accomplish in recent years. To lose this program would really be more than adding insult to injury. It would be adding injury to injury. The efforts of all of us to reinvigorate the housing agenda cannot cope with this damage at this critical time.

Also, Congress should have no illusions that another major state homeownership program will appear, to take the place of this program—serving the same targeted populations—if it is lost. While I am strongly committed to homeownership programs, we could not in times of economic and budgetary uncertainty develop a concensus to use state funds and the state capital budget to support support such efforts and meet such a severe need.

Therefore, I urge you to do all that you can to assure the passage of legislation to extend our ability to choose to use revenue bonds to finance home mortgage programs. I urge any member of this Committee who has not yet become a co-sponsor of HR 2640 to do so. I urge this Committee to communicate support for the passage of this legislation to the members of the Ways and Means Committee. I urge each member of this Committee who supports HR 2640 to speak to all your friends and colleagues, including those on the Ways and Means Committee, to urge them to support and work for the passage of the sunset extension this year. At a time when we at the state level are being asked to do much more for *our* constituents, please help us to maintain this vital component of the housing effort.

RELIEF FROM CERTAIN INTEREST ON TAX PAYMENTS

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. DUNCAN. Mr. Speaker, I am today introducing a bill that would allow the Internal Revenue Service to waive interest on taxes when the liability for those taxes is not created until after the due date of a taxpayer's tax return.

At first glance it is impossible to believe that the law could require interest to accrue during a period when, according to the law on the books during that period, the taxpayer's liability has been fully satisfied. However, when Congress passes retroactive tax legislation, it may increase a taxpayer's tax liability even after the taxpayer has filed his or her return. Under current law, interest would be due on that unpaid increase. The Internal Revenue Service currently would have no authority to waive that interest and would be obligated to collect it from the shocked taxpayer.

While I have serious concerns about the appropriateness of enacting retroactive tax legislation, I think it is clearly unjust to mandate charging interest in such situations. I would not like to have to explain such an interest charge to one of my constituents. This is especially the case now that the interest is not deductible.

To provide some examples of how this retroactive interst charge might occur, let me point to the package of technical corrections to the 1986 Tax Reform Act which passed this body as a part of H.R. 3545 but which was later deleted. That package, still awaiting passage, includes the following provisions:

(1) IRA CONTRIBUTIONS

A married person filing a separate return would be treated as covered by a retirement plan if the spouse were covered by one and the two lived together at any time during the year. This provision could reduce retroactively or deny IRA contribution deductions for many thousands of taxpayers.

(2) INCOME OF MINOR CHILDREN ("KIDDIE TAX")

Unearned income of children under 14 years of age is taxed at their parents' tax rates. A pending technical correction would retroactively provide that a child's alternative minimum tax could not be less than the alternative minimum tax payable by the parents if the child's income had been included in the parents' alternative minimum tax computation. Recognizing the difficulty of trying to advise taxpayers on how to fill out the appropriate form based on unenacted proposed law changes, the IRS Instructions to form 8615 state:

> Pending legislation would provide special rules to determine if a child whose tax is figured on form 8615 is subject to the alternative minimum tax. If this legislation is enacted, information regarding the special rules will be made available.

(3) ALTERNATIVE MINIMUM TAX

A pending technical correction would require a taxpayer to add his or her personal exemptions into the alternative minimum tax computation. This provision would retroactively increase the liability of everyone who pays the alternative tax. Based on IRS advance estimates for 1986, the most recent year for which information is available, there were nearly 600,000 tax returns filed subject to that tax. The IRS instructions helpfully inform taxpayers that:

> At the time form 6251 and these instructions were developed, Congress was considering legislation that would require personal exemptions to be added back to taxable income in figuring alternative minimum taxable income. Use line 4r for this purpose if this legislation is enacted.

(4) ADDITIONAL RETROACTIVE PROVISIONS

I am informed that the tax-writing staffs are continuing even this week to add more technical corrections which would retroactively increase taxpayers' taxes. How is the average tax return preparer, let alone the average taxpayer, supposed to keep up with these changes? I understand that the current draft of proposed technical corrections is over 650 pages long.

I regret that recent events have not permitted the enactment of technical corrections to the 1986 Tax Reform Act long before now. Taxpayers should not be expected to fill out returns with so many questions unanswered by Congress.

The bill I am introducing today would, in effect, say to taxpayers that there is no interest due to Uncle Sam on a debt for the period before that debt was actually legislated into existence. I believe that this bill is absolutely necessary in order to maintain taxpayer respect for the fairness of our complex tax system.

The bill would allow the Internal Revenue Service to waive interest otherwise due from an individual for an income tax underpayment to the extent the underpayment results from retroactive legislation. For this purpose, retroactive legislation would mean, for a particular taxable year, any law enacted after the return due date (without extensions) for the year; for all but a small group of fiscal year individuals, that date would be April 15 of the following year.

Interest could not be waived for any period after 30 days from the enactment date of the retroactive legislation. I would anticipate that during the 30-day period following enactment the IRS would take steps to notify taxpayers of new legislation which would increase taxes on returns already filed.

In determining whether to waive interest, the IRS would have to determine whether requiring interest would be against equity and good conscience. The determination of whether to waive interest could depend on a number of factors including the level of public awareness of a proposed change prior to the return due date, the existence or absence of clear IRS instructions on the issue covered by the statutory change, and the extent to which the statutory change is merely a clarification buttressing a statutory interpretation previously promulgated in a regulation, ruling, announcement, or form.

In general, the decision about whether to waive interest should be made on a blanket basis with respect to each retroactive law change. This is, interest should either be waived for all taxpayers adversely affected by a retroactive change or it should not be waived for any taxpayer affected by the change. It would not be my intention for the IRS to deal with the interest waiver question on a taxpayer-by-taxpayer basis in situations where the IRS determines that a blanket waiver is not appropriate. However, in unusual circumstances the IRS could, if deemed appropriate, announce its intention to consider the interest waiver question on a taxpayer-by-taxpayer basis with respect to particular retroactive legislation.

This bill would be effective with respect to under-payments for taxable years ending on or after December 31, 1987. Thus it would apply to the tax filing season now upon us.

I would respectfully ask that my colleagues join me in supporting this bill to maintain fairness in the administration of our tax laws.

ROLAND ALUM ON THE DOMINICAN CRISIS

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. COURTER. Mr. Speaker, while most of our attention these days is centered in Central America, and especially in Panama—where we have been trying to promote a return to representative democracy—I would like to call attention to another Caribbean Latin nation. The Dominican Republic has experienced repeated political, economic and social crisis in the last quarter century.

Rafael L. Trujillo ruled the Dominican Republic with an iron fist until 1961. The 31-year-long dictatorship was followed by a succession of short-lived governments, until 1965, when a new coup triggered a civil war. The fracticidal conflict ended when joint military forces of the OAS and the United States intervened during the administration of President Lyndon B. Johnson.

In new elections held in 1966, Joaquin Balaguer, a respected intellectual, became President. He was reelected in 1970 and 1974, but lost in 1978 to the Dominican Revolutionary Party, which won again in 1982. However, Dr. Balaguer and his Reformist Party were returned to power in 1986 on a conservative platform that called for privatization and honesty in public administration.

I ask to have printed in the RECORD a short article recently written by former university professor Roland A. Alum, who is an expert on the Caribbean Basin and also the highest ranking Hispanic in the administration of Gov. Thomas H. Kean in my home State of New Jersey. Mr. Alum's column, distributed through the Washington-based Hispanic Link News Service, calls attention to the tenuous conditions of the Dominican democracy.

Following his preelection promises, President Balaguer has embarked on a much needed campaign to cleanse the public sector of corruption. But the privatization of the industries and services monopolized by the state since Trujillo times seems to have been put aside. While we do not want to be viewed as unduly interfering in the internal affairs of a small developing country, many of us continue to believe that the encouragement of free enterprise, as oppossed to the currently prevalent statism, should be the cornerstone of our foreign assistance programs.

Whatever the genesis of it, the current economic crises in the Dominican Republic threaten the stability of that neighboring country. We have historical links with the Dominican Republic. We appreciate President Balaguer's support to the United States at the United Nations. The Dominican Republic is one of the prime beneficiaries of President Reagan's Caribbean Basin Initiative. Perhaps one step we could take now is to restore the sugar quota cut off recently by our Government, an action that has seemingly hurt the freedom-loving Dominican people both economically and emotionally.

I maintain close ties with Latin America. I was a PCV in Venezuela and I work closely with the Hispanic community in my home State. The Garden State, let me add, is the home of a thriving and hard-working Dominican-American community. I concur with Mr. Alum's concluding words that the preservation and expansion of Dominican freedoms should be a priority.

The article follows:

A REFLECTION ON BALAGUER AND THE DOMINICAN REPUBLIC

(By Roland Armando Alum, Jr.)

The Dominican Republic is celebrating this week another anniversary of its independence. However, the country is experiencing a major economic and political crisis as the peso has plummeted to a low R.D. $1.40 per dollar under the presidency of Joaquin Balaguer.

In August 1986, Balaguer was sworn in for the fifth time in his life as president. The 78-year-old statesman remains as much of an enigma as an individual. He is a shy intellectual, author of many treatises. In contrast to dictator Rafael Trujillo (1930-61), whose machismo is still somewhat admired in the popular mind, Balaguer has remained a bachelor.

Politically, Balaguer grew under the shadow of Trujillo, whom he served in various governmental posts. Nonetheless, the record shows that he was instrumental in dismantling the dictatorship throughout the early 1960s transitional period. In 1966, at the conclusion of the Civil War, Balaguer was elected overwhelming as president. He was re-elected in 1970 and again in 1974, though perhaps not always by the fairest means. But his '78 bid for a fourth term was thwarted by the renewed Dominican Revolutionary Party led then by S. Antonio Guzmán. Belaguer lost once more in 1982, to Salvador Jorge Blanco of the PRD. Yet in 1986 Balaguer won a surprising victory—if by a slim margin—against the PRD's Jacobo Majluta.

The Balaguer 1966-78 administration was a mixed bag. In contrast to his two successors—Guzmán and Jorge, who lived up to their pledges not to seek re-election—Balaguer had his own sponsored constitution of 1966 soon amended to allow self-succession. Critics have noted further that rampant corruption (which Balaguer claimed halted at his "office doors" but which implicated close associates), plus police and military heavy-handedness, caused popular support to decline.

In retrospect, however, his 12-year reign may well be labelled the *pax Balagueriana.*" While during his first few years the country was beset by many of the problems found in Central America today—guerrillas, death squads, riots, militarism—his last term has been more democratic than many other regimes in the continent at the time.

Notwithstanding, both the '78 and '82 administrations of the opposition PRD turned out to be disappointing. Repeated hurricanes, increases in energy costs, declines in sugar prices, high inflation, and the foreign debt added to their difficulties. While pursuing policies of austerity, both were plagued by nepotism and corruption. Thus was the scenario that made Balaguer's comeback possible in 1986.

In his last inauguration speech, Balaguer promised that "in accordance with the people's clamor," he would launch a campaign to clean up the public administration. Such measures have reached even former president Jorge (currently hospitalized in the United States) and close collaborators who have been accused of improper acquisition of wealth. The opposition claims that Balaguer's reforms are a smoke screen to cover up his own ineffectiveness.

The politics of the Republic are, like its economic and social life, shared by the half-million Dominicans who live in the United States. About 90% of them reside in the New York/New Jersey metropolitan area, only a short flight from the Caribbean island of Hispaniola, which the country's 5.3 million inhabitants share with Haiti and its 5 million people.

Observers in the Dominican-American community note that Balaguer's new cleansing policies are robust in rhetoric but lean in performance. Any serious attempt at "purifying" the public administration here would entail that the executive branch relinquish much power, especially in the control of over half of all jobs in the country, a patronage system which has been employed by all governments since Trujillo times. Instead, the campaign has deteriorated mainly into personal exposés of selected leaders of the opposing social-democratic PRD party. One unintended result may be the deterioration of the multi-party system which Balaguer himself helped create.

From personal conversations with Balaguer, I can conclude that he is preoccupied enormously with his legacy. And history, indeed, will be benign in judging his record unless in his last term, his political theatrics turn out to threaten the stability of the representative-democratic system he worked so hard to create. It has become a role model for Latin America.

As U.S. Dominicans with vested financial investments in their country of birth advocate, the preservation and improvement of the Dominican open society should be a priority over personality quarrels.

(Roland Armando Alum Jr., a former college professor, was a member of the U.S. delegation to the inauguration of President Balaguer, a mission led by Secretary of State George Shultz, in 1986).

SMALL EXPORTERS WILL LEAD THE WAY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. GARCIA. Mr. Speaker, as indicated by the March 3 article in the Journal of Commerce titled "More States Come to Aid of Small Exporters," it is encouraging to find that assistance for our Nation's small exporters is becoming more available. While large companies dominated the exporting business in the past, increasingly, small- and medium-sized firms are becoming major participants. We are gradually realizing the importance of exports to our economy, and the small business sector presents the largest potential source of exports. Unfortunately, the availability of private export financing has been decreasing because the banks have been shifting their focus to less risky and more profitable areas of transactions. At the Federal level, the U.S. Export-Import Bank has made concerted efforts to target its assistance to small- and medium-sized businesses. With the increasing efforts by the States, our Nation is beginning to regain its former position as the No. 1 exporter in the world. I submit the Journal of Commerce article for my colleagues' consideration:

MORE STATES COME TO AID OF SMALL EXPORTERS

(By William Armbruster)

The news was almost too good to be true for Kishnan Gopalan. His San Jose, Calif. based company, Priya Electronics Inc., suddently found that a relatively small order from a buyer in India had grown to $292,000.

"We had to work on very short notice," said Mr. Gopalan, Priya's president, because the buyer had opened a 30-day letter of credit on which the clock was already running.

The problem was compounded by the fact that the exporter's main supplier of components asked for a standby letter of credit toward the eventual $175,000 invoice.

Mr. Gopalan's bank, Mitsui Manufacturers Bank, an affiliate of Mitsui Bank in Tokyo, was reluctant to provide that amount of financing because Priya, an exporter of computer components and peripherals, was both a new company and very small.

The bank suggested the company apply to the California Export Finance Program for a loan guarantee. By Dec. 28, just 17 days after the state agency got into the act, the program had assembled a package with Mitsui that enabled Priya to make the sale.

Such efforts by state agencies to help small- and medium-sized exporters obtain financing are becoming increasingly common.

A survey by the Wisconsin Department of Development last August found 13 states had some kind of program to provide trade financing assistance to small exporters. Programs vary widely from state to state, ranging from financial counseling and export credit insurance to loan guarantees and direct loans.

Such programs enable the small businessman to "expand in foreign markets and sleep at night," said Bernard Siegele, president of Star Industries Inc., Highland Park, Ill. Mr. Siegele has used a loan program from the state of Illinois several times on sales to European countries. Star Industries manufactures large industrial floor scrubbing machines.

Many of the loan guarantees and direct loans are intended to help exporters such as Mr. Gopalan obtain working capital.

"They've got to have money up front to buy materials for the project," said L. Fargo Wells, director of the California program.

The Wisconsin study, issued this month, also noted that several more states have either developed an export finance program or are seriously considering introducing legislation to do so.

Caroline Garber, the study's author, said states have moved into trade finance to fill a gap that developed after many commercial banks pulled out of trade finance, particularly for loans to small- and medium-sized exporters.

New Jersey is beginning to accept applications for its new trade finance program, while the Indiana legislature is expected to give final approval shortly to a new program that would allow the state to insure loans of up to $500,000 to exporters who might not otherwise be able to obtain financing.

For years, the states have been trying to create jobs for their residents by attracting foreign investment, but it's only recently that they've also begun to promote exports, said William Archey, vice president, international, for the U.S. Chamber of Commerce in Washington.

"It's still very incipient," he said.

Ms. Garber, economic developmoent analyst at the Wisconsin Department of Development and author of the study, said the pace is rapidly picking up.

"Look at all the trade missions led by governors," she said.

Wisconsin itself has not yet established a trade finance program, but is surveying exporters in the state to ascertain their interest, Ms. Garber said

Commercial banks reluctance to handle small export loans has several causes.

Such transactions may involve as much paper work as large loans, but the fees aren't nearly as attractive to the banks, or else they may be expensive for the exporter. Another problem is that many banks, saddled with loans to Latin America and uncertain of how to gauge political unrest, are reluctant to get involved in any international business.

"Banks are so afraid of foreign credit risks these days," said Marie Torres, international trade finance specialist and loan officer with the Maryland Industrial Development Finance Authority. "Because of the Third World debt crisis, many banks have shifted from export financing to less risky and more profitable areas of operations."

William Connell, counsel to the New York-based Council on International Banking, said that while exports are looking more and more attractive because of the cheaper dollar, "I don't see any groundswell of interest" by U.S. banks. Most of the interest, he said, comes from foreign banks that have traditionally been involved in this area.

The U.S. Export-Import Bank in Washington traditionally has focused on providing assistance to larger companies. But George Donegan, the bank's deputy vice president, marketing and program development, said the institution recently has stepped up its efforts to assist small exporters, in part through stepped-up cooperation with state and local governments.

The Ex-Im Bank has set up a pilot program with three cities—Columbus, Ohio, Los Angeles, and Tucson Ariz—and three states—California, Maryland and Massachusetts. The programs are small however, he said.

While the weaker dollar has made U.S. goods more competitive in the international marketplace, "it's not just price and quality, but the terms of payment" that enables an exporter to sell, said John Kerwitz, executive director of the Illinois Export Development Authority.

Illinois and California have the most extensive trade finance programs, added Thomas Matty, director of export activities for the New York-based American Association of Exporters and Importers.

Illinois has worked with some 125 companies in the 18 months that its program has been up and running, Mr. Kerwitz said.

"We have financed actual loans of $3.5 million to support close to $4 million in exports, almost all of which wouldn't have happened without our participation," he said.

The maximum loan offered by the authority is $500,000 for up to 180 days. The agency makes the program attractive to local banks by handling all the paper work itself. Sixty-two banks participate in the program, although only six qualify as international banks, Mr. Kerwitz said.

The loans can be used to provide either working capital to the exporter or post-shipment financing until he receives payment from the foreign buyer.

The Illinois agency also acts as the administrator of an export credit insurance program run by the Foreign Credit Insurance Association, an Ex-Im Bank affiliate. This program insures the exporter against the risk that the foreign buyer will not pay for the goods.

Another Illinois businessman who has used the program is Bruce Cluver, president of Ag-World Exports Inc., Bloomington, Ill, an exporter of livestock and livestock equipment.

"It helps companies with limited resources put together export sales," said Mr. Cluver, whose company was the first to receive assistance under the Illinois program when it shipped some 2,000 head of cattle to Taiwan in late 1986.

Illinois and California both require that a certain percentage of the goods exported with their assistance be produced in their states. While Mr. Gopalan of Priya Electronics, who paid a fee of $1,500 for the loan guarantee he received from California, appreciates the help, he's already thinking bigger.

NO PLUTONIUM FLIGHTS THROUGH U.S. AIRSPACE

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. BONKER. Mr. Speaker, in conjunction with a meeting of the Foreign Affairs Committee yesterday on the proposed United States-Japan Nuclear Cooperation Agreement, I was pleased to announce that the administration has abandoned plans to allow planes carrying weapons-grade plutonium to fly through American airspace and make refueling stops in Washington State or Alaska.

Under the proposed agreement, up to three plane loads per month of reprocessed plutonium could have been flown from Europe to Japan. Originally, Alaska was identified as a likely refueling stop for these flights, but intense opposition from Alaska and Canadian officials led to speculation that a route over the northern United States—including a stop in Washington State—could be selected. But I am pleased to inform Members of this body that the administration has agreed to requirements that the flights travel nonstop from Europe to Japan, outside of U.S. airspace, using new Boeing 747-400's specially designed for making the 4,000-mile journey without refueling.

Washington and Alaska residents can now breath a little easier. This decision means that our skies will not become plutonium shipping lanes between Europe and Japan. However, I still have grave reservations about other key portions of the cooperation agreement. I continue to believe that it undermines our ability to control the spread of nuclear weapons technology.

The proposed agreement would establish procedures for the future handling and protection of United States made nuclear components and nuclear materials derived from American fuel or American made facilities in Japan's civilian nuclear programs. I am seriously troubled by provisions that would give blanket authority for Japan to transport and reprocess spent nuclear fuel for 30 years without prior approval, rather than the current case by case review. I am also opposed to provisions that would approve Japanese nuclear safeguards in concept only, rather than require a detailed inspection of all facilities to insure that they are adequately protected against terrorism or possible diversion of plutonium.

Last December, I introduced legislation designed to revent the plutonium flights by imposing severe restrictions, including the full environmental impact statement and expensive, real-life tests of the transportation casks. I have also introduced legislation which would require the President to renegotiate the objectionable areas of the agreement or resubmit it under procedures that would require Congress to approve the pact before it can take effect.

Lastly, Mr. Speaker, I would like to commend Senator MURKOWSKI of Alaska for his role in encouraging the administration to scrap plans for the plutonium flights to pass over U.S. territory. He too has introduced legislation designed to restrict the flights and has worked closely with the administration during the past 3 months.

CUBAN HUMAN RIGHTS VIOLATIONS AND THE U.N. COMMISSION ON HUMAN RIGHTS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. FASCELL. Mr. Speaker, yesterday our distinguished colleague, Representative BILL BROOMFIELD, and I returned from a visit to the 44th session of the U.N. Commission on Human Rights in Geneva. We attended the session as a reflection of the U.S. Congress' deep and abiding concern for human rights. The Congress has been in the forefront of efforts in recent years to promote respect for human rights and end abuses of fundamental freedoms throughout the world. This has been energetically—though with differing styles—supported by Presidents of both political parties.

The role of the U.N. Commission on Human Rights is critical to this effort. What happens at the Commission reverberates throughout the world. The Commission's recommendations weigh heavily on the U.N. General Assembly and throughout the U.N. family. As the chairman and ranking minority member of the Committee on Foreign Affairs, we went to Geneva to demonstrate our commitment to the Commission and to reaffirm the Congress' support for its work.

Respect for human rights is an integral element in U.S. foreign policy. U.S. law provides that a nation's human rights record be taken into account in the formulation of U.S. policy toward that nation and that U.S. foreign assistance programs be designed to promote human rights. Each year, the Congress mandates the State Department prepare reports on human rights practices in every country of the world. These reports—and those of independent nongovernmental human rights groups—are used by the Congress in the consideration of foreign policy legislation.

In just the last year, the Congress unanimously adopted a provision expressing concern about human rights violations in Cuba and urging the U.N. Commission to address this issue. It was a natural outgrowth of that legislative effort that brought us to Geneva and the U.N. Human Rights Commission this week.

Allegations of serious human rights violations in Cuba are widespread and well-documented. Amnesty International has reported large numbers of political prisoners, harsh prison conditions, denial of due process and the mistreatment of prisoners. The Organization of American States, the International Commission of Jurists, the European Parliment, the European Community, and others have also recognized Cuban human rights violations. Yet, for nearly three decades, Cuba has escaped the scrutiny and review of the U.N. Human Rights Commission.

The U.S. delegation to the U.N. Human Rights Commission has called upon the Commission to investigate these charges. We fully endorse this well-balanced and thoughtful resolution and went to Geneva to demonstrate our bipartisan support for this important effort. It is time for the Commission to address the issue of Cuban human rights violations in a methodical and objective manner.

Upon our return from Geneva yesterday, Representative BROOMFIELD and I issued the following statement:

> For nearly 30 years, Fidel Castro has presided over one of the world's most brutal dictatorships. During the entire period, the United Nations Human Rights Commission has not looked into allegations concerning Cuba. Last year, the United States began a concerted effort to place Cuba on the Commission's agenda. Our resolution was rejected last year by one vote on procedural grounds.
>
> This year, the United States has offered a straight-forward resolution which simply seeks agreement that allegations of Cuban human rights violations will be substantively discussed at next year's session of the Human Rights Commission. Based on our consultations in Geneva yesterday, we must conclude that the outcome of U.S. efforts on Cuba remains in doubt despite an all-out effort by the Administration.
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> Our diplomats in Geneva, led by Ambassador Armando Valladares, U.S. Representative to the UNHRC, are doing an outstanding job. Momentum is on our side. However, this issue and this vote is too important for us to rest. We urge the President and the Department of State to redouble their efforts, just as we plan to continue our efforts, to persuade our friends and allies and all nations of good will to support the U.S. resolution.
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> We must make every effort to succeed this year. That is why we decided to go to Geneva together—to lend visible, bipartisan support for efforts to secure passage of the U.S. resolution. We hope our direct meetings with delegates from member countries of the Human Rights Commission clearly demonstrated that Cuban human rights violations are a matter of serious foreign policy concern in the Congress.
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> In concert with the Administration, our visit underscores the fact that human rights violations in Cuba and elsewhere in the world are a concern of all the American people, of both political parties in Congress, and of the President of the United States. We want the nations which will vote on the U.S. resolution to know just how important this issue is to the United States.
>
> During our brief visit to Geneva, we had an opportunity to meet with representatives of most of the countries which are members of the Human Rights Commission. We were received graciously and carefully listened to by all with whom we met. Clearly, the United States has substantial support for our resolution. While many countries privately expressed their concerns over allegations of political prisoners, torture, and abuse of fundamental human rights in Cuba, some countries seemed reluctant to support our request for a Commission review.
>
> Some countries may have been concerned about Cuban subversion and terrorist acts

of retaliation against their own country. We were especially disappointed to find that among those apparently unwilling to discuss allegations of human rights abuses in Cuba are some close friends of the U.S.

In the days ahead, we will continue our efforts to seek a favorable vote on the Cuban resolution at the Human Rights Commission through additional communication with those pivotal governments represented on the Commission. We also plan to urge our colleagues in the Congress to lend their support to efforts to secure passage of the U.S. resolution.

JANET KENNEDY: A DIRECTOR LIKE NO OTHER

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. MANTON. Mr. Speaker, Queens, NY, is about to suffer a great loss. Janet Kennedy, who has served as the director of the Astoria Community Senior Center, will be leaving her post this week to assume a new job with the department of health and rehabilitative services in Florida. Janet Kennedy will be sorely missed by the many people whose lives she has touched with her care and understanding.

Janet always made certain that the members of the Astoria Community Senior Center were provided the best of care. She paid special attention to everyone's particular needs. But most of all, she gave them all her love.

During the 8 years we have worked together for the people of Queens, I have admired her energy and spirit, her commitment, and her dedication to senior citizens. Janet earned the respect and admiration of all who worked with her. On behalf of my constitutents, I would like to thank Janet for her remarkable dedication and contribution and to wish her the best of luck in her new life in Florida.

Mr. Speaker, I ask unanimous consent that the New York Times article entitled "In Queens a Farewell With Love" by George James of March 2 be included in the RECORD at this point.

[From the New York Times, Mar. 2, 1988]

IN QUEENS, A FAREWELL WITH LOVE

(By George James)

She loves them, the elderly people know, and they love her.

And, last week, at the last general meeting that Janet Kennedy would have as director of the Astoria Community Senior Citizen Center in Queens, it was time for many to say goodbye to someone who had been a cross between a respectful daughter and a caring parent.

"She walks into a room and lights it up," said Peter F. Vallone, the City Council majority leader from Astoria, who at a testimonial attended by about 400 people Monday gave Ms. Kennedy a Council proclamation praising her efforts. The State Legislature also gave her a proclamation.

Looking out at her friends, some frail, some hearty, some well-off and some poor, some with children who made their elderly parents a part of their lives and some with children who did not, Ms. Kennedy said: "What has had the greatest effect on me in my whole life has been working with you. And you know why? You are an inspiration in courage. You are an inspiration in living. You are an inspiration in commitment. And you are an inspiration in what life is all about."

SERVES 400 EACH DAY

Ms. Kennedy has taken a job with the Florida Department of Health and Rehabilitative Services. As human services manager she will direct health-care programs for two counties.

The activities of the Astoria Community Senior Citizen Center, which has about 6,000 registered members, are packed into a small former post office on Broadway and Crescent Street that has 26 salaried workers and 146 volunteers, most of them elderly.

Queens has 388,000 residents over the age of 60, a third of the city's elderly population of 1.3 million and more than any other borough.

Each day, between 400 and 500 people come to the nonsectarian center sponsored by an affiliate of Catholic Charities of the Diocese of Brooklyn.

"The mission of our agency," Ms. Kennedy said, "is to improve the lives of our frail, handicapped and homebound and well elderly."

A BUDGET OF $700,000

Highly regarded in the field as a fundraiser and advocate for the elderly, Ms. Kennedy has been praised by the City Commissioner for the Aging, Janet S. Sainer, as one of the most creative center directors in a city that has 300 senior centers.

When Ms. Kennedy took charge in December 1980, financing came from one contract. Today there are seven contracts from different agencies, amounting to a budget of $700,000.

In nine months last year, 77,504 people received services, compared with 39,616 in 1980.

Hot meals are served six days a week, including Saturday, to between 200 and 300 people. In addition, meals are delivered to 110 homebound people six days a week who also receive housekeeping, escort, shopping and transportation services.

TRIPS ON A YACHT

Ms. Kennedy sees herself as also trying to feed the spirit, advocating a total approach to health, which includes activities such as exercise, yoga and nutrition sessions.

Ms. Kennedy, who was born in New Bedford, Mass., was a teacher in Massachusetts and Long Island before specializing in gerontology. She has four children who are 22 to 27 years of age.

When she started at the center, members went on about 10 outings a year. The number is now 30, ranging from free concerts at a college to an overnight trip to Cape Cod. The highlight is an elegant evening for 400 on a yacht, "The Spirit of New York," which includes dining and entertainmnt.

As a final gift, Ms. Kennedy coaxed $11,500 from businesses and fraternal organizations to assure another free yacht trip.

"SHE BROUGHT A LOT OF JOY"

After the general meeting last week, the members gathered around Ms. Kennedy, who Mr. Vallone said symbolizes the "unheralded people" in social services "who make a difference and don't do it for the pay or the honor or glory."

The average pay for a center director is $27,000.

Whatever gripes Ms. Kennedy had about her job she kept to herself, but she said something must be done to improve salaries and pensions and to simplifying paper work.

Audrey Zimmerman, 64, embraced her, gave her a card, and began to cry.

"Our wonderful director is leaving the center," she said later. "I've always liked her. She was always very good and kind to me when I was down and out."

"She brought a lot of joy to these people here," said John L. Rafferty, 72, who had chaired the meeting.

Sal Donodeo, a retired postal worker said: "She made this the most famous center in all of New York City. She has done so much. She has such a love for us and she goes to all the politicans. She goes to the bankers. She tried to raise money for us for all these different trips to subsidize them."

He added: "And whenever there's any legislation pertaining to seniors, she's always the first in line. She's always there to fight for us. And she just shows a love that makes this more than an ordinary center."

"She made us feel important," Andy Malan said.

TRIBUTE TO RALPH AND ISIDOR PAIEWONSKY

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. DE LUGO. Mr. Speaker, more than 400 Virgin Islanders recently shared in the opportunity to honor two brothers who have made immense contributions to the progress of our islands.

For nearly 60 years, Ralph and Isidor Paiewonsky have led the way in Government, business, education and the arts. When the Virgin Islands was just a ward of the United States Interior Department, they shared in our struggle for self-government. When our islands were just poor, out-of-the-way specks in the Caribbean, they saw the potential to make our territory a leader in tourism and trade in the region.

When President John F. Kennedy appointed Ralph as our Governor in 1960, he took the lead in creating a real middle class, with decent housing and opportunities for advancement through the College of the Virgin Islands, founded in 1963. And as our islands have been transformed into a hub of commerce, Isidor has been an eloquent spokesman for preserving our history, and reminding us that our distinctive architecture is irreplaceable and need for disappear as a price of progress.

It gave me great pleasure to attend the testimonial dinner for these two worthy gentlemen, and I am pleased to insert a copy of my statement and the related editorial from the Virgin Islands Daily News into the CONGRESSIONAL RECORD:

TRIBUTE TO RALPH AND ISIDOR PAIEWONSKY

DEAR FRIENDS: When we in the Virgin Islands pause to count our assets, we have to include two names on our list: Ralph and Isidor.

For a full 50 years, these two brothers have been superlative leaders in politics, business, education, the arts and all civic affairs. They literally have shaped these islands—in our progress toward self-government, in our development as a haven for tourists and shoppers, in the preservation of our distinctive architecture and history, and in nurturing a fine university.

It is my good fortune to have known and admired Ralph and Isidor since childhood. When I was climbing mango trees with Ralph's son, Bernard, I knew that "Mr. Paiewonsky" made important trips to Washington, D.C., to help the territory. In the 1950s, when I entered politics, Ralph and Sen. Walter I.M. Hodge showed me the ropes in Washington on my first trips there. I could not have had two finer tutors. As the Governor who guided the Virgin Islands' growth in the 1960s, Ralph again showed the way—making sure that new business also led to new housing, schools and jobs for our people.

Just to mention Isidor's accomplishments is to suggest his remarkable breadth. How many people can succeed in the rough world of business while cultivating a fine ear for poetry and devoting "spare" hours to write history? Even as Isidor, with Charlotte and later Avna, led in making Main Street a shopper's paradise, he had the foresight to preserve the buildings and ambience that make this a special place to live as well as to visit. When he took a stand, it was carefully studied and carried weight.

Ralph and Isidor have been blessed with talents and, above all, vision to see the endless potential of these islands. We in the Virgin Islands have been blessed that they have shared their talents and vision so generously.

I want to thank the St. Thomas Synagogue for this opportunity to share in the commendations that these two men richly deserve.

Sincerely,

RON DE LUGO,
Chairman, Subcommittee on Insular and International Affairs.

TWO GIANTS OF V.I.

More than 400 people gathered Saturday night to pay tribute to two brothers who have contributed enormously to the people and progress of the Virgin Islands.

Ralph and Isidor Paiewonsky have left their mark on all aspects of life in these islands: political, economic, social, intellectual, literary, artistic. They have given of their time, their talent, their energy and their vision to help improve their homeland.

Only history will be able to assess the true impact of these two giants of the Virgin Islands, particularly the period when Ralph Paiewonsky was governor and Isidor served on the Planning Board.

Certainly this newspaper was among the harshest critics of many of his administration's policies and procedures. But there is no doubt that Gov. Paiewonsky was instrumental in helping to create a stable middle-class, pushing for jobs and housing for Virgin Islanders and providing a means for local residents to get higher education through the College of the Virgin Islands.

Isidor Paiewonsky has taken a different path then his brother, though both have been successful businessmen. Isidor has leaned toward the artistic, the literary, the poetic. He demonstrated that we can preserve the best of the past to give the present a meaningful identity—and in pushing historic preservation, he proved that good aesthetics make good economics.

We, of course have a soft spot in our hearts for Isidor Paiewonsky because of the impressive contribution he has made in these pages with his weekly "History Corner." That column, like his recent books, has been a labor of love—and a source of pride.

It would be hard to find two brothers who have had a greater—and sometimes controversial—impact on the Virgin Islands than these. Gov. Alexander Farrelly, one of those who attended the dinner to raise funds for the Hebrew Congregation's Lilenfeld House, put it this way:

"Ralph and Isidor Paiewonsky have given so generously to these Virgin Islands. They have enriched the lives of generations of their fellow-man and their good works will be with us for generations to come.

"The Paiewonskys' contributions have extended into every corner of our society—government, education, business, art, history, literature, to name only a few. And their interest, vigor and enthusiasm in working for the betterment of their community continues unabated."

UCSD RESEARCHER WINS FIRST PRIZE FOR ALZHEIMER'S STUDY

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. LOWERY of California. Mr. Speaker, for the past 5 years I have introduced legislation setting aside time each year to remember Alzheimer's disease victims and their families. Congressional declaration of "National Alzheimer's Disease Month" has helped to focus national attention on the characteristics of the disorder and the care needs of its victims, and has helped increase support for expanded research efforts so vital to eventual discovery of a cure.

I am proud that one of the world's foremost neuroscientists dedicated to Alzheimer's disease research hails from the University of California at San Diego. After nearly 30 years of research, Dr. Robert D. Terry has been awarded the first Potamkin Prize, recognizing his past contributions to Alzheimer's disease research and providing support for future efforts.

I commend Dr. Terry on his commitment to research in this crucial field and congratulate him on his receipt of the Potamkin Prize.

The following is an article from the Thursday, February 25, 1988, edition of the San Diego Union, which provides further details about the Potamkin Prize and Dr. Terry:

UCSD RESEARCHER WINS FIRST PRIZE FOR ALZHEIMER'S STUDY

The first $100,000 Potamkin Prize for Alzheimer's research was awarded yesterday to Dr. Robert D. Terry, a UCSD neuroscientist who has studied the debilitating brain disorder for nearly 30 years.

Terry, 64, will receive the award—which can be used in any way for research—at the 19th annual meeting of the American Academy of Neurology in April in Cincinnati.

The new prize for research is the result of a $250,000 endowment to the academy from the family of Victor Potamkin, an automobile dealer who resides in New York City and Miami. His wife, Luba, suffers from the disease.

Terry began his research of Alzheimer's disease in the early 1960s, when few individuals had heard of the disorder, then considered uncommon.

An estimated 2.5 million Americans are now known to be afflicted with the progressive form of dementia that eventially can leave an individual incapacitated. There is no known cure for Alzheimer's.

"In 1961, there were one or two of us in this country, and two in England, doing this type of research," said Terry in a recent interview. "Today, there are hundreds of people, and millions and millions of dollars are being spent.

"We're very far along. A lot more is known today than yesterday, which is not to say that tomorrow we will have the answer. But a huge amount of work is being done on early diagnosis. One might hope that early diagnosis will be feasible, probably by some chemical or immunologic test in the not-too-distant future."

Once physicians can identify the disease in its earliest stage, Terry said methods to halt its progress may be found.

"We hope to be able to deal with the very early changes in the brain to stop them, or perhaps in some situations reverse them," Terry said. "I can't help but think that the pieces of the puzzle (of the disease) are being turned over and are beginning to fall into place."

Terry is a professor in the departments of neurosciences and pathology at UCSD. In 1984, he came to the university from the Albert Einstein College of Medicine. Terry is one of five co-investigators of a major five-year study of Alzheimer's disease at UCSD.

He is credited with the first scientific description of the brain cell alterations that are characteristic of Alzheimer's disease.

After earning his undergraduate degree at Williams College, Terry received his medical degree from Albany Medical College.

From 1977-80, he was chairman of the board of scientific counselors of the federal National Institute of Neurology and Communicative Disorders and Stroke.

He is a Poway resident, a member of the medical and scientific board of the Alzheimer's Disease and Related Disorders Association, a past president of the American Association of Neuropathologists, a member of the American Academy of Neurology and serves on the editorial boards of several professional journals.

The Potamkin Prize of $100,000 will be awarded for two years, when the gift then will be reassessed, said New York publicist Laurie Sue Brockway. The remaining $50,000 of the $250,000 endowment to the academy is used to administer and publicize the prize, Brockway said.

A FRIEND OF DEMOCRACY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. SOLARZ. Mr. Speaker, as I hardly need to remind the Members of this body, democracy works only when a spirit of comity and accommodation prevails in the councils of power. And the men and women who work behind the scenes to foster such a spirit are the frequently unsung heroes of the political process.

Occasionally, however, the services rendered by one of these individuals is so exemplary that we lay aside our usual preoccupations to salute the contributions that person has made. One such occasion took place a short time ago, when the paper India Abroad ran an article celebrating one of Washington's most effective apostles of international understanding.

This year Janki Ganju completes 30 years of efforts devoted to the bettering of relations between India, the world's largest democracy, and the United States, the world's mightiest democracy. A confident of prime ministers and advisor to statesmen, Janki is, above all, a friend of the people. He has outlasted seven U.S. Presidents, nine Indian ambassadors, and hundreds of this body's Members. And always, he has worked—unobstrusively but with consummate skill—to promote understanding and good will between the people of the United States and the people of India.

At a time when the world can use all the understanding and good will it can generate, there are fewer tasks more critical than that to which Janki Ganju has dedicated his life.

Mr. Speaker, in honor of this great and grand friend of democracy, and as a token of the admiration and affection which we accord him, I ask that the recent Indian Abroad article featuring Janki Ganju be inserted in the RECORD.

GANJU: STANDING TALL IN INDIA-U.S. POLITICS

(By Aziz Haniffa)

WASHINGTON—A veritable institution in this city that proliferates with high-profile and six-figure salaried foreign representatives and lobbyists and standing tall among them despite limited height and a massive girth is the affable Janki Ganju.

The 59-year-old Ganju, has for the past two decades been working the corridors of power here to foster better India-U.S. relations and has over the years cultivated an enviable network of Congressmen, Congressional staffers, reporters, editors, administrations officials, who for him, are just a phone-call away.

Many of them are "regulars" at the frequent informal supper parties Ganju hosts at his cosy Northwest Washington home, where his cooking talents are manifested in gastronomical delights.

CAME TO CAPITAL IN '58

Ganju, a Kashmiri Brahmin, first came to Washington in 1958, after a stint in advertising, journalism and films in Bombay to serve as the press counsellor at the Indian Embassy.

He served in this position through the stints of ambassadors M.C. Chagla and B.K. Nehru, until 1964. He then resigned to venture into the world of freelance international public relations.

Ever since and upto now, his biggest client has been the Government of India. Ganju, who is a registered foreign lobbyist, has over the years, been the liaison between each new Indian Ambassador and the Washington press corps, academia and the directors of the major think tanks.

HIS INITIAL CONTACTS

He has also been indefatigable in cultivating friends on Capitol Hill, particularly those who have been long-time supporters of India and chair important committees that appropriate economic and development assistance to foreign nations.

In an interview with *Indian Abroad* Ganju said that his mandate also extends to unravelling and explaining "the mysteries and complexities of the American government, which even most Americans don't understand and trying to keep the policymakers informed of our point of view."

He has arranged press coverage, interviews and Congressional meetings for the plethora of Indian bureaucrats and other senior officials visiting from India, so much so that a meeting with Ganju is considered an important of the officials' itinerary in the United States.

HAS SEEN 7 PRESIDENTS

"I have gone through seven presidents, nine ambassadors and 29 presidents of the National Press Club," he said.

Last year he was inducted as a life member of the club. He also holds the rare distinction of having introduced three generations of Indian Prime Ministers at the National Press Club luncheons—Jawaharlal Nehru, his daughter Indira Gandhi and her son Rajiv Gandhi.

"Lobbying," according to Ganju, "is essential as a catalytic agent, particularly in a country like the U.S., where the government is so bifurcated."

However, he says that it is simply not influence-peddling or taking out advertisements in trying to get one's point accross.

He said that "it is cultivating friends and developing contacts over a long period of time and this cannot be achieved overnight."

WORKING WITH POWER STRUCTURE

He points out that "you have to touch all the bases with the same fevers of power that ultimately determine policies and policy structure."

He said that "you have to imbue a sense of realization of the needs of a third world nation, its needs."

"We need to build a bridge of understanding of what a developing nation needs." "A need of partnership and prosperity," he added.

Ganju said that what he was trying to do was not so much a "manipulation of policy, but manipulation of thinking." He said that "it is process that has to be continued," so that one's credibility can be established.

HE DEVELOPED CREDIBILITY

"So much so that an editorial writer can call you in the dead of night and say he is writing an editorial on India and ask you whether he is being fair."

Ganju said that part of his work was not just "to facilitate, but to sponsor," events to give Americans a better understanding of India.

However, he asserted that his work was essentially "an extension of a platform" of the Embassy and it was to render "support and work in full concert" with the Embassy.

"Not as a consultant, who will have special areas to work on," he added. Ganju said that except for in the presidential-election years, "you will be surprised that no foreigner has been heard by so many all over the country as the Indian Ambassador."

GIVES OFFICIALS ACCESS

He said that "hardly a think tank or think cell has not been addressed by an Indian Ambassador, whether it be a luncheon or special meeting."

In a 600-page book titled, "The Power Peddlars—How lobbyists mold America's Foreign Policy," by Russell Warren Howe and Sarah Hay Trott, no other lobbyist receives more pages than Ganju. And that book was published 1978.

Last year, noted Indologist Prof. Ralph Bultjens of the New School for Social Research in New York, told the The New York Times that Ganju "could not have survived all the vicissitudes of political change unless he had a contribution to make."

Bultjens said that "even those who are hostile to him—and there have been people on the Indian political scene, particulary between 1977 and 1980, who have not been disposed toward him—have his professional competence and skill."

Ganju, according to Bultjens, "has helped to make Indian issues American and he is also very good at giving a kind of objective feedback to India which very few people can do."

DEBUNKING EDUCATION BY BULLHORN

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. CLAY. Mr. Speaker, of the many difficult and challenging issues facing Congress, the most serious and threatening crisis is occurring in our schools. Education has been called the cornerstone of self-government and indeed our public school system is the most powerful instrument we have for securing the continued growth and development of our great Nation. As we in this body reflect on the crisis in our educational programs I recommend the very insightful comments of Dorothy Gilliam, "Debunking Education by Bullhorn."

DEBUNKING EDUCATION BY BULLHORN

If you were as much of an admirer of George McKenna as I am, the prospect of having lunch with him would excite you. Exhausted from the red-eye flight from California, he arrived at a Washington restaurant. But the voluble principal of George Washington High School in Los Angeles readily shared his worries over the "get tough" approach to education.

"I am frightened by the Joe Clark phenomenon," he began. "He can only call students 'leeches' and 'parasites.' I am often used as a counterpoint to him. But the media isn't asking what I'm doing in my school. I ask reporters why Joe Clark is so important. They answer, 'Because he is important to the White House.' And Joe Clark goes around saying, 'It's wonderful to be a Republican.' I see him as a dangerous person."

Some people would say the future of public education is on trial today, with Joe Clark, the bat-and-bullhorn toting principal of Eastside High in Paterson, NJ, and McKenna, the no-nonsense but nurturing principal of George Washington Prep, representing its polar viewpoints. While U.S. Education Secretary William J. Bennett has praised both men for turning around low-income students, and McKenna's school has even had a CBS-TV movie made about it, it is Clark, cradling his signature baseball bat to symbolize his "toughlove" approach—who recently made the cover of Time.

I was eager to hear how McKenna had worked with difficult learners—the ones too many people seem cynically willing to write off.

"I put the responsibility on the teachers," answered McKenna. "There is a lot of incompetence in this profession, what I call imposters.

". . . Every teacher needs knowledge of subject matter, understanding of the process that students go through to learn, and a nurturing attitude. . . . The notion that attitudes should change first is something with which I greatly disagree. The behavior of teachers is the answer."

Setting out to modify teacher behavior to get the results he wanted, McKenna said he required his teachers to do several things. This included to give homework every night, do lesson plans, call pupils' homes as much as possible, conduct parent-education workshops, help parents to help each other, and make every test a comprehensive one that included previously taught material.

Furthermore, to involve families in the learning process, he hired three parents to run a parent-community support system. They spend their time calling other parents encouraging them to visit classes and stroll graffiti-free halls. To help his students, who are predominantly black and Hispanic, learn about their heritage, he supplemented the curriculum and instituted culture clubs. Among myriad extracurricular activities is a Bible reading club started by students.

Listening to McKenna talk eagerly, his lunch growing cold, I thought of John Hope Franklin, the University of Chicago history professor emeritus and now James B. Duke professor emeritus at Duke University, who said the black scholar must not only practice high-quality scholarship but also advocate justice and equality. It struck me that McKenna, not Joe Clark, best epitomized the tradition described by Franklin.

For while Clark has restored order and ejected the dope dealers, reading scores at this school remain in the bottom third of the nation's high school seniors and the number of students going to college from this school is up only from 182 in 1982 to 211 last year. Aside from the 60 students he recently suspended and called "leeches" and "parasites," his school's overall dropout rate has risen from 13 percent to 21 percent.

While McKenna also has transformed his inner-city school from one where gangs ruled the halls to a peaceful environment, absenteeism has dropped by two-thirds, and more than three-quarters of each graduating class attend college.

McKenna had come to Washington for a Black History Month salute, and it seemed appropriate that it was an educator, G. Carter Woodson, who began that observance. Educators have been among the most influential figures in black history.

But if the current crisis in public education makes the future of many black Americans extremely uncertain, it also threatens the strength of the nation. Having lunch with McKenna was more than an interesting encounter with a passionate man: It was a reminder that today's educational challenges will require nothing less than a total reordering of our social priorities to put young people back at the center of our concerns.

THE BOY SCOUTS OF AMERICA'S 1987 REPORT TO THE NATION

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. BRYANT. Mr. Speaker, it was my great privilege this week to host the Boy Scouts of America's 1987 Report to the Nation presentation at the U.S. Capitol.

As a former Eagle Scout, I know well the immense value of this organization and its contributions to our Nation. Scouting was an important factor in my life, as it has been in millions of other young lives, and I was grateful for this opportunity to help recognize and honor some of the outstanding participants in and accomplishments of scouting.

Thirty-nine other incumbent Members of the House and Senate also attained the rank of Eagle Scout, and many others participated in scouting. Joining me in the presentation ceremony were these former Eagle Scouts: Congressman BILL ALEXANDER of Arkansas, CHARLES BENNETT of Florida, WILLIAM DANNEMEYER, of California, J.J. "JAKE" PICKEL of Texas, RICHARD SCHULZE of Pennsylvania, and Richard Stallings of Idaho.

The delegation of outstanding Scouts included: Orion C. Beckham, Club Scout representative from Canyon Lake, CA; Brian H. Anthony, Webelos Scout representative from Amarillo, TX; Patrick J. Schoof, Explorer president and Exploring representative from Grand Ledge, MI; Jeffery Moser, national Chief Order of the Arrow representative from Sweetwater; TN; Laura Lee Locke, Law Enforcement representative from Denver, CO; Canu Di Bona, National Court of Honor representative from Durham, NC; Steven Zanlunghi, Boy Scout representative from New City, NY.

Participating, too, were Delegation Director G. Allen Mossman, advisors Randall K. Cline and Maryann Cline, National Director of Program Franklin H. Collins and Deputy Chief Scout Executive Ronald E. Moranville.

The presentation of the report of the Nation is a part of the Boy Scouts of America's obligation under its congressional charter. I am pleased to share with my colleagues and the people of the United States the following 1987 report to the Nation, which I was honored to accept on behalf of Congress and the Nation.

1987 REPORT TO THE NATION, BOY SCOUTS OF AMERICA

For the eighth consecutive year, the Boy Scouts of America has posted an increase in membership. Aggressively pursuing a program of balanced growth, the Boy Scouts of America achieved an overall 3.6 percent increase in membership over 1986. In 131,008 units there are 5,347,098 youth members and leaders. There are 291,101 Tiger Cubs, 1,818,740 Cub Scouts, 977,282 Boy Scouts, 55,205 Varsity Scouts, 368,084 Explorers, 669,166 Career Awareness Explorers and 1,167,519 leaders.

First Lady Nancy Reagan, as part of this 1987 Report to the Nation ceremonies, is being recognized with the Silver Buffalo Award, the highest award the Boy Scouts of America can bestow on an individual for distinguished service to youth. The award is being presented for her part in drug-abuse prevention and her support of the Boy Scouts of America's "Drugs: A Deadly Game" program.

The Boy Scouts of America's fight against drug abuse has been heard across the country. More than 8 million booklets titled *Drugs: A Deadly Game* have been produced and distributed to individuals and thousands of our nation's schools. The booklets were supported by a videocassette and teacher's guide. This antidrug program is designed to inform people of the dangers of drug abuse and challenge everyone, not just the organization's more than 5 million members, to say "No" to drugs.

The antidrug campaign is only a part of the Boy Scouts of America's program to combat society's unacceptables which also includes illiteracy, child abuse, and hunger. In fulfillment of an obligation to "Do a Good Turn Daily," plans are underway to conduct the largest food drive in the history of the nation. In a massive national Good Turn on November 19, 1988, more than 5 million youth members and leaders in 410 Boy Scouts of America local councils, working with community food banks, will collect food for the needy.

The Boy Scouts of America continued to phase in its plan to serve youth in all school grades. In 1986, first and second grades became eligible to become Tiger Cubs and Wolf Cub Scouts, respectively. In 1987, this plan was expanded to include third graders as Bear Cub Scouts. Beginning in 1988, fourth graders will be eligible to become Webelos Scouts. This also signals the beginning of a new 2-year Webelos Scout program for fourth and fifth graders. To facilitate these changes, the Boy Scouts of America has introduced new *Wolf and Bear Cub Scout Books* and, in 1987, an all-new *Webelos Scout Book.*

The National Court of Honor presented the following to recognize acts of bravery for lifesaving and meritorious action: 6 Honor Medals with Crossed Palms, 22 Honor Medals, 57 Heroism Awards, and 154 Medals of Merit. There were 27,578 youths advanced to the rank of Eagle Scout and 22 Sea Explorers who received the Quartermaster Award. The Distinguished Eagle Scout Award was presented to 51 outstanding men who had earned the Eagle Scout Award at least 25 years earlier, have excelled in their business or profession, and are exemplary citizens.

A gigantic effort to organize new Boy Scout troops kicked off in the fall. It will culminate with a nationwide New-Troop Teleconference on March 10, 1988. The teleconference will feature an inspirational program designed to enthuse potential chartered organizations. The program will illustrate Scouting's values and its role in helping chartered organizations serve their communities.

The Boy Scouts of America stepped into the video age in 1987 with a series of 14 new videocassettes designed to strengthen the movement. Research and planning for the videos, introduced in September, began 2 years earlier. The purpose of the program is to give leaders a Fast Start in new leadership roles. New leaders now have a quick way to learn the rudiments of Cub Scouting, Boy Scouting, or Exploring. Also, potential chartered organizations can more readily understand how Scouting can benefit their youth.

The National Eagle Scout Association and the President of the Boy Scouts of America introduced a new award for Scoutmasters. The Scoutmaster Award of Merit is for Scoutmasters with as little as 18 months tenure as well as for veteran Scoutmasters. They must complete training and lead a well-rounded troop.

A delegation of nearly 3,000 youth and leaders represented the Boy Scouts of America at the XVI World Scout Jamboree near Sydney, Australia. The jamboree was held December 30, 1987, to January 10, 1988, with a theme of "Bringing the World Together."

The Council for the Advancement of Citizenship honored the Boy Scouts of America with the Leadership Award Program Recognition for contributions made to the commemoration of the U.S. Constitution's bicentennial. Articles in *Boys' Life* and *Scouting* magazines were a prime factor in this recognition. Also, program themes for September encouraged recognition of the Constitution's role in our history.

Scouting has affected the lives of 78.3 million members over the last 78 years. In businesses and professions across the land you will find former Scouts wielding a positive influence in their communities. Scouting does make a difference.

CHARLES M. PIGOTT,
President.
BEN H. LOVE,
Chief Scout Executive.

WOMEN'S HISTORY MONTH

SPEECH OF

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mrs. KENNELLY. Mr. Speaker, it is with great pride and enthusiasm that I cosponsored this bill proclaiming March 1988 as Women's History Month. I feel this is a small but significant way to pay tribute to the many women whose influence and accomplishments have helped to shape American History. Women's achievements have gone virtually unnoticed by traditional historians.

During Women's History Month, we seek to encourage both men and women to look back in history, to look beyond the traditional history books to discover the interesting and important things women have done. Women's contributions and influence were, and continue to be, great in so many areas: the art of Bertha Morisot, Mary Cassatt, and Georgia O'Keeffe; the writings of Jane Austin, Virginia Woolf, and the Bronte sisters; the drama of Lillian Hellman and Lorraine Hansbury. All of these women, and many others, have made tremendous contributions in the fields of art and literature.

Women like Dr. Elizabeth Blackwell have paved the way for women in the field of science and medicine. More recently, Carol Gilligan has challenged the findings of Freud and the early developmental psychologists, offering a new perspective on women's psychological and moral development. Great athletes such as Wilma Rudolph have proven that women can compete and excel in the Olympic games.

And, let us not forget the hard work and dedication of suffragettes such as Elizabeth Cady Stanton and Alice Paul. Because of the efforts of these women, all American women can take part in our electoral process by exercising their right to vote. And, of course, the work of Frances Perkins, the first woman in the Cabinet and author of the bill that eventually became Public Law C531, known more commonly as Social Security. During the month of March, it is our hope that men and women alike will remember and honor these and other special women for their important role in shaping our Nation.

PAT HEAD SUMMITT: TENNESSEE COACH AND EXTRAORDINARY WOMAN

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. DUNCAN. Mr. Speaker, Pat Head Summitt, coach of the University of Tennessee women's basketball team, led her 1987 team to a national NCAA title. This accomplishment is the direct result of her good coaching and dedication. The following USA Today, December 9, article follows her personal story and provides insight into her growth as one of the best coaches in the country. The Lady Volunteers even broke the attendance record for a women's game. (15,615) by packing over 25,000 in the new basketball arena on December 9.

[From the USA Today, Dec. 9, 1987]

BASKETBALL IN GOOD HANDS AT TENNESSEE

(By Debbie Becker)

KNOXVILLE, TN.—Pat Summitt grew up on a Tennessee farm, baling hay, milking cows and playing 2-on-2 basketball with her older brothers in the hayloft of the barn.

In the 30 years since, she has attained basketball's highest achievements: She co-captained the 1976 U.S. Olympic team to the silver medal, coached the '84 team to the gold and last season brought Tennessee its first NCAA basketball championship.

Tonight, Summitt's top-ranked Lady Volunteers host No. 2 Texas in perhaps the best matchup of the women's basketball season. That and a related fast-food promotion are expected to attract 25,000 fans, which would shatter the NCAA women's attendance record (15,615).

The game will be played in the new 25,000-seat Thompson-Boling Arena, a long way from Montgomery County, where Summitt drove a doorless 2-ton truck at age 11.

When chores were done, it was time for half-court basketball, played above the dairy cows. "We even had blankets and quilts over the doors so we could block out the cold air," says Summitt, 35. "We had some great games in January and February."

Summitt, nicknamed "Bone" because she was so thin, played organized basketball for the first time when she was in the fourth grade. But her career nearly came to an end in high school because her school didn't have a girls team.

Summitt's parents, Ricahrd and Hazel Head, were determined to have their daughter compete. So they moved from their new brick home to neighboring Cheatham County. After that, Summitt played in college for Tennessee-Martin and earned a tryout for the USA's World University Games team in 1973.

"I sprained my ankle the day before the end of the trials," Summitt says. "I put my foot in a bucket of ice, froze it so I could make the last day of tryouts. Made the team.

"I was excited because if you made the team you were going to Russia. I'd never been on a plane before."

Summitt made that trip, but it was hardly what she expected: Her team lost to the Soviets by 51 points and her jaw was dislocated.

It got worse. Four games into her senior season, she suffered a devastating knee injury that required reconstructive surgery. Summitt never played again in college.

After graduation, she began coaching at Tennessee. At 22, only a year older than three of her players, she coached her first team to a 16-8 record. She also began the comeback that was to take her to the 1976 Olympics as a player.

"I was in graduate school, taking four classes, teaching four classes, coaching the team, rehabilitating my knee, and training for the Pan American Games," she says. "If my father hadn't gone out and told everyone I was going to make the Olympic team, I'm not sure I would have worked as hard as I did."

She shared a five-person office in the gym's attic and had no scholarships to offer, but Summitt's program thrived. Within three years, her team was in the Final Four.

That's usually where Summitt's team is at season's end.

In 13 years, Tennessee has been in the Final Four eight times. Under her, the team's record is 322-102 and, as coach of an array of USA teams, Summitt has a 63-4 international record.

But Summitt's favorite numbers have little to do with basketball and everything to do with education. Every player who has played four years for her has graduated.

Summitt promises the parents of every recruit their daughter will graduate. Study halls take place each road trip, even if a waiting area at the Atlanta airport has to be commandeered.

"More than anything, I want to make sure they understand that they are not going to leave here without a diploma in their hand," Summitt says. "If they are going to play here, they are going to get a degree."

Because of her dedication to discipline, defense and physical play, Summitt has been compared to Indiana men's coach Bob Knight.

"Her teams battle you for 94 feet," says UCLA coach Billie Moore, the 1976 Olympic coach. "Pat was a very physical player and that's a trademark of her teams. They don't back away."

Summitt is classed among the nation's tougher coaches. After one difficult loss, the team flew home and practiced until 6 a.m. Her players often are up and running at 6:30 a.m.

She doesn't hesitate to crack down on players—during practice or games. But that changes away from the court.

"Some people think Pat's not human. But that's not the case at all," says assistant Holly Warlick, who played for Summitt and was a 1980 Olympian.

"When we go over to Pat's house, we take her photo albums out and abuse her about how her hair used to look, about winning the Elsie the Cow 4-H award. There is no mercy. She just laughs."

Junior forward Bridgette Gordon says recruiters urged her not to play for Summitt.

"The way I look at it," Gordon says, "I wanted to be the best I could be and Pat gets the best out of me. In practice, she can be all over you, but once practice is over she's your best friend."

Summitt doesn't apologize for being hard-driving. "Take (forward) Tonya Edwards," Summitt says. "She never played for a female coach, never heard a woman yell. That's an adjustment. I'm extremely vocal. Once they get used to that, they realize it's not to be taken personally."

Summitt never won the Final Four until last season. Many thought after achieving that elusive goal, she would retire. Even Summitt's parents asked her to consider it.

But she isn't in a hurry to leave. There still are reasons to stay: "Women's basketball has progressed tremendously, but one thing we haven't built is a solid foundation for fan support. . . . (Also) I still enjoy it. When it becomes a real job and a dreaded daily assignment, I don't think I'll be here."

Longtime friend Lin Dunn, coach at Purdue, says the game needs Summitt: "She hasn't won back-to-back titles. She hasn't won three in a row. She's too young to get out of the game."

Summitt, who married Knoxville banker R.B. Summitt in 1980, says children are a possibility, but she'd want to continue working.

Summitt doesn't have a contract, never has, probably never will, and has no desire to coach anywhere else. What she does want to do is continue the Tennessee tradition.

"As long as I know I've worked hard and that I've been fair and honest, then I'll have to accept whatever happens," Summitt says, with a note of uncharacteristic resignation slipping into her voice.

But then she added, "At least temporarily, and then I'll work a little harder."

HEADING THE WRONG DIRECTION IN SOUTH AFRICA

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. COURTER. Mr. Speaker, Americans take an extraordinary interest in South African affairs. Apartheid has been somewhat weakened during the past few years by government concessions, which I expect were partly a response to foreign pressures. The House has solidly approved sanctions; we voted for them expecting that the minority government would press forward with what has been an all-too slow process of political opening to nonwhite citizens.

I am very troubled by the news from South Africa. About a week ago the government imposed curbs on antiapartheid groups, curbs which in the words of one news report "effectively outlawed all organized dissent." Now comes word of the arrest and brief detainment of Archbishop Desmond Tutu and 2 dozen other religious leaders who marched to protect the new curbs.

I am pleased to note that U.S. diplomats were present at the church service prior to the march, and that our Embassy has expressed its very strong objections to the "forceful repression of peaceful demonstrations." By criminalizing and suppressing the exercise of both human and political rights," the United States statement continued, "the South African Government is shutting off avenues for nonviolent change.* * * "

Yet only yesterday we learned of still another move backward, this time to prevent foreign organizations from assisting political activitist groups. Few would question a ban on aid to those bearing arms against the Government. But it makes no sense, unless the Government is determined to make apartheid permanent, to prevent governments like our own from working with political or quasipolitical South African labor groups, companies, peaceful activists, and so forth, in order to help continue the march toward racial equality. We spend many millions of dollars in the Republic every year for the purpose of assisting such movement and keeping its natural, indigenous leaders aware of worldwide concern for peaceful change. To cut off such aid is to hurt prospects for such change.

Consider the efforts being made by one American public institution alone: The federally funded National Endowment for Democracy. The NED has been working through the American-based business group called the Center for International Private Enterprise to lend support to the Get Ahead Foundation in South Africa. The program has directly benefited Durban-area blacks interested in operating in a free enterprise environment. The Free Trade Union Institute has helped the Southern African Trade Union Coordinating Council, which operates in a number of countries in the southern African region. Black lawyers, whose success inside the Republic is critical to making change occur, have been able to enjoy modest financial support from the Legal Education Trust of the Black Lawyers Association, a clinical legal aid program based in Johannesburg. Some $35,000 was advanced last year to the Black Consumers Union in that same region. LAMLA, an interracial, interdenominational nonpolitical group in the Western Cape is at work on conflict management problems; the National Endowment for Democracy has helped with funding. There has been NED assistance to other worthy beneficiaries in the Republic, including a conference in Port Elizabeth which served as a forum for political parties, and various nongovernment publications. The latter include a special supplement on how democracy works which NED produced for the City Press, the largest-circulation black newspaper in the country.

Certain of these activities are political, and others might be construed as partially political. To force a halt to such programs is to dishearten the popular and thoughtful opponents of apartheid. It would mean placing an enormous roadblock in the way of movement toward political enfranchisement, racial equality, and intergration. It would do so at the very time the South African Government is claiming that progress is its only goal. Actions are speaking louder than words in South Africa today, and the message is a bitter one indeed.

INTRODUCTION OF INTERNATIONAL MONETARY FUND AUDIT ACT OF 1988

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. GARCIA. Mr. Speaker, today I am introducing legislation that requires the Secretary of the Treasury to instruct the U.S. Executive Director to the international Monetary Fund [IMF] to propose the establishment of an independent audit unit within the INF.

The purpose of this new unit will be to review and evaluate IMF programs to ensure that they are effective and that the fund's resources are used efficiently. The IMF is a sovereign institution and cannot be expected to permit outside audits. But I believe that an internal unit that reports directly to the executive board is one way to update both the Directors and member country legislatures without infringing upon the Fund's sovereignty. This information could be a useful tool for legislators when considering requests for quota increases.

There is presently no effective independent oversight of IMF programs. It would be inappropriate for any member country to undertake such oversight on its own. However, an independent body within the fund could prove to be useful, both to the fund and its 151 member countries. I include a copy of the bill for my colleagues' consideration and urge your support.

H.R. 4084

A bill to amend the Bretton Woods Agreements Act to require the United States Executive Director of the International Monetary Fund to propose the establishment of an independent audit unit within the Fund

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Monetary Fund Audit Act of 1988".

SEC. 2. U.S. EXECUTIVE DIRECTOR OF THE IMF REQUIRED TO PROPOSE THE ESTABLISHMENT OF INDEPENDENT AUDIT UNIT.

The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 52. IMF INDEPENDENT AUDIT UNIT.

"(a) Proposal Required.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to propose and actively seek the establishment, by the Executive Board of the Fund, of an independent audit unit consisting of professionally qualified individuals for the purpose of providing a continuous examination and review of Fund programs and activities, including—

"(1) assessment of the quality and accuracy of the individual country data used in making Fund decisions;

"(2) assessments of the quality of the economic models used to support Fund decisions; and

"(3) reviews of individual country experience and performance under Fund agreements or programs and evaluations of Fund staff monitoring of such performance.

"(b) Audit Unit Reporting to Executive Board.—The proposal described in subsection (a) shall provide that the independent audit unit shall be under the direct control of the Executive Board and that audit reports of such unit shall be submitted directly to the Executive Board.

"(c) GAO Assistance in Preparing Audit Standards and Reviewing Auditing Activities.—The Comptroller General of the United States shall—

"(1) prepare, and transmit to the Secretary of the Treasury, a statement of auditing and reporting standards for use by the United States Executive Director to the International Monetary Fund in presenting the proposal required under subsection (a); and

"(2) periodically review the auditing reports of the independent audit unit and submit to the Congress and the Secretary of the Treasury any suggestion for improving the quality of the audits and the operations of the audit unit.

"(d) NAC REPORTS.—The National Advisory Council on International Monetary and Financial Policies shall include an appraisal of the effectiveness of the implementation and operation of the independent audit unit in the Council's reports to the Congress.".

HUMAN RIGHTS IN THE SOVIET UNION

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. BONKER. Mr. Speaker, I wish to bring to the attention of the House today an article that demonstrates why we must make human rights an issue the Soviet Union cannot ignore.

On December 6, 1987, a quarter of a million Americans marched on Washington to press for the freedom of Soviet Jews—the Soviet Union didn't listen.

We, as Members of Congress, send countless telegrams and letters calling on the Soviets to respect human rights—and the Soviets do nothing.

At the December 1987 summit, General Secretary Gorbachev listened politely to our expressions of concern about human rights and the emigration of Soviet Jews—and he returned home to enforce a new 1987 regulation that will effectively prevent 90 percent of all Soviet Jews who wish to emigrate from even qualifying for an exist application. Nearly 400,000 Soviet Jews are denied any hope by this law alone.

Our words seem to be falling on deaf ears. It is time for us to do more than just talk about human rights.

The United States must insist that the new policies of glasnot and perestroika be applied not only in trade and commerce between our countries but also in corresponding freedom for any Soviet citizen seeking to emigrate. As a nation committed to democracy and human rights we must insure that our relations with the Soviet Union reflect these principles. We should not encourage increased economic cooperation and trade with the Soviets while human rights conditions rapidly deteriorate.

Distinguished colleagues, I am submitting for the record a Refusenik Update presented by the Union of Councils for Soviet Jews, and stress its importance for anyone concerned about the issue of human rights in the Soviet Union. Thank you.

UNION OF COUNCILS FOR SOVIET JEWS,
WASHINGTON, DC.

Memo: January 8, 1988.
To: UCSJ Member Councils and Affiliates.
From: Pat Spiller.
Subject: Refusenik update: 899* Soviet Jews emigrated during December, 1987; 8,155* Soviet Jews emigrated during the calendar year 1987; 2,072* Soviet Jews emigrated to Israel during 1987; 144* Soviet Jews flew directly to Israel from Bucharest during 1987; HIAS reports 79 Soviet Jews passed through Vienna January 1-7, 1988.

(An end of the year editorial—Pamela B. Cohen, National President; Micah H. Naftalin, National Director)

The Union of Councils for Soviet Jews concludes that the week of December 6, 1987, marked a major turning point for Soviet Jews and the Soviet Jewry movement, and that 1988 calls for revised assumptions and new strategies.

The historic outpouring of almost a quarter of a million American demonstrators to Washington to demand freedom for Soviet Jews was a powerful mandate. But, as the week of the Summit went on, it became clear that merely "raising" the human rights issue by the American people, segments of the American press, and the Administration is insufficient to produce any significant movement.

More telling, the prospect of a 1987 Summit clearly failed to persuade the Soviets, during 1987, that the American price for improved relations would depend on high and sustained levels of Jewish emigration. The modest increase in exit visas this past year (8,155) is in stark contrast to the comparable period of warming relationship in the late 1970's that culminated, in 1979, in the emigration of more than 51,000 Soviet Jews. Indeed, our government fostered the impression that expanded trade would be high on the United States' agenda irrespective of progress in the field of emigration or Soviet failure to comply with the Helsinki Accords and other human rights agreements. This signal to the Soviets was made evident by the involvement of the U.S. Department of Commerce in facilitating Gorbachev's meeting with leading American industrialists on the last day of the Summit.

Most important, as we detail elsewhere in this update, our predictions of last spring, and again in December, were realized this past week when, for the first time, the Soviets began to strictly enforce the first degree relative invitation limitation. Without much question they are signalling a firm bar to application by the vast majority of the 400,000 Jews wishing to emigrate.

Accordingly, as we face 1988 and beyond, the UCSJ will continue to develop and press for more active intervention and linked negotiation on behalf of Soviet Jews both by our government and by the very Americans who demonstrated their commitment on December 6 in Washington. We call upon the Department of State, and the Congress, to work with us in developing more effective economic tools for negotiating improved Soviet human rights performance, and ask the business community as well, to recall that they and their stockholders are Americans, committed by tradition and law to human rights.

We hold that U.S. government insistence upon credible and direct linkage in the area of human rights be a sine qua non for enhanced relationships in the fields of cultural, scientific, medical, legal, sister cities, and similar exchange programs.

In the final analysis, it will be the grass roots commitment of the American public to the moral imperatives of human rights and Soviet Jewish emigration that will assure that appropriate considerations of linkage are applied to the dangerous and vital circumstances of Jews in the Soviet Union.

Emigration figures correction: The correct emigration figure for the month of May, 1987, is 877, not 871 as we previously reported. Month by month emigration figures for 1987 are:

January	98
February	146
March	470
April	717
May	877
June	796
July	819
August	787
September	724
October	912
November	910
December	899
Total for 1987	8,155

Annual Soviet Jewish emigration from the U.S.S.R., 1975 to 1987, is as follows:

1975	13,221
1976	14,261
1977	16,737
1978	28,864
1979	51,320
1980	21,471
1981	9,447
1982	2,688
1983	1,315
1984	896
1985	1,140
1986	914
1987	8,155

UPDATE ON THE STATUS OF THE GENEVA ARMS CONTROL TALKS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. FASCELL. Mr. Speaker, consistent with the Foreign Affairs Committee's oversight of the United States-Soviet arms control talks in Geneva, I periodically insert into the CONGRESSIONAL RECORD an update on the status of the Geneva arms control talks. The last inserts appeared in the CONGRESSIONAL RECORDS of October 21, 1987, on pages E4088-E4089 and December 11, 1987, on pages H11285-H11287.

Since the last insert, the United States and the Soviet Union on December 8, signed the Treaty on Intermediate-Range Nuclear Forces [INF], thereby eliminating all United States and Soviet intermediate and short range nuclear missiles. The treaty established unprecedented verification measures including a 13-year on-site inspection regime on both sides' territory and challenge short-notice inspections of key United States and Soviet facilities.

STRATEGIC REDUCTIONS

Developments have been made in the area of strategic reductions since round 8 ended on November 23 and round 9 began on January 14, 1988. Both the United States and the Soviet Union retain their commitment to a ceiling of 6,000 total warheads.

At the Washington Summit of December 7-10, 1987, President Reagan and General Secretary Gorbachev agreed on a total of 4,900 ICBM and SLBM warheads. The United States has tabled a ceiling of 3,300 warheads on ICBM's and the Soviets have proposed a ceiling of 3,300 warheads on SLBM's. (The Soviets had previously proposed a ceiling of no more than 60 percent or 3,600 of the 6,000 warhead total could be on any one leg of the triad.) The Soviets are in effect attempting to constrain the United States strength in SLBM's and the United States is attempting to constrain the Soviet strength in ICBM's.

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*Figures from Israeli sources.

The Soviets retain their commitment to cut their SS-18 force in half, from 3,080 warheads on 308 SS-18's, to 1,540 warheads on 154 SS-18's. The United States has proposed a ceiling of 1,650 warheads (out of the United States proposal of 3,300 total ICBM warheads) on mobile missiles, heavy missiles, or on missiles which possess more than 6 warheads (that is this would include the Soviet SS-18 and SS-24 and the United States MX).

SLCM'S

At the Washington summit, the two leaders directed their negotiators to develop a mutually acceptable solution to the question of limiting the deployment of long-range, nuclear-armed sea-launched cruise missiles [SLCM's]. They agreed that limitations on SLCM's would not be part of the 6,000 warhead and 1,600 strategic nuclear delivery vehicles [SNDV] limits. The United States previously proposed that SLCM limits be negotiated separately. The Soviets have tabled a limit of 400 nuclear-armed SLCM's (with a range greater than 400 miles) on two classes of submarines and one class of surface ships. They have reportedly just tabled a proposal calling for a limit of 600 SLCM's armed with conventional warheads. U.S. negotiators have made it clear, however, that the United States will not discuss limits on SLCM's armed with conventional warheads, only those with nuclear warheads.

MOBILE MISSILES

The United States continues to ban mobile missiles unless procedures can be worked out for verifying such missiles. The Soviet proposal permits mobile missiles. At the February 21-23 meetings between Secretary of State Shultz and Soviet Foreign Minister Shevardnadze, both sides reportedly suggested ways to verify mobile missiles, but not much progress, if any, was made in this area.

ALCM'S

As concerns air-launched cruise missiles [ALCM's], the two leaders at the Washington summit directed their negotiators to establish counting rules for the number of ALCM's attributed to each type of heavy bomber. It does not appear that much progress was made on this issue at the recent meetings.

VERIFICATION OF A STRATEGIC REDUCTIONS AGREEMENT

At the December summit, the two leaders also agreed upon several verification measures for a strategic reductions agreement. These measures stemmed from the INF Treaty verification provisions and include data exchanges, continuous on-site monitoring, short-notice inspections, and so forth. These measures are discussed in detail in the attached comparison of United States and Soviet proposals.

Further action was taken on the question of verification at the just concluded Shultz/Shevardnadze meetings. Both sides agreed to complete three protocols to the strategic reductions agreement by the time of their next meeting in Washington on March 22-23. The three protocols would lay out the procedures for: First, inspections; second, conversion and elimination of strategic weapons; and third, the exchange of data on weapons and their locations.

DEFENSE AND SPACE

Defense and space issues remain unresolved. At the Washington summit, Reagan and Gorbachev essentially agreed to disagree. They agreed that their negotiators in Geneva should work out an agreement that results in observance of the ABM Treaty, as signed in 1972, while conducting research, development, and testing within the parameters of the ABM Treaty, for a specified period of time. Since the summit, the United States and the Soviets have interpreted this agreement differently. The United States is operating from the administration's reinterpretation of the treaty and the Soviets are presumably operating from the traditional interpretation of the treaty. It is not clear how these differences can be reconciled, nor is it clear if any light was shed on this issue at the Shultz/Shevardnadze meetings.

The Soviets previously proposed that both sides agree on a list of devices with certain performance parameters that could be tested in space. They have also put forward a list of such space devices. The status of this proposal is also unclear given the Washington Summit agreement to disagree. Several unanswered questions remain: How long is the period of nonwithdrawal from the ABM Treaty? What types of activities will be permitted during the nonwithdrawal period from the ABM Treaty? Will these activities be consistent with the traditional interpretation of the ABM Treaty or the administration's reinterpretation of the ABM Treaty? What happens at the end of the nonwithdrawal period? Are both sides free to deploy strategic defenses at the end of this period? Or does deployment have to be negotiated?

NUCLEAR TESTING

While the nuclear testing issue is not an issue under discussion at the Geneva arms control talks, a development in this area occurred at the Shultz/Shevardnadze meetings that warrants mentioning. Both sides agreed to develop a verification protocol to the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty so that the two treaties could be sent to the Senate for its advice and consent as soon as the Senate completes work on the INF Treaty. The hope is that if the Senate could give its advice and consent to these treaties as soon as possible, Reagan and Gorbachev could exchange the instruments of ratification at the Moscow summit in late May or early June.

Round 2 of the nuclear testing negotiations began February 15 and is underway in Geneva. It is a welcome sign that this administration is following the tenants of House Joint Resolution 3, which was approved by the House of Representatives in February 1986. That resolution urged the administration to seek the ratification of these two treaties and to resume negotiations on a comprehensive test ban treaty. While the administration does not bill these negotiations as comprehensive test ban negotiations, the Soviets have described the talks in these terms. Prior to this, the negotiators at the talks were concentrating on the United States-Soviet joint verification experiment at Semipalitinsk, the Soviet nuclear test site and at the Nevada test site in the United States.

Much work needs to be done before a strategic reductions agreement can be concluded. Unresolved issues range from what to do about SLCM's and mobile missiles, to what to do about the ABM Treaty and SDI. This committee lends its support to the administration's efforts to conclude a strategic reductions agreement. We will continue to monitor developments at the Geneva arms control talks and the nuclear testing negotiations as part of a congressional-executive branch dialogue on these issues.

Following my remarks are two papers describing areas of agreement and disagreement at the Geneva arms control talks.

AREAS OF AGREEMENT AT THE GENEVA ARMS CONTROL TALKS, MARCH 3, 1988

STRATEGIC

General approach

50% reduction in strategic offensive forces.

This includes a 50% reduction from the current 3080 warheads to 1540 warheads on 154 Soviet heavy missiles (SS-18's).

Strategic nuclear delivery vehicles [SNDV]

1600 ceiling on the number of SNDVs which includes ICBMs, SLBMs and heavy bombers—down from the current level of some 1990 launchers for the U.S. and some 3060 launchers for the Soviets.

Warheads

6000 warhead ceiling on ICBMs, SLBMs, and ALCMs (air-launched cruise missiles)—down from the current level of some 8800 warheads on both sides.

Of the 6000 warhead total, there is a ceiling of 4900 warheads on ICBMs and SLBMs.

This would result in an ALCM ceiling of 1100 (6000-4900-1100). While the Soviets would like the 1100 ceiling established as a sublimit, the U.S. is resisting such an approach.

Each heavy bomber equipped for gravity bombs and SRAMS (short-range attack missiles) counts as one warhead.

ALCM's and heavy bombers

Each heavy bomber counts as one SNDV.

All bombs and SRAMs on one bomber count as one warhead under the 6000 ceiling.

Each ALCM would count as one warhead in the 6000 ceiling.

Throw-weight

As a result of 50% reductions, the aggregate throw-weight of the Soviet Union's ICBMs and SLBMs will be reduced to approximately 50% below the existing level, and neither side will be permitted to exceed that level.

Sea-launched cruise missiles [SLCM's]

At the December 1987 Washington Summit, President Reagan and General Secretary Gorbachev agreed that they should find a mutually acceptable solution to limiting the deployment of long-range, nuclear-armed SLCMs.

Limitations on SLCMs would not be part of the 6000 warhead and 1600 SNDV limits.

Both sides committed themselves to establish ceilings on such missiles, and to seek mutually acceptable and effective methods of verification of such limitations, which could include the employment of National

Technical Means, cooperative measures and on-site inspection.

Verification

At the December 1987 U.S.-Soviet Summit meeting in Washington, President Reagan and General Secretary Gorbachev agreed on certain verification measures that should be included in a stategic reduction agreement. At a minimum, such an agreement should include:

(1) Data exchanges, to include declarations by each side of the number and location of weapon systems limited by the Treaty and of facilities at which such systems are located and appropriate notifications. These facilities will include locations and facilities for production and final assembly, storage, testing, and deployment of systems covered by this Treaty. Such declarations will be exchanged between the sides before the Treaty is signed and updated periodically after entry into force.

(2) Baseline inspection to verify the accuracy of these declarations promptly after entry into force of the Treaty.

(3) On-site observation of the elimination of strategic systems necessary to achieve the agreed limits.

(4) Continuous on-site monitoring of the perimeter and portals of critical production and support facilities to confirm the output of these facilities.

(5) Short-notice on-site inspection of:

a. declared locations during the process of reducing to agreed limits;

b. locations where systems covered by this Treaty remain after achieving the agreed limits; and

c. locations where such systems have been located (formerly declared facilities).

(6) The right to implement, in accordance with agreed-upon procedures, short-notice inspections at locations where either side considers covert deployment, production, storage or repair of strategic offensive arms could be occurring.

(7) Provisions prohibiting the use of concealment or other activities which impede verification by national technical means. Such provisions would include a ban on telemetry encryption and would allow for full access to all telemetric information broadcast during missile flight.

(8) Measures designed to enhance observation of activities related to reduction and limitation of strategic offensive arms by National Technical Means. These would include open displays of treaty-limited items at missile bases, bomber bases, and submarine ports at locations and times chosen by the inspecting party.

DEFENSE AND SPACE

At the U.S.-Soviet summit meeting in December 1987, President Reagan and General Secretary Gorbachev agreed that their negotiators in Geneva should work out an agreement that results in:

(1) observance of the ABM Treaty, as signed in 1972, while conducting research, development and testing as required and permitted by the ABM Treaty, for a specified period of time;

(2) intensive discussions of strategic stability shall begin not later than three years before the end of that specified period;

If, the end of this period, both sides have not agreed otherwise, each side will be free to decide its course of action; and

(3) a goal of these discussions is to ensure predictability in the development of the U.S.-Soviet strategic relationship under conditions of strategic stability, to reduce the risk of nuclear war.

Previously, at the Geneva Negotiations, both sides had proposed a different formula and duration for adherence to the ABM Treaty. The United States proposed a 7 year non-withdrawal period from the ABM Treaty and the Soviets proposed a 10 year non-withdrawal period from the ABM Treaty.

Both sides, however, make a Defense and Space agreement contingent upon agreement in the Strategic area.

For the U.S., a Defense and Space agreement is contingent upon implementation of 50% reductions to 1600 SNDVs/6000 warheads in strategic offensive arms over 7 years from entry into force of a Strategic agreement. For the Soviets, a Defense and Space agreement is a precondition for strategic offensive force reductions.

(Based on several sources including, the administration and the Congressional Research Service.)

UNRESOLVED ISSUES AT THE GENEVA ARMS CONTROL TALKS, MARCH 3, 1988

STRATEGIC

General approach

United States.—50% reduction in strategic offensive arms to equal levels carried out in a phased manner over 7 years from the date the treaty comes into force. (A second phase for elimination of all offensive ballistic missiles has been deemphasized.)

Soviet Union.—50% reduction in strategic offensive arms within 5 years, with subsequent negotiations for additional reductions. If the United States wants, all strategic nuclear weapons or all offensive ballistic missiles to be eliminated in second five years.

Linkage

United States.—Agreement not contingent upon the resolution of Defense and Space issues.

Soviet Union.—Agreement contingent upon agreement of Defense and Space issues.

Viktor Karpov, head of the arms control section of the Soviet Foreign Ministry, stated in February 1988 that an agreement on 50% cuts in strategic offensive weapons should include (1) limits on long-range submarine-launched cruise missiles (SLCMs) and (2) preservation of the traditional interpretation of the ABM Treaty.

Warhead sublimits

United States.—Of the 4900 total ICBM and SLBM warheads, 3300 can be on ICBMs. (The U.S. preference, however, is for 3000 warheads on ICBMs.)

Of the 3300, no more than half (1650 warheads) can be on ICBMs that are not silo-based (i.e. mobile), or are heavy, or which possess more than 6 warheads (this would include the Soviet SS-18 and SS-24 and the U.S. MX).

Soviet Union.—Limit of no more than 3300 of 4900 ballistic missile total can be on SLBMs. (The Soviets had previously tabled a proposal calling for no more than 60% or 3600 of the 6000 warhead total on any one leg of the Triad. The Soviets appear now to be emphasizing the 3300 ceiling on SLBMs.)

This would mean a reduction to approximately 2000 U.S. SLBM warheads from the current approximate total of 5300 U.S. SLBM warheads.

ALCM's (air-launched cruise missiles)

The number of ALCMs each type of heavy bomber can carry remains unresolved.

Mobile ICBM's

United States.—Mobile ICBMs banned unless agreement on verification can be reached.

Soviet Union.—Mobile ICBMs permitted.

New systems

United States.—Ban on new or modernized heavy missiles.

Soviet Union.—Ban on new types of strategic delivery systems.

SLCMs (sea-launched cruise missiles)

General agreement was reached at the December 1987 Washington Summit calling for a mutually acceptable solution to the question of limiting the deployment of long-range, nuclear-armed SLCMs. Limitations on SLCMs would not be part of the 6000 warhead and 1600 SNDV limits.

The United States had previously preferred to negotiate limits on SLCMs separately. The Soviet Union had proposed a limit of 400 nuclear-armed SLCMs on 2 classes of submarines and one 1 class of surface ships, that each side could deploy with a range of more than 600 kilometers, or about 400 miles. In addition to the limit of 400 nuclear SLCMs, the Soviets just recently proposed a limit of 600 conventional SLCMs on 1 class of surface ships. The U.S. is opposed to limits on conventional SLCMs.

DEFENSE AND SPACE

Strategic defenses and the ABM Treaty

United States.—Mutual commitment not to withdraw from the ABM Treaty for a period of time (previously the U.S. had proposed seven years) for the purpose of deploying strategic defenses not permitted by the ABM Treaty.

During that period, strictly observe all ABM Treaty provisions while continuing research, development and testing, which are permitted by the ABM Treaty. (It's not clear which interpretation the adminstration is referring to: the traditional interpretation or the reinterpretation.)

Soviet Union.—Mutual commitment not to withdraw from the ABM Treaty for 10 years from entry into force of this agreement while strictly observing all the Treaty's provisions.

Another Soviet proposal would require both sides to agree on a list of space-based devices which would not be allowed to be put into space if they exceeded certain performance parameters. Devices on the list could be into space for any reason if they did not exceed the parameters. All other space-related ABM research would be restricted to ground-based laboratories. (It is the U.S. view that this proposal would impose limitations beyond those actually agreed in the ABM Treaty.)

The Soviets included in their July 29 Defense and Space proposal a comprehensive list of weapons to be barred from space testing.

Agreement contingency

United States.—This commitment would be contingent upon implementation of 50% reductions to 1600 SNDVs/6000 warheads in strategic offensive arms over 7 years from entry into force of a Strategic agreement.

Soviet Union.—Agreement in Defense and Space is a precondition for strategic offensive force reductions.

Deployment of strategic defenses

United States.—Acknowledgement that either side shall be free to deploy advanced strategic defenses after 1994 if it so chooses, unless the parties agree otherwise.

Soviet Union.—Before the end of the 10 year commitment of non-withdrawal, the sides would begin negotiations to reach a mutually acceptable decision on how to proceed further.

The Soviet position does not provide for the right to deploy in the absence of an agreement.

Exchange of data and observation of testing

To enhance predictability in the area of strategic defenses, the United States proposed an annual exhange of data on planned strategic defense activities, reciprocal breifings on respective strategic defense efforts, visits to associated research facilities, and establishment of procedures for reciprocal observation of strategic defense testing.

Previous U.S. positions that remain on the table

(1) At Reykjavik, the President proposed a mutual commitment, through 1996 not to withdraw from the ABM Treaty. This commitment would be contingent upon 50% reductions in strategic offensive arms by the end of 1991 and the total elimination of all remaining U.S. and Soviet offensive ballistic missiles by the end of 1996. Either side would be free to deploy advanced strategic defenses after 1996 if it so chooses, unless the parties agreed otherwise; or

(2) In his July 25, 1986 letter to General Secretary Gorbachev, President Reagan proposed that the sides agree not to deploy advanced strategic defenses for a period through 1991. Thereafter, if either side wished to deploy such defenses, it would present a plan for sharing the benefits of strategic defense and eliminating ballistic missiles. The plan would be subject to negotiation for two years. If, at the end of two years, the sides were unable to reach agreement, either side would be free to deploy defenses after giving 6 months notice.

(Based on several sources including the administration and the Congressional Research Service.)

DAVID PRICE: A WORKING PROFILE

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. MANTON. Mr. Speaker, I call to the attention of my colleagues an article that appeared recently in the New York Times about our colleague, DAVID PRICE of North Carolina. The article discusses the education all of us receive as freshmen Members of this body. In DAVID's case, he started at the head of the class. Prior to his election to the House in 1984, DAVID taught political science at Duke University.

Mr. Speaker, I have the privilege to serve on the Banking Committee with DAVID. In his short time in Congress, I have seen DAVID become a respected and effective member of our committee. He is not a show horse. He is a work horse. He seeks a responsible and achievable solution to many of the problems our committee faces. In that regard, he has shown he understands the art of the possible. Too few professors fit that bill.

Mr. Speaker, I commend this article to my colleagues and ask unanimous consent to have the article reprinted in the RECORD.

[From the New York Times, Feb. 11, 1988]

PROFESSOR IN CONGRESS IS DOING HOMEWORK ON THEORY AND REALITY

(By Linda Greenhouse)

WASHINGTON, Feb. 10.—For 17 years, David E. Price taught political science. His specialty was Congress, his subspecialty the Congressional committee system.

Then, a year ago, Mr. Price became a member of Congress. In a very real sense, the professor became a student, in an unusual position to chart the difference between theory and practice on Capitol Hill.

In an interview a year ago, Mr. Price, a North Carolina Democrat who won his seat by defeating an incumbent Republican, talked about his expectations. He said he planned to focus on domestic policy, to spend more time mastering detail than making waves, to pay very close attention to a district known in turn for paying very close attention to its representative in Congress.

FIGURING OUT THE SYSTEM

This week, he reflected on what he called an intriguing first year in the House of Representatives. There were no major surprises, he said, but many nuances to absorb and a marked evolution to catch up on in the committee system he first began studying in the 1960's as a graduate student with a summer job in a Senate office.

"It's the difference between observing and being in the middle," said Mr. Price, a gray-haired 47-year-old with a low-key manner. "There are layers within layers. The culture is a mix of elements I've never experienced before: conviviality, rivalry, conflict, ambition. It's important to figure it out."

The daily texture of his life could scarcely be more different from his years in Duke University's political science department. But the transition has been smooth, if exhausting.

Mr. Price commutes every weekend to North Carolina's Fourth Congressional District, a mixture of rural South and Research Triangle high tech that includes both Raleigh and Chapel Hill.

DAILY AND WEEKEND ROUTINES

His district schedule is filled with community forums and speeches at high schools and social clubs. His wife and two teen-age children have remained in Raleigh, and Mr. Price has assigned 9 of his 17 staff members to three offices in the district. That is the reverse of the typical staffing ratio in the House, where the average member keeps 60 percent of the staff in Washington.

His weekdays in Washington are spent plugging away at his assignments on the Banking, Small Business, and Science and Technology Committees. Unlike many, if not most other members, he shows up for committee hearings and actually stays.

"It's important to go and it's important to stay," he said the other day. "You have to make the investment. Dropping in for 10 minutes is not very satisfying personally."

The rewards for his methodical attentiveness have been small but tangible. He was able to bring the Small Business Committee to the district for a hearing on the problems local businesses were having in obtaining Federal Government contracts; six committee members actually made the trip.

A Science Committee subcommittee went down to hold a hearing on the work place of the future. A bill Mr. Price introduced in the Banking Committee to provide increased consumer protection for homeowners who take out home equity loans is moving along nicely, with a subcommittee vote possible in the next few weeks.

PUTTING THEORY INTO PRACTICE

"A lot of people have gotten interested in the bill, but my name has stayed on it," he said in a tone of delight and surprise.

His home equity bill, which would make that type of loan subject to the same disclosure provisions that Federal law now requires for traditional mortgages, is the prime example of how Mr. Price is trying to put theory into practice.

In the interview a year ago, he said that successful members of Congress cultivated "entrepreneurship," which he defined as looking for gaps in existing law and filling them with creative legislation.

When he got on the Banking Committee, an assignment he had requested, he studied the committee's agenda to find such a gap. He did not linger over the high-profile controversies at the top of the agenda, such as banking deregulation.

"I'm very interested, but I know I'm not going to be a major player," he said. He settled on the increasingly popular home equity loans, with which he was well acquainted because he had taken one out himself. "It's a new product that falls in the gap between existing regulations," he said.

IMPACT OF BUDGET SQUEEZE

He worked hard to develop an approach that both consumer groups and banks, as well as senior members of the committee, could support. While he is pleased with the results so far, he said his experience also illustrates one of the major recent changes in Congress, the formidable obstacles the budget crisis has placed in the way of any member trying to come up with something new.

"Entrepreneurship is no longer the order of the day," he said. "One of the most striking changes is the reduced premium placed on that kind of activity."

He said the number of committee hearings is declining. The number of bills introduced in the House has dropped sharply, from 22,000 in the 90th Congress, 1967–68, to 6,500 bills in the 99th Congress, 1985–86.

Mr. Price said that even an idea such as his home equity bill, which will not cost any money, becomes more difficult to bring to fruition because "the work of the standing committees has been greatly devalued."

"The budget situation centralizes power," he continued. "It affects everything we do: it affects what initiatives are viable, it affects who has power, it determines the preoccupations of the party leaders." Power has shifted from the committees that authorize programs to the subcommittees that actually appropriate the money.

As a result, he said, he devoted "an enormous amount of time and staff resources" to what he called "birddogging the appropriations process." Ultimately, he was able to preserve a $1.8-million planning grant for a Federal environmental laboratory at the University of North Carolina.

"That's the one thing I could say wouldn't have happened if I hadn't been here," he said.

Mr. Price has agreed to revise a chapter on Congressional committees he wrote for a 1982 book. "Congress Reconsidered," published by Congressional Quarterly. The old chapter is substantially outdated, he acknowledged, shaking his head at the prospect of meeting a looming deadline for the 1988 edition.

Mr. Price, who won a four-way primary for the Democratic nomination two years ago, has no opponent in next month's primary. His Republican opponent in the November election is Tom Fetzer, a relatively unkown 32-year-old from the most conservative wing of the party.

When asked which vote has been the hardest to cast, Mr. Price skipped over the issue that has bedeviled Congress for months, that of aid to the rebels in Nicaragua. He ran for office as an opponent of contra aid, and voted against the Reagan Administration's aid request last week along with the other seven North Carolina Democrats in the House.

The last opinion poll he took, in the 1986 election, showed the district split almost evenly on further aid to the contras, but the 400 letters he received on the subject this time ran 10-to-1 against the Administration's request.

Rather, he said there was "not much question" that his most difficult moment on the House floor came on Oct. 29, when he deserted the Democratic leadership and voted against a $4.5 billion deficit reduction bill. The bill passed by a vote of 206 to 205, an embarrassingly close call for Speaker Jim Wright; Mr. Price was one of 41 Democrats, and the only North Carolina Democrat, to vote no.

"Every presumption goes to working with the leadership," Mr. price said. But he said that in his view, the package, which contained $11.9 billion in new taxes, violated earlier Democratic pledges to devote any new revenue to deficit reduction and to match new taxes with spending cuts.

"The situation contained a lot of pressure," he said. "It was very tense." But he said that no member of the leadership remonstrated with him and, equally important, he received considerable praise and "not one unfavorable comment about that vote" from the district.

Remarking that successful House members come in all shapes, sizes and demeanors, Mr. Price said he has concluded that "there are many paths to effectiveness in Congress." He is still charting his own.

"You can overplay the freshman bit," he said, adding that this particular role required "a delicate mix of deference and assertion that everyone has to find for themselves."

He smiled and said, "I guess that sounds a little academic."

IMMIGRATION REFORM

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. DIOGUARDI. Mr. Speaker, I rise today to introduce legislation to correct serious inequities in our current immigration laws which have denied thousands of people the opportunity to share in the American dream. If our present immigration laws were in place 50, 60, or 100 years ago, many of us probably would not be here today.

My father, who came here from Italy with nothing but the hope of seeking a better life for himself and his family would never have been allowed to come to this great land. I believe it is time for us to change the unfair decline in legal immigration that citizens from many countries have suffered since passage of the sweeping 1965 immigration law. The three bills I am introducing today seek to address the unfairness of our current laws on many levels.

My first bill addresses the problem of undocumented aliens now living here through a redress provision. While many of these fine people qualify for amnesty under the Immigration Reform and Control Act of 1986. Unfortunately, either as a result of fear, lack of information or both, thousands have not yet applied for legal immigration status. In addition, thousands more just missed the cutoff date for qualifying, some by a matter of days.

A specific group which comes to mind is the Irish. There are an estimated 150,000–200,000 undocumented Irish citizens living in the United States. While undocumented, these people have proven to be dedicated, hardworking and valuable assets to our Nation's work force and economy. If allowed to live here legally, I am sure their contributions would multiply.

My redress provision could give hope to many of these people by making available 100,000 permanent residency visas per year for each of the 5 next years. Priority would be given to those who attained a specified number of points under a system weighted toward education, labor skills, and need in the U.S. work force.

My second bill addresses a major concern of the U.S. Department of Labor's "Workforce 2000" report. Their projections point to a continuation of the rapid rate of growth in job creation for the services sector. In conjunction with a low birth rate in the United States, the study suggests that immigrants will represent the largest share of increase in the population and in the work force since World War I.

To meet the challenges this study presents, my bill would provide up to 10,000 5-year provisional work visas per year for people abroad who wish to come here to work. An employer or a labor union would submit a petition to the Attorney General stating their need for an employee and requesting that this person receive one of the temporary visas. At any point during the 5 years, one could apply for permanent residence status.

An undocumented person could also apply for a 5-year work visa to receive temporary legal status; 30,000 of these visas would be made each year. Application for this type of visa would not constitute the sole grounds for deportation from the United States.

I would like to emphasize at this point that none of these work visas would displace current American workers. Before any such visa could be issued, the Secretary of Labor must certify that the employment of such a worker would not displace workers similarly employed in the United States.

The final bill I am introducing involves military enlistment. Historically, many immigrants have served in U.S. Armed Forces and have given their lives to defend American values, freedom, liberty and democracy. The intent of my legislation is to make available to the Armed Forces of the United States and to the militias of the several States a limited number of persons not already lawfully admitted for permanent residence status for the purpose of enlistment in the Armed Forces. Each branch of the military and militias of the States would be allowed to issue visas for this purpose. No branch or reserve component would be required to issue such visas if they do not wish to do so.

This provision would enable the Armed Forces, if they felt the need, to make up for shortfalls in personnel that they may experience in any given year. A person applying for this type of visa would be required to declare his intent to apply for permanent residency. Up to 17,500 visas could be issued by the forces and each Governor could issue up to 3,000 of such visas per year. The visas would be made available for both those abroad and those already in this country.

It is time for Congress to rekindle the beacon of hope and opportunity that was dampened for so many by the 1965 Immigration and Nationality Act. I believe enactment of the bills I am introducing today would be a positive first step in this direction. I encourage and welcome your support.

AMERICAN PEOPLE CHALLENGE SOVIET AUTHORITY

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. MOODY. Mr. Speaker, The American people have dared to challenge Soviet authority. As a result of uprisings that began there last week, the attention of the world has swung to the Republics of America and Azerbaijan—shattering the myth that all is well in the Union of Soviet Socialist Republics.

Mass protests broke out last week in the Armenian capital of Yerevan. According to some reports, 1,500 Soviet paratroopers with clubs had been flown into Yerevan. More than 100,000 Armenians took to the streets to demand the unification of Nagorno-Karabakh—an overwhelmingly Armenian region—with the Republic of Armenia. The Armenian community in Nagorno-Karabakh, part of the Republic of Azerbaijan, is one of many groups to fall victim to the artificial and arbitrary borders that divide the "republics" of the Soviet Union.

In a tremendous victory for Armenians, Gorbachev has agreed to consider their demand for unification with Nagorno-Karabakh. Now, more than ever, the Armenian people need the support of the world community to ensure that Gorbachev follows up on his commitment. In the fight for Soviet Jewry, we have seen the critical importance of outside pressure in creating change within the Soviet Union. That pressure is equally important today for the people of Armenia.

I hope my colleagues will take every opportunity to raise the case of the Armenians living in Nagorno-Karabakh. They have a right to be united with their people in the Republic of Armenia. We have an obligation to support their aspirations and salute their courage.

DISMANTLING APARTHEID

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. BORSKI. Mr. Speaker, last week in an effort to still the fast approaching tide of integration, the South African Government made an unwise and unjust decision to eliminate nonviolent activity as a form of social protest.

Protesters who in the past have denounced radical activity and armed conflict are not left with the unfortunate decision to either give up the struggle, disobey the prohibition, or join the guerrilla movement which has openly vowed to intensify military activity inside South Africa.

Anglican Archbishop Desmond Tutu and other top religious leaders, choosing to disobey the ban on peaceful protest, were arrested and forcibly taken into custody. After their release, the leaders agreed to continue the restricted activities thereby reassuring their followers and the world of their commitment to keep internal pressure on the rascist regime.

I, as a House Member, will continue to apply external pressure by actively participating in the current House drive for tougher sanctions against the South African Government.

In addition, I urge the national and international communities, although recently banned from making donations to activists,, to continue their support for the antiapartheid movement by keeping the external pressure on the South African Government with economic and diplomatic sanctions, divestment of holdings by corporations and individuals and the unwillingness of international banks to lend to South Africa.

In the past, the media have relayed to the world the events of the longest and most intense period of turmoil in South African history. The recent government ban on antiapartheid activities, however, may cut off the local and foreign media from access to information regarding human rights violations and government abuses.

Today, as subjective hearts and minds of the world needlessly rationalize and articulate their distinctions between suppression and preserving national security, civil disobedience and promoting violence, maintaining law and order and brutality, being a freedom fighter and being a vigilante, I would like to resubmit an appeal first made by patriot Thomas Paine in Philadelphia in 1776.

"O! Ye that love mankind! Ye that dare oppose not only tyranny but the tyrant, Stand Forth"

RAILROAD BILL TO REMOVE DELAY IN ICC DECISIONMAKING

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Ms. SNOWE. Mr. Speaker, today I am introducing legislation that seeks to put the Interstate Commerce Commission [ICC] on a firm deadline, so that decisions on determining the appropriate levels of labor protective provisions for certain cases will be reached in a more prompt and timely fashion than they have been in the past.

I will briefly review the events and circumstances that have compelled me to develop and introduce this measure.

Late in 1986, Guilford Transportation Industries [GTI] notified the ICC of its intention to lease certain trackage rights from the Maine Central Railroad to the Springfield Terminal Railway Co. Both rail carriers are wholly owned subsidiaries of Guilford. Due to the fact that such a transaction was an intracorporate leasing arrangement, Guilford was granted an exemption by the ICC. Thus, the railroad was allowed to proceed under Mendocino Coast labor protective provisions, which allow railroads to reach an implementing agreement between the management and labor unions after conclusion of the leasing agreement.

However, shortly thereafter, the Railway Labor Executives' Association [RLEA] filed a petition with the ICC to revoke Guilford's intracorporate exemption and require that New York Dock labor protective provisions be mandated for the leasing agreement instead. New York Dock conditions differ from Mendocino Coast conditions in that they require the implementing agreement between the unions and carrier's management be reached prior to the leasing transaction being able to proceed.

The ICC reviewed and considered this matter, along with several similar leasing proposals by other wholly owned Guilford subsidiaries, throughout 1987. During that time, I contacted ICC Chairwoman Heather J. Gradison, by letter and phone, on several occasions urging that a final decision on the appropriate level of labor protective provisions be promptly issued.

On February 19, roughly 15 months after having been initially notified about Guilford's proposed leasing arrangement, the ICC issued its decision on the railroad workers' petition. The decision stated that the ICC found the rail carrier's collective leasing transactions had, when viewed together, substantially injured certain employees. To address this, the ICC mandated that extraordinary labor protective provisions be imposed. First, the ICC required that an implementing agreement be reached between all of Guilford's wholly owned subsidiaries and their respective labor unions. Second, the implementing agreement between all of these workers and the rail carriers will be implemented within 90 days from February 19. The ICC's decision also provided that if, after 20 days from the decision's date, no agreement has been reached, any party may seek to submit the controversy to binding arbitration. Furthermore, several ICC Commissioners included their own additional comments with the decision. These comments clearly indicated that Guilford's leasing agreements circumvented the legitimate rights of their employees.

After Guilford's original actions were taken, I was confronted by many railroad workers asking why the ICC was taking so long in reaching a final decision. It seemed to these people, as well as myself, that after more than a year the ICC had been given more than enough time to make a determination regarding appropriate labor protective provisions.

Mr. Speaker, this legislation amends current Federal law to state that when rail carriers who are wholly owned subsidiaries of the same parent corporation lease trackage rights between themselves, the ICC is required to issue a final decision on the appropriate level of labor protective provisions within 6 months of having been initially notified of the leasing agreement. Moreover, if the ICC has not issued its final decision within the 6-month time period, my legislation requires that New York Dock labor protective provisions automatically be imposed.

I believe that 6 months is a sufficient period for the ICC to review cases where wholly owned subsidiaries of the same company engage in leasing agreements. By requiring a decision within 6 months of notification, my legislation seeks to directly address the concerns I repeatedly outlined to the ICC during their delay in the Maine Central and Springfield Terminal proceeding.

Additionally, my legislation provides for adequate protection of the legitimate rights of railroad workers by imposing New York Dock conditions, if the ICC has not responded in a prompt and timely fashion. This will prevent rail carriers from entering into leasing agreements of this type in order to avoid collective-bargaining requirements.

Furthermore, the provisions of this legislation were specifically designed so that its conditions would only apply in cases where wholly owned subsidiaries of the same corporation try to use leasing agreements to circumvent the rights of employees. This legislation is tightly focused to address a particular problem that the railroad workers in the State of Maine suffered from; those railroads that operate in a legal and proper fashion are not subject to the provisions of my legislation.

Lastly, by giving the ICC 6 months to issue its own decision, I believe that this legislation does not unfairly impinge upon its authority or discretion to issue special decisions that meet the requirements of unique or special circumstances. Within the 6-month period, the ICC is entirely free to impose whatever conditions it deems most appropriate.

Mr. Speaker, this measure would address a very serious problem in a fair and reasonable fashion. My legislation provides the ICC with discretion and flexibility, while still preventing the agency from taking an unreasonable amount of time to issue decisions on labor protective provisions for railroad workers affected by leasing agreements between wholly owned subsidiaries. In cases where the ICC is not able to act in a prompt and timely manner, my measure protects the rights and interests of the affected railroad workers. I hope that my colleagues in the House will lend this new legislation their support.

AVIATION WHISTLEBLOWER BILL INTRODUCED

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. KLECZKA. Mr. Speaker, I have introduced a bill to provide protection for employees of air carriers who engage in whistleblowing activities relating to air carrier safety.

I first learned of this problem at a government operations hearing last October. At that hearing, employees of a major airline testified that they had been pressured not to report safety problems. Testimony further indicated that employees had actually been fired for doing so.

My bill would protect both union and nonunion employees by assigning the Department of Labor responsibility for investigating whistleblower complaints. The Department of Labor already serves this function for other private sector whistleblowers, including truckers.

Fortunately, such complaints about major airlines are not common. Nonunion employees working for smaller carriers are the ones most likely to face discrimination for reporting safety violations.

This problem is a growing one. It is one of the unpleasant side-effects of the increased pressure on airlines caused by deregulation.

I urge my colleagues to join me in addressing this problem by enacting aviation whistleblower protection by the end of the year.

TRIBUTE TO KNOXVILLE RESTAURATEUR: BILL REGAS

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. DUNCAN. Mr. Speaker, Regas Restaurant was recently highlighted in Travel-Holiday's 1988 Guide to Fine Dining. The high quality and standards of the restaurant are due to the efforts of its owner, Bill Regas. The following Knoxville Journal newspaper article outlines his accomplishment.

REGAS OWNER HONORED AS PICK FOR NATIONAL FINE DINING GUIDE

(By Mike Bradely)

For most restaurateurs, it might be hard to top the pride experienced when a food magazine read by nearly a million people a year describes your prime rib as the best in the country.

But when Knoxville's Regas Restaurant was listed recently in the December issue of Travel-Holiday magazine's 1988 Guide to Fine Dining, restaurant owner Bill Regas cited one honor of which he was even more proud.

"It's quite an honor, naturally, to be in it," said Regas who saw his restaurant selected for the sixth straight year. "We're proud of that. It goes all over the country and a lot of people take it with them when they travel.

"But the thing that means the most to us is to please the local people who eat with us every day. . . ."

Travel-Holiday is a monthly guide to travel with a yearly circulation of more than 800,000.

The magazine's annual Guide to Fine Dining is a listing of the finest dining spots in Canada, Mexico and the United States selected, as the magazines states, "quite simply for the quality of the food and service."

Regas' Restaurant is one of only three restaurants in Tennessee selected for the magazine's annual guide. And while Regas is proud of its local business, a good plug in a national magazine certainly won't hurt.

Regas said of his restaurant's national listing, "It's an honor and we like to get all the honors we can get, of course. People come thorugh who have never been to Knoxville, and they hear about you or read about in that magazine . . .

"Publications such as this are good for people who travel a lot and want to know where the good restaurants are. I've been to some of those listed and there are some real good ones. For people who go to Los Angeles or New York, there are so many good ones, they've got to have some kind of recommendation."

Travel-Holiday also emphasized Regas' moderate prices, its menu for the calorie-conscious and the restaurant's penchant for freshly cooked food.

"One thing we're proud of is that everything is prepared from scratch," said Regas. "We're proud of the fact we've always done that for the 68 years we've been here. We do it properly and painstakingly, the old-fashioned way for a good, fresh product."

TERRORIST WEAPONS AND THE STRATEGIC DEFENSE INITIATIVE

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. COURTER. Mr. Speaker, I would like to insert in the CONGRESSIONAL RECORD an unusually revealing exchange of "Dear Colleague" letters—and relevant articles—on the potential threat posed by Third World terrorist governments possessing surface-to-surface missile technology.

The letters by my two colleagues from Illinois make what I believe is a persuasive case that this problem is serious, and that the strategic defense initiative offers the potential to neutralize such developments in the future.

On the other hand, those dogmatically opposed to SDI are now reduced to denying that there is enough of a threat to our security from a Qadhafi armed with surface-to-surface missiles to warrant support for the strategic defense initiative.

SDI development is closely intertwined with ATBM defenses against shorter range offensive missiles. I can't help pointing out, in response to the gentleman from Oregon, that while the United States is not threatened today by Qadhafi's missiles, our NATO ally Italy is within 150 kilometers of Tripoli, and in fact Italian territory has already been attacked by missiles launched by the Libyan terrorist leader. Moreover, the article enclosed with Mr. Broomfield's letter reveals that Qadhafi also wants to purchase surface-to-surface missiles with a range of 1,000 kilometers—more than enough to reach Israeli territory. From the moment Libya acquires those missiles, Israel, Italy, American military bases in the Mediterranean, and other United States allies will be at risk.

"Political leadership" is an expression which is difficult to define with precision, but surely one feature is the ability to look ahead and prepare against future threats before they become present dangers. Readers of the following colloquy may judge for themselves whether the congressional majority's refusal to fully fund the strategic defense initiative and ATBM development demonstrates foresight rather than blindness to the proliferation of offensive missiles controlled by fanatic and terrorist governments.

The material follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 8, 1988.

DEAR COLLEAGUE: I would hope that those of my colleagues who continue to oppose the President's Strategic Defense Initiative will take a close look at the attached article taken from the authoritative defense journal, Jane's Defense Weekly.

Politics aside, the Strategic Defense Initiative offers our nation the possibility of defending ourselves from the threat posed not just by the Soviet Union, but by other radical leaders in the Third World who continue to search for nuclear technology and the ability to deliver it. Common sense and well deserved prudence require that we move ahead with SDI in the hope that we can enter the 21st century with defensive systems which will help protect the American people against not only superpower adversaries, but deliberate Third World terrorism or the completely accidental launch of a nuclear missile.

Sincerely,

WILLIAM S. BROOMFIELD,
Member of Congress.

LIBYA OFFERS TO FINANCE BRAZILIAN MISSILE PROJECT

Libya has proposed financing a Brazilian missile development programme with $400 million annually for at least five years, according to sources in Brazil's War Material Department of the Army Ministry.

The deal would allow Libya to purchase the first batch of the MB/EE series of tactical missiles being designed by Orbita Special Systems and guarantee Libya's access to the technology.

Fifteen Libyan specialists, including 12 armed forces officers, headed by Mohammed Ali, Director-General for Armament Supplies, were reportedly mainly interested in the MB/EE-150, a dual launcher missile mounted on a semi-armoured chassis, manned by a three- or four-man crew.

Electronically autonomous with a ground-based radar, the missile is planed to carry a 500 kg warhead to a distance of between 100/150 km. The missile measures more than 12 m and has an inertial guidance system and precision sensors to make last-minute flight corrections.

In initial trials, 50% of the missiles have hit their targets, according to Brazilian sources.

The Libyans were also interested in developing and acquiring the MB/EE-600 and MB/EE-1000, understood to have ranges of 600 km and 1000 km respectively.

Orbita is thought to be also developing an MB/EE missile with a range of 350 km.

Mohammed Ali, who reports directly to Libyan leader Mu'ammar al Gadaffi, also showed considerable interest in purchasing an undisclosed number of Engesa-manufactured Osorio EE-T1 main battle tanks and artillery. The Libyans visited Brazil at the invitation of Engesa.

The USA has protested to Brazil over the proposed sale of arms to Libya.

Brazil suspended arms sales to Libya in 1983 after intercepting Libyan cargo aircraft that were attempting to use Brazil as a transit point for clandestine shipments of arms to Nicaragua.

HOUSE OF REPRESENTATIVES,
Washington, DC, February 24, 1988.

CAN STAR WARS MAKE GADAFFI SEE STARS?

DEAR COLLEAGUE: You recently received a Dear Colleague letter from Bill Broomfield arguing that we should buy Star Wars because Libya is considering financing development of a Brazilian missile with a range of 100-150 kilometers. Mr. Broomfield suggests that Star Wars "offers our nation the possibility of defending ourselves from the threat posed . . . by radical leaders in the Third World who continue to search for nuclear technology and the ability to deliver it."

I suggest for yur consideration that—

1. The distance from Libya to the United States is somewhat greater than 100-150 kilometers.
2. Design and construction of a workable ICBM is totally beyond the economic and technological capabilities of a terrorist group or an undeveloped Third World government, and will remain so throughout the forseeable future.
3. In contrast, the hardware requirements for clandestine nuclear delivery—a "suitcase bomb"—are well within even Gadaffi's modest scientific capabilites. (Recent CIA reports suggest that, despite evidence to the contrary, Muammar does have the brains to pack a suitcase.) Star Wars would be no use against such an attack.
4. There is no apparent reason why a nuclear terrorist would choose a delivery system he can't design or afford, while ignoring a cheap and more feasible alternative.

If nuclear terrorism is the question, Star Wars is not the answer.

Sincerely,

LES AUCOIN,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 2, 1988.

SDI AND THE OSTRICH MENTALITY

DEAR COLLEAGUE: Last week Congressman AuCoin of Oregon sent out a Dear Colleague critical of a Dear Colleague from Mr. Broomfield of Michigan, the respected ranking Republican on the Committee on Foreign Affairs. In his letter, Mr. Broomfield prudently called attention to the fact that the Government of Libya is attempting to conclude an agreement with the Government of Brazil for the purchase of a surface-to-surface missile system and the eventual sharing of this technology.

Mr. Broomfield argued that developments such as this should be of concern to the American people and that these events were but another reason why we should continue our research into the Strategic Defense Initiative. Mr. Broomfield logically argued that while these systems do not present a threat to us today, their evolutionary "grandchildren" may in the next decade or beyond.

For this reason he correctly argues that continued research and development on SDI is wise, not just for the benefits SDI offers in neutralizing Soviet strategic nuclear systems, but also because it will help serve as an "insurance policy" against the possible growth of strategic missile systems in the Third World in the future.

Mr. AuCoin, however, seems unconcerned by this development. He argues that the American people do not have to be worried about a Libyan missile system with only a 150 mile range, *today.* He also believes we don't have to worry because terrorist states like Libya do not have the "economic or technical capabilities" to develop threatening missiles, *today.* And he ends by saying that a suitcase bomb is the preferred nuclear delivery system of choice in the Third World, *today.*

The logical question is, "What about *tomorrow*?"

Perhaps we all should read the article in Jane's Defense Weekly about Libya's efforts to develop its own missile capability, and see if we come away with as sanguine a view of the future threat posed by Third World missile technology development as our colleague from Oregon, Mr. AuCoin.

I am also attaching a more recent article from the New York Times on the subject of India's continued development and testing of its own surface-to-surface missile, as well as its acquisition from the Soviet Union of a Victor 1 class nuclear powered attack submarine.

Finally, for one who is so visibly concerned about the dangers of the nuclear arms race between the Soviet Union and the United States, our colleague Mr. AuCoin seems remarkably aloof about the potential threat posed by similar developments in the Third World. In a world where the margin for error is ever shrinking, sensible defense planning requires looking at *tomorrow's* possibilities rather than being sedated by today's perceived limitations.

Sincerely,

HENRY J. HYDE,
Member of Congress.

[From the New York Times, Feb. 26, 1988]

INDIA TESTS ITS OWN SURFACE-TO-SURFACE MISSILE

(By Sanjoy Hazarika)

NEW DELHI, Feb. 25.—Prime Minister Rajiv Gandhi announced today that India had successfully tested a surface-to-surface missile. He said it would be used "purely for defense purposes."

The weapon was fired this morning into the Bay of Bengal from the Sriharikota space center on the southeastern coast. It has a range of 150 miles.

In a statement to Parliament, Mr. Gandhi said the weapon had been developed and designed by Indian scientists and engineers and would be introduced into the Indian Army's arsenal after more test launches.

In testing a surface-to-surface missile, India joins the United States, the Soviet Union and about a dozen other nations as producers of such weapons. India already has the more common surface-to-air missiles.

The announcement strengthens India's military superiority in southern Asia and follows New Delhi's acquisition of its first nuclear-powered attack submarine this month under lease from the Soviet Union.

The latest development is also regarded as likely to spur the traditional rivalry between India and Pakistan, whose relations have soured over the last year with major armed clashes in disputed Kashmir between their armies. Today, in an effort to calm mutual suspicions, Mr. Gandhi invited President Mohammad Zia ul-Haq of Pakistan to India for talks to discuss a settlement on the Afghan war.

The United States has criticized the leasing of the submarine, described as a Victor-1 class vessel, saying it gives India a clear strategic edge.

Mr. Gandhi said on Feb. 3, at the time of its entry into the Indian Navy, that the submarine did not carry nuclear weapons "nor is there any simulation of nuclear weapons on board."

India buys most of its military hardware from the Soviet Union although it has diversified its purchases in recent years and bought aircraft, artillery guns and radar systems from Western countries. It has also tested a nuclear device and has its own space program, with the ability to launch satellites.

One defense expert said today that the new surface-to-surface missile, which is like the SS-150, was "essentially a battlefield support weapon" and could be used to hit enemy airfields, garrisons and supply bases.

India has made steep increases in its military budget in recent years in an effort to modernize its armed forces and to offset a $4 billion package of United States military and economic aid to Pakistan. Last year India spent about $8 billion on its military, including the purchase of new jet fighters from the Soviet Union.

THE TANK SPILL PREVENTION ACT: A RESPONSE TO ABOVE-GROUND STORAGE TANK NEGLECT

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. WALGREN. Mr. Speaker, today I am introducing a bill to address the safety of above-ground storage tanks, legislation arising from the massive oilspill into the Monongahela River near Florette, PA on January 2. Congressmen LUKEN, MAZZOLI, HUBBARD, GRAY, APPLEGATE, MURPHY, KOLTER and GAYDOS are joining me as original cosponsors of this measure in view of the magnitude of the danger that now exists to public safety and drinking water supplies.

Early this January, 3.8 million gallons of No. 2 diesel oil gushed from the collapse of an above-ground oil storage tank, owned and operated by Ashland Petroleum Co., near Pittsburgh. The 40-year-old tank had been cut apart, moved from Cleveland and reconstructed. It was being filled with oil for the first time at the time of the collapse. One million gallons poured into the Monongahela River; less than 20 percent of that has been recovered. Diluted along its course, the slick from the spill has now traveled the length of the Ohio River and merged into the Mississippi.

Immediately after the rupture, 1,200 people had to be evacuated from their homes because of the potential of fire. The drinking water supplies of at least 1 million people have been damaged; 500,000 people in Pittsburgh had no water for 8 days. Businesses had to close. The environment suffered long-term damage; the effects of the spill are still unknown and may be with us for years.

Because we do not know what caused the tank to collapse, I asked the National Bureau of Standards to investigate. We expect their engineering report in the near future.

Any discussion of this incident should start with a commendation of the many private, local, State, and Federal authorities who responded promptly and worked together to respond to the spill and conserve drinking water supplies. While I have criticized the Environmental Protection Agency for taking too long to take responsibility for the response to the emergency, given the weather and time of the accident—a Saturday at 5:10 p.m.—everyone pulled together and did the best that could be done.

CURRENT REGULATION

It is dismaying to learn that Federal safety regulations of above-ground tanks is almost nonexistent. First, there is virtually no regulation of the structural strength required for tank safety. There are only voluntary industry practices. Second, there are some regulations for spill containment, but their enforcement appears to be almost nil. EPA never inspected the spill containment system for this tank.

Current EPA spill containment regulations are broad and vague. As a result, present regulations essentially leave the industry in the role of setting its own standards, policing its own operations, conducting its own inspections, and setting its own standards. For example, EPA does not require the spill containment plan to be uprated when a tank is relocated or rebuilt until 6 months after the tank is in operation. EPA regulations allow a new or rebuilt tank to operate without an inspection. The Pittsburgh tank had been, in different phases, under construction for 1½ years, but Ashland did not amend the spill plan until 2 days after the spill.

Present industry standards may be good guidelines if followed, and can prevent all sorts of mishaps. However, because they are largely voluntary, they give little assurance of safety to private citizens. Only minimal Federal fines exist. If there is a tragedy, as we have painfully learned, there is little recourse that fits the scale of the damage done to communities, governments, individuals, and natural resources.

CURRENT FEDERAL INVOLVEMENT

Several agencies address tanks and spills within their jurisdiction, but none directly address the kind of spill represented by the collapse of the Ashland oil tank.

The Coast Guard responds to spills in waterways from vessels and regulates the design of vessels.

EPA addresses spills on land and into waterways from facilities. But EPA does not regulate structural tank safety and the spill containment regulations are generally not specifically enforced.

The Superfund Hazardous Waste Cleanup Program does not cover petroleum.

The Solid Waste Disposal Act regulates underground storage tanks, but not above-ground tanks.

The Hazardous Materials Transportation Act regulates the movement of hazardous materials. Oil is not considered to be hazardous.

The Department of the Interior regulates offshore oil activities.

The Pipeline Safety Act regulates oil flowing through pipelines.

Somehow, in terms of Federal law, above-ground tanks have fallen through a very big crack.

THE TANK SPILL PREVENTION ACT OF 1988

The bill we are introducing today would put into place some tough requirements and a clear enforcement program that hopefully will help prevent another spill like the one we had in Pittsburgh by amending the Solid Waste Disposal Act. The bill would require EPA to publish regulations prescribing standards for all above-ground storage tanks with a capacity greater than 4,200 gallons that contain certain regulated substances, including petroleum, as defined by the Solid Waste Disposal Act. (Farm and residential tanks would be excluded.) The standards would cover design, siting, construction, fabrication, testing, inspection, maintenance, modification and release and spill detection and prevention. We hope to generate comment on which tanks should be covered and which should not be. The 4,200-gallon cutoff was chosen because this is the smallest tank addressed by the American Petroleum Institute's current tank guidelines.

Regulations would require a spill and leak prevention system for each tank with secondary containment sufficient to contain all spills and leaks. The tank and physical construction of the facility would be required to reflect good engineering practices. And the bill would require a current spill and leak prevention plan, including training of personnel, assurance of readily available cleanup equipment and procedures for cleanup, including notification of local officials and the National Response Center.

The bill would authorize EPA to require owners or operators to maintain evidence of financial responsibility for tanks.

ENFORCEMENT

The problem with voluntary standards is that there is no enforcement or oversight by any level of government. The Tank Spill Prevention Act would require EPA to enforce the regulations and standards unless a State receives EPA approval for a State enforcement program that is as stringent as the Federal program.

To begin, each owner or operator would be required to have each tank inspected by a qualified independent professional engineer within 2 years of enactment. Once every 3 years thereafter the owner or operator would have to test or inspect. In each case, the inspection would have to be certified by an independent professional engineer and a copy sent to EPA or the State.

The bill would require testing of all tanks, including rebuilt tanks, before beginning operations. No rebuilt tanks would be allowed to operate until the tank is inspected, tested and certified by a qualified independent engineer and approved by the EPA or the State.

EPA or States would be required to conduct periodic inspections to ensure compliance with the regulations. Funding for the Federal and State enforcement programs would be provided by the Tank Spill Enforcement Fund, created by user fees collected on tanks, based on size.

CLEANUP

The bill would make owners or operators liable for cleanup of spills or leaks, restoration of natural resources, real or personal property damage, subsistence loss, and loss of certain revenues and profits, including replacement water supplies and water treatment. When the owner or operator fails to respond to a spill or leak in a proper or a timely fashion, the bill would authorize EPA to direct the cleanup activities using funds from the Leaking Underground Storage Tank Fund. Funds expended by the EPA could be recovered from the party responsible for the leak or spill.

PENALTIES

The bill would impose the following penalties: for failing to provide information or providing false information, up to $10,000; for failing to comply with the requirements of the bill, up to $10,000 per day of noncompliance; for knowingly failing to comply with any requirement, imprisonment for not more than 5 years.

NO PRE-EMPTION

I would like to underscore the fact that this legislation has a specific provision to prevent pre-empting State programs that are more stringent.

THE BILL AND CURRENT POLICY

There are several measures in this bill that specifically address the Pittsburgh tank collapse. Had these provisions been in force, the chances of the Pittsburgh accident would have been greatly decreased.

First, the bill requires specific regulations and standards and a concrete enforcement program by the Federal and State governments.

Our bill would have required Ashland to test the tank before using it. This is not now required. (The industry-recommended test is to fill the tank with water to test for strength before filling the tank with oil. This was not done.)

The bill would require assurances of an adequate spill containment plan and prompt notification of an accident to local governments. The plan would be more comprehensive than that require now, clearly requiring training of response personnel, including contractors, and assurances that adequate equipment is readily available.

The spill and leak prevention plan would have to be kept current, reflecting changes in the structure. Moreover, our bill would require that the spill plan be designed to address each facility specifically, taking into account the siting, the environment and other unique features of individual sites.

The terms of tank modifications, current regulations require the spill prevention plan to be updated 6 months after the tank begins operations. Under our bill, a modified tank could not be operated until the plan is amended, certified by an outside engineer as meeting good engineering practices, and the enforcement agency has been notified of the certification.

This bill uses an engineer not permanently employed by the tank owner or operator to certify that tanks, spill and leak prevention systems and spill and leak prevention plans reflect good engineering practices. Current regulations do not require the engineer to be independent of the tank owner or operator.

I offer this bill as a suggestion to insure the health and safety of millions of Americans who live in the shadow of above-ground tanks. There are 600,000 tanks in the United States and while accidents of this magnitude are not common, I believe citizens deserve the reassurance that they are built soundly and are regularly inspected for safety.

PERSONAL EXPLANATION

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. MAVROULES. Mr. Speaker, I was unavoidably detained on March 1, 1988, at 1:30 p.m. Consequently, I missed rollcall vote No. 14 which sought to instruct the House conferees in the conference on H.R. 5, to improve elementary and secondary education.

Let the record show that had I been present I would have voted "yea."

DIESEL FUEL TAXES

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. STANGELAND. Mr. Speaker, one of the revenue-raising measures adopted in the final weeks of this last session of Congress changes the point of collection for certain diesel fuel taxes from the retail to the wholesale level, effective April 1, 1988. This provision, intended to curtail nonpayment of the highway use tax by bonafide taxpayers, has the unintended and inequitable result of requiring farmers and commercial waterway operators who are not and never have been statutorily liable for the highway tax to pay it at the wholesale level and then apply for a refund—without interest—from the Federal Government. In essence, these nonhighway users of diesel fuel are being required to pay a tax they do not owe so the Government can have the use of their money.

If we allow this change to take effect in the next month, farmers will be burdened with an additional operating expense which could total hundreds of millions of dollars in diesel fuel excise taxes. Although farmers will be able to apply for refunds of these taxes, cash flow problems, higher interest costs and unnecessary paperwork requirements will undoubtedly result.

Costs to agriculture would be substantial. According to the 1982 Census of Agriculture, annual farm diesel fuel use is approximately 3 billion gallons. At 15 cents per gallon, agricultural producers would be forced to pay approximately $400 million in diesel taxes. In Minnesota, the impact to agriculture could amount to millions of dollars. This is a tax that farmers do not owe and should not have to pay. It means they will have to borrow additional operating capital and have higher interest costs. It means additional regulation and paperwork to obtain a refund.

I am also concerned about the impact this tax provision may have on an integral part of the Nation's transportation network; the barge and towing industry. This new requirement may cost the industry approximately $240 million per year, plus the loss of interest. Water carriers cannot afford to pay additional taxes; already they are subject to a 10-cent-per-gallon tax on diesel fuel for use on the inland waterways.

I urge my colleagues to immediately postpone the effective date of this unfair tax burden and to exempt these groups from payment of the highway tax.

COMMENDING THE REPUBLIC OF NAURU ON THE 20TH ANNIVERSARY OF INDEPENDENCE AND FOR THE ESTABLISHMENT OF PACIFIC HOUSE IN WASHINGTON, DC

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. LAGOMARSINO. Mr. Speaker, the Republic of Nauru recently celebrated their 20th anniversary as a sovereign, independent nation on January 31, 1988. The people of Nauru have good reason to be proud of their progress and record as a country for the past two decades.

Nauru is a small island located along the Equator in the midst of the vast Pacific Ocean. A large part of the island is made up of high grade phosphate which produces generous revenues to the people, making Nauru one of the highest per capita income countries in the world.

Nauru has also been blessed with good leadership which has conscientiously invested a significant amount of phosphate revenues. The Nauru phosphate trust, the investment arm of the government, is responsible for administering the trust for the people.

Although the primary objective of the Nauru phosphate trust has been to secure equity holdings and increase revenues for Nauru, most investments exhibit a philanthropic dimension. Nauru has consistently invested in projects that benefit the Pacific community. For example, Air Nauru, the country's airline fleet of Boeing jets, has been providing air links to a number of remote island countries that would otherwise be without air transportation. Hotels and office buildings have been constructed throughout the Pacific to assist the various islands in their own economic development.

Nauru's financial security has been guarded for 20 years by the wise leadership of President Hammer Deroburt. Nauru's investments have evidenced the President's faith in the economic growth potential of the region and a Pacific islands philosophy of considering the needs of the whole community.

On March 10, 1988, Nauru will once again demonstrate its commitment to the Pacific region with the establishment of Pacific House in Washington, DC, to serve as a center for island activities in our Nation's Capital. This beautiful new facility can serve only to strengthen America's awareness of and ties to the Pacific islands in the years to come.

I believe it is proper and fitting to congratulate the people of Nauru on their 20th anniversary of independence, and to commend His Excellency Hammer Deroburt, the President of Nauru, and the members of the Nauru phosphate royalties trust for their vision and commitment to furthering Pacific island relations with the United States through the establishment of Pacific House in Washington, DC, and to convey the sincerest and best wishes to Nauru for success in this endeavor.

TRIBUTE TO THE GARIBALDI LODGE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. TRAFICANT. Mr. Speaker, it is with great pride that I stand before you today to pay tribute to the Garibaldi Lodge of Follansbee, WV.

I had the honor of addressing this group at their 34th annual Mardi Gras dinner which is always celebrated the last Saturday preceding the Lenten season. I would like to take this opportunity to honor the officers of Garibaldi Lodge. They are, Lou Gambellin, president; Phil Consalvo, past president; Albert Pierantozzi, vice president; C.A. Cipriani, financial secretary; Patsy Desantis, secretary; Mario Cipriani, treasurer; Elio Casinelli, judge; Anthony Ciccolella, inner guard; and Dom Pace, outer guard.

The lodge is a fraternal organization established in 1920 to preserve and celebrate the Italian culture. The group yearly sponsors a communion breakfast and aids its members in fulfilling their Easter, religious duties. They also sponsor street festivals and fund raisers. The fraternity also provides sick and death benefits for their members. The current list of 200 members do much to aid their fellow brothers and to contribute to the community as a whole. I was very pleased to have had the honor of attending one of their events.

I am honored to pay tribute to such an outstanding organization. The officers and members are to be congratulated on their generous community contributions and endless brotherhood.

THE NEW HOMELESS: WOMEN, CHILDREN, AND FAMILIES

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. MILLER of California. Mr. Speaker, the Association of Junior Leagues has just released an important report, "The New Homeless: Women, Children and Families." According to the AJL report, the number of new homeless in the 1980's is growing at the alarming rate of 25 percent each year.

Homelessness is emotionally devastating for families and has serious academic, health, and social consequences for children. This is the principal message of the research highlighted by the AJL report, and reaffirms the findings of the Select Committee on Children, Youth, and Families.

The report is an outgrowth of the Associationi's longstanding commitment to women and children, and resulted from an issues forum cosponsored by the Association and The Johnson Foundation. Fifty participants, including service providers, advocates, policy makers, Junior League members, and representatives of the Association's board and staff, examined the causes and effects of homelessness among this group and identified changes in public policy necessary to address this complex problem.

The report also highlights the important accomplishments of local Junior League chapters which have served this population:

The Atlanta Children's Shelter, established by the Junior League of Atlanta, cares for 30 homeless children during the day while their parents work, participate in job training programs, or search for employment or housing. The program offers breakfast, educational programs, recreation, and bathing facilities—which may not be available in the separate night shelter.

In another project established by the Junior League of the city of New York in partnership with the Children's Aid Society and the Columbia School of Social Work, three contiguous buildings in East Harlem are being rehabilitated as transitional housing for homeless women and their children, and a range of support services will be provided for these families.

In California, Hestia House, a short-term crisis shelter for homeless women and their children, was developed by the Pasadena-Foothill Valley YWCA, and is now staffed and supported by volunteers from the Junior League of Pasadena.

The Junior League of St. Louis convened the "Community in Partnership," a coalition of 12 organizations representing social welfare, volunteer agencies, and local government, to address the issue of homeless families. Working with the Salvation Army, "The Family Center" was developed to provide emergency food and 30 beds for single women as well as two-parent and single-parent families with children. Support services include education and training programs, case work services, and child care.

I especially want to call attention to a key AJL finding which offers important guidance as we consider the fiscal year 1989 budget; "The solution to the housing problem is not institutionalizing shelters or transtitional housing, but rather rehabilitating and building permanent homes for low-income people." No other Federal program affecting children and families has suffered greater cutbacks than low-income housing—and 85 percent cut just since 1981.

As we begin debating what our priorities should be in the fiscal year 1989 budget, I urge my colleagues to heed the complete action agenda of the Association of Junior Leagues detailed below.

AGENDA FOR ACTION

During the forum, a number of themes about homelessness emerged. While it is often portrayed as being caused by mental illness, homelessness is primarily an issue of poverty, affecting growing numbers of families. It is an economic and social phenomenon rooted in poverty and resulting in a loss of a sense of connection to community. Increasingly, a confluence of factors push families—predominantly women and children—into homelessness. These may include:

A lack of affordable housing.

A personal crisis such as unemployment, domestic violence, alcoholism, or drug problems.

The loss of a spouse, through death or divorce.

Lack of adequate income, caused by changes in the economy, such as a decline in the manfacturing sector of the rise in low-wage service jobs that provide few benefits.

In the last session of the forum, participants developed an action plan. They agreed that any plan for addressing homelessness needs to include both long- and short-term strategies. Both ameliorative and preventive programs must be developed concurrently. Participants identified several key issues on which long- and short-term approaches must focus:

Housing.

Community education.

Economic security.

Education, training and job placement.

Economic security.

Social services.

Physical and mental health.

In partnership, government and the private sector need to employ strategies at local, state, and federal levels.

HOUSING

The solution to the housing problem is not institutionalizing shelters or transitional housing, but rather rehabilitating and building permanent homes for low-income people. Efforts must be made to create an adequate supply of affordable, transitional and long-term housing. The immediate need of many of shelter makes it equally necessary to ensure the availability of emergency housing, especially for families.

Build coalitions with the housing industry and local landlords to address the housing needs of communities.

Advocate for the federal government to develop more affordable, low-income housing.

Investigate ways that zoning and building codes and insurance requirements hinder the construction shelters and low-income housing.

Establish revolving emergency loan funds to prevent evictions and to enable families to pay fees for renting an apartment.

Preserve benefits for people whose rents are subsidized under Section 8 of the 1974 Housing and Community Development Act.

Lobby for the creation of additional rental subsidies for low-income families.

Seek legislative change to set standards for shelters and to provide appropriate and accessible services.

Find ways to improve the physical conditions of shelters.

Lobby for housing for families and for single women.

Rehabilitate buildings that are scheduled for demolition.

Create smaller shelters for two-parent families.

Establish transitional housing with social support services.

COMMUNITY EDUCATION

Attempts to deal with the problem of homelessness are hampered by myths about who the homeless are. It is necessary to dispel these myths and to raise the visibility of the new homeless—the women, children and families who, increasingly, are joining the ranks of those without homes.

Conduct a community assessment of the causes of homelessness, including the availability and types of low and moderate income housing.

Educate community officials and candidates for office about homelessness by encouraging them to visit shelters and by briefing them on the issue.

Analyze community family services and investigate the ways they can be used to prevent homelessness.

Increase local awareness of changing demographics on the homeless, especially the growing number of homeless children and adolescents.

Educate the public about government entitlement programs and ways to advocate for their continued improvement.

Develop educational materials on homelessness.

EDUCATION, TRAINING AND JOB PLACEMENT

Lack of education and/or specific job training increases the likelihood of an individual's becoming homeless. Poor employment skills and inadequate job placement services can trap a person in the cycle of poverty. Because children raised in shelters are often deprived of an education, the problem of homelessness is projected into the future.

Develop appropriate job programs for the homeless that are tied to specific employment opportunities in the community or region.

Work to change educational policies and laws to ensure that homeless children can attend school.

Promote literacy and basic education programs for adults, particularly within shelters and transitional housing units.

Create special educational and job training programs for homeless adolescents, including those who are pregnant or have children.

Develop programs to train displaced homemakers.

ECONOMIC SECURITY

The number of families falling below the poverty line continues to grow, regardless of the state of the economy. Increasingly, women and children comprise the largest percentage of those living in poverty and are most likely to become homeless. There must be an increase in jobs that provide adequate income and in public assistance for those unable to shelter themselves and their children.

Lobby for welfare reform that addresses the needs of women, children, and families.

Raise the minimum benefit levels for AFDC and mandate all states to provide the Aid to Families with Dependent Children/Unemployed Parent Program (AFDC-UP).

Provide child care and Medicaid coverage for transitional periods when families leave AFDC.

Provide work incentives, such as the income disregard, for AFDC recipients who obtain jobs.

Extend the period of time for unemployment benefits and the range of fringe benefits for part-time employees.

Raise the minimum wage to make it possible for individuals and families to support themselves.

Enforce and expand the scope of legislation such as the Economic Equity Act to address the specific needs of working women and children.

SOCIAL SERVICES

The changing profile of the homeless requires a rethinking of community services. A young single woman with two children—newly evicted from an apartment—will need an array of services quite different from those of an older woman with chronic mental illness who has spent many years on the streets. Communities as well as social service professionals must develop new approaches to help those who have fallen through the web of community support.

Expand federal programs that provide monies for child care, and lobby for legislation such as the Act for Better Child Care Services of 1987.

Establish a variety of programs for child care, particularly for children who are living in shelters.

Strengthen community and family support programs.

Develop state foster care programs to prevent older youths from becoming homeless when they "age out" of foster care.

Create counseling programs for homeless adolescents, especially those who are pregnant or have children.

Support shelters for victims of domestic violence who, with their children, may become homeless as a result of this violence.

Study available local transportation routes, identifying those that limit job possibilities and living options.

Design programs to inform the homeless of available government benefits and the means to acquire these resources.

PHYSICAL AND MENTAL HEALTH

Drug or alcohol abuse and mental illness are factors that contribute to homelessness. Yet service available to address the physical and mental health needs of the homeless are inadequate. Few services exist to treat substance abuse and mental illness or to prevent these problems from occurring. In fact, inadequate health support systems can be among the factors that precipitate homelessness.

Create adequate follow-up systems for the mentally ill who have been deinstitutionalized.

Support alcohol and drug rehabilitation programs.

Expand Medicaid eligibility and provide more comprehensive health care benefits.

Provide counseling services for homeless individuals.

Establish health and mental health programs for homeless children and adolescents.

Develop community mental health systems to meet the needs of those persons who are deinstitutionalized and the mentally ill who have never had access to community-based services.

Note: The Stewart B. McKinney Homeless Assistance Act (P.L. 100-77), passed by Congress on June 30, 1987, provides funding that can help carry out many of these strategies. The success of the legislation will depend on communities quick and effective use of the funds.

THE LONG ISLAND COMFORT CORPORATION: GOOD NEIGHBORS TO THE COMMUNITY

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to congratulate a small business in my district for a unique and generous community effort. The Long Island Comfort Corp. is a family owned fuel oil company in Port Jefferson, NY. This year marks its 100th consecutive year in business. Wanting to commemorate this milestone, the company offered a gift to all new customers—a choice between a down comforter or a set of down pillows.

What made this business offering truly noteworthy is that customers were encouraged to donate their gifts to charity. Local churches are now working to ensure that these items reach the most needy in the community. The gift of warm bedding to a family in need can make this frigid season far more bearable.

The Long Island Comfort Corp. is owned by Gordon and Michael Davis. This generous act of giving is very much in character for the Davis family. Several years ago, the family donated enough land to enable the town of Port Jefferson to build a junior high school. Recently, the Davises contributed an oil burner to a family whose home was without one. Needless to say, I am proud that the Davis family resides in my district.

Mr. Speaker, Government has a responsibility to assist the less fortunate in this country. We can do no better than to follow the example of the Davis family. Any Federal Government response must have at its heart the fundamental values expressed in these generous gifts. There are currently many proposals to address complex issues such as homelessness. These will never amount to anything if we fail to understand the simple act of neighbors helping one another. For reminding us all of this simple truth, I want to thank Gordon and Michael Davis.

CIVIL RIGHTS RESTORATION ACT OF 1987 (S. 557/H.R. 1214)

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. LEWIS of Florida. Mr. Speaker, thank you for allowing me the opportunity to express my concern regarding the Civil Rights Restoration Act of 1987 which passed the House of Representatives on March 2, 1988.

In my opinion, such a fundamental revision of Federal civil rights law should not occur without the House of Representatives' full review and the opportunity to adequately follow the proper legislative process with committee hearings, markup, and committee reports. To severely limit floor debate and the opportunity to offer amendments on this far-reaching legislation is wrong. The House of Representatives should have had the opportunity to consider the merits of this most consequential bill.

This legislation goes far beyond overturning the Grove City ruling and dramatically expands the coverage of Federal antibias laws. This major civil rights bill extends the Government's power to regulate private institutions, associations, and businesses. As a consequence, it will affect many sectors of American society with increased Federal paperwork requirements, random on-site compliance reviews by Federal agencies even in the absence of an allegation of discrimination, job restructuring, and private lawsuit liability to name a few.

This so-called Civil Rights Restoration Act represents a threat to the disadvantaged and underpriviledged of our society. The ultimate response of many employers to enactment of the Civil Rights Restoration Act would be to withdraw from participation in Federal job programs, training programs and social service programs because of the potential costs and administrative burdens.

I am committed to preserving the civil rights for all Americans; however, I firmly believe that the disadvantages of this package far outweigh its advantages.

TRIBUTE TO MR. WILLIAM GOLDMANN

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. TORRES. Mr. Speaker, I rise today to pay tribute to an outstanding American, Mr. William Goldmann. Among other things, Bill Goldmann is very active in the Las Vegas Democratic Party. He is a leader among the many retired people who reside in southern Nevada.

Bill was born in a small mining town in Kansas. His father, orginally a coal miner in Germany, immigrated to the United States and worked in the mines of Kansas, Colorado, Utah, and New Mexico. Since Bill grew up in the mines, he learned about the struggles involved in building a union. He realized unions were necessary to better the lives of miners and their families. "Company stores" and "Company housing" were a way of life for most miners.

Bill married Lilly May Elliott in the mining town of Dawson, NM. They have two sons: Bill, Jr., who is professor and executive assistant to the president at Pasadena City College, and Glenn, who is deceased.

In the early 1930's, Bill and his family moved to Los Angeles. He began working in the meat packing industry. It is interesting to note that he was fired for organizing a union. In 1934, Bill was hired by Chrysler Corp. He again started to organize a union. Following the Chrysler sitdown strike in 1937, the union was finally recognized by Chrysler Corp. Subsequently, Bill became a key leader in UAW Local 230, the Los Angeles local union for the Chrysler Corp. Under Bill's able leadership, the office workers, engineers, cafeteria workers, and plant guards at Chrysler were well organized in the union.

Bill learned early in life that effective collective bargaining for benefits could only come if the political climate was right. He was part of the political push under Franklin Roosevelt that led to the Wagner Labor Relations Act, the Social Security Act, the Workmen's Compensation Act and the Unemployment Insurance Act.

Bill's leadership talents did not go unnoticed in the Auto-Aerospace Union. In 1947, after serving as president of the local 230 for many years, Bill was selected by Walter Reuther to be on the staff of the international union. Bill was promoted to assistant director of the UAW for the Northwest States in 1962.

Bill served with distinction in each level of union administration. He has been recognized for extremely sound judgment in times of crisis. He is also open and honest with people. It is clear that Bill is dedicated to the principles of the union movement. He believes working people should organize themselves in order to create better lives for themselves and their families.

In 1964, Bill lost his wife to cancer. He later was remarried to Pauline Nelson, who is an activist in the International Brotherhood of Electrical Workers.

Bill retired in 1967. After a few years, Bill and Pauline moved to Las Vegas, where they worked to build a council for retired United Auto Workers. They also helped to organize the Nevada Council of Senior Citizens, which is a statewide organization for seniors. They frequently work with the Democratic Party to register voters and increase issue awareness among senior citizens.

Mr. Speaker, I ask that my colleagues join me today in commending Bill and Pauline Goldmann for their commitment and service to our Nation.

NATIONAL MARINE TECHNOLOGY WEEK

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. JONES of North Carolina. Mr. Speaker, I am introducing legislation today to designate the week beginning October 30, 1988, as "National Marine Technology Week."

Long before the Pilgrims' epic journey brought those European settlers to the shores of North America, seafarers from many lands had found and explored the coasts of what is now our Nation. The history of our country is rich in maritime enterprise and invention, and much of our success in commerce and defense is directly related to the sea which surrounds us. This relationship is aptly stated in the introduction to the report, "Our Nation and the Sea," that, although prepared some 20 years ago, still provides clear guidance for our wise use of the ocean. The commission that created this document recognized the significance of our oceanic experience by observing, "In times of stress the sea has been our ally, and in times of peace, a source of prosperity." This awareness of our inextricable relationship with the global sea was clear to the founders of our country—indeed, Benjamin Franklin was a pioneer in the study of oceanic currents which affected sailing ships trading with the European community.

The genius of American invention has brought us technological advances in science and engineering that are the envy of the world. These talents have been brought to bear upon many aspects of our interaction with the marine environment, and we can point with pride to numerous achievements in marine technology which have contributed not only to the Nation's benefit, but to the well being of the global community. We may be proud of these achievements, and in recognition of more than two centuries of continuing research and development in marine technology we can acknowledge our debt to the pioneering spirit and dedication of our scientists and engineers, past and present, in Federal, private and academic pursuits by declaring a National Marine Technology Week.

Today, more than ever, our talents are required to lead the world in the wise management of this international resource and to explore and understand its bounds and limits. At this critical juncture, many of our scientists and engineers are joining in a concerted national effort—the U.S. Global Ocean Science Program—an endeavor that will offer both a challenge and an opportunity to our marine technologists who develop and provide instruments, vehicles, and new concepts in our continuing study of the sea. The focusing of new measurements and computing technologies addressing global ocean processes will furnish tools, techniques, and models crucial to assessing environmental change.

In recognition of the vital role now played by our marine scientists and engineers, it is fitting that we observe National Marine Technology Week. During 1988 the American Society of Naval Engineers will observe its centennial, and the Marine Technology Society its 25th anniversary. It also is the year in which our efforts in global marine science will be focused through multiagency and multidiciplinary endeavors. We can acknowledge both our legacy and our potential in marine science and engineering by establishing a National Marine Technology Week that recognizes the diligence, innovation, and dedication to excellence of our citizens who continue to bring international recognition for our national achievements in marine technology.

Mr. Speaker, I hope my colleagues will join me in supporting this legislation.

CAMPAIGN FINANCE REFORM MEASURE

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. HEFLEY. Mr. Speaker, today ended more than 50 hours of continuous session in the U.S. Senate in an attempt to avoid a vote on a Campaign Finance Reform measure. If passed, the measure would have allegedly "fixed" campaign laws by slashing Political Action Committee [PAC] contributions and donations by individual backers, and even by candidates themselves. The filibuster proved successful for Senate Republicans as the legislation was tabled until later this year.

Sound crazy? There is a general perception in the country that the current system of campaign funding needs to be improved. This perception arises primarily from the elections of 1986 when great amounts of money were spent to elect Senators, Congressmen, Governors, and a variety of other public officials. A campaign finance reform measure would place a ceiling on campaign involvement from the PAC community, individuals, and candidates themselves. In theory, it may be a good idea, but who is left to finance the expensive modern day election? You guessed it, the American taxpayer.

The public was turned off by politics and politicians and concluded there must be a connection between their uneasy feelings that too much money is being spent on politics—PAC's give money, elections are dirty. Therefore, maybe we need to impose more control on campaign contributions to eliminate those unsavory aspects of the political process. By doing so, the theory is, we will get rid of dirty elections and maybe, at the same time, minimize the influence of special interest groups on Congress.

The difficulty for the "reformers" is that the Supreme Court has ruled that a campaign spending limitation, without instituting a system of public financing of elections, is an infringement on free speech. Therefore, Congress will have the perfect excuse to send you the tab for its reelection bids! How edifying will it be to see politicians dipping into the public till to grease their campaign coffers!

It is clear that Federal financing of Senate and congressional campaigns is a poor solution to an unclear problem. Perhaps our current system isn't so bad afterall.

There is little queston that PAC's have grown in importance since their inception. For nearly 30 years, PAC's were almost an exclusive prerogative of unions and they used them very effectively in the elections of the late 1940's through the early 1970's. Now, PAC's are common in nearly every industry and represent nearly every special interest group.

PAC's have a kind of "fat cat" image, but in fact, millions of ordinary people contribute to these committees to advance issues and ideas they support and elect candidates they feel will be sympathetic to their concerns. PAC's are people! Voters! They are made up of small contributors in large numbers. Many PAC's are born in the workplace, with working men and women combining their resources in a union PAC or an industry PAC like the ones for the aerospace and telecommunications industries.

Basically, a PAC is just a way for people with a similar interest to be more active politically. When we consider campaign reform proposals that would either further limit or abolish PAC's, we may be curbing the one area where there is an encouraging increase in public participation in our self-governmental process. People contribute to PAC's because they believe in what they stand for. PAC's then, in turn, contribute to candidates because they believe in what the candidates stand for.

Most of the current proposals seek to limit the influence of PAC's by lowering the amount they can contribute to candidates. In reality, PAC's are already highly restricted as no one PAC can contribute more than $5,000 in the primary and $5,000 in the general election to any one candidate. Considering that in 1986, winning congressional campaigns raised and spent an average of $400,000, the amount a single PAC is allowed to contribute amounts to a rather insignificant 2.5 percent. In addition, very strict reporting regulations keep PAC's from having any undue influence on a candidate.

Public financing of campaigns is a different story. Of course, it would be easier just to get a check from the Treasury to run your campaign, and it is not hard to see why the idea appeals to many officeholders. But we have tripled the debt during the last 10 years and the last thing we need to do is create another program that will cost at least $100 million per election.

Candidates are elected to office because they are the people's choice for that office. People show their support for a candidate by voting for them, volunteering for them, and helping to finance them. Our market system works the same way—people buy the products they prefer. They are allowed to make their own choice as to what they buy, or to whom they contribute.

Placing the burden of campaign finance on the Federal Government is a grave mistake. We will be stripping the citizens of their most valued right of participation while helping to vault this Nation even further into debt.

RYE, NY, CELEBRATES BICENTENNIAL

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. DioGUARDI. Mr. Speaker, I rise today to honor the bicentennial of the incorporation of the town of Rye. I pay tribute to a town that has flourished since 1660, and with great pride, I declare March 7, 1988, "Rye Town Day." In addition I wish to recognize the people of Rye who have sparked a flame of "community" that has burned brightly for over three centuries.

Prior to 1788, Rye was far larger and included two other townships, what are now White Plains and Harrison. During the Revolutionary War, Rye was ravaged as Americans and British alike tore into the countryside in desperate search of supplies and forage. However, when American independence was secured, the people rebuilt their homes, barns, and shops; and by an act of the New York Legislature in 1788, the community was officially "erected into a town by the name of Rye."

The 1800's saw many wealthy New Yorkers arrive in Rye. Some of their elegant summer mansions and estates still grace the countryside today, including that of Peter Augustus Jay, the son of Supreme Court Chief Justice John Jay, who is buried on the property.

In 1904, Rye became a village, separating itself from the Village of Port Chester and the unincorporated town of Rye and, in 1942, Rye became Westchester County's smallest city. I share the excitement and pride of the people of Rye who celebrate their bicentennial today. They are the keepers of a flame which has preserved the glory of the past and faces the challenge of the future. Let us salute their vision and fortitude.

BULGARIAN INDEPENDENCE DAY

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. DONALD E. LUKENS. Mr. Speaker, March 3, 1988, marks the 110th anniversary of Bulgaria's independence. On this day in 1878 Bulgarians successfully revolted against the Ottoman empire. Ironically, they were able to win their freedom with the help of the Russian Army.

This freedom was short-lived. In 1941 Hitler captured Bulgaria. Four years later, the Russian Army invaded and established a Communist regime. Today, the people of Bulgaria live under the suppression and tyranny of the Soviet Union. Human rights violations and arbitrary persecutions are pervasive.

Despite this repression and attempts to destroy the Bulgarian identity, these brave people still fight for their freedom. Many patriots have lost their lives in the struggle to restore Bulgaria to a free and independent nation.

Today we recognize the original independence Bulgaria fought so hard for in 1878. Bulgarian Independence Day is symbolic for the fight for freedom everywhere and especially for those countries behind the iron curtain.

FOR MS. BECKY POWELL, A NOTABLE MENTION FOR INSPIRING PROSE

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. ESPY. Mr. Speaker, I am very pleased to share with my colleagues a triumph of prose by a very talented high school student in Mississippi, Miss Becky Powell, the daughter of Barry and Barbara Powell of Jackson, MS.

We are often presented with challenges that test our stamina and courage, and we must reveal the strength of our will and our minds in overcoming those challenges. A sense of "self" in relation to the broader context of the world was made evident in Miss Powell's essay, entitled, "2001-Me-Mississippi." I first heard this essay as Miss Powell read it before the legislative luncheon of the Jackson Association of Life Underwriters this past January.

Mr. Speaker, at this time I would like to include Miss Powell's essay in the RECORD.

2001—Me—Mississippi

2001: a space odyssey. Our solar system is visited in person. Technologies advance beyond our imagination. Yet my hands and feet and dreams remain close to the earth, soiled with the red-clay dirt of Mississippi.

As I bend over the rubble-covered bottom of a three-foot square pit, sweat drips off the point of my nose, as if it is an icicle, melting under the relentless sun of the Delta. The clay shards I am finding are puzzling. I was not expecting to find artifacts of this period at this site. I place them carefully in a labeled bag, then draw a map of the earth I have been scraping.

Slowly, I work with the hard earth, digging, scraping, collecting, observing, thinking, trying to piece together remnants of the past. I am hoping to someday connect the history of the Mississippi Indians who built mounds with those who did not.

These people of the past, people whom I have never seen, fascinate me. I touch what they left and try to think what they thought, to feel how they felt. My work is not futile; to understand ourselves, as individuals and collectively as humans, it is vital to comprehend the past and those people who came before us.

I have had much experience. In school I studied history, anthropology, and sociology. I sweated and dug and analyzed and learned meticulous patience. I am now hopeful that I may find something concrete to solve the question which has forced itself.

Digging and eating, however, still do not complement each other in the state of Mississippi. I have extended my knowledge and skills to other areas, but my interests still are rooted in the soil, the black dirt in which things grow. At college, I have completed a research project that concentrated on the development of a means of irrigating farmlands with the minimum amount of water. The project combined areas of genetics as well as horticulture and geology. A simulation of my project was primarily designed for situations in third-world countries, but I hope to adapt it to my native Mississippi over the next few years.

My primary area of interest, however, has been in studying the effects of pesticides, especially on water supplies. My studies have taken me to Mexico and the Soviet Union, and I plan to continue them in Mississippi.

This will be possible, as I have just been elected the first female agricultural commissioner in Mississippi. My archeological work will now be forced to wait to weekends and holidays. My energies will be directed to what is still the largest industry in my state—farming. I hope to revitalize that industry by use of modern technology and production techniques, while always considering the long-term effects on the environment. In that way, I shall help preserve and utilize my state for my generation, as well as those to come. I shall continue to uphold the high quality and fine traditions of my post by refusing to cook blueberry muffins.

LITHUANIAN INDEPENDENCE DAY

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. HASTERT. Mr. Speaker, last month many Members of this Chamber paused from our legislative business to pay tribute to the brave peoples of Lithuania as they observed the 70th anniversary of their Declaration of Independence.

It was on February 16, 1918, that residents of this nation declared their freedom from more than a century of domination by Russia.

However, this independence lasted only two decades when the Soviets and Germans joined together in a brutal occupation of the Baltic States including Lithuania.

We all know that the United States has never recognized the Soviet Union's takeover of these nations. I join with others in the firm belief that the people of Lithuania, as well as of Estonia and Latvia, have a right to self-determination. The United States has not forgotten them and support them in their struggles.

We all commend the Lithuanians for their peaceful resistance to Soviet rule. The United States should never rest in its effort to bring the cause of Baltic self-determination to the world community's attention.

THE TIME HAS COME TO CLOSE A MAJOR LOOPHOLE IN THE TAX CODE

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. KOLTER. Mr. Speaker, today I am introducing legislation to eliminate a little-known portion of the IRS Code of 1986.

Section 911 of the code provides for a tax exclusion of $70,000 per year for Americans working abroad. Closing this loophole, the Joint Committee on Taxation estimates, would save $1.2 billion in fiscal year 1988, $1.3 billion in fiscal year 1989 and $6.7 billion by 1992. These citizens abroad are not paying their fair share of taxes to the U.S. Government.

The budget deficit is in serious need of reduction. We, as Americans, must work together to reduce the fiscal shortfall. No U.S. citizen should be exempt from paying taxes on the basis of working abroad. Americans living and working in this country should not have to shoulder a heavier tax burden to make up the lost revenue.

The tax exclusion was is in place based on the belief that it helps to lower the trade deficit, resulting in more Americans working abroad and benefiting U.S. companies trying to market products overseas. In the past 10 years, the exclusion has leaped from $20,000 to $70,000, while the trade deficit has swelled to over $159 billion. It is clearly evident that this plan is not working. Revenue lost to the U.S. Treasury due to the exclusion of income earned abroad continues to grow. The budget deficit and the trade deficit are growing right along with it.

American taxpayers are paying for the stationing of troops and the existence of our embassies in foreign countries. Those who work overseas are receiving the protection of the American presence. Yet, what makes this tax exclusion even more ludicrous, is that those who benefit from this protection are receiving a $70,000 tax exemption, with many paying no U.S. taxes whatsoever.

Clearly the time has come to end this tremendous tax injustice. If an American opts to live in London, Paris or Tokyo, it should be up to that person, or the employer, to make up any difference in costs of living.

I urge my colleagues to join with me by cosponsoring this legislation.

A TRIBUTE TO THE TOWN OF MOUNT PLEASANT, NY

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. DIOGUARDI. Mr. Speaker, I rise today to pay tribute to the bicentennial of the town of Mount Pleasant, NY, which is located in my congressional district.

On March 7, 1788, Mount Pleasant proudly became one of the original towns of New York by an act of the State legislature. Today, Mount Pleasant is the third largest town in Westchester County with a population of 42,000, covering 25 square miles. The passing of two centuries have given both life and strength to this once tiny town, and I take great pleasure in honoring its celebration and in noting its tenacity as a community.

I salute the citizens of Mount Pleasant who will gather to celebrate a 200-year legacy of freedom, prosperity, and community. Although the town of Mount Pleasant is the subject of this commemoration, I join with all Members of Congress to note the achievement and pride of the people of Mount Pleasant. They share a pride that both reflects and is reflected in the foundations of a larger American liberty that unites us all.

SALUTE TO TEXAS

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. BARTON of Texas. Mr. Speaker, I rise today to inform Members of Congress not fortunate enough to represent the great State of Texas about the significance of today, March 2, Texas Independence Day. On this date in 1836, settlers gathered at Washington-on-the-Brazos—which borders my district—to sign the Texas Declaration of Independence. During this volatile time, Col. William Travis and his loyal band of 187 men sacrificed their lives holding off a larger Mexican force of 4,000 soldiers for 13 days at the Alamo mission.

On April 21, 1836, the Texas Army of 800 defeated Gen. Santa Anna and his force of 1,600 at what is now San Jacinto. This decisive battle freed Texas from Mexico. For the next 10 years Texas existed as an independent republic.

On this great day in Texas history, it is also fitting that we recognize the birthday of one of the Lone Star State's most outstanding statesmen, Sam Houston. Born this day, March 2, 1793, Houston began his political career in this very Chamber as Congressman from Tennessee. In 1832, Houston went to Texas and in 1836 joined the fight for independence becoming commander of the Texas Army. It was under his command that the Texas Army defeated Santa Anna at San Jacinto.

Because of Houston's military accomplishments, he was elected the Texas Republic's first president. He was later elected as one of Texas' first two Senators to serve in the U.S. Senate after statehood was approved in 1845. The city of Houston was named to honor this great man, and his statute is one of two that to this day represents Texas in our Capitol.

Mr. Speaker, I share great pride with all Texans in remembering this special day in Texas history. This day serves to mark both the former Republic's independence from Mexico and the birth of one of Texas' and the Nation's finest leaders: Sam Houston. It is indeed a great day for all Texans and Americans.

Mr. DARDEN. Mr. Speaker, the Georgia Assembly's 1988 session will be completed in a few days, and with it will end the distinguished legislative career of State Representative G.D. Adams of Hapeville—a true giant among our State's lawmakers.

G.D. Adams has served the people not only of his district but of all of Georgia, since 1966. Today, he serves as chairman of the State Planning and Community Affairs Committee, on which I had the privilege of serving with him during my years in the general assembly. Representative Adams also serves on the Game, Fish and Recreation Committee, the Congressional Reapportionment Committee and the Overview Committee for the Metropolitan Atlanta Rapid Transit Authority.

Throughout his career, G.D. Adams has been dedicated to making Georgia a more prosperous and dynamic State. He has worked quietly but effectively to represent the views of his constituents in an area of metropolitan Atlanta where he has lived all of his 72 years.

Mr. Speaker, I invite my colleagues to join me in expressing our best wishes to Georgia State Representative G.D. Adams as he ends his outstanding legislative career and begins his retirement.

SEVENTY-FIFTH ANNIVERSARY OF THE DEPARTMENT OF LABOR

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. CONTE. Mr. Speaker, 75 years ago our Government recognized the valuable contribution of the American working people both to our past and our future as a nation. On March 4, 1913, President William Howard Taft signed into law legislation creating a U.S. Department of Labor. That act was the culmination of a decades-long effort by American labor to create a cabinet-level Department of Labor to deal with all matters affecting workig people.

The Department has done that job very well. Over the past 75 years, it has grown from a dream to an agency that provides millions of Americans with employment and training services; unemployment benefits; labor-management services; enforcement of wage, hour and equal opportunity standards; enforcement of standards to protect the safety and health of workers and miners; protection of pension benefits; and statistics on the state of our working force and our economy that are among the most respected in the world.

We should all be proud of the Labor Department and join with it in celebrating 75 years of accomplishments. The celebration began last year and will end somewhere around Labor Day, 1988. Not only does the formal celebration recall the Department's past by bringing together 10 former Secretaries of Labor, but it also focuses on the future of the American workplace as we move into the 21st century.

Mr. Speaker, on this Diamond Jubilee of the Department, I ask all of my colleagues to join with me in congratulating Secretary Ann Dore McLaughlin and all of the employees of the Department for their efforts on behalf of working men and women across the Nation.

RAILROAD LEASING AGREEMENTS

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. BRENNAN. Mr. Speaker, I am giving my strong support as an original cosponsor to railroad legislation introduced today by Representative OLYMPIA SNOWE. This legislation, which seeks to expedite Interstate Commerce Commission [ICC] action involving leasing arrangements, is an important step to ensure that the suffering endured by Maine's railroad employees and their families is not repeated elsewhere in this Nation.

The severe disruption of the lives of Maine's railroad workers should not be ignored. Railroad employees, many of whom had spent years working for the railroad, were denied satisfactory labor protections for nearly 15 months. This was due to controversial leasing arrangements by Guilford Transportation Industries [GTI] and the resulting delay in the ICC decision on these arrangements.

Many of Maine's railroad workers were left in a disturbing state of ambiguity. Unsure of the benefits to which they were entitled, unsure as to their possibilities for future employment with the railroad, they could not plan for their next month's mortgage payment, let alone for their children's future.

The tragedy which occurred in Maine should not have happened, and my support for this legislation reflects my commitment to see that it not happen again.

This legislation, introduced by my colleague from Maine, seeks to provide that the ICC reach timely decisions in regard to labor protection provisions involving certain leasing arrangements. Specifically, the ICC would have 6 months from the time of notification to determine the appropriate labor protections applicable in leasing arrangements between entities under common control. If the ICC cannot reach a final decision within the 6-month time period, railroad employees affected by the leasing arrangements would receive the full labor protections provided in merger agreements.

It is my hope that this legislation receive the full attention of my colleagues in the House. I respectfully urge their support of this measure to protect America's railroad workers.

A TRIBUTE TO ERIC FLAIM

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. STUDDS. Mr. Speaker, I wish to take this opportunity to congratulate Eric Flaim, of Pembroke, MA, winner of the silver medal in the 1500-meter speed skating event at the XV winter Olympics.

A dedicated speed skater since age 11, Eric has combined hard work with high hopes to achieve Olympic stature. His victory epitomizes the realization of a dream made possible through perseverance and courage—as well as the ongoing support of loving family and friends.

Eric's success is an inspiration to everyone who ever longed to reach for the stars, but held back for fear they were too distant. We thank him for reminding us that they are not—and wish him a future in which the sky is the limit.

NATIONAL SAFETY BELT USE WEEK JUNE 26 THROUGH JULY 2, 1988

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. DINGELL. Mr. Speaker, I rise today to advise my colleagues that Congressman BUD SHUSTER and I have introduced a joint resolution (H.J. Res. 485) asking the President to proclaim June 26 through July 2, 1988, as "National Safety Belt Use Week."

The resolution urges the President to issue a proclamation asking Americans to buckle up and for State and local governments, and a range of private and public sector organizations, to promote greater use of these essential safety devices. Thirty-two States, and the District of Columbia, already have enacted safety belt laws affecting about 205 million persons, and child safety seat laws are in effect in every State. Even as laws are implemented and as expensive passive restraint systems are phased into our vehicle fleet, a national effort must still be made to encourage the widespread use of simple and inexpensive safety belts and child safety seats.

Safety Belt Use Day, October 15, 1987, was such an overwhelming success that we've expanded this year's recognition to a full week. I encourage each of our colleagues to join our cause and cosponsor this resolution to support a very worthwhile effort that can save thousands of American lives.

FARMER FUEL TAX RELIEF ACT

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. BRUCE. Mr. Speaker, I rise on this occasion to speak in favor of a bill that I have cosponsored, H.R. 3844, titled the "Farmer Fuel Tax Relief Act," which spares American farmers from unnecessarily paying a 15 cent per gallon excise tax on diesel fuel.

I say "unnecessarily paying," Mr. Speaker, because every cent which a farmer pays is totally refunded to him at the end of the year. That is why requiring farmers to pay this tax makes no sense whatsoever. The diesel fuel tax of 15 cents per gallon that is being imposed on farmers will severely hamper the cash flow of the 15,000 farm families in my district. And, because this tax is refundable, the only benefit is to people who want to create more paperwork and more Federal bureaucracy.

I realize that the Federal deficit must be reduced, and we in the Congress are committed to a balanced budget. Using this tax to borrow money from the farmers may help our budget problem, but it isn't right. Farmers should not have to borrow extra money in order to make interest-free loans to the Government.

As the farmers see it, this tax creates a whole lot of work and expense. And nobody appreciates extra paperwork, or extra expense, when it provides no useful function, so why pay it in the first place?

This bill also contains other worthy objectives. It permits bonded or financially responsible registered wholesale fuel dealers to buy gasoline without paying the fuel tax up front. And it also provides that gasohol blenders are to receive the reduced fuel tax rate when they purchase gasoline for blending purposes. I urge my colleagues to join me in cosponsoring this legislation.

A TRIBUTE TO NURSING ASSISTANTS

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. MORRISON of Connecticut. Mr. Speaker, Friday, March 18, will be Nursing Assistants Awareness Day at the Veterans' Administration Hospital in West Haven, CT. Looking to that event, I think this is a good time to reflect on the very real contributions of nursing assistants in providing health care.

It seems entirely possible that health care delivery would grind to a halt were it not for nursing assistants. They handle a great number of the routine activities of a hospital. It is they who change sterile dressings and compresses. It is they who maintain the quality of oxygen therapy, and it is they who assist in the use of special equipment.

Nursing assistants are called upon to be close observers. They are assigned to acutely ill patients and must be able to recognize significant changes in the patients' condition. They must monitor the effects and the rate of intravenous therapy. They are often responsible for monitoring the blood sugar levels of diabetic patients.

Nursing assistants also have a very important role to play in the rehabilitation of disabled patients. They teach these patients how to care for themselves and motivate them to use the techniques they have learned. The assistants encourage the disabled to make decisions and to communicate, as well as teaching those with medical disabilities how to compensate for them.

When we're healthy, we too often neglect those who care for us in our times of need. We forget that few people have as much contact with or opportunity to improve the lives of the ill and disabled as do nursing assistants. For the dedication they bring to their jobs, we salute them.

THE TANK SPILL PREVENTION ACT OF 1988

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. THOMAS A. LUKEN. Mr. Speaker, I rise today to join with my colleague, Mr. WALGREN, in introducing the Tank Spill Prevention Act of 1988. This bill is the direct result of one of the greatest environmental catastrophes of our decade.

Mr. Speaker, on January 2 of this year, an aboveground storage tank, owned and operated by Ashland Petroleum Co. of Pittsburgh, burst at the seam and released more than 1 million gallons of No. 2 diesel oil into the Monongahela River.

Although the experts were on the scene within hours, they were unable to control the spill, and it slowly worked it's way down to the Ohio River and today reaches into the Mississippi. Something must be done so that this type of accident does not repeat itself.

The bill we are introducing today, requires the EPA to publish minimum standards that the industry must follow. Regulations must be put into place that will insure the integrity of the aboveground storage tank. Design, siting, and construction of the tank must be improved. Testing, inspection, and maintenance modification must be addressed. An adequate plan of release and spill detection must be developed prior to an accident, and not immediately following.

The bill imposes strict penalties on the parties at fault. No longer will the American taxpayer be asked to pick up the cost of an environmental catastrophe caused by the neglect of the private industry. If this bill is passed, Mr. Speaker, the parties at fault will either respond to a spill in a timely fashion or pay the price, including the restoration of natural resources, property damages, subsistence losses, and the replacement of water supplies and water treatment.

Mr. Speaker, the Monongahela spill should be warning enough for the Ohio Valley and the Nation, that it is high time that this body acts to prevent similar disasters.

VOTE ON CONTRA AID

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mrs. BOXER. Mr. Speaker, I voted "no" on Contra aid in the final analysis because I cannot find it within myself to vote aid to the Contras while they are still a fighting force.

This was the most agonizing vote I have ever had to cast because many colleagues for whom I have the deepest respect and many peace groups whose commitment I hold in high regard urged a yes vote on the humanitarian aid package.

They pointed out that this was the lesser of two evils; that worse proposals of military aid will surely follow.

I cannot vote on what might come. As long as Ronald Reagan is President and this Congress is so closely divided on Contra aid, anything might happen. It is not within our control.

I only know one thing deep within my soul—I cannot vote to give any type of aid to the Contras as long as they are killing innocent people.

PERSONAL EXPLANATION

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. INHOFE. Mr. Speaker, yesterday, March 2, 1988, I was unavoidably detained from House proceedings and missed rollcall vote No. 19.

Had I been present I would have voted "aye" on Mr. SENSENBRENNER's amendment to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972 and title VI of the Civil Rights Act of 1964.

I request that my statement be included in the RECORD.

AIDS: HOW EASY IS IT TO TRANSMIT THIS VIRUS?

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. ROWLAND of Georgia. Mr. Speaker, one of the central issues in the AIDS debate is: How easy is it to transmit this virus? It is essential that our laws with regard to AIDS reflect what most of our medical experts have found to be the case concerning the transmission of this deadly virus.

To the best of our knowledge, AIDS is an infection which is thought to be transmitted by certain routes. It does not appear to be spread by normal workplace or household contact. A recent comprehensive analysis of the nature of the risks of transmission of the AIDS virus appears in an article in the October 29, 1987, edition of the New England Journal of Medicine. This article was written by Drs. Gerald H. Friedland and Robert S. Klein from the Division of Infectious Diseases, Department of Medicine, and the Department of Epidemiology and Social Medicine, Montefiore Medicine Center, Albert Einstein College of Medicine.

I would encourage all of my colleagues in the House to read this article because it provides well-documented information on the transmission of the AIDS virus.

GOLD-BOND FINANCING OF GOVERNMENT

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 3, 1988

Mr. DANNEMEYER. Mr. Speaker, I have received numerous inquiries concerning my gold bond plan of financing Government. I wish to insert 15 of the most commonly asked questions, alongside with the appropriate answers, for the benefit of my colleagues and all other interested parties:

FIFTEEN BASIC QUESTIONS ABOUT GOLD-BOND FINANCING OF GOVERNMENT

(By Bill Dannemeyer)

1. For the first time in half-a-century, the United States once more has gold and silver coins that can be obtained at or near bullion value. This measure is sufficient, is it not?

This measure is far from being sufficient. The objective is not merely to increase the savings rate in America, but to increase it in ways which are beneficial to society. If the American people are saving the Eagle coins in cooky jars or in mattresses, they may achieve their savings objectives, but the social objectives of reducing interest rates, and keeping them low and stable for the benefit of everybody, will remain unfulfilled. In order to achieve these social objectives, the government must offer gold bonds to the people. The Constitution mandates that the obligations of the Treasury and the banks be denominated in the coins of the realm. If this was done, then the uncertainty about the value of those obligations would be removed. This would, in turn, help reduce the uncertainty from the commodity, equity, debt, and money markets. Foreign exchange and interest rates would be stabilized, and the unprecedented volatility in commodity and stock prices would be dampened. And the runaway growth in the debt tower would be brought under control once more.

2. How would gold-bond financing bring the growth of the debt tower under control?

The most ominous sign of our economic malady is not the rate of increase in the money supply, but the rate of increase in the total debt. This rate has more than doubled in two decades, as it rose from an average of 6 percent prior to 1968 to 14 percent per annum by 1986. When the acceleration came to a halt in 1987, the stock market crash quickly followed. Moreover, a large part of the debt appears to be bad debt, unable to generate the income needed for servicing, let alone extinguishing it.

The remarkable fact is that the watershed year of 1968, when the acceleration in the growth of the debt tower started, coincides with the year when the gold reserve requirement against Federal Reserve notes was abolished, and the Treasury effectively stopped redeeming the dollar by paying out gold to foreign governments. In other words, the year when the paper dollar first became a promise to pay nothing but another paper dollar.

If paper promises are redeemed simply by handing out more paper promises, as is the case today, then society has no valid means to tell good and bad debt apart. Banks can hide and shelter bad debt in the balance sheet by advancing interest payments as they fall due. Junk bond markets develop and grow, like fungus on a muck-heap. The economy takes on the character of a game of musical chairs. Junk bonds are great as long as the music goes on, because they are volatile and therefore they can be traded profitably. But once the music stops, as sooner or later it must, holders will find that junk bonds are just that: Junk. Nobody wants to buy them any more.

There were no junk bonds around the place as long as the government was issuing gold bonds, because other bonds could be measured against the standard of gold bonds. Today, there is no standard. Both government and junk bonds are based on the same premise, namely, that they can be made good no matter what, by printing more of them. If the bonds don't sell with a 15 percent coupon, then print them with a 20 percent coupon. Why, the cost of printing the figure 20 is no greater than that of 15. It is precisely this kind of thinking that fuels the growth of the debt tower, and keeps the profligate politician in business.

Gold bond financing forces the government to behave responsibly when issuing promises to pay. If it didn't, then the government couldn't attract gold to its coffers, and couldn't service the outstanding bonds. Nor could the government promote its bonds by printing ever higher coupon rates on them, if those coupons had to be met with gold payments. Profligate politicians couldn't get elected by outbidding each other with promises of pie in the sky. People would know that the best these gentlemen could accomplish was to wreck the credit of the government.

3. How would gold-bond financing of government stabilize interest rates?

Bond prices are but a mirror image of interest rates. When the former go up, the latter come down, and vice versa. Therefore the volatility of interest rates is in lock-step with the volatility of bond prices which, in turn, reflect the uncertainty of bond values. The bond market today is literally infested with speculators with vested interest in more, not less, volatility. They have no intention to keep the bonds to maturity. They are in it for the fast buck. They will dump the bonds at the first sign of weakness. The interest home-buyers pay on their mortgages is a plaything in the hands of these speculators.

By contrast, the value of gold bonds is stable, and this stability has the same effect on speculators as holy water on the devil: they are repelled by it. Speculation would be squeezed out of the gold bond market. Interest rates would be stable. Natural disaster or declaration of war might cause them to rise temporarily. However, this change would take place instantaneously, leaving no profitable opportunity for speculation.

Under our present monetary arrangement speculators have an orgy in the bond market. Speculation makes bond prices less stable, not more stable as some apologists would have us believe. Normally speculation resists the formation of price trends. But speculators in the bond market don't want to resist trends, they want to ride them, and thereby amplify them. Since speculation is a zero-sum game, the speculators' gain is everybody else's loss. People living in their homes are hit with higher mortgage rates; farmers are hit with farm foreclosures; wage earners are hit with layoffs or wage cuts as the profitability of their factories deteriorates due to the higher cost of capital. It is a sacred duty of the government to protect these productive segments of society against the parasitical activities of bond speculators. The only effective way to protect them is to stabilize interest rates through issuing gold bonds.

4. How would gold-bond financing of government stabilize foreign exchange rates?

Once the ice is broken, and a gold bond market is in place, foreign governments with dynamic economies would want to share in the benefits of the regime of low and stable interest rates. They would issue gold bonds of their own. The currencies of the countries belonging to the gold-bond club would be in great and uniform demand as foreigners continued to bid for the gold bonds. The stability of gold bond prices would impart stability to the foreign exchange markets through arbitrage. The currencies of other countries not belonging to the club would continue to float. As these countries would be at a distinct disadvantage, their governments would have the incentive to pull their act together so that they could qualify for membership in the club. The stabilization of the foreign exchange market would remove another great source of uncertainty from the world economy.

5. How would gold-bond financing of government eliminate the budget deficit?

Of the 100,000 tons of gold that has been produced throughout history, about 60,000 tons, or 60 percent, is in private hands, while the remaining 40 percent is controlled by governments. The private holders of this vast amount of monetary gold are paying about ½ of 1 percent per annum for safekeeping and insurance. If they could earn 1% on their holdings, instead of paying ½ percent, then they would enjoy a net gain of 1½ percent. Given the opportunity, more and more people would exchange their gold for gold bonds. This would guarantee a stable gold bond market and a stable gold rate of interest.

The U.S. government would get the gold and turn it into gold coins. The proceeds from the sale of these gold coins would be used to retire the short-term debt of the federal government as it matures. In about five years' time the lion share of the federal debt would be refinanced as long-term debt at 1 to 1½ percent, and the corresponding savings in interest cost would wipe out about three-quarters of our current $200 billion annual budget deficit.

6. How would gold-bond financing of government eliminate the trade deficit?

Few people today realize that in the Civil War the Union financed its war effort by issuing gold bonds, even though the country was on a floating dollar standard. The federal government collected tariffs and excise taxes in gold dollars, not in paper dollars. In this manner, the government had at its disposal a reliable gold revenue, which was used to meet obligations on the outstanding gold bonds. Domestic and foreign investors never lost confidence; they knew that they would get paid as promised.

American trade policy today should also call for tariffs payable in gold, albeit at a low rate so as not to stifle international trade. We must assume that a large part of our huge trade deficit today is due to the foreigners' desire to invest in America. If gold bonds were available, these foreign investors could achieve their objective without any effect on our trade balance. However, in the absence of gold bond offerings, foreigners anxious to invest in America can only pay for their investments by shipping their goods to our shores. Since we refuse to take their gold, we must take their merchandise, with disastrous consequences to our own industry and agriculture. We make our producers pay the price for the follies and gold-phobia of the government. The pressure on our producers would ease as soon as the government would offer gold bonds to foreign investors.

Another side of the trade issue is our low productivity and lack of competitiveness in comparison to those of the Germans and the Japanese. While this much is conceded by most observers, nobody talks about the culprit responsible for our low productivity and lack of competitiveness. The culprit, it must be said at once, is the high interest rates in this country relative to those prevailing in Germany and Japan. The cost of capital largely determines the productivity of a country, and this cost is directly measured by the rate of interest. As long as the U.S. government issued gold bonds, interest rates in this country were the lowest in the world, and the cost of capital to American producers was also the lowest. Once gold bond financing of government is brought back, gold bonds would soon become popular as a tool of financing private enterprise, and American interest rates would become the world's lowest. Once the cost of capital in America becomes competitive with that to foreigners, our productivity can confidently be expected to lead the world again.

7. Are there recent examples of gold-bond financing of private enterprise?

Yes, there are several examples. One of the biggest was reported in The New York Times on February 12, 1988. According to this report, Newmount Mining Corporation borrowed 1 million ounces of gold for 5 years at 2½-percent interest. It then sold the bullion for close to one half billion dollars, and used the proceeds to reduce its 8-percent debt by about one-third. The corporation achieved real savings as a result of this no-nonsense approach to the debt problem by hard-nosed businessmen.

If corporate officers have the business acumen and financial innovativeness to bring about real savings in debt-servicing for the benefit of the shareholders, can the members of the Congress ignore their example, and deny the benefits of gold bond financing to the taxpayers?

8. How would gold-bond financing of the government help to prevent stock market crashes in the future?

Everybody knows about the stock market crash of 1929, but few people know or talk about the bond market crash of 1920. Similarly, everybody is aware that the stock market crashed in 1987, but few people seem to be aware that this event was preceded by the bond market crash of 1980. This omission is curious since the bond market is sixteen times larger than the stock market and, percentage-wise as well as in absolute terms, losses in the bond market were greater by far.

This proves that it is not possible to understand the stock market crash in isolation, without examining its relationship to the crash in the bond market. A careful study of the latter shows that both the 1920 and 1980 bond market crashes were caused by a serious deterioration in the credit of the federal government. The Federal Reserve had been feeding the money markets with its open market purchases of government securities. This had the effect of drug addiction: the bond market came to depend on the support of Federal Reserve purchases. Monetary policy was put into a box. When the Federal Reserve wanted to tighten, in order to dampen the snowballing commodity speculation, the bottom fell out. After the bond market collapsed, the speculators abandoned the commodity markets and moved on to the stock market. Money created in excess always finds the markets where it can do the greatest mischief. The parallel between the two episodes, one in the 1920's and the other in the 1980's, is unmistakable.

The moral is that the Federal Reserve must not be permitted to own the new gold bonds. Its assets must be confined to short term commercial paper and bankers acceptances generated by the private sector. This measure will prevent the central bank from manipulating long term interest rates, and stop money from the bond market flooding the stock market. Then the stock and bond market crashes of the 1920's and 1980's won't be repeated.

9. If gold bond financing of government was so beneficial for the country, then why was it abandoned?

It was abandoned in the vain hope that it would give free rein to the federal government to manage the national economy. Fiscal policy, which was supposed to have one aim only: the maintenance of the credit of the federal government at the highest possible level, was enlisted in support of a new policy of social engineering, economic stimulation and fine tuning. Previously, the government was supposed to borrow only if it could clearly envisage the future revenues which would retire the debt. New economies declared that "taxes for revenue were obsolete". Taxes, as well as government spending, were not supposed to be the tools of the micromanagement of the government's incomes policy. Politicians in power were preparing the way to perpetual debt, and gold-bond financing of government was an obstacle which had to be removed.

These politicians spurned Thomas Jefferson's admonition: "To preserve our independence, we must not let our rulers load us with perpetual debt . . . We must make our choice between economy and liberty, or profusion and servitude." In retrospect, the bankruptcy of "new economics", and the wisdom of Jefferson, are clear. Monetary manipulation does not give us stability and prosperity, but perpetual debt and servitude.

10. Why is the short maturity structure of the government debt a menance to our economy?

It is not just the size and growth rate of the public debt which is worrisome, but also its maturity structure. More than half of the debt is maturing within one year, and more than 90 percent within 10 years. If the debt maturing within a year was actually paid off, then the money supply would increase three-fold in that year. Of course, the Treasury has neither the means nor the intention of paying it off. Rather, the Treasury will "roll over" the maturing debt. But whether such a refinancing operation can be carried out smoothly, and without a major increase in interest rates, depends on future market conditions. The Treasury lives dangerously, and on borrowed time.

Fiscal prudence would call for a debt structure which is heavier in the long, and lighter in the short-term maturity classes. Instead, today we have a debt-pyramid which is precariously balanced on the tip of a tiny long-term maturity class, and is top-heavy in the short term class. The threat is that the top could come tumbling down. In that case, the short term debt would become money. This would demoralize the commodity and equity markets, not to mention the foreign exchange market. It would cause an international monetary crisis of the first magnitute.

There is only one way to neutralize this threat: by converting the debt from short-term, high-interest to long-term, low-interest debt. This "miracle" can be accomplied through the implementation of the gold bond program.

11. If the gold bond program can accomplish the miracle of low interest rates and long maturities simultaneously, then why doesn't the Congress and the Secretary of the Treasury embrace it and put it into effect without any further delay?

The world's economic crisis, plaguing us with instability, high interest rates and perpetual debt, is a confidence crisis drawing the credit of the U.S. government into question. It is an ongoing crisis dating back to 1968. Neither the Congress, nor the Secretary of the Treasury has dealt with this crisis in a decisive fashion. A band-aid treatment has been prescribed for a massive hemorrhage. In the meantime, the crisis is getting worse, and the symptoms more acute. Faith in the efficacy of the band-aid treatment must be maintained, in order to avoid further erosion of confidence. The Secretary of the Treasury thinks that if he embraced the gold bond program, this would be taken as an admission of failure.

The band-aid approach will work as long as the people don't rebel against the regime of ever-higher interest rates. The danger is that when they do, there will be no time for an orderly transition to gold-bond financing.

12. Can our welfare state at its present levels be financed on the basis of gold bonds?

Detractors of the gold bond program say that it can't. They insist that the welfare state would have to be sacrificed on the altar of gold. The truth is the exact opposite. Gold bond financing would not be an obstacle in the way of maintaining the welfare state at its present levels. The only way to make the achievements of the welfare state permanent is to cut interest rates on the public debt drastically. The greatest enemy of the welfare state is not gold, but high interest rates, which would eventually wreck public finance and destroy private capital—the ultimate source of public welfare.

It's like this: if you want your street lights on, don't agitate against cheap electric power. Don't push the world back to the dark age of candles, because city lights would be the first to go out. By the same token, if you believe in the welfare state, then don't agitate against gold-bond financing. Don't push the world back to the dark age of usurious interest rates, because the welfare state will be the first victim.

13. How would the government get the gold to pay interest on its gold-bond obligations?

The same problem has arisen once before in our history. As already mentioned in the answer to Question 6, the Union government continued to issue and honor gold-bond obligations during the Civil War, in spite of the floating dollar, and collected import taxes in gold dollars, not paper dollars.

My Gold Bond Financing Bill provides that import taxes be payable at the existing rates but in gold coin. The Treasury would post, for each month just past, the average rate of conversion between the paper dollar and the one ounce gold Eagle coin. The importer would be assessed on the dollar value of imports converted into gold coin at the rate posted by the Treasury for the month prior to importation. It would be the duty of the importer to go into the market and procure the gold coins to cover his tax-obligation.

14. The United States government abrogated the gold clauses on its gold bonds in 1933 and then went ahead to pay its creditors in paper dollars devalued by 41 percent. Are we counting on people having short memories?

No. The Supreme Court of the United States ruled in 1935 that the Congress had no right to change unilaterally the terms of contract. Thus the Supreme Court established that the Congress acted unconstitutionally in 1933 in denying the property rights of the bondholders without due process. This is the last word on the gold bond issue, and it is hard to see how any Supreme Court could rule otherwise, as long as due processes are observed in this country.

I have incorporated language in my Gold Bond Financing Bill which should prevent arbitrary government action in the future: "Eagle bonds are perpetually immune from any purported assertion of sovereign immunity from suit by the United States, and from any claimed privilege of the United States to refuse to pay out or deliver Eagle coins or gold in any form."

15. Can you name a government official knowledgeable about monetary and fiscal affairs, who has advocated gold bond financing of government?

Alan Greenspan became the Chairman of the Federal Reserve Board in 1987. His office has been described by many as the second most powerful in the nation. Mr. Greenspan published an article in The Wall Street Journal on September 1, 1981, in which he estimated that the Treasury could sell gold notes to the public to yield 2 percent per annum. This was at a time when the interest rate on Treasury notes was 17 percent. Mr. Greenspan calculated that the savings in interest cost for each ten billion dollars' worth of refinanced debt would be $1.5 billion per annum.

As interest rates declined by 50 percent since 1981, the corresponding savings today would also be lower by 50 percent. Using Mr. Greenspan's formula, we find that the potential annual savings in interest cost on the entire government debt of two and a half trillion dollars would be $187.5 billion, which would wipe out the entire budget deficit and leave some for debt reduction.

His tongue in cheek, Mr. Greenspan added that Gresham's Law might even be superseded by Greenspan's Law, according to which good debt drives out bad.

Let us then put Greenspan's Law into effect by making good debt available, so that it may drive out the bad debt from this country, and never let it return.

SENATE—*Friday, March 4, 1988*

(Legislative day of Wednesday, March 2, 1988)

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN BREAUX, a Senator from the State of Louisiana.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*Though I speak with the tongues of men and of angels, and have not love, I am become sounding brass, or a tinkling cymbal * * *. Love suffereth long, and is kind; love envieth not; love vaunteth not itself, is not puffed up, doth not behave itself unseemly, seeketh not her own, is not easily provoked, thinketh no evil, rejoiceth not in iniquity, but rejoiceth in the truth; beareth all things, believeth all things, endureth all things. Love never faileth * * *.*—1 Corinthians 13:1, 4-7.

Eternal God, infinite in love, teach us the way of love. Help us to realize it is more powerful than any force in life—that it is the antithesis of weakness. Infuse us with Your love—heal alienation, strengthen friendship. The trouble with words, Father, is that once spoken, they cannot be retracted. Like feathers blown before the wind, words, however wounding, cannot be retrieved. But Your love heals the deepest wounds. Fill us with Your love—through us bring forgiveness and healing. We pray in the name of Him who gave unconditional love. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 4, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN BREAUX, a Senator from the State of Louisiana, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. BREAUX thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

Mr. BYRD. Mr. President, I thank the Chaplain for his good words, his good prayer.

RESERVATION OF THE MAJORITY LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that my time may be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. I yield the floor.

RECOGNITION OF THE ACTING REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order the Republican leader is recognized.

Mr. McCAIN. Mr. President, I ask unanimous consent that I be allowed the additional 5 minutes that would normally be allowed for speaking under the normal procedures, in addition to the 10 minutes allowed to the Republican leader.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. McCAIN. Thank you, Mr. President.

CONTRA AID

Mr. McCAIN. Mr. President, as we all know yesterday there was a very unusual vote taken in the other body in which a humanitarian package of aid to the Contras was rejected by a narrow vote. This, of course, places the entire issue in a state of profound disarray.

I remind my colleagues that, with the advice and consent of the Congress of the United States, this country armed, equipped, and trained the freedom fighters in Nicaragua and extended $100 million in lethal aid during the past year or so. We now find ourselves in the situation where we could possibly be abandoning some 12,000, to 15,000 young Nicaraguans in the jungles of Central America without even Band-Aids, food, supplies, or nonlethal equipment.

I was interested in the response of the Speaker of the House to the defeat, blaming the Republican Party and also using an old saw from Will Rogers.

Frankly, it does not do the trick, Mr. President. The fact is that his was a flawed proposal, one which would have doomed the freedom fighters in the field to a slow death.

I think it is important to emphasize that it was the Speaker of the House and his people who repudiated the administration policy a month ago. It is, therefore, incumbent upon them to shape a proposal that is acceptable to a majority of the Congress of the United States. What is very clear is that the proposal defeated yesterday is not acceptable, certainly, to a majority over there and, I am convinced, over here.

The time has come, Mr. President, for all of us to sit down and come up with a bipartisan package which will address this issue in a bipartisan fashion. The most tragic aspect of this whole issue is the profound and emotional partisanship which has characterized this debate. Neither the national security interests nor the interests of this Nation have been served by such rancor.

That package must contain one key element. That is the ability of the President of the United States to come back to Congress and seek a renewal of lethal aid to the Contras, at some time in the not too distant future if, indeed, the Sandinista government is not in compliance with the Arias peace plan. Why in the world we should deny that privilege, indeed that right, and the fulfillment of his responsibility is beyond me. We need to do it.

The other items of a compromise nature are, I am sure, negotiable. But we must give the President of the United States the expedited procedures we have had for several years so he can, if necessary, come back and ask for the resumption of lethal aid. No matter when the President comes back, if the Sandinistas are in compliance, it will not be agreed to by the Congress of the United States. I therefore fail to see what opponents of expedited procedures have to fear. I hope we will join in a bipartisan effort to come up with a proposal which is acceptable to a majority of the Congress at the soonest possible date. Otherwise we will again—and I emphasize again—be demonstrating our—and inexplicable—tragic ambivalence toward young people willing to fight for their freedom.

WHY I SUPPORT THE INF TREATY AND MY RESERVATIONS IN DOING SO

Mr. McCAIN. Mr. President, I am announcing my support for the INF Treaty, although I have serious reservations that I will seek to deal with in the form of legislation or amendments to the treaty. It is an acceptable and important first step in a process that will lead to far more demanding negotiations on reductions in strategic arms, conventional forces, and eventually in NATO's remaining theater nuclear forces.

The INF Treaty is a strategic success, but it is also a treaty with many serious military limitations. There are problems in its military effects, in its verifiability, in the way it is worded, and in its provisions for inspection. It does not set a valid precedent for future arms treaties, except to the extent the U.S.S.R. has committed itself to asymmetric force reductions and to some form of onsite inspection.

Nevertheless, I believe that the foreign policy and strategic factors that argue for ratification outweigh the treaty's defects. Further, I believe that if we take suitable action to deter Soviet violation of the treaty and ensure that further arms reduction efforts take better account of the risks and occur in the proper sequence, we may well be able to make the kind of arms reductions that really will reduce the risk of war.

This is why I am accompanying this announcement with specific proposals for amendments and reservations to the INF Treaty, or for legislation that would have the same effort.

The first proposal would require new reporting to the Congress that would provide timely warning of any possible Soviet violation of any arms control treaty, and comprehensive semiannual reporting on how arms control and any violations of arms control agreements, affect the military balance.

The second proposal would require the administration to submit an annual report setting forth a comprehensive strategy for arms control to the Congress. This document would specify the nature and sequence of the administration's future arms control efforts.

It would require the Reagan administration and future administrations to specify how it will approach strategic, conventional, and additional theater nuclear force reductions.

It would require such plans to be based on a net assessment of the military impact of future arms control proposals that would explain the level and impact of any proposed subceilings, asymmetries and other driving factors affecting the treaty.

It would require a clear plan for consulting with our allies and for tailoring our force improvement strategy to ensure we can preserve national security with and without arms control.

Such a document would prevent us from either rushing into arms control or risking ratification debates that could block a treaty because of misunderstandings between an administration and the Congress. This document would ensure that the administration and Congress work in close concert and that arms control receive the public examination and debate necessary to ensure that future agreements truly act to reduce the risk of war.

I will work with my colleagues in the Senate Armed Services Committee to incorporate these proposals in its action on the treaty. In doing so, I must stress that my concern is to ensure that the arms control process will move in a direction and at a pace that will truly reduce the risk and cost of war. I will not support "killer amendments" or legislative action that could produce long delays in ratification.

THE REASONS FOR SUPPORTING THE INF TREATY

My reasons for supporting the INF Treaty stem from its potential impact on East-West relations, its impact on NATO, and its potential impact on future treaties. Some of these reasons are positive, but several are also negative. They are based on the conclusion that any effort to block or delay this treaty will do more harm than rapid ratification.

On the positive side, President Reagan has shown that strength can move the U.S.S.R. toward a more meaningful form of arms control and toward at least verbal accommodation with the West. I do not believe this treaty will reduce the risk or cost of war, but I do believe it is now an essential step to take if we are to agree on a much more meaningful treaty to reduce strategic nuclear arms.

We cannot proceed to negotiate the START Treaty if we do not move foward on INF. We cannot hope to move the U.S.S.R. toward the kind of subceilings, restrictions, and inspection provisions that are necessary if we reject this treaty or delay it. I believe it is worth taking some military risks to achieve such a strategic goal in reducing any incentive for a Soviet first strike and the potential costs of a nuclear conflict.

We will never have an ideal or perfectly safe opportunity to reduce the risk of nuclear war. We also cannot afford to close any major Soviet opening to the West if there is a reasonable chance it will help lead the U.S.S.R. to improve the living conditions and freedoms of the Soviet people, to improve civil rights and the treatment of minorities within Soviet society, and to improve the freedoms and living conditions of the peoples of Eastern Europe.

If we are careful to handle follow-on arms control negotiations with the caution and pace required, the INF Treaty will help create a climate where the U.S.S.R. will both feel more secure in proceeding with internal reform and be more sensitive to Western opinion and concerns with human rights. This will be particularly true once we move on to conventional force reductions—The reductions most likely to affect Eastern Europe.

I do not believe in the "magic" of détente. I do hope, however, that progress on arms control will lead the U.S.S.R. to shift resources to its civil sector, and give Eastern Europe the freedom to make similar changes.

THE RISKS OF NOT RATIFYING THE INF TREATY

These are positive reasons based on our overall relationship with the U.S.S.R., and the need to make every effort to end the nuclear arms race, but I have been equally impressed by the fact we have built up so many hopes in the United States and Western Europe that we will do serious harm to support for defense and the NATO alliance if we reject this treaty.

We cannot risk dividing the West over arms control, or dividing governments from their people. We need to forge a Trans-Atlantic consensus that unites informed conservatives, liberals, and moderates around a careful and secure approach to further arms control agreements. Any polarization around ratification of this treaty could lead to paralysis in modernizing our forces or to rushing into the wrong kind of arms control agreement.

We cannot risk isolation from our Western European allies. I believe that NATO would survive nonratification, but I also believe that many key European leaders would be compelled to move toward independent force reduction negotiations, or to make cuts in their spending, manpower, and modernization. This could rapidly put the West on a track that would denuclearize Europe and allow the U.S.S.R. to exploit its advantage in conventional forces, lead European leaders to agree to reductions which increased the Soviet threat rather than reduced it, or lead to cuts in our already tenuous conventional defense capabilities.

For all our arguments over burdensharing, our allies provide the bulk of NATO's forces and are critical to offsetting the Soviet advantage in conventional and theater nuclear forces. We must be unified both to preserve NATO's security and to reach the right kind of treaties to reduce the forces in Europe at the right time and in the right order.

THE LIMITS OF THE INF TREATY

I do wish to make it clear, however, that I feel the INF Treaty has very serious limitations, and is not a suitable precedent for many critical aspects of future arms reductions. The INF Treaty is as likely to increase the risk of confrontation and war as it is to reduce it. It will not reduce the cost of war or of escalation. It does not provide for secure verification or enforcement, and it presents a wide range of technical problems.

THE TREATY DOES NOT REDUCE THE OVERALL NUMBER OF NUCLEAR WEAPONS

The nuclear warheads affected by the INF Treaty will be returned to the United States and U.S.S.R. Both countries will reuse the material as a substitute for making additional warheads and bombs for both strategic and theater nuclear systems. The U.S.S.R. now seems likely to add the material to its stockpile while it continues to manufacture nuclear weapons of all kinds at a vastly higher rate than the United States.

Reducing delivery systems can only affect the risk and cost of war if it ultimately leads to reductions in nuclear weapons as well. Unless agreement is reached on the kind of START treaty that will sharply alter Soviet behavior, and lead it to make major cuts in its total inventory of nuclear weapons, the INF Treaty will do absolutely nothing to reduce the overall threat that nuclear weapons pose to the world.

THE TREATY DOES NOT IMPROVE THE NUCLEAR BALANCE

Like all previous nuclear arms treaties, the INF Treaty does not constrain the Soviet nuclear build-up. To put this in historical perspective, the U.S.S.R. had a little over 2,000 warheads on strategic missile systems in 1972, when SALT I was signed. It had a little under 6,000 warheads when SALT II was signed. It now has close to 10,000 warheads on its SLBM's and ICBM's.

This situation has also affected theater nuclear forces. For all its rhetoric, the U.S.S.R. has led the nuclear arms race throughout the Reagan administration. This includes the theater nuclear weapons that will not be affected by the INF Treaty. Long before the INF Treaty was negotiated, NATO agreed to reduce its nuclear stockpile by some 2,800 short-range weapons. Led by the U.S.S.R., the Warsaw Pact increased its land-based short-range nuclear delivery systems by 50 percent between 1980 and 1986. It now has between a 13-to-1 and a 15-to-1 lead in such delivery systems over NATO.

NATO reduced many of its theater nuclear strike aircraft when it decided to deploy the GLCM and Pershing II. The Warsaw Pact built up a 3-to-1 lead in aircraft numbers and simultaneously doubled their range-payload capabilities.

The U.S.S.R. has continued this nuclear buildup during the last few years in spite of all Gorbachev's rhetoric about arms control and glasnost. During 1984-86, the U.S.S.R. produced 300 new ICBM's. All of NATO, including our British and French allies, produced 10. The U.S.S.R. produced 250 SLBM's, and NATO produced 170. In the case of the short-range ballistic missiles not covered by the INF Treaty, the U.S.S.R. produced 1,350 missiles and NATO produced none.

The trends become even clearer when they are measured in terms of killing power. The U.S.S.R. has made a great many claims about a buildup in United States nuclear strength under the Reagan administration. The truth is that we have concentrated upon making our forces survivable and improving their command and control. We have to be able to retaliate against any form of Soviet attack to deter war. The truth about the Reagan nuclear buildup, however, is that we have steadily cut our stockpile of weapons since 1975, and it is now 12 percent lower than it was then. The Soviet Union, in contrast, has increased its nuclear stockpile by more than 37 percent, and now has a 30-percent lead over the United States.

All these trends are likely to continue in spite of the INF Treaty. The U.S.S.R. can increase its number of nuclear strike aircraft, ALCM's, and SLCM's. It can increase its ICBM warheads and target part of them on Europe. It can increase its number of missiles with ranges under 500 kilometers and target them on most of the targets covered by the SS-4, SS-12, SS-23, and SS-20 that will be removed as the result of the INF Treaty.

THE TREATY IS NOT VERIFIABLE IN MANY WAYS

We cannot firmly establish the total number of missiles or delivery vehicles in Soviet hands, and we have no count of warheads. We are dependent on the U.S.S.R. for an accurate declaration of the size of its holdings of launchers and missiles, and the sites where they are built, maintained, and deployed. We do not even know how many of the SS-20 and other missiles to be reduced had warheads. All we can do is detect whether the missiles are deployed in active formations, and are tested, and even here we may have trouble in distinguishing between the SS-20 and SS-25.

The 13-year duration of the inspection agreement has important limits, given the fact the treaty has unlimited duration. We can only inspect declared sites, not any new sites we suspect may have missiles after the treaty is signed or sites where mobile missiles may be deployed. We will rapidly loose some important inspection rights, and we will never be able to determine whether they have dispersed missiles outside the sites they have declared to the United States. This would allow the U.S.S.R. to stockpile up to several hundred armed missiles with little fear of detection.

These limits are acceptable in a treaty that makes limited initial reductions in nuclear forces that do not materially affect war fighting. They would, however, be unacceptable in a START Treaty, in conventional force reductions, and in any later reductions in other theater nuclear forces. In these cases, the U.S.S.R. could conceal enough weapons to sharply affect the military balance and war fighting capability. It could use arms reductions to increase its strategic first strike capability, and its ability to attack or intimidate Europe.

The INF Treaty does set useful precedents in terms of Soviet agreement to on site inspection and to asymmetric reductions. However, future treaties must include surprise inspections anywhere in the regions involved, enduring inspection rights, much stronger provisions to ensure that weapons cannot be hidden and stockpiled, tigher controls over weapons production, and stronger provisions to allow the use of national technical means.

IT MAY HAVE IMPORTANT POLITICAL EFFECTS IN REDUCING THE RISK OF WAR, BUT IT DOES NOT REDUCE THE RISK OF WAR IN MILITARY TERMS

The treaty may well help create a political climate that will reduce the risk of war. There is no evidence, however, that it will reduce the Soviet willingness to launch an attack if some radical change occurs in the political situation, or Soviet willingness to escalate to nuclear weapons. There simply are too many other types of weapons that will not be affected by the reductions, and which can be used to perform similar missions.

The U.S.S.R. can sharply increase the number of these weapons under the terms of the treaty, and NATO will remove its land-based missile deterrent under circumstances that will reduce the number and survivability of the remaining targets the Warsaw Pact must attack. In fact the latest estimates of the theater nuclear balance in the fiscal year 1989 military posture statement of the Joint Chiefs indicate that the net impact of the IMF Treaty will be to leave the Warsaw Pact with an increased overall advantage in theater nuclear weapons.

The treaty might help in some scenarios, but it also will increase the Soviet advantage in preempting or using surprise to strike at long-range fixed targets in NATO. The combination of prior reductions in the number of NATO nuclear strike aircraft and the removal of survivable Pershing II and GLCM forces, will allow the Warsaw Pact to concentrate on a limited number of ports, missile silos, and main operating bases.

These same factors will make NATO more vulnerable to an attack on its land-based nuclear delivery systems and aircraft, and increase Soviet incentive to strike at NATO before it can disperse its strike aircraft. While the situation is more complex in the case of Asia and the Middle East, the U.S.S.R. will again be able to strike just as effectively. In overall terms, any advantages in the INF Treaty seem to be almost exactly matched by disadvantages.

IT DOES NOT REDUCE THE COST OF WAR

The treaty may reduce certain selective kinds of counterforce exchanges, but in broad terms, it will not limit the Warsaw Pact from striking at virtually all the same targets it would strike if no reductions took place in INF forces. The Warsaw Pact can use air and sea delivered theater nuclear systems, ICMB's and SLBM's, and bombers and nuclear strike aircraft to hit at all the same targets that it had any incentive to strike at before the INF Treaty.

The main impact of the treaty will be to change the timing and impact of the weapons systems used in a nuclear exchange. In fact, it could force the use of higher yield weapons against area and other targets and of additional warheads to make up for uncertainties regarding penetration or reliability.

In many case, a Soviet targeter would use a higher yield weapon in planning a strike with an aircraft than he would with a missile, and allocate more aircraft to ensure penetration. In other cases, he would be forced to use a higher yield SLBM or ICMB to make up for differences in accuracy or simply because the available forces have higher yield warheads to make up for the different level of accuracy in strategic systems.

THERE IS NO CLEAR MECHANISM FOR ENFORCEMENT

The treaty does not provide for penalties for violation, or specific enforcement measures. It describes methods of detecting and discussing violations, but does not create an effective deterrent to violation by either side.

The INF Treaty's lack of enforcement provisions tends to encourage future administrations to ignore uncertain indicators or "minor" violations because of the political cost of reporting or trying to take substantive action. The U.S.S.R. might well threaten major breaks in East-West relations, or threaten to exploit divisions within the Western alliance, in order to suppress data on violations or a Soviet buildup in other forces and capabilities.

It is not clear that any treaty can ever specify specific penalties for every violation, or create a mechanism for defining the nature and seriousness of every possible violation. Nevertheless, the INF Treaty fails to make a serious attempt to deal with any of these issues. It fails to assure the American people, the Congress, and our allies that violations will be fully publicized and reacted to, and to create a diplomatic climate that makes the U.S.S.R. aware that it cannot try to negotiate United States and allied willingness to tolerate or ignore violations.

BEYOND THE INF TREATY: THE MESSAGE FOR THE FUTURE

Another major defect in the INF Treaty is that it is not part of a comprehensive strategy for arms reductions. It represents the rapid culmination of negotiations between the United States and U.S.S.R. where the United States lacked time to establish a firm linkage between the INF Treaty and the kind of START Treaty it would need, and where no agreement existed within NATO as to how to approach reductions in conventional and other theater nuclear forces.

This may be of critical importance because in many ways, the treaty cannot affect the risk and intensity of war except as part of a broader and much more carefully structured approach to reducing strategic and conventional forces.

We need an agreed strategy for our future arms control efforts in both the United States and in the West. Otherwise, we may rush into arms control agreements that not only do not achieve their purpose, but which act to decouple the United States from its European allies and to reduce support for the kind of force levels and modernization that are essential to deterring both war and acts of political intimidation.

THE NEED FOR A CAREFULLY CONSTRAINED APPROACH TO START THAT WILL ACTUALLY REDUCE THE RISK AND COST OF WAR

This lack of a comprehensive arms control strategy creates such serious problems that it virtually precludes the signature of a START Treaty during this year. We have to remember that 50 percent cuts in strategic forces will have little effect in reducing the cost of war in civilian lives, and will do nothing to reduce the risk of war, unless they are coupled to restrictions that deprive both sides of any incentive for a first strike.

A START Treaty can easily act to give the Warsaw Pact more of an incentive for a first strike, or counterforce strike, unless it has sublimits which fully enforce limits on the mix of weapons on both sides. Given the fact the U.S.S.R. has long rejected assured destruction for a damage limiting and war fighting strategy, the Soviet Union approaches strategic arms control from a totally different perspective.

We cannot rely on general understandings or good intentions in a START Treaty. We must have the kind of sublimits that will remove any incentive to either side to preempt or launch a first strike. We must make major reductions in the capability to strike at the remaining strategic delivery systems on each side, and we must have inspection and enforcement provisions that move toward this end.

We must explicitly come to grips with the difficult issue of mobile ICBM's and cruise missiles. We must either firmly constrain these developments, or we must accept the fact that a START agreement will fail to put meaningful limits on nuclear systems and could simply redirect the arms race.

This at some point means we must put sharp constraints on the production of nuclear weapons material, and find ways to limit the total number of nuclear weapons in inventory. We cannot confuse reductions in weapons numbers with reductions in the ability to damage civilian life. Even a relatively small number of nuclear weapons could have a devastating effect if they were directed solely on civilian targets. Further, reductions in nuclear weapons can act to reduce deterrence and retaliatory capability, and to make Soviet first use of weapons more likely in a crisis.

We must analyze the nature of a START agreement, and verification and enforcement provisions in net assessment terms. The issue must be the extent to which the treaty reduces the risk and cost of war, not how many delivery systems and warheads are affected. We must examine our ability to predict and detect the trends in all Soviet nuclear weapons and not simply in those affected by the treaty. We must explicitly determine our own force modernization needs. These must be studied in terms of a representative range of nuclear confrontations and conflicts, and not simply in simple static force comparisons.

We also must be certain we have created a combination of inspection systems and national technical means that is fully capable of supporting the mission of both verification and predicting any changes in Soviet nuclear forces. This requires the ability to conduct sudden short notice inspections anywhere in the United States and U.S.S.R. It also, however, may require major additions to our intelligence budget to guard against overdependence on a limited number of platforms in space, and to ensure we can meet all our arms control needs, our other national intelligence needs, and the new needs of our unified and specified commands.

DEFINING OUR OBJECTIVES IN CONVENTIONAL FORCE REDUCTIONS

It is likely to take years to negotiate meaningful reductions in conventional forces. In the interim, we and our allies must maintain our force levels in NATO, and modernize them to help offset the Warsaw Pact advantage in numbers. This requires a full understanding in both the peoples and governments of the Western alliance of the trends in the balance, of the need to maintain and modernize our forces until such reductions are carried out, and of the need for the kind of carefully tailored and controlled reductions that can deprive the Warsaw

Pact of its massive advantage in conventional forces.

We cannot enter into conventional force reductions without an agreed policy as to the level of asymmetry we need in force reductions, and the measures we need to take to deprive the Warsaw Pact of its advantage in reinforcement and redeployment capability. We must start with a common understanding of the basic data, of the trends in the balance, and of the qualitative factors involved.

We also cannot rely on secret information. We must be able to educate our publics and build a consensus before we negotiate in depth with the U.S.S.R. If we do not, we are almost certain to see unilateral cuts in modernization, manpower, and forces in anticipation of arms reductions. We are likely to see the West become divided, and we are certain to see the U.S.S.R. exploit the situation to seek force reductions that will give it an advantage.

We cannot afford to take added risks in conventional forces. We are far too close to the point of losing our conventional option and being forced into rapid escalation to nuclear war or surrender. While war may be unlikely, intimidation and political threats and efforts to divide the West are not. We in the United States must maintain our commitment to Europe. Europe must maintain, modernize, and improve its conventional forces. Without official and public support for such a trans-Atlantic bargain, arms control could become the graveyard of NATO.

MODERNIZING OUR REMAINING THEATER NUCLEAR FORCES AND DEFERRING ANY FURTHER REDUCTIONS UNTIL AFTER START AND CONVENTIONAL FORCE REDUCTIONS

Finally, we cannot risk further reductions in theater nuclear forces until we have a suitable START Treaty and have at least made major progress in agreeing on conventional force reductions. In the interim, we must show our resolve and modernize NATO's remaining theater nuclear forces, and encourage Britain and France to modernize their national nuclear forces.

We cannot risk any reductions that would encourage the Warsaw Pact to exploit either its conventional or theater nuclear advantage. Deterrence remains the best way to prevent any crisis or conflict from escalating to a nuclear or chemical biological conflict. We cannot have deterrence if we are trapped into allowing or theater nuclear capability to degenerate to a level where it is no longer credible that we will use it, and the same is true of our capabilities for conventional war.

We need to match the Warsaw Pact buildup in short range and air breathing nuclear forces at least to the extent where we do not leave a major gap in range and penetration capability, and where we do not appear to decouple the Federal Republic of Germany from the rest of Europe or undermine the credibility of United States willingness to use nuclear weapons in the defense of Europe.

We must also avoid any situation where we risk being trapped into eliminating theater nuclear forces, particularly when verification of many of these reductions are impossible, and the Warsaw Pact becomes free to exploit its lead in chemical and conventional weapons. Regardless of the current political climate in the Federal Republic of Germany and some other European countries, we cannot afford to follow public opinion when we need to lead it. Tempting as it may be to seek cosmetic efforts at arms control, we must have the strength and restraint to avoid negotiations and agreements that do not meet the iron test of any arms control effort: Real reductions in the risk and cost of war.

THE NEED FOR REPORTING ON VIOLATIONS AND FOR A COMPREHENSIVE ARMS CONTROL STRATEGY

To return to the themes I began with, these problems and limitations in the INF Treaty explain why I propose amendments or reservations to the INF Treaty, or legislation to the same effect, that will require improved reporting on violations of any arms control agreement, and the development of a comprehensive arms control strategy. They also explain why the Congress and the American people must be kept fully informed of any suspected violations and our the nature and rationale for our arms control strategy.

We cannot risk moving beyond the INF Treaty without a national consensus on: First, the strategy we should pursue in future arms reductions; and second, how we can devise reductions that really do reduce the risk and cost of war. Nor, can we move beyond INF without close consultation with our allies. We must put the U.S.S.R. on notice that no development in international relations or United States domestic politics will lead to future tolerance of violations of arms control agreements. We cannot afford to negotiate with the U.S.S.R. under conditions where Western public opinion does not understand the military balance, the risks in arms control, and the requirements for meaningful arms reductions.

It is easy to rush foward into the wrong kind of arms control. History is no more forgiving of those who do so, however, than those who rush into confrontation and an arms race. We need to move forward in a way that will not only preserve our security, but that of our allies and ultimately that of the peoples of the Soviet bloc and the rest of the world.

Mr. President, I ask unanimous consent that my proposals to ensure enforcement of the INF Treaty and the development of a comprehensive arms control strategy be printed in the RECORD at this point.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

PROPOSALS TO ENSURE ENFORCEMENT OF THE INF TREATY AND THE DEVELOPMENT OF A COMPREHENSIVE ARMS CONTROL STRATEGY

(Senator John McCain)

A. INTELLIGENCE REPORTING ON SUSPECTED ARMS CONTROL VIOLATIONS

The Department of Defense shall notify the Select Committee on Intelligence of any intelligence indicator that the Soviet Union may be violating an arms control treaty within 48 hours of the acquisition of that indicator. It will promptly inform the Committee of the analysis of that indicator and as to the determination as to whether it does or does not show a Soviet violation of an arms control treaty.

B. COMPREHENSIVE REPORTING ON THE STATUS OF ARMS CONTROL AGREEMENTS WITH THE USSR, AND ON ANY VIOLATIONS OF THESE TREATIES

The Department of State shall provide the U.S. Congress with a semi-annual report which shall summarize the current status of all arms control agreements with the Soviet Union. This report will be issued on July 31st and December 31st of each year.

This report will include an analysis of any indication of a violation of such an arms control treaty. It shall provide a comprehensive statement of the risks such a violation entail to the U.S., and of the actions being taken to confirm a suspected violation of an arms control treaty.

The Department of State report will also provide a comprehensive summary of all confirmed and ongoing violations of such treaties. When such violations exist, it will provide a joint assessment with the Departent of Defense of the risks such a violation shall pose to the security of the U.S. and its allies.

At the conclusion of its report, the Department of State will certify whether the USSR is in compliance with all arms control treaties with the U.S. In the event that the State Department cannot certify full compliance, it shall specify the measures it is taking to bring the USSR into compliance.

In the event the Department of State shall issue two consecutive reports in which it cannot certify full Soviet compliance with all current arms control treaties, it shall in cooperation with the Department of Defense, include an assessment of the military actions necessary to compensate for such violations.

C. ANNUAL REPORT ON ARMS CONTROL STRATEGY

The Department of State, Department of Defense, and Arms Control and Disarmament Agency will submit an annual report, on December 31st of each, setting forth a comprehensive strategy for arms control to the Congress. This document shall provide a detailed and comprehensive statement of U.S. arms control strategy on all existing and prospective arms control treaties and negotiations. It shall specify the nature and sequence of the administration's future arms control efforts.

It will describe how the U.S. will approach strategic, conventional, and additional theater nuclear force reductions. It will provide a comprehensive net assessment of the current trends in the military balance as they affect arms control. This net assessment will

> include a comprehensive data base on the forces on both sides affected by the arms control treaty, it will specify the methodology used to analyze them in full detail, it will provide the results of both static and dynamic methods of analysis, and it will examine all major scenarios and contingencies ranging from political confrontation to full scale war.
>
> It will assess the military impact of arms control proposals and will explain the level and impact of U.S. arms control proposals on the risk and cost of war in typical contingencies or scenarios.
>
> It will show the impact of proposed subceilings, assymetries and other driving factors affecting a treaty or arms control proposal on the military balance, and show how these act to increase deterrence and to reduce the risk and cost of war.
>
> It will describe the strategy the United States will use to verify and enforce proposed arms control treaties.
>
> It will describe how the United States will consult with its allies and tailor its force improvement strategy to ensure it can preserve national security with and without arms control.

Mr. PROXMIRE. Mr. President, I commend the distinguished Senator from Arizona for an excellent statement. I am delighted that he is supporting the INF Treaty. There is nobody in the Senate with a more distinguished military career. He understands the very serious problems of war and peace, and I think his speech this morning will help very greatly in advancing that critically important treaty.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond 9:30 with Senators permitted to speak therein.

The Chair recognizes the Senator from Wisconsin [Mr. PROXMIRE].

INTELLIGENCE OVERSIGHT ACT FLAWED

Mr. PROXMIRE. Mr. President, on careful review of this bill, I find that there are two substantial loopholes which would continue to allow a President or Director of Central Intelligence to conduct paramilitary, covert action or special activities abroad without observing the restrictions embodied in this legislation.

I recognize that this bill contains specific restrictions on the executive branch including tough reporting requirements for special activities within 48 hours of his decision. What then is my concern?

First, the standards for a Presidential decision to conduct special activities are noticeably weak. Such activities must be "necessary" to support the foreign policy objectives of the United States and they must be "important" to national security. Both tests are so broad and void of content that they constitute no practical restraint on the executive branch.

In addition, section 501(a) stipulates that—

> Nothing contained herein shall be construed as a limitation on the power of the President to initiate such activities in a manner consistent with his powers conferred by the Constitution.

A Chief Executive may well interpret this language to invalidate the reporting requirements and restrictions in this bill. He need only to assert that the powers conferred on him by the Constitution supersede the restrictions in this legislation and he need go no further to sustain his opinion than the language of the bill itself.

Now, I understand why this language is in this bill. The Congress does not wish to deny constitutionally granted powers to the President—nor can it do so. But a President may well conduct continuing special activities under this "initiation" exemption without observing the further reporting restrictions in the bill.

Second, section 502 requires that the Director of Central Intelligence and other department and agency heads shall keep the intelligence committees fully and currently informed of all intelligence activities other than special activities. This requirement is contingent, however, on a determination apparently made by the department or agency head that such informing is "to the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters."

My reading of that contingency means that a Director of Central Intelligence, or another department or agency head, may arbitrarily decide that the informing of the committees is not consistent with the due regard for the protection from unauthorized disclosure. After all, it is common for executive branch officals to state privately and at times publicly that the Congress leaks classified data.

Mr. President, I may be one of the only Senators to oppose this legislation because it does not go far enough to protect the American public against run-away covert actions by the executive branch. I have been in this position before—as the only vote against the original bill establishing reporting requirements almost a decase ago.

It is a truism of bureaucratic behavior that every loophole created will be exercised. We need only wait for the right combination of personalities in the White House until once again we will be holding hearings and calling for reform.

THE TRADE BILL

Mr. ROCKEFELLER. Mr. President, many bills are awaiting our attention during the remainder of this legislative year, but none is more important in my judgment than the trade bill. It should be placed at the very top of our agenda.

I have to admit that I was worried when I thought the resolve to pass this bill was eroding somewhat over the past few months. I'm very pleased, however, to see that the trade conference now seems to be making real progress. A schedule for bringing a conference agreement to the full House and Senate has been set by the conference chairmen, Senator BENTSEN and Congressman ROSTENKOWSKI, and I am hopeful that we will succeed in getting trade legislation enacted by early spring.

To achieve this, it will be essential for the administration to put away its rhetorical knives against the trade bill for good. Instead of deriding the bill at every opportunity, the administration should heed Ambassador Robert Strauss' call and work closely with Congress to produce a bill that will be signed by the President as soon as it reaches his desk. To do otherwise would be terribly damaging to this country's ability to compete in the overseas marketplace. Moreover, it would break faith with the workers and industries in West Virginia, in other troubled States, and indeed, throughout this country, which have so much at stake in the trade bill and in the debate surrounding it.

Though the trade statistics for November and December were somewhat encouraging, the numbers for 2 months hardly establish a trend. And, if you look beneath the statistics, you find that our December 1987, bilateral trade deficits with most of the newly industrialized countries [NIC's] were worse than they were in December 1986. Also, year-to-year comparisons of our statistics show a significant worsening with Japan by almost $1 billion.

I might put that in perspective, Mr. President. Of the $170 billion trade deficit that we have globally, fully one-third of it relates to the importation of oil, and one-half comes from only three countries, Japan, Taiwan, and South Korea.

I do not want to belabor this, Mr. President; we all know that you can do a lot of things with statistics and make all kinds of points with them. But I contend that the situation with our trade deficit still makes a powerful case for Congress and the administration to view the passage of the trade bill as the top priority. I know many of my colleagues, including my senior colleague from West Virginia, the majority leader and Senator BENTSEN share this goal. I urge anyone who questions the need for a trade bill to think once again about what's at stake.

The Finance Committee, under Senator BENTSEN's leadership, conducted a series of hearings early last year to consider the need for major trade legislation. Business executives, union leaders, bank chairmen, former trade negotiators, and academics all argued that our trade and macroeconomic policies have gone astray. For the most part, they were in agreement that the United States must reduce its Federal budget deficit, improve its educational system, develop better relationships between management and labor, encourage business to take a longer-term view, help to solve the international debt problem, move quickly in the Uruguay round of multilateral trade negotiations, and establish a more coherent, more forceful trade policy. They all agreed this was necessary.

Over the past year, we have seen improvement in some of these areas. But we still have a long way to go in most of them.

In addition, though many would like to see our $170 billion trade deficit put into balance in a single swoop, this is simply not possible; 200 yen to the dollar, then 170 yen, finally 130 yen to the dollar—each level was supposed to at the point when our trade deficit with Japan would turn around. But it simply did not happen. And it can't happen, with Japan, or Korea, or Taiwan, or the European Community, unless we deal with the range of issues confronting us.

Mr. President, the trade bill is not going to solve all of our problems. I understand that. But it, most definitely, is a part of the solution. It should contribute, and will contribute, to reducing that trade deficit.

The trade bill is aimed at getting other countries to open up their markets. It includes a beefed-up section 301 along with the so-called "Super 301" process that will help achieve this goal.

The trade bill would allow our industries more time to adjust to new competitive conditions, with an improved section 201 process that also assures—and this is a critical point—that industries won't use temporary protection simply to sit idly by and make higher profits.

The trade bill would speed up, strengthen, and expand job training and other services for our workers who are displaced because of foreign competition and shifts in trade patterns.

I represent a state that has the highest rate of plant closings and worker displacement in the Nation. Since the early 1980's, thousands of hard-working West Virginians have lost their jobs at the coal mines, at steel mills, and at plants that have closed—plants that made steel, glass, or other products affected by imports. These displaced workers want to learn new skills. They want to learn them. They are anxious to become trained in computers and other technologies that give them the opportunity for decent-paying, productive jobs in America. But the men and women of West Virginia and other States throughout the country, who lost their jobs through no fault of their own, are not going to become retrained on their own out of their own pockets, or reemployed without Federal assistance. Right now, the United States is the only industrialized country in the world that doesn't make a major public policy commitment to retrain its displaced workers. That's incredible shameful, and in total contradiction of our economic interests.

The trade bill would invest more resources in our dislocated workers and make essential improvements in the Trade Adjustment Assistance Progam to help these men and women rejoin the work force, provide for their families, and contribute to the country's economic future.

Our antidumping and countervailing duty laws must be tightened and loopholes closed, and the trade bill does just that. We cannot do everything in this area unilaterally, however. Therefore, we must also work toward revising the dumping and subsidies codes.

Trade cannot exist without an international traffic cop, and the GATT performs that function. But changes have to be made, and the Uruguay round will be a start in the process. The trade bill provides the President with fast track authority so we can negotiate effectively.

The trade bill will help us compete internationally. Everybody knows that. It is not a protectionist bill. Not everybody knows that. It is a trade-expanding bill, serving the interests of the United States and the world trading community.

Mr. President, the trade bill must become law. It is time to make the changes that the American people expect and deserve. We must act on this opportunity to abandon outdated and counterproductive policies, and take a new course to become competitive and economically strong.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time of 9:30 having passed, morning business is now closed by unanimous consent.

INTELLIGENCE OVERSIGHT ACT

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 1721) to improve the congressional oversight of certain intelligence activities, and to strengthen the process by which such activities are approved within the executive branch, and for other purposes.

The Senate resumed consideration of S. 1721.

Pending:

McClure Amendment No. 1623, outlining conditions under which the President may withhold transmission of findings to the Congress pursuant to subsections (1) and (2) of section 5 of the bill.

Mr. BOREN. Mr. President, we are again resuming consideration of the intelligence oversight bill. This is the bill about which we had much discussion last night. It is a bill which in my opinion strikes a proper balance between appropriate congressional oversight and the need for the President of the United States as Commander in Chief to have flexibility of action to be able to take care of emergency situations. It strikes that balance between accountability and the need at times for virtual total secrecy in our Government in order to conduct operations that are vital to our national security interests.

Mr. President, I would say we have had discussion of this bill last night at length. It is landmark legislation. It is the product of well over 100 hours of hearings, discussions, and meetings which first commenced last year with members of our committee. We then entered into informal negotiations with the President. As a result of the deliberations of our own committee, the President put in a national security directive many of the provisions that are contained in statutory language in this bill.

Finally, there were exhaustive additional public and private hearings specifically on the language of the statute, with input from the intelligence community. Several changes were made in the legislation at the suggestion of the intelligence community. Now we have the product before us.

It is the product, as I say, not of any one person, although certainly Senator COHEN deserves the primary credit for his leadership in the matter. It is also the product of the deliberations of the entire Intelligence Committee.

We have pending before us an amendment by the Senator from Idaho. I know he wants to discuss that amendment additionally this morning.

I urge all Members to come to the floor and offer their amendments if they have additional amendments to offer because it will be our intention to press ahead to final passage as soon as possible today. There are many

Members who have scheduling problems later on in the early aftenoon. We hope to be able to press ahead and perhaps finish this bill by noon.

So if Members have any amendments or any potential amendments, if they wish to come to the floor to discuss those provisions with us, I would urge them to come to the floor as soon as possible so we can get on with the business at hand.

The ACTING PRESIDENT pro tempore. The Senator yields the floor.

The Senator from Idaho, Mr. McCLURE, is recognized.

AMENDMENT NO. 1623

Mr. McCLURE. Mr. President, I do not intend to delay the Senate at all with respect to a vote on the amendment which I have offered, but before we vote I would like to respond to some of the arguments made the manager of the bill and for the benefit of those Senators who were not here last night I would like to restate briefly the points I made earlier.

Before referring to the amendment, I do wish to at least call attention to what may have been a Freudian slip in the statement of my friend from Maine in his statement yesterday. He does not often make inadvertent statements. He is one of the most articulate users of the language in this Senate, a man whose debate I greatly respect. Perhaps it was not a slip. Maybe he really meant it.

But in the debate last night he said the administration believes that they are the architect and executer of foreign policy and that, I say to my friend, is precisely the dilemma we face in this Senate.

For, indeed, in the architecture of foreign policy, the Congress is a coequal in the formulation of policy. But in the execution of foreign policy, that is where Congress must step aside.

I see my friend on his feet.

Mr. COHEN. I believe the phrase I used was "sole architect and executor." It is not the sole architect.

Mr. McCLURE. And upon that point I agree wholly with my friend from Maine. I again assert that many in this body do not understand that distinction or do not attempt to apply that distinction. I was certain my friend from Maine would understand an attempt to apply that distinction.

Mr. COHEN. If the Senator would yield.

Mr. McCLURE. I am happy to yield.

Mr. COHEN. If there was no notice given to Congress, it cannot participate as a coequal architect in the formulation of foreign policy. The point I was striving to make is that, under the Senator from Idaho's amendment, Congress would be excluded from any portion of formulating or at least giving advice in the formulation of a foreign policy objective through a covert means, and therefore we would be deprived of our constitutional responsibility for the formulation, at least coequal formulation, of foreign policy.

Mr. McCLURE. You see, the Senator then went across the line, in my judgment, because certainly a covert action can be a foreign policy development. It can also be the execution of foreign policy. And upon that execution of foreign policy, the Congress has far too often stepped across the line into the execution. And oftentimes a covert operation is the execution of a foreign policy, not the formulation of it.

I do not want to cut the Congress out of the action—I do not think anybody else does—with respect to the oversight of how foreign policy is conducted. But I think we must be very careful to preserve the distinction between the formulation of foreign policy and the execution of it.

Mr. COHEN. If the Senator will yield, I have no disagreement in terms of the conduct of foreign policy, but in terms of constructing the foreign policy, I have a very sharp disagreement. It seems to me that Congress cannot be excluded from notice and knowledge of covert activity and still said to be a participating archiect in that foreign policy. And one cannot simply execute a foreign policy if the foreign policy is itself not known to the Congress.

Mr. McCLURE. Well, I will give two examples of where I think you run into some problems with that. They are both battlefield examples rather than foreign policy examples, although sometimes they are hard to distinguish.

Can you imagine Harry Truman having to come to the Congress of the United States at the end of World War II and saying, "We developed an atom bomb, and I am about to drop it on Japan." And then we would have a full-blown debate about whether or not he can do that before the mission takes off. I suspect we would still be debating that. The Congress would never have resolved it.

Mr. COHEN. If the Senator will yield, I think there is a vast difference between a covert action and an act of war. The fact of the matter is—and you cited this yesterday as a matter of fact—that the invasion of Grenada was not a covert action. That was not a covert action. That was a military action.

Mr. McCLURE. After the Senator had left last evening, the Senator from Oklahoma had also made reference to my using that example. I had not used it as an example of covert actions I had used it as an example of the need for consultation and the difficulty of consultation between the Congress and the administration.

Mr. COHEN. Under the law, consultation was not required as to a covert activity. The administration did it as a matter of comity in that case, and it worked.

Mr. McCLURE. In that case.

Mr. COHEN. It did, indeed. But the point is that John McMahon, the former Deputy Director of the CIA, has testified that the 48-hour notice in fact serves the interests of the Executive as well.

Mr. McCLURE. I will get to Mr. McMahon in a moment.

But, again, I would have some disagreement with my friend about where you draw the line—and, of course, it is a murky line—between the formulation of policy and the execution of it.

Just because it affects foreign policy does not mean that the Congress of the United States has a right to manage it under the Constitution. There is a line over which it cannot step appropriately under the Constitution. That is one of the concerns that certainly the administration has expressed and will continue to express if my amendment is not adopted.

Now, I want to be very clear at this point. My amendment does not address the constitutional question. That constitutional question remains even if my amendment is adopted. However, the administration, this or any future administration, would have less reason to assert the contitutional privilege argument if my amendment is adopted. And they would have compelling reason, in some cases, to assert the constitutional right to undertake that conduct of foreign policy and operations as chief of our U..S armed services unless the amendment is adopted.

So I believe that, while it does not address the constitutional question directly, it certainly does affect the constitutional debate or the attempted exercise of constitutional authority and, therefore, I would submit, it is very important that we adopt the amendment if we can.

Mr. President, the cosponsors of the bill have made a great deal out of the fact that John McMahon, a CIA professional, has expressed his support for the 48-hour notification requirement. Both last night and again this morning that has been kind of a rallying cry. I know that Mr. McMahon has been a dedicated public servant, but William Colby, Ray Cline, Stanfield Turner, Frank Carlucci, and William Webster are also intelligence and national security professionals and they oppose the 48-hour provision.

The Senator from Maine also made the claim that he was not aware of any leaks of covert operations from the committees under the leadership of Senator BOREN or under the previous leadership. I want to be very careful here because I am afraid people hearing that statement may not have understood precisely what the Senator from Maine said, and the Senator from Maine was very precise in his statement.

Without going into the details here, I think the Senator is well aware of leaks of highly sensitive information from both the Intelligence Committees and the Iran-Contra Committees. These leaks fit into the long and distressing pattern of leaking, or threatening to leak, information to achieve a Senator's or a Congressman's own policy goals.

The Senator did not state there have been no leaks. He said there have been no leaks of covert operations. And I think that his statement is correct, but, in part, misses the point which I seek to make.

The question of leaks leads us to a question of trust. The Senator from Oklahoma argues that, by allowing the President to delay the full details of a covert operation, my amendment would create suspicion and distrust between the Congress and the Executive. I submit that it is the 48-hour notification requirement that creates and feeds off distrust. And if distrust were not there, it would not even be necessary to be argued about today.

I said yesterday that I commend the leadership of the Intelligence Committee under the chairman and vice chairman that now occupy those jobs for the way in which they have approached and succeeded in stifling any kind of leaks of information from the Intelligence Committee. And that is well on the way to regaining the trust and confidence, earning the trust and confidence that they ought to have. But that trust and confidence was lost and needs to be reearned and needs to be reestablished.

The same thing can be said with respect to administrations, where there has been a breach of trust and a lack of confidence that needs to be rebuilt. And it takes time. We are told, that since 1981, the administration has failed only once, once, to provide prior notification of covert operations. That once, of course, was the Iran-Contra affair. But to change the laws, to create this new requirement, suggests to me that the distrust is already there. It certainly is not the result of my amendment.

The cosponsors have also argued that one advantage of immediate notification is the de facto veto power it gives the Intelligence Committees. The Senator from Maine recalled an instance where my colleague, the Senator from Rhode Island, singlehandedly stopped an operation that he believed was preposterous. I have great respect for my colleague from Rhode Island, and without knowing the details I'd bet he was probably right about that particular operation. But I would also suggest to my colleagues that some of the greatest special operations in history sounded pretty silly when they were first discussed.

Can you imagine this scene, for example: "You want to do what? Build a wooden horse, climb in it, and park it in front of the gates of Troy? If you do, I'll tell the Washington Post."

Mr. President, this bill arises from a certain unique situation, the Iran-Contra affair. This is the context in which it is being considered, and the standard to which the opponents of my amendment are holding my amendment to is this: Would the McClure amendment, if enacted, have prevented the Iran-Contra affair?

I submit that it would have. Because I believe that the administration would have known that it would have to account for its actions. If I may repeat what Lloyd Cutler said in hearings on the 48-hour provisions:

> Another alternative might be to impose on the President—and I do not think it can really go any lower—a duty to notify you when he has initiated a special intelligence activity but has not informed you about it. If he simply said to you, if he was required to say to you, "I have initiated an activity which for the highest reasons of state or protection of sources or dealings with foreign powers or whatever I cannot tell you about now," at least then you would be alert, and every time the director of the Agency came back to see you, as he must, you could say "When are you going to tell us about that particular activity * * *." I do think though that any kind of "sooner or later" duty to notify will be a powerful deterrent.

Under my amendment, technically speaking, the cosponsors of the bill are correct in saying that hypothetically, yes, the administration could string along the Gang of 8 forever. But as a practical matter, I don't think any administration is going to dare to do that, especially after what happened in the Iran-Contra affair. It's a very strong deterrent, as Lloyd Cutler says.

I also think that my friends on the intelligence committees are selling themselves short. Because I am very confident that as soon as they were informed of the activity they would make sure that the administration did not forget them. In fact, that to my mind is the weakness of my amendment, that it puts the Congress in a position of breathing down the President's neck.

Nevertheless, I think my amendment would be a useful compromise that would meet both the Congress' desire for oversight while providing the President with a modicum of flexibility in highly sensitive situations.

Let me make a final point about the Iran-Contra affair. The majority report of the Iran-Contra Committee declared that "It is the conclusion of these committees that the Iran-Contra affair resulted from the failure of individuals to observe the law, not from deficiencies in existing law or our system of governance." Although I disagreed with many of the majority's conclusions, I agree with that one. And that is why I believe that the Intelligence Committee's approach is the wrong one and does not really address the problem it is designed to solve.

Mr. President, in closing, let me summarize for my colleagues what this amendment does: It gives the President some flexibility in notifying Congress in cases where human lives might be endangered by disclosure, or where the risk of disclosure might scare off other intelligence services from cooperating with us. It would require the President to tell the congressional and Intelligence Committee leadership that a very sensitive operation was underway, but withhold the details of the operation until the risk to life or the risk of disrupting cooperation had passed.

The chairman of the Intelligence Committee, a gentleman with whom I am often in agreement on matters such as these, asked why we can't trust Congress when so many in the executive branch already know about an operation. As Stan Turner told the House Intelligence Committee, it's not a question of the numbers, it's a question of telling anyone who does not have an operational need to know.

And it's not that Congress is necessarily any more trustworthy or leakproof than the Executive. Stan Turner, again, said—and I quote:

> * * * it isn't a question of a better record when a man or woman's life is at stake. Even if you are 10 times as reliable as the executive branch, if the leak did happen to come from one of the people notified in Congress, somebody may have lost his life unnecessarily.

Mr. President, my colleague from Rhode Island, a former member of the Intelligence Committee, has testified ably to the effect that disclosure requirements such as these have had on the cooperation of other services, especially when the lives of agents are at stake. I know he was referring to several different requirements such as Freedom of Information Act requirements and the disclosure of agents names that have already been corrected.

I cannot help but relate, again, a personal experience that I had of stopping in Greece at the United States Embassy and talking to the station chief at the time the disclosure of names was so much in the news. I asked him if that did not make him worried about the security for his agents and he said: "I am not concerned about the fact that the agents' identities would be revealed. The enemy certainly already knows who they are. But I am concerned about the emboldenment of people on the other side, who will become more willing to attack than they otherwise would be. I am afraid you are going to get some of my people killed."

Two weeks later that man was dead, assassinated because his own prediction had proven to be accurate. But requirements such as those in this bill, as William Colby testified, would have a chilling effect on the cooperation of other services. Let me quote again for my colleagues who were not here last night.

> We would once again have to go around and hold the hands of our agents, of our liaisons, as they say: "Well now, wait a minute, the Congress is going to demand knowing everything you do within 48 hours, are you kidding? We are not going to get involved in that with you. Not a chance."

Let me again remind my colleagues that, in the Canadian rescue of United States hostages in Teheran, the Canadians insisted that the President not tell Congress about the operation. Whether the administration kept its word is another question. But the crucial fact for purposes of this amendment is that the Canadians would not have helped us if we had not promised to withhold notification.

In a recent public statement, a former chief of the West German intelligence service said that legislation like the committee bill before us would deter friendly services from cooperating with the United States on covert action.

Finally, Mr. President, there is a constitutional issue at stake here. That is the right of the executive branch to conduct foreign policy and effectively manage our foreign policy resources.

Thank you very much, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Mr. COHEN. If I could be very brief, I know we are looking to vote fairly quickly and I would like to respond to just a couple of points made by my friend from Idaho.

First of all, the Senator from Idaho suggests that his amendment is a compromise. Let me respectfully suggest, it is not a compromise but a capitulation.

It is a capitulation because what it will do is move us even further back away from where the law currently exists. Right now any administration is required to give prior notice, and only in exceptional circumstances if they fail to do so, they must give that notice in a timely fashion. Timely fashion has always been understood to be within a matter of days, not weeks, not months, not years, but a matter of days.

Under the Senator's amendment, theoretically the administration could put Congress on notice saying, "I have a secret. I can't tell you what the secret is. I have a secret plan. Maybe I will tell you next week, but next week I may come back and tell you it is not time yet," and on ad infinitum.

I would suggest this is a step away from the current law giving the President "more flexibility" than he currently has, in our judgment. It is a compromise. I think it is a capitulation.

Second, the Senator cites that there is, in fact, a line to be drawn between formulation of foreign policy and management. We agree. We absolutely agree there is a line to be drawn. We do not seek to manage foreign policy under this bill. We are only seeking a voice. As Clark Clifford would say, "A voice and not a veto."

While the Senator from Idaho cites the words of William Webster and Bob Gates, I would point out for the benefit of our colleagues that when Bob Gates came before the committee for his confirmation as Director of CIA and when William Webster came before the committee when he was confirmed as CIA, both men said they could not foresee a circumstance under which they would not be up here within 48 hours to give notice to the committees. So they have changed their tune, or at least Mr. Webster has, after becoming CIA Director, rather than prior to.

A third point I would make is on leaking of sensitive information. The Senator from Idaho is correct. I think everyone is aware that there have been leaks of sensitive information, including a draft report written by the members of the Intelligence Committees some time ago. Some in the administration favored release. That was quite notorious in terms of its coverage. But the fact of the matter is, this bill deals with covert activity. If you are offended by what takes place by some members, the answer is to discipline those members if they in fact leak sensitive information. The answer is not to cut out Congress from its constitutional responsibility to play a part in the knowledge and the formulation of foreign policy objectives.

With reference to my colleague from Rhode Island, I think the Senator took my remarks a bit out of context in referring to Senator CHAFEE of Rhode Island. When I came on the Intelligence Committee, I was impressed with the degree of intensity of Senator CHAFEE's participation on that committee.

I must say, for the benefit of my colleagues, it was not JOHN CHAFEE who singlehandedly defeated a covert proposal. It was the entire committee, Republican and Democrat, everybody on the committee from the chairman and vice chairman all the way down, liberal and conservative. Everyone reacted with horror to the proposal.

So it was not simply Senator CHAFEE, although I thought he expressed his feelings rather dramatically, and it made an impression on me. But I was impressed with the fact everyone said it was a bad idea. Everyone around that table said it is not a good idea and the President ought to take a second look. Even so, under the existing law, under this proposal, we have no authority to veto a covert activity.

I would say that while Mr. Colby and others might say there is a chilling effect of this legislation, I would have to respond that that is nonsense. If this legislation, requiring 48 hours notice, will be so chilling, how is it that President Reagan has conducted covert activities over the past 8 years? If, in fact, he has given us notice every time but Iran—prior notice, not subsequent notice—then how has that had a chilling effect upon our relations with our allies?

I would suggest that those statements coming out of either Mr. Colby, or the West German intelligence agency, or others, are really designed to defeat this measure, but have no relationship to the reality that this administration has functioned quite well, giving us not postnotice, but prior notice, of every covert activity. The reason they were not able to give us prior notice, or indeed subsequent notice, is that they were not going to notify us at all about this covert action, period. It was disclosed and leaked by one of the people who was entrusted with the information, Mr. Ghorbanifar.

They were not going to give us notice at all of this particular covert activity, and the reason they were not going to give us notice is not because we could not be trusted. We deal with covert actions on a regular basis with more lives at stake than were involved here, and with more money than was involved here in the Iran case. But we were not told in this particular incident because the administration knew it was violating its own public policy in terms of its statements and the fact that its own Secretary of State and Secretary of Defense were so deeply opposed to the entire notion of trading arms with the Iranians.

Mr. President, I would suggest we defeat this measure, unless we are willing to go backward rather than forward in establishing a better relationship with the Executive.

Mr. COHEN. I move to table the Senator's amendment.

Mr. BOREN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. DIXON). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The question is on agreeing to the motion to table the amendment of the Senator from Idaho.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Georgia [Mr. FOWLER], the Senator from Tennessee [Mr. GORE], the Senator from North Carolina [Mr. SANFORD], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Nebraska [Mr. KARNES,] and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

I also announce that the Senator from Oregon [Mr. PACKWOOD] is absent due to illness in the family.

I further announce that, if present and voting, the Senator from South Carolina [Mr. THURMOND] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 65, nays 23, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—65

Adams
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Bradley
Breaux
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
Daschle
DeConcini
Dodd
Domenici
Evans
Exon
Glenn
Graham
Grassley
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Pell
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Shelby
Specter
Stafford
Stevens
Trible
Weicker
Wirth

NAYS—23

Armstrong
Bond
Cochran
D'Amato
Danforth
Dixon
Ford
Garn
Gramm
Hatch
Hecht
Helms
Humphrey
Kasten
McCain
McClure
Nickles
Pressler
Simpson
Symms
Wallop
Warner
Wilson

NOT VOTING—12

Biden
Bumpers
Dole
Durenberger
Fowler
Gore
Karnes
Packwood
Sanford
Simon
Stennis
Thurmond

So the motion to lay on the table Amendment No. 1623 was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I wonder if we might have order.

The PRESIDING OFFICER. The Senate will be in order. The Senate will please come to order. Will conversations desist and take place in the cloakrooms?

The Senator from Vermont.

Mr. LEAHY. Mr. President, I will not delay the Senate long. I wish to comment on the legislation before us.

Mr. President, in preparing for Senate consideration of the Intelligence Oversight Act of 1988, I read several statements by witnesses before the Intelligence Committees on this legislation.

In one of them, I was struck by a comment by a distinguished American which seemed to me to sum up the challenge now before Congress in the wake of the Iran-Contra scandal.

Clark Clifford, as a close adviser to President Harry Truman, was one of the principal drafters of the National Security Act of 1947. This act established the CIA and gave it the authority to carry out covert actions.

Few Americans have had more experience with the contributions and costs of covert actions than Clark Clifford, confidant of Presidents since the 1940's, and Secretary of Defense under Lyndon Johnson.

Testifying on the House version of this legislation, Mr. Clifford told the Permanent Select Committee on Intelligence:

> As the Committee knows, covert activities have become numerous and widespread, practically constituting a routine component of our foreign policy. And with these activities have come repeated instances of embarrassing failure—where the goals of the operations themselves were not fulfilled and unforeseen setbacks occurred instead. I believe that on balance covert activities have harmed this country more than they have helped us. Certainly, efforts to control these activities, to keep them within their intended scope and purpose, have failed.
>
> We have reached the point now where we must reassess the very idea of conducting covert activities. If we are to continue with them and gain any benefit from them, we must find a way to keep them consistent with the principles and institutions of the Constitution and our foreign policy. If we determine that this cannot be done, then I say we are better off without covert activities entirely than with them out of control.

There is a second statement I would like to quote for the Senate as we seek to come to terms with the challenge laid down by Clark Clifford. It comes from the bipartisan report of the Select Committee on the Iran-Contra Affair:

> The common ingredients of the Iran and Contra policies were secrecy, deception, and disdain for the law. A small group of senior officials believed that they alone knew what was right. They viewed knowledge of their actions by others in the Government as a threat to their objectives. They told neither the Secretary of State, the Congress nor the American people of their actions. When exposure was threatened, they destroyed official documents and lied to Cabinet officials, to the public and to elected representatives in Congress. They testified that they even withheld key facts from the President.

Mr. President, it is ingrained into the very fabric of our national life that the rule of law makes us free. Our natural reaction to a crisis such as that exposed in the Iran-Contra scandal is to pass new laws to protect our freedom.

Better law is not the sole answer to the problem of how we reconcile covert actions with our open democracy. But, in a nation of laws it must be a part of the overall answer.

I support this bill by the Intelligence Committee to reform the current law on congressional oversight of intelligence. I think the changes it proposes, while modest, are useful. They reflect a long and unhappy experience by the Intelligence Committee with the Reagan administration's obsession with covert actions.

That obsession culminated in the Iran-Contra disaster. The costs of that disaster for this country were extremely high. It was a case where covert action policy was substituted for a foreign policy, and we all know how badly that failed.

Laws were broken and the Constitution flouted by men who thought they knew better than Cabinet officers and elected officials.

Our counterterrorism policy was left in ruins by the arms for hostages deals with the terrorists in Iran.

The credibility of the CIA, rebuilt after great effort over the years, was again shaken by revelations of deliberate lies by its Director and some senior officials and by improper—if not illegal—activity.

The relationship between the oversight committees and the CIA, already disrupted by the Nicaragua mining episode, the assassination manual, the secret arms flights into Nicaragua, and other incidents which I cannot go into, was even further damaged.

The hearings by the Senate Intelligence Committee the winter of 1986, the work of the Tower Commission early in 1987, and the hearings by the Select Committee on the Iran-Contra Affair through much of 1987, all point to the urgent need to strengthen oversight over covert actions.

But, we should not forget that the problems between the oversight committees and the administration over covert action started long before the Iran-Contra affair burst upon us. There is a pattern of abuse, improper behavior, contempt for congressional oversight, and outright lying that goes back to the early 1980's.

So, Mr. President, I congratulate my colleagues and friends from the Intelligence Committee for having proposed these valuable improvements in the oversight law. I thank them for inviting me, as a former member and vice chairman of that committee, to offer my views on their proposed legislation last year, as well as reform bills proposed by the distinguished senator from Pennsylvania [Mr. SPECTER].

Mr. President, I ask unanimous consent that the text of my letter to Chairman BOREN and Vice Chairman COHEN concerning these bills be included in the RECORD at the conclusion of my remarks. It explains in more detail my views on the specific measures in S. 1721, which we are considering now.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

But, let me also be clear, Mr. President, that while I support this legislation, I do not see it as the complete, definitive response to the question posed by Clark Clifford or the problems exposed by the Iran-Contra Committee.

It is, of course, important to require that Presidential approvals of covert operations be in writing, that they not be retroactive, that covert actions be in accord with the Constitution and U.S. law, and that the oversight committees or congressional leaders be notified of covert actions at least within 48 hours. These measures will help.

But, Mr. President, the Senate should not be deceived. These changes primarily address symptoms, not the root causes, of the problems this Nation has had with intelligence actions over the past few years.

That is why in my letter to the chairman and vice chairman last October I expressed strong support for two much more fundamental changes in the intelligence community. I argued that we must find a way to divorce the head of the CIA, our premier inteligence agency, from policymaking and politics, and professionalize that position.

And, I called for changes to strengthen oversight of covert activities within the executive branch itself.

In my letter, I welcomed proposals aimed at these problems contained in another reform bill, S. 1820, offered by the distinguished and thoughtful Senator from Pennsylvania [Senator SPECTER].

Right now, the Director of Central Intelligence, nominally in charge of all U.S. intelligence, and the Director of the CIA, are one and the same person—answerable only to the President who names him. I believe we should separate these two positions, charging one with oversight of covert actions, and the other with their implementation.

No longer should a single person be responsible for carrying out covert actions and also supposedly responsible for ensuring they are conducted properly, in accord with law and regulation, and consonant with American foreign policy aims.

As important, we should apply the highly successful pattern of the FBI Director, who is appointed for a set term of years extending beyond the tenure of the President who appoints him or her, to the head of the CIA. The CIA Director would no longer serve at the pleasure of the President but, like the Director of the FBI, have a definite term of office so he or she is protected from pressures from the White House.

I recognize that the time is not ripe to attempt these more fundamental and, in my considered judgment, necessary reforms. Considerable work lies ahead. But I commend the Senator from Pennsylvania for his bill. I hope he presses ahead with it in the coming months, and I would be delighted to work with him to achieve its goals. They are certainly goals which I will continue to pursue.

Mr. President, in testimony before both oversight committees on this matter, CIA Director Webster argued that new legislation is not needed. He said our recent problems stemmed from the failure of a few in the CIA and elsewhere in the executive branch to follow existing laws and rules. He stressed that the President and he are acting against those people, and have laid down new directives ordering people to obey the law and rules.

In a paradoxical way, Mr. President, I agree with Director Webster. Laws can only be as effective as the willingness of people to obey them. All the reform bills in the world will to nothing if those in the administration and the intelligence agencies who propose, carry out, and oversee covert actions do not change how they think.

We in Congress also need to do more than amend a law to tighten up covert action procedures somewhat.

Responsibility for the problems between the oversight committees and the CIA over the years since the Church and Pike Committees brought so many abuses to light does not lie solely at the door of the intelligence agencies.

Far from it. There is ample blame to go around. Other members, past and present, of the Intelligence Committee can speak for themselves. I refer only to my own time on that committee.

I often felt, both as a member and as vice chairman, that the Intelligence Committee was not able to do an adequate job of overseeing the vast range of activities of the intelligence agencies—or of covert operations.

With the best of wills and maximum effort—and most members of the committee during my years there worked very, very hard—Senators simply cannot give oversight the time, energy, and sustained involvement it needs. They are spread too thin in their other committee duties and responsibilities as Senators.

My experience indicates that genuinely effective oversight of intelligence activities, which I believe to be absolutely essential for the health and safety of our Republic, requires intense, sustained participation by Members of Congress. As I noted in my letter to Senators BOREN and COHEN only Senators have the authority and political stature to get access to some of the most sensitive information. Staff simply cannot do it.

On the committee and since, I have suggested that the leadership and the committee itself try to find some means to allow at least some Members to devote much more quality time to oversight of intelligence. One idea I offered was for a core group of Members to be temporarily relieved of other committee duties, say, for a year, without loss of seniority or rights, to concentrate on intelligence oversight. This rotating core group could keep the rest of the committee fully briefed on covert actions.

Mr. President, I recognize the practical problems with this. Maybe some other arrangement would be better. I do know that our best minds in the Senate need to be put to the task of finding a way to improve the quality of oversight by Members themselves. And, we do not do that through laws or rules, but through commitment and determination.

Mr. President, one last thing: We can write every law possible; we can anticipate every contingency conceivable. But unless the people to whom these laws apply are willing to follow them, they go for naught.

There were laws on the books requiring timely notice in the Iran-Contra matter, but they were not followed. There is no question that the law was violated and timely notice was not given—certainly, 11 months was not timely notice.

The irony is that had the law been followed, this fiasco of paying ransom to the ayatollahs of Iran, of sending arms to a country that could use them while continuing to take more American hostages, never would have happened.

I believe that had a plan as crazy as paying ransom to the ayatollahs been made known to the appropriate committees, the answer would have come resoundingly, from Republicans and Democrats alike, "You can't possibly do this. Nobody could be stupid enough to carry out this plan."

Frankly, Mr. President, that is probably the reason why the law was violated in the first place; that is probably the reason why we were not notified—because those people who were willing to pay ransom to the ayatollahs of Iran knew that Republicans and Democrats in Congress would tell them, "You can't to anything that foolish." They did not want to be deterred from their own foolishness. They wanted to go recklessly forward, and they did.

I am reminded of one matter that came before the Intelligence Committee years ago, an idea so crazy that I wondered how it ever even got there.

I remember the then distinguished chairman of that committee, Senator Goldwater, looking down and saying, in a very specific way—I will not quote him exactly on the floor, but the sum of it was that it was the dumbest idea he had ever heard. That was the end of it, because the intelligence agency that brought it to us looked around that room and saw every member of the committee, Republican and Democrat, shaking his head in agreement. And it ended.

The same thing would have happened with Iran. We would have been spared that international embarrassment; our antiterrorism policy would not have been left in shreds; our ability to deal with hostage taking would have been enhanced instead of diminished. All these things would have been avoided had they followed the rules.

So, while these are good improvements in this bill before the Senate, the bottom line is that laws are only as good as the people who was supposed to follow them and the respect they show for them. No respect was shown for those laws in the past. Let us hope that respect will be shown in the future.

EXHIBIT 1

U.S. SENATE,
Washington DC, November 24, 1987.
Hon. DAVID BOREN, *Chairman,*
Hon. WILLIAM COHEN, *Vice Chairman,*
Select Committee on Intelligence,
U.S. Senate.

DEAR DAVID AND BILL: Thank you for inviting my comments on S. 1721, your bill to improve oversight of the Intelligence Community. I welcome this opportunity to express some thoughts on the oversight process.

First, though, let me congratulate you both on your outstanding performances as members of the Select Committee on the Iran-Contra Affair. I am proud to have been associated with you on the Intelligence Committee. From all that I hear, your joint leadership of the Intelligence Committee has been a model of bipartisanship and professionalism.

As you have heard me say in the Committee, I believe the laws, rules and procedures on congressional oversight, while obviously very important, mean less than the attitudes of the men and women involved in the process. Laws or guidelines cannot make oversight work when officials from the agencies Congress is to oversee are willing to lie, deceive and evade. For example, as Vice Chairman, I signed a modification of the so-called "Casey Accords" initiated largely by then Vice Chairman Moynihan in 1984 in an effort to pin down Director William Casey to specific requirements for reporting on covert actions. I did so unenthusiastically and with little expectation that these accords would overcome the basic difficulties the Intelligence Committee was having all through the early and mid 1980s, that is, the fundamental hostility of Director Casey and many of his associates in the Intelligence Community to aggressive and meaningful oversight of intelligence activities, above all covert actions.

Unfortunately, my concerns proved to be only too true. While many of us on the Intelligence Committee sensed we were not being told the truth and were aware something was wrong in the system, it was not until the accident of an internal political fight in Iran revealed the arms for hostages deal that we were able to see the full truth. Only when the Intelligence Committee and later the Select Committee on the Iran-Contra Affair used subpoena power and took testimony under oath, did Congress begin to peel back the layers of lies, violations of laws and oaths, subversion of the system of checks and balances, and disdain for Congress and the Constitution, that lay behind this wall of hostility and contempt that many of us experienced for several years on the oversight committee.

As you both know only too well, the Iran-Contra affiar was not the only intelligence controversy the oversight committee learned about through the press. Time and time again, we read of some signfiicant intelligence-related matter in the newspapers, and then sought to follow up in the Committee. I think this reflects a pervasive mentality throughout the Intelligence Community that it has no affirmative responsibility to inform the oversight committees in advance of significant matters, and that its duty is only to respond to direct questions or expressions of interest from the committees.

Clearly, if the committees do not know what is going on in the intelligence world, they cannot ask the right questions, and therefore, intelligence will not provide the information they need to know. This is a vicious circle, and if oversight is to be effective, Congress needs to find a way to break it.

The answer, clearly, is strong, vigilant oversight coupled with a positive acceptance of the necessity for and value of oversight by the Intelligence Community. I know under your leadership, and with the appointment of Judge William Webster as Director of Central Intelligence, progress is being made. But, the Iran-Contra Affair reveals starkly the extent of the problem and the need for significant reforms.

The inability of the normal oversight system to get at the truth, and the Nation's dependence on a fortuitous squabble among the ayatollahs in Tehran to reveal an assault on the Constitution is most troubling to me. Thus, while I commend you for your bill and expect to support its reforms strongly when it reaches the Senate floor, in all candor I do not think the defects and problems in the current oversight system can be fixed merely by requiring that all findings be in writing, that findings cannot be retroactive, or that congressional leaders be notified of all covert actions within 48 hours. These are useful changes, but more fundamental reform along the lines of the Specter bill and even more is needed, in my considered judgment.

One of the most important changes we need is to remove the head of the CIA from politics and policy. Never again should the senior intelligence official of the United States government be the former campaign manager of the President, or the President's chief adviser on many policy matters, or a zealot for a particular cause abroad. Never again should a nominee to be Director of Central Intelligence be reported as not "unfit to serve" by an Intelligence Committee unwilling to embarrass a President by rejecting a candidate it knew was *not* fit to serve in such a position.

Allowing a political adviser of the President to serve as the chief of US intelligence is not merely to tolerate a bothersome intrusion of an intelligence official into the business of the Secretary of State, the Secretary of Defense or the National Security Adviser. It is to risk perversion of the intelligence process and a distortion of policy decisions by the President and his senior advisers, as Secretary of State Shultz so eloquently declared before the Iran-Contra committee. The Iran-Contra scandal, with its private financing of covert actions, its off the shelf covert action capability, its decisionmaking by lower officials to keep the President isolated, its "cooked" intelligence analyses, proves that politicization of intelligence is a menace to our freedoms, our democratic way of government and our ability to lead the Free World.

Therefore, although I disliked the idea when I was on the Intelligence Committee, I am now convinced that Congress should by law institute professional, non-political, tenured, limited term direction of US intelligence. The Director of Central Intelligence (or Director of "National Intelligence" in the Specter bill) should be appointed for a term of two years, to extend beyond the term of the President who appointed him, in the same manner as the Director of the FBI. Moreover, the office of Director of the CIA should be separated from that of the Director of Central Intelligence (again, as in the Specter bill), and also be appointed to a tenured, limited term, subject to confirmation by Congress.

I also agree with the provisions in the Specter bill that such a new Director of Central Intelligence should be responsible for overseeing covert action programs for the President, and that a separate Director of the CIA have the responsibility for implementing the covert actions once the President has made the necessary finding. No longer should one and the same official be charged with formulating, presenting, recommending, implementing and overseeing covert actions, as was the case with Director Casey.

Furthermore, though I feel somewhat less strongly about this, I now agree that a serving military officer should not be appointed to either of these posts. Direction of such extraordinarily sensitive activities as overall coordination of US intelligence and management of our premier intelligence agency should be in the hands of civilians, not serving military officers. There should not be the slightest doubt as to the primacy of civilian control of clandestine activities, which are fundamentally alien to a democracy, nor any question of residual loyalties to a military service.

Moreover, the old oversight relationship based on trust, cooperation and mutual good faith has been proven to be inadequate. Between yourselves and Judge Webster, a professional of iron integrity, that relationship may well permit effective oversight to be restored. But you will not always be leading the Senate Intelligence Committee, and more importantly, Judge Webster will not always be DCI. What happened once can happen again. As legislators we have a responsibility to protect our democratic institutions. Therefore, I believe Congress should enact a statutory requirement that the DCI has an affirmative responsibility to inform Congress of all significant intelligence matters, and that no intelligence information may be withheld from the two Intelligence Committees upon a formal request from them. We in Congress became too willing to agree that there is intelligence information which cannot be shared. This good faith on our part has fed an attitude in the Intelligence Community that congressional oversight is limited, that there are things it is better for Congress not to know, that there are times when intelligence officials know best, and that in many cases withholding of information from Congress is legitimate.

Obviously, in reaction to the Iran-Contra scandal, oversight will be especially diligent for a time, unusually insistent on receiving full disclosure of information. But, in a while, things will get back to normal, cooperation will begin again, and the disdain of intelligence officials for congressional "meddling" will reappear. That should not be allowed to happen, insofar as laws and strong oversight can avoid it.

Too often, some in the congressional oversight committees have tended to see themselves actually as part of the Intelligence Community, rather than its overseers. This attitude is typified by the notion that the intelligence oversight committees are just members of the "intelligence family." As I said in a speech on congressional oversight at Middlebury College in 1983, the true relationship between intelligence oversight and the intelligence agencies should be "adversarial, in the best courtroom sense of the term." Cooption is a deadly danger where oversight is conducted in secret and the normal checks of public and press scrutiny do not come into play. The intelligence agencies should be treated no differently than any other departments or agencies which are subject to congressional scrutiny, except of course to maintain necessary protection of classified information. In other words, the intelligence agencies should be compelled to justify their budget requests, their programs and their activities just as rigorously as other agencies.

Such attitudes on the part of the intelligence oversight committees cannot be legislated, of course. However, effective oversight depends on toughminded, insistent and thorough probing by the committees. I urge you to use your leadership to promote this kind of attitude about oversight of intelligence among the members of the Committee. Sustained, personal involvement by member unintimidated by the myths, jargon and secrecy of the intelligence world is the key to real oversight.

We should frankly admit that all the fault for inadequate oversight has not rested on the Executive branch. The Intelligence Committee is a so-called "B" committee assignment, a sidelight for many members to their main committee responsibilities elsewhere. Yet, effective oversight is a full time job. Staff cannot dig out some of the most sensitive and controversial information; only senators have the political stature to do that. Some way should be found to get a core of Committee members engaged in oversight on a much more sustained basis. You may recall my groping for such a mechanism in some of my discussions in the Intelligence Committee. I suggested that a way be found to relieve at least some members of the Intelligence Committee temporarily from some or all of their other committee responsibilities, without loss of seniority or rights on those committees, so that they could devote full or nearly full time to intelligence oversight for a set period of time. Perhaps a fourth of the committee members could be relieved from othe duties for one year, every fourth year, to concentrate on intelligence oversight. This is an issue for the Senate's rules rather than your bill, but I regard some solution along these lines as essential for quality oversight.

The United States has the best intelligence services in the world. They are staffed by dedicated, patriotic men and women who deserve our encouragement and our support. The Intelligence Committees have given them that support. In my time on the Committee we were unstinting in providing political, moral and financial backing for their activities on behalf of the Nation. I have never wavered in my respect and admiration for the professionals in our intelligence services.

But all institutions have vested interests, inner loyalties and bureaucratic dynamics of their own. This is why the Founding Fathers insisted on civilian control of the armed forces, gave the power of the purse to Congress, and established all the rest of the checks and balances of our system of government. The limitation of power, accountability to higher or independent authority, and complete acceptance of the rule of law are principles which apply as fully to intelligence agencies and activities as to any other functions of government.

Again, I commend you and Senator Specter for these valuable bills, which I hope can be combined and strengthened in ways which will bring this Nation the kind of oversight of intelligence it needs and deserves. If there is anything I can do to support your efforts, please let me know.

Sincerely,

PATRICK LEAHY,
U.S. Senator.

Mr. BENTSEN. Mr. President, I am pleased to be an original sponsor of S. 1721, the Intelligence Oversight Act of 1988.

I particularly congratulate the chairman and the ranking member for the work they have done on this matter. It has taken a great deal of time and attention. They have had some excellent hearings on it.

The requirement for this legislation has been demonstrated by our own recent experience in dealing with covert actions, particularly the Iranian arms sales and diversion of profits to the Contras. One of the lessons of this episode is that current oversight statutes, particularly in the area of covert action reporting, are simply not enough.

To be specific, there is currently a statutory requirement that the oversight committees of Congress be notified in advance of covert actions, or must be notified "in a timely fashion" after the fact. This loophole of "timely fashion" was broad enough to allow the administration not to report the Iranian arms sales for some 18 months. I doubt they would have reported them even then, except that a small newspaper in the Middle East broke the story in November of 1986.

This legislation closes that loophole by requiring that the President provide written notification to the oversight committees of the Congress within 48 hours after he has authorized a covert action. There are provisions in the legislation allowing him to notify only a few top congressional leaders if he believes that the action is too sensitive to reveal to the entire membership of the Intelligence Committees.

This legislation is opposed by the White House because, they say, it ties the President's hands. Nothing could be further from the truth. Under this legislation, the President can do whatever he can presently do with a covert action. This legislation will not change those powers in any way whatsoever. It simply requires notification of a minimum number of congressional leaders, of both parties, after he has authorized the action. I believe this is a responsible approach to insure that we do not have another situation where our country is embarked on a course of action with potentially grave foreign policy implications without notifying the Congress that such is being done.

There are other important provisions in the law, such as those requiring that the President personally approve each covert action or "special activity," as they are sometimes called. So that there will be no doubt as to what the President has authorized and when he authorized it, this legislation requires that a Presidential finding be in writing. Furthermore, retroactive findings such as were used in the Iran arms sales are prohibited.

Taken together, it seems to me that these provisions represent a reasonable approach to the problem of regaining control over covert actions, while at the same time not harming in any way our Nation's ability to conduct such operations. I emphasize that the Intelligence Committee has conducted numerous hearings—both open and closed—on this legislation and that it was approved in the committee by a 13 to 2 bipartisan majority.

Mr. President, I would like to close this statement on a more personal note. I have been a member of the Select Committee on Intelligence for over 7 years now. In time of service on the committee I am the senior member on the Democratic side. During these years, it has been my privilege to have had weekly, and sometimes almost daily, contact with the men and women of our Nation's intelligence services. The work that they do for our country is absolutely invaluable, and many of them routinely put their lives on the line with little or no public recognition.

Indeed, when public recognition does occur, it can sometimes mean death, as in the case of William Buckley who was CIA station chief in Beirut. Buckley was taken hostage, tortured, and killed because of what he was doing for his country—our country. There are similar men and women all over the world doing their jobs in silence and without public praise. In the lobby of the CIA headquarters building in Langley, VA, there are rows of stars carved into the wall. Each of those stars represents a CIA employee who was killed serving his country. Beneath the stars is a display case in which has been placed an open book. There are names in the book representing most of the stars on the wall, the most recent one being that of Mr. Buckley. But there are blank lines as well, for some of these CIA employees still cannot be publicly identified, even 35 years later.

Mr. President, I end with these sentiments because I want to make it clear that this legislation is not aimed at the men and women of the intelligence community. I am not criticizing them for the job they do for us each and every day. This legislation is a way of strengthening the oversight process and making our Nation's partnership between the legislative and executive branches in this area a stronger and even more productive one.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I think it is fair to say that many of us are deeply troubled about the 48-hour notification requirement that is in here. It somewhat reminds me of the trade legislation we are dealing with in which the question is whether the President shall have the authority to overrule certain decisions that have been made by the STR and whether the recommendations go forward automatically regardless of what the decision is of the President.

One of our witnesses testifying on that said he wanted it to go into effect mandatorily. It had to go into effect, but not permanently. In other words, he wanted the best of both worlds. We are in somewhat the same problem here. We want notification to take place within 48 hours, but we are not sure that that should be in the statute.

One of the arguments that has been advanced here is that if we had this notification system the Iran scandal, if you want to call it that, would not have taken place. But I do not find that to be quite true, and I would like to ask the distinguished chairman of the committee, if I might, a question on that subject.

As I understand the notification, and we discussed this to some degree yesterday, let us take the most limited notification, the most limited notification would go to the Speaker, the minority leader in the House, and the two leaders in the Senate.

Mr. COHEN. That is correct.

Mr. CHAFEE. Under the statute or what I hope will be included anyway they are not permitted to discuss that finding with anyone?

Mr. COHEN. That is correct.

Mr. CHAFEE. And now that is certainly clear on the Senate side. What the situation is on the House side I am not sure. But I hope that the Senator will be able to include language making it mandatory that in the House that the leader, the Speaker and the minority leader will not be able to divulge that to anyone, secretary, aides, anyone. All right.

Now, if the Iran situation had occurred with this statute in effect and the notification within 48 hours had been given, there is no suggestion whatsoever that that Iran situation could not have proceeded.

Mr. COHEN. That is correct.

Mr. CHAFEE. In other words, the Speaker and the leaders might have said, "This is terrible. We are opposed to it. You should not do it." But there is nothing in the world to prevent the President from going ahead.

Mr. COHEN. That is correct.

Mr. CHAFEE. I am not implying that the distinguished vice chairman is purveying this suggestion, but many believe that if we had only had this in effect Iran would have never taken place, but that is not so.

Mr. COHEN. Will the Senator yield?

Mr. CHAFEE. Yes.

Mr. COHEN. There is no piece of statutory legislation that we could offer that would protect any President, this one or any future President, from exercising poor judgment. All we can do is hope to provide that President with the benefit of our adivce, our collective advice, and that would be in the repository of knowledge and wisdom on the part of the leadership of both Houses. If the President chooses to reject that, that is his prerogative, but he knows at that point that he cannot hope to fall back upon the support of the U.S. Congress in the event such a covert action later became exposed. I think that is a very sobering thought for him to take into account.

Mr. CHAFEE. But at the same time, he might have a very thoughtful discussion with the four individuals involved, and it is a close call. They might come down unanimously that in their judgment it is probably best not to proceed.

And the President decides, "Well, I have thought it all through. I have talked with my advisers, and I am going to go ahead."

Now, there is nothing in the world in that instance, and it might be successful or it might be a failure, but in that case just because he has notified them and they have thoughtfully given consideration to it, there is no promise that if things go wrong he is going to have the support of the Congress in that instance either.

Mr. COHEN. Let me say to my friend from Rhode Island, there have been a number of occasions in which I as vice chairman of the Intelligence Committee have been apprised of certain covert activities with which I have disagreed fairly strongly. I have communicated those views to the administration as to why I thought it was either a bad idea or would not work or might be damaging to our national interest. I have not always been successful. Some of those covert activities have continued. That is the way the system works. I have had an opportunity to convey to the administration, to the President, my views, and he has chosen on occasions to accept them and on other occasions to reject them. That is his prerogative.

Mr. CHAFFEE. So, therefore, if that had all taken place, why would the Iran situation have been any different?

Mr. COHEN. Let me tell you why.

Mr. CHAFEE. Let us take the case where the President had given the 48-hour notice and he had said "We believe for a variety of reasons that we are going to bring forth moderates and so forth, and also we believe we are going to be able to get out our hostages."

Mr. COHEN. Let me respond. There are several reasons why it might have been different. No one can guarantee it would have turned out differently but it might have been different.

First of all, if that proposal had been disclosed to the Members of the Intelligence Committee or to the leadership, to Senator BOREN and myself, and the comparable Members of the House, it might very well have turned out that we would have indicated, "Mr. President, we think this is a bad idea not only because it violates your own stated public policy, but will undermine our ability to deal with our allies in the fight against global terrorism." We would indicate in the event this is an ongoing program, that may take 10 months, "You cannot come to us for an appropriation that will have our support."

So you will know in advance that if it is going to be a long-term program, it is not going to work because we are not going to fund it at a future time.

So that may have had a very important impact upon the President.

Second, the President would have known that if he had notified the appropriate leaders of Congress, we would have said, "Wait a minute, we are conducting Operation Staunch abroad, we are lecturing, hectoring allies about not selling weapons to Iran. You are going to authorize this to take place. Does the Secretary of Defense support this? Does the Secretary of State support this?" They would have said no, if they were going to be truthful, and we would have called the Secretary before us and asked, "Mr. Secretary, why are you opposed to this?"

Mr. CHAFEE. Wait. Let us take the most narrow situation where you only got the four.

Mr. COHEN. That is right.

Mr. CHAFEE. Not the eight, but the four. But even if you have the eight, I do not know how you are going to call the Secretary of Defense before you because it is only the eight and you are not permitted to tell your fellow members of the committee.

Mr. COHEN. Presumably Bob Dole and Robert Byrd would have the same intuitive reaction that I would have. Presumably they would have said to the President, "Can we sit down in the White House, wherever, you name the place. We would like to talk to the Secretary to find out why he is opposed to this."

So I think they would have had a very important impact upon the President. As it was, the President decided to reject Secretaries Shultz and Weinberger, to his regret, I suspect, ultimately, but he rejected it. They made their best case and what happened? Members of the Senate, Members of the House blamed Secretaries Shultz and Weinberger for not resigning. That was their choice, "Resign if you could not persuade the President."

We do not have to resign. We are a coequal branch. We can go to the President, as you go during meetings with the leadership, and you say "Mr. President, here is my view." You are a coequal as far as going down to express your views. You do not have to resign in order to make your point. I think that is the difference.

Mr. CHAFEE. Let me just review the bidding here on who supports this from those experienced in the Intelligence Establishment.

First, let me just summarize what we said, so, therefore, despite the notice that is provided in this bill the Iran situation could have occurred.

Mr. COHEN. Theoretically, that is correct.

Mr. CHAFEE. Now let us go into who is supporting this measure. And I have heard some eloquent statements about Clark Clifford, who is obviously a very distinguished and experienced American who has provided great service to this Nation. He believes the 48 hours should be there.

Mr. COHEN. He would go much further.

Mr. CHAFEE. He would go much further. I heard somebody say his view is he has great reluctance on having the authority for covert actions, period.

Mr. COHEN. What he said was, if we cannot control covert actions, then we ought to eliminate them. This is an effort to structure a responsible approach to exercising oversight for the purpose of that kind of control.

Mr. CHAFEE. Yesterday two former heads of the CIA were quoted, Admiral Turner and William Colby. Both of them indicated great concern over the 48 hours. I have not seen their testimony. We were trying to get ahold of it, but have not been able to, because, apparently, it is over at the printers somewhere.

Could you be good enough to tell me what was their conclusion, yes or no, on this bill?

Mr. COHEN. As I recall, neither Mr. Colby nor Mr. Turner testified before our committee on this measure. So I cannot vouch for what they said before the House. I assume, based upon representations that were made on the Senate floor, that they are in opposition. Then, again, if you are citing Adm. Stanfield Turner, I suppose you could cite Adm. John Poindexter, who also would be opposed to a 48-hour notice. He was opposed to giving anybody notice. He did not want to notify the President. He did not want to notify Bill Casey. Think about this.

Mr. CHAFEE. Well, now, wait a moment.

Mr. COHEN. Let me finish.

Mr. CHAFEE. Wait a moment. I was talking about a former head of the CIA. Just do not choose any admiral in the Navy. Admiral Turner, I was speaking about because he was Director of the CIA.

Mr. COHEN. And he came from a military background to take over that organization and obviously brings together—if you look at his words, do not dismiss it, Senator Chafee, if you look at his words, he would be opposed to notifying anyone. Any time you go out and talk, as I listened to what was being represented on the floor, and you talk to a man in the field saying you do not have to notify anybody who does not absolutely have to know and you are really jeopardizing that person's life, you should not tell. That is an attitude I think was reflected in the White House.

And that is why Admiral Poindexter came to the point where he instructed Colonel North: "Don't even tell Bill Casey about the diversion."

Mr. CHAFEE. I think this is very unfortunate, if I might say.

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. CHAFEE. It is very unfortunate to suddenly leap from Admiral Turner, a former head of the CIA, to testimony or activities of Admiral Poindexter and somehow tie that back, that all the military are opposed to giving any notice to anybody.

Mr. COHEN. I was just trying to articulate to the former Secretary of Navy that those with a military background do, in fact, approach this somewhat differently. We can go on from that point. Admiral Turner apparently is opposed to requiring notification to anyone within a 48-hour period in the Congress.

Mr. CHAFEE. Now, let us move to the current Director, William Webster. William Webster's position, as I understand it—I was unable to reach him today, but I spoke to his congressional liasion officer—a civilian—who said the following: That Director Webster is perfectly prepared to give the notice within 48 hours; that he does not find that a difficulty. However, he is against it being written into the law.

Now, is that the testimony you have from Director Webster?

Mr. COHEN. That is correct. Director Webster testified before our committee and said he could envision no circumstance in which he would not be giving notice, and Robert Gates, who was also up for confirmation for Director, made a similar statement. After the confirmation, after Director Webster was placed at the CIA, he has, of course, become part of this administration. Since the administration opposes this legislation, I see that he had very little option other than to oppose the legislation, while supporting the notion that 48 hours would not trouble him as a matter of practical implementation.

Mr. CHAFEE. In other words, your suggestion is that——

Mr. COHEN. I heard one thing before the confirmation; something else after.

You are asking my opinion. I am simply revealing that to the Senator.

Mr. CHAFEE. I am unable to comment on that. I personally have great respect for Director Webster and believe that if he says he is against it, he is against it. I do not think Director Webster is a person that is trying to cling to his job by parroting what might be the so-called administration line. He is a man who gave up a sinecure, as you know, in which he had several years, 5 or 6 years, I guess, of locked-in service as Director of the FBI.

Mr. COHEN. If the Senator will yield, I get disturbed when people come before congressional committees and are asked specified questions. During his confirmation hearing, a specific question was directed not only to Mr. Gates but to Mr. Webster for the purpose of considering what his position would be on legislation that we contemplated writing and then proposing to the U.S. Senate. That was the purpose for trying to determine what his views were. When we have a statement put directly: "Would you find any difficulty in coming to Congress within a 48-hour period?", and the answer was, "No," I take that into account and, therefore, I could support his confirmation.

Once becoming Director, I think there was a change in attitude. Once assuming that position, obviously he had an institutional responsibility to the CIA. It changed somewhat, in my view. You can say it is simply one of evolution, perhaps, and that may be the case. But the fact of the matter is, prior to the confirmation, he indicated he could not foresee a circumstance in which he would not be up on the Hill within 48 hours giving notification, or shortly thereafter. And now, after the confirmation, he made a very strong statement in opposition, saying this would be destructive to the intelligence community.

My response is, that is nonsense. It has not been destructive for the past 8 years. It will not be destructive in the future.

Mr. CHAFEE. What about Mr. Colby?

Mr. COHEN. Mr. Colby did not testify before the Committee. Mr. McMahon did.

Mr. CHAFEE. I have some testimony here. I am not sure I have the testimony from Admiral Turner and Mr. Colby that apparently was in the House. I am going to look forward to reviewing that.

Well, I want to make a correction. I misspoke myself when I was talking about the Finance Committee when we were dealing with trade matters. The question was whether the action had to be taken where the President would have no leverage at all. And one of our witnesses, a very distinguished gentleman, said he felt the notification should be mandatory, but not obligatory. And I think that is the way we feel about this 48 hours. We would like to have it, but not in every single, absolute instance.

I think that is the problem that bothers me.

I thank the distinguished vice chairman.

Mr. QUAYLE. Mr. President, let me say that I am sort of in the same frame of mind as my friend from Rhode Island. I might tell the manager of the bill that I too am just starting to get involved to see exactly what the testimony was and what the implication was.

The Senator from Maine knows my deep respect and admiration for him. He has done a very valuable service in bringing to the atttention of the Senate an issue that needs to be discussed, and that is how do we go about getting this consulation and getting the cooperation from the executive branch and the legislative branch.

If I had my own druthers in looking at the Constitution and getting into the argument of the Commander in Chief and things of this sort, I would have a far more liberal approach of what the executive branch can do than most other Senators and most other Members of Congress. I also understand the importance of the Constitution, that we have got this sharing of power. We have the separation of checks and balances.

So, my objective, and I presume it would be the objective of the Senator from Maine and others, is: How do we bridge this relationship between the executive branch and the legislative branch? How do we build this trust? How do we build this confidence? Is this not the objective of the legislation so that the Congress can in fact play its constitutional role, as far as being the appropriater of moneys? We declare war, we have oversight, and, therefore, we really do not want to be ignored. We somewhat want to be included and, therefore, we are trying to figure out a way in the best interests of national security, also the best interests of some of the political problems that have happened, the best interests of some of the stupid things that have happened.

I presume, and I do not want to speak for the authors, but I presume the objective is to figure out a bridge between the executive branch and legislative branch that is manageable so that we will have this trust and respect and cooperation. Is that essentially what the objective of this legislation is?

Mr. COHEN. If the Senator would yield, that is precisely what we are trying to accomplish. This legislation does not do any more than what the President has already agreed to put in his NSDD.

All of the elements are virtually the same, except for the notification requirement. The notification requirement comes about because of a dispute over the powers of the Presidency and the powers of the Congress.

We are saying that we are not trying to veto the power of the President to act in the field of foreign policy. But we at least have to be advised; some Members have to be advised. We are trying to minimize it to take into account the needs of the President.

I personally think it is a mistake to confine notice to four people or to the four leaders. I would confine the notice to the leaders of the Intelligence Committees for a different reason. But nonetheless, in the spirit of trying to meet the questions raised by the Executive about the possibilities of disclosure, we said, "Look. Confine it to four people. We think you ought to give notice in advance every time. But if you do not give it in advance because of the extraordinary circumstances, notify the two leaders, the two elected leaders of the United States Senate and the House."

That really tries to take into account the concerns of the Executive while not abdicating the constitutional role of the Congress itself.

Mr. QUAYLE. So the only thing in dispute, what this legislation does any differently, is the notification and that is where we ought to direct our attention. OK.

On the notification, the way I understand it, if the President determines it is essential to meet extraordinary circumstances, then he can only notify the four. If it is extraordinary circumstances and he has to give, I guess, a statement for the reasons—he has to give a statement to these four. What does he give to them?

Mr. COHEN. A finding.

Mr. QUAYLE. Does he give the Presidential finding? In other words, the President makes his finding before he can conduct any covert activity? That is already in the executive branch, that is policy and that is what they do; is that correct?

Mr. COHEN. Under the new NSDD, right.

Mr. QUAYLE. Under the NSDD that you have, a written declaration of a covert activity.

Mr. COHEN. Right.

Mr. QUAYLE. That stays in the National Security Council or CIA—where does that document reside? That Presidential finding? Who has custody of that document?

Mr. COHEN. Normally it is the Director of the Central Intelligence Agency who will maintain custody of that.

Mr. QUAYLE. So it is one person?

Mr. COHEN. Under the NSDD, I believe the President would share that knowledge, must share that knowledge with the members of the NSC, the statutory members. I do not think we know whether each has a copy. I think there is only one copy in existence but they must see it and be apprised of what the covert activity is.

Mr. QUAYLE. In other words they must share it with the members of the National Security Council?

Mr. COHEN. Right.

Mr. QUAYLE. But the actual document and the finding, that goes with the Director of the CIA, and presumably he has a safe.

Mr. COHEN. The agency that is charged with carrying out the covert activity, that person normally would have it. That normally has been the CIA.

Mr. QUAYLE. The CIA probably would be the only agency?

Mr. COHEN. Well, we have seen other examples, most recently around the Contras.

Mr. QUAYLE. Is it not an understanding, from a policy point of view, that covert activities in the future would be conducted by the CIA?

Mr. COHEN. That should be the case.

Mr. QUAYLE. So the Director of the CIA will have this finding of covert activity.

Now, once the finding is signed off on, I presume they have it. After the finding is declared, do they have to discuss it with the NSC?

Mr. COHEN. When they put together a covert action, covert proposal, the way in which it is developed, it is developed within the CIA. It is discussed with the members of the NSC as such so they help to shape it. It is not as if the President suddenly says: I have an idea for a covert action and suddenly in a moment he comes up with a plan. This takes some time for development and usually is shared with the members of the NSC.

Mr. QUAYLE. As we all know, administrations operate differently as far as coming up with these findings. As a matter of fact I have been somewhat critical of this administration, the way they in fact do some foreign policy. It is not through the normal policies of the NSC and some of these working groups. It is too much one on one.

So you could have a situation, if the Director of the CIA and the President get together and they say this is a covert activity, I am going to sign this finding—I am going to sign this finding and, therefore, it must be shared, I guess the statute does not go anywhere—it must be shared with the National Security Council.

But then that finding is written by the President. The CIA Director has a copy of that.

Now, according to the statute the four leaders, at least the four leaders, maybe eight, must be informed within 48 hours of this finding. Do they bring a copy of the finding and show the leaders of the two Houses?

Mr. COHEN. That is what is contemplated, yes. They would show the four leaders exactly what the declaration of the objective of the President is and how he proposes to achieve it.

Mr. QUAYLE. So, in other words, the actual finding itself that he has to sign by the National Security directive, they bring that finding, they go into the majority leader's office and say——

Mr. COHEN. Probably in a closed office, maybe S. 407 or intelligence office, wherever.

Mr. QUAYLE. They could do it either way, do it one by one or all four.

Mr. COHEN. In any secure manner, yes.

Mr. QUAYLE. Any way that they want to communicate this. Then they take that finding, maybe a page, maybe 10 pages, maybe 3 pages, whatever it is, they take that finding and they show the leaders of the House this finding and I presume answer any questions that they may have?

Mr. COHEN. That is correct.

Mr. QUAYLE. Then do they take the finding back?

Mr. COHEN. Yes.

Mr. QUAYLE. So there is no document that is left with the leaders of the House?

Mr. COHEN. If the notice in fact goes to the Intelligence Committee, chairman or vice chairman, a copy of that document would be on file in the Intelligence Committee itself.

We have, of course, extraordinary precautions about the maintenance of confidentiality of documents. We have had outside auditors as such review the security measures implemented by Senator BOREN and myself and they have come to the conclusion that we have perhaps even better control over documents than the executive branch.

So, yes, the findings, as they are today, we have copies of findings that are in fact in our possession.

(At this point Ms. MIKULSKI assumed the chair.)

Mr. QUAYLE. OK. But if the President chooses just to inform the leadership, the House and Senate leadership, in that case they come in and they share the finding with them and then they would take the finding back? They do not leave the finding with the majority——

Mr. COHEN. The gang of four do not get a copy. That is right.

Mr. QUAYLE. So the gang of four does not get a document so, therefore, the actual document itself would just be with the CIA Director.

Mr. COHEN. That is right.

Mr. QUAYLE. Now, then, if they give it to the gang of eight—I appreciate the Senator giving me some abbreviations here—if they give it to the gang of eight, under normal procedure, then, that rests with the Intelligence Committee and you have ways of preserving the security of that. OK.

On the notification to the gang of four it also says that the President shall provide a statement of the reasons explaining why notice to the Intelligence Committees is not being provided.

This is a written notice? Would this be correct? And he has to give a written notice to the gang of four saying: We do not want to give it to the Intelligence Committee.

What reasons will he give for not wanting to give it to the Intelligence Committee and give it to the gang of four?

Mr. COHEN. Frankly, my position is the gang of four should consist of the Intelligence Committee leadership in both Houses because they are the individuals who deal with this on a regular basis; that, in fact, simply notifying a leader, the majority leader or minority leader, is not really adequate in my judgment because they do not have enough background on a day-to-day basis dealing with covert activities.

But nonetheless I suppose the President could say because of the extraordinary circumstances involving the safety and lives of certain individuals, we cannot afford to jeopardize or pose even a minimal risk to their lives. Therefore, under these circumstances, I am going to confine the notice just to the leadership and not to the institutional bodies which normally deal with this.

Mr. QUAYLE. So he has to spell out, basically saying that I do not want to give it to the Intelligence Committee because I think that they will leak it? Basically that is what he is saying, is it not?

Mr. COHEN. I think that is exactly what he would be saying.

Mr. QUAYLE. That is sort of the implication I get. Perhaps two things: Either the Intelligence Committee would leak it or, perhaps, if the Intelligence Committee were informed, that they might know something differently than the gang of four?

Mr. COHEN. In other words, the Intelligence Committee leadership might be in a position to raise questions.

Mr. QUAYLE. Precisely.

Mr. COHEN. I do not think any President would say that. I think it would be couched in a way saying: "Because of the extraordinary security that must be maintained, we cannot afford to"——

Mr. QUAYLE. Excuse me for interrupting. I am just trying to figure this out for the record and what it is all about.

Mr. COHEN. You are asking precisely the right questions because I believe notice should be given to the gang of eight at a minimum. But in an effort to compromise on that and try to build this kind of trust with the executive branch, I agreed to support the four.

Mr. QUAYLE. Those would basically be the two thing: "The Intelligence Committee leaks like a sieve, and we cannot trust those folks." Actually the gang of four. It is down to four folks. "We cannot trust the four." They like the gang of four better than the gang of eight. Or they simply think the leadership might be busy and will not ask perhaps the right questions on this, and it would be easier to talk to them.

Those seem to me the only two reasons why they would want to do this. What were some of the other reasons?

Mr. COHEN. There are no other reasons, and let me say that I think the obligation of any administration is if a President, any member of his Cabinet or the Director of the Central Intelligence Agency, people who normally would be involved with covert activities, feel that any member of the Intelligence Committee, or any member of the leadership of the Intelligence Committee, is not trustworthy, they should go to the leadership of the Senate and say, frankly, "We feel this relationship is breaking down because" Mr. X or Mrs. Y "is not trustworthy, in our judgment."

The chairman and myself have indicated to Senator DOLE and Senator BYRD, "If you ever have this kind of complaint leveled against the Intelligence Committee, including the chairman and vice chairman, then we feel it is your responsibility to remove those individuals from the Intelligence Committee."

We cannot afford to have a situation in which the Executive casts a wholesale indictment over the Intelligence Committee."

We cannot afford to have a situation in which the Executive casts a wholesale indictment over the Intelligence Committee: "We don't trust you folks, and we are not going to tell you what we are doing."

Mr. QUAYLE. That gets into the other questions. I want to get in mind exactly procedurally how this thing works.

Mr. COHEN. You are correct: "Those are the reasons we cannot trust this information in the hands of the four members of the Intelligence Committee. Therefore, we are confining it to you."

Mr. QUAYLE. Basically in a one-page statement, they would say: These are extraordinary events, and we think it might leak out." I guess that would be on one piece of paper. That piece of paper is a written statement from the President to the leadership, to the gang of four.

Mr. COHEN. That is right.

Mr. QUAYLE. They can keep that piece of paper. I presume that piece of paper would be highly classified.

Mr. COHEN. I am not sure that aspect of it would be highly classified. I assume it is all part of one document. I believe what you would have in a finding itself would be a short statement: "Because of the extraordinary nature of this particular operation, because of the extraordinary risk to human life in this operation, we feel, in the interest of preserving and protecting those lives, we should confine notice to the four."

Mr. QUAYLE. My concern is, are you going to leave a piece of paper——

Mr. COHEN. There is nothing left.

Mr. QUAYLE. There is nothing left at all. So, in other words, this is simply just conversation.

Mr. COHEN. It is more than conversation; it is a written document.

Mr. QUAYLE. With the document.

Mr. COHEN. "It is here. Read it."

Mr. QUAYLE. Conversations with the document, eyes only. They may do it with all four, or they may do it individually. They say, "Here it is. We will answer any questions, but we are not going to tell the Intelligence Committees because."

Then they have to come back every week, is that correct?

Mr. COHEN. It is a weekly update, that is right.

Mr. QUAYLE. They have to come back every week and have their pulse taken. It says: "The President shall personally reconsider each week thereafter the reasons for continuing to limit such notice, and provide a statement to the Members of Congress identified hereinabove on a weekly basis, confirming his decision, until such time as notice is, in fact, provided to the Intelligence Committees."

Mr. COHEN. Let me say to my colleague, the purpose of this is to keep the pressure on the administration to come forward and justify it to the four leaders of the Congress of the United States as to why they cannot tell at least the four leaders of the Intelligence Committee. We are the people who are charged by you and our colleagues for overseeing the activities of our intelligence community, and now we are being told we cannot trust them to keep this information, but we want to have the administration to continue to come back to report to the leaders saying why the operation cannot be divulged to the leaders.

The purpose is, at some point, we have to take action to appropriate funds, or authorize the appropriation of funds. It seems to me the only way we could at least tell the administration: "Look, this is an extraordinary circumstance. You are cutting out the very people who are the ones involved on a daily basis with overseeing your activities, but now you are saying you are not going to tell them. We want to make sure you continue to justify in your own mind why this information cannot be discussed with the four leaders."

Mr. QUAYLE. Would it not be much better to say after a time certain that, in fact, the Intelligence Committees ought to be notified? Let us say, 6 months at the maximum. Within 6 months, notify the Intelligence Committee.

The thing is, and I want to get into some things that trouble me, to try to achieve your objective as stated yesterday. I have no problem with the stated objective. I have no problem trying to figure out how we are going to mesh to get that consultation.

To be honest, I have not read the testimony of the Intelligence Committee, but listening to what Senator CHAFEE had to say about what some of the testimony was to the effect that they cannot imagine giving the Intelligence Committee notice within 48 hours, I would presume, unless there is some extraordinary event, that they are not going to notify the gang of four, but will notify the gang of eight. This is sort of a safety valve.

Let us say they find a problem with one of the members of the gang of eight. They think they have a problem, and they just do not want to do it for that reason. Instead, they are not going to come up here and try to get some chairman or vice chairman to resign. That becomes a very messy situation. As a matter of fact, we are not quite like Cabinet members, but when our colleagues' motives are impugned, we want to hear the facts and be a good trier of facts. But the normal reaction is to defend one's colleague, unless you want to get into it for partisan reasons.

Mr. COHEN. We have Senate Resolution 400 which really imposes quite a strong requirement and burden.

Mr. QUAYLE. As it should, and as there are for executive branch leaks as well. I am one of those who believes there are leaks on both sides. I think there are leaks up here and downtown. If downtown thinks they are all up here, that is crazy.

Mr. COHEN. If the Senator will yield for a question for a moment, Bill Colby is one opposed to mandating notice. I believe he is on the record indicating that 90 percent of all the leaks come out of the executive branch, if not more. It is not quite 50-50.

Mr. QUAYLE. I am giving my own personal opinion that the leaks come from both places.

Mr. COHEN. I can assure you, while serving on the committee, I have never discovered, even suspected, a leak coming out of the Intelligence Committee pertaining to covert action. This is something that every single member of that Intelligence Committee takes very seriously.

I might tell the Senator, without going into details, we have had extraordinary covert actions discussed, revealed to us and monitored sometimes on a daily basis, sometimes a weekly basis, with the members, and there never has been a leak about any of those programs.

Mr. QUAYLE. The only thing I can say is there is a general perception, not only amongst Senators, but I think the general public, that there are in fact leaks. I am not going to get into the details of it on who has or who has not. I can make general statements of what the feeling is. I think also that would be the feeling of the administration.

One of the reasons I think the Senator agrees with me is they would say we do not want to in fact give notice to the gang of eight because of potential leaks. But I was listening to Senator CHAFEE quoting I think it was Stanfield Turner or Webster, maybe both, that in fact they figure they would give notice to the Intelligence Committee within 48 hours—I guess it was Webster, they plan on doing this, in fact they will do it, he thinks they will do it and therefore to put it in law he did not think was that necessary. I understand the gang of four is somewhat of a safety valve. If it is a safety valve, my concern is that this weekly notice really just sort of—it is like going to the blood bank, I guess. You have to go down and give it every week. Does the Senator think an easier way to do it would be, after a time certain, give the information to the gang of eight?

Mr. COHEN. I would make it within a week's time, rather than 6 months?

Mr. QUAYLE. I said 6 months.

Mr. COHEN. But other than that, it was a device to try and remind the administration that this is an extraordinary case and that what you are doing in effect is cutting out the very people who are responsible for the authorization of these programs, so it is a healthy reminder, no more burdensome than the President being required to review these very systematically to make sure he has not forgotten what has been undertaken.

Mr. QUAYLE. But on a weekly basis they have to come up and do this.

Mr. COHEN. If you want to make it a biweekly basis or monthly basis, I do not have any objection.

Mr. QUAYLE. I think monthly basis would be far better than weekly, if you have to have it. My preference would be, just thinking this out—and I congratulate the Senator on the extraordinary amount of time he put in on this. I know it is very carefully crafted. I am just trying to go through how this is going to work. It seems to me it would be a far easier situation if you had it on a monthly basis. If every week he has to do this—and it must be something tremendously extraordinary for not notifying the gang of eight. From the testimony of Judge Webster with the Iran-Contra and everything, it is going to be an extraordinary event. Do we want to sort of hassle him on a weekly basis? If he has made this decision, if he has, in fact, made this decision do you want him to come up and bow to the leadership?

Mr. COHEN. It is not a hassle because the President does not come up and sit down with the leadership. He sends up a director. The director is up here on a weekly basis anyway and it is really not a major burden.

Mr. QUAYLE. It may not be a major burden but let me read what is in this legislation: "The President shall personally reconsider each week." That means that he cannot sign off on this thing and let it go. He has to personally reconsider each week so he has to have a meeting with whoever is going to come up here and inform the Members of Congress.

Mr. COHEN. He has a weekly briefing I believe with the Director of the Central Intelligence Agency. His own NSDD requires him to review every 10 days, I believe, the question of nonnotice of covert activities. And so it is not an extraordinary burden.

Mr. QUAYLE. What he has to review is not the covert activities. He has to review why he is not giving the information to the Intelligence Committee. That is what he has to review.

Mr. COHEN. That is one line. This is one line he has to review.

Mr. QUAYLE. He says do we still not trust those folks or do we still think they may know more than the leadership? Why go through the review on why he did not do it in the first place on a weekly basis, instead of saying after 6 months he has to notify them, or in an update he has to do it on a monthly basis, because I do not think this gang of four is going to be utilized this much. I may be wrong. I do not believe this is an administration issue. I believe this is a compromise between the chairman and vice chairman. Am I right on that?

Mr. COHEN. To get back to the Senator's initial point, and that was how do we reduce these barriers that have been erected between the executive and congressional branch, if there is a way to minimize their anxiety about notifying the members of the Intelligence Committee of the leadership of the Intelligence Committee, then let us make one last concession. I frankly think it is unwise, but let us make one last concession and cut it to four. Surely, if you cannot trust four people in Congress, then the country probably is not safe. Here we are trusting a host of characters in the private sector, international arms dealers, but you mean to say you could not trust four people in Congress? So it really is trying to reach a compromise with the administration to say, look, we will go this step, we will go one more. You have to do eight now. We will cut it to four. We really want to cooperate with you.

Mr. QUAYLE. It says, "The President shall personally reconsider each week thereafter the reasons for continuing to limit such notice and provide a statement to the Members of Congress."

Is that also just attached to the finding, on a weekly basis? Do they bring the finding back up and that statement is just there or do they take another statement up and say here is our reasons for not notifying the Intelligence Committee?

Mr. COHEN. No. I think the Director comes up and meets with the gang of four and simply apprises them that the operation is ongoing—the President still feels it is important to confine it to you four, period.

Mr. QUAYLE. Again, there is no written statement?

Mr. COHEN. Unless it were changed. To give the Senator an example, the President signs a finding on January 6, 1986. He signs another finding on January 16 or 17 of 1986. The wording was changed. Now, if you have a change in the wording of the finding, obviously you would want to notify the leaders of that change.

Mr. QUAYLE. If it is at the gang of four level, here is the document, here is the statement of objectives of the covert operation, here is the National Security directive and here is our reason for not notifying the Intelligence Committee and again answer any questions you may have. Then they retrieve the document and the document is placed, I presume, in the safe. So there are no documents left when it comes to the gang of four, only when it goes to the gang of eight.

Mr. COHEN. Correct.

Mr. QUAYLE. That helps me because when I read this, I was wondering if you had to leave the written statement out. I was concerned about a document being left particularly with the leadership.

Let me get to my final concern. Let me share this with my friend from Maine. It comes down to this notification, which is sort of the guts of it, the 48-hour notification. The perception is that if in fact—I am not saying it is reality. The perception is that if in fact you notify the Congress, other countries would simply be unwilling to participate in some activities. For example, it is my understanding in listening to the debate—and I have not read the testimony, but it is my understanding that Admiral Turner said that he would not have engaged in the rescue of those hostages held in Iran if in fact he had to notify the Congress of that operation.

Here is my dilemma. If in fact the perception is out there with Canada—and you could not find a better ally——

Mr. COHEN. Nor could they find a better ally than us, I might add. It cuts both ways.

Mr. QUAYLE. We are good allies. Whatever precipitated Turner to say that, the feeling is if Congress was going to be informed on this, that we would not have performed that operation, and that is what concerns me about the 48-hour straitjacket, that you have to do it within 48 hours.

That operation was—maybe the Senator can help me—conceived and executed in what time period? Are we allowed to say or does he know?

Mr. COHEN. I was not on the committee at that time and do not have access to it.

Mr. QUAYLE. OK. That is the philosophically troubling aspect, that if this exists out there with countries like Canada and others saying if you have this law—and our Government is the most unique in the world. As a matter of fact, other parliamentary forms of government and Western Governments have a very difficult time understanding the congressional involvement in covert activities, intelligence matters and foreign affairs. I am trying to get a feel on this question of whether this legislation would precipitate others to say look, if you are going to notify Congress, we are not interested. And if that is the result, you are going to be interested.

Mr. COHEN. You have to be careful about the use of language as my colleague from Idaho pointed out. When you say we have to notify Congress, if the impression is we have to tell 535 people, I would agree. No other country is going to trust the United States to be able to keep secrets under those circumstances.

But if the word is that you have to notify four leaders of the U.S. Congress which is a coequal branch of the U.S. Government, then I think you make it very clear this is required by our Constitution because we share power. We do not have a monarchy, we do not have a royalty down at the White House. They are the ones who carry it out. You make this clear. It seems to me you are not notifying the entire institution. You are notifying four people in these extraordinary circumstances.

Second point: I do not think we should ever be in the position of allowing other countries to dictate how we operate our country. I know the Senator is a very active member of the Senate Armed Services Committee. How would it be if the Soviet Union said, "Look, we are not going to deal with the United States on arms control if after you sign the agreement you have to go back to Senator Quayle on the Armed Services Committee and get his consent to ratify it"?

Wait a minute. That is the way our system works. Presidents negotiate, sign agreements, and there is a ratification process. I would put it in the same context. You cannot dictate what our Constitution requires. I believe our Constitution requires a sharing in the field of foreign policy, and if you let Canada, a good ally, or any other country say we are not going to deal with you if you tell four members of Congress, then I think we are in dire trouble.

Mr. QUAYLE. In all due respect, there is a constitutional requirement for the advice and consent of ratification of treaties.

Mr. COHEN. Other countries do not like that.

Mr. QUAYLE. There is no constitutional law or statement saying the President must be notified within 48 hours. That is simply not a comparison.

Mr. COHEN. There is a constitutional requirement of the responsibility of Congress in this field, however. You cannot eliminate Congress from that by simply having a country declare, "I am sorry, we are not going to deal with you on covert activity if you are going to notify."

Mr. QUAYLE. We are not talking about eliminating Congress. Congress has to pass on budgets and things of that sort. Congress needs to have information. I am trying to figure out how to bridge the establishment of trust. It is not any kind of constitutional law that the Congress has to be given notice within 48 hours.

Mr. COHEN. That is correct.

Mr. QUAYLE. That is simply not the case. It is not a comparison to the advise and consent.

But that is sort of the fundamental problem I have with this 48 hours' notice. They say they will give enough notification. But what this legislation is the result of is this whole Iran-Contra debacle. What we are trying to do is I think legislate perhaps too narrowly. I am not going to get into this until later on, this 48-hour thing, and trying to proihibit what I consider to be stupid. I mean, it is very difficult to outlaw stupidity. We are trying to outlaw stupidity, and I wonder if in fact we are putting somewhat of a straitjacket on this mandatory 48-hour notification that really would be counterproductive.

It is not that the other countries are going to dictate what our decisions are going to be here. I am just wondering what the reaction is going to be. We always have to figure out what the reaction is going to be, whether it is INF or this legislation. What is in fact going to be the reacton? Where are we going to go from here? I guess I am just a little bit concerned about that being mandatory.

Mr. COHEN. The reaction is going to be to say, "Mr. President, you have to notify Bob Dole, Robert Byrd, instead of Mr. Khashoggi, Ghorbanifar, Secord, Hakim," and the list goes on.

Yes, you are going to be required to notify four people, and if other countries suddenly say, "We can no longer trust the United States," I think frankly this is being overblown in order to defeat the very notion of requiring this kind of a notice to the Congress. I think it is an exaggeration.

The fact of the matter is the President has given 99.9 percent prior notice, not subsequent notice, but prior notice. We expect that to continue. We are dealing here with a very narrow band of cases in which there is an extraordinary situation. I expect them to be very few, and in those few cases we will say we will confine it to four people. I do not think other countries are going to rush in the opposite direction away from the United States.

Mr. QUAYLE. Giving information to Kashoggi or Bob Dole, if you are going to have somebody that is dumb enough in an administration to share information and enter into arrangements with people like that, as a matter of fact, this law is not going to get to that. They could still do dumb things, absurd things. We cannot pass laws that outlaw that. That is what my concern is. We are trying to outlaw stupidity. This has been, I do not think contentious, but it has been a very important issue on how this notification takes place, how confining it is going to be. That is just my concern. I just use that example——

Mr. BOREN. Would the Senator yield?

Mr. QUAYLE. Of the hostage situation if in fact it would have happened if we had this law. I would be glad to yield.

Mr. BOREN. Madam President, I thank the Senator for yielding. I do not want to prolong this colloquy. I understand the feelings here. I know the Senator from North Carolina is waiting patiently to offer an amendment.

We want to do that. We hope to complete the bill in the next hour approximately.

But let me say I have been able to hear a portion of the concerns addressed by the Senator from Indiana. He knows I have a great respect for him. I would tell him and share with him that when this Senator first heard the idea of a proposal that there would be an absolute mathematical requirement to give notification within 48 hours, when I first saw this proposal reported in the press, this Senator's first reaction was to say "I am not going to be for that."

When we even started considering this bill, this Senator had grave misgivings as the Senator from Maine has indicated. In fact, we both stated here on the floor that I offered an amendment in the committee which the Senator from Maine opposed which was added to this bill.

I struggled with the very question which the Senator from Indiana is struggling with right now. I struggled with this for days and weeks because I have a very strong feeling about the powers of the President under the Constitution as Commander in Chief. I have been chief executive of a State. I am accused sometimes of having an executive branch perspective on these matters. I am very concerned about safeguarding information that should be safeguarded, and there are some things that should be said. There are some things that have to be secret even in a democracy if that democracy is to serve its own national security interest and preserve itself at times. There have to be covert actions, and they have to remain covert, not on the front pages of the newspapers, if they are to be effective.

So I feel very strongly about this matter. I think I feel as strongly as the Senator from Indiana feels.

But also, having the experience now as chairman of the Intelligence Committee, the Senator from Maine, and all the members of our committee have done our best to really establish tight procedures in our committee. I have been complimented by Senator McClure and the Director of the CIA. There has not even been an accusation of any leak out of the Senate Intelligence Committee for the past few years since we imposed the new rules and regulations. No. 1, they would remove Members found responsible, and staff would be immediately dismissed.

We highly compartmentalized information. We do not even let documents or notes be taken out of our committee space that are classified; not even notes from a classified briefing. We have really battened down the hatch.

But I have seen time and time again the real problem that occurs, I would say to the Senator, when the President takes an action and Congress is not informed, the leadership of Congress does not feel a part of it because of the Constitution. The Constitution says we will have to appropriate the money. We have to appropriate the money even for covert actions because that is expenditure of public funds.

That is the reason I believe we are in so much better shape as a country, and the President is in a much better position if there is some communication with the Congress. We have never given the Congress the power to veto the President. He has to be able to act in emergencies, and instantly. This bill lets him act instantly. He does not have to have it in writing. He has to reduce it in writing after the fact. But he can still be on the telephone, and say "Take action right this second." If it is required, split second. We never want to take that away from the President.

But I narrowed it down, first, and under existing law we have what is called a gang of eight. You understand who is in the gang of eight. That even still worried me. I thought there might be circumstances in which the President of the United States—even though they would not have a veto over him—would not want to have to tell the gang of eight. What if one member was unreliable, or the President had some reason to wonder if that person were reliable? So I offered an amendment to reduce this down just to four, just to four, to the two leaders in each House. My theory was that they were the people really elected by all of us. They are in the best position to understand their institutional responsibilities, and have a commitment to it.

I think the two leaders in this House are the kind of example and kind of people who have that kind of dedication. Whatever disagreements we might have with either one of them I think they are sticklers for the rules, for procedure, and doing their duty as the rules of the law compel them to do it.

They would be the last people—if we had a provision that the President told them under circumstances they could not tell anyone else, not even another Senator, they would not violate that.

It seems to me that you never have a situation where you do not have to have quite a few people. Even a score of people would be a tightly compartmented situation in the executive branch.

I have just finished the biography of Mr. Rayburn. We had the development of the atomic bomb, the breaking of the code, and other things, and there was always this tiny handful of people in Congress—Rayburn was one who knew about it—who helped put in the appropriations in a way that would not be noticed.

I think it sometimes helps the President to have the benefit of the advice of these people, so that when he notifies them, he may not agree with them, but sometimes they might see something, a little side angle, he did not see. The old saying is, "Two heads are better than one."

In balancing it out, the terrible damage that occurs when we do not have bipartisan consensus, when there is no communication between the two branches of Government, when something blows up and no one in Congress has been informed, and the benefits to be derived from some shared consultation, sharing of ideas, including the best thoughts in town, and you offset that against the minuscule risk that any one of those four—and I reduced it to four because I struggled with the point that the Senator from Indiana has been struggling with. It bothered me. We had some very interesting and stimulating intellectual exchanges on this matter. That is the reason why we ended up with this provision in the law. It was not even totally voluntary. We had a rollcall on the matter and put it in the bill. I think that with this in the bill, it strikes a balance.

There is much to be gained for the President, any President, in our working together for the national security interests, with this kind of cooperation, at least with the four people at the top and such a minimum risk involved.

In my experience, I have talked with people in the intelligence service of other countries in terms of what I could do, as chairman of the Intelligence Committee, to increase their confidence in our intelligence services. I have explained to them our new committee procedures, and they have applauded those procedures.

We have taken out items about third countries. We have done this at the behest of intelligence services of other countries.

I say to the Senator from Indiana that I understand why he is struggling with this bill, and I think we have struck a fair balance. Nothing is perfect, but I think we have struck a fair balance that protects our national security while giving us the bare minimum acceptable level of input and accountability into the system that makes this worthwhile balance.

This may or may not convince the Senator from Indiana. I have struggled with it. It has been a very difficult matter for me. But I think we have come down now with a product, and many of the provisions of this bill do much to clear up ambiguity. Virtually everything else in this bill exactly tracks the President's national security directive, and we have worked with him in the best spirit of bipartisan cooperation. It is a model of things that have gone on. It comes down to this one feature, which is a difficult one. I lost sleep over it.

Mr. QUAYLE. I say to the chairman of the committee, my dear friend from Oklahoma, that with respect to what he said about trying to strike a compromise, and particularly the spirit of bipartisanship, he has always been in the forefront.

I was struck by an article—I believe in the Washington Post or one of the major newspapers—that the Senator from Oklahoma wrote, about 6 months ago, on forming a bipartisan foreign policy. I certainly congratulate him on that article. I thought it was a very well-written article. He said he would want to sit down and be constructive, and he feels that what he has done is constructive.

I have not wrestled with this problem as much as the Senator from Oklahoma has. He obviously has thought about it deeply, has had a lot of concerns and problems with it, and he has very well articulated where he came down.

As I said, in the spirit of bipartisanship, there is nobody more in that spirit than Senator Boren, particularly on foreign policy issues. I think he goes to the head of the Senate in doing that. I think he has done an outstanding job in his role as chairman of the Intelligence Committee. His capacity and inquisitiveness on issues such as this and the INF Treaty have provided a very valuable service, and I am delighted that he is where he is.

However, the thing that comes back to haunt me is that many of the advocates in the past of this mandatory notification have come from the philosophical school of thought that they do not like covert activities, that they are sort of nasty, that they wish we did not do it.

As a matter of fact, a column that was placed on our desks today, by Haynes Johnson, in essence sort of concedes that point, that covert activities are not something we ought to do in the first place.

I know the genesis. I know where the Senator from Oklahoma stands. Also, the Senator from Maine does not subscribe to that. But it is the genesis of this argument.

Then, when we got into this debate, particularly on the notification, we came down on this mandatory 48-hour requirement. Again, particularly under the stewardship of the Senator from Oklahoma and the Senator from Maine, we have had a very tightly run, very well organized Intelligence Committee. The Intelligence Committee is doing its homework of getting into these things and doing it in the way it should, within the confines of the Intelligence Committee and not on the front pages of the newspapers, and the Senator should be congratulated on that. But there is that perception out there, and perception is reality. We all know that.

The thing that still perplexes me is if this is going to result in not going forward with some of the covert activities that we might deem necessary. That is what really troubles me. I go back to the example of what Stanfield Turner said to the Ambassador of Canada. That is the example that is still here.

Mr. BOREN. I will make this my last comment, because we need to go forward and get these amendments offered. Many of our colleagues are anxiously looking over our shoulders and wanting us to move ahead.

There were some people in Congress who talked about the Canadian matter. If it were limited to these four people, I do not believe Canada would have had any objection in that circumstance.

I want to make clear to the Senator from Indiana that this Senator believes in having covert actions. I believe they are a necessary adjunct to supplement basic foreign policy. This Senator believes some things are better done as secret operations.

However, this is one point I wish to make to the Senator from Indiana: I am convinced that if we continue to have a failure of communication between the executive branch and Congress and we do not have some minimal process of notification, the very thing he worries about, that there would be a tendency to do away with the covert operations and not let covert operations take place, and not have secret operations, the most likely thing to cause the complete cutoff is the failure to have in place a system in which those people who are opposed to covert operations can at least give some degree of accountability to Congress in the process.

I am afraid, if we get this whole situation where there is a standoff between the two branches where there is not in place a reasonable means of communication that still preserves secrecy and still preserves the covert action, that is the course of action that will lead to the very thing that the Senator from Indiana is talking about. So I say that as a supporter of covert operation, the necessity to have some secret operations, knowing where many Members are coming from and seeing tides develop in Congress as an institution.

I think that this is a carefully crafted reasonable moderate solution, and if we do not take this opportunity to have a carefully crafted reasonably moderate solution, certainly not a radical solution, I think the Senator from Indiana would know the Senator from Maine and myself working on this, this is by no means a radical solution put forward by those who do not want to have any kind of secret operations. If we do not take this opportunity to do something reasonable and moderate I think we can set the stage over a period of time with this trend continuing that we really would see the inability of the country to have covert operations.

So there are times in which I think if you do not take the constructive action, careful action that you build up pent up feelings that end up causing irresponsible actions, and I tell the Senator that again my year of experience, and that is not a long time, but my year of experience now as chairman of the Intelligence Committee convinces me even more the more effective we are doing our job of oversight the better able we are to keep those operations secret and keep some of those operations ongoing; otherwise many of our colleagues were they not convinced we were vigilant watchdogs would simply want to shut things down altogether in some instances. That is what bothers me.

Mr. QUAYLE. Let me say very briefly, because my friend from Maine tells me there are amendments Senators wish to be offered, and I do not want to stand in the way of progress on this bill or amendments being offered. Let me just say to my friend from Oklahoma I could not agree more, and I congratulate him for getting out there and particularly working for this consensus, the bipartisan support, and to try to move us along in some rather sensitive areas that I guess people basically would not like to be bothered with, and quite frankly I understand that. Covert operations are a messy business. Not pleasant. War is not pleasant. Deterrence is very important.

The Senator has done more to try to get that and the objective which I share with the Senator from Maine is how do we build that trust, confidence, and consultation that will lead to a consensus oriented foreign policy here in the Congress which would also be in the country.

That is our objective. That is my objective. That is the objective of the Senator from Oklahoma. The question is how we go about doing that.

That is what the stated purpose is, and I am just still somewhat troubled by this mandatory 48 notice, but I am not going to say any more at this time. I will pursue with the Senator from Maine and others perhaps changing this weekly review by the President.

But in lieu of that and in the interest of time, Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

Madam President, I support the bill and I think it worthwhile to summarize briefly from this Senator's perspective how we got here and the reasons therefor as well as some of the other issues which were in the wings to be considered by this body on another date. I had considered adding by way of amendment some items to this legislation, but I shall not do so for reasons which I am about to particularize.

Madam President, the Intelligence Committee initiated an investigation the day following Thanksgiving, 1986, after the disclosures of the sale of arms to Iran. We proceeded for more than a month in December of 1986, prior to the time the select committees were formed and took over that investigation, after that, the Intelligence Committee then maintained a close watch on the issue with a view to correcting the problems on the written finding and appropriate notice from the President.

The legislation which has emerged and is on the floor today was crafted after very, very extensive consideration.

The Intelligence Committee had two very protracted sessions on Friday, June 26, and Saturday morning, June 27, 1987. We were in session for other business which enabled us to have a more leisurely session where more Members could be present on that Saturday morning, and we came to very basic conclusions about the necessity for a written finding and about the necessity for mandatory notice.

This Senator favored contemporaneous notice by the executive branch to the Intelligence Committee. We considered 24 hours and then we considered 48 hours notice. I have my notes from that Saturday session about normal issues, urgent issues, extraordinarily sensitive issues, extremely sensitive and urgent issues, all of which would call for gradations as to who would have to be notified.

As a result the Intelligence Committee addressed a letter to the President. There was an exchange of correspondence. The President came back and agreed with a great many of our concerns as to the written finding and as to notice, but, there was a major limitation which we found unacceptable.

In paragraph 6 of the letter from President Reagan, dated August 7, 1987, the President wanted to provide notice in all but the most exceptional circumstance, and that language really would leave us in worse shape than we were in under the existing legislation.

That is why we persevered here. In August I circulated a draft of legislation and Senator COHEN then introduced S. 1721 and I introduced S. 1818. S. 1818 had two additional provisions, one which called for a CIA inspector general to be appointed by the President, with the consent of the Senate.

We had hearings on this issue last week and had as witnesses the Comptroller General and the Inspectors General of the Department of Defense and the State Department. They testified about how those independent inspectors general worked very, very successfully. We heard that of the 19 independent inspectors general in the Federal Government, 18 had been opposed by the agencies which did not want to have that kind of review, understandably so. Director Webster was in from the CIA and raised his objections to the matter. We, the committee, gave consideration to this IG provision and I had considered adding that as an amendment today. I have decided not to do so after consultation with Senator COHEN, because it may be a complicating factor on the history of the S. 1721 bill where there may be a veto. There may also be other reasons advanced not to muddy the water, so to speak.

Another provision of S. 1818 which I had introduced, besides the mandatory reporting requirements, would have called for mandatory sentences for those who lie to the Congress, especially for those who lie to the Intelligence Committees in secret session. When materials are brought to our attention which are untrue, unlike public hearings where there is an opportunity for others to hear the false information and come in and correct it. The public does not know about it and we are precluded from finding out from public sources what has happened.

The select committees on the Iran-Contra affair published their report under a category of misleading testimony, particularized testimony which was given and was very, very harmful. It went beyond that and cited testimony by the Deputy Director of the Central Intelligence Agency, that CIA personnel shunned information, so they would not know or be in a position to give the Intelligence Committees important information, all of which has been extremely harmful to the operations of the Intelligence Committee.

The select committees categorized this conduct in really harsh terms saying "This turned upside down the CIA's mission to collect all intelligence relevant to national security. Such behavior is both self-destructive and corrosive of the democratic process."

Since I introduced the provision calling for mandatory sentences, I have received a fair number of contacts urging that it not be pushed. Yet, I believe there has been some therapeutic effect to have the bill introduced and to have had hearings on the bill.

My own sense is to continue to push the measure. It provides for the mandatory sentences and also provides that the lying has to be willful and intentional. It also provides that if the person providing the false information recants within 5 days, then the provision is inoperative.

The matter would be understandable if a witness appeared before the Intelligence Committee and were to say, "I really can't answer that question," or, "I have to check with my superiors before making disclosures" which might be embarrassing. There may be disclosures which an individual might think he does not have the authority to make; that would be understandable and we would not press a witness under those circumstances.

But if a witness lies to the committee, that is a matter of utmost importance. And I know that this statement on this floor, at this time will be heard by those who testified both before the Intelligence Committees in secret and other committees. They would say that there are provisions now for criminal sanctions under 18 U.S. Code 1001 for giving false information to Government investigators, and that prosecutions have been brought. But the mandatory sentence would be a lot tougher and would put people on notice. I think it is a measure which ought ultimately to be adopted but, it is a measure which I am not going to press at this moment.

One word about a companion bill, S. 1820. This would make some fundamental changes in the structure of the intelligence community by separating the responsibilities of the Director of Central Intelligence from the Director of the CIA. The Director of the Central Intelligence, simply stated, has too much to do to coordinate the vast intelligence bodies in the Federal Government. To combine the responsibilities of the Director of the CIA and the Director of Central Intelligence really means that the individual cannot perform all of those functions. And, as Secretary of State Shultz said in the hearings before the Select Committee, there was a tendency when a person was in charge of covert operations and also in charge of supervising the intelligence function to perhaps cook the information; if not to cook it, if not to boil it, perhaps to broil it, perhaps to saute it, so that it comes out just a little different than it would be if the individual did not have collateral responsibilities.

Madam President, I think those are important measures but, in the interest of having a clear-cut issue on the matter of written findings supported by appropriate reasons and mandatory notice, this Senator is not going to offer those additional provisions at this time.

Madam President, I would like to have a brief colloquy with the chairman of the Intelligence Committee, if I might have his attention.

I say to Senator BOREN that I have discussed with Senator COHEN the utility of a very brief discussion but, in Senator COHEN's absence, I would like to have it with the Senator from Oklahoma about the existing provisions of law which are not affected by these new provisions. They relate to the current requirements that the Director of Central Intelligence and heads of all departments, agencies, and other entities of the U.S. Government involved in intelligence activities shall keep the Senate Select Committee and the House Committee "fully and currently informed of all intelligence activities * * * including any significant anticipated intelligence activity and significant failures."

I think we ought to make it plain on the floor today that the pending legislation does not change those requirements. So there is that obligation to maintain, to give us advanced notice in the Intellgience Committees.

(Mr. GRAHAM assumed the chair.)

Mr. BOREN. The Senator from Pennsylvania is absolutely correct. This does not change that provision of the law. That obligation remains exactly as it is now. It is a very important obligation and one that we have a responsibility to make sure is met.

Mr. SPECTER. And there is no modification of subsection 3 of section 501(a) to report in a timely fashion to the Intelligence Committee any illegal intelligence activities and significant intelligence failures.

Mr. BOREN. The Senator is correct. That provision remains exactly in force as under current law and that still remains an obligation and a very important obligation. We know, unfortunately, from past omissions that that is a very important obligation and remains absolutely as it is. It is not changed by this legislation.

Mr. SPECTER. And there is no eradication of the provision under subsection (b) that the President shall fully inform the Intelligence Committees in a timely fashion, et cetera.

Mr. BOREN. That is correct.

Mr. SPECTER. I think it is important to point this out on the RECORD, Madam President.

I had the opportunity to participate yesterday at a seminar at Georgetown with some experts in the field. There was concern that the provisions of this bill might be counterproductive. My view that I expressed there and restate on the floor at this time is that it is important that there be a specific 48-hour requirement which does not subject itself to legalistic interpretations about what "timely" means or the other provisions of existing law. And that is why we had taken a stand to put in this language with the ultimate enforcement mechanisms.

I might say, parenthetically, we reconsidered criminal sanctions and disregarded that as being inappropriate. But the ultimate enforcement mechanism would be the political mechanism so that when it is there in the language and when you have to tell the Intelligence Committee subject to the limitation in 48 hours—and you have the 8-second clip on national television and headlines in the national media and press—nobody can argue about what 48 hours means: that it is mandatory, it is obligatory, and if the executive branch does not do it, they have violated the law; to make it plain that these other provisions remain in full force and that we are adding to it and not in any way eliminating what has been, or subtracting from, the law.

Mr. BOREN. I thank the Senator very much for his comments.

Mr. President, I would say to my colleagues—and I think this is known by the entire body—that the Senator from Pennsylvania is a very important member of the Intelligence Committee. He has made a very significant contribution to the workings of that committee. He is one of the most faithful members in terms of being present and giving thought to the issues before us and in giving his own input.

There are many provisions in this bill that have benefitted form the intellectual contribution and creative thinking of the Senator from Pennsylvania. I appreciate that contribution very, very much. Time and time again, the Senator from Pennsylvania has called my attention to important matters and focused the attention of the entire committee in a way that it should be focused. I think the Senator is absolutely correct in terms of his own analysis of the legislation and how he has responded to some of the critics.

The President himself, it is interesting to note, in his National Security Directive, which he issued after consultation with our committee, indicated that it would be his practice to give this information within 48 hours. That is a strong indication that the President himself says that this is the way I intend to operate; this is not an unreasonable requirement; it is not one that will put undue burden upon the President.

I think everyone's interest is served—the President's, the Congress', and certainly the interest of the American people—by removing ambiguities from the present law. And this very vague term "timely notice" obviously clearly needs to be more carefully defined, and we have done that in this bill. We have gone ahead and we have struck a fair balance in this bill between the need for secrecy, as I said before, and the flexibility of the Commander in Chief to act and yet have the kind of accountability we have to have in Congress.

Some people have said to me, "Well, if the President would agree to all of this in the National Security Directive and if you have these clear understandings, then why do you need statutory enactment?" I would just say, we have to have statutory enactment because, for one thing, I truly believe that this President, who has been through the very painful experience of the Iran-Contra matter, fully intends to follow the procedures set out in the National Security Directive. I think he knows from his own experience how important it is.

But what happens 20 years from now or 30 years from now when we have a President who has not had this experience, who has not focused his attention on these kinds of problems that can develop if notice is not given in a timely fashion and not given soon enough, what happens then? They might begin not to follow these procedures or they might change them. And any President is free to change an Executive order or a National Security Directive.

There are also those in Congress who will say, "Well, since it can be changed, we do not really have any protection. We do not really have any accountability. Therefore, we ought to just cancel all of these programs or we have to tie the hands of the President. We ought to take some more extreme action." So I think the Senator from Pennsylvania is exactly right in what he is saying. He is pointing out under the provisions of current law the protection of all remains in place. It is an important provision of current law. I think he has given a very clear rationale why this legislation is needed.

Again, I want to thank him for the immense contribution that he has made, not only to this particular piece of legislation but also to the entire work of the Intelligence Committee.

Mr. SPECTER. I thank the distinguished chairman for those very, very gracious remarks. I had quite a few other things that I wanted to say but, being so far ahead with those comments, I am going to conclude now.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Pennsylvania yields the floor.

Who yields time?

The Senator from North Carolina.

Mr. BOREN. There is no time limit.

Mr. HELMS. Mr. President, are we under a time agreement?

The PRESIDING OFFICER. There is no time agreement. The Chair recognizes the Senator.

Mr. HELMS. I thought the Chair said, "Who yields time?"

Mr. President, I have been here this morning, ready to offer some amendments, and I have been greatly enlightened and impressed with the debate and the discussion, and I did not mind at all waiting.

I mention this simply to say to Senators who may wish that amendments not be offered, so they can go home for the weekend, I shall expedite it as much as possible. I do have two or three amendments I do think the Senate ought to consider.

AMENDMENT NO. 1625

(Purpose: To express the sense of the Senate that unless General Noriega is extradited to the United States for trial, the President should consider beginning the phased withdrawal of dependents of United States forces in Panama and the suspension of any troop withdrawals or base closures under the Panama Canal Treaties of 1978)

Mr. HELMS. I have an amendment at the desk which I now call up and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment number 1625.

Add at the end of the bill the following new section:

"SEC. . It is the sense of the Senate that unless and until the Republic of Panama promptly extradites to the United States for trial General Manuel Noriega on charges of drug trafficking, within 30 days of the enactment of this Section, the President of the United States should consider initiating the phased withdrawal of dependents of United States military personnel stationed in Panama and should notify the Government of Panama of the intention of the United States to suspend, should it prove to be required by the supreme national security interests of the United States, the operation of any provision of the Panama Canal Treaties of 1978 mandating the withdrawal of United States military personnel or the closure of any United States military base protecting the Panama Canal.".

Mr. BOREN. Mr. President, I intended in just a moment to send a perfecting amendment to the desk. Let me say that I share with the Senator from North Carolina, and he knows it, that I share the concern that he has with what is happening right now in Panama.

We have a situation where we have a very brave President of that country, President Delvalle, the rightful President of Panama, who has been ousted in an illegal fashion by President Noriega and his cohorts.

I think we all understand that General Noriega has few peers, in terms of the corruption of the regime that he is attempting to operate. This corruption, serious allegations that have led to an indictment in courts of law in this country on the basis of probable cause for alleged trafficking in drugs, coupled with the clear game that he is now playing, by bringing himself ever closer, publicly now as we have suspected privately for some time, with Fidel Castro, of Cuba, and with President Ortega, the Marxist President of Nicaragua, is poisoning the relationship between the United States and Panama.

Mr. President, even more than that relationship and even more than the damage which General Noriega has been inflicting upon this country because of the roll which he has played in the drug scene—and all of us know the tragedy that confronts us with young people across our country who are being tempted with illegal drugs and having their lives ruined—even greater than this very significant damage that General Noriega, through these actions, has done to the United States and to the relationship between the people of Panama and the United States, is the damage that he has done to the people of his own country.

In recent days, as we know, he has moved to close the opposition newspaper; LaPrensa has been closed. Opposition radio stations have been closed. The soldiers are now controlling the streets. They have resorted to the use of lethal force. They have fired live ammunition at protestors. They have forced their way into private establishments, including at least one radio station that was daring to broadcast support for the economic slowdown and shutdown is now occurring in Panama.

I think all of us understand the nature of that regime. We deplore it. We applaud the courageous action of President Delvalle, attempting to stay in his own country, and he has called upon the people of his country to support him.

If the signs of compliance with the general strike called by President Delvalle are any indication, the people of Panama by an overwhelming majority support their rightful President and would like to see an end to this corrupt military dicatorship and would like to see a restoration of true democracy and a restoration of a rightful relationship between Panama and the United States.

Mr. HELMS. Would the Senator yield to me?

Mr. BOREN. I would be happy to yield without losing the floor or rights to offer a perfecting amendment at this point.

Mr. HELMS. I would like the Senator to yield to me for purposes of withdrawing my amendment.

Mr. BOREN. I would be happy to yield to the Senator for that purpose.

Mr. HELMS. Very well. I withdraw the amendment.

The amendment was withdrawn.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Oklahoma had yielded for purposes of allowing the Senator from North Carolina to withdraw his amendment.

Mr. HELMS. Very well.

Mr. BOREN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor. The Senator from Oklahoma suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from North Carolina.

Mr. HELMS. Mr. President, presently I am going to offer a slightly amended version of the amendment which I have just withdrawn. I did not realize that the distinguished Senator from Oklahoma, who is my friend, would attempt to come in on top of me with a perfecting amendment which I have not ever seen. I have no feeling about that. He was well within his rights under the rules of the Senate, but I had shown him my amendment earlier and I would have expected, perhaps, that he might want to have shown me and discussed with me his proposed substitute. But let me proceed on the amendment that I shall offer shortly.

In order to do that I think a little historical note ought to be encompassed in this matter.

Come April 18 of this year, 10 years will have elapsed since the Senate, by a vote of 68 to 32, gave its consent to the giveaway of the Panama Canal. Of the 68 Senators who voted for the Panama Canal giveaway, 40 are no longer in this Senate. Of the 32 who voted to keep the canal, 16 remain in the Senate today. So, obviously, of the 100 Senators who voted on the Panama Canal Treaty, 44 are still in the Senate. Of the 56 no longer here, only 2 who voted against the giveaway of the Panama Canal, only 2 who voted against, as opposed to 23 who voted to give it away, were defeated for reelection.

From these results it seems clear, at least to this Senator, that the American people did not approve the decision of the United States Senate to relinquish United States territory in Panama.

It is also clear that recent events in Panama and Central America have in large measure confirmed the wisdom and foresight of the people of America in 1978 in what I regard as the shortsightedness of the United States Senate at the time those Panama Canal treaties were ratified.

In any event, the amendment that I shall shortly propose, and the amendment which I have just withdrawn, would allow Senators who were not here on April 18, 1978, the day that the Senate voted to ratify those treaties, an opportunity to express their view on the wisdom or lack of it in turning over the Panama Canal Zone to Panama, and to do so in a positive rather than a negative manner.

It will, of course, allow Senators who were present in this Chamber in 1978 to assess the correctness of the decision they made, one way or another, on that crucial day in Senate history.

I well remember the admonishment to so many Senators on this floor of the late Senator Jim Allen, of Alabama, who stood here day after day and night after night pleading with the Senate not to make this mistake.

If you go back to the RECORD, you will see that Senator Allen and this Senator from North Carolina and others, forecast that there would be turmoil in Central America. We emphasized that you cannot buy friends by compromising principle. And yet, precisely, that is what happened.

But the amendment I shall offer will have a further purpose that is more important than all the rest: To make clear to the people of Central America, and particularly the people of Panama, who desperately want their country back, that the issue of the Panama Canal continues to be one of major importance to the people of the United States.

After all, Mr. President, it is the American people, it is the taxpayers of this country, who built the Panama Canal, paid for it, and who have over the decades, provided the manpower and the funds to defend the Panama Canal and to keep it open.

But those were the arguments we made in 1978. Make no mistake about it, Americans continue to have a stake in the Panama Canal, perhaps now greater than ever before, and a vote on the amendment that I shall offer will serve to demonstrate the degree of importance we attach to the canal in relation to the security of our country.

It will also make clear that Panamanian military dictators are not free to violate the laws of the United States of America with impugnity, especially when their crimes serve to corrupt, through drugs, the youth of America and place the future of this country at risk.

Mr. President, those of us who were in the Senate 10 years ago will recall how we were told at that time that the Panama Canal Treaty would solve the problem in Central America and, indeed, a large part of South America as well.

We who opposed the giveaway of the Panama Canal were told that our intransigence—and that is the word that was used frequently, our intransigence—was going to provide a fertile ground for the Soviet Union and for the spread of communism in the Western Hemisphere.

My Lord, look what has happened in the past 10 years.

We were told during the debate—and some of it was rather stringent; I remember that tempers flared, and also some parliamentary devices were used—we were told time and time again that we were stubborn and hardheaded in our attitude against giving away the canal, and that by our actions, in effect, the day of a new era of sunshine and democracy in Panama and Mexico was being jeopardized. "Just approve this treaty," we were told 10 years ago.

Well, the treaty was approved. It was ratified. And now look.

We were told, as I remember the debate—and I remember the Senators who made the point and a lot of them are late lamented because they are no longer here—we were told, Jim Allen and I and others, that if we would just take this one step and give away the sovereign United States territory belonging to the American people, then the Panamanian dictatorship already at that time known to be involved in drug traffic would be replaced with a broad-based democratic system, and that all of Central America would love and admire the United States for its magnanimous widsom, and that the intrusion of the Soviet Union, the gangster governments in Latin America, would be effectively ended.

Well, the treaties were ratified, and there were all sorts of head-knocking and all sorts of deals made to get the requisite two-thirds vote.

Ten years ago, I was on this floor addressing this Senate about Mr. Noriega. It fell on deaf ears. You could not get a syllable printed in the Washington Post or on CBS because they were selling these treaties day after day, night after night. The evening news should say, "Oh, we must," in effect, "give away the Panama Canal."

Well, it was given away. And look at where we are today.

A lot has happened since that day of April 18, 1978. I simply feel that it is time for the Senate to take account of the gap between the promises made to us then and the reality that exists on this day.

Clearly, nobody denies now that Panama is under a dictatorship, one of the most ruthless men, I suppose, in the history of this hemisphere.

I recall Dr. Hugo Spadafora, a gallant man who tried his best to help restore freedom in Panama. The agents of the military in Panama took him off the bus in midafternoon, a public bus, and spirited him away. His body was found the next morning with his head cut off over the border in Colombia. His torso was in a mail sack. The head, as I understand it, was outside.

This is the kind of people in charge, the dictators then and the dictators now, we were dealing with. Yet the State Department says, "Go slow. Cool it. Do not go too fast."

I imagine in this Senate who will say, "Look where we are now."

That dictatorship, the Noriega dictatorship, and the dictatorship before it dealt and deals in drugs. Oh, I wish I could detail the testimony given in executive session before the Foreign Relations Committee. I have been proud to work with the distinguished Senator from Massachusetts [Mr. KERRY], in the process of those hearings. He has done a great job. It has been a privilege to work with him. But there is so much that we cannot yet tell because it is classified.

Panama today is subject to military rule by a band of gangsters who are the successors to the same band of gangsters with whom we dealt in 1978. Panama still continues to have one of the most corrupt governments in the entire world. Panama continues a career of crime involving among its many activities the narcotics trade targeted against the youth of the United States. It was so in 1978. It is so in 1988.

Mr. President, I apologize for the slight delay. I am always glad to confer with my good friend, whom I admire greatly, the able Senator from Oklahoma [Mr. BOREN].

But to return to the background of the outrages in Panama today and this Senate's ratification of the Panama Canal treaties 10 years ago, within a matter of months after the ratification of the canal giveaway the Soviet Union moved right in—they were emboldened because they saw a lack of spine on the part of the United States—the Soviet Union moved in and seized Nicaragua as a new client state on the continent of North America, and that regime is still in power in Managua. It has consolidated its dictatorial group which relies heavily on the Soviets, the Cubans, and the East German military and intelligence services for its sustenance.

Then the Soviet Union moved another step. It attempted to seize El Salvador through a Communist insurgency launched and supported from Nicaragua. Similar insurgencies, more properly referred to as terrorist movements, have also been launched against Honduras and Guatemala.

So that was a great deal of peace and tranquility we bought 10 years ago, was it not, Mr. President? If ever the United States Senate was succored, it was 10 years ago.

Mr. President, again within 10 months after the Senate voted a giveaway of the Panama Canal, the then chairman of the Committee on Foreign Relations, Frank Church, of Idaho, revealed to the American people that the Soviet Union had at least one full combat brigade stationed, guess where, 90 miles of our shores in Cuba, and we now know, of course, that the Soviet force well could have been two brigades or even more than that, but we know of one.

Now, of those in the Senate today who were here 10 years ago, I wonder how many would have voted for that treaty had they been able to foresee the events that transpired. It was not as if they were not warned, mind you, because again I allude to that able, dedicated, distinguished Senator from Alabama, Jim Allen, who predicted day after day that precisely what has happened would happen. I do not know about other Senators, but I miss Jim Allen, much as I admire the two present Senators from Alabama. But his wisdom and his counsel and his foresight were a treasure to this Senate and to this country.

I do not know whether the Senate will be permitted to vote on my amendment when I offer it. I wish that it could be voted upon. I recognize the parliamentary procedure. I have used it myself when I did not want an amendment to be even considered by the Senate. You come in with a perfecting amendment or a substitute, and apparently that is the process that is contemplated today.

Now, I have no fault to find with the substitute as I understand it will be. I favor that. I would favor its being included in my amendment. As a matter of fact, I will accept it as a modification. But what I do not like is the prospect of avoiding a vote on the substance of my amendment.

Let me talk about my amendment. It does not—and I emphasize the words "does not"—it does not abrogate the Panama Canal treaties.

It does not—and I repeat for emphasis, "does not"—suspend any provision of the Panama Canal Treaties. I anticipate that there might be some Senators who, not wishing to vote up or down on this amendment, might suggest to the contrary, but let me be very clear about what the amendment does and what it does not do.

The amendment is designed to take precautionary steps to defend our vital national interests in the Panama Canal and to encourage Panama to extradite General Noriega to the United States for trial. The amendment provides that if General Noriega is not extradicted within 30 days of the enactment of my amendment, if it is included in the pending bill, then the President must begin the phased withdrawal of dependents of American military personnel defending the canal.

Who knows what is going to happen down there? How many American women and children, wives and daughters and sons do we want to be subjected to violence down there in Panama?

These dependents, by the way, spend about one-half of a billion dollars a year in Panama, and just from the economic side of it their removal for precautionary purposes would really have some effect. This would be an encouragement to the gallant Panamanian people who have been pleading for the return of their country to them, and that it be taken away from Noriega and his cronies. They have been in the streets down there, demonstrating, pleading and a group of them told me this week I wish there would not be so much vacillation and hesitation on the part of the United States Government, and particularly the State Department.

Now is the time to restore freedom to Panama. And the amendment, which by the way is a sense-of-the-Senate, provides that the President must notify the Government of Panama that, if and only if circumstances should require, the United States will suspend those provisions of the Panama Canal Treaty as mandating the withdrawal of United States troops and the closure of bases defending the canal. Who in the Senate wants to take a chance on the canal being closed or blown up? Not this Senator. But let me say for the point of emphasis that my amendment will not require suspension of those provisions. It simply says that if circumstances should require, and that would be a determination to be made by the President of the United States.

Mr. President, it is well established in international law that changed circumstances, or jeopardy in extreme national interests, each, justifies suspension in whole or in part of any treaty. Treaties or provisions thereof have been suspended throughout American history. And I do not think that any Senator will seriously challenge those principles, but if the subject comes up, I have in hand a lot of examples that can and will be cited.

In any event, the amendment does not suspend the treaties. It simply puts Panama, the Noriega regime, on notice that the United States is not ruling out that course of action. Let me hasten to conclude.

The ruler of Panama has been duly indicted for a felony against the United States. That certainly qualifies as a changed circumstance. And the present Government of Panama is clearly unstable and totally incapable of defending the canal, and that certainly could put in jeopardy the vital interests of the United States.

So the amendment that I shall offer is on sound legal ground. It will send a message that will help the people of Panama rid themselves of a gangster regime and will simultaneously help to preserve the rightful interests of the American people in a canal they built and they bought, and for which they paid the expensive price of operation and maintenance.

Mr. President, under the circumstances, I am not going to offer my amendment just yet unless I can get an understanding that it will be freestanding and voted upon, or that the distinguished Senator from Oklahoma will offer his amendment as a modification to mine. I am willing to make either adjustment and follow whatever the distinguished Senator wishes to do. But for the moment I withhold offering the amendment, but I will offer the amendment at the appropriate time, I should say.

Mr. BOREN. Mr. President, just so we might have a moment for discussion, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I have a few remarks to make about this bill at this time.

Mr. President, in considering S. 1721, I would like to commend my friend from Maine for the work he has done on this bill and for the compromises he has made with the administration and among members of the committee. I note that he has been so persuasive that he has managed to get the chairman back on the bill. Having said that, I cannot be so persuaded, and I think my friend from Maine understands why.

Mr. President, S. 1721 is an ill-advised intrusion by Congress into what the framers of our Constitution wisely saw as the President's domain. It ties the President's hands in a manner that significantly reduces his ability to conduct meaningful foreign policy. As much as the Hughes-Ryan amendment makes sense, this proposal makes no sense at all. It is an over-reaction to the Iran/Contra affair; it is another attempt by Congress to micromanage foreign affairs. It is unnecessary, unwise, and unconstitutional.

At first blush, I suppose, the bill looks harmless enough. It merely requires that the President notify Congress in a detailed written finding before every single covert action with the exception that in extremely rare circumstances, he may have 48 hours after the fact to file his report.

It sounds almost reasonable. All Congress wants is to know what is going on. But the problem is that it ignores the realities of the fact that in the tricky and delicate business of foreign affairs, a certain degree of secrecy, dispatch, and expediency are essential to a successful result. It ignores the reality that crises occur without warning, and sometimes demand immediate responses by a strong leader who needs to be free to move and act and decide. It ignores the fact the covert actions by their very nature are risky ventures that must be pursued quickly and boldly without the inevitable political battles that are, unfortunately, Congress' stock in trade. It ignores the fact that the President is elected by the people—just as we are—and that the President is accountable to all of the people, as we, individually, are not.

This bill offends any notion of separation of powers. If flaunts the principles of good management. The framers gave the President the lead role in foreign policy for good reason: so he could get the job done. If we have 535 Members of Congress making that determination, we will never get it done, and I think that is the reason why they did that.

Congress steps beyond its constitutional bound when it interferes like this with the President's authority. We in Congress are justifiably upset when one of the other branches of Government invades our province. For example, when we see the courts making laws from the bench—rather than interpreting them as is their constitutional duty—we get perturbed. We recognize then that this constitutional system of ours can only work if we do our job, but nobody else's. Now, we should be wise enough to see that we are impermissably crowding into the President's field of responsibility. It is wrong and it won't work. It will only make matters worse. Our unnecessary meddling in foreign affairs over the past several years has in my view been the single greatest cause for the splintered and ineffective foreign policy of the United States. The Boland amendments are a perfect example. We have flipped and flopped to such an alarming degree that it should come as no surprise when our foreign friends lose respect for us.

In this bill, we self-appoint ourselves as a sort of parole officer for the President of the United States. We are taking away his freedom to act with dispatch and discretion. In over-reacting to the Iran/Contra affair, we are taking away the skills the President needs to do his job. A good comparison may be to the game of football. A good coach knows that if his team is to be successful he must allow his quarterback to change plays at the line of scrimmage. It is called "audibalizing."

The same is true of foreign policy. When international incidents suddenly occur, the President needs to make the hard decisions the circumstances require. What we are doing with this bill is to eliminate that possibility. We are like the football coach who says to his quarterback, "Sure, you may audibalize, but before you do, call time-out and notify all of what you plan to do." If a coach did that, my guess is it would have two effects: First, the coaching staff would have three or four options that were different from the quarterback's as to what play to run, and second, the coach would lose all of his games. As I think about it, covert actions have a lot in common with audibalized plays. Both are responses to unexpected circumstances, both require strong leadership, and both have a relatively high risk of failure. If they are successful, the decision was a stroke of genius; if they fail, the decision was the dumbest ever made. And it is the nature of covert actions to be controversial. Perhaps the biggest weakness of this bill is that it fails to recognize that Congress because of its inherent partisan nature will have a tendency to second-guess and attempt in many cases to unsuccessfully delay or impede a program that the President, with the benefit of all of his top advisors, feels he should go forward with all due dispatch and haste.

Anyone who believes that all Congress will do is listen and do nothing further is as out of touch with reality as this bill is.

Mr. President, earlier in the debate on this bill, the Senator from Maine alluded to the "myth" of the President's prerogatives granted in the Constitution. But I would like to explore some of those "myths" nonetheless. The Constitution makes the President Commander in Chief and grants the Chief Executive power to "make treaties, receive Ambassadors, and take care that the laws are faithfully executed." Article 2, section 2. The injunction to see that laws are faithfully executed includes international laws. Thus, the Constitution confers on the Chief Executive broad powers to take the lead in matters of foreign policy and to ensure that the Nation is prepared to repel any potential threats to our national security.

John Jay explains in the Federalist why the President was entrusted with the power to propose, initiate, and generally take the lead in foreign policy. In foreign affairs, he explains, "perfect secrecy and immediate dispatch are sometimes requisite. There are times where the most useful intelligence may be obtained, if the persons possessing it can be relieved from apprehensions of discover, there are doubtless many who would rely on the secrecy of the President, but who would not confide in that of the Senate." Federalist, No. 64. Moreover, the Constitution permits the President, via the appointment power, to place delegates in every land—delegates who do not adjourn for occasional recesses but are perpetually on duty and ready for action. John Jay, who was later to serve as a key organ of foreign policy in the Washington administration, summarized well the reasons the Constitution resided such trust in the Chief Executive with respect to foreign policy. To summarize these, the Chief Executive and his or her delegates:

Can act with dispatch better than any other Federal entity,

Can better protect secrecy,

Can better ensure consistency in policy,

Can better articulate a clear policy,

Have better access to worldwide intelligence via Ambassadors and other executive officers,

Do not take recesses like Congress, but continue on duty every day of every year.

The Constitution and John Jay do not leave Congress out of the foreign policy process altogether. The President is given the power to lead in foreign policy. The Congress is given a checking function in the form of the spending power, among other general powers of Congress. The checking function, however, must never be allowed to swallow or impede the general foreign policy power of the Chief Executive and I might add, Commander in Chief.

The Constitution contains no explicit principle defining the interface between these general grants of authority Congress has the power of the purse and the President is, to quote John Marshall, the great Chief Justice, in the early days of this country, when he was a Congressman from Virginia, "the sole organ of foreign relations." If Congress, under the guise of exercising its checking function, limits or infringes upon the President's powers as the "sole organ of foreign relations," it is acting beyond its constitutional mandate.

It should be clear, however, that Congress may not presume to place extensive limitations upn the President's constitutional foreign policy functions. Congress may not, while purporting to exercise its checking function, deprive the President of constitutional powers. This was established as well by the Supreme Court in the famous case of United States versus Curtiss-Wright, in 1936, which held that the President may carry out a congressional law giving him authority to embargo arms. The Court noted that the Senate has the right to give its advice and consent to treaties, an important check on Executive discretion, but continued to state: "He [the President] makes treaties with the advice and consent of the Senate, but he alone negotiates. Into the field of negotiation the Senate cannot intrude." Id. at 319. In that particular case, the Supreme Court also identified the President as the "sole organ of the Federal Government in the field of international affairs." So much for the "myth" of the President as a sole organ in international affairs. Similarly, the President was held to have inherent foreign policy powers in the case of United States versus Pink (1942). This case established that the President has power to remove obstacles to recognition of another nation, regardless of congressional permission. It is pretty powerful language.

S. 1721 is a clear attempt to limit the President's constitutional powers to conduct foreign policy and to protect the national security against foreign threats. The American Bar Association's Standing Committee on Law and National Security makes this point clearly and persuasively:

> The bill risks infringing on the constitutional powers of the President. By purporting to create statutory requirements; inconsistent with those powers, it would encourage and institutionalize constitutional confrontation and could inhibit necessary Presidential action in situations seriously affecting the national security.

Mr. President, I ask unanimous consent that a letter from Mr. Frederick P. Hitz, including the draft report to the Standing Committee on the Law and National Security of the American Bar Association, on S. 1721 be printed in the RECORD.

There being no objection, the letter and report were ordered to be printed in the RECORD, as follows:

SCHWABE, WILLIAMSON & WYATT,
Washington, DC, February 29, 1988.

Re S. 1721.

Hon. DAVID L. BOREN, *Chairman,*
Hon. WILLIAM S. COHEN, *Vice Chairman,*
Select Committee on Intelligence, U.S. Senate, Washington, DC.

GENTLEMEN: The Chairman of the Standing Committee on Law and National Security of the American Bar Association asked four individuals with prior government experience in intelligence matters to study S. 1721 and report to the Standing Committee. The undersigned (formerly Legislative Counsel, CIA), John H. Shenefield (formerly Associate Attorney General of the United States), Daniel B. Silver (formerly General Counsel, CIA and NSA) and Robert N. Turner (formerly Counsel, President's Intelligence Oversight Board) met as a working group and prepared the attached report on S. 1721. It has been sent to the Standing Committee for its consideration.

Because you had earlier requested our views individually on this important legislation and because we thought you might be interested in this draft report, I am forwarding it herewith for your review.

The views expressed in the draft report are those of the four individuals who contributed to it. They do not represent the views of the Standing Committee on Law and National Security, nor of the American Bar Association.

We hope the draft report is of interest to you as your deliberations continue on this important piece of legislation. We have taken the liberty of sending copies to the other members of the Senate Select Committee on Intelligence.

A similar letter, enclosing the draft report, will go to the members of the House Permanent Select Committee on Intelligence.

Sincerely yours,

FREDERICK P. HITZ.

Draft Report to the Standing Committee on Law and National Security of the American Bar Association on S. 1721

This report to the Standing Committee on Law and National Security considers S. 1721, the "Intelligence Oversight Act of 1987" (the "Bill"), as reported by the Senate Select Committee on Intelligence on January 27, 1988. A companion bill is currently the subject of hearings in the House of Representatives. Our conclusions are that the Bill, while considerably improved in certain respects from the Star Print version of September 25, 1987, should not be enacted in its present form. There are additional changes which ought to be made in the Bill to which we address ourselves below:

(i) As regards intelligence activities other than "special activities," the Bill would change delicately-crafted provisions of the Intelligence Oversight Act of 1980, without apparent justification but with a potential for adversely affecting both the conduct of such intelligence activities and the oversight relationship between the Executive Branch and the Congress as it relates to them.

(ii) As regards all intelligence activities, but special activities in particular, the Bill risks infringing on the constitutional powers of the President. By purporting to create statutory requirements inconsistent with those powers, it would encourage and instutitionalize constitutional confrontation and could inhibit necessary presidential action in situations seriously affecting the national security.

OVERSIGHT OF INTELLIGENCE ACTIVITIES OTHER THAN SPECIAL ACTIVITIES

The main impetus for the Bill is to cure perceived deficiencies in the provisions of the Intelligence Oversight Act of 1980 relating to presidential findings as a condition precedent to the initiation of special activities, and to require prior notification of the Congress concerning such findings. It also seeks to remedy other drafting oversights and ambiguities highlighted by the Iran-Contra investigation, such as the elimination of oral and ex post facto findings. Nonetheless, the Bill also substantially revises the provisions of the Intelligence Oversight Act of 1980 relating to the obligations of the President, the Director of Central Intelligence and the heads of departments and agencies to inform the Congres about intelligence collection activities and to furnish information regarding them to the Congress. These changes do not seem warranted by evidence from hearings on the Bill or statements by the Bill's proponents that the relationships on these matters between the Executive Branch and the Congress reflected in the 1980 Act have proved insufficient.

The most significant changes that the Bill would bring about are as follows:

1. Section 501(a) would, for the first time, impose a direct obligation on the President, as distinguished from the Director of Central Intelligence, to ensure that the intelligence committees are kept "fully and currently informed on the intelligence activities of the United States, including any significant anticipated intelligence activities, as required by this title."

The substantive scope of the obligation does not in itself differ from that which Sec. 501(a) of the 1980 Act places on the Director of Central Intelligence and the heads of other U.S. government departments and agencies. In the 1980 Act, however, these reporting obligations are conditioned by the prefatory language:

"[T]o the extent consistent with all applicable authorities and duties, including those conferred upon the executive and legislative branches of the Government and to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods."

This language was central to the willingness of the Carter Administration to accept the enactment of the 1980 Act.

The provisions of the Bill weaken the force of the 1980 Act's prefatory clause in two ways: The first is to remove the clause entirely from the provisions in Section 501(a) imposing reporting obligations on the President. In its place there is only a narrow constitutional savings clause which states that nothing in the Bill "shall be construed as a limitation on the power of the President to *initiate* [intelligence] activities in a manner consistent with his powers conferred by the Constitution" (emphasis added). This does not appear to be intended to recognize the existence of any presidential power to *conduct* intelligence activities without informing the Congress about them, but rather suggests acknowledgment only of a narrow possible constitutional authority to defer notification temporarily. Moreover, there is no reference to the protection of classified information, unless the words "as required by this title" be construed to import into Section 501 the prefatory language of Section 502, which imposes a reporting requirement on the Director of Central Intelligence and the heads of other departments and agencies, a construction which is by no means clear. It would be bizarre to deny to the President the same right to protect information as is granted to his subordinate officers. This ambiguity should be eliminated.

The second change which the Bill would make to the prefatory language of the 1980 Act is to restrict the scope of the information that may be protected. The 1980 Act referred to "classified information and information relating to intelligence sources and methods." In Section 502, the Bill refers only to "classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters." This narrows substantially the category of information the protection of which might provide a basis for withholding disclosure from the Congress (not on the grounds that the Congress is an unauthorized recipient but solely on the basis of added risks of disclosure which follow from increasing the number of people holding the information, the "need-to-know" principle).

The elimination of unclassified information regarding intelligence sources and methods from the prefatory language may be relatively insignificant, since information regarding intelligence sources and methods of sufficient sensitivity to warrant withholding from the Congress is likely to be classified or eligible for classification. The narrowing of the protected category, however, to refer only to "*sensitive* intelligence sources and methods or other exceptionally sensitive matters" seems unwarranted. Neither the term "sensitive" nor the term "exceptionally sensitive" has any precise meaning. No doubt the drafters intend by these terms to express the thought that justification for withholding information from the Congress should be a rarity rather than a regular matter.

No attempt has been made so far in the legislative history to give examples of the kind of rare circumstances that might be considered "sensitive" or "exceptionally sensitive."

Such an exercise, in our view, would be both unwise and unnecessary. The basic principle already existing under the 1980 Act is that disclosure to the Congress should be made for the purposes described by the Act, except where compelling reasons exist to withhold such disclosure, grounded under the 1980 Act either in due regard for the protection of information from unauthorized disclosure or in constitutional considerations. Either basis carries with it an inherent and sufficiently high threshhold of seriousness.

While certain of the modifications that the Bill would introduce to the prefatory language of the 1980 Act might be argued to have little or no effect, the elimination of the acknowledgment of constitutional limitations on what disclosures the law can compel is highly significant. In our view, the legislation should make no changes to the portions of the 1980 Act that deal with intelligence collection activities.

The changes embodied in the Bill do not appear to be justified by any record of significant inadequacy of the 1980 Act as it applies to intelligence collection activities of which we are aware. While it is possible that problems have occurred which have not been reflected in the public record, we consider it unlikely that this could be the case to any significant degree without there having been some public comment by the intelligence committees of dissatisfaction with the agencies' performance under the 1980 Act.

The prefatory provisions of the 1980 Act, which would be significantly narrowed by the Bill, represented a carefully crafted compromise between the positions of the Executive Branch and the Congress, a compromise which recognized several key points. One was that there exists no bright line defining the respective constitutional authorities of the President and the Congress with respect to intelligence activities and thus no absolutist formulation, either affirming or denying a constitutional right of the President to withhold information, could be accepted by either side.

A second was that the conduct of intelligence activities—and particularly intelligence collection—required that the intelligence agencies be capable of giving credible assurances of protection to foreign sources of information and assistance, both governments and individuals, to whom the notion of legislative branch oversight is both unknown and alien. On rare occasions such assurances must extend to a promise that the identity or activities of the foreign source will not be revealed to the Congress.

Thus it was thought important to leave in the 1980 Act a prefatory clause containing a measure of ambiguity and to leave to the evolution of the oversight relationship, out of the public eye, the development of an appropriate level of disclosure relating to collection activities.

These considerations, in our view, are still valid. To remove any statutory acknowledgment that the provisions of the Bill are not to be interpreted to invade the constitutional powers of the President generally (as opposed to a limited disclaimer which reads only on the initiation of activities by the President, does not refer to the constitutional role of the Executive branch in general and is not made applicable to the reporting duties of subordinate officials) is to invite future constitutional confrontations or to encourage inaction on the part of the Executive Branch, and to deprive the intelligence agencies of an important basis on which credible assurances can be offered to their sources.

The intelligence committees of the Congress (and the appropriations committees also, for that matter) are provided a wealth of information on collection programs of the intelligence agencies in the course of the annual intelligence program budget reviews. To our knowledge the committees have never contended that this budgetary information was insufficient to keep them informed about the risks inherent in highly sensitive collection operations. The enterprise of intelligence collection is vital to our nation's security. It would be irresponsible for the Congress to enact a statute for purposes only of political symbolism which could have an adverse effect on the effectiveness of intelligence collection.

THE REQUIREMENT FOR PRIOR NOTICE OF SPECIAL ACTIVITIES

Section 503 of the Bill would impose on the President a requirement of notice to the Congress prior to initiation of a special activity and no later than 48 hours after the making of a finding, subject only to a limited exception under subsection (c)(2), when time is of the essence, permitting notice no later than 48 hours after the finding but after initiation of the special activity. While the constitutional saving clause in Section 501(a) disclaims limitation of the President's power to "initiate such activities in a manner consistent with his powers conferred by the Constitution," that provision, as noted above, does not appear to extend to the President's power to conduct a special activity once initiated without notice to the Congress. This seems to reflect the view of the provision's drafters that the President's constitutional powers to withhold notice from the Congress exist at most in situations of exigency and cover only the commencement of special activities which are thereafter promptly reported to the Congress.

The question of the respective constitutional powers of the President and the Congress with respect to special activities is too complex to address here. At a minimum, however, it seems clear that serious constitutional issues would be raised not only by legislation that attempted to deny the President the right to initiate such activities without notice to the Congress but by legislation denying the President the right to continue to conduct special activities without such notice. For so long as the President's constitutional prerogatives and duties justified the withholding of notice upon initiation of a special activity, those constitutional powers would seem equally applicable to the on-going conduct of the special activity.

Because the constitutional issues mentioned above have not been definitively resolved by the Supreme Court and continue to engage constitutional scholars in debate, it seems unlikely that the proponents of the bill can be proceeding on the basis of a certainty that the reporting requirements imposed by the bill represent a correct statement of the respective constitutional roles of the President and the Congress in this area. Instead, it appears to be the view—one expressed in discussions by members of the staff of the Senate Select Committee on Intelligence—that, while the constitutional issue is indeterminate, the bill at least would have the virtue of forcing the President to "climb a steep hill" whenever contemplating the initiation or conduct of special activities without prior notice.

Thus, by tipping the balance in favor of a statutory requirement of prior notice, the bill appears intended to put the President's constitutional powers to conduct such activities without prior notice at their lowest ebb and to set the stage for a constitutional crisis should any President ever again proceed in such a manner.

We consider this not a virtue of the bill but its greatest shortcoming: it would create conditions of permanent constitutional conflict and might precipitate future constitutional crises which inevitably can only be harmful to our system of government. After the body blow to Executive-Congressional relations represented by the Iran-Contra investigation, the task at the present time, in our view, is to rebuild the entire structure of those relations across the entire spectrum of foreign policy issues, of which special activities are a part. Within that spectrum, special activities by their very nature must occupy a somewhat different position than those foreign policy initiatives which are capable of being debated either in advance of their initiation or in the course of being conducted. Working out the proper relationship between the President and the Congress in this delicate area demands the concerted efforts of both branches to reestablish a climate of trust and comity between them. It requires flexibility on both sides and the nurturing of an institutional structure in which there is room for the development of pragmatic solutions.

In the particulars cited above, this bill runs counter to these objectives. Adoption of these provisions would be bad policy, regardless of the constitutional merits of the position it represents. By inviting a constitutional crisis whenever the President steps outside the rigid procedural confines mandated by the bill, there is a considerable likelihood that the bill will produce dangerous results.

The argument has been made that the bill cannot deprive the President of his constitutional powers and therefore does no real harm if in fact it would infringe on them as applied in a specific future situation. This is unrealistic. The constitutional point is one easily forgotten by the press and the public, particularly if the special activity is a failure or unpopular (neither of which necessarily proves that there was not a compelling national interest to undertake it in the first place). If the President acts in the face of a statutory prohibition of unclear constitutionality, he must pay a heavy political price or worse. To any President not supremely confident of his political invulnerability, this could be a potent force in favor of inaction.

A second danger is that the consequence of any such presidential action, once brought to the attention of the Congress, will be a debilitating confrontation of the kind that surrounded the Iran-Contra affair and that this will occur regardless of the merits of the underlying factual situation. Confrontations of this kind are harmful to the national interest. They benefit neither the Congress nor the President, regardless of who appears to be the "winner." It is a serious mistake to build into the statutory structure of Presidential-Congressional relations a permanent invitation for such crises to occur.

THE DEFINITION OF "SPECIAL ACTIVITY"

The proposed statutory definition of "special activity" in Section 503(e) carries forward the old language of the Hughes-Ryan Amendment as regards the Central Intelligence Agency, but adds a new definition, inspired by Executive Order 12333, applicable to all other agencies and departments of the government.

If special activities are to be subject to findings and notifications when carried on by any agency of the government, it is unclear why a distinction should be made between the CIA and other agencies of government. The implication which arises from the two subsections of Section 503(e) is that there may exist a category of activities conducted by the CIA which does not meet the definition found in subsection 503(e)(2) but which is not "intended solely for obtaining necessary intelligence." If such a category of activities exists—which seems open to question—there is no apparent reason why they should be burdened by a requirement for a presidential finding as a condition precedent when conducted by the CIA, any more than they should be if conducted by any other agency. If legislation in the area of special activities is to be adopted it should cure this defect of the Hughes-Ryan Amendment, which was left essentially intact by the 1980 Act.

The authors of the Hughes-Ryan Amendment, in lieu of hazarding a definition of special activities, took the blunderbuss approach of requiring a presidential finding for everything done abroad by the CIA which did not meet the purity of purpose test embraced in "intended solely for obtaining necessary intelligence."

It is now almost 15 years since passage of that law. The formulation found in Section 503(e)(2) of the Bill has been in use for a substantial part of that period and is generally understood as describing the kind of activity about which the Congress is concerned.

It is a known and workable definition of "special activity" which should be applied to the CIA as well as other U.S. departments and agencies, letting the imperfections of the Hughes-Ryan definition rest in peace.

The time is long past to free the President from the unnecessary burden of making findings about low-level activities carried out by the CIA abroad merely because they arise in circumstances that cast doubt on whether intelligence collection is the sole and unalloyed purpose.

The appropriations of removing subsection 503(e)(1) from the Bill is confirmed by the Report of the Senate Select Committee on Intelligence on the Bill, Report 100-276, which indicates that the definition found in subsection 503(e)(2) represents an Executive Branch interpretation, acquiesced in by the intelligence committees, of what kinds of activities are within the ambit of Hughes-Ryan.

Thus, for the last several years the language embodied in subsection 503(e)(1) has been interpreted by CIA and the intelligence committees as meaning what is described in subsection 503(e)(2) and the Senate Report states that such interpretation would continue to be applicable, leaving it entirely unclear what CIA operations would fall under subsection 503(e)(1) and what justification there is for including them.

CONCLUSION

It is to be expected that the trauma caused by the Iran-Contra episode to Executive-Legislative relations would prompt the Congress to seek to redress its grievances in legislation, just as the Church Committee sought to do more than a decade ago in 1976 in reaction to previous intelligence community excesses.

However, just as the Church Committee investigations after lengthy hearings and extensive Executive-Legislative deliberations produced the constitutionally ambiguous and delicately balanced Intelligence Oversight Act of 1980, so it is our hope that this Bill will benefit from the observations and suggestions we have made above to achieve a similar balance and freedom from constitutional confrontation. While it is understandable that the intelligence committees wish to make as explicit as possible the rights and duties of both partners to this constitutional duet, in our view it is unwise to push the process too far. For in the end, in the matter of secret intelligence information and activities, it is trust, comity and respect between the Executive and Legislative branches of government which ensures a successful national intelligence effort not a bare listing of legal rights and obligations.

If the Executive feels constitutionally hamstrung by congressional requirements, its recourse is to evasion, inaction or to the courts—but not to the production of first-rate intelligence in the national interest. By the same token, if the Congress believes that the Executive is free to ignore meaningful legislative oversight, its reaction is to investigate or oppose, using the power of the purse, which is likewise not in the national interest.

Our country is better served if neither side of this constitutional argument is seen to hold sway over the other, and the inevitable power struggles which ensue are sorted out through negotiations between the parties in an atmosphere of mutual respect and concern for the national interest. We believe that adoption of the above comments would help move the Bill in this direction.

Respectfully submitted.

FREDERICK P. HITZ.
JOHN H. SHENEFIELD.
DANIEL B. SILVER.
ROBERT F. TURNER.

ADDITIONAL VIEWS OF JOHN H. SHENEFIELD

The events at the center of the Iran-Contra fiasco invite once again in this decade, as did revelations of other such activities not too many years ago, the effort to define with mathematical precision the constitutional responsibilities of the Executive and Legislative Branches in the field of intelligence activities, including special activities. We believe such an effort is unwise now, as it was then. Instead, all of those involved in the policy and practice of intelligence oversight ought to dedicate themselves to rebuilding the trust and confidence that must characterize inter-branch relationships in this most sensitive of areas.

Two ideals must be high on the agenda of that reconstruction of trust. First, officials of the Executive Branch cannot continue to challenge the congressional purpose to participate in the governance of intelligence activities that are at once so essential and so controversial. In every options paper proposing an intelligence activity of significance, there ought to be careful consideration of the potential for damage to the constitutional fabric, whether or not the operation is disclosed to Congress in advance and on the assumption it may turn out to be both a failure and politically unpopular. The price of prolonging the Executive Branch record of arrogance and miscalculation is likely to be a frittering away of the very constitutional power now so vigorously defended. In that direction lies national weakness, not international strength.

Second, the Legislative Branch must organize itself to share the grave responsibility it seeks to exercise. There must be no occasion that justifies allegations of sloppiness or indiscretion. Those in the Congress entrusted with confidence ought to succeed to that position on the basis not of seniority but of fitness, which must itself be confirmed by conventional personnel security procedures.

In short, we are as a nation beyond the point where either branch may rest upon its prerogative alone. The challenge is to build the most efficient and most responsible intelligence community in the world. Both the Executive Branch and the Legislative Branch have an essential part in that effort. But that part must be played at both ends of Pennsylvania Avenue with modesty and a determination not just to foster pet schemes or amass political capital, but to make the system work.

Mr. HATCH. Mr. President, I propose to examine briefly the provisions of this bill and how they impinge on the President's broad constitutional prerogatives. Section 501(a) imposes a direct obligation on the President, as opposed to statutory officers, to notify Congress of all covert operations. In the past, the CIA Director's obligations to disclose covert operations was conditioned by explicit language acknowledging the President's duty to protect national interests and to protect confidential intelligence sources and methods. In this day of international intrigue, a strong and competent, indeed a fully confidential, intelligence gathering capacity is essential to national survival. The President would violate his constitutional duties as Commander in Chief and protector of our Nation's security if he were to surrender in any degree his ability to conduct intelligence activities and to protect the sources of vital information.

Nonetheless, this bill imposes reporting requirements on the President and narrows the scope of information which he may protect from disclosure to the Congress. Instead of permitting the President to protect "information relating to intelligence sources and methods," the bill would only permit the President to protect "classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters." In light of John Jay's explanation that the President was given broad foreign policy powers because of his ability to preserve confidentiality, this proposed law it seems to me is indeed ironic. It deprives the President of the power to protect the very kinds of information that Jay and others empowered him to protect with constitutional powers.

Section 503 of the bill imposes on the President a requirement to give notice to Congress prior to initiating a covert operation or within 48 hours under rare circumstances. Under current law, the President need only give notice "in a timely fashion." In the first place, it is easy to conceive of covert activities of such sensitivity that the President would violate his constitutional mandate by disclosing that activity to Congress and risking disclosure. Yet this legislation denies the President the right to initiate such activities without notice to Congress.

Moreover, if the President takes the risk of initiating such activities without notice, he may not continue to conduct such activities for more than 48 hours without notice. This raises an interesting question. If, as the bill concedes, the President may have constitutional authority to commence covert operations without notice to Congress, how can the bill conclude that the President's constitutional authority to continue that operation without notice terminates after 48 hours? Constitutional powers are not like tender crocus plants, blooming and willing with each change of the wind. Because the President has the constitutional power to commence covert operations without disclosures to Congress, he also has power to conduct those operations on a similar basis.

This bill seems to be another attempt by Congress to micromanage affairs committed to another branch of Government. It would seem to me that the experiences of last summer which revolved around the Boland amendment would provide ample evidence of congressional inabilities to micromanage foreign affairs. When we trace the course of the Boland amendments, we learn why Jay saw that the executive branch would conduct a more consistent and coherent foreign policy. Under the Boland amendments, 1-year aid is allowed as long as it is not used by the CIA to overthrow the Sandinistas; the next year aid is permitted so long as DOD and CIA do not engage in a list of specific activities; the next year aid is allowed with few restrictions at all; the next year aid—direct or indirect—is forbidden; the next year aid is permitted again, but only if it is humanitarian; finally aid is resumed without conditions.

How can you conduct foreign policy with garbage like that that we in the Congress, because of our diverse natures, continue to comport with and hang on continuing resolutions?

This kind of consistency and clarity could only come from Congress. If all our foreign affairs were conducted in this manner, World War III would probably be provoked with all the rest of the world against us.

The Supreme Court has acknowledged the President as the "sole organ of the Federal Government in the field of international relations." Curtiss-Wright, 1936. If Congress by statute presumes to usurp the foreign relations leadership of the President, it is offending the separation of powers principle and abrogating the letter and spirit of the Constitution.

Mr. President, let me return to the rigidity of the 48-hour requirement. This is similar to a provision in House bill 1013. Hearings on that bill were held in April and June of last year at which various expert witnesses were asked to testify. Interestingly, of 12 witnesses called to testify, 8 opposed this type of legislation, recognizing not all were against the 48-hour provision. Three in particular, Stanfield Turner—whom I rarely agree with, William Colby, who is also a well known former Director of the CIA and Lloyd Cutler, counsel to former President Carter, and many others in the Democratic Party all indicated their opposition to the 48-hour provision.

Stan Turner provided three instances where President Carter chose not to provide notice within the 48-hour limit—but did provide notice after the fact "in a timely manner" as provided for in Hughes-Ryan—the existing law. There were some very good reasons for taking this position, not the least of which was the protection of our agents in the "Desert One" operation or—in the case of six Americans who escaped the American Embassy compound in Tehran and were sheltered by our Canadian friends until the six were safely exfiltrated. Turner pointed out that had the 48-hour rule applied, Congress would have to have been notified before some of the agents supporting these activities had successfully exited from Iran. Here Turner alludes to the inherent dangers these same support agents might have been placed under.

Ray Cline, a former Deputy Director at CIA also testified at those same hearings—he too argued against the foolish rigidity of notification by saying:

> I can easily imagine operations where the President makes a finding and initiates a chain of events which may well not have any precise impact for many hours, many days or even many months. It was not totally, it is not totally impossible that there should be a very long lapse before the necessity of timely notification to Congress exists.

He went on to say:

> The President certainly ought to have the opportunity to conduct high risk, high win activity in the foreign policy and national security field. He should have the right to determine when there is a good reason to delay notification because of extreme sensitivity to leakage and failure. Timely fashion—that carefully wrought phrase, seems to me to be the best phrase you can use in the circumstances.

In a letter to the House Intelligence Committee on this same matter—the 48-hour rule—Dr. Zbigniew Brzezinski, former National Security Advisor for President Carter wrote:

> * * * the 48-hour notice for covert operations and the immediate provision of written presidential intelligence findings—are an inappropriate response to the problem. They would undercut fatally the President's ability to conduct the necessary operations which occasionally require absolute secrecy. Let me just repeat that—"They would undercut fatally the President's ability to conduct the necessary operations which occasionally require absolute secrecy."

Continuing on, Brzezinski said:

> If they had been in effect during (the) Iranian hostage rescue mission in 1980, the President would have had to inform Congress, and therefore increase the risk of a breach in security, at the same time as the American rescue force was driving toward Tehran.

Now let us look at the present-day situation. We have a President who on his own judgment decided not to notify the Congress during the Iran-Contra affair. May I suggest that the political fallout of that decision has been far greater than any legislation we in the Congress could ever write to prevent that from happening again.

I note that the President did respond to the chairman and vice chairman's letter—volunteering to cooperate with the committee in almost an identical manner to what is before us in this bill today. Second, he has released a National Security Decision Directive—NSDD 286, which formalizes his offer of cooperation in the previous letter. I am of the firm view that if our committee and indeed the Congress really seeks better cooperation as has been stated as a goal by several of my colleagues, between the executive branch and our committee, that we ought to do our part and go half way to meet the President and give a chance to fostering this much sought after better relationship. Let us take the President for his word. If we pass this legislation, the perception will be simply stated "Mr. President we don't trust you." I hasten to add, in this town, it is perception that counts and not reality.

Mr. President, I would urge my colleagues to reject this unwise legislation. It is unnecessary—it is unwise and I believe goes far beyond what our Founding Fathers envisioned as to the nature of the division of labor between the executive and legislative branch.

I also believe that it is unconstitutional. I believe this is precisely the type of intermeddling and specific intermeddling that will be found unconstitutional in our courts of law. There are two points of view on this, and I am sure the distinguished managers of the bill have the alternative point of view. But I believe it to be unconstitutional. I believe it to be unwise. I believe it to be unnecessary. I believe it to be something that will hamper us in foreign policy like nothing that has happened in the past. Anybody that does not believe covert actions can be used effectively in the conduct of foreign policy is not living in the real world, is not intelligent. Those who believe in that fallacy have not looked at what has happened through the years from viable, good, workable covert actions.

Now, Mr. President, there is a lot more we can say about this. I feel badly that this bill is going through in such quick fashion. But I believe if it does go through with the 48-hour provision, I believe the President will veto it, as he should. He should exercise this constitutional power to veto it, and I hope he does. If it happens to go through—and it does appear to have the votes here today, or whenever it is finally voted on—then I hope we will raise enough votes to sustain the President's veto because it deserves to be sustained.

I yield the floor.

(Mr. HARKIN assumed the chair.)

Mr. COHEN. Mr. President, yesterday I was not on the floor at the time the Senator from New York had presented a very eloquent statement to this body. I simply want to go on record in support of the recitation of the facts that he presented to us in the Senate.

I served on the committee at the time when he was vice chairman of the Intelligence Committee. Indeed, I recall very vividly the events as they unfolded. They were precisely as Senator MOYNIHAN indicated during his statement yesterday.

I think, in essence, what the Senator from New York was saying is that we have an institutional need to know. I want to take this opportunity to express my endorsement of the comments that he made yesterday and to associate myself with his remarks.

With reference to the statement by the Senator from Utah, I will simply submit for the RECORD a very perceptive article written by Prof. Louis Henkin, titled "Foreign Affairs and the Constitution," which does, in fact, present a very detailed analysis of the respective rights and obligations under the Constitution of Congress in dealing in the field of foreign affairs.

I ask unanimous consent that the article by Mr. Henkin be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOREIGN AFFAIRS AND THE CONSTITUTION

(By Louis Henkin)

Americans have been celebrating the bicentennial of their Constitution with visible pride and audible satisfaction. The national mood is one of appreciation of the wisdom and prescience of the framers.

Students of foreign affairs will have noted, however, that the bicentennial is the year in which Americans have breathed the Iran-contra miasma; followed with pained incomprehension the circlings of president and Congress over Nicaragua and its neighbors; heard the president and the Senate shouting disagreement over the meaning of the Anti-Ballistic Missile (ABM) Treaty; watched the United States slip into the Persian Gulf and the Iran-Iraq war, wondering who in Washington was in charge. If we have not verged on constitutional crisis, few have been moved to declare that the constitutonal arrangements for conducting the foreign affairs of the United States are worthy of celebration.

"Foreign affairs" is not a term found in the Constitution, and what we characterize as foreign affairs is not a discrete constitutional category. Still, many of the provisions of the Constitution apply equally, and have had equal success, in foreign as in domestic affairs. Some particular constitutional dispositions for foreign affairs—for example, the grant to the federal government of virtually full authority, to the exclusion of the states—have surely proved their wisdom.

After 200 years the difficult constitutional issues of foreign affairs arise from the so-called separation of powers and the various checks and balances between Congress and the president. Some of the divisions of authority between the two political branches that apply generally have evoked special dissatisfaction as they operate in foreign affairs. Some of the allocations of authority that relate to foreign affairs in particular have at times left either the president or the Congress—or both—unhappy. Above all, the constitutional blueprint has proved to be unclear and incomplete as regards foreign affairs, and there is no agreed guiding principle to help make its provisions clear, or to fill the lacunae. National experience has provided some answers, but Congress and president continue to tug for more of the foreign policy blanket. In 1954, in a famous essay on the distribution of political authority under the Constitution, Justice Robert H. Jackson wrote:

"There is a zone of twilight in which [the president] and Congress may have concurrent authority, or in which its distribution is uncertain." [1]

Important foreign affairs powers lie in that twilight zone. Indeed, in few other respects is our constitutional system as troubled by uncertainty in principle and by conflict in practice between Congress and the president. The effect is to raise intractable issues of constitutional jurisprudence and constitutional politics.

Issues of power between Congress and the presidsent in foreign affairs have not been resolved and are not soon likely to be.[2] The courts, to which we look for constitutional resolution, promise little help. The Supreme Court has developed an armory of reasons for not hearing issues: a federal court will hear only a "case or controversy" (technically defined) at the behest of a petitioner with "standing" (technically defined) when the issue is "ripe" and not moot. These requirements are particularly difficult to meet in foreign affairs. In addition the courts have declared certain issues to be political questions (not meaningfully defined by the courts) and therefore not justiciable, and foreign affairs issues have been particularly vulnerable to being declared non-justiciable.

If our constitutional system for allocating authority to conduct foreign affairs gives little cause for celebration, the bicentennial nevertheless invites our taking stock and seeking understanding, if not answers. What did the framers dispose? What happened along the way? Where are we today? Where do we go from here?

II

As in the past, the end of the twentieth century witnesses voices calling for a return to constitutional text and the intent of the framers. Few have raised that call to resolve controversies of foreign affairs, but constitutional text and even original intent surely have their claims in this as in other areas of governance.

For the framers of the Constitution, the "separation of powers" was an article of faith. The principle that different and separate branches of government should exercise different and separate functions provided the outline which they followed in drafting the Constitution, though powers they separated in principle emerged substantially mixed in fact. During the subsequent 200 years, both the presidency and the Congress have been transformed. The founding fathers would not readily recognize the Congress they prescribed—now a body of over 500 members, with both houses directly elected, its business transacted by a complex of committees and powerful staffers. The framers would be incredulous at what has become of their original creation, the presidency, an office conceived in doubt and controversy, its powers seemingly strictly limited, yet commonly described today as the most powerful in the world. (It would, President Truman once said, make Genghis Khan green with envy.) "The president" has become "the presidency," a branch of government consisting of many departments, with a bureaucracy of millions. The president's constitutional assignment to recommend to the consideration of Congress "from time to time . . . such measures as he shall judge necessary and expedient" has made him the principal author of the national legislative program and of a trillion-dollar budget. But the constitutional blueprint of 200 years ago has not been amended, and it continues to define the powers of Congress and the president and relations between them.

For the framers, Congress came first. In Congress they vested "all legislative powers herein granted"; the president was to exercise "the executive power." That division of authority and function applied generally, without distinction or exception for what we have come to call foreign affairs. In regard to foreign, as to domestic, affairs (our characterizations, not the Constitution's), Congress was to legislate and the president was to take care that the laws be faithfully executed. Revenue would be raised and expenditures determined by Congress, and "no money shall be drawn from the Treasury, but in consequence of appropriations made by law." The president would appoint officials, but only with the advice and consent of the Senate. Both the power of the president to appoint and the requirement that the Senate consent applied equally to a secretary of state for foreign affairs or an ambassador to a foreign nation as to an attorney general or other officials in charge of domestic matters.

In its outlines the constitutional division of authority between Congress and president is reasonably clear, indisputable and therefore not often disputed, though presidents have chafed at the distribution, and both Congress and the president have sometimes tried to move or blur the line that divides their estates. After 200 years of the Constitution, although Congress and the presidency are transformed, their parts in our governance are recognizably those projected by the constitutional blueprint: Congress makes laws and the president executes them; Congress levies taxes to provide for the common defense and the general welfare, and the president spends as Congress directs. As regards domestic affairs, that constitutional division is established, and continues to provide the framework and context of government. Magnified presidential importance in domestic affairs today derives not from any new powers or functions granted to (or assumed by) him, but from the enlarged significance of the powers, privileges and duties originally conferred upon him, as well as from extraconstitutional factors, notably his political dominance—party leadership, patronage, popular appeal—and his consequent ability to persuade, move and sometimes compel Congress.

The division between recommending legislation and enacting it, between passing laws and executing them, between appropriating money and spending it, applies in foreign as in domestic affairs. In foreign affairs, however, that division does not exhaust constitutional authority: there is more to foreign relations than laws and expenditures. The Constitution itself confers and allocates important powers that do not conform to the division between making and executing law, notably the president's treaty power. Moreover, the constitutional blueprint for the governance of our foreign affairs has proved to be starkly incomplete, indeed skimpy.

The relevant prescriptions are few. Congress has the power to tax and spend for the common defense and the general welfare (including, no doubt, foreign affairs purposes), to regulate commerce with foreign nations, to define offenses against the law of nations, to declare war. The president has the power to appoint ambassadors and to make treaties (with the consent of the Senate). The Constitution provides that the president shall be the commander in chief.

The Constitution says nothing, surely nothing explicit and clear, about much else that has stirred controversy in our day: Does the president have the power, without congressional authorization or approval, to terminate a defense treaty with Taiwan, as President Carter did in the face of substantial congressional opposition? To send troops to Lebanon or Grenada, as President Reagan did, evoking significant criticism from Congress on constitutional grounds and some suits filed by citizens? To conclude military base agreements with various countries, as several presidents have done? Is there an "executive privilege" to withhold information from Congress, or a presidential right to impound and not spend funds appropriated by Congress? Could the president, some unthinkable day, on his own authority convert conventional war to nuclear war by "first use," retaliate against an enemy that had dropped nuclear bombs on an ally, or initiate a nuclear "first strike" to preempt an anticipated attack or for other reasons of perceived national interest?

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[1] See *Youngstown Sheet & Tube Co.* v. *Sawyer* (1952).

[2] In this essay, I address principally challenges to presidential action. Constitutional issues of separation of powers have been raised also by actions of Congress which presidents have challenged. The principal instances—"legislative veto" and alleged invasions of the president's power to appoint officials—may also arise in relation to foreign affairs. The Supreme Court has invalidated the legislative veto in principle and Congress has recently lost on several appointments issues.

III

If constitutional text is insufficient, the intent of the framers (however one defines the term, and whomever one includes among them) is also less than determinative. The record of the deliberations at various stages of the process is spare. Even the classic annotation, *The Federalist Papers,* adds and clarifies little for our purposes. In large measure what the framers intended can be inferred only from what they did; in some measure one might guess what they had in mind on the basis of what we know of their political ideas and commitments, insofar as there was a single or dominant cast to their thought.

The purpose of the Constitution was "to form a more perfect Union," and for the framers that meant, *inter alia,* a union better able to conduct relations with other nations. They hoped to achieve that purpose by giving the new federal government, to the exclusion of the states, the control of foreign relations. They divided the powers of the new government-to-be between Congress, a body they had known under the Articles of Confederation but which they transformed, and a new office they created, the presidency. That office had no model. It was to be like, yet unlike, the English Crown. Its powers were to be significant yet circumscribed; in the end details were determined not by principle but by compromise.

In general, for foreign as for domestic affairs, the text reflected the general conceptions and inclinations of the framers about the different functions of government and their allocation. In principle they divided legislative from executive power. But for them the conduct of foreign relations was "executive altogether." The presidency was to have some foreign affairs powers that under the Articles of Confederation had been exercised by Congress. But the framers were determined not to make the president a republican, elected facsimile of the king of England, with republican-royal powers and republican-royal prerogatives. Above all, the president was not to have the king's power to go to war; that power was given to Congress. The president was entrusted with the "royal" power to make treaties, but subject to the advice and consent of the Senate. Indeed, approval of a treaty required the consent of an extraordinary majority, two-thirds of the senators present. Another presidential foreign affairs function was not designated a power, but seems rather an assignment: that the president "shall receive foreign ambassadors."

During the ensuing 200 years presidents have prominently and frequently invoked powers as commander in chief. Strictly, the designation that "the President shall be Commander-in-Chief of the Army and Navy" is not a grant of power (though some powers are necessarily implied in the function). Having learned a lesson in the Revolutionary War, the framers determined that there should be a single, civilian commander in chief, rather than command by Congress or congressional committee. The evidence is that in the contemplation of the framers the armed forces would be under the command of the president but at the disposition of Congress. Principally, the president would command the forces in wars declared by Congress. As an exception, the framers agreed to leave to "the executive the power to repel sudden attacks":[3] authorization by Congress might not be possible to obtain promptly, or at all, and could be assumed. There is no evidence that the framers contemplated any significant independent role—or authority—for the president as commander in chief when there was no war. Congress would decide whether "to raise and support Armies," or "to provide and maintain a Navy," and would "make rules for the Government and Regulation" of such forces; it was Congress that would even "provide for calling forth the Militia." There was to be no standing army for the president to command in time of peace, and no army or navy at all unless Congress wished it. The president's designation as commander in chief, then, appears to have implied no substantive authority to use the armed forces, whether for war (unless the United States were suddenly attacked) or for peacetime purposes, except as Congress directed.

Such, I think, was the framers' original conception. No doubt, there was more which they did not articulate, and much they did not anticipate, perhaps some things they purposely did not provide for. The framers, I am persuaded, had a reasonably clear idea of the powers they were conferring upon Congress: in general, they saw Congress as the principal "policymaking" (our term, not theirs) organ in foreign as in domestic affairs, and in their conception Congress was to dominate the political process. They had a much less clear view about the presidency. They allocated to the president particular functions, but these did not add up to a comprehensive, coherent conception of the office, or of the division of authority between Congress and president, in the mind of any of the framers; surely there was no concensus about it. Except as they expressly provided, many of the framers were content, I suspect, to leave the office undefined in the good hands of the man all expected would be the first president. George Washington would shape the office.

IV

Constitutional history has supplied answers to some of the questions that constitutional text and "original intent" left unanswered. George Washington did indeed begin to shape the office, not in accordance with principle or plan but in response to events. The major developments in the conception and scope of the presidential office concerned matters that were not on the face of the Constitution. The president's place in the configuration of government combined with the character of foreign relations to shape the presidency, as well as to launch it on the paths of uncertainty and controversy. The president appointed ambassadors; they were his ambassadors, and they received instructions from him and reported to him. They did so in secret, the way of diplomacy even in the eighteenth century. Through his ambassadors the president communicated with other governments as seemed appropriate to him. The president told Congress what his judgment and his sense of diplomatic and constitutional propriety required.

Foreign policy, then as now, consisted of much more than making treaties or legislating tariffs. The conduct of foreign relations was a day-to-day process, continuous and informal. Unlike Congress, dispersed during most of our history in the distances of the country, the presidency was always "in session." Unlike Congress, which can act only formally, by statute or resolution (and in effect only publicly and sometimes dramatically), the president can act quickly and informally, often discreetly or secretly: only President Washington could decide to send Citizen Genêt home when he abused his post as minister of France; only Washington could effectively pursue the deliberations and negotiations that led to a decision to proclaim neutrality in the wars between England and France. In many circumstances, unless the president acted, the United States could not act at all. Major agreements were made as treaties with the consent of the Senate, but the practice of the president acting alone to make informal agreements was inevitable and began early.

From the start the president was the eyes and ears and voice of the United States; slowly he became also its sturdy arms. Congress maintained a small navy and occasionally raised and supported a modest army; as the Constitution provided, the president was their commander. In response to events, presidents asserted authority to use those forces: early on, as all know, Jefferson ordered the navy to defend U.S. vessels against the Barbary pirates. As their "foreign relations power" took root and grew, presidents found themselves wearing two hats. In limited, uncertain steps the president as commander in chief began to carry out what the president as foreign affairs executive determined. In time, precedents accumulated and presidents gained confidence and claimed more authority. Beginning early and continuing to this day, in several hundred instances of varying scope and significance, presidents have deployed the armed forces of the United States for foreign policy purposes determined by the president on his own authority.

Congress contributed to the steady growth of presidential power. Congress early recognized and confirmed the president's control of day-to-day foreign intercourse, and the resulting monopoly of information and experience promoted presidential claims of expertise and a congressional sense of inadequacy. Congress generally acquiesced in the president's deployments of forces and in his executive agreements. Later, a growing practice of informal consultations between the president and congressional leaders disarmed them as well as members of Congress generally, and helped confirm presidential authority to act without formal congressional participation. Often, Congress quickly ratified or confirmed what the president had already done, such as, in our day, the decision in 1950 to fight in Korea. And repeatedly Congress delegated its own huge powers to the president in broad terms so that he could later claim to have acted under Congress' authority as well as his own, as in the Tonkin Gulf Resolution of 1964, which in effect legitimated the Vietnam War.

In our legalist-constitutionalist political culture, practice was early undergirded by doctrine. In support of his argument that President Washington had authority to declare the United States neutral in the war between England and France, Alexander Hamilton (writing as "Pacificus") read the clause in the Constitution, "The Executive Power shall be vested in a President," as a grant to him of all the executive power of the United States—which for Hamilton included all foreign affairs power—except as otherwise expressly provided. James Madison ("Helvidius") reacted sharply, with Thomas Jefferson's encouragement. Power was in Congress, he wrote, except as the Constitution expressly and specifically granted modest amounts of it to the president. Madison, I think, had the better of the argument from text and intent; history has tilted toward Hamilton.

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[3] Motion by James Madison and Elbridge Gerry. See The Records of the Federal Convention of 1787, ed. Max Farrand, vol. 2, New Haven: Yale University Press, 1937, p. 318.

Other constitutional principles developed. In addition to his famous imprints on constitutional jurisprudence made as chief justice, John Marshall, in an insufficiently heralded contribution while he was still a member of the House of Representatives, declared that the president was the "sole organ of the nation in its external relations, and its sole representative with foreign nations." That characterization was expressly approved by the Supreme Court in *United States* v. *Curtiss-Wright Export Corp.* (1936), which referred to the "very delicate, plenary and exclusive power of the president as the sole organ of the federal government in the field of international relations."

Others have blended Hamilton's "executive power" and Marshall's "sole organ" and built on them. In our century Theodore Roosevelt claimed to be the "steward of the people," and insisted that his "executive power was limited only by specific restrictions and prohibitions appearing in the Constitution or imposed by the Congress under its Constitutional powers." Franklim Roosevelt in time of war also claimed authority from "the people" and even threatened to repeal an act of Congress (or to treat it as repealed). More recent presidents have avoided having to justify, and inviting reaction to, extravagant conceptions of the presidential office by simply asserting far-reaching authority "under the Constitution and the laws of the United States." The constitutional pretensions of the Roosevelts have not been invoked or imitated recently, but it has sometimes been asserted, and often assumed, that the president himself can determine the foreign policy of the United States, communicate that policy as "sole organ," implement is as "the executive," and enforce it as commander in chief.

V

What I have described developed slowly and not without resistance and occasional retreat. Congress has never formally adopted or approved the large conception of the presidential office as it developed, though it generally acquiesced in that conception. Early presidents did not press their claims too far and, even with growing partisanship, Congress did not feel a need to challenge many presidential assertions. To cite a familiar early example, Congress did not feel obliged to challenge President Monroe's authority to proclaim his doctrine or to make the decisions and the threats it implied; for long, Congress was content to treat the Monore Doctrine with cautious, even skeptical, neglect, surely not as a promise binding the United States to go to war or to spend money.

As presidents claimed more, congressmen—and not only those of an opposing political party—sometimes objected. Our constitutional-political history is punctuated by exchanges between Congress and the executive, and between spokesmen for their respective claims. Against Hamilton, members of Congress and its supporters have cited Madison (and Jefferson), insisting that the president has only the few specific powers expressly granted him, narrowly construed, and that in foreign as in domestic affairs Congress is primary and supreme. The president, they were prepared to agree, is the sole organ of communication, but it is Congress that largely decides the policies to be communicated. The president's authority to make agreements without the consent of the Senate or the approval of Congress is limited. The president is the commander in chief of the armed forces, but it is Congress that decides what forces he shall command, whether the United States shall go to war, whether the arms and armies of the United States shall otherwise be deployed, and, if so, where and for what purpose.

Sometimes congressional spokesmen have claimed that constitutional uncertainties were intended to be resolved, and omissions supplied, by applying the principle of division between legislative and executive power expressed in the Constitution: Congress makes foreign policy, and the president executes congressional policy and conducts foreign relations in accordance with that policy. But clearly that is not an accurate description, either of the constitutional blueprint or of our government during the past 200 years. In foreign affairs the president does not merely execute what Congress prescribes. The president makes foreign policy—and legislates, makes law—when he makes a treaty (with the consent of the Senate). He makes foreign policy (and sometimes law) by executive agreements concluded on his own authority (without the consent of the Senate). The president makes foreign policy when he establishes diplomatic relations with the People's Republic of China and terminates such relations with Taiwan. There is inevitably some policymaking authority in the constitutional designation of the president as commander in chief. What is more, the distinction between making foreign policy and conducting foreign relations is essentially empty: the president makes foreign policy by conducting foreign relations, by the way he conducts them and the content and tone he gives them.

Congress has been more successful when it has argued, not constitutional limits on the president's initiatives, but rather the breadth of its own powers, and their supremacy. Congress has insisted that, whatever the president may do on his own initiative when Congress is silent, he may not act contrary to the wishes of Congress when they are expressed by law in the exercise of the legislature's broad powers over war and commerce with foreign nations and its power to spend for the common defense and general welfare. Both Hamilton and Marshall, it has been stressed, made only limited claims for presidential power. Marshall asserted only that the president was the sole organ of communication with foreign nations; he did not claim for the president authority to determine the substance of what was to be communicated. Hamilton asserted power for the president to initiate foreign policy in some areas not within the express powers of Congress, when Congress was silent; he did not claim any authority for the president to exclude Congress, or to act contrary to direction by Congress.

And so Congress has sometimes directed the president to do something, or not to do something, or to do something else, or to do something differently; sometimes Congress has undone what the president had done. Congress has not attempted to define or to regulate the content of executive agreements, but, in the Case Act of 1972, Congress insisted that it be informed of all such agreements. (The executive branch has apparently complied.) In the principal continuing controversy, the War Powers Resolution adopted by Congress in 1973 declared that the president has consitutional power to introduce U.S. forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated, only in the case of an attack on the United States or its armed forces. After declaring the president's own constitutional authority to be narrow, Congress asserted authority to regulate strictly the president's use of force in hostilities.

VI

Where has this debate left us today? Emphasis on unresolved issues should not obscure the fact that large dispositions in the Constitution are not disputed in principle (though presidents, and occasionally Congress, sometimes resent and resist them). Presidents have not made and do not make laws relating to foreign affairs. They do not appropriate money or spend funds without congressional appropriation. They do not make treaties without Senate consent. They have not asserted the power to declare war or to go into full-scale war without congressional authorization.

For its part, Congress has not presumed to make treaties or appoint ambassadors. And by extrapolation from the presidency's express powers, supported by references to Hamilton and Marshall, presidents have established beyond dispute an additional area of exclusive authority: Congress cannot tell the president to recognize or not to recognize, or to maintain or not to maintain diplomatic relations with, a foreign government; whom to appoint as ambassador; whether to negotiate a treaty, or whether to make or not to make a treaty or an executive agreement intimately related to the diplomatic function; or how to conduct a campaign in a war that Congress has authorized.

For the rest, we are in Justice Jackson's twilight zone, in which president and Congress "may have concurrent authority or in which its distribution is uncertain." Short of formal treaties, presidents make important executive agreements on their own authority on an undefined variety of subjects; occasionally the Senate, or a portion of its members, asserts limits on the president's power to make executive agreements or challenges his power to conclude a particular agreement.[4] "Short of war," a president may use the armed forces for foreign policy purposes determined by him; Congress, or some congressmen, frequently challenge particular presidential deployments. Presidents have continued to assert executive privilege to deny Congress documents or information, and Congress has continued to object and threaten; frequently the executive will provide such material subject to an injunction of secrecy. Until recently presidents asserted the right to impound and not to spend funds appropriated by Congress, including spending for defense or foreign policy purposes.

In the twilight zone, then, whether because authority is uncertain or concurrent, both Congress and the president have sometimes claimed authority to act when the other is silent. Congress and president sometimes race for the initiative, though in general the initiative is with the president, and presidents have pressed their claims far. But even when the president has acted Congress has sometimes asserted authority to regulate what he has done or might do. When Congress acts, its claims for supremacy are strong. Following his identification of the twilight zone, Justice Jackson wrote, in *Youngstown Sheet & Tube Co.* v. *Sawyer:*

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[4] In the National Commitments Resolution of 1969, the Senate declared that the president cannot commit the resources or the armed forces of the United States other than by treaty (with the consent of the Senate) or by authorization by act of Congress.

"When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb, for then he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter."

It is commonly accepted by students of the Constitution, if not always by presidents, that except in the small zone of exclusive presidential authority, Congress acting under its broad powers can prohibit or regulate what the president does, and the president (and all the president's men) may not flout congressional directives. Presidents, in fact, have rarely asserted power to act when Congress has directed them not to, or to disregard conditions imposed by Congress on their actions. If the president presses his resistance, Congress can usually prevail, in constitutional principle and in governmental practice, if only because it holds the purse strings—provided it has the will to pull them.

The significance of Congress' power of the purse should not be misconceived. Under the Constitution the president cannot spend a dollar unless Congress has authorized and appropriated the money. But where the president has independent constitutional authority to act, Congress, I believe, is constitutionally bound to implement his actions, notably by appropriating the necessary funds: for example, Congress may not properly refuse to appropriate funds, as reasonably necessary, to pay for an embassy to a government the president has recognized. But when Congress is of the view that a presidential act is outside his constitutional authority, it may challenge his action and may refuse to appropriate funds to implement it. Similarly, when Congress reasonably believes that the president's authority to act is not exclusive, but is subject to regulation by Congress, it may prohibit or limit the president's activity directly by legislation or indirectly by denying him funds. The president has no constitutional power, in any circumstances, to expend funds or transfer U.S. property contrary to congressional instructions.

VII

Consider the consequences of these constitutional developments in our day. The president has firmly established exclusive control of diplomacy and the diplomatic process: President Carter determined, over significant congressional opposition, to recognize the mainland Chinese regime and to terminate recognition, diplomatic relations and the defense treaty with the regime in Taiwan. He settled the Iran hostage crisis by executive agreement.[5] The president determines the intelligence-gathering activities of the intelligence agencies. For much else, the executive has been dependent on Congress (or on the Senate). Congress makes all laws and decides all expenditures. Congress determines foreign assistance—to which countries, in what amounts. The president sometimes promises financial or military aid, but he—and the proposed recipients—are aware that Congress will determine whether that promise will be kept, within what limits and on what terms and conditions. Congress has exercised authority to regulate and oversee "covert activities" (for purposes other than gathering intelligence); in the Iran-contra mess, there apparently were gross violations of the law, but no serious challenge has been raised to the constitutionality of those laws. Some presidents have not liked congressional human rights policies, whether sanctions against South Africa on account of apartheid, or restrictions on aid to other gross violators of human rights, but no president has seriously questioned the constitutional authority of Congress to determine that policy.

The president plans military policy and strategy, but only Congress can appropriate funds for research and development of weapons, and for the acquisition of weapons and their deployment. When Congress appropriates funds for particular weapons, it approves or acquiesces in the strategy which those weapons imply. Congress has not yet worked out the proper balance between its responsibility to legislate and to provide for the common defense, and its need to delegate and its desire to maintain "oversight," but under the Constitution it is for Congress to decide.

The power to make treaties is the president's, but he cannot dispense with the Senate. Forty years ago the president negotiated the U.N. Charter and the North Atlantic Treaty, but he had to involve the Senate intimately in those negotiations and he was able to conclude those treaties only when the Senate consented. Later other presidents concluded an ABM treaty, the Panama Canal Treaties and a Strategic Arms Limitation Treaty, but they were only ratified after Senate scrutiny and consent, and only subject to conditions which the Senate imposed.

Important matters, however, remain in the twilight zone. Members of Congress continue to question every new presidential deployment of armed forces and to assert the applicability of the War Powers Resolution; presidents continue to challenge the constitutionality of this resolution and to circumvent it in fact. There are recurrent demands that Congress examine untested assumptions about the president's authority to act in unthinkable ways in unthinkable circumstances—if nuclear deterrence fails. The Senate periodically questions the president's power to conclude an international agreement without Senate consent. In the twilight zone, too, are general issues between president and Congress that have important applications in foreign affairs, notably claims of executive privilege which Congress challenges, and congressional strings attached to laws or appropriations which presidents resent and sometimes resist.

VIII

I have emphasized what the Constitution makes explicit, and adumbrated powers whose allocation as between Congress and president is uncertain, or perhaps jointly held. Students of constitutional law and politics might add that the foreign affairs issues that agitate congressional-presidential relations in the bicentennial year reflect more than the uncertainties of the twilight zone. There are issues of constitutional interpretation as to the scope of the powers that are explicitly allocated to one branch or the other. Some tensions between Congress and the president are not strictly constitutional issues but are the inevitable (and perhaps desirable) consequences of the separation of powers—frictions and inefficiencies which separation engenders, failures in the cooperation which separation demands but which is not easy to achieve.[6] Acute tensions in constitutional politics, including those reflected in the Iran-contra shame, derive not from constitutional uncertainties but from unhappiness with, even resistance to, what the Constitution prescribes. Presidents in particular, I think, often see the constitutional blueprint as being out of date for the country we have become, in the world in which we live.

In the wake of Watergate and Vietnam there were stray suggestions that we consider abandoning or radically modifying the separation of powers, and even that we replace our "presidential system" with some variation of the "Westminster model." But there have been no serious moves in this direction, and even less radical constitutional amendments are not likely. (And I, for my part, would not favor any that have been suggested.) Short of constitutional amendments we can only hope to clarify and improve the interpretation of the Constitution we have. Some of the issues and tensions can be alleviated, I think, by the paying of greater attention, principally by Congress, to the use of the powers intended for the legislature by the framers.

The war power. In the War Powers Resolution, Congress declared its view that the constitutional authority of the president to use the armed forces in "hostilities" is strictly limited: he can do so only when there is an attack on the United States or its armed forces. In addition, Congress commanded advance consultation and prompt reporting of any engagement of U.S. forces, and automatic termination after 60 (or 90) days, or at any time when Congress so directs by resolution (not subject to presidential veto).[7] Presidents have challenged the resolution in principle, have sometimes made gestures of acquiescence, and have generally disregarded it.

I think that the War Powers Resolution is sound in constitutional principle but that it demands rethinking and rewriting. The resolution does not make clear whether the regulatory provisions apply when the president is acting within his sole constitutional authority (as Congress sees it), or only when the president has exceeded his constitutional authority. The resolution seems to require advance formal consultation with both houses of Congress, not merely with leaders, committee chairmen or specially designated agents of Congress. It requires such consultation "in every possible instance," but there is no indication as to what is meant by "possible."

Above all, the resolution suffers gravely from a lack of any definition of "hostilities"; yet the accuracy of Congress' statement of presidential power and the constitutionality of the regulatory provisions and their practical application may hang on how that term is defined. It is late in the day for

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[5] The Supreme Court upheld this agreement, finding that Congress had long acquiesced in and accepted the president's authority to settle international claims by executive agreement.

[6] Justice Louis Brandeis, dissenting in *Myers* v. *United States* (1926), wrote that "the doctrine of the separation of powers was adopted by the Convention of 1787, not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was, not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy."

[7] Some commentators have suggested that the use of such a congressional veto to control the president's use of armed force may be distinguishable from the "legislative veto" which the Supreme Court has invalidated. But Congress has to reconsider that section of the resolution.

Congress to challenge any deployment of troops whatsoever by the commander in chief, and in today's world any unit of U.S. armed forces anywhere may be an object of hostility and become involved in "hostilities." On the other hand, in invading Grenada, in putting the navy into the Persian Gulf, perhaps even in sending advisers to El Salvador and Honduras (to give some contemporary examples), the president has engaged in or risked war and placed himself, I think, within the purview of the war powers of Congress. If the resolution is to survive and flourish, Congress will have to redefine its scope as well as some of its regulations, and establish institutions and procedures to make it work.

Nuclear strategy. It seems to be commonly assumed that under the Constitution the issues of deterrence and of what to do if deterrence fails are "executive altogether." Congress has not challenged that assumption; a few citizens have, making claims on Congress' behalf. There has been little discussion of these issues in constitutional terms either in Congress, in scholarly circles or in the public domain.

The framers gave the powers over war and peace to Congress. It may seem hopelessly anachronistic to attempt to squeeze the issue of response to a first strike, or of the possibility of an anticipatory strike by the United States, into a constitutional framework designed for eighteenth-century wars. But the original framework and its allocations of authority are all we have to work with and live by.

If we take the Constitution seriously, it is not unreasonable to conclude that the original reasons for leaving the powers of war to Congress apply, *a fortiori*, to nuclear exchange. Assumptions of presidential authority (other than by delegation by Congress), then, must derive from the accepted "exception," in which the framers contemplated that the president could act to "repel sudden attacks" on the United States. A first strike or a strike in response to action other than an attack on the United States (or its armed forces) is not within the authority of the president under the framers' exception, and not within Congress' statement of the president's constitutional authority in the War Powers Resolution. Moreover, the framers' acceptance of such exceptional presidential authority, I am satisfied, assumed the need to act promptly, took congressional consent for granted and thought of presidential action as an emergency measure providing Congress the opportunity to act. But the assumption that Congress necessarily approves of a nuclear strike to defend an ally, or even in retaliation for an attack on the United States (as distinguished from "defense" of the United States), may not be obvious to all—not, say, to the Catholic bishops who reluctantly accepted deterrence but not the use of nuclear weapons if deterrence fails. In any event, that question, as an issue of principle, is not an emergency issue, but one that Congress could address in advance.

The assumption of the need for instant response, moreover, may apply to certain scenarios but not to some others. One can readily suggest situations in which there would be no need to respond instantly, and which are therefore not subject to the assumptions that might justify response by the executive without congressional authorization. In some circumstances, surely, there is both opportunity and justification for the operation of the original constitutional conception: consideration and decision by Congress. Should not Congress be exploring and planning for different contingencies, distinguishing those in which decision must be left to the president from those in which doing so contradicts the constitutional conception, and provide for congressional decision in some form wherever possible?

A constitutional issue of different dimension is raised by scenarios in which there would be no presidential finger available to press "the button." As applied in such circumstances, the authority contemplated by the framers for emergency response by the president would become authority not for presidential judgment but for virtually automatic response, and not by the president but by lower-ranking levels of civilian or military authority, unnamed and unknown even to the president. Such dispositions raise grave constitutional issues of delegation of power and of presidential succession. Again, if there is to be a process of automatic response in a particular contingency, if there are to be dispositions as to delegation, or as to presidential succession (other than those contemplated by the 25th Amendment), should they not be designed by Congress?

Congress has not explicitly made such dispositions. There is perhaps some level of congressional involvement in strategic planning when the Senate consents to treaty arrangements such as the North Atlantic Treaty, including the institutions for strategic planning implied in NATO. When Congress approves and appropriates funds for development of particular weapons, there is some degree of congressional involvement in determining the strategies which different weapons systems might imply. Perhaps it is assumed that by providing the weapons Congress in effect approves the different strategies they make possible, and delegates to the president the authority to implement them. But there is an important—and constitutionally critical—difference between congressional authorization of weapons systems and of their deployment, and decisions as to their use. It is far from obvious that the power to make war can be delegated, especially without guidelines, especially to unknown persons.

Reluctance to consider and discuss issues of nuclear strategy may be due in part to unwillingness to alarm the people, and in part to a fear that public discussion of the issue might weaken deterrence, but even the question whether those consequences are inevitable has not been responsibly discussed or considered. And is it clear that Congress could not discharge its constitutional responsibility without publicity?

Have nuclear weapons effectively eliminated any meaningful role for Congress in decisions as to nuclear strategy? If so, our celebrated Constitution is no longer relevant for our most compelling concerns.

The spending power. Issues of defense spending and foreign aid are essentially not differences as to what the Constitution provides, but unhappiness with what is provided. The Constitution expressly gives Congress the power to tax and provide for the common defense and the general welfare. The president can only "recommend" to the Congress "such measures as he shall judge necessary and expedient"; the president can propose, Congress disposes (subject to presidential veto, which it can override). Spending for the common defense, for "raising and supporting" the armed forces, allows the president's experts, military and civilian, to develop weapons and plan deployments and strategies—but Congress has to be persuaded to enact and implement them. Congress, for its part, is unhappy being a mere rubber stamp, particularly for spending huge sums requiring high taxes and competing with other societal demands. To provide itself some minimal role, Congress has had to develop its own experts and expertise. Inevitably, however, the role of Congress is often marginal, hardly what the framers contemplated. Presidents resent even that marginal restraint.

Similar, though less acute, is presidential impatience with the power of Congress to spend for the general welfare. In foreign relations, it is accepted that providing for the general welfare includes the appropriation of large sums of foreign aid. Again, presidents plan and promise, but Congress has to be persuaded, in general or in particular cases. Again, the roles are substantially reversed from what I think the framers intended.

Tensions as to the applications of the spending power are the inevitable consequences of the separation of powers, as it impinges on complex government in today's world. The tensions may even be desirable. I see no "remedy" other than more authentic consultation by improved procedures, at earlier as well as later stages.

Covert activities. The framers recognized the need to seek intelligence information, and doubtless saw it as an aspect of maintaining diplomatic relations. They may even have understood and contemplated other "covert activities," even some kinds of "dirty tricks." But these would have been questions of policy to be determined by Congress, then to be executed by the president.

The distinction between intelligence-gathering activities and "covert actions" having other purposes is recognized by Congress, which has regulated the latter only. Presidents have been less willing to accept the distinction. As regards covert activities for purposes other than intelligence-gathering, presidents have resisted even the requirement to inform Congress, in part from the principle of executive privilege, but even more because presidents know that knowledge is power, that the need to report and inform deters and circumscribes, that requests for information are a form of congressional regulation, and that information will engender further regulation. The executive branch has acquiesced in requirements to report to Congress or congressional committees, especially if Congress provides loopholes for special circumstances. In practice, we have learned, the president has been less acquiescent when Congress regulates his power by forbidding the use of funds for certain kinds of covert activities or the sale of weapons to certain governments, such as states supporting terrorism.

From a constitutional perspective, it is difficult to make a persuasive argument that Congress cannot regulate these covert activities, whether under its power to regulate commerce with foreign nations, to deal with the issues of war and peace, or to define offenses against the law of nations—or under the unarticulated "foreign affairs power" which the Supreme Court found implied for Congress in the notion of the national sovereignty of the United States.[8] In my view, the president has not made a case for "liberating" the intelligence agencies from restraints such as those Congress has imposed.

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[8] See *United States* v. *Curtiss-Wright Export Corp.* (1936) and *Perez* v. *Brownell* (1958).

The treaty power. The president cannot make a treaty without Senate consent; the Senate has sometimes sold that consent dear. Increasingly—since the disasters of the Versailles Treaty and other interwar agreements—the executive branch has learned to attempt to determine in advance what the Senate will buy, to consult particular senators, to involve more then in negotiations. But the Senate's perspectives on world affairs and the national interest are often different from those of the executive. The constitutional bifurcation of the treaty power is inefficient, and often frustrating to presidents and to the foreign governments with which we deal. That is not an issue of the interpretation of the Constitution, but a complaint against it. More, better, earlier consultation with the Senate will surely improve the treaty-making process. I do not see an answer to these tensions in an expansion of the use of executive agreements.

The Senate's consent to a treaty is constitutionally necessary, and for that purpose the Senate is entitled to know what the treaty means; often it will insist on articulating explicit understandings as to what it means. When, as has recently happened in respect of the ABM treaty, the executive branch later seeks to interpret a treaty on an effect different from what it had told the Senate in asking its consent, the executive would seem to be violating the constitutional conception. Surely such attempts by the executive invite the Senate in the future to probe ambiguities and to express understandings with nearly paranoid scrupulousness, from fear not only of what other states may make of a treaty but of what a future executive branch will make of it. The president must be candid; the Senate must restrain itself.

Fear of circumvention of the Senate by presidential resort to executive agreements on their own authority is currently quiescent. The President has not challenged the demand of Congress to be fully informed of executive agreements after they are made, and there has been no recent challenge by the Senate to the Constitutional propriety of any particular agreement that has been made. But the issue is always in the wings. The Senate has resolved that the president cannot agree to commit the forces or the financial resources of the United States on his own authority; presidents have purported to make such commitments only when Congress had delegated to them large authority, or only by nonbinding promises. But Congress can terminate or restrict its delegation of these powers, and there is always the possibility that Congress may deem a presidential promise to have been beyond his authority to make.

Thirty-five years ago Senator John W. Bricker (R-Ohio) led a campaign to amend the Constitution so as to limit the treaty power as well as the president's power to make agreements on his own authority. As regards executive agreements, that attempt, and others before and since, evoked sympathetic response; they foundered, I believe, because it proved impossible to draw the line between those agreements that require Senate consent and those the president ought to be able to make on his own authority. A new attempt at such definition is not likely to be more successful. Moreover, the need for formal regulation by Congress has not been obvious. Congress now has information about executive agreements and can arrange to scrutinize them to determine whether the president has gone too far. If he does, the Senate (and Congress as a whole) have the political weapons to frustrate presidential usurpation and reaffirm the Senate's constitutional claims.

IX

We have come a long way under the constitutional blueprint which the framers ordained and established. As they intended, Congress possesses, and exercises, the power to make law and to tax and spend for the common defense and the general welfare. The president was granted the power of a strong executive but has acquired much more. The framers did not anticipate, I think, how much legislation and spending would be determined by the fact that the president recommended them; that the president would become the many-headed executive branch, knowledgeable, expert and difficult for Congress to resist or to overrule; how much power Congress would be "compelled" or disposed to delegate to the president with only vague guidelines for its exercise; how much of the power that the president exercised originally by delegation or by acquiescence would be claimed as powers of the president "under the Constitution and the Laws." The framers did not foresee the dangers inherent in leaving general policies to be executed by a president who also had the command of the armed forces. I doubt they foresaw the number and variety of agreements presidents would claim authority to make without advice and consent of the Senate. I do not think they foresaw the president's claim to use the armed forces for broad foreign policy purposes determined by him. Surely they did not foresee a nuclear world and nuclear strategy that induced Congress to delegate—or abandon—its constitutional authority over the life of the nation to the president and even to unspecified persons in his command.

This, I believe, is where we are after 200 years, under an eighteenth-century blueprint which has never been replaced, or formally amended in respects here relevant. The explicit constitutional allocations continue to govern. A large twilight zone continues to generate both uncertainty and competition. Congress can often prevail if it organizes, educates and mobilizes itself, but there are formidable obstacles to its doing so. Major issues of separation of power remain unresolved and without prospect of judicial resolution. Resort to the Constitution, to text and context, to history and purpose, to intent of the framers, is often not fruitful, and special theories of constitutional construction (such as Hamilton's) are not always helpful, surely not determinative. We come down, I think, to deciding—if we can—what kind of country we are and wish to be. I am disposed to state the question as: How should foreign affairs be run in a republic that has become a democracy?

The framers of the Constitution were republicans, not democrats. After 200 years we are finally a democracy, limited by commitment to individual rights. (Some 20 years ago the Supreme Court made universal suffrage constitutional dogma.) It may be time, then, to begin to inject into our constitutional jurisprudence our conception of democracy, our dual democracy, a presidential democracy and a congressional democracy, giving each its due.

In foreign affairs the president represents the United States, and the people of the United States, to the world. Congress represents the people at home, the sum of different groups, constituencies, interests (general and special). The president leads; Congress legislates. The president represents needs for expertise, secrecy, speed, efficiency. Congress provides wider, soberer, more deliberate, more cautious, longer-term values and judgments.

For me, seeing the president and Congress under the aspect of democracy—an aspect quite different from the framers' perspective—nevertheless confirms their judgment, and the national experience over 200 years, in surprising measure. In respect of the government's authority to use force—the perennial and paramount constitutional issue—in my view, our dual democracy tends to confirm the original division. The Constitution gave the decision as to whether to put the country into war to Congress; the framers intended for the president only the power to defend the United States if this country were suddenly attacked. That division still seems wise, and responsive to popular wishes—the basis of authentic democracy. A decision to go to war in circumstances other than an attack on the United States—even to defend allies, or vital U.S. interests, or the lives of its citizens—was not intended to be within the president's sole constitutional power; the power, the decision, the responsibility belong to Congress. It is not a power which Congress should delegate. If Congress were to decide now that in given circumstances (say, an attack on U.S. forces in Berlin) the United States should go to war without awaiting a formal decision by Congress, it might so provide now, while requiring appropriate if less-than-formal participation in the decision by congressional agents. (Congress might also consider rewriting the War Powers Resolution accordingly.)

The original allocation of war powers resists too-ready application to the decisions of nuclear defense policy and the implications of deterrence, but its underlying sense, I think, is not irrelevant there. Should the president have authority to decide, alone, to escalate to nuclear war, to launch a first strike? Should he decide, alone, how to respond to nuclear attack? Granting such power is not what the framers intended, or would have intended; it is not, I think, what our kind of democracy requires. Commitment to total war should require the consent of the governed, not only for the general policy but for its every cost, and for all those decisions that implicate the lives—and the soul—of the people. Such decisions, I think, should be for Congress to make; surely, Congress must be involved in some important way. If, in some scenarios, there can be no formal role for Congress in a situation calling for instant retaliation or urgent preemptive action, it is all the more important that Congress be involved in advance planning, in contingent policy, as well as in the ultimate decision, by the best procedures Congress can devise.

The exercise of force in situations other than war is another, more complicated matter. In the conduct of foreign relations the president has acquired authority to use the forces that Congress puts at his command. But the Constitution explicitly denies him the power to initiate war, and therefore must deny him authority to do what is likely to bring us into war. A line between foreign affairs and war is not easily drawn. (Clausewitz, we recall, identified war as the conduct of foreign relations by particular means.) But it is a line drawn by the framers and redrawn by our history; I think it corresponds to the intimations of our dual democracy.

I am suggesting a distinction akin to but different from that which Congress adopted in the War Powers Resolution. The president must eschew involvement, or serious danger of involvement, in undertakings that have the character of war or threaten to involve us in the costs of war. President Carter's attempt to rescue hostages held in Iran, for example, was not designed to fight a war and was not likely to engage Iranian forces or threaten the independence or territorial integrity of Iran—the relevant test under international law. The invasion of Grenada, by contrast, whatever motivated it, sought to topple a government and occupy a territory. It was widely seen as an act of war for international purposes, and it would seem to have had the character of war for constitutional purposes. Good fortune kept deaths few on both sides, and as a result the action won popular acclaim. But would the people have supported it had it proved costly? It is not, I think, the kind of action the Constitution and our dual democracy intend to be undertaken by the president on his own authority. Again, the War Powers Resolution might be rewritten to reflect the distinctions I suggest.

Between rescue of hostages and invasion are other cases, some of them hard cases. It would be difficult to decide them by adjudication even if the courts were willing to try; it is surely a subject inappropriate for confrontation between president and Congress. The stakes are too high for a democratic society to tolerate either a presidential fait accompli or a congressional fiat delivered to an unwilling president. We need processes that will bring to bear wisdom as well as expertise, and the authentic consent of the governed. The original constitutional plan, the lessons of our intervening history, and our kind of democracy all call for congressional involvement, with a determining voice, in making foreign policy decisions that relate to the war power.

The tensions of human rights policy also implicate the theory of our democracy; it confirms, I think, the soundness of the instincts of the framers and their prescriptions. The president conducts foreign relations and is entitled to determine the quality of our relationship with each particular country. But the power to spend the people's wealth is a subject primarily for internal democracy, for the people and their representatives to decide what is in the general welfare, and how much to spend for it. It is the people, through their domestic representatives, who should be entitled to decide whether they wish to give their largesse to, or be associated with, a government guilty of torture or apartheid. The people of the United States, committed to the inalienable rights of all men and women everywhere, are entitled to identify with people who are victims of their own government, whether the identification is with blacks, Poles, Jews or any other human beings.

For the incredible excesses of the secret arms sales to Iran, and the flouting of the laws of Congress as regards Nicaragua, I see no constitutional excuse. Covert activities that stir issues of war and peace, or that spend the country's resources, are—and ought to be—subject to control by Congress. I believe the Constitution entrusts them to Congress properly, wisely. If the president cannot persuade Congress, he must bow to its will. The Constitution is clear: "He shall take care that the laws [of Congress] be faithfully executed."

The Constitution was not a perfect realization of ideals, principles and plans but "a mosaic of everyone's second choices." As a result, ours is a strange system, the strangest in the world. It was strange when it was conceived; it is stranger in the nuclear age. It blends different notions of democracy; a democracy represented to the world by the president; and internal democracy represented by Congress, closer to the people, to constituents, to individuals, to issues. It also blends respect for representation with concern for effectiveness, for different kinds of effectiveness. The president provides leadership, commands information, expertise, speed, efficiency. Congress represents the people, its wider, sobered (more cautious) long-term values and judgments. Two hundred years have given us separation of powers *cum* democracy or, perhaps more accurately, differentiation of function mixed for democracy. Ideally, the representatives of our different kinds of democracy work together. Good government as well as democracy demand fewer decisions by one representative alone, for war or in peace.

COVERT OPERATIONS AND PUBLICLY AVOWED FOREIGN POLICY

Mr. FOWLER. I would like to address a question to the distinguished chairman and vice chairman of the Intelligence Committee. Specifically, as an 8-year veteran of the House Intelligence Committee I am most concerned about the effectiveness of covert operations which we undertake. I believe the record is clear, as documented from sources ranging from the Church Committee in 1976 to the Iran/Contra Committee in 1987, that these secret activities of our Government can succeed only when they are consistent with, and in support of the publicly avowed foreign policy of the United States. I note on page 12 of the committee report on S. 1721 that one of the Iran/Contra Committee principles adhered to by the committee in developing S. 1721 was the following:

> As the Church Committee wrote more than a dozen years ago, "covert actions should be consistent with publicly defined United States foreign policy goals." But the policies themselves cannot be secret.

I would like to inquire about the intent of the distinguished authors of S. 1721 with respect to insuring that covert operations are in accord with our open foreign policy.

Mr. COHEN. First of all, I would like to say that I share the distinguished Senator from Georgia's concern about coordinating our overt and covert foreign policies. The Intelligence Committee has been deeply concerned about the harm to our national interests which resulted from the inconsistencies between these two sets of policies in the Iran/Contra affair. I can assure the gentleman that it is the intent of the committee that covert actions will be scrutinized in great detail in terms of consistency with our publicly defined foreign policy goals. That is what is contemplated under S. 1721 as the standard for both the President in initiating covert operations and the Intelligence Committee in overseeing these activities.

Mr. FOWLER. I thank the distinguished gentleman for that assurance.

STANDARDS FOR COVERT OPERATIONS

I would like to address a question to the distinguished chairman and vice chairman of the Select Committee on Intelligence. There have been in the past, and no doubt will continue to be in the future, extraordinary circumstances in which these risky covert operations are the only effective means to protect vital interests of the United States. The committee bill recognizes the necessity for maintaining the covert option, and this Senator certainly agrees with that determination. However, I am concerned that in the recent past covert operations have become too routine, have sometimes been undertaken because they are more convenient than going through more regular and open channels. In short, I believe the standard used under current law has been too lenient, and certain covert operations have been proposed where the risks were clearly disproportionate to the anticipated benefits, or where alternative, less sensitive means were available, or where the goal of the operation did not really touch a matter of vital national interest. This situation has occurred under current law's requirement that a covert action must be important to national security. I note that the committee bill retains that same standard. I would like to inquire of the gentlemen about their intent with regard to the standard to be employed in reviewing the appropriateness of a given covert operation.

Mr. COHEN. We agree with the Senator that covert action should be seen by both the executive branch and the Congress as an exceptional act. The need for a high standard for the initiation and conduct of covert activities was made clear in both the Tower Commission and the Iran/Contra Committee reports. Furthermore, under the leadership of then National Security Assistant Carlucci, the executive branch significantly improved its oversight of covert operations. Finally, the Select Committee on Intelligence has strengthened its oversight of these operations. We believe the combination of improved executive and legislative branch oversight, and the mandatory reporting provisions included in S. 1721 will provide the mechanism to bring about the kind of stringent standard for covert operations sought by the Senator from Georgia. However, if that does not prove to be the case, we can assure the Senator of our intent to revisit the issue of tougher statutory standards in the Select Committee on Intelligence.

Mr. FOWLER. I thank the gentlemen for their comments.

Mr. BOREN. Mr. President, I am going to suggest the absence of a quroum in just a moment. Let me say that we are attempting to see if there is any kind of agreement that can be reached on the matter that has been raised by the Senator from North Carolina.

In the meantime, it is our hope to go ahead and complete action on all the other amendments that we know that might be offered to this bill. I know that the Senator from Rhode Island, Senator CHAFEE, has an amendment which he plans to offer. I believe it is an amendment which we can accept. I have sent word to Senator CHAFEE, and I believe he will be here shortly to offer that amendment.

Let me again urge all Senators that if there are any Senators who have an amendment or who wish to have something clarified about this legislation, I urge them to come to the floor now. It is our hope to complete action on the amendments, other than the issue raised by the Senator from North Carolina, and then be prepared, if some sort of an agreement is worked out, to go then to final passage as early as possible this afternoon on the legislation. So I would like to make progress in getting everything else taken care of while we continue negotiations with the Senator from North Carolina.

Mr. President, at the moment I am going to suggest the absence of a quorum. I hope my colleagues, if they have any amendments to offer to this legislation, will make their way to the floor during this period of time so that we can proceed ahead and complete business on the pending very important legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1626

Mr. CHAFEE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes an amendment numbered 1626.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, after the period on line 19 (in Section 2 of the bill, subsection 503(c)(4)) add the following new sentence at the end of the subsection:

"Any information provided by the President pursuant to this subsection shall be subject to the provisions of S. Res. 400, 94th Congress, and to Rule XLVII of the Rules of the House of Representatives, and may be subsequently disclosed by the recipients only in accordance with the applicable provisions of such Resolution or Rule."

Mr. CHAFEE. Mr. President, what this amendment does is to make it perfectly clear that the leaders of the House of Representatives, that is the Speaker and the minority leader, are bound by the restrictions of rule XLVII, the House counter part to Senate Resolution 400; namely, that when there is disclosure to them, pursuant to the bill of covert operations information, that they cannot disclose that information to anyone.

I believe that it is clear that the Senate leaders and, of course, the members of the Intelligence Committee, are restricted by that resolution. But there is a little vagueness as to whether the speaker and the minority leader of the House, although they are ex officio members of the Intelligence Committee in the House, it is not clear that they are bound by the restrictions of Senate Resolution 400.

This just makes that clear. This has been cleared with both the distinguished chairman of the committee and the distinguished vice chairman of the committee.

Mr. COHEN. Could I respond quickly to my friend from Rhode Island?

Mr. CHAFEE. Yes.

Mr. COHEN. We, of course, have no objection to this clarification in the bill.

The Speaker would be bound by the rules of the House of Representatives which are in fact comparable to Senate Resolution 400.

Mr. CHAFEE. Just before moving passage of this, Mr. President, I would say this. I appreciate a great deal, the leaders of this, the floor leaders of this measure accepting this because I think it clears up a possible gap that was in the bill unintentionally. At the same time I do not want anybody to think that if this is acceptable and approved by the Senate that it necessarily would ensure my support for the overall measure. I am debating that, deciding just how I will vote. So I do not want to travel under any false colors. I hope you accept it but it does not ensure my support for the measure.

Mr. COHEN. Let me assure my friend from Rhode Island we will accept your amendment whether you vote for the final passage or not. We hope wisdom and good judgment will prevail and you will see it is in the best interests of the country to support the measure but is has no bearing whether or not we accept your amendment.

Mr. CHAFEE. I appreciate that and any time the distinguished senior Senator from Maine is on a measure, or the distinguished senior Senator from Oklahoma is on a measure, that gives it tremendous momentum, as far as I am concerned. I mean that is where justice must lie.

However, occasionally I find that I may differ. Rarely, but sometimes.

Mr. BOREN. Mr. President, I am greatly impressed by the eloquence and good judgement of the statements just made—most of the statements just made by the Senator from Rhode Island. I thank him for offering this amendment. I think it, indeed, makes a contribution to this legislation. It is a perfecting amendment in the essence of the term. It clarifies, makes certain that if the President exercises that option that the group of four, two leaders in each House will be notified, that that group of four has an obligation to safeguard that information. They are not allowed to share that information with staff. They are not allowed to share that information with other Members of the House or Senate. It is to be held solely to those four people.

Of course, that is the intent of the legislation. This is very much in keeping with the intent and I think the amendment of the Senator from Rhode Island makes a great contribution. I thank him for it. As always, he has been very thoughtful and, obviously, he has read this legislation with care.

He saw this possible gap in the legislation. He may be setting a dangerous precedent. If all the Members start reading the bills, there is no telling what might happen to the legislative product of the U.S. Senate. But it might make a lot more sense than it has made in the past. I thank the Senator from Rhode Island.

We understand and we accept this because it is right and because it is a constructive addition to the bill. We understand he keeps his options on final passage. I just hope, knowing that he is the thoughtful person that he is, that he will decide to support this legislation in the last analysis.

But whatever his decision in that regard we respect him greatly and thank him for his contribution and this amendment is certainly acceptable on this side of the aisle as well.

Mr. CHAFEE. Mr. President, if I might make one point? It covers not only the situation where the four are notified, but obviously it would cover the situation where the eight are notified.

Mr. BOREN. Yes.

Mr. CHAFEE. In other words, it locks in the leadeship of the House, just as the Senate leadership is locked in.

Mr. BOREN. That is certainly understood, Mr. President. It would cover all the situations where the group of four are notified, the group of eight are notified; that coupled with the current rules under Senate Resolution 400 which, of course, are binding on the two Intelligence Committees, if they receive notificaiton as Intelligence Committees, they are bound to safeguard that information that is given to the full committees. That is already an existing rule and the Senator from Rhode Island has clarified the situation in terms of the nonsharing of information, even with colleagues. If we are talking about the group of four and the group of eight.

Mr. CHAFEE. Furthermore, there is no question but that the two leaders in the Senate are locked in under Senate Resolution 400. I am correct on that?

Mr. BOREN. Yes, under the language that the Senator from Rhode Island has offered; that is correct.

Mr. CHAFEE. Fine.

Mr. BOREN. Mr. President, I would move the adoption of the amendment.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1626) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I wish to thank the distinguished floor leaders of this bill, the Senators from Oklahoma and Maine.

Mr. President, I would suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:30 P.M.

Mr. BYRD. Mr. President, I have discussed this request with the distinguished manager of the bill and with Mr. HELMS. I ask unanimous consent that the Senate stand in recess until 2:30 today rather than have a quorum call that would last probably that long.

There being no objection, the Senate, at 1:48 p.m., recessed until 2:30 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. CONRAD).

RECESS FOR 10 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 10 minutes.

There being no objection, the Senate, at 2:30 p.m., recessed until 2:40 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. CONRAD].

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. FORD). The Senator from Virginia.

Mr. WARNER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending legislation is S. 1721. It is the congressional oversight of certain intelligence activities.

Mr. WARNER. Mr. President, I seek recognition for the purpose of addressing the bill.

The PRESIDING OFFICER. The Senator is recognized.

Mr. WARNER. Mr. President, today I rise to speak in favor of S. 1721, the Intelligence Oversight Act of 1988. It is one of the more important pieces of legislation that the Congress will consider this year.

Mr. President, S. 1721 is a comprehensive piece of oversight legislation, seeking to cover the broad range of intelligence activities from collection to covert actions. But the legislation primarily and, quite properly, focuses on the formulation and implementation of covert actions. Properly conducted, such activities can be a vital tool in advancing our diplomatic, military, and economic interests. Improperly conceived or conducted, such actions can alienate other governments, injure our own Government, as happened with the Iran-Contra affair, and ultimately, place in question public confidence in the effectiveness of our intelligence operations.

In deciding to support S. 1721, I should like to point out that I am a long time friend and supporter of the intelligence community. In the budget process, I have consistently worked to insure a strong US intelligence capability, and I am a strong believer in the benefits of covert operations. In short, I believe that intelligence can be the foundation of an effective diplomatic and military policy. At the same time, I have a responsibility to insure that our laws are obeyed, that our civil liberties are protected, and that our Government is well and fairly run. It is with this background of strong support for our intelligence agencies and sincere concern for good government that I support S. 1721. I believe that it strikes the proper balance between no congressional oversight and excessive oversight, between the "need-to-know" and the need for security. In the long run, the net effect of this legislation should be to create a solid consensus behind covert operations and intelligence activities.

As our distinguished chairman, Mr. BOREN, and our distinguished vice chairman, Mr. COHEN, have said this bill was reported out of the Intelligence Committee after very thorough deliberations by a 13-to-2 vote indicating strong bipartisan support.

The chairman and the vice chairman provided superb leadership in directing this unique piece of legislation. We owe them our debt of gratitude.

I stress that deliberations over this oversight legislation have been careful, extensive, and detailed. We have crafted this legislation over the course of a year, debating among ourselves and listening with interest to friend and foe alike. We reflected intently on the views of the administration, we listened to our fellow lawmakers in the Senate, we studied the 40-year history of covert action, and we solicited the views of legal scholars, senior statesmen, and current and former intelligence officials. We weighed, seriously and at length, the political, constitutional, and security implications of this legislation. The result is a judicious and prudent piece of legislation that does not radically overturn current law, but rather strengthens it by making it more clear and concrete. Indeed, in all except the mandatory 48-hour reporting requirement, this legislation tracks with the Presidents own National Security Decision Directive—NSDD-286—on intelligence activities.

Mr. President, when I say that S. 1721 would make oversight law more clear and concrete, I have in mind two areas in particular—Presidential involvement in covert actions and congressional oversight of such activities. As concerns Presidential involvement, S. 1721 makes it clear that the President has ultimate authority for covert action decisionmaking and implementation. Current law is inadequate on such points. For example, in notifying Congress of a covert action, current law places this responsibility on the head of the department or agency involved, not with the President. Similarly, in notifying Congress of an illegal intelligence activity, current law requires the agency and department heads involved to report such activities, not the President. Overall, S. 1721 requires that the President:

Determine in his finding that a covert action meets the national security and foreign policy objectives of the United States;

Not issue any retroactive findings in support of a covert action;

Ensure that no finding authorizes a covert action intended to influence the U.S. political process, public opinion, or media;

Specify third party involvement;

And, ensure that no finding may authorize any action that would violate any law of the United States.

Along with the requirements that S. 1721 lays on the President, this legislation clearly specifies the requirements for reporting covert actions to Congress:

Under normal circumstances, the Intelligence Committees will be given prior notice;

The committees shall also be informed of significant changes to a covert activity;

Under extraordinary circumstances, notice can be limited to eight individuals—the heads of the Intelligence Committees and the congressional leadership. Under the most extraordinary circumstances, when the need for security is paramount, notification can be limited to the four congressional leaders. Finally, notification, under these circumstances can be withheld for 48 hours after initiation of a covert action.

Mr. President, regarding notification, I wish to stress that congressional approval is not a requirement for the President to initiate any covert action.

Mr. President, before proceeding further, I wish to point out that I supported the amendment by Senator McCLURE to report to the "Gang of 8," that, under exceptional circumstances, a court action is underway or will be undertaken, but does not provide the substance of the finding until the exceptional circumstances no longer obtain. This amendment would have made a good bill better. Nevertheless, S. 1721 remains, I stress, a good bill.

And so, Mr. President, in concluding, I wish to state, as many have, that no law can legislate good judgment or eliminate mistakes. However, taken together, these provisions for more active Presidential participation in covert actions and for clearer requirements on notifying Congress, can go a long way toward helping. They ensure that such actions are properly considered by the senior elected leadership of this country, and that the combined wisdom of this leadership is brought to bear on weighing the political, military, and economic risks and benefits associated with such action. This can only serve to constrain imprudent action and, in the long term, ensure the continuing viability of covert actions as a useful tool of our foreign and national security policy.

Mr. DODD. Mr. President, will the Senator yield?

Mr. WARNER. I yield.

Mr. DODD. Mr. President, I thank the Senator from Virginia for yielding.

I have had the opportunity to listen to his remarks, and I should like to associate myself with the remarks of the Senator from Virginia. It was an eloquent statement, succinct, and to the point. It characterizes for all of us why this legislation from the Intelligence Committee is such a sound and thoughtful piece of legislation.

The distinguished Senator is a member of the Intelligence Committee and attends most, if not all, of those meetings, and he keeps his colleagues well informed. His analysis of this legislation is most instructive and helpful for those of us who are not members of the committee. I think we should recognize the contribution he makes and that others make. I commend him on his remarks.

Mr. WARNER. I thank the distinguished Senator from Connecticut.

I also thank him for his participation in our joint session between the Intelligence Committee and the Foreign Relations Committee, of which he is a member. I look forward to future association on these issues involving the security of our Nation.

Mr. DODD. I thank the Senator.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from West Virginia, the majority leader.

Mr. BYRD. Mr. President, efforts are going forward to try to work out an amendment on the pending matter. I am hopeful that the Senate can complete action on this bill today, the intelligence authorization bill.

There has been a lot of time spent on it by the Intelligence Committee. It is an important bill.

Meanwhile, I had said some days ago, earlier this week, that it would be hope not only that we could complete action on that bill today, but also that we would vote on the nomination of William F. Burns, of Pennsylvania, to be Director of the U.S. Arms Control and Disarmament Agency, Kenneth L. Adelman, resigned.

I think we ought to go ahead and at least get the vote on this nomination.

I wonder if there is any reason to put a short-time limit on it for debate?

Mr. President, I ask unanimous consent, as in executive session, that it be in order that such time as the Senate proceeds to the consideration of the nomination of William F. Burns it be in order to order the yeas and nays at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I am informed no time for debate is needed. I believe Senators ought to be alerted, however, to the fact that a rollcall vote is pending.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of William F. Burns, Calendar Order No. 529.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

The legislative clerk read the nomination of William F. Burns, of Pennsylvania, to be Director of the United States Arms Control and Disarmament Agency.

Mr. PELL. Mr. President, as chairman of the Committee on Foreign Relations, I support the nomination of William F. Burns to be Director of the Arms Control and Disarmament Agency. The committee heard General Burns on January 29, and reported the nomination favorably by voice vote on February 17.

At present, Major General Burns is the Principal Deputy Assistant Secretary in the Bureau of Politico-Military Affairs in the Department of State, and he has dealt with arms control issues in that position. Earlier he represented the Joint Chiefs of Staff in the Intermediate-Range Nuclear Forces negotiations in Geneva. He has an exemplary military record.

Mr. President, by law the Director of ACDA cannot be an active duty military officer. General Burns has assured the committee that he will retire before taking over that office. I fully expect that his military background will serve him in good stead as the Director of ACDA.

It is important that ACDA once again play a central role in the arms control deliberations within the administration. While it is true that this administration is in its final months, there is no reason that this period cannot be marked by considerable achievement in the field of arms control. It is very important that every effort be made to continue the course to a good, verifiable START Agreement. It is quite possible that, with good faith efforts, the United States and the Soviet Union can work out an agreement on nuclear testing verification which will open the way to early ratification of the 1974 Threshold Test Ban Treaty and the 1976 Peaceful Nuclear Explosions Treaty. Moreover, it should be possible to make substantial progress toward an agreement banning chemical weapons.

These successes will elude us unless we have strong and effective direction within the executive branch. I believe that General Burns can provide that direction at ACDA. Accordingly, I urge that the Senate give its advice and consent to this nomination.

Mr. BYRD. Mr. President, I ask unanimous consent that this be a 15-minute rollcall vote with the call for the regular order automatic at the conclusion of the 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I think our respective cloakrooms should advise Senators that a rollcall vote is imminent.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of William F. Burns, of Pennsylvania, to be Director of the U.S. Arms Control and Disarmament Agency? The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Florida [Mr. CHILES], the Senator from California [Mr. CRANSTON], the Senator from Arizona [Mr. DECONCINI], the Senator from Georgia [Mr. FOWLER], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], the Senator from Rhode Island [Mr. PELL], the Senator from North Carolina [Mr. SANFORD], and the Senator from Illinois [Mr. SIMON], are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Nebraska [Mr. KARNES], and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

I further announce that the Senator from Oregon [Mr. PACKWOOD] is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Minnesota [Mr. DURENBERGER] and the Senator from South Carolina [Mr. THURMOND], would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 83, nays 0, as follows:

[Rollcall Vote No. 45 Ex.]

YEAS—83

Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
Dixon
Dodd
Domenici
Evans
Exon
Ford
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Helms
Hollings
Humphrey
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NOT VOTING—17

Adams
Biden
Chiles
Cranston
DeConcini
Dole
Durenberger
Fowler
Gore
Heinz
Inouye
Karnes
Packwood
Pell
Sanford
Simon
Thurmond

So the nomination was confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. METZENBAUM. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominee.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTELLIGENCE OVERSIGHT ACT

The Senate continued with the consideration of the bill.

Mr. BYRD. Mr. President, I wonder while Senators are on the floor if we can get some understanding from the managers as to how they see the situation developing for the rest of the afternoon on the intelligence authorization bill.

I yield to the distinguished Senator from Maine.

Mr. COHEN. Mr. President, I thank the majority leader for yielding.

I would have to say the agenda is quite murky at this point. We believe that Senator HELMS will be sending an amendment to the desk momentarily.

I retract that. I believe Senator SYMMS has an amendment to offer to the pending measure which would pertain to identification of SS-20 missiles. I am not sure how long that will take. Perhaps a short period of time.

Then Senator HELMS has a rather controversial measure which would be sent to the desk, which would take a considerable amount of time.

Mr. BYRD. I wonder, before I yield the floor, if the Senators would be agreeable to time agreements.

Mr. SYMMS. Mr. President, if the Senator will yield, I think after my amendment is read and we have a brief discussion of it, it may be that the leader will wish to set this over and vote on it next week, though I cannot say that for sure at this time. In order to do justice to this amendment, we will have to have a closed session, and whether the leader wants to do that this afternoon or when we come back, I do not know.

I can send the amendment to the desk and let the clerk read it, have a discussion, and the leader can then direct what we will do, or I can read it myself.

Perhaps the leader can give us direction.

Mr. BYRD. I would like for us to be able to proceed as expeditiously as we can, hoping to complete action on the bill this afternoon, at least on the amendments thereto.

The Senator may proceed.

AMENDMENT NO. 1628

(Purpose: To provide that the Senate shall not consider in Executive Session a proposed Treaty Between the United States of America and the Union of Soviet Socialist Republics Concerning Intermediate-range Nuclear Forces unless and until the President certifies that the Soviet Union has provided accurate data regarding the size and composition of its SS-20 missile force)

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 1628.

Add at the end of the bill the following new section:

"SEC. . (a) FINDINGS.—1. The Senate finds that a substantial discrepancy exists between various United States intelligence estimates of the number of SS-20 missiles possessed by the Soviet Union and the number of missiles reported by the Soviet Union to the United States pursuant to the Memorandum of Understanding to the proposed Treaty Between the United States of America and the Union of Soviet Socialist Republics Concerning Intermediate-Range Nuclear Forces (hereinafter the "INF Treaty") and that such discrepancy could indicate a covert Soviet SS-20 missile force of 300 to 550 SS-20 missiles carrying 900 to 1650 high-yield nuclear warheads.

2. The Senate finds further that, unless the present discrepancy is satisfactorily clarified, the United States could put at jeopardy its supreme national interest, its 300,000 troops stationed in Europe, and the security of NATO by ratifying the proposed Treaty and thereafter, pursuant to such Treaty, eliminating its own deterrent INF forces based in Western Europe.

(b) Taking account of the findings made in this Section, it shall not be in order for the Senate to consider the proposed INF Treaty in Executive Session unless and until the President of the United States has certified to the Senate that the Senate can rely with confidence on the accuracy of the number of SS-20 missiles reported to the United States by the Soviet Union.".

The PRESIDING OFFICER. The Chair would appreciate it if there could be some order in the Senate so the Senator might be heard.

Mr. SYMMS. Mr. President, I have a chart which will be put up in the back of the Chamber, and I have a few copies that Members can pick up if they wish to look at it. It is an unclassified chart which shows the range of assessments on concealed SS-20 missiles compared to the Soviet declared number under the INF Treaty. The chart is unclassified, and all of the remarks I will make in open session are unclassified. The chart and my remarks are based upon the following unclassified sources: one, "Soviet Military Power", Defense Department; two, Admiral Crowe's open testimony; three, press reports from many media; four, unclassified letters; five, the INF Treaty Memorandum on Data.

From this unclassified chart, it is clear that press reports show that the national intelligence estimate of 950 SS-20's exceeds the Soviet number by 300 missiles. This unclassified number must be considered a covert force which may be deployed or undeployed. We have to consider this.

Mr. President, before I go on with these unclassified remarks, I want to make clear with the chairman of the committee, the ranking Republican, and the majority leader that I intend to offer this amendment on this bill. I do not intend to offer it and withdraw it later. I want it on this bill.

Mr. ARMSTRONG. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. The Senate will wait until there is silence in the Chamber. We will not proceed until there is that silence.

We are not proceeding until there is total silence.

The Senator may proceed.

Mr. SYMMS. First, Mr. President, the Soviets declared that they had a maximum of 650 SS-20 missiles as of November 1, 1987, when they signed the INF Treaty on December 8, 1987. This is the total number of SS-20's that the Soviets are obligated to eliminate under the INF Treaty. The 650 number comes from the INF Treaty Memorandum of Understanding on Data, which the Senate declassified.

Under the terms of the treaty, this number of 650 is supposed to represent the total number of SS-20's ever produced and still in the hands of the Soviets.

Second, many recent press reports have stated that, in the National Intelligence Estimate of July 1987, the State Department Intelligence and Research Office and the CIA both made an estimate of the total SS-20's produced that was below the Soviet supplied number of 650. The State-CIA number was reportedly 550 SS-20's, 100 less than the Soviets declared on December 7 and December 8.

This State-CIA underestimate severely discredits the methodology of estimating used by State and CIA.

Third, Mr. President, according to various press reports, in the current draft of the National Intelligence Estimate of January 1988, the State-CIA estimate, has reportedly now been raised to 700. With the raising of the SS-20 estimate to 50 missiles above the Soviet-supplied number of 650, it became possible for the State Department to declare publicly that the Soviet-supplied number of 650 was "within the range of our uncertainties."

Indeed, this may be a true statement of the State-CIA range of uncertainties. But what is not made clear by the statement is the fact that with the severity of the State-CIA error in estimate, their methodology of estimating should be rejected along with their estimates.

Fourth, further evidence of the unreliability of the State estimates is that the State declaration on May 13, 1987, that there could be 840 or more SS-20's. This public estimate flies in the face of the reported secret State-CIA estimate of only 550 SS-20's which then was classified. Thus the State Department was publicly much higher than their then-secret estimate, another anomaly further discrediting the State Department estimative methodology.

Fifth, according to press reports, in the July 1987 NIE the majority of the intelligence community, that is, the four military service intelligence departments, plus the National Security Agency, all estimated that the Soviets had at least 950 SS-20's. This was the NIE best estimate, agreed to by the majority of the intelligence community. This judgment is reportedly repeated in the current draft NIE of January 1988.

That is a discrepancy of over 300 missiles, to put that into perspective, which is a significant imbalance that could be reflected right now in Western Europe, once we go through with the INF Treaty.

According to press reports, both the July 1987 and the current draft NIE of January 1988 reportedly contained an estimate by the DIA of 1,200 SS-20's produced. This estimate is reportedly based upon solid evidence.

Mr. BOREN. Mr. President, I wonder if the Senator will yield for a question.

Mr. SYMMS. I yield without losing my right to the floor and yield only for a question. I would be happy to yield for a question.

Mr. BOREN. Mr. President, I wish to ask my colleague a question. Referring to the National Intelligence Estimates, is the Senator referring to public comment from publications alleging the National Intelligence Estimates? I want to ask my colleague, he is not purporting to speak from classified sources in open session, is he?

Mr. SYMMS. This is all unclassified, what I am saying now.

Mr. BOREN. Could the Senator make that clear by citing the source? Because I think it would be very unfortunate if the implication were given that these were direct quotations from National Intelligence Estimates that have not been declassified.

Mr. SYMMS. These are from press statements that are public information, and it is unclassified is what I am saying. I repeat, the chart is unclassified, and all of my remarks here in open session are unclassified. The unclassified chart and my unclassified remarks are based upon the following unclassified sources: First, "Soviet Military Power," Department of Defense; second, Admiral Crowe's open testimony; third, press reports from many media; fourth, unclassified letters; and fifth, the INF Treaty Memorandum of Understanding on Data.

Mr. BRADLEY. Will the Senator yield?

Mr. SYMMS. In open testimony before the committee Admiral Crowe made one statement that that was the estimate.

Mr. BOREN. So the Senator is not alleging that the National Intelligence Estimates actually state figures——

Mr. SYMMS. No. What I am saying is that in order to debate this in full, I would agree with the chairman, the Senate must go into a closed session and then we can verify these press reports and these things that have been stated in public in a closed session.

Mr. BOREN. So the Senator is quoting from public sources——

Mr. SYMMS. Public sources only, some of which are official U.S. Government official unclassified sources.

Mr. BOREN. Which give their own rendition of what National Intelligence Estimates state? He is not quoting directly from National Intelligence Estimates; is that correct?

Mr. SYMMS. No. I am quoting from statements that have been publicly stated that are unclassified.

Mr. BOREN. I thank the Senator.

Mr. COHEN. Will the Senator identify the public statements?

Mr. SYMMS. One was from Admiral Crowe before, I think it was the Senate Armed Services Committee.

Mr. COHEN. I do not believe Admiral Crowe gave any indication of 900 warheads or 300 missiles.

Mr. SYMMS. That was from my own estimate. There are 3 warheads on each SS-20 and if, in fact, as these statements have been made, there are 300 unaccounted for SS-20's above the 650 the Soviets declared, then that would be 900 warheads that could be possibly hidden. That is my speculation.

Mr. COHEN. I gather from the Senator's statements that the Senator was citing the NIE as supporting that particular figure and that is not correct. Am I correct that the Senator is not citing the National Intelligence Estimates for the source of 900 warheads?

Mr. SYMMS. What I am doing is just simply multiplying the fact that if, in fact, as Admiral Crowe said publicly before our committee, that there possibly are 300 more SS-20's than we think there are, then I am saying that with 3 on each SS-20, that is 900.

Mr. COHEN. The Senator is citing Admiral Crowe?

Mr. SYMMS. That is not a classified number. That is public knowledge. That has been reported widely in the news media, in the Washington Post and other newspapers, the Washington Times.

Mr. COHEN. The Senator is not citing the Washington Post and the Washington Times as authority for——

Mr. SYMMS. No. Let me finish my statement and then we can discuss this further. I will be happy to answer questions.

Sixth, according to various press reports, both the July 1987 and the current draft of the NIE of January 1988 reportedly contained an estimate of the DIA of 1,200 SS-20's produced. This estimate reportedly is based upon solid evidence. Seventh, we have the estimate of 2,250 SS-20's produced, which is based upon analysis of reported evidence of SS-20 production and deployment under two Soviet 5 year plans, 1976-80 and 1981-85. This estimate may be the estimate most soundly based in terms of methodology and evidence. Mr. President, Senator HELMS stated publicly that press reports indicate that the majority of the intelligence community believes in the NIE that the Soviets produced at least 300 more SS-20 missiles than they have claimed in the INF memorandum of understanding. There may be as many as 1,600 more SS-20's than the Soviets declared.

Now, the chairman of the Committee on Foreign Relations publicly released a statement apparently by Ambassador Kampelman which said, and I quote: "The Helms statement is incorrect, the majority of the national intelligence community does not support the view that the Soviets withheld a number of SS-20's. All data will be reviewed in the updated memorandum of understanding and verified through the onsite inspection. The DCI, speaking for the entire intelligence community, has said that the Soviet data of the memorandum of understanding falls within the intelligence community estimates."

Now, Mr. President, the Kampelman statement released publicly by the distinguished chairman is not entirely accurate, but I can correct the record on this highly important issue only in a closed session. That is the entire point. So I just think that if we are going to proceed on this amendment—this chart is unclassified, and Senators may look at this—we need to go into a Codeword Session. These have been released figures. I just go across where these come from to help answer the question of my colleague from Maine. The 500 SS-20's are the State-INR, CIA, NIE of July 1987, reported in the press. That is unclassified; the draft NIE, January 1988. This was also reported in the press. My colleagues can look across here at where these come from. Unclassified letter to Senator HELMS, the majority assessment, majority assessment in 1988, reported in the press, the DIA-NIE, and so forth.

But in order to really discuss this, which can be verified, we need to go into a closed session. That is the point I was making with the distinguished majority leader, whether we want to discuss this today or do this when we return and make preparations to have a closed session so all Senators can get to the bottom of this issue.

The reason I offer this, Mr. President, on this bill is because I think it is pertinent the President needs to certify the accuracy of the Soviet numbers, and I think that all Senators need to have the opportunity to become aware of what it is we are getting into with the INF and we need to make preparations in advance before we move headlong into a discussion of this treaty. So this is the first opportunity, and I think an intelligence bill is one that is appropriate that we discuss matters of significant intelligence consequences. Now, to answer the question of my colleague from Maine, I am not directly quoting any NIE material on the floor. Rather, I am citing published reports, some of which are offficial, and all of which are unclassified.

However, if the published reports are accurate, it is a very serious situation—a Soviet covert SS-20 force of 300—which I believe warrants the attention of the Senators in a closed session. And that is where I would leave this at the present time.

I realize it is 4 o'clock; it is Friday afternoon; we have other business to attend to. I do not know that the Senators want to stay here for a closed session. We would have to sweep the Chamber. But I think it is something that should be discussed.

I am sure my colleagues know the rules, but it only takes two Senators to move to go to a closed session. I do not wish to burden my colleagues on Friday afternoon, if that is not the wishes of the majority leader, but I do believe this is a matter of critical importance to the security of the free world and of this country. I think it is an issue which needs to be discussed in a closed session in the Senate, and it should be discussed before this bill passes.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Idaho yield the floor?

Mr. SYMMS. Mr. President, I still maintain my right to the floor.

Mr. BOREN. Will the Senator yield for a question without losing his rights to the floor?

Mr. SYMMS. I yield the floor.

Mr. HATFIELD and Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. If I could just comment briefly, the Senator from Idaho has suggested this is a pertinent amendment. If there is any pertinence to the amendment, I fail to find it other than why this institution has become paralyzed and unable to take action. This amendment has absolutely no business being on this bill. This is a bill that deals with the regulations, if one wants to call it regulations, at least the construction of a mechanism whereby Congress may oversee its responsibility in dealing with covert activities. It has nothing to do with INF, SS-20's Pershing II's, GLCM's, or anything else.

For anyone to call up an amendment at 4 o'clock in the afternoon when people have departed or are ready to depart and indicating we have to go to closed session, I think, indicates why this body is unable to conduct its business in any sort of rational sense of the word.

First, I would point out, as serving on the Armed Services Committee and the Intelligence Committee, that we are making an investigation right now. We are holding hearings on the accuracy or inaccuracy of reports that have appeared in newspapers, leaks that have been generated by certain individuals to the public. These reports are then cited as authoritative before this body, and some Senators are now demanding a closed session. It is a nice, circular ring that we find ourselves, but the Intelligence Committee is conducting hearings for the purpose of determining whether or not we have made an accurate assessment of how many SS-20's currently exist in the Soviet inventory. Let us conclude our investigation.

Let the chairman and myself make a presentation to the Armed Services Committee on which the Senator from Idaho serves. The Senate Armed Services Committee is holding a number of hearings to determine whether or not this agreement is in our mutual interest.

Why, at 10 after 4 on a Friday afternoon before we are about to recess, are we bringing this measure up and demanding that we conclude it either with a closed session or a determination that we hold it over until next week? This amendment has no business being on this bill.

There is adequate time. The INF Treaty will be before us sometime this spring. Then the Senator's amendment, I think, would be in order, at least his inquiry and questions and analysis of whether it is the NIE or the Washington Post or the Washington Times that ought to be the authoritative source for how many SS-

20's are in the inventory of the Soviet Union. But I find no pertinence to this amendment at this time at this hour on this bill.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I find myself in agreement with my colleague from Maine. I know the Senator from Idaho is very sincere in his concern about this matter. I know he has deep feelings about it. The Senator from Idaho knows that we are endeavoring in our committee through the appropriate process as we have been holding hearings on verification; I do not know how many scores of hours I have spent in our hearings on the verification on some of these very issues over the past several weeks.

He knows also that we have tried to respond to concerns of other Senators that have been raised, and we were pleased to have the Senator as a guest at one of our meetings recently in which we looked at the troubling matter that we are pursuing.

And I would just say to the Senator that we are going to do this in the appropriate way. We are certainly going to do our duty. I am absolutely committed to doing our duty to thoroughly look at these issues in the Intelligence Committee. This is a bill related to the procedures for oversight on covert actions which has not in any way related itself in subject matter to arms control verification, which is a matter of very great concern to this Senator.

I would hope that this afternoon he would agree to withdraw this amendment from this bill. He has expressed his very sincere concerns. And I intend, through the regular process to look at those concerns. I can tell him that there have already been some discussions of these general matters that he has raised in our committee and through our deliberations. And these issues will be addressed both in our classified and unclassified report to the Senate, and to the Senate Foreign Relations Committee.

So I would like to ask my colleague, having expressed his concern, if he would be willing at this point to withdraw his amendment so that we might then proceed with the orderly consideration of this bill on oversight procedures.

Mr. SYMMS. I think the Senator from Wyoming wants to be heard. I will be glad to work with the committee and maybe we can have a little consultation.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I did not mean to interrupt and to stand in front of the response of the Senator from Idaho to the Senator from Oklahoma. But I have to say something troubles me greatly, while the Senator from Maine is still on the floor. I think I heard, however inadvertently, the Senator accuse the Senator from Idaho of leaking.

Mr. COHEN. No.

Mr. WALLOP. I wanted to make that clear because the statement that this process is circular certainly made this Senator's ears perk up, as though it was the Senator from Maine's contention that the Senator from Idaho was leaking and then asking for a closed session, in which to discuss the information allegedly leaked. I know that was not the intention.

Mr. COHEN. That was not the case, nor did I indicate that. For the RECORD, I said stories are leaked to the press generally and then the stories are cited in our deliberations. There was a circular type of situation. I did not suggest the Senator from Idaho leaked anything and do not.

Mr. WALLOP. I thank the Senator from Maine. I did not want that to go in any way unremarked.

But I would say this: We are talking about hearings on the INF Treaty and things that are going to take place, and we will be able to know about it sometime in the future, and that thorough investigations will be made. But I would say about this bill that there has been only one public hearing, Mr. President, and that was in December while the rest of us were engaged in the frantic effort to clean up the mountain of the continuing resolution, the reconciliation bill, et cetera. With only two secret hearings, and one public hearing, this bill was passed out without much knowledge of anybody in the Senate.

I might add, I think it was irresponsible that it was not referred to the Senate Armed Services Committee and to the Senate Foreign Relations Committee, a portion of whose turf is simply eliminated in this bill.

So if we are to be criticized for asking for consideration of something that is not quite directed to the bill, I think we do it because part of what we see in the bill that lies in front of us. For instance, Foreign Assistance Act is the domain of the Senate Foreign Relations Committee. A portion of the Foreign Assistance Act is repealed by this bill. The Foreign Relations Committee has not had hearings on it.

So for us to bring up—and I say "us" because I am a cosponsor of the Senator's amendment—an amendment of this nature is not an abuse of the system of the Senate, but is an expression of the anxiety that we feel that some of us are being cut out of the process in learning and debating of things of real moment and content to the Senate of the United States. And a closed session of the Senate at the code word level would demonstrate the validity or the falaciousness of the reported intelligence estimates that have been in the papers and in the press which cause and give rise to the concern the Senator from Idaho expresses.

Let me just say I agree with the Senator from Maine. Sure, here is another example of what we do. But I would say to the Senator from Maine I have sat through many long debates on amendments of his, arms control amendments to the armed services authorization which were really no more relevant or irrelevant to the legislation in front of us than this amendment here tonight. It is 4 o'clock in the afternoon, but it is an important issue, and it is important that America knows that not everything we have been hearing with regard to the INF Treaty is as comfortable as some would have it through their public statements and observations about that treaty.

This is a matter that concerns the Senate, and the Senator is well within his rights to raise it as an issue on an intelligence bill.

Mr. COHEN. If the Senator will yield, there is no question he is well within his rights. The Senator from Maine was simply trying to point out that this is at the very least premature in terms of discussion of the relative accuracy of various estimates at the time when almost half of our colleagues—if you really want to have a discussion have it during the time when most of our colleagues are present—most of them, are in the process of leaving at this point. It is called up at 4:20 in the afternoon before a major recess.

All I am simply indicating is this is hardly the time to leave a fullblown top secret code word clearance discussion in closed session of the U.S. Senate if you are really serious about educating our colleagues about the accuracy or inaccuracy of various intelligence matters.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming still has the floor.

Mr. WALLOP. Had the Senator heard the opening statements of the Senator from Idaho, and I grant him there was, as there often is, a lot of commotion on the floor, he would have heard him say to the majority leader that it would be his intention to cooperate but he wanted it considered on this bill; he would withdraw it and give the Sergeant at Arms time to prepare the Senate for a classified session upon our return. I think—I am not speaking for the Senator from Idaho—but I think he expressed his desire to cooperate, but he did want it heard on this bill.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I thank my colleagues for the colloquy we have engaged in. I especially thank my colleague from Wyoming for looking after my interests.

I appreciate the perceptive comments of the Senator from Maine, and I appreciate part of what he had to say.

However, I say to my colleagues that we all have to ultimately make a decision on the INF Treaty. It is true, as the distinguished chairman of the committee says and the ranking member, the Senator from Maine, says, that maybe Friday afternoon, today, is not the time to clear the Senate and go to code-level closed session.

I am willing to withdraw my amendment if we can have some understanding with the majority leader that we can bring this amendment back up and notify the Sergeant at Arms that we need to have this discussion. Every Senator will have to make a decision.

Some Senators have already stated they are for the INF Treaty. Many Senators have said they are still open to the INF Treaty, to be convinced. I have said repeatedly in my State that I was still open-minded on it; but, after listening to some 20 days of hearings in the Armed Services Committee, someone will have to do a better job to convince me that this is in our national security, to ratify this INF Treaty, to confirm the signature of the President and the Soviet leader.

That is just one Senator's opinion. But I wish someone can erase this nagging concern I have that they are cheating, as they have cheated on other treaties they have signed, and someone can erase for me that they do not have a motivation to hide 300-plus SS-20's. They are chess players and we are checker players.

Their motivation would be simply this: Their motivation would simply be that they are going to have the ability to retarget the targets that they will now target once they move the SS-20's they do destroy out of here; that they will retarget those with SS-24's and SS-25's; and in a few years down the road, when they do ultimately go public with the fact that they have broken out of the ABM Treaty, they have deployed their own missile defense system, they have deployed a civil defense system to protect large numbers of their population, at that point they will roll out their SS-20's again. We will then be in a very vulnerable position, and it will be a different world from that we are used to living in.

I do not want to be a party to anything that allows the Soviet dictator the ability to visit the Port of New Orleans, for example, 5 or 10 years from now and say they would like to start loading wheat on ships at $1 a bushel and it will be done on credit.

So, a week from next Tuesday, pursuant to the provisions of rule XXI, it would be my intention to move to close the Senate, to discuss this amendment.

I want to hear if the majority leader would entertain that. If we do that, I will be happy to withdraw this amendment today, and we could bring it up at that time.

Mr. BYRD. Mr. President, what is the distinguished Senator's request?

Mr. SYMMS. I am requesting that a week from next Tuesday, pursuant to the provisions of rule XXI, I would like to move to close the doors of the Senate and discuss the pending amendment.

Mr. BYRD. Mr. President, I would hope that this bill would not still be before the Senate a week from Tuesday. I have no problem with the Senator asking for a closed session at some time when it is appropriate, but I certainly do not want to suggest that we are still going to be on this bill a week from next Tuesday.

Why should the matter not be something to discuss while the Senate is on the INF Treaty? We may have to ask for a closed session during that debate, in any event.

Mr. SYMMS. I say to the distinguished majority leader that I was pleased to be in agreement with him on Monday of this week with respect to the Afghan freedom fighters.

The reason I would like to discuss this prior to bringing the INF Treaty to the floor is that by the time the INF Treaty gets to the floor, it may be a fait accompli.

Mr. BYRD. The INF Treaty is not coming to the floor that fast.

Mr. SYMMS. But I think it is urgent that Senators start focusing on the past Soviet violations.

We had an incredibly interesting code-level briefing in the Intelligence Committee that Senator BOREN arranged for several of us this week on matters that had been reported the previous week in the Wall Street Journal. It was incredibly interesting.

There is a pattern, I say to my colleagues, of Soviet deception, cleverness, and deceitfulness, and there is a reason why I can see they would be doing that. It fits that pattern.

Mr. Gorbachev is a perfect historical Trojan horse, I must say. He fits the bill of Mr. Nice Guy.

Yet, at the same time, all the evidence is there: The killing of innocent civilians in Pakistan, of the State-supported terrorism, supported by the KGB. They have increased their appropriation of money into Afghanistan, into Nicaragua, into Angola. There has been no letup of the production lines of SS-24's and SS-25's and Blackjack bombers. There is absolutely no evidence to substantiate this overture of the peace initiative of Mr. Gorbachev.

I guess that, according to the rules of the Senate, I can withdraw my amendment, I say to the majority leader, and I would still be protected to reoffer it. There is nothing that would preclude that.

I ask if my colleague from North Carolina intends to offer an amendment. Then I could discuss this with the leaders of the committee.

Mr. HELMS. What is the Senator's question?

Mr. SYMMS. Does the Senator from North Carolina have an amendment he is ready to offer at this point?

Mr. HELMS. Yes. I have a slightly modified amendment which is being typed. It is on the way here.

Let me suggest that whoever has the floor suggest the absence of a quorum so we may discuss it.

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr SYMMS. I note the absence of a quorum.

Mr. BYRD. Mr. President, will the Senator withhold that?

Mr. SYMMS. I withhold that.

Mr. BYRD. I have been listening to both managers. I received a clear message that this amendment should not be offered to this bill.

I express the hope that the Senator will not press this amendment at this time. If we are going to have a closed session at some point on this subject, that can be arranged. I want more Senators to be here. I am not sure how many Senators are here this afternoon. There is probably a goodly number at this point.

But I hope we could press on and try to finish this bill before we go out for the week.

If the Senator would withdraw his amendment, we could discuss it at an appropriate time. I would not want to bind myself today to do it on Tuesday, the week after next, because I do not know what else is going to be confronting the Senate by Tuesday, the week after next.

Mr. HELMS. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Idaho still has the floor unless he wishes to yield.

Mr. HELMS. I ask the Senator from Idaho if he is insisting on Tuesday for the closed session or just an assurance that there will be a closed session that week.

Mr. BYRD. Mr. President, if it is imperative that the Senate have a closed session we can have it tomorrow—if it is that imperative. We do not have to wait until the week after next.

But I cannot, as the majority leader, be bound to do thus and so on a given day, which is 10 days or 2 weeks away.

The Senator has the rules of the Senate that he can use to have his closed session. Anytime he wants a closed session on this bill or anything else, he can have it. All he needs is one Senator to second his motion, and he is in closed session. Of course, the majority can immediately put the Senate back out of that closed session on a rollcall vote.

I want to work with the Senator. But the two managers have spent a lot of time on this bill in committee and are trying to get the bill passed before the Senate goes out for almost 10 days. My understanding is that a closed session is not imperative that it has to be done today or has to hold up this bill.

The Senator can get a closed session on some other bill or we do not even have to have a bill before the Senate. If the Senator wants a closed session I will help him work out a time for a closed session.

Mr. SYMMS. I appreciate the comments, and I realize I can get a closed session.

It is not this Senator's intention to get a closed session without the cooperation of the majority leader so that we will just have a parliamentary fight and so that Senators can plan their schedule and the Senators can come in here. The reason I think it is important that we do not wait for 1 month or 6 weeks or 2 months is because the amendment that I have pending now calls for Presidential certification of what it is so Senators will know and that does require some time.

So it will take a little time to put that together. That is why I thought it was relevant that we bring this up.

With that in mind, Mr. President, it is my intention to withdraw the amendment with the majority leader's pledge here that we will work this out. It seems like we should. Maybe we can have a quorum call and talk this thing over, and maybe we can get this settled yet in a few minutes.

Mr. BYRD. We do not need a quorum call to settle this. The Senator has a perfect right to suggest the absence of a quorum. He has the floor.

Before we have a closed session, we have to sweep this Chamber, No. 1; No. 2, I should think we would want to do it at a time when both the managers of this bill are here. If this is a matter that comes within the jurisdiction of the Intelligence Committee, they certainly should be on the floor.

I should think we ought to try to work out a time convenient for them, convenient for the Senator from Idaho, and convenient for the Senate.

I will do all I can to help the Senator to arrange an appropriate time for the closed session.

Mr. SYMMS. Why do we not do this? Why do we not temporarily lay the amendment aside and let the Senator from North Carolina proceed?

I ask unanimous consent that we go to his amendment and that this amendment would then be the pending business after we dispose of the Helms amendment.

Mr. HELMS. Before the Senator does that, if he will, will he yield to me for an observation?

Mr. SYMMS. I am happy to yield.

Mr. HELMS. Mr. President, first of all, I ask unanimous consent that I be listed as a cosponsor of the amendment of the distinguished Senator from Idaho.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Second, I say to the Senator I hope there is no inference by any Senator that Senator SYMMS is being in any way frivolous about this amendment or unduly taking the time of the Senate.

I cannot think of a more important issue than the SS-20 issue and how many do the Soviets have, where are they, and how much there is duplicity in which the Soviets are operating in this matter as in all matters previously.

This is an awesomely important issue that the Senator is addressing.

So, I do not think we ought to have even the appearance of a cavalier attitude about what the Senator is doing and saying.

It is the Senator's judgment for him to make as to whether he wants to withdraw the amendment. But I think it is well worth nailing down this afternoon approximately when the Senate will discuss this matter in a closed session because a lot of Senators do not even know about the SS-20's. They do not know about the contradictory testimony that has been given by the various witnesses before the various committees with reference to the INF.

So I commend the Senator and I am not urging him to withdraw. I am not urging him to keep the amendment before the Senate. That is his judgment. But I am saying to the Senator that he is on to a vastly important subject that ought to be explored by the Senate.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. SYMMS. I am happy to yield.

Mr. BYRD. Mr. President, may I say to the distinguished Senator from North Carolina that we will not nail down a time this afternoon.

Mr. HELMS. Very well.

Mr. BYRD. No, we will not nail down this afternoon a time or date when this matter will be discussed.

The distinguished Senator from Idaho has already heard me say that I will work with him in developing a time when this Senate can go into executive session. The Chamber has to be swept. There has to be certain other precautionary measures taken.

I would certainly want the two managers present. I do not suppose they are, this afternoon, ready to say we will be here next Tuesday afternoon at 2 o'clock or Wednesday at 1 o'clock.

This is something that can be worked out. If it is imperative, we can come in tomorrow. If it is absolutely imperative and the Nation's fate hangs in the balance, we can come in Sunday.

But if this is a matter that can wait until the INF Treaty is called up before the Senate, or perhaps if we can discuss this in the next few days, we will work out a time for the Senator to have a closed session.

Mr. SYMMS. Mr. President, I withdraw the amendment.

Mr. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER (Mr. CONRAD). The amendment is withdrawn.

The majority leader.

Mr. BYRD. Mr. President, I yield the floor.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. I am glad that the Senator from Idaho——

The PRESIDING OFFICER. The Senator will suspend a moment. We really cannot hear the Senator. There has to be order in the Chamber.

Mr. PELL. I thank the Chair.

I was saying that I am very glad the Senator from Idaho withdrew this amendment.

This question of the number of SS-20 missiles has been of concern to us in the Foreign Relations Committee hearings. Some in the intelligence estimates clearly believe that there are more SS-20's than the Soviets have said. Some say there are less. Significantly, the majority of the national intelligence community does not support the view that the Soviets withheld a number of SS-20's. The Director of the Central Intelligence Agency, speaking for the entire intelligence community, has indicated the Soviet data falls within intelligence community estimates.

I would also observe that any clandestine missiles would very quickly lose their military significance because you cannot test the weapons or train with them or have field maneuvers without us being aware of them. We have received expert testimony that we would be able to detect and react to any significant Soviet violations involving SS-20's or other weapons.

The time this question would be most properly before us on the Senate level would be when the treaty is up for discussion. Meanwhile, we are assessing this and other issues carefully in committee.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I wonder if I could have the attention of the distinguished acting Republican leader. I wonder if we could get a time agreement on the other matter we are talking about.

Mr. SIMPSON. Legal immigration.

Mr. BYRD. Yes.

Mr. SIMPSON. Mr. President, I advise the majority leader that we have about two or three colleagues who have not yet had an opportunity to come back to us with regard to that unanimous-consent agreement which we are proposing; not that they may have objections, just that they have not had time to review the measure. That may change during the course of the afternoon. But at this point, most of the amendment, we have an hour equally divided or 2 hours equally divided, time certain on the bill. But two or three Members still require some additional time.

And, of course, I am very interested in seeing that come forward. That is a bill of Senator KENNEDY and myself dealing with legal immigration and the national interests and new seed immigrants, a very interesting proposal for the body.

Mr. BYRD. Mr. President, I thank the distinguished acting leader.

Mr. President, I intend to take the Senate out shortly. I do not know whether there will be a rollcall vote before we go out or not, but there could be. I do not want to shut off any Senator who may wish me to yield to him.

There will be a rollcall vote on Monday a week from this coming Monday at around 1 o'clock p.m. The Senate will return after the recess at 12 o'clock noon on that Monday. I expect other rollcall votes during that afternoon.

I do not think the Senate is getting anywhere on the pending matter and here we are—Senator COHEN made my speech for me a moment ago—it is now 15 minutes before 5 in the afternoon on Friday, and I am sure there are many Senators who are waiting patiently here who will be happy to stay around until 6 o'clock or longer if we thought that we could make any further progress.

I do not think we are going to make any further progress. I can say that with assurance within just a few minutes. So Senators who are listening, do not rush for the automobile yet, do not take off just yet for the airport.

Mr. President, there will be a vote in relation to the treaty, Calendar Order No. 8 on the Executive Calendar, the Montreal Protocol on substances that deplete the ozone layer. There will be a vote in relation to that treaty on Monday a week from Monday.

The Senate can go to the treaty on a nondebatable motion. I do not know of any objections to it. But there will at least be a rollcall vote on the treaty, and there hopefully will be other business that can be transacted on that Monday.

Mr. President, I ask Senator HELMS if he would like for me to yield for a statement.

Mr. HELMS. Mr. President, if the distinguished majority leader will do that, I will be most grateful.

Mr. BYRD. How long would the distinguished Senator wish to speak?

Mr. HELMS. No more than 5 minutes, probably not that long.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from North Carolina for not to exceed 15 minutes.

Mr. HELMS. No, no; 5 minutes.

Mr. BYRD. Ten minutes.

Mr. HELMS. Five minutes.

Mr. BYRD. All right, 5 minutes, with the understanding that I not lose my right to the floor. The Senator, as I understand it, merely means to make a statement.

Mr. EXON. Will the majority leader ask if the Senator from North Carolina would yield 30 seconds to the Senator from Nebraska before he proceeds?

Mr. HELMS. It would be my pleasure.

Mr. BYRD. Mr. President, I am protected, am I not?

The PRESIDING OFFICER. The majority leader is protected.

Mr. BYRD. I yield for that purpose.

Mr. EXON. The Senator from Nebraska would simply like to say that, in all due respect to my colleagues, I appreciate their understanding. My plane leaves in 15 minutes. I do not see how I could possibly make that unless my colleagues can all get together and have a helicopter come and whisk me out there.

I wish to say to the majority leader that I know his difficulty. This Senator waited because I thought I should be here. My colleagues made it impossible for that to happen. I think I state for many Members of the U.S. Senate that felt that they should be here and stay here—I was fearful that we would reach the impasse that we have—and for those who had to change their schedules and will be not getting home when they planned or getting home at a very, very late hour, I appeal once again the next time for a little comity that is so sadly lacking in this body.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The majority leader holds the floor.

Mr. BYRD. Mr. President, with the indulgence of the Senator from North Carolina, I yield to the distinguished manager of the bill by unanimous consent, retaining my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I understand the Senator from Indiana has an amendment to the bill which I believe he is prepared to offer. It is an amendment that can be accepted by both managers of the bill.

I ask unanimous consent that we might take up that amendment briefly without changing the situation in terms of the majority leader's rights to the floor and what will follow on after that.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1629

(Purpose: To revise Section 503 of the Intelligence Oversight Act of 1987 to require monthly Presidential explanations for his reasons for limiting notification of certain intelligence activities to only the House Speaker and Minority Leader and the Senate Majority and Minority leaders)

Mr. PELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. QUAYLE] proposes an amendment numbered 1629.

Mr. QUAYLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 15, delete "week" and insert in lieu thereof "month".

On page 17, line 17, delete "weekly" and insert in lieu thereof "monthly."

Mr. QUAYLE. Mr. President, this follows along with the conversation we had this morning with the two distinguished managers of the bill. It just changes the weekly consultation with the gang of eight to monthly. It is a very simple, direct amendment. I ask for its adoption.

Mr. BOREN. Mr. President, this is really more in the nature of a technical change. It does not change the main thrust of the provisions of the bill. We have discussed it between both managers. There is no objection on either side of the aisle.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Indiana [Mr. QUAYLE].

The amendment (No. 1629) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, I wonder if the majority leader might yield to me for a question.

Mr. BYRD. Yes; with the indulgence of the Senator from North Carolina. I ask unanimous consent that I may yield without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I know we still have the pending matter which we obviously have not been able to resolve and will not be able to resolve tonight in regard to the Panamanian amendment.

As far as I know—and we have endeavored to talk with every Senator to find out—there are no other amendments, other than this amendment or amendments to that amendment potentially that would be offered to this bill. I wonder if we might propound a unanimous-consent request that when we return to this legislation that the only amendment that would be allowed would be the amendment of the Senator from North Carolina, if he decides to offer it, or amendments to his amendment; otherwise, no other amendments would be in order before we go to final passage of the legislation.

Mr. BYRD. And that such amendments thereto be germane?

Mr. BOREN. Yes; that is correct. That would be the request I would like to suggest to see if it is possible.

I understand that there is a request from Senator WALLOP that I have just been told of for two amendments for 1 hour each. I would suggest that perhaps we might try that unanimous-consent request amended to add the two Wallop amendments for 1 hour each.

Could the Senator identify what those might be?

Mr. WALLOP. Mr. President, I would say to my friend, third-party reporting is one and the other I am not quite prepared to tell him because I quite have not got it drafted.

Mr. BOREN. Are they both germane to this bill? Reporting procedure? You say third party?

Mr. WALLOP. The one, third-party one clearly is. The other I cannot say that it would be wholly germane in the eyes of the Intelligence Committee but it would be in the eyes of the Senator from Wyoming. I would like as well to have 1 hour on the bill.

Mr. BOREN. One hour on the bill.

Mr. WALLOP. I would say to my friend, I will not offer something to be dillying around. They will be serious.

Mr. BOREN. I suppose what we are really asking is, and I understand the Senators might not even decide to call them all up, but reserving the right to call them up if we had—perhaps we could get to the time—perhaps if we could say that Senator WALLOP would have the right to call up two amendments. Senator HELMS and his amendments and germane amendments thereto to those amendments?

Mr. BYRD. I do not know what the amendments are going to be. I mean, that could be anything. That could be an acid rain amendment.

Mr. DODD. Would the Senator from Oklahoma yield? Who has the floor; the majority leader?

Mr. WALLOP. I can assure the majority leader mine will not be an acid rain amendment.

Mr. DODD. Whoever has the floor?

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BYRD. I have the floor. I will be glad to yield to the distinguished Senator who is the manager, for his yielding to anyone else.

Mr. BOREN. Perhaps it would be more appropriate for us to have a discussion about a potential unanimous-consent request during the discussion with Senator HELMS. But I am hoping since we have gone through virtually all the amendments that we know would be offered at this point, that we at least try to put a limit so that next week we do not come back and have 25 new amendments on all sorts of subjects. People feel rested when they come back from a recess, and they might be emboldened to offer many more amendments. There is no telling how many amendments on all sorts of subjects. We are endeavoring to deal with this bill and that is the reason I am hoping we could get some agreement just to limit the number of amendments that would be in order.

Mr. DODD. Will my colleague from Oklahoma yield?

Mr. BOREN. I would be happy to yield to the Senator from Connecticut.

Mr. DODD. I fully appreciate what he and the Senator from Maine and the majority leader and others have been going through with this, but I would say to my good friend, with all due respect, I would object to any unanimous-consent request on that ground on time limitations on amendments. Things have been strung up here. I have been waiting here for hours. I have 30 colleagues from the House sitting in a plane. This has been a tremendous inconvenience to this Senator and others and, frankly, if I can wait a little bit I will stay but I just have to register that objection.

The PRESIDING OFFICER. The majority leader still retains the floor.

Mr. SYMMS. If the Senator could yield to me for just a second, the part that concerned me——

The PRESIDING OFFICER. Does the majority leader yield?

Mr. BYRD. Mr. President, I yield not to exceed——

Mr. SYMMS. Just for a second to ask a question to the Senator from Oklahoma.

Mr. BYRD [continuing]. Not to exceed 2 minutes without losing my right to the floor and for the purpose of statements and questions only.

The PRESIDING OFFICER. Without objection, the Senator from Idaho is recognized for not to exceed 2 minutes.

Mr. SYMMS. The question I was asking my distinguished friend from Oklahoma, I did not think when I withdrew my amendment, I say to my friend from Oklahoma, that I was withdrawing my rights to address this subject on this bill. My understanding was that I was going to sit down with the majority leader when we return and work it out, so I hope he does not deal out the Symms amendment in his unanimous consent request. Otherwise I do not want to enter into the request.

The PRESIDING OFFICER. The majority leader retains the floor.

Mr. BOREN. The majority leader, if you would yield to me to respond——

Mr. BYRD. Yes, I will yield.

Mr. BOREN. I understand there are many Senators out of town. It would be impossible to run the unanimous consent request. I just understand it is not possible to proceed this afternoon, so I yield the floor.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute for S. 1721, a bill to improve the congressional oversight of certain intelligence activities, and to strengthen the process by which such activities are approved within the executive branch, and for other purposes.

Senators David Boren, David Pryor, Edward Kennedy, Brock Adams, John C. Stennis, Bill Cohen, Robert C. Byrd, Kent Conrad, J.J. Exon, Tom Daschle, Barbara A. Mikulski, Alan Cranston, Daniel Moynihan, Patrick Leahy, Harry Reid, Dale Bumpers, Spark Matsunaga, Quentin Burdick, Terry Sanford, and Carl Levin.

Mr. BYRD. Mr. President, I now yield to the distinguished Senator from North Carolina under the previous arrangement which was agreed to.

The PRESIDING OFFICER (Mr. PELL). The Senator from North Carolina is recognized for a period not to exceed 5 minutes. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair. I am bewildered by what has happened here today. I have been here for 4 hours, for one purpose: Trying to get a vote on an amendment.

Some Senators do not want to vote on it at all. I have a notion, satisfactory to myself, that that is the reason for the cloture petition that was just filed. Senators do not want to vote on the question that I raised with my amendment.

But I will say to the distinguished manager of the bill that, until the cloture petition is voted on, that I am going to sit here on Monday or Tuesday or whatever, until there is an agreement that I will get a vote on my amendment. Not a substitute thereof.

When the cloture is voted, if voted, when voted, that is another thing. But this is a subject that I think that we ought to address. And I might add there may be ways that my amendment could qualify as germane. And, of course, the Senator can offer this resolution to other legislation, if necessary.

Just for the RECORD and for the purpose of having it available for Senators and others to read, I ask unanimous consent that the original amendment, which I offered today and withdrew, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Add at the end of the bill the following new section:

"SEC. . It is the sense of the Senate that unless and until the Republic of Panama promptly extradites to the United States for trial General Manuel Noriega on charges of drug trafficking, within 30 days of the enactment of this Section the President of the United States should consider initiating the phased withdrawal of dependents of United States military personnel stationed in Panama and should notify the Government of Panama of the intention of the United States to suspend, should it prove to be required by the supreme national security interests of the United States, the operation of any provision of the Panama Canal Treaties of 1978 mandating the withdrawal of United States military personnel or the closure of any United States military personnel or the closure of any United States military base protecting the Panama Canal.".

Mr. HELMS. I thank the Chair. At the suggestion of Senators, and I was trying to accommodate Senators who had some question about the amendment, I modified it. I sure as heck did not gut it as suggested by some others, and I am not going to gut it. But I took out the extradition of Noriega requirement and simply required that he be removed from all public offices and authority. Bear in mind, this is a sense-of-the-Senate amendment in any case; it is not mandatory, but rather advisory I made this modification because some Senators, they said, had some heartburn over it.

They said that we could not extradite Noriega. Well, we can. Of course, it is discretionary in all extradition treaties, but to say that it is impossible to extradite is to belabor the truth.

Now, I took that out and I made one or two other minor modifications and that is still not satisfactory to the leadership. We cannot get a vote on it, even at 3 minutes to 5 p.m. on Friday afternoon.

By the way, the Senators who have been complaining about what I think he termed "a terrible inconvenience," we have not worked nearly as long today as the people paying our salaries have worked. I think we ought to do it right, no matter how long it takes.

I have also deleted the reference in the original to the withdrawal of U.S. dependents in Panama and added a requirement that what is desired is the establishment of a freely elected government in Panama.

I ask unanimous consent that the proposed modified version of my amendment be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

"SEC. . It is the sense of the Senate, inasmuch as General Manuel Noriega has been indicted by the United States for drug trafficking, that unless and until the Republic of Panama (1) promptly removes General Manuel Noriega from all public offices and authority, and (2) has installed a freely elected government, within 30 days of the enactment of this Section the President of the United States should notify the Government of Panama of the intention of the United States to suspend, should it prove to be required by the supreme national security interests of the United States, the operation of any provision of the Panama Canal Treaties of 1978 mandating the withdrawal of United States military personnel or the closure of any United States military base protecting the Panama Canal.".

Mr. HELMS. I thank the Chair and I thank the distinguished majority leader.

Mr. BYRD. Mr. President, I thank the distinguished Senator from North Carolina.

Mr. President, I ask unanimous consent that there now be a period for morning business, that Senators may speak therein, the period not extend beyond 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I am pleased to speak today in support of S. 1721, a bill which would improve the ability of Congress to fulfill its obligation to oversee intelligence activities sponsored by the U.S. Government.

In the aftermath of the Iran-Contra scandal, I reached my decision to cosponsor this bill easily. Had the terms of S. 1721 been in effect when those responsible for setting this disastrous series of events in motion, this foreign policy fiasco might have been averted. Instead, an ill-advised policy went full speed ahead reaping not the hoped-for diplomatic rapproachment with Iran, but a serious setback in U.S. foreign policy and a loss of credibility at home and abroad when the world learned that the U.S. Government had sold arms to a country many consider the world's leading sponsor of international terrorism.

If the legislation governing the initiation and execution of covert actions had not been mired down with ambiguous and imprecise language, notification of Congress might have occurred before this destructive policy was implemented. But at that time, the President was bound only to provide notice to the Congress "in a timely fashion," which, in this instance, meant the Congress was not notified of these ill-advised arms sales for 10 months, and we might still be in the dark if events had not forced the issue.

Shortly after the news of this arms transaction appeared in headlines across the country, the Senate Intelligence Committee opened its investigation of the matter, paying particular attention to the role Congress and its intelligence committees should play if they are to carry out their responsiblity to oversee the intelligence activities of our Government with maximum effectiveness.

The Intelligence Committee recognized that in order for the Congress to do its job, present law governing covert actions must be stripped of its ambiguities and replaced with comprehensive and clear-cut legislation which will enable us to perform our task to the best of our ability.

After careful consultation with the Senate Intelligence Committee, the White House took an important first step toward making these improvements when the President issued a national security decision directive [NSDD] last fall. President Reagan's NSDD incorporated many of the changes sought by the committee to tighten and clarify these procedures so important to the attainment of our country's foreign policy goals.

Among the provisions of that Presidential NSDD, which are also contained in S. 1721, are:

Presidential findings which authorize covert actions must be written and cannot be retroactive;

Findings cannot violate existing statutes of the United States;

Findings are required before a covert action may begin;

Findings must specify which entity of the U.S. Government is to carry out the covert action;

Findings must specify the participation of a third party, such as a foreign government;

President Reagan deserves praise for putting these guidelines in place, however, the system remains flawed.

S. 1721 addresses those flaws by giving the force of law to the provisions of the President's NSDD, assuring that future Presidents will not be able to change the rules for cover actions by issuing their own national security decision directives. Not only will S. 1721 bring consistency to the procedure, but this legislation also achieves the needed clarification by clearly spelling out who in the Congress must be notified of a covert actions and when that notification must occur so that the Congress will be included in time to assume its full reponsibility in the process.

S. 1721 replaces the open-ended term, "in a timely fashion," with the specific requirement for congressional notification to occur prior to the initiation of the covert action. Only in extraordinary circumstances, may the President delay congressional notification, and then for no more than 48 hours, thereby abolishing any confusion about when notification is required.

This legislation also specifies who in Congress must receive notification: the chairmen and vice chairmen of the House and Senate Intelligence Committees, the Speaker and minority leader of the House and the two leaders of the Senate. Again, the bill accommodates the possibility of extraordinary and sensitive circumstances arising by stipulating that should such rare and unusual conditions prevail, the President may notify only the four congressional leaders.

Mr. President, at this point I want to make absolutely clear that this legislation would in no way infringe on the President's executive prerogative. We do not seek to diminish the President's authority to direct covert actions. We aim to clarify existing statutes by creating a new legislative structure with a framework composed of precise meanings to ensure Congress will have the information it requires to oversee all the intelligence activities of the U.S. Government.

Covert actions are often controversial and always secret. In these qualities lie great potential for abuse, as the Iran-Contra matter so eloquently demonstrates. Therefore, I urge my colleagues to support this bill which will serve our national interest by making sure there will be adequate opportunity for congressional scrutiny of covert operations, thereby guaranteeing that these secret activities of our Government are reviewed by Congress to assure their pursuit is responsibly guided toward a national policy which is both worthy of and can be supported by the American public.

Mr. HOLLINGS. Mr. President, I rise to comment on S. 1721, the Intelligence Oversight Act of 1988. This legislation is a consequence of the Iran-Contra affair. It represents a good-faith attempt by the chairman and vice chairman of the Intelligence Committee to codify some of the key lessons of that unfortunate episode. Those lessons are that Presidential decisions to undertake covert action must be part of a documented process, and that Congress must be informed about covert action.

The President has already ordered the administration to adhere to many of the changes contained in this bill. By a national security decision directive, it is now administration policy that findings approving covert actions must be in writing, that covert actions must not violate existing statutes, that findings cannot be retroactive, and that the Intelligence Committees must be informed. These new administration policies are steps in the right direction, but they are policy, not statute. This bill would make them statute. Most important, this bill would set an actual time limit for Presidential notification of a covert action finding to either the Intelligence Committees or the congressional leadership. One of the great loopholes exposed in the Iran-Contra hearings was statutory requirement for notice to Congress in a "timely fashion," whatever that was supposed to mean. This bill closes that loophole.

Yet as good as are the intentions that produced this bill, and as necessary as are the changes it would make, I suggest that this body not take S. 1721 to be a panacea. First, a law cannot change the fact that the President cannot notify us about actions he is not aware of. This bill, no bill, will control the rogue elephants. Second, when the stakes are high for the security of this country, I believe the President will ignore or in some way circumvent the notification provisions of this bill. Indeed, under some circumstances the President ought to ignore them. In a national security emergency, the President's duty to act immediately takes precedence, in my view, over any requirement we might impose to inform us about the action. There will not be many such emergencies, but when they occur this legislation will not have much force. It is proper, therefore, that S. 1721 sets no penalties for noncompliance.

This is a well-introduced bill, a necessary bill that tells the administration and the country that the lessons of Iran-Contra have not been lost on this body. But in seeking to prevent executive branch abuses of covert activities, a relationship of trust based on patriotism and discretion is worth more than any law. That is the kind of relationship that the Intelligence Committee under the leadership of our distinguished chairman and vice chairman have been building with the intelligence agencies of this country.

Mr. GLENN. Mr. President, I salute my colleagues, Senators BOREN and COHEN, for the good work they have performed with their legislation, S. 1721, which I wholeheartedly support. It is not acceptable for the President to hide from the Congress for months an ill-founded, covert action.

This legislation is necessary. The Iran-Contra Select Committee found that the CIA Director and National Security Council personnel were conducting a private foreign policy with belated Presidential authority—post hoc findigns—or allegedly no Presidential authority—the diversion of Iran weapons money to the Contras. This resulted in the CIA being used as a conduit for military weapons, including Hawk missiles and TOW missiles being transferred to Iran. Ironically, all of this occurred at a time when the American people were led to believe that the Iran Government, which has been positively linked with international terrorism, was publicly placed off limits to such contacts.

Experience has demonstrated the need, on occasion, for fighting "fire" with "fire," and to leave the field of covert activities only to our enemies makes us more vulnerable than necessary. Accordingly, I have personally been willing to accept the risks inherent in such activities as long as the Congress, through the intelligence committees, are informed of the nature and extent of such activities so that there is a shared responsibility involving the representatives of the people.

Unfortunately, even under the best of circumstances, this shared responsibility between the executive branch and the Congress has been manipulated by executive branch decisions. That is, while the Congress has generally been informed through the intelligence committees regarding the initiation of less controversial covert activities. The Iran-Contra affair is an example of an operation in which the intent of Congress on notification was thwarted by a secret Presidential finding. In light of this decision by the current administration, the time limits of the Cohen-Boren bill, S. 1721, are a sound initial response to what has occurred. Those who believe the Cohen-Boren bill unnecessarily limits the powers of the President have only this administration to blame for these events.

Taken alone, however, I do not believe that S. 1721 addresses all of the problems identified by the Iran-Contra report and demonstrated by the Iran-Contra affair. It will not lead to the early detection of a rogue operation within the Agency or to the early detection of improper Agency expenditures. This is what is missing from S. 1721.

I have introduced a bill, S. 1458, the General Accounting Office-Central Intelligence Agency Audit Act of 1987, which would allow GAO, under strict limits, to audit the CIA. This bill, which has been sent to the Intelligence Committee for their review, is a modest one which does not place any undue burden upon the CIA or any other agency dealing in covert operations. Government accountability must not be undermined by Government secrecy. Otherwise, we risk doing to ourselves what our covert programs are designed to stop an enemy from doing to us.

I would have liked to have seen S. 1458 included in the same package with the Cohen-Boren bill, because my measure would complement S. 1721 in important ways.

Had my legislation, S. 1458, been in place, the Iran-Contra affair might never have occurred, or at a minimum, might have been discovered far earlier.

Mr. President, a democratic government cannot exist without accountability. It follows that covert operations with no accountability could be a potential threat to democratic processes of government. We must not allow the abuses of the past to be repeated, or they could become the norms of the future. S. 1458 would raise the level of protection against a repeat of those abuses.

The Iran-Contra affair has demonstrated anew the difficulty in providing accountability to the people by the government in accordance with democratic traditions when covert activities are involved. There are some who believe that democracies should not and need not resort to such activities in order to deal with their enemies. There is no question that risks to democratic traditions are involved whenever covert actions are undertaken. The checks and balances built into our system of government clearly cannot operate effectively in an atmosphere of secrecy and tightly held information.

I believe certain aspects of the implementation of decisions to engage in covert action have been and are continuing to be kept from congressional scrutiny, which S. 1721 will not reach. In particular, the Congress has no way of independently verifying if funding which has been provided for covert activities has indeed been spent in accordance with stated intent. In essence, the intelligence committees and the rest of the Congress must take the word of the CIA as to the disposition of taxpayers' money for covert activities. The result of this arrangement, which would not be tolerated in any other sphere of government activity, is that many millions of dollars have been spent for purposes which no one can be sure reflected the original intent of any policy decision. For example, in the case of aid to the Contras for example, the General Accounting Office [GAO] has been unable to account for $27 million of the "humanitarian" aid of $40 million given to the Contras 2 years ago. No one can be certain that this money was not simply stolen or even deflected back into illegal activities within the United States. The same is, of course, true with respect to the Iran-Contra funds associated with the arms sales to Iran.

It is clear that the potential for waste, fraud, and abuse in covert accounts is very great. Even more important, however, the present lack of accountability raises the specter of certain types of abuse that risk undermining American democratic institutions within our own country. Could covert funds be injected into domestic political campaigns, for example, This lack of accountability is a risk which goes beyond the bounds of acceptability.

It is not as if there has been insufficient recognition of this problem within the Congress. From time to time requests have been sent to the GAO to trace the money trail for a particular covert program. Aid to the Contras and the Iran-Contra affairs are simply the two most recent examples. In every case, the GAO has come up against one or more barriers effectively preventing them from performing the requested task. The CIA or the State Department has simply refused to cooperate, and the Congress has not seen fit to give the GAO an investigative green light. I submit that this posture can no longer be justified.

The main argument against allowing an outside agency to audit covert accounts is that the nature of the programs involved is so sensitive that it is necessary to keep the number of individuals with knowledge of such programs to an absolute minimum. I do agree with the general principle that covert activities by their very nature cannot be opened up to significant numbers of individuals without jeopardizing the success of such programs.

However, I believe the GAO has shown that it has the capability to do its job in sensitive surroundings without interfering with or jeopardizing sensitive government operations. The Agency has personnel permanently located at the National Security Agency and the Pentagon who have appropriate clearances and who are there to provide ongong audits to ensure that taxpayers' money is being spent in accordance with congressional intent.

There is no reason why the GAO could not form a team of appropriately cleared individuals for the purpose of auditing covert accounts. Such a team would not have to provide detailed public reports that would expose the nature of the covert activities associated with such accounts in a way that would jeopardize those programs. Indeed, such a GAO unit could simply report that they have examined the covert accounts of the U.S. Government and can verify that the moneys have been and are being spent for legal purposes in accordance with the orders that set up the covert operations in the first place. More detailed reports could be made available to the intelligence committees so that Congress would have the ability to understand more fully than has been the case heretofore how covert programs are being implemented.

By having an outside agency like the GAO, with a long history of objective examination and reporting on Government programs, examining these covert programs and accounts, we would ensure that the taxpayers' money is not being diverted to illegal or other activities unknown to the Congress, and the risks to democratic institutions would be appropriately lessened. Accordingly, I have introduced the necessary measure to allow such audits.

Finally, I would like to add the names of my colleagues, Senators PROXMIRE and HELMS to S. 1458. A companion measure in the House has attracted 68 cosponsors to date. I hope others will join us as cosponsors of this necessary legislation, which will supplement the essential first step taken today in the Cohen-Boren bill. I will not offer an amendment similar to S. 1458 to the measure currently being considered. But, I look forward to working with my colleagues toward the timely passage of S. 1458 as soon as possible.

AFGHANISTAN POLICY

Mr. BYRD. Mr. President, the Senate recently passed Resolution 386 by a vote of 77 to 0, regarding United States military and other aid to the Afghan Mujahdeen resistance movement. This resolution contained language which is unambiguous, and which should have put the administration on notice about the Senate's feelings concerning the cutting off of aid to the resistance while Soviet forces and advisers remain in occupation of that nation.

Mr. President, in today's New York Times, Mr. Abe Rosenthal has an incisive piece on the subject matter. He maintains the administration is ignoring, or does not understand, the Senate resolution passed on Monday.

As Mr. Rosenthal points out, the United States and the Soviets may be on the verge of "guaranteeing" noninterference in South Asian affairs. But it is not a treaty, and would not come before the Senate. It would not bind this Senate, either.

It does not foretell Senate support for administration policy on the flow of aid. The article rightly warns that the administration could be headed for a confrontation with Congress if it refuses to listen to Congress and expects us to put our support and faith in guarantees over secret agreements not understood by the Congress, agreements of which the Congress is not fully aware, or if Congress has difficulty in securing information as to the content of any such agreements.

I recommend reading of Mr. Rosenthal's column entitled "The Secret Treaty."

Mr. President, I ask unanimous consent that the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SECRET TREATY

(By A.M. Rosenthal)

Why does it take the Reagan Administration so long to learn terribly important lessons? It is a puzzlement.

Consider Afghanistan: Moscow says it will begin pulling its troops out two months after an agreement is reached in Geneva. The signing could come in a matter of days.

The withdrawal, an acknowledgment of the Red Army's inability to conquer the Afghan resistance, would be a victory for freedom. Nobody wants to prevent it.

But there is dispute of political and military moment on what should happen when the nine-month pullout begins.

The Soviet Union wants American military aid to the resistance ceased at once. It makes no commitments about ending aid to the Kabul Communist Government. Moscow even admits it will keep its troops inside Kabul, protecting the puppet regime, until the last moment of the withdrawal.

The State Department is being murky. But it is fair to read one important statement as meaning we plan to go along and cut off our military aid to the resistance as soon as the Russians start moving out.

Robert A. Peck, Deputy Assistant Secretary of State, told a House subcommittee that Washington would cut off military aid to the resistance if it was satisfied with the overall agreements. He said we would expect Moscow to "show reciprocal restraint" about military aid to Kabul during the period of pullout and thereafter.

Well, that lit a bomb of suspicion under Congress. Most of its members want a little more than expectation of Soviet restraint before the U.S. leaves the resistance alone to face the Red Army as it slowly departs and continues to build Kabul's arms inventory.

On Feb. 29, by a vote of 77 to 0, the Senate passed a stiff resolution. It warned against cutting off American military aid until it was "absolutely clear" that the Russians were indeed out, all of them, including thousands of "advisers" in the Kabul Government. The senators want the U.S. to make sure that the Soviet troops are not redeployed close to the border and that the resistance has enough supplies to carry it through the inevitable continuation of the war against Kabul.

The resolution calls for the return of 10,000 Afghan children now in the Soviet Union and a political solution acceptable to the resistance. Senator Robert Byrd, the majority leader, and Senator Gordon Humphrey, the New Hampshire Republican, talked of the possibility of a shameful sellout.

In the House of Representatives, there is matching fear; a similar resolution will probably be adopted. Our European allies are also worried. On Feb. 26 they sent the U.N. a letter asking that the Afghan resistance be involved in the peace talks.

In effect Moscow and Washington are about to agree to a treaty on Afghanistan. If it were written it would have to be approved by the Senate.

But it is not a treaty at all! Why, the United States and the Soviet Union are not even-signing it! Pakistan and Afghanistan are signing it and the U.S. and the Soviet Union are just "guaranteeing" it, whatever that means. And it is all so secret that exactly what we guarantee nobody tells us.

Since there is no treaty, Congressional resolutions are not binding. The Administration can "guarantee" arrangements that would have been thrown out by Congress.

These days Moscow and Washington have a lot of big fish in the pan. The resistance, having blocked the Red Army with American help, now seems to strike official Washington as a troublesome school of minnows.

Anyway, State Department thinking goes, the Afghan resistance is tough enough to slit Kabul's throat by itself when the Red Army leaves, so it would be a mistake to hold off the starting day by arguing about aid cutoff.

The Senate is not talking about unnecessary delay but appropriate agreement on important issues before the pullout starts. No sign that the Administration is listening.

Contra aid was defeated in large part because of the lies and secrets of the Iran-contra mess; too many members of Congress lost their faith in the motivations and word of this same Administration.

Now it is headed for more conflict with Congress because it refuses to divulge "secrets" known to and worked out with Moscow. The only way to prove there is no sellout is to publish the agreements and "expectations" immediately, before we become the "guarantors" of this secret treaty.

Unless Congress knows what is being done and has some chance to talk about it, years of charges of double-dealing lie ahead to bedevil future administrations.

Why doesn't this Administration understand this? A puzzlement. Unless it just doesn't care.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the period for morning business be extended to 5:30 p.m. today, that Senators may speak therein up to 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BYRD. Mr. President, if I may, while the distinguished acting Republican leader is on the floor, would my friend from Wyoming indicate whether or not the following calendar orders have been cleared on his side: 567, 571 through 577, inclusive?

Mr. SIMPSON. Mr. President, those items have been cleared on this side of the aisle.

Mr. BYRD. I thank the Senator. I ask unanimous consent then, Mr. President, that the Senate proceed to the consideration of calendar orders numbered 569 and 571 through 577, en bloc; that they be considered en bloc; that they be agreed to en bloc; that where amendments to the measures or to preambles or substitutes are shown, they be agreed to; that statements by Senators be included in the RECORD at appropriate places; that the action on the several measures appear in the RECORD individually and severally; and that the motion to reconsider en bloc be laid on the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

NEVADA-FLORIDA LAND EXCHANGE AUTHORIZATION ACT

The Senate proceeded to consider the bill (S. 854) entitled the "Nevada-Florida Land Exchange Authorization Act of 1987", which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nevada-Florida Land Exchange Authorization Act of 1988".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "land" means lands and interests (including the reserved mineral estate) therein, including leaseholds.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Aerojet" means the Aerojet-General Corporation, an Ohio corporation.

(4) The term "exchange agreement" means an agreement between the Secretary and Aerojet which is entered into for purposes of making the exchange authorized by this Act and which meets the requirements of this Act.

(5) The term "lease agreement" means an agreement between the Secretary and Aerojet which is entered into for the purpose of making the lease authorized and directed by this Act and which meets the requirements of this Act.

(6) The term "endangered or threatened species" means an endangered species or a threatened species, as defined in the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 3. EXCHANGE.

(a) AUTHORIZATION.—Subject to valid existing rights, the Secretary is authorized and directed to convey and lease public lands in the State of Nevada, described in subsection (b)(1), in exchange for the conveyance of the United States of the lands in Dade County, Florida, described in subsection (b)(2).

(b) LANDS TO BE EXCHANGED.—

(1) NEVADA.—(A) Public lands to be conveyed by the Secretary pursuant to this Act are the public lands, comprised of approximately twenty-eight thousand eight hundred acres, described as "For Conveyance to Aerojet General Corporation" on the map entitled "Public Domain Lands to be Exchanged and Leased to Aerojet-General Corporation, Clark and Lincoln Counties, Nevada," dated October 1987, and the public lands, comprised of approximately ten thousand and forty acres, generally depicted on the map entitled "Public Domain Lands to be Exchanged to Aerojet-General Corporation, Mineral County, Nevada," dated February 1987.

(B) In furtherance of an exchange pursuant to this Act, the Secretary shall also lease to Aerojet the lands described in section 4.

(2) FLORIDA.—The private lands to be acquired by the Secretary pursuant to this Act are all right, title, and interest of Aerojet (exclusive of severable use rights) in and to approximately four thousand six hundred and fifty acres of land as generally depicted on the map entitled "Aerojet-General Corporation Lands to be Exchanged to United States Fish and Wildlife Service, Dade County, Florida," dated February 1987, and available for inspection in the Office of the Secretary.

(c) CONVEYANCE DOCUMENTS.—

(1) BEFORE SURVEY.—Lands to be conveyed by the United States pursuant to this Act which have not been surveyed, or with respect to which any boundary needs to be surveyed, shall be conveyed by an interim conveyance. An interim conveyance under this paragraph shall convey to and vest in the recipient the same right, title, and interest in and to such lands as the recipient would have received in a patent issued pursuant to this Act.

(2) PATENT.—Upon being surveyed, the Secretary shall issue a patent for such lands. The boundary of such lands shall be that which was defined in and conveyed by the interim conveyance, except that the boundary may be corrected and redescribed in the patent, where necessary, as a result of the survey of such lands.

(3) FINALITY.—The issuance of an interim conveyance or patent pursuant to this section shall be subject to valid existing rights and shall be final and irrevocable. The United States shall not be required to accept a reconveyance or to take any actions with regard to the lands covered by such interim conveyance or patent.

(4) DISCREPANCIES.—The acreages cited in this Act are approximate, and in the event of discrepancies between cited acreages and the maps referred to in this section, the maps shall control.

(d) TERMS AND CONDITIONS.—The Secretary shall include in any interim conveyance, patent, or lease subject to this Act all terms and conditions required by this Act. Such terms and conditions shall apply to all subsequent purchasers, transferees, and other holders of any land covered by any such interim conveyance, patent, or lease.

(e) LEGAL DESCRIPTION.—Within six months after the completion of an exchange pursuant to this Act, the Secretary shall file maps and legal descriptions of the lands so exchanged (including lands conveyed and leased by the United States) with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. Such legal descriptions shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal descriptions and in the maps referred to in subsection (a). Such legal descriptions and maps shall also be on file and available for public inspection in the Nevada office of the State Director of the Bureau of Land Management, Department of the Interior. For purposes of this subsection, the issuance of a conveyance document (either a patent or an interim conveyance) or lease, whichever is later, shall constitute completion of an exchange.

SEC. 4. LEASE OF CERTAIN LANDS IN NEVADA.

(a) LEASE.—

(1) GENERAL AUTHORITY.—The Secretary is authorized and directed to lease to Aerojet the approximately fourteen thousand acres of public lands described as "for Lease to Aerojet" on the map entitled "Public Lands to be Exchanged and Leased to Aerojet-General Corporation, Clark and Lincoln Counties, Nevada," dated October 1987. Any such lease shall be subject to subsection (b) and to the terms and conditions specified in section 5.

(2) WITHDRAWAL.—Subject to valid existing rights, the lands described in paragraph (1) are withdrawn from all forms of entry and appropriation under the public land laws (including the mining laws) and from the operation of the mineral leasing and geothermal leasing laws. The withdrawal of such lands shall remain in effect so long as such lands are leased under authority of this Act.

(b) REQUIREMENTS RELATING TO LEASE.—

(1) TERM.—Any lease issued pursuant to subsection (a) shall be for an initial term of ninety-nine years, during which time no rental shall be required to be paid to the United States. Lands leased pursuant to subsection (a) shall not be deemed to be entitlement lands for purposes of Public Law 94-565 (31 U.S.C. 1601 et seq.).

(2) USE OF LEASED LANDS.—During the term of any lease issued pursuant to subsection (a), the lessee shall be entitled to use the lands which are subject to such lease only for purposes of constructing and using necessary roads, utility lines, storage facilities, and wells. The lessee also shall be entitled to use such lands for such other related purposes as the Secretary may from time to time permit, subject to the requirements of this Act and other applicable law and to reasonable requirements the Secretary, acting through the Director of the Fish and Wildlife Service, may establish for the protection of fish, wildlife, or plants. The lease shall provide that the lessee shall consult with the Secretary concerning the location of any roads, utility lines, facilities, and wells on the leased lands, and that with regard to any such location, the lessee, so far as possible, shall follow recommendations of the Secretary intended to minimize adverse impacts on the desert tortoise and other species of wildlife or plants.

(3) FISH, WILDLIFE, AND PLANTS.—Any lease issued pursuant to subsection (a) shall require the lessee to take all reasonable steps the Secretary, acting through the Director of the Fish and Wildlife Service, may from time to time require to minimize adverse impacts on desert tortoises and any other species of fish, wildlife, and plants (including, but not limited to, endangered or threatened species) from the lessee's activities occurring on such lands.

(4) ASSIGNABILITY.—A lease issued pursuant to this section may be assigned or transferred by Aerojet only with the consent of the Secretary, which shall not be unreasonably withheld.

SEC. 5. CONDITIONS OF EXCHANGE.

(a) VALUE.—

(1) EQUALIZATION OF VALUE.—Any exchange of lands pursuant to this Act shall be on the basis of equal value as determined by the Secretary, except that the Secretary may accept a payment of money in order to equalize values between lands transferred, or leased, to Aerojet by the Secretary and lands transferred to the United States by Aerojet. The Secretary shall require that any conveyance of a production well drilled at Federal expense which Aerojet or its successors or assigns subsequently uses for withdrawal of water for industrial purposes shall be in consideration of receipt by the United States of land or money equal in value to the cost of drilling a well suitable for industrial purposes and located at the same site as the well conveyed.

(2) APPRAISAL.—Any determination by the Secretary of values of lands to be conveyed or leased by the Secretary pursuant to this Act shall be based on the fair market value of such lands, as determined by appraisals carried out in accordance with established procedures used by the Bureau of Land Management and done after the date of enactment of this Act by qualified appraisers selected and reimbursed by the Secretary. The values of lands to be conveyed by Aerojet pursuant to this Act shall be the values agreed to pursuant to section 7(a).

(3) NOTICE AND PUBLIC INSPECTION.—Upon completion of such appraisals, the Secretary shall—

(A) publish in newspapers of general circulation in Clark, Lincoln, and Mineral Counties, Nevada, a notice as to where and when the results of appraisals carried out pursuant to this Act will be available for public inspection, and

(B) transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a copy of such appraisals and the determination by the Secretary of the values of lands to be conveyed and leased.

The Secretary shall not issue any interim conveyance, patent, or lease pursuant to this Act before ten days after such transmittals are made to the committees specified in subparagraph (B).

(b) TRANSMISSION CORRIDOR.—

(1) RESERVATION TO THE UNITED STATES.—The transfer of the lands in Clark and Lincoln Counties, Nevada to be conveyed to Aerojet under this Act shall be subject to the reservation to the United States of the right-of-way corridor described in the draft exchange agreement referred to in subsection (g). This corridor shall be designated and administered by the Secretary, who may grant rights-of-way over, upon, under, and through the corridor for systems and facilities used or useful for the construction, operation, and maintenance of electric transmission lines consistent with title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.).

(2) ACTIVITIES IN TRANSMISSION CORRIDOR.—Activities to construct, operate, and maintain electric transmission lines within the corridor shall be given priority over all conflicting activities. The Secretary shall take all reasonable actions to facilitate and protect the activities planned and proposed for the land in Clark County and Lincoln County, Nevada, referred to in section 3(b), by Aerojet-General Corporation relating to the development, manufacture, and testing of rocket motors or other aerospsace and defense products, including the granting of rights-of-way to Aerojet-General Corporation for roads across the corridor connecting the eastern and western portions of the land in Clark County and Lincoln County, Nevada, referred to in section 3(b).

(3) ALTERNATIVE TO CORRIDOR ON CERTAIN LANDS.—If, after five years from the date of enactment of this Act, other public lands within the six-mile width of land immediately west of the Clark County and Lincoln County, Nevada, land referred to section 3(b) are returned to multiple use, are suitable as an alternative to the corridor reserved in this subsection, and are made available for the construction, operation, and mainte-

nance of electric transmission lines, no further rights-of-way or other rights or privileges to construct, operate, and maintain electric transmission lines within the corridor reserved in this subsection shall be granted by the Secretary unless—

(A) such rights-of-way or other rights or privileges are pursuant to or in furtherance or continuation of the specific rights referred to in subsection (c);

(B) at the time the land becomes so available there is pending an application for a right-of-way in the corridor reserved in this subsection and in the opinion of the Secretary such application is being diligently pursued; or

(C) such rights-of-way or other rights or privileges are in renewal of a right-of-way granted prior to the land becoming so available.

(c) PRESERVATION OF EXISTING RIGHTS.—The existing rights referred to in section 3(a) include the right-of-way (Number U-42519, granted April 3, 1980) to construct, operate, and maintain an electric transmission line from the International Power Project at Delta, Utah, through the land in Clark County and Lincoln County, Nevada, referred to in section 3(b), and the interest of the White Pine Power Project in the Southern Transmission System (described and analyzed in the final Environmental Impact Statement as the selected alternative and displayed on the map attached to the Record of Decision approved on March 26, 1985), within the land in Clark County and Lincoln County, Nevada, referred to in section 3(b). Nothing in this Act or in the draft exchange agreement referred to in subsection (g) shall negate or diminish such existing rights in any respect, except that (unless otherwise agreed to by the owner of the land in Clark County and Lincoln County, Nevada, referred to in section 3(b)) on and after the consummation of the exchange of lands authorized by this Act and without further act by the holders of such existing rights, such existing rights shall be altered so that—

(1) all transmission lines and related facilities to be located on the land in Clark County and Lincoln County, Nevada, referred to in section 3(b) pursuant to such existing rights may only be located within the corridor referenced in subsection (b); and

(2) the right to locate such transmission lines and related facilities pursuant to such existing rights on the land in Clark County and Lincoln County, Nevada, referred to in section 3(b) outside of that corridor shall be extinguished and of no further force or effect.

(d) OFF-ROAD VEHICLES AND ALL-TERRAIN VEHICLES.—Except for purposes of administration or in cases of emergency or for public safety, off-road vehicles and all-terrain vehicles may not be used on unroaded portions of land located in the State of Nevada which is conveyed or leased under this Act.

(e) IMMUNITY.—Notwithstanding any other provision of law, the United States, its officers, employees, and instrumentalities, may not be held liable for, and shall be immune from, any claim arising from any acts or omissions of Aerojet, its employees, agents, successors, or assigns, on or related to any land conveyed or leased pursuant to this Act.

(f) OTHER REQUIREMENTS.—Any exchange pursuant to this Act (including any conveyance and any lease) shall be performed in accordance with and subject to the terms of this Act, the exchange agreement, and the lease agreement.

(g) AGREEMENTS.—

(1) IN GENERAL.—The issuance of any interim conveyance, patent, or lease in furtherance of an exchange under this Act shall be governed by and be in accordance with a written exchange agreement and lease agreement between the Secretary and Aerojet which shall incorporate the relevant terms and conditions of this Act. Such agreements shall incorporate all provisions of the draft exchange agreement and draft lease agreement, respectively, dated October 1, 1987, printed as Appendices to the Report of the Committee on Energy and Natural Resources to accompany S. 854 (S. Rept. 100-292), which are not inconsistent with this Act.

(2) LIMITATIONS.—The Secretary shall not agree to the inclusion in the exchange agreement of any terms or conditions which, after completion of the exchange authorized and directed by this Act, would limit the ability of the Secretary to properly manage lands in Nevada or Florida for which the Secretary will have responsibility, or which, after completion of such exchange, would prevent the Secretary from properly discharging the responsibilities of the Secretary under then-applicable provision of law. Nothing in the exchange agreement shall afford Aerojet or any other party a preferential position with regard to purchase or lease of any public lands other than those described in this Act.

(3) RULE OF CONSTRUCTION; NOTIFICATION.—In the case of any inconsistency between the terms of the exchange agreement or the lease agreement or any amendments thereto and this Act, the provisions of this Act shall prevail. The Secretary shall not agree to any amendment to either the exchange agreement or the lease agreement without first consulting with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and shall transmit copies of any such amendment to such committees at the time of agreeing to such amendment.

SEC. 6. HABITAT PROTECTION.

(a) GROUND WATER.—

(1) MONITORING OF CONDITIONS AND HABITAT.—The Secretary, acting through the Director of the Fish and Wildlife Service, shall monitor the conditions and habitat of endangered or threatened species whose habitat the Secretary believes could be affected by the withdrawal of ground water from the aquifer beneath lands conveyed or leased pursuant to this Act.

(2) POTENTIAL ADVERSE EFFECTS.—If the Secretary has reasonable evidence to believe that the withdrawal of ground water from the aquifer beneath lands conveyed and leased pursuant to this Act is likely to adversely affect the habitat of any endangered or threatened species, the Secretary shall—

(A) promptly notify Aerojet (or its successors or assigns in the event that Aerojet has transferred its interests in such lands), the Committee on Energy and Natural Resources of the Senate, the Committee on Interior and Insular Affairs of the House of Representatives, and the State Engineer of Nevada concerning such likely adverse effect of such withdrawal; and

(B) request the State Engineer to take appropriate action, in accordance with applicable laws of the State of Nevada, to ascertain whether the withdrawal of ground water from such aquifer is in fact reducing the supply of water to the habitat of any endangered or threatened species, and, if so, to mitigate that reduction in accordance with applicable laws of the State of Nevada.

(3) DEPLETION.—In the event that the State Engineer of Nevada determines that the withdrawal of ground water from beneath lands conveyed or leased pursuant to this Act or from beneath other lands underlain by the same aquifer is causing depletion of water to a surface water habitat of any endangered or threatened species, Aerojet (or its successors or assigns) and the Secretary shall jointly petition the State Engineer to reduce the total water allocation in the affected area, or to take any other actions authorized by State law, in order to eliminate such depletion of water to such habitat.

(b) ALTERNATIVE SOURCES OF WATER.—The Secretary may not convey or lease lands under this Act until the Secretary has been assured by the State Engineer of Nevada that Aerojet has developed a feasible plan, consistent with applicable laws of the State of Nevada, for obtaining an alternative source of water (other than the withdrawal of ground water from the aquifer beneath lands conveyed and leased under this Act) to be used, in total or in part, in the event that Aerojet or a successor in interest is required to cease pumping ground water from beneath the conveyed or leased lands.

(c) ACCESS FOR MONITORING.—The Secretary, acting through the Director of the Fish and Wildlife Service, shall have access at any time to any land conveyed or leased under this Act to monitor—

(1) the pumping of ground water from such land,

(2) the condition of endangered or threatened species located on such land,

(3) the impact of any activity occurring on such land on wildlife and plants, including (but not limited to) endangered or threatened species.

In exercising such right of access, the Secretary shall afford reasonable notice to Aerojet (or its successors or assigns).

(d) POLLUTION CONTROLS.—Nothing in this Act shall be construed as limiting or impairing the power of any Federal or State agency to monitor and regulate the handling by Aerojet or its successors in interest of hazardous materials or wastes or air or water pollutants to assure compliance with applicable State and Federal laws. The Secretary, from time to time, shall consult and cooperate with the Administrator of the Environmental Protection Agency and appropriate officials of the State of Nevada to facilitate such monitoring and regulation.

SEC. 7. TRANSFER OF FLORIDA LANDS TO WATER MANAGEMENT DISTRICT.

(a) SALE TO SOUTH FLORIDA WATER MANAGEMENT DISTRICT.—Notwithstanding any other provision of law, the Secretary is authorized and directed to sell by issuance of a quitclaim deed any lands acquired in accordance with an exchange pursuant to this Act to the South Florida Water Management District at such per-acre price as may be mutually agreed upon by the Secretary and the District.

(b) USE OF FUNDS RECEIVED BY THE UNITED STATES.—Notwithstanding any other provision of law, any funds received by the United States from the sale of lands authorized by subsection (a) and from any payments by Aerojet to equalize values of lands exchanged pursuant to this Act shall be deposited in the "Contributed Fund Account" of the Fish and Wildlife Service, and shall be utilized for the purchase of additional lands at existing elements of the National Wildlife Refuge System in the State of Florida. Such funds shall be available for obligation without appropriation.

(c) NOTICE TO CONGRESS.—The Secretary shall notify the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives of any proposal to obligate funds received in accordance with the provisions of subsection (a) at least sixty days prior to the obligation of such funds.

SEC. 8. WILDERNESS STUDY AREAS.

Any public land in the State of Nevada which, as of March 1, 1987, was managed pursuant to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) shall be retained in Federal ownership and shall continue to be so managed until Congress determines otherwise.

SEC. 9. CLAIMS.

Nothing in this Act or in the exchange and lease agreements shall be construed as affirming or denying the validity of any claim which is pending on the date of enactment of this Act by any Indian tribe or any other person with respect to any lands in Nevada.

SEC. 10. JUDICIAL REVIEW.

(a) GENERAL PROVISIONS.—Except as provided in subsection (b), nothing in this Act shall be construed as limiting any right of the Secretary or any other person to bring any action with regard to the responsibilities of the Secretary or any other person under applicable law, as affected or modified by this Act. The Secretary shall not include in the exchange agreement any term or condition that would limit the ability of the Secretary to bring any action or take any other step the Secretary may find appropriate in order to carry out the responsibility of the Secretary under this Act or any other applicable provision of law, as affected or modified by this Act.

(b) FINDING AND LIMITATION.—The Congress hereby finds that studies and analyses completed prior to the date of enactment of this Act have made available information sufficient to meet the objectives of the National Environmental Policy Act of 1969 and other relevant law so far as concerns the possible environmental and other effects of the conveyance and lease of public lands in Nevada as provided for in this Act, and that the provisions of this Act adequately address such possible effects.

(c) LIMITATION.—Based on the finding set forth in subsection (b), the Congress directs that the execution or consummation of any agreement, or the issuance of an interim conveyance, patent, or lease, pursuant to and in accordance with the provisions of this Act, shall not be subject to judicial review with respect to any complaint alleging a failure by the Secretary or any other person to comply with any provision of law other than the provisions of this Act.

SEC. 11. DEADLINE.

It is the sense of Congress that the Secretary shall execute the exchange agreement and the lease agreement and shall implement the conveyance and lease of lands pursuant to this Act no later than one hundred and twenty days after the date of enactment of this Act.

SEC. 12. DESERT TORTOISE PLAN.

(a) PREPARATION.—The Secretary shall—

(1) review the status of populations of desert tortoises on lands in Nevada and other States managed by the Secretary, other than lands conveyed or leased pursuant to this Act;

(2) assess the nature and extent of threats to the continued health or stability of such populations on such lands; and

(3) prepare a comprehensive plan to address such threats through—

(A) reductions in the extent to which uses of such lands which are potentially harmful to such populations are permitted to occur; and

(B) other measures to remove or mitigate such threats.

(b) CONSULTATION.—In preparing the plan required by subsection (a), the Secretary shall consult with State officials, other Federal agencies responsible for management of lands where desert tortoise populations are located, the Desert Tortoise Council, and other persons or groups identified by the Secretary as having expertise relevant to the requirements of this section.

(c) DEADLINES AND REPORTS.—

(1) REVIEW AND ASSESSMENT.—The review and assessment required by paragraphs (1) and (2) of subsection (a) shall be completed and the results thereof shall be made available to the public and transmitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives no later than two years after the date of enactment of this Act.

(2) PLAN.—The plan required by subsection (a)(3) shall be developed and transmitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives no later than three years after the date of enactment of this Act. A failure by the Secretary to transmit such report within such three-year period shall not relieve the Secretary from the requirement to prepare such plan.

The amendment was agreed to.

NEVADA/FLORIDA LAND EXCHANGE BILL

Mr. REID. Mr. President, today I am happy to see that the Senate is moving to pass S. 845, the Nevada/Florida Land Exchange Authorization Act.

By way of background, S. 845 will allow Aerojet General Corp. to acquire 38,840 acres and lease an additional 14,000 acres of Bureau of Land Management land in Nevada in exchange for approximately 4,660 acres of Aerojet-owned land in Dade County, FL, near the Everglades. The Interior Department would then sell the Florida land to the South Florida Management District to raise funds for acquiring additional wildlife refuge lands in the State of Florida.

The Aerojet Corp. came to the Nevada delegation several years ago with a desire to acquire approximately 10,040 acres of land in Mineral County, and a 28,800-acre portion located in Clark and Lincoln Counties, in the Coyote Springs Valley, 45 miles northeast of Las Vegas. Aerojet wanted this land to construct a rocket manufacturing, assembly and test facility. The Nevada land would supplement the company's current rocket testing operations in California. In addition, it was anticipated the facility could eventually employ up to 600 people. This fact alone has significant importance to the economic well being of Lincoln county, the most economically depressed county in Nevada. I felt that this land acquisition proposal was meritorious if proper environmental concerns were met.

Even though this land exchange enjoyed widespread and strong support: including the endorsement of the Governor of Nevada, Richard Bryan; the Nevada Assembly, as well as the Southern Nevada Development Authority several environmental concerns remained regarding the sensitive species such as the Desert Tortoise.

However, through the tireless efforts of committee staff and the Aerojet Corp., a compromise was reached in which a Desert Tortoise preserve would be established by Aerojet. The Secretary, through the Fish and Wildlife Service, would monitor conditions and habitat of endangered or threatened species that might be affected by any activities resulting from the Aerojet operation.

Several years, numerous hearings both in Washington and in the State of Nevada and hundreds of hours of staff time have been used to work out this excellent bill. The entire Nevada delegation supports this bill as well as the two distinguished senators from Florida. I urge my colleagues to support this legislation because it is a sound plan both economically and environmentally for Nevada and for Florida.

Mr. HECHT. Mr. President, I am very pleased that the Senate is about to pass S. 854, the Nevada-Florida Land Exchange Authorization Act of 1987, a bill which I introduced to bring jobs to Nevada and new protection to our Nation's fish and wildlife resources.

I would like to congratulate Senators CHILES, GRAHAM, and REID for their assistance with this bill. This bill is excellent for Nevada, it will be helpful in the water management of Everglades National Park, and it will result in new land being added to the National Wildlife Refuge System in the State of Florida.

I have been working on this particular legislation for several years now, and it is very rewarding to see that long legislative process come to fruition today on the floor of the Senate.

The bill which we pass today is identical to the marked-up version of the House companion measure. I hope this means that the House will follow up on our action today by promptly passing the Senate bill.

I would also like to thank Senators JOHNSTON and MCCLURE, the chairman and ranking minority member of the Senate Committee on Energy and Natural Resources for their assistance with this bill.

Mr. President, I yield the floor.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill entitled the 'Nevada-Florida Land Exchange Authorization Act of 1988'."

NATIONAL MINING HALL OF FAME AND MUSEUM

The Senate proceeded to consider the bill (S. 450) to recognize the organization known as the National Mining Hall of Fame and Museum.

Mr. ARMSTRONG. Mr. President, I am pleased that the Senate today is passing legislation to recognize the organization known as the National Mining Hall of Fame and Museum.

In 1859, when A.G. Kelley first discovered silver in the Colorado Rocky Mountains, he had no way of knowing that a mining fever would spread rapidly among pioneers anxious to stake their claims and make their fortunes. Kelley triggered a mining boom that would establish Leadville, CO, as the Nation's richest mining camp ever developed. Today, not far from where Kelley first found silver, a national monument honors the American mining industry.

The late R.A. "Red" Fenwick, longtime cowboy columnist for the Denver Post, founded the National Mining Hall of Fame and Museum "to ignite a torch from the blazing chapters of mining and prospecting history, with which to illuminate the lives and heroic deeds of men and women who pioneered the development of this vastly rich empire." Leadville, CO, is now the proud home of that museum.

Miners and their industry deserve national recognition. I am pleased that the U.S. Senate honors the National Mining Hall of Fame and Museum by passing legislation granting them a Federal charter. It may interest my colleagues to know that Federal charters are reserved for groups organized and operated in the public interest, conducting activities with a national scope and in response to a national need. Congress issued its first charters in the 19th century and has since granted them to some 50 nonprofit groups that provide unique services.

Mining helped build Colorado and our young Nation. Americans should understand and appreciate the impact of mining on every aspect of our modern society. Minerals are so much a part of our lives that most Americans take them for granted. Who gives a thought to the tungsten in a light bulb, the silica in a bottle, or the magnesium in cosmetics? The minining industry produces metals such as copper, lead, zinc, gold, and silver; and nonmetallics such as stone, sand, gravel, and sodium minerals. Fuel mining produces petroleum, natural gas, and uranium. The Bureau of Mines reports that in 1987, the production of the fuel industry was valued at over $93 billion. The nonfuel minerals industry, including the value added by manufacturing, generated an estimated $250 billion worth of processed mineral-based materials.

How is it that Leadville came to be the place of honor for the mining industry and all the American growth it has generated? Leadville—named for the carbon lead which was so prevalent that it once blackened the dirt in the area—is the highest incorporated city in the world, and is located near two of Colorado's highest peaks, Mt. Elbert and Mt. Massive.

In the late 1800's, Leadville was the heart and soul of Colorado: The discoveries and the developments of the magic city in the Rockies set a vigorous pace for the entire State and, many believed, the entire West. The first Governor of Colorado, John L. Routt, was said to spend all his spare time in Leadville, Oscar Wilde traveled all the way from London to lecture there on esthetics, and President Harrison visited there in 1891. Leadville was the grandest of all the mining camps of the time—the richest not only in minerals but also in pioneering spirit. Hundreds of hopeful miners became wealthy overnight, and our national wealth grew by leaps and bounds.

Through the turn of the century, Leadville was a rough and tumble town. In Leadville, the cloud city of the Rockies, a miner of the time described the nights as follows:

> Difficult as it is to make one's way along the main thoroughfares by day, it is still more so just before and after nightfall. Leadville by lamplight fairly booms with excitement and life. The miners then drift into town in swarms; a dozen bands drumming up audiences for the theatres and variety shows, scores of saloons and numerous gambling houses are in full blast, and the entire scene gives the town and place the appearance of one grand holiday.

It was on one of those holiday like evenings in 1885 that a group of young miners at the "Junk Lane Hotel"—a small cabin on the edge of Leadville—wrote a song called "Colorado Home." It is the song we know today as "Home on the Range."

Today Leadville is a town struggling to combine its romantic Western history with modern-day economic needs. Some miners claim fortunes can still be made in the hills and several mines are still operating near Leadville. The National Mining Hall of Fame and Museum presents a unique opportunity for this great town to sustain its identity and flourish through its second century. The facility features educational exhibits and honors the Nation's great and legendary leaders, as well as the rascals of the mining industry.

The first hall of famers will be named this year, and the museum will ensure that almost two centuries of mining lore and skill will not be lost from our national heritage. Nestled in a beautiful, historic district that once boomed with mining activity, it will help all Americans remember the mining industry and its vital role—in the economy, national defense, science, technology, and medicine—in the creation of the world's greatest power.

The bill was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. The National Mining Hall of Fame and Museum, organized and incorporated under the laws of Colorado, is hereby recognized as such and is granted a charter.

POWERS

SEC. 2. The National Mining Hall of Fame and Museum (hereafter in this Act referred to as the "corporation"), shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation including—

(1) to honor citizens, mining leaders, miners, prospectors, teachers, scientists, engineers, inventors, governmental leaders, and other individuals, who have helped to make this Nation great by their outstanding contributions to the establishment, development, advancement, or improvement of mining in the United States of America;

(2) to perpetuate the memory of such individuals and record their contributions and achievements by the erection and maintenance of such buildings, monuments, and edifices as may be deemed appropriate as a lasting memorial;

(3) to foster, promote, and encourage a better understanding of the origins and growth of mining, especially in the United States, and the part mining has played in changing the economic, social, and scientific aspects of our Nation;

(4) to establish and maintain a library and museum for collecting and preserving for posterity, the history of those honored by the corporation, together with a documentation of their accomplishments and contributions to mining, including such items as mining pictures, paintings, books, papers, documents, scientific data, relics, mementos, artifacts, and things relating to such items;

(5) to cooperate with other mining organizations which are actively engaged and interested in similar projects; and

(6) to engage in any and all activities incidental thereto or necessary, suitable, or proper for the accomplishment of any of the purposes set forth in this section.

MEMBERSHIP

SEC. 4. Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 5. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 6. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated.

RESTRICTIONS

SEC. 7. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

(f) The corporation shall retain and maintain its status as a corporation organized and incorporated under the laws of the State of Colorado.

LIABILITY

SEC. 8. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SERVICE OF PROCESS

SEC. 9. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(60) The National Mining Hall of Fame and Museum".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954.

TERMINATION

SEC. 16. If the corporation fails to comply with any of the restrictions or other provisions of this Act, the charter granted by this Act shall expire.

THE 82ND AIRBORNE DIVISION ASSOCIATION, INC.

The bill (S. 840) to recognize the organization known as the 82nd Airborne Division Association, Inc., was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 840

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. The 82nd Airborne Division Association, Incorporated, a nonprofit corporation organized under the laws of the State of Illinois, is recognized as such and is granted a Federal charter.

POWERS

SEC. 2. The 82nd Airborne Division Association, Incorporated (hereinafter in this Act referred to as the "corporation"), shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include—

(1) perpetuating the memory of members of the 82nd Airborne Division who fought and died for our Nation,

(2) furthering the common bond between retired and active members of the 82nd Airborne Division,

(3) providing educational assistance in the form of college scholarships and grants to the qualified children of current and former members,

(4) promoting civic and patriotic activities, and

(5) promoting the indispensable role of airborne defense in our national security.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. (a) Subject to subsection (b), eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

(b) Terms of membership and requirements for holding office within the corporation shall not discriminate on the basis of race, color, national origin, sex, religion, or handicapped status.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(2) No officer or director of the corporation, acting as such officer or director, may commit any act prohibited under paragraph (1) of this subsection.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964, (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(73) 82nd Airborne Division Association, Incorporated.".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit of the corporation required by section 2 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964, (36 U.S.C. 1101). The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND, ALTER, OR REPEAL CHARTER

SEC. 13. The right to amend, alter, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF STATE

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954.

TERMINATION

SEC. 16. If the corporation fails to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

RELIEF FOR THE U.S. SOYBEAN INDUSTRY

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 94) to express the sense of the Congress regarding relief for the U.S. soybean industry under section 301 of the Trade Act of 1974, which had been reported from the Committee on Finance, with an amendment, and an amendment to preamble.

The amendment was agreed to.

Mr. LEAHY. Mr. President, I rise today as a cosponsor and a strong supporter of Senate Concurrent Resolution 94, a concurrent resolution in support of the recent section 301 petition filed by the American Soybean Association. The petition charges that the internal oilseed subsidies of the European Communities have impaired tariff agreements the United States negotiated with the EC in 1962.

In 1982, the United States exported over 3.5 billion dollars' worth of soybeans and soybean meal to the EC—this was equivalent to over 60 percent of total U.S. production. One of the main reasons we were able to enjoy this export success was the duty-free tariff bindings accorded us in our tariff agreements.

Now, at every turn, U.S. soybean exports face unfair competition within the EC. That unfair competiton is subsidies. Since the rapid escalation of their domestic oilseed subsidies, which began in 1982, the EC has instituted production subsidies; feed compounder subsidies; and ever higher levels of support for oilseeds.

The EC is doing everything it can to encourage oilseed production so that the U.S. soybean producers will not have a market. The internal support price for soybeans within the EC is over 200 percent higher than the U.S. soybean loan rate, and about three times the current world price for soybeans. Further, subsidies are being cut for cereals at the same time they are being raised for oilseeds.

Mr. President, it is obvious what is going on here. With incentives at every turn to produce additional oilseeds; with Government programs that make expensive European soybeans cheaper to process than imported United States soybeans, the EC is rapidly deteriorating the benefits this country obtained when we negotiated the tariff bindings back in 1962.

I know of no easy solution. Every year the European parliament goes to the brink of enacting yet another tremendous subsidy affecting oilseeds—the fats and oils tax. Every year we argue. So far, they have desisted. But the message seems to be clear, the EC is not looking for ways to decrease oilseed subsidies, they are looking for ways to increase them.

I believe the impact this has on our tariff bindings is obvious. Despite the duty free treatment of our exports, our products have difficulty competing with huge subsidies with one goal in mind—increase EC production and stop U.S. imports.

Mr. President, I urge my colleagues to support this resolution that calls upon the Office of the U.S. Trade Representative to do what it can to restore the benefits due the American soybean industry. It is the least we can do to show soybean farmers we are aware of their plight.

I want to thank Senator DANFORTH for his dilligent efforts on this issue. I would also like to thank his staff for their very fine work on this resolution.

Mr. DANFORTH. Mr. President, I am pleased to join with the chairman of the Committee on Agriculture in offering this concurrent resolution expressing support for the American Soybean Association's [ASA] section 301 petition against the European Community. I commend the Senator from Vermont for his work on this important initiative.

On December 16, ASA filed a section 301 petition charging that the EC's internal oilseed and protein crop subsidies to farmers, oilseed processors, and feed compounders are inconsistent with the Community's obligations under the General Agreement on Tariffs and Trade [GATT], and that they nullify and impair the duty-free bindings on soybeans and soybean meal granted to the United States a quarter century ago. The U.S. Trade Representative initiated an investigation pursuant to the petition on January 5, and preliminary consultations are now underway.

In 1962, during the Dillon round of multilateral trade negotations, the EC granted the U.S. duty-free import bindings on soybeans and soybean meal in exchange for offsetting compensation from the United States. These duty-free bindings have proven to be among the most significant agricultural trade concessions ever received by the United States in multilateral trade negotiations. U.S. sales of soybeans and soybean meal to the EC reached $3.5 billion by 1982, thanks in large measure to the duty-free bindings on these products. The Community continues to be our single largest foreign market for soybeans and related products, absorbing nearly a quarter of total United States production.

When the EC granted duty-free treatment to U.S. soybeans and soybean meal, it was not self-sufficient in oilseed, protein meal and vegetable oil production, and it maintained no internal subsidies for such production. But all that has changed.

Since the late 1960's, the EC has implemented a series of internal production subsidies for farmers, oilseed processors and feed compounders. The Community's support level for soybeans is roughly $15 per bushel—that's 200 percent higher than the United States soybean loan level rate and triple the current world price for soybeans. At the same time, the EC has gradually reduced its grain crop subsidies, further encouraging farmers to shift into oilseed production. Under these circumstances, it's not surprising that European soybean production has increased 8,000 percent, from 14,000 metric tons in 1980 to an estimated 1.3 million metric tons this year. At the same time, expensive processor subsidies encourage European processors and feed compounders to utilize domestic oilseed and protein crops instead of their more efficiently produced American counterparts.

Unfortunately, this concerted effort to increase the production and processing of European oilseeds has come at the expense of American farmers. Since 1982, the volume of U.S. soybean and soybean meal exports to the EC has declined by 35 percent; the decline in value is roughly 40 percent. I find it intolerable that highly competitive American soybean exports are losing ground to less efficiently produced European crops because of an exceedingly expensive network of subsidies.

Senate Concurrent Resolution 94 was reported favorably out of the Finance Committee on March 3. The resolution commends USTR for initiating the section 301 investigation, and it urges the administration to do what it can to restore the benefits due the American soybean industry. It says to the Europeans that we find it unacceptable for them to take back with one hand what they gave with the other in 1962.

Mr. President, the EC has been trying for a long time to force American farmers to pay for its costly and inefficient farm programs. Last year, the European Commission proposed a tax on the consumption of vegetable fats and oils as a means of raising $2 billion for its bloated oilseed and protein crop regime. The tax would have amounted to a 90-percent increase in the price of soybean oil, with devastating consequences for American soybean farmers. The United States made it clear at that time that we would not tolerate such an attack on our competitive exports, and the Europeans backed down.

A similar show of resolve on this section 301 petition is now in order. The United States must not be forced to foot the bill for the failure of Europe's farm policies. We cannot permit the benefits of the duty-free bindings on soybeans and soybean meal to be undercut because of outlandish European subsidies. Energetic enforcement of U.S. rights is a must: Our farmers are entitled to it, and it is a valuable spur to meaningful multilateral negotiations to reduce agricultural subsidies all around. I am pleased that the adminstration has undertaken this important investigation of Europe's internal oilseed and protein crop subsidies, and I urge my colleagues to join us in supporting the soybean case.

Mr. President, I ask unanimous consent that my fellow colleague from Missouri, Mr. BOND, be added as a cosponsor to Senate Concurrent Resolution 94.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution, as amended, was agreed to.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution, as amended, and the preamble, as amended, are as follows:

Whereas in 1962 the European Communities agreed to provide duty-free treatment for United States soybeans and soybean meal in return for offsetting compensation from the United States;

Whereas at the time the European Communities granted the duly-free bindings to the United States, it was not self-sufficient in feed protein and vegetable oil production, and it maintained no internal production subsidies for oilseeds and protein crops;

Whereas by 1982 the European Communities had become the market for nearly one-fourth of total United States soybean production, with United States exports to the European Communities reaching $3,500,000,000 that year;

Whereas in recent years the European Communities have instituted extremely lucrative internal production subsidies for rapeseed, sunflowerseed, and soybeans that have resulted in a 340 percent increase in Community production since 1981;

Whereas the European Communities subsidizes the purchase and consumption of Community-origin oilseeds by European oilseed processors and feed manufacturers in such a manner as to discourage the utilization of lower-priced United States soybeans and soybean meal;

Whereas the European Communities' oilseed production and precessing subsidies have nullified and impaired United States benefits accruing from the European Communities duty-free bindings on soybean and soybean meal, resulting in a 40 percent decline in the value of United States soybean and soybean meal exports to the European Communities between 1982 and 1986;

Whereas the European Communities' duty-free bindings on soybeans and soybean meal are among the most important agricultural trade concessions ever received by the United States in multilateral trade negotiations;

Whereas the United States has made it clear that it would not tolerate any attempts to unilaterally withdraw or otherwise nullify or impair these duty-free bindings on soybeans and soybean meal;

Whereas on December 16, 1987, the American Soybean Association filed a petition under chapter 1 of title III of the Trade Act of 1974, alleging that the European community's internal oilseed and protein-crop subsidies to farmers, oilseed processors and feed compounders nullify and impair United States benefits achieved through agreements which provide duty-free treatment and are inconsistent with the obligations of the European Communities under the General Agreement on Tariffs and Trade; and

Whereas on January, 5, 1988, the United States Trade Representative announced the initiation of an investigation under chapter 1 of title III of the Trade Act of 1974 with respect to the European Communities' internal oilseed and protein-crop subsidies: Now, therefore, be it

Resolved by the Senate (the House of Representativies concurring), That it is the sense of the Congress that—

(1) The United States Trade Representative is to be commended for initiating an investigation under chapter 1 of title III of the Trade Act of 1974 in response to the petition filed by the American Soybean Association,

(2) the United States Trade Representative should expeditiously pursue its investigation of the alleged unfair trade practices described in such petition, and

(3) the President should use the authority provided under section 301 of the Trade Act of 1974 to restore the benefits due the United States soybean industry which arise from the agreement of the European Communities to provide duty-free treatment for United States soybeans and soybean meal.

DEPLORING SOVIET PERSECUTION OF RELIGIOUS BELIEVERS IN THE UKRAINE

The joint resolution (S.J. Res. 235) deploring the Soviet Government's active persecution of religious believers in Ukraine, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 235

Whereas 1988 marks the Millennium of the Christianity of Kievan Rus', adopted by Prince Volodymyr in a ceremony on the banks of the Dnieper River;

Whereas today freedom of religion is a fundamental right which is explicitly guaranteed by the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe;

Whereas the Soviet Government has violated the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe by engaging in the persecution of religious believers in the Soviet Union, including the systematic liquidation of the historic and national churches in Ukraine;

Whereas the Ukrainian Orthodox and Ukrainian Catholic churches, both forcibly liquidated in the 1930's and 1940's, respectively, have remained outlawed while their clergy and laity have been murdered, imprisoned, or exiled for their religious beliefs;

Whereas, despite decades of severe persecution, Ukrainian Orthodox and Ukrainian Catholic believers to this day continue to practice their faiths clandestinely for fear of persecution by Soviet authorities;

Whereas the Soviet Government has, in addition, sought to restrain and undermine the spiritual mission of the Evangelical Church in Ukraine, and has established restrictive legislation in direct contravention of the Biblical precepts that undergird the evangelical movement;

Whereas many members of the Ukrainian Evangelical churches, in particular unregistered Baptist and Pentecostal congregations, are currently imprisoned and harassed for their faith;

Whereas suspected clergy and lay members of the Ukrainian Orthodox, Ukrainian Catholic, Baptist, and Pentecostal churches are victimized by job discrimination, their access to religious literature is restricted, and they are subject to various forms of harassment such as house searches, interrogations, and arbitrary arrests by Soviet authorities;

Whereas, despite the Soviet government's policies of religious persecution in Ukraine, faith in God is widespread among Ukrainians as evidenced by the underground Ukrainian Catholic movement which embraces hundreds of priests headed by a number of secret bishops assisted by more than 1,000 religious women in orders; and

Whereas Ukrainian Catholic catacomb bishops, priests, and laity have placed themselves in direct danger of persecution by appealing to the Kremlin to end its prohibition of the Ukrainian Catholic Church: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America *in Congress assembled,* That the Congress of the United States deplores the Soviet Government's active persecution of religious believers in Ukraine, as well as the forcible liquidation of the Ukrainian Orthodox and Ukrainian Catholic Churches.

SEC. 2. On the occasion of the Millennium of Christianity in Kievan Rus', the Congress of the United States—

(1) discourages official participation by the Government of the United States in ceremonies of the Millennium in the Union of Soviet Socialist Republics, so long as individuals remain harassed and imprisoned for their religious beliefs, are denied access to religious literature and the opportunity to receive religious instruction, and the Ukrainian Catholic and Ukrainian Orthodox Churches remain outlawed;

(2) sends its greetings to the Ukrainian people as they mark this solemn event in the history of the Ukrainian nation;

(3) voices its concern for those Ukrainian religious believers who are persecuted for attempting to exercise their rights to religious worship;

(4) urges the President of the United States, the Secretary of State, the United States delegation to the United Nations, the United States Delegation to the Vienna Review Meeting of the Conference on Security and Cooperation in Europe to continue to speak out forcefully against violations of religious liberty throughout the Soviet Union and specifically in Ukraine during this anniversary year;

(5) calls upon the Soviet Government to abide by the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe, and release all those imprisoned for their religious beliefs; and

(6) urges, in observance of the Christian Millennium, the Soviet Government to legalize the Ukrainian Orthodox and Ukrainian Catholic Churches.

RELATIVE TO EAST GERMAN ORDER TO SHOOT TO KILL ANYONE WITHOUT AUTHORIZATION ATTEMPTING TO CROSS THE BERLIN WALL

The concurrent resolution (S. Con. Res. 82) urging the German Democratic chief of state Erich Honecker to repeal permanently the order directing East German border guards to shoot to kill anyone who, without authorization, attempts to cross the Berlin Wall, and to issue an order to tear down the Berlin Wall, was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. CON. RES. 82

Whereas the United States is committed to promoting freedom for people throughout the world and recognizes that respect for basic human rights is the cornerstone of freedom;

Whereas the Berlin Wall was erected in 1961, more than a quarter-century ago, and has since imprisoned more than 17,000,000 East Germans behind an artificial barrier that limits access to the free world;

Whereas the Berlin Wall continues to serve as a cruel barrier between peoples and remains a stark reminder that basic human rights are denied to East German citizens by the East German government;

Whereas the East German government has issued orders to border guards to shoot to kill anyone who, without authorization, attempts to cross the Berlin Wall;

Whereas East German guards have killed many East Germans in border incidents;

Whereas, in the year ending August 13, 1987, there were 63 attempted escapes from East Germany, 16 during which shots were fired, and 3 persons were possibly killed while attempting to escape; and

Whereas these policies, which deny basic human rights and limit personal freedoms, are unacceptable to the people of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress urges the German Democratic chief of state Erich Honecker to repeal permanently the order directing East German border guards to shoot to kill anyone who, without authorization, attempts to cross the Berlin Wall, and to issue an order to tear down the Berlin Wall.

CONDEMNING NORTH KOREA'S SUPPORT FOR TERRORIST ACTIVITIES

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 99) condemning North Korea's support for terrorist activities, which had been reported from the Committee on Foreign Relations with an amendment and an amendment to the preamble.

The amendment was agreed to.

The concurrent resolution, as amended, was agreed to.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution, as amended, and the preamble, as amended, are as follows:

Whereas Korean Air Lines flight 858 exploded in mid-air on November 29, 1987, killing all 115 people on board;

Whereas two passengers, posing as a Japanese father and his daughter, disembarked from flight 858 in Abu Dhabi and continued on to Bahrain, where, after being detained for questioning by Bahraini authorities, they attempted to commit suicide by swallowing cyanide capsules, and one of the two died on the spot;

Whereas the second suspect, subsequently identified as Kim Hyun-Hee, survived the suicide attempt and was extradited by Bahraini authorities to the Republic of Korea on December 15, 1987;

Whereas on December 23, 1987, Kim Hyun-Hee confessed to Korean authorities that she and her accomplice had traveled from North Korea to Moscow to Budapest to Vienna to Belgrade, where they received explosives from a North Korean agent, that they then traveled to Baghdad where they boarded Korean Air Lines flight 858, and that while the plane was en route from Baghdad to Abu Dhabi, they planted a time bomb which was timed to explode during the continuation of the flight from Abu Dhabi to Seoul;

Whereas Kim Hyun-Hee further confessed that this terrorist mission, which was designed to discourage countries from participating in the 1988 Summer Olympics in Seoul, was carried out at the instruction of the North Korean Government;

Whereas the United States Government has carried out its own investigation of the bombing of KAL flight 858, and concluded that the evidence of North Korean culpability for this action is compelling, and the same conclusion has been reached by the Government of South Korea and other nations;

Whereas the evidence upon which the United States Government reached this conclusion includes the fact that the two North Korean agents had in their possession the names of contact points in North Korean missions along their travel route; the two North Korean agents used vials of cyanide similar to those found on other North Korean agents over the past decade; and a statement by the Government of Japan that the passport of the North Korean agent who committed suicide in Bahrain was received from an individual in Japan wanted by the Government of Japan as a North Korean agent;

Whereas North Korea has demonstrated, in incidents from destroying unarmed United States aircraft in the 1960's through raids by assassins and ax murders in the 1970's to the Rangoon, Burma bombing in 1983 which killed four South Korean cabinet ministers and thirteen other South Koreans, a disturbing and continuing pattern of disregard for human life;

Whereas the Secretary of State has placed North Korea on the United States Government's terrorism list by making a formal determination on January 20, 1988, that North Korea is a country which has repeatedly supported acts of international terrorism;

Whereas the Government of Japan has also imposed several sanctions against North Korea in response to the bombing of flight 858;

Whereas in December 1987, the North Korean Parliament sent letters to the United States Congress proposing the establishment of a parliamentary dialogue to discuss bilateral issues, including the MIA issue;

Whereas the deliberate destruction of civilian airliners is singularly despicable and represents a threat and an affront to all civilized people;

Whereas a record number of countries have agreed to participate in the 1988 Summer Olympics in Seoul; and

Whereas it is essential that the civilized nations of the world join together in condemning and countering such terrorist threats: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That (a) the Congress—

(1) condemns North Korea for its bombing of Korean Air Lines flight 858 and its pattern of engagement in, and support for, international terrorism;

(2) expresses its sorrow and deep sympathy to the family and friends of the 115 victims of the Korean Air Lines flight 858 bombing;

(3) categorically rejects the December 1987 proposal to enter into a dialogue with the Parliament of North Korea, since its members represent a government that engages in murderous acts of state-supported terrorism;

(4) expresses the bipartisan support in the Congress for the sanctions imposed by the executive branch, including the addition of North Korea to the list of states supporting international terrorism which is maintained pursuant to section 6(j) of the Export Administration Act of 1979;

(5) calls upon other countries, particularly those with close relations with North Korea and those whose international airports were used by the North Korean terrorists during their mission, to implement sanctions or to take other appropriate steps against North Korea, such as the termination of all trade, to express their outrage at the terrorist deed;

(6) calls upon all countries to join in a unified stance against North Korea's actions, express their outrage over the terrorist attack on Korean Air Lines flight 858, isolate North Korea until it ceases its sponsorship of international terrorism, and undertake appropriate measures against North Korea including the termination of trade and implementation of sanctions;

(7) calls upon the International Civilian Aviation Organization (ICAO) and other appropriate international aviation groups to take steps against North Korea, including consideration of effects to suspend air service to that country;

(8) calls upon governments, organizations, and individuals to show their rejection of North Korea's efforts to undermine the International Olympic Games in Seoul by giving their full support to the holding of a safe and successful summer Olympics; and

(9) pays tribute to the Government of South Korea for acting with great restraint and responsibility in the face of this provocation by North Korea;

(10) reaffirms its support for the holding of the 1988 Summer Olympics in Seoul, and for taking all steps possible to prevent terrorist acts; and

(11) commends the Governments of Bahrain and Japan for their cooperation in the investigation of the bombing of Korean Air Lines flight 858.

(b) The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President with the request that he further transmit a copy of such resolution to the Secretary General of the United Nations, the President of the ICAO Council, and the President of the Republic of Korea.

RECOGNIZING THE CONTRIBUTIONS OF JOHN FOSTER DULLES IN INTERNATIONAL AFFAIRS

The concurrent resolution (S. Con. Res. 102) to express the sense of the Congress regarding the contributions of John Foster Dulles in international affairs, was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. Con. Res. 102

Whereas February 25, 1988, marked the 100th anniversary of the birth of John Foster Dulles, a commanding Secretary of State who confronted issues his Nation had not previously faced: the changing configuration of power in the nuclear age and relations with other nations, the links between national economic structures, competing systems of government and ideology, and the dilemmas posed by great power status for a democratic society;

Whereas John Foster Dulles has, in his contributions to the peace of reconciliation through the treaty with Japan and the securing of the Austrian State Treaty, and in his steadfast support of a bipartisan approach to foreign policy as exemplified by his advocacy of the North Atlantic Treaty Organization and the Marshall Plan, served the highest calling of creativity and dedication in international relations;

Whereas on the anniversary of his birth, Princeton University convened a conference—bringing together a unique combination of scholars of diplomatic history, journalists, associates of Dulles, and practitioners of the craft of diplomacy—to evaluate Dulles's contributions to America's international policies and to explore the many parallels between international affairs today and during the period in which Dulles played a creative role in shaping international policy; and

Whereas Princeton University has initiated a program of research, study, and publication addressing leadership in international affairs named for John Foster Dulles, using the resources of the Dulles Diplomatic Library at Princeton and linking it to the Woodrow Wilson School's Center of International Studies for the purpose of supporting the efforts of graduate students, scholars early in their careers, and visiting scholars from other countries: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that, on the centennial of the birth of the statesman of the nuclear age, John Foster Dulles, Americans should examine the contributions of John Foster Dulles in international affairs and the importance of his leadership in international affairs and should study our Nation's past in order to gain insight and inspiration in meeting the challenges that are strikingly similar to those faced by John Foster Dulles.

MEASURE INDEFINITELY POSTPONED

Mr. BYRD. Now, Mr. President, I ask unanimous consent that Calendar Order No. 488 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRINTING OF SENATE DOCUMENT

Mr. BYRD. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 393) to request the printing of a Senate document.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 393) was agreed to, as follows:

S. Res. 393

By the Senate of the United States of America, that there shall be printed as a Senate document "The INF Treaty and the Future of the Alliance—Report by a Senate delegation to five NATO Countries, Led by Majority Leader Robert C. Byrd, February 6-14, 1988;" and

That an additional one thousand copies be printed for distribution to the Members of the Senate as an official document.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

POLYGRAPH PROTECTION ACT

APPOINTMENT OF CONFEREES

Mr. BYRD. Mr. President, are the papers for H.R. 1212 at the desk?

The PRESIDING OFFICER. They are.

Mr. BYRD. Mr. President, I move that the Senate insist on its amendments and request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. Pell] appointed Mr. Kennedy, Mr. Metzenbaum, Mr. Matsunaga, Mr. Hatch, and Mr. Stafford conferees on the part of the Senate.

AMENDMENT OF THE AGRICULTURAL ACT OF 1949

Mr. BYRD. Mr. President, I send a bill to the desk on behalf of Senators Leahy, Lugar, Melcher, and Burdick and I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER (Mr. Proxmire). Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2151) to amend section 416 of the Agricultural Act of 1949, and for other purposes.

Mr. BYRD. Mr. President, has consent been given for immediate consideration?

The PRESIDING OFFICER. Consent has been granted.

The Senate proceeded to consider the bill.

Mr. LEAHY. I am pleased to speak in support of this bill which is designed to expedite implementation of the aid and trade missions legislation which was enacted last year and to conform section 416 of the Agricultural Act of 1949 to changes made to Public Law 480 title II in last year's legislation. I greatly appreciate Senator Lugar's, Senator Melcher's and Senator Burdick's assistance in bringing this legislation to the floor in a timely manner.

Last year, Senator Melcher introduced the Aid and Trade Missions Act, S. 659, of which I was a cosponsor, to provide for greater use of agricultural export promotion and food assistance programs to establish, maintain, and improve U.S. export markets. This bill was unanimously reported by the Committee on Agriculture, Nutrition, and Forestry and passed the Senate under unanimous consent last summer.

S. 659 had three major sections. First, it would establish agricultural aid and trade missions to eligible countries to encourage their participation in U.S. agriculture export promotion programs. These missions would be unique because they would link the development efforts of food aid programs with agricultural export promotion efforts.

The second and third sections, respectively, would strengthen Public Law 480, our country's Food for Peace Program, and section 416 of the 1949 Agricultural Act, the Surplus Commodity Disposal Program, to make them stronger market development tools. Most important, these two sections would improve the utilization of donated food to enhance community, health, credit, agricultural, and other development efforts in poor countries. They also would reauthorize the Farmer-to-Farmer Program, which expired at the end of fiscal year 1987. This is a Food for Peace Program that does not require additional appropriations and which sends U.S. farmers to developing countries to provide technical assistance.

Last October, House and Senate members of the Trade Bill Subconference on Agriculture agreed to a compromise version of the Aid and Trade Missions Act. The fiscal year 1988 continuing resolution enacted in December included the bulk of the provisions agreed to by the trade subconference. This was most important in permitting the aid and trade missions to begin in fiscal year 1988.

The bill that we are considering today incorporates those portions of the Aid and Trade Missions Act that were approved by the Trade Bill Subconference on Agriculture but not enacted in the continuing resolution. Specifically, S. 659 as passed by the Senate and the Trade Bill Subconference on Agriculture included provisions amending section 416 which are substantially similar to those enacted in the continuing resolution with respect to title II of Public Law 480. In order to conform section 416 to Public Law 480 title II, I have included in this bill these provisions amending section 416 which have already been agreed to. Immediate action is needed to assure that these improvements to food aid programs are implemented in fiscal year 1988.

Finally, this legislation we are considering today includes one provision not in the original Aid and Trade Missions Act. Recently the question has been raised as to whether these aid and trade missions are subject to the Federal Advisory Committee Act. When the Aid and Trade Missions Act was reported by the Committee on Agriculture and passed by the Senate, we did not contemplate that the Advisory Committee Act would apply. Its application would result in considerable delay in these missions, a delay of up to 1 year. Since it was the intent of Congress to establish and complete 16 missions within 1 year, this bill provides an exemption from the Federal Advisory Committee Act for activities relating to the missions and for the missions themselves.

Congress clearly intended that private sector not-for-profit organizations be involved in all phases of establishing and carrying out the missions. The four private sector groups identified in the Missions Act—agribusiness nonprofit organizations, cooperators, cooperatives and private voluntary agencies—must be involved in deciding which 16 countries should be included. They should also be involved in planning and preparing for missions, and in determining programs to expand food aid and agricultural export programs in mission countries.

I ask my colleagues to vote for this legislation, so the fiscal year 1988 food aid programs and the aid and trade missions can proceed as Congress intended.

Mr. LUGAR. Mr. President, today I am joining my colleague, the distinguished chairman of the Agriculture Committee, in sponsoring legislation which will enable a program of aid and trade missions to developing countries to proceed this year in keeping with the intent of legislation already passed by Congress.

The aid and trade missions bill was originally passed by the Senate last year as S. 659. Nearly identical language was agreed to by House and Senate conferees in subconference 6 on the agriculture section of the trade bill. The same legislation was also included in last year's continuing resolution.

Unfortunately, during the continuing resolution process in the other body, several pages of Senate approved legislation were omitted by accident. The text in these pages carried provisions which amended section 416 of the Agricultural Act of 1949.

Section 1 through 6 of the bill which I am cosponsoring today simply restores these missing provisions in keeping with the intent of the Senate in the continuing resolution, S. 659 and in the trade bill subconference.

Section 7 of this bill extends the authority of the Farmer-to-Farmer Program through September 30, 1990. This provision had also been previously passed by the Senate in the trade bill and was omitted inadvertently by the other body.

Section 8 of this bill is a new provision, not included in any of the previous pieces of legislation, but necessary to the implementation of the Aid and Trade Missions Program. This section provides that activity under the Aid and Trade Missions Act shall not be considered an advisory committee for the purposes of the Federal Advisory Committee Act.

The aid and trade missions legislation was the subject of public hearings last year. It has wide support from farm commodity groups, cooperatives and private voluntary organizations. The administration has been hard at work preparing to implement the program which is aimed at increasing the distribution of American products overseas and ultimately increasing the commercial market for farm goods.

Given these factors and the support this legislation has already received in both bodies, it is appropriate to forgo the requirements of the Federal Advisory Committee Act so that these aid and trade missions can proceed quickly.

Mr. President, I urge all my colleagues to support this legislation and hope that we can proceed with its consideration as soon as possible.

THE PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. ELIGIBLE COMMODITIES.

(a) IN GENERAL.—Section 416(b)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(2)(A)) is amended—

(1) by striking out "grains," and inserting in lieu thereof "wheat, rice, feed grains,"; and

(2) by inserting ", and the products thereof," after "price support operations".

(b) CONFORMING AMENDMENTS.—(1) Section 416(b)(10)(B)(i) of such Act is amended by striking out "grains" both places it appears and inserting in lieu thereof "wheat, rice, feed grains,".

(2) Section 416(b)(7) of such Act is amended by striking out ", and products thereof,".

SEC. 2. AVAILABILITY OF COMMODITIES.

Section 416(b)(3) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(3)) is amended by adding at the end thereof the following:

"(D) If eligible commodities are made available under this subsection to a friendly country, nonprofit and voluntary agencies and cooperatives shall also be eligible to receive commodities for food aid programs in the country.".

SEC. 3. MULTIYEAR AGREEMENTS.

Section 416(b)(4) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(4)) is amended by adding at the end thereof the following: "In agreements with recipients of eligible commodities under this subsection (including nonprofit and voluntary agencies or cooperatives), subject to the availability of commodities each fiscal year, the Secretary, on request, shall approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements otherwise meet the requirements of this subsection.".

SEC. 4. FOREIGN CURRENCY USE AND ALLOCATION REQUIREMENTS.

(a) Foreign Currency Uses.—Clause (ii) of section 416(b)(7)(D) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)(ii)) is amended to read as follows:

"(ii) Foreign currencies generated from partial or full sales or barter of commodities by a nonprofit and voluntary agency or cooperative shall be used—

"(I) to transport, store, distribute, and otherwise enhance the effectiveness of the use of commodities and the products thereof donated under this section; and

"(II) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities.".

(b) Allocation Requirements.—Section 416(b)(7)(D)(iii) of such Act is amended—

(1) by striking out "5 percent" and inserting in lieu thereof "10 percent"; and

(2) by inserting ", or the minimum tonnage required, whichever is greater," after "furnished".

SEC. 5. PERIODS FOR REVIEW AND COMMENT.

Section 416(b)(8) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(8)) is amended by adding at the end thereof the following:

"(C)(i) If a proposal to make eligible commodities available under this subsection is submitted by a nonprofit and voluntary agency or cooperative with the concurrence of the appropriate United States Government field mission or if a proposal to make such commodities available to a nonprofit and voluntary agency or cooperative is submitted by the United States Government field mission, a decision on the proposal shall be provided within 45 days after receipt by the Agency for International Development office in Washington, D.C. The response shall detail the reasons for approval or denial of the proposal. If the proposal is denied, the response shall specify the conditions that would need to be met for the proposal to be approved.

"(ii) Not later than 30 days before the issuance of a final guideline issued to carry out this subsection, the Secretary shall—

"(I) provide notice of the proposed guideline to nonprofit and voluntary agencies and cooperatives that participate in programs under this subsection, and other interested persons, that the proposed guideline is available for review and comment;

"(II) make the proposed guideline available, on request, to nonprofit and voluntary agencies, cooperatives, and others; and

"(III) take any comments received into consideration before the issuance of the final guideline.

"(iii) Not later than 15 days after receipt of a call forward from a field mission for commodities or products that meets the requirements of this subsection, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.".

SEC. 6. MINIMUM QUANTITIES OF ELIGIBLE COMMODITIES.

(a) In General.—Section 416(b)(10) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(10)) is amended—

(1) in subparagraph (A), by striking out "1986" and inserting in lieu thereof "1988"; and

(2) in subparagraph (B)—

(A) by striking out "500,000" in clause (i) and inserting in lieu thereof "800,000"; and

(B) by striking out "150,000" in clause (ii) and inserting in lieu thereof "200,000".

(b) Appropriation Requirement.—If the increase in minimum metric tonnage provided by the amendments made in subsection (a) will result in additional budget outlays for a fiscal year, such increased tonnage may not be provided unless such additional outlays are provided for in advance in an appropriation Act.

SEC. 7. EXTENSION OF FARMER-TO-FARMER PROGRAM.

Section 1107(a) of the Food Security Act of 1985 (7 U.S.C. 1736 note) is amended by striking out ", and September 30, 1987" and inserting in lieu thereof "through September 30, 1990".

SEC. 8. INAPPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT TO AGRICULTURAL AID AND TRADE MISSIONS.

Any agricultural aid and trade mission established under section 1 of that portion of the joint resolution entitled "Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes" approved December 22, 1987, under the heading "Agricultural Aid and Trade Missions Act", and any other activity under this section and sections 2 through 7 of such portion, shall not be considered an advisory committee for the purposes of the Federal Advisory Committee Act.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to reconsider the vote by which the bill was passed.

The motion to lay on the table was agreed to.

EMPLOYMENT OF CERTAIN SCHOOL BUS DRIVERS

Mr. SIMPSON. Mr. President, I inquire of the Chair if the Senate has received from the House H.R. 4063 dealing with the North Carolina and South Carolina bus drivers?

The PRESIDING OFFICER. The message has been received.

Mr. SIMPSON. It is so. On behalf of Senators THURMOND and HELMS, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 4063) to require the Secretary of Labor to permit North Carolina and South Carolina to continue to employ 17-year-old school bus drivers under certain conditions until June 15, 1988.

Mr. SIMPSON. Now, Mr. President, I ask that the bill be read for a second time.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, on behalf of other Senators I am constrained to object.

The PRESIDING OFFICER. Objection is heard. The bill will be held at the desk.

DIRECTION TO SENATE LEGAL COUNSEL

Mr. BYRD. Mr. President, I send a resolution to the desk directing the Senate legal counsel. I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 392) to direct the Senate legal counsel to represent the Senate subpoena respondents in the case of Southern Air Transport, Inc. v. Post-Newsweek Station of Florida, Inc., at al.

The Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, on behalf of myself and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution on representation by the Senate Legal Counsel and ask for its immediate consideration.

Mr. President, Jonathan Winer, counsel to Senator KERRY, has received a subpoena in a civil case now before the State circuit court for the 11th Judicial Circuit of Florida. The case, Southern Air Transport, Inc. versus Post-Newsweek Stations of Florida, Inc., et al., involves charges that defendants defamed the plaintiff in a series of broadcasts in April 1987 which claimed the use of plaintiff's planes in a drug smuggling scheme.

The Committee on Foreign Relations' Subcommittee on Terrorism, Narcotics and International Operations, which is chaired by Senator KERRY, has been investigating allegations of drug smuggling and other illegal activities of a variety of political or military groups. The subpoena, which was obtained by counsel for the plaintiff, calls for Mr. Winer to testify and to produce documents relating to the subcommittee's investigation at a deposition.

This resolution would direct the Senate Legal Counsel to represent Mr. Winer, and any Senator or other staff member who may be asked to testify or produce documents in this case.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. 392) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 392

Whereas, in the case of *Southern Air Transport, Inc.* v. *Post-Newsweek Stations of Florida, Inc., et al.,* 87-23989, pending in the State Circuit Court for the 11th Judicial Circuit of Florida, the plaintiff has obtained a subpoena for deposition testimony and the production of documents by Jonathan Winer, counsel to Senator Kerry;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288(a) and 288c(a)(2) (1982), the Senate may direct its counsel to represent members and employees of the Senate with respect to subpoenas issued to them in their official capacities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to repesent Jonathan Winer and any senator or other employee of the Senate who may be asked to testify or produce documents in the case of *Southern Air Transport, Inc.* v. *Post-Newsweek Stations of Florida, Inc., et al.*

HUMAN RIGHTS ABUSES IN CUBA

Mr. GRAHAM. Mr. President, 1 week from today the United Nations Human Rights Commission will adjourn its annual meeting in Geneva. The United States delegation, led by former Cuban political prisoner, Armando Valladares, has offered a resolution for an international investigation of human rights abuses in Cuba.

Mr. Valladares knows what he is talking about, for 22 years he lived a nightmare he has eloquently described in his book, "Against All Hope." The Cuban Government has tried, and failed, to discredit Mr. Valladares—perhaps because the horrors he describes are as unembellished as they are unimaginable.

In chapter 3 says simply:

> Every night there were firing squads,

And:

> The recruits who made up the platoons of the firing squads received five pesos and 3 days' leave for each man executed.

He tells of being drenched in sewage and gnawed by rats, of beatings and asphyxiations, of torture heaped upon torture. What he, and countless others, witnessed and suffered, should not exist in any society—should not exist 90 miles from our own shores.

The same resolution—to investigate allegations of abuse in Cuba was defeated by one vote in Geneva last year. That vote was a disgrace. Human rights can never be held pawn to politics. Such callous disregard for the people of Cuba was loudly defended as condemnation of the United States for its own imperfections. We say that we all live in glass houses—but in Castro's house, the drapes are always drawn.

This year we have the chance to fling wide those drapes and bring all of Cuba's dark secrets to light. We, and all the members of the U.N. Human Rights Commission, are morally obliged to do so.

The European Parliament, on October 29, 1987, adopted a resolution highly critical of Cuba's treatment of political prisoners.

The International Committee of the Red Cross does not have normal access to Cuba's prisons.

Amnesty International has documented hundreds of cases of "prisoners of conscience" incarcerated, some for more than 20 years.

The InterAmerican Commission on Human Rights of the OAS condemned Cuba in its 1986-87 report for an absence of any forum for redress of grievances against the government.

Year after year, we and the rest of the world have heard nightmarish testimony from the imprisoned, from the exiled, from smuggled papers and stories. Year after year the plight of the Cuban people has failed to move the rest of the world.

Not this year.

Not this time.

Never again.

The resolution before the U.N. Commission in Geneva calls for the International Committee of the Red Cross to visit Cuban prisons. It invites the Castro regime to respond directly to allegations of systematic abuse. It mandates a reexamination of the state of human rights in Cuba at the 1989 Geneva meeting.

Those steps may not seem like much, but it is enough to shine a light on the darkest corners of Cuba, tyranny flourishes in obscurity, the Cuban Human Rights Committee, a clandestine organization unsanctioned by the Cuban Government, cites by name more than 50 prisoners tortured in 1987 alone.

They tell of nerves shattered by mock executions, of bodies shattered by confinement in cold, cramped cages, they tell of children's battered, lifeless bodies withheld from their grieving mothers, they tell of the sudden and mysterious deaths of human rights lawyers in the custody of Cuban security forces.

The Cuban people have the same rights as people everywhere. Our concern for them must be as heartfelt and ceaseless as it has been in the past for other victims of torture, of murder, of repression.

In section 574 of the continuing resolution this U.S. Senate expressed strong support for Mr. Valladares and the U.S. delegation to Geneva. We must reiterate that support.

We must send an unmistakable message to the international community—especially to those countries which opposed the investigation of Cuba last year—that Congress is serious about exposing the inhumane and degrading conditions imposed by an arrogant dictatorship—and encouraged by international indifference.

OPPOSITION TO HUMAN RIGHTS VIOLATIONS IN CUBA

Mr. BRADLEY. Mr. President, today I join my colleagues to voice my opposition to human rights violations in Cuba and I urge the United Nations Human Rights Commission to address the serious human rights situation there.

For years, the United Nations has ignored the situation in Cuba. However, in 1987 efforts were made by the United States to place Cuba on the agenda of the United Nations Human Rights Commission. Sadly, the resolution to ensure that the situation in Cuba would finally be discussed failed by a vote of 18-19. On February 26, 1988, the U.S. delegation which includes the poet Armando Valladares, former political prisoner and author of the book, "Against All Hope," again called on the United Nations to address the problem of human rights abuses in Cuba. I want to add my support to that effort and express my solidarity with all those who understand that human-rights abuses cannot be ignored. Countries that systematically deny basic human rights, as Cuba does, must understand that the world community reviles all violators of the human spirit.

We must join in protest against the Cuban Government's denial of fundamental freedoms—freedom of speech, freedom of religion, freedom of the press—to its citizens. We must protest the Cuban Government's refusal to permit those who want to leave the country to emmigrate. Basic human rights that Americans hold so dear are unknown just 90 miles from our coast. This should not be tolerated—not by the United States nor any of the members of the United Nations concerned about human rights and freedom for all people. I urge the United Nations Human Rights Commission to investigate this situation and discuss this issue until it recieves the attention it deserves.

Mr. WILSON. Mr. President, I would like to thank my good friends and distinguished colleagues, the Senators from Arizona and Florida, for giving the Senate the opportunity to discuss a problem as deplorable and grave as the state of human rights in Communist Cuba.

It was the British historian, Paul Johnson, Mr. President, who wrote that in our 20th century, "the power of the state to do evil expanded with awesome speed. Its power to do good grew slowly and ambiguously." He went on to observe that the legacy of totalitarianism unfolded in a pattern of blood, force, and poverty which will be difficult to reverse in this so-called enlightened age. With a sad sense of irony, Mr. Johnson made these conclusions in a book called "Modern Times."

And so we face Castro's Cuba as one of the largest prisons of humanity in modern times. Less than 10 years after Castro emerged from the hills and marched his way to power, over 1 million people had escaped to the free world. In 1980 alone, the Castro government had created 150,000 political refugees, and in the same year, the creaky boats and crude rafts left the Port of Mariel with the most tragic victims of Castro's rule—the mentally incompetent. Quiet, terrified, and devoid of hope, they flooded into Key West as the unwilling messengers of Cuban tyranny.

In the meantime, Mr. President, Castro has built an ironclad but hollow empire with over one-fifth of the population living in exile, an annual income of only $812 a person, and the largest military power in Latin America. Artistic, religious, and journalistic freedoms simply do not exist.

In the midst of this repression, the poet Armando Valladares suffered in jail for more than 20 years. With courage and perseverence, he witnessed the pain, torture, and death that Castro had engraved on Cuban society. He struggled, as the title of his book tells us, "Against All Hope." But even in the darkest cellblock, Mr. President, Valladares would catch a precious glimpse of God. At one point, he writes of a visit to the Bonaito Jail by a group of ruthless soldiers:

> The soldiers entered the hallway leading to the blackout cells and began to open the doors. As the prisoners came out, they were pushed and kicked down to the end of the hall. The prisoners, beaten, were stumbling and tripping through the hail of blows from sticks and truncheons, bayonets and chains. But suddenly, as though to protect them, there appeared a skeletal figure with white hair and flaming, blazing eyes, who opened his arms into a cross, raised his head to the invisible sky, and said, "Forgive them Lord, for they know not what they do." Lieutenant Perez fired his submachine gun. The burst of fire climbed the Brother of Faith's chest, up to his neck. His head was almost severed, as though from the blow of an ax. He died instantly.

But his faith, Mr. President, most certainly endured. And so Mr. Valladares has illuminated a truth that none of us can afford to forget. As much as the Cuban Government fills the gulag and tramples on its citizens, communism only makes the spirituality of its captives more vigrant, and the crowded jails represent not a success for the politial order, but the very weakness of its authority.

It is the voice of Valladares, Mr. President, and his brother in faith that must echo in our consciences as we try to make sense of these modern times. If we constantly remind the Cubans with our message that the world is watching and that the world cares, they might release more men and women like Armando Valladares, squinting in the light of the Lord. I appeal, then, to all of my colleagues this morning to never give up on these prisoners who refuse to give up on themselves and their God. They can still make Solzhenitsyn's hope come alive once again: that agony suffered by the just may yet bring victory.

Mr. DECONCINI. Mr. President, last year representatives with the United States delegation to the United Nations Human Rights Commission offered a resolution to address Cuban human rights. This resolution failed by only one vote, 19 to 18, and this was on a technical motion to consider the resolution. I firmly believe that it is time that we address this human rights issue in Cuba. It is time we put Mr. Castro on record. If is time we voiced our concern to the international community. And it is time that Cuban prisoners were freed.

Armando Valladares, the leader of the U.S. delegation, is a friend of mine and a fine representative of the United States. Mr. Valladares experienced first hand what happens to those people in Cuba who have the courage to speak out against a government they feel is corrupt. He spent 23 years as a political prisoner and was subjected to untold misery at the hands of Cuban officials. In his book "Against All Hope," Armando Valladares, states; "Someday, when the whole truth is known in detail, mankind will feel the revulsion it felt when the crimes of Stalin were brought to light." "For me", he continues, "this book represents the long night I have left behind me, but for the thousands of my countrymen still held in the jails, for my comrades, some of whom have already spent 25 years in prison, it represents daily reality. They have been held longer than other political prisoners in Latin America, perhaps in the world. The violence, repression, and beatings are facts of life for them. Today, at this very moment, hundreds of political prisoners are naked, sleeping on the floors of cells whose windows and doors have been sealed. They never see the light of day." I need not reflect on this situation at length, for no one can articulate this more poignantly than Ambassador Valladares.

I successfully attached an amendment to the continuing resolution last year. In that amendment we said that "the Congress recognizes that the United Nations has consistently failed to address the violation of fundamental human rights and freedoms in Cuba." Furthermore, it is the sense of the Congress that "the United Nations General Assembly and the United Nations Human Rights Commission have failed to responsibly address the deplorable human rights situation in Cuba despite overwhelming evidence of the continuing disregard and systematic abuse of the most basic human rights by the government of Cuba." It is time we in the U.S. Congress, in each and every country voting in the United Nations, and the entire international community strongly condemn this outrage.

My office has sent a letter signed by me and 16 of my colleagues to the Ambassador and Foreign Ministers of Nigeria, Venezuela, Argentina, Colombia, Brazil, and Peru, urging them to support the United States delegation's resolution to address Cuban human rights. As I mentioned earlier, the same resolution was rejected by the commission last year and the votes of these countries are of vital importance should we hope to pass the resolution. This resolution is the first step toward recognizing this pervasive problem that exists in Cuba. Much more must be done to address the human rights and political problems that exist, but this could be a start. I urge my colleagues to speak out on this issue and to carefully monitor which countries support the U.S. position on human rights and freedom. I ask unanimous consent that copies of the above mentioned letters be entered into the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, February 24, 1988.
His Excellency ENRIQUE J.A. CANDIOTI,
Embassy of Argentina, Washington, DC.

DEAR MR. AMBASSADOR: As Members of Congress greatly concerned about human rights violations wherever they may occur, we strongly support the efforts of the United States Government to bring the issue of human rights abuses in Cuba before the international community. We were extremely disappointed last year when the United States resolution to place Cuba on the Commission's agenda failed by one vote on a procedural motion.

In 1987, the State Department reported that: "Repression of basic human rights today is so pervasive that Cuba holds the dubious distinction of being the Western Hemisphere's most serious violator of human rights and fundamental freedoms."

The support of Western democracies such as Argentina, is essential to the success of the United States effort to bring Cuba to the attention of the U.N. Human Rights Commission. We have expressed our strong support for this effort in Section 574 of the Continuing Resolution, P.L. 100-204, which condemns the human rights abuses committed by the Cuban government.

The United Nations must not turn its back on the serious human rights situation in Cuba. We urge you to join us in a common stand in defense of fundamental human rights and freedom in Cuba.

Sincerely,

Dennis DeConcini, Don Nickles, Bob Graham, Chuck Grassley, Frank Lautenberg, Mitch McConnell, Timothy E. Wirth, David L. Boren, Dick Lugar, Bob Kasten, John McCain, John F. Kerry, Lawton Chiles, Jake Garn, Alfonse D'Amato, Ted Stevens, and Dick Durenberger.

A copy of this letter was also sent to the Ambassadors and Foreign Ministers of the following countries: Colombia, Peru, Brazil, and Venezuela.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, February 25, 1988.
Hon. GUIDO FERNANDEZ,
Ambassador of Costa Rica, Washington, DC.

DEAR MR. AMBASSADOR: I was pleased to hear that Costa Rica will once again vote with the United States in Geneva on a resolution to investigate human rights abuses in Cuba. The continued leadership shown by Costa Rica on this issue is of vital importance to international human rights. It is also important in order to convince other Latin American nations to vote for this resolution next month in Geneva.

Enclosed is a copy of a letter that has been sent to five Foreign Ministers and Ambassadors of Latin American nations. This has been signed by a number of United States senators who feel strongly about this matter. I am hopeful that Costa Rica will continue to show the courage and leadership that she has exhibited on other concerns in Central America.

Please convey my warm personal regards to President Arias. Thank you for your concern and attention on this issue.

Sincerely,

DENNIS DECONCINI,
U.S. Senator.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, February 24, 1988.

Hon. HAMZAT AHMADU,
Embassy of Nigeria, 2201 M Street, NW, Washington, DC.

DEAR MR. AMBASSADOR: As members of Congress greatly concerned about human rights violations wherever they may occur, we strongly support the efforts of the United States Government to bring the issue of human rights abuses in Cuba before the international community. We were extremely disappointed last year when the United States resolution to place Cuba on the Commission's agenda failed by one vote on a procedural motion.

In 1987, the State Department reported that: "Repression of basic human rights today is so pervasive that Cuba holds the dubious distinction of being the Western Hemisphere's most serious violator of human rights and fundamental freedoms."

The support of African countries, such as Nigeria, is essential to the success of the United States effort to bring Cuba to the attention of the U.N. Human Rights Commission. We have expressed our strong support for this effort in Section 574 of the Continuing Resolution, P.L. 100-204, which condemns the human rights abuses committed by the Cuban government.

The United Nations must not turn its back on the serious human rights situation in Cuba. We urge you to join us in a common stand in defense of fundamental human rights and freedom in Cuba.

We hope that we might be able to arrange a meeting to discuss this extremely important issue. Please contact Susan Greene at 224-3041 or Tim Roemer at 224-4521 in order to set up the logistics for this meeting. Since the vote will take place in early March, we would hope a meeting would take place rather quickly. We look forward to meeting with you.

Sincerely,

Dennis DeConcini, Bob Graham, Chuck Grassley, Don Nickles, Arlen Specter, Frank R. Lautenberg, John F. Kerry, Lawton Chiles, Jake Garn, Dick Lugar, Bob Kasten, John McCain, Mitch McConnell, Timothy E. Wirth, David L. Boren, Alfonse D'Amato, Ted Stevens, Dave Durenberger.

Mr. MOYNIHAN. Mr. President, I rise today to voice my concern over continued human rights abuses in Cuba. Once hailed by many in this country as a hope for democracy, the Castro regime quickly evolved in the late 1950's into the repressive apparatus of a Leninist state.

The human rights abuses inflicted on the people of Cuba are legion. The Government currently detains over 10,000 political prisoners, some of whom are systematically tortured for their beliefs. Arrests are made without warrants, often for such vague charges as dangerousness. The legal system, such as it exits, is an organ of the state, and is in no way independent. Local block committees, dubbed "Committees for the Defense of the Revolution," closely monitor every aspect of the Cuban citizen's life. There is no freedom of speech or freedom of the press. Religion is strongly discouraged and is, in some cases, grounds for imprisonment. Emigration is strictly controlled, and attempting to leave the country without permission is a crime.

Recognizing its abysmal human rights record, the Government of Cuba has refused to allow international human rights organizations to visit the nation. Castro reiterated his refusal to do so in October 1987. But that does not mean that democratic nations should stand idly by. Indeed, it means we have an added responsibility to bring human rights abuses in Cuba to light, for without light, conditions for the people of Cuba will surely not improve.

As part of this effort, it is essential that the U.N. Human Rights Commission investigate Cuban human rights abuses. Cuba must no longer be allowed to hide behind the excuse that it is singled out by the United States for reasons unrelated to conditions there. Such arguments are nonsense, and should be recognized as such in the international community.

To defend itself from the latest moves in the UNHRC, Cuba has chosen to attack the credibility of the United States representative, Mr. Armando Valladares. Such ad hominem attacks must not succeed in diverting the world's attention. Attention must be paid. As neighbors, we owe the people of Cuba our commitment that their plight will not be forgotten.

U.N. RESOLUTION ON HUMAN RIGHTS IN CUBA

Mr. LAUTENBERG. Mr. President, next week the United Nations will consider an important resolution on human rights. That resolution calls for a United Nations inquiry into the question of human rights in Cuba.

The human rights situation in Cuba has deteriorated to tragic proportions. Cuban citizens are forced to live under repressive conditions in which the freedom of expression, assembly, and religion are severely restricted. The Government does not respect the fundamental human rights of its citizens, and many live in constant fear of Government abuse.

The situation is particularly dismal for those who dare to speak out against the Government. Cuba now has the highest per capita number of political prisoners worldwide. Political prisoners in that country are often subjected to sentences exceeding 20 years and are forced to live under excessively trying conditions.

The issue of human rights abuses in Cuba should be brought before the court of world opinion. I was particularly dismayed when the United States resolution to place Cuba on the Commission's agenda failed by one vote on a procedural motion last year. I hope that will not happen again next week.

The United Nations should give the deplorable situation in Cuba the attention it deserves. Next week the United Nations will have the opportunity to do that. I hope the result of their vote will place the international community on the side of human rights.

Mr. President, the United States delegation to the United Nations Human Rights Commission, led by Armando Valladares, are undertaking an important mission. They deserve the support of all who are concerned about fundamental human rights worldwide.

Mr. CHILES. Mr. President, for over 25 years, the United Nations has failed to address the issue of human rights in Cuba. Last year, the United Nations Human Rights Commission rejected by 1 vote, 18 to 19, a resolution offered by the United States. This year, the United States delegation, led by Armando Valladares, is offering a similar resolution to place Cuba on the agenda of the United Nations Human Rights Commission. It is crucial that we here in the U.S. Senate lend our strongest support to the efforts of the American delegation.

Cuba's record is truly dismal. It has the highest number of political prisoners, per capita, of any nation in the world. When Amnesty International issued its annual report for 1987, it confirmed, yet again, the cruelty of Castro's regime. The most telling and incriminating part of that report, to me, indicated that the Cuban Government continues to jail its citizens for the innocent act of organizing a human rights committee. To Castro, even raising the issue of human rights is a crime.

Castro has charged in the press that the U.S. delegation is motivated only by politics and that our purpose in pressing this resolution is purely ideological. Mr. President, it is obvious that it is only Castro who is playing politics here. The issue here is not ideology; it is those individuals who are the subjects of torture and oppression. As Mr. Valladares ably put it, "If the Cuban Government does not, as it claims, violate human rights, then why does it fear an investigation on this subject?"

The Human Rights Commission is not being asked to condemn Cuba for its human rights abuses. The resolution only expresses concern over the violation of fundamental freedoms in Cuba. It only urges the Cuban Government to grant the International Red Cross more liberal inspection privileges inside Cuban prisons. It only requests that Cuba respond to human rights allegations and report to the Human Rights Commission next year.

Mr. President, this is a reasonable request. We cannot let the victims of human rights abuses suffer in the silence of Castro's jails. I strongly urge all those nations who last year voted against the resolution to reconsider this year. Join us in defending the fundamental human rights of the Cuban people.

Mr. LUGAR. Mr. President, I rise to join my colleagues in deploring the continuing human rights violations in Cuba. Today in Latin America and the Caribbean, nearly 25 countries encompassing over 90 percent of the region's population have made great progress toward democratic institutions respecting the rights of all citizens. Unfortunately, Cuba stands out in marked negative contrast to that trend. In the years since Castro's revolution, the Cuban Government has consistently and systematically violated basic human rights to an extent that is clearly worthy of international concern.

In 1987, the United States offered a resolution to the U.N. Human Rights Commission condemning the alleged abuses of the Cuban Government in oppressing its political opponents and calling on Cuba to guarantee basic freedoms. This resolution was a logical and necessary step in keeping with the obligation of the United Nations and the U.N. Human Rights Commission to stand up for human rights around the world. It is sad to note that this resolution failed by a single vote. It failed in spite of glaring, well-documented facts which led a 1987 State Department report to label Cuba "the Western Hemisphere's most serious violator of human rights and fundamental freedoms."

Let us look at the Cuban record. In Cuba, there is no freedom of speech, assembly, emigration, or religion. To date, 15 percent of the Cuban population has chosen to flee to other countries in search of freedoms denied at home. Cuban jails are filled with over 15,000 political prisoners, including labor union leaders and human rights activists. In 1986, the Cuban Committee for Human Rights was violently disbanded and its leaders jailed. Flaunting international opinion, Cuba refuses to allow international human rights organizations, including the Red Cross, to visit its prisons. Expulsion of foreign journalists is another method employed by the Cuban Government to conceal its human rights abuses from international opinion. And these abuses go as far as to include the reported arbitrary arrest, torture, and even murder of political prisoners.

The United States Congress has expressed its concern about the human rights situation in Cuba, most recently in section 574 of the fiscal year 1987 continuing resolution (Public Law 100-204). We have also urged that the issue of Cuban violations be brought before the U.N. Human Rights Commission. On February 26, 1988, the United States delegation once again offered a resolution on Cuban Human Rights to the U.N. Human Rights Commission. I strongly urge that last year's narrow failure to pass such a resolution, so inexplicable in light of documented Cuban human rights violations, not be repeated this year. It is essential that the U.N. Human Rights Commission fulfill its important mission and clearly express its condemnation of human rights abuse in Cuba.

CONTRA AID

Mr. DODD. Mr. President, I should like to take a moment to extend my congratulations—despite the fact that it was not a winning effort—to the distinguished Speaker of the other body, as well as to Representative BONIOR, Represenative COELHO, and Representative GEORGE MILLER of California, and others who worked so diligently in trying to fashion a package of so-called Contra aid yesterday in the House of Representatives.

They ultimately did not prevail. They lost by a narrow margin in that effort, but a tremendous amount of work went into their effort.

I think it is somewhat instructive that we heard a lot of applause over the failure of the vote from in Managua and from 1600 Pennsylvania Avenue, and I think this is harmful.

This might not be a package everybody liked, but I think it was an honest and sincere effort on the part of the Speaker to put something together that was politically acceptable to a majority of the 435 Members of the House, and send it to this body, so that we might work our will on it.

My fear is that we are now going to end up in another situation in which we hear the discordant notes of various groups, organizations, and factions splitting up and dividing, so that this issue wanders around again for the next 4 or 5 months.

The loser, of course, is the Arias peace effort. It is still working, however. It is not as successful as we would like, but I think the Wright-Bonior-Coelho effort in the House would have assisted the peace effort tremendously. Unfortunately, we have lost an important opportunity.

I hope that during the 10-day break, when we are all back in our States with our constituents, we might think about putting together a package that will make some sense and that will be of assistance to President Arias and the other Central American governments, so that the peace process has a chance to succeed.

I commend the Speaker and his colleagues in the House for spending an inordinate amount of time and effort on this issue. I think it is regrettable that some Democracts in that body, along with others, did not see fit to join in that effort, because it was not a pure position. I think the outcome of the vote a mistake. It is harmful, and it is hurtful, and I hope we can correct it before too long.

A DISTINGUISHED RECORD OF SERVICE

RONALD K. SABLE

Mr. WARNER. Mr. President, Senator NUNN and Senator WILSON join me today in recognizing Mr. Ronald K. Sable for his many years of outstanding service to the Nation as a career Air Force officer and as a Presidential appointee working in the National Security Council and White House legislative affairs offices.

Such recognition is clearly extraordinary but, then again, so was Ron's performance. He has consistently made contributions of such considerable impact that it is difficult to single out any one or two events as exceptional. He is the rare type of individual who excels at everything he does. We have been so impressed by the high quality of his performance that we wanted to take a few moments to commend him and express our appreciation for his exceptional service and dedicated efforts as he moves on to other responsibilities and challenges.

Over the years, Ron has been involved in a wide array of defense and foreign policy issues. His counsel on these matters was consistently based on solid research and sound, thoroughly considered judgments. A short list of Ron's accomplishments include the key role he played in development of the President's strategy report, support for Contra aid and implementing the Scowcroft recommendations for strategic modernization, his successful management of Judge Webster's nomination for Director of the CIA, Judge Sessions for the FBI, and Frank Carlucci for Secretary of Defense, and his continuous efforts in accurately articulating the needs of the national security community, finding the reasonable course to follow and effectively working toward solutions.

In addition to his professional work, Ron Sable has continuously devoted himself to the community through his efforts in supporting the Children's Hospital National Medical Center, Kids, Inc., and numerous other civic and church activities.

Keenly intelligent, highly dedicated and with great personal initiative, Ron has provided invaluable assistance to the work of the Senate. Possessing a high degree of intellectual maturity and consistently reliable judgment, we found him to be an effective channel of communication to senior decisionmakers in the White House. His ability to express his advice and recommendations in a clear and concise manner orally and in writing was invaluable in the consideration of the many complex national security issues which demand the Senate's attention.

Finally, Ron is a completely loyal and dedicated professional who instinctively knows what is right and has the courage to stand up and be counted, as well as the integrity to see it through. In sum, his performance has been truly outstanding in every respect. As they say in the Navy—"he turned in a 4.0 job."

As Ron moves on to other endeavors, we would like to once again express our sincere appreciation to him for his counsel, his outstanding service and his friendship, and extend to him and his family our very best wishes for the future.

WINSTON CHURCHILL SPEECH

Mr. KASTEN. Mr. President, I rise today to draw my colleagues' attention to a very important anniversary. Forty-two years ago tomorrow, on March 5, 1946, Winston S. Churchill delivered an address in Fulton, MO, that defined for the first time and in the clearest terms the nature of the postwar world we were then entering—and still inhabit today.

It has become customary to regard this Iron Curtain speech primarily as a speech of division, of confrontation. And the speech did indeed draw a very stark picture of what came to be called the Cold War—the very real differences between the two major forces into which the world was being divided.

While the threat Churchill was describing remains as real today as it was in 1946, I think we should pay closer attention today to Churchill's words of unity, and the positive picture he draws of the world we seek to build.

Churchill did not define the allies' strategic goal negatively, as "victory against communism." He defined it positively. What we must fight for, he said, "is nothing less than the safety and welfare, the freedom and progress, of all the homes and families of all the men and women in all the lands." I think we would do well today and in the future to measure our foreign policy against this standard.

We should also remember that Churchill did not express this principle merely as rhetorical justification for the state interest of the allies, or for the preservation of some desired balance of power. He expressed it because he felt that this principle of free, forward-looking societies leading the world toward a steadily increasing standard of living went to the heart of what it meant to be an Englishman or an American.

We didn't storm Normandy because we wanted France. We stormed Normandy because we wanted freedom. And we knew that if France did not become free, our own freedom would be less secure.

President Reagan has often commented that free peoples rarely wage war upon each other. It's the police states and terrorists states that put our world at risk in the nuclear age. The best way to rid the world of the threat of war is to steadily expand the boundaries of that part of the world where the people themselves decide whether they want to wage war on their neighbors. A police state at war with its own people can never be truly at peace with a free neighbor.

The Republican Party has long stood for the principle of "Peace Through Strength." I think we ought to stress equally the principle contributed by Churchill and Reagan, "Peace Through Freedom."

We Americans feel these principles deep within ourselves. We have a NATO Alliance, and other alliances, because other free peoples share our longing for a peaceful future.

If we can approach regional conflicts, the arms control process, and foreign policy in general in a spirit of respect for this ideal, we will be laying the groundwork for permanent peace, the fulfillment of Churchill's great goal: "the permanent prevention of war and the establishment of conditions of freedom and democracy as rapidly as possible in all countries."

Mr. President, I ask unanimous consent that the full text of Mr. ge dm1:a04mr6.383Churchill's speech be entered in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE SINEWS OF PEACE

(March 5, 1946, Westminster College, Fulton, MO)

This speech may be regarded as the most important Churchill delivered as Leader of the Opposition (1945–1951). It contains certain phrases "the special relationship," "the sinews of peace," which at once entered into general use, and which have survived. But it is the passage on "the iron curtain" which attracted immediate international attention, and had incalculable impact upon public opinion in the United States and in Western Europe. Russian historians date the beginning of the Cold War from this speech. In its phraseology, in its intricate drawing together of several themes to an electrifying climax this speech may be regarded as a technical classic.

I am glad to come to Westminster College this afternoon, and am complimented that you should give me a degree. The name "Westminster" is somehow familiar to me. I seem to have heard of it before. Indeed, it was at Westminster that I received a very large part of my education in politics, dialectic, rhetoric, and one or two other things. In fact we have both been educated at the same, or similar, or at any rate, kindred establishments.

It is also an honour, perhaps almost unique, for a private visitor to be introduced to an academic audience by the President of the United States. Amid his heavy burdens, duties, and responsibilities—unsought but not recoiled from—the President has travelled a thousand miles to dignify and magnify our meeting here to-day and to give me an opportunity of addressing this kindred nation, as well as my own countrymen across the ocean, and perhaps some other countries too. The President has told you that it is his wish, as I am sure it is yours, that I should have full liberty to give my true and faithful counsel in these anxious and baffling times. I shall certainly avail myself of this freedom, and feel the more right to do so because any private ambitions I may have cherished in my younger days have been satisfied beyond my wildest dreams. Let me, however, make it clear that I have no official mission or status of any kind, and that I speak only for myself. There is nothing here but what you see.

I can therefore allow my mind, with the experience of a lifetime, to play over the problems which beset us on the morrow of our absolute victory in arms, and to try to make sure with what strength I have that what has been gained with so much sacrifice and suffering shall be preserved for the future glory and safety of mankind.

The United States stands at this time at the pinnacle of world power. It is a solemn moment for the American Democracy. For with primacy in power is also joined an awe-inspiring accountability to the future. If you look around you, you must feel not only the sense of duty done but also you must feel anxiety lest you fall below the level of achievement. Oportunity is here now, clear and shining for both our countries. To reject it or ignore it or fritter it away will bring upon us all the long reproaches of the after-time. It is necessary that constancy of mind, persistency of purpose, and the grand simplicity of decision shall guide and rule the conduct of the English-speaking peoples in peace as they did in war. We must, and I believe we shall, prove ourselves equal to this severe requirement.

When American military men approach some serious situation they are wont to write at the head of their directive the words "over-all strategic concept." There is wisdom in this, as it leads to clarity of thought. What then is the over-all strategic concept which we should inscribe today? It is nothing less than the safety and welfare, the freedom and progress, of all the homes and families of all the men and women in all the lands. And here I speak particularly of the myriad cottage or apartment homes where the wage-earner strives amid the accidents and difficulties of life to guard his wife and children from privation and bring the family up in the fear of the Lord, or upon ethical conceptions which often play their potent part.

To give security to these countless homes, they must be shielded from the two giant marauders, war and tyranny. We all know the frightful disturbances in which the ordinary family is plunged when the curse of war swoops down upon the bread-winner and those for whom he works and contrives. The awful ruin of Europe, with all its vanished glories, and of large parts of Asia glares us in the eyes. When the designs of wicked men or the aggressive urge of mighty States dissolve over large areas the frame of civilised society, humble folk are confronted with difficulties with which they cannot cope. For them all is distorted, all is broken, even ground to pulp.

When I stand here this quiet afternoon I shudder to visualize what is actually happening to millions now and what is going to happen in this period when famine stalks the earth. None can compute what has been called "the unestimated sum of human pain." "Our supreme task and duty is to guard the homes of the common people from the horrors and miseries of another war. We are all agreed on that.

Our American military colleagues, after having proclaimed their "over-all strategic concept" and computed available resources, always proceed to the next step—namely, the method. Here again there is widespread agreement. A world organisation has already been erected for the prime purpose of preventing war, UNO, the successor of the League of Nations, with the decisive addition of the United States and all that that means, is already at work. We must make sure that its work is fruitful, that it is a reality and not a sham, that it is a force for action, and not merely a frothing of words, that it is a true temple of peace in which the shields of many nations can some day be hung up, and not merely a cockpit in a Tower of Babel. Before we cast away the solid assurances of national armaments for self-preservation we must be certain that our temple is built, not upon shifting sands or quagmires, but upon the rock. Anyone can see with his eyes open that our path will be difficult and also long, but if we persevere together as we did in the two world wars—though not, alas, in the interval between them—I cannot doubt that we shall achieve our common purpose in the end.

I have, however, a definite and practical proposal to make for action. Courts and magistrates may be set up but they cannot function without sheriffs and constables. The United Nations Organisation must immediately begin to be equipped with an international armed force. In such a matter we can only go step by step, but we must begin now. I propose that each of the Powers and States should be invited to delegate a certain number of air squadrons to the service of world organisation. These squadrons would be trained and prepared in their own countries, but would move around in rotation from one country to another. They would wear the uniform of their own countries but with different badges. They would not be required to act against their own nation, but in other respects they would be directed by the world organisation. This might be started on a modest scale and would grow as confidence grew. I wished to see this done after the first world war, and I devoutly trust it may be done forthwith.

It would nevertheless be wrong and imprudent to entrust the secret knowledge or experience of the atomic bomb, which the United States, Great Britain, and Canada now share, to the world organisation, while it is still in its infancy. It would be criminal madness to cast it adrift in this still agitated and un-united world. No one in any country has slept less well in their beds because this knowledge and the method and the raw materials to apply it, are at present largely retained in American hands. I do not believe we should all have slept so soundly had the positions been reversed and if some Communists or neo-Fascist State monopolised for the time being these dread agencies. The fear of them alone might easily have been used to enforce totalitarian systems upon the free democratic world, with consequences appalling to human imagination. God has willed that this shall not be and we have at least a breathing space to set our house in order before this peril has to be encountered: and even then, if no effort is spared, we should still possess so formidable a superiority as to impose effective deterrents upon its employment, or threat of employment, by others. Ultimately, when the essential brotherhood of man is truly embodied and expressed in a world organisation with all the necessary practical safeguards to make it effective, these powers would naturally be confided to that world organisation.

Now, I come to the second danger of these two marauders which threatens the cottage, the home, and the ordinary people—namely, tyranny. We cannot be blind to the fact that the liberties enjoyed by individual citizens throughout the British Empire are not valid in a considerable number of countries, some of which are very powerful. In these States control is enforced upon the common people by various kinds of all-embracing police governments. The power of the State is exercised without restraint, either by dictators or by compact oligarchies operating through a privileged party and a political police. It is not our duty at this time when difficulties are so numerous to interfere forcibly in the internal affairs of countries which we have not conquered in war. But we must never cease to proclaim in fearless tones the great principles of freedom and the rights of man which are the joint inheritance of the English-speaking world and which through Magna Carta, the Bill of Rights, the Habeas Corpus, trial by jury, and the English common law find their most famous expression in the American Declaration of Independence.

All this means that the people of any country have the right, and should have the power by constitutional action, by free unfettered elections, with secret ballot, to choose or change the character or form of government under which they dwell; that freedom of speech and thought reign; that courts of justice, independent of the executive, unbiased by any party, should administer laws which have received the broad assent of large majorities or are consecrated by time and custom. Here are the title deeds of freedom which should lie in every cottage home. Here is the message of the British and American peoples to mankind. Let us preach what we practise—let us practise what we preach.

I have now stated the two great dangers which menace the homes of the people: War and Tyranny. I have not yet spoke of poverty and privation which are in many cases the prevailing anxiety. But if the dangers of war and tyranny are removed, there is no doubt that science and co-operation can bring in the next few years to the world, certainly in the next few decades newly taught in the sharpening school of war, an expansion of material well-being beyond anything that has yet occurred in human experience. Now, at this sad and breathless moment, we are plunged in the hunger and distress which are the aftermath of our stupendous struggle; but this will pass and may pass quickly, and there is no reason except human folly or sub-human crime which should deny to all the nations the inauguration and enjoyment of an age of plenty. I have often used words which I learned fifty years ago from a great Irish-American orator, a friend of mine, Mr. Bourke Cockran. "There is enough for all. The earth is a generous mother; she will provide in plentiful abundance food for all her children if they will but cultivate her soil in justice and in peace." So far I feel that we are in full agreement.

Now, while still pursuing the method of realising our overall strategic concept, I come to the crux of what I have travelled here to say. Neither the sure prevention of war, nor the continuous rise of world organization will be gained without what I have called the fraternal association of the English-speaking peoples. This means a special relationship between the British Commonwealth and Empire and the United States. This is no time for generalities, and I will venture to be precise. Fraternal association requires not only the growing friendship and mutual understanding between our two vast but kindred systems of society, but the continuance of the intimate relationship between our military advisers, leading to common study of potential dangers, the similarity of weapons and manuals of instructions, and to the interchange of officers and cadets at technical colleges. It should carry with it the continuance of the present facilities for mutual security by the joint use of all Naval and Air Force bases in the possession of either country all over the world. This would perhaps double the mobility of the American Navy and Air Force. It would greatly expand that of the British Empire Forces and it might well lead, if and as the world calms down, to important financial savings. Already we use together a large number of islands; more may well be entrusted to our joint care in the near future.

The United States has already a Permanent Defense Agreement with the Dominion of Canada, which is so devotedly attached to the British Commonwealth and Empire. This Agreement is more effective than many of those which have often been made under formal alliances. This principle should be extended to all British Commonwealths with full reciprocity. Thus, whatever happens, and thus only, shall we be secure ourselves and able to work together for the high and simple causes that are dear to us and bode no ill to any. Eventually there may come—I feel eventually there will come-the principle of common citizenship, but that we may be content to leave to destiny, whose outstretched arm many of us can already clearly see.

There is however an important question we must ask ourselves. Would a special relationship between the United States and the British Commonwealth be inconsistent with our over-riding loyalties to the World Organizations? I reply that, on the contrary, it is probably the only means by which that organization will achieve its full stature and strength. There are already the special United States relations with Canada which I have just mentioned, and there are the special relations between the United States and the South American Republics. We British have our twenty years Treaty of Collaboration and Mutual Assistance with Soviet Russia. I agree with Mr. Bevin, the Foreign Secretary of Great Britian, that it might well be a fifty years Treaty so far as we are concerned. We aim at nothing but mutual assistance and collaboration. The British have an alliance with Portugal unbroken since 1384, and which produced fruitful results at critical moments in the late war. None of these clash with the general interest of a world agreement, or a world organisation; on the contrary they help it. "In my father's house are many mansions." Special assocations between members of the United Nations which have no aggresive point against any other country, which harbour no design incompatible with the Charter of the United Nations, far from being harmful are beneficial and, as I believe, indispensable.

I spoke earlier of the Temple of Peace. Workmen from all countries must build that temple. If two of the workmen know each other particularly well and are old friends, if their families are inter-mingled, and if they have "faith in each other's purpose, hope in each other's future and charity toward each other's shortcomings"—to quote some good words I read here the other day—why cannot they work together at the common task as friends and partners? Why cannot they share their tools and thus increase each other's working powers? Indeed they must do so or else the temple may not be built, or, being built, it may collapse, and we shall all be proved again unteachable and have to go and try to learn again for a third time in a school of war, incomparably more rigorous than that from which we have just been released. The dark ages may return, the Stone Age may return on the gleaming wings of science, and what might now shower immeasurable material blessings upon mankind, may even bring about its total destruction. Beware, I say; time may be short. Do not let us take the course of allowing events to drift along until it is too late. If there is to be a fraternal association of the kind I have described, with all the extra strength and security which both our countries can derive from it, let us make sure that great fact is known to the world, and that it plays its part in steadying and stabilising the foundations of peace. There is the path of wisdom. Prevention is better than cure.

A shadow has fallen upon the scenes so lately lighted by the Allied victory. Nobody knows what Soviet Russia and its Communist international organization intends to do in the immediate future, or what are the limits, if any, to the expansive and proselytising tendencies. I have a strong admiration and regard for the valiant Russian people and for my wartime comrade, Marshal Stalin. There is deep sympathy and goodwill in Britain—and I doubt not here also—toward the peoples of all the Russias and a resolve to persevere through many differences and rebuffs in establishing lasting friendships. We understand the Russian need to be secure on her western frontiers by the removal of all possibility of German aggression. We welcome Russia to her rightful place among the leading nations of the world. We welcome her flag upon the seas. Above all, we welcome constant, frequent and growing contacts between the Russian people and our own people on both sides of the Atlantic. It is my duty however, for I am sure you would wish me to state the facts as I see them to you, to place before you certain facts about the present position in Europe.

From Stettin in the Baltic to Trieste in the Adriatic, an iron curtain has descended across the Continent. Behind that line lie all the capitals of the ancient states of Central and Eastern Europe. Warsaw, Berlin, Prague, Vienna, Budapest, Belgrade, Bucharest and Sofia, all these famous cities and the populations around them lie in what I must call the Soviet sphere, and all are subject in one form or another, not only to Soviet influence but to a very high and, in many cases, increasing measure of control from Moscow. Athens alone Greece with its immortal glories is free to decide its future at an election under British, American and French observation. The Russian-dominated Polish Government has been encouraged to make enormous and wrongful inroads upon Germany, and mass expulsions of millions of Germans on a scale grievous and undreamed-of are now taking place. The Communist parties, which were very small in all these Eastern States of Europe, have been raised to pre-eminence and power far beyond their numbers and are seeking everywhere to obtain totalitarian control. Police governments are prevailing in nearly every case, and so far, except in Czechoslovakia, there is no true democracy.

Turkey and Persia are both profoundly alarmed and disturbed at the claims which are being made upon them and at the pressure being exerted by the Moscow Government. An attempt is being made by the Russians in Berlin to build up a quasi-Communist party in their zone of Occupied Germany by showing special favours to groups of left-wing German leaders. At the end of the fighting last June, the American and British Armies withdrew westwards, in accordance with an earlier agreement, to a depth at some points of 150 miles upon a front of nearly four hundred miles, in order to allow our Russian allies to occupy this vast expanse of territory which the Western Democracies had conquered.

If now the Soviet Government tries, by separate action, to build up a pro-Communist Germany in their areas, this will cause new serious difficulties in the British and American zones, and will give the defeated Germans the power of putting themselves up to auction between the Soviets and the Western Democracies. Whatever conclusions may be drawn from these facts—and facts they are—this is certainly not the Liberated Europe we fought to build up. Nor is it one which contains the essentials of permanent peace.

The safety of the world requires a new unity in Europe, from which no nation should be permanently outcast. It is from the quarrels of the strong parent races in Europe that the world wars we have witnessed, or which occurred in former times, have sprung. Twice in our own lifetime we have seen the United States, against their wishes and their traditions, against arguments, the force of which it is impossible not to comprehend, drawn by irresistible forces, into these wars in time to secure the victory of the good cause, but only after frightful slaughter and devastation had occurred. Twice the United States has had to send several millions of its young men across the Atlantic to find the war; but now war can find any nation, wherever it may dwell between dusk and dawn. Surely we should work with conscious purpose for a grand pacification of Europe, within the structure of the United Nations and in accordance with its Charter. That I feel is an open cause of policy of very great importance.

In front of the iron curtain which lies across Europe are other causes for anxiety. In Italy the Communist Party is seriously hampered by having to support the Communist-trained Marshal Tito's claims to former Italian territory at the head of the Adriatic. Nevertheless the future of Italy hangs in the balance. Again one cannot imagine a regenerated Europe without a strong France. All my public life I have worked for a strong France and I never lost faith in her destiny, even in the darkest hours. I will not lose faith now. However, in a great number of countries, far from the Russian frontiers and throughout the world, Communist fifth columns are established and work in complete unity and absolute obedience to the directions they receive from the Communist centre. Except in the British Commonwealth and in the United States where Communism is in its infancy, the Communist parties or fifth columns constitute a growing challenge and peril to Christian civilization. These are sombre facts for anyone to have recite on the morrow of a victory gained by so much splendid comradeship in arms and in the cause of freedom and democracy; but we should be most unwise not to face them squarely while time remains.

The out outlook is also anxious in the Far East and especially in Manchuria. The Agreement which was made at Yalta, to which I was a party, was extremely favourable to Soviet Russia, but it was made at a time when no one could say that the German war might not extend all through the summer and autumn of 1945 and when the Japanese war was expected to last for a further 18 months from the end of the German war. In this country you are so well-informed about the Far East, and such devoted friends of China, that I do not need to expatiate on the situation there.

I have felt bound to portray the shadow which, alike in the west and in the east, falls upon the world. I was a high minister at the time of the Versailles Treaty and a close friend of Mr. Lloyd-George, who was the head of the British delegation at Versailles. I did not myself agree with many things that were done, but I have a very strong impression in my mind of that situation, and find it painful to contrast it with that which pervails now. In those days there were high hopes and unbounded confidence that the wars were over, and that the League of Nations would become all-powerful. I do not see or feel that same confidence or even the same hopes in the haggard world at the present time.

On the other hand I repulse the idea that a new war is inevitable; still more that it is imminent. It is because I am sure that our fortunes are still in our own hands and that we hold the power to save the future, that I feel the duty to speak out now that I have the occasion and the opportunity to do so. I do not believe that Soviet Russia desires war. What they desire is the fruits of war and the indefinite expansion of their power and doctrines. But what we have to consider here today while time remains, is the permanent prevention of war and the establishment of conditions of freedom and democracy as rapidly as possible to all countries. Our difficulties and dangers will not be removed by closing our eyes to them. They will not be removed by mere waiting to see what happens; nor will they be removed by a policy of appeasement. What is needed is a settlement, and the longer this is delayed, the more difficult it will be and the greater our dangers will become.

From what I have seen of our Russian friends and Allies during the war, I am convinced that there is nothing they admire so much as strength, and there is nothing for which they have less respect than for weakness, especially military weakness. For that reason the old doctrine of a balance of power is unsound. We cannot afford, if we can help it, to work on narrow margins, offering temptations to a trial of strength. if the Wester Democracies stand together in strict adherence to the principles of the United Nations Charter, their influence for furthering those principles will be immense and no one is likely to molest them. If however they become divided or falter in their duty and if these all-imporant years are allowed to slip away then indeed catastrophe may overwhelm us all.

Last time I saw it all coming and cried aloud to my own fellow-countrymen and to the world, but no one paid any attention. Up till the year 1933 or even 1935, Germany might have been saved from the awful fate which has overtaken her and we might all have been spared the miseries Hitler let loose upon mankind. There never was a war in all history easier to prevent by timely action than the one which has just desolated such great areas of the globe. It could have been prevented in my belief without the firing of a single shot, and Germany might be powerful, prosperous and honoured today; but no one would listen and one by one we were all sucked into the awful whirlpool. We surely must not let that happen again. This can only be achieved by reaching now, in 1946, a good understanding on all points with Russia under the general authority of the United Nations Organisation and by the maintenance of that good understanding through many peaceful years, by the world instrument, supported by the whole strength of the English-speaking world and all its connections. There is the solution which I respectfully offer to you in this Address to which I have given the title "The Sinews of Peace."

Let no man underrate the abiding power of the British Empire and Commonwealth. Because you see the 46 millions in our island harassed about their food supply, of which they only grow one half, even in wartime, or because we have difficulty in restarting our industries and export trade after six years of passionate war effort, do not suppose that we shall not come through these dark years of privation as we have come through the glorious years of agony, or that half a century from now, you will not see 70 to 80 millions of Britons spread about the world and united in defence of our traditions, our way of life, and of the world causes which you and we espouse. If the population of the English-speaking Commonwealths be added to that of the United States with all that such co-operation implies in the air, on the sea, all over the globe and in science and in industry, and in moral force, there will be no quivering, precarious balance of power to offer its temptation to ambition or adventure. On the contrary, there will be an overwhelming assurance of security. If we adhere faithfully to the Charter of the United Nations and walk forward in sedate and sober strength seeking no one's land or treasure, seeking to lay no arbitrary control upon the thoughts of men; if all British moral and material forces and convictions are joined with your own in fraternal association, the high-roads of the future will be clear, not only for us but for all, not only for our time, but for a century to come.

TAXPAYER'S BILL OF RIGHTS

Mr. REID. Mr. President, it has been some time since I last took the floor to discuss what I believe is one of the most important issues before Congress at this time, and that is the taxpayer's bill of rights.

The very first piece of legislation I introduced as a U.S. Senator, over a year ago now, was legislation to insure taxpayer's rights were protected. My initial interest in this issue grew out of the experiences of many of the residents of Nevada and especially Las Vegas who I represented as a Member of the House of Representatives. There were simply too many horror stories about Internal Revenue Service abuses to be ignored, and I came to believe that there was a real need to restrain IRS actions and insure that American taxpayers enjoyed the same protections as our citizens did in other areas of activity.

I might add that this protection is needed as much today as it was then.

While in Nevada last month, I spent a great deal of my time moderating a dispute between the Internal Revenue Service and casino dealers. In this particular case, no short-term solution would address the circumstances faced by the dealers. But there is a long-term solution—the passage of the taxpayers bill of rights.

In 1986 Congress enacted the most massive reform of the tax structure in 30 years and this effort enjoyed broad public support. It was clear that the public had made up its mind of the need for a fairer and simpler tax system. I supported the Tax Reform Act because I believed it was needed, but think that we only accomplished half of what is needed unless we move ahead to approve the taxpayers bill of rights to make tax collection fair for the American taxpayer, That is why I introduced the taxpayer bill of rights as my first legislative initiative in the Senate.

Mr. President. I am happy to report that much progress has been made over the last year. Through the leadership of Senator DAVID PRYOR, of Arkansas, chairman of the Internal Revenue Oversight Subcommittee of the Senate Finance Committee, several hearings have been held on this legislation, and in its current form the bill has garnered the sponsorship of 66 members of this body. We thought that there might be a chance that it could be added last year to the omnibus reconciliation bills but that could not be worked out.

I urge the Senate leadership to help us find a way to move the taxpayers bill of rights during this session of Congress.

Mr. President, there may not be a bill pending in the Senate at this time that has more support than the taxpayers bill of rights. Sixty-six Senators have cosponsored this. There are going to be many important pieces of legislation considered in the Senate this year, but none more important than S. 1774 and the Senate should have an opportunity to vote on this bill.

Let us finish the tax reform process. The taxpayer bill of rights was introduced in the year of the 200th anniversary of our Constitution and we as a body could not find a more fitting way to celebrate that document than to pass the taxpayers bill of rights during the 100th Congress.

VIVIDELL HOLMES McDONALD

Mr. SYMMS. Mr. President, I want to express my heartfelt condolences to the family of Vividell Holmes McDonald, our dedicated, kind, and caring hostess of the Senators' dining room, whose tragic death has shocked and saddened all of us. She was a woman of great warmth and beauty who always conducted herself with dignity and professionalism. She brought joy to our lives and made the Senators' dining room a place to ease tensions and rejuvenate one's spirit.

I met Vividell while serving in the House of Representatives, when Congressman Sam Devine brought me to lunch in the Senate dining room. From that first meeting, I considered Vividell a friend, and I always looked forward to visiting with her in the dining room.

I will miss Vividell, Mr. President, and I know that all Senators will miss her. I pray God's blessings for the loved ones she left behind.

TRIBUTE TO ROBERT IYUKIO URATA

Mr. MURKOWSKI. Mr. President, I rise today to honor a longtime resident of Wrangell, AK, Mr. Robert Iyukio Urata.

Wrangell lost a dedicated citizen December 28 when Bob died at age 68. A lifelong Alaskan, Bob was born September 8, 1919, in Petersburg, AK and moved to Wrangell at the age of 6. He graduated from Wrangell High School in 1937 and went on to work in the timber industry. He also was a longshoreman and had been a key figure in efforts to build a road to Canada.

During World War II, he served in a supply office of the U.S. Army and was honorably discharged in November 1945.

In 1950, Bob was the first employee to be hired by the new Japanese owners of the Wrangell sawmill. He became a longshore foreman in 1955, when the first lumber ship, the *"Kosho Maru,* arrived in Wrangell. He held the position until his retirement in 1986.

Although he never earned a college degree, Bob attended the University of Washington for almost 5 years, taking such varied classes as oceanography, forestry, business and engineering.

Bob Urata was known throughout Alaska for his work to help develop Southeast Alaska resources. A labor representative on the Alaska State Board of Forestry, Bob served from 1978 until his death. He served as the southeast area director of Citizens for the Management of Alaska Lands [CMAL] for 3 years during the D-2 legislation debate. He worked on the wilderness legislation as president and charter member of the Wrangell Central Labor Council. He served 20 years as the secretary of the Wrangell Joint Port Labor Relations Committee. As if Bob weren't busy enough, he was also involved in the fishing industry and was a charter member of the Southeast Alaska Seiners Association. For 2 years he was the association's secretary.

Bob was also an active participant in many civic and fraternal associations. A member of the local ILWU, Bob served as president for two terms and secretary-treasurer for 3 years. Other memberships included: Wrangell Council on Alcoholism, Wrangell Democratic Committee, vice chairman; American Legion, past vice commander and trustee; Wrangell Hospital Board, director for 3 years, and the Wrangell Chamber of Commerce, board member for 12 years.

In the last several years, Bob was recognized on both the State and local level for his advocacy of resource development. In 1985, he received the Alaskan Society of American Foresters Citizen Award, given to an individual who has been instrumental in promoting forestry and the wise use of natural resources. In 1986, he was awarded the Wrangell Chamber of Commerce Outstanding Citizen Award. Last year, he was grand marshal of Wrangell's Fourth of July Parade.

Forest Service District Ranger, Keene Kohrt, when nominating Bob for the forestry award, said "Bob has gained a reputation as a staunch supporter of multiple use and knows and cares more about Alaska's forests than any nonforester in the State of Alaska. Anybody who faithfully keeps abreast of legislation, new and innovative ideas, current market trends, current forest problems and reads Federal environmental impact statements, has got to have a dedication far beyond the average citizen."

Mr. President, Bob Urata was an outstanding Alaskan. I know he will be sorely missed.

THE FARM CREDIT SYSTEM

Mr. GRASSLEY. Mr. President, I am outraged!

For 3 years in a row, the Farm Credit System has come to Congress with grave tales of fiscal crisis. For 3 years in a row, Congress has passed emergency legislation to save the Farm Credit System. And for the third year in a row, Congress has been hoodwinked by the Farm Credit System.

The elected representatives of this country spent many months grueling over the recently enacted Agricultural Credit Act of 1987. Mr. President, hundreds of hours of committee time and thousands of hours of staff time produced this act. In my opinion, this act pretty fairly represents the interests of not only the Farm Credit System, but also its borrowers.

In my opinion, the most important sections of this bill provide borrowers' rights. Yet, at least one district of the Farm Credit System has decided that it did not need to comply with the borrowers' rights provisions of the public law.

Last week I learned that the Omaha district was requiring its borrowers to relinquish their rights, as provided in the 1987 act. I received a copy of this waiver from one of my constituents. The waiver was attached to the borrower's restructuring contract. Also attached was a letter from the Farm Credit System. This letter instructs the borrower that the "waiver" form must be signed to close the contract.

I am gravely concerned about these actions of the Omaha District of the Farm Credit System. These kinds of "strong arm" tactics simply are not tolerable! I am outraged that the district would undermine Federal law. It makes my blood boil that system bureaucrats would disregard congressionally mandated rights as a condition of borrower debt restructuring.

It seems to me that Congress intended compliance with borrowers' rights as a condition for the system to receive assistance!

Specifically, the rights jeopardized by the Omaha waiver involve restructuring, notification, and review. By signing the document, borrowers relinquished all rights to due process.

I would like to read the provisions of the waiver form and I will ask that a copy be printed in the Record.

Waiver of Rights Under the Agriculture Credit Act of 1987

I/We and , understand that Section 102 (Sections 4.14A, and 4.14B, and Section 106 (Section 4.14) of the Agricultural Credit Act of 1987 confer on me/us specific rights concerning the restructuring of our distressed loan, including rights to certain notices, meetings, review by a Credit Review Committee and stock retention.

I/We hereby voluntarily waive all such rights afforded by said Act and Policy and hereby consent to: entering into and effectuating a previously negotiated restructure agreement;

I/We further understand that in consideration of the reliance of the above waiver, Lender will proceed with the above described action.

The Farm Credit system was created 60 years ago to be run by and for farmers. Yet, Congress had to pass a law to protect farm borrowers' rights. Further, Congress has to "chaperone" borrowers in their dealings with the Farm Credit System to make sure laws passed by Congress are obeyed!

I am relieved that the Omaha district of the Farm Credit System has responded to my concerns. Officials have announced that the waivers will no longer be used. My office is presently working with officials of the Omaha district to reach a resolution to this situation.

Mr. President, I rise today to alert my colleagues. I sincerely hope that the utilization of this waiver is unique to the Omaha district. I would, however, encourage Senators to ascertain whether borrowers' rights are being restricted for their constituents.

I urge my Senate colleagues to register their strongest objections to any "transparent" attempt to strong arm farmers and circumvent congressional intent.

I ask unanimous consent that the waiver of rights form be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Waiver of Rights Under the Agricultural Credit Act of 1987

I/We and , understand that Section 102 (Sections 4.14A, and 4.14B, and Section 106 (Section 4.14) of the Agricultural Credit Act of 1987 (attached hereto as Exhibit "A" and incorporated herein by reference) confer on me/us specific rights concerning the restructuring of our distressed loan, including rights to certain notices, meetings, review by a Credit Review Committee and stock retention. I/We further acknowledge receipt of a copy of the DISTRESSED LOAN RESTRUCTURING POLICY.

I/We hereby voluntarily waive all such rights afforded by said Act and Policy and hereby consent to: —entering into and effectuating a previously negotiated restructure agreement.

I/We further understand that in consideration of and reliance on the above waiver, Lender will proceed with the above described action.

Dated this day of , 19 .

State of Iowa, County of , 88:

On this day of , 19 , before me, a Notary Public, personally appeared and to me known to be the person(s) named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.

Notary Public in and for
said County and State.

My commission expires:

ANTI-TERRORISM ACT OF 1987

Mr. GRASSLEY. Mr. President, last fall, my colleagues and I enacted the Anti-Terrorism Act of 1987. We passed it, after thorough consideration, in response to the PLO's numerous acts of terrorism against the United States. It requires the Justice Department to close the PLO observer mission at the United Nations and the PLO information office here in Washington.

While the State Department closed the Washington Information Office, Attorney General Meese appears to be waiting for some directive from the President before ordering the closing of the U.N. Mission. In the meantime, the United Nations is attempting to urge the administration to refuse to enforce the law, as we here in the Congress have made it.

I was not suprised to learn of the United Nation's votes Wednesday, against the United States in the exercise of its sovereign powers. But I was quite surprised to read that our U.N. representatives failed to stand up for the law the Congress passed. Our entire delegation to the U.N. General Assembly is duty bound, in accordance with a sworn oath, to uphold our laws. Yet, our U.N. representatives, earlier this week, did anything but affirm the law made by Congress. They failed to object to the U.N. resolutions requesting, first recission of the Anti-Terrorism Act, and second, the World Court's opinion on our law. Their failure to speak out was tantamount to agreement with the outrageous action by 143 nations which voted in favor of these resolutions.

No resolution of the United Nations or ruling by the World Court can affect implementation of the Anti-Terrorism Act. Moreover, the law does not conflict with any treaty obligation we have. Nor does it run counter to any U.N. agreement. In fact, the U.N. headquarters agreement reserves in the United States the right to protect its own security.

As we all know, Congress makes the laws and the executive branch implements them. I urge the administration to act promptly and enforce the law as Congress passed it.

GUAM DRAFT COMMONWEALTH ACT OF 1988

Mr. PRESSLER. Mr. President, recently I had the opportunity to meet the Governor of Guam, the Honorable Joseph F. Ada. On that occasion, we discussed the Guam Draft Commonwealth Act of 1988.

Although some aspects of this proposal may prove to be controversial, this remarkable document deserves the careful consideration of Members of the Senate. The people of Guam voted overwhelmingly in 1982 in favor of a new political relationship with the United States of America. They chose to request Commonwealth status with the United States. This new status would give the people of Guam greater control over decisions affecting their own local political and economic affairs, while maintaining close ties to the United States. In many ways, the Guam Draft Commonwealth Act would permit them to enjoy many of the self-governing rights taken for granted by the people in each of our States.

Guam voters gave overwhelming approval to the Commonwealth Act last year. In essence, it is a petition to Congress drafted and approved by the people of that vital U.S. territory. Although many Americans may think of Guam as a remote military outpost somewhere in the vast Pacific, in fact it is a thriving society of industrious American citizens. They elect their own officials and manage their local government affairs in an effective manner.

Mr. President, both Houses of Congress will begin consideration of the Guam Commonwealth Act this year. As a service to those who may be interested in the original Commonwealth Act as drafted and approved by the people of Guam, I ask unanimous consent that the text of the Guam Draft Commonwealth Act be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GUAM DRAFT COMMONWEALTH ACT

PREAMBLE

In recognition of the long-cherished aspiration of the people of Guam to direct the course of their own destiny, and with the belief that mutual respect, understanding, and compromise among people form a more perfect Union, the people of the United States of America, nurtured in the ideals of liberty and democracy, conscious of their obligations under the Treaty of Paris of 1899 and the Charter of the United Nations, do hereby embrace the establishment of the Commonwealth of Guam, ever mindful that the right of self-determination and the heritage of the Chamorro people of Guam shall be protected.

This Act reflects the will of the people of Guam to attain a greater measure of self-government in concert with the United States of America, and reaffirms the principle that governments derive their just powers only from the consent of the governed.

To this end, the Senate and House of Representatives of the United States of America in Congress assembled, now adopt this Act.

COMMISSION'S COMMENTS—THE PREAMBLE

The Preamble recognizes the special desire of the people of Guam to more fully guide the course of their island's future, in union with the United States.

The Preamble cites some fundamental reasons inherent in the pursuit of more self-government by the people of Guam. The first is the basic principle of democracy which requires that governments derive their just powers only from the consent of the governed. Also cited is the Treaty of Paris of 1899, where Guam was ceded to the United States. The Treaty stipulated that Congress shall determine the "civil rights and political status of the native inhabitants."

There is also a reference to the United Nations Charter which was ratified by the Senate in June, 1945. Chapter 11 of the Charter requires that the United States insure the political advancement and development of self-government for its territories like Guam, taking "due account of the political aspirations of the peoples . . . to assist them in the progressive development of their free political institutions." The Preamble also acknowledges that the unique culture of the original people of Guam, the Chamorros, and their right to political self-determination must be protected.

In recognition of all these principles, the people of the United States welcome the establishment of the Commonwealth of Guam through the passage of this Act.

This Act articulates the people of Guam's aspirations for greater self-government, as a Commonwealth within a continuing and improved relationship with the United States.

ARTICLE 1. POLITICAL RELATIONSHIP

§ 101. Creation of the Commonwealth and Full Self-Government

(a) This Act may be cited as the "Guam Commonwealth Act."

(b) The Island of Guam, and its adjacent islands and waters shall upon the enactment of this Act become a self-governing Commonwealth known as the "Commonwealth of Guam." This Act, the provisions of the United States Constitution, treaties, and laws of the United States applicable to Guam, and the Constitution of Guam shall be the supreme law of the Commonwealth.

(c) The people of Guam shall have the right of full self-government, which shall extend to all rightful subjects of government not inconsistent with this Act and the laws of the United States applicable to Guam, and shall govern themselves in accordance with this Act through a Constitution of their own adoption. Such Constitution shall:

(i) Recognize, and be consistent with, the sovereignty of the United States over Guam, and the supremacy of the provisions of the Constitution, treaties, and laws of the United States applicable to Guam;

(ii) Provide for a republican form of government; and

(iii) Provide for three branches of government; and

(iv) Contain a bill of rights.

(d) The government of the Commonwealth shall have the power to sue in its own name, and, with the consent of the Legislature, may be sued upon any contract entered into with respect to, or any tort committed incident to, the exercise by the government of the Commonwealth of Guam or any of its lawful powers.

(e) The government of the Commonwealth of Guam shall have the power to establish, maintain, and operate a public educational system to the same extent as the several States.

§ 102. Self-Determination and U.S. Citizenship Rights

(a) The Congress recognizes the inalienable right of self-determination of the indigenous Chamorro people of Guam, defined as all those born on Guam before August 1, 1950, and their descendants. The exercise of such right of self-determination shall be provided for in a Constitution of the Commonwealth of Guam.

(b) The Government of Guam shall ensure that, notwithstanding the provisions of the preceding paragraph, nothing herein shall be interpreted as depriving any qualified resident of Guam of the right to participate as a voter in any referendum or plebiscite held under the ratification procedure for this Act set forth in Section 1204 hereof.

(c) The United States Government shall, by means of additional federally funded programs, and the Commonwealth of Guam may promote:

(i) The maintenance and preservation of the Chamorro language, culture and traditions;

(ii) The enhancement of economic, social and educational opportunities for Chamorros; and

(iii) Training of Chamorros for employment as professionals, skilled workers and leaders in business and industry.

(d) The establishment of such additional programs shall not affect the continued eligibility for the benefits of existing programs of members of all minority groups presently qualifying for such programs under current law.

(e) Nothing in this Act or in the Constitution of the Commonwealth of Guam shall impair the U.S. citizenship of the residents of Guam or their descendants, or the entitlement of legally admitted aliens permanently residing in Guam, to the respective rights and privileges accorded to each such class of persons under the first sentence of the Fourteenth Amendment of the U.S. Constitution.

(f) Notwithstanding any other provision of law or of this Act, the Commonwealth of Guam, shall:

(i) Establish a trust, to be known as the "Chamorro Land Trust," for the benefit of the indigenous Chamorro people of Guam, and composed of certain lands returned by the United States before and after the effective date of this Act to the Commonwealth of Guam.

(ii) Nothing in this section shall inhibit or prevent the direct return of lands to the original owners, or the establishment of leasehold arrangements with them, by the Government of the Commonwealth of Guam.

(g) The Constitution of the Commonwealth of Guam shall establish reasonable residency requirements for the citizens of such Commonwealth for the purposes of the right to vote in Commonwealth elections or to hold any elective office established by the Constitution of Guam.

§ 103. Mutual Consent

In order to respect the self-government granted to the Commonwealth of Guam under this Act, the United States agrees to limit the exercise of its authority so that the provisions of this Act may be modified only with the mutual consent of the government of the United States and the government of the Commonwealth of Guam.

COMMISSION'S COMMENTS

This article creates the Commonwealth of Guam and establishes the right of full self-government for the people of the Commonwealth under the overall sovereignty of the United States. The people of Guam are given the right to create a government under this act, the provisions of the U.S. Constitution that apply to Guam, federal laws and international treaties that also apply to Guam, and the Constitution of Guam which is authorized to be written.

Article 1 also establishes a framework through which the unique historical and cultural heritage of the Chamorro people, Guam's orignal inhabitants, are addressed by the federal government. The Chamorro people are defined as all those born on Guam before August 1, 1950 and their descendants. The fundamental right of political self-determination for Chamorros is formally recognized by Congress, the exercise of which is to be detailed in the Commonwealth Constitution.

Under this Act, programs to preserve the Chamorro culture and to provide training and an overall enhancement of opportunities for Chamorros shall be developed by the federal government. However, nothing in the Act or in the Commonwealth Constitution can restrict or impair any of the rights of U.S. citizens or permanent resident aliens. The article also sets up a Chamorro Land Trust, a concept modelled after similar precedents in Hawaii, Alaska and the Commonwealth of the Northern Marianas.

Finally, in the last section of this article, the United States agrees to limit its authority over Guam in that changes in this Act cannot be made without the mutual agreement of the U.S. government and the Commonwealth. A similar provision exists in the Northern Marianas Commonwealth Covenant.

ARTICLE 2. APPLICABILITY OF FEDERAL LAW

§ 201. Applicability of U.S. Constitution

Those portions of the Constitution which apply to Guam on the effective date of this Act shall, unless specifically modified by this Act, continue to apply under this Act. In addition, the following provisions of and amendments to the Constitution of the United States shall apply to the Commonwealth of Guam and shall have the same force and effect in Guam as in the United States or in any State of the United States; Article IV, section 2, clause 2 and section 4; the Tenth Amendment, and the first sentence of the Fourteenth Amendment.

§ 202. Effect of Federal Law

Except as otherwise intended by this Act, no federal laws, rules or regulations passed after the date of this Act shall apply to the Commonwealth of Guam unless mutually consented to by the United States and the government of the Commonwealth of Guam.

§ 203. Joint Commission

(a) (i) There is hereby created a Joint Commission on the Applicability of Federal Law (hereinafter "Commission") to be composed of seven (7) members: three (3) members and their successors appointed by the President of the United States and four (4) members and their successors appointed by the Governor with the advice and consent of the Legislature of the Commonwealth of Guam. The appointees by the Government of Guam shall be citizens of the Commonwealth of Guam who are or have been ten (10) years continuously resident on Guam at the time of their appointment. Said appointees shall serve at the pleasure of the President of the United States and the Governor of the Commonwealth of Guam respectively. Any vacancy which may occur on the Commission shall not affect its powers of functions but shall be filled in the same manner in which the original appointment was made. Appointments shall be made within sixty (60) days of the effective date of this Act.

(ii) The Commission shall adopt its own internal regulations to govern its procedures and may delegate authority on particular issues to some of its members.

(iii) A majority of the Commission shall constitute a quorum for the transaction of its business. The Commission may provide for the taking of testimony, discussion of issues with members of the federal government or Government of Guam, and the reception of evidence at meetings at which there are present not less than three members of the Commission. The Chairman of the Commission shall call a meeting to organize the Commission within thirty (30) days after he and a majority of the members of the Commission have been appointed.

(b) The Commission shall:

(i) be used for regular consultations between the Government of the United States and the Government of the Commonwealth of Guam on all matters affecting the relationship between them;

(ii) study existing statutes and regulations affecting the relationship between Guam and the United States;

(iii) review the policies and procedures of the federal agencies as such policies and procedures relate to the relationship between Guam and the United States;

(iv) compile data as may be necessary for the conduct of the Commission's work or for the implementation of this Act;

(v) draft such modifications in existing laws, regulations, policies, and procedures as will, in the judgment of the Commission, best serve to carry out the purposes of the Commission or this Act;

(vi) obtain, if possible, the modification of these laws, regulations and procedures by negotiation and mediation, such as issues concerning land claims and war claims by the people of Guam;

(vii) seek to obtain the maximum economic development and political autonomy for the Commonwealth of Guam without impairing U.S. national security interests. The heads of federal departments and agencies are authorized and directed to furnish whatever assistance is requested by the Commission, without reimbursement, except classified information directly related to national security interests.

(c) The Commission is authorized to appoint and fix the compensation of an Executive Secretary and such other additional personnel as may be necessary to enable the Commission to carry out its functions without regard to the Federal Property and Administrative Services Act of 1949 and Civil Service laws, rules and regulations, but any federal employee subject to those laws, rules and regulations, who may be detailed to the Commission (which detail is hereby authorized) shall retain his civil service status without interruption or loss of status or privilege. In addition, the Commission may enter into contracts in order to carry out its mandate.

(d) The United States will bear the cost of the work of the Commission.

§ 204. Delegation of Authority

The Congress hereby authorizes the President or his designee to delegate to the Governor of Guam total or partial performance of functions now vested in administrative agencies in the federal government. The President or his designee and the Governor of Guam shall consult from time to time on the implementaion of this provision.

COMMISSION'S COMMENTS

Article 2 applies parts of the United States Constitution to Guam that do not apply now. It prevents the application of any future federal law to the Commonwealth without the mutual consent of Guam and the United States; and it establishes a permanent "Joint Commission," consisting of four Commonwealth residents and three federal members, which would continue to address unresolved matters affecting the relationship between Guam and the United States. Finally, the President is allowed to delegate some or all federal administrative functions to the Governor of Guam, subject to consultation between the President and Governor.

Article 2 maintains all provisions of the United States Constitution which currently apply to Guam. In an effort to maximize self-government for the Commonwealth, the article also extends the Tenth Amendment of the Constitution to Guam in order to limit the power of Congress over Guam's internal affairs in the same way that Congress' authority over a state government is limited. It also extends the first sentence of the Fourteenth Amendment to Guam to insure that American citizenship could never be taken away by changes in the federal law which originally granted citizenship for Guamanians.

The intent of the Joint Commission on the Applicability of Federal Law is to provide an on-going forum for addressing continuing problems, such as land and war claims, that affect Guam's relationship with the federal government and which are not resolved in the Commonwealth Act. The Commission would be authorized to propose other changes in federal law and regulations that are beneficial to the Commonwealth and promote the national interest. The Commission expenses will be paid by the federal government.

The President is also authorized to delegate total or partial performance of existing administrative duties of the executive branch to the Governor of Guam, subject to consultation with the Governor. The implication is that certain administrative functions may be better carried out at the local level.

ARTICLE 3. FOREIGN AFFAIRS AND DEFENSE

§ 301. United States Authority

The U.S. shall have responsibility for and authority with respect to matters relating to foreign affairs and defense that affect the Commonwealth of Guam.

§ 302. Consultation With Guam

(a) The United States agrees to consult with the Commonwealth of Guam in advance of negotiations toward any treaties or international agreements, including Executive Agreements, which affect the well-being of the people of Guam.

(b) No military security zones shall be established and no foreign military personnel shall be stationed on the Island of Guam without approval of the government of the Commonwealth except in time of declared war, and no military bases will be established without consultation with the Governor of the Commonwealth of Guam.

The United States shall consult with the government of the Commonwealth of Guam with respect to any proposed plan to increase or decrease Department of Defense activities within the Commonwealth.

§ 303. United States Consular and Trade Assistance

(a)(i) The United States shall assist and facilitate the establishment by Guam of offices in the United States and abroad.

(ii) The United States shall assist the Commonwealth of Guam to become a member or participate in appropriate regional and other international organizations to include but not be limited to the South Pacific Forum, the regional organizations of the United Nations Specialized agencies, and the Asian Development Bank. Under such authority Guam shall be free to accept and grant financial and technical assistance to enter into bilateral and multilateral agreements to promote joint ventures private and public exchange programs, and to become a part to all agreements between and among foreign entities involving regional and subregional affairs. The Commonwealth may enter into agreements with sovereign states, and the poltiical entities resulting from the Trust Territory of the Pacific Islands, relative to reciprocal trade and tax questions and their application to the respective jurisdictions.

(b) The Government of the United States shall seek to obtain from foreign countries favorable treatment from the Commonwealth of Guam and will encourge other countries to consider the Commonwealth of Guam a developing territory.

§ 304. Nuclear Waste

(a) The United States shall not utilize the water surrounding the Commonwealth of Guam or the island for dumping or storage of nuclear waste.

(b) The United States shall clean up and make safe for human habitation all chemical waste dump sites used by the military in the past and at present, and shall not, at any time, use the island and the surrounding waters of Guam as a depository for hazardous chemicals in the future.

(c) The United States shall compensate, in a manner to be decided by the District Court of Guam, any person injured as a result of chemcial, nuclear, or other hazardous materials stored, used, or disposed of by agencies of the United States Government in the Commonwealth of Guam or its surrounding waters.

COMMISSION'S COMMENTS

Under this article, the United States will be responsible for and control the foreign affairs and defense of the Commonwealth of Guam.

Because of the extent to which the military presence of Guam can affect the socioeconomic balance of the island, this article pays particular attention to military activities on-island. The federal government is prohibited from establishing military zones in Guam, except in time of declared war. The origin of this particular provision emanates from the establishment of a security zone over Guam from 1945 to 1962. All movement of Guam and U.S. citizens to and from the island required military clearance, a restriction which stagnated the island's growth.

This article further prohibits the establishment of military bases without the consultation of the Commonwealth Governor. Additionally, the Commonwealth will have to be consulted whenever the United States plans to increase or decrease military activities on Guam. And, the United States agrees to consult with Guam before negotiating treaties or international agreements that affect the well-being of the people of Guam.

This article also requires the United States to help the Commonwealth set up and participate in trade, financial and other relations with foreign governments. The Commonwealth is allowed to give and receive financial and technical help, and can enter into agreements to promote investment and cultural exchange with foreign governments. Guam may also work out tax and trade agreements with other governments, including the new governments emerging from within the Trust Territories of the Pacific Islands.

Finally, the article prohibits the United States from dumping and storing hazardous chemicals and nuclear waste in Guam's surrounding waters. The United States is required to clean and keep safe all chemical waste dump sites used by the military in the past or at present. Anyone who is ever injured as a result of the storage or use of chemical, nuclear or any hazardous material by the federal government may be compensated for their injuries by the United States. This last provision is similar to one adopted in the Compacts of the Federated States of Micronesia and the Marshall Islands.

WETLAND VALUES AND STATUS

Only 50 percent of this nation's original wetlands remain. In our industrialized states, the loss is even greater. For example, less than one percent of Illinois' pre-settlement wetlands remain. Unfortunately, in more populated areas, those remaining wetlands are all too often located neither where we need them nor where we can best use them. They no longer exist upstream of homes subject to flooding because the very channelization that destroyed the wetlands created the downstream flooding. They have never served to filter the outflows from our industries or sewage treatment plants because our factories and municipal facilities front urban, concrete-lined waterways and rely upon costly treatment processes to satisfy the letter of the law. And only occasionally are wetlands situated where muskrat and beaver can be viewed at work by school children, where walleyed pike can spawn to fill a stream for surburban fishermen, or where our nation's rich environmental heritage can be appreciated by urban and rural America alike. Our scarce remaining wetlands serve as windows into the past . . . beautiful, vital, and with a lesson to teach us.

Wetland processes—flood storage, water quality improvement, ground water recharge, and fish and wildlife propagation—serve important national goals. By duplicating those processes, by engineering our landforms to reproduce the wetland model when and where we choose, we may well implement a new management strategy for solving water-related problems that outperforms our traditional strategies. The fact is that our existing water resource management strategies don't always work. And where they are effective, they cost too much for both private and public pocketbooks.

TRADITIONAL WATER RESOURCE MANAGEMENT STRATEGIES

What are those national goals toward which we manage our water resources? One set is recreational: fishing, swimming, streamside activities, and boating. And to those ends we have translated the "fishable/swimmable" goals of the Clean Water Act into chemical and physical water quality standards for our surface streams and lakes. We strive to meet those standards by regulating the outflow from the pipes that pour their wastes into surface waters. Since the 1972 passage of the Clean Water Act, over $200 billion of private and public monies have been spent to clean up discharge from pipes. If purity is the measure of success, we have succeeded since our advanced treatment technologies can purify wastewater to the point that it can be and has been drunk by proud political sponsors. But why do the vast majority of our agricultural and urban lakes and streams remain contaminated and degraded?

The problem may be obvious, but the solution is not. While we have moved a considerable distance in controlling our point sources and pipe flows, we have made little progress towards controlling the non-point sources—the runoff from farmers' fields and roads, urban streets, and parking lots. From these sources, contaminates are washed into our surface waters with every rainstorm; it is nature's inevitable way of cleaning house. Street cleaning machines may reduce the contribution from urban areas and conservation tillage may reduce that from agricultural areas, but such strategies will not bring us noticeably closer to that elusive "fishable, swimmable" goal. They simply cannot exert enough control.

COMMISSION'S COMMENTS

Article 4 grants Guam full control over its local court system. This article provides that the relationship between Guam's local court and the federal court system.

The Federal District Court of Guam would have the same powers as the federal courts in the fifty states. Appointment of the District Court Judge, United States Attorney and United States Marshal would be made by the President, with the advice and consent of the United States Senate.

This article essentially continues the most recent amendments to the Organic Act with two exceptions. First, the Act eliminates a recently added provision which provides a fifteen year "wait" period before appeals could be sent directly to the Supreme Court from Guam's appeals court. Guam has had its own courts since 1950 and its own court of general jurisdiction since 1974, and thus the recent changes in the Organic Act which are modelled after precedents in the Northern Marianas Covenants are considered inappropriate. Under this article, cases from Guam's highest court would be heard on appeal in the federal system in the same manner as state cases are heard.

Secondly, the article removes any option Guam may have in deciding whether to set up an appellate court. Under the Commonwealth Constitution, there will be a Guam appellate court and the Appellate Division of the District Court would cease to exist.

ARTICLE 5. TRADE

§ 501. Guam-United States Free Trade Area

(a) The Commonwealth of Guam will remain outside the customs territory of the United States, and no duty, tariff, and/or quota restrictions shall be collected by the United States. Economic, trade and commercial relationships between the United States and the Commonwealth of Guam shall be conducted within the framework of the free trade area between the United States and the Commonweath of Guam as established by subsection (b).

(b) The Commonwealth of Guam shall not impose duties, quotas, or other restrictions on products of the United States imported into Guam, nor shall the United States impose duties, quotas, or other restrictions on "products of Guam" imported into the United States, nor shall the United States treat products of Guam as having originated in any other country.

(c) The term "products of Guam" shall mean articles that contain at least thirty (30) percent value added in Guam. Value added includes:

(i) All actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training, and the cost of engineering supervisory, quality control, and similar personnel;

(ii) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise;

(iii) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the specific merchandise; and costs of inspecting and testing the specific merchandise.

(d) The Commonwealth of Guam may impose, increase, reduce or eliminate duties and other restrictions:

(i) on products that originate in any area outside the customs territory of the United States and that are imported into Guam; and

(ii) on exports from Guam, whether or not products of Guam.

(e) The Governor of Guam shall make a certificate that the origin of the products as defined in (c) above is the Commonwealth of Guam pursuant to the provisions of this Act. An agent of the United States Customs Service stationed on Guam shall then perform such customs inspections as are necessary for compliance with this Act and the appropriate laws of the United States. Upon completion of such inspection such products shall enter the United States without further inspection by the United States Customs Service.

(f) Nothing herein contained shall be construed to have any effect on any obligations or benefits accruing to the Commonwealth of Guam or the United States under the Generalized System of Preferences.

(g) Except as provided for in (b) above the Trade and Development Act of 1974 shall continue to apply to the Commonwealth of Guam.

COMMISSION'S COMMENTS

Under this article, Guam remains outside the customs zone of the United States. However, the article prohibits Guam or the United States from placing any duties, tariffs and/or quotas on the trade between each other. The intent is to establish "free trade" between the Commonwealth and the United States, just as there is between states, even though Guam would remain outside the customs zone of the United States.

The article also expands and makes permanent existing trade incentives given to Guam by the United States under a program known as "Headnote 3A of the Tariff Schedules of the United States" or more commonly known as "Headnote 3A". The intent is to make it easier for products made on Guam to reach U.S. markets.

In the past, despite the existence of the Headnote 3A program which is supposed to allow products of Guam to enter the United States without quotas and tariffs, the federal government has sometimes placed quotas on certain products manufactured or assembled on Guam (such as watches or textiles) that are shipped to the United States.

This article defines "products of Guam" as those products which have had at least *thirty* per cent of their value added in Guam. Under the current Headnote 3A program, a higher amount of fifty per cent of the value must be added on Guam. Thus, this article lowers the amount of value that must be added to a product on Guam in order for it to be exported to the United States without duties or quotas.

This article also defines and expands how value can be added to a product of Guam. Value can be added through the growing, production, manufacture or assembly of the particular product on Guam. The value added on Guam can also include costs from labor, research and development, design, machinery costs and testing in Guam. The ways in which Guam can add value to a product are broader than the existing provisions of Headnote 3A.

The Governor is given the authority to certify that a product has had the required value added on Guam and is therefore a product of Guam. A United States Customs agent stationed on Guam shall also verify compliance with this article and all other related federal trade regulations and laws. In the past, this certification process took place in the United States. Oftentimes, mainland custom officials were unfamiliar with the Headnote program and failed to certify compliance, leaving products stranded on the dock.

Finally, this article will also allow the Commonwealth of Guam to impose, increase, reduce or eliminate its own duties and restrictions on goods imported to or exported from Guam to other foreign countries. In addition it preserves all of the existing benefits that Guam now enjoys from participating in other foreign trade programs.

ARTICLE 6. TAXATION

§ 601. Mirrow Image Tax

(a) The income tax laws in force in the United States of America and those which may hereafter be enacted shall be held likewise in force in Guam.

(b) The income tax laws in force in Guam pursuant to subsection (a) of this section shall be deemed to impose a separate Commonwealth income tax, payable to the Government of Guam, which tax is designated the "Guam Commonwealth Income Tax."

(c) The administration and enforcement of the Guam Commonwealth Income Tax shall be performed pursuant to the laws of Guam. Any function needful to the administration and enforcement of the income tax laws in force in Guam pursuant to subsection (a) of this section shall be performed by any duly authorized officer or employee of the government of Guam.

(d)(i) The income tax laws in force in Guam pursuant to subsection (a) of this section include but are not limited to the following provisions of the Internal Revenue Code of 1954, where not manifestly or incompatible with the intent of this section: Subtitle A (not including chapter 2 and § 931); chapters 24 and 25 of Subtitle C, with reference to the collection of income tax at source on wages; and all provisions of Subtitle F which apply to the income tax, including provisions as to crimes, other offenses and forfeitures contained in Chapter 75. For the period after 1950 and prior to the effective date of the repeal of any provision of the Internal Revenue Code of 1939 which corresponds to one or more of those provisions of the Internal Revenue Code of 1954 which are included in the income tax laws in force in Guam pursuant to subsection (a) of this section, such income tax laws include but are not limited to such provisions of the Internal Revenue Code of 1939.

(ii) The Governor or his delegate or other official duly authorized to act under the laws of Guam shall have the same administrative and enforcement powers and remedies with regard to the Commonwealth of Guam Income Tax as the Secretary of the Treasury and other United States officials of the Executive Branch have with respect to the United States income tax. Rules and regulations required for enforcement of the Commonwealth of Guam Income Tax shall be prescribed to the laws of Guam. The Governor or his delegate or other official duly authorized to act under the laws of Guam shall have the authority to issue, from time to time, in whole or in part, the text of the income tax laws in force in Guam pursuant to subsection (a) of this section.

(e) In applying as the Commonwealth of Guam Income Tax the income tax laws in force in Guam pursuant to subsection (a) of this section, except where it is manifestly otherwise required, the applicable provisions of the Internal Revenue Codes of 1954 and 1939 shall be read so as to substitute "Guam" for United States," "Governor or his delegate or other official duly authorized to act under the laws of Guam" for "Secretary or his delegate," "Governor or his delegate or other official duly authorized to act under the laws of Guam" for "Commissioner of Internal Revenue" and "Collector of Internal Revenue" for "Collector of Internal Revenue," "District Court of Guam" for "District Court" and with other changes in nomenclature and other language, including the omission of inapplicable language, where necessary to effect the intent of this section.

§ 602. Enforcement Institutions

(a) Any act or failure to act with respect to the Guam Commonwealth Income Tax which constitutes a criminal offense under Chapter 75 of Subtitle F of the Internal Revenue Code of 1954, or the corresponding provisions of the Internal Revenue Code of 1939, as included in the income tax laws in force in Guam pursuant to this section, shall be an offense against the Government of Guam and may be prosecuted in the name of the Government of Guam by the appropriate officers thereof.

(b) The Government of Guam shall have a lien with respect to the Guam Commonwealth Income Tax in the same manner and with the same effect, and subject to the same conditions, as the United States has a lien with respect to the U.S. Income Tax. Such lien in respect of the Guam Commonwealth income tax shall be enforceable in the name of and by the Government of Guam. Where filing of a notice of lien is prescribed by the income tax laws in force in Guam pursuant to subsection (a) of this section, such notice shall be filed in the Office of the Clerk of the District Court of Guam or such other court as the Guam Legislature may provide.

(c)(i) The District Court of Guam shall have exclusive original jurisdiction over all judicial proceedings in Guam, both criminal and civil, regardless of the degree of the offense or of the amount involved, with respect to the Guam Commonwealth Income Tax.

(ii) Suits for the recovery of any Guam Commonwealth Income Tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, under the income tax laws in force in Guam, pursuant to subsection (a) of this section, may, regardless of the amount of claim, be maintained against the Government of Guam subject to the same statutory requirements as are applicable to suits for the recovery of such amounts maintained against the United States in the U.S. District Court of Guam with respect to the United States Income Tax. When any judgment against the Government of Guam under this paragraph has become final, the Governor shall order the payment of such judgments out of any unencumbered funds in the Treasury of Guam.

(iii) Execution shall not issue against the Governor or any officer or employee of the Government of Guam on a final judgment in any proceeding against him for any acts or for the recovery of money exacted by or paid to him and subsequently paid into the Treasury of Guam, in performing his official duties under the income tax laws in force in Guam pursuant to subsection (a) of this section, if the court certifies that probable cause existed, or such officer or employee acted under the direction of the Governor or his delegate or other official duly authorized to act under the laws of Guam. When such certificate has been issued, the Governor shall order the payment of such judgment out of any unencumbered funds in the Treasury of Guam.

(iv) A civil action for the collection of the Guam Comonwealth Income Tax, together with fines, penalties, and forfeitures, or for the recovery of any erroneous refund of such tax, may be brought in the name of and by the Government of Guam in the District Court of Guam or in any district court of the United States or in any court having the jurisdiction of a district court of the United States.

(v) The jurisdiction conferred upon the District Court of Guam by this subsection may be subject to transfer to any local court by the Legislature of Guam.

§ 603. Rebate of Taxes

The Government of the Commonwealth of Guam may by local law provide for the rebate or reduction of any taxes received by it in order to assist new industries coming to Guam or to assist Guam's economic development.

§ 604. Guam Income Tax Authority

(a) The Commonwealth of Guam shall have the power to determine under the laws of Guam the nature and amount of taxes imposed upon the income and property of persons within its jurisdiction, from whatever source derived.

(b) The income tax established in § 601(a)–(e) of this Act shall be repealed one year following certification by the Chief Executive of Guam that Guam has enacted into law a comprehensive local income tax to replace that set forth in § 601 (a)–(e). Upon this repeal the income tax laws of the United States, except for Chapters 2 and 21 of the Internal Revenue Code of 1954, shall not be applicable to Guam or to the persons within the jurisdiction of Guam who have met their tax obligations imposed by the laws of Guam.

§ 605. Bonds Tax Exemption

All bonds or other obligations issued by the Commonwealth of Guam or by its authority shall be exempt, as to principal and interest, from taxation by the Government of the United States, or by any State or Territory or any political subdivision thereof, or by the District of Columbia.

COMMISSION'S COMMENTS

Under this article, the Commonwealth of Guam will have the full power to develop its own income tax system. Under current law, federal tax laws apply on Guam in the same way (that is, in "mirror image") that they apply in the states, except that all income tax revenue is given back to Guam instead of being kept by the federal government. The current mirror image system will remain in effect until one year after the Commonwealth has enacted its own comprehensive tax law and implemented its own tax system.

The article also does the following: (1) It gives the Commonwealth greater authority to rebate (give back) or lower any local tax, in order to promote economic development. (2) It transfers complete judicial authority from the federal District Court to the Commonwealth Superior Court. The article also insures that bonds issued by Guam would remain tax free within the United States.

The intent of the article is to give Guam the autonomy and the flexibility to design an income tax system that is appropriate for a small island economy located in the Asia-Pacific area. With the present "mirror" system, changes in federal tax law automatically apply on Guam. While those changes may work well for a large federal tax system, they sometimes fail to provide the same benefits to an island revenue and tax base.

Present federal law has given Guam the option to write its own tax system, subject to federal government approval. Under this article, no federal approval is required.

ARTICLE 7. IMMIGRATION

§ 701. Guam Immigration Authority

(a) The Congress recognizes that Guam is a small and densely populated insular Commonwealth with limited infrastructure and resources, that it is that portion of the United States which is in closest proximity to nations of Asia and the Pacific which supply a large proportion of the immigrants coming to the United States, and that significant numbers of such immigrants have in recent years chosen to make Guam their home, and that the admission of substantial additional numbers of immigrants to Guam threatens to produce a severe impact on the limited infrastructure, health, education, housing, and other services available in Guam. Congress therefore further recognizes that there is a necessary and compelling need henceforth to limit the number of persons permitted to immigrate to Guam, and therefore:

The Commonwealth of Guam shall have the authority to control entry of all aliens into the Commonwealth of Guam to include the admission, exclusion, and expulsion of such aliens.

(b) The Immigration and Nationality Act and federal regulations applicable thereto, shall remain applicable to Guam for two (2) years from enactment of this Act. The Commonwealth of Guam shall, within the two (2) year period of this subsection, enact a comprehensive law on immigration for Guam, such law to become effective at the end of the said two-year period. Enactment of local law by the Legislature of Guam under this authority, and the actions of the Commonwealth of Guam pursuant to such authority shall be duly coordinated with the Immigration and Nationality Service, the Department of Labor, and the Department of State.

(c)(i) Such actions by the Commonwealth of Guam shall not impair the free movement of U.S. citizens to and from Guam.

(ii) Such authority shall not include naturalization of aliens for U.S. citizenship.

(iii) The Governor of Guam shall continue to have the authority to issue U.S. passports within existing regulations.

(iv) Entry of aliens into Guam under the authority of Subsection (a) above, shall not affect, either favorably or unfavorably, an alien's entry to any other part of the United States. Article 7 shall not preclude a person who previously has been lawfully admitted for permanent residence in the United States and who is otherwise admissible from being readmitted in Guam upon return to the United States.

(d) Guam shall not be considered as a port of entry for the entrance into the United States of aliens lawfully admitted for permanent residence into the United States except as provided for in subparagraph (b) or in those cases where the Governor of Guam has made labor determination.

§ 702. Guam-Only Visa

United States consular officials, and other officials authorized to issue visas for entry into the United States, are authorized to issue visas for travel only to the Commonwealth of Guam for any alien seeking to enter Guam as a non-immigrant in order to encourage investors and tourists to come to Guam. Regulations governing the issuance of such visas shall be coordinated with the Governor of Guam. Such regulations shall consider the points of origin, duration of permitted stay, the means by which the aliens could alter visas to permit entry into the United States, and other appropriate conditions to assure the regulation serves the best interests of the Commonwealth of Guam. The United States and the Commonwealth of Guam shall adopt appropriate measures for the implementation and the enforcement of this section upon or after entry of the aliens into Guam.

COMMISSION'S COMMENTS

Because of Guam's small size and its geographic location, it is this article's intent to allow the Commonwealth to have an immigration policy that is separate from that of the United States, and that would take into account Guam's limited resources, unique history and cultural mix. Under this article's provisions, the Commonwealth government will have complete control over the immigration of aliens to Guam.

The transfer of immigration control from the federal government to the Commonwealth will occur two years after the Commonwealth Act becomes law. The implementation of the Commonwealth's new immigration law will require the proper coordination with the relevant federal agencies.

Under this article, the Commonwealth cannot restrict the free movement of American citizens to and from Guam, nor can the Commonwealth naturalize aliens for United States citizenship. However, Guam will no longer serve as a port of entry into the United States for the purposes of attaining U.S. citizenship. Immigrants wishing to become naturalized American citizens will have to enter other parts of the United States to satisfy federal residency requirements.

The Commonwealth Governor will continue to be able to issue American passports under existing regulations. In order to encourage tourists and investors to come to Guam, visas for entry into the Commonwealth only (Guam-only visas) can be issued, subject to regulations determined by Guam and the federal government.

ARTICLE 8. LABOR

§ 801. Federal Employment

In all vacancies in the federal Civil Service occurring in Guam, residents of Guam possessing the requisite standards of age, health, character, education, knowledge, and experience shall be given preference over transfers of persons from off Guam or the recruiting of persons from outside Guam.

§ 802. Guam Labor Laws

Except and to the extent prohibited by Congress, the Commonwealth of Guam shall have authority to enact and enforce all laws regulating or affecting employment in the Commonwealth. All applicable laws of the United States which [illegible] effective date of this ment [illegible] remain applicable to Guam until replaced as to their applicability to Guam by duly enacted law of the Guam Legislature.

COMMISSION'S COMMENTS

Except to the extent Congress would prohibit, the power to enact and change laws regulating or affecting employment in Guam will be transferred to the Commonwealth government. In addition, the article requires preferential treatment for qualified local residents in obtaining federal civil service jobs on Guam. All of the present federal laws regulating employment matters will remain in effect, until the Commonwealth changes them.

[illegible] ides for increased involvement [illegible] the determination and im- [illegible] ecting employment. Because of the island's proximity to Asian and Pacific labor markets, there is a need for flexibility in designing competitive yet responsible employment laws.

ARTICLE 9. TRANSPORTATION AND TELECOMMUNICATIONS

§ 901. Maritime Shipping

(a) No provision of the laws of the United States, including, without limitation, the vessel documentation laws of the United States, shall apply to prevent the U.S. registration of, and use of, any foreign built vessel (including vessels engaged in towing, barges, dredges, vessels or boats leased, rented, or chartered to another for any use, including, without limitation, vessels used to take out chartered fishing and diving parties or sightseeing tours) for any purpose whatsoever within the internal waters, harbors, territorial sea and adjacent Exclusive Economic Zone around Guam.

(b) The shipment of fish or fish products from Guam to any coastwise point of the United States shall not be subject to the coastwise laws of the United States.

(c) The application of the coastwise laws of the United States to Guam pursuant to 46 USC 883 shall be periodically examined by the Commission to determine, mutually, the desirability of the continued applicability of such laws to Guam. Such determination by the Commission shall be based solely on the criteria of whether such laws or any or a part thereof as applied to Guam constrain Guam's economic development and, if such a determination is made, the Commission shall recommend such laws should not continue to apply to Guam. Provided: so long as the coastwise laws apply to Guam the United States Government shall be responsible for ensuring adequate and reliable cargo service between Guam and the United States as determined mutually in the Commission.

§ 902. Airlines

(a) The Governor of Guam shall have the authority to sponsor any qualified air service carrier to come to Guam subject only to presidential consultation concerning articulated foreign policy and national defense interests of the United States. The Commonwealth of Guam shall be exempt from all bilateral treaties between the United States and foreign states with respect to scheduling and to technical specifications of aircraft, other than safety requirements, for foreign or U.S. charter passenger flights to and from Guam where such flights originate from foreign jurisdictions. This provision shall not be applied in such a manner as to impair regularly scheduled passenger and cargo flights from any of the several U.S. States and Territories to and from Guam.

(b) The Commonwealth of Guam shall remain an "eligible point" for purposes of being ensured essential air transportation under applicable provisions of the Federal Aviation Act of 1958, as amended by P.L. 98-213, Section 10, with passenger and other service to be scheduled to provide regular and satisfactory delivery of postal mail and cargo to and from the United States.

(c) In addition to any other requirement in compliance with federal law for new, additional, or changed routes, U.S. domestic air carriers shall obtain the concurrence of the Governor of Guam on any application filed for such service to Guam.

§ 903. Telecommunications

The Commonwealth of Guam shall be defined as domestic for the purposes of setting rates in telecommunications by the Federal Communications Commission.

COMMISSION'S COMMENTS

The intent of this wide ranging article is to address long standing economic constraints to the expansion of Guam's economy. Certain federal laws and regulations which govern shipping, air service, and telecommunications service to Guam are relaxed and in some cases removed.

First, this article allows the use of foreign-built boats for any purpose in the Commonwealth's surrounding waters only. This article also allows for the United States registration of these foreign-built boats. The intent of this article is to make it easier for Commonwealth residents to purchase, register and use foreign-built boats in Guam's waters. Foreign-built boats can often be less expensive, particularly small boats which can be used for fishing and tourist related activities.

The "Coastwise Shipping Laws" of the United States currently require the shipment of all cargo, fish and fish products between Guam and the United States only on ships that fly the United States flag. This article would remove these restrictions for the shipment of fish and fish products only. The removal of these restrictions could make it easier and cheaper to send fish and fish products off-island.

In addition, the article requires the review of all other shipping laws by the Joint Commission established in Article 2. If the Joint Commission decides that these laws have a negative impact on Guam's economic development, it can recommend changes. However, as long as the federal coastwise laws apply to Guam, the United States shall continue to guarantee reliable cargo and shipping service between Guam and the United States.

In similar fashion, Article 9 would allow the Commonwealth of Guam to determine on its own whether or not foreign air carriers can service the island. Because of Guam's thriving tourism industry, the article is intended to encourage increased air flights between Guam and foreign countries, and to allow those decisions to be made by the Commonwealth instead of the United States. The Commonwealth, however, will have to consult with the President of the United States to insure that foreign carriers that are allowed to come to Guam do not violate national security interests.

In addition, Guam would remain eligible for the "essential air service designation" by the United States to insure that regular passenger and cargo service betweeen Guam and the United States is always maintained. Furthermore, airline carriers serving Guam must consult with the Governor before adding to or changing existing routes.

Finally, the Commonwealth would be considered "domestic" by the Federal Communications Commission for the purpose of setting rates for telecommunications (such as telex, telephone, satellite and undersea cable transmissions) between Guam and the United States. Guam's designation as a "domestic" location could lower the cost of telecommunications.

ARTICLE 10. LAND, NATURAL RESOURCES AND UTILITIES

§ 1001. Authority Over Land and Resources

(a) The government of the Commonwealth of Guam shall have power of eminent domain over property within the Commonwealth in accord with the Constitution of Guam.

(b) The Commonwealth of Guam shall have jurisdiction over all living and nonliving natural resources of the seabed, subsoil, tidelands, and adjacent territorial waters, as defined by the United States law, of the Island of Guam. The Commonwealth shall exercise rights to determine the conditions, including pollution control, and terms of all scientific research, management, exploration and exploitation of all ocean resources and all sources of energy and prevention of pollution within the 200-mile Exclusive Economic Zone, including pollution originating outside the zone that poses a threat within the zone.

(c) The United States may, upon written notice to the government of the Commonwealth of Guam, acquire for public purposes in accordance with federal laws and procedures, any interest in real property in the Commonwealth only by voluntary means, under such terms and conditions as may be negotiated by the parties. The United States will continue to recognize and respect the scarcity and special importance of land in the Commonwealth of Guam. If the United States must acquire any interest in real property, it will follow the policy of seeking to acquire only the minimum area necessary to accomplish the public purpose for which the real property is required, of seeking only the minimum interest in real property necessary to support such public purpose, and of seeking first to satisfy its requirement by acquiring an interest in public rather than private real property. No interest in real property on Guam will be acquired by the United States unless duly authorized by the Congress of the United States and for which appropriations are available.

(d) The United States agrees not to exercise within the Commonwealth the power of eminent domain except in time of war and then only to the extent necessary and in compliance with applicable United States and Commonwealth of Guam laws, and with full recognition of due process required by the Constitutions of Guam and the United States.

(e) The Commonwealth of Guam is exempt from the federal regulations governing the transfer or sale of excess federal real property. All excess real properties of the United States on the Island of Guam released after establishment of the Commonwealth will be conveyed in fee simple to the government of the Commonwealth of Guam without any condition, limitation or reversion clause in said conveyance.

(f) All lands heretofore transferred to the government of Guam by the United States are released from any and all provisions limiting the use of such land, and are conveyed in fee simple.

§ 1002. Transfer of Excess Federal Real Property

(a) All real property, including undeveloped land and developed recreational facilities, controlled or owned by any United States military service or federal agency on Guam and not necessary for direct and continuous operational, logistical, or security use as a military facility or other federal function shall be transferred as excess federal real property to the Government of Guam. Provided: All national parks, historical sites, monuments, and cemeteries shall be exempt from this provision. Such transfers will be, whenever possible, at no cost to the people of Guam, or, when appropriate, at cost no higher than the valuation of the property at the time of original acquisition by the federal authority, regardless of any subsequent alterations or additions to the property. Final determination of which federal real property is excess to federal needs, and the authority to mandate prompt and fair transfer to the Government of Guam by the federal proprietor, shall be with the Joint Commission after consultations with the proprietor.

§ 1003. Access to Federal Property

(a) All recreational facilities, and all historical and archaeological sites on real property retained under federal civil or military authority shall be open to access and use by the residents of Guam so long as military security requirements are not compromised.

(b) Except where prevented by military security requirements, easements for roadways or other means of public access through property retained under federal civil or military authority shall be granted the Government of Guam when such easements constitute the only practicable means of land access by the Government of Guam or the public to localities within the jurisdiction of the Government of Guam.

(c) The Joint Commission shall determine, after consultation with the general proprietor, which federal recreational facilities and which easements over federal property shall be open to the Government of Guam and to the general public on Guam and the manner of access.

§ 1004. Authority Over Utilities

Within ninety (90) days after the enactment of this Act, the United States shall transfer to the Commonwealth of Guam all rights, title and interest possessed by the United States in the island's power, water, sewer, and other utility systems, except for those portions of the systems which are located within the confines of property owned by the United States and which are used solely for the purposes of the United States, and which do not serve or impact upon the normal operations of the island's utility system. The Government of the Commonwealth of Guam may decline to accept any portion of such utilities which it believes would act as a detriment to effective use of the utilities it owns. The United States shall provide access for the Commonwealth of Guam, or its agents, to all utilities and transmission lines which the Commonwealth owns on federal property on Guam.

COMMISSION'S COMMENTS

This article expands Guam's authority over its land and water resources, in order to maximize and control the island's economic resources. Such authority would include management of all natural resources within a 200 mile Exclusive Economic Zone.

First, the Commonwealth is given the power of eminent domain in accord with the Commonwealth Constitution.

But because land is a precious and scarce commodity on Guam, this article allows the federal government to acquire land in either one of two ways. During peacetime, the United States, after giving written notice to the Commonwealth, may acquire land for valid public purposes only through negotiations with the land owner. If the United States must acquire land for a public purpose, it must try to use only the minimum amount necessary and should first try to obtain public instead of private land. The federal government can also exercise its power of eminent domain to acquire land during times of war, but only in full accordance with the United States and Commonwealth constitutional "due process" requirements.

All federal land and facilities, except for national parks, historical sites, monuments and cemeteries, which are not being used for direct and continuous operations by a military facility or a federal agency shall be transferred as excess federal property to the Commonwealth. The return of these lands and facilities shall be without restriction on their use and at no or the original cost. This clause amends present federal law requirements that land returned to Guam be purchased at fair market value.

The Joint Commission will determine what federal land is to be considered excess after consultation with the federal government. Recreational, historical and archaeological sites held by the military would be made accessible to the public as long as military security is not threatened.

Finally, all federal utilities which are part of an island-wide system would be transferred to the Commonwealth 90 days after this Act becomes law. The Commonwealth would also have access to utilities it owns that are located on federal property.

ARTICLE 11. U.S. FINANCIAL ASSISTANCE

§ 1101. Return of Taxes and Fees

All customs duties and federal income taxes derived from Guam, the proceeds of all taxes collected under the internal revenue laws of the United States on articles produced in Guam and transported to the United States, its Territories, or possessions, or consumed in Guam, and the proceeds of any other taxes which may be levied by the Congress on the inhabitants of Guam (including, but not limited to, compensation paid to members of the Armed Forces and pension paid to retired civilians and military employees of the United States, or their survivors, who are residents of, or who are domiciled in, Guam), and all quarantine, passport, immigration, and naturalization fees collected in Guam shall be covered into the Treasury of Guam and held in account for the Government of Guam in accordance with the annual budgets except that nothing in this Act shall be construed to apply to any tax imposed by Chapter 2 or 21 of the Internal Revenue Code of 1954.

§ 1102. Equal Finance for Guam Citizens With States

The laws of the United States providing federal benefits and financial assistance and which have a general application to the several States shall be applicable to Guam, including Section 228 or Title II and Title XVI of the Social Security Act (Supplemental Security Income). The formula for granting such financial assistance to Guam and its residents shall be the same as the formula applied to the several states and their residents unless such formula cannot, on its face, be applied to Guam or it is specifically stated to the contrary in this Act.

§ 1103. Return of Economic Zone Fees

The Commonwealth shall have paid to the Treasury of Guam all licensing and other fees obtained by permitting foreign vessels to fish or other exploitation of the 200-mile Exclusive Economic Zone of Guam.

§ 1104. Federal Payment

(a) The Governor of Guam, in preparing an annual budget for the Government of the Commonwealth of Guam, shall develop meaningful expenditure and revenue comparisons based on data supplied by

Bureau of the Census and

ent, reliable sources and

of cost and benefits

from the un

the nation's principal military bastions in the Far East despite its small size. The results of the studies conducted by the Governor under this subsection shall be made available to the Guam Legislature and to the Federal Office of Management and Budget for their use in reviewing and revising the Governor's request with respect to the level of appropriation for the annual federal payment to the Commonwealth of Guam. Such federal payment should operate to encourage efforts on the part of the Government of Guam to maintain and increase its level of revenues and to seek such efficiencies and economies in the management of its programs as are possible.

(b) The Governor, in studying and identifying the costs and benefits to Guam brought about by its role in the nation's national security, should to the extent feasible, among other elements, consider:

(i) Revenues unobtainable because of the relative lack of taxable commercial and industrial property;

(ii) Revenues unobtainable because of the relative lack of taxable business income;

(iii) Potential revenues that would be realized if exemptions from Guam taxes were eliminated;

(iv) Net costs, if any, after considering other compensation for tax base deficiencies and direct and indirect taxes paid, of providing services to organizations and corporate offices doing business only with the Defense Department;

(v) Recurring and nonrecurring costs of unreimbursed services to the Defense Department;

(vi) Recurring and nonrecurring costs of unreimbursed services rendered Guam by the Defense Department; and

(vii) Relative tax burden on Guam residents compared to that of residents in other jurisdictions in the Pacific.

(c) The Governor shall submit his request, with respect to the amount of an annual federal payment, to the Guam Legislature. The Guam Legislature shall by act approve, disapprove, or modify the Governor's request. After the action of the Legislature, the Governor shall, by December 1st of each calendar year, in accordance with the provisions in the Budget and Accounting Act, 1921 (31 U.S.C. 2), submit such request to the President for submission to the Congress. Each request regarding an annual federal payment shall be submitted to the President seven (7) months prior to the beginning of the fiscal year for which such request is made and shall include a request for an annual federal payment for the next following fiscal year.

§ 1105. Transition Assistance to the Commonwealth

The Government of the United States in order to assist Guam to make the political and economic transition to Commonwealth agrees to assist the Commonwealth of Guam as follows:

(a) The United States agrees to:

(i) finance the costs of institutional changes connected with the change in Guam's political relationship with the United States, to include staff, contracts, and referendum costs of the Guam Commission in Self-Determination;

(ii) help meet the capital needs of Guam, in accordance with the following section, necessary to Guam's long-term, self-sustaining development; and

(iii) establish an economic development fund to assist expansion of the private sector.

(b) There is hereby authorized such sums as may be necessary to implement a long-term capital improvement program approved by the Congress permitting the Commonwealth of Guam to establish an infrastructure base adequate for development of the private sector and to strengthen the utility of Guam for U.S. national security purposes.

Guam shall submit a plan for Congressional approval showing the total amounts proposed, the distribution of funds by projects, phases, or programs with an assessment of needs, costs, benefits and provision of local funds where available. The capital improvement plan shall take into account all related economic development projects and plans by the Commonwealth of Guam.

(c) There is hereby authorized a revolving fund to establish an Economic Development Fund on Guam with authority to assist in the financing of the private sector needs of Guam in its efforts to achieve a higher standard of living for its people as members of the American community and to develop the economic resources needed to meet the financial responsibilities of local self-government. To this end, the Economic Development Fund is authorized to provide financial and other assistance to increase investments (including loans, tax incentives, guarantees and equity capital) and to start or expand commercial businesses on Guam in order to provide employment and ownership opportunities for the residents of Guam. Participation by private banks and savings and loan institutions in the Economic Development Fund shall be encouraged. Funds shall be made available to the Economic Development Fund by Congress after the following conditions have been met:

(i) The submission of a set of procedures to Congress for the participation of private lending institutions and for the processing of applications for assistance, indicating the role of the Economic Development Fund's staff, outside consultants, and board review, and to guide reviewers in making assistance and determining eligibility.

(ii) Submission of an economic development plan, to be updated annually, by the Governor of Guam to Congress, showing the proposed amount, the proposed distribution of the funds, and the terms on which the funds will be made available. Such plan will take into account any capital improvement projects and other programs related to economic development. The funds granted to the Economic Development Fund shall be a revolving fund, available to the Economic Development Fund until expended.

(iii) The Economic Development Fund shall be headed by a five-member Board of Directors with financial experience for fixed terms and selected by the Governor of Guam. The Economic Development Fund shall issue a public and audited report annually, setting forth the administrative and programmatic developments for the year with full disclosure of the utilization of its funds, the recipients of its assistance, and the applications in process.

COMMISSION'S COMMENTS

The main purpose of this article is to give the Commonwealth authority to request annual compensation for the ongoing use of Guam's land and public infrastructure by the federal government, including those lands used by the United States military. The proposal in this article is based on a similar federal law which authorizes an annual federal payment to the District of Columbia (47 D.C. Code 3405 (1981.).

The reasoning behind this proposal is that federal government activities use about one-third of Guam's prime land, which cannot now be taxed. This amount of federal land use limits Guam's ability to use this land and its supporting infrastructure, roads, power, and water systems. Furthermore, this land is then unavailable for economic growth and development.

Under this article, the Governor would conduct an annual study. This study would analyze the positive and negative economic impact resulting from the federal presence on Guam and Guam's role as a strategic military post in the Far East. Based on this study, the Governor would then request an amount of federal payment. The Legislature would have to enact legislation which would approve, disapprove, or modify the Governor's request. The request would then be sent to the President seven months prior to the next federal fiscal year for submission to Congress.

In addition, the article continues the present practice of returning to Guam all federal income taxes collected from the wages of federal employees of Guam, as well as all other duties and fees collected by the federal government on Guam. It also provides Commonwealth residents with the same access to federal benefits and assistants as is allowed for the states. Presently, many federal programs available to the states are inadvertently not extended to the territories.

This article also requires that the United States assist the Commonwealth in paying for the costs associated with its change in political status, including the costs of any referendums that might be held. The Commonwealth shall also submit a plan to Congress detailing the long term capital improvement needs of the island. The Congress is authorized to provide the funding for this plan in order to help Guam's economic development and to strengthen Guam's role in national security.

A new Economic Development Fund shall replace an existing fund for the purpose of stimulating private investment in the Commonwealth. An economic development plan would have to be approved by Congress. The fund would be managed by five directors who are appointed by the Governor.

In summary, Article 11 would provide considerable financial help to the Commonwealth over a long period of time. The amount of aid would be subject to justification and negotiations with the federal government, after the Commonwealth is established.

ARTICLE 12. TECHNICAL AMENDMENTS AND INTERPRETATION

§ 1201. Interpretation and Jurisdiction

(a) It is the intention of Congress that this Act provide complete internal self-government for the Commonwealth of Guam and, to that end, that this Act be interpreted liberally to accomplish that purpose.

(b) When ruling upon the laws of the Commonwealth, the courts of the United States shall give the same deference to the laws of the Commonwealth as they give to the laws of the several States. Jurisdiction to interpret the provisions of this Act is vested in appropriate courts of the United States and in the local courts of Guam.

§ 1202. Continued Effectiveness of Local Laws

The laws of Guam in force on the date of enactment of this Act, except as amended by this Act, are hereby continued in force, subject to modification or repeal by the Legislature of Guam.

§1203. Acts Repealed and Continued

(a) All laws or parts of laws inconsistent with this Act are hereby repealed to the extent of such inconsistency.

(b) Upon the enactment of this Act, the following sections of the Organic Act of Guam (Act of August 1, 1950, 64 Stat. 384), as amended are repealed: Sections 1, 2, and 3; fourth sentence of Section 11, Sections 25, 27, 33, and Section 34.

(c) Upon the effective date of the Constitution adopted by the people of Guam, the following provisions of the Organic Act of Guam (Act of Aug. 1, 1950, 64 Stat. 384), as amended, and in effect at that time, are repealed: Sections 5 (a) through (t), 6, 7, 8, 9, 9-A, 10; the first three sentences of Section 11; Sections 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 22A, 22B, 22C, 22D, 24, 26, 29, 30, and Section 31.

(d) The following sections of the Organic Act of Guam (Act of Aug. 1, 1950, 64 Stat. 384), as amended, shall continue in force and shall be deemed to be a part of this Act: Section 5(u), beginning at the fifth sentence, all the remainder of Section 11, 21-A, 24-A, Section 28 as modified by Article 10 of this Act; 32, and Section 35.

(e) Public Law 94-584 (90 Stat. 2899), as amended, is repealed as it affects Guam.

§1204. Effective Date of the Guam Commonwealth Act

This Act, upon approval by Congress, shall be submitted to the registered voters of Guam for ratification through a plebiscite to be held in accordance with the laws of Guam. This Act will become effective upon the approval of this Act by a majority of the voters who participate in such plebiscite, and at that time, except as provided in §1203 of this Act, the Organic Act of Guam, August 1, 1950, 64 Stat. 384, shall be repealed.

COMMISSION'S COMMENTS

Section 1201 of this article directs that the courts give this Commonwealth Act a "liberal interpretation" to effectuate the whole intent of the Act. This is new ground in that, heretofore, the courts have given as narrow as possible a reading to powers of self-government for Guam. Further, the courts are directed to treat Commonwealth laws with the same "deference" given to state laws, also somewhat new ground as the courts have had a tendency to invalidate territorial laws on less stringent grounds than they invalidate state laws.

Section 1202 continues existing local laws, except where such may be inconsistent with the Act, and allows their subsequent modification by the Legislature.

Section 1203 repeals those portions of the Organic Act (most of it) which become obsolete with the passage of this Act. The repeal is done in stages. Those portions of the Organic Act which have immediate replacements in this Act, or which become immediately obsolete, are repealed upon enactment. Those portions of the Organic Act which create the government of Guam and provide for civil government are continued until the effective date of the Constitution, so that there is no lapse in local government. Those portions of the Organic Act dealing with the applicability of the Bill of Rights, land claim matters, the Guam Delegate to Congress, purchases through the federal GSA, and land transfer laws are all continued in effect except as they may have been modified by provisions of this Act.

Existing federal law authorizing a Guam Constitution is repealed as to Guam only. Differing provisions for a constitution are found in this Act, and that former Act is contrary to the whole idea of this Act, inasmuch as it requires a continuation of the status quo in federal-Guam relations.

THE BILLS ARE COMING IN ON TOSHIBA AND KONGSBERG

Mr. HELMS. Mr. President, on page 197 of the February issue of the highly respected Swiss publication International Defense Review is an article entitled "Update IV Avionics to Counter Quiet Submarines." According to that article, the latest generation of Soviet nuclear ballistic missile submarines "radiate only about 4 percent as much noise as the previous generation of Russian SSN's." That is a jump of 25 times in noise suppression from one generation of a submarine to the next.

Historically, improvements in weapons systems are incremental, not by quantum leaps. So the question is obvious: How did it happen that the Soviets were able to make such awesomely sudden and totally unexpected improvements?

Sadly, Mr. President, we know how it happened. Toshiba and Kongsberg betrayed the Western alliance for $21 million. That is what they got out of it, $21 million. They sold the Soviets the numerically controlled industrial robots the Soviets needed to quiet their submarine propellers. As I speak on the floor of this Chamber on Friday afternoon, these 250-ton, three-story machines are grinding Soviet submarine propellers at the Baltic Naval Shipyard in Leningrad.

The International Defense Review article goes on to note that the U.S. Navy has contracted with Boeing for a prototype of an updated antisubmarine warfare patrol plane. Price of the prototype—$244 million. If the prototype proves to be successful, the Navy intends to purchase 140 more of the production version. Price of the 140 units—$830.1 million. Total price of the prototype and the production—$174.1 billion.

Mr. President, Toshiba and Kongsberg have just picked the pockets of the American taxpayers for more than $1 billion. And this is just for one patrol plane, mind you. Bills for other aircraft, sonor buoys, electronic equipment, and hunter-killer submarines are going to be coming due in the next few years. The total cost of the Toshiba/Kongsberg betrayal will undoubtedly be tens of billions of dollars. Nobody knows how much it will cost.

Who is going to pay for this travesty, Mr. President? The perpetrators—Toshiba and Kongsberg—or the American taxpayer? Unfortunately, I think we know the answer to that.

Last June 30 the Senate by a vote of 92 to 5 passed the Garn-Helms amendments to the trade bill H.R. 3. Included within those amendments was a provision intended to indemnify the American taxpayer for breaches of national security. H.R. 3 is at this time in conference. This week the Senate conferees sent over a generous compromise which maintains the indemnification clause but goes a long way toward ensuring that the sanctions stipulated by the distinguished Senator from Utah, Senator Garn, have only a limited effect on American citizens.

So I think it is a fair conclusion that the American people will watch with interest whether the conferees believe that the perpetrators should pay for their crimes or whether the victims should pay for the opportunity of being betrayed by Japanese and Norwegian businessmen.

Mr. President, I ask unanimous consent that the article to which I alluded earlier be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Update IV Avoinics to Counter Quiet Submarines

The Update IV version of the Lockheed P-3C *Orion* will be about five times as likely to detect a typical modern Soviet submarine as the in-service Update III variant, according to Boeing Aerospace Company. The improvement is necessary to counter threats such as the *Sierra*-class boat, which is said to radiate only about 4 percent as much noise as the previous generation of Russian SSNs. Compared with the Update III fit, Update IV has 2.5 times the throughput of acoustic data, eight times the bulk data-storage capacity, 30 times as much display memory and about five times the MTBF, resulting in a 97-percent probability of the aircraft completing its mission.

The US Navy plans to buy 205 Update IV systems over six years: 80 for retrofiting in the earlier P-3C Update II model, and 125 for the proposed LRAACA (Long-Range Air ASW-Capable Aircraft). The Update IV package will replace all the major avionic systems currently fitted in P-3C Update IIs, thereby reducing the number of configuration in the US Navy's *Orion* fleet from five to two. In July 1987, Boeing received a US Naval Air Systems Command contract worth $244 million for full-scale engineering development of Update IV. The company is due to deliver a prototype in mid-1990 and could start modernising the existing fleet of *Orions* a year to 18 months later. Boeing's contract includes four firm-fixed-price options, totalling $830.1 million, for production of 140 systems from 1991.

The distributed processing system uses a large number of Motorola 68020 32-bit microprocessors, and employs VLSI/VHSIC technology to reduce power consumption and weight. The software is written in Ada, requiring about 836,000 lines of source code. The powerful processing permits the use of multi-sensor correlation and data fusion to provide greater track accuracies. Boeing has already demonstrated a multi-sensor tracker that combines ESM, radar and acoustic data. Artificial-intelligence programs can be incorporated later.

Dual Maxibus high-speed, high-bandwidth buses are used in the data-processing and display portion, with a separate MIL-

STD-1553B bus for system control. The Maxibus is loaded to only 29 percent of its capacity, permitting further expansion in the future, and can handle 192Mbit/s in its burst mode. The five operator stations are derived from the UDACs (Universal Display And Control System), which Boeing has supplied to upgrade six P-3Bs of the Royal New Zealand Air Force. UDACS has so far accumulated more than 10,000h in service, with no failures that caused a mission to be aborted.

The AT&T AN/UYS-2 EMSP (Enhanced Modular Signal Processor) in the Update IV can handle signals from 54 DIFAR sonobuoys simultaneously, via an AN/ARR-76 receiver and control unit, and can operate with new types of buoy such as the AN/SSO-75 ERAPS (Expendable Reliable Acoustic-Path Sonobuoy) and HLA (Horizontal Line Array). The high-volume recording system can accept data at 30Mbit/s for 7.4h.

The Texas Instruments AN/APS-137 radar for Update IV uses ISAR (inverse synthetic-aperture radar) techniques to classify ships at significant ranges, providing targeting information for *Harpoon* anti-ship missiles. The radar is complemented by an An/AAS-36 infrared detection set. The General Instrument AN/ALR-66(V)5 ESM equipment has a greater resolution and wider frequency coverage than its predecessors, and is effective against more advanced threats. A satellite communications link will provide Update IV aircraft with access to databases held in battle groups, and a *Navstar*/GPS receiver will complement the standard inertial-navigation/*Omega* fit.

HUMAN RIGHTS IN EAST TIMOR

Mr. HARKIN. Mr. President, the U.N. Human Rights Commission is currently meeting in Geneva, and among the topics on its agenda is the situation in the former Portuguese colony of East Timor. In late 1979, East Timor drew the world's attention when photos of sick and starving people—as heart rending as those later seen in Ethiopia—came into public view. The plight of East Timor at that time was caused by Indonesian military operations, designed to stamp out resistance to Jakarta's occupation of East Timor. And while the conditions the world saw at that time were ultimately addressed by relief operations, the problems of East Timor have by no means ended. Indeed, as I have stated before, the world owes a special debt to people who have somehow managed to survive such a catastrophe.

The East Timor problem may not be as visible now as it was in 1979 and 1980. But many reliable accounts make it clear that significant Indonesian military operations continue, and with them, suffering among East Timor's rural population. This suffering is not as dramatic as it once was, partly because few outsiders are allowed by the Indonesian military to witness the situation in outlying areas. Respected groups like Amnesty International, Asia Watch, and the Catholic Insititute for International Relations have been prevented by the Indonesian military from visiting East Timor altogether.

In recent months 40 U.S. Senators petitioned Secretary of State Shultz to do more about the East Timor situation. The U.N. Human Rights Commission has its own obligation as well—namely, to help insure that the rights of the inhabitants of East Timor are respected. That East Timor is a small and relatively unknown territory makes it all the more important for the U.N. Commission to take action.

For the benefit of my colleagues, I request that excerpts from Asia Watch's August 1987 testimony to the United Nations be included in the RECORD. These excerpts directly address questions of great humanitarian importance discussed above.

The material follows:

EXCERPTS

At this point, Asia Watch would like to reiterate some of our specific concerns that arise from the conflict in East Timor. We refer to our statement to the Special Committee in 1986, which is relevant to the current situation:

"Reports [Asia Watch] has received indicate an exceptionally high mortality rate among children between the ages of one and five in the Baucau regin of East Timor. And according to our information, this problem is not limited to the Baucau region. We appeal both to the government and to responsible international organizations to facilitate the proper nutritional and medical care for people in need as quickly as possible. We also urge the Indonesian government to grant full access for agencies seeking to address these problems."

To its credit, the Indonesian government subsequently addressed some, but not all of the concerns that we expressed last year with regard to certain food and medical problems. However, recently received reports suggest that concerned observers may have underestimated the extent and complexity of humanitarian problems in the territory, which have continued. Information Asia Watch has obtained points to severe problems of malnutrition and disease amongst the Timorese population in the strife-ridden eastern and central regions of East Timor and other areas of military conflicts. Exacerbating these problems is the Indonesian policy of restricting the movement of Timorese farmers and others, thereby making normal crop production—let alone anything approaching prosperity and well-being—impossible. Moreover, there are persistent accounts of an Indonesian policy of transmigration of Indonesian settlers to East Timor, a policy that is reliably reported to have resulted in the monopolization of much of East Timor's most fertile land by these transmigrants. (We also note that the international legal status of East Timor raises the most serious questions about the legality of the policy of transmigration.) Again, under these circumstances, international humanitarian access to areas of need is essential. The Special Committee as well as concerned governments should urge the Indonesian government to permit such access for a wide range of international humanitarian organizations, only some of which have thus far gained even limited access to East Timor.

Asia Watch believes that the nutritional and medical problems of the East Timorese population should be speedily addressed, and appeals to all parties of good will to facilitate entry of international humanitarian agencies into each and every affected area of East Timor.

Mr. JOHNSTON. Mr. President, it is my hope that when the Senate reconvenes after the forthcoming recess debate can begin on H.R. 1414, the House bill extending the Price-Anderson Act. We need to pass extension legislation as soon as possible.

The Price-Anderson Act provides needed protection for the public in the event of catastropic nuclear accident. The authority for federal government to enter into new contracting or licensing arrangements incorporating Price-Anderson coverage expired on August 1, 1987. So enactment of extension legislation is overdue.

There are a number of issues that will be debated later this month. Certain of these issues are discussed in letters received from the administration over the last few weeks. These letters may be of interest to my colleagues as they prepare for the debate to come. Accordingly, I ask unanimous consent that the following documents be inserted in the RECORD at the conclusion of my remarks:

A fact sheet on extension of the Price-Anderson Act prepared by the staff of the Committee on Energy and Natural Resources.

A letter date February 18, 1988, from Secretary of Energy John S. Herrington.

A letter dated February 26, 1988, from Secratary Herrington and Secretary of Defense Frank C. Carlucci.

A letter dated March 3, 1988, from Secretary Herrington and Attorney General Edwin Meese III, and

A letter dated March 3, 1988, from Secretary Herrington.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXTENSION OF THE PRICE-ANDERSON ACT

Authority under the Price-Anderson Act expired on August 1, 1987. Legislation to reauthorize Price Anderson may be considered by the Senate as early as next week. Price Anderson, first enacted in 1957, provides a system of public compensation for victims of a catastrophic nuclear accident. Reauthorization is necessary to protect the public and prevent disruption in vital national security activities.

H.R. 1414, to reauthorize Price-Anderson, was passed by the House on July 30, 1987 by a 396-17 vote. The Committee on Energy and Natural Resources and the Committee on Environment and Public Works, the committees of jurisdiction in the Senate, have each reported legislation to extend Price-Anderson (S. 748, Calendar No. 166, and S. 1865, Calendar No. 435). The two Committees have agreed to use H.R. 1414 as the floor vehicle for consideration of Price-Anderson in the Senate. The two Committees believe that taking up the House bill, H.R. 1414, would be the most straightforward and effective approach to consideration of this issue.

BACKGROUND

The Price-Anderson Act was enacted in 1957 with two primary objectives:

To provide a sure source of compensation for victims of a catastrophic nuclear accident regardless of who was at fault in causing the accident. Under Price-Anderson, liability after an accident is assumed to rest with the facility operator, even though other parties such as subcontractors or suppliers might be liable under conventional tort principles. This "omnibus," no fault system permits a more unified and efficient approach to processing and settlement of claims, thus allowing quick compensation to the public from the pool of funds set up by Price-Anderson. In the case of a catastrophic accident, defendants are required to waive traditional legal defenses, which helps to assure prompt recovery by victims. All that victims must prove in court is the extent of damage.

To encourage private sector development of nuclear power for commercial use and private contractors' involvement in national security activities of the Department of Energy by placing an aggregate limit on liability and by providing a public compensation scheme up front. A limit on liability is considered necessary for continued private sector participation in nuclear programs. It is very unlikely that a responsible contractor operating a DOE facility would put all of its corporate assets at risk for a contract that represents a relatively small part of its overall business.

KEY ELEMENTS OF THE PRICE-ANDERSON COMPENSATION SYSTEM

Since first enacted in 1957, the Price-Anderson compensation system has evolved from a system of primarily federal indemnification for all nuclear activities to the current combination of federal indemnity for DOE contractor activities and a compensation pool/self-insurance type arrangement for NRC licensees operating nuclear power plants. Federal indemnity for NRC licensees was phased out by amendments to Price-Anderson in 1975 and replaced with a self-insurance pool-type arrangement consisting of private insurance and after-the-fact assessments (called retrospective premiums), up to an established limit, charged to each power plant operator. For DOE contractors, the system of federal indemnity has remained in place. In the event that damages from a nuclear accident exceeded the overall limit on liability, Price-Anderson would require Congress to review the situation and determine what action should be taken to make additional funds available to compensate the public.

NATIONAL SECURITY ACTIVITIES COVERED BY PRICE-ANDERSON

The majority of the DOE contractors now covered by Price-Anderson are engaged in activities related to the nuclear weapons complex or other national security activities. Those activities covered by Price-Anderson include building the reactors that power the nation's nuclear navy; developing research and satellite programs, and participating in the work related to DOE responsibility for nuclear weapons production.

In addition, Department of Defense contractors engaging in nuclear-related activities would, in most cases, be covered indirectly by Price-Anderson. DOD does not have the authority to put a Price-Anderson clause in its contracts. However, since a nuclear reactor, weapon, or fuel necessary to cause a catastrophic accident should be covered by a DOE contract containing Price-Anderson, the omnibus coverage of the Act should extend to anyone who causes the accident.

PENDING LEGISLATION: KEY PROVISIONS OF H.R. 1414

H.R. 1414 would amend the Price-Anderson Act to replace the existing limit on liability—currently about $700 million for commercial power plants and $500 million for DOE contractors—to about $7 billion (with an adjustment for inflation over time). H.R. 1414 also extends for 10 years the Department of Energy's authority to provide federal indemnity to its contractors under Price-Anderson up to the $7 billion limit.

NEED FOR EXTENSION OF DOE'S AUTHORITY UNDER PRICE-ANDERSON

The need for extension of the Price-Anderson Act is most apparent as it relates to indemnification of DOE contractors. Absent a renewal of Price-Anderson, compensation for public damages would still be available under existing law up to the $700 million limit in the case of an accident at a commercial nuclear power plant. In the case of DOE contractors, however, Price-Anderson indemnification provisions exist only as a part of current contracts. When the Price-Anderson Act expired in August 1987 DOE lost its authority to indemnify contractors in new or renewed contracts. Any existing indemnity agreements, therefore, will expire at the end of the term of the current contracts.

Four major DOE contracts have been renewed without Price-Anderson indemnification since its August 1987 expiration, using indemnity authority under Public Law 85-804. This alternative is not adequate, however. P.L. 85-804 does not provide the omnibus "no fault" coverage available under Price-Anderson. Coverage under P.L. 85-804—and, hence, federal funds for compensation—would only be available where an accident was caused by the contractor that is party to the indemnity agreement. Hence, litigation would likely ensue over who is the responsible party. In addition, under P.L. 85-804, the government is only obligated to pay claims that it decides after the fact are just and reasonable. In general, indemnification under P.L. 85-804 provides a less desireable, less predictable insurance method from the standpoint of compensation to the public for damages from a nuclear accident.

Under P.L. 85-804, indemnity covering claims for damage to government or contractor-owned property, but not liability for damages to the public, would be denied in the case of gross negligence on the part of a contractors' principal official.

PROPOSED AMENDMENTS ON SUBROGATION

Several Senators have indicated they intend to offer a subrogation amendment to address the so-called "contractor accountability" issue. Such an amendment, which would require the Attorney General to sue a contractor after an accident to recover the damages if the accident resulted from "gross negligence or willful misconduct," would totally undermine the Price-Anderson system. In theory, this amendment is intended to make contractors more "accountable" for their actions by threatening large financial exposure in the case of an accident. In fact, such an amendment would make the Price-Anderson scheme for compensation of the public unworkable.

Similar amendments were defeated in the House.

The major arguments against subrogation follow:

SUBROGATION UNDERMINES THE CONCEPT OF PROMPT VICTIM COMPENSATION

Amendment will inevitably foster litigation that would interfere with the primary purpose of Price-Anderson to compensate the public quickly.

Gross negligence and willful misconduct are legally imprecise terms.

Amendment would set up a potential conflict between the government and contractors since contractors would have to be leery of the potential of being sued by the government for gross negligence or willful misconduct. This would create a significant increse in transaction costs and likely extended delays in payments to victims. (Under the existing Price-Anderson system, the federal government would represent the contractor in court after an accident.)

Contractors who might be subject to a claim under the amendment will have to litigate to minimize the amount the public recovers in order to reduce their own exposure.

Contractors will challenge the Act's requirement that they waive legal defenses in any case where they are going to be subject to government recovery.

Litigation will occur over which contractor or subcontractor was grossly negligent or engaged in willful misconduct and over which contractor or subcontractor is, therefore, liable to reimburse the government for sums paid the public.

The central element of the Act—the omnibus, no fault coverage with liability channelled to the facility operator—will be totally undermined. A prime contractor will not be willing to accept this channeling of liability for a potential accident in advance if he must be concerned about being used by the government after the fact.

THERE IS NO EVIDENCE THAT SUBROGATION WILL ENHANCE SAFETY

There is no evidence that such an amendment would enhance safety or that such an amendment is necessary to deter contractors from irresponsible action. In fact, the facilities in question have an enviable safety record. Less than $1.5 million has been paid in claims against the federal government since inception of Price-Anderson.

It is disingenuous to pretend that the threat of punishing contractors will provide an incentive for safety. In fact, the responsibility for this rests with DOE and the Congress. The control over facilities, the budget for safety improvements, and the management policies belong to DOE and Congress. If the physical plant is unsafe, the first place to look for the reason why is to DOE and Congress. These institutions have the responsibility to provide the funds and the direction to maintain standards. The contractors themselves are not free to make the business decisions on what hardware or safety improvements might be needed or appropriate.

The argument is made that four contracts have been signed since August 1987 without Price-Anderson indemnity, using instead the indemnification authority under P.L. 85-804. Those in favor of subrogation state that the indemnity coverage under P.L. 85-804 has an exception for "gross negligence"; thus, contractors should be willing to accept a similar exception in Price-Anderson coverage. This argument is not accurate. Under P.L. 85-804, only indemnity covering claims for damages to government or contractor-owned property would be denied in the case of gross negligence on the part of a contractors' principal official. There is no such exception for "gross negligence" in effect for compensation for damages to the public.

AMENDMENT THREATENS THE STABILITY OF NATIONAL SECURITY ACTIVITIES

Responsible contractors have made clear that without Price-Anderson indemnification for all work performed on DOE nuclear contracts, they will leave the business. Most contractors involved with the Defense Department's nuclear activities have also had Price-Anderson coverage indirectly. The same is true for contractors who build the nuclear navy. DuPont has notified DOE that it will not renew its contract at Savannah River—one reason cited was the threat of corporate assets that might be imposed by this type of amendment.

The certainty Congress intended to establish for these crucial national security projects will be wholly undermined.

THE SECRETARY OF ENERGY,
Washington, DC, February 18, 1988.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I understand that the Senate may soon consider H.R. 1414, legislation reauthorizing Price-Anderson liability coverage. The Administration strongly supports H.R. 1414 as passed by the House. I am writing to reaffirm the urgent need for this legislation and to underscore particular concerns the Administration has with certain proposed amendments.

Reauthorization of Price-Anderson is critical to the future availability of nuclear power as an energy supply option for this country and is vital to continued private sector participation in government-sponsored research and national defense activities. It ensures that in the unlikely event of an accident, victims will be compensated on a swift and reliable basis, providing the financial protection that is essential if nuclear power is to play its crucial role in the areas of energy security and national defense.

I am concerned, however, that amendments may be offered that would compromise these objectives by attempting to address issues unrelated to the underlying thrust of the Price-Anderson Act.

One area of special concern involves safety oversight of the Department's atomic energy defense facilities. I fully appreciate the importance of ensuring the safe operation of these facilities. Through recent experience with outside oversight panels, the Department has demonstrated the value of such bodies in accomplishing this purpose. As a result of this experience, and in response to a recommendation of the panel from the National Academy of Sciences, I recently established a continuing oversight organization, the Advisory Committee on Nuclear Facility Safety. The Committee will provide the Department with valuable independent safety advice and will contribute significantly to the safe operation of these sensitive facilities. Because of the recent establishment of this advisory body, the creation of another safety oversight body is unnecessary. The new panel should be given an opportunity to fulfill its responsibilities. Moreover, consideration of independent oversight is outside the scope of Price-Anderson objectives. Renewing this system of swift compensation should not be delayed or endangered by the insertion into Price-Anderson legislation of the issue of a new safety oversight organization. The careful balancing of safety and national security necessary in considering the oversight issue should be undertaken separately.

I also understand that an amendment may be offered that would make the United States liable for claims above $7 billion and pay them out of the Judgment Fund administered by the U.S. Treasury. This amendment not only would undermine long-established rules governing liability under the Federal Tort Claims Act, it also would subject the Government to liability for the actions of private parties who are not acting at the Government's direction. In the unlikely event that an accident occurs involving damage in excess of $7 billion, Congress should tailor a compensation program based on a full review of the facts and circumstances at the time of a nuclear accident.

It is also my understanding that a subrogation amendment may be offered. I would oppose vigorously such an amendment, which would discourage and compromise the working relationships between the Department and its contractors. These contractors engage in special working relationships with the Department to operate Government-owned facilities that are vital to our national security. These relationships are founded on an understanding that the interests of the Department and its contractors are largely inseparable.

Current and potential contractors have indicated a new level of uncertainty about the risks and costs of entering into contracts with the Department. These contractors are concerned with the possible inclusion of broad subrogation provisions in the contract. I firmly believe that including such provisions would jeopardize the availability of future contractors and thus threaten the Department's ability to carry out its national defense responsibilities. Although three contractors have accepted a limited subrogation provision in indemnification agreements entered into with the Department since Price-Anderson "expired" last August, these provisions are substantially less burdensome than the subrogation provisions that have been proposed in legislative amendments.

Finally, as the Department of Energy and the Department of Justice have previously stated, we are opposed to any provision that would further subject the Government to liability by permitting suits against the Secretary of Energy as if he were a contractor. The issue of Government liability is a sensitive one and the balance between providing compensation in tort cases while enabling the Government to perform its duties freely was struck long ago in the Federal Tort Claims Act. Changing the rules of Government liability would represent a major departure from existing law, upsetting well established principles that have governed this area of law for years.

It is my hope that the Price-Anderson Act, which was passed to enable the orderly development of nuclear power and ensure its availability for research and national security needs, can be reauthorized. I could not support, however, counterproductive provisions that would discourage contractors from operating facilities that are critical to the national interest, or provisions that would upset the basic institutional framework of Price-Anderson which has served the Nation well for decades. Therefore, I would recommend disapproval of legislation that included the proposed amendments I have described in this letter.

Yours truly,

JOHN S. HERRINGTON.

FEBRUARY 26, 1988.

Hon. ROBERT C. BYRD,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR BYRD: As the Senate considers H.R. 1414, legislation to reauthorize the Price-Anderson Act, we want to underscore the importance to the national security of passing this needed legislation in its current form, unencumbered by amendments.

Price-Anderson liability coverage, which expired last August, is crucial to the continued availability of outstanding contractors to operate nuclear facilities vital to our national defense. These contractors perform services that are critical to the maintenance of our defense capabilities. We are concerned that amendments could be offered to H.R. 1414 that would impose burdens on these contractors that could discourage the commencement or continuation of their contractual relationships with the United States.

The Department of Energy has continued to seek contractors with an established history of competence, excellence and financial responsibility to operate vital defense facilities. Some of these entities have indicated that their services are contingent on the availability of Price-Anderson coverage, which enables them to provide services in the national interest at little or no profit.

We are concerned specifically that this situation could affect negotiations for a new contract for the operation of the Savannah River Plant. A new contractor must be selected with negotiations beginning this Fall. We must be able to contract with a firm maintaining standards of quality similar to those of the plant's current operator, duPont. This task, however, has been made more difficult by the expiration of Price-Anderson, a factor that duPont cited as a consideration in its decision not to seek to renew its contract to operate the Savannah River facility. It is crucial that Price-Anderson legislation be enacted in its current form without the imposition of amendments that could only impair the availability of contractors of the highest quality to operate our facilities.

Congress has invested a great deal of time and effort to produce legislation that we believe accomplishes traditional Price-Anderson objectives. We urge the Senate to complete its work on this measure expeditiously, resisting the attachment of amendments that, no matter how well intended, could risk severe consequences to the quality of our national defense capabilities.

Yours truly,

FRANK C. CARLUCCI,
Secretary of Defense.
JOHN S. HERRINGTON,
Secretary of Energy.

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, March 3, 1988.

Hon. QUENTIN N. BURDICK,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

Hon. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR CHAIRMEN BURDICK AND JOHNSTON: Last December, when it appeared that the Senate might take up reauthorization of the Price-Anderson Act, we sent you a letter expressing the firm intention to recommend a veto of S. 1865 if it were to be presented to the President proposing use of the Judgment Fund to pay claims above the $7 billion liability level in the unlikely event of a major nuclear accident. It is our understanding that the substance of S. 1865 will be offered as an amendment to H.R. 1414 when the Senate takes up the House-passed reauthorization bill. We are writing you this letter to reiterate once more the Administration's adamant opposition to such an amendment, and to emphasize our determination to recommend a veto if such a scheme is presented to the president as part of a Price-Anderson Act reauthorization bill.

As stated in the Department of Justice's December letter, the use of the Judgment Fund to pay the tort liability of NRC licensees or Department of Energy contractors above the Price-Anderson liability cap is not only a radical departure from the existing Price-Anderson Act, but constitutes an extraordinary and wholly unacceptable misuse of the Judgment Fund. It would distort the traditional purpose of the Judgment Fund—to pay for the injuries caused by the negligence of the federal government—by using the Fund to subsidize the liability of private parties. In addition, the joinder of the Attorney General as a party defendant in such tort litigation would require a massive investment by the Department of Justice of personnel and another litigation resources that are simply not available. Accordingly, the liability scheme proposed by this amendment is both ill-conceived as a matter of public policy and, as a practical matter, completely unworkable.

We are particularly struck by the inappropriateness of this amendment in light of current Congressional attempts to reduce the budget deficit. It should be clear that the proposed amendment could expose the United States to literally tens of billions of dollars of liability exposure over which neither the Legislative nor the Executive Branch might have much control. In this regard, it is both unfortunate and troubling that the Senate has not considered, or attempted to resolve, the many constitutional issues that would be raised if the Congress tried to limit federal expenditures once litigation is filed or judgments are entered against the United States under the liability scheme proposed by the amendment. There would be an obvious irony in the Senate passing legislation creating such massive and potentially uncontrollable budgetary exposure at the same time it is struggling to find ways to limit federal spending.

For the above reasons, were a Price-Anderson Act reauthorization bill presented to the President which included the proposed amendment described above, the undersigned and other senior advisors to the President would strongly urge that such legislation be vetoed. The Office of Management and Budget has advised that there is no objection to the presentation of this report to the Congress, and that this proposed amendment is not in accord with the program of the President.

Sincerely,
JOHN S. HERRINGTON,
Secretary of Energy.
EDWIN MEESE III,
Attorney General.

THE SECRETARY OF ENERGY,
Washington, DC, March 3, 1988.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to provide more detail on and underscore the Department's concerns regarding an amendment that may be offered when the Senate considers H.R. 1414, a bill which would reauthorize Price-Anderson indemnity coverage for the Department's nuclear contractors. Several Senators have expressed an interest in offering a subrogation amendment that, if enacted, would create a large exception to the indemnity provided Department of Energy contractors. The Department strongly supports passage of H.R. 1414 without amendment.

Price-Anderson was designed to provide a means of swift compensation to the public by establishing a no-fault liability determination in the unlikely event of a catastrophic nuclear accident. Exceptions to indemnity based on degree of fault could result in significantly more extensive litigation, undermining the speedy recovery that is such an essential element of the Act.

Our contractors engage in special working partnerships with the Department to operate government-owned facilities vital to our national security. Our interests are largely inseparable, and placing the Department in an adversarial relationship with these entities would lessen safety and diffuse accountability. Several current and potential contractors have indicated they would not sign a contract containing the subrogation provision now being proposed. Indeed, in some cases, they will not renew any contract with the Department, at least in part, because of the high degree of risk and uncertainty this issue has raised for them.

Although the August 1, 1987, expiration of Price-Anderson forced several of the Department's contractors to renew their contracts under the terms and conditions of P.L. 85-804, this should not be construed to mean that Price-Anderson is unnecessary or that the proposed amendment is acceptable. Each of these contractors reluctantly agreed to accept the P.L. 85-804 indemnity, with the exception mandated by the implementing Executive Order, based on the belief that new Price-Anderson authority would be enacted and their contracts would then come under the Price-Anderson umbrella. If H.R. 1414 were enacted, section 4 would require that the Department provide Price-Anderson coverage in all existing nuclear contracts, including those now containing P.L. 85-804 indemnities.

I firmly believe that safety at Departmental facilities should be a top priority and I have instituted several initiatives to improve and enhance the safe operation of our nuclear facilities. Creating broad exceptions to the financial protection provided will jeopardize the Department's efforts to retain contractors of the highest caliber. Thus, the Department's ability to carry out its national defense responsibilities would be threatened.

Thank you for your efforts in securing passage of renewed Price-Anderson authority and I urge speedy passage of H.R. 1414 without amendment.

Yours truly,
JOHN S. HERRINGTON.

A TRIBUTE TO RONALD ALLBEE

Mr. LEAHY. Mr. President, through the years, it becomes more and more apparent to me that choosing the right aide for the right job is perhaps the single most important decision a Senator makes. I know many of you will be campaigning back home this year and your stump speech will remind voters of your reputation for making sound, clear-headed judgments in a crisis.

Another translation could be that a respected aide substituted substance for your own natural instincts to put your foot in your mouth, and you made some sense.

Ronald A. Allbee, of Brattleboro, served as my agricultural liaison with Vermont dairy farmers with such success that Gov. Madeleine Kunin appointed him Vermont's Agriculture Commissioner. As much as I regretted his leaving, I was pleased to see Ron's authority extended to guiding the programs that may very well determine Vermont's future as a small, family, dairy farm State.

The appointment also enhanced the Governor's reputation for recognizing leadership qualities and putting them to work for Vermont.

The enclosed story from one of Vermont's leading newspapers, the Rutland Daily Herald, reports on Ron's first year as commissioner, and gives him an A-plus on the job.

I ask that this story, that appeared in the January 1, 1988 issue of that publication, be printed in its entirety in tribute to this good friend and former aide who has served Vermont so well.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AGRICULTURE DEPARTMENT'S IMAGE POLISHER

(By Susan Harlow)

BRATTLEBORO.—Ronald A. Allbee is spending his holiday at home in Brattleboro, doing carpentry on his son's bedroom.

It's a sort of a busman's holiday for Allbee, 42, who has worked hard to mend fences for the state Agriculture Department since he was named commissioner a year ago.

The brouhaha over ousted agriculture development head Barbara Monti, low staff morale, the lingering sourness over turkey stained green by department labels—none of these did much for the department's image which had suffered under the previous commissioner, Paul Stone.

But farmers and others say that Allbee's biggest achievement during his first year has been to boost department morale and polish its image.

"Allbee has come in like the fire department to throw some water on it and he's done that real well," said Stephen Kerr, executive director for the legislative committee of Northeast Farmer Cooperatives. "The question is: what will year two look like?"

"His public relations efforts in the agricultural community and his attempts to explain the agricultural issues to the public probably are some of his major strengths," said Georgia farmer George Dunsmore, who was agriculture commissioner from 1981 to 1985.

Allbee is quick to claim that the state has not dawdled in helping its farmers in 1987.

Vermont has increased markets for its farm products and promoted healthy dairy cooperatives, he said. The Current Use Value program is giving several million dollars in property tax relief to farmers and

Vermont Industrial Development Authority loans for coops ultimately help farmers, Allbee said.

He also pointed to a new certification program for organic growers and stricter controls on pesticides.

The agriculture department, which ended up with the state's smallest budget increase this year, would get an 8 percent raise next year under Kunin's recommendation, he said.

The proposed budget, a little over $3 million, includes increases of $100,000 for development, which got $45,000 this year, $80,000 more for vehicles and other equipment, and $60,000 more to help pay for a new computer system, Allbee said.

But the year may bring a new image brushfire for Allbee. Vermont farmers are wondering why his boss, Gov. Madeleine M. Kunin, has just suddenly noticed that they are in bad economic straits and called an "emergency meeting" three weeks ago to help dairy farmers. Yet she has seemed unwilling to put much money where her mouth is, farmers complain.

Vermont lost 53 farms in 1987, yet only $3 million has been earmarked for purchase of farmland preservation, and only $2 million for a laggardly agricultural loan program.

Nor does the state have much control over agriculture's destiny anyway, farmers grumble. Milk prices are regulated by the federal government and costs are affected by market factors beyond their control, they say.

But Allbee is irked by such talk. "When farmers say the state can't do something about agriculture, I say, no, it can do something," he said.

He ticked off the list of issues he plans to work hard on in the coming year. U.S. Sen. Patrick Leahy's regional milk pricing plan tops it. "People might scoff and wonder if it's going to become a reality but one of my duties is to work very hard on it," said Allbee, who left a job as Leahy's agriculture adviser to take his present post. An economist has just been hired; her first job will be to work on that issue, he said.

Working with dairy cooperatives to pry increased milk price differentials out of the U.S. Department of Agriculture comes second.

Allbee said he wanted to make sure the Regional Cooperative Marketing Association, the 11-state dairy cartel recently resurrected, works. He also wants to expand the state's agricultural development efforts.

During this year's Legislature, the department plans to back efforts to increase weight limits for trucks on state highways—a move that could save as much as 20 cents per hundred weight for milk haulers, he said. Help for high farm utility bills is also on the agenda.

And a joint bill drafted by Allbee and the commissioners of forests and parks, and natural resources will give towns a way to prioritize their agricultural land and take it out from under the scrutiny of Act 250's criteria 9(b), he said.

Allbee said he expected Kunin to funnel more money into the Vermont Land Trust to fund the purchase of development rights, although he did not know how much yet. He said he would like to see it beefed up by $20 million or $30 million.

Kunin hopes to form an export panel that would help Vermont get federal money and expertise in exporting farm goods, he said.

The son of a Brookline farmer, Allbee knows about the development pressures facing farmers. The state should buy development rights of farms and take a careful look at where it builds highways, sewers, utilities and other infrastructure, he said.

On a trip through Franklin County last week, every farmer he met asked him, "What's going to happen to Vermont in the future?" he said.

"I look at what's happening in Vermont, and there's some opposition to the concerns we have," he said. "But if we don't do something today, what are those same people going to say in 10 years when Vermont's going to be a honky-tonk? I don't want a honky-tonk Vermont."

JOHN TURNEY DAVIE

Mr. FORD. Mr. President, I would like to take this opportunity to pay tribute to John Turney Davie, who has served as chairman of the Fulton County Democratic Party since 1954.

Turney has been a good friend and loyal supporter over the years, and he has had a distinguished career of service to the Commonwealth of Kentucky and the Democratic Party. A Democrat and a farmer, he was elected Fulton County Sheriff in the fall of 1949 and served from 1950 to 1953. In addition, he was elected the Young Democratic Chairman of Fulton County in 1950.

After leaving the Sheriff's office, Turney began working for the Kentucky Revenue Department as an Alcoholic Beverage Control Agent. His record of public service has included a stint as Rural Road Supervisor of Fulton County as well, and since 1967 he has been listed in "Who's Who in American Politics." Other honors include having been listed in the "National Register of Prominent Americans" and the third edition of "Notable Americans."

Turney's support has meant a great deal to me, and I wish to convey my deepest gratitude to him for his dedicated service to the Commonwealth. I am proud to say that he is a Kentucky Colonel through and through.

SUCCESSFUL NATO SUMMIT

Mr. LEAHY. Mr. President, today I would like to do something I do not often have occasion to do—congratulate President Reagan for skillful handling of a major national security matter.

According to reports from Brussels, President Reagan and other allied leaders have just completed a highly successful summit. The entire alliance made clear its support for and endorsement of the INF Treaty, and the President restated in unmistakable terms this country's security commitment to Europe.

Removal of a few hundred missiles from Europe does not affect the reality of that commitment in the least. U.S. interest in a strong, free, and prosperous Western Europe arises from a recognition that we dare not allow a region of such immense economic, technological, military, and human resources to be controlled by a hostile power.

That is why we fought two world wars, and why, nearly 45 years after the end of World War II, we keep over 300,000 American troops in Europe. That is why President Reagan said we would keep those troops there as long as they are needed and wanted.

I want also to congratulate the President for avoiding a new controversy in the alliance over modernizing battlefield nuclear weapons which will remain even under the INF Treaty. When I returned from meetings with allied leaders in Europe in January, I was concerned that the administration would, in its eagerness to show the INF Treaty does not weaken the alliance, put great pressure on the allies to make quick decisions on specific force improvements. There were signs the administration was going to try to get the West Germans to agree right now to allow deployment of an extended-range Lance missile.

The Germans made quite clear to me and to others that they are not ready to make such controversial and politically difficult decisions now. They and other allies want NATO to carry out a careful study of future steps in arms control and defense improvements before any new decisions are made.

Accounts from Brussels indicate that is exactly what the NATO summit agreed to do. If correct, I applaud the willingness of the administration to act with such sensitivity to the concerns and views of our allies.

When I returned I worked with my foreign policy advisor, Eric Newsome, to prepare a report for the Senate. We also prepared a report for the press and I ask unanimous consent to include an article we wrote for the Los Angeles Times entitled, "Don't Stampede NATO To Win INF Converts," and published February 8, 1988.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Feb. 8, 1988]

DON'T STAMPEDE NATO TO WIN INF CONVERTS

(By Patrick Leahy)

The Senate of the United States has begun hearings on the treaty signed in Washington last December by President Reagan and General Secretary Mikhail S. Gorbachev to eliminate all intermediate-range missiles from the superpower arsenals. The debate will be difficult and far-ranging. Some senators will try to impose conditions on the treaty that could make it unacceptable to the Soviets or even harmful to the NATO alliance.

To deflect such efforts by conservatives, mainly in its own party, the Administation may unfortunately plant the seeds of the next major security crisis in the alliance. It is already pressing for an alliance commitment to modernize short-range nuclear weapons, including extending the range of the Lance battlefield missile so that it will reach deep into Warsaw Pact territory, and arming NATO nuclear-strike aircraft with stand-off missiles.

The Administration understandably wants to show that removal of the intermediate-range missiles does not weaken NATO's nuclear deterrent, and to convince skeptical conservatives in the Senate that the alliance has the political will to deploy new nuclear weapons.

But in so doing, the Administration is pushing NATO, especially West Germany, where most of these nuclear weapons are based, toward a very dangerous controversy about nuclear deterrence.

I just returned from talks on the INF treaty with senior allied and NATO leaders and American officials in Europe. From those talks, three things became clear:

The allies solidly support speedy ratification of the INF treaty and would regard delay or ratification with unacceptable conditions a major political and military disaster for the alliance.

The most serious issue question facing the alliance is what its next steps should be to maintain a political and military equilibrium in Europe. There is as yet no agreement, and indeed there is deep concern that the United States may push its partners into divisive and highly visible debate over force improvements—above all, nuclear modernization—before they have time to build public support.

Despite political risks and financial constraints, our European partners are prepared to join us in improving conventional forces and even in carrying out some modernization of remaining nuclear forces. But they need to work out these decisions carefully, and in the context of an overall NATO strategy that combines further steps in arms control with force improvements.

Everyone in the alliance agrees that the next priority after the INF treaty is ratified is to conclude a START agreement cutting the strategic arsenals by 50%. Beyond that, there simply is no consensus on what to do next.

Several of the allies believe we should make negotiations on reductions in Soviet conventional-force advantages and a ban on all chemical weapons the next priorites of the alliance. They want a pause in any further moves on nuclear forces in Europe. The goal is a stable military balance at lower levels of both conventional and nuclear forces—not the denuclearization of NATO. Nuclear deterrence is an essential and integral part of NATO's flexible response strategy.

Our German partners have a somewhat different perspective on next steps. Most of the remaining nuclear weapons are on their territory—and more important, because of their short range most would explode on German soil if used. German public opinion is increasingly anti-nuclear. Thus, Germans from across the political spectrum believe that the alliance must move promptly into talks on the rest of nuclear weapons based in Europe.

Therein lies the extraordinarily sensitive alliance management issue facing the United States, to whom all the allies look for leadership.

What is called for now is restraint on all sides so that the alliance is not forced into a premature debate on what it should do next.

The Administration should not pressure the Germans to agree immediately to specific programs to modernize shortrange nuclear systems. The Germans, for their part, should not seek to rush the alliance into talks on reducing short-range nuclear systems.

And, we in the Senate, as we debate the INF treaty, should avoid the political temptation to link ratification to any specific actions by NATO on force modernization or arms control.

NATO demonstrated to all that it has the will to carry out politically difficult measures when it implemented the alliance's 1979 decision to deploy INF missiles while seeking a solution to the arms race in Europe. Implementation of that strategy was a model of alliance cooperation, consultation and sensitivity to the special needs of its individual members.

Let's allow NATO the same time and deliberation it needs to work out a common strategy, under U.S. leadership, for its next steps. The alliance should not be stampeded by the short-term political needs of the Reagan Administration, of presidential candidates seeking the limelight or of senators trying to show "leadership."

GERTRUDE GLUTSCH JENSEN

Mr. HATFIELD. Mr. President, one of the great joys I have had in my lifetime was my association with Gertrude Jensen. Mrs. Jensen is no longer with us, for she died on December 27, 1986. But the commitment she made to preserve the beauty of the Pacific Northwest will be remembered in testimony to her indomitable spirit.

The first time I became acquainted with Gertrude was when I was a young Representative in the Oregon State Legislature. I can still see that stately and proud woman now. Gertrude always wore hats, and each one she wore had its own story. She came, as she had always come, to lobby for the preservation of the scenic Columbia River Gorge. She somehow seemed to draw the States of Oregon and Washington together in the common cause to preserve the natural wonder dividing them, the Columbia River Gorge.

Gertrude Jensen must have died a happy woman. The cause for which she fought so long and hard finally prevailed in Congress. On October 17, 1986, 2 months and 10 days before her death, the U.S. Senate passed by unanimous consent the Columbia River Gorge National Scenic Area Act which will preserve this unique area in its original beauty for generations to come. Without question "the Gorge bill" bore her distinct mark and carried with it her years of hard work.

Mr. President, recently I came across a eulogy praising this fine woman. On this day where another comprehensive bill to protect Oregon's natural resources, the Wild and Scenic Rivers bill, is being introduced by myself and Senator Packwood, I believe it is appropriate to again pay tribute to Gertrude Jensen. I ask unanimous consent that the eulogy given by Mr. Roy Craft be inserted in the Record following my statement.

There being no objection, the eulogy was ordered to be printed in the Record, as follows:

Eulogy—Gertrude Glutsch Jensen

(By Roy Craft)

I feel honored to be asked to participate in this gathering of friends, celebrating the life of a remarkable woman, Gertrude Glutsch Jensen.

Some years back she told me she was putting her affairs in order, planning against the day when her life's work would be finished, and asked if I would be a part of a simple service. She did not want an elaborate and mournful funeral.

When Fred called Saturday to say his mother was gone, I welcomed his invitation to be a part of this memorial service. Her passing was sad, but not tragic, for she had led a full life and contributed far beyond her fair share to the welfare of the society in which she lived. Her final rites should be an occasion of thankfulness for the privilege of having known her.

As I thought of this lovely lady's life, I was reminded of lines from Ecclesiastes. To every thing there is a season; and a time to every purpose under the heaven; A time to be born, and a time to die, a time to plant, and a time to pluck up that which is planted; A time to weep and a time to laugh; a time to mourn and a time to dance. A time to rend, and a time to sew; a time to keep silence, and a time to speak. A time to love—and a time of peace.

Today is our day to pay tribute to an exceptional woman who, in her busy lifetime, received numerous awards and accolades but who left her own lasting memorial in the beauty of the Columbia River Gorge, which she fought for so many decades to protect from despoilment.

Think of the Gorge and you think of Gertrude. Think of Gertrude, and you think of the Gorge. Marshall Dana dubbed her the Angel of the Gorge. She helped create the first Oregon Columbia River Gorge Commission and served as its chairwoman from 1953 to 1969. She fought to prevent industrial development in key areas and it was through her efforts that thousands of acres of scenic properties were acquired through voluntary trades. She joined with many of us in successfully opposing a scrap steel mill at Cascade Locks, and a possible pulp mill on the Washington side of the river.

I shall not recite all of the awards and commendations she received, but among the major honors was the U.S. Department of Interior's Conservation Service Award in 1961. In 1964 she was the first recipient of Governor Tom McCall's Distinguished Service Award; and she received the Golden Beaver Award from the Izaak Walton League in 1969. She is honored by an inscription on a drinking fountain at Chanticleer Point, just west of Crown Point.

She enjoyed the honors, of course, but her greatest reward was in her periodic drives upriver from Portland to The Dalles, and back again on the Washington side of the Columbia, relishing the beauty which she had helped keep unspoiled.

I first met Gertrude many years ago when she came into my newspaper office in Stevenson. She was wearing one of the designer hats for which she was famous and my wife Gracie later remarked that the pink roses on the hat complemented her complexion perfectly and that Mrs. Jensen was a woman of extraordinary beauty.

I agreed, but to me her greatest beauty came from within—the aura of loving and sharing and caring. Gertrude saw beauty in the great vistas of the Columbia Gorge—the hills and cliffs and rocks and cascades. She also saw beauty in small things—a colorful pebble, a single flower.

As her family and friends know, Gertrude suffered for some years from failing eyesight and finally underwent corrective surgery. The day the bandages were removed she phoned Gracie and me. "I'm looking out my window and I can see the raindrops on the spruce needles," she said. "I've never seen anything so beautiful. I wanted to cry."

I mentioned Gertrude's hats. One she called her "Mark Hatfield hat" because she had selected it for an occasion hosted by Senator Hatfield. Another was her "Bob Straub hat", chosen for an occasion sponsored by her then Governor, and so on. Each hat had its own story.

Throughout her lifetime, Gertrude was a do-er, and even before women were popularly accepted in positions of public responsibility, she got things done through an uncanny instinct for political realities.

She was born May 17, 1903 in Portland and attended Shattuck grade school and Lincoln High School before graduating from Franklin High School. She studied political science at Reed College and, had she been a man in those male chauvinist days, she surely would have ended up in high public office. I am inclined to think she accomplished more in her career of non-elective service.

Gertrude was a free-lance writer for the Oregonian for 14 years and after becoming a real-estate broker in 1938 she helped create the first legislation in the nation to regulate real estate brokerage conduct.

During the years she worked to protect the Gorge, Gertrude made many trips to the nation's capitol at her own expense to arrange land trades between private holders and government entities to assure public ownership of certain scenic properties within the Gorge. She was a one-woman lobby who asserted power in the halls of the mighty.

Her dedication to the Gorge was not limited to the scenic beauty but included the people who live there as well. While initially favoring the concept of a national parkway for preservation of the Gorge, prior to and after the enactment of current federal legislation she had grave fears for the disenfranchisement of the people. As her son Fred notes, she was dubious of the bill as passed, but now that it is law all of us will continue—as we have in the years gone by—to work to preserve the grandeur of this national treasure.

Oregon likes to claim Gertrude Glutsch Jensen as its own, but I must remark that she belongs to both sides of the Columbia. We share the Lewis and Clark Trail and we share the Oregon Trail and we insist on our right to share Gertrude.

Among her friends here today, from the Washington side of the Gorge, are Lena Pierce and Lucille Aalvik. When Mrs. Pierce donated the 300-acre Pierce Ranch to the federal government as a perpetual wildlife refuge, Gertrude was among the first to call and thank her. Mrs. Aalvik, a Cascade Indian, descendant of Chief Tumulth and Indian Mary, is now an enrolled member of the Yakima Nation and is grateful for the help Gertrude has given the Indian people, over the years, in protecting their heritage. They join with friends from throughout the onetime Oregon Territory in this tribute to Gertrude.

The Columbia Gorge is the only canyon in the world through which a major river makes its way to the sea. It is still an area of singular beauty. We owe it to Gertrude to keep it that way.

There are verses in Isaiah which seem especially appropriate in our celebration of Gertrude's life:

"For ye shall go out with joy, and be led forth with peace; the mountains and the hills shall break forth before you into singing, and all the trees of the field shall clap their hands.

"Instead of the thorn shall come up the fir tree, and instead of the briar shall come up the myrtle tree; and it shall be to the Lord for a memorial, for an everlasting sign that shall not be cut off."

A more modern poet than that ancient scribe has written:

"Life, what is it? Ah, who knows? Just a visit, I suppose. Childhood, morning. Manhood, noon. Age, the warning Night comes soon. Shines a star to guide us, then, Tis not far to home again."

Gertrude has gone home, but she leaves great beauty—in our hills and in our canyons and in our hearts.

JENNINGS RANDOLPH ADDRESSED NATIONAL CENTER FOR PRESIDENTIAL RESEARCH

Mr. BYRD. Mr. President, this evening our former colleague, Jennings Randolph, will be speaking before the National Center for Presidential Research.

Senator Randolph will deliver remarks on "Franklin D. Roosevelt and the 1932 election: the launching of the New Deal."

Mr. President, as many of my colleagues are aware, Senator Randolph has an extensive knowledge of that period in America's history, for it was a young Jennings Randolph who was sworn in as a freshman Member of the U.S. House of Representatives from the Second Congressional District of West Virginia, on March 9, 1933. I am sure that others will enjoy reading the remarks of our former colleague.

Mr. President, I ask unanimous consent that Senator Randolph's remarks by printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR JENNINGS RANDOLPH BEFORE THE NATIONAL CENTER FOR PRESIDENTIAL RESEARCH, WASHINGTON, DC, FRIDAY, MARCH 4, 1988

FRANKLIN D. ROOSEVELT AND THE 1932 ELECTION: THE LAUNCHING OF THE NEW DEAL

Fifty five years ago today Franklin Delano Roosevelt was inauguared as the Nation's 32nd President. We now recognize that election to have been one of the three or four most important in our history. We are inclined to forget—because of the longterm success and the enduring benefits of President Roosevelt's leadership—that he faced the gravest crisis of our national survival since the Civil War.

In that grim March of 1933, over 25 percent of American workers were without jobs, and in some areas the unemployment rate was 50 percent or above. Securities on the New York exchange had lost three quarters of their value since 1929, and industrial production had dropped to less than half of its 1929 level. Agricultural income had fallen even more sharply. Farmers in the midwest and north west were banding together with shotguns to prevent foreclosure evictions from their farms. In 1930 through February, 1933, a total of 5,504 banks had failed, and by Inauguration Day almost every bank in the country was either closed or under the control of State authorities.

On Inauguration Day the Governors of New York and Illinois declared "bank holidays" for the institutions which were the very basis for our banking system.

The President did not have a blueprint of solutions to all these problems, but he did have the imagination, the courage and the resolve to look for solutions where he could find them and to experiment until something worked.

His first and most immediate concern was to remedy the condition of the banks and restore public confidence in our banking system. His first executive action on March 5 was to declare a national "Bank Holiday". On the same day the President called the Congress to meet in Special Session on March 9.

The first act of that Congress, of which I was one of 150 new members, was to pass the Emergency Banking Relief Act. This gave a statutory basis for previous executive action, and gave the President discretionary authority, through the appropriate regulatory agencies, over transactions in credit, currency, and gold and silver. It effectively took the United States off the gold standard, and allowed those banks which were found to be solvent to reopen under regulation and place unsound banks under conservators.

Contrary to the claims of President Roosevelt's critics then and later that he would destroy the capitalistic system, his first act was to salvage the most fundamental of our capitalistic institutions, our banking system. And this he did.

From 1921 through 1922, more than 10,000 state and national banks had failed. Yet, three and a half years after passage of the Emergency Banking Act, I was with the President on his campaign train in West Virginia on October 1, 1936. We stopped at Charleston, W. Va., where FDR received a telegram from the Secretary of the Treasury, which he read to the cheering crowd surrounding the observation platform. The message was that for the first time in 55 years we had completed a full year in which not a single national bank had failed.

On March 12, just three days after enactment of the banking legislation, FDR delivered his first "fireside chat", entitled "An Intimate Talk with the People of the United States on Banking." President Roosevelt was the first national politican to learn the power and uses of the radio, and with his ringing and confident voice he was a master of the medium. He used the radio for the communication of ideas, not to lull his listeners into complacency, nor to stir them into a frenzy. His first fireside chat was a straight forward and common sense explanation to the American people of the complex and arcane business of the banking system and the purposes of the Emergency Banking Act.

The success of the President's "Intimate Talk" in restoring public confidence to the system is seen in the deposit figures following his speech: by the end of August 1933, with a total currency circulation of about seven and a half billion dollars, almost two billion in previously hoarded paper currency had been returned to circulation as deposits in Federal banks, and some $630 million in gold currency and gold certificates were returned in the month of March alone.

The Emergency Banking Act was quickly followed by the Economy Act, approved on March 20 which was designed to balance the budget through reductions of up to 15 percent fo salaries of Federal employees, reduction of veterans benefits by $400 million a year, and a reorganization of Federal agencies with a view toward economy. (Congressional salaries were accordingly reduced from $10,000 a year to $8,500, but subsequently restored with other Federal salaries over a Presidential veto.)

In these early days FDR was operating on the conservative economic and fiscal philosophy on which he had campaigned, and which was not unlike that of former President Hoover's in many respects. However, among these character traits that set them apart was FDR's willingness to experiment, his ability to see the problems in human terms and his great compassion.

This latter aspect is highlighted in the stark contrast between Hoover's handling of the Veterans' Bonus March and the response of FDR. When thousands of World War I veterans descended on Washington in 1932 to demand early payment of their promised bonuses and encamped on Anacostia Flats, many with their families, President Hoover first tried to dislodge them with the Washington police. When that failed, he called out the U.S. Army under the command of General Douglas MacArthur, who, with cavalry, tanks and tear gas routed the veterans and their families and destroyed their tents and make-shift shelters.

When many of them returned in 1933, instead of General MacArthur and tanks, FDR sent food and medical supplies and his wife, Eleanor, who led them in group singing. Not long after, thousands of them were provided jobs on the Civilian Conservation Corps.

The Civilian Conservation Corps, or CCC, was probably the most popular program of the New Deal. It provided jobs in reforestation, soil conservation, flood control, fire control and other conservation work on public lands for unemployed young men between 18-25 and for war veterans. The men lived in camps run by the regular army and were paid $30 a month, $25 of which went home in family allotments.

It was the greatest logistical operation in peacetime, moving thousands of young men from induction centers to camps in a matter of weeks. By the end of 1935 there were over 2,650 camps in all the states and territories and over 500,000 enrollees.

FDR sought to reduce the budget of the CCC in the election year of 1936, but such a storm of protest was raised with the Congress that the President was forced to withdraw his proposal for budget reduction.

By 1942, with employment growing due to war preparations and with many young men being inducted into the Army the CCC was terminated. By this time some 3,000,000 young men had served in the camps. During its more than eight years of activity the CCC remade the lives of hundreds of thousands of young men and launched the first large-scale conservation and reforestation program in the country.

The CCC erected almost 3,500 fire towers, built 97,000 miles of roads, halted erosion on 20,000,000 acres, planted two billion three hundred million trees and built hundreds of camp sites in use today. More than 40,000 members learned to read and write.

There was probably no other New Deal program which yielded such great resource and human benefits for the money expended as the CCC, which also provided the model for the Youth Conservation Corps of the Johnson Administration.

There were fifteen major laws enacted in the "First Hundred Days". I shall focus on five more of the most significant. These are: the Agricultural Adjustment Act, the Federal Emergency Relief Act, the Tennessee Valley Authority, the Banking Act of 1933, and the National Industrial Recovery Act (NRA). All of these acts, except for the Emergency Relief Act, are characterized by the First New Deal emphasis on reforming the major institutions of the capitalistic system. It was during the Second New Deal, in his second administration, that FDR focused his attention on that third of the nation which he declared in his Second Inaugural Address as the "ill-housed, ill-clad and ill-nourished".

This measure was enacted to deal with low farm prices by controlling surplus crops. The goal was to be achieved by paying farmers for reduced production, the funds for the subsidy to be supplied from levies on the large corporate food processors of specified farm products. This was one of the most controversial New Deal programs, especially when newsreels started showing in movie theatres pictures of farmers pouring out milk by the truckloads and killing baby pigs. In 1936 the levy on food processors was declared unconstitutional by the Supreme Court.

The Federal Emergency Relief Act, signed on May 12, 1933—the same day as the AAA—was the only straight relief act of the New Deal. This legislation authorized an appropriation of $500 million, allotting half of the amount as direct relief to the States and the balance to be distributed on a matching basis of $1 Federal aid for every $3 of State and local funds to relieve the poor and hungry.

On May 18, 1933, the President approved the authorization of the Tennessee Valley Authority (TVA), an independent public corporation with a board of three directors. Its purpose was to construct dams and power plants for rural electrification, flood and erosion control, build recreation areas and help with reforestation of the Tennessee River watershed.

The legislation embraced the drainage basin of the Tennessee River in six southeastern states, which at that time were among the poorest in the Nation, with much of the population plagued by malaria, pellagra and malnutrition. TVA was the brain child of Senator George Norris of Nebraska; he has pushed for the utilization of the Muscle Shoals facilities, built by the United States in World War I as a nitrate plant, as part of an overall development of the Tennessee River. Both President Coolidge and President Hoover had vetoed previous legislation.

FDR quickly teamed up with Senator Norris to enact the program. It met with strong opposition from the electrical utilities trusts, with cries of socialism, and from the United Mine Workers who feared the loss of coal markets—which they did not then have. (*ad lib* about miners visits to J.R.)

The mandate for the TVA was very broad with little specific guidance for the directors. When they visited the President for instructions, he said they were "to reclaim the resources of the land and its people." This the TVA did, becoming a major jewel in the crown of the New Deal, especially under the early leadership of David Lielenthal, first chairman of the Board.

TVA facilities produced the power for the aluminum plants built there during World War II and became the basis for the economic resurgence of the entire region.

The Banking Act of 1933 (Glass-Steagull Act), signed June 16, was a major reform of our banking institutions and addressed one of the major weaknesses which helped bring on the stock market crash of 1929; it separated commercial deposit banks from investment institutions. It empowered the Federal Reserve Board to prevent excessive speculation on credit, and created the Federal Deposit Insurance Corporaton (FDIC) for guaranteeing deposits up to $5,000—since raised to the present limit of $100,000.

The National Industrial Recovery Act, signed on June 16, created the National Industrial Recovery Administration (NRA). This was one of the most controversial measures of the New Deal and was later found unconstitutional. It formalized fair trade codes used by many industrial and trade associations since World War I. It impowered the President to prescribe codes for industries and to make agreements or approve voluntary agreements. Actions under the codes and agreements were exempt from the antitrust laws, and courts could issue injunctions against violators. It guaranteed the right of workers "to organize and bargain collectively through representatives of their own choosing," and it established the Public Works Administration (PWA) to stimulate the economy through the construction of huge public works, such as the Boulder Dam, which required large numbers of workers. Much of the Act was held unconstitutional in 1935, and this decision, in addition to the decision on the AAA as well as other New Deal legislation, set the stage for FDR's greatest defeat in 1937.

Three other major pieces of New Deal legislation came in the 74th Congress: the National Labor Relations Act, approved July 3, 1935, created the National Labor Relations Board which was empowered to determine appropriate collective bargaining units at the request of the workers, to certify the appropriate trade union, to receive testimony about unfair employer practices, and to issue cease and desist orders.

On April 27, 1935, the Soil Conservation Act made the Soil Conservation Service a permanent agency of the Department of Agriculture, thus signifying a long term commitment to soil conservation.

On August 14, 1935, FDR signed the Social Security Act, perhaps the most far reaching and enduring of all the New Deal legislation. It was, of course, criticized by its opponents as "socialistic", and by others for its actuarial basis and for being supported by taxes on employers and employees. FDR as adamant on the method of funding, because he wanted the workers to have a stake in the program so that "No politician can come along later and do away with it." The recent history of the Social Security System has demonstrated the wisdom of FDR's approach.

On May 20, 1936, the Rural Electrification Administration received statutory authorization (having been initially established by Presidential Executive Order on May 11, 1935). This empowered the REA to make loans to electrical cooperatives and nonprofit organizations, bringing electricity to the farmer and rural commnunities and changing the way of life in rural America.

There were other major acts in FDR's First Administration, such as his "soak the rich" tax legislation. I have focused on those basic institutional reform acts which have been by and large sustained in subsequent administrations.

During 1936 the President was becoming increasingly agitated by the "nine old men" of the Supreme Court who had held as unconstitutional many provisions of a number of New Deal Acts, including the Agricultural Adjustment Act, the NRA and the Municipal Bankruptcy Act. The President was concerned with the fate of the Social Security Act if it came before the Court.

After his landslide win in 1936, in which he carried every state but Maine and Vermont, he felt he had a mandate to "take on the Court". This was the greatest blunder of his political career. He decided to "pack" the Court by enacting legislation to allow him to appoint a new justice for each sitting justice who did not retire by age 70, up to six new members, for a total of 15.

The plan was legal, and the Court's membership had been changed some six times in the past but FDR had blundered by not preparing any of the Congressional leadership for his proposal.

He had spoken to neither Vice President Garner nor Speaker Bankhead and had not spoken to Senate Majority Leader Joe Robinson who was to lead the fight for the Court bill. He did not reveal his plan until the morning of February 7, 1937, at a meeting with the Cabinet and Congressional Democratic leaders. He sent his proposal to Capitol Hill that afternoon.

The response on the Hill was not favorable. In fact, many of the President's most reliable supporters could not go along with him, and his opponents were livid, comparing him to Hitler and Mussolini. The President blundered especially in not taking his own congressional leadership into his confidence.

Representative Hatton Summers, chairman of the Judiciary Committee, had introduced a bill allowing the justices to retire at full pay rather than the prevailing half pay which prevented at least two of the justices from retiring. Representative Summers felt that if FDR had informed him of his plans he could have introduced his bill earlier, making FDR's unnecessary.

On May 18, the Senate Judiciary Committee voted 10-8 against the bill, with a blistering report on the measure which was supported by six of the committee Democrats. However, FDR heedlessly pursued his aim to name six new justices.

On July 14, Senator Joe Robinson, the majority leader who had led the fight for FDR's court bill, was found dead from a heart attack. Only then did FDR abandon the effort.

The Supreme Court defeat marked the end of the New Deal in the sense that the President had lost his momentum. In addition, the fight had brought the Southern Senate conservatives into a working coalition with the Republicans. This alliance lasted for many years in opposition to liberal domestic legislation.

This, however, did not lessen the effect of the New Deal legislation which FDR had already put on the books and which has been woven into the fabric of American society. Banking and securities reforms, Social Security, the right of labor to organize, minimum wages and hours provisions—all of these are now taken for granted, as well as the Federal responsibility of the government to attend to the welfare of the economy.

FDR loved the sea and was a knowledgeable sailor. No navigator distinguishes himself in calm seas; during the entire period that Franklin Roosevelt led our Nation as President, though the seas were turbulent he steered a steady course and was confident of the outcome. His example could serve us well today.

THE SOVIETS AT IT AGAIN YET WE 'TRUST' THEM ON INF

Mr. HELMS. Mr. President, today's Washington Post reports that the Soviets have resumed their microwave attack on the health and safety of American diplomats stationed in the Soviet Union. The willingness of some to rush the INF treaty through the Senate approval process has apparently convinced the Soviets that they can return to their old ways even as the INF treaty is being discussed by the Senate.

There are several American diplomats who have died of the same disease, leukemia, and who all served in Moscow at the time of microwave bombardment of the American Embassy. I can name three—Ambassador Walter Stoessel, political officer, Gordon Shouse, and an agriculture attaché, Maria Jonia, and I suspect there are more. The latter two were both young people, whose lives were full of promise but cruelly truncated by their assignments to Moscow. There is also another young woman, Diane Lewis Cuendet, who served in Moscow who is suffering from a rare leukemia-like disease.

I am outraged by the Soviet decision to resume their slow murder of American diplomats in Moscow. We in the Senate should act to express in the loudest possible voice our outrage against this Soviet assault on our citizens. We have to find a way to make it so absolutely clear to the Soviets that this action is intolerable. I urge the chairman of the Foreign Relations Committee and the majority leader to cancel all further efforts to consider the INF treaty until this Soviet attack on our diplomats is ended and the Soviets commit themselves never again to attack our people in Moscow with electronic emissions.

Mr. President, I ask unanimous consent that the Washington Post report, to which I alluded, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

SOVIETS RESUME BOMBARDING EMBASSY WITH MICROWAVES

The Soviet Union has resumed bombarding the U.S. Embassy in Moscow with low-intensity beams of microwave radiation, the State Department said yesterday.

"Microwave signals in the 5-11 GHz [gigahertz] range continue to be detected at the Moscow Embassy chancery," the department said in statement issued by its Bureau of Diplomatic Security.

The statement marked the department's first status report on the still-unexplained radiation problem since Nov. 10, 1983, when then-Ambassador Arthur A. Hartman told reporters in Moscow that a microwave beam in operation between July 14 and Oct. 19, 1983, had been protested to the Soviet Foreign Ministry.

Yesterday's statement did not specify when the microwave signals resumed.

"The Department of State is not in a position to answer this question, because any response would be speculation," the statement said.

In past years, such speculation has included Soviet efforts to try to foil U.S. electronic intelligence-gathering operations in Moscow, use of the beams in connection with Soviet eavesdropping devices planted in the embassy, or attempts to induce behavioral and physiological effects among U.S. personnel at the embassy.

"The microwave signal power levels are typically 0.1 microwatt per square centimeter external to the building," the statement said. "Measurements internal to the building are typically less than 0.01 microwatt per square centimeter."

The U.S. voluntary safety standard for exposure to microwave radiation is 5,000 microwatts per square centimeter.

MESSAGES FROM THE HOUSE

At 11 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4063. An act to require the Secretary of Labor to permit North Carolina and South Carolina to continue to employ 17-year-old school bus drivers under certain conditions until June 15, 1988.

MEASURES REFERRED

Pursuant to the order of the Senate of March 3, 1988, the following bill was taken from the calendar and referred to the Committee on Commerce, Science, and Transportation:

S. 1632. A bill to authorize appropriations for the National Science Foundation for fiscal years 1988 through 1992.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 4063. An act to require the Secretary of Labor to permit North Carolina and South Carolina to continue to employ 17-year-old school bus drivers under certain conditions until June 15, 1988.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, March 4, 1988, he had presented to the President of the United States the following enrolled bills and joint resolution:

S. 557. An act to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964;

S. 1447. An act to designate Morgan and Lawrence Counties in Alabama as a single metropolitan statistical area; and

S.J. Res. 262. Joint resolution to designate the month of March 1988, as "Women's History Month."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations, with amendments and with a preamble:

S.J. Res. 267: A joint resolution in support of democracy in Panama.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEFLIN (for himself, Mr. Pryor, Mr. Fowler, Mr. Bond, Mr. McConnell, and Mr. Breaux):

S. 2135. A bill to amend the Agricultural Act of 1949 to modify the price support levels for the 1989 and 1990 crops of soybeans, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRASSLEY (for himself, Mr. Exon, Mr. Humphrey, Mrs. Kassebaum, Mr. Simon, Mr. Fowler, Mr. Stafford, Mr. Danforth, Mr. Harkin, Mr. Baucus, Mr. Daschle, Mr. Murkowski, and Mr. Pressler):

S. 2136. A bill to deny discretionary project funds to States that voluntarily reduce the period of availability of interstate highway construction funds for any fiscal year; to the Committee on Environment and Public Works.

By Mr. CHILES:

S. 2137. A bill to amend the Federal Meat Inspection Act to require that meat, and meat food products containing meat, be labeled as to country of origin even if further prepared after entry into the United States, and to provide for administrative sanctions for failure to so label or market; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CHILES (for himself, Mr. Graham, Mr. Conrad, and Mr. Durenberger):

S. 2138. A bill to consolidate and expand the statutory authority for the National Agricultural Library in the Department of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BOREN:

S. 2139. A bill to amend the Natural Gas Policy Act of 1978 to protect consumers who use natural gas fuel for agricultural irrigation pumps from certain price increases; to the Committee on Energy and Natural Resources.

By Mr. PRYOR:

S. 2140. A bill to amend title 5, United States Code, to provide for the establishment of a voluntary leave bank program for Federal employees, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HARKIN:

S. 2141. A bill to amend the Food Security Act of 1985 to permit the enrollment of cropland containing agricultural drainage wells and naturally occurring sinkholes in the conservation reserve program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HARKIN:

S. 2142. A bill to establish a National Mars Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BOSCHWITZ (for himself, Mr. Burdick, and Mr. Conrad):

S. 2143. A bill to amend the Food Security Act of 1985 to expand the lands eligible for the conservation reserve program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DIXON (for himself and Mr. Simon):

S. 2144. A bill to authorize a demonstration project for the restoration of the Des Plaines River Wetlands; to the Committee on Environment and Public Works.

S. 2145. A bill to amend the Federal Meat Inspection Act with respect to certain frozen meat products; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. EXON:

S. 2146. A bill to direct the Bureau of Reclamation to expend $1,000,000 of the funds made available to the North Loup division, Nebraska, in fiscal year 1988, for the Davis Creek Dam as provided in Public Law 100-202, the continuing resolution for fiscal year 1988; to the Committee on Energy and Natural Resources.

By Mr. MELCHER (for himself, Mr. Leahy and Mr. Harkin):

S. 2147. A bill to provide that surplus dairy products should be provided to carry out the temporary emergency food assistance program before certain dairy export programs, to extend such dairy export programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATFIELD (for himself and Mr. Packwood):

S. 2148. A bill to amend the Wild and Scenic Rivers Act of 1968, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MITCHELL (for himself, Mr. Heinz, Mr. Pryor, Mr. Durenberger, Mr. Boren, Mr. Rockefeller and Mr. Danforth):

S. 2149. A bill to amend the Internal Revenue Code of 1986 to allow State secondary markets of student loan notes to continue serving the educational needs of post-secondary students and the Nation; to the Committee on Finance.

By Mr. NICKLES:

S. 2150. A bill to provide for the use and distribution of funds awarded the Seminole Indians in dockets 73, 151, and 73-A of the Indian Claims Commission; to the Select Committee on Indian Affairs.

By Mr. BYRD (for Mr. Leahy (for himself, Mr. Lugar, Mr. Melcher and Mr. Burdick)):

S. 2151. A bill to amend section 416 of the Agricultural Act of 1949, and for other purposes; considered and passed.

By Mr. NICKLES (for himself, Mr. Boren, Mr. Hatch, Mr. Garn and Mr. Glenn):

S. 2152. A bill to increase the authority to transfer unobligated balances between certain accounts of the Department of Defense in order to meet increased military personnel costs resulting from fluctuations in foreign currency exchange rates, and for other purposes; to the Committee on Armed Services.

By Mr. DECONCINI (for himself and Mr. McCain):

S. 2153. A bill to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. D'AMATO:

S. 2154. A bill to enable the Postal Service to restore recent cutbacks in postal services and to meet its obligations for certain health benefit payments in accordance with the Postal Reorganization Act; to the Committee on Governmental Affairs.

By Mr. HELMS (for himself, Mr. Thurmond, Mr. McClure, Mr. Hecht, Mr. Symms and Mr. Wallop):

S. 2155. A bill to modify the provision of law which provides a permanent appropriation for the compensation of Members of Congress, and for other purposes; to the Committee on Rules and Administration.

By Mr. LUGAR (for himself and Mr. Leahy):

S. 2156. A bill to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BINGAMAN:

S. 2157. A bill to authorize three feasibility studies to be conducted in New Mexico dealing with the San Gabriel Historic Landmark, the significance of the Los Luceros Hacienda, and the establishment of an interpretive center to highlight the first colonization of the interior of the United States in New Mexico; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HEFLIN (for himself and Mr. Durenberger):

S. Res. 391. Resolution calling on the United States to assist the Government of Colombia in its battle against the terrorist activities of illegal drug producers and traffickers; to the Committee on Foreign Relations.

By Mr. BYRD (for himself and Mr. Dole):

S. Res. 392. Resolution to direct the Senate Legal Counsel to represent Senate subpoena respondents in the case of "Southern Air Transport, Inc. v. Post-Newsweek Stations of Florida, Inc., et al."; considered and agreed to.

By Mr. BYRD:

S. Res. 393. Resolution to request the printing of a Senate document; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEFLIN (for himself, Mr. Pryor, Mr. Fowler, Mr. Bond, Mr. McConnell, and Mr. Breaux):

S. 2135. A bill to amend the Agricultural Act of 1949 to modify the price support levels for the 1989 and 1990 crops of soybeans, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SOYBEAN MARKETING LOANS

Mr. HEFLIN. Mr. President, I rise today to introduce a bill which would create an implement a marketing loan for soybeans. I am joined in this bill by a number of cosponsors: Senator PRYOR, Senator FOWLER, Senator BOND, and Senator MCCONNELL.

The concept of a soybean marketing loan is not new but, rather, is a measure that the Senate has considered in the past and is a measure the Senate has passed. We passed a discretionary marketing loan for soybeans in the 1985 farm bill, giving the authority to the Secretary of Agriculture to put it into force and effect. This he has not done.

My bill would mandate that we have a marketing loan for soybeans. Now, why a marketing loan? We have had a marketing loan for cotton and it has worked. We have had a marketing loan for rice and it has worked.

Let me review the cotton program. The cost of the cotton program has been reduced by between approximately 40 and 50 percent, that is, the cost to taxpayers, as a result of a marketing loan. The farmers of Alabama and America are pleased with the marketing loan for cotton. There have been no CCC, that is, Commodity Credit Corporation, purchases under this type of loan program for cotton in almost a year. There is now no surplus of cotton, no inventory of cotton, other than that which is desired and planned.

Now, these accomplishments have come about as a result of a marketing loan. The prices for cotton the last 2 years have been substantially above the loan rate. The farmers are pleased with it. It has worked.

In the rice field it has also worked. There are those who will say that maybe we cannot point with exact certainty to the success of the rice program as we do relative to the cotton program because there was a big drought in certain Southeast Asian countries at about the time the marketing loan went into effect that would have raised the price of rice.

But I think that the rice farmers will tell you that it has worked with them, and that they give the program most of the credit.

I do not think there is any question but that a soybean marketing loan can work. It can work for the soybean producers of this country, for the soybean users of this country, and the soybean users of the world.

The cotton program has in effect been a deterrent against foreign competition. Foreign producers know it is a tool that can be used, and therefore, as a result, they have substantially reduced their plantings. This has been true in China, this has been true in a great number of foreign countries that compete with the American cotton farmer.

We have two primary competitors in the soybean field, Argentina and Brazil. And unfortunately, we have people who have been making grants and loans through the State Department and various banks, including the World Bank, to try to build up their infrastructure of transportation where they can become more serious competitors with the American soybean farmer. Unfortunately, when the bill that passed the Senate went to conference, there were those that were listening more to foreigners than they were to farmers and there was a threat of a Presidential veto.

I feel like the soybean marketing loan will work. It has worked in cotton. It has worked in rice. It can work with the soybeans without any inventory adjustment payments.

Mr. President, the concept of a soybean marketing loan is not a new one but, rather, is a measure the Senate has considered in the past and is one that enjoys strong bipartisan support. Last year I was able to add provisions mandating implementation of a soybean marketing loan to the Senate passed budget reconciliation with the great help of Senator PRYOR. However, I was disappointed when these provisions were stricken by the conference. Earlier in 1987, the Senate voted against adoption of a soybean marketing loan which was proposed as an amendment to a pending agricultural disaster bill. Many of my colleagues argued that our amendment implementing a soybean marketing loan was inappropriate during the consideration of this particular bill—a disaster relief bill—and for that reason it was defeated. Still earlier, in 1985, I sponsored an amendment to the farm bill which granted the Secretary of Agriculture authority to implement a marketing loan for soybeans. This amendment was adopted, became, and remains a part of the Food Security Act of 1985. This provision gives discretionary authority to the Secretary of Agriculture to implement the marketing loan for soybeans. Unfortunately for the soybean farmers of Alabama and America, the Secretary has refused to exercise that authority despite the overwhelming evidence of the merits of a marketing loan program as shown by the cotton and rice marketing loans.

In 1985, during the consideration of the Food Security Act of 1985, I worked with Senators COCHRAN and PRYOR to write and secure passage of the cotton and rice marketing loan programs. I understand that there is now interest among other Members of the Senate in implementing a soybean marketing loan which would be similar to the measure I am introducing today. I look forward to working with my colleagues both in the Senate and House in adopting legislation mandating a marketing loan for soybeans and other seed oil products.

I might add that a bill which would enact a soybean marketing loan has also been introduced in the House of Representatives by Congressman HUCKABY. I believe that the consideration this concept of a soybean marketing loan has received and the different bills that have been introduced demonstrate that this effort enjoys a wide base of support in both Houses of Congress, and I am hopeful that these bills will be quickly considered and adopted.

The mandated soybean marketing loan that I am introducing today is a bill whose time has come. It would require the implementation of a marketing loan for the 1989 and 1990 crops of soybeans and would establish a price support level of no less than $5.02 per bushel.

In the event world market prices are depressed, this soybean marketing loan program will prevent our loan program from becoming a floor under world prices. Today, the soybean program, with its nonrecourse loan, serves as a protective guaranteed price umbrella for foreign competitors which is encouraging tremendous soybean production overseas. This situation is hurting soybean farmers throughout our Nation.

With a marketing loan, U.S. soybeans will be available on the world market at the same price as that made possible by foreign government subsidies for our foreign competitors. No longer will American soybean farmers be the supplier of last resort during times of surplus and depressed prices.

Soybean farmers all across the Nation want and need a marketing loan. During the past years we have seen U.S. soybean acreage decline by over 17 percent from 71.4 million acres in 1979 to only 58.7 million acres in 1987. During this time, when U.S. soybean acreage has declined by over 12 million acres, soybean acreage outside the United States has expanded by over 15 million acres.

U.S. soybean acreage has declined because of the low soybean prices that have characterized most of this decade, because of the higher income protection afforded other U.S. crops, and because of the conservation reserve program.

Soybean production outside the United States has expanded because of the protective umbrella afforded them by the U.S. nonrecourse soybean loan program and because of the subsidies offered our foreign competitors by their governments. Under our current nonrecourse loan program the Commodity Credit Corporation effectively prevents cash soybean prices here and around the world from falling below our loan rate. It does this by assuming ownership of all soybeans placed under loan in the United States that are not redeemed by farmers because cash soybean prices are below the cost of redeeming the soybeans from the loan.

Thus, the United States effectively becomes the world's storehouse for all surplus production while our foreign competitors sell their soybeans onto the world market.

Soybean farmers in South America absolutely love our current nonrecourse soybean loan program because it limits their down-side price risk. They know the U.S. nonrecourse loan program will keep world prices from falling below the loan rate. Because of this protection, farmers in Brazil and Argentina can invest the money necessary to clear pastureland to plant soybeans without the risk of world market prices falling below their break-even price.

In fact, because of the South American soybean harvest occurring roughly 6 months after our harvest, our loan program has the effect of guaranteeing South American farmers a higher price than it does our farmers. While this is a classic example of an ineffective and misguided U.S. policy toward our foreign competitors, it has established a floor for U.S. producers which has been helpful at times.

A marketing loan for soybeans will change and improve this situation. It will not work to the advantage of our foreign competitors unlike many of the provisions of the current Food Security Act of 1985, and it will certainly improve the domestic soybean producers' position. Under a marketing loan the Commodity Credit Corporation will no longer assume ownership of our soybeans during periods of oversupply and low prices. No longer will Brazilian and Argentinian investors have the benefit of United States price protection to reduce their risks. No doubt the higher risk will cause many South American investors to seek a less risky place to invest their money than in soybean production. With a soybean marketing loan for American soybean farmers, foreign competitors will have no indirect, unintentional, and I might add, unnecessary U.S. protection for their investments in soybean farming, and will assume all of the risks of the volatile world market that our own soybean farmers have experienced over the last decade.

I anticipate that the Soybean Marketing Loan Program will place the soybean farmers of Alabama and America on an even footing, a level playing field with our foreign competitors. I believe it will help the United States compete head to head with foreign producers and help regain U.S. market share. I believe that it will come to the aid of the U.S. soybean farmer, and, I am hopeful that it will once and for all take the U.S. Government out of the soybean storage business.

I urge my colleagues to join me in this effort to help the soybean farmers of America. For too long, our Government has turned a deaf ear to their cries for help in establishing an even playing field. The soybean farmers of Alabama and America do not seek any unfair advantage against foreign competitors. They merely want a fair chance to sell their produce in a fair market.

So the bill that I introduce today is a bill that I believe will mean a lot to the soybean producers of this country. Soybeans grow almost everywhere in the United States and I hope this bill will be supported by Senators from all regions of the country. This is needed. I hope that the Senate Agriculture Committee will move rapidly on this, and that the Senate will move. There is a similar bill with some differences being introduced in the House, and we hope that we can move forward.

I feel this is an important piece of legislation, and I hope the Senate will favorably pass it.

Mr. President, I ask unanimous consent that the text of my bill be printed in the Record.

Thank you, Mr. President.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SOYBEANS.

Effective only for the 1989 and 1990 crops of soybeans, section 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(i)(1) The Secretary shall support the price of soybeans through loans and purchases in each of the 1989 and 1990 marketing years as provided in this subsection, except that such support price shall not be less than $5.02 per bushel.";

(2) by striking out paragraph (2);

(3) by striking out paragraph (3) and inserting in lieu thereof the following new paragraph:

"(2)(A) The Secretary shall permit a producer to repay a loan made under this subsection for a crop at a level that is the lesser of—

"(i) the loan level determined for such crop; or

"(ii) the prevailing world market price for soybeans, as determined by the Secretary.

"(B) The Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for soybeans; and

"(ii) a mechanism by which the Secretary shall periodically announce the prevailing world market price for sobyeans."; and

(4) by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5) respectively.

SEC. 2. COTTONSEEDS AND SUNFLOWERS.

Effective only for 1989 and 1990 crops of cottonseeds and sunflowers, section 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)) (as amended by section 1) is further amended by adding at the end thereof the following new paragraph:

"(6) The Secretary shall support the price of each of the 1989 and 1990 crops of cottonseeds and sunflowers through loans at such level and in such manner as the Secretary determines is fair and reasonable in relation to the level and manner in which the price of soybeans is supported.".

Mr. BOND. Mr. President, I am pleased to join my distinguished colleagues Senators Heflin, Pryor, and Fowler in introducing legislation to ensure the continued viability of one of our Nation's largest cash crops—soybeans. The success of this extremely important sector of our agricultural economy is largely dependent upon the ability to compete in international markets. Our ability to compete continues to be hampered by large foreign subsidies which artificially distort international market fundamentals. It is high time that Congress address the inequities of existing farm programs and enact legislation which will allow producers to consider soybean production as a viable alternative to traditional program crops.

Over the past few months, many of us have been encouraged by signs that the farm economy is improving. In 1987, net cash income reached record levels and farm debt decreased by over $50 billion from the 1983 peak. We have seen some strengthening of commodity and livestock prices, reductions in surplus commodities, stabilization of land values, and reasonable credit costs. However, I believe these positive signs shadow a situation which has now been compounded into significant proportions.

Let me highlight some of the numbers which document this impending crisis. In 1979, 71.4 million acres were planted to soybeans with total production of 2.26 billion bushels valued at $14.2 billion. Soybean exports reached 875 million bushels in 1979 and ultimately increased to more than 930 million bushels in 1981. In 1987, 420,000 farms produced approximately 1.9 billion bushels of soybeans on 56.4 million acres, worth $10.5 billion. In 1987, 757 million bushels of soybeans were exported. These numbers indicate a severe decline in not only planted acres and production, but in the volume of U.S. soybean exports. Imagine the impact on our balance of trade if the United States was in a position to capture even half of the 4-percent annual increase in world demand for protein and oil.

Mr. President, according to the American Soybean Association, "If the United States had maintained its 1979 market share of soybean trade, exports would be 348 million bushels more than in 1986. That is more than the combined production from Illinois and North Carolina. At $6 per bushel, United States farmers lost $2.2 billion in income." It is staggering to see figures such as these which directly conflict with the theme of the Food Security Act of 1985—increased competitiveness. While, I believe we have done an admirable job of developing export programs for feed grains, wheat, cotton, and rice, our soybean exports have been crushed—literally.

Mr. President, increases in world demand must be met somewhere. Unfortunately, to this point we have been conceded these increases to our main competitors—Brazil, Argentina, China, and the European Community. Over the past 5 years, they have expanded soybean acreage by 23 percent. Over the same period U.S. acreage has fallen 19 percent. In other words, for every acre our competitors add we remove more than an acre. I ask, is this being competitive or simply irrational?

The underlying problem facing our Nation's farmers can be traced to conflicting marketing signals. In the United States, producers look to returns from participating in the Federal farm programs for traditional program crops. When the price of soybeans is less than 2.4 times the corn target price, a signal is sent to plant more corn. Even with the strong prices we are now experiencing, this ratio is approximately 2.1 On the other hand, our competitors react to international market signals.

They anaylze the world market price for corn, not the U.S. target price, and compare that to the price of soybeans. In this case the ratio is over 3:1 and the incentive is to plant more soybeans. You don't have to be an agricultural economist to see the dichotomy that exists among soybeans and traditional program commodities such as wheat and feed grains.

Another important factor which needs to be examined closely is the lack of flexibility regarding a farmer's crop acreage base. Under the existing regulations, even if the price ratio favors soybeans producers must consider that they have no base protection for their program acreage. Therefore, producers are not able to base their production decisions on such unconventional concepts as supply and demand. This is something which I expect the agricultural committee to analyze very carefully.

Mr. President, the inconsistencies of existing policies must be changed. The challenge will be to implement programs which attempt to move these market relationships toward an equilibrium position. In my view, the ways in which this can be accomplished are limited: Allow corn prices to increase in world markets, decrease target prices, mandate increased participation in Government export programs or provide income support for soybean producers and allow export sales at world market prices—whatever they may be.

Mr. President, I am not suggesting that we decrease target prices more than levels already built in in the Food Security Act of 1985. I am, however, advocating a program which guarantees a minimum level of income support, enhances our competitiveness in world markets and sends a signal to our competitors that we will no longer provide a floor for world market prices. Referred to as a marketing loan, this is actually an insurance package for almost a half million american farmers. Under this program, the United States will have the opportunity to shed its distinction as the world's residual supplier of soybeans.

As Senator HEFLIN has explained, the legislation we are introducing today would implement a $5.02 soybean marketing loan for the 1989 and 1990 crop years. In an effort to maintain the historic price relationships between the other oilseeds, the Secretary of Agriculture is required to support the price of 1989 and 1990 crops of cottonseeds and sunflowers at a level consistent with that of soybeans.

Mr. President, this legislation should surprise no one. The conferees to last December's budget reconciliation bill agreed to examine the current status of the U.S. soybean industry early this year. The House has already held a hearing and legislation has been introduced. The Senate agriculture committee will hold a similar hearing on the 18th of this month.

In conclusion, the difficult problems facing our soybean industry warrant close examination and I would hope that my colleagues understand the importance of passing legislation to increase competitiveness and ensure an acceptable level of income. Once again, I would like to thank Senator HEFLIN for his leadership on this issue and I look forward to working together to ensure the future of the U.S. soybean industry.

By Mr. GRASSLEY (for himself, Mr. EXON, Mr. HUMPHREY, Mrs. KASSEBAUM, Mr. SIMON, Mr. FOWLER, Mr. STAFFORD, Mr. DANFORTH, Mr. HARKIN, Mr. BAUCUS, Mr. DASCHLE, Mr. MURKOWSKI, and Mr. PRESSLER):

S. 2136. A bill to deny discretionary project funds to States that voluntarily reduce the period of availability of interstate highway construction funds for any fiscal year; to the Committee on Environment and Public Works.

DENIAL OF DISCRETIONARY PROJECT FUNDS FOR INTERSTATE HIGHWAY PROJECTS

● Mr. GRASSLEY. Mr. President, early in October I learned that Iowa and many other States were notified by the Federal Government of severe, unexpected reductions in their Federal highway aid. I brought this problem to the attention of my colleagues on this floor December 9, 1987, with a warning that we can and must settle this issue so that our States do not continue to lose Federal highway aid.

Mr. President, I have a bill to introduce today along with Senators EXON, HUMPHREY, KASSEBAUM, SIMON, FOWLER, STAFFORD, DANFORTH, HARKIN, BAUCUS, DASCHLE, MURKOWSKI, and PRESSLER. I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

This bill will correct this unfair, unjust problem that mainly stems from a misunderstanding by the Federal Highway Administration of congressional intent for administering a new provision in the highway bill. This misunderstanding, unfortunately, led to the loss of millions of dollars in highway spending authority and thousands of jobs for the many States who found themselves as innocent victims of this misunderstanding.

Plans have been long since made for the 1988 construction season in the Frostbelt States like Iowa. These plans were made in good faith based on reasonable expectations for Federal highway funding. Imagine the surprise when when these States found out their plans had been made in vain due to a misunderstanding of an obscure provision in the highway bill.

Mr. President, the Members of this body cannot allow these victimized States to lose millions of dollars in Federal highway aid again. We must redress this wrong and the time is now.

We must clarify congressional intent so that the Federal Highway Administration revises its policy and we must return the lost obligation authority to these States. I believe that my bill is just the legislation to rectify this situation and I ask for your support.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subparagraph (A) of section 118(b)(2) of title 23, United States Code, is amended by adding at the end thereof the following new clause:

"(iii) CERTAIN EARLY REDUCTIONS.—Any State which voluntarily reduces the period of availability of funds apportioned under section 104(b)(5)(A) to the State for highways on the Interstate System for any fiscal year shall not be eligible to receive funds under subparagraph (B) for the succeeding fiscal year."●

By Mr. CHILES:

S. 2137. A bill to amend the Federal Meat Inspection Act to require that meat, and meat food products containing meat, be labeled as to the country of origin even if further prepared after entry into the United States, and to provide for administrative sanctions for failure to so label or mark; to the Committee on Agriculture, Nutrition, and Forestry.

FEDERAL MEAT INSPECTION ACT AMENDMENTS

● Mr. CHILES. Mr. President, I am introducing legislation today to require imported meat and meat products to be labeled according to the country of origin.

I feel strongly that consumers have the fundamental right to know where the food they consume is produced. Likewise, domestic meat producers who take great pride in providing Americans with nothing but the best, should not have their product confused with foreign produced meat.

The bill requires country of origin labeling on both imported and domestic meat and meat products at the retail and wholesale levels. However, since a number of meat products, such as sausage and hotdogs, are made by blending meat products which could be from a number of different countries, this bill would only require that meat products made with meat from more than one country be labeled as "imported." I believe this is a good provision as it will reduce the onerous burden of labeling blended meat products with every country of origin, but at the same time maintaining the integrity of the legislation by clearly stating to American consumers that the product is made from foreign produced meat.

While the bill requires the labeling of meat at the retail level, it does not require eating establishments to label meat. However, it does provide them with the option of labeling their meat product's country of origin.

One of the strong points in this legislation is that it penalizes those who continue to knowingly violate the labeling requirement by withdrawing meat inspection services. Meat inspection services would be withdrawn if and when an individual or company violates the labeling requirement for the third time.

This legislation was first introduced by my distinguished colleague from Florida, Representative TOM LEWIS. I am pleased to join him in offering Senate companion legislation to H.R. 2920. A number of producers and consumer groups support the idea of labeling laws and I feel this legislation accomplishes this task in a very equitable fashion.●

By Mr. CHILES (for himself, Mr. GRAHAM, Mr. CONRAD, and Mr. DURENBERGER):

S. 2138. A bill to consolidate and expand the statutory authority for the National Agricultural Library in the Department of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL AGRICULTURAL LIBRARY

● Mr. CHILES. Mr. President, today I am introducing legislation to statutorily authorize the National Agricultural Library. If you are like me, you probably weren't aware that the National Agricultural Library does not currently have statutory authorization.

With the signing of the Organic Act of 1862, President Abraham Lincoln established the U.S. Department of Agriculture [USDA]. The act authorized the USDA to "collect, preserve, and acquire all information concerning agriculture which can be obtained by books." The first collection of books was transferred to the USDA from the agricultural division of the U.S. Patent Office in 1862.

While Congress has expanded the library's authority numerous times over the years, no statute mandates that the National Agricultural Library perform any specific tasks. Although the library of the Department of Agriculture has been functioning as a national library since its inception, it was not recognized as such until its centennial year. On March 23, 1962, Secretary of Agriculture Orville Freeman issued "Secretary's memorandum number 1456" designating the U.S. Department of Agriculture Library as the National Agricultural Library.

In January, 1982 Secretary of Agriculture John R. Block created the interagency panel on the Nation Agricultural Library—blue ribbon panel. In its assessment of the National Agricultural Library, a final report to the Secretary, the panel recommended that the legislation relating to the National Agricultural Library be reviewed, consolidated and revised to better support the panel's proposed mission statement for the National Agricultural Library. Also it felt that new legislation was necessary to provide for an advisory council to strengthen the National Agricultural Library and to give policy direction and guidance.

The legislation I am introducing today consolidates and expands the existing laws relating to the National Agricultural Library. It also incorporate the duties and responsibilities inherent in its mission and provides for the establishment of an advisory council.

I feel this legislation will help provide the framework for making the National Agricultural Library truly the Nation's chief information resource for agriculture and its allied sciences.●

By Mr. PRYOR:

S. 2140. A bill to amend title 5, United States Code, to provide for the establishment of a voluntary leave bank program for Federal employees, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEES LEAVE BANK ACT

● Mr. PRYOR. Mr. President, today I am introducing the Federal Employees Leave Bank Act of 1988. This legislation will permit Federal employees to voluntarily donate annual leave to coworkers who need additional leave because of a personal or family medical emergency. My bill will establish a leave bank in each Federal agency to maximize leave sharing among Federal employees in an efficient manner.

The Federal Government has experimented, on a limited basis, with leave sharing by permitting direct employee donations. The Office of Personnel Management [OPM] implemented a temporary leave transfer program last year that allowed Federal employees to donate annual and sick leave to 3 individuals who had exhausted their own leave because of personal emergencies. Judging from the great number of nominations OPM received and the extreme difficulty they had in choosing 3 cases out of the 242 qualified nominations, it is evident that a Federal leave transfer program is needed. Recognizing this need, Congress extended and expanded the pilot program through fiscal year 1988 with the intent of authorizing a permanent program this year.

Clearly, Federal employees are sensitive to the needs of fellow workers and their families facing life-threatening illnesses or injuries as demonstrated in the case of Freda South. Freda South, a Department of Energy [DOE] employee and participant in the 1987 pilot project, received 18 years' worth of annual and sick leave through the generosity of DOE employees. Fortunately, Mrs. South, a divorced mother with two small children, is back at work on a part-time basis, while she continues medical treatment. The leave transfer program continues to help her cope without a loss of income or benefits.

The pilot program has been a huge success. Now, our task is to create a system which will enable the Government to move from experimenting with three cases to implementing a program Governmentwide. My subcommittee has studied this problem, and we have concluded that the best way to administer a Federal leave sharing program is through a neutral organization like a leave bank. The concept is not new: various State and local governments have been using leave banks for some time.

My bill will allow employees to join their agency's leave bank by contributing a minimum amount of annual leave. As members, they could, in the event of a medical emergency, apply to the bank for additional leave once they had exhausted their own annual and sick leave. Each agency would establish a leave board to review and approve applications. I view my plan as a form of insurance against a long period of unpaid leave.

A leave bank system will minimize concerns about employee coercion and possible violations regarding gifts to superiors. It will also ease administrative burdens and overcome the most serious problem involved in a direct employee donation program, dealing with the restoration of unused leave. Furthermore, it affords the leave recipient some degree of privacy. All of which in my view weighs heavily in favor of the leave bank concept.

In these days of budget deficits, leave sharing is a positive innovation having little or no cost. I urge my colleagues to join me in supporting a Federal leave bank program.

I ask that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Leave Bank Act of 1988".

SEC. 2. VOLUNTARY LEAVE BANK PROGRAM.

(a) IN GENERAL.—(1) Chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"Subchapter III—Voluntary Leave Bank Program

"§ 6331. Definitions

"For the purpose of this subchapter the term—

"(1) 'employee' means an employee as defined by section 6301(2), but shall not include any employee of the government of the District of Columbia;

"(2) 'leave bank' means the aggregate leave time contributed by leave contributors of an agency and established in a bank by such agency under section 6333;

"(3) 'leave contributor' means an employee who contributes leave to an agency leave bank under section 6335; and

"(4) 'leave recipient' means an employee whose application under section 6337 to receive contributions of leave from a leave bank is approved; and

"(5) 'medical emergency' means a medical condition of an employee or a family member of such employee that is likely to require the prolonged absence of such employee from duty and to result in a substantial loss of income to such employee because of the unavailability of paid leave.

"§ 6332. General authority

"Notwithstanding any provision of subchapter I, and subject to the provisions of this subchapter, the Office of Personnel Management shall establish a program under which—

"(1) annual leave accrued or accumulated by an employee may be contributed to a leave bank established by the employing agency of such employee; and

"(2) an employee experiencing a medical emergency may use leave from such a leave bank.

"§ 6333. Establishment of leave banks

"Each agency shall establish a leave bank or leave banks from annual leave contributed by employees under section 6335, in accordance with regulations prescribed by the Office of Personnel Management.

"§ 6334. Establishment of Leave Bank Boards

"(a) Each agency shall establish a Leave Bank Board consisting of 3 members, at least one of whom shall represent a labor organization or employee group, to administer the leave bank under the provisions of this subchapter, in consultation with the Office of Personnel Management.

"(b) Each such Board shall—

"(1) review and approve applications to the leave bank under section 6337;

"(2) monitor each case of a leave recipient; and

"(3) monitor the amount of leave in the leave bank and the number of applications for use of leave from the leave bank, and maintain an adequate amount of leave in the leave bank to the greatest extent practicable.

"§ 6335. Contributions of annual leave

"(a)(1) An employee may, by written application to the Leave Bank Board of the employing agency of such employee, request that a specified number of hours be transferred from the annual leave account of such employee to the leave bank established by such agency.

"(2) An employee may state a concern and desire to aid a specified proposed leave recipient or a leave recipient in the application filed under paragraph (1). The Leave Bank Board may use such statements in making determinations concerning—

"(A) the recognition of a medical emergency and the approval of an application for a leave recipient; and

"(B) the effects on morale within the employing agency in approving such applications.

"(b) Upon approving an application under subsection (a), the employing agency of the leave contributor may transfer all or any part of the number of hours requested for transfer, except that the number of hours so transferred may not exceed—

"(1) the number of hours remaining in the leave year (as of the time of the transfer) for which the leave contributor is scheduled to work and receive pay; or

"(2) one-half of the maximum number of hours of annual leave accruable by the leave contributor during the leave year, except with the written approval of the agency employing the leave contributor.

"§ 6336. Eligibility for leave recipients

"(a) An employee is eligible to be a leave recipient if such employee—

"(1) experiences a medical emergency and submits an application pursuant to section 6337(a); and

"(2)(A) contributes the minimum number of hours as required under subsection (b) of accrued or accumulated annual leave to the leave bank of the employing agency of such employee, in the calendar year (beginning in and including any part of a calendar year in which such leave bank is established) that such employee submits an application to be a leave recipient under section 6337(a); and

"(B) such contribution is made before such employee experiences the medical emergency.

"(b)(1) An employee shall contribute the minimum number of hours required under subsection (a)(2)(A), if such employee is an employee—

"(A) for less than 3 years of service and contributes a minimum of 4 hours;

"(B) for between 3 years and less than 15 years of service and contributes a minimum of 6 hours; or

"(C) for 15 years or more of service and contributes a minimum of 8 hours.

"(2) Notwithstanding the provisions of paragraph (1), the Leave Bank Board of an agency, after consultation with the Office of Personnel Management, may reduce the minimum number of hours required under paragraph (1) for any year, if such Board determines there is a surplus of leave in the leave bank.

"(c) An employee shall meet the requirements of subsection (a)(2)(A) if such employee—

"(1) is employed by more than one agency in any calendar year;

"(2) completes 1 year of Federal service; and

"(3) contributes the minimum number of hours as required under subsection (b) of accrued or accumulated annual leave to the leave bank of the agency with which such employee submits an application to be a leave recipient under section 6337(a).

"(d) The provisions of subsection (a) may not be construed to limit the amount of the voluntary contribution of annual leave to a leave bank, which does not exceed the limitations of section 6335(b).

"§ 6337. Receipt and use of leave from a leave bank

"(a) An application to receive contributions of leave from a leave bank, whether submitted by or on behalf of an employee—

"(1) shall be submitted to the Leave Bank Board of the employing agency of the proposed leave recipient; and

"(2) shall include—

"(A) the name, position title, and grade or pay level of the proposed leave recipient;

"(B) a brief written description by a physician of the nature, severity, and anticipated duration of the medical emergency involved; and

"(C) any other information which such Board may reasonably require to verify or substantiate the need for leave.

"(b) The Leave Bank Board of an employing agency may approve an application submitted under subsection (a).

"(c) A leave recipient may use annual leave transferred to the leave bank established by the employing agency of such employee under this subchapter in the same manner and for the same purposes as if such leave recipient had accrued that leave under section 6303, except that—

"(1) any annual leave and, if applicable, any sick leave accrued or accumulated to the leave recipient shall be used before any leave from the leave bank may be used; and

"(2) unless the medical emergency involves a medical condition affecting the leave recipient, the employing agency may consider the likely impact on morale and efficiency within the agency in considering the request of a leave recipient to use leave from the leave bank.

"(d) Leave used from the leave bank by a leave recipient may be substituted retroactively for periods of leave without pay or used to liquidate an indebtedness for advanced leave granted on or after a date fixed by the employing agency of the employee at the beginning of the medical emergency involved.

"(e) Notwithstanding the provisions of sections 6303 and 6307, during any period in which an employee is using leave received from a leave bank with respect to any medical emergency—

"(1) annual leave may not accrue under section 6303 in excess of 5 days; and

"(2) sick leave may not accrue under section 6307 in excess of 5 days.

"(f) Nothing in the provisions of section 7351 shall apply to any solicitation, contribution, or use of leave to or from a leave bank under this subchapter.

"(g) Leave approved for a leave recipient from a leave bank, which has not been used at the time when the employment of such leave recipient terminates may not be—

"(1) transferred to the leave bank of another agency, unless approved by both agencies;

"(2) included in a lump-sum payment under section 5551 or 5552; and

"(3) made available for recredit under section 6306 upon reemployment.

"§ 6338. Termination of medical emergency

"(a) The medical emergency affecting a leave recipient shall, for purposes of this subchapter, be considered to have terminated as of the date on which—

"(1) the Leave Bank Board of the employing agency of the leave recipient determines that the medical emergency no longer exists; or

"(2) the employment of the leave recipient by the employing agency terminates.

"(b) The Leave Bank Board of the employing agency of a leave recipient shall monitor the status of the medical emergency affecting the leave recipient and, consistent with guidelines prescribed by the Office of Personnel Management, shall establish procedures to ensure that a leave recipient is not permitted to use or receive leave from a leave bank after the medical emergency ceases to exist.

"§ 6339. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right which such employee may have with respect to contributing, receiving, or using annual leave under this subchapter.

"(b) For the purpose of subsection (a), the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as an appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

"(c) An employee who is intimidated, threatened, or coerced as prohibited under subsection (a) may allege a prohibited personnel practice under section 2302(b)(10) and (11) of this title.".

(2) The table of sections for chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER III—VOLUNTARY LEAVE BANK PROGRAM

"Sec.
"6331. Definitions.
"6332. General authority.
"6333. Establishment of leave banks.
"6334. Establishment of Leave Bank Boards.
"6335. Contributions of annual leave.
"6336. Eligibility for leave recipients.
"6337. Receipt and use of leave from a leave bank.
"6338. Termination of personal emergency.
"6339. Prohibition of coercion.".

(b) Implementation of Voluntary Leave Bank Program.—No later than 4 months after the date of the enactment of this Act—

(1) the head of each agency shall establish a leave bank under section 6333 of title 5, United States Code, and implement the regulations of the Office of Personnel Management prescribed pursuant to paragraph (2); and

(2) the Office of Personnel Management shall prescribe regulations to implement voluntary leave bank programs pursuant to the provisions of this Act.

(c) Termination of Voluntary Leave Bank Program After 5 Years.—(1) Subchapter III of chapter 63 of title 5, United States Code, is repealed effective 5 years after the date of enactment of this Act.

(2) The table of sections for subchapter III of chapter 63 of title 5, United States Code, is repealed effective 5 years after the date of enactment of this Act.●

By Mr. HARKIN:

S. 2141. A bill to amend the Food Security Act of 1985 to permit the enrollment of cropland containing agricultural drainage wells and naturally occurring sinkholes in the Conservation Reserve Program; to the Committee on Agriculture, Nutrition, and Forestry.

WATER QUALITY PILOT PROGRAM

● Mr. HARKIN. Mr. President, in agricultural States such as my State of Iowa, protection of our soil and water resources is particularly important. Agriculture is an essential and honorable profession, but it is not necessarily a benign one. Over the years, we have learned that some of our most accepted agricultural practices may, in certain circumstances, have some very serious and deleterious side effects. Perhaps the best known of these environmental problems is that of soil erosion. While we still have a long way to go, we have taken some important steps to combat this problem. One giant step was the 1985 farm bill's highly successful Conservation Reserve Program, which has enabled farmers around the country to remove their most highly erodible lands from production.

Today, however, our Nation as a whole, and the heartland in particular, faces another environmental threat, the contamination of our precious groundwater. Once thought to be a virtually unlimited, unspoiled resource, we now find that our groundwater is far too often contaminated with a variety of agricultural chemicals and other substances potentially harmful to human health. And like the problem of soil conservation, any effective program to deal with ground water contamination must focus on prevention rather than rehabilitation. The bill I am introducing today takes one small, but important, step toward blocking one threat to ground water quality, that posed by agricultural drainage wells and naturally-occurring sinkholes.

Mr. President, my legislation takes a successful program, the Conservation Reserve, and expands it to cover another related problem. This bill would establish a ground water quality pilot program and permit the enrollment of cropland containing agricultural drainage wells and naturally occurring sinkholes in the Conservation Reserve Program. By expanding the definition of conservation under this program to include ground water, as well as soil, we can do much to mitigate this particular threat to our ground water resource.

Many lands which are prime agricultural areas today were once too wet to farm. These wetlands were drained by a series of tiles and ditches which routed water from fields into nearby streams. However, since many of these lands are not near enough to these natural outlets to make such an approach practical, farmers drilled drainage wells to remove the water. In Iowa alone, we know there are over 300 such drainage wells.

Sinkholes, on the other hand, are nature's version of drainage wells. These natural depressions in the land are unique to certain types of topography but, like manmade drainage wells, can offer surface water relatively unimpeded access to ground water.

Normally, ground water is protected from contamination by the slow movement of surface water through the soil. While researchers disagree about the amount of agricultural chemicals which leach through the soil to the aquifer, the threat to ground water by contaminated surface water which bypasses that natural filtration system is obvious. Agricultural drainage wells and sinkholes provide runoff which is contaminated with agricultural chemicals and are a direct conduit to ground water.

Mr. President, many of colleagues are no doubt aware of the landmark legislation passed by the Iowa Legislature last year, the Groundwater Protection Act of 1987. I am proud of the bold steps taken by the Iowa Legislature and the broad public support within my State for this legislation. Most recently, the Iowa Legislature has passed a resolution urging Congress to include these sensitive croplands in the Conservation Reserve Program. I am pleased to introduce such a bill, and I join with the Iowa Legislature in urging my Senate colleagues to support this legislation. Finally, I ask unanimous consent that the resolution passed by the Iowa Legislature appear in the Congressional Record following the completion of my remarks.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Senate Concurrent Resolution No. 104

Whereas, the prevention of soil erosion is recognized as being of prime importance to ensure the preservation of the nation's environmental and agricultural resources; and

Whereas, Title XII of the federal Food Security Act of 1985, Public Law 99-198, provides that persons may contract with the

Secretary of the United States Department of Agriculture to enter into the conservation reserve program; and

Whereas, the State of Iowa, as many states, has naturally occurring sinkholes and agricultural drainage wells that significantly contribute to soil erosion and present possible groundwater quality problems; and

Whereas, only land which is located near certain streams and other bodies of water are eligible for the federal conservation reserve program; now therefore,

Be it resolved by the Senate, the House concurring, That the General Assembly hereby petitions the Congress of the United States, the President of the United States, the United States Secretary of Agriculture, and the Administrator of the Agricultural Stabilization & Conservation Service to take immediate steps to ensure that lands with agricultural drainage wells and naturally occurring sinkholes are eligible for the federal conservation reserve program; and

Be it further resolved, That copies of this resolution be submitted by the secretary of the senate to the President of the United States, the United States Secretary of Agriculture, the Administrator of the Agricultural Stablization & Conservation Service, the Director of the Midwest Area Office of the Agricultural Stabilization & Conservation Service, and the members of Iowa's Congressional Delegation.●

By Mr. BOSCHWITZ (for himself, Mr. BURDICK and Mr. CONRAD):

S. 2143. A bill to amend the Food Security Act of 1985 to expand the lands eligible for the conservation reserve program; to the Committee on Agriculture, Nutrition, and Forestry.

LANDS ELIGIBLE FOR CONSERVATION RESERVE

Mr. BOSCHWITZ. Mr. President, Senators BURDICK, CONRAD, and I offer this bill today as a possible solution to problems encountered by farmers as a result of the "swampbuster" provision of the 1985 farm bill. In recent months pressure has been building to change the "swampbuster" provisions of the 1985 farm bill. Producer complaints include, but are not limited to, the following:

First, wetlands determinations have not been timely in certain areas and producers have therefore not been able to make production plans.

Second, some areas determined to be wetlands are simply "nuisance" areas that would normally be planted or even if they did hold water at certain times of the year or in certain years, they would not be of benefit to wildlife anyway.

Third, penalties are not proportional to the crime. An accidental or even deliberate draining of wetlands results in full withdrawal of farm subsidies if that area is cropped even though the area may be very small.

Fourth, taking away the right to drain properties for which investments have already been made not only is an infringement on personal property rights, but may have an opportunity cost attached. Producers may have paid a price for the property in anticipation of draining and now find that the area can not be drained and cropped without significant loss of income.

One option to relieve the real and perceived hardship imposed on farmers by swampbuster and at the same time enhance the wildlife carrying capacity and water quality of the wetland would be to allow the wetland and the cropped base acres in the surrounding field to be enrolled in the Conservation Reserve Program [CRP].

The swampbuster provisions of the 1985 farm bill and regulations currently in place to implement the act would not be changed. Nor would the wetland be exempt from swampbuster once the CRP contract expired.

To be eligible for the CRP, at least one-third of the field must be designated as wetlands. Currently, two-thirds of the field must be highly erodable for CRP eligibility except for those areas planted to trees in which case only one-third of the field must be designated as highly erodable.

Benefits of this plan include:

First. Producers who do not want to comply with swampbuster or believe that their personal property rights have been infringed upon will now be given the option of renting the property to society for the general good. This is consistent with the option given to farmers who do not want to comply with the conservation provisions of the sodbuster legislation.

Second. Upland areas are critical as a filter for water going into wetlands and as habitat for wildlife using the wetland as feeding, breeding, or resting areas. If such uplands could be put to conservation uses rather than agricultural production the value of the wetland for water quality and wildlife habitat will increase manyfold.

Third. The current goal of entering 40 to 45 million acres in the CRP by the end of 1990 may be difficult to meet if the agricultural situation continues to improve. As prices rise because of increased demand for commodities and producers become more bullish about the future, they become less inclined to enroll their land for 10 years in conservation uses. On the one hand the bid price will have to go up in order to attract enough highly erodable acres, but on the other hand recent legislative changes approved by the Appropriations Committee say that CRP bids can not exceed local rental rates for similar land in the area.

Allowing wetlands to be enrolled in the CRP will expand the number of producers and acres that may participate. Such an expansion of eligibility will help insure that the CRP goal of 40 to 45 million acres is reached more quickly and at less cost.

Mr. President, I believe that the basic thrust of the conservation provisions of the 1985 farm bill were good. We need to do a better job of protecting our natural resources. To deny that protection on agricultural land is to deny the existence of environmental problems that result from agricultural production. We really have never imposed strict environmental regulations on farmers like we have on other businesses. Nor have we imposed environmental regulation on individuals who do not happen to operate a business. Now we have begun to require some conservation compliance on farms—something farmers do not like—but society is demanding as a prerequisite for continuation of farm subsidy programs.

I believe that farmers will face more and more stringent environmental regulations. This is because Congress has already passed environmental regulations for point source pollution such as that from factories, waste water plans, powerplants, cars, and those sources which are easy to identify and control. When it comes to nonpoint source pollution—like runoff and leaching from agricultural land—the solution becomes more difficult. However, Congress and society are looking more and more to doing something about agricultural sources of environmental contamination.

It is the duty of those of us who represent farmers and farm states to make sure that new regulations and laws are reasonable and that an appropriate transition time is allowed for farmers. The bill offered today is aimed at trying to make the "swampbuster" provision of the 1985 farm bill a little easier to live with. I urge its timely consideration by the Agriculture Committee.

Mr. BURDICK. Mr. President, today I introduce, with my distinguished colleagues, Senators BOSCHWITZ and CONRAD, a bill we believe will alleviate some of the problems we have had with the swampbuster provisions of the 1985 farm bill.

In my State of North Dakota, we have had a great deal of controversy over swampbuster in the last several months.

Much of the controversy in North Dakota has been due to a delay in wetlands determinations for our farms. Until such a determination is made, farmers do not know what is considered a wetland by the Soil Conservation Service. Without this information, farmers find it difficult to plan their farming operations.

The situation has improved recently in North Dakota due to the great strides the Soil Conservation Service has made in mapping a large part of my State in the last couple of months. From the reports I have received, this has done much to help our farmers understand how swampbuster applies to their land. This effort of SCS is commendable. But I believe that we must do more for our farmers than ensure that wetlands determinations are made. We need to give farmers the option to place certain wetlands in the Conservation Reserve Program.

A large amount of land in North Dakota and elsewhere can be classified as ephemeral wetlands. This means that water stands on the land for a short period of time—maybe a few days to a few weeks. Our farmers call these nuisance spots. Many years these lands dry out early enough to seed the entire field at the same time. Other years, a farmer must wait a few weeks to seed these spots. Still other years these lands remain wet long enough so that the farmer never gets a crop in that season.

There is much disagreement whether these lands were intended by Congress to be included in swampbuster in the first place. Many believe, and I am one, that Congress did not intend for these nuisance spots to be included in the definition of wetlands. However, we do not attempt to address this issue in the bill we are introducing today. What we propose to do through this legislation is to place these nuisance spots into the Conservation Reserve Program. This will not expand the size of the CRP.

We are simply expanding the pool of land that would be eligible for the program.

Under this bill, fields where one-third or more of the land is wetland or converted wetland, and that have been cropped in two of the 1981 through 1985 crop years, will be eligible to enter the CRP.

This would give farmers the option to place this land in the CRP instead of continuing the difficult management task of trying to crop this land.

Also eligible would be land that poses an off-farm environmental threat or is threatened by soil salinity. We are becoming more conscious of environmental threats that result from agricultural chemicals.

I think this is a step in the right direction to protect our environment.

Mr. President, I do not assert that this bill will solve all the problems with swampbuster.

There are several remaining problems that I hope will be addressed another day.

For instance, I believe that we must tailor penalties so that inadvertent violations do not result in the total loss of all farm program benefits. We must distinguish between minor infractions and those that are willful.

We need a penalty scheme that both discourages draining wetlands, but does not treat every violation equally. Only willful violations should be punished by a total loss of benefits.

I also think that we must address the issue of whether these ephemeral wetlands are or should be included in swampbuster.

As I said earlier, I do not believe that Congress intended these nuisance spots to be classified as wetlands under swampbuster. This, too, is for another day, however.

Mr. President, I sincerely believe that we should protect our wetlands and our wildlife. However, I also believe that we should compensate our farmers for not producing crops on these nuisance spots.

If protecting our wetlands is indeed a national priority, we must all share in this task.

Farmers should not be left with the ultimate responsibility for protecting much of our wetlands without some sort of contribution from the rest of us.

I believe that, in the end, swampbuster will be more successful with our farmers as willing participants. Passage of this piece of legislation would go a long way to achieve just that goal.

By Mr. DIXON (for himself and Mr. SIMON):

S. 2144. A bill to authorize a demonstration project for the restoration of the Des Plaines River Wetlands; referred to the Committee on Environment and Public Works.

DES PLAINES WETLANDS DEMONSTRATION PROJECT

Mr. DIXON. Mr. President, today my distinguished colleague from Illinois, PAUL SIMON, and I are introducing a bill to authorize money for the completion of an ongoing wetlands reclamation project along the upper Des Plaines River in Lake County, IL.

This demonstration project has been over 60 percent supported by non-Federal funding. It is the kind of balanced cost-sharing project we must encourage in our efforts to reduce the deficit. The total cost of the project is $10.2 million. To date, the local government has provided $1.4 million, the State of Illinois has added $1.4 million, and private contributions from industry and foundations have equaled $750,000. The Senate has shown support for this project in the past with funding from the Fish and Wildlife Service. Now we must finish our Federal commitment by authorizing the Army Corps of Engineers to commit $2.2 million over 5 years in construction funds.

This modest sum will assure that 450 acres of wetlands in Wadsworth, IL will be reclaimed. We lose approximately a half of a million acres of wetlands a year in this country. Only half of America's original wetlands remain; and in my State of Illinois, 99 percent of our wetlands have been destroyed.

Now, those of my colleagues who understand the role of wetlands in the delicate balance of an ecosystem, can see the implications of allowing this natural water resource to be depleted. The wetlands will function to prevent down-river flooding, serve to naturally purify the river's water quality, and stimulate growth of fish and waterfowl populations. Wetlands also catch agricultural and unban run-off. Many of my colleagues will remember that, during our debate on the Clean Water Act, it was estimated that half of our future water pollution will come from this kind of nonpoint source pollution. In a time when we spend billions to control pollution, we can restore mother nature's way of cleaning up a problem for free by finishing this wetlands restoration project.

I ask the Senate to continue its support of this project so that we may complete what we have begun.

Mr. President, I ask unanimous consent that a copy of the bill, a statement by Senator PAUL SIMON, and several related articles on the history of this wetlands project, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DES PLAINES RIVER WETLANDS DEMONSTRATION PROJECT AUTHORIZATION.

(a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to carry out a program to construct, and engage in other activities, necessary for the restoration of wetlands, of sufficient scale, for research and demonstration purposes adjacent to the Des Plaines River in Wadsworth, Illinois. The non-Federal interest shall agree—

(1) to provide, without cost to the United States, all lands, easements, and rights-of-ways necessary for construction and subsequent research and demonstration work;

(2) to hold and save the United States free from damages due to construction, operating, and maintenance of the project, except damages due to the fault or negligence of the United States or its contractors; and

(3) after the completion of the research work, to operate and maintain the restored wetlands in accordance with good management practices.

The value of the non-Federal easements, and right-of-way provided by the non-Federal interests, shall be credited to the non-Federal share.

(b) There are authorized to be appropriated to the Secretary of the Army $2,200,000 for the period of fiscal years 1989 through 1993 to carry out this Act.

(c) The project authorized by this Act shall—

(1) rigorously define the wetland functions expected to be restored and maintained giving due consideration to site specific climatic, topographic, hydrologic, and edaphic conditions;

(2) conduct research to establish the critical relationships between the land, water, and biotic factors responsible for the defined wetland functions;

(3) establish and report design and construction procedures necessary to create the defined wetland functions throughout similar climatic areas and identify and report these wetland functions;

(4) create or restore sustainable wetlands which will serve as living examples of the benefits and aesthetics of wetland landscapes; and

(5) secure the long-term commitment from a State or local agency for the maintenance of the wetlands following the research work.

(d) The Secretary shall report to the Congress on the degree of progress achieved in carrying out this project.

[From the Chicago Tribune, July 27, 1984]

Giving Nature a Chance

To most people, the word "wetlands" calls'up a not-very-appealing picture of a swamp with vegetation. To those groups calling for a $6.8-million wetlands project for the Des Plaines River, the word carries many more meanings, including these: A clean waterway abounding with bass and pike. Woods alive with birds. A natural flood-control and water-purification system that operates free of charge. An outdoor laboratory for ecological studies of national importance. And all this replacing, what is there now—a sluggish, polluted stream winding through mud banks.

These organizations—among them the Northeastern Illinois Planning Commission (NIPC)—are calling for a five-year pilot project to be funded chiefly by the federal government and private industry. It would center on a 450-acre forest preserve site near Waukegan (the land has already been donated by the Lake County Forest Preserve District).

For the Interior Department, the project seems a good investment; it may show the way toward restoring or replacing the nation's wetlands, which are now being destroyed at a rate of nearly 500,000 acres a year. For industries and communities in the Chicago area, it offers a way to purify rivers, control flooding, and build up dwindling water reserves—and do it without spending more tax money on more storm sewers and treatment plants. Industrial support for the project, especially from oil companies, has been strong.

The fate of this project is now up to Congress. One difficulty is that the site is in the district of Rep. Philip Crane, who normally leans against any domestic spending bill. Still, conservatives like Mr. Crane should see the advantage of this plan. If nature can do a job better, cheaper and more permanently than government engineers, why not give nature a chance."

[From the News-Sun, Sept. 26, 1984]

Conservation Area

Support from two vital but previously lacking sources have considerably brightened prospects for a unique wetlands restoration project in northern Lake County.

Plans for the environmental test project on a section of the Des Plaines River valley near Wadsworth have been on hold since 1982, mainly because it lacked support from the private sector and U.S. Rep. Philip M. Crane, R-Arlington Heights. Federal grants to cover most of the project's $8.25 million cost were virtually assured from the beginning—if it were supported by Crane, in whose district it lies, and if it could attract private donations to supplement the $7 million in federal funds.

Until recently Crane had been reluctant to support the project, even though it had been endorsed by environmentalists as a test of ways to improve flood control and water quality, as well as preserving unique specimens of wildlife. Crane now has become an ardent supporter and hopes to include $2 million first-year funding for the project in the upcoming federal budget.

The necessary private sector support also has developed, with endorsements coming from representatives of the Atlantic Richfield Corporation, International Mineral Corporation and Gaylord Donnelly, a multimillionaire from Libertyville.

Given that kind of support, it now seems likely that Wetlands Research Inc., a branch of the Open Lands Project, will be able to carry through on the project for the Lake County Forest Preserve District. Plans are to split the present narrow, single channel of the river into a multiple channel complex and widen it up to 600 feet, directing the flow through a series of gravel pits which are now isolated. With the addition of pumping stations, water would be raised to the upper edge of the floodplain, allowing it to spread into wetlands areas and restore natural conditions which over the years have been disrupted by developments in surrounding areas.

If the plan is carried through and lives up to experts' expectations, Lake County will have an ecological treasure of immeasurable value.

The Des Plaines River Wetlands Demonstration Project

(Briefing prepared for Valdas V. Adamkus)

A new strategy for arbitrating economic and environmental interests is being tested in Lake County, Illinois. The Des Plaines River, Wetlands, Demonstration Project is going to recreate a wetland and, in doing so, it is going to answer some important questions about how and at what cost wetlands can be designed, built and operated to solve environmental and water resources problems related to economic development. We know that natural wetlands remove pollutants from waters flowing through them, reduce downstream flooding and provide a rich variety of natural habitat for wildlife. We know that midwestern streams were once bordered with hundreds of thousands of acres of wetlands providing natural instream treatment and flood control. What we do not know is how easy it will be to recreate those wetlands and provide those benefits, once again. But it is a lesson well worth learning, because the use of wetlands, as strategic tools, could allow for economic development while creating and maintaining a healthy, attractive environment in which to work and play.

PROJECT SUMMARY

The project is the reconstruction of a riverine wetland on a 450 acre site bordering a 2.8 mile stretch of the upper Des Plaines River. The site is in Wadsworth, Illinois, located in Lake County in the Chicago metropolitan area. The river, which drains a 210-square mile watershed (80 percent of which is agricultural and 20 percent urban), is polluted with nonpoint source contaminates from both urban and agricultural activities. The stream bed is channelized, the banks cut steep and floodplains leveed and, as a result, homes downstream are subject to periodic flooding. The site has been drained with tile fields and minded for gravel, causing the original wetland and prairie fauna and flora to be destroyed and replaced with a monotonous and sterile plant and animal community.

Project construction will regrade and broaden the stream channel, carving terraces and wetland saucers out of the adjoining land surface. Streamflow will be pumped to the site perimeter and allowed to gradually return to the channel, the duration and extent of contact between land and water will be controlled by sluice gates and varied in accordance with research programs. Native plant communities will be introduced, spawning and breeding areas created, and the site repopulated with native fish and wildlife.

BACKGROUND

As depicted in Exhibit 1, the project has already gone through several phases. It began with a small grant from the Illinois Department of Energy and Natural Resources, for a feasibility study, published as *The Creation of Wetland Habitats in North eastern Illinois* in May, 1982.

The Lake County Forest Preserve District agreed to provide the $1.5 million site in June of 1982.

In 1983, the non-profit pioneer in public acquisition of open space, Open Lands Project, and the Lake County Forest Preserve District organized the non-profit Wetlands Research, Inc. The Wetlands Research Board is composed of three Lake County Board members from the forest preserve district and four members from Open Lands Project. Their affiliation, names and postions are as follows:

Open Lands Project: Anthony Dean, President; Barbara Donnelley, Secretary; Richard Ettlinger, Treasurer; and William Beecher.

Lake County Forest Preserve District: Robert Depke, Stanley Pekol, and Priscilla Richardson.

Dr. Donald Hey serves as director of Wetlands Research and Judity Stockdale as assistant director.

During the spring and summer of 1984, money was raised to launch the project: over $100,000 of corporate contributions and a $526,000 Congressional approriation, administered by the U.S. Fish and Wildlife Service.

STATUS

The project is now in its design phase. Site photography, mapping and surveying are in progress. Botanists, fisheries scientists, zoologists, hydrologists, microbiologists, paleo-historians and engineers are preparing the site inventory, engineering design, construction and the research plans—all are to be completed by the end of June 1985.

BENEFITS

The project will greatly improve the aesthetic and recreational character of the site, itself, and will produce three major benefits. The first is a cleansing of the streamflow diverted through it: turbidity will be decreased, dissolved oxygen increased, nutrient balance achieved and algal blooms controlled. The second is flood control: the site will provide flood storage and reduce flow velocities, diminishing downstream flood stages. The third is the creation of valuable wildlife habitat: native prairie and wetland plant communities will be seeded, planted and maintained on the site for breeding, nesting and feeding of waterfowl, sport fish, beaver and muskrat and many other animals.

The most important benefits of the project, however, will come from its demonstration and research as a nationwide model for wetland re-creation. It will serve as a living laboratory for biologists, hydrologists, chemists, botanists, fisheries and soils scientists and engineers to test and evaluate a wide variety of techniques for creating wetlands in ecologically-degraded urban and agricultural environments. The project will provide new information about how and at what cost natural wetland processes can be used to manage our water resources. This information will have application throughout our nation's industrial states where wildlife habitat, nonpoint source pollution abatement and flood storage are scarce and in demand.

FINANCING

The anticipated sources of project funding are state and local governments (30 percent), federal government (35 percent), corporations and private donors (35 percent), as shown in Exhibit 2. Twenty-five percent of the total $8.25 million already has been raised. Of the $2.16 million received to date, state and local governments contributed 69 percent, the federal government contributed 24 percent and corporations and private donors contributed 8 percent.

Wetlands Research, Inc. has launched a funding drive to secure $1.6 million for construction in 1985 and $1.0 million to complete construction in 1986. At the same time, research funds are being sought according to the following schedule: 1986—$512,000; 1987—$1,053,000; 1988—$967,000; 1989—$315,000.

CONSTRUCTION

As is evident in Exhibit 1, the next step on the critical path is the construction. The seven basic construction elements, shown in Exhibit 3, are divided into two categories: those requiring cash contributions and those (depicted in a darker shade) that are suitable as "in-kind" contributions from a construction company or manufacturer of heavy equipment. The construction costs identified with these components are based on prevailing rates and include, perhaps up to 50 percent, amortization of the equipment and profit. This means that our requirements could be satisfied by in-kind contributions for mass grading, channel excavation and interim planting with real costs to the contributor being as little as half our cash needs.

The major construction activities:	
Appropriate for in-kind contributions are:	
Mass grading	$844,000
Channel excavation	348,000
Interim planting	49,000
And requiring cash contributions are:	
Final planting	323,000
Irrigation system	645,000
Public access and research structures	273,000
Construction management and supervision	131,000

We request that the U.S. Environmental Protection Agency consider a grant to pay for the irrigation system in FY86. This grant would amount to $645,000, as shown above. The system includes three pumping stations (the aggregate rate being 75 cubic feet per second), wetwells, delivery pipes, head works, and outlet control gates. The demonstration and research work will require careful control and monitoring of flow rates through the reconstructed wetland units. Flow and water levels will be regulated by the three pumping stations and by the control gates places along the rims of the wetland units.

RESEARCH

The research will directly relate to the investigation of the design, construction, operation, and maintenance of wetland environments and the related benefits. Labor, instrumentation, and other direct costs included in the four-year program are estimated to be $2.8 million. Following are the specific research categories: Hydrology, Water Quality, Soils, Plants, Fish, Birds, Mammals, Reptiles/Amphibians, Insects, Macroinvertebrates, Microorganisms, and Public Use.

The research work is evenly split between wildlife and water quality. Accordingly, we have requested that the U.S. Department of the Interior, through the Fish and Wildlife Service, fund half of the research work. To date, they are the sole federal agency involved in the project—paying for design and initial research. We request that the U.S. Environmental Protection Agency contribute the other half necessary for the research program according to the following schedule: FY86—$256,000, FY87—$527,000, FY88—$438,000, FY89—$158,000.

DOCUMENTATION

The project's ultimate value will be to serve as a model for wetland re-creation, selectively and strategically, to reduce nonpoint source pollution and flood damages where other techniques are not economically feasible. To this end, film documentation is an important piece of the work. In addition, manuals and other informational and education materials will be prepared to record and illustrate each step of the project. The estimated cost for this work is $270,000.

[From The Chicago Tribune, Mar. 28, 1985]

A NATURAL WATER PROJECT

A not-for-profit organization attempting to recreate a flood plain swamp, now known as a wetland in scientific literature, along the Des Plaines River near Wadsworth in Lake County has run into the usual problem—money. The group has raised about a quarter of the $8 million it needs from federal and local government and private corporations and is now seeking $1.6 million from the state to start construction.

Proponents of Wetlands Research Inc. hope to make the 2.8-mile-long project a national model for research to prove that recreating the natural swamps that were destroyed when the region was settled is a cheaper alternative to building expensive water pollution control projects and dams to control flood. Ultimately, Wetlands officials believe, such manmade projects could extend much of the length of the Des Plaines in Lake and Cook Counties on existing forest preserve land.

State officials should take a serious look at the proposal. It may be feasible to use funds from Gov. James Thompson's proposed "Build Illinois" program to finance the state's share of the project. Wetlands officials claim the state's $1.6 million investment ultimately could return $3 million to the state in research projects.

VIEWPOINT—WETLANDS: A STRATEGIC NATIONAL RESOURCE

(By Donald L. Hey, Ph.D.)

(Wetlands Research, Inc., a not-for-profit corporation and affiliate of the Open Lands Project, is undertaking an ambitious wetlands restoration project along the Des Plaines River in Illinois. The immediate goal of the Des Plaines River Wetlands Demonstration Project is to rehabilitate a 2.8 mile stretch of the river and 450 acres of attendant floodplains. The project's long-term objectives include the development of design criteria for the efficient restoration of the nation's waterways. In the following article, Donald Hey, the Director of Wetlands Research, Inc., argues that traditional—mostly structural—methods of water resources management have not been successful and that the strategic restoration of wetlands and natural stream systems offers a new and cost-effective approach for improving water quality, contolling flooding, and enhancing wildlife habitat—Ed.)

Today's wetland—yesterday's swamp—may be tomorrow's most promising tool for managing our nation's water resources. A project on the upper Des Plains River in northeastern Illinois will soon be testing this premise.

The archaic notion of a wetland as a mosquito-infested muck hole is fast fading and being replaced with a more modern view of this resource as a natural treasure. We now know that birds, fish, reptiles, and mammals are dependent on the rich diversity of wetland habitats. We appreciate how the flat expanses of wetlands effortlessly embrace flood waters that otherwise would ravage downstream homes and croplands. We should have been, and will be in the future, more appreciative of the infiltration and percolation of wetland waters which replenish our groundwater supplies. And we are discovering that the ever-so-slow passage of filthy streams through leafy, reedy plant communities cleanses and purifies the water, as sediments and nutrients are left behind.

With an inkling of this, our society, through our government, is acting to protect and preserve this precious resource water where it remains along our streams and coasts, and in isolated pockets of our prairies and woodlands. Although this is encouraging, it is not enough.

WETLAND VALUES AND STATUS

Only 50 percent of this nation's original wetlands remain. In our industrialized states, the loss is even greater. For example, less than one percent of Illinois' pre-settlement wetlands remain. Unfortunately, in more populated areas, those remaining wetlands are all too often located neither where we need them nor where we can best use them. They no longer exist upstream of homes subject to flooding because the very channelization that destroyed the wetlands created the downstream flooding. They have never served to filter the outflows from our industries or sewage treatment plants because our factories and municipal facilities front urban, concrete-lined waterways and rely upon costly treatment processes to satisfy the letter of the law. And only occasionally are wetlands situated where muskrat and beaver can be viewed at work by school children, where walleyed pike can spawn to fill a stream for surburban fishermen, or where our nation's rich environmental heritage can be appreciated by urban and rural America alike. Our scarce remaining wetlands serve as windows into the past . . . beautiful, vital, and with a lesson to teach us.

Wetland processes—flood storage, water quality improvement, ground water recharge, and fish and wildlife propagation—serve important national goals. By duplicating those processes, by engineering our landforms to reproduce the wetland model when and where we choose, we may well implement a new management strategy for solving water-related problems that outperforms our traditional strategies. The fact is that our existing water resource management strategies don't always work. And where they are effective, they cost too much for both private and public pocketbooks.

TRADITIONAL WATER RESOURCE MANAGEMENT STRATEGIES

What are those national goals toward which we manage our water resources? One set is recreational: fishing, swimming, streamside activities, and boating. And to those ends we have translated the "fishable/swimmable" goals of the Clean Water Act into chemical and physical water quality standards for our surface streams and lakes. We strive to meet those standards by regulating the outflow from the pipes that pour their wastes into surface waters. Since the 1972 passage of the Clean Water Act, over $200 billion of private and public monies have been spent to clean up discharge from pipes. If purity is the measure of success, we have succeeded since our advanced treatment technologies can purify wastewater to the point that it can be and has been drunk by proud political sponsors. But why do the vast majority of our agricultural and urban lakes and streams remain contaminated and degraded?

The problem may be obvious, but the solution is not. While we have moved a considerable distance in controlling our point sources and pipe flows, we have made little progress towards controlling the non-point sources—the runoff from farmers' fields and roads, urban streets, and parking lots. From these sources, contaminates are washed into our surface waters with every rainstorm; it is nature's inevitable way of cleaning house. Street cleaning machines may reduce the contribution from urban areas and conservation tillage may reduce that from agricultural areas, but such strategies will not bring us noticeably closer to that elusive "fishable, swimmable" goal. They simply cannot exert enough control.

Other water-related national goals—water supply, habitat for fish and wildlife, and flood control—are typically pursued with competing strategies. Our methods for eliminating flood damages have been particularly self-defeating. We began by channelizing our streams and moved the flooding problem downstream. We built large multipurpose reservoirs, destroying natural habitat and degrading water quality. Our retention ponds turned into mudflats and our dams restricted the movement of fish and boats. Nonetheless, flood losses continue to grow. Even today's attempt at a non-structural solution, the federally-subsidized flood insurance program, clashes with private property and local zoning rights.

These water management strategies also compete with our economic interests, forcing the unnatural choice between a good environment and a sound economy. Moving agricultural produce and raw materials along water-ways, increasing our supply of productive farmland, and reducing the costs of industrial processes are all important to our quality of life, yet often at odds with our strategies for managing water. We therefore need new strategies that will not compete with one another or with economic interests. Wetlands provide us with a tempting model.

THE WETLANDS MODEL FOR WATER RESOURCES MANAGEMENT

The riverine wetland is, quite simply, a unique land configuration: a low, flat area adjacent to a stream, across which shallow waters spread, then stand, trickle and seep, ebb and flow, keeping the soils always saturated and the plants often inundated before returning to the channel. That land configuration, and the intricate physical, chemical, and biological reactions which is triggers, simultaneously reduce flood flows; improve water quality; increase drinking water supplies; and produce a diversity of habitat and breeding areas for fish and waterfowl. In other words, they move us concurrently toward our water-related goals. These are some of the reactions that take place. Turbidity is decreased by increasing the area and time of contact between the stream and attached plants; velocity is slowed down, fine particles are filtered out, and the seasonal distribution of suspended solids is advantageously modified. Dissolved oxygen, vital to a healthy stream, is increased because of the cooler water resulting from shading by the denser plant communities, which are supported by the shallow, more transparent waters, and because wetlands provide a greater surface/air interface. Nutrient balance is achieved by plants taking up the on-site nutrients during the growing season, and releasing them into the water only during the cooler months, when such problems, as algal blooms occur. Flood stages are diminished by increased flood storage and reduced flow velocities. Breeding, nesting, and feeding areas are provided for a wide variety of fish, reptiles, birds, and mammals. And finally, the replenishment of groundwater aquifers is facilitated by the large surface area over which infiltration takes place. The concepts are simple, but the reengineering is sure to be complex. The relationship between land and water that makes such magic in a wetland is a delicate one. We need to know how it can be recreated and at what cost. We expect to find some answers on the Des Plaines River.

The Des Plaines River Wetlands Demonstration Project

The Des Plaines River Wetlands Demonstration Project is being partially funded through the U.S. Fish and Wildlife Service. The Atlantic Richfield Foundation, as well as other corporations, and the State of Illinois are also contributing funds. The Lake County (Illinois) Forest Preserve District has contributed the land. The Des Plaines River flows directly through the project site, draining a 210-square-mile watershed, 80 percent of which is agricultural. The river is channelized, the wildlife habitat highly disturbed, water quality degraded, and flood damages occur downstream.

The project involves reconstructing a wetland where one once stood. Masses of earth will be moved to reconfigure 2.8 miles of stream bed and 450 acres of adjacent land, including three abandoned gravel pits. The polluted streamflow will be pumped to the perimeter of the site and returned to the river, regulated by water level controls. Spawning areas will be created, plant communities introduced, and a regime employed to minimize water level fluctuations and eliminate unwanted weedy growth.

The project's immediate objective is to rehabilitate this river environment. The long-term objectives are research and demonstration and the ultimate goals are to:

Demonstrate the benefits of non-structural management strategies for wildlife, water quality, and flood control;

Formulate and test rehabilitation procedures for wetlands and rivers;

Redirect existing environmental investment strategies and management programs; and

Foster the creation of better urban and rural environments.

During the course of the project, many questions will be answered. Can water quality be restored by filtering water through a single small wetland? What is the appropriate scale? To what extent can flood stages be reduced to prevent downstream damages? What is the most efficient location for storage? How rich and stable will the created wildlife habitats be? Will the sites attract migrating waterfowl? How much will rehabilitation cost? It is not a question of "whether" but of "how" the wetland can be reconstructed to serve our purposes. It is a lesson well worth learning.

If we are successful, the potential use of the proposed strategy is enormous. In Lake County, Illinois, the county forest preseve district owns some 10,000 acres on the Des Plaines River on which wetlands could be established and stream channels returned to their natural state. Tens of thousands of acres of similar land are available throughout northeastern Illinois and hundreds of thousands along other streams and rivers across the country. And using the wetland as a strategic tool will not impede the pursuit of economic interests. Wetlands provide an instream processing that corrects and compensates for, but does not preclude, the economic uses of our land and water resources. There are ample public lands available on which restoration could be undertaken.

What we learn on the upper Des Plaines will tell us how and where to open up old, sealed-off oxbows on our navigable rivers; where to cut through obsolete agricultural levies on our rural streams; where and of what size to sculpt wetlands out of our urban landscapes, all carefully managed to solve immediate and local problems. We are starting with a river, some land, a bulldozer, a pump, some pipe, plants, and seeds. Our task is to find that special combination, and those optimum conditions, under which land and water will meld together to produce that creative, functional synergism that is a wetland.

FOREST PRESERVE RECREATES BEAUTY AND RESOURCES

(By Patrick Wilson)

During the next three years the Lake County Forest Preserve District is going to be making history—"natural" history—by participating in a research project which will serve as a national model. It will also leave Lake County with a 450-acre site rich in recreational, aesthetic and environmental benefits.

The district and its partner, Open Lands Projects, have set up Wetlands Research, Inc., a nonprofit organization, to carry out the Des Plaines River Wetlands Demonstration Project. This project will reconstruct a former wetland bordering a two-mile stretch of the Des Plaines River in Wadsworth, IL.

The site, a part of the district's almost 13,000 acres of forest, fields and wetlands, was badly degraded over the last century as a result of economic activities. Today it retains scarcely a trace of the native prairie and wetland habitats it formerly offered to a rich diversity of wildlife. The river bed itself is channelized, and the poor water quality coursing through it nurtures little more than the all-too-present carp.

PROJECT DETAILS

The project will begin by widening the channel and regrading the adjoining land into a gradually sloping flood plain characterized by wetland "saucers," where water will be controlled and monitored. The transformation process will be speeded along by an irrigation system which will move water to the site perimeter and allow it to return, gradually, to the channel. Native prairie and wetland plant communities will be introduced, spawning and breeding areas created, and the site repopulated with fish and wildlife.

Natural wetlands have long been known for the great variety of fascinating plants and animals they support. The presence of water, the abundance of food and the variety of protective cover attract ducks and geese, provide spawning ground for pike and blue gill, and nurture many of our endangered species.

This fascinating array of wildlife, in turn, delights naturalists, educates children rewards fishermen and generally enriches the lives of the people who have access to it. This recreated wetland, situated securely within the forest preserve district's boundaries, will bring pleasure to the entire metropolitan area with nature walks, canoe trails and educational programs.

HOW THEY HELP

Natural wetlands are almost as well known for their ability to serve as retention basins for flood waters. The run-off from snowmelt or heavy rains spreads gently and harmlessly across a wetland. In channelized, steep-sided streams, like the portion of the Des Plaines which now traverses the site, floodwaters move rapidly onward to do damage downstream. The Des Plaines site, once the channel walls are flattened and the old levies removed in the creation of the wetlands, promises hundreds of acre feet of flood storage capacity.

However, natural wetlands are much less well known for their ability to cleanse and purify the water that flows through them. As water slows it drops its load of sediment, while the plants filter and capture the finer sediments. Nutrient balance is achieved and algal blooms controlled.

Experiments around the country are bringing in new data every day about the ability of wetlands to absorb and contain phosphorus and nitrogen, and even heavy metals. The reconstructed wetland on the Des Plaines will provide water quality benefits but, more than that, it will add to the increasing body of data on what those benefits are.

Above all, the demonstration project will be a living laboratory. Engineers, landscape architects, hydrologists, botanists, microbiologists, geologists, soil scientists and a host of others will experiment with the conditions to understand how best, and at what cost, wetlands can be reconstructed.

JUSTIFYING THE COSTS

The project is not cheap. A total of $8.25 million will be invested before it is over, but half of that is going for research alone. What we know today about wetlands is that they provide benefits: flood control, water quality improvement and wildlife habitat creation. What we don't know is how much it would cost us to reproduce those benefits in our nation's many urban areas where we need them the most. On the Des Plaines River in Lake County we will be trying to find not only the best ways, but also the least expensive as well.

If wetland reconstruction turns out to be, as many of us believe it will, a cost-effective way to reduce non-point-source pollution and control flood waters, the possibilities for its future use are limitless. With a little bit of time and trouble, we could open up hundreds of filled-in ox-bows and meanders that line our rivers, cut through old dikes and levies, and selectively and strategically bring back fragments of our former wetlands to work for us.

[From the Suburban Times, Apr. 12, 1985]

PROJECT WOULD RECREATE DES PLAINES RIVER MARSHES

(By Alf Siewers)

On the first day, there will be bulldozers, great movers of earth.

And then the waters pour forth, the flowers and reeds take root, and the insects and fish leap forth.

It will be, says Donald Hey of Evanston, "a piece of art"—a kind of second creation along more than two miles of the Des Plaines River in Lake County.

It could also open a new growth industry for Chicago: artificial wetlands.

Wetlands Research Inc., an affiliate of the Open Lands Project advocacy group, plans to recreate the mammoth marshes that land developers, from the pioneers to Deep Tunnel's engineers, have worked so hard to tame.

The effort could be a national model for reducing costs of government water programs, tying wetlands restoration to water-pollution and flood control goals, and using private organizations and funds in creating shallow-water habitats rich in vegetation.

"We may be coming up with a completely new environmental approach," said state Rep. Robert Churchill (R-Lake Villa), who is introducing a bill for $1.6 million in state funds to begin construction of the project this summer on forest preserve land near Wadsworth.

Industrial developments may be able to use managed wetlands to dispose of wastes without costly treatment plants, Churchill said. "If this turns into a successful effort, I guess you'll see industry hopping on board."

Several private organizations in the area are involved in other wetlands reclamation projects. The McGraw Wildlife Foundation in Elgin is tending a small wetlands by the Fox River. The Chicago Audubon Society owns a tiny wetlands parcel near Lake Calumet and is lobbying for creation of a large public park in the Burnham area.

Ducks Unlimited, a hunters' conservation group based in Long Grove, recently started giving matching funds to states for habitat preservation of waterfowl. The current issue of the organization's magazine talks of using artificial wetlands to create healthy ecosystems on spacecraft, as well as on earthbound residential properties.

"A well-planned wetland takes impurities from the water before sending them downstream," Churchill noted. "A well-planned wetland holds water so when the snow melts in spring there's no flooding. A well-planned wetland creates an environment for hunting and fishing activity."

Environmentalist proponents of the potential wetlands revolution, like hydrological engineer Hey, find themselves allied on the Lake County plan with business leaders and public officials. The plan is supported by grants from the federal government, the Atlantic Richfield Foundation and other sources.

Neil Fulton, bureau chief of the Illinois Department of Transportation's water resources division, calls the plan a "laboratory for understanding the technology of these natural things that we have destroyed." A bipartisan group of state lawmakers from Lake County supports the measure.

Researchers from organizations as varied from organizations as varied as the Morton Arboretum and the Illinois State Museum envision a "wild" wetlands along the Des Plaines more carefully planned than romantic 19th-century gardens—a new heir to Jens Jensen's earlier natural landscape art.

State historians are preparing a "word picture" describing the flora and fauna found in native wetlands when the first settlers arrived. Naturalists are studying how to build a "natural" chain from insects to animals. Botanists are doing pollen analyses of the soil to determine what plants used to grow on the site.

Others are arguing over such matters as whether river otters really belong there. There's even a mosquito taskforce to figure out how to use natural plants and predators to keep down the pest population.

Eventually, Hey hopes for a system of carefully managed wetlands nodes, mainly on existing public land around the Chicago area, to help handle flooding and pollution at strategic points along main rivers or tributaries.

"We've spent tens of millions of dollars, and the rate of flood damage in the state is still increasing," said Hey, pointing to how traditional (often subsidized) solutions of channeling water added to flooding by building up the force of waters.

"And $200 billion has been spent [in the United States] in the last 15 years on water-pollution control," he added. "Today we are scarcely closer to our goal of making our streams swimmable and fishable."

Dale Whitesell, executive vice president of Ducks Unlimited, says only proven economic benefits (including recreation) will bring such large wetland projects to fruition. He advocates tax breaks for wetlands projects.

"You've got to put a dollar value on our resources," said Whitesell. "It starts somewhere with the dollars. Just talking about it won't get it done."

Before the Midwest was settled by Europeans, a marsh area comparable to Florida's Everglades stretched from what is now Chicago's South Side through northwest Indiana. Along the Illinois River, hundreds of yards of shallow-water plant growth stretched from dry land before coming to another wide area of lily pads and finally the thin strip of open water that was the crystal clean river.

Today, development has reduced the system's natural ability to soak up floods and clean water. "We use bacteria to treat our wastes," Hey noted. "These bacteria live in the stream; when we drained the wetlands, we wiped them out."

Large areas of public land, managed and tended by controlled burning, could handle significant quantities of water without turning Chicago back into a swamp, Hey says.

In early 1981, Hey got a state grant and joined with the Open Lands Project to develop the idea. Wetlands Research Inc. was incorporated with four board members from the Open Lands project and three Lake County commissioners.

Originally the group hoped to get 28 percent of an estimated 38.25 million project from private sources. So far donations have come short despite contributions from Atlantic Richfield and Borg-Warner.

"A fire is going to have to be put under the corporate community," he said, adding he hopes state funding would give further proof of the project's importance

In future, Hey says 10,000 acres of public land along the Des Plaines in Lake County could be used for wetlands restoration in tandem with recreational use.

[From the Chicago's Free Weekly, June 14, 1985]

LET'S MAKE A SWAMP

(By Harold Henderson)

If we had sufficient foresight we would preserve in due proportion nature's wealth-creating centers of every kind, but lacking it we are wasters. Experience at last brings regret, and we would recreate what we have destroyed. . . . When at length we do realize what nature's bounties means to us we should act promptly, positively, and persistently in maintaining and restoring them.—F.R. Kenney and W.L. McAtee, Soils and Men: Yearbook of Agriculture 1938.

If the brakes had failed, we might have wound up in Wisconsin. They didn't, and Don Hey pulled the rented Capri into the gravel parking lot of the Corner, a nondescript convenience store at U.S. 41 and Wadsworth Road in northern Lake County. The 7 Up machine outside was broken. We stepped inside, and eventually found the soda pop hidden behind a mammoth liquor display. When we tried to pay one cashier for our cans, he waived us to the other: "All I do is lottery tickets."

Outside again, we walked to the back of the lot and looked out across the shallow valley of the Des Plaines River. A German shepherd emerged from a plywood doghouse labeled "Beware" and barked at us, straining on its rope. An ancient railway baggage cart sagged in the tall grass on our left; a disused silo loomed across the road. But ahead of us, to the east, it was all downhill and all green, back-lit by the afternoon sun: an abandoned farm field with cattails; beyond it a straggly planting of Christmas trees, and at the bottom of the gentle slope, taller trees lining and concealing the river.

This land—450 acres east of 41, south of Wadsworth Road, and west of the railroad that carries Amtrak from Chicago to Midwaukee has been Hey's main preoccupation for the past three years and will be for the next five. This is the land he wants to turn into a swamp.

"Down there, at about the one-year flood level, we'll have a whole-series of wetland 'saucers,'" says Hey. "We" is Wetlands Research, Inc., a nonprofit corporation of which he is director and Open Lands Project's Judith Stockdale is associate director. "Water from the river will be pumped up to the top and allowed to flow down through them. They'll have control gates, but with low berms hopefully you won't even notice them as such. We want to be able to move the water through them at controlled rates, to see which rate is most efficient [for cleansing the polluted flow]. It'll be a huge laboratory."

The scene is almost archetypal. Hey and I might be the soldiers who built Fort Dearborn in 1803, or the canal commissioners who platted downtown Chicago in a swamp 30 years later, or the workmen who laid the drainage tiles in this field just west of the village of Wadsworth; two men standing back with folded arms, planning a big job, judicially examining the landscape and imagining how best to tear it up and reshape it to suit ourselves.

We might be, but we aren't. For one thing, the ground we're looking down on is anything but virgin territory. Years ago the fields were grazed to nubbins, then drained and plowed, and finally abandoned to growup in ragweed and thorns and cattails. The river channeled under a bridge and pushed off to one side by the railroad embankment is full of silt and algae and cans of Hawaiian Punch. Don Hey's idea for this less than pristine piece of real estate is to use the trenchers and chain saws, the Caterpillars and pumps and flow meters, in order to put the Des Plaines River wetlands back much as they were before people started messing with them.

A slowed-down river, flowing in braided channels through beds of native water plants, he believes, will remove pollutants, reduce floods, and make a better and more varied home for fish and wildlife, not to mention a better recreation spot for north suburbanites—and will do all this more cheaply than other methods of pollution and flood control. It's as though progress had made a quick U turn in the Corner's parking lot.

Such waters then as are marshy, stagnant, and belong to lakes. . . I reckon bad for every purpose. Hippocrates, circa 400 BC.

Are wetlands worth rebuilding? You might as well ask. Are snakes cute and cuddly? Hey's project is part of a quarter century of ecological thought and reappraisal of the virtues of swamps, bogs, fens, marshes, wet meadows, and floodplain forests. But on the other side of millennia of fear and loathing.

"Wetlands and saturated soils are not only unremunerative," wrote the president of the American Public Health Association in 1876, "but if the area is considerable, they prove a source of enervation and disease to the section in which they exist." (Illinois pioneers often suffered from malaria—also known as "fever 'n' ague" or "the ager"—which medical opinion of the time held was caused by the "noxious effluvia" or "putrid exhalations" of swamps.) "Although individuals may neglect swamp lands, or find their reclamation and drainage too expensive, the State cannot afford to be indifferent to their continuance, because they check production, limit population, and reduce the standard of vigor and health. Their value, too, when reclaimed, in an economic view will be greatly enhanced."

For most of Illinois' history, the only good wetland has been a drained wetland, and farmers and developers found plenty of opportunities to do good. The pioneers found some ten million acres, more than a quarter of the state, too wet to farm.

"It is quite evident that our world was not finished on the day of creation," William P. Pierson of Onarga told the 1868 annual convention of the Illinois State Horticultural Society. "The job of finishing up this world of ours can never be completed until a considerable portion of it is well underdrained. . . . This is a task that has been assigned to man to do. And this he must do at his peril. If he will not drain, he shall not use or enjoy." People, it seemed, would have to complete the task that God had so thoughtlessly left undone.

Spurred on by experts' encouragement, by the increased demand for food during the Civil War, by the availability of improved drainage tiles and tools and by a state constitutional amendment favoring the creation of drainage districts, farmers throughout Illinois turned wet pastures into artificially dried cornfields. Between the late 1870s and 1900, in an eight-county area from Champaign to Kankakee alone, more than a quarter of a *billion* feet of drain tiles where laid to carry water off the land and make it plowable. River-bottom farmers built levees around sections of bottomland and pumped the water out. (According to the best-informed guess, less than 20 percent of Illinois' wetlands remain in any form, less than 1 percent in anything like a pristine state.) All this work was known as "reclaiming the land," a phrase with as many positive connotations as "swamped" or "bogged down" have negative ones.

In the predrainage 1860s, the Des Plaines River was said to "abound . . . in deep and shady pools, from which large quantities of excellent fish, some of them of great size, are annually taken. The pools are also extensively used for bathing and swimming." Now—with its watershed farmed and suburbanized, many of its wetlands drained or blocked off—that same river is shallow, muddy (you can't see more than two or three inches below its surface), a mediocre fishing ground, and no same person's idea of a swimming hole. Could there be a connection?

When T.S. Eliot called the river "a strong brown god," he certainly wasn't thinking of the Des Plaines. Here, little wider than a creek as it flows under the Wadsworth Road bridge, it is more like a wimpy midget. If you were a leaf on its current, you would take five hours to float the two and a half miles downstream from Wadsworth bridge to the southern end of the project area.

Even in its color, the greenish-tinged Des Plaines betrays the poet's vision. "I've seen it pea green with algae," Hey volunteers. (Those tiny plants, nourished by excess fertilizer and organic matter washed downstream, first grow spectacularly, making the water unattractive, and then die, using up the oxygen fish need to live.) What Hey is seeing now, though, is the future: the river banks scraped down, the channel 600 feet wide instead of 150; a pumping station (one of three) submerged near the bridge to lift water to the top of the banks; most of the trees gone from stream-side. "It will be very open. You'll be able to look from one end of the site to the other from the bridge. All this is just going to be a sea of lily pads and rushes and things like that." And your leaf on the river will take not five hours but three days to travel that two and a half miles.

Downstream, three rather sterile gravel pits will be partly filled and connected with the river. The few native plants that have hung on through decades of farming—some old oaks, for instance—will remain; elsewhere on the 450-acre site communities of native wetland plants will be reseeded, and maintained by periodic burning to stop the encroachment of nonnative species. The paths for joggers and snowmobilers will still be there, the fishermen will have a bigger parking lot. I begin to imagine how it will be:

It is raining in Wisconsin. The raindrops hit the Kenosha County fields like bomblets, throwing up a spray of muddy particles. They wash tiny pieces of earth and fragments of leaves and stems downhill, into a ditch, toward the Des Plaines. Molecules of phosphorus fertilizer cling to the bits of earth. Nitrogen fertilizer, herbicides, and pesticides dissolve and flow downhill in the rain. In town the raindrops hit the street, washing off the day's accumulation of oil drips, dog ——, the feathers of a dead bird, a crushed plastic child's toy, carrying them all south. . .

By the time the river must bend east to pass under Wadsworth Road in Illinois, it is faster, higher, and muddier than usual. But once under the bridge, it spreads out into several intertwining channels much broader and flatter than before. It pushes against a host of different plants—pondweeds, water lilies, cattails, duck patato. It slows down. First the big chunks, then the smaller particles of sediment sink to the bottom. Their bits of fertilizer will feed water plants rather than algal bloom. At least some of the toxic chemicals attached to them will be immobilized in the bottom mud. Gradually the water clears as it filters south.

The water can't get through this new channel as fast as before. More of it evaporates, more is taken up by plants, more soaks into the ground. Downstream the river rises more slowly, crests later and lower, gradually recedes. Fish glide lazily among the flooded waterweeds, seeking shelter and a place to spawn.

Scientists from hydrologists to microbiolgists will take inventory of what lives and grows on the Des Plains project site now, and then monitor developments as the project continues. After five years of research and demonstration, though, Hey will pull the plug on the pumps and on Wetlands Research, Inc., and the Lake County Forest Preserve District will manage the area as before. "We're building a project," says Hey, "not an organization."

For the sequel, though, his ambitions are anything but modest: "It's time to build the interstate river system," he says, envisioning a string of re-created wetlands along the hundreds of miles of river's-edge property already in public ownership around Chicago alone. "Virtually the entire Des Plaines River valley could be transformed in ten year. It's low cost, low tech, labor intensive"—good for bulldozer business and good for the environment.

"What we learn on the upper Des Plaines," wrote Hey in the January-February issue of National Wetlands Newsletter, "will tell us how and where to open up old, scaled-off oxbows on our navigable rivers; where to cut through obsolete agricultural levees on our rural streams; where and of what size to sculpt wetlands out of our urban landscapes, all carefully managed to solve immediate and local problems.

"We are starting with a river, some land, a bulldozer, a pump, some pipe, plants, and seeds. Our task is to find that special combination, and those optimum conditions, under which land and water will meld together to produce that creative, functional synergism that is a wetland."

Hey is making sure the project is fully documented both on paper and on videotape: "I've learned that you have to take people and *show* them what you can accomplish. We want to collect the scientific information for design criteria, so that once it's done you can pick up the book and do it yourself, like a cookbook." The James Beard of artificial wetlands?

Donald Hey, a civil engineer by profession, grew up in Kansas, came to Chicago in 1986, acquired a PhD from Northwestern University in environmental engineering in 1974, and spent three years in California as vice-president of a hydrological consulting firm based in Palo Alto. "But I got bored with the weather and the people," he tells me. "The people? You could hardly get anyone to work overtime, and as for Saturday and Sunday, forget it. It was very hard to compete with east coast firms on those terms."

If the people were mellow, the weather was worse. "I'd go outside in the morning and say, 'Oh, no. Not another bright sunny day! How about some snow? Or a *thunderstorm?!'* When I had the chance to come back to Chicago, I said, 'This is for me.' "

"I first got to know Don when he and four other people bought this huge two-masted sailboat," recalls David Jones, now an energy resources specialist with the Illinois Department of Energy and Natural Resources: "I think they were planning to go around the world in it." (Hey says *he* wasn't.) "It was bigger even than the five of them could crew, and they used to call up friends to help them get it out into the lake."

Neither Hey's clean-cut appearance nor his résumé—replete with counsultancies in things like "hydrologic information programs" and "water quality modeling"—suggests his appetite for variety and controversy. If his name is vaguely familiar, it's probably because for years he held a running debate with the Metropolitan Sanitary District over the wisdom of the Deep Tunnel project (he said, and says, that it will cost too much and accomplish too little). His current effort, formally known as the Des Plaines River Wetlands Demonstration Project, has cast him in the role of contemporary entrepreneur—a grantsman hustling cash and support from every possible source, private and public. (There was a time, before Reagan, he says, when even the National Endowment for the Arts was enamored of the project. Their funds never came through, however.)

The wetlands project has also cast him in the role of professional heretic. Sometimes he sounds like an environmentalist: "People have left Chicago because the environment wasn't right. We need enclaves, places to retreat to. The fact that we have that ecosystem called Lake Michigan as Chicago's doorstep *saves* the city." At other times—"the interstate river system"—he talks like an engineer. But like most heretics, he got to where he is by trying to solve a seemingly simple problem sensibly.

The problem is this: why have 15 years, countless regulations, and more than $200 billion spent to control water pollution had so little effect? Why are we still waiting for the nation's waters to become "fishable and swimmable," a goal once supposed to be achieved by 1983?

Stewart Brand, guru behind the *Whole Earth Catalog* and, more recently, publisher of the magazine *Whole Earth Review*, writes that environmentalists follow a familiar pattern: having done something right once, they keep on doing it over and over again whether or not it is still appropriate. This way of answering the water-pollution question is to say that we don't yet have enough regulations and haven't yet spent enough money—that the nation's sewage-treatment plants, already the recipients of what (with the possible exception of the interstate highway system) has been the nation's largest public-waters program, need to treat their wastes more thoroughly.

Hey doesn't believe it. He studied advanced sewage treatment for the Northeastern Illinois Planning Commission, and "the operating costs are simply astronomical. At that rate there is no way we can afford a fishery. It would literally be cheaper to ship all the fishermen to Arkansas and back."

It might already be: Hey notes that $3.68 billion has been spent to improve sewage treatment in Illinois alone in the past decade. For that price, between 1972 and 1982 just 270 miles of streams in the state had improved from a lesser status to "minimum or no water-quality problems," according to the Illinois EPA's 1984 "Illinois Water Quality Report." That works out to a little over $13 million per mile. Even with one-time research costs ballooning the figure, his cost on the Des Plaines will be less than $4 million per mile, and could go much lower if it reaches the cookbook stage.

A more sophisticated way for environmentalists to do-the-same-thing-over-again is to acknowledge that more sewage treatment won't help, that instead we need to control pollution from "nonpoint sources" by reducing soil erosion and runoff from city pavements. He doubts that, too. "The Soil Conservation Service says that [reducing farmers' erosion losses to] five tons of soil per acre per year would work wonders. I say nonsense. The water coming into Lake Glen Ellyn is already too muddy, and that land is losing only one ton per acre."

What went wrong? Hey thinks we got the right answer to the wrong question. Aiming to clean up water pollution, we gave all our attention to the chemistry of the water itself, and little or none to the physical condition of the streams and rivers the water was *in*. The relation between land and water (the essence of wetlands) was ignored; it was as though all our water pollution problems were taking place inside a pipe.

In their original form, rivers and streams did a good job of recycling many pollutants into usable or at least more tolerable forms. But now, with their wetlands drained, floodplains filled, banks steepened (or concreted), and channels straightened, most urban streams' capacity to recycle waste materials, according to a Wetlands Research briefing paper, "has been so drastically reduced that no amount of pollutant control will result in the environmental state envisioned by the drafters of the Clean Water Act."

Water flowing faster through deeper and straighter channels loses flora, fauna, and time—all essential ingredients if pollutants are to be settled out, taken up, or otherwise removed from the water. The solution? Simple. As Hey told an urban-ecology symposium at the 1985 meeting of the American Association for the Advancement of Science, "As easily as we installed drain titles, built steepsided channels, raised levees, and constructed reservoirs, we can plug the drains, flatten the channels, cut the levees back, and resculpture our derelict agricultural and urban landscapes to resemble the old wetland topography." Slow it down and spread it out.

Since the public already owns much of this riverside land, Hey says, we don't need to buy more, just re-create wetlands at strategic points, on what we have. "We need good management, not more regulations." And good management, more often than not, means rearranging things so that nature can take its course.

This scheme was not born on the Des Plaines: until 1982 it was an idea in search of a river on which to try it out. In the 1970s, consultant Hey had been in the thick of the Northeastern Illinois Planning Commission's "208" water-quality planning. He was becoming disillusioned with conventional water-pollution treatment. "I thought, well, we have to have a better way. And I began thinking about using nature as a prototype. That was all on paper, though. It needed something real, and this is it."

Hey took his nature-as-prototype idea to Judith Stockdale, director of Chicago's catalyst-cum-advocate Open Lands Project. They went shopping for funds in Washington, and came up with nothing except the experience of having to put the idea in proposal form.

Meanwhile the Illinois Institute of Natural Resources (now the Department of Energy and Natural Resources, or ENR) was publishing a series of studies on wetlands (now discontinued). In 1979, William Mitsch, Max Hutchison, and Gerald Paulson investigated the Momence wetlands—a nine-and-a-half-mile stretch of floodplain forest along the Kankakee River between Momence (east of Kankakee) and the Indiana state line. They estimated that if human beings had to do artificially the jobs the wetland was doing for free—producing fish, controlling floods and preventing droughts, controlling sediment pollution, and enhancing water quality—it would cost $939,000 a year, or about $494 per acre.

In 1981, Howard E. Bell produced a lavishly illustrated appreciation of "Illinois Wetlands: Their Value and Management." "In the beginning," wrote Bell, "wetlands were considered valueless. Only when most of the native waterfowl vanished was it determined that wetlands might ensure the suvival of many endangered plants and animals. Only after billions of dollars were spent on structural flood control that resulted in further flooding were wetlands recognized for reducing flood peaks. Only after additional billions were spent to purify streams was it realized wetlands naturally filter pollutants for free."

ENR project officer David Jones looked at these reports and at some prairie restorations, and wondered: "Would it be possible to restore that kind of habitat? After all, people used to think that the only good prairie was a cornfield. It used to be that the only good wetland was a shopping mall. But now . . . ?"

Jones had known and admired Hey—"a very reasonable, thoughtful guy with a good imagination"—from water-quality-planning days at NIPC. The timing was right; ENR was ready to buy the idea Hey had to sell. It put up $22,000 for the research and writing of "Creation of Wetland Habitats in Northeastern Illinois," coauthored by Hey, Stockdale, Morton Arboretum botanist Gerould Wilhelm, and landscape architect David Kropp. It's the most complete statement of the Des Plaines project's plans and goals.

Hey's salesmanship makes it easy to forget that this is a demonstration project, not a sure thing, and one in which scientific research accounts for more than half the $8.25 million Hey hopes to spend over five years. While none of the components of the Des Plaines scheme is particularly novel, trying to put them all together in one place is.

The conscious use of wetlands for flood control is not new: the U.S. Army Corps of Engineers in 1972 found that no dam or levee it could build would control the flooding of Massachusetts's Charles River as efficiently as simply retaining the riverside wetlands for overflow areas.

The conscious use of wetlands for pollution control is not new: for 8 years the National Aeronautics and Space Administration has been using eight man-made lagoons containing water hyacinths (a sometimes pestiferous aquatic weed from South America) to treat the waste produced by the 4,000 people who work at its National Space Technology Laboratories in Mississippi.

The restoration of native plant communities is anything but new: recreating prairies has become something of a mini-fad among environmentally conscious midwesterners; Goose Lake Prairie State Park east of Morris is the largest such enterprise in Illinois.

Restoring wetlands themselves isn't new, either: in the 1970s the Corps of Engineers spent $30 million renewing eroded beaches and islands with dredged-up "spoil" in such places as North Carolina, Texas, San Francisco Bay, Chesapeake Bay, and the Mississippi River delta.

"But that was a whole different ball game," says Gerould Wilhelm, the Morton Arboretum botanist working with Hey on the Des Plaines project and coauthor with Floyd Swink of *Plants of the Chicago Region.* "Estuaries—marine wetlands—are regular and dependable. They're under the almost mathematical influence of tides. Along a river, we're subject to the vagaries of rainfall, dry spells, and a much greater diversity of species." This stretch of the Des Plaines has been known to dry up completely on occasion. "Here in Lake County, Illinois, there are more than 1,000 species of plants, as many as one-third of which will try to volunteer themselves on the site whether we want them or not."

Sounds like gardening, but it's worse, because while Wilhelm can count on the weeds—aggressive competitors like cattails and reed canary grass, for two—he is not sure how to get the plants he wants to come up. "Take *Carex stricta,* the meadow sedge. We tried to grow it in flats by stratifying it [leaving the seeds between moist layers of sand] in winter. It didn't come up. We don't know if it needs to be scarified, or heat treated. We don't know what has to happen to that seed coat before it will allow enough oxygen and water in to let it grow." A pause. "We know very little about the germination strategies of wetland species."

("It's really an interesting exercise," says one knowledgeable biologist not directly involved in the project. "It kind of turns the tables on the ecologists who have complained for years about development. You go to them and say, 'Let's create an ideal wetland'—and there's a great silence. You only realize how good nature was when you try to replace it.")

"You have to realize this project is a study project," Southern Illinois University fisheries biologist Roy Heidinger tells me. "Some things we try are gonna work and some things won't. I'm looking at the possibility of creating some northern pike spawning marshes"—one to three feet deep in the spring with "a lot of vegetation." Heidinger has found some northern pike in the river even as it is now, including an eight-pounder from the gravel pit nearest U.S. 41, where fishermen's cars are almost always parked. "All that fishing pressure, and he'd been in there awhile."

For the pike, Heidinger will be not so much restoring as improving the river, but he'd also like to try reintroducing a couple of other fish—the least darter and the blackchin shiner—which he says used to live in the Des Plaines but no longer do. It all depends on how well the "study project" works. "If the wetland is purifying the water like it's supposed to—see, that gives me more options as a fish manager. As the water quality deteriorates"—more mud and more chemicals—"my options become less and less and less down to no fish. Right above that are carp and goldfish. Right above that are carp and goldfish and bullhead."

Heidinger will certainly have more options than those, but exactly how many is another thing Hey et al don't know yet. "I think the site is large enough that it can remove upwards of 90 percent of the suspended material from the water," he says, but later he suggests that the total amount of floating material won't change at all—but that instead of coming downstream as a choking multitude of very small silt particles, it will be fewer larger clumps of organic matter.

"We know these things do happen," says Dr. Henry Sather, a nationally known wetlands expert and adjunct professor at Western Illinois University's Institute for Environmental Management, "but we don't know to what degree. We need to quantify."

"I expect a field to fail," acknowledges Hey, going back to Wilhelm's worries about seed germination. "My feeling is we have to try it. I don't like to fail, but we need to move forward. A lot of restoration has been done over several years' time, or involved just a very simple plant system. We're trying to get them all"—water levels, water quality, plants, microorganisms, insects, birds, fish, mammals, canoeists—"to work together." Not to mention those who study them: "I've never worked with so many different people on a team in any other research work," says Heidinger. "It just takes a tremendously great breadth of knowledge."

Like any other contraption, a wetland can only handle so much water, sediment, and pollution. "After all," muses Illinois EPA director Richard Carlson, "the Illinois River used to be a hell of a good pollution-control device"—before its plants, animals, and physical structure were overwhelmed early in this century by the triple whammy of raw Chicago sewage, farmers' walling off thousands of acres of floodplain, and a series of Corps of Engineers dams to make it navigable. Can 450 acres along two and a half miles of river handle the drainage from 210 square miles of northeastern Illinois and southeastern Wisconsin (less than a quarter the size of Cook County)? Or will a couple of extremely wet—or extremely dry—years finish the project off?

Do we know enough to conduct this experiment? I asked mammalogist Chris Burnett of the Illinois Natural History Survey. He chuckled. "If you knew enough, it wouldn't be an experiment."

Excerpt from a letter dated September 4, 1984, from Illinois' most conservative representative in Congress—Philip Crane, who represents the Des Plaines project area—to one of Illinois' most liberal—Sidney Yates, whose appropriations subcommittee has jurisdiction over the project's request for U.S. Fish and Wildlife Service money:

The long and short of it, Sid, is that I believe this case to be of significant merit and to possess decided fringe benefits. I am encouraged by the concept, the low cost to the federal government, and the growing support in the private sector. I support this project and ask your assistance in gaining the necessary funding that would give Illinois the first of what could well become a nation-wide trend to recover America's wetlands. . . . [a handwritten postscript:] I'll try to visit with you on the floor next week to discuss it further and seek your advice and counsel.

Result of above letter and sundry other congressional maneuverings too tedious to go into here: $525,280 in federal funds, by far the largest chunk of ready cash yet bestowed upon Wetlands Research, Inc.

So far government has backed Hey's idea far more generously than has business. The state of Illinois grant got the idea started, the Fish and Wildlife Service money supports the preliminary research now under way, and the Lake County Forest Preserve District has made the land and other services available ($1.4 million worth on the books). Officially, project funds are supposed to come 40 percent from the feds, 40 percent from private contributions, and 20 percent from local governments. But at present the split is not 40-40-20, but 24-8-68. By far the largest single private contribution, $80,000, has come from the Atlantic Richfield Foundation.

This year, another quarter million through Fish and Wildlife seems a fairly safe bet. In 1984, Hey had to convince a representative and a senator to add his request to the Fish and Wildlife Service appropriation. This year, it was included in the Reagan budget proposal from the start.

What has Hey holding his breath this year is what he regards as a "keystone" appropriation in the Illinois General Assembly: $1.6 million, not for research, but for actual construction of the wetland. Representative Robert Churchill (R-Antioch) has attached the money as an amendment both to the budget of the state Department of Energy and Natural Resources and to Governor Thompson's "Build Illinois" program. ("The leadership told us to put every project we wanted for our districts into Build Illinois," says Churchill.) This is a parliamentary fail-safe strategy; should both pass, Wetlands Research will not get twice as much money. Both budgets have passed the house and await senate action.

Churchill is confident the governor will OK the money, if it gets through the legislature. ("I think our governor is a very far-looking governor.") Hey believes that if this money comes through, the $4-million-plus remainder of his funding will fall into place.

If, if. Why so slow? It's hard to say; the project is not especially controversial in the usual sense. It can look good to both conservatives and liberals. The locals seem to love it. "We had a town meeting in Wadsworth," says Hey. "I thought I'd be skinned alive, but it turned out to be one of the best I've ever been to. People came up afterwards asking what they could do to help."

[Conservation Exchange, National Wildlife Federation, July 1985]

ILLINOIS WETLANDS EXPERIMENT ILLUSTRATES NATIONAL TREND

A Chicago firm has joined the growing ranks of conservation innovators who hope to prove Mother Nature can be fooled.

Wetlands Research, Inc., a nonprofit corporation, plans to create one of the nation's largest man-made wetlands along the Des Plaines River near Wadsworth, Ill., 35 miles northwest of Chicago.

As planned, the 2.8-mile-long, 450-acre wetland could turn back the ecological clock two centuries to a time when the river was enveloped by a vast prairie marsh of cattails, bulrushes and cord grass and was a mecca for fish and wildlife.

Today, the marsh is virtually nonexistent, replaced by wide expanses of farmland and trees. The Des Plaines River, coated with pea green algae, is only a murky reminder of its predecessor. More than a century of farming has flushed sediments and pollutants into the stream. Many of its curves have been straightened to make way for cropland.

ACROSS THE NATION

The proposed $8 million reconstruction project, which has received initial funding from corporate foundations and local, state and federal governments, is but one of many efforts to create wetlands across the country. From California to Florida, wetlands are being sculpted along streams, estuaries and lakes.

Some, like a 20-acre marsh constructed by the Mt. View Sanitary District in Martinez, Calif., treat domestic wastewater. Others are being constructed by private companies to offset damaging environmental effects of business projects. North Carolina Phosphate Corporation, for instance, has created six acres of marshland along North Carolina's coast in hopes that federal and state environmental agencies will allow the company to mine nearly four acres of nearby natural wetlands.

Environmental Concern, Inc., a nonprofit corporation based in St. Michaels, Md., has crafted coastal marshland for more than a decade for private and public East Coast developers seeking to comply with federal and state environmental statutes.

Many other wetlands are being developed and restored as wildlife preserves by conservation groups such as Ducks Unlimited and state and federal wildlife agencies.

"Within the past decade, there has been more interest than ever in creating wetlands," said Derb Carter, director of the National Wildlife Federation's Southeastern Natural Resources Center. "There's growing recognition that wetlands are valuable wildlife habitat, flood regulators and water purifiers. And they're being lost at a rapid rate."

The nation, Carter said, is losing wetlands to development—mostly agricultural—at the rate of 458,000 acres a year. Only half the country's original wetlands remain. The loss has been even greater in Illinois, where 99 percent of the state's wetlands have been destroyed.

AMBITIOUS AIM

What distinguishes Wetlands Research, Inc. is the size of its proposed marsh, comprehensive research program and its far-reaching goal of demonstrating how man-made wetlands fit into overall water resources management.

Traditionally, the federal government has relied upon wastewater treatment plants and other facilities to clean up the nation's waters. While these structures have decreased water pollution, said Wetlands Research Director Donald Hey, the vast majority of the nation's lakes and streams remain contaminated.

Man-made wetlands could permanently pare the annual multi-billion dollar bill paid by industry and the federal government to clean up water pollution and control flooding, he said.

Marshes and other wetlands are natural flood regulators and water purifiers. They cleanse dirty waters by absorbing sediments and nutrients through reedy, leafy plants. They trap and then slowly release waters that otherwise would flood homes and croplands downstream.

Wetlands also replenish groundwater supplies and serve as homes to ducks, geese and other wildlife.

"The Wetlands Research project," Hey said, "will be a living laboratory that will show how best to rehabilitate our lands and rivers."

NUTS AND BOLTS

Once construction begins next month, 450 acres of riverside land will be bulldozed back to its original low level. Almost three miles of the riverbed will be widened and original curves in the river channel restored. The stream's water, polluted by agricultural wastewater, will be pumped to the site's edge, where the wetlands can work purification magic. The cleaner water then will be returned to the river.

Fish spawning areas will be created and more than 100 species of plants introduced. Three quarry pits will be converted into lakes.

Construction is expected to take two years, followed by several years of research and monitoring.

"It won't be easy to restore the delicate balance of nature," said Hey "but if we succeed, it will be a remarkable feat of environmental engineering."

THE DES PLAINES RIVER WETLANDS DEMONSTRATION PROJECT

A new strategy for arbitrating economic and environmental interests is being tested in Illinois. The Des Plaines River Wetlands Demonstration Project is going to re-create a wetland in the Chicago metropolitan area and, in doing so, will answer some important questions about how and at what cost wetlands can be designed, built and operated to solve environmental and water resources problems related to economic development.

We already know that natural wetlands remove pollutants from waters flowing through them, reduce downstream flooding and provide a rich variety of natural habitat for wildlife. We know that the streams of the midwestern United States were once bordered with tens of thousands of acres of wetlands, providing natural in-stream treatment and flood control. What we do not know is whether it would be possible to re-create those wetlands and provide those benefits, once again. But it is a lesson well worth learning, because the use of wetlands, as strategic tools, could make it possible for streamside economic development to coexist with a healthy, attractive environment in which to work and play.

PROJECT SUMMARY

The project is the reconstruction of a riverine wetland on a 450 acre site bordering a 2.8 mile stretch of the Upper Des Plaines River. The site is in Wadsworth, Illinois, located in Lake County. The river originates in Wisconsin and flows south to join the Kankakee River 100 miles beyond the site. It drains a 210-square mile watershed (80 percent of which is agricultural and 20 percent urban) and is polluted with non-point source contaminants from both urban and agricultural activities. The stream bed is channelized, the banks cut steep, the floodplains leveed and, as a result, homes downsteam are subject to periodic flooding. The site has been drained with tile and mined for gravel, causing the wide variety of original wetland and prairie flora and fauna to be destroyed and replaced with a monotonous and sterile plant and animal community.

Project construction will regrade and broaden the stream channel, carving experimental wetland areas out of the adjoining land surface. An irrigation system will divert river water to the site perimeter, through the experimental areas in route back to the channel. The duration and extent of contact between land and water will be varied by sluice gates, in accordance with research programs. Native plant communities will be introduced, spawning and breeding areas created, and the site repopulated with native fish and wildlife.

BACKGROUND

The project has already gone through several phases. It began with a small grant from the Illinois Department of Energy and Natural Resources, for a feasibility study, published as the "Creation of Wetland Habitats in Northeastern Illinois" in May, 1982.

In 1983, the non-profit, Chicago pioneer in public acquisition of open space, Open Lands Project, and the Lake County Forest Preserve District organized the non-profit Wetlands Research, Inc. The Wetlands Research Board is composed of members of the forest preserve district and Open Lands Project Board of Directors. Their affiliation, names and positions are as follows:

Open Lands Project:
Anthony Dean, President;
William Beecher, Secretary;
Richard Ettlinger, Treasurer; and
Albert Pyott.
Lake County Forest Preserve District:
Robert Depke;
Stanley Pekol; and
Robert Neal.

Dr. Donald Hey serves as director of Wetlands Research and Judith Stockdale as associate director.

During the spring and summer of 1984, money was raised to launch the project: over $100,000 of corporate contributions and a $526,000 Congressional appropriation, administered by the U.S. Fish and Wildlife Service.

The baseline survey and engineering design are now being completed. Site photography, mapping and surveying are finished. Botanists, fisheries scientists, zoologists, hydrologists, microbiolgists, paleo-historians, geologists and engineers completed the site inventory. The engineering design, the construction and the research plans are going through a final review this month.

In December, 1985, a four volume publication will be released by Wetlands Research, describing the results of this work and laying the foundation for the March, 1986 construction start.

The State of Illinois, through the Department of Energy and Natural Resources, has awarded a $1.3 million grant to the project, for 1986 construction work.

BENEFITS

The project will improve the aesthetic and recreational character of the site, but above all, it will produce three major environmental benefits. The first is a cleansing of the streamflow diverted through it: turbidity will be decreased, dissolved oxygen increased, nutrient balance achieved and algal blooms controlled. The second is flood control: the site will provide flood storage and reduce flow velocities, diminishing downstream flood stages. The third is the creation of wildlife habitat: native prairie and wetland plant communities will be seeded, planted and maintained on the site for breeding, nesting and feeding of waterfowl, sport fish, beaver and muskrat and many other animals.

The most important benefits of the project, however, will come from its demonstration and research as a nationwide model for wetland re-creation. It will serve as a living laboratory for scientists and engineers to test and evalute a wide variety of techniques for creating wetlands in ecologically-degraded urban and agricultural environments. The project will provide new information about how and at what cost natural wetland processes can be used to manage our water resources. This information will have application throughout our nation where wildlife habitat, non-point source pollution abatement and flood storage are scarce and in demand.

FINANCING

Funding has been provided by all levels of government, as well as private industry and foundations. Forty-two percent of the total $8.25 million has already been raised, from the following sources:

Source	Amount	Percent
Federal (Fish and Wildlife Service)	$525,280	15
State of Illinois	1,372,000	38
Lake County	1,409,000	40
Private	234,350	7
Total funds raised to date	3,540,630	100

The construction cost for the entire project is $3.6 million, of which the Illinois state grant will fund 36 percent. This sum will cover the cost of partially grading and revegetating the site. An important, still unfunded construction element is the irrigation system required for the water quality research. This system is estimated to cost $900,000. The following gives the allocation of total construction costs among the proposed funding sources:

Source:	Amount	Percent
U.S EPA	$900,000	25
State of Illinois (committed)	1,300,000	36
Lake County	300,000	8
Private	1,100,000	31
Total constuction cost	3,600,000	100

A commitment for the private share is close at hand. Caterpillar Tractor Company has expressed a willingness to provide the construction equipment and a consortium of contractors in Lake County has offered to undertake the construction work at cost i.e., at no profit. These contributions from private industry are valued at the $1.1 million as given in the above table. Finally, it is anticipated that the Lake County Forest Preserve District will underwrite at least a part of the public use facilities, which explains the local share of $300,000.

In summary, the past and expected contributions from the various sources through FY '86 is given below:

Source	Amount	Percent
Federal	$1,970,280	31
State of Illinois	1,372,000	21
Lake County	1,709,000	27
Private	1,334,350	21
Total	6,385,630	100

The above federal share includes the following: $900,000 which is being requested from US E.P.A. for the irrigation system; $245,000, for wildlife research, which is now in the U.S. Department of the Interior's FY '86 budget; $300,000, also requested from US E.P.A. for water quality research; and the $525,280 grant which was provided by the U.S. Fish and Wildlife Service in FY '85 for the survey and design work.

[The Illinois Natural History Survey Reports, October 1985]

DES PLAINES RIVER MICROORGANISMS

Since the passage and enforcement of laws regulating point sources of pollution (e.g., power plant effluents and discharges from sewage treatment plants), contamination of many rivers and streams in Illinois has been reduced. However, because of numerous nonpoint sources of pollution (e.g., topsoil runoff from agriculture and road construction), habitats for plants and animals have not been restored and the variety of native species found in our waterways has decreased. The Des Plaines River and its natural floodplain in the Lake County Forest Preserve in northern Illinois provide good examples of relatively "clean" habitats that are degraded because of stream channelization and excessive siltation.

In spring of 1985, the Des Plaines River Wetlands Demonstration Project was initated by Dr. Donald Hey of Wetlands Research Inc., to determine if the diversity of plants and animals could be enhanced by re-creating a wet prairie habitat along the river, reducing the river's silt load, and increasing the diversity of aquatic and terrestrial habitats. The Des Plaines River will be diverted through a series of restored marshy wetlands, which should remove much of the silt load. The clarified water from the experimental wetlands will then flow through two quarry lakes to increase their nutrient supply and ultimately increase fish production.

As part of a multi-disciplinary team, Michael Henebry and Robert Gordon, Aquatic Biology Section, collected baseline data on the microbial populations (algae, bacteria, and Protozoa) in the Des Plaines River, its associated wetlands, and the quarry lakes, to help determine if the site is now receiving sewage or other forms of organic pollution.

Bacterial types, numbers, and biomass in water column samples were comparable to those found in silt-laden, but otherwise unpolluted, sites. The variety and total numbers of Protozoa, which feed on bacteria, were also low. The number of algal species and the population abundance of algae in the river and quarry lakes were well within the range expected for heavily silted rivers or unproductive lakes. Algal populations at the river sites were probably limited by penetration through high levels of suspended solids. In quarry lakes, where water turbidity was low, algal abundance was significantly higher but was still limited by low nutrient levels. The production of algae in both the river and quarry lakes was too low to provide an adequate base for abundant higher organisms, such as fish.

In summary, there was no microbiological evidence of significant amounts of sewage pollution or organic enrichment at the project site. On the basis of indicator bacteria and total microbial populations, both the Des Plaines River and the quarry lakes were relatively unpolluted and unproductive.

The abundance and variety of bacteria, algae, and Protozoa is expected to increase in the proposed experimental wetland areas because of increased retention of nutrients and improved water clarity. The wetland plants will also act as attachment sites for microorganisms; this additional periphyton colonization and primary production should result in the production of important fish species.

STATE OF ILLINOIS,
OFFICE OF THE GOVERNOR,
Springfield, IL, October 28, 1985.

Hon. PATRICK LEAHY,
Ranking Minority Member, Subcommittee on HUD-Independent Agencies, Senate Committee on Appropriations, Dirksen Office Building, Washington, DC.

DEAR SENATOR LEAHY: I am writing to urge your support of an appropriation of $1.2 million in the next continuing resolution for Fiscal Year 1986 for the Des Plaines River Wetlands project.

On the Des Plaines River in Illinois a very important research effort is underway. The project will be a model for river and wetlands restoration throughout the nation by demonstrating alternative means of mitigating the hydrologic impacts of urban and agricultural runoff and associated problems. An obvious side benefit to the project is the creation of fish and wildlife habitat. By reintroducing a wetlands to this area, the project creates a living laboratory for scientists to learn more about the role that wetlands play in flood control and water quality.

The State of Illinois has contributed $1.3 million to the project this year. Lake County, in which the project is contained, has contributed $1,409,000 to the effort. The Lake County Forest Preserve District has donated 450 acres of land for the project. Private sources currently make up an additional contribution of $234,350. Private sources will also provide the construction work at-cost and Caterpillar Tractor Company is negotiating to donate the needed construction equipment.

Report language agreed to in FY 1985 limits the total federal contribution to 40 percent. The Federal Fish and Wildlife Service contributed $528,280 to the project in FY 1985 and will contribute $245,000 to the effort in FY 1986 if the pending Interior Appropriations bill is approved. The $1.2 million in Environmental Protection Agency funding for this project would be used for construction and water quality research. The Regional Administrator from Region Five has indicated his strong support for the project and stated his willingness to spend the funds if they were allocated.

I appreciate your consideration of my request. Please feel free to contact me if you need further information.

Sincerely,

JAMES R. THOMPSON,
Governor.

U.S. SENATE,
Washington, DC, October 30, 1985.

Hon. JAKE GARN,
Chairman, Subcommittee on HUD/Independent Agencies, Committee on Appropriations, Washington, DC.

DEAR JAKE: The Des Plaines River Wetlands project proposes a new way to cleanup the environment: by recreating a wetland. On a 450 acre site along the Des Plaines River in Lake County, a nonprofit corporation, Wetlands Research, would convert a portion of the Des Plaines River back into its natural habitat.

We support this reconversion effort because it would remove nonpoint source pollution and reduce downstream flooding in a cost effective manner.

This $8.25 million project has currently received 43% of the needed money. These sources included: the Lake County Board ($1 million), the State of Illinois ($1.3 million), private corporations ($234,350), and the Fish and Wildlife Service ($525,280). Further, private sources have offered to loan both their equipment and time to build the project (at a value of $1.1 million).

Consequently, the request we are making would be used for 25% of the construction phase ($900,000) and for a water quality research program ($300,000) to be undertaken by the U.S. Environmental Protection Agency.

We ask for your support of this request during consideration of the next continuing resolution for Fiscal Year 1986. Besides being environmentally sound, this project is within the guidelines of the FY 1985 Interior report language, which prohibits more than 40% of the project coming from federal sources.

Finally, we have enclosed some background material. If you have any questions please feel free to contact us.

Sincerely,

PAUL SIMON.
ALAN J. DIXON.

[Memorandum]

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Date: January 9, 1986.
To: Roger Kanerva.
From: Ron Drainer.
Subject: Des Plaines Wetlands.

As you requested, I have reviewed the proposed project to determine the feasibility of classifying this project as "innovative" and thereby qualify for funding in the Construction Grants Program. This project would be better defined as a Water Resources/Flood Control project. Even though statements are made regarding "treatment", they are directed at river water not wastewater.

A man-made wetland could meet the definition of "treatment works" provided that wastewater effluent (which does not meet appropriate standards) is discharged to the wetlands and an appropriate degree of treatment is accomplished through the wetland. Additionally it could qualify for I/A funding. In the context of the proposed project, it would not meet the definition of "treatment works" and would therefore not be eligible.

Even if it was eligible, there are insufficient 55% federal funds to match available innovative funds and there is no provision to allow partial funding of a project with only the increment 20% I/A funds.

FACTSHEET—DES PLAINES RIVER WETLANDS DEMONSTRATION PROJECT

1. PROJECT SUMMARY

The project will reconstruct riverine wetlands on a 450-acre site bordering a 2.8-mile stretch of the upper Des Plaines River in Wadsworth, Lake County, Illinois (Attachments A and B). The site is owned by the Lake County Forest Preserve District. The river originates in Wisconsin and flows south to form the Illinois River 100 miles beyond the site, draining a 210-square mile agricultural and urban watershed. The streambed is channelized, the banks are cut steep, the floodplains are leveed, and periodic downstream flooding is prevalent. The stream carries a non-point source contaminant load, and wetlands adjacent to the stream have been drained with tiles, farmed, grazed, mined for gravel, and are severely degraded, both structurally and functionally.

The project will regrade and broaden the Des Plaines River channel and establish eight experimental wetland basins adjacent to the river (Attachment C). Up to 40% of the normal streamflow will be pumped by means of an irrigation system through the experimental wetlands and allowed to return slowly to the channel through variable-flow sluice gates. Instrumentation will allow the measurement and quantification of changes in water quality over a wide range of water regimes, made possible by experimental manipulation of flow rates and water levels in the wetland basins. The site will be revegetated with native marsh and wet prairie plant species; spawning, breeding, and other aquatic and terrestrial habitat features will be constructed; and reintroductions made of native fish and wildlife species. In short, the project proposes to investigate the ecosystem approach to restoring the physical, chemical, and biological integrity of the Des Plaines River.

2. PURPOSE AND RATIONALE

The general nature of wetland functions and values is well known. These include pollutant removal, attenuation of downstream flooding, and fish and wildlife habitat. What is lacking is a quantification of these functions and the technology to recreate and restore their attendant benefits. During construction and for a 5-year period thereafter, a rigorous program of scientific experimentation and hypothesis testing in disciplines including hydrology, water quality, plant and animal ecology, microbiology, geology, and soil science will generate information about how and at what cost wetlands can be designed, built and operated to solve environmental and water resource problems related to economic development. It is expected to become a nationwide model for wetland restoration in degraded urban and agricultural environments.

3. POTENTIAL BENEFITS

a. *To the public:*

(1) Flood height reduction;

(2) Water quality improvements;

(3) Fish and wildlife habitat improvements for recreational, aesthetic, and cultural enrichment (restoration of biotic integrity and stability).

b. *To the Corps of Engineers* (through support and involvement):

(1) Lowered waterway maintenance costs associated with decreased river sediment loads;

(2) Demonstration of feasibility of using wetland construction as a least-cost flood control alternative;

(3) Outstanding potential to benefit 404 regulatory program through demonstration and quantification of wetland functions to be used in permit evaluation, wetland plant community restoration, and appropriate mitigation design;

(4) Demonstration of wetland recreational benefits for implementation at COE facilities;

(5) Demonstrate COE commitment to finding ways of solving water resource development problems in an environmentally sensitive manner;

(6) Opportunity to work cooperatively with federal and state fish and wildlife agencies;

(7) Possible future wetland design and construction work.

4. PRESENT COE INVOLVEMENT

a. 404 permit required for regrading of existing wetlands. Public Notice issued 3 January 1986; permit issuance anticipated in March 1986.

b. Technical assistance provided by WES to Chicago District through DOTS program. Included participation in October 1985 workshop attended by wetland scientists nationwide.

5. PROJECT HISTORY

The project was initiated through a 1982 feasibility study funded by the State of Illinois which produced the publication *The Creation of Wetland Habitats in Northeastern Illinois.* In 1983, Open Lands Project, a Chicago organization dedicated to public acquisition of open space, and the Lake County Forest Preserve District organized the non-profit Wetlands Research, Inc. to implement the project. Dr. Donald Hey serves as director of Wetlands Research, Inc.

In 1985, a complete baseline survey and inventory of the physical and biological resources present at the project site was conducted by teams of scientists. In December 1985 and January 1986, the results of the survey and design work were prepared for publication in a four volume set:

Des Plaines River Wetlands Demonstration Project

Volume I, Executive Summary.

Volume II, Baseline Survey.

Volume III, Design, Construction Specifications, and Site Management.

Volume IV, Research Plan.

In October 1985, a group of nationally recognized wetland scientists convened to review the construction plan and develop the research proposals.

6. PROJECTED FUNDING AND STATUS

Initial funding has been provided through federal, state and local sources. The project site, valued at approximately $1.4 million, is being provided by the Lake County Forest Preserve District. In late 1984, a $525,280 grant was awarded by the U.S. Fish and Wildlife Service to fund the baseline inventory and survey, and to develop the construction and research plans. In July 1985, the Illinois General Assembly made possible a $1.3 million grant that will partially fund the first year of construction, which is anticipated to begin in 1986. The U.S. Fish and Wildlife Service has committed an additional $245,000 for research. Eleven individuals, foundations, and corporations have also contributed to the project. Remaining funding needed for completion of the project is estimated to be $6,407,000. The projected expenditure of these funds is shown on Attachment D.

WETLANDS RESEARCH, INC.

[Exhibit C:—Unfunded Projected Budget Feb. 11, 1986]

Item	Calendar years						
	1986	1987	1988	1989	1990	1991	Total
Construction:							
Supervision		54,760					54,760
Grading	462,199	462,200					924,399
Irrigation System	439,701	439,702					879,403
Planting		222,751					222,751
Public Access Structures		191,075			191,075	191,075	573,225
Subtotal	501,900	1,370,488			191,075	191,075	2,654,538
Operation and Maintenance		24,910	56,050	56,049	56,049	56,049	249,107
Research:							
Hydrology	51,000	147,970	147,970	147,970	147,970	147,968	790,848
Water Quality	28,000	181,432	181,432	181,432	181,432	181,434	935,162
Plants	21,000	43,092	43,092	43,092	43,092	43,092	236,460
Fisheries	18,000	42,360	42,360	42,360	42,360	42,358	229,798
Wildlife	36,000	117,540	117,540	117,540	117,540	117,540	623,700
Public Use	26,000	19,800	19,800	19,800	19,800	19,800	125,000
Subtotal	180,000	552,194	552,194	552,194	552,194	552,192	2,940,968
Documentation	12,500	29,283	29,283	29,283	29,283	29,285	158,917
Public Affairs		21,600	21,600	21,600	21,600	21,600	108,000
Financing		29,823	29,823	29,823	29,823	29,825	149,117
Administration	21,000	25,061	25,061	25,061	25,061	25,063	146,307
Total	1,115,400	2,053,359	714,011	714,010	905,085	905,089	6,406,954

[From the Lake County (IL) News-Sun, March 11, 1986]

Des Plaines River Basin May Get a New Look

(By Dennis Bucksten)

It seems that only recently has the public's perception of swampland been positive. At the very least, a swamp meant soggy, messy and a bit spooky; and, in the summer months, hot, steamy and buggy.

If one's consciousness were further "raised," by cinematic images, one could throw in snakes, alligators, quicksand and the like.

But for Lake County's own swampland—the Des Plaines River basin—the images should include environmentally "exciting," recreational, scenic, educational, and on a less glamorous note, practical as a conduit for thousands of tons of treated sewage.

The river basin is already well known to snowmobilers, equestrians, hikers and canoeists, as well as picknickers; but for others, "exciting" has gained a new meaning as witnessed by the Des Plaines River Wetlands Demonstration Project, a $1.6 million state-funded plan to turn a 2.8-mile stretch of the river north of Wadsworth into 450 acres of protected wetlands.

Wetlands Research Inc., a Chicago-based non-profit organization, proposed the project, which could cost about $10 million over the next five years and is scheduled to begin in April.

The initial funding, according to Donald Hey, director of Wetlands Research, a $1.3 million, which helped pay for engineering drawings, construction ramifications, a baseline survey and part of the construction.

That money was derived from a line item in the Illinois Department of Energy and Natural Resources budget, but more funds are being generated for the project, including generous private donations. Hey said about $3.5 million has been collected so far, but he worries that the project will be cut out from the Fish and Wildlife budget next year.

The baseline survey, Hey said, is documentation of everything that lives, crawls and breathes on the site, "including plants, mammals, amphibians, right down to the micro-organisms . . . There were no surprises. It's a highly disturbed site, ecologically, and there's nothing particularly unique on the site."

Rep. Robert W. Churchill, R-Lake Villa, who sponsored the supplemental appropriation bill for $1.6 million in the Illinois General Assembly last spring, said, "It's hard to believe that a swamp can be exciting, but this is an exciting project."

In the past, almost all wetlands along Illinois rivers have been drained for commercial and agricultural uses, said Churchill. "But this project will attempt to prove what we lost when we destroyed our swamplands," he said.

The river basin, shaped in the last century by farmers, railroads and gravel mine operators, is narrow, with a deep channel and steep banks. The project, expected to take three years, would greatly widen the channel and make it shallower. Engineers would make the slope of the banks more gradual, and extend it west toward Rte. 41 and east to the Milwaukee Railroad tracks.

Thereafter comes a three-year period of research on the site, said Hey, who agreed that the project may be considered a blueprint for restoring other rivers.

"Virtually everyone we have talked to appreciates that point," Hey said. "We need a blueprint and scientific information to develop design criteria, not only for Illinois rivers, but for Indiana, Ohio, Michigan, Wisconsin, all across the Midwest and in other parts of the country."

According to information prepared by Wetland's research, "Illinois streams were once bordered with hundreds of thousands of acres of wetlands providing natural in-stream treatment and flood control. What we do not know is how easy it will be to recreate those wetlands and provide those benefits once again."

Proponents say that by allowing water to collect on land, its muddiness is decreased, its oxygen content is increased and its nutrient balance controlled. Commercial and agricultural pollutants will collect on land and ultimately be consumed by plant life.

Planners expect to remove thousands of large trees and heavy underbrush and replace them with original flood plain stages: a marsh, river terrace and woodlands.

The site, once reconstructed, say researchers, will also diminish downstate flood stages while providing a sanctuary for waterfowl, sport fish, beavers, muskrats and other animals; and will provide a laboratory for biologists, hydrologists, chemists, botanists, fisheries, soil scientists and engineers.

Not all environmentalists are impressed by the Wetlands project. F.T. "Mike" Graham, Libertyville Township suypervisor and the champion for the township's recently created open space district, said it's just another example of "government by crisis."

Graham said the Lake County Forest Preserve District, which owns about 5,000 acres of land along the Des Plaines River, "is the only governmental body in the county which has made any attempt to preserve the Des Plaines basin.

"They bought up that acreage, but it's still a token amount, because we still don't have any way to control the pollutants that are running off farm fields. The hundreds of thousands of tons of salt that we line the roads with after every snowstorm eventually winds its way into the Des Plaines, the Fox River or the lake (Michigan). We are poisoning the whole water aquifer.

"The (wetlands) plan is fine in itself, but it's typical of the way we do things. First we destroy what nature did for us. And then we pour millions of dollars into it, trying to restore it.

"That's exactly what has happened. We have destroyed 95 percent of all the wetlands in Illinois, and now that we're at a crisis stage, all our legislators, both in Springfield and in Washington, are falling all over themselves to appropriate money to restore what nature gave to us free.

"Just this last year, out of 74 million ducks that migrate from the north in one year, it was down 20 million. And the cause of it was threefold—pesticide, drought and the destruction of wetlands. And we continue to do it as long as there's a buck in it for somebody.

"As far as the Des Plaines goes, the wetlands will certainly improve the six or eight miles they are involved in, but as you journey on down the Des Plaines and go past the North Shore sanitary plant, the Libertyville and Mundelein plants and every other plant that drains into it, every time there is a heavy rainfall, all the sewer plants in this whole country open up their gates and empty it all out. They don't have any way of treating it."

He, naturally, still feels the project is timely.

"We are where we are today, and if we are going to improve the environment and mitigate our past actions, we are going to have to do what we have to do up there. And what's most important is that we do it now and not delay another 10 years.

"What we have to demonstrate and show is the efficacy of this type restoration. People talk a lot about it, but (many) never get around to implementing it."

[From the New York Times, April 10, 1986]

GLOBAL PROGRAM IS URGED TO PRESERVE RAPIDLY DWINDLING WETLANDS

(By Philip Shabecoff)

WASHINGTON, April 10—Wetlands are being destroyed at an accelerating rate and need to be managed and preserved on a global basis, according to a report published today.

The report, written by Edward Maltby for Earthscan, a nonprofit information service on international resource and development issues, warns that the disappearance of wetlands threatens "drastic changes," particularly in the less-developed countries.

Although swamps, marshes, bogs, fens, estuaries and other saturated lands are immensely valuable economic and ecological resources, their value is not widely understood through out much of the world, the report said.

Accordingly, the wetlands are being drained for agriculture, urban expansion and industrial and commercial development at a rapid rate. Many of them are also being destroyed by chemical pesticides and other pollution, the report said.

It cited an estimate that half the world's wetlands have been lost since 1900. Mr. Maltby said at a news conference here that while wetland loss was increasing in the less-developed countries of the third world, the most rapid destruction of these valuable areas continued to take place in the United States, particularly in the Southern states. Close to 500,000 acres of wetlands are disappearing each year in this country.

The report, "Waterlogged Wealth," said that wetlands were one of the most productive food-producing systems, providing protection from floods and storms, acting as crucial spawning areas for fisheries, helping assure water quality by recharging aquifers and serving everywhere as critical wildlife habitat.

Estimates of the value of wetlands, based on these factors, reach as high as $200,000 an acre or more in some areas, the report said. But it also noted that in many areas these areas were being developed for short-term economic gains.

The report said that in many of the third-world countries, wetlands were being drained in the cause of economic development, often with the aid of large multinational or bilateral lending institutions in the industralized countries. But it said these wetlands were often essential ingredients of "sustainable" development programs.

Many wetlands development projects could have devastating impacts on the livelihood of people, sometimes far from where the development is taking place, the report said.

It pointed to plans for a series of dams on the Niger River in Africa, which, it contended, could drastically affect the fisheries of the Niger Delta, on which hundreds of thousands of people depend, as well as pasture land on which thousands of more people graze their cattle.

"The wetlands issue is fast becoming one of the most contentious and politically sensitive questions facing environmental scientists," the report observed, adding, "The future of wetlands seems to rest much more with the outcome of political and legal debate and patterns of economic and social development rather than with any natural processes."

Mr. Maltby, a lecturer in geography at Exeter University in Britain, urged a global effort by governmental and private groups to develop information on wetlands and coordinate efforts to protect them.

The effort will require education of people around the world, he said. "Raising people's awareness of wetlands and convincing them of their real value, a process that often comes up against lifelong prejudices towards marshes, swamps and bogs, is not easy," he added.

U.S. SENATE,
Washington, DC, July 16, 1986.

Hon. SIDNEY YATES,
Chairman, House Appropriations Interior Subcommittee, Cannon House Office Building, Washington, DC.

DEAR SID: Thank you for your interest in the Des Plaines Wetlands Demonstration Project.

I am enclosing a packet of information which should provide a good background perspective of the initiative.

As you may be aware, Fish and Wildlife supported the project in FY 85 with $525,280. Those funds were well used to create the Baseline Survey including mapping, engineering and design of the research plan. The FY 86 appropriation of approximately $245,000 is being used for research work, water quality monitoring and instrumentation. The original agreement with Interior and the Senate committee for FY 87 was to return to the FY 85 funding level. The needs from Interior at this time are: $75,000, Instrumentation; $100,000, Chemical Analysis; $150,000, Hydrological Research; $75,000, Water Quality Research; $50,000, Fisheries Research; $75,000, Wildlife Research.

This appropriation of $550,000 is what Senator Dixon and I will be seeking from the Senate Appropriations. Your support in the House will be clearly of great assistance.

Again, my thanks to you for your efforts toward this project. It is simply one of the best I've seen.

My best wishes.

Cordially,

PAUL SIMON.

DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, DC, September 29, 1986.

Hon. PHILIP M. CRANE,
House of Representatives, Washington, DC.

DEAR MR. CRANE: This is in response to your recent letter to Lieutenant General E.R. Heiberg III about the Des Plaines River Wetland Restoration Project in Lake County, Illinois.

Members of our Chicago District, North Central Division, and appropriate headquarters staff have been briefed by representatives of Wetlands Research, Inc. (WRI) about this model project from which WRI hopes to develop design criteria for other potential wetlands restoration projects. We are aware of the support the project has received from local and state governments, private industry, and the U.S. Fish and Wildlife Service.

The Corps of Engineers recognizes the need for wetlands studies and is attempting to develop, under our Research and Development (R&D) program, a technique that can be used to assess wetland values reliably. As far as we can tell, there is no overlap between our R&D efforts and the model Des Plaines River project.

We have reviewed the potential for Corps participation in funding for the model project and have concluded that we are not in a position to contribute financially toward the WRI efforts. We have no authority to make funds available for this effort. We can, however, provide some limited assistance through continued participation on WRI's Technical Advisory Panel.

Your interest in this matter is appreciated.

Sincerely,

GALEN H. YANAGIHARA,
Colonel.

NOVEMBER 5, 1986.
Hon. PAUL SIMON,
Suite 3892, 230 South Dearborn Street, Chicago, IL.

DEAR SENATOR SIMON: Our first construction season is coming to a close and, despite heavy rains and flooding, we have made great progress. I would like to summarize our accomplishments and tell you about our construction and research plans for 1987.

As the enclosed site plan illustrates, the major accomplishments of the 1986 construction season include:

Diverting the Des Plaines River through the southernmost, abandoned gravel pit;

Grading and seeding the diversion channel and southern edge of the pit;

Grading and seeding the six experimental wetland areas on the west floodplain at the northern end of the site;

Placing three-quarters of the irrigation pipe to connect the experimental areas with the pumping station (the station is to be built next year);

Excavating the swale which will convey the discharge from the six experimental areas back to the Des Plaines River;

Clearing the understory from the adjacent oak grove;

Connecting the northernmost quarry to the river by means of a backwater channel;

Planting fifty percent of the regraded areas with native plant materials and the remaining areas with a cover crop (permanent planting will be accomplished next year).

Although we are completing only about one-third of the total construction work this year, we have made substantial changes in the landscape, vegetation and wildlife. The river, once obscured by a wall of vegetation, now can be seen from the rehabilitated oak grove. Shorebird populations have dramatically increased and water now rests on land which formerly was drained for farming.

With the completion of the six experimental wetlands areas and part of the irrigation pipeline, we lack only a short run of pipe and the pumping station to put the experimental areas into operation. While we ultimately will need all eight experimental areas, research can start with the first six, thereby putting into circulation, sooner rather than later, vitally needed research data. If we do nothing more than build the pumping station and complete the pipeline next year, we will be in position to accomplish a major part of our objectives.

The enclosed exhibit gives a cost estimate of the minimum, required construction for next year. The estimated amount is $940,000, which includes $501,000 for materials and $439,000 for labor. The extent to which we have secured funding for this work is as follows:

Commonwealth Edison Company has acknowledged that they have most of the needed pipes and valves in their surplus supply depot and their public affairs officer is considering a recommendation, made by their environmental engineers, that these surplus materials be provided at no cost, saving us approximately $100,000;

Thanks to your efforts, contained within the U.S. Fish and Wildlife Service's appropriation for FY '87 is $300,000 for our project; approximately $100,000 of this will pay for instrumenting the irrigation system and $200,000 will be used for associated research;

An important part of the funding for next year's construction is the anticipated state appropriation of $100,000;

Finally, we have proposals pending with a number of corporations.

We greatly appreciate the interest and support that we have received from you and your staff. It has made the difference.

Sincerely yours,

DONALD L. HEY,
Director.

[From the Chicago Tribune, Nov. 9, 1986]

BRAINSTORMING FOR WAYS TO CONTROL FLOODING

(By Casey Bukro)

Explorers Jacques Marquette and Louis Joliet recorded in 1673 that rising floodwaters in the swamp that would become Chicago forced them to move their camp to higher ground.

Now, more than three centuries later, floods in Illinois cause $500 million in damages annually—about $23 million of that in the Chicago area, where floods are an annual occurrence.

Nationwide, flood damage can reach $4 billion a year.

Because the Chicago region is flat and marshy, heavy rainfall quickly tops the banks of rivers and creeks and spreads into flood plains—nature's floodwater storage areas.

These same low-lying areas near streams and lakes lured developers of homes and industry, who created a classic conflict with nature by building in areas that are destined to endure floods periodically.

And to make matters worse, old cities like Chicago were built with sewers designed to transport waste and stormwater. In heavy rain, the sewers fill to capacity and back up into basements—a second type of flooding.

"Rivers, after all, are a natural part of the environment," said Richard Semonin, chief of the Illinois State Water Survey. "Man always tries to control the environment for his economic well-being. Sometimes that produces side-effects that we did not expect.

"We are still learning as human beings."

Semonin said the lessons are often painful—like the deluge in late September that resulted in damages of $35 million in northern Illinois.

Three hundred years of experience in this region, at the southern tip of Lake Michigan, has produced a variety of conventional flood-control measures, plus several examples of futuristic projects that could change the way floods are managed.

David Hunter, a civil engineer for the Army Corps of Engineers, divides flood-control projects into two categories: structural and nonstructural.

"The structural methods are the ones the corps and most flood-control agencies have done since man has been engineering," Hunter said. They include dams, levees, dikes and dredging and straightening rivers.

But in the environmental fervor of the 1970s, Hunter said, some of these standard flood-control measures were criticized as environmentally unsound. Beginning in 1976, federal agencies have tried other approaches, such as removing buildings from flood plains, adopting zoning regulations that prohibit building in flood-prone areas or floodproofing buildings.

Neil Fulton, chief of the Illinois Bureau of Resource Management, said the future of flood control lies largely in an "extension of existing technology." He points out that about $200 million has been spent on flood control in the Chicago metropolitan area in the last 15 years, and another $150 million will be spent in the next 10.

But some radically different approaches also can be found in the Chicago area, which historically has been a cradle of pioneering technology.

The most controversial example is the Metropolitan Sanitary District's $2.7 billion Deep Tunnel project, which eventually is to stretch 110 miles, catching sewage and rain water that overflows from flooded sewers, instead of letting it get into Chicago waterways.

The project got underway in 1976, and 47 miles of tunnels have been completed at a cost of $1.2 billion.

"It's a typical Chicago project. It matches reversing the Chicago river," said Frank Dalton, the MSD's general superintendent, who noted that Chicago traditionally has taken pride in "big plans."

In 1900, the city's sanitary district reversed the course of the Chicago River away from Lake Michigan, the city's drinking water supply.

MSD plans to continue building tunnels and three flood-retention reservoirs in the pollution and flood-control project. But Dalton believes that highly developed areas like the Chicago region need a "speed limit" for rivers that would check how fast and how high flood waters may rise on rivers.

"You should be told you can discharge only so much water during storm conditions," Dalton said. "You should not be allowed to put someone downstream underwater." To do this, he suggested, all developments should be required to include flood-retention basins that prevent waterways from rising dangerously high.

Several smaller-scale projects also can be found in the Chicago area. The Hamilton Lakes office and hotel project in suburban Itasca is a self-sustaining water oasis that captures rainwater and recycles it.

"When the September floods occurred, there was no problem at the Hamilton hotel," said John Sheaffer, designer of the 274-acre complex where wastewater is recycled. "All the water was kept on-site and treated. None flowed off site. If we can do that, we address our flood problems. Then you are on a self-contained water system."

Even sewage is treated, aerated, filtered, disinfected and sprinkled on the ground to water vegetation. It filters through soil into the ground and becomes part of the underground wellwater supply at Hamilton Lakes, from which about 100,000 gallons of water is drawn each day.

The Hamilton Lakes project, begun in 1980, was the first project of its kind, but Sheaffer said he is now working on 16 of them across the country.

Donald Hey, president of a Chicago environmental engineering firm, is leading another potentially trailblazing project.

Hey is transforming a 2.8-mile stretch of the Des Plaines River near Gurnee in Lake County into a marshy wetlands—the kind of swampy stream that settlers encountered in the 1860s.

Wetlands such as these soak up floodwaters. Many "river improvement" projects in the last century deepened and widened rivers to prevent flooding in certain locations, but this often has caused faster floodwaters elsewhere.

At a cost of $10 million, Hey is trying to turn back the ecological clock and find more natural ways to control floods, while improving the environment at the same time.

"Our project," Hey said, "really represents a hope of controlling floods, and at the same time producing better water quality, greatly expanded wildlife habitat and a much more attractive environment in which to live and play.

"I feel strongly that we haven't given the more natural approach a chance because that approach isn't taught in our schools, it isn't promoted by our profession."

In other approaches, the Village of Skokie is combating basement flooding with a $32 million program designed to use streets for stormwater storage areas, according to Mark Schoeffmann, municipal engineer. In addition to requiring 14,000 Skokie residences to disconnect downspouts that emptied into sewers, the village has installed flow regulators of sewer inlets.

This forces stormwater to pool in the streets, where a series of gentle ridges were built to contain it until normal sewer levels are again reached—usually within a few hours. Where streets could not be equipped to hold all expected floodwater, additional underground storage tanks have been installed.

The only complaints have been from motorists whose cars were parked in ankle-deep water, Schoeffmann said.

[From the Chicago Tribune, Nov. 9, 1986]

Rebirth of a Swamp: Doing It Nature's Way on Des Plaines River

(By Robert Enstad)

Come spring, native swamp and prairie grasses that have not grown for more than a century along the Des Plaines River will be sprouting near Wadsworth. In two or three years, if all goes well, the grasses will be so thick that they will have to be set on fire periodically to prevent woody plants from taking over.

The swamp's return also is expected to bring back flocks of ducks and geese and blue herons as well as northern pike, large-mouthed bass and other game fish. And the carp now found in the Des Plaines should eventually die or swim to dirtier waters.

"You might say we are making progress by turning back the clock," said Donald Hey, in describing the rebirth of a swamp along a 2.8-mile stretch of the Des Plaines in Lake County.

Six weeks ago, the 450-acre site of the Wetlands Demonstration Project was 80 percent covered by the river's flooding. That delayed the swamp's restoration—which, had it been finished, would have lessened but not eliminated the flooding downstream.

Flood control is a goal of the restoration. But more important, said Milady Cardamone, assistant director of the project, the swamp and its grasses will cleanse the Des Plaines, giving the river the natural pollution control it had when Native Americans inhabited the land.

The Des Plaines originates in a cornfield in Racine County, Wis., about 20 miles north of Wadsworth. In that short span, however, the meandering river picks up enough pesticides, sewage and other pollutants to make it almost unfit for game fish.

"By any measure, we would consider it a contaminated stream," said Hey, a civil engineer, hydrologist and director of the project. "Ninety percent of the fish in the river are carp."

It wasn't always that way.

Before the Des Plaines swamps were drained in the 19th Century and the land converted to agricultural uses, the wetlands provided flood and pollution control. "A quarter of Illinois, or more than 9 million acres, was once wetlands," Hey said. "By the early 1900s, virtually all of our wetlands had been drained."

An aerial photograph from 1938 shows that the Wadsworth site was farmed right up to the river bank.

Fifteen years ago, the Lake County Forest Preserve District acquired the site to use it as a flood plain. James LaBelle, chairman of the Lake County Board, said the acquisition was part of a continuing effort by the county to control the river's flooding.

Cardamone said the site was selected for the project, the only one of its kind in the country, because Lake County was willing to contribute the land and because it was once natural wetlands. "We needed someone to donate the land and a site that was large enough that it would have an impact," Hey said.

Scientists, hydrologists, environmentalists and conservation groups have been keeping a close eye on the restoration, at Wadsworth Road and U.S. Hwy. 41.

But the site now looks more like the beginning of a housing development than the restoration of a swamp. Heavy machinery operated by Peter Campanella & Sons Construction Co., of Wadsworth, has removed large forested areas and started work on six wetland basins. Part of the Des Plaines has been rerouted through an abandoned 40-foot-deep gravel quarry, which will act as a sediment trap for pollutants carried by the river.

And native prairie grass seeds, obtained from a nursery in Downstate Lafayette, have been planted in the restoration areas. Those seeds should be sprouting in the spring.

About a third of the construction has been completed this year, according to Hey, and about $4 million spent on the $10 million project. That money is soon to run out and restoration of the swamp might not resume in the spring.

A combination of state, local, federal and private funds are going into the project. "We've got a $300,000 grant from the U.S. Fish and Wildlife Service for research in 1987, but we will need about $900,000 for wetlands reconstruction," Hey said.

"Commonwealth Edison Co. may give us $100,000 in construction equipment, and we are hoping the U.S. Environmental Protection Agency will come through with $450,000."

Restoring a swamp to land that was once rich farmland, and more recently a forest preserve, has not met with universal approval. The swamp is likely to breed more mosquitoes in the summer and may be a little unsightly to motorists traveling on U.S. 41.

Hey said that doesn't matter. "We're trying to establish as complete of a prairie environment as we can," he said. "We are not doing this because it will be pretty."

Wetlands Research Inc., a nonprofit corporation headed by Hey, has a five-year contract to research how well the swamp project is working. Two big questions must be answered: Is swamp restoration an effective way to control flooding and pollution, and will it bring back the fish and wildlife that once inhabited the area?

If it works, Hey said, it would theoretically be possible to restore most flood plains along the Des Plaines into swamps, which might eliminate flooding. He estimates the cost of building the swamps at about $250,000 a mile of river bank.

"That's about the same cost as repaving a mile of city streets with a 3-inch layer of asphalt," he said.

Wetlands To Be Re-Created at Des Plaines River Site

A writer in the 1860's described the Des Plaines River north of Chicago as "abounding in deep and shady pools, from which large quantities of excellent fish are taken. The pools are also extensively used for bathing and swimming."

The area was a natural wooded wetlands. Strong oak trees, some over 200 years old, are still standing, but these are about all that remains of the idyllic conditions the writer described.

Today oily substances and trash can be seen floating on the river's surface. Its sediment-laden waters support mostly rough fish, and the river banks are covered with silt. Modern day land management practices, including gravel mining and urban and agricultural pollution of the river, have drastically changed the nature and contour of the area.

The Des Plaines River Wetlands Project is an attempt to restore a 2.8-mile section of the upper Des Plaines River and its surroundings north of Chicago to a natural wetlands state while providing a "living laboratory" for scientists. Dozens of researchers from many different scientific fields and numberous organizations, public and private, are involved in the project, including a team of Water Survey scientists who are studying the hydrology and climate of the area.

WATER A CONTROLLING MECHANISM

"The Water Survey's work is extremely important since other scientific disciplines will utilize the hydrologic data in their projects," explains Nani Bhowmik, the Water Survey's principal investigator for the project. "The controlling mechanism for the biological processes is water and the dissolved and suspended matter carried by water. You need to know about hydraulics, rainfall, evaporation, temperature, and so on, in order to find out how a habitat responds to imposed conditions."

Earth-moving equipment has begun tearing up scrub growth and grading the land at the 450-acre site near Wadsworth, Illinois, about 35 miles north of Chicago. The stage is being set for the reconstruction of an oak savannah prairie, the area's natural state. The project is expected to take at least five years with a cost estimate of $20 million.

The planners believe the project will provide valuable economic, aesthetic, and recreational benefits as river waters are cleansed, flood stages are diminished, and a valuable wildlife habitat is created.

The project began with a grant from the Illinois Department of Energy and Natural Resources for a feasibility study, which was completed in 1982. In 1983 Wetlands Research, Inc. was formed by the Open Lands Project and the Lake County Forest Preserve District to administer the project. The Forest Preserve District also agreed to provide the $1.5 million site on the Des Plaines River.

CONSTRUCTION UNDER WAY

Funding thus far has been provided by the U.S. Fish and Wildlife Service and the U.S. Environmental Protection Agency. Construction began in April of this year.

"If the planned work is fully funded, it will be a full-scale research project," Bhowmik explains. "Instead of a laboratory environment you have a natural field area, especially for biologists. This project will definitely help us in other Water Survey projects. We're never had an opportunity like this before, so it gives us another dimension."

On-site surveys have been conducted by researchers to analyze and describe the hydrology, water quality, soils, geology, and topography of the area. Surveys were also conducted to determine amounts and types of vegetation, fish, mammals, insects, birds, amphibians and reptiles, and microorganisms. A three-year survey of human use of the site has also been completed.

"Basic data collection is being done right now, a lot of leg work," says Bhowmik of current Water Survey efforts on the project. "We have been collecting suspended sediment and water quality data since July. We started more intensive data collection the last week of September and right now we are collecting surface water data at least once a week."

Personnel from the Water Survey's Surface Water, Ground Water, and Climate Information Sections have completed a baseline survey and analysis of the hydrology, water quality, and climatology of the project area.

EXTENSIVE DATA BASE NEEDED

The data base needed to support different aspects of the wetlands restoration and to provide background environmental information will come from the baseline survey and ongoing monitoring. The Water Survey's monitoring will include:

For surface water: river stage and water discharge, suspended sediment concentration and particle size, pH, turbidity, temperature, dissolved oxygen, and other water quality variables.

For ground water: ground water levels, flow patterns, and recharge as a result of modifications of the area.

For climatology: wind speed, wind direction, air temperature, relative humidity, precipitation, soil temperature, soil moisture, and solar radiation.

The data will be analyzed and can be shared with other researchers conducting studies at the project site.

After ground at the project site is graded and undesirable seedlings and grasses burned off, native plant communities will be introduced into the area through seeding and planting.

RE-CREATING THE WETLANDS

During the current construction phase of the project, the stream channel will be regraded and broadened, and experimental wetland areas will be carved out of the adjoining land surface. Backwater areas will be created by grading two abandoned quarry pits and connecting them to the Des Plaines River. The river will be diverted through a third quarry lake, which will make the lake a sediment trap for suspended solids.

Fish spawning and breeding areas will be created and the site re-populated with native fish and wildlife which have been lost during the degradation of the land and the river.

Planners believe the most important benefit of the project will be that the area will serve as a model for the re-creation of a wetland. It will give scientists and engineers a living laboratory for testing and evaluating techniques for creating wetlands in degraded urban and agricultural environments.—TER

DECEMBER 11, 1986.

Hon. PAUL SIMON,
230 South Dearborn St.,
Chicago, IL.

DEAR SENATOR SIMON: This year considerable progress has been made toward our short term objective of conducting wetlands research. We have completed, or about to complete, the construction of six out of eight experimental wetland areas. If we can put these six areas into operation next year, our research program can start in earnest. With the research results from these areas, our goal of providing substantive information on the design, restoration, and management of wetlands, in large measure, can be accomplished.

In order to begin operations, we will need to build the pumping station by August, 1987. This means starting construction by April, 1987. The estimated cost for this piece of the work is $940,000 (see enclosed table and summary). The cost of required instrumentation, approximately $129,000, can be covered by the 1987 U.S. Fish and Wildlife Service's grant. The most appropriate sources for the remaining amount, $811,000, are the U.S. Environmental Protection Agency and/or the U.S. Army Corps of Engineers. Both agencies have regulatory interests in and authority over wetlands and are extremely interested in our project.

If we are to keep the project on schedule, the money for the pumping station will have to be raised within the next few months. Any help you can give us in securing these monies will be greatly appreciated. We stand ready to meet with you and your staff to discuss this matter and to help you in any way we can.

Thank you for your continuing support.

Sincerely yours,

DONALD L. HEY,
Director.

WETLANDS RESEARCH, INC.

[Estimated Budget and Funding Status Sept. 11, 1986]

Item	Estimated cost	Government			Private		Total received
		Local	State	Federal	Industry	Other	
Feasibility study	22,000		22,000				22,000
Land acquisition	1,429,000	1,409,000	20,000				1,429,000
Preliminary engineering	30,000		30,000				30,000
Engineering design	201,198			201,198			201,198
Baseline survey	163,355			163,355			163,355
Research plan	60,220			60,220			60,220
Construction:							
Supervision	319,590		216,802		102,788		216,802
Grading	1,831,374	150,000	905,114		776,260		1,046,114
Irrigation system	856,572		166,400	500,172	190,000		106,400
Planting	249,537		170,262		76,775	2,500	72,762
Public access structure	573,225	378,225			195,000		0
Subtotal	3,830,298						
Operation and maintenance	383,139	180,000		150,000	53,139		0
Research:							
Hydrology	805,000		50,000	740,000	15,000		60,642
Water quality	906,000		50,000	791,000	65,000		144,500
Plants	273,000			241,360	31,640		60,340
Fisheries	255,000			255,000			25,202
Wildlife	606,000			484,000		121,200	37,316
Public use	125,000				125,000		0
Subtotal	2,970,000						
Documentation	276,406		54,280	124,709		97,417	117,489
Public affairs	115,000			115,000			7,000
Financing	339,000			82,127	109,073	147,800	198,722
Administration	357,968		87,142	105,765		165,061	163,693
Total:							
Projected	10,177,584	2,117,225	1,772,000	4,014,706	1,739,675	533,978	4,156,755
Percent		21	17	39	17	5	
Received	4,156,755	1,409,000	1,372,000	708,280	465,000	202,475	
Percent	41	67	77	18	27	38	
Needed	6,020,829	708,225	400,000	3,306,426	1,274,675	331,503	
Percent	59	33	23	82	73	62	

Wetlands Research, Inc.

[Contributors and contributions (Sept. 10, 1986)]

Cash:	
Atlantic Richfield Foundation	$105,000
Borg-Warner Foundation	2,000
Caterpillar Foundation	5,000
Dorothy and Gaylord Donnelley Foundation	50,000
Gaylord Donnelley	25,000
Exxon Company U.S.A.	31,000
FishAmerica Foundation	2,500
Garden Guild (Winnetka)	2,500
Sidney G. Haskens	2,000
Illinois Department of Energy and Natural Resources	1,372,000
The Joyce Foundation	110,000
Land and Lakes Company	5,000
Open Lands Projects	10,000
Phillips Petroleum Foundation	2,500
U.S. Fish and Wildlife Service	708,280
Walgreen Co	500
Other (less than $500 each)	475
Subtotal	2,433,280
In-Kind:	
Campanella & Sons, Inc	80,000
Caterpillar Tractor Co	96,000
International Minerals & Chemical Corporation	80,000
J.I. Case	18,000
Lake County Forest Preserve District	1,409,000
Material Service Corporation	40,000
Subtotal	1,723,000
Total	4,156,755

WETLANDS RESEARCH, INC.

[Unfunded projected budget (Sept. 11, 1986)]

Item	Calendar years						
	1986	1987	1988	1989	1990	1991	Total
Construction:							
Supervision		102,788					102,788
Grading		785,260					785,260
Irrigation system		750,172					750,172
Planting		176,775					176,775
Public access structures		191,075			191,075	191,075	573,225
Subtotal		2,006,070			191,075	191,075	2,388,220
Operation and maintenance		31,239	87,975	87,975	87,975	87,975	383,139
Research:							
Hydrology	4,510	147,970	147,970	147,970	147,970	147,968	744,358
Water quality	10,000	150,300	150,300	150,300	150,300	150,300	761,500
Plants	5,000	41,532	41,532	41,532	41,532	41,532	212,660
Fisheries	18,000	42,360	42,360	42,360	42,360	42,358	229,798
Wildlife	29,000	107,937	107,937	107,937	107,937	107,936	568,684
Public use	26,000	19,800	19,800	19,800	19,800	19,800	125,000
Subtotal	92,510	509,899	509,899	509,899	509,899	509,894	2,642,000
Documentation	12,500	29,283	29,283	29,283	29,283	29,285	158,917
Public affairs		21,600	21,600	21,600	21,600	21,600	108,000
Financing		29,256	29,256	29,256	29,256	29,254	146,278
Administration	21,000	34,655	34,655	34,655	34,655	34,655	194,275
Total	126,000	2,662,002	712,668	712,668	903,743	903,738	6,020,829

WETLANDS RESEARCH, INC.

[1987 estimated minimum construction costs]

Items (quantity)	Materials	Labor	Total
A. Irrigation Systems			
1. Irrigation pipe and fittings:			
a. 30"dia 700 lf at $37.22/lf	$18,025	$8,029	$26,054
b. 36"dia 24lf at $57.00/lf	672	696	1,368
c. 30"dia DIP river crossing 350 lf	26,250	26,250	52,500
d. 30X30X16 Tee (2) $588 each	1,176	1,000	2,176
e. 36X36X30 Tee (1) $588 each	588	500	1,088
f. 36X30 reducer (1) $588 each	588	500	1,088
g. Valve vault 5'dia (2) $1200 each	1,200	1,200	2,400
h. Flowmeter vault 48"dia (1) $1,000 each	500	500	1,000
i. Blowoff valve (1)	1,200	300	1,500
j. 30"dia check valve (1)	6,000	1,000	7,000
k. 30"dia butterfly valve (l)	3,500	500	4,000
Subtotal	59,699	40,475	100,174
2. Pumping facilities:			
a. Twin box culverts 6' X 6'84 lf each	14,490	14,910	29,400
b. Trash racks (2) $1,000 each	1,600	400	2,000
c. Pump chamber 36"dia MH (23 ft deep)	1,500	1,500	3,000
d. Pumps (2) pumps	60,000	20,000	80,000
e. Variable speed drive	30,000	10,000	40,000
f. Level controls (6) $100 each	600	300	900
g. Channel excavation near inlet 130 cy at $3/cy	0	390	390
h. Stone rip-rap 25 cy at $10/cy	200	50	250
i. Clearing 1.4 acres at $1,000/acre	0	1,400	1,400
j. walkway for intake structure—lumpsum	1,250	1,250	2,500
k. Landscaping:			
Top soil placement(1 acre) 800 cy at $3/cy	0	2,400	2,400
Seeding and planting (1 acre) at $1,500/acre	500	1,000	1,500
Subtotal	110,140	53,600	163,740
B. WETLAND AREAS			
1. Inlet facilities:			
a. Flow meter vaults 5'dia (20 $1,200 each	1,200	1,200	2,400
b. 16" butterfly valve and box (2) $1,600 each	2,400	800	3,200
c. Dispersion structure (2) $600 each	600	600	1,200
Subtotal	4,200	2,600	6,800
2. Outlet facilities:			
a. Parshall flumes (6)	12,000	3,000	15,000
b. Concrete box channels (6) $1,200 each	3,600	3,600	7,200
c. Flow control/stop logs (6) $1,000 each	3,000	3,000	6,000
d. Gates for 18" drain pipes (6) $300 each	1,500	300	1,800
e. Rip-rap 750sy at $10/sy	6,000	1,500	7,500
Subtotal	26,100	11,400	37,500
C. INSTRUMENTATION			
1. Pump flow metering (1)	8,140	6,860	15,000
2. WA outlet flow metering (6) $7,000 each	30,000	12,000	42,000
3. Transmitters (6) $1,000 each	4,800	1,200	6,000
4. WA inlet flow metering (6) $7,000 each	30,000	12,000	42,000
5. Transmitters (6) $1,000 each	4,800	1,200	6,000
6. Water Quality Probes (6) $3,000 each	18,000	0	18,000
Subtotal	95,740	33,260	129,000
D. VEGETATION (wetland Areas)			
1. WA 1.1 -11.6 acres:			
1.2 to 8.7			
1.3 to 5.2			
1.4 to 5.6			
1.5 to 4.0			
1.6 to 7.2			
42.3 acres at $1,000/acre	21,150	21,150	42,300
2. Edges—Community C (4 acres) at $2,300/acre	4,600	4,600	9,200
3. Islands—Community B (1 acre) at $1,400/acre	1,000	400	1,400
4. Erosion Control (10,000 sy) at $0.51/sy	5,100	1,275	6,375
Subtotal	31,850	27,425	59,275
SUMMARY			
1. Construction:			
a. Irrigation pipe and fittings	59,699	40,475	100,174
b. Pumping facilities	110,140	53,600	163,740
c. w.A.–Inlet facilities	4,200	2,600	6,800
d. W.A.–Outlet facilities	26,100	11,400	37,500
e. Vegetation	31,850	27,425	59,275
2. Instrumentation	95,740	33,260	129,000
3. Electrical Service	90,000	80,000	170,000
4. Contingencies (20 percent)	83,546	49,752	133,298
5. Engineering (12 percent)	0	95,974	95,974
6. Administration (5 percent)	0	44,788	44,788
Total	501,275	439,274	940,549

JANUARY 16, 1987.

Mr. ROBERT K. DAWSON,
Assistant Secretary of the Army for Civil Works, Department of the Army, The Pentagon-Room 2E570, Washington, DC.

DEAR MR. DAWSON: Donald Hey of Wetlands Research, Inc. and other representatives will shortly be meeting with you to discuss the Des Plaines River wetlands project. This project is an unique effort involving federal, state, local governments and private parties to create a living laboratory along the Des Plaines River in Lake County, Illinois. Federal agencies involved in the project financially include the Fish and Wildlife Service and U.S. Environmental Protection Agency. In addition, the Corps of Engineers has been involved providing technical support and the project has been strongly endorsed by the Chicago District of the Corps of Engineers.

The project produces important national benefits as well as state and local benefits. It will supplement our existing understanding of the habitat importance of wetlands with an understanding of the water quality and water quantity impacts of wetlands. These benefits will be useful from the standpoint of federal and state regulatory activities, mitigation of construction activities and resource management purposes.

The State of Illinois is committed to the project and has invested significant funds in the project. Because of the national benefits of the program, it is appropriate for there to be strong and continued involvement of federal agencies. Because of the multiple agencies involved, we need one agency to provide leadership in this area and I think that you would be an excellent candidate for that coordination and supportive role.

I would appreciate your help in this area.

Yours very truly,

NEIL R. FULTON,
Chief, Bureau of Resource Management.

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, DC, Mar. 6, 1987.

DONALD L. HEY, Ph.D.,
Director, Wetlands Research, Inc., Chicago, IL

DEAR DR. HEY: Thank you for an excellent briefing concerning your Des Plaines River Wetlands Research Project. You have convinced me that your project will result in valuable information, which can be used by many Federal, State, and local agencies. Of course, any study with such broad application will also benefit the general public.

As a result of your briefing, I asked the Army Corps of Engineers to take a careful look at the possibility of providing financial and/or technical support to your project. Unfortunately, the Corps is not immune to the constraints that have necessarily been placed on the Federal Government. After careful consideration, the Corps determined that funding could not be made available. The Corps has been forced to reduce its own wetlands research as a result of insufficient funding, and, therefore, simply does not have money available for this private effort.

The Corps has indicated an interest in providing technical support through its local Chicago District and its North Central Division office located in Chicago. I hope that the technical support provided by those Corps field offices will help your project become a reality.

Sincerely,

ROBERT K. DAWSON,
Assistant Secretary of the Army (Civil Works).

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, June 29, 1987.

Hon. PAUL SIMON,
U.S. Senate, Washington, DC.

DEAR SENATOR SIMON: Thank you for your letter of May 7, 1987 regarding the Des Plaines River Demonstration Project. I agree that this project is very worthwhile and can contribute significantly to our knowledge of several key wetland functions and of the feasibility of wetland restoration.

Monitoring data from the site could provide valuable information for the development of EPA policies on wetland mitigation and restoration. The water quality data can help EPA determine the capabilities and limits of wetlands for moderating nonpoint source pollution problems.

In light of these potential benefits, EPA has provided both technical and monetary support to the Des Plaines project. Our Athens Research Lab and EPA Region 5 Office have contributed time and money equivalent to about $100,000. We appreciate the need for additional financial support in order to complete the project design. However, the amount you request that we provide in fiscal year 1987 is significantly greater than our total annual wetlands research budget. I regret that we cannot provide additional funding for fiscal year 1987.

In response to your request for my support for a direct fiscal year 1988 appropriation, the fiscal year 1988 President's budget request for EPA has already been sent to Congress and does not include funds for this project.

I want to reiterate my endorsement of the Des Plaines project. I also commend your efforts to help assure that the project is carried through to fruition. EPA will continue to provide technical support, and will also look for any future opportunities to provide financial support.

Sincerely,

LEE M. THOMAS.

THE PENNSYLVANIA STATE UNIVERSITY, COLLEGE OF AGRICULTURE,
SCHOOL OF FOREST RESOURCES,
University Park, PA, July 16, 1987.

LAWRENCE A. BURNS,
U.S. Environmental Protection Agency, Environmental Research Laboratory, College Station Road, Athens, GA.

DEAR DR. BURNS: I include my comments on the proposed research cooperative agreement submitted by Wetlands Research, Inc. for 1987-88 as part of this letter. You are free to share my comments with the staff of Wetlands Research, Inc.

In these days of limited funding, there are few opportunities to develop long-term, interdisciplinary studies. The Des Plaines River Wetlands Demonstrating Project is unique in that regard. It uses solid scientific procedures to gain new knowledge of wetland hydrology and ecology, while seeking answers to practical questions concerning restoration and creation of wetlands. As evidenced by USEPA's own Wetlands Research Plan, and recent establishment of an Office of Wetlands Protection, wetlands protection and management is an environmental issue of national concern. The proposed project will contribute significantly to our understanding of this issue, and as a bonus, provide an on-going demonstration area of how wetlands of this type function. Wetlands Research, Inc. has been unusually open about offering opportunities for others to study this system.

The proposed project is part of an existing effort that has received substantial evaluation and scrutiny by knowledgeable scientists, and I would not pretend to make a comprehensive review at this point in time. However, it is critically important to fund large-scale field experiments that are entering the monitoring phase. There are too many wetlands being constructed without a strong rationale, and with virtually no follow-up monitoring. The methodology proposed here is sound. The investigators have obviously spent considerable time reviewing their options and developing an integrated approach that should help identify the linkages between the various wetland functions.

The proposal emphasizes the hydrologic functions of riverine wetlands, which have often been neglected in the past. Their choice of instrumentation and techniques to study flow rates and patterns of both surface and groundwaters appears sound. This should contribute to our understanding of how water carries and deposits sediments and pollutants in rivers and their associated wetlands. Given the intensive use made of rivers as water supplies by municipalities and industries, this project should begin to suggest what are the recuperative capabilities of riverine systems that are impacted by man.

As rivers are highly dynamic systems, the intensive morphology (morphometry?) studies over time are justified. With regard to wetland construction, I believe the addition of simple topsoil to the basins is a good choice, because the hydric properties will develop on their own, and experimental "concoctions" tend to blur the results. The experimental manipulations of water levels in the basins should be particularly interesting. Although it would be desirable to have replicate samples, it is not feasible at this scale of field experimentation. I was unable to find a discussion of the vertebrate sampling methods other than fisheries (which seems adequate), although fish and wildlife are listed on p. 11 as variables. I assume they are not included in the current funding request or are covered by other funds.

My one question is in regard to the extensive climatological data to be collected (see p. 9). If the investigators intend to integrate that data into a mass-balance type hydrologic model (ANNIE?), then it is probably justified. If not, then I believe it is receiving too much emphasis. I will assume that the former is intended.

The personnel involved in the study represent a considerable pool of expertise in wetland science. All have a proven record of accomplishment and dedication, and their combined experience should enhance the overall project.

I believe the budget request is modest, given the proposed work, and would encourage USEPA to support this work in 1987/88 and in future years. This project represents an excellent opportunity to gain substantially new information with a modest investment of funds. I have no reservations about the project or its potential for completion.

Sincerely,

ROBERT P. BROOKS, Ph.D.,
Associate Professor of Wildlife Ecology.

WETLANDS RESEARCH, INC.,
January 21, 1988.

Hon. PAUL SIMON,
Dirksen Building,
Washington, DC.

DEAR SENATOR SIMON: We have just received notification of a $200,000 grant award from the U.S. Environmental Protection Agency. This money was made available to us from the agency's fiscal year 1987 budget. Your signature on the May 7, 1987 letter to Administrator Lee Thomas demonstrated the kind of broad-based, delegational support that is so important to attracting this kind and level of funding.

We were not as successful, unfortunately, in securing the $500,000 appropriation that we were seeking for our project through the

Department of Agriculture. We were counting on this appropriation to complete the current construction phase—building the pumping station and laying the final 1,200 feet of pipeline that will allow the four completed, experimental areas to become operational. Nevertheless, if we can raise the $500,000 in the next few months, from the fiscal year 1988 budget of the Army Corps of Engineers or the Environmental Protection Agency, the research still can begin in 1988.

Let me reiterate the funding formula to which we have held since the beginning of the project: 40 percent from the federal government, 40 percent from state and local governments and 20 percent from industry, foundations and individuals. Of the project's $10.2 million estimated cost, we are requesting that only $3.2 million be federally appropriated, which is less than the 40 percent share. To date, we have received $1.3 million from the federal government, this leaves $1.9 million to be appropriated. By contrast, state and local governments have contributed $2.8 million and the private sector has contributed $1.1 million. Of the monies received, only 25 percent have come from the federal government.

In closing, to keep the project on schedule and to avoid the inevitable increase in cost caused by delays, we need $500,000 this year from existing federal budgets and an appropriation of $1.4 million in FY '89. We hope that we can count on your support and help in achieving these financial objectives.

Sincerely,

DONALD L. HEY,
Director.

● Mr. SIMON. Mr. President, I rise today with my colleague from Illinois to introduce legislation authorizing the Des Plaines wetlands demonstration project. I believe that this research initiative in Wadsworth, IL, is one of national significance and is certainly deserving of continued Federal support.

Fifty percent of the wetlands in the lower 48 States have been drained for agricultural, sylvicultural, mining and other purposes. The loss of over 100 million acres of freshwater wetlands has adversely affected our Nation's wildlife and water resources and caused severe flooding along our Nation's streams and rivers.

Continued development along the Nation's rivers, lakes and coastal areas is perpetuating the loss of wetland areas. It is simply in the long-term interest of the Nation to maintain and restore wetland areas which provide habitat for fish and wildlife, control sediment and other nonprofit source pollutants before they enter inland and coastal waters inhibiting navigation and other uses, store flood waters and afford natural settings within urban and agricultural environments.

To learn where and how best to maintain and restore wetlands, this legislation would authorize the Secretary of the Army, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of the Interior and appropriate State agencies to undertake a research and demonstration project on the Des Plaines River in Lake County, IL.

This project offers a unique opportunity for joint Federal and local cooperation to restore and rehabilitate a wetland to its natural state. It will provide a prototype for wetland restoration throughout the Nation. The research/demonstration work will result in two major products. The first will be detailed design procedures and management programs for recreating previously destroyed and maintaining wetlands. The design procedures and management programs will be published as final documentation of the research. Second, the restored site shall serve as an educational, recreational, and aesthetic showpiece to demonstrate the values of wetlands to the environment as well as the commerce and industry.

My distinguished colleague from Illinois and I have worked several years already on this initiative. With the diligent support of the program's director, the State of Illinois, the private sector, the Environmental Protection Agency and the Department of Interior, the Des Plaines wetlands demonstration project is well on its way. But without a major Federal commitment, I simply cannot foresee how the project can survive. It is crucial that we move quickly toward both authorization and appropriation.

I have several items that provide background on the effort. It is my hope that my colleagues will appreciate the thorough and substantive gains that have been made by all of those who have assisted thus far. It is my greater hope that my colleagues will assist us in building on those gains.●

By Mr. KASTEN:

S. 2145. A bill to amend the Federal Meat Inspection Act with respect to certain frozen meat products; to the Committee on Agriculture, Nutrition, and Forestry.

TRUTH IN FROZEN PIZZA LABELING ACT

Mr. KASTEN. Mr. President, I rise today to introduce the Truth in Frozen Pizza Labeling Act of 1988.

This legislation embodies the substance of a compromise reached last year between the dairy industry and frozen pizza manufacturers on a fairly straightforward issue which has frankly been a source of controversy for far too long.

The principle behind this legislation is simple: Consumers who think they are buying a frozen meat pizza made with real cheese ought to be informed if they are buying something else.

My legislation provides for the following:

First, it requires prominent, front panel labeling of imitation cheese or cheese alternate content in frozen meat pizzas, where the percentage of real cheese on the pizzas is less than 75 percent—in other words, where the ratio of real cheese to imitation cheese is less than 3 to 1.

Second, it allows the Secretary of Agriculture to approve "common or usual names" for ingredients which purport to resemble real cheese. This would be done through the regulatory process, with provisions for public comment and agency review.

Third, it has an effective date of September 1, 1988. It allows the Secretary of Agriculture, on a case by case basis, to grant extensions of the effective date for no more than one additional year.

This authority is intended to allow time to make compositional or labeling changes, to develop new marketing strategies, or to exhaust existing labeling inventory for those frozen pizza manufacturers who need it. It is not intended as a means to put off for one year the effective date of this legislation for the entire industry. Companies who desire a postponement of the effective date must have a plausible case for requesting such a postponement from the Secretary.

Within reasonable limits, I am prepared to be flexible with regard to issues such as the effective date of this legislation. But, clearly, it is past time that the pizza labeling controversy were resolved.

I will not burden the Senate with a detailed history of this controversy; a brief summation will suffice. The issue was first raised in the early 1970's; in 1983, USDA proposed regulations requiring both prominent labeling of artificial cheese content and a minimum level of real cheese content. In other words, USDA's original regulations would have required both the labeling of fake cheese and the use of real cheese.

After about 4 years of public comment, agency review, and departmental foot dragging, USDA decided to withdraw the regulations. Shortly after that, I introduced S. 1433, the Truth in Frozen Pizza Labeling Act of 1987, which provided for prominent labeling of any imitation cheese or cheese substitute used in frozen pizzas.

The press of legislative business last year forced the advocates of truthful pizza labeling to look for a suitable vehicle to which labeling legislation could be added as an amendment. The vehicle chosen last year was reconciliation.

The reason this choice was made was the assumption—which I believe is correct—that prominent labeling of fake cheese will prompt more consumers to buy and more pizza manufacturers to make pizzas with real cheese. The resulting increase in commercial sales of cheese should reduce goverment purchases of cheese under the Dairy Price Support Program, and thus the cost to the taxpayers of that program.

As a practical matter, it is nearly impossible to estimate the savings that might be made in the dairy program through prominent labeling of artificial cheese content in frozen pizzas. Unfortunately, as the issue was considered in the Senate and House Agriculture Committees, the idea that labeling legislation was a budget-cutting measure began to get greater exposure than the value of labeling legislation as a means to inform consumers about what is in the pizzas they are buying.

The end result was that labeling legislation—which had been worked out after thorough consultation with the dairy industry and frozen pizza manufacturers and originally included in both the House and Senate reconciliation bills—wound up getting dropped in the reconciliation conference.

I am reintroducing labeling legislation today in order to give the Congress another opportunity to resolve an issue which was very near to being settled last year, and was finally dropped from reconciliation for reasons having nothing to do with the basic, consumer-information purpose of my labeling legislation of last year.

It should be clearly understood what my legislation does not do. It does not force pizza manufacturers to use real cheese, nor does it force consumers to eat real cheese. I am not attempting to put the Congress on record to the effect that artificial cheese is inferior to real cheese. I am urging Congress to acknowledge that artificial cheese and real cheese are different; consumers who think they are buying a pizza made with real cheese should be informed up front if the pizza is actually made with something else.

The Federal Government requires prominent labeling of artificial sweeteners in soft drinks and imitation flavors in cake mixes. Artificial cheeses in frozen pizzas should be treated no differently.

Mr. President, I look forward to working with the leadership of the Agriculture Committee in the hope of getting appropriate labeling legislation passed this year. I urge my colleagues to join me in supporting this legislation.

Mr. President, I ask unaminous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2145

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Truth in Frozen Pizza Labeling Act of 1988".

SEC. 2. LABELING OF PRODUCTS CONTAINING MEAT AND IMITATION CHEESE.

(a) Meat Food Labeling Requirement.—Section 1(n) of the Federal Meat Inspection Act (21 U.S.C. 601(n)) is amended—

(1) by striking out "or" at the end of paragraph (11);

(2) by redesignating paragraph (12) as paragraph (13); and

(3) by inserting after paragraph (11) the following:

"(12) If—

"(A) it is a product that contains meat or a meat food product and includes an ingredient that resembles any variety of cheese for which a standard of identity exists in a quantity that is greater than one-third the amount of standardized cheese used in the product; and

"(B) there does not appear on the label in a prominent manner contiguous to the product name on the principal display panel—

"(i) the term 'contains imitation cheese'; or

"(ii) when authorized by the Secretary, the term 'contains cheese alternate';

except that the Secretary shall approve other common or usual names to describe the ingredient that resembles any variety of cheese for which a standard of identity exists; or".

(b) Regulations.—

(1) In general.—The Secretary of Agriculture shall issue regulations implementing the amendments made by subsection (a) that become effective not later than September 1, 1988.

(2) Temporary extensions.—The Secretary may grant individual requests for temporary extension of the effective date of the amendments made by subsection (a). Any such temporary extension granted by the Secretary shall not exceed beyond September 1, 1989.

By Mr. EXON:

S. 2146. A bill to direct the Bureau of Reclamation to expend $1,000,000 of the funds made available to the North Loup division, Nebraska, in fiscal year 1988, for the Davis Creek Dam as provided in Public Law 100-2-2, the continuing resolution for fiscal year 1988; to the Committee on Energy and Natural Resources.

COMPLETION OF NORTH LOUP PROJECT, NEBRASKA

Mr. EXON. Mr. President, today I introduce legislation which I wish were not necessary. Unfortunately, I do not see a better alternative at this time. This legislation directs the Bureau of Reclamation to spend $1 million on the Davis Creek Dam and Reservoir. Congress should not have to pass legislation twice to fund a project; however, in this case, we are being forced to do so.

During consideration of last year's continuing resolution, the Senate provided $1 million to get work started on the Davis Creek Dam which is a portion of the North Loup project in Nebraska. Unfortunately, the administration has ignored congressional intent and is holding up those funds. The administration has dug in its heels and, at this juncture, it appears that they will take no action unless we spell it out for them.

The North Loup project was originally authorized by the Flood Control Act of 1944 and was reauthorized in 1972. Major features are the Calamus Dam and Reservoir and the Davis Creek Dam and Reservoir.

The Calamus Dam and Reservoir is, for the most part, completed. The Davis Creek Dam and Reservoir is now awaiting Federal funds. During the 99th Congress, the authorization ceiling for the North Loup project was increased. That increase was largely attributed to changes in design standards and it was supported by this administration. Unfortunately, they are now backsliding on their support.

If the President is successful in abandoning the Davis Creek portion of the North Loup project, an important Federal water project will become a monument to the executive branch once again trying to undo the expressed will of Congress using questionable means.

Mr. President, we need to nip this bureaucratic bungling in the bud right now. Rural America cannot continue to take hit after hit—especially blows inflicted by our own Government. I urge the quick adoption of this legislation.

By Mr. MELCHER (for himself, Mr. Leahy, and Mr. Harkin):

S. 2147. A bill to provide that surplus dairy products should be provided to carry out the temporary emergency food assistance program before certain dairy export programs, to extend such dairy export programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

USE OF SURPLUS DAIRY PRODUCTS

● Mr. MELCHER. Mr. President, hunger is not something that just happens to people overseas. We've all seen dramatic pictures of the starving in Africa. We may have been spared by the bounty of God such stark scenes of suffering and even death. But hunger, by no means, is not unknown in this country.

We often talk about the infrastructure of a country. By that we usually mean bridges, roads, dams, and the like. But there is an infrastructure of nutrition as well. The strength and well being of a nation is not just measured in hardware. It is also measured in its people.

It is to everyone's benefit that nutritional levels be at the maximum. A nutritionally deprived people will not be able to meet their full potential.

We have recognized that fact in this country and have developed a series of programs to help provide nutritional assistance. The Women, Infant and Children Program even begins that assistance at a prenatal stage. The National School Lunch Program provides nutritional meals of growing children. Food stamps are designed to help others in need achieve a nutritional balance.

One important program is the Temporary Emergency Food Assistance

Program. That program seeks to take our surplus agricultural commodities and make them available to those in need. It has been an important source of nutrition, particularly for the elderly. Now the program is in trouble. At the end of this month there will be no rice or honey available. At the end of next month cheese and dry powdered milk will be gone. Flour, corn meal, and butter will remain available to the program.

One of the things that we can do to help see that this program continues at as adequate level as possible is to change some of the priorities for distributing surplus commodities. Right now we have programs that mandate the sale of dairy products abroad and use surplus dairy commodities as an incentive for expanded commercial sales overseas. Those are good programs that will expire at the end of this year.

I think these programs should be continued, but not at the expense of our domestic TEFAP Program. For that reason, I am introducing legislation that would extend the life of these programs but also would make sharply clear that there priority comes after TEFAP and other domestic feeding programs.

I am pleased that Senator Leahy, Chairman of the Agriculture Committee and Senator Harkin, Chairman of the Subcommittee on Nutrition are joining me in this small but important step.

There will be no cost involved with this proposal—it is simply a statement that the TEFAP Program should continue as a high priority. I hope other colleagues will join us in the effort and that it can be enacted speedily.●

● Mr. HARKIN. Mr. President, as chairman of the Subcommittee on Nutrition, over the past few months, I have been receiving periodic notices from the Food and Nutrition Service (FNS) concerning the dwindling uncommitted surpluses available to the Temporary Emergency Food Assistance Program (TEFAP). The most current letter from USDA reads in part, "The U.S. Department of Agriculture's latest review of uncommitted inventory and projected acquisitions indicates that supplies of cheese and nonfat dried milk will not be sufficient to allow distribution through TEFAP for the month of May. As previously indicated, supplies of honey and rice will sustain distribution through March 1988 only."

Although this may be good news insofar as agricultural surpluses are concerned, it could not happen at a worse time as far as the need for hunger relief is concerned. Since 1980 the number of individuals in poverty has increased by over 10 percent while the number on food stamps appears to have decreased by as much as 7 percent. Our Nation's first line of defense against hunger, the Food Stamp Program, now serves a number equivalent to only 60 percent of our Nation's poor. The WIC Program serves only 40 percent of those eligible. As I remarked recently, based on my subcommittee's research, we are witnessing the childrenization and feminization of poverty. Over 85 percent of our poor are women, children, elderly or handicapped. Seventy-eight percent of households receiving food stamps are headed by women with children in the home.

Although TEFAP is not designed to fill the void in the Food Stamp and WIC Programs, this is definitely not the time to stop this program. Nor is TEFAP the only affected program. The National School Lunch Program has had its bonus commodities capped at 1987 levels.

In management philosophy there is a theory that advocates a back-up system in case the primary system fails. For example a computer system has back-up files, managers have deputies to function in their absence, alternative dates are frequently scheduled for planned events in case the primary date proves unavailable. Our Government has a system of checks and balances to protect itself. In the military and space programs where success is vital and failure unacceptable, "failsafe" systems are designed to protect against failure.

Nearly every system has some redundancy, alternative approaches or safety checks—except our anti-hunger program. When it fails there there is no socially acceptable substitute. Food stamps and WIC are not providing the necessary coverage, and now the TEFAP Program is running out of available commodities. TEFAP is now failing us and there does not appear to be a back-up system. What do hungry people do when their needs exceed their available supplies? The possible answers to that question evoke responses that none of us are prepared to deal with.

A small but significant and positive response to this critical situation lies in the legislation being introduced today by Senators Melcher, Leahy and myself. This bill amends the 1985 Food Security Act to make more surplus dairy products available for domestic donation programs such as TEFAP and the National School Lunch Program, by modifying and extending certain dairy export programs.

I urge my colleagues to join with me in cosponsoring this legislation.●

By Mr. HATFIELD (for himself and Mr. Packwood):

S. 2148. A bill to amend the Wild and Scenic Rivers Act of 1968, and for other purposes; to the Committee on Energy and Natural Resources.

OMNIBUS OREGON WILD AND SCENIC RIVERS ACT

Mr. HATFIELD. Mr. President, today I am introducing legislation to add segments of 40 Oregon rivers to the National Wild and Scenic Rivers System. This bill, the Omnibus Oregon Wild and Scenic Rivers Act of 1988, represents the largest single effort to enlarge the Wild and Scenic Rivers System in the lower 48 States since Congress enacted the Wild and Scenic Rivers Act in 1968. I am pleased that my colleague, Senator Packwood, is an original sponsor of this bill.

As most of my colleagues know, the State of Oregon has long been at the forefront of environmental and natural resource protection initiatives. My home State is renowned for its magnificent natural beauty, and for the strong support of its citizens for the wise management and utilization of its resources. This desire to be judicious stewards of the land has resulted in a conservation ethic which has been absorbed and nurtured by nearly all Oregonians, regardless of their professions or political persuasions. Further, this heart-felt obligation to preserve Oregon's scenic beauty for future generations has resulted in several major pieces of Federal legislation over the last quarter century.

For example, over 2 million acres of Oregon land are included in the Federal Wilderness System—and I might add that approximately 1½ million of those acres were added during my watch in the Senate.

In 1972, Oregon was the first State to address the growing problems associated with solid litter by enacting a bottle bill which placed a refund value on soft drink containers sold within the State.

More recently, the Oregon Legislature passed legislation in 1983 which encourages Oregonians to recycle their newspapers, glass, aluminum cans, and other types of solid waste. Both of these efforts are considered to be national environmental landmarks, and still are many years ahead of their time.

In 1986, Congress approved the Columbia River Gorge National Scenic Area Act which established a unique State/Federal/county management structure to preserve and protect the Columbia River Gorge. I believe that legislation is a model for how to resolve some of the most pressing and contradictory resource allocation questions of our time.

In short, Mr. President, Oregonians time and again have taken the bold and creative actions necessary to protect and preserve the environment, while at the same time bolstering our basic and secondary industries. It is with that history of leadership in mind that I introduce this omnibus wild and scenic rivers bill today.

Mr. President, this legislation is an ambitious, but realistic proposal. Although legislation enacted in 1980 pertaining to the State of Alaska added more river miles—3,200—to the Wild and Scenic River System, this bill contains more individual rivers than have ever been added by a single legislative vehicle. In all, 40 rivers totaling 1,603.5 miles are included in this bill.

This bill is also significant for reasons other than its size. It sets a national precedent as the first major statewide omnibus wild and scenic rivers bill ever considered by Congress which is based upon existing, concurrent Federal planning efforts. The Forest Service has released the 13 draft forest plans for Oregon, and many wild and scenic rivers recommendations are included in those draft plans. And, not as far along, but just as important, the Bureau of Land Management also is preparing its resource management plans which will make similar recommendations.

In an effort to begin the deliberation process for this bill on the most objective note possible, I have drawn information from these two planning processes, as well as from the Northwest Power Planning Council, which recently completed a staff study of potential protected river and stream areas throughout the Pacific Northwest, and from private citizens. It is their collective work that has led to the development of this first bill.

I want to emphasize that this bill is intended to be a discussion document. It is intended to serve as a platform for discussion of the wisest uses of Oregon's rivers. It is still a pliable document that undoubtedly will be revised as it winds its way through the legislative process, and is molded by public opinion and comment. It is highly likely that other river segments will be added to this bill, and that some of the segments now included will be eliminated due to circumstances presently unforeseen. I have every intention of examining rivers other than those included in this proposal for possible inclusion in the bill at a later point in time.

For example, it has been brought to my attention that the Elk River in southwestern Oregon and the Sandy River in northwestern Oregon may be worthy additions to this bill. Both of these rivers, and others which I am certain will be brought to my attention in the near future, will be considered for inclusion during this process. In fact, the specific criteria which will determine the eligibility of rivers to be included in the final legislative package, will be more fully developed as work on this proposal continues.

One last point about the bill itself. My colleagues will note that the bill contains no provisions with regard to timber management, mining, fishery restoration, hunting and trapping, private or Indian rights, or other related subjects. The Forest Service, for example, currently is preparing a timber impact analysis of the bill based on its current form. Preliminary indications are that the bill will have less than a 1-percent effect on the harvest of timber throughout the State. All these issues will certainly be discussed as the bill evolves, and their full consideration will be encouraged during the discourse which will take place around Oregon this spring and summer.

Mr. President, the Pacific Northwest is a land plentiful in water resources, and we have utilized these resources in a variety of ingenious and innovative ways. The most prominent use, of course, is the harnessing of these rivers for the generation of hydroelectricity. While our hydroelectric system—and in particular, the Bonneville Power Administration's facilities—is one of the wonders of the modern engineering world, and is a vital element to the economic health of the region, we must not be afraid to focus our attention on the equally rewarding benefits available from the conservation of our free-flowing waterways. This is not to say that we should turn our backs on future hydroelectric projects. To the contrary, the task before us is to determine which rivers possess those extraordinary natural qualities that will forever outweigh the economic values that development would produce.

Mr. President, the National Wild and Scenic Rivers System is clearly the least fulfilled of any of our national resource protection systems. There are currently more than 360 units in the National Park System, including scenic parkways, seashores, lakeshores, recreation areas, and reservoirs, and historic sites. There are 156 national forests, 19 national grasslands, and 17 land utilization projects on 191 million acres in 44 States, the Virgin Islands, and Puerto Rico. And yet, there are only 75 designated wild and scenic rivers in the entire country. Out of the 61,700 river-miles identified in the Nationwide Rivers Inventory in 1982 for possible inclusion in the Wild and Scenic Rivers System, only 7,709 miles, or 12 perent, are preserved permanently under the Wild and Scenic Rivers Act.

In Oregon, only four rivers—portions of the Owyhee, Snake, Illinois, and Rogue Rivers—totalling just 317 miles—are protected under the Wild and Scenic Rivers Act. Even if all the river segments included in this bill were designated as I have introduced them today, the total protected river miles in Oregon would be only 1,920.5 miles, which is about 5 percent of the 35,000 miles of major named rivers and streams in the State. Accordingly, even this effort represents only a first step toward protecting these resources.

In looking back over the 20 years since the original act was passed, it is quite apparent that the program has not achieved the expectations Congress envisioned back in 1968. For when Congress passed the Wild and Scenic Rivers Act 20 years ago, it embodied into law the principle that our rivers, like all our natural resources, are finite and therefore need particular attention and care. It was that same philosophy that led to the statutes which govern the use and management of our national forests, that led to the Clean Air Act, to the Clean Water Act, and to the Endangered Species Act, just to name a few of the major environmental laws passed during that same era.

But during that same two decades, our rivers—the Earth's arteries, if you will—have become the "orphan child" in the spectrum of natural resources we are charged to protect.

Mr. President, through the last 20 years, we have been embroiled in controversy over how to best use our resources—be they wilderness areas, roadless areas, or unique recreation, scenic or research areas that we have established on them. However, these debates were centered around determining the best use of the land. All of these debates were necessary, but none were easy to resolve.

I frequently warn that water will be to the 21st century what oil is to the 20th century. One day the need to have clean, fresh water for our society and the rest of the world may soon lead us to the kind of senseless conflict we see taking place over access to oil in the Middle East. But, ironically, the conflict will be among Americans themselves. We simply must not let that happen here.

With this legislation, I intend to begin to address how we or at least the State of Oregon—will manage our precious water resources.

Mr. President, a great deal of hard work already has gone into this legislation. It would not have been possible for me to introduce this bill today if it had not been for the help of members of the Oregon Rivers Council and the Oregon chapter of the Sierra Club. These individuals have worked with me for several months on this proposal, and their professional approach to environmental matters and their vast knowledge of Oregon's rivers and natural resources is greatly appreciated.

Mr. President, it is my hope that the Senate will look favorably upon this legislation, and recognize its significance in preserving this country's increasingly scarce river resources. I ask unanimous consent that a summary list of the 40 rivers included in this bill, the clarifying descriptions of the definitions of the three specific classifications taken from the 1986 Wild and Scenic Rivers Act, and the bill itself be printed in this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Omnibus Oregon Wild and Scenic Rivers Act of 1988."

SECTION 2. AMENDMENTS TO THE WILD AND SCENIC RIVERS ACT.

Section 3(a) of the Wild and Scenic Rivers Act (Public Law 90-542, 82 Stat. 907) as amended, is further amended by adding the following new paragraphs at the end thereof:

"( ) DESCHUTES, OREGON.

"(A) The 40.4-mile segment from Wickiup Dam to the northern boundary of Sunriver at the southwest quarter of section 20, township 19 south, range 11 east, as a recreational river; to be administered by the Secretary of Agriculture.

"(B) the eleven-mile segment from the northern boundary of Sunriver at the southwest quarter of section 20, township 19 south, range 11 east, to Lava Island Camp as a scenic river; to be administered by the Secretary of Agriculture;

"(C) the three-mile segment from Lava Island Camp to the Bend Urban Growth Boundary at the southwest corner of section 13, township 18 south, range 11 east, as a recreatonal river; to be administered by the Secretary of Agriculture;

"(D) the nineteen-mile segment from Oden Falls to the Upper End of Lake Billy Chinook as a scenic river; to be administered by the Departments of the Interior and Agriculture as agreed upon by the Secretaries of said Departments or as directed by the President;

"(E) the forty-eight-mile segment from the Pelton Reregulating Dam to Bakeoven Creek as a scenic river; to be administered by the Secretary of the Interior;

"(F) the 28.4-mile segment from Bakeoven Creek to Macks Canyon as a recreational river; to be administered by the Secretary of the Interior; and

"(G) the 23.6-mile segment from Macks Canyon to the confluence with the Columbia River as a scenic river; to be administered by the Secretary of the Interior.

"( ) LITTLE DESCHUTES, OREGON.—The ninety-seven-mile segment from its source to its confluence with the main stem of the Deschutes River as a recreational river; to be administered by the Secretary of Agriculture.

"( ) METOLIUS, OREGON.—The twenty-nine-mile segment from its source to Lake Billy Chinook as a recreational river; to be administered by the Secretary of Agriculture.

"( ) SYCAN, OREGON.—The 58.3-mile segment from the South Fork to Coyote Bucket at the Fremont National Forest boundary as a scenic river; to be administered by the Secretary of Agriculture.

"( ) NORTH FORK SPRAGUE, OREGON.—The 25.3-mile segment from the Fremont National Forest boundary in the southwest quarter of section 3, township 36 south, range 14 east, to the head of River Spring in the southwest quarter of section 15, township 35 south, range 16 east; to be administered by the Secretary of Agriculture in the following classes:

"(A) the four-mile segment from the Fremont National Forest boundary in the southwest quarter of section 3, township 36 south, range 14 east, to Forest Road 3411 in the northwest quarter of section 36, township 35 south, range 14 east as a recreational river; and

"(B) the 21.3-mile segment from Forest Road 3411 in the northwest quarter of section 36, township 35 south, range 14 east, to the head of River Spring in the southwest quarter of section 15, township 35 south, range 16 east, as a scenic river.

"( ) ROARING, OREGON.—The 13.7-mile segment from its headwaters to its confluence with the Clackamas River; to be administered by the Secretary of Agriculture in the following classes:

"(A) the segment from its headwaters to one-quarter mile upstream of the mouth as a wild river; and

"(B) the segment from one-quarter mile upstream of the mouth to its confluence with the Clackamas River as a recreational river.

"( ) SALMON, OREGON.—The 33.5-mile segment from its headwaters to its confluence with the Sandy River in the following classes:

"(A) the half-mile segment from its headwaters to one-half mile downstream as a recreational river; to be administered by the Secretary of Agriculture;

"(B) the 6.5-mile segment from one-half mile from the headwaters to the northern edge of Salmon River Meadows as a scenic river; to be administered by the Secretary of Agriculture;

"(C) the fifteen-mile segment from the northern edge of Salmon River Meadows to the junction with the south fork of the Salmon River as a wild river; to be administered by the Secretary of Agriculture;

"(D) the 3.5-mile segment from the junction with the south fork of the Salmon River to the Mt. Hood National Forest boundary as a recreational river; to be administered by the Secretary of Agriculture;

"(E) the 3.2-mile segment from the Mt. Hood National Forest boundary to Lymp Creek as a recreational river; to be administered by the Secretary of the Interior; and

"(F) the 4.8-mile segment from Lymp Creek to its confluence with the Sandy River as a scenic river; to be administered by the Secretary of the Interior.

"( ) CLACKAMAS, OREGON.—The forty-nine-mile segment from Big Springs to Big Cliff; to be administered by the Secretary of Agriculture in the following classes:

"(A) the four-mile segment from Big Springs to the Forest Service Road 4690 bridge as a scenic river;

"(B) the six-mile segment from the Forest Service Road 4690 bridge to the junction with Oregon State Highway 224 as a recreational river;

"(C) the nine-mile segment from Oregon State Highway 224 to the June Creek Bridge as a scenic river;

"(D) the ten-mile segment from the June Creek Bridge to Tar Creek as a recreational river;

"(E) the six-mile segment from Tar Creek to just south of Indian Henry Campground as a scenic river; and

"(F) the fourteen-mile segment just south of Indian Henry Campground to Big Cliff as a recreational river.

"( ) WHITE, OREGON.—The 47.1-mile segment from its headwaters to its confluence with the Deschutes River in the following classes:

"(A) the two-mile segment from its headwaters to the section line between sections 9 and 16, township 3 south, range 9 east, as a scenic river; to be administered by the Secretary of Agriculture;

"(B) the 13.6-mile segment from the section line between sections 9 and 16, township 3 south, range 9 east, to Klip Creek as a recreational river; to be administered by the Secretary of Agriculture;

"(C) the 6.5-mile segment from Klip Creek to the Mt. Hood National Forest boundary as a wild river; to be administered by the Secretary of Agriculture;

"(D) the 19.2-mile segment from the Mt. Hood National Forest boundary to the Highway 197 bridge as a wild river; to be administered by the Departments of the Interior and Agriculture as agreed upon by the Secretaries of said Departments or as directed by the President; and

"(E) the 5.8-mile segment from the Highway 197 bridge to its confluence with the Deschutes River as a recreational river; to be administered by the Departments of the Interior and Agriculture as agreed upon by the Secretaries of said Departments or as directed by the President.

"( ) NORTH FORK CROOKED, OREGON.—The 32.3-mile segment from its source at Williams Prairie to one mile from its confluence with the Crooked River; to be administered by the Departments of the Interior and Agriculture as agreed upon by the Secretaries of said Departments or as directed by the President in the following classes:

"(A) the three-mile segment from its source at Williams Prairie to the Upper End of Big Summit Prairie as a recreational river;

"(B) the 3.7-mile segment from the Lower End of Big Summit Prairie to the bridge across from the Deep Creek Campground as a recreational river;

"(C) the eight-mile segment from the bridge across from the Deep Creek Campground to the Ochoco National Forest boundary, one-half mile from Lame Dog Creek, as a scenic river.

"(D) the three-mile segment from the Ochoco National Forest boundary, one-half mile from Lame Dog Creek, to Fox Canyon Creek as a recreational river;

"(E) the 9.6-mile segment from Fox Canyon Creek to Committee Creek as a wild river; and

"(F) the five-mile segment from Committee Creek to one mile from its confluence with the Crooked River as a recreational river.

"( ) CROOKED, OREGON.—

"(A) The 9.3-mile segment from the National Grassland boundary to Lake Billy Chinook, one mile west of Highway 97, as a recreational river; to be administered by the Secretary of Agriculture; and

"(B) the eight-mile segment from Bowman Dam to Dry Creek as a recreational river; to be administered by the Secretary of the Interior.

"( ) UPPER ROGUE, OREGON.—The 40.3-mile segment from the Crater Lake National Park boundary to the Rogue River National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

"(A) the 6.6-mile segment from the Crater Lake National Park boundary to Minehaha Creek as a wild river; and

"(B) the 33.7-mile segment from Minehaha Creek to the Rogue River National Forest boundary as a scenic river.

"( ) CHETCO, OREGON.—The 41.5-mile segment from its headwaters to the Siskiyou National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

"(A) the 25.5-mile segment from its headwaters to Boulder Creek at the Kalmiopsis Wilderness boundary as a wild river;

"(B) the eight-mile segment from Boulder Creek to Steel Bridge as a scenic river; and

"(C) the eight-mile segment from Steel Bridge to the Siskiyou National Forest boundary, one mile below Wilson Creek, as a recreational river.

"( ) North Fork Smith, Oregon.—The thirteen-mile segment from its headwaters to the Oregon-California stateline; to be administered by the Secretary of Agriculture in the following classes:

"(A) the 6.5-mile segment from its headwaters to Horse Creek as a wild river;

"(B) the 4.5-mile segment from Horse Creek to Baldface Creek as a scenic river; and

"(C) the two-mile segment from Baldface Creek to the Oregon-California stateline as a wild river.

"( ) Grande Ronde, Oregon.—The forty-five-mile segment from its confluence with the Wallowa River to the Oregon-Washington stateline in the following classes:

"(A) the eighteen-mile segment from its confluence with the Wallowa River to Grossman Creek as a wild river; to be administered by the Secretary of Agriculture;

"(B) the twelve-mile segment from Grossman Creek to Wildcat Creek as a wild river; to be administered by the Departments of the Interior and Agriculture as agreed upon by the Secretaries of said Departments or as directed by the President; and

"(C) the fifteen-mile segment from Wildcat Creek to the Oregon-Washington stateline as a recreational river; to be administered by the Departments of the Interior and Agriculture as agreed upon by the Secretaries of said Departments or as directed by the President.

"( ) Wenaha, Oregon.—The 18.7-mile segment from the junction of the North Fork and the South Fork to the Umatilla National Forest boundary at River Mile 3 as a wild river; to be administered by the Secretary of Agriculture.

"( ) North Fork John Day, Oregon.—the 109.2-mile segment from its headwaters in the North Fork of the John Day Wilderness at section 13, township 8 south, range 36 east, to its confluence with the John Day River; to be administered by the Departments of the Interior and Agriculture as agreed upon by the Secretaries of said Departments or as directed by the President in the following classes:

"(A) the 3.5-mile segment from its headwaters in the North Fork of the John Day Wilderness at section 13, township 8 south, range 36 east, to the North Fork of the John Day Wilderness boundary as a wild river;

"(B) the seven-mile segment from the North Fork of the John Day Wilderness boundary to Trail Creek as a recreational river;

"(C) the 24.3-mile segment from Trail Creek to Big Creek as a wild river;

"(D) the 10.5-mile segment from Trail Creek to Texas Bar Creek as a scenic river;

"(E) the 3.9-mile segment from Texas Bar Creek to the Umatilla National Forest boundary as a recreational river;

"(F) the twenty-one-mile segment from the Umatilla National Forest boundary to Mallory Creek as a recreational river;

"(G) the 16.4-mile segment from Mallory Creek to Wall Creek as a wild river; and

"(H) the 22.6-mile segment from Wall Creek to its confluence with the John Day River as a recreational river.

"( ) North Umpqua, Oregon.—The 33.8-mile segment from the Soda Springs Powerhouse to Rock Creek as a recreational river; to be administered by the Departments of the Interior and Agriculture as agreed upon by the Secretaries of said Departments or as directed by the President.

"( ) Joseph Creek, Oregon.—The thirty-two-mile segment from Crow Creek Bridge to the Oregon-Washington stateline in the following classes:

"(A) the six-mile segment from the Crow Creek Bridge to Joseph Creek Ranch, one mile downstream from Cougar Creek, as a recreational river; to be administered by the Secretary of Agriculture;

"(B) the ten-mile segment from Joseph Creek Ranch, one mile downstream from Cougar Creek, to the Wallowa-Whitman National Forest boundary as a wild river; to be administered by the Secretary of Agriculture; and

"(C) the sixteen-mile segment from the Wallowa-Whitman National Forest boundary to the Oregon-Washington stateline as a wild river; to be administered by the Department of the Interior and Agriculture as agreed upon by the Secretaries of said Departments or as directed by the President.

"( ) Lostine, Oregon.—The nineteen-mile segment from its headwaters to the Wallowa-Whitman National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

"(A) the four-mile segment from its headwaters to the Eagle Cap Wilderness boundary as a wild river; and

"(B) the fifteen-mile segment from the Eagle Cap Wilderness boundary to the Wallow-Whitman National Forest boundary at Silver Creek as a recreational river.

"( ) North Fork Powder, Oregon.—The six-mile segment from its headwaters to the Wallowa-Whitman National Forest boundary at River Mile 20 as a wild river; to be administered by the Secretary of Agriculture.

"( ) Eagle Creek, Oregon.—The twenty-two-mile segment from its headwaters to the Wallowa-Whitman National Forest boundary at Skull Creek; to be administered by the Secretary of Agriculture.

"(A) the four-mile segment from its headwaters to the Eagle Cap Wilderness boundary at Hummingbird Mountain as a wild river; and

"(B) the eighteen-mile segment from the Eagle Cap Wilderness boundary at Hummingbird Mountain to the Wallowa-Whitman National Forest boundary at Skull Creek as a recreational river.

"( ) McKenzie, Oregon.

"(A) The 2.2-mile segment from Tamolitch Falls to the maximum pool at Trail Bridge Reservoir as a recreational river; to be administered by the Secretary of Agriculture; and

"(B) the 13.1-mile segment from the base of the developments at Trail Bridge Dam to the McKenzie Bridge as a recreational river; to be administered by the Secretary of Agriculture.

"( ) Lower Williamson, Oregon.—The twenty-five-mile segment from the western boundary of the Winema National Forest to Upper Klamath Lake; to be administered by the Secretary of Agriculture in the following classes:

"(A) the seven-mile segment from the western boundary of the Winema National Forest to Collier State Park as a scenic river; and

"(B) the eighteen-mile segment from Collier State Park to Upper Klamath Lake as a recreational river.

"( ) Big Marsh Creek, Oregon.—The thirteen-mile segment from the northeast quarter of section 15, township 26 south, range 6 east, to its confluence with Crescent Creek in the northeast quarter of section 20, township 24 south, range 7 east, as a recreational river; to be administered by the Secretary of Agriculture.

"( ) Crescent Creek, Oregon.—The eighteen-mile segment from the southwest quarter of section 11, township 24 south, range 6 east, to its confluence with the Little Deschutes River in the northeast quarter of section 4, township 24 south, range 9 east, as a recreational river; to be administered by the Secretary of Agriculture.

"( ) Imnaha, Oregon.—The sixty-eight-mile segment from the confluence of the North and South Forks of the Imnaha River to its mouth; to be administered by the Secretary of Agriculture in the following classes:

"(A) the six-mile segment from the confluence of the North and South Forks of the Imnaha River to Indian Crossing as a wild river;

"(B) the ten-mile segment from Indian Crossing to Ollokot Campground at Dry Creek as a recreational river;

"(C) the forty-eight-mile segment from Ollokot Campground at Dry Creek, to Cow Creek as a recreational river; and

"(D) the four-mile segment from Cow Creek to the mouth of the river as a scenic river.

"( ) South Fork Imnaha, Oregon.—The nine-mile segment from its headwaters to the confluence with the Imnaha River as a wild river; to be administered by the Secretary of Agriculture.

"( ) Minam, Oregon.—The twenty-three-mile segment from its headwaters to the Eagle Cap Wilderness boundary, one mile downstream from Cougar Creek, as a wild river; to be administered by the Secretary of Agriculture.

"( ) Nestucca, Oregon.—The 47.5-mile segment from its headwaters to its mouth at Nestucca Bay in the following classes:

"(A) the twelve-mile segment from its headwaters to the eastern Siuslaw National Forest boundary as a recreational river; to be administered by the Secretary of the Interior; and

"(B) the 35.5-mile segment from the eastern Siuslaw National Forest boundary to its mouth at Nestucca Bay as a recreational river; to be administered by the Secretary of Agriculture.

"( ) Alsea, Oregon.—The seventy-four-mile segment from its headwaters, including the North and South Forks, to its mouth at Alsea Bay in the following classes:

"(A) the five-mile segment of the South Fork Alsea from its headwaters to Fall Creek as a scenic river; to be administered by the Secretary of the Interior;

"(B) the ten-mile segment of the South Fork Alsea from Fall Creek to its confluence with the North Fork Alsea as a recreational river; to be administered by the Secretary of the Interior;

"(C) the 1.5-mile segment of the North Fork Alsea from its headwaters to Racks Creek as a recreational river; to be administered by the Secretary of the Interior;

"(D) the 8.2-mile segment of the North Fork Alsea from Racks Creek to Bailey Creek as a scenic river; to be administered by the Secretary of the Interior;

"(E) the 5.3-mile segment of the North Fork Alsea from Bailey Creek to its confluence with the South Fork Alsea as a recreational river; to be administered by the Secretary of the Interior;

"(F) the seventeen-mile segment from the confluence of the North and South Forks to the Siuslaw National Forest boundary as a recreational river; to be administered by the Secretary of the Interior; and

"(G) the twenty-seven-mile segment from the eastern Siuslaw National Forest boundary to its mouth at Alsea Bay as a recreational river; to be administered by the Secretary of Agriculture.

"( ) QUARTZVILLE CREEK, OREGON.—The 8.7-mile segment from the Willamette National Forest boundary to Slack Water in Green Peter Reservoir as a recreational river; to be administered by the Secretary of the Interior.

"( ) SOUTH FORK JOHN DAY, OREGON.—The forty-eight-mile segment from the Malheur National Forest to its confluence with the John Day River as a recreational river; to be administered by the Secretary of the Interior.

"( ) JOHN DAY, OREGON.—The 202-mile segment from its confluence with the South Fork John Day River to Tumwater falls; to be administered by the Secretary of the Interior in the following classes:

"(A) the 128-mile segment from its confluence with the South Fork John Day River to Thirty Mile Creek as a recreational river;

"(B) the thirty-one-mile segment from Thirty Mile Creek to East Ferry Canyon as a wild river; and

"(C) the forty-three-mile segment from East Ferry Canyon to Tumwater Falls as a recreational river.

"( ) SOUTH FORK CROOKED, OREGON.—The twenty-five-mile segment from Logan Reservoir to its mouth; to be administered by the Secretary of the Interior in the following classes:

"(A) the ten-mile segment from Logan Reservoir to Twelve Mile Creek as recreational river;

"(B) the seven-mile segment from Twelve Mile Creek to Bill Jake Hollow as a wild river; and

"(C) the eight-mile segment from Bill Jake Hollow to its mouth as a scenic river.

"( ) DONNER UND BLITZEN, OREGON.—The 68.5-mile segment from its headwaters to the southern boundary of the Malheur National Wildlife Refuge, including major tributaries, as a wild river; to be administered by the Secretary of the Interior as follows:

"(A) the 16.75-mile segment of the Donner und Blitzen from the confluence of the South Fork Blitzen and Little Blitzen;

"(B) the 12.5-mile segment of the Little Blitzen from its headwaters to its confluence with the South Fork Blitzen;

"(C) the 12.25-mile segment of the South Fork Blitzen from its headwaters to its confluence with the Little Blitzen;

"(D) the ten-mile segment of Big Indian Creek from its headwaters to its confluence with the South Fork Blitzen;

"(E) the 3.7-mile segment of Little Indian Creek from its headwaters to its confluence with Big Indian Creek; and

"(F) the 13.25-mile segment of Fish Creek from its headwaters to its confluence with the Donner und Blitzen.

"( ) POWDER, OREGON.—The 13.1-mile segment from Thief Valley Dam to the Highway 203 bridge; to be administered by the Secretary of the Interior in the following classes:

"(A) the two-mile segment from Thief Valley Dam to two miles below Thief Valley Dam as a recreational river;

"(B) the 8.2-mile segment from two miles below Thief Valley Dam to Big Creek as a wild river; and

"(C) the 2.9-mile segment from Big Creek to the Highway 203 bridge as a scenic river.

"( ) BURNT, OREGON.—The thirty-two-mile segment from Clarks Creek to Powell Creek as a recreational river; to be administered by the Secretary of the Interior.

"( ) NORTH FORK OWYHEE.—The eight-mile segment from the Oregon-Idaho stateline to its confluence with Owyhee River as a wild river; to be administered by the Secretary of the Interior.

"( ) WEST LITTLE OWYHEE, OREGON.—The fifty-one-mile segment from its headwaters to its confluence with the Owyhee River as a wild river; to be administered by the Secretary of the Interior."

SUMMARY OF RIVERS—OMNIBUS OREGON WILD AND SCENIC RIVERS ACT OF 1988

Alsea, Big Marsh Creek, Burnt, Chetco, Clackamas, Crescent Creek, Crooked, Deschutes, Donner und Blitzen, Eagle Creek, Grande Ronde, Imnaha, John Day, Joseph Creek, Little Deschutes, Lostine, Lower Williamson, Mckenzie, Metolius, Minam, Nestucca, North Fork Crooked, North Fork John Day, North Fork Owyhee, North Fork Powder, North Fork Smith, North Fork Sprague, North Umpqua, Powder, Quartzville Creek, Roaring, Salmon, South Fork Crooked, South Fork Imnaha, South Fork John Day, Sycan, Upper Rogue, Wenaha, West Little Owyhee, and White.

CLASSIFICATIONS OF THE NATIONAL WILD AND SCENIC RIVER SYSTEM

Section 2(b) of the Wild and Scenic Rivers Act of 1968 (Public Law 90-542, 82 Stat. 906, as amended; 16 U.S.C. 1273).

(b) A wild, scenic or recreational river area eligible to be included in the system is a free-flowing stream and the related adjacent land area that possesses one or more of the values referred to in section 1, subsection (b) of this Act. Every wild, scenic or recreational river in its free-flowing condition, or upon restoration to this condition, shall be considered eligible for inclusion in the national wild and scenic rivers system and, if included, shall be classified, designated, and administered as one of the following:

(1) *Wild River Areas.*—Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.

(2) *Scenic River Areas.*—Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

(3) *Recreational River Area.*—Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

● Mr. PACKWOOD. Mr. President, I am pleased to join my colleague, Senator HATFIELD, in sponsoring legislation to protect many of Oregon's remaining free flowing rivers. Oregon is fortunate to have an abundance of wild rivers and streams.

The Omnibus Oregon Wild and Scenic Rivers Act of 1988 designates sections of 40 rivers for Wild and Scenic River classification. I anticipate that this list of rivers may change as the bill works its way through Congress. Even though the list of rivers may change, I cannot reemphasize the importance of this bill to increase the number of rivers already protected in Oregon. We must act now to ensure protection of Oregon's remaining wild rivers for future generations. Senator HATFIELD and I have worked together to protect segments of the Lower Rogue, Snake, Owyhee, and Lower Illinois rivers.

In the Wild and Scenic Rivers Act of 1968, Congress declared that our established national policy of water resource development should be balanced by a new policy of protecting selected rivers. In keeping with that national policy, the legislation we are introducing today will preserve stretches of rivers in free-flowing condition, which have outstanding scenic, recreational, geological, fish and wildlife, historic, and cultural values.

The Wild and Scenic Rivers Act provides Congress with two methods for designating wild and scenic rivers. Congress can either classify the river through legislation or authorize a study by the appropriate resource agency. This bill instantly designates the rivers for wild, scenic, or recreational status. These rivers are identified through the Forest Service planning process as qualified candidates for classification and by the Bureau of Land Management as potential candidates for wild and scenic designation.

It is important that the people of Oregon understand what designation under the Wild and Scenic Rivers Act will mean to a river in which they have a particular interest. The Wild and Scenic Rivers System provides for three categories of classification—wild, scenic, and recreational. These classifications reflect the condition of each river at the time of designation. This is a significant aspect of the act because it allows for established uses of the river to continue. Rivers with developed recreation will be managed to continue providing that type of recreation. Rivers that are wild, will remain wild.

I view this bill as an initial step in developing a comprehensive river protection system for Oregon. Through public testimony we will further develop the list of rivers and information about their values. From that list, final determination will be made on which rivers should be included for protection in the Omnibus Oregon Wild and Scenic Rivers Act of 1988. I look forward to hearing from my constituents on rivers they feel deserve Federal protection.

Oregon has benefited greatly over the years from development of our water resources. But there have been great losses as well. Fortunately we succeeded in preserving the Snake River in Hells Canyon, and in 1986, we won the fight for the Columbia River Gorge. The time is now to protect some of our finest remaining free-flowing river segments. I am pleased to be part of this historic effort. I applaud my colleague Senator HATFIELD for his leadership on this important issue. This bill should be a model for other States to develop a comprehensive river protection program.●

By Mr. MITCHELL (for himself, Mr. PRYOR, Mr. DURENBERGER, Mr. BOREN, Mr. ROCKEFELLER, and Mr. DANFORTH):

S. 2149. A bill to amend the Internal Revenue Code of 1986 to allow State secondary markets of student loan notes to continue serving the educational needs of postsecondary students, and the Nation; to the Committee on Finance.

STATE SECONDARY MARKETS OF STUDENT LOAN NOTES

● Mr. MITCHELL. Mr. President, the legislation I am introducing today with Senators PRYOR, DURENBERGER, BOREN, DANFORTH, and ROCKEFELLER is intended to preserve the ability of State student loan agencies to issue tax-exempt student loan bonds, thus providing improved opportunities for students and their families to afford the growing cost of post-secondary education.

Tax-exempt financing, which was made possible through the efforts of Senator BENTSEN in the Tax Reform Act of 1976, enables student loan authorities to raise funds at rates lower than in the taxable market. This facilitates their acquisition of student loans, thus increasing the availability of student loans. The Congressional Budget Office has stated that:

> If * * * state authorities could not issue tax-exempt bonds, the already limited competition within the student loan market could lessen, with possible negative effects on the availability of loans. * * *

This legislation will help assure the continued viability of State student loan programs now operating in 39 States and the District of Columbia. It would make permanent a special student loan arbitrage rule for loans made under the Higher Education Act, which was adopted as part of the Tax Reform Act of 1986. The bill would also extend the special arbitrage rule to supplemental student loans—which do not receive any Federal guarantee or subsidy—provided that they meet certain eligibility standards. In addition, the bill would provide that not-for-profit corporations, that now must operate exclusively to acquire student loans under the Higher Education Act, could also make or acquire supplemental student loans.

This bill is crucial to the State of Maine and other States with student loan programs. The Maine Educational Loan Marketing Corporation [MELMAC], a private nonprofit corporation, was organized in 1983 at the request of both the Governor and the board of education in order to provide statewide education loan secondary market services exclusively for the State of Maine. Since 1984, MELMAC has purchased $65 million of educational loans of approximately 15,000 individual borrowers. It does business with over 50 Maine financial institutions, both large and small, making it the largest holder of educational loans in Maine. Adoption of my bill will ensure the continued viability of the Maine student loan program so that it can provide the long-term assured financing at reasonable rates so necessary for the participation of Maine's lenders and so important for Maine students desiring a post-secondary education.

A recent study found that 82 percent of the American public believe that rising costs will soon put a college degree out of reach for most families. Widespread access to post-secondary education—not just college, but trade and technical schools—has been and must continue to be a national priority. Equal access to post-secondary education has been an important principle in our society because it enables all Americans to realize their potential. We must continue to assure that families and individuals can afford the best possible post-secondary education.

Recently, a number of proposals have been introduced in Congress to create tax incentives to encourage saving for future college costs. Those proposals offer a reasonable approach to this issue but they must be seen as a complement to grants and loans, not as a replacement. It will take many years for a savings program to become fully effective and not all deserving students may be fortunate to have family who will be able to save for future education needs. Particularly in the short-term, student loans are likely to remain the primary means of Federal assistance for students and parents to finance higher education.

While the proportion of students participating in the Guaranteed Student Loan Program has increased, and the proportion receiving Pell Grants has decreased, GSL Program participation also has been shifting, so it is now the primary Federal program for access to post-secondary education by low-income students. As of 1983, 39.5 percent of all GSL borrowers had family incomes of less than $15,000 per year. At our Nation's independent colleges, 50 percent of all aid recipients with family income under $10,000 received GSL loans. Because of changes adopted in 1986 to the Higher Education Act of 1965, which further limited middle-income student participation in the program, the percentage of low-income students borrowing under the GSL program has undoubtedly increased. The changing focus of the GSL Program, together with the limited availability of other education aid, makes it even more important to facilitate a secondary market for education loans.

The Tax Reform Act of 1986 permits State agencies and not-for-profit student loan corporations to issue tax-exempt bonds for the purpose of acquiring student loans under the Higher Education Act, including the Guaranteed Student Loan [GSL] and Parents' Loans for Undergraduate Students [PLUS] Programs, and for acquiring supplemental student loans that are not guaranteed under the Higher Education Act.

The 1986 Tax Reform Act recognized the unique nature of student loan financing by providing that student loans authorized under the Higher Education Act would be allowed an extended temporary period, to 18 months, during which arbitrage could be earned. Instead of requiring the rebate of arbitrage earnings, the act further allowed arbitrage earned during the temporary period to be retained in order to pay for the costs of issuing bonds, carrying such bonds prior to acquisition of student loans, and for certain administrative costs. The extended temporary period and exception to the rebate rule applies only to tax-exempt student loan bonds for the GSL and PLUS Programs that are issued before December 31, 1988.

I support the general arbitrage restrictions enacted in the Tax Reform Act of 1986 and in prior law. However, student loan bonds are not comparable to other bonds and should thus have different arbitrage rules. Student loan bonds are different because:

First, of the inability to recover program costs from any source other than from the earnings on student loans acquired with bond proceeds, the acquisition of which cannot be assured at the time bonds are issued, or from permitted arbitrage earnings;

Second, of the high costs of administering a student loan program due to the low outstanding average balance, extensive and expensive servicing requirements, it is estimated that the cost of servicing a student loan over its lifetime—10 years—will average between 1.25 percent and 2 percent per annum of the outstanding balance, which averages between $1,750 and $1,900, compared with 0.375 percent for single family mortgages which have outstanding balances 30 to 40 times greater in average amount than student loans; and

Third, of the complexity of the Federal Student Loan Program, which depends heavily on the Department of Education regulatory scheme. Student loan authorities have no control over the interest rate charged to borrowers or the interest rate received on loans, both of which are legislatively determined. The issuer of student loan bonds, in contrast to other programs, cannot adjust the interest rate charged on the loan to cover the costs of its debt, the costs of issuance and the costs of administering its program. In its report, "The Tax-Exempt Financing of Student Loans," the Congressional Budget Office recognized the unique situation faced by State student loan agencies, finding:

> If a student loan authority used the proceeds of bonds issues to pay issuing costs that it could not cover with arbitrage earnings or surpluses, it would be risking default if it had to call a bond issue.

Supplemental student loan programs do not face the same severe constraints of a federally established yield on the student loan or the same administrative procedures, but still face the difficulty of recovering program and issuance costs and high administrative costs. Further, supplemental student loans do not benefit from the Federal interest subsidy or the guarantee associated with programs under the Higher Education Act. My bill, recognizing the national interest is served by both types of student loan programs, would enable issuers of tax-exempt supplemental student loans to be eligible for the same arbitrage rule as issuers of tax-exempt bonds for the making or acquisition of loans under the Higher Education Act.

If student loan arbitrage rules are not made permanent and extended to qualified supplemental student loan programs, State student loan authorities cannot assure bondholders or providers of credit that the return on the student loans will be sufficient to pay back the costs of issuing and carrying the bonds in the event that student loans are not acquired.

The bill I am introducing is necesary because State student loan agencies have no practical alternative source of funding to assure payment of the costs of issuing bonds and of carrying them until student loans are acquired; these agencies do not receive any Government subsidy. A minority of student loan agencies have accumulated reserves, but such reserves are limited and are needed to cover the increased servicing costs as student loans mature. Both the banks and the universities originating the student loan and prospective bond purchasers view such reserves as necessary to assure the long-term viability of secondary markets. Using such reserves to fund costs of issuance will threaten the viability of State secondary markets and ultimately impair the program.

The present limitations on the amount of arbitrage that may be earned under the student loan arbitrage rule are retained under my proposal. If earned, arbitrage could be retained only to the extent that costs of issuing and carrying the tax-exempt bonds and administering the program are not reimbursed by the student borrowers. The tax-exempt bonds issued to finance the purchase of both GSL, PLUS, and supplemental student loans would continue to be subject to the volume cap.

Finally, this bill would allow specially formed not-for-profit corporations authorized to issue tax-exempt qualified scholarship funding bonds to acquire not only student loans made under the GSL and PLUS Programs, but also to make or acquire student loans not made under these Federal programs, but made under separate State programs as tax-exempt supplemental student loans.

Mr. President, there can be no higher public purpose than to assure the continued opportunity for affordable post-secondary education. I urge my colleagues to support this essential legislation.●

● Mr. DURENBERGER. Mr. President, I am pleased to join my distinguished colleague from Maine, Senator MITCHELL, in introducing legislation that will allow issuers of student loan bonds to continue the flow of funds to prospective college students who find it more and more difficult to cope with the spiralling tuition costs of college education.

When Congress adopted the Tax Reform Act of 1986, it provided special temporary exceptions from the arbitrage and rebate rules for student loan bonds issues in connection with the Guaranteed Student Loan and Parents' Loans for Undergraduate Students Programs. These temporary exceptions were allowed in order to allow issuers to continue issuing bonds, while they sought to find other revenue sources to help defray administrative costs and costs of issuance.

Since Congress adopted the Tax Reform Act, it has become clear that the Federal and State governments have not provided issuers the funding they need to meet their administrative and issuance costs. It is for this reason that this legislation is needed. Without these changes, student loan bond authorities cannot give assurances to their bondholders or providers of credit support, at the time the bonds are issued, that the return on student loans will be sufficient to pay back the costs of issuing and carrying the bonds, and administering a program unless all bond proceeds are used to acquire student loans. Without such assurances, these bonds cannot be sold.

This legislation also extends the arbitrage and rebate exceptions to student loan bonds issued in connection with supplemental student loan programs. These programs are a vital adjunct to the programs administered by the Department of Education, and that is why I worked to expand the definition of qualified student loan bonds to include bonds issued under these supplemental programs.

Mr. President, it is vital that Congress does not place roadblocks in way of student loan bonds. We are sure to face a national debate over the next several years over the extraordinarily high cost of a college education. Measures must be taken to ensure that student loan programs remain viable. This legislation is an important step in ensuring the vitality of these programs.●

By Mr. NICKLES:

S. 2150. A bill to provide for the use and distribution of funds awarded the Seminole Indians in dockets 73, 151, and 73-A of the Indian Claims Commission; to the Select Committee on Indian Affairs.

USE AND DISTRIBUTION OF CERTAIN SEMINOLE JUDGMENT FUNDS

● Mr. NICKLES. Mr. President, I am introducing legislation today on behalf of the Seminole Nation of Oklahoma to provide for the use and distribution of funds previously awarded the Seminole Tribe.

On April 27, 1976, the Indian Claims Commission awarded the Seminole Tribe, which consists of members in Florida and Oklahoma, $16, million for Florida lands taken by the Federal Government in 1823. On June 1, 1976, Congress appropriated funds to cover this award—90 Stat., 579.

The bill I am introducing today would provide for the use and distribution of these judgment funds, not totaling over $40 million, between the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Florida, and the unaffiliated Seminoles of Florida.

In 1857 the Seminole Tribe was split when the U.S. Government removed the majority of the tribe to Indian Territory, which is not the great State of Oklahoma. According to historical records, their were 3,436 Seminoles in 1857 3,301 of whom relocated in Indian Territory. The other 135 Seminoles remained in Florida.

In an effort to reach an agreement on the division of the funds between the Florida factions and the Oklahoma Seminoles, the parties met last March in Memphis. Although a tentative agreement had been reached between the tribal chairmen to split the funds 75 percent to 25 percent the Council of the Florida Seminoles rejected the offer. They insisted that the funds be split 50-50.

This offer has been unacceptable to the Oklahoma Seminoles who contend that the division should be based on the historical population which would indicate a division of 96.08 percent for the Oklahoma group and 3.92 percent for the Florida group. The Bureau of Indian Affairs has monitored the situation, and drafted the legislation that I am introducing today. Assistant Secretary Swimmer recognizes the need to have these funds distributed and supports this legislation.

Mr. President, while I have been reluctant to introduce legislation to settle this problem without an agreement between the two tribes, it is apparent to me that Congress is going to have to step in and dictate an appropriate division. The 75-25 percent division is very reasonable and is rather generous to the Florida Seminoles.

I might also add that while the Florida Seminoles have been doing rather well economically, the Oklahoma Seminoles have not been so fortunate., Unemployment is high and tribal resources are limited. Chief Edwin Tanyon has made great strides in helping to move the tribe forward and the release of these judgment funds would allow him to pursue further economic development and provide much-needed jobs and a boost to the Oklahoma economy.

In light of the circumstances, I ask that the Senate Indian Affairs Committee consider this legislation in a timely fashion and that Congress move forward to pass this legislation.●

By Mr. NICKLES (for himself, Mr. BOREN, Mr. HATCH, Mr. GARN, and Mr. GLENN):

S. 2152. A bill to increase the authority to transfer unobligated balances between certain accounts of the Department of Defense in order to meet increased military personnel costs resulting from fluctuations in foreign currency exchange rates, and for other purposes; to the Committee on Armed Services.

INCREASE IN DEPARTMENT OF DEFENSE TRANSFER AUTHORITY

● Mr. NICKLES. Mr. President, today Senator BOREN, Senator HATCH, Senator GARN, Senator GLENN and I are introducing legislation which will lessen the impact of the impending furlough situation for civil service employees at the Air Force Logistics Centers in Oklahoma, Utah, Ohio, California, Georgia, and Texas. I want to be sure that my colleagues understand that this is not a parochial issue, but one which affects the readiness of our entire national defense structure.

Yesterday, Secretary of Defense Carlucci testified before the Senate Budget Committee. During that hearing, I told him that I wanted to work with him to solve this problem to ensure the readiness of our forces and to try to lessen the economic impact on the 82,000 AFLC employees and their families. He made the point that these furloughs of permanent employees and lay-offs of the on-call and temporary personnel were coming about because of congressional reductions in the Operations and Maintenance account.

To refresh the memories of my colleagues, I will paraphrase the definition of the O&M account from the appendix of the budget. The operation and maintenance account finances the costs of operating and maintaining the Armed Forces, including the Reserve components and related support activities of the Department of Defense, except for military personnel costs. Included are amounts for civilian pay, contract services for maintenance of equipment and facilities, fuel, supplies, and repair parts for weapons and equipment. The financial requirements of the O&M account are influenced by many factors, including the number of aircraft squadrons, Army and Marine Corps divisions, installations, military strength and deployments, rates of operational activity, and the quantity and complexity of major equipment such as aircraft, ships, missiles, and tanks.

So, when Congress cut the O&M budget, the Air Force Logistics Command made the decision to cancel overtime, layoff, on-call, and temporary employees and furlough for up to 10 days every AFLC employee, this is putting our national defense in jeopardy—airplane engines are not being overhauled, routine maintenance is being put off, repair parts for our weapons and equipment are not being purchased. The workload for the AFLC employees is increasing, but without the trained AFLC employee being on the job, the work is not being done.

In Secretary Carlucci's prepared statement, he included a list and an explanation of unfunded obligations the Department of Defense will have to deal with during the remainder of fiscal year 1988, and I ask unanimous consent that this list be printed in the RECORD at the end of my statement.

While the O&M account is not listed as one of DOD's immediate needs, Secretary Carlucci told the committee that he would use some of the money made available by the increased transfer authority to fund O&M should the Congress choose to pass this legislation and give him the authority. If I were standing in Secretary Carlucci's shoes, I would certainly want to be able to transfer a very small portion of my budget between accounts to cover unexpected costs. This legislation will increase the Secretary's transfer authority from $1.5 billion to $4 billion in fiscal year 1988 and also allow for the use of unexpended funds from previous years. Additionally it amends the National Defense Authorization Act for fiscal years 1988 and 1989 to increase the Secretary's transfer authority from $2 billion to $4 billion.

The bill also addresses the transfer of funds between the "Foreign Currency Fluctuations, Defense" and the military personnel accounts as these accounts tangentially impact the O&M account.

Mr. President, I urge my colleagues to cosponsor this bill and to assist in its swift passage. As the transfers must be approved through reprogramming requests to the Armed Services Committee and the Appropriations Committee, I also ask my colleagues to give such future requests prompt consideration.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Fiscal year 1988 unfunded requirements

[In millions of dollars]

Overseas station allowance	500
CHAMPUS	645
INF Treaty implementation	198
Foreign currency fluctuation	930
Industrial/stock fund transfer refunds	523
Civilian pay raise	416
Civilian health service	200
Fuel price increases	361
Persian Gulf operations	175
GSA stock fund surcharge	64
Total	4,012

Mr. Chairman, there is a serious FY 1988 operating issue upon which I want to place special focus. Sizeable FY 1988 O&M appropriation reductions, coupled with skyrocketing uncontrollable costs, have created problems in program execution that rob management of the flexibility needed to deal with program requirements or operations. There has already been a great deal of publicity about actions the Air Force and Army are taking in FY 1988, including furloughing of civilian personnel, to deal with these situations. Transfer authority is one of the most important management tools we have available to meet and respond to such changing situations. The FY 1988 transfer authority of $1.5 billion provided by Congress will be consumed rapidly by such requirements as implementation costs of the INF Treaty, increased CHAMPUS costs, absorption of the 1988 military and civilian pay raises and higher fuel costs. I sincerely urge your support for our request to increase the Department's level of transfer authority to $4 billion in FY 1988 and $3 billion in FY 1989. Also, approval is essential of our proposed legislation allowing utilization of prior year balances to offset increased foreign currency and overseas station allowances resulting from the decline in the value of the dollar. Disapproval of this requested authority is a defacto cut in readiness program of almost $2 billion annually. Lastly, I encourage your strong support for defense readiness efforts—including prompt approval for must-pay readiness-related reprogramings. In this period of constrained resources, we must forge a partnership to protect the most critical of our defense needs and provide our managers with the flexibility to do their job.●

By Mr. DECONCINI (for himself and Mr. MCCAIN):

S. 2153. A bill to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, AZ, and for other purposes; to the Select Committee on Indian Affairs.

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY WATER RIGHTS SETTLEMENT ACT

● Mr. DeCONCINI. Mr. President, it is a pleasure to introduce legislation today which is critical to the agricultural and economic interests of the Salt River Pima-Maricopa Indian Community, as well as the continued economic growth and development of the Phoenix metropolitan area in the State of Arizona.

The United States established a reservation for the Salt River Pima-Maricopa Indian Community along the Salt River in Phoenix, AZ, on June 14, 1879. From that date until the present time, it has been the duty of the United States to provide the community and its members with a dependable water supply and delivery system adequate to maintain a tribal homeland according to the agricultural traditions of the community. However, this dependable water supply has not been provided to the community.

The community has a right to water under the Kent Decree which determined general rights to the Salt River, which flows through the community.

Failures to provide a dependable source of water to the Salt River Pima-Maricopa Indian Community has limited agricultural and economic development on the community's reservation. Moreover, because of the community's inability to take full advantage of its water entitlement from the nearby Salt and Verde Rivers, water which might have been put to use by the community has been appropriated by nearly non-Indian water users.

The community's reservation is situated adjacent to the metropolitan area of Phoenix, AZ, in one of the most arid regions of the United States, where there is no excess water supply. More than 1.5 million non-Indian people reside in the Phoenix area, and over the years these residents have grown to depend more and more upon the water of the Salt and Verde Rivers, the same sources of water from which the community and its members claim rights.

The community has asserted its water rights claims in litigation currently pending in Federal district court and in the U.S. District Court of Claims. In addition, the United States has filed claims for water rights on behalf of the community in a general water rights adjudication pending in the Arizona Superior Court. These claims threaten the economic development of non-Indians in the Phoenix metropolitan area, and, if resolved in favor of the community, could result in a catastrophic water shortage in the central Arizona cities of Phoenix, Scottsdale, Tempe, Mesa, Chandler, Glendale, and Gilbert.

Recognizing the potential impact upon economic development in the Phoenix area, the major non-Federal defendants in the Indian community's litigation have negotiated with the community to accomplish a historic agreement which undertakes to settle once and for all time, the water rights claims of the community, its members, and allottees.

Under the settlement agreement, the major non-Federal parties have agreed to transfer, without charge, rights to approximately 47,000-acre feet of surface water and to restructure longstanding water use arrangements, to incur great and continuing expense in obtaining substitute water supplies from other parts of Arizona, and to contribute money in order to settle all of the water rights of the community, its members and allottees.

The purpose of "the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988" is to facilitate the performance of the settlement agreement by authorizing the necessary funding and by authorizing the Secretary of the Department of the Interior to perform all acts necessary to effect the settlement.

This legislation has the support of the entire Arizona congressional delegation. Companion legislation will be introduced in the House of Representatives by my very distinguished colleague and chairman of the House Interior Committee, Mr. MORRIS K. UDALL.

The Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988 will:

First, permit the community to more fully utilize the 18,776-acre feet of water to which it is entitled under the Kent Decree: The legislation authorizes and directs the United States, through the Secretary of the Interior, to provide the community with 7,000-acre feet of water storage space behind Theodore Roosevelt Dam, which is to be modified as part of the Central Arizona project.

Second, settle the community's dispute over the operation of the Bartlett Dam Agreement between the Salt River Valley Water User's Association and the United States: As amended by the legislation and the Salt River Pima-Maricopa Indian Community Water Rights Settlement Agreement, the Bartlett Dam Agreement provides that in year of plentiful water storage behind the dams of the Verde River, the community will have more water from the Bartlett Dam Reservoir available for its use.

Third, restore to the Arizona cities of Chandler, Glendale, Scottsdale, Tempe, Mesa, Phoenix, and the Arizona town of Gilbert, a small portion of the water they have agreed to contribute to the community: The legislation authorizes and directs the U.S. Secretary of the Interior, to obtain rights to 22,000-acre feet of water from Arizona's share of the Colorado River, and to contract to deliver the water to the cities and town.

Fourth, amend and extend a contract between the United States and the community which provides for the delivery of as much as 13,300-acre feet per year of water from the Central Arizona project: The contract, dated December 11, 1980, would be extended to December 31, 2098, would provide for subsequent renewal of the contract and would authorize the community to lease and deliver CAP water to the city of Phoenix under another contract.

Fifth, establish a trust fund for the community to provide a long-term source of revenue for the purpose of evaluating, planning, administering and constructing water development projects and other economic and community development projects on the community's reservation. The legislation also authorizes the appropriation of money to be placed in the trust fund to meet those objectives.

Sixth, authorize and direct the Secretary of the Interior to enter into contracts with the community for the design and construction of water delivery facilities, for the rehabilitation and improvement of the community's existing facilities, and for the subjugation and leveling of irrigable community reservation lands served by the newly constructed water delivery facilities. The legislation also authorizes the appropriation of funds to meet those objectives.

Seventh, extinguish all claims of the community's allottees which are asserted or which may have been asserted in *Herman Grey et al.* v. *United States,* docket No. 588-84L, in the U.S. Court of Claims, and all present and future claims of the allottees for water rights or injuries to water rights from time immemorial to the effective date of the legislation. The allottees shall be entitled, however, to maintain an action against the United States in the U.S. Claims Courts to recover damages for the taking and extinguishment of these claims. The legislation also authorizes the community to execute a waiver and release of all present and future claims of water rights or injuries to water rights, from time immemorial to the date of this legislation.

Mr. President, it is important to note that in order to accomplish the provisions of this legislation and the terms of the settlement agreement, significant sums of money are required. The total cost of this settlement, including the value of water contributed by the local non-Federal parties to the settlement agreement, is substantial; however, a large portion will be borne by the non-Federal parties to the agreement and the community.

The time has come for the United States to acknowledge its obligations to the community and contribute the necessary remaining funds. I must point out that the administration does not support this settlement agreement. While modifications may be a necessary consequence of the legislative process, putting forward a very constructive and fair agreement for further discussion is a very important step in the process. I hope we can work with the administration officials to gain support for an acceptable solution to a costly and lengthy dispute over water claims.

Representatives for the tribes, the State of Arizona, and numerous water interests in Arizona should be commended for the fine efforts they have put forth to formulate this settlement agreement.

While I may not endorse all specific provisions of the agreement, I am please that we have a responsible settlement agreement which will be the subject of hearings in the next few weeks.

I hope we will see a final resolution to these disputed water claims this Congress.●

By Mr. D'AMATO:

S. 2154. A bill to enable the Postal Service to restore recent cutbacks in postal services and to meet its obligations for certain health benefit payments in accordance with the Postal Reorganization Act; to the Committee on Governmental Affairs.

RESTORATION OF CERTAIN POSTAL SERVICE FUNDS

● Mr. D'AMATO. Mr. President, I rise today to introduce legislation to delete certain language from the Omnibus Budget Reconciliation Act of 1987 and restore some opportunity to the Postal Service to play a role in determining its own budgetary policies and priorities.

This bill is identical to legislation introduced by Congressman LENT last week.

Section 6003 of the reconciliation bill directs that the $1.245 billion in budget cuts in the Postal Service over the next 2 years must be absorbed through its operations and facilities. This does not allow the Postal Service any flexibility whatsoever to exercise some management and determine which areas of its budget should be cut, and which should not.

As a result, the Postal Service has been forced to take drastic actions to meet the requirements outlined in the reconciliation bill. Perhaps the step having the greatest impact on the Postal Service's ability to serve the public is its shortening of hours at its service windows. This reduction in service has led to a justifiable public outcry. My office has been inundated with calls and letters from constituents, business and, interestingly enough, Postal workers complaining about the shortened window hours.

While the shortened hours are inconvenient for the general public, they are devastating for senior citizens and the disabled. Shorter hours in small town post offices mean that citizens must travel to neighboring towns in order to go to a post office. This type of travel often presents problems to those without ready access to transportation.

Another measure taken as a result of this language in the reconciliation bill is the elimination of Sunday mail sorting operations. As a result, delays in the time it takes for the Postal Service to process the mail are inevitable.

Mr. President, I would like to share with you some of the letters that I have been receiving from my constituents. I ask unanimous consent that these letters be inserted into the RECORD at the end of my statement.

Aside from death and taxes, the one certain thing that we have come to rely upon is reliable mail service. Section 6003 places this reliability in jeopardy, and further burdens the Postal Service's efforts to provide the promptest and most efficient service possible.

The shame in all of this is the Postal Service's inability to have a say in meeting the $1.245 billion in cuts from its own budget. Given the constraints of the new law, the Postal Service had no choice but to implement these measures in order to meet the cuts mandated by Congress. The Postal Service should have the flexibility back to find other ways, if possible, to meet these constraints.

This legislation will not cost the Federal Government any money. It simply allows the Postal Service to have some say in governing its budget and decide how it will meet congressionally mandated budget cuts.

I urge my colleagues to take a serious look at this problem, to closely consider this bill and join me in working for its swift passage.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CENTEREACH, NY.
January 22, 1988.

HON. ALFONSE D'AMATO,
U. S. Senate, Washington, DC.

DEAR SIR: I am opposed to any reduction in mail service. I am a full time working mother, and I don't have time at the end of my day to drive to another town to use the Post Office.

Sincerely,

RANDI KUVELE.

BROOKLYN, NY,
February 12, 1988.

DEAR SENATOR: Oh how sad for our country. There is a notice in my post office—Closed Wednesdays. I believe this to be the beginning of the end of our great country. I saw depression, wars, troubles, but never have I lost faith in our post office. The mail will no longer go through. Look for private companies to jump in and take over through loopholes. I am sorry. It is really sad.

Sincerely,

JACK ASH.●

By Mr. HELMS (for himself, Mr. THURMOND, Mr. MCCLURE, Mr. HECHT, Mr. SYMMS, and Mr. WALLOP):

S. 2155. A bill to modify the provision of law which provides a permanent appropriation for the compensation of Members of Congress, and for other purposes; to the Committee on Rules and Administration.

CONGRESSIONAL PAY FOR PERFORMANCE ACT

Mr. HELMS. Mr. President, when I talk with folks back home, they say they simply do not understand why we get paid the amount we do when, they say, we are not doing our job. The record of Congress with respect to completing work on appropriation bills is horrendous, and it grows worse every year. Massive continuing resolutions are no longer the exception—they are the rule. That is one reason I have opposed increases in pay for Members of Congress.

Mr. President, in his State of the Union Address, President Reagan pledged that he would not sign another massive continuing resolution. I hope this will give Congress the necessary incentive to abide by its own rules and pass individual appropriations bills this year.

Mr. President, to provide a little more incentive for Congress to complete its job, I am today introducing the Congressional Pay for Performance Act. It is similar to H.R. 1038, which was introduced last year by my good friend, Congressman DAN LUNGREN.

Mr. President, the idea behind the bill is very simple: Congress should complete the business of the American people before we address the business of the legislative branch. If the Congress can't do the job of sending all 12 major appropriations bills to the President before the beginning of the fiscal year, we have no business getting paid for that year through an automatic appropriation.

Many people will be interested to learn that congressional salaries are not dependent on appropriations bills from year to year. In 1981, Congress passed a permanent appropriation for compensation of Members. That provision is contained in Public Law 97-51. I ask unanimous consent that a copy of the relevant section of that law be printed in the RECORD at the conclusion of my remarks.

Mr. President, my bill has two parts. The first part amends the permanent appropriation for congressional salaries to provide that if we do not complete the 12 major appropriation bills and send them to the President before the fiscal year begins, the automatic appropriation will not take effect for that fiscal year.

The second part of the bill makes it out of order for the House or Senate to consider the legislative appropriations bill until all other general appropriations bills have been presented to the President for signature.

Mr. President, the great State of Missouri, the "Show Me" State, has a constitutional provision similar to the bill I am introducing. The State of Missouri requires that all other appropriation bills be completed before the legislative appropriation bill is in order.

This bill is simply an effort to place upon each Member of Congress the same realities that our constituents face in their own jobs. The average Americans who fail to do their jobs year after year would not get paid—in fact they would probably be dismissed. On the other hand, when Members of Congress fail to complete their required work year after year, not only do they not get fired, they get automatic pay increases.

I urge my colleagues to join in sponsoring this legislation to demonstrate to the American people that we are serious about doing their business.

There being no objection, the material mentioned earlier was ordered to be printed in the RECORD, as follows:

(c) Effective beginning with fiscal year 1983, and continuing each year thereafter, such sums as hereafter may be necessary for "Compensation of Members" (and administrative expenses related thereto), as authorized by law and at such level recommended by the President for Federal employees for that fiscal year are hereby appropriated from money in the Treasury not otherwise appropriated. Such sums when paid for purposes of this subsection, the term "Member" means each Member of the Senate and the House of Representatives, the Resident Commissioner from Puerto Rico, the Delegates from the District of Columbia, Guam, Virgin Islands, and American Samoa, and the Vice President.

By Mr. LUGAR (for himself and Mr. LEAHY):

S. 2156. A bill to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL SCHOOL LUNCH ACT AMENDMENTS

● Mr. LUGAR. Mr. President, I rise today to introduce legislation regarding the National School Lunch Program. Earlier this week, members of the American School Food Service Association held their national legislative convention here in Washington. This organization is a professional association of those who work with school food planning and preparation as well as nutrition education programs for our young people. ASFSA represents over 65,000 administrators from every State who work in child nutrition programs.

Representatives of ASFSA testified before the Agriculture Committee on Tuesday morning. I also had the good fortune to meet with several Hoosier members of that worthy organization on Tuesday afternoon. They pointed out to me a problem that Congress inadvertently created in the Stewart B. McKinney Homeless Act passed last year.

The National School Lunch Act provides that students from families earning below 130 percent of the poverty line are eligible for free school lunches. Likewise, the gross income eligibility standard for food stamps is also 130 percent. Section 9(b)(1)(A) of the National School Lunch Act ties income eligibility for free school lunches to that of the Food Stamp Program.

Traditionally, this tie worked well because annual inflation adjustments to determine eligibility were implemeted on July 1, of each year. This timing was especially convenient for food service administrators because school was not in session.

Section 803 of the McKinney Homeless bill changed the date for making this inflation adjustment to October 1 to coincide with the beginning of the fiscal year. Unfortunately, this change would force schools to redetermine those categorically eligible for free lunches on October 1, in the middle of the school year. The School Food Service Association has asked that they retain the ability to make these determinations during the summer when school is not in session.

Mr. President, as the Ranking Republican on the Agriculture Committee and as one who, along with my staff, spent many hours working on the McKinney Homeless bill, I can assure you that we had no knowledge that section 803 would have this negative effect on the School Lunch Program. My bill would correct this inadvertent error. Simply stated, this legislation would allow schools to continue to determine eligibility on July 1 of each year as they have traditionally done.

Mr. President, section 803 will become effective this year unless we act. It is my hope that the Congress will pass this bill in time for the Secretary of Agriculture to prescribe income guidelines so that the traditional July 1 date can be preserved. I am pleased that my friend, the distinguished chairman of the Agriculture Committee, Senator LEAHY, has joined me by cosponsoring this legislation.

The Congressional Budget Office has estimated that this bill has no cost. I encourage my colleagues to seriously review this small, but important, change in the National School Lunch Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FREE LUNCH PROGRAM ELIGIBILITY.

Section 9(b)(1)(A) of the National School Lunch Act (42 U.S.C. 1758(b)(1)(A)) is amended—

(1) in the second sentence, by striking out "For the school years ending June 30, 1982, and June 30, 1983, the" and inserting in lieu thereof "The"; and

(2) by striking out the third sentence.●

By Mr. BINGAMAN:

S. 2157. A bill to authorize three feasibility studies to be conducted in New Mexico dealing with the San Gabriel Historic Landmark, the significance of the Los Luceros Hacienda, and the establishment of an interpretive center to highlight the first colonization of the interior of the United States in New Mexico; to the Committee on Energy and Natural Resources.

SPANISH COLONIZATION COMMEMORATIVE ACT

Mr. BINGAMAN. Mr. President, more than four centuries ago, Spanish conquistadores came across the desert from Mexico to found the farthest outpost of the Spanish empire—what is now called New Mexico. The colonization was led by Juan de Onate, son of a wealthy mine operator in Zacatecas. In return for leading the colonization effort, Onate was named New Mexico's first governor. On January 7, 1598, his caravan of 130 traveled north on foot, horseback, and in ox-drawn carts. Instead of following the rivers as others had done, the caravan struck north, straight across the desert, to intercept the Rio Grande where it swung to the east. Unknowingly, Onate finished blazing the Camino Real in New Mexico, a road that would one day carry the commerce of the United States and Mexico.

On July 11, 1598, the expedition reached the end of the journey, near present-day Espanola. There, where the Chama empties into the Rio Grande near the pueblo today called San Juan, Onate and his advance party established the first Spanish headquarters in New Mexico. This settlement was called San Gabriel de Yunque-Ouinge, and it was the first Spanish-built capital of New Mexico. In 1609 the capital was moved to Santa Fe.

From this early date, the influence of the Spaniards would endure through the rule of three successive governments. Combined with the rich cultural traditions of the Pueblo Indians, the Spanish contributed significantly to the development of the New Mexico we know today. To recognize this, I am pleased to introduce the Spanish Colonization Commemorative Act of 1988. My bill has three distinct sections.

The legislation would authorize the Secretary of Interior to conduct a feasibility study to determine the historical significance of two important sites in northern New Mexico related to the colonization period: The Los Luceros Hacienda and the San Gabriel National Historic Landmark.

LOS LUCEROS

The Los Luceros Hacienda will be studied to determine the relationship between the Los Luceros hacienda and the original 15 haciendas established by Juan De Onate as part of the first settlement in the colonization of the United States, the significance of the Onate-led colonization to U.S. history, and the role of the Pueblo Indian during this colonization period.

SAN GABRIEL

The NPS will conduct a feasibility study on designating the San Gabriel historic landmark as a National Historic Site. This designation would bring the site into the National Park Service inventory. The NPS would work closely with the San Juan Pueblo in conducting this study.

INTERPRETATIVE CENTER

Finally, the Secretary would conduct a study of the feasibility of establishing a visitors/interpretative center to highlight the first colonization in the interior of what is now the United States of America. The center should be located on a national historic site, landmark area, or other appropriate area and be managed by the National Park Service in cooperation with State, county, and municipal officials, local and State historical associations and the Indian community.

In order to recognize properly the significant contributions of this colonization period, I urge my colleagues to support this important legislation.

ADDITIONAL COSPONSORS

S. 1078

At the request of Mr. CHILES, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1078, a bill to amend the Elementary and Secondary Education Act of 1965 to provide grants to State and local educational agencies for dropout retention and recovery demonstration projects.

S. 1522

At the request of Mr. RIEGLE, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1742

At the request of Mr. DOMENICI, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 1742, a bill to provide for the minting and circulation of one dollar coins, and for other purposes.

S. 1774

At the request of Mr. PRYOR, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 1774, a bill to promote and protect taxpayer rights, and for other purposes.

S. 1839

At the request of Mr. MELCHER, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1839, a bill to amend title XVIII of the Social Security Act to provide for coverage of adult day health care under the Medicare Program, and for other purposes.

S. 2051

At the request of Mr. MCCLURE, the names of the Senator from Missouri [Mr. BOND], the Senator from Alaska [Mr. MURKOWSKI], the Senator from North Dakota [Mr. BURDICK], the Senator from Iowa [Mr. GRASSLEY], the Senator from Utah [Mr. GARN], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Nevada [Mr. HECHT] were added as cosponsors of S. 2051, a bill entitled the "Prohibition of Undetectable Firearms Act."

S. 2116

At the request of Mr. KARNES, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 2116, a bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of certain farm and firefighting vehicles.

SENATE JOINT RESOLUTION 13

At the request of Mr. SYMMS, the name of the Senator from Utah [Mr. HATCH] was withdrawn as a cosponsor of Senate Joint Resolution 13, a joint resolution proposing an amendment to the Constitution of the United States with respect to the English language.

SENATE JOINT RESOLUTION 21

At the request of Mr. HOLLINGS, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Senate Joint Resolution 21, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, and Presidential elections.

SENATE JOINT RESOLUTION 197

At the request of Mr. DOLE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of Senate Joint Resolution 197, a bill to designate the month of April 1988, as "Prevent-A-Litter Month."

SENATE JOINT RESOLUTION 263

At the request of Mr. BRADLEY, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Joint Resolution 263, a joint resolution to designate the period commencing November 13, 1988, and ending November 19, 1988, as "Geography Awareness Week."

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. LEAHY, the names of the Senator from Oklahoma [Mr. BOREN], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of Senate Concurrent Resolution 94, a concurrent resolution to express the sense of the Congress regarding relief for the U.S. soybean industry under section 301 of the Trade Act of 1974.

At the request of Mr. DANFORTH, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of Senate Concurrent Resolution 94, supra.

SENATE CONCURRENT RESOLUTION 97

At the request of Mr. ADAMS, the names of the Senator from Alaska [Mr. STEVENS], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Colorado [Mr. WIRTH], the Senator from Oklahoma [Mr. BOREN], the Senator from California [Mr. WILSON], the Senator from Nevada [Mr. REID], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Texas [Mr. BENTSEN], the Senator from Maine [Mr. COHEN], the Senator from Kentucky [Mr. FORD], the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Concurrent Resolution 97, a concurrent resolution to commend the President, the Secretary of State, and the Administrator of the Agency for International Development on relief efforts that have been undertaken by the United States Government for the people in Ethiopia and other affected nations of sub-Saharan Africa, and encourage these officials to continue to extend all efforts deemed appropriate to preclude the onset of famine in these nations, and for other purposes.

SENATE RESOLUTION 383

At the request of Mr. LAUTENBERG, the names of the Senator from Maryland [Mr. SARBANES], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of Senate Resolution 383, a resolution to express the sense of the Senate regarding future funding of Amtrak.

SENATE RESOLUTION 391—URGING UNITED STATES SUPPORT FOR COLOMBIA'S BATTLE AGAINST DRUG PRODUCERS AND TRAFFICKERS

Mr. HEFLIN (for himself and Mr. DURENBERGER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 391

Whereas, the assassination of Colombian Attorney General Carlos Mauro Hoyos on Monday, January 25, 1988, has both shocked and saddened the law enforcement community, and has refocused the attention of the law enforcement community on the increasingly violent and notorious conduct of illegal drug producers and traffickers in Colombia and Central and South America; and

Whereas, in the past 4 years, in addition to Attorney General Mauro Hoyos, two newspaper editors, a justice minister, 21 judges, and scores of policemen and soldiers have been killed by illegal drug producers and traffickers throughout the country of Colombia; and

Whereas, President Virgilio Barco of Colombia has declared "a total war" on these illegal drug producers and traffickers, and has pledged to bring them to justice through efforts to assist United States prosecutors in extraditing certain known illegal drug producers and traffickers to the United States for prosecution; and

Whereas, the Congress of the United States has condemned and will continue to condemn all forms of terrorism, especially the terrorist activities of producers and traffickers in illegal drugs; and

Whereas, the United States has an overriding interest in supporting and assisting the Colombian Government at this time in its efforts to stop illegal drug production and trafficking at its source, and in order to insure the integrity of the Colombian criminal justice system: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Government of the United States should continue to support and lend such assistance as may be necessary to the Government and the people of Colombia as they attempt to develop policies aimed at battling this most onerous and despicable threat to the health, safety, welfare, and morals of the peoples of Colombia, Central America, South America, and the United States posed by illegal drug production and trafficking.

SEC. 2. The Secretary of the Senate shall send copies of this resolution to the President of the United States, the Attorney General of the United States, the President of Colombia, and the United States' Representative to the Organziation of American States.

Mr. HEFLIN. Mr. President, I rise today to submit a resolution on behalf of myself and Senator DURENBERGER, calling on the United States Government to assist the Government of Colombia in its battle against illegal drug producers and traffickers.

On January 25, 1988, Colombian Attorney General Carlos Mauro Hoyos was assassinated by illegal drug traffickers. I believe that illegal drug producers and traffickers are better described as terrorists. In the past 4 years alone, in addition to Attorney General Hoyos, two newspaper editors, a justice minister, 21 judges, and scores of policemen and soldiers have been killed by these terrorist drug producers and traffickers in Colombia.

We must all remember that these illegal drug producers and traffickers are attempting to subvert the young of our country and the world. These individuals deal in death and the United States Government must do all it can to assist the Colombian Government in apprehending these terrorists.

I believe that it is important for the United States to continually go on record as condemning all forms of terrorism, especially the terrorist activities of producers and traffickers in illegal drugs.

The war against illegal drug producers and traffickers is a war that can be won—if we have the resolve. I urge my colleagues to join with me in continuing to support and help the Government and people of Colombia as they attempt to combat the threat posed to all by use of illegal drugs.

SENATE RESOLUTION 392—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. BYRD submitted the following resolution; which was considered and agreed to:

S. RES. 392

Whereas, in the case of *Southern Air Transport, Inc.* v. *Post-Newsweek Stations of Florida, Inc., et al.,* 87-23989, pending in the State Circuit Court for the 11th Judicial Circuit of Florida, the plaintiff has obtained a subpoena for deposition testimony and the production of documents by Jonathan Winer, counsel to Senator Kerry;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2) (1982), the Senate may direct its counsel to represent Members and employees of the Senate with respect to subpoenas issued to them in their official capacities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Jonathan Winer and any Senator or other employee of the Senate who may be asked to testify or produce documents in the case of *Southern Air Transport, Inc.* v. *Post-Newsweek Stations of Florida, Inc., et al.*

SENATE RESOLUTION 393—REQUESTING THE PRINTING OF A SENATE DOCUMENT

Mr. BYRD submitted the following resolution; which was considered and agreed to:

S. RES. 393

Resolved, by the Senate of the United States of America, that there shall be printed as a Senate document "The INF Treaty and the Future of the Alliance—Report by a Senate delegation to five NATO Countries, Led by Majority Leader Robert C. Byrd, February 6-14, 1988;" and that an additional one thousand copies be printed for distribution to the Members of the Senate as an official document.

AMENDMENTS SUBMITTED

INTELLIGENCE OVERSIGHT

HELMS AMENDMENT NO. 1625

Mr. HELMS proposed an amendment to the bill (S. 1721) to improve the congressional oversight of certain intelligence activities, and to strengthen the process by which such activities are approved within the executive branch, and for other purposes; as follows:

Add at the end of the bill the following new section:

"SEC. . It is the sense of the Senate that unless and until the Republic of Panama promptly extradites to the United States for trial General Manuel Noriega on charges of drug trafficking, within 30 days of the enactment of this section, the President of the United States should consider initiating the phased withdrawal of dependents of United States military personnel stationed in Panama and should notify the Government of Panama of the intention of the United States to suspend, should it prove to be required by the supreme national security interests of the United States, the operation of any provision of the Panama Canal Treaties of 1978 mandating the withdrawal of United States military personnel or the closure of any United States military base protecting the Panama Canal.".

CHAFEE AMENDMENT NO. 1626

Mr. CHAFEE proposed an amendment to the bill S. 1721, supra; as follows:

On page 16, after the period on line 19 (in section 2 of the bill, subsection 503(c)(4)) add the following new sentence at the end of the subsection:

"Any information provided by the President pursuant to this subsection shall be subject to the provisions of S. Res. 400, 94th Congress, and to Rule XLVII of the Rules of the House of Representatives, and may be subsequently disclosed by the recipients only in accordance with the applicable provisions of such Resolution or Rule."

DEPARTMENT OF ENERGY NATIONAL LABORATORY COOPERATIVE RESEARCH INITIATIVES ACT

DOMENICI (AND OTHERS) AMENDMENT NO. 1627

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. DOMENICI (for himself, Mr. MCCLURE, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill (S. 1480) to improve the integration of universities and private industry into the National Laboratory system of the Department of Energy in order to speed the development of technology in areas of significant economic potential; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Energy National Laboratory Cooperative Research Initiatives Act".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) The term "National Laboratory" means—

(A) Lawrence-Livermore National Laboratory;

(B) Lawrence-Berkeley Laboratory;

(C) Los Alamos National Laboratory;

(D) Sandia National Laboratory;

(E) FERMI National Accelerator Laboratory;

(F) Princeton Plasma Physics Laboratory;

(G) Idaho National Engineering Laboratory;

(H) Argonne National Laboratory;

(I) Brookhaven National Laboratory;

(J) Oak Ridge National Laboratory;

(K) Pacific Northwest Laboratory;

(L) Ames Laboratory; and

(M) Stanford Linear Accelerator Center.

Such term does not include Naval Nuclear Propulsion Reactor Laboratories, their contractors or subcontractors performing work covered under Executive Order 12344, as codified in section 7158 of title 4, United States Code.

(2) The term "Federal agency" means any executive agency as defined in section 105 of title 5, United States Code, and the military departments defined by section 102 of title 5, United States Code.

(3) The term "contract" means any contract, grant, or cooperative agreement as those terms are used in sections 6303, 6304, and 6305 of title 31, United States Code, entered into between any Federal agency and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government. Such term includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a contract.

(4) The term "cooperative research and development agreement" means any agreement as defined in section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a (d)(1)).

(5) The term "funding agreement" means any contract, grant, or cooperative agreement entered into between the Secretary of Energy and a contractor operating a National Laboratory of the Department of Energy that provides for such contractor to perform research and development at such National Laboratory.

TITLE I—THE DEPARTMENT OF ENERGY NATIONAL LABORATORIES CENTERS FOR RESEARCH ON ENABLING TECHNOLOGIES FOR HIGH TEMPERATURE SUPERCONDUCTING APPLICATIONS

SEC. 101. FINDINGS.

The Congress finds that—

(1) the Department of Energy has conducted extensive research in superconducting materials to support its programmatic activities in High Energy Physics, Magnetic Fusion Energy, Energy Storage Systems, Electric Energy Systems, and Energy Conservation pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577), the Energy Reorganization Act of 1974 (Public Law 93-483), and the Department of Energy Organization Act (Public Law 95-91);

(2) recent developments in high-temperature superconducting materials hold great promise for highly efficient energy storage and transmission, medical diagnostics, magnets for physics research and fusion reactors, and smaller supercomputers;

(3) the United States is a world leader in basic research on high-temperature superconducting materials, and programs supporting this research at the National Science Foundation and the Department of Energy should be maintained and strengthened;

(4) international interest in the commercialization of high-temperature superconducting materials is high and the key to success lies in the rapid development of these materials and the identification of applications; and

(5) the National Laboratories of the Department of Energy have demonstrated expertise in superconductivity research and a proven record in research in enabling technologies which can benefit industrial efforts in product development.

SEC. 102. PURPOSES.

The purposes of this title are—

(1) to research critical enabling technologies to assist United States industry in the commercialization of high-temperature superconductors;

(2) to provide national organization and coordination in research, development, and commercialization of high-temperature superconductors; and

(3) to encourage private industry, university, and Department of Energy National Laboratory interaction through Centers for Research on Enabling Technologies at the National Laboratories.

SEC. 103. ESTABLISHMENT OF THE SUPERCONDUCTOR RESEARCH INITIATIVE.

The Secretary of Energy shall initiate and carry out a cooperative program of research on enabling superconductor technology and on the practical applications of superconductor technology (hereafter in this title referred to as the "Superconductor Research Initiative").

SEC. 104. PARTICIPATION OF NATIONAL LABORATORIES OF THE DEPARTMENT OF ENERGY.

(a) MISSIONS OF NATIONAL LABORATORIES.—The Secretary of Energy shall ensure that the National Laboratories of the Department of Energy participate in the Superconductor Research Initiative, to the extent that such participation does not detract from the primary mission of the National Laboratory.

(b) AGREEMENTS.—The Secretary of Energy may enter into agreements with other Federal agencies, with United States private industrial or research organizations, consortias, or with any college or university as necessary to provide for the active participation of the National Laboratories of the Department of Energy in the Superconductor Research Initiative.

(c) REQUIRED PROVISIONS.—The Superconductor Research Initiative shall include provisions for one or more National Laboratories of the Department of Energy to conduct research and development activities relating to research on high-temperature superconductivity. Such activities may include research and development in associated technologies including thin film and bulk ceramic synthesis and processing and the characterization of physical, chemical, and structural properties in materials.

SEC. 105. FORMATION OF COUNCIL AND CENTERS FOR RESEARCH ON ENABLING TECHNOLOGIES.

(a) COUNCIL.—The Secretary of Energy shall form a council to be known as the "Council for Research on Enabling Technologies" (hereafter in this title referred to as the "Council") which shall be composed of representatives of appropriate government agencies, universities, and industries, to provide guidance in setting goals and strategies for the timely research on critical enabling technologies in high-temperature superconductors. The Council shall set guidelines for the release of technical findings and developments made by the cooperative research centers established pursuant to subsection (b).

(b) COOPERATIVE RESEARCH CENTERS.—(1) The Secretary of Energy shall establish cooperative research centers in enabling technology for superconducting materials and applications (hereafter in this title referred to as "centers") at National Laboratories with appropriate university and private industry participants.

(2) The centers shall be located at National Laboratories which demonstrate expertise in—

(A) superconductive research; and

(B) research in associated technologies including—

(i) thin film and bulk ceramic synthesis and processing; and

(ii) characterization of physical, chemical, and structural properties in materials.

SEC. 106. PERSONNEL EXCHANGES.

The Superconductor Research Initiative shall include provisions for temporary exchanges of personnel between any domestic firm or university referred to in this title and the National Laboratories of the Department of Energy that are participating in the Superconductor Research Initiative. The exchange of personnel shall be subject to such restrictions, limitations, terms and conditions as the Secretary of Energy considers necessary in the interest of national security.

SEC. 107. OTHER DEPARTMENT OF ENERGY RESOURCES.

(a) AVAILABILITY OF RESOURCES.—The Secretary of Energy shall make available to other departments or agencies of the Federal Government, and to any participant in research and development projects under the Superconductor Research Initiative, any facilities, personnel, equipment, services, and other resources of the Department of Energy for the purpose of conducting research and development projects under the Superconductor Research Initiative consistent with section 104.

(b) REIMBURSEMENT.—The Secretary may make facilities available under this section only to the extent that the cost of the use of such facilities is reimbursed by the user.

SEC. 108. BUDGETING FOR SUPERCONDUCTIVITY RESEARCH.

The Secretary of Energy, in preparing the research and development budget of the Department of Energy to be included in the annual budget submitted to the Congress by the President under section 1105(a) of title 31, United States Code, shall provide for programs, projects, and activities that encourage the development of new technology in the field of superconductivity.

SEC. 109. COST-SHARING AGREEMENTS.

(a) PERMITTED PROVISIONS.—The director of each National Laboratory of the Department of Energy that is participating in the Superconductor Research Initiative or the contractor operating any such National Laboratory may include in any cooperative research and development agreement entered into with a domestic firm, or university in conjunction with the Superconductor Research Initiative, a cooperative provision for the domestic firm or university to pay a portion of the cost of the research and development activities.

(b) LIMITATIONS.—(1) An amount equal to not more than 10 percent of any National Laboratory's annual budget shall be received from nonappropriated funds derived from contracts entered into under the Superconductor Research Initiative in any fiscal year except to the extent approved in advance by the Secretary of Energy.

(2) No Department of Energy National Laboratory may receive more than $10,000,000 of nonappropriated funds under any cooperative research and development agreement entered into under this subsection in connection with the Superconductor Research Initiative except to the extent approved in advance by the Secretary of Energy.

SEC. 110. DEPARTMENT OF ENERGY OVERSIGHT OF COOPERATIVE AGREEMENTS RELATING TO THE SUPERCONDUCTOR RESEARCH INITIATIVE.

(a) PROVISIONS RELATING TO DISAPPROVAL AND MODIFICATION OF AGREEMENTS.—(1) The Secretary of Energy or his designee may review a cooperative research and development agreement for the purpose of disapproving or requiring the modification of the cooperative research and development agreement if the agreement exceeds $1,000,000. If the Secretary notifies the parties to the agreement of his intent to review the agreement, the agreement shall provide a 30-day period within which the agreement may be disapproved or modified beginning on the date the agreement is submitted to the Secretary.

(2) In any case in which the Secretary of Energy or his designee disapproves or requires the modification of any agreement presented under this section, the Secretary of Energy or such designee shall transmit a written explanation of such disapproval or modification to the head of the laboratory concerned.

(b) RECORD OF AGREEMENT.—Each National Laboratory shall maintain a record of all agreements entered into under this section.

SEC. 111. AVOIDANCE OF DUPLICATION.

In carrying out the Superconductor Research Initiative, the Secretary of Energy shall ensure that unnecessarily duplicative research is not performed at the research facilities (including the National Laboratories of the Department of Energy) that are participating in the Superconductor Research Initiative.

SEC. 112. INTERNAL REVENUE CODE TREATMENT.

(a) TAX EXEMPTIONS.—Any cooperative agreement, association, or consortium established by the Department of Energy or the National Laboratories of the Department of Energy, which is consistent with the purposes of this title, shall be treated as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code with respect to activities authorized by this title.

(b) BASIC RESEARCH PAYMENTS.—Any amounts transferred to an organization described in subsection (a) by a participating member of such an organization shall be taken into account as basic research payments for purposes of section 41(a)(2) of such Code.

(c) CAPITAL GAINS TREATMENT.—

(1) No gain or loss shall be recognized in connection with the transfer pursuant to this title of any patent, copyright, trademark, trade secret, mask work, or other intellectual property by or between an organization described in subsection (a) and any participating member of such an organization.

(2) If property is received in a transfer described in paragraph (1), the basis of the property in the hands of the transferee shall be the same as it would be in the hands of the transferor.

SEC. 113. ANTITRUST TREATMENT.

Any cooperative agreement, association, or consortia created by the Department of Energy or the National Laboratories of the Department of Energy pursuant to the provisions of this title, shall be considered a joint research and development venture within the meaning of section 2(a)(6) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.), for purposes of such Act.

TITLE II—HUMAN GENOME INITIATIVE

SEC. 201. FINDINGS.

The Congress finds that—

(1) knowledge relating to the location and sequences of genes on human chromosomes and those of other organisms will enable more rapid elucidation of the basis for development processes and for human disease;

(2) the comprehensive understanding of human genetic makeup, and the genetics of other organisms, will enhance our ability to develop methods for the prevention and treatment of disease states;

(3) the health and well-being of our Nation depends on the medical breakthroughs in hereditary diseases, cancer, cardiovascular disease, acquired immunodeficiency syndrome, and the aging process that could follow from the mapping and eventually sequencing our human genetic structure, known as the human genome;

(4) the knowledge gained, as well as the countless applications derived from this knowledge, will be very economically important to the Nation that assembles these important biomedical tools;

(5) advances in biomedical research and technology development already have accelerated efforts to localize genes to specific chromosomes;

(6) the Department of Energy has conducted extensive research on the human health consequences of nuclear and nonnuclear energy technologies including the consequences for human genetic material, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-438), and the Department of Energy Organization Act (Public Law 95-91);

(7) it is a compatible and essential part of the mission of the Department of Energy's National Laboratories to participate in research and technology development projects related to mapping and sequencing of the human genome;

(8) the Secretary of Energy should augment and accelerate the ongoing genetic science research of the Department of Energy;

(9) several other Federal agencies—including National Institutes of Health and the National Science Foundation—are presently funding research related to the mapping and sequencing of genes, or the development of new technologies and instruments for this research;

(10) in order to most efficiently expend research funds, and to most expeditiously advance our understanding of human genetics, it is essential that the agencies involved coordinate their research efforts; and

(11) in order to enhance the competitiveness of the United States biotechnology industry, the transfer of knowledge and technological capability derived from this research must flow more quickly and smoothly from government supported laboratories to private, commercial applications.

SEC. 202. NATIONAL ADVISORY PANEL ON THE HUMAN GENOME.

(a) PURPOSE.—The purpose of this section is to establish a National Advisory Panel on the Human Genome that shall coordinate—

(1) national activities to ensure the construction of maps of human chromosomes and DNA of other organisms to be used as powerful research tools for biomedical research;

(2) the development of new tools to analyze DNA, in cooperation with philanthropic organizations, companies, and other private sector interests; and

(3) the development of plans to enhance the transfer of knowledge and technology developed and derived from national genome research efforts to commercial applications by United States companies.

(b) ESTABLISHMENT.—There is established a National Advisory Panel on the Human Genome (hereafter referred to in this title as the "Panel") to advise Congress and the President on matters concerning the mapping and sequencing of the human genome.

(c) MEMBERSHIP.—The Panel shall consist of the following individuals or the designees of such individuals—

(1) the Secretary of Energy;

(2) the Director of the National Institutes of Health;

(3) the Director of the National Science Foundation;

(4) the Director of the National Library of Medicine;

(5) four individuals representing private industry, to be appointed by the President, after consultation with relevant industrial groups, with members appointed within 90 days after the date of enactment of this Act;

(6) four individuals representing the university research community, to be appointed by the President from a pool of applicants to be recommended by the National Academy of Sciences, with members appointed within 90 days after the date of enactment of this Act;

(7) one individual with expertise in biomedical ethics, to be appointed by the President from a pool of applicants to be recommended by the National Academy of Sciences, with such member being appointed within 90 days after the date of enactment of this Act; and

(8) one individual representing national foundations, medical institutes, and other philanthropic organizations involved in biomedical research, to be appointed by the President from a pool of applicants to be recommended by the National Academy of Sciences, with such a member being appointed within 90 days after the date of enactment of this Act.

(d) CHAIRMEN.—The Panel shall be cochaired by the Secretary of Energy and the Director of the National Institutes of Health or the designees of the Secretary and Director.

(e) FUNCTIONS.—The Panel shall—

(1) identify the optimal national strategy for mapping and sequencing the human genome utilizing for guidance information and recommendations from previous reports, including those of the Office of Tech-

nology Assessment and the National Academy of Sciences;

(2) determine research and development goals that will ensure United States leadership in human genome research;

(3) establish standards for the collection and storage of data and materials;

(4) assess the capability of existing common research resources, such as materials repositories and databases, and the need to enhance or expand such resources;

(5) monitor relevant research programs supported by Federal agencies and private funding sources;

(6) identify commercial opportunities arising from national research programs, and methods for improving the flow of knowledge and technological capability derived from this research to private companies for commercial use, primarily by United States companies;

(7) examine the usefulness of establishing cooperative agreements, associations, or consortia between government, university and private sector researchers to enhance human genome research efforts and technology transfer;

(8) evaluate methods of assuring that small businesses are able to contribute to genome development efforts and participate in commercial development of genome research;

(9) oversee interagency cooperation through datasharing, joint sponsorship of meetings, joint funding of research resources, and communication of annual budget plans;

(10) assess the needs, benefits, and risks of international cooperation in mapping and sequencing the human genome;

(11) evaluate the ethical considerations of research and development of products from mapping and sequencing the human genome; and

(12) evaluate appropriate forms of commercial protection for new biological materials, such as cell lines and their biotechnology derivatives, patent rights and ownership of data on the human genome, and provide advice to interested Federal agencies, the scientific community, and private industry.

(f) REPORTS.—Not later than 18 months after the date of enactment of this section, the Panel shall issue a report to the Congress and the President that contains recommendations based on the activities of the Panel under subsection (e). Additional reports shall be issued as the Panel considers necessary, or on demand of the Congress or the President.

SEC. 203. RESEARCH INITIATIVES.

The Secretary of Energy shall initiate and carry out a cooperative research program (hereafter referred to in this title as the "Human Genome Initiative") on—

(1) developing new techniques and improving existing methods for large-scale DNA mapping and sequencing, including the applications of automation and robotics;

(2) developing new methods of characterizing and locating genes using both computational and cloning techniques; and

(3) establishing computer facilities and developing computer data bases for the storage, retrieval, and dissemination of cloning, mapping and sequence information (including cross-references to other relevant data bases).

The Human Genome Initiative shall focus on improving and inventing algorithyms for analyzing DNA sequences, including methods for identifying coding regions, predicting protein structures and functions, and identifying genetic regulatory sites.

SEC. 204. PARTICIPATION OF NATIONAL LABORATORIES OF THE DEPARTMENT OF ENERGY.

(a) MISSION OF THE NATIONAL LABORATORIES.—The Secretary of Energy shall ensure that the National Laboratories of the Department of Energy participate in the Initiative, to the extent that such participation does not detract from the primary mission of the National Laboratory.

(b) AGREEMENTS.—The Secretary of Energy shall enter into agreements with other Federal agencies, with United States private industrial or research organizations, cooperative agreements, associations, consortia, or with any college or university as may be necessary to provide for the active participation of the National Laboratories of the Department of Energy in the Human Genome Initiative.

SEC. 205. PERSONNEL EXCHANGES.

The Secretary of Energy shall provide for temporary exchanges of personnel between any domestic firm or university referred to in this title and the National Laboratories of the Department of Energy that are participating in the Human Genome Initiative. The exchange of personnel shall be subject to such restrictions, limitations, terms and conditions as the Secretary of Energy considers necessary in the interests of national security.

SEC. 206. OTHER DEPARTMENT OF ENERGY RESOURCES, IN GENERAL.

(a) AVAILABILITY OF RESOURCES.—The Secretary of Energy shall make available to other departments or agencies of the Federal Government, and to any participant in research and development projects, any facilities, personnel, equipment, services, and other resources of the Department of Energy for the purpose of conducting research and development projects consistent with sections 203 and 204.

(b) REIMBURSEMENT.—The Secretary may make facilities available under this section only to the extent that the cost of the use of such facilities is reimbursed by the user.

SEC. 207. BUDGETING FOR HUMAN GENOME RESEARCH.

The Secretary of Energy, in preparing the research and development budget of the Department of Energy to be included in the annual budget submitted to the Congress by the President under section 1105(a) of title 31, United States Code, shall provide for programs, projects, and activities that advance research and technology development consistent with sections 203 and 204.

SEC. 208. INTERNAL REVENUE CODE TREATMENT.

(a) TAX EXEMPTIONS.—Any cooperative agreement, association, or consortium established by the Department of Energy or the National Laboratories of the Department of Energy, and which is consistent with the national strategy to be developed by the Panel, shall be treated as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code with respect to activities authorized by this title.

(b) BASIC RESEARCH PAYMENTS.—Any amounts transferred to an organization described in paragraph (a) by a participating member of such an organization shall be taken into account as basic research payments for purposes of section 41(a)(2) of such Code.

(c) CAPITAL GAINS TREATMENT.—

(1) No gain or loss shall be recognized in connection with the transfer pursuant to this title of any patent, copyright, trademark, trade secret, mask work, or other intellectual property by or between an organization described in paragraph (a) and any participating member of such an organization.

(2) If property is received in a transfer described in paragraph (1), the basis of the property in the hands of the transferee shall be the same as it would be in the hands of the transferor.

SEC. 209. ANTITRUST TREATMENT.

Any cooperative agreement, association, or consortia created by the Department of Energy or the National Laboratories of the Department of Energy pursuant to the provisions of this title, shall be considered a joint research and development venture within the meaning of section 2(a)(6) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.), for purposes of such Act.

TITLE III—SEMICONDUCTOR TECHNOLOGY MANUFACTURING EXCELLENCE INITIATIVE

SEC. 301. FINDINGS.

The Congress finds that—

(1) semiconductors and related microelectronic devices are key components in computers, telecommunications equipment, advanced defense systems, and other equipment;

(2) aggregate sales of such equipment, which are in excess of $230,000,000,000 annually, comprise a significant portion of the gross national product of the United States;

(3) the leadership position of the United States in advanced technology is threatened by—

(A) competition from foreign businesses which is promoted and facilitated by the increasingly active involvement of foreign governments; and

(B) other changes in the nature of foreign competition;

(4) the principal cause of the relative shift in strength of the United States and its semiconductor competitors is the establishment of a long-term goal by a major foreign competitor to achieve world superiority in semiconductor research and manufacturing technology and the pursuit of such goal by that competitor by effectively marshaling all of the government, industry, and academic resources needed to achieve that goal;

(5) although the United States semiconductor industry leads all other principal United States industries in terms of its reinvestment in research and development, this has been insufficient by worldwide standards;

(6) electronic equipment is essential to protect the national security of the United States, as is evidenced by the allocation of approximately 35 percent of the total research, development, and procurement budgets of the Department of Defense to electronics research;

(7) the Armed Forces of the United States will eventually depend extensively on foreign semiconductor technology unless significant steps are taken, and taken at an early date, to retain United States leadership in semiconductor technology research;

(8) it is in the interests of the national security and national economy of the United States for the United States to regain its traditional world leadership in the field of semiconductors;

(9) the most effective means of regaining that leadership is through a joint research effort of the Federal Government and private industry of the United States to improve semiconductor manufacturing technology and to develop practical uses for such technology;

(10) in order to meet the national defense needs of the United States and to ensure the continued vitality of a commercial manufacturing base in the United States, it is essential that priority be given to the development, demonstration, and advancement of the semiconductor technology base in the United States; and

(11) the National Laboratories of the Department of Energy are a major national research resource, and the extensive involvement of such laboratories in the semiconductor research initiatives of the Federal Government and private industry would be an effective use of such laboratories and would help ensure the success of such initiatives.

SEC. 302. ESTABLISHMENT OF THE SEMICONDUCTOR MANUFACTURING TECHNOLOGY RESEARCH INITIATIVE.

The Secretary of Energy shall initiate and carry out a program of research on semiconductor manufacturing research technology and on the practical applications of such technology (such program shall hereafter in this title referred to as the "Semiconductor Research Initiative"). The Secretary shall carry out the Semiconductor Research Initiative in a way as to complement the activities of Sematech or any other consortium of United States semiconductor manufacturers, materials manufacturers, and equipment manufacturers, established for the purpose of conducting research concerning advanced semiconductor manufacturing techniques and developing techniques to adopt manufacturing expertise to a variety of semiconductor products.

SEC. 303. PARTICIPATION OF NATIONAL LABORATORIES OF THE DEPARTMENT OF ENERGY.

(a) Mission of National Laboratories.—Each National Laboratory of the Department of Energy shall participate in research and development projects under the Semiconductor Research Initiative in conjunction with the Department of Defense, any consortium, college or university carrying out any such project for or in cooperation with the consortium referred to in section 302, to the extent that such participation does not detract from the primary mission of the National Laboratory.

(b) Agreements.—The Secretary of Energy shall enter into such agreements with the Secretary of Defense, with any consortium referred to in section 302 and with any college or university as may be necessary to provide for the active participation of the National Laboratories of the Department of Energy in the Semiconductor Research Initiative.

(c) Work Program.—The Semiconductor Research Initiative shall include provisions for one or more National Laboratories of the Department of Energy to conduct research and development activities relating to research on the development of semiconductor manufacturing technologies. Such activities may include research and development relating to materials fabrication, materials characterization, design and modeling of devices, and new manufacturing equipment.

SEC. 304. PERSONNEL EXCHANGES.

The Semiconductor Research Initiative shall include provisions for temporary exchanges of personnel between any domestic firm, the consortium referred to in section 302 and the National Laboratories of the Department of Energy that are participating in the Semiconductor Research Initiative. The exchange of personnel shall be subject to such restrictions, limitations, terms, and conditions as the Secretary of Energy consider necessary in the interest of national security.

SEC. 305. OTHER DEPARTMENT OF ENERGY RESOURCES, IN GENERAL.

(a) Availability of Resources.—The Secretary of Energy may make available to the Department of Defense, to any other department or agency of the Federal Government, and to any consortium that has entered into an agreement in furtherance of this Semiconductor Research Initiative any facilities, personnel, equipment, services and other resources of the Department of Energy for the purpose of conducting research and development projects under the Semiconductor Research Initiative consistent with section 303(a).

(b) Reimbursement.—The Secretary may make facilities available under this section only to the extent that the cost of the use of such facilities is reimbursed by the user.

SEC. 306. BUDGETING FOR SEMICONDUCTOR MANUFACTURING TECHNOLOGY RESEARCH.

The Secretary of Energy, in preparing the research and development budget of the Department of Energy to be included in the annual budget submitted to the Congress by the President under section 1105(a) of title 31, United States Code, shall provide for programs, projects, and activities that encourage the development of new technology in the field of semiconductors.

SEC. 307. COST-SHARING AGREEMENTS.

(a) Permitted Provisions.—The Director of each National Laboratory of the Department of Energy that is participating in the Semiconductor Research Initiative or the contractor operating any such National Laboratory may include in any research and development agreement, entered into with a domestic firm in connection with the Semiconductor Research Initiative a cooperative provision for the domestic firm to pay a portion of the cost of the research and development activities.

(b) Limitations.—(1) Not more than an amount equal to 10 percent of any National Laboratory's annual budget shall be received from nonappropriated funds derived from contracts entered into under the Initiative in any fiscal year except to the extent approved in advance by the Secretary of Energy.

(2) No Department of Energy National Laboratory may receive more than $10,000,000 of the nonappropriated funds under any cooperative research and development agreement entered into under this subsection in connection with the Semiconductor Research Initiative except to the extent approved in advance by the Secretary of Energy.

SEC. 308. DEPARTMENT OF ENERGY OVERSIGHT OF COOPERATIVE AGREEMENTS RELATING TO THE INITIATIVE.

(a) Provisions Relating to Disapproval and Modification of Agreements.—(1) The Secretary of Energy or his designee may review a cooperative research and development agreement for the purpose of disapproving or requiring the modification of the cooperative research and development agreement if the agreement exceeds $1,000,000. If the Secretary notifies the parties to the agreement of his intent to review the agreement, the agreement shall provide a 30-day period within which the agreement may be disapproved or modified beginning on the date of the agreement is submitted to the Secretary.

(2) In any case in which the Secretary of Energy or his designee disapproves or requires the modification of any agreement presented under this section, the Secretary of Energy or such designee shall transmit a written explanation of such disapproval or modification to the head of the laboratory concerned.

(b) Record of Agreements.—Each National Laboratory shall maintain a record of all agreements entered into under this section.

SEC. 309. AVOIDANCE OF DUPLICATION.

In carrying out the Semiconductor Research Initiative, the Secretary of Energy shall ensure that unnecessarily duplicative research is not performed at the research facilities (including the National Laboratories of the Department of Energy) that are participating in the Semiconductor Research Initiative.

SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There is authorized to be appropriated to the Department of Energy for each fiscal year 1989 through 1993, the additional sum of $25,000,000 per year, for the activities of the Department of Energy under the Semiconductor Research Initiative.

(b) Relationship to Other Funds Available to the Department of Defense.—Funds available to the Secretary of Energy in connection with activities of the Department of Energy under the Semiconductor Research Initiative shall be in addition to amounts available to the Department of Defense for semiconductor manufacturing technology research and development.

SEC. 311. INTERNAL REVENUE CODE TREATMENT.

(a) Tax Exemptions.—Any cooperative agreement, association, or consortium established by the Department of Energy or the National Laboratories of the Department of Energy, and which is consistent with the purposes of this title, shall be treated as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code with respect to activities authorized by this title.

(b) Basic Research Payments.—Any amounts transferred to an organization described in paragraph (a) by a participating member of such an organization shall be taken into account as basic research payments for purposes of section 41(a)(2) of such Code.

(c) Capital Gains Treatment.—

(1) No gain or loss shall be recognized in connection with the transfer pursuant to this title of any patent, copyright, trademark, trade secret, mask work, or other intellectual property by or between an organization described in paragraph (a) and any participating member of such an organization.

(2) If property is received in a transfer described in paragraph (1), the basis of the property in the hands of the transferee shall be the same as it would be in the hands of the transferor.

SEC. 312. ANTITRUST TREATMENT.

Any cooperative agreement, association, or consortia created by the Department of Energy or the National Laboratories of the Department of Energy pursuant to provisions of this title, shall be considered a joint research and development venture within the meaning of section 2(a)(6) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.), for purposes of such Act.

TITLE IV—TECHNOLOGY MANAGEMENT AT THE DEPARTMENT OF ENERGY NATIONAL LABORATORIES

SEC. 401. FINDINGS.

The Congress finds that—

(1) private industry has great interest in scientific collaboration with the Department of Energy National Laboratories but only if the present Department of Energy laboratory contracting process can be streamlined and intellectual property associated with joint ventures, adequately protected;

(2) management authority for intellectual property must be granted to the Directors of the Department of Energy National Laboratories to ensure that they can negotiate with industry to set up cooperative research and development agreements;

(3) the present Department of Energy policy of disseminating computer software publically, via the National Energy Software Center, has at times, benefited foreign companies and there should be a timely, consistent review procedure to ensure that the potential for practical applications is considered, when software is developed under a Department of Energy contract or may have involved some Department of Energy funding;

(4) the Department of Energy National Laboratories must be perceived as "user-friendly" in order for industry to seriously consider the laboratories partners for collaborative research and development ventures;

(5) the National Laboratories must aggressively seek contact with private industries to ensure that they recognize the technical and scientific expertise resident in these laboratories, in addition to publicizing the availability of user facilities and technological projects in process; and

(6) the National Laboratories have demonstrated successes in technology transfer into the private sector but the effort can be significantly enhanced if—

(A) industry becomes more aware of the laboratories research and development projects and capabilities;

(B) technology transfer is considered a significant part of each laboratory's mission;

(C) the laboratories become better educated in industry market requirements; and

(D) industry gets involved with the laboratories early enough in the research and development process to direct development of commercially viable products.

SEC. 402. PURPOSE.

The purpose of this title is to better meet the continuing responsibility of the Federal Government to ensure the full use of the results of the Nation's Federal investment in research and development in meeting international competition.

SEC. 403. POLICY.

It is the policy of Congress that intellectual property rights in technology or devices developed at the National Laboratories should be controlled in a manner that promotes the use of such technology and devices to improve the competitive advantage of the United States industries.

SEC. 404. DEFINITIONS.

For purposes of this title—

(1) The term "invention" means any invention which is or may be patentable or otherwise protected under title 35, United States Code, or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

(2) The term "subject invention" means any invention of a National Laboratory first conceived or reduced to practice in the performance of work under a contract or funding agreement for the operation of a National Laboratory.

(3) The term "made" when used in conjunction with any invention means the conception or first actual reduction to practice of such invention.

(4) The term "technical data" means recorded information of a scientific or technical nature regardless of form or the media on which it may be recorded.

(5) The term "computer software" means recorded information regardless of form or the media on which it may be recorded comprising computer programs or documentation thereof.

(6) The term "intellectual property" means patents, trademarks, copyrights, trade secrets, mask works, and other forms of intellectual property enacted by Congress or the States.

(7) The term "collaborative party" means a party to a cooperative research and development agreement as defined in paragraph (5).

(8) The term "laboratory owned" means any rights in intellectual property conveyed under this title to a contractor operating a National Laboratory or any rights in intellectual property arising under the operating contract for a National Laboratory where rights are not expressly taken by the United States Government or by a subcontractor.

SEC. 405. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

(a) GENERAL AUTHORITY.—The Secretary of Energy shall permit the director of any of its National Laboratories—

(1) to enter into cooperative research and development agreements on behalf of the Department of Energy with—

(A) other Federal agencies;

(B) units of State or local government;

(C) industrial organizations including corporations, partnerships, and limited partnerships, consortia, and industrial development organizations;

(D) public and private foundations;

(E) nonprofit organizations including universities; or

(F) other persons including licensees of inventions, technical data or computer software owned by the National Laboratory; and

(2) to negotiate intellectual property licensing agreements for National Laboratory owned inventions, technical data or computer software, assigned or licensed to the National Laboratory by third parties including voluntary assignment by employees.

(b) SPECIFIC AUTHORITY.—Under cooperative research and development agreements entered into pursuant to subsection (a)(1), the Director of a National Laboratory may—

(1) accept, retain, and use funds, personnel, services, and property from collaborating parties and provide personnel, services, and property to collaborating parties;

(2) grant or agree to grant in advance to a collaborating party, intellectual property licenses or assignments, or options thereto, in any invention, technical data or computer software, made in whole or in part by a National Laboratory employee under the cooperative research and development agreement; and

(3) to the extent consistent with Department of Energy requirements and standards of conduct, permit employees or former employees of the National Laboratory to participate in efforts to commercialize inventions, technical data or computer software such employees or former employees made while in the service of the National Laboratory.

(c) APPROVAL OF AGREEMENTS BY SECRETARY.—(1) If the value of an agreement entered into under this section does not exceed $1,000,000, the agreement shall not be subject to the approval of the Secretary of Energy.

(2) If the value of an agreement entered into under this section exceeds $1,000,000, but does not exceed $10,000,000 (the maximum amount for a cooperative research and development agreement), the Secretary of Energy or his designee shall approve, disapprove, or require the modification of the agreement. The agreement shall provide a 30-day period beginning on the date the agreement is presented to the Secretary of Energy or his designee by the head of the National Laboratory concerned, within which such action shall be taken. In any case in which the Secretary of Energy or his designee disapproves or requires the modification of any cooperative agreement presented under this section, the Secretary or his designee shall transmit a written explanation of such disapproval or modification to the head of the National Laboratory concerned. If such action is not taken within this 30-day period, the cooperative research and development agreement shall be deemed approved.

(d) LIMIT ON NUMBER OF AGREEMENTS.—The cumulative total of all agreements entered into by each National Laboratory Director under this section shall not exceed 10 percent of that laboratory's annual budget.

(e) RECORDS OF AGREEMENTS.—Each National Laboratory shall maintain a record of all agreements entered into under this section.

SEC. 406. CONTRACT CONSIDERATIONS.

(a) REGULATIONS AND PROCEDURES.—(1) The Office of Federal Procurement Policy may issue regulations or set forth suitable procedures for implementing the provisions of section 405(a)(1) after public comment. Implementation of section 405(a)(1) shall not be delayed until issuance of such regulations.

(2) Any regulations covering National Laboratory cooperative research and development agreements under section 405(a)(1) shall be guided by the purpose of this title.

(b) AGREEMENT CONSIDERATIONS.—The Director of the National Laboratory in deciding what cooperative research and development agreements to enter into shall—

(1) give special consideration to small business firms and consortia involving small business firms;

(2) give preference to business units located in the United States, which agree that products embodying inventions, technical data or computer software, made under the cooperative research and development agreement or produced through the use of such inventions, technical data or computer software, will be developed and manufactured substantially in the United States;

(3) in the case of any industrial organizations or other person subject to the control of a foreign company or government take into consideration whether or not such foreign government permits the United States agencies, organizations, or other persons to enter into cooperative research and development agreements and licensing agreements; and

(4) provide universities the opportunity to participate in such cooperative agreements when such participation will contribute to the purpose of this legislation.

(c) Record of Agreements.—The Department of Energy shall maintain a record of all agreements entered into under this section.

SEC. 407. PATENT OWNERSHIP AND THE CONDITIONS OF OWNERSHIP.

(a) Disposal of Title to Inventions.—Notwithstanding section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908), or any other provision of law, the Secretary of Energy shall dispose of the title to any subject invention made in the performance of a Department of Energy contract to operate any National Laboratory in the same manner as applied to small business and nonprofit organizations under chapter 18 of title 35, United States Code.

(b) Retention of Title by United States.—(1) Whenever a National Laboratory makes an invention to which the Department of Energy has determined to retain title at the time of contracting—

(A) for exceptional circumstances under section 202(a)(ii) of title 35, United States Code; or

(B) because the invention is made in the course of or under a funding agreement described in section 202(a)(iv) of title 35, United States Code,

the title to such invention shall be retained by the Government unless the National Laboratory at which the invention is made requests title to such invention and the Secretary of Energy does not notify the National Laboratory within 90 days of such request that the invention is covered by an exceptional circumstances determination or has been designated sensitive technical information as authorized by Federal statutes other than those involving export control.

(2) The Secretary may not use export control statutes or regulations as a basis for refusing a request for title under this subsection.

(3) The Secretary may not retain title to a subject invention under the exception set forth at section 202(a)(iv) of title 35, United States Code, without first determining that the invention has been classified or has been designated sensitive technical information as authorized by applicable statutes other than those involving export control. If the Secretary does not notify the requesting National Laboratory, the Laboratory shall be deemed to have elected title to the invention under the Government-wide contractor patentable ownership provisions of chapter 18 of title 35, United States Code.

SEC. 408. TECHNICAL DATA OR COMPUTER SOFTWARE AND THE CONDITIONS OF OWNERSHIP.

(a) Rights Retained by a National Laboratory.—Notwithstanding any other provision of law, the Secretary of Energy shall permit a National Laboratory to elect ownership to any intellectual property rights that can be established to protect technical data or computer software obtained or generated under a Department contract for the operation of such National Laboratory subject to a royalty free license to use and reproduce such technical data or computer software for United States Governmental purposes.

(b) Protection of Technical Data and Computer Software.—(1) Technical data or computer software obtained or generated by National Laboratory shall not be disclosed to the public if the Director of the National Laboratory or his designee determines that—

(A) the technical data or computer software is commercially valuable; and

(B) there is a reasonable expectation that disclosure of the technical data or computer software could cause substantial harm to the commercial application of such information.

(2) A cooperative research and development agreement which provides that technical data or computer software which meets the conditions of paragraph (1) obtained or generated—

(A) by the Department of Energy or the National Laboratory pursuant to such cooperative research and development agreement; or

(B) under a National Laboratory cooperative research and development agreement,

shall not be disclosed to the public.

(3) Documentation disclosing technical data or computer software subject to nondisclosure under paragraphs (1) and (2) shall not be considered as agency records under the Freedom of Information Act during the term of nondisclosure to the public.

(c) Regulations.—The Office of Federal Procurement Policy, in cooperation with other interested Federal agencies, shall issue within 180 days after the date of enactment of this title including 30 days for public comment, regulations establishing a standard contract clause to implement this section in the Department of Energy contract for the operation of any National Laboratory.

SEC. 409. SPECIAL RULE FOR WAIVER OF GOVERNMENT LICENSE RIGHTS.

Any of the rights of the Government or obligations of a National Laboratory described in chapter 18 of title 35, United States Code, including the license reserved in section 202(c)(4) of title 35, United States Code, may be waived or omitted if the Secretary of Energy determines that the interests of the United States and the general public will be better served or the objectives and policies of this title will be better promoted by such waiver or omission. A waiver or omission shall be considered—

(1) if it is necessary to obtain a uniquely or highly qualified contractor;

(2) if the invention involves cosponsored, cost-sharing or joint venture research and development, and the contractor, cosponsor or joint venturer is making substantial contribution of funds, facilities or equipment to the work performed on the invention; or

(3) if the invention will require substantial additional investment in development before a product is created and it is expected that the primary market for such product is the United States Government.

SEC. 410. INTELLECTUAL PROPERTY CONTRACT PROVISIONS.

(a) Contract Provisions.—Any Department of Energy contract to operate a National Laboratory shall provide—

(1) that any royalties or income that is earned by the National Laboratory from the licensing of laboratory-owned intellectual property rights in any fiscal year shall be used as authorized under subsection 202(c)(7)(E) of title 35, United States Code and section 13(a)(1)(B)(i)-(iv) and section 13(a)(2)-(4) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(B)(i)-(iv) and 3710c(a)(2)-(4));

(2) that the costs of obtaining and protecting intellectual property rights in any invention, technical data or computer software, owned by the National Laboratory shall be paid for by the Department of Energy to the extent not offset by royalty income earned from the licensing of National Laboratory-owned intellectual property rights; and

(3) that the management of intellectual property rights, including procurement and retention of such rights as well as licensing of such rights, in connection with laboratory-owned inventions, technical data and computer software shall be the responsibility of the Director of the National Laboratory at which the invention, technical data, or computer software are made, developed, or assigned.

(b) Compensation.—(1) Subject to paragraph (2), in return for retaining title to any intellectual property rights in any invention or discovery made in performance of a Department of Energy cooperative research agreement, the National Laboratory contractor shall pay to the United States reasonable compensation based on the value of the technology transferred. The amount of the payment arising as a result of the transfer shall be set by an arbitration board consisting of one member selected by the contractor, one member selected by the Secretary of Energy, and one member jointly selected by the contractor and the Secretary. In determining the payment, the arbitration board shall set an amount that is proportionate with the research and development costs funded by the United States. The arbitration board shall have discretion to permit the payment to be made in installments according to the extent the contractor uses or employs the intellectual property.

(2) This subsection shall not apply if—

(A) the contractor is operating the National Laboratory for no profit or fee beyond expenses; and

(B) the contractor is offering the intellectual property for fair market value and any value or royalties the contractor derives from the intellectual property will be returned to the National Laboratory or the Federal Treasury in accordance with section 202(c)(7)(E) of title 35, United States Code.

SEC. 411. MARCH-IN RIGHTS.

(a) Rights.—Each funding agreement for the operation of a National Laboratory shall contain a provision allowing the Department of Energy to require the licensing to third parties of inventions, technical data, or software owned by the contractor that are subject to the provisions of this title. Such provision will ensure that the technology is licensed and commercialized by affording similar Federal march-in rights provided for inventions under section 203 of title 35, United States Code, but will be applicable to all intellectual property for which title was acquired by the National Laboratory Directors under this title.

(b) Definition.—For purposes of this section, "third parties" and "third party applicants" are domestic entities located in the United States whose research, development, and manufacturing activities occur substantially in the United States. Domestic entities include industrial organizations, corporations, partnerships and limited partnerships and industrial development organizations; public and private foundations; nonprofit organizations such as universities and consortia.

(c) Regulations.—The Office of Federal Procurement Policy, in cooperation with other interested Federal agencies, shall issue within 180 days from enactment including 30 days for public comment, regulations to implement the march-in rights under this section.

SEC. 412. EFFECTIVE DATE.

This title shall take effect on the date of enactment. The Secretary of Energy shall immediately enter into negotiations with the contractors of the National Laboratories to amend all existing contracts for the operation of the National Laboratories, to reflect this title. Pending such amendment, the provisions of this title shall govern the disposition of all intellectual property rights covering laboratory-owned inventions, technical data, and computer software, generated in performance of Department of Energy contracts for the operation of the Department of Energy National Laboratories.

Mr. DOMENICI. Mr. President, I am pleased today to submit an amendment in the nature of a substitute for S. 1480, legislation that the Energy and Natural Resources Committee has spent much time reviewing since I introduced it 7 months ago.

This bill, known as the National Laboratory Cooperative Research Initiatives Act, has gone through a lot of changes since July, major changes. I would like to describe them for the benefit of my colleagues, as I consider this one of the major legislative opportunities the Senate will have this year.

The purpose of my substitute is the same as the purpose of the original bill: To integrate more effectively the expertise of our universities and private industry with the Department of Energy system of national laboratories in order to speed the development of technology in areas with significant economic potential.

What differs in this new version is how to get there.

How do we break down the barriers that are preventing or discouraging private industry and universities from working cooperatively with the national laboratories?

Specifically, this new version of S. 1480:

Gives the national laboratory directors the authority they need to enter into cooperative research and development agreements, without prior approval from DOE, thus streamlining the time and process in contracting with the national laboratories;

Ensures that technical data, computer software, and inventions developed under cooperative agreements are protected for commercial purposes;

Allows the national laboratory directors automatically to acquire rights to technologies developed within the laboratories, assuming that the technology is not classified, sensitive, or meets an exceptional circumstances criteria; this provision is significant since it provides the directors with a bargaining chip in negotiating cooperative agreements with private industry;

Gives the laboratory directors the authority to withhold for public disclosure technical data or computer software that may have commercial potential, in essence creating a trade secret;

Ensures that U.S. industry benefits from these new commercialization opportunities and jobs that grow from technologies developed under this legislation; and

Ensures that technology does not "sit on the shelf" by granting DOE rights to step in and require licensing of technology, after giving the laboratories a reasonable period to offer the technology for commercial development.

The Department of Energy national laboratories represent the largest single concentration of scientific and technical expertise and facilities in the world. This is a national asset that can be used to improve the Nation's ability to develop competitive products.

While the original purpose of these laboratories was to develop nuclear weapons and perform energy research, their mission has evolved into a diverse set of technologies, including: Biotechnology, nuclear medicine, electrochemistry, geophysics, microengineering, radiation hardened electronics, alternate energy sources, superconductivity, and various other basic science initiatives.

Thirteen laboratories are included within the national laboratory system under this new version of the bill. Under the previous version of S. 1480, nine multiprogram DOE laboratories had been included.

I have been persuaded by scientific representatives, that these four additional laboratories have major research efforts in technologies with economic potential.

The need for this bill has become increasingly apparent as we examine the U.S. trade deficit, month by month, looking for continued signs of improvement. We realize more vividly than ever, the impact that the trade balance and the budget deficit have on the economic wellbeing of our country, particularly after the stock market turmoil we experienced in the autumn.

All of us have asked ourselves what can be done to strengthen America's ability to compete internationally. We have the research and development expertise, we have the sense of innovation, the new inventions, and the marketing network to be successful. What we lack is the cooperative ability to quickly translate technological ideas and inventions into marketable products.

The problem is twofold: First, attracting industries and universities to take advantage of the scientific expertise of the national labs, and second, eliminating the redtape and delays in doing business with the national laboratories.

Without some assurance that contracting by the national laboratories can be significantly streamlined and that intellectual property—inventions, technical data, and computer software—can be adequately protected, private industry might never enter into cooperative research and development agreements with our national laboratories.

The more I became involved in S. 1480's content, the more I realized that it was wrong to limit the technology management provisions to only superconductivity, semiconductors, and the human genome.

Technology management was the key to success in commercial technology developed in the national laboratories, and should be applied to all technologies that have economic potential.

Consequently, I created a new title IV, a technology management title, extending the technology management provisions to all technologies.

I believe that this new technology management title will go far toward allowing all the key players—universities, private industry, and the DOE national laboratories—to work together as a team. Each of these players has a contribution to make in creating a new U.S. capability to produce innovative products, to make the United States stronger in an increasingly competitive world.

Our national laboratories provide an unequalled source of experience in high-risk, multidisciplinary research and development projects, as well as exceptional scientific and engineering expertise and facilities.

The universities provide the foundation for basic research and development, as well as a continuing source of new scientific and engineering personnel with up-to-date knowledge.

The private sector has specialized expertise in converting this research and development and turning it into products, then marketing the products.

It's time that we take the action called for in S. 1480.

I doubt that any of us question that America's strength is derived from our industrial base. Let's work together to strengthen that base. In this one instance, let us prove that the Federal Government can work to benefit industry, not to thwart it.

With that general discussion, I would now like to describe in some detail this revised version of S. 1480:

Title I sets up centers for research on critical technologies in high-temperature superconductivity, and provides a national organization to coordinate R&D and expedite the transfer of superconductivity research to industry.

This title has undergone only minor modifications from the version I introduced in July. But the significance of superconductivity and its potential for product development deserves review.

Annual sales of electronic and medical systems that depend on superconductors total about $400 million. With recent discoveries sales are expected to grow.

Recently new materials have been discovered that are superconducting at much higher temperatures. More progress has been made in superconducting materials over the past 2 years than was made in the previous 75 years. These recent discoveries will permit improvements, especially cost reductions, to be made in many of the existing superconducting technology applications.

For example, the cost of nuclear magnetic resonance imaging machines for medical applications should be reduced significantly so that this technology will be available to a larger portion of our population.

However, such applications seem minor in comparison to what will become possible if materials can be developed that are superconductive at room temperature. Many scientists are cautiously optimistic that this can be achieved.

In the future we may see extremely powerful electromagnets for magnetic fusion. Success in fusion would assure the world of an endless supply of energy. Powerful, yet compact and highly efficient, electric motors and generators are expected.

Magnetic propulsion and magnetic levitation may become commercial realities. Long term, efficient storage of electrical energy may be possible. Energy losses in utility electric power transmission networks may be eliminated.

The future seems unlimited to those who convert these concepts into products. That is why we must act, and this year.

This title, as well as title II of this amendment, contains no specific authorization in dollars. Each requires the appropriate Federal agencies to provide programs, projects, and activities that will encourage new technolgoies in the appropriate fields.

The national laboratories are already doing research and development work in superconductivity and human genome mapping, but it is managed and coordinated differently from the methods required in this bill.

The next title, title II, deals with another vital challenge, a national research effort to map and sequence the human genetic code.

This title will coordinate national research efforts and advance genome research and technology development at the national laboratories.

Just in recent days, the National Research Council of the National Academy of Sciences released its evaluation of the desirability and feasibility of a genome mapping and sequencing project. This impressive group of scientists stated clearly that such a project would be very worthwhile. They also argued, as I do today, that such a project requires special considerations that make it different than the ordinary types of biological research we finance. This effort needs considerable coordination and focus.

Title II establishes a national advisory panel on the human genome that will give the genome initiative a national focus. It will provide a forum for Government, universities, and private industry to set a national strategy, one that will assure U.S. leadership in this very important endeavor.

The panel's chairmanship and membership have been discussed over the past several months. I am convinced that our current version gives representation to the key sectors concerned with this significant research.

Representatives of the Department of Energy and the National Institutes of Health will chair the panel. In addition to balancing the representation from Government, universities, and industry, I have also included a representative from nonprofit organizations and an expert in biomedical ethics.

Mr. President, within our genetic structure lie the secrets of our life processes and many of the diseases that plague mankind. Located on the chromosomes within the nucleus of every cell are a series of genes that govern the growth and development of cells and organs in our body.

While researchers have come to understand the general structure of our genetic system, the locations and structures of individual genes remain, for the most part, a mystery. Researchers are just beginning to discover the locations of particular genes and analyze the sequences of those genes.

Creating a map of our genetic code, and the sequences of the genes contained therein, will provide extremely useful tools for biomedical research. It could very well spark a revolution in our understanding of biological science. Such a revolution could eventually lead to treatments and cures for an estimated 3,000 diseases that are believed to be linked to genetics.

In addition, these tools—and the technologies being developed to create the tools—will provide a strong basis for the emerging biotechnology industries that will find an enormous array of useful applications for this research.

The United States is certainly not alone in this field. We know that Japan has recognized the importance of genetic research and has targeted the biotechnology industry through a coordinated, focused, national effort. The nation that first develops this new scientific capability will certainly have an extremely potent economic resource.

While there is some coordination of Federal activities—and I applaud the efforts of these agencies—I do not believe there is enough. Nor do I believe we have the structures in place that will provide long-range, strategic guidance to a truly national effort, one that includes private industry.

Mr. President, if the United States is to lead the world in genome research and enable U.S. companies to benefit from that research, we need to coordinate the many and varied national resources we have, and commit ourselves to completing this project as expeditiously as possible.

Title III of my substitute establishes a cooperative Government/industry program of research on semiconductor manufacturing technology and the practical applications of that technology.

This title has not been revised in any major way from the original version of S. 1480. In fact, this title was enacted as part of the fiscal year 1988 Department of Defense authorization bill, Public Law 100-180. This title is necessary so that the national laboratories can participate as a partner with SEMATECH. In the next year we should have concrete evidence of the benefits of this partnership.

This title is included in the bill because the program requires reauthorization. Under this title the Secretary of Energy would initiate and carry out a program of research on semiconductor manufacturing technology and on the practical applications of that technology.

R&D projects would be entered into through cost-sharing agreements with private firms and universities. These agreements would allow access to the facilities and equipment of the National labs, and would provide for exchanges of personnel.

This title of the bill will strengthen the SEMATECH initiative by including DOE's national laboratories in this national effort. The national laboratories work would complement the overall SEMATECH work program.

Both the Semiconductor Research Corp., and the Semiconductor Industry Association believe that close collaboration with our national laboratories is essential for an effective national strategy for semiconductors. This was also the conclusion of the joint planning workshops sponsored by the National Academy of Sciences in February and May of last year.

According to the report released by the Academy:

> The workshop participants concluded that the facilities and expertise at the national laboratories represent a valuable set of resources that should be utilized effectively to augment the research capabilities of industry and universities.

A number of national laboratories have already submitted proposals for semiconductor manufacturing development.

Brookhaven has proposed the development of synchrotron x-ray lithography. Lawrence Berkeley has proposed the establishment of a process analysis and diagnostics program.

In my State, Sandia National Laboratories has proposed a center for compound semiconductor technology and a center for ultra clean silicon processing. Because these centers would expand on Sandia's expertise in radiation-hardened microelectronics, the work will be especially useful for space and strategic programs. However, because of the importance of semiconductors to our economic health, I want to review their applications and economic impact.

The basic building blocks of today's electronic systems are integrated circuits made from semiconducting materials. Annual sales of electronics products are presently close to $300 billion. By the year 2000, sales are expected to triple, and electronics will be second to agriculture in annual sales.

The dramatic growth in the electronics business can be traced to the fact that the number of transistors that can be packed onto a single chip of semiconducting material has increased, integrated circuit speed has increased, and integrated circuit reliability has increased, while integrated circuit costs have dropped dramatically. These advances are due to improvements in manufacturing technology.

Future success of the United States in electronics sales depends on strengthening our semiconductor manufacturing base. It is also important that we lead in developing applications for new compound semiconductor materials.

The primary payoff will sustain the health of our economy. Highly compact computer systems with huge memories that provide more rapid data retrieval, or perform complex scientific analyses, are assured. Computer controls for more and more mechanical systems will follow.

Applications of artificial intelligence could become commonplace, with computer-controlled robots performing routine manufacturing tasks.

To assist in the work of this title, $25 million in Federal spending is authorized for each of the 5 fiscal years beginning in fiscal year 1989.

The new title IV is the key to this revised bill. And as I have indicated previously, this title represents the biggest change from the original version of S. 1480. This title is entirely new, but it builds on and expands, current law which all witnesses agreed is working well and should be expanded to cover all national laboratories—regardless of mission, regardless of contractor, or regardless of operator.

It also expands the current law to include all types of protectable intellectual property.

This title provides the intellectual property and contracting tools necessary to ensure that technology is transferred from the national laboratories to the private sector in a way that leads to more rapid development of marketable products.

It applies to any technology developed by a national laboratory that may have potential for application by private industry.

This title moves the technology management function away from Washington into the national laboratories. I am convinced that this move is essential if we are to accelerate the development of marketable products.

As a result of hearing testimony, I have gained a whole new appreciation for the realities associated with private industry's requirements. The ability to move rapidly is critical to a firm's market opportunities. Preserving proprietary information and protecting intellectual property is the only way to gain an advantage over competitors and protect capital investments in R&D programs.

Cutting redtape, bureaucracy, time, paperwork, and uncertainties in dealing with the Government are objectives of this title. This will translate into savings in time and money for industry.

Under the title, laboratory directors are granted the authority to enter directly into cooperative R&D agreements with private industry and to negotiate for the rights to the technologies involved, including future royalties.

In negotiating cooperative agreements, the national laboratory directors must give preference to small businesses and businesses located in the United States. Universities will also be given special consideration.

The national laboratory directors will be able to withhold technical data or computer software from public dissemination when it is determined that this would damage the commercial potential of the data.

If the value of the cooperative agreement is less than $1 million, no DOE approval is required. If however, the value of the agreement is between $1 million and $10 million, the Secretary of Energy is given 30 days to disapprove or modify the agreement. No single agreement can exceed $10 million.

The total dollar value of cooperative agreements is limited to 10 percent of each laboratory's annual budget, so that these agreements do not siphon of the laboratory's ability to perform its primary mission.

Present Federal rights to go into the labs and release inventions for development—so-called "march-in rights"—are extended under the bill to technical data and computer software controlled by the national laboratories, if they are not being effectively used for product development.

The U.S. Government is automatically granted a nonexclusive, paid-up license to any technology for which the national laboratories are granted rights under this legislation. However, at the Secretary of Energy's discretion, this license can be waived if it is in the best interests of the Government. This may be necessary when the U.S. Government would be the only customer for a product, but substantial additional investment would be required before a product is created.

The royalties flowing from industrial application of technologies developed at the national laboratories are returned to the labs to further the research and development programs at each respective laboratory.

Technology developed as a result of these cooperative R&D agreements must be licensed to companies located in the United States that agree the resulting products will be researched, developed and manufactured substantially in the United States, thus ensuring that the United States benefits from these ventures in every possible way.

Each title in this new version of the bill has a specific set of objectives. But the purpose of the entire bill is to better integrate universities and private industry into the DOE national laboratory system, to speed the development of technology in areas of significant economic potential.

This is not something that we expect to achieve overnight. But passage of this bill will start us off in the right direction. It's a long road, but one we must travel if we hope to get to a more competitive position, internationally.

Mr. President, this is sound legislation. I am convinced that it is needed legislation. I urge my colleagues to study this new version of the bill. When they do, I am convinced they will see it as a golden opportunity to return America to the forefront of product development.

Mr. President, I ask unanimous consent that the amendment in the nature of a substitute be printed at this point in the RECORD, and I ask unanimous consent that the legislation be printed by the Senate on a bill form, as if it were new legislation. I also ask that a summary of the bill and a section-by-section analysis also appear in the RECORD following the text of the legislation.

Additionally, I ask unanimous consent that the following articles be printed in the RECORD.

"Technology Transfer Isn't Working," from Business Month, formerly Dun's Business Month.

The semiconductor industry and the national laboratories—executive summary, report of a workshop conducted by the Manufacturing Studies Board and National Materials Advisory Board Commission on Engineering and Technical Systems—National Research Council, February 27, 1987.

Letter to Senator Peter V. Domenici, dated September 21, 1987, from Larry W. Sumney, president, Semiconductor Research Corp., supporting S. 1480.

"New Superconductors May Have Significant Economic Impact," article by A.M. Wolsky, E.J. Daniels, and R.F. Giese, published in Logos, Argonne National Laboratory Publication, autumn 1987.

"Los Alamos Unveils Superconductivity Breakthrough," news release, dated February 24, 1988.

"New Process Improves Semiconductor Fabrication Technology," news release from Sandia National Laboratories, dated February 24, 1988.

"Expert Committee Finds Mapping and Sequencing Human Genome Feasible; Recommends $200 Million Annual Budget," news release from the National Research Council, dated February 11, 1988.

There being no objection, the material was ordered to be printed in the Record, as follows:

SECTION-BY-SECTION ANALYSIS OF NATIONAL LABORATORY COOPERATIVE RESEARCH INITIATIVES ACT, SENATE BILL 1480

General Findings

The Department of Energy has nine multiprogram National Laboratories which represent an annual government investment in Research and Development of about $5 billion.

The mission of these National laboratories has evolved over the years beyond their primary missions of basic science, energy research, and nuclear and weapons-related research to include such diverse technologies as: biotechnology; nuclear medicine; material science; microelectronics; space technology; electrochemistry; geophysics; environmental R & D; microengineering; and arms control verification.

These Laboratories have large and complex "user facilities", uncomparable research equipment, unparalleled computer facilities, and excellent research and support staffs.

These National laboratories have substantial experience in applied as well as exploratory Research and Development. The labs have extensive and unique expertise in conducting large-scale, long-term, goal-oriented, high-risk Research and Development projects using multi-disciplinary teams.

While each National laboratory has a technology transfer program, the commercialization potential of the laboratories Research and Development activities has been largely untapped, because private industry has not been sufficiently involved with the laboratories.

In order to increase the flow of technology from these laboratories to private industry, the laboratories must seek new partnerships with industry to aggressively merge the scientific and technological capabilities of the labs with the market pull of industry.

A new national initiative is needed whose goal would be to link the nation's capabilities for generating scientific and technological innovations to its capabilities for commercial activities.

General Purposes

To better integrate university and private industry into the National Laboratory system of the Department of Energy so as to speed the development of technology in areas of significant economic potential.

TITLE I—THE DEPARTMENT OF ENERGY NATIONAL LABORATORIES CENTERS FOR RESEARCH ON ENABLING TECHNOLOGIES FOR HIGH TEMPERATURE SUPERCONDUCTING APPLICATIONS

Findings

Recent developments in high-temperature superconducting materials hold great promise for highly efficient energy storage and transmission, medical, diagnostics, magnets for physics research and fusion reactors, and smaller supercomputers.

The United States is a world leader in basic research on high-temperature superconducting materials and programs supporting this research at the National Science Foundation and the Department of Energy should be maintained and strengthened.

In FY-86, the Department of Energy National laboratories devoted over $.5 billion to materials activities and employed approximately 2,000 scientists and engineers in the field of materials.

International interest in the commercialization of high-temperature superconducting materials is high and the key to success lies in the rapid development of these materials and the identification of applications.

The Department of Energy's Laboratories have demonstrated expertise in superconductivity research and a proven record in research in enabling technologies which can benefit industrial efforts in product development.

There have been significant milestone in superconductivity research and applications accomplished by the Department of Energy National laboratories. These include: the world's first superconducting accelerator for heavy ions; the desing, building and testing of a superconducting magnetic energy storage system for a electric power demonstration project; the first particle detector to use a large (107 tons) superconducting magnet; the first laboratory in the world to grow single crystals of a ceramic superconductor; the first American research organization to make a wire from the new superconducting materials and the first to put current through such a wire.

Much challenging work remains to be accomplished in superconductivity: understanding the basic physics of new superconductors; improving the flexibility of wires and tapes; streamlining the fabrication process; improving the physical properties and current carrying capacity of superconductors; and devising commercial processing techniques.

Purpose

To research critical enabling technologies to assist U.S. industry in the commercialization of high-temperature superconductors.

To provide national organization and coordination in the research, development, and commercialization of high-temperature superconductors.

To encourage private industry, university, and Department of Energy Laboratory interact through Centers for Research on Enabling Technologies at the Laboratories.

Establishment of the Superconductor Research Initiative

The Secretary of Energy is directed to carry out a cooperative program of research on enabling superconductor technology and practical applications of superconductor technology. (Hereafter referred to as the "Initiative".)

Participation of National Laboratories of the Department of Energy

The Secretary of Energy shall ensure that the National laboratories participation in the initiative does not detract from their primary mission.

The Secretary of Energy shall enter into such agreements with other Federal agencies, with U.S. private industrial or research organizations, consortias, or with any college or university as may be necessary to provide for the active participation of the National labs in the Initiative.

The Initiative shall include provisions for one or more national laboratories to conduct R & D on high-temperature superconductivity and associated technologies.

Formation of Council and Centers for Research on Enabling Technologies

The Secretary of Energy is authorized and directed to form a Council comprised of representatives of appropriate government agencies, universities and industry to provide guidance in setting goals and strategies for the timely research on critical enabling technologies in high-temperature superconductors. The Council should also set guidelines for the release of technical findings and developments.

The Secretary of Energy is authorized and directed to establish cooperative research centers in enabling technology for superconducting materials and applications at National Laboratories with appropriate university and private industry participants.

Centers should be located at Laboratories which demonstrate expertise in superconductivity research and research in associated technologies (e.g. thin film and bulk ceramic synthesis and processing; characterization of physical, chemical, and structural properties in materials).

Industry/National Laboratory Personnel Interchange

Visitations must be an important part of this program if it is to succeed, therefore, personnel from both the Laboratories and industry may participate in temporary assignments. U.S. industry personnel may have temporary assignments at the National Laboratories; and likewise, Laboratory personnel may have assignments with private industry on a rotating basis in order to maximize the exchange of knowledge. However, this activity should be carried out so as not to jeopardize security at the National Laboratories.

Other Department of Energy Resources

The Secretary of Energy shall make available to participants in research and development projects under the Initiative, resources of the DOE. This provides that participants in the Initiative may make use of DOE facilities, personnel, equipment, services, and other resources to the extent that the cost of the use of such facilities is reimbursed by the user.

Budgeting for Superconductivity Research

The Secretary of Energy shall provide in his annual budget submission to Congress by the President, for programs, projects, and activities that encourage the development of new technology in the field of superconductivity.

Cost Sharing Agreements

The National laboratory directors are directed to seek cost sharing from private industry and university participants through such cost sharing provisions in cooperative research and development agreements.

Any national laboratory cannot receive more than 10 percent of its annual budget from non-appropriated funds, during any one fiscal year, derived from contracts entered into under the Initiative, unless approved in advance by the Secretary of Energy. This ensures that the aggregate of cooperative agreement commitments for the national laboratories does not grow to be too large a share of their responsibilities and detract from the primary mission of the laboratory.

The value of a cooperative research and development agreement entered into by a National laboratory under this Initiative can not exceed $10,000,000, unless approved in advance by the Secretary of Energy. This creates another limitation on the Laboratory Directors to ensure that these cooperative R&D agreements do not get out of hand and compete with resources that are needed for the primary mission. It also provides DOE with the opportunity to review a cooperative R&D agreement if it exceeds the limits set, thereby providing oversight of large dollar projects.

Avoidance of Duplication

The Secretary of Energy shall ensure that unnecessarily duplicative research is not performed at the research facilities, including the National laboratories, that are participating in this Initiative.

Internal Revenue Code Considerations

Provide that cost sharing funds of private industry qualify for research and development tax credit.

TITLE II—THE HUMAN GENOME INITIATIVE

Findings

Knowledge relating to the location and sequences of genes on human chromosomes will greatly enhance our ability to understand biological development processes and to develop prevention and treatment methods for many diseases.

The health and well being of our Nation depends on the medical breakthroughs that will follow from mapping and eventually sequencing our human genetic code—known as the human genome.

The knowledge gained—and the countless applications that will be derived from the knowledge—will be very economically important to the nation that assembles these important biomedical research tools.

The Department of Energy has conducted extensive research on human genetics, and it is a compatible and essential part of the Department of Energy's National Laboratories' mission to participate in research and development projects to map and sequence the human genome.

The Secretary of Energy should augment and accelerate the Department's ongoing genetic science research.

In addition to the Department of Energy, several Federal agencies—most notably the National Institutes of Health and the National Science Foundation—are presently funding research related to mapping and sequencing of the human genome.

In order to most efficiently expend research funds and most expeditiously advance our understanding of human genetics, it is essential that the agencies involved coordinate research efforts.

In order to enhance the competitiveness of the U.S. biotechnology industry, the transfer of knowledge and technological capability derived from this research must flow more quickly and smoothly from government supported laboratories to private, commercial applications.

Creation of a National Advisory Panel

Several Federal agencies are currently conducting genome research, as are many universities, private institutes and companies. And while some cooperation has occurred between key government agencies, no formal process is established for cordinating Federal efforts to research the genome. Neither is there established any real working relationship between government and non-government researchers.

Because of the size of the project, and the need for project-oriented technology development, the overall effort to map and eventually sequence the human genome could be greatly enhanced by establishing a body to coordinate and direct national research efforts. Toward this end a National Advisory Panel on the Human Genome is created to coordinate the following:

National genome mapping research activities to ensure the expeditious construction of genome maps.

The development of new tools and technologies to analyze genetic material and information—in cooperation with non-public researchers.

The development of systems to enhance technology transfer from national genome research efforts to commercial applications primarily by U.S. companies.

Membership of the National Advisory Panel:

Four government members representing the Department of Energy, National Institutes of Health, National Science Foundation, and the National Library of Medicine.

Four members representing private industry,

Four members representing the university research community,

One member with expertise in biomedical ethics,

One representative of national foundations or philanthropic organizations involved in biomedical research.

National Advisory Panel to be co-chaired by the Department of Energy and National Institutes of Health.

National Advisory Panel would have the following types of functions:

To coordinate a national strategy for conducting human genome research that will assure U.S. leadership in the field.

To promote cooperation between public and private research efforts that will improve the quality and usefulness of genome research and provide for the timely transfer of knowledge and technology to commercial applications, primarily by U.S. companies.

To evaluate, and make recommendations concerning, the ethical and moral concerns raised by research on the human genome.

To evaluate the needs, benefits, and risks of international cooperation in human genome research.

To determine appropriate protections (patents, copyrights, etc.) for data on human genome, and new biological materials such as cell lines and their derivatives which result from the applications of biotechnology.

Research Initiatives

This section directs the Secretary to improve on current genome research activities within the Department of Energy.

Participation of National Laboratories

The strategies to be laid out by the National Advisory Panel may recommend the formation of certain cooperative arrangements between government, university, and private-sector labs. This section is intended to assure that the DOE National Laboratories are allowed to fully participate in any such cooperative agreements, as long as their participation does not detract from the National Laboratories' primary mission.

Personnel Exchanges and Other DOE Resources

In order for the project to be successful, there must be considerable collaboration between many different types of scientists and between scientists from different labs. For this reason, the National Laboratories are permitted to exchange personnel and make available necessary resources of the Department of Energy for the purpose of conducting research consistent with the National Advisory Panel strategy.

Budgeting for Genome Research

This section is intended to assure that genome research at the DOE would be identified in their annual budget.

Internal Revenue Code Considerations

Provide tax-exempt status for the Human Genome Consortium, association, or cooperative agreement consistent with the national strategy to be developed by the National Advisory Panel.

Provide that basic research payments transferred to the Human Genome organizations qualify for R&D tax credits.

Provide that there is no taxable event upon the transfer of technology from the Human Genome organizations to the member companies.

Antitrust

Provide for an expedited review for Human Genome organizations described in this title, under the National Cooperative Research Act.

TITLE III—SEMICONDUCTOR MANUFACTURING EXCELLENCE INITIATIVE

Findings

Semiconductors and related microelectronic devices are key components in computers, telecommunications, advanced defense systems and other equipment which together represent $230 billion in annual sales;

The leadership position of this country in high technology areas is threatened by the changing nature of foreign competition, which is often strongly supported by the national governments involved;

The United States Semiconductor industry leads all other principal U.S. industries in terms of its investment in research and development. The U.S. reinvested eighty-three percent of pretax profits however, this has been insufficiently by worldwide standards;

Technological superiority is a vital battlefield advantage for United States military forces;

The critical role of electronics to our national defense is evidenced by the fact that the Department of Defense expends thirty-five percent of its research, development and procurement funds on electronics research;

A principal factor responsible for the relative shift in strength of the U.S. and its semiconductor competitors is the fact that the major competitor established a strategic, long term goal of world superiority in semiconductor research and manufacturing technology.

It is in the interests of the national security and national economy of the United States to create a partnership between private industry and the federal government to improve semiconductor manufacturing technology and to facilitate practical deployment of such technology in order to regain the United States' traditional world leadership in the field of semiconductors;

Priority should be given to the development, demonstration and advancement of the semiconductor technology base in order to meet the needs of our Defense Department and to ensure the continued vitality of a commercial manufacturing base;

The Department of Defense is supporting the formation of Sematech to provide a national focus in assuring the vitality of the U.S. semiconductor industry in view of that industry's importance to national security. The Department of Energy's National Laboratories can provide essential support for this effort.

The Department of Energy's National Laboratories have large and complex "user facilities," uncomparable research equipment, unparalleled computer facilities, and excellent research and support staffs in the area of semiconductor technology.

It is in the national interest to ensure that the rights in intellectual property be used to commercialize this new technology rapidly and effectively by the U.S. semiconductor industry;

Interaction between industry and government in order to achieve program consensus is extremely important for the success of this initiative.

To facilitate an exchange of knowledge, certain National Laboratory personnel may be temporarily assigned to Sematech and U.S. industry personnel may be temporarily assigned to the National Laboratories.

Purpose

To establish and conduct a cooperative government/industry program of research on semiconductor manufacturing technology and on the practical applications of such technology. And to apply effectively the unique capabilities of the Department of Energy's National Laboratories in this effort.

Role of Department of Defense

Instruct the Secretary of Defense to establish and conduct a cooperative government/industry program of research on semiconductor manufacturing technology and on the practical applications of such technology.

Instruct the Secretary of Defense to consult, advise and coordinate with the Secretary of Energy and other departments as the Secretary of Defense deems appropriate.

Role of the Department of Energy's National Laboratories

Provide that it is a compatible and essential part of the Department of Energy, and hence the National Laboratories' mission to participate in research and development projects in advanced semiconductor manufacturing techniques in conjunction with the Department of Defense, Department of Commerce, private consortia such as Sematech, universities and others.

Instruct the Secretary of Energy to enter into agreements with Department of Defense, industry consortia such as Sematech and universities working with Sematech to use the National Laboratories' expertise to assist in the research and development of advanced semiconductor technology.

Instruct the Secretary of Energy to include in his annual planning for the Research and Development budget such work as to encourage development of new technology in semiconductors.

Authorize an additional $25 million for additional research and development in this area; to accelerate and compliment ongoing research and to work in conjunction with U.S. industry in areas which are essential to manufacturing success.

Instruct the Secretary of Defense to consult, advise, and coordinate with the Secretary of Energy and other heads of appropriate government agencies to insure that the resources existing at the National Laboratories are used to enhance the semiconductor manufacturing technology program and to avoid duplication.

Work Program for Sematech

Should follow the Sematech business plan. Areas to be developed in cooperation with U.S. industry should include research and development in such areas as advanced semiconductor manufacturing techniques, including sub-micron lithography, deposition, advanced materials, etching, cleaning and epitaxy, silicon process integration; new compound semiconductors and devices that are the basis for optoelectronics and optical communications; Test and demonstrate these techniques on an actual production line; develop techniques for adapting the processes which are proven on the demonstration line to provide flexible manufacturing so that the techniques can be applied to the manufacture of a wide variety of other products; create an automated and computer integrated manufacturing pilot emphasizing flexibility and high-volume.

Work Program for DOE National Laboratories Participating in the Semiconductor Initiative

Program should complement the Sematech work program.

Research and development in silicon and compound semiconductors should be performed in cooperation with U.S. industry. Progam should emphasize advanced semiconductor manufacturing technologies including: ultra clean processing, processing technology for ultra high density silicon circuits, and improved compound semiconductors and devices. The program may further include materials fabrication, materials characterization, device design and modeling, working with industry to develop new processing equipment and related activities.

Establishment of the Semiconductor Manufacturing Technology Research Initiative

The Secretary of Energy is directed to carry out a cooperative program of research on semiconductor manufacturing research technology and on the practical applications of such technology. (Hereafter referred to so as to complement the activities of Sematech (a consortium of semiconductor manufacturers, materials manufacturers, and equipment manufacturers)).

Participation of National Laboratories of the Department of Energy

The Secretary of Energy shall ensure that the National laboratories participation in the initiative does not detract from their primary mission and that the laboratories participate with the Department of Defense, any consortium, college or university working with the consortium.

The Secretary of Energy shall enter into such agreements with other Federal agencies, with U.S. private industrial or research organizations, consortias, or with any college or university as may be necessary to provide for the active participation of the National labs in the Initiative.

The Iniatitive shall include provisions for one or more national laboratories to conduct R&D activities relating to semiconductor manufacturing technologies. These activities may include R&D on materials fabication, materials characterization, design and modeling of devices, and new processing equipment.

Personnel Exchanges

Visitations must be an important part of this program if it is to succeed, therefore, personnel from the National laboratories, Sematech, and industry may participate in temporary assignments. U.S. industry or Sematech personnel may have temporary assignments at the National laboratories; and likewise, laboratory personnel may have assignments with private industry or Sematech on a rotating basis in order to maximize the exchange of knowledge. However, this activity should be carried out so as not to jeopardize security at the National laboratories.

Other Department of Energy Resources

The Secretary of Energy shall make available to participants in research and development projects under the Initiative, resources of the DOE. This provides that participants in the Initiative may make use of DOE facilities, personnel, equipment, services, and other resources to the extent that the cost of the use of such facilities is reimbursed by the user.

Budgeting for Semiconductor Manufacturing Technology Research

The Secretary of Energy shall provide in his annual budget submission to Congress by the President, for programs, projects, and activities that encourage the development of new technology in the field of semiconductors.

Cost Sharing Agreements

The National laboratory directors are directed to seek cost sharing from private industry and university participants through such cost sharing provisions in cooperative research and development agreements.

Any national laboratory cannot receive more than 10 percent of its annual budget from non-appropriated funds, during any one fiscal year, derived from contracts entered into under the Initiative, unless approved in advance by the Secretary of Energy. This ensures that the aggregate of cooperative agreement commitments for the national laboratories does not grow to be too large a share of their responsibilities and detract from the primary mission of the laboratory.

The value of a cooperative research and development agreement entered into by a National laboratory under this Initiative can not exceed $10,000,000, unless approved in advance by the Secretary of Energy. This creates another limitation on the Laboratory Directors to ensure that these cooperative R&D agreements do not get out of hand and compete with resources that are needed for the primary mission. It also provides DOE with the opportunity to review a cooperative R&D agreement if it exceeds the limits set, thereby providing oversight of large dollar projects.

Avoidance of Duplication

The Secretary of Energy shall ensure that unnecessarily duplicative research is not performed at the research facilities, including the National laboratories, that are participating in this Initiative.

Additional Considerations

This Act shall take precedence over any other Act which would require a disposition of rights in intellectual property or treatment of collaborative agreements in a manner inconsistent with this Act, including but not necessarily limited to section 152 of the Atomic Energy Act of 1954 (42 USC 2182) and Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 USC 5901)

Nothing in this section shall be construed to limit the DOE National Laboratories from performing other semiconductor technology-related research and development arranged for, or approved by the Secretary of Energy or his delegate. In such activities under this subsection, the Secretary of Energy is authorized to seek reimbursement from non-governmental funds such portion of the laboratories' cost as the Secretary determines to be appropriate.

Provide that although DOE may promulgate regulations, the law shall apply immediately.

Internal Revenue Code Considerations

Provide that cost sharing funds of private industry qualify for research and development tax credit.

Provide tax-exempt status for Sematech.

Provide that contributions of Sematech shall qualify for the R&D tax credit.

Provide that there is no taxable event upon the transfer of technology from Sematech to the member companies.

Antitrust

Provide that all activities set forth in this Act undertaken by private industry shall be covered by the National Cooperative Research Act.

Provide an expedited review for Sematech under the National Cooperative Research Act.

TITLE IV—TECHNOLOGY MANAGEMENT AT THE DEPARTMENT OF ENERGY NATIONAL LABORATORIES

Findings

Private industry has great interest in scientific collaboration with the Department of Energy National laboratories, but only if the present DOE laboratory contracting process can be streamlined and intellectual property associated with joint ventures adequately protected.

Management of intellectual property must be provided to the Directors of the Department of Energy National laboratories to ensure that they can negotiate with industry to set up cooperative research and development agreements.

The present DOE policy of disseminating computer software publicly, via the National Energy Software Center, despite its commercialization potential, has at times benefited foreign companies. There does not appear to be a timely, consistent review procedure to ensure that commercialization potential is considered, when software is developed under a DOE contract or may have involved some DOE funding.

The Department of Energy National laboratories must be perceived as "user-friendly" in order for industry to seriously consider the laboratories partners for collaborative research and development ventures.

The National laboratories must agressively seek contact with private industries to ensure that they recognize the technical and scientific expertise resident in these laboratories, in addition to publicizing the availability of user facilities and technological projects in process.

The National laboratories have demonstrated successes in technology transfer into the private sector but the effort has been modest for many reasons: industry has not been sufficiently involved with the laboratories; technology transfer was not considered a significant laboratory mission; the laboratories were not well versed in industry market requirements; and industry was not involved with the laboratories early enough in the R&D process to direct development of commercially viable products.

Purpose

In general, to better meet the continuing responsibility of the Federal government to ensure the full use of the results of the Nation's Federal investment in research and development in meeting international competition.

Provide the intellectual property and contracting tools necessary to ensure that technology transfer from the National laboratories to the private sector is enhanced to better take advantage of our Research and Development accomplishments through the rapid commercialization of marketable products.

Policy

It is the policy of Congress that intellectual property rights in technology or devices developed at the National laboratories be controlled in a manner that promotes the use of such technology and devices to improve the competitive advantage of United States industries.

Technology Management at the Department of Energy National Laboratories

Lists 13 laboratories which, for purposes of this title, are defined as National laboratories. The Naval Nuclear Propulsion Reactor laboratories are specifically excluded from the provisions of this title.

"Subject invention" definition is included to ensure that it is clear that this is an invention which is first conceived or reduced to practice under a contract/funding agreement to operate a National laboratory.

New definitions of "technical data" and "computer software" were developed to cover technological advances in recording media and to ensure that all such data is protectable as intellectual property, independent of its form (e.g. engineering drawings, computer printouts, magnetic tape recordings, laser discs, etc.).

The definition of "intellectual property" was expanded beyond P.L. 99-502 (Federal Technology Transfer Act of 1986) which just addressed patents. Trademarks, copyrights, trade secrets, and mask works are also considered significant forms of intellectual property, with commercialization relevance. The ownership of all of these forms of intellectual property are valuable negotiating factors for the National laboratory directors in their negotiation of cooperative research and development or licensing agreements. Since Congress and the States are empowered to enact other forms of intellectual property, these would also be included under the definition once officially enacted.

"Laboratory owned" was included in the definitions because a number of Department of Energy National laboratories are not considered legal entities.

Cooperative Research and Development Agreements

The Secretary of Energy shall permit the National laboratory directors to enter into cooperative research and development agreements with other legal entities on behalf of the DOE.

Current law, Section 2 of the Federal Technology Transfer Act of 1986 (P.L. 99-502) only gives the Government Operated, Federal laboratories the authority to enter into cooperative R&D agreements. This provision would allow the Government Owned, Contractor Operated Federal laboratories (GOCO's) the same authority to enter into such cooperative agreements. This would streamline the current procedures to get DOE approval of a collaborative agreement, which are long and cumbersome. These current procedures have frequently been cited by private industry as a disincentive for entering into collaborative agreements with the National laboratories.

When the value of the cooperative agreement is under $1 million, it is not subject to the approval of the Secretary of Energy. For these small dollar cooperative efforts, timeliness and lack of red tape are key factors in industry's willingness to collaborate with the national laboratories.

When the value of the cooperative agreement is over $1 million but not greater than $10 million, the Secretary of Energy has the opportunity to disapprove or modify the cooperative agreement, within a 30-day period of its presentation to him or her. If the Secretary does not notify the Director of the laboratory concerned within this 30-day period, in writing explaining the reason for such modification or disapproval, the agreement is deemed approved. Department of Energy approval of major cooperative agreements was considered a necessary function related to DOE's oversight responsibility. The 30-day timeframe was established so as to be responsive to industry requirements and is consistent with Section 2 of the Federal Technology Transfer Act of 1986 (P.L. 99-502).

The cumulative total of cooperative R&D agreements for each National laboratory cannot exceed 10 percent of that laboratory's annual budget. This ensures that these cooperative agreements do not require too large a share of the lab's resources.

The Secretary of Energy shall permit the Director of any National laboratory to negotiate intellectual property licensing agreements for laboratory-owned or assigned inventions, technical data or computer software. Current law (P.L. 99-502 Section 2) provides this authority to Government Operated Federal laboratories, this provision would expand that authority to Government Owned, Contractor Operated laboratories as well. Moreover, this provision expands intellectual property licensing to cover technical data and computer software, whereas P.L. 99-502 section 2 only applies to inventions.

Reason for change: The authority to enter into cooperative research and development agreements and to be able to negotiate intellectual property licensing should be expanded to cover all national laboratories participating in this research initiative, therefore, Government Owned, Contractor Operated laboratories should be included in these Technology Transfer Act of 1986 provisions. With respect to expanding intellectual property licensing to include technical data and computer software as well as inventions, protection of this type of data is just as significant for potential commercialization and ensures a participant in a cooperative agreement that their investment is protected from other competitors. The results of a cooperative research and development agreement could include various software packages, engineering drawings, specifications, other technical data in addition to inventions.

The Director of the National laboratory may, under a cooperative research and development agreement, accept, retain, and use funds, personnel, services, and property from collaborating parties and provide them the same. He may also grant in advance to a collaborating party, intellectual property licenses to inventions, technical data or software developed under a cooperative agreement. To the extent possible, emloyees or former employees of the National laboratory should be allowed to participate in commericalization of inventions, technical date or software that they made while employed at the National laboratory.

Contract Considerations

The Office of Federal Procurement Policy (OFPP) is authorized to issue regulations implementing the National laboratory directors ability to enter into cooperative research and development agreements and to negotiate intellectual property licensing for laboratory-owned inventions, technical data and computer software. However, implementation of these provisions shall take effect on the date of enactment of this legislation.

The Director of the National laboratory, when deciding what cooperative agreements to enter into shall, give special consideration to: small business firms; to firms located in the United States which agree that inventions, technical data or computer software resulting from the cooperative agreement will be substantially developed and manufactured in the United States; and universities when their participation will contribute to the purposes of this Title.

Current law: P.L. 99-502 Section 2 and Title 35 U.S.C. Section 200 only requires that inventions developed as a result of a cooperative R&D agreement need be included in consideration, whereas this provision includes technical data and software as well. Moreover, the National laboratory director besides giving preference to small businesses and business units located in the U.S. which agree to manufacture resulting products in the U.S., this provision suggests that the developmental works also be performed in the U.S. This was added to ensure that the U.S. benefits from the results of these cooperative agreements with respect to international competitiveness, jobs in manufacturing, technological innovation, and research and development opportunities. The definition of a U.S. company has become complicated by various types of ownerships, subsidiary arrangements, and the fact that frequently U.S. companies use foreign locations for manufacturing facilities.

Each National laboratory will maintain a record of all agreements entered into under this section.

Patent Ownership and the Considerations of Ownership

All National laboratory contractors would be provided the same rights to elect title to inventions developed under federally funded R & D work, as that provided to universities, non-profits and small, for profit business contractors under current law (Section 200 et seq. of Title 35 U.S.C.).

The Secretary of Energy can retain the title to inventions for exceptional circumstances under Section 202 (a) ii, Title 35 U.S.C. or because the invention is made under a funding agreement which includes a GOCO DOE facility primarily involved in naval nuclear propulsion or weapons programs (Section 202 (a) (iv). The title to such inventions will be retained by the government unless the National laboratory involved, requests title. The Secretary of Energy has 90 days after the request, to notify the lab of the exceptional circumstances determination or that the invention is classified or has been designated sensitive technical information, otherwise the requesting National laboratory shall be deemed to have elected title.

Technical Data or Computer Software and the Conditions of Ownership

The Secretary of Energy shall permit its National laboratories to elect ownership of any intellectual property rights to protect technical data or computer software, generated under a DOE contract for operation of the laboratory, subject to a royalty free license for the U.S. government.

This section provides the Directors of the National laboratories, once they acquire ownership of the intellectual property, the ability to establish a trade secret based on the commerical potential of the technical data or software. If public disclosure of this data is expected to cause substantial harm to the commerical application, the laboratory director can withhold it from the public. This provision would apply to technical data or software obtained or generated under a cooperative research and development agreement, by the National laboratory, or by the agency pursuant to such a cooperative agreement.

Current policy: Software generated under a DOE contract or involving any DOE funding, is automatically owned by the Department of Energy and routinely turned over to the National Energy Software Center (NESC) public code repository. This public disclosure software process is accomplished without due consideration of commercial potential for U.S. companies.

Reason for change: There have been a number of instances when foreign companies have acquired software packages from NESC, at nominal cost, commercialized this software and resold it internationally, to include U.S. companies. This section would ensure that commercialization potential can be taken into consideration before software is publically disclosed. Furthermore, the laboratory directors, in negotiating cooperative agreements, could provide assurances to private industry that software or technical data that they already own, or that is generated under a cooperative agreement, would be adequately protected. Otherwise, these companies would be hesitant to enter into such agreements much less risk investment capital to such a venture.

In addition, this section is consistent with paragraph B6 of Executive Order 12591 which states that there should be a uniform policy permitting Federal contractors to retain rights to software, engineering drawings, and other technical data generated by Federal grants or contracts.

The Office of Federal Procurement Policy (OFPP) would be responsible for developing a standard contract clause for DOE contracts for operation of the National laboratories, providing the laboratory directors with the authority to own intellectual property and therefore to be able to properly protect it under cooperative agreements. This further ensures consistency with respect to the rights of all National laboratories.

Special Rule for Waiver of Government License Rights

When the contractor-operator of any of the National laboratories elects title to inventions, technical data or software under the provisions of ths title, the government is automatically provided with a nonexclusive, paid-up license to that technology or device. The Secretary of Energy may waive this license or other rights reserved in sections 200-204, Title 35, U.S.C., when he determines that the interests of the United States and general public will be better served or the objectives of this Title better promoted.

Reason for change: This is a new concept intended to encourage private industry to develop products that only the government is expected to purchase. Technical advances made at DOE laboratories may require further development to bring the advances to the point of commercialization. It is often advantageous from the government viewpoint, to call upon private risk capital to perform the requisite development and marketing. Without intellectual property protections, however, a competitor may reap rewards attributable a market pioneer without commensurate investment. In some cases, the government's reserve license may be a disincentive to private industry to develop products and services which primarily address a government market. The reserve license, rather than saving the government the cost of royalities, may end up depriving the government of new products and services. (Note that under Section 1498, Title 28 U.S.C., the government may authorize a competitor to use a patented invention, leaving the patent holder an action for reasonable compensation.)

Intellectual Property Contract Provisions

A Department of Energy contract to operate a National laboratory shall provide that royalties or income earned by the National laboratory as a result of licensing of laboratory owned intellectual property rights, under this Title, shall be used to further the objectives of this Act. The use of this royalty income would be guided by Section 202(c)(7)(e), Title 35, U.S.C. for Government Owned, Contractor Operated facilities and by Section 3710c (a)(1) (B) (i)-(iv), Title 15, U.S.C. for Government Owned, Government Operated laboratories. Appropriate use of royalty income would include:

Laboratory costs to obtain intellectual property rights in furtherance of the Act;

Costs of procuring patents/licenses/copyrights/etc. for subject intellectual property, payments to authors and inventors, support of scientific research, development and education at the laboratory, furthering scientific exchange among GOGO's of the agency, and rewarding of scientific, engineering, and technical employees of the laboratory.

The management of the intellectual property, including procurement and licensing, shall be administerd by the contractor employees at the National laboratory, instead of in Washington.

Current Law: Section 202 (c) (7) (C) and (E) are similar to the proposed section, however, current law only applies to the nonprofit and small business contractors and excludes facilities primarily dedicated to weapons related and naval nuclear propulsion programs of DOE.

Reason for Change: These provisions need to be expanded to cover all National laboratories participating in this Initiative, therefore Government Owned, Contractor Operated labs should be included in these "Bayh-Dole" provisions. There is no reason to exclude them.

Section b is a new concept which will ensure that the government does not pay for the Research and Development costs for technology transferred, along with the intellectual property rights, to a National laboratory contractor operator who will use the resulting royalty income for its own benefit rather than using it to benefit the National laboratory system.

March-in Rights

This provision ensures that the invention, technical data, or software acquired as a result of this Title by the laboratory contractor, is offered to a third party for commercialization purposes. If the contractor has not or is not expected to take effective steps, within a reasonable time, to achieve practical application of the subject invention, technical data, or computer software, the Federal agency can require the contractor to grant a nonexclusive, partially exclusive, or exclusive license to a responsible third party.

A third party, for purpose of this section, is limited to domestic entities located in the U.S. and whose research, development and manufacturing activities occur substantially in the United States.

Current law: Section 203, Title 35, U.S.C. addresses similar march-in rights for the Federal government with respect to small business firms or nonprofit organizations. It specifies that these rights apply to inventions, but does not mention technical data or computer software.

Reason for change: Since, the National laboratory contractors are provided title rights to inventions, technical data, and computer software under the provisions of this title, the Federal government must be provided comparable rights to over ride these if the contractor does not effectively carry out the associated obligations. This will ensure that technology/devices/software do not sit on the shelf, but are offered to private industry for commercialization.

The Office of Federal Procurement Policy would issue implementing regulations for these march-in rights, patterned after Section 203, Title 35 U.S.C.

Effective Date

The Title would take effect on the date of enactment, and would require the Secretary of Energy to immediately enter into negotiation with the National laboratory contractors to modify the existing contracts, for the operation of the National laboratories, to reflect the provisions of this title. This will ensure that inventions, technical data, or computer software already in the pipeline will be handled expeditiously according to this Title.

[From September 1987, Business Month (formerly Dun's Business Month)]

TECHNOLOGY TRANSFER ISN'T WORKING

(By Fred V. Guteri)

In just a few years, a major new chip-manufacturing technology called X-ray lithography could well become the key to survival in the semiconductor industry. The question is, who will be the first to develop it?

Japan's Ministry of International Trade and Industry plans to spend $700 million on the problem this year. Among other things, it is funding the construction of four specialized synchrotrons for chipmakers to produce the X-rays essential for research into the new technology.

In the U.S., the Department of Energy recently finished building the nation's first large-scale synchrotron at its Brookhaven National Laboratory in Upton, New York. But it is a general purpose synchrotron used by about ninety academic and corporate research groups for a variety of projects. IBM Corp. is the only company using the synchrotron for X-ray lithography, and researchers often have to wait in line to use it. "The IBM people are pretty unhappy with the schedule," says William Marcuse, director of technology transfer at the lab. "They spend a lot of time twiddling their thumbs."

The DOE plans to build two more synchrotrons for its labs, but neither one will be tailored to X-ray lithography. And to a growing number of industry leaders, government officials and scientists worried about the United State's flagging competitiveness in technology, this state of affairs is a vivid symbol of the inadequacy of the government's program for transferring R&D to industry.

The federal research labs constitute a formidable chunk of the nation's pool of talent and equipment. The 700-plus labs across the country spend more than $18 billion a year and employ one sixth of the nation's research scientists and engineers.

By tradition, the labs disseminate technology to the public and issue licenses for their published patents to anyone who wants them. But American companies have used few of the thousands of new patents filed every year because they are loath to invest in a technology their competitors can obtain easily. It was a Japanese firm, for example, that developed solar cells for calculators from a National Aeronautics and Space Administration patent.

Since 1980 the Reagan Administration has been spearheading an ambitious campaign to make the fruits of the federal research labs available to private industry. One results is new legislation that now allows companies to license exclusive patents owned by the labs and encourages cooperative R&D programs for industry, government and universities.

These moves have been welcomed. But no significant technological benefits have yet accrued to industry, and the obstacles to implementing the transfer of technology now look so numerous and deeply rooted that it seems doubtful the government labs will ever be able to help industry fulfill its research needs. "The new laws are no panacea for getting technology into private industry," says William Burkman, director of physics at AT&T Bell Laboratories. "There are a lot of stumbling blocks involving the kind of priorities the labs have set up."

The basic problem is that the whole notion of working with private industry runs counter to the long-standing mission of the federal labs to serve the general public. For the better part of four decades, they have pursued their own agendas sheltered from the needs of the marketplace. Federal researchers have deepened the pool of scientific knowledge and enhanced the nation's weapons arsenal. Any benefit derived by industry has been a mere afterthought.

The need to keep classified weapons research under wraps has impeded technology transfer in the DOE and the Defense Department. That becomes a formidable barrier considering that defense will account for 72% of government R&D spending next year, up from 51% in 1980, and that the lion's share of the labs belongs to those two departments.

The DOE is particularly hostile to industry-directed research. It has refused to give its labs authority to license patents to companies—a step that industry considers crucial for making the technology accessible. The department's policy of reviewing every application for a patent license case-by-case, industry complains, is too much trouble and takes too long—anywhere from six months to several years—to pass through the labyrinth of DOE bureaucracy.

This procedure discourages companies from using the labs as a resource. Lee M. Rivers, who recently left the White House Office of Science and Technology Policy to represent the Federal Laboratory Consortium in Washington, says he is "up to my eyeballs" trying to get industry to take the labs seriously. "If a businessman has to take four months to figure out what he needs to do and then has to go through six layers of bureaucracy in Washington, that's going to be tough," he notes.

DOE officials insist they are proceeding with caution only until they learn more about technology transfer and promise to streamline the waiver process down to six months or so. Critics say they are stalling. And Bryan Siebert, DOE director of international security, admits, "I would err on the side of reviewing practically everything, even if it involves delays."

In fact, when Congress passed legislation in 1984 allowing universities and nonprofit organizations that operate DOE labs to license patents, the department tried to nullify the law by claiming that national security and nuclear nonproliferation took precedence. Its position led to an executive order by President Reagan last spring restricting the DOE's discretion to withhold patent licenses.

Regulations also limit the amount of money the DOE labs can spend on research for outside organizations to 20% of their budgets, with most of that going to other government labs. And no company can do research at a DOE lab if comparable facilities can be obtained elsewhere. Emphasizing the DOE's stand, Antoinette G. Joseph, director of field operations management, says, "People argue that there is this technology sitting on the shelf and that if you have a uniform technology transfer policy, the government can make it all available in one fell swoop. Well, it can't. The national defense mission is more important than the technology transfer mission."

The Defense Department has its own bureaucratic problems, but it has been more flexible in issuing licenses. For years, the DOD has allowed the companies it does business with to commercialize at no cost the patented technology they develop. These relationships, however, have existed primarily within the close-knit community of government contractors working on classified projects. "Everything done in the labs is documented and made available to people with the appropriate clearances," says Frank Sobieszczyk, chief of the DOD research program office. "The labs will call in defense contractors and give them a dog-and-pony show." Because of its fear of leaks, the DOD is reluctant to enter into cooperative R&D agreements with other companies.

In addition to the problem of classified R&D, identifying promising new technologies for industry to exploit is a monumental task. Corporate R&D executives have largely ignored what goes on in the labs, viewing them as irrelevant and inaccessible. Reluctant to deal with the bureaucracy, they are unaware of helpful research buried within multimillion-dollar programs.

At the same time, most federal labs lack the staff necessary to sift through the enormous number of projects, ferret out the good ideas and target them for specific industries or companies. "There's a lot of research going on at the labs," says President A. Sidney Alpert of University Patents Inc., which sells university-owned patents to industry. "If they put enough manpower on it, there could be some good inventions. But you won't find them the way the labs are going about it."

It does not help that lab researchers must depend on their technology transfer specialists to explain their innovations to corporate R&D people. These specialists are in short supply—only one DOD lab has one, for instance—and they are a harried lot with responsibility for hundreds of different projects.

As intermediaries, they also are one more roadblock for industry. Hillard Williams, vice president for technology at Monsanto Corp., says that government tech transfer people lack experience in getting technology out to industry. John D. Hale, vice president for research at Kerr-McGee Corp., comments: "We have enough trouble transferring technology out of our own lab. How are we going to keep up with the technology coming from the federal labs?"

Even if industry had free access to the technology at the labs, raw research requires considerable development before it is applicable to new products, and much more input from the labs—information about manufacturing processes, the expertise and judgment of the original researchers, and so forth—is needed by a company planning to adopt a technology. "The basic research at DOE labs is one level less practical than the stuff that is done at universities, which isn't very practical" says University Patents' Alpert.

The labs have limited resources to devote to the kinds of cooperative R&D programs that would help industry absorb basic research. And they have had trouble attracting financial support from industry because they lack the authority to isssue patents in return for funds.

Companies are also put off by the government's inflexibility in negotiating cooperative research agreements. The agreements are often written like procurement contracts, with specific deadlines scheduled years in advance. Such tight schedules lead to misunderstandings when the research doesn't pan out the way it was originally planned. "Federal people don't speak the same language," says Monsanto's Williams. "Things get complicated, and industry tends to just give up."

Amid this bleak picture, there are a few hopeful signs. Payoff from exclusive patenting, for instance, is evident in Oak Ridge, Tennessee, where a dozen or so companies have sprung up to develop products—heat-resistant diesel engines, high-strength cutting tools and more—based on patent licenses granted by the DOE lab there.

"A kind of magic has set in," says William W. Carpenter, vice president for technology applications at Martin Marietta Energy Systems, which runs the lab for the DOE and aggressively pushed the patents through its licensing process. "In Oak Ridge, houses are selling, school enrollment is up for the first time in twenty years, a new missile plant has gone up. A great deal of that is due to our technology transfer program."

Inside the labs as well, there is some movement afoot to open the door. Eugene E. Stark, an engineer at DOE's Los Alamos National Laboratory, is one of a new generation of government researchers who now sees a unique opportunity to get the labs into the mainstream of technology.

In his spare time, Stark is chairman of the Federal Laboratory Consortium for Technology Transfer, an ad hoc government and industry group that is promoting technology sharing. "We can't wait ten more years to break down the institutional barriers to technology transfer," Stark says. "We're entering a period of restructuring in science and technology institutions. Whatever new relationships develop as a result of international competition will take place in the next three-to-five years. If the labs move slowly, they will become irrelevant."

Groundwork also has been laid for several cooperative agreements between industry and the labs. The Army's Electronics Technology and Devices Laboratory in New Jersey is setting up a consortium with several electronics firms to develop flat-panel display screens. And the DOE's Argonne National Laboratory and the University of Chicago are currently negotiating with companies to do superconductor research.

Meanwhile, the Defense Department is funding a study on building a synchrotron devoted exclusively to semiconductor research. And at the DOE's conference on superconductivity last July, President Reagan proposed a government-sponsored "Superconductivity Initiative," which would include, among other things, increased spending by the labs. In addition, DOD proposes spending $150 million over three years to apply superconductivity research to military ships and weapons.

How all the money is spent—whether industry gets to set at least part of the research agenda—may be the first real test of the technology transfer laws and the nation's resolve.

THE SEMICONDUCTOR INDUSTRY AND THE NATIONAL LABORATORIES

(Part of a National Strategy)

EXECUTIVE SUMMARY

According to a recent report by the Defense Science Board, leadership in 19 of 25 key products and processes in the semiconductor industry has been lost to Japan and the relative position of U.S. producers is continuing to decline.[1] One response to this competitive challenge is to increase the U.S. semiconductor industry's efficiency through shared and collaborative research efforts. Existing industry cooperatives, such as the Semiconductor Research Corporation (SRC) and the Microelectronics and Computer Corporation (MCC), are proving the feasibility and effectiveness of collaborative research efforts. As an adjunct to industry collaboration, should other national resources, such as the national laboratories of the U.S. Department of Energy (DOE), be mobilized to leverage facilities, capabilities, and results on a national level?

To begin to answer this question and to determine the potential value, role, and contributions of the national laboratories in addressing the problems of the semiconductor industry, the National Research Council held a workshop on February 24, 1987. The workshop assembled representatives from the semiconductor industry, the national laboratories, federal agencies, and Congress to determine how cooperation between the laboratories and industry might take place within the context of a broader national action program.

A variety of issues related to the competitiveness of the semi-conductor industry was discussed at the workshop. The participants agreed that the current problems of the semiconductor industry represent a national crisis that requires a coherent national action program in response. To summarize the discussion, workshop participants recognized that little progress is likely without a consensus on the short- and long-term competitive goals of the U.S. semiconductor industry.

Once these goals are identified, a national strategy to achieve them must be developed that would address issues such as the role of government, the extent of cooperation versus competition appropriate for a healthy industry in the future, appropriate research foci, effective use of resources outside of the industry, and mechanisms for achieving cooperation and synergism among participants in this national strategy. The workshop participants raised the idea that an organization or advisory committee with representatives from the semiconductor manufacturers, their suppliers and customers, government, and universities might be formed to provide the necessary leadership to build consensus and devise an effective national strategy.

In discussing the elements of an effective national strategy, the workshop participants agreed that it should combine and coordinate the resources of the semiconductor industry and the federal government in a cooperative effort to restore competitiveness. There was a consensus that the facilities and expertise available at the DOE's national laboratories are valuable resources that should be used to augment the research capabilities of industry and the universities.

To facilitate greater cooperation between the national laboratories and the semiconductor industry, several suggestions were made.

A dialogue between the semiconductor industry and the national laboratories should be initiated and formalized to identify appropriate research projects and to negotiate pragmatic solutions to issues like data access, ownership and publication rights, cost sharing, scheduling, and technology transfer mechanisms. Existing collaborative research efforts could serve as models.

A standing advisory council with representatives from industry and the various national laboratories could be formed to facilitate this dialogue and to serve as a forum for the discussion of issues. Such a council could develop a broad agreement on the generic issues involved in cooperation and coordinate the overall cooperative effort, thereby facilitating agreements on specific research projects that are likely to be negotiated between individual laboratories and interested companies.

There are opportunities for the national laboratories to continue existing projects and to initiate new research that would be beneficial to the industry. However, to maximize the effectiveness of this research, the mission of the laboratories needs to be expanded to include research in semiconductor-related science and technology. Additional funding will also be needed to provide the laboratories with sufficient resources to make an effective contribution to the long-term competitiveness of the semiconductor industry. The workshop attendees believed that these two issues—a broadened mission and increased funding—need to be addressed in DOE's budget process as quickly as possible.

There was broad agreement at the workshop that the federal government in general, and the national laboratories in particular, have a role to play in restoring U.S. competitiveness in semiconductors. If the industry can articulate specific areas of generic research that conform to the capabilities of the national laboratories, and the laboratories can adjust their operations and mobilize their resources to address those research areas, the potential contribution of the national laboratories for future industry competitiveness can be realized.

SEMICONDUCTOR RESEARCH CORP.,
September 21, 1987.

Hon. PETE V. DOMENICI,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOMENICI: The Semiconductor Research Corporation strongly supports "The Department of Energy National Laboratory Cooperative Research Initiatives Act" (S. 1480). The National Laboratories of the Department of Energy are a major national resource. They should be given a mission to participate in research on advanced semiconductor manufacturing technology, so vital to the national security and economic interests of the United States. We believe that your bill, S. 1480, would accomplish this purpose.

The semiconductor industry has recognized the desirability of a role for the national labs in SEMATECH, a private sector-driven consortium composed of major U.S. semiconductor manufacturers in partnership with government. The industry has proposed a mechanism for a laboratory/industry partnership in its business plan for SEMATECH. We envisage that the research of the national labs in this area should be designed to complement the overall SEMATECH work program.

The joint planning workshops sponsored by the National Academy of Sciences in February and May put into motion the first steps toward matching the semiconductor industry's and the national labs' R&D efforts. Collaboration on the specific technological objectives of each national laboratory with industry will continue to be explored and identified as a result of future workshops to be sponsored by the SEMATECH consortium.

We envisage that the Secretary of Energy would be part of a "National Advisory Committee on Semiconductor Research and Development" composed of government and private sector members. The committee would provide a focal point for coordinating, devising and implementing an effective national strategy for semiconductors. Indeed, if the the national labs are to provide beneficial support to SEMATECH, more coordinated programs between the labs and SEMATECH will be necessary.

We believe that in developing technology roadmaps for SEMATECH, those programs involving the labs would eliminate duplication of efforts. However, the urgency of the problem demands a change in the nature and pace of the research pursued. Needless to say, mobilizing the national labs in coordination and collaboration with industry efforts requires the immediate attention of federal policymakers in order that such efforts can provide timely answers.

In establishing a National Laboratory Cooperative Research Initiative, the bill would make a number of recommendations in anticipation of the formation of research consortium such as SEMATECH. Since SEMATECH was established in May, 1987, we have a few recommendations that could improve the proposal. We believe: (1) The legislation should specify coordinating the research of the national labs under this initiative with the semiconductor industry's new R&D consortium, SEMATECH. (2) The legislation should clarify that any funds expended by the Department of Energy on such projects would be in addition to the funds expended on SEMATECH by the Department of Defense. We do not view a national labs' semiconductor research initiative as an alternative to DoD efforts, and do not anticipate that such an effort should result in a substitution or dilution of the Defense Department's funding level for SEMATECH of $100 million per year for the next five fiscal years. (3) Finally, we believe that DOE should fully fund the research of the national labs, and that the proposed cost sharing arrangements with industry in this case would not be necessary.

We strongly support S. 1480 and federal funding in the Energy Department's Budget for the National Laboratories to conduct semiconductor manufacturing research in coordination with SEMATECH. We firmly believe that a coalition of SEMATECH and the national labs would strengthen the future competitiveness of the semiconductor industry.

Sincerely yours,

LARRY W. SUMNEY,
President.

NEW SUPERCONDUCTORS MAY HAVE SIGNIFICANT ECONOMIC IMPACT

(By Alan M. Wolsky, Edward J. Daniels and Robert F. Giese)

Economics essentially concerns the competition between different ways of doing things. In the field of superconductivity, the competitors are normal conductors (copper, for example), low-temperature superconductors (niobium-tin), and the new high-temperature superconductors (copper-oxide ceramics).

Superconductors carry electrical current with almost no loss. Thus, they offer many benefits compared to conventional conductors, which waste energy by resisting current flow. Recently discovered high-temperature superconductors use cheaper, more efficient cooling systems than their low-temperature counterparts.

The new materials might have significant economic impact on medical imaging, industries using magnetic separations, and the development of advanced energy sources. They would increase the efficiency of generators and motors, and enhance development of desktop supercomputers, levitated trains and underground electrical transmission lines.

The technology evaluations group at Argonne National Laboratory is spearheading a multilaboratory study for the Department of Energy to evaluate the economic promise of high-temperature superconductors and examine potential limitations. If present problems can be solved, we believe the new materials will cut capital and operating costs in numerous industries and even spawn new technologies.

Superconductivity is influenced by three interrelated properties: temperature, magnetic field and current density. Transitional superconductors, such as niobium-tin, lose all resistance to electricity when cooled to about 18 Kelvin (minus 427 degrees Fahrenheit). The total cost of refrigerating these materials is formidable. Capital is required to buy refrigeration equipment and thermal insulation, which slows the rate at which outside heat reaches the superconductors. Operating costs pay for liquid helium ($11 per gallon) and for the energy needed to remove heat that penetrates the insulation.

In comparison, copper-oxide ceramics become superconducting at about 90 K (−297 F). This critical temperature (T_c) reduces refrigeration costs in two ways. First, less insulation is needed because heat transfer is much slower at warmer temperatures. Second, liquid nitrogen (22 cents per gallon) can be used as the coolant.

For example, magnetic resonance imaging uses a large superconducting magnet cooled to about 4 K (−452 F). The capital costs for insulation is around $100,000, and liquid helium costs about $30,000 per year. If the magnet could be maintained at 77 K (−321 F) instead, insulation costs would be cut to only $50,000—a 50-percent savings. Cooling with liquid nitrogen would reduce refrigerant costs to $3,000 annually—an even more dramatic savings of 90 percent.

Magnetic field strength also affects superconductivity. If the magnetic field is too strong, superconductivity is lost. The new materials appear to maintain superconductivity field strengths than current superconductors. This might lead to practical, lightweight electromagnets with stronger magnetic fields. If the magnetic field is too strong, however, it can cause enough mechanical stress to pull apart the magnet. This may restrict potential uses of large superconducting electromagnets.

The major limiting factor, however, for commercial applications of high-T_c superconductors is current density—the new materials simply do not carry enough electricity to be useful on a large scale. Critical current density measures how much current the material can carry before losing superconductivity.

Most applications have an operating current density—which is lower than critical current density—greater than 10,000 amperes per square centimeter (A/cm^2). This is 10 to 100 times higher than critical current densities measured thus far in wires and tapes made from ceramic superconductors. However, single crystals and thin films have demonstrated current densities greater than 1 million A/cm^2.

The popular press has focused on critical temperature, but current density is more important to the engineer and economist for several reasons:

Size and weight. As current density rises, the required size and weight of the superconducting magnet falls. Smaller, lighter magnets would reduce costs for supporting structures and increase payloads for levitated vehicles.

Flexibility. Higher current density allows the superconductor to be thinner, which increases flexibility. This means the material is more easily wound in the form or wire or tape. Improved flexibility also makes the material more reliable and durable.

Cost of raw materials. Smaller superconductors are less expensive to manurfacture.

High current density would make high-T superconductors invaluable in energy production, magnetic separations and other industries that use powerful electromagnets. Conventional electromagnets are large, heavy, and require large amounts of electricity. They have an iron core, which strengthens the magnetic field generated by copper coils. But iron makes the magnet heavier and limits its uses. If high-T superconducting coil could carry more current, the iron core could be eliminated, making the magnet smaller and lighter. Such a magnet would cut electric bills by 75 to 90 percent.

Several other properties of the new materials also affect their economic potential. One consideration is their ability to bond with other materials, which would improve strength and reliability. A brittle superconducting wire could be sheathed in metal for protection and strength. The metal would also act as a shunt for current flow in case superconductivity is lost.

Chemical stability is another important factor. The new materials are prone to lose oxygen and thus their superconductivity.

Finally, contrary to popular belief, superconductors do not necessarily transmit electricity entirely without loss. Actual energy savings depend on whether direct current (DC) or alternating current (AC) is used. Direct current, which moves in a constant direction, circulates without loss in superconductors and creates steady magnetic fields. Alternating current reverses direction at regular intervals, which causes small amounts of electricity to be lost even in superconductors. Unfortunately, our electrical infrastructure uses AC, because in normal conductors is loses less energy than DC.

Still superconductors with favorable properties would have profitable applications in many industries, including electronics, communications, transportation and medical diagnostics.

In energy production and storage, both utilities and consumers will save money. Utilities suffer losses during the generation, transmission and distribution of electricity. A typical AC generator is 98.5 percent efficient in producing electricity, and 95 percent of this power reaches consumers.

High-T, superconductivity might improve those figures. Superconducting AC generators and power transformers would both have operating efficiencies greater than 99.7 percent. This improvement may sound small, since generators are already 98.5 percent efficient, but it would cut energy losses by about 80 percent. On a large scale, this could produce substantial savings—up to 60 percent over conventional units.

Efficiency is not the answer, however, for underground superconducing transmission lines. Such lines might lose less than the 1 percent of electricity per 100 miles lost by conventional aerial lines, but they will not make them obsolete. Air provides "free" cooling and electrical insulation, and stringing lines overhead is far less expensive than digging trenches to hide them underground.

But aerial lines have problems with aesthetics and potential health risks that may cause underground transmission lines to become a viable alternative. If this occurs, high-T superconducting lines might save 40 percent over conventional underground lines, which experience energy loses of nearly 4 percent.

Superconducting magnetic energy storage (SMES)—huge magnets that can store electricity indefinitely without loss—could increase effective generating capacity by 15 percent or more. High-T superconductors would reduce the capital cost by 5 to 8 percent, compared to low-T systems. These savings might make SMES competitive with gas-fired plants in providing electricity for peak consumption. SMES also might enable solar energy to displace natural gas in the production of electricity, although coal and nuclear power will continue to dominate.

On the consumer's side of the meter, high-T superconductors would increase the efficiency of motors, while cutting their costs about 25 percent. Approximately 64 percent of all electrical power is used in motors, which have efficiencies ranging from 78 to 95 percent. Large motors would benefit most from superconductivity—despite their 95-percent efficiency—for two reasons. First, large motors use substantial amounts of electricity, so small increases in efficiency can still yield substantial cost savings. Second, compared to small motors, large super-conducting motors would need less refrigeration per horsepower of output.

As we have mentioned, the health industry and its clients—us—would benefit by applying high-T superconductors to magnetic resonance imaging (MRI). Doctors diagnose disease with the powerful magnetic field generated by the cylindrical superconducting magnet, which is about 3 feet in inside diameter and 7 feet long.

Installed cost of an MRI machine is about $2.25 million, of which $400,000 is for the magnet itself. The additional money is spent on electronics and construction required to house the 35-ton machine. Lighter magnets and liquid-nitrogen cooling systems would reduce capital and operating expenses, savings patients up to 10 percent over current MRI costs. The machines would also be more portable, allowing truck-mounted MRI units to visits hospitals and clinics that cannot afford machines of their own.

But the most valuable economic effect to MRI may come from another direction entirely. High-T superconductors may increase the usuable diameter of the magnet—the hollow area where the patient fits—by 6 inches. This space is presently taken up by cooling equipment and insulation. Enlarging the diameter from 18 to 24 inches would allow the machine's use on the 5 percent of the population who currently cannot fit inside. The economic gain becomes even greater when the lengthened productive life of treated patients is considered.

High-speed trains are a frequently discussed application of high-T superconductors. Such trains are being considered for a dozen routes within the United States. The new superconductors will not significantly cut total capital costs of magnetic levitation systems, because present designs allocate only about 1 percent of capital cost to levitating magnets. But if the new materials operate efficiently at 77 K, they may provide the ease of operation and improved system reliability that will make superconducting magnetic levitation systems the preferred choice among high-speed rail technologies.

MRI and levitated trains highlight the economic subtleties of new technology, which are not always revealed by looking at energy usage or dollar signs. Again and again, when we look at applications, there will be benefits difficult to foresee on a straight energy basis.

Magnetic separations are another area where high-T superconductors could reduce operating and maintenance costs. The paper industry uses electromagnets to separate the impurity titanium from kaolin, which brightens paper. In the steel industry, magnets remove recyclable iron scrap from sludge and wastewater. Iron impurities picked up from pipes are removed from food and drugs.

High-T superconducting magnets may offer several advantages—reduced weight, higher throughput, smaller floor space—over conventional electromagnets, in addition to an 80-percent reduction in power consumption. High-T superconductors would save 15 or 20 percent, respectively, in capital cost over conventional or low-T systems.

Magnets made from the new materials might also be applied to other industrial processes, such as materials handling and fabrication, gas-phase separations and water treatment.

High-T superconductors have the potential for enormous economic impact. Before their true economic potential can be realized, however, we must discover their thermal, electrical and mechanical properties and develop methods of manufacturing the ceramics reliably.

An immediate concern is that the new superconductors do not carry enough current. This is the major limiting factor from an economic point of view, because higher current density translates into less weight and smaller size. Current density must be increased 1,000 to 10,000 times before the materials will carry enough electricity to reduce magnet size and weight and compete effectively with conventional conductors on a large-scale basis.

If these problems can be overcome, high-T superconductors may live up to the expectations aroused by recalling the transistor and the laser. In short, they could change the way we live.

LOS ALAMOS UNVEILS SUPERCONDUCTIVITY BREAKTHROUGH

LOS ALAMOS, NM, Feb. 24, 1988—A startling discovery at Los Alamos National Laboratory may revolutionize how scientists research why certain materials conduct electricity.

A team led by chemist Kevin Ott has discovered that a change in the type of oxygen isotopes used in a superconducting material can dramatically affect at what temperature the material will conduct electricity.

"The results were so surprising that at first it was almost scary," said Ott, of the Lab's Chemical and Laser Sciences Division. "You ask yourself, is there something wrong with the experiment samples?"

Ott's research revealed that synthesizing certain oxygen isotopes with "heavier" oxygen caused the material to conduct electricity at a much lower temperature.

Ott's experiments substituted oxygen-16—the type of oxygen that comprises most of Earth's atmosphere—with oxygen-18, an oxygen isotope with two more neutrons, making it heavier.

Neutrons are electrically neutral subatomic particles.

Ott's oxygen substitution caused a drop in the "critical temperature"—or temperature at which a material becomes superconducting—of 33 degrees Kelvin, or about 60 degrees Fahrenheit.

The experiments caused the material to begin conducting electricity at 59 degrees Kelvin, or 355 degrees below zero Fahrenheit.

The superconducting race has scientists from around the world scrambling to unlock the mysteries of why certain materials, when cooled to extremely low temperatures, allow electricity to freely flow through them.

The material synthesized by Ott for the Los Alamos experiments was comprised of metals used in previous superconducting experiments: yttrium, barium and copper.

The compound was interconnected with oxygen atoms to hold it together.

"I believe the key to our success was that when we built the lattices, we did not use a gas-phase exchange process," said Ott.

That process, previously used in other superconducting experiments, involves placing the compound in an enriched oxygen atmosphere, which allows the isotopic oxygen atoms to diffuse around and replace the natural oxygen in the compound.

"In our experiments, we started from scratch," he said. "We dissolved the metals in oxygen-18 nitric acid and then processed them into a material containing heavier oxygen isotopes."

Placing the oxygen with the metals in the material from the beginning assured the oxygen was thoroughly integrated throughout the compound. Gas-phase exchange allows less of the oxygen atoms to permeate the material.

"It's the difference between having the oxygen isotopes in 94 to 96 percent of the material and having it in less than 90 percent," said Ott. "I think that high level of oxygen distributed throughout the lattice was the key difference in the success of our experiments."

The Los Alamos team anticipated that the oxygen-isotope exchange would cause a slight shift in the compound's critical temperature.

"We thought it would be subtle, in the range of half a degree," said Ott. "When it resulted in a 33 degree (Kelvin) shift, we were worried at first that we had done something wrong when we produced the samples."

Ott affirmed the discovery by preparing six more samples with oxygen-18 and experimenting with them. He also experimented with oxygen-17 samples to verify his results.

"After the oxygen-17 experiments, we were convinced that we were on to something very interesting," he said.

One goal of the worldwide superconductivity race is to find materials that will reach the point of superconductivity as near room-temperature as possible.

While the Los Alamos experiments illustrate a drop in superconductivity temperature, not an increase, the isotope-exchange results will advance the understanding of superconductivity materials.

"Our results are likely to change the physics theory on what causes superconductivity," said Ott.

"This was a perfect example of what close collaboration can do," he said. "Chemists, solid state physicists and material scientists all worked together closely on this effort."

Said Ott: "The project's success also was made possible by the fact that Los Alamos is one of only a handful of facilities in the world that can separate oxygen isotopes. This capability made our isotopic synthesis possible."

Collaborating with Ott on the experiments were James L. Smith and James F. Smith, both of the Lab's Center for Materials Science; Jeffrey Willis, Robert Aiken, Ballard Pierce and Joe Thompson, all of the Condensed Matter and Thermal Physics Group; and Bill Hutchinson of the Analytical Chemistry Group.

Also collaborating: George Kwei of the Physical Chemistry Group; and Eduardo Garcia, Maxwell Goldblatt and Thomas Walker, all of the Isotope and Structural Chemistry Group.

Los Alamos National Laboratory is operated by the University of California for the Department of Energy.

New Process Improves Semiconductor Fabrication Technology

Albuquerque, NM.—Researchers at Sandia National Laboratories have developed a new technique that promises to improve control of compound semiconductor fabrication technology. Called ion-damage-controlled photochemical dry etching, it uses accelerated ions to change the electronic behavior of selected areas on a semiconductor so the areas act as a "mask" for subsequent photochemical etching.

Because this mask becomes part of the semiconductor wafer, it cannot slip or change position during fabrication, as can happen with conventional photolithographic technologies. Since ion implantation is an essential processing step for many devices, using the new technique as an integral part of that processing should reduce the number of steps needed to prepare complicated circuits. This could save processing time and money.

The new process is the result of a group effort involving Sandians Carol I. H. Ashby, David R. Myers, and Frederick L. Vook. "The exciting thing about it is the control it gives you for device fabrication," says Myers. The process is an advancement of the basic dry photochemical etching technique developed at Sandia several years ago by Ashby and James Dishman.

In conventional semiconductor fabrication techniques, a thin wafer is covered with a mask patterned with a protective material (photoresist), then exposed to a reactive chemical for etching. Where there is a opening in the mask, the chemicals etch out a corresponding shape, such as a pit or groove.

Complex integrated circuits require multiple masks and multiple etchings. Because it is difficult to get perfect alignment between masks and the structures already etched in the wafer, each subsequent masking and etching step increases the risks that a mask will not precisely match the existing pattern. This could result in degraded performance for the integrated circuit.

The new Sandia etching technique reduces the need for multiple masks by exploiting the chemical effects of an initial ion implantation, as is typically performed to provide localized doping of a wafer. An ion encountering a semiconductor surface will damage the material, thereby producing traps for "free carriers"—free electrons or holes—in the material. Since free carriers are particularly important in selected photochemical reactions, the ion-damaged surface areas are relatively chemically inert compared with undamaged sections.

In conventional techniques, the semiconductor is heated after ion bombardment to restore the electronic properties of the seminconductor by annealing out the damage caused by the ions. In photochemical dry etching, however, this annealing step is delayed so the unique chemical properties of the ion-damaged areas can be exploited. The mask that determines where the ions strike the wafer is stripped away and the semiconductor is then placed in a chamber containing a low concentration of a highly reactive chemical. Sandia's researchers have been using atomic chlorine to etch gallium arsenide.

The semiconductor is bathed in a strong light to generate free carriers. Sandia uses a laser for this purpose, but the researchers say other forms of illumination work as well. These optically generated free carriers drive the chemical reaction between the semiconductor and the surrounding chlorine gas. The reaction products leave the surface and are transported away, leaving behind an etched pattern in the surface.

The material will be etched readily where there are a great number of surface free carriers. The reaction is greatly slowed or even prevented where there are relatively few free carriers—where the surface has been ion bombarded. The damage produced by the ion implantation acts as the mask for all subsequent etching processes.

Because this mask is formed directly in the semiconductor itself, there is no chance that it could slip and ruin the whole wafer. "Once you've put the damage in, it acts as an integral mask for subsequent process steps," says Myers.

Similar, "self-aligning" techniques are common in silicon wafer fabrication technologies, but self-aligning technologies for compound semiconductor processing have been only modestly successful and require complex metallurgy.

Photochemical dry etching gives much finer control during fabrication. As Ashby has demonstrated previously, it is possible to decrease or increase the number of free carriers available by changing the amount or wavelength of light shining on the semiconductor. Also, the depth of the ion-damaged material can be tailored by controlling the energy of the ions used.

The new techinque can be adapted to a wide variety of materials and device structures. The technique's only major limitation is that it will not work on semiconductor wafers that were already doped extremely heavily before the masking and etching process.

The Sandia researchers say that the first practical application of the process will be the fabrication of a striped-array laser, a type of solid-state laser that requires multiple grooves be cut on a very small scale across a wafer of semiconducting material. But they add that it could be used with virtually any type of semiconducting material and has already been demonstrated on gallium arsenide and gallium phosphide.

Sandia National laboratories, with facilities in Albuquerque, N.M., and Livermore, Calif., is operated for the U.S. Department of Energy by AT&T Technologies, Inc.

Expert Committee Finds Mapping and Sequencing Human Genome Feasible; Recommends $200 Million Annual Budget

Washington.—A $200-million-a-year effort to discover the location of every gene within human chromsomes should begin immediately, a National Research Council committee urged today. The program should give development of new mapping techniques highest priroity, but should also include research on new methods for determining the precise chemical makeup of individual genes on the map.

"The committee strongly believes that a project to map and sequence the human genome should be undertaken." the report says. "Such a special effort in the next two decades will greatly enhance progress in human biology and medicine." The committee also emphasized a need to study the genetric make-up of other animal species to provide comparative data.

Some 3,000 human diseases are known to be inherited, including cystic fibrosis, Huntington's disease, and certain kinds of Alzheimer's disease. Gene mapping "offers the best hope of identifying the responsible genes" for these disorders and may ultimately lead to treatments for them, the committee said. The project could also help unlock such fundamental biological secrets as the mechanisms that govern human development from an embryo to an adult.

The Research Council study was funded by the James S. McDonnell Foundation of St. Louis, MO. The committee was asked to study the feasibility, cost, and management of a national project to map the human "genome," a term scientists use to refer to the entirety of human genetic material.

The National Research Council is the principal operating agency of the National Academies of Sciences and Engineering.

THE DNA BLUEPRINT

Each of the body's cells carries a complete set of genetic blueprints for the human body. These blueprints take the form of genes, which collectively serve as a kind of biological construction manual that dictates the body's form (hair and eye color, for example) and function (digestion, respiration, and other essential physiological functions).

These genes are located on chromosomes, long strands of deoxyribonucleic acid (DNA) strung together from pairs of molecules called nucleotides. These nucleotide pairs give DNA its characteristic "double helix" shape, rather like a twisted rope ladder. Human chromosomes hold approximately 100,000 genes. These genes, in turn, consist of nucleotides—some 3 billion in all. The location of fewer than 1,500 of the 100,000 genes have been charted on chromosomes; an even smaller proportion of the nucleotide sequences (less than 0.1 percent) have been determined.

Most genes are responsible for building protein molecules. These proteins are responsible for both the form and functions of the human body. In inherited diseases, faulty genes produce too much, too little, or the wrong kind of protein.

A GENETIC ATLAS

Mapping the location of genes on the chromosomes is the first step toward understanding what causes these disorders. After the mapping is complete, the exact order of the nucleotides remains to be determined, a process called sequencing.

One way to understand the difference between mapping and sequencing is by likening the process to a road map. Mapping puts in the highways and major interactions; sequencing fills in the details. The ultimate genetic atlas is the nucleotide sequence, in which the identity and location of each of the 3 billion nucleotide pairs is known. "Only such a sequence reveals all or nearly all the information in the human genome," the committee stressed.

"It is no exaggeration to say that current maps of human chromosomes compare in quality to the navigational charts that guided explorers to the New World," the committee said. "Another decade of special effort directed toward mapping the human genome could yield maps comparable to the best modern maps of the earth's surface."

"Much of the effort in the next few years should be devoted to refining existing mapping techniques and developing even more powerful ones," the committee said. It recommended that support go to groups that are attempting to map large genomes—both for humans and other organisms—with support for different kinds of mapping methods proceeding in parallel until the best methods are found.

Sequencing of the entire genome, however, "should not be initiated at present," the committee wrote. Instead, research efforts should be encouraged to increase the efficiencies of technologies used in DNA sequencing.

FUNDING AND MANAGEMENT

The committee recommended funding the project at $200 million annually for 15 years. The amount of funding is roughly 3 percent of current federal expenditures on basic biology, the committee explained.

Funds should be earmarked for individual researchers and medium-sized research teams, the report stresses. "Individual investigators working in small groups have been the source of nearly all the major methodological breakthroughs that have driven the modern revolution in biology," the committee said. No large national centers should be created to do mapping and sequencing work at this time, it added.

However, because such a large amount of data and materials will be generated by a mapping and sequencing project, "[it] will require an unprecedented degree of sharing of materials among the laboratories involved," the committee said. It urged creating a facility to store and inventory pieces of DNA used in previous experiments and a central bank for storing DNA sequence data. When fully mapped and sequenced, the data printout for the human genome alone—in terse chemical shorthand—would fill more than a million textbook pages.

The committee recommended designating one federal agency as the lead agency in human genome work, but did not specify which of the three agencies currently doing genome work—the Department of Energy, National Institutes of Health, or National Science Foundation—should fill that role. It did recommend creating a Scientific Advisory Board to monitor the peer review of competing projects and coordinate the work of the laboratories involved.

ETHICAL QUESTIONS

Whatever its scientific merits, "a concerted effort to map and sequence the human genome would have profound social significance," the committee said. For example, the committee warned that "diagnoses that trace diseases to our genes can also convey stigma and set the scene for social prejudice."

"It will be the burden of researchers to interpret the correlations they draw as clearly as possible, to avoid simplistic associations between genetic markers and clinical conditions, and to educate clinicians and the public about the actual implications of their findings for individuals," the committee stressed.

The 15-member committee was chaired by Bruce M. Alberts, professor of biochemistry at the University of California, San Francisco.

Serving with Alberts on the committee were David Botstein, professor of genetics, Massachusetts Institute of Technology, Cambridge; Sydney Brenner, member and director, unit of molecular genetics, Medical Research Council, Cambridge, U.K.; Charles R. Cantor, chairman, department of genetics and development, Columbia University Medical School, New York City; Russell F. Doolittle, professor of chemistry, University of California, San Diego; Leroy Hood, professor of biology, California Institute of Technology, Pasadena; Victor A. McKusick, University Professor of Medical Genetics, Johns Hopkins Hospital, Baltimore, Md.; Daniel Nathans, University Professor of Molecular Biology and Genetics, Johns Hopkins University School of Medicine, Baltimore, Md.; Maynard V. Olson, professor of genetics, Washington University School of Medicine, St. Louis, Mo.; Stuart Orkin, Leland Fikes Professor of Pediatric Medicine, Harvard School of Medicine, Cambridge, Mass., and investigator, Howard Hughes Medical Institute; Leon E. Rosenberg, dean and C. N. H. Long Professor of Human Genetics, Medicine, and Pediatrics, Yale University School of Medicine, New Haven, Conn.; Francis H. Ruddle, professor of biology and human genetics, Yale University; Shirley Tilghman, professor of life sciences, department of molecular biology, Princeton University, Princeton, N.J.; Jonathan Tooze, executive secretary, European Molecular Biology Organization, Heidleberg, F.R.G.; and James D. Watson, director, Cold Spring Harbor Laboratory, Long Island, N.Y.

John E. Burris, director of the Research Council's Board on Basic Biology, served as study director. Robert A. Mathews, formerly of the Research Council's Commission on Life Sciences, served as staff officer during his tenure here.

INTELLIGENCE OVERSIGHT

SYMMS (AND HELMS) AMENDMENT NO. 1628

Mr. SYMMS (for himself and Mr. HELMS) proposed an amendment to the bill S. 1721, supra; as follows:

Add at the end of the bill the following new section.

"SEC. . (a) Findings.

(1) The Senate finds that a substantial discrepancy exists between various United States intelligence estimates of the number of SS-20 missiles possessed by the Soviet Union and the number of missiles reported by the Soviet Union to the United States pursuant to the Memorandum of Understanding to the proposed Treaty Between the United States of America and the Union of Soviet Socialist Republics Concerning Intermediate-Range Nuclear Forces (hereinafter the "INF Treaty") and that such discrepancy could indicate a covert Soviet SS-20 missile force of 300 to 550 SS-20 missiles carrying 900 to 1650 high-yield nuclear warheads.

(2) The Senate finds further that, unless the present discrepancy is satisfactorily clarified, the United States could put at jeopardy its supreme national interest, its 300,000 troops stationed in Europe, and the security of NATO by ratifying the proposed Treaty and thereafter, pursuant to such Treaty, eliminating its own deterrent INF forces based in Western Europe.

(b) Taking account of the findings made in this Section, it shall not be in order for the Senate to consider the proposed INF Treaty in Executive Session unless and until the President of the United States has certified to the Senate that the Senate can rely with confidence on the accuracy of the number of SS-20 missiles reported to the United States by the Soviet Union.".

QUAYLE AMENDMENT NO. 1629

Mr. QUAYLE proposed an amendment to the bill S. 1721, supra; as follows:

On page 16, line 15 delete "week" and insert in lieu thereof "month".

On page 17, line 17, delete "weekly" and insert in lieu thereof "monthly".

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on Thursday, March 17, 1988 at 9:30 a.m. in SD-562 to receive testimony on matters relating to the October 19 market break.

For further information, please contact John Podesta of the committee staff at 224-2035.

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION AND STABILIZATION OF PRICES AND THE SUBCOMMITTEE ON DOMESTIC AND FOREIGN MARKETING AND PRODUCT PROMOTION

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Agriculture Production and Stabilization of Prices and the Subcommittee on Domestic and Foreign Marketing and Product Promotion of the Committee on Agriculture, Nutrition, and Forestry will hold a joint hearing on Soybeans and the World Market. The hearing will be held on March 18, 1988 at 9:30 a.m. in room 332 Russell Senate Office Building.

Senator John Melcher and Senator David Pryor will preside. For further information please contact David Voight of Senator Melcher's office at 224-2644 or Bob Young of the committee at 224-2035.

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. President, I wish to announce that the Subcommittee on Conservation and Forestry of the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on oversight of conservation programs. The hearing will be held on March 24, 1988 at 9:30 a.m. in room 332 Russell Senate Office Building.

Senator Wyche Fowler will preside. For further information please contact Bob Redding of Senator Fowler's office at 224-3643.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearing will take place on March 24, 1988, beginning at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on bills currently pending before the subcommittee. The measures are:

S. 1912, a bill to authorize a study of the feasibility of establishing a National Mimbres Museum in Silver City, NM, and for other purposes;

S. 1693, a bill to amend the National Trails System act to provide for a study of the Coronado Trail, and for other purposes; and

S. 1593, a bill to designate the site of the Glorieta Battle in the Civil War as a national historic site.

For further information regarding the hearing, please contact Beth Norcross of the Subcommittee staff, at (202) 224-7933.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON VETERANS' AFFAIRS

Mr. BYRD. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on the veterans' programs budget and related home loan legislation on Friday, March 4, 1988, in SR-418.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary be authorized to meet during the session of the Senate on March 4, 1988, to hold a hearing on S. 1608, claims court.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, March 4 to receive a closed briefing on the situation in Panama and to conduct a brief business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet during the session of the Senate on March 4, 1988, in closed session to receive testimony on Soviet strategic force developments in review of the fiscal year 1989 defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

(By request of Mr. Byrd, the following statement was ordered to be printed in the Record.)

LEGACY OF PRESIDENT CHIANG CHING-KUO

● Mr. SIMON. Mr. President, last month Dr. Frederick F. Chien of the Taiwanese Coordination Council for North American Affairs delivered an address to the Chicago Council on Foreign Relations to mark the passing of President Chiang Ching-kuo. On several occasions in the past I have shared with this body the speeches given before the Chicago Council on Foreign Relations, and I would like to do so today.

The United States and Taiwan have enjoyed a close relationship over the years, despite the ups and downs of the 1970's. As Taiwan continues to democratize, I am confident that our ties will become even stronger than they are today.

I ask that Dr. Chien's speech, "Legancy of President Chiang Ching-kuo," be printed in the Record.

The material follows:

"Legacy of President Chiang Ching-kuo"

(Presented by Dr. Frederick F. Chien)

I consider it a great privilege to be with you today. The Chicago Committee of the Chicago Council on Foreign Relations is one of this country's most prestigious forums. I am honored that you extended an invitation to me and gave me this opportunity to discuss with you momentous events which are occurring in the Republic of China today.

As many of you probably are already aware, my country lost its great leader and President, Chiang Ching-kuo, less than four weeks ago. He was an immensely popular figure—a populist by nature—and his death was mourned not just by those holding positions of leadership in government and business but, as you say in America, by "the man on the street," who forms the bedrock of our society.

It may be pertinent to note in this regard that an annual public opinion poll conducted by the Public Opinion Research foundation shortly before President Chiang's death showed his approval rating in 1987 at 85 percent. This was up seven percent from 1986, reflecting the overwhelming support he received from the citizens of my country for his bold democratization program initiated last year. An 85 percent approval rating would cause most American politicans to turn green from envy, I suspect, and indicates that Chiang Ching-kuo must have possessed unusual qualities of leadership.

This should come as no surprise. He was schooled in leadership by his father, President Chiang Kai-shek. As the eldest son, Chiang Ching-kuo learned his lessons well and earned the high offices he held. He was elected to the presidency only after more than 40 years of service in various government and party positions, including six years as premier.

It was my personal privilege to know well both President Chiang Kai-shek and our late President Chiang Ching-kuo. I served as President Chiang Kai-shek's secretary for ten years and was privy to many of his meetings with world leaders. I saw firsthand how skilled he was in the art of diplomacy. Likewise, I knew President Chiang Ching-kuo for some 30 years and during his term as premier, I served as his official spokesman. That was a great experience for me, and I shall never forget how President Chiang Ching-kuo instructed me when I assumed by duties.

President Chiang said, "Fred, you are now my spokesman. I know you are a man of integrity and would never say anything which is untrue on your own account. Never think that you have to tell a lie on my account. Always be straightforward and tell the truth, and I will be well-served."

So, I can tell you without reservation that President Chiang was a man of high moral principles and integrity. In short, he said what meant and he meant what he said. This characteristic, perhaps more than any other, allowed him over the years to inspire confidence and to make an indelible mark on the history of the Republic of China.

But let's not get ahead of ourselves. Let's look back to President Chiang's earlier accomplishments. Then we can appreciate even more the service he rendered his country and the vision he had for the future of the Republic of China.

I said earlier that President Chiang Ching-kuo was a "populist." He was comfortable in the presence of the powerful, but I earnestly believe he was happiest in the company of working people. He moved easily among the people he served and took pleasure in trips to factories and farms and visits with shopkeepers and laborers. He appreciated the contribution they made to creating a modern society on Taiwan and he wanted them to know it. He was determined that policies of the government would result in a continuously higher standard of living for them and greater participation in the processes of government.

He availed himself of every possible opportunity to attain those goals for the Chinese on Taiwan. As chairman of the Vocational Assistance Commission for Retired Servicemen, he understood the needs of those who had served their country on the battle field and had to make the transition to private life. Just as you created special training and employment programs for veterans in the United States, Chiang Ching-kuo did so on Taiwan. We Chinese are known for our extended families and for making sure that relatives are cared for in their old age. But many soldiers had been unable to bring their families with them to Taiwan. In their old age, they found themselves alone. President Chiang made sure they were not forgotten by the country they had served; they were cared for.

And as he understood the peculiar problems of the old, he understood the needs and ambitions of the young. As director for more than 20 years of the China Youth Corps, he knew that China's future depended upon the development of its young people. He had the ability to instill in them his own intense nationalism, his devotion to Dr. Sun Yat-sen, who founded the Republic of China, and his dedication to the principles of democracy and free enterprise which are the foundation for what many call the "miracle" which has happened on Taiwan. He knew that young people had to keep busy. Corps projects and summer camps became outlets for the constructive energy of hundreds of thousands of young Chinese who now hold my country's future in their hands.

Let me pause for a moment to say that the Republic of China would not be the international economic power that it is today without careful planning over the years. Throughout the world, we have seen what has happened when developing countries set out helter-skelter to try to improve their lot. Not only are they not successful, usually they take steps backwards. Economic woes are followed by political woes and, all too often, domestic unrest degenerates into violence, anarchy and bloodshed.

Thanks to the vision of such persons as President Chiang, Taiwan's progress has been planned and orderly. Social and political progress have kept step with economic progress. We are always flattered when scholars hold up Taiwan's experience as an example to other developing countries.

President Chiang had the long view, and that long view is a great part of his legacy. When he became premier in 1972, the country was beginning to understand its potential as a major exporting nation. But it lacked the infrastructure necessary to achieve that goal. Times were not so good then, either. Because of the international oil crisis, the treasury was depleted and the government was operating at a deficit. The future was unsure, and the faint-hearted were arguing for retrenchment. It was in this economic climate that then Premier Chiang Ching-kuo proposed the "10 Major Construction Projects," which, while necessary to establish a viable infrastructure, would require tremendous public expenditures. He was willing to take the risk to insure Taiwan's place in world trade in the decades to come. He prevailed and all China shall be forever grateful, for he laid the foundation—carefully, block-by-block—for the "economic miracle" which was to follow.

Chiang Ching-kuo knew that Taiwan could not be a major manufacturing country unless it could easily move raw materials and finished goods about the island. So he built major highways to keep domestic commerce flowing. Taiwan could not ship its goods to world markets without deep water ports and modern shipping facilities. So he built two new world-class ports. Taiwan could not make the transition from light to heavy industry without the ability to produce a vital raw material—steel. So he launched Taiwan's modern steel industry. Taiwan could not produce goods without energy to turn the factory wheels. So he built new power plants. And Taiwan could not entice foreign investment to the island without a major new international airport. So he built one.

Piece by piece, he put the program together so each project complemented the other and formed a solid foundation for a dynamic export economy. He was not alone in his undertakings. The free Chinese on Taiwan were with him. He called for national sacrifice and the support of all the island's citizens. He got both, and his detractors shook their heads in disbelief as the projects were begun and successfully completed.

But neither he nor the country could afford to rest upon its laurels. Other countries in Asia were making progress also, though not at the same rate. It was clear that Taiwan would not be a leader for long if it were content to remain primarily a producer of labor-intensive products and be a captive of traditional industries.

When Chiang Ching-kuo took the oath of office for the first time as President in 1978, his work was cut out for him. High-tech was just around the corner. The handwriting was on the wall: any country which could not upgrade its economy would be out of the game. Developing countries would be forced to play in the minor leagues and compete against themselves. Countries such as Japan, Germany and the United States would play in the majors.

President Chiang was not willing to accept minor league status for the ROC. He urged the people on Taiwan to shift toward a technologically-intense economy. We made a conscious decision to cede part of our share of such markets as plastics, textiles, and other inexpensive consumer goods for the opportunity to move with the major industrialized nations into the new age of computers and high-tech. As you know, that has proved to be a wise decision.

The Republic of China on Taiwan is now the fifth largest trading partner of the United States in the world. Last year two-way trade between our countries was $31.2 billion. Building the foundation for a major manufacturing and exporting nation and developing that nation into what is now one of the world's healthiest economies was no small task. It is a legacy that few leaders have ever been privileged to leave with their people.

Today, the signs of prosperity and economic well-being are evident throughout Taiwan. Today per capita income has risen dramatically to about $5000, one of the highest in Asia. A study of the distribution of wealth has showed that the gap between the top and bottom of the income scale has narrowed to one of the best ratios in the world. On Taiwan, the ratio of the average per capita income of the top 20 per cent and the bottom 20 per cent is an amazing 4.4:1. Another survey showed that a great majority—85 per cent—of the people consider themselves "middle class," as sign of economic and social stability. Symbols of affluence and creature comforts—cars, refrigerators, televisions—are common. The fruit of Taiwan's progress has been shared by all its citizens.

President Chiang was never satisfied. The words he had written in his diary on his 70th birthday at the beginning of this decade were always fresh in his mind. He had said then, "Time flies. I know I have done too little to express my gratitude to my father or to fulfill even a small fraction of the expectations of my compatriots." He could not rest until, in his words, "Anything that must be done for the good of the people (has been) done." He still had mountains to climb.

I have mentioned that as premier he spearheaded the "10 major construction projects." They had provided a solid foundation for Taiwan's economic development but, when he became president, he knew, it was time to bolster that foundation. And he felt compelled to look for ways to improve the quality of life of the almost 20 million people of the Republic of China.

Working closely with the country's leadership and highly trained young Chinese professionals—now a mainstay of our development efforts—he proposed a 14-point program designed to insure Taiwan's continued progress and touch every life on the island.

So even in his 70s and in ill-health—he had long suffered from diabetes—President Chiang still possessed great energy and determination. His agenda was that of a man half his age. And remember, too, that at the same time he was having to deal each day with the serious problems resulting from the ROC's trade imbalance with the United States; maintaining a strong defense system to deter the mainland's designs on Taiwan—he was a former minister of defense; and the day-to-day problems of running a government.

But the last chapter still was not written. And it is that chapter which may be most memorable. To paraphrase the words of the American poet Robert Frost, Chiang Ching-kuo still had promises to keep—to his father and his compatriots—and miles to go before he slept.

President Chiang looked about him and saw a prosperous economy. He saw an educated citizenry. He saw hundreds of thousands of persons traveling abroad each year, expanding their horizons and their expectations. He saw a pluralistic society where people were eager to learn more about democracy and science of self-government. Looking around him, he saw a country that was more secure than at any time since the government relocated on Taiwan in 1949. And he realized that the task before him—perhaps his last major task—was to perfect the country's democratic institutions and insure future generations of free Chinese maximum involvement in their government.

He proposed that the Emergency Decree, which had existed for 38 years, be lifted, removing the last vestiges of "martial law" on Taiwan. In fact, the decee had little effect on the citizens of my country and a survey showed that it was near the bottom of their list of concerns. But the specter of "martial law" continued to be raised in the international community and President Chiang wanted to remove it and settle the matter once and for all.

Opposition candidates had been clamoring for some time for the right to form a party and run a slate of candidates under a single banner rather than running individually as independents against the ruling party. The restrictions on the formation of new political parties were lifted, and the door was opened for a multi-party political system to challenge President Chiang's own KMT. Interestingly enough, when the first elections were over, the KMT still polled about the same percentage it had polled in previous elections (70 per cent), giving a vote of confidence to the KMT and its leadership in its first head-on challenge.

Restrictions on newspapers were eased. Already licenses have been granted for the publication of new newspapers, and established newspapers have the right to expand their coverage. An educated population is an inquiring population, and Taiwan's newspapers now will be a greater source of news and opinion. The war of words has begun, for as the English writer, John Milton, said, "Where there is much desire to learn, there of necessity will be much arguing, much writing, many opinions; for opinion in good men is but knowledge in the making."

On Taiwan, we believe, quite sincerely, that democracy must be learned. We have looked to the United States above all others as our teacher in this area just as we have looked to you repeatedly for lessons in free enterprise and market economy. The United States has outstripped every other country in the world in developing democratic institutions and creating prosperity for its people. We are grateful, and our limitation is intended as the most sincere form of flattery.

Last of all, President Chiang tackled the problem of how to make our legislative body more representative of the people on Taiwan without abandoning the Republic of China's claim to represent all China and its ultimate goal of reunification with the mainland. Revitalizing the structure of the national law-making body and admitting new, younger blood has just begun, but it took a bold leader to focus the attention of his countrymen on this sensitive problem and, we hope, pave the way for an ultimate solution.

President Chiang Ching-kuo's democratization program, viewed broadly, as I noted, as a "display of courage and confidence in the people to whom he had brought unprecedented prosperity," drew accolades from throughout the world. And the citizens of my country have talked of little else since these dramatic reforms were proposed and, one-by-one, began to become reality.

There is one more important part of President Chiang's legacy which I think I should discuss with you.

For seven decades, members of the Chiang family—first president Chiang Kai-shek and later his son Chiang Ching-kuo—have been prominent figures in both the Koumingtang (Nationalist party) and the government of the Republic of China. Despite efforts by President Chiang Ching-kuo to dispel speculation, rumors persisted that he would somehow pass the mantle of leadership to another member of the Chiang family. Obviously, some observers did not understand his populist nature. Now, history has proved his sincerity.

Because President Chiang was in ill health for a long while, questions concerning succession constantly arose. He often pointed to the constitution and said firmly that succession would be orderly and in accord therewith. When he died January 13, there was no doubt on Taiwan what would happen. In accord with the constitution adopted in 1946, Vice President Lee Teng-hui, a native of Taiwan province and proven administrator, was sworn in immediatley. Government in the Republic of China proceeded without a hitch. President Chiang's insistence that there was no place in Taiwan's modern democratic government for a family dynasty is now an important part of his legacy.

It is important to note that President Lee, who became vice president in 1984, is the first Taiwan-born president of the Republic of China. His succession blunts much of the criticism which opposition leaders have made about the participation of Taiwan-born Chinese in the government of the Republic of China. The truth is that President Chiang worked hard to make the KMT an inclusive, rather than an exclusive, political party. Today more than 80 per cent of the members of the KMT were born on Taiwan and about half of our cabinet ministers. Any person who wants to participate in the party can do so and the height to which he or she can rise depends only on the limits of their own energies, ambitions and abilities.

President Chiang Ching-Kuo, shortly before his death, dictated a last testament which was witnessed by several government leaders, including then Vice President Lee. He called upon the people to continue to seek reunification with the mainland, oppose communism and, importantly, to "actively carry constitutional democratic development forward without interruption." Upon assuming the office of president, Dr. Lee Teng-hui called upon the citizens of the Republic of China "to follow without fail the final exhortations of President Chiang . . . with one heart and mind in a united effort." The torch was passed.

President Chiang's leadership will be deeply missed. But, he was a wise man. He knew he would not stay on the scene forever and planned carefully for our future. His legacy actually has two-parts: unprecedented economic progress and democratic reforms he initiated during his life, and the clear path he marked for the Republic of China's democratic development after his death.

One editorialist summed up by stating, "Taiwan, which first showed Third World nations how to use capitalism, free trade and export-led growth to turn a third-world peasant economy into a sophisticated exporter with a flourishing middle class, now appears bent on demonstrating how democratization can be made to follow economic success."* In the long run, the extraordinary economic success and the democratic reforms instituted during President Chiang Ching-kuo's last years will be equally treasured by the citizens of the Republic of China.●

HAPPY BIRTHDAY, BOB SAMPSON

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. SIMON. Mr. President, I would like to ask my colleagues to join me in honoring someone who is celebrating a birthday today, an American who has been an inspiration and a friend to many, many people—Robert Sampson of Arlington Heights, IL. It has been my deep pleasure to know Bob Sampson for many years. Our roots go back to Illinois State politics, and we have worked together on national issues.

Many of us know Bob Sampson by face, if not by name. Every Labor Day he appears on the Muscular Dystrophy Telethon on behalf of the hundreds of thousands of persons affected by muscular dystrophy. Jerry Lewis calls Bob "the big kid."

Bob Sampson is one of the most able-minded disabled persons I know. He recently retired from United Air Lines, where he served with distinction for many years as its vice president and key troubleshooter.

Bob served as vice chairman of the President's Committee on Employment of the Handicapped and was one of the original members of the U.S. Architectural Transportation Barriers Compliance Board when it was reconstituted in 1978. That was a particularly fitting appointment for Bob Sampson, a man who has spent his life overcoming obstacles which would have thwarted all but the most determined.

Bob has been in a wheelchair since age 9. He went to college and law school at a time long before laws were enacted to require schools to be accessible to persons with disabilities. He served as an advisor to Mayor Daley of Chicago and to one of my heroes, Hubert H. Humphrey.

On the occasion of his 63d birthday, I ask my colleagues to join me in saluting Bob Sampson and wishing him many more happy and productive years.●

BICENTENNIAL MINUTE

MARCH 4, 1789: ABSENCE OF A QUORUM ON THE FIRST DAY

(By request of Mr. SIMPSON, the following statement was ordered to be printed in the RECORD:)

● Mr. DOLE. Mr. President, late in 1788 the dying Congress under the Articles of Confederation determined that March 4, 1789, would be the day the newly ratified Constitution would take effect.

Because the new government desperately needed revenue, all agreed that despite the difficult late winter travel conditions the new Congress should convene as quickly as possible. This would allow the Senate and House the opportunity to pass a tariff law in time to apply to the spring imports.

In an effort to convince Congress to select New York City as the permanent seat of government, local merchants and others underwrote a hand-some restoration of the old city hall. The Senate Chamber, located on the second floor, occupied a richly carpeted space 40-feet long and 30-feet wide. The Chamber's most striking features were its high arched ceiling, tall windows curtained in crimson damask, fireplace mantels in handsomely polished marble, and a Presiding Officer's chair elevated 3 feet from the floor and placed under a crimson canopy. The ceiling was adorned in the center with a Sun and—expressing optimism that Rhode Island and North Carolina would soon join the Union—13 stars.

Delays in selecting Senators and terrible travel conditions frustrated the scheduled opening of the Senate. On March 4, 1789, 199 years ago today, only 8 of the 20 Senators already elected answered to the first quorum call. New York had not yet elected its Senators, due to a deadlock in the State legislature. Finally on April 6, the necessary 12 of the eligible 22 had arrived, and the Senate got down to business. March 4 in odd-numbered years remained the starting date for new congressional terms until 1934 when the 20th amendment changed the date to January 3.●

FUND SOLICITATIONS BY PUBLIC INTEREST GROUPS

● Mr. CHILES. Mr. President, on June 18 of last year Senator HEINZ and I, along with several other of our distinguished colleagues introduced S. 1393, the Deceptive Mailings Prevention Act. We introduced this legislation in response to the many complaints that we have received from senior citizens about the scare tactics and distortions used by some so-called "public interest groups" to solicit funds.

Obviously there are many reputable public interest groups. However, it is often hard to tell the good from the bad. For this reason I was interested to see an article entitled: "The Best and Worst of Public Interest Groups" which appears in the March 1988 issue of the Washington Monthly magazine. This article describes just that: the reputable and the not so reputable public interest groups. I believe that portions of this article bear on the deceptive mailings issue, and I ask that it be entered into the RECORD.

As recently as last week, I received additional checks from senior citizens in Florida in response to Mr. Roosevelt's latest solicitation. My name and Senator GRAHAM's name appeared on that solicitation. The good people sending the checks had been given the impression that they had to send money to their U.S. Senators to ensure: First, that their benefits were protected, and second, that we would vote for a particular bill.

We absolutely should not allow this kind of thing to continue.

The article follows:

[From the Washington Monthly, March 1988]

THE BEST AND WORST OF PUBLIC INTEREST GROUPS

(By Rita McWilliams)

Twenty-five years ago a young Lebanese-American set up shop in Washington, D.C. Like those of most young entrepreneurs, his was a shoe-string operation. He became famous when the press discovered that his adversary, one of the nation's largest and wealthiest corporations, had sent a private eye out searching for ways to discredit him.

A quarter century had passed since Ralph Nader began his successful crusade against General Motors' deathtrap, the Corvair. Before Nader was finished, he had revolutionized the auto industry, instituting the use of shatter-resistant glass, shock-absorbing bumpers, collapsing steering wheels, and seat belts.

But more importantly, he had changed the way Washington works.

His example activated citizens across the nation to fight the corporate world, the oppressive politician, the high-paid influence peddler. Today more than 2,000 groups champion a variety of causes "in the public interest." Public interest victories have put nonsmoking seats on commercial airplanes and nutrition labels on soup cans and cereal boxes. They have put smoke detectors in apartment buildings, flame-resistant clothing on children, and cleaner air in the cities and countryside.

After 25 years, this industry retains a powerful, if little-examined, position in the policymaking process. The influence of the public interest industry, and the inevitable conflicts about what constitutes "the public interest," invites a scrutiny of its work. What are the best public interest groups? What are the worst?

The manner in which public interest groups go about their work is particularly important, since they usually fight oponents with more money and manpower. Public interest groups have to rely on powers of moral persuasion. They have to be savvy about creating new constituencies for their cause and mobilizing public opinion.

At their best, public interest groups are fair and ethical; their strategies are smart, and their goals are worthy. They are intellectually honest. They use statistics to their advantage, but without lying. Their work challenges the public to think, and sometimes challenges even the groups that fund them.

The worst public interest groups alienate the public rather than rally it to their cause. They use deceptive tactics that exploit the public's fears or hide their true intent. They enrich themselves at their members' expense. With moral credibility the industry's most precious capital, the work of the worst public interest groups threatens all those who share the public interest label.

It was not possible to examine the work of each of the 2,000 public interest groups in Washington. The following list was drawn from interviews with reporters, lobbyists, congressional aides, political scientists, and public interest leaders. It shows the kind of work to which public interest groups should aspire, and the kind which it should seek to avoid. The successes of the best and the disappointments of the worst offer important lessons for those committed to the public's true interests.

THE BEST

Citizens for Tax Justice: Groups that take on rich and powerful adversaries have to find ways to promote their cause and create new constituencies. Citizens for Tax Justice did just that. The group's determined research found that some of the nation's largest corporations paid no taxes. CTJ's savvy and fearless promotion of its findings, even when doing so made its own board members uncomfortable, helped create outrage that cut across ideological lines. This work helped set the stage for one of the most dramatic defeats that special interest groups have ever suffered: the 1986 overhaul of the federal tax code.

As a result, most Americans will pay significantly lower taxes this year—an average of $531 less for families earning between $20,000 and $50,000—and six million of the nation's poorest families have been removed from the tax rolls altogether.

CTJ was founded in 1979 in reaction to California's Proposition 13, which cut the state's property taxes and, with them, government services. With backing from labor unions, CTJ's original aim was to stop similar movements that would lay off government employees and cut services elsewhere.

The group's role in tax reform began in 1984 with Robert McIntyre, a Nader-trained lawyer who projects the image of a hard-nosed investigative reporter. Smart and serious, McIntyre seems more comfortable prowling document rooms than buttonholing legislators in hallways. He spent the summer of 1984 extracting tax data from the annual reports of the nation's largest businesses. McIntyre found that 128 large corporations had avoided paying federal income taxes in at least one of the three previous years, despite billions in profits. Then he named names. When CTJ issued a report called "The Top Ten Corporate Freeloaders," the media couldn't resist. Newspapers across the country highlighted stories about freeloaders like General Electric and Anheuser-Busch. Editors at The New York Times liked the part about defense contractors so much they ran it twice, by two different reporters.

"To actually attach names to those who avoided taxes was powerful," says Alan Murray, chief economics correspondent for The Wall Street Journal and author of a book on the 1986 Tax Reform Act. Unlike corporate tax lobbyists, McIntyre "had no budget to wine and dine anyone," Murray said. "He just kept churning out press releases and lists. He's shown what you can do with a good head, public information, and a personal computer."

As the demand for tax reform increased, congressional deliberations placed McIntyre in a tricky position with his own board. Some proposals, such as taxing fringe benefits that unions had won for their members, could have blown union support for tax reform. "he was fearless in defending what he thought was right, even if it bumped against his own bankroll," said McIntyre's friend Michael Kinsley, editor of The New Republic. McIntyre said he kept the union's support by stressing the larger tax picture. "We pointed out that most people would be better off overall and asked them to do their own analyses," McIntyre said. "They concluded the overall picture would be better for their members."

The unions that founded McIntyre helped publicize the cause. The Communications Workers of America held a press conference in New Jersey in which a union representative held up a General Electric light bulb and announced, "I paid more sales tax on this light bulb than General Electric paid in taxes during the last three years." The American Federation of State, County, and Municipal Employees began a penny brigade, sending lawmakers a single cent toward the deficit and saying that while it wasn't much, it was more than 128 big businesses had paid. Union T-shirts read: "I paid more taxes than Lockheed, Dow Chemical, and W.R. Grace and Co. combined."

While CTJ's funding comes primarily from liberal groups, their figures helped garner conservative support. Columnist James J. Kilpatrick used the group's figures. So did corporations who were stuck paying high taxes. Companies paying high taxes, such as Whirlpool and Ralston-Purina, began complaining about the competition's freeloading. The targets of attack squawked at McIntyre's accounting, arguing he misrepresented items like deferred tax liabilities and ignored investment incentives that help the economy. But their criticisms were lost in the swelling support for tax reform.

CTJ is now scrutinizing the corporate loopholes in state tax codes. Next on the group's list are billionaires who use real estate deals to duck taxes. Donald Trump and Mort Zuckerman beware.

Center on Budget and Policy Priorities: "Poor Still Getting Power, Budget Study Concludes," ran the recent headline in The Washington Post, after another study from the Center on Budget and Policy Priorities.

Washington is loaded with high-priced lobbyists seeking subsidies for the middle class and for business. The CBPP raises an effective voice for the poor. It does so by writing quick and clear analyses of how legislation would affect the poor. The numbers, which are trusted across the ideological spectrum, often speak for themselves.

Director Robert Greenstein founded the Center in 1981, after heading the Agriculture Department's Food and Nutrition Service, the agency responsible for the nation's food assistance programs. He and seven crack analysts work in stark offices, sifting through the latest numbers from the nonpartisan Congressional Budget Office and the Census Bureau. Their phone number is the first one most reporters dial for statistics on the poor. "I find that they don't overdo their spin on things," said Tom Kenworthy of The Washington Post. "They don't put a big ideological rap on you when they explain their analyses."

The speed and accuracy of the Center's work has earned it an ear on the Hill, too. An example from the 1986 tax reform debate is typical. When it looked as if the Senate Finance Committee was ready to endorse a less generous tax credit for the working poor than that favored by the House, Greenstein jumped in. In one day his staff produced a three-page memo proving that the poor would be hurt and showing the senators a simple way to solve the problem. The committee members didn't even realize what they had done. When they found out, they took Greenstein's advice.

The Center again guarded the interests of the poor during the drafting of recent deficit reduction laws. Its analysis contributed to Congress's decision to exempt certain food, welfare, and medical programs from automatic cuts that will take place if Congress fails to meet the law's deficit reduction targets.

To its credit, the Center also searches the budget for items to cut. Even programs much loved by urban liberals, who provide the bulk of the funding for Greenstein's group, sometimes make the list. These include suggested reductions for the Economic Development Administration and Urban Development Action Grants. Recently the Reagan administration adopted a suggestion from the Center to provide incentives for states to begin competitive bidding in supplemental food programs, so more women and children can receive milk, cheese, eggs, fruit juices, and other foods. The Center has also helped states implement workfare programs to help welfare recipients find jobs.

The Natural Resources Defense Council: These are the Wall Street lawyers of the environmental movement. When an environmental cause needs first-class legal representation or policy analysis, it turns to the NRDC. The group's scientific and legal expertise has put it at the center of every major environmental debate for two decades. "They are smart, aggressive, and they know what they are doing," said Ron Outen, a former Republican staffer for the Senate's Environment and Public Works Committee.

The NRDC pioneered the use of the lawsuit to safeguard the environment. Since it began work in 1970, the NRDC's suits have led to landmark decisions influencing the laws governing air and water pollution, toxic wastes, drinking water, pesticides, nuclear energy, energy conservation, and land use. The Calvert Cliffs case, for example, forced government regulators to take into account environmental concerns when issuing licenses for the construction of nuclear power plants.

The NRDC often slows the pace of potentially hazardous development by filing suit to block action long enough for Congress to get involved. It delayed the construction of the Clinch River Breeder Reactor long enough for Congress to kill the project. On a different front, the NRDC's lawsuit against the timber industry in West Virginia led to the National Forest Management Act, which significantly restricts clear-cutting on national forest lands.

The NRDC also rides herd on the Environmental Protection Agency, checking its enforcement of clean air and water laws. In 1976, the NRDC took the lead role in compelling the EPA to enforce the Clean Water Act and control industrial pollutants. EPA staff members say NRDC lawyers know more about the Clean Air Act than anyone else, including most EPA lawyers. Early on, the NRDC won a major victory when it forced the Tennessee Valley Authority to reduce its sulfur dioxide emissions. This set a pattern for future enforcement actions. The Council's victories also include the reduction of lead in gasoline and the control of chemicals that deplete the ozone layer.

The NRDC's quality work allows it to draw support from across the political spectrum. Today it has a budget of $10 million, drawn from individual and foundation contributions, and employs 25 attorneys.

The Nature Conservancy: Other environmental groups condemn The Nature Conservancy for refusing to take on the corporate world or the Reagan administration. But by forgoing these tactics the low-profile Conservancy has preserved some 2.6 million acres of selected wetlands, deserts, forests, prairies, and islands. Their work helps establish an important public interest principle: you don't always have to work through the government to get things done.

While many other environment groups are busy talking from their K street offices, The Nature Conservancy is out with mud on its boots, snatching vital lands from the jaws of condominium developers. "They are all action and no talk," said Frank Dunkle, director of the U.S. Fish and Wildlife Service.

When Conservancy operatives hear of a plan to build a ski resort on a mountain that provides the last good habitat for a certain warbler, they don't issue antidevelopment manifestos. Instead, Conservancy agents begin conventional commercial negotiations to buy the land outright before the developer. With donations of cash and land topping $73 million last year, the group commands considerable financial clout.

The Conservancy's non-confrontational approach keeps the group in good stead with corporate directors, from whom the Conservancy courts donations. As a result, The Nature Conservancy has amassed the largest system of privately owned nature sanctuaries in the world. It protects more than 150 species of endangered plants and animals and preserves some examples of America's most jeopardized natural ecosystems.

The Nature Conservancy also performs a unique service for the government. When a government agency decides to buy property, but hasn't received the spending authority it needs, the Conservancy often steps in, buying the property and holding it until the government gets the money. And it can serve as a middleman between government and private donors. It played a crucial role in the Prudential Insurance Company's recent donation of 120,000 acres of North Carolina forest and wetlands to the U.S. Fish and Wildlife Service. For ten years, the Conservancy had appealed to Prudential to preserve or donate the land, which was considered the Southeast's most significant unprotected area. Nature Conservancy accountants and lawyers helped Prudential outline the tax advantages that encouraged the donation. Valued at $50 million, it is among the largest gifts in the history of American conservation.

National Taxpayers Union: Public interest groups spend much of their time demanding that the government do something. Protect consumers! Regulate business! Save the environment! National Taxpayers Union tries to get the government to stop doing something—stop wasting money on boondoggles.

NTU is discerning in identifying wasteful projects. And it shoots at both liberal and conservative targets. While its own actions may be motivated by the conservatives' desire for a smaller federal government, its activities are useful to the whole public interest industry: the fewer things the government does wrong, the more faith the public will have in its ability to do the things we want it to do right.

The group was founded in 1969 by James D. Davidson, a 22-year-old graduate student who had worked for the Nixon campaign. He was disillusioned that so many campaign workers hadn't thought past the next election. "No one was thinking about the future fiscal well-being of the nation," he said. "These things scared me. I had this great illusion that we could do something for the poor neglected taxpayer, that if we spoke out it would be like sprinkling pixie dust in a fairy tale and everything would be all right."

NTU scored its first victory when it helped scuttle the Nixon administration's proposal to build a supersonic transport like the Concorde. It helped eliminate the Synthetic Fuels Corporation, which was trying to produce synthetic fuel at $60 a barrel when oil was selling for less than half that price. NTU also joined in a coalition to defeat the $6 billion Westway highway project slated for Manhattan's West Side. It would have been America's most expensive highway, at $15,000 an inch. Joining with environmental groups, NTU helped kill the Clinch River Breeder Reactor, where cost overruns were more than enough to wipe out the savings it was designed to produce.

NTU has a penchant for making enemies. Each year, it reports the biggest pork barrel artists in Congress, an activity that especially irritates conservatives because it doesn't differentiate between defense spending and domestic spending. Bureaucrats despise it for carping about the annual civil service pay raises and pension increases. NTU opposes the "double-dipping" that allows government workers to collect a pension while drawing another government salary. NTU has also been a force in stemming pay raises for congressmen and succeeded in its drive to get lawmakers to pay Social Security taxes like everyone else.

Unlike some other conservative groups, NTU doesn't spare the wastefulness of the Pentagon. When the wings of the military's C-5A cargo planes began to crack, NTU jumped on the Defense Department for accepting Lockheed's expensive repair contract without considering other feasible options. It has called for spending less on the defense of European and Asian allies. And NTU has also called for cuts in the generous military pensions that encourage valuable commissioned and noncommissioned officers to retire in their early forties and work for someone else.

Lots of congressional aides consider NTU "kooky." Maybe that's one reason why the national debt is so high.

THE WORST

National Committee to Preserve Social Security and Medicare: "Urgent! Important Social Security and Medicare Information Enclosed," screams the official-looking envelope. "Attention Postmaster: Time Dated Official National Committee Documents Enclosed. Expedite for Immediate Delivery."

No one knows how many elderly citizens receiving this fundraising appeal confuse it with a real letter about their Social Security or Medicare benefits. But the National Committee to Preserve Social Security and Medicare knows one thing: this kind of letter raises big money, some $90 million so far.

The letters always ask recipients to "save the Social Security system" by sending money to the National Committee. Sometimes the Committee does such a good job of imitating the government's letters that the elderly show up at local Social Security offices to pay what the letter seems to demand in order to keep benefits coming.

The National Committee is headed by James Roosevelt, the eldest son of FDR. He regularly invokes his lineage in the National Committee's letters. "Never in the 51 years since my father, Franklin Delano Roosevelt, started the Social Security system . . ." is his typical opening pitch. Invariably, what follows is a breathless description of some dastardly plot he has uncovered to do away with the Social Security and Medicare programs. "Act now," he says. Sign the enclosed petition and send $10 to become a member. "I will be very disappointed if you don't join," he adds in a P.S.

These misleading fundraising techniques have drawn fire from many members of Congress. Lawton Chiles, chairman of the Senate Budget Committee, has co-sponsored legislation with Republican Senator John Heinz of Pennsylvania that would force the National Committee to state in large print that its mail is not from the U.S. government. They drafted the bill after the National Committee sent an especially misleading letter implying that the Social Security fund would go broke unless contributions were made immediately.

Chiles, a Florida Democrat, found that those who could afford it least had given hundreds of dollars to the National Committee and that the group did little in Washington. A House investigation of the group concluded most of the funds went to a California direct mail firm, Butcher-Forde.

To counter the criticism that the Committee was invisible in Washington, it hired 13 lobbyists last year and moved into plush penthouse quarters on K Street's lawyers' lane. Then it began lobbying Congress with the same scare tactics it had used to shake down the unsuspecting elderly. Lobbyists delivered the names of nearly eight million Social Security recipients who, the Committee claimed, had signed petitions opposing Social Security cuts. The Committee did not say these "petitions" were part of fundraising gimmicks the Committee had been using for years.

Franklin Roosevelt's most important advice to the American people was to tell them they had nothing to fear but fear itself. He knew that a frightened citizenry was not a wise citizenry. His son James has exploited the corollary: a frightened citizenry is easily bilked.

The National Organization for the Reform of Marijuana Laws: NORML is an example of a public interest group willing to embrace whatever cause is necessary to survive. It was founded in 1970 with the noble intention of keeping college kids and Vietnam veterans out of prison for smoking pot. But when society began winking at private and casual marijuana use (except for Supreme Court nominees), NORML had to search elsewhere for funds and raison d'etre. It found both in the lawyers for cocaine dealers and mid-level mobsters whom it now serves.

NORML raises a third of its funds by organizing legal seminars for those who defend cocaine smugglers and dealers of other hard drugs. (See Amy Cunningham, "NORML's Bad Trip," July-August 1986.) Want to know how to make federal drug agents look stupid on the stand? How to spot sympathetic jurors? How to cast doubt on federal informers? Then NORML's for you. It's also for people like Abert Krieger, the defense attorney for reputed mobster Joe Bonnano, who has helped lead the seminars. So has Carlos Madrid Palacios, the alleged security man for Jorge Ochoa, once estimated as the world's fourth-largest cocaine dealer.

"We're not at all ashamed to get their money and be associated with them," said Jon Gettman, NORML's director. "It doesn't matter what kind of criminals they have represented. Who is to say we should not defend criminals?"

Gettman makes it sound like NORML's activities stem from principle. In fact, it's *principal* they stem from, or the lack of it. NORML's membership and budget grew rapidly in the 1970s, fueled by the organization's highly publicized defenses of people like 19-year-old Jerry Mitchell of Missouri. In 1976, Mitchell was sentenced to 12 years in prison for selling an agent a third of an ounce of marijuana for five dollars and assisting in the sale of a pound. NORML helped get the sentence reduced, and contributions steadily rose. Its income grew from $87,000 in 1972 to $450,000 in 1978. But its outgo grew even faster, and the group was always in debt and hungry for more cash.

By 1978, much of NORML's original agenda had been achieved. Few casual pot smokers were getting arrested. Eleven states had decriminalized the use of marijuana and 30 others offered slap-on-the-wrist penalties. As the laws changed, the contributions slowed. By the end of the decade, NORML's original constituency of grow-your-own hippies was disappearing, and a new one of lawyers in $500 shoes was growing. NORML's officials say the lucrative legal seminars—$475 a person—are the single most important reason for a debt that has shrunk from $125,000 to $20,000 and a budget that's growing again.

NORML still does some good things. It publishes material on the health effects of marijuana. It lobbies the Drug Enforcement Administration to file environmental impact statements when spraying paraquat. It has argued against mandatory urine testing for Justice Department employees and fought constitutionally dubious efforts to make some drug lawyers testify against their clients. But NORML's ties to big-time drug dealers deny it the credibility it needs. So does its opposition to sensible proposals like that of William von Raab, the U.S. Customs Commissioner, to stamp the passports of convicted drug dealers.

A truer measure of NORML's effect on public policy was seen in 1977, when Dr. Peter Bourne attended the group's Christmas Party. Bourne, Jimmy Carter's drug policy adviser, took the opportunity to snort a bit of cocaine. When the story hit the press, Bourne resigned.

National Organization for Women: There are hundreds of public interest groups that fight for equal opportunity. Together, they've made America a fairer and more decent place. But like all Washington lobbies they can wind up following their own agenda, instead of that of those they represent. Perhaps the worst offender in that category is the National Organization for Women. While it's the group that boasts the largest constituency—more than half of America—it also happens to be among the most out of touch.

There is much to be said on NOW's behalf. For most of its 21 years NOW has been the women's movement. Thanks in part to NOW, the workplace is less sexist and credit is available without discrimination. Even the Little League now lets girls step up to the plate. But when push comes to lobbying, NOW avoids the trenchwork it takes to get women the economic opportunities they deserve.

Instead, it opts for P.R. events and loud but empty rhetoric. "It is time to raise hell against an opposition that is frequently nothing but fascists!" harangued Eleanor Smeal at NOW's 1986 annual meeting. NOW's bylaws say its purpose "is to take action to bring women into full participation in the mainstream of American society." And on what fronts does NOW wage this war? There was the Central American front, when NOW Organized the "Benjamin Linder Peace Tour," to protest American support of the Contras. There was the Iranian front, with NOW's call for the impeachment of Ronald Reagan over the Iran-Contra affair. And there was the Vatican front too, with NOW's "Last Lunch" to protest the policies of the Catholic Church.

O.K., you're thinking so NOW engages in some ostentatious protests—it still does great work on behalf of women. That's not what lobbyists for other women's groups say. Look at what has happened since Senator Christopher Dodd introduced a bill that would commit $2.5 billion to improving day care, mostly for lower-income and working-class families who can't afford the $3,000 that a year of day care costs on average in the U.S. What is NOW doing to make sure it doesn't fall under the Gramm-Rudman cleaver? By its own admission, not much. It's simply "not enough to get excited about," said Sheri O'Dell, a NOW vice-president.

This kind of weak endorsement irks lobbyists for other women's groups who charge that NOW isn't pulling its weight. "Let's face it," said one women's rights lobbyist, "Ronald Reagan is in the White House and you have to get a bill through Congress. NOW would rather have principle and a fund-raising drive than win." According to the vast majority of lobbyists and Capitol Hill aides I spoke with, NOW has yet to be much of an asset to those lobbying for the Dodd measure. (By contrast, the Women's Equity Action League was singled out for its hard work on economic issues.)

So lax is NOW that it has ceded a great working women's issue to, of all people, Phyllis Schlafly: lifting the federal and local laws and regulations that restrict work that can be done at home. While Schlafly has spoken out publicly against these laws, NOW has been silent. That's tragic because these laws prevent more flexibile work arrangements that could allow many women to spend more time with their families and still earn a living wage. The restrictions mostly date from a time when there were opppresive work conditions at home, with little regard for safety. But today those restrictions could be lifted with ease and safety could be ensured through a system of home inspection. It's an important family issue that NOW is too preoccupied to recognize.

NOW's national leadership wouldn't have to look far to find more constructive examples of women's advocacy. By contrast, many chapters of NOW across the country have scored important legislative victories, such as stricter spouse abuse laws in Wyoming and a rape prevention program in West Virginia. NOW's Chicago branch even sent members to Washington to lobby for more generous parental-leave laws. But NOW's national leaders are too busy fighting the fascists. No wonder it's lost a third of its members in the past ten years.

Citizens for Sensible Control of Acid Rain (CSCAR): Who wouldn't be for the sensible control of acid rain? The utilities, coal producers, and manufacturing companies who fund this falsely advertised group, that's who.

Washington is full of misnamed corporate groups that pose as defenders of the public interest. The Clean Capital City Committee that led the opposition to a D.C. can and bottle refund law was funded by the Glass Packaging Institute, the Can Manufacturers Institute, and other businesses. These groups are a bad lot, but CSCAR is one of the worst.

A recent CSCAR "grassroots" campaign consisted of hiring Washington lobbyists to send out 800,000 letters denouncing a bill to control acid rain. Each packet contained a stamped envelope, addressed to the recipient's congressman, and a just-sign-and-send letter of opposition. The bill that was the target of attack would have forced power plants and large industries to phase down their sulfur oxide and nitrogen oxide emissions.

"What we do is try to promote participation and understanding of the issue," said CSCAR's executive director, Thomas Buckmaster, who runs the operation from the Washington office of Fleishman & Hillard Inc., a public relations firm. Scientists do disagree about the effects of acid rain, and industries do have a right to tell their customers a side of the story that environmentalists skip, like the cost to consumers of emissions control. But those 800,000 "education" packets never said who was behind the project. The 130,000 people who Buckmaster proudly notes "took the extraordinary step" of signing the letter did so in the dark.

CSCAR only fessed up its industry backing to the letter recipients after the Public Interest Research Group and others who support acid rain legislation cried foul. Last year CSCAR finally began to include a line at the bottom of the stationery that disclosed that its financing came from utilities such as the American Electric and Power Corporation in Columbus, Ohio, and the Union Electric Company in St. Louis. "If industries want to lobby, that's fine," says Rep. James Florio, chairman of a House consumer affairs subcommittee. "But when they disguise themselves as grassroots citizens groups, that's deceptive. Their letter-writing campaign was phony, which doesn't say much for the group's confidence about winning if they played fairly."●

IN HONOR OF MARGIE NICHOLS

● Mr. SASSER. Mr. President, I would like to call your attention today to the outstanding achievements of Margie Nichols, a television reporter for WSMV in my home State of Tennessee. Ms. Nichols has recently received the prestigious George Polk Award for her series on Medicare supplemental insurance policies.

Ms. Nichols' series focused local and national attention on a problem that has been growing exponentially in our society. This problem is that many of our Nation's elderly are being systematically taken advantage of by unscrupulous insurance salesmen. Senior citizens who live in fear of catastrophic illness are particularly vulnerable to this type of abuse, and Ms. Nichols' excellent investigative reporting has broadened the public's awareness in this area.

I held hearings in Tennessee in August on the issue of Medigap sales abuse and was fortunate enough to have Ms. Nichols testify. She was an excellent witness, not only for her thorough knowledge of the unfair tactics used by unscrupulous salesmen, but also for her ability to offer poignant solutions to the problem.

As a result of these hearings and with the help of Ms. Nichols' testimony, I will soon be introducing legislation that will help to reduce the incidence of Medigap sales abuse.

Indeed, Ms. Margie Nichols is a credit to the field of journalism and I wish her the best of continued success in her career.●

IN HONOR OF FATHER DON MOWERY

● Mr. SASSER. Mr. President, I pay tribute today to Rev. Donald E. Mowery, more affectionately known as Father Don to the thousands of youths whose lives he has affected. Father Don Mowery is the executive director of Youth Service in Memphis and the president of Youth Service, USA. This year he celebrates the 25th anniversary of his directorship in Memphis.

Community leaders and those who have benefited from Father Don's leadership are pausing to pay him tribute on this silver anniversary. I join in congratulating him on his outstanding service to the community of Memphis and the youth of America and look forward to Father Don building on this sound record.

Father Don is one of the silent heros of our time. He has held out the promise of a future for many distressed youths. His diligence and service with the job skills training and employment programs have provided job opportunities for tens of thousands of underprivileged youth that were previously thought of as unemployable. Father Don's programs have provided financial and emotional stability to children whose skills are often overlooked. He has helped them to become productive members of society in many cases. As a result, we have all benefited. He can take great pride in making his community stronger, and we all owe him a debt of gratitude for helping remove fellow citizens from the welfare rolls.

Work like that done by Father Don is exactly what is needed to help individuals overcome the generation to generation cycle of poverty that has become a way of life for so many Americans. Extensive social programs and bureaucratic initiatives, no matter how well intentioned, will never replace the type of hands on, person to person contact given by Father Don. It takes an extremely devoted individual to continually provide such service for 25 years. Father Don is that individual.

Donald Mowery was ordained priest in the Episcopal Church in 1957 and became the executive director of Youth Service in 1963. In 1970 he founded the National Branch of Youth Service and has served in the capacity of president since that time.

Father Don has received national recognition for his service. He has received numerous awards including the Secretary of Defense Medal for outstanding public service, the National Freedom Leadership Award, the George Washington Honor Medal Award, and the Liberty Bell Award.

He was also selected by the White House as a model for other private initiative organizations. Hopefully, his is a model which will be imitated across the land.

Mr. President, I am proud that Father Donald Mowery is a citizen of the State of Tennessee. I congratulate him for his remarkable achievements, and I wish him the best of continued success in his career of social service.●

THE RIGHT TO KNOW: PRESERVING SELF-GOVERNMENT AND PUBLIC ACCOUNTABILITY

(At the request of Mr. Byrd, the following statement was ordered to be printed in the Record:)

● Mr. SIMON. Mr. President, March 16, the anniversary of the birth of James Madison, is Freedom of Information Day. This is an appropriate way to honor our former President, who was instrumental in drafting the Constitution that provides the framework for our democracy. As Madison recognized, the right to self-government depends on an informed people. A people deprived of information about their government and the world around them are constrained by their ignorance. Their choices are limited by what they are permitted to know. Without knowledge the sovereignty of the people cannot be fully and freely exercised.

This is more than an abstraction to me, because as a young newspaper publisher in southern Illinois, I wrote about corruption in government. As a State legislator I sponsored the Illinois open meeting law. I have long believed the right to know is a core value of our democracy. As chairman of the Subcommittee on the Constitution, I am pleased to call to your attention an essay by Christopher Harvie of the Advocacy Institute:

Right to Know: Preserving Self-Government and Public Accountability

For over 200 years, this country has been the site of one of mankind's greatest experiments: self-government. Americans enjoy more individual liberties than any other nation because we live in a country in which the people are sovereign. And the most vital ingredient of our system of self-government is the people's right to know. James Madison, whose birthday on March 16 marks Freedom of Information Day, penned perhaps the most famous rationale for the citizenry's right to know:

"A popular government without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or perhaps both. Knowledge will forever govern ignorance: and a people who mean to be their own Governors, must arm themselves with the power which knowledge gives."

The sovereignty of the people has been protected by a constitutional system which decrees that the processes of government shall be conducted openly. The Constitution placed an affirmative obligation on the federal government to publish regular information about its spending and taxing activities and the manner in which they would affect the public. The First Amendment granted citziens the right ot petition the government with grievances, and made that right meaningful by protecting the free flow of ideas to ensure robust public debate over important political issues. The Supreme Court has recognized that the right to know is an essential ingredient of a citizen's exercise of First Amendment rights:

"[T]he right to receive ideas is a necessary predicate to the recipient's meaningful exercise of his own rights of speech, press and political freedom."

Board of Education v. *Pico,* 457 U.S. 853, 867 (1982). Moreover, the Court has noted expressly that the First Amendment's protection of the citizenry's right to receive ideas is rooted in the need to ensure the strength and continuity of democratic self-government:

"The durability of our system of self-government hinges upon the preservation of [First Amendment] freedoms 'since informed public opinion is the most potent of all restraints upon misgovernment. . .' "

Pittsburgh Press Co. v. *Pittsburgh Commission on Human Relations,* 413 U.S. 376, 381–82 (1973), *quoting Grossjean* v. *American Press Co.,* 297 U.S. 233, 250 (1936).

Most recently, the Iran-Contra affair has illustrated with terrible clarity that the citizenry will suffer such "misgovernment" when the people's right to know is ignored. While scores of foreigners were made aware of a sensitive foreign policy matter, the American people themselves were deceived and misled about policies as fundamental as our nation's posture toward terrorists and our military activities in Central America.

The Iran-Contra affair violated the principal tenet of democratic self-government: the consent of the governed. Democracies are governed by consent, not coercion; that principle is violated when the public is deceived or kept in the dark about fundamental policy matters. The American people did not consent to trading arms for hostages; nor did they consent to having their government officials help escalate the war in Central America; nor did they consent to the use of government assets and government officials to construct a covert enterprise completely unaccountable to either the government or the public. Our government was able to flout the will of its people by keeping them in the dark about its activities.

The Iran-Contra affair occurred because our government purposefully and successfully ignored the public's right to know. The shoddy judgment exercised by the principals in the affair, the weakening of our credibility overseas, and the erosion of respect here for the Presidency, are the consequences of substituting secrecy for democratic processes. The whole affair aptly illustrates the admonition of Justice Potter Stewart:

"In the absence of the governmental checks and balances present in other areas of our national life, the only effective restraint upon executive policy and power in the areas of national defense and international affairs may lie in an enlightened citizenry—in an informed critical opinion which alone can here protect the values of democratic government."

New York Times Co. v. *United States,* 403 U.S. 713 (1971).

SECRECY AND NATIONAL SECURITY

Throughout the Iran-Contra hearings, defenders of the operation insisted that its disclosure would threaten the security of the nation. It is evident, however, that because of the damage to our credibility abroad, we have emerged from the Iran-Contra affair weaker and less secure. Those who insist that such a weakening would not have occurred if the operation had remained secret ignore the lessons of history and the logic of common sense, both of which demonstrate the impossibility of concealing an operation of this magnitude and significance. So while some may insist that secrecy is essential to the security of the nation, the reality is that secrecy is a threat to the security of democracy. As Justice Hugo Black put it:

"The word 'security' is a broad, vague generality whose contours should not be invoked to abrogate the fundamental law embodied in the First Amendment. The guarding of military and diplomatic secrets at the expense of informed representative government provides no real security for our Republic. The Framers of the First Amendment, fully aware of both the need to defend a new nation and the abuses of English and Colonial Governments, sought to give this new society strength and security by providing that freedom of speech, press, religion, and assembly should not be abridged."

New York Times Co. v. *United States,* 403 U.S. 713 (1971).

The notion of national security alluded to by Justice Black, and underlying the intent of the Framers, has been all but forgotten in recent years. The Iran-Contra affair was kept secret because its principals feared public opinion. Their obsession with secrecy stood as a tacit admission of the weakness of their policy. Open debate of important public issues is a sign of strength, not weakness. Moreover when the people are included in debates on public issues, when their opinion is sought and heeded, national security is enhanced because the country's leaders can be sure of the support and commitment of the citizenry.

In a democracy, it is a fundamental and grievous error to equate secrecy with national security. Secrecy is anti-American. The tradition of openness in this country has been maintained not simply because of the symbolic value of protecting the free trade in ideas; we have such a tradition because it has yielded tangible benefits. The free flow of ideas has enabled us to remain on the cutting edge of scientific and technological innovation. The best minds from around the world flock to the United States because they know that our government won't keep tabs on them. There is no question that the strength of our economy and our ability to compete overseas—vital components of our national security—depend upon the continued capacity of our scientists and scholars to explore the frontiers of knowledge. Moreover, the openness that allows scientists and scholars to exchange ideas freely advances our national security by enhancing the scientific and technological components of national security.

In recent years, however, national security has become a buzzword for restricting academic freedom and the pursuit of scientific and technical research. In the name of national security, scholars have been required to clear academic papers with the government prior to publication, science and technology experts have been restrained from presenting or publishing papers which contain no classified information, export controls have been expanded to restrict exchange of research data with foreign experts, the FBI has asked librarians to report on foreigners using our libraries, and general categories of scientific and technical research have been classified as inherently subject to information control.

Not only do these controls contravene our democratic tradition of open communication, but in the long-run, they undermine our national security. As the experience of the Soviet Union demonstrates, official controls stagnate the advancement of science and scholarship. The quality of our military and commercial technologies stems from our scientific excellence, which depends on the open exchange of ideas. The continued superiority of our research capacities requires that our scholars be able to exchange their ideas with scholars around the world. In short, our military strength, academic excellence and international competitiveness depend upon the preservation of our open society.

LEADERSHIP IN AN OPEN SOCIETY

The next President must possess the vision to see that secrecy is not synonymous with national security. Strong leadership requires a President who doesn't shortchange truth because he fears adverse media coverage. Strong leadership requires a President who can resist the tendency to equate essential military secrets with information that is embarrassing or contrary to prevailing policies and priorities. Strong leadership requires a President who recognizes that the long-term benefits of open communication cannot be sacrificed in a misguided attempt to obtain an ephemeral advantage in technical or scientific knowledge. In short, intelligent and effective leadership starts with the proposition that the strength of this country depends upon the free flow of information.

That is really the premise of the Freedom of Information Act. The access to the inner workings of government afforded to any citizen by the Act is a measure of the self-confidence of American Society. Aside from voting, the FOIA may be the most important tool which citizens can use to hold government officials accountable for their acts or omissions. Thus, a President's posture toward the Act is a measure of his self-confidence and strength. Those who would seek to weaken the Act—or undermine its purposes by ignoring requests for data or charging high fees for information in the public interest—demonstrate a fear of public accountability. Such actions discourage use of the Act and breed public cynicism about our commitment to open government.

Strong leaders welcome public accountability and public scrutiny of the inner workings of government, if only because that is the very essence of democracy. The next President can demonstrate such strength and reaffirm the purposes of the Act by beefing up agency information offices, decrying the evasive and obfuscatory tactics which currently greet so many FOIA requests, and ordering agencies to liberally grant fee waivers for information in the public interest.

A President who publicly proclaims his commitment to the purpose and efficacy of the Freedom of Information Act would signal an important reaffirmation of our commitment to open government. But there are concrete steps which can be taken as well. Open government does not, of course, mean that there can or should be no secrets. Obviously, a limited amount of information needs to be classified. But information should only be classified when it can be shown that its disclosure would foster identifiable damage to the national security. Currently, information can be classified if its disclosure "reasonably could be expected to damage national security," which makes it possible to shield data from the public simply by imagining a scenario in which its disclosure could be harmful.

In forming a classification policy, the next President must keep in mind that the security of democracy is threatened when information can be kept from the public based on speculative damage to the national security. That means current classification guidelines will have to be changed. Information should not be classified unless the damage to national security that would stem from disclosure is concrete and identifiable. Any uncertainty over whether to restrict access to information should be resolved in favor of making the information available to the public. The next President should expressly order agencies to take into account the public's right to know when making classification decisions. There should be provisions for automatic declassification of information, so that scholars and historians can draw lessons from the judgments and decisions of our leaders. And, once declassified, information should not be reclassified. By making these kind of changes, the next President can protect sensitive national security information while displaying a refreshing concern for enhancing public access to government information.

The changes needed with respect to classified information parallel the changes needed regarding classified defense spending. The Pentagon's "black budget," which consists of military spending that is shielded from public view, has swelled from $5 billion in 1981 to anywhere from $22 to $35 billion in 1988. Military experts agree that some programs are kept in the black to remove them from criticism and evaluation, while other programs are concealed in order to skirt normal procurement and acquistion processes. The rapid and uncontrolled growth of the black budget hinders efforts to curb spending and erodes public accountability as billions of dollars are spent on programs hidden from public debate. Any President who aspires to be a "hands-on" manager would be well-advised to test his mettle by taking a hard look at the black budget.

OPEN COMMUNICATION AND GOOD GOVERNMENT

A democratic citizen's right to know not only obliges government to conduct its operations openly, it also requires policy development and implementation to be informed by knowledge. In a democracy, government officials act on behalf of the citizenry. Their status as representatives of the people imposes upon them a special responsibility to collect a wide range of information so that policy judgments are made prudently. The right to know is not only a vital feature of democratic government, it is an essential aspect of good government.

That means an effective leader has got to receive information and advice that is unsullied by political considerations or policy priorities. His advisers must be strong enough and independent enough to "just say no" to imprudent ideas or expedient solutions to complex problems, no matter who proposes them or how attractive they may seem. In the area of covert intelligence, he needs to be sure that information-gathering is separated from operations. As the Iran-Contra affair shows, reliance on the same people for both intelligence and operational activities increases the risk that the former will be presented in a manner that assures the continuation of the latter.

The need for independent information extends outside the White House and beyond the realm of covert intelligence. Career employees in the federal government sometimes represent a more trustworthy source of information about government agencies, than their superiors or political appointees. Agency whistleblowers such as Ernest Fitzgerald at the Pentagon have saved the taxpayers millions of dollars by exposing wasteful expenditures. Dr. Carl Telleen helped protect the health of millions of consumers by alerting the country to dangerous shortcomings in meat and poultry inspections which had been covered up by the Department of Agriculture.

Agency whistleblowers provide vital information to both citizens and government officials about government negligence, waste and abuse. Yet some potential government whistleblowers have been intimidated into silence by being forced to sign Standard Form 189, a secrecy pledge which prohibited government employees from talking about information that is not even classified. Moreover, the Office of Special Counsel (OSC) has proven to be actively hostile toward its statutory mission of protecting whistleblowers. In a number of cases, the OSC has not only failed to prevent, but has actually facilitated, retaliatory action taken by agencies against whistleblowers who came forward with allegations of fraud and abuse.

It is ironic that in an area of concern over government waste, those individuals who are most capable of rooting out such waste should be subject to reprisal and censorship. Whistleblowers are patriots whose courage and dedication are the hallmark of true public service. They should be protected, not muzzled.

OMB AND THE CONTROL OF GOVERNMENT INFORMATION

While the failure to protect whistleblowers threatens to dry up crucial individual sources of government information, the greatest institutional threat to the free flow of information may lie within the Office of Management and Budget (OMB). OMB has used the information management powers granted it under the Paperwork Reduction Act, and its authority to review regulations granted under Executive orders 12291 and 12498, to interfere with substantive agency decisionmaking. This incursion into the statutory mandate of federal agencies is compounded by the fact that OMB's operations are largely shielded from public accountability and input. The agency's operative principle seems to derive from Cardinal Richileu—who declared that "Secrecy is the first essential in the affairs of state"—rather than from our tradition of open government. The next President will have to increase the accountability of OMB and curtail its authority in order to reestablish objective and open federal agency decisionmaking.

OMB has consistently used its power to oversee agency regulatory and data collection activity to disapprove agency actions that are consistent with statutory objectives, but in conflict with Executive policy priorities. OMB has shown an aversion to regulations and agency research projects that enable workers, communities, and the federal government to learn more about occupational and environmental health hazards. It refused to allow the Economic Development Administration to evaluate the efficacy of assistance grants to impoverished communities. And it quashed a Public

Health Service proposal to study the relationship between cuts in federal poverty programs and the increase in infant mortality in some states. Such actions not only deny policy-makers needed data for prudent decisions, they also keep citizens in the dark about policies for which their support is sought. Certainly the public's perception of the wisdom of shrinking social programs would be affected by a government study documenting a link between poverty programs cuts and higher infant mortality.

OMB has not only politicized federal agency information collection, but it also has sought to overhaul the dissemination of agency information. The policy of OMB is to seek "maximum feasible reliance" on the private sector to, at a profit, store and disseminate government information collected at taxpayer expense. Private sector management of government threatens to reduce the acccessiblity of some data because of increased user fees. Moreover, some government information may become less accessible because of insufficient market support for its maintenance.

OMB's unbridled enthusiasm for privatizing government information symbolizes the attitude of an agency which knows the cost of everything and the value of nothing. Certainly private vendors can and should play a role in managing and distributing government information, since they can sometimes deliver information faster and in more specialized formats. Investing the private sector with primary responsibility for distributing government data, however, risks creating classes of information "haves" and "have-nots." Government information is a public resource which has a political value, it is not simply a market commodity with only economic value. The next President must ensure that when the government collects data using public monies and public employees, that information is made equally accessible to all the public.

INFORMATION PROTECTS INDIVIDUALS

While access to information about, and collected by, government is the most important aspect of a citizen's right to know, it is not the only element. Bhopal, Love Canal and the many workers suffering from asbestosis underline the importance of informing individuals about the presence of hazardous chemicals at their workplace and in their community. The public's right to know about toxic chemicals is crucial since their presence is hard to detect but their impact on our health and safety is frequently all too tangible. Congress has passed laws requiring industries which make and use toxic chemicals to inform workers and surrounding communities about the kind of chemicals that are present and the health hazards they pose.

If these laws are to succeed, the next President will have to ensure that the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) make them work. In recent years, these agencies have to often shown considerable solitude toward the industries which they are regulating, and too little regard for the workers and communities which they are charged with protecting. Currently, there is the possiblity that the effectiveness of toxic right to know laws could be undermined by regulatory agencies that are too concerned with burdening industry with paperwork and protecting trade secrets from public disclosure. Congress has required that toxic chemical data be released to the public for one simple reason: information saves lives. But that will prove to be true in practice only if the next President is committed to making that information available.

Information about hazardous products is just as important as information about hazardous chemicals. Product safety information not only protects the health of consumers, it is also essential to the functioning of the free market. For the free market to work, consumers must have complete access to all relevent information about the products and services they buy. When relevant product information is withheld, then consumer choice is tainted. Market transactions cannot be regarded as voluntary unless consumers have access to information about defects or harzards associated with the drugs, food and products they buy. The free market can remain free only by protecting consumers' right to know.

RIGHT TO KNOW AND SELF-GOVERNMENT

The right to know enables citizens to obtain access to public information in order to carry out the process of self-government. It is designed to enhance the possibilities for, and the enjoyment of, individual privacy by helping citizens check the power of government; it is not designed for government to check up on individual citizens. This distinction must be kept in mind as increasingly sophisticated information technologies broaden the possibilities for surveillance and monitoring. And this distinction is important because history shows that government sometimes tries to discover and disseminate information about citizens, in order to discourage citizens from discovering and disseminating information about government. The next President must not only be strong enough to allow citizens access to information about controversial polices, he also must be strong enough to resist collecting information about citizens who actively oppose such polices. When the power of government is unleashed against those who dissent, then the system of self-government disappears.

The Founding Fathers created a constitutional system which mandated that knowledge and ideas be allowed to flow freely. They were idealists who believed that action flowed from knowledge, and that freedom required that no one interfere with the knowledge that informed such action. In short, they understood that informed citizen opinion was the cornerstone of democratic self-government.

There is plenty of talk, all of it justified, about the importance of education. But education is not just for kids, and it does not end after school. Thomas Jefferson recognized that an informed citizenry constituted perhaps the essential ingredient of democracy:

"I know of no safe depository of the ultimate powers of society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it away from them, but to inform their discretion by education."

That remedy is as essential today as it was 200 years ago. We have become a bit too accustomed to leaders who say one thing and do another, who makes statements that make us feel good but are not supported by the facts. We have become a bit too familiar with pundits pondering about whether the gap between rhetoric and reality really matters. Events like the stock market crash and the Iran-Contra affair remind us that that gap really does matter; that regardless of how inspiring the rhetoric, reality will always come home to roost.

What you do not know can hurt you. That is especially true when the pace of change is as rapid as it is today. If the public fails to exercise its right to know, or if the government prevents it from doing so, citizens might someday wake up to a world they hardly recognize. But an informed citizenry, vigorously exercising its right to know, keeps the government close to the people and ensures the continuity of our system of self-government.●

CONFERENCE INITIATIVES IN THE CONTINUING RESOLUTION FOR FISCAL YEAR 1988

● Mr. LEVIN. Mr. President, today I am submitting for the RECORD and for the attention of my colleagues a report that I have requested and that has just been completed by the Congressional Research Service [CRS] which analyzes conference report initiatives in the continuing resolution for fiscal year 1988—Public Law 100-202. These are initiatives which, to the best of CRS's knowledge, were neither in the House nor Senate passed continuing resolutions but which first emerged in conference. In addition, the CRS report enumerates the number of times in which the accounts in the conference report of the continuing resolution contained funding levels which were less than or greater than either the House and Senate passed bills.

We all recognize that the Appropriations Committees of both the House and the Senate were laboring under a tremendous burden at the end of last year. They played key roles in implementing the White House-congressional budget agreement.

The question which this CRS report raises about the continuing resolution pertains to process and not to the merits of any particular item which was added in the conference. It pertains to the fact that the Members of Congress were in the position of having to comb through an 1,194-page conference report over a very short period of time in order to find the conference originated provisions scattered throughout it.

It would be naive to think that the Congress will never again be confronted with a large conference report upon which virtually immediate action is required. However, at a minimum, it would be appropriate for the Congress as a whole to be specifically informed about which provisions in a conference report were neither in the House nor Senate bills when they passed the respective bodies. A separate listing of these provisions which originated in a conference committee would place Members of Congress in a better position to decide important legislative matters. And let me emphasize, this listing should apply to conference reports of both authorization and appropriation bills.

The CRS report details 47 provisions in the conference report which appear to have been initiated by the conferees even though they were neither in the House nor the Senate bills. In addition, there were 278 accounts in which the conference agreement contained a funding level which was lower than either the House or Senate bill and 31 accounts in which the conference agreement was greater than either the House or Senate bill.

Again, I am not making any judgment as to whether the substance of these provisions contains good or bad public policy. I do doubt, however, whether the process that was followed resulted in effective notice being given to more than a handful of Members of Congress that these provisions were contained in the conference report even though they were neither in the House nor Senate passed continuing resolutions.

There should be more openness in the legislative process. That is why I hope that the Senate Appropriations and Rules Committees will consider a procedure by which items adopted in conference, which are in neither the House nor the Senate passed bills, be separately listed somewhere in the conference report. A separate list is necessary, I believe, because indications of new legislative provisions scattered in the 1,194-page text do not, as a practical matter, gives us a reasonable chance to become aware of the add-ons, given the usually short-time period that we are provided with to consider continuing resolutions. Such a report would not only increase the information available to the Members of Congress: it would, hopefully, enhance the credibility of the legislative process with the American people.

The report follows:

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1988: POSSIBLE CONFERENCE INITIATIVE IN PUBLIC LAW 100-202

ABSTRACT

This report provides information on provisions included in the FY 1988 Continuing Resolution (P.L. 100-202) which appear to have been initiated or selected by the conferees. This information includes data regarding appropriation accounts as well as provisions in the text of the conference report.

INTRODUCTION

This report provides information on provisions which appear to have been initiated or selected by the conferees for inclusion in the FY 1988 Continuing Resolution (P.L. 100-202).

The first part consists of two tables. The first table summarizes the number of appropriation accounts as identified in data supplied by the House Appropriations Committee in each of the 13 appropriations acts which comprise the Continuing Resolution. This data indicates how often the conference agreement appropriated funds at a level that was either greater than or less than the recommendations of both the House and the Senate. The second table specifies each of those accounts in which the conference agreement appropriated funds at a greater level than the recommendation of either house. Since this is broken down by accounts, increases in a single account may not necessarily represent an increase in aggregate funding, additionally this does not reflect any restructuring of accounts.

The second part includes a selection of verbatim passages contained in the Joint Explanatory Statement of the Conference Report for the Act that contain language suggesting that they were conference initiatives.

TABLE 1.—TOTAL NUMBER OF ACCOUNTS

[The Fiscal Year 1988 Continuing Resolution in which the funds appropriated by the conference agreement are either less than or greater than the recommendations of both Houses of Congress [1]]

Appropriations Act	Total number of accounts	Less than	Greater than
CONTINUING RESOLUTION FOR FISCAL YEAR 1988 (PUBLIC LAW 100-202)			
Sec. 101—Continuing appropriations:			
(a) Commerce, Justice and State, the Judiciary, and related agencies	72	53	2
(b) Department of Defense	59	7	9
(c) District of Columbia	4	3	0
(d) Energy and water development	38	16	1
(e) Foreign operations, export financing, and related agencies	41	1	2
(f) HUD-independent agencies	55	39	2
(g) Interior, and related agencies	80	18	6
(h) Labor, HHS, Education, and related agencies	101	59	1
(i) Legislative branch	94	27	2
(j) Military construction	16	2	1
(k) Rural development, Agriculture, and related programs	96	10	3
(l) Transportation, and related agencies	55	13	1
(m) Treasury, Postal Service, and general government	54	30	1
Total	773	278	31

[1] Accounts were identified using tabular data supplied by the House Appropriations Committee.

TABLE 2.—APPROPRIATIONS ACCOUNTS FUNDED FOR FISCAL YEAR 1988 AT A LEVEL GREATER THAN EITHER HOUSE OR SENATE RECOMMENDATIONS [1]

	Amount
CONTINUING RESOLUTION FOR FISCAL YEAR 1988 (PUBLIC LAW 100-202)	
Sec. 101—Continuing Appropriations	
(a) Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1988:	
Title II—Department of Justice:	
1. Legal activities—Independent counsel:	
House	
Senate	
Conference	$7,000,000
Title V—Related Agencies:	
2. Commission on the Bicentennial of the Constitution—Salaries and expenses:	
House	15,750,000
Senate	14,750,000
Conference	21,000,000
(b) Department of Defense Appropriations Act, 1988:	
Title II—Operations and Maintenance:	
1. Operations and maintenance, Marine Corps Reserve:	
House	67,938,000
Senate	68,621,000
Conference	69,500,000
2. Operations and maintenance, Air Force Reserve:	
House	994,767,000
Senate	997,391,000
Conference	1,000,981,000
3. Operations and maintenance, Army National Guard:	
House	1,855,978,000
Senate	1,838,951,000
Conference	1,856,542,000
Title III—Procurement:	
4. Aircraft procurement, Army:	
House	2,587,357,000
Senate	2,672,582,000
Conference	2,718,406,000
5. Procurement of ammunition, Army:	
House	1,978,413,000
Senate	2,211,723,000
Conference	2,273,592,000
6. Weapons procurement, Navy:	
House	5,365,860,000
Senate	5,944,502,000
Conference	5,967,019,000
7. National Guard and Reserve equipment:	
House	912,000,000
Senate	916,000,000
Conference	1,200,000,000
8. Procurement, defense agencies:	
House	1,195,833,000
Senate	1,194,034,000
Conference	1,266,263,000
Title VIII—General Provisions:	
9. Military and civilian pay raise: [2]	
House	
Senate	775,000,000
Conference	875,000,000
(c) District of Columbia Appropriations Act, 1988:	
(d) Energy and Water Development Appropriations Act, 1988:	
Title I—Department of Defense—Civil:	
1. Construction, general:	
House	1,150,142,000
Senate	1,166,136,000
Conference	1,200,000,000
(e) Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988:	
Title I—Multilateral Economic Assistance:	
1. Contribution to the International Development Association:	
House	830,100,000
Senate	845,000,000
Conference	915,000,000
2. International operations and programs:	
House	232,961,900
Senate	238,380,000
Conference	244,648,000
(f) Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988:	
Title I—Department of Housing and Urban Development:	
1. Emergency Shelter Grants Program:	
House	
Senate	
Conference	8,000,000
Title II—Independent Agencies:	
2. Environmental Protection Agency—Buildings and facilities:	
House	7,500,000
Senate	18,200,000
Conference	23,500,000
(g) Department of the Interior and Related Agencies Appropriations Act, 1988:	
Title I—Department of the Interior:	
1. Bureau of Land Management—Construction and access:	
House	1,981,000
Senate	2,736,000
Conference	3,430,000
2. Bureau of Land Management—Oregon and California grant lands:	
House	57,817,000
Senate	58,134,000
Conference	58,475,000
3. U.S. Fish and Wildlife Service—Construction and anadromous fish:	
House	21,054,000
Senate	19,437,000
Conference	25,062,000
4. National Park Service—Construction:	
House	86,056,000
Senate	81,331,000
Conference	93,017,000
5. Bureau of Indian Affairs—Construction:	
House	73,967,000
Senate	65,780,000
Conference	83,225,000
Title II—Related Agencies:	
6. Forest Service—State and private forestry:	
House	67,734,000
Senate	73,894,000
Conference	76,469,000
(h) Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1988:	
Title II—Department of Health and Human Services:	
1. National Institutes of Health—Research resources:	
House	338,991,000
Senate	367,415,000
Conference	368,153,000
(i) Legislative Branch Appropriations Act, 1988:	
Title I—Congressional Operations:	
1. Office of the Secretaries for the majority and minority:	
House	
Senate	905,000
Conference	918,000
2. Congressional Awards Program	
House	
Senate	
Conference	189,000
(j) Military Construction Appropriations Act, 1988:	
1. Military construction, Air Force:	
House	1,115,950,000

TABLE 2.—APPROPRIATIONS ACCOUNTS FUNDED FOR FISCAL YEAR 1988 AT A LEVEL GREATER THAN EITHER HOUSE OR SENATE RECOMMENDATIONS [1]—Continued

	Amount
Senate	1,179,014,000
Conference	1,241,254,000
(k) Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988:	
Title I—Agricultural Programs:	
1. Office of the Assistant Secretary for Special Services:	
House	
Senate	
Conference	416,000
2. Agricultural Research Service—Buildings and facilities:	
House	14,680,000
Senate	49,967,000
Conference	57,815,000
Title II—Rural Development Programs:	
3. Farmers Home Administration—Office of the Administrator	
House	394,000
Senate	
Conference	600,000
(l) Department of Transportation and Related Agencies Appropriations Act, 1988:	
Title I—Department of Transportation:	
1. Federal Highway Administration—Bridge capacity improvements (highway trust fund):	
House	
Senate	
Conference	237,000
(m) Treasury, Postal Service, and General Government Appropriations Act, 1988:	
Title II—Postal Service:	
1. Payment to Department of Labor:	
House	
Senate	
Conference	1,000

[1] This table was derived from data supplied by the house Appropriations Committee.

[2] $2,513,120,000 was proposed in the contingency column of the budget.

SELECTED PROVISIONS IN THE ACT MAKING CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1988 (P.L. 100-202) APPEARING TO BE INITIATED OR DESIGNATED BY THE CONFEREES AS INDICATED IN THE JOINT EXPLANATORY STATEMENT [1]

SECTION 101—CONTINUING APPROPRIATIONS

(A) Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1988

Appropriates $4,500,000 as proposed by the Senate instead of $4,000,000 as proposed by the House and includes new language waiving section 15(a) of the State Department Basic Authorities Act of 1956, p. 494.

Inserts a new provision which establishes a permanent appropriation for the North Atlantic Assembly ($100,000 annually), the Interparliamentary Union ($90,000), and the U.S.-Mexico and U.S.-Canada groups ($50,000 each), to be divided equally between House and Senate delegations, p. 498.

The conference agreement inserts a provision requiring the Secretary of State to prohibit the Soviet Union from occupying the new chancery building at its new embassy complex in Washington, D.C. or any other new facility in the Washington, D.C. metropolitan area until a new chancery building is ready for occupancy for the United States embassy in Moscow, p. 498.

Inserts new language which prohibits the use of funds appropriated by this Act or any other Act to repeal, modify, or reexamine regulations of the Federal Communications Commission regarding cross-ownership of a daily newspaper and a television station in a major media market, or to extend the time period of current grants of temporary waivers to achieve compliance with such regulations, p. 504.

New language clarifies SBA's authority to make a grant in one year even if all, or almost all, of the performance is to occur the following year.

The conference agreement includes new language which prohibits the Small Business Administration from expending any funds to adopt or implement any rules or regulations for the Small Business Development Centers program, although it may reexamine the need for regulations and the nature thereof.

In addition, SBA is prohibited from accomplishing indirectly and outside the regulatory process what they are prohibited from doing by regulations, p. 509.

Inserts new language to earmark $36,900,000 for the television service and waives sections 201(2) and 204 of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989) and section 701 of the United States Information and Cultural Exchange Act of 1948, as amended, p. 512.

The conferees have included a provision in the conference agreement which is designed to provide a more equitable and competitive environment for U.S. companies who wish to bid on the VOA modernization project, p. 514.

Inserts new language which permits funds provided to the U.S. Information Agency and the Board for International Broadcasting for facilities modernization, including unobligated balances available from prior years, to be transferred between the two agencies . . . with the provision that such transfers will be subject to the approval of the House and Senate Appropriations Committees pursuant to section 608 of this Act, p. 514.

(B) Department of Defense Appropriations Act, 1988

The conferees find any effort to reduce civilian and military personnel levels, to reduce, transfer, downgrade or downsize current activities or facilities at the Memphis Naval Complex totally unacceptable. Therefore, the conferees direct the Department of the Navy to maintain civilian and military personnel levels and facilities at the fiscal year 1984 levels.

The conferees specifically intend that the Naval medical facilities at Millington not only be maintained at the fiscal year 1984 personnel levels but that these personnel slots be filled and fully manned, p. 537.

The conferees have included bill language which requires one overhaul in fiscal year 1988 to be accomplished in the Philadelphia Naval Shipyard, p. 539.

The conferees direct that an eight C-130E unit be maintained at McChord, Washington and have included bill language for its financing in fiscal year 1988, p. 541.

The conference agreement provides the necessary authority and funding for a multiyear contract for the Hawk missile system, p. 604.

Although the Navy did not request funds for the AN/SQR-17A Torpedo-Detection Processor, . . . the conferees agree to provide $12,000,000 in Research and Development for the procurement of two service test model enhancements to the AN/SQR-17A acoustic processor, p. 647.

(C) District of Columbia Appropriations, 1988

(D) Energy and Water Development Appropriations Act, 1988

The conferees have provided $4,950,000, an increase of $309,000 for the operation and maintenance of the Denison Dam (Lake Texoma), Texas and Oklahoma, project p. 698.

The conferees' agreement includes bill language to continue the prohibition of the construction of any additional hydropower units at Denison Dam-Lake Texoma in fiscal 1988, p. 804.

(E) Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988

The conferees agree that the Agency for International Development should use $4,000,000 in Health, Development Assistance funds for distribution, transportation, field testing and field research on ivermectin, a new drug developed for the treatment of river blindness (onchocerciasis), p. 815.

The conferees agree to provide $30,000,000 in a new account for the International AIDS Prevention and Control program. Of this amount $15,000,000 is to be made available to the World Health Organization (WHO) for its special programs on AIDS, p. 816.

The conferees agree to provide $500,000,000 in direct appropriation for Sub-Saharan Africa, Development Assistance. The House had provided $450,000,000 in transfers for this account, p. 817.

The conferees agree to include an earmark of $40,000,000 in development assistance for the Philippines, p. 820.

The conferees have earmarked an increase in funding for the Department of State refugee admissions program in recognition of the increased admissions ceiling which resulted from consultations with Congress. In addition, the conferees have agreed to earmark $25,000,000 for the resettlement of Soviet, Eastern European, and other refugees resettling in Israel and $8,000,000 for the construction in France of educational facilities for Jewish refugees from North Africa, p. 823.

The conferees agree to allow reprogramming of funds that cannot be used in specific countries due to failure to comply with illicit drug control requirements, p. 832.

The conferees agree on a provision prohibiting obligation or expenditure of U.S. assistance to the Government of Panama with the understanding that it shall not prohibit the conduct of United States intelligence-related activities conducted solely for the collection of necessary intelligence, p. 834.

The conferees agree to include a provision establishing a special export enhancement program for refined sugar, p. 836.

(F) Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988

The conferees have agreed on language "recoupling" Section 8 vouchers with the rental rehabilitation program. Without the commitment of Section 8 vouchers for approximately 50 percent of the units made available under rental rehabilitation grants, the program would no longer serve a sufficiently adequate number of low-income families. The issue was not addressed by either House, p. 839.

Inserts language appropriating $8,000,000 for emergency shelter grants, p. 841.

Language has also been added, which was not included in either the House or Senate bills, that permits interest to be paid on contributions to the Korean War Memorial Fund and the use of up to $125,000 of the fund for administrative support costs, p. 844.

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[1] The information for this compilation, including page citations, was obtained from the Joint Explanatory Statement of the Committee of Conference as included in the Conference Report to Accompany H.J. Res. 395, Making Further Continuing Appropriations for the Fiscal Year Ending September 30, 1989 (H. Report 100-498). All passages are verbatim excerpts.

(G) Department of the Interior and Related Agencies Appropriations Act, 1988

The managers agree that MMS [Minerals Management Service] is to use the additional funding in the leasing and environmental program to accelerate environmental research in areas of upcoming lease sales where the potential for conflict is great such as off the Straits of Florida, Northern California, and Washington-Oregon, p. 882.

In mining technology the managers have included $3,500,000 over the House level to continue a demonstration project to test the feasibility of in situ copper mining at the Asarco-Freeport Santa Cruz site near Casa Grande, Arizona, p. 883.

The managers have agreed to appropriate $6,400,000 for the planning, design and construction of a new Choctaw Central School in Mississippi and have included bill language providing certain conditions for the release of the construction portion of the funds, p. 892.

(H) Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1988

Appropriates $368,153,000 instead of $338,991,000 as proposed by the House and $367,415,000 as proposed by the Senate. $23,935,000 is earmarked for AIDS "infrastructure" projects, p. 936.

(I) Legislative Branch Appropriations Act, 1988

(J) Military Construction Appropriations Act, 1988

Adds language which permits the Secretary of the Navy to convey to the City of San Diego 680 acres of land, and to use proceeds for land and/or construction of military family housing in the San Diego area. p. 1029.

Adds language which provides that any limitation on fiscal year 1987 funds for homeporting at Everett, Washington shall not apply unless the limitation was enacted by September 30, 1987, p. 1029.

Adds language which authorizes for appropriations an increase of $20,000,000 for Naval Air Station, Adak, Alaska; $15,000,000 for Hanscom Air Force Base, Massachusetts; and $35,000,000 for Falcon Air Force Station, Colorado, p. 1029.

(K) Rural Development, Agriculture and Related Agencies Appropriations Act, 1988

The conference agreement appropriates $416,000 for the Office of the Assistant Secretary for Special Services for purposes of providing special services to the Department, but provides that none of these funds shall be available for the supervision of Natural Resources and Environment activities, the Soil Conservation Service, or the Forest Service, p. 1092.

The conferees have included a provision providing for the continuance of rural housing programs in Lincoln, North Dakota, p. 1113.

The conference agreement provides $4,856,000 for operation of plant materials centers and includes full funding to complete the establishment and operation of a center at Booneville, Arkansas, p. 1113.

The progress to date on the estuarian restoration of the Chesapeake Bay project is significant. The conferees have provided $1,143,000 for full funding of the 31 staff positions assigned to this task, p. 1114.

The conference agreement deletes language providing $18,000,000 for a sunflower indemnity payment program proposed by the Senate and inserts a provision directing the use of $10,000,000 of section 32 funds to purchase sunflower oil to promote the export of U.S. sunflower oil, p. 1120.

(L) Department of Transportation and Related Agencies Appropriations Act, 1988

The conference agreement includes $38,000,000 to establish or upgrade airport surveillance radars at Charlottesville-Albermarle Airport, Virginia; Nantucket, Massachusetts, Gainesville, Florida; and Missoula International Airport, Montana, p. 1127.

The conference agreement includes $9,500,000 to initiate the procurement of terminal doppler weather radar systems to be installed at high activity terminal locations, p. 1027.

Inserts (sec. 352) permanent authorizing language, including a permanent exemption from any limitation on obligations for Federal-aid highways and highway safety construction programs. The House and Senate bills contained no similar provisions, p. 1134.

(M) Treasure, Postal Service, and General Development Appropriations Act, 1988

The Committee directs that the Customs Service initiate Customs coverage at the Tamiani Airport as soon as possible, p. 1155.

The Conferees direct the Postal Service to continue to provide full postal service to the people of Holly Springs proper including upgrading, remodeling, and improving the U.S. Post Office building at 110 North Memphis Street in Holly Springs, Mississippi, p. 1158.

The Conferees have agreed to provide new spending authority of $28,678,000 in the bill to initiate a major program for the repair, renovation, replacement or construction of U.S.-Mexico Border facilities, p. 1163.

Inserts language with appropriates $69,600,000 for salaries and expenses and provides additional authority for the [Federal Supply] Service, p. 1165.

Inserts a provision proposed by the Administration which would make available from existing resources funding for national security and emergency preparedness telecommunications initiatives that are carried out by the National Communications System, p. 1179.

Inserts a provision regarding non-disclosure agreements, p. 1179.●

A PLEA FOR THE RELEASE OF YULI KOSHAROVSKY AND FAMILY

● Mr. DeCONCINI. Mr. President, March 10, 1988, marks the 17th anniversary of Yuli Kosharovsky's tormented life as a Jewish refusenik in the Soviet Union. The family has announced that it will begin an open-ended hunger strike that will conclude only when they have secured exit visas to repatriate in their homeland of Israel.

Yuli Kosharovsky, who I had the pleasure of meeting during a trip to Moscow in 1985, is now one of the Soviet Union's longest-term refuseniks. Since 1971, he has been denied an exit visa repeatedly on the grounds that he holds "state secrets." This restriction is specious in light of the fact that Kosharovsky has not had access to classified information in 20 years. When he left his job at the Sverdlosk Institute of Automation in 1968, he signed a document agreeing not to leave the Soviet Union during the next 3 years. Accordingly, Yuli did not apply to leave until 1971. As Kosharovsky himself points out, he has been prevented from emigrating almost seven times longer than the period he was privy to relevant state secrets.

The long years of refusal have been years of harassment, years of unprovoked interrogations and arrests, and years of humiliation for the Kosharovsky family. From 1971 to 1983, Yuli, who is trained as a radio-electronic engineer, could not work in his profession, while his wife, Inna, who was a mathematician at Moscow State University, has not worked at all since she applied to leave.

Yet, despite his adversities and hardships, Kosharovsky has been at the forefront in the struggle for the right of Jews to repatriate in Israel, and he has been instrumental in teaching Jewish culture and Hebrew to Jews in Moscow. In 1975, Yuli initiated a seminar for unemployed refusenik engineers in Moscow. The KGB threatened him if he continued these organized sessions, but Yuli persisted in holding these support meetings. In 1977, Kosharovsky, Iosef Begun, and two other refuseniks were personally and maliciously slandered in the libelous documentary "Traders of Souls," a film about Soviet Jews wishing to go to Israel. The men filed a suit in protest of the broadcast, but their suit was never acknowledged by officials. Later, in 1980, after establishing himself as a well-known Hebrew teacher, Yuli again defied KGB threats, and attended a training course for Hebrew teachers in the Crimea. During his time there, he was met on the beach by "strangers," and subsequently imprisoned for 13 days on the invalid charge of "hooliganism." On two separate occasions later that year, he was again met by "strangers" in Moscow who brought him in for questioning at KGB headquarters. The harassment continued through the next year. His apartment was searched for 12 hours, he was interrogated extensively, and the supplies he used to teach Hebrew, such as Hebrew books, tape cassettes, and notebooks, were confiscated.

In 1981, Yuli was informed that his visa application was no longer being denied on grounds of state secrets—even though in the interim a former colleague had been permitted to leave for Israel—but rather on the grounds of "insufficient kinship" in Israel. However, as recently as February 1987, Yuli Kosharovsky was cited in the Moscow evening paper Vechernaya Moskva as one of seven Soviet Jews who will never be permitted to leave the Soviet Union for reasons of "state security." The Kosharovskys last applied to emigrate in December 1987, but have yet to receive a response to that application.

In addition to their own suffering, Yuli and Inna's three children have grown up in refusal, experiencing lives of harassment and intimidation. Kosharovsky laments that it is unbearable for him to listen to his 6-year-old child repeatedly ask, "When are we going? How soon will we be leaving this country?"

As Cochairman of the Commission on Security and Cooperation in Europe, I would like to point out to the Congress that the Soviet Union, despite glasnost, is in this and in all too many other cases openly defying the Helsinki Final Act. This kind of behavior violates commitments that the Soviet Union freely undertook when it signed the Helsinki Final Act in 1975. Furthermore, this is an illustration of Soviet disregard for their international commitments, including the United Nations Declaration on Human Rights, which guarantees the freedom of movement to citizens in the signatories' countries.

It is unfortunate that the Soviets are acting without reason and without guidelines in the Kosharovsky case, and that families have to continue to resort to such desperate measures in order to secure exit visas to Israel. I urge that their case be resolved immediately.●

PROHIBITION OF UNDETECTABLE FIREARMS

● Mr. PRESSLER. Mr. President, I rise today to express my strong opposition to the "plastic gun" bill, S. 465. I am deeply disturbed over the potential ban on small handguns which could occur under this measure.

The ambiguity of S. 465 could lead to the banning of a number of currently manufactured legitimate firearms. Under the guise of an antiterrorist measure, proponents of S. 465 have preyed upon our fears. Once the smoke clears, it is easy to see that this bill goes well beyond its proposed intention to improve airport security. This is most noticeable in the provision for an arbitary weight limit of 8½ ounces of steel. Currently, a number of legitimate and perfectly legal guns are manufactured that would not meet this weight requirement. The Bureau of Alcohol, Tobacco, and Firearms and the Federal Aviation Administration have testified that plastic guns do not exist today. Thus, there is no need to ban legitimate firearms that can be detected by security systems. Unfortunately, that is exactly what would happen under S. 465.

Under the second amendment to the U.S. Constitution, we are guaranteed the right to keep and bear arms. As a Member of this body, I feel it is important for me to stand up for gun owners' rights and oppose S. 465. Banning legitimate firearms clearly jeopardizes our second amendment rights.

Potential terrorist attacks and security risks at our airports are issues of national concern. Although plastic guns do not exist today, in the future an undetectable firearm might be developed. For this reason, I joined in sponsoring S. 2051, the Prohibition of Undetectable Firearms Act—supported by the Department of Justice and the National Rifle Association. This well-conceived proposal sets up specific manufacturing requirements which would make fully detectable any plastic guns that might be designed. Unlike S. 465, S. 2051 clearly defines plastic guns. It would ban plastic guns unless the barrel is made of metal or the identifying marks are engraved on metal. Additionally, S. 2051 would require plastic guns to be injected with some type of substance, such as barium sulfate, which is detectable by x-ray systems. This bill would not affect guns manufactured prior to the enactment of this Act. Under S. 2051, our constitutional rights would be protected. At the same time, it would address the potential security problems associated with plastic guns.

I am concerned about security at our airports, and recognize that development of a firearm that is not detectable is a potential problem. S. 2051 provides a good solution. It is a most acceptable piece of legislation. It responds to the security concerns surrounding plastic guns. At the same time, it protects our second amendment rights. S. 465 could jeopardize my rights and your rights to keep and bear arms. I hope our colleagues will see through the rhetoric on this issue and protect the rights of gun owners and the traveling public by supporting S. 2051.●

HUNGER STRIKE BY REFUSENIK GALINA ZELICHONOK

● Mr. BINGAMAN. Several hundred Soviet Jewish women refuseniks are about to embark on a 3-day hunger strike on the occasion of International Women's Day. Their hunger strike will begin in cities across the U.S.S.R. on March 6 and continue through March 8.

It is a sad statement that these women, many of them already in poor health, have to jeopardize their own physical well-being to call their plight to the attention of the international community. I would like to express my solidarity with these women in their effort to remind the world that hundreds of thousands of refuseniks continue to be denied the basic right of free emigration from the Soviet Union.

I met personally with one of these brave women, Galina Zelichonok, during my trip to the Soviet Union in 1985 and I sent her a telegram today to express my support for this effort. Galina and her husband, Roald [Alec], have sought the right to emigrate from the Soviet Union for years. When I met Mrs. Zelichonok, her husband had just been sentenced to 3 years in a Soviet labor camp on the charge of slandering the Soviet state and its social system. His real "crime" in the eyes of Soviet officials was his involvement in the promotion of Jewish culture. Despite poor health, aggravated by severe hypertension, Roald had by then already been subjected to solitary confinement and denied medical treatment. Galina had periodically had all her mail cutoff, and though nearly blind and an invalid herself, she had been harassed in various other ways.

Subsequent to my 1985 trip, I wrote on several occasions to Soviet officials about the Zelichonoks' plight. I was gratified 1 year ago when Roald was released from the labor camp and allowed to return to Leningrad. Unfortunately, the Zelichonoks' situation has continued to deteriorate. After his release Roald requested to be reinstated at the Institute of Cytology where he had worked before his arrest. The Institute denied the request, claiming that the research in which he was engaged has been discontinued in spite of the fact that there were six vacancies, among them two for senior engineers, Roald's former position, on their bulletin board. Meanwhile Roald is under threat of arrest for parasitism. In addition, both Galina and Roald are aged and suffering from deteriorating health. The gravity of their situation has brought Galina to the point of participating in this hunger strike, despite her already poor health.

I hope that my colleagues will join me in solidarity with these women and the refuseniks they represent in the Soviet Union. Here in the West we must continue to do everything in our power to ensure the right of free emigration from the Soviet Union. In 1987 only 8,155 Soviet Jews emigrated. This number is far from the pace which saw 51,000 emigrate in 1979. We must apply continuous pressure on the Soviet Government until all those who wish to obtain visas have been allowed to do so. ●

A PRIVATE SECTOR SOLUTION TO THE LONG-TERM-CARE PROBLEM

● Mr. SASSER. Mr. President, long-term health care for America's senior citizens continues to be a matter of grave national importance. And despite the catastrophic health care bill now pending in conference, long-term care is a problem we have yet to deal with. In our search we need to weigh all viable alternatives.

To that end, I would like to call to the attention of my colleagues an article that appeared in the New York Times last month. That article focused on the rising demand for private insurance that covers long-term care.

There is no doubt that this demand will continue to increase as our Nation's elderly population continues to be the fastest growing segment of our economy. The Times article tells us that to meet this demand, major insurance companies are starting to offer long-term care policies for large groups. Several large companies such as Proctor & Gamble, American Express, and General Motors are adopting these long-term care policies for their employees. The State Teachers Retirement System in Ohio has also adopted long-term care insurance for their 65,000 members.

These new long-term care policies differ from existing policies in two ways. They promote group buying, thereby decreasing costs by spreading risk, and they encourage people to start paying for policies which provide retirement coverage during their working years so that the cost can be spread over a longer period of time. Both of these are excellent cost saving concepts.

I am very encouraged by such developments. However, because of the nature of long-term illnesses, the private sector will have a very difficult time singlehandedly addressing this problem. The needs of an elderly population that exists largely on the fixed income of Social Security or a retirement check will be difficult to meet through these policies alone. The fact of the matter is that many of our Nation's over-65 population cannot afford the premiums that would be necessary to cover the expense of their increased health risk.

The only way that private insurance can insure such a high-risk group of participants is by placing a cap on the amount that the long-term-care policy would pay for a typical day's care. Yet, such a daily expense limit is the major obstacle that prevents this type of insurance from being more effective.

The daily expense limit is a problem because it is difficult if not impossible to set rates for a service that may not be required for 30 or 40 years. If I buy long-term-care insurance today, I will be insured against nursing home costs of around $60 a day; a reasonable rate by today's standards. However, the onslaught of a long-term illness may not begin for 30 years or more. And in 30 years the policy will pay the same $60 a day for nursing home care that it pays today.

Mr. President, nobody knows what inflation will be like over the next 30 years, but I would wager that the cost of a day's nursing home care 30 years ago was nothing compared to its cost today. In 30 years, $60 will likely not make a dent in a 1-day nursing home bill.

Nevertheless, I am pleased to see that more attention is being given to the issue of long-term care. I hope that the private sector continues to focus on and search for solutions to the problem that long-term illness poses for the financial security of our Nation's elderly. But more importantly, I hope that the long-term-care problem remains a congressional priority so that we can eventually implement a comprehensive long-term-care solution.

Mr. President, I ask that a copy of the New York Times article be printed in the RECORD at this point.

The article follows:

DEMAND RISING FOR INSURANCE THAT COVERS LONG-TERM CARE

(By Milt Freudenheim)

Thousands of Americans have begun buying a new form of health insurance that pays for nursing homes or care in their own homes for chronic illnesses.

In a development that has raised hopes of alleviating some of the deepest concerns of millions of families, the new policies promise protection in a changing society in which many wives, daughters and other family members are no longer available to stay at home and care for a chronically ill relative.

The protection, known as long-term care insurance, pays a fixed daily amount, which can vary from $10 to $200, for a nursing home stay or the costs of help with the daily task of living at home. The national average of nursing home costs is $60 a day, although in New York some homes charge $160 or more. Monthly premiums start at $2 for young people buying minimal policies and rise with age and extensive coverage to $600 or more for people in their 70's.

Late last year, a few companies began offering the new insurance to their employees, in addition to the more traditional health insurance that pays for a hospital stay and doctors' bills. In the past, patients who needed help with such daily tasks as eating, bathing and dressing were rarely covered. Insurers paid only if the patients were ill enough to first require expensive skilled care in a hospital or nursing home.

Many of the new policies have eliminated these barriers. If a chronically ill person qualifies under provisions of the insurance, the payments might be used to pay the costs of an adult day care center or for such expenses as a home health aide, a helper to shop and cook, or a companion to sit with the patient.

The new approaches by private insurers are being developed as a result of growing pressure from Congress and the Reagan Administration and demands by advocates for elderly Americans.

Most of the purchasers of the new policies have been middle-aged and elderly Americans concerned by the experiences of relatives and friends who have been overwhelmed by the expenses and responsibilities that come with chronic illness.

For instance, Mary Mazur and her twin sister, Josephine, spend their days drafting plans in a large New York engineering firm. Nights and weekends in their separate East Side apartments, they alternate in caring for their 90-year-old mother.

Leah Mazur, who has Alzheimer's disease, is cared for by a home health aide while her daughters are at work. The disease afflicts 2.4 million Americans, destroying the memory and eventually rendering them helpless.

"In our family, we live into our 80's," Mary Mazur said. "There are seven of us children, and there's a strong possibility that half of us will get Alzheimer's."

While their mother, like others already ill, cannot purchase the insurance, the Mazur sisters believe they should get it.

GROUP COVERAGE

Late last year, in a development that Government officials and authorities on chronic illness said was a breakthrough, several major insurance companies began offering the new coverage to large groups. These groups included employees of the Procter & Gamble Company, the American Express Company's Travel Related Services division, the Aetna Life and Casualty Company, the John Hancock Mutual Insurance Company and the State of Maryland.

At about that time, two other large employers, the General Motors Corporation and the Ford Motor Company, agreed in their contract with the United Automobile Workers to try out in small pilot programs long-term care benefits to be paid for by the companies.

And the State Teachers Retirement System in Ohio plans to offer long-term care insurance to its 65,000 members and their families in July.

Insurance company planners say they anticipate tens of millions of dollars in added revenues from premiums this year as sales of the new policies accelerate. The most active insurers include Aetna, the Travelers Corporation, Hancock and Metropolitan Life.

GROWING NEED CITED

Health care experts say that the steady aging of the United States population and changing social trends are dramatically increasing the need for the insurance.

At least 3.5 million chronically ill or disabled Americans, of which a million are under age 65, already require help with the tasks of daily living. They include 1.4 million in nursing homes, about half suffering from Alzheimer's disease or similar disabilities.

More than half of the estimated $46 billion that Americans are expected to spend on nursing homes in 1988 comes from individuals and their families. Private insurance has paid for only 1 percent, with the balance paid by government programs.

The ultimate success of the new insurance may hinge on proposals for adjustments in the tax laws to encourage companies and employees to obtain it.

The Department of Health and Human Services has been quietly developing new proposals. Thomas R. Burke, the department's chief of staff, said the "up-front cost" of tax concessions might be balanced by savings in Medicaid.

Medicaid is the Government health care program for the poor—including middle-class people who "spend down" until they become poor enough to qualify. Medicaid pays nearly 42 percent, or close to $20 billion a year, of the country's expenditures on nursing homes.

Even before the new group insurance for long-term care became available, nearly 500,000 people had purchased individual policies, most of them last year. More than 70 insurance companies are selling the individual policies, which usually provide more restricted benefits than the group plans.

Public awareness of the issue grew when the Health and Human Services Secretary, Dr. Otis R. Bowen, sent recommendations on insurance for catastrophic illnesses to Congress in February.

Advocates for the elderly used the ensuing committee hearings to call for increased protection for the chronically ill as well.

"The Bowen report let the long-term care issue out of the closet," said John Rother, director of legislation and research for the American Association of Retired Persons, an advocacy group with 26 million members. "Once you started talking about catastrophic care, you had to acknowledge that long-term care was 80 percent of the problem."

Industry analysts expect the recent group offerings to open the way for the program at other companies. "This is a market on the verge of exploding," said Gail P. Schaeffer, a specialist on insurance for the elderly at Hancock.

Other groups weighing the long-term-care idea include Owens-Corning Fiberglas, Southwestern Bell, the 100,000-member Michigan Education Association and Kaiser Permanente, the big California-based prepaid health plan.

In a recent national survey, half the 147 companies responding said they would probably be offering an employee-financed long-term care benefit within five years, according to Robert C. Levin of the Washington Business Group on Health, an employer's group.

Premiums on the first group policies will be paid by the individual purchasers. But Maryland officials said their state intended to offer the insurance as a subsidized benefit to state employees in about two years.

SOME ARE CRITICAL

But not everyone is satisfied with the new insurance. Citing a study by the General Accounting Office, a subcommittee of the House Select Committee on Aging said recently that many of the policies did not offer protection against inflation, a major concern in health care.

Another criticism was raised by John Jager, director of the New York City chapter of the Alzheimer's Disease and Related Disorders Association. He said, "By and large, long-term-care insurance has specifically excluded Alzheimer's patients."

The exclusions were all too evident to Gertrude Steinberg. "When I turned 65, I was really desperate to find insurance that would fill in the gaps in Medicare," she said. Medicare, the Federal health insurance for the elderly and disabled, does not cover chronic illnesses.

Mrs. Steinberg knew what she was looking for, she said, because her father had died of Alzheimer's disease after six years of total dependence on his wife and daughters. But she said she was unable to find an appropriate policy she could afford.

A.A.R.P. PROGRAM

The American Association of Retired Persons, which also sells insurance, issued 26,000 of the new type of policies after a low-key test offering to members this summer. The policies were underwritten by the Prudential Insurance Company of America.

A notice and advertisement in a members' bulletin brought 108,000 telephone calls requesting information on a toll-free number, Gail Y. Kirby of A.A.R.P. said. There was no direct mail solicitation.

All the insurers hope to attract younger buyers. At Aetna, JoAnn Mathieu, a products manager, said two-thirds of the company's employees who purchased the new policies were 30 to 50 years old—"a very positive indication." This spreads the risks because younger buyers are unlikely to need care for many years. Later, their accumulated premium payments will help pay for it.

Premiums for younger people are relatively low. "It cost me $23 a month to cover myself and my husband," said Linda Ulrey, a Procter & Gamble employee in Cincinnati. She is 38 years old and her husband is 40. Their policies promise to pay $60 a day toward nursing home costs and $30 a day for home care. However, given inflationary trends, these amounts would probably pay only a fraction of the cost by the time the care is needed.

FEDERAL PROGRAM SOUGHT

Democrats on the House Select Committee on Aging, led by Representative Claude Pepper of Florida, are pressing for a federally financed long-term care benefit. The American Association of Retired Persons plans to spend $2 million to build support for the idea in the 1988 Presidential campaign, Mr. Rother said.

Administration officials said their tax proposals, which still must win White House approval, were intended to head off any new Federal entitlement program.

Insurance company officials are also worried about the proposals for a new Federal benefit. "We see the specter of a national program as very real, although not imminent," said James B. Weil, a vice president at Metropolitan Life.

"We have a three- or four-year window, five years at most, in which the private sector has the opportunity to prove that it can write a high-quality product," he added.

Some insurers are put off by the risks. "The people who want it and buy today are the ones who see a need for it in the next five years," said C.B. Hudson, president of the United American Insurance Company, a division of the Torchmark Corporation. "We don't have time to build a fund to cover the benefits."●

DEMOCRACY IN TUNISIA

● Mr. BOSCHWITZ. Mr. President, too often we in the United States focus our attention on emerging nations which abuse the rights of citizens and drift away from the democractic ideals of the founding fathers of those states. Many on Congress spend a considerable amount of time criticizing one country or another and fail completely to reward, or even to note, success stories.

One notable success story in recent months has been the Republic of Tunisia. Tunisia had long been considered one of the most moderate and open societies in the Arab and Africian world. In recent years, however, under the weakening hand of President Bourguiba, the Tunisian Government felt increasing pressure from hostile neighbors and undemocratic elements at home. Much criticism in the international press was leveled at the Tunisian Government even though conditions in Tunisia were still appreciably better than in neighboring states.

Then, last fall, Prime Minister Zine El Abidine Ben Ali, in complete compliance with the Tunisian Constitution, replaced an ailing Habib Bourguiba as President of the Republic. The new President assured the nation and the world that his replacement of Bourguiba, the man who had led Tunisia since independence, was not a revolution but a restoration of the nation to the course chartered at independence. Because Ben Ali is a former general and a former Minister of Interior, many observers were concerned that he would prove to be an autocrat despite his democratic rhetoric.

These fears have proven groundless. The President, in consultation with the leadership of other political parties, is hard at work on constitutional reform. The reforms are designed to correct some of the problems which had become apparent in recent years and include provisions limiting a President to two terms in office; reducing the minimum age for serving in parliament from 28 to 25; and making the President of the national assembly acting President for 45 to 60 days should the Presidency become vacant.

Numerous other measures were also initiated to assure freedom of the press and other basic freedoms. More than 2,000 prisoners have been pardoned and released. Many Tunisians who had left the country in recent years have returned to participate in the political process.

After 4 months in office, the world can now observe the true mettle of the man and should be very pleased. President Ben Ali is a pragmatic democrat committed to leading Tunisia to economic prosperity while strengthening and expanding democratic institutions. His approach to governing Tunisia was outlined on November 6 and underscored on February 3 in a major speech to the nation which I would like included in the RECORD.

Primary among the points he emphasized in this speech was Tunisia's continuing commitment to democracy. This commitment has been underlined in deed as well as in word. Local elections have been held in several areas of the country and opposition candidates were able to participate and even won in one locale. Nevertheless, the President is also a realist. As he noted, the elections were not perfect. The traditional local leadership will go to great lengths to protect its prerogatives. The President clearly stated, however, his determination to assure democracy flourishes in Tunisia.

President Ben Ali, however, is keenly aware of the administrative and economic problems that face Tunisia. Reforms have been introduced to make the bureaucracy more efficient. President Ben Ali is also aware that success of these measures depend to a large extent on the ability of the government to meet the economic needs of all Tunisians. For this reason the

President declared that Tunisia's "most prominent national objectives are: self-sufficiency in food, a reduction in the external debt burden," and "reduction in unemployment." Friends of Tunisia must assist President Ben Ali and the Tunisian people in achieving these goals. In particular, the U.S. Government, within the limits of our current budget restraints, should provide economic assistance. Last year, for example, drought greatly reduced Tunisia's wheat production. The United States should be able to meet Tunisia's needs from our stocks. Assistance such as this from us would demonstrate concretely our support for democrats around the globe and reward a man who is doing much to promote open and democratic ideals in a region of the world where such ideals are too often lacking.

The remarks of President Zine El Abidine Ben Ali follow:

ADDRESS TO THE NATION BY PRESIDENT ZINE EL ABIDINE BEN ALI—LIVE OR RECORDED

[Text] In the name of God, the compassionate, the merciful. Fellow country men and women: Tunisia has witnessed the first partial legislative elections since 7 November. During these elections we saw a clear determination by citizens from all walks of life to support us in achieving our goal of opening the path to democracy. They were aware that our decision to refer to the people with all objectivity and fairness is an irrevocable decision of destiny.

We believe that the great gain achieved during the past elections—the partial ones—has opened the democratic path in this country, and created a dialogue between the people and all those who were candidates for their trust. This gain is one which should remain in our minds irrespective of the personality of the candidates and their political affiliations. We issued clear instructions that the executive authority should remain completely neutral toward all candidates, treat them equally, and see that the elections went smoothly among all parties so that the first step towards democracy was not spoiled by any hitch.

Out of loyalty, we see that it is our duty to say that our desire for proper procedures did not prevent some liberties from taking place here and there. What we want everyone to understand is that this should not come as a surprise, the opposite should have come as a surprise. No election can be free from such liberties at the beginning of a difficult march which aims to establish firm grounds for pluralism and new traditions of behavior among various parties, and to train the soul to be patient and to respect a different view, whatever it may be.

Therefore, we warmly appeal to everybody, and ask them to rid themselves of doubt, not listen to instigators of doubt, to overcome temporary and marginal appearances, to see the fundamental issue, which is not to doubt our intentions, to be vigilant in order to overcome the hurdles, and to show all their determination to confront * * *.

We should not forget that democracy is not only rules and laws but is firstly and basically a matter of soul, * * *, discipline and practice. Democracy does not mean chaos, because chaos leads to totalitarian rule, enhances underdevelopment, and undermines chances of progress. Our firm belief is that democracy is the ideal atmosphere for the emergence and growth of our people's potential in creativity and craftsmanship, and is the best way to exploit these potentials for the service of the nation and employ them in order to achieve the country's and people's prosperity out of choice and awareness.

We are always ready to enter into dialogue with all those who have sincere opinions in order to consolidate their confidence in the regime and spread an atmosphere of harmony and trust in society.

It is noteworthy that the independent candidates in these by-elections declared their commitment to the 7 November program. This phenomenon, which attracted the attention of the political forces at home, and commentators in the international arena, indicates a radical change in the political and social atmosphere because optimism and hope have now replaced despair, disinterest and complacency in the hearts of all Tunisians. They now feel that they are involved in the affairs of their country and responsible for the destiny of their homeland, and actually able to really participate in determining the present and future of Tunisia within the framework of institutions which enjoy their confidence and which are worthy of their respect.

There is no doubt that you have felt that we are addressing all our attention and are completely commited to implementing the 7 November principles in a realistic, long-term way, but without hesitation, at the same time as we are continuing to deal with the accumulated complex issues, whose importance and magnitude in all fields without exception you understand.

Yes, the responsibility of the state in dealing with these issues is a fundamental one. However, we have to distinguish between the issues, whose solution depends on a decision to be taken by the head of state and to be implemented by the government, and the issues whose solution requires, in addition to a political decision, other conditions and collective efforts by the various concerned sectors of the society.

For instance, everything that pertains to organizing political life depends on a political decision. Since 7 November, the decisions and laws in this field have followed in succession. And we will continue to work hard in this direction. But the other issues, the social, economic, and cultural issues, require perseverance.

It is wrong to believe that the state has a magic wand with which it is able to solve problems at once. Our country faces situations which have accumulated over many years, and in this confrontation it has few material resources except the ability of its sons to choose the proper fate, of which we are proud.

This dictates to us what each of our responsibilities is and that the time has come for us to decide our fate and turn to work and toil in order to give positive meaning to the changes whose slogan is "7 November." This will enable Tunisia to take firm steps toward achieving the most prominent national objectives which are: self-sufficiency in food, a reduction in the external debt burden, a progressive reduction of unemployment and the creation of appropriate moral and material conditions for intellectual creativity, artistic, scientific research, and technological innovation.

In order to realize these legitimate aspirations, all efforts should come together: government establishments, social organizations, and individual energies, with the conviction shared by all that this is a task that cannot be achieved overnight.

Citizens, progress can only be achieved through building institutions and respecting laws—matters which secure the citizen's trust in his country and its regime and spreads an atmosphere of stability and the [words indistinct]. And this is a great and mighty project which is only achieved when all efforts come together. The solidarity of all the people's forces, for the change which they are striving to achieve, should prevail over all the aspects of social life. They should be represented in what the citizens see when they watch television, in their dealings with the authorities, and when they visit a clinic or a hospital. But it should encompass all the material and moral prerequisites of the citizens' lives.

It is naive to believe that in bringing about change we will not face difficulties here and there. But we are determined to see that the change is profound, comprehensive, and drastic in all fields. We are eager to see on-the-spot followups in all that reflects on the daily life of the citizens or influences the development of every citizen's pride in the homeland. This will only come if information is this country has full credibility and if we are able to raise the administration's effectiveness in the services it provides for the citizens in sponsoring public interests, and if every citizen feels that the Tunisian judiciary is just and does its job.

But we reconfirm that in order to achieve our aspirations we require an atmosphere of trust calm and goodwill. On this occasion, I want to appeal to the workers in particular, to urge them to be more vigilant and clear-sighted in order to always be on guard against the attempts to cast doubt and the bargaining whose sources are known to them, and which at any rate are known to us. They can rest assured that their concerns and aspirations are among our priorities as it is part of our global objective of improving the living conditions of all Tunisians.

We also appeal to all the vital forces among our people. and we say to them today that the nightmare of uncertainty, hesitation, and fear has been removed from the country. The time has come for discipline to replace neglect and for every Tunisian to turn to work. We also say to them: There is no way to develop our country and achieve economic prosperity other than through work and toil. There is no way to improve our living standards other than through devotion to work. And there is no way to secure employment for our jobless youths other than through more work.

We have no dignity, no future in our sons other than through perseverance in work. Let them be confident that the 7 November statement is a program capable of achieving the desired change. We are determined to implement it with the backing of all groups of society. We insist on its full implementation in response to this deluge of enthusiasm and optimism which has filled our people since that day.

We therefore appeal to all the vital forces, including our youth, who are full of determination and ambition. We appeal to all those with sincere intentions who are eager for the good of this country and its progress and prosperity. We call on them to toil, united in their efforts, as one front in order to make this change a reality.

Citizens, the first thing we initiated after 7 November was the restoration of regard for Islam in this country, out of our belief that our tolerant religion, the prerequisite of our civilization, is a basic pillar in our society. We work to care for it, to raise its glow, revive its rites, and follow its teachings.

We therefore adopted several practical measures and important decisions, foremost among them the decision to restore respect for the glorious Al-Zaytunah University which we credit with the development of Islamic sciences and the establishment of the Arabic language in the region. For centuries the university has remained a mineret for scientific research and religious interpretation and a mecca for apostles from the Maghreb and the Masnriq. Because of our eagerness to implement the teachings of our noble religion and to preserve it pure values we decided to carry out a continuous campaign to protect noble morals and to confront phenomena which contradict Islamic morals, whether in at home or in public places.

We are determined to continue the work to raise the word of religion and its tolerant teachings. We are eager to adhere to the noble values and principles without attaching the outward manifestations and formalities, rejecting all that contradicts the essence of Islam and its pure spirit that is peculiar to our Islamic-Tunisian authenticity, and that does not conform with what our fathers and grandfathers planted in this blessed soil as they are the collection of our heritage and the prerequisite of our spiritual personality.

We therefore did not hestitate in declaring that there is no room today for the expolitation of religion for political purposes or for certain goals of which religion is innocent.

Citizens, through the unification of your efforts and your devotion to work, and by avoiding marginal quarrels in our developing society which needs above all the production of the brains and brawn of all its sons, we shall be able to secure the means for the success of the 7 November program. Thus it may be, as we want it, a positive turning point in the march of progress of this nation and its prosperity, and in order to be among those who are right when they speak and those who fulfill their promises.

Let our concern be good work, guided by the saying of the almighty: Man can have nothing, but that for which he strives. The fruit of his striving will soon come in sight, and he will be rewarded, with a complete reward. God has spoken the truth. Peace and God's mercy and blessing be upon you.●

THE CORPORATION FOR SMALL BUSINESS INVESTMENT CHARTER ACT

● Mr. D'AMATO. Mr. President, I rise today as a cosponsor of the corporation for Small Business Investment Charter Act, S. 1929. This act establishes a new entity which will fill a void in providing venture capital for small but growing enterprises.

It is important to realize that much of the growth in our rapidly changing economy has been fueled by small entrepreneurial enterprises. It is obviously critical for their, and our economy's continued growth that they have reasonable access to the debt market or to the capital that ultimately will be provided through this new entity—COSBI.

The lack of a reliable source of capital and the uncertainty of the congressional authorization and the appropriations process, make long-term business investment planning difficult for SBA-administered companies. COSBI will help to fill the void.

Ironically but typically, it is often the small aggressive firms with their promise of growth and dynamism, which have the most difficulty in obtaining the financing readily available to their larger, more established competitors. COSBI will help these SBIC's to compete more fairly with the bigger companies.

As outlined in the bill, COSBI is conceived as a privately owned, Government-chartered corporation, operated for profit, much like the other Government-sponsored enterprises like Fannie Mae and Sallie Mae. Owners of this new enterprise would be the SBIC. SBIC would invest $20 million of private capital by purchasing common stock. In addition, the Government will take $200 million in preferred stock. One of the most attractive aspects of this setup is that no appropriation would be required for this stock.

This legislation is particularly important in my State of New York. New York boasts the greatest number of SBIC's—55 as of December 1987—with the largest amount of private capital—$411.4 million.

Mr. President, I believe that this country should invest in entrepreneurial capitalism and competitiveness. It has been these two ideals that has made this country so powerful and prosperous. The rewards of investing in these small businesses are too great, and too essential to our Nation's economic well-being. I urge my colleagues to take a close look at this legislation and put their full support behind it.●

U.S. OLYMPIC TEAM

● Mr. ARMSTRONG. Mr. President, it gives me great pleasure and pride on behalf of all Coloradans to congratulate the U.S. Olympic Team on their tireless efforts shown at the winter games in Calgary, Alberta, Canada. As you know, the U.S. Olympic team included a number of members from Colorado, and I am extremely proud of the way in which our State was represented. The part that these Olympians played called attention to the natural superiority of athletes who live, work, and train in Colorado. Congratulations are in order for these men and women who participated and recognition of their efforts in certainly appropriate. I would like to introduce you to these Olympians.

Josh Thompson, of Gunnison, CO, was born February 18, 1962, in Lawrence, KS. A graduate of Rocky Mountain High School and of Western State College, he earned a B.S. in biology. Josh is the top biathlete outside of Europe. His silver medal in the 20 km at the 1987 World Championships in Lake Placid, NY, was the first American medal in the history of the sport. His eighth place finish in the 10 km at Acterselva was the best World Cup finish ever by an American. Only one other American, teammate Willie Carow, has ever won World Cup points. Thompson's No. 22 ranking in the overall World Cup in 1987 is the best ever for an American. In the 1986 World Championships he was 12th in the 20 km. The Western State College graduate speaks several languages, including Norwegian.

Bill White, born December 6, 1959, in Chicago, IL, is a graduate of Wasson High School in Colorado Springs and of the University of Northern Colorado. In only his first year of bobsledding, Bill earned a spot on the 1988 U.S. Olympic Team as a pusher for Brent Rushlaw's team. He finished third in the eight-part fitness test and set a record of 33.37 in the 300-meter sprint. White ran the 100 meters in 10.65, second only to the time of Willie Gault, a gold medalist at the 1983 World Track and Field Championships. In the 60 meter White was again nipped by Gault, but managed a highly respectable time of 6.64 seconds. He is a captain in the U.S. Air Force and is currently stationed at Hanscom AFB in Massachusetts. In 1979, he was an All-American in track and field and in football. At the University of Northern Colorado in Greeley, CO, White earned most valuable player honors in the North Central Conference in track and field for 3 years and All-American status in 1981 and 1982.

Paul Wylie of Denver, CO, is 23 years old and attends Harvard University, where he is both a full-time student at Harvard and a full-time athlete. The second alternate to the 1987 World Team, Wylie won the silver medal at the 1988 USFSA National Championships with a strong long program that moved him up from third place. The former U.S. Junior singles and pairs champion and 1981 World Junior champion, Wylie had a winning 1987 season, capturing a bronze medal at the World University Games, a gold team medal at the U.S. Olympic Festival, a gold at the prestigious St. Ivel International, London, and a silver at the NHK Trophy, Japan. Skating since the age of 3, Paul is known for his rich interpretive skills and extraordinary style. His diminutive size of 5 feet 4 inches, 120 pounds, belies his power and strength. He is an avid skier and camper when time allows between training and school.

Caryn Kadavy of Colorado Springs, CO, is age 20, born in Erie, PA. A graduate of Cheyenne Mountain High School, Caryn Kadavy became an overnight sensation in 1985 by winning the senior ladies' bronze medal in her first appearance at the U.S. National Championships. Since then she has continued to impress the skating world by collecting four international gold medals at the 1985 Skate Canada and Prize of Moscow News competitions, the 1986 Golden Spin of Zagreb, and the 1987 St. Ivel. She also captured a silver medal at the 1986 National Championships and a bronze medal at both the 1987 U.S. Championships and the World Championships. Despite a fall in the early part of her long program which cost her the silver medal, she took the bronze at the recent national championships and earned the third spot on the 1988 Olympic Team. She placed second in both the compulsory figures and the short program before finishing third in the long program and third overall, behind Debi Thomas and Jill Trenary. Kadavy began skating at age 4 in Erie, PA, where she was raised. She currently trains in Colorado Springs under renowned coaches Carlo and Christa Fassi. The daughter of a former ballerina, Kadavy is known for her rich artistic interpretation and classical style.

Jill Trenary of Colorado Springs, CO, is 19 and was born in Chicago, IL. She, too, is a graduate of Cheyenne Mountain High School. Jill, the 1987 U.S. ladies' champion and the 1988 runner-up, was raised in Minnentonka, MN, before moving to Colorado Springs to train with Carlo and Christa Fassi. At 19, Jill has already had more than her fair share of obstacles to overcome, including a disastrous on-ice accident in 1985, which nearly ended her skating career. A true fighter, she made a stunning comeback in 1986, placing fifth in her first National Championships at the senior level, and followed that with gold medals at the 1986 and 1987 U.S. Olympic Festivals and the 1987 Grand Prix de Paris. After placing third in both the figures and short program portions of the competition at the 1988 USFSA National Championships, Trenary took second place in the long program, advancing her to second overall. She began skating at age 8, and now trains with Olympic teammate Caryn Kadavy in Colorado Springs. Off the ice, her interests include skiing, biking, and dancing.

Mike Brown of Vail, CO, was born March 22, 1962, in Vail, CO. In his seventh year on the U.S. Ski Team, Mike was 89th on the 1987 World Cup circuit with nine points and was 35th in downhill. In the World Championship he finished 21st in the downhill and 22d in the combined—9th in downhill, 32d in slalom. He suffered a broken hand in the Super G—the next race—after slamming it into the hard snow and breaking three bones in the back of his hand and missing 6 weeks. His top 1987 finish was a 12th at Wengen, Switzerland. He was the top U.S. skier in the FIS rankings, placing 27th internationally. In World Cup rankings he was 94th in 1983 and 34th in the downhill; 101st in 1984 and 41st in the combined; 80th in 1986 and 39th in the downhill. In 1985 he was 18th in the downhill at the World Championships, and in 1988 finished second at the U.S. Nationals. He and his sister have a company called Phase 4, which makes, among other things, headbands.

Troy Watts of Breckenridge, CO, was born November 9, 1965. This year is Watts' second year on the national team after 10 years of skiing and racing experience. Watts posted consistently high finishes in 1987. He ended fifth overall at 1987 Nor-Ams, after a sixth in the slalom and a third in the giant slalom. He won the Rocky Mountain Trophy Series and shared the giant slalom crown in that event. He also placed third overall in the 1987 Eastern Cup and excelled at the U.S. Nationals with a second in the giant slalom and 10th in slalom, having topped that off with a third in the FIS Race in Austria. Troy relishes challenges because he was once told he would never make it as a ski racer. He is a member of the Steamboat Athletic Association in Steamboat Springs, CO.

Beth Madsen was born March 12, 1964, in Aspen, CO, and attends the University of Colorado. Beth was 15th in the combined at the World Championships in 1987—24th downhill, 10th slalom—and was 30th in the giant slalom. She was 11th overall in the Nor-Ams and 29th in the Europa Cup. Madsen was second in the giant slalom at the U.S. Alpine Championships. She was 72d in the 1986 World Cup standings, after earning seven points at Waterville, and third overall in Nor-Ams. Beth won the giant slalom and combined events at the U.S. Alpine Championships and was fifth in the downhill and fourth in the slalom. She began Nor-Am competition in 1980 and started on the World Cup tour in 1986.

David Jamison of Tabernash, CO, was born August 18, 1957. David was selected as part of the disabled exhibition at the 1984 Olympics. He finished third in the giant slalom in Sarajevo. His disability occurred at the age of 2 from polio in the left leg and left arm, but he now skis all four disciplines. David has 17 years experience and, in addition to being a 10-time national combined champion, he is a two-time Canadian combined champion. He also won a gold medal in the slalom at the 1982 World Championships in Diablerets, Switzerland. David works as a ski lift operator for Winter Park Resort in Colorado. His hobbies include camping and fishing.

Cathy Gentile of Vail, CO, was born June 28, 1962. Cathy finished third in both the giant slalom and slalom events at the 1987 National Handicapped Ski Championships at Attitash, NH, while taking second in the downhill. Although her disability is a result of osteosarcoma resulting in hip disarticulation amputation in 1971, she has competed in skiing for 8 years. Cathy is a 1984 business administration graduate of the University of Southern California.

Martha Hill of Winter Part, CO, was born April 28, 1960. Martha has been a member of USDST for five seasons including 1988. Martha lost her leg at age 17 due to bone cancer. She is a 1982 Dartmouth College graduate with degrees in anthropology and native American studies. Martha has worked as an actress in the PBS children's TV series "Second Voyage of the Mimi." She finished second in the slalom, the giant slalom and the combined, in addition to placing third in the downhill at the 1987 National Championships at Attitash, NH. Martha also placed third and fifth in the giant slalom and downhill, respectively, at the 1986 World Championships for the Disabled.

John Novotny of Breckenridge, CO, was born October 4, 1957. John is a senior member of USDST. He moved from Chicago, IL, to the Colorado high country in 1985. John finished ninth in both the 15 km and 30 km cross country events at the 1986 World Championships for the Disabled in Salen, Sweden. He has skied with guide Craig Ward for two seasons. John became afflicted with cancer of the retinas at 18 months and lost sight in both eyes at the age of two.

Nelson Carmichael of Steamboat Springs, CO, was born November 19, 1965. Carmichael enters into his fifth season as a mogul specialist on the U.S. Freestyle Ski Team. He finished sixth in Grand Prix points on moguls during 1986 and 1987. He placed second at Mariazell, fourth at Tignes and Mount Gabriel, and fifth at the 1986 World Championships in the event. Carmichael grabbed sixth place at the 1986 World Championships in the elite international field. He won the 1985 National Men's Mogul title at Winter Park, CO, and added a second national title at the 1987 Freestyle Championships. In addition to being a student at the University of Colorado, he owns his own business, Muskoka Motion, a windsurfing service in Bala, Ontario, Canada. Carmichael has been influenced by national team coach Park Smalley for his constant dedication to his athletes and the sport.

Kris Fedderson of Steamboat Springs, CO, was born October 30, 1962. Fedderson sat out the 1986 season with a torn ligament injury. In 1987, he earned a fourth place at the Grand Prix aerial finish. He is the top U.S. male aerial competitor. Fedderson is entering his fifth season on the team. He grabbed six top-10 aerial finishes, including two third place finishes, during 1987. He faltered to 14th place in La Clusaz, France, and fell just shy of qualifying for the "A" team in 1987. He was ranked eighth in the world in the combined in 1984. Fedderson currently works with freestyle coach Jon Smalley in his Steamboat Springs, CO, janitorial company. Kris wants to be on the cover of Rolling Stone.

Cooper Schell of Steamboat Springs, CO, was born October 11, 1963. Schell sat out the 1986 season with a knee injury, but finished third in the 1985 and 1987 Grand Prix Mogul standings. He qualified for the "A" team for the 1987 Oberjoch World Cup, finishing second with his best finish of the 1987 season. Schell was National Mogul Champion in 1983. He is a sophomore at the University of Colorado, majoring in business.

Melanie Palenik of Littleton, CO, was born March 30, 1966. Palenik became the best combined skier on the women's team for 1987. She finished seventh in 1987 Swatch Grand Prix aerial points. She was second to American Maria Quintana for the top U.S. spot in 1987. She is a two-time combined national champion in 1985 and 1986. Palenik established herself as an excellent all-around skier by winning the national upright aerial title in 1984. She finished fifth in Grand Prix points for combined skiers in 1985 and 1986. She is a physical education and psychology major at Colorado State University in Fort Collins, CO. After finishing college, Melanie plans on working with disabled children.

Maria Quintana of Steamboat Springs, CO, was born July 6, 1966. Quintana led the American team in women's aerials with a win at the 1986 FIS World Championships at age 19. A native of Steamboat Springs, she completed a backward double somersault in her final jump at the Worlds to win back her title. She had her best finish of the 1987 season at Mariazell, Austria, by winning the aerial event. Maria started to ski freestyle in 1982. She is a student at Stanford University. Her goal as an athlete is to be the best acrobat in the sport. She says her personal goal is "to gain a better understanding through freestyle skiing of myself and the world around me in order to better able me to pursue my future goals and dreams."

Pat Ahern of Breckenridge, CO, was born November 10, 1960, in Davenport, IA, and is a graduate of the University of Colorado. 1988 marks the 10th season of World Cup competition for Ahern and he says this is his final year. Last year he won his fourth U.S. National Championship, but an injury to his right knee in training never healed properly and he never regained full strength. After the World Championships he underwent arthroscopic surgery on both knees. In June, his legs were back in what he says is the best shape they've been in in years. In World Championship and Olympic competition, Ahern has been blessed with less than good fortune. At the 1982 Worlds in Oslo he crashed during training and fractured a collarbone and missed the competition. At the 1984 Olympics in Sarajevo he was among the leaders in jump competition and in serious medal contention when officials canceled the round and ordered a restart, nullifying his best effort. He eventually finished 17th. In the 1987 World Championships, he finished 31st. A dream of his is to climb the 20,000-foot Mount McKinley in Alaska.

Kerry Lynch of Denver, CO, was born July 31, 1957, in Denver, and is a graduate of Western State College in Gunnison, CO; 1988 is Lynch's 11th year on the U.S. team. Last year he had the best finish in history for an American when he took the silver medal in the World Nordic Championships in Oberstdorf, West Germany. His second place finish to Norway's Torbjorn Lokken, gave the United States coaches some high hopes for the United States team in Calgary. Lynch has been a member of two Olympic Teams, the 1980 and the 1984 teams. In 1980 he was 18th in the Nordic Combined and in 1984 was 13th. He had an outstanding season in 1983 when he finished third on the World Cup circuit, after winning World Cup titles in Lahti and Olso. Kerry plays the drums and sings in the family band "The Lynch Mob." He is married to former U.S. cross-country racer Chrissy Lewis.

Rich Mewborn of Steamboat Springs, was born March 28, 1965, in Carlsbad, NM. This is his fourth year on the national team. Last season was an off-year for Mewborn, who was the national champ in the 70 meters in 1986 and finished in the top 10 in 2 events on the World Cup and was 26th overall. In 1987 he slipped to sixth in the 70 meters and was third in the 90 meters at the U.S. Championships and was 51st at the World Championships in the 90 meters and 42d at 70 meters. His top World Cup finish was 24th. The past 2 years at the National Championships, he has had 1-2 finishes in the 70 meters and a 2-1 finish at 90 meters. He spends the off season working in a mine near his Steamboat Springs home.

Zane Palmer, of Kremmling, CO, was born February 27, 1971, in Kremmling, CO. This is Palmer's sixth year on the U.S. team. Last season he finished second in the 90 meter jump at Nationals and was 20th in the 70 meters. His best World Cup finish last season was a 14th place in his first World Cup competition in Thunder Bay, Ontario, Canada. That finish was his only finish with points and he ended the year in 78th place. At the World Championships he was 42d in the 90 meters and 52d in the 70 meters. He won the Canadian Nationals in the 70 meters. In 1986 he finished 44th on the World Cup circuit, was 42d in 1985 and 61st in 1984. In the 1985 World Championships he was 40th in the 90 meters. In 1985 he became the fourth American to jump more than 500 feet at the World Ski Flying Championships. He was raised on a ranch in Colorado and participated in some rodeo competitions. He was a 4-year member of the U.S. Development Team before moving up to the national team.

Todd Wilson of Winter Park, CO, was born May 4, 1965, in Denver, CO. 1988 is his fifth year on the U.S. ski team. He finished fourth in the U.S. Nationals last season, and finished 41st in the World Championships. In 1986, Wilson was third in U.S. Nationals. He also finished 19th in the U.S. Nationals in the 70 meter ski jumping. His top World Cup finish last year was a 30th at Calgary. In 1985 he was 39th in the World Championships and 28th at the World Junior Championships. In 1984, he was 27th at the World Juniors and won the nordic combined in the Junior Olympics.

Mr. President, in closing, I would like to once again congratulate each Olympian on their outstanding achievements. They have devoted countless hours in pursuit of their goals, and being selected to the U.S. Olympic Team is a true testimony to their success. I hope to see each of them at the next winter games in 1992.●

ADDRESS BY FELIX G. ROHATYN TO THE ECONOMIC CLUB OF WASHINGTON

● Mr. GRAHAM. Mr. President, Mr. Felix G. Rohatyn made the following speech at the Economic Club of Washington in late January. In his speech, Mr. Rohatyn makes a number of interesting points about America's status as an economic power. After hearing Mr. Rohatyn's speech, I felt compelled to share it with my colleagues.

The speech follows:

ADDRESS BY FELIX G. ROHATYN, PARTNER, LAZARD FRERES & CO., TO THE ECONOMIC CLUB OF WASHINGTON

More than two hundred years after our Declaration of Independence, the United States has lost its status as an independent power. While America is still, without question, the world's leading military power, predominance in weapons world-wide does not give us the freedom to act unilaterally at home. The hundreds of billions we have spent on weapons systems were simply part of an escalating level of nuclear and conventional weapons designed to deter and neutralize equivalent levels of Soviet military power. Few of these weapons are ever likely to be used and, if they are, we are not likely to have black tie economic club dinners for quite some time, if ever. However, the drain on our economy created by the combination of high levels of defense spending, large tax cuts and continuing growth in entitlement programs are turning the U.S. into an historical anomaly: A first rate military power and a second rate economic power.

The military stalemate between the two superpowers, each with different though serious domestic problems, has created a situation where greater relative independence of action lies with the economic power generated by surplus capital, technology, education and discipline. Japan and West Germany have been generating huge trade and capital surpluses and are becoming leading, independent world powers in their own right. The fact that they still rely on our military umbrella, while we rely more and more on their capital, maintains a situation of relative equilibrium and mutuality of interests between the U.S., Japan and West Germany. But this situation is changing: Our dependence on foreign capital is growing while the threat of Soviet military might seems to be receding and further arms reduction agreements seem to be achievable. On a relative scale, the economic power and the independence of action of Japan and West Germany vis-a-vis the U.S. is bound to increase; so will our own dependence on their capital and ultimately, not only the loss of our position as the leader of the Western democracies, but the loss of our independence of action in many aspects of domestic as well as foreign policy. The fact of the matter is that, for the U.S., our enormous dependence on foreign capital, while trying to maintain military superiority over the Soviet Union, has eliminated the dividing lines between foreign and domestic policy as well as the line between domestic economic policy and national security. Our increasing dependence on foreign capital is not just an economic issue. It is a security issue as well as a political issue of major implications.

The extent to which the U.S. has become a prisoner of foreign capital shows up in three areas: The fact that our net foreign debt is now the largest in the world; the fact that our outflow of financial payments (dividends, interest, etc.) is now greater than our inflow; and the fact that the dollar is at, or near, its lowest level since WWII. We need not dwell at great length on how we have gotten here; it is well know by every one in this audience. Consistently high budget deficits, a high rate of consumption and a low rate of domestic savings, the requirement for foreign borrowing to finance the budget deficit, a soaring dollar and a huge trade deficit. The only change during the 1980s in this scenario for ultimate economic and financial hardship is the collapse of the dollar which, over the last two years, lost more than 50% of its value vis-a-vis the yen and the D-Mark. We have now become the classic model for a failing economic power: increasing levels of foreign debt, a constantly depreciating currency, and a continuing negative trade balance almost regardless of currency levels. We are now going to add to this list a rapid rise in the level of U.S. assets owned abroad.

Despite the recent bipartisan budget agreement brought about by the October Stock Market Crash, and despite economic statistics that appear reasonably stable, our underlying trends are still negative. The Congress and the President have recently created a bi-partisan National Economic Commission with objective of making recommendations with respect to these underlying issues to the next President. The creation of this commission recognizes implicitly the difficulty of addressing such complex issues realistically and truthfully in an election year. The debt, public and private, domestic and foreign, keeps growing exponentially; so does the annual trade deficit despite a significantly lower deficit in November; currencies swing wildly, responding to speculative capital flows and Central Bank intervention rather than to classical commercial relationships; the gaps between wealth and poverty, world-wide, are becoming greater.

There is much brave talk, and an obvious need, of multinational cooperation and coordination to keep all this on an even keel, and it has occurred from time to time. But never broadly enough or for long enough. And the fact of the matter is that international economic coordination and cooperation, with its difficult internal political side-effects, can only take place if a strong economic power can provide leadership that is steady and consistent. Whether we like it or not that leadership can only come from the U.S.; in order to exercise it, the U.S. must have the freedom to act independently with respect to its domestic economic and social policies. We do not have it today. We are becoming as constrained, in some ways, as other large external debtors such as Brazil or Mexico. The United States will not be able to deal poltically with its economic problems until there is general recognition that we are facing a simple, basic issue: the recapture of our lost financial independence.

Financial independence does not mean that we will cut ourselves off from the rest of the world: we will always require foreign capital. In the proper relationship, it is extremely positive for our economy. With a national debt above $2.5 trillion and a foreign debt reaching almost $500 billion and both headed upwards, our need foreign capital will be with us for the long-term. But we must have access to that capital on normal terms. We cannot allow a situation to occur, which we are perilously close to now, where currency markets or foreign governments can impose terms that are increasingly onerous because of our critical need for external capital and the massive size of our requirements. We should have as our objective to stabilize the level of our foreign debt within five years.

What are the main components of recaptured financial independence? First and foremost it requires dealing with our domestic budget deficit. Second, stabilizing the main world currencies vis-a-vis each other. Third, encouraging the recycling of surplus capital to the Third World, especially Latin America. Fourth, creating balanced relationships between our trade and investment policies. All of these, by now, involve important foreign policy components with great domestic impact.

Our domestic budget deficit was, for the last few years, unquestionably the easiest problem to deal with. It would not have required great hardship, especially during a period of low inflation and steady economic growth, to deal with it. Any one of many reasonable mixes of moderate tax increases and expenditure cuts would have reduced our government borrowing by hundreds of billions of dollars over this period, reduced interest rates and stabilized our currency as well as our trade. It would not have put the economy at risk and was totally within our control. By now, the situation is quite different: we can expect no further action on the deficit until 1989 at the earliest (unless another financial shock comes along), and we are now vulnerable to a recession at any time which could have a dangerous impact on our domestic economy as well as on world-wide financial markets. In the last analysis we will have to do painfully in 1989 what we could have done easily in 1984 or 1985. It will have to be accompanied by significant interest rate reductions to reduce the risks of recession. It will have been a terribly costly delay.

Trade is in many ways a much more complicated problem than the budget. Easily transferable technology, world-wide; global sourcing of components; geographic dispersion of manufacturing facilities; the growing service sector; all of these, and many others, have created new realities which do not respond in the classic ways to changes in currency rates, the so-called J-curve, etc. We must not forget that the $13 billion November trade deficit that generated such euphoria, would have been considered a disastrous annual deficit just a few years ago. Even though the conventional wisdom is almost universally opposed to protectionism, it is silly to pretend that a 50% currency devaluation, such as we have orchestrated recently, is not protectionist in intent, even if deficient in result. It is by no means certain that temporarily limiting the foreign shares of certain of our main markets to reasonable percentages, by administrative means, might not be preferable to further significant dollar devaluation, if such temporary restrictions were coupled with important domestic investment commitments and vigorous cost control.

Our trade situation is also inevitably tied in with Third World Debt issues. If we are not to reduce our trade deficits simply through recession, U.S. exports to Third World countries, expecially our traditional markets in Latin America, are critical. So is the maintenance of democracy in such countries as Mexico, Brazil and Argentina. While the recent restructuring of a limited part of the Mexican debt with U.S. Government cooperation was imaginative and helpful, it is only a small part. In addition to restructuring, the problem of new capital for these countries remains. It is fundamental.

The question of foreign investment may also have to be reviewed. The inevitable result of continuing dollar devaluation will be, sooner or later, massive purchases of U.S. assets by Japanese, German and other foreign investors; those assets will not necessarily be relatively passive such as government bonds, real estate, or general portfolio investments. They may consist of large, possibly controlling interests, in many of our major companies and financial institutions. It is worth noting that SONY's recent purchase of CBS's record division for $2 billion, which seemed to be an irresistible price to CBS, represented the same amount of yen as would have amounted to $1 billion two years earlier. The dynamics of a combination of continued accumulation of capital abroad, a cheap dollar, possibly lower American securities markets and large losses suffered by foreign institutions in U.S. bonds can only spell one thing: large direct investments in U.S. assets.

Under normal circumstances, foreign investment should flow freely, the more the better; this is especially the case when we depend upon it to finance our budget deficits. It may no longer be so clear if depressed currency and securities markets cause foreign investment to shift significantly from dollar denominated government bonds to purchases of major interests in our larger institutions, in amounts many times greater than at present.

The value of the dollar is clearly a new factor. For example, the Fuji Bank has a current market value of about $60 billion; Morgan Guaranty Trust Co. about $6 billion. Toyota's market value is about $40 billion; Chrysler about $4 billion. Matsushita Electric about $30 billion; Westinghouse about $6 billion. These market values reflect both the value of the yen and the level of the Tokyo Stock Market. It does not require a great leap of the imagination to see Japanese companies, taking advantage of a high yen and a high Tokyo stock market, able to acquire controlling interests in major American companies at relatively small cost to themselves in relation to their own equity values. No major industrial power in the world, certainly not Japan, not even Great Britain, allows foreign control of major strategic companies to be acquired without Government approval.

Sooner or later we may find it necessary to establish a legal mechanism to review certain potential acquisitions from the national interest point of view, if they occur in highly concentrated industries or other sensitive areas. We presently have a review mechanism for acquisition of companies with defense-related activities. It is logical to extend that kind of national security mechanism to other sensitive areas. For instance, should we allow SONY to acquire control of Time Inc. instead of CBS Records? Would we allow purchase of foreign control of Morgan Bank?

A review mechanism need not be viewed as a xenophobic manifestation. If presently distorted market conditions create such a trend, a highly selective mechanism may become necessary. It will not cause the flight of foreign capital any more than such procedures have caused capital flight from the U.K., Germany or Japan.

I know that it is heretical to even suggest that some limitation on freedom of trade and investment might be considered. I am not recommending that these be adopted. I am suggesting that we may have to look at rather unpleasant alternatives, unless there is a significant change in our own financial condition and our relationships with the rest of the world.

We should maintain open trade markets and open financial markets for the benefit of all parties, but, to help us to do so, our partners and allies in Europe and Japan should be called upon to make two kinds of major financial contributions, in addition to more truly reciprocal open trade and investment policies. The first is, obviously, to participate to a greater extent in our defense burden, especially the cost of our forces overseas. Maintaining troops in Europe and in the Far East presently costs tens of billions of dollars. That cost will obviously go up significantly with the depreciation of the dollar. We must maintain that defense posture. However, Western Europe and our Far Eastern allies are sufficiently strong, economically and politically, to defray at least one half of these costs themselves. Secondly, capital surplus countries should agree to take the lion's share of the new capital requirements of major Third World debtors through significant capital increases of the World Bank. This could significantly improve our trade picture by enabling these countries to import U.S.-made goods in much larger quantities. In addition to defense support, the capital surplus countries should be asked to provide at least $50 billion of new financing to the World Bank and other multinational financial institutions over the next five years. This, together with existing debt restructuring such as the Mexican swap, would provide part of the new capital which will be required to ensure Third World growth. Japan's former Prime Minister Nakasone had envisaged such an approach last year but, so far, little seems to have come of it.

It is only when major steps have been put in place to stabilize our own as well as the world economy that one can expect to be able to stabilize currencies effectively. An undervalued dollar is neither a symbol of strength nor an unmixed economic blessing. Another Bretton Woods is necessary to agree on predictable (not necessarily fixed) relationships between the European currencies, the dollar, the yen. It is obvious that the kind of currency movements we have had in the last decade are terribly destructive. Stabilization at a given level, however, requires a willingness to coordinate fiscal and monetary policies multinationally, as well as the capacity on the part of national banks to intervene massively. The history of coordination and cooperation is not encouraging if there is no leader to set the tone. That leader can only be a financially independent U.S.

"Nations have no friends" said Charles DeGaulle. "Nations only have interests". DeGaulle was right. Friendships are important; relationships are important; cultural and historical affinities are important. But interests will always carry the day. That is why it is so critically important for the U.S. to regain her economic independence and her freedom of action. It is at the present time clearly in Japan's interest to support our economic growth, but we must be able to carry on our business whether or not it is in Japan's interest to finance our deficits; whether or not it is in Europe's interest to share in our defense burden; whether or not the Soviets are accommodating on arms reduction.

Our domestic policies must be geared to one overriding objective: Economic freedom of action. To do so will require not only lower budget deficits and lower foreign borrowing, but higher savings and lower consumption. In order to achieve fiscal discipline, it may well be that the President should be given a line-item veto, something I have always had misgivings about, but which may be the only way to create accountability. Our tax structure as well as our regulatory system should be reviewed in order to encourage investment and reduce speculation and wasteful consumption. Pension funds, banks, insurance companies, S&L's should go back to constructive long-term investment policies instead of speculating on junk bonds, options and futures, and takeover arbitrage.

The role of government and the behavior of a great, modern world power consists of more than just presiding over deficit reduction. It consists in investing for the future to be competitive and to provide opportunity for all its citizens. Growth requires a strong currency and low interest rates rather than the reverse. The United States needs investment, both in the private and the public sector. Public investment, some ways, has fallen even further behind than private investment. Public education, infrastructure, the state of our cities, the protection of the environment, all of these require greater effort. In order to meet these needs, we have to balance our foreign commitments with our domestic requirements; we have to limit our immediate consumption and our paper speculation to make room for long-term investment.

Achieving financial independence, however, does not mean abandoning our international role; on the contrary. For instance, we should participate, vigorously, in efforts to promote global regulation for the financial markets as well as for the commercial banking system. This will be even more important if the Glass-Steagall Act is repealed and the dividing line between the securities industry and the commercial banking industry is eliminated, world-wide. The need for consistent regulation, capital requirements, margin requirements, etc. is obvious.

The Brady Commission laid out a frightening picture of the chaos in the markets created by computer-driven trading as well as institutional speculation in futures and options. We must start to regulate our own markets more effectively, and reduce such speculation by, among other actions, imposing sharply higher margins on futures and options. Capital requirements throughout the Securities industry should be increased to support the risk-related areas of the business, both among specialists and member firms. The Federal Reserve Board would seem to be the logical regulator with respect to margin and capital requirements since it is, to all intents and purposes, the lender of last resort to the Securities industry as well as to the banking community. The SEC, on the other hand, would appear to be the logical regulator for securities as well as for futures and options. One of the lessons of October 19-20, 1987 is that a failure in a major link of the world market puts the whole system at risk. Last time it was the U.S. Next time it may be Japan. The time has come for an overall review of the securities markets within the context of global markets and constantly changing technology.

We should lead in efforts to create a stable framework for currencies. This includes supporting the greater use of the ECU as a European currency as recently suggested by the French finance minister. We should study the possibility of expanding the European Monetary System to include the sterling, the dollar and the yen. We should support the expansion of the World Bank and other multilateral institutions. We should build on our trade agreement with Canada and create a special economic and trade relationship with Mexico. Mexico is one of our most important economic and foreign policy challenges for the next decade. We must treat her as such.

It goes without saying that we must maintain our international security commitments and a totally credible defense posture. Emphasis will have to be placed on coventional force balance with the Soveit Union.

The coming years are going to bring significant changes in international relationships. Many are totally unpredictable. The Soviet Union's attempt to modernize her economy appears to be a very positive development, but it is nonetheless fraught with risks and uncertainties. It is bound to have a significant impact not only on Eastern Europe, but on Western Europe as well. It is not at all unthinkable that new, organic, economic relationships will spring up between the European Common Market and Eastern Europe. That West Germany will turn more to the East. That Japan, Korea, and Taiwan will dominate large, far-eastern markets like India and China, and in addition, exercise considerable reach into Latin America. We may have to respond to Soviet requests for credits and technology or lose that potential market to Europe and Japan. We will have to conduct a dialogue with the Soviet Union with respect to her place and her responsibility as a member of the world financial community. We must bear in mind, however, that $58 billion of western credits to Poland and Yugoslavia are in hopeless difficulties and that credits to communist countries may, in the future, require government involvement.

All these, and many others, will create risks and changes that we must react to. These challenges, until the Year 2000, will be at least as great and as meaningful to the future of our Country as the military competition with the Soviet Union.

The next Administration will find that all of its domestic problems are inevitably tied into these international issues. That necessary spending for education and infrastructure may hinge on security burden-sharing with our allies. That domestic employment and trade may hinge on new Japanese capital for Mexico and Brazil. And that, superimposed on it all, will be the question of whether the Soviet Union can be a serious long-term negotiating partner in reducing world tensions and massively reducing wasteful investments in weapons.

These will be the issues for the 1990s. None can be dealt with satisfactorily unless we achieve once more a high level of economic independence which we have lost in this decade. The price we may have to pay for such independence will be cheap compared to the alternatives.●

TERRY GOLDEN'S RETIREMENT

● Mr. GLENN. Mr. President, General Services Administrator Terence C. Golden has announced that he is ending his 3 years of Government service as Administrator of the GSA.

When Terry took over this job, the GSA had been without a confirmed Administrator for months. Moreover, the agency—which is the Government's real estate agent and property manager—had never been run by someone with extensive real estate experience. So, when Terry went in—after his years in real estate development, financing, construction and marketing—he understood a great deal about what GSA's mission is all about. He has been a capable Administrator, and someone we will certainly miss.

Terence Golden is leaving the GSA for personal reasons; he wants more time with his wife and family. Thus far, his career has been long and varied—he began as a nuclear engineer, became a highly successful businessman, and then, a dedicated public servant. I am confident whatever Terry chooses to do next, he will be, as he has always been, a success. And, I would like at this time to wish Terry and the Golden family well.●

COMMENDATION OF THE MAJORITY LEADER

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. SIMPSON. Mr. President, I just want, before we close for the week's activity, to thank the majority leader. And I will not be overly long. But it is important that we recognize his necessity to press the agenda in the Senate. I want to assure him, and I have privately and I do so again publicly, that we on this side of the aisle will help assure that we press the agenda and legislation. That is our function. We are not administrators. We are legislators.

I again want to commend him for his willingness to allow us to go forward with the exercise which is very important to our side with regard to that item of sensitive business in past days, and that was a very appropriate act, a very noble effort, and a very helpful effort to assure his, I think, cooperation and assistance. Although it was not done for that purpose, it was very helpful for that purpose.

So we do have work to perform now on this bill, intelligence, and on the amendments on immigration, Price-Anderson, and we have work to do. I think that we will indeed help to assist to do that work.

Mr. BYRD. Mr. President, I thank the distinguished leader for his cooperation, and his unfailing courtesy.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I extend the morning business period now until 5:45 p.m., and I ask that Senators may speak therein for not to exceed 5 minutes each.

AID TO AFGHANISTAN

Mr. HUMPHREY. Mr. President, I want to return to the subject which the majority leader addressed a few moments ago, a subject which he has addressed with increased frequency, with great diligence, and with great effectiveness, and that is the subject of the obligation of our Government to the resistance who are fighting the Communists in Afghanistan.

Last week, at my request, a senior member of my staff spent 4 days in Peshawar, the base of operations of the Afghan resistance, meeting with the politcal and the military representatives of that Afghan resistance. What I learned disturbs me greatly—that is, the flowing of weapons to the Afghan resistance has decreased markedly and suddenly.

According to the resistance and according to my understanding of the program, the resistance were promised a doubling of tonnage in 1988 over 1987 levels. In fact, tonnage so far this year is only 30 percent of what was promised. To further put things into perspective, tonnage this year is less than half of that delivered in a like period in 1987.

According to the resistance leaders, Under Secretary of State Michael Armacost, who visited with them a few days ago, confirmed the cutback when confronted with the evidence of the shortfall in a meeting with the resistance party leaders on February 24. In other words, according to resistance leaders, Mr. Armacost was aware even before his visit, of the cutback, of this shortfall in promised tonnage.

My assistant spent many hours with the resistance during 4 days of last week. He was shown detailed documents that listed the promised numbers of weapons, weapons type by weapons type, and the levels actually received. There were huge shortfalls. He was shown warehouses which he and I had visited a year ago, which were bulging then, but which are all but empty now.

This morning, 1 hour ago, I placed a call to Peshawar and spoke with a senior resistance commander who is a member of the military committee of the alliance and who verified that tonnage this year is way below the like period of 1987, and that in the last 10 days shipments have stopped altogether.

How do we reconcile this situation with the repeated assurances by the administration that aid would not be cut prematurely? How do we reconcile this with the assurances contained in a letter from President Reagan hand-delivered by Secretary Armacost to Afghan party leaders during his January visit? How do we reconcile this situation with the White House assurances given to the Senate majority leader just a few days ago when he expressed his concerns about a premature cutoff in aid? The answer is, I do not know how we reconciled the reassurances and assurances with what appears to be substantial evidence to the contrary. I do not know but I intend to get to the bottom of this mystery.

Today, I have sent a letter on this matter to the chairman and ranking member of the Senate Intelligence Committee, with copies to the majority leader and the minority leader, asking for a prompt investigation.

There can be only two explanations. One, this substantial shortfall from the promised levels of asistance is the result of colossal bungling in the logistical scheme of things; or, two, this massive slowdown in the program, this deferral of a promise, if you will—an important and a solemn promise—is the result of some deliberate machinations connected with the negotiations with the Soviets about their withdrawal.

Whatever the cause of the marked slowdown in arms shipments, the timing could not be worse. If the current round of U.N. talks succeed, and if the United States does not find a way to back out of its earlier commitment to completely cut off aid at the beginning of a Soviet troop withdrawal, there might not be enough time to make up the shortfall in shipments to the resistance between now and the cutoff date. This could leave the resistance in an even more perilous state.

The Senate has spoken clearly on this issue. Last Monday, the Senate unanimously adopted Senate Resolution 386, stating that: "The United States should not cease, suspend, diminish, or otherwise restrict assistance to the Afghan resistance * * * until it is absolutely clear that the Soviets have terminated their military occupation."

Clearly, the marked slowdown—this massive shortfall in tonnage—in promised shipments of arms to the Afghan resistance is at variance with the strong sentiments of the United States Senate. It is at variance with the reassurances, public and private, of the administration. I want to know why. I want to know what is going on. I want to know if this is negligence or the beginning of a sellout of the Afghan resistance. I want to know when airlifts will begin to bring supplies up to the promised levels.

OPINION PIECE BY MICHAEL SCAGLIOTTI, A PAGE OF THE U.S. SENATE

Mr. HUMPHREY. Mr. President, these days we often hear the plea, "Give Peace a Chance." This slogan is certainly appealing. Who does not want to give peace a chance? But peace is not the only criterion for human security and happiness. Poland is at peace. All of Eastern Europe is at peace. Cuba is at peace. But are the people fulfilled? Of course not. Nor is our foreign policy fulfilled when we seek peace alone.

America has much to export to the world. But no export is more important than the export of freedom and democracy. We should have a vigorous, dedicated program to export freedom and democracy. Where we are successful, we will also be exporting peace, for where men and women have governmental protection of their God-given rights, where there is justice, there is peace.

Many young people today do not understand that communism systematically represses human rights. That the Communists' ultimate goal is world domination. That Communists openly work to subvert other countries. That they will lie, cheat, steal or kill to achieve their goals. Young people today need to be educated about the true nature of the Soviet system.

I am happy to report that many of our youth do not fall for the bumper-strip slogan, "Give Peace A Chance," because they have learned the important lessons of history. Once such young American, a fine citizen who has served Senators as a page, is Michael Scagliotti.

Mr. President, in a piece on arms control published by the Manchester Union Leader, Mike displays a clear grasp of the deceit of Soviet communism and the dangers it represents to freedom and democracy around the world. I am glad to see one of our pages showing such early leadership. No doubt he will go very far.

Mr. President, I ask unanimous consent that the op-ed written by Michael Scagliotti be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

United States Needs Hard Line Policy With Soviets

(Michael Scagliotti)

It would behoove the United States government, as an advocate of liberty and justice, to take note of Communist Russia's evil and menacing affiliations. Our government's policy towards the Soviet Union is soft-line, or lenient, regarding the other superpower's malevolence.

The United States government must take a firm stance on Russia's colossal arms production, its disrespect for treaties and human rights, and against Communist support in our own legislature. Our government must adopt a hard-line policy against communism, for not only does the Soviet Union pose a serious threat to our national security, but also it has violated many standards of morality and trust.

Some recent statistics about Soviet arms production have implied their possible preparation for combat. Rep. Jim Courter, R–N.J., has divulged some disturbing figures about Russia's arms production.

Russia is producing roughly 3,700 tanks per year, four times that produced by NATO.

Russia's production of anti-aircraft artillery guns is twelve to one over NATO's production; surface-to-air missiles exceed NATO's supply nine to one.

Along their western borders, the Soviet Union is prepared with three million metric tons of ammunition, not a petty supply! Mr. Gorbachev seems to have overlooked these statistics in his new pursuit of peace. A soft-line policy towards the Communists could be hazardous to every American individual's safety. The terrifying problem is that the United States government has devised no strategy to achieve victory in any international fray.

American negotiators must take into account the Soviets' hypocrisy written treaties and its violation of human rights. Our country's government must be careful about putting trust in a nation that has disregarded the Biological and Toxin Weapons Convention of 1972, the Threshold Test Ban Treaty of 1974, the Helsinki Final Act of 1975, SALT I and II, the ABM Treaty, as well as working diligently on their own "Star Wars" program while condemning ours. Take into account their behavior regarding human rights: The U.S.S.R. is amply funding organizations that train and arm terrorists. They are a regime responsible for assassinating U.S. Major Arthur D. Nicholson, Jr. in East Germany, and for shooting down a Korean Air Lines flight with its passengers. While condemning the U.S. government's defense of the constitutional rights of the Ku Klux Klan, Russia is embarked upon its own mission to repress human and religious rights in Central America, Afghanistan and Eastern Europe. It is unacceptable for a free nation like our own to complacently allow the Soviet Union's violation of these standards; a hard-line policy must be enacted.

Has our own Congress Communist sympathizers? Yes, the grave fact is that the United States' own legislative chambers contain men and women ready to extend their sympathy, and even support, to the Soviets. Truly disturbing is that they are toasting the Soviets. Michigan Democrat George Crockett has advocated the salvation of eleven unruly Communist leaders, as well as defending the Soviets through debate and vote when the House discussed the murder of Major Nicholson.

Even the Speaker of the House, Jim Wright, has written Sandinista leader, Daniel Ortega, asking him to reinstate some democracy so he and other Democrats would not have to support the Contras.

Ortega himself has said that Rep. George Miller, Michael Barnes, and Sen. Chris Dodd are "friends of our revolution" and "want to help us." Such soft line policies and Communist support are appalling. Not only are they embarrassing to this nation, but present our government's biggest obstacle in its struggle against communism, because they exist internally.

The United States government needs to adopt a hard-line policy against Communist Russia. Its sinister activities cannot be viewed as insignificant. Affirmative plans must be considered by Congress to toughen our stand on Soviet policies, intervene on Communist oppression and increase internal awareness of the dangers of Soviet aggression. Such action would produce a safer country and a happier world.

ORDERS FOR MONDAY, MARCH 14, 1988

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that on Monday, March 14, 1988, following the two leaders under the standing order, there be a period for morning business, not to extend beyond 1 p.m., and that Senators may speak for not to exceed 5 minutes each during that period.

The PRESIDING OFFICER. Without objection, it is so ordered.

TREATY DOCUMENT NO. 100-10

Mr. BYRD. Mr. President, as I indicated earlier, it would be my intent to move to take up the treaty on the Executive Calendar, Calendar No. 8, Treaty Document No. 100-10. There will be a rollcall vote on the motion to proceed to executive session to consider that treaty. There very likely will be a rollcall vote on that treaty. In any event, there will be one rollcall vote, if not two. There will be one rollcall vote in connection with the treaty, and then the Senate will resume consideration of the pending business before the Senate, the intelligence authorization bill, or it may go to some other matter.

I hope that between now and that time the distinguished Republican leader and I can be able to work out an agreement on the immigration measure, in which he is very greatly interested in as are a great many of the Senators on both sides.

Mr. SIMPSON. Mr. President, in connection with S. 2104, there is only one remaining Member of the body who has any further information that they seek on that. That person has indicated to me that they should have that information by Monday, March 14. I think we will be in a position to go forward with that with a unanimous-consent agreement. I think we can fashion that a week from Monday. It would appear so.

Mr. BYRD. Very well.

NO RESOLUTIONS OVER, UNDER THE RULE, TO COME OVER

Mr. BYRD. Mr. President, I ask unanimous consent that on Monday, March 14, 1988, no resolutions or motions over, under the rule, come over.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that the call of the calendar be waived on Monday, March 14, 1988.

The PRESIDING OFFICER. Without objection, it is so ordered.

REDUCTION OF TIME FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the period for morning business on Monday, March 14, 1988, be reduced to 10 minutes, and that Senators may speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, I think all I can say with respect to the program at this point is that there definitely will be a rollcall vote around circa 1 o'clock, give or take. I hope we will be able to take up the immigration bill on Monday.

Mr. SIMPSON. Mr. President, that is certainly my hope, too. We have alerted our side of the aisle to the fact that there will be a rollcall vote and perhaps two on Monday.

FILING OF COMMITTEE REPORTS

Mr. BYRD. Mr. President, I ask unanimous consent that committees be permitted to report legislative or executive calendar business on Thursday, March 10, between the hours of 10 a.m. and 3 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

APPOINTMENTS BY THE SENATE

Mr. BYRD. Mr. President, I ask unanimous consent that notwithstanding the adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the Deputy President of the Senate pro tempore be authorized to make appointments to commissions or committees authorized by law, by concurrent action of the two Houses, or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the request that I just made pertains to the days of recess that the Senate is about to go out for.

IMMIGRATION AND NATIONALITY ACT

Mr. BYRD. Mr. President, I ask unanimous consent that at the conclusion of morning business on Monday, March 14, the Senate proceed to the consideration of S. 2104, a bill to amend the Immigration and Nationality Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished acting Republican leader.

ADJOURNMENT UNTIL MONDAY, MARCH 14, 1988

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate now stand in adjournment under the provisions of Senate Concurrent Resolution 101 until March 14, 1988, at 12 noon.

The motion was agreed to; and at 5:29 p.m., the Senate adjourned until Monday, March 14, 1988, at 12 noon.

CONFIRMATION

Executive nomination confirmed by the Senate March 4, 1988:

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

WILLIAM F. BURNS, OF PENNSYLVANIA, TO BE DIRECTOR OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Monday, March 7, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O God, that the focus of our lives and actions may be toward a righteousness and honesty of thought, word, and deed. Grant integrity of spirit to all who accept the public trust and give to every person the desire to translate the witness of prayerful words into the realities of daily life. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

RESIGNATION AS MEMBER AND APPOINTMENT AS MEMBER OF U.S. AIR FORCE ACADEMY BOARD OF VISITORS

The SPEAKER laid before the House the following resignation from the U.S. Air Force Academy Board of Visitors:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 3, 1988.

Hon. JIM WRIGHT,
Speaker of the House, H204, The Capitol, Washington, DC.

DEAR MR. SPEAKER: It has been an honor and a privilege to serve on the United States Air Force Academy Board of Visitors over the past several years. Because my schedule has become increasingly heavy of late and has limited my ability to participate, I regretably, have made the decision to tender my resignation.

Please consider this letter as my official resignation.

Sincerely,

JERRY LEWIS,
Member of Congress.

The SPEAKER. Pursuant to the provisions of section 9355 of title X, United States Code, the Chair appoints to the Board of Visitors to the U.S. Air Force Academy on the part of the House to fill the existing vacancy thereon, the gentleman from Texas [Mr. DELAY].

AMERICA NEEDS TO REDISCOVER GUAM

(Mr. BLAZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLAZ. Mr. Speaker, this week, the people of Guam commemorate Discovery Day in recognition of Portuguese explorer Ferdinand Magellan's landing on Guam about 500 years ago. In the future we could also celebrate Rediscovery Day at this time of the year because it is the week in which I introduced Guam's commonwealth bill in the U.S. Congress in behalf of our people. In that regard, I am grateful that four distinguished members of the Interior and Insular Affairs Committee have joined me as original cosponsors of this bill: Congressman MO UDALL of Arizona, Congressman DON YOUNG of Alaska, Congressman RON DE LUGO of the Virgin Islands, and Congressman BOB LAGOMARSINO of California. I hope that my other colleagues from both sides of the aisle will join us as cosponsors in the months ahead.

In a manner of speaking, it is a bill that urges the Congress and the American people to rediscover Guam and to appreciate the national treasure that it has been all these many years.

As I rise on the floor of the House to introduce our bill, I recall those leaders of Guam no longer with us who would have rejoiced exuberantly at our reaching this milestone in our quest. The occasion evokes memories of F.B. Leon Guerrero, B.J. Bordallo, Joseph Flores, Carlos Camacho, Manuel Guerrero, Tony Won Pat, Doc Sanchez, and Tommy Santos, to name just a few.

And I felt particularly grateful for the energy and sincerity of the members of the Commission on Self-Determination, especially those who completed the difficult task of drafting this historic document. Their tenacity was repeatedly demonstrated in their commitment to sustain the quest of our people.

For over 200 years, our fellow Americans in the mainland have enjoyed the rights and privileges guaranteed by the Constitution of this great land of ours. For about 100 of those years, we on Guam paid our dues—as heavily in war as in peace—to prove our loyalty and pride as members of the American family. Still, we have never enjoyed equal status with other Americans—either politically or economically.

Mr. Speaker, we Guamanians are now embarked on the last stretch of a long journey to seek fulfillment of our burning desire to be equal partners. Together, we have shared the joys, the sorrows, the frustrations and the exhilaration of our long and challenging trek.

There are only fleeting moments in our lives when we have a chance to be involved in a momentous and historic occasion. One such moment is before us now. While the rest of our fellow Americans are bound by constitutions written by others, we, on Guam, have the great honor of chiseling our own during the next few years. While others follow a beaten path, we on Guam are blazing a new trail which others will follow for generations to come.

About 50 years ago, during our first campaign to gain recognition as a people and acceptance into the American family, we used to sing a Chamorro song to spur interest and support for our two spokesmen going to Washington to seek citizenship.

Since our journey endures and since we need to continue to work hand in hand and alongside one another as we seek to realize our dreams and aspirations, it is particularly fitting to recall the words of the song we sang as children to remind us of our commitment.

Fan naii ajudumo maseha dididi sa y tiempo siempre ufatto ja eju nai naunlii—give us your help no matter how small and in the course of time you'll see the meaning of it all.

Thanks to the confidence the people of Guam have shown by placing me in this vital role, I am in the position of shouldering the great challenge, along with other leaders of Guam, of winning commonwealth status for our people. I pray that as part of the celebration of the bicentennial of the U.S. Constitution, the Congress would embrace the Americans on Guam and include them under the American family umbrella. That, indeed, would truly be a magnificent commentary on the greatness of our country, the champion of freedom.

God willing, we will succeed.

Thank you. Si yuus maase.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, today particularly after last week's events here in the House on the vote of the so-called repetitive Contra aid issue, I wish to address that subject matter as well as equal time with respect to what I have been addressing as the critical emerging financial monetary and fiscal crisis confronting us and about which nothing much is being done except almost inexorably as in a Greek tragedy we march along to

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

what, obviously, will be a crashing down of this house of cards, that because of a combination of inordinate greed, insatiable greed on the part of the most potent financial managers, the lack of responsiveness to protect the general interest on the part of the Congress, and the capture of the executive/administrative branch by these very potent manipulative transnational massive forces that now control our destiny, and for the United States, meaning dependency, debt, homelessness, unemployment, and a consuming importing nation rather than a producing exporting nation.

I started out by telling my colleagues that I was evoking the memory of a great patriot, Joel Barlow, who was a great thinker, pamphleteer, poet and also one, if not the, chaplain for George Washington's army during the War of the Revolution.

Joel Barlow has in history been treated with less prominence than such contemporary pamphleteers as Tom Payne, but in many ways, Joel Barlow was a far more profound and talented versifier as well as thinker, and he wrote a series of essays or pamphlets which he addressed, "My Advice to the Privileged Orders of Europe," and he painted a picture then of what we can very well evoke today now that America's frontier, the social safety valve of so many decades gone, and America confronting the basic issues that the teeming populations of Europe have had to confront for the last 200 years. It remains to be seen whether T.V. McCauley, the English writer, also prophesying 100 years ago after a visit to America, made the observation that the brash somewhat arrogant self-confident Americans looked down on Europe as a decadent and a backward and receding civilization, but to do so with great confidence in view of the fact that they had that vast domain to the West so that when there was pressure in the East, families would push on westward, make new beginnings, encounter new horizons and new living.

He said:

> I appeal, though, to the 20th century to see whether or not America, once that frontier disappears and then has the teeming population comparable to Europe, whether or not it will decide any more in an enlightened fashion or just merely repeat Europe's experience.

Well, of course, this is the issue as I see it and as I have said now for some time before Reagan and Reaganomics, but which in the retrodescent form, but which I never thought possible, has confronted us for some 7 years in the shape of the Ronald Reagan administration.

One of the things that I have spoken out in offering advice to the privileged orders, and I have included my colleagues in the Congress, because we are, indeed, a privileged order.

Now, the original intention and the intention constitutionally speaking and as envisioned during the debates of the Constitutional Convention, which last year we celebrated the 200th anniversary, was that this office would be a prime constitutional office as close to the people as it could humanly be devised, that the people should have ready access to the office.

In fact, there was a motion made that instead of 2 years, this should be a 3-year term. There was another motion for a 4-year term and that was dismissed out of hand, because it had been decided that there would be another body known as the Senate that would be not elected directly by the people, but by the various diverse State legislatures and a three-fourths vote in those State legislatures. Therefore, those terms were of 4 years duration; however, the vote for the 3-year term lost by one vote, so we have 2-year terms for Members of the House of Representatives.

Through the years there have been various proposals. The most serious was in the late sixties by President Lyndon Johnson, who offered the notion that the terms of Members of the House should be 4 years to coincide with the Presidential elections; however, it never had much of a reception and it never got very far. I am glad, for one. The reason is that if our system is to function, then this particular body must be amendable to the people. After all, where does a citizen go? It is pretty hard to find access to his U.S. Senator. In my case, the State of Texas, that means those two Senators have somewhere around 16 to 17 million constituents.

□ 1215

On the other hand, the President and the Vice President have the entire Nation. This office, however, is the one office that people should feel, and should have the right to feel is as close in today's terms as that telephone; however, it is not happening that way because we live in a day and time of preferential access. We have great, vast vested interests that 2 years ago contributed over $130 million to House of Representatives races.

In Texas, the average budget to lose an election was $250,000. So that some of us who have come up in a very different manner, shape and form would be hard put to raise that kind of money though it is no trick, and I have never found it any particular problem, to please and gratify the rich and the powerful and the privileged. That is the easiest thing to do, but if one wants to maintain the freedom of independence that the people in an election at large have given him, then I think he has to be very, very prudent, very discreet, and very selective to what extent he is going to accept that which today is necessary, and that is contributions.

Nevertheless, I am saying this because it has a direct tie-in with these two subject matters that I am about to continue to discuss: First, the Nicaraguan problem, particularly, Central America and so-called Latin America, generally; and second, the fiscal, monetary, and financial problems confronting the Nation.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. Mr. Speaker, I am pleased to yield to the gentleman from Pennsylvania [Mr. GEKAS], my fellow colleague.

Mr. GEKAS. Mr. Speaker, I thank the gentleman from Texas for yielding. I was watching this in my office when the gentleman from Texas [Mr. GONZALEZ] took the microphone and announced his intention to discuss the Nicaraguan situation, and I wanted to ask someone who was closer geographically and over the years to that problem, closer than I have been, both geographically and in terms of years involved in the legislative process. I wanted to ask his views on Panama vis-a-vis the Contra Nicaragua situation.

Let me pose what I am thinking about and ask the gentleman from Texas his feelings and opinions on it.

I am very fearful that the Panama situation might degrade into a situation where we will be facing the same kinds of problems that we are now facing in Nicaragua. We have the same scenario about to pop open, it seems to me. We have a strongman, such as in the case of Nicaragua when Somoza was there, who then loses appeal and loses by dint of how he was exercising power, loses popular support, and the scene unfolds as we have seen it in Nicaragua.

We have at this time General Noriega and the same kind of scene, it seems to me, approaching for Panama, Noriega being accused of abusing power, losing popular support, external forces hovering over the situation for their peculiar purposes, and I am wondering if the gentleman from Texas, who is so close to the situation and who has exerted a level of expertise on this over the years, whether he sees that parallel and whether or not he sees that we ought to be sure that what we do does not repeat that bad scene.

Then I would like to ask another question if I might following the gentleman's response.

Mr. GONZALEZ. Mr. Speaker, I will try to answer that. First I want to qualify and say that I do not consider myself any particular expert. If we are talking about geographic proximity giving rise to some expertise, let me disabuse my colleague from Pennsylvania [Mr. GEKAS] on that score.

Panama is farther away from my area than is Washington, DC, but I think the gentleman from Pennsylvania has unwittingly touched on one of the key factors that our omission of is going to bring continued travail and what impelled me to speak out on April 1, 1980, for the first time, and President Reagan was not President, Jimmy Carter was President. But I could see the makings of these problems due to the fact that we have indulged ourselves in very serious misconceptions about this part of the world which we could have done for 100 years, but we cannot now any longer, because the world has shrunk.

I would say that the Panamanian situation is very much different from the Nicaraguan situation and very much different from the Salvadoran situation. I must remind the gentleman from Pennsylvania that I was impelled to speak, though I have never claimed expertise, because there are some self-evident and some obvious conclusions of any person who is steeped in the culture and the history of these individual countries. Our problem has been that we have a conception of this area as being a homogeneous lump called Latin America, and of course, that is a fatal flaw in our thinking.

Each country in Central America, no matter how small, has it own historical evolvement, cultural differences, even though there may be a common link of language. In most instances, there is a common link of language and religious and cultural experience, but there are underlying differences of major proportion.

In Panama, as I interpret the situation, we have a case of an individual who actually had been working cheek by jowl with our agencies, such as the Central Intelligence Agency and the Drug Enforcement Administration, and had actually been asked by Admiral Poindexter to give pretext for a Panamanian incursion into Nicaragua, so that what has happened now is obviously a miscreant who has enough base of power to hold off the changed attitude of our country toward him personally and to whatever forces he represents.

Mr. Speaker, I do not know to what extent we ourselves brought this about. I do know that we had the same experience in Argentina. In 1981, the very first month the administration took power, then-Secretary of State Alexander Haig announced that he was drawing the line in El Salvador and that as far as Nicaragua was concerned, he inviegled the military junta in control of Argentina at the time, that despite its flagrant rights violations, where they had thousands of desaparecidos, disappeared citizens, or citizens abducted by the armed forces, who were then tortured, killed, or thrown into the sea, and the Argentinian generals then loaned a contingent of Argentinian troops to come to Honduras on our invitation in order to train Hondurans and also in an attempt to destabilize the then-Nicaraguan junta.

Then the Argentinians felt, as a result, that if they made an incursion into the Falkland Islands, that certainly the United States would be grateful and take their side, but the Argentinians discovered that we did not. Those same generals who we considered a thousand percent bitterly anti-Castro, less than a year later were in Havana toasting Castro.

Does that mean that Castro is such an agile and able diplomat?

No. It means that we had a completely distorted notion as to what we could do, what agencies we could prevail upon to manipulate, given the circumstances existing then.

I think a similar thing has happened with Noriega, whom I do not know much about, nor about that situation, but I have not been to Panama since 1964 which was soon after the rioting there in which we lost about 13 American soldiers.

I went to Panama at that time with the Secretary of the Treasury to attend the Fifth Board of Governors Meeting of the Inter-American Development Bank, because I was chairman of the Subcommittee on International Finance at the time.

It was obvious to me that that Panamanian society was more complex than the explanations I had heard from the Department of State spokesmen.

We have to worry about the whole context, not just one or two countries. Nicaragua cannot be isolated from Salvador nor can it be isolated from Honduras, which we are occupying today, or much less Guatemala. Events are taking shape in Guatemala right now that are far more sinister and ominous than anything that has happened in Panama. I believe that there are resources, that I notice were called forth last week, as in the case of the Iranian takeover and the hostage situation in Iran, and belatedly, the Carter administration took some advice that we had given and that was to impound some of the financial resources that we could reach, and we did that. As a matter of fact when the hostages were released in 1981, it was only after we released about $2 billion in the Bank of London back to the bankers in Iran, so these are very complicated situations that have many aspects.

It is disturbing that while we are focusing, and spending $1.5 million a day in El Salvador, and we are no closer to a solution there. Just last year one American soldier-adviser was killed in a raid on the La Sapa Garrison, and just last week or maybe the week before, some guerrilla forces attacked an army outpost in El Salvador where we have a regime that we helped impose on that country but which has no control over the strong and entrenched interests that have, through the years, continued their control of the country.

What I am saying is that when a society, and it is very hard for us to visualize, does not provide the framework for change of a peaceful nature, the law of life is changed. Everything changes. But in these societies, as in the case of Nicaragua, for 50 years, we imposed with the Marines a government in 1929, and controlled it for 13 years following that. We set up the so-called national guard, we set up the Somozas, and we then assisted them through the years. We looked down on them, as Franklin Roosevelt in his famous utterance that has been quoted and quoted again during the war, in which he said, "Yes, I know he is an SOB"—referring to Somoza—"but he is our SOB."

Mr. Speaker, that is to be lamented, because we have to make some very critical decisions that may impinge on our ideological tenets. In other words, I feel we have been overly obsessed with the so-called anti-Communist ideology, so that we have lost sight of reality, and the reality is that in every one of these countries in the last 10 years there have been vast changes. The masses are no longer going to remain docile. It is a matter of whether we will identify with those aspirations and through that identification bring about the emergence of the moderate factions of these countries.

Mr. Speaker, next door to us in Mexico, they are having tremendous problems that we are totally unaware of, including inflation running at 100 percent, unemployment running at 55 percent, and other than the mass exodus of some of the younger, more adventurous arms coming in seeking work here, we are not aware that in the context of Mexico, which is a relatively stable country, Mexico has not had a national political assassination since 1923.

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We have had over six, and so it is relatively stable, however there has to be a change even within the concept of the revolutionary institutional party because there are needs of a critical nature that have to be met.

The same thing can be said with the next-door neighbor, one hopscotch after Mexico, and that is Guatemala where you still have for the first time a civilian president, but the army is actually running the country. They are still committing atrocious human-rights violations. Just about 3 months ago they abducted one of the so-called civil-rights leaders. In El Salvador, the same thing. So that in Panama what we have at a critical conjunction is a serious dilemma compounded by our entanglement in Nicaragua, in El Salvador, where, as I said and repeat, we put in a total of about $6 billion in 7 years and at the rate of $1.5 million a day. We are spending $1½ million a day in El Salvador.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. I think you have given a good description of the various complex situations that apply to each of these countries, but I believe that I can draw from what you have said that the one element that cries out for our involvement in all of these is, first, our own national security interests.

Mr. GONZALEZ. That is absolutely correct.

Mr. GEKAS. And, secondly, our second layer of national security interests; namely, the security of all Central America as it applies to the entire Western Hemisphere which blend together. In that context does not the gentleman agree that the single most important element that looms out from the Panama situation is the Panama Canal?

Now there we have a part of our Nation; literally it is a part of our Nation until 1999. That is our overall national security interest. I believe that the U.S. Government, whether it is in this administration or the next administration, must make it clear that there will be nothing to alter our interests in a free Panama Canal until 1999, and then an internationally accessible Canal Zone after that, and that we should stop at nothing, literally nothing, including military force, if necessary, to make sure and make it clear that that is the case. That, I think, constitutes the single most important element that differentiates Panama and the turmoil there from those other things that you have mentioned although they are all intertwined.

Does the gentleman from Texas agree?

Mr. GONZALEZ. Not really. In the first place, to guarantee our national interests there are more ways than one to skin a cat. Up to now the Congress and the President have pursued a military interventionist approach. From the very beginning no effort was ever made to try to use the last waning elements of leverage that we had with such regional organizations as the Organization of American States.

Now at the critical moment, just a week before last when the matter of Noriega was brought before the OAS, the OAS would not pass a resolution favoring us. What I am saying is that we have lost the only real leverage, and maybe we can resurrect some of it. I do not know. All I am saying is that with a unilateral military intervention policy, which has been our policy, we are in occupation of Honduras. We run Honduras. We are occupying Honduras.

Mr. GEKAS. I am puzzled.

Mr. GONZALEZ. Let me continue this because, if we are going to appeal to international law and justice, then, as I say, in equity we must come to equity with clean hands, and we do not because the World Court of Justice, the International Tribunal of Justice, the World Court, has found us culpable, guilty, of acts of terrorism and destruction against Nicaragua and has fined us. And what did we do? We walked out of the Court because we opted to not follow the tradition of American institutions and American policies.

Let me assure the gentleman that he had no pro-American sentiment before 1932. The United States was about to invade Mexico because of the expropriation of oil that came a few years later, but fortunately in the meanwhile Franklin Roosevelt was elected, and he had the great ability to attract first-class minds like Sumner Welles who was the architect of the so-called good-neighbor policy.

Now Mexico was very much anti-United States. The ruling classes and the powers that be were very sympathetic to the German cause. In Chile, in Equador there was more Japanese business conducted than American, yet because of the fine-tuning and the development of the so-called good-neighbor policy, the refusal of Roosevelt to accede to the Hooverian approaches of intervention in Mexico and a reconciliation with the Government of Mexico in the expropriation processes which the oil companies never accepted and excoriated FDR forever and a day; as a result of that, when the war broke out, every one of those countries came to our side. They did not go to the other side.

Mexico, if you cross the border and go over to Nuevo Laredo, you will see actual cemeteries on July 4, believe it or not, with a bunch of little American flags. These are Mexicans that came over, joined us, joined the Army. Mexico gave us the so-called escuadron dos cientos, which was a squadron of fighter pilots. We sent them to the Pacific with our forces. They were with us. We made an agreement, the Secretary of Foreign Affairs of Mexico with the United States, that any Mexican citizen living in the United States would be just as subject to the draft as if he were an American citizen.

In this kind of situation we have eroded, and I think dangerously, to the point where the Organization of American States probably does not have any more love or admiration for a fellow like Noriega than we do and still would not come the full way because each one of them is representing a country that lives in fear that we will do the same thing to them.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. Certainly I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, the gentleman implied in his response to my question that all the United States is anxious to do is to apply military force.

Mr. GONZALEZ. It has.

Mr. GEKAS. But here is the situation. I believe that history will show that when Somoza was toppled the American Government came to the aid of the then-winning revolutionaries, the Sandinistas, even to the extent of offering aid and monetary aid.

Mr. GONZALEZ. I was here.

Mr. GEKAS. And that the military action that the gentleman is talking about, a military support, did not start until we learned and the whole world said that these Sandinistas were imposing a form of government, and then we began the function of supporting the Contras who saw what was happening and who wanted to participate in the Nicaraguan new government that was to take place.

So, Mr. Speaker, I cannot agree with the gentleman that all that the United States is anxious to do is apply military force. We never began trying to help the Contras until it became plain to see that the original purposes of the Sandinista movement was being usurped by Ortega and his Marxist supporters.

Mr. GONZALEZ. The gentleman has touched the crux of the matter. By what right in international law or domestic law do we have to organize an armed resistance to a legitimately set-up government that we recognize as legitimate because we have an ambassador with credentials in that nation's capital? This is why we do not have world opinion with us. There is not a country in the Western Hemisphere of any consequence that has an affinity or congruity with our policy. There is not one Western European country that is in agreement with us.

The British, for instance, considered this estandis lopis. That is this is an American matter because it is in their back yard. It is their Germany. It is in their sphere of interest.

What I am saying is that we are not going to get to the hearts of the people by shooting them, and this is what we have been doing.

Mr. GEKAS. Mr. Speaker, if the gentleman will yield back? And then I will close, and I thank the gentleman a great deal.

Mr. GONZALEZ. Mr. Speaker, I am glad the gentleman is interested.

Mr. GEKAS. Yes, I am of the opinion that balancing world opinon against the national security interests of the American people; I put the national security interests in solidarity of American people way before what the world or any part of it thinks or feels about us.

Mr. GONZALEZ. Mr. Speaker, I do, too.

Mr. GEKAS. And I am saying that, and then it seems to me that when the Afghan rebels, despite world opinion, if there be any that says that they do not have the right to get support from the United States——

Mr. GONZALEZ. Oh, no, no, no. That is a vastly different situation.

Mr. GEKAS. Oh, of course.

Mr. GONZALEZ. The Afghan rebels are in Afghanistan rebelling. The Contras are not in Nicaragua. They are in Honduras. They are hiding out in Honduras. They are not rebelling in Nicaragua. There is a vast difference.

Mr. GEKAS. There are Afghans in Pakistan.

Mr. GONZALEZ. Well, sure, but the rebels are fighting in Afghanistan; OK?

Mr. GEKAS. But what I am saying is that whether or not world opinion would have approved it or not, I would support the rebel situation in Afghanistan.

Mr. GONZALEZ. Oh, sure.

Mr. GEKAS. All right.

So the gentleman agrees that world opinion is secondary?

Mr. GONZALEZ. No, sir; no, no, no, no. The Declaration of Independence says a decent opinion of mankind mandates——

Mr. GEKAS. I agree with that.

Mr. GONZALEZ. They were acting in what they felt was in the decent opinion of mankind. The gentleman ought to know that the crux of the matter is what I said a while ago. We cannot do this through illegal means domestically because, when we do and when the President extends aid and when we are the ones that organized the Contras, a group that is outside the confines of the government or regime they are trying to knock over, when we are at peace with that nation, it violates three of our statutes. We have specific statutes declaring that criminal culpability. In international law it is a fundamental premise, fundamental premise.

So what I am saying is that all through history when diplomacy fails, and only after diplomacy fails, do we resort to force or military. But we have not even tried diplomacy.

Mr. GEKAS. Mr. Speaker, if the gentleman will yield, I hope this may be for the last moment because I am really taking a lot of the gentleman's time.

Mr. GONZALEZ. Mr. Speaker, I welcome the gentleman's participation.

Mr. GEKAS. The gentleman will recall this Congress and, therefore, the U.S. Government, did vote at least twice, I believe, to supply military aid to the Contras.

Mr. GONZALEZ. The gentleman is correct. I voted strenuously against it.

Mr. GEKAS. I know that, but what I am saying is whether or not it was legal or not the Congress voted for it.

Mr. GONZALEZ. Oh, please.

Mr. GEKAS. Well, the gentleman implied that we are doing it illegally.

Mr. GONZALEZ. The gentleman is correct.

Mr. GEKAS. But I am saying to the gentleman that the Congress for right or for wrong, again putting U.S. national interests ahead of world opinion, voted on at least two occasions to supply military aid to the Contras. Now whether that reversal of form that took place last week is going to be the final policy or not still remains to be seen.

But what I wanted to make sure that I got across to the gentleman is, and I think that down deep we are in agreement on a lot of these things, is that we cannot any longer in the interests of our people and its freedoms and our basic institutions, we cannot allow world opinion or what other countries think of us or what other counteractions may be taken that this Nation must exert its national being in defense of liberty and in defense of its institutions even to the extent of taking military action where necessary, and I say that particularly in view of what is now happening in the Panama Canal.

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I want at least the 1/435th that this Member of Congress represents to know that I will support any military action required to stabilize the situation if it becomes any worse in Panama, if the Panama Canal and our national interests are threatened.

I feel that is almost similar to the Contra situation.

I leave the gentleman with a hearty thank you for allowing me to participate.

Mr. GONZALEZ. If the gentleman will bear with me I think it is necessary to make the comment: Again that is the coequal crux of the matter facing the United States. The gentleman can vote for a declaration of war but the gentleman cannot stand here and look me in the eye and say that the Congress has delegated to the President that exclusive right placed upon us by the Constitution, of waging war, declaring and waging war. And this has been the issue since Korea. That has been the issue.

Now the fact that the Congress having not confronted it means that the American people have not confronted it. But it is the crux of the matter.

Who is best to conduct war? Let me tell you what James Madison said. He said:

> Those who are to conduct a war cannot in the nature of things be proper or safe judges of whether a war ought to be commenced, continued or concluded.

James Madison. That is why they put that exclusive power to declare war in the Congress.

Mr. GEKAS. James Madison applauded Thomas Jefferson when he declared war on the Barbary Pirates.

Mr. GONZALEZ. That is right.

Mr. GEKAS. Madison would have applauded the Eisenhower movement into Lebanon in his years.

Mr. GONZALEZ. That is right.

Mr. GEKAS. He would have applauded Lyndon Johnson's movement into the Caribbean.

Mr. GONZALEZ. No question, sir.

Mr. GEKAS. And the whole American people would applaud President Reagan, God forbid, if he had to take military action to preserve the Panama Canal.

Mr. GONZALEZ. Oh, no.

Mr. GEKAS. So the declaring of war, the maintenance of war I agree with the gentleman is a large prospect in which all the American people must engage. But to take military action, that is something different.

Mr. GONZALEZ. All right. At this point if American lives and property were to be in jeopardy and in the President's judgment it were, then, under international law as well as domestic, it is his bound-in duty to defend those interests.

Mr. GEKAS. I thank the gentleman.

Mr. GONZALEZ. Now the question is at what point is that on the record?

Mr. GEKAS. That is why the gentleman and I are in the well of the House debating this question.

Mr. GONZALEZ. That is right.

Mr. GEKAS. And we hope all our message is transmitted through the legislative process and through the well of public debate into whatever is required by the White House to make those final decisions, God forbid that they ever have to.

Mr. GONZALEZ. I do too. God forbid. I think up to now it has been a catastrophic, bankrupt policy—not even a policy, just actions taken.

I will say one thing further: How the President defines what is a national interest is also a crux of the matter.

But I would think that overt acts on the part of hostile elements in attempting to damage, hurt or in any way attack either American personnel or American interests would be a natural concomitant to do something about it.

Mr. GEKAS. I thank the gentleman.

Mr. GONZALEZ. I thank the gentleman for his interest and participation. In that way I can tell some folks who are criticizing me that I did not address an empty Chamber.

The fact remains that what we have done sometimes as a result of congressional approval, most of the time Congress is not even consulted, has been tragically predicated on a most serious misconception of the reality of that part of the world.

We have to differentiate, as I said a few minutes ago, between that which is really inherently the duty and responsibility of the executive branch at a given moment and that which is a prerogative and a duty and a responsibility solely and exclusively reposed in the Congress by the Constitution.

The fact remains that the President has been waging war in Central America. And we have lost better than 25 of our servicemen just in this area of Central America, active duty servicemen. The first casualty in action, as they call it, was last year. Where? Not in Nicaragua; in El Salvador where we are supposed to be winning because we have installed a man who comes to our country, goes to his knees, kisses the ground, kisses the flag. That of course means that he is our friend.

But we have to appear and discern beyond, with an intelligence and full grasp of knowledge of the reality of what is occurring in each one of these countries, not just one glob. In Costa Rica, for example, the famous Costa Rican President Arias whose Arias peace plan for which he received the Nobel Prize, is President of a tiny country next to Honduras, next to Nicaragua, next to El Salvador. Yet it is the only true democracy. In fact in many ways it is more democratic than we are because they have open elections, free for any party from the Communist to the conservative to participate in.

They have had mandatory free public education for 100 years. Yet what has been our policy toward that country? We have attempted to militarize it. This is the only country south of the border that has not bothered to have an army. Yet we have done everything to militarize it. We have put over 350 special forces personnel in Costa Rica to the bitter protest of both the governing elements as well as the people and their representatives.

Now the conservative elements in Costa Rica, the bankers, the financiers who reach and have a great largess as a result of our aid are reactionary in the sense that they lost out in the revolution of 1948. But Costa Rica has also given us some of the most pro-American Presidents of any country any where in the world. Jose Figueres, for example in the 1960's, was the President. Where is he today? He cries, he says because of the horribly misbegotten American practices that he sees.

The Arias peace plan resulted in defiance of our State Department, our President and everybody else in officialdom of America. When President Arias called a meeting and they first met in Guatemala we immediately threatened him with removing all of our foreign aid.

Now a little country like that, that is a real threat. Yet they did not cave in. And seven of them including Honduras that we control totally, totally—we occupy Honduras, we have over 10,000 troops any given day of the year. Who complains about that? Who is cautioning about that? Who is saying anything here from the Congress about that? Is that not conducting war? I do not know what else to call it. We have had over 30,000 active duty personnel everyday, every night, over land, over sea, over air, in the isthums there in Nicaragua, since 1982.

Now if this is the way we behave in the name of democracy where we place the whole weight of our horrendous power on the only democratic country, what are we to expect in the way of good will from anybody else?

That is where we are today. This is what I've tried my best since Jimmy Carter; because it did not start all of a sudden. This goes back some time.

What I am saying now is that I have offered some suggestions. But I think last week's vote and this is what I said I wanted to discuss, the Democratic leadership, so-called, even though the newspapers said the Democrats; what it meant was a hand-picked few on the so-called Democratic side of the House, I think made a horrendous mistake, both from a policy as well as a logistic and as well as a strategic standpoint. Well, the rest is history on that vote.

The Washington Post castigated the Democrats and the New York Times castigated the Republicans because enough voted to kill the proposition on the final vote. Even though a parliamentary legislative maneuver known as the substitute amendment gave rise to a momentary feeling of triumph on the part of the so-called Democratic leaders I could say that was flawed, because if the same leaders are saying that they uphold the Arias peace plan they could not possibly come in good faith and ask for one red cent, not even a Mexican postage stamp for the Contras because that was a condition prerequisite to the carrying out of the Arias peace plan.

The President first condemned it, the Secretary of State castigated the Costa Ricans and others for even reaching that agreement. And we threatened the Costa Rican people with removing whatever aid we were giving.

Then the public opinion was such that they relaxed that.

Speaker WRIGHT in December concocted the so-called—maybe it was November—the so-called administration or Reagan/Wright peace plan. Well no sooner was that balloon thrown up than it was shot down from a million directions. So then finally in December Speaker WRIGHT met with the President of Nicaragua, Ortega, and they had some kind of an agreement and it was immediately denounced. The Speaker was excoriated in the press, in the Congress, in the executive branch for meddling in foreign affairs.

So he withdrew and the rest is history with this hybrid plan that was concocted last week but which still fundamentally revealed the abysmal unawareness of the fine points involved. That is that if seven nations that through history have been warring with each other, feuding with each other, could get together in open defiance of the United States, what it meant to me was that that is bad news for the United States. And the reason they came together was that they are sick and tired of the bloodshed, from Guatemala to Panama. Over 200,000 have died in its course. Ninety percent of them with American-made arms.

Those people are sick and tired, they do not want any more killing. They do want peace. We are the ones that do not want peace because we are confusing ideological, illusory notions with reality.

Have we not fared badly enough for doing this in other parts, in other climes, at heavy cost in blood and treasury? Southeast Asia?

Going back to 1918 when we lost over 300 American soldiers when we got together with the French and the English in the misbegotten invasion of Russia to try to put down their revolution. We are not fighting an East-West confrontation in this hemisphere. I doubt seriously, other than some of these intellectual leaders, that the average citizen could tell the difference between a Marxist-Leninist and a typewriter.

□ 1300

They are fighting for the bare essentials, just scraping out a living.

This is the issue. The issue is, Shall America fulfill its noble tradition and destiny, which I firmly believe it will, revolutionary in nature, in behalf of liberty? This is what these people have fought for.

The Sandinistas did not go to El Salvador, they did not go to Costa Rica, they did not go to Honduras to fight Somoza. They fought him right there in their backyards, because that oppressive regime got so rotten that it collapsed out of its own rottenness, all supported by us through 50 years of infamy.

I hear several of my colleagues talking about the poor children maimed and the casualties in this unfortunate conflict and human rights in Nicaragua. Why there are more human rights in Nicaragua than there are in El Salvador and certainly not less at this moment. Yet who here will dare say that? That is the truth, but who will say it?

So long as we put blinders to our eyes, so long will we continue to be confused, and as Shakespeare says, "When a people become arrogant and complacent, the gods blind their eyes to truth and reality and they strut to their own confusion." So much for that.

Intimately related and at the deep bottom of it all are our problems here in America. We have developed a class of rootless refugees, native-born American refugees in their own country.

It was my subcommittee and I that, for the first time, attempted to bring some national attention to what we saw was an awesome and different natured problem growing on December 5, 1982. Today everybody talks about homelessness. We wanted to do something to prevent it. So that in 1983 we had the hearing on December 4.

In January and February of 1983 with a very new Congress, I introduced the Emergency Homeowners' Mortgage Assistance Act. I patterned it after the Home Owners' Loan Corporation of the Depression. I am a Depression kid, and I recall vividly, and I do not know if it is blessing or a curse, I have almost total recall, and I saw at the end of the period, working period, of HOLC, instead of a lot of American families still dispossessed and owing money to the Government, they gave the U.S. Treasury over $450 million, and in terms of dollars then as compared to now, that would be better than $1½ billion.

So did it work to have faith in Americans? Of course it did. But what did we do in 1983? Oh, we split. I was able to get the bill out of the subcommittee on a strictly partisan basis, out of the full committee on a strictly partisan basis, and out of the House on a strictly partisan basis, 100-percent partisan.

We estimated the cost that, with accreditation, allocation of credit, are guarantees not to exceed $250 to $300 million, we could have saved 100,000 families plus in America their home.

It went over to the Senate. It languished and died in the Senate.

Mr. Speaker, this excerpt reveals the insidious nature of the speculative fever:

[From American Way, Mar. 1, 1988]

SIEGE AT SAFEWAY

At first, the story of Peter Magowan read like something out of The Great Gatsby. He was the dapper, Oxford-educated blue blood, an old-money scion whom Forbes once said looked more "like a high school English teacher" than a corporate executive. He studied history and wanted to enter the foreign service and swore he would never join the family business, the Safeway grocery chain. He didn't want to spend his life worrying about lettuce and ground beef. But at the tender age of 37, Mr. Magowan did take over the business built by his father, a multibillion-dollar corporation and the second largest retailer in the nation. And he astonished just about everyone in the business by increasing revenues.

Then, nearly two years ago, the fairy tale began to crumble. Another kind of family—one that strikes fear in corporate executives—challenged the Magowan dynasty. The family was the Hafts, Herbert and Robert, a father-and-son team who are perpetual outsiders in the elite corporate world because of their notorious hostile takeover attempts.

The Hafts had previously raided large conglomerates such as the Revco and Eckerd drugstore chains and though they never took over the companies, they had made millions of dollars selling back their shares at huge profits.

In May 1986, when the Dow Jones ticker flashed the news that an unidentified party had bought a block of three million Safeway shares, word quickly leaked that the Hafts were on the move again; this time, they were gunning for one of Wall Street's most respected families. The stage was set for a classic high-stakes poker match over the country's biggest grocery chain, and a harsh public spotlight was focused squarely on young Peter Magowan, to see if he would be remembered as the man who lost his family's company.

Today, reflecting in the battle, Mr. Magowan, 45, looks a little older and a lot wiser. Though still partly in control, he is battered from the fighting. He is considered by some a controversial figure because of the things he says he was forced to do to save Safeway. In many ways, his life, and that of his company, are very different. "I knew," he says, "from the very beginning, that no matter who won, nothing would be the same. Nothing. I'll admit that it took awhile to get over that bitterness. And I don't think Safeway should have ever been subjected to such a takeover attempt.

"But," and he shrugs, the quintessential response of chief executives whom must confront the reality of modern corporate life—"despite the frustration, you have to go on."

To understand the significance of Peter Magowan's involvement with Safeway, it is important to recognize the legacy handed down to him by his family. Mr. Magowan—a buttondown, upper-crust type obsessed with the commonplace life of the grocery store—is the grandson of Charles E. Merrill, a founding partner of Merrill Lynch. Peter's father, Robert Magowan, married Mr. Merrill's daughter and worked as a sales manager at the brokerage house.

In 1955, when Peter was a teenager, Robert Magowan took over Safeway, at that time the least-profitable national supermarket chain in the country. He didn't know a thing about grocery stores but Charles Merrill was the chain's largest shareholder, and he asked his son-in-law to pump life back into the company. Robert Magowan left his life of private clubs and Cape Cod weekends for Oakland, site of Safeway's headquarters. Compared with the financial glamour of Wall Street, his friends argued, the grocery business would seem so, well, mundane.

But he found that he loved the grocery business, and he was a good businessman. By 1973, two years after he retired as chairman, Safeway passed A&P as the nation's largest food chain and became the second largest retailer of any kind.

Peter was one of Robert's five sons. He spent his summers as a teen-ager in San Francisco, bagging groceries or pushing carts in the parking lot of the neighborhood Safeway, but like his brothers, he showed no real inclination for the grocery business. After graduating from Stanford, Peter headed to Oxford for a master's degree, then began work on his Ph.D. at the Johns Hopkins School of Advanced International Studies in Washington, D.C. He pictured himself as a diplomat, conferring with heads of state, not meat cutters and frozen-food managers. However, after working two summers for the government, he suddenly quit in 1968, at the age of 26. "I got tired of stamping passports," he says. Without telling his father, Mr. Magowan called a division manager of Safeway in Washington and got a job as an assistant store manager and negotiator for area store sites. He kept the news from his father.

"I didn't want to come to him and say, 'This is what I want to do. Is it OK with you?' I felt if I made my own arrangement—without my father always asking questions about how Peter is doing—I felt I could get along better with those I worked with, and I felt people could be more objective about me."

A few years after his father retired, Safeway's profit margin fell while other aggressive chains moved into Safeway's territory. The supermaket business is a fiercely competitive industry; grocery stores make their profits through volume—they only earn nine-tenths of one cent on the dollar—and there is little margin for error.

So in 1979, the company's board of directors decided to bring back the Magowan magic. They bypassed two company veterans and named Peter Magowan, then 37, chairman and CEO of the $13.5 billion chain. Mr. Magowan was keenly aware of the nepotism rumors that would emerge. He also knew that everyone was waiting for him to fall flat on his face.

But no one could deny that Mr. Magowan knew Safeway inside out. He had moved from store manager to head of the international division to director of the western region, which then covered 577 stores. He also possessed a quality of his father: He was blunt. The CEO before Peter Magowan ran the company cautiously, letting other chains try something first. Mr. Magowan, however, said right off that Safeway needed an overhaul. He wanted to anticipate changes in the retail food business rather than react to them.

Mr. Magowan, of course, was defensive—as he is sometimes now—about his upper-class upbringing and the advantages he had coming into the company. He knew stories circulated about his life in the richest neighborhood of San Francisco and the $800,000-plus income from salary and bonuses. He made a point of refusing to refurbish his plain office on the fifth floor of the company's headquarters in Oakland's shabby warehouse district. "We don't need to put our money here," he'd say. "We put it in the stores."

One out of every three weeks he'd be on the road, visiting employees in the back rooms of Safeway stores. He'd ride with the company truck drivers. He stopped the tradition of promoting purely from within, hired younger executives and brought regional managers back to headquarters. He gave them a lot of rein, and they started to groom Safeway into a new kind of store.

In the early 1980s, the grocery business had entered the era of the superstore. Customers, with less time to shop, wanted to do it all in one stop, from batteries and baked goods to tennis shoes and teriyaki. Safeway had fallen behind in its superstore construction, but under Mr. Magowan, new, futuristically styled stores were built at a breakneck clip. In Mr. Magowan's first 2½ years, 90 new stores were under construction. He ordered gourmet shops, service delis, cheese shops, gift centers, pharmacies, nutrition centers and in-store bakeries.

To shed Safeway's image as a high-priced food operation, Mr. Magowan began a price-cutting program. He pitted Safeway in price wars with other chains. He added desperately needed modernization to the stores, such as electronic price scanners. The unions—which he still calls Safeway's "biggest problem"—fought him furiously. Safeway, 90 percent unionized, has the highest wage scale of any grocery chain, and Mr. Magowan said wage concessions had to be made. To show his resolve during one labor dispute in Nebraska, he abruptly shut down 65 Omaha-area stores, claiming the unions there were asking for too much.

Mr. Magowan was determined that Safeway would not lose any more market share. He gambled, knowing it would take time to sacrifice short-term profits for a long-term strategy. And by all indications, it was working. There was a sales growth of nearly $3 billion in his first two years at the helm, and two years later, in 1984, Safeway stock had more than doubled. Industry analysts began praising Mr. Magowan for the Safeway turnaround, now hitting $20 billion in sales. "There was so much we had to do to update Safeway for the 1990s," he says, "that we had to spend more than we could really afford. But I felt as long as we could do that with stocks still going up, we'd be OK."

They weren't. Even though earnings rose again in 1985 and 1986, the value of Safeway stock was seriously undernourished. Wall Street analysts agree that although Mr. Magowan bolstered a weakened company, the price of the stock didn't rise fast enough to avoid the sniffing of corporate raiders.

Although the company was, on paper, worth $4 billion, its assets were worth at least $5 billion. Safeway, for example, owned or leased 68.4 million square feet of real estate. A raider could take over Safeway, break it up, sell the assets one by one and walk away with a cool billion-dollar profit. Enter the Hafts. Herbert, 67, and Robert, 35, run a Maryland-based holding company called the Dart Group Corporation, which owns a discount parts store, a discount book retailer and shopping centers. The Hafts are fiercely private. They almost always refuse interview requests. When the Hafts decided they would pursue Safeway, they never once spoke to Safeway management.

With advice from Drexel Burnham Lambert, the investment banking company, the Hafts offered $3.5 billion to buy the nation's largest grocery chain—$58 a share for stock worth $37 a share just two months earlier. (The stock was selling at $53 a share the day before the offer because of takeover rumors.) Though Safeway management created "war rooms" in its Oakland headquarters to deal with the crisis, the initial theory was that the Hafts would buy back their shares at a high price in return for ending the takeover threat.

"But I came to the conclusion," Mr. Magowan says, "that they wanted the company. They wouldn't have put together such an aggressive offer just to make a threat. But I was also of the opinion that if they did it, it would be a disaster, a disaster for our employees, for our company and for the communities that it served. What did they know about the food retailing business?"

Apparently enough to get the right kind of financing. The Hafts and Safeway into a state of seige. They even raised the offer in late July 1986 to $64 a share. If Mr. Magowan and the board didn't move, the company would be out of their hands.

Mr. Magowan called Kohlberg, Kravis, Roberts and Company, a prominent investment business with offices in New York and San Francisco. KKR, which conducts its business as secretly as the Hafts conduct theirs, had come to Mr. Magowan long before the Haft maneuver and asked if Safeway might be interested in a friendly leveraged buyout. Mr. Magowan said absolutely not. But now he was ready to deal.

On July 24, KKR formally offered to buy out the company at $69 a share. It was a $4.3 billion leveraged buyout to turn the public company private, the second largest in American hisotry. As part of the agreement, KKR owns 90 percent of Safeway. The remaining 10 percent is owned by a group of about 35 Safeway managers, including Mr. Magowan, who stayed on to run the company. KKR bought the Haft's Safeway stock for a profit of $140 million—a nice sum for just a couple of months' work. KKR didn't do badly either. The company only put up $175 million of its own money for the buyout (the rest was bank loans), and it received $60 million in fees—and the nation's biggest grocery chain.

The one group loaded with problems is Safeway itself. The company is left with an enormous debt of at least $5.6 billion. To pay down more than $1 billion on that, Safeway dumped assets. It sold 580 stores, reducing the company to just 1,785 outlets. Moreover, thousands of Safeway employees were laid off. The Dallas and Salt Lake City divisions were dismantled completely and sold to competitors.

Employees almost always lose in takeover battles. Employees at one of the Dallas stores being closed, claiming they had been stabbed in the back, vented their frustration symbolically. They built a fire in the parking lot and, one by one, tossed their uniforms into the flames. But, says a regretful Mr. Magowan, how else was Safeway to deal with the debt?

A much different chairman of Safeway now sits on the fifth floor, working for a private company for the first time in his life. The difference between the public Mr. Magowan and the private? He's still a rich man. He grossed an estimated $6 million from the sale of his own shares in the buyout, although he used much of that as his investment for part ownership in the KKR plan—and he still has control of the day-to-day operations of the company, although KKR controls the financial budget and the profit plan. "Though I have been accused of looking after my own skin," Mr. Magowan says, "there were other things I could have done, other jobs I could have had."

When pressed about what he'll do next, a different Mr. Magowan emerges. "I have never thought of what else I would do as far as a job is concerned," he says. "I really love what I'm doing here."

Married for the second time (he has five children from his two marriages), Mr. Magowan says he has no desire to move on. "I know that the takeover attempt came at the time of my life when a lot of men go through a midlife crisis anyway," he says. "But it never occurred to me to think about doing something else."

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Owens of New York, for 5 minutes, each day on March 7, 8, 9, 10, and 11.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 60 minutes, each day on March 7, 8, and 10.

Mr. Gaydos, for 60 minutes, each day on March 8 and 9.

Mr. Frank, for 60 minutes, on March 8.

EXTENSIONS OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Blaz) and to include extraneous matter:)

Mr. Whittaker.

Mr. Gilman in two instances.

Mr. Rhodes.

Mr. Michel.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Anderson in 10 instances.

Mr. Gonzalez in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Lantos in 10 instances.

Mr. Rodino.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Tuesday, March 8, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3053. A letter from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to amend section 353 of the Consolidated Farm and Rural Development Act; to the Committee on Agriculture.

3054. A letter from the Secretary of Education, transmitting a copy of notice of final priorities for research in education of the handicapped, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3055. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3056. A letter from the Acting Assistant Secretary of Treasury, (Management), transmitting a report of the Department's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3057. A letter from the Federal Inspector, Alaska Natural Gas Transportation System, transmitting the annual report covering calendar year 1987 of activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3058. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting a report of the Corporation's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3059. A letter from the Administrator, Health Care Financing Administration, Department of Health and Human Services, transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3060. A letter from the Executive Director, National Mediation Board, transmitting a report of the Board's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3061. A letter from the Director, Office of District Banks, Federal Home Loan Bank Board, transmitting actuarial valuation report for the Federal home loan banks pension portability plan for the years ending December 31, 1986 and 1985, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3062. A letter from the Deputy FOIA Officer, Federal Home Loan Mortgage Corporation, transmitting a report of the Corporation's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3063. A letter from the FOIA Officer, Federal Retirement Thrift Investment Board, transmitting a report of the Board's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3064. A letter from the Director, Office of Legislative and Public Affairs, National Science Foundation, transmitting a report of the Foundation's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3065. A letter from the Executive Director, Pension Benefit Guaranty Corporation, transmitting a report of the Corporation's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3066. A letter from the Senior Assistant Postmaster General, Finance and Planning Group, Postal Service, transmitting a report of the Postal Service's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3067. A letter from the Assistant Secretary for Water and Science, Department of the Interior, transmitting notification that the Bureau of Reclamation has approved a deferment of the 1986 Small Reclamation Projects Act Loan payment due the United States for Webster Irrigation District No. 4 (District), Pick-Sloan Missouri Basin Program, KS, pursuant to the act of September 21, 1959 (73 Stat. 584); to the Committee on Interior and Insular Affairs.

3068. A letter from the Secretary of Housing and Urban Development and the Attorney General transmitting a draft of proposed legislation to amend title VIII of the act commonly referred to as the Civil Rights Act of 1968 to provide the Secretary of Housing and Urban Development and the Attorney General of the United States with additional authority to enforce rights to fair housing, and for other purposes; to the Committee on the Judiciary.

3069. A letter from the Chairman, President's Commission on Compensation of Career Federal Executives, transmitting a report on the levels of compensation paid to career members of the Senior Executive Service; to the Committee on Post Office and Civil Service.

3070. A letter from the Administrator, Environmental Protection Agency, transmitting a report on activities and programs implemented under section 319 of the Water Quality Act of 1987 for fiscal year 1987, pursuant to 33 U.S.C. 1329 Public Law 100-4; to the Committee on Public Works and Transportation.

3071. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications; construction of facilities; and research and program management; and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Science, Space, and Technology.

3072. A letter from the Secretary of Transportation transmitting a report on the impact of the heavy vehicle use tax on transborder trucking operations, pursuant to 26 U.S.C. 4481 note; to the Committee on Ways and Means.

3073. A letter from the Chairman, President's Council on Integrity and Efficiency, transmitting a report of the Federal Salary Offset Program and the recovery of delinquent debt owed to the Government by Federal employees, pursuant to Public Law 97-365 (The Debt Collection Act of 1982); jointly to the Committees on Ways and Means and House Administration.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on Mar. 3, 1988, the following report was filed on Mar. 4, 1988]

Mr. JONES of North Carolina: Committee on, Merchant Marine and Fisheries. H.R. 1430. A bill, to authorize decorations, medals, and other recognition for service in the United States merchant marine, and for other purposes; with an amendment (Rept. 100-510). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[Submitted March 7, 1988]

By Mr. BLAZ (for himself, Mr. Udall, Mr. Young of Alaska, Mr. de Lugo, and Mr. Lagomarsino):

H.R. 4100. A bill to establish the Commonwealth of Guam, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Ways and Means.

By Mr. THOMAS A. LUKEN (for himself, Mr. Whittaker, Mr. Slattery, Mr. Bilirakis, Mr. Sikorski, and Mr. Bates):

H.R. 4101. A bill to amend the Federal Trade Commission Act to strengthen the authority of the Federal Trade Commission respecting fraud committed in connection with sales made with a telephone; to the Committee on Energy and Commerce.

By Mr. SOLOMON (for himself, Mr. Broomfield, Mr. Leach of Iowa, Mr. Lagomarsino, Mr. McCollum, Mr. Crane, Mr. Dreier of California, and Mr. Gilman):

H.R. 396. Resolution to express the sense of the House of Representatives on United States policy toward Afghanistan, especially toward the possibility of a Soviet troop withdrawal; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 81: Mr. Harris, Mr. Gejdenson, Mr. Fauntroy, Mr. Bereuter, Mr. Schuette, Mr. Hyde, Mr. Hughes, and Mr. Atkins.

H.R. 115: Mr. Myers of Indiana.

H.R. 468: Mr. Gonzalez.

H.R. 1064: Mr. Lagomarsino, Mr. Pepper, Mr. Biaggi, Mr. Hughes, Mr. Bruce, and Ms. Pelosi.

H.R. 1602: Mr. Sundquist, Mr. Nielson of Utah, and Mr. Kolbe.

H.R. 1810: Mrs. Saiki.

H.R. 1955: Mr. Roberts and Mr. Thomas of Georgia.

H.R. 2039: Mr. Stangeland, Mr. Shumway, Mr. DioGuardi, Mr. Sundquist, Mrs. Johnson of Connecticut, Mr. Wortley, and Mr. Craig.

H.R. 2793: Mr. Swindall.

H.R. 3130: Mr. Torres, Mr. Dixon, and Mrs. Martin of Illinois.

H.R. 3193: Mr. Akaka.

H.R. 3250: Mr. Jontz.

H.R. 3312: Mrs. Boxer.

H.R. 3437: Mr. Andrews.

H.R. 3553: Mr. Lewis of California and Mr. Bosco.

H.R. 3570: Mr. Frenzel.

H.R. 3627: Mr. Feighan and Mr. Slaughter of Virginia.

H.R. 3663: Mr. Ford of Tennessee, Mr. Solarz, and Mr. Kennedy.

H.R. 3719: Mr. Henry, Mr. Moody, Mr. Price of Illinois, Mr. Mfume, Mr. Dicks, Mrs. Collins, Mr. Garcia, Mr. Edwards of California, Mr. Fawell, Mrs. Martin of Illinois, Mr. Smith of Florida, Mr. Clarke, and Mr. Downey of New York.

H.R. 3742: Mr. Frost, Mr. Harris, Mr. Mfume, Mr. Garcia, and Mr. Stokes.

H.R. 3791: Mr. Holloway.

H.R. 3840: Mr. Russo, Mr. Davis of Illinois, Mr. Garcia, Mr. Smith of Florida, Mr. Broomfield, Mrs. Collins, Mr. Matsui, and Mr. Jontz.

H.R. 3969: Mr. Brown of California, Mr. Hertel, Mr. Waxman, and Mr. Barnard.

H.R. 4018: Mr. Daub, Mr. Owens of New York, Mr. Smith of Florida, Mr. Jontz, and Mr. Biaggi.

H.R. 4043: Mr. Penny.

H.J. Res. 139: Mr. Smith of Florida, Mr. Lagomarsino, Mr. Matsui, Mr. Pepper, Mr. Biaggi, Ms. Pelosi, and Ms. Kaptur.

H.J. Res. 353: Mr. Alexander, Mr. Hutto, Mr. Sikorski, Mr. Murtha, Mr. Jacobs, Mr. Tauzin, Mr. Davis of Illinois, Mr. Price of North Carolina, Mr. Derrick, Mrs. Martin of Illinois, Mr. Feighan, Mr. Emerson, Mr. Campbell, and Mr. Sawyer.

H.J. Res. 438: Mr. Wolpe, Mr. Conte, Mr. Dyson, and Mr. Bryant.

H.J. Res. 453: Mr. Young of Alaska, Mr. Smith of New Hampshire, Mr. Emerson, Mr. Lipinski, Mr. Quillen, Mr. de la Garza, Mr. Garcia, Mr. Studds, Mr. Valentine, Mr. Kostmayer, Mr. Hughes, Mr. Stokes, Mr. DeWine, Mr. Hammerschmidt, Mr. Bateman, Mrs. Morella, Mr. Atkins, Mr. Lehman of Florida, Mr. Gregg, and Mr. Perkins.

H.J. Res. 459: Mr. Chapman, Mr. AuCoin, Mr. Andrews, Mr. Moorhead, Mr. Atkins, Mr. Udall, Mr. Ford of Tennessee, Mr. Bonior of Michigan, Mr. Aspin, Mr. Regula, Mr. Fuster, Mr. Young of Alaska, Mr. Schumer, Mr. Fascell, and Mr. Brennan.

H.J. Res. 470: Mr. Coble, Mrs. Collins, Mr. Bliley, Mr. Broomfield, Mr. DeFazio, Mr. Hamilton, Mr. Rinaldo, Mr. Conte, Mr. Mica, Mr. McHugh, Mr. Wilson, Mr. Bateman, Mrs. Martin of Illinois, Mr. Dornan of California, Mr. Burton of Indiana, Mrs. Morella, Mr. Rowland of Connecticut, Mr. Hughes, Mr. Davis of Michigan, Mr. Sundquist, Mr. Bosco, Mr. Frenzel, Mr. Walgren, Mr. Rhodes, Mr. Traxler, Mr. Upton, Mr. Garcia, Mr. Leach of Iowa, Mr. Ravenel, Mr. Markey, Mr. Lantos, Mr. Stark, Mr. Bruce, Mr. Matsui, Mr. Hefner, Mr. Lent, Mr. Howard, Mr. Bevill, Mr. Boucher, Mr. Mollohan, Mr. Nelson of Florida, Mr. Guarini, Mr. Pepper, Mr. Tallon, Mr. Boehlert, Mr. Carper, Mr. Bonior of Michigan, and Mr. Yates.

H. Con. Res. 252: Mr. DeWine.

H. Res. 246: Mr. Waxman and Mr. Cardin.

EXTENSIONS OF REMARKS

MINISINK'S BICENTENNIAL CELEBRATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 7, 1988

Mr. GILMAN. Mr. Speaker, it is my pleasure to inform our colleagues that the town of Minisink, in Orange County, NY, is celebrating its 200th anniversary this week.

Although Orange County, NY, now has a population of over a quarter million, and is made up of 20 towns and 3 cities, it originally consisted of a sparsely populated rural area. When Orange County was first formed back in 1788, it consisted of only eight towns. Minisink was one of those original towns, and already enjoyed a rich history at that time.

Few of us realize, Mr. Speaker, that a border dispute, of over 65 years duration, endured between the colonies of New York and New Jersey from 1703 until 1768. Throughout most of that time, the residents of what is now the town of Minisink were caught in the middle. They went about their business while debate raged over whose jurisdiction they fell under. While attorneys, surveyors, and political leaders argued about their fate, the residents of the town of Minisink for the most part found themselves caught in the middle, paying taxes to both colonies and at the same time hoping for a speedy resolution.

After the boundary dispute was finally settled in New York's favor, other problems plagued the residents of Minisink. Frequent Indian raids led by the famous British sympathizer, Chief Joseph Brandt, during the Revolutionary War. Many of the men of Minisink lost their lives in a famous battle against Brandt's legions which, although it took place several miles away, is still referred to as "The Battle of Minisink."

With the conquest of both the British and the Indians during the Revolutionary War, peace and prosperity came to the town of Minisink. Many colorful residents added to the folklore of the region, including Mollie Oldfield, the famous "Witch of Minisink" who was blamed for many natural ills during her time. Another resident of Minisink, well respected in his day, was Dr. Seward who became the father of President Lincoln's Secretary of State. The townspeople were also proud of Susan Hull, the first volunteer nurse in the Civil War.

The idea of shipping milk to urban areas was a radical proposal when first put forward during the 1850's. The rich, productive dairy farms of Minisink were among the first to capitalize on the new urban demand for milk. The region's dairy industry especially prospered with the first coming of the railroad in 1866.

Another major industry to arise during the 1800's was the sport of harness racing, and the stud farms of the town of Minisink produced some of the premier racing horses of that era. Although the sport suffered a decline during the first part of the 20th century, we in Orange County are pleased and proud that harness racing is experiencing revived interest, as we remain in the forefront of this great pastime.

In 1904, a fine large village clock was erected in the steeple of the Unionville Presbyterian Church in the town of Minisink. For 45 years, that fine timepiece struck upon the hour, keeping excellent time for the residents of the village and the surrounding farmland. Then in June 1949, lightning struck the clock rendering it inoperative. The excellent and well-experienced clock caretaker, John Ayers, did everything in his power to restore the clock but was unable to get it working until he gave up in despair.

Later that summer, another freak thunderstorm passed through the area. The clock was again struck by lightning. This second incident restored it to perfect running order. The clock continued to operate until the late 1970's. Last year, the clock was fully restored under a grant from the Orange County Heritage Commission.

Today, the town of Minisink celebrates its 200th birthday, proud of its past, confident of its future. Although there are but 31 farmers left within the town, the dairy industry still remains a vital part of its lifeblood. And, as the boundaries of the metropolitan area move ever outward, the town of Minisink remains a rural reminder of a way of life which sadly is disappearing.

Mr. Speaker, I invite my colleagues to join with me in congratulating town supervisor Robert M. Weeden; town clerk Carol VanBuren; and all of the elected and appointed officials of the town of Minisink for arranging this momentous bicentennial celebration. We also congratulate Mary Ellen Calta for spearheading the bicentennial activities, and most especially all of the residents of the town of Minisink, who are upholding a proud heritage.

THE BURLINGAMES, THE FOUNDING FAMILY OF BURLINGAME

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 7, 1988

Mr. LANTOS. Mr. Speaker, it is my great pleasure today to honor the Burlingame family, the founding family of Burlingame, CA, a community in my congressional district. Anson Burlingame was born in New Berlin, NY, in 1820, and thereafter led a life of contribution and service that included being a Congressman from Massachusetts and Ambassador to China during the administration of Abraham Lincoln.

A man of great principle, Burlingame in 1848 made an impassioned plea on the floor of the House of Representatives on behalf of Hungarians who were rebelling against Austro-Hungarian rule. At that very moment, he was being considered for the post of United States Ambassador to the Austro-Hungarian Empire. That speech cost him the ambassadorship, because he was immediately declared persona non grata by the Austrian Government in Vienna.

His later assignment as United States Ambassador to China under President Lincoln turned out to be propitious, because, among his other duties, it included heading a Chinese mission to a conference in San Francisco. Enthralled with the city, he bought a tract of land on what was the original Rancho San Mateo. That soon turned into the village of Burlingame.

At first a vacation community for the wealthy, then made increasingly attractive after the earthquake of 1906, Burlingame is now a thriving community of over 25,000 that encompasses a broad range of families who contribute to the Peninsula's diversity.

Anson Burlingame died in St. Petersburg, Russia, at the age of only 49, but his legacy is the community that bears his name.

Mr. Speaker, it gives me great pleasure to pay tribute to this remarkable man, and to honor his family for their contributions to our peninsula. Today, I wish to recognize Barry E. Hinman, the great, great grandson of Betsy Burlingame Hinman, sister of Anson.

HANCOCK COUNTY RSVP PROGRAM CELEBRATES 15TH ANNIVERSARY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 7, 1988

Mr. MICHEL. Mr. Speaker, I would like to take this opportunity to share with my colleagues my pride in the tremendous achievements of the Hancock County Retired Senior Volunteer Program over the past 15 years. At this point I would like to insert my letter of congratulations to the Hancock County Retired Senior Volunteer Program, March 7, 1988.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 7, 1988.

Ms. NANCY K. JAMESON,
Director, Carthage, IL.

DEAR MS. JAMESON: My congratulations go to the members and friends of the Hancock County Retired Senior Volunteer Program (RSVP), sponsored by Memorial Hospital, Carthage, Illinois, as you celebrate your fifteenth anniversary at a special recognition dinner/dance, April 22, 1988.

During your fifteen years of service to Hancock County, RSVP has involved over

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

850 senior volunteers, providing over 741,000 hours of volunteer services. RSVP today involves 395 senior volunteers providing 55,000 hours of service annually.

This is a splendid achievement, especially at a time when our senior citizens, the fastest growing segment of our population, are increasingly playing such a vital role in community and national life.

My good wishes for a job well done go to you for the great work you have been doing as Director of Hancock County RSVP for the past eleven years as well as being involved with our State Association of RSVP Directors.

I like to remind folks that we are a "nation of communities", each community bringing something unique to the American experience. Hancock County RSVP is living proof of that idea and I look forward to working with you and with all our older Americans for years to come.

Sincerely,

ROBERT H. MICHEL,
Member of Congress.

IRVING "BROWNIE" BROWN

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 7, 1988

Mr. DE LUGO. Mr. Speaker, we have an individual in the Virgin Islands who has just been honored as "Man of the Year" and who deserves even wider honors.

I want to commend Irvin "Brownie" Brown, who is well known and beloved throughout our community as a disc jockey, entertainer, musician, and grassroots philosopher. In that capacity, he has the able assistance of his imaginery sidekick, "Walter." Brownie and Walter have kept us laughing and kept us thinking about the "good t'ings" in life for many, many years. Our Rotary Club recently recognized his valuable contribution to our community and named him "Man of the Year." No one could be more deserving than Brownie.

The Virgin Islands Daily News also took note of Brownie's award, and I want to place the newspaper's editorial in the CONGRESSIONAL RECORD as an excellent tribute to this fine Virgin Islander:

MAN OF THE YEAR

For countless years he has been the favorite of Virgin Islanders. On the airwaves, at civic activities, during Carnival and Christmas, the distinctive voice of Irvin "Brownie" Brown always delights his audiences.

And because his conscientious efforts throughout the years have made these islands a better place to live, Brownie was chosen "Man of the Year" Wednesday by Rotary Club II. Both Brownie and his alter ego, Walter, were on hand to receive the symbol of this award.

A man of many professions, ranging from disc jockey to musician to cab driver, Brownie in his own original way radiates a warmth and charisma that endear him to people wherever he goes. His fans encompass the young and old, rich, and poor, native-born and adopted Virgin Islanders—and everyone in between.

The Rotary award could not have been presented to a more deserving person than this lovable, affable ambassador of goodwill.

Goodt'ing, Brownie!

ST. PATRICK'S DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 7, 1988

Mr. RODINO. Mr. Speaker, the rich fabric of American life is made up of diverse strands of cultures and traditions. We are truly a nation of nations which draws its strength from the many contributions of virtually every nationality and ethnic group in the world. In our unique climate of freedom, this ethnic mosaic has flourished.

St. Patrick's Day serves as a reminder of how much this diversity has enriched us all. On March 17, we pay tribute to Irish-Americans whose proud participation in American life has strengthened our institutions and whose countless contributions have expanded our national heritage. It is a time when Americans of all backgrounds become honorary Irish.

On March 13 at 2 p.m., thousands of New Jersey citizens will join together to celebrate the special spirit of the Irish at the 53d annual St. Patrick's Day Parade in Newark. The parade will begin at Sanford Avenue in the Vailsburg section of the city and will follow the traditonal route up South Orange Avenue to South Orange. This historic event, the oldest and largest in the State, can trace its roots back to 1936 when the first annual parade sponsored by the statewide committee took place with Charles Gilben, a former mayor of Newark, serving as grand marshall.

Since that time, the Newark St. Patrick's Day Parade has continued to grow. This year's parade is dedicated to Archbishop Theordore E. McCarrick of the archdiocese of Newark. Ordained in 1958, Archbishop McCarrick served as president of the Catholic University of Puerto Rico and was secretary to Terence Cardinal Cooke before being named by Pope John Paul II as the fourth archbishop of Newark in 1986. This tribute recognizes Archbishop McCarrick for his strong, compassionate, and responsive leadership.

The 1988 grand marshall of the parade is Gerald P. Lenihan, of Roseland, who is Essex County's Deputy Director of Public Safety. He will be joined by Deputy Grand Marshall Barbara Hanselmann, of Newark, a project analyst for the Prudential Insurance Co. They were unanimously elected by their colleagues on the parade committee to fill these cherished positions and to have the distinct honor of leading the 53d annual parade. Serving as the general chairman of the Newark St. Patrick's Day Parade Committee is Donald B. Hannon. The parade committee consists of nearly 100 Irish-American community, civic, and professional organizations. Chairman Hannon and the entire committee deserve much credit and our appreciation for planning such a special event.

The Newark St. Patrick's Day Parade, like the many other parades and activities throughout the Nation, offers us all an opportunity to salute the contributions of Irish heritage to our Nation. Like many other immigrant groups, the Irish came to these shores seeking a new life of opportunity. With hard work, a determination to overcome prejudice, and an enduring faith in the American dream, the Irish experience in America became synonymous with our Nation's growth and development as they achieved greatness in all fields.

As the patron saint of Ireland, St. Patrick has become a symbol of the Irish people. His message was one of peace and justice, of faith and religion, of learning and commitment. When he arrived as a Christian missionary on the shores of Ireland over 1,500 years ago, he inspired a reverence in the people he met. This can still be seen today in the churches he built and the culture that continues to flourish.

While St. Patrick's Day is indeed a "great day for the Irish," we must, of course, also sadly remember the tragic and protracted strife that has plagued Northern Ireland for so many years. As we celebrate St. Patrick's Day, let us hope for the restoration of peace, brotherhood, and justice to the people of Ireland. This would be a fitting tribute to the teachings of St. Patrick and to the memory of Ireland's patron saint.

ST. PATRICK'S DAY—1988

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 7, 1988

Mr. GILMAN. Mr. Speaker, as the people of Ireland, of Irish ancestry, and those of us Irish at heart prepare to celebrate St. Patrick's Day, permit me to share some thoughts with our colleagues:

ST. PATRICK'S DAY STATEMENT BY REPRESENTATIVE BENJAMIN A. GILMAN, 22D DISTRICT OF NEW YORK

On this St. Patrick's Day, when Irish Americans pause to remember their roots, I join all Americans in saluting the Irish and our Irish Americans.

St. Patrick's Day is a day for joy, for celebration, for recognition of the myriad contributions and accomplishments of Irish Americans.

Yet the joy is not unalloyed. This has not been a good year for those of us who are concerned about bringing peace and justice to Northern Ireland. Violence continues unabated. Further political action is required.

Not enough progress was made during this year on employment discrimination in Northern Ireland. We are still hearing of discrimination, both overt and hidden. Irish nationalists are put in fear by the display of sectarian symbols in the workplace. Not enough is being done by American employers and those selling in America. We need to push those firms to adhere to the MacBride Principles.

The needed reforms in the justice system in the North have not been achieved. Among those reforms, pressed by the Irish government during meetings of the Intergovernmental Conference, and an end to single judges sitting on "Diplock Courts". We also learned that the British authorities have announced that there will be no criminal charges brought in the Stalker "shoot-to-kill" case.

During the past year, the case of the "Birmingham Six" was reviewed in the Court of Appeal in London. I attended the opening of the case and conferred with the attorneys working on it. I believe that a further miscarriage of justice may have been committed, and was disappointed that conviction of those men was not quashed. It is quite appropriate that Six have been permitted by the Court of Appeal to try to bring the case before the House of Lords, the highest judicial authority in Britain.

On the bright side, the process of the Intergovernmental Conference has continued, although it has hit some roadblocks. During this past year, the International Fund for Ireland and Northern Ireland has continued to receive American contributions and has begun its operations in earnest. The Congress continues to monitor its spending and will exert every effort to be sure that it spends its resources fairly.

During the coming year, along with many of my colleagues, I will continue to work for peace and justice in Northern Ireland, with the help of Irish Americans and all Americans of good will.

THE MIRAMONTES, A FOUNDING FAMILY OF HALF MOON BAY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 7, 1988

Mr. LANTOS. Mr. Speaker, I wish to recognize the Miramontes, a founding family of Half Moon Bay, CA, a community in my congressional district. Their story begins when William Miramontes' grandfather Candelario headed north from Mexico in 1865, settled originally in the Presidio and then moved to what became Half Moon Bay where he built an adobe.

There, William's father Benaventura, was born. He married the niece of a fellow ranchworker, and he and Caterina had five children. Unable himself to read or write, Benaventura saw to it that his children could. William recalls his father saying that his son would graduate from high school if it took "until his whiskers grew to his knees."

William worked hard. A typical task of the time was to take horses with a load of hay over the hill, then return. All activities were centered around the home, and the dining table was always surrounded by family and those who might be passing through. Multilingual richness prevailed. William's mother spoke Italian, his father Spanish, and others Portuguese—and, of course, English.

When a job with Standard Oil came along, William took it, and stayed with it for 53 years. William and his wife of 60 years, Marion, had two sons, both of whom live in the area, and their children are the fifth generation of the Miramontes family to be born in Half Moon Bay.

Mr. Speaker, it is families like the Miramontes who have built peninsula communities and given them vitality and a spirit of enterprise. I salute the Miramontes family today and wish them well for the future.

H.R. 4101, THE TELEMARKETING FRAUD PREVENTION ACT OF 1988

HON. BOB WHITTAKER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 7, 1988

Mr. WHITTAKER. Mr. Speaker, I am pleased to join my colleague, the gentleman from Ohio, in introducing the Telemarketing Fraud Prevention Act of 1988. This bill will be a forceful tool for consumers, and law enforcement agencies privileged to have the responsibility of protecting consumers, to fight telemarketing scams.

Many of our constituents have fallen victim to the unfair and deceptive practices of fraudulent telemarketing organizations. These fraudulent schemes sell everything from vacations in the sun to vitamins. They con their victims by promising free gifts and unreasonable low prices.

The bill we are introducing today will provide consumers and law enforcement agencies with the tools necessary to curtail telemarketing fraud. Specifically, the bill authorizes first, States' attorneys general, or other State officials with comparable authority; and second, private citizens, partnerships and corporations to bring a civil action under the Federal Trade Commission Act to prevent telemarketing fraud. This provision is modelled after a similar provision in the Commodity Futures Trading Act which has proven helpful in obtaining relief for victims of telemarketing scams selling commodities.

Telemarketeers are prohibited by the bill from harassing, oppressing, or abusing any person in connection with telemarketing. The Federal Trade Commission is also required by the legislation to promulgate rules, within 180 days, for telemarketing activities. Such rules will require telemarketeers to inform consumers that a consumer is entitled to a refund if delivery of the product or service is not made within the stated period or, if no time period is stated, within 30 days.

Finally, a clearinghouse is established by the bill at the Federal Trade Commission. This will eliminate some of the confusion victims face today when trying to recover what they have lost to telemarketing scams. The clearinghouse will provide one universal telephone number which will give out information on telemarketing organizations and direct all calls to the appropriate agency.

This legislation is a bipartisan effort that has been developed through input from the business community, including legitimate telemarketeers, and representatives of consumer organizations. I serve as the ranking Republican member on the Energy and Commerce Committee's Subcommittee on Transportation, Tourism, and Hazardous Materials. That subcommittee will be holding hearings on this legislation next Wednesday. I hope that anyone who would like to contribute further to the legislation will contact the subcommittee before Wednesday.

It is time that we take a strong stand and address the problems that fraudulent telemarketeers are creating for our constituents. That is what this bill does. Therefore, Mr. Speaker, I urge my colleagues to join me in attacking telemarketing fraud by cosponsoring this legislation.

ARMENIAN CONTROVERSY

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 7, 1988

Mr. GALLO. Mr. Speaker, many of my Armenian-American friends have contacted me to express their concerns about recent events in Soviet Armenia.

Last week, hundreds of thousands of Armenians took to the streets of Soviet Armenia to demand the return to Armenia of Nagorno-Karabakh, a predominately Armenian area that was transferred to the largely Moslem republic of Azerbaijan in 1923.

I join my Armenian-American friends in their concern about the reports that over 70 Armenians have been killed in ethnic conflicts in Nagorno-Karabakh.

The Soviets can no longer ignore the claims of the Armenians, who have been wronged by previous Soviet regimes. Even Soviet Ministry spokesman Genady Gerasimov suggested that the recent unrest was due to "mistakes" made 65 years ago when a territory populated largely by Armenians was made part of Azerbaijan. Returning Nagorno-Karabakh to Armenia would correct that mistake.

I wholeheartedly agree with my friend and former colleague, New Jersey Assembly Speaker Chuck Haytaian, that the Armenians are a "proud people who are trying to make a point" that Nagorno-Karahakh should be returned to the Republic of Armenia.

Mr. Speaker, the Soviet Union should not sweep the Armenian controversy under the rug.

THE MASSACHUSETTS MIRACLE

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 7, 1988

Mr. MARKEY. Mr. Speaker, I rise to commend the Commonwealth of Massachusetts for its tough approach to drunk driving enforcement and deterrent systems, and to urge the adoption of similar programs by the States.

The Massachusetts Senate Committee on Post Audit and Oversight recorded a 42-percent decrease in adjusted nighttime fatal crash rates from 1979 to 1986. Nineteen hundred and eighty-six was regarded as one of the safest years due to its fatal crash rate of only 1.03 per 10,000 licensed drivers, and 1987 was even more successful with an additional 13 percent decrease in nighttime fatalities during the first 6 months of that year. These heartening figures are a direct result of Massachusetts' strict policies toward drunken driving and the newly enacted Safe Roads Act of 1987.

The Safe Roads Act of 1987 encompasses one of the most stringent first offender programs in the Nation. A driver who is found to be intoxicated while in Massachusetts will automatically lose his or her license for at least 90 days. Those convicted of first offense will lose their license for an additional 45 days or more and are required to attend approximately 6 months of intense counseling sessions. In addition, these people may face up to 2 years in jail, receive a $100 to $1,000 fine, or have their license revoked for up to 1 year.

Repeat offenders are mandatorily sentenced to one of several drunk driving prisons or facilities throughout Massachusetts for terms ranging from 14 days to 6 months, and lose their licenses for an additional 2 years.

The total cost to a person convicted of drunk driving could exceed $3,500 through fines, insurance assessments and legal fees. But through education programs sponsored by students and Mothers Against Drunk Driving, Massachusetts drivers are learning that the consequences of drunken driving include not only tough criminal penalties but also are the threat of tragic and other fatal accidents.

I urge all of my colleagues to consider the Massachusetts approach and help make this Massachusetts miracle a nationwide phenomenon.

IN RECOGNITION OF LORI CUSTER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 7, 1988

Mr. KILDEE. Mr. Speaker, I rise today to honor Ms. Lori Custer, who exerted heroic efforts to save the life of a neighborhood boy. Lori, a senior at the Genesee Area Skill Center in Flint, MI, recently had an experience in which her vocational training helped her to attempt to save another person's life. I believe that Lori is an excellent example of the tremendous benefits of vocational education.

At home recuperating from knee surgery, she witnessed a serious traffic accident in which a neighborhood boy 14 years of age was thrown from the back of a pickup truck with his head hitting a mail box. Having learned cardiopulmonary resuscitation [CPR] in her medical office assistant class at the Genesee Area Skill Center, she began to administer CPR to the fatally wounded boy. She enlisted the help of a neighbor to call for assistance. Despite her own injury and the serious nature of the boy's injuries, Lori continued CPR until a single paramedic arrived in his private automobile.

In the hour it took for an ambulance to arrive on the scene, Lori and the paramedic continued their life-saving efforts. However, when the ambulance arrived it had only one driver and the paramedic had to accompany the driver to the hospital. Lori, with her leg in a brace, then drove the paramedic's car to the hospital. The doctors at the hospital informed Lori that it was only due to her efforts that the boy had a chance for life. Unfortunately, the boy later died as a result of complications due to his injuries.

It takes courage and commitment to administer CPR to a severely traumatized victim, and in Lori's case it was further complicated by having her leg in a brace and that the victim had a broken neck.

As a result of her courageous efforts to save the life of another human being, I am taking this opportunity to recognize her achievements and also to commend the vocational training program of the Genesee Area Skill Center for the exceptional training it offers.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, March 8, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 9

10:00 a.m.

Joint Economic

To hold hearings on the national economic outlook for 1988.

2175 Rayburn Building

MARCH 14

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Veterans, Administration.

SD-124

Energy and Natural Resources

To hold hearings on the nominations of T. S. Ary, of Oklahoma, to be Director of the Bureau of Mines, Department of the Interior, Ernest C. Baynard III, of Virginia, to be Assistant Secretary of Energy for Environment, Safety and Health, and C. Anson Franklin, of Virginia, to be Assistant Secretary of Energy for Congressional, Intergovernmental and Public Affairs.

SD-366

Finance

Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee

To hold hearings on the reform of Internal Revenue Service Code penalties.

SD-215

Foreign Relations

To hold hearings to review the President's annual international narcotics control strategy report (INCSR), and certification.

SD-419

11:00 a.m.

Foreign Relations

Business meeting, to consider the nomination of April C. Glaspie, of California, to be Ambassador to the Republic of Iraq.

SD-419

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on H.R. 1860, Federal Land Exchange Facilitation Act of 1987.

SD-366

3:30 p.m.

Foreign Relations

To resume hearings on the Treaty Between the United States and the U.S.S.R. on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).

SD-419

MARCH 15

9:00 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on S. 2114, authorizing funds for fiscal years 1991-1993 for the Corporation for Public Broadcasting.

SR-253

9:30 a.m.

Governmental Affairs

Business meeting, to consider S. 2037, to eliminate the use of private resources in the transition process and to provide for the orderly transfer of power between administrations, S. 1856, to authorize funds for programs of the National Historical Publications and Records Commission, S. 1381, to improve Federal cash management and ensure equity in funding Federal programs administered by the States, and the nominations of Frank E. Schwelb, to be an Associate Judge of the District of Columbia Court of Appeals, and Cheryl M. Long, to be an Associate Judge of the Superior Court of the District of Columbia.

SD-342

Labor and Human Resources

Children, Family, Drugs, and Alcoholism Subcommittee

To hold hearings on S. 1885, to provide a Federal program for assisting States in providing licensed and regulated child care services.

SD-430

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on Agricultural Stabilization and Conservation Service, Soil Conservation Serv-

ice, and the Commodity Credit Corporation.

SD-138

Appropriations

Defense Subcommittee

To hold hearings to review proposed budget estimates for fiscal year 1989 for the Department of the Army.

SD-192

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Consumer Product Safety Commission, Office of Consumer Affairs, and the Consumer Information Center.

S-126, Capitol

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Indian Health Service, and Indian education programs.

SD-116

Finance

To hold hearings on proposed tax incentives for education.

SD-215

Governmental Affairs

To hold hearings on proposed legislation relating to the elevation of the Veterans' Administration to Cabinet status.

SD-342

Select on Intelligence

To resume closed hearings on the provisions of the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).

SH-219

Joint Economic

To resume hearings on the national economic outlook for 1988.

Room to be announced

10:30 a.m.

Conferees

On the agricultural trade provisions of H.R. 3, Omnibus Trade and Competitiveness Act of 1987.

SR-332

2:00 p.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on childhood immunization programs.

SR-428A

3:00 p.m.

Conferees

On H.R. 5, to improve elementary and secondary education.

SD-430

MARCH 16

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings in conjunction with the National Ocean Policy Study to review Federal enforcement of foreign fishing activities in the Bering Sea.

SR-253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

10:00 a.m.

Budget

To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.

SD-608

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To hold hearings on S. 2100, to authorize programs for the conservation and development of water resource projects of the U.S. Army Corps of Engineers.

SD-406

1:30 p.m.

Commerce, Science, and Transportation

To hold hearings on the nomination of Joseph T. Nall, of North Carolina, to be a Member of the National Transportation Safety Board.

SR-253

2:00 p.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold oversight hearings on activities of the Federal Aviation Administration.

SR-253

MARCH 17

9:00 a.m.

Veterans' Affairs

Business meeting, to consider the President's budget request for fiscal year 1989 for veterans programs, and S. 2049, Veterans Home Loan Program Improvements Act.

SR-418

9:30 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to review matters relating to the October 1987 market break.

SD-562

Budget

To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.

SD-608

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on proposed legislation authorizing funds for AMTRAK.

SR-253

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings to review proposed budget estimates for fiscal year 1989 for the Department of the Air Force.

SD-192

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1988 for the National Transportation Safety Board, and the Research and Special Programs Administration.

SD-124

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To continue hearings on S. 2100, to authorize programs for the conservation and development of water resource projects of the U.S. Army Corps of Engineers.

SD-406

Finance

To hold hearings on proposed legislation relating to the U.S./Canada Free Trade Agreement.

SD-215

Small Business

To resume hearings on S. 1929, to create the Corporation for Small Business Investment (COSBI).

SR-428A

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1508, S. 1570 and H.R. 1548, bills to withdraw and reserve certain Federal lands for military purposes.

SD-366

Foreign Relations

To hold open and closed hearings on the Treaty Between the United States and the U.S.S.R. on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).

SD-419

2:30 p.m.

Budget

To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.

SD-608

MARCH 18

9:00 a.m.

Veterans' Affairs

Business meeting, to continue consideration of the President's budget requests for fiscal year 1989 for veterans programs, and proposed legislation relating to veterans' home loan guarantees.

SR-418

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Production and Stabilization of Prices Subcommittee

Domestic and Foreign Marketing and Product Promotion Subcommittee

To hold joint hearings on soybeans and the world market.

SR-332

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Tax Court, Committee for the Purchase from the Blind and Other Severely Handicapped, Advisory Commission on Intergovernmental Relations, Merit Systems Protection Board, Office of the Special Counsel, Advisory Committee on Federal Pay, and the Federal Labor Relations Authority.

SD-116

10:00 a.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To continue hearings on S. 2100, to authorize programs for the conservation and development of water resource projects of the U.S. Army Corps of Engineers.

SD-406

Finance

Energy and Agricultural Taxation Subcommittee

To hold hearings on recent changes in collection procedures on gasoline, diesel, and special motor fuel taxes.

SD-215

Foreign Relations

To continue open and closed hearings on the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).

S-116, Capitol

MARCH 21

8:30 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Park Service.

SD-192

9:00 a.m.

Foreign Relations

To resume hearings and to consider the Treaty Between the United States and the USSR on the elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).

SD-419

9:30 a.m.

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of the Treasury, focusing on the Financial Management Service, Bureau of the Public Debt, U.S. Mint, and the Internal Revenue Service.

SD-116

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on H.R. 2090 and S. 1478, bills to designate certain National Forest System lands in the State of Montana for release to the Forest Planning process, protection of recreation value, and inclusion in the National Wilderness Preservation System.

SD-366

Finance

Taxation and Debt Management Subcommittee

To hold hearings on the tax treatment of single-premium and other investment-oriented life insurance.

SD-215

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Science Foundation.

SD-124

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for military construction, focusing on base rights and burdensharing.

SD-192

MARCH 22

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to review the President's proposed budget request for fiscal year 1989 for the National Aeronautics and Space Administration.

SR-253

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To continue hearings on H.R. 2090 and S. 1478, bills to designate certain National Forest System lands in the State of Montana for release to the Forest Planning process, protection of recreation value, and inclusion in the National Wilderness Preservation System.

SD-366

Finance

Health Subcommittee

To hold hearings on S. 1673, to require States to provide Medicaid coverage of community and family support services for severely disabled individuals.

SD-215

Governmental Affairs

To resume hearings on proposals to establish a national nutrition monitoring and related research program.

SD-342

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Foreign Agricultural Service, Food for Peace Program (P.L. 480), Office of International Cooperation and Development, and the Office of the General Sales Manager.

SD-138

Appropriations

Defense Subcommittee

To hold hearings to review proposed budget estimates for fiscal year 1989 for the Department of the Navy, and the U.S. Marine Corps.

SD-192

Appropriations

HUD-Independent Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1989 for the National Science Foundation.

SD-116

1:30 p.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To continue hearings on the President's proposed budget request for fiscal year 1989 for the National Aeronautics and Space Administration.

SR-253

MARCH 23

9:30 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to resume markup of S. 1516, Federal Insecticide, Fungicide and Rodenticide Act Reform of 1987.

SR-332

Commerce, Science, and Transportation

Aviation Subcommittee

To resume hearings on S. 1600, to create an independent Federal Aviation Administration.

SR-253

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings to examine Health Care Financing Administration's management of medical laboratories.

SD-342

10:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Minerals Management Service.

SD-116

Select on Intelligence

To hold closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.

SH-219

MARCH 24

9:30 a.m.

Agriculture, Nutrition, and Forestry

Conservation and Forestry Subcommittee

To hold oversight hearings to review implementation of conservation programs.

SR-332

Commerce, Science, and Transportation

To hold hearings to review federal collection activities of information relating to foreign investment in the United States.

SR-253

Governmental Affairs

Oversight of Government Management Subcommittee

To continue oversight hearings to examine Health Care Financing Administration's management of medical laboratories.

SD-342

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Farm Credit Administration.

SD-138

Appropriations

Defense Subcommittee

To hold hearings to review proposed budget estimates for fiscal year 1989 for the National Guard and reserve programs.

SD-192

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Railroad Administration, and the National Railroad Passenger Corporation (Amtrak).

SD-124

Finance

To hold hearings on S. 1245, to authorize the issuance by States of tax-exempt bonds for high-speed intercity rail transportation projects under certain circumstances.

SD-215

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1593, to designate the site of the Glorieta Battle in the Civil War as a national historic site, S. 1693, to provide for a study of the Coronado Trail, and S. 1912, to authorize a study of the feasibility of establishing a National Mimbres Museum in Silver City, New Mexico.

SD-366

3:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

MARCH 25

9:30 a.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Archives and Records Administration, U.S. Secret Service, and the Administrative Conference of the United States.
SD-124

Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

MARCH 28

8:30 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Mines, and the Office of Surface Mining.
SD-128

9:30 a.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Management and Budget [OMB], and the Office of Federal Procurement Policy.
SD-116

Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.
SD-608

Finance
Taxation and Debt Management Subcommittee
To hold hearings to review certain tax provisions which have recently expired or will expire this year, focusing on the exempt treatment of mortgage revenue bonds and the targeted jobs tax credit.
SD-215

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Naval Petroleum Reserve, and the Strategic Petroleum Reserve.
SD-116

MARCH 29

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for force structure programs.
SD-192

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Aeronautics and Space Administration.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Indian Affairs.
SD-116

2:00 p.m.
Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

MARCH 30

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Rural Electrification Administration.
SD-138

Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1989 for the National Aeronautics and Space Administration.
S-126, Capitol

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Smithsonian Institute, and the Woodrow Wilson International Center.
SD-116

Appropriations
Military Construction Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for military construction and family housing programs.
SD-192

Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

MARCH 31

9:00 a.m.
Veterans' Affairs
To hold hearings on proposed legislation relating to agent orange and related issues.
SR-418

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for the Strategic Defense Initiative.
SD-192

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Geological Survey
SD-116

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Aviation Administration, and the General Accounting Office.
SD-138

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 314, to require certain telephones to be hearing aid compatible.
SR-253

Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

APRIL 11

8:30 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Forest Service.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Environmental Protection Agency.
SD-124

APRIL 12

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.
SD-342

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Environmental Protection Agency, and the Council on Environmental Quality.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy conservation and emergency preparedness programs.
SD-116

APRIL 13

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the legislative priorities of AMVETS, Vietnam Veterans of America, and the Jewish War Veterans.
SD-106

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Labor.
SD-124

Governmental Affairs
Oversight of Government Management Subcommittee
To continue hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.
SD-342

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Farmers Home Administration, and the Federal Crop Insurance Corporation.
SD-138

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for reserve components' military construction and defense agencies' military construction and family housing programs.
SD-116

2:30 p.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for ACTION, Corporation for Public Broadcasting, Railroad Retirement Board, Federal Mediation and Conciliation Service, National Mediation Board, National Labor Relations Board, and the Occupational Safety and Health Review Commission.
SD-124

APRIL 14

10:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Gallery of Art, Commission on Fine Arts, FDR Memorial Commission, and the Advisory Council on Historic Preservation.
SD-138

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Urban Mass Transit Administration, and the Washington Metropolitan Transit Authority.
SD-124

APRIL 15

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Prospective Payment Assessment Commission, Physician Payment Review Commission, Federal Mine Safety and Health Review Commission, National Commission on Libraries and Information Science, National Council on the Handicapped, Soldiers' and Airmen's Home, and the U.S. Institute of Peace.
SD-192

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the General Services Administration and the Executive Office of the President (with the exception of OMB).
SD-116

APRIL 18

8:30 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for fossil energy research and development, and clean coal technology programs.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.
SD-124

1:00 p.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Postal Service, and the Office of the Secretary of the Treasury.
SD-116

APRIL 19

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.
SD-138

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.
SD-124

APRIL 20

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Social Security Administration, and the Health Care Financing Administration, both of the Department of Health and Human Services.
SD-192

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Army military construction and family housing programs.
SD-124

1:30 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Territorial Affairs, and territorial governments.
SD-138

2:30 p.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Family Support Administration, and the Human Development Services, both of the Department of Health and Human Services.
SD-192

APRIL 21

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Assistant Secretary for Health, and the Centers for Disease Control, both of the Department of Health and Human Services.
SD-116

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Commodity Futures Trading Commission, and the Food and Drug Administration of the Department of Health and Human Services.
SD-138

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Transportation, and the General Accounting Office.
SD-124

APRIL 22

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Alcohol, Drug Abuse and Mental Health Administration, and the Health Resources and Services Administration, both of the Department of Health and Human Services.
SD-192

APRIL 25

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Home Loan Bank Board, Neighborhood Reinvestment Corporation, National Institute of Building Sciences, and the Office of Science and Technology Policy.
SD-124

APRIL 26

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-124

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Emergency Management Agency.
S-126, Capitol

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary, Office of the Solicitor, and the Office of the Inspector General, all of the Department of the Interior, and the Navajo-Hopi Indian Relocation Commission.
SD-116

APRIL 27

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-192

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Navy military construction and family housing programs.
SD-124

APRIL 28

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-116

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Coast Guard.
SD-124

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Land Management.
SD-116

APRIL 29

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Health and Human Services.
SD-138

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Personnel Management.
SD-192

MAY 9

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.
SD-124

MAY 10

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Education.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.
SD-124

MAY 11

9:30 a.m.
Appropriations
Labor, Health and Human Servcies, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Compensatory Education for the Disadvantaged, School Improvement Programs, Impact Aid, Biligual, Immigrant and Refugee Education, Education for the Handicapped, Rehabilitation Services and Handicapped Research, and Vocational and Adult Education.
SD-192

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Air Force military construction and family housing programs.
SD-124

MAY 12

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Student Financial Assistance, Guaranted Student Loans, Higher Education, Higher Education Facilities Loans and Insurance, College Housing Loans, Howard University, Special Institution (includes American Printing House for the Blind, National Technical Institute for the Deaf, and Gallaudet), Education Research and Statistics, and Libraries.
SD-192

MAY 17

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 18

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 19

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

MAY 24

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

MAY 25

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

MAY 26

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-138

JUNE 7

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

JUNE 8

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

JUNE 9

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

CANCELLATIONS

MARCH 16

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold oversight hearings on activities of the Federal Aviation Administration.

SR-253

HOUSE OR REPRESENTATIVES—*Tuesday, March 8, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Deliver us, O God, from judgments that show rashness or thoughtlessness, and may we temper all our words with wisdom, judiciousness, and prudence. May we use our time, O God, for reflection and for a desire for understanding before we rush to words that do not correct or inform, but only cause pain. May our words, gracious God, be instruments of healing and of helping. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1212. An act to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1212) "An act to provide the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. METZENBAUM, Mr. MATSUNAGA, Mr. HATCH, and Mr. STAFFORD, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills, a joint resolution and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 450. An act to recognize the organization known as the National Mining Hall of Fame and Museum;

S. 840. An act to recognize the organization known as the 82d Airborne Division Association, Inc.;

S. 854. An act entitled the "Nevada-Florida Land Exchange Authorization Act of 1988";

S. 861. An act to require certain actions by the Secretary of Transportation regarding certain drivers of motor vehicles and motor carriers;

S. 1630. An act to provide for retirement and survivors' annuities for bankruptcy judges and magistrates, and for other purposes;

S. 2151. An act to amend section 416 of the Agricultural Act of 1949, and for other purposes;

S.J Res. 235. Joint resolution deploring the Soviet Government's active persecution of religious believers in Ukraine;

S. Con. Res. 82. Concurrent resolution urging the German Democratic chief of state Erich Honecker to repeal permanently the order directing East German border guards to shoot to kill anyone who, without authorization, attempts to cross the Berlin Wall, and to issue an order to tear down the Berlin Wall;

S. Con. Res. 94. Concurrent resolution to express the sense of the Congress regarding relief for the U.S. Soybean Industry under section 301 of the Trade Act of 1974;

S. Con. Res. 98. Concurrent resolution to authorize the printing of the annual three volume report "Developments in Aging: 1987" prepared by the Special Committee on Aging;

S. Con. Res. 99. Concurrent resolution condemning North Korea's support for terrorist activities; and

S. Con. Res. 102. Concurrent resolution to express the sense of the Congress regarding the contributions of John Foster Dulles in international affairs.

The message also announced that pursuant to sections 276h-276k, of title 22, United States Code, the Chair on behalf of the Vice President appoints Mr. MURKOWSKI and Mr. MCCAIN, as members of the Senate delegation to the Mexico-United States Interparliamentary Group during the 2d session of the 100th Congress, to be held in New Orleans, LA, March 4 to 8, 1988.

The message also announced that pursuant to Public Law 94-201, the Chair on behalf of the President pro tempore appoints William L. Kenney, Jr., of South Carolina, to the Board of Trustees of the American Folklife Center, effective March 19, 1988, for a 6-year term.

DEMONSTRATION PROJECTS TO TEST PROGRAM TO IMPROVE UNEMPLOYMENT COMPENSATION INSURANCE SYSTEM

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, on March 1, the Department of Labor issued regulations to set up three demonstration projects to test a program to improve the unemployment compensation insurance system. In lieu of a weekly subsistence stipend, the program will allow the lump sum payment of benefits to people wishing to start a small business. In effect, encouraging the unemployed to use their existing skills to create jobs for themselves.

This idea was originally proposed by Congressman RON WYDEN and during the last session, Congressman DON PEASE and I incorporated it into a bill, H.R. 2676. This legislation is designed to make the unemployment insurance system more reliable, more responsive and more effective.

You may ask why reform the system now, when our national unemployment rate is 5.7 percent, the lowest in a decade. We need to do this now, because we have the opportunity. Presently there is little strain on the system, but in times of high unemployment it does not meet the needs of the people. Reform is necessary to meet the future needs of the working men and women of our Nation.

The lump-sum demonstration project is a first step, and we need to take others.

I would like to urge all of my colleagues to take a close look at H.R. 2676 and consider becoming a cosponsor because now is the time to act.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GRAY of Illinois. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

INTRODUCTION OF LEGISLATION IMPLEMENTING THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY WATER RIGHTS SETTLEMENT

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, the Arizona congressional delegation is introducing legislation which will be the foundation for implementing an agreement to settle long-standing Indian water rights claims of the Salt River Pima-Maricopa Indian Community in Arizona.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Arizona Indian tribes and water interests have led the way in negotiating settlements of Indian water rights claims. Our efforts further fulfill the policy of the United States to settle such claims through negotiation rather than lengthy, contentious, and expensive litigation.

It is in this spirit—a spirit of visionary cooperation among Indians and non-Indians—that this particular settlement has been achieved. Our task now, as we begin public hearings in the House Interior Committee, is to fashion a final legislative package and refinements in the settlement that will affirm a fair and equitable allotment of these water rights, once and for all.

I am confident continued cooperation among the Indians, the cities, the several vital water interests, and the Federal Government will result in a final settlement and legislative package which we will all be proud to support.

THE POWER OF DRUG DEALERS

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, last week a police officer in New York City was gunned down while he was sitting in his car protecting a witness in a drug scheme of great proportions, killed, murdered at the hands of and at the direction of a drug dealer who gave directions, it is said, from a prison cell. That shows you the extent of the power of the drug dealers of our Nation.

The 99th Congress, the Congress before this one, passed after a great big debate a bill which I introduced to allow the death penalty to be imposed on drug dealers who would dare and who would kill in furtherance of their enterprises. They have killed a judge in Texas. They have killed drug law enforcement officials. They have killed ordinary citizens. Nothing will allow them to be stopped in the furtherance of their criminal enterprises.

Now we have the latest example, a police officer protecting a witness. The time is now to act to provide a jury with a means of imposing the death penalty in such cases.

Mr. Speaker, I urge the Judiciary Committee leadership of the House to allow our bills in this vein to be heard and to come to the floor for full debate.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 74

Mr. HUTTO. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 74.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

APPOINTMENT AS MEMBERS TO NATIONAL COMMISSION ON CHILDREN

The SPEAKER. Pursuant to the provisions of section 1139 of the Social Security Act, as amended by section 9136 of Public Law 100-203, the Chair appoints on the part of the House the following Members to the National Commission on Children:

A: Individuals providing services, activities or research for children:

Mr. Gerald W. McEntee, of Washington, DC;

Dr. T. Berry Brazelton, of Cambridge, MA;

Dr. Donald J. Cohen, of New Haven, CT; and

Mrs. Mary Hatwood Futrell, of Washington, DC;

B: Individuals who are elected or appointed public officials:

From the House of Representatives, Mr. MILLER, of California;

Mrs. Ruth W. Massinga, of Silver Spring, MD; and

Mrs. Martha Griffiths, of Lansing, MI;

C: Individuals who are parents or represent parent organizations:

Mrs. Nancy M. Daly, of Los Angeles, CA;

Ms. Sarah C. Shuptrine, of Columbia, SC;

Mrs. Bernice Weissbourd, of Evanston, IL; and

Mr. A. Sidney Johnson III, of Bethesda, MD.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, March 9, 1988.

MERCHANT MARINE DECORATIONS AND MEDALS ACT

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1430) to authorize decorations, medals, and other recognition for service in the U.S. merchant marine, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1430

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the Merchant Marine Decorations and Medals Act.

SEC. 2. The Secretary of Transportation may award decorations and medals of appropriate design (including ribbons, ribbon bars, emblems, rosettes, minature facsimiles, plaques, citations, or other suitable devices or insignia) for individual acts or service in the United States merchant marine.

SEC. 3. The Secretary of Transportation may award—

(1) a Merchant Marine Distinguished Service Medal to an individual for outstanding acts, conduct, or valor beyond the line of duty;

(2) a Merchant Marine Meritorious Service Medal to an individual for meritorious acts, conduct, or valor in the line of duty, but not of the outstanding character as would warrant the award of the Merchant Marine Distinguished Service Medal;

(3) a decoration or medal to an individual for service in time of war or national emergency proclaimed by the President or Congress, or during operations by the Armed Forces of the United States outside the continental United States under conditions of danger to life and property; and

(4) a decoration or medal to an individual for other acts or service of conspicuous gallantry, intrepidity, and extraordinary heroism under conditions of danger to life and property that would warrant a similar decoration or medal for a member of the Armed Forces of the United States.

SEC. 4. The Secretary of Transportation may issue a Gallant Ship Award and a citation to a United States vessel or to a foreign-flag vessel participating in outstanding or gallant action in marine disasters or other emergencies for the purpose of saving life or property at sea. The Secretary may award a plaque to a vessel so cited, and a replica of the plaque may be preserved as a permanent historical record. The Secretary may also award an appropriate citation ribbon bar to the master and each individual serving on board the vessel at the time of the action for which the citation is made. The Secretary shall consult with the Secretary of State before giving an award or citation to a foreign-flag vessel or its crew under this section.

SEC. 5. (a) The Secretary of Transportation may not award more than one of any type of decoration or medal to an individual. For each succeeding act or service justifying the same decoration or medal, a suitable device may be awarded to be worn with the decoration or medal.

(b) When an individual scheduled to receive a decoration or medal under this Act is unable to accept it, the Secretary may make the award to an appropriate personal representative.

(c) The Secretary may provide at cost, or authorize for the manufacture and sale at reasonable prices by private persons—

(1) the decorations and medals authorized under section 2 of this Act and replacements for those decorations and medals; and

(2) replacements for decorations and medals issued under a prior law.

(d) Decorations and medals authorized under section 2 of this Act may be of similar design as are authorized for members of the Armed Forces of the United States for similar acts or service.

SEC. 6. Except as authorized under another law, the Secretary of Transportation may issue at no cost a flag of the United States and a grave marker to the family or personal representative of a deceased individual, who served in the United States merchant marine in support of the Armed

Forces of the United States or its allies in periods of war or national emergency.

SEC. 7. (a) The Maritime Administrator may issue a special certificate in recognition of service to an individual, or the personal representative of an individual, whose service in the United States merchant marine has been determined to be active duty under section 401 of Public Law 95-202 (38 U.S.C. 106, Note).

(b) Issuance of a certificate to any individual under subsection (a) of this section does not entitle that individual to any rights, privileges, or benefits under any law of the United States.

SEC. 8. Except as authorized by this Act, a person may not manufacture, sell, possess, or display a decoration or medal provided for in this Act. A person violating this section is liable to the United States Government for a civil penalty of $2,000.

SEC. 9. The Act of July 24, 1956 (46 App. U.S.C. 249-249c) is repealed.

SEC. 10. (a) The Act entitled "An Act to set aside certain surplus vessels for use in the provision of health and other humanitarian services", as amended, approved October 22, 1982 (P.L. 97-360; 96 Stat. 1718), is amended—

(1) in section 6, by striking "United States Ship Colonial LSD-18", and substituting "United States Ship Sanctuary AH-20"; and

(2) in section 7, by striking "1989" and substituting "1992".

(b) The United States Ship Sanctuary AH-20 shall be transferred to the National Defense Reserve Fleet.

The SPEAKER. Is a second demanded?

Mr. SAXTON. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from North Carolina, [Mr. JONES] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. SAXTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1430, introduced by the Honorable MARIO BIAGGI, expands the authority of the Secretary of Transportation to issue medals, awards, and decorations to merchant seamen in time of peace, war, or national emergency.

The existing law, enacted in 1956, is commonly referred to as the Merchant Marine Medals Act. It authorizes medals and decorations for outstanding and meritorious service after June 30, 1950, in the U.S. merchant marine. H.R. 1430 provides that awards authorized under the 1956 act be continued and authorizes the issuance of additional awards for service prior to 1950. It also allows the Maritime Administrator to issue a special certificate to recognize merchant seamen who served in World War II.

The bill authorizes the Secretary of Transportation to provide a U.S. flag and a grave marker to the family of a deceased individual who served in the merchant marine in support of the Armed Forces of the United States or its allies during periods of national emergency. Since merchant seamen who served in World War II from Pearl Harbor to Victory in Japan Day have recently been granted veterans' status, and the cost of a flag and grave marker for them will be borne by the Veterans' Administration, future costs under H.R. 1430 are not expected to have any significant budgetary impact.

This bill has administration support, and was reported by a unanimous voice vote.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise, together with the gentleman from North Carolina [Mr. JONES], in support of H.R. 1430, the Merchant Marine Decorations and Medals Act, which would allow the Secretary of Transportation to recognize the merchant seaman who have served our Nation in times of crisis.

This bill would also allow the Maritime Administrator to issue a document in recognition of the service of members of the U.S. merchant marine, which is considered active duty under current law.

I believe that members of the U.S. merchant marine who have served our country during periods of armed conflict and crisis deserves the special recognition that this bill provides.

Mr. Speaker, I urge my colleagues to support enactment of the legislation and join with Chairman JONES in that endeavor.

Mr. JONES of North Carolina. The bill before us, Mr. Speaker, varies from the bill reported from our committee by adding a section to amend Public Law 97-360, which sets aside certain vessels in the National Defense Reserve Fleet for use by a nonprofit organization, LIFE International. LIFE plans to use these vessels to provide medical care and training and other humanitarian services to the people of lesser developed countries. This amendment substitutes the vessel, ex-*Sanctuary,* for the ex-*Colonial,* and extends the time to carry out the purposes of Public Law 97-360 by 3 years. The amendment has bipartisan support.

H.R. 1430 is one way we in Congress can show our merchant seamen that we appreciate their bravery and dedication. I urge passage of this important bill.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 1430, the Merchant Marine Decorations and Medals Act of 1988. I would like to commend my colleague from New York, Mr. BIAGGI, the distinguished chairman of the Subcommittee on Merchant Marine, as well as the ranking minority member of the subcommittee, Mr. LENT, for bringing this measure to the floor.

Mr. Speaker, the Subcommittee on Merchant Marine has worked for many long years to ensure the rights and benefits of our merchant seamen who risked their lives in combat service during World War II. These valiant sailors endured untold losses throughout the long Atlantic passage, yet, sadly enough, for all too long they have been denied the rightful benefits and recognition which they justly deserve. At long last, Mr. Speaker, the Federal Government has succeeded in correcting this injustice.

On December 19, 1988, the Defense Department corrected a clearly unwarranted previous decision by granting veterans' status to merchant seamen who served between Pearl Harbor and V-J Day. I was pleased to join my colleagues in Congress who fought to win this reversal, and I am pleased that we may now take this moment to celebrate the achievements of our merchant marine war heroes.

H.R. 1430, the Merchant Marine Decorations and Medals Act, will extend the authority of the Maritime Administration to grant special recognition and appropriate decorations to merchant seamen demonstrating exemplary service. This measure will ensure that the efforts of merchant mariners no longer go unnoticed and will also make corrections to the law necessary in light of the recent Defense Department decision.

Mr. Speaker, I join my colleagues in calling for the unanimous adoption of this legislation. Let us tell our merchant mariners that we salute their patriotic efforts. They answered our call when it was time to defend the Nation. Now, many years after the fact, we finally have the chance to answer their call for assistance. I urge my colleagues to support the Merchant Marine Decorations and Medals Act of 1988.

Mr. LENT. Mr. Speaker, I rise in support of H.R. 1430, a bill that will finally give some tangible recognition to the American merchant seamen who have supported our Nation in times of national need. This bill authorizes the Secretary of Transportation to award a variety of decorations and medals for individual acts of heroism as well as serve in the U.S. merchant marine.

In January of this year, the administration, acting through the Department of Defense Civilian-Military Service Review Board, determined that service by American merchant seamen during World War II—December 7, 1941, to August 15, 1945—shall be considered "active duty" for the purposes of all of the programs administered by the Veterans' Administration.

This ruling means that 40 years after World War II, American seamen who served during that conflict have finally received the same veterans' status as their comrades who served in the other military branches. It has been a national disgrace that these American seamen, these heroes, who made possible the successful military efforts of our armed services, were never granted veterans' status.

H.R. 1430 also contains a provision that amends a previously enacted law setting aside several surplus Government vessels for use by private nonprofit organizations to provide health care, education, and other humanitarian services to needy nations around the world or in various coastal communities in the United States. This particular section would substitute the surplus hospital ship U.S.S. *Sanctuary* for one of the vessels currently being held in the National Defense Reserve Fleet. The bill also provides 3 more years for the organization interested in carrying out this humanitarian work—LIFE International—to obtain the necessary private funds to modify the vessels and to put them into service. The Merchant Marine Committee has considered various alternatives to this legislation over the last several years, and I believe that this particular section of H.R. 1430 represents an appropriate compromise for LIFE International.

Mr. Speaker, H.R. 1430 was originally introduced by our colleague MARIO BIAGGI, and cosponsored by myself, Chairman WALTER JONES, and ROBERT DAVIS. I urge my colleagues to join us and approve H.R. 1430 as a fitting piece of legislation to award medals and other decorations to our heroic merchant seamen.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in support of H.R. 1430, the Merchant Marine Decorations and Medals Act, which would allow the Secretary of Transportation to recognize the merchant seamen who have served our Nation in times of crisis. Section 7 of this bill would allow the Maritime Administrator to issue a document in recognition of the service of members of the U.S. merchant marine which is considered "active duty" under Public Law 95-202. I believe that it is appropriate to recognize the special contribution of this group.

On January 19, 1988, following the U.S. district court decision in Schumacher versus Aldridge, Secretary of the Air Force, the Department of Defense Civilian-Military Service Review Board granted active duty status to members of the oceangoing U.S. merchant marine who served during World War II. It represents years of determined effort to gain recognition for the merchant mariners who so valiantly served our country during World War II.

The medals and decorations authorized in sections 2 through 5 in H.R. 1430 are designed to recognize particular acts of valor or service. Section 7 would allow the Maritime Administrator to recognize the extraordinary service of this entire group of individuals. The Maritime Administrator is charged with carrying out the U.S. maritime policy, and I believe it is appropriate that the Administrator issue a special certificate which acknowledges the distinctive service of all merchant mariners in periods of armed conflict.

The Coast Guard, Army, and Navy are presently processing the applications of merchant mariners requesting confirmation of their status as veterans under the recent court decision. They will issue appropriate documents to those who are eligible for their use in obtaining veterans benefits. These documents serve an administrative purpose, and were not specially designed to give recognition to the service of oceangoing merchant mariners. The document authorized by section 7 of this bill would be specially designed for this purpose, and would not affect or duplicate the documents issued by these services. In fact, although the DD-214 is essential, I find it both unnecessary and nonsensical to issue a DD-256 or discharge certificate appropriate for members of the Armed Forces to those who served not as members, but as part of the merchant marine only. For example, the Department of the Army will be issuing Army discharge certificates to merchant mariners who served with the Army Transport Service. Section 7 will correct any confusion or ambiguity caused by this situation.

I believe that members of the U.S. merchant marine who serve our country during periods of armed conflict and crisis deserve the special recognition that this bill would provide. I urge my colleagues to support enactment of this legislation.

Finally, section 10 extends the time that certain Government vessels will be available for LIFE International and substitute one vessel on the current list of those available. I urge support for the inclusion of this section for this worthwhile humanitarian purpose.

Mr. BIAGGI. Mr. Speaker, I would like to take a moment to express my gratitude and appreciation to the many Members on both sides of the aisle who supported two legislative initiatives, which I introduced on behalf of our merchant seamen. H.R. 1430, the bill before us today, authorizes decorations, medals, and other recognition for service in the merchant marine. Another bill, H.R. 1235, would have bestowed veterans' status and attendant benefits on those merchant seamen who stood in "Harm's Way" during World War II. Further action on H.R. 1235 is no longer required due to circumstances on which I will soon elaborate.

H.R. 1430 is the result of efforts started in prior Congresses to review the adequacy of the laws that recognize the service of merchant seamen during times of peace, war, and national emergency. The legislation responds to the need to expand the authority of the Secretary of Transportation to issue medals, awards, and decorations.

The act of July 25, 1956—Public Law 759—commonly referred to as the Merchant Marine Medals Act, authorizes medals and decorations for outstanding and meritorious conduct and service after June 30, 1950, in the U.S. merchant marine. H.R. 1430 provides that awards under the 1956 act be continued and authorizes the issuance of additional awards and certificates for service prior to June 30, 1950, and in future national emergencies. It also authorizes the Secretary of Transportation to provide a U.S. flag and a grave marker to the family of a deceased individual who serves in the merchant marine in support of the Armed Forces of the United States or its allies during future periods of national emergency, unless otherwise provided for. It is estimated that the cost of this legislation is minimal.

As I mentioned, further action on H.R. 1235 is unnecessary. Merchant seamen who served during World War II are now classed as veterans. On January 19, 1988, the Secretary of the Air Force—acting for the Department of Defense under Public Law 95-202—announced that merchant seamen who served on oceangoing U.S.-flag merchant vessels between Pearl Harbor—December 7, 1941—and Victory in Japan Day—August 15, 1945—would be classed as veterans, entitled to receive the same benefits as other World War II veterans. This decision was rendered after the Secretary reconsidered his earlier opinions in accordance with orders by the Honorable Louis F. Oberdorfer of the U.S. District Court for the District of Columbia.

I am proud that, as chairman of the Merchant Marine Subcommittee, I was instrumental in highlighting the issue of veterans' status for merchant seamen who served so valiantly during the period of conflict after Pearl Harbor. The hearings revealed the important contributions of merchant seamen. In World War II, the losses suffered by the U.S.-flag merchant marine were staggering. Over 733 merchant vessels were lost in all theaters of operation; thousands of merchant seamen were injured or disabled; 56,662 were killed or missing in action; and 609 spent time as prisoners of war. Their mortality rate of 2.8 percent was just significantly less than the 2.9 percent loss ratio suffered by the U.S. Marine Corps and significantly more than the loss ratio suffered by all other armed services combined. I am convinced that our hearings, in this and the last Congress, provided tangible evidence of an injustice that needed to be rectified.

The representative of the Civilian-Military Service Review Board, while testifying before our subcommittee, agreed that the merchant seamen who transported the articles of war during World War II ought to be recognized. In the same breath, he stated that the law did not permit the Board to do so. Judge Oberdorfer, however, directed a review of that interpretation, and the Board reversed its earlier decision.

I have been advised that as of this date the Coast Guard has over 6,000 applications to process; at least 4,000 more can be expected. To date, a few applications have been cleared, on an emergency basis, for recently deceased merchant seamen for the purpose of granting burial benefits. The establishment of a system for rapidly processing the applications and issuing the appropriate documentation is proceeding in an efficient, satisfactory, and orderly manner. I want to express my sincere appreciation to those individuals in the Army, Navy, Air Force, Coast Guard, Maritime Administration, and the Federal Records Center who are involved in these coordinated efforts. I also want to thank the Coast Guard for sending each Member of both Houses an information packet, so that we can provide accurate and pertinent information to our constituents.

I am pleased that an inequity has been finally rectified, and that my bill, H.R. 1235, is no longer necessary. Finally, I urge passage of H.R. 1430, to show merchant seamen that their contributions to our Nation in war and peace are appreciated.

Mr. BRENNAN. Mr. Speaker, I am pleased to lend my support to H.R. 1430, the Merchant Marine Decorations and Medals Act. This legislation coupled with the January 20 announcement by the Department of Defense approving two merchant marine groups' applications for veterans status, grants long-awaited recognition and benefits to merchant seamen who made great contributions to the Allied World War II effort.

Unfortunately, 43 years have passed for these seamen to achieve veterans status. This group lost a higher percentage of its members in the war than any other military branch besides the Marine Corps. While approximately 250,000 merchant seamen sailed during the war, it is uncertain how many remain to benefit from their new status.

The efforts of individuals to make this status a reality cannot be overlooked. Congressman MARIO BIAGGI, a senior member of the Merchant Marine and Fisheries Committee, has been at the forefront of granting merchant seamen their overdue status. The measure we will soon approve, further recognizes the merchant seamen in conjunction with the DOD ruling of January 1988.

I would also like to recognize an individual who has been equally tireless in his efforts on behalf of merchant seamen—a constituent of mine and past witness before the Merchant Marine and Fisheries Committee in support of this legislation—Mr. Charles Dana Gibson, of Camden, ME.

I urge my colleagues to join me in giving a strong vote of support for this legislation, H.R. 1430, and grant the merchant seamen their long-awaited status.

□ 1215

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill H.R. 1430, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MERCY SHIPS

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, the mercy ships have docked in my beautiful hometown of Charleston, SC. These two ships, the M/V *Anastasis* and the M/V *Samaritan*, are part of the interdenominational organization "Youth With a Mission." They sail to Third World areas of natural disaster and economic need to provide much needed medical care, training, and evangelism.

These are fully equipped hospital, surgical, and dental ships, potentially able to assist in any port city in the world. They bring help to victims of war, natural disaster, famine, and poverty. Mobile teams with portable equipment can go into remote areas. Volunteer crews of doctors, nurses, dentists, technicians, builders, and more have seen duty in dozens of Third World and underdeveloped countries.

They are in Charleston today, at this moment meeting with my staff, to pick up volunteers, cargo, and to raise money. We wish them well while they are with us and praise them for the unselfish and worthwhile work they do.

AUTHORIZING CONVEYANCE OF THE LIBERTY SHIP, "PROTECTOR"

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2032) to authorize the conveyance of the Liberty ship *Protector*, as amended.

The Clerk read as follows:

H.R. 2032

SECTION 1. (a) Notwithstanding another law, the Secretary of Transportation may convey the right, title, and interest of the United States Government in the vessel *Lane Victory*, United States official number 248094, to a nonprofit corporation (referred to in this Act as the "recipient") for use as a merchant marine memorial if—

(1) the recipient agrees to use the vessel as a nonprofit merchant marine memorial museum;

(2) the vessel is not used for commercial transportation purposes;

(3) the recipient agrees to make the vessel available to the Government when the Secretary requires use of the vessel by the Government;

(4) the recipient agrees that when the recipient no longer requires the vessel for use as a merchant marine memorial museum the recipient will—

(A) at the discretion of the Secretary, reconvey the vessel to the Government in as good a condition as when it was received from the Government, except for ordinary wear and tear; and

(B) deliver it to the Government at the place where the vessel was delivered to the recipient;

(5) the recipient agrees to hold the Government harmless for any claims resulting from exposure to asbestos after conveyance of the vessel, except for claims against the Government arising from exposure during use by the Government under paragraphs (3) or (4) of this subsection; and

(6) the recipient agrees to any other conditions the Secretary considers appropriate.

(b) If a conveyance is made under this Act, the Secretary shall deliver the vessel to the recipient at the place where the vessel is located on the date of enactment of this Act, in its present condition, without cost to the Government.

(c) The Secretary also may convey any unneeded equipment from other vessels in the National Defense Reserve Fleet in order to assist in placing the *Lane Victory* in operating condition.

SEC. 2. This Act does not require the Secretary to retain this vessel in the reserve fleet for a period longer than two years from the date of enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. SAXTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. SAXTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2032, introduced by the Honorable GLENN M. ANDERSON, would authorize the conveyance of a U.S. Government-owned vessel to a nonprofit corporation for use as a merchant marine memorial. Existing law requires that surplus reserve fleet vessels be sold consistent with good business practices at competitive sale, after appraisal and due notice. This legislation permits an exception to these requirements. It was reported by the Merchant Marine and Fisheries Committee by unanimous voice vote on February 24, 1988.

H.R. 2032 authorizes the conveyance of the 43-year-old vessel, *Lane Victory*, to any nonprofit corporation. This vessel is one of the many standardized vessels built during World War II, commonly referred to as the "Victory class" of vessels. She is 439 feet in length, 7,638 gross tons, and is powered by a steam turbine of 6,000 shaft horsepower. She is presently in layup status at the National Defense Reserve Fleet in the San Francisco area.

Only one nonprofit organization, the U.S. Merchant Marine Veterans of World War II has expressed an interest in assuming full financial and operational responsibility for the vessel for use as a merchant marine memorial. The memorial would serve to inform and educate the American people about the part played by our merchant marine in World War II, to promote and foster the American merchant marine, and to achieve recognition for merchant seamen who served during World War II.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, today the House is considering legislation which I have introduced that I consider to be straightforward and noncontroversial.

H.R. 2032 would authorize the conveyance of the vessel *Lane Victory* to a nonprofit organization for use as a merchant marine memorial. This memorial would be dedicated to the thousands of merchant mariners who gave their lives during World War II. Such a memorial would also serve as a merchant marine museum to educate the public about the important role played by the merchant marine in winning the war. The memorial and museum purposes of the *Lane Victory* at no cost to the Government is not much to ask for considering the vital and perilous role played by our merchant mariners, both those who gave their lives as well as those mariners still living.

The reason this legislation will not entail any costs to the Federal Government is because the organization which will receive this vessel; namely, the U.S. Merchant Marine Veterans of World War II based in Seal Beach, CA, is required to assume all repair, towing, and maintenance costs once it receives title to the *Lane Victory.* Moreover, this organization has agreed to sign an indemnity and hold harmless agreement to protect the Government from liability claims relating to asbestos. The chairman's amendment to my legislation simply clarifies this existing understanding. I am confident that Chairman JONES' amendment will allay the concerns raised by the administration on the potential for large-scale liability claims against the Government. With the amendment offered by Chairman JONES, there is no reason to worry about the possibility of such claims.

I would also like to point out that the administration had some problems with the authority of the Secretary to consider using spare parts on other National Defense Reserve Fleet vessels for the *Lane Victory.* This legislation does not in any way mandate that the Secretary provide any spare parts from other vessels that may be of use on the *Lane Victory.* We are not saying the administration should not sell other vessels for scrap. However, we are saying that in deciding to dispose of other vessels, the Secretary should not rule out the possibility of providing parts of these other vessels to the *Lane Victory.* I hope I have made this perfectly clear.

Subject to approval, the U.S. Merchant Marine Veterans of World War II intends to dock the *Lane Victory* in the Los Angeles Harbor in San Pedro. The organization plans to move the vessel from the National Defense Reserve Fleet in San Francisco's Suison Bay. Moreover, the organization has made it clear that it intends to fully comply with all inspection and certification requirements of the Coast Guard and the American Bureau of Shipping.

Mr. Speaker, I believe H.R. 2032 is a good bill. Designating the *Lane Victory* as a merchant marine memorial will serve as an appropriate memorial to a special group of individuals that played a key role in winning the war. This designation will also play an important role in educating the public on the history and importance our merchant marine has played. I urge my colleagues to support this legislation.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to join with the gentleman from North Carolina [Mr. JONES] and the gentleman from California [Mr. ANDERSON] in support of H.R. 2032, a bill which was approved by the Committee on Merchant Marine and Fisheries, and as the gentleman from North Carolina [Mr. JONES] has said, authorizes the Secretary of Transportation to convey the vessel *Lane Victory* to a nonprofit corporation for use as a merchant marine memorial.

Frankly, Mr. Speaker, my hat is off to the U.S. Merchant Marine Veterans of World War II, an organization which has taken it upon itself to fund this project and one which will permit the U.S. Government to pay recognition to a group of very dedicated people who served during World War II through funds developed through private organizations.

As introduced, this legislation originally provided that the vessel *Protector* would be made available for this memorial. However, during the consideration of this bill in committee it became clear that the vessel *Protector* would be too expensive to modify. Furthermore, because of its age and the fact that the vessel had too much asbestos in it, it would have to be given a major overhaul, a problem which created too much of a modification. Consequently the vessel *Lane Victory* was substituted.

The legislation would not involve any cost, as I pointed out earlier, to the Federal Government.

The organization seeking this vessel has agreed to pay for all of those costs.

The Committee on Merchant Marine and Fisheries has also added a provision to the bill in response to a specific request from the administration to assure that the Federal Government could not be held liable for any asbestos related problems associated with the vessel. The organization seeking to obtain the vessel has also agreed to this provision.

Mr. Speaker, it is appropriate that we enact this bill to provide a living memorial to American merchant seamen who have served our Nation so valiantly over the years.

Mr. Speaker, I hope that this vessel will help educate American citizens to the critical role that the American merchant marine has played throughout our history, and I might add, will continue to play in the national defense and, of course, in international commerce of our Nation.

Mr. LENT. Mr. Speaker. I rise in support of H.R. 2032, a bill that will make available the ship *Lane Victory* for use as a living memorial to the U.S. merchant marine. This legislation authorizes the conveyance of the ship—currently in our National Defense Reserve Fleet—to a nonprofit organization.

The bill would not result in any cost to the Federal Government. Furthermore, the organization that has expressed interest in this project has indicated that they will bear all costs of any modifications to the vessel that are necessary to make it safe and seaworthy. They will also enter into an agreement to protect the Federal Government from any liability claims particularly relating to asbestos problems that may exist in this vessel.

Mr. Speaker, this legislative proposal is not unique. There are other facilities that have been established to recognize the heroic service of our Nation's merchant seamen. Several years ago Congress set aside a World War II Liberty ship reserving it for use as a museum and memorial. Hopefully, that vessel, the *John W. Brown,* will ultimately end up as a memorial facility for merchant seamen somewhere on the east coast. Another Liberty ship, the *Jeremiah O'Brien,* is located in the San Francisco Bay area and has been operating as a living memorial to merchant seamen. The U.S. Mechant Marine Memorial Chapel, located at the Merchant Marine Academy in Kings Point, NY, is an interfaith chapel consecrated in the memory of the American seamen who gave their lives at sea in service to their country.

This bill would simply set aside one more ship for use as a memorial and living example of our merchant marine. At at time when our Nation is in dire need of a stronger merchant marine, projects like this will help bring to the attention of the American people the service and the role that our merchant marine provides to our Nation.

Mr. Speaker, I urge my colleagues to join me in approving this bill so that we can provide additional recognition for the work that our merchant seamen have performed for our Nation.

Mr. SAXTON. Mr. Speaker, I have no other requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 2032, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize the conveyance of the vessel, *Lane Victory.*".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1430 and H.R. 2032, the bills just passed.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

THE 150TH ANNIVERSARY OF NEW BRIGHTON

(Mr. KOLTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLTER. Mr. Speaker, I rise today to congratulate the citizens of New Brighton, PA, on the 150th anniversary of that borough.

Located in my Fourth Congressional District, on the banks of the Big Beaver River, New Brighton remains one of the most prosperous communities in the area, having staged a dramatic comeback, despite several years of hard economic times.

New Brighton, my hometown, is celebrating its sesquicentennial this year, 1988, under the leadership of the same local men and women who have helped New Brighton remain successful.

The festivities are being held from May 27 through June 4, 1988. The celebration committee's Third Avenue headquarters is, however, opening this coming Saturday, March 12, 1988, with a ribbon-cutting ceremony, a performance by the high school band, and a few remarks from local citizens. This is where the real celebration will begin—with the hard work of those citizens who care so much about their community.

New Brighton Borough, in Beaver County, PA, was founded by rugged men and women who built a town near the edge of the frontier. Today, New Brighton continues to be strong by following in the tradition of those rugged founders. Its citizens today are building a future for themselves, as well as for their children and grandchildren.

I therefore stand before the full U.S. House of Representatives today and pay tribute to New Brighton on its sesquicentennial.

THE COMMITMENT OF THE UNITED STATES TO THE MUJAHIDIN IN AFGHANISTAN

Mr. DREIER of California. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks and include extraneous matter.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Speaker, reserving the right to object, I shall not object, but I do so to inquire of the Chair whether or not the Chair has any idea of whether or not we have completed the legislative business for the day and just exactly what it is we are doing here.

The SPEAKER pro tempore. The Chair will announce that if the gentleman remains, he will have the opportunity to adjourn the House just as soon as special orders are over.

Mr. WALKER. In other words, this gentleman has a special order, so I could plan on having that special order very quickly because the business of the House has been completed for the day at 12:30, is that correct?

The SPEAKER pro tempore. The Chair announces that it will be after special orders.

Mr. WALKER. I thank the Chair, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I take the well today to say that I am very concerned about the fact that the House of Representatives today did not bring up one of the three very important resolutions which had been introduced in this Congress to reaffirm the commitment of the United States of America to the Mujahidin, the freedom fighters in Afghanistan.

Mr. Speaker, I understand that today in the Committee on Foreign Affairs there was some dispute over whether or not we would bring it to the floor, and the decision was made that we would not bring it to the floor today.

□ 1230

I think that is a real mistake and I would like to point to an important article which appeared on the front page of today's Washington Times. The headline reads: "Kabul plans to remain in embrace of Soviets."

In that article an interview that took place in New Delhi yesterday, the Afghan Ambassador to India, Mr. Abdul Azhar made clear that Afghanistan's Communist government will continue to rely on military and economic assistance from Moscow if necessary to stay in power following a Soviet troop withdrawal. He also stated that if the United States cuts off its aid to the Mujahidin then the Afghan army would be strong enough to defend the Kabul government without Soviet troops.

Mr. Speaker, these admissions by an official of the Soviet puppet government in Kabul should have removed any reservations which any of our Members might have had concerning President Reagan's support of the Mujahidin in Afghanistan.

I believe it is important to point out that the Senate acted very expeditiously last week and by a vote of 77 to nothing unanimously passed a strongly worded resolution in support of the Afghan resistance. This action comes at a very critical time, Mr. Speaker, in the U.N.-sponsored negotiations in Geneva as they proceed.

The House should follow suit. President Zia desperately wants to have an interim government as we seek to bring about some kind of agreement in those talks before the Soviets completely withdraw their troops. We all hold out hope. We all want to see it happen, but we know throughout history that it is critically important as we address this for us to do everything that we can to reaffirm our commitment to these brave and courageous Mujahidin.

Mr. Speaker, I include today's article from the Washington Times.

The article follows:

KABUL PLANS TO REMAIN IN EMBRACE OF SOVIETS

(By Richard S. Ehrlich)

NEW DELHI, INDIA.—Afghanistan's communist government will continue to rely on military and economic aid from Moscow if necessary to stay in power after a Soviet troop withdrawal, the Afghan ambassador to India said yesterday.

Ambassador Abdul S. Azhar's statements were the first public confirmation that the Kabul government hopes to stay closely tied to the Kremlin after Russian troops depart.

The current regime intends to retain control of the presidency, the Defense Ministry and the Interior Ministry, Mr. Ashar said in a one-hour interview in the Afghan Embassy.

U.S.-backed mujahideen guerrillas and other "opposition people" can share other positions of power after a Soviet pullout, the Afghan ambassador said.

Meanwhile, in Geneva, Zain Noorani, Pakistan's minister of state for foreign affairs, served notice to the United Nations mediation team, that, after a weekend of deliberations, his government still regards an accord on an interim government as a prerequisite to any treaty signed as a result of the proximity talks there.

Officials in the Swiss capital continued to insist that this week is crucial for resolution of the problem of the massive Soviet presence in Afghanistan.

In Islamabad, mujahideen alliance chief Maulavi Younis Khalis again rejected any accord that leaves the communist regime in place, saying the mujahideen would never accept Soviet proxy rule in Afghanistan.

"There is no such thing as an acceptable third-party government if that government is going to be made up of anti-Islamic elements," he said.

Also, alliance sources said one of the alliance leaders, Sibghatullah Mujaddedi of the Afghan National Liberation Front, unexpectedly resigned yesterday from his party's leadership and membership in the alliance.

Mr. Mujaddedi was reported to be at odds with his colleagues in the alliance and also did not agree with the Pakistani government on certain matters, according to Agence France-Presse.

He is considered in favor of the return of Afghanistan's former king, Zahir Shah. But the alliance has rejected any role for the former monarch in Afghanistan's leadership after a Soviet withdrawal.

Mr. Azhar, asked if the Kabul government would continue to receive military and economic aid from the Soviet Union after Russian troops leave, replied:

"I believe the answer is obvious. The Afghan government has the right to receive any kind of help from any country which suits its national interest.

"We will continue receiving all types of assistance which we feel necessary from the Soviet Union," Mr. Azhar said.

"If we feel it necessary, we will not hesitate to receive military aid from the Soviet Union," he added.

"But this does not mean that we will stick to receiving aid only from the Soviet Union. Any country which can offer to us favorable conditions of aid, especially economic aid, we will welcome it.

"Those who are talking about cutting military aid from the Soviet Union to Afghanistan, they are considered to be interfering in our domestic affairs against our sovereignty," Mr. Azhar declared.

"Our friendship and cooperation treaty with the Soviet Union goes back to 1921. We received several types of assistance—military, economic and cultural—from the Soviet Union, and we will continue in the future too," the Afghan envoy added.

"Do we have the right to ask Pakistan not to receive arms from the United States? I don't believe we have this right. We can just say [that the] arms Pakistan receives from the United States [upset] the stability in our region. But we can't force the United States to cut their aid," Mr. Azhar said.

He said that if the United States cuts off aid to the mujahideen, then the Afghan army would be strong enough to defend the Kabul government without Soviet troops.

Washington gave an estimated $700 million in military and humanitarian aid to Afghanistan's Moslem guerrillas last year.

Negotiations are at a decisive point in Geneva on an international agreement committing an estimated 115,000 Soviet troops to withdraw from Afghanistan.

The anti-communist Moslem guerrillas have rejected Kabul's offer to share power. They vow to topple the communist government after the Soviet's withdraw.

Four of the factions in the Peshawar-based, seven-party alliance are Islamic fundamentalists, dedicated to the establishment of an Islamic state, while the other three simply want a return to traditional regional and ethnic rule.

Kabul recently unveiled a new constitution, modified its land-reform program, opened the nation to foreign investment and endorsed Islam as the nation's religion, Mr. Azhar said.

"We are against [Islamic] fundamentalism. That is the only thing we have not introduced in our constitution, and I do not believe [U.S. supporters of the Afghan resistance] will be in favor of that," Mr. Azhar said.

The People's Democratic Party of Afghanistan, as the communist organization is called, has the only trained personnel able to administer the country, Mr. Azhar said, and they must retain positions of power after the Russians leave.

"Suppose the PDPA goes aside and leaves the field for the opposition groups. It would . . . leave the country to continuous civil war for decades an there would be no power to control them, because we know their differences, their trends, ambitions, and they are the ones without any platform for the future of Afghanistan," the ambassador said.

Mr. Azhar said the PDPA's "experienced cadres, army and police force and administration" have good relations with trade unions, youth groups, peasants and others, and thus could ensure a smooth transition after the Russians leave.

If the mujahideen seize power, the fate of Afghans "on the side of the revolution" would be in jeopardy, he said. "Najibullah is our president. He will remain president," Mr. Azhar concluded.

(Andrew Borowiec in Geneva contributed to this article, which is based in part on wire service reports.)

PERMISSION FOR HOUSE TO CONSIDER CERTAIN RESOLUTIONS ON WEDNESDAY, MARCH 9, 1988, AND MARCH 10, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it shall be in order tomorrow, Wednesday, March 9, 1988, and Thursday, March 10, 1988, to consider in the House, House Resolution 397 regarding the situation in Panama and House Concurrent Resolution 259 regarding a free press in Paraguay.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Mr. Speaker, reserving the right to object, first I assume that this has been checked with the Republican leadership on the committee, is that correct?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, yes; this has been discussed with the leadership on the gentleman's side.

It might be relevant to point out that these resolutions were reported by the Committee on Foreign Affairs by unanimous votes on each one.

Mr. WALKER. Further reserving the right to object, it is also my understanding we are going to consider these in the House; they would not be considered under suspensions of the rules, is that correct?

Mr. FOLEY. The gentleman is correct, they will be considered in the House.

Mr. WALKER. Furthermore, can we get some idea of what the scheduling of these bills will be?

Mr. FOLEY. Mr. Speaker, I assume we will do the resolution on Panama tomorrow and the resolution on Paraguay on Thursday.

Mr. WALKER. Mr. Speaker, in both cases I assume that the House will not take very long each day on those.

Mr. FOLEY. The gentleman is correct. I think the assumption can be made that it will be a brief schedule on both days.

Mr. WALKER. Mr. Speaker, I thank the gentleman and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. DREIER of California. Mr. Speaker, reserving the right to object, I do not plan to object, but I would simply like to ask of the majority leader why it is that we cannot bring up the resolution dealing with our reaffirmation of support of the Mujahidin in Afghanistan?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, the bill has been referred to the Committee on Foreign Affairs and to the appropriate subcommittee. We are very reluctant, of course, to interrupt the committee consideration of legislation appropriately in its jurisdiction. So we would assume that action on that bill will be taken at an appropriate time after being reported by the Committee of Foreign Affairs.

Mr. DREIER of California. Mr. Speaker, I am happy that the majority leader agrees with me that it should be taken as expeditiously as possible.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

ERNEST L. CUNEO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I rise to pay tribute to Ernest L. Cuneo, Washington, DC, lawyer, author, and newsman, and a leader in the ethnic community, whose death on March 2 was a tragic loss to those whom he served so faithfully for more than 50 years.

Ernest Cuneo was a man of great vision, and he was a pioneer in seeking recognition and acceptance for all ethnic Americans participating in the American political process. He contributed his time, money, and energy to achieve these objectives, and many of the plateaus which ethnic Americans have reached in their assimilation into American culture are a legacy to his dedicated efforts.

Born in East Rutherford, NJ, Ernest Cuneo received his bachelor's and law degrees from Columbia University. In the early 1930's, he moved to Washington, DC, where he served as legal assistant to Fiorello LaGuardia, who was then a Republican Congressman. He later practiced law, and also served as the associate counsel for the Democratic National Committee.

During World War II, Ernest Cuneo served our country with distinction in the Office of

Strategic Services, the predecessor of the Central Intelligence Agency. He was appointed to serve as liaison between the OSS, British intelligence, the Federal Bureau of Investigation, the State Department, and the White House, where he became a familiar member of President Roosevelt's "brain trust."

In the 1950's, he acquired the North American Newspaper Alliance, and served as its president until he sold it in 1963. From 1963 to 1980, he continued as a syndicated columnist and military analyst for the Alliance. He also served as director of Freedom House and the Woodrow Wilson Institute for International Scholars. In addition, he authored several history books, and was a member of the University, Overseas, and National Press clubs.

Although Ernest Cuneo did not actually wear a uniform or serve in the Armed Forces, in recognition of his tremendous service to President Roosevelt and the American people during World War II, President Reagan granted an exception to allow his interment as a civilian in Arlington National Cemetery.

Ernest Cuneo was a dedicated and devoted American, who cared deeply for the ordinary citizen in our country, especially immigrants who came to our shores seeking freedom and a better life for themselves and their families. He will be sorely missed by all of us who know of his numerous contributions and outstanding service to the American people.

Mrs. Annunzio and I extend our deepest sympathy to the members of his family who survive him.

MY ADVICE TO THE PRIVILEGED ORDERS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, yesterday at the last minute or the conclusion of my remarks yesterday, I asked unanimous consent to insert in the RECORD an article that appeared in the current American Way which is a publication of the American Airlines that air passengers on American Airlines have the pleasure of reading. This article is one of the most interesting and at the same time enlightening with respect to the omnivorous mastodons of financial corporations biting each other, fighting each other and consuming each other all in the name of speculative greed, with not one cent of the vast resources of financial banking credit tied up in these great struggles used for any creative job-producing production in manufacturing assembly lines at all. It is all paper, omnivorous, as I said, these giant allegoric corporations struggling to take over more, ward off, and in these endeavors some very heart-rending experiences.

This is one of the five money manias that I have attempted to describe during the last 15 years as flagellating our country to the great detriment of its common good, to the eventual destruction of hundreds of thousands of small businesses that have disappeared from our economy and continue to do so at record rates.

There comes a time when a point of absorption is reached. Some of us have been predicting this point. Some of us have been trying to offer anticipatory suggestions and legislation, and the record will show that I have not only introduced such legislative suggested action but that I have spoken on the subject matter and almost ad nauseam.

But because of concern, yesterday I was impelled to rise because of the most immediate danger as I see it to the future of our country with respect to its neighbors that share the New World. But all of these developments are tied in. They are not isolated developments.

Just like our so-called defense bill, which really has turned out to be a war budget, a war bill, that consumes better than $315 billion of the Nation's resources in those ventures that particularly this President has embarked the country that may never once ever be developed much less deployed, in the meanwhile to the detriment of the flesh, bone, sinew and muscle of any defense system of any country at any time, and that is the human element.

How our country has embarked during the last 7 years in a retrogressive path with respect to such things as educational opportunity programs, our so-called adversaries have marched along different lines. As a matter of fact, as I have pointed out before, one reason that a country that 60 years ago was sunk in the backwardness of primitive peasantry and today emerges as a leader in such things as petroleum production, where it has outstripped us in such things as other vital productive efforts.

But why? How could this have happened? How could we be outproduced in petroleum? Just a few years ago, at least a decade and one-half ago, we were No. 1.

One reason is that we have failed to analyze, and I think this is always a fatal flaw, the resources and the reality of that external world which includes what most of our leaders have for several decades considered to be our No. 1 adversary. I have for one never looked upon it that way, but when we recognize just why and how did a country such as the Union of Soviet Socialist Republics emerge from this backwardness and challenge us on all fronts from petroleum production to space, and outstrip us, and it looks to me that what we have not been willing to do is analyze the bad points, which we always harp about, nor the good points, or those factors that contributed to this advancement.

I think one is basically the 17-year plan of 1940 in which in that typical fashion a plan was devised, and then draconianly enforced, and that was to provide education to any citizen in the Union of Soviet Socialist Republics from the lowest to the highest grades, to anybody, young, old, middle aged, no matter what occupation, student, laborer, if he or she so desired and developed the competency. The demand was so great at the end of the first year of the announcement of the 17-year plan for educational enhancement that the Russian Politburo and their Congresses, because they have two Congresses, one based on regional representation or what we would call State representation and the other on as we do ours, population representation, then devised a 5-year ad hoc plan for the construction of classroom space.

□ 1245

So that the 17-year period was up in 1957 and it was on October 7, 1957, that we saw, to our astonishment, their putting up sputnik as they called it. Certainly there is cause and effect. There is more than a causal relationship between these determined efforts and the results.

On the other hand, we in our country in the last 7 years alone have turned back what some of us had participated strongly and energetically in in the middle or early 1960's to bring about an enhancement of opportunity, with the first national education program. I think my colleagues ought to realize that our history is very dreary; any effort that had been made through the years for a national educational program was shot down because of the church/state conflict and because of the constant fear of Federal encroachment into what we have always considered our purely local educational processes.

So it was not until after the death of President Kennedy, because before that President Kennedy's efforts were all shot down; what everybody does not realize but which I remember vividly because I was in the middle of it, was the extent of the hatred expressed toward John Kennedy and his administration. I have in my files the volume of hate mail that I received, I alone, from my district which at that time consisted of the entire county and was the second largest congressional district in the country, the volume of hate mail. Of course, with his death and the trauma of his death, that has been overlooked.

Everybody today considers him to have been the quintessential symbol of American youth and promise and hope; but actually at the time he died in November 1963 for the first time in peacetime not one appropriation bill had been approved.

Among my colleagues then there were great expressions of vituperation and hatred toward the President. So he was the first, for instance, who wanted to have a Department of Housing and Urban Development. Two times he sent it and two times it was shot down.

He was the first to offer a comprehensive program of national assistance for education and it never got anyplace.

It was not until his death and the skill of Lyndon Johnson who took advantage of the fact that the tide was turning that we then enacted the 1965 Elementary and Secondary School Act of which I am coauthor, and the 1964 Economic Opportunity Act or the so-called war on poverty.

So that in my district alone, for instance, where we had had a dropout rate of over 80 percent among what we used to call Latin-American or Mexican-American youth, in a matter of 10 years with the assistance of the bulk of the programs that we devised in 1964 to target in, the work study, neighborhood youth programs, we enabled those kids not only to stay in school but for the first time developed a cadre to go on to college and who are today professionals, adding to the wealth of our country, adding to the tax revenues of our government. Architects, doctors, dentists, engineers.

Before you had two or three or none at all in these categories. In a matter of 10 years we reversed the dropout rate from over 80 percent to less than 20 percent.

In just the last 3½ years, that dropout rate has again increased and gone over 26 percent. Tell me that there is no cause and effect. Tell me that government programs do not work and I will give you the facts and the figures and the statistics, not a lot of soft talk on ideological basis.

So that with this concomitant rise for the demand for sophisticated technological knowledge, we have a reduced horizon of opportunity for the youth who do not have the financial means to go on to college. And it has reached the point now where no middle-class family can afford to have more than one kid in a college today where the average tuition is in excess—and I am very conservative—of $10,000.

So how can we, how can we prevail? It is obvious under these conditions we cannot.

In the meantime, where have we placed the priority? Well, we have increased the defense budget, so-called defense budget exponentially; we have decreased the so-called domestic side.

Then the defense budget and all of the defense discussion—because I will not esteem this by calling it a debate—we have never had debate anymore than we had real debates on such things as Central American policy, anymore than we had in the sixties on the other, because it all came down to "Are you going to be loyal to our Commander in Chief in our great hour of need? Or are we going to be soft on communism?" Instead of targeting in on what the reality of this external world is.

So what is $315 billion of defense budget predicated on? Over 65 percent of this budget is predicated on quote, unquote, "Defense of Europe."

Now nobody has discussed that. As far as I know the record will show I am the only one who since 1964 asked that, what I consider to be, $64 question. At that time the defense budget total was less than $50 billion, much less.

My question was, and I still get the same answer: How much of this is for the so-called defense of Europe? And every one of the answers from the distinguished subcommittee chairman on Appropriations or chairmen of committees were, "We can't tell you exactly because it is diffused through the budget. We have some research and development that ultimately will be targeted for the defense of Europe."

But what disturbs me the most is that our mind-set, when we speak of Europe and its defense as expressed by our President and prior Presidents, leaders in and out of the Congress is of a Europe of 1947-49, which has long disappeared.

We are now living in an era in which a generation, untested by war, wholly ignorant of the pain, blood and losses of World War II or, for that matter, in our country Vietnam, Korea, an average 20-year-old, 25- or 30-year-old today has only history to think of to get his idea, much less the depression.

So that with this void and with the thinking that we are predicating all of this in a Europe that no longer exists, a Europe that has at this moment over 315,000 of our servicemen, a Korea that has over 45,000 of our servicemen, as related to a world that no longer exists out there.

As a matter of fact from the financial standpoint—and remember that we are taxing the American people for $315 billion for this defense budget of which 65 percent-plus is for the so-called defense of Europe—if you read today's thinking as expressed by the Western European countries, West Germany, France, which no longer and for many years has not been part of so-called NATO; British publications, but more particularly French and German, and now the European Community, you will find that they are saying, "Well, wait awhile, it never was envisioned that the United States would reach this level or proportion of involvement in Europe." What is the big struggle right now in Europe? The deployment of our missiles, and the dismay that appeared after the Reykjavik so-called, summit disaster for us, among the European leaders. But before this, coming events cast their shadows, was a so-called pipeline from Siberia to Western Europe which I spoke about here before the President announced that he was going to demand an embargo of Germany, France, West Europe, to embargo their construction of this pipeline all the way from Siberia, bringing in Siberian natural gas.

The President all of a sudden did not say anything more. Why? Well, I brought it out, I made three different addresses to the House, but the reason was that the firm based in the Ruhr and controlled by the leading oil and gas companies who in turn financially, actually—we have such an incestuous situation in our financial world where through these interlocking corporate directorates it is hard to distinguish the chairman of the board of Standard Oil, California or Chase Manhattan or the Bank of America—in this case, Chase Manhattan controlled, through what they called Ruhrgeist, which was the name of the corporation, the controlling financiers for these oil and banking interests. They were not about to let the President stop that pipeline which, incidentally, American technology to a certain extent and American supplies helped construct. So this is how involved what appears to be a simplistic approach to anticommunism, for example, is when you look at the utterances of these vast financial interests and their leaders, when a Poland where our banks invested quite a bit of money in the so-called Iron Curtain bloc counties—and so has West Germany—we have billions of dollars involved and the biggest fear, when the so-called Solidarity Divisiveness arose in Poland, was not about whether the Russian influence was going to dominate or whether Poland was occupied or not; the question was, "Are they going to be able to pay us the interest on our loans?" And as David Rockefeller said on one of the trips back, he said, "You know, not all communist countries are bad," meaning we can do business with some. Well, of course, but in the meanwhile what is happening to our political and our international politics and relations?

□ 1300

Well, we have conflicts which have reduced America's leadership to the point where the newspapers last week, when the President went to the so-called NATO or European meeting, they all headlined the fact that it was Maggie Thatcher who took over the leadership. We knew that before when we had the economic summit meeting in Italy. In 1986 or 1987, the economic summit meetings revealed clearly our bankruptcy, but we had been predicting this since 1975 and 1976, when the then Republican administrations pushed through the consequential acts of the devaluation of 1971 by President Nixon.

Now, the extent of our obliviousness to this is that not one newspaper in the United States ever described the 1971 action by President Nixon as devaluation. Some did say that we went off the gold exchange system but actually it was devaluation.

Less than 2 years later, we had a second devaluation. We in the Congress had to pass—at that time there was still some semblance of accountability—specific bills that came through the subcommittee that I was chairing and which I resisted, in which we were setting the value of the dollar still based on this question of gold and which was clearly a devaluation resolution. We had to pass two. They never were publicized. They were passed over my negative vote, just like the repeal of the 1932 Gold Act was passed over my objection, was rammed through with no protection, just like before 1932, no protection to those interests that would soon be speculating in the most controlled, contrived market in the world.

So I was not surprised when years later, just a few years ago, the billionaire Hunt brothers of Texas tried to engage in a contest with these European 400-year experienced foxes of finances and lost their shirts. But was it their shirts? No. It was better than 30 billion dollars' worth of banking resources, resources that our people and that our Government and that our laws have said were and should be for the public interest; that is, credit to fuel the engines of manufacture and production, credit to allow the small businessman to be able to borrow at reasonable and not usurious and extortionate rates as he has had to do and is still doing.

All history, as I have said repeatedly on this House floor, all history shows that no society failing to control usury has endured for long, at least not as a viable, healthy society.

So what has the Congress done? Of course, it has been frustrating to get up here and talk, and as some people derogatorily or pejoratively describe it as speaking to an empty Chamber, realizing that long before these proceedings were ever thought of being televised, I did the same thing, because these are integral processes of the proceedings of the House. It happens to be a system devised back some Congresses ago for the purposes of allowing a Member of a multiple body, such as the House, an opportunity to enlarge, which he cannot do during regular business because of the necessity of controlling time and debate. So this is a privilege afforded a Member after all legislative business has been completed or any previous special orders.

They are unanimous-consent requests made by a Member to afford the opportunity to communicate and enlarge on some given subject matters and issues with his colleagues for the RECORD, because these proceedings, to the glory of the House of Representatives and the Senate of the United States, are printed each day.

Now, I have had the great privilege, very few Americans have had these privileges relatively speaking. I have served on the local legislative body, the city council of the city of San Antonio, at a time when we had to run at large. We did not have the individual little pinioned off districts.

Then I was highly honored, I guess the highest honor a man could expect, to have been elected to the State senate of the State of Texas, the State legislative body, and then here to the Congress, going on 27 years. In a democracy, there cannot be any higher honor than that. That is the reason I am motivated to go away and separate myself from my normal chore on my assigned committees and enlarge on these areas because of concern, because I really fear that since our system is not a self-perpetuating system, we have got to work at it and it is fragile. It is a lot more fragile. Liberty always must be won by each generation. Freedom and liberty are never won permanently by a people. Those forces that exist in every society are ever present. They are like bogacytes, or germs of activity invading an organism, and if we do not have that helpful antibody to combat it, of course we will suffer the loss of health, of a healthy democracy, a healthy participatory democracy.

These are the only reasons I have taken this floor on the occasion of the murder of a Federal judge, unprecedented before and unprecedented since, never in the history of the judiciary of America had a judge been assassinated by evil forces that have crept into our society, where we can barely even begin to extricate them because they are so embedded now, they are so encrusted in otherwise honorable fronts and business in society.

It is going to take everything we know how to keep the health of our Nation. We are not winning that fight because crime and enough powerful people in business and Government have made a ghastly, odious companionship.

So I spoke on this for 2 years. That murder was going to lapse into oblivion just like the disappearance of Jimmy Hoffa, and let us never forget that if we allow a society that cannot fathom such things as the crime of the murder, obviously, of Jimmy Hoffa is indeed a sick society.

So these are things I feel keenly about. When I see the financial side, it is no pleasure for me to say, and I am not saying it boastfully, that no one has ever gotten up and asked the chairman, "Hey, wait a while. What about this budget? What portion is for the defense of Europe and to what extent? What is the nature of the commitment? What is it predicated on?"

The universal opinion in Europe today is that that has collapsed. We are not at all acting in awareness of that very disturbing act.

Now, behind all that is finances, money. Ever since the disarray in the world exchange markets leading to the collapse of the so-called Dumbarton Oaks arrangement or Bretton Woods which collapsed, and it was finally so decided in 1971 with the decision by President Nixon to remove us from the gold exchange system, as they called it, and devalue the dollar.

Just 3 weeks ago, there was great convulsion in these areas such as mine and others throughout the country where the military bases have certain indispensable activities and are outposts of our national defense system. There was great trauma, because suddenly they said, because of the budgetary exigency, we are going to have to separate so many employees. We are going to have to reduce this and have to reduce that.

One item stood out, which alone would have prevented this, and that was several hundred million dollars' worth of added cost to us because of the fall of the dollar, the devaluation of the dollar, which is very difficult to say because we do not live in a world where we have fixed references. We do not have any fixed signposts as we used to have and a system which was created here in the United States with the venture of some of the European nations, but which we never really won, because those big private financial international wizards, known as the Bank for International Settlements, based in Basel, Switzerland, carried the day. They did everything they could to prevent Bretton Woods from being the total success that would have ensured a viable comity between nations in their relationships as to the worth of their currencies and where there would not be exploitation of all by a few. That has not been prevented.

We have yet to feel the complete impact of this sell out.

Now, I am on record before there was any such thing as coverage of these proceedings, I was as I am today addressing the record for the sake of those colleagues who might be interested enough to pursue the subject matter and who probably could develop greater expertise than I. I do not claim to be an expert. I am just saying I have been placed as a member of the Banking Committee now for almost 27 years and the ranking member of this committee today in a position where I have been charged with knowledge and because I have been interested in the subject matter assigned to me and have gone into it and made these studies and have developed some knowledge as to the facts, not the theorems, and where 2 plus 2 equals 4, and not as our experts in 1981 were telling us that 4 minus 2 would equal 6.

So today we are in confusion. Our councils are confused, confusion compounded with confusion, and it goes back to the fact that the American people and the greatest interest of the greatest number have been sold out, sold down the river, and their representatives almost oblivious of the fact, and those elected to great executive positions captives of the very great interests that he brought about.

So what to do? Well, some of us have been advancing for 20 years amendments to the Federal Reserve Board to make the Federal Reserve Board accountable to the Congress that created it, to the people, if you please, make it accountable even to the executive branch. It is totally unaccountable.

The myth that it is independent and must be perforce so is a myth that is costing our country everything. It is costing its fiscal well-being, its monetary well-being, where in the last 3 years our country has gone into the debtor class, from a creditor nation to a debtor nation.

□ 1315

We have been a creditor nation since 1914, and that was true until 3 years ago. We are now a consuming Nation. We import more than we export, and more than we produce.

How could that be? Because the war has been lost at the financial tables.

Nothing pained me more during the struggles of the 1960's than to see these young men doing their duty, and they were not happy about it any more than the renegade was, but they did it and some of them died and then to see that at the financial tables whatever it was they thought they were struggling for had been subverted. They had been betrayed even with the best of intentions.

So where are we today? We could not get any progress underway. When I offered a bill that would enlarge the membership of the Federal Reserve Board so we could have other than private bankers, and by the way, those being the giant bankers who control, they are the Federal Reserve today as we know it. Should we be surprised when decisions of that sort are made? They do not have to run for office, they do not have to account to us who do get elected by the people.

I have served on the Committee on Banking, Finance and Urban Affairs for a long period of time, long enough to have seen seven different Chairmen of the Federal Reserve Board come and go, and every one of them are pawns, they are powerless to do anything about these vast interests that escape any kind of responsibility.

So then we must accept the doctrine of infallibility. But is this human institution infallible? Of course not.

Can we accept that there has been no wrongdoing? No. There has been and when some of us introduced a bill to provide for an audit, we were fought tooth and nail. One would have thought that we were committing high treason. So there is no accounting.

The Federal Reserve Board has no inspector general. Mr. Speaker, some 10 years ago I stumbled across an act of malfeasance by a member of the highly private and powerful Open Market Committee, so-called. Why they call it Open Market Committee, I do not know, because it is closed.

However, through a very fortunate leak, two banks in New York profited by hundreds of millions of dollars. By the time we tried to get some attention on the subject matter, we finally did through the importuning of the chairman then, by getting the Chairman of the Federal Reserve Board to promise by his saying that they were going to get an in-house committee, and they were going to look into that.

One year later I demanded the results of that investigation, and finally those results came in but in the meanwhile the Member who came from the Philadelphia area died so that that ended that matter. When we got the report in a couple of years later, I placed it in the CONGRESSIONAL RECORD, because what they said was that indeed there was an unfortunate leakage but it was accidental.

Mr. Speaker, how many more of these incidents were there? What impact does that have on all of us?

It might sound remote and esoteric, but it has a direct and an immediate impact on all of us, and the thing that is on the balance and has been on the balance for 20 years no less, is our vaunted American standard of living. This is what is at stake. The fact is that through extortion at usurious interest rates as the chief weapon, we have undermined the complete viability of our economic system. But who is going to bell the cat?

As I have said, I have spoken out, and I have criticized but I have also offered specific recommendations even in the form of bills that have been introduced. They were not drafted overnight. They took time in getting together with the drafting experts and with the Congressional Research Service and with some of the private banking community that realizes the extent of the problem, but we could not even get a hearing even in my own committee.

So where are we today? Today, as I indicated by insertions in the CONGRESSIONAL RECORD of yesterday, and today I would place in the RECORD at this point an article from the business page of the New York Times at page D-1, an article in the right-hand column entitled "$3.8 Billion Buyout Set for Ward." That is Montgomery Ward, I would add.

Then further, "Deal To End Mobil's Troubled Move into Retailing Business."

Mr. Speaker, I include for the RECORD the above-referernced newspaper article.

[From the New York Times, Mar. 8, 1988]

$3.8 BILLION BUYOUT SET FOR WARD—DEAL TO END MOBIL'S TROUBLED MOVE INTO RETAILING BUSINESS

(By Julia Flynn Siler)

CHICAGO, March 7.—In a move that signals the successful turn-around of one of the nation's oldest and largest retailers, Montgomery Ward & Company will be bought from the Mobil Corporation in a leveraged buyout valued at $3.8 billion.

The buyout group, led by Ward's chief executive, Bernard F. Brennan, will buy Montgomery Ward for $2.3 billion of the retailer's debt.

The deal will end Mobil's troubled diversification into the retailing business, which began when it acquired Montgomery Ward 12 years ago. On the New York Stock Exchange, Mobil's stock rose by $1.125 today, to $44.75, in busy trading.

'A SIGH OF RELIEF'

The Montgomery Ward buyout signals the "end of an era of unsuccessful efforts by oil companies to diversify," said Sanford L. Margoshes, an analyst at Shearson Lehman Hutton, Inc. in New York. "Mobil's people were always alien to retailing," he added. "Clearly there's a sigh of relief to be rid of Montgomery Ward on their part."

The buyout group includes the General Electric Capital Corporation, a unit of General Electric Financial Services, and Kidder, Peabody & Company, another unit of the General Electric Company. Recently, Wall Street professional said that Kidder, Peabody had been brought back into the deal after a dispute with G.E. Capital threatened to end its role.

A group of about 40 senior managers from Montgomery Ward will buy initial equity stakes in the company, people close to the concern said. Mr. Brennan said he had invested a "substantial" portion of his own net worth in the retail concern. He added that the group had no plans to take the company public in the near future, nor to sell any assets other than its credit card operation. The transaction is expected to be completed within 60 days.

To help finance the deal, the investory group said it would sell Montgomery Ward's private-label credit-card operations for an undisclosed price to G.E. Capital, which already owns and operates a similar operation. The merger of the two operations would roughly double the size of G.E. Capital's credit-card operation.

The sale would also relieve Montgomery Ward of the obligation to finance purchases made on the company's credit cards, a burden that reached about $3 billion last year. Thus, Montgomery Ward's management team would be able to concentrate its efforts on the company's retail operations and the Signature Shop, its direct-mail operation.

"Our relationship with G.E. Financial Services will give us the financial flexibility to move forward in a very aggressive way with our specialty-store strategy," said Mr. Brennan, who described the diversified financial company as a "substantial" investor in the buyout. "This is not an LBO that simply says, 'Let's shrink the company.' " he said. "This is an LBO that says 'Let's grow the company.' "

Specifically, Mr. Brennan said that the company, which has stores in 39 states, planned to open or convert 50 retail stores this year to its specialty-store strategy, in addition to the 99 it opened or converted last year. By the end of this year, Mr. Brennan said, the retailer will have converted or remodeled nearly half of its 316 retail stores to the new concept, and expanded its field management by 20 percent.

MOBIL PAID $1 BILLION IN 1976

The Chicago-based retailer, which was founded in 1872 by Aaron Montgomery Ward and George R. Thorne, was bought by Mobil for about $1 billion in 1976 in an effort to diversify its holdings. By the early 1980's, however, the retailer chain was already beginning to lose market share to specialty retailers. Its catalogue operations, the core of the concern's business for many years, were also experiencing heavy losses.

In 1980, Montgomery Ward lost $162 million, forcing Mobil to provide the retailer with $600 million in loans for working capital and modernization. Although the company posted modest profits in 1983 and 1984, Mobil announced the following year that it would take a $508 million write-off to restructure the company with the eventual aim of divesting itself of it.

In June 1985, Mr. Brennan, 49 years old, was chosen by Mobil as Montgomery Ward's chief executive. The retailing veteran, who began his career in 1964 with Sears, Roebuck & Company as a management trainee and rose to chairman and chief executive of Sav-a-Stop before joining Montgomery Ward, began an aggressive campaign to revitalize the chain.

Mr. Brennan began by closing the company's $1.2 billion catalogue operation, the nation's oldest, and shuttering its Jefferson Ward discount store chain. He also reduced the company's work force by about 25 percent, eliminated merchandise lines that accounted for $250 million in annual sales, streamlined the company's distribution system and reduced its overhead by about a third.

APPROACH REVAMPED

Mr. Brennan also decided to revamp the company's merchandising approach. In a departure from its department store format, Montgomery Ward adopted a specialty-store approach in which the company began concentrating on fewer but more profitable categories of merchandise, like electronics, jewelry, automotive equipment and fashion accessories. And late last month, Mr. Brennan announced plans to adopt the decentralized organization of a specialty retailer for each of the concern's four major merchandise categories, making them more responsible to individual markets.

The results have been dramatic. Sales last year climbed to $4.6 billion, 6 percent higher than the previous year. Earnings soared to more than $130 million, a 23 percent gain from 1986. And in the fourth quarter of 1987, Montgomery Ward made its first dividend payment to its parent company in several years.

Mr. Brennan, however, indicated that his plans to restructure Montgomery Ward into a chain of specialty stores were not yet complete. In particular, he noted the continuing changes in the company's apparel operations, a fiercely competitive area of retailing. He pointed out that the company recently moved its apparel buying offices from New York to Chicago, where they can receive more support. The retailer has also begun aggressively recruiting managers and buyers from specialty apparel retail chains.

In a telephone interview yesterday, Allen E. Murray, Mobil's chairman, said: "Our goal with Ward's was to get it to stand on its own two feet. Most of the credit for that goes to Bernie Brennan."

Mr. Murray said that he was "very pleased" that Ward was now financially independent, and he added that Mobil would spend the $1.5 billion in proceeds from the sale to help reduce its debt. "We are better off taking the money and concentrating on our core businesses." he said.

Mr. Speaker, I would ask my colleagues what they are going to have to pay in order to leverage out of that? They are going to have to pay with the liquidity and the financial stability of the corporation known as Montgomery Ward, just like in yesterday's article that appeared in the American Airline publication "American Ways," where they described what happened to Safeway. Safeway, the great food chain which had been very successful through the energetic enterprise of the family and the son of the family that started the business, all of a sudden they find themselves facing hostile takeover attempts. There is no such thing as hostile takeover. That is a predatory human group, predatory in nature. They are not creative.

How is Safeway left today after they had to use an agency, a financial group to put together a defense mechanism, and they made a cool $175 million just out of shuffling the paper?

I say to my colleagues, is there any doubt that that has anything to do with our well-being? Of course it does. We are a highly vulnerable society. Any one of us that was here at the time of the riots, and recall walking at midnight and having a jeep come up and challenge your presence, having no gasoline station to get your gasoline at because they were all closed down, no grocery store open which had in the meantime had a run by customers and emptied the shelves of the stores. Suppose the water system had failed? What about all of us living in these teeming apartments? We are all vulnerable, America. We are vulnerable and we do not want to see it happen. We get off on these illusory notions of expending moneys on what? Throwaways? Some of the vital things that we need to do have been dismissed editorially as pork barrel. Our infrastructure system is crumbling around our ears.

Mr. Speaker, I am chairman of the Subcommittee on Housing and Community Development and I have had the privilege of going into 34 States. I have gone into every major urban area of our country, here, the Bronx, Philadelphia, Detroit, Los Angeles, name it and I have gone into it. I have gone into every rural, semirural, quasi-rural area including the Eastern Shore here, where we have atrocious conditions that are just 1 hour and 15 minutes drive away that during the crop producing or gathering periods are such that we like to think exist only in Third World countries.

However, these are Americans or maybe not Americans that are invisible. The average one of us seldom sees them. Just like the countless thousands of unemployed that have just dropped out of the picture because they have exhausted their unemployment benefits, they are out of the picture, and they are not counted.

They are not there being listed and counted, but they are out there. I have them in my district, and it pains me to see young 30-, 35-, and 38-year-olds in this group.

These are not minorities necessarily. We have become so entangled in that whole brier patch that we have got to realize there is a limit to all of that. As long as we are all struggling for the promise of America which is equal opportunity, equal justice before the law, that is all fine, but we cannot then set up a privileged position because of that because then we have lost the moral right, and this is hard for people of all categories to see once they have power because the name of the game is power.

What I am saying to my colleagues is this: We have got to go back to bassics. We have to go back to fundamentals and those fundamentals are clearly marked. There should not be any confusion. At least I do not see why there should be. I guess it will not happen in a preventive way now. I think it is too late. But if we anticipate and just do a little bit, it would be of assistance. For instance, what would be wrong with trying to protect our labor force from the exodus of those corporations that are trading on cheap labor overseas? We have the means to deal with that. Will we?

Mr. Speaker, 20 years ago, to be exact it was 1966, which is 22 years ago, the first credit crunch was a clear sign on the wall that we were going to enter a period such as we are in. Of course, the international statistics indicated that. Europe was beginning to emerge as a united front and therefore it was going to displace U.S. production and competitiveness and preference. So that by 1979 when the economic summit meeting was conducted in Bonn during the month of May, and Jimmy Carter was President, it was not Reagan. Those who accuse me of being partisan ought to realize if they look at the record they will see that I have been critical of every President even the dearest and the closest Presidential friend I ever had, who was John F. Kennedy.

One of the first bills that came up after I was sworn in was the so-called Kennedy round of the General Agreement on Trade and Tariff, and one of the chief lobbyists from the White House just took me for granted, but I had questions about the bill and I asked him a question that if this is so good and beneficial and there is no danger to any segment of American industry, why is this section 5 in the bill that says that a commission shall be formed to study what, if any, detrimental impact shall be suffered by segments of American industry?

He could not give me a satisfactory answer, so I voted no. I did not vote for it.

Then I also had occasion to listen to my fellow Pennsylvanian, John Dent, who used to take the floor like I do and would be here alone. I would come in and join with him. He was saying at that time we are going to lose our steel industry, we are going to lose it, we cannot compete the way we are going, it is a stacked deck that we are dealing with.

□ 1330

He was laughed at, ridiculed. Not by me though. I joined him on many occasions, and the RECORD will show I got up, interrupted him, complimented him. He is long gone, but he was a great, in my opinion, Member of this House, and he was very sensitive about what was happening in his home State of Pennsylvania.

Then I began to study these issues, and I began to read the European journals, as I read them today, and I was amazed at the contradictions. We were assuming something, and it was very contrary to what I was reading.

So in the summit meeting in Bonn in 1979 Helmut Schmidt, the German leader, then had in the last sentence of the communique issued, Jimmy Carter being President, that "we agree in principle to the European Monetary System and the European Currency Unit." I had advised that in one of the Italian journals I had read that in that previous March the finance minister of the European Community had met and had fleshed out the European monetary system and the ECU. Mind you, that was 1979. Since 1971 and the unmooring of our financial interchanges there had been no American exertion of leadership. I am not telling my colleagues something in retrospect. I have the record. I wrote letters to the three Secretaries of the Treasury pointing out that America had just lost the little leverage it could use, but it had to exert leadership or it would lose it.

I did the same thing with respect to Latin America. I have never considered myself an expert because my name is GONZALEZ and because I come from San Antonio. As I told President Johnson who said, "I think you ought to develop as a great Latin American expert," and I said "I do not even understand San Antonio politics, how in the world can I tell you I know Mexican politics." So I am no expert. But you know the old saw, I am not a watchmaker, but I know that the watch ain't working.

I knew enough on April 1, 1980, to make the first speech I ever did on Latin America, even though the OAS had designated me as an observer on July 1, 1966, in the Dominican elections of that year. I still did not claim any expertise. I never made a speech. But it was obvious that we were eroding our last moral suasive power of leadership with such nations as form the Organization of American States. And I hate to say what I said then, I said, "Mr. President," meaning Mr. Carter, it was not Mr. Reagan, it was Mr. Carter, "Mr. President, you have no more than 90 days." Nothing happened, except he did initiate what I then protested, and that was the military advisors to El Salvador and the like.

So what I am saying is that that is water under the bridge. The situation we are in right now is very, very tenuous, both in our international relationships, and that means financial, as well as political, and political means defense because we are vulnerable, we are brittle, and we have to make sure that we are not side-tracked by our ideological leanings. It is natural for us to feel proud of our heritage, but we have to look at ourselves as is and that other world as is and as they look upon us, whether it is a perception or a misperception. We cannot make the mistake again that we made in Southeast Asia. But that is what we are doing in Latin America.

There is no question in my mind, and it seems to me just like when I hear these Chairmen of the Federal Reserve say, "So, interest rates, we cannot do anything about it. You and the Congress ought to do it. Why don't you control the budget?" Blah, blah, blah. And for the last 3 years they have been saying, yes, we can control interest rates, but all of those years they were denying. And I would look at them and say, "Are you telling me that interest rates are an act of God?" They would look at me very disrespectively, and that was it, that was the only chance I would have to ask a question. But I meant it because it was absurd on its face. We are the only country in the world that handles our money matters the way we do. Other countries do not. The Federal Reserve Board, if you take that dollar bill out of your pocket, you will see "Federal Reserve note." When I came to the Congress, 9 out of 10 of those dollar bills said, "U.S. Treasury note." That is a big difference. What it means is that we are paying interest to the Federal Reserve in order to print our money.

If you think that politicians are not equipped, and the politicians being representatives of the people, if you think they are not equipped to handle money, fine, but if you think bankers are better equipped, we will soon find out catastrophically that it ain't necessarily so.

The leaders of our Nation from Thomas Jefferson through Woodrow Wilson and Franklin Roosevelt spoke out and said so. How could we in 1945, using over 46.5 percent of our gross national product in the war effort to win the war on the Federal level, 46.5 percent, why is it that the Government, our U.S. Treasury, never had to pay even 2 percent to fund that borrowing? Why is it that we had to reach just 2 years ago the fantastic amount of over 15 percent on Treasury bills? That is infamy, that is thievery, and that is plunging us into the debtor nation status. We have to extricate ourselves from it. It can be done. All we have to do is just go back to before 1952 and the way we handled money matters.

CENTRAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, I want to talk a little bit today about the fact that we have a serious situation developing in Central America, and we seem unprepared as Congress to do anything about it. I am concerned, because as we are here in the Chamber at 1:30 this afternoon, we have a week ahead of us where Congress, or this House, is going to do practically nothing, and one of the things we are not going to be doing is trying to solve what has become a serious dilemma for this Nation vis-a-vis our policies in Central America.

It was about a month ago on February 3 that President Reagan sent to this Congress a Contra aid package that was a bipartisan package. It received support on both sides of the aisle, however, not enough support to pass. When that package failed, the leadership of this House cheered their victory, and then what they said was that they would produce a package that could win, a package that would give some hope to the democratic resistance in Central America, but yet would be a package different from the President's.

Last week we discovered that this leadership brought forth their package but it did not win. It, too, failed, leaving a vacuum in a very serious situation.

What we have is a situation where the cries of the people of the political left of this country have been, "Give peace a chance," where those of us on the political right in this country have said, "Give freedom a chance." Both are probably somewhere in the ballpark. We ought to have both peace and freedom in Central America. The problem is at the moment we have neither. We certainly do not have freedom.

In the time since the President delivered his aid package to the Hill and explained to the American people on television what the stakes were in Central America, the situation within Nicaragua has deteriorated substantially. On February 8, in the city of Masaya a mothers' demonstration against the military draft was violently broken up by Sandinista gangs. Six opposition leaders were arrested; the state security police then raided the homes of young Nicaraguans to force them into the army.

On March 2, the Communist Sandinista leader of the country, Daniel Ortega, dismissed the peace negotiator in that country, Cardinal Obando y Bravo, replacing him with his brother, the defense minister. His brother, you may remember, is the one who has already called for a 500,000 -to 600,000-man army in Nicaragua. That is who now has replaced Obando y Bravo as the implementor of the peace accords for the Sandinista Government.

On March 3, the very next day, Ortega then abolished the Department of Justice in the country and placed its functions under the Department of the Interior.

In this country that might sound a little strange, because we think of the Department of the Interior as being the place where we have our National Park Service and we run the Bureau of Indian Affairs. If is a little bit different in Nicaragua. The Department of the Interior is the Secret Police, so what they have done in this particular action in Nicaragua they have placed the functions of justice under the secret police.

As though to make that a real kind of situation in the country on that very same day, on the day that the Department of Justice was moved under the secret police, Sandinista Communist street gangs known as turbas broke up a peaceful opposition meeting in Managua, and 3 days latter those same turba gangs, those mobs led by the local Sandinista party chief, attacked a peaceful opposition march celebrating a women's day, again in the city of Masaya. As the police looked on during that demonstration, the mob threw stones, beat the opposition members with wooden clubs and metal bars, and then rampaged unchecked through the streets of the city threatening the citizenry for the better part of 2 hours with the secret police looking on, with the police forces looking on.

Why was the Justice Department put under the Secret Police? Is is obvious, so there would be no justice.

So if there is no freedom, if there is no justice in the country at the present time, what about peace? If we have argued that peace is being given a chance, even at the expense of freedom, what is happening with regard to the peace process?

Since the beginning of this year the Soviet Union has delivered to Nicaragua 2,000 metric tons, 2,000 metric tons of military supplies. That is over 75 million dollars' worth of military supplies that has come into Nicaragua in the first 2 months of this year. That is more purely military aid given to the Communists in Nicaragua than this country supplied to the democratic opposition in all of last year, in the first 2 months of this year.

Give peace a chance? Peace is not being given a chance by the Soviets and by the Nicaraguans. Peace is being destroyed with a massive infusion of military aid to that country.

What are we doing? At the moment in this country and in this House we are doing nothing. Peace is being destroyed in Central America by Communist military supplies, and freedom is being destroyed by the Communist Sandinistas government.

What we heard the Democratic leadership of this House tell us over the weekend is that they cannot do anything else because they were sandbagged by the Republicans on their vote last week. This is to indicate that somehow Republicans, with our minority in the House, destroyed their package. My contention is that their package destroyed their package.

So today what I would like to do is talk a little bit about the bill that we had on the floor last week so that, Mr. Speaker, we can have a better understanding of just what it was we were voting on and what the stakes were behind that legislation, because in essence the reason why the bill went down, why it was voted down bipartisanly in the House last week was because it was a bad resolution.

□ 1345

It was a bad resolution in a number of respects. Let me detail.

First of all, this bill, while it had I am sure appropriate intent, for the first time would have paid reparations to the Communist government in that country.

Now it was not defined that way in the bill. In the bill it was defined as aid to the children of Nicaragua. However, it was called the Children's Survival Assistance. It was a nice name. And it was for a good cause, supposedly. The problem was it was badly written.

Instead of providing assistance it provided instead funds and I quote, "at least one-half the funds transferred under this section shall be provided through nonpolitical private and voluntary organizations and international relief organizations operating inside Nicaragua."

Now that all sounds perfectly innocent. It sounds as though what they were trying to do is to get the money to groups—and they are specified in the bill such as Catholic Relief Services, International Red Cross, CARE, United Nations Children's Fund, and so on—but the problem was that in writing the language that they did, at least one-half of the funds, they ignored the reality of the situation in Nicaragua where the money was going. That is that Nicaraguan law requires that any funds coming into the country go through the Nicaraguan Government.

Now had we said in the bill, as the bill on which we were working said, that there was also medical assistance for the children under the bill that this particular amendment was tied to, it called for assistance. I go back to the bill that was offered by the minority, by Mr. MICHEL. It called for medical assistance to the children. There it said the Agency for International Development is authorized and directed to provide to arrange for the provision medical assistance to children injured in the conflicts in Central America.

That is entirely different, because what that means is you could have purchased the goods outside Nicaragua and delivered those goods and delivered that help to the children inside Nicaragua without providing funds inside Nicaragua. The distinction is very, very important because of Nicaraguan law. Nicaraguan law requires that if you send funds they come through the Government; if you send assistance it does not necessarily have to come through the Government.

The bill was turned down, the amendment that was ultimately turned down, the Foley-Bonior amendment, was in fact poorly written because it specified funds which meant that the end result was, no matter what the intent, the money would have gone to the Communist government in Nicaragua and thereby been a payment of reparations to that Government, not assistance to the children. Badly drafted.

Now maybe that point alone should not have disqualified the bill, because it was obvious what the intent was. But it was also obvious that it was a flawed mechanism.

But there were some other problems in the measure as well.

For example, for the first time we were going to involve our military directly in the operations in Nicaragua, and I quote again from the Foley-Bonior bill: "The Department of Defense shall be responsible for the direction, management, and delivery of the assistance authorized by this joint resolution."

Now what was particularly disturbing to a number of us who have felt over a period of time that the reason for helping the Contras in Nicaragua, the reason for helping the democratic resistance there is so that we would not have to put American military personnel into that area of the world at some point. We think that that would be the wrong course to take.

One of the lessons we ought to have learned out of Vietnam is the involvement of American military is not necessarily a plus in a situation. We ought to allow people in these countries to settle their differences among themselves. We ought to allow them to fight their own fight.

If the people who are on our side of the conflict need assistance, we ought to provide them with assistance but we ought not be providing military help.

For the first time under the Foley-Bonior substitute that was offered, we would have had American military involved in the delivery of the assistance to the Contras, to the democratic resistance. That seems like a bad idea.

Now it was argued on the floor that that was not really what they were doing. What they were doing was turning over the management to the Department of Defense and taking it away from the CIA, but exactly the same people would have run the delivery system as were running it now.

Well, that raises some interesting questions. Why, if you have a system which admittedly is working, would you change the management in the middle of the stream? If it is in fact a working system, why would you take it away from one agency where we had set up monitoring systems for it and turned it over to another agency where we had no monitoring systems?

Well, I suppose there are some rational explanations for that.

In the bill it indicated there were perhaps some reasons for it. It said that they were going to do it but they were going to prevent the Department of Defense from having any military personnel in there. So therefore we would be protected from any consequences.

The problem though is that if the Department of Defense is running the operation and the Department of Defense also cannot have any personnel on the ground, then who is going to monitor this, who is going to make certain that the money is well spent?

Well, that is a problem because under the Mrazek amendment included in some of the bills cited under this act as applying to this particular measure, it would have been impossible for any Defense Department personnel to be within 20 miles of the combat zone and thereby assure there would be nobody there directly monitoring how the money was used. That does not make much sense.

Why get away from the system that we now have? Now under the system that we now have also, the Intelligence Committee of the Congress monitors the process. And again it has worked pretty well. Most people think it is a workable system. The one reason why we have the Intelligence Committee monitoring it is because it is in fact involved in some secretive operations through our CIA.

According to the Foley-Bonior substitute, they wanted that to continue. I quote:

> The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate hereinafter referred to as the Intelligence Committee shall inspect, monitor and review the provision of all assistance to the Nicaraguan Democratic Resistance under this joint resolution.

In other words, they wanted that process to continue.

So what you had then was a Department of Defense that does not have direct jurisdiction being given that jurisdiction and then have them monitored by a committee that does not have specific oversight powers over the Department of Defense.

Oh, but that was solved. If you go on down in that paragraph you find out, "except that nothing in this section shall be deemed to affect the jurisdiction and authority of any other committee of the Congress."

Now all of a sudden you are going to open up this whole process to monitoring by the Armed Services Committee, by the Government Operations Committees, by subcommittees of those committees. So you have lost, then, your ability to keep tight the monitoring process, according to their own resolution.

And when you have that, you have the tremendous problem of perhaps massive waste in this program.

One has to wonder whether or not that was by design. Why would they do that? Well, there is no doubt that on the political left in this country there is a lot of anti-CIA sentiment. So maybe it was just a knee-jerk reaction that we are going to take it away from the CIA and give it to somebody else. Originally their intent was to give it to agencies like the Red Cross and a lot of people like that, except when they started checking with those folks, those folks said there was no way they would deliver goods into a combat zone.

So then they had to find somebody other than the CIA who might be able to take goods into a combat zone. Guess what? They settled on the Department of Defense. They did it purely as a knee-jerk reaction to the fact that they hate the idea that this country gathers intelligence.

It was not too many years ago when that kind of philosophy in the Carter administration got us in major difficulties when they dismantled and disrupted the work of the Intelligence Agency which led to its having an inability to have any kind of intelligence flow when we had a situation like Iran develop.

But that may be a kind of knee-jerk reaction; I do not know. The only other explanation I could come up with is that they decided, on our way out of Nicaragua, to involve our military so that in the final result their antimilitary sentiment could be used and they could blame the debacle to follow on the military. That is the only other thing that I can see that will be any kind of a political rationale for doing what they did in the bill.

Nevertheless, many of us who looked at this resolution thought it was an atrocious idea for the first time to involve the Department of Defense, our military branch of Government, into the process of delivering goods into the war zone in Nicaragua.

There is another, though, part of this bill that gets even more troubling. I must admit that I had not seen this part of the bill until after the debate was over and I went back to my office and started reading through the resolution a little more closely.

I looked at the functional aspects of it. I had not bothered to look at some of the policy statements in it. The policy statements are almost unbelievable because they track something which has been going on in the debate in the Presidential primaries in the Democratic Party over the last few weeks.

One of the major candidates for President in the Democratic Party was asked on a news show recently whether or not he would accept a Soviet client-state in Central America. And he said during the process of that particular dialog on that news show, on "Meet the Press," that essentially he would accept a Soviet client-state as long as it did not possess offensive weaponry.

That carries with it very, very severe consequences for this country. What he said was the Monroe Doctrine is no longer operative and we may have to accept the idea of a Soviet client-state on the Central American mainland.

Now he did not put it in exactly those words. That is what you can see as you read down through the transcript of that particular news show.

But that was just one Presidential candidate speaking. He certainly speaks without very much reference to the American people who have made it quite clear in poll after poll after poll that though they may have real concerns about money to the Contras in Central America, they also have an even greater concern about allowing the Soviets to penetrate our hemisphere and in no way do a majority of the American people support the institution of a Soviet client-state in Central America. The reason why I digress a bit on that is because the policy statement contained in the Bonior-Foley substitute also is predicated on the idea of accepting a Soviet client-state in Central America.

Let me quote out of this particular document. The policy toward Nicaragua as stated by these folks was:

> A commitment for preserving the security of the United States and its allies by preventing the Soviet Union and its allies from developing or deploying an offensive military capability in Central America that directly threatens the United States or its allies.

Now listen to that very carefully, because they say—they never say they are for ending Soviet involvement, they never say that they are opposed to having the Soviet Union directly involved in Nicaragua. What they say is that they are simply committed to preserving the security of the United States by keeping them from having or developing or deploying offensive military capability against the United States or its allies.

Now I want you to understand that that, as contrasted with the policy in the original bill which said this, it called for "an end to Soviet, Cuban, and other Communist bloc military or security assistance to, advisers in and establishment or user of bases in Nicaragua."

In other words, the basic bill that we were working from said we must end Soviet involvement, Cuban involvement, other Communist-bloc involvement in Nicaragua as a part of our policy.

The Democratic substitute said that we should only keep them from developing an offensive capability.

Now some may say, "Well, we shouldn't be in a position of dictating that. If they want to have the Soviets in there, that is their right." In fact, we have had some people say that in the course of the dialog and debate that has gone on, on this issue. I disagree, I vehemently disagree. But I think the next follow-on is very important here because what we know in Nicaragua is the development of that offensive capability has already taken place. In the course of the debate the other day, my colleague from California, DUNCAN HUNTER, showed pictures on this House floor of airports being built in Nicaragua designed to handle Mig fighters and Backfire bombers. He also showed pictures of submarine bases being built in Nicaragua designed to allow the supply and refurbishing of submarines—and they are Soviet submarines—so they can control the two ends of the Panama Canal.

☐ 1400

In other words, Migs, Backfires, and submarines are all offensive weapons that would be directed against the United States and/or its allies.

Why is that a problem? The Democrats say clearly in their resolution that they are opposed to that, that they would do something about it. Here is where it gets a little touchy, because they do tell us what they would do about it. They say in their policy about Nicaragua:

> A commitment to take appropriate military action if Nicaragua takes offensive military action against its neighbors or obtains a military capacity that directly threatens the United States.

Let me repeat that:

> A commitment to take appropriate military action if Nicaragua takes offensive military action against its neighbors or obtains a military capacity that directly threatens the United States.

In other words, the policy that we were voting on in the amendment and the policy that my colleagues who voted for this resolution the other day is to say that in fact if they put Migs into those bases they are building for Migs, if they put Backfire bombers in there, if submarines begin to be put in those submarine bases that are being built, the United States is going to take military action against Nicaragua. I would suggest that the American people do not want to be sucked into a conflict that way. That is precisely the lesson of Vietnam that obviously no one has learned.

What we ought to be doing is supporting the democratic resistance within the country so that there is no chance of developing that offensive military threat. What we ought to be doing is supporting the democratic resistance that will allow the people of Nicaragua to have a free choice of their own. That is not detrimental in any way to the interests of this country.

But when you have a government that proclaims itself to be a Communist government, when it proclaims itself an ally of the Soviets, when it allows the Soviets to begin to build within an offensive military capability, and then you have a statement of policy coming out of the Democrats, the liberals of this House, that says if in fact that goes into place, we are going to attack Nicaragua, then I think we have a serious problem, and I think it is time the American people wake up and listen to what the Democrats are really telling them in these resolutions they are writing, because it is right here in black and white.

Now we did hear some Members come to the floor during the debate, and they said, well, in order to take care of that the President ought to be negotiating with the Soviet Union. Why do we not just negotiate with the Soviets and get them out of there?

Well, they also ignored something else then that we had in black and white. We had a letter from the President's National Security Advisor, Colin Powell, which made it clear that the President had already conducted those kinds of negotiations at the highest level. He conducted these negotiations with Mr. Gorbachev, and in that letter Colin Powell told us what the Soviet terms were for that kind of settlement. The Soviets said that if the United States ended all military assistance to the democratic resistance, if we ended all assistance to our allies in Central America, then the Soviets would be willing to end all assistance other than the assistance of small arms required for the police, police state weapons.

Now think for a moment what that means. The United States would cut off all weaponry, would cut off all aid to our allies, to the democratic resistance, the democratic governments, in that part of the world, and the Soviets would continue to send in small arms.

Now let us understand that would be rifles, that would be ammunition, that would be pistols; it would be all the things, for instance, that guerrilla movements could use so the Sandinistas would be in the place of being able to keep their own military strengthened because they already have the tanks, they already have the helicopters, they already have the mortars and all that equipment. They would be in the place of being able to have that replace the small arms; and not only that, provide the small arms to guerrilla movements that are attacking their neighbors.

As we know from the intelligence materials that we have gotten through Mr. Miranda, they have supplied the guerrillas in El Salvador, they supplied guerrillas even in peaceful Costa Rica that has no army. So the Soviet terms are we continue to send guns, you send nothing.

Now I hope that none of my colleagues were suggesting on the floor that is an appropriate settlement in Nicaragua, and yet, when discussed at the highest levels, that was the Soviet deal.

The bottom line is this: The resolution failed on the floor last week because it is a bad resolution. It is a bad resolution because for the first time it would have directly involved our military establishment in the conflict with the delivery of goods, and it also had policy statements in it that ultimately could have involved us in a much wider conflict in that part of the world. That is unacceptable. What we need to be doing is finding a way to help people who are willing to fight for freedom themselves because, if in fact what we have is a collection of free states in Central America, then peace will be assured.

Free nations have to desire to attack other free nations. Free nations do not represent a threat to this country. And so what we need to be is a part of a process that puts pressure on to the situation in Nicaragua to assure that there is freedom so that that can indeed produce peace.

The resolution that we had last week did not move us in that direction. In fact it moved us away from it, and it perhaps would have involved us in a widening military involvement in that part of the world, which is something that is the antithesis of both freedom and peace. I hope that now that we understand that the left wing agenda cannot be enacted and we also understand that President Reagan's bipartisan agenda cannot be enacted, I hope that what we will do is come up with something that can be enacted that does not involved our military involvement in the conflicts there, does not involve reparations to the Sandinistas, but instead helps our friends, help the democratic resistance there so we can be assured that the people of Nicaragua are given a real choice for the own destiny in the future.

Mr. Speaker, that is what we ought to be working toward in this body. We ought to be working right now during this time when literally this House is doing nothing. We ought to do something. We ought to be doing something that assures peace and freedom in Central America.

PEACE IN THE MIDDLE EAST

The SPEAKER pro tempore (Mr. GRANT). Under a previous order, the gentleman from Massachusetts [Mr. FRANK] is recognized for 60 minutes.

Mr. FRANK. Mr. Speaker, I want to talk today about the question of peace in the Middle East, of the difficult times that are now affecting the Government and the people of Israel and the people in neighboring countries.

Recently there was an expression of opinion to the Government of Israel from people who are strong supporters of that Government urging the Israeli Government to cooperate with the Shultz peace mission, urging Prime Minister Shamir to reaffirm his commitment to the essential principle that Israel would be willing to trade not all, but much of the territory captured in its defensive war of 1967 for peace.

The rules, Mr. Speaker, do not allow me to talk with any specificity about one of the most important of those expressions of opinion. The expression I am talking about was made by some Senators. Under our rule we may either ignore the U.S. Senate or talk about it in its entirety. We may not under our rules talk about what 30 Senators did. So I would not do that. I will wait until we change the rules.

Mr. Speaker, I did want to note one more instance where it seems to me the rules prevent intelligent discussion. They cannot force it, intelligent discussion; rules cannot, but they could at least not stand in its way, but there have been a number of expressions of that. And I think it is very important for people who, like myself, are very strong supporters of an American policy that recognizes Israel as a valuable and important friend of America to perform an important act of friendship, and that is to give advice to a friend.

Israel in its 40 years has been in many ways a model for the rest of the world. We often hear people justify a lack of democracy within a particular country on the grounds that things are tough, they are facing economic problems, and in particular they are facing some foreign enemy. It is one of the great glories of the state of Israel that, created as it was in the midst of a war not of its own choosing, the state of Israel was proclaimed by U.N. vote, and on the day of its proclamation it was under attack by Arab neighbors who were unwilling to allow it the existence that the United Nations voted, and Israel has unfortunately for 40 years lived with the stated hostility of many of its Arab neighbors. Anwar Sadat, who was murdered in part because of this is still today the only Arab leader in control of a government who said, "Yes, I recognize and accept the existence of Israel, and I want to work toward peaceful relations between my country and Israel."

The absence of other Arab leaders willing to that has been a continuous problem, and Israel has had to fight and fight again against people with whom it had not minor disagreements, but against people, its neighbors, who have never been reconciled to the very fact of its existence, and despite having been conceived in war and having had to live under a warlike setting not of its choosing for its entire existence, the state of Israel began and continues to be one of the most democratic in the world.

If you are today an Arab who wants to criticize your government in the Middle East, if you want to express complete disagreement with the government under which you live, and you are, as I say, an Arab in the Middle East, the best place to do that from the standpoint of your liberties being protected and your right of doing it being respected is within the borders of Israel. An Arab trying to do that in Damascus, or in Riyadh, in Bagdad, even in Cairo, would find himself or herself much less able.

Israel has earned the position it has in American policy by its commitment to democracy. By its steadfastness as an American ally it is a country which sees the world very much as we by and large see the world. It has been in the United Nations and elsewhere a strong American ally, and it has been for most of its existence the victims far more often than not of the belligerence and hostilities of its neighbors.

I say that because I think it is important for us to reaffirm the essential rightness of Israel's position in the dispute it has with its neighbors. That position is Israel's asserting its right to exist, which dates back to the 1948 U.N. resolution.

But it is also important to note, Mr. Speaker, that being right in general does not mean that you do not have to be concerned about being right in a particular case. Being on the right side of a fundamental issue, as Israel, in my judgment, clearly is on all the fundamental issues in the Middle East, does not mean that you do not have to worry about the rectitude of your particular positions. It is also important to note that those of us who do believe that American policy and American interests are best served by maintaining strong ties between ourselves and Israel have in my view an even greater obligation than those who disagree with that to speak out when we think the Government of Israel is acting in ways which are not in its own best interest. I say that because sometimes when people voice disagreements with specific policies of the Government of Israel, they are told that, after all, Israel is a sovereign nation and you should not tell us what to do.

□ 1415

It is not reasonable for friends to criticize each other. People interpret specific differences of opinion and sometimes criticism as attacks on the very right of Israel to continue. Nothing could be more incorrect.

In the first place, the notion that it is somehow improper for an American to criticize another country is a strange one. This is a pretty free country and we have a first amendment. One of the great glories of America is the right of Americans to say just about anything about just about anybody.

The notion that we derogate the sovereignty of another nation by expressing differences with particular policies is simply wrong, nor is it accurate to say that it is unseemly for friends to express disagreement with each other.

America's relationships with France have been friendly for most of our existence as a nation. We have been allies with France on many occasions, and Americans are frequently critical of French Government policies, as French officials and citizens are frequently critical of Americans. Friendship is not based on unanimity of view. Honest expression of differences between America and France, between America and Great Britain, between America and Italy, between America and a whole range of countries, America and Canada—no two countries could have closer relations, physically, obviously, but also politically economically, culturally, and there are times when each of our governments finds the other exasperating. There are times when American citizens want to be very critical of Canadian acts, and vice versa.

So I would urge people not to in any way try to argue that expressing differences with a government is somehow a derogation of its sovereignty or a failure to express and understand important mutual interests.

Indeed, one of the greatest acts of friendship is to tell a friend that that friend is not acting in a way that is in its own best interests, and that is a situation where many of us who are very much in the interest, believe it is very much in the interests of our country to maintain strong and friendly and mutual supportive relationships with Israel find ourselves today. That is why there have been expressions of opinion to the Government of Israel saying that many of us who have Israel's interests at heart and who are dedicated to helping it survive in freedom and security believe that the efforts of Secretary Shultz are very much in the interests of the United States and Israel and other countries in the Middle East. That is why we are urging on the Israeli Government a cooperative approach to the Shultz initiative. That is why we are asking those who have specific objections to this or that aspect of it in one form or another not to make too much out of those.

I think there is a danger of people having long been locked in a particular position showing some inflexibility.

The Shultz initiative, in my view, shows full respect for Israel's rights to exist in security and peace. No one ought to ask Israel to give up territory that would put it in jeopardy in security terms. No one ought to expect Israel to give up one iota of sovereignty over East Jerusalem. In fact, when Israel took over all of Jerusalem in 1967, for the first time certainly in our memory, all of the religious places in Jerusalem were given respect. All the religions that revere Jerusalem were given access and Israel should not be even asked to consider any diminution of sovereignty there.

Similarly, the Golan Heights, unpopulated, used by a hostile, belligerent regime against Israel, knows it would be unreasonable to expect Israel to give up; but in the Gaza Strip and in the territories of the West Bank, those who are urging on Israel a negotiation which could—no one can be sure—but which could lead to an exchange of territory for guarantees of peace, we are acting in Israel's best interests.

Now, it should not be in any way suggested that Israel is the major obstacle to a Middle East peace. As I said, we have one experience in the Middle East with an Arab leader who was prepared to make peace with Israel. That was Anwar Sadat, and the reaction of Israel under Menachem Begin, considered to be by most people, myself included, a fairly rigid defender of Israel's territorial gains from 1967, Menachem Begin's government responded to Anwar Sadat with one of the most generous peace settements that any country has made in the postwar world. Israel gave up the Sinai, unilaterally, in return, not for monetary compensation or for any offsetting territory, but simply for recognition by Egypt and for the kind of normal country to country relations that this country takes for granted. Israel gave up the Sinai for that.

If other Arab leaders appear who are prepared to make the same kind of arrangements, what we are saying is that we wish Israel would respond, not identically, but in a similar way; but it has to be noted that at this point there have been no Arab leaders other than Anwar Sadat prepared to do that.

Now, we understand the reasons. We are told some would be willing to make some moves, but they are afraid of the hostility from others. I understand that, but let us be clear what we are saying when we note that King Hussein, we believe, and President Mubarak, might like to be even more forthcoming in negotiating a peace settlement, but they have to worry, particularly King Hussein, about the hostility of certain elements of the Palestinians, about the hostility of the Syrians.

What we are saying there is that the dominant voice within the Arab world has still been those who have been hostile to Israel's very existence. We hope that is changing.

The hope of the Shultz initiative now, for which I give the Secretary a great deal of credit, I wish it had come a couple years ago, but it is here now, and we should be supporting it; the hope of that initiative is that it will encourage Arab leaders to show some of the kind of commitment to peace that Anwar Sadat showed.

What people are showing to the Israeli Government is that it is important for them to show that should such Arab leaders come forward, they would be prepared to negotiate in the spirit that Menachem Begin brought to Camp David. That means giving up some of the territories captured in 1967, if arrangements could be worked out so that peace could come to the region. No one expects Israel to have on its borders, certainly not straddling Israel, as Gaza and the West Bank do, an armed state of people who have been until very recently, if we were to get such an agreement as they are now, committed to wiping Israel out. No country ought to be asked to submit to that, but a demilitarized state, a state where there are international guarantees of that demilitarization in much of the territory now done, that makes sense. That is what many of us will be continuing to urge the Israel Government to do in its own interests and in our interests.

We believe, many of us, that Camp David was one of the high spots in a generally bleak history in the last 20 years in the Middle East and would urge on all governments to try to replicate it, given that there will be some differences.

It would be a grave error if the Israeli Government allowed itself or elements within that Government, to be portrayed as if it were not interested in such an agreement.

I mentioned the territories, Mr. Speaker, and they inevitably lead to considerations of the current difficulties, the violence, the demonstrations that are taking place in the territories. Again, I think it is important to note that one can believe as I do that Israel's position is correct in general, but still believe that they may be making specific mistakes, and with regard to the territories, that is the position that I and I believe many others hold, that they are in general correct in their positions, but in the execution of the policy things have been done that are wrong and should be changed.

Some of the errors are errors because human beings are fallible. Others I believe are errors of policy that we ought to ask to be corrected.

But again, history is important. The Gaza Strip is a terrible place for people to live, but Israel did not create it. The Gaza Strip existed from 1948 to 1967 under Egyptian control. The Gaza Strip was, in fact, the source of violence against Israel for that 19-year period when it was under Egyptian control. Egypt never saw fit when it controlled the territory adjacent to the Gaza Strip to incorporate it into Egypt. The Arab States were not interested in that kind of situation. They were interested, I believe, in continuing to use Gaza as a weapon against Israel, and I believe it was an act of self-defense which led Israel to take over the Gaza Strip in 1967. So Israel did not create it and Israel was forced, I think, to take it over; but that does not mean that the current Israeli response to the violence in the Gaza Strip is correct.

I think it is very important here for some of us to speak out, because we have seen, for instance, former Secretary of State Henry Kissinger urging on the Israelis, and he is upset because he gave them private information and it became public, he has the right to be upset about that, but the fact is that it has become public and he has not repudiated it. He gave them very bad advice in their own interest. The advice Henry Kissinger gave them, if followed by the Israeli Government, would not only lead them to tactical errors that would undermine their position here, it would be wrong for more fundamental reasons.

One of the great strengths that the nation of Israel has had, as I alluded to earlier, is its moral position as the inheritor of the survivors of the Holocaust, created by a U.N. vote, it started out, certainly, with an enormous debt, I think, owed to it by those who would allow the Holocaust to go forward; but even more than that, because we judge people in this world by their contemporary reality more than by prior history, Israel has in the 40 years in which it has been a state conducted itself in a way that is morally exemplary. To have maintained the degree of democracy that Israel has maintained—it is not perfect by any means, but it has maintained a degree of democracy in the face of violence that I think entitles it to a great deal of praise.

The strongly favorable position which Israel enjoys in American public opinion is based in part on its willingness to ally itself with the United States in world affairs, but it is based very heavily on the perception, which I share and most Americans, that Israel has been morally correct, that it was a victim of aggression, that it has tried very hard to maintain democracy. It has tried very hard to maintain democracy. It has tried very hard to maintain good relations within Israel between groups, not always succeeding, with more to be done, but at least better than most other nations. It is one of the few postwar nations to be created that has maintained the degree of democracy that it has where incumbent governments are voted out of office, where people are free to criticize. That is an important part of what Israel has as an asset in the United States.

Adopting the kind of advice it got from Henry Kissinger would lead to an erosion of that asset.

At this point, Mr. Speaker, I want to talk about one issue that is sometimes raised. People say, well, Israel should not be held to a higher standard, and some friends of Israel, I think mistakenly, say, "Oh, no, we are going to hold Israel to a higher standard because we think more highly of it."

I think the Israelis have a right to complain about that. It just does not make logical sense to say that you are going to hold one nation to a higher standard than you hold others. I think Israel has a right to say it will be judged by the same standards as other nations of the world.

The point I want to make is that by that standard, by those values that we in America think are important, Israel has been very high. Israel does well in public opinion polls in this country. American-Israeli policy is replete with cooperation between ourselves, in part because measured by these same standards we measure everybody else, we find that Israel does very well.

What we are saying to the Israelis, many of us, is not that we are going to hold them to a higher standard than we hold other people, but we think it is important that they continue to still preserve the high mark that they have always had by that standard, and they are in jeopardy of losing some of that because of their response to the violence in the territory. I say that acknowledging, as I said, that Egypt created Gaza, that the Jordanians and other Arabs created the West Bank. After all, it is the Jordanians that wanted there to be an Arab state from 1948 to 1967 on the West Bank. They could have created one. It was Jordan that controlled the West Bank from 1948 to 1967. Israel did not create that. The Arab world created both the West Bank and Gaza when they attacked Israel.

☐ 1430

So it is not Israel's fault that we have the current situation. I believe that in 1967 they had to take over those territories in their own defense, but it is not in their interest to continue to rule them forever. As I say, the great strength of Israel is its democratic nature. It is not compatible with democracy to maintain indefinitely the control over those people excepting the fact that the control was forced on them by other circumstances. They ought to be looking hard in their own interests for ways to be able to relinquish that control.

While maintaining it, as I say, Israel is right generally and this is not South Africa by any means. In South Africa there is a minority of white people determined to rule forever black people and Indians and people of mixed race to whom they will grant no rights at all. That is a moral horror.

What we have in Israel is a situation where events forced Israel in my judgment into control of these entities, the West Bank and Gaza, which they did not create and which they should be working for ways to relinquish control in ways that would be compatible with their own security.

During that period, however, I believe that when the troubles began the Israeli authorities have made some mistakes in their response. I want to be very clear on this. When law enforcement authorities are confronted with violence, one cannot get absolute perfection in any response. I worked for a major during the time of racial violence in the United States. We had in those times racial violence in American cities, American citizens were killed in large numbers, from time to time, tragically by the National Guard, in Detroit, and in Newark. We had a problem because law enforcement people in some cases did not know how to respond. In other cases it was because being human beings, and law enforcement people are human, whether it is the American cops, the Israeli defense forces, or the National Guard, they are young human beings faced with very difficult situations and sometimes they will do things wrong.

The role of the authorities ought to be, however, to do what it can to minimize that. It is, of course, the case that when one is facing a large crowd of people, a mob, a mob-throwing rocks and throwing Molotov cocktails, that one's emotional responses will be hard to control. I understand that.

Understanding the difficulty, understanding the legitimacy of Israel's need to maintain its control in those territories pending their ability to work out a negotiated settlement that allows them to relinquish control in much of the areas while maintaining their security, I must say I do not think they have succeeded in minimizing the violence of their own response to the extent that we could expect. There have been mistakes of policy, General Rabin's comment about beatings, and Prime Minister Shamir's comment about putting the fear of death back into the people.

Mr. Speaker, those remarks, I think, were wrong. I think it is important to reaffirm that understanding, the rightness of Israel's basic position, and understanding the need for them to respond militarily against the violence, which are important contexts, and ought to be said, but having said them, they do not excuse some of what has happened.

That does not mean in my judgment that Israel has in any way forfeited its right to American support.

When American National Guard forces unnecessarily, in my judgment, killed people during the race troubles, when American National Guardsmen unnecessarily killed people at Kent State, I was very critical of that but it did not lead me to believe that America had forfeited its right to my support. I did work very hard to try and change those policies.

There are, to Israel's credit, people within Israel fighting to do that. In this we should note, of course, that Israel continues to be very different than the rest of the Middle East. In any other Middle Eastern country people under control of the government engaging in that kind of violent demonstrations that Palestinians have been engaged in in Gaza and in the West Bank would have been treated far more brutally than they have been treated in Israel. No one, no one would be allowed to live if he or she organized demonstrations of that sort in Syria. The ruthlessness of that regime would have come down on them.

Nor, I might add, in Iraq, nor certainly in Iran to take a non-Arab country also in that area.

I say again that this is not to hold Israel to a higher standard, it is to hold Israel to the same standard that everybody else is held and to say that Israel continues to do much better by that standard in fact, but as a friend, and as supporter of Israel, as one who believes that one of Israel's great assets in this country is precisely its moral and democratic position, I think we have an obligation to tell the Israeli Government when we think they are making mistakes.

Mr. Speaker, I believe that there have been mistakes, partly inevitable mistakes of human emotion. Young people put into that kind of situation and faced with hostile mobs are going to do things that people in armchairs would think not wise. I understand that.

The role of leadership is to try to minimize that. Unfortuately in some cases the role of some of the leaders in Israel has been, in my judgment, to exacerbate rather than to minimize it.

Mr. Speaker, I join with some of the others who are strong supporters of Israel and who have urged on them our advice, and they are free obviously to accept it or not to accept it, there is no impingement of sovereignty, but friends have an obligation to let friends know what they think. I believe that for the overwhelming majority of us in this country, the basic correctness of Israel's position remains unchallenged. Israel's right to exist has yet to be affirmed in a reasonable way by the great majority of its neighbors. What we are saying to the Israelis is to please work with Secretary Shultz. If we can, with American support for Israel, lead some of Israel's Arab neighbors to emulate Sadat, we think it is important that Israel now indicate that it would be willing to negotiate with them and the forum seems to me to be unimportant. Worrying about whether it is bilateral or whether there is some international convenor, if there is a chance to get some negotiations going, it seems to me who needs what umbrella ought not to be a sticking point for anyone. All sides ought to be willing to show more flexibility. To object because five members of the Security Council might convene a meeting seems to me trivial if the basic guarantee is given and the basic guarantee is that the United States will stand by Israel in resisting any pressure to go into a settlement that would jeopardize Israel's security.

I believe they have that commitment of the United States. I believe they should have that commitment in the interests of this country in preserving a strong and secure and democratic ally. Given that commitment, some of these other things become unimportant and the suspicion will arise that some people who do not want a negotiated settlement will overinflate the importance of some of these things as a way not to have it.

Israel ought to be very clear and it may be that the tragedy of the Middle East may be that Arab hostility to Israel that marked its very birth may continue, and it may be that because there are no successors to Anwar Sadat that peace will not be possible. It may be that there are no Arabs prepared to make a deal with Israel where some of the land captured in 1967 can be turned over to Palestinian inhabitants in a demilitarized way, in a way that would allow them to control their own affairs but would also provide for Israel's security guaranteed by others.

It may be that there are not Arabs prepared to do that. It is very much in the interests of the United States, of peace, and of Israel for the Israeli Government to make it clear that if that is the result that we cannot get such peace, it will not be Israel's fault.

I do not suggest that it is. The evidence is overwhelmingly to the contrary. Israel has been forthcoming on the one instance when it had an Arab prepared to make peace. We had another instance when George Shultz asked them to sign an agreement in 1983 and pull out of Lebanon. That was of course repudiated by Syrian pressure.

The point is that it is very much in Israel's interest to do this. Unfortunately, given the divided nature of the Government in Israel, there is not as clear an indication as there ought to be in Israel's own interest for a willingness to engage in negotiations.

Second, understanding the difficult position Israel found itself in when it had to in its defense take over territories that were created by other people, that being the West Bank and Gaza, and I understand that, they had to take those territories over. They were created in 1946 to 1967, and they were created by the Arabs. Given the need to hold on to those pending some settlement, I do not think the Israeli Government has shown sufficient determination to minimize the violence of their reaction. I understand the temptation. I know it is tempting when one is in control of a government, and people are behaving in ways that that government find challenging to our security, it is easy to forget about some of the rules. But I think Israel makes a mistake when it does that. It is not enough, I think, to be better than Syria or better than Iraq or better than Jordan in dealing with that kind of defense. It is not enough not because Israel is being held to a higher standard but because in the interests maintaining that strong American-Israeli relationship which has marked the life of Israel, and it is a very important relationship to both nations, I think it is important to Israel to continue to score highly on the same standard. It is important for Israel itself and it is important for Israeli-American relations.

I want to add my voice to those who have been urging on Prime Minister Shamir an acceptance of the Shultz approach, and accept it understanding fully that it may founder because of an unwillingness on the part of Arabs to recognize Israel's existance. But Israel ought to be, in its own interest and the interests of peace and in the interests of its relationship with America, be fully supportive of the Shultz initiative.

If an international conference being convened is a necessary prerequisite to get the negotiations going, then it seems to me that is in everybody's interest as long as Israel has what it has, which is the American guarantee that it will not be pressured to do anything against its own security.

Mr. Speaker, the Israeli Government has to do a better job of respecting the rights of the people who live in those territories. They are, after all, also victims, many of them. They are the victims of an Arab callousness which I think contributed to the creation of the areas in which they live. Some are victims of extremists on their own side, some of them are genuinely angry people with whom I will not agree.

I say that fully understanding the necessity for the Israeli Defense Forces to meet rock throwing and Molotov cocktail throwing with a reasonable amount of force. Understanding from my own experience in this country, and understanding for having been in Israel in January and from talking with people there, I understand how difficult the job is and I have to say as a friend that the Israeli Government is not doing a good enough job, in my judgment, of restraining the understandable but wrong tendency to excessive violence of people put out there on the front lines. I think for moral reasons and for their own political reasons they have to do a better job.

At the same time it is important that as we say that we reaffirm our understanding, because unfair criticism of people, and friends owe friends the right of criticism, but unfair criticism has a counterproductive effect. People criticized on a narrow and specific point without understanding being expressed of the broader situation that led to that narrow and specific point do not always react well. Israel is entitled to have expressed the understanding that the difficulties now facing them are not of their own making, and they are entitled to have the continued assurance that no American Government will ask them to do anything that would jeopardize their security.

In that context, it is important for us to affirm that it is in Israel's own interest as a democratic state to find a way to relinquish control as much as it can of Gaza and much of the West Bank, and it is very much morally and politically in Israel's interest to do a better job than it has up until now dealing with violence, in dealing with vigilantes, and the like. Israeli citizens who, not being part of the armed forces, have arms and use them as we have seen in ways that are simply wrong, there has to be even-handed law enforcement against them as there would be against violence on the part of the Palestinians and there has to be a better job of the very difficult job of controlling the violent tendencies that are going to occur with young people facing hostile mobs. I understand how difficult it is, I have sympathy for a government that has to deal with it, but I believe I owe it as a friend of Israel to express the opinion that I think is fairly common among people in this country that they have not done as good a job as they are morally and politically obligated to do in controlling that tendency.

□ 1445

HOW MUCH LAND FOR HOW MUCH PEACE?

The SPEAKER pro tempore (Mr. GRANT). Under a previous order of the House, the gentleman from New York [Mr. SCHEUER] is recognized for 30 minutes.

Mr. SCHEUER. I wish to express my very real admiration for the gentleman from Massachusetts for the very thoughtful, evenhanded, cool way in which he has described the very mixed emotions that all Americans and all Members of Congress, including Members of Congress of the Jewish faith, have felt about the events of the last few weeks. He could not have made a more balanced, thoughtful statement, and I simply wish to pinpoint a few of the points he has made.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I would like to thank my friend, the gentleman from New York, for yielding, and I admire him and express appreciation for his kind words.

Unfortunately, I have to return to my office for an appointment, but I will be watching him on television.

Mr. SCHEUER. I thank the gentleman from Massachustts.

There is virtually nothing the gentleman said that I would disagree with. It is a very thoughtful, moderate, balanced statement, and I would simply like to add to it.

I myself have been deeply concerned. I could use a lot of adjectives such as horrified and shocked, to describe my feelings about what appeared to be the unmeasured response of the Israeli Government to the violence on the West Bank and the announcement by the Defense Minister that Israel is going to use force and beatings as a matter of policy. That to me was totally ill-considered.

There is no question that Israel pays a formidable price in international good will and credibility, when statements like that are made. Of all the governments in the world, of all the peoples in the world to use excessive violence, it is hard to think of a country whose history within recent memory, four decades, makes such action less appropriate and more offensive. I have to say that in all honesty.

It has been a very painful process for all of us here who have a deep sense of commitment to Israel, who want to see her survive, who want to see her maintain her special relationship with our country, and who want to see her maintain the very special moral and ethical quality that has differentiated Israel from all the governments in the Middle East and most of the governments in the world. It has been painful for those of us who care about those things to see what is going on, and I hope very much that Israel will cease the policy of public beatings, breaking hands, and breaking bones in response to Arab violence.

I regret saying this publicly, but Congressman BARNEY FRANK of Massachusetts did bring up this subject, and he treated it in a very thoughtful way, so perhaps it is appropriate to comment on it.

I expressed these views privately in an hour-long meeting with the Israeli Ambassador to the United States about a month ago. So here I am going public.

But let me just add a footnote, that first of all these are very trying experiences. Under similarly trying experiences with comparatively untrained or insufficiently trained troops, we had our Kent State, we had our My Lai, and we consider ours a moral and an ethical country. But sometimes the training of troops and the training of National Guard personnel is not sufficient for the extraordinary conditions under which they all of a sudden have to function, and I suspect there was some degree of lack of training and lack of preparedness for these violent episodes on the part of the Israeli troops.

They are trained soldiers, and they are trained for combat. They are not trained for civil disobedience and civil rebellion, and it must be quite clearly recognized that these young kids, these Palestinian kids, were not playing kids' games. They were not playing spin the bottle. They were not playing mumblety-peg. They were playing lethal games, Mr. Speaker.

When you throw a Molotov cocktail, people get killed. When you throw large hunks of rock and cement, people get killed. A young Arab youth was killed by a hunk of cement that was thrown by a Palistinian, and we have seen pictures of both soldiers and television cameramen writhing on the ground in agony after having been hit by large rocks. These are very serious, lethal games that the Palestinian youth are playing. Apparently, these lethal games are not entirely spontaneous. Some kind of master hand is organizing them and guiding them, and I think the Israeli Government has an absolute right in its own self defense to meet that kind of lethal violence with sufficient force to quell it and to control it.

It is very difficult to measure what kind of force is sufficient force, as we have found out in our country.

Let me also say that the Israeli Government for 40 years repeatedly has expressed the position that it is willing to sit down with the Arabs and talk about all the issues. The only Arab chief of state who took them up on that was President Sadat, and we all know regrettably the tragic history that ensured from his pattern of cooperation and his openhandedness in dealing with the State of Israel.

Assassination has become an accepted means of political expression in the Arab world, and no doubt one of the reasons which gives King Hussein pause at accepting a public posture of cooperating with the Israelis is the memory that he has from childhood of the vision of his grandfather being shot down in cold blood by Arab extremists when there was suspicion that his grandfather was cooperating with the Jewish agency of Palestine.

Of course, this long precedes the establishment of the Jewish State in 1948, and perhaps it was true that he was cooperating with the Jewish agency for Palestine in trying to bring some kind of common understanding, some kind of consensus, some kind of compromise, and some kind of conciliation to the very troubled period in those days predating the founding of the State of Israel. That policy of assassination for willingness to meet with the Israelis halfway, or even a quarter of the way, has persisted. There have been a whole string of political assassinations directed against the so-called Arab moderate such as the massacre of Syrian citizens in the village of Homs by Syrian troops. Those assassinations have no doubt had a very stultifying impact on the willingness of Arab chiefs of state or Arab civilians and civic leaders, to express some willingness to meet Israel at the conference table.

Israel today has a clearly expressed position of being ready to sit down and negotiate with the Arabs on every aspect of peace.

Whether Israel should agree to a process of trading land for peace is a decision that only the Israelis are capable of making. How much land for how much peace? I could not define the land areas on the West Bank or in Gaza that Israel could reasonably give up without having to face far higher security risks. These are very sophisticated military and security decisions that I do not feel qualified to make.

I am not sure that many of the 535 Members of the House and Senate are qualified to make that decision either.

How much peace? What does peace mean? Peace certainly means more than nonbelligerency. Israel gave up a very considerable portion of land in the Sinai Desert to establish peace with Egypt. Yet, they did not get peace. What they got was a minimal level of nonbelligerency.

Peace means far more than that. Peace means commerce, peace means the exchange of students, peace means the exchange of scientists, peace means the exchange of business people, peace means joint programs for development of all kinds, peace means joint telecommunications projects involving radio and telephone and television, peace means joint projects affecting the environment, such as the mutual joint exploitation of the scarce water resources in the Middle East, and peace means the exchange of cultural representatives.

Even with Egypt, the one country in the Middle East that has gone further than a status of total belligerency, even with that country, Israel signed a peace treaty but did not get peace. At the most, they have gotten a begrudging arrangement for nonbelligerency. That is a lot. The absence of war is a heck of a lot better than a continuation of war, but still, Israel paid a great price for peace and did not ever get what we normally think of as the full measure of peace and the blessings of peace. They got a small measure of nonbelligerency. Nothing more.

So Israel had to do some agonizing introspection on how much land will not jeopardize their security for how much peace. How much can Israel trust a signature, an Arab signature, on a peace treaty. I do not know the answer to that. I suspect the Israelis are far more sophisticated and far better equipped to make that decision of how much land they are willing to sacrifice for a collection of Arab signatures on a peace treaty.

I suspect that the Israelis are far better qualified to make the decision as to whether, if the Arabs ever had a viable military option, they would not instantaneously take advantage of it no matter how many signatures were on how many peace treaties. I cannot answer that question.

All of these issues have to be factored into the question of how much land for how much peace.

Mr. Speaker, these are agonizing questions for all of us, and I would state that our predilection for pushing Israel against her better judgment into a posture of agreeing to make some sacrifices of land for some kind of peace is basically a dubious proposition.

I know that President Reagan and Secretary Shultz would desperately and urgently like to see some kind of resolution, or at least the beginnings of some kind of resolution, to these agonizingly complicated and emotion ridden, anxiety ridden problems of the Middle East. It is only natural they would. They would take legitimate pride in that accomplishment.

□ 1500

I give President Reagan total credit for having been a friend of peace in the Middle East and having been a stout and loyal friend of the State of Israel, I give Secretary Shultz credit beyond my ability to express in words. He has been an extraordinarily talented, thoughtful, wise human being in his policies toward the Middle East. And I must say that when he was appointed Secretary of State, coming to that job from the vantage point of having been CEO or chief executive officer of the Bechtel Corp., doing billions of dollars of business in the Middle East, I and some of my colleagues had some pretty profound reservations about him. But they were quickly dispelled when we had a chance to hear him out, discuss the issues with him and watch his performance.

He is an extraordinary man. No matter what administration succeeds the Reagan administration, I suspect that Secretary Shultz will be sorely missed for his great qualities of heart, his great qualities of intellect, and his great qualities of integrity and decency that shine forth in every arena. He is a remarkable human being.

But, Mr. Speaker, I suggest that we have to think about a whole long succession of Presidents, at least since World War II, almost every one of whom had the same conviction that they wanted to settle this agonizingly difficult problem of the Middle East on their turf. They have come up with one quick fix after another in the 40 years since World War II.

The Israelis have a long memory and they have to place all these individual efforts by individual Presidents and Secretaries of State to find a solution to the problem on their watch. They have to view all of these successive efforts with a long and deep sense of history. And perhaps they look around the world and see that some problems just cannot be solved by a quick, neat solution. We have problems with the Soviet Union that apparently, although hopefully they are being reduced in order of magnitude now, for 40 years since World War II have been virtually intractable.

After all of the negotiations that have taken place over the 7 years of the Reagan administration, we and the Soviets are each still spending $300 billion-odd a year on defense. Hopefully, we will gradually reduce that amount. But we have not solved the basic problems between ourselves and the Soviet Union.

The British, who are about as civilized a people as has ever populated this Earth, have still got agonizingly difficult problems with the Irish. The Irish have agonizingly difficult problems between Irish Catholics and Irish Protestants.

When you go to Ireland and you visit with the Protestant leadership in Belfast and then you say, "What wonderful people they are. They are intelligent, they are thoughtful, they are witty and they have got a rich history. Surely they can be expected to negotiate away these problems." Then you go to Dublin and you meet with the Irish Catholic leadership and you say, "What marvelous, thoughtful, intelligent people these are. Why can't they get together?" Well, they have not gotten together. These problems go back 400 years. Apparently they are virtually intractable. There are other places around the world.

The problems that the Belgians have with non-Belgian-speaking groups and the problems the French-Canadians—the Quebecquoise, the Levesque supporters—have with the English-speaking government in Canada seem to be comparatively intractable, as well.

So there are problems around the world which do not seem to be susceptible to a quick fix of easy, rapid solutions.

It is just possible that the Israelis think—and I do not know this for a fact—that there are not any quick fixes to the problems between Arabs and Israelis, and that in all likelihood, once they get into the business of territory-for-peace, they are going to be under great pressure to make sacrifices of territory that are not in their best interests. There are some Israelis who have profound misgivings about the nature and quality of the land they gave back to Egypt when they made a peace with Egypt. I think they expected a larger, richer definition of peace than what they got.

So there may be some reservations about moving down that slippery slope of peace-for-territory or territory-for-peace. I would respect their right to make those decisions and I would respect their right to tell us, "Look, we understand your tremendous eagerness, your noteworthy, praiseworthy eagerness to bring some kind of solace, peace, and reconciliation to the Middle East, but after the peace conference is over you all go back home and we are the ones who are left to live with these understandings. We are the ones who have to evaluate over the years how much territorial sacrifice in terms of real security we made for how much of a peace."

What value do we place on that peace? How much can we rely on that peace? How much can we rely on the integrity of the Arab signatures on that peace treaty?

There is no one who can make those decisions, there is no one who can examine that calculus of factors other than the Israelis themselves.

So I want to say how much I respect Congressman Frank for the very thoughtful way in which he treated this issue. I want to say how much I respect the 30-odd Members of the Senate for their bona fides and their real desire to contribute to world peace, by the letter that they recently wrote to Prime Minister Shamir. But I think on the bottom line, once we have made some suggestions and once, as friends, we have given whatever advice we choose to give the Israelis on the way they have controlled the riots—and remember from their point of view it has to be considered gratuitous advice—once we have given them our best judgment on adopting this policy or that policy or refusing to adopt this posture or that posture, and explain that their decision may have a price tag and may cost them in good will, military, and economic aid, and may cost them in credibility around the world, then I think in all fairness we ought to let the Israeli Knesset, the Israeli military and security branches of their Government make the hard decisions on into the actual process of reconciliation, negotiation, and compromise.

They have had the offer on the table ever since 1948 to talk. What kind of preconditions we should impose upon them, as to how and under what circumstances the talks get started, is a very serious question. I suggest that we should be very reluctant to force Israel into any format, into any system of negotiations that they feel may threaten their security.

They are a sovereign state. We are a great friend of theirs. We can give them advice and counsel and express the costs and the benefits to them of various alternative policies. But when it comes to biting the bullet and making these critically important decisions involving the security of the region, the peace for the region and the security of the State of Israel, I think we are going to have to let them think and decide for themselves.

I thank the Speaker and yield back the balance of my time.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Dreier of California) to revise and extend their remarks and include extraneous material:)

Mr. Walker, for 60 minutes, today.

Mr. Moorhead, for 60 minutes, on March 10.

(The following Members (at the request of Mr. Frank) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. Scheuer, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Dreier of California) and to include extraneous matter:)

Mr. Hefley.

Mr. Rhodes.

Mr. Gingrich.

Mr. Gallo.

Mr. Gilman.

Mr. Cheney.

Mr. Courter.

Mr. Gekas.

Mr. Ravenel.

(The following Members (at the request of Mr. Frank) and to include extraneous matter:)

Mr. Traficant in two instances.

Mr. Fascell in two instances.

Mr. Stokes.

Mr. Yatron.

Mr. Udall.

Mr. Torres in two instances.

Mr. Aspin.

Mr. Coelho.

Mr. Wyden.

Mr. Rangel.

Mr. Hawkins.

Mr. Gray of Illinois in three instances.

SENATE BILLS AND CONCURRENT RESOLUTIONS REFERRED

Bills and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 450. An act to recognize the organization known as The National Mining Hall of Fame and Museum; to the Committee on the Judiciary.

S. 840. An act to recognize the organization known as the 82nd Airborne Division Association, Incorporated; to the Committee on the Judiciary.

S. 1630. An act to provide for retirement and survivors' annuities for bankruptcy judges and magistrates, and for other purposes; to the Committees on the Judiciary and Post Office and Civil Service.

S. Con. Res. 94. Concurrent resolution to express the sense of the Congress regarding relief for the United States Soybean Industry under section 301 of the Trade Act of 1974; to the Committee on Ways and Means.

S. Con. Res. 102. Concurrent resolution to express the sense of the Congress regarding the contributions of John Foster Dulles in international affairs; to the Committee on Foreign Affairs.

ADJOURNMENT

Mr. SCHEUER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 11 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 9, 1988, at 2 p.m.

CONTRACTUAL ACTIONS, CALENDAR YEAR 1987, TO FACILITATE NATIONAL DEFENSE

The Clerk of the House of Representatives submits the following report for printing in the Congressional Record pursuant to section 4(b) of Public Law 85-804:

Office of the Assistant
Secretary of Defense,
Washington, DC, March 1, 1988.

Hon. Jim Wright,
Speaker of the House of Representatives, Washington, DC.

Dear Mr. Speaker: In compliance with Section 4(a) of Public Law 85-804, enclosed is the calendar year 1987 report on *Extraordinary Contractual Actions to Facilitate the National Defense.*

Section A, Department of Defense Summary, shows that 30 contractual actions were approved and that 2 were disapproved. Those approved are only actions for which the Government's liability is contingent and cannot be estimated.

Section B presents those actions which were submitted by the Army, Navy, and Air Force with an estimated or potential cost of $50,000 or more. A list of contingent liability claims is also included. The Defense Logistics Agency, the Defense Communications Agency, Defense Mapping Agency and Defense Nuclear Agency reported no actions.

Sincerely,

D.O. Cooke,
Deputy Assistant Secretary of Defense.

Contractual Actions Taken Pursuant to Public Law 85-804 To Facilitate the National Defense

SECTION A—DEPARTMENT OF DEFENSE SUMMARY

SUMMARY REPORT OF CONTRACTUAL ACTIONS TAKEN PURSUANT TO PUBLIC LAW 85-804 TO FACILITATE THE NATIONAL DEFENSE, JANUARY–DECEMBER 1987

Department and type of action	Actions approved			Actions denied	
	Number	Amount requested	Amount approved	Number	Amount
Department of Defense—Total	30	0	0	2	20,578,305
Amendments without consideration	0	0	0	1	20,000,000
Correction of mistakes	0	0	0	1	578,305
Contingent liabilities	30	0	0	0	0
Army—Total	8	0	0	1	20,000,000
Amendment without consideration	0	0	0	1	20,000,000
Contingent liabilities	8	0	0	0	0
Navy—Total: Contigent liabilities	20	0	0	0	0
Air Force—Total	2	0	0	1	578,305
Correction of mistakes	0	0	0	1	578,305

SUMMARY REPORT OF CONTRACTUAL ACTIONS TAKEN PURSUANT TO PUBLIC LAW 85-804 TO FACILITATE THE NATIONAL DEFENSE, JANUARY-DECEMBER 1987—Continued

Department and type of action	Actions approved			Actions denied	
	Number	Amount requested	Amount approved	Number	Amount
Contingent liabilities	2	0	0	0	0
DLA—Total	0	0	0	0	0
DCA—Total	0	0	0	0	0
DMA—Total	0	0	0	0	0
DNA—Total	0	0	0	0	0

SECTION B—DEPARTMENT SUMMARY

Contractual actions with actual or potential cost of $50,000 or more taken pursuant to Public Law 85-804 to facilitate the national defense, January-December 1987

U.S. Army

Contingent liabilities

Provisions to indemnify contractors against liabilities because of claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the contractor's insurance program were included in 8 contracts (the potential cost of the liabilities cannot be estimated since the liability to the Government, if any, will depend upon the occurrence of an incident as described, in the indemnification clause). Items procured are generally those associated with nuclear-powered vessels, nuclear armed guided missiles, experimental work with nuclear energy, handling of explosives, or performance in hazardous areas.

Contractor:	*Number of contracts*
The Biken Foundation	1
Hercules Aerospace Co	1
Morton Thiokol, Inc	1
National Academy of Sciences	1
Ralph M. Parsons Co. of Delaware	1
U.S. Army Armament, Munitions and Chemical Command	3
Total	8

Contractor: ConDec Corporation/ConDiesel Mobile Equipment Division.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $20,000,000.

Service and activity: U.S. Army Troop Support Command.

Description of product or service: Ribbon Bridge.

Background: On May 1, 1987, ConDec Corporation requested Public Law No. 85-804 extraordinary contractual relief from contract number DAA-D01-85-C-B046—the United States Army Troop Support Command's current contract for production of Ribbon Bridges. ConDec, through its sole operating division, ConDiesel Mobile Equipment, on June 20, 1985, was awarded this four-year, $30 million contract. Thus far, ConDiesel has produced quality bridge components under this contract, and deliveries are ahead of schedule.

The Ribbon Bridge is a linked series of floating aluminum road segments (called "bays") which, together with transporters and boats that complete the Ribbon Bridge System, supports armored, mechanized, and motorized units for a fast and reliable means of crossing non-fordable waterways. The Ribbon Bridge replaces the Army's Mobile Assault Bridges, and has been produced since 1973 by various contractors. Bridges produced under the current contract are being distributed to active Army, reserve, and National Guard engineer units in the United States and Europe, and to locations in Europe under the Positioning of Materiel Configured to Unit Sets (POMCUS) program. Bridges produced under the final year of this contract were to fill the remaining requirements of these units and of the Marine Corps.

ConDec Corporation, headquartered in Chicago, Illinois, is the parent company of ConDiesel Mobile Equipment. Four other divisions of ConDec—UCI Industries, Consolidated Controls Corporation, NRM Corporation, and Lima Electric Company—have been sold. Ninety-nine percent of ConDec stock is held by the Farley Acquisition Corporation, which in turn is owned by William F. Farley, a prominent businessman.

ConDiesel Mobile Equipment is headquartered in Waterbury, Connecticut, with production facilities both in Waterbury and in Salisbury, Maryland. The bulk of the work done on the Ribbon Bridge contract is performed in the Salisbury facility.

In addition to Ribbon Bridges, ConDec produces or is capable of producing, other defense equipment. ConDiesel currently manufactures Low Silhouette Shipboard Aircraft Towing Tractors (Spotting Dollies) for the Navy. The division also currently has open contracts for items including the Rough Terrain Variable Reach Fork Lift and Automotive Axle Assemblies with the U.S. Army Tank Automotive Command. ConDiesel has produced 25K Cargo Loaders for the Air Force, but the Air Force has no current contracts with ConDiesel. ConDiesel also has produced M39 carriages for the M198 Howitzer under contracts with the U.S. Army Armament, Munitions and Chemical Command (AMCCOM). Although the delivery of carriages under the latest contract is complete, ConDiesel contends that AMCCOM still owes at east $4.8 million under the contract.

Justification: ConDec requests Public Law 85-804 relief under the authority set forth in Federal Acquisition Regulation (FAR) 50.302-1, "Amendments Without Consideration." Paragraph (a) provides that:

"When an actual or threatened loss under a defense contract, however cause, will impair the productive ability of a contractor whose continued performance on any defense contract or whose continued operation as a source of supply is found to be essential to the national defense, the contract may be amended without consideration, but only to the extent necessary to avoid such impairment to the contractor's productive ability."

ConDec Asserts that both its ability to continue performance on the Ribbon Bridge contract and its continued operation as a source of supply for the above—mentioned defense articles are essential to the national defense. ConDec identifies a severe cash-flow problem caused by recent losses on this and other contracts which threatens ConDiesel's ability to meet its obligations under the Ribbon Bridge Contract and threatens the very existence of the ConDec corporation. Therefore, ConDec concludes, extraordinary contractual relief is appropriate in this case.

In its original request ConDec sought, in the alternative, a $20 million upward price adjustment without consideration, or a termination of the contract without cost. In the time between ConDec's initial request and its appearance before the Army Contract Adjustment Board on July 16, 1987, ConDec modified its request for relief, deleting its "no cost termination" option and asking instead for (1) change the existing bridge contract to cost plus zero fee with an appropriate ceiling (and thereby shift responsibilities for past and future losses to the Army with a resulting immediate payment of $7.5 million. The current ConDec estimate to complete is $51.478 million or an upward adjustment of $19.968 million); (2) immediate payment of $4.7 million ConDec claims it is owed under contracts for Howitzer carriages; (3) a sole source contract with ConDec to produce a minimum of 2 Howitzer carriages per month for Foreign Military Sales; and (4) a committment to assist ConDec in its efforts to convince the Navy to make advance payments to ConDec on the Navy's Spotting Dolly contract.

Before forwarding the ConDec request to the Contract Adjustment Board, the Troop Support Command (pursuant to FAR 50.305(d)) consulted other agencies identified by ConDec in its request to ascertain whether those agencies considered ConDec to be "essential to the national defense." While the Naval Air Engineering Center, the Air Force Warner Robbins Logistics Center, AMCCOM, and TACOM all recognized that the loss of ConDiesel as a supplier would have a negative impact on readiness, none considered ConDec to be essential to the national defense by virtue of continued performance on defense contracts under their purview or as a continued source of supply.

Loss of ConDec's performance under the Ribbon Bridge contract and its impact on Army and Marine readiness posture was examined. Without complete performance of this contract, requirements for bridge components would remain unfilled. While other potential manufacturers of the Ribbon Bridge exist, there would undoubtedly be a delay in obtaining bridges from those manufacturers should ConDec be unable to meet its contractual obligations. Army readiness problems relative to the bridge, while difficult, appear not to be insurmountable. By revising the plan for distributing Ribbon Bridges, retaining the older Mobile Assault Bridges in some units for a bit longer and refurbishing some older Mobile Assault Bridges, the Office of the Deputy Chief of Staff for Operations and Plans indicates that the Army can maintain an acceptable readiness posture pending reprocurement that will be necessary in the event of default by ConDec. Marine requirements were contained entirely in the fourth year of the contract and readiness impact on the Corps can be minimized or perhaps avoided in a reprocurement.

Decision: While the need for Ribbon Bridges is significant, it is not so critical that the Board should subject the government to the cost risk of providing extraordinary contractual relief to ConDec. Previous ConDec business projections have been woefully inaccurate and the current projections were viewed as equally suspect. Additionally, the Howitzer contract carries the potential for significant additional negative cash flow that has not been revealed to ConDec by AMCCOM and has not been considered in their cash flow projections or in their request for relief. The Board is not convinced that the relief requested would be sufficient to keep ConDec viable and assure contract performance.

In sum, therefore, after considering all materials submitted by ConDec, all information provided by ConDec at the hearing on July 16, 1987, and other information provided by the Army Material Command and the

Office of the Deputy Chief of Staff for Operations and Plans, it was the unanimous opinion of the Board that relief for ConDec under the authority of Public Law Number 85-804 is not appropriate and is hereby denied.

U.S. Navy

Contingent liabilities

Provisions to indemnify contractors against liabilities because of claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the contractor's insurance program were included in 20 contracts (the potential cost of the liabilities cannot be estimated since the liability to the Government, if any, will depend upon the occurrence of an incident as described, in the indemnification clause). Items procured are generally those associated with nuclear-powered vessels, nuclear armed guided missiles, experimental work with nuclear energy, handling of explosives, or performance in hazardous areas.

Contractor:	*Number of contracts*
AT&T Technologies, Inc	1
General Dynamics Corp	2
General Electric Co	5
Lockheed Missile & Space Co., Inc.	3
Newport News Shipbuilding & Drydock Co	2
Vitro Corp	3
Westinghouse Electric Corp	4
Total	20

U.S. Air Force

Contingent Liabilities

Provisions to indemnify contractors against liabilities because of claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the contractor's insurance program were included in 2 contracts (the potential cost of the liabilities cannot be estimated since the liability to the Government, if any, will depend upon the occurrence of an incident as described, in the indemnification clause). Items procured are generally those associated with nuclear-powered vessels, nuclear armed guided missiles, experimental work with nuclear energy, handling of explosives, or performance in hazardous areas.

Contractor:	*Number of contracts*
Avco Systems Textron	1
The Aerojet TechSystems Co	1
Total	2

Contractor: Advance Building Maintenance Company.

Type of action: Correction of Mistake.

Actual or estimated potential cost: $578,305.

Service and activity: Little Rock Air Force Base.

Description of product or service: Mess Attendant Services.

Background: In January 1986, Advance Building Maintenance Company (ABM) submitted to the Air Force a request for extraordinary contractual relief under P.L. 85-804 in connection with contract F03602-82-C003. The contract required ABM to provide mess attendant services to Little Rock Air Force Base for the base period January through October 1982, and, at the option of the Air Force, for fiscal years 1983 and 1984. The Air Force terminated the contract for default in April 1982. In its request for relief, ABM sought payment for losses allegedly sustained by ABM before the contract was terminated. In addition, ABM sought to be relieved of the excess reprocurement costs assessed by the contracting officer for both the remainder of the base contract period and the two option years.

In accordance with Air Force regulations, ABM's request for relief was first considered by the Air Force Logistics Command (AFLC). In a decision dated September 1, 1986, AFLC denied ABM's request for relief, noting that the contracting officer's decision to terminate the contract and to assess reprocurement costs had been upheld by both the Armed Services Board of Contract Appeals (ASBCA) and the United States Court of Appeals for the Federal Circuit.

After receiving notice of AFLC's decision, ABM's counsel requested that the Air Force Contract Adjustment Board (Board) review that decision. Under the Board's practice, review of decisions denying relief is discretionary; ABM has no automatic right to review. The Board determined that it would review only that part of AFLC's decision denying relief for excess reprocurement costs assessed for the option years of the terminated contract. Consequently, that part of AFLC's decision denying ABM's request for payment for losses sustained prior to termination and denying relief for excess reprocurement costs for termination and denying relief for excess reprocurement costs for the remainder of the base contract period was upheld by the Board without further review. This Memorandum of Decision concerns only the assessment of excess reprocurement costs for the option years.

Justification: In the fall of 1981, ABM submitted the low bid in response to a solicitation for the mess attendant services contract. The solicitation was released after the Air Force declined to exercise an option with the incumbent food service contractor because of the incumbent's poor performance.

After reviewing the bids, the contracting officer believed that ABM's bid was too low and may have been based on a mistake. The contracting officer, therefore, requested at least four times that ABM check and verify its bid. In four separate letters, ABM provided the requested verification.

ABM had not previously provided mess attendant services. The contracting office determined, however, that ABM was a financially capable, responsible provider of janitorial services. In order to undertake the Little Rock contract, ABM had hired as its General Manager of Food Services an experienced and highly regarded food service expert. The contracting office concluded that ABM was a responsible bidder, despite its inexperience, because of the newly-hired General Manager's outstanding reputation for providing quality food services.

The Air Force awarded the mess attendant services contract to ABM as the low, responsive bidder and ABM commenced performance on January 1, 1982. Unfortunately for ABM, the experienced General Manager, who had been responsible for preparing ABM's bid, resigned for health reasons at the end of January. The Air Force was dissatisfied with ABM's performance and issued a cure notice on February 12. ABM subsequently hired a new General Manager and improved its performance, but at a cost substantially above the estimate upon which the former General Manager had prepared ABM's bid. ABM reported to Air Force officials that it was losing money on the contract. Evidence in the record suggests, but does not clearly establish, that the contracting officer's assistant may have assured ABM that, in light of the substantial losses incurred by ABM, the Air Force would not exercise the contract options at the end of the base period.

On April 2 and 4, 1982, ABM's attorney requested a no-cost termination or an equitable adjustment, on the grounds that ABM allegedly had made a mistake in its bid and that ABM was losing $25,000 per month. On April 13 and 14, the attorney notified the contracting officer that ABM would stop work on April 18 unless it was granted an increase in the contract price. ABM's owner reiterated this position on April 15. The Air Force did not modify the contract and, on April 18, ABM abandoned the job site.

The Air Force, in a final decision dated April 16, 1982, terminated the contract for default, effective April 18, on the ground that ABM had repudiated the contract. The Air Force would have rescinded the default termination if ABM had not left the work site on April 18.

Subsequently, the Air Force solicited offers from the five firms that, in 1981, had submitted the lowest responsive bids (after ABM's bid) in response to the original solicitation. Three of the five firms submitted proposals in response to the reprocurement solicitation. The prices offered by all three firms were higher than the prices offered in response to the original solicitation. The Air Force awarded a contract to the low bidder, Moore's Cafeteria Services, Inc. (Moore's), to perform the required mess attendant services for the remainder of the base contract period, and, at the Air Force's option, for fiscal years 1983 and 1984.

Moore's completed performance for the base year and the Air Force exercised its option for fiscal year 1983. Moore's performance during fiscal year 1983, however, was poor and the Air Force refused to exercise its option for fiscal year 1984. Instead, the Air Force contracted with the Small Business Administration (SBA), which subcontracted to Hamilton Enterprises, Inc. (Hamilton), under the SBA's Section 8(a) set-aside program.

In a final decision rendered by the contracting officer on March 2, 1983, the Air Force assessed ABM for excess reprocurement costs for both the base contract period and the option years. Recognizing that the costs under the SBA's Section 8(a) program are generally higher than costs under unrestricted competition, the Air Force calculated the excess reprocurement costs for fiscal year 1984 on the basis of Moore's bid for fiscal year 1984, rather than on the actual costs paid to Hamilton.

After unsuccessfully appealing the contracting officer's decision to the ASBCA and the Court of Appeals, ABM submitted the request for extraordinary contractual relief now before the Board.

Decision: ABM repudiated and ceased performing a contract under which it was losing $25,000 per month. Generally, the Air Force will not exercise an option on a contract if a contractor incurs significant losses during the base period. The Air Force Systems Command's Supplement to the Federal Acquisition Regulation, for example, provides that contracting officers should exercise options only if the exercise will not reasonably result in the contractor's financial insolvency. Thus, if ABM had computed the base year while incurring a substantial loss, the Air Force probably would not have exercised the option for fiscal year 1983.

Moreover, if ABM had continued to perform, the quality of its performance almost certainly would have declined as ABM attempted to reduce its losses. In that case, the Air Force would not have exercised the option for fiscal year 1983. Significantly, the Air Force refused to exercise options with both the contractor that preceded ABM and the contractor that succeeded ABM (Moore's) because of poor performance. Since both contractors completed the base contract period, the Air Force was not entitled to excess reprocurement costs for the option years.

Where, as here, the Air Force probably would not have exercised the options if the contractor had completed the base contract period at a substantial loss or had performed poorly, no significant Air Force interest would be furthered by assessing excess procurement costs for the option years. Under the circumstances of this case, including the untimely illness of a key employee and the possibility that an Air Force representative may have indicated that the options would not be exercised, fairness requires that ABM be relieved of the excess reprocurement costs for the option years. Granting this relief will facilitate the national defense by demonstrating that the Government will deal fairly with defense contractors.

It is the decision of the Board that ABM be relieved of the excess reprocurement costs assessed for the option years of Contract F03602-82-C003. The Board hereby authorizes and directs the contracting officer to take such action as is necessary to implement relief consistent with this Memorandum.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3074. A letter from the Assistant Secretary for Health, Department of HHS; Assistant Secretary for Science and Education, Department of Agriculture, transmitting a fifth progress report on the human nutrition research and information management system, covering the period July 1986 through June 1987, pursuant to Public Law 97-98, section 1427; to the Committee on Agriculture.

3075. A letter from the Assistant Secretary (Shipbuilding and Logistics), Department of the Navy, transmitting notification of the decision to convert the maintenance, utilities, and motor transportation services at the Marine Corps Recruit Depot, Parris Island, SC, to contractor performance as the most cost-effective method of accomplishment, pursuant to 10 U.S.C. 2304 note; to the Committee on Armed Services.

3076. A letter from the Deputy Assistant Secretary (Administration), Office of the Assistant Secretary of Defense, transmitting the calendar year 1987 report on "Extraordinary Contractual Actions to Facilitate the National Defense," pursuant to 50 U.S.C. 1434; to the Committee on Armed Services.

3077. A letter from the Assistant Secretary (Research, Development, and Acquisition), Department of the Army, transmitting a draft of proposed legislation to authorize the use of Department of Defense appropriations for payments under equipment operation and equipment maintenance contracts which cross fiscal years; to the Committee on Armed Services.

3078. A letter from the Deputy Assistant Secretary (Administration), Office of the Assistant Secretary of Defense, transmitting notification of the Strategic Defense Initiative Organization decision to exercise the provision for exclusion of the clause concerning examination of records by the Comptroller General from a proposed contract with the United Kingdom Government covering the performance of an SDI programme on research of higher operating temperature infrared detectors, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

3079. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting the second report on tied-aid credit which contains a description of any progress achieved in negotiations to establish an international arrangement to restrict use of tied and partially untied aid credits for commercial purposes, pursuant to 12 U.S.C. 635i-3(g)(1); to the Committee on Banking, Finance and Urban Affairs.

3080. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-146, "Closing of Public Alleys in Square 677, S.O. 87-95, Act of 1988," and Report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3081. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-147, "Dedication and Designation of Patricia Roberts Harris Drive, N.E., S.O. 85-189, and Street Naming Amendment Act of 1988," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3082. A letter from the Secretary of Education, transmitting a copy of notice of final funding priorities for technology, educational media, and materials for the Handicapped Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3083. A letter from the Secretary of Education, transmitting a copy of final regulations for removal of architectural barriers to the Handicapped Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3084. A letter from the Secretary of Education, transmitting a copy of final regulations for technology, educational media, and materials for the Handicapped Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3085. A letter from the Secretary of Energy, transmitting a report which combines the fourth quarter, 1987 quarterly report and 1987 annual report and discusses activities undertaken with respect to the development of the strategic petroleum reserve, pursuant to 42 U.S.C. 6245(a)(b); to the Committee on Energy and Commerce.

3086. A letter from the President, Overseas Private Investment Corporation, transmitting a copy of the fiscal year 1987 development report of the Corporation, pursuant to 22 U.S.C. 2200a; to the Committee on Foreign Affairs.

3087. A letter from the Chairman, Board of Governor of the Federal Reserve, transmitting the 1987 annual report of the Board's compliance with the Government in the Sunshine Act, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3088. A letter from the Acting Chairman, Federal Maritime Commission, transmitting the annual report covering calendar year 1987 of activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3089. A letter from the Director, Peace Corps, transmitting the annual report covering calendar year 1987 activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3090. A letter from the Secretary, The American Battle Monuments Commission, transmitting the annual report covering calendar year 1987 of activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3091. A letter from the Director, U.S. Information Agency, transmitting a report of the Agency's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3092. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3093. A letter from the Acting Comptroller General, General Accounting Office, transmitting the General Accounting Office report and recommendations concerning the claim of Mr. William D. Morger to be reimbursed normal relocation expenses, pursuant to 31 U.S.C. 3702(d); to the Committee on the Judiciary.

3094. A letter from the Executive Assistant, Personnel Appeals Board, transmitting the Board's annual report for the period October 1, 1986, through September 30, 1987; to the Committee on Post Office and Civil Service.

3095. A letter from the Commissioner, General Services Administration, transmitting an interim report on the evaluation of a 16-acre site owned by the International Center of San Diego, located east of the Otay Mesa border station; update expected within 45 days; to the Committee on Public Works and Transportation.

3096. A letter from the Secretary of Energy, transmitting the Department's 11th annual report for fiscal year 1987 of the activities under the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976, pursuant to 15 U.S.C. 2513; to the Committee on Science, Space, and Technology.

3097. A letter from the Secretary of Health and Human Services, transmitting the Department's 1988 Social Security annual report which includes financial statements for the first time, pursuant to 42 U.S.C. 904; to the Committee on Ways and Means.

3098. A letter from the U.S. Trade Representative, transmitting a draft of proposed legislation to provide authorization of appropriations for the Office of the U.S. Trade Representative for fiscal year 1989, pursuant to 31 U.S.C. 1110; to the Committee on Ways and Means.

3099. A letter from the Comptroller of the Currency, transmitting the 1987 annual report, pursuant to 12 U.S.C. 14; jointly, to the Committee on Banking, Finance and Urban Affairs and Energy and Commerce.

3100. A letter from the Secretary of Transportation, transmitting the 13th annual report of activities of the Department's administration of the Deepwater Port Act, pursuant to 33 U.S.C. 20; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

3101. A letter from the Chief of Staff, Department of Health and Human Services, transmitting a report of the Department's continuing progress on statutorily mandated reports and the steps taken by the Secretary to further enhance its effectiveness; jointly, to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. SCHROEDER. Committee on Post Office and Civil Service H.R. 925. A bill to entitle employees to family leave in certain cases involving a birth, an adoption, or a serious health condition and to temporary medical leave in certain cases involving a serious health condition, with adequate protection of the employees' employment and benefit rights, and to establish a commission to study ways of providing salary replacement for employees who take any such leave; with an amendment (Rep. 100-511, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. UDALL (for himself, Mr. Kolbe, Mr. Rhodes, and Mr. Kyl):

H.R. 4102. A bill to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, AZ, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. COBLE:

H.R. 4103. A bill to suspend for a 5-year period the duty on disperse yellow 27 dye; to the Committee on Ways and Means.

By Mr. FASCELL:

H.R. 4104. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Ways and Means.

By Mr. GALLO:

H.R. 4105. A bill to amend the U.S. Housing Act of 1937 to permit the use of housing vouchers to assist lower income families affected by the prepayment of mortgages on projects subsidized by the Secretary of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GRAY of Illinois:

H.R. 4106. A bill to designate Jackson, Perry, and Randolph Counties in Illinois as a single metropolitan statistical area; to the Committee on Post Office and Civil Service.

By Mr. HAWKINS (for himself, Mr. Jeffords, Mr. Martinez, Mr. Rodino, Mr. Edwards of California, Mr. Pepper, Mr. Roybal, Mr. Lantos, Mr. Hayes of Illinois, and Mr. Obey):

H.R. 4107. A bill to extend the statute of limitations applicable to certain claims under the Age Discrimination in Employment Act of 1967 that were filed with the Equal Employment Opportunity Commission before the date of enactment of this act; to the Committee on Education and Labor.

By Mr. STARK:

H.R. 4108. A bill to amend the Internal Revenue Code of 1986 to deny certain tax benefits in the case of certain acquisitions of thrift institutions; to the Committee on Ways and Means.

By Mr. YATRON:

H.R. 4109. A bill to amend section 118(a) of title 28, United States Code, to require that district court shall be held at Pottsville, PA; to the Committee on the Judiciary.

By Mr. STOKES (for himself and Mr. Hyde):

H.J. Res. 487. Joint resolution to designate the week of June 5, 1988 through June 11, 1988, as "National Intelligence Community Week"; to the Committee on Post Office and Civil Service.

By Mr. MICA (for himself, Mr. Kostmayer, Mr. Fascell, Mr. Hamilton, Mr. Solarz, Mr. Bonker, Mr. Wolpe, Mr. Berman, Mr. Levine of California, Mr. Feighan, Mr. Weiss, Mr. Broomfield, Ms. Snowe, and Mr. Miller of Washington):

H. Res. 397. Resolution affirming that the House of Representatives recognizes Eric Arturo Delvalle as the President of Panama, and calling upon General Noriega to comply with President Delvalle's order dismissing him from his position as the commander of the Panamanian Defense Forces; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LaFALCE introduced a bill (H.R. 4110) for the relief of Walter J. Shanahan; which was referred to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 94: Mr. McEwen.

H.R. 190: Mr. Lightfoot, Mr. Coleman of Texas, Mr. Leland, Mr. Holloway, and Mr. Hughes.

H.R. 1647: Mr. Madigan.

H.R. 1975: Mr. Hochbrueckner.

H.R. 2497: Mr. Smith of New Hampshire.

H.R. 2498: Mr. Smith of New Hampshire.

H.R. 2920: Mr. Wolpe.

H.R. 2959: Mr. Bliley.

H.R. 3054: Mr. Ford of Tennessee.

H.R. 3119: Mr. Andrews, Mr. Kleczka, Mr. Conyers, Mr. Dixon, Mr. Williams, Mr. Burton of Indiana, Mr. St Germain, Mr. DeFazio, Mr. Eckart, and Mr. Stallings.

H.R. 3132: Mr. Borski.

H.R. 3146: Mr. Alexander, Mr. Traficant, and Mr. Penny.

H.R. 3174: Mr. Florio.

H.R. 3250: Mr. Packard.

H.R. 3312: Mr. Lantos.

H.R. 3624: Mr. Owens of New York, Mr. Tallon, Mr. Garcia, and Mr. Fauntroy.

H.R. 3639: Mr. Lewis of Florida, Mr. Coble, Mr. Frenzel, and Mr. Grandy.

H.R. 3788: Mr. Hefner, Mr. Owens of New York, Mr. Obey, Mr. Traxler, and Mr. Tallon.

H.R. 3791: Mr. Eckart.

H.R. 3812: Mr. Vento.

H.R. 3879: Mr. Clay, Mrs. Collins, and Mr. Edwards of California.

H.R. 3883: Mr. Yates, Mr. Berman, Mr. Kildee, Mr. Neal, Mr. Mollohan, Mr. Quillen, Mr. Johnson of South Dakota, and Mr. Grant.

H.R. 3885: Mr. Owens of New York, Mr. Frank, Mr. Weiss, Mr. Martinez, Mr. Wise, Mr. Morrison of Connecticut, Mr. Garcia, Mr. Towns, Mrs. Collins, and Mr. Leland.

H.R. 3886: Mr. Fawell, Mr. Roth, and Mrs. Martin of Illinois.

H.R. 3892: Ms. Kaptur, Mr. Solomon, Mr. Clarke, Mr. Smith of New Jersey, Mr. Wolpe, Mr. Hatcher, Mr. Craig, Mr. Darden, Mr. McCurdy, and Mr. Rowland of Georgia.

H.R. 3903: Mr. Wolpe, Mr. Nichols, Mr. Johnson of South Dakota, Mr. Horton, and Mr. Penny.

H.R. 3907: Mr. Skelton, Mr. Darden, and Mr. Coble.

H.R. 3927: Mr. Torres.

H.R. 3969: Mr. Gray of Illinois and Mr. Traficant.

H.R. 4003: Mr. Owens of New York, Mr. Clay, Mr. Towns, Mr. Ackerman, Mr. Fauntroy, Mr. Edwards of California, and Mr. Lowry of Washington.

H.R. 4014: Mr. Mollohan, Mr. Baker, Mr. Kanjorski, Mr. Stallings, Mr. Alexander, Mr. MacKay, Mr. Schaefer, Mr. Buechner, Mr. Robinson, Mr. Jontz, Mr. Coleman of Texas, Mr. Lightfoot, Mr. Gallo, Mr. Kasich, Mr. Davis of Michigan, Mr. Montgomery, Mr. Holloway, Mr. Packard, Mr. Rose, Mr. Mack, Mr. Miller of Ohio, Mr. Davis of Illinois, Mr. Burton of Indiana, and Mr. Dannemeyer.

H.R. 4019: Mr. Nichols, Mr. Valentine, Mr. Carr, Mr. Darden, Mr. Penny, Mr. Lott, Mr. Leach of Iowa, Mr. Spence, Mr. Bevill, and Mr. Hammerschmidt.

H.J. Res. 23: Mr. Carr.

H.J. Res. 140: Mr. Anthony, Mr. Carr, Mr. Bevill, Mrs. Lloyd, Mr. Thomas A. Luken, and Mr. Carper.

H.J. Res. 383: Mr. Savage.

H.J. Res. 415: Mr. Ford of Tennessee, Mr. McCloskey, Mrs. Byron, Mr. Brennan, Mr. Hutto, Mr. Conte, Mr. Jontz, Mr. Bartlett, Mr. Robert F. Smith, Mr. Hyde, Mr. Kennedy, Mr. Lantos, Mr. Shaw, Mr. Coats, Mr. Clay, Mr. Lewis of Florida, Mr. Clement, Mr. McGrath, Mr. Solomon, Mr. Borski, Mr. Levine of California, Mr. Hansen, Mr. Lightfoot, Mr. Slattery, Mr. Hawkins, Mr. Perkins, Mr. Lungren, Mr. Roth, Mr. Flippo, Mr. Studds, Mr. Spence, Mr. Ravenel, Mr. Tallon, Mr. Coleman of Missouri, and Mr. Burton of Indiana.

H.J. Res. 445: Mrs. Vucanovich, Mr. Campbell, Mr. Bruce, Mr. Fish, Mr. Chapman, Mr. Miller of California, Mr. Stallings, Mr. Bosco, Mr. Lipinski, Mr. Marlenee, Mr. Fawell, Mr. Applegate, Mr. Rowland of Georgia, Mr. Lehman of California, Mr. Gaydos, and Mr. MacKay.

H.J. Res. 452: Mr. Hunter, Mr. Swindall, Mr. Hyde, Mr. Wortley, Mr. Burton of Indiana, Mr. Fawell, Mr. Chappell, Mr. Lipinski, Mr. Boulter, Mr. Horton, and Mr. Inhofe.

H.J. Res. 453: Mr. Inhofe, Mr. Dingell, Mr. Bereuter, Mrs. Smith of Nebraska, Mr. Wilson, and Mr. Ackerman.

H.J. Res. 468: Mr. Gray of Illinois, Mr. Manton, Mrs. Bentley, Mr. Bustamante, Mr. Owens of New York, Mr. Kleczka, Mr. Wortley, Mr. Bonker, and Mr. Horton.

H. Con. Res. 233: Mr. LEWIS of California.

H. Res. 144: Mr. ESPY.

H. Res. 379: Mr. BADHAM, Mr. DORNAN of California, Mr. FAWELL, Mr. HYDE, Mr. INHOFE, Ms. KAPTUR, Mr. LIPINSKI, and Mr. WORTLEY.

H. Res. 392: Mr. KONNYU, and Mr. WILSON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of the XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 74: Mr. HUTTO.

PETITIONS, ETC.

Under clause 1 of rule XXII,

133. The SPEAKER presented a petition of the City Council of Philadelphia, PA, relative to support of H.R. 1875; which was referred to the Committee on Armed Services.

EXTENSIONS OF REMARKS

THE IRAN/CONTRA AFFAIR

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. HAMILTON. Mr. Speaker, I would like to insert a copy of a speech that I gave summarizing the Iran/Contra affair into the CONGRESSIONAL RECORD:

THE IRAN/CONTRA AFFAIR

I. WHY WERE THE HEARINGS HELD?

The hearings were held because in the course of the conduct of the Government's business something went seriously wrong.

Two policies led to the inquiry: The arms sales to Iran and the diversion of funds from those sales to the Nicaraguan Contras. The first began with a document the President forgot and the second began without his knowledge.

The President's decision to sell arms secretly to Iran contradicted the long held, widely supported public policies of the United States to make no concessions to terrorists, to remain neutral in the Persian Gulf war, and to stop the flow of arms to Iran. By selling arms to a nation officially designated by our government as a terrorist state, major damage was done to U.S. credibility. Because of these policies, President Reagan was catapulted into the most serious policy crisis of his presidency.

The basic problem was that we were telling all the world that we were doing one thing, when in fact we were secretly doing something else.

Our public policy was to remain neutral in the war. Our secret policy was to sell arms to Iran.

Our public policy was not to make any concessions for the release of hostages. Our secret policy was to trade weapons to get the hostages back.

Our public policy was to ban arms shipments to Iran and to exhort our allies to observe the embargo. Our secret policy was to sell sophisticated missiles to Iran and to promise more.

Our public policy was to urge all states to punish terrorism. Our secret policy was to reward terrorism by selling them the arms they wanted.

Our public policy was to observe the letter and the spirit of the Boland Amendment which prescribed military assistance to the Contras. Our secret policy was to fund the Contras' military effort.

Our public policy was to conduct covert operations solely through the CIA. Our secret policy was to permit the NSC staff to become an operational agency and to use private, non-accountable agents to conduct covert activities concealed from the Congress.

The hearings were held because we sought to discover how these events happened and how they could be prevented.

II. WHAT WERE THE CENTRAL ISSUES OF THE HEARINGS?

The central question before the Select Committees—at least for me—was, "Can our constitutional system of shared powers between the Congress and the President be made to work in the formulation and implementation of foreign policy in a dangerous world?"

III. WHY DID THE COMMITTEES HOLD PUBLIC HEARINGS?

The Committees were created to find facts, and to investigate the process failures. Our purpose was to get the facts, not the President.

The Congress gets information principally through holding hearings. The Select Committees obtained large amounts of evidence through staff work and private depositions but the open hearings contributed to the public understanding of these events and the workings of our system of government. We examined over 300,000 pages of documents, more than 500 witnesses. We held 41 days of public hearings.

Extremely complex facts had to be analyzed in testimony drawn out of the witnesses who were often uncooperative. Because the task of the Committees was to inform rather than prosecute, strict court room rules of evidence did not apply. Witnesses could be forced to testify if granted limited immunity and they could consult lawyers before answering questions.

Since the witnesses were reluctant, adversarial, inconsistent and often could not recall significant events, pointed, tough, probing questions were necessary.

Doing all of this in a public form rather than behind closed doors let Americans decide for themselves if the investigation was fair and thorough. There is no better way than television to present all of this to the people of America.

IV. WHAT THEN WERE THE MAJOR CONCLUSIONS OF THE HEARINGS?

(1) The Committees found no smoking gun evidence that President Reagan was involved in wrong doing, such as engaging in a cover up for approving the diversion of arms sales money to the Contras. They did show that he allowed his aides to carry out secret policies with little supervision.

(2) The Committees found there was too little accountability for decisions and actions taken in the name of elected officials. A small number of officials made policy outside the democratic process.

(3) Admiral Poindexter said, "The buck stops with me."

There was too much secrecy and deception in government.

The common ingredients of the Iran/Contra policies were secrecy, deception, and disdain for the law.

These officials told neither the Secretary of State, the Congress, nor the American people of their actions.

When their exposure was threatened, they destroyed official documents and lied to Cabinet officials, to the public, and to the elected representatives in Congress. They even withheld key facts from the President.

Crucial information was withheld from the Congress, from important allies, and from the American people. The Secretaries of Defense and State and even the President were not informed of major foreign policy initiatives and were supplied misleading information.

Colonel North said, "I did not want to show the Congress a single word."

In the Iran/Contra affair, secrecy was used to justify lies to the Congress, to the Attorney General, to Cabinet officers and even to the CIA. Secrecy was used not as a shield against our adversaries but as a weapon against our own democratic institutions.

Admiral Poindexter wrote in one of his prof notes, "Withhold true objectives from staffs."

(4) Intelligence was misused.

Too often intelligence estimates were used as a tool to make policy look good rather than as a tool for making good policy. The Secretary of State testified that he did not trust the intelligence that he received with respect to these events.

(5) There was too much reliance on private citizens and foreign governments to carry out American policy.

The NSC staff turned to private parties and third countries to do the government's business. Sensitive negotiations were conducted by parties with little experience in diplomacy and a financial interest of their own. General Secord and Albert Hakim took $4½ million in commission and used $2.2 million for their personal benefit.

The solicitation of foreign funds by an administration to pursue foreign policy goals rejected by the Congress is dangerous and improper. Such solicitations creates a risk that the foreign country will expect and demand something in return. When there is a quid, there is a quo.

Moreover, under the Constitution only the Congress can provide funds for the executive branch. The power of the purse is one of the principle checks on the executive action. It is designed among other things to prevent the executive from involving this country unilaterally in a foreign conflict. The Constitution does not prohibit the President from asking a foreign state, or anyone else, to contribute funds to a third party. But it does prohibit such solicitation where the United States exercises control over the receipt and expenditure. By circumventing Congress' power of the purse through third-country and private contributions to the Contras, the administration undermined a cardinal principle of the Constitution.

(6) Covert actions were mis-used.

Covert actions should always be used to supplement, not to contradict our foreign policy. They should not be used to impose a foreign policy that the American people do not support. They should be conducted in accordance with strict rules of accountability and oversight.

It is unwise to rely on covert actions as the core of our policy. But it was precisely because the public would not support the Contra policy and was unlikely to favor the arms deal with Iran that the National Security Council went underground.

(7) Throughout Iran/Contra there was shown a disdain for the Congress.

Officials holding no elected office repeatedly evidenced disrespect for Congress' ef-

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

forts to perform its constitutional oversight role in foreign policy.

Admiral Poindexter testified, "I simply did not want any outside interference."

Elliott Abrams acknowledged in his testimony that unless Members of Congress asked "exactly the right question using exactly the right words they weren't going to get the right answers."

Numerous other officials made false statements to and misled the Congress.

In a system of shared powers decision making requires mutual respect between the branches of government. We were reminded during the hearings that "trust is the coin of the realm."

(8) Throughout the hearings that was a disdain for law.

The covert program of support for the Contras evaded the Constitution's most significant check on executive power that the President could spend funds on a program only if he could convince Congress to appropriate the money.

The covert program of support for the Contras was an evasion of the letter and spirit of the Boland Amendment. The covert operations were required to be disclosed to the Intelligence Committees but no disclosure was made.

False statements to the Congress are felonies if made with knowledge and intent.

Covert actions were carried out without a personal determination by the President, without a written finding as required by law.

The President did not make a disclosure to the Intelligence Committees of findings as required by law.

The Committees made no determination as to whether any particular individual involved in the Iran/Contra affair acted with criminal intent or is guilty of a crime. That is a matter for the independent counsel and the courts. The Committees do reject any notion that worthy ends justify violation of the law by government officials. There is no place in government for law breakers.

V. THE KEY QUESTION OF COURSE IS WHO IS RESPONSIBLE FOR THE IRAN/CONTRA AFFAIR?

At the operational level the central figure was clearly Lt. Col. North. He coordinated all the activities. He was involved in all aspects of the operation. But he did not act alone.

He had the express approval of Admiral John Poindexter as the National Security Advisor. He at least had the tacit approval of Robert McFarlane, the former National Security Advisor.

The late Director of Central Intelligence, William Casey, encouraged North, gave him direction, promoted the concept of an extra legal covert organization. Casey insulated CIA courier employees from knowledge of what he and the NSC staff were doing. It was Casey who brought in General Secord into the secret operation.

But of course we are mindful of the fact that the evidence concerning Casey comes almost solely from North. We were not able to contact Director Casey directly before his death.

The Attorney General conducted a fact finding inquiry. That inquiry departed from standard investigation techniques. For example, he saw Director Casey hours after the Attorney General learned of the diversion memorandum yet he never asked Casey about the diversion. He did not ask Poindexter what the President knew. He waited for too long a period to seal Col. North's offices. And these lapses place a cloud over the Attorney General's investigation.

There is no evidence that the Vice President was aware of the diversion. He attended several meetings on the Iran initiative but none of the participants could recall his views.

One of his advisors was told about the activities of Col. North but he testified that he did not consider these facts worthy of the Vice President's attention.

Of course the central question is the role of the President.

As it stands the President has publicly stated that he did not know of the diversion. Admiral Poindexter said that he shielded the President from knowledge of the diversion. Col. North said that he never told the President but he assumed the President knew.

Nevertheless, the ultimate responsibility for the events of Iran/Contra must rest with the President. If he did not know what his national security advisors were doing, he should have.

The Constitution requires the President to take care that the laws be faithfully executed. This charge encompasses a responsibility to leave the members of his administration in no doubt that the rule of law governs.

He has the responsibility to communicate unambiguously to his subordinates that they must keep him advised of important actions that they take.

His advisors disregarded the Boland Amendment, several statutes, several executive orders. They lied, they shredded documents, they covered up their actions. All of these facts are on the public record. These actions do not comport with the notion of a country guided by the rule of law. The President of the United States has yet to condemn their conduct.

The President told the American public a number of things that were simply wrong. He said the U.S. government had no connection with the Hasenfus airplane. He said the early reports of arms sales for hostages had no foundation. He said the United States had not traded arms for hostages. He said the United States had not condoned the arms sales by Israel to Iran when in fact he had approved them and signed a finding. All of these statements by the President were wrong.

In my view, whether the President knew of the diversion is not conclusive on the issue of his responsibility. The President created, or at least tolerated, an environment where those who did not know of the diversion believed with certainty that they were carrying out the President's policies.

VII. WHAT DID THE HEARINGS ACCOMPLISH?

I view the hearings as an essential part of the self-cleansing process of our system of government.

Because of the hearings we see more clearly what happened, and what needs to be done to make our system work better. I hope the hearings helped restore public confidence in the Constitution and in the process of government.

I am encouraged by the several steps the President has taken, including changing White House personnel, prohibiting National Security Council members from undertaking covert actions, and promising to report covert actions to the Congress promptly.

I believe that the hearings will have a lasting impact on the decision making process. I think they will act as a deterrent to short cutting the system. My guess is that it will be a long time before the National Security Advisor makes a foreign policy decision without informing the Congress as Admiral Poindexter did.

Unresolved questions remain. We don't know what happened to all the money. We don't know why the President agreed to sell arms to Iran. We don't know what created the climate in the White House that led aides to believe secrecy and short cuts were permitted. We don't know exactly what the role of the CIA director was. We do not know the extent of third country involvement. We did not resolve all the contradictions in the testimony.

Keep in mind that the independent counsel is deciding whether criminal action should be brought against any of the participants.

VII. WHAT DID THE COMMITTEES RECOMMEND?

Although the Committee made some legislative recommendations, my sense is that the solution to the problem revealed in the hearings lie less in new structures or new laws than in proper attitudes. Some recommendations were made, but the Committees did not design their work to develop legislation.

The lessons of the Iran/Contra affair are basic ones. Fundamentally, what we have to do is to return to the constitutional and traditional ways of making decisions. Officials must observe constitutional principles. Government policy should not be kept secret. Laws should be obeyed. Public officials should be honest. Congress and the President must work together in an atmosphere of mutual respect and trust.

It is time to put the Iran/Contra affair behind us, but not its lessons.

VOTING RECORD

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. UDALL. Mr. Speaker, it has become my practice from time to time to list my votes in the CONGRESSIONAL RECORD. I strongly believe that the people of the Second Congressional District of Arizona have a right to know where I stand on the issues decided by this body, and I have found that printing my record here is the best way to provide that information.

This is not an all-inclusive list. I have omitted noncontroversial votes such as quorum calls, motions to resolve into the Committee of the Whole House, and motions to approve the Journal of the previous day.

The descriptions are necessarily somewhat short, and I am sure that some of my constituents will have additional questions about the issues described here. So I invite them to write me for more specifics.

The votes are described as follows:

KEY

1. Rollcall Number;
2. Number of the bill or resolution;
3. Title of the bill or resolution;
4. A description of the vote;
5. The outcome of the vote;
6. The vote total;
7. My vote, in the form Y=yes, N=no, and NV=not voting;
8. The vote totals of the Arizona delegation (yes-no-not voting);
9. The date.

251. HR 2782. National Aeronautics and Space Administration Authorization, Fiscal 1988—Administrator Qualifications. Smith, R-N.H., amendment to delete language specifying that the NASA administrator and deputy administrator could not both be retired military officers unless at least 10 years had passed since they were on active duty. Adopted 268-135:N(4-1-0), July 9, 1987.

252. HR 2782. National Aeronautics and Space Administration Authorization, Fiscal 1988—Budget Resolution Limits. Morrison, D-Conn., amendment to cap the total authorization at $9.367 billion, the amount allowed under the fiscal 1988 budget resolution (H Con Res 93). Rejected 148-257:N(2-3-0), July 9, 1987.

253. HR 2782. National Aeronautics and Space Administration Authorization, 1988—Final Passage. Passage of the bill to authorize $9.522 billion in fiscal 1988 for space exploration and research activities of NASA. The president had requested $9.487 for NASA. Passed 372-34:Y(4-1-0), July 9, 1987.

254. HR 2890. Transportation Appropriations, Fiscal 1988—Rule. Adoption of the rule (H Res 221) to provide for House floor consideration of the bill to make appropriations for the Department of Transportation and related agencies in fiscal 1988. The rule would waive points of order against the bill for failure to comply with the new spending authority limitation contained in the 1985 Balanced Budget and Emergency Deficit Control Act (the Gramm-Rudman-Hollings anti-deficit law, PL 99-177). Adopted 198-118: NV(0-4-1), July 13, 1987.

256. HR 2890. Transportation Appropriations, Fiscal 1988—Coast Guard Funds. Jones, D-N.C., amendment to increase spending in the bill for Coast Guard equipment acquisition, construction and improvement by $17.9 million from $260 million to $277.9 million. Rejected 91-287:N(0-5-0), July 13, 1987.

258. HR 2890. Transportation Appropriations, Fiscal 1988—Modernization. Traficant, D-Ohio, amendment to reduce funding in the bill for modernization of the air traffic control system by $67.5 million, from $1.7 billion to $1.1025 billion. Rejected 99-292:N(1-4-0), July 13, 1987.

259. HR 2890. Transportation Appropriations, Fiscal 1988—Demonstration Projects, Crane, R-Ill., amendment to cut $59.4 million for 10 highway demonstration projects funded from both the general fund and from the Highway Trust Fund, which is financed by fuel taxes. Rejected 129-264:N(3-2-0), July 13, 1987.

260. HR 2890. Transportation Appropriations, Fiscal 1988—Demonstration Projects. McMillan, R-N.C., amendment to cut $20.4 million in funding in the bill for five highway demonstration projects funded from the general fund rather than the Highway Trust Fund. Rejected 177-217:N(4-1-0), July 13, 1987.

261. HR 2890. Transportation Appropriations, Fiscal 1988—Amtrak. McMillan, R-N.C., amendment to reduce the bill's funding for the Amtrak national passenger railroad from $614 million to $594.8 million, the current level of funding. Rejected 171-221:N(4-1-0), July 13, 1987.

262. HR 2890. Transportation Appropriations, Fiscal 1988—Across the Board Cut. Penny, D-Minn., amendment to reduce by 3.3 percent all amounts made available by the bill and not otherwise required by law. Rejected 189-198:N(4-1-0), July 13, 1987.

263. HR 2890. Transportation Appropriations, Fiscal 1988 Across the Board Cuts. Johnson, R-Conn., amendment to reduce by 2 percent all amounts made available by the bill and not otherwise required by law. Adopted 218-166:N(4-1-0), July 13, 1987.

264. HR 2890. Transportation Appropriations, Fiscal 1988—In-Flight Smoking. Durbin, D-Ill., amendment to deny federal grants to any airport that permits any airline to provide service between its facilities and any other airport with an aircraft scheduled to be in the air for two hours or less on which smoking is permitted. Adopted 198-193:Y(2-3-0), July 13, 1987.

267. HR 2906. Military Construction Appropriations. Fiscal 1988—Rule. Adoption of the rule (H Res 222) to provide for House floor consideration of the bill to appropriate funds for construction and repair of defense installations and military family housing in fiscal 1988. The rule would waive points of order against the bill for failure to comply with the limitation of new spending authority contained in the 1985 Balanced Budget and Emergency Deficit Control Act (the Gramm-Rudman-Hollings anti-deficit law, PL 99-177). Adopted 260-150:Y(2-3-0), July 14, 1987.

268. HR 2906. Military Construction Appropriations, Fiscal 1988—Across the Board Cut. Rhodes, R-Ariz., amendment to reduce all appropriations in the bill by 0.9 percent. Rejected 140-281:Y(3-2-0), July 14, 1987.

269. HR 2906. Military Construction Appropriations, Fiscal 1988—Passage. Passage of the bill to appropriate $8,079,000,000 for construction and repair of defense installations and military family housing in fiscal 1988. The president had requested $9,851,957,000. Passed 371-48:Y(5-0-0), July 14, 1987.

270. HR 2907. Treasury Postal Appropriations, Fiscal 1988—Rule. Adoption of the rule (H Res 223) to provide for House floor consideration of the bill to appropriate $15.4 billion for the Treasury Department, U.S. Postal Service and other agenices for fiscal 1988. The rule would waive points of order against the bill for failure to comply with the limitation of new spending authority contained in the 1985 Balanced Budget and Emergency Deficit Control Act (the Gramm-Rudman-Hollings anti-deficit law, PL 99-177). Adopted 266-148:Y(1-4-0), July 14, 1987.

272. HR 2907. Treasury Postal Appropriations, Fiscal 1988—Across the Board Cut. Stenholm, D-Texas, amendment to impose a 4.74 percent across the board cut for all discretionary spending, amounting to an estimated $420 million reduction in spending. Adopted 218-203:N(4-1-0), July 15, 1987.

274. HR 2907. Treasury Postal Appropriations, Fiscal 1988 Across the Board Cut. Stenholm, D-Texas, amendment to impose a 4.74 percent across the board cut for all discretionary spending, amounting to an estimated $420 million reduction in spending. Rejected 207-210:N(4-1-0), July 15, 1987.

275. HR 2907. Treasury Postal Appropriations, Fiscal 1988—Passage. Passage of the bill to provide $15,385,529,000 for the Treasury Department, the U.S. Postal Serivce, the Executive Office of the President and certain independent agencies. The President had requested $14,605,851,000 for these departments and agencies. Passed 254-158:Y(2-3-0), July 15, 1987.

276. HR 2470. Catastrophic Health Insurance Bill—Rule. Adoption of the rule (H Res 227) to provide for House floor consideration of the bill to protect Medicare beneficiaries from catastrophic health care costs and to otherwise expand the program. The rule provided that the original text of HR 2470 be replaced with text of HR 2941, a compromise package of the versions of HR 2470 reported by the Ways and Means and Energy and Commerce Committees. Adopted 248-174:Y(1-4-0), July 22, 1987.

278. HR 2470. Catastrophic Health Insurance Bill—Brand-Name Drugs. Jacobs, D-Ind., amendment to strike from the bill provisions encouraging the substitution of generic drugs when available for brand-name prescription drugs. Rejected 161-265:N(3-2-0), July 22, 1987.

279. HR 2470. Catastrophic Health Insurance Bill—Republican Substitute. Michel, R-Ill., amendment to substitute the text of HR 2970, which would expand the Medicare program to protect beneficiaries from catastrophic medical expenses in a more limited way than would HR 2470. The Congressional Budget Office estimated that over five years the Michel bill would cost about $18.2 billion, while HR 2470 would cost $33.9 billion. Rejected 190-242:N(4-1-0), July 22, 1987.

280. HR 2470. Catastrophic Health Insurance Bill—Motion to recommit. Crane, R-Ill., motion to recommit to the Ways and Means Committee the bill with instructions to determine the impact of potential costs on the bill's prescription-drug program for drugs to fight the disease AIDS. Motion rejected 187-244:N(4-1-0), July 22, 1987.

281. HR 2470. Catastrophic Health Insurance Bill—Passage. Passage of the bill to protect Medicare beneficiaries from catastrophic health-care costs and to otherwise expand the program. Passed 302-127:Y(1-4-0), July 22, 1987.

283. HR 157. Constitution Day—Rule. Adoption of the rule (H Res 186) to provide for House floor consideration of the bill to designate Sept. 17, 1987 as a legal holiday to commemorate the bicentennial of the signing of the U.S. Constitution. Adopted 409-5:Y(5-0-0), July 23, 1987.

284. HR 157. Constitution Day—Legal Holiday. Upton, R-Mich., amendment to make Sept. 17 an annual "day of recognition" to honor the U.S. Constitution and to strike a clause in the bill designating Sept. 17, 1987 a legal holiday. Adopted 237-162:Y(5-0-0), July 23, 1987.

285. H Res 231. POW-MIA Negotiations—Adoption. Solarz, D-N.Y., motion to suspend the rules and adopt the resolution to express the support of the House of Representatives for Gen. John W. Vessey Jr.'s upcoming negotiations with the Vietnamese to resolve the problem of Americans still missing in Southeast Asia. Motion agreed to 418-0:Y(5-0-0), July 28, 1987.

286. HR 618. Displaced Salvadorans and Nicaraguans—Passage. Passage of the bill to require the U.S. Government to suspend the deportation for about two years of Salvadorans and Nicaraguans who have entered the United States illegally. They would be required to return to their native countries when conditions at home improve and would be barred from most forms of federal assistance while they are in the United States. Passed 237-181:Y(1-4-0), July 28, 1987.

287. HR 3022. Temporary Debt Limit Increase—Rule. Adoption of the rule (H Res 233) to provide for House floor consideration of the bill to increase temporarily the limit on the federal debt to $2.320 from $2.111 trillion, through Aug. 6, 1987. After that deadline the limit would revert to $2.111 trillion if no further action were taken. Adopted 243-169:Y(1-4-0), July 29, 1987.

288. HR 3022. Temporary Debt Limit Increase—Passage. Passage of the bill to increase temporarily the limit on the federal debt, to $2.320 trillion from $2.111 trillion, through Aug. 6, 1987. After that deadline the limit would revert to $2.111 trillion if no further action were taken. Passed 263-155:Y(2-3-0), July 29, 1987.

289. HR 1414. Price-Anderson Amendments—Liability Limits. Eckart, D-Ohio, amendments to remove the $63 million limit in the bill on deferred premiums paid by nuclear utilities after an accident and to substitute a limit of $10 million per year. The effect would be to remove the cap on how much compensation could be paid to accident victims. Rejected en bloc 119-300:N(0-5-0), July 29, 1987.

290. HR 1414. Price-Anderson Amendments—Contractors' Penalties. Wyden, D-Ore, amendment to establish civil penalties for Energy Department nuclear contractors who violate safety regulations and to authorize the attorney general to recover limited damages from such contractors who, through gross negligence or willful misconduct, cause a nuclear accident. Rejected 193-226:Y(1-4-0), July 29, 1987.

292. HR 1414. Price-Anderson Amendments—Legal Awards. Sikorski, D-Minn., amendment to prohibit courts from awarding legal costs for any party from the Price-Anderson funds if it would jeopardize compensation of victims of a nuclear accident. Rejected 183-230:N(0-5-0), July 30, 1987.

293. HR 1414. Price-Anderson Amendments—Passage. Passage of the bill to reauthorize and amend the Price-Anderson Act of 1957 (PL 85-256) to limit compensation for damages in the event of a nuclear accident and to set up a system to pay for those damages. Passed 396-17:Y(5-0-0), July 30, 1987.

294. HR 27. FSLIC Rescue—Conference Report. Adoption of the conference report on the bill to enable the insolvent Federal Savings and Loan Insurance corporation to borrow $10.8 billion and, among other provisions, to ease regulatory requirements for savings and loans in economically depressed areas, to prohibit the expansion of limited service banks, to require faster clearing of depositors' checks, and to suspend expansion of banks, into insurance, real estate and securities underwriting. Adopted 382-12:Y(5-0-0), Aug. 3, 1987.

295. HR 2957. National Cemetery Improvements—Passage. Montgomery, D-Miss., motion to suspend the rules and pass the bill to provide for improvements in the National Cemetery System administered by the Veterans Administration (VA) and the American Battle Monuments Commission (ABMC). The bill would authorize a $3 million account to eliminate losses caused by changes in foreign currency values after Congress has appropriated a specific sum for the ABMC to build and maintain U.S. military monuments and burial grounds overseas. It would also authorize the VA to contribute funds to local communities to improve road and traffic conditions around national cemeteries, allow certain national cemeteries to use flat grave markers rather that upright ones, and repeal a current requirement that no more than 20 percent of appropriated funds in a given fiscal year be allocated to a single state. Motion agreed to 393-0:Y(5-0-0), Aug. 3, 1987.

297. HR 2881. National Commission on AIDS/Passage. Montgomery, D-Miss., motion to suspend the rules and pass the bill to create a 15-member commission to study and report to Congress on issues and priorities for dealing with the AIDS epidemic. Motion agreed to 355-68:Y(4-1-0), Aug. 4, 1987.

298. HJ Res 324. Temporary Debt-Limit Increase—Conference. Michel, R-Ill., motion to instruct the House conferees to agree to an automatic spending-cut procedure with a provision for protecting military personnel accounts in the event of an automatic cut, and to agree to significant annual reductions in the federal deficit over a period of several years that would lead to a balanced budget. Motion agreed to 267-156:N(4-1-0), Aug. 4, 1987.

TROUBLED THRIFT INDUSTRY

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. STARK. Mr. Speaker, today I am introducing a bill to reduce the tax benefits involved in certain acquisitions of thrift organizations.

I am sensitive to the problem of financially troubled thrifts and offer this bill as a focus for discussion of all the benefits now available to a potential acquiror of troubled thrifts.

A recent article in the Washington Post compared problem ridden savings and loans to "pesky dandelions" that continue to pop up across the country. Although the problems of troubled thrifts are severe in economically troubled regions, they are not limited to depressed areas. Systemic industry problems and risky portfolio strategies must also be recognized as relevant factors.

We have developed a "dowry" approach whereby FSLIC and the Tax Code provide enticements to encourage a potential acquiror to take over ailing thrifts. But the combination of benefits for the acquiring entity—paid for out of Federal funds—may be distracting the parties involved from determining why the thrift industry is in such deep trouble.

FSLIC has the flexibility to tailor the benefits allowed in a merger or acquisition on a case-by-case basis. Cash is probably the most common form of assistance to the acquiror. Other benefits may include sharing capital loss coverage, guaranteeing a yield subsidy, subsidizing the advances from the Federal Home Loan Bank system, providing loans for the acquiring entity, and indemnification against certain losses.

The FSLIC also has the authority to grant forbearance with the respect to numerous Federal rules and regulations that normally apply to acquirors of thrifts.

The tax benefits for thrifts include the deduction for bad debt reserves, deduction of 80 percent interest paid on debt to buy or carry tax-exempt obligations, and special rules for net operating losses.

FSLIC assisted acquisitions are treated as tax-free reorganizations. This allows an acquired institution's assets to retain their old tax bases. When the newly structured institution sells these assets, the tax basis is greater than the fair market value so the acquiror gets a tax loss. In addition, part of the losses of the troubled thrift may be used by the acquiring institution to shelter its income from tax.

With all these benefits, we still have troubled thrift industry. Rather than throw more money at a problem we have failed to clearly define, my bill takes an opposite tack: It cuts back on Federal assistance through the Tax Code. Tax benefits should further some clearly defined national policy. Let's figure out what is causing the problems in the thrift industry, and what the proper role of the Federal Government should be in subsidizing a solution.

My bill would require the acquiring entity to include the FSLIC payments in excess of $200 million into income and would limit the acquiring entity's ability to use tax losses generated by an ailing thrift to shelter other income from tax.

Two recent articles giving details on recent acquisitions follow, along with the text of my bill:

[From the Washington Post, Mar. 3, 1988]

BALTIMORE FEDERAL'S PROBLEMS

(By Rudolph A. Pyatt, Jr.)

Like pesky dandelions, problem-ridden savings and loans continue to pop up across the financial services landscape. And while difficulties at financial institutions in economically depressed regions, such as the Southwest and the farm belt, have attracted far more attention, lingering industry problems and risky investments are catching up with other thrifts, some of them in areas with healthy economies.

In Baltimore Federal Financial, for instance, federal regulators recently discovered that another dandelion had sprouted. BFF announced on Feb. 19 that it had lost $120 million last year. And with its balance sheet showing a negative net worth—a condition in which liabilities exceed assets—BFF two weeks ago turned to federal regulators for help in finding a buyer.

Even if a buyer is found, completing the deal could require "a combination of financial assistance and forbearance" from federal regulators, concedes Rebecca Vail, vice president and director of corporate communications at the Federal Home Loan Bank of Atlanta.

Neither the underlying factors in the loss reported by BFF—after writing off $100 million in bad loans—nor its request for federal assistance in finding a buyer are unique. Thrifts with heavy investments in real estate ventures turned sour generally reported lower earnings last year. Consider, too, that BFF isn't the only S&L that's seeking a buyer to raise badly needed capital.

Unlike many of the nation's problem S&Ls, however, BFF's problems apparently aren't rooted in fraud and high-flyer risks. A more traditional thrift, the 103-year-old S&L operates what industry experts describe as an excellent branch network in a strong consumer and real estate market. With assets of $2 billion and deposits of $1.3 billion, it is Baltimore's largest S&L and the second largest in Maryland.

But like the high flyers and others in the industry that were seeking quick fixes to the earnings crunch of the early 1980s, BFF ventured into Texas—then considered a safe haven for real estate loans. That decision, as it turned out, was a costly mistake and the beginning of BFF's problems. A "good portion" of BFF's loan loss reserve is tied to its Texas Loans, according to Dennis Finnegan, the S&L's executive vice president.

"Certainly when [the investment decisions] were made, they were valid decisions," Finnegan said in a recent interview. "Texas in the early 1980s was a wonderful market and seemed like such a nice place to be."

So it seemed to the scores of S&L executives who strayed too far from markets with which they were familiar. They bet the house—and lost—on the boom that went bust when sharply declining oil prices dragged down the economy in the Southwest.

Thrifts desperately needed relief from interest-rate pressures of the early '80s. As interest rates spiraled, thrifts found themselves stuck with fixed-rate, low-yield mortgages. To compete for deposits with other financial institutions, thrifts were forced to pay interest rates almost twice as high as their yields on mortgage loans.

To help relieve the pressure, federal regulators allowed them to sell off low-yield mortgages at a loss. But rather than showing losses on their income statements, thrifts were allowed to defer them over the life of the loans. "We were encouraged to take advantage of this portfolio strategy," Finnegan noted. "Obviously, how you deployed the money from those [loan] sales was up to the individual association."

Hindsight is a harsh judge, but that apparently was the fatal flaw in the regulators' portfolio strategy. Before thirfts were able to capitalize on their new high-yield investments, interest rates fell sharply lower, creating another disastrous mismatch in funds.

In the meantime, BFF's acquisition of another thrift in the early 1980s only compounded its earnings problems.

Exactly when federal regulators became aware of substantial deterioration in BFF's net worth isn't clear. Finnegan denies that the thrift was ever put on a trouble list, and officials at the Federal Home Loan Bank in Atlanta aren't sure when BFF's capital reached the danger level. Bells should have gone off in Atlanta, however, when BFF sought a merger with Home Shopping Network last year to pump badly needed capital into the thrift. When the two parties failed to consummate that improbable marriage, BFF embarked on a search for another buyer as losses mounted.

If the search for capital didn't provide a clue to BFF's dwindling net worth, then other tell-tale signs should have. According to a rating of thrift institutions by IDC Financial Publishing Inc., published quarterly by The Baltimore Sun, BFF's net worth was less than the required 3 percent of assets at least three years ago. Its net income as a percent of assets in 1985 was a minus .50 and the rating for each quarter of that year was below average. According to IDC's most recent ratings published in The Sun last October, BFF's net worth was still below the required 3 percent level and its ratings in each of the previous four quarters were in ranges that warranted "financial concern."

Little wonder then that The Sun in a recent editorial asserted that BFF's "crumbling condition has been known for several years." The fact that the condition was allowed to continue for as long as it did suggests that other dandelions have germinated in the environment in which BFF's problems grew.

[From the Wall Street Journal, Jan. 7, 1988]

FORD SAID TO BE NEAR ACCORD TO ACQUIRE FINANCIAL CORP. OF AMERICA THRIFT UNIT

(By David B. Hilder)

Ford Motor Co. is nearing an agreement with federal regulations to acquire the nation's largest thrift with massive government assistance, but there remains one major stumbling block that could stop the transaction, industry officials said.

The officials said Ford and the regulators have agreed on most major terms for Ford's acquisition of troubled American Savings & Loan Association, the main unit of Irvine, Calif. based Financial Corp. of America. Most importantly, they said, agreement has been reached on formulas to determine how much the Federal Savings and Loan Insurance Corp. will pay to Ford to cover losses of American Savings over the next 10 years.

The stumbling block, however, is Ford's desire for a guarantee that it will be paid even if the FSLIC is merged into another agency or succeeded by a new agency, the officials said. But it isn't clear how such a guarantee could be structured.

The officials, who declined to be identified, wouldn't specify the formulas for loss-sharing between Ford and the FSLIC. Nor would the officials indicate exactly how the Federal Home Loan Bank Board, which regulates thrifts, would transfer control of American Savings to Ford from Financial Corp.

Last year, Dearborn, Mich. based Ford proposed that the FSLIC absorb 75% to 80% of American Savings losses, while Ford would absorb the rest and contribute about $1 billion in new capital to American Savings.

Last September, the Bank Board estimated that Ford's proposal would cost the FSLIC $3 billion to $4.5 billion. At the same time Ford estimated that its proposal would cost the FSLIC about $1.4 billion if interest rates remained stable, but would cost more if rates rise.

The Bank Board said its discussions with Ford about American Savings are continuing, but declined to comment further. Ford officials declined to comment on the current status of the negotiations.

William J. Popejoy, chairman of Financial Corp., declined to comment, saying only that he isn't involved in the talk between Ford and the Bank Board.

The industry officials said that Ford's big thrift unit, First Nationwide Bank, is trying to devise a method of guaranteeing the FSLIC payments that is acceptable to both Ford and the Bank Board. Discussions between Ford and the Bank Board, which were suspended over the Christmas and New Year's holidays, resumed this week, the officals said.

Because the cost of closing or merging several hundred insolvent thrifts is estimated at as much as $50 billion, many thrift executives believe the FSLIC might be merged into the Federal Deposit Insurance Corp. or restructured during the next decade. Ford is concerned that in such a merger or restructuring, payments to large companies like Ford might not get the same kind of guarantees that retail depositors would receive.

Another potential problem for Ford is that the FSLIC was declared insolvent last year by its auditor, the government's General Accounting Office. Industry officials have said that it is unclear how Ford's outside auditors would treat promised future payments from the FSLIC in view of the GAO's ruling.

For Ford, the lure of American Savings lies in its network of 184 retail branches, all located in California. Although Ford's First Nationwide unit is based in San Francisco and is the nation's sixth-largest thrift, its California branch network is relatively small, with only 132 of its total of 348 branches. Of those 132 California branches, 71 are kiosks located inside K mart stores.

The troubles of American Savings and Financial Corp. stem from a massive portfolio of delinquent real estate loans and foreclosed property. Since mid-1984, when the Bank Board forced out Charles W. Knapp as Financial Corp.'s chairman, the company has added about $1.4 billion to its loan-loss reserves.

In the first nine months of last year, Financial Corp. had a loss of $243.4 million, largely because of $315.7 million in additions to loan-loss reserves. Last month, the company said it was forced to omit dividends on its preferred stock, partly because of its continuing losses.

The losses have depleted American Saving's capital, putting it in violation of Bank Board rules. As of Sept. 30, American Savings needed $966 million of additional capital to meet Bank Board requirements.

The former chairman of the Bank Board, Edwin J. Gray, issued a letter last Jan. 26 saying that the Bank Board wouldn't take any action against Financial Corp. or American Savings before March 31, 1988, because of the thrift's failure to meet capital requirements.

But it is widely believed in the thrift industry that Mr. Gray's successor, Mr. Danny Wall, will try to arrange some resolution of American Savings problems before the letter expires. Mr. Wall himself said early last November at a thrift industry convention in New Orleans that he hoped to resolve Financial Corp.'s problems "soon," but didn't specify a time frame.

H.R. 4108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON EXCLUSION OF FSLIC ASSISTANCE.

(a) GENERAL RULE.—Section 597 of the Internal Revenue Code of 1986 (relating to FSLIC financial assistance) is amended by adding at the end thereof the following new subsection:

(c) $200,000,000 LIMITATION.—

"(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, gross income of a domestic building and loan association shall include the amount of FSLIC assistance received by such association to the extent that the amount of such assistance exceeds $200,000,000 reduced by the amount of any such assistance previously received by such association.

"(2) FSLIC ASSISTANCE.—For purposes of paragraph (1), the term 'FSLIC assistance' means the amount of money (and the fair market value of other property) received under the circumstances referred to in subsection (a)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after December 31, 1987, in taxable years ending after such date.

SEC. 2. LIMITATION ON SPECIAL TREATMENT OF FINANCIAL INSTITUTIONS UNDER SECTION 382.

(a) GENERAL RULE.—Subparagraph (F) of section 382(1)(5) of the Internal Revenue Code of 1986 (relating to special rule for certain financial institutions) is amended by adding at the end thereof the following new clause:

"(iv) EXCEPTION WHERE FSLIC ASSISTANCE EXCEEDS $200,000,000.—This subparagraph shall not apply in the case of any ownership change if it is reasonable to expect that

FSLIC assistance (as defined in section 597(c)(2)) exceeding $200,000,000 will be provided in connection with such change."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any ownership change where the change date is after December 31, 1987.

TRIBUTE TO CARMALA WALGREN

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. COELHO. Mr. Speaker, it is often said that our children are our country's most important resource. Yet too often they seem to get shuffled to the bottom of our priorities—especially over the last 7 years, as President Reagan has tried to cut funding for a number of worthwhile Federal programs. I was deeply touched by a story related by our great Speaker, the Honorable JIM WRIGHT, during the recent Greenbrier Democratic Issues Conference about one individual who has fought back against such heartless budget cuts. This individual is Carmala Walgren, the wife of our colleague, DOUG WALGREN of Pennsylvania.

I have always been impressed by Carmala and her deep personal commitment to helping the less fortunate in our society. When she first came to Washington in 1977 she helped to found the Congressional Wives' Task Force, a bipartisan service organization that examined such issues as violence on television, the plight of our Nation's elderly citizens, and world hunger. Carmala served as the first president of the task force and dedicated much of her time to its causes, even though she was also attending law school at the time.

Carmala has since earned her law degree, and is now an associate with Cassidy & Associates here in Washington. For the last few years she has been devoting her time to the young patients at the National Institutes of Health in Bethesda. As the Speaker's comments elaborate, she has fought to preserve these children's privilege of using free long-distance telephone lines at the hospital that administration budget cutters wanted to take away. Carmala is now working to see that young patients in each of the regional children's hospitals around the country are given this same privilege.

Carmala is also the president of Children's House at NIH, an organization that is now working to establish a special home for young patients and their families while they are undergoing treatment at NIH. Carmala arranged for the donation of a site for Children's House adjacent to NIH, and is now trying to raise the funding needed to build and maintain the facility. I am proud to serve on the Children's House advisory board along with a number of my colleagues in both the House and the Senate.

As the Speaker put it so well at the Greenbrier Conference, the Reagan administration "seems to know the cost of everything and the value of nothing." It is clear that Carmala knows plenty about the true value of things, and as the Speaker's comments illustrate, she is willing to work hard to solve issues of cost so that valuable programs can survive.

Carmala Walgren has given us a striking example of the difference each of us can make in the lives of others. In recognition of her outstanding efforts, I insert the Speaker's comments about her in the RECORD:

The speech follows:

REMARKS OF HON. JIM WRIGHT, SPEAKER, U.S. HOUSE OF REPRESENTATIVES, GREENBRIER DEMOCRATIC ISSUES CONFERENCE, JANUARY 22, 1988

This year's Greenbrier conference is keyed to our interest as Democrats in the future of America's families—particularly our children. And nothing could better exemplify our dedication to family values than an inspiring story I want to tell you about one of our very own.

The story begins almost exactly one year ago. Last year, on the train en route to our conference here at Greenbrier, I was approached by Carmala Walgren, wife of our friend and colleague, Congressman Doug Walgren of Pennsylvania.

Carmala told me about an action of the U.S. government that was so cold and crass and heartless it made your blood run cold. She had been visiting a young child who was under treatment for cancer at the National Institutes of Health. While there Carmala found that the Reagan Administration, which seems to know the cost of everything and the value of nothing, had suddenly banned the use of FTS long-distance telephones for children under treatment at NIH.

These little kids, many of them bald from chemotherapy and virtually too weak to go down the hall to a pay phone, had thus been deprived of the one important bright moment in their lives—the joy of being able to talk for a few minutes in the evening with their parents back in their home towns across America. For the sick children whose parents were with them at NIH, his cruel telephone ban meant they were unable to communicate readily with other relatives and loved ones back home on the day-to-day progress of their child's treatment. If they called home at all, they had to do so from pay phones at regular commercial rates. And many of these families were financially strapped, of course, by their child's sickness.

After hearing this story, I did what any one of you would have done—I teamed up with Doug Walgren and Mary Rose Oakar and other members in demanding that these government phone lines be made available once again to these sick children and their families.

Well, the NIH relented under Congressional pressure and restored use of the phones. The story might have ended there, except that Carmala Walgren and her friends wouldn't let it end there.

Since then Carmala, in virtually a one-woman crusade, has gone to AT&T and gotten that giant corporation to agree to put in free WATS lines in at least 10 of the 100 regional children's hospitals across the nation. Now little sick children and their families will be able to call home from those hospitals, too. Did Carmala stop there? No, she didn't.

This great woman also has, through her own initiative, almost single-handedly talked the NIH into making available a two-acre tract of NIH land for the construction of decent lodging for the families of kids under treatment at NIH. Moreover, Washington real estate developer Alan Kay, agreed, after talking with Carmala, to provide an architect to draw up plans for a $2.2 million building for the lodging of these families.

And—now here's the icing on the cake—Carmala has just about succeeded in talking one of America's largest health care corporations into paying for construction of the building. It's not yet a lead-pipe cinch. But knowing Carmala Walgren, I'll bet it soon will be!

Ladies and gentlemen a toast to a gracious, compassionate lady who exemplifies what this Democratic conference is all about—Carmala Walgren!

HONORING PETER DOUROUX

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. TORRES. Mr. Speaker, I rise today to honor Mr. Peter Douroux who is retiring after 25 years of dedicated and faithful service to public education as a teacher and administrator. Pete will be recognized for his outstanding service to the Rowland Unified School District on June 2, 1988.

Pete Douroux, a native of New Orleans, LA, comes from a family of 21 children. He served in the U.S. Army in Germany in 1951 and 1952. On his return to the United States, he attended the College of Idaho on a football scholarship. He graduated in 1957 with a bachelor or arts degree in elementary education and also received elementary and secondary teaching credentials. In 1970, Pete and his wife, Barbara, both obtained their master's degrees and administrative credentials together.

His first teaching assignment was at Middleton High School in Middleton, ID, where he was also head football coach for 2 years. His next assignment was as athletic director and head football coach at Central Junior High in Nampa, ID. In 1968, Pete and Barbara moved to California and Rowland Unified School District in Los Angeles County where he taught at La Seda and Hurley Elementary Schools and Alvarado Junior High.

For 14 years Pete was the director of child development programs for Rowland Unified, 1973 to 1987. He oversaw preschool, Headstart, and State-funded child care programs. This school year he served as administrative assistant at Yorbita Elementary School.

In addition to his duties as an educator, Pete has taught graduate classes for Pepperdine University in Art Education, was coauthor of the elementary art curriculum guide for the district, and is a member of the California Child Development Administrators Association.

Mr. Speaker, I ask that my colleagues join me in saluting Peter Douroux, a dedicated individual who has helped hundreds of students achieve high personal and academic goals.

TRIBUTE TO JOHNNY OLENIK

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. TRAFICANT. Mr. Speaker, I am very honored to pay tribute to Mr. Johnny Olenik, of Youngstown, OH.

Johnny has been the organist for St. Matthias Church for 32 years. He is deserving of the highest tribute that any of us could pay him. For the past 32 years, Johnny would wake at 5:30 a.m., 5 days a week, to play at the early mass, after which he would go to his regular full time job with the city of Youngstown. He played all the weekend masses plus every holiday and special service such as the novenas, Christmas and Easter specials, weddings, and funerals. For those events that occurred during the week, Johnny would take a vacation day in order to attend. Consequently, he rarely had vacation time to himself.

He also worked many hours with the choir preparing for special Christmas and Easter services. He made great efforts to include traditional Slovak music and customs. He was instrumental in having the men's choir make records and tapes for future generations to enjoy.

The greatest legacy that Johnny has left to us is an English/Slovak hymnal which is used at all services in St. Matthias. Years of research went into locating every possible hymn, even those that have been handed down through generations orally and had not yet been written down. He translated into English many of the Slovak hymns so the younger generations could sing them and still enjoy melodies that originated in Slovakia. All of this extensive research and labor resulted in a priceless hard-bound hymnal for all future generations to enjoy.

It is hard to find anyone who gave so much with such unselfish dedication. I wish him well in his retirement. Mr. Speaker, it is indeed a great honor to pay tribute to such an outstanding citizen like Mr. Johnny Olenik.

WASHINGTON STATE CHALLENGES HATCH ACT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. CLAY. Mr. Speaker, an article in today's Washington Post addresses the continuing gag order imposed on Federal civilian employees by the 1939 Hatch Act.

The State of Washington yesterday filed a suit in Federal court challenging the Navy Department's interpretation of the Hatch Act to prohibit 11,500 civilian employees of the Puget Sound Naval Shipyard from speaking at tonight's party caucuses to select Presidential candidates. In a town of 35,000, prohibiting one-third of the town's citizens from actively participating in expressing their inherent first amendment right of free speech is sheer lunacy.

Both Democratic and Republican Party chairmen are quoted in highlighting the chilling effect the Hatch Act has on a large segment of their town's population. The Democratic chairman states that several people will not speak out at the caucus for fear of losing their jobs while the Republican chairman questions why any of these Navy civilian employees would even want to attend the caucus if they can't say what they think. The effect of the Navy ruling could very well be that few will even bother to attend tonight's caucuses. Their voices will be silenced and their votes uncounted in one of the most important steps in this year's political process.

The Washington State lawsuit emphasizes the confusion of the more than 3,000 administrative rulings which comprise the Hatch Act. The law's confusion, together with the constitutional infringement by the right of free speech led to the bipartisan effort in the House last year to overwhelmingly pass H.R. 3400 to reform the Hatch Act. The Washington incident proves why the Senate needs to act quickly and follow the House's lead to clarify this ambiguous law by passing H.R. 3400.

The Washington Post article follows:

[From the Washington Post, Mar. 8, 1988]

NAVY RESTRICTION ON WORKERS' SPEECH AT PRESIDENTIAL CAUCUSES CHALLENGED

(By Judith Havemann)

The state of Washington challenged a Navy interpretation of the Hatch Act yesterday in federal court in Tacoma, claiming that an effort to prohibit federal workers from speaking at tonight's presidential party caucuses represents an unconstitutional violation of federal workers' rights to free speech.

The Puget Sound Naval Shipyard base newspaper. The Salute, announced in a front-page article that employees of the shipyard could attend party caucuses, but could not speak. The newspaper cited a Hatch Act regulation prohibiting an individual from "addressing a convention, caucus, rally or similar gathering of a political party in support of or in opposition to a partisan candidate for public office."

The shipyard employs 11,500 civilians and 5,500 military personnel in Bremerton, Wash., a town of about 35,000.

"This could have potentially a very drastic effect on our county," said James E. Sommerhauser, representing Professional and Technical Engineers Local 12 in Bremerton. "Potentially a whole lot of people will just give up on the caucuses and not go.

"Before this rule came down, everybody just went out and blatantly violated it," he said. "It was always clear that you couldn't be a delegate, but nobody knew this."

"This is not a Navy decision," said a Navy spokesman. "We have to comply with the letter of the law."

The government's independent Office of Special Counsel, which enforces the Hatch Act, said the rule is nothing new. "This is exactly what I read in the law," said Office of Special Counsel spokeswoman Laura Baumgaertner. "I don't know who gave them the impression it was anything different."

Kitsap County Democratic Chairman Richard McCool, a retired Navy captain, said, "I do know several people who are active locally who will not speak out in order to protect their jobs but they will see that their views are made known by somebody else."

County Republican Chairman Harold Reynolds said he had received a large number of calls from the spouses of shipyard workers. "I tell them, 'I'm not about to turn anybody in, are you?' But everybody is afraid of snitches."

"People say, 'Why go if I can't say what I think?' " Reynolds said.

Sommerhauser said Democratic participants sign in between 6 p.m. and 8 p.m. and express their candidate preference in writing. Any candidate with less than 15 percent is not viable. Thirty minutes of "interplay" follows as candidates try to pick up support or join other viable candidates, and at 8:30 p.m. the participants are allowed to change any vote in writing.

"Obviously addressing the caucus is part of the activity," Sommerhauser said, but "most federal employees are so intimidated by the Hatch Act they're afraid to participate."

David Bryant, a spokesman for the Washington secretary of state, said the suit brought yesterday afternoon asked the U.S. District Court in Tacoma to clarify the intent of the Hatch Act by interpreting "conflicting sections" of the regulations to allow federal workers to attend the caucuses and speak up.

A bill to revise the Hatch Act and allow workers to participate in partisan politicaal activities on their own time overwhelmingly passed the House last year.

Leonard Weiss, staff director of the Senate Governmental Affairs Committee, said the Senate is likely to approve Hatch Act revisions this year, "but it will not be the House bill, it will be more restrictive."

Weiss said that the Puget Sound situation points up the "irrationality" of some of the current Hatch Act provisions. "That kind of activity ought to be allowed."

SANDINISTA POLITICAL REPRESSION

HON. DICK CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. CHENEY. Mr. Speaker, I want to bring to the attention of my colleagues and the public an article which appeared in the Washington Post today. This article documents, in disturbing detail, the use by the Sandinista government of turbas, or mobs, to attack the political opposition in Nicaragua and those who support it. It is already well-known and well-documented that the Sandinista government has engaged in the suppression of religious freedom in Nicaragua. Here is convincing evidence, from a neutral eyewitness, of systematic political repression. Those familiar with history will be aware that tactics similar to those of the Sandinistas were used by the National Socialist Movement, or Nazis, during Hitler's rise to power in Germany. I find it almost too ironic for words that a government whose political tactics are beneath contempt can be considered credible when it promises to democratize or that it can be considered deserving of support by those in the United States who claim they are friends of political and economic freedom and justice. The article follows:

NICARAGUA REVIVES GANG TACTICS TO BLOCK OPPOSITION

(By Julia Preston)

MANAGUA, NICARAGUA, March 7.—The Sandinista party newspaper Barricada today described yesterday's street clashes in the city of Masaya between progovernment and opposition followers as "a true popular uprising against the right wing."

But many Masaya citizens put it differently. "The turbas are back," one said.

The turbas, Spanish for "mob," are the civilian shock troops of the eight-year-old Sandinista revolution. Drawn from the most dedicated ranks of the ruling Sandinista National Liberation Front (FSLN), the club-carrying gangs include schoolboys, Army veterans, feminists, factory workers, even elderly mothers who have lost sons in the war against the contra rebels. They were out in force in Masaya yesterday.

The Sandinista party sends turbas to harass, intimidate and overwhelm its numerically smaller political opposition by painting progovernment graffiti, shouting slogans, throwing stones and swinging sticks. Though Nicaraguans are rarely killed in turba attacks, many have been hurt.

The turbas emerged in late 1980. For four years they acted frequently against right-of-center political parties and churches associated with the conservative Roman Catholic leader, Cardinal Miguel Obando y Bravo. After the 1984 elections in which Sandinista President Daniel Ortega was elected, strict state-of-emergency laws were enforced, and activity by the turbas subsided.

Ortega lifted the emergency in January to comply with a regional peace plan, but since then the FSLN has begun mobilizing its militants again to maintain a measure of political control.

Masaya, located 20 miles south of Managua, strongly supported the Sandinistas in their 1978–79 armed insurrection against dictator Anastasio Somoza Debayle. Now, Masaya is known for its strong opposition to the Sandinista military draft and its economic programs.

The opposition, particularly in Masaya, has street fighters as well, and opposition protesters also threw rocks yesterday.

The FSLN is the only party with trained, disciplined gangs who follow orders from higher officials. The turbas usually do not act without approval from some official at the highest level of the party and government.

Normally the party recruits its gangs from unions, block committees and Sandinista youth groups the day before an event and issues precise instructions about the slogans to be used and actions to be taken, rank-and-file Sandinistas said in interviews.

They are often advised not to say that they are closely affiliated with the FSLN, but to describe themselves as spontaneous demonstrators from "the people."

In Masaya, Federico Lopez, the FSLN party chief and in practice the governor of the Masaya region, led several hundred Sandinistas on a chase after about 800 opposition demonstrators, who had gathered for a Women's Day march.

In a midday speech to about 3,000 excited Sandinistas, Lopez first invited them to "confiscate" a movie theatre where the opposition rally had started. The crowd began breaking chairs in the theater, but Lopez changed his mind, and the crowd quickly obeyed his orders to stop.

Several hundred Sandinista men arrived at their party's rally yesterday with wooden clubs that had been issued beforehand, some bearing Sandinista flags.

At one point, one group of turbas discovered some opposition demonstrators hiding in a Catholic church on a sidestreet and banged on the door with their sticks.

Their leader, a Sandinista youth member, spoke briefly with a priest who had come to a window. The leader issued an order to leave the church alone, and the banging quickly ceased.

Recently two American diplomats got a small taste of turba-style tactics.

Sent by the U.S. Embassy to observe a major Sandinista rally Feb. 26 in Managua, they were watching an Interior Ministry contingent file into a plaza when one official in the ranks spotted them and shouted, "Those men from the American embassy!"

Moments later, the Interior Ministry group broke ranks, surrounded the diplomats and lifted one of them bodily off the ground, knocking off his glasses and roughing him up slightly while chanting anti-American slogans. Then they suddenly put him down, fell back in line and marched on.

The Interior Ministry is in charge of political security and is believed to be, along with the Sandinista party, in charge of the turbas.

Nicaraguans who turn out for turba actions are dedicated to the FSLN. Many are from the poorest families and have been close to the Marxist party since the mid-1970s, when young, bearded Sandinista revolutionaries were widely regarded as heroes in the fight against the unpopular Somoza.

Yesterday, Ramon Gomez, a 36-year-old shoemaker and Sandinista loyalist, was carrying a poster of a widely distributed photograph taken of him in Masaya in 1978 wearing a mask and clutching a contact bomb, fighting alongside the Sandinistas. "This is why I'm here today, repudiating the right-wing," Gomez said proudly, pointing at the picture. But their devotion has also bred intolerance and frequently spawns blanket condemnation of the opposition as being CIA-backed.

Oppostion leaders said today that 27 persons were injured yesterday and 11 have not returned to their homes. A prominent leader of the moderate Social Christian Party, Erick Ramirez, was dragged into the street from a house where he was hiding by Sandinistas who tore off his shirt and hit him, his party said.

THE AMERICAN LEGION SUPPORTS CONTRA AID

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. McEWEN. Mr. Speaker, I would like to take this opportunity to place in the RECORD a letter I received this week which, I feel, offers a very interesting viewpoint regarding whether or not the United States should adequately aid the Nicaraguan Democratic Resistance. I sincerely hope that my fellow colleagues take note of this letter sent to me by the American Legion's National Commander, John P. "Jake" Comer, who represents the collective voices of roughly 4 million veterans.

THE AMERICAN LEGION,
Washington, DC, February 24, 1988.

DEAR REPRESENTATIVE: When contending with formidable enemies of individual liberty and democratic government, our nation cannot long endure compromise measures engendered by our government's failure to place principle above partisan politics. Nor can we be reluctant to act on the ideals on which the United States was founded.

Yet, that is exactly what the world witnessed on February 3, 1988, when a simple majority of the House of Representatives voted against the President's request for aid to the Nicaraguan Resistance. The American Legion urged its passage as the only prudent means to ensure Sandinista compliance with the Central American Peace Plan, and as this hemisphere's best prospect for freedom and democracy in all of Central America.

The vote against the request was a thinly veiled showdown of power designed to usurp the President's rightful place as the author of foreign policy. Even as that drama unfolded, key members of the House announced that they would develop an alternative aid package.

Though some details of that compromise package were announced only yesterday, you must cast your vote tomorrow. While we deplore such political manipulation of men and women who are now risking their lives to bring freedom to Nicaragua, we are heartened that this vital issue has not yet been finally decided.

We have communicated to you our position, representing the collective voice of four million veterans and their families; we support both military and humanitarian aid to the Nicaraguan Resistance as the only proven means of compelling democratic reform in Nicaragua; and we support the continuation of economic aid to and trade with the emerging democracies of Central America. This element of a Central American policy was set forth in the Jackson Plan, a foreign policy initiative approved by a large majority of the House of Representatives.

Any compromise measure is ill-advised in the face of overwhelming evidence of the nature and intentions of the Sandinista regime. Such waffling measures will come back to haunt us in months to come; however, if this is the course you will set our government on, it is imperative that the following provisions be included in any humanitarian legislation worthy of serious consideration:

Humanitarian aid must be of sufficient amount to actually meet the needs of the Nicaraguan Resistance, and that amount should not be determined by political expediency.

Such aid must be delivered in a reliable and verifiable manner under the direct supervision of the U.S. Government, and not under the auspices of any non-governmental entity.

Military aid, which has already been approved by both the House and Senate, must continue in the pipeline without diminution and in accordance with the provisions of the previous appropriations authorized by Congress.

More importantly, Congress must now develop, and incorporate into this legislation, criteria by which to measure Sandinista compliance with the Central American Peace Plan. That criteria must include, among other provisions, that the Sandinistas permit opposition parties to meet and organize, guarantees of full freedom of the press, actual enactment of a cease-fire, amnesty for the Contras and the freeing of all political prisoners.

Moreover, it is imperative that Congress agree upon and strictly enforce a reasonable deadline for such progress. If it finds that the Sandinistas have not complied with these criteria, then it is the duty of the United States Government to immediately reconsider appropriations for renewed military and continuing humanitarian aid to the Nicaraguan Resistance.

In this widely supported militia of freedom fighters, America has an ally in spirit. That ally is undoubtedly the Western Hemisphere's best hope for peace in Central America. If we, by our neglect or indifference, cause the Nicaraguan Resistance to disband, it will eventually fall upon our own young men and women to fill the void they leave.

And if that should happen, the responsibility will fall squarely on the shoulders of those Members of Congress who knew their duty but refused to do it.

You must not let it happen. The opportunity to avoid it lies clearly within your grasp. This vote is your first opportunity to place our Nation back on the proper course toward a sound foreign policy for Central America.

Sincerely,
John P. "Jake" Comer,
National Commander.

A TRIBUTE TO SISTER CLEMENT EAGAN

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. GONZALEZ. Mr. Speaker, it is with great sadness that I rise today to pay tribute to Sister Clement Eagan, academic dean for 42 years of the Incarnate Word College in San Antonio and a leader in establishing specialized degree programs in higher education.

Sister Clement died on January 8, 1988, just a few weeks short of her 95th birthday.

As academic dean from 1927 to 1969, Sister Clement's direction helped install most of the current academic degrees at Incarnate Word College.

The needs of her students were also a great concern as she developed the first Federal and State financial aid programs on campus, established the college honor societies, Alpha Lambda Delta and Alpha Chi, and started the student newspaper and yearbook.

Sister Clement also found time for researching classical literature, translating the works of St. Augustine and Prudentius and was an avid Dallas Cowboys football fan.

At this point I would like to place into the Record the obituary announcement appearing in the San Antonio Express-News on Sunday, January 10, 1988:

Sister Clement Was IWC Dean

Sister Clement Eagan was known as a woman who had a memory for details. Her ability to remember many facts gave her the opportunity to write the histroy of Incarnate Word College.

Her book, "Beyond the Dreams of Founders," deals with the history of the college from 1881 to 1970. The book was recently edited and published under that title.

Sister Clement, academic dean emeritus of the college, died Thursday at Santa Rosa Medical Center at the age of 94.

She had served as academic dean from 1927 until her retirement in 1969. For 10 years after her retirement she remained at the college as dean emeritus working on the history of the college from 1945 to 1970.

In 1978 Sister Clement was honored by the college with a service medal for 61 years of continuous service to the institution and to higher education. A book of essays, "In Words Commemorated," prepared during the college's centennial year, was dedicated to her in 1982.

Faculty, alumni and students were in constant amazement at Sister Clement's memory. Twenty years or more after a student left Incarnate Word she not only could remember the student's name and major field but often followed the person's career and marriage and even knew the names of children born to the student.

Sister Clement was proud to be a Texan and in her final years at St. Joseph's Convent, had two strong loves—the college and the Dallas Cowboys. She supported both with equal fervor.

Even in her final days in intensive care, she would encourage the nurses to attend the college and spoke of what academic programs it had to offer.

In her first year as academic dean, the college had one building and a senior class of eight students. She worked with the first president, the late Bishop Mariano S. Garriga, and his successor, the late Mother Columkille Colbert.

Mother Colbert frequently referred to Sister Clement as "a wonder" for her endless energy and lifelong memory of details.

A resident building on the campus, completed in 1969, was named Clement Hall in her honor.

Sister Clement was born Gertrude Eagan on Jan. 30 1893. She grew up in and graduated from high school in Ballenger. After attending the University of Texas for several years she entered the Congregation of the Sisters of Charity of the Incarnate Word in 1914.

She earned her bachelor of arts degree from Incarnate Word College and returned to the University of Texas for a master's in English and classical languages.

Upon her return to San Antonio she taught English at Incarnate Word High School and later English and classical languages at the college.

In addition to her teaching and administrative duties, Sister Clement found time for classical research. She published "A Concordance to Statius" (1942), "The Catholic High School Literature Series" (1944), a translation of "The Excellence of Widowhood" by St. Augustine (1952) and the "Poems of Prudentius" in two volumes (1961 and 1965).

She also completed post-graduate work at the Catholic Unversity of America. At the college she was instrumental in securing and sponsoring chapters of the national honor societies, Alpha Lambda Delta for freshmen and Alpha Chi for upper-classmen.

Rosary for Sister Clement will be recited at 7 p.m. Sunday at the Incarnate Word College Chapel. Mass will be celebrated at 4 p.m. Monday at the chapel. Interment will be in the Incarnate Word Cemetery.

REPRESENTATIVE BONIOR TO RECEIVE NATIONAL CONSERVATION AWARD

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. UDALL. Mr. Speaker, I rise today to inform the membership that the chief deputy majority whip of the House of Representatives, David E. Bonior of Michigan, will this month receive the National Wildlife Federation's 1987 National Conservation Achievement Award in the legislative category. This award is given in recognition of distinguished service and dedication to the environment and to the conservation of our wildlife, land, water and air.

It is my pleasure to support David's nomination for this award. He has repeatedly come to the service of the conservation community and has been instrumental in shaping our Nation's public policy to account for the needs of our environment and natural resources. I have had the great honor of receiving this award in the past and I am very pleased that David Bonior's name will be added to the list of recipients.

For the information of my colleagues, I am inserting into the Congressional Record an article on his receipt of this award that appeared in the Macomb Daily, a local newspaper in David's district.

Bonior to Receive National Conservation Award

(By Chad Selweski)

U.S. Rep. David E. Bonior, a long-time advocate of environmental protection, has won the National Wildlife Federation's 1987 National Conservation Achievement Award.

The Clinton Township Democrat will accept the award, bestowed in the legislative category, at the federation's annual meeting in New Orleans March 19.

"I'm really honored by it," Bonior said from Washington, Thursday. "They're a fine organization with a large membership."

The "Connie" awards, presented anually since 1974, are awarded to individuals and organizations for "outstanding contributions in natural resource conservation."

"During his 12-year career in Congress, Rep. Bonior has led efforts to reform our nation's water policy," said the federation. "Among the many successful battles he waged was his campaign to stop a $350 million project to dam the Niobrara River in Nebraska. In addition, he has served as a tireless advocate for the protection of the Great Lakes."

Bonior's association with conservation issues stretches back to his first campaign for Congress in 1976 when he was tagged as the "Johnny Pineseed" of Macomb County politics.

Following an ice storm that destroyed hundreds of trees in the county, Bonior handed out more than 50,000 pine seedlings to voters in a massive door-to-door campaign. The practice has continued since, with the congressman giving away about a quarter million foot-tall pines.

But the 42-year-old lawmaker's concern for the environment first surfaced in the early 1970s while serving two terms in the state House of Representatives.

As a state legislator, Bonior devised the first bill in the nation to stop the manufacture of toxic substances such as PCBs, legislation that later became the model for a federal law. He pushed hard for the Great Lakes ban on phosphates and was a key supporter of state ownership for St. John Marsh on the St. Clair County lakeshore.

In Congress, he sponsored legislation to protect against oil spills from ships, has consistently opposed an extension of winter shipping on the Great Lakes and was one of President Reagan's harshest critics when he vetoed an updated version of the Clean Water Act, a landmark piece of environmental legislation. Bonior is also a chief advocate of placing 11 national forests in northern Michigan under the federal protection of a "national wilderness" designation.

Bonior, who lives "out in the woods" of southern Maryland, 40 miles from Washington, has previously received awards from the Detroit Audubon Society and the Michigan United Conservation Clubs.

"I look on our water, land and air as a future-type issue," he said. "These things are gifts given to us and we have an obligation to pass them on to our children."

CONGRESS SHOULD HELP DU PONT KEEP ITS PROMISE ON CFC'S

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. STARK. Mr. Speaker, fake corporate ignorance of scientific evidence is not a new phenomena. Tobacco companies for decades have been maintaining smoking does not cause cancer. The latest corporation to put a sack over its head in an effort to ignore the collective scientific wisdom is E.I. du Pont Nemours & Co.

Du Pont is a leading producer of chlorofluorocarbons or CFC's. Evidence that CFC's destroy the protective ozone layer in the stratosphere is compelling. Du Pont indicated before the Congress in the 1970's that if the chemical were found to be harmful, the company would stop production of the chemical.

Du Pont when reminded of its promise in 1988, simply denies international scientific reality. CFC's are a threat not only to human health but crop production and other biological life cycles.

If the Du Pont Co. were in the Presidential race, it would rightly be accused of flip flopping or worse, not fulfilling its promise. I would hope Du Pont would have the corporate honesty and integrity to keep its deal with the Congress and the American public by ceasing production of CFC's.

However, because I do not believe that Du Pont or other producers of CFC's will voluntarily reduce production of the chemical, I have introduced legislation to raise the price of domestic and imported CFC's. By raising the price alternative chemicals can be brought on line.

Mr. Speaker, I would like to include in the RECORD an article from the Washington Post a summary of the situation.

[From the Washington Post, Mar. 5, 1988]

CHEMICAL COMPANY CLASHES WITH HILL—SENATORS WANT DU PONT TO FULFILL PLEDGE TO STOP CFC PRODUCTION

(By Cass Peterson)

In 1974, E.I. du Pont de Nemours & Co. told Congress that it should not restrict use of chlorofluorocarbons (CFCs) on the basis of a "purely speculative" theory that the chemicals were destroying the ozone layer.

If further research demonstrated that the chemicals were harmful, a senior company official said, Du Pont would voluntarily stop making them.

Now, amid evidence that ozone is disappearing at an alarming rate in some areas because of chlorine in the upper atmosphere, the company is being asked to honor its pledge.

In a letter last month to Du Pont Chairman Richard E. Heckert, Sens. Robert T. Stafford (R-Vt.), Max Baucus (D-Mont.) and David F. Durenberger (R-Minn.) said Congress dropped efforts to regulate CFCs in the early 1970s because of Du Pont's assurances that it would stop producing the compounds if there were "creditable scientific evidence" of a health threat.

"We believe the time has arrived for the Du Pont corporation to fulfill that pledge," the senators said.

In a response yesterday, Heckert called the request "unwarranted and counterproductive" and said no scientific evidence suggests that CFCs should be dramatically reduced.

"A precipitous reduction in CFC supplies would be both unnecessary and highly disruptive," Heckert wrote. He said that the company stands by its commitment, but that "there is no agreement within the scientific community on the potential health effects of any already observed ozone change."

Du Pont invented CFCs in the early 1930s and is the world's leading supplier of the compounds, used as refrigerants, foam-blowing agents, industrial solvents and, outside of the United States and a few other nations, as aerosol propellants. Du Pont's CFC sales were $600 million last year, a company spokesman said.

In recent years, scientists have confirmed that stratospheric ozone is being destroyed, notably over the antarctic, where a "hole" appears in the ozone layer each year. Intensive research into the antarctic hole has identified chlorine as a major contributor to the depletion, and a significant source of chlorine in the atmosphere are man-made CFCs and related chemical compounds.

Ozone filters out damaging ultraviolet rays, and loss of ozone increases the risk of cancer and such eye ailments as cataracts. Government scientists have estimated that losses of even a small percentage of stratospheric ozone could lead to hundreds of thousands of additional cases of skin cancer.

Scientists interviewed yesterday agreed that no immediate health effects had been linked to ozone depletion over Antarctica, populated only by a handful of researchers. Health concerns stem from the fact that CFCs are extraordinarily long-lived in the atmosphere, meaning that today's emissions are likely to be destroying ozone 75 years in the future.

"The question is how much risk do we avoid by cutting emissions now," said Irving Mintzer of the World Resources Institute. He said there is no doubt about chlorine's role in ozone depletion, "at least not in the credible part of the scientific community."

Du Pont made its 1974 promise amid a growing clamor for stronger regulation of CFC compounds. Linkage between CFCs and ozone depletion then was a new scientific theory, largely unproved by physical evidence.

The theory had captured public attention, however, and Du Pont was battling to protect its trade-marked Freon and other valuable CFC compounds.

Du Pont's technical director, Raymond L. McCarthy, told Congress in December 1974 that, if additional research showed "that any chlorofluorocarbons cannot be used without a threat to health, Du Pont will stop production of these compounds."

The company repeated the vow the following year in company publications and full-page advertisements in several major newspapers over the signature of Irving S. Shapiro, then board chairman.

The United States later banned CFCs in aerosol products but did not curtail other uses.

Last year, spurred in part by the antarctic findings, the United States joined other nations in signing an international pact to reduce CFC use by 50 percent in the next decade.

The pact opens the way for additional cuts that may be deemed necessary but has been criticized by environmental groups and some scientists as inadequate.

PLEA FOR SAFE RELEASE OF AMERICAN HELD BY CONTRAS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. COELHO. Mr. Speaker, I am disturbed over the latest action by the Contra fighters in Nicaragua who last week captured and who continue to hold an American Methodist volunteer working for the Witness for Peace effort.

David Boren was taken into detention by the Contras during fighting between Contras and Sandinista troops in the mountains 120 miles north of Managua.

This is the second Witness for Peace volunteer who has been captured and held by the Contras, and the incident follows coincidentally close on the heels of last week's defeat of the Contra aid plan sponsored by our Democratic leadership, a defeat which the President applauded.

I call upon the White House and our State Department to exhaust all efforts and exert all necessary pressure to ensure that Mr. Boren's release will be a prompt one and that his safety will be guaranteed by the Contras who hold him.

HONORING AUDREY K. CZARNY GAITIS

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. TORRES. Mr. Speaker, I rise today with pleasure to honor Audrey K. Czarny Gaitis. Mrs. Gaitis is retiring after 25 years of dedicated public service as assistant city manager from the city of South El Monte. Audrey will be recognized for her outstanding service to the city of South El Monte at a special retirement dinner on April 15, 1988.

Audrey K. Czarny Gaitis was born and raised in Minnesota. When she moved to southern California, she did not realize that she would embark upon a 25-year career in municipal service.

Audrey's first contact with South El Monte came in June, 1961. At that time, she was employed by a private consulting firm which had been hired to promote annexations in and around the newly incorporated city. After 2 years, she left the consulting firm to work on future annexations as a part-time city employee. Over the next 25 years, Audrey held a multitude of titles and responsibilities in the city; touching upon virtually every major department in the city's operations. Like most developing cities, South El Monte was aggressively active in annexations and public works improvements throughout its early years, and Audrey was an integral part of these operations. She played an active role in each of the city's 48 annexations and during her years of service, was instrumental in turning South El Monte from an area devoid of curbs, gutters, and sidewalks into a semirural suburban area complete with storm drainage protection, sanitary sewers, and modern traffic control. In essence, the city grew up during Audrey's tenure.

Beginning as a part-time annexation survey worker, Audrey rose through the ranks to occupy every major administrative position within the city. She has been the director of public works, deputy city clerk, director of planning, director of finance, director of personnel, city treasurer, and served as acting city manager in 1984; ending her career as assistant city manager in April, 1988.

Mr. Speaker, I ask that my colleagues join me in saluting Audrey K. Czarny Gaitis, an individual that has worked tirelessly on behalf of the city and citizens of South El Monte for a job well done.

TRIBUTE TO DAVID KANE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. TRAFICANT. Mr. Speaker, it is with great pleasure that I stand before you today to pay tribute to David Kane, an honorable mention award winner in the McDonald's "Youth Challenge: Living Drug Free" contest.

A student at Howland High School in Warren, OH, David's two projects were selected from hundreds of entries as original and effective ways to encourage youth to say "no" to drugs. His efforts are an outstanding example of what young people in communities all over the country are doing to help themselves and others to cope with the spreading drug problem.

The McDonald's "Youth Challenge" contest is the first national contest of its kind to recognize drug use prevention activities planned and executed by youth for youth. Contest entries were judged by Youth to Youth, a nationally known and respected drug use prevention organization for teens, based in Columbus, OH.

I share the immense pride felt by David's parents, teachers and classmates. He is an exceptional young man. It is with great esteem and admiration that I pay tribute to David Kane of Warren, OH.

LOSING A TRUE LEADER

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. GINGRICH. Mr. Speaker, the city of Atlanta has recently lost an experienced and distinguished leader. Richard Guthman is resigning from the Atlanta City Council to devote more time to his business. The Atlanta Journal recently stated that "all the citizens of Atlanta respect him and the job he has done on our behalf while there." I would like to associate myself with these comments and I would like to thank the Atlanta Journal for their recognition of Richard's admirable qualities.

[From the Atlanta Journal, Feb. 19, 1988]

A TRUE LEADER STEPS DOWN

While most eyes were turned last Tuesday to New Hampshire and the efforts of several men to get into public office, the announcement that one member of the Atlanta City Council is going to leave office may have been almost as important to residents of this town.

Richard Guthman, a 14-year veteran on the council, is resigning to devote more time to his business. We can't begrudge him the right to take care of himself and his family, but we are truly going to miss his dedicated efforts to take care of all Atlantans during his long and distinguished career.

Guthman has long been one of the two or three council members one would call if one wanted to know what was really behind some new ordinance or budget matter—not only because he was willing to talk straight, but because he knew the facts, the figures, and particularly the long-term ramifications.

He and Ira Jackson have for a long time been the voices of fiscal responsibility on the council; his departure makes it more likely that financial foolishness of one sort or another will slip by and cost the taxpayers.

Guthman has also been one of the few politicians in the metro area who could look at a touchy issue in terms of how it would affect all citizens, not just those who are black or those who are white. That's a quality that we need more and more, and find less and less, in our local leaders.

We wish Richard Guthman were not resigning, because his kind of wise, responsible stewardship of the public trust is going to be difficult to find in any replacement. We respect his decision to leave office, however—and we want him to know how much we and all the citizens of Atlanta respect him and the job he has done on our behalf while there.

ALAMO DAY

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. BARTON of Texas. Mr. Speaker, as you know March 6 was an important anniversary in Texas history. It is the day in which the final battle for the Alamo took place. I would like to share with you and my other colleagues two poems which commorate this historic day. The poems were written by Mr. Carlos Jackson a teacher of Texas history at Hearne Junior High School in Hearne, TX.

TEXAS PRIDE

To pay the price, to sacrifice, to fight like freedom loving men will do, at Anahuac, the Alamo, at Golaid, and San Jacinto too.

You had to be brave and no man's slave to spit in Santa Anna's eye.

With your back to the wall and through it all knowing you would die.

Deep down inside that Texas Pride was swelling in each man's chest.

One hundred and eighty-three strong and it would not be long to be put to the stiffest test.

Santa Anna bring on your soldiers rolling like boulders we'll fight for liberty's sake.

Fighting side by side for Texas Pride till our bodies the Texas soil will take.

I'll make you a bet we'll never forget what these men did for us.

We'll keep Texas Pride somewhere deep inside and never, ever let it rust.

So Son's of Texas shout out loud and be Texas proud you were born in the Lone Star State.

Because Texas soil you see is a part of me and that makes Texas great.

So lets all pitch in and stand again like they did at the Alamo.

Live or die look the unjust in the eye then grab hold and never, ever let go.

Raise up the flag and don't let it sag fight on for freedom's sake.

Till the Lord above with His infinite love my Texas soul will take.

THE LEGEND OF THE ALAMO

There "we" were a-standin-tall
183 men near the courtyard wall.

Travis had already appealed for help of any kind

And all 183 of us knew just what was on his mind.

Victory or Death he had already decreed

But no help was coming and help we did need.

Travis drew his sword and marked a line on the ground

All we could hear was the grating of its sound.

"Up until now you've fought a good fight

And anyone who wants to leave had better get out tonight."

"No one will blame you if you go

Because victory is impossible, but this you all know."

"I'm staying myself," said Travis with glint in his eye

"I'm going to fight and right here I'll die."

"If you want to stay step over with me

For Texas and Honor and the right to be free."
His courage enthraled up and he made it quite clear
Tomorrow we would die but today we were here.
At the crossroads of destiny where great decisions are made
To fight and die for one's rights and not be afraid.
Then, as if God's Hand had moved up and down our spine
We, 183 strong, Stepped Over the Line.

TIME TO SAY GOODBYE TO AN OLD NAME

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. STOKES. Mr. Speaker, racism in our country can take on many different forms.

A recent editorial appearing in the Cleveland Plain Dealer brings to our attention an often used, albeit sometimes unconscious form of racism. Entitled, "Time to Say Goodbye to An Old Name," the author, Jim Strang, describes a subtitle form of racism—the name and nicknames of Cleveland's baseball franchise, the Cleveland Indians.

I hope that my colleagues will take a moment to read this article. It is both thought-provoking and worthwhile reading:

TIME TO SAY GOODBYE TO AN OLD NAME

Clarence Page beat me to the punch on this one, but that's not going to prevent my taking a couple swings anyway.

Page, a columnist with the Chicago Tribune, wrote a piece that appeared on this newspaper's Forum pages the other day about a kind of racism so subtle that many of us who claim sensitivity in such matters—and that includes this writer—have seldom given it any real thought. In fact, many of our most liberal local politicians and media types, both black and white, have been downright supportive of it—and will react to this column with anger.

That racism involves the very name—and more so the nicknames—of our beloved baseball franchise, the Cleveland Indians: the feckless featherheads; the tottering tribe; the whimpering Wahoos.

The slandered native Americans.

So, where's the malice in this name? Certainly, none was intended. Quite the contrary. It was, in point of historical fact, bestowed on our franchise in 1915 to honor the memory of Luis Francis Sockalexis, the first American Indian to play major league baseball. And it is nowhere near, as Page pointed out, the "clear, concise slur" encapsulated in the name of the Super Bowl winners, the Washington Redskins.

But malice isn't necessarily an ingredient in racist stereotyping. For instance, some white folks, with the best of intentions but the least understanding, still think that black folks really do like watermelon and fried chicken more than any other foods. That's not malicious. It's just ignorant.

So it is with the baseball team's name. What was done with the best of sentiments has become, in those 72 passing years, only another mechanism for keeping alive a dated, stereotyped image of a race that never existed outside the white, Hollywood imagination. Take the caricature of Chief Wahoo—please. His grinning, red visage is unlike that of any brown-skinned native who ever walked the fields or forests of pre-Columbian America. (Even his single, upright feather is wrong, some scholars would assert; those woods indians who wore feathers generally wore them pointing down—they caught less brush that way.)

To its credit, the baseball team's management nearly 40 years ago softened the features of what was a repugnantly hook-nosed Wahoo. And, in this day of costumed team mascots, Indians ownerships have demonstrated the good sense not to field a feather-bedecked, war-painted vision of frontier mythology.

Yet, as unintended a slight as it may be, the name remains a slight. Consider it from this light.

What if Sockalexis had been, against all odds, the first Afro-American to reach the majors?

What if, in his honor, the team had taken as its name the Cleveland Negroes?

What if those Indian-related cliches of which headline writers and sportstalk mouths never seem to tire ("Tribe scalps Yanks," "Wahoo on warpath," etc.) had evolved, instead, as the more readily recognized slurs involving watermelons and rhythm?

Unthinkable in 1988? Of course, and thank God. But why are equivalent references to American Indians any more acceptable? The organization before us is in no wise a "tribe": it is a collection of highly paid athletes of several racial and ethnic backgrounds who are bound not by common ancestry or blood, but by contracts and money.

No, the name and the emblem both have outlasted their time. They should be retired.

One last thought: for nearly 30 years, the team that this baseball fan has lived (and, mostly, died) with has dragged that name through the dankest sub-cellers of the standings. It now has fresh, substantial ownership that promises stability and renewal. What better time to carry that renewal the last, most difficult mile by giving the franchise a name of which no one need feel ashamed?

The English language contains more than 800,000 words. One of them surely must be more appropriate than "Indians."

SSA AND IRS WILL RESOLVE SOCIAL SECURITY EARNINGS RECORD

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. ROYBAL. Mr. Speaker, I rise today to inform and update my colleagues on an issue of great importance to all working and retired Americans. The issue concerns the failure of IRS and SSA to properly reconcile and credit employee earnings to their Social Security accounts. My Subcommittee on Retirement Income and Employment at the Select Committee on Aging has been working to resolve this problem for the past 6 months, and we are close to resolving the major issues. The Social Security Administration [SSA] and Internal Revenue Service [IRS] have informed me that they have developed, at least in principle, with the details still to be worked out, a plan to resolve the problems associated with the crediting of individuals earnings.

Some historical background on this problem might be helpful. Prior to 1978, SSA and IRS used the same quarterly reports of employee earnings. In 1978, to reduce the tax reporting burden on employers, Congress authorized that the combined reporting of all detailed employee wage data be consolidated in the annual wage report [AWR], which employers send to SSA. Employers are still required to send quarterly reports on aggregate wage data to IRS. The total of the quarterly IRS reports should equal the employee data in the AWR's sent to SSA. Unfortunately, there are differences in the reports consisting of missing as well as discrepant data. SSA and IRS have agreed to reconcile the differences in the wage reports. However, due to numerous problems, including the lack of adequate resources and staffing at both agencies, these differences have not been resolved.

In September 1987, the GAO issued a report entitled "More Must Be Done To Credit Individuals Accounts." The GAO study found that SSA and IRS failed to reconcile the differences in wage reports provided by employers, with the result that some workers' earnings are not credited to their Social Security accounts. Since 1978 there have been discrepancies in reports that total $58.8 billion in employees earnings not included in SSA data. GAO estimates that 9.7 million individuals have unrecorded earnings as a result of this problem.

When I heard about this issue I was most concerned about how this failure to reconcile earning discrepancies would impact on individuals' eligibility for Social Security. Since earnings are used to determine an individual's eligibility for Social Security and benefit amounts, uncredited earnings can affect benefit payments. According to the GAO, current and future beneficiaries have, and will, lose benefits because of SSA's failure to correctly credit their earnings. GAO examined the records of retired workers with missing or discrepant wage reports in 1980 and 1981. One-quarter of those retired workers sampled were entitled to an average of $16.81 more in monthly benefits when earnings were credited.

On October 15, the Subcommittee on Retirement Income and Employment convened a hearing to examine a report that was issued by the General Accounting Office [GAO]. Both IRS and SSA testified about the issue. I and Congressman TAUKE were assured at the hearing by the two agencies that necessary changes in the memorandum of understanding [MOU] between the agencies would be completed by the end of 1987. They agreed to inform the subcommittee when their discussions were completed.

Staff of the Subcommittee on Retirement Income and Employment has been in constant contact with both agencies on this issue. In December, the subcommittee scheduled a briefing and invited the Ways and Means Committee, SSA, and IRS. At the briefing both SSA and IRS acknowledged that there was a fundamental stumbling block to an interagency resolution that still exists.

This stumbling block has been IRS' insistence that its agency is only responsible for tax administration. According to the MOU, IRS is responsible for reconciling the differences between the IRS and SSA records. Although the IRS initially agreed to accept this responsibility, IRS has not reconciled wage report discrepancies for any year since 1978. SSA is in the process of reconciling the backlogged cases. The point that bears emphasis is that SSA cannot perform this reconciliation without the assistance of the IRS. IRS has stated that they are responsible for tax administration. This matter concerns not only the benefit amounts of individuals but the assurance that correct amounts of taxes are collected from employers. On December 18, 1987, I sent a letter with Congressman TAUKE to IRS and SSA stating our concerns over the inability of the two agencies to reconcile their differences. The letter stated that we believe the responsibility of the IRS is as outlined in the original MOU.

The Chief Financial Officer of SSA has met with the IRS Deputy Commissioner for Operations to discuss the outstanding unresolved issues on revisions to the memorandum of understanding [MOU]. They have now come together with a conceptual agreement with the details still to be worked out. From discussions with IRS and SSA the agreement is that SSA will do some additional processing to reduce the number of unreconciled cases it sends to IRS. The cases SSA will send will be "data perfect" cases; that is, Social Security numbers and names match. IRS will then work to reconcile any discrepancies between the different wage reports.

Although the major stumbling block to an agreement between SSA and IRS has been resolved, and SSA is reducing the backlog of unreconciled reports, I am still concerned about this issue. The GAO report states that SSA plans exclude from review and reconciliation approximately 750,000 earnings reports because the earnings differences are "too small to resolve." SSA's current policy is to exclude from any reconciliation effort missing reports where the amount is less than the dollar amount needed by an individual to gain a quarter of coverage—$250 in 1978 and $470 in 1987—for Social Security, and discrepant reports where the dollar amount is less than $1,785. SSA's own studies found that individuals could lose quarters of coverage, and eligibility for Social Security when the $1,785 tolerance level is used. Wage reports most affected by the adopted tolerances are likely to represent earnings for low-earning individuals such as household and migrant workers and could mean the loss of about $9 in monthly benefits per individual. SSA told the subcommittee that it plans to study the tolerance levels. Until the tolerance levels are reduced to a point where individuals will not lose quarters of coverage, I will not feel that the wage reconciliation problem has been resolved.

The lesson that the committee has learned from this is that individual workers must check their wage records on a regular basis. Currently, only 3 million individuals check their wage records every year. I urge you to inform your constituents that SSA believes an individual should check their earning records approximately every 3 years. Social Security has a post card—form No. SSA-7004 PC—which can be picked up at any local Social Security office which allows an individual to ask SSA for a copy of his/her Social Security earnings history.

I am hopeful that this entire problem is close to resolution. If not, I will work with the legislative committees and others to seek legislative remedies to this problem.

INTRODUCTION OF LEGISLATION TO SETTLE THE WATER RIGHTS CLAIMS OF THE SALT RIVER PIMA MARICOPA INDIAN COMMUNITY OF ARIZONA

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. UDALL. Mr. Speaker, I am pleased to join today with my Arizona colleagues, Mr. KOLBE, Mr. RHODES, and Mr. KYL, in introducing legislation to settle longstanding disputes over water rights between and among the Salt River Pima-Maricopa Indian community, their non-Indian neighbors in central Arizona, and the United States.

Disputes over the rights to water in the Salt and Verde Rivers in Arizona are currently joined in a series of lawsuits pending in Federal district court in Arizona. The legislation would end these suits and remove the clouds of uncertainty which they have cast over rights to the water supplies on which more than 1.5 million people in the Phoenix metropolitan area depend. It would also settle major issues that are part of the general adjudication of the Gila River system and source which is currently pending in Arizona Superior Court.

Since establishing the Salt River Indian Reservation in 1879, the United States can be kindly described as having been less than diligent in its efforts to secure sufficient water supplies for the community to develop its arable lands and achieve meaningful economic self-sufficiency and self-determination. This legislation would provide the means for the United States to fairly and honorably, albeit belatedly, fulfill its legal and moral responsibilities as trustee for the Salt River Indian community.

The legislation would ratify a complex agreement reached by the parties in Arizona after more than 2 years of intense and difficult negotiations, and would authorize the Federal actions and additional appropriations needed to implement that agreement. The total cost of the proposed settlement, including the value of water contributed by the local non-Federal parties, is substantial. However, consistent with congressional and administration policy on negotiated settlements of this kind, approximately half of the cost of the settlement would be borne by the non-Federal parties and the Indian community.

The Salt River Indian community, the State of Arizona, and the municipal and agricultural water entities which have labored to produce the settlement agreement deserve great credit for their efforts. Although the United States is not a party to this agreement, credit should also be given to the Secretary of the Interior, Donald Hodel, whose efforts to carry out the administration's policy of negotiating rather than litigating Indian claims played a major part in furthering the negotiations.

I believe that the agreement reached by the parties in Arizona and the implementing legislation we introduce today are major, responsible steps toward a settlement that is long overdue. As the appropriate House and Senate committees consider these proposals in the coming weeks, I would hope that the administration, which I understand does not currently support these proposals in their entirety, will work with us in trying to fashion a final agreement and legislation that will be acceptable to all parties.

EEOC'S MISMANAGEMENT OF AGE DISCRIMINATION CLAIMS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. HAWKINS. Mr. Speaker, since 1979, the U.S. Equal Employment Opportunity Commission [EEOC] has been charged with the responsibility of enforcing the Age Discrimination in Employment Act [ADEA]. Although individuals can commence a civil action 60 days after a charge has been filed with the EEOC, the majority of individuals—primarily due to lack of adequate resources for private counsel—rely first on the Commission's investigation, conciliation and attempts to eliminate the age-based discriminatory practice.

Under the ADEA, an individual has a 2-year statute of limitations from the date of violation—or 3 years for a willful violation of the act—for filing a civil action in court. The Chairman of the EEOC, Clarence Thomas, recently announced that the Commission failed to process over 900 charges in time to meet the 2-year statute of limitations for filing lawsuits under the act. Chairman Thomas has publicly apologized for this inexcusable administrative error. But this apology will have no effect in providing relief for those individuals who were victims of age discrimination and were ignored by the Commission.

The EEOC's handling of these cases is important because the ADEA has become a substantial source of complaints filed with the EEOC. For instance, in fiscal year 1980, 59,328 total charges were received by the EEOC; 18.6 percent—11,076 charges—were filed under the ADEA. In contrast, 25.3 percent—17,443 charges out of a total of 68,822 charges received—were filed under the ADEA in 1986. The challenge for the EEOC, therefore, is for the agency to effectively manage its mounting caseload and at the same time, protect the rights of older workers and the other individuals protected under the various antidiscrimination statutes.

EEOC's Chairman Thomas has stated that the Commission is proud of its record of vigorously enforcing the ADEA. However, individuals and groups testifying at recent congressional hearings have strongly criticized EEOC's failure to enforce the statute.

In addition, the Commission, in recent years, has taken steps to diminish the rights of older workers. For example, last August the EEOC issued a rule permitting unsupervised waivers of ADEA rights, provided such waivers are knowing and voluntary. Congress suspended this rule, which it deemed inconsistent with the intent of the statute, when it clarified—through EEOC's current appropriations—that unsupervised waivers are prohibited under the ADEA and that the Commission should not implement the rule.

Furthermore, many employers have been utilizing early retirement incentive plans as an alternative to mandatory layoffs and their accompanying hardships. In enforcing the ADEA, the Commission has the responsibility to ensure that such incentives are carefully structured so that they do not violate the statute. For instance, if the alternative to an early retirement incentive plan is actual or constructive discharge, the plan may violate the ADEA. Many observers contend that the Commission has failed to provide clear policy guidance on whether certain early retirement incentive plans might discriminate against employees based on age-related factors.

Last, in June 1984 the EEOC determined that the ADEA required that persons age 65 or older who continued to work under a pension plan of an employer would be entitled to pension accrual after age 65. The Commission has yet to issue final rules on this issue. Some EEOC observers believe that this delay harms older workers and helps employers minimize the cost of future pension accruals.

These actions by the Commission have compromised the rights of age discrimination victims. In addition, this recent egregious mismanagement of over 900 ADEA cases by the Commission has caused public outrage and raises serious concerns about the EEOC's ability to effectively enforce the laws. Chairman Thomas is quick to blame the Congress for not appropriating adequate funds to meet the demands of an ever-increasing workload. However, since 1980, the Congress has increased the EEOC's budget each year—from $124 million in fiscal year 1980 to $179 million in the current fiscal year. This represents a 44-percent increase in funding. For the past several years, my committee has been recommending more money for the EEOC than was requested by the President. Clearly, there is congressional support for the important mission of this enforcement agency.

Despite EEOC's mismanagement in this instance, we cannot allow those individuals who have filed ADEA charges with the EEOC to forever lose their right to puruse a private lawsuit. Today I join my colleagues in introducing this legislation to provide legal recourse to those alleged victims of age discrimination. This legislation simply extends the statute of limitations for those individuals affected by EEOC's administrative error.

I hope that we can act expeditiously to pass this bill in both Houses of Congress and to exercise our congressional oversight responsibility to ensure that the EEOC is more accountable in the future.

A summary of the "Age Discrimination Claims Assistance Act of 1988" follows:

THE AGE DISCRIMINATION CLAIMS ASSISTANCE ACT OF 1988

I. BACKGROUND

Management problems at some of the U.S. Equal Employment Opportunity Commission (the "Commission") district offices have interfered with the prompt handling of age discrimination charges, resulting in the Commission's failure to process nearly 900 charges in time to meet the Age Discrimination in Employment Act's two-year statute of limitations to pursue the claims in court.

The Commission first noticed the problem three years ago when it approved a new enforcement policy and began reviewing all cases that failed conciliation. Last September, Commission officials compiled figures determining that close to 900 ADEA cases had passed the two-year statute of limitations without resolution. That figure has since increased to 938.

EEOC's Chairman Thomas has characterized the situation as "totally inexcusable," and has already taken disciplinary steps against some of the district directors where this administrative error occurred. In a December 21, 1987, memorandum to field directors, he stated that allowing a statute of limitation to lapse is "tantamount to a dereliction of duties" and promised "not [to] tolerate such mishandling of even one case."

II. SUMMARY OF THE BILL

The Age Discrimination Claims Assistance Act of 1988 extends the already expired statute of limitations by an 18-month period for those persons whose claims were affected by EEOC inaction. Specifically, the rights of persons who filed timely charges with the Commission after December 31, 1983 but did not bring a civil action on such claims, and who neither had their claims conciliated by the Commission nor received notification of the disposition of their charge and the right to sue, have been revived for an extra 18 months beginning on the date of enactment of this bill.

The statute not only revives certain persons' claims, but it also requires the Commission to notify these persons, no later than 60 days after enactment of this Act: (1) the rights and benefits to which such persons are entitled to under the Age Discrimination in Employment Act; and (2) that their statute of limitations applicable to such claim will run for an additional 18 months after the date of enactment of this Act.

Finally, the bill includes a reporting requirement for the Commission. The Commission shall submit periodic reports to certain congressional committees including such information as the number of persons who have claims under the Act, the number of persons notified under the Act, and the disposition of their charges.

BAGHDAD'S MISSILE BARRAGE MAY BE INTENDED TO SPARK IRANIAN ATTACK

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. ASPIN. Mr. Speaker, for awhile, the Iran-Iraq war and the Persian Gulf slipped off the scope. The war is back now—but with a unique twist.

First, Baghdad, which has been crying for peace, has instead launched a missile barrage on Tehran.

Second, Tehran, where the chant of "jang, jang ta piruzi"—war, war until victory—reverberates daily, has been remarkably reticent about launching its annual all-out offensive against Iraq.

Though the policies of the two governments may appear inconsistent with their rhetoric, they are not.

WHAT DRIVES BAGHDAD?

Baghdad's current policy might be called war to end the war. The Iraqi regime does want the war to end. It lacks, however, the capability to bring it to an end. Iraq cannot defeat Iran on the battlefield. For almost 6 years, all that Baghdad has sought to accomplish militarily is to prevent Tehran from winning. It's a rather sterile policy.

To achieve the larger goal of ending the war, Baghdad is relying on the rest of the world. In effect, it has asked the rest of the world to pull its chestnuts out of the fire.

To accomplish this, Baghdad is relying on the U.N Security Council to impose a mandatory arms embargo on Iran. Since Iran is largely dependent on arms imports to keep the fighting going, Baghdad figures that an arms embargo will crimp Tehran's fighting ability and force it to make peace on terms not unfavorable to Baghdad.

The problem Baghdad faces right now is twofold.

First, the arms embargo effort is stalled. The United States has been pushing it since last July. But the Soviet Union perpetually manages to find some way to wriggle out from under its own commitment to back an embargo and put off U.N. consideration until "next month." But, like tomorrow, "next month" never comes. So, Baghdad's first challenge is to figure out some way to move the embargo resolution.

Second, Baghdad faces another problem of time. Since about November its troops have been on alert awaiting the annual Iranian mass offensive. For 4 years, Tehran has launched a huge winter offensive out of its southern Khuzestan province into Iraqi territory. In each offensive, Iranian troops have advanced several miles, then been pushed back about half the distance they had advanced. In each case, Iran ends up holding onto a mouthful of Iraqi territory. In each case, the initial success has come because the Iraqi forces have been a little lax. Baghdad has been trying to keep its frontline troops ever alert in this offensive season, but there's a limit to how long they can keep that up. As time wears on, alertness wears down. So, Baghdad's second challenge is how to keep its troops from falling asleep at the wheel.

The answer to the first challenge—how to move the stalled embargo resolution—could be an Iranian offensive. Accepted wisdom in the corridors of the U.N. holds that it will be very hard to block the resolution if the Iranians were to flaunt the Security Council's call of last July for a cease-fire by launching a huge offensive.

The answer to the second challenge—how to keep the Iraqis alert and capable of stopping an offensive—could well be an Iranian offensive, that is, an early offensive. The sooner the better. Once the offensive has been halted by Iraq, it can breathe more easily. Iran has to store up ammunition for each offensive. Once it blows its supplies on a massive offensive, Iran must take a breather and resume stocking up. When Iran has to take a breather, Iraq is able to take a breather.

So, there are two very good reasons why Baghdad might like to be attacked right now.

One might logically respond: Why should Iraq want to be attacked when it might lose? There are two points to recall here.

First, everyone expects Iran to attack sometime. There are opponents of the war within the regime, but the war party is large, militant, and vocal and won't accept permanent delay. So, an attack will come.

Second, the greatest threat to Iraq is a surprise attack that catches it unawares. It isn't commonly understood, but Iraq has mobilized far more men than Iran. In the southern war zone, even with the current Iranian mobilization, Tehran's troops are outnumbered about 2 to 1. But one of Iran's prizes—the Iraqi city of Basra—lies less than 10 miles from the frontlines. Tehran's best chance for closing those 10 miles is to catch the Iraqi troops when they are lax. Tehran has virtually no chance of taking Basra if the Iraqis are awake and alert.

So, strange as it may seem, there are very good reasons for Iraq to passionately desire to be attacked right now. Chief among those are that an Iranian ground offensive would move the stalled U.N. Security Council resolution imposing sanctions on Iran, and would end the long wait that is taxing Iraqi forces and threatening their ability to repel attack.

That brings us to the latest events in the war—last week's missile barrage—a first in the war—in which Baghdad rained long-range missiles down on Tehran. Militarily, these missiles serve no purpose. They can't be aimed at any discrete, high value targets. They are simply aimed at the city of Tehran. They serve only to terrorize the population of Tehran.

But they could serve another purpose—namely, to spark a ground offensive by Iran. By embarrassing the regime, whose inability to defend Tehran is patently clear, and infuriating the war party, which is eager to fight anyway, Baghdad could well make the long-waited offensive come about more quickly.

WHAT DRIVES TEHRAN?

To be intellectually honest, one must look at the other side of the coin and see what it is that motivates Tehran in its current policy of restraint.

There are two military rationales.

First, the annual call for volunteers did not do anywhere near as well last fall as in preceding years. That limits the available manpower and likely has induced some caution.

Second, Tehran recognizes that its annual all-out offensives aren't getting it much. The speaker of the Iranian Parliament, Ali Akbar Hashemi Rafsanjani, announced a new strategy last year that put an end to massive offensives and replaced them with frequent, multiple attacks up and down the front. Rafsanjani complained that the old strategy allowed the Iraqis lots of time in which to rest and recuperate from each offensive. Rafsanjani's strategy makes some sense. The biggest problem is that Iran isn't carrying it out. There simply are not a lot of attacks going on. The strength of Rafsanjani's strategy is logic; the weakness is resources. About 5 years ago, Iran briefly tried battering Iraq up and down the warfront, hoping to break through somewhere. The only problem was that Iran ran down before Iraq did.

There are many political reasons Tehran might want to delay a major offensive at this point.

First and foremost, is the U.N. Security Council sanctions resolution. Tehran doesn't want to do anything that would make its passage easier.

Second, its Arab ally, Syria, has made clear that Iranian seizures of Iraqi—read Arab—land make it very hard for Syria to continue helping Tehran. Syrian Baath party politicians hate Iraqi Baath party politicians, but no Arab of any nationality likes to read of "foreigners" taking Arab land.

Third, if a big offensive fails to record a big gain, what will be the impact on Iranian public support for the war. The recent drop in volunteers points to a drop in enthusiasm for the war. While it is not precipitous, Tehran's leaders have to worry that another bloodletting at the front without something to show for it could prompt a reversal of public opinion. Moderate politicians in the party led by former Prime Minister Mehdi Bazargan tried to run for office 5 years ago on a peace platform and were shut out, which indicates that even that long ago the leadership of the Islamic Republic feared development of a peace movement.

Fourth, Iran is now engaging in talks with the Arab States on the other side of the Persian Gulf. I see no reason to believe they will accomplish anything, but the Iranians clearly see some benefit in pursuing the talks or they would have brushed them aside. An attack now would torpedo any hopes of accomplishing anything in the talks.

Those are four political and two military reasons for putting off any offensive. However, the Iranian mobilization continues—as it has since October. The daily buildup has a certain sense of inexorability to it. The leadership in Tehran can tell the military, "Not today." But few believe it can say, "Never."

LEE SHAPIRO, JIM LINDELOF, AND CHARLES THORNTON

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. COURTER. Mr. Speaker, in October 1984, the Soviet Union sent one stern message to all foreign journalists attempting to cover the war in Afghanistan. During an interview with two French reporters, the Soviet Ambassador to Parkistan, Vitaly Smirnoff, said, "I warn you, and, through you all your fellow journalists: Do not try to enter Afghanistan with the so-called Mujahidin any longer * * * In the future, the bandits and the so-called journalists will be killed. Our forces in Afghanistan will help the Afghan forces" to do so. This statement closely followed the Soviet capture and imprisonment of French journalist Jacques Abouchar on charges of "illegal entry into the country." It is indeed ironic that a man shooting only photographs was hunted down and jailed by the Soviet troops who invaded Afghanistan 8 years ago and are still waging a war of conquest. The journalist's only "crime" was in bringing a trace of glasnost to the most brutal war of the decade. Unable to completely conquer the Afghan resistance, the Soviets have committed themselves to a policy of tracking down and murdering Western journalists in an attempt to prevent the rest of the world from learning of the Afghans' valiant struggle for freedom.

Undaunted by the dangers of entering the war zone and refusing to be intimidated by the Soviet threat against them as correspondents, many journalists have continued to cover the war in Afghanistan. Several reporters, including three Americans, have died in Afghanistan at the hands of Soviet troops. The first American to die was Charles E. Thornton, a medical reporter for the Arizona Republic. On September 19, 1985, Thornton was murdered in an ambush by Soviet troops while preparing a story on volunteer doctors in Afghanistan.

Two years later, on October 9, 1987, Lee Shapiro of North Bergen, NJ, and Jim Lindelof, of California, were ambushed and murdered while filming a documentary. According to the eyewitness account of Abdul Malik, their interpreter and guide, Shapiro and Lindelof were returning to Pakistan after 5 months of filming when they were strafed by Soviet helicopter gunships. Lindelof was killed instantly, but Shapiro, despite being wounded, attempted to save the film. However, the Soviets landed their helicopters, shot Shapiro several times, and then confiscated his film and equipment.

These three men are heroes who gave their lives in the hope that the world would learn of the struggle for liberty going on in Afghanistan. The common dedication and courage must be recognized in a singular manner. Tomorrow, Representatives BOB STUMP, ROBERT MATSUI, and I are introducing a resolution in the House of Representatives urging President Reagan to posthumously award the Presidential Medal of Freedom to Charles Thornton, Lee Shapiro, and Jim Lindelof. This medal is presented at the discretion of the President to those who make contributions to the national or security interests of the United States, world peace, or to those who undertake significant public or private endeavors. Past recipients have included Joseph Luns, former Secretary General of NATO, Eric Hoffer, the labor leader and author, statesman Anwar Sadat, historian Dumas Malone, Mother Theresa, and Ambassador Jeane Kirkpatrick. Several journalists, including Arthur Krock, have also received the Medal of Freedom.

We have asked the President whether this award might be presented to the families of these three American heroes on March 21, 1988. We believe that this day, which marks the beginning of the new year in Afghanistan and which in 1987 was designated as "Afghanistan Day" in the United States, would be a very appropriate day to present the Nation's highest civilian award to Charles E. Thornton, Lee Shapiro, and Jim Lindelof.

TRIBUTE TO KAREN CABE GIBSON'S CLASS AT STALL HIGH SCHOOL, WINNERS OF BICENTENNIAL COMPETITION

HON. ARTHUR RAVENEL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. RAVENEL. Mr. Speaker, as many of my colleagues are aware, teachers and students from across the Nation have been participating in the Bicentennial Competition on the Constitution and Bill of Rights. I cannot say enough about the cooperation demonstrated by each of the schools from my district that are involved. The teachers have had nothing but praise regarding the curriculum that was chosen and all the students who are participating have a greater knowledge of the way our constitutional democracy developed.

One such teacher, Karen Cabe Gibson of Stall High School in Charleston, SC, has dedicated countless hours to her students, and the students have had to make sacrifices of their own in order to practice after school to train for the competition. The school principal, Mike Turner, has made sure that they had the support they needed to compete well. And now, this impressive group of students has won not only the first district competition, but the statewide competition as well. As they prepare to compete in the national competition next month in Washington, I want them to know that they have the backing and support of the folks back home. It is indeed an honor and a privilege to individually list the names of the members of the winning class that will be representing the State of South Carolina in this exciting program.

They are: Joey Amundsen, Douglas Brantley, Keith Conyers, Dondra Crocker, James Dixon, James Ford, Rae Goude, Randy Harmon, Alyson Harrel, Joe Haselden, Michael Murphy, Kelly Panganiban, Lee Pool, Renee Powell, Carol J. Ribeiro, Stephen Russell, Clarita Santos, George Shread, Russell Stanley, Clevetta Young, and Michelle Zapanta.

A BILL TO ESTABLISH A COMMONWEALTH OF GUAM

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. UDALL. Mr. Speaker, today, I joined our colleagues BEN BLAZ, the Delegate from Guam, DON YOUNG, the ranking Republican of the Committee on Interior and Insular Affairs, RON DE LUGO and BOB LAGOMARSINO, the chairman and ranking Republican, respectively, of the Subcommittee on Insular and International Affairs, in sponsoring a bill to make the territory of Guam a Commonwealth.

This bill was drafted by a commission comprised of Guam's leaders and was endorsed by the people of Guam in a referendum. I have cosponsored it at the request of Congressman BLAZ and other leaders of the territory because it represents the freely determined political status aspirations of the people of Guam.

I believe that these wishes have a right to be considered by the Congress. I am happy and proud to cosponsor the bill as chairman of the committee with jurisdiction over most matters regarding Guam and the other insular areas.

Further, I have supported the idea of improving Guam's relationship with the United States through mutually approved Commonwealth legislation for some time. In 1983, I agreed with Congressman BLAZ' predecessor, the late Tony Won Pat, that there are a number of very real problems in the current Federal-territorial relationship which we should try to solve.

This bill is a serious response to many of these problems. A number of its proposed solutions themselves, however, cause serious concerns on constitutional, policy, and practical grounds.

These concerns were explained to Guam's leaders as they drafted the bill. I do not want their people to be misled now by my cosponsorship into thinking that I have changed my mind with respect to these concerns.

There are other ways to address the problems which are supportable and attainable. I am very willing to work with Congressman BLAZ and the other leaders of Guam and Congressmen YOUNG, DE LUGO, and LAGOMARSINO and other concerned Members to find meaningful and fair solutions to them through Commonwealth or other legislation.

BRITISH OUTRAGES AGAINST IRISH NATIONALISTS CONTINUE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. BIAGGI. Mr. Speaker, without question over the past several months, the British Government has embarked on a veritable reign of terror against segments of the Catholic minority population in Northern Ireland. The latest incident is perhaps the most appalling of them all. The British Government was forced to admit in the House of Commons that they had indeed killed three individuals in Gibraltar who they suspected to be Irish Republican Army terrorists prepared to carry out an act of terrorism. What the Home Secretary was forced to admit was the fact that not only were the three individuals that were killed unarmed, there were absolutely no explosives or any other weapons of terror found on or near those who were killed.

The question one must ask here is precisely the same one posed on February 23 by the highly respected Archbishop of Armagh and Catholic primate of all Ireland, Cardinal Tomas O'Fiaich who said, "Many people are asking whether the British security forces are above the law?"

This latest action of official violence either in Northern Ireland or directed against segments of its citizenry living elsewhere represents a disturbing pattern which warrants not only the concern but an official response from the Department of State if not President Reagan himself. In the past several months we have seen the British Government and its security forces operating in Northern Ireland make a mockery of the rule of law.

Let me review some of the more disturbing of recent developments. As I have cited before, the decision to end all prosecutions of Royal Ulster constabulary officers involved in a so-called shoot to kill policy against certain civilians in Northern Ireland. In addition there was the release of a young soldier convicted of murdering a civilian and sentenced to life imprisonment. The soldier, Pvt. Ian Thain, was not only released after only serving 3 years, but he is back on duty with his regiment.

Then there was the murder of young Aidan McAnespie on February 21 by a Grenadier guard at a checkpoint in the border town of Aughnacloy. This was condemned as murder by the aforementioned Cardinal O'Fiaich who presided at the young man's funeral.

Added to all this was the refusal of the court of appeals in Great Britain to free the so-called Birmingham six. This case which generated worldwide attention and support for the original defendants has driven a long stake into the heart of Anglo-Irish relations and threatens the Anglo-Irish Agreement of 1985.

As we approach the celebration of St. Patrick's Day—it would be more than appropriate for the United States through diplomatic and other channels to communicate its official concern to the British Government over their actions in recent months in Northern Ireland. I believe we should lodge a formal protest over the Gibraltar murders. Failure to speak out against these obvious outrages only invites their continuation. Silence in this case will not make the problem go away.

We must approach this with the same degree of moral outrage we summon for problems in South Africa, Eastern Europe, and to some extent the events in Gaza. Official United States policy for the 20 years I have been involved with the Irish issue is support the British Government first, ask questions later. There is no doubt that Britain is an important ally both in the past as well as in the future. Yet it is because of our being allies that we should be able to be a constructive influence on the British to change their policies in Northern Ireland. It should not be an excuse to allow it to continue.

At this point in the RECORD I wish to insert two articles. The first is from today's New York Times entitled "British Amend Account of Killing of 3 in Gibraltar." The second, from the March 5 edition of the Irish Echo entitled "Two Types of Justice in the Northern Travail.

The articles follow:

[From the New York Times, Mar. 8, 1988]

BRITISH AMEND ACCOUNT OF KILLING OF 3 IN GIBRALTAR

(By Francis X. Clines)

LONDON, March 8.—Correcting initial reports on the police killing of three unarmed Irish terrorist suspects in Gibraltar, the British Government announced today that no terrorist bomb had been found at the scene.

The Foreign Secretary, Sir Geoffrey Howe, told Parliament of the change in the Government's version of events but insisted that British military undercover agents had acted properly in trailing Irish guerrillas intent on committing "a dreadful terrorist act."

British citizens were told by government authorities in news accounts of the past 24 hours that a 500-pound bomb had been discovered and neutralized in a controlled explosion after the shootings. In the latest account, Sir Geoffrey said detectives now were searching for the components of a bomb that, he asserted, was to have been detonated Tuesday at a public event that would have meant casualties "into three figures."

The opposition Labor Party, warning that the incident could prompt new "shoot to kill" accusations against British anti-terrorist agents, called for a special inquiry to determine why British soldiers disguised as civilians shot the three unarmed victims, identified by authorities as citizens of Northern Ireland with known records of rebel activity.

The incident prompted Irish nationalist protests in the streets of Belfast tonight. The police said that buses were seized, emptied and set afire and that gunfire was heard in at lease three areas, including the British Army barracks at New Barnesley.

RELATIONS DETERIORATE

The Gibraltar shootings were the latest in a string of incidents that have sent British-Irish relations plummeting. In the most critical, John Stalker, a former English police superintendent, was sent to Northern Ireland and reported evidence of "police murder" in three 1982 incidents when six unarmed Irish nationalists were shot to death by anti-terrorist police detectives of the Royal Ulster Constabulary. The Government, while not confirming that specific charge, has confirmed that some Constabulary members obstructed justice. But it ruled out prosecuting them on the ground that national security and the public interest required otherwise.

"I believe that this needs an inquiry in the same way that the Stalker inquiry took place," Martin Flannery, the Labor Party spokesman on Northern Ireland, declared in Parliament after Sir Geoffrey told of the latest news from Gibraltar.

Sir Geoffrey insisted that the three victims, two men and a woman, were active terrorists planning an explosion at a changing of the guard ceremony Tuesday by the Royal Anglian Regiment, which recently served in Northern Ireland.

PLAN REPORTED UNCOVERED

Initially, the British authorities said a bomb had been found in a car parked in an alley near the ceremony ground near the British Governor's residence and, they stressed, by a school and old people's residence. Sir Geoffrey corrected this to say that three cars and four suspected rebels, one still at large, had been tracked as active in the reputed attack plan. Keys on one victim's body, he said, fitted a car found across the border in Spain that, according to the Foreign Secretary, contained three false passports, an electric clock, tape and wire. Keys were found for a third car, he said, adding that this was being sought as the suspected repository of a large amount of plastic explosive.

The three victims were identified as Mairead Farrell, 31 years old, Daniel McCann, 30, and Sean Savage, 24, all from West Belfast.

Sir Geoffrey said that an attack plan had been uncovered by Spanish authorities and that while under surveillance in Gibraltar the three rebel suspects were challenged Sunday as they walked toward the Spanish border.

"They made movements which led the military personnel, operating in support of the Gibraltar police, to conclude that their own lives and the lives of others were under threat," Sir Geoffrey said. "In the light of this response, they were shot dead. Those killed were subsequently found not to have been carrying arms."

TWO TYPES OF JUSTICE IN THE NORTHERN TRAVAIL

DUBLIN.—You can write about it. You can complain. You can even sing about it. But it's a little like pushing a stone uphill with your head—and just as painful. Nothing ever seems to be accomplished.

For more than 20 years, the situation in Northern Ireland has occupied the subconscious minds of the people of this island. Most wish to forget it. There are more things happening in Ireland than you read about on the front pages of your newspapers. It is not all horror and tribulation.

The tragic thing is that it is impossible to devote all of our attention to the truly important things, the development of an adolescent economy, the removal of the need to emigrate, the eradication of poverty, especially in large cities like Dublin.

Always the North and its turmoil is with us, no matter how much we try to push it from our consciousness. There is not a week that goes by without it obtruding into the foreground of our attention.

Take last week as a case in point.

Lord Denning is Britain's former Master of the Rolls, one of the highest judicial offices in his country. Believe it or not he was described recently as "the best judge in England—Which has the best judicial system in the world!"

It was Lord Denning who was given the task of hearing the appeal of the Birmingham Six in 1980 against their conviction on the grounds that their confessions were beaten out of them—superficially not a remarkable allegation in view of the photographs which were released showing evidence of violent assault.

On the astounding assumption that to find in their favor would be to admit the existence of a high level conspiracy, Lord Denning turned the appeal down because he said it would have revealed an "appalling vista."

Recently, during a TV interview, he explained to reporters curious as to what he should do if prisoners continued to express their innocence, "Oh, walk away and ignore them!"

He also explained that, in his view, it was better that some innocent people should remain in jail rather than that the integrity of the judicial system in Britain should be questioned.

At least, he is an honest representative of the incredibly smug and arrogant British Establishment.

In the same week, obviously acting on a tip-off, reporters in the Irish Press, still the best newspaper in Ireland, with an emphasis on news, checked on the progress of a certain private in the British Army who had finished his tour in the North.

Unfortunately, it is the sort of check that Irish editors in general don't usually bother to carry out, either because they don't believe that it would dredge up real news, or because, quite frankly, like many other Irish people, they have come to regard the North as being something of a bore to their readers.

The private in question was a young man, Ian Richard Thane, who has the dubious distinction of being the only soldier found guilty of murder in the North since the start of the present "Troubles."

The victim was another young man, Thomas Martin, "Kidso" Reilly who was shot in cold blood on Aug. 9. 1983.

When you think about it, isn't it simply incredible that no other British soldier was convicted of murder during a period which included among other horrors the infamous carnage of "Bloody Sunday" in Derry?

But that's it—only one soldier was found guilty of murder in all of that time, according to the British.

Now it emerges that Private Thane is quite well, thank you! In fact, he is back serving with his regiment according to a spokesman for the British Army, but not in Northern Ireland.

He was released on parole in 1987. The Birmingham Six and the Guildford Four still languish in jail. There are people, "fitted up" in the Diplock Courts who are still serving lengthy sentences for possession of arms, explosives, membership of the IRA, et al. Many went in as young men, just as young as Private Ian Richard Thane, but they will be old when they are freed, if they are ever relased at all.

You can write about it, talk about it, complain about it, even sing, if you wish, but there is nothing or nobody that can seem to take us from the incredible "Never-Never Land" that Britain has bequeathed so munificently to the Irish people in the northern part of this island.

John Stalker wrote a book which clearly established that there is, at the very least, a criminal case to be met by the highest authorities in the North and in Britain itself, extending all the way up to the impervious Margaret Thatcher.

When the British Establishment steps onto an Irish bog, they seem to disappear, en masse, down a huge hole which leads to the abyss of Lewis Carroll's "Alice in Wonderland."

There was actually a discussion in the Mother of Parliaments as to whether Stalker should be prosecuted for revealing "national secrets." And no less than the British Attorney General, Sir Patrick Mayhew, stood up to admit to the same House of Commons that there was evidence of a "conspiracy" in the RUC (Northern Ireland police) to pervert the course of justice—but no prosecutions would follow.

A yound, unarmed man had been riddled to pieces in a country shed by members of the RUC. The killing had actually been taped on a recording device planted by M15 intelligence agents. Neither the tape nor any other evidence was made public and nobody was prosecuted.

It seemed that matters could not become worse. Irish Prime Minister Charles J. Haughey, did his level best to sound tough and statesmanlike at the same time when he addressed the annual gathering of his party. But, in Ireland, matters can get worse—and they did.

Aughanacloy, Co. Tryone, is a town I happen to know quite well because it is the main crossing point for southern travelers to Donegal. Most are happily unaware that when they are trundling through the checkpoint, perhaps on their way to their annual holiday, British soldiers barely out of their teens are sighting their rifles on their torsos. For the soldiers, it's a normal precaution. For the travelers, it can be lethal.

Aidan McAnespie was 24, his sister, Mrs. Eilish McCann, was a candidate for the Sinn Fein Party in the North's last election. He was, according to his family, a marked man, threatened by soldiers who had actually warned him that they would "get him."

They did.

Aidan McAnespie was walking through the border checkpoint to play in a football match after leaving his car. He never drove across because of the harassment by the soldiers.

But, as he made his last journey, shots rang out. The RUC said that there were three. The British Army which expressed its public "regret" later claimed that the young man was killed by a ricochet. It doesn't really matter. He's dead. And a soldier is in custody.

The Irish Government acted with unusual speed in deciding that it should carry out its own investigation with its own police force. The decision has clearly led to bitter chagrin in Britain where politicians profess to believe that the North is part and parcel of the UK, as "British as Finchley," and that the southern government should have no part in investigating the activites of its armed forces, whether they be the RUC or the army itself.

Let them think as they like. There are three forms of justice in the North—one for the crown forces, one for the loyalists and the last for the nationalists.

Ask Private Ian Richard Thane. He is free. "Kidso" Reilly is dead. And so now is Aidan McAnespie, another sickening statistic in Britain's last abominable colony.

Put pen to paper again. Write to your Congressmen. Write to your local newspapers. It may even accomplish something positive.

The British Establishment does not like to be exposed for what it is, especially in America. Make sure that all of the candidates in the forthcoming elections are perfectly aware of the sordid truth.

The hill is steep—and the stone is big.

A TRIBUTE TO ANDREW MARTIN

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. GEKAS. Mr. Speaker, today I would like to recognize the achievement of Andrew Martin, a constituent of mine from Harrisburg, PA. On Friday, March 11, 1988, family, friends, and his Congressman will gather to witness the presentation of the prestigious rank of Eagle to Andrew. The Eagle Court of Honor will be held at Church of Jesus Christ of Latter-Day Saints in Harrisburg.

As a young citizen, Andrew has displayed his energetic capabilities by participating in many different projects and community services.

I am proud to recognize Andrew Martin for his outstanding contributions to his community. His unselfish attitude toward others has set an example for the rest of us to follow. I would ask my colleagues in the U.S. Congress to join me in congratulating Andrew on this very special occasion.

MARINE BEVAN PLACES IN THE VFW VOICE OF DEMOCRACY CONTEST

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. FLORIO. Mr. Speaker, recently a constituent of mine, Marine Bevan of Gloucester City, NJ, won second place in the district 7 competition of the Voice of Democracy Contest held by the Veterans of Foreign Wars. I find her speech so insightful that I wanted to share it with my colleagues:

It was third period American history class and the room was silent. My classmates and I sat quietly waiting to hear another boring lesson. As we looked over the results of our last test Mr. Livingston stood at his lectern. He was in his usual position watching over us like a hawk.

This classroom wasn't very comfortable. There was a sort of coldness to it. Our teacher knew a lot about history, and we learned the facts. But Mr. Livingston gave the impression that he didn't want to be bothered with unworthy conversation or questions. We were afraid to speak to him. Checking over my test, I was so curious about the essay question I finally gathered my courage and asked, "Sir, how does America's liberty relate to our heritage?"

Mr. Livingston cleared his throat and began, "It all started with one of the two most famous documents in the United States of America, The Declaration of Independence. It was adopted on July 4, 1776 by representatives of the thirteen original colonies from New Hampshire to Georgia. That was the beginning of this nation. It announced to the world that the thirteen former British colonies in North America were now free from the rule of King George the Third.

"They were independent states, but they were also united and determined to fight for their freedom at any cost. Ever since that time Americans have regarded their declaration as something sacred, like the flag, perhaps almost as sacred as the Bible. Thousands of American tourists view it every year to remind them how lucky they truly are and how proud they should always be. The author of this historical document, Thomas Jefferson, states in the very first paragraphs of the Declaration of Independence that all men are created equal. They have the right to live, to be free. It also says that governments have been set up to protect the lives, happiness, and liberties of the people. This sums up what Americans believe, and what they have tried to live up to.

"After all these years it reminds us that every person has the right to be free and to be treated like a human being. Heritage," he went on, "is property that is or can be inherited, any condition or culture which is handed down to one, as by ancestors. America's liberty has been passed down by our ancestors, this is our heritage. Our ancestors enjoyed their freedom enough to be American and to live and prosper in this country.

"One point that should be made, though, is that this concept did not mean life in a free country comes easily. Our ancestors had endured many hardships as they fought to keep America free. Each war that America has fought in some way has something to do with this liberty. Each president whom we have elected helped America's reputation by standing up for freedom and preaching liberty. Our ancestors lived by these words, and what they chose to listen to, what they believed was right was passed down through generations for others to take into consideration.

"Liberty, in one way or another, will always be an issue concerning America and its people. And this inheritance will continue and help us to enjoy our liberty and justice for all. Though freedom is not granted through a last will and testament it is still inherited through the knowledge and pride of our ancestors. It is what we will teach our children and what they will teach our grandchildren. Liberty is what America and its people are about. It is what we love most."

When Mr. Livingston finished I could see a sort of glow about him. There was almost a look of warmth on that stone face of his. Listening to him made me realize how much Americans really do love this country. And no matter how rigid Mr. Livingston continued to be I never looked at him in quite the same way again. I knew how significant Mr. Livingston's heritage was to him, and how important mine was to me. I realize that each of us has a great bond holding this liberty, our heritage, together in America.

NEW DATA ON THE ACCURACY OF MEDICAL LABORATORY TESTING

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. WYDEN. Mr. Speaker, last week the Small Business Subcommittee on Regulation and Business Opportunities held a hearing that revealed new data on the accuracy of medical laboratory testing.

What we have learned is frightening: thousands of labs aren't regulated at all, there are no uniform standards for lab accuracy and there is no public accountability for poor performance.

The subcommittee heard testimony from the College of American Pathologists [CAP], which runs a quarterly proficiency testing program that evaluates thousands of labs every year. In evaluating their data for the subcommittee, CAP found:

Twelve percent of hospital labs missed salmonella in tests. Salmonella can be deadly and can reach epidemic proportions in some environments if not detected.

Among 2,700 hospital laboratories, 10 percent failed to achieve acceptable results on platelet counts, tests to detect leukemia and bone marrow abnormalities.

Cholesterol tests to prevent heart disease vary so widely that contradictory indications on the same sample can still be considered "accurate."

These problems surfaced despite a grading system for lab accuracy that, according to HHS's inspector general, "virtually assures acceptable results for 95 percent" of labs under evaluation. CAP uses an "averaging" method to grade labs that establishes a mean grade as the acceptable performance level.

The subcommittee then turned attention to an evaluation of State laboratory regulation compiled on request by the General Accounting Office. The GAO study reports that 13 States don't regulate independent labs at all. Thirty-six States do not regulate physician office labs. Many States regulate only a handful of tests.

To make matters worse, the Federal regulatory system has virtually shut down. The Centers for Disease Control stopped its proficiency testing program in 1986. CDC shares the little information it does receive on lab accuracy with the Health Care Financing Administration. But, my subcommittee was told last week that HCFA rarely, if ever, penalizes a lab for poor performance.

Mr. Speaker, my subcommittee will continue its investigation into laboratory issues to help make medical tests more accurate. The next in our series of hearings will examine the results of a study conducted for the subcommittee by Richard Kusserow, the inspector general of the Department of Health and Human Services.

PRESERVING LOW-COST HOUSING

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. GALLO. Mr. Speaker, today I am introducing a bill that will provide a mechanism to protect low-income tenants from the dire consequences that follow when an owner of federally assisted housing decides to prepay his or her mortgage.

My bill amends section 8(o)(3) of the United States Housing Act of 1937 to allow low-income tenants to qualify for the housing voucher demonstration program.

The 2-year interim plan set in place in the recently enacted Housing and Community Development Act came too late for the residents of Cherry Hill Garden Apartments and Dover Gardens 1, both of which are located in my district, the 11th Congressional District of New Jersey. Further, H.R. 4 contains an interim solution while the measure I propose is a permanent solution that, with little modification, can be made part of any new mechanism designed to preserve our stock of low-cost housing.

As a result of earlier congressional attempts to provide housing for the less fortunate, in the 1960's and early 1970's, low-income families were assisted through a process that called for reducing the owner's mortgage payments and passing along to the tenants the consequent reduction in operating costs. The Department of Housing and Urban Development controlled the rents.

However, in certain instances, the agreement between the owner and the Government allowed the owner to prepay the mortgage. Having prepaid, owners are then free to raise rents to market level thereby removing the units from the supply of housing available to low-income families.

When the owner of Dover Garden and Cherry Hill prepaid, the resident low-income tenants were placed between a rock and a hard place. The demonstration voucher program, which recognizes the fact that market rate rental costs vary according to region of the country, is available only to very low-income families. The certificate program, although it includes low income and very low-income families, does not reflect the cost of living in the 1980's in suburban New Jersey.

Although the tenants of my district are among the first in the Nation to face this crisis, there are approximately 68 New Jersey projects eligible for repayment and nationwide over 330,000 units.

Not all owners will elect to prepay their mortgages. Unfortunately, however, the most likely to take that step are those who have projects in areas in which housing costs are rising most rapidly, with the result that their existing tenants will have the most trouble relocating.

We must be concerned for these tenants who, through no fault of their own and almost without warning, face a housing crisis. The tenants are as deserving of help after the owner pays off the mortgage as before, but they now are being forced to look for a new place to live in an area that has just lost a low-cost housing unit. I believe that my bill, making vouchers available to existing tenants is the most effective and workable way to provide that help.

FREEDOM GRANTED TO NATASHA KHASSINA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. GILMAN. Mr. Speaker, I am most pleased to inform my colleagues that this past weekend Moscow OVIR officials informed longtime activist and Soviet Jewish refusenik Natasha Khassina that emigration permission had been granted to her. Coming on the heels of Secretary Shultz' visit to Moscow, and just prior to Soviet Foreign Minister Eduard Shevardnadze's arrival in the United States later this month, such good news is indeed welcomed.

Natasha Khassina and her husband, Gennady Khassin, were refused repeatedly, on secrecy grounds, since their first application was made over a decade ago. A distinguished mathematics professor who authorized four texts and numerous articles, Gennady was dismissed from his position, while Natasha, a physicist, had not been able to work in her profession since 1964. Still, the refusal was based upon Natasha's work, and when the designation was removed from her file, it was applied to his. The see-saw designation persisted for years as the family remained in refusal.

Natasha Khassina has been described by some as a hybrid of Natan Sharansky and Ida Nudel. A vocal and tireless activist for the rights of Soviet Jews, she has never waivered in her efforts to bring about official Soviet compliance with the provisions of the Helsinki Final Act. Natasha is also one of the most compassionate individuals, as she opened her home to other refuseniks and assisted them with any problem that arose, and provided much-needed emotional and moral support. So we rejoice that the family will soon be reunited with their daughter in Israel, free to practice the religious beliefs which are the very core of their existence. We cannot, however, forget the many thousands upon thousands of other refuseniks whom they will leave behind. Indeed, we cannot rest until all Soviet Jews and other minorities who desire to emigrate have been granted the permission to which they are entitled by numerous international agreements.

DEFENSE BUDGET

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. HEFLEY. Mr. Speaker, there is little question that defense and defense-related industry is vital to the Fifth District of Colorado's economy. We have one of the most diverse groups of defense installations of anywhere in the country. Not only do we have Falcon Air Force Station and Peterson Air Force Base within the district, we host Fort Carson, NORAD, the Air Force Academy, and the Strategic Defense Initiative's [SDI] National Test Facility [NTF] as well.

The test facility alone represents the largest single SDI budget item and the largest single military construction expenditure in the 1988 budget. It will bring an estimated 2,000 jobs to the district over the next 5 years, 300-500 of these by this summer. Overall military construction funds appropriated for Colorado in this year's budget represented over twice as much appropriation as the previous year. In addition to the $35 million appropriated for construction of the NTF, another $39 million is ticketed for military construction projects at Fort Carson, Peterson Air Force Base, the Air Force Academy, and the Rocky Mountain Arsenal, plus $2 million for the Space Environment Forecast Center at Falcon.

Is it any wonder then that the President's defense request in the 1989 budget is of great significance to the Fifth District. President Reagan is asking for new defense-related appropriations totaling $299.5 billion, a 2.8-percent increase over the 1988 funding level. The administration estimates, however, that inflation between fiscal 1988 and 1989 will boost by 3.6 percent the cost of goods and services to the Pentagon, so in real dollars, the President's request actually represents a decrease of about 0.7 percent.

Of the total defense request, $290.8 billion in new budget authority is for the Defense Department. An additional $8.1 billion is requested for nuclear-energy programs carried out on the Pentagon's behalf by the Energy Department. The remaining $645 million is for minor programs such as attack-related civil defense planning.

In an effort to bring the Pentagon's spending in line with congressionally mandated budget caps, this request marks a significant departure from the defense budgets of most of the Reagan administration.

In Reagan's first 2 years in office, Congress supported a surge in defense funding at an average annual rate of more than 10 percent in addition to the cost of inflation. For the last 3 years, Congress has made a habit of passing funding levels just short of the inflation rate causing the Pentagon's budget to decline in real terms. This is the case with the new budget proposal.

Carlucci's budget request for fiscal 1989—some $32.5 billion less than Weinberger drew up a year ago—includes significant cuts in the original Reagan defense plan. For example: a 1.6 percent reduction (36,000) in the 2.17 million active-duty military personnel; removing from active duty an Army brigade, two Air Force fighter wings and 16 Navy frigates; and cancelling the production of several major weapons such as the Navy's A-6F carrier-based bombers and the Midgetman missile.

At a breakfast I had with Secretary of Defense Carlucci this week, the Secretary expressed his willingness for the Defense Department to do its share to solve the budget crisis. He has tried to do this by cutting programs and personnel. We cannot weaken the security of the Nation, however, in the face of an aggressive adversary like the Soviet Union.

In times of such severe budget problems, it is important to be as fiscally conservative as possible. We must remember, though, to be fiscally responsible. We, the Congress, must carefully choose the programs of greatest importance to the Nation. Perhaps our greatest responsibility to the American citizens is to ensure their safety and freedom.

CONGRESS AND THE CHALLENGES OF OUR THIRD CENTURY

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. FASCELL. Mr. Speaker, the turbulent history of the world teaches us to be humble in our predictions about the future of this great country and of this institution. Nevertheless, I say, again, with confidence that the instrument which has carried us through 200 years as a nation, the U.S. Constitution, will continue to be our compass for charting a course into the next century. This covenant has fulfilled its promise as the institutions it created have proven tremendously resilient and flexible. Anchored to the vision contained in this remarkable document, as a government and as a Congress we have managed—not always without strain—to meet the requirements of our rapidly changing Nation.

In working to fulfill the lofty ideals set out in the Constitution, our predecessors in the Congress produced a record of proud accomplishments, some of which I have recalled in this series of talks. Acts which seemed pioneering at the time are now simply part of our landscape. Today we take for granted and consider sacred rights institutions which were once hotly debated and highly controversial.

I am confident that the 100th Congress will leave its enduring mark as well. Of course, the great legislative battles of our day may not be those considered crucial by future generations. History will judge our efforts to address such problems as the education crisis; unfair international trade practices; inadequate housing for our people; clean air; welfare reform; and arms control, as well as other issues of war and peace—and no doubt find both successes and failures.

Having issued a warning about the durability of any predictions, let me outline what, in my view, will constitute the major challenges for Congress during the years ahead.

The first challenge is to build an effective partnership with the executive branch:

As I suggested earlier, although the Constitution has served us remarkably well, periods of strain have occurred throughout our history, including serious constitutional crises. A certain amount of tension between the branches of Government is healthy—this was anticipated by the Founders, and is an inevitable byproduct of our cherished checks-and-balances system. Moreover, the American people have made it clear they want competition between the branches, by voting frequently to place the executive and legislative branches in control of different political parties.

Trust and openness are critical to building an effective partnership. Developing such a foundation is a difficult task for a government of shared powers such as ours, but even more essential when sharp partisan differences are evident. It requires vision, leadership and plain hard work on the part of both great branches of Government: the willingness to consult in advance; to keep confidences; to listen and compromise; to establish mutually-accepted facts in advance of determining policies. And there must be willingness to do more than pay lip service to the principle of open government, as well as the political courage to share the glory of successes and the responsibility for mistakes.

The costs of failure to establish a working partnership based on trust are enormous—the damage of a disaster such as the Iran-Contra affair is not measured in poll ratings but in lost confidence and diminished effectiveness. It is no coincidence that President Reagan's success rate in winning votes in the Congress in 1987 dipped dramatically, to the lowest level of any President in decades.

Perhaps the most difficult area in which to establish an effective partnership between the executive and the Congress is in the area of foreign affairs. In part this is because the Constitution divides foreign affairs and national security responsibilities between the two branches, and leaves a large gray area which one former Supreme Court Justice termed "a zone of twilight"—where the President and the Congress "may have concurrent authority, or in which its distribution is uncertain."

In a recent issue of Foreign Affairs, eminent constiutional scholar Louis Henkin comments on the tensions between the executive and legislative branches on critical foreign policy issues such as war powers, nuclear strategy, defense spending, foreign aid, and covert activities. He concludes that "good government as well as democracy demand fewer decisions by one representative alone, for war or in peace."

As you know, Mr. Speaker, I have argued many times in favor of establishing a permanent consultative mechanism on foreign affairs, such as a standing committee consisting of the administration's principal foreign affairs policymakers, congressional leadership and relevant committee chairmen. The need for institutionalizing greater consultation and coordination between the two branches will only become more acute in the future. Without regular consultation during the policymaking process, it is likely that we will see increased micromanagement of foreign policy by the Congress accompanied by a continuing temptation on the part of the Executive to bypass Congress. The result could be a growing, and deserved, perception among our allies and adversaries of inconsistency in U.S. policy.

Such trends, if left unchecked, would certainly complicate our ability as a nation to manage the challenges of an interdependent world in which the relative economic power of the United States is declining. Greater cooperation—not confrontation—between the branches of Government is needed to develop the more effective diplomacy and more coherent policies essential to advance our national agenda of peace, democracy, and economic development.

The second challenge Congress will face is to insure that our institutions adapt and keep pace with the requirements of the new information age.

The Congress already is confronted with a case of potential overload from the increased complexity and technical nature of modern society. There has been a dramatic rise in congressional workload since World War II. Committees and subcommittees with split jurisdiction have proliferated.

What will the demands on our time look like 10 or 20 years from now? Will the Congress retain a collegial character or take on ever increasing characteristics of a formalized bureaucracy? Will the practice of greater reliance on staff continue to expand? And what will be the impact of such developments on the trend over the past decades of increasing internal democracy within the Congress?

As the information din grows, the Congress will face an increasingly acute problem of management and philosophy. Assuring that the necessary business of the Republic is accomplished in a timely manner is already a difficult task. Reforms will be needed in our internal procedures, particularly in the budget process, so that the will of the majority can be more easily worked. A careful balance must be struck in favor of greater efficiency, without sacrificing advances made toward greater openness in Government and internal democracy in our procedures.

Both the Congress and the Executive rightly decry the breakdown of the normal appropriations mechanism, and denounce the current practice of concocting annual, mammoth continuing resolutions, as undemocratic and bad government. Finding a workable solution will not be easy. For its parts, the Congress, and particularly the Senate, will have to find new, more efficient procedures, or face the prospects of more ad hoc, and unusual mechanisms, such as the so-called budget summit last year.

The final challenge I want to mention concerns a less tangible area, but one as equally important to the future success of this institution as the political and legislative issues I have discussed.

Future Congresses must seek to reinforce the values of citizen involvement in Government and community, which provide the foundation for representative democracy:

Perhaps the first responsibility for this task lies with the Executive, which can more easily speak with a single voice and use the symbolism of the President's office to great effect. But the role of the Congress as a modern-day ombudsman between the Federal Government and the general citizenry, gives this institution a special power and responsibility.

It is unfortunate but true that over the past two decades Government has lost a good deal of its sparkle and popular appeal. There are some good reasons for this. Perhaps we, as a people, expected too much from Government. Errors of judgment and breaches of public trust by our country's leaders have been just as important in encouraging disenchantment as any overreaching by Government programs. Since Jack Kennedy's spirited call for citizen participation nearly 30 years ago, we have had Vietnam, Watergate, the Iran-Contra debacle, and today's spectacle of multiple investigations of a sitting Attorney General.

To tap the extraordinary talent of the American people and to insure the vitality of our democracy through the next century, we must restore Government service to the list of esteemed professions. The time has passed when America can afford to have leaders and elected representatives who refer to Government as if it were a plague destroying our society.

Through our actions and inaction, we, in Congress, influence in a fundamental way how Americans view their Government. I am not suggesting that future Congresses should seek to win a popularity contest or govern solely by public opinion polls. But developing greater public understanding and appreciation for the work of the Federal Government, and its legislative branch, would better equip the Congress to govern effectively and achieve consensus on the difficult issues ahead.

On an even more basic level, we need to do something about the level of voter participation in this country. It is perhaps explicable but, nonetheless, a serious concern that a far higher percentage of Salvadorans put themselves at personal risk to vote in an untested democratic system, than Americans turn out to vote in the world's oldest democracy.

Without popular participation, American democracy will atrophy. In order to provide a voice to voters now silent, future Congresses will have to find remedies, perhaps permitting registration on the day of elections.

The three challenges I have described—managing shared power with the executive branch; adapting to changing times; and keeping alive the spirit of participatory democracy—are really no different from those faced by our predecessors in this great legislative body. During my years of service in the Congress it has become clear to me that just as these challenges defy permanent solution, "what goes around, comes around." In looking for remedies to current issues, the first step is to consider what has been tried before.

As American democracy reaches toward the tricentennial and beyond, future Congresses will grapple with these challenges, and with other issues we cannot even imagine at this time. The legacy of the 100th Congress will be measured by our already substantial record of legislative accomplishments, and by our ability to deal with these perennial problems.

INTRODUCTION OF LEGISLATION TO SETTLE THE WATER RIGHTS CLAIMS OF THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY OF ARIZONA

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. KYL. Mr. Speaker, I am pleased to join my Arizona colleagues today in sponsoring legislation to settle the water rights dispute between the Salt River Pima-Maricopa Indian community and its non-Indian neighbors in Arizona.

The legislation we are introducing is the result of years of negotiations. Many deserve credit for the positive result, particularly Secretary Don Hodel. Without his attention and his leadership, it is likely that the parties to the settlement would have been in Federal district court for years to come. However, with his efforts to date and with his continuing leadership, we can secure enactment of the bill this year and settle the water rights dispute once and for all.

This legislation reflects some give and take from all sides. Non-Federal contributions amount to about 60 percent of the entire value of the settlement—about $117 million in water and financial contributions. The Federal Government's contribution will amount to approximately $77 million, $37 million of which is already authorized. The community has settled upon a fair amount of water.

Mr. Speaker, pending lawsuits do not deliver water to the Indian community or promote economic development there; they don't provide certainty about water availability in the growing Phoenix area. They do divert resources that could otherwise be used for productive enterprises on and off the reservation.

The settlement is a fair one and it deserves early and favorable consideration by the Congress. Once my colleagues have had a chance to review it, I am sure they will agree.

THE 50TH ANNIVERSARY OF ARCHBISHOP WEBER COUNCIL NO. 2789, KNIGHTS OF COLUMBUS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. LIPINSKI. Mr. Speaker, I take this opportunity to bring to the attention of my colleagues the Archbishop Weber Council No. 2789, Knights of Columbus, on the 50th anniversary of its founding.

The council was officially founded on March 6, 1938, and has been active in the Chicago community ever since. The Weber Council is fittingly named after the late Archbishop Joseph Weber who continues to inspire and, in spirit, lead the council in their service to the city of Chicago. The council's current membership of 300 is presided over by Grand Knight Walter Skorski and is served by their chaplain, the Reverend Father Steve Kanonik.

The council has offered the Chicago community a wide range of social and charitable programs over the 50 years of their existence with a special emphasis on programs to aid the children, our future, One of the ways they have put this interest into action is by sponsoring Boy Scout Troop No. 474.

I am sure my colleagues join me in congratulating the members of Archbishop Weber Council on their 50th anniversary and thanking them for their many contributions to the community. The service they have given is truly deserving of our honor and recognition.

DAVID SAKS TESTIFIES IN FAVOR OF H.R. 2213

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 8, 1988

Mr. MARKEY. Mr. Speaker, on Wednesday, February 24, 1988, the Subcommittee on Telecommunications and Finance held a hearing on H.R. 2213, the Hearing Aid Compatibility Act of 1988. At the hearing we were indeed privileged to have the bill's primary sponsor, my good friend and colleague from Massachusetts, Congressman NICHOLAS MAVROULES. Among our other distinguished witnesses was Mr. David Saks, cofounder and director of the Organization for Use of the Telephone [OUT].

For more than 15 years Mr. Saks has been fighting for the rights of the hearing impaired. Long ago he recognized that the telephone is not a luxury item, it is an essential part of our daily lives. In fact, for many senior citizens it is the primary link to the safety and companionship of the outside world. The percentage of the population that is over 65 is increasing. We cannot confine our elders to a world of silence.

While away from home while her husband was in the hospital, Reba Saks, David's wife, who is severely hearing impaired, experienced the terror and loneliness of not being able to use the phone. For over a month she could not reach her husband at the hospital or her family back home. Reba Saks is not alone; over 2 million hearing impaired persons have limited access to the phone, and a majority of these people are over 65. As a result of his wife's experience, Mr. Saks founded OUT. Since its inception, OUT has been a leader in the battle to increase the hearing impaired's access to the phone.

There are very few advocates who can match Mr. Saks' energy and dedication. From his small office in his home he has devoted countless hours, without compensation, lobbying Congress and working with other groups on issues of importance to hearing aid users. He was a major force behind the passage of the Telecommunications for the Disabled Act of 1982, a law which took a big first step in providing access to the telephone for hearing aid users. Now Mr. Saks believes it is time to take another step. H.R. 2213 would require that the hearing impaired be able to use all telephones manufactured or imported 1 year after the bill's enactment. I am sure that all 117 of my colleagues, from both sides of the aisle, who have cosponsored H.R. 2213 will agree that it is time that all Americans, including those with hearing impairments, have universal access to the telecommunications network.

Born in 1914, Mr. Saks now resides in Baltimore, MD. Fifteen years ago he retired from his furniture business and has been involved with OUT full time ever since. David and Reba have two daughters, four grandchildren, and I am told they are currently expecting their first great-grandchild. I have attached excerpts of a 1986 paper Mr. Saks coauthored entitled "Consumerism and the Disabled Consumer in the Communications Marketplace," which he presented at a 1986 forum sponsored by the Annenberg Washington Program of Northwestern University. I urge my colleagues to read it. I believe it will provide valuable insight into the problems the hearing impaired have using the telephone and the solutions available to those problems.

CONSUMERISM AND THE DISABLED CONSUMER IN THE COMMUNICATIONS MARKETPLACE

Hearing aids have contained telecoils (inductive pickups) since about 1945. Approximately five years later, AT&T introduced the U-type hearing aid-compatible [HAC] receiver. Approximately two million severely or profoundly hearing-impaired persons rely upon telecoil-equipped hearing aids in order to communicate by voice telephone. Most of these are post-lingually deafened adults and very young children.

When a telephone, or any other solid object, is brought near a hearing aid which is set at high volume with an open microphone, it causes feedback and an intolerable squeal which makes telephone conversation impossible. An open hearing aid microphone receives unwanted sounds (such as background noises from talking, typing or music) as well as the telephone voice, further hindering the effective use of a hearing aid microphone for telephone communication.

In order to successfully couple telephones to hearing aids and to utilize the electromagnetic energy which emanates from the basic AT&T ring armature receiver, hearing aid manufacturers began to incorporate inductive capability into their more powerful aids. The happy outcome of this propitious compatibility between the telephone's electromagnetic field and the hearing aid's inductive receptor is the effective coupling of these two vital communication instruments and the successful by-passing of the hearing aid microphone. With the microphone bypassed feedback squeal is eliminated, background noises are minimized and comfortable voice telephone communication is made possible for many individuals with severe and profound hearing impairments.

The telephone/hearing aid compatibility issue is not unique to the United States. There has been worldwide concern over the special telecommunications problems faced by hearing-impaired people. International recognition of the vital role of telephone/hearing aid compatibility came in 1985 with adoption of an electromagnetic field strength standard for telephones by a Plenary Assembly of the Comite Consultif International Telegraphique et Telephonique (CCITT—International Telegraph and Telephone Consulative Committee.) CCITT is the technical standards division of the International Telecommunications Union, a United Nations chartered organization dedicated to the advancement of telecommunications throughout the world. It is expected that a number of countries will adopt the CCITT standard.

Subsequent evaluation established that the field strength standard recommended by the Electronic Industries Association [EIA] and adopted by the Federal Communications Commission (FCC) fell within the range of the international standard.

Although there is universal recognition of the need for, and the benefits of, hearing aid-compatible telephones, there is not universal use of this technology by our telephone industry. More than 200,000,000 telephones are in use in the United States. Of these fully 25 percent are not usable with hearing aid telecoils. Due to the great influx in recent years of hearing aid incompatible telephones from Europe and the Far East, both the number and the proportion of hearing aid compatible phones is increasing.

Surely not cost: the cost of hearing aid compatible receivers is on a par with incompatible receivers. Consider these indications of cost comparability:

1. In testimony before the Subcommittee on Communications of the U.S. Senate on May 6, 1982, AT&T Vice President Dennis Sullivan referred to the company's HAC receiver as "efficient" and "cost effective."

2. During the summer of 1985, American University of Washington, D.C. purchased a privately-owned telephone system. Despite accepting the lowest bid offered, the University's new phones are HAC.

3. In a letter dated October 18, 1985, the Undersecretary of Commerce for International Trade said, "Telephone sets which are hearing aid compatible are not necessarily more expensive either to produce, or in retail price, than sets which are not hearing aid compatible."

4. On October 25, 1985, Radio Shack offered HAC telephones for $12.95, the lowest price for any telephone, regardless of compatibility, in a twelve store survey. [A more recent survey confirms that at most retail phones stores HAC phones are no more expensive than incompatible phones]

The reason is not that hearing aid-compatible telephones rely on an obscure technology; induction has been known for many years, and has thousands of applications throughout the electrical and electronic industries. The Netherlands requires all telephones to be HAC. A visitor to the Soviet Union during the summer of 1985, reported that unofficial personal observation led to the conclusion that all telephones in that vast country are hearing aid compatible.

Ample opportunity for a constructive solution is at hand. In addition to voluntary standardization on HAC receivers, legislation is pending before both Houses of Congress requiring all new telephones sold or leased in the United States to meet the FCC technical standard for magnetic field strength (FCC Rules, Part 68.316). This mandatory requirement would eliminate the reluctance of some companies to be "out front" with the compatibility feature (AT&T has been "out front" for many years, without apparent detriment to itself.) Enactment of this legislation also would ensure that users of hearing aid telecoils would have access to all newly installed telephones, a giant step toward equality of access.

The nonutility (interconnect) segment of the telephone industry is mushrooming under deregulation. More than 2,000 interconnect companies reported 1985 sales volume of $2.6 million. Much of this equipment is imported. Interconnect equipment shares three important characteristics: (1) much of it is replacing utility-supplied HAC telephones, (2) most is hearing aid incompatible; and (3) a great proportion is imported. Imported telephones are largely hearing aid incompatible.

Employees in offices and other businesses are most seriously affected by new hearing aid incompatible telephones. After having functioned comfortably for years, suddenly they are confronted by new employer-owned telephone systems which do not transmit sound in the old familiar inductive manner. Even though accommodated with a usable phone at a personal desk or worksite, mobility is restricted; calls cannot be placed or answered from other areas within the work premises; errands requiring telephone communication cannot be undertaken; business travel is nearly impossible. The result has been early retirement, limited job advancement, loss of employment, and competitive disadvantage when applying for employment.

Telephone/hearing aid compatibility is an economic and social problem demanding solution. The Telecommunications for the Disabled Act of 1982 represents a first step forward. It finally recognized the need for telephone hearing aid compatibility by requiring that coin-operated and some card-operated phones, phones in emergency locations and new "frequently needed" phones incorporate the compatibility capability. For hearing aid telecoil users who can pass these two onerous "needs tests" (emergency or frequent need) there is a glimmer of light at the end of the tunnel.

Present law and FCC regulations define frequently needed phones as new for use by the public in such places as hotel lobbies and airports; at an employee's worksite; in hospital rooms, unless another emergency signalling system is present; in hotel rooms, until 10 percent of the rooms have HAC phones.

"Universal service" has been the central goal of telecommunications law and regulation for more than a half-century. Hearing aid telecoil users have been an exception. Hearing-impaired people still are excluded from "all the people" for whom the original 1934 law sought access to effective telephone service—unless they can affirmatively demonstrate emergency or frequent need and if the frequently needed phones were installed after January 1, 1985.

HOUSE OF REPRESENTATIVES—*Wednesday, March 9, 1988*

The House met at 2 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O God, for a good spirit in our land, a spirit that recognizes the dignity of those with whom we compete and with whom we disagree, and a spirit that does not disparage the good name of someone else. Help us to hold high the common good, our common tasks for justice and our mutual goals that we will better express between us the human bonds that make us one people. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. GREGG. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GREGG. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 253, nays 120, not voting 60, as follows:

[Roll No. 26]

YEAS—253

Ackerman
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clement
Coelho
Coleman (TX)
Combest
Conte
Cooper
Coyne
Darden
Davis (MI)
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Evans
Fascell
Fazio
Fish
Florio
Foglietta
Foley
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Konnyu
Kostmayer
LaFalce
Lancaster
Lantos
Latta
Leath (TX)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Lujan
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Price (IL)
Price (NC)
Quillen
Rahall
Rangel
Ravenel
Ray
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sawyer
Scheuer
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torricelli
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Whitten
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—120

Armey
Badham
Ballenger
Barton
Bentley
Bereuter
Billey
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clay
Clinger
Coats
Coble
Coleman (MO)
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Goodling
Gregg
Hastert
Hawkins
Hefley
Henry
Herger
Holloway
Hopkins
Hunter
Hyde
Inhofe
Ireland
Jacobs
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lewis (CA)
Lewis (FL)
Livingston
Lowery (CA)
Lukens, Donald
Madigan
Martin (IL)
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Morella
Murphy
Oxley
Packard
Parris
Penny
Pursell
Regula
Rhodes
Ridge
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schneider
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stangeland
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wheat
Whittaker
Wolf
Young (AK)
Young (FL)

NOT VOTING—60

Akaka
Alexander
Baker
Biaggi
Bilbray
Bilirakis
Boulter
Brooks
Broomfield
Collins
Conyers
Crockett
de la Garza
Dornan (CA)
Dowdy
Espy
Feighan
Flake
Flippo
Ford (MI)
Gephardt
Gingrich
Grandy
Gray (IL)
Gray (PA)
Hammerschmidt
Hiler
Houghton
Jones (TN)
Kemp
Lehman (CA)
Leland
Lightfoot
Lipinski
Lloyd
Lott
Lungren
Mack
MacKay
Marlenee
Martin (NY)
Mavroules
McCandless
McCollum
McDade
Mica
Moody
Nichols
Ortiz
Pashayan
Porter
Ritter
Roemer
Savage
Sweeney
Taylor
Torres
Towns
Williams
Wilson

☐ 1421

So the Journal was approved.

The result of the vote was announced as above recorded.

REPORT ON RESOLUTION PROVIDING AMOUNTS FROM CONTINGENT FUND OF THE HOUSE FOR EXPENSES OF INVESTIGATIONS AND STUDIES BY STANDING AND SELECT COMMITTEES OF THE HOUSE

Mr. GAYDOS, from the Committee on House Administration, submitted a privileged report (Rept. No. 100-512) on the resolution (H. Res. 388) providing amounts from the contingent fund of the House for expenses of investigations and studies by standing and select committees of the House in the 2d session of the 100th Congress, as amended, which was referred to the House Calendar and ordered to be printed.

EXTENDING MEDICAL BENEFITS FOR CERTAIN FORMER SPOUSES OF MEMBERS OF U.S. ARMED FORCES

Mrs. BYRON. Mr. Speaker, I ask unanimous consent that the Commit-

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

tee on Armed Services be discharged from further consideration of the bill (H.R. 3967) to amend the Department of Defense Authorization Act, 1985, to extend medical benefits for certain former spouses, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentlewoman from Maryland?

Mr. BATEMAN. Mr. Speaker, reserving the right to object, and I do not intend to object, I would ask the gentlewoman from Maryland [Mrs. BYRON], the chairman of the Subcommittee on Military Personnel and Compensation, if she would please explain the bill.

Mr. Speaker, I yield to the gentlewoman from Maryland [Mrs. BYRON] for that purpose.

Mrs. BYRON. Mr. Speaker, H.R. 3967 would extend until December 31, 1988, medical care benefits for a very small group of long-term divorced spouses of military retirees. Without quick congressional action, their medical care coverage will expire on April 1, 1988.

At the direction of the Congress, the Department of Defense has negotiated a plan with a private insurer under which divorced spouses and other individuals losing their connection with the military medical care system will be able to convert their military medical benefits to a private insurance firm.

Mr. Speaker, the plan is not yet in place, however, necessitating a short-term extension of the eligibility for the affected individuals in the military medical system.

H.R. 3967 was approved by the Subcommittee on Military Personnel and Compensation on February 25. Because of the accelerated schedule of the Committee on Armed Services hearing this year of the Department of Defense authorization bill, we will not have a full committee meeting for several weeks.

I, therefore, polled the members of the Committee on Armed Services to obtain their approval to bring this legislation directly to the floor.

Mr. BATEMAN. Mr. Speaker, further reserving the right to object, I appreciate the explanation of the gentlewoman from Maryland [Mrs. BYRON] and would further note that this legislation affects approximately 600 individuals who might otherwise be left without medical care coverage.

The Department of Defense estimates the cost of this bill to be $95,000.

Mr. Speaker, with that statement, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Maryland?

Mr. GONZALEZ. Mr. Speaker, reserving the right to object, I do so in order to ask a question of the gentlewoman from Maryland [Mrs. BYRON], because this is an important measure even though it is targeting a reduced number of individuals.

Mr. Speaker, I want to know of the gentlewoman from Maryland [Mrs. BYRON] if she could give us a little more of a refined explanation of the individuals that this special legislation is targeting and whether or not there are others that would be either marginally or peripherally affected at a later date?

□ 1430

Mrs. BYRON. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentlewoman from Maryland.

Mrs. BYRON. Mr. Speaker, let me say that this legislation is a 9-month extension covering 600 individuals who would otherwise be left without any medical coverage. It is only those long-term divorced spouses of military retirees who currently are under the system and who will have to leave the system and, therefore, it is only an extension until the new system can be put into place.

Mr. GONZALEZ. In other words, this particular action is necessary because of the expiration of the existing law.

Mrs. BYRON. The existing system expires April 1, and it is an extension until December 31 to put the new system into place.

Mr. GONZALEZ. And the affected individuals are all either beneficiaries or surviving beneficiaries of retirees or are they active duty?

Mrs. BYRON. They are long-term divorced spouses of military retirees.

Mr. GONZALEZ. Mr. Speaker, I thank the gentlewoman. I appreciate her patience, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF MEDICAL BENEFITS FOR CERTAIN FORMER SPOUSES.

Section 645(c) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2549), is amended by striking out "April 1, 1988," and inserting in lieu thereof "December 31, 1988,".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A TRAGEDY AT FORT CAMPBELL

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, for the second time in less than 3 years, it is with much sadness that I speak here regarding another horrible tragedy involving young Army soldiers based at Fort Campbell, KY.

We all remember that Fort Campbell was the home base of 248 soldiers killed December 12, 1985, when an inadequately chartered jet bringing them home for Christmas from peacekeeping duties in the Sinai Peninsula crashed in Gander, Newfoundland.

Last night at 9:45 central standard time, two military UH-60 Blackhawk helicopters collided during a training mission, plunging 800 feet and killing 17 servicemen 6 miles southwest of Fort Campbell Army Air Field in western Kentucky.

The UH-60 Blackhawk is one of the military's newest helicopters, but has been plagued by design flaws. Last summer, Army officials said that about 40 people had been killed in crashes of this helicopter since 1978.

As Members of Congress, we extend to the families of these servicemen our sympathy.

As Members of Congress, it is our responsibility to assure our young men and women of the military that they will receive the very best training, equipment, helicopters, tanks and supplies that we can provide—regardless of the cost—in an effort to prevent future accidents which jeopardize the lives of those providing our national defense.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I want to thank my friend for bringing up this tragedy and expressing his condolences as we all do from the Kentucky delegation. I am proud of the gentleman from Kentucky for making this statement.

Mr. HUBBARD. I thank my colleague from Kentucky and the Chair for allowing this time to express our sympathies to the families of the servicemen who died yesterday while serving our country.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1259

Mr. HORTON. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1259, which would grant a Federal charter for the National Association of Veterans Affairs.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

LICENSING OF EMERGENCY VEHICLE DRIVERS

(Mr. HORTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORTON. Mr. Speaker, today I introduced a bill to amend the Motor Vehicle Safety Act of 1986. My legislation exempts drivers of emergency service vehicles from the requirement that they hold a special, Federal chauffer license. This requirement, which was included in the omnibus 1986 legislation, is costly. Licensing of each driver would cost between $200 and $300.

The burdens this licensing requirement imposes on rural governments and volunteer fire departments is obvious. Quite simply, licensing costs would cut deeply into the operating budgets of these volunteer fire and other emergency service organizations.

It doesn't make sense that, in this era of increased emphasis on voluntarism, we hurt those volunteer organizations most essential to Americans—rural Americans in particular.

Mr. Speaker, this provision was prompted by a concern that drivers of emergency vehicles might not be fully qualified to drive these vehicles. I can assure you that men and women don't just volunteer and then jump into the driver's seat of a fire truck or other emergency vehicle. Volunteer fire and ambulance organizations in my congressional district conduct extensive training programs for their drivers, medical volunteers and other volunteers. Training is provided for each specialty and driving is one such specialty.

I suggest that we determine whether a problem exists with emergency vehicle drivers, and the extent to which it exists. Volunteer fire departments especially can't afford the expense of paying for the licensing of each and every volunteer.

Common sense and my firsthand knowledge convinces me that adequate driver and training of other volunteers is provided by these emergency volunteer organizations.

The licensing scheme should never have been included in the 1986 safety legislation. My bill repeals the requirement, and I urge my colleagues to join me as cosponsors and to assist in getting this legislation through Congress.

VALOR AWARD TO BRIAN E. STEPHENSON

The SPEAKER. Today I have the honor of placing a brief statement in the CONGRESSIONAL RECORD recognizing a demonstration of courage and intelligence by an employee of the House of Representatives, Brian Stephenson. My remarks, however, cannot describe the importance of Mr. Stephenson's action on December 7, 1987.

On that day, through Mr. Stephenson's adroit handling of a dangerous situation—he was able to save the life of a coworker in the Rayburn Building.

While no words can accurately measure our respect and appreciation, Brian Stephenson is to be commended for coming to the aid of Robert Weber in an emergency.

An extra special salute is due, in my opinion, to Mr. Stephenson for having the knowledge and presence of mind to realize exactly what was needed in this crisis. His quick-witted actions prevented tragedy.

ARCHITECT OF THE CAPITOL

VALOR AWARD PRESENTED TO BRIAN E. STEPHENSON

This valor award is presented to you in recognition for your actions on Monday, December 7, 1987 in saving the life of Mr. Robert Weber, an employee of the Westinghouse Corporation.

While working in Transformer Room #1 in the Rayburn House Office Building, Mr. Weber accidentally came in contact with an energized connection on the top of the network protector. The 480 volts present paralyzed his muscles and he was unable to separate himself from this potentially lethal voltage. You took immediate action by using a wooden ladder to pull Mr. Weber free of the energized connection thus undoubtedly saving him from death by electrocution. You administered first aid, including CPR, and when you determined that Mr. Weber was conscious, summoned the Capitol Police and had them call an ambulance.

You acted with incredible presence of mind during this emergency. Your timely actions are, in my opinion, the reason that Mr. Weber is alive and that he suffered only from a minor burn on the hand and a cut to his head. Your actions were of the highest order of bravery and set an example for us all. You are indeed a credit to the Office of the Architect of the Capitol and to your fellow employees.

FEBRUARY 26, 1988.

GEORGE M. WHITE,
Architect of the Capitol.

APPOINTMENT AS MEMBERS OF CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER. Pursuant to the provisions of 22 U.S.C. 276d, the Chair appoints as members of the United States delegation to attend the 29th meeting of the Canada-United States Interparliamentary group the following Members on the part of the House:

Mr. GEJDENSON of Connecticut, chairman;

Mr. FASCELL of Florida, vice-chairman;

Mr. GIBBONS of Florida;
Mr. HAMILTON of Indiana;
Mr. OBERSTAR of Minnesota;
Mr. AUCOIN of Oregon;
Mr. LAFALCE of New York;
Mr. BROOMFIELD of Michigan;
Mr. HORTON of New York;
Mr. STANGELAND of Minnesota;
Mr. MARTIN of New York; and
Mr. MILLER of Washington.

APPOINTMENT AS MEMBER OF SELECT COMMITTEE ON HUNGER

The SPEAKER. Pursuant to the provisions of section 103 of House Resolution 26, 100th Congress, and the order of the House of January 22, 1987, the Chair appoints as an additional member of the Select Committee on Hunger, the gentleman from California [Mr. HERGER].

WHO WANTS PEACE IN CENTRAL AMERICA?

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COELHO. Mr. Speaker, who wants peace in Central America?

Not the House Republicans. Last week, they voted 171 to 5 to kill a bill providing humanitarian aid to the region because it didn't escalate the Contra war.

Do the Contras want peace? It doesn't look like it. They've just walked out of direct ceasefire talks with the Sandinistas. They've only been demanding direct talks with the senior members of the Sandinista leadership inside Nicaragua for 6 years. It seems they'd rather kidnap Americans in Nicaragua, and run drugs with Noriega, than negotiate a peaceful settlement in the region.

Does President Reagan want peace? Of course not. He all but told the VFW this week he'd rather see the Contras starve than go without military aid.

Mr. Speaker, isn't it clear? You cannot pursue peace by making war, shredding documents, running drugs, avoiding negotiations or kidnaping Americans. The American people and the Democratic Party understand that, and that is why we are truly on the side of peace in Central America.

JOB ENHANCEMENT FOR FAMILIES ACT

(Mr. PETRI asked and was given permission to address the House for 1 minute.)

Mr. PETRI. Mr. Speaker, today I am introducing major legislation to help America's working poor, and to help those on welfare who are trying to get off.

Under current law, the earned income tax credit supplements the wages of workers who are trying to support families on low incomes. Unfortunately, however, although welfare varies according to family size, the EITC does not.

As a result, larger families have a harder time getting off and staying off welfare.

My Job Enhancement for Families Act, on the other hand, would increase this credit and vary it by family size.

The result is welfare reform which encourages work, and encourages family stability.

Also, it achieves the aims of raising the minimum wage without causing any negative side effects like inflation and the destruction of entry-level jobs.

I urge all my colleagues to study this bill and give it their support.

ISRAEL SHOULD ADOPT SHULTZ PEACE PLAN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, over 80 Palestinians have been killed on the West Bank and Gaza Strip. Over 600 people there have been wounded, many of them women and children. One report of the American committee said that Israeli soldiers burst into a small hut seeking information. They beat the mother's elbows and knees and did not stop there, they beat her five children.

Mr. Speaker, I have always been a strong supporter of Israel. They are an ally and a friend. But the time has come to speak out against the abuses on the West Bank and Gaza Strip.

Ladies and gentlemen, the truth is the silence in the Congress is deafening.

Today I have drafted a letter to Prime Minister Shamir urging Israel to accept Secretary Shultz' peace plan. I think it is important for all of us, Republicans and Democrats, to stand united behind that plan of Secretary Shultz. Even Rabbi Schlinder in New York stated that these beatings violate every principle of human decency. How right he is.

The Congress cannot remain silent any longer. It is too deafening. A voice of outrage should be the roar of the House and everybody should hear it.

LINE-ITEM VETO

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, if we are serious about bringing the Federal budget under control, we need to consider new ways to restrain spending. One proven method, already used in 43 States, including California, is the line-item veto. Presidents must sign or veto bills in their entirety and are unable to eliminate undesirable and wasteful provisions.

While serving as Governor of California, Ronald Reagan line-item vetoed an average of 2 percent per year of State spending. That same rate at the Federal level would translate to over $20 billion this year alone.

Congress would retain the power to override a line-item veto.

Considering that the entire Federal budget for 1802, not long after the Constitution was adopted, was $8 million, I doubt that the Founding Fathers foresaw the size and complexities of modern-day budgeting, let alone provided for it.

Mr. Speaker, the true opposition to the many attempts to institute the line-item veto is reluctance to banish undesirable and wasteful provisions. I encourage support for this proposal.

HIGH RATE OF INFANT MORTALITY IN THE UNITED STATES

(Mr. DURBIN asked and was given permission to address the House for 1 minute.)

Mr. DURBIN. Mr. Speaker, the United States is a great place to live, but a baby may not want to be born here, for you see it is safer for an infant to be born in Spain, Australia, Ireland, Singapore, or Jamaica than it is to be born in the United States. The infant death rate in America is the worst of any industrialized nation in the world.

A new report by the Office of Technology Assessment discloses that 40,000 American babies die annually before their first birthday, twice the death rate in Japan.

Why? For one reason, while the percentage of kids living in poverty rose by one-third between 1978 and 1984, Medicaid payments for children declined by 13 percent, and Federal programs for poor women and children decreased by 32 percent.

The Reagan administration has convinced us that Government is our enemy and that while we can afford the highest military budget in our Nation's history, we cannot afford medical care for needy mothers.

The OTA report graphically demonstrates the results of this policy. Our children are falling to their death through the largest hole in the Reagan safety net.

☐ 1445

Can we afford to save the lives of our kids? The answer is clearly "yes."

Many birth defects are avoidable and the number of low birth-weight babies can be dramatically reduced. We need a national commitment to reduce teenage pregnancy, realistic Medicaid programs to provide prenatal care, a public education effort to tell young mothers about the critical need for early prenatal care and most of all we need leadership in this country which realizes that our most important legacy is our children.

INCREASING THE MINIMUM WAGE IS A JOB-KILLER

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, tomorrow the Committee on Education and Labor will consider H.R. 1834, the bill to increase the minimum wage to $4.65 an hour by 1991. Now why would anyone be opposed? The arguments of proponents sound so honorable, so virtuous. The reason is quite simple. Raising the minimum wage is a job killer.

Whose jobs would be killed? It won't be doctors or lawyers or Members of Congress. Nor are skilled union laborers likely to be adversely affected. The losers will be the very individuals H.R. 1834 is designed to help: low-skilled workers, teenagers, and minorities.

It is estimated that the increase legislated by Congress in 1977 resulted in a loss of 644,000 jobs through unemployment and disemployment. Recent figures from the Department of Labor estimates that each 10-percent increase in the minimum wage means that 100,000 to 200,000 jobs would be lost or not created.

H.R. 1834 is designed to help the working poor. It doesn't. It will only help to throw hundreds of thousands of Americans out of work.

URGING THE CONTRAS TO RETURN TO THE BARGAINING TABLE

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, I was saddened to learn that the Contras recently decided to walk away from the scheduled peace talks with the Sandinista government.

As we all know, last week many Members of this body had to make an agonizing decision concerning aid to the Contras. Since coming to Congress, I have consistently opposed Contra aid. But last week, in the hope that it would facilitate the peace process, I supported the nonmilitary Contra aid package. Regrettably, it was narrowly defeated. If the Contras believe that this sends a signal that military aid is now inevitable, I must respectfully disagree.

Throughout the debate surrounding this issue, there has been consistent questioning about the Sandinista's sincerity in pursuing the peace process. Now the same questions must be raised about the Contras. In conclusion, I join with my colleagues in urging the Contras to return to the bargaining table and work for an accord that will end this terrible civil war and insure an orderly democratization of Nicaragua.

WE SHOULD IMPOSE A TOTAL TRADE EMBARGO ON PANAMA

(Mr. SMITH of New Hampshire asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Hampshire. Mr. Speaker, as we all know, the situation in Panama is critical and poses a serious threat to the security of the United States. I want to take this opportunity to commend the President and this administration for their response to this crisis. Direct aid to the Government of Panama has been suspended and Panamanian funds in the United States have been frozen. These are definitely important and positive steps.

However, I believe we should go one step further. We should not conduct business as usual with Panama until Noriega has been extradited to stand trial in the United States for alleged drug trafficking. This will be the purpose of legislation I will be introducing later today. My bill, which is similar to legislation recently introduced in the Senate, will impose a total trade embargo on Panama until either Noriega has been extradited to stand trial in this country or until the President determines that democracy has been achieved in Panama.

Mr. Speaker, we all know that the war on drugs is a battle we cannot afford to lose, but we will never win it if we let people like General Noriega off the hook. He is a thug and drug dealer. He must stand trial in the United States. In short, if we are going to conduct a war on drugs, we must target the source and we should begin with Noriega.

EXPLOITING AIDS

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, this week America has witnessed another exploitation of the AIDS crisis with the publication of a new book by sex researchers Masters and Johnson. I fear that whatever they may personally profit from this literary venture will come at the expense of undermining years of solid scientific work by AIDS experts around the world.

In their new book and the marketing hoopla created to sell it, the authors report on the HIV prevalence in a very small study of sexually active persons. The scientific community has already uniformly condemned this study as skewed and misrepresentative, and because it ignores an overwhelming volume of epidemiological data. Compounding these major flaws the authors project, on the basis of solely theoretical statements lacking any scientific underpinning, that AIDS may be transmitted in the most casual of ways.

Unfortunately, many will attempt to use the new book to further their own agenda. The result sadly will be heightened and unfounded fears about AIDS, unnecessary hysteria, and more unjust discrimination against those struck by this killer disease.

Mr. Speaker, efforts to exploit AIDS solely for personal gain should be seen for what they are.

"ILLEGAL DUMPING UNDER COVER OF SPILL": AN INTRICATE WEB OF MISLEADING REPORTING

(Mr. SCHULZE asked and was given permission to address the House for 1 minute.)

Mr. SCHULZE. Mr. Speaker, I am sure you shared with me consternation over a recent Associated Press article entitled "Illegal Dumping Under Cover of Spill?" The article claimed that certain unnamed companies took advantage of the recent Pittsburgh oil spill by dumping cancer-causing industrial solvents into the Ohio River.

A member of my staff investigated, and no evidence was found to support the story. What was discovered was an intricate web of misleading reporting. Both experts mentioned in the article claimed to be misquoted and neither supported the article's focus. Even the Department of Environmental Resources in Pittsburgh indicated that there is no evidence of illegal dumping. This story seems to have been concocted from fabricated evidence and innuendo.

I question how such a story could end up on the AP wire. Mr. Speaker, the first amendment has been abused. Freedom of the press does not mean that the press has the right to mislead the people through biased and inaccurate reporting.

GALLAUDET COLLEGE STUDENT PROTESTS

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker, I am deeply troubled by the recent student protests at Gallaudet College. This institution was founded by Federal charter 124 years ago. During this period, the college has had seven presidents, not one of whom has been a hearing-impaired person.

It is ironic, to say the least, that the only liberal arts college for the deaf has never had a hearing-impaired president. But the ultimate irony is the fact that Gallaudet College was established during the administration of President Lincoln.

President Lincoln believed in the equality of all people, regardless of race or disability. That's why under his administration, the Federal Government helped establish Gallaudet College, which has given the deaf community equal access to this Nation's educational resources. Were President Lincoln alive today, he would be astonished to learn that the liberal arts college he helped to establish still does not have a hearing-impaired president.

Some may argue that Gallaudet chose the most qualified candidate for college president, despite the fact the chosen candidate is not hearing impaired. If that's true, then I am compelled to ask: Why wasn't an equally qualified hearing-impaired candidate not found? I doubt it's because no such candidates exists

Those of us who are not hearing impaired can never fully appreciate how important it is for a deaf student to have a college president who understands from personal experience what it's like to be hearing impaired. I hope this Congress will rally in support of the Gallaudet students, as I'm sure President Lincoln would have.

H.R. 4091 TO HELP EASE THE FINANCIAL BURDEN OF POSTSECONDARY EDUCATION

(Mr. SCHUETTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUETTE. Mr. Speaker, last week I introduced legislation for American families in an effort to help them save and to ease the financial burden of a college education through a new education savings bond program. H.R. 4091, the Tuition Savings Bond Assistance Act of 1988 would create a new tax incentive for parents and children to save for advancing their education or training. I believe that if we are to have special incentives in our tax laws to encourage specific activities, there is no better activity to encourage than saving for education—for investing in our Nation's future.

In today's world of record trade deficits in an increasingly global economy, the topic of how to improve our international competitiveness has moved to the forefront of the Nation's agenda. One of the best ways to assure that the United States will remain a first class economic power is to make sure that our educational system is preparing our young people for the challenge of real life.

AFFORDABILITY IS A KEY TO GOING TO COLLEGE

In higher education, our colleges and universities are working hard to improve the quality of their programs. They are stressing the importance of real learning and skills development, and they are playing a very important role in restoring our Nation's competitiveness.

However, the key question today in higher education is as much access to a college education—economic access—as it is to the quality of college curriculums. Many American families today are intimidated by the high cost of 4 years of college. Far too many forego advanced education altogether or settle for less because of the prohibitive costs of tuition, books, room and board.

We have all seen the startling figure: First, the cost of a college education has almost doubled since 1980; second, less than 20 percent of the families who earn $20,000 or less save for college; third, less than half of the families of college students save for college; and fourth, those who did save managed to put away an average of $2,500, far short of what is needed today. Moreover, most of the families who can save are only able to do so after their children reached high school age.

These facts clearly show that most parents are not able to save sufficiently to meet the financial obligations involved in pursuing a college or advanced technical training. My bill, the Tuition Savings Bond Assistance Act of 1988, is designed to help families avoid going into substantial debt during college that may deter bright and otherwise able students, our sons and daughters, the future of the Nation, from pursuing an advanced degree or technical training.

The Tuition Savings Bond Assistance Act of 1988, would help address the sad state of affairs that exists which has students financing only about one-third of their college costs by holding jobs, and if they are fortunate, from savings accounts. While it is true that students may also receive financial aid in the form of grants and loans under a variety of Federal programs to help them pay their bills, these loans often must be paid off for years after graduation—often at considerable sacrifice.

This legislation would assist families in more fully utilizing the savings option to meet the costs of a college education or advanced technical training. It will encourage them to use this important tool available for families to spread the financial burden of going to college over a longer period of time, perhaps even enabling them to make a larger contribution to paying those bills.

On the State level, strides have been made in the development of innovative programs to better enable students and their families to afford the cost of going to college. My bill says it is about time that the Federal Government consider a new innovative proposal of its own—a savings bond program for education.

My bill would work on the same principle that education savings account initiatives do, except that the account would be structured in the form of a special tax-advantaged savings bond purchased directly from the Federal Government. The proceeds from these special bonds would be used solely for the purpose of meeting the costs of a college or advanced education. In short, an ESB would be used so that parents may plan and better prepare for the ever-increasing costs of post-secondary education just as IRA's are often used to plan for retirement.

Students who cash in these bonds for the purposes of paying the costs of postsecondary education would pay no tax on the interest these savings bonds earn over their lifetime, or for up to 20 years. These bonds can be cashed to pay for eligible educational expenses such as tuition and fees required for enrollment, other fees, books, supplies, and room and board at an eligible college, university or vocational school.

Under my bill, the interest earned on these special education savings bonds would be exempt from taxation for up to $2,000 per dependent per year. Deductions, would be limited in a given year only when the amount of interest earned or investment yield exceeds the sum total of higher education expenses paid. Interest earnings or investment yield from bonds redeemed for expenditures for noneducational purposes would be taxed as ordinary income.

THE ADVANTAGES OF ESB'S ARE MANY

This concept offers many advantages to the status quo in education aid and grant programs. Aside from helping families meet the cost of higher education, ESB's would represent a new partnership between the Federal Government, the parent and the student to help better prepare the Nation for the future by building and banking on American youth—our more precious national resource.

ESB's would also help boost the national savings rate and therefore increase the pool of funds available for capital investment, while offering the additional benefit of helping to stretch increasingly scarce Federal resources for education.

ESB'S ARE SUPPLEMENTS, NOT REPLACEMENTS TO OTHER AID PROGRAMS

Nevertheless, we must recognize that many families lack the financial capacity to save anything at all. As such, this idea could never be a replacement for work-study programs, grants-in-aid or Federal loan programs for economically disadvantaged students. Continued funding for these programs at reasonable levels must be maintained if we are going to be able to compete effectively in global markets and adapt to a technologically advanced world.

The 100th Congress now has my bill and several other proposals under consideration to help relieve the financial burden of a college education. I urge my colleagues to support my bill and other education savings account proposals to help parents help their children go to college or receive advanced training.

The passage of my bill along with a strong commitment to education by all levels of government is an investment in America's future. It is an investment opportunity which we cannot afford to miss.

WE SHOULD SUPPORT THE STUDENTS OF GALLAUDET COLLEGE

(Mr. FRANK asked and was given permission to address the House for 1 minute.)

Mr. FRANK. Mr. Speaker, I join with my colleague from Texas who previously spoke about applauding the students of Gallaudet College. Their request is so simple it should not have to have been made. There are qualified candidates who are hearing impaired. There are people on the Gallaudet faculty who were seeking that presidency.

For the trustees to turn away from the entirely reasonable request of the students that a hearing impaired individual be made president of that college is a very unfortunate expression of insensitivity. The students of Gallaudet are people who are fighting hard to get an education despite the problems that they have with their hearing. For the administrators of the university, the people who run it, not to understand the importance of choosing one of the well-qualified candidates who is hearing impaired is very distressing.

There is considerable Federal support for that college. With that support I think it is entirely appropriate that we express, many of us, our disappointment in the action of the trustees.

The students of Gallaudet are right. The appointment has not yet been consummated. The time has come for the trustees to admit that they made a mistake, to rescind the appointment that they have made and to appoint to that college one of the very well-qualified people who are hearing impaired.

The students deserve at least that.

UNITED STATES/SOVIET RELATIONS VIS-A-VIS CENTRAL AMERICA

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, we heard a fascinating speech a few moments ago from the majority whip in which he indicated that only he and the rest of the political left are in favor of peace in Central America. I would submit that perhaps there are other people in favor of peace as well. But what we worry about is that his form of peace may in fact leave in place a Soviet client-state in Central America. We worry about that, because the policy statement issued as a part of the bill that came to us the other day out of the Democratic caucus did, by inference, allow for a Soviet client-state to be established in Central America as long as it was inoffensive.

Now we come across a letter signed by 67 Democrats including members of the Democratic leadership, including the majority whip, in which they are saying to President Reagan that he ought to negotiate with the Soviets to get their presence out of Central America.

Why is that a worry? Because we already know and surely they know by a letter written to us by Colin Powell to Lee Hamilton, chairman of the Subcommittee on Europe and the Middle East of the Committee on Foreign Affairs indicating that that particular negotiation has already taken place with the Soviets, that the President has already raised it with Gorbachev.

What Colin Powell writes is:

> The Soviet position on the question is clear: They propose to limit military assistance to the Sandinistas to only small arms—which the General Secretary characterized as "police arms"—in exchange for U.S. stopping its military assistance programs to the other nations of Central America and to the Nicaraguan Democratic Resistance. This proposal, needless to say, is not congruent with our commitments to the Central American democracies, nor with our national interest. Moreover, it would have us legitimatize a dangerous extension of Soviet power onto the mainland of the Western Hemisphere.

Is that what the Democrats are really proposing in this letter, that we legitimize Soviet power in Central America? It sure sounds like it and that is very scary.

THE PANAMA CANAL COMMISSION SHOULD WITHHOLD ITS $7 MILLION PAYMENT TO THE GOVERNMENT OF PANAMA

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, on March 15 the Panama Canal Commission is scheduled to make a $7 million payment to the Government of Panama pursuant to the treaty that was executed and signed between our two nations. That $7 million payment is part of approximately $80 million of payments the Canal Commission is required to make to the Government of Panama.

Last week the chairman of the full Committee on Merchant Marine and Fisheries together with myself as chairman of the Subcommittee on the Panama Canal Commission urged the President of the United States not to make the payment, rather to put it in escrow and to insure that that money stays in escrow in interest-bearing accounts until in fact the government of Panama is recognized by the United States of America.

□ 1500

So long as the legitimate government is in hiding, deposed by General Noriega, we feel that money ought to be kept in escrow.

Today, as chairman of the subcommittee, I am introducing a bill to accomplish that purpose. I am joined in that effort by Chairman Jones and the ranking minority member of the full committee and the subcommittee, Congressman Davis and Congressman Fields. I am urging Members to join us in this effort.

Mr. Speaker, on March 15 we will be contributing to the Noriega regime $7 million of Panama Canal Commission funds. Unless the administration puts that money in escrow, unless the bill we are introducing today passes, that will happen.

I urge you to join us in an effort to ensure that that money is escrowed, that it does not go to support the regime of General Noriega.

RESIGNATION AS MEMBER OF PUBLIC WORKS AND TRANSPORTATION COMMITTEE

The SPEAKER pro tempore laid before the House the following resignation as member of the Committee on Public Works and Transportation:

House of Representatives,
Washington, DC, March 9, 1988.

Hon. Jim Wright,
Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker: I wish to tender my resignation from the House Public Works and Transportation Committee consistent with my recent appointment to the House Armed Services and as required by House Rules.

Your consideration of this request will be appreciated.

With kindest regards, I am,
Sincerely,
H. Martin Lancaster,
Member of Congress.

The SPEAKER pro tempore (Mr. Hubbard). Without objection, the resignation is accepted.

There was no objection.

FREE PRESS IN PARAGUAY

Mr. KOSTMAYER. Mr. Speaker, pursuant to the order of the House of yesterday, I call up the concurrent resolution (H. Con. Res. 259) marking the fourth anniversary of the closing of ABC Color, the only independent newspaper of Paraguay; condemning the refusal of the Government of Paraguay to permit the reopening of ABC Color; and urging the Government of Paraguay to guarantee freedom of the press, and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 259

Whereas ABC Color, the only independent newspaper of Paraguay, was established in 1967 as a source of independent and reliable information for the people of Paraguay;

Whereas during its 17 year history, ABC Color and its owner-editor Aldo Zuccolillo were the victims of a campaign of harassment by the Government of Paraguay, including the denial of permits to import newsprint and the frequent arrests of staff;

Whereas these attacks against ABC Color constitute part of a comprehensive campaign against the independent press in Paraguay and against the return of democracy in that country;

Whereas on March 22, 1984, ABC Color was indefinitely closed by order of the Interior Minister and its premises searched;

Whereas while most Latin American countries are returning to representative and democratic forms of government, Paraguay stands as a notable exception;

Whereas the Inter-American Commission on Human Rights of the Organization of American States stated in its Special Report on Paraguay for 1987 that regulations imposed by the government "have enabled a single party—the Colorado Party—to control the entire legislative and electoral processes, thus depriving the electorate of the requisite institutional controls to guarantee genuine and fair elections";

Whereas on February 14, 1988, presidential elections were held, during which the democratic opposition was denied all access to the government-controlled media;

Whereas that uncontested election provided General Stroessner with his eighth consecutive five-year term as president;

Whereas freedom of the press is the foundation of a free and democratic society; and

Whereas in this vacuum of political freedom in Paraguay, ABC Color provided the people of Paraguay with a small window of truth: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) condemns the continued refusal of the Government of Paraguay to permit the reopening of ABC Color; and

(2) strongly urges the Government of Paraguay to take the necessary measures to allow ABC Color to reopen, to guarantee total freedom of the press, and to allow the Paraguayan people to exercise their full rights and freedoms under the Paraguayan Constitution.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. Kostmayer] is recognized for 1 hour.

Mr. KOSTMAYER. Mr. Speaker, it is my intention to yield 30 minutes to my colleague, the gentleman from California [Mr. Lagomarsino] for debate purposes only. Prior to that I would like to speak for just a few moments.

Mr. Speaker, House Concurrent Resolution 259 marks a tragic day in the history of this hemisphere and in the history of the country of Paraguay. On March 22, 1984, the Stroessner dictatorship in Paraguay closed the largest independent newspaper in that country, ABC Color.

This resolution recalls that tragic occurrence, Mr. Speaker, and it calls the Stroessner government to immediately allow the reopening of ABC Color.

Mr. Speaker, every majority and every minority member of the Subcommittee on Western Hemisphere Affairs is a cosponsor of House Concurrent Resolution 259 and every member, Democrat and Republican alike, in the full Committee on Foreign Affairs in the House of Representatives, voted to approve House Concurrent Resolution 259.

Today we commemorate those opponents of the government of General Stroessner, and most especially we commemorate Aldo Zuccolillo, the editor of the paper in question, ABC Color.

Paraguay has had a military dictatorship longer than any other country in Latin America. Our able Ambassador there today, Mr. Speaker, Clyde Taylor, and his predecessor, Arthur Davis, have admirably represented America's interests and America's ideals in Paraguay.

Today the House has the opportunity to stand with Aldo Zuccolillo and with the people of Paraguay struggling now against the repressive regime for democracy.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the resolution marking the fourth anniversary of the closing of Paraguay's only newspaper, ABC Color.

With all the attention on the major hotspots among the few remaining countries in the Western Hemisphere where there is no democratic government, Paraguay is likely to be overlooked. That calm prevails in Paraguay should not make it any less of a concern for our committee. Naturally, our attention is focused on Nicaragua, Panama and Haiti, and also, on Cuba and Chile.

But, we must also remember the long history of authoritarian rule in Paraguay and the absence of human rights and human liberities. Up until 4 years ago, one small oasis of free expression existed in Paraguay. That was the independent newspaper called ABC Color. Its owner-editor Aldo Zuccolillo suffered throughout the 17-year history of his newspaper as the government harassed and intimidated him. Finally, on March 22, 1984, the Paraguayian Government finally forced the closure of ABC Color, and there's been little hope for freedom of expression and freedom of the press in Paraguay.

All the members of the Subcommittee on Western Hemisphere Affairs are cosponsors of this resolution. It is a remarkable display of unanimity that I wish we could repeat more often. It is a worthy cause to demonstrate our support for the freedoms we all too often take for granted. I am pleased we offer this recognition to a past, but well-remembered and significant example of human liberty.

I urge my colleagues to give this resolution their strong support.

Mr. BROOMFIELD. Mr. Speaker, I support the resolution before us condemning the Paraguayan Government for refusing to reopen the newspaper ABC Color. In an age when sensitivity to human rights is spreading around the world, it is tragic that General Stroessner permits such an abuse of basic freedoms to occur. At a time when Latin American countries are turning to democracy, General Stroessner is moving away from a fundamental respect for human rights.

As we know, ABC Color is the only independent newspaper in Paraguay. After harassing the editor of that paper and making staff arrests, Paraguayan authorities closed down the newspaper.

With the silencing of the only free voice in Paraguay and the denial of press access to the democratic opposition, General Stroessner recently won another term as President of that country.

While we in this democratic Nation have wide access to various points of view, the Paraguayan people are denied access to an independent source of information. While we have numerous parties in this country, the Colorado Party essentially controls the legislative and electoral processes in Paraguay. Both the Organization of American States and the Department of State's human rights reports have documented the many human rights abuses of that government. The freedom-loving Paraguayan people deserve more than a police state. Now is the time for General Stroessner to clean up his act.

In addition to granting fundamental freedoms to his people, the general should stop the corruption in his government. He should also work with the U.S. Government in the war on drugs. He should stop providing a safe environment for drug barons.

I urge my colleagues to join me in supporting this timely resolution.

Mr. CROCKETT. Mr. Speaker, House Concurrent Resolution 259 is a sense of Congress resolution condemning the continued refusal of the Government of Paraguay to permit the reopening of ABC Color, the only independent newspaper in Paraguay. The resolution strongly urges the Government of Paraguay to take the necessary measures to allow ABC Color to reopen, to guarantee freedom of the press, and to allow the Paraguayan people to exercise their full rights and freedoms under the Paraguayan Constitution.

House Concurrent Resolution 259 was adopted by unanimous vote of the Committee on Foreign Affairs this morning, and I know of no opposition to the resolution on either side of the aisle.

Mr. Speaker, Paraguay has the dubious distinction of having the longest military dictatorship in Latin America, and one of the longest in the entire world. Gen. Alfredo Stroessner has ruled Paraguay for the last 34 years and, on February 14 in an uncontested election, was re-elected to another 5-year term. The democratic opposition was denied all access to the government-controlled media.

ABC Color, the only independent newspaper in Paraguay, was established in 1967 as a source of reliable information for the people of Paraguay. During its 17-year history, ABC Color and its owner-editor Aldo Zuccolillo were the victims of a campaign of harassment by the Government of Paraguay, including constant censorship, the denial of permits to import newsprint and the frequent arrests of staff.

On March 22, 1984, the Government struck its final blow against ABC Color, and against freedom of the press and a return to democracy in Paraguay. On that day, the Interior Minister gave the order to close ABC Color permanently. This month will mark the fourth anniversary of the silencing of ABC Color and of independent expression in Paraguay.

The United States Embassy and our able Ambassador, Clyde Taylor, continue vigorously to protest the closing of ABC Color, as well as other actions taken by the Stroessner dictatorship to stifle freedom of the press and the full rights and freedoms of the Paraguayan people. Because of these actions on behalf of human rights in Paraguay, Ambassador Davis' home was tear-gassed by the Paraguayan military last year.

Mr. Speaker, immediately following the closing of ABC Color in 1984, both Houses of this Congress unanimously adopted a resolution condemning the action. We must not let the Government of Paraguay think we have forgotten. We have today an opportunity to support those who are struggling for human rights and freedom of the press, as well the efforts of our Embassy in Paraguay. I urge my colleagues to support the resolution.

Mr. HALL of Ohio. Mr. Speaker, I rise in support of House Concurrent Resolution 259, the resolution marking the fourth anniversary of the closing of ABC Color, the only independent newspaper in Paraguay; condemning the refusal of the Government of Paraguay to permit the reopening of ABC Color; and urging the Government of Paraguay to guarantee freedom of the press.

I commend the House Foreign Affairs Committee and the Subcommittee on Western Hemisphere Affairs for bringing this resolution to the House floor. It is appropriate for the House of Representatives to call attention to the lack of press freedom in Paraguay as we note the fourth anniversary of the closing of ABC Color.

ABC Color was a highly regarded independent Paraguayan paper, and its publisher, Aldo Zuccolillo, received various international prizes for the work of the paper. Among them was the Maria Moors Cabot Journalism Prize and the Pedro Joaquin Chamorro Prize from the Interamerican Press Association.

In 1984, the Stroessner government closed this noted newspaper under a law that forbids the press from promoting "hatred among Paraguayans," class struggle, or violence.

Most objective international observers believe that the real reasons for the closure were the paper's aggressive investigative style and its willingness to criticize the corruption and human rights abuses of the Stroessner government. As State Department's "Country Reports on Human Rights Practices for 1987" notes in regard to Paraguay:

> Despite broad constitutional assurances of freedom of speech and press, in practice the Government will tolerate only limited amounts and kinds of criticism.

The problems experienced by the brave publisher and staff of ABC Color intensified in 1987 for others seeking to promote the free exchange of ideas in Paraguay. In the words of the "Country Reports:"

> Freedom of the press was further curtailed in 1987. The Ministry of Interior suspended publication of the nation's only opposition newspaper, and Paraguay's most independent radio station closed after months of illegal jamming of its broadcast frequency and government pressure on advertisers to cancel their accounts. The Government has taken no action on a subsequent application by Radio Nanduti owner Humberto Rubin to relicense the station. Threats by official party organs against the remaining print and broadcast media continued to spur self-censorship in the press.

In addition to the jamming and harassing of Radio Nanduti, the Stroessner government also closed El Pueblo, a newspaper run by the legally-recognized Revolutionary Febrerista Party. The other political parties also have not been permitted to distribute their own publications. In effect, the Stroessner regime has drawn a noose around the remaining more independent media, such as Radio Caritas, Radio Primero de Marzo, the newspaper Ultima Hora, and certain church bulletins. The free flow of information to the people of Paraguay has now been placed in great jeopardy.

In view of these alarming developments, it is indeed fitting for the United States House of Representatives to go on record today in strong support of freedom of the press in Paraguay. It is essential for the Congress of the United States to stand in solidarity with the courageous men and women who have been working to guarantee the free exchange of ideas and information in Paraguay.

If we profess ourselves to be champions of freedom in this hemisphere, then we cannot ignore the suffering of the Paraguayan people. When freedom of the press is denied, all other freedoms are endangered. So it is particularly appropriate that we take this opportunity today to support freedom of the press in Paraguay. I urge my colleagues to join with me in a strong vote in favor of this resolution.

Mr. RANGEL. Mr. Speaker, I rise in support of House Concurrent Resolution 259, which condemns the continued refusal of the Government of Paraguay to permit the reopening of ABC Color; and strongly urges the Government of Paraguay to take the necessary measures to allow ABC Color to reopen, to guarantee total freedom of the press, and to allow the Paraguayan people to exercise their full rights and freedoms under the Paraguayan Constitution.

Paraguay is a major marijuana producing and trafficking country with an estimated 3,000 metric tons of marijuana harvested annually. Paraguay is also believed to be a significant cocaine trafficking country. Based on known seizures of cocaine originating or transiting Paraguay, almost 400 kilos in the last 6 months of 1987, the unconfirmed estimate is that as much as 1 metric ton of cocaine passes through Paraguay each month.

Paraguay appears to have become a significant money laundering location for narcotics traffickers due to lax Government controls. Foreign narcotics money reportedly is being used to purchase land and property in Paraguay. United States Government narcotics control assistance to Paraguay during fiscal year 1987 totaled $200,000, expended for communications gear, transportation equipment, and data storage and retrieval material.

ABC Color was established in 1967 as a source of independent and reliable information for the people of Paraguay. During its history, ABC Color and its owner-editor Aldo Zuccolillo have been the victims of a campaign of harassment by the Government of Paraguay, including the denial of permits to import news print and the frequent arrests of staff. On March 22, 1984, ABC Color was indefinitely closed by order of the Interior Minister and its premises searched.

The Inter-American Commission on Human Rights of the Organizations of American States stated in its special report on Paraguay for 1987 that regulations imposed by the Government have enabled a single party—the Colorado Party—to control the entire legislative and electoral processes, thus depriving the electorate of the requisite institutional controls to guarantee genuine and fair elections.

On February 14, 1988, General Stroessner was reelected in an uncontested election to his eighth 5-year term as President. During the Presidential election the democratic opposition in Paraguay was denied all access to the Government-controlled media. ABC Color was a small ray of light in a dark society tightly controlled by the Government of Paraguay.

DEA closed its office in Asuncion in 1981, but recently reopened it at the request of the American Ambassador Clyde Taylor in the face of increasing evidence that Paraguay is a major transit country for cocaine. According to a news story which appeared in March 7, 1988 edition of the Washington Post "what concerns the Reagan administration about Paraguay is the relatively little the Government has done to prosecute drug traffickers."

The Washington Post news story gave several examples of increased drug activity in Paraguay:

> The seizure in Paraguay in late 1984 of 700 drums of ether, acetone and hydrochloric acid-all chemicals used to refine coca paste into cocaine crystals;
>
> Bags containing 95 pounds of cocaine were found hidden in secret compartments of a private plane that landed on a ranch in northeast Paraguay in June 1985;
>
> In late 1986, authorities in Panama seized 88 pounds of cocaine shipped from Paraguay in metal cans disguised as containing hearts of palm;
>
> In August 1987, customs agents in Brussels, Belgium, uncovered more than 250 pounds of cocaine in Paraguayan soap boxes; and
>
> In September 1987, a plane that had taken off from Paraguay crashed in the Argentine Andes with nearly 450 pounds of cocaine on board. No passengers survived; all had been known residents of Paraguay.

Given all of these activities I think DEA was wise in acceding to Ambassador Taylor's request and once again reopening a DEA office in Asuncion. Suspected drug activity originating or passing through Paraguay appears to have increased enough to justify stationing a DEA agent full-time in Paraguay.

I urge my House colleagues to join with me in voting for passage of House Concurrent Resolution 259. The light needs to shine on all activities in Paraguay including drug trafficking; ABC Color is one such beacon.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. KOSTMAYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the concurrent resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KOSTMAYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the gentleman from Pennsylvania?

There was no objection.

THE GENOCIDE CONVENTION: 40 YEARS LATER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. RODINO] is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, 40 years ago the General Assembly of the United Nations approved the International Convention on the Prevention and Punishment of Genocide and submitted that Convention to the member nations for ratification. That was 40 years ago. Since then, 97 nations have ratified the Genocide Convention. Incredibly enough, however, the United States is not one of them.

When President Truman first submitted the Convention to the Senate for its advice and comment, rapid approval was expected. This expectation was to prove overly optimistic, to say the least, since it was not until February 19, 1986, that the Senate gave its advice and consent. The record vote was 83 to 11. The ratification process was not completed by the Senate giving its advice and consent, however, since domestic implementing legislation must be enacted before the President can deposit the instruments of ratification with the Secretary General of the United Nations.

The requirement that implementing legislation be enacted as a condition precedent to ratification issues from two sources. First, article V of the Genocide Convention requires contracting nations "* * * to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention. * * *" In particular, the article calls upon signing nations to establish "effective penalties for the persons guilty of genocide" and related crimes. This provision effectively precludes the United States from ratifying the Convention until domestic law is enacted to outlaw genocide. Second, even were the President inclined to do so, he is precluded from unilateral ratification by the Senate's insistence, issued as a formally adopted declaration, that appropriate domestic legislation be passed first. The Senate declaration instructs the President to withhold depositing the instrument of ratification until such legislation is passed. As a condition to the Senate's advice and consent, the proviso is binding on the President.

This understanding is shared by the administration. In transmitting the administration's draft implementation bill, Assistant Attorney General John R. Bolton summarized the administration's position:

We urge the Congress to take prompt action on this legislative proposal since the enactment of implementing legislation is a prerequisite to deposit by the United States of its instrument of ratification. Only with that act can the United States finally become a party to this important Convention which symbolizes a commitment to human rights.

My bill to implement the Genocide Convention, H.R. 807, was introduced on January 28, 1987. The bill amends title 18 of the United States Code by making genocide a crime and establishing penalties for its commission. As implementing legislation, H.R. 807 meets the requirements of article V of the Convention and the Senate declaration. A full summary of the legislation follows:

SUMMARY OF H.R. 807

SECTION 1: SHORT TITLE

The "Genocide Convention Implementation Act of 1987".

SECTION 2: TITLE 18 AMENDMENTS

Amends Title 18 of the U.S. Code by adding Chapter 50A. The proposed chapter has two sections: 1091 and 1092.

Section 1092: Genocide

Makes genocide a Federal crime, establishes penalties for commission of the crime, and defines the jurisdiction of the United States over acts of genocide.

Subsection (a) defines the basic offense of genocide. The four population groups against whom genocide is prohibited are those groups distinguishable by their (1) nationality, (2) ethnicity, (3) race, or (4) religion. To be convicted of genocide, a person must have acted with the specific intent to destroy, in whole or substantial part, one of the four protected groups, when such intent is present, commission of any of the following acts constitutes genocide:

(1) killing members of the group;

(2) causing serious bodily harm to members of the group;

(3) causing permanent impairment of the mental faculties of members of the group by physical means, such as torture or drugs;

(4) subjecting members of the group to conditions of life intended to physically destroy the group;

(5) imposing measures to prevent births within the group;

(6) forcibly transferring the children of the group to another group.

Attempts to commit any of the enumerated acts are also punishable.

Subsection (b) establishes two sets of penalties for those convicted of genocide:

(1) If the act results in death: a fine of up to $1,000,000 or up to twenty years in prison, or both.

Under subsection (c), incitement to commit genocide is punishable by a fine of up to $500,000 or up to five years in prison, or both.

Subsection (d) establishes that the United States has jurisdiction over an alleged act of genocide if—

(1) the offense occurred within the United States, or

(2) the alleged offender is a U.S. national as defined by Section 101 of the Immigration and Nationality Act.

Section 1092: Definitions

Section 1092 defines seven terms used in the bill:

(1) child: an individual under 18 years of age;

(2) ethnic group: a set of individuals distinguishable in terms of common cultural traditions or heritage;

(3) incites: urges another to engage imminently in conduct, and does so in circumstances under which there is a substantial likelihood of imminently causing such conduct;

(4) national group: a set of individuals distinguishable in terms of their nationality or national origins;

(5) racial group: a set of individuals distinguishable in terms of physical characteristics or biological descent;

(6) religious group: a set of individuals distinguishable in terms of their common religious creed, beliefs, doctrines, practices, or rituals; and

(7) substantial part: a part of the group of such numerical significance that the destruction of loss of the part would cause the destruction of the group as a viable entity within the nation of which the group is a part.

Mr. Speaker, I am pleased to say that an identical bill, S. 1851, has been introduced in the Senate by Senators BIDEN, METZENBAUM, and PROXMIRE and that a hearing was held on that measure on February 19. Submitted for the record at that hearing was this most eloquent plea from Prof. Elie Wiesel:

STATEMENT OF ELIE WIESEL BEFORE THE SENATE JUDICIARY COMMITTEE ON S. 1751, THE GENOCIDE IMPLEMENTATION ACT AS READ BY HYMAN BOOKBINDER, WASHINGTON CHAIRMAN OF THE AD HOC COMMITTEE ON THE GENOCIDE TREATY, FEBRUARY 19, 1988

Mr. Chairman, distinguished members of the United States Senate: please forgive my not being able to respond to your kind invitation to appear before you today. It has reached me too late. I simply cannot cancel certain previous commitments.

Your debate is of extreme importance and significance. Though overwhelmingly endorsed by the Senate, the Genocide Treaty is still to receive implementing legislation. Many of us fail to comprehend the reason for the delay.

What is at stake is our moral credibility in the world. Naturally, our nation opposes any massacre; but genocide is the ultimate massacre and thus must be opposed and denounced with force and vigor.

The fact that it has taken so long for the Treaty to reach this stage has been an embarrassment to those among us who, as teachers or writers, try to tell the world of our profound commitment to human rights and to the celebration of human dignity.

When the issue was before the Foreign Relations Committee, I had the honor of testifying in its favor. I tried to explain that I am not sure that a Genocide Convention would prevent genocide; but the absence of such a convention would surely be interpreted as an approval of genocide.

Thus I urge you, distinguished members of the Judiciary Committee to accelerate the process of implementing the Treaty. What is at stake is the future of many nations. What is at stake is our honor as a nation governed by an ancient ethical tradition that proclaims its belief that life is to be celebrated and sanctified—that applies to the life of the individual and of human communities alike.

Mr. Speaker, I would also like to bring to my colleagues' attention a recent New York Times editorial on this extremely important issue:

[From the New York Times, Feb. 22, 1988]

UNFINISHED WORK ON A GENOCIDE TREATY

After 40 years, Congress is moving toward the final step on an international convention against genocide. The Senate gave its approval to the treaty in 1986, and it only remains for Congress to pass implementing legislation to amend the criminal code.

Unlikely delays have so often kept this job from completion that a target date is advisable. For an effort that springs from international revulsion to Nazi annihilation of Jews during World War II, the World Holocaust Day of Remembrance, April 14, is the perfect choice.

On Friday, the Senate Judiciary Committee held a hearing on the genocide convention, which was originally adopted unanimously by the United Nations in 1948. The United States led that effort, and Harry Truman presented the treaty to Congress the next year. Sadly, it still languishes there. Meanwhile 97 other countries, including every major power and virtually every democratic country have ratified it.

The unseemly U.S. foot-dragging can be credited to a handful of conservatives whose imaginations took flight in fears about the treaty's undermining United States sovereignty. In fact, all the treaty does is to define genocide (an attempt to destroy a national, ethnic, racial or religious group), and commit signatories to work toward its prevention and to punish anyone guilty of such crimes. And the treaty is as important for its symbolism as for anything—as seven Presidents have said in pressing for ratification.

Both House and Senate judiciary committees seem poised for the final step to bring the 40-year work to an end. All that takes now is for the committees and Congress to amend the Federal criminal laws to include the new crime and penalties. Congress could redeem itself somewhat on this issue by not letting the annual day of remembrance of the Holocaust—April 14 this year—again pass with the job still undone.

Finally, Mr. Speaker, I would point out that April 14 is Yom HaShoah [Holocaust Remembrance Day]. In my view, the solemn reflections and quiet prayers that this day of commemoration compels will carry with them a renewed sense of commitment and hope if, by that date and after these 40 long years, we can at last bring the ratification process to a close.

U.S. SOVIET RELATIONS IN CENTRAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER. Mr. Speaker, I ask unanimous consent to read some papers.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Speaker, a few moments ago I raised on the floor the question of a letter that was sent by 67 Members of this House to the President of the United States urging him to begin negotiations with the Soviet Union relative to its presence in Nicaragua.

It is a most fascinating letter, signed on to by a large portion of the Democratic leadership, including the people who brought the bill to the floor the other day, that had provisions in it which would have committed our military to Central America and to the Nicaraguan problem for the first time; but in this letter to the President, they say some very fascinating things that I think the American people should reflect upon. For example, in this letter they are saying quite clearly that the Nicaraguan Communist government represents a real threat to U.S. security.

They say:

> At present the greatest danger of such a threat—

Meaning to Central America in this case, and they above say that the United States has valid security concerns in Central America, and then they say:

> At present the greatest danger of such a threat is in Nicaragua under the government of the Sandinista junta.

Then they go on to say some very interesting things. For instance, they make the point about the massive amount of Soviet aid that is there, including, as they put it, MI-24 Hind attack helicopters, and then they make this statement:

> There are also rumors of the construction of submarine bases and airfields capable of landing the largest bombers.

Mr. Speaker, we know that that is more than rumor unless, of course, pictures of those bases are simply rumor, because on this floor during the debate my colleague, the gentleman from California, actually showed this House pictures of the airfields, pictures of the submarine bases. It is more than rumor. It is fact. That is the problem that we are faced with.

Anyhow, they go on and they suggest to the President that what he ought to do is to negotiate the Soviet presence out of Nicaragua.

The problem with this letter is that it does not seem to recognize that those negotiations have already been under way and that the Soviet Union is not responding in a manner which helps our security interests.

I have here another letter, this one from Colin Powell, the National Security Adviser to the President, who has pointed out to us, he wrote it to one of our colleagues, the chairman of the Subcommittee on Europe and the Middle East, and he says in the letter:

> President Reagan raised the issue of Nicaragua with the General Secretary pointing out that continuing massive Soviet supply of military equipment to the Sandinista regime aggravates the situation in Central America and constitutes another instance in which Soviet actions in regional conflicts made U.S.-Soviet relations more difficult. Secretary Schultz pursued the same topic with the Soviets in post-Summit consultations.

In other words, what this letter says is that there is an ongoing process of discussions taking place on the very topic that the Democrats are saying open negotiations about.

I am surprised that they do not know what is really going on, but let us go on in the letter, because this is the problem. Mr. Powell goes on and points out:

> The Soviet position on the question is clear: They propose to limit military assistance to the Sandinistas to only small arms—which the General Secretary characterized as "police arms"—in exchange for U.S. stopping its military assistance programs to the other nations of Central America and to the Nicaraguan Democratic Resistance. This proposal, needless to say, is not congruent with our commitments to the Central American democracies, nor with our national interest. Its acceptance would leave the present dangerous Sandinista military preponderance over its neighbors entirely intact. Moreover, it would have us legitimize a dangerous extension of Soviet power onto the mainland of the Western Hemisphere.

Now, the only thing that I can conclude is either the people who signed on to this letter are totally ignorant of the negotiations that are on-going, or they intend for us to accept the Soviet proposal, because I can come to no other interpretation of what they are saying to the President. If in fact what they are saying is, "Mr. President, accept what the Soviets offer." Let us understand what that means. It means the Soviets would continue to send the small arms in, AK-47's, for instance, automatic rifles, while we would send no aid whatsoever to the Central American democracies. What that would mean is that the guerrilla forces that have been funded and have been supported out of Nicaragua would be able to get those AK-47's to use against El Salvador, to use against Guatemala, to use against Honduras, to use against Costa Rica, and those countries would not have any help to respond.

The Soviets are saying, "Let us send small arms. We won't send tanks, but we are going to send small arms, but you send nothing."

Is that really the deal that the Democrats would have us sign on to? I hope not. That is very scary.

STRENGTHEN THE EXPORT-IMPORT BANK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 5 minutes.

Mr. KLECZKA. Mr. Speaker, I am pleased to join today the chairman of the International Finance, Trade and Monetary Policy Subcommittee, BOB GARCIA, in introducing legislation to strengthen the finances of the Eximbank by waiving the prepayment penalty on its Federal Financing Bank debt.

Allowing the Eximbank to prepay loans to the Federal Financing Bank without penalty is a common sense approach to dealing with an alarming decrease in capital of this critical export agency.

Prior to December 1982, the debt agreements between the Eximbank and the Federal Financing Bank provided that loans could be prepaid without penalty. As a result, roughly 46 percent of Eximbank's debt include this provision. Loans made since that date, however, include an unnecessarily burdensome requirement that Eximbank pay a penalty to the FFB if debt is paid off ahead of time.

This requirement has a decidedly adverse impact on the finances of Eximbank. As of September 30, 1987, unaudited figures reflect loans and receivables of $12.2 billion and an FFB debt of $12.5 billion. While the weighted average interest rate on the loan portfolio was 8.36 percent, the average FFB interest rate was 11.47 percent. The negative spread of 3.11 percent hurts the bank's liquidity position and, therefore, its ability to retire its debt.

By allowing the bank to refinance its debt at today's market rate of roughly 9 percent, the weighted average rate would decline to 8.88 percent. This would mean the bank could realize a savings of about $300 million in interest expense in the first year of refinancing. According to Eximbank Chairman John A. Bohn, such an action would mean that the bank "should quickly return to a moderate level of profitability which in turn would halt the deterioration of our reserves."

Waiver of the prepayment penalty to the FFB would allow for an overdue restructuring of Eximbank debt without adding to the budget deficit. At this point, I am including in the RECORD a projected balance sheet provided by the bank which indicates the positive impact of a waiver of the FFB penalty.

The material follows:

EXPORT-IMPORT BANK OF THE UNITED STATES

[Projected balance sheet[1] fiscal year 1988-96, in millions of dollars]

	Fiscal year—								
	1988	1989	1990	1991	1992	1993	1994	1995	1996
Assets	12,018.0	10,627.7	9,781.3	8,811.3	7,916.8	7,004.4	6,130.0	5,521.6	5,095.4
Liabilities	10,999.1	9,555.9	8,667.1	7,643.4	6,717.1	5,768.7	4,854.7	4,180.4	3,679.0
Capital	1,000.0	1,000.0	1,000.0	1,000.0	1,000.0	1,000.0	1,000.0	1,000.0	1,000.0
Retained earnings	18.9	71.8	114.2	167.9	199.7	235.7	275.3	341.2	416.4
Total liability and capital	12,018.0	10,627.7	9,781.3	8,811.3	7,916.8	7,004.4	6,130.0	5,521.6	5,095.4
Revenue	1,066.8	954.2	861.4	785.8	702.7	621.5	542.1	475.8	429.1
Expense	1,302.7	901.3	818.9	732.1	670.9	585.5	502.6	409.9	353.9
Net income	(235.9)	52.9	42.5	53.7	31.8	36.0	39.5	65.9	75.2

[1] Assumes restructuring of FFB debt takes place at the beginning of fiscal year 1989 without prepayment penalty.

INTRODUCTION OF A RESOLUTION TO HONOR THE AMERICAN CULINARY FEDERATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, I rise today to introduce a resolution to honor the American Culinary Federation [ACF] for its contributions to American cuisine and for its support of the 1988 American Culinary Olympic Team which will be competing in Frankfurt, Germany, this October. The American Culinary Federation is a professional, educational, and fraternal organization of chefs and cooks. The federation was founded in 1929 in New York and since that time has grown to over 17,000 members nationwide with nearly 200 chapters. The ACF provides the means for chefs and cooks to receive education, training, and experience in the culinary profession.

Not only is the American Culinary Federation the oldest nationwide professional association of cooks and chefs, but the ACF is also a joint sponsor of the U.S. Culinary Olympic Team. Over the years that the United States has been competing in the Culinary Olympics the team has done increasingly well in competition. This is illustrated by the contrast between the 1968 team, which won no medals and the 1984 team, which won gold medals in both the hot and cold food competitions. The 14-member 1988 team has been preparing for over 2 years for the competition in Germany. This year's entries will reflect the trend in the United States toward lighter, more healthy foods and will feature new creations developed by the team members. This year's competition promises to be very exciting.

In addition to the Culinary Olympic Team, the ACF also provides many educational opportunities to chefs and cooks across the country. First, there is the American Culinary Federation Educational Institute [ACFEI], which recognizes superior culinary schools through an accreditation program. The ACFEI also sponsors the National Apprenticeship Training Program for Cooks, a program recognized by the U.S. Department of Labor. The program consists of a 3-year earn-as-you-learn program combining classroom instruction and employment with a certified chef. Successful completion of the program allows participants the opportunity to enter the culinary field as a certified cook. Presently 84 apprenticeship programs are in operation across the country. A chef certification program is another one of the activities performed by the ACFEI. Certification ranges from certified cook or certified pastry chef to certified executive chef. Through the ACFEI a chef can be recognized as a certified master chef.

The ACFEI offers financial assistance to qualified culinary students to pursue their education and educational seminars are a large part of the activities at the annual ACF convention, which over 700 members attended last year. The American Academy of Chefs is the honor society of American chefs which is associated with ACF. In addition to the Olympic team sponsored by the ACF, the federation also sponsors many culinary competitions during the year. These competitions are the first experience many chefs have in culinary competition.

The ACF is dedicated to the preservation and expansion of the culinary professsion in the United States. The organization has succeeded in allowing American chefs to successfully compete against European chefs. The accomplishments of the Culinary Federation are commendable. I find the accomplishments of the ACF of particular interest, as my parents operated a restaurant in Monterey after their arrival in the United States. I know firsthand the work and dedication needed in the culinary profession. The men and women who make up the American Culinary Federation deserve to be recognized for their contributions. I urge my colleagues to join me in sponsoring the resolution I am introducing today to honor the American Culinary Federation.

H. RES. 398

Resolution honoring the American Culinary Federation for its contributions to American cuisine and for its support of the 1988 American Culinary Olympic Team

Whereas the American Culinary Federation is the oldest and the only national professional association of cooks and chefs recognized by other leading food service associations;

Whereas the American Culinary Federation offers opportunities for cooks and chefs to gain experience, training, education, and fellowship with their colleagues;

Whereas over 700 members attended the American Culinary Federation's national convention in 1987;

Whereas the American Culinary Federation, which had 6,000 members in 1981 and has over 17,000 members in a total of 187 chapters at present, has experienced a growth in membership of 275 percent over the last 7 years;

Whereas there are presently 357 cooks, 884 working chefs, 1,324 executive chefs, and 31 master chefs in the Nation who are certified by the American Culinary Federation;

Whereas the United States has been represented in the Culinary Olympics since 1968;

Whereas the United States, in competition with teams from 28 other countries, won a gold medal in the Culinary Olympics in the hot food competition in 1980 and in both the hot and cold food competitions in 1984;

Whereas the American Culinary Federation is a co-sponsor of the American Culinary Olympic Team which will compete in the 1988 Culinary Olympics in Frankfurt, West Germany: Now, therefore, be it

Resolved, That the House of Representatives honors the American Culinary Federation for its contributions to American cuisine and for its support of the 1988 American Culinary Olympic Team.

□ 1515

GREEN TEA AND DIRTY TRICKS

The **SPEAKER** pro tempore (Mr. HUBBARD). Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, last week I read the first chapter out of the book called "The Japanese Conspiracy, the Plot To Dominate Industry Worldwide and How To Deal With It." This is a book by Marvin J. Wolf. I have decided to bring this before the public because first of all it is not possible to purchase it in the United States, and we have had to get our copies from England, and I also understand ironically that it can be bought in Japan, however, they do not pay any royalty to Mr. Wolf, who lives in Los Angeles.

The second chapter is entitled "Green Tea and Dirty Tricks." This book, of course, deals with how, in my opinion, our industries have been targeted and have succumbed to the whole Japan incorporated complex, and Mr. Wolf spells it out so very well in this book.

In the second chapter, "Green Tea and Dirty Tricks," he says:

Japanese is a language well-suited to circumlocution, to airy discourses on subjects seemingly only tangential to the purpose at hand. In spite of this, or perhaps because of it, Japanese businessmen like to talk. They talk endlessly at meetings, often designating junior members to take copious notes of what transpires. To make sure of what was said and how they felt about it at the time, some will return to the offices or homes and confide the meeting's proceedings to the diaries.

At a typical business meeting, much of the early conversation will seem like a vague exercise in polite ambiguity. But after a time everyone present has had a chance to stake out his own, or his department's, or his section's territory. It is done gently, without forcing an opinion on the group. It is only after this exercise that the real conversations take place, with compromise and consensus achieved after long hours of meandering and exceedingly tactful discourse.

From time to time, o-cha-Japanese green tea—is served, usually by an attractive, well groomed, perpetually smiling but traditionally mute female functionary. The more complex the issue, the more tea is required. The Japanese chide one another that if what is being discussed involves bargaining the side that walks away with the best concessions is the one with the most bladder control.

"We don't argue much among ourselves, we rarely have open disagreements," explained Masayoshi Sakisaka, a London-based marketing executive with Epson, part of the Seiko Group. "The reason is that we all believe strongly that our point of view is correct, and the other fellow will eventually come to accept it if he just has all the information we have. Therefore we must meet often, and the meetings usually last quite a while."

Nothing about the meeting at Tokyo's once opulent Palace Hotel, directly across the moat from the emperor's residence, on the warm, smoggy Tokyo afternoon of September 10, 1964, would have seemed unusual. Those attending the meeting were businessmen, most in their late forties or early fifties. All were dressed in conservatively cut Western-style suits of muted blue and gray hues and wore long-sleeved, French-cuffed white shirts, the Japanese corporate uniform. These were powerful men, television manufacturing experts, upper level executives of Japan's six leading consumers electronic manufacturers: Hitachi, Matsushita, Mitsubishi, Sanyo, Sharp, and Toshiba.

Along with their retinues of key assistants, the group met behind closed doors. Tea was served, not, as usual, by the hotel, but by a smiling young woman from one of the companies represented. The meeting went on for nearly three hours before breaking up still giving most of its participants time to return, in company cars, to office in distant corners of Tokyo before the evening rush hour paralyzed traffic on the city's narrow streets.

As my colleagues can see, Mr. Wolf spent a great deal of time in Tokyo and he has a very vivid description of it.

It was a most productive first meeting. Of course, most of the men knew each other; they had gone to the same schools, were of the same age, and had served in similar units and with approximately the same military rank during the Great Pacific War. Over the years they had had a certain amount of contact at electronics industry association meetings. But at this meeting they had an opportunity to learn more about each other's feelings and desires for success, more about each company's management, its business outlook and its future plans. Little was accomplished in a substantive way; what was significant about this gathering of the six leading Japanese television manufacturers was that it took place at all.

The group met again on the 10th of the following month. Now that personal contacts had been solidified, the group moved to business issues, the most important of which was: At what level should they fix the "bottom" prices of their TV receivers in Japan's domestic markets?

It was a difficult question. A bewildering variety of models was coming off each of the company's assembly lines, and each firm was a little wary of the others. These firms had been competing for years; several of their parent companies had been competitors for decades. But now their top management, the presidents and chairmen of the giant conglomerates, the new shinko-zaibatsu, had secretly agreed that it was better for a time not to undersell each other in marketing their television sets, both in Japan and abroad. No longer would one company's models become best sellers while the sets of others sat on the shelf, ignored. The men in the room knew that such management directives were easily made but not readily put into practice. If their collusion was uncovered, the Japan Fair Trade Commission might take action under Japanese law.

But illegal or not, their company leaders had decided to price-fix their merchandise, and it was not up to loyal "salarymen"—the Japanese executives—to question the decision. Many in the room had already had their say on the matter in meetings with their superiors; now their assignment was to find ways to make it work. It was not merely a matter of pricing. There was also the question of profit margins; each company's costs were somewhat different. They had to smooth out the fluctuations of the marketplace and decide how much profit was to be made on each unit, and how many units each could sell. The participants found the business of price-fixing so complex that they decided to meet at the same hotel every month, on the tenth day. Thus the Tenth Day Group was born.

The Japanese consumer paid dearly for this collusion. The Tenth Day Group was so successful that it and other secret groups of these leading Japanese manufacturers were responsible for maintaining the high prices of TV sets in Japan, which in a few years were selling for almost twice as much as comparable Japanese sets in the United States. A Japanese color set whose "bottom price" was $700 in Japan would be sold retail for less than $400 in the United States. The members of the Tenth Day Group had come together for a purpose that was more important for their companies—perhaps, they felt, ultimately more important to the Japanese nation—than the inflated profits the six companies received. In fact, the profit would not line the pockets of the Tenth Day Group or be offered as dividends to Japanese stockholders. The money was to be used secretly to offset the losses that their companies expected to suffer as they drove most of the American television manufacturers out of business.

This astonishingly successful plan, which crippled the American television manufacturing industry, is minutely documented in reports prepared by the Japan Fair Trade Commission (JFTC). The reports are based on the diaries of some of the participants, on the depositions and statement of several of its members, and on minutes of dozens of meetings held by the Tenth Day Group. Later, the record of their actions would become part of a lengthy civil antitrust suit against these Japanese television manufacturers and some of their American distributors.

The Tenth Day Group continued to meet monthly at least through 1977. But despite their intentions, the Tenth Day Group was not able to resolve all the problems. They are continually running into such policy matters as how individual Japanese manufacturers could outwit U.S. Customs officials when they violated American law by exporting their sets at prices far below fair American market value?

These matters were regulated to more senior men who comprised the Palace Group, the managing directors of the six companies. The Palace Group, which usually met monthly at that hotel faced the knotty issues members of the Tenth Day Group could not resolve. To prepare a cogent agenda for the Palace Group, staffers formed the Palace Preparatory Group to screen issues for Palace Group meetings. Their notes and the minutes, like those of the other groups were to be periodically destroyed.

In between that time that Mr. Wolf is describing in his book, from 1964 to 1977, I happened to be in Japan on an official trip around 1973 or 1974 and I had lunch with the United States Ambassador to Japan, and they had just finished a 2-week seminar on the electronics industry, and the Ambassador's comment at that lunch was that the American electronics manufacturers could not survive, that they could not match this competition because American manufacturers cannot work together. Our antitrust laws prevent that.

The United States Ambassador to Japan was then predicting that the American electronics industry was doomed because of what the Japanese manufacturers did do in getting together and in targeting our electronics industry.

Mr. Wolf goes on to point out that some of the notes were not destroyed.

Toshiba's representative, a man named Yajhna, failed to destroy all the pages in his notebook, which included this cryptic entry:

To leave women's lockers alone.
To burn old documents.
Will not take minutes.
Burn all documents.
Also, change the place of meeting.
Report at the next meeting.
Name get together meeting concerning TV (10th Day Group).

The Tenth Day Group, together with the Palace Group to which it reported, represented Japan's industrial elite, the largest diversified companies run by Japan's clubby insiders from firms that traced their corporate roots to prewar Japan, to the zaibatsu, the ruthless industrialists who wanted Southeast Asia's raw materials and China's markets so badly they were willing to start a world war.

There was a third arm to the conspiracy, the Okura Group, also named for the hotel where they met, Tokyo's prestigious Okura. The group had been formed in 1963 at the behest of Kinosuke Matsushita, septuagenarian founder and president of Matsushita Electric Industrial, often regarded as Japan's most influential businessman. The Okura Group, which included the managing directors of these six largest Japanese electronics manufacturing companies, ratified—or sent back for more study—the decisions reached after agonizing consensus, and much green tea, by the other groups. When the Japanese authorities wondered why these top executives of ostensibly competing electronics firms were meeting so regularly—and if it was related to the TV models selling in Japan for outrageously high prices—members of the group cast about for a plausible story.

"We are a social group," they would later tell the Japanese Federal Trade Commission during its investigation. When the JFTC investigators questioned that response, they offered the excuse that the group was a private club of men with similar interests.

The JFTC confiscated mounds of papers, reports, diaries, and minutes, and then brought in the minor participants for questioning. More deferentially, they asked the powerful members of the Okura Group to chat, at their convenience. The JFTC had accumulated an enormous amount of evidence, but in the contemporary Japanese tradition industrialists have extra-legal powers. When the situation looked grim, patriarch Kinosuke Matsushita intervened. "We apologize," his emissary told the JFTC. Matsushita had elegantly sidestepped the issue, but the authorities were reassured and the matter was closed. Meanwhile, the American television industry has never recovered from the monthly meetings of the Tenth Day Group.

"Dumping" is a term which has come to mean selling a product in another country for less than its fair market value. FMV is not an esoteric or subjective concept. It can be measured by comparing the prices of identical or similar products sold in the country of manufacture. Dumping, which is undoubtedly as old as manufacturing, was made illegal in the U.S. in 1916. In 1921, the U.S. Treasury Department was made responsible for assessing special penalty duties on goods believed to have been dumped.

Dumping has historically been practiced by the Japanese—and other nations—as an unethical way of gaining a disproportionately large share of the market. The objective is usually to force domestic companies out of the market by offering imported products to consumers at prices so low that domestic manufacturers cannot match them for long. Domestic competitors are then either forced out of business or must abandon the market as unprofitable. This paves the way for foreign dumpers to dominate it with their own products, whose prices are then gradually increased back to profitable levels.

In 1964, several Japanese companies, including Matsushita, Toshiba, Sharp, Mitsubishi Sanyo, and Hitachi, began to dump enormous quantities of table model and portable color television sets on U.S. markets at prices so low that no American manufacturer could compete. "That was just one phase in a stage-by-stage assault on the U.S. markets," says Arnold I. Kalman, as Philadelphia attorney who specializes in antitrust and dumping cases. "You can trace back the Japanese companies which are today involved in the semiconductor business to the companies which were in the business of making TV sets, and before that, radios."

Kalman's firm, Blank, Rome, Comisky and McCauley, has been representing two American firms, Zenith and National Union Electric (NUE). NUE, makers of no-longer-manufactured Emerson television sets, and Zenith, one of the few remaining American firms in the industry, have pressed a lawsuit alleging that Japanese TV makers conspired with American importers to dump their products in the U.S., to the detriment of the entire American TV industry. Eight American manufacturers, and several smaller firms, were driven out of business with an estimated loss of 70,000 jobs, billions, of dollars in profits, and increased American trade deficits.

Zenith is one of America's pioneer electronics manufacturers, and for many years was the leading U.S. maker of color TV sets. In 1977, for example, it sold $957 million worth, about 22 percent of the U.S. market, and employed about 20,000 people to make them in the U.S. Zenith was badly injured as a result of this Japanese dumping. NUE, which still makes Emerson air conditioners, Eureka vacuum cleaners, and Tappan kitchen ranges, among many other products, has abandoned TV manufacture. The lawsuit, filed in 1971, has yet to be tried on issues of merit. In 1981, a federal judge granted summary judgment, dismissing the case against the Japanese defendants, which include all of the companies mentioned above, their U.S. subsidiaries, and several U.S. retailers, on technical grounds. The plaintiffs have appealed that decision and the case is inching its way through the appellate courts.

□ 1530

I just might inject here that perhaps Zenith got back a little bit of retribution on Toshiba when, because of Toshiba's sale of the milling machine that manufactured the silent submarine propellers of the submarines of the United States, when Toshiba sold that to the Soviet Union for a price and we in Congress expressed our outrage and began trying to put through some legislation to ban Toshiba products in the United States, at least the amendment that was included in the Defense Department budget last year, or appropriation last year, specified that Toshiba's products could not be purchased by the Defense Department and, as a result of that, Toshiba lost a $105 million contract to Zenith, and I say we are very, very happy that Zenith is the one that got it, and that it is an American manufacturer who should have had it, as all defense dollars and all taxpayer dollars should be spent on manufacturing in this country and not manufacturing abroad.

The assault on the American televison market was not just the result of hotel room intrigue. In 1963, high-level representatives of the Japanese TV-manufacturing companies, with the approval of MITI, met publicly to create a legal cartel. The document signed by the participants, including the men who would later become the Tenth Day, Palace and Okura group members, created the Television Export Council and the Television Export Examination Committee. Their purpose was to regulate the conditions for the sale of TVs in the U.S.

I can imagine what the press would do in this country if American companies got together to regulate the conditions for the sale of any product overseas.

Mr. Wolf notes that—

The most significant result of their work was the "check price," the lowest price, determined by complex calculations, by which a Japanese-made TV set could legally be imported into the U.S. and still avoid a dumping fine. Although the exported sets included hundreds of different color and monochromatic models ranging from five to 18 inches in screen size, models with vacuum tubes, with transistors, and hybrid models with a panoply of technical variants, the cartel managed to reduce all sets to just ten different check prices. As soon as the legal cartel had established their own regulations, the secret industry groups—the Tenth Day, Okura, Palace and others—set out to find ways to circumvent them.

It was archetypical Japanese business behavior. It required numerous meetings and the ingestion of even more tea. The first step was obvious. Every television set exported had to be valued at the check price, the equivalent to fair market value. But it was the manufacturers themselves, through their cartel agreements, who determined those check prices. As part of their long-range plan, they sharply raised their prices in Japan and set them extraordinarily low on sets exported to the U.S.

The American government was typically slow to respond. But in 1970, after millions of cheap Japanese sets had already flooded the American market, the U.S. Treasury Department did ask Matsushita to verify how the domestic price was calculated. Their answer was a model of sophistry. "We gave out various discounts, rebates, and allowances to each of our distributors, and they were all different and always changing," a Matsushita executive told the investigators. "And we also had to pay some expenses to distribute the sets." The expense categories listed by Matsushita included selling, warehousing, delivery, office, financial, and administrative expenses, credit terms, bad debt costs, service training costs, and payments made to retailers to cover costs for construction of store fixtures, promotional programs financing, advertising, life insurance for the retailers, and casualty insurance for the stores.

For the American investigators, Matsushita's attorneys produced 70 linear feet of documents for each of Matsushita's 186 distributors, more than two miles of paper. They told the American government that it was difficult to determine the exact costs of their merchandise, but Matsushita and its partners had no trouble calculating them for their Japanese commodity tax returns, a form whose definition of production cost virtually duplicates that of the U.S. Customs statute on fair market value. "It was a good story," says attorney Lalman. Now, if you buy that one, I have a bridge I would like to sell you."

In other words, they were able to determine the cost for the Japanese, but they claim that they could not for the American Government.

Sanyo developed an even more elaborate argument to becloud U.S. investigators, but it, too, was transparently thin. In Japan, where wages are based primarily on seniority, two workers laboring side by side on TV receiver assembly line might earn very different salaries based on their age. (If one were a woman, of any age, she would earn less than either of the men.) This became the rationale for the Sanyo explanation. They claimed that they used older, experenced workers on domestic models, and paid them more than the younger, less experienced workers who worked on export models. Therefore, they said, it was natural that their domestic sets would sell for more than those that were exported. No one who has ever visited a Japanese TV assembly factory would find this story credible.

With check prices firmly established, the Japanese were ready to start dumping. At the check-price levels, Japanese sets would undercut U.S.-made sets by an average of 40 to 60 percent. But some Japanese conspirators were concerned that it was still not low enough to achieve their objective: the destruction of the American television industry. Perhaps, the Japanese worried, American television manufacturers would compete by cutting profit margins and improving productivity or by going offshore for partial assembly. Since the Japanese were losing money on every set exported to the U.S., it would thus cost more to drive out the competing U.S companies. The answer to that threat was simple: falsify the U.S. Customs documents. The declared price would have to be at the check price, but they could circumvent the customs procedure by granting a rebate to their U.S. buyers. Since this was illegal, the money would have to be dispensed under the table.

□ 1545

I think all of these details are very, very important for the American public to hear, to understand that it has not been the workers and the plants of American industry which could not meet the competition, if it was fair competition, and which have not had fair trade between Japan and the United States. It has been free trade into the United States and blocked trade into Japan.

Mr. Wolf goes on:

No one can undermine a nation's industry without the cooperation of its own business people. Systematic Japanese dumping in the U.S. required the active participation of American merchants. For the scheme to succeed, importers of lower-than-fair-value (LTFV) goods must cooperate with the dumpers. The Japanese searched for such merchants and rapidly discovered a welcome outlet, "Where America Shops," at Sears, Roebuck and Co., the nation's largest retail merchant. Sears apparently was willing to severely bend federal regulations to increase their profits, even if it resulted in the crippling of an American industry. But Sears was not alone; the Japanese eventually sold their dumped color TV sets through some 80 U.S. retailers.

Sears's products are merchandised in nearly 900 retail stores in the U.S. and through over 1,500 catalog sales offices. Sears is also the largest single U.S. importer of television sets. In a 14-year period (1963-1977), the firm imported over 6.5 million television receivers from Japan worth more than $700 million. In fact, between 1960 and 1975, Sears sold over 60 percent of all the Japanese color television sets produced for export. But why would Sears get involved in such a scheme? "Sears's motive was the enormous price advantage it obtained," says Kalman. "Sears admitted in its brief that it negotiated substantially lower prices with Sanyo and Toshiba. These prices, Sears conceded, gave it a 'definite price advantage' over other U.S. sellers who did not participate in the conspiracy."

Japanese prices were set so low that over the years Sears eagerly bought an increasing percentage of its television receivers from Sanyo and Toshiba. Between 1963 and 1975, these Japanese brands crowded Sears display cases, replacing American-made sets, particularly those manufactured by Warwick Electronics, a regular supplier of Sears. In a legal brief Warwick's management filed with the Securities and Exchange Commission, Warwick—which had once supplied Sears with most of its TV sets—attributed its loss of Sears's business to the predatory pricing of sets made by Toshiba and Sanyo. Soon after Sears stopped buying its products, Warwick went out of business, its assets purchased by Sanyo at liquidation prices.

Company after company in this country has gone down the same way.

Many of the Japanese sets were being sold with American labels. Beginning in 1963, Sears began retailing Sanyo and Toshiba TV sets as Sears's private brand at heavily discounted prices. The sets were being sold below even their check prices, though the documents filed with the U.S. Customs indicated otherwise. A Sears senior buyer, Jerome Brennan, wrote a memo to his bosses describing exactly how the Japanese manufacturers had colluded on pricing levels, acknowledging that virtually every Japanese TV exporter was involved in the scheme. Brennan's memo outlined the method by which funds were transferred back to the U.S. wholesale buyers.

A handwritten note about a telephone call to Tokyo made by Mr. Itima at Toshiba asks if U.S. Customs agents were questioning Sanyo executives about double invoicing:

Toshiba Murao says he heard Customs was questioning Sanyo on double invoicing?

Sanyo top level says no—not at present time. Sanyo feels we should wait on divulging system. Trigger off new investigation last for years.

Very dangerous—would re-open whole new case.

Sanyo feels Customs already knows of double invoicing and would gain nothing—tell truth when asked.

Re: Toshiba—will we have to divulge how we over and underbill with them—would we have to reveal system if asked by Customs?

Files subpoenaed from several other American importers described the Japanese methods. Sanyo had devised a "loyalty discount formula in order to disguise their rebates, a formula found in Sears's files, as well as in those of General Electric and Magnavox. Sears was apparently aware that the scheme was common to all of Sanyo's U.S. customers. Handwritten notes from Sears' buyer Brennan spelled it out: "Sanyo already using procedure with all other customers."

Midland, another retailer that purchased TV sets from the Japanese, wrote a letter to Sharp in 1968:

"As you know, we are buying television sets from different manufacturers in Japan. We have talked to you and other manufacturers about how we can receive the money that is owed to Midland because of the pricing of television sets. The manufacturers that we have talked to have proposed to us to rebate this money to us in the United States if we would sign the enclosed agreement. We have signed this agreement with different manufacturers, and they have already started rebating money to us in the United States."

The rebate money found its way back to the U.S. in devious, if not original, ways. Sears was receiving some of its secret rebate money from Japan through a Swiss bank. In 1971, Sanyo established a special numbered account with Swiss Banking Corporation in Basel, the picturesque financial capital on the Swiss Rhine. Starting in January of that year Sanyo deposited monthly checks to its Swiss account, usually in excess of $150,000, and reaching as high as $420,000. A few days after each deposit, the Swiss bank's New York office would issue a check in an identical amount to Sears. Sanyo's name never appeared on the checks drawn in the U.S., but an emissary from Sanyo personally delivered each check to Jerome Brennan, the Sears buyer. In court documents, Brennan admitted that he deposited a check in a special Sears account created for these funds. Toshiba, Matsushita, and NEC used similar techniques with each of their U.S. importers.

The use of a Swiss bank intermediary was romantic, but some Japanese firms were more direct in their payoffs. Toshiba offset some of Sears' "overpayments" simply by giving Sears credits on other merchandise it purchased. By 1968 the arrangements were in danger of being discovered by U.S. Treasury agents, who were responding to dumping complaints by American manufacturers. The investigation also prompted discussion among the Japanese television suppliers at their trade association, the Electronics Industry Association of Japan, EIJA.

And that is the end of the second chapter in this book. But once again I want to point out that this explains how American industries were targeted by their competitors overseas and destroyed and therefore have put millions of Americans out of manufacturing jobs and have made this country so dependent on overseas sources. I think it is a very dangerous situation that we are finding ourselves in, Mr. Speaker.

Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the subject of my special order today.

The SPEAKER pro tempore (Mr. PRICE of North Carolina). Is there objection to the request of the gentleman from New York?

There was no objection.

THE CONTINUING WAR ON DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. GARCIA] is recognized for 60 minutes.

Mr. GARCIA. Mr. Speaker, on February 26, of this year a young police officer by the name of Edward Byrne, a New York City police officer was guarding the home of a Queens resident who had complained about cocaine dealing in his neighborhood.

Police Officer Byrne, that evening, was brutually assassinated by members of a local drug cartel.

Mr. Speaker, in my 10 years as a Member of this House, I have never taken out a special order; this is the first time that I am doing so. I am doing so, Mr. Speaker, because for those of us who over our lifetime have understood the pain and sorrow that come to American families because of drugs that I felt compelled to take this special order out.

Mr. Speaker, on February 18 of this year during the White House Conference on Drug Free America, President Reagan declared that the war on drugs is an untold American success story. Mr. Reagan's comments, I guess, at the time were obviously a bit premature.

But, Mr. Speaker, I want to make it clear I do not think we should find ourselves in the position where it is "us against them" and "who is doing more" or "who is doing less". There is no question in my mind, Mr. Speaker, that we as a nation have failed, but we have failed beyond any other failure that we have ever had as a nation, any other problem that we have faced. Drugs today are more available than at any other time in the history of this country. For those of us who come out of areas like my community in the South Bronx or the South Side of Chicago or other urban centers that there is no question that we have known about this for too, too long.

I yield to my colleague from New York. But before I yield I would just like to say that of all the Members of this House I have had the privilege of serving with my colleague from New York, Mr. GILMAN, for some 22 years both as a member of the State legislature when we were elected together in 1965 and today as a Member of Congress where we have served together for the last 10 years, I do not think there is anybody in this House who has taken this battle on more personally than my colleague from New York, BEN GILMAN. I say that to my colleague from New York because I think it is moments like this, sad moments in which, as much and as hard as we have worked, we have so much more to do, and I think the gentleman is the first to appreciate that.

I yield to my colleague.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman from New York [Mr. GARCIA], for his leadership in taking out this special order, making time available to us today to discuss the tragic circumstances and ramifications of the assassination of a rookie NYC police officer, Edward Byrne. The drug war has become epidemic, and we are losing our best and brightest as a result of this war.

As the ranking minority member of the Select Committee on Narcotics Abuse and Control, I regret that I am all too familiar with the growing reports of death and destruction. The ruthlessness of the drug traffickers knows no bounds, whether they be moral, economic , or geographic.

Officer Edward Byrne was a rookie police officer in the New York City Police Department. He had been assigned to protect an individual whose home had been firebombed last November in response to the citizen's complaint to police about crack dealers in his neighborhood. Officer Byrne, who joined the police department last July, was assigned to the 103d precinct in the Jamaica section of Queens for 1 month, where his assassination occurred on February 26, 1988. Sitting in his marked patrol car, Officer Byrne was shot three times in the side of the head, killed in cold blood. We are told that he died instantly.

This deliberate assassination of a law enforcement officer indicates the extent to which drug dealers will go to silence those who dare to speak out against them. They bribe, extort, and kill without compunction. We are shocked by the murder of the Colombian Attorney General Carlos Hoyos just a few weeks ago. This newest violence leaves all law abiding citizens, enraged and appalled.

Clearly, one response is to ensure that State and local law enforcement officials have the resources and tools necessary to combat this drug menace. The Anti-Drug Abuse Act of 1986 created a new grant program just for this purpose. Congress authorized $230 million for this program each year for fiscal years 1987 through 1989, yet the administration's fiscal year 1989 budget fails to request any moneys whatsoever for this important new initiative. Not one penny has been requested to assist and to supplement State and local law enforcement efforts. I urge my colleagues to press for full funding of this program, so that our State and local units of government can properly protect and equip law enforcement personnel with the resources necessary to repel the drug traffickers.

Mr. Speaker, we mourn with Officer Byrne's family, and extend our most sincere condolences to them. In his memory, and in testament to so many other law enforcement officers who have fallen victim to the drug traffickers, I urge my colleagues to fund the State and Local Law Enforcement Assistance Program that has been deleted from the President's proposed budget for fiscal year 1989. We urgently need to provide our front line law enforcement officers—the brave men and women who daily put their lives on the line—with the necessary resources, equipment and programs to do the job of putting the traffickers where they belong, in jail.

☐ 1600

Mr. Speaker, I again thank my colleague, the gentleman from New York, for arranging this time to do honor to Officer Byrne and to remind us of our responsibilities here in the Congress.

Mr. GARCIA. Mr. Speaker, I thank my colleague for taking the time to come and be with us this afternoon.

I would just like to continue, if I may, and go over some of the other problems that we presently face that we did not face several years back.

Today the wholesale price of cocaine in the United States has dropped by nearly half since 1986. In other words, if it was a dollar in 1986, today it is only 50 cents.

And then a new phenomena in the last several years, the introduction of crack, which is a derivative of cocaine, has rapidly spread throughout this country, throughout middle-class America as well as the streets of urban centers.

Latin American drug smugglers have flooded our Nation with such an enormous amount of narcotics that our enforcement agencies at this present time lack the resources to have a significant effect, and I think that is exactly what my colleague, the gentleman from New York, Mr. BEN GILMAN, addressed. In order for us to be able to fight this dread disease we are going to have to give law enforcement agencies the moneys to do it.

In 1987 the Drug Enforcement Administration, which is DEA, seized $500 million in assets of drug traffickers. This total equaled DEA's annual budget.

Mr. Speaker, I must say that the State Department has been an insignificant factor in the condemning of drug smuggling nations. Even now as we face the crisis in Panama where a government can be run by a person like General Noriega, that a government can be taken over and then be used as a drop off point for drugs coming in from south of its border seems to me that there is where the State Department should be able to play a significant role.

Drug related crimes have violently crushed our inner cities. I have senior citizens who live in communities such as mine who are afraid to go out at night. Whatever shopping they are going to do they are going to do during the day, then only if they are escorted. In Detroit 70 percent of all local crimes were drug related. In Los Angeles 55 percent of the 800-plus homocides last year are believed to be drug related.

Mr. Speaker, our colleague in Congress, the gentleman from New York [Mr. RANGEL], has introduced a resolution to commemorate Officer Edward Byrne, and I would hope, and I am certain, that all 435 Members of this body, including the 100 Members of the other body, will join in that House resolution because Edward Byrne died, and it was his contribution to the war on drugs. The State and local funding has designated in the Drug Abuse Act of 1986 that those are moneys that have been designated and must continue to be fully appropriated. There must be a comprehensive effort to curtail demand while cutting the supply from the source.

There is no question that crime is tied to drug use. The Justice Department study recently reported that one-half to three-quarters of randomly selected male arrestees in major cities tested positive for illegal narcotics, and New York City topped the list at 79 percent.

Just let me add that I do not believe there is anyone in this Chamber, whether here, in the Gallery, or any place in America, that has not been infected and affected by drugs, and it seems to me that what Edward Byrne did in terms of giving his life, I would hope that that would serve as a symbol for all of us that it is home, it is in each one of our homes, and, if anyone thinks for one moment that we are not affected, I beg to differ with you because there is just so much we have to do.

Mr. MOLINARI. Mr. Speaker, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from New York.

Mr. MOLINARI. Mr. Speaker, I thank the gentleman from New York for yielding to me, and I certainly want to take 10 seconds to thank the gentleman for such a moving speech and for what you are doing here.

Mr. Speaker, I must take a couple of minutes to describe to the Nation what happened in our city. We had a gentleman who lives in the neighborhood who saw drug selling going on, decided he could not keep quiet, and he made a report to the police department. It took courage to do that. As a subsequent reaction to that his house was fired upon on two occasions, and his life was threatened, so the police department sent Officer Byrne to sit in a car outside and afford that gentleman police protection.

The drug cartel that was involved in selling drugs in that neighborhood decided things were getting too hot, and they were going to send a message, and the message was going to be that anybody that is trying to interfere with this awful drug peddling in that area was going to be dealt with harshly, and they decided, according to the accounts that we have read, on how they were going to do it was to blow away, to use their terms, a policeman, and they knew there was a single policeman in a patrol car guarding that house. They did not know the man. He did not know they were coming. He did not talk to them. They came up to the car, and before he knew what happened they fired 5 shots into his head and killed him on the spot.

Now I agree that more must be done, but I also must take time out to express the views of many of us that it has become so serious that it is time that the State of New York and it is time that Congress enacts a capital death penalty provision so that people like this, who, for the sake of the money that is involved, and you may not agree with this gentleman on that position, Mr. GARCIA, but I feel very strongly about it, and I would just like to call to your attention to an article that appeared in the paper where they quoted our U.S. attorney, Rudolph Giuliani, who has done a marvelous job in dealing with this issue, and he called yesterday for a national death penalty for major drug dealers and called attention to this particular crime.

He said, and I quote:

> "Anybody who tells you it (the penalty) isn't a deterrent does not know the slightest thing about law enforcement, about drug dealers," Giuliani said angrily.
>
> "They don't know what they're talking about, they don't understand the streets of the city."
>
> Giuliani referred to drug kingpin Ralph Tutino, convicted Sunday on a major heroin rap, as the best argument for capital punishment.

Mr. Speaker, I quote again:

> "Had he been exposed to the death penalty and executed 10 years ago . . . I can't possibly count for you how many people would now be alive who are dead because he was selling millions and millions of dollars worth of heroin.
>
> "There are a lot of Ralph Tutinos in this city and in this country. And they should be exposed to the death penalty when they're involved at a major level in selling drugs."
>
> He said the death penalty would definitely deter dealers who are 'cunning, careful' businessmen selling dope to make money.

Now, this Congress had the opportunity to pass such a proposal, and we missed it by two votes. We missed it by two votes in 1986.

☐ 1615

I am sorry to say that my own home State every single year for 14 years that I know of, the State legislature in both houses, Democrat and Republican, passed the capital punishment bill and every year it has been vetoed by first Governor Carey and now Governor Cuomo year after year.

It is time that we dealt with these criminals, with people such as killed this marvelous policeman, I think he was 23 years of age. They should pay with their own lives for what they have done.

Think about the anguish to his family. Why, Why?

I thank the gentleman for the time. We may not agree on this issue of capital punishment, but I believe very sincerely and deeply that if we do this, quoting Mr. Giuliani, who has the respect of law enforcement officers throughout this country, we are going to stop some of them and if we have to stop them by killing them, by means of capital punishment, then that is the way we should go.

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, I thank the gentleman from New York for yielding.

I want to first thank the gentleman for taking this special order on this vexing, difficult issue, that all of us face.

I might say that while I am familiar with New York and lived in New York and actually worked in law enforcement on the streets of New York, this kind of thing could have happened in numerous cities throughout our country.

I share the sadness that my friend, the gentleman from New York [Mr. MOLINARI] and the gentleman from New York [Mr. GARCIA] feel about this difficult problem; but indeed, it could have happened on the streets of Miami. It could have happened on the streets of Detroit. It could have happened on the streets of Cleveland, just about any major urban area in this country, we could have seen this happen.

I would say that the drug dealers in this case, it seems to me, made a very, very serious mistake. They thought the heat was bad before this incident. When a calculated decision is made to kill a police officer, as it was obviously done in this case, you bring about a public sentiment that is so strong, as evidenced by the moving remarks of the gentleman from New York [Mr. MOLINARI], that ultimately it leads to more law enforcement, and hopefully to stronger laws to deal with this kind of problem.

I am here to endorse the position taken by the gentleman from New York [Mr. MOLINARI] and would seek an effort to try to reinstate the capital punishment in these kinds of cases, particularly when you have a premeditated type of killing of a police officer.

What kind of signal does that send to the people of your district, for example, who are afraid to go out at night, who are afraid that if indeed a police officer in uniform in a marked car can be targeted and assassinated, what is going to happen to the average citizen who has the courage to report drug sales and that kind of activity that goes on.

So the heat has really just begun. That is the message, it seems to me, for the drug dealers, the people who profit by the illegal sale of drugs.

All of us recognize, and I see the chairman of our committee here, who I am sure will make some remarks as well, but it points out the symbiotic relationship between supply and demand that all of us are aware of in the Congress and certainly on the streets.

Several of us went down to Florida just 2 weeks ago. I went down with Congressman INHOFE from Oklahoma and Congressman GALLEGLY from California to look at the interdiction efforts in south Florida with the Vice President's Task Force down there and visited the airports, saw how the drugs were being detected both in cargoes as well as individuals, and then had a chance to go out with the customs officials into the ocean on the so-called fast boats to see how the drugs are interdicted, and also to talk with people down there as to how that is going.

Actually, it is somewhat of a mixed bag. We have seen seizures increase rather dramatically. For example, over 10,000 pounds of cocaine were interdicted in 1986 and almost 14,000 pounds in 1987. Interdiction has gone up, and yet as my friend, the gentleman from New York, says, the price has gone down, which is obviously an indication that more and more of that poison is getting into this country on a daily basis, and despite our best efforts on controlling the supply side, we have seen more and more come into this country.

It is a vexing problem. It is a frustrating problem for those of us on the committee and those of us who are directly affected, and indeed, all of us are affected. I come from a district that is far different from that of the gentleman from New York [Mr. GARCIA] and that of Chairman RANGEL and that of the gentleman from New York [Mr. MOLINARI] and yet we face many of the same problems, not to the large extent as these gentlemen do, but in many cases the same kind of thing, use by school-age children. We had a case where a schoolteacher was indicted and convicted for selling cocaine and marijuana, a third-grade schoolteacher in the eastern part of my district, which is relatively a small town of 50,000 population, being the largest city in my district, and yet all of us face to some extent that kind of pernicious problem that all of us are trying to deal with.

I do not think and I do not believe my friend, the gentleman from New York [Mr. MOLINARI] means to say that we solve the problem by reinstituting capital punishment for drug dealers. Certainly that is not the case, but it does send a message. It does, and I agree with Mr. Giuliani, it does make us appear to be serious about this problem. It makes us appear at least to recognize that the loss of human life is sacred and those people who make concerted efforts to sell drugs and literally to kill our young people have to pay a price for that. Obviously, they are not facing enough of a price yet or they would not continue this kind of operation.

So we have a major task before us, it seems to me, in dealing with these kinds of issues, being tough, hopefully providing enough impetus and enough manpower and enough wherewithal to slow down on the supply side and working very hard on the demand side.

Some of the indications are relatively good. We have seen a downturn now at least at the school level, at the teenage level, in the use of cocaine and hopefully that will continue to go down; but at the same time we have seen the casual user who in many cases does not make that connection between his casual use and the drug runners and the people who kill police officers in New York City.

Mrs. Reagan, I think, very eloquently spoke of that in the White House Conference on Drugs and talked about how these people who somehow separate themselves from the drug dealers and the gangs that operate are really, in fact, bankrolling those kinds of purveyors of death that all of us are trying to seek a halt to.

So I commend the gentleman from New York on taking this special order. It is a very, very difficult time for those of you who represent New York. New York is a great city. It is full of people who genuinely are interested in the quality of life and protecting their own families, and to have something like this happen is indeed a sad day not only just for the New York delegation, but for all of us who are interested in fairness and in law enforcement in this country.

Again, I thank the gentleman.

Mr. GARCIA. Mr. Speaker, I thank my colleague.

Mr. Speaker, I yield now to my colleague, the gentleman from New York [Mr. RANGEL], who is the chairman of the Select Committee on Narcotics, a man who I have known for many years, a man who has been in the forefront of this battle and we owe him a great deal of thanks.

Mr. RANGEL. Mr. Speaker, I would like to join with the statement that has been made by my colleague, the gentleman from Ohio [Mr. OXLEY], who is one of the hardest working members of the Select Narcotics Committee, and also to take this time to thank my friend, Congressman GARCIA, for his sensitivity in reaching out to one of our fallen heroes, and that is 22-year-old rookie Eddie Byrne.

I would like to share with you for the first time the gratitude of Eddie Byrne's father. I spoke with his mother, too. He wants the gentleman to know that he deeply appreciates the sensitivity that the gentleman and the congressional delegation has shown.

I also shared with him what was taken up at our congressional delegation meeting where we intended to name the grant that our Government provides for local and State law enforcement in this fight in the name of his fallen son and this hero. I was pleasantly surprised to find out in talking with Matthew Byrnes, the father, that we had worked together in my old days as a Federal prosecutor. He felt that we were going to pick up and make certain that his son did not die in vain.

Let me say to Congressman GARCIA that it is very interesting with the experience we have had in the Congress to be able to point fingers at governments, such as Colombia, when we see that somehow the drug traffickers have almost held that government hostage as they captured its supreme court, killed some 20 judges, assassinated their minister of justice, killed their national police chief and even killed their attorney general.

Of course, there was one time they were saying that they did not have a drug problem, that it was the United States that had it, but if you could see how these drug traffickers have just torn down nationalism and sovereignty and in their best interests have managed to take advantage of the disagreement that countries have in Central and South America and even in North America, and if we take a look at what is happening in the cities with the violence, the automatic weapons, the guns that you normally see in real combat are now in the cities.

Right in the shadow of the White House we had 54 homocides in the Nation's capital just this year, most all of them related to narcotics. Who would have thought that drug traffickers would go and assassinate and execute a New York City policeman while he guards a witness in a drug case.

It just seems to me that while we have talked about the war against narcotics, that the only people who are involved against the war with the money, with the guns, with the personnel, have been the drug traffickers.

As it appears as though we are losing the war, we have not even put up the arsenal to say that we have lost.

This country is too powerful to say that we are losing the war. If you take a look and see what is necessary in a war, it would be the expertise of the generals that really organized the strategy.

We, I ask my colleagues and Mr. Speaker, is in charge of the strategy? Is it Nancy Reagan who is in charge of the strategy? Is it the Attorney General in charge of the strategy? Is is Dr.

McDonald who is in charge of the strategy?

If we are talking about hundreds of tons of drugs pouring across our U.S. border, if as the President says it is a threat to our national security, I ask the question, who is responsible for executing the foreign policy of this Nation? Is it not Secretary Shultz? Is he not the one that speaks out against terrorism, against communism, for support of the Contras?

And yet, when it comes to this national security threat, when it comes to the countries that just ignore their bilateral and international responsibilities, the Secretary of State is so solid.

But in this war, if we were going to say that a foreign force was penetrating our borders, poisoning our kids, causing the spread of contagious and terminal diseases, causing people to commit crimes so that they would just swell our prisons like they were warehouses, would not our general in charge of defense, whether it is Secretary Carlucci, whether it is Secretary Weinberger, say, "Count me in this battle."

The American taxpayers and the Congress have given us the money to develop the technology to invade Grenada, to bomb Libya. Why not take a look at our shores and our borders and say that we will back up the civilian part? Not only do we not find them, I say to Congressman GARCIA, we do not even hear from them.

Then when it comes to the question of prevention and education, because the fingers all point this way when it comes to consumption, even our great President, the Commander in Chief, when he left Mexico where 30 percent of the cocaine comes across the border, even though they do not grow it, they just let it come across, even though a majority of the opium and marijuana comes across the border, after he met with President De la Madrid and De La Madrid told him, "You know, President Reagan, that the responsibility falls on those who have the demand."

□ 1630

What did our President say?

Did he say it was a question of supply and demand?

He said, "No, I agree with you, demand has always been the problem."

Mr. Speaker, all I am asking is this: Why can we not get people to protect those borders but at the same time deal with the question of demand by saying that in this great country we have an educational strategy to reach out to our kids and our adults and the general in charge of that strategy is who? The Secretary of Education. But when one asks the Secretary what is the national strategy, he says, "zero tolerance." He wants to kick them out if they are abusing drugs.

What about prevention?

The answer to that is that it is a local problem.

What about rehabilitation? That is local.

If he is right, how about the general that is in charge of health care? Should we not go to the Secretary of Health and Human Services and say, "We are involved in a war. Some of our citizens should be ready to fight these wars, to be in the military, to be on the lines in terms of manufacturing, to be productive and not to be addicted, they need rehabilitation."

Have my colleagues ever heard from the Secretary of Health and Human Services talking about the war that we have in providing health care to those that are addicted?

Mr. Speaker, I saved my comments for this special order for the last part, and this has to do with calling upon these people in a war, and who would those warriors be? Where would one expect those soldiers to come from?

Mr. Speaker, 9 out of 10 Americans would say they would come from the Drug Enforcement Administration. I say call out the troops and ask me how many troops do we have in terms of numbers in the Drug Enforcement Administration? The number, for the record, is 2,800. Less than 300 of them are assigned to the drug-producing countries that we have relationships with. Is my Commander in Chief telling me that 2,800 soldiers are the only thing we got in this fight against narcotics? We have 1,400 Capitol Policemen just guarding us on Capitol Hill. What kind of army is 2,800 against the world?

Mr. Speaker, I believe they would say that it is not for the Federal Government to fight this war alone, that the real soldiers have to be the police on the local and State level, that these are the troops that we are sharing partnerships with, that we are cooperating with, that we are backing up with a joint task force.

Suppose I went along with that. Suppose I assumed, and I do not, that it was the responsibility of local and State police. Only 20 percent of the marijuana is grown in the continental United States, none of the opium is grown in the United States, none of the coca leaves are grown in the United States, but suppose I believed that it was still not an international problem, and that we had to depend on our local police. I would ask my colleagues what has been recommended by the administration in this war against drugs to support those warriors, those soldiers that are fighting in our cities and our villages and our towns and in our States?

Not one red cent.

The Attorney General, the Office of Management and Budget and the two offices that have testified particularly in front of my committee as well as other committees of the Congress and have said that if local and State governments benefit from the protection, let local and State governments pay for it.

I say to the family of Eddie Byrne, I say to the New York City Police Department, and I say to law enforcement sheriffs and police around the country that this Congress is not going to let Eddie Byrne die in vain. This Congress appropriated $250 million for local and State law enforcement. We appropriated some $230 million for 1988 and a similar amount for 1989 and even though it is not in the President's budget, I made a commitment to the family of Eddie Byrne that this Congress is going to protect its fallen soldiers, protect its warriors in the war on drugs, and restore those cuts.

Let me thank my colleague, the gentleman from New York [Mr. GARCIA], for the sensitivity he has shown in pointing out that this is the beginning of the war now coming onto our shores. No matter how victorious America has been in wars, those wars were always fought on somebody else's battlefield. God has been good to us that we have never had to fight in our towns and our cities or in our countrysides but the drug traffickers do not respect this tradition. They have taken the war from Burma, from Peru, from Bolivia, from Colombia and they have brought it now to our streets. The casualties are our children and now it is our law enforcement officers. Thank God there are people like the gentleman from New York [Mr. GARCIA] and Members of the Congress that believe in protecting those who are dedicated and risk their lives.

Mr. Speaker, again I wish to thank my friend, the gentleman from New York [Mr. GARCIA], for giving me this opportunity.

Mr. Speaker, on February 26 of this year, New York City and our Nation lost another soldier in the escalating war on drugs. Officer Edward Byrne was just 22 years old and was just a rookie on the city's police force when he was gunned down while doing his duty to protect a concerned citizen who had spoken out as a witness in a very important drug case.

When they fired the deadly shots into Eddie Byrne's head as he sat parked in his patrol cruiser outside the home of the drug witness, the lords of this evil enterprise were saying to us, the law abiding, right thinking, freedom loving Americans, that they were not going to be taken without a fight. They were saying to us that they are not bound by the same laws and rules as the rest of society. They were saying to us that the sale of their destructive products is far more important than law and order, peace and tranquility and our own national security.

Mr. Speaker, the U.S. Congress and the President of the United States must not let Eddie Byrne's death pass in vain. We must also, Mr. Speaker, take this opportunity to send our own message to the drug lords that we are intent on eliminating their presence in our Nation and we will not stand by idly as they peddle their wares of doom, devastation, and destruction to our kids.

If young Eddie Byrne could speak today, he would probably say to us, "Fight on, Fight on. There is plenty more work to be done. Do not stop just because you have lost me. Work till the battle is won!"

He would want us, as the responsible leaders of this great country, to send our own message to the drug godfathers and their devious agents that we are not going to sit back and allow the drug traffickers to blow the promising future that America has ahead.

I don't think that Eddie Byrne's death will be in vain. I think that in due time it will awaken us to the seriousness of the drug problem that we face in this country today. Eddie Byrne's death has alerted us to some very troubling matters that can no longer go unaddressed if America is determined to break the stranglehold of drug abuse.

The real tragedy of Eddie Byrne's death is that he himself died the other week knowing full well that he was fighting a battle that at the present time appears to be a losing one. Eddie Byrne knew that he was going into battle short on armament and deficient in support. But Eddie Byrne was long on heart and soul and determination and commitment and he made the ultimate sacrifice in the line of duty because he realized the importance of the war that we are engaged in.

Eddie Byrne was not willing to wait for the war on drugs to get the proper support that it so sorely needs, although we continue to work on that here in the U.S. Congress. He knew that the stakes were high and he knew the enemy was extremely dangerous and represented a grave threat to our own survival and well-being as a nation. Eddie Byrne knew that time was of the essence in battling this country's fascination with illegal narcotics. Eddie Byrne bravely and honorably jumped although he knew in his own mind that the parachute we gave him was not fully operational. But he jumped anyway because he had his mind on the enemy below.

At this time, it may be somewhat difficult for the family and friends that this fallen warrior has left behind to find anything positive to say or think about. It is probably impossible for many people to recognize the fact that Eddie Byrne's calling was an extremely high and noble one for which he paid the ultimate price that many are not prepared to pay.

Eddie Byrne was performing a vital service not only for New York but for the entire country.

Such tragedies have a way of unnerving one's colleagues who are left behind. But for those who wear the badge of the New York Police Department and of other law enforcement agencies around the country, I say to you that now is the time to be stronger and more resolved than ever in waging this war that stands to ruin our country from the inside.

It is a sad fact of life, but it is true that in his tragic death, Officer Eddie Byrne may be able to do more for the war on drugs than has the Congress and certainly the President. Through his death, Officer Byrne may be able to bring the issue of America's drug sickness to the front of the table where it belongs. Through his death, we may be able to finally get the proper resources to the State and local entities that they need to keep up with the high financed, heavily armed, well organized Latin American drug cartels that are breaking down the human infrastructure of America.

The President has continued to advertise that he is fighting the war on drugs. But he is not fighting the war on drugs by continuing to send Eddie Byrne and his buddies into combat without the proper armament. He is not fighting the war on drugs when he says to the soldiers in the trenches, "go ye forth, but find your own resources." He is not fighting the war on drugs when he chooses to believe, as the enemy espouses, that the real problem comes from demand in America and not from meager efforts to control the problem at the source.

For the second year in a row, President Reagan has refused to request one single penny in his budget proposal to Congress for State and local drug enforcement grant programs as provided for under the Anti-Drug Abuse Act of 1986.

You may recall, Mr. Speaker, that the Congress, in passing the omnibus drug bill, authorized the expenditure of $225 million in fiscal year 1987 and $230 million in fiscal year 1988 and fiscal year 1989 for this program to combat the rapid rise in drug flow into this country through augmenting our State and local efforts.

Mr. Speaker, I offer my deepest sympathies to the Byrne family. I feel the loss for each and every officer of the New York City Police Department. My heart goes out to all the law enforcement officers in this country engaged in the daily struggle with the drug abuse monster.

I hope each of these front-line soldiers in the war on drugs will realize that many of us are appreciative of the work that they do. And I hope that my colleagues here in the House will take it upon themselves to get Eddie Byrne's buddies the help that they need and deserve to turn back the treacherous tide of drug trafficking that is threatening to overrun our country.

Eddie Byrne may have died valiantly as a hero. He may have given his all. But Mr. Speaker, I don't think that any of us wants to allow another Eddie Byrne to happen. We need people like Eddie Byrne out on the street. Not in the grave.

Mr. GARCIA. Mr. Speaker, I wish to thank my friend, the gentleman from New York [Mr. RANGEL], in behalf of all of us for his leadership on this issue.

Mr. Speaker, I would just like to say in closing to the family of Edward Byrne that there are those of us who take this floor very often on whatever the issues are, sort of jack of all trades and master of very few, but I want him to know, and the family to know that never in my 55 years on this Earth have I ever witnessed a crime as senseless and as cold-blooded as the loss of their son. Those of us who come out of cities know in our lifetime that we probably have witnessed so many crimes of so many different types, but I would hope that the loss of Eddie Byrne has not been in vain and that the men and women of this body understand that the battle has been going on and as far as I am concerned it is just now beginning and that all of us, whether we come from a city of 8 million or small town or hamlet of 1,000 or 5,000, that all of us are affected by the loss of Edward Byrne.

Mr. Speaker, to that end I invite all of my colleagues, because as everyone can see, the seats here are empty now, but what they do not know is that we have television monitors in our offices and an overwhelming majority of Members are watching what takes place on this floor. I hope that my colleagues, the men and women of this Chamber, would take advantage of the 5 days to revise and extend remarks for the family of Edward Byrne delineating what I believe they deserve, and that is recognition of a fallen son, a person who was there to protect us.

Mr. Speaker, at this time I wish to yield to the distinguished gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Speaker, I want to congratulate my colleague, the gentleman from New York [Mr. GARCIA], for taking this special order, and I want to say that the death of Patrolman Edward Byrne has certainly set in motion a number of activities which I hope will guarantee that he has not died in vain.

The death of Patrolman Byrne upset and shocked all of us because it showed that the drug trafficking, the drug mob, the South American drug mob had reached its tentacles into New York City and for the first time delivered a warning blow to the criminal justice system. They have said, "We will take you on, too."

We have had the influence of drugs as a problem within the law enforcement system for some time. We have had corrupt law enforcement agents. Unfortunately, in my district, in the 77th Precinct we had an exposé of an outrageous situation where for some years corrupt policemen had been shaking down local drug dealers and the policemen themselves dealing in drugs that they obtained from the drug dealers in this illegal way.

We have had a number of cases which alluded to that. For example, the Larry Davis case in the Bronx which will soon be prosecuted is but one example. In that case Larry Davis is charging that policemen attempted to murder him because of the fact he was one of their operatives in a long-standing drug ring in the South Bronx.

This is nothing new to many of the countries in South America. The influence of drugs is not new to them.

The influence of the South American drug mob has reached right into the capitals and right into State houses, and has reached right into high-level judicial operations and they are used to that type of thing. What we are not used to here is the fact that drugs can have that kind of power.

The South American drug mob can have that kind of reach, and they have proven it. The one thing I would like to add to today's proceedings is that in one case, in the case of Haiti, we are determined, it appears, to ignore the fact that the failure of democracy in Haiti, the murderous destruction of an attempt to build democracy in Haiti was directly related to the South American drug mob and the drug trade. Nobody wants to own up to the fact that the person who masterminded the November 29 massacre in Haiti, where people who went to the polls for the lone purpose of voting, were shot down in cold blood. That was directly related to the power of the South American drug mob.

The man who organized the massacre was Col. Jean Claude Paul, commander of the Dessaline battalion in Port-au-Prince. Col. Jean Claude Paul has for years been a major operative in the trafficking of drugs in Haiti.

Colonel Paul, I am happy to announce, in the next 48 hours will be indicted, based on a very good source that I have, will be indicted by a Federal grand jury in Miami. The Federal grand jury in Miami will indict Col. Jean Claude Paul, as they have indicted General Noriega. For the first time we are beginning to see a direct connection with what happens to our young people on the streets to the kind of suffering families have to go through as a result of this addiction. We have begun to see how Mickey Mouse some of the arguments about drying up the demand are in order to stop the supply. Supply and demand are closely related, of course, and if we are going to let the South American drug mob continue to operate with impugnity, they will bring in so much supply such that there is nothing one can do to stop the drug trafficking. There is nothing one can do to stop demand. They create their own demand. They create entrepreneurs, people who get other young people addicted in order to have a market for their product. If so much of it flows in, they can lower the price, as a matter of fact they can give it away for temporary periods of time.

Unless we stop the supply, we are never going to be able to stop the pernicious influence of the drugs in our society.

Haiti, and the absence of democracy in Haiti, is a serious question. The position our Government takes is directly related to our posture with respect to seriously attempting to end the flow of drugs into the United States to help in ending this problem.

The White House Conference on Drugs, if it is to have any meaning, must be backed up with action showing that we will not stand by and let our Department of State recognize the Government of Haiti as presently situated. The Government of Haiti is now under the control of a drug commissar, the Government of Haiti will be a greater and greater source of drugs flowing into this country because the man who is in command and is the commissar representing the South American drug mob is the man in command of the government in Haiti, Col. Jean Claude Paul.

Col. Jean Claude Paul went to the inauguration activities of Les Manigat. Jean Claude Paul went there with a submachinegun. He wore a submachinegun as he stood on the platform with the other dignitaries.

Mr. Speaker, without a doubt that was a recognition that he is the man behind the present Government of Haiti.

If Jean Claude Paul is indicted, and if we are serious about ending the flow of drugs through Haiti, then the entire Government of Haiti has to be examined. We cannot afford to let our Department of State take the step of recognition of the Government of Haiti. We have to call for stronger and stronger sanctions against the Haitian Government. We have to be consistent, we have to indicate to the whole world that we are serious about stopping the flow of drugs into this country. We are not going to accept any more Mickey Mouse solutions. We are going all-out with full authority of the U.S. Government using it to stop the drug traffic and end the power of the South American drug mob.

Mr. GARCIA. Mr. Speaker, I appreciate very much the remarks of the gentleman from New York [Mr. Owens].

Mr. Speaker, I yield to my friend and colleague, the gentleman from Nebraska [Mr. Daub].

Mr. DAUB. Mr. Speaker, I thank the gentleman from New York [Mr. Garcia] for yielding me this time. It is a special time, I say to my colleague in the well, who first should be by all of us commended for his hard work, the diligence, and outstanding effort he has made in this important issue for all of us to further appreciate this war on drugs, and the criminal difficulties that are being propelled by our seeming from time to time unwillingness to come to grips with some of the things that we ought to be doing to win this war on drugs.

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Mr. Speaker, my friend, the gentleman from New york [Mr. Garcia], should be complimented for the work he has done, and particularly this evening for taking out this special order.

The problem of drugs in America has not disappeared. In 1986, the gentleman from New York and this Congress spent numerous hours in committee and on the floor answering the growing cry that Congress do something about drug trafficking and drug abuse. Congress made a commitment in 1986 to State and local drug enforcement efforts for 3 years. We need to stick by that commitment.

The complexion of drug trafficking is changing. Whether it is powerful drug lords or national gangs, more and more organized drug retrafficking is taking place.

What State and local assistance means is more narcotics officers to investigate drug trafficking, more communications and surveillance equipment and the reduction in other crimes by reducing drug trafficking, breaking the cycle of committing crimes so that they can afford, for example, in Omaha, NE, to buy what has become street popular, the cocaine and other items which we are talking about.

The request for zero funding needs to be challenged as we continue to lose this war on drugs. But we need to go further. Diplomatic efforts with drug-producing countries need to be undertaken, and a bill introduced today, H.R. 4115, to absolutely revoke the pilot's license for offenders.

The bill is very simple. It basically prohibits the FAA from reissuing a pilot certification to any individual who has had his license previously revoked for a drug-related offense. Current law allows that pilot to regain a license lost in this manner after 5 years.

Although the measure passed the full House last year, it did not remain in the conference agreement. It was a good idea then, and it is a good idea today.

I believe, in addition, we need national uniform, determined and fixed tough sentencing policies that affect not only New York City or Los Angeles, CA, but Omaha, NE, and the smaller communities of all of our States.

If these people we are talking about knew from the beginning that they could not get away with piloting or boating or in any other way send drugs into our playgrounds that are killing our kids and providing a wrecking ball for families and communities, depriving us of our ability to be competent and literate and productive as an American work force, and if they knew in advance that just getting caught and convicted of the fact of having participated in the sale or trafficking or retrafficking of drugs in this country, and that we were going to literally throw away the key with no mercy from our system of justice regardless of your lawyer or whether or not your mother is ill, then we would go a long way toward solving this problem.

It is not going to happen, in any event, without the concern of the gentleman from New York [Mr. GARCIA] being met, and that is funds being provided for our local law enforcement, at least, that is a real positive step in the right direction.

I applaud the gentleman for the time he is taking this evening and the work he is doing.

Mr. GARCIA. I thank the gentleman from Nebraska for his statement. Mr. Speaker, I yield to my colleague, the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I thank the gentleman from New York for yielding.

I, too, wish to congratulate the gentleman from New York for the stellar job he has done in enhancing our Nation's efforts over the years to get control of this monster that is devouring our children and for his effort and leadership in bringing this special order today. need to attack the demand side of the drug problem.

Mr. Speaker, the assassination of New York police officer Edward Byrne by drug traffickers and the pervasive availability of illegal drugs in every city, town, and hamlet of our Nation is a clear signal that we are losing the war against drugs.

Officer Byrne's father hit the nail on the head when he said that the streets of our Nation are becoming as lawless as the streets of Beirut and Bogota.

Certainly we must maintain our current efforts to eradicate drugs in the source countries and interdict drugs crossing our borders.

But law enforcement officials, backed up by statistics, have realized that the only effective way to stop drug trafficking is to quell the demand for drugs in the United States.

Col. Ralph Milstead, director of the Arizona Department of Public Safety, is one of those law enforcement officials who stress the need to attack the demand side of the drug problem.

Milstead, testifying before a January, 1986 field hearing of the House Select Committee on Narcotics Abuse in Tucson, said:

> Ultimately, there will be no victory in the war on drugs until American attitudes undergo a fundamental change.
>
> The solution lies not in reducing supply, but in reducing the demand for drugs. The time has come for a nationwide intensive education program designed to combat the demand side of the problem.

Colonel Milstead told the committee that—

> These programs must focus on the prevention side of drug abuse through education aimed directly at the new generation of potential users and their parents.

Mr. Speaker, no matter how many billions of dollars our Nation has spent over the years—or will spend in the coming years—to stop the flow of drugs across our borders, we have never succeeded—and will never succeed—in interdicting more than 10 to 15 percent of the supply.

Recognizing this fact, Colonel Milstead said, "let's work on the demand side, rather than keep pouring money on the supply side."

In his distinctive Southwest style, Milstead described the situation this way, I liken it to killing a snake tail first. We ought to start at the head and the head, of course, is the demand.

Mr. Speaker, ending the enormous demand for drugs in this country will not occur overnight.

We must mount a massive education campaign that begins at the elementary school level to convince our youth that drugs are bad.

If we can eliminate the appetite for drugs among America's potential young users through behavior modification, the profit motive for drug traffickers will decline gradually.

We have succeeded before in modifying American behavior. Witness our success in changing behavior concerning diet, tobacco use, alcohol use, and sex.

Mr. Speaker, we must conduct a behavior modification campaign that involves our schools, our churches, our neighborhood civic organizations and, above all, parents.

Unfortunately, the Federal Government has failed to meet the drug education challenge.

Prior to Congress' enactment of the Omnibus Drug Act of 1986, the Department of Education's budget for drug education was a mere $3 million—amounting to about one-tenth of 1 percent of the agency's total budget.

Even today, the $250 million earmarked for drug education in the Education Department's 1989 budget equals only 1 percent of the total agency budget.

Given the pervasive nature of our drug abuse problem and its crippling effects on the ability of our youth to learn, to work, and to lead meaningful, productive lives, one would think that more of our Federal education budget would be devoted to drug education.

Our Nation will never solve our drug abuse problem unless a massive infusion of resources is targeted at ending demand through drug education.

If we kill the demand for drugs, the supply will vanish.

If the demand flourishes—and it will unless we make major education efforts—we will never halt the flow of drugs across our border and the trail of violence and despair that drug traffickers leave behind.

Mr. GARCIA. Mr. Speaker, I thank my colleague from New York for his statement.

Mr. FASCELL. Mr. Speaker, for the first time in many years, a Government-sponsored study has been released which offers what may be some good news in the war on drugs. The University of Michigan's Institute for Social Research has issued its annual survey for 1987 which shows the first drop in demand for cocaine among adolescents and young adults in years. The survey also offers encouragement that the use of "crack" may have leveled off in 1987.

This report provides us with the first encouraging news we have heard in a long, long time. Despite this good news, we seemingly deluged continually with new, more horrifying stories detailing the extent to which drugs have infiltrated our communities, our schools, and our neighborhoods. Most notably, the inextricable link between drug use and crime in this country represents a growing threat of violence which we cannot ignore.

The National Institute of Justice's drug use forecasting system has recently released a study confirming the close link between crime and drug use in the United States. According to the results of this study, not less than half of those tested in any of the selected cities tested postive for at least one illegal drug. At least 70 percent of the suspects arrested in six major U.S. cities tested positive for drugs.

This study also found that drug use by criminal suspects far exceeds the estimated use in the overall population, where some studies have demonstrated that drug use is leveling off. The chairman of the Select Committee on Narcotics Abuse and Control has correctly pointed to the significance of this statistic as a growing threat to the stabilization of our communities and to the criminal justice system.

As I have argued in the past, narcotics trafficking and substance abuse constitutes a war on our society, and it is up to us to fight back. I have long been supportive of efforts to increase the Federal commitment to drug interdiction efforts, as well as to reduce the supply of these drugs in this country. The results of the greater Federal commitment to narcotics interdiction and cooperative efforts over the past several years has been illustrated in increased successes by the drug enforcement agencies. What these figures also detail, however, is that the drug smuggling crisis is far, far worse than we had thought.

The Reagan administration has, for the first time in 7 years, submitted a budget request to Congress which suggests increased Federal funding for most drug interdiction programs and agencies. Noticeably absent, however, is any funding at all for State and local law enforcement efforts, a program which the administration has consistently tried to eliminate. This program is a crucial part of coordinated law enforcement efforts in south Florida and throughout the country, and it is one which we must not abandon. State and local law enforcement officers are our first line of defense in the war on drugs.

While I continue to believe that demand reduction is the only real solution to the drug problem, we must continue to work in the international arena to reduce supplies wherever possible. Numerous hearings held by the House Foreign Affairs Committee's Task Force on International Narcotics Control have outlined the obstacles we face in this effort overseas: rampant corruption in source and transit countries; drug production areas which are not controlled by host governments; and weak judicial systems.

The House Foreign Affairs Committee continues to try to address these problems. For example, we required the U.S. State Department and the Drug Enforcement Administration to share information with each other to prevent drug traffickers from getting visas to come to the United States. The committee mandated that all DEA overseas offices have at least two agents, approved authorizing legislation which increased the resources available to the State Department for overseas antinarcotics efforts, and directed all U.S. embassies to pursue updated extradition treaties covering narcotics violations. We have also worked to improve the management of our U.S.-assisted programs, to ensure that U.S. taxpayer dollars are spent effectively.

Recent developments in Latin America have shown the power of international drug cartels. They are capable of undermining, subverting, and controlling governments. I believe that the cartels are an increasing threat to the security not only of the United States, but also of the emerging democratic governments of the region. We must therefore increase our efforts to assist those governments.

Finally, and perhaps most importantly, we must be continually aware of the need to renew our commitment to the education of our young people about the dangers of drug abuse. Our society has been far too lenient in accepting recreational drug use without regard for the harmful effects these substances can have when abused. All of our efforts to detect and interdict drug smugglers are futile if the demand for illegal drugs remains constant. While protecting ourselves from enemies outside our borders, we cannot allow our country to destroy itself from within.

Ms. PELOSI. Mr. Speaker, as the war against drugs in this country has grown more violent, it has become clear that we must reevaluate our national drug policy. State and local drug enforcement officials are finding themselves hopelessly outnumbered by drug traffickers. Dealers who are arrested are frequently able to post bond with the money made through the sale of narcotics, and be back out on the street within 3 hours. The situation has become so serious that we can no longer expect a single city or State police force to effectively combat this major national problem.

The increase in drug-related crime corresponds directly with a rise in the availability of cocaine. The cocaine problem has been worsened by the introduction of rock or crack. Crack has become readily available, is relatively inexpensive, highly addictive, and the dealers, many of whom are juveniles, make a substantial profit. These combined factors demonstrate why this drug poses such grave danger.

While crack has attracted most of the headlines throughout the country, San Francisco and other urban areas have also seen an increase in the rate of other "dangerous drug" offenses. In the last 5 years in the bay area we have seen a 439-percent increase in dangerous drug offenses, a 245-percent in drug related emergency room treatment, a 181-percent increase in the number of heroin related arrests, and an 87-percent increase in the narcotics caseload in the city's crime lab. Since 1980 there has been a disturbing increase of over 400 percent in cocaine overdose deaths.

Our system has been overwhelmed by these increases: We cannot expect our local and State officials to combat this program alone. We can no longer guarantee the safety of our city streets, too often we see innocent people caught in the crossfire of this all-out drug war. It is time for a new, more aggressive approach to cut the supply of these narcotics. Our Customs Service and Coast Guard must play a greater role in monitoring our ports of entry to guard against this menace.

Drugs now pose the most serious threat to our national security; it is time to act. We simply cannot stand idly by while people are lost in the fight to clean up our Nation's cities.

Mr. ACKERMAN. Mr. Speaker, President Regan has proclaimed that the war on drugs "is an untold American success story," and the use of illegal drugs "has already gone out of style in the United States." I don't think the parents and brothers of Officer Edward Byrne, who was brutally murdered by drug dealers while guarding the home of a crime witness in South Jamaica, Queens County, NY, would agree with the President. Nor would millions of residents and law-enforcement officers from communities across the Nation.

By now, most people have heard about the fate of Officer Byrne. The 22-year-old rookie was slain by an assassin who ambushed him as he sat in his patrol car attempting to protect a South Jamaica man who had complained to police about cocaine dealing in his neighborhood. Four men have been charged with the execution, which police believe was ordered by a cocaine kingpin who is serving time at Rikers Island for weapons offenses and awaiting trial in the killing of a parole officer.

Despite President Reagan's declaration last week at a White House Conference on Drugs that "the tide of battle has turned, and we are beginning to win the crusade for a drug-free America," it is obvious that efforts to curb the sale of illegal drugs are not working. Drug dealers, once fearful of killing police officers, are accelerating their campaign of intimidation to put law-enforcement officials on notice that they will continue to operate above the law, and are warning neighborhood residents to keep their mouths shut and accept dealers as local businessmen. The assassination of Officer Byrne poignantly reflects the immediate need to fund State and local drug enforcement under the Anti-Drug Abuse Act of 1986.

It is astonishing that in the wake of the recent explosion of drug trafficking and drug-related crime, the President's budget request for 1989 provides no funds for State and local drug enforcement. This is the second consecutive year that he has failed to provide support for local enforcement efforts since calling for "a national crusade against drugs." The administration's sharp reductions in funds for drug enforcement seriously calls into question the depth of its commitment to an effective drug-abuse strategy.

Further, one must ask why the administration not only continues to maintain friendly relations with countries that blatantly tolerate drug-financed corruption, but persists in providing massive amounts of economic aid to those nations as well. The President wants Americans to "just say no to drugs," but he still says yes on the diplomatic front.

In response to a nationwide outburst of anger over the rising tide of narcotics flowing into the United States, in 1986 Congress passed a comprehensive antidrug abuse bill. I strongly support this measure, which authorized $1.7 billion for a wide variety of programs designed to strengthen the enforcement of drug laws, stem the flow of illegal drugs into the Nation, increase penalties for illegal drug activities and assist drug edcuation and teratment to prevent drug abuse.

Although the President hailed the legislation when he signed it into law, his retreat from supporting the bill's provisions in his recent budget plan is both shocking and unacceptable. That is why I have joined my colleagues in the New York delegation in sponsoring a resolution to officially commemorate officer Edward Byrne's contribution to fighting the drug war, and urge that the State and local funding portion of the Anti-Drug Abuse Act of 1986 be fully funded and named after Officer Byrne as a tribute to the ultimate sacrifice that he has made. The resolution is aimed at encouraging President Reagan to amend his fiscal 1989 budget to provide desperately needed funds for State and local law enforcement.

Mr. Speaker, I am proud to take part in this effort to help rid America of drugs. I urge my colleagues to join me in supporting this resolution to officially commemorate Officer Byrne's struggle against the drug insurgency that has swept across the country, and emphasize the urgent need to support State and local law enforcement as called for in the Omnibus Drug Control Act.

Mr. WEISS. Mr. Speaker, I wish to thank my colleague, Robert Garcia, for organizing this special order so that we might reaffirm our commitment to halting the influx and abuse of illegal drugs.

Two years ago we adopted sweeping legislation to combat the war on drugs. With beefed up police forces and comprehensive education and rehabilitation programs, we hoped to wage a strong counterattack. While we can claim some success, as evidenced by increased narcotics seizures and arrests of drug traffickers, those increases, we now realize, are but a small indicator of how ominous the situation has become.

It is encouraging to know that fewer of our young people report using drugs. But, there are still far too many young lives wasted by addiction. And there are still far too many innocent people threatened by drug-related crimes.

We in New York are painfully aware of the effects drugs can have on a community. In more than 30 years as a prosecutor, city councilman, and Congressman from Manhattan and the Bronx, I have seen, firsthand, the devastation wrought by drug abuse. The brutal assassination last month of a young New York City police officer serves as a sobering reminder of just how extensive and serious the problem is.

We cannot let Officer Edward Byrne's death be in vain. We cannot allow the continued destruction of so many communities and so many lives. We must, once again, seek the upper hand in this ongoing and serious battle.

The effort to stop the international drug trade must become one of our Nation's top foreign policy priorities. Last week, I joined a number of my colleagues in sending letters to President Reagan and Secretary of State Schultz urging them to adopt this posture. The Secretary of State has never spoken publicly on the drug issue. And, while the President's budget request for 1989 for narcotics enforcement is an improvement over last year's, without a unified, comprehensive approach to the problem, our best intentions are doomed to failure.

It is absolutely essential that we deal forcefully with countries involved in the drug trade and do all we can to encourage their compliance with our efforts. Economic sanctions must be employed against those nations whose drug control efforts are not forthcoming. As we have seen time and time again, drug crimes committed in Colombia and Panama are only a precursor of crimes committed in Miami, Washington, DC, Los Angeles, and Detroit. There is too much money involved and there are too many lives being lost.

The downturn in drug abuse by high school seniors, including the decline in cocaine use, as reported by the Secretary of Health and Human Services, is an encouraging sign of the benefits of early intervention and education. These efforts must continue. And, we must not only continue, but greatly expand, opportunities for rehabilitation for drug addicts. The spread of AIDS by heroin addicts to each other and their children places a tremendous burden on a health care system struggling to cope with this insidious disease.

The battle against drugs must be waged on many fronts, foreign and domestic. It will not be won with passage of one piece of legislation or with the repetition of one rhetorical phrase. It will take the commitment of all of us, working together, speaking out, spending money, helping those in need, and exerting pressure. We cannot allow ourselves to rest, and we cannot claim victory when victory is not ours. It will take a long time. But it must be done.

I call on my colleagues to recommit themselves to doing everything that is humanly possible to save our Nation's most fundamental treasure—our youth—and end this national scourge of illegal drugs.

Mr. TOWNS. Mr. Speaker, all across our Nation signs, that the incidence of drug abuse among our Nation's citizens is on the rise, are evident everywhere. One of the areas where we are seeing the effects of this escalation is in the rising crime rate.

As a member of the New York City congressional delegation, I have been particularly touched by the drug related shooting of one of New York City's finest, Police Officer Edward Byrne. Police Officer Byrne, a 22-year-old rookie, was fatally shot on February 26 as he sat parked in his patrol car in Queens, guarding the witness in a very important drug case.

The death of Officer Byrne forces us to recommit ourselves fully to the war on drugs. We cannot sit idly by and watch as our streets, our neighborhoods, our communities, our cities, our country are taken over by the drug world.

Yet, even as we mourn the death of Officer Byrne, we can find some consolation in the fact that his assailants have been apprehended and are in policy custody.

Similarly, we can find encouragement in the fact that some of our citizens are taking the war on drugs seriously, and are doing their part to remove the scourge of drugs from their communities. Following is an article which appeared in the New York Daily News on Monday, March 7, 1988, which tells the story of one such community, which I am proud to say is located in my congressional district. I commend this article to the attention of my colleagues.

The article referred to follows:

Muslims Crack Down

(By Don Singleton)

"Two months ago, there were 15 crack houses along this stretch, and dozens of pushers," says Imam Siraj Wahhaj as he stands at Bedford Ave. and Fulton St. in Brooklyn and gestures toward Franklin Ave., two blocks west.

"Now, there's no drugs at all," Wahhaj says with a pleased smile.

Wahhaj and the men from his Masjid At-Taqwa Mosque have done what people in scores of drug-paralyzed New York City neighborhoods have tried and failed to do—they have kicked the pushers off their streets.

And the gentle-sounding Sunni Muslims say they'll gladly show people in any neighborhood how to do it.

The Muslims' two-block stretch of Fulton St. in Bedford-Stuyvesant certainly doesn't look special.

Looking west from the mosque at 1266 Bedford Ave., what you see is many buildings standing abandoned, their lower floors boarded up, their upper windows gaping open. Several storefronts are occupied.

DEALERS REIGNED

But if the two blocks are not fancy, they are peaceful. Some children walk by on their way home from school.

"See where those people are waiting for the bus over there?" says Abdul Shakur Jaluddeen, Masjid At-Taqwa's security director. "That boarded-up building was one of the crack houses."

"Two months ago, this was full of crack dealers," Wahhaj says.

The difference between then and now, everyone agrees, is the patrols the men of the Masjid At-Taqwa Mosque began seven weeks ago. "The police closed the places, the community kept them closed," Wahhaj says.

"Before, the police did what they could. They raided the crack houses, but they were always open again the next day. It led to so much frustration."

A year ago, Wahhaj's group tried taking matters into their own hands a different way. Invited by a building owner, the Muslims ejected 10 people they identified as pushers and prostitutes. For their trouble they were arrested on charges including menacing and weapons possession, charges Wahhaj is still fighting.

A year later, things were different. On Jan. 20, narcotics police raided the crack houses near the mosque. The following day, the anniversary of last year's arrests, the mosque sponsored a big rally. And the day after that, the patrols started. Men from the mosque reclaimed the street. A couple are off-duty correction officers and court officers licensed to carry pistols.

To the amazement of many, it worked.

"For the first few days, we would just stand in front of the locations," Wahhaj said. "Anybody tried to go in, we told him, 'This place is closed.' Anybody came around looking to buy, we told him, 'No drugs are sold here any more.' They'd just go away—people don't like to do that kind of business with somebody standing there looking at them."

Why were the mosque's patrols successful, when so many other community groups have failed to rid their streets of drugs?

"IT IS WORKING"

"I don't know if I can tell you exactly why, but it is working, because those spots are closed," says Capt. Thomas Baumann, commanding officer of the Tompkins Ave. stationhouse. "If you go over on Bushwick Ave. in Bushwick, there's at least one mosque near Broadway. The people from the mosque create a presence. They're identifiable—they have white robes."

Mr. GREEN. Mr. Speaker, I join my colleagues in their concern over the ravages the illegal trade and use of drugs have inflicted upon this country. While there remains much that the Congress and the administration can do to fight the war against drugs, it is clear that State and local governments must be effective partners. I would like to share with my colleagues some of the obstacles faced by my district in getting Federal drug abuse money. The problems with the allocation process my district confronts may well be similar to those faced in other States.

My office consulted with staff members at the New York State Division of Substance Abuse, the New York State Division of Criminal Justice Services and the Office of the Criminal Justice Coordinator in New York City. These are the three offices through which Federal funds appropriated under the Anti-Drug Abuse Act of 1986 are channeled to New York State and City for anti-drug abuse efforts.

First, let us look at the area of prevention and treatment. In October 1986 when the Anti-Drug Abuse Act was signed into law, it established a $162,855,000 Alcohol, Drug Treatment and Rehabilitation Emergency Block Grant [ADTR]. New York State's share of this was $13,459,000. Several staffers at the NYS Division of Substance Abuse [NYSDSA] agreed that any money that is available is readily accessible but they pointed to two problems: First, not enough money to provide services to all who need them and second, a Federal prohibition on using anti-drug abuse funds for capital projects.

A Congressional Research Service report entitled "Drug and Alcohol Abuse: Prevention, Treatment and Education," analyzed funding levels for the Alcohol and Drug Abuse block grant found "* * * although there have been small increases in block grant funding since 1982, funding in absolute dollars for alcohol and drug abuse programs is still lower than the 1981 level and substantially lower than for 1980 and before * * * in terms of 1985 constant dollars, the level of Federal funding for alcohol and drug abuse prevention and treatment programs is less than half of the level of funding provided 10 years ago." There is a legitimate claim that funds have not kept pace with the need and in the current budgetary environment many areas such as housing, health and education, can also make the same claim. However, the AIDS epidemic should be reason enough to justify more money going into anti-drug abuse efforts.

The people at NYSDSA also see as an obstacle to their efforts the Federal prohibition on use of funds for capital projects. They would like to see funds made available for physical plant expansion and renovation for more treatment slots. They are desperate for more space. New York State says it is putting up as much money as it can, and this year, for the second year in a row, it is providing some money for capital projects, but it says Federal funds are needed for this purpose.

Questions have been raised concerning the amount of time it takes for funds to get from the Federal Government to the State and localities, and the research done by my staff sheds some light on this process. Although the ADTR block grant was established in October 1986, in order for New York State to apply for funds, it had to follow certain procedures that are mandated by State law, including: review of the application by a 12-member panel and public hearings and approval of the ADTR budget by the legislature. The ADTR funds were to be divided in the following manner: 45 percent allocated to the States on the basis of population and 55 percent allocated on the basis of "need." The States could apply immediately for the funds in the 45 percent portion. However, the 55 percent portion could not be distributed until the Secretary of Health and Human Services developed an allocation formula to determine need and the States had an opportunity to comment on the proposed formula. This process took approximately 5 months. Perhaps this process could be streamlined but one must ask, "Is 5 months an inordinate amount of time, in view of Federal and State requirements, to get the show on the road?"

I also wish to bring to my colleagues' attention a procedure that may lead to an inaccurate reading of a State's need for use of funds. Federal funds are "drawn-down" or paid to the State only after the services are delivered. So, while the draw-down figure for New York State as of November 30, 1987, is zero, this does not mean that programs are not in place. In fact, HHS has informed me that the $13,459,000 awarded to New York State is completely obligated—contracts have been signed with service providers—but Federal funds are not paid out until the State submits a bill. So, it is important that the draw-down figures alone not be used as an indication of a State's need for Federal funds.

Let us now take a look at Federal antidrug funds for law enforcement. Under the Anti-Drug Abuse Act of 1986, $225 million was appropriated nationwide for State and local drug law enforcement grants. The announcement of these grants appeared in the Federal Register on March 19, 1987. New York State's share was $11.5 million. This money is channeled to the localities through the New York State Division of Criminal Justice Services [NYSDCJS].

Again, New York State law requires legislative action to authorize the receipt and appropriation of Federal funds before the funds go to localities. That legislative action took place in July 1987 and NYSDCJS then sent letters to counties and municipalities asking for concept papers by mid-September. On October 1, 1987 the State received notification that it had qualified for $11.5 million, and NYSDCJS sent out a request for formal proposals from localities to be submitted by December 18, 1987. According to a staff person at NYSDCJS, as of January 11, 1988 it had not received a concept paper or proposal from New York City. The staffer at NYSDCJS speculated that the reason for this might be that New York City objects to a requirement legislated by the State that requires the city to provide increased funding for defense costs if they choose to use the enforcement funds for prosecution.

NYSDCJS' request for proposal went to the Office of the Criminal Justice Coordinator in New York City. When my staff contacted that office, CJC spoke of the difficulty of keeping track of what has to be done and who has to be contacted to apply for grants. They also told us that their attempts to follow up on the Federal Register announcement proved futile. They expressed a desire to be able to apply directly to the Federal Government for grants rather than having to apply through the State.

My research into the allocation of the enforcement portion of the antidrug abuse funds revealed that while the State and city would like to see more Federal funds appropriated for antidrug abuse efforts, there is more dissatisfaction on the part of the State and the city toward each other. Time constraints did not allow me to pursue this matter any further but it is my understanding that Senator D'AMATO has requested a GAO investigation of the allocation of Federal antidrug abuse funds. That study should shed more light on the obstacles faced by localities in obtaining funds.

To answer the question of what role Congress can play in resolving the "not in my backyard" problem of neighborhoods that do not want drug treatment facilities, I must say that I do not see a role for Congress. This problem is more properly addressed at the State and local level since it concerns local land use matters. It is up to the State and local governments to agree on sites for drug treatment facilities. I would suggest that if local land use review processes prove too restrictive to address the problem expeditiously, perhaps the State must be given the power to override local objections concerning drug treatment facilities. I believe there is a precedent for this in New York State in the case of the New York State Urban Development Corporation which has the right to override local zoning measures. New York and other States might want to look at this example to see if it is applicable to the issue of increasing drug treatment services.

THE NATHAN REPORT DISTORTS THE FACTS AND IGNORES REALITY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

Mr. **GAYDOS**. Mr. Speaker, I am very happy to yield to the gentleman from New York [Mr. MANTON].

THE CONTINUING WAR ON DRUGS

Mr. **MANTON**. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding. I will try to be brief.

I want to compliment my colleague from New York [Mr. GARCIA] for organizing this special order, particularly since it involves the tragic death of a young officer, Edward Byrne, Patrolman Edward Byrne, of the 103d Precinct, who was assassinated execution style on February 26 at 3 a.m.

I feel a special affinity to this case having served as a New York City police officer myself at age 22, and to see this young man's life taken away from him in a situation where he represented really the State of New York, he represented society, sitting in a marked radio car in full uniform, not in a combat situation, but rather in a situation where he was guarding the home of a witness, a brave witness, I might add, who had come forward to complain about narcotics operations in this particular neighborhood and whose house was twice firebombed, to try and intimidate that person as a witness, and Officer Byrne was simply there protecting society, protecting this witness from being intimidated or in any other way harmed.

This was a great tragedy, and I am happy to announce for those that are not aware that four young men who were involved in the crack trade have been indicted just this past week for that homicide.

I want to announce myself and Senator D'AMATO are announcing this week a bill which will call for the death penalty under Federal law for the assassination or killing of a law enforcement officer where the situation is drug-related, and, No. 2, that bill will provide for the death penalty for anyone who is involved in a system of criminal enterprise where any citizen is killed as a result of their orders or their acts, so that we think that the time has come for drastic sanctions to say to the world and to those who would traffic in this poison which is killing our youth all around the country; it is a No. 1 problem in New York City, a No. 1 problem in my county of Queens where Officer Byrne was killed.

We deplore the fact that in the President's budget this year there is called for no money for State and local drug enforcement, and we implore all of our colleagues to see to it that this does not happen.

In New York City, we have 200,000 users of heroin out of 600,000 in the United States. It is estimated that there are 30 million users of cocaine on an occasional basis and 6 million who use it regularly. I think that this is a national disgrace. We must deal with it with harsh measures as well as has been stated here before, rehabilitation of those who have fallen prey to drugs, and interdiction, foreign-policy initiatives, education and all the things that must be coordinated in order to deal with this menace.

□ 1700

So in closing I thank my colleague, Mr. Garcia for organizing his special order.

Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. Gaydos] for yielding some of his time so that I may speak.

Our hearts go out to Officer Byrne and his family and we hope that that is the last time that such a tragedy will happen in our society.

Mr. GAYDOS. In conclusion to my colleagues' remarks, let me say Mr. Garcia has been on that committee since its inception, along with Congressman Rangel of New York.

Being on the Committee on House Administration, we fund the Select Committee on Narcotics Abuse and Control. They have done such a credible job. We know from comparisons with other committees that some committees come and go but this select committee has done a yeoman's job and we hope that it will continue because it has done such an excellent job and we wish in the future that we could fund them even more effectively. Maybe that will come about.

Mr. Speaker, I want to congratulate Mr. Garcia for taking the time to put those remarks into the Record.

Mr. Speaker, considering all of the debate on H.R. 162, you would think that worker risk notification was some revolutionary new idea.

Well, it isn't. Many American companies have run successful notification and medical monitoring programs for years.

Why do companies create notification and medical monitoring programs? It's simple—these programs save them money and keep their workers healthier, happier, and more productive.

Pennzoil is one of those companies which realizes that money spent on worker health programs is an investment which makes good business sense. Three years ago they started a cancer screening and education program for their 4,900 employees across the country.

So far, Pennzoil has spent about $100,000 on the program and 14 malignant conditions have been diagnosed and treated. If even two of those individuals had not been diagnosed and treated, the costs to the company would easily have exceeded the cost of the entire program.

Union Carbide is another firm which has a strong commitment to the health of its 2,600 employees. The company sponsors health seminars, cancer screening, and comprehensive medical monitoring programs for its workers. Improving the health of its work force is a priority at Union Carbide, and over the years, the company has invested millions of dollars in that commitment.

I commend Union Carbide for its health program and I am also pleased that it is one of the strongest supporters of H.R. 162. A recent letter from the president of Union Carbide said his company endorses H.R. 162 and they support "the goal of a scientifically based program for notification * * * and associated programs of risk identification and surveillance."

Union Carbide and all of the other supporters of H.R. 162 know that the bill is a carefully crafted bill and firmly grounded in scientific methodology.

The high-risk bill establishes a three-part program. First, it identifies worker populations at high risk of occupational disease. Second, it notifies those workers of their risks and encourages them to enter medical monitoring programs. And, third, it leads to the prevention of disease by encouraging employers to make changes in their operations that will eliminate or reduce exposures to the disease-causing agents and processes.

The crucial element in the program is a nine-member risk assessment board. This nonpolitical board of doctors and scientists will be selected by the Secretary of Health and Human Services from lists supplied by the National Academy of Science.

This risk assessment board will utilize all of its scientific and medical expertise to identify very specific worker populations at risk of developing disease based on clinical and epidemiological studies—human studies, not animal studies.

After a worker population has been identified, the National Institute for Occupational Safety and Health [NIOSH] will individually notify them of their increased risk of developing the occupationally related disease.

NIOSH will have access to employment records which employers and Federal, State, and local agencies already maintain. Employers will not be required to provide the names and addresses of former employees if they don't have that information.

The notice will encourage workers to enter into a medical monitoring program, so that any developing disease would be detected in its earliest stage—the time when treatment cost is lowest and the chances for success are greatest. I just don't understand how any reasonable and responsible businessman could oppose this bill which is designed to save the lives and protect the health of American workers.

Nevertheless, a number of business groups have spent hundreds of thousands of dollars trying to defeat H.R. 162. And, now some of those groups are using a report prepared by the Washington consulting firm of Robert Nathan Associates.

The Nathan report is fatally flawed and I wonder if the people who wrote it even read the high-risk bill. The errors and misleading figures in the report indicate that its authors didn't read the bill closely enough, or if they did, they ignored the facts.

First of all, the report estimates that during its first 5 years, the High-Risk Notification Program will "identify and notify 2.4 million workers who, since 1957, have been exposed to substances for which treatment is less than moderately effective."

Anyone who has read the bill and has any familiarity with it will recognize the error in that statement. The first workers to be notified of their exposures will be those who would benefit the most from the medical monitoring and health counseling provisions of the High-Risk Program. The board will not be notifying workers who are likely to develop untreatable diseases.

In fact, the language in the bill states:

> In identifying the population at risk the board shall consider . . . the health consequence of notifying or failing to notify a population at risk.

On the other hand, all of the Nathan report's figures are based on notifying the 2.4 million workers who are least likely to benefit from the program. Clearly, the report's authors didn't do their homework.

The second problem with the report is related to the first; the report's authors project that the program embodied in H.R. 162 will notify a total of 2.4 million workers, which equals 475,000 workers notified during each of the first 5 years.

We estimate the program will take several years to activate and that the board might not be able to notify anyone during its first year or so. Under the very best of circumstances, we might expect to notify about 200,000 workers a year, or a million workers during the first 5 years.

I certainly wish we could notify 500,000 workers every year, but that's just not a realistic or practical goal during the program's first 5 years.

Besides misrepresenting who would be notified and how many workers would be notified, the report misrepresents an employer's danger of being sued.

The report's liability projections are based on a pilot notification program at the Augusta Chemical Co. in Georgia, but the Nathan report also got the facts wrong about the Augusta notification.

The Nathan report said that 696 past and current workers responded to the Augusta Notification Program and 171 of them filed claims against the company. From these numbers they estimate that 25 percent of notified workers will file suit.

In reality, NIOSH reported that 849 workers were notified in Augusta, and so the percentage of suits is 20 percent, not 25.

I'll be the first to admit that the Augusta study generated 171 claims seeking a total of $335 million in damages. But those are claims, and we have to look at actual settlements. Eventually, 120 of these cases were settled for a total of $500,000. The majority of the claims were settled for about $2,500.

The Nathan report, on the other hand, estimated that each case filed would cost the employer $95,000 per employee per claim—certainly a lot higher than the final settlements in Augusta.

The Nathan report writers also ignored evidence from other notification programs. In Port Allegheny, PA, 854 workers were notified and fewer than 10 of them filed suits. So, the report's claim that 25 percent of notified workers will file suits is not supported by the results of the Port Allegheny Notification Program.

Also, the report fails to mention that much larger national pilot notification program to detect colon-rectal cancer in 12,000 pattern makers in 27 States and three Canadian provinces. The pattern maker notification did not generate more than a handful of lawsuits.

In fact, a General Accounting Office report on the high-risk bill said that the number of personal injury lawsuits against employers is expected to rise whether or not the bill passes because workers are becoming more aware of their rights.

So much for the numbers in the Nathan report.

Here are some real numbers. Each year, American taxpayers help support disabled workers and their families at a cost of $5.4 billion. That figure, according to a Department of Labor study in 1985, is what is spent from Social Security disability, Medicare, and Medicaid to assist occupationally diseased workers.

According to other studies, the costs of medical treatment and lost wages for occupationally related fatalities for just six occupational diseases were estimated to be about $1.67 billion, and that's a very conservative figure.

Those are the real numbers. Those are some of the costs related to the 100,000 workers who die each year from occupationally related diseases and the almost 400,000 who are newly disabled each year.

For years, many major U.S. corporations have run in-house notification and medical monitoring programs. These programs exist for two reasons. First, companies know that it is far cheaper in the long run to treat disease in its earliest stages. Second, careful medical monitoring helps companies prevent disease by identifying health hazards.

Taken all together, the Nathan report is unconvincing because of its misleading claims about liability, its inaccurate estimate of the number of workers to be notified annually, and its identification of the wrong high-risk workers.

But, in spite of its shortcomings, the Nathan report is already being used by opponents of the high-risk bill, and it's time to question the misleading conclusions of the report.

Mr. Speaker, as the Senate moves toward consideration of S. 79, their version of the high-risk bill, we need to present the facts and identify and correct the false statements which are being made about the bill.

Our colleagues in the Senate need to know that every year 100,000 workers die and another 400,000 are newly disabled due to occupational diseases and illnesses, and we need to let them know that the high-risk bill will save those lives and prevent those injuries and illnesses.

We also need to let them know that regardless of the exact cost of the high-risk bill, businesses will undoubtedly save some of the estimated $1.7 to $4.3 billion they spend each year on occupational illness and fatalities. This doesn't even include the $5.4 billion the Federal Government spends on caring for the disabled and their families.

I am pleased with the version of H.R. 162 which passed on the floor of the House on October 15, and I hope that the Senate will follow our lead by approving a similar bill. I believe that H.R. 162 will add powerful weapons to our war on occupational disease, and I encourage all of my colleagues to help us put a high-risk bill on the President's desk this year.

GROUPS OPPOSED TO H.R. 162 NEED TO GET THEIR FACTS STRAIGHT

Mr. Speaker, when I introduced H.R. 162, the High Risk Occupational Disease Notification and Prevention Act, I knew some business groups would oppose it.

What I didn't expect was the bitterness of the campaign against the bill and the range of misleading statements against the bill—the latest of which are made by the National Federation of Independent Business.

They recently called the bill "OSHA 2," and said it would create a new bureaucracy within the Department of Health and Human Services.

Now, as anyone who has read the bill knows, H.R. 162 establishes a nonpolitical nine-member board of medical and scientific professionals to identify populations of workers who are at risk of developing an occupational disease.

The notification of those identified will be done by the National Institute for Occupational Safety and Health, an agency created by the Occupational Safety and Health Act of 1970 and housed in the Department of Health and Human Services since then. NIOSH also will provide support personnel for the Risk Assessment Board.

This nine-member Risk Assessment Board is certainly no huge "new bureaucracy," it's a small panel of well qualified professionals charged with the job of identifying workers whose lives are in danger because of exposures to toxic substances and agents in the workplace.

Every year, as many as 100,000 workers die from occupationally related diseases and as many as 400,000 become disabled.

If H.R. 162 and its nine-member board can save a fraction of those lives and prevent some of those occupationally related disabilities, then it's money well spent and a responsible use of Federal funds.

The second misleading statement which the NFIB makes is that H.R. 162 would "require medical monitoring and testing of [notified] workers."

In reality, the notification will only encourage workers to enter medical monitoring programs. The bill's notification program doesn't require workers to do anything—their participation is completely voluntary.

The only requirement for a business owner is to provide and pay for medical monitoring for current employees who request it and who were exposed in their present jobs.

A third claim which the NFIB makes is that the bill will raise labor costs.

Actually, Crum & Forster Insurance Cos. testified that H.R. 162, "will not increase the liability and insurance costs." They went on to say that passage of the bill "will assure a long-term downturn in occupational disease frequency and severity, thereby reducing insurance costs for both employers and manufacturers."

In addition, it is estimated that businesses spend between $1.7 and $4.3 billion each year on occupational illness and fatalities. And, every year the Federal Government pays out at least $5.4 billion to help support disabled workers and their families. This figure from the Department of Labor includes Social Security disability, Medicare, and Medicaid payments made to assist occupationally diseased workers.

As these numbers indicate, reducing workplace diseases and fatalities is cost effective. It's good business, and many American companies now realize that. Many of them already have notification and medical monitoring programs, similar to the program in H.R. 162. Those are the trendsetters, the businesses where worker health and safety is a top priority, and I commend them for their programs.

In spite of the rhetoric of those opposed to H.R. 162, the bill is a carefully crafted piece of legislation designed to save the lives of American workers and it has the support of a significant segment of the responsible business community.

□ 1715

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. PRICE of North Carolina). Is there objection to the request of the gentleman from Pennsylvania [Mr. GAYDOS]?

There was no objection.

SEX IN THE AGE OF AIDS

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I appreciate your patience in sitting in the chair while all of us go through this litany of special orders tonight, but obviously we think they are pretty important or else we would not be here.

The topic I would like to talk about tonight for a little bit is the problem of AIDS and the most recent report by Masters and Johnson, the sex experts who have credentials that go all the way back, I think, to the sixties and maybe even beyond that. They have been regarded fairly highly in the more liberal communities because of their views on sexual activity over the years and their approach to dealing with problems of sexuality, but they have been maligned over the past few days regarding their views on the AIDS pandemic and the book that they recently wrote about the subject. Their book "Crisis" is now out, and the people who have read it from CDC and HHS have said that they have been raising issues that really are not valid in this battle against AIDS.

PICKING A NEW PRESIDENT FOR GALLAUDET COLLEGE

Mr. Speaker, I would like to divert my attention for just a moment, if I might, to another subject that I promised I would discuss tonight briefly, and that is a subject that is not related to the AIDS epidemic, but I think it is an important issue, and that is the Gallaudet College here in the Washington area is going to be picking a new president in the not too distant future, and I and some of my colleagues have played in basketball tournaments and games out there to raise funds for that institution. It is a school for the deaf.

Over the past few years we have been very interested in that institution doing well and being successful. And Gallaudet College will be picking a new president, and one of the things that many of the people who attend that college and people who support that college wanted to request is that the new president be a member of the deaf community so that they could have empathy with the students, and realize what they are going through, and be a better administrator of the policies of that institution. And I would just like to add my support to that effort to get a deaf president for Gallaudet College because I think that speaks well for the institution in wanting someone who understands the problems of the deaf, and I think there are people in the deaf community who could do an exceedingly good job out there at Gallaudet.

And so, Mr. Speaker, I support that effort and urge those who may be interested to express their concern about Gallaudet having a deaf president as well.

Mr. Speaker, I would like to now get back to my subject tonight, that being the AIDS threat, and who is at risk, and the book that was written by Masters, Johnson and D. Kolodny. Some of the things that I think are very important to be discussed tonight are a subject that the CDC and HHS have pooh-poohed over the past few years. The title of the book is "Crisis, Heterosexual Behavior in the Age of AIDS." It is by Grove Press, and I think it sells for $15.95. It is written by Masters and Johnson with the help of Dr. Kolodny, and they offer a bold, troubling analysis of the AIDS threat to straights, or those in the heterosexual community. Drawing on their own never-before-published research findings and a pessimistic reading of existing statistics, the authors conclude that the AIDS virus is breaking out of the drug community and the homosexual community into the heterosexual community.

Contrary to the assurances of most health experts, the authors declare that undetected AIDS infections are now running rampant in the heterosexual community. While they concede that their projections are not beyond question, they would prefer to err on the side of safety and generate realistic fear of the deadly virus, and here is the question they ask. This, I think, is very important. "Shouldn't we be adopting precautions against the worst case possibility," they ask, "rather than making the most optimistic assumption?"

And therein I think, as Shakespeare would say, "lies the rub," because those who are leading this country in the area of health care, health protection at CDC, Center for Disease Control in Atlanta, and HHS, Health and Human Services, are erring on the wrong side in my opinion. They are erring on the side of the most optimistic case scenario rather than the pessimistic side, and since we are up against something we have never faced before, I think we better look at the worst case scenario and deal with it from that perspective rather than being optimistic.

Masters, Johnson and Kolodny found that only 1 of the 400 monogamous subjects tested positive for the antibodies for the virus, and they tested 800 people in their research; 400 of these people were monogamous, one-man one-woman relationship, and the other 400 had multiple sex partners. Of the 400 who were monogamous, after they did the testing only 1 tested positive for AIDS, but out of the 400 heterosexuals with multiple partners, none of whom had other known risks for acquiring the infection, that being involved with the drug culture or being a homosexual or bisexual person; out of the 400 heterosexuals with multiple partners, none of whom had other known risks for acquiring the infection, an alarming 7 percent of the women and 5 percent of the men tested positive. That infection rate is higher than any other study has found among heterosexuals outside of the established risk groups. These findings are especially disturbing, the authors say, because heterosexuals with multiple partners are likely to carry the virus into the wider population. They go on to say, "But the approximation of the size of the epidemic and their recommendations for curbing its spread are running sharply counter to the prevailing AIDS wisdom."

Among their conclusions is that at least 3 million Americans are currently infected with the AIDS virus, twice the incidence estimated by the U.S. Centers for Disease Control. Now about 2 years ago the Center for Disease Control in Atlanta, GA, and Health and Human Services estimated that we had 1.5 million people infected with the AIDS virus in this country. They further estimated that the epidemic was doubling every 10 to 14 months. Now, if you put a pencil to that, you will see that we will have somewhere around 4 to 5 million infected right now, but the Center for Disease Control in Atlanta still believes that we only have 1.5 million people infected. Why would their conclusion 2 years ago be incorrect? Why do we not have 3 or 4 million people infected today? I think it is because they are concerned about a panic in this country. Therefore they want to keep these numbers artificially low.

But Masters and Johnson, according to their study, found that 3 million Americans are currently infected, twice what the U.S. Center for Disease Control estimated. The authors also believe the 200,000 non-drug-using heterosexuals are probably infected. That is 7 times what CDC has estimated. That is 1,600 contaminated blood samples that may be escaping detection each year, with almost as many transfusion recipients getting infected as before strict blood screening programs went into effect.

That is another subject I will probably be talking about on a successive night at some time in the future.

Continuing, it states that a critical tool in stemming the epidemic is mandatory HIV antibody testing for couples seeking a marriage license, pregnant women, convicted prostitutes and all hospital inpatients between the ages of 15 and 60.

I have a bill pending in the Congress of the United States that would test everybody in the country. There is no pride of authorship in that bill. I think we could make it a routine testing program, starting at, say, age 6 or age 8 or 10 and go up to age 60 to age 65. We are open to suggestions on how to get at this virus, this pandemic, without going to the expense of testing everybody, but so far I have not come up with any approach other than mandatory testing that is going to get at the root of the problem.

While CDC estimates that some 30,000 heterosexuals who have no other risk factors may be carrying the AIDS virus, the authors of "Crisis" warn that the figure may be as high as 200,000. This estimate is likely to prompt far more argument than the authors' overall estimate of 3 million infected Americans, which falls within the upper range of projections made by other experts. As CDC researchers led by Dr. James Curran recently wrote in the Journal Science, "It will remain a difficult challenge to accurately determine AIDS virus incidence in the United States."

Now, listen to that question:

> As CDC researchers led by Dr. James Curran recently wrote in the Journal Science, "It will remain a difficult challenge to accurately determine AIDS virus incidence in the United States."

□ 1730

Now, listen to that question. Dr. James Curran said:

> It will remain a difficult challenge to accurately determine the incidence of AIDS virus in the United States.

My question to Dr. Curran is, why? Why is it so difficult to find out? If we tested the vast majority of the people in this country, the people from grade school age to 65, we would know where it is spreading the fastest, how it is spreading, who is spreading it, and we would know so much more about the disease than we know right now that it is not even funny, and yet you say in this article in the Science magazine, the Journal Science, that it will remain a difficult challenge to accurately determine the incidence of AIDS in the United States. It need not be that difficult if we get on with the mandatory testing program which I advocate, which Dr. Allen Salzburg of Miles City, MT, advocates. He has done an extensive study which I will refer to in a moment.

Masters, Johnson, and Kolodny, now are calling for a massive testing program. So why is it that the CDC and HHS will not go along with that?

The fact of the matter is this pandemic will continue to get bigger and bigger, spread out of control, unless we get on with testing the vast majority of Americans so we can find out how it is being spread and where and so forth.

> To researchers who believe heterosexual spread is not a major concern, Masters, Johnson, and Kolodny say, in effect, prove us wrong. Indeed, they argue that health authorities need to do more to come up with solid data. "To the best of our knowledge," Kolodny told Newsweek, neither "the CDC nor any other group has yet conducted a broad national study of heterosexuals. And in the absence of that, to proclaim that that population isn't infected seems irresponsible."

I agree. To make the kind of statements that CDC and HHS are making that there are not a lot of people affected in the heterosexual community when they have no test data to back that up is irresponsible. I think that Masters, Johnson, and Kolodny, ought to be congratulated on the work they are doing.

> Other critics will no doubt attack the views of Masters, Johnson and Kolodny, on mandatory testing. As one AIDS expert put it, their opinions may "legitimize the kooks" who want to test everyone.

Well, think about this. The average incubation time for AIDS varies, depending on who you talk to, from 7 to 12 years. Some people believe that an AIDS carrier can carry it for up to 30 years without any manifestation of the disease.

Now, during that period of time they come in contact with other human beings. Many of these people have sexual contacts.

Now, everybody they come in contact with will not know that the person they are having relations with has the AIDS virus. The person who has the AIDS virus in the first place may not know it, so the disease can spread in almost an exponential manner because nobody knows that they have it.

How do you determine that a person has the AIDS virus if they do not have full-blown AIDS and they are dying from some kind of an invasive disease that takes advantage of the immune deficiency caused by the AIDS virus. The only way to know is through testing. The only way to know is through testing, and the longer we wait the broader the epidemic is going to be, the worse it is going to be for all of us in this country.

> U.S. Surgeon General C. Everett Koop said recently: "There is always a danger whenever people engage in casual sex outside the marriage relations relationship, even if their promiscuity is heterosexual." But, he noted, "what is unknown is the level of danger" the Masters and Johnson book sounds an alarm about a crisis whose true dimensions won't be known for years.

Now, think about that. Our Surgeon General is saying that the dimensions of this disease will not be known for years. What he is saying in effect is that it is going to continue to spread and there is no way of knowing how far it will spread and we are going to have to let it go unabated, except for maybe throwing out some educational materials to each household in this country and let it go on.

The fact of the matter is something can be done about it and can be done rather rapidly.

The U.S. Army tested 2 million servicemen in a period of less than a year to 18 months and it was a very effective test. The head of the military testing program said, in my presence to Dr. Koop at a seminar that was going on here in the Capitol, that testing everybody in the United States is doable and it can be done within a reasonable period of time.

So why tarry? More and more people are being infected everyday.

As a matter of fact, Col. Donald Burke who developed the Army's testing program said:

> We have a diagnostic tool here. To not use that tool just doesn't make sense.

It just does not make sense. So when Dr. Koop and others at the CDC and HHS start telling us that there is no way of knowing how big the epidemic is or how big it is going to be for years to come because we just simply will not see the manifestation of the disease, that is totally irresponsible, because if people carry the virus for an average length of 12 years, let us say, and that is what most people would agree is the average incubation time, you are not going to know how many people who are infected today are going to have the AIDS virus until they come down with full-blown AIDS and are dying.

What about the other people they have infected who are going to carry the disease on for another 12 or 15 years? Those people are walking time bombs infecting people of this country, and testing is the only way we are going to get to the bottom of this. It is absolutely essential.

Masters, Johnson, and Kolodny say, "It scares the hell out of me."

They say:

> Why aren't today's massive screening programs for blood banks and the military picking of the degree of heterosexual HIV infection indicated by the new Masters and Johnson study?

They said:

> "The most sexually active people are not by and large going to be looking to sign on to military regimentation," says Kolodny.

He went on to say:

> Nor are they apt to be the most altruistic people donating blood. But they are a major vector of sexually transmitted disease into

> the larger heterosexual community, the authors warn, calling for widespread mandatory HIV testing of pregnant women, marriage-license applicants, and most hospital patients.

They went on to say in other parts of their book:

> Indications are that the AIDS virus is slowly but surely working its way into the younger population of our country—

The future of America—

> the 15 to 24 year-old age group—which has, at least in the last quarter-century, been the primary wedge driving epidemics of sexually transmitted diseases in the United States and elsewhere across the world. The inadequacies of school-based education about AIDS can be seen in the findings of a 1986 survey of over 800 Massachusetts teenagers 16 to 19 years old. Twenty-nine percent did not know that the virus can be passed from females to males; although 70 percent said they were sexually active, only 15 percent had made any changes in their sexual behavior because of concern about AIDS—and only 1 in 5 of these did so in a way that could be judged effective. "From what I can see, all this fuss about AIDS is pretty much exaggerated," says one 17-year old boy. "I've only slept with three girls this year, and I knew them all pretty well."

That kind of ignorance will led to this pandemic spreading in an exponential manner. We will not get control of it as long as people are not better educated than that and until we can identify those who have the disease and tell them that they must change their ways and can no longer have sexual contact with people outside the AIDS community. The only way to do that is through testing:

> All these considerations point in one direction: AIDS is breaking out into the heterosexual community. The AIDS virus is now running rampant in the heterosexual community. Unless something is done to contain this global epidemic, we face a mounting death toll in the years ahead that will be the most formidable the world has ever seen.

Now, think about that. They are predicting that if we do not do something pretty quickly, this is Masters, Johnson, and Kolodny in their new book, that this thing is going to be worse than anything we have seen in history, and that includes the Bubonic Plague in the 14th and 15th centuries that wiped out over half of Europe. Millions and millions of people died.

Now, can we afford to dilly-dally? Can we afford to go on with our heads in the sack and not pay attention to what is going on around us? I think not.

Mandatory testing, according to Dr. Salzburg of Miles City, MT, who is not only an excellent doctor and scientist, but a computer whiz as well, that if we do not start testing almost everybody in this country in the sexual active age groups of people who are in school, if we do not start testing by 1990 or 1991, his projections are that by 1995 to 1998, in that 3-year period, we will have somewhere between 3½ and 5 million people dead or dying from AIDS, actually dead or dying from AIDS. That includes those who will be dying up to that time, but we will see 3 to 5 million people dead or dying, and we will see another 14 million carriers. That is by 1995 to 1998. That is 7 to 10 years from right now if we do not start testing by 1991. It is irresponsible to not start a testing program.

They went on to say in another part of their book:

> There is even more skepticism about the AIDS virus being transmitted by kissing. Here again, there is no question that this route of transmission is possible. The AIDS virus has been isolated repeatedly from saliva; other sexually transmitted diseases, including genital herpes and syphilis, can be spread in this manner; and the point just raised about the common existence of cuts, scratches or abrasions on the lips or in the mouth is applicable, particularly in terms of "soul" or "French kissing"—

We all know what French kissing is. The fact of the matter is that there are 230 million AIDS viruses that will fit on a period at the end of a sentence. The next time you read your newspaper, Mr. Speaker, look at the period at the end of the sentence and visualize 230 million AIDS viruses sitting on that period, because that is how many will fit on that. It is a very, very small virus. If somebody has a cut in their mouth and someone kisses them and has that virus in their bodily fluids and their saliva, their tears and every other fluid in their body, there is a risk that the virus can be transmitted that way and the people can be infected. There is no question about that. It is a real possibility.

They went on to say:

> Those who prefer to believe that the virus can't be spread by kissing cite two facts to make their case. The first is that the virus is present in lower concentrations in saliva, in semen or blood, which certainly appears to be true based on the relatively crude studies that have been done to date. However, there is probably enough live virus present to infect another person. The second fact, also true in a limited sense but of dubious comfort, is that so far no one has identified a case of AIDS in which kissing was the definite means of transmission. Yet this is just another instance in which the inability to experiment in a carefully controlled way creates confusion.

Now, 230 million AIDS viruses sit on the end of a sentence in a period, in your kisses, your tears, saliva, every bodily fluid. Would you want to kiss somebody if you just brushed your teeth, if you had a sore in your mouth and you knew they had AIDS? Of course not. So the risk is there.

We need to do testing to verify not only this mode of transmission, but every other mode of transmission:

> It seems strange to have to raise such an obvious point, but if there are lingering uncertainties about the transmission of a deadly infection, shouldn't we be adopting precautions against the worst-case possibility rather than making the most optimistic assumption? And yet the medical-scientific community has given the public a rather reassuring assessment suggesting that kissing is not apt to be a means of spreading the AIDS virus. This raises the question of whether the intention is to inform people of the relevant risks or to take the path of least resistance, stressing only the proven dangers and virtually ignoring those that are possible but not yet thoroughly documented.

In other words, since we cannot prove it, we know it is a possibility. We will just say it does not exist. That is ridiculous.

The findings, as I said before, involved:

> 800 sexually active heterosexual adults between the ages of 21 and 40 who all met three criteria: no blood transfusions received from 1977 on, no use of illicit drugs by injection, no homosexual or bisexual contact from 1977 on. These 800 adults consisted of the following groups: 200 men and 200 women who reported having been in long-term monogamous relationships (either marriage or cohabitation) for at least 5 years prior to the time of being interviewed; 200 men and 200 women who reported a minimum of six sexual partners a year over the preceding five years (regardless of whether they were married).
>
> It was important to do testing in several different regions. Thus, we decided to conduct our study in four large cities, two of which—New York and Los Angeles—were considered "high risk" areas for AIDS, and two of which—St. Louis and Atlanta—were not."

Now, when they tested those people, as I said before, only one person out of the 400 who were involved in a monogamous relationship had the AIDS virus, whereas there were numerous cases of those who had multiple sex partners having the AIDS virus, and these were all people not in high-risk groups, groups that were believed not to be high-risk prior to this study.

> One other aspect of this study should be noted. The population we studied consisted mainly of ordinary, generally unremarkable middle-class men and women in their twenties and thirties—including teachers, repairmen, lawyers, secretaries, accountants, salesmen, waitresses, students, house painters, musicians, corporate executives and some who were unemployed. In particular, we must point out that the 400 individuals who reported having sex with relatively large numbers of partners are not nymphomaniacs and satyrs; by and large they are single men and women who regard their sexuality as a healthy and fulfilling part of their lives. Said one 15-year old female graduate student: "I got started with a pretty active sex life when I was 15, and it's an important part of my life."

And she went on, I will not go into the rest of that.

> The average number of sex partners in our non-monogamous group was 11.5 for the women, 9.8 for the men. Approximately one-quarter of the women and one-fifth of the men in the study group averaged at least 15 different sex partners each year. The average annual number of sex partners in the monogamous group, by definition, was one.

Just the wife or the husband or whoever they were living with.

The prevalence of infection with the AIDS virus among the 400 strictly monogamous men and women was, not surprisingly, very low: Only one out of the 400, or 0.25 percent.

□ 1745

Mr. Speaker, we have talked about genital herpes in this country, commencing 10 or 15 years ago. That is herpes simplex II.

We informed our population about the dangers of getting genital herpes II because it is something that one has the rest of his or her life, it never leaves and it flares up from time to time.

Mr. Speaker, many people have genital herpes II. According to a study conducted last year, 40 million Americans have herpes simplex II. One out of every six Americans has genital herpes II according to the study. Yet we have been educating people for 15 years about it. And it is still spreading.

If that same thing happens with the AIDS virus, we are going to have millions and millions and millions of people dying and it will endanger our entire civilization. We cannot allow that to go on. By itself education will not solve the problem. It has not in the past, and it will not in the future.

The somewhat shocking conclusion we have reached is this: The AIDS virus has certainly established a beachhead in the ranks of heterosexuals and because heterosexuals who have large numbers of sexual partners are most likely to be infected with the AIDS virus, the odds are that the rate of spread among heterosexuals will now begin to escalate at a frightening pace. In the case of our study, for example, if each of the 24 infected people in the nonmonogamous group is having sex with 15 others in a year, then these 24 people have directly exposed 360 people. If each of these 360 people has sexual contact with five additional partners, an additional 1,800 persons will have been potentially exposed.

The prevalence of infection with the AIDS virus among the 400 strictly monogamous men and women was, not surprisingly, very low: only 1 out of the 400, or 0.25 percent, had evidence of such an infection.

In contrast, the prevalence of infection with the AIDS virus among the 400 men and women with numerous sexual partners was strikingly higher: 14 women (7 percent) and 10 men (5 percent).

Among the subgroup of nonmonogamous persons who averaged more than 12 partners annually, the prevalence of infection with the AIDS virus was even higher: 14 percent for women, 12 percent for men.

Among all the nonmonogamous persons, the highest percentage of seropositive study subjects was found in the New York area [8 percent of the men, 10 percent of the women] and the Los Angeles area [6 percent of the men, 8 percent of the women].

One of the most alarming findings in our study—and one that may surprise many people—is that less than 10 percent of the men and women who had numerous sex partners each year thought they might be exposing themselves to infection with the AIDS virus. Most were convinced that AIDS was not a problem among heterosexuals.

This lack of concern also is expressed in the minimal degree of change in their annual number of sex partners from 1982 to 1986. Such nonchalance might have been understandable in 1983, when the epidemic was in its early stages, but the persistence of this attitude in 1987 strongly suggests that public health authorities have failed to impress the general public with the message that AIDS has broken out. This, in turn, creates new concerns: first, that the rate of HIV infection will continue to climb relatively unchecked; and second, that repeated warnings do not by themselves necessarily result in behavioral changes. The somewhat chilling conclusion we have reached is this: the AIDS virus has certainly established a beachhead in the ranks of heterosexuals, and because heterosexuals who have large numbers of sex partners are most likely to be infected, the odds are that the rate of spread among heterosexuals will now begin to escalate at a frightening pace.

As larger numbers of people are exposed, larger numbers of infections are transmitted, both sexually and otherwise. With time—perhaps with just a few years—there will be a "trickledown effect" in which infection with the AIDS virus will be commonplace, not just in persons who have had many sex partners, but in heterosexuals who have had relatively few sex partners in their lives. While the infection spreads, it will be possible to maintain a certain degree of blind complacency by simply counting and classifying actual cases of AIDS. This will comfort those who use the absence of a great leap in the percentage of AIDS cases occurring among non-drug-using heterosexuals as "proof" that the virus is still contained largely in the homosexual/bisexual/drug-using communities. But with a disease that often has a latency period of five years or more from initial infection until definitive diagnosis, we are ignoring biological reality if we accept such a proof.

We are not talking about a disease that is simply an embarrassment or an inconvenience: AIDS, so far as we now know, is a disease that is invariably fatal. And though it has not been determined how many of those infected with the AIDS virus will eventually come down with AIDS

Mr. Speaker, I might point out at this time that initially people with the AIDS virus, it was thought that only 10 percent of them would be at risk of getting AIDS and die, then it went to 20 percent, then 30 percent, then 40 percent, then 50 percent and now most scientists believe that as high as 70 percent of the people who get the AIDS virus will ultimately come down with full-blown AIDS and die.

Some people who believe that the incubation period can last as long as 30 years believe that 100 percent of the people who get the virus ultimately will die of AIDS or AIDS-related complex.

AIDS-related complex is a disease that may not be readily related to AIDS but it is. Dementia, for example, may be the best example. The AIDS virus many times when it gets into the body starts attacking brain cells before there is an outward manifestation of the disease of AIDS so that people suffer from things that look like Alzheimer's when in fact it is AIDS-related complex, and many persons die from that.

It looks right now as though the percentage will be quite high. As others have said, the AIDS epidemic carries the potential for being the greatest national tragedy in human history. Yet we stand here in this body and see these Centers for Disease Control and Department of Health and Human Services people, and have our head in a sack and twiddle our thumbs and say that education of the population is the most important thing, and when the population has been educated and there has been no discernible change in their sexual behavioral patterns, what do we do?

The venereal disease rate in this country for gonorrhea, syphilis and other communicable venereal diseases has not changed 1 percent downward over the past 10 years. As a matter of fact, it has gone up at a slightly increasing rate. All the education so far about genital herpes and AIDS has not changed the sexual attitudes of the people of this country. Education by itself is not solving the problem, nor will it.

People look at someone and think that they are healthy looking and they may be carrying that deadly virus that is going to ultimately kill them because of the incubation period. So it seems to me and to anyone who really has studied this and thinks about it, that the only way we are going to be able to discover whether or not a person has AIDS is to test them.

It is clear that we should not have sexual contact with a new person unless one has been tested. The only way to protect our civilization and our society as a whole is to have testing. That is why Masters, Johnson and Kolodny are calling for massive testing, and that is why I have as well as many others. People at the Centers for Disease Control pooh-pooh scientific evidence that leads us to the conclusion that testing is absolutely necessary. They will say that people who are advocating this have no credentials.

Admittedly I am not a doctor. I do not have any credentials for being a doctor, but I have been talking to doctors at Harvard, at Research Testing and Development in Lexington, GA, and I have been talking to Dr. Salzburg at Miles City, MT, and talking to Dr. Mark Whiteside, and Carolyn McCleod at the Center for Tropical Diseases in Miami, and there is all kinds of evidence that show this disease is transmitted in ways that are not readily apparent. Testing is the only way to find out how it is being spread.

These people are in favor of testing. It is just not one uninformed person asking for testing, but there is a multitude of doctors and scientists who believe ultimately this must be done. So if it ultimately must be done, why not get on with it now before the cataclysmic experience takes place?

Let us try to nip this AIDS epidemic in the bud and save as many lives as possible. If we wait until 1995 or until the year 2000 to test, we will have millions already dead or dying and millions more communicating the disease to others. If we start testing by 1990 or 1991, we can start to minimize the impact in the outyears.

They went on in their book to say that—

> People who consider themselves at risk for HIV infection also often avoid testing because they feel that finding out they are infected won't be helpful. After all, many of them point out, there is no treatment available to eradicate the infection or even to slow its progression. Furthermore, they say, discovering you're infected will only complicate your life and cause a good deal of psychological anguish. This sort of resignation to fate presents one of the central public health problems of the AIDS epidemic. The hundreds of thousands of carriers of the virus who go on with life as usual, oblivious to the possibility of being infected, constitute a major vector in the continuing spread of the epidemic. They are not just numbers in an epidemiological maze; they are men and women who continue to lead sexually active lives, many of them exposing multiple partners to the AIDS virus each year. They are people who, irresponsibly clinging to their personal excuses for not being tested, silently spread slow death to those with whom they couple in erotic abandon.

In Washington, DC, Howard University about a year ago was conducting a study of the prostitutes that worked this city, and of the prostitutes that they were testing, 50 percent the last I heard were infected with the AIDS virus. Mr. Speaker, 50 percent of those that they tested up to the time that I talked to the person out there at the Howard University, 50 percent of the prostitutes in this city were infected with the AIDS virus, and yet they are still out there at night on 14th Street plying their trade.

Mr. Speaker, men and women who come to this city and who take advantage, if one would want to call it that, of the prostitutes who travel up and down that street, may go home and kill their wives or their loved ones. Yet we allow that to go on. No testing is mandated.

Why? Why are the prostitutes down there allowed to ply their trade when we know half of them are infected and yet we do not have testing mandated for them?

It makes no sense. Yet we go on.

They went on to say:

> In short, this is a time for considerable caution in sexual conduct—most pronounced in terms of choosing a partner. Prostitutes, male homosexuals, IV drug abusers, males with bisexual experiences and people who have had large numbers of sexual partners are especially risky as sex partners until it can be shown by testing that they are free of HIV infection. Trusting attitudes should be tempered by the seriousness of the current situation: since you can't tell if people are infected with the AIDS virus by how they look, and since you can't really rely on their own recitation of their sexual history, you are just being prudent by insisting that someone who wants to get in bed with you accompany you to a clinic for testing first.
>
> If the current epidemic goes on relatively unchecked—and if there is no major success in the next year in mounting an educational campaign that effectively motivates people to change their sexual behavior—it is quite possible we will eventually see the majority of AIDS cases in heterosexuals. The immense size of the pool of uninfected but potentially at-risk heterosexuals is so much larger than the pool of homosexual and bisexual men that if no way of containing the rate of spread in the general population is found, the epidemic will explode in a manner that will make the numbers from 1981 to 1986 seem tame. Under these circumstances we would expect that by 1993 over a quarter of the new cases of AIDS will occur in heterosexuals who are not IV drug users. By the turn of the century more than half of AIDS cases will be in the heterosexual population.

This is what we are facing and yet those at the Department of Health and Human Services and at the Centers for Disease Control say that we do not need to test anybody. They say that they will figure it out sooner or later.

How are they going to figure it out? How can anyone figure out who has it if there is no testing? If people are spreading this disease down on 14th Street or people who have the disease having contracted it by being down on 14th Street and do not know that they have it and are giving it to other sexual partners, how are we going to find out who they are and stop that epidemic from spreading unless we have testing?

There is no way.

□ 1800

The argument has been made that the tests are not all that accurate; if you give the ELISA it shows positive, and you test again, and if you give it a second time it shows positive, but if you go to the Western Blot test, that test is virtually foolproof, and if you catch people with an AIDS false positive, that will be followed up by a subsequent test that will verify whether or not it is accurate. If it is inaccurate, you will find out with the Western Blot test.

The Army did this test for about $5 and some change per person. Not everybody has to go through the entire litany of tests. Some only have to take one, but if you average it out over the 2 million service personnel that were tested, it was about $5 and some change to test them.

The same figure could be used to test everybody in this country. Granted, the costs of testing for AIDS would be probably $1½ to $3 billion, but when you realize that by the mid-1990's, we are going to be spending probably 10 to 15 times that much to take care of those who are dying from AIDS, it is money well spent.

We can have as much as $30 to $45 billion being spent annually by the mid-1990's to take care of people dying with AIDS. So why shouldn't we spend one-tenth of that amount to find out who has it, who is spreading it, who they are spreading it to, how it is being spread.

There are people in Miami, Dr. Cloud and Dr. Whiteside, the heads of the Center for Tropical Diseases, who suggest that it is being spread by mosquitoes and who brought it to the HHS, and the HHS doctors were asked what if you had a mosquito with blood with AIDS, HIV in it, and the HHS had no reponse, and they may be right. I do not know. We need to find out. We need to find out if it is spread by the insect vector. We should be testing to see if the testing will show a higher incidence of AIDS virus in areas like Belle Glade, FL; Louisiana in the bayou areas; and those are things we need to find out, and we will not find out unless we get on with the testing program.

They concluded this article which I read, which I am reading to you, by saying, "Unless adolescents and young adults can be convinced that the AIDS virus is a reality in their world now, it is unlikely that there will be enough of a shift in behavior to keep this epidemic from expanding at an alarming rate. Although it makes a nice headline, the sexual revolution is not dead—it is just that some of the troops are dying," and a lot more of them are going to die.

Many of the people in the scientific community pooh-pooh what Masters and Johnson reported. They used to applaud Masters and Johnson for their sexual revelations when they wrote their original reports, but now they are pooh-poohing this report, and those who are pooh-poohing this report, saying they are using hypothetical figures, their figures are not hypothetical, and their statistical research is pretty accurate as far as I can tell. Masters, Johnson and Kolodny talk about Dr. Salzburg and Dr. Vernon Mark of Harvard, and the research, testing and development center in Lexington, GA, who have been working on the statistical data backing up what these other gentlemen have said, and the facts show, in my view, that we have got a tiger by the tail. This is not an epidemic but a pandemic staring us in the face.

We have to head it off at the pass, and the only way to do it is to start off with testing.

Mr. Speaker, I am open to suggestions, and if you want to narrow it down, we would be heading in the right direction, but to sit back and do nothing would be disastrous.

Dr. Alan Salzburg of Miles City, MT, just sent me an update of his study to the AIDS pandemic through the year 2000.

I would like to read to you, Mr. Speaker, a little bit about his projections. His projections are if we do not test, if we go on in the dame cavalier manner we have been going in the last few years, by 1995 there will be at least 2.1 million people dead or dying, 13 million will probably have it in that particular year, and there will be 12 million carriers. That is by 1995. By the year 2000 his projections show, and these are based not just on his figures he pulled out of the air, they are based on studies that have already been conducted, cohort studies already conducted in various parts, and he has collectivized those, put them in a computer and made these assumptions; I think they are accurate. They bear out what the CDC has projected through 1995. His figures parallel the death rate that the Centers for Disease Control at Atlanta has projected through the year 1991. So he is right on target for the next 3 to 4 years, but he goes beyond through the year 2005. Yet, they say his figures are inaccurate. I don't believe that is the case.

He predicts by the year 2000 there will be 6,100,000 Americans dead or dying, 20 million carriers.

If we do not start identifying those who are spreading this disease by testing them, by the year 2005, his projections of the cumulative number of people dead or dying, the cases will be 12,300,000, and 35 million carriers. Now, if he is only 50 percent right, or if he is only 25 percent right, we have a monumental problem.

Masters and Johnson and Kolodny have verified pretty much what he has said, and other scientists will verify this. The scientists and doctors who have done the military research program have tested all the military for AIDS and say, and I will quote them one more time, Col. Donald Burke said, "We have a diagnostic tool here. To not use this tool just does not make sense in view of the fact this pandemic is spreading in a very rapid manner."

We do not know how widespread it is; CDC says a million and a half, Masters and Johnson says 3 million, and I believe it is 4 to 5 million. Nobody knows for sure.

We do know that 2 or 2½ years ago they said it was a million and a half, so it has got to be somewhere above that. We have got to start testing.

Mr. Speaker, I hope that all of my colleagues will open their eyes and get on with supporting legislation that will provide for a program of testing. It is going to cost money, but it is going to be a lot less expensive than waiting for this pandemic to get out of control and paying $30 to $40 billion a year to take care of people who are dead or dying. It is better, as the old saying goes, that an ounce of prevention is worth a pound of cure which is very true in this case.

I hope the Centers for Disease Control, if any of them are going to read about what goes on here tonight, I hope they will take this to heart and study Dr. Salzburg's projections, his testing program, his research study, Masters and Johnson's and Kolodny's research, and take them to heart and do something about it.

I think many times in the dark of night when I am thinking about this that they are afraid a panic is going to take place in this country if the people realize how grave the situation is.

I believe just the opposite. Abraham Lincoln said, "Let the people know the facts, and the country will be saved." If you want a real panic, those of you at HHS and CDC, just wait until this thing really gets out of control.

When the bubonic plague was at its height during the 14th and 15th centuries, if somebody was suspected of having the bubonic plague, they boarded up their house and they burned them alive, and if you think that cannot happen in a civilized country like the United States, you are wrong. We need to tell people what they are up against in this country. We need to get on with the testing program so we can minimize the damage. We need to do contact tracing so we can stop people who are promiscuous even though they have the AIDS virus, even though they do not care, stop them from going out and infecting, knowing full well they do it, because they are killing people just as if they stuck a gun to their head and shot them.

The first thing that needs to be done is to start the testing program. So I am sending, Mr. Speaker, a copy of this study over to everybody that is on the President's AIDS Commission, and I hope they will read it. I talked to Dr. Cory Sewaas, who is one of the AIDS panel members. She has assured me she would read it.

We are going to try to get it to everybody else on that panel.

If they will take the time to read it and take this information to heart, I believe they will come to the same conclusions that I, Drs. Masters, Johnson and Kolodny have before.

AVIATION WHISTLEBLOWER PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 30 minutes.

Mr. GLICKMAN. Mr. Speaker, many of us in Congress have been concerned about air safety and have been grappling with ways to better ensure that our skies are safe for travel and consumers are treated fairly and equitably in the process. All the money in the world cannot completely solve these problems. What I am talking about here is the human factor that goes into maintaining, servicing and operating aircraft. People do make mistakes, which is understandable, but in the case of airplanes, one small mistake can cost thousands of lives.

We have received evidence that could indicate aviation employees and companies have on occasion deliberately covered up maintenance problems that violate the law. My office alone has received numerous calls from pilots and mechanics who say they have been intimidated and threatened by their employers for disclosing safety violations to proper authorities. Some say they have even been demoted, transferred or fired as a result of their actions. The Aviation Safety Institute, which is headed by my friend John Galipault, receives about 2,000 calls a year from industry and government employees reporting safety violations. Some of those reports have been so serious as to force several airlines out of business.

Last year, with the help of groups like the Aviation Safety Institute, I was successful in getting legislation signed into law that stiffen the penalties for falsifying airline maintenance records. While that was a huge step in the right direction, I think there is another area that needs to be addressed: protecting employees from recrimination for reporting safety violations.

Today, along with Congressman GUY MOLINARI, I have introduced the Aviation Whistleblower Protection Act of 1988. This legislation provides protection to any person who has direct or indirect contact with the maintenance, operation or servicing of aircraft from being discharged or discriminated against by their employer for reporting safety violations to appropriate government officials. In order to protect the employer from nuisance and frivolous complaints, the employee must first report the violation to his or her employer and give the employer 30 minutes in which to provide a written response to the employee regarding the information. Except in the case of pilots, the provisions of this bill do not take effect unless this procedure has been followed.

If an employee believes he or she has been discharged or discriminated against, they may file a complaint with the Secretary of Labor alleging such discharge or discrimination. The Secretary will then conduct an investigation into the allegation and, if upheld, will order the employer to take a number of corrective measures.

In closing, I think it is unfortunate that employees in so many fields feel intimidated and threatened to disclose important information about wrongdoing especially when the safety of the flying public is at stake. It is my hope that legislation such as this will lower the number of complaints about safety violations and increase pressure to see that things are done right the first time. Also, it is important to note that several airline companies have "whistleblower" procedures in place and I commend them for their efforts. However, the problems in our aviation system are so prevalent, we must assure that standards are established throughout the entire industry.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HENRY) to revise and extend their remarks and include extraneous material:)

Mr. LUNGREN, for 60 minutes, March 10 and 16.

Mr. HUNTER, for 5 minutes, today.

Mr. WALKER, for 5 minutes, today.

(The following Member (at the request of Mrs. BENTLEY) to revise and extend his remarks and include extraneous material:)

Mr. BURTON of Indiana, for 60 minutes, today.

(The following Members (at the request of Mr. KOSTMAYER) to revise and extend their remarks and include extraneous material:)

Mr. RAY, for 5 minutes, today.

Mr. KLECZKA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. SIKORSKI, for 30 minutes, today.

Mr. GLICKMAN, for 30 minutes, today.

Mr. DONNELLY, for 60 minutes, on April 13.

(The following Members (at the request of Mr. GARCIA) to revise and extend their remarks and include extraneous material:)

Mr. RAY, for 5 minutes, on March 10.

Mr. RODINO, for 5 minutes, today.

Mr. DYMALLY, for 60 minutes, on March 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HENRY) and to include extraneous matter:)

Mr. BROOMFIELD.

Mr. CRANE.

Mr. BROWN of Colorado.

Mr. HASTERT.

Mr. FISH.

Mr. BADHAM.

Mr. DAUB.

Mr. DAVIS of Michigan.

(The following Members (at the request of Mr. KOSTMAYER) and to include extraneous matter:)

Mr. MAVROULES.

Mr. MONTGOMERY.

Mr. SHARP.

Mr. RANGEL.

Mr. LANTOS.

Mr. SPRATT.

Mr. MOODY.

Mr. FLORIO.

Mr. MACKAY.

Mr. HAYES of Illinois.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 98. Concurrent resolution to authorize the printing of the annual three volume report "Developments in Aging: 1987" prepared by the Special Committee on Aging.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 9 minutes p.m.) the House adjourned until tomorrow, Thursday, March 10, 1988, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3102. A letter from the President of the United States, transmitting a report prepared by the Department of State on international agreements transmitted to Congress after the deadline for their submissions, pursuant to 1 U.S.C. 112b(b); to the Committee on Foreign Affairs.

3103. A communication from the President of the United States, transmitting notification of his intention to extend the waiver of the application of the relevant export criterion of the Nuclear Non-Proliferation Act for an additional 12 months from March 10, 1988, pursuant to 42 U.S.C. 2155(a)(2) (H. Doc. No. 100-172); to the Committee on Foreign Affairs and ordered to be printed.

3104. A letter from the Acting Director, U.S. Arms Control and Disarmament Agency, transmitting a report entitled "INF Treaty Verification: Our Ability to Assess Compliance Under a Double Global Zero", pursuant to 22 U.S.C. 2577(a); to the Committee on Foreign Affairs.

3105. A letter from the Assistant Secretary, Management and Administration, Department of Energy, transmitting the 1987 annual report of the Department's activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3106. A letter from the Executive Secretary, Federal Deposit Insurance Corporation, transmitting notification of proposed changes to three existing Federal records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3107. A letter from the Executive Secretary, Federal Deposit Insurance Corporation, transmitting notification of a proposed change to an existing Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3108. A letter from the Administrator, Panama Canal Commission, tramsmitting a report of the Commisison's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAWKINS: Committee on Education and Labor, H.R. 925. A bill to entitle employees to family leave in certain cases involving a birth, an adoption, or a serious health condition and to temporary medical leave in certain cases involving a serious health condition, with adequate protection of the employees' employment and benefit rights, and to establish a commission to study ways of providing salary replacement for employees who take any such leave; with amendments (Rept. 100-511, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. GAYDOS: Committee on House Administration. House Resolution 388. Resolution providing amounts for the contingent fund of the House for the expenses of investigations and studies by standing and select committees of the House in the second session of the One Hundredth Congress; with an amendment (Rept. 100-512). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CLAY (for himself, Mr. PEPPER, Mr. ROYBAL, Mr. RINALDO, Mr. ACKERMAN, Mr. ALEXANDER, Mr. BIAGGI, Mrs. BOXER, Mr. BUSTAMANTE, Mrs. COLLINS, Mr. DAVIS of Michigan, Mr. DAVIS of Illinois, Mr. DE LUGO, Mr. DELLUMS, Mr. DYMALLY, Mr. ECKART, Mr. FAUNTROY, Mr. FLORIO, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. FORD of Michigan, Mr. GARCIA, Mr. HAYES of Illinois, Mr. HOWARD, Mr. JONTZ, Mr. KILDEE, Mr. KOLTER, Mr. LOWRY of Washington, Mr. MANTON, Mr. MARTINEZ, Mr. MCCLOSKEY, Mr. MFUME, Mr. MURPHY, Mr. OBERSTAR, Mr. OWENS of New York, Mr. PENNY, Mr. PERKINS, Mr. RANGEL, Mr. STAGGERS, Mr. STOKES, Mr. TOWNS, Mr. TRAFICANT, Mr. UDALL, Mr. VISCLOSKY, Mr. WILLIAMS, Mr. WILSON, Mr. WISE, Mr. WOLPE, and Mr. NOWAK):

H.R. 4111. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide for a moratorium on reversions to employers of assets of terminated pension plans and to establish as a fiduciary duty that assets of such plans which would otherwise revert to the employer but for the moratorium must be maintained in trust until the end of the moratorium; to the Committee on Education and Labor.

By Mr. GARCIA (for himself and Mr. KLECZKA):

H.R. 4112. A bill to allow the Export-Import Bank to prepay obligations issued to the Federal Financing Bank without incurring prepayment penalties; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GLICKMAN (for himself and Mr. MOLINARI):

H.R. 4113. A bill to amend the Federal Aviation Act of 1958 to provide aviation industry employees protection against reprisal for disclosure of information concerning threats to the safe operation of civil aircraft; to the Committee on Public Works and Transportation.

By Mr. HAYES of Illinois (for himself Mr. Markey, Mr. Conyers, Mr. Savage, Mr. Frank, Mr. Dellums, Mr. Shays, Mr. Price of Illinois, Mr. Evans, Mr. Roth, Ms. Pelosi, and Mr. Jontz):

H.R. 4114. A bill to repeal the provisions added by the Revenue Act of 1987 which restricts the use of tax-exempt obligations to acquire certain output facilities; to the Committee on Ways and Means.

By Mr. DAUB:

H.R. 4115. A bill to amend the Federal Aviation Act of 1958 to prohibit reissuance of an airman certificate to an airman whose certificate has been revoked for a drug-related offense; to the Committee on Public Works and Transportation.

By Mr. HORTON:

H.R. 4116. A bill to amend the Commercial Motor Vehicle Saftey Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of firefighting and emergency vehicles; to the Committee on Public Works and Transportation.

By Mr. LOTT:

H.R. 4117. A bill to amend the Interior Revenue Code of 1986 to permit tax-free purchases of certain fuels by farmers, commercial fishermen, and other off-highway business users; to the Committee on Ways and Means.

By Mr. MARKEY:

H.R. 4118. A bill to amend and extend the authorization of appropriations for public broadcasting, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PETRI (for himself, Mr. Murphy, Mr. Jeffords, Mr. Penny, Mr. Bartlett, Mr. Henry, Mr. Ballenger, Mr. Gray of Illinois, Mr. Bustamante, Mr. Wortley, Mr. Upton, Mr. de Lugo, and Mr. Boehlert):

H.R. 4119. A bill to amend the Internal Revenue Code of 1986 to provide that the amount of the earned income tax credit will be related to family size; to the Committee on Ways and Means.

By Mr. RAVENEL:

H.R. 4120. A bill to amend the Federal Water Pollution Control Act to include Charleston Harbor, SC, in the National Estuary Program; to the Committee on Public Works and Transportation.

By Mr. SHARP (for himself and Mr. Bryant):

H.R. 4121. A bill to establish an independent safety board to oversee Department of Energy nuclear facilities; jointly, to the Committees on Energy and Commerce and Armed Services.

By Mr. SMITH of New Hampshire:

H.R. 4122. A bill to impose sanctions against the Republic of Panama; jointly, to the Committees on Foreign Affairs, Ways and Means, Banking, Finance and Urban Affairs, and Public Works and Transportation.

By Mr. STUDDS:

H.R. 4123. A bill to authorize appropriations to carry out the National Aquaculture Act of 1980 for fiscal years 1989, 1990, and 1991; to the Committee on Merchant Marine and Fisheries.

By Mr. STUDDS (for himself, Mr. Davis of Michigan, and Mr. Young of Alaska):

H.R. 4124. A bill to authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. TAUKE (for himself, Mr. Lent, Mr. Rinaldo, and Mr. Rogers):

H.R. 4125. A bill to permit television broadcasting organizations to conduct certain activities relating to promoting the educational and informational impact of television broadcast programming designed primarily for children and to avoid abusive advertising practices during such programming; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. TAUZIN (for himself, Mr. Jones of North Carolina, Mr. Davis of Michigan, Mr. Fields, and Mr. Hubbard):

H.R. 4126. A bill directing the President to hold in an escrow account certain payments to Panama under the Panama Canal Treaty of 1977 during periods in which Panama is not being governed in fact by a government recognized by the United States; jointly, to the Committees on Merchant Marine and Fisheries and Foreign Affairs.

By Mr. UDALL:

H.R. 4127. A bill to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and outdoor recreational heritage, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BILIRAKIS:

H.J. Res. 488. Joint resolution designating November 6-12, 1988, as "National Women Veterans Recognition Week"; to the Committee on Post Office and Civil Service.

By Mr. DeWINE (for himself, Mr. Ravenel, Mr. Bilirakis, Mr. de la Garza, Mr. Nielson of Utah, Mr. Bennett, Mr. Brennan, Mr. Brown of Colorado, Mr. Harris, Mr. Biaggi, Mr. Huckaby, Mr. Gray of Illinois, Mr. Rhodes, Mr. Roe, Mr. Smith of New Jersey, Mr. Bilbray, Mr. Lipinski, Mr. Horton, Mr. Bevill, Mr. Fauntroy, Mr. Lagomarsino, Mr. Lungren, Mr. de Lugo, Mr. McGrath, Mr. Valentine, and Mr. Owens of Utah).

H.J. Res. 489. Joint resolution to designate September, 1988 as "Partnerships in Education Month"; to the Committee on Post Office and Civil Service.

By Mr. COURTER (for himself, Mr. Matsui, and Mr. Stump):

H. Con. Res. 260. Concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred, as follows:

Mr. PANETTA introduced a resolution (H. Res. 398) honoring the American Culinary Federation for its contributions to American cuisine and for its support of the 1988 American Culinary Olympic Team; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 190: Ms. Pelosi, Mr. Goodling and Mr. de Lugo.

H.R. 303: Mr. Coble, Ms. Oakar, Mr. Kasich, Mr. Owens of New York, Mr. Henry, Mr. McMillen of Maryland, Mr. Latta, and Mr. Pickett.

H.R. 592: Mr. Bliley and Mr. Konnyu.

H.R. 593: Mr. Huckaby, Mr. Davis of Michigan, Mr. DeLay, Mr. DeWine, Mr. Edwards of Oklahoma, Mr. Lewis of Florida, Mr. Skeen, Mr. Thomas of California, and Mr. Vander Jagt.

H.R. 719: Mr. DeWine and Mr. Gingrich.

H.R. 925: Mr. Cardin.

H.R. 1016: Mr. Boucher and Mr. Matsui.

H.R. 1433: Mr. Green.

H.R. 1516: Mr. Nelson of Florida.

H.R. 2246: Mr. Biaggi, Mrs. Collins, Ms. Pelosi, Mr. Sabo, Mr. Edwards of California, Mr. Vento, Mr. Fauntroy, and Mr. Hughes.

H.R. 2415: Mr. Mineta.

H.R. 2517: Mr. Guarini.

H.R. 2649: Mr. Brennan.

H.R. 2787: Mr. Guarini.

H.R. 3010: Mr. Bustamante.

H.R. 3202: Mr. Pepper.

H.R. 3330: Mr. Kostmayer, Mr. Blaz, Mr. Berman, Mr. Moody, Mr. Studds, Mr. Weiss, Mr. Walgren, Mr. Ortiz, Mr. Perkins, and Mr. Markey.

H.R. 3433: Ms. Snowe.

H.R. 3440: Mr. Vento.

H.R. 3455: Mrs. Collins, Mr. Richardson, Mr. Fauntroy, Mr. Matsui, Mr. Bonior of Michigan, Mr. Mavroules, Mr. Frost, Mr. Spratt, Mr. Brown of California, Mr. Dellums, Mr. de Lugo, Mr. Wolpe, and Mr. Ford of Tennessee.

H.R. 3478: Mr. Owens of New York, Ms. Kaptur, Mr. Garcia, and Mr. Guarini.

H.R. 3485: Mr. Goodling.

H.R. 3502: Mr. Penny and Mr. Obey.

H.R. 3619: Mr. Neal, Mr. de Lugo, and Mr. Edwards of California.

H.R. 3735: Mr. Rose, Mr. English, Mr. Hopkins, Mr. Evans, Mr. Penny, Mr. Lewis of Florida, Mr. Combest, Mr. Grandy, Mr. Campbell, Mr. Lancaster, Mr. Barnard, Mr. Jacobs, Mr. Bevill, and Mr. Hammerschmidt.

H.R. 3765: Mr. Hayes of Louisiana, and Mrs. Lloyd.

H.R. 3791: Mr. Smith of New Jersey, and Mr. Tauke.

H.R. 3792: Mr. Biaggi, Mr. Fish, and Mr. DioGuardi.

H.R. 3840: Ms. Pelosi and Mr. de Lugo.

H.R. 3857: Mr. Kolter.

H.R. 3865: Mr. Oxley, Mr. Glickman, Mr. Wolpe, Mr. Bateman, Mr. Dickinson, Mr. Cheney, Mr. Shuster, Mr. Gekas, Mr. Baker, Mr. McCurdy, Mr. Dyson, Mr. Hayes of Louisiana, Mr. Montgomery, Mr. Bonker, Mr. Ford of Tennessee, Mr. Kildee, Mr. Bilbray, Mr. Lott, Mr. Miller of Ohio, Mr. Hyde, and Mr. Coleman of Texas.

H.R. 3871: Mr. Rodino, Mr. Mfume, Mr. Hayes of Illinois, Mr. Fauntroy, Mr. Horton, Mr. Traficant, Mr. Weiss, Mr. Staggers, and Mr. de Lugo,

H.R. 3893: Mr. Hastert, Mr. Craig, Mr. Holloway, Mr. Bartlett, Mr. Kolbe, Mr. Hughes, Mr. Lagomarsino, Mr. Archer, and Mr. Schuette.

H.R. 3894: Mr. Murphy and Mr. McEwen.

H.R. 3900: Mr. Stangeland and Mr. Hiler.

H.R. 3907: Mr. Whitten, Mr. Price of North Carolina, Mr. Derrick, Mr. Coats, and Mr. Wylie.

H.R. 3939: Mr. Daub, Mr. Craig, Mr. Solomon, Mr. Hansen, and Mr. Sensenbrenner.

H.R. 3999: Mr. Frost, Mr. Price of Illinois, Mrs. Bentley, Mr. Garcia, Mr. Pepper, and Mr. Smith of New Jersey.

H.R. 4015: Mr. Frenzel and Mr. Craig.

H.R. 4024: Mr. Rodino, Mr. Owens of New York, Mr. Edwards of California, Mr. DeFazio, and Mr. Clay.

H.R. 4060: Mr. Lehman of Florida, Mr. Garcia, Mr. Lehman of California, Mrs. Collins, Mr. Biaggi, Mr. Flake, Mr. Hughes, Mr. Waxman, and Mr. Weiss.

H.R. 4074: Ms. Snowe, Mr. Inhofe, and Mr. Jeffords.

H.J. Res. 55: Mr. Mack, Mrs. Smith of Nebraska, Mr. Bilirakis, Mrs. Lloyd, Mrs. Johnson of Connecticut, Mr. Hochbrueckner, Mr. Bryant, Mrs. Collins, Mr. Biaggi, Mr. Holloway, Mr. Hawkins, Mr. Coats, Mr. Brennan, and Mr. Weiss.

H.J. Res. 83: Mr. Valentine, Mr. Nichols, Mr. Broomfield, and Mrs. Smith of Nebraska.

H.J. Res. 148: Mr. Ackerman, Mr. Frenzel, Mr. LaFalce, and Ms. Oakar.

H.J. Res. 287: Mr. Holloway.

H.J. Res. 377: Mr. Clement, Mr. Hastert, Mr. Kolter, Mr. Nichols, Mr. Oberstar, Mr. Richardson, Mr. Rinaldo, Mr. Rowland of Connecticut, Mr. Smith of New Hampshire, Mr. Valentine, Mr. Visclosky, Mr. Levine of California, and Mr. Smith of Florida.

H.J. Res. 386: Mr. Lungren and Mr. Pursell.

H.J. Res. 396: Mr. Sunia, Mr. Henry, Mr. Owens of New York, Mr. Davis of Illinois, Mr. Garcia, Mr. de la Garza, Mr. Howard, Mr. Chapman, Mr. Perkins, Mr. Schaefer, Mr. Dymally, Mr. Weldon, Mr. DeWine, Mr. Upton, Mr. Mineta, Mr. Hughes, Mr. Fish, Mrs. Bentley, Mr. McMillen of Maryland, Mr. Skaggs, Mr. Martinez, Mrs. Lloyd, Mr. Gallegly, Mr. Nielson of Utah, and Mr. Fauntroy.

H.J. Res. 405: Mr. Kildee.

H.J. Res. 408: Mr. Miller of Washington, Mr. Price of Illinois, Mr. Tauke, Mr. Mfume, Mr. Rahall, Mr. Clay, Mr. Fish, Mr. Dyson, Mr. Feighan, Mr. Owens of Utah, Mr. Derrick, Mr. Moody, Mr. Berman, Mr. Traxler, Mr. Erdreich, Mr. Jontz, Mr. Watkins, Mr. Nielson of Utah, Mr. Lancaster, Mr. Yatron, Mr. AuCoin, Mr. Campbell, Mr. Florio, Mr. Ackerman, Mr. Chandler, Mr. Mollohan, Mr. de la Garza, Mr. Roberts, Mr. Pickett, Mr. Harris, Mr. Hochbrueckner, Mr. Sisisky, Mr. Ford of Tennessee, Mr. Vander Jagt, Mr. Rowland of Georgia, and Mr. DeFazio.

H.J. Res. 413: Mr. Kildee, Mr. de Lugo, and Mr. Blaz.

H.J. Res. 416: Mr. Waxman and Mr. Morrison of Connecticut.

H.J. Res. 429: Mr. Kildee, Mr. Borski, Mr. Shays, Mr. Kanjorski, Mr. Morrison of Connecticut, Mr. Vander Jagt, Mr. Donald E. Lukens, and Mr. Kyl.

H.J. Res. 443: Mrs. Bentley, Mr. Berman, Mr. Bevill, Mr. Biaggi, Mr. Bilbray, Mr. Bliley, Mr. Boulter, Mrs. Boxer, Mr. Bustamante, Mr. Carr, Mrs. Collins, Mr. Davis of Michigan, Mr. DeFazio, Mr. Dellums, Mr. de la Garza, Mr. Donnelly, Mr. Dyson, Mr. Eckart, Mr. Fawell, Mr. Frost, Mr. Garcia, Mr. Gilman, Mr. Gonzalez, Mr. Gray of Illinois, Mr. Hansen, Mr. Hatcher, Mr. Hayes of Illinois, Mr. Hefner, Mr. Hochbrueckner, Mr. Holloway, Mr. Horton, Mr. Howard, Mr. Hutto, Mr. Jenkins, Ms. Kaptur, Mr. Kolter, Mr. Lantos, Mr. Lujan, Mr. McEwen, Mr. Manton, Mr. Martin of New York, Mr. Moorhead, Mr. Owens of New York, Ms. Slaughter of New York, and Mr. Waxman.

H.J. Res. 448: Mr. Brown of California, Mr. Biaggi, Mr. Swindall, Mrs. Collins, Mr. Hughes, Mr. Martin of New York, Mr. Eckart, Mr. Lungren, Mr. Konnyu, Mr. AuCoin, Mr. Bateman, Mrs. Bentley, Mr. Bevill, Mr. Lowry of Washington, Mr. Bustamante, Mr. Matsui, Mr. Mavroules, Mr. Coyne, Mr. Miller of California, Mr. Dornan of California, Mr. Moakley, Mr. Tallon, Mr. Foglietta, Mr. Michel, Mr. Weber, Mr. Frank, Mr. Garcia, Mr. Gejdenson, Mr. Gilman, Mr. Murphy, Mr. Perkins, Mr. Gray of Illinois, Mr. Hawkins, Mr. Horton, Mr. Savage, Mr. Sisisky, Mr. Schumer, Mr. Spence, and Mr. Stump.

H.J. Res. 452: Mr. Konnyu, Mr. Lungren, and Mr. de Lugo.

H.J. Res. 453: Mr. Blaz, Mr. Hayes of Illinois, Mr. Kyl, and Mr. Bruce.

H.J. Res. 464: Mr. Brennan, Mr. de Lugo, Mr. Fauntroy, Mr. Hughes, Mr. Kolter, Mr. Nielson of Utah, Mr. Stenholm, and Mr. Sundquist.

H.J. Res. 470: Mr. Archer, Mr. Jacobs, Mr. Hiler, Mr. Perkins, Mr. Callahan, Mr. Udall, Mr. Jones of North Carolina, Mr. Grandy, Mr. Borski, Mr. Kastenmeier, Mr. Waxman, Mr. Lehman of Florida, Mr. Scheuer, Mr. Annunzio, Ms. Pelosi, Mr. Gray of Illinois, Mr. Hatcher, Mr. McCloskey, Mr. Sabo, Mr. Miller of Washington, Mr. Coelho, Mr. Lancaster, Mr. Gonzalez, Mr. Pickett, Mr. St Germain, Mr. Florio, Mr. Valentine, Mr. Rodino, Mr. Johnson of South Dakota, Mr. Price of North Carolina, Mr. Atkins, Mr. Hayes of Illinois, Mr. Solarz, and Mr. Cardin.

H.J. Res. 472: Mr. Martin of New York, Mr. Kostmayer, Mr. Hunter, Mr. Young of Alaska, Mr. Boland, Mr. Owens of New York, Mrs. Johnson of Connecticut, Mr. Lent, Mrs. Boxer, Mr. Rogers, Mr. Schuette, Mr. Roe, Mr. McDade, Mr. Dwyer of New Jersey, Mrs. Collins, Mr. Frost, Mr. Hughes, Mr. Lungren, Mr. Owens of Utah, Mr. Emerson, Mr. de Lugo, Mr. Weiss, Mr. Brennan, Mr. Wortley, Mr. Lipinski, Mr. Jontz, Mr. Coats, Mr. Molinari, Mr. Vander Jagt, Mr. Roybal, Mr. Dornan of California, Mr. Chapman, Mr. Pepper, Mr. Horton, Mr. Fazio, Mr. Davis of Illinois, Mr. Lagomarsino, Mr. Bryant, Mr. Garcia, Mr. Fawell, and Mr. Whittaker.

H. Con. Res. 256: Mr. Atkins.

H. Res. 188: Mr. Craig.

H. Res. 374: Mr. Daub, Mr. Craig, Mr. Solomon, Mr. Hansen, and Mr. Sensenbrenner.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1259: Mr. Horton.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

134. The SPEAKER presented a petition of Mr. James S. Parker, Kalamazoo, MI, relative to the U.S. Congress; which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

GERALD SOLOMON NAMED "MAN OF THE YEAR" BY STATE DIRECTORS OF VETERANS' AFFAIRS

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. MONTGOMERY. Mr. Speaker, on March 7, the National Association of State Directors of Veterans' Affairs formally recognized what we in the Congress have known for years: GERALD SOLOMON is a great American. The group bestowed upon our friend and colleague from New York its "Man of the Year" award for his tireless efforts on behalf of the Nation's 27 million veterans.

I'm sure my colleagues will agree that JERRY SOLOMON is a rare blend of eloquence and doggedness, of compassion and strength. These characteristics have earned him the trust and respect of veterans and their families across the country.

As ranking minority member of the Veterans' Affairs Committee, he has been a staunch protector of veterans' programs. I am especially appreciative of the nonpartisan atmosphere he has helped to establish within our committee, which is as it should be in the deliberation of matters affecting the Nation's defenders. It is a privilege to work with him.

Mr. Speaker, I am pleased to share with my colleagues the remarks of JERRY SOLOMON as he received this great honor from the State Directors of Veterans' Affairs. His remarks are preceded by those of Frank D. Wilkes, president of the association, who made the presentation.

REMARKS OF FRANK D. WILKES, PRESIDENT, NATIONAL ASSOCIATION OF STATE DIRECTORS OF VETERANS AFFAIRS, INC.

The recipient of our annual award as "Man of the Year" is the ranking Republican of the House Veterans' Affairs Committee. He represents the 24th District of the State of New York and is now in his 10th year in the Congress of the United States. During all of those years he has served on the Veterans' Affairs Committee in the House of Representatives.

Congressman Solomon is a most worthy recipient of our annual award. When the Congress finally passes a bill restoring beneficiary travel to veterans going to and from VA hospitals and clinics, it will have Jerry Solomon to thank. It was he who persuaded over three hundred of his colleagues in the House to cosponsor his bill to restore this benefit and it passed the House with an overwhelming majority.

But even more dramatic is the fact that Congressman Solomon has been the grand architect of the drive to make VA into a Cabinet agency of Government. It was he who spearheaded the drive. It was he who persuaded his colleagues to join with him in sponsorship of the legislation. It was he to whom the President spoke when he announced his support of the bill.

As each of you knows, the bill passed the House of Representatives by a vote of 399 to 17. It is now in the Senate with 62 sponsors and we have great expectations that it will soon become law.

One of our colleagues spoke about this matter just the other day when he said, and I quote, "When they move a new chair into the White House Cabinet Room for the Secretary of Veterans' Affairs, they ought to put a sign on the back of it which would say 'a gift by Jerry Solomon.' "

Ladies and gentlemen, the National Association of State Directors of Veterans' Affairs is proud to present its annual award as "The Man of the Year" to Congressman Gerald Solomon of New York.

REMARKS BY HON. GERALD B.H. SOLOMON, NATIONAL ASSOCIATION STATE DIRECTORS OF VETERANS' AFFAIRS, TOUCHDOWN CLUB, MARCH 7, 1988

Thank you, Mr. President, and thank you too to each of the members of the National Association of State Directors of Veterans' Affairs. I am most grateful for your recognition and for this award.

It's good to be with a group that has given great support to the idea of the Veterans' Administration being a Cabinet agency of Government.

For over 25 years, legislation has been introduced in Congress to do this, but in all that time the legislation floundered and never got anywhere. This year it's a different story.

You know that the House of Representatives has now passed our bill by a vote of 399 to 17. This vote came after the bill had obtained over 270 cosponsors from both sides of the aisle. It came after the House Government Operations Committee unanimously reported the bill to the floor. And it came just one week after the President summoned a group of us to the White House to announce his personal support.

Over in the Senate the bill has 62 cosponsors. Senator Glenn, the chairman of the Senate Committee on Government Operations, has held one hearing on the bill in December and another is scheduled for March 25th. I am confident that these hearings will have a favorable outcome and that we will soon have a bill on the President's desk. Thereafter we will have a law that makes the VA "the Department of Veterans' Affairs" and makes the Administrator the Secretary of Veterans' Affairs.

This legislation has been long in coming. But because of the work of our great veterans organizations and the work of many such as those in this room, we are finally being successful and each of you who have supported the idea can be intensely proud of your accomplishments.

The veterans programs of our country are big business. We have a huge and vitally necessary compensation and pension program. We have the largest medical program in the free world. We have the G.I. education bill, the G.I. housing bill, G.I. insurance and the national cemetery program. We have 27 million veterans and a 28 billion dollar budget. The voice of such a vast undertaking deserves to be heard at the highest level of our Government. At long last this is where it will be heard.

It's high time for VA to quit sitting in the rear of the governmental bus. It's high time for it to be up next to the driver—the President of the United States.

On occasion there are those who say that our country does too much for veterans and their dependents. The Washington Post and the New York Times have taken this line as they have opposed Cabinet level status for VA. I beg to disagree.

The fact is that the percentage of Government expenditures for veterans' programs has been reduced over the last few years and a number of programs have been curtailed. For instance, the medical program has scarcely kept pace with inflation. Burial benefits have been reduced. A COLA was delayed and effective dates of some awards were changed.

I think the hard facts is that yes the veterans' programs of our country are expensive, but they are not excessive.

There will never be enough money to do all that many would like to do. But, in my view, there must be enough to carry out this Nation's obligation to its veterans—the VA medical program must be maintained at least at the current services level. It must keep pace with the state of the art.

Compensation and pension must keep pace with the economy.

And there must be enough money provided to have enough employees to give timely, quality service in all VA programs.

With respect to the 1989 budget which is currently under consideration, I believe the Congress will act responsibly in each of these vital areas. Even in these times of necessary national budget restraints the Congress will recall the needs of those men and women who willingly answered freedoms call to arms.

In these last few weeks as the Congress has considered the Cabinet matter, we have seen a number of news stories that suggest that VA should perhaps get out of the medical business except to pay for it in the private sector. I reject this idea as having no merit. I think the VA system is, of course, not perfect. However, it gets the job done. It is linked to the private sector by its excellent medical school affiliations. It is involved in great research. But most of all, it is involved in giving good treatment to good people—the veterans of our Nation's wars.

For my part—and I believe the same is true of the vast majority of the Congress—I will resist any effort to dismantle the VA medical system. I will resist any attempt to bail out over-bedded non-VA hospitals by the establishment of a voucher system. And I will resist efforts to reduce the VA program below a current services level.

With respect to the 1989 budget sent to the Congress just two weeks ago, I and others have already determined that it needs improvement.

We live in a time of vitally necessary fiscal restraint. But I do not believe it should start by reducing the number of VA medical employees by almost 1,800. And I do not feel

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

our Nation should be reducing the number of planned nursing care beds for veterans in the face of an ever-increasing aging veterans population.

In my view, reducing medical employees will result in closing VA beds. It will result in a reduced inpatient and outpatient workload. It will result in less research. It will result in a decline in quality of care and that just cannot be tolerated and must not be allowed to happen.

All of us favor more productivity. All of us want to reduce the deficit. All of us want our Government to be frugal. Yet, I have seen no evidence that VA employees have not been productive. I have seen no evidence that VA is not now being frugal. On the contrary, I see more patients being treated each year with essentially the same number of employees. I see a reduction in the number of treatment days. And so, I plan to join with Sonny Montgomery in doing what I can to strengthen the VA budget by adding money to eliminate the proposed reductions in medical care and also the proposed reductions in employment in the Department of Veterans Benefits where claims are processed.

One other matter deserves comment here today. It concerns beneficiary travel for veterans going to and from VA medical centers for treatment. You are aware that this benefit was materially reduced last year. I believe this was a very unwise move and am proud that I was in the forefront of having it essentially restored by the House of Representatives. However, the Senate acted differently and provided for a $7 per trip deductible and a waiver provision for medical centers that previously had not paid any beneficiary travel or had paid less than the regulatory amount. The waiver would also apply in certain other instances if requested by a local hospital.

I want a beneficiary travel bill to pass and I want to see beneficiary travel made available again—particularly to those who need it the most. It is my hope and belief that the House and Senate will soon come to an acceptable agreement on this issue.

And now let me conclude.

This nation has a great memory, and will not forget those who labored mightily in its cause, suffered in its defense, or became disabled in its preservation.

The veterans of this Nation have been tried and tested. And they have persevered. The glory of America is the legacy they have left. The bright torch of freedom is their gift. That glory and that gift is manifest this very moment.

Those who wear the proud label of "Veteran" have great memories. They are memories of pain, glory, and honor. They are memories of the horror of war and the preservation of freedom. They are memories we must never forget * * * because those memories are the very reason we are the greatest, freest nation on Earth.

But we must be wary of those who would take away that freedom * * * and that threat is ever present today. It is a philosophy called communism * * * deadly atheistic communism".

A year and a half ago, I had an opportunity to observe the difference between democracy and communism when I led a congressional delegation to a place called Hanoi to do something I thought I would never do * * * and that is to sit across the table from Communists who didn't even have the decency to return the remains of our fallen American soldiers, not to mention the possible enslavement of live American P.O.W.S.

As distasteful as it was, we were somewhat successful in that more than 80 sets of remains have been returned since those negotiations were reopened, and just last week 18 more were turned over to us.

But while I was in Hanoi, I had an opportunity to speak to and observe many Vietnamese (some Communist and some not) * * * but the look on their faces were all the same. It was a look of dispair and no hope * * * because in Vietnam today (under communism) there are no decent jobs, no economy, no decent living conditions * * * nothing but suffering.

But by contrast * * * on my way back to America, I had an opportunity to visit some refugee camps on the Cambodian/Thailand border where 150,000 men, women, and children had been driven from their homes * * * by a thing called communism.

To get there, we first went by plane, then by helicopter, then by truck * * * and as we drove the last 50 miles along an old dirt road in the middle of nowhere, there began to be people standing alongside, first a few, then dozens, then hundreds, and later thousands.

And many were carrying signs, not like those the nightly news likes to show us that say "Yankee Dogs"—"American Pigs"—"America we hate you."

These signs were not like that. They all said things like "USA No. 1"—"America We Love You."

And then we came upon a huge sign held by about 50 young children that said "America, Please Take Us Home" * * * I had to step back and say to myself, "My God, how much I love my country" * * * and how proud I am to be an American because I realized these poor people, displaced by communism, were not asking us to take them home to America * * * They were asking us to make it possible for them to go back to their homes * * * unlike the people I had seen in Hanoi, there was hope on their faces.

Their hope was America.

Yes my fellow Americans, you and I * * * we Americans are the only hope of the free world.

For if a country falls under the deadly tentacles of communism, those people have a place to turn to * * * a place called America.

But, my fellow Americans, if our country falls to communism * * * where will we go * * * to whom can we turn?

The answer of course is no one * * * and that is why the first and most important national priority must always be a military preparedness that is without question second to none.

In recent years we have been able to rebuild our national defense, thanks to the backing of the American people.

And in the forefront of that support have been men and women that each of you represent here today—those who proudly call themselves veterans of the Armed Forces of the United States of America.

God bless them. God bless each of you. Thank you again for your award. I will always be grateful for it. And God bless America.

ASSESSING THE RISKS OF RESCUE

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. DYSON. Mr. Speaker, with the ever critical hostage situation in Lebanon still looming over our Nation's head, I would like to call the attention of my colleagues to an enlightening observation of the current hostage situation by Dr. James Blackwell, a senior fellow in international security studies at the Center for Strategic and International Studies. Dr. Blackwell wrote an article which was printed in the Washington Times on February 24, 1988, entitled "Assessing the Risks of Rescue." This article emphasizes the new opportunity for a successful rescue mission of U.S. Marine Corps Lt. Col. William R. Higgins due to the fact that the colonel is a "combat-experienced, highly motivated marine" and "cannot be expected to be a cooperative captive." Dr. Blackwell urges President Reagan to seize this new opportunity posed by the abduction of Colonel Higgins and therefore lower the confidence of terrorists using hostages as "political and diplomatic bargaining chips." I commend the following Washington Times article of February 24, 1988, to my colleagues for your review.

[From the Washington Times, Feb. 24, 1988]

ASSESSING THE RISKS OF RESCUE

(By James Blackwell)

The taking of hostages as political and diplomatic bargaining chips has become nearly routine in Lebanon. Until now, no one has been able to free the hostages because of a lack of intelligence-gathering capability and will. Moreover, the risks of mounting a rescue operation are high. But the kidnapping of U.S. Marine Corps Lt. Col. William R. Higgins in Lebanon is not simply another hostage-taking. Col. Higgins, the ninth U.S. captive taken there since 1985, presents both a new danger and a new opportunity.

President Reagan should assume the risks inherent in this critical situation and seize the opportunity by ordering a rescue mission to free Col. Higgins.

The seizure of Col. Higgins marks the first time Middle East terrorists have abducted a military man. Presumably, Col. Higgins' captors believe that their captive will provide greater leverage in achieving their goals than the journalists, educators, businessmen and diplomats previously taken. Perhaps they assume that, to protect a Marine, the United States will be more willing to give in to their demands. They are mistaken. They have misjudged the limits of American patience.

It is true that previous failures in the Middle East have immobilized U.S. response to such situations. We remember the failed rescue attempt in Iran in 1980; we live with the tragic memories of those who died in the bombing of the Marine barracks in Beirut in 1983. But the time has come to put an end to this terrorism.

Americans should not accept such hostage-taking by terrorists as inevitable. By cooperating with Italian authorities, the U.S. government helped rescue Army Brig.

Gen. James Dozier from the Italian Red Brigade terrorists in 1981. When the opportunity arose, we subdued Libya's Muammar Qaddafi through military action. We should do likewise with the terrorists in Lebanon now.

We certainly have the capability to do so. The 1985 Libya raid and the capture of the Achille Lauro hijackers demonstrated America's military capacity to gather intelligence, plan, rehearse and execute a small-scale special operation across great distances with little cooperation from our allies. The specially trained anti-terrorist forces available to the president could execute such a rescue of Mr. Higgins with a minimum of preparation time.

The risks of such an operation to Mr. Higgins' life are no less than the risks to the lives of the other hostages if we tried to rescue them. Once the abductors learn that a rescue mission is under way, they know their own lives are in danger and they might take the hostage down with them. But this is no typical hostage. This is a combat-experienced, highly motivated Marine. He cannot be expected to be a cooperative captive. Moreover, he is a professional. He is accustomed to taking risks. He understood that when he sought a job as commander of the detachment in Lebanon. He is not expendable. But he understands and accepts the risks inherent in what he is doing.

The effects of a successful rescue mission would be far-reaching. It could reduce the incentive for taking future hostages, because terrorists can never again be confident they will succeed. It may cause those holding the other American hostages to tighten their grip, but it may also cause them to lower their expectations as to what they hope to achieve by holding the other eight Americans. At the very least they will be on notice that we will not sit idly by or cave in to their demands.

A rescue mission will also give the other hostages new hope in their prospects for future release. In 1970 the United States tried to rescue American prisoners held in the Son Tay camp in North Vietnam. The mission failed because the prisoners had been moved a few days before the raid. But the effects on the morale of those being held in North Vietnam was more than worth the effort. Word of the raid raced through Hanoi and the outlying camps, injecting new life into the hapless captives and renewing their faith in the support of their countrymen. We could achieve a similar effect with the hostages in Lebanon if we at least attempted to rescue one of them.

There is a better than even chance that Col. Higgins could be rescued. A mission should be launched to take full advantage of the confusion and tension that inevitably follows in the immediate aftermath of such a kidnapping. Right now, Col. Higgins' abductors are breathless and scared.

President Reagan should direct that a rescue mission be carried out immediately.

PERSONAL EXPLANATION

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. MOODY. Mr. Speaker, on March 2, 1988, my flight from Wisconsin was unavoidably detained and I missed four rollcall votes. Had I been present, I would have voted: "aye" to approve the Journal: "aye" to suspend the rules and pass S. 1447, to designate two Alabama counties as one metropolitan statistical area; "aye" to agree to House Resolution 393, to approve committee reassignments; and "aye" on House Resolution 391, to order the previous question on the rule for S. 557.

EDITORIAL POINTS OUT THE DOMESTIC DANGERS OF THE CONTRA WAR

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. KILDEE. Mr. Speaker, I urge my colleagues to read the attached editorial of February 18 by Dennis F. Herrick, publisher and editor of the Sun, a weekly newspaper in Mount Vernon, IA. Mr. Herrick cogently points out the dangers to our own society and democratic government posed by our covert support for the Nicaraguan Contras.

PUBLISHER'S NOTES

Nicaragua, torn by a civil war between its communist Sandinista government and U.S.-backed rebels known as Contras, may be a dirtier little war than ever originally thought, with drug traffic to America directly involved.

Many Americans have opposed U.S. arming and training of Contra soldiers. Just this month Congress voted down an Administration request for further official funding of the war.

The tragic experience in Vietnam has made almost everyone agree that such military intervention is not worth American blood.

It has not been quite as unanimous on whether it is worth American dollars, however,

And so millions have flowed—publicly from the U.S. treasury, and secretly through Central Intelligence Agency covert operations. Millions also have been paid by nations such as Saudi Arabia and Israel, who have been forced into cooperating because of their dependence on currying favor with the U.S. government. Misguided U.S. officials even resorted to selling arms to Iran, of all nations, and tried to get the money channeled back through Swiss bank accounts to the Contras.

That is certainly scandal enough.

But evidence is growing that even more sinister funding sources have kept funds flowing to the Contras—profits from pushing illicit drugs in the United States.

There also is increasing evidence that the drug shipments have been protected, aided and abetted by U.S. intelligence and former intelligence officials desperate to provide more money for the Contras.

In short, right-wing zealots within and/or close to our own government may be running drugs to America just to rasie more cash for the Contras when they couldn't get enough from Congress, bullied allies or dubious arms sales.

If so, it is a monstrous price to pay for combatting communism.

U.S. Sen. John Kerry, D-Mass., has been conducting an investigation for the past two years on the allegations through his Subcommittee on Terrorism, Narcotics and International Communications.

Witnesses last week testified that there is a connection between selling drugs in the U.S. and financing of the Contras.

Gen. Manuel Antonio Noriega of Panama is a case in point of how American intelligence has built working relationships with some of the most unsavory people in the world—international drug dealers and officials in their pockets, such as Noriega.

Noriega was recently indicted by a federal grand jury on several charges that he protected and expedited massive shipments of cocaine to the United States through Panama on behalf of the Medellin drug cartel in Colombia. It is estimated that 80 percent of the cocaine here is provided by Medellin.

A former senior Panama official, José I. Blandón, told Kerry's panel last week that Noriega headed the "criminal empire" with the knowledge of U.S. officials.

While Noriega was running drugs to the United States, he also was cooperating with the CIA and White House on all kinds of covert operations against Nicaragua. Since at least 1983, Blandón said, Noriega often met personally with then-CIA director William J. Casey and Lt. Col. Oliver L. North of the National Security Council.

Working with unscrupulous people like Noriega is enough to gag respectable folks. But even that might not be the worst.

Another witness before the Senate panel, Ramon Milian-Rodriguez, testified that he channeled millions of dollars to the Contras in laundered money from drugs sold in the U.S. after he was asked for help in raising money by "a liaison with . . . U.S. intelligence." Kerry prevented him from naming the official at this time. Kerry plans to resume the hearings next month.

This sordid scenario is sounding a lot like the charges brought in the federal civil lawsuit against a private Contra support network.

The lawsuit, expected to go to court this summer, is being brought by the Christic Institute and the Trial Lawyers for Public Justice.

The suit contends that several people, including several with CIA ties, are smuggling drugs into the United States to finance military interventions in other countries.

This goes far beyond simply trying to get around Congress (and the Constitution) to find other money sources for forbidden military actions.

It is the poisoning of America for fomenting war elsewhere.

It is said we would have had to destroy Vietnam in order to save it. In a perverse twist, it appears we may be destroying ourselves in order to "save" Nicaragua.—Dennis F. Herrick.

INTRODUCTION OF LEGISLATION TO SUSPEND PANAMA CANAL COMMISSION PAYMENTS TO ILLEGITIMATE GOVERNMENTS IN PANAMA

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. DAVIS of Michigan. Mr. Speaker, I join several of my colleagues today in the introduction of a bill to suspend payments from the

Panama Canal Commission to the Republic of Panama until the questions concerning the legitimacy of the present government under Gen. Manuel Noriega have been answered.

As the leadership of the Merchant Marine and Fisheries Committee and of the Panama Canal-OCS Subcommittee, we are concerned about the current unrest in the Republic of Panama and its effects on the operation of the Panama Canal which falls under our committee's jurisdiction.

These events of the last 2 weeks have shown a rapid decline in the move toward democracy. As the U.S. Government takes appropriate measures to urge the ruling leaders of Panama to maintain their course toward democracy, cries from Panama that the United States is on the verge of breaking the Panama Canal Treaty of 1977 are disturbing.

As the committee with jurisdiction over the Panama Canal Commission, it is our duty to see that the Panama Canal Treaty of 1977 is enforced and adhered to, and that the required treaty payments are made.

This presents us with a delicate dilemma. The ousting of Panamanian President Eric Arturo Delvalle by Gen. Manuel Noriega and the Panamanian National Assembly have led to charges by President Delvalle that the Panamanian Constitution does not allow for such a move by the Assembly. If this is the case and the United States supports the legitimate Presidency of Mr. Delvalle, as President Reagan has stated in recent remarks, then the payments to the Republic of Panama as required by the Panama Canal Treaty of 1977 should not go to the illegitimate government of General Noriega. The next monthly payment to the Republic of Panama from revenues collected through tolls is due March 15, 1988, and will total approximately $5 million.

If the United States' position is that the current government headed by General Noriega is not the legitimate government, we question whether the payment should be made in the usual manner or whether the payment should be withheld until such time as the legitimate government is returned to power. This bill would suspend the monthly payments to the Republic of Panama and place these scheduled payments into an escrow account. This bill would suspend only those monthly payments which come from receipts from canal users through tolls and other fees. This bill would not affect the Panama Canal Commission's monthly payments for services rendered by the Government of Panama, including fire and police protection, garbage pickup, and other essential services provided to the canal for its continued operation.

We would like to make it clear that we do not intend to withhold this required payment from the Republic of Panama indefinitely; however, since the legitimacy of the current government is in question, these payments should be withheld at this time.

Due to the political turmoil, there is additional uncertainty involving the American employees of the Panama Canal Commission. With unrest escalating in major cities, it is unsafe for American personnel to travel, even to purchase everyday living necessities. Due to treaty requirements, approximately 600 American employees and their families no longer have commissary or exchange privileges. To ensure the continued safety of Commission personnel, we are also hopeful that commissary privileges will be returned to these employees until the safety of the American personnel is no longer in question.

I would like to commend my colleagues on the Merchant Marine Committee—Chairman WALTER JONES; Congressman BILLY TAUZIN, chairman of the Panama Canal/OCS Subcommittee; and Congressman JACK FIELDS, ranking member of that subcommittee—for working together in a bipartisan manner to solve these problems through this legislation.

GOV. RALPH CARR: A COLORADO HERO

HON. HANK BROWN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. BROWN of Colorado. Mr. Speaker, in the fall of 1987, this body approved legislation to compensate victims of a great injustice: The Japanese-Americans who were so unfairly sent to detention camps during the Second World War.

Many Government officials turned their backs on these Americans. However, former Colorado Gov. Ralph Carr was one man who spoke out against the unjust treatment of these fellow citizens. In a recent issue of the Rocky Mountain News, Gene Amole wrote a column commending the late Governor for his ethical and courageous stand. My thanks go to George L. Robinson, who served on Governor Carr's staff and who brought this article to my attention.

INSIGHTFUL GUV GETS HERO VOTE

(By Gene Amole)

Unselfish.

Lacking any involvement whatsoever with personal bravery, I fall back on Will Rogers' observation that "We can't all be heroes because someone has to sit on the curb and clap as they go by." Tomorrow is the 100th anniversary of Ralph Carr's birth, and I'll be sitting on the curb, clapping, as the memory of this courageous man passes by.

Most of the heroes I have known just happened to be at the right place at the right time. It wasn't so much a matter of valor as it was of chance. The real hero is one who ignores personal risk and goes ahead and does something because it needs to be done and because it is right.

I started thinking about this because Sen. William Armstrong has begun a campaign to put another statue of a distinguished Coloradan in National Statuary Hall in the U.S. Capitol. Each state is entitled to honor two of its citizens. Colorado has only one statue, that of Dr. Florence Sabin.

All sorts of names are being kicked around for the second honoree, including Zebulon Pike, David Moffat, F.G. Bonfils, Horace Tabor, Molly Brown, Chief Ouray, Charles Boettcher, John Evans, Jack Dempsey, Robert Speer, Lowell Thomas and even cannibal Alfred Packer. The danger, of course, is to confuse notoriety with genuine, unselfish public service.

My vote goes to Carr. When World War II broke out, he was the only western governor to welcome loyal Japanese-Americans who were being rounded up in West Coast states and sent to concentration camps. Against a wave of anti-Japanese sentiment, Carr went on the radio 46 years ago today and said, "We cannot test the degree of a man's affection for his fellows or his country by the birthplace of his grandfather."

It was not a popular stand. Both the Denver Post and the Rocky Mountain News had whipped up knee-jerk, anti-Japanese bias in the wake of the attack on Pearl Harbor three days earlier. Colorado Sen. Ed Johnson made the clear implication in a statement that the Colorado National Guard should be called out to keep Japanese-Americans out of Colorado.

Carr held firm, however, pointing out that loyal Japanese-Americans had the same rights as others under the U.S. Constitution. His stand ended his political career. George L. Robinson, an administrative assistant in Carr's office, wrote just a few days ago: "So, what thanks did he get? He lost his chance to become a U.S. senator. He told us working for him that it might, and it did."

In the years that have followed, Congress has voted to apologize to these loyal Japanese-Americans who were unjustly forced to leave their homes and who were denied their rights as citizens. Note of this will be taken at noon tomorrow when a ceremony honoring Carr will be held at the state capitol.

What this brave man did in Colorado at a precarious time in American history honors all free men everywhere. For this reason, I believe his service should be commemorated by placing a statue of Ralph Carr in the U.S. Capitol in Washington.

He was a genuine hero.

TRIBUTE TO DEBORAH ROGERS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. FRANK. Mr. Speaker, we all know that postal workers serve us through rain and snow and dark of night. But Deborah Rogers, of Somerset, a town in my district, has reminded us that postal workers sometimes serve us in other ways, too. A postal carrier with Fall River Branch 51 in my district, Ms. Rogers was filling in for a carrier in New Bedford when she came to the aid of a 60-year-old man having a heart seizure. Using her knowledge of cardio-pulmonary resuscitation, she cared for the individual until emergency personnel arrived. Ms. Rogers' commitment to helping others—reflected both in her lifesaving actions on this one day and in her willingness to devote the time to learning CPR—is a model for us all and a clear example of the multifaceted role that postal workers play in our communities.

Mr. Speaker, I would like to include in the RECORD a copy of an article on Ms. Rogers from the "Proud to Serve" section in April's The Postal Record.

PATRON WELCOMES DAILY DELIVERY

Filling in for the regular route carrier, Deborah Rogers expected an uneventful day delivering mail in the New Bedford, Massachusetts neighborhood. But as she turned up the walk to one home, she saw the patron slumped on the front stoop. He was suffering a heart seizure and needed emergency help.

Trained in CPR, Rogers half-carried the man into the home and summoned the emergency medical team. Learning that her patron had a history of heart attacks, the Fall River Branch 51 carrier watched for signs of another attack while keeping the man calm.

"I didn't see cardiac arrest occurring and hoped it wouldn't. I asked him if he had taken his medication but at that time he didn't recall." When professional help arrived, Rogers alerted them to her patron's past medical history.

The 60-year-old patron feels Rogers' initial assistance was the "key to keeping me alive." He explained, "I would have been a goner except for her. There was pain shooting down both my arms and I couldn't do anything for myself. If Debbie had not come when she did and taken such good care of me, I don't know what would have happened."

For her life-saving actions, Rogers received cash and a special achievement award from the Postal Service. Said Manager of Customer Relations Charles Sullivan, "Debbie's actions show that our personnel are ready to assist in whatever way they can. We're very, very pleased with what she did."

BIRTHDAY TRIBUTE TO R. MADISON MITCHELL

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. DYSON. Mr. Speaker, I rise today in praise of a highly skilled and nationally recognized artist from Maryland's First Congressional District. For over 50 years this man has carved wooden duck decoys, achieving a prominence that has placed him atop of his field. I speak of Mr. Madison Mitchell, who on March 11, 1988, will celebrate his 87th birthday.

Decoy carving has played a special role in the history of Maryland's Eastern Shore from both a sporting and artistic perspective. Wooden ducks were initially carved as a method to lure ducks. Because of hunter demand for decoys around America's largest estuary, the Chesapeake Bay, decoy carvers soon developed this craft into a highly skilled and artistic vocation. Lifelike decoys initially sold as duck lures became coveted and expensive pieces of art work. And no one personified this artistic transformation more than R. Madison Mitchell.

Robert Madison Mitchell was born on March 11, 1901, at Oakington in Maryland's Harford County. He spent most of his childhood around the shores of the Chesapeake Bay, learning early the majesty and the beauty of this region. By 1922, Mr. Mitchell began to apply his Chesapeake childhood impressions to decoy carving. Along with his mentor, Sam Barnes, the young Mitchell produced local birds—primarily Cans, Redheads, and Blackheads—which sold for $1.25 each.

When Sam Barnes died in 1926, Mr. Mitchell became his own boss and, notably, began to produce his own decoys. He soon made refinements in decoy production which enabled him to create birds of unbelievable definition and realness. It wasn't long until people began to purchase Madison Mitchell decoy's exclusively for museum and private collections.

Few have done more to promote and develop art and culture in the Chesapeake region. Therefore, on March 11, 1988, we not only celebrate R. Madison Mitchell's birthday, but also his enduring contributions to a uniquely American craft. So, Mr. Speaker, I extend happiest birthday wishes to this distinguished artist who stands as a source of great pride to his family, friends, and all in Maryland's First Congressional District.

ARMENIAN PEOPLE CHALLENGE SOVIET AUTHORITY

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. MOODY. Mr. Speaker, the Armenian people have dared to challenge Soviet authority. As a result of uprisings that began there last week, the attention of the world has swung to the Republics of Armenia and Azerbaijan—shattering the myth that all is well in the Union of Soviet Socialist Republics.

Mass protests broke out last week in the Armenian capital of Yerevan. According to some reports, 1,500 Soviet paratroopers with clubs had been flown into Yerevan. More than 100,000 Armenians took to the streets to demand the unification of Nagorno-Karabakh—an overwhelmingly Armenian region—with the Republic of Armenia. The Armenian community in Nagorno-Karabakh, part of the Republic of Azerbaijan, is one of many groups to fall victim to the artificial and arbitrary borders that divide the "republics" of the Soviet Union.

In a tremendous victory for Armenians, Gorbachev has agreed to consider their demand for unification with Nagorno-Karabakh. Now, more than ever, the Armenian people need the support of the world community to ensure that Gorbachev follows up on his commitment. In the fight for Soviet Jewry, we have seen the critical importance of outside pressure in creating change within the Soviet Union. That pressure is equally important today for the people of Armenia.

I hope my colleagues will take every opportunity to raise the case of the Armenians living in Nagorno-Karabakh. They have a right to be united with their people in the Republic of Armenia. We have an obligation to suppport their aspirations and salute their courage.

The following article describes the current situation more fully:

[From the Washington Post, Mar. 9, 1988]

Armenians Gather in Moscow, Exchange Grim Accounts of Ethnic Riots

(By Garry Lee)

Moscow, March 8.—The burly Armenian could scarcely keep from crying as he described how a pregnant woman and her unborn baby were killed during riots in Sumgait in the Moslem republic of Azerbaijan last week.

"I've buried my mother and my father and other relatives, but I've never seen anything like that. They were ripped apart," he said, breaking into tears as he finished his story.

An angry crowd of approximately 200 Armenians gathered in a snowy cemetery here today to exchange tales about rapes, killings and beatings suffered by fellow Christian Armenians at the hands of predominantly Shiite Moslem Azerbaijanis during the recent ethnic clashes that took place in the two neighboring Soviet republics.

One by one, witnesses related what they had seen and heard. Ambartsum Galestyan, an activist from Yerevan who helped organize the mass demonstrations in the capital of the Armenian republic two weeks ago, gave some fresh details about the Sumgait riots.

In addition to the 31 reported deaths, 100 to 150 persons had been injured, Galestyan said. Four- and five-year-old Armenian children had been thrown out of fifth-floor windows, he said. In one clash between Azerbaijanis and troops brought in to quell the violence, two Azerbaijanis and eight soldiers had been killed, he said.

Galestyan's account could not be confirmed by official sources. Other accounts of violence reportedly inflicted on Armenians by the Azerbaijanis also could not be independently verified. The Soviet authorities have prevented foreign correspondents from visiting the region since the latest troubles occurred.

Besides reporting that riots had taken place in Sumgait on Feb. 28 and that 31 had been killed, the official Soviet media have provided no details.

The official weekly Moscow News today criticized the Soviet media for their coverage of the disturbances. "From the outset of the unrest, news was characterized by its belatedness and paucity," the newspaper said in its edition released today. "There was no reliable information about the disorders provoked by criminal elements in some regions of Azerbaijan," it added.

At the cemetery gathering, many Armenians complained bitterly of having to resort to word of mouth to find out news about the protests. "How can the Soviet media today be silent, under conditions of openness and restructuring," asked Robert Aryanpetyan, a specialist in history from Moscow.

The series of protests began early last month, when residents of Nagorno-Karabakh, a predominantly Armenian area of Azerbaijan, demonstrated to demand reunification with Armenia. After that, their Armenian supporters rallied in Yerevan, the capital of the Armenian republic. In response, Azerbaijanis, longtime ethnic rivals of Armenians, demonstrated and rioted in Sumgait.

Today's gathering in the Armenian section of the Vagankovskoye cemetery reflected the anguish running through the Soviet Armenian community in the wake of the recent violence.

A videotape of the protests in Nagorno-Karabakh also arrived in Moscow today, providing local residents with the first images of the confrontations there. The tape showed hundreds of Armenians gathered in the streets, chanting with fists clenched, waving banners, all demanding the union of the enclave with Armenia.

With police lines closely guarding the crowds, the demonstrators appeared peaceful during the five-hour-long video. Several Armenians interviewed on the tape, however, told of beatings and ransacking of Armenians at the hands of local Azerbaijanis. Several were hospitalized, they said.

The demonstrations in Yerevan were suspended after Soviet leader Mikhail Gorbachev broadcast an appeal for calm among Armenians. In Sumgait, the situation is reported to be stabilizing slowly. In Nagorno-Karabakh, however, Armenians are reportedly continuing a demonstration despite warnings by local authorities.

DIESEL FUEL TAX

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. COMBEST. Mr. Speaker, for the benefit of all my colleagues, I am including a statement I made during a hearing in the Small Business Subcommittee on Energy and Agriculture on March 3. The hearing was held to review my legislation, H.R. 3865, to restore the up front tax exemption for off road users fo diesel fuel eliminated in the 1988 Budget Reconciliation Act.

This is a matter of vital importance to this Nation's farmers and small businessmen. The additional capital required to pay the tax will create a tremendous financial burden on industries that can least afford it, such as oil field drilling contractors and small fishermen. This is another example of the Federal Government imposing an unfair burden on the private sector because they cannot do a good job of enforcing its own regulations.

My bill keeps all off road users of diesel fuel from paying a tax they do not owe. I urge any Members who have not cosponsored my legislation to join me and over 100 others in seeing action is taken on this matter.

My statement follows:

STATEMENT OF CONGRESSMAN LARRY COMBEST

Mr. Chairman, I want to begin by commending you for the speed with which you called this hearing. This issue is truly one that has come to the Congress from the grassroots. We have heard an overwhelming cry from farmers and oil field drillers, from tug boat operators and contractors to change this law. I am particularly pleased to welcome my chairman of the Agriculture Committee, Mr. de la Garza, and my Senator from Texas, Mr. Gramm here today to testify on this legislation.

I introduced H.R. 3865 on January 27 to prevent all off road users of diesel fuel from paying a tax they do not owe. Since that time, more than 90 of my colleagues have joined me as cosponsors and the Texas Farm Bureau, Permian Basin Petroleum Association and dozens of other national organizations have endorsed my proposal. The message is coming across loud and clear: Our constituents demand action!!

The newly enacted tax, which will take effect on April 1, just does not make sense. It will require additional upfront capital from small businesses and farmers least able to afford it. The Internal Revenue Service's use of their money will create a cashflow burden and an unnecessary interest expense on industries which are already experienceing serious economic troubles.

Oil field drillers, farmers, shrimpers, and builders are having a hard time understanding the logic of a law which requires them to pay a tax they do not owe, prove to the government that they do not owe it, then apply to the government for a refund they will hopefully be paid. All this, for a tax we have established should not have been paid in the first place.

In addition, the new law causes serious cash flow problems for industries that are least able to stand it. The collection point change requires that oil drillers and farmers in my district allow IRS to use their money, interest free, because the agency is doing a poor job of administering present regulation. To explain the serious financial implications of this new law and why it is just bad policy, let me share a few examples from letters I have received from my constituents.

EX. 1—(Sitton Drilling Co.)—"Sitton Drilling Company operates five drilling rigs which average 500 gallons of diesel fuel per day per rig, or a total of 2,500 gallons per day. This additional tax will cost a total of $377.50 per day, $11,325 per month, $137,787.50 per year.

Quite simply, this is a tax up front that will result in higher interest costs and cash flow problems, and additional paperwork and headaches when filing for a tax refund."

EX. 2—(Lewis Block, farmer)—"This [tax] will result in my having to borrow another $2,200 this year to pay this stupid tax. It is hard enough to borrow money these days without having to put up with this."

EX. 3—(Yale E. Key, Oil Well Services)—"We have bought fuel tax exempt for years and pay the Federal Tax quarterly on the amount used on public highways. Sixty percent of the average 50,000 gallons we buy each month is tax exempt. This will cause us to pay approximately $4,530 a month or $54,360 a year into the Federal Government that we should not have to pay . . . During the past three years in our business we have not had a profit and are struggling to keep a positive cash flow. This unnecessary out lay of cash will be devastating to cash flow for our company and our industry."

The IRS wants our constituents to do their job for them. Because they are incapable of enforcing their own collection policy, they are going to ask all users of diesel fuel, liable for the excise tax or not, to police the collection process for them. I believe the Congress wants to make sure that those evading the tax are caught, and I think all members have expressed their willingness to look at alternatives to present procedure. On the other hand, my colleagues and I will not stand for a policy which assumes users of off road diesel fuel are guilty of evasion until the IRS decides they are innocent.

I fully agree with the agency that a need for an improved collection mechanism exists. I further understand that Internal Revenue Service has not been able to collect all excise taxes owed to the trust fund. While my record of support for the Highway Trust Fund speaks for itself, funding for maintenance and safety of our public roadways is not the issue in this debate.

I want to welcome S.M. True, who resides in my district, President of the Texas Farm Bureau. His organization has done a tremendous job bringing this issue into focus and assisting many of us here in our efforts to inform other members of the serious problems associated with this new policy. Also from Texas, and here at my request, Harry Spannaus, of the Permian Basin Petroleum Association, will explain the specific problems the new law creates for the energy industry.

Let me add this final thought. It is particularly appropriate for the Small Business Committee to be the first to hold hearings on this issue. For multi-million dollar corporations, an extra 15 cents a gallon for diesel fuel will not matter that much. But, it could mean the crucial difference for many small businesses in my district and throughout the Nation. Many small businessmen and farmers will be the ones to feel the pinch if we do not find a workable answer. I look forward to working with all my colleagues to see that we make something happen. I appreciate their support for my bill.

Thank you Mr. Chairman.

A TRIBUTE TO REV. THEODORE GIBSON

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. FASCELL. Mr. Speaker, reflecting our commemoration of Black History Month, I would like to call the attention of our colleagues to Rev. Theodore Gibson, an individual who spent much of his life battling for civil rights and struggling to abolish poverty. The following is an article from the February 2, 1988, edition of the Miami News, entitled "Theodore Gibson: Civil Rights Leader Was Known For His Quiet Fire." The article discusses Reverend Gibson's life, his unrelenting fight for civil rights and his extensive involvement in the community.

Father Gibson stood as a model for others to follow, for his quiet methods and definitive impact were extraordinarily successful. No article can fully express the sentiment of Father Gibson's work. Reporter Adrian Walker provides insight and information of Father Gibson's invaluable contributions to society, his universal struggle for civil rights, and his efforts toward the overall improvement of society. For this people remember and praise Theodore Gibson.

The article follows:

[From the Miami News, Feb. 2, 1988]

THEODORE GIBSON: CIVIL RIGHTS LEADER WAS KNOWN FOR HIS QUIET FIRE

(By Adrian Walker)

There is an unruffled air about Thelma Gibson as she welcomes a visitor into the Coconut Grove monument to Miami's most influential civil rights leader, Rev. Theodore Gibson, her late husband.

"Look around, there's no rush" she says at the entrance to the T.R. Gibson Unity and Communication Center network, headquarters of the Gibson Foundation at 3629 Grand Ave.

So you look around: at the collection of plaques, faded newspaper clippings scrupulously preserved, and all the memorabilia that together offer a unique glimpse into this town's black roots.

The modest demeanor of the room fits the portrait of a man known for his quiet fire.

"I don't know what Theodore's greatest accomplishment was," says his widow with the same modesty for which her husband was known. "Everything he did was done with the help of so many other people. He didn't do any of it by himself."

Theodore Gibson was born April 24, 1915, in Coconut Grove. At age 9 he was sent to live with relatives in Georgetown, Exuma, and he returned to Miami to attend Booker T. Washington High School. Following graduation, Gibson attended St. Augustine's College in Raleigh, N.C., and Bishop Payne Divinity School, now part of Virginia Theological Seminary.

He served as minister of several small parishes in Virginia and North Carolina, before returning to Miami in 1945 as rector of Christ Episcopal Church.

The turning point in his life as a public figure came at a meeting in 1949.

"They call the two parts of the Grove the black Grove and the village, but in those days they were known as they were—black town and white town," Thelma Gibson recalls. "He went to a meeting in white town and told them, 'My people are living in filth six feet deep.' Eventually, the City Commission passed an ordinance that all landlords had to install indoor plumbing. But more important, that was where he met Mrs. Virrick."

Elizabeth Virrick, then 52, was the wife of a prominent architect. She had founded Coconut Grove Cares the year before, partly spurred by her indignation over the awful conditions she saw while driving her maid home.

Eventually, Virrick and Gibson would collaborate to change the face of the black Grove.

They founded the Slum Clearance Committee and pressured the Miami City Commission and property owners to clean up the ghetto into which the black Grove had evolved.

First the group won passage of an ordinance that mandated the building of nearly 500 bathrooms in various homes and apartments. Then $7,600 in loans were secured so that the homeowners would have running water.

One of Virrick's tools in winning help for black Grove residents was her constant reminder to wealthy white friends that the people living in this filth were coming into their homes each day to clean them.

Virrick and Gibson continued to collaborate on a wide range of social programs throughout the city.

For a time in the early 1950s, Gibson stood in the shadows as the Rev. Edward T. Graham assumed the role as Miami's premier civil rights leader. That changed in 1954 when Graham was elected president of the Greater Miami chapter of the NAACP but declined the office at the insistence of his congregation.

"Rev. Graham couldn't assume the presidency because his vestry was dead set against it," says Thelma Gibson. "They thought it could cause trouble. So Theodore, who had been a member of the board, became president."

They were right about the trouble. The worst of it came in 1956 in the person of Charley Johns, a big, blustering man from Starke who headed a state House committee instructed to ferret out communists within the NAACP. The tension boiled over when the Johns committee demanded a list of names of NAACP members.

Gibson refused.

"He felt that releasing the list would put a lot of people in danger," his widow recalls. "He knew that a lot of the schoolteachers on the list, for example, would be fired if it became known that they were NAACP members."

The ordeal ended on March 25, 1963, with a 5-4 decision of the U.S. Supreme Court affirming that Gibson did not have to release the list.

"If the NAACP file can be ransacked because some communists have joined, then all the walls of privacy have come down," Justice William O. Douglas wrote for the majority.

Other legal victories would follow—especially the one that opened the doors of Dade's schools to all children, regardless of race.

Gibson v. Board of Public Instruction may not have had the national impact of the earlier and better-known Brown v. Board of Education, but it was a crucial victory here. Gibson had filed suit in 1957 to force school officials to allow his son to attend Coral Gables Jr. High.

"Theodore Jr. never attended the school, but the effect was the same," says Thelma Gibson. "But he didn't do it by himself. Several other people were involved."

A few months after the Supreme Court ruling in the Johns case, Gibson decided not to run for reelection as president of the Greater Miami NAACP. But he did not relinquish the spotlight. He remained active in community affairs and followed Graham onto the City Commission in 1972 after Graham was appointed to the Metro Commission.

Gibson served on the Miami commission until 1982, when he decided not to seek reelection. He died of cancer later that year at age 67.

"I was in good health for 66 years," he told an interviewer not long before his death. "But the 67th year I haven't felt so good."

His funeral at Christ Episcopal Church was an atypical gathering, mixing the high-and-mighty and the common people with whom Gibson had shared so much. Some came to pay their respects to a civil rights leader and politician, while others remembered an old friend.

One of them was Frederick Nooks, 86, and his wife Loretta, who had known Gibson all his life, and his parents before that.

"He was very gentle," said Frederick Nooks. "He'd always greet you with a smile. He was never too busy to sit down and talk with you. He was a wonderful man."

TELECOMMUNICATIONS ACT OF 1988

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. MARKEY. Mr. Speaker, today I am introducing the Public Telecommunications Act of 1988. This legislation is necessary to authorize appropriations for the Corporation for Public Broadcasting for fiscal years 1991 through 1993, and to authorize the expenditure of funds for the Public Telecommunications Facilities Program for fiscal years 1989 through 1991. The legislation also authorizes funding for replacement of the satellite interconnection system, and includes a definition of independent producers and independent productions.

The act would authorize CPB appropriations of $304 million for fiscal year 1991, $354 million for fiscal year 1992, and $404 million for fiscal year 1993. This legislation would ensure that the CPB can continue to assist stations in maintaining quality service and to provide adequate funds for the production of diverse and innovative programming.

The act also authorizes the expenditure of $200 million for replacement of the satellite interconnection system, which is essential for the continued distribution of public broadcasting programs on radio and television. Funds for the satellite are authorized for a 3-year beginning in 1991.

In addition, the legislation would authorize continued funding of the Public Telecommunications Facilities Program. Such funds will enable public television and radio to expand to areas not already served, and to maintain and upgrade existing facilities.

Finally, the act addresses an important need within the public broadcasting community. By defining independent producers and independent productions, the act enhances the ability of the CPB to ensure that independent producers have access to the public broadcasting system.

The Subcommittee on Telecommunications and Finance has scheduled a hearing on the legislation for March 10. This will provide an opportunity for discussion of appropriate authorization levels for the CPB and telecommunications facilities, the need for satellite replacement, and the ability of the CPB to meet the needs of the independent production community.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Telecommunications Act of 1988".

SEC. 2. PUBLIC TELECOMMUNICATIONS FACILITIES AUTHORIZATION.

Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended—

(1) by striking "and" after "1987,"; and

(2) by inserting "$36,000,000 for fiscal year 1989, $39,000,000 for fiscal year 1990, and $42,000,000 for fiscal year 1991," immediately after "1988,".

SEC. 3. FINANCING OF CORPORATION FOR PUBLIC BROADCASTING.

(a) GENERAL AUTHORIZATION.—Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

(1) by striking "and 1990" and inserting in lieu thereof "1990, 1991, 1992, and 1993";

(2) by striking "and" after "fiscal year 1989,"; and

(3) by inserting before the period at the end thereof the following: ", $304,000,000 for fiscal year 1991, $354,000,000 for fiscal year 1992, and $404,000,000 for fiscal year 1993".

(b) AUTHORIZATION FOR SATELLITE INTERCONNECTION.—Section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended by adding at the end thereof the following new paragraph:

"(10)(A) There is hereby established in the Treasury a fund which shall be known as the Public Broadcasting Satellite Interconnection Fund (hereinafter in this subsection referred to as the "Satellite Interconnection Fund"), to be administered by the Secretary of the Treasury.

"(B) There is authorized to be appropriated to the Satellite Interconnection Fund, for fiscal year 1991, the amount of $200,000,000. If such amount is not appropriated in full for fiscal year 1991, the portion of such amount not yet appropriated is authorized to be appropriated for fiscal years 1992 and 1993. Funds appropriated to the Satellite Interconnection Fund shall remain available until expended.

"(C) The Secretary of the Treasury shall make available and disburse to the Corporation, at the beginning of fiscal year 1991 and of each succeeding fiscal year thereafter, such funds as have been appropriated to the Satellite Interconnection Fund for the fiscal year in which such disbursement is to be made.

"(D) Notwithstanding any other provision of this subsection except paragraphs (4), (5), (8), and (9), all funds appropriated to the Satellite Interconnection Fund—

"(i) shall be distributed by the Corporation to the licensees and permittees of noncommercial educational television broadcast stations providing public telecommunications services or the national entity they designate for satellite interconnection purposes and to those public telecommunications entities participating in the public radio satellite interconnection system or the national entity they designate for satellite interconnection purposes, exclusively for the capital costs of the replacement, refurbishment, or upgrading of their national satellite interconnection systems and associated maintenance of such systems; and

"(ii) shall not be used for the general administrative costs of the Corporation, the salaries or related expenses of Corporation personnel and members of the Board, or for expenses of consultants and advisers to the Corporation.".

SEC. 4. DEFINITION OF INDEPENDENT PRODUCERS AND PRODUCTION COMPANIES.

Section 396(k)(3)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)) is amended by adding at the end thereof the following new clause:

"(iii) For the purposes of this subparagraph, the terms 'independent producer' and 'independent production entity' mean any person who—

"(I) is engaged in the production of television or radio programs; and

"(II) with respect to such production, is not affiliated with the Corporation, Public Broadcasting Service, or a public or commercial broadcasting licensee, or any consortium, affiliation or other entity that includes such a licensee, in a manner which would require or permit such Corporation, Service, licensee, consortium, affiliation, or entity to exercise editorial or financial control over such production.".

THE DANGERS OF ATV'S

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. FLORIO. Mr. Speaker, much has been written about the inherent dangers and instability of three-wheel ATV's. What follows is an article on ATV's from the February 14, 1988, issue of the Philadelphia Inquirer:

THE ATV UNDER FIRE

(By Don Russell)

Bill "Max" Maxin barreled down the snow-covered road through the Pocono woods at 35 m.p.h., clutching the handlebars of his three-wheel all-terrain vehicle. Suddenly, he turned the handle-bars and shifted his weight to the right, leaning into the turn. The rear wheels slid across the snow to the left as the bike twisted forward.

The bike appeared wildly out of control—like a car spinning around a street corner in a TV cop-show chase scene.

Maxin turned and grinned through the visor on his helmet. "That's how you do it," he yelled over the high-pitched whine of his 350-c.c., engine. Later, he would say, "I was totally in control."

Maxin, who lives in Northeast Philadelphia, owns a pair of three-wheel all-terrain vehicles, one of the more controversial consumer products of the 1980s. More than 2.3 million three-wheel all-terrain vehicles—known as ATVs—have been sold in the United States, and there are seven million riders, according to federal figures. Locally, their owners ride them in off-road spots such as the Pine Barrens in New Jersey, in muddy, undeveloped tracts and in suburban back yards. On the rugged terrain of the Poconos, ATVs are as popular as snowmobiles.

Though four- and six-wheel ATVs are ridden, it is the three-wheel, tricyclelike variety that has accounted for two-thirds of all sales in this country—and two-thirds of all accidents—and has become the focus of a nationwide product-liability dispute. On Dec. 30, the five firms that manufacture the three-wheelers agreed to stop selling them in the United States. Critics, who have called ATVs "death machines," say the ban is not strict enough. They want a recall of all ATVs—a move that could end the free-wheeling Veterans Stadium antics of the Phillie Phanatic, among others.

Critics of ATVs say the three-wheelers are inherently dangerous because they are unstable. Since 1982, nearly 900 deaths and about 330,000 injuries have been attributed to the three-wheelers, according to the Federal Consumer Product Safety Commission. Most of the accidents occur when the rider loses control and either falls off or is thrown from the bike. In about two-thirds of the accidents, the injured rider is a novice. Half of those injured are 16 years old or younger.

Like Thomas Belles. In May 1986, the 16-year-old Wilkes-Barre youth was still learning to ride his three-wheel ATV. While executing a simple turn while riding in a popular recreation area called the Tubs, his bike rolled on top of him. Belles, an athlete, was left a quadriplegic.

In November 1984, Aimee Froschauer, 13, of Landenberg, Chester County, climbed onto a friend's three-wheel ATV near her home. She had no training and did not know how to properly steer the machine. She lost control and rode onto a public road, where she was struck by a truck and killed.

In July 1984, a 14-year-old Milwaukee boy, Noah Sumner, was seriously injured while riding a friend's three-wheel ATV for the first time. No one is sure how the accident happened, the boy was found unconscious, under the bike. He had a ruptured spleen, and broken ribs, teeth and collarbone. Fearing the possibility of brain damage, surgeons placed him in a drug-induced coma and hospitalized him for more than a month.

The youth underwent a year of rehabilitation.

For his parents it was a nightmare.

"With head trauma, he was like a 2-year-old," said his mother, Bonnie Sumner. "It was horrible. He was alive, but . . ."

The boy has since recovered and Bonnie Sumner has become a critic of ATVs, testifying last month before a congressional subcommittee on their danger.

Summer said in a recent interview: "There were not warnings (about the ATV). I thought it looked like a cross between a Big Wheel [a child's plastic tricycle] and a golf cart. I figured, what could be safer than riding up and down this nice, smooth paved road?

"Immediately after the accident, it was just a matter of getting through this ordeal," Sumner said. "Once he got better, I started to get angry. I started investigating these ATVs and everything I heard led me to believe these vehicles are just plain unsafe."

Though ATVs have been around for more than 15 years, they did not gain popularity until about 1980, when they began to be sold as recreational vehicles.

TOLL RISES

As popularity increased, so did the accident totals. Of the nearly 900 deaths on three-wheelers, 44 of them were in Pennsylvania and nine in New Jersey. It was this accident rate that spurred the Consumer Product Safety Commission to investigate the vehicles and, in 1985, seek a recall.

In December, after more than two years of hearings before the safety commission, the five ATV manufacturers said they would stop selling the three-wheelers in this country. They are Honda Motor Co., Yamaha Motor Co., Suzuki Motors Co., Kawasaki Heavy Industries Ltd. of Japan and Polaris Industries L.P. of Minneapolis.

The agreement, however, did not provide for recalls, and the three-wheelers that have already been sold still are legal.

Some critics of the agreement, such as U.S. Rep. James J. Florio (D., N.J.), have criticized the pact, saying that ATV manufacturers already had begun scaling down production of three-wheelers before the accord was signed. In the last five years, the industry has averaged sales of 400,000 three-wheel ATVs a year, with sticker prices between $800 and $3,000.

Florio, who is chairman of the House Energy and Commerce subcommittee on commerce, consumer protection and competitiveness, is investigating the safety commission's handling of the ATV situation. The agreement "simply doesn't address the crucial issue of protection for people who have already bought ATVs that they mistakenly believe to be safe," Florio said. "How can anyone truly concerned with safety propose an answer that in effect says 'tough luck' to people who currently own these unsafe vehicles?"

James V. Lacy, the Consumer Product Safety Commission general counsel who helped write the agreement signed with the manufacturers, said the commission had backed away from an immediate recall because the Justice Department had advised that such a recall could lead to several years of litigation with the ATV makers.

"The commission opted for a strong, immediate settlement that not only gets out the safety warning, but stops the sale of more three-wheel vehicles," said Lacy. "If we had ordered a recall with an uncertain outcome in court, we might have been faced with another quarter-million new injuries and 750 more deaths and no remedies in place."

The consent decree also ordered the manufacturers to establish a training program by March. If accident rates do not decline within a year, said Lacy, the safety commission then may order a recall.

David Pittle, technical director of Consumers Union, which publishes Consumer Reports magazine called the agreement "a pretty weak result."

"It leaves the consumers who still own them at risk," said Pittle, a former commissioner with the safety panel.

Kurt Antonius, public relations manager for Honda, which has sold 55 percent of all ATVs, said there was little reason to order a recall.

"If you talk to three-wheel owners, they don't want to give them up. They love them," said Antonius. "People feel real emotionally involved with their ATVs. It's part of their lifestyles. It's a family activity. An ATV is not like a toaster or something you don't care about."

Bill Maxin is one of those owners who believes ATVs have gotten an undeserved rap. Maxin, 33, is an outdoors enthusiast who has been riding off-road vehicles, including ATVs, dirt bikes and dune buggies since he was 16.

"None of the ATVs are really unsafe," said Maxin, who works for the Postal Service. "It's just that glut of lawyers in the U.S. is jumping on the media's misunderstanding of ATVs. I've been involved in off-roading all my life. It's not the machine that's the problem; it's the riders who lack a knowledge of their proper use."

Maxin is a Pennsylvania state-certified ATV instructor and an instructor for the Specialty Vehicle Institute of America (SVIA), an ATV industry trade association.

His SVIA training classes, which stress the use of proper equipment and safety, typically last six to 10 hours. (No operator's license is required for off-road ATV use in Pennsylvania, New Jersey and Delaware.)

"I'll admit, there is a safety problem, but it's not with the machines," he said. "It's with parents who see these three-wheelers as a toy, like a tricycle. They're really more like a car.

"Would you give a 12-year-old the keys to your car and tell him to go have fun? Well, that's what parents do with ATVs. I don't think they're relating any responsibility to their kids."

SVIA officials have reported 4-year-olds learning to ride the vehicles.

Meanwhile, ATV critics are pressing on in court.

"Every three days, two people die from using an ATV," said Arthur H. Bryant, executive director of Trial Lawyers for Public Justice, a Washington-based nonprofit consortium of lawyers who try to effect social change.

Last month, the lawyers group joined in filing a class-action suit in U.S. District Court in Philadelphia that seeks refunds for all three-wheel ATV owners. The suit alleges that the five manufacturers conspired to conceal the dangerous nature of their three-wheeled bikes.

"There is no question, the product is defectively designed as unstable," said Bryant.

LACK OF A DIFFERENTIAL

The problem with stability stems largely from the lack of a differential between the two rear wheels. To achieve its extraordinary traction, the oversize wheels must turn in unison. This can create difficulties during turns: Instead of moving evenly around the circumference of the turn, the bike's center of gravity shifts to the inside. A rider then must shift his weight accordingly, to prevent the bike from tipping. Turning is complicated further by the ever-changing and sometimes unfamiliar terrain of the countryside.

Like cigarettes, ATV's come with their own warning labels. All ATV training guides and safety manuals distributed by the Safety Vehicle Institute of America now contain a "safety alert' from the Consumer Product Safety Commission that warns that the bikes "may present a risk of death or severe injury."

Kerrie White, a spokeswoman for SVIA in Costa Mesa, Calif., said many of the injuries on the three-wheelers were a result of rider misuse of the machines. About one-third of the accidents, she said, have been caused by people riding double (a second rider affects the shifting center of gravity). Alcohol use is a factor in 30 percent of the fatal accidents, she said.

"I don't know if people are ignoring the safety warnings," said White. "They're out there. It's not as if we haven't offered education, tips to ride more safely. It's a matter of whether or not people take advantage of it. Some people just ignore it."

In testimony before the Consumer Product Safety Commission in 1984, SVIA president Alan Isley said the most "dominant problem" was the character of typical ATV enthusiasts. "The very reason that a person is attracted to an ATV—freedom, adventure, go anywhere, do anything—makes that person resistant to instruction, supervision and control," said Isley.

Philadelphia lawyer Patrick J. O'Connor said the ATV makers were responsible for the lack of respect for safety. His law firm is representing the family of Thomas Belles, the Wilkes-Barre teenager injured in an ATV accident. The family is seeking damages in a suit against the manufacturer and the dealer in the Luzerne County Court of Common Pleas.

"The manufacturers know their warnings are ineffective, but they use them as a shield," said O'Connor. "They market these things as fun, freewheeling things; you race them, have fun on them and so on. But when people get hurt doing those very things, they say you did not operate it properly."

Other critics have said the bike's playful appearance may be at fault as well. A high accident rate notwithstanding, this is the fun looking bike that the Phillie Phanatic rides across the Veterans Stadium turf at Phillies games.

Pittle, of the Consumers Union, said no matter who is at fault, the risk of injury is unacceptably high. And, because of the high fatality rate among young drivers, he is especially critical of the past marketing of ATV's toward families, including children.

"Youngsters think they're free of risk," said Pittle. "Tell them about the dangers and they say, "What are you talking about? I've never been killed or hurt by one. They see the ATVs as fun. They're adventuresome. The thrill comes in using them in dangerous ways.

DRIVES WITH PROTECTION

Bill Maxin said he has never gotten hurt riding an ATV. Every time he rides, he wears a helmet, safety goggles, heavy pants and jacket, gloves and boots, sometimes he wears a specially designed, plastic chest protector and shin guards.

One recent afternoon in Monroe County in the Pocanos, he pointed out obstacles along a well-ridden ATV path. There were stump and gullies and overhanging branches, a piece of scrap metal protruded from the brush.

"That's the sort of thing you might not see when you're bouncing along the path," he said. "If you hit that and you weren't wearing heavy pants, you'd rip the skin right off your leg.

"Then, you'd probably get a lawyer and sue the guy who made your bike."

Chip White, owner of Devon Honda, said Maxim's comments were typical of ATV owners who are angry about the negative publicity surrounding the bikes. "A few people misused the product, and now many will suffer," said White.

Pittle saw it another way. "This isn't a question about whether kids feel a need to be protected. There's 2.3 million of these machines out there. Let's suppose just 10 percent of them are returned. That would be about 100 fewer deaths and 30,000 to 40,000 fewer injuries, possibly. That would be worth a recall."

INTRODUCTION OF THE AMERICAN HERITAGE TRUST ACT OF 1988

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. UDALL. Mr. Speaker, over the years I've been fortunate to have a hand in some important environmental legislation. The Alaska National Interest Lands Conservation Act, the Surface Mining Control and Reclamation Act and others have been landmarks in defining America's relationship to her land and waters.

Today, I'm introducing legislation no less important, legislation to give future generations a chance to keep and hold the open spaces and historic places so vital to the life of this country. Mr. Speaker, today I am proposing the establishment of the American Heritage Trust.

The Trust I propose would be comprised of the existing Land and Water Conservation Fund and the Historic Preservation Fund. Each would be established as real trust funds. By that I mean that their existing revenues will be invested in interest-bearing accounts to assure a steady and growing flow of money for the Funds' purposes. In the near future, they will become self-financing and require no new Government revenues.

The basic thrust of both existing funds remains sound—revenues generated by our offshore oil and gas should be invested in permanent open space assets. But instead of lying idle in a Treasury envelope as they do now or being blown out the budgetary exhaust pipe like other Government spending, the American Heritage Trust would be distinctly different. Under this new Trust, those revenues would be put to work in permanent, interest-generating accounts. While the principal would never be spent, the yearly interest would be—to purchase open space and provide recreational facilities across the board. When the interest generated each year is sufficient to meet the Funds' purposes, new Federal money into the fund stops—and the Trust becomes self-perpetuating.

In other words, by investing reasonable but substantial sums now and for a few years into the future, we can guarantee a continuing investment in the quality of everyday life throughout America that will be a permanent legacy for all future generations.

This is a bold but responsible idea whose time has come. It was recognized most recently by the President's Commission on Americans Outdoors. In 1987, after 1½ years of intense study, President Reagan's panel of distinguished Americans strongly urged that LWCF become a dedicated trust fund that would generate at least a billion dollars a year in outlays. It's important to remember that this was a conservative group of people. But they were swayed by the fund's overwhelming record of success and convinced of the even greater need for its expansion.

Their recommendation was preceded by a bill I introduced with Representative MANUEL LUJAN of New Mexico in 1984. Companion legislation was offered by Senator Howard Baker of Tennessee. The latter was the last bill introduced by Senator Baker. And he said that no other legislation he had sponsored "carried a greater moral imperative."

For a quarter century, LWCF has paid for many of the national parks, wildlife refuges, forests and historic sites that so distinguish America and its natural heritage. It has been the only source of money to buy the critical and threatened lands needed to protect our Yellowstones and Yosemites. It will pay for the great parks and wildlife preserves of our future, especially our most important urban parks. But the backlog of land already identified but not yet acquired runs into the billions of dollars. Unless we start investing in these areas now, will we never make good on the promises we have made to the American people, and we will be asking them to pay more and more to acquire less and less.

But it is not just the big crown jewels, the Grand Canyons, the Yellowstones and the Grand Tetons, that I am worried about. I'm just as concerned about the little places that help make life meaningful in every community across America. Its that quiet spot along the banks of the river just outside of town where a couple of kids can sit and watch and dream. Its the park on the other side of town where a family can go on a weekend to relax, be together and enjoy themselves.

Its the field houses and basketball courts of an inner city where a kid can compete and maybe pick up a little guidance along the way. Its the historic old building in an industrial neighborhood that not only warehouses invaluable stories about the past but promises economic revitalization in the future. Where will we be, what kind of life will our children have, if we don't provide for these places?

Make no mistake about it, these places are being lost. That litle boy or girl can't sit by the riverside because the bank is covered with condominiums or its been paved over for a highway. The neighborhood park is so run down its not the kind of place you take your family. Is there any question about the terrible state of recreation facilities in our inner cities?

Talk to most any mayor or Governor. Their States, counties, cities, and villages can't compete with the pace of private development and the escalation of land prices, construction and rehabilitation costs. If they can't compete, the motivation to plan and work aggressively to provide for these places withers. All of us in Congress know of towns in our districts that can't even maintain the parks they already have, much less plan for new places to meet growing population and demand. Many communities searching for a new economic identity see the commercial possibilities of that historic district but don't have the funds or expertise to make it happen.

The report of the President's Commission on Americans Outdoors cites the importance of rural landscapes, urban playing fields and gyms or suburban marinas and golf courses—not only to our physical and mental health, but also to the economic development, culture and liveability of our communities. It also is laced with urgent alarms about the inability of our communities to plan, develop and maintain these places.

But what if it were different? What if State and local governments knew they could rely on some substantial level of matching Federal grants to buy land and develop recreation facilities? I think such a commitment would spark what Gov. Lamar Alexander of Tennessee, chairman of the President's Commission, often called a prairie fire of local creativity and activism to conserve the open spaces they care about and develop the facilities they need.

Let's say I'm a local official and I can see that 5 years from now that river corridor or that wooded area or that large block of private land that my townspeople take for granted is going to be lost to development. It would make all the difference in the world to know that funds would be available if I planned it right and generated sufficient State and local financial commitment. And it seems to me it would be even better if those funds also encouraged some new and creative thinking about partnerships with nonprofit organizations or private interests directed at the use of that land.

The Land and Water Conservation Fund and the Historic Preservation Fund can help State and local governments do this. LWCF is the only source of Federal money available to them for the acquisition of open space and the development of marinas, playing fields, bike paths, pools and the like. HPF is the only source of grant money to the States for historic preservation.

LWCF's record of success is extraordinary. Since its inception in 1964, $6.7 billion has been invested in every district across the country. The computer printout of projects financed by just the State side of LWCF runs to 466 pages. and it's a model of efficiency. Part of the great beauty of it is that States and localities define their own priorities without heavyhanded Federal rules. They have to demonstrate their commitment to the projects they want with their own resources to match the Federal grant.

We do not need to radically remake this remarkable program. But we must make it to meet today's challenge and establish the permanent legacy we owe future generations.

Each year $900 million, mostly from offshore oil and gas revenues, flows into the fund. But what is spent is entirely left to the discretion of the appropriations process. Unfortunately, LWCF spending trends are alarming. Since 1981, appropriations have dropped to an average of only $200 million annually, just 22 percent of the available money and less than a third of the average of $681 million spent in the previous 3 years. Spending for the 8 fiscal years since 1981 is only 90 percent of the total for the 3 years from 1978 through 1980.

Consequently, there is now an unappropriated balance in the fund of nearly $6 billion.

My bill would not add a dime to the money now coming into the fund. But it would make other significant changes. First, the unappropriated balance will be placed in a new account invested in Government securities and generating interest each year. The same offshore oil and gas revenues will flow into the fund, building the principal and therefore the interest. The new law would stipulate that once these revenues enter the fund, they could never leave it or be spent for any purpose.

Instead, the interest from the fund would be automatically appropriated—with necessary congressional oversight and control—each year. This automatically appropriated interest would provide a floor under annual LWCF disbursements. They could be increased by any portion of the $900 million deemed wise by the Appropriations Committee. Any such additional sums, of course, would reduce the amount entering into the fund in that year by an identical amount.

This would continue until the amount of interest generated each year by the funds reached at least $1 billion. Then, the $90 million feeding the fund each year would terminate—and there would never be any need to allocate new Government revenues to it.

Although my overriding interest is to see a larger and more stable flow of money from the fund, I am highly sensitive to the need for congressional oversight of this spending, through the appropriations process.

Therefore, the bill contemplates an active and important roll for the Appropriations Committees. First, it would be entirely up to the Congress to determine which lands would be acquired for national parks, wildlife refuges and forests, when and for how much.

Second, the amounts appropriated each year from the fund would be made available according to a formula that provides the Congress flexibility in determining where the greatest needs are in a given year. For example, the formula states that at least 30 percent of the annual allocation must go to Federal projects, at least 30 percent to the States, at least 10 percent to the Urban Park and Recreation Recovery Program and for 10 years, at least 10 percent to provide matching grants to States establishing trusts that parallel the new Federal trust. The remainder could be made available to any or all of these purposes.

And finally, should the Congress determine that for overriding reasons the full amount of interest should not be spent in any given year, it will have the ability to spend less by placing an obligation limitation on that year's automatic appropriation. Any difference between the two amounts would remain with the fund, adding to its principal.

In general, the bill provides that the Historic Preservation Fund would be operated in a parallel fashion.

There are a number of other features to this bill that I will only mention in passing at this point. We try to stimulate new and creative uses of LWCF moneys by encouraging partnerships with nonprivate corporations and private entities. We require the States to pass through at least half of their annual allocation to units of local government. For 3 years, localities are eligible for matching grants from the fund to do open space planning. We have new requirements on Federal agencies to plan for and prioritize their acquisitions. As we proceed with this bill, I expect other new and innovative provisions to become a part of this effort.

Mr. Speaker, this is not a partisan program or a regional program. For nearly a century the voices speaking to us about the love of the land and the stewardship of our natural resources have been Republicans and Democrats, liberals and conservatives, southerners and easterners and westerners. They have always been peculiarly American.

Teddy Roosevelt brought the conservation ethic before the Nation as it entered the 20th century. He said:

> It is safe to say that the prosperity of our people depends directly on the energy and intelligence with which our natural resources are used. It is equally clear that these resources are the final basis of national power and perpetuity.

With nearly 100 years of successes and failures to educate us, it is my hope that the American Heritage Trust can become the foundation of America's program for its natural and historic heritage in the 21st century.

THE SHARPEVILLE SIX

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. DYMALLY. Mr. Speaker, I want to bring to your attention a matter which should be of grave concern to the Members of the House. Yesterday, I received in my office two distressed women whose plight cannot fail to move us. These women, the mother and sister of 2 of 6 persons condemned to death in South Africa, begged me to bring their relatives' situation to your attention.

Their relatives are among the Sharpeville Six, six young black South Africans who have been sentenced to death and whose lives can only now be saved if President Botha decides to grant them clemency.

These individuals have been condemned to death for their alleged part in a crowd killing of the deputy mayor of Sharpeville, who had opened fire on protesters approaching his house. My concern, and I am joined in this by the Pope, the Archbishop of Canterbury, and many foreign governments, is that the six may not have received a fair trial and that their death would be a gross injustice, given the circumstances.

I am also concerned about the growing trend in South Africa to sentence political prisoners to death, to deny them clemency and to execute them. This is not the answer to political and social unrest driven by repressive conditions and the apartheid regime. It may also add fuel to the fire of those who seek further violence.

Mr. Speaker, Mojalefa Sefatsa, Oupa Diniso, Reid Mokoena, Theresa Ramashamola, Duma Khumalo and Francis Mokhesi are more than just names. These are young people, the eldest is 33, who must be provided due process. I urge my colleagues to join me in requesting President Botha to grant them clemency. South Africa must seek to heal its wounds and martyrdom will not contribute to that process.

FEDERAL MANDATES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, March 9, 1988, into the CONGRESSIONAL RECORD:

FEDERAL MANDATES

Local officials from Indiana communities frequently talk to me about the difficulties of meeting federal mandates. A school superintendent says that his school corporation cannot clean up the asbestos, as required by federal law; without breaking the school budget. County commissioners say they could build a county bridge just as well, and with less cost, if they could ignore federal requirements. Community leaders are confronted with a sharp increase in sewer rates if they are to meet federal requirements for clean water. State and local officials are rightly concerned about how they can meet the hundreds of federal requirements when the federal government has not backed them up with adequate funding. While federal aid to localities has declined, costly requirements are still in place.

Federal mandates appear in many forms and cover a wide range of subjects. Some require communities to take specific actions as a condition for receiving federal grants, such as making wages on federally supported construction projects meet union standards and requiring that public buildings can accommodate the handicapped. Others are direct orders, requiring state and local governments to comply with national standards and administer federal statutes. Direct mandates include environmental, health care, and criminal justice regulations, and range from sprinkler system standards for rehabilitated housing to restrictions on the flexibility of state welfare programs. Some requirements conflict, such as when welfare and food stamp programs have different regulations to determine the value of a vehicle for a welfare client.

I am troubled by these mandates because of their tremendous burden on local governments and residents of southern Indiana. The objectives sought by these federal requirements are almost always worthy: clean water, safer roads, bridges, and buildings, and equal access. But while the federal mandates may be rational, collectively they often drain cities and states of money. Many local officials complain that federal requirements are often too detailed, prevent them from exercising discretion and innovating, and make states and localities spend scarce resources on what the federal government requires rather than on needs identified by managers closer to the problem.

The federal budget deficits have reduced the ablity of the Congress to provide funding for all of the national goals it sets. Since 1980, federal aid to state and local governments has declined some 30% in constant dollars. The federal General Revenue Sharing program, begun in 1972 by President Nixon, was ended in 1986 after providing over $83.5 billion to state and local governments. Many cities, towns, and counties now no longer receive any direct aid from Washington for the first time since the start of the Great Society programs in the 1960s. There may have been a day when Washington would pay for the various programs it required, but no longer.

Yet, while aid to state and local governments has declined, there has been a resurgence of the states during the same years. Many states, as well as various local governments, have made up for the lost revenue, and have become a major source of activity and innovation. They have raised new revenues through lotteries, user fees, and increased excise and sales taxes. At the same time, many have streamlined operations in order to reduce costs. We are now seeing significant reforms in environmental programs and welfare departments, improvements in infrastructure to attract business, as well as efforts by state legislators to give local governments more authority to raise new revenues. With the loss of federal aid, localities will increasingly turn to the states for assistance as well as use their own ingenuity.

While state and local governments are showing that they are able to administer programs efficiently, the federal government continues to impose its mandates. Although Washington's efforts to reduce the role of the federal government has offered some regulatory relief to the states, federal laws and regulations continue to place financial and administrative burdens on states and localities. Following a 1985 Supreme Court decision, federal courts may be more willing to allow federal statutes to preempt state and local laws. Changes in the tax laws may restrict local efforts to raise funds to meet mandates. The 1986 tax law curtails what cities can finance with tax-exempt bonds, and will force many projects to be financed by taxable bonds. Such restrictions raise the costs of issuing the bonds, and may discourage the creation of public-private partnerships which aim to replace reduced federal programs and support.

The Congress must choose more carefully the things it mandates and do a better job of providing funds for what it requires. Given present budget pressures, there will not be enough funds to meet current federal mandates. Proposals which foster state and local innovation can spur more efficient use of scarce federal resources. The federal government should consider proposals to give states and localities more flexibility in administering federal programs such as welfare, housing, and development. This is especially important where states are distributing federal grants. It is also important for federal officials to cooperate more fully with state and local officials in applying the mandates.

Federal mandates can be essential but they can also be harmful. Collectively, they are frequently burdensome and unattainable by many communities nationwide. At the same time, supporters of mandates point out that, despite the administrative problems, more progress is made with the mandates than without them. Resolving the problem of federal mandates will require sorting out the proper federal, state, and local roles in particular issues, and then determining who should pay for which activities. The Congress must be more sensitive to the impact of mandates on state and local governments. This is a difficult challenge

for the Congress and the executive branch, institutions which have played the dominant role for forty years in the nation's federal system.

INTRODUCTION OF THE ATLANTIC STRIPED BASS CONSERVATION ACT AMENDMENTS OF 1988

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. STUDDS. Mr. Speaker, today I am introducing legislation to reauthorize the Atlantic Striped Bass Conservation Act and to extend the Emergency Striped Study for an additional 3 years. This act promotes the restoration and management of depleted striped bass stocks and is vital to the recovery of this commercially and recreationally important resource. The emergency study is currently being conducted by the National Marine Fisheries Service and the U.S. Fish and Wildlife Service and is designed to obtain the best possible scientific information on the population dynamics of striped bass and to monitor the status of the stocks during our restoration efforts.

As you will recall, Mr. Speaker, I offered an amendment to the Atlantic Striped Bass Conservation Act during the 99th Congress which authorized the Secretaries of Commerce and Interior to declare a moratorium on fishing for striped bass in those States that fail to comply with the Atlantic States Marine Fisheries Commission's [ASMFC] Interstate Management Plan. At that time, populations of striped bass were at an all time low and our scientists were telling us that, without more significant conservation efforts, the striped bass species would vanish altogether from Atlantic waters. Despite the best cooperative efforts among our States to manage this interjurisdictional fishery, voluntary State actions were not adequately achieving the objectives set out in the ASMFC management plan.

The management program that has developed under this approach is unique. It relies primarily on individual States to develop specific management strategies for their waters that are consistent with the ASMFC Plan. If a State fails to do this, it is subject to a federally imposed moratorium. I am pleased to note that the record of State compliance has so far been excellent. Each State, by its own regulations, has reduced its fishing effort to satisfy ASMFC conservation requirements without resorting to a Federal moratorium on striped bass fishing.

The Atlantic Striped Bass Conservation Act has been successful in prompting States to adopt very tough conservation and management measures which are bringing about the restoration of this magnificent fish. Today, I am pleased to report that recent juvenile striped bass monitoring projects are showing signs that striped bass populations are recovering. In the waters of New York and Virginia, for example, the striped bass juvenile production indices were extremely high in 1987, and in fact the Hudson River index surpassed all previous indices recorded since that river's monitoring program began in 1979. These results are encouraging and provide reasons to be optimistic for the recovery of striped bass populations.

As chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, I look forward to holding hearings on this bill in April. At this time I intend to review the act and the status of the striped bass stocks to determine if this resource is being properly managed and if further changes to the act are necessary.

EMPLOYER REVERSION MORATORIUM ACT OF 1988

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. CLAY. Mr. Speaker, today, joined by nearly 50 of my colleagues, I am introducing H.R. 4111, the Employer Reversion Moratorium Act of 1988. An identical bill will be introduced in the Senate next week.

In general, the bill temporarily eliminates the strong incentives employers have under current law to terminate their pension plans solely to recapture pension assets.

Until October 1, 1989, any person who allows pension assets to revert to an employer when a single-employer pension plan terminates would be in violation of the fiduciary rules under title I of the Employee Retirement Income Security Act of 1974 [ERISA]. The bill does not interfere with an employer's right to terminate a pension plan. It simply requires that any pension plan assets that are not distributed to plan participants and beneficiaries when the plan terminates must be put in escrow until the suspension period expires.

Temporary suspension of the ability of employers to recover plan assets will give Congress sufficient time to consider and enact a permanent legislation solution to this serious threat to retirement income security. In addition, temporary suspension of reversions will stem the tide of plan terminations designed to escape any new restrictions and insure that certain unrelated funding provisions in the recently enacted budget reconciliation bill do not inadvertently accelerate reversion activity.

Mr. Speaker, this legislation is but a first step in dealing with this problem. The need for additional legislative change is clear.

Despite all the recent publicity and congressional attention that the relatively small number of seriously underfunded pension plans have attracted, the vast majority of single-employer pension plans are exceptionally well-funded. One of the primary reasons for this is that employers fund plans to reflect their ongoing nature: Funding is usually based on a projection of what employees will be entitled to if they continue in service until normal retirement age and continue to have reasonable salary increases along the way, not merely on benefits currently earned. In addition, the value of plan assets has increased substantially in the past few years due to extraordinarily high investment returns. Even after black Monday, defined benefit pension plans remain very well-funded since the requirement under ERISA of a diversified portfolio insulated them from substantial losses. Thus, most plans have assets in excess of the liability owed to participants and beneficiaries if the plan were to be currently terminated.

Under normal circumstances, the well-funded status of most plans would be a clear reflection of increased benefit security for workers and retirees. Since 1981, however, we have witnessed a phenomenon virtually unheard of at the time ERISA was enacted in 1974: Employers prematurely terminating pension plans solely to recover "excess" or "surplus" assets to use for other corporate purposes. This use of pension plans as corporate piggy banks to finance takeovers or other corporate priorities is a serious threat to benefit security.

Although most courts have consistently interpreted ERISA in the past to permit recovery of residual assets—only if the plan explicitly provides that upon termination the assets may revert to the employer—for many years the IRS has strictly interpreted the term "residual" to include only those extra assets that were in the plan as a result of an actuarial error. Since 1983, however, the IRS has appeared to soften its position to permit any assets above bare termination liability to revert to the employer, not just those assets that were mistakenly contributed to the plan.

This broader definition of residual assets permits employers to strip out of the plan assets that are only artificially "excess." For instance, because of the timing of the termination, the value of assets exceed current liabilities. In most cases, after the employer terminates the plan and strips out all assets in excess of bare termination liability, the employer simply reestablishes another plan that is substantially less well-funded. The Reagan administration has interpreted ERISA even more broadly to permit employers to engage in certain types of sham terminations in order to recover assets, such as the "termination/reestablishment" described above. In addition, the administration guidelines permit "spinoff terminations." In these transactions, the employer splits its plan into two: one for the actives and one for the retirees. The employer transfers all assets in excess of assets representing termination liability for active workers to the retirees' plan. Then the retiree's plan is terminated, annuities purchased for the retirees, and the remaining assets are recovered by the employer.

In enacting ERISA, Congress did not anticipate nor specifically address this type of corporate behavior. Although a few courts have permitted employers that terminated their plans to recover assets in excess of termination liability in the past, these new broader interpretations of ERISA have legitimized what most ERISA experts believed was not permissible before. Moreover, they have encouraged employers to terminate plans as quickly as possible, before Congress clamps down on these abuses.

In addition, Congress may have inadvertently created an additional encouragement for employers to terminate their pension plans. In the recently enacted Omnibus Budget Reconciliation Act of 1987, Congress imposed a new and possibly lower ceiling on the amount of tax-favored funding for defined benefit plans.

Beginning in 1988, many employers will only be permitted to fund up to 150 percent of termination liability. For most employers, the new limit precludes additional contributions to pension plans. Some benefit experts have suggested that companies who are interested in minimizing their tax liabilities should terminate their overfunded pension plans and begin a new plan with past service credit for active workers, in order to once again be eligible to make deductible pension contributions.

At a hearing on the subject of employer reversions in 1984 before the Subcommittee on Labor of the Senate Labor and Human Resources Committee, experts testified that $2.2 billion of assets had been removed from pension plans by employers since 1981. As of December 1987, more than $18 billion had been taken. According to recent estimates, using the new IRS definition of "residual assets," overall asset surpluses exceed $218 billion.

Widespread bipartisan agreement exists that current law must be changed in order to strongly discourage employers from terminating plans solely to recover assets. The administration not only acknowledged that current law is flawed, but also sent to Congress in February 1987, its own package of legislative recommendations making sweeping changes in current law designed to make it substantially more difficult for employers to recover assets. Former Secretary of Labor William Brock testified before a joint House-Senate hearing in March 1987 that the administration believed that legislation was necessary in order to deal with the threat to benefit security posed by terminations of overfunded pension plans. Last December, as part of the budget reconciliation bill, both the House and Senate adopted proposals advanced by the House Education and Labor and Senate Labor and Human Resources Committees to deal with this issue. Unfortunately, the conferees had many pension issues on the table and were not able to resolve their legislative differences over this one in the short time available. Thus the proposals—which in large part reflected the administration's own proposals—were dropped from the final bill.

A growing number of Members of Congress remain strongly committed to enacting much needed legislation in this area as quickly as possible. It is clear, however, that the pattern of reversion activity has increased as congressional attention has increased. Thus the bill would provide for a temporary halt to employer recovery of so-called excess assets in order to remove any incentive an employer might have to terminate a plan in order to avoid any new restrictions Congress might impose.

I believe that Congress should move as rapidly as possible to consider and adopt permanent legislation concerning reversions. I intend to work on a bipartisan basis with those interested in crafting legislation to deal with this issue directly and would expect to introduce a bill shortly. It is my hope that Congress would enact reversion legislation well before the expiration of the moratorium, possibly even within the next few months, and thus eliminate the need for a lengthy period in which plan assets are escrowed.

INTRODUCTION OF THE COMMUNITY RATEPAYER PROTECTION ACT OF 1988

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. HAYES of Illinois. Mr. Speaker, today I am introducing the Community Ratepayer Protection Act of 1988. The purpose of this legislation is to return the power of choice to local communities and energy ratepayers. It is my belief that the Congress should work to increase the power of choice for local communities rather than insulating utilities at the expense of energy consumers.

I believe that the Congress has stripped municipalities of an important government tool, without just cause, without due consideration of the public policy issues involved, and without consultation with the many communities around the Nation which would be affected.

The Community Ratepayer Protection Act can result in lower energy costs by fostering competition between different forms of utility ownership. Protecting private utilities from competition does nothing to insure efficiency. Also, despite the view of some, I believe that the ensuing lower energy costs benefit both residential and corporate consumers, increases competitiveness, reduces inflation, increases jobs and brings additional revenue to the Federal Treasury.

The Federal Government plays a vital and irreplaceable role in energy policy. In order to enunciate the Federal role, I am calling on the Ways and Means Committee to initiate hearings and to fully examine this issue which is so important to the energy future of our Nation.

Mr. Speaker, I am including with this statement a list of original cosponsors, the national organizations who are supportive of this effort, and the text of the bill.

LIST OF COSPONSORS

Mr. Markey, Mr. Conyers, Mr. Savage, Mr. Frank, Mr. Dellums, Mr. Shays, Mr. Price, Mr. Evans, Mr. Roth, Ms. Pelosi, and Mr. Jontz.

LIST OF SUPPORTING ORGANIZATIONS

American Federation of State, County, and Municipal Employees (AFSCME).
American Public Gas Association.
American Public Power Association.
Citizen/Labor Energy Coalition.
Consumer Energy Council of America.
Consumer Federation of America.
Environmental Action.
Friends of the Earth.
Government Finance Officers Association.
Public Citizen.
National League of Cities.
National Association of Counties.
National Consumers League.
Renew America Project.
U.S. Conference of Mayors.

H.R. —

A Bill to repeal the provisions added by the Revenue Act of 1987 which restrict the use of tax-exempt obligations to acquire certain output facilities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 141 of the Internal Revenue Code of 1986 (defining private activity bond) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

CONTRA AID

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. VALENTINE. Mr. Speaker, I have spoken in this Chamber on the subject of Contra aid several times and was therefore reluctant to take the floor again for that purpose during debate on the most recent proposal last week. Although I did not speak on that occasion, the dilemma we face in Central America demands that the issues be aired fully.

In that regard, a fundamental question begs for a response: Why must we continue to revisit an issue that so deeply divides the Congress and the American people?

Recent experience demonstrates that we cannot sustain a major new policy, especially in the field of foreign affairs, over the long term unless the American people understand the issue and support the strategy. Both conditions are necessary, but in the case of Contra aid only the first is present.

It has long been clear that no effective national consensus exists, or likely can be constructed, around a policy that relies primarily on military aid to the Contras. The administration has had ample opportunity to build public support, but the American people have rejected the argument that we can promote democracy and protect our interests in Central America by sending hundreds of millions of the taxpayers' dollars to the Contras.

The vast majority of House Members are inclined to follow the President's lead in foreign policy, whether the President happens to be a Democrat or Republican. But the President must lead.

The stubborn pursuit of a policy in the face of opposition from the American people, from the legislative branch, and from the international community, as well as a lack of results, does not, in my view, constitute Presidential leadership. Such leadership includes the ability to recognize when a policy cannot be sustained and the willingness to look for alternatives.

But that has not happened. Instead, the administration insists on continually reopening a wound that will only deepen and widen if it is not given a chance to heal. Time and time again, we are asked to vote on the same policy. Each time the issue is decided one way or the other by just a handful of votes after a lengthy, acrimonious, and divisive debate.

What has this single-minded preoccupation with Contra aid accomplished?

We have promoted an atmosphere of discord, partisanship, and polarization that poisons all attempts to seek new solutions.

We have allowed the policy to limp along from vote to vote and debate to debate with no assurance of a long-range commitment, thus sending a message of uncertainty and indecisiveness to the world.

We have diverted attention from equally important and pressing problems, both domestic and foreign, to replay the Contra debate over and over.

We have squandered opportunities to explore more productive options in Central America.

We have provided a convenient rationale, whether justified or unjustified, for Sandinista repression.

We have inhibited international efforts to forge a regional settlement.

We have managed to isolate ourselves diplomatically and created the perception that the United States is the problem, not the solution, in Central America.

It is especially unfortunate that Contra aid has become the sole focus of the public dialog on American policy in Central America. Extreme partisans on both sides would have us believe that Contra aid is the political, diplomatic, and moral question of the century.

Yet we have no clear idea of the precise objectives of our policy. Is Contra aid intended to overthrow the Nicaraguan Government, to bring the Sandinistas to the negotiating table, or to force the Government to change its domestic policies? Whatever the goal, how will we know when, or if, we have succeeded?

A fog envelops our ultimate purposes, but the administration says little about our goals. Instead, the President exhorts us to support the Contras or face an apocalypse in the Western Hemisphere.

Some opponents of Contra aid, on the other hand, seem blind to the complexities and ambiguities of our role in Central America. Their message is simple: The Contras are murderous throwbacks to the Somoza era, and until all U.S. support is cut off no other question is important and no other discussion is worthwhile.

The debate on Contra aid is important, but I believe that there are larger issues at stake.

Instead of debating different levels of the same policy again and again, we should be talking about our national interests in Central America and the alternatives available for protecting those interests.

Instead of trying to distinguish competing proposals by the percentage of so-called lethal assistance each contains, we should be talking about the options for addressing the massive problems that confront the people of Central America.

Instead of arguing about who is going to deliver the aid, we should be talking about our role in cooperative international efforts to reach a regional settlement.

The question of Contra aid is a part of this debate, but is should not dominate the dialog to the exclusion of all other initiatives. That we discuss Contra aid exclusively over and over demonstrates the poverty of our response to the challenges in our own hemisphere.

Have we really exhausted all the other options? Have we tested the limits of economic pressure as a means to encourage change in Nicaragua? Have we done our best to enlist the support of other democratic nations in a coordinated, coherent economic policy toward Nicaragua? Have we explored all avenues for influencing the Soviet role in Central America? Have we used all our diplomatic alternatives? Have we even listened to the nations of the region that have the most at stake?

I do not believe that the administration has used, or even really considered, all the tools at hand. Contra aid seems to have become the end in itself rather than a means to a larger end.

Little has changed in recent months that would allay my doubts or answer my questions about Contra aid. I continue to believe that the United States should not routinely support armed insurgents seeking to overthrow a government with which we maintain normal diplomatic relations. Our Nation has long stood for certain values and ideals in the international arena, and it seems to me that Contra aid undermines our moral stature and diplomatic credibility.

Moreover, I remain concerned about both the difficulties we have encountered in obtaining an accurate accounting of the money for Contra aid that was previously appropriated and the continuing reports of serious human rights abuses by the Contras.

I do not suggest that the Sandinista government has established an acceptable record on human rights. It has not. No lasting solution in Central America is possible until the rights of the Nicaraguan people are recognized and respected. But I do not believe that providing military aid to the Contras will help to achieve that goal.

As a consistent opponent of this policy, I am extremely reluctant to support any package of assistance at all. The distinctions between lethal and nonlethal aid, though significant in this debate, may not be pivotal in the final analysis. And the question of who delivers the aid may also be less important than the fact that aid is being delivered.

The House leadership, along with many other Members, labored long and hard under severe time constraints and difficult conditions to craft a more effective alternative to the administration's policy. While a number of features in the amendment introduced by Representative BONIOR troubled me deeply, this legislation was clearly superior to the bill offered by the minority leader.

In my view, the Bonior amendment represented a smaller risk than the alternative, though the risk was still significant, of damaging the Central American negotiations. The level of assistance, the nature of that assistance, the method of delivery, and the inspection features all made this a marginally better proposal. It was certainly not ideal, but it was less likely to undo the limited and fragile progress that has been made in Central America.

In addition, it is certainly possible, some might say likely, that in rejecting Contra aid on March 3 we set the stage for a new, expanded military aid program. Nevertheless, I reluctantly opposed the Bonior amendment, fully recognizing the risks that a vote either way entail.

I made this vote in the hope that the March 3 debate would mark a turning point in our role in Central America. I hope that, in rejecting this legislation, we will begin to move away from a narrow focus on Contra aid and toward a more thoughtful consideration of the larger issues and a more constructive role in a region that is vitally important to us.

TRIBUTE TO THOMAS ECKROTH

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. HANSEN. Mr. Speaker, I want to express my sincere gratitude today to a longtime Tooele Army Depot employee who will retire from Federal service on March 24, 1988, after 33 years of employment with the Government.

Many thanks, Tom Eckroth, for your outstanding work on behalf of your Government and the people of the United States.

Tom began his civil service career in 1958 at the Mount Rainier Ordinance Depot in Tacoma, WA. His personal drive, initiative and leadership skills were immediately recognized, and Tom quickly moved up the employment ladder to positions of greater responsibility. In 1963, he was transferred to Tooele Army Depot located in my district where he continued to progress in his career. Those who are familiar with depot maintenance realize the near impossible job of managing a $126 million operation with 2,000 employees, but Tom did it, and did it well. It took savvy and astuteness to handle such an undertaking, but Tom accepted the challenge and successfully handled the task. He has proven to be a dynamic, aggressive leader who understands the needs and wants of people. This insight into human nature has made him well liked and respected throughout the depot.

Tom Eckroth's involvement in the community also is noteworthy. He was instrumental in bringing a self-fulfillment series "Achieving Your Potential," to Tooele Army Depot, but he didn't stop there. He spent many hours of his own time presenting this series to church and community groups.

I hope my colleagues in Congress will join me in thanking Tom for dedicating his life, time, talents and energy to the service of his country. I know my gratitude also is shared by every TAD employee.

To honor Tom Eckroth in a special way, I'd like to declare March 24, 1988, as "Tom Eckroth Appreciation Day in Tooele."

DUBLIN: THE MILLENNIUM

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. BADHAM. Mr. Speaker, it is my privilege to tell my colleagues about a great celebration. St. Patrick's Day is always important to Dublin, but it takes on a special meaning this year, the city's millennium. In fact, the celebration continues all summer and into the fall.

One could spend the next millennium paying tribute to this great city. It is difficult to generalize about Dublin, but two paragraphs from Bill Bryson in Sunday's Washington Post give one a good picture of this special city:

> Almost one-quarter of Ireland's 4 million inhabitants live within greater Dublin, but the city seems much smaller. It has the contented air of an overgrown market town, and a pace of life to match. It is a city without subways or skyscrapers, and the closest it comes to a rush hour is a certain quickening of the step when the pubs open.
>
> The relaxed and genial atmosphere is neatly counterpointed by Dublin's formal squares and elegant Georgian architecture, which dominate the heart of the city. The late 18th century was Dublin's heyday, and the period is forever recorded in its architecture. The central geographical feature of Dublin life is the River Liffey, which splits the downtown as it proceeds in a stately manner from the Wicklow Mountains at the city's rear to the broad sweep of Dublin Bay. Its slow-moving waters, as dark and as beguiling as a pint glass of Guinness stout, have inspired countless Dublin writers from Jonathan Swift to James Joyce.

Mr. Speaker, I am proud to recognize Dublin today in the U.S. House of Representatives and I'm sure my colleagues join me in sending best wishes to the people of this great community as they celebrate their millennium.

THE LEGACY OF THE GREEN BERETS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. CRANE. Mr. Speaker, it is an honor and a privilege for me to salute the U.S. Army Special Forces. Commonly referred to as "The Green Berets," this highly elite unit perseveres day after day in its unique mission of planning, preparing, and deploying world-wide to conduct a myriad of assignments. Today, their foremost responsibility is to direct a much-needed but highly sensitive job of foreign internal defense. This mission directed by Department of Defense sends the members of the Special Forces overseas for long durations to help train, advise, and assist friendly governments. These soldiers are also prepared to conduct unconventional warfare, strike operations, and strategic intelligence operations. Employing the highly specialized Green Berets for these types of missions when there are other conventional alternatives, wastes their special talents. This primary talent is to train, advise, and assist indigenous military and paramilitary forces in both unconventional warfare and foreign internal defense. It is the force multiplier effect that give the Special Forces its worldwide impact.

There are currently four Special Forces groups that orient their responsibilities to geographic regions. The 1st Special Forces Group is responsible for East Asia and the Pacific while the 5th covers the Middle East and Northern Africa. The 7th Group orients itself toward Latin America and the 10th Group covers Europe. The 3rd Group—to be formed in 1991—will be responsible for sub-Saharan Africa.

A typical Special Forces group is divided into three line battalions, a support battalion, and a headquarters element. The line battalions themselves have three companies assigned to them. These companies, or B-detachments, have command and control for six A-detachments each. The support battalion, as the name implies, supports the line battalions. To accomplish that task, it has a service company, a signal company, and a military intelligence company assigned to it.

The heart of the Special Forces is the A-detachment or the A-team. This highly mobile and exceptionally innovative unit contains only 12 men. But these 12 can do it all. Each A-team has at least two individuals that specialize in one of the five fundamental regions of knowledge. These areas include light weapons, demolitions, field communications, combat intelligence, and paramedical support. But the potency of the Special Forces resides in the fact that most members of an A-team have received cross-training in another fundamental specialty. The A-team concept proved itself in the 1960's with deployment to the Republic of Vietnam. There they trained South Vietnamese soldiers in counterinsurgency and developed various native tribes into credible fighting forces. They also provided strategic reconnaissance and conducted special operations.

In Vietnam the members of the 5th Special Forces had won 16 Medals of Honor, 1 Distinguished Service Medal, 60 Distinguished Service Crosses, 814 Silver Stars, 13,234 Bronze Stars, 235 Legions of Merits, 46 Distinguished Flying Crosses, 232 Soldier's Medals, 4,891 Air Medals, 6,908 Army Commendation Medals, and 2,658 Purple Hearts. It was a brilliant record for these soldiers. The Special Forces eventually established 254 outposts in Vietnam, many defended by a single A-team and the friendly indigenous forces that they trained.

A new dawn is emerging for these elite soldiers. There has been a resurgence of the need for soldiers who specialize in low-intensity conflict and foreign internal defense. Those who answer the call, are the Army's best. A combination of endurance, innovative intelligence and most important, the ability to adapt to anything, anywhere, anytime gives the members of the Green Beret the edge that has no equal. It is President John F. Kennedy who brought recognition to the members of the U.S. Army Special Forces. In describing the unique headgear that the Special Forces wore, the green beret, the President said it was "symbolic of one of the highest levels of courage and achievement of the United States military."

I salute the great warriors of the U.S. Army Special Forces. It is these individuals who defend the basic God-given right of freedom, not only in this country but for our friends and allies around the world. The Green Berets are what legends are made of, and behind that legend is a soldier who has accepted the challenge to serve his country in the very best way he knows.

TRIBUTE TO MR. MACK COTTLER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to a member of my community, Mr. Mack Cottler. Since arriving in Los Angeles in 1937, Mr. Cottler has been a strong and active member of his community. On March 21, Mr. Cottler will celebrate his 80th birthday.

Since the 1940's, Mr. Cottler has been known around the world as a leader in the scrap metal business. He has served as president of the Institute of Scrap Iron and Steel [ISIS] for the Southwestern region, regional vice president of the National Association of Recycling Industries and chairman of the Pacific Coast region of NARI. He still uses his talent and knowledge as a consultant to others in the scrap metal industry. He is also an emeritus member of the Department of Commerce National Defense Executive Reserve Committee and has lectured the military on the dangers of landfill.

In addition to being a success in business, Mr. Cottler has also been an active member of his community. He is a member of numerous community groups including the Anti-Defamation League, City of Hope, Westwood Shrine Club, Benefactors for the Israel Levin Center and Guardians of Jewish Homes for the Aging. Several of these organizations have honored Mr. Cottler for the work he has done on their behalf.

It is my distinct honor and pleasure to ask my colleagues to join Mr. Cottler's family and me in wishing him a very happy birthday. His wife, Sylvia, his four children and eight grandchildren should be very proud of Mr. Cottler, a man who has accomplished so much in his lifetime.

HELP FOR THE EXIMBANK

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. GARCIA. Mr. Speaker, I request my colleagues' support for the bill I am introducing today to waive the prepayment penalties charged by the Treasury's Federal Financing Bank [FFB] on loans prepaid by the U.S. Export-Import Bank. The bill will not have any effect on the Federal budget but will assist in the efforts to restore Eximbank's declining capital base.

The condition of Eximbank's capital base does not affect the operations of the Bank's programs to facilitate U.S. exports. It does, however, affect the confidence in the Eximbank from the exporting and the financial communities. It could also send negative signals to our trade competitors about the level of Government support behind U.S. exporters. Given our budget constraints, recapitalizing the Bank with $2 billion is not the most realistic option. But there are alternatives. One is to annually appropriate for the subsidy costs of Eximbank's program. I have introduced legislation to that effect earlier this month, H.R. 4058. Another way is to release Eximbank from its obligation to pay penalties for prepayment of its loans.

In 1982 FFB began penalizing agencies which prepaid their loans. FFB has been earning income on the penalties; Eximbank on the other hand has suffered losses. In response to the congressionally mandated loan asset sales, Eximbank prepaid $670 million of its FFB loans with the receipts from the sales and incurred prepayment penalties of $121 million. In addition, the penalties made refinancing of Eximbank's high interest loans too costly because any refinancing would entail prepayment of loans. It is questionable whether it is appropriate for one Government agency to earn income by penalizing another.

By waiving the prepayment penalties, Eximbank would be permitted to refinance its loans with FFB at today's lower interest rates. It is a simple and inexpensive way to slow down the erosion of Eximbank's capital base. Congress has allowed a waiver of the prepayment penalty to the FFB for other programs, such as the Rural Electric Administration and foreign military sales, through the budget reconciliation legislation last year. It's time we gave the same privilege to Eximbank, the agency which can play a key role in assisting U.S. exporters in winning export markets abroad and the United States regaining its status as the world's No. 1 exporter. I urge my colleagues to support this legislation.

THE CONTRAS ARE BLOCKING THE PEACE PROCESS

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Ms. PELOSI. Mr. Speaker, today's news reported that the Contras have walked away from the peace talks proposed by Nicaraguan President Daniel Ortega. Last week, President Ortega made major concessions in the peace process by proposing, for the first time, high level direct talks in Nicaragua, between the Contra leaders and leaders of his government, without a mediator. The Contras responded to this major concession by imposing additional conditions on their participation and by ultimately refusing to participate in the talks today.

Mr. Speaker, it requires the willingness of all parties in a conflict to negotiate successfully. The Nicaraguan Government has, over the past months, demonstrated a real willingness to follow the guidelines of the Central American peace process. It is the Contras, with the support of the Reagan administration, who are being recalcitrant. The Contras meet every concession with new lists of demands and conditions. The Contras are blocking the peace process.

Mr. Speaker, it does not appear that the Contras are interested in peace. If the peace process is going to succeed, the Reagan administration must pressure the Contras to negotiate, rather than encourage them to undermine the peace process. Stalling peace only means more bloodshed and killing in Central America.

A TRIBUTE TO SISTER ANN SAKAC

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. FISH. Mr. Speaker, I rise to speak about Sister Ann Sakac, president of Mount Saint Mary College in Newburgh, NY, and a member of the Newburgh Dominican Sisters. Sister Ann is being awarded the Anti-Defamation League of Bnai B'rith's Americanism Award for outstanding service to her community and the Newburgh area.

Sister Ann Sakac is president of Mount Saint Mary College, having been appointed the college's fourth president by the board of trustees in 1977. Since Sister Ann arrived at Mount Saint Mary College in 1969, she has been a member of the English department, director of residents, assistant dean of students, and chairperson of the division of arts and letters. Still a professor of English, Sister Ann teaches a freshman course in "Forms of Literature."

In 1974, Sister Ann introduced two women's studies courses to the curriculum: "Images of Women in Literature" and "Women Writers" and remains very active in shaping curriculum today. She has my support for her proposal to establish a graduate program in elementary education, a step which would greatly enhance the existing masters degree program in special education at Mount Saint Mary College.

If Sister Ann's accomplishments were confined to direction of her college, the Anti-Defamation League's award would be justified. Under her leadership, Mount Saint Mary is an indispensable resource in the community.

Extending her talents, however, Sister Ann was a member of the Orange County Charter Study Commission and served a 3-year term on the board of directors for the Orange Area United Fund, Inc. In 1988, she was elected president of the Associated College of the Mid-Hudson Area and is a trustee at St. Luke's Hospital in Newburgh.

Sister Ann is also involved with education at the State level, having served from 1981 through 1987 on the New York State Education Consolidation and Improvement Act Advisory Committee by an appointment from Governor Carey. She was elected to a 3-year term on the board of trustees of the Commission of Independent Colleges and Universities of the State of New York and served on the finance committee of the commission.

As you can see, Sister Ann, who has a Ph.D. from Catholic University in Washington, DC, does not spend her time idly. Her involvement and dedication to her community are felt throughout the Hudson Valley. I am honored and very thankful that she is a constituent of my home district.

TRIBUTE TO RUTH DOGAN AMES, DEVOTED CITY OF GARY EMPLOYEE

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. VISCLOSKY. Mr. Speaker, I rise today to recognize a most noteworthy citizen from the First District of Indiana, Mrs. Ruth Dogan Ames.

On January 3, 1988, Mrs. Ames ended her tenure as a city of Gary employee. Her retirement ended 45 years of public service to the community and local government, during which she worked under the administrations of seven mayors and six chiefs of police.

In special recognition of her efforts, hard work and commitment, the city of Gary Police Department will host a dinner in her honor on March 13. This event will pay a fitting tribute to an individual who has devoted her working years to public service.

Her record is one of dedication. In 1941, Mrs. Ames began her career in public service when she was elected a Democratic precinct committeewoman, a position she held until 1986.

In January 1943, she began working in the controller's office under Mayor Joe Finnerty, and later transferred to the redevelopment department.

In 1964, Mrs. Ames began 24 years of service in the Gary Police Department where she served until January of this year.

In addition to her exemplary service to the community, Mrs. Ames' spirit of dedication is evidenced by her involvement in other groups. For 56 years she has been a member of St. James Baptist Church, and for 30 years she has been an enthusiastic member of the United Male Chorus Booster's Association.

I take this opportunity to acknowledge and commend Mrs. Ames for her outstanding contributions to her fellow citizens. The pride and care she has shown in her work is greatly appreciated and held in the highest esteem.

Her many years of public service are an inspiration to us all and a great encouragement to those who aspire to work in the public arena.

I have literally known Mrs. Ames—or I should say she has known me—since the day I was born. My father worked closely with Ruth while he was deputy city controller, controller, and later, mayor of Gary.

Given the perspective that only time can bestow, I conclude by paraphrasing Charles Dickens, Ruth Dogan Ames is as good a friend, as good a servant, and as good a woman as the good old city knew.

A SALUTE TO CON HEINE AND THE CAPITOL HISTORICAL SOCIETY

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. HASTERT. Mr. Speaker, for 16 years of my life I taught Government and history in the Kendall County school system in Illinois. Now one of the most interesting aspects of serving in this legislative body is the history that surrounds me in this Capitol.

Last week a group of my freshman colleagues took time to learn a little more about the history of this structure and of those individuals who preceded us here in this Chamber. I want to take a moment to commend Cornelius W. Heine, the executive secretary of the U.S. Capitol Historical Society, for the fascinating details of history he shared with us.

He is so knowledgeable that at times I felt as if he were one of these figures from history as he related how the Capitol was built, its destruction and rebuilding and later renovation. For years, Mr. Heine worked in a Government agency here in Washington but always had a keen interest in history and this magnificent Capitol Building. We are very fortunate that today he shares his vast knowledge with thousands of Americans annually. I am also very proud of the fact that he is a native of Streator, IL, in my congressional district.

My colleagues, JOEL HEFLEY, FRED UPTON, JAMES INHOFE, WALLY HERGER, and JAY RHODES, wanted an opportunity to learn more about our surroundings to share with visiting constituents. And as we move through these Chambers each day, we have a far better sense of the history that preceded us.

We are very fortunate to have Fred Schwengel, Mr. Heine, and the U.S. Capitol Historical Society who are doing an excellent job of preserving the history of this landmark of our Nation.

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. MAVROULES. Mr. Speaker, in response to the recent release of the Northeast-Midwest Institute's report on Federal funding and the energy needs of the poor, I wish to reemphasize the need to retain the funding levels for the Low-Income Home Energy Assistance Program [LIHEAP] at $2.8 billion for the 1989 fiscal year. LIHEAP is a supplement program that aids families in paying their heating and oil bills. Often, these extremely needy families are forced to decide between heat or food. In order to eventually eliminate this problem, we must provide the necessary funding.

LIHEAP benefits the family whose annual income is less than $6,500. Senior citizens and households with children under 18 comprise over 60 percent of the recipients. These needy families pay almost 16 percent of their income on home energy costs, which is almost four times the national average. The LIHEAP supplement income, averaging $208 annually, makes a huge difference to families where every single penny counts.

If the funding level is dropped to $2.3 billion, the consequences are drastic. Either the States have to drop 2.1 million households from the existing programs, or they are forced to reduce the annual supplement level by $67; both of these choices are equally painful for millions of poor people. In Massachusetts alone, the neediest residents would lose $15.5 million in home heating assistance if the administration's request for fiscal 1989 is granted.

Already, LIHEAP does not have the funding it needs. According to the report prepared by the Northeast-Midwest Institute, "the LIHEAP payments were needed desperately by those who received them but many more who were as needy or needier were not getting help." The number of families in need of Federal assistance continues to grow. We cannot cut Federal funding.

The report demonstrates the widening gap between the energy needs of the poor and the elderly and Federal funding for low-income energy assistance. The President's most recent budget would slash coverage of Federal low-income assistance and would cover only 13 percent of the poor and elderly's total heating needs. My colleagues, we must maintain the funding level at $2.8 billion. Without the appropriate funds, the needy families will continue to live in unheated homes.

I urge my colleagues to resist the Reagan administration's insensitive budget requests. We cannot allow the low-income families to suffer more hardship than they presently do. If more money is cut, greater numbers of children and elderly will be without heat. No one should have to choose between food or fuel. Don't let that be a consequence of our actions.

DAUB CONGRATULATES NEBRASKA FARM FAMILY

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. DAUB. Mr. Speaker, I want to call to your attention today the Jerry Kuenning family in Imperial, NE. They are the winners this year of the Jaycees' Outstanding Young Farmer and Rancher Award. Jerry and his wife Kathy won the Nebraska Outstanding Young Farmers Award, and they went on to be one of the National Award winners, which were announced in February.

I also want to point out that Nebraska has now had two winners of this award in the last 3 years. In 1986, Don and Linda Anthony of Lexington, NE, won this same national award.

In a time when we hear much about the demise and disappearance of the family farm, it's heartening to know that farm families like the Kuenning's and the Anthony's have not just persevered, they have succeeded in Nebraska's most important industry, and one that is vital to the health of our Nation.

DEPARTMENT OF ENERGY NUCLEAR FACILITIES SAFETY ACT

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. SHARP. Mr. Speaker, today I am introducing, with Mr. BRYANT, the "Department of Energy Nuclear Facilities Safety Act of 1988." This bill would establish a Federal Facilities Nuclear Safety Board to provide independent technical advice to the Department of Energy [DOE] regarding the safety of DOE's weapons production facilities.

The Department's nuclear facilities include reactors used for the production of weapons materials, plants that supply fuel to the reactors, and facilities that refine the material produced for use in nuclear weapons.

DOE inherited responsibility for these facilities from the Atomic Energy Commission in 1974. Unfortunately, the law transferring these facilities to DOE did not continue the tradition of independent technical oversight previously provided by the Advisory Committee on Reactor Safeguards [ACRS]. While the ACRS continued to review the safety of the commercial nuclear industry under the newly created Nuclear Regulatory Commission [NRC], there has been no mechanism during the past 14 years for providing independent oversight of DOE's nuclear facilities. By the Department's own admission, these facilities were not built to, and could not meet, the safety standards the NRC applies to commercial reactors.

DOE's periodic requests for ad hoc safety reviews, particularly since the Chernobyl accident, provide hard evidence of the importance of this omission. To its credit, the Department solicited two excellent reviews of the safety of its production reactors.

The first, by the Roddis panel, led to the Department's decision to shut down the N-reactor for substantial safety improvements. The Roddis report also calmed public concerns, by confirming DOE's assertion that the Chernobyl accident could not be repeated at the N-reactor because of technical distinctions between the two reactors.

The second safety report, prepared by the National Academy of Sciences, reviewed the safety of all four of the Department's operating production reactors. The Academy's findings were sobering, concluding that the DOE weapons system is in a state of acute aging and that "the Department's approach to management falls short of reasonable expectation in attempting to cope with a mix of production and safety responsibilities." The Academy noted that a 1980 internal DOE report recommending reinstatement of an outside oversight committee had never been implemented, and strongly recommended that an "independent external safety oversight committee" be established.

The General Accounting Office [GAO] has studied management issues affecting the safety of DOE's weapons facilities since 1981. In a March 1987, report GAO questioned DOE's failure to endorse the concept of outside oversight, stating "DOE's position is difficult to understand because DOE, on occasion, does use outside, independent reviews." GAO concluded that "independent oversight is critical if DOE wants to provide a high degree of public assurance that its operations are safe."

DOE responded to these recommendations for outside oversight last October by chartering its own internal safety advisory committee, appointed by and answering to the Secretary. While this clearly is a step in the right direction, the internal committee falls short of the Academy's call for an "independent external" oversight body.

The Department indeed has a difficult job to perform in balancing safety concerns against its responsibility to meet production goals for nuclear materials. While I commend the Secretary for taking administrative steps to create an oversight committee, I nonetheless am convinced that the Department's new advisory committee lacks the independence needed to have credibility with the public and to provide the most objective safety advice. Only a statutory mandate can confer this status.

My bill would fully implement the National Academy of Sciences' recommendation for a permanent and truly independent safety body. It would establish a five-person Federal Facilities Nuclear Safety Board to review each of DOE's facilities, investigate specific events, and recommend technical and management improvements. The Board also would advise the Department on the design of any new nuclear facility, including the new production reactor now being developed.

The bill is sensitive to national security concerns, preserving the protection of classified information and reserving final decisions on Board recommendations to the Secretary and the President. However, consistent with security concerns, all Board recommendations would be made public, and DOE would be required to consider and respond to them pursuant to specific procedures.

The bill specifies that Board recommendations should seek to bring DOE facilities in line with the same safety standard applied to the commercial nuclear industry by the NRC. A Nuclear Safety Board would improve the safety of DOE's older existing plants and help ensure that any new generation of weapons facilities meets the highest practical safety standards.

I am aware that the Department does not currently support oversight legislation, and would prefer that its internal advisory committee be given a chance to work. I hope, however, that the Department will reassess its reluctance to support legislation. As our experience with the Roddis panel shows, the opinions of a clearly independent body inspire a level of confidence which even the most able internal panel cannot inspire.

I recognize that some may feel this approach is too mild, while others may have concerns about its impact on national security. The bill has benefited from prior work done by many concerned Members of both the House and Senate, and I believe it represents a moderate, workable response to concerns about both safety and security. It is modeled closely on the version of Senator Glenn's bill, S. 1085, that was reported last November by the Senate Armed Services Committee. It attempts to respond to concerns addressed in four varied bills pending before the House, including H.R. 783 [Mr. Wyden], H.R. 3123 [Mr. Eckart], H.R. 2047 [Mr. Dicks], and H.R. 3285 [Mr. Udall].

DOE's nuclear facilities are located throughout the country—in Washington State, South Carolina, Florida, Ohio, Colorado, Texas, and elsewhere. The safety and reliability of these defense facilities are crucial from the standpoint of public health, environmental concerns, and the national defense. With two Senate committees having completed work on similar legislation, and the recent attention given this issue by the House Armed Services Committee, I am optimistic that legislation can pass this year.

I thank my colleagues for their attention and urge them to give close consideration to this bill.

THE EMPLOYMENT DEVELOPMENT COUNCIL OF PINELLAS COUNTY, FL, HONORED WITH PRESIDENTIAL AWARD

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. YOUNG of Florida. Mr. Speaker, this morning I had the honor and privilege to participate in ceremonies at the Department of Labor where the first annual Presidential Awards were presented to a select few individuals and organizations who have made outstanding contributions to the Job Training Partnership Act Program.

The Presidential Award for the Outstanding Private Industry Council was awarded to the Business and Industry Employment Development Council of Pinellas County, FL. The council's members and staff were represented at today's ceremonies by Joseph Wheeler, the senior vice president of Barnett Bank and immediate past chairman of the council, Judith Flynn, vice president of the Geonex Corp. and the current chairman of the council, Robert Smith, regional manager of the Job Service of Florida and a council member, and Sally Snyder, the council's executive director. Through their efforts, the council has established a job training program that ideally carries out the intent of the legislation which enacted JTPA 6 years ago. In fact, the Pinellas County program has become a model for similar programs throughout our Nation.

The council's stated mission is to prepare unskilled youth and adults for long-term employment and help with job placement in the community. The Presidential Award was given in recognition of the council's ability to maximize the return on its Federal JTPA funds by linking existing community resources and private sector support.

Included among the major accomplishments of the council in the past year is the development and implementation of a unique, award-winning program called Workforce. It joined together two federally funded programs—the Job Service of Florida and JTPA—and allowed the council to serve a larger number of people and employers with no additional staff or funds.

The council has targeted the at-risk and hard-to-serve population in providing job training and placement assistance. Those helped by the program include adult blacks, females, and handicapped; the aged 55 and older; and various youth groups including blacks, handicapped, dropouts, criminal offenders, and 14 and 15 year olds.

The council sparked increased private sector support for its programs in the past year and in doing so created two major new programs to assist the severely physically handicapped, including the blind and deaf. These include computer programmer training and computer-assisted design training.

Individually, the Honeywell Corp., Pinellas County's largest private employer, worked with the council to develop a program to meet one of the greatest needs of the county, as identified by a panel of local support agencies. The need—more extensive child day care services—has been met by the Neighborhood Care for Kids Program and has been generously supported by Honeywell. The program trains long-term unemployed persons to become licensed home day care providers and teaches them important business management and child care skills. The training is done by the St. Petersburg Junior College and funds are provided by Honeywell to bring the homes and apartments of day care providers into compliance with licensing standards. Honeywell is considering expanding this program to other parts of our Nation and a number of Pinellas County companies have indicated an interest in becoming involved with the project.

In another program, the Burger King Corp. worked with the council to develop a training program called BKapable which has been so successful in Pinellas County that it has expanded to other parts of our Nation. Through the use of Federal JTPA funds and private resources contributed by Burger King, mentally and emotionally handicapped persons 18 and older have been trained to work in Burger King restaurants. These people were unemployable without this training, but in many cases have been hired by Burger King and paid wages higher than the normal starting salary.

Mr. Speaker, the Business and Industry Employment Development Council of Pinellas County is most deserving of this Presidential Award because through their efforts they have sought to improve the lives of thousands of disadvantaged individuals and families. They have instilled a sense of pride in our community by uniting businesses and service agencies behind an effort to retrain workers to meet the changing needs of our Nation. Through their work, they have made many previously unemployable persons self-sufficient, tax-paying members of our communities and in this way the council epitomizes the spirit and intent of the Federal Job Training Partnership Act Program.

ANOTHER VIOLENT UPRISING IN TIBET—THE DALAI LAMA'S EFFORT TO BRING PEACE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. LANTOS. Mr. Speaker, last October, I and many of my colleagues in the Congress spoke about the problems of the Tibetan people and the violent clashes between Tibetans and Chinese that resulted in considerable loss of life.

When these outbursts came up last fall, the Congress adopted and the President signed legislation stating that (1) "the United States should make the treatment of the Tibetan people an important factor in the conduct of relations with the People's Republic of China" and (2) "The United States should urge the Government of the People's Republic of China to actively reciprocate the Dalai Lama's efforts to establish a constructive dialog over the future of Tibet."

Mr. Speaker, despite this statement in law, despite the fact that the President signed this statement of purpose, the administration has done little to emphasize our concern for human rights in Tibet. And this is despite the fact that only a few days ago a new round of violence broke out in Tibet.

This week provided the perfect opportunity for raising the issue of human rights for the Tibetans with the Government of China. The Foreign Minister, Mr. Wu Xueqian, this week paid an official visit to Washington where he met with President Reagan. Following that meeting, the President's spokesman informed the press that the issue of Tibet has not been raised by the President.

Mr. Speaker, it is appalling that this matter was not raised. This latest round of violence in the Tibetan capital of Lhasa was apparently the most serious since 1959. It began on Sunday when some 300 monks gathered to protest the arrest of one of their number the previous Thursday. Chinese police had arrested him for speaking out in public for Tibetan rights.

The Chinese called in 2,000 security police, reportedly flown into Tibet in recent weeks in anticipation of possible demonstrations during Monlam—for Great Prayer Festival, which coincides with the Tibetan New Year—and the anniversary on March 10 of the bloody 1959 Tibetan uprising when thousands of Tibetans were killed by the Chinese, and the Dalai Lama and 100,000 Tibetans were forced to flee into exile.

During the unrest, Chinese forces fired tear gas cannisters into the Jokhang Temple in Lhasa and fire broke out in this holiest of Tibetan shrines. During the course of the day-long demonstrations against Chinese violations of human rights, at least five demonstrators were killed, including one 15-year-old monk who was shot in the head.

Mr. Speaker, as a consequence of this most recent violence, the spiritual and temporal leader of the Tibetan people, His Holiness the Dalai Lama, wrote to President Reagan asking that he raise the matter of violence and human rights abuses when he met with the Chinese Foreign Minister. As I mentioned, the President unfortunately failed to do this.

For the benefit of my colleagues I would like to place in the RECORD two import documents. The first is the letter from the Dalai Lama to President Reagan asking his help in peacefully assuring that the human rights and freedoms of the Tibetan people are observed. The second is a public statement issued by the Dalai Lama expressing the hope that violence will be avoided and that a peaceful way can be found to resolve the problems.

Both of these documents reflect the genuine and sincere desire of the Dalai Lama to assure that the rights of the Tibetan people are observed and recognized peacefully and in full cooperation with the Government of China.

Mr. Speaker, both of these documents deserve the careful and thoughtful attention of all of us in the Congress, as well as the careful consideration of officials of China, India, the United States, and other interested parties.

MARCH 7, 1988.

His Excellency RONALD REAGAN,
President of United States, The White House, Washington, DC., U.S.A.

YOUR EXCELLENCY: I am writing to you personally because of the recent sad events in Tibet. The fact that thousands of people in Lhasa and other areas of Tibet took to the streets, at the risk of both their own lives and severe punishment, to publicly demonstrate their deep sorrow under Chinese rule, has reminded us all of the extent of desperation felt by Tibetans. The deaths, mass arrests and imprisonments that have resulted from the demonstrations have now plunged all of Tibet into a state of deep anxiety.

It has always been my effort and hope to avoid violence. Despite the brutal reaction of the Chinese authorities to the Tibetans' peaceful demonstrations as well as their renewal of hostile propaganda against me, I wish to continue direct contacts with the Chinese leadership and I have conveyed this to them. I am still convinced that reason and honest discussion are the only viable means to alleviate the plight of my people.

It was this spirit that I addressed members of the United States Congress on 21 September 1987. As details of my speech were not reported in their entirety, I am enclosing a copy of the full text, for your information, which clarifies my position on Tibet.

As you know, the Tibetan people have suffered tremendously since the invasion of our country in 1949/50. With the change in leadership in China and the inception of a new pragmatic approach, we were able to establish direct contacts with the Chinese Government. As a result, I sent four fact-finding delegations to Tibet and two exploratory missions to China. Unfortunately, in recent years, our dialogue with the Chinese has become particularly difficult. China's leaders refuse to recognize the true nature of the Tibetan problem. The issue of Tibet does not concern my return nor my future status as the Chinese repeatedly maintain. It concerns the future and welfare of six million Tibetans. Moreover, the Chinese leaders continue to portray the Tibetan issue as a minority problem. Tibetans are not a "Chinese minority". Mollifying minority policies towards us will neither resolve our dissatisfaction nor fulfil our longing for genuine freedom.

The fundamental prerequisite for any negotiated settlement with China is a change in the Chinese attitude towards Tibet. Tibetans are a distinct people with our own culture, religion, language and a long history of independence. We deserve to be treated as equals—as brothers and sisters—not as a subject race to be used solely for China's benefit. Discussions on the future of Tibet must be founded on mutual respect and a willingness to understand each other's needs. My five-point proposal is based on this requirement.

I have called for the conversion of Tibet into a zone of peace. The human race, I believe, is presently facing unprecedented dangers. It is imperative for us all to contribute to a reduction of tensions, both regional and global. I am convinced that Tibet can play an important role in this regard. Strategically, my country lies at the axis of Central Asia. Due to both its location and profoundly nonviolent heritage, it served for over a millennium as a buffer state between the continent's great powers. If Tibet were to be restored, as a zone of peace, to its historic role as a sanctuary for both man and nature, there is no question that the dangerous tensions existing along its borders would immediately be eliminated. Furthermore, such a neutral zone could serve as a model for demilitarized regions that would greatly contribute to peace on earth.

I am not proposing the immediate and unconditional withdrawal of all Chinese troops from Tibet. I am suggesting that such a withdrawal, coupled with a reciprocal step on the part of India, if guaranteed by a third party, would provide the foundation for lasting peace in an area of chronic instability the size of Western Europe. Concerning the Tibetan's own sentiments, it is plain that as long as China maintains its massive occupation force in Tibet, no genuine goodwill, or trust between the two peoples, can develop.

The most serious threat, today, to the survival of the Tibetan people, is the large influence of Chinese settlers into Tibet. China's current policy is aimed at reducing Tibetans to an insignificant and disenfranchised minority in their own country. As such, it amounts to an act of cultural genocide, a "final solution" to the Tibetan race and nation. It directly defies China's own limited notion of autonomy, as defined in the Republic's constitution and though publicly denied, has already placed a million more Chinese than Tibetans on the Tibetan plateau. For a negotiated settlement to have any long term relevance, it is imperative that China abandon its population transfer policy.

Respect for the democratic principles which Tibetans in exile have pursued for almost three decades, and protection of the natural environment, are fundamental needs which speak for themselves. The final point of my proposal, however, is one which I wish to particularly stress.

Until its invasion by Communist China, Tibet had enjoyed a de facto as well as de jure independence from the time of its founding as a nation-state in the first century B.C. China's claim of dominion rests solely on the fact that her foreign dynasties—Mongol and Manchu—exercised influence over Tibet as well. The Tibetans, however, never considered such influence, exerted equally on a number of weaker states, to endow China with control of Tibet.

Despite our long history of national sovereignty, we are prepared to enter into negotiations with the Chinese with an open mind and realistic attitude. If China is willing to address and resolve the genuine issues concerning Tibet, we are prepared to consider a wide range of options in terms of our country's future status. There is considerable space between complete separation and the current occupation. If our national identity and aspirations are legitimately protected Tibetans may not insist on developing entirely on their own. It is, in fact, the current tendency for nations to seek out cooperation economically, politically and for defense; and to form unions to this end.

However, cooperation must come voluntarily. An association dictated by force cannot last.

The essential point I wish to make is that we are open minded and willing to discuss any arrangement that is in the interest not only of Tibet but of China as well.

In the past few months the United States Congress, the European Parliament and the West German Bundestag have all passed legislation calling on China to ameliorate human rights abuses in Tibet. The various resolutions have also supported my five-point initiative. In addition, many world leaders have expressed support to my proposal on an informal basis to China. Even if such statements have no visible result, I am quite sure their effect has been felt.

At the present moment my people are enduring the harshest wave of repression to be visited upon them since the cultural revolution. Their sole hope lies with international opinion and the check it can provide on Chinese policy in Tibet. Their actual well-being, in turn, will only be ensured if a significant and lasting solution is found for our country's future. I therefore request you to voice whatever concern you may feel for Tibet by expressing your support for my proposal to the Chinese Government.

With the assurance of my highest regards and esteem,

Yours Sincerely,

The DALAI LAMA.

TEXT OF STATEMENT ISSUED BY THE DALAI LAMA ON MARCH 7, 1988

The courage of the Tibetan people in expressing once again their dissatisfaction against the Chinese rule in spite of the obvious risks involved, clearly reveals their desperation. Even in the face of mounting Tibetan resentment, the Chinese leadership still fail to understand the true aspirations of the Tibetan people.

Current unrest in Tibet, though tragic in terms of loss of human life, should at least make the Chinese leadership realize the gravity of the situation. It will not be in the Chinese long term interest to continue to ignore the happenings in Tibet growing out of the prevailing tragic conditions. Rather, the Chinese leadership should work towards a settlement which will benefit both the Tibetan and the Chinese peoples.

My sympathy goes to those many individuals who have to suffer, some to the extent of sacrificing their lives, to awake the conscience of the world to the continuing suffering of the Tibetan people under Chinese rule. In the meantime, I appeal to my fellow Tibetans to refrain from violence in spite of repressive measures that the Chinese may take. It is my sincere hope that the fresh manifestations of Tibetan national feeling will not be tackled with a renewed cycle of official repression. A peaceful resolution of the Tibetan question is in the interest of both the Tibetans and the Chinese people.

The DALAI LAMA.

DHARMSALA, INDIA, *March 7, 1988.*

JOHN COSTELLO

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. ATKINS. Mr. Speaker, I am pleased and honored to rise to inform my distinguished colleagues that this year's recipient of the Dr. An Wang Award presented by the Chambers of Commerce and Industry for Northern Middlesex County, MA, is John H. Costello, Sr., of Lowell, MA, the president and publisher of the Lowell Sun.

The Dr. An Wang Award is presented to the individual whose activities have demonstrated their commitment and dedication to the business community. Certainly Mr. Costello's lifetime accomplishments evince this dedication and commitment to the Northern Middlesex community and it's residents and visitors.

A quick summary of John Costello's biography is in order. Born and raised in Lowell, he attended Lowell High School and Dartmouth College—class of 1937. He spent several years as a professional hockey player with the Boston Olympics; the advent of World War II ended his athletic career and replaced it with 4 years of service as an officer in the U.S. Navy.

Following the war, John returned to Lowell to work at the Lowell Sun. In 1947 he also cofounded a car dealership in Lowell, a business so successful that it has exploded beyond our boundaries and he now also has an automobile dealership in New Hampshire!

In 1956, carrying on the family tradition, John Costello became the president of the Lowell Sun and his brother became its editor. During their tenure, the newspaper expanded its service to and base in this community. Its circulation of 58,000 gives it the highest community readership rate of any newspaper in New England.

Last year, John and his family acquired complete control of the stock of the company, thus continuing the Lowell Sun as one of the oldest family owned and regionally based newspapers in the country. This purchase was and is the ultimate demonstration of John's community commitment. Rather than sell the newspaper to a large national concern, John and his family worked to take control of the company and ensure that the Lowell Sun remains a local paper dedicated to the growth and betterment of the Lowell area.

The sense of tradition and responsibility which John has demonstrated toward the newspaper are also translated into his sense of the community. While John has actively participated in many charitable activities, his proudest affiliation is with the Lowell Sun charities which has donated over $1 million to this community.

The city of Lowell is a showcase for renovation and redevelopment. Much of the credit for the successful revitalization of the area is due to the support of John Costello—both as an individual and in his role as president and now publisher of the Lowell Sun. It is my pleasure to pay tribute to him today.

THE 150TH BIRTHDAY OF HONEOYE FALLS, NY

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Ms. SLAUGHTER of New York. Mr. Speaker, I rise today to pay tribute to the Village of Honeoye Falls whose 150th birthday will be celebrated on March 13, 1988. I would like to share with my colleagues a part of this village's heritage.

Once a Seneca Indian Village, Honeoye Falls as we know it today was founded in 1791 by Zebulon Norton. Zebulon Norton, a miller and a millwright, brought his family to western New York and purchased 1,820 acres of land on Honeoye Creek for 12½ cents per acre. The creek's waterfalls provided the necessary water power he needed for his grist mill.

Soon after the grist mill was operating, the village flourished and became known as Norton's Mills. By 1822 the lively hamlet included mills, stores, a school, a post office and churches. Water played a large part in the life of the early inhabitants who settled their homes and businesses on both sides of Honeoye Creek. In 1810 when the village was known as West Mendon, a bridge was built to connect the banks of Honeoye Creek.

Honeoye Falls became the new name of this village when West Mendon was incorporated in 1863. Honeoye is derived from an Iroquis Indian word "Hay-e-a-yeh" or "On-agh-e" and means "a finger lying." The origin of the word Honeoye stems from the legend of a Seneca brave who, after being bitten on the finger by a rattlesnake, promptly amputated the finger with a tomahawk. Another legend tells us that two Indians were fighting in bitter anger and one, hiding behind a tree, placed his hands around a young sapling as he hid from his adversary. His opponent threw a tomahawk which hit the young tree and severed the little finger of his enemy. The injured warrior won the battle and in telling of his exploits at tribal meetings, referred to the area as the place where the "little finger lies" on the ground.

Today Honeoye Falls maintains a friendly small-town atmosphere where ties to family and friends remain strong. I extend my warmest regards to all residents of Honeoye Falls on the celebration of their sesquicentennial. I ask my colleagues to join me in honoring the village of Honeoye Falls and in wishing the entire community continued success and good fortune throughout the years to come.

A CONGRESSIONAL SALUTE TO NATE DIBIASI

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding civic leader in my district, Mr. Nate Dibiasi. Nate will be honored at a testimonial on March 12, 1988 by the Southern California District Council of the International Longshoremen's and Warehousemen's Union.

Born in Tione, Italy, Nate arrived in California in 1928, when he was 9 years old. He has been an asset to his community and his country ever since that time. From 1942 to 1946, Nate served in the Army Air Corps, and spent 2½ years in the Pacific Theater. In 1946, Nate joined the International Longshoremen's and Warehousemen's Union Local No. 13, and has dedicated a tremendous amount of time and energy to that organization. He has held many positions with the I.L.W.U. including vice president of Local No. 13, Welfare Officer for Local No. 13, chairman of the P.M.A. Job Level Safety Committee, and chairman of Local No. 13 Stewards Council. His most significant contribution, however, was his 23 year tenure as the legislative representative for the I.L.W.U. Nate has worked in Sacramento and in Southern California in that capacity.

Nate has not restricted his activities to the I.L.W.U. He is the chairman of the Transportation Committee of the California Safety Conference, and was a member of the Los Angeles Board of Harbor Commissioners for 7 years.

In 1982, Nate Dibiasi retired from his primary career, but refused to relax and while away his golden years. Instead, Nate moved on to another cause, that of pensions. Currently, he is president of both the Southern California Pensioners Group, and the Pacific Coast Pensioners Group.

Nate Dibiasi is a monument to the American Dream: an immigrant boy who created a successful career and family, and committed himself to the betterment of his community. My wife, Lee, joins me in extending our warmest congratulations to Nate Dibiasi. We wish him, his wife Donna, and his sons, Vince and Dennis, all the best in the years to come.

THE INTRODUCTION OF THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY WATER SETTLEMENT BILL

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. KOLBE. Mr. Speaker, I'm pleased to associate myself with the effort surrounding H.R. 4102, legislation to settle the water rights claims of the Salt River Pima-Maricopa Indian community. Unfortunately, the relationship between the native American communities and the State of Arizona has not always been constructive. The question of unresolved water claims haunts us as our State experiences unbridled growth, and increased demands for that precious resource. But this growth cannot continue without a recognition of the elemental rights of this community.

The legislation introduced yesterday is the culmination of 2 full years of work by the Indian community, the State of Arizona, and the cities of Phoenix, Scottsdale, Mesa, Tempe, Glendale, Chandler, and the town of Gilbert, as well as the Salt River Water Users' Association, the Roosevelt Irrigation District and the Roosevelt Water Conservation District. This bill will resolve questions relating to the Indian community's 80-year-old right to water. It will clarify, for all time, the relationship of the community with its neighbors over water rights. The resolution of this dispute removes any uncertainty, and gives planners a framework with which to plan water management and conservation strategies.

This bill also utilizes a cost sharing approach that is beneficial to the Federal Government's interests. The Federal costs of this bill include $1 million CAP repayment forgiveness to secure seasonal storage rights to reregulate existing tribal water behind the modified Roosevelt Dam, $16 million for a trust fund for community development so that the tribe can put the settlement water to use, and $14 million to secure 22,000 acre feet of Arizona's Colorado River water supply which would then be traded by the tribe for 25,000 acre feet of Salt and Verde River waters for the tribe.

On the other hand, the local entities are contributing $16 million to the trust fund in exchange for a water lease right, plus as much as $3 million per year for costs associated with delivery of the Colorado River water to the Indian community. Finally, the State of Arizona will contribute $3 million to the settlement, and the tribe itself is making a significant contribution to the trust fund.

As with any complex arrangement of this sort where two fundamental resources, water and money, are at stake, the work done thus far serves merely as prelude to continued discussion among all parties. I anticipate this discussion to be spirited, but constructive, with the goal of achieving a comprehensive settlement on behalf of the Indian community.

THE OHIO MEMBERS OF THE VETERANS OF FOREIGN WARS

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. McEWEN. Mr. Speaker, this week Veterans of Foreign Wars held their annual Washington Conference. Veterans from all over America traveled to our Nation's Capital to attend the joint hearing before the House and Senate Veterans Affairs Committees.

Under the able leadership of their commander in chief, Earl Stock, the VFW presented their legislative program for the second session of the 100th Congress. It was a privilege for me to listen to the concerns and hopes expressed by Commander Stock for our veterans programs. I share his commitment and dedication in this effort.

Mr. Speaker, the VFW was well represented by the State of Ohio. The Ohio delegation was led by State Commander John Moon, Senior Vice Commander Robert Cockrell, Junior Vice Commander Joseph "Butch' Seibert, and State Adjutant Sam Schaffner. The other members of the Ohio VFW who came were:

OHIOANS TO BE IN ATTENDANCE AT WASHINGTON CONFERENCE

Ronald Hook, Robert Bishop, Larry K. Thall, James R. Mellott, Robert Weese, Harold Reichard, Virgil Frontz, Alfred Kimes, William Tracy, George L. Desmett, Lawrence Brewer, William L. Leethy, Harold Battles, Wayne Joseph, Norman Eckhart, Lawrence Krugman, Frank West, Roger Jackson, Norman Heldt, Wm. Gordon Smith, Dominic Stabile, Margaret C. Whiteside, Robert Graff, Stephen Milbourn, Cliff Bauer, John L. Buck,

Robert Marmaduke, Roy Welder, Lucian Esposito, Robert Pounds, Gordon Morrow, Frank A. Russo, PE, Eural Johnson, Stephen Miner, Edwin J. Story, Jr., Clifford M. Christenson, William Holocher, James Edwards, Bill Nicholson, John Thomas, Craig Swartz, Hugh Eldridge, Chester Golden, J. Murray Griffin, Stephen Kowalyk, Joseph Rice, Donald Karnes, Dan Crow, Hudson Isaac, Clare R. Devault, Doyle Keith, Thomas Dudzik, Alfred Kovalcin, Walter Morosho, Raymond L. Juvancki, Louis Dudas, James Tadesn,

Joseph McCluskey, John Kover, Gerald Gilgenbach, William Hawk, Glen Rohn, George Miklos, William Young, William Nelson, Terry Roan, Gary Bentfeld, William Otting, James Comedy, Albert Seigel, George Rinkowski, Chester Koch, John Wasylik, Ed Marzec, James Dickens, Art Taber, Jake Brewer, Norman Dohn, M.W. Welliver, Curtis Jewell, Bob Crow, Tom Kissell, Roger Taylor, Harold Howell, Andy Kedler, Homer Campbell, David Turner, William Seagraves.

Mr. Speaker, the willingness of these individuals to come to Washington to communicate their goals is deeply appreciated. Moreover, I look forward to working with them in the weeks and months ahead to improve these veterans programs.

ROBERT H. QUINN

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. ATKINS. Mr. Speaker, I rise today to pay special tribute to Robert H. Quinn, in whose name the administration building at the University of Massachusetts at Boston has been dedicated.

The dedication is a fitting testimonial, because without the dedication, leadership, and vision of Robert Quinn, UMASS Boston would not exist as the strong and nationally recognized institution that it has become.

Robert Quinn has distinguished himself in both government and academia. As attorney general of the Commonwealth of Massachusetts from 1969 to 1975, he established the first environmental protection division and consumer protection offices; he also was instrumental in establishing the New England Organized Crime Intelligence System. Prior to serving as attorney general, Robert Quinn served in the Massachusetts House of Representatives, rising through the ranks to become speaker in 1967. As a legislative leader, Mr. Quinn played a major role in establishing, locating, and funding UMASS Boston.

After leaving the political world in 1975, Mr. Quinn served on the UMASS Boston Board of Trustees. He served as chairman from 1981 to 1986. Mr. Quinn is currently chairman of the University of Massachusetts Executive Committee of the Board of Trustees, and is a

Governor ex-officio of the University of Massachusetts Foundation, Inc.

Robert Quinn's accomplishments have benefited the Commonwealth of Massachusetts and its citizens for over 30 years. His special brand of leadership has made a real and lasting difference in the lives of many people, and he deserves our thanks for all that he has done.

TRIBUTE TO WILLIAM BURKE

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. DIOGUARDI. Mr. Speaker, I rise today to honor William Burke, senior vice president of the Bank of Ireland, who has been elected Grand Marshal of the St. Patrick's Day parade in New York City. It is fitting that a person of Mr. Burke's caliber be elected to such a prestigous position.

Mr. Burke was born in Tubbercurry, County Sligo, Ireland in 1941 and later emigrated to the United States. It soon became clear that Mr. Burke was headed for success. When he first arrived in the United States he worked, for a time, at Marine Midland Bank. After deciding he wanted to better his banking and managerial skills, he enrolled in the American Institute of Banking in Manhattan. After graduation, he accepted a position at the Bank of Ireland. Once again his leadership qualities were recognized; he was soon promoted to senior vice president. In addition to his success in business, he has contributed to many civic organizations. He is the president of the Sligo Association, and has been a member of the Ancient Order of Hibernians for 20 years, as well as a member of the Irish-American Association of Westchester County.

The committee could not have elected a more deserving person for the honor of being Grand Marshal of the Saint Patrick's Day Parade. This is one of the greatest honors that an Irish-American can receive, and I am very proud to have Mr. William Burke as a resident of my congressional district and my hometown, New Rochelle, NY.

THE CARDINALE RESOLUTION IN THE NEW JERSEY SENATE

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1988

Mr. COURTER. Mr. Speaker, this morning I had the honor of appearing in a press conference here in Washington with two other Members, Mr. ROBERT MATSUI of California and Mr. BOB STUMP of Arizona, and with representatives of several families of close interest to us. They were Linda Shapiro and Bill Lindelof, family relations of two of the three American reporters killed while covering the war in Afghanistan. Today, we introduced a concurrent resolution, which Mr. DECONCINI will present to the other body, asking the President to bestow upon the American reporters killed in Afghanistan the Presidential Medal of Freedom. Mrs. Shapiro and Mr. Lindelof spoke with simple eloquence about why Lee Shapiro and Jim Lindelof felt it necessary to help the Afghan people as best they could by publicizing the ugliest and most morally inexcusable war of our decade.

Lee Shapiro, an independent filmmaker, was a resident of North Bergen in my home State of New Jersey. His award-winning film about the Miskito Indians of Nicaragua won him considerable repute several years ago. When he and Jim Lindelof died—on October 9, 1987—this country lost a pair of enterprising, courageous, and humane individuals. The loss was all the more heavy following as it did upon the earlier death in Afghanistan of Charles Thornton, an Arizonan and a medical reporter.

The concurrent resolution which the gentleman from California [Mr. MATSUI] and Arizona [Mr. STUMP] and I submit to the House today is in fact a successor to one offered in the State senate of New Jersey by Mr. Gerald Cardinale. That body may soon give the resolution consideration; its passage would significantly strengthen the bipartisan efforts we are making in Washington to win Presidential acknowledgement for the admirable achievements of Charles Thornton, Jim Lindelof, and Lee Shapiro.

The text of the resolution of New Jersey State Senator Gerald Cardinale, as amended in committee, is reprinted below. The senator deserves great thanks for his leadership and his personal commitment to the memory of the men who gave their lives that the world might see.

The resolution follows:

SENATE RESOLUTION, No. 43

A Senate Resolution condemning the savagery of the Soviet armed forces in hunting down and murdering Lee Shapiro, and Jim Lindelof, and Charles Thornton and memorializing the President of the United States, the Congress of the United States and the Ambassador to the United States of the Union of Soviet Socialist Republics to take certain actions.

Whereas, on October 9, 1987, film maker Lee Shapiro of North Bergen, New Jersey, and his cameraman Jim Lindelof were killed in Afghanistan when they were attacked by four Soviet helicopter gunships; and

Whereas, Based on eyewitnees reports of this aerial ambush, it is apparent that Shapiro and Lindelof were hunted down and deliberately murdered by the Soviets, who also seized his equipment and film; and

Whereas, Because of their concern for the suffering of the Afghan people under the brutal Soviet occupation, Shapiro and Lindelof were making a film in Afghanistan to show the world the truth about Soviet atrocities in that sorrowful land; and

Whereas, Three years ago, Lee Shapiro made an award-winning film about the suffering of the Miskito Indians at the hands of the dictatorial Sandinista regime, showing thereby his commitment to the oppressed peoples of the world; now, therefore, and

Whereas, In 1985 Charles Thornton, a reporter for the Arizona, Republic, was killed in a Soviet ambush while traveling with the freedom fighters and was the first American to die in the Afghanistan war, now, therefore.

Be it resolved by the Senate of the State of New Jersey:

1. This House condemns the savagery of the Soviet armed forces in hunting down and murdering Lee Shapiro, and Jim Lindelof and Charles Thornton and memorializes the President of the United States, the Congress of the United States, and the Ambassador to the United States of the Union of Soviet Socialist Republics to take action to effect the return by the Soviets of their bodies, film and equipment.

2. President Ronald Reagan is hereby requested to posthumously award Lee Shapiro and Jim Lindelof and Charles Thornton the Medal of Freedom in recognition of their martyrdom in the cause of liberty.

3. Duly authenticated copies of this resolution, signed by the President of the Senate and attested by the Secretary, shall be transmitted to the President of the United States, the Vice-President of the United States, the Speaker of the House of Representatives, every member of Congress elected thereto from the State of New Jersey and the Ambassador to the United States of the Union of Soviet Socialist Republics.

FEDERAL AND INTERSTATE RELATIONS

Civil Rights

Condemns murder of Lee Shapiro, Jim Lindelof and Charles Thornton by Soviets in Afghanistan, and memorializes the President, the Congress, and the Soviet Ambassador to take certain actions.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, March 10, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 14

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Veterans Administration.
SD-124

Energy and Natural Resources
To hold hearings on the nominations of T S Ary, of Oklahoma, to be Director of the Bureau of Mines, Department of the Interior, Ernest C. Baynard III, of Virginia, to be Assistant Secretary of Energy for Environment, Safety and Health, and C. Anson Franklin, of Virgina, to be Assistant Secretary of Energy for Congressional, Intergovernmental and Public Affairs.
SD-366

Finance
Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee
To hold hearings on the reform of Internal Revenue Service code penalties.
SD-215

Foreign Relations
To hold hearings to review the President's annual international narcotics control strategy report (INCSR), and certification.
SD-419

11:00 a.m.
Foreign Relations
Business meeting, to consider the nomination of April C. Glaspie, of California, to be Ambassador to the Republic of Iraq.
SD-419

2:00 p.m.
Armed Services
To hold hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.
SD-222

Energy and Natural Resources
Public Lands, National Parks and Forests Subcomittee
To hold hearings on H.R. 1860, Federal Land Exchange Facilitation Act of 1987.
SD-366

3:30 p.m.
Foreign Relations
To resume hearings on the Treaty Between the United States and the U.S.S.R. on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).
SD-419

MARCH 15

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2114, authorizing funds for fiscal years 1991-93 for the Corporation for Public Broadcasting.
SR-253

9:30 a.m.
Armed Services
To continue hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.
SR-222

Environmental and Public Works
Hazardous Wastes and Toxic Substances Subcommittee
Business meeting, to mark up proposed legislation to authorize funds for programs of the Environmental Quality Improvement Act.
SD-406

Governmental Affairs
Business meeting, to consider S. 2037, to eliminate the use of private resources in the transition process and to provide for the orderly transfer of power between administrations, S. 1856, to authorize funds for programs of the National Historical Publications and Records Commission, S. 1381, to improve Federal cash management and ensure equity in funding Federal programs administered by the states, and the nominations of Frank E. Schwelb, to be an Associate Judge of the District of Columbia Court of Appeals, and Cheryl M. Long, to be an Associate Judge of the Superior Court of the District of Columbia.
SD-342

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on S. 1883, Trademark Law Revision Act of 1987.
SD-226

Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings on S. 1885, to provide a Federal program for assisting States in providing licensed and regulated child care services.
SD-430

Joint Economic
To resume hearings on the national economic outlook for 1988.
SD-562

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on Agricultural Stabilization and Conservation Service, Soil Conservation Service, and the Commodity Credit Corporation.
SD-138

Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for the Department of the Army.
SD-192

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Consumer Product Safety Commission, Office of Consumer Affairs, and the Consumer Information Center.
S-126, Capitol

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Indian Health Service, and Indian education programs.
SD-116

Environment and Public Works
Hazardous Wastes and Toxic Substances Subcommittee
Superfund and Environmental Oversight Subcommittee
To hold joint hearings to investigate the implementation of the Asbestos Hazard Emergency Abatement Act, and to review problems of asbestos in commercial buildings.
SD-406

Finance
To hold hearings on proposed tax incentives for education.
SD-215

Governmental Affairs
To hold hearings on proposed legislation relating to the elevation of the Veterans Administration to Cabinet status.
SD-342

10:30 a.m.
Conferees
On the Agricultural trade provisions of H.R. 3, Omnibus Trade and Competitiveness Act of 1987.
SR-332

2:00 p.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on childhood immunization programs.
SR-428A

Armed Services
To continue hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.
SR-222

Rules and Administration
To hold hearings on S. Res. 260, to revise current committee structure and designations, and S. 1835, to establish a procedure for consideration of conference reports on a bill or joint resolution making continuing appropriations for a period of 30 days or more.
SR-301

Select on Indian Affairs
To hold hearings on the Cochiti Pueblo Corps of Engineers Dam Project.
SR-485

2:30 p.m.
Select on Intelligence
To resume closed hearings on the provisions of the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).
SH-219

3:00 p.m.
Conferees
On H.R. 5, to improve elementary and secondary education.
SD-430

MARCH 16

9:30 a.m.
Armed Services
To continue hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.
SR-222

Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study to review federal enforcement of foreign fishing activities in the Bering Sea.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Finance
Energy and Agricultural Taxation Subcommittee
To hold hearings on recent changes in collection procedures on gasoline, diesel, and special motor fuel taxes.
SD-215

Judiciary
Technology and the Law Subcommittee
To hold hearings on information and competitiveness.
SD-562

10:00 a.m.
Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.
SD-608

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on S. 2100, to authorize programs for the conservation and development of water resource projects of the U.S. Army Corps of Engineers.
SD-406

1:30 p.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Joseph T. Nall, of North Carolina, to be a Member of the National Transportation Safety Board.
SR-253

2:00 p.m.
Armed Services
To continue hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.
SR-222

Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on activities of the Federal Aviation Administration.
SR-253

2:30 p.m.
Foreign Relations
To resume hearings on the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).
SD-419

MARCH 17

9:00 a.m.
Veterans' Affairs
Business meeting, to consider the President's budget request for fiscal year 1989 for veterans programs, and S. 2049, Veterans Home Loan Program Improvements Act.
SR-418

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to review matters relating to the October 1987 market break.
SD-562

Armed Services
Manpower and Personnel Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on manpower requirements for the total force.
SR-222

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.
SD-608

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed legislation authorizing funds for AMTRAK.
SR-253

Judiciary
Antitrust, Monopolies and Business Rights Subcommittee
To hold hearings on competitive issues in the cable television industry.
SD-226

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for the Department of the Air Force.
SD-192

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1988 for the National Transportation Safety Board, and the Research and Special Programs Administration.
SD-124

Banking, Housing, and Urban Affairs
To hold oversight hearings to review whether legislation should be adopted that would require corporate issuers to have a one-share one-vote standard in order to be listed on the national securities exchanges.
SD-538

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To continue hearings on S. 2100, to authorize programs for the conservation and development of water resource projects of the U.S. Army Corps of Engineers.
SD-406

Finance
To hold hearings on proposed legislation relating to the U.S./Canada Free Trade Agreement.
SD-215

Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 21, S.J. Res. 130, and S.J. Res. 166, measures proposing amendments to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, Presidential, and State elections.
SD-226

2:00 p.m.
Armed Services
To continue hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.
SR-222

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1508, S. 1570 and H.R. 1548, bills to withdraw and reserve certain Federal lands for military purposes.
SD-366

Foreign Relations
To hold open and closed hearings on the Treaty Between the United States and the U.S.S.R. on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).
SD-419

2:30 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.
SD-608

MARCH 18

9:00 a.m.
Veterans' Affairs
Business meeting, to continue consideration of the President's budget requests for fiscal year 1989 for veterans programs, and proposed legislation relating to veterans' home loan guarantees.
SR-418

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
Domestic and Foreign Marketing and Product Promotion Subcommittee
To hold joint hearings on soybeans and the world market.
SR-332

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Tax Court, Committee for the Purchase from the Blind and Other Severely Handicapped, Advisory Commission on Intergovernmental Relations, Merit Systems Protection Board, Office of the Special Counsel, Advisory Committee on Federal Pay, and the Federal Labor Relations Authority.
SD-116

Armed Services
To resume open and closed hearings on issues relating to the Intermediate-Range Nuclear Forces [INF] Treaty.
SR-222

10:00 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.
SD-608

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To continue hearings on S. 2100, to authorize programs for the conservation and development of water resource projects of the U.S. Army Corps of Engineers.
SD-406

Foreign Relations
To continue open and closed hearings on the Treaty Between the United States and the U.S.S.R. on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).
S-116, Capitol

Judiciary
Courts and Administrative Practice Subcommittee
To resume hearings on S. 1482, to make certain improvements with respect to the Federal Judiciary.
SD-226

2:00 p.m.
Armed Services
Defense Industry and Technology Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.
SR-253

Governmental Affairs
Federal Services, Post Office, and Civil Service Subcommittee
To hold hearings on leave sharing.
SD-342

MARCH 21

8:30 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Park Service.
SD-192

9:00 a.m.
Foreign Relations
To resume hearings and to consider the Treaty Between the United States and the U.S.S.R. on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).
SD-419

9:30 a.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of the Treasury, focusing on the Financial Management Service, Bureau of the Public Debt, U.S. Mint, and the Internal Revenue Service.
SD-116

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on H.R. 2090 and S. 1478, bills to designate certain National Forest System lands in the State of Montana for release to the Forest Planning process, protection of recreation value, and inclusion in the National Wilderness Preservation System.
SD-366

Governmental Affairs
To hold hearings to review Department of Defense contractor supply system access.
SD-342

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Science Foundation.
SD-124

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for military construction, focusing on base rights and burdensharing.
SD-192

MARCH 22

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to review the President's proposed budget request for fiscal year 1989 for the National Aeronautics and Space Administration.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To continue hearings on H.R. 2090 and S. 1478, bills to designate certain National Forest System lands in the State of Montana for release to the Forest Planning process, protection of recreation value, and inclusion in the National Wilderness Preservation System.
SD-366

Finance
Health Subcommittee
To hold hearings on S. 1673, to require States to provide Medicaid coverage of community and family support services for severely disabled individuals.
SD-215

Governmental Affairs
To resume hearings on proposals to establish a national nutrition monitoring and related research program.
SD-342

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Foreign Agricultural Service, Food for Peace Program (P.L. 480), Office of International Cooperation and Development, and the Office of the General Sales Manager.
SD-138

Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for the Department of the Navy, and the U.S. Marine Corps.
SD-192

Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1989 for the National Science Foundation.
SD-116

1:30 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on the President's proposed budget request for fiscal year 1989 for the National Aeronautics and Space Administration.
SR-253

MARCH 23

9:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to resume mark up of S. 1516, Federal Insecticide, Fungicide and Rodenticide Act Reform of 1987.
SR-332

Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings to examine Health Care Financing Administration's management of medical laboratories.
SD-342

10:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Minerals Management Servcie.
SD-116

Finance
To hold hearings to review current programs and policies relating to children's health care.
SD-215

Select on Intelligence
To hold closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

MARCH 24

9:30 a.m.
Agriculture, Nutrition, and Forestry
Conservation and Forestry Subcommittee
To hold oversight hearings to review implementation of conservation programs.
SR-332

Commerce, Science, and Transportation
To hold hearings to review federal collection activities of information relating to foreign investment in the United States.
SR-253

Governmental Affairs
Oversight of Government Management Subcommittee
To continue oversight hearings to examine Health Care Financing Administration's management of medical laboratories.
SD-342

Select on Indian Affairs
To hold joint hearings with the House Committee on Interior and Insular Affairs on S. 2153, to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona.
1324 Longworth Building

10:000 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Farm Credit Administration.
SD-138

Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for the National Guard and reserve programs.
SD-192

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Railroad Administration, and the National Railroad Passenger Corporation (Amtrak).
SD-124

Finance
To hold hearings on S. 1245, to authorize the issuance by States of tax-exempt bonds for high-speed intercity rail transportation projects under certain circumstances.
SD-215

1:30 p.m.
Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.
SD-608

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1593, to designate the sight of the Glorieta Battle in the Civil War as a national historic site, S. 1693, to provide for a study of the Coronado Trail, and S. 1912, to authorize a study of the feasibility of establishing a National Mimbres Museum in Silver City, New Mexico.
SD-366

3:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

MARCH 25

9:30 a.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Archives and Records Administration, U.S. Secret Service, and the Administrative Conference of the United States.
SD-124

Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

10:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on the tax treatment of single-premium and other investment-oriented life insurance.
SD-215

MARCH 28

8:30 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Mines, and the Office of Surface Mining.
SD-128

9:30 a.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Management and Budget (OMB), and the Office of Federal Procurement Policy.
SD-116

Finance
Taxation and Debt Management Subcommittee
To hold hearings to review certain tax provisions which have recently expired or will expire this year, focusing on the exempt treatment of mortgage revenue bonds and the targeted jobs tax credit.
SD-215

Governmental Affairs
To resume hearings on proposed legislation relating to the elevation of the Veterans Administration to Cabinet status.
SD-342

10:00 a.m.
Special on Aging
To hold hearings to examine adverse drug reactions in the elderly.
SD-628

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Naval Petroleum Reserve, and the Strategic Petroleum Reserve.
SD-116

MARCH 29

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for force structure programs.
SD-192

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Aeronautics and Space Administration.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Indian Affairs.
SD-116

2:00 p.m.
Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

MARCH 30

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Rural Electrification Administration.
SD-138

Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1989 for the National Aeronautics and Space Administration.
S-126, Capitol

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Smithsonian Institute, and the Woodrow Wilson International Center.
SD-116

Appropriations
Military Construction Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for military construction and family housing programs.
SD-192

Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

MARCH 31

9:00 a.m.
Veterans' Affairs
To hold hearings on proposed legislation relating to agent orange and related issues.
SR-418

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for the Strategic Defense Initiative.
SD-192

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Geological Survey.
SD-116

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Aviation Administration, and the General Accounting Office.
SD-138

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 314, to require certain telephones to be hearing aid compatible.
SR-253

Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

APRIL 11

8:30 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Forest Service.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Environmental Protection Agency.
SD-124

APRIL 12

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.
SD-342

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Environmental Protection Agency, and the Council on Environmental Quality.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy conservation and emergency preparedness programs.
SD-116

APRIL 13

9:00 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs on the legislative priorities of AMVETS, Vietnam Veterans of America, and the Jewish War Veterans.

SD-106

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Labor.

SD-124

Governmental Affairs

Oversight of Government Management Subcommittee

To continue hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.

SD-342

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Farmers Home Administration, and the Federal Crop Insurance Corporation.

SD-138

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for reserve components' military construction and defense agencies' military construction and family housing programs.

SD-116

Commerce, Science, and Transportation

To hold oversight hearings in conjunction with the National Ocean Policy Study on the implementation of the Marine Mammal Protection Act.

SR-253

2:30 p.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for ACTION, Corporation for Public Broadcasting, Railroad Retirement Board, Federal Mediation and Conciliation Service, National Mediation Board, National Labor Relations Board, and the Occupational Safety and Health Review Commission.

SD-124

APRIL 14

10:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Gallery of Art, Commission on Fine Arts, FDR Memorial Commission, and the Advisory Council on Historic Preservation.

SD-138

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Urban Mass Transit Administration, and the Washington Metropolitan Transit Authority.

SD-124

APRIL 15

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Prospective Payment Assessment Commission, Physician Payment Review Commission, Federal Mine Safety and Health Review Commission, National Commission on Libraries and Information Science, National Council on the Handicapped, Soldiers' and Airmen's Home, and the U.S. Institute of Peace.

SD-192

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the General Services Administration and the Executive Office of the President (with the exception of OMB).

SD-116

APRIL 18

8:30 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for fossil energy research and development, and clean coal technology programs.

SD-116

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.

SD-124

1:00

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Postal Service, and the Office of the Secretary of the Treasury.

SD-116

APRIL 19

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.

SD-138

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.

SD-124

APRIL 20

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Social Security Administration, and the Health Care Financing Administration, both of the Department of Health and Human Services.

SD-192

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Army military construction and family housing programs.

SD-124

1:30 p.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Territorial Affairs, and territorial governments.

SD-138

2:30 p.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Family Support Administration, and the Human Development Services, both of the Department of Health and Human Services.

SD-192

APRIL 21

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Assistant Secretary for Health, and the Centers for Disease Control, both of the Department of Health and Human Services.

SD-116

10 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Commodity Futures Trading Commission, and the Food and Drug Administration of the Department of Health and Human Services.

SD-138

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Transportation, and the General Accounting Office.

SD-124

APRIL 22

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Alcohol, Drug Abuse and Mental Health Administration, and the Health Resources and Services Administration, both of the Department of Health and Human Services.

SD-192

APRIL 25

10:00 a.m

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Home Loan Bank Board, Neighborhood Reinvestment Corporation, National Institute of Building Sciences, and the Office of Science and Technology Policy.

SD-124

APRIL 26

9:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.

SD-124

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Emergency Management Agency.

S-126, Capitol

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary, Office of the Solicitor, and the Office of the Inspector General, all of the Department of the Interior, and the Navajo-Hopi Indian Relocation Commission.

SD-116

APRIL 27

9:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.

SD-192

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Navy military construction and family housing programs.

SD-124

APRIL 28

9:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.

SD-116

10:00 a.m.

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Coast Guard.

SD-124

2:00 p.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Land Management.

SD-116

APRIL 29

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Health and Human Services.

SD-138

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Personnel Management.

SD-192

MAY 9

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.

SD-124

MAY 10

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Education.

SD-116

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.

SD-124

MAY 11

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Compensatory Education for the Disadvantaged, School Improvement Programs, Impact Aid, Bilingual, Immigrant and Refugee Education, Education for the Handicapped, Rehabilitation Services and Handicapped Research, and Vocational and Adult Education.

SD-192

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Air Force military construction and family housing programs.

SD-124

MAY 12

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Student Financial Assistance, Guaranteed Student Loans, Higher Education, Higher Education Facilities Loans and Insurance, College Housing Loans, Howard University, Special Institutions (included American Printing House for the Blind, National Technical Institute for the Deaf, and Gallaudet), Education Research and Statistics, and Libraries.

SD-192

MAY 17

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

MAY 18

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

MAY 19

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

MAY 24

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

MAY 25

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

MAY 26

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-138

JUNE 7

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

JUNE 8

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

JUNE 9

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

HOUSE OF REPRESENTATIVES—*Thursday, March 10, 1988*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Enable us, gracious God, to nurture and sustain our own beliefs even as we strive to honor the beliefs of our neighbors. May our own personal faith be strengthened to withstand the pressures of living in an imperfect world. Even as we seek to grow and mature in our own spiritual tradition, O God, may we respect and protect the traditions and rights of every person of our free land. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. DREIER of California. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DREIER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 241, nays 112, not voting 80, as follows:

[Roll No. 27]

YEAS—241

Ackerman
Anderson
Andrews
Annunzio
Applegate
Archer
Aspin
Atkins
AuCoin
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clement
Coelho
Coleman (TX)
Conte
Cooper
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Fish
Florio
Foglietta
Foley
Frank
Frost
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Holloway
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (FL)
Lent
Levine (CA)
Lewis (GA)
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Olin
Panetta
Patterson
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ravenel
Ray
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sawyer
Scheuer
Schneider
Schulze
Sharp
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Whitten
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—112

Armey
Badham
Ballenger
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Callahan
Chandler
Cheney
Clay
Clinger
Coble
Coughlin
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dreier
Duncan
Emerson
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Goodling
Grandy
Hastert
Hawkins
Hefley
Henry
Hopkins
Houghton
Inhofe
Ireland
Kolbe
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Livingston
Lott
Lujan
Lukens, Donald
Lungren
Madigan
McDade
McGrath
Meyers
Miller (OH)
Molinari
Moorhead
Morella
Murphy
Owens (NY)
Oxley
Packard
Parris
Pashayan
Penny
Porter
Pursell
Quillen
Regula
Rhodes
Ridge
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weldon
Wheat
Whittaker
Wolf
Young (AK)
Young (FL)

NOT VOTING—80

Akaka
Alexander
Anthony
Baker
Biaggi
Bilbray
Boulter
Brooks
Broomfield
Brown (CA)
Burton
Coats
Coleman (MO)
Collins
Combest
Conyers
Courter
Dixon
Dornan (CA)
Dowdy
Edwards (OK)
Feighan
Flake
Flippo
Ford (MI)
Ford (TN)
Garcia
Gaydos
Gephardt
Gingrich
Grant
Gray (IL)
Gray (PA)
Gregg
Hall (OH)
Herger
Hiler
Hunter
Hyde
Jacobs
Jones (TN)
Kemp
Kolter
Konnyu
Kyl
Lehman (CA)
Leland
Levin (MI)
Lightfoot
Lipinski
Lowery (CA)
Mack
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McEwen
McMillan (NC)
Michel
Moody
Obey
Ortiz
Owens (UT)
Ritter
Roemer
Savage
Schumer
Shaw
Skeen
Slaughter (VA)
Smith (NJ)
Smith, Robert (NH)
Stenholm
Sweeney
Taylor
Udall
Weber
Williams
Wilson

☐ 1121

So the Journal was approved.

The result of the vote was announced as above recorded.

U.S. MINT AUTHORIZATION, FISCAL YEAR 1988

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2631) to authorize appropriations for the Bureau of the Mint for fiscal year 1988, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, strike out all after line 13 over to and including line 17 on page 3.

Page 3, line 18, strike out "3" and insert "2".

Page 4, line 6, strike out "5132(c)" and insert "5131(c)".

Page 6, line 8, strike out "second" and insert "third".

Page 6, strike out all after line 9 over to and including line 19 on page 7, and insert:

SEC. 3. PROTECTION OF INTEGRITY OF COINAGE MANUFACTURE.

Section 5111(c) of title 31, United States Code, is amended to read as follows:

"(c) PROCUREMENTS RELATING TO COIN PRODUCTION.—

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

"(1) IN GENERAL.—The Secretary may make contracts, on conditions the Secretary decides are appropriate and are in the public interest, to acquire articles, materials, supplies, and services (including equipment, manufacturing facilities, patents, patent rights, technical knowledge, and assistance) necessary to produce the coins referred to in this title.

"(2) DOMESTIC CONTROL OF COINAGE.—(A) Subject to subparagraph (B), in order to protect the national security through domestic control of the coinage process, the Secretary shall acquire only such articles, materials, supplies, and services (including equipment, manufacturing facilities, patents, patent rights, technical knowledge, and assistance) for the production of coins as have been produced or manufactured in the United States unless the Secretary determines it to be inconsistent with the public interest, or the cost to be unreasonable, and publishes in the Federal Register a written finding stating the basis for the determination.

"(B) Subparagraph (A) shall apply only in the case of a bid or offer from a supplier the principal place of business of which is in a foreign country which does not accord to United States companies the same competitive opportunities for procurements in connection with the production of coins as it accords to domestic companies.

"(3) DETERMINATION.—

"(A) IN GENERAL.—Any determination of the Secretary referred to in paragraph (2) shall not be reviewable in any administrative proceeding or court of the United States.

"(B) OTHER RIGHTS UNAFFECTED.—This paragraph does not alter or annul any right of review that arises under any provision of any law or regulation of the United States other than paragraph (2).

"(4) Nothing in paragraph (2) of this subsection in any way affects the procurement by the Secretary of gold and silver for the production of coins by the United States Mint.".

Page 7, line 20, strike out "5" and insert "4".

Page 8, line 6, strike out "6" and insert "5".

Page 8, line 14, strike out "7" and insert "6".

Page 9, strike out lines 8 to 20.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Illinois?

Mr. WYLIE. Mr. Speaker, reserving the right to object, I do so, so that the gentleman from Illinois [Mr. ANNUNZIO] may make a brief explanation as to what we are doing, and I yield to the gentleman from Illinois for that purpose.

Mr. ANNUNZIO. Mr. Speaker, I thank the gentleman from Ohio for yielding.

Mr. Speaker, it is with mixed feelings that I ask the House to agree to the Senate amendments to H.R. 2631, the authorization for the fiscal year 1988 Bureau of the Mint appropriations. This legislation, as it passed the House on October 6, was a compromise between myself and the distinguished ranking minority member of the Subcommittee on Consumer Affairs and Coinage, the gentleman from Indiana [Mr. HILER] and the gentleman from Ohio [Mr. WYLIE].

The House-passed legislation contained compromises relating to the sale of gold bullion coins by the U.S. Mint and Buy American provisions relating to the mint's procurement activities. While neither of those provisions were as strong as I would have preferred, they were acceptable compromises which took us in the right direction.

Unfortunately, the other body has seen fit to eliminate the over-the-counter sales provision of the bill and to weaken the Buy American provisions. Had this bill been returned to the House at another time, I would have insisted upon disagreeing to the Senate amendments and requested a conference. However, since the Banking Committees of both Houses are occupied with major revisions to the structure and direction of financial services this session, I am willing to agree to the Senate amendments in the interests of having this legislation passed, rather than lost in the press of other business.

The Senate did agree to the majority of the provisions in the bill. Those provisions include the authorization of funds for the Mint Directors Conference at the reduced amount set by the House; the requirement that profits from the sale of gold be used solely for deficit reduction; and the designation of the San Francisco Assay Office and the West Point Bullion Depository as U.S. mints. Also adopted were provisions requiring that the gold bullion coins be minted to tighter tolerances than the mint currently requires, and requiring that U.S. gold coins contain the full weight of gold stated on the coin.

While the Senate eliminated the requirement that the Secretary provide for over-the-counter sales of the gold bullion coins, my acceptance of that amendment in no way lessens my belief that the mint's refusal to sell the coins to all purchasers is a violation of the Gold Bullion Coin Act. The steadily declining sales of gold bullion coins shows that the mint's stubborn reliance on its cartel of dealers is hurting the program. Unless the mint begins to fully comply with the Gold Bullion Coin Act, I am prepared to reintroduce legislation mandating such sales.

The Senate also weakened the Buy American provisions of the act by limiting the provision to those countries which bar U.S. firms from competing for contracts with the foreign countries' mints. While the provision as passed by the Senate will apply largely only to Canada, it remains a step in the right direction. Should the mint not reform its procurement practices and continue its seemingly hostile treatment of U.S. bidders, I will reintroduce legislation to enact a stronger Buy American provision.

Finally, the Senate deleted the requirement that profits from the sale of numismatic items be used solely for deficit reduction. I am disappointed that the Senate would not agree to earmarking a source of funds solely for deficit reduction. That would have sent a message that those funds were "off limits" to spenders. It would have shown that the Congress is willing to take steps toward raising revenue that can only be used for deficit reduction. I will attempt to draft a new provision for the next mint authorization bill that meets the Senate's objections.

Mr. Speaker, Bismarck is reputed to have said that politics is the art of the possible. I would rather have imperfect mint authorization legislation than none at all. Accordingly, I urge the House to agree to the Senate amendments to H.R. 2631.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Illinois for that explanation.

Mr. Speaker, further reserving the right to object, I rise in support of H.R. 2631, which reauthorizes the operations of the U.S. Mint, and represents the first mint authorization bill that we have passed in the last 5 years.

May I first say, Mr. Speaker, that both Chairman ANNUNZIO, the chairman of the Consumer Affairs and Coinage Subcommittee, and Representative HILER, the ranking Republican member of that subcommittee, deserve special commendation for their extraordinary hard work and leadership concerning this bill. Last year when we started hearings on this bill in the Consumer Affairs Subcommittee, I did not think it would be possible for us to enact legislation without a very heavy floor fight. I think it is to the credit of both these gentlemen that they were able to push this sorely needed compromise legislation through both Houses.

We initially passed a bill last October and now have received a substantially modified version of it back from the Senate. The Senate bill deleted House provisions concerning the coinage profit fund and mint coin rooms. The Senate also modified section 4 of the bill which now requires the U.S. Mint to publish notice in the Federal Register when they award procurements to suppliers from foreign countries that discriminate against American producers.

Mr. Speaker, this is not perfect legislation. However, we have not had an authorization bill passed for the U.S. Mint in the last 5 years and it is important to pass this legislation.

Mr. Speaker, I support H.R. 2631 as it currently stands. I believe it is a good bill and I will urge the President to sign it.

Mr. WYLIE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Illinois?

There was no objection.

A motion to reconsider was laid on the table.

BAN SHOULD BE PLACED ON DIAL-A-PORN TELEPHONE PORNOGRAPHY SERVICES

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. NICHOLS. Mr. Speaker, on Tuesday of last week, the House by an overwhelming vote of 274 to 17 supported a motion made by Mr. DANNEMEYER of California which would serve to instruct the House conferees to support a provision in the Senate version of the education bill which serves to prohibit Dial-A-Porn in America. I would wish to compliment the gentleman from California in his foresight and interest in taking out of circulation the obscenities that prevail throughout much of the country in the Dial-A-Porn industry which I understand now grosses more than $2.4 billion a year from pure unadulterated filth which is sanctioned by telephone.

In my State of Alabama, we are not plagued so much by pornographic movie houses and pornographic book stores, but the Dial-A-Porn industry is making headway and is of considerable concern to those of us who have the unpleasant task of monitoring some of the dirt and pure trash that comes across to both adults and underaged children alike whose curiousity prompts their dialing Dial-A-Porn.

Over the past few months, my office has received numerous complaints from my constituents complaining of bills being run up on a telephone listed in their name by various and sundry individuals who may have access to that phone. Undoubtedly, Members of the U.S. Senate have also received mail from home on this subject since that body having considered this issue voted 98 to 2 for a provision which we have asked be supported by our House conferees.

Dial-A-Porn is a serious problem which will require decisive action by Congress to bring it to a halt. The Dial-A-Porn industry seems to have grown by leaps and bounds during the past 4 to 5 years which to me is a sad commentary in a country which professes to have high moral ethics.

I just want to go on record to express my strong views on this issue and to commend Mr. DANNEMEYER and others for the leadership role they have taken in making Dial-A-Porn illegal in America. I insert a copy of my weekly news column addressing this issue as part of the official RECORD to this body:

LAW WOULD "DISCONNECT" PORNOGRAPHY

Several years ago the Supreme Court took the issue of obscenity to task. They ruled that although different areas have their own definitions for obscenity, it is still unlawful and not protected by the Constitution's provision of free speech.

In East Alabama the pornography problem does not seem as glaring as it does in other parts of the country. We do not have pornographic movie houses nor adult bookstores on every street corner. However, pornography has found a way of creeping into our lives—through the telephone.

It is now just as easy to call a number and hear explicit sex acts described over the phone as it is to get the local weather forecast or the time of day.

And the saddest fact of all, underaged children can call this number just as easily as adults.

In addition, when you call this number it is usually long distance, and the pornographers tack on an additional amount to cover their expenses. These costs can make the call quite expensive for the parents of an inquisitive youngster.

I and my fellow members of Congress feel something must be done about these "Dial-A-Porn" services that are infiltrating our homes through unscrupulous means. That is why legislation has recently passed both Houses which would make this type of service illegal and prohibit the phone company from giving access to "Dial-A-Porn" companies.

The legislation instructs conferees in both the House and the Senate to add the anti-telephone pornography wording to the education authorization bill. I have co-sponsored a measure similar to this one in the past.

The U.S. Attorney General's Commission on Pornography report released in 1986 cited several problems this country is still having with pornography. Putting a stop to telephone pornography could be one step toward eradicating this glaring sore spot in the moral values of this nation.

Although much has been accomplished in the fight against pornography and indecency, we still have a tough battle ahead of us. We need to consider the resources we have available to combat this problem, such as meaningful legislation and tough penalties. It is my opinion that our children need protection from these immoral images so they can grow up to have a true understanding of personal relationships instead of the tainted one depicted by pornography.

CONCERNS REGARDING GRANTING OF CONTRACTS TO FOREIGN COMPETITORS

(Mr. SCHULZE asked and was given permission to address the House for 1 minute.)

Mr. SCHULZE. Mr. Speaker, I am increasingly concerned over the way the Department of Defense is granting contracts to some of our foreign competitors. It has come to my attention that nations which preclude our defense manufacturers from bidding are allowed to bid unrestricted on U.S. contracts. I find it most troubling that our Defense Department is promoting a policy which harms some of our critical domestic supplier base.

My aim is not to erect barriers in our procurement process, but we need equal access. If another country feels a certain product is a critical material, perhaps it should be for our Defense Department as well. The time has come for DOD to stop its practice of undermining the same mobilization base it claims it wants to preserve.

LEGISLATION TO EXTEND 1866 ANTI-DISCRIMINATION LAW TO WOMEN

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLECZKA. Mr. Speaker, equal justice under law is one of the cornerstones of American democracy. But equal justice cannot always be won easily. Minorities and women have gained equal rights by fighting for the passage of antidiscrimination laws. As a result of their struggles Americans now enjoy greater individual freedom than ever before.

However, because of a historical quirk, one antidiscrimination law, the Civil Rights Act of 1866, applies only to victims of racial discrimination and does not cover women. For years this law was infrequently used. But now that its use is more common, the law needs to be extended to women.

The 1866 law is used most frequently in employment discrimination cases. The main advantage of the law is that it allows victims of racial discrimination to sue for damages. Allowing women to use the law is particularly important because women who suffer sexual harassment on the job are often left without any legal remedy. Extending this law to cover victims of sex discrimination would give women the full legal protection afforded to victims of racial discrimination.

The legislation I am now introducing with Congresswomen PAT SCHROEDER and NANCY PELOSI and Chairman GUS HAWKINS would extend section 1981 of this law to women. I hope that you will join me in cosponsoring this important civil rights legislation.

EASTERN-TEXAS AIR CONCURRENT RESOLUTION

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, today I am introducing a concurrent resolution regarding the unfortunate situation at Eastern Air Lines.

Labor-management problems at Eastern began after Texas Air Corp. acquired control of the airline. There have been widespread reports of a campaign of employee harassment and intimidation in an effort to gain massive wage concessions.

A demoralized work force has been one sad result. Another has been the transfer of some of Eastern's vital assets to other Texas Air subsidiaries.

Mr. Speaker, the ability of Eastern's employees to concentrate on their responsibility to provide safe and efficient airline service becomes difficult when management adopts a strategy of systematically threatening the very existence of Eastern.

Mr. Speaker, the concurrent resolution introduced today will give important guidance to the Secretary of Transportation so that he will ensure that Eastern and other Texas Air subsidiaries will continue to operate safely and in the public interest.

I strongly urge my colleagues to support this resolution.

FIFTIETH ANNIVERSARY OF CONGRESSMAN WEISS' ARRIVAL IN THE UNITED STATES

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, because we will not be in session on Saturday as usual, I rise today to celebrate the 50th anniversary of my arrival in the United States and to express once again my gratitude to the people and the Government of the United States of America.

On March 12, 1938, my sister, Claire, my mother of blessed memory, and I, arrived in New York Harbor aboard the S.S. *President Harding,* where our ship berthed at Pier 62 in Chelsea, an area which I have long had the privilege of representing.

I have many things to be grateful for to this country. This country gave me opportunities for an education which almost certainly would have been unavailable to me in the land of my birth. I have been given opportunities for development and self-fulfillment personally and professionally to which I could never have aspired, culminating in service in this Congress.

Even more basically, I was, in all probability, given the very gift of survival. By the time we left Hungary, the evil of Hitler's nazism was clearly descending on Europe. All four of my grandparents and most others of my family perished in the Holocaust that followed along with 6 million others.

I remember also with love and gratitude Samuel Weiss, my beloved stepfather of blessed memory whose family became my family in the United States.

Mr. Speaker, the one anniversary that immigrants to this country always remember is the date of our arrival. I do so today with love and appreciation.

INF RESOLUTION

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, the recent INF Treaty signed by the United States and the Soviet Union remind one of that genre of current novels in which the Soviets lure the Western alliance into a false sense of peace, only to launch an attack on Western Europe. My fear is that this fiction may turn into reality if we are not careful.

I support mutual and verifiable arms reductions. I believe considerable progress was achieved during the negotiations on the INF agreement. But I also believe the INF agreement may undercut the ability of the NATO countries to effectively respond to a Warsaw Pact attack. In essence, the alliance must modernize its conventional and nuclear forces in order to offset the loss of the Pershing missiles.

I am introducing a resolution that calls upon the President to take a series of measures that will provide for the continued security of NATO, including the modernization of the NATO forces.

The concept and framework of the INF Treaty is a worthy notion. And I'm glad that United States—Soviet relations are improved; it makes us all breathe a little easier. But let's take this opportunity to strengthen our resolve to meet the Soviet threat. To quote John F. Kennedy, "The time to repair the roof is when the sun is shining."

THE MIDDLE EAST PEACE PROCESS

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, I rise today to express my strong support for the administration's efforts to reinvigorate the Middle East peace process.

Secretary Shultz deserves credit for crafting a plan which represents a most promising prospect for peace. And so far, no one has yet said "no."

Well, almost no one. The PLO, yet again seems to be spurning peace—and the critics in the West who condemn what they call Israel's intransigence remain strangely silent.

This past Monday, the so-called moderate Mr. Arafat's Force 17 hijacked a bus in southern Israel and murdered three Israeli civilians in cold blood.

Where was the anguish, the editorial outrage, that has accompanied stories about the West Bank? Sadly, it was nowhere to be found. As Richard Cohen asked in yesterday's Washington Post, why does the world hold the Palestinians to no standard at all?

Several days prior, the Israelis discovered a car bomb near Secretary Shultz' hotel—a suspected greeting from Arafat's PLO. And PLO intimidation prevented 15 Palestinians from meeting with the Secretary in Jerusalem.

If the PLO were truly serious about peace, they would seize the opportunity presented by the Secretary's plan. We should all hope, Mr. Speaker, that some Palestinians will have the courage to do so. Regrettably, the PLO instead choose to seize innocent civilians and continue the violence and bloodshed. Let all those urging a PLO role remember this fundamental fact.

EXPANDING THE CONCEPT OF THE CONSERVATION RESERVE PROGRAM

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERTS. Mr. Speaker, as we in farm country attempt to face up to the environmental responsibilities, challenges, and mandates that are put before us by the EPA and other Federal agencies, we simply find that many individual farmers and ranchers cannot pay the bill. They cannot really do this without suffering very severe financial stress.

Mr. Speaker, I am introducing a bill today that hopefully will address some of these problems. I am talking about the ground water problems, salt buildup on the irrigated crop lands and the need to enhance the habitat of our endangered species.

This is not a regulatory bill. It is a partnership effort that would bring together the goals of the environmentalists and production agriculture. This bill will expand on the concept of the conservation reserve program as provided by the farm bill.

My bill establishes a parallel program to place environmentally sensitive lands now supporting agricultural production in a conservation use status, much like we do with the CRP.

It is a companion bill to the legislation introduced in the Senate by Senator BOB DOLE, and I urge the cosponsorship of my colleagues.

THE SHARPEVILLE SIX

(Mr. DYMALLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DYMALLY. Mr. Speaker, today, five men and one woman are waiting in a South African jail to be executed. The six were tried for murder following the disturbances which broke out at Sharpeville in September of 1984 and spread throughout the country. Since then they have become a symbol of the struggle for freedom for black people in South Africa. They became this symbol as the result of the flawed nature of their trials and the very real possibility that a gross miscarriage of justice may have occurred.

Mr. Speaker, the apartheid regime in South Africa recently cracked down on any form of legal dissent. Those groups which had sought to protest through legitimate channels have been banned and prevented from conducting any of their work. The tension in the society has risen as a result of the Government crackdown on community organizations.

The new restrictions placed on the majority population show clearly that the Botha regime has no real intention to institute the reforms so urgently needed. They do not intend to share power and any continuation of statements urging constructive engagement must be ignored.

Mr. Speaker, the growing trend of political execution in South Africa is not the answer to political and social unrest. We must legislate a stronger response to to this crisis.

DEFENSE CONTRACT FRAUD

(Mr. KASICH asked and was given permission to address the House for 1 minute.)

Mr. KASICH. Mr. Speaker, today's Washington Post has reported the largest settlement of a Defense contract fraud case in history. Under the terms of the agreement Bell Helicopter has agreed to pay the Government $90 million for overcharged spare parts.

The fraud involved numerous computerized accounting inventory irregularities that were, to quote the story, so complex that it would have been difficult to successfully explain them to a jury.

As Yogi Berra would say, it is deja vu all over again. The Readiness Subcommittee held 6 days of hearings last year on this very subject; that is, the computerized inventory control systems called MRP's used by Defense contractors.

Mr. Speaker, we have reviewed this agreement, we have made some tough but reasonable changes, and we are going to go forth to place this in the law. It is necessary in order to prevent this kind of overbilling, overcharging, and fraud case from ever occurring again.

Mr. Speaker, I ask for the membership here to offer their support for this proposal.

PLO SHOULD BE KEPT FROM BARGAINING TABLE

(Mr. FRANK asked and was given permission to address the House for 1 minute.)

Mr. FRANK. Mr. Speaker, I am one of those who has been urging the Government of Israel to be cooperative with the Shultz peace initiative because I think it offers hope for peace in the Middle East, which would guarantee a secure and peaceful Israel. But I do not agree with those who have been putting pressure on Israel to accept as a partner in that negotiation the PLO.

Events of the past few days have tragically reminded us why that is an improper request to make. The main branch of the PLO, the Fatah branch under 0 Yasser Arafat, takes credit, according to the newspaper, for a raid in which several Israeli citizens guilty of no crime other than trying to go to work were brutally murdered, and more people were not murdered only because of the intervention of the Israeli defense forces.

An organization which sends people into the country of Israel to murder defenseless citizens cannot be serious about peace.

□ 1145

It may well be that they are simply trying to undermine any chance for peace and I hope they will not be allowed to succeed in doing that. But it certainly underscores to people why those of us who are genuinely interested in a peaceful negotiation that will lead to security and peace for all, do not want to see the PLO as a part of those negotiations, certainly not while maintaining a commitment to murdering innocent people.

SOVIET UNION SHOULD GRANT VISA TO REFUSENIK YULI KOSHAROVSKY

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I would like to join my colleagues this afternoon in condemning the Soviet Government's treatment of refusenik Yuli Kosharovsky and in marking the 17-year anniversary of Mr. Kosharovsky being denied a visa to exit the Soviet Union. It should come as no surprise to us that the Soviet Government is persecuting Mr. Kosharovsky for his religious beliefs. He is one of countless Jews, Christians, and other religious peoples who have lost their jobs, been threatened with violence, or been ostracized in Soviet society simply because of their efforts to adhere to their religious beliefs.

Mr. Kosharovsky's case epitomizes the plight of Soviet refuseniks. He was denied an exit visa on the grounds of state security, a reference to his access to classified information in a job he held until 1968. However, General Secretary Gorbachev himself has stated that state security is grounds to denial of an exit visa for a period not to exceed 10 years. When this period of time expired, Mr. Kosharovsky was again denied an exit visa on the grounds of insufficient kinship, meaning that he had no close relatives in Israel. The fact that he and his family have been granted citizenship by the Israeli Government was, of course, ignored. On February 12 of this year, Mr. Kosharovsky was dealt another blow when he was yet again denied permission to emigrate, this time on the original grounds of state security.

This is not the first time that Congress has demanded that Yuli Kosharovsky's right to emigrate from the Soviet Union be respected by his nation's government. This body passed a resolution in November of 1981 condemning the harassment of the Kosharovsky family and demanding that it be allowed to emigrate. Today, on the 17th anniversary of his first being denied an exit visa by the Soviet Union, refusenik Yuli Kosharovsky will begin a hunger strike in protest of the Soviet Government's inhumane and illegal treatment of himself, his family, and the countless other persecuted religious peoples in that nation. To coincide with the beginning of Mr. Kosharovsky's hunger strike, the National Conference on Soviet Jewry, the Soviet Jewry Committee of the Jewish Community Council of Greater Washington, and the Washington Board of Rabbis will hold a vigil in front of the Soviet Embassy. They will remind the world that while Secretary Gorbachev tells of glasnost—openness—the gates of the Soviet Union are still closed to Yuli Kosharovsky. His case is a reminder to the world that Soviet reality has yet to catch up to Soviet rhetoric.

AIDS HEALTH CARE FINANCING ACT OF 1988

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, today I am pleased to introduce the Aids Health Care Financing Act of 1988—a bill to help provide for and finance appropriate patient care for individuals with AIDS, AIDS related complex, and early HIV infections.

The goal of this legislation is to establish a reasonable, orderly approach to financing patient care and controling costs.

The planning of this legislation has included Federal, State, and local health authorities as well as representatives of community groups, representatives from the insurance industry, experts in health policy planning and, most importantly, people with AIDS and ARC.

I am honored to have a number of my esteemed colleagues sign on to this bill as original cosponsors. I urge my other colleagues to join me as sponsors of this legislation which can provide hope to our country and people menaced by AIDS.

URGING BOARD OF TRUSTEES OF GALLAUDET COLLEGE TO REVERSE THEIR RECENT DECISION ON APPOINTMENT OF ITS PRESIDENT

(Mr. SHARP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHARP. Mr. Speaker, I rise to urge the Board of Trustees of Gallaudet College to reverse their recent decision to appoint as the president of that great institution a person who does not share the common experience of the student body of that great school, that of hearing impairment.

It is a special obligation of that board of trustees to help inspire those students to the fullest development of their potentialities and to help the rest of us in this great community of ours to understand the full range of participation that our deaf citizens can engage in.

Mr. Speaker, that board of trustees has an opportunity to give real leadership that will inspire those students and help open the eyes of the rest of America.

I hope they will do it and do it soon.

MEMBERS OF CONGRESS SHOULD REFRAIN FROM STATEMENTS ON FUNDING FOR GALLAUDET COLLEGE

(Mr. SMITH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Iowa. Mr. Speaker, the news media has chosen to give great attention to the controversy at Gallaudet University. Under the circumstances, I know there is a great temptation to draw Congress into it and there have been some widespread reports of Members of Congress threatening to cut off the funds out there.

I have served for 25 years on the committee that handles the funding for both Howard University and Gallaudet University. We have never had any interference with those universities in that 25 years. Both of these are private universities, they both have a special mission and, therefore, we put a lot of Federal money into them. But they are private universities and we never made an attempt whatsoever to interfere with them in any way as to their curriculum, as to the actions of the board of trustees or anything internally.

I think it would be very inappropriate to do so. No Member speaks for Congress when they say they are going to threaten to cut off the funds at any university that we fund like that, either Gallaudet or Howard.

So I do not think it is appropriate to interfere. I implore my colleagues to refrain from statements that might be interpreted as meaning that the Congress may cut off funds to either one of those universities. It is not appropriate to make that kind of statement.

CLARIFICATION OF THE PANAMANIAN RESOLUTION

(Mr. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRANE. Mr. Speaker, I am pleased to hear we are going to bring the Panamanian resolution up expressing the concerns of this Congress over the events that are transpiring in that country. I am further gratified to learn that the references to the Panama Canal and the treaties have been expunged from what we are going to take under consideration. These are two separate issues. Any controversy surrounding the canal should be divorced from our concerns in this Chamber about the restoration of democracy in Panama.

There is some language, however, that I think might be a modest improvement over the language in the resolution.

No. 1 says that the Congress views with great concern the events of the last several months in Panama and is deeply concerned about the deterioration of United States-Panamanian relations.

If we are talking about the Government, we are talking about President Delvalle and our Government. There is no deterioration of relations between the constitutional head of the Republic of Panama and our Government.

If we are talking about the people of Panama, the 2 million people of Panama, there is no deterioration in relations between our people and their people. The deterioration resides exclusively between the United States Government and people with the imposition of a dictatorship by General Noriega.

That clarification, hopefully, will be made during the debate.

Mr. MICA. Mr. Speaker, will the gentleman yield?

Mr. CRANE. I yeld to the gentleman from Florida [Mr. MICA].

Mr. MICA. I thank the gentleman for yielding.

Mr. Speaker, I would just say I support what the gentleman is indicating. I think it is the intent of all of those who participated in the drafting of this legislation.

Mr. CRANE. I was sure it was. I appreciate the statement of the chairman.

RECOGNIZING ERIC ARTURO DELVALLE AS THE PRESIDENT OF PANAMA

Mr. KOSTMAYER. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the resolution (H. Res. 399) affirming that the House of Representatives recognizes Eric Arturo Delvalle as the President of Panama, and calling upon General Noriega to comply with President Delvalle's order dismissing him from his position as the commander of the Panamanian Defense Forces, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore (Mr. SMITH of Iowa). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 399

Whereas the June 1987 allegations by the former second-in-command of the Panamanian Defense Forces, Colonel Roberto Diaz-Herrera, implicating General Manuel Antonio Noriega in criminal activity, ignited Panama to a state of severe economic and political turmoil;

Whereas there are continuing serious allegations of internal corruption within the Panamanian Defense Forces and the involvement of the Panamanian Defense Forces in illicit drug-trafficking, money laundering, and the murder of Dr. Hugo Spadafora;

Whereas on February 5, 1988, General Noriega was indicted in the United States District Courts in Tampa and Miami, Florida, on a total of 15 counts, including the import and distribution of one million pounds of marijuana, cocaine trafficking, money laundering, racketeering, and the protection of the Colombian Medellin drug cartel;

Whereas on March 1, 1988, the President was unable to certify that Panama has cooperated fully in efforts to control international drug trafficking;

Whereas General Noriega, while professing to be a close ally of the United States, has allegedly breeched the norms of this relationship by supplying sensitive United States security information to the Government of Nicaragua, the Government of Cuba, and the FMLN guerrillas in El Salvador;

Whereas at a time when Panama's Central American neighbors are in the process of implementing the Guatemala Accord of August 7, 1987 (under which all participating governments have accepted the principles of democratic government and acknowledged the need to engage in negotiations with their internal political opposition groups and ethnic minorities through national reconciliation commissions), General Noriega's use of force and intimidation against dissident domestic elements, especially members of the National Civic Crusade, endangers not only the welfare of Panamanian society, but also the prospects for regional peace;

Whereas General Noriega has used his position as commander of the Panamanian Defense Forces to function as the de facto ruler of Panama, thereby circumventing the democratic institutions of government and the will of the Panamanian people;

Whereas on February 25, 1988, in an action reflecting the sentiments of the people of Panama, Panamanian President Eric Arturo Delvalle ordered the removal of General Noriega from his position as commander of the Panamanian Defense Forces;

Whereas General Noriega refused to comply with this order, and Education Minister Manuel Solis Palma was named to replace President Delvalle as President of Panama in a manner inconsistent with the spirit and letter of the Panamanian constitution;

Whereas the removal of General Noriega as commander of the Panamanian Defense Forces, in accordance with the order of President Delvalle, would allow Panama to return to a democratic political system, therefore facilitating the normalization of United States-Panamanian relations;

Whereas at their meetings in Cartagena, Colombia, in late February 1988, the Contadora Group of Eight (consisting of Argentina, Brazil, Colombia, Mexico, Panama, Peru, Uruguay, and Venezuela) suspended Panama's participation in their meetings because of the lack of democracy in Panama;

Whereas on March 7, 1988, President Delvalle and opposition leaders announced agreement to work, under a reconstituted Delvalle government, toward national reconciliation under mutually agreed guidelines; and

Whereas it is in the national interest of the United States to support the rule of law, the rights of the Panamanian people, and the democratic process in Panama: Now, therefore, be it

Resolved, That the House of Representatives—

(1) views with great concern the events of the last several months in Panama and is deeply concerned about the deterioration of United States-Panamanian relations, which have traditionally been those of close friends and allies;

(2) affirms its recognition of Eric Arturo Delvalle as President of Panama;

(3) believes that reestablishment of civilian authority over the Government of Panama, including the Panamanian Defense Forces, is vital to democracy in Panama;

(4) commends the President for the actions that the United States has already taken in support of democracy in Panama;

(5) calls on the President to consider seriously the range of additional economic and political sanctions available to the United States that could be used to encourage the reestablishment of civilian authority in Panama;

(6) calls upon the United States private sector to act in accordance with United States policy toward Panama;

(7) noting the February 1988 actions of the Contadora Group of Eight, calls upon the nations of the hemisphere to take actions to support the reestablishment of democracy in Panama; and

(8) calls upon General Noriega to comply with President Delvalle's order dismissing him from his position as commander of the Panamanian Defense Forces.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. KOSTMAYER] is recognized for 1 hour.

Mr. KOSTMAYER. Mr. Speaker, I yield 30 minutes to the gentleman from California [Mr. LAGOMARSINO] for purposes of debate only. Pending that, I wish to be heard on the matter before the House, and, therefore, I yield myself such time as I may consume.

Mr. Speaker, the United States has an important role both strategically and politically in the region which we are considering today. The reason this resolution has been brought before the House is that the United States now has an opportunity to make a genuine difference in Panama. We can do that by supporting the will of the Panamanian people, by expediting and by forcing the departure of General Noriega from that troubled country. How we go about it, however, is the real issue before us today. This resolution lays the groundwork for that. What we have done is to first recognize that civilian authority must always be paramount to military authority.

We recognize in addition the presidency of Eric Arturo Delvalle, of Panama. And finally, there is an issue to which we do not speak. That is the issue of the Panama Canal itself.

Nothing in this resolution is intended to diminish the American commitment to those treaties and so we simply remain silent on that issue.

So far the administration's efforts in this regard I think have been quite successful. We have managed to control the flow of dollars going into Panama, as has been our intention. We have persuaded private banks in the United States to freeze Panamanian assets, about 50 million dollars' worth of assets, and our own Government in fact will be voting "no" to Panamanian loans in the multinational lending institutions.

But we think there are some additional steps that could be taken.

Those involve the benefits extended to Panama under the Caribbean Basin Initiative and under the Generalized System of Preferences. We hope that in the coming days the administration will take another look at these steps which can be taken to further weaken the grip of the Noriega regime on Panama.

So far, as I have said, the steps that have been taken have been targeted to penalize General Noriega and not to penalize the people of Panama.

For example, today General Noriega must meet a military payroll. We have made it more difficult for him to do so by taking these targeted and very precise steps.

Mr. Speaker, there has been some concern, some discussion in the last several days here as to whether or not this resolution in particular and these resolutions in general have any merit.

□ 1200

I believe they do, because this resolution is a way for the Congress and indeed for the people of the United States to speak, to be heard on a matter of paramount importance in the hemisphere and a matter of great concern to the people of Panama. I think it is appropriate that the Congress and the people of our country to go on record as supporting democracy in Panama. There may be many issues on which we disagree, but I do not think we disagree on the fact that General Noriega should leave the scene.

So this is not a partisan matter. It is purely bipartisan. This resolution was adopted in the committee unanimously and I hope it will be adopted here in the House today unanimously.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Resolution 399, a resolution on Panama, which I am proud to cosponsor. Panama is an extremely important matter for American security interests in the Western Hemisphere.

Last August, I led a congressional delegation to Panama. One of my meetings was with the Chief Administrator of the Panama Canal Commission Dennis McAuliffe. He described for me a number of serious concerns he has about the future of the Panama Canal under Panamanian administration. Some of the problems include lack of dedication to maintenance and upkeep of the canal and lack of planning for the future needs of the canal. There are also reports that Panama has been violating provisions of the canal treaties. Those reports include allegations of violations of neutral access to the canal with attempts to give priority to Panamanian naval vessels and other craft who have tried to push their way into line to override the first-come, first-served basis on which the canal operates. There are other reports that Panama has attempted to impose special fees and charges for use of the canal which are prohibited by the canal treaties.

During my discussions with United States officials in Panama, I was reminded of my concern and opposition 10 years ago to the Panama Canal Treaties. I first visited Panama in 1977 and learned a great deal with the National Guard, now called the Panama Defense Forces under the leadership of Gen. Manuel Noriega, and the role it played in the Panamanian Government. The reports about corruption and illegal activity were circulating even then, and it raised serious doubts in my mind about the wisdom of concluding treaties where U.S. interests depended on individuals of questionable character. In 1977 and 1978, I believed the Panama Canal Treaties to be a mistake because they lacked the mechanism to defend the canal and protect U.S. security interests in Panama. What has occurred during the past year has only served to confirm my view that I believe I was right all along in my opposition to the treaties.

But, as I told my American colleagues while we were in Panama, you can't unscramble an egg. And although, the treaties are now part of U.S. law, the treaties have mutual and reciprocal obligations for both the United States and Panama. If Panama fails to live up to its treaty obligations, then the United States will have no alternative but to reassess its own treaty obligations. We have to preserve American interests no matter what the circumstances of Panamanian politics might be. There is no question that the main issue for the United States is continued, unobstructed access to the Panama Canal and continued use of our military bases during the remaining term of our agreement with Panama.

The greatest obstacle to that has now become the leader of Panama's Defense Forces General Noriega. It's not clear what might happen to Noriega and the Government in Panama, but the United States will protect its interests no matter what happens within the Government of Panama.

At the time of the ratification of the treaties, questions about the stability of Panama's Government, the prospects for transition to a stable, democratic government and the ability of the United States to defend the canal and its interests in the region were major issues in the debate. Senator DECONCINI of Arizona offered a reservation for the United States to use military force in Panama to reopen the canal if it were to be closed for any reason. The language of the DeConcini reservation states:

> Pursuant to its adherence to the principle of nonintervention, any action taken by the United States of America in the exercise of its rights to assure that the Panama Canal shall remain open, neutral, secure and accessible, pursuant to the provisions of this treaty and the Neutrality Treaty and the resolutions of advice and consent thereto, shall be only for the purpose of assuring the canal shall remain open, neutral, secure and accessible, and shall not have as its purpose or be interpreted as a right of intervention in the internal affairs of the Republic of Panama or interference with its political independence or sovereign integrity.

How the DeConcini reservation might be interpreted by the United States at this point is not certain. But, I have no doubt the United States will do whatever is necessary to preserve and protect American interests in keeping the Panama Canal open, neutral and secure. I also believe this resolution sends a strong signal to General Noriega that he must step down in order to ensure the advance of democracy in Panama and the preservation of United States interests in the region.

Mr. BROOMFIELD. Mr. Speaker, I strongly support the resolution before us calling for the resignation of General Noriega of Panama. I commend the administration for its efforts to bring political and economic pressure on General Noriega and praise our President for his strong support of Panama's legitimate head of State, President Delvalle.

I would encourage the administration to also consider additional economic sanctions to include depositing payments for using the Panama Canal in an escrow account until General Noriega removes himself from politics in Panama.

It is clear to all of us that the freedom-loving Panamanian people want their country to return to true democracy. Both they and the American people share a common disdain for a man who has turned his country into a haven for drug lords and narcotics traffickers.

I am confident that Panama will again have a democratic political system.

I urge my colleagues to support this timely resolution.

Mr. KOSTMAYER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, since June of 1987, Panama has been in a state of economic and political turmoil. There had been rumors for years that General Noriega, commander of the Panamanian Defense Forces, was a major figure in drug trafficking from South America to the United States. To expand Panama's involvement in this illicit business and maintain his rule, Noriega has relied on intimidation, coercion, violence, and murder. The most shocking use of these tactics being the murder by beheading of Dr. Hugo Spadafora, Noriega's most outspoken critic.

Colonel Diaz-Herrera, Noriega's second in command, made a public confession of his and Noriega's involvement in drug trafficking and Dr. Spadafora's murder in June 1987. This event crystalized the opposition to Noriega in the form of the Civic Crusade. Spontaneous demonstrations and strikes occurred throughout the summer which could only be put down with the ever more frequent use of violence. Our own Embassy suffered damage by pro-Noriega forces. Many newspapers, radio, and television stations were either the targets of censorship or outright closure, as Noriega sought to severely limit public criticism and defiance of his rule. Economically, Panama fell victim to the winds of political turmoil, and living conditions worsened dramatically.

In early 1988, further confirmation of Noriega's key role in drug trafficking and money laundering came from Jose Blandon, former top political adviser and aide to General Noriega, who testified before a Federal grand jury in Miami. By February 5, General Noriega had been indicted by U.S. district courts in Tampa and Miami on a total of 15 counts, including the import and distribution of 1 million pounds of marijuana, cocaine trafficking, money laundering, and the protection of the Colombian Medellin drug cartel.

On February 25, Panamanian President Eric Arturo Delvalle expressed the will of the Panamanian people by dismissing General Noriega as head of the country's defense forces. Noriega immediately defied his President's order by convening the National Assembly in the middle of the night, and within 10 minutes, had replaced President Delvalle with Education Minister Manuel Solis Palma. The President of Panama was then informed by a military officer that he had less than 24 hours to leave the country.

Fortunately, President Delvalle decided to stay in Panama and let Noriega know it would not be as easy to get rid of him as it had been to demand the cooperation of the National Assembly in removing him. Eric Arturo Delvalle is still the President of Panama, he is still fighting for democracy in Panama and he deserves our support in standing up to Noriega.

It was only a few days later that the "Group of Eight," consisting of the Contadora countries, Colombia, Venezuela, and Mexico, and the Contadora Support Group, Peru, Brazil, Uruguay, and Argentina, voted to suspend Panama from further participation in its meetings because it no longer represented a democratic country. Given the long-standing Latin American tradition of nonintervention in one anothers' domestic political situations, this is an important expression of the Group of Eight's strong disapproval of General Noriega's actions.

In addition, on March 1, President Reagan announced that he was unable to certify that Panama had cooperated fully in efforts to control international drug trafficking. This only underscores the key role that Noriega has played in the promotion of the international drug ring and its ability to influence and control the governments of sovereign countries. The Reagan administration is to be commended on its efforts to draw international attention to Panama's noncompliance.

It is imperative that the House send a strong message of support to back the administration's position on

Panama and especially to give encouragement to the opposition Civic Crusade, which just yesterday made the announcement that it would be reconstituting the legitimate Panamanian Government under President Delvalle. Our support could not come at a more timely moment in Panama's efforts to rid itself of General Noriega and military rule.

In the interest of democratic rule and the reestablishment of friendly relations between the United States and Panama, I would urge all my colleagues in the House to support House Resolution 397. The Civic Crusade of Panama needs our immediate and unwavering support and we need to send an unmistakably clear signal to General Noriega that the United States will back all efforts to reestablish the primacy of civilian authority over the Government and the military forces which he has dominated for the last 7 years.

Mr. LAGOMARSINO. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. GILMAN].

Mr GILMAN. Mr Speaker, I am pleased to rise in support of this resolution calling for the resignation of General Noriega of Panama. Now is the time for General Noriega to step down and to open the door to true democracy in Panama.

I commend the administration for taking a firm stand against General Noriega. Our Nation's policy clearly supports democratic civilian rule and respect for the human rights of the Panamanian people.

General Noriega has been indicted twice in U.S. courts for drug trafficking, for money laundering, and for protecting a major drug cartel. There are also allegations that Noriega was involved in the brutal murder of Dr. Hugo Spadafora, an opposition leader.

Noriega allegedly supplied sensitive United States intelligence information to the Government of Nicaragua and the Cubans. Noriega defied the orders of President Delvalle to step down from his position as the head of the Panamanian Defense Forces. All of this was done in clear violation of the Panamanian Constitution.

I commend the administration for having brought significant economic pressure to bear on the general. I urge our President to consider taking even more severe economic sanctions against the Noriega administration in Panama. Our Government must continue to give moral, diplomatic, and political support to Panama's legitimate head of state, President Delvalle.

We look forward to the day when Panama will again have a democratic political system.

Accordingly, I urge my colleagues to join in support of this resolution.

Mr. KOSTMAYER. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, the Government of Panama is in the hands of a thug, a common criminal. Gen. Manuel Antonio Noriega, of Panama, is one of the most ruthless and corrupt tyrants of our time. He threatens our national interests through his deep, personal involvement in the international drug trade and his ability to strangle our shipping routes through the Panama Canal.

Unfortunately, the consensus we have achieved on the need for an end to Noriega's reign of terror has obscured some of the more disturbing aspects of the situation we find ourselves in today—principally, the Reagan administration's long record of cooperation with General Noriega. For many years Noriega was one of the CIA's and the administration's key operatives in Central America. While the administration's current efforts to bring pressure on Noriega to resign are praiseworthy, they are ironic, both belated and to say the least, given the long history of cooperation between Noriega and the administration.

Perhaps even more disturbing is the connection between Mr. Noriega, the Central American drug trade, and the Contras. There is ample documentation of a Contra-Noriega drug connection—one which existed with the full knowledge of the Reagan administration.

Ramon Milan Rodriguez, the former accountant for the notorious Medellin drug cartel, testified before Congress last month that Noriega received at least $350 million in payoffs from the cartel. Milan also said that he siphoned off millions from the cartel's drug profits for the benefit of the Contras.

When asked directly if drug profits had ever supported Contra efforts, Milan said, "Yes, sir. Narcotics proceeds were used for the Contras. * * * I had a liaison with the resupply (network)." Asked if the Contras knew they were receiving drug money, Milan said, "The Contra peasants in the field did not, but the men who made the contact with me did."

Milan also testified that he supplied these funds to the Contras after he received a request for help from "A liaison * * * with U.S. intelligence."

The Contra-Noriega drug connection is also evident in the escalating involvement of the Honduran military, who oversee Contra operations inside Honduras, in drug trafficking. A recent New York Times article noted that "Senior Honduran army officers and a powerful drug dealer with past ties to Noriega * * * are setting up major drug operations in Honduras."

Noriega's close ties to the Contras were testified to by his former consul general, Jose Blandon. Blandon said that Noriega let the Contras use two army bases in his country for training 3 years ago.

Finally, Noriega has charged that his problems with the administration began after he rejected a 1985 request from then National Security Advisor John Poindexter to assist United States forces in invading Nicaragua. While Noriega may well be a pathological liar, there is substantial evidence that the deterioration of the administration's cozy relationship with the Noriega dictatorship did indeed begin about this time.

Let me just briefly comment on the substance of this resolution. Last August I introduced legislation, along with a bipartisan group of cosponsors, to suspend United States assistance to the Government of Panama. The essence of our legislation was incorporation into the continuing resolution late last year.

This resolution, which I am glad to join my colleagues Mr. MICA and Mr. KOSTMAYER in sponsoring, reiterates our belief that Noriega's reign of terror must end. It puts Congress on record as joining the administration in continuing to recognize President Delvalle as Panama's leader. It by no means compromises or questions the valid treaty obligations under the Panama Canal Treaty.

What this resolution does not address, and which must be addressed, is the question of how close the administration's relationship with this thug has been over the last 7 years, and how much drug money Noriega and his drug trafficking friends have funneled to the Contras. We make a clear statement about Noriega's future with this resolution; now we need to delve into the past in order to further explore the Contra-Noriega drug connection.

□ 1215

Mr. LAGOMARSINO. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, anybody following the proceedings of this Chamber today, or who is going to read the written RECORD tomorrow, will not be able to make heads nor tails out of what is going on here today as we are trying to pass this resolution, of which I am now a cosponsor, nailing this thug and this drug runner, Noriega.

The gentleman from California, who now represents part of the district that I represented for 6 years, knows that I hold him in high esteem and that I consider him a friend. But trying to tie our President to this thug is absolutely ridiculous.

The gentleman may recall when he was the valedictorian at Harvard Law School, I had the gentleman on my television program, where relentlessly, day in and day out, I was fighting drugs. While I was fighting drugs, the liberal wing of the Democratic Party had people coming on my show every day talking about recreational drugs and recreational sex, the things that Jesse Jackson is criticizing right now, making him a hero in that party.

Twenty years ago I was on the air talking about drugs coming up into this country from Mexico and Colombia. Day in and day out I would have jerks on my show talking about the "New Generation." "If it feels good, do it. Tune in, turn on, drop out."

I threw that idiot Harvard professor, Timothy Leary, off my show, one of only two in 7 years.

Now, I was in this Chamber when the gentleman from California [Mr. LEVINE] was up in the assembly in California, and I came here and could not get on a major committee, like most freshmen, so I got on the Committee on Merchant Marine and Fisheries. I ended up for 4 years on the Panama Canal Subcommittee, and I tracked this man, the late Omar Torrijos, who died in a plane crash. The former Governor of California was then calling him a tin pot dictator, which Torrijos was, and was being criticized by all the elitist newspapers, the New York Times, the Post, and others.

Then I got on Noriega's case.

Oh, yes, I come to this debate with clean skirts, along with Senator JESSE HELMS in the other body—pardon me for mentioning his name, one of the Senators from the other body.

I fought this guy as a drug running thug in 1977, 1978, 1979, and 1980.

It was Ronald Reagan who debated the likes of Bill Buckley, on that William F. Buckley show, when Buckley inexplicably was saying we should give away the Panama Canal, and I was in this well over and over again saying, "How can we give away the most expensive public works project ever built, one of the world's five or six key waterways, our most important waterway, to this guy, Torrijos, and the head of his Guardia and the head of his Intelligence, Noriega?

As a candidate in 1976, before I came here, I found out through intelligence briefings that Noriega was in charge of the demonstrations on our soil in the Canal Zone, at least it was ours then in perpetuity. The guy was running drugs then.

How do we suddenly put this man around the neck of Ronald Reagan? Ortega and the Sandinista Communists in Managua are supporting Noriega, but that is not a port in the storm for Noriega. He has been dealing with the Sandinistas and maybe, through some of his people, the Contras, burning the candle at both ends. Every thug or criminal or drug runner tries to make good people bad, and burns every candle he can get his hands on.

The truth is that this country is saturated with drugs. To quote my mayor of Los Angeles 6 years ago, at hearings at one of our House committee meetings in Los Angeles when Hollywood and Ed Asner and all these people rejected us, Mayor Bradley came to my hearings and said that Los Angeles is awash in drugs of every type imaginable. That was April 1981, 7 years ago.

So when Nancy Reagan says that Americans who smoke a joint or snort cocaine—and I do not know of any conservatives that do that, we never glorified that lifestyle—are accessories to murder, she is right. And this Noriega is a main drug runner and a financier and a head of a government that has turned his country over to this trafficking.

Noriega is not just a thug, as my colleague properly said, the gentleman preceding me. He is a murderer, a world-class murderer, and everybody who uses drugs is an accessory to this.

Read the current Time magazine article about a young 22-year-old rookie cop named Eddy Byrne, sitting in a car in Queens, NY, guarding a good citizen's home that had been fire bombed twice for talking about cocaine activity in the neighborhood.

This guy has five slugs pumped into his young body, ripping the life and all the dreams out of him. His father, a retired New York police lieutenant, was at his funeral last week. There were 10,000 law enforcement officers from all across this country, the biggest honor guard at a funeral maybe in this century. All this for a young 22-year-old Eddy Byrne who died because people in Los Angeles, the elite set out there, the liberal chic set, want to snort coke, free base, and smoke a joint every now and then.

Do not blame the conservatives or my hero President for this drug problem. If he was dealing with Noriega it is because Jimmy Carter's administration left him this guy running the government, which is reality, and because of Communist incursions in Central Amercia. Maybe some stupid mistakes were made, but as far as drugs are concerned, Ronald Reagan has been a hero to this country, and as far as dealing with this thug, it is this administration that is going to get rid of him; so let us get on with this well-written resolution, of which I am a cosponsor, and nail this guy. Let us all work together to stop drugs in this society and stop the idiotic "if it feels good, do it," philosophy. Let's stop taking money from Hollywood personalities who run cocaine themselves and glorify it on the one hand, and who criticize it on the other, when done by this pig, this animal, Noriega.

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding this time.

I just get into the debate in order that we might make the record clear just exactly what we are doing here, because I think clearly the resolution is the right resolution. It is a well-worded resolution. It makes the point that General Noriega no longer commands any support whatsoever in this country or in this body, but I do not think that we ought to confuse the issue of whether or not we are making some statement about the Contras beyond what is in the resolution.

The resolution states quite clearly what it is we are saying with regard to General Noriega.

Let me quote from the resolution itself, so that we are clear what the resolution says. The resolution says clearly:

> Whereas General Noriega while professing to be a close ally of the United States has allegedly breached the norms of this relationship by supplying sensitive United States security information to the government of Nicaragua, to the government of Cuba and the FMLN guerrillas in El Salvador—

The Communist guerrillas in El Salvador.

The resolution itself makes quite clear that the people that Noriega has been trafficking with are not the democratic resistance in Central America, it is the Communist governments in Central America where he has been doing his trafficking.

Moreover, the resolution says that he is a threat not only to the welfare of Panamanian society, but also to the prospects for regional peace.

Guess why the only two governments who are standing behind General Noriega at the present time are the Governments of Cuba and Nicaragua? They are the ones who also recognize that in his threat to regional peace he is in fact an ally of theirs and the things that they are trying to achieve; so that this resolution makes clear who the bad actors are. We ought not to have revisionist history on the floor today. We ought to pass this resolution with the tough wording that is in this resolution.

This resolution says clearly that General Noriega is a thug. He is a drug runner and the people that he has been trafficking with are the Communists.

Mr. LAGOMARSINO. Mr. Speaker, I just want to add one comment.

I think it is clear, very clear from the debate and from all we know, that General Noriega is a thug. He is a bad guy. We need him out of there, and I hope this resolution helps to do that.

Mrs. LLOYD. Mr. Speaker, I rise in support of this timely resolution expressing the House's support of democracy in Panama. As we have been seeing daily in the media, Panama is in a worsening political crisis that is sending tremors throughout the region and in the United States. This resolution would send the message that the House of Representatives is deeply concerned about the situation and supports the Reagan administration in its efforts to promote democracy and civilian rule.

The canal's presence makes political stability in Panama a priority for the United States and the world. There is doubt that what happens in Panama will be important for the United States' obligations toward the canal. This resolution will clearly state Congress' interest in seeing peace and stability brought to Panama even outside the issue of the canal.

General Noriega, head of the armed services and de facto ruler since 1983, has been implicated in numerous crimes, has restricted freedom of the press and limited the rights of Panamanian citizens. The cries for his resignation have grown, coming from all sectors of the society. President Eric Arturo Delvalle, though in hiding, has announced a plan for democratization and national reconciliation that deserves our support. We must do all we can to assist stability in Central America.

As events in Panama continue, this resolution is useful in sending the message of House support for United States policy toward Panama, and the Panamanian people's struggle for democracy. There can never be a stronger, more active champion for democracy and freedom in the Western Hemisphere than we are.

Mr. MACK. Mr. Speaker, for decades, many countries in Latin America and the Caribbean have struggled under the domination of self-serving dictatorships. Two of the most cruel have been Communist Cuba and Marxist Nicaragua. We have recently witnessed the emergence of another regime which rivals these two in its corruption and cynicism for democratic values—the regime of Gen. Manuel Noriega.

Today, we in the House of Representatives are issuing a strong statement calling for Noriega's removal as the head of the Panamanian Defense Forces and reaffirming our recognition of Eric Arturo Delvalle as the legitimate constitutional President of Panama.

Recent events in Panama have once again focused United States attention on the circumstances and policies that led to the signing and ratification of the Panama Canal Treaty. We are witnessing the fragile relationship between Panamanian political stability and the security of the Panama Canal. In 1977, opponents of the treaty wisely warned us of the events we are witnessing today. Congress failed to heed this warning.

Recent reports of possible violations of the Panama Canal Treaty by the Noriega regime have been of great concern to me. This waterway is of vital importance to peacetime shipping. In wartime, an inability to utilize the canal for naval operations would spell disaster. The United States cannot afford a cavalier attitude toward the security of the canal, particularly in light of the treaty's cessation of U.S. base rights after the year 2000.

The longer Noriega remains in power, the slimmer are chances for a peaceful resolution of the conflict, and for the continued security of the Panama Canal.

I call for General Noriega's immediate resignation and I exhort my colleagues in Congress to address the risks of the Panama Canal Treaty without reservation.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. KOSTMAYER. Mr. Speaker, I want to commend and thank my very good friend, the gentleman from California [Mr. LAGOMARSINO] for his help on this matter.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KOSTMAYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 367, nays 2, not voting 64, as follows:

[Roll No. 28]

YEAS—367

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (TX)
Conte
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Fields
Fish
Florio
Foglietta
Foley
Frank
Frenzel
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gilman
Gingrich
Glickman
Gordon
Gradison
Grandy
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (FL)
Lent
Levine (CA)
Lewis (FL)
Lewis (GA)
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Madigan
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (OH)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Sensenbrenner
Sharp
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—2

Crockett
Gonzalez

NOT VOTING—64

Akaka
Baker
Biaggi
Bilbray
Boulter
Brooks
Broomfield
Brown (CA)
Coleman (MO)
Collins
Combest
Conyers
Dixon
Dowdy
Feighan
Flake
Flippo
Ford (MI)
Ford (TN)
Garcia
Gaydos
Gephardt
Gibbons
Goodling
Grant
Gray (IL)
Gregg
Herger
Horton
Jacobs
Jones (TN)
Kemp
Kolter
Konnyu
Kyl
Lehman (CA)
Leland
Levin (MI)
Lewis (CA)
Lightfoot
Lipinski
Mack
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McHugh
Michel
Miller (WA)
Moody
Ortiz
Owens (UT)
Porter
Ritter
Roemer
Savage
Schumer
Shaw
Stenholm
Taylor
Udall
Williams
Wilson

□ 1245

Mr. ROSE and Mr. SKAGGS changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KOSTMAYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the resolution just agreed to.

The SPEAKER pro tempore (Mr. PICKETT). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Mr. Speaker, I ask for this time in order to inquire as to what the program will be for next week, and I yield to the distinguished majority leader, the gentleman from Washington [Mr. FOLEY], to inform us of what the schedule will be next week.

Mr. FOLEY. Mr. Speaker, I thank the distinguished acting Republican leader for yielding.

Mr. Speaker, this concludes the program for today other than unanimous-consent requests.

The House will not be in session tomorrow, and it will be my intention to ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

We are planning a pro forma session for Monday without any legislative business.

On Tuesday, the House will meet at noon to consider five suspensions under suspension of the rules.

They are:

H. Res. —, regarding policy toward Afghanistan;

S. 2151, Agriculture Act amendments;

S.J. Res. 216, to approve the location of the Black Revolutionary War Patriots Memorial;

S.J. Res. 255, to approve the location of the Korean War Memorial;

H.R. 1845, Nevada-Florida land exchange authorization; and

H.R. 3981, technical amendments to Federal Employees Experimental Leave Sharing Program.

On Wednesday, March 16, Thursday, March 17, and Friday, March 18, we will consider House Resolution 388, the committee funding resolution, and H.R. 2707, the Disaster Relief Act amendments, subject to a rule. We do not anticipate, frankly, a Friday session.

Members should be advised that conference reports, of course, may be brought up at any time, and a further program may be announced later.

Mr. DELAY. Mr. Speaker, if I may inquire of the distinguished majority leader, if there were a veto on the Grove City legislation, when could we anticipate consideration by the House on the override of the veto?

Mr. FOLEY. In the event the President should veto the so-called Grove City legislation, as has been predicted, it is my understanding that a vote on the veto to override would come up first in the other body. But we would bring it up very promptly here as soon as received from the Senate, in the event that that should take place.

We would not anticipate, probably, a Friday session to do that, but if it were here on Wednesday or Thursday of next week, is that should be the circumstance, we would take it up very promptly.

Mr. DELAY. Also, Mr. Speaker, the majority leader did not say, and I want to reiterate for the House, is the majority leader not anticipating any votes on Tuesday?

Mr. FOLEY. No; we are planning to postpone any votes ordered on suspensions debated on Tuesday until Wednesday, March 16. But we would be in session at 2 p.m. on Wednesday, March 16, and would consider the votes on bills that might have been debated on Tuesday and ordered on Tuesday, as well as the committee funding resolution.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, did I understand correctly that the bill you are bringing out on Afghanistan is on the calendar as an unnumbered bill?

Mr. FOLEY. If the gentleman will yield, that is correct. That has not yet been reported by the Committee on Foreign Affairs.

Mr. WALKER. But does that mean we will not be taking up the Senate resolution? There is a Senate passed resolution.

Mr. FOLEY. I do not know what form the House resolution might be reported in. We are listing it as an unnumbered House resolution under the assumption that it might be slightly different than the Senate resolution.

Mr. WALKER. The problem is that there is a rumor that there is some attempt to change the Senate resolution in such a way as to accommodate our State Department that seems to want to put language in that would allow the aid to the Mujahidin to be cut off prior to the Soviet troops leaving.

Mr. FOLEY. I cannot advise the gentleman from Pennsylvania on what form the Committee on Foreign Affairs might report the resolution.

Mr. WALKER. But we do have the possibility it would be different from the Senate resolution that made certain that would not happen?

Mr. FOLEY. Yes; that is always true. As always, when a Senate bill or resolution is referred to the House and to a committee of the House, then the committee may exercise its rights to make changes in that resolution.

Mr. WALKER. I would simply say to the gentleman that if we do get a resolution out here which differs from the Senate resolution in that fairly important detail that it is likely to be a fairly controversial resolution then under the suspension of the rules on Tuesday.

I thank the gentleman for yielding.

Mr. DELAY. I thank the majority leader and also might add that I hope that the schedule next week will be rodent free for the majority leader.

Mr. FOLEY. I thank the gentleman from Texas and appreciate his offer of technical assistance in the spirit of bipartisanship, and I am sure we will be asking for his help in the near future.

ADJOURNMENT TO MONDAY, MARCH 14, 1988

Mr. FOLEY. Mr. Speaker, I ask, unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask, unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

NATIONAL STUTTERING AWARENESS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 125) to designate the period commencing on May 9, 1988, and ending on May 15, 1988, as "National Stuttering Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I would like to announce that the minority has no objection to the legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 125

Whereas stuttering occurs when the natural flow of speech is interrupted, such as with the inability to produce certain sounds, or when an inital sound, word, or phrase is repeated;

Whereas over 3,000,000 Americans, both children and adults, suffer from this handicap;

Whereas there is a tendency for stuttering to be an inherited trait which can often be traced through family genealogy;

Whereas men have been found to be four times as likely as women to have this disorder, the same male to female ratio as with some learning disorders;

Whereas it should be recognized that although there is no known cure for stuttering, there is help available, and that available help should be emphasized; and

Whereas there has been no national recognition of the condition known as stuttering, and the public and Federal government are not sufficiently aware of the frustration and anxiety felt by persons who stutter and the diminished self-respect and self-esteem which follows: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on May 9, 1988, and ending on May 15, 1988, is designated as "National Stuttering Awareness Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such period with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GREEK INDEPENDENCE DAY: A NATIONAL DAY OF CELEBRATION OF GREEK AND AMERICAN DEMOCRACY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 218) to designate March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, as a cosponsor of House Joint Resolution 383, I am pleased to rise in support of this resolution to designate March 25, 1988, as "Greek Independence Day: A National Celebration of Greek and American Democracy."

This year marks the 16th anniversary of the Greek revolution which gained them their independence from the Ottoman empire. Greece fought its war for independence between 1821 and 1829 and then became a kingdom; it was established as a republic in 1924.

Democracy, as a concept, was planted by the Greeks. This idea has been a legacy for succeeding centuries. You will recall, Mr. Speaker, that it was Aristotle who said, "If liberty and equality, as is thought of by some, are chiefly to be found in democracy, they will best be attained when all persons alike share in the government to the utmost."

This common heritage of the bond of democracy makes the relationship between our country and the Hellenic republic a close and meaningful one.

Mr. Speaker, I urge our colleagues to support Senate Joint Resolution 218 and the companion measure in the House, House Joint Resolution 383.

Mr. NEAL. Mr. Speaker, I rise in support of my resolution to designate March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

Mr. Speaker, it was on March 25, 1821, that the Greek patriot, Alexander Ypsilanti, began a successful revolt against 400 years of subjugation by the Ottoman Empire. The revolution marked not only the dawn of modern Greece, Mr. Speaker, but also the rebirth of a long dormant democratic tradition. As we learned in high school civics, the concept of democracy—rule by the people—is the legacy of the ancient Greek civilization. The ancient Greeks, as we know, flourished under a democratic form of government in which the supreme power to govern was vested in the people.

In framing our representative democracy, our Founding Fathers drew heavily upon the example of the ancient Greeks. While, of course, there are many differences between modern American and ancient Greek democracy, many of the underlying principles are the same.

The high value we place upon individual freedoms and equal justice—and the constitutional right to the trial by jury—can be traced, for example, to ancient Greece. And aside from law, our lives are touched daily by the influence of Greek philosophy, art, architecture, medicine, and language.

The people of Greece and the people of the United States have maintained a close relationship for centuries. In the early 1900's, one out of every four Greek males between the ages of 15 and 45 came to America and became a United States citizen. Today, virtually every family in Greece has at least one relative who is an American citizen. I might add that the Greeks who came to this country and their progeny have become the kind of Americans who make this Nation strong. Almost every city and community across the United States has people of Greek origin among its most well-respected citizens.

Mr. Speaker, I believe that our common experience with democracy has forged an unbreakable bond between the Greek and American peoples. It would, indeed, be fitting to use the occasion of Greek Independence Day to join with the Greek people in celebrating one of mankind's greatest achievements: Democratic government.

Again, Mr. Speaker, I believe that this commemoration of Greek Independence affords Americans an excellent opportunity to acknowledge and celebrate the bonds that link the Greek and American cultures, as well as to give thanks for our great fortune in being able to live in a democratic society.

Mr. GILMAN. Mr. Speaker, I rise in strong support of Senate Joint Resolution 218 designating March 25, 1988 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." This resolution is identical to House Joint Resolution 383, of which I am proud to have cosponsored.

It was the ancient Greeks who forged the ideals of democracy from which our Founding Fathers drew when they shaped the principles of government for our great Nation. For that, we owe a great debt to the ancient Greeks.

Modern Greeks turned their eyes to the United States as the standard to follow when they sought release from Ottoman rule. March 25, 1988, marks the 167th anniversary of their independence and the birth of a new era for the distinguished nation of Greece.

Because the concept of democracy was born in the age of the ancient Greeks, all Americans, whether or not they are of Greek ancestry, are kinsmen of a kind to the Greeks. The common heritage which we share has forged a close bond between Greece and the United States, and between our peoples. It is reflected in the numerous contributions made by present-day Greek Americans across the country to our American culture.

Today, let us celebrate, with the Greek people, a common heritage of freedom and democracy that both our Nations share. By proclaiming March 25, 1988, as Greek Independence Day, we will be reaffirming our strong allegiance to the principles of freedom and democracy.

Accordingly, I urge my colleagues to support this resolution.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 218

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States of America drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy;

Whereas March 25, 1988, marks the one hundred and sixty-seventh anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire;

Whereas these and other ideals have forged a close bond between our two nations and their peoples; and

Whereas it is proper and desirable to celebrate with the Greek people, and to reaffirm the democratic principles from which our two great nations sprang: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1988, is designated as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy", and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL NHS NEIGHBOR WORKS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 252) designating June 5-11, 1988, as "National NHS—Neighbor Works Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 252

Whereas Neighborhood Housing Services (NHS) and its affiliated partnership organizations of neighborhood residents, local governments, and businesses all comprise the Neighbor Works Network;

Whereas the Neighbor Works Network is successfully revitalizing declining neighborhoods and building and rehabilitating housing for lower income Americans in 137 cities throughout the United States;

Whereas America's neighborhoods are made up of families of a variety of ethnic, social, and economic backgrounds and such diversity is fundamental to a strong nation;

Whereas deterioration of a neighborhood's physical, economic, and social structures harms the neighborhood's homes, businesses, and residents and especially harms the neighborhood's elderly and poor residents;

Whereas reversing such deterioration is essential to the strength of America's families, neighborhoods, and businesses;

Whereas the Neighbor Works Network has generated over $4,000,000,000 in reinvestment funds for 297 declining neighborhoods and has improved the quality of life of over 3 million individuals, the majority of whom are lower income, elderly, or minority Americans;

Whereas more than 3,000 businesses and local governments are annually contributing over $16,000,000 to the operations of their local Neighbor Works partnerships; and

Whereas, to accomplish their goals, NHS and both Apartment Improvement Programs and Mutual Housing Associations in the Neighbor Works partnerships rely on local government and private sector resources and on the help of thousands of volunteers who contribute millions of hours of service to rebuild America's declining neighborhoods: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 5-11, 1988, is designated as "National NHS—Neighbor Works Week" and the President is authorized and requested to issue a proclamation calling upon all government agencies and the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several Senate joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 390

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of House Joint Resolution 390.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the subject of the special order today by the gentleman from California [Mr. Moorhead].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

□ 1130

DEFENSE INDUSTRIAL BASE PRESERVATION ACT OF 1988

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, today the gentleman from Georgia, Richard Ray, and I, are introducing the Defense Industrial Preservation Act of 1988 in order to ensure the production of crucial defense items by North American companies.

The Defense Science Board's summer study task force on industrial responsiveness said that in 1980 "A soldier can survive forever without mail, 30 days without food, 3 days without water, 3 minutes without air, but not a second without ammunition." And yet, we are letting our ammunition production base and our industrial base go to seed.

The erosion of necessary domestic facilities and development will leave us unable to respond adequately to a military crisis.

Are we going to be able to depend on foreign sources in wartime? No, we are not. We must be fully mission-capable within our own country.

We need a coherent and very focused industrial base policy with a high-level management focal point to develop and implement such a policy, and this bill aims to accomplish those goals. It is not meant to be protectionist, although it would be called so, but I believe when it comes to the defending of the freedom of America we should and we will rely on American defense production support.

Mr. Speaker, I insert a copy of the bill to be printed in the Record and invite all of my colleagues on both sides of the aisle to join as cosponsors to protect the mobilization and industrial base of America.

H.R. 4128

A bill to amend title 10, United States Code, to maintain and improve the defense industrial base of the United States by specifying the management responsibilities of the Under Secretary of Defense for Acquisition, encouraging investment in emerging technologies and modernized production facilities, fostering the dedicated participation of private domestic sources, and discouraging unfair practices by foreign sources

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Defense Industrial Base Preservation Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) a strong defense industrial base in the United States significantly enhances the capability of United States manufacturers and producers—

(A) to develop technologically superior defense material rapidly and to produce such material efficiently in cost-effective quantities during peacetime, and

(B) to expand productive capacity rapidly to meet the demands of a national emergency;

(2) a strong and responsive defense industrial base is a major deterrent to aggression and, thus, helps to preserve peace;

(3) a series of studies conducted over a 10-year period by Congress, the General Accounting Office, the Department of Defense, and others have consistently shown a steady, unchecked erosion of the defense industrial base in the United States;

(4) despite the uniformly adverse findings contained in the reports on such studies, the United States still lacks a coherent industrial base policy that is directly linked to national security strategy;

(5) reliable methods for assessing the weaknesses and strengths of the defense industrial base have not been developed;

(6) the development and implementation of an effective program for the restoration and maintenance of the defense industrial base is unlikely to occur without improved centralized management;

(7) existing programs and authorities designed to restore and maintain the defense industrial base have received inconsistent and, frequently, inadequate allocations of resources and management attention from the military departments and the Defense Agencies because the Office of the Secretary of Defense has not exercised strong leadership in defense industrial base management; and

(8) procurement policies, regulations, and practices do not encourage—

(A) investment in advanced manufacturing technology and modernization of manufacturing facilities and equipment,

(B) the entry of efficient producers, especially small businesses, from the commercial sectors of the economy into the defense procurement market, and

(C) continued participation of efficient producers in the defense procurement competitions.

SEC. 3. MAINTENANCE AND IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE.

(a) IN GENERAL.—Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 169 the following new chapter:

"CHAPTER 170—DEFENSE INDUSTRIAL BASE MANAGEMENT AND SUPPORT PROGRAMS

"Subchapter	Sec.
I. Definitions	2871
II. Management and Planning for Industrial Readiness	2881
III. Encouraging Entry Into the Defense Industrial Base	2891
IV. Unfair Foreign Competition	2901

"Subchapter I—Definitions

"Sec.

"2871. Definitions

"§ 2871. Definitions

"In this chapter:

"(1) The term 'domestic firm' means a United States or Canadian business entity that has a facility in the United States or Canada, pays United States or Canadian tax, and employs a workforce at least 50 percent of which consists of United States or Canadian citizens.

"(2) The term 'foreign firm' means any business entity which is not a domestic firm.

"(3) The term 'major defense acquisition program' has the meaning given such term by section 2430 of this title.

"SUBCHAPTER II—MANAGEMENT AND PLANNING FOR INDUSTRIAL READINESS

"Sec.

"2881. Centralized guidance, analysis, and planning for programs affecting the defense industrial base.

"2882. Analysis of the capability of the defense industrial base to support certain defense acquisition programs.

"2883. Planned commercial alternatives for military standard items.

"2884. Improved utilization of Government-owned industrial plant equipment.

"§ 2881. Centralized guidance, analysis, and planning for programs affecting the defense industrial base

"The Under Secretary of Defense for Acquisition shall, subject to the authority, direction, and control of the Secretary of Defense—

"(1) provide overall policy guidance and direction to the military departments and the Defense Agencies on matters relating to the maintenance, expansion, and readiness of the industrial base of the United States;

"(2) analyze, on a continuing basis, the capabilities of the industrial base of the United States to meet national security requirements in time of peace and the requirements for expanded production in time of war or national emergency; and

"(3) develop plans and programs that promote the ability of the industrial base to meet the requirements referred to in clause (2).

"§ 2882. Analysis of the capability of the defense industrial base to support certain defense acquisition programs

"(a) The Under Secretary of Defense for Acquisition shall ensure that the program management and acquisition plan for each major defense acquisition program, and the program management and acquisition plan for any other acquisition program of the Department of Defense designated by the Under Secretary, provides for a continuing analysis, during the research and development and production phases of such program, of all factors that affect the capability of the defense industrial base to manufacture the system to be acquired under such program and to support the maintenance of such system during the service life of such system. The factors to be analyzed shall include the following:

"(1) The availability of essential raw materials, special alloys, and composite materials.

"(2) The availability of castings and forgings.

"(3) The availability of components or essential subsystems essential for—

"(A) the production of a system that is fully capable of performing its purpose;

"(B) the maintenance and repair of such system; or

"(C) the operation of such system.

"(4) The manufacturing capacity of the prime contractor, subcontractors at all tiers, and component suppliers to maintain peacetime production rates and to accelerate production to production rates planned for times of national emergency.

"(5) The availability of required production test equipment to assure quality.

"(6) The identification of components or subsystems that are available solely from sources outside the United States.

"(7) Any planned alternatives for meeting requirements that, during peacetime, the United States depends solely on sources outside the United States to meet.

"(b) The Under Secretary of Defense for Acquisition shall be responsible for compiling and analyzing the data obtained under subsection (a) in order to ensure that, in the case of each program referred to in such subsection—

"(1) the capabilities of the industrial base of the United States to meet program requirements has been assessed by the military department or Defense Agency carrying out such program; and

"(2) the capabilities of the industrial base of the United States to meet the aggregate requirements for all such programs has been assessed in the Office of the Secretary of Defense.

"§ 2883. Planned commercial alternatives for military standard items

"(a) IN GENERAL.—The Secretary of each military department and the head of each Defense Agency shall—

"(1) identify items of supply that—

"(A) are suitable substitutes for military standard items of supply, or suitable substitutes for subsystems or components of military standard items of supply, that are projected to be unavailable from existing sources in quantities that are sufficient to meet wartime or other national emergency requirements; and

"(B) are commercially available from sources in the United States; and

"(2) plan for the procurement of such substitute items of supply.

"(b) PROGRAM COORDINATION AND OVERSIGHT.—The Under Secretary of Defense for Acquisition shall coordinate and monitor the actions taken by the Secretary of a military department or the head of a Defense Agency pursuant to subsection (a).

"§ 2884. Improved utilization of Government-owned industrial plant equipment

"(a) INVENTORY.—The Secretary of each military department and the head of each Defense Agency shall prepare and maintain inventory records of all Government-owned industrial plant equipment furnished to a contractor by such military department or Defense Agency.

"(b) EMPHASIS ON INDUSTRIAL READINESS.—The Secretary of each military department and the head of each Defense Agency, in furnishing equipment to contractors, shall give preference to each manufacturer and producer who has entered into an agreement with such Secretary or head of a Defense Agency to expand production of supplies and equipment in the event of war or other national emergency.

"Subchapter III—Encouraging Entry Into the Defense Industrial Base

"Sec.

"2891. Domestic set-aside program for the application of emerging technologies.

"2892. Procurement of critical items of supply.

"2893. Recognition of planned mobilization sources in contract competition.

"2894. Recognition of production equipment modernization in the award and administration of contracts.

"2895. Joint program agreements.

"§ 2891. Domestic set-aside program for the application of emerging technologies

"(a) SET-ASIDE AUTHORIZED.—The Secretary of each military department and the head of each Defense Agency is authorized to restrict to domestic firms the competition for all or a portion of a contract opportunity to fulfill such department's or agency's requirements for material, components, or items of supply that are the products of, or are manufactured through the application of, an emerging technology listed pursuant to subsection (c). The procurement requirement to be set aside under each contract solicitation shall be defined on a case-by-case basis and shall represent not more than the minimum aggregate quantity necessary to sustain at least one domestic source determined by the Under Secretary of Defense for Acquisition to be essential to national security.

"(b) Coordination With Under Secretary of Defense for Acquisition.—The Under Secretary of Defense for Acquisition, in consultation with the Secretary of each military department and the head of each Defense Agency, shall ensure that the authority provided in subsection (a) is exercised only in connection with a coordinated program that provides for the support of the development and application of emerging technology by domestic firms.

"(c) Emerging Technologies.—The Under Secretary of Defense for Acquisition shall, for the purposes of subsection (a), develop, maintain, and publish in the Department of Defense Supplement to the Federal Acquisition Regulation a list of emerging technolgies that, upon development, will substantially enhance the capabilities of the industrial base of the United States to meet national security requirements.

"§ 2892. Procurement of critical items of supply

"(a) Set-Aside Authorized.—The Secretary of each military department and the head of each Defense Agency is authorized to restrict to domestic firms the competition for all or a portion of a contract opportunity to fulfill such department's or agency's requirements for the procurement of critical items of supply, if such Secretary or head of a Defense Agency would otherwise be likely to procure more than 50 percent (determined on the basis of cost) of such items in such fiscal year from a source or sources that manufacture or produce such items outside the United States. The procurement requirement to be set aside under each contract solicitation shall be defined on a case-by-case basis.

"(b) Maintaining Domestic Sources.—The Secretary of a military department and the head of a Defense Agency may award a contract in any fiscal year, under the authority provided in section 2304(c)(3)(A) of this title, for the procurement of any critical item of supply to a contractor that manufactures or produces such item in the United States if such Secretary or head of a Defense Agency would otherwise be likely to procure more than 70 percent (determined on the basis of cost) of such items in such fiscal year from a source or sources that manufacture or produce such item outside the United States. The requirements of section 2304(f) of this title shall apply to a contract awarded pursuant to this subsection.

"(c) Multiple Awards To Sustain Domestic Sources.—The Secretary of a military department and the head of a Defense Agency may award more than one contract for the procurement of any critical item pursuant to one solicitation if—

"(1) the contractor that has submitted the apparently successful offer in the case of such solicitation manufactures or produces such item outside the United States;

"(2) it is necessary to award one or more additional contracts to one or more additional contractors that manufacture or produce such item in the United States in order to ensure that at least a percentage, specified in the solicitation and determined on the basis of cost, of the items to be supplied are manufactured or produced in the United States; and

"(3) the solicitation includes a statement that multiple contracts may be awarded as provided in this subsection as a result of such solicitation.

"(d) Subcontracting.—(1) Each solicitation issued by a military department or Defense Agency for the procurement of a weapon system or other item of equipment pursuant to a major defense acquisition program shall—

"(A) specify any critical items of supply that are components of such weapon system or other item of equipment or are needed for the operation, maintenance, or repair of such system or equipment;

"(B) specify, with respect to each such critical item of supply, the minimum percentage, stated on the basis of cost, of such item that must be furnished by one or more domestic firms in connection with the performance of any contract awarded to a foreign firm pursuant to such solicitation; and

"(C) include a provision that requires each foreign firm submitting a bid or proposal pursuant to such solicitation to include in the bid or proposal a subcontracting plan that provides for one or more domestic firms to furnish each such critical item of supply at least to the extent of the percentage specified in the solicitation pursuant to clause (B).

"(2) In the event that a foreign firm is awarded a contract to which paragraph (1) applies, it shall be a material element of the performance of such contract for the foreign firm to implement the subcontracting plan that it submitted pursuant to such paragraph.

"(e) Critical Items of Supply.—The Under Secretary of Defense for Acquisition shall—

"(1) determine, for the purposes of this section, what items of supply are critical items; and

"(2) publish a list of such critical items in the Department of Defense Supplement to the Federal Acquisition Regulation.

"§ 2893. Recognition of planned mobilization sources in contract competition

"(a) In General.—In evaluating offers for a contract for the procurement of any item of supply, the Secretary of each military department and the head of each Defense Agency may provide a preference to each domestic firm which is designated by such Secretary or head of an agency as a planned source for the procurement of such item in time of war or other national emergency.

"(b) Limitation on Price Preferences.—If a preference provided under subsection (a) is stated as a price differential, the price differential may not exceed 10 percent.

"(c) Notice of Preference.—Any preference provided under subsection (a) in the case of a contract shall be specified in the contract solicitation.

§ 2894. Recognition of production equipment modernization in the award and administration of contracts

"(a) In General.—The Secretary of each military department, with respect to each major defense acquisition program conducted by the department and any other acquisition program of such department designated by the Secretary, and the head of each Defense Agency, with respect to each major defense acquisition program conducted by such agency and any other acquisition program of such agency designated by the head of such agency, shall ensure that, to the maximum extent practicable, the acquisition plan provides for contract solicitations to include provisions which encourage competing offerors to acquire, for utilization in the performance of the contract, modern production equipment that increases the productivity of the offerors.

"(b) Authorized Solicitation Provisions.—Contract solicitation provisions referred to in subsection (a) may include any of the following provisions:

"(1) A price evaluation advantage, not to exceed 10 percent, to apply in the contract award determination.

"(2) An increase, by not to exceed 10 percent, in the percentage which would otherwise apply in the computation of the amount which the Secretary of a military department or head of a Defense Agency is required to reimburse the contractor as the department's or agency's share of costs incurred by the contractor for the acquisition of production special tooling and production special test equipment for use in the performance of the contract.

"(3) A provision for the contractor to share in any demonstrated cost savings that are attributable to increased productivity resulting from the following contractor actions not required by the contract:

"(A) The acquisition and utilization of modern production equipment for the performance of the contract.

"(B) The utilization of other manufacturing technology improvements in the performance of the contract.

"§ 2895. Joint program agreements

"The Secretary of Defense, with the prior approval of the Attorney General, may approve any joint program agreement entered into by two or more domestic firms for the purpose of carrying out a research and development or manufacturing program utilizing emerging technologies or advanced manufacturing technology in ways that enhance the defense industrial base. The Under Secretary of Defense for Acquisition shall ensure that such program is coordinated with other programs carried out by the Department of Defense that maintain the defense industrial base and shall make recommendations to the Secretary regarding the approval or disapproval of any joint program agreement proposed pursuant to this section.

"Subchapter IV—Unfair Foreign Competition

"Sec.

"2901. Suspension and debarment for engaging in an unfair trade practice.

"2902. Liquidated damages for violations of licensing agreements.

"§ 2901. Suspension and debarment for engaging in an unfair trade practice

"(a) Findings.—The Congress finds that the commission of any of the following acts by a contractor, whether a domestic firm or a foreign firm, may indicate a lack of business integrity or business honesty that seriously and directly affects the responsibility of the contractor to perform any contract awarded by the Federal Government or a subcontract under such a contract:

"(1) An unfair trade practice, as determined by the International Trade Commission.

"(2) A violation of any agreement of the Coordinating Committee on Export Controls or any similar bilateral export control agreement, as determined by the Secretary of Commerce.

"(3) A false certification concerning the foreign content of an item of supply, as determined by the Secretary of Defense.

"(b) Suspension or Debarment Authorized.—Any contractor that has committed any act referred to in subsection (a) may be suspended for a period of 12 months and may be debarred for a period not to exceed 36 months if such violation—

"(1) is likely to have a serious adverse effect on the defense industrial base of the United States; or

"(2) is likely to have a less than serious effect on the defense industrial base of the United States but is the latest instance of a pattern of business activities of such contractor that cumulatively might significantly contribute to the deterioration of the defense industrial base.

"(c) Waiver.—The Secretary of a military department or the head of a Defense Agency may award a contract for supplies or services to a contractor suspended or debarred under subsection (b) or approve an award of a subcontract under such a contract to such contractor if the Secretary of Defense has determined that the vital defense interests of the United States will be harmed unless the supplies or services are procured from such contractor.

"(d) Definitions.—In this section:

"(1) The term 'debar' means to exclude a contractor from Government contracting and Government-approved subcontracting for a reasonable period.

"(2) The term 'suspend' means to disqualify a contractor temporarily from Government contracting and Government-approved subcontracting.

"§ 2902. Liquidated damages for violations of licensing agreements

"(a) In General.—The Secretary of Defense shall prescribe the form and manner of use of a clause to be included in each licensing agreement entered into between a domestic firm and a foreign firm for the purpose of performing any contract awarded by the Department of Defense or any subcontract at any tier under such a contract. Such clause shall provide for the payment of liquidated damages to the United States by the foreign firm for any breach of the licensing agreement by such foreign firm.

"(b) Deposit of Payments Into MANTEC Program Fund.—Any liquidated damages paid to the United States pursuant to a clause prescribed under subsection (a) shall be available to the Department of Defense for the conduct of project under the Department of Defense Manufacturing Technology program.".

(b) Conforming Amendment.—The tables of chapters at the beginning of such part and such subtitle are each amended by inserting after the item relating to chapter 169 the following:

"170. Defense Industrial Base Management and Support Programs...... 2871".

SEC. 4. EXPANSION OF THE MANUFACTURING TECHNOLOGY PROGRAM.

Funds appropriated for the use of the Army, Navy, Marine Corps, Air Force, and Defense Agencies of the Department of Defense for procurement in each of fiscal years 1989, 1990, and 1991 shall be available to the Secretary of Defense to carry out the Department of Defense Manufacturing Technology program in the following amounts:

(1) For fiscal year 1989, ¼ of one percent of such funds.

(2) For fiscal year 1990, 4/10 of one percent of such funds.

(3) For fiscal year 1991, ½ of one percent of such funds.

SEC. 5. EXPANSION OF THE INDUSTRIAL MODERNIZATION INCENTIVES PROGRAM.

Funds appropriated for the use of the Army, Navy, Marine Corps, Air Force, and Defense Agencies of the Department of Defense for procurement in each of fiscal years 1989, 1990, and 1991 shall be available to the Secretary of Defense to carry out the Department of Defense Industrial Modernization Incentives program in the following amounts:

(1) For fiscal year 1989, ½ of one percent of such funds.

(2) For fiscal year 1990, 6/10 of one percent of such funds.

(3) For fiscal year 1991, ¾ of one percent of such funds.

SEC. 6. PROCUREMENT OF MACHINE TOOLS BY THE DEPARTMENT OF DEFENSE.

(a) In General.—Chapter 141 of title 10, United States Code, is amended by inserting after section 2409 the following new section:

"§ 2410. Procurement of machine tools

"(a) In General.—Except as provided in subsection (b), the head of an agency may not procure machine tools manufactured in whole or in part outside the United States.

"(b) Waiver.—The head of an agency may waive the prohibition in subsection (a) in the case of any contract for the procurement of machine tools referred to in such subsection if—

"(1) the head of such agency determines, that—

"(A) no such tools are manufactured in the United States, or

"(B) the manufacturers or other suppliers of machine tools manufactured in the United States are unable to supply, on a timely basis, sufficient quantities of such tools to meet the agency's needs; or

"(2) the tools are not to be used in any facility owned or otherwise under the control of the Federal Government.

"(c) Applicability.—This section applies only to machine tools specified in the Federal supply classes for metalworking machinery numbered 3405, 3408, 3410 through 3419, 3426, 3433, 3438, 3441 through 3443, 3445, 3446, 3448, 3449, 3460, and 3461.

"(d) Definitions.—In this section:

"(1) The term 'head of an agency' has the meaning given such term by section 2302 of this title.

"(2) The term 'United States' includes the Commonwealth of Puerto Rico and the territories and possessions of the United States.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2409 the following:

"2410. Procurement of machine tools.".

(c) Effective Date.—The amendment made by subsection (a) shall take effect with respect to contracts for the procurement of machine tools awarded by an agency named in section 2303 of title 10, United States Code, on or after October 1, 1989.

THE PHOTON WAR

(Mr. HOPKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HOPKINS. Mr. Speaker, much has been written and said over the years concerning the conventional military balance in Europe. Most recently, the pending ratification of the INF Treaty has again brought this issue to the forefront of public attention.

Supported by a recent study by Senator Carl Levin, some Americans suggest that we and the Soviets have reached a rough conventional parity in which neither side is predominant, a parity characterized by a mutually shared degree of risk and uncertainty as to the potential outcome of any aggression.

Others, concerned by combination of the pending removal of intermediate range nuclear forces from Europe and the decreasing defense budget, submit that we are just now entering a period of significantly increased risk.

The crux of the issue lies in the degree of risk we are willing to accept. Unfortunately, risk can rarely be quantified; it is a matter of judgment.

Furthermore, our perception of risk may be influenced by the resources available to defend our interests. For instance, the more resources available, the less risk we are forced to accept, and vice versa.

In order to maintain an acceptable degree of risk in what appears to be an upcoming period of needed budget restraint, we in the Congress need to concentrate on maximizing our conventional capabilities while minimizing our expenditures.

In that light, I want to encourage my colleagues to become actively involved in promoting improvements in the areas of command, control, communications and intelligence—commonly referred to as C3I. Modest investments in those areas will produce significant gain in conventional capability.

As a great cavalryman of Civil War fame liked to say, "He who gits there the furstest with the mostest usually wins." In other words, no matter how sophisticated and complex your weapons, they are of little or no value if you cannot find your enemy or, if, after finding him you cannot rapidly concentrate your force at the decisive place and time to ensure his defeat.

I would commend to my colleagues an article on this matter by Donald Latham that recently appeared in Armed Forces Journal entitled, "The Photon War."

The key to our success in deterring conventional war with the Soviets has been their judgment of the risk involved. We must continue to find and develop new capabilities which, even in the face of tighter budgets, reinforces that perception. C3I is just such an area.

[From the Armed Forces Journal International, February 1988]

THE PHOTON WAR

(By Donald C. Latham)

The totally fictitious scenario described below, while unlikely ever to occur, nevertheless illustrates the decisive role electronic combat systems would play in any future US-Soviet conflict. It also illustrates the crucial relationship of effective and integrated command, control, communications, and intelligence systems to successful electronic combat.)

The bomber commander and copilot had observed many large fires as they penetrated a remote area of the Soviet Union where the mobile SS-27 ICBMs were likely to be found. So far, the aircraft had successfully avoided any surviving Soviet air defenses. Ultrasensitive, on-board, passive systems were intercepting emissions from Soviet air defense radars and their supporting communication links well before the radars could hope to detect the low-observable aircraft. This data was being used to automatically steer the aircraft through the radar networks. Several times during the past few hours the aircraft had also received, via MILSTAR communications satellites, near-real-time threat updates, allowing it to avoid enemy defense sites and fighters. The surviving US global sensor network had also provided the last known coordinates of the suspected SS-27 ICBM convoy.

The aircraft commander uplinked a laser communications burst transmission to a spacecraft in geosynchronous orbit, acknowledging the earlier message and providing vital status on the aircraft's condition and location. The third crew member, a weapons control officer, was busy preparing on-board sensors to be used to find the SS-27s. He selected a medium-altitude search pattern using wide-area search, multispectral, electro-optical sensors for the initial pass across the target area. The aircraft's advanced, lightweight radar would function as the final, high-resolution, search and target identification mechamism and would guide the aircraft's air-to-surface missiles to the SS-27s. Because of their precision accuracy, the missiles required only subkiloton-yield nuclear warheads.

As the aircraft neared the suspected target area, the officer activated the passive, wide-area search system. Much to his surprise, the high-resolution video display of the processed multispectral return showed intense "whiteout" areas all over the screen—the Soviets had apparently deployed a large number of intense sources of multispectral energy operating in the wavelength bands of the US search system! The bomber's sensors were being jammed by enemy photons.

By adjusting resolution and other system features, the weapons control officer spatially isolated the jammers, which were being "blinked" on and off in a random pattern under some form of centralized control. He then programmed in the general locations of the electro-optical jammers to create a specialized search pattern for the radar. In its Synthetic Aperture Radar (SAR) mode, the radar could be very briefly activiated in a "splotlight" mode over a very small patch of earth. This allowed rapid target detection and identification. The officer suspected that the SS-27s were deployed near the jammers. Close proximity to the real targets would not permit the bomber to detect and resolve the launcher by using the passive multispectral system because of the background "photon noise" of the Soviet jammers.

The aircraft's defensive system suddenly indicated that a digital command and control link, known to be associated with the mobile Soviet SA-19 Mod V surface-to-air missile system, had been briefly on the air and the transmitter precisely located. The automatic portion of the defensive sysem was activated. At the instant of any hostile radar activity, a targeting decision would be made and an air-to-surface missile launched against the radar.

Activating the SAR in the preprogrammed spotlight mode revealed three clusters of SS-27 vehicles in a forested area. The radar also imaged the electro-optical jammers, which turned out to be small vehicles located near each of the larger SS-27 vehicle clusters. The weapons control officer's expert software program included an automated target recognition system that could identify military targets such as the SS-27. The key to the decision aid was an ultra-high-speed, optical processing system.

The three SS-27 locations were programmed into the fire control system and missiles readied as the bomber rapidly climbed to an optimum attack altitude. Shortly thereafter, three brilliant fireballs appeared and seconds afterwards the radar was briefly activated to confirm the kills of the SS-27s.

Meanwhile, four US Advanced Tactical Fighters, at very high altitude and cruising in electronic silence at supersonic speeds, were providing protective air cover for US naval forces engaged in attacks on Soviet targets on Sakhalin Island. Via MILSTAR, the fighters had just received a threat warning that was automatically entered on their displays. Sensors aboard a remotely piloted, high-atitude surveillance drone providing protective coverage to the naval battle group had detected the launch of four MiG-39 advanced Soviet fighters. The drone had processed the event and relayed it, in seconds, to the ATFs and the battle group.

The ATF flight commander vectored the aircraft to intercept the MiG-39s. Laser-beam-rider air-to-air missiles were readied and the close-in, defensive laser system activated. The laser was also sufficiently powerful and agile to detect, track, engage, and destroy incoming, maneuvering air-to-air or surface-to-air missiles or aircraft at ranges of up to 6 kilometers. A 360-degree, passive sensor system continuously scanned the skies for incoming missiles or aircraft. Data from one fighter was continuously transferred to the other aircraft via a narrow-beam, laser communications device and, thus, the four aircraft acted as a distributed sensor network.

As the ATFs closed supersonically on the MiG-39s, the fire control solution was computed by optical signal processors and data compared in real time between each aircraft. Each ATF released two missiles. The MiG-39 aircraft 30 km away were destroyed before they could react to the almost undetectable missiles guided by very narrow-beam, frequency-agile lasers.

Most electronic combat systems emit or absorb electromagnetic radiation, or streams of photons—a fundamental particle in physics—be they radios, radar jammers, lasers, or advanced optical computers. Thus, the battle for control of the electromagnetic spectrum, or the "Photon War," will be critical in future combat.

WINNING THE PHOTON WAR

While we cannot ever expect to win wars with technology alone, despite former Secretary of Defense Harold Brown's assertions to the contrary, there are some fundamentals or "theorems" which hold true and are the key to winning the Photon War:

Theorem 1. Electronics in general, and its vigorous and astute application of military weapons and support systems of all forms, will make the difference in the US winning or losing in future combat.

This theorem, surprisingly, is not universally accepted by the military Services or Congress, as most recently evidenced by the inconsistent Fiscal 1988 and 1989 budget support accorded to development of essential new electronic technologies or military capabilities. Significant cuts by Congress in the FY88 electronic warfare budget requests, for example, will cripple many, if not most, of the important EW initiatives of all of the Services. The continuing attack on certain DoD electronic combat and Strategic Defense Initiative programs is inconsistent with the leverage these capabilities could provide in future combat.

Theorem 2. Future weapon platforms, including combatants at sea, will be equipped with sensors, communications, and onboard processing providing improved survivability, mission capability, and connectivity to a global array of supporting external systems.

External support to weapon platforms in combat *must* be timely and dependable to become accepted in military doctrine and tactics. The Airborne Warning and Control System (AWACS) aircraft is a current example of an external support system which, though initially accepted reluctantly by the Air Force, has become indispensable to air-to-air combat operations. As another example, the Navy *has* learned the value of using real-time digital data links to transfer and display combat information for defensive and offensive purposes in combat operations. The scenario gives an indication of what the future could bring in terms of the effective use of external support systems if we apply our capabilities *and* believe.

Theorem 3. Future combat operations will be joint Service or allied in nature. Thus, interoperability of communications, the ability to rapidly exchange data, and commonality of equipment and software across Services and allies will be critical.

This theorem is given a great deal of lip service and some support, but insufficient attention. The creation and success to date of the Joint Tactical Command, Control, and Communications Agency (JTC^{3}A) within the Defense Communications Agency is a major step toward improved C^3 interoperability. Joint electronics combat programs such as the Airborne Self-Protection Jammer (ASPJ) and the Joint Tactical Information Distribution System (JTIDS) will, hopefully, survive the budget process. Greater Cross-Service cooperation in development and production programs *must* occur in light of budget and operational realities, or the Photon War will be a lost cause due to the budget and "not invented here" factors.

Theorem 4. Electronic combat encompasses the entire electromagnetic spectrum, and the increasing employment of electrooptical sensors and devices will dominate future combat capabilites.

The axiom that "the side that controls the electromagnetic spectrum is the side that will win the next war" is attributed to a Soviet general! The Soviets have indeed learned this theorem very well, as evidenced by the use of digital data links, laser range finders, and passive infrared search and track systems on their current generation of tactical aircraft. U.S. tactical aircraft possess *no* such capabilities and will not until some future date on a platform such as the Advanced Tactical Fighter. Many people argue that the Soviets are technologically inferior, yet they have more advanced avionic systems in their frontline tactical fighters than does the U.S. Years ago, Air Force CONUS air defense F-106 fighters did have data links and infrared search and track systems, but no F-15 or F-16 has either today. What a sad story!

Theorem 5. Space-based systems will increase in importance to all forms of combat operations and, as a result, new capabilities, doctrine, and tactics will evolve to make enhanced use of these systems.

This theorem, while generally acknowledged and supported by most knowledgeable observers, is not backed up with budget or operational support by the ultimate users. Much more can be accomplished, and much sooner, if the internal bureaucracies could get together and put turf issues aside. For example, space-based communications, support to military operations is generally accepted by the Services and the Joint Staff, but combat information derived from space-based systems is not universally accepted or considered tactically useful.

Issues of tasking, control, timeliness, and survival in combat are the main reasons for the current lack of reliance on such systems by potential users. The most serious believer is perhaps the Navy, as an outgrowth of the Libyan operation, but its commitment to space-based systems appears uncertain.

GETTING OUR ACT TOGETHER

There is a growing realization that a combination of electronic and physical devices, combined with sophisticated software, can yield significantly new and unprecedented military capabilities. The problem is that we are apparently still years away from achieving sustained support at the senior management level for "soft" warfare systems such as command, control, communications, and intelligence comparable to that accorded to major weapon systems. Even Congress has seen fit to drastically reduce the DoD budget requests for electronic combat systems in hopes of forcing more cooperative cross-Service programs. (The Services have indicated to this author, on more than one occasion, that Congressional budget cutting was not going to accelerate cross-Service cooperation.)

The Services have initiated various efforts to advance the technology base. However, there is still an emphasis in their funding requests on filling deficiencies in countering the current threat at the expense of long-term technology developments that would leapfrog the threat. Dramatic improvements in US electronic combat capabilities can be achieved if long-term technologies are shrewdly and vigorously developed and integrated—jointly by the Services. Unfortunately, too little of this is occurring today.

The Photon War is too important to be lost in the halls of Congress or the conference rooms of the Pentagon. The intelligent employment of photons, combined with new weapons, will be the linchpin to maintaining deterrence and a winning warfighting capability, if we have to fight. Let's win the Photon War—we can do it.

THE BIGGEST DISGRACE IN MY 12 YEARS ON CAPITOL HILL

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DORNAN of California. Mr. Speaker, I was just shown last night this letter to the President signed by about 70 Members of Congress and dated February 23, some 16 days ago, on the issue of whether or not we are going to help the freedom fighters, the democratic resistance, the so-called Contras, in Central America.

This is an astounding letter. I understand my colleague, Mr. WALKER, spoke about it last night in a 5-minute special order.

It concedes such grievous national security issues in Central America that I cannot understand you, Mr. Speaker, and the leadership of the majority cutting off the people down there at midnight of February 29, just 6 days after this letter.

This is the 10th of March and for 10 days an army in the field of young men and women, 99 percent of them darkskinned campesino peasants, is now moving around inside Nicaragua trying to avoid General Secretary Gorbachev's Hind helicopter gunships flown by Cuban mercenaries.

We have cut these people off. There is nobody left in Costa Rica or Honduras except their wounded and their amputees.

Are we going to do to the Nicaraguan resistance what we did to the heroes on the beaches at the Bay of Pigs? Are we going to do to them what we have done to the Hmong tribesmen, who are being genocided in Laos at this moment because they liked us and befriended us as Americans?

What are we going to do when the Democratic majority, with a few Republicans thrown in, can say that there are airfields being built down there, rumors of the construction of submarine bases, Soviet helicopters and a massive buildup of Communist bloc supplies in Central America that threatens our security and then hints that our American military ought to be involved down there.

We have got 14,000 young men and women, our first cousins, fellow Norte Americanos fighting, dying in Nicaragua right now for freedom, and this House has let 10 days go by after cutting them off with nothing.

Our people down there have sat on their hands for 10 days unable to help these young people. It is the biggest disgrace in my 12 years on Capitol Hill. It has the stench of the Bay of Pigs and Corregidor to it.

The document referred to is as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, February, 23, 1988.

President RONALD W. REAGAN,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: For the past six years, the Congress and the Nation have been divided on what the United States policy should be toward Nicaragua. This has resulted in inconsistent support for the policy you have advocated. It has been very confusing for the rest of the world and has weakened our influence.

It is important now to modify our policy so that it can gain solid bipartisan support of the Congress and the people. Such a policy can be implemented with confidence and consistency. We would like to call to your attention one element that such a policy should contain and request your support.

The United States has valid security concerns in Central America. Among these is to make sure that the United States and the neighboring countries of Central and South America are not threatened or endangered by the presence of military materiel, personnel or facilities of the Soviet Union or its allies. At present, the greatest danger of such a threat is in Nicaragua under the government of the Sandinista junta.

It is evident that our recent policy of supporting the counter-revolutionary "contra" forces has not led to the reduction of a Soviet threat. In fact, a case could be made that our policy has encouraged the Sandinistas to seek and receive an increasingly lethal complement of military hardware, including the Mi-24 Hind attack helicopters. There are also rumors of the construction of submarine bases and airfields capable of landing the largest bombers.

It is clear that, irrespective of the support that the United States gives to the contras, they are simply incapable of preventing the importation into Nicaragua of the kind of hardware that would present a threat to our country. Nor should we delegate to a proxy army the responsibility for protecting against a major national security threat to the United States. This is properly the function of the United States, itself.

Therefore, we request that you initiate negotiations with the Soviet Union and the government of Nicaragua leading to the exodus of military personnel, facilities and materiel from Nicaragua and an agreement that such exodus should be permanent. Since General Secretary Gorbachev has indicated a willingness to enter into discussions of this security issue and the general climate seems conducive to the recognition of individual and mutual interests, it would seem timely for such discussions to start. We understand your disappointment that your policy was not adopted by the Congress. Nonetheless, we believe that, as part of a new, bipartisan policy toward Central America, we can build upon the cessation of military aid to the contras by challenging the Soviets to do the same with respect to the Sandinistas. We urge you to present this challenge to the Soviet Union at the earliest possible date, followed by negotiations on the removal of existing stockpiles.

The actions we recommend can be taken totally in parallel with other policy modifications regarding the future role of the contras, the cease fire and the pursuit of more effective democracy on the part of the Sandinista government.

We hope that you will act favorably toward these suggestions and we stand ready to support such actions as part of a more comprehensive policy for our relations with Central America.

Sincerely,

Jim Olin, Matthew McHugh, Buddy MacKay, Tony Coelho, Rick Boucher, Pat Schroeder, David Bonior, Alex McMillan, George Brown, Harley Staggers, Doug Walgren, Thomas S. Foley, Jim Jontz, Richard H. Stallings, Howard L. Berman, Tom McMillen, J. Roy Rowland, J.A. Traficant, Jr., Albert G. Bustamante, Ron Wyden, Claudine Schneider, Roy Dyson, Peter Kostmayer, Bob Borski, Mac Sweeney, Dave McCurdy, Solomon P. Ortiz, Bob Traxler, Bruce F. Vento, Tim Valentine, Dennis Eckart, Mike Synar, James McClure Clarke, Lindsay Thomas, Benjamin L. Cardin, Mary Rose Oakar, Dick Durbin, Lane Evans, Frank McCloskey, Ed Jones, Gerry Sikorski, Dan Glickman, Esteban E. Torres, Mike Lowry, Bill Hughes, Carl C. Perkins, Bob Mrazek, Ronald Coleman, Dave Nagle, Bart Gordon, Norm Dicks, Leon Panetta, Mike Espy, Nicholas Mavroules, Martin Lancaster, Jim Leach, Mel Levine, Les AuCoin, Bill Green, Jim Slattery, Jim Cooper, Howard Wolpe, Phil Sharp, Joseph E. Brennan, Wm. H. Gray III, Barbara Boxer, Tom Sawyer.

ANOTHER FASCINATING DOCUMENT FROM THE SPEAKER OF THE HOUSE

(Mr. WALKER asked and was given permission to address the House for 1 minute and include extraneous matter.)

Mr. WALKER. Mr. Speaker, the gentleman from California has just referred to one fascinating document that has come out of this House with regard to Nicaragua. I have before me another fascinating document that has come out of this House paid for by the official accounts of the House, a letter or telegram from the elected Speaker of the House, the gentleman from Texas [Mr. WRIGHT].

This telegram went to the directors of the Nicaraguan resistance, in other words, the democratic resistance down there. Their interpretation of this document is that Mr. WRIGHT has asked them to surrender.

You have to understand when they got this telegram: The House had just cut off funding for them, Cardinal Obando y Bravo had just been dismissed as the peace negotiator and the Ministry of Justice had just been put under the secret police.

Then they got a telegram from the Speaker of this House telling them to stay at the table until there is an agreement. They brought nothing with them to the table.

The directors of the Nicaraguan resistance feel as though this telegram is asking them to stay at the table and surrender.

I think it is appalling given the letter that went to the President now telling him to negotiate with the Sandinistas and with the Soviets about the situation in Nicaragua, then to have a letter coming from the Speaker of the House saying to the democratic resistance down there, "Now is the time, you have got to surrender."

The document referred to is as follows:

[Telegram]

MARCH 4, 1988.

Directors of the Nicaraguan Resistance:

The negotiations for a ceasefire and peace in your nation have reached a critical stage. The destiny of Nicaragua hangs in the balance.

In the cause of peace and democracy I urge you—as I urge those in the Sandinista leadership who lead the military operation against you—to proceed immediately and diligently to the negotiating table.

It is essential that the parties to the talks meet at the highest levels and with the utmost dedication and stay at the table until there is an agreement.

JIM WRIGHT.

□ 1300

PERSONAL EXPLANATIONS

Mr. DAVIS of Illinois. Mr. Speaker, I would like to let the RECORD show that on February 24 on rollcall No. 11, House Concurrent Resolution 246 condemning the bombing by North Korean agents of Korean Air Lines flight 858, I was inadvertently not in the Chamber and I would have voted "yes." This would not have changed the outcome of that rollcall.

On March 1, rollcall No. 13 on approving the Journal for Monday, February 29, I was unavoidably detained in the district as I was for the following rollcall and I would have voted "no" on approving the Journal. It would not have changed the outcome.

On March 1, on rollcall No. 14, on the Dannemeyer motion to instruct the conferees on H.R. 5 to improve elementary and secondary education and to agree to the Senate amendment to ban Dial-A-Porn, I would have most strenuously voted "yes" and I would like the RECORD to show that I would have voted "yes." It also would not have changed the outcome.

SUE ANN HAEDIKE AND AMANDA JESSEN VOICE OF DEMOCRACY CONTEST WINNERS

The SPEAKER pro tempore (Mr. PICKETT). Under a previous order of the House, the gentleman from Illinois [Mr. DAVIS] is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I would like to speak just a couple or 3 minutes in the time I have if I might about something that is going on all over America at this very moment and it is in the chain of progress toward the national finals. It is called the Veterans of Foreign Wars, or the VFW as we all know that fine veterans' organization around the United States of America, the VFW Voice of Democracy contest.

This contest, now in its 41st year, is sponsored by the VFW Ladies' Auxiliary administered by the joint VFW posts and ladies' auxiliary. That ultimately would lead to, this year, an $11,000 first place scholarship for the national winner.

What happens is that the young people in America, sophomores, juniors and seniors in high school—although freshmen are not prohibited—are asked to write an essay which is judged on the merits of patriotism and judged on the merits of the feeling and emotion of being an American.

This year the contest had over 300,000 participants nationwide. The theme this year was "America's Liberty—Our Heritage."

The contest consists of a 3 to 5 minute script on that theme and a recording of the script by the student is also done and judged independently so that it can be judged in the blind without reference to who the person, he or she, is. Paradoxically, it is mostly women, mostly young girls who enter the contest and I keep telling the young males in my district, "You ought to get involved because they are just outrunning you getting those scholarships and you ought to be out there competing with the girls because you are losing." I think maybe that is because the girls are more interested in what is going on in America today.

The purpose of the contest, of course, is to encourage young Americans in the 10th to 12th grades in public, private, and parochial schools to think, to write, and to speak out for freedom and for democracy.

Well, this year in my district Sue Ann Haedike from Richton Park, IL, in the Fourth District at Marion Catholic High School won the district level contest with this speech, as did Amanda Jessen of Homewood Flossmore High School.

Mr. Speaker, had I more time I would read both of their marvelous speeches into the RECORD, but I would ask to have those speeches inserted in the RECORD for the benefit of both these fine young women and my congratulations go out to all the contestant-winners for the VFW Voice of Democracy contest and I salute the VFW for its marvelous, marvelous attempt in its 31st year to bring freedom and democracy to the forefront with our young people around the country.

The documents referred to are as follows:

WINNING SPEECH BY SUE ANN HAEDIKE, MARIAN CATHOLIC HIGH SCHOOL, VFW VOICE OF DEMOCRACY CONTEST

AMERICA'S LIBERTY—OUR HERITAGE

The statue which stands on Liberty Island in the New York Bay is a symbol of our heritage, our liberty. Who can think of liberty without thinking of Lady Liberty?

"L" stands for liberty—America's liberty, our heritage. Through time, we have had many forefathers who have led us to our liberty. Through hard work and determination, they have accomplished their goals, attained their dreams, and established their success.

"A" adament in their beliefs, our forefathers pursued their dreams. Two great leaders, Ben Franklin and Abe Lincoln had humble beginnings, but through faith in themselves and in our country, they achieved greatness. And need we mention the immortal words of Patrick Henry urging war with and freedom from England? Because he reminded us that death is preferable to an existence without liberty, he, too, is a pioneer in achieving our nation's freedom.

"D" is for democracy—the democracy which enables our people to be free, the government which allows the black man to run for office, the Hispanic woman to have equal job opportunities, and the foreigner to dwell in America as a U.S. citizen.

"Y" the last letter in LADY, stands for YES, and confirms our thoughts. Yes, we should be proud to be American citizens. Yes, indeed, America is the land of liberty. Yes, it is the land where freedom reigns, the land of opportunity.

"L" is for Lady Liberty, that bold and majestic figure who, through her torch, yields pride and patriotism to all, and encourages harmony among mankind. She has enriched the lives of many thousands of immigrants who came from lands where liberty may have been non-existent. She was their beacon of hope and symbol of freedom. Lit above the New York/New Jersey harbor, Lady Liberty enlightens us with strength and hope for a brighter future.

"I" individuality is encouraged in a land where liberty reigns. Individuals contribute to the growing heritage of our nation through self-expression. However, our nation, at times, must function as a group—a united force.

"B" brotherhood. When we treat each other as brothers and sisters, we develop harmonious relations. Through "Hands Across America" and "Farm Aid," we united to form a common front with the impoverished, as well as stricken farmers.

"E" every man and woman plays his or her part in our American way of life, yet we can't help but emphasize the role of those who fought for our country in times of war. Many lost their lives, but not in vain. One thing they have not lost, something they protected for all who dwell in this great nation, is our liberty. The Veterans of Foreign War, indeed the veterans of all wars, have left us a great legacy—our freedom, America's freedom.

"R"—America is the residence of every race and creed—the melting pot of all who dwell in the company of "Miss Liberty." In the early days of our strong heritage, the Pilgrims, who searched for religious freedom, found their independence here in America. Still today, Asians, Central Americans, Cubans, and Mexicans flock to America searching for a better way of life, one which is democratic.

"T" technology. In the fields of computer science, scientific and medical research, as well as space travel, America has been blessed with more than its share of heroes. For instance, on January 25th, 1986, aboard the Challenger Space Craft, were 7 brave and talented Americans, who, because they were free, had achieved their dreams. Among this group were 2 women, 1 black, and 1 oriental—a visible sign in itself of just how far liberty has brought us.

"Y" you and I play an important part in our own heritage. What we accomplish during our lifetimes will affect the lives of future generations to come. Young and old must participate in the constant struggle to make our world a better place, to continue a proud heritage of liberty for future Americans.

The words of Emma Lazurus will forever echo liberty: "Give me your tired, your poor, your huddled masses, yearning to breathe free, the wretched refuse of your teeming shore. Send these, the homeless, tempest tossed, to me: I lift my lamp beside the golden door."

WINNING SPEECH BY AMANDA JESSEN, HOMEWOOD FLOSSMOOR HIGH SCHOOL, VFW VOICE OF AMERICA CONTEST

Today was a lazy day. The schools are closed due to it being a national holiday. It's Veteran's Day to be precise, and all who fought for their country in all the wars of the past, are being remembered and honored on this day. And as this day went on, symbol and symbol, coming from one solitary symbol, reminded me of how much my freedom means to me.

I had a lot of homework on this day, and decided to do it well with the extra time I had. I studiously had my nose in a book when I heard my mother gasping about how we forgot to put the flag out. She of course gave me the job. I made my way to the coat closet in the foyer, where our flag is kept. Trying not to seriously injure myself or the flag, in that pile of mess that accumulated over the years, I cautiously dug the flag out and then proceeded to brush off the dust that had collected on it since the Fourth of July. As I blew the dust off the small Bald Eagle that perched itself on the top of the flag pole, I was reminded of the time my mother caught the poor bird's left wing in the closet door, permanently removing it. This provoked me to think of the thousands of men and women have lost a wing or more for their country.

I paraded onto the front porch with my American flag, being extremely careful not to drag it, for all passer-by to observe. I located the metal stand nailed to one of the posts on my porch and with the grace and agility of the Bald Eagle itself, placed the flag in its holder. Supporting my flag as it supports me every day of my life, I made sure it was safe and secure before letting the pole loose.

I stepped back to gaze at my wonderful achievement of the day, and realized that all I believe in lies within the design of that flag. I mean if you just look at the whole meaning and significance of it: thirteen stripes for the original thirteen colonies; fifty stars representing all of the fifty states; red for passion, white for purity, and blue for nobility. And the eagle, for our immense freedom to make our own choices; even if we are missing a wing. Although it may be just some stars and stripes on a piece of material, a flag symbolizes a country's heritage.

Every country has its own flag, each not being very different from each other; and through design and perspective, each represents what that individual country stands for. The American flag stands for what the Constitution states: freedom, liberty, the pursuit of happiness, and the ability to be who or what we want to be. The ability to make choices and fulfill our dreams has reached out to all who came from other countries, troubled countries, where freedoms such as these were unknown. It stands for our heritage, and the American people's love and dedication to that heritage.

I remember a song I once had to sing for a choral group I was in. It said something like this, "This is the place where dreams can come true. This is America. This is the place where it's up to you. This is America."

But often an American citizen will take his or her freedom for granted. Myself being one of those people at times. If a person unaware of how fortunate he or she was to have such liberty, what if he or she spent a week in the U.S.S.R. or perhaps communist China, or any other country that lacks democracy and a law and order where the citizens are peaceful and satisfied.

Anything can happen in America, whether it be good or bad, snobbish or humble, cruel or compassionate, it is proof of that.

Especially on a day such as this, where all of the citizens who fought for liberty are being remembered, even if they didn't believe in it. But they fought, some to the death for what they thought was right. What was right was their liberty, and their heritage.

It's almost dusk now, and according to the constitutional flag laws, the flag must be returned to its dusty closet hide-away. Even though it will remain unseen until the next national holiday, it will be a constant reminder of how fortunate I am to be an American, to have my heritage, and my liberty.

IN SOLIDARITY WITH THE LONGEST TERM REFUSENIK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of New Jersey. Mr. Speaker, when I was in the Soviet Union in 1982, I had the privilege of meeting Yuli Kosharovsky, a man who stands in the forefront among Soviet Jewish refuseniks. At that time, Yuli Kosharovsky had been a refusenik for 12 years. In the intervening years many developments have been seen in the Soviet Union, with a number of well-known refuseniks being permitted to leave, especially prior to the December summit meeting here in Washington. But, Mr. Speaker, Yuli and his family continue to await their exit visas. Having been first denied permission to leave in 1971, Yuli Kosharovsky has now become the longest-standing refusenik.

Mr. Speaker, on the 12th of last month, Yuli received word that his exit visa application was again refused on grounds of "possession of state secrecy." In 1980, Mr. Speaker, Kosharovsky was told he was refused because he had "no close relatives in Israel," and that his "secrecy" period had expired. So much for Soviet consistency. Today, March 10, marks the 17th anniversary of his first application for a visa to Israel. He and his wife, Inna, have begun a complete and indefinite hunger strike in protest of repeated Soviet refusals. We in Congress want to support the Kosharovskys for taking this bold step—they deserve our moral support, our prayers and our commitment to their cause. Over the last 17 years, Mr. Speaker, thousands of letters, statements, and telegrams have been delivered to the Soviets on behalf of the Kosharovskys but the Soviets have yet to relent. In the 97th Congress, the House passed a resolution I offered asking the Soviets to let him go, yet the Soviets continue to deny this family the basic right of emigration. Last December, as part of the foreign aid bill, I offered an amendment again petitioning the Soviets to let Yuli go. It is hoped the Soviets will now get the message and simply let him emigrate.

Mr. Speaker, in a recent appeal made by 20 long-term refusenik scientists, one of whom was radio electronics engineer Yuli Kosharovsky, to the Nobel Laureates in Science meeting in Paris, the scientists proclaimed:

> Soviet authorities explain the exit visa refusals by their wish to prevent a brain drain. * * * Formally, no such law preventing emigration on educational grounds exists in the U.S.S.R. But by illegally retaining us in the country, the officials in fact conduct the politics of brain destruction, forcing many well-educated people with academic degrees to make their living as yard cleaners or doormen because of their desire to emigrate.

Yuli's training as a radio electronics engineer is not being utilized. Likewise, Inna Kosharovsky, who was trained as a mathematician at Moscow State University, has never been able to work in her field of expertise.

Mr. Speaker, as one of the most prominent Hebrew teachers in Moscow, Yuli Kosharovsky continues to inspire and encourage his students although he is regularly harassed and threatened by the KGB.

Let me conclude by saying that today the Kosharovskys have launched a bold initiative—a hunger strike. At this moment, hundreds of Americans are gathered in a Vigil at the Soviet Embassy. Other protests have been organized for today in Jerusalem and London. The Soviets cannot turn their heads—we must constantly remind them that we will not forget Yuli and Inna Kosharovsky and their family. We will continue to plead their case until they arrive in freedom.

Mr. LANTOS. Mr. Speaker, recently, some of my colleagues and I visited the Soviet Union where we participated in discussions of Soviet human rights policy with two very different groups of experts. The first group were our respected and distinguished counterparts in the Supreme Soviet and the Bureau for Humanitarian Affairs. These officials were very helpfull and seemingly candid in their discussions, acknowledging that problems exist and expanding on the corrective measures they are instituting to improve their human rights record. The Soviet officials carefully addressed the existing limitations on human rights and explained that the Bureau of Humanitarian Affairs exists specifically to address recurring human rights problems. These measures are encouraging.

The second group of human rights experts we met with had personally experienced conditions where basic human rights were denied. This group consisted of 35 refuseniks who gathered in a small Moscow apartment of Vladimir Kislik to explain their personal knowledge of human rights conditions. It was a moving encounter with the reality of Soviet life.

Among those present that evening was Yuli Kosharovsky, a leading Jewish activist and Hebrew teacher, well respected among his peers. Mr. Kosharovsky has been repeatedly denied permission to emigrate for 17 years on the grounds of "access to state secrets." For 17 years, Mr. Kosharovsky, his wife and children have been subject to harrassment and intimidation.

Mr. Speaker, it so happens that today Yuri and Inna Kosharovsky have embarked on an unlimited hunger strike, hoping that this desperate effort will finally move the Soviet officials to permit them to emigrate. They decided on this destructive measure because they already exhausted every legitimate recourse under Soviet law.

Mr. Speaker, when Soviet citizens are compelled to choose self-inflicting harm in order to exercise the fundamental human right to emigrate from their country, the Soviet Union must seriously review its public stance on human rights, as well as the seriousness of its commitment to international accords. As the Soviet Union publicizes its intentions to address human rights concerns, and as a country signatory to the Universal Declaration of Human rights, the Soviet Government ought to clearly demonstrate its commitment to its policy by permitting Yuri Kosharovsky and family to emigrate.

Mr. SMITH of Florida. Mr. Speaker, I am joining many of my distinguished colleagues and thousands of people around the world in protesting the oppression of Yuli Kosharovsky by the Soviet Government.

Yuli Kosharovsky is guilty of refusing to abandon his identity as a Jew. As we are all aware, this condition is not unique to Yuli Kosharovsky. In fact, Yuli Kosharovsky is a symbol for as many as 400,000 Soviet Jews who reportedly want permission to emigrate from the Soviet Union. Yet, in 1987, only 8,155 refuseniks were allowed to leave Russia—barely 700 each month. This compares to a record high of 51,000 that received exist visas in 1979. Mr. Gorbachev, is this your idea of openness?

Yuli Kosharovsky has been denied permission to emigrate on the grounds that he has knowledge of "state secrets." The Soviets have used this charge to deny exit visas to thousands of Soviet Jews in the past. Unfortunately, it does not appear as if this practice will cease in the near future. In most cases, the charge of knowledge of state secrets is trumped up and completely fallacious.

As of late, the Soviets have denied refuseniks' requests for exit visas based on the fact that applicants do not have first degree relatives in the country to which they wish to emigrate. This law is a thinly vailed mechanism to legitimize continued persecution of Soviets who want to leave the country. Furthermore, it violates Soviet obligations under the Helsinki Final Act.

Mr. Speaker, the conscience of the world is speaking out today not only for Yuli Kosharovsky, but for what he represents. It is our hope that Mr. Gorbachev will hear our pleas and let our people go.

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to join my colleagues in expressing an appeal to the Soviet Union for the release of Yuli Kosharovsky of Moscow who has been a refusenik for 17 years.

Today, in observance of the 17th anniversary of his original request for permission to emigrate, Yuli Kosharovsky will begin a hunger strike. The reason Soviet officials gave for Yuli's refusal in 1971, and for his subsequent request in 1978, was "state secrets."

Mr. Speaker, as you know, "state secrets" is the most common excuse Soviet authorities use in denying people the right to family reunification and free movement. Rights the Soviet Union promised to uphold when signing the Helsinki human rights accords. Yuli Kosharovsky is an electrical engineer. As someone who has worked in the field of aerospace engineering for over 25 years, I can attest to the many changes which have occurred in this field over the past two decades. There is very little which was done 17 years ago that has not long since become outdated.

Recently I met with a refusenik who shared with me a joke which may explain "state secrets" in the Soviet Union. A refusenik scientists asked his boss why he had been denied permission to emigrate. The boss replied "the reason is the secret nature of our technology." The refusenik responded in shock, "what's so secret about our technology, American technology is 25 years ahead of our own in this field!" "That," replied the boss, "is the state secret."

Mr. Speaker, today Yuli Kosharovsky will begin a hunger strike to call attention to the fact that he has been waiting 17 years for permission to leave the country. I hope that Soviet authorities will review their past decisions and quickly grant this longstanding request.

Mr. MCMILLEN of Maryland. Mr. Speaker, I rise to draw attention to Soviet refusenik Yuli Kosharovsky. Today marks the anniversary of his 17th year in refusal.

Yuli Kosharovsky first submitted his application to emigrate to Israel in April 1971. Yuli was denied permission to leave based on his exposure to so-called sensitive material while working at the Automation Research Institute in the city of Sverlovak between 1965 and 1968. Seventeen years later, these security concerns can no longer be relevant, yet the Soviet Government still will not allow the Kosharovsky family to leave.

Yuli's three sons have grown up as refuseniks. As Yuli writes, "Studying their own language in secrecy, searches and arrests, and the permanent threat of harassment is an indispensable part of their life experience."

In November 1981, the House of Representatives passed a resolution condemning the harassment of the Kosharovsky family and calling upon the Soviet Government to permit their emigration. In February 1982, the NCSJ submitted testimony on their behalf to the Subcommittee on Human Rights and International Organizations. In May 1982, the House passed H.R. 269 again calling upon the Soviet Union to "permit the emigration of Yuli Kosharosvky and his family."

Mr. Speaker, the plight of the Kosharaovsky family shocks and saddens me. Today Yuli Kosharovsky is scheduled to begin a hunger strike in Moscow. I implore the Soviet Government to reconsider its refusal.

Mr. HOYER. Mr. Speaker, today, Soviet refusenik and Hebrew teacher, Yuli Kosharovsky is about to begin a hunger strike in Moscow to coincide with the anniversary of his first application to leave the Soviet Union. The decision to apply to leave the Soviet Union and emigrate to Israel where he could practice his religion freely was 17 years ago.

During the past 17 years Kosharovsky and his family have been harassed extensively. Both Yuli and his wife, Inna, lost their jobs when they first applied to emigrate. In addition, Yuli has been interrogated and arrested on a number of occasions, his home has been searched, and the supplies he uses to teach Hebrew have been seized.

Understandably, Yuli and his wife do not feel that glasnost has affected their lives. In a letter sent to me by Yuli and several other refuseniks after my visit to Moscow in January of this year, Yuli noted that "in this period of so-called glasnost and democratization, Soviet Jewry is deprived of any office for their protection, and is being subjected to increasing pressure from neofascist and nationlist organizations." That life is not getting better for them has spurred them to feel that they must undertake a drastic measure such as a hunger strike in order to receive official permission to repatriate in Israel.

Several former refuseniks, now living in Israel, have joined in an appeal on behalf of Yuli Kosharovsky, and I would like to share this appeal with my colleagues.

JERUSALEM, *February 12, 1988.*

To: Political leaders and public figures in the western world.

DEAR FRIENDS: We, the undersigned, are appealing to you for help on behalf of our dear friend Yuli Kosharovsky. He is planning to begin a hunger strike on March 10th, 1988, the anniversary date of his first refusal seventeen years ago. Your personal support and the general support of the free world are indispensable in order for this desperate move to succeed. We, who have been fortunate to leave the U.S.S.R. and repatriate to our national homeland, are aware of the importance of your support and request maximum assistance at this critical moment of his struggle.

Yuli Kosharovsky is now the "refusenik" of longest standing—seventeen years! He was initially denied permission on security grounds which of course are no longer relevant in his case. Despite repeated K.G.B. harassment, Yuli Kosharovsky continued to serve as a leading figure in the struggle for freedom and repatriation. He is also known to be an outstanding instructor of the Hebrew language—a teacher of teachers. We all respect him for his relentless activity and feel strongly that his request for support at this crucial time should be honored.

We therefore turn to you to sound your voice and perform all that is in your power to advance the just and legitimate cause of Yuli and the Kosharovsky family. As they are about to take this courageous step of a hunger strike, we urge you to help them to end their prolonged struggle and fulfill their dream of uniting with their friends and people in Israel.

With sincere gratitude,

Yuli Edelstein, Tanya Edelstein, Natan Sharansky, Yosef Begun, Vladimir Slepak, Mariya Slepak, Ida Nudel, Victor Brailovsky, Irina Brailovsky, Michael Kholmyansky, Alexander Kholmyansky, Alexander Lerner.

Mr. Speaker, in sympathy for the plight of Yuli Kosharovsky, an international campaign is being launched today with a series of public events here in Washington, as well as Jerusalem, Moscow, and London. As a demonstration of congressional support for the right of all citizens to leave their country, many of my colleagues will be making statements on Yuli's behalf. Our intention is to then send these statements to Soviet Ambassador Dubinin and to Yuli, demonstrating our concern.

I urge Soviet authorities to grant Yuli Kosharovsky and his wife, permission to emigrate to Israel. Seventeen years is too long to deny an individual such a basic human right.

Mr. HASTERT. Mr. Speaker, many of us are pausing today to call attention to Yuli Kosharovsky who has begun a hunger strike in the U.S.S.R. to mark the 17th anniversary of his first request to emigrate to Israel.

We have to admire an individual like Yuli who has vowed to continue to fast until an exit visa is approved. He is one of hundreds of Soviet Jews who have not benefitted yet from glasnost. I make this plea today to Soviet officials as part of the Congressional Call to Conscience Vigil for Soviet Jews, sponsored by the Union of Councils for Soviet Jews, to dramatize the plight of prisoners of conscience and other persons who are seeking to emigrate from the Soviet Union.

Let me tell you a little about the Kosharovskys and why they want to leave Russia. Yuli and his wife, Inna, were married in 1975 by a visiting rabbi from the West in a religious ceremony. She studied mathematics at Moscow State University, but has never been allowed to work in her field because of her desire to leave Russia.

Yuli worked as a radio-electronics engineer, but lost his job when he first requested a visa. Since then he has not been able to find work in his field and has earned a living by taking odd jobs, which currently includes serving as a watchman at a movie theatre.

He speaks Hebrew and on several occasions the KGB has raided his apartment confiscating all his Hebrew materials. He and his wife have obtained Israeli citizenships in their attempt to emigrate.

Yuli has been threatened and harrassed by the KGB on many occasions and has been arrested many times since he began his application process. He has used his home to help fellow engineers and scientists, who are similiarly without work, to keep abreast of the latest developments in their fields.

The latest refusal to emigrate came from Soviet officials just last month. Last December as the Reagan-Gorbachev summit was taking place in the United States, Yuli and other refuseniks were harassed as they attempted to stage demonstration in Russia.

His numerous requests to leave have been rejected on the grounds that work he did 12 years ago categorizes him as a security risk.

With additional summit sessions scheduled this year, we cannot let Mr. Gorbachev forget the importance of human rights issues. I join with many of my colleagues today in urging Soviet officials to allow Yuli, his wife, Inna, and their children, Mikhail, Eliezer and Matityahu to emigrate to Israel.

Mr. FRANK. Mr. Speaker, it is with great sadness that I am reminded of the continued mistreatment by the Soviet Union of Yuli and Inna Kosharovsky, and Yuri Rodin, all of whom begin hunger strikes today. Like so many other Jews in the Soviet Union, they have been denied their most basic human rights, including the right to emigrate. Mr. Speaker, I am taking this opportunity today to honor their courage and their continued struggle to exercise their right to freedom of expression, freedom of religion, and freedom of association, despite continued persecution.

"State security," and their lack of immediate relatives in Israel are the offical—and unjustified—reasons given by the Soviet Government for denying an exit visa to Yuri Kosharovsky. Because the Kosharovsky family simply asked for permission to emigrate, because Yuri Kosharovsky has continued to teach Hebrew and take part in activities to further the rights of Soviet Jews, the Kosharovsky family has suffered repeated arrests and harassment. The arrests and harassments are, Mr. Speaker, a common response by Soviet authorities to those individuals and families who express a desire to live freely and would like to practice their religion openly elsewhere.

Seventeen years ago today, Yuri Kosharovsky first requested an exit visa, and for seventeen years he and his family have suffered for their desire for freedom.

The case of Yuri Rodin and his family is no less tragic. Rodin, a distinguished mathematician, has obtained exit visas permitting himself and his wife to emigrate to Israel, but has been unable to obtain visas for his daughter, son-in-law, and young grandson. Rather than split his family, possibly forever, Rodin has chosen to remain in the Soviet Union and press for visas for his entire family. Rodin continues his struggle, even though he has suffered several heart attacks and has developed a very severe case of diabetes.

It is also not uncommon for the Soviets to approve exit visas for some family members and not others. In doing so, the Soviet Union insidiously attempts to destroy so many families. A testament to the strength of these families is that they, like the Rodin family, often choose to remain together in the Soviet Union, to suffer the persecutions, job losses, the continual harassments together, rather than be separated.

I join my colleagues in calling upon the Soviet leadership to grant the Kosharovskys and the Rodins their basic liberty, their right to freedom of movement. And I want to assure the Rodin and Kosharovsky families, and all other Soviet Jews denied their freedom, that their fight for freedom is not forgotten.

Mr. MCEWEN. Mr. Speaker, I rise today to express my outrage over the treatment of Yuli Kosharovsky and his family, who have been forced to live in the Soviet Union since 1971. The reason? We've heard the same excuses so many times before from the Soviets—

access to "sensitive information." Yuli currently works as a night watchman at a cinema. He lost his job as a radio electronics engineer soon after he applied for permission to leave the Soviet Union over 17 years ago. The Soviets have charged that he is somehow a "security risk." This is ridiculous.

Yuli, his wife, Inna, and their three children have been repeatedly denied permission to emigrate, despite having Israeli citizenship. The KGB have consistently harassed, threatened, and imprisoned Yuli numerous times on such flimsy charges as "hooliganism" and "disturbing the public order." In addition, the Kosharovsky family has experienced house searches and detentions. How many times have we heard these horror stories before, Mr. Speaker? Too many.

Today, Yuli will begin a hunger strike in Moscow coinciding with the 17-year anniversary of his refusal. Mr. Gorbachev speaks often about glasnost" and "democratization," yet the methods we hear so often of being used against refuseniks smacks of the days when Stalin and Beria ruled the Kremlin. The time has come to end this nightmare for the Kosharovskys. I call upon the Soviet authorities to stop these vulgar tactics and allow this family to emigrate.

Mr. DWYER of New Jersey. Mr. Speaker, today in the Soviet Union Yuli Kosharovsky will begin a hunger strike. While hunger strikes have been used in the past by many people to call attention to their particular plight, Mr. Kosharovsky is unique among Soviet refuseniks because, unfortunately, he now bears the distinction of being the refusenik of longest standing in the Soviet Union.

On March 10, 1971, Yuli Kosharovsky first applied for permission to leave the Soviet Union. He was originally denied an exit visa on the grounds of his having access to national secrets. He is a radio electronics engineer who was an employee at the Automation Research Institute in Sverdlovak. He lost his job as soon as he applied for permission to emigrate, as did his wife. His company stated that he had not been a security risk since May 1971. Notwithstanding, he has been denied approval to emigrate to Israel consistently for 17 years.

There can be no justification for retaining Yuli Kosharovsky and his family in the Soviet Union. He has been denied the opportunity to earn a living at his trade and forced to struggle for survival as an exile in his own country, a country which clearly doesn't want him but doesn't want to let him go either.

The hunger strike entered into today by Yuli Kosharovsky needs the support of the international community to call attention to this endeavor. That is why, Mr. Speaker, I am joining with many of my colleagues in expressing my unity with Mr. Kosharovsky and my support with his cause for this basic freedom enjoyed by all Americans.

Mr. KOSTMAYER. Mr. Speaker, I would like to bring to the attention of my colleagues the plight of a Soviet citizen who is beginning a hunger strike today to protest his 17 years as a "refusenik."

Yuli Kosharovsky first applied for an exist visa in March 1971. He has been repeatedly denied his request on the grounds of "State secrecy," since he allegedly had access to "classified" information as a radio electronics engineer. Mr. Kosharovsky however, left this occupation in 1968 when he was fired after his employers learned of his desire to emigrate. He was unable to find work in his profession and took on odd jobs to support his family. On several occasions, Yuli was threatened with arrest on charges of "parasitism."

In May 1980, Yuli was informed that although his "secrecy" period had expired, he still would not be eligible for emigration because he did not have "close relatives in Israel." This is fallacious because his entire family has Israeli citizenship.

Yuli is a simple man who wants to spread the Jewish culture and language to others. However, he was summoned to KGB offices in March 1981, where he was threatened with imprisonment if he did not stop his activities.

The KGB campaign of intimidation and harassment of the Kosharovskys has continued, unfortunately, with some success. In recent years, the Kosharovskys have been less active publicly, but there remains within them a deep desire to emigrate to Israel.

On February 12, 1988, Yuli was again denied permission to emigrate, once again for, "state security."

Yuli Kosharovsky is feeling as though his time may not come. As desperation is setting in, he has declared a hunger strike to the death. His goal is only to obtain permission for himself and his family to leave the Soviet Union and go to Israel.

Yuli Kosharovsky is protesting 17 years of refusal. It is our moral obligation to support his cause. I lend my voice to those of my colleagues, and urge General Secretary Gorbachev—in the spirit of glasnost and the Helsinki accords, and in gesture of humanity long overdue—to allow Yuli and his family to leave the Soviet Union.

Mr. ACKERMAN. Mr. Speaker, I rise with my colleagues today to express my solidarity with Yuli Kosharovsky, a Hebrew teacher in Moscow who has sought to emigrate from the Soviet Union for 17 years. In Washington, Jerusalem, London, and Moscow, people are commemorating Yuli's anniversary today so that international attention does not stray from the hundreds of thousands of Jews who remain in the Soviet Union against their will. Yuli Kosharovsky is our focus today but there are an estimated 50,000 refuseniks with him in the Soviet Union, including almost 2,000 who have wanted to emigrate since 1977.

This is a particularly important time to speak out on behalf of Soviet Jews. In January of this year, Soviet officials announced a new emigration policy. Applicants must now have an invitation from first-degree relatives abroad before their papers will even be considered. This means that the 90 percent of the Jewish population without immediate family members who were lucky enough to leave in the past are denied the right even to apply to leave today. Applicants now also bear the additional burden of producing parental approvals as well as affidavits from all Soviet family members, releasing them from any financial claims. Finally, the new regulation reiterates longstanding Soviet policy that applicants will be turned down if they have had "access to State secrets." As we have seen, access is extremely loosely defined to include many government jobs even if applicants held them a decade or two ago. Although there is nothing new in these conditions, their reemergence amounts to a cynical rebuke to thousands of refuseniks in what is supposed to be an era of openness and reform. Worst of all, the regulations deny many Jews the basic right to apply for emigration.

To be sure, there was some glasnost for Soviet Jews last year and there appeared to be great reason for optimism in 1988. Over 8,000 refuseniks left the Soviet Union in 1987, an enormous jump from recent years. Perhaps most significantly, several refusenik leaders, including Yosef Begun, Natan Scharansky, and Ida Nudel, emigrated after years and years of struggle. In 1986 and 1987, glasnost was also felt in the area of arms control, economic reforms, and international relations. Already in 1988, however, fewer Jews have received permission to leave. While more than 800 refuseniks obtained exit visas in November and December, only 720 and 730 left the country in January and February respectively. I sincerely hope that 1987 was not merely a year of good public relations by Soviet officials on the question of Jewish emigration. But the regulations of 1988 look terribly harsh, turning back much of the success and promise of the previous year.

1988 will be a challenging year for Mikhail Gorbachev and his efforts to reform the Soviet system. The General Secretary is already facing numerous nationality protests in Armenia and Azerbaijan. I stand with my colleagues to urge the Soviet Union to get rid of another nagging problem: Revoke the January emigration regulations, forget the worn out "State secrets" excuse and raise the level of Jewish emigration beyond that of 1987. We in the United States Congress will not rest on this issue until we are sure that Yuli Kosharovsky will not "celebrate" another anniversary of refusal in the Soviet Union.

Mr. BEILENSON. Mr. Speaker, I join with my colleagues today in marking the first day of Soviet refusenik Yuli Kosharovsky's hunger strike—a demonstration of his total desperation—which is scheduled to begin on the anniversary of the 17th year in refusal.

Yuli, his wife Inna and their three children first applied to emigrate in 1971, and their first and subsequent requests for emigration have all been denied on the grounds of Yuli's alleged knowledge of "State secrets." However, Yuli lost his job as a radio electronics engineer after his initial application and has only been able to find sporadic employment in his profession since that time. Throughout the past 17 years, Yuli has also managed to remain a very popular and active Hebrew teacher in spite of continued harassment by the Soviet authorities.

I urge the Soviet Union to honor its international commitments as outlined in the Helsinki Final Act, of which they are a consignatory, and allow the Kosharovsky family to be reunited with their family in Israel. Such action would be a positive example of the success of the glasnost campaign and would help to further the aims of any future summit talks. I look forward to a day when pleas like this will no longer be necessary—a day when Soviet

Jews will be able to practice their religion freely and families can be reunited in Israel.

Mr. FASCELL. Mr. Speaker, I am pleased to join our distinguished colleagues, STENY HOYER, the Chairman of the Helsinki Commission, and CHRIS SMITH, a fellow Commissioner, in drawing public attention to the plight of Soviet Jewish refusenik Yuli Kosharovsky, a long time activist and Hebrew teacher, who has begun a 17-day hunger strike to protest his 17th year of refusal. We must recognize his plight and applaud his courage. Mr. Speaker, we must redouble our efforts to combat the plague of human rights abuses experienced by all Soviet Jewish refuseniks.

Yuli, once a radio-electronics engineer, lost his job when he applied to emigrate in 1971. Since that time he has worked at various odd jobs so that he may support his wife and child, including 24-hour shifts as a watchman of a movie theater. The Soviet Government has threatened Yuli several times with arrest for parasitism.

The Soviet media has slandered Yuli's name. Specifically, Yuli was named in a 1977 defamatory documentary film titled, "Traders of Souls." Yuli's attempt to file suit against the Soviet network proved futile since the courts did not accept his suit.

KGB threats, harassments, and arrests have become routine for Yuli. In October 1980, he was apprehended on a beach while jogging, charged with disorderly conduct, and held for 13 days. Again, in December 1980, he was taken by police who forcefully interrogated Yuli for 3 hours. The inhumanity of his oppressors displayed itself quite clearly when, on December 7, 1987, the day of the Reagan-Gorbachev summit in Washington, Yuli and several other refuseniks were prevented from publicly protesting their plight by secret police, who forced them into a bus, drove them 100 kilometers outside Moscow and left them to find their own way home. Is this glasnost? On this same day in our great Nation, in our Capitol, over 200,000 American Jews and others demonstrated freely for the plight of their Soviet brethren.

Mr. Speaker, we cannot stand for human rights violations such as these to which I have referred. Our own freedoms and liberties cannot allow us to forget our fellow man. The Soviet Union cannot be allowed to continue to overlook its international human rights commitments, such as those contained in the Helsinki Final Act. I reaffirm my support for Yuli Kosharovsky here today and ask all our colleagues to join in support of Soviet Jews and all others denied their basic human rights.

Mr. BONKER. Mr. Speaker, it has been 17 years since Mr. Yuli Kosharovsky, a Soviet Hebrew teacher, first applied to emigrate from the Soviet Union. He was refused. The Soviet Government has cited his knowledge of "state secrets" as the cause of repeated denials.

As Mr. Kosharovsky begins a hunger strike today, protesting these years of refusal, I wish to join my colleagues in expressing solidarity for his case. I strongly urge the Soviet authorities to reconsider their assertion of "knowledge of state secrets," and to grant Mr. Kosharovsky's request to emigrate from the U.S.S.R.

Mr. GILMAN. Mr. Speaker, Yuli Kosharovsky, a long-term refusenik and Soviet Jewish activist, is beginning a hunger strike today to coincide with the 17 years of his refusal status. In solidarity with him, expressions of support are being planned in cities across the United States, Europe, and the Soviet Union. This afternoon a vigil will take place in his behalf here in Washington, opposite the Soviet Embassy.

I had the pleasure of meeting Yuli when I was in Moscow this past January. His commitment to human rights and the freedom of emigration for Soviet Jews is matched only by his determination to succeed in this latest effort. I join my colleagues in urging the Soviet authorities to grant Yuli the permission to which he is entitled under international agreement, and urge them as well to grant all Soviet Jews who desire to leave for freedom to do so.

Mr. ANDREWS. Mr. Speaker, in recognition of the 17th year Soviet officials have refused his emigration to Israel, Soviet refusenik Yuli Kosharovsky will embark on a hunger strike today.

In support of Yuli, and the thousands of Soviet refuseniks like him, an international campaign has begun. Public events are taking place here in Washington, Jerusalem, Moscow, and London, to express the world's concern about the Soviet Union's commitment to resolving human rights dilemmas.

Yuli's case is indicative of the tremendous strides the Soviets still must make toward human rights. As a radio-electronics engineer, he has continuously been denied an emigration visa because he has allegedly been exposed to "state secrets" and has "insufficient kinship" beyond the Soviet borders.

Originally from Sverdlovsk, Yuli's first application to emigrate to Israel was denied in 1971. He lost his job in the shop where he was working when his employers learned of his request to emigrate. He has been reduced to a night watchman at a cinema. Several times Yuli has been threatened with arrest on charges of "parasitism."

But despite these oppressions, Yuli continues to be one of the Soviet Union's preeminent Hebrew teachers. He holds classes 6 days a week in his flat, attended by approximately 30 regular students. He has also begun seminars for engineers who lost their jobs due to requests for emigration, despite several KGB warnings to end them.

It takes great courage to refuse to yield in the face of disheartening odds. The depth of conviction expressed by Yuli, along with his wife, Inna, and their three sons, is indeed something to be admired.

In view of the strong resolve expressed by Yuli and all Soviet refuseniks hoping to gain their freedom, we of the West must continue to press the Soviet Government until all those wishing to emigrate from the Soviet Union are allowed to do so.

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HYDE. Mr. Speaker, I rise today on behalf of Yuli Kosharovsky, the Soviet Union's refusenik of longest standing. Last Thursday he began a hunger strike to mark the 17th anniversary of his first refusal.

Yuli was a radio electrician and engineer when he first applied to emigrate. He was refused on grounds of state security. That was 17 years ago. Since then, scientists and engineers who have held much more sensitive positions have been allowed to leave. Why not Yuli Kosharovsky?

In the intervening years, Yuli Kosharovsky and his family have been subjected to harrassment and discrimination, even to arrest. Because Yuli lost his job when he applied to emigrate, he has been forced to take menial jobs in order to support his family. The Soviet Union would lose nothing by allowing him to emigrate.

But his emigration, without cost to the Soviet Union, would be a gift to the West. It would be so because Yuli Kosharovsky is unswervingly committed to preserving his cultural heritage. We need more such as him—men and women who remain true to their faith despite incessant pressure. In the Soviet Union, the coercion comes from the political establishment. Here in the West, the pressure to abandon one's cultural tradition comes in less brutal forms. It is still difficult to resist. We need the example of Yuli Kosharovsky. He teaches more than the Hebrew language.

I urge the Soviet Union to allow this man and his family to emigrate. It would be a simple gesture, not out of line with the policy of glasnost that is so eloquently articulated by Secretary General Gorbachev. It would be appreciated.

FURTHER REPORT ON OUR TRIP TO MANAGUA, NICARAGUA, IN JANUARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. RAY] is recognized for 5 minutes.

Mr. RAY. Mr. Speaker, on February 2, I reported to this body on a trip I made January 30 and 31 to Nicaragua. During this trip, our group met with an organization of "mothers of political prisoners." These poor women gave heart-rending reports of torture, brutality, of imprisonment without proven charges, and of sons who are dying or have died in prison.

These women also reported that they were roughed up and beaten at their last meeting by a mob, or the "turbas," comparable to the Soviet Red Guard.

Mr. Speaker, on March 7 the Washington Post reported that the turbas are continuing their spree of violence and repression of free speech and individual rights, and are continuing to attack unarmed women and others who are peacefully protesting—all under the watchful eye of the Sandinista police who do nothing to stop the violence.

For 9 years the people have not had the opportunity to demonstrate, and only during the discussion of peace has the repression slackened, which has encouraged the people to try and get their message out to the world.

Mr. Speaker, this type of government-approved violence and repression is prevalent in Communist countries. The Sandinistas cannot be considered as making positive steps toward democratization because of these violent repressions.

In spite of the recent vote on Contra aid, this body needs to continue to monitor the progress of peace in the region, and we need to let the Sandinistas know that we are aware of repression of the opposition parties. We must also encourage the people to try to let the world know of this brutality just as the people of the Philippines, South Korea, and the Gaza Strip have done.

It's necessary that we restore some form of aid to the Contras, and continue this external pressure and support of the opposition parties. But, whether the aid is resumed or not, I will continue to monitor and to speak out on the Communist activities of the Sandinistas.

SANDINISTA SUPPORTERS DISRUPT OPPOSITION RALLY

(By Julia Preston)

MASAYA, NICARAGUA, March 6.—Gangs of club-wielding Sandinista party followers broke up an opposition women's march today, driving antigovernment demonstrators off the streets, hurling rocks, threatening them and then rampaging across the city for two hours.

It was the most aggressive use of Sandinista mob violence against the opposition in years and appeared to indicate a new government policy of using civilians to confront its political opponents.

Thursday, about 150 Sandinista party rabblerousers, called *turbas*, which loosely translates as "mob," disrupted a peaceful opposition union meeting in Managua. The *turbas* are drawn from Sandinista unions, block committees and other grass-roots groups.

Today's trouble in Masaya began with two outdoor rallies in honor of International Women's Day next Tuesday, which took place this morning in Masaya. One was led by the Democratic Coordinating Group, an opposition coalition, and another by the Sandinista National Liberation Front (FSLN), the ruling party. It was unclear which demonstration was scheduled first, but Sandinista police issued the required permits to both and established different parade routes for each march, organizers for both sides said.

Tensions have been running high in Masaya, where there is strong popular sentiment against the military draft. On Feb. 8, an opposition protest against the draft in Masaya turned into an antigovernment riot.

Today's rallies were located about 50 yards apart on opposite sides of the central park of Masaya, 20 miles south of Managua. At the center of the opposition march was a protest against the draft by about 100 women and girls, mostly from poor rural families, who wore black dresses and veils.

As the opposition speeches continued, scores of men carrying wooden clubs and metal bars and wearing the red-and-black kerchiefs of the Sandinista party, crossed over from their rally, taking up positions surrounding the opposition rally.

As the Democratic Coordinating Group sympathizers filed into the street to begin their march, hundreds of the club-wielding Sandinistas dashed across the park to block part of the street where the marchers were to pass.

One Sandinista man, Juan Ramon, who identified himself in an interview as a 27-year-old bricklayer, repeatedly taunted opposition marchers, tearing their placards out of their hands to rip them up. He confronted an opposition woman carrying a tiny infant and screamed insults in her face.

As the tension mounted, someone threw a rock, and quickly rocks were flying on all sides. At the same moment, a Sandinista demonstrator bashed a boy in the back of the head with his club.

Most opposition protesters appeared to be unarmed, but one opposition man was seen carrying a club with nails protruding from one end.

The Democratic Coordinating Group president, trade unionist Carlos Huembes, acknowledged that his followers had engaged in fighting. "That's our response. We have to defend ourselves," he said.

The rock-throwing continued for several minutes, but finally the out-numbered opposition demonstrators fled. For the next two hours, Sandinista gangs roamed the streets hunting for them.

"Either you respect the Sandinista Front or we'll make you respect us," was the slogan some chanted repeatedly.

Sandinista mobs burned one parked jeep based on a rumor that it belonged to Erick Ramirez, a leader of the opposition Social Christian Party. At least three other vehicles were damaged by stoning. They ripped out, broke up and urinated on chairs in the movie theater where the opposition event started.

Reporters and Sandinista police watched as a Sandinista crowd approached Edda Bonilla de Gaudamuz, identified as an opposition member because she was still wearing her black veil. Bonilla dropped to her knees, but the Sandinistas ripped off the veil and slapped her repeatedly. Then a woman dragged her behind a police van and beat her. One opposition man was cut in the face with a knife.

AGRICULTURAL AID AND TRADE MISSIONS TECHNICAL AMENDMENTS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, next week I will urge my colleagues to adopt S. 2151, as amended, to make technical amendments to the Agricultural Aid and Trade Missions Act, which was enacted as part of the fiscal year 1988 continuing resolution.

I am entering these remarks today to ensure that my colleagues are aware of the amendment to S. 2151 that I will be offering next week. The amendment is as follows:

Viz., strike out section 6 and redesignate sections 7 and 8 as sections 6 and 7, respectively.

This amendment will remove section 6 from the Senate-passed bill. Section 6 provides that, subject to advance appropriations, the minimum tonnage that must be made available for foreign donations under section 416 of the Agricultural Act of 1949 in fiscal year 1988 will be—

(1) 800,000 metric tons of grains and oilseeds (up from 500,000 metric tons under current law);

(2) 200,000 metric tons of dairy products (up from 150,000 metric tons under current law),

if the commodities are available from the uncommitted stocks of the Commodity Credit Corporation. (Section 6 is subject to restrictions under current law which state that: "Commodities may not be made available for disposition under this subsection in amounts that (i) will, in any way, reduce the amounts of commodities that traditionally are made available through donations to domestic feeding programs or agencies, or (ii) will prevent the Secretary from fulfilling any agreement entered into by the Secretary under a payment-in-kind program.")

This amendment recognizes that while section 6 would not increase direct spending because it is subject to advance appropriations, it is superfluous at this time since appropriations were not provided for the provision in fiscal year 1988.

Mr. Speaker, I urge my colleagues to support this legislation, as amended, so the food aid programs and the missions can proceed this year as Congress had originally intended.

MORE GREEN TEA AND DIRTY TRICKS

The SPEAKER pro tempore (Mr. CARDIN). Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, I have started to read portions of a book called "The Japanese Conspiracy" by Marvin Wolf, an author in Los Angeles who is the first person that I know to assemble all of the materials on how the Japanese Government and their industries conspired to destroy American industries.

The reason that I felt it was important to bring this book and the information it contains to the public's attention is because we have heard for all too long how Americans cannot produce, how Americans do not produce the quality, how Americans' prices are too high, how labor is doing this wrong and how industry is doing that wrong. But nobody before ever really got to what I call the heart of the matter, the guts of the matter on how industry by industry in this country was being targeted by a government and the industries in that country to be destroyed so that they could take over.

Now yesterday I started the chapter concerning the electronics industry and that told about how the 10th Day Group, the Okura Group, and the Palace Group conspired, all had their meetings on how they would set the prices on the television sets coming into the United States.

□ 1315

And that also told how they could underprice the American television sets and how they would send their televisions sets over here to retail at about half the price for which they sold in Japan, again because they wanted to grab this market, to put American television producers out of business. And they took the profits, the excessive profits, that they were making in Japan to make up for the low price of sending them in to the United States. That is how they offset that.

Mr. Speaker, I am continuing from Mr. Wolf. Mr. Wolf has given me permission to read these chapters from his book, and again I think the American public needs to know what really has happened to some of our very important industries and why we are losing our manufacturing base in this country.

The name of this chapter is "Green Tea and Dirty Tricks," and this is what I have broken down as being section 3 of the second chapter.

Mr. Wolf starts out in this way:

> Since the Japanese had artificially inflated the prices of television sets sold in Japan, American TV manufacturers reasoned that they could recoup some of their losses by competing in the Japanese market, where domestic sets sold for twice as much as their American counterparts. But the Americans had yielded to the Occidental temptation to underestimate the Japanese.
>
> When Zenith attempted to market TV sets in Japan in 1961, MITI—

And "MITI" is the Ministry of International Trade and Industry, the one that is behind all of the business actions that take place in Japan"—

> became sorely displeased. Zenith first enlisted two major Japanese trading companies, C. Itoh and Nichimen, but neither was able to get MITI permission to export dollars to buy the U.S. products.

And that is important because this again shows how their government has worked to keep American products from coming into that country.

> In 1963, Zenith tried again, and Nichimen spent a sizeable Zenith budget for advertising and publicity in the hope of selling a mere 500 sets. Nichimen reported back that although they had tried hard, the Japanese manufacturers had asked MITI to intervene against Zenith.

Mr. Wolf goes on to say this:

> According to a report by the office of the U.S. Comptroller General, MITI had pressured Japan's leading department and appliance store chains and had jawboned Nichimen "not to indulge too aggressively in the distribution of Zenith Products."

Now you can imagine what would happen if anybody did that in this country.

> The ministry's implicit power soon became evident. In 1975, when Japan sold 5.5 million of its own overpriced sets in its domestic markets, it imported only 11,644 sets, or two-tenths of one percent. By 1978, the Japanese purchase of imported sets was down to 485 units, less than the number many individual Sears stores in the United States sell in one year.
>
> Another major American company, Motorola, also became involved with the Japanese TV dumpers, to their chagrin. In recent years Motorola has spent millions advertising its competitiveness with Japan, accurately pointing out that Japan's trade policies are unfair and ethically dubious. A recent two-page Motorola advertisement proclaims, 'When Japan Waives the Rules, Japan Rules the Waves." The text castigates Japan for "extreme protectionism at home and collective efforts permitting targeting abroad." The chief executive officer of Motorola, Robert Galvin, has been active in speaking on this theme to the government and industry groups. "Motorola finally got religion," says Arnold Kalman, "But they sure got it late."

Mr. Kalman is a lawyer who was involved in some of these cases of dumping concerning Japan, and he went on to say, "But they sure got it late." And I might point out that this book, "The Japanese Conspiracy," was printed in 1984. Some of the material may seem a little dated, but it is still very, very significant since we are today feeling the long-range effects of this conspiracy against American industry.

Mr. Wolf in his book goes on to say this:

> Motorola, now the largest of America's dwindling roster of semiconductor manufacturers, has long been a leading U.S. producer of consumer electronics, including TV sets. Motorola established a branch office in Tokyo in 1959 at the dawning of Japan's reemergence as a powerful industrial nation. This first office evolved into Motorola Service Company, Ltd. Later, Motorola formed a second Japanese subsidiary, Motorola Semiconductor of Japan, Ltd., and joined with Alps, a relatively small Japanese concern, in a joint venture known as Alps-Motorola.
>
> In 1973, Motorola was hoping to conclude a deal with Aiwa to sell color television sets in Japan. Aiwa, a smallish company controlled by Sony, proudly announced it would market Motorola's big Quasar color consoles, made by the American company in Japan, to retail at 330,000 yen, or about $1,500. It was an attractive price alongside comparable models which Japan Victor and Matsushita were then selling for between 480,000 and 570,000 yen. But rival Matsushita, an enormously influential firm in Japan, decided that such a large American company as Motorola could not be permitted to gain a toehold in Japan's protected markets. The presence of an American company selling sets to Japanese consumers for less than inflated Japanese prices would not only endanger their high domestic prices but expose them to dumping charges in the U.S. Somehow, Motorola must be stopped. It was accomplished through an offer Motorola could not refuse.
>
> In March 1974, Matsushita purchased Motorola's Japanese television manufacturing interests for $100 million in return for which Motorola agreed to abandon all its television manufacturing, including its plants in both the U.S. and Taiwan.

That is a pretty tough negotiation—

> Matsushita and Motorola announced plans to jointly pursue other ventures in "growth industries" at a later date. Motorola had received a sizable sum for a business that was only marginally profitable, and Matsushita had eliminated its only possible American competitor in Japan.

Mr. Wolf goes on to note as follows:

> When the Japanese TV makers held their first clandestine meetings at the Palace and Okura hotels, Japanese imports accounted for less than 5 percent of U.S. television sales. By 1971, the U.S. Tariff Commission noted, the Japanese cartel-member companies controlled more than half the U.S. market. They had driven ten American TV makers out of business by denying them profits, simultaneously destroying tens of thousands of American jobs.
>
> John J. Nevin, former head of Zenith and now chairman of the board of Firestone, is vocal in his anger at both the Japanese television industry for its deceit and at the American government for failing to stop the illegal practice. He outlines the catastrophic results of this Japanese dumping conspiracy on American television manufacturers.

Mr. Wolf quotes Mr. Nevin as follows:

> "Five of America's best-known television manufacturers were forced into acquisitions or liquidation. I told the [Los Angeles] grand jury that about 60,000 or 70,000 American jobs had disappeared," Nevin explained when interviewed. "All the scholars want to talk about was 'the dumb American management.' Let me tell you what really happened in the American TV industry as a result of the Japanese dumping. First of all, Admiral went belly-up, or was on the verge of going belly-up, when it was bought by North American Rockwell, a really first-rate firm. They have to liquidate Admiral about two years later. They lost so much money they can't keep it going. Ford Motor Company buys Philco, and they liquidate Philco. Motorola, which is the leading U.S. semiconductor manufacturer, sells its television business to Matsushita and goes to the Justice Department and says, "if this sale isn't permitted, we will shut down the business, we can't make money in it.' So that's Motorola being acquired, Admiral and Philco going out of business.
>
> "At the time of the Motorola acquisition, Magnavox is also in trouble. They sell out to Phillips. Phillips is the dominant television and electronics manufacturer in Europe, and they have got an enormous position elsewhere in the world, except in Japan. They buy Magnavox, and after about three years, they go to the Justice Department along with GTE-Sylvania. They say to the Justice Department, 'If you won't let Sylvania and Magnavox merge, which the Justice Department utlimtately did, both the businesses will have to be shut down.' GTE-Sylvania, an American company, Phillips an international company, are both top-flight, yet they can't compete in the face of this Japanese dumping.

We have to remember that it was a country and all of its industry plucking off one company at a time over here.

> "In the 1960s Sears was buying its television sets from Warwick," Nevin continues. "Warwick, in turn, is an affiliate of Whirlpool, the company which supplies Sears with all of their washers and dryers. Sears at this point in time also begins to buy television sets from Japan, principally from Sanyo, and they start forcing Warwick to meet the Sanyo prices. And that forces Warwick into very serious financial trouble. They ultimately work out a deal where Sanyo buys the Warwick assets from Whirlpool. So in effect, of all the U.S. television producers who were in place in the early 1970s when color television was invented, three survived: Zenith, RCA and General Electric. GE's survival was by accident. They tried to merge their TV division with

> Hitachi, and the U.S. government wouldn't let them.

Mr. Nevin went on to say this, according to Mr. Wolf:

> "In the middle seventies, RCA took such enormous losses in their television business it would have forced a Zenith, or anybody else, out of business. But RCA is receiving license and technical agreement payments from the Japanese that exceed their U.S. television manufacturing profit. RCA had decided to sell their technology and know-how for television to the Japanese, and they entered into license agreements that provided them with an enormous flow of revenue. That's why, through this whole row you've got everybody else in the U.S. television industry screaming like hell except RCA.
>
> "The bottom line today is that as a result of this, the smaller companies were bankrupted, forced out of business or forced to sell out to the Japanese, and that a whole mass of jobs has disappeared from the U.S. Zenith was the single undiversified company that managed to survive," Nevin says.

Mr. Wolf writes:

> Mr. Nevin is convinced that MITI was aware of, and probably involved in, the plot to destroy the American television industry. He believes that it was regular custom for most major Japanese television manufacturers to offer rebates to American distributors, part of what he calls "phony billing."

□ 1330

All of us who have been involved in watching what is happening on the manufacturing scene in this country and overseas, all of us feel equally as strong that MITI is always very aware of what every one of the Japanese companies do overseas.

Mr. Wolf goes on to quote Mr. Nevin:

> "Now, you only reach one of two conclusions from that," says Nevin. "Either the Japanese companies conspired to avoid the Japanese law, which stated that any individual Japanese company which violated the check prices—

That was the low price that they set—

> was subject to enormous fines, and kept all of this a secret from MITI. Or, the other, more logical conclusion is that MITI knew exactly what the hell they were doing all along, just like the American buyer and the Japanese seller did. You can't have a market in which purchasing agents expect to buy at check prices—

That is the low, low price—

> with a big rebate and not have the ministry know what's going on. You've got to conclude that MITI knew all the time that these check prices were not the basis of actual transactions, but were really false prices that were simply submitted to U.S. Customs."

And that is how they got these low price sets in order to underprice the American product.

The book, "The Japanese Conspiracy," goes on to say:

> Nevin sees the Japanese television collusion as one designed to protect the high prices of sets sold in Japan itself. "Let me give you another little number, in terms of conspiracy," Nevin says. "There are three major Japanese television companies that built plants on Taiwan. They did that to get major labor cost savings, which is legitimate. Yet there is no record of any television set made by a Japanese company in Taiwan ever going back into Japan. In other words, keeping the price high in Japan so you can sell at low prices overseas is the name of the game. Console television sets, the big 25-inch furniture sets, sell for $2,000 to $2,500 in Japan, three times what they sell for in the United States, Mr. Nevin points out. Now Matsushita buys Motorola, Sanyo buys Warwick, Sony creates color TV plants in the U.S., yet no Japanese TV manufacturer who is making console TV receivers to sell in the U.S. market for $800 or $600 ever ships one into Japan to compete with the $2,500 prices there. Conventional wisdom says the reason Zenith didn't sell in Japan is it didn't try hard enough and its executives didn't speak Japanese. That's obviously ridiculous. The Japanese companies didn't ship TV sets back to Japan, and the reason they didn't is there is no interest in breaking the price fix over there."

That kind of reminds me about the beef prices in Japan. Beef is selling for $34 or $35 a pound, and yet they will not allow U.S. beef into that country.

"The Japanese Conspiracy" goes on to point out:

> Nevin's rancor is equally directed at the government of the United States, which refused to enforce the law against Japan until it was too late. "The three years between the submission of the dumping complaint in 1968 and the Tariff Commission's injury finding in 1971 were years of financial crisis for American television makers," Nevin points out. "In 1968, nine of the 16 American companies lost money. In 1969, eight of the remaining 15 U.S. producers lost money. In 1970, ten of the 15 lost money.
>
> "In 1974 and again in 1975," Mr. Wolf quotes Mr. Nevin, "the U.S. trade deficit with Japan totaled $1.7 billion. In 1976, the deficit rose to $5.4 billion, and in 1977 $8.1 billion: in 1978 it totaled $11.6 billion," Nevin states. "Apparently Americans have been led to believe this was a result of the superior Japanese productivity. It wasn't. It was because the Japanese had been able to violate American antidumping statutes with impunity for more than a decade.
>
> "The television dumping case," Nevin continues, "provided instances in which the U.S. Treasury itself has been as deceitful as the importers and as responsible as they for long delays in the enforcement of the law. In 1977 the customs service finds out that there's fraud. And they go out and start a major investigation. They know there's massive fraud and President Carter signs an agreement with the Japanese limiting television imports. Secretly they tell the Japanese that they will stop the International Trade Commission investigation of customs fraud and of dumping and that the Department of Justice—and this is incredible—will remove itself from any investigations of antitrust activities that are associated with dumping, because dumping is Treasury's prerogative."
>
> This covert American promise to the Japanese is contained in a letter dated May 20, 1977, over the signature of U.S. Ambassador Robert S. Strauss to Fumikiko Togo, Ambassador Extraordinary and Plenipotentiary of Japan. "That letter was read into the Congressional Record because Danny Rostenkowski, who was then on the Trade subcommittee, asked Strauss during his testimony if it was true that such a letter existed," Nevin says. "The only reason that the committee and Rosenkowski found out the letter existed is that when the Japanese protested the dumping assessments, they described them as being completely inconsistent with the side letter given the government of Japan by the government of the United States. So the Japanese blew their own cover."
>
> Nevin does not believe the federal government gave American corporations a fair hearing, a deficiency he attributes to the government in general, and to certain individual federal employees involved in the Japanese television case. Joseph S. Wright, Nevin's successor as chairman of Zenith, has made public a letter from the U.S. Embassy in Tokyo to a high official in the U.S. State Department in 1978. The revealing document, which supports Nevin's contention reads as follows:
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> "On June 8 I had dinner with an official from MITI's [Ministry of International Trade and Industry of the Government of Japan] American Bureau.
>
> "I congratulated him on his part in devising the GOJ [Government of Japan] negotiating tactics and scenario on the color TV dumping issue in late March and described to him our perceptions of the tactics (see my June 1 memo to you).
>
> "He accepted the compliment and confirmed that the tactics were as I described them. He added that MITI, the Ministry of Foreign Affairs, and the Japanese TV industry had met for two days solid in March—with sessions extending late at night, to develop tactics. They were not very confident that they would succeed, he said, but they were very happy with the outcome. He ascribed the GOJ [Government of Japan] success to approaches to the most senior USG [U.S. Government] trade policy officials, who could then make a 'political decision.' "
>
> On a larger scale, Nevin believes the American government's attitude toward the Japanese is based on an unsophisticated reaction dating back a generation in American history, and not updated by contemporary reality. As Nevin has stated: "The attitudes of American leaders on foreign trade questions continue to be based on a Marshall Plan mentality that sees Europe and Japan as being so weak in economic matters as to require continuing American concessions and that sees the United States as so strong as to be immune to economic injury no matter what trade concessions are made by its government." He summarized the government's handling of the TV dumping case as "only one example of the American government's willingness to wink at unfair and unlawful acts in foreign trade in order to avoid diplomatic confrontation."

Mr. Speaker, I want to insert here that this is part of the problem. All too often we joke about the fact that the State Department should have a U.S. desk over there, but it is very serious. We do need that. We need somebody in the foreign affairs end of our government to be half as concerned about what is happening in this country versus what the others do, what the other nations do.

Many of us who have called for fair trade, for forcing Japan to open its doors, for forcing Taiwan to open its doors, were called protectionist. We are called protectionist. What are we trying to protect? We are trying to protect America and protect our own industry.

You can see from what Mr. Wolf has outlined in his book, "The Japanese Conspiracy," that the trade has been very unfair, that there was laid out for many years a plan, a program, to destroy American industry.

Mr. Speaker, I will continue next week with additional information on how the television industry of this country was destroyed. It is very, very revealing, Mr. Speaker, and again I want to emphasize that the reason I am doing this is that I think the American public needs to know what has really happened to our industry.

LEGISLATION TO ENCOURAGE NUCLEAR POWERPLANT STANDARDIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MOORHEAD] is recognized for 60 minutes.

Mr. MOORHEAD. Mr. Speaker, I am today introducing legislation which would encourage nuclear powerplant standardization, reform the process by which such plants are licensed, and transform the Nuclear Regulatory Commission into an agency headed by a single administrator. I am sponsoring this legislation as a means to assure that the nuclear power option is preserved for the future.

The technology to peacefully use the capability of atoms to fission was invented in the United States and is employed successfully today to generate more than 15 percent of the world's electricity. Approximately 20 percent of this Nation's electricity is generated by nuclear power. That makes nuclear power the second largest generating source in our country.

Nuclear power is a crucial component of the Nation's electrical power supply. It permits utilities to generate electricity without burning imported oil, thus playing an important role in mitigating strategic oil concerns. Nuclear power also prevents an undue reliance on natural gas for electricity generation. This lessened reliance on natural gas is important because it is unclear that the current "gas bubble" will provide sufficient gas to satisfy growth in electricity demand. By permitting diversification of generation, nuclear power increases the reliability and flexibility of electrical power supply.

Additionally, nuclear energy has significant advantages over other major fuels in terms of environmental impacts. Nuclear power greatly contributes to the achievement of the national goal of clean air. In France, large scale use of the atom has helped that country make deep cuts in atmospheric releases of sulphur dioxide. Between 1980 and 1986, the release of sulphur dioxide was halved in France at the same time the production of electricity increased by 40 percent.

Despite these significant benefits, the option of building new nuclear powerplants in the future has been largely lost in this country. How has this happened? While the answer to this question is complex, the U.S. licensing and regulatory process is largely responsible for the result. The U.S. licensing and regulatory process lacks stability and predictability, thus imposing huge financial risks on utilities who undertake to build and operate nuclear powerplants. These financial risks are so large as to outweigh the benefits of operation of nuclear powerplants. The utility industry has repeatedly testified at congressional hearings that no utility will build a nuclear plant in the future unless changes to current laws and regulations are made.

The loss of the nuclear power option is critical. Increasingly, over the past several years, the Committee on Energy and Commerce has received testimony from electric utility executives, public utility commissioners, economists, energy consultants, and others that it is highly likely that there will be inadequate supplies of low cost electricity in the years ahead. We are on a collision course between growing demand and our ability to meet that demand. While 16,000 megawatts of new generating capacity was brought into service in 1986, 10,000 megawatts in 1987, and 13,000 megawatts is scheduled for this year, only 2,000 megawatts is scheduled to come on line in 1990! That is exactly when the experts predict we will need additional capacity.

This program of insufficient capacity is predicted to increase in the mid-1990's to the point where some regions of the country are expected to experience brownouts. Perhaps even more disquieting is the fact that such shortages will most likely cause uneconomic generating units to be brought on line in order to satisfy demand. Residential utility customers and American industry will, of course, suffer from such a result. Revitalization of the nuclear power option is necessary to obtain reliable and economical electricity over the long term.

Accordingly, the bill I am introducing today provides for the use of standardized nuclear plant designs. These designs would be preapproved by the nuclear safety agency. Preapproval of designs is a very important component of this bill. Under existing law, which provides for nuclear plants to be licensed twice—first at the construction permit stage and second at the operating license stage—nuclear plant construction begins before the plant design is completed. Additionally, key decisions on approval of plant designs are made after plant construction. This process increases the cost of nuclear plant construction and raises the prospect that a nuclear plant may be abandoned after construction of the plant or of a significant portion of it has been completed.

The Nuclear Standardization and Safety and Reform Act would change this. Plant construction would not begin until after the plant design had been reviewed and found to be safe. Additionally, there would not be the prior flexibility to change plant designs during construction. This will enhance safety and decrease the costs of nuclear plant construction.

In the past, there have been questions as to what considered a standardized design. In the last few years we have come a long way in defining this term. In late 1985, the industry committed to providing to NRC all the design information necessary for the NRC to make its safety findings, including 100 percent of the design information for the nuclear portion of the plant and 90 percent of the design information for the balance of the plant. This is all of the design information that would be needed to determine if a particular plant design is safe. By enacting the Nuclear Standardization and Safety Reform Act, Congress would preserve the progress we have made on this issue.

Another key component of this bill concerns changing the structure of the Nuclear Regulatory Commission from a five-member body to a single Administrator. The need for organizational restructuring of the Commission has been addressed a number of times by a diverse group of parties, with the first major attempt being made by the Kennedy administration in 1960. Following the Three Mile Island accident in 1979, both the Kennedy Commission and the Rogovin special inquiry group recommended that NRC be restructured into an agency headed by a single Administrator. Today, three of the five current Commissioners support the single Administrator concept for restructuring the agency.

The organizational structure of the Nuclear Regulatory Commission appears to have come about as a historical accident concurrent with reassignment of Federal responsibility from the Atomic Energy Commission to the Nuclear Regulatory Commission and the Energy Research and Development Agency—now the Department of Energy. When NRC was created in 1975, little attention was directed at determining the proper organizational form to manage a comprehensive nuclear safety program. There was no real examination of the appropriateness of collegial management of safety regulation nor consideration of the fact that all other major Federal health and safety programs are managed by agencies headed by a single Administrator. Collegial management of Federal agencies is largely confined to ratemaking and other economic areas.

The single Administrator form of regulatory management offers the significant advantages of improved management, improved policy formulation, and most importantly, clear accountability. The current NRC structure diffuses responsibility and by so doing, it diffuses accountability. As contrasted to the current situation where no one individual is in charge, a single Administrator would be fixed with unmistakable accountability for agency performance. Experience teaches that political accountability is a powerful safeguard of the public interest.

Finally, the Nuclear Standardization and Safety Reform Act would provide for a combined construction permit/operating license hearing for standardized nuclear plants. The current two-step process is the result of the Atomic Energy Act being modeled on the Federal Communications Act and is not related to the requirements of nuclear powerplant technology. The two-step process brings instability and unpredictability into powerplant construction resulting in increased costs. A combined process which looks at all safety and environmental issues before any construction has taken place should have the effect of enhancing safety as well as decreasing costs.

In sum, Mr. Speaker, I believe this legislation will preserve the nuclear power option for the future and thus benefit all Americans through the provision of more economic, diverse supply of electricity.

For the benefit of my colleagues, Mr. Speaker, I am inserting in the RECORD at this point a brief section-by-section analysis of the bill.

SECTION-BY-SECTION ANALYSIS OF THE NUCLEAR STANDARDIZATION AND SAFETY REFORM ACT OF 1988

Section 1. Short Title and Table of Contents.

TITLE I.—ESTABLISHMENT OF NUCLEAR SAFETY AGENCY

The bill transforms the Nuclear Regulatory Commission from a commission comprised of five members to an agency headed by a single administrator. All other major Federal health and safety programs are managed by agencies headed by a single administrator. This change makes NRC consistent with these programs. Moreover, this change will improve management, policy formulation, and most importantly, establish clear accountability. As contrasted to the current situation where no one individual is in charge at NRC, a single administrator would be fixed with unmistakable accountability for agency performance. Governmental experience teaches that political accountability is a powerful safeguard of the public interest.

TITLE II.—STANDARDIZATION AND LICENSING

Section 201 of the bill provides for the preapproval of standardized designs. This section will accomplish two objectives: (1) it will encourage standardization of nuclear plants and (2) it will bring predictability and stability to the process by which nuclear plants are regulated. Standardization will enhance safety and decrease the costs of building nuclear plants.

Section 202 of the bill provides for early site review and site permits. This section will allow site banking and should cause emergency planning concerns to be resolved prior to plant construction.

Section 203 of the bill provides for combined construction permit/operating license hearings for standardized plants. Under current law, plant construction begins before all details of the plant design are decided and significant approvals of the plant design are made after the plant has been constructed. This section will assure that the plant design is reviewed and approved as safe prior to any construction.

TITLE III.—CONFORMING AMENDMENTS

This title makes conforming amendments to existing law.

TITLE IV.—EFFECTIVE DATE

Section 401 provides that the bill shall take effect upon enactment.

Mr. BILIRAKIS. Mr. Speaker, I am honored today to join my colleagues in introducing the Nuclear Standardization and Safety Reform Act of 1988.

This bill does not represent a new idea—but it does represent an idea whose time has come. As my colleagues have so ably explained, we are seeking to reform both the agency and the process by which nuclear powerplants are built—or rather not built—in the United States.

Our bill has safety and reliability as its primary goal. The safety of current facilities will be enhanced through creation of a single Nuclear Regulatory Administrator, an official who will be directly accountable to the President, Congress, and the general public for the safe operation of commercial nuclear powerplants.

The safety of future plants will also be ensured through use of standardized designs. The bill requires the new Nuclear Regulatory agency to preapprove a limited number of standard designs for nuclear facilities.

Standard designs will both reduce the cost of new facilities and improve their safety since improvements in training and operation and maintenance can be readily shared between facilities. Standard designs would also provide the assurance that all major elements of a nuclear powerplant were produced to exacting requirements and that these requirements had been subject to a complete public review process.

Instead of custom-built, one-of-a-kind plants, this bill envisions a stable nuclear program and regulatory environment where construction and operating issues can be thoroughly resolved. The bill seeks to create an environment where multiple plants can be built using the same proven blueprints.

In a time when nuclear plant construction is dormant in the United States, I believe this bill is a rational and logical attempt to revive the nuclear option.

Although private utilities have not ordered a new nuclear plant in many years, we must recognize our Nation's future need for electricity and the problems inherent in other forms of generation. Oil tankers and their protective escorts plying the waters of the Persian Gulf are a daily reminder of the need for energy independence.

A recent study concluded that the average lifecycle cost of all nuclear powerplants is 42 percent lower than the average lifecycle cost of oil-produced power. The study also concluded that future standardized plants could produce power far less expensive than oil and gas power even if oil prices do not increase from their current levels.

Unless we work to revive the nuclear option, these economies will be lost. Americans will continue to pay for more expensive electric power and our reliance on foreign energy supplies will be exacerbated.

In addition, without the reforms made by this legislation, nuclear power will continue to be a nonoption in the United States while other countries, notably France and Japan, expand their use of this energy source.

Therefore, this bill is a matter of getting "from here to there." It is a matter of ensuring that some future for nuclear power exists and that the benefits of this form of generation will not be lost. The bill is a first step, but without this first step, no further progress is possible.

Mr. OXLEY. Mr. Speaker, I am pleased to join my colleagues today as an original cosponsor of the Nuclear Standardization and Safety Reform Act of 1986, legislation introduced by Mr. MOORHEAD to provide certain reforms in Federal nuclear oversight activities, promote standardization of future nuclear generating plants, and therefore provide an added degree of safety to the commercial nuclear energy industry. This is an important bill whose time not only has come, but is overdue.

Nuclear standardization is not a new concept. Europe has had a great deal of success with standardized designs, and that success is reflected in the significantly higher percentage of power generated from nuclear sources, as compared with the United States. The Japanese have embraced the technology as well. In the United States, our own experience with standardized plants has been limited to a few multiple units on a single site, such as Palo Verde I, II, and III and St. Lucie I and II. In these few instances, however, the subsequent units have not only been less expensive to construct but also constructed in shorter periods of time, thus providing needed electricity to growing areas such as Arizona and Florida. As the electricity needs of these and other regions of the country continue to grow, so grows the importance of promoting standardization of nuclear facilities.

As for the safety of standardized nuclear plants, common sense tells us that standardized plants should be safer because the lessons learned at one plant would be easily passed on to the others. Even opponents of nuclear power have testified in favor of standardized designs because of the added safety factor. But standardization would not be limited to the design of the plant itself, but would be carried over into the training, operation, and maintenance programs of the plant. In the United States, we have just begun to use standardized training—in part because of the lessons learned after Three Mile Island. Even so, there have been real improvements in training programs because of this use of standardization, and the same should be done with plant designs.

Mr. Speaker, as this country's need for electricity grows, there is even more reason to promote standardized nuclear designs. As I have stated, they are less expensive and less time consuming to construct. In addition, nuclear energy is cleaner than fossil fuel. In my opinion, our electric utility industry is being threatened with unwarranted environmental regulations while at the same time they are trying to provide power to a demanding public. If more utilities could make the decision to build nuclear plants to either add capacity or replace old plants, both demands could be satisfied. But standardization seems to be the key.

I hope that my colleagues would join in our effort to promote the Nuclear Standardization and Safety Reform Act as a reasonable approach to addressing our future electricity needs in as safe a manner as possible. In addition, I hope that we will be able to move forward on this matter in the Energy and Power Subcommittee, to which this is by no means a new issue. Thank you, Mr. Speaker.

Mr. DANNEMEYER. Mr. Speaker, I join with my colleagues, Messrs. MOORHEAD, BILIRAKIS, LENT, CALLAHAN, OXLEY, BARTON, NIELSON, HUCKABY, FIELDS, MURPHY, DARDEN, Mrs. BYRON, and Mrs. LLOYD in introducing the Nuclear Standardization and Safety Reform Act of 1988, legislation which amends the Atomic Energy Act of 1954 to encourage the development and use of preapproved standardized designs, promote safer and more effective nuclear regulation, siting and licensing, and abolish the Nuclear Regulatory Commission [NRC] to establish an independent agency, the Nuclear Safety Agency [NSA].

The 1st session of the 100th Congress was productive in addressing issues concerning the nuclear industry in the Energy and Commerce Subcommittee on Energy and Power, in the House, and in the Senate. We were able to move legislation reauthorizing the Price-Anderson Act through the House. The House passed a 2-year reauthorization of the NRC and late in the year the full committee reported a bill amending the Atomic Energy Act to increase the NRC's ability to enforce security at nuclear plants and reporting requirements for vendors of nuclear equipment. The issue of nuclear waste policy was addressed in the final days of the session as well.

Unfortunately, the subcommittee did not commence hearings on standardization and licensing reform. These two issues are relevant and necessary in an overall effort to reform the operations and regulation of nuclear power in this country. Plant design and quality and efficiency in the licensing process are no less important to the viability and safety of the nuclear industry than are the issues of the storage of waste and compensation of accident victims. Restoring the nuclear power option by meeting these important efficiency and safety needs will lead to significant advances in securing our Nation's energy future. In formulating our Nation's energy policy, we must carefully weigh the importance of nuclear power to our overall policy. We believe that this legislation will improve the stability of licensing standards and criteria for nuclear powerplants and create conditions which will assure protection of public health, safety, and security.

Standardization and licensing reform legislation are sorely needed in order to encourage the construction of additional nuclear powerplants. These plants are needed to meet our America's demand for electricity. In addition, they are needed to reduce U.S. oil imports. Reports indicated that between 1985 and 1995, U.S. oil imports could almost double and interestingly, nearly half of this requirement will be used for the purpose of generating electricity. The United States is turning back to oil-fired facilities in order to generate electricity. Since the 1973 Arab oil embargo, the United States has taken steps to fight to protect American energy independence but today we are more dependent on imported oil than we were in either 1973 or 1979, the years of the last oil supply cutoffs. We have domestic alternatives to using oil for electric generation but the utilities are turning back to it for one reason: There is certainty about the cost and construction schedule for oil electric generation facilities. This cannot be said about either nuclear or coal plants, since in recent years the construction costs have risen sharply and construction schedules have fallen behind by years.

The French offer an example that I believe is deserving of our attention. After the world oil crisis in the 1970's it launched a nuclear powerplant construction program based on standardization. This program was devised because France wanted to reduce its dependence on imported oil for electric generation and had a preference for nuclear energy over other energy alternatives. As a result, today nuclear energy supplies 70 percent of France's electricity needs compared to 10 percent in 1974. Additionally, France now produces the cheapest electricity in Europe.

The legislation we are introducing today will reduce construction costs and shorten construction schedules. Under this new law the United States will be able to build a 1,200 megawatt nuclear plant for $1.5 billion in 6 to 8 years. This is a significant improvement over the cost and time involved in constructing recent facilities, some of which have cost over $5 billion and taken as long as 14 years to construct.

Standardization not only means energy security but means safety as well. Standardized nuclear powerplant designs will promote safety by concentrating resources on a few improved designs, by stimulating standardized programs of construction procedures and quality assurance, and by facilitating the sharing of construction and operating experience throughout the industry.

In addition to standardizing plants, this legislation provides for a long overdue elimination of the NRC and the creation of an independent agency with a single administrator. A single administrator will permit prompt, clear, and consistent decisions on safety issues, thus promoting and protecting public safety.

Recently, the U.S. Council for Energy Awareness [USCEA] requested a public opinion poll. The results confirmed that Americans support nuclear energy as an important part of their future.

Of 1,500 Americans polled by Cambridge Reports, Inc. in August of 1987: 79 percent said nuclear energy will be important in meeting the nation's future electricity needs, and 71 percent said nuclear energy is a good or realistic choice as an energy source for large-scale use.

This poll shows that Americans are willing to pursue the nuclear energy alternative in order to meet the increasing demand for electricity. The Nuclear Standardization and Safety Reform Act of 1988 offers a means of meeting these demands in a responsible fashion. This policy is consistent with public health and safety requirements and improves the current process of regulating the use of nuclear energy. It is my hope that you will join my colleagues and I in supporting this legislation.

Mr. CALLAHAN. Mr. Speaker, I rise to voice my strong support for the Nuclear Standardization and Safety Reform Act. It is past time that we dealt with nuclear industry issues by developing a rational nuclear energy policy.

The bill I have joined in cosponsoring today makes some basic, badly needed, changes in our current policy regulating the nuclear industry. It abolishes the Nuclear Regulatory Commission and establishes in its place a new Nuclear Safety Agency headed by one administrator. It provides for the preapproval of standardized nuclear powerplant designs and for early site review and site permits. Finally, the bill establishes a single permitting process for a combined construction and operating license.

Although there are currently 109 operating nuclear powerplants in the United States, nuclear power remains controversial in some areas of the country despite the excellent safety record the industry has exhibited over the years. I think enactment of this legislation will foster a higher degree of public confidence that nuclear power is safe and that it is an important energy source to defray our continuing reliance on foreign oil.

The creation of a Nuclear Safety Agency will not affect the current operations of the Nuclear Regulatory Commission nor will the NRC's regulatory functions be delayed. It will allow for a more efficient nuclear regulatory structure by reducing the number of top level decisionmakers. A single administrator will have more authority in crucial policy matters when it is imperative to have one individual with whom the buck stops.

Standardization is probably the most needed provision of this bill. It makes great sense to develop a generic nuclear powerplant design to avoid future construction of flawed plants. Standardization in France has proven highly successful and there is no reason the United States should not develop a similar policy. Nuclear construction is presently at a standstill, so this is the appropriate time to plan for the future by ensuring that new construction plans will meet the highest degree of technology to ensure design safety. Standardization is the means to accomplish this goal.

We have all witnessed the debacle of Seabrook and Shoreham, plants which have been constructed at tremendous expense to thousands of shareholders but which have not been permitted to operate. A combined construction permit and operating license is necessary to ensure that similar tragedies do not occur. If a safety problem is found, it will be found before millions of dollars are poured into construction. Such a procedure will also afford a more reasoned system of planning for electricity needs by providing appropriate assurances from the outset.

Mr. Speaker, I applaud my colleague, Congressman MOORHEAD, for introducing the Nuclear Standardization and Safety Reform Act, and I urge my colleagues to support it.

Mr. BARTON of Texas. Mr. Speaker, today I have joined with members of the House Energy and Power Subcommittee and several other Members of Congress to introduce the Nuclear Standardization and Safety Reform Act of 1988.

The legislation is intended to reform the process by which the United States builds, licenses, and regulates nuclear powerplants in this country.

Today, the United States has 109 nuclear powerplants in operation. The 109 plants represent the world's largest commitment to nuclear power, and produces as much electricity as the nuclear plants in France, the Soviet Union, and Japan combined.

The current construction and licensing practices for nuclear powerplants in the United States need reforms. The Nuclear Standardization and Safety Reform Act we are introducing today is intended to make these reforms and promote the next generation of safe and efficient power for this country.

There are two major provisions of the act which will go a long way to achieving these goals.

Standardization of nuclear powerplant design.

Creation of a single administrator for the Nuclear Regulatory Commission.

The present process has encouraged nuclear plant construction to begin before the design is completed. This has resulted in massive construction delays and cost overruns in recent years. By standardizing the design you will force design approval before construction can begin, thus eliminating many of the delays which have dramatically and prohibitively increased the costs of plant construction.

Mrs. LLOYD. Mr. Speaker, I am today introducing with the gentleman from California [Mr. MOORHEAD] the Nuclear Standardization and Safety Reform Act of 1988. This bill reorganizes the Nuclear Regulatory Commission into an executive agency called the Nuclear Safety Agency. Additionally, the bill promotes nuclear powerplant safety by establishing a procedure for the preapproval of standardized facility designs for such powerplants.

Mr. Speaker, President Carter's Kemeny Commission, which evaluated the accident at Three Mile Island, first recommended an abolition of the Nuclear Regulatory Commission and the formation of a single administrator. Since then, other studies have come to the same conclusion, including a report by the Appropriations Subcommittee on Energy and Water Development released in March 1985.

The first major problem with the Commission form of organization is that there are five independent and coequal leaders of the Commission, each of whom has their own independent agenda and interpretation of the responsibilities of the Commission. This in turn has led to the development of factions within the Commission which has conveyed mixed and confused signals to the 3,000 NRC employees and the industry which it regulates.

Mr. Speaker, if nuclear power is to play the necessary and important role in our future that many of us know that it must play, the Congress must reorganize the Government's regulator of this techology to bring predictability, stability and accountability in this system.

Mr. Speaker, this bill will promote nuclear powerplant safety. We should have a system in the United States that simplifies the regulatory process of licensing. Standardizing powerplant designs is one way to accomplish this goal. If the reactor manufacturers are encouraged to seek preliminary approval to standardized facility designs for the production of electricity, regulatory attention can be focused on safety. Additionally, the utility can be assured that its selection of a standardized design will minimize regulatory delay once that design has been chosen for a particular powerplant location.

Next, the bill permits the utilities to seek early review and approval for potential powerplant sites. Thus, when a standardized design is selected for a banked site, the utility can be assured of an expeditious decision by the regulator.

Finally, a one-stop licensing process which protects the public's right to participation will eliminate nonsafety-related regulatory barriers to bringing a commercial facility into operation. Our regulatory system today has too many barriers to commercial use of nuclear energy, not the least of which is the lengthy regulatory burden that must be overcome by any applicant who seeks to license a powerplant. We must grant the public a full right of participation, but we should also assure that the applicant is treated fairly and that safe nuclear powerplant designs are licensed expeditiously.

The reform legislation that I introduced today will accomplish all of these goals.

Mr. Speaker, anyone familiar with the energy needs of the Nation and the sources of energy supply will tell you that nuclear power is an essential component of our future energy supplies. This being the case, we should strive to set forth a system that accomplishes the goals of licensing safe nuclear powerplants with a minimum of regulatory burden and cost to the electric ratepayer. I hope the introduction of this bill will stimulate the appropriate review in Congress of these and other reform recommendations. I commend the gentleman from California [Mr. MOORHEAD] for his leadership in developing this legislation. I support it fully and urge my colleagues to do so as well.

BARRIERS TO COMPETITIVENESS

The Speaker pro tempore. Under a previous order of the House, the gentleman from California [Mr. LUNGREN] is recognized for 60 minutes.

Mr. LUNGREN. Mr. Speaker, America has awakened from its Black Monday nightmare. Public anxiety about the Dow Jones industrial average appears to have waned. And in the wake of a sharp decrease in unemployment this winter, fears of a recession seem to have abated.

Despite these developments, however, economic illusions seem at times to blind the congressional leadership. Mercantilism obstructs a recognition of the internationalization of our economy. "Gloom and Doom" divinations about wage trends mask the genuinely good news about employment. And Great Society labor legislation presumes that American businesses still compete in the economy of the 1960's. If expressed in law, these perspectives could sabotage the aspirations of employers and employees alike for decades to come.

In light of obvious anxiety on Wall Street about the impact of protectionist legislation, as well as the anxiety on Main Street, Representative MICHEL moved in November that the House conferees on the omnibus trade bill drop their insistence on the Gephardt amendment. Regrettably, at that time the House leadership successfully resisted that motion and thereby reaffirmed its backing of the Gephardt provisions.

THE GEPHARDT AMENDMENT

The Gephardt amendment targets those countries which maintain a trade surplus with the United States and simultaneously engage in "unfair" trading practices. It would require the offending nation and the U.S. Government to negotiate the complete abolition of all such practices. If consultations did not produce satisfactory results, the Gephardt amendment requires the President to impose tariffs or quotas to reduce the trade surplus of the country in question by 10 percent a year. Annual resurveys of each "excess surplus country" would monitor its efforts to eliminate trade barriers.

One could discuss at length the issue of equity as it pertains to this measure. In fact, enactment of the Gephardt amendment could ultimately result in the economic punishment of such countries as Japan, South Korea, and Taiwan. Yet for a variety of reasons, nations in other regions of the world—like Brazil or West Germany—would be exempt from the Gephardt penalties. While every protectionist law carries with it the peril of retaliation, an exclusive attack on our friends in Asia almost guarantees a backlash.

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Those of us in California are perhaps more attuned to this than Members from other parts of the country because we in fact are involved on an everyday basis in trade with the Pacific Rim. We do not view the Pacific Rim as a danger, we view it as a challenge. Unfortunately Congress as it does in many instances seems to be perhaps 20 or 30 years behind in the way we look at trade. There seems to be a perspective here that it is the Atlantic that gives us our hope, that those countries that we have dealt with across the Atlantic are somehow more comfortable for us to deal with and that we ought to focus our ire on the Pacific Rim.

This afternoon, however, I do not intend to focus on the internal contradictions of the Gephardt amendment. Rather, I propose to analyze the faulty premises of that measure—many of which were enunciated during the debate on the omnibus trade bill. Some proponents of the amendment equated tough action on behalf of so-called open markets with the renewal of confidence in American exporting capabilities. Unfortunately, experience has shown that protectionist policies actually diminish America's competitiveness. In "Asking for Protection is Asking for Trouble," a special report in the July/August 1987 issue of the Harvard Business Review, Marc Levinson points out that the rise of multinational corporations has made the task of protection impossibly complex. Mr. Levinson, the editorial director of the Journal of Commerce, made this observation:

> The character of these [multinational] relationships makes it highly unlikely that a system of protection appropriate to the needs of one unit will meet the strategic needs of others under the same parent. As joint venture, licensing, sourcing and distribution arrangements become more complex, the likelihood grows that the "relief" available under the international trade statutes will do more harm than good.

Mr. Levinson provides a valuable hypothesis about how this damage can come about. "Suppose a U.S. international company," he postulated, "establishes an overseas plant as the sole worldwide source of a product, while its competitor makes the same product in the United States. If the competitor can prove injury from the imports—and that the importing company received a foreign government subsidy to build its plant abroad—the U.S. Government can slap on duties that will make the U.S. company's imported products uncompetitive in its own country. The company would have to pay the duties or move its production elsewhere, probably at great cost."

The theoretical disruption of American multinational operations described by Mr. Levinson has a historical precedent. In 1985, American telecommunications companies and Congress worked together to force Nippon Telegraph & Telephone Co. [NTT] to purchase more American products. NTT eventually acceded to the American demands and awarded a $260 million contract to a U.S. company for digital telephone switching systems.

The announcement of the contract proved to be an empty victory, however. "The winner of the lucrative contract," Mr. Levinson points out, "was Northern Telecom, the U.S. subsidiary of a Canadian company that is a major worldwide competitor of U.S.-based manufacturers of telephone switching equipment. Coming at a time when U.S. demand for switches was slowing, the contract allowed Northern Telecom to keep up production, lower its per unit cost for switches sold in the United States market, and gain vital experience in the Japanese market, all to the disadvantage of its United States-based competitors. Ironically, Northern Telecom enjoyed the fruits of United States intervention at a time when United States telecommunications companies were complaining bitterly about its unfair practices to keep imports out of the Canadian market." Rather like the blunderbuss of the 17th century, protectionism can function as a powerful weapon. But it has a disturbing tendency to backfire and injure its user.

Mr. Speaker, we in this House seem to have become addicted to micromanagement. We try to run the Pentagon. We try to run the Health Care Financing Administration. We supervise and manipulate a host of other Government agencies. And then we express surprise when confusion erupts, the bureaucracy bogs down, and constituents express disgust at a Government that doesn't work! In my opinion, it is foolhardy in the extreme to apply these micromanagement practices to international business operations that are astonishing in scope and expanding daily in their complexity.

We all remember the famous declaration by Santayana that those who do not remember the past are condemned to relieve it. If we continue to march down the slippery slope of protectionism, we may repeat some very destructive mistakes indeed. Both the legislative and executive branches have given inadequate attention to the fact that when a foreign company finds itself barred from one sector of a market, it simply diversifies into other sectors and thereby becomes a stronger competitor against American firms. As an illustration of this point, Mr. Levinson recounts the story of the Voluntary Restraint Agreement [VRA] between Japan and America. Signed in 1981 and renewed annually until 1985, the agreement established a quota on the number of cars Japan could sell in the United States. According to economist Robert Crandall of the Brookings Institution, the higher prices which the agreement allowed American manufacturers to charge their customers resulted in $8 billion in before-tax profits in 1984.

In retrospect, those firms may have reaped the proverbial whirlwind. Rebuffed in America, Japanese auto firms soon invaded the European market long dominated by Ford and General Motors and gained a solid market share. Even worse, the Japanese rebounded off the VRA and into the market for luxury vehicles. Mr. Levinson notes that as a result of this new campaign, the Japanese manufacturers "quickly moved down the learning curve and developed the manufacturing and marketing techniques necessary to sell in a new, risky and hotly contested market niche. At the same time, the strong demand for and limited supply of Japanese cars guaranteed manufacturers healthy profits, which they could plow back into improving productivity and efficiency."

When I served on the Joint Economic Committee in the prior Congress and the Congress before that I had the opportunity to chair some hearings on the question of the voluntary restraint agreement. One of the amazing things that we learned was that as this author has suggested, the Japanese auto manufacturers probably profited more than American manufacturers from it. They were able, because the demand remained for their products, and because the supply was cut down at the insistence of our Government, to charge higher prices for their product per unit. Additionally as they moved into the luxury market they found that they made more money per unit because manufacturers make more money on a luxury car than a stripped-down or basic car.

The net result was that they had a greater return on their investment, greater return per unit built, greater return on the productivity of their worker and one of the long-term results of that was that those companies were allowed to return a larger percentage of their profit to continued research and development and modernization of the Japanese plants. That means they are in a better position now than they would have been to compete in the future with American automobile manufacturers.

So what did it get us? It got us higher cost autos, greater Japanese profits, and a larger percentage of profits plowed back into the Japanese auto manufacturing base all as a result of an action taken in the name of protecting the American consumer and the American worker.

Is it any wonder then that by the end of 1983 several Japanese companies had changed their mind. Now instead of opposing VRA, they in fact favored the retention of the VRA.

Barriers to trade prove just as disastrous in the long term as they do in the short term. It's common knowledge that protectionism burdens consumers. Import restrictions cost American consumers $53 billion in 1984. But many do not realize that tariffs and quotas can prove counterproductive to workers as well as consumers. Robert Lawrence and Robert Litan, senior fellows at the Brookings Institution, explain this problem in an essay for the May/June 1987 issue of the Harvard Business Review. "Protectionists," they write, "tend to believe that by diverting demand to domestic corporations, quotas will improve their profitability and prevent plant closures. Better prospects for profitability that attracts investment, however, may induce a change in plant location or the purchase of automated machinery. To the extent that protection encourages such a response, it can exacerbate dislocation and reduce employment."

Marc Levinson of the Journal of Commerce fortifies this argument. He sampled a dozen of the industries which won tariffs or quotas through escape clause proceedings from 1954 through 1979. Significantly, only one industry—the bicycle industry—maintained its position vis-a-vis imports once the government lifted protection. Eight industries subsequently requested that the International Trade Commission renew tariffs and quotas on their behalf. Mr. Levinson, in his conclusion, correctly observes that hopes for the salvaging of companies in decline through the tariff crutch amount to "pipe dreams," and rather expensive pipe dreams, I might add.

Opponents of protectionism frequently cite the Smoot-Hawley Act in the course of their arguments. It's a good example, because while Senator Smoot and Representative Hawley we as well-intentioned as Representative GEPHARDT and his supporters are today, the trade restrictions they authored accelerated the worldwide economic collapse known as the Great Depression. Yet some Americans may feel uncomfortable with the application of history lessons to contemporary policy. For them, it should suffice to know that protectionism is failing American workers today. As Messrs. Lawrence and Litan state in their article, employers who place their faith in the phony solutions of trade barriers frequently delay the implementation of internal reforms. Sometimes they procrastinate so long that only two reforms remain viable: layoffs and plant closings. Tragically, protectionism can give both embattled workers and harried consumers shares in a raw deal.

TRADE BALANCE STATISTICS

But for the moment, let's lay aside the preponderant evidence against the effectiveness of trade sanctions. As I indicated earlier, trade balances function as barometers of commercial vigor in the Gephardt amendment. And anyone who reads the newspapers following an increase in the trade deficit knows that protectionists routinely employ such announcements as the empirical foundations for their arguments. Yet trade deficits or trade surpluses really tell us very little about the condition of American commerce. In "The Changed World Economy," an essay for the spring 1986 edition of Foreign Affairs, Peter Drucker reflects on the implications of the "decoupling" between commodity prices and industrial production. commodity prices plunged during the past decade and according to a recent report by the Hudson Institute, will probably remain low for the rest of this century. Industrial activity has steadily expanded over the same period of time. This phenomenon has naturally brought about trade deficits in countries which export commodities—even when industrial production stays robust. Professor Drucker calculates that if the ratio between the prices of manufactured goods and nonoil products had remained the same from 1973 to 1985, America's trade deficit for 1985 would have dropped by a third—from $150 billion to $100 billion. "Even the United States trade deficit with Japan," Mr. Drucker adds, "might have been almost one-third lower, some $35 billion as against $50 billion. American farm exports would have bought almost twice as much. And industrial exports to a major U.S. customer, Latin America, would have held: Their near collapse alone accounts for a full one-sixth of the deterioration in U.S. foreign trade over the past 5 years. If primary product prices had not collapsed, America's balance of payments might even have shown a substantial surplus."

□ 1400

If in fact, as Professor Drucker suggests, the commodity price decline has reversed our trade relations with other countries, then trade balance figures leave us in the dark about the health of U.S. manufacturing.

Some hard-line advocates of protection may seize upon Professor Drucker's apparent acknowledgement that at least a portion of our trade imbalance with Japan cannot be attributed to commodity market difficulties. They may repeat the familiar refrain that "Japan, Incorporated" has systematically excluded American products to the detriment of our trading position. Messrs. Lawrence and Litan of the Brookings Institution demonstrate in their article in the Harvard Business Review that such a claim has no validity. "In 1981," they write, "Japan accounted for 25.2 percent of United States manufactured imports and 6.1 percent of manufactured exports. Given the growth in total United States imports and exports since 1981, simply maintaining these proportions in 1985 would have entailed a rise in our trade deficit with Japan of $28.6 billion—an amount little different from the actual rise of $29.9 billion. These facts hardly support the unlevel playing field claim; Japan simply picked up its share of the action." If this analysis is correct, the Gephardt amendment's attack on Japan would appear grossly misplaced. Trade policies based on that nation's surplus relative to the United States will only produce economic inefficiency and political fallout.

In an October 19 editorial for the Washington Times, columnist Warren Brookes, of the Detroit News, went even further than Lawrence, Litan, and Drucker and dismissed any notion that trade imbalances reflect negatively on America's competitiveness. Using an analysis prepared by the economics forecasting firm of H.C. Wainwright, of Boston, Mr. Brookes reveals that GNP growth has actually accompanied the expansion of trade deficits.

Mr. Brookes illustrates this correlation between trade deficits and commercial activity with statistics. During the 12 years of fastest economic growth in the 1952-86 period, real GNP growth averaged 5.45 percent. Gross domestic purchases grew an average of 5.75 percent. That means that a net trade deficit prevailed during these high-growth years. There was actually a trade surplus during the 12 years of slowest growth.

During the same timeframe, Mr. Brookes found that stronger economic growth occurred as the Nation moved toward a trade deficit. In the 21 years of movement toward a deficit, GNP averaged 3.4 percent growth. In contrast, GNP increased by an average of only 2.4 percent during the 14 years when America moved toward a trade surplus.

ECONOMIC INTERDEPENDENCE

Despite the logistical difficulties inherent in trade sanctions and the unreliability of traditional measurement devices, some protectionists may still maintain that it is possible to restrict imports without inducing complications for American business. A recent report by the Hudson Institute for the U.S. Department of Labor refutes such impressions. Entitled "Workforce 2000," the report reminds its readers that in previous years the United States could afford to bully or ignore trading partners. As of 1960, for example, exports comprised only 6 percent of America's GNP. But the United States then controlled 20 percent of international commerce. Today, America is no longer an economic behemoth. We devote more than a tenth of our GNP to exports. And our share of world trade has dropped to a lowly 9 percent.

So even though we have a larger percentage of our GNP that is dedicated to exports as a percentage of the total world trade, we have gone down. We need our trading partners more than they need us.

The Institute reports:

> When Japan expands rapidly it buys more Boeing jets for Japan's airlines, uses more American medical instruments in Japanese hospitals, and sends more wealthy Japanese tourists to visit the United States. Just as rapid growth in California's Silicon Valley created jobs in Michigan auto plants and New York investment banks, so growth in Japan and South Korea has created jobs in San Francisco hotels and Seattle aircraft plants. Put simply, the Japanese, the Germans, the Koreans, the Brazilians are not stealing American jobs—they are creating them.

In its conclusion to "Workforce 2000," the Institute strongly rejects trade barriers.

> Just as it is easier for a company to prosper in a rapidly growing market than to capture market share in a shrinking one, the United States will be more prosperous in a world in which knowledge, technology and markets are proliferating, rather than one where the U.S. dominates a static or slowly growing world economy. * * * Whatever is done to improve U.S. competitiveness must always be undertaken within the context of strengthening the world economy.

AMERICA IN DECLINE?

Sadly, the pleas of the Hudson Institute may fall on deaf ears in Washington. Voices in the congressional leadership have already proclaimed the apocalypse of the American economy. Legislators who accept the accuracy of such assessments may act precipitously to prevent what they see as the collapse of the American dream. When the sky is falling, you don't stop to measure the clouds.

Hopefully, lawmakers will question the basis of these Chicken Little forcecasts. The gross national product rose by 4.5 percent in the fourth quarter of 1987. Last week, the Labor Department announced that the unemployment rate had dropped to 5.6 percent—its lowest point in 8½ years.

You could almost hear some of the groans on Capitol Hill with this good news. It denied some of the validity of their arguments. It takes away from them some of the vigor of their criticism of the U.S. economy. Yet those are facts.

February marked the 63d month of economic recovery, making the current expansion the longest peacetime expansion since the Second World War. Profits in the fourth quarter of 1987 soared by an astonishing 51 percent. Exports grew by 30 percent in the same timeframe. And in 1987 as a whole, industrial production increased by more than 30 percent. Edward Yardeni, an economist with Prudential Bache, characterized business in 1987 as "fabulous. Not good, not great, but fabulous."

Corporations, families and the American worker have all participated in this resurgence. The minority members of the Joint Economic Committee issued a report in August 1987 which pointed out that inflation-adjusted investment grew by 47.5 percent from 1982 to 1986. In contrast, such investment contracted by 22.5 percent over the 4 preceding years and by 19.9 percent from 1974 to 1978.

In October of last year, the staff of the Senate Task Force on Economic Growth and Opportunity revealed that "the combination of healthy economic growth and low inflation since 1982 has resulted in an additional $2,840 of median family income since 1982. Despite the severe losses which began in 1979, the level of real median family income is now 5.3 percent above the 1980 level."

As far as workers are concerned, it's important to recognize that the American economy has absorbed the new workers of the baby boom generation with some difficulty. The August JEC report documented that the civilian labor force increased by 10.3 million from 1974 to 1978, but there were a million more new jobseekers than there were new employees. Between 1978 and 1982, the number of employees grew by 3.5 million. But the labor force expanded by 8 million. The Reagan expansion has finally succeeded in reversing these troubling ratios. From 1982 to 1986, employment increases exceeded labor force additions by 2.5 million.

In the minds of some in the majority leadership, the purported proliferation of low-wage jobs may outweigh in importance any general improvement in the economy. These individuals seem to envision a brave new America divided between hamburger distributors and computer tycoons. They base their apprehensions on a December 1986 study performed by economists Barry Bluestone and Bennett Harrison for the Joint Economic Committee. That study concluded that 58 percent of the jobs created between 1979 and 1984 paid less than $7,011 per year.

Unfortunately for Messrs. Bluestone and Harrison, Bureau of Labor statistics data refuted their analysis. Criticism by columnist Warren Brookes and others have exposed the gimmicks in their research methods. The combined rebuttal proved so withering that Bluestone and Harrison felt compelled to completely revise their findings. They now say that between 1979 and 1984, only 40 percent of the new jobs paid less than $11,184.

Like Rodney Dangerfield, however, Bluestone and Harrison still don't get no respect. A new evaluation of labor market trends by the American Enterprise Institute shows that the two economists did not merely overstate the increase in low-wage jobs. On the contrary, the AEI presentation shows that Bluestone and Harrison actually inverted the real wage trends of the later Carter years and the early Reagan years. AEI revealed that "there has been no rise in the share of jobs with low earnings." Rather, a "rise in the share of jobs with high earnings" has taken place. Here are some of the AEI's key findings, as reported by Warren Brookes in his November 19, 1987, column in the Washington Times:

First. The fraction of Americans who earned low wages declined from 30.1 percent in 1973 to 28.9 percent in 1985.

Second. A rise in the share of high-wage jobs coincided with this trend. The share of upper-income positions grew from 32 percent in 1979 to 33.4 percent in 1985.

Third. From 1979 to 1985, the institute discovered, only 24 percent of new jobs fell in the low-wage category. On the other hand, an astonishing 51 percent—a majority—of new jobs created in the same period provided high earnings.

Fourth. This last figure contrasts dramatically with comparable data from the 1973-79 timeframe. During that period, only 25 percent of the new jobs paid high earnings.

Rather than producing McJobs, as some have called it, that is, suggesting that the vision of America for young people is they can find a job at the local MacDonald's but nowhere else, that people will no longer have an opportunity to work in the manufacturing field but only in the service industry as defined by the local hamburger stand. Rather than that, however, the Reagan revolution has redistributed wealth far more effectively and efficiently than the welfare state policies of the 1970's.

The fact of the matter is that job mobility is upward not downward. The creation of jobs is in the higher and middle sectors and not in the lower sectors.

While researchers for the Hudson Institute predicate future improvements in wage trends on better producivity, their "Workforce 2000" report essentially corroborates the work of the American Enterprise Institute. Concerns that the growth of service sector jobs have eroded the middle class are "largely unfounded," the institute maintains. "Workforce 2000" warns that a variety of environmental factors may produce exaggerations of the number of low-wage jobs. The number of women and young people in the work force, for example, increased significantly over the past decade. Fringe benefits rose by an average of 4 percent a year between 1973 and 1985—a development sure to dampen wage rates for middle income workers. Finally, the Hudson Institute stresses that "the economy has been creating more high-wage, high-skill jobs, not fewer."

In sum, no reliable evidence exists to substantiate Mr. GEPHARDT's fear that "the middle class is shrinking." No reliable evidence exists to show that America has entered "the state of decline." No empirical evidence exists to support drastic trade policies suited to an economic invalid. Such policies will prove about as beneficial as giving a penicillin injection to an Olympic decathlete.

MANDATED HEALTH COVERAGE

Like the decathlete, American businesses do require strength in order to succeed in difficult competition. Yet even as some in the Congress propose to go to extreme and self-defeating lengths to ensure our commercial success in world markets, others have backed labor legislation which would reduce our competitive abilities. On a bipartisan basis, Members of the House and Senate have expressed concern about health insurance coverage. The Employee Benefit Research Institute, or ERBI, reported earlier this year that 35 million Americans do not have health insurance coverage. Of that group, EBRI estimates that 69 percent are individuals or dependents of individuals who have jobs at least part of the year.

The U.S. Chamber of Commerce reported in June 1987:

> According to the Small Business Administration, over 90 percent of firms with 25 employees or more offer health care plans to employees. 79 percent of firms with fewer than 25 employees offer coverage; 47 percent of firms with fewer than 10 employees offer coverage. Not surprisingly, the smallest enterprises are the ones with the least resources to enable them to provide health care plans; they also have the greatest employee turnover rate and the greatest likelihood of going out of business.

In response to the apparent crisis in health insurance coverage, Congressman HENRY WAXMAN has introduced H.R. 2508, the Minimum Health Benefits for All Workers Act of 1987. This legislation would require every single employer to provide comprehensive health benefits. Any employee who worked more than 17½ hours a week, along with his wife and children, would have to be provided with health insurance coverage. The legislation mandates that each employer pay at least 80 percent of the premiums and 80 percent of the coinsurance for expenses incurred after the deductible is met.

Prof. Uwe Reinhardt, of Princeton Univerisity, has quite correctly commented that mandated health benefits legislation represents "a tax on employment and entrepreneurship." A review of the likely effect of the bill on the financial resources of U.S. companies substantiates this contention. The U.S. Chamber of Commerce has estimated that the Waxman bill would provide each employer with an additional $1,186 in costs for every employee. The Institute for Research on the Economics of Taxation provides even more disturbing data. It notes in a recent memorandum:

> The [Waxman] bill would increase the costs of supplying and hiring labor by $100 billion. The net result of the increased price of labor would lead to a million fewer jobs in the economy than would otherwise occur. Fewer jobs means less labor services and less output. The [Waxman] bill would result in a $25 billion a year less total real output in the economy. These macroeconomic effects would intensify over time due to the increasing costs of the mandated minimum health insurance benefit.

□ 1415

The Waxman legislation presupposes the outdated view that American businesses are financial mammoths which can readily function as auxiliaries of the welfare state. In fact, as I suggested earlier, these firms need capital to compete in the rough and tumble international marketplace. It is small business—that segment of the economy most likely to be adversely affected by mandated health benefits—that has functioned as the engine for job growth in recent years. According to the U.S. Chamber of Commerce, small business provided 60 percent of America's 17 million new jobs between 1976 and 1984. In "Workforce 2000," the Hudson Institute projects that as a result of the growing dominance of the service sector, the role of small businesses in the economy will increase in the next two decades. Clearly, Mr. WAXMAN and his allies have constructed their aforementioned legislation on the sandy soil of economic misinformation. In the Age of Information, that is a dangerous flaw indeed.

Mr. Speaker, we ought to recognize that our tremendous success in job growth in this country which I mentioned earlier is to be contrasted with the job growth or lack thereof in the other major industrial countries. If you were to take Western Europe over the last decade or so you would find that they have had a net increase in jobs of zero. Some of those countries have actually had a loss of jobs. During that period of time we have had the most extraordinary increase in jobs that you could have.

One of the major factors in that, it is my belief, is the tremendous vitality of the small business sector in the United States. And one of the reasons it is so vital and vibrant is that we have recognized if you put too many constraints on small business it cannot function. So what many of us are saying is this: We do need to meet the problems of inadequate health care coverage to a significant number of American citizens. But to impose that willy-nilly on the employers of America, particularly the small business employers of America, may very well undercut what we want to do because we will decrease the total number of jobs in America that are available, we will stymie that sector of our economy which is creating more jobs than any other and you wonder how you help a worker by only giving them health care but not giving them a job.

So even though we are attempting to do it with the best of intentions, we may very well be defeating the most basic thing those workers need which is a job, in fact.

I yield to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. I thank the gentleman for yielding.

Mr. Speaker, I would like to take a couple of minutes to congratulate the gentleman for bringing what, to me, is a very important issue for this Congress to be made aware of. I remember very well back in 1982 when the media, and frankly all of us in this Chamber waited around with bated breath as we watched the unemployment rate continue to rise. Those monthly reports would come out and people on our side of the aisle would cringe and people on the other side of the aisle, too often, seemed relieved.

And it is very important that the gentleman from California, my distinguished colleague from Long Beach, has pointed to the fact that not a great deal of attention has been focused on that dramatic reduction which we have seen in the unemployment rate.

He also refers, Mr. Speaker, to this very critical issue of the imbalance of trade and I think that his work on the Joint Economic Committee is to be lauded.

There are many people who have been critical of his expertise in the area of economic policy. I think through this special order he has been able to let all of our colleagues on both sides of the aisle and others who may be monitoring this well aware of his tremendous expertise in that area. I think it is a special order which many people should take the opportunity to read when the CONGRESSIONAL RECORD comes out.

I simply would like to congratulate the gentleman for his fine work.

Mr. LUNGREN. I thank the gentleman for his comments; I appreciate them very much. It is something that is true here that we oftentimes look at bad news and forget good news. And the remarkable accomplishment of this administration with the support of Congress in terms of the longest of peacetime uninterrupted economic expansion is something we not only ought to be proud of but we ought to recognize so that we attempt to see why it took place and make sure, as we embark on a new quest for new legislation, we do not undercut those very things that brought us this development, particularly when we recognize this development has been accompanied—actually not accompanied, but a great deal of this development has been embodied in the tremendous number, the millions of new jobs formed in this country.

I think these statistics last month were something in the neighborhood of half a million new jobs created during the one month period of time.

Mr. Speaker, when it comes to placing additional burdens on American business, the advocates of mandated health benefits take the prize for lousy timing. Congressional discussion of new impositions on employers comes as Japanese companies prepare to intensify their competition with United States firms. As Peter Drucker pointed out in the summer 1987 issue of Foreign Affairs, many in Japan now recognize that its current trade policies are ill-suited for the 1990's. Professor Drucker explains:

> Indeed most informed Japanese accept that in ten years their country's export surplus will have disappeared or at least shrunk sharply.

Ordinarily, the Japanese imitation strategy targets mature industries. Such industries sell products to highly developed markets and employ large numbers of blue collar workers. Unfortunately for the Japanese, reliance on the wage differentials between their industries and those of the West can render them vulnerable to competition from automated factories. And as we have seen here in the Congress, the inherently adversarial nature of this type of trade can breed pressures for protection—regardless of how counterproductive such policies can be for the importing countries.

Adversarial or not, Western nations may long for the old days if the Japanese implement their new commercial strategy. In his essay, Professor Drucker discusses four of the new avenues Japanese merchants intend to employ to gain entry into the international marketplace.

First, spurred by the voluntary restraint agreement I spoke about earlier, many Japanese companies now seek to compete with American firms on the basis of quality rather than price. Sony consumer electronics, for example, costs up to 40 percent more than comparable American goods.

Second, Japanese industries plan to integrate more automation into their operations in order to improve their cost structure against South Korea and other new rivals, particularly in the Pacific rim.

Third, Japan has begun to join the multinational movement, placing many of its production centers in foreign countries. In 1983, only two percent of goods sold by Japanese businesses were produced abroad. In 1986, that figure had risen to 5 percent. Mr. Drucker predicts that by the mid-1990's, the share of Japanese products manufactured on a multinational basis will rise to 20 percent.

Fourth, finally, the Japanese hope to use outflanking to get a running start on the markets of the next decade. Professor Drucker relates:

> Outflanking aims at getting and keeping leadership in those industries that are taking over from the smokestack industries as the engines of economic growth. These industries are already well established. The science on which they base themselves is known. They already enjoy large and rapidly growing markets, especially in the developed West. Yet their technology is still changing. Hence it is possible in these industries to look five years ahead and predict what new and advanced technology and products will be needed tomorrow but can already be defined and specified today. This then makes possible organized systematic work today on these future products.

Mr. Drucker continues:

> The outflanking strategy, like training and management, is based on an American invention of this century: program research . . . Now the Japanese are systematically applying program research to gain leadership in the new major growth industries.

The Japanese have experienced decidedly mixed results in their outflanking effort. They have obtained significant market shares in the semiconductor and robotics industries, but lag far behind in pharmaceuticals. The Congress should remain cognizant, however, of the challenges likely to confront American businesses in coming years.

CONCLUSION

Mr. Speaker, American business may very well need assistance from the Federal Government as it strives to compete around the globe. But as both the Hudson Institute and Peter Drucker have made clear, America and the nations that compete with it in the international markets are in the midst of a swiftly moving industrial revolution—a revolution that is reorienting their economies towards automation and services. Any legislation that attempts to return our businesses to an economic "Old Regime" could make U.S. companies obsolete in international competition.

Let us not relearn the lesson that England learned just a short time ago. Such a development would leave many American workers not only without jobs, but without hope.

Mr. Speaker, I yield to the gentleman from California.

Mr. DREIER of California. I thank my friend for yielding.

Mr. Speaker, I would like to once again extend congratulations to the gentleman for this fine special order and also congratulate him for focusing on one of the paramount management experts in the entire world who happens to be one of my most famous constituents, Peter Drucker, and my former teacher at Claremont Graduate School.

I very much appreciate his fine work.

Mr. LUNGREN. I thank the gentleman. I would commend to the attention of my colleagues that what I would call seminal work by Peter Drucker on this quest. I think it not only deals with the facts but it deals with them in the most instructive fashion and it probably would be a lesson to many of us as we are in the heat of a battle in a Presidential election year when there is a lot of talk about new ideas coming out of Washington that just because something is called a new idea does not mean that it works or that it is good.

Professor Drucker has pointed us in the proper direction.

I thank the Speaker and I yield back the balance of my time.

A FURTHER REPORT ON THE SITUATION IN AFGHANISTAN

The SPEAKER pro tempore (Mr. CARDIN). Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 10 minutes.

Mr. DREIER of California. Mr. Speaker, I take the well to talk about an issue which was discussed earlier in the House which I think is a very important one. This week we were scheduled to consider a very important resolution designed to reaffirm our commitment to the Mujahidin, the freedom fighters in Afghanistan.

There has been some ongoing debate as to whether or not we should proceed with that resolution in light of the fact that the Soviet Union has, as we all know, announced that beginning around May 15, if they could come to an agreement, within 10 months they will withdraw the 120,000 troops who have since December 27, 1979, continued to perpetrate genocide on the people of Afghanistan.

Let me say, Mr. Speaker, that I for one am very optimistic and hopeful that the Soviets are sincere in their plan to withdraw those troops. But I think that as we embark on the agreement which will be signed with the Government of Pakistan and the Government of Afghanistan, that we should reaffirm our commitment for a number of reasons.

We know that on December 8 of last year, President Reagan and General Secretary Gorbachev signed that historic Intermediate Nuclear Force Treaty. We know that we are in the process of observing negotiations which are taking place concerning Central America and we know that at this moment the Deputy Foreign Minister of Parkistan, Mr. Noorani, and the Government of Afghanistan, the puppet government of the Soviet Union are in the midst of negotiations which are being mediated by a representative, Mr. Cordovez of the United Nations.

□ 1430

My concern, as we look at this issue, Mr. Speaker, is that we do everything that we can to recognize the situation which I pointed out day before yesterday. This came from an article which was in the Washington Times, and I refer to the fact that the puppet government in Afghanistan has stated through its Ambassador to India that we will see that the puppet government is "able to withstand any opposition from the Mujahidin, assuming that the United States withdraws its support of the Mujahidin."

I cannot help but remember the statement that was made, and that I had quoted, by Daniel Ortega on December 13 of last year in Nicaragua when he said: "If the Sandinistas possibly were to lose an election, they would give up the government, but they wouldn't give up power."

Shifting back to South Asia and Afghanistan, I know that since December 27, 1979, we have seen Pakistan and the United Nations, by an overwhelming 123 votes of the United States and others, condemn the puppet government of Afghanistan, the government of Dr. Najibullah as illegitimate. We believe very strongly that the Government of Afghanistan is an illegimate government.

Why should we not comply with the request of President Zia of Pakistan that any agreement that is embarked on between Pakistan and Afghanistan comes about through an accord signed with an interim government which includes the representatives of the seven different political parties which have joined together in an alliance with Afghanistan? The 3.2 million refugees forced into Pakistan because of the war, the 1.8 million forced into refuge into Iran, and the other Afghan refugees should all be brought into the negotiating process.

We know full well that there has been just this week a setback in the alliance in that Mr. Mujaheddi, who is one of the alliance leaders has withdrawn his support of the alliance, and I say here on the floor of the Congress, in the name of peace for Afghanistan, I hope very much that the alliance is able to reassemble, that Mr. Mujaheddi is able to come back and join in this quest for freedom as the people of Afghanistan are simply trying to enjoy that very precious right to religious freedom which we all in this country are able to enjoy.

Mr. Speaker, I am concerned that in the past several weeks we have seen an increase in the ties established between the Najibullah government in Afghanistan and the Soviet Union.

We have also seen an increase in not only economic ties, but also military ties between the Government of Moscow and the Government in Kabul.

Mr. Speaker, this leaves one to question the sincerity, especially in light of the statement that was made by Ambassador Azhar in India, in very clearly stating that the Government in Kabul would have the ability to hold off any attempt by the Mujahidin if the United States does withdraw its support.

Many times here in the well I have pointed out what it is that the Soviets have done in Afghanistan since December 27, 1979, and, Mr. Speaker, I hope and pray that this is the last time that I have to hold up this little butterfly bomb; that is exactly what this is. It is referred to as that. This is part of a bomb which comes off of the MI-24 Hind D Soviet attack helicopter which is being utilized in Afghanistan, and I will explain it, Mr. Speaker.

About 200 of these little butterfly-type bombs are put in a cartridge lying end to end. They shoot off of the MI-24, the Hind D attack helicopter, and they float to the ground. There are just enough explosives placed inside of this that when a little child picks up this butterfly bomb it blows his or her hand off. I have said many times that tragically throughout history children have been the victims of war. The unfortunate thing is that since December 27, 1979, the Soviets have made Afghanistan children the targets, not the victims, the targets of their war by placing 2 million of these on the ground in Afghanistan, and I am sure that there are a great many people who have seen accounts that have been carried in the news. As I have said time and time again, far too little press attention is focused on the plight of the children of Afghanistan, but we have seen many young children who are the victims, and many of my colleagues know, and many of my colleagues have had the opportunity in the past to meet young Hazrat Kahn, the young boy who was walking from his home and had himself shot up from gatling guns from four MI-24 Hind attack helicopters.

Mr. Speaker, what I am saying is these people have suffered. The prewar population in Afghanistan was 15 million. Well over a third of the people have either been killed or forced into refuge. If you juxtaposed that to the kind of population shift which we would have in the United States, it would be overwhelming to see a flow into Canada and Mexico. One and a half million people have been killed, and the goal of the Soviets again with the children is not to kill them, because a child who is killed is buried, but a maimed child, which is their goal, is a greater burden on the people. They have kidnaped over 63,000 young children in an attempt to Sovietize them, so I guess what I am saying, Mr. Speaker, is that we hope and pray that the Soviets do withdraw from Afghanistan, that we be very, very cautious because these people have been victims of genocide. Dan Rather has said it, and many people have said that, so they are going to be a little skeptical as we embark on it.

Mr. Speaker, I have introduced a resolution in the House. It has well over 40 cosponsors, and I hope and pray that we will be able to bring that resolution or a similar resolution to the House floor. That resolution will call on the State Department, call on all of those involved to maintain the commitment of the United States of America to these brave, courageous Mujahidin, and at the same time we hope that any agreement which is signed will be signed not with what has been called by most everyone an illegitimate government, but with an interim government so that we can finally see peace come to South Asia.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Davis of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. Davis of Illinois, for 5 minutes today.

Mr. Dornan of California, for 5 minutes today.

Mr. Smith of New Jersey, for 5 minutes today.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Hubbard, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Rostenkowski, for 5 minutes, today.

Mr. Panetta, for 5 minutes, today.

Mr. Gonzalez, for 60 minutes, on March 14.

Mr. AuCoin, for 60 minutes, on March 23.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. Dreier of California, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Davis of Illinois) and to include extraneous matter:)

Mr. Broomfield.
Mr. Jeffords.
Mr. Weldon.
Mr. Horton.
Mr. Hastert.
Mr. Fields.
Mr. Thomas of California.
Mr. Lowery of California.
Mr. Jeffords.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Lipinski in three instances.
Mr. Traficant in two instances.
Mr. Skelton.
Mr. Smith of Florida.
Mr. Lantos.
Mr. Fascell in two instances.
Mr. Hoyer.
Mr. Panetta.
Mr. Murtha.
Mr. Torres.
Mr. Kleczka.
Mr. Hochbrueckner.
Mr. Udall.
Mr. Pease.
Mr. Dwyer of New Jersey.
Mr. Kostmayer.

ADJOURNMENT

Mr. DREIER of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 39 minutes p.m.), under its previous order, the House adjourned until Monday, March 14, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3109. A letter from the Director, Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of March 1, 1988, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 100-173); to the Committee on Appropriations and ordered to be printed.

3110. A letter from the Chairman, District of Columbia Retirement Board, transmitting the Board's comments on the enrolled actuary's report on the disability retirement rate for police officers and firemen, pursuant to D.C. Code Ann. section 1-725(b); to the Committee on the District of Columbia.

3111. A letter from the Auditor, District of Columbia, transmitting a report entitled, "LaSalle Housing Project", pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

3112. A letter from the Secretary of Education, transmitting a draft of proposed Legislation to terminate the perpetual trust fund for the American Printing House for the Blind, and for other purposes; to the Committee on Education and Labor.

3113. A letter from the Chairman, Environmental Protection Agency, transmitting a report on wastes from the combustion of coal by electric utility power plants, pursuant to 42 U.S.C. 6982(n); to the Committee on Energy and Commerce.

3114. A letter from the Administrator, Agency for International Development, transmitting the agency's annual report of actions taken to increase competition for contracts during fiscal year 1987, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

3115. A letter from the Archivist, National Archives, transmitting a report of the agency's activities under the Freedom of Information Act during 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3116. A letter from the Chairman, Council on Environmental Quality, transmitting a report of the agency's activities under the Freedom of Information Act during 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3117. A letter from the Chairman, Council on Environmental Quality, transmitting the agency's report of its compliance under the Government in the Sunshine Act during calendar year 1987, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3118. A letter from the Assistant Secretary for Administration, Department of Transportation, transmitting notification of the proposed alteration of a Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3119. A letter from the Director, Federal Emergency Management Agency, transmitting the agency's annual report of actions taken to increase competition for contracts during fiscal year 1987, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

3120. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report of the Commission's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3121. A letter from the Secretary of Labor, transmitting a report of the Department's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3122. A letter from the Deputy Associate Director of Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3123. A letter from the Secretary of the Interior, transmitting copies of the "1988 Update to the National Plan for Research in Mining and Minerals Resources" and the "1987 Report on the Mineral Institute Program of the U.S. Department of the Interior," pursuant to 30 U.S.C. 1229(e) and (c); to the Committee on Interior and Insular Affairs.

3124. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend section 5544 and 5546 of title 5, United States Code, relating to Sunday premium pay for civil service employees, to accommodate schedules in foreign areas where Sunday is a routine workday and another day of the week is officially recognized as the day of worship; to the Committee on Post Office and Civil Service.

3125. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to amend title 5, United States Code, to provide a system of performance-based pay increases for the General Schedule workforce, and for other purposes; to the Committee on Post Office and Civil Service.

3126. A letter from the Special Counsel, U.S. Merit Systems Protection Board, transmitting a copy of a report by the Administrator of the Environmental Protection Agency of the conclusion of his investigation into allegations of violations of law and regulation, abuse of authority and creating a substantial and specific danger to public health and safety by officials of EPA Region V, Chicago, IL, pursuant to 5 U.S.C. 1206(b)(5)(A); to the Committee on Post Office and Civil Service.

3127. A letter from the Secretary of Defense and the Administrator of Veterans' Affairs, Veterans' Administration, transmitting their joint report on the sharing of medical resources between the two agencies, pursuant to 38 U.S.C. 5011(f); jointly, to the Committees on Veterans' Affairs and Armed Services.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DAVIS of Illinois (for himself, Mr. Ray, Mr. Stratton, Mrs. Martin of Illinois, Mr. Swindall, Mr. Schulze, Mr. Robinson, Mr. Hutto, Mr. Badham, Mr. Hyde, Mr. Eckart, Mr. Leath of Texas, Mr. Nichols, and Mr. Kasich):

H.R. 4128. A bill to amend title 10, United States Code, to maintain and improve the defense industrial base of the United States by specifying the management responsibilities of the Under Secretary of Defense for Acquisition, encouraging investment in emerging technologies and modernized production facilities, fostering the dedicated participation of private domestic sources, and discouraging unfair practices by foreign sources; to the Committee on Armed Services.

By Mr. HUBBARD:

H.R. 4129. A bill to amend the Internal Revenue Code of 1986 to permit farmers to purchase tax free certain fuels for farm use, and for other purposes; to the Committee on Ways and Means.

By Mr. PEASE:

H.R. 4130. A bill to expand world trade, promote economic development by providing debt relief for highly indebted, less developed countries, and ensure the soundness of the world financial system; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KANJORSKI:

H.R. 4131. A bill to change the date of the beginning of the Vietnam era to provide certain benefits available to veterans of a period of war to veterans who served in Southeast Asia during the period beginning on March 1, 1961, and ending on August 4, 1964; to the Committee on Veterans' Affairs.

By Mr. KLECZKA (for himself, Mr. Hawkins, Mrs. Schroeder, and Ms. Pelosi):

H.R. 4132. A bill to amend section 1977 of the Revised Statues of the United States to require equal treatment of males and females; to the Committee on the Judiciary.

By Mr. LUJAN:

H.R. 4133. A bill to amend the Second Supplemental Appropriation Act, 1961, relating to the lease of certain lands from the Isleta Indian Tribe for a seismological laboratory; to the Committee on Interior and Insular Affairs.

By Mr. MOORHEAD (for himself, Mr. Lent, Mr. Barton of Texas, Mr. Bilirakis, Mrs. Byron, Mr. Callahan, Mr. Dannemeyer, Mr. Darden, Mr. Fields, Mr. Huckaby, Mrs. Lloyd, Mr. Murphy, Mr. Oxley, and Mr. Nielson of Utah):

H.R. 4134. A bill to amend the Atomic Energy Act of 1954 to encourage the development and use of preapproved standardized designs; to promote safer and more effective nuclear regulation, siting, and licensing, to abolish the Nuclear Regulatory Commission and establish the Nuclear Safety Agency, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

By Mr. NIELSON of Utah:

H.R. 4135. A bill to amend the Communications Act of 1934 to permit telephone common carriers to compete in the delivery of cable television programming, and for other purposes; to the Committee on Energy and Commerce.

By Ms. PELOSI (for herself, Mr. Coelho, Mr. Hoyer, Mr. Waxman, Mr. Stark, Mr. Atkins, Mr. Beilenson, Mrs. Boxer, Mr. Cardin, Mr. Clay, Mr. Coyne, Mr. Crockett, Mr. DeFazio, Mr. Dellums, Mr. Downey of New York, Mr. Dymally, Mr. Edwards of California, Mr. Fauntroy, Mr. Fazio, Mr. Foglietta, Mr. Frank, Mr. Gejdenson, Mr. Green, Mr. Hawkins, Mr. Kastenmeier, Mr. Kennedy, Mr. Leland, Mr. Lewis of Georgia, Mr. Lowry of Washington, Mr. Matsui, Mr. Miller of California, Mr. Owens of New York, Mr. Rangel, Mrs. Schroeder, Mr. Shays, Mr. Solarz, Mr. Stokes, Mr. Studds, Mr. Torres, Mr. Towns, Mr. Weiss, and Mr. Yates):

H.R. 4136. A bill to promote the provision of, and provide financing for, appropriate patient care for individuals with acquired immune deficiency syndrome (AIDS); jointly, to the Committees on Energy and Commerce, Ways and Means, and Education and Labor.

By Mr. ROBERTS;

H.R. 4137. A bill to amend the Food Security Act of 1985 to increase the number of acres placed in the conservation reserve program, to establish an environmental conservation acreage reserve program to protect water quality and wildlife habitat, to otherwise improve the program, and for other purposes; to the Committee on Agriculture.

By Mr. RODINO (for himself and Mr. Conyers):

H.R. 4138. A bill to amend the Victims of Crime Act of 1984 to repeal section 1402(c) of such Act and to modify the crime victims fund; to the Committee on the Judiciary.

By Mr. SHARP (for himself and Mr. Bryant):

H.R. 4139. A bill to amend the Inspector General Act of 1978; to the Committee on Government Operations.

By Mr. SHARP (for himself, Mr. Gejdenson, and Mr. Bryant):

H.R. 4140. A bill to require an Office of Investigations within the Nuclear Regulatory Commission to the Committee on Interior and Insular Affairs.

By Mr. SUNDQUIST:

H.R. 4141. A bill to provide for discounted sales to eligible veterans of homes held for an extended time by the Veterans' Administration; to the Committee on Veterans' Affairs.

H.R. 4142. A bill to provide that for taxable years beginning before 1980 the Federal income tax deductibility of flight training expenses shall be determined without regard to whether such expenses were reimbursed through certain veterans educational assistance allowances; to the Committee on Ways and Means.

By Mr. LOWRY of Washington (for himself, Mr. Vento, Mr. Ackerman, Mr. Leland, Mr. Foglietta, Mr. Manton, Mr. Mfume, Mr. Stark, Mr. Owens of New York, Ms. Oakar, Mr. Oberstar, Mr. Fauntroy, Mr. Frank, Mr. Bonker, Mr. Torres, Mr. Martinez, Mr. Matsui, Mr. Brennan, Mr. Rodino, and Mr. Waxman):

H.J. Res. 490. Joint resolution making emergency supplemental appropriations for the fiscal year ending September 30, 1988, for urgently needed assistance for the homeless as authorized in the Stewart B. McKinney Homeless Assistance Act; to the Committee on Appropriations.

By Mr. GRANDY (for himself, Mr. Stenholm, Mr. Robert F. Smith, Mr. Glickman, Mr. Marlenee, Mr. Herger, Mr. Lewis of Florida, Mr. English, Mr. Gunderson, Mr. Harris, Mr. Schuette, Mr. Campbell, Mr. Penny, and Mr. Holloway):

H. Con. Res. 261. Concurrent resolution expressing the sense of Congress regarding trade with Japan in beef; to the Committee on Ways and Means.

By Mr. MINETA (for himself, Mr. Howard, Mr. Hammerschmidt, Mr. Lewis of Georgia, Mr. Gingrich, Mr. Smith of Florida, Mr. Molinari, Mr. Clay, Mrs. Collins, Mr. Kolter, Mr. Kleczka, Mr. Clinger, Mrs. Bentley, Mr. Pepper, and Mr. Vento):

H. Con. Res. 262. Concurrent resolution to express the sense of the Congress that the Secretary of Transportation should conduct a full investigation into the management of Texas Air Corp. and Eastern Air Lines since Eastern's acquisition by Texas Air Corp.; to the Committee on Public Works and Transportation.

By Mr. WELDON:

H. Con. Res. 263. Concurrent resolution providing that Congress should immediately begin consideration of additional deficit reduction measures as a part of the current budget process in order to achieve the fiscal year 1989 fixed maximum deficit target of $136 billion; to the Committee on Government Operations.

By Mr. MICA (for himself, Mr. Kostmayer, Mr. Fascell, Mr. Hamilton, Mr. Bonker, Mr. Wolpe, Mr. Gejdenson, Mr. Berman, Mr. Levine of California, Mr. Feighan, Mr. Weiss, Mr. Broomfield, Mr. Lagomarsino, Ms. Snowe, Mr. Miller of Washington, Mr. Mack, Mr. Blaz, and Mr. Dornan of California):

H. Res. 399. Resolution affirming that the House of Representatives recognizes Eric Arturo Delvalle as the President of Panama, and calling upon General Noriega to comply with President Delvalle's order dismissing him from his position as the commander of the Panamanian Defense Forces; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

279. The SPEAKER presented a memorial of the Legislature of the State of Arizona, relative to an extension of the legalization program for immigrants; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 115: Mr. Dornan of California and Mr. Neal.

H.R. 421: Mr. Howard.

H.R. 722: Mr. Torricelli.

H.R. 807: Mr. Kastenmeier.

H.R. 1244: Mr. Kildee.

H.R. 1632: Mr. Eckart.

H.R. 1794: Mr. Roe, Mrs. Collins, Mr. Jontz, Mr. Frank, Mr. McHugh, Mr. Grant, Mr. Fish, and Mr. Atkins.

H.R. 2134: Mr. Rhodes, Mr. Pease, Mr. Fazio, Mr. Hertel, Mrs. Collins, Mr. Edwards of California, Mr. Upton, Mr. Fauntroy, Mr. Davis of Illinois, Mr. Carr, Mr. Scheuer, Mr. Brown of California, Mr. Bruce, Mr. Matsui, Mr. Morrison of Washington, Ms. Snowe, Mr. Garcia, Mr. Konnyu, Mr. Neal, Mr. Wise, Mr. Weiss, and Mr. Smith of Florida.

H.R. 2532: Mr. Horton.

H.R. 2537: Mr. Henry.

H.R. 2717: Mr. Owens of New York.

H.R. 3332: Mr. Skaggs, Mr. Jones of North Carolina, and Mr. Emerson.

H.R. 3340: Mr. Tallon, Mr. Lehman of California, Mr. Carper, and Mr. DeFazio.

H.R. 3603: Mr. Berman and Mr. Atkins.

H.R. 3738: Mr. Bates, Mr. Owens of New York, Mr. MacKay, Mr. Lantos, Mr. Bryant, Mr. Durbin, Mr. Owens of Utah, and Mr. Miller of California.

H.R. 3757: Mr. Gilman, Mr. Valentine, Mr. Boehlert, Mrs. Johnson of Connecticut, Mr. Wise, Mr. Rahall, and Mr. Owens of Utah.

H.R. 3791: Mr. Goodling and Mr. Hutto.

H.R. 3814: Mr. Pursell and Mr. Bateman.

H.R. 3820: Mrs. Saiki.

H.R. 3844: Mr. Hopkins, Mr. Dickinson, Mr. Neal, Mr. McCurdy, Mrs. Byron, Mr. Eckart, Mr. Studds, Mr. Craig, Mr. Lehman of California, Mr. Dicks, Mr. Wylie, Mr. Schulze, and Mr. Williams.

H.R. 3866: Mr. Darden, Mr. Neal, Mr. Skelton, Mr. Clarke, Mr. Chappell, Mr. Coleman of Texas, Mr. Traficant, Mr. Wylie, Mr. Swift, Mr. Price of North Carolina, and Mr. Dyson.

H.R. 3889: Mr. Thomas of Georgia, Mr. Kyl, Mr. Richardson, Mr. Shumway, Mr. Dyson, Mr. Brown of California, Mr. Whittaker, Mr. DeWine, and Mr. Robert F. Smith.

H.R. 3892: Mrs. Byron, Mr. Houghton, Mr. Gordon, Mr. Latta, Mr. Quillen, and Mr. Miller of Ohio.

H.R. 3893: Mr. Valentine, Mr. DeWine, Mr. Leland, Mr. Armey, and Mr. Daub.

H.R. 3914: Mrs. Collins.

H.R. 3929: Mr. Hiler.

H.R. 3938: Mr. Carper, Mr. Foglietta, Mr. Dyson, Mr. Young of Alaska, Mrs. Saiki, Mr. Bennett, Mr. Borski, Mr. Courter, Mr. Udall, Mr. Ravenel, Mr. de la Garza, Mr. St Germain, Mr. Frank, Mr. Brown of California, Mr. Kolbe, Mrs. Johnson of Connecticut, Mrs. Schroeder, Mrs. Vucanovich, Mr. Ridge, Ms. Snowe, Mr. Lujan, Mr. Smith of New Hampshire, Mr. Emerson, Mr. Hunter, Mrs. Meyers of Kansas, Mr. Roberts, and Mr. Berman.

H.R. 3940: Mr. Jontz, Mr. Skelton, and Mr. Whittaker.

H.R. 3955: Mr. Barnard, Mr. Campbell, Mr. Anthony, and Mr. Hatcher.

H.R. 3968: Mr. Schuette.

H.R. 3969: Mr. Howard, Mr. Murtha, Mr. Blaz, Mr. Kleczka, Mr. Dymally, Mr. Oberstar, and Mr. Scheuer.

H.R. 3975: Mr. Fazio, Mrs. Collins, Ms. Kaptur, Mr. Garcia, Mr. Brown of California, and Mr. Nielson of Utah.

H.R. 4011: Mr. Sharp, Mr. Denny Smith, Mr. Coble, Mr. Frank, Mr. Boehlert, Mr. English, and Mr. Gilman.

H.R. 4013: Mr. Sikorski and Mr. Lowry of Washington.

H.R. 4053: Mr. Hatcher, Mr. Lewis of Georgia, Mr. Darden, Mr. Rowland of Georgia, Mr. Jenkins, Mr. Thomas of Georgia, and Mr. Ray.

H.J. Res. 23: Mr. Roe.

H.J. Res. 339: Mr. Hall of Ohio and Mr. Harris.

H.J. Res. 388: Mr. Bilirakis, Mr. Hall of Ohio, Mr. Harris, Ms. Kaptur, Mr. Lujan, Mr. Lungren, Mr. MacKay, Mr. Matsui, Mr. Nelson of Florida, Mr. Ortiz, Mr. Pepper, Mr. Roth, Mr. Slattery, Mr. Smith of Texas, Mr. Wheat, Mr. Whittaker, and Mr. Duncan.

H.J. Res. 398: Ms. Pelosi, Mrs. Collins, Mr. Lantos, Mr. Lungren, Mr. Brennan, and Mr. Morrison of Washington.

H.J. Res. 417: Mr. Miller of Washington, Mr. Hoyer, Mr. Matsui, Mr. Cardin, Mrs. Morella, and Mr. Lungren.

H.J. Res. 445: Mr. Clay, Mr. Martinez, Mr. Waxman, Mr. Hammerschmidt, Mr. Manton, Mr. McHugh, Mr. Mica, Mr. Fauntroy, Mr. Duncan, Mr. Foglietta, Mrs. Boxer, Mr. Hyde, Mr. Visclosky, Mr. Flippo, Mr. Harris, and Mr. Owens of New York.

H.J. Res. 452: Mr. Dornan of California.

H.J. Res. 453: Mr. Nielson of Utah, Mr. Bonker, Mr. Weldon, Mr. Smith of Florida, and Mr. Lightfoot.

H.J. Res. 470: Mr. Ballenger, Mr. Rowland of Georgia, Mr. Cheney, Mr. Packard, Mr. Latta, Mr. Weiss, Mr. Lewis of Georgia, Mr. Frank, Mr. Saxton, Mr. Hutto, Mr. Ireland, Mr. Lewis of Florida, Mr. Daub, Mr. Livingston, Mr. Kasich, Mr. Smith of Iowa, Mr. de Lugo, Mr. English, Mr. Derrick, Mr. Mavroules, Mr. Torricelli, Mr. MacKay, Mr. Andrews, Mrs. Kennelly, Mr. Ray, Ms. Slaughter of New York, Mr. Sharp, Mr. Price of Illinois, Mr. Aspin, and Mr. Evans.

H. Con. Res. 169: Mr. Boucher, Mr. Parris, Mr. Tauzin, Mr. Evans, Mr. Skelton, Mr. Markey, and Mr. Stenholm.

H. Con. Res. 192: Mr. Dyson.

H. Res. 379: Mr. LAGOMARSINO and Mr. SWINDALL.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 390: Mr. DYMALLY.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

135. By the SPEAKER: Petition of Harold and Arlene Bergman, Farina, IL, relative to restructuring in accordance with the Farm Credit Act; to the Committee on Agriculture.

136. Also, petition of the National Association of Regulatory Utility Commissioners, Washington, DC, relative to proposed FERC electricity rulemakings; to the Committee on Energy and Commerce.

EXTENSIONS OF REMARKS

TRIBUTE TO SENATOR HERMAN E. TALMADGE

HON. ROBERT LINDSAY THOMAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. THOMAS of Georgia. Mr. Speaker, the Honorable Herman E. Talmadge, who served my State with honor and distinction as both our Governor and U.S. Senator, recently presented the Richard B. Russell Library at the University of Georgia with the personal papers from his long career of public service.

These documents will be a dynamic resource for scholars for generations to come. They reflect the career of one of Georgia's greatest public servants as well as the events that have shaped the growth of Georgia over many decades.

To mark this presentation to the library, my friend and predecessor in the Congress, the Honorable Bo Ginn, presented a wonderful tribute to the Senator in Athens on February 17, 1988. Bo is one of the most knowledgeable and beloved political figures in our State, and it is with great pleasure that I insert his remarks in the RECORD at this point:

A TRIBUTE TO SENATOR HERMAN E. TALMADGE

(By Bo Ginn, University of Georgia)

Senator and Mrs. Talmadge, members of the Talmadge family, President Knapp, other university officials and faculty members, Chairman Dorsey, my fellow Georgians:

It is a genuine pleasure to return to the campus of one of the oldest and greatest institutions of higher learning in the United States—the University of Georgia. And, my friends, it is a distinct honor to be invited to participate in this ceremony when a very significant gift from a very special person is presented directly to the University of Georgia Libraries and indirectly to the people of the State of Georgia and the United States of America.

As we accept this meaningful gift with gratitude, it is altogether fitting that we assemble to reflect on the life and accomplishments of the donor who was a superb Governor, and outstanding United States Senator and a great American—Herman Eugene Talmadge.

Although there are numerous individuals who could talk about Herman Talmage with far more eloquence than I, I know of no one who loves or appreciates or respects him more than I so I am especially pleased to be with you today.

Senator Talmadge and I share several things in common. We are both proud sons of Georgia. We are both lovers of the land. We are both students of history. We both enjoy hunting and fishing. Neither of us can understand nor appreciate the game of golf. We both have a similar vision for the future of our beloved State and Nation. We both served in the Congress of the United States. And, I must add, both of us were involuntarily retired from public service.

My love affair with the Talmadges did not begin with Herman. It began in the summer of 1946 when my Grandfather took his twelve year old grandson to a Gene Talmadge rally at Cordrays Mill in Calhoun County in deep Southwest Georgia. It was Gene Talmadge's last campaign for Governor, and there were ten thousand people in attendance. I had never seen or heard anything like it in my life. The rally took place outside in 90 degree weather, and the barbecue cost $1.00 per plate. Following the meal and some old-fashioned country music and a few speeches by local politicans, Old Gene was finally introduced and he strode to the podium admist great fanfare. It took ten minutes to quieten the crowd and before Old Gene could say anything, someone in the crowd shouted, "Take off your coat, Gene, and tell us about it"! The coat came off, and he was wearing the most beautiful pair of red galluses I had ever seen. I was enthralled with Gene Talmadge's spellbinding oratory, and I was captivated by the enthusiasm of the crowd. I can still picture that gathering as if it were yesterday, and from that day to this, I have been addicted to Georgia politics—Talmadge style:

Little did I realize at the time that twenty years later I would be in Washington, D.C., serving as Administrative Assistant to Old Gene's distinguished son, Herman.

Politics and campaigning have changed dramatically since I attended that rally for Gene Talmadge forty-two years ago. Galluses are now called braces, and no current politician can wear them like a Talmadge. Air-conditioned hotel ballrooms have replaced outside gatherings and $1,000 per person finger food receptions have taken the place of the $1 plate of barbecue cooked by local folks. Airplanes have replaced the motorcades of yesteryear, and the fiddle playing that used to warm up the audience has given way to hard rock music. Stump speaking when candidates stood up and spoke extemporaneously for an hour to attentive crowds has been replaced by 30-second television spots because that is about the length of our attention span these days. There was a time when candidates said that they believed and hoped for the best while the votes were counted all night long, but now the television networks project winners thirty minutes after the polls close. Candidates used to travel around by themselves, but now, any candidates for high office with a prayer of winning must have the benefit of pollsters, media advisors, speech writers, make-up artists and sophisticated high tech equipment. I fully realize that times change and that we must change with them, but I must confess that I miss the color and excitement of the by-gone political environment and that I frequently wonder if the old way wasn't the best way.

The years passed quickly following that Gene Talmadge rally in 1946. I grew into manhood and became the first member of my family to earn a college degree. While I was doing that, Gene Talmadge died and Herman became Governor and was elected to the United States Senate. I arrived in Washington in 1961 to serve on the staff of a Georgia Congressman, met Senator Talmadge and immediately came under the spell of another Talmadge.

In 1966, I decided to leave Washington and return to Georgia to study law. About that time, Senator Talmadge's Administrative Assistant, Ken Turner, decided to retire and someone recommended me as his successor. I was invited to meet the Senator for an interview in Southwest Georgia, where he was on a hunting trip with my favorite uncle, Joe Bryan. I drove from Washington, D.C., to Blakely, Georgia, and arrived at the Senator's motel room at the appointed hour of 8:00 PM. He invited me in, asked me to have a seat and began the interview by saying, "Bo, you know me and I know you. I have talked with several folks about being my Administrative Assistant, and I've decided that you're the man for the job. You run the office and I'll run the Senate floor. Any questions?" I said, "when do you want me to start?", and he said, "January 1st." And I said, "Isn't that a Federal holiday?", and he said, "It won't be for you and me." "Any other questions?" Well, I wanted to broach the question of salary, but I was too intimidated to bring up the subject. So I said, "No further questions, I'll see you on January 1." He said, "That's fine—now I'm going to bed."

I left his room, and while walking to my car, I looked at my watch and the time was 8:01 PM. The entire interview had lasted the grand total of one minute. I was stunned, but when I arrived for work on January 1 and discovered that I would be the 98th lowest paid Administrative Assistant in the Senate, I was no longer stunned—I was shocked.

The Senator Talmadge which I quickly got to know extremely well was an institution within an institution. The United States Senate was a different body in those days. The seniority system was in full flower. Senate giants like Dick Russell, Everett Dirksen, Bob Kerr and Russell Long were strong leaders who cast long shadows. Herman Talmadge was right at home in that illustrious company.

The floor of the Senate was often the scene of thunderous oratory (with meticulously reserved courtesy) and deft and skillful use of parliamentary procedure.

If it appears that I am recalling those days with an air of somewhat wistful nostalgia, I have to admit that I am. Somehow it seems that the lines were drawn a bit more sharply then, issues and agendas were a bit clearer and, in my judgment, a lot more got accomplished.

Both Senators and staff members who walked those hallowed halls with Herman Talmadge held him in the highest esteem. He worked long and hard hours, he learned the Senate rules, he developed lasting friendships with his colleagues, he paid his dues but the attribute that won the most respect for him was his brilliant mind.

Several years after I had left the Senator's staff and had become a member of Congress in my own right, I had the occasion to have a long dinner one winter evening with Roger Mudd. When he learned that I had previously worked for Senator Talmadge, he said that he wanted to tell me

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

a true story about the Senator. He said that he and Senator Robert Kennedy once whiled away some time on a cross country flight by evaluating the other ninety-nine members of the Senate. Roger Mudd said he thought that I would like to know that Bobby Kennedy unequivocably stamped Senator Herman Talmadge of Georgia as having the finest mind in the entire Senate. I think it is safe to say that this admiration on Senator Kennedy's part was not forged and cemented through the many issues and positions that he shared in common with Senator Talmadge—which makes his evaluation all the more compelling.

Senator Talmadge did indeed have the finest mind in the United States Senate. He was, in my judgment, absolutely unsurpassed in his ability to cut through the most tangled and complicated problem and quickly realize the first steps which had to be taken to untie the knot.

But more than that, Senator Talmadge had a pragmatic mind. He was not given to musing and imagining. He devoted his efforts and his energies to the attainment of what could be accomplished. He had a keen instinct for determining what was achievable and a sure and certain knowledge of how to get there.

It was these characteristics along with the willingness to work hard and the ability to build friendships that ranged from Hubert Humphrey to Jim Eastland that caused Herman Talmadge to become one of the most effective United States Senators in the history of Georgia.

He was the consumate politician. While some might regard that as faint praise, I do not. For what is a politician but a person who almost instinctively understands what his constituents would have him do?

During all the years he was in Washington, Senator Talmadge was always and foremost a Georgian. He cared little for the high society that is so prevalent in the Nation's Capital. He never regarded himself as a resident of Washington who returned to Georgia only as often as it took to persuade the voters to let him remain there. He returned to Georgia almost every weekend because it was here that he was comfortable. It was here in Georgia that he nurtured and developed and honed the political instinct which enabled him to serve his State so well for so long.

Like his famous father, Herman Talmadge was a man of the people. His door was always open to any Georgian who wanted to talk with him. He listened and he acted.

He believed in the value of education. He created the Minimum Foundation Program for Education and is still revered as the Governor who did the most for education at all levels in Georgia and for literally saving the Medical College of Georgia. He built a network of paved roads unsurpassed by any Governor, and he took steps that led to the development of the tremendously successful forestry industry in our State. He reformed the Georgia Tax Code, and he kept the State budget balanced. Herman Talmadge was one of Georgia's greatest Governors, and he earned that reputation because of his vision and progressive acts and not because he was Gene Talmadge's son.

Leaving the Office of Governor with a high degree of popularity, Herman Talmadge moved on to become one of Georgia's all time great United States Senators. He became Chairman of the Senate Committee on Agriculture & Forestry and the champion of the American farmer. As Vice-Chairman of the Senate Finance Committee, he became an expert on tax matters and pushed hard for tax reform and balanced budgets and fair trade and work incentive programs. He perfected the School Lunch Program and the Food Stamp Program because he believed that poverty is everybody's enemy. As Vice-Chairman of the Veterans Affairs Committee, he worked hard for programs beneficial to those men and women who fought for and defended our national security. As a member of the Watergate panel, he gained national recognition for his fairness and for his probing questions. He became the first United States Senator from below the Mason-Dixon line to employ a black person on his staff. Today, that person is the respected Assistant Secretary of State for Georgia, Curtis Atkinson. He used his title and considerable influence as Georgia's premier political leader to help many of our institutions and causes. For instance, he co-chaired with Ivan Allen the Tech-Georgia Development Fund which has channelled millions of private dollars to Georgia Tech and to the University of Georgia. He led the way to raise the money to build the Richard B. Russell Memorial Library and to create the Talmadge Chair in Public Law here at the University. He never missed an opportunity to secure badly needed funds for various research facilities here at the University and around the State.

Like all of us, there have been mistakes and tragedies in Herman Talmadge's life. He has not attempted to sweep them under the rug. On the contrary and to his everlasting credit, he readily admits his most personal problems. But even better than that, he has mustered the courage to face up to them, to accept reality and to move ahead with his life.

He has done something that a lot of us talk about but never quite get around to doing—he has authored a very fine book. To those of you who have not read the Senator's book, I commend it to you—particularly the last chapter in which he leaves the reader with something of an overview of the world as he sees it. It is vintage Talmadge—nothing high-toned or elaborate. Just simple rock solid common sense.

And now, through his beloved University of Georgia, he is presenting an invaluable resource—1600 boxes of his papers—to the people he loves and never forgot, the people of Georgia. As scholars and students pour them in the years to come, the full tapestry of Herman Talmadge will emerge. And maybe, just maybe if we're lucky, these papers will ignite the spark in some young Georgian and that spark will deliver unto us another progressive Governor or United States Senator.

Let me close today by saluting Herman Talmadge—the man—who is still very much with us. His contributions should not be addressed in the past tense. Herman Talmadge is a very present resource, and there is much that he can teach to many of us. He is the only living Georgian who has served our State as Governor and United States Senator, and it would be foolish indeed for us to fail to take advantage of his vast experiences and deep insights.

Just a few weeks ago in Washington, I attended a breakfast where Senator Talmadge spoke to a group of very young Georgians who are working on Capitol Hill. Some of them were so young they had only read about him. It gave me tremendous satisfaction to watch the expressions on those young faces as the appreciation of what they were seeing and hearing gradually spread across their faces. They were spellbound and their minds soaked up the Senator's knowledge and wisdom like sponges. They gave him a standing ovation.

Learning from a book is one thing and will always be important. Learning firsthand from our most masterful politician who has been tested time and time again is even more meaningful and important.

As we use his papers as a valuable research resource, let us use him as a living resource. Every young person in Georgia should have the opportunity to know and hear Herman Talmadge, and it should begin here at his beloved alma mater, the University of Georgia. You can import guest lecturers and visiting professors from anywhere in the world, and most of them won't be qualified to carry Herman Talmadge's briefcase.

I commend everyone who worked together to assemble us here today. It is a great moment—a fine tribute to a man worthy of being honored and a personal pleasure for me to once again be in the company of my friend, my benefactor and the best boss I ever had—Herman Talmadge.

FLORIO VISITS PINE HILL DAY-CARE PROGRAM

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. HUGHES. Mr. Speaker, our colleague from New Jersey [Mr. FLORIO] has long been known for his very active role in preservation and rehabilitation of our environment. I was very pleased to see that Mr. FLORIO has turned his attention to another precious resource: Our Nation's children.

I wanted to share with my colleagues an article that appeared in today's Philadelphia Inquirer concerning our colleague's recent tour of an afterschool program for children at the John Glenn Elementary School in Pine Hill, NJ. What he discovered were children who were very pleased to be combining their homework with their activity time, and parents that have peace of mind knowing that their children are being supervised. Both the Congressman and the school system are to be commended for their dedication to the future leaders of our Nation. With the increased attention being given to the need for reliable child care services, I congratulate Mr. FLORIO for his efforts in this important area. The article follows:

FLORIO VISITS PINE HILL DAY-CARE PROGRAM

(By Scott Brodeur)

When U.S. Rep. James Florio walked into the after-school day-care program at John Glenn Elementary School Monday and saw children working on a dinosaur poster, he recalled his own fondness for dinosaurs.

"I had no idea that's what they would be working on today," he said, "but it just happens . . . that when I was growing up, I was amazed by dinosaurs and used to go to see this exhibit at a museum by my house. It's one of those things that just sticks with you even after you're grown up.

The Democratic congressman, a native of Pine Hill, was at the Pine Hill school to draw attention to the proposed $2.5 billion

Act for Better Children (ABC), which would bring federal aid to day-care services. Hearings on the bill begin next week in Washington. Florio is co-sponsor along with U.S. Rep. Dale Kildee (D. Mich.) and U.S. Sen. Christopher Dodd (D. Conn.).

The legislation, if approved, would expand and improve day-care programs and facilities throughout the country, Florio said. It would set health and safety standards for the programs and provide money to help low- and moderate-income families send their children to them.

Florio visited the day-care center at John Glenn on the advice of his wife, Lucinda, who is a third-grade teacher at the school. The Florios were married on Valentine's Day.

"He was looking for a program that was successful in what it was doing," Lucinda Florio said, "and I told him that the program at Pine Hill was just started in September and that it was going along very smoothly."

The project, called the "Parent Saver," provides before- and after-school care for 31 children from kindergarten to sixth grade. The program is headed by Rick Williams, the community-education coordinator in Pine Hill. Working with him on the project is Barbara Lewis, an aide who works full time with the program, and various teachers from the schools, who work an average of one day every two weeks.

"I wish we could work more," said Betsy Conklin, a kindergarten teacher at John Glenn, who picks up extra money working in the program a couple of times a month. "It's a fun environment to be in, and I get a chance to see kids that I've taught in kindergarten who are now in the higher grades."

The program runs from 7:30 to 8 in the morning and from 3 to 6 in the afternoon.

Funding comes entirely from registration fees paid by parents, who put up $2 a day for a morning session, $3.50 a day for afternoon sessions and $4 for the package. The registration fee covers the salary of the teacher and aide, as well as snacks that are served daily.

Children in the program can do homework, work on art projects, watch television or instructional programs, work with a computer, play outside or just relax.

"I really like it here," said Vincent Boncich, a sixth grader who attends the afternoon sessions every day with his younger brothers, Danny and Michael. "I can get my homework done here. At home with a baby sitter, no one tells you to do your homework, so I used to just go outside and play. Now, I do my homework all the time, and I'm getting A's and B's instead of C's and D's like I used to get."

For Darnell Hall, there is always time for homework, but his favorite activity in the program is a little less taxing.

"I like eating the best," said Darnell, a second grader. "The snacks are my favorite thing about being here. They're great."

Not surviving solely on providing good snacks, the program is successful because of its ability to cater to the children's wants, Williams, said.

"We have such a diversity of programs that there's something for all the children to do to keep busy," he said. "I think it's important for the kids to have fun also.

"I've found that when you combine having fun with learning, the children can't get enough," Williams added. "When you mix together, those two elements, we sometimes have a hard time making the children leave to go home. And when that happens, we know we're doing our job."

The stop at Pine Hill was the first of several that Florio plans to make at day-care facilities throughout the state to observe and promote the pending legislation. He will visit an industrial day-care center next week that is being set up by a developer in Edison. And later next month. Florio will go to Newark to see a church-run day-care center.

The days when fathers worked and mothers stayed home with the children are gone for most families. Florio told teachers, parents, reporters and about 25 children at the center. "In today's society, both parents are out there working, and we need legislation to assure us that our children—all our children, not just some—will be looked after, not just by any old baby sitter, but in a safe and somewhat structured environment."

A similar piece of legislation was vetoed in 1972 by President Richard Nixon, Florio said.

TRIBUTE TO THE ALL-STEEL VALLEY CONFERENCE GIRL'S BASKETBALL TEAM

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. TRAFICANT. Mr. Speaker, I am pleased to stand before you today to pay tribute to the All-Steel Valley Conference Girl's Basketball Team and Miss D'Nelle Seiple, Miss Tracey Trgovac, Miss Kristen Turek, Miss Chris Moschella, Miss Nicole Dunn, Miss Colleen Cappelli, and Miss Nicole Smith of Mahoning County.

These ladys were chosen to the All-Steel Valley Conference Girl's Basketball Team based on their outstanding performance during the regular high school season.

Miss Seiple was chosen to the team for the third straight season; she scored over 1,000 points in her career as a 4-year letter winner with the Lady Falcons of Fitch High. She scored 398 points in this season plus 120 steals and 88 assists. She was also league leader in field goals at 49.1 percent and she was second best team rebounder with 143. She made 64.5 percent of her free throws.

Miss Trgovac, Fitch's senior center, blocked 41 shots and grabbed 212 caroms. This National Honor Society student made 46.4 percent of her goals and 45.2 percent of her free throws.

Miss Turek averaged 7.1 rebounds per game and 3.3 steals. She made 62.9 percent of her free throws and 41.3 percent of goals with a final average of 12.3 points per game.

Miss Moschella made 69 percent of free throws and scored 275 points overall. She was the second leading scorer in the Steel Valley Conference with an average of 13.8 points per game. She also lead the league in 3-point goals with 23.

Miss Dunn scored an average of 8.5 points per game for a season total of 170. The 5′ 9″ senior guard averaged 4.5 rebounds and 2.6 assists.

Miss Cappelli averaged 13 points per game with a season total of 221, third best in the league. This sophomore guard made the fourth-highest number of assists—53—in the Steel Valley Conference and made the third-highest number of steals.

Miss Smith grabbed a league leading 254 rebounds and placed third on the first-team squad. Her athletic ability is outstanding and is an excellent team player.

It is with great pleasure that I pay tribute to these aspiring young athletes for their skill and dedication to the sport. Congratulations on making the All-Steel Valley Conference Team. All of us in Mahoning Valley are proud of these students and I am especially pleased to serve as their representative.

MARRIAGE OF CATHERINE JEAN WIATER AND DEAN ARTHUR VITALE

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. LIPINSKI. Mr. Speaker, it is my pleasure to bring to the attention of this Congress the marriage of Catherine Jean Wiater and Dean Arthur Vitale.

These two fine young people were joined in marriage on January 16, 1988, in Palos Heights, IL.

I am sure that my colleagues join me in wishing Catherine and Dean many years of health and happiness.

REMEMBRANCE OF OUR POW'S AND MIA'S YET UNACCOUNTED FOR IN SOUTHEAST ASIA

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. BRUCE. Mr. Speaker, on March 8, I had the pleasure of meeting with Tom Morgan, Denny Wickiser, Harley Closson, and Paul Hood who represented Illinois' 19th Congressional District at the Veterans of Foreign Wars Annual Legislative Conference in Washington, DC.

These representatives expressed their policy goals for 1988; and high on the list of priorities were prisoners of war and missing in action in Southeast Asia. Nearly 13 years after United States troops withdrew from Indochina, over 2,400 Americans remain missing and unaccounted for. Of these, more than 100 were Illinois residents. Most of them have been listed by the Government as either "killed in action—body not recovered" or "missing in action—presumed dead."

Persistent reports continue to originate from Indochina that some POW's might still be alive. For this reason, I have become a cosponsor of H.R. 2260, a bill which calls for the declassification of all live sighting reports now held by the U.S. Government—with the exception of sources and methods of intelligence collection. Families of these soldiers and civilians should have access to findings and developments that involve those presumed dead.

In addition, I am proud to be a cosponsor of House Joint Resolution 453 which designates September 16, 1988 as "National POW/MIA Recognition Day." By adopting this resolution, the United States will send a message to Hanoi that we are still committed to resolving the fate of those individuals still unaccounted for.

KING ELECTRONICS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. LEVINE of California. Mr. Speaker, it has become fashionable in some quarters to urge that the United States move toward an economy based on services and high techology products while allowing our manufacturing atrophy or move overseas.

What proponents of this strategy forget is that our manufacturing base provides the underpinning for a vibrant economy and that without a strong manufacturing sector our national security will be threatened and other sectors of our economy will suffer.

Michael Maibach makes this point in an article in the current issue of the Golden State Report. In his article he eloquently argues that we need to increase our investment in new products and technologies to make our factories more competitive and more productive. He understands well that it would be a terrible mistake to throw in the towel and watch while our factories disappear.

There is no reason why the United States cannot have the most modern and the most productive industrial base in the world. There is no reason why the United States cannot have the best trained, most productive work force in the world. All it will take on the part of business, Government and labor leaders is a little foresight and an understanding that in order for our economy to thrive in the new global economy we must be willing to increase our investment in our people, our infrastructure and our factories.

I include Mr. Maibach's article in the CONGRESSIONAL RECORD and urge my colleagues to take a few moments to read it. It will be time well spent:

KING ELECTRONICS

(By Michael C. Maibach)

In search of jobs and investment, our 50 states have long competed among themselves. "Business-climate" rankings are examined by governors and CEOs alike.

Today nation-states compete in like manner. California must keep an eye on the business climate in Singapore and Ireland, as well as in North Carolina. Our two oceans have become pleasant irrelevancies.

Welcome to the Information Age, where jets whisk engineers across the globe, satellites flash data at the speed of light and stocks tumble like dominoes on exchanges in New York, Tokyo and London. The Age of Information, where the value of the Japanese yen attracts more attention than the price of GM cars, where more people work for IBM than for the entire U.S. steel industry.

Once again, the forces of change are upon us. And as always, those who adapt best to new economic realities prosper most.

As America moves from the Machine Age to the Information Age, many observers trumpet the rise of the service sector in a "post-industrial" economy. Some believe manufacturing can be allowed to die a natural death as software, insurance and financial-service firms expand. The impression is left that whole segments of an economy somehow cease to be important.

But drive from Sacramento to Los Angeles and try to convince yourself that farming is no longer a vital part of America's economy. While the Agricultural Age has, in a sense, given way to the Age of Machines, this country still produces 12 percent of the world's food with agricultural exports totaling $30 billion. The Machine Age didn't *eliminate* agriculture—it *mechanized* it, freeing thousands to seek new opportunities in the cities.

The Information and Machine Ages are likewise complementary. Intel's second largest customer is the Ford Motor Company—a paragon of the Industrial Age. Automotive semiconductors improve fuel efficiency, reduce emissions and enhance brake safety. In office computers and machine tools, "chips" allow for productivity enhancements such as "just-in-time" inventory control and flexible manufacturing systems.

The point is that manufacturing matters and always has. Services, while more sophisticated today, are only as healthy as the industries they serve. For example, if a U.S. computer firm decides to build a factory in Europe, the odds are that associated insurance, construction, health and financial service companies will be European as well.

This is why a smart state government will focus first on winning fresh manufacturing investment. Banks, insurance and ad agencies, retailers and other services locate and expand in relation to population density, as well as the vibrancy of the manufacturing employment base.

The second reality is that, in manufacturing, electronics is king. Today there are more Americans working in electronics manufacturing (2.5 million) than in autos, aerospace and steel combined.

In addition to jobs, the electronics industry is important for three reasons. The first involves automation and the productivity advances it provides. Just as machines created the world's most efficient farms, so computer-driven robotics, flexible manufacturing systems and CAD-CAM programs enhance factory productivity.

Second, electronics has spawned new industries that would otherwise be impossible. The commercial use of space is one, software is another, cellular telephones are a third.

Most significantly, electronic systems represent the mechanical transfer of man's knowledge. Memory "chips" store banks of information, while logic "chips" (microprocessors) put that information to work on the task at hand. Just as the Industrial Age substituted man's arms and legs with the shafts and gears of machines, so the Information Age transfers man's intelligence in the operation of those machines.

Until the dawn of the Information Age, the ingredients of competitiveness were largely endowed by nature. Proximity to oceans and rivers, deposits of coal and iron ore, and abundance of forest and cropland were a given. So were the size and character of the local labor force.

Factories were located and technologies developed according to their relationship with these physical attributes. The U.S. auto industry, for example, coalesced around Detroit because of the Great Lakes proximity to coal and iron deposits and a growing population base.

In the Information Age, man's role supersedes that of nature. Competitiveness can be created through policy rather than natural good fortune. This is why resource-poor Japan has focused so intensely on high-technology industries. They offer a way to diminish industrial dependence on the importation of so many basic resources. Half of the U.S. trade deficit with Japan is in electronics.

Semiconductors are a perfect example of this new reality. Of nature's three most abundant resources, "chips" are made from just two: air and sand. One can make computer semiconductors virtually anywhere. The important variables are influenced by public policy: quality of education, the tax code and capital formation, the development and legal protection of technology and international trade policy. None are determined by nature; all are influenced by government and its relationship to business.

REMARKS OF STAN COOK AT CONGRESSIONAL RURAL CAUCUS SEMINAR

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. SKELTON. Mr. Speaker, I hosted a recent congressional rural caucus seminar that featured speakers who discussed how foundations help in rural America. The group, led by Council on Foundations president, James Joseph, included Linda Jacobson, executive director of the Southeastern Minnesota Initiative Fund—McKnight Foundation—Tom McRae, executive director of the Winthrop Rockefeller Foundation, and Tom Lambeth, executive director of the Z. Smith Reynolds Foundation.

Another speaker was from my home district, the Fourth Congressional District of Missouri. Stan Cook, sponsored by the W.K. Kellogg Foundation, is a graduate of the Missouri Agricultural Leadership of Tomorrow Program. For the RECORD, I would like to include his remarks from that day:

REMARKS OF STAN COOK AT CONGRESSIONAL RURAL CAUCUS SEMINAR

I appreciate the opportunity to speak to the congressional rural caucus this morning. I count this opportunity a privilege because as the 5th generation of rural Americans to live and work on a farm in Central Missouri I have a deep and abiding love for American rural life. That love creates a real respect for the Congressional Rural Caucus, whose members have worked to create a positive influence on rural life in America. I challenge you to continue your affiliation with the rural caucus and to continue working for the good of rural people in our country.

I'd like to do two things this morning. First, I'd like to provide some very basic information about the Mo. leadership program and then to share some personal observations about having participated in the program.

I will refer to the leadership program as the ALOT program. ALOT is a well deserved acronym for the Agriculture Leadership of Tomorrow program. The ALOT program began with a $200,000 grant from the K.W. Kellogg Foundation. It has become a permanent fixture of the University of Missouri at Columbia. The University provides resources in various forms including curriculum and a director.

In keeping with Kellogg foundation policy the $200,000 per class budget is being funded by contributions from corporations and individuals from across the state of Missouri, as well as an increased amount of the tuition paid by the participants. I am pleased to say that The program is currently in it's 3rd class. (By the way class 3 is here in Washington this week). Though funding for class 3 is not complete, I am confident that efforts by the alumni of the program and a dedicated advisory council, funding for the program will continue.

The participants in the program are selected from farmers or farm related business people who are from 25 to 40 years old and have shown a strong commitment to be active in Mo. Agriculture. They are selected on the basis of applications and an interview.

Each class includes 30 participants. In class one 25 of the participants were full time farmers, two worked for agricultural consulting firms, one was a veterinarian, one operated an elevator, and one worked for the federal land bank. There were six women in class 1, 22 participants received college degrees and the average age of the class was 33.

Through a series of seminars and study tours that require 72 days over a 2 year period, the program is designed to produce competent, articulate leaders educated in national and world issues. The seminars are held across the state and feature topics dealing with international trade, farm legislation, urban problems, agricultural technology, community development, and communication skills.

I was fortunate to be a member of class 1, which started in the fall of 1983 and graduated in the fall of 1985. I remember while being interviewed by the selection committee one of the people in the interview process made the statement that should I become a participant in the program that the experience would change my life. At the time of the interview I discounted that statement. After completing the program and having had a chance to reflect on all the learning experiences that I had been awarded me in this program, I realize that my life has changed a great deal as a result of participating in ALOT program. I'd like to mention 3 ways that my life has changed because of the program.

First of all my life is different because of the way that I view the world.

Of course one of the most appealing aspects of the ALOT program is the opportunity of world travel. In class 1 we traveled to Europe. During 2 and a half weeks we visited West Germany, Belgium, Holland, Switzerland, France, and a brief visit to East Germany.

While attending some of the seminars at home in Missouri we had studied the European Economic Community, how it was organized, the politics involved between the members of the community, how European agricultural policy dffered from that of the U.S. From the study we discovered that the differences of the policy are a reflection of the differences of the overlaying economic and social policies. From those studies in Columbia MO we learned a lot but somehow education takes on a new meaning when you are there seeing real sights and meeting real people.

For instance, the discussion of export subsidies and govt. protection of markets became more important when I saw the huge grain handling facilities of the Grain Elevator Maatshappy in Rotterdam where millions of bushels of grain were being unloaded from huge ships to smaller ones for the trip up the major rivers to the countries of interior Europe.

Some examples of the people we were able to meet were the officials of Cebeco handlestadd a huge agricultural cooperative in Amsterdam, Holland, a major importer of American grain. One of the items of discussion with them was the future trade relations between the European countries and the U.S. We also visited with the directors of Christian Higher Education School of Dronten, Holland where research on new farming methods and technology are being studied.

The educational process really became interesting when were able to gain the perspective of farmers with which we stayed in Dronten, Holland and Langnau, Switzerland. I will never forget the silent prayer before the meal with the Dutch farmer in Holland where we were surrounded by his fertile farm on which he grew sugar beets, wheat, and potatoes nor will I forget the walk with that Swiss farmer as he proudly showed me the 14 Cows from which he made his living. As I visited with them about their country, their life, their customs, I gained a much better understanding about the world in which I live and the world in which Missouri Agriculture must operate, and because of these experiences my life changed.

The second way that my life changed was the way I view our country.

In a session at the University of Mo. in Columbia the ALOT class visited with researchers working on projects involving plant biochemistry, animal molecular biology, satellite imagery, infrared anaylsis, and other areas of high tech research. The changes that are going to occur in the next few years are amazing. The extreme increase in production and efficiency that will occur will change the face of agriculture at an ever increasing pace. The resulting changes will have tremendous effects on the farmers and rural communities.

Several of the sessions took me giant strides away from my farm in rural Missouri to contemplate the future of our country. On a trip to California and Mexico class I was able to see the tremendous diversity of American Agriculture and see new ways of marketing agricultural goods. In Mexico we visited the crowded poverty stricken area of Mexico City as well as the agricultural areas of Culican.

State government was the focus of a study session on Jefferson City on that trip we watched the state legislature in session. We sat in committee hearings and met with state legislators. We also had the opportunity to meet with the heads of the departments of Health, Revenue, and Education. In yet another session we studied the problems facing local governments both in Rural Missouri and in the metropolitan areas of St. Louis and Kansas City. While in Kansas City I gained a better understanding of the problems that face Urban America by eating in soup lines, riding in police cars, spending time with social workers, and meeting with the Chamber of Commerce officers.

In the study trip to Washington we met with some of you folks in this room about the 1985 farm bill, and other legislation. We also met with U.S.D.A. officials, lobbyists and foreign embassy officials. In my 1st trip to Washington I gained a new sense of awareness of the complexities of our democratic form of government. It's interesting to see in progress the blending of ideas from across our country into laws.

From all these experiences you can understand why my life is different than it was before the program because of the way I view my country.

The third way that the ALOT program changed my life was perhaps the most important and that was the way I view myself.

In the 6 seminars I attended a year I was able to hear some of the most knowledgeable qualified speakers and teachers in their chosen profession speak on meaningful issues that are of importance to Missouri agriculture. Consequently I am aware of important issues that will effect Missouri Agriculture. I also have a much better understanding how Missouri Agriculture fits into the world economic picture.

I became a better communicator. At almost every session of the program each member of the class was given the opportunity to improve their communication skills. Through speeches, interviews, and chances to lead group discussions I became more comfortable in talking in front of groups.

Through all the experiences of the program I grew into a bigger more well rounded person. I am more confident in myself and my ability to communicate. So once again my life has changed because of the way I look at myself.

In conclusion I'd like to remind you of two quotes, one is from President John F. Kennedy who said "Everything changes but change itself." Rural America is undergoing a metamorphosis, moving from the agricultural and industrial age into the information and highly technical age. These huge trends are in motion and they can't be stopped. I believe that, rather than stop the change that will surely occur, tomorrow's leadership should accept the challenge of identifying the changes that will occur and work toward moving their communities in a direction that can take advantage of the change instead of allowing the change that will occur to leave them behind.

The other quote is the motto of the Salvation Army it states that "We will change the world one person at a time." Truly there are no governments or government programs that can by themselves solve all the problems that face rural America. But through programs like the leadership program in Missouri we can as the Kellogg Foundation philosophy suggests help people help themselves.

Rural communities have a great deal to offer. Beside clean air and friendly people the people of small towns hold traditional moral values and still believe in the work ethic. These assets of rural communities constitute a human infrastructure which should not be abandoned and ignored. Through programs like ALOT which identify and then educate and motivate leaders, rural communities can not only survive the changes occurring but they can contribute in a great way as they have in the past.

I commend the Kellogg Foundation for the having the vision to fund these leadership programs across the country. I believe they are making a difference now and will make a greater difference in the future.

Once again, I appreciate this opportunity to speak and I look forward to any questions you might have about the Missouri leadership program.

INTRODUCTION OF CONCURRENT RESOLUTION ON EASTERN-TEXAS AIR

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. MINETA. Mr. Speaker, today I am introducing a concurrent resolution to give direction to the Secretary of Transportation for carrying out his responsibilities in cases related to the unfortunate situation at Eastern Air Lines. The resolution is cosponsored by 12 of my colleagues, including the chairman of the Public Works and Transportation Committee, JAMES J. HOWARD, and the ranking minority members of the full committee and the Aviation Subcommittee, JOHN PAUL HAMMERSCHMIDT and NEWT GINGRICH, respectively.

Recent labor-management problems at Eastern began after the Texas Air Corp. acquired control of Eastern and installed new management. In an effort to gain massive wage concessions, Eastern's management embarked on a campaign of employee harassment and intimidation, combined with a program of depriving Eastern of some of its most valuable assets. These management tactics have demoralized Eastern's employees and made it difficult for them to concentrate on their responsibilities to provide safe and efficient airline service for the traveling public.

The Department of Transportation has statutory responsibilities to ensure that Eastern's operations continue to be conducted at the highest level of safety. In addition, under current law, the Department is also required to approve certain transactions involving the creation of new Texas Air subsidiaries to provide air transportation, and the transfer of certificates and substantial aeronautical assets between Texas Air subsidiaries. In cases in which it has jurisdiction, the Department must determine whether a proposal is consistent with the public interest, which is defined to include assuring safe air transportation, encouraging fair wages and equitable working conditions for employees, and supporting the availability of a variety of efficient and low priced services by air carriers. The resolution I am introducing today prescribes the steps we expect the Department to take in carrying out its statutory responsibilities.

For more than 50 years, Eastern has been a major U.S. airline providing air transportation to millions of passengers annually over an extensive domestic and international route system. In 1986, Eastern was acquired by the Texas Air Corp., which almost immediately embarked on a course of action designed to force Eastern's employees to accept massive wage cuts. Part of the strategy appears to involve a systematic dismantling of Eastern Air Lines, apparently aimed at weakening Eastern's financial condition and making the case for significant wage cuts more compelling. In addition, the dismantling appears to be designed to show Eastern's employees that if they do not accede to management's demands, their airline will be split up, with its more valuable components being operated by other Texas Air subsidiaries.

The specific actions taken thus far by Texas Air include transferring Eastern's computer reservation system to another Texas Air subsidiary: moving some of Eastern's international routes to Continental Airlines, another Texas Air subsidiary; selling 20 of Eastern's jet aircraft and spare parts to Texas Air subsidiaries and other airlines; beginning preparations to transfer additional Eastern international routes and the Eastern Air shuttle to other subsidiaries of Texas Air; and contracting with a charter cargo carrier, Orion Air, to operate Eastern's aircraft in the event of a strike. Other proposed actions have included contracting out some of Eastern's aircraft maintenance to nonunion workers; and/or moving Eastern's maintenance work to off-shore foreign repair stations.

In addition, we have received numerous reports of Eastern's harassment and intimidation of its employees, including disciplinary actions for legitimate union activities, for unfounded allegations of infractions of company rules and regulations, and for reporting violations of safety rules to the FAA. As a result of these actions, Eastern's employees are suffering from low morale and operating under great stress. I am seriously concerned that employees who are preocupied with a dispute with management will become distracted from carrying out their critical responsibilities to provide safe and efficient service for the traveling public.

As I have indicated, the Secretary of Transportation has statutory responsibilities to regulate the safety of Eastern's service and to approve certain changes in the corporate structure and air transportation operating authorities of Texas Air subsidiaries. I believe that to carry out these responsibilities effectively, the Secretary needs to develop a comprehensive picture of Eastern's and Texas Air's past and proposed actions. To simply review each Texas Air proposal in isolation leaves us with the danger that the effects of the totality of the proposals will neither be properly understood nor fully addressed.

Accordingly, the resolution I am introducing calls upon the Secretary of Transportation to conduct a full and complete investigation of the management of Texas Air and Eastern since Texas Air's acquisition of Eastern. The purpose of the investigation will be to determine the past and probable future effect of recent management practices on the public interest as described in the Federal Aviation Act, with particular emphasis on "the assignment and maintenance of safety as the highest priority in air commerce, the prevention of any deterioration in established safety procedures, the availability of a variety of adequate, economic, efficient, and low-price services by air carriers," and "the need to encourage fair wages and equitable working conditions for air carriers."

This kind of comprehensive investigation will provide a base of facts and legal and policy considerations for the Secretary to use in other proceedings in which he will consider proposed changes in the domestic and international operations of Eastern. These include two pending cases before the Department: First, the case in which the Secretary will decide whether to impose labor protective provisions as a condition of the Department's approval of the acquisition of Eastern by Texas Air; this case was remanded to the Department of the U.S. Court of Appeals for the District of Columbia Circuit; and, second, the pending request by Texas Air for authorization to form a new subsidiary corporation to operate Eastern's air shuttle service. Other cases may be required if Eastern and Texas Air go forward with subsequent plans to dismantle Eastern and transfer its assets to new subsidiaries.

The resolution also gives the Secretary additional guidance for proceeding in some pending cases involving Eastern. The resolution states that before a separate air shuttle subsidiary is authorized, the Secretary should conduct evidentiary hearings first, to determine whether this new subsidiary should be issued a certificate of public convenience and necessity under section 401 of the Federal Aviation Act, and second to determine whether the formation of the subsidiary should be approved under section 408 of the act. The need for evidentiary hearings is clear given the significant potential impacts of Texas Air and Eastern's course of action on the welfare of Eastern's employees, the safety of Eastern's operations, and the welfare of the traveling public.

The resolution further provides that the Secretary should not authorize Orion Air to provide services under contract with Eastern unless Orion, which has previously operated only cargo services, establishes conclusively that it is capable of conducting passenger operations with the highest degree of safety.

The resolution also directs the Secretary not to attempt to expedite consideration of Orion's request by diverting Transportation Department and FAA employees to work on Orion's application at the expense of these employees' ongoing responsibilities of ensuring the safety of previously authorized air carrier operations. Furthermore, if Orion is authorized to provide service under contract with Eastern, then DOT is mandated to assure that the traveling public is informed that Orion, rather than Eastern, will have operational responsibility for Eastern Air Lines' service. The resolution directs that the public must be so informed at the time airline reservations are made.

Mr. Speaker, the concurrent resolution will give important guidance to the Secretary of Transportation in carrying out his critical responsibilities to deal with proposals affecting the structure and operation of Eastern Air Lines. These steps must be taken to ensure that there is no deterioration of safety, and that Eastern and other Texas Air subsidiaries continue to operate in the public interest. I strongly urge my colleagues to support this resolution.

UNITED STATES-MEXICO SUMMIT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. TORRES. Mr. Speaker, the importance of our relations with Mexico, a rapidly growing nation expected to have a population of 100 million by the year 2000, has often been underestimated. The inadequate results of President Reagan's recent summit with Mexican President Miguel de la Madrid can serve to remind us of the need for a better understanding of Mexico's perspective on our bilateral relations. While we know of our own Nation's concern over immigration, drug trafficking, and the debt crisis, we must also lend our ears to the views of the Mexican Government which is more interested in long-term economic development, improved trade, and not merely short-term debt management.

In light of President Reagan's proposal for a free trade zone in North America and the rapidly increasing Japanese investment in Mexico's economy, a better understanding of the key concerns of Mexico will allow our two countries to better develop mutually beneficial economic and security agreements. This article by Gary Maguire, a research associate with the Washington-based Council on Hemispheric Affairs, first appeared in that organization's biweekly publication, Washington Report on the Hemisphere. I encourage all of my colleagues to read this timely report.

REAGAN AND DE LA MADRID GO THROUGH THE MOTIONS

(By Gary Maguire)

On Saturday, Jan. 13, Presidents Ronald Reagan and Miguel de la Madrid met in Mazatlan, Mexico, with both of them now being in the twilight of their presidencies. The gathering provided a modest, if transient, public relations boost for both sides by promoting the struggling Institutional Revolutionary Party's (PRI) prospects in the upcoming Mexican election, as well as improving President Reagan's image at home through the time-tested process of a diplomatic visit abroad. Since Mexico's economy is on a steep long-term decline, the country's July 6 presidential ballot will be the most hotly contested in decades.

The friendly words exchanged by the presidents, however, masked the tensions existing between the two countries over Mexican involvement in drug trafficking and Washington's support for the Nicaraguan rebels. All of the nine Mexican summits behind President Reagan—an extraordinary number of meetings—have resulted in mainly symbolic gestures, with few new departures being generated.

Largely due to the White House's inability to see beyond its slogans of the dangers of the "communization of Central America" and "just say no to drugs," substantive discussions of Mexico City's abiding concerns—regional peace, economic development and the country's $105 billion debt—have failed to be resolved. The agreement signed at the most recent summit allows for slightly improved access to American markets for Mexican-made textiles, which are not duty-free, increasing the allowed exported weight a possible 6%. In addition, two other pacts—dealing with telecommunications and civil aviation—which were not completed in time for signing during the meeting, were announced. These hardly earthshaking measures do little to alleviate Mexico's deeply troubled economic situation.

No mention was made at the summit of the problems facing the Mexican government in finding U.S. buyers for the Washington-backed bonds floated to reduce the country's debt owed to foreign private banks. Mexico City has had to postpone the sale of these financial instruments from the originally scheduled date of Feb. 19 because of lagging interest on the part of Mexico's creditors to participate in the program. The U.S. decision to use Treasury bonds as collateral on outstanding Mexican loans, while helping creditor institutions in this country, actually does very little to relieve the pressure on Mexico, the hoopla surrounding the use of this "innovative" instrument not withstanding. Despite these problems, prior to the summit, Washington described the economic relationship between the two countries as "nearly excellent."

Nor did the two presidents adequately address the issue of free trade. The Reagan administration, when signing the free market agreement with Canada on Jan. 2, suggested that attention should now be turned to exploring a similar relationship with Mexico. But such an agreement would be far more difficult to achieve because of the asymmetry of the two countries' economies. Without United States promises of a guaranteed market for Mexico's energy products, as well as agricultural and manufactured goods, any agreement would surely founder. Washington is hardly prepared right now, particularly in an election year, to provide such assurances.

Presidents Reagan and de la Madrid did tackle the problem of drug trafficking. Washington's concerns center around Mexico being the United States' largest source of marijuana and heroin. Prior to the summit, administration officials blamed Mexico for the growing amount of illegal drugs coming across the border. One senior administration official was quoted in the New York Times as observing, "I would say that Mexico is making increasing efforts to fight drug trafficking, but those efforts are not adequate . . . If you measure by the flow of drugs, and that really is the bottom line, the flow of drugs is increasing." A recently released report by the General Accounting Office (GAO) argues that Mexican authorities have claimed to destroy more poppy and marijuana fields than have actually been planted. U.S. officials have been uniformly critical of Mexican drug eradication efforts, in spite of the fact that hundreds of Mexican agents have died fighting the drug lords.

At the end of February, President Reagan must have certified to Congress that Mexico, as well as other nations, had been making sufficient efforts to combat the cultivation and transshipment of drugs or the countries would face a cut-off of funds to continue their drug eradication and confiscation efforts. In order to enhance the facade of good relations between the two countries, the highly visible and critical position which the administration had taken previously in regards to downgrading Mexico's efforts to curtail drug trafficking was toned down for the Mazatlan meeting. In the wake of the summit, and after a report was leaked that the administration was prepared to give Mexico City the green light on its anti-drug efforts because of "national security" interests, the Justice Department reacted angrily, with the issue still in doubt.

When President de la Madrid countered the White House's criticisms at Mazatlan by saying the United States is a principle cause of the drug problem because it has not done enough to curb consumption of illicit drugs, President Reagan acknowledged this point, saying in his weekly radio address that "the traffickers would go out of business if people quit buying illegal drugs, that's the real solution." After the summit, Secretary of State George P. Shultz stated that neither Mexico nor the United States had done enough to control the illegal drug flow in the hemisphere. These statements, along with Reagan's making a point to praise the "honest and concerned officials on both sides of the border," could clear the way for renewal of drug enforcement aid to Mexico.

The other main cause of controversy between the two countries is Washington's support for the Nicaraguan rebels. The fact that almost half of Mexico's territory was taken by the United States as a result of the Treaty of Guadalupe Hidalgo of 1848, has firmly left its mark on the Mexican mind, resulting in a foreign policy which staunchly defends the principle of "non-intervention."

Mexico City is proud of a lengthy tradition behind its maintenance of a foreign policy independent of its northern neighbor. With this history behind it, Mexico City predictably had to oppose the White House's contra war, if for no other reason than that Central America is more in Mexico's backyard, than that of the United States.

This anti-intervention feeling could be seen in President de la Madrid's remarks during an interview with James Reston in the Feb. 5 issue of the New York Times. The Mexican president warned the U.S. against trying to settle inter-American conflicts by military force. He was quoted as saying that Nicaraguans and other Latin Americans believe that "we cannot accept the United States as the supreme judge of our political system, to say who is good and who is bad, and if it says that someone is bad, to try to remove that government." Carlos Salinas de Gortari, PRI's presidential candidate and most likely Mexico's next president, when asked in January if he was opposed to U.S. aid to the contras, replied unequivocally, "No one outside Central America should interfere with those countries. No one. I hope that is understood. Not any side."

(Mr. Maguire is a research associate with the Council on Hemispheric Affairs in Washington, D.C.)

THIRD CONGRESSIONAL DISTRICT YOUTH ART MONTH

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. RAY. Mr. Speaker, I recently had the honor of participating in the annual Columbus College Art Competition in Columbus, GA. This competition was held in conjunction with National Art Month. The program was chaired by Dr. Donna Maddox of Columbus College who was assisted by Ms. Joann Ivey. This competition was tremendously successful, and the leadership and hard work of Dr. Maddox, Ms. Ivey, and others were major reasons for this success.

During a ceremony at the college, I signed a proclamation designating the month of March as "Youth Art Month in the Third Congressional District." I ask that this proclamation be printed in the RECORD.

PROCLAMATION

Whereas, the study of Art leads to a fuller, more meaningful life, and

Whereas, the training and visual acuity gained through the art experience open new worlds of seeing to all involved, and

Whereas, the society our youth will be entering and shaping will require both physical and philosophical vision, and

Whereas, the problem solving and survival skills promoted through art education are basic elements leading to creative thinking, and

Whereas, the National Art Education Association in conjunction with the Georgia Art Education Association is striving to better the human condition by upgrading visual awareness and the cultural strength of Georgia and the United States as a whole, and

Whereas, the citizens of Georgia have indicated a desire to join with the National Art Education Association and the Georgia Art Education Association in supporting the youth of our community in their artistic development, we, The Third Congressional District, therefore proclaim the month of March as Youth Art Month in 1988. By this action, let it be known that we feel art training is a basic part of our educational system and that we hold the art programs in our schools to be an essential and viable academic endeavor.

It is so proclaimed this 26 day of February, 1988.

TRIBUTE TO THE TALL CEDARS

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. HUGHES. Mr. Speaker, I would like to take this opportunity to recognize an organization whose upstanding membership and acts of charity have been a major influence in the State of New Jersey for over 80 years. I am truly honored to have a group as fine as the Tall Cedars within my district and invite all Members of Congress to join me in proclaiming March 13–19 to be Tall Cedar Week.

The Tall Cedars were founded near the turn of the century by David H. Lukens and officially incorporated on March 18, 1902 in Trenton, NJ. Since their formation, their unselfish contributions have helped to make New Jersey a better place to live. In 1951, the Tall Cedars of Lebanon became the first organization to offer continuous financial assistance to the Muscular Dystrophy Association. But their goodwill extends far beyond this, for the Tall Cedars develop and sponsor countless activities to raise funds for charities. Collectively, the Tall Cedar chapters raise over a half million dollars annually for charitable organizations.

This recognition is small compared to the acclaim they really deserve. The efforts of such members as Jules Endres, Ken Hogg, and Grand Tall Cedar Tom Hornblower are particularly noteworthy and I would like to thank them and all of the Tall Cedars throughout the country for their many contributions to their communities and to our country.

TRIBUTE TO DR. PAUL HARTLEY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. TRAFICANT. Mr. Speaker, it is with great pride that I stand before you today to pay tribute to Dr. Paul Hartley of Warren, OH.

Dr. Hartley has recently retired from the Ohio Cooperative Extension Service where he has worked since 1969. I thank him for his many years of dedication to the community.

Dr. Hartley received his doctorate from the Pennsylvania State University in 1977. Since then he had written a myriad of monographs, bulletins and articles dealing with subjects from "Buckwheat Culture" to "The Farmer's Dilemma." Among his professional honors are Alpha Tau Alpha, Epsilon Sigma Phi, and Phi Epsilon Phi. He is an alumni of the Alpha Gamma Rho Fraternity. He is a member of the Cortland United Methodist Church where he served as a Sunday school teacher, assistant lay leader, and as chairman of the social commissions. He is married to Mrs. Charlotte R. Hartley and they are blessed with two daughters, Robin, a senior at Ohio State University, and Dawn, a freshman at OSU.

I wish Paul every happiness in his retirement and give him my sincere thanks for all he has given to the Ohio community in his many years with the Ohio Cooperative Extension. Mr. Speaker, it is with great pride I pay tribute to such an outstanding man and I am proud to serve him and his family as their representative in the U.S. House of Representatives.

THE 50TH WEDDING ANNIVERSARY OF MR. AND MRS. WALTER KRYSTYNIAK

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. LIPINSKI. Mr. Speaker, it is my pleasure to bring to the attention of this Congress the Golden Wedding Anniversary of two of my district's finest constituents—Elizabeth and Walter Krystyniak. This exemplary couple celebrated 50 years together as man and wife on February 11.

Their marriage has been blessed with 8 children: Walter, Jr., Louis, Diane, James, William, Darlene and Edward; 11 grandchildren, and 9 great-grandchildren. In addition to the work of raising a family, the Krystyniaks both maintained careers.

The Krystyniak family has given much to their community as well. Not only have they given Chicago's 23d ward its alderman, their son William, they have dedicated themselves to their friends and neighbors on the Southwest Side of Chicago for many years.

I'm sure that all of my colleagues join me in congratulating Elizabeth and Walter on this joyous occasion and in wishing them many more years of happiness.

PERSONAL EXPLANATION

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. BRUCE. Mr. Speaker, because of an unavoidable delay in transportation, I was unable to attend the session of the House on Tuesday, March 1. I ask unanimous consent to be excused for that absence and to insert this statement concerning how I would have voted for that day in the permanent RECORD.

Mr. Speaker, because of an unavoidable delay in transportation, I was unable to attend the session of the House on Tuesday, March 1.

If I had been present:

On rollcall No. 13, on voting to approve the Journal, I would have voted "yea."

On rollcall No. 14, on the motion by Mr. DANNEMEYER to instruct the conferees on H.R. 5, I would have voted "yea."

MISSION FOR PEACE

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. LEVINE of California. Mr. Speaker, I would like to take this opportunity to recognize one of my young constituents who is doing his part for peace between the superpowers. Bradley Correa, a 9-year-old from El Segundo, CA, is making his second trip to the Soviet Union this week, accompanied by his father, Robert. A meeting with General Secretary Mikhail Gorbachev is being planned.

Last year, during his first trip to the Soviet Union, Bradley met several Soviet officials, participated in anti-war ceremonies, and was dubbed "Brad the Peacemaker." If, this time around, he does indeed get the opportunity to meet Secretary Gorbachev, Bradley says he will tell the Soviet leader to destroy all his weapons and end all war.

Mr. Speaker, this peace mission gives us the perfect opportunity to reflect on the grassroots support for superpower cooperation. We in Congress and those in the administration could learn a valuable lesson from the Bradleys of this world—ending the arms race and achieving peace with the Soviets is possible. Even though he is only 9 years old, Bradley's efforts can only enhance the peace process, and he is to be highly commended for his effort.

Finally, Mr. Speaker, I include an article from the Los Angeles Times on Bradley Correa's trip to the Soviet Union be included at this point in the RECORD.

The article follows:

MISSION FOR PEACE: EL SEGUNDO YOUTH TAKING MESSAGE TO SOVIETS FOR SECOND TIME

(By George Stein)

Nine-year-old Bradley Correa has prepared his speech in the event he meets Soviet leader Mikhail S. Gorbachev:

"Hi, my name is Brad. I want peace between nations and I don't want you to have war and I want you to destroy all your weapons so they can never fight anymore."

The meeting may not be a child's fantasy.

Last year, the El Segundo third-grader visited the Soviet Union on what his father calls a "mission of peace and good will," during which one group of Soviet children dubbed him the "Samantha Smith from California"—a reference to the Maine girl who captured headlines with a trip to the Soviet Union but died in an airplane crash in 1985.

A SECOND "MISSION"

Bradley and his father Robert Correa, 39, are leaving Sunday on a second "mission." The elder Correa said the Soviet officials who are paying for his two-week trip told him they are trying to arrange a meeting with Gorbachev.

Brad's career as an ambassador began inadvertently.

Last year, his father, a Mexicana airlines employee who travels all over the world on vacations, applied for tourist visas to the Soviet Union. (His mother, who has worked on the space shuttle for TRW, decided she could not go because of her work.)

Soviet officials examined the visa applications and decided to sponsor the trip, explaining that they were making the offer because it is rare for a child to come as a tourist.

The U.S. State Deprtment is not aware of a similar case, according to spokesman Ben Justesen in Washington.

"We have not discouraged this sort of unofficial contact," Justesen said. "We acknowledge it and encourage it."

He added that American officials would like to be kept posted "on the next adventure of little Mr. Correa."

Robert Correa said he knows "it is a risk" that Soviet officials may use his son's visit to further propaganda aims, but he figures "at least, the people can see an American kid."

Brad said he was afraid when his father told him they were going to the Soviet Union last year.

When other students in his class heard about the trip, Brad recalled, one boy commented, "'They are going to kill you over there.' And everybody, like, said, 'Whoooo!'"

His teacher gave him a special assignment. "I had to do a dictionary, a diary, whatever—what I did every day."

El Segundo Mayor Jack Siadek arranged for him to carry "keys to the City of El Segundo" to Moscow and Leningrad.

In Leningrad, a group called the Committee of the Defense of Peace gave him a statuette of Peter the Great, inscribed to "Brad the Peacemaker." He also got the key to Leningrad, a medal from the Young Pioneers, a Soviet passport, a Soviet driver's license, a model of Lenin's house and several busts of Lenin. There were speeches against war.

"They didn't kill me," Brad noted.

But there were some uncertain moments, such as an offer of caviar.

"One thing I really hated about the food was the fish eggs. Yech! I'm not into raw fish," Brad declared.

As for Soviet gum, "the taste wears out really quick," he reported. He did, however, approve of "a burrito" they sampled in Armenia, finding it "very, very good."

Nevertheless, on this trip, Brad's father said, "We are taking our own junk food," such as beef jerky.

Brad also is taking a letter from school Supt. Richard V. Bertain: "The El Segundo Unified School District is very pleased to support Bradley Correa's effort in the area of international relations.

"Obviously, it is important that the efforts of all segments of society be directed at improving relationships throughout the world and this includes young people."

Despite all the peace rhetoric, Bradley made the discovery that the Soviet kids—much as their American counterparts—like to play war games. Officials took him to a toy store and told him to pick out whatever he wanted.

"Look at my toy gun," he said proudly displaying a Red Army artillery piece. "It's radical."

VOTING RECORD

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. UDALL. Mr. Speaker, it has become my practice from time to time to list my votes in the CONGRESSIONAL RECORD. I strongly believe that the people of the Second Congressional District of Arizona have a right to know where I stand on the issues decided by this body, and I have found that printing my record here is the best way to provide that information.

This is not an all inclusive list. I have omitted noncontroversial votes such as quorum calls, motions to resolve into the Committee of the Whole House, and motions to approve the Journal of the previous day.

The descriptions are necessarily somewhat short, and I am sure that some of my constituents will have additional questions about the issues described here. So I invite them to write me for more specifics.

The votes are described as follows:

VOTING RECORD

KEY

1. Rollcall Number;
2. Number of the bill or resolution;
3. Title of the bill or resolution;
4. A description of the vote;
5. The outcome of the vote;
6. The vote total;
7. My vote, in the form Y-yes, N-no, and NV-not voting;
8. The vote totals of the Arizona delegation (yes-no-not voting)'
9. The date.

300. H Res 244. St Germain Investigation—Adoption. Adoption of the resolution to direct the Committee on Standards of Official Conduct to further investigate allegations of misconduct by Fernand J. St Germain, D-R.I., and to promptly report back to the House its findings and recommendations. Rejected 111-291:N(3-1-1) Aug. 5, 1987.

301. HR 3058. Fiscal 1988 Labor HHS Appropriations—Procedural Motion. Natcher, D-Ky., motion to limit debate on the bill and on amendments to the bill to appropriate $112.792 billion in fiscal 1988 funding and $13.988 billion in advance fiscal 1989 and 1990 funding for the Departments of Labor, Health and Human Services, and Education, and related agencies. Motion agreed to 262-159:Y(1-4-0)0.

302. HR 3058. Fiscal 1988 Labor-HHS Appropriations—Funding Cutback. Armey, R-Texas, amendment to reduce by half the 6.9 percent increase in funding for discretionary programs within the labor Department, cutting the bill by a total of just over $150 million. Rejected 132-287:N(4-1-0), Aug. 5, 1987.

303. HR 3058. Fiscal 1988 Labor-HHS Appropriations—Funding Cutback. Frenzel, R-Minn., amendment to cut funding for each discretionary program in the bill by 8.16 percent, for a total cut of approximately $2.96 billion. Rejected 83-341:N(2-3-0), Aug. 5, 1987.

304. HR 3058. Fiscal 1988 Labor-HHS Appropriations—Funding Cutback. Tauke, R-Iowa, amendment to cut funding for each discretionary program in the bill by 4.07 percent for a total cut of approximately $1.5 billion. Rejected 145-280: N(4-1-0), Aug. 5, 1987.

305. HR 3058. Fiscal 1988 Labor-HHS Appropriations—Funding Cutback. Penny, D-Minn., amendment to cut funding for each discretionary program in the bill by 2 percent, for a total cut of approximately $740 million. Rejected 181-245: N(4-1-0), Aug. 5, 1987.

307. HR 3058. Fiscal 1988 Labor-HHS Appropriations—Passage. Passage of the bill to appropriate $112.792 billion in fiscal 1988 funding and $13.988 billion in advance fiscal 1989 and 1990 funding for the Departments of Labor, Health and Human Services and Education, and related agencies. The president had requested $99.5 billion for fiscal 1988 and $98.679 billion in advance fiscal 1989 and 1990 funding. Passed 336-89:Y(2-3-0), Aug. 5, 1987.

309. HR 1315. Nuclear Regulatory Commission Authorization—Plant Licensing. Markey, D-Mass., amendment to prohibit the Nuclear Regulatory Commission (NRC) from licensing for full-power operation the nuclear power plants at Seabrook, N.H., and Shorehan, N.Y. unless their emergency evacuation plans meet NRC rules as of June 1, 1987, which, in part, require state and local participation in planning. Rejected 160-261:Y(*1-4-0), Aug. 5, 1987.

310. HR 1315. Nuclear Regulatory Commission Authorization—Passage. Passage of the bill to authorize $427.8 million in fiscal 1988 and $422.6 million in fiscal 1989 for the Nuclear Regulatory Commission. The president had requested the same amount. Passed 389-20: Y(5-0-0), Aug. 5, 1987.

311. HR 2686. Public Works and Economic Development—Passage. Passage of the bill to authorize $1.3 billion in aid to economically distressed areas for fiscal years 1988-90, including $487.2 million earmarked for the Appalachian region. Adopted 330-89:Y(1-4-0), Aug. 5, 1987.

312. HR 132. Armenian genocide Remembrance—Rule. Adoption of the rule (H Res 238) to provide for House floor consideration of the joint resolution to designate April 24, 1987, "National Day of Remembrance of the Armenian Genocide of 1915-23" in commemoration of the death of approximately 1.5 million people by genocide at the hands of the Ottoman Empire government. Rejected 189-201: NV(0-4-1), Aug. 7, 1987.

314. HR 1327. Health Service Corps Amendments—Passage. Passage of the bill to reauthorize for fiscal 1988-1990 the federal program that pays the educational costs of health professionals who agree to practice in medically underserved areas. Passed 387-9:Y(4-1-0), Sept. 9, 1987.

315. H Res 192. Lithuanian Religious Freedom Adoption. Feighan, D-Ohio, motion to suspend the rules and adopt the resolution to express House support for Lithuanians persecuted for exercising freedom of reli-

gion and to urge the Reagan administration to continue to support religious freedom throughout the world. Adopted 400-0:Y(5-0-0), Sept. 15, 1987.

316. H Res 260. Philippines Support Adoption. Solarz, D-N.Y., motion to suspend the rules and adopt the resolution to express House support for Philippines President Corozan Aquino and her efforts to establish democracy in the region and defeat communist and other rebel factions attempting to overthrow the Philippine government. Adopted 399-0:NV(4-0-1), Sept. 15, 1987.

318. HR 1154. Textile and Apparel Trade Act—Rule. Adoption of the resolution (H. Res. 256) to provide for House floor consideration of the bill to limit imports of about 185 categories of textiles and apparel to 1 percent annual increases, beginning with 1986 levels, and to freeze imports of 15 categories of shoes at 1986 levels. Motion agreed to 305-111:Y(1-4-0), Sept. 16, 1987.

319. HR 1154. Textile and Apparel Trade Act—Passage. Passage of the bills to limit imports of about 185 categories of textiles and apparel to 1 percent annual increases, beginning with 1986 levels, and to freeze imports of 15 categories of shoes at 1986 levels. Passed 263-156:N(0-5-0), Sept. 16, 1987.

320. HR 442. Japanese-American Civil Liberties Act—Restitution. Lungren, R-Calif., amendment to strike a provision to provide restitution to eligible Americans of Japanese descent who were relocated to internment camps during World War II and, therefore to reduce appropriations for the bill by $1.2 billion to $50 million. Rejected 162-237:N(4-1-0), Sept. 17, 1987.

321. HR 442. Japanese-American Civil Liberties Act—Passage. Passage of the bill to apologize and provide restitution to eligible Americans of Japanese descent who were relocated to internment camps during World War II and to fund public education efforts about the events surrounding the internment. Passed 243-141:Y(2-3-0), Sept. 17, 1987.

322. HR 3030. Farm Credit—Rule. Adoption of the rule (H. Res. 265) to provide for House floor consideration of the bill to provide financial assistance to the Farm Credit System, to create a secondary market for farm mortgage and to establish new lending guidelines for the Farmers Home Administration. Adopted 304-56:Y(3-2-0), Sept. 21, 1987.

323. HR 2783. HUD-Independent Agencies Appropriations—Rule. Adoption of the rule (H. Res. 267) to provide for House floor consideration of the bill to appropriate funds for the Department for Housing and Urban Development and 16 independent agencies and offices for fiscal year 1988. Adopted 261-137:Y(1-4-0), Sept. 22, 1987.

324. HR 2783. HUD-Independent Agencies Appropriations—Housing Demolition. Frost, D-Texas, amendment to bar use of funds in the bill to demolish public housing projects in West Dallas and Houston, Texas. Adopted 239-175:Y(1-4-0), Sept. 22, 1987.

325. HR 2783. HUD-Indpendent Agencies Appropriations—spending Freeze. Crane, R-Ill., amendment to freeze funding at fiscal 1987 levels except for the Veterans Administration. Rejected 136-279:N(4-1-0), Sept. 22, 1987.

326. HR 2783. HUD-Independent Agencies Appropriations—Two-percent for the Crane, R-Ill., amendment to reduce funding by 2 percent for the Department of Housing and Urban Development and independent agencies except for the National Aeronautics and Space Administration and the Veterans Administration. Rejected 176-239:N(4-1-0), Sept. 22, 1987.

327. HR 2783. HUD-Independent Agencies Appropriations—Amendments en bloc. Boland, D-Mass., amendments to reduce budget authority for several agencies by $167 million and to increase budget authority elsewhere in a like amount, reducing outlays for fiscal year 1988 by $101 million. Adopted en bloc 413-1:Y(5-0-0), Sept. 22, 1987.

328. HR 2783. HUD-Independent Agencies Appropriations—Passage. Passage of the bill to appropriate $57.9 billion in fiscal year 1988 for the Department of Housing and Urban Development and independent agencies. The president had requested $51.6 billion. Passed 348-68:Y(3-2-0), Sept. 22, 1987.

329. HJ Res 324. Permanent Debt-Limit Extension-Gramm-Rudman Revision—Rule. Adoption of the rule (H Res 247) to waive certain points of order against the conference agreement on the joint resolution to raise the permanent ceiling on the federal debt to $2.8 trillion, from $2.1 trillion; to establish an automatic spending-cut procedure; to set maximum allowable budget deficit targets: for fiscal 1988, $1344 a billion (or another, undetermined figure because the legislation limited 1988 mandatory spending cuts under the automatic procedure to $23 billion, regardless of the difference between the estimated deficit and the target); for fiscal 1989, $136 billion (or another, undetermined figure because of a $36 billion limit on the mandated spending cuts); for fiscal 1990, $100 billion; for fiscal 1991, $64 billion; for fiscal 1992; $28 billion; for fiscal 1993, zero; to provide that the automatic spending-cut procedure would be triggered in most years if the estimated deficit exceeded the target by more than $10 billion; and to revise certain other budget rules. Adopted 325-84:Y(3-2-0), Sept. 22, 1987.

330. HJ Res 324. Permanent Debt-Limit Extension-Gramm-Rudman Revision—Conference Agreement. Adoption of the conference report on the joint resolution to raise the permanent ceiling on the federal debt to $2.8 trillion, from $2.1 trillion; to establish an automatic spending-cut procedure; to set maximum allowable budget deficit targets: for fiscal 1988, $144 billion (or another, undetermined figure because the legislation limited 1988 mandatory spending cuts under the automatic procedure to $23 billion, regardless of the difference between the estimated deficit and the target); for fiscal 1989, $136 billion (or another, undetermined figure because of a $36 billion limit on the mandated spending cuts); for fiscal 1990, $100 billion; for fiscal 1991, $64 billion; for fiscal 1992; $28 billion; for fiscal 1993, zero; to provide that the automatic spending cut procedure would be triggered in most years if the estimated deficit exceeded the target by more than $10 billion; and to revise certain other budget rules. Adopted 230-176:N(4-1-0), Sept. 22, 1987.

332. HJ Res 362. Fiscal 1988 Continuing Appropriations—Passage. Passage of the joint resolution to continue through Nov. 10, 1987, funding for most federal programs at fiscal 1987 appropriations levels, including $3.5 million in humanitarian aid for the Nicaraguan contras. Foreign operations accounts would be funded at the appropriated 1987 level or the president's budget request, whichever was lower. Passed 270-138:Y(3-2-0), Sept. 23, 1987.

334. HR 2596. Admiralty Island Monument—Passage. Vento, D-Minn., motion to suspend the rules and pass the bill to require the U.S. Forest Service to negotiate with the Kootznoowoo village corporation to develop land acquisition and cooperative agreements for better management of the Admiralty Island National Monument in Alaska. Motion agreed to 385-19:Y(4-1-0), Sept. 29,1987.

335. HR 2893. Fishermen's Protective Act—Passage. Jones, D-N.C., motion to suspend the rules and pass the bill to reauthorize the program to reimburse losses incurred by owners of fishing vessels when their vessels are seized or detained by foreign countries in violation of international law. Motion agreed to 404-0:Y(5-0-0), Sept. 29, 1987.

336. HR 1171. National Oceans Policy—Passage. Jones, D-N.C., motion to suspend the rules and pass the bill to create a 17-member National Oceans Policy Commission responsible for promoting peaceful uses of and developing conservation and marine research policies for oceans and the Great Lakes. Motion agreed to 311-93:Y(1-4-0), Sept. 29, 1987.

337. HR 3017. Marine Science Act—Passage. Jones, D-N.C., motion to suspend the rules and pass the bill to reauthorize the National Sea Grant College Program for three years, expand the program's marine research initiatives, create a postdoctoral fellowship program and broaden cooperative international research efforts. Motion agreed to 323-79:Y(1-4-0), Sept. 29, 1987.

338. HR 2310. Airport Reauthorization—Rule. Adoption of the rule (H Res 275) to provide for House floor consideration of the bill to authorize about $28 billion over five years for airport expansions, improvements in the air traffic control system and other programs funded through the federal Airport and Airway Trust Fund, and to extend ticket and other aviation taxes to pay for the programs. Rejected 178-235:Y(2-3-0), Sept. 30, 1987.

340. HR 2310. Airport Reauthorization—Rule. Adoption of the rule (H Res 278) to provide for house floor consideration of the bill to authorize about $28 billion over five years for airport expansions, improvements in the air-traffic control system and other programs funded through the federal Airport and Airway Trust Fund, and to extend ticket and other aviation taxes to pay for the programs. Adopted 368-42:Y(4-1-0), Oct. 1, 1987.

342. HR 2310. Airport Reauthorization—Burbank Airport Runways. Moorhead, R-Calif., amendment to delete a provision in the reauthorization bill to require authorities at the Burbank Airport in Southern California to submit a new pattern of runway use to the Federal Aviation Administration. Rejected 198-211:Y(5-0-0), Oct. 1, 1987.

343. HR 2310. Airport Reauthorization—Essential Air Service. Hammerschmidt, R-Ark., amendment to extend for 10 years the Essential Air Service program, which provides federal subsidies to airlines to guarantee service to small communities. Adopted 385-14:Y(5-0-0), Oct. 1, 1987.

344. HR 2310. Airport Reauthorization—Aviation Trust Fund. Howard, D-N.J., amendment to remove the Airport and Airway Trust Fund from the federal budget, a step that would exempt it from spending cuts that could be required by the new version of the Gramm-Rudman anti-deficit law. Rejected 197-202:N(3-2-0), Oct. 1, 1986, 1987.

345. HR 2310. Airport Reauthorization—Passage. Passage of the bill to authorize about $28 billion over five years for airport expansions, improvements in the air-traffic control system and other programs funded through the federal Airport and Airway

Trust Fund, and to extend ticket and other aviation taxes to pay for the programs. Passed 396-0:Y(5-0-0), Oct. 1, 1987.

346. HR 3030. Farm Credit—Farm Bank System. Jones, D-Tenn., amendment to require the Farm Credit System to dissolve the 12 federal land banks and 12 federal intermediate credit banks and, under the supervision of the Farm Credit Administration, merge them into six regional service banks within 18 months, and clarify the tax treatment of local lending associations. Adopted 322-94:Y(1-4-0), Oct. 6, 1987.

347. HR 3030. Farm Credit—Passage. Passage of the bill to provide financial assistance to the Farm Credit System, require systemwide reorganization, create a secondary market for farm mortgage loans, require system institutions and the Farmers Home Administration to enter into loan restructuring agreements with borrowers, and establish certain rights for farm borrowers. Passed 365-49:Y(3-2-0), Oct. 6, 1987.

348. HR 3307. Sentencing Guidelines—Passage. Conyers, D-Mich., motion to suspend the rules and pass the bill to delay for nine months, until Aug. 1, 1988, the implementation of new sentencing guidelines drafted by the U.S. Sentencing Commission. Motion rejected 183-231:N(0-5-0), Oct. 6, 1987.

349. HR 3391. Iranian Trade Sanctions—Passage. Rostenkowski, D-Ill., motion to suspend the rules and pass the bill to impose a total ban on imports to the United States from Iran, authorize the president to delay the ban for 180 days if he deems it to be in the national interest and to lift the ban if Iran stops its belligerent activities in the Persian Gulf, and encourage other countries to enact similar import bans. Motion agreed to 407-5:Y(5-0-0), Oct. 6, 1987.

COSBI'S TIME HAS COME

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. LAFALCE. Mr. Speaker, the Small Business Committee, which I am privileged to chair, is considering legislation to establish a new federally-chartered but privately-owned company to "bankroll" small venture capital firms. This new entity, COSBI, or the Corporation for Small Business Investment, would supply funds to small business investment companies [SBIC's] which in turn purchase stock in and make higher risk loans to small businesses.

Mr. Speaker, a colleague who formerly served with me on the Small Business Committee prior to his election to the Committee on Ways and Means, the Honorable BYRON DORGAN, has again demonstrated his commitment to small business. He continues to stay abreast of small business issues and last week presented testimony on COSBI in which he concluded that "it is about time that we act on this recommendation."

Mr. Speaker, Representative DORGAN's testimony demonstrates a knowledge of the venture capital problem confronting both urban and rural small business. More importantly, it endorses a proposed solution. I commend him for his interest in this and look forward to working with him as Congress considers this legislation.

For the benefit of my colleagues, I am submitting a copy of Congressman DORGAN's testimony and I urge all to read it:

STATEMENT OF BYRON L. DORGAN

Mr. Chairman, I would like to congratulate you on holding this series of hearings on H.R. 3392, legislation that would establish the Corporation for Small Business Investment (COSBI). I am a cosponsor of this bill, and I believe the first House Member outside of the Small Business Committee to cosponsor this important legislation.

I fully support your efforts and the efforts of the Small Business Committee to move the COSBI bill through the legislative process and to the House floor so that it can be acted upon before the close of the 100th Congress. I understand that the Senate is moving on an equally fast track with hearings also scheduled this week, and hopefully together we can make COSBI a reality.

We in Congress must find new and creative ways to help address the capital formation needs of small business. Small business is our nation's leading job creator and innovator, and represents the dynamic force that drives the American economy. We must continually look for ways to provide emerging, small firms with the resources they need to compete, create jobs and foster growth in all sectors of our economy and in every region of our country—particularly in our rural areas.

Small business investment companies (SBIC's) in many instances are the only source of critical growth capital available to small business, and frequently the only reason many small firms are able to grow, prosper and survive. SBIC's are licensed by the Federal government to provide long-term financial and management assistance to small business. During the past 29 years SBIC's have provided over $7 billion to over 85,000 small businesses in every state, and have created over one million new jobs. And they do it at very little cost to the Federal Government. Studies over the years clearly document the advantage of SBIC financing. These studies show that small businesses financed by SBIC's:

Have growth rates 10 times faster than other small firms;

Produce Federal tax revenues at a rate 5 times greater than other small businesses;

Create one permanent new job for every $6,500 of SBIC investment; and

Have produced tax revenues in one year far greater than the cost of the entire program in its 28-year history.

SBIC's provide financing to small businesses in every section of the country, and don't restrict their investments to narrow geographic areas, as is generally the case with the large independent venture capital funds. Typically over 64 percent of the capital provided by SBIC's go to small firms less than three years old, and they provide capital at reasonable rates designed to fit the needs of the small businesses in which they invest. The capital, resources and expertise SBIC's provide at critical stages of a company's development is simply not available from other sources.

In recent years, SBIC's, like many who participate in the small business arena, have been forced to live an uncertain existence. They have been left hanging by various proposals from the Administration to terminate the SBIC program as part of its wholesale proposal to terminate the SBA. The program's funding operations were then changed and its access to leverage was cut off for a period of time. At various times other proposals have been made to restrict the availability of funds for the program. And throughout all of this the program has suffered from an unstable regulatory environment.

The SBIC program has been widely recognized as the epitome of a public/private partnership that has worked well, and it has frequently been referred to as the "crown jewel" of the Federal government's small business programs. But if the current unstable funding and regulatory environment continues to the detriment of the program, the ultimate losers will be the small businesses of this country.

One solution to this critical problem is COSBI. Congress first recommended that such an institution—a capital bank for the SBIC industry—be considered nearly 20 years ago. And it is about time that we act on this recommendation. COSBI would be a government-sponsored enterprise and serve the needs of small business, much in the same way that Fanny Mae serves the needs of housing and Sally Mae serves the needs of education.

The COSBI proposal is a truly creative way to insure that the capital formation needs of small business are adequately addressed. The purpose of COSBI is to provide long-term financing and an effective operating environment for SBIC's, who in turn will have an increased capacity to make continued venture capital investments in small growth firms throughout our Nation. By creating a vehicle with access to the major capital markets to serve the needs of the SBIC industry, Congress will have taken a major step in helping solve the small business capital formation problems of small business.

In my own state of North Dakota, SBIC's provided nearly $1.2 million to 25 small businesses from 1980 through 1986. This was helpful, but small businesses in my State need access to more venture capital. Although an SBIC used to be located in Fargo, ND, it is no longer there; this may have something to do with the uncertainties that have surrounded the program in the last few years. Certainly the opportunities for investment are there. There is a growing interest in venture capital in my State, and I want to do everything I can to encourage venture capital to both remain in and enter North Dakota and participate in our economic growth.

As I've said in the past, we in North Dakota are conservative by nature, and we examine new ideas with a healthy skepticism and a generous portion of forethought. I have closely examined the COSBI bill, and I firmly believe that it is a legislative proposal whose time has come and whose benefits will accrue to both urban and rural areas.

I believe that COSBI will lead to substantial growth in the SBIC industry which, in turn, will make hundreds of millions of more dollars of seed and venture capital available to small businesses around the country. The true beneficiaries of COSBI will not only be the small businesses of my State of North Dakota who so desperately need access to venture capital, but small businesses in every region of the country. The result will be that the American economy will prosper through the creation of new jobs, new technologies, increased competition, economic prosperity and additional tax revenues for our Federal and local governments.

Mr. Chairman, thank you for giving me the opportunity to testify regarding legislation which is so critical to the health, future and success of the SBIC industry and small business. You may be assured that I will do everything I can to help in our mutual effort to enact COSBI into law this year.

ELIAS KARMON: CITIZEN OF THE BRONX

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. SCHEUER. Mr. Speaker, I want to share with my colleagues a recent profile of my good friend, one of the great citizens of the Bronx, Eli Karmon.

Not only has Eli been a tireless worker on behalf of his neighbors in the Bronx, but as you can see from this profile, "Know Your Neighbors," which appeared in the January 29 edition of the Herald Statesman, he is also a working repository of his community's history.

KNOW YOUR NEIGHBORS

(Elias Karmon of the Bronx)

Elias Karmon could write a book on the South Bronx. In fact, once his voluminous files are organized, the resident businessman-philanthrapist-civic leader-historian and former South Bronx store owner is going to do just that.

Karmon's two adjoining apartments in the Morris Park section are each filled to the brim with papers, files, citations, books, magazines, and mementos—all attesting to a long history of community involvement and a penchant for preserving the past.

If his wife, Sylvia, had her druthers, said Karmon, 77, "she would take the whole thing and dump it."

Fifty years ago, Karmon began clipping articles about events and people—everyone from local to foreign leaders—in the hope of compiling the biggest anthology of people in the world.

Though he never succeeded, Karmon enjoys donating parts of this collection to local institutions such as Lehman College and the Bronx County Historical Society. He said that in many cases, such as with the Bronx Rotary Club, he has more copies of their publications than they do.

"I make a lot of presentations of awards to people," he explained. "I generally have information on them they don't even remember."

Karmon also holds "contests' to identify the faces in long-forgotten photographs.

In the early years, Karmon active with every organization in the Bronx, he said, including the Bronx Urban League. He served on his first board and was named president in 1954.

Karmon'a affinity for the South Bronx—which once "bustled" with activity—can be traced to the early 1940s when he opened Hollywood Clothes, a retail store in Prospect Avenue, and served as president of the merchant's association for many years. The New York University graduates also ran a real estate firm on the street, where he still maintain an office.

In addtion to his community service, Karmon's generosity is legend. On his 75th birthday, for example, he threw a party and raised some $30,000 that was distributed among all the nonprofits in the Bronx.—Fracine Silverman.

SUPPORT FOR H.R. 3999

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to speak in favor of H.R. 3999. On February 24, I introduced H.R. 3999, which would allow volunteer firefighters or members of rescue squads and ambulance crews to exempt themselves from serving on Federal juries. Under current law, full time firefighters, ambulance crews, and police are barred from jury duty at the Federal level.

Volunteer firefighters have protected this country from disaster throughout this Nation's history. Until the 20th century, career fire departments were a rarity in even the largest of cities. The entire country was protected by volunteer forces. Today, the safety of over 25,000 communities across this country depend wholly or partly on the work of 884,000 volunteer firefighters.

Volunteer public safety personnel subjugate their personal and professional lives to the needs of their community. They are willing to put their own affairs aside at a moment's notice. Their work is always physically demanding, often it is dangerous. Volunteer firefighters do all of this not for money or personal gain, but to help keep their neighborhoods safe.

There is no doubt that serving on a Federal jury is an important aspect of community service. However, the men and women who interrupt their daily lives to fight fires are also serving their community. H.R. 3999 would not bar volunteer firefighters from serving on Federal juries. It would simply allow them to decide whether they can add the additional demands of Federal jury duty to lives already dominated by community service.

I urge my colleagues to join me in support of H.R. 3999. My own State of New York has exempted volunteer firefighters from State and local jury duty. It is time that the Federal Government joins with New York in recognizing the value of the job these Americans do every day. Giving the option of exemption to these brave men and women is a small price to pay for the valuable service they perform every day across America.

At this time, I insert the text of H.R. 3999 into the RECORD:

H.R. 3999

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OPTIONAL JURY SERVICE BY VOLUNTEER PUBLIC SAFETY PERSONNEL.

Section 1863(b)(5) of title 28, United States Code, is amended—

(1) by inserting "(A) except as provided in subparagraph (B)," after "(5)", and

(2) by adding at the end the following:

"(B) specify that volunteer safety personnel, upon individual request, shall be excused from jury service. For purposes of this subparagraph, the term 'volunter safety personnel' means individuals serving a public agency (as defined in section 1203(6) of title I of the Omnibus Crime Control and Safe Streets Act of 1968) in an official capacity, without compensation, as firefighters or members of a rescue squad or ambulance crew.".

SEC. 2. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—This Act and the amendments made by section 1 shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by section 1 shall not apply with respect to service on any grand or petit jury impanelled before the date of the enactment of this Act.

PROMOTION OF MAJ. GEN. RICHARD E. STEARNEY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. LIPINSKI. Mr. Speaker, it is my pleasure to bring to the attention of this Congress the promotion of Richard E. Stearney to the rank of major general of the U.S. Army.

General Stearney is a native Chicagoan who is commanding general of the 86th U.S. Army Reserve Command in Forest Park, IL. He earned his bachelor's degree in economics and management from the University of Illinois in 1957 and his master's degree in business administration from DePaul University in 1961. In addition to the service he gives his country, General Stearney enjoys a successful career as the Midwest senior technical sales representative for the Boise Cascade Specialty Paperboard Co.

Chicago shares the pride in the general's promotion with his mother, Mrs. Helen Stearney, who is an active member of the community I represent.

I'm sure that all of my colleagues join me in congratulating General Stearney for his fine accomplishment.

RESTORING FULL PROTECTION OF THE MONRONEY AMENDMENT PREVAILING WAGE DETERMINATIONS FOR GOVERNMENT EMPLOYEES

HON. ALBERT G. BUSTAMANTE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. BUSTAMANTE. Mr. Speaker, today I am introducing legislation that would restore the full coverage of the so-called Monroney amendment prevailing-wage determinations for Government employees.

For those not familiar with the Monroney amendment, I would like to inform my colleagues of its history and of the problems with current law that necessitates the introduction of this bill.

The Monroney amendment is a provision contained in Public Law 90-560, which was approved by Congress in 1968. It is named after the amendment's sponsor, Senator A.S. Mike Monroney of Oklahoma. The purpose of the act was that special consideration was to be given to local areas with concentrations of

Federal blue-collar employees in specialized industries.

It required Federal agencies conducting wage surveys to "determine whether there exists in the local-wage area a number of comparable positions in private industry sufficient to establish wage schedules and rates for principal types of positions for which the survey is made. . . ." If Federal agencies find that the number of comparable positions is insufficient, they must set wages on the basis of both local private sector rates and rates paid for comparable positions in the nearest wage area with similar employment and industrial characteristics.

Monroney amendment prevailing wage determinations applied to all Federal civilian employees through 1985. However when Congress adopted the Department of Defense authorization bill for fiscal year 1986, a provision in that bill exempted DOD civilian employees from wage-determination coverage.

The DOD authorization bill permitted the Defense Department to establish wage schedules for its civilian personnel. As a consequence, DOD civilian employees' wages have been depressed below those of their civilian-agency and private-sector counterparts. This bill would restore wage determinations for DOD civilian employers, so they will not be a class apart form employees working for other Federal agencies.

This bill restores fairness in the wage-determination system for all classes of Federal civilian employees. Federal employees working for the Department of Defense should be treated no better or no worse than employees of other Federal agencies. This bill attempts to reestablish pay equity among all sectors of the Federal work force.

Mr. Speaker, I invite my colleagues who share my concerns for equity and fairness to join me in supporting this measure.

Mr. Speaker, a copy of the legislation follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. UNIFORM METHOD FOR ESTABLISHING WAGE SCHEDULES AND RATES.

Paragraph (2) of section 5343(d) of title 5, United States Code, is amended to read as follows:

"(2) When a lead agency determines that there is a number of comparable positions in private industry insufficient to establish the wage schedules and rates, such agency shall establish those schedules and rates on the basis of—

"(A) local private industry rates; and

"(B) rates paid for comparable positions in private industry in the nearest wage area that such agency determines is most similar in the nature of its population, employment, manpower, and industry to the local wage area for which the wage survey is being made.".

SEC. 2. EFFECTIVE DATE; INITIAL ADJUSTMENT.

(a) EFFECTIVE DATE.—The amendment made by this Act shall, with respect to any prevailing rate employee, become effective as of the first day of the first applicable pay period beginning on or after the later of—

(1) October 1, 1988; or

(2) the ninetieth day after the date of enactment of this Act.

(b) INITIAL ADJUSTMENT.—In the case of a prevailing rate employee employed by the Department of Defense immediately before the effective date (with respect to such employee) of the amendment made by this Act, the rate of pay payable to such employee shall, as of such effective date (and until the next pay adjustment thereafter), be adjusted by such amount as may be necessary to comply with the amendment made by this Act, except that the rate which becomes payable as a result of the adjustment shall be at least equal to the rate which was payable immediately before such effective date.

DR. ANTHONY W. OCHOA, EDUCATOR-CIVIC LEADER

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. GONZALEZ. Mr. Speaker, it is with sadness and regret that I report the passing of one of the most distinguished and honored leaders to have emerged from the midst of a vast and conglomerate body of Americans: those of Mexican ancestry and culture found principally in our border States and Midwest.

Dr. Ochoa, familiarly known as Torry, died on Tuesday, March 1 in Hayward, CA.

This great and noble people—the American of Mexican descent—have given us, in time of war a profusion of soldiers and heroes in greater proportion than any; and in time of peace, community leaders, creative and constructive, such as Anthony W. Ochoa.

Mr. Speaker, I wish to place in the RECORD at this point the news reports, the eulogies and expressions of Dr. Ochoa's educator/colleagues for they express most eloquently what should properly be said and noted at this point:

ANTHONY W. OCHOA

NOVEMBER 5, 1922–MARCH 1, 1988

(By Ellis E. McCune)

Tony Ochoa was a Professor of Teacher Education at Cal State Hayward; but knowing that fact tells you very little about Tony Ochoa, or about his service to the University.

When Tony joined the faculty of the University in 1971, we were at the height of what was then known as "student unrest." As a part of our efforts to respond to the needs of a changing student population, the University had established various ethnic studies programs, including a new program in Mexican-American Studies. Efforts to employ someone to head the program had failed, largely because of the efforts of a group of activist students and others who were determined to control the selection process. At least two likely candidates had been driven away.

We needed to find someone whose standing in the community, experience, background and credentials would make him impervious to the assaults of the radicals, and who was also foolhardy enough to accept the job. Like manna from heaven, Tony appeared on the scene, having just returned from an extended tour of duty in Columbia. We offered him the position, he accepted, and he stayed with us for nearly seventeen years.

Tony brought an unusual set of qualifications to the University. He had enjoyed far broader experience and a much wider exposure to the world than most faculty. Born in Guadalajara, Mexico, he had pursued activities during the years before he came to Cal State gave him a perspective on life, a tolerance of diversity and an understanding of human nature that few others possess.

The rigorous education that he received during his studies as St. Joseph's High School, St. Patrick's College and St. Patrick's Seminary gave him, among other things, a mastery of Latin, a life-long interest in the Canon Law and a great respect and admiration for the intellect. He had traveled extensively in central and south America as an export sales engineer, selling Jacuzzi pumps and tire vulcanizing equipment. He had been a high school teacher, a dean of boys, a vice-principal and a principal, a consultant to the Government of Colombia and a visiting professor in three Colombian Universities.

Perhaps his most significant qualification, however, was his deep concern for his fellow man. Tony's interest in his fellow humans—whether students, colleagues, friends or casual acquaintances—was unusual. And to go with that interest he had a rare quality: the ability to make each person to whom he spoke feel special, and important.

The adjective that first comes to mind when I think of Tony is "Courtly." His unfailing courtesy, his politeness and his gentlemanliness were remarkable; especially so because of the loss in present day society of much of what my generation called common courtesy—or good manners. His manner was formal, proper—and Courtly. Almost too much so, for some. Tony's occasional practice of greeting a female acquaintance in the old-world manner, by kissing her hand, was quite disconcerting to some, though others found it quite charming.

As a faculty member, Tony cared about his students. At one time or another, he taught a wide range of subjects, including Mexican American Studies, Latin, Speech and Administrative Communication; he also supervised student teachers. He counseled and advised on all manner of problems, and was a willing participant in an astounding array of committees, projects and activities on the campus. Tony was the kind of dedicated, committed faculty member one wishes there were more of: a good soldier, a kindly mentor and a very gentle man.

When Tony resigned the Chairmanship of the Mexican-American Studies Program to undertake new responsibilities with the University, he wrote a memorandum to me reflecting on his eleven years in the chairmanship. Characteristically, he thanked the University for having given him the opportunity to serve in what had been a most demanding, stressful position, one in which mere survival was a sign of success. One sentence of his concluding statement captures the essence of his contribution to Cal State: ". . . [A]bove all," he said, "I have an indescribable sense of accomplishment in the thought that I was privileged to assist and to guide so many of our students . . . to the successful completion of their academic goals at this institution of which I am proud to be a member." Speaking for that institution, I can say that we are both proud and grateful to have had Tony as a member.

EULOGY

Tony had requested that there be no eulogy at his funeral services, for he also realized that like Shelley's *Ozymandias* he, too, had "feet of clay." However, what needs be said about him is rather in the area of "food for thought" for us whom he left behind and who now honor his memory by our presence here this morning.

First of all, Tony was a "religious" person in his own unique way for he perceived the image of Christ in the most rejected by some elements of our society: the ethnic minorities; the poor; the uneducated; the homeless; the incarcerated, and the hungry. "For as long as you did it for one of these, the least of My brethren, you did it unto Me."

Secondly, Tony loved and appreciated his family and was devoted to them: his beloved wife, Christine; his three daughters: Maria, Christine Cecile, and Susan, as well as his son, Joseph.

Thirdly, Tony loved to teach at any age level and to counsel the afflicted more than anything else in life. Many of you know that for some years he was a very successful salesman throughout Latin America. However, after three excellent years in business, he abandoned this career to be with his young growing family and to return to teaching, ever his first love.

I conclude these rambling thoughts by sharing with you Tony's favorite scriptural quotation taken from the writings of Paul, the Apostle, and engraved in his urn: I Have Fought the Good Fight; I Have Finished the Course; I Have Kept the Faith. (II Timothy IV, 6 and 7).

[From the Daily Review, Mar. 4, 1988]

A Dedicated Life

Hayward students lost a strong ally Tuesday when college professor and school board President Anthony Ochoa died from a lingering lung ailment.

It was most appropriate that school and city flags were flown at half-staff in memory of the 65-year-old, long-time educator. For, he had been, as Hayward Mayor Alex Giuliani said, "a positive influence in the community for a number of years."

Ochoa served 35 years in various educator roles, and he spent the majority of them in Hayward and Union City. He had been a high school teacher and dean, an elementary school vice principal, a junior high and high school principal, and a three-term Hayward school board member.

The trustee was a member of the education faculty at California State University, Hayward, at the time of his death. He went to work there in 1971 and served as the first director of the Mexican-American studies program.

One often hears of individuals who make little distinction between their personal and professional lives. Ocha was one of them, having dedicated his life to being a friend and supporter of children and education during his working day as well as in his off hours.

No better example of his devotion was the time he spent last year helping struggling students at Brenkwitz Continuation School improve their writing skills. He tutored on his own time "some of the toughest kids we had and won them over," Hayward schools Superintendent Joel Thornley said.

"He was a warm, wonderful human being," said Brenkwitz Principal Raymond Eckert, "and we at Brenkwitz will always feel a sense of gratitude and debt to Tony Ochoa."

Testimonials in that vein after Ochoa's death weren't the exceptions—they were the rule. And they were all well deserved.

The kind of commitment and dedication to children and education displayed by Anthony Ochoa cannot be easily replaced. It takes a lifetime of hard work before it can be earned.

[From the San Jose Mercury News, Mar. 5, 1988]

Anthony Ochoa, 65, Educator

A funeral Mass will be celebrated today for longtime Hayward educator Anthony Ochoa, who died Tuesday from a heart attack. He was 65.

The president of the Hayward Unified School District board suffered from pulmonary fibrosis, an inflammation of the lungs. Mr. Ochoa lapsed into a coma Saturday and was rushed to Kaiser-Permanent Medical Center where he died without regaining consciousness.

"He loved kids. He loved teaching. He will be sorely missed," said district Superintendent Joel Thornley, who had known him for 30 years.

Mr. Ochoa was elected to the Hayward school board in 1979, becoming the first Mexican American to serve on a Hayward school board in a century, his family said.

Mr. Ochoa was born in Guadalajara, Mexico, but was raised in San Francisco's Mission District.

He was educated in the Bay Area.

In 1953, he began teaching at a high school in San Francisco. By 1958 he was teaching at Hayward High School. He later was principal of Searles Elementary School in Union City and Green Oaks Junior High School in East Palo Alto. He taught for 17 years at California State University, Hayward.

Mr. Ochoa also served as an education consultant to foreign governments in a program sponsored by the U.S. Agency for International Development and UC-Berkeley.

Mr. Ochoa is survived by his wife Christine; a son, Joseph Ochoa of Irvine; and three daughters, Maria Ochoa of Hayward, Susan Ochoa of San Leandro, and Christine Cecile Ochoa of Washington.

The funeral Mass today is scheduled for 10:30 a.m. at All Saints Church, 22824 Second St., Hayward. Private burial will follow at Mount Eden Cemetery. Hayward Mortuary is handling arrangements.

The family requests that donations in Mr. Ochoa's memory be sent to St. Anthony's Dining Room or Glide Memorial Church in San Francisco.

[From the Alameda County (CA) Daily Review, Mar. 2, 1988]

Educators, Officials Crowd School Board Chief's Funeral

(By Rich Riggs)

Hayward.—Several hundred mourners filled All Saints Church on Friday to pay their last respects to Hayward school board President Anthony Ochoa, who died Tuesday after battling a lung ailment.

Political figures, officials and faculty from Hayward Unified School District, city government, Alameda County government, and California State University, Hayward, attended the services, conducted by All Saints Pastor Albano G. Oliveira. Dr. Ochoa, 65, had taught at Cal State since 1971.

Ochoa was first elected to the school board in 1979 and was midway through his third term when he died. He was eulogized by California State University President Ellis McCune, Hayward schools Superintendent Joel Thornley, and Albert Lepore a friend and colleague on the Cal State School of Education faculty.

McCune said Ochoa arrived on campus when "we were at the height of what was called student unrest" and when the college was seeking someone to head a Mexican-American studies program.

Two candidates for the job "had been driven away by student radicals" when, "like manna from heaven, Tony appeared on the scene" to take the job.

"His manner was formal, courtly," McCune said. "He observed the Old World custom of greeting a woman by kissing her hand."

Thornley memorialized Ochoa as a "scholar and a friend who had a deep, abiding love for learning and for children in particular."

School Board Leader Ochoa Dies in Coma

(By Rich Riggs)

Hayward.—School and city facilities are flying flags at half-staff today for Hayward school board President Anthony Ochoa, 65, who died Tuesday after a nearly three-month-long fight with a lung ailment.

Ochoa was a prominent member of the school of education faculty at California State University, Hayward, and a former teacher and administrator for school districts in Hayward, Union City and East Palo Alto. He died at 11:14 a.m. at Kaiser hospital in Hayward, where he was taken Sunday after lapsing into a coma.

It's a sad, sad, thing that happened," said acting school board president Sue Wilburn. "I enjoyed working with him very much, and there was never a time I couldn't talk with him. He was as a good friend, besides being a colleague. I will miss him very, very, much and the school district will be at a loss without him. He contributed a lot to our district."

Major Alex Giuliani said: "The community has lost a very dedicated individual. He has been a positive influence in the community for a number of years."

Ochoa was hospitalized for three weeks in December after a flare-up of pulmonary fibrosis, a major inflammation of the lung.

He appeared once at a board meeting since then, on Jan. 15, to cast an emergency vote to repair a broken heating system at Sunset High School.

Five days later, he announced that he would not attend board meetings for at least two months, and Wilburn was named acting president.

"Tony Ochoa was a wonderful human being," said Hayward school Superintendent Joel Thornley. "He was gentle, thoughtful, and caring. He loved children, and he loved learning. He will be sorely missed."

Last year Ochoa spent two hours each week of his own time to tutor students at Brenkwitz Continuation School.

"He took some of the toughest kids we had and won them over," Thornley said. "He taught them to care about themselves. He was a super guy." Brenkwitz Principal Raymond Eckert said: "The fact that Tony Ochoa freely gave up two hours of his time each week in order to work with our students on their writing skills symbolized Tony's sense of dedication to our youth. He was a warm, wonderful human being, and we at Brenkwitz will always feel a sense of gratitude and debt to Tony Ochoa."

Eckert said Ochoa tutored eight to 10 students, one or two at a time, to help them pass writing tests they needed to graduate. "He had tremendous patience with them," Eckert said.

California State University President Ellis McCune said: "Tony has been with us a long time and has been very important to us. I would not want his loss to go unnoticed."

Maurice Dance, Cal State's provost and vice president for academic affairs, said Ochoa was hired in 1971. "He was our first director of our Mexican-American studies program. He worked with the Mexican-American community and in later years he returned to the school of education and was very influential in the lives of many young people entering teaching," Dance said.

Ochoa was born in Guadalajara, Mexico, and raised in San Francisco's Mission District.

He graduated from St. Patrick's College in Menlo Park in 1944 and received his master's and doctorate degrees from the University of California, Berkeley.

He also obtained a master's degree in counseling at California State University, Hayward, and had hoped to devote himself to counseling upon retirement.

He began his teaching career in 1953 at Lick-Wilmerding High School in San Francisco and came to the Hayward High School in 1958 to teach English, Spanish and Latin.

He was dean of boys at Hayward High School from 1960 to 1965 and was vice principal at Searles Elementary School in Union City's New Haven district and was a high school principal in that district between 1965 and 1968.

He was principal at Green Oakes Junior High School in East Palo Alto from 1968 to 1969.

From 1969 to 1971, he worked with the UC Berkeley as an educational consultant to the Colombian government.

He also served on Hayward's Human Relations Commission.

He is survived by his wife, Christine, and four children: Maria of Hayward, Christine Cecile of Washington, D.C., Susan of San Leandro and Joseph of Irvine.

Recitation of the rosary will be at 7 p.m. Thursday at All Saints Catholic Church, Second and D streets, Hayward.

Visitation will be from noon until 6 p.m. Thursday at Hayward Mortuary, 22297 Mission Blvd.

Mass of Christian Burial will be at 10:30 a.m. Friday at All Saints Catholic Church.

Memorial donations may be made to St. Anthony's Dining Room or Glide Memorial Church in San Francisco.

The senior member of the five-member school board, Ochoa was midway through his third term, which expires in December of 1989. He was first elected to the board in 1979.

[From the Oakland (CA) Tribune, Mar. 3, 1988]

HAYWARD SCHOOL BOARD CHIEF MOURNED—OCHOA LOSES 3-MONTH BATTLE WITH ILLNESS

(By Benny Evangelista and Craig Staats)

HAYWARD.—Colleagues yesterday remembered the late Hayward school board President Anthony W. Ochoa, who died this week, as a good friend and a dedicated educator.

"I lost a very dear, very close friend," said Sue M. Wilburn, board vice president.

Ochoa, 65, battled for three months against pulmonary fibrosis, an inflammation of the lungs. In the midst of his third term on the board, he announced in January that he would not attend meetings for two months while undergoing treatments.

Ochoa lapsed into a coma Saturday afternoon and was rushed to Kaiser-Permanente Medical Center, said his daughter Christine Cecile. He never regained consciousness and died Tuesday.

"Tony was my confidante on the board," Wilburn said. "I could go to him with any concern or idea and not be lectured to. He would talk to you.

"He did not take an adversarial role. He liked to work with people, not against them," she said.

Superintendent Joel Thornley echoed that sentiment.

"Tony was able to disagree without being disagreeable," said Thornley, who has known Ochoa since 1958.

"It's a terrible loss to the district. Tony Ochoa was a really wonderful human being. He loved children and he loved learning."

Thornley said when he last talked to Ochoa on Friday, Ochoa "was in good spirits and was looking forward to recovering," but had decided to resign from the school board.

Larry Booth, a parent activist, sometimes had disputes with the school district, but still admired Ochoa.

"There was no question Tony Ochoa had the interests of the students of Hayward at heart always," Booth said.

Jim Reed, a retired principal who ran for the board last November, said Ochoa was "one of the best board members I've seen. He stayed in there doing a difficult job for a long time."

Ochoa was born in Guadalajara, Mexico, but was raised from infancy in San Francisco's Mission District.

He graduated from St. Joseph College in Mountain View in 1942 and received his advanced degrees and teaching and administrative credentials from the University of California at Berkeley.

He started teaching in 1953 at San Francisco's Lick-Wilmerding High School. In 1958, he moved to Hayward High School, where he became dean of boys.

He was also principal of Searles Elementary School in Union City and Green Oaks Junior High School in East Palo Alto.

He taught for 17 years at the California State University at Hayward, teaching Mexican-American studies and classes preparing teachers for their careers.

He served as an education consultant to foreign governments in a program sponsored by the U.S. Agency for International Development and UC-Berkeley and spent about a year and a half in Colombia, South America.

In 1985, he completed graduate studies at Cal State-Hayward and received a master of science degree in clinical counseling, a field he hoped to pursue after retiring.

"He had this thirst for learning," Thornley said. "That was reflected in the way he conducted himself as a trustee."

Ochoa was first elected to the school board in 1979, the area's first Mexican-American school board member in about a century, said his daughter Christine.

Ochoa is survived by his wife Christine; daughters Maria of Hayward, Christine of Washington, D.C., and Susan of San Leandro; and son Joseph of Irvine.

A Rosary will be recited at 7 p.m. Thursday at All Saints Catholic Church, 22824 Second St., Hayward.

Visitation will be from noon to 6 p.m. Thursday at Hayward Mortuary, 22297 Mission Blvd.

A Mass of Christian Burial will be at 10:30 a.m. Friday at All Saints Church. A private burial will follow in Mt. Eden Cemetery.

In lieu of flowers, the family requests donations be made to St. Anthony's Dining Room or Glide Memorial Church in San Francisco.

COMMEMORATING GREAT NATIONAL CHEESE DAY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. HORTON. Mr. Speaker, today I rise to offer my appreciation to my constituents and the administrators of the town of Sandy Creek, NY. Recently, proclamations were made in Sandy Creek and the county of Oswego, NY to make February 22, 1988 "Great National Cheese Day". Mr. Hollis J. Iselin, chairman of the Oswego County Legislature, was joined by Sandy Creek legislator, Jerry Thomas, and the town of Sandy Creek supervisor, Darrell Kehoe, in making the proclamation.

"Great National Cheese Day" commemorates the actions of Col. Thomas S. Meacham of Sandy Creek. Colonel Meacham created a 1,400 pound cheese and delivered it as a gift to President Andrew Jackson in 1836. The cheese measured 4 feet wide by 2 feet thick. Mrs. Rosemary Nesbitt, historian, author and professor at SUNY College at Oswego tells us that;

> Colonel Meacham, who lived on the Salt Road, or what is now Route 11, was a foresighted fellow with a flair for the flamboyant.

Having made the cheese in Sandy Creek, the colonel faced the challenge of transporting it to Washington, DC. Horse drawn carriages, schooners, canal boats, and wagons were all used at various stages of the journey. A stop was made in Albany, NY, to present cheeses to the Governor and members of the State legislature.

In Washington, Colonel Meacham presented the great cheese to President Jackson and the President in return gave the colonel a dozen bottles of wine. The cheese, richly decorated with patriotic designs and inscriptions, was left to age for several months in the vestibule of the White House.

On February 22, 1836, in celebration of George Washington's birthday, President Jackson ordered the cheese cut into pieces. He extended an invitation to "all people of Washington to eat cheese." As would be expected, everyone turned out—even Daniel Webster.

An eyewitness wrote:

> The court, the fashion, the beauty of Washington were all eating cheese. Officers in Washington, foreign representatives, in stars and garters: gay, joyous, dashing and gorgeous women, in all the pride and panoply and pomp of wealth, were there eating cheese. Cheese, cheese, cheese was on everybody's mouth. All you smelt was cheese. Streams of cheese were going up in the avenue in everybody's fists. Balls of cheese were in a hundred pockets. Every hankerchief smelt of cheese. The whole atmosphere for half a mile around was infected with cheese.

In Colonel Meacham's style, the Oswego County legislature sent 10-pound cheese wheels to President Ronald Reagan, Senator ALFONSE D'AMATO, Senator DANIEL P. MOYNIHAN, Gov. Mario Cuomo, myself, and other dignitaries from our State. Also to commemorate the event, a cheese sampling celebration was held at the Ainsworth Memorial Library in Sandy Creek.

Through the creation of this cheese, Colonel Meacham and the townspeople of the area endeavored to impress upon President Jackson the industriousness and ingenuity of the dairy farmers of Oswego County, NY. The stains from the great cheese remain on the vestibule floor of the White House even today. They have stood as a reminder to all Presidents since Andrew Jackson of the stout-hearted character of the residents of Sandy Creek and Oswego County, NY.

CIVIL RIGHTS RESTORATION ACT OF 1987

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. FIELDS. Mr. Speaker, I join with many of my colleagues who strongly object to the procedures which brought this legislation before the House of Representatives. We have before us a complex, wide-ranging issue receiving minimum debate. Mr. Speaker, the right to free and open debate is one of the pillars of our democratic society. I regret that the greatest deliberative body in the world has not been granted this privilege today.

S. 557, the Civil Rights Restoration Act is not "simple restoration" legislation. On the contrary, this legislation may prove to be the most far-reaching expansion of Federal authority in two decades. S. 557 has a most worthy goal—to ensure that no Federal funds are expended in a discriminatory manner. I join the supporters of S. 557, in strongly opposing discrimination. I find discrimination both morally and ethically repugnant. However, I feel compelled to oppose the Civil Rights Restoration Act of 1987. The following explanation is a clarification of my position.

S. 557 seeks to overturn a recent Supreme Court decision, Grove City College versus Bell. Grove City College, a private, coed liberal arts school, refused to file a Government compliance form for title IX of the education amendments, which prohibits discrimination on the basis of sex, claiming that they receive no direct Federal aid and, hence, are not required to prove compliance. Grove City College was never charged with discrimination, but only with refusal to submit to Federal regulations and their corresponding administrative paperwork. The case reached the Supreme Court. In ruling, the Court held that: first, Federal financial assistance to students did constitute aid to the college, but second, only the specific program or activity receiving Federal assistance would be required to comply with Federal regulations under title IX of the Education amendments of 1972.

S. 557 was introduced in the Senate to overturn the Supreme Court's second holding of limited coverage. According to the bill's sponsors, S. 557 reinstates institution-wide coverage of four antidiscrimination statutes: the Education Amendments of 1972, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and the Rehabilitation Act of 1973. Under this legislation, all beneficiaries of direct or indirect Federal assistance would be compelled to certify that they do not discriminate on the basis of sex, age, handicap or race. While the author's intent may have been simply to return to the status quo of institution-wide coverage practiced prior to the Grove City decision, the actual language of the bill tells a different story.

S. 557 threatens religious liberty by the manner in which it treats churches, synagogues, and religious and elementary school systems. When Congress enacted title IX in 1972, it adopted an exception to coverage under title IX which reads:

> This section shall not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such organization . . . (20 U.S.C. sec. 1681(a)(3)).

For some time both before and after title IX was enacted, many educational institutions were, in fact, "controlled by" religious organizations. But today, many of these institutions, while still maintaining their religious tenets, are controlled by governing boards—a majority of whose members are lay persons—and no longer receive the same level of financial support from religious organizations. Thus, they fall outside the scope of the existing religious tenets exemption.

Under the existing language, religious schools not legally controlled by a church or synagogue would be unable to encourage their students to follow traditional roles in family and marriage, based on religious tenets. Also, a seminary not technically "controlled by" a religious organization could be barred from accepting males only.

The Grove City bill dramatically expands the scope of Federal jurisdiction over businesses of all sizes. Under the legislation, every division, plant, facility, store and subsidiary of a corporation or other private organization principally engaged in the business of providing education, health care, housing, social services or parks or recreation will be covered in their entirety whenever one portion of one division, plant, facility or store receives any Federal aid. Thus, if one program at one nursing home or hospital in a chain receives Federal aid, not only is the entire nursing home or hospital covered, but all other nursing homes or hospitals in the chain are automatically covered in their entirety even if they do not receive Federal aid. Similarly, if the tenant of one unit in one apartment building owned by an entity principally engaged in providing housing receives Federal housing aid, not only is the entire apartment building covered, but all other buildings, all other housing operations, and all other nonhousing businesses of the owner are covered even though they receive no direct or even indirect Federal aid.

Potentially every aspect of American society can be found to benefit from Federal funds—the corner grocery store that accepts food stamps, farms which receive price supports, even clubs such as the Boy Scouts and the Girl Scouts could be affected. Think about it! It is difficult to isolate any public or private entity or person which does not in some way, directly or indirectly, benefit from Federal largess.

I regret that in the fact of partisan politics we have demeaned the cause of civil rights. If S. 557 had received consideration through the normal legislative process, we might have been able to address the deficiencies in the bill. But, S. 557 in its present form is unacceptable. Therefore, I am compelled to oppose the bill; not because I support discrimination, but because I am opposed to broad, loosely structured legislative language which has the potential of vastly expanding the Federal Government's regulatory authority at the expense of State and local governments and private entities and citizens.

SUPPORT THE ORPHAN DRUG AMENDMENTS OF 1987 FOR 5-YEAR-OLD BRENNAN BOLIN

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. BRYANT. Mr. Speaker, Brennan Bolin, a 5-year-old resident of Lancaster, TX, in my district, is suffering from idiopathic pulmonary hemosiderosis—a rare and incurable disease that causes Brennan's lungs to bleed. It has afflicted only eight individuals in the last 25 years. Without drug therapy, Brennan's only chance of survival is a multiple heart-lung transplant, for which the costs are staggering. Due to the rare nature of the disease it has been labeled an "orphan disease"—an illness that affects 200,000 people or fewer.

In the past, many drug companies avoided researching drugs to treat rare diseases, because it was simply unprofitable. The passage of the Orphan Drug Act in 1983, however, helped to change this situation.

Under this legislation, Congress encourages pharmaceutical companies to continue to develop and manufacture orphan drugs by providing incentives in the form of tax credits and market exclusivity. In addition, when no company is interested in sponsoring a drug, Congress authorizes the FDA to award grants to individual scientists who wish to research and develop drugs to treat ophan diseases.

The results of this legislation have been remarkable. At the time of the bill's enactment, there were only 34 orphan drugs on the market. Since then, 183 sponsors have had their products designated as orphan drugs and have started the developmental process. Of those, 23 have already been approved for use.

Before the Orphan Drug Act, there was not realistic expectation that a drug company or individual scientist would invest the time or money necessary to develop a drug to treat a disease that had afflicted only eight individuals in the last 25 years. Brennan Bolin's case signifies the importance of this legislation. Although no drug has been found to treat his disease, the Orphan Drug Act provides the possibility and hope that a drug may eventually be discovered in the future.

The Orphan Drug Amendments of 1987 will soon be considered by the House. The measure will increase the authorization for FDA research grants to independent scientists from $4 million in fiscal year 1987 to $10 million in fiscal year 1988. The bill will also authorize grants for the development of orphan medical devices and foods.

In addition, the bill will extend the deadline for the National Commission on Orphan Diseases' annual report to Congress. This commission is essential to the future of orphan disease research, for it provides an independent and expert evaluation of the appropriateness of priorities for research on orphan diseases by the National Institutes of Health. Through this evaluation, the Commission targets orphan diseases that have historically received little or no research attention.

Important strides have been made in orphan drug research since the enactment of the Orphan Drug Act, in 1983. Now, it is time to extend and expand upon that landmark legislation by enacting the Orphan Drug Amendments of 1987.

IN THE MOMENT OF ADVERSITY EMERGES A UNIQUE OPPORTUNITY

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. JEFFORDS. Mr. Speaker, with the attention of the world so closely focused on Israel, I would like to take this time to discuss the situation in the Middle East and recent administration efforts to provide a framework for negotiations.

It is with deep concern and sadness that I have observed the escalating tension and violence on the West Bank and the Gaza Strip. As a strong supporter of Israel, I understand the deep dilemma that this situation poses for a democracy. The current unrest seems to indicate that some changes must be made in the status of the occupied territories and some agreement reached between Palestinians and Jews on mutual accommodation. However, the deep historical roots of this conflict and the limited options for settlement make any solution very difficult. Most importantly, this is an issue that Israelis, both Jewish and Arab, must decide. I am heartened to see an emerging commitment in Israel to take up this difficult discussion. At this critical moment it remains in America's best interest to ensure that Israel receives the financial and moral support that it needs.

This year, the modern State of Israel celebrates its 40th birthday. At its creation, few people expected that reorganization of the area's political structure would be easy. However, the horrors experienced by the Jewish people during World War II convinced the world that creation and defense of a Jewish homeland was of paramount importance, and that it could be accomplished in peace. Unfortunately, history has taken some drastic turns and most of the Arab world still refuses to recognize Israel's right to exist.

Clearly, any solution to the Middle East crisis must involve Arab acceptance of United Nations Resolutions 242 and 338. Without an agreement to use diplomatic tools to resolve Middle East disputes, little lasting progress can be made. American policy toward the Arab world must be founded on the premise that constructive relations can exist only with those nations that are willing to accept this reality and work within this framework.

As Yitzhak Shamir states in his recent article in Foreign Affairs, "Israel at 40," America's relationship with Israel has evolved from one of "sympathy and support to a strategic alliance." As a strong democracy and staunch opponent of communism, Israel has been a steady and trusted ally of the United States. While some differences inevitably arise between even the closest of allies, I would urge consideration of these differences in the context of President Reagan's assessment of United States-Israeli relations: "Disagreements between good friends do not alter the unique and sturdy foundation of our relationship." In my mind, this strong friendship is based on free expression of matters of concern, on mutual sharing of resources and economic support, and on respect for each other's sovereignty. Through respect for these premises and recognition of our commonality of interest, the United States-Israeli relationship has evolved into the unique and unshakeable alliance that it is today.

During my 1984 visit to Israel, I was pleased to hear that many Israelis share my assessment of our relationship. Discussions with then Minister of Foreign Affairs Yitzhak Shamir, then Prime Minister Shimon Peres, Minister of Defense Yitzhak Rabin, and countless Israeli citizens of various backgrounds impressed upon me the strength, the vitality, the warmth of the people of Israel. And I made clear to them my commitment to a strong Israel and continued strengthening of our relationship. I appreciated the opportunity to raise issues that have troubled me, such as the 1982 events in Lebanon and the unresolved situation in the occupied territories. My points were met with openness, honesty and respect on every occasion. We obviously discovered no new solutions to these problems, but I believe that we impressed upon each other the sincerity of our mutual friendship.

It is with this background that I read the daily news and share the agony of Israel over the current unrest. My hope is that out of this pain and suffering may come substantive progress toward resolution of these problems.

I am heartened by the untiring efforts of Secretary of State Shultz to turn this moment of adversity into opportunity. While reiterating support for a secure Israel, the Shultz proposal is delicate in its consideration of the sensitivities on all sides. The Secretary does not attempt to impose any solution upon Israel. In an effort to cool tensions on the West Bank and Gaza Strip, the Shultz plan calls for local elections aimed at limited autonomy for Palestinians until negotiations can resolve the status of the occupied territories. The proposal has as its central focus direct negotiations between Israel and a joint Jordanian-Palestinian delegation. Shultz calls for an international conference to solicit other constructive suggestions and support for the peace process without upstaging the direct talks between Israel and Jordan. Critical to the success of this plan is the United States participation as both mediator and expeditor.

In a discussion with Secretary Shultz yesterday, I made clear to him my strong support for his efforts to advance the cause of peace in the Middle East. The Secretary assured me of his commitment to Israel and to facilitating substantive progress toward peace. I trust that all Americans join me in hoping for his success.

TRIBUTE TO MR. HUGH FERGUSON

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. CONTE. Mr. Speaker, I rise to honor the dedication and exemplary service that Mr. Hugh Ferguson has shown as Director of the Veterans' Administration Hospital in Leeds, MA. Hugh has recently announced that he will be accepting a position at another Veterans' Administration Hospital. As Director at the Leeds Hospital for 3 years, Hugh compiled a record of great accomplishments. On behalf of the citizens of western Massachusetts, I would like to take this opportunity to thank Hugh for his service to our veterans and to our community.

Looking back over Hugh's record of achievements, it is hard to believe that he has been Director for only 3 years. Holding the highest post at Leeds, Hugh has worked hard to ensure that area veterans receive the care they need, to make Leeds more accessible to our veterans, and, most of all, to create a supportive environment for area veterans throughout western Massachusetts.

Within the hospital, Hugh placed a high priority on improving the quality of life for our veterans. Hugh's achievements at the hospital include implementing: a program to help veterans develop the skills they need to pursue a more independent lifestyle; a new exercise physiology program; an innovative computer training program using volunteer college students as tutors; and rehabilitation efforts to provide greater access for handicapped veterans. Hugh can look back proudly on his work, knowing that his efforts have made a tremendous difference to the lives of the veterans at Leeds.

Mr. Speaker, Hugh's contributions to the veterans' community include the establishment of an Outreach Program that has brought the services of the Veterans' Administration to Hampden, Berkshire, Hampshire, and Franklin Counties, and a very successful effort that has resulted in greater participation in VA programs by female veterans. Hugh also started a program with the Department of Defense which has provided employment opportunities for veterans at Westover Air Force Base. Working closely with the city of Northampton and the city of Springfield, Hugh set up a Veterans Care Community Center to serve elderly veterans in both of these communities. Clearly, the veterans of western Massachusetts will benefit greatly in the years to come from the integrated network of support that Hugh has worked so hard to establish.

Mr. Speaker, Hugh will be sorely missed by the staff at Leeds, by the veterans of western Massachusetts, and by the area's community leaders, who have come to respect him for his efforts to make western Massachusetts a better place to live. Working as the fundraising chairman for the local United Way campaign, Hugh displayed his characteristic ability to surpass what is expected of him. All 3 years that Hugh chaired the campaign, the United Way raised funds in excess of the high goals that had been set. Truly, Hugh has been a great public servant, and his contributions to the community will not be forgotten.

Mr. Speaker, on behalf of all the citizens that have been fortunate enough to know him, and on behalf of the community he has served so well, I wish Hugh Ferguson the very best of luck as he continues to serve the veterans of our Nation.

NO "GLASNOST" FOR THE SHTEYNBERG FAMILY

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mrs. BOXER. Mr. Speaker, I rise today to bring to the attention of my colleagues the tragic circumstances faced by a constituent of mine, Dr. Bella Nudel.

The problem is frustratingly simple to describe: Bella lives in San Francisco, CA, with her 14-year-old daughter Inna. Her husband and Inna's father, Mikhail Shteynberg, lives a continent away in Moscow in the Soviet Union.

But their personal pain, their private suffering is not captured so simply, understood so quickly. The separation is exacting a terrible emotional toll on young Inna in particular. Inna has not seen her father in 8 years.

Why is the Soviet Union doing this to this family?

In 1980, the family applied to emigrate from the Soviet Union. Mikhail was not allowed to leave due to his possession of that ominous malady peculiar to any and all who wish to leave the Soviet Union: "State secrets." But he was given reassurance that he could follow his wife and child in 3 years.

Mr. Speaker, it has now been 8 years. Soviet officials continue to torment this family with cynical excuses and manufactured rationales. State secrets? Please. I ask again: Why? Is there no "glasnost" for the Shteynberg family?

I appeal to Soviet officials to go home one evening to their own families, and consider Mikhail's, and Bella's, and Inna's torment, and allow Mikhail to come home to his family, too.

MR. ANTHONY D. DeNUNZIO: JEANNETTE JAYCEES 1988 MAN OF THE YEAR

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. MURTHA. Mr. Speaker, it is a distinct pleasure for me to join in recognizing Mr. Anthony D. DeNunzio, the Jeannette Jaycees 1988 Man of the Year.

Tony's formal list of accomplishments is long and distinguished, but behind those facts are a couple of key points that tell why this man is being honored: He has reinvested his efforts and training back into the community where he has lived; he has always put people first, working closely with families and the unemployed of the area to help solve their financial problems; and he is quietly working behind the scenes regularly on programs for youth in the area.

As the Standard Observer noted, "because he's kept Jeannette as his home address for the past 55 years, it's become a better place for everyone to live."

You know, I'm tremendously honored to be able to represent an area in Congress, and one of the outstanding aspects is the people you encounter and the work you see them do.

The greatness of America comes less from those people who are constantly in the headlines, than from the daily, selfless, often unrecognized acts of caring and dedication by individual citizens. The great strength of America comes from the commitment of its people—a commitment to help others, a commitment to help solve the problems of their community, a commitment to stand for the great ideals and traditions that have made America the greatest country in the world.

There is no doubt that Tony DeNunzio is a key person in maintaining those great American traditions, and it is a pleasure for me to join in this special recognition of his outstanding achievements.

DEATH PENALTY: JUSTICE FOR COP KILLERS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. BIAGGI. Mr. Speaker, 2 weeks ago, New York City Police Officer Edward Byrne was assassinated while guarding the home of a narcotics witness. Officer Byrne was in uniform, sitting in his marked patrol car. In short, this 22-year-old man was shot three times in the head at point-blank range because he was a police officer.

Officer Byrne's killers were sending us a message. In the words of Officer Byrne's father, the drug dealers who were responsible for Eddie's murder were "telling us they've declared war on society. When Eddie died a little of all of us died because Eddie represented decent people of this world and his death becomes a responsibility of the decent people."

The law enforcement officers of our Nation are visible and vulnerable symbols of the law and justice that is the cornerstone of our society. We put them in uniforms, have them drive around in marked cars, strap a gun to their side, and ask them to stand for and defend everything that is good in our society. There are no heavier burdens to bear, and sometimes the job costs a police officer his or her life. And, because of the precarious position we've placed them in, it's not enough to simply hope for the best. We have an absolute responsibility to do everything in our power to protect our police officers. We can and must give them bulletproof vests. We can and must give them the best weapons. We can and must give them the toughest possible policies against drugs, which are the root of our crime problem.

Yet, we must also do something more. We must send a message of our own—a message that is loud enough and simple enough for even the lowest levels of our criminal element to understand. We must let them know that if they kill a police officer there is only one penalty, the death penalty. For at least some, the death penalty will be an effective deterrent and will save police lives. For others, it is simply justice being served. Either way, it's the right thing to do.

Tragically, though, many States are shirking this responsibility to law enforcement and I'm particularly sorry to note that my home State of New York is one of these States. In New York, and in 12 other States and the District of Columbia, there is no death penalty statute for killing a police officer. Another four States have a death penalty statute, but have not imposed it. What kind of message does that send to the blood-thirsty cop killers of our Nation? It says they can go on killing and virtually get away with it.

Just consider these facts. Only one out of every four convicted cop killers gets the death penalty, and about half of all cop killers are sentenced to life in prison, which carries with it an average of less than 6 years of actual time served in prison.

These facts were compiled by the U.S. Bureau of Justice Statistics. They found that from 1974–83, 1,132 police officers were killed in the line of duty. There were 1,162 persons arrested and charged with those murders, and 817 were ultimately convicted—a 70-percent conviction rate. Of those convicted, the following sentences were handed down:

SENTENCING OF COP KILLERS (1974–83)

Year	Death sentence	Life sentence	Other sentence
1974	22	33	40
1975	14	71	25
1976	14	45	26
1977	10	33	21
1978	15	48	15
1979	21	48	17
1980	58	15	26
1981	24	24	36
1982	8	46	14
1983	14	33	17
Total	200	396	[1] 201
Percent	24.4	48.5	24.6

[1] 20 died in custody.

Based on these facts, we are faced with a shocking reality. The four suspected killers of New York City Police Officer Eddie Byrne—Scott Cobb, 24; Todd Scott, 19; Philip Copeland, 22; and David McClary, 22—have no chance of receiving the death penalty, and even if they receive a life sentence in prison, they could serve less than 6 years behind bars. If that were to happen, they'd all be back on the streets to kill again by the time they're 30 years old. What kind of justice is that?

For the last several years, I've been pushing for legislation aimed at getting all States to adopt a death penalty statute for cop killers. My bill, H.R. 2392, would withhold Federal criminal justice assistance from those States that fail to adopt a death penalty statute for persons convicted of willfully killing a law enforcement officer.

Under H.R. 2392, States would have 3 years to adopt a death penalty statute for willfully killing a law enforcement officer, or they would lose their share of Federal criminal justice assistance. For fiscal year 1987, States received approximately $350 million in Federal criminal justice assistance.

Let me emphasize that the purpose of my bill is not to deny States vital criminal justice assistance; it is to bolster our overall crime prevention effort by better protecting our front line of defense against crime—the police officer. Just as the threat of lost Federal highway assistance was successful in convincing States to raise their drinking age to 21, I am confident the threat of lost Federal criminal justice assistance will convince States to adopt a death penalty statute for cop killers. Such action is long overdue.

SEX DISCRIMINATION

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. KLECZKA. Mr. Speaker, the legislation I am introducing today is designed to remedy an inequity in employment discrimination law.

Title VII of the Civil Rights Act of 1964 is the major antidiscrimination statute in employment cases. Victims of discrimination based on race, sex, national origin, or religious beliefs can use Title VII. However, victims of racial discrimination can also use an additional statute, the Civil Rights Act of 1966 to gain legal redress. The bill I am now introducing exends the main provisions of this statute, 42 U.S.C. section 1981, to women.

Until recently section 1981 was so rarely used that its exclusion of women was not a real problem. Section 1981's coverage had long been assumed to be limited to racial discrimination involving some type of State action. However, in 1968 the Supreme Court in Jones versus Alfred H. Mayer Co. found that this act was enacted pursuant to the 13th and 14th amendments and thus covered private actions. This expansion of section 1981 has led to a more frequent use of the statute.

The usage of section 1981 was further expanded when the courts ruled that the statute also covered discrimination against certain ethnic groups. In 1979, in Manzanares versus Safeway Stores and in 1978 in Contra, Vera versus Bethlehem Steel, the courts interpreted discrimination against Hispanics to be at least partially racial in character and thus covered by section 1981. In 1986, using similar reasoning, the Supreme Court extended the coverage of the statute to two other groups, Jews and Arabs.

However, victims of sex discrimination have not been allowed to use the remedies afforded by section 1981. In 1972, a California court ruled in the League of Academic Women versus Regents of University of California that the statute does not apply to women.

Section 1981 now gives victims of racial discrimination the same right "to make and enforce contracts" as white citizens. Housing discrimination is one area where the statute has occasionally been used. However, virtually all of the cases filed under section 1981 have involved employment discrimination.

Section 1981 is frequently used in employment discrimination cases because it has advantages over the main employment discrimination statute, title VII of the Civil Rights Act of 1964. Title VII can only be used against employers of 15 or more workers and can only be used to gain up to 2 years of backpay.

Section 1981 has no such limitations. It can be used against small employers, and it can be used to recover compensatory and punitive damages. Using section 1981 is also more advantageous than title VII because individuals can immediately file a private suit without waiting to exhaust the administrative remedies established by the EEOC.

One example will suffice to show the need to extend the law to sex discrimination. Currently, if a women suffers gross sexual harassment on the job she could only sue for 2 years' backpay. If as a result of this harassment she takes another job, and suffers no loss of income she is unable to sue for any compensation whatsoever.

It should be noted that because the standard of proof required under section 1981 is very strict, the statute is more difficult for a victim of discrimination to use than Title VII. Under title VII a plaintiff does not need to prove that the effect of a defendant's action was discriminatory. However, for a section 1981 suit to be successful, the plaintiff has to prove that the defendant's intent was discriminatory.

I think that this is legislation that many conservatives will be able to support. It is not an equal rights amendment, and as a pro-life Member of Congress, I am relieved to say that it will not have any impact on that controversy. This bill will not establish any new rights, rather it merely extends to victims of sex discrimination the rights now enjoyed by victims of racial discrimination.

It is ridiculous that an antidiscrimination law covers only certain victims of discrimination. In effect, the law now discriminates against victims of discrimination. We need to remedy this inequity. The legislation I am introducing would extend the coverage of section 1981 to women. I hope that you will join me in sponsoring this bill.

A TRIBUTE TO A FIGHTER FOR OUR CHILDREN

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. PANETTA. Mr. Speaker, I want to express my appreciation to Claudine Marie (Becky) Bettencourt, who will shortly finish her term as president of the California School Food Service Association. Becky Bettencourt has been a stalwart supporter of child nutrition programs throughout her long service in that organization.

Last year was a significant year in the evolution of child nutrition programs, and Becky Bettencourt gave us great assistance in our efforts here in Congress to protect and strengthen these programs which provide nutrition assistance to the nearly 25 million of our school children throughout the Nation. Last year, we enacted the Commodity Distribution Reform Act of 1987 (Public Law 100-237). For the first time, this act gives a statutory basis to the Commodity Distribution Program through which surplus Department of Agriculture commodities are distributed to schools, emergency feeding organizations, senior citizens centers, and other charitable institutions. Becky Bettencourt was of great assistance to me in generating support for a compromise measure which balanced the need to provide nutritious food in forms which schools can best utilize with the Secretary of Agriculture's responsibility to remove surplus agricultural commodities from the market.

In addition, Becky Bettencourt gave me a lot of help during the budget summit negotiations when she organized support to resist proposed cuts in child nutrition programs. In the closing days of those arduous negotiations, cuts in these programs were placed on the bargaining table. There was immediately a tremendous outpouring of public support from California and throughout the country for maintaining the integrity of the Child Nutrition Program. Becky Bettencourt's efforts helped me considerably in my efforts to keep any cuts in these programs off the bargaining table.

Becky Bettencourt has a long history of involvement in child nutrition programs in California. In 1978, she was named food service director at Gonzales High in Salinas, CA. That same year, she joined the California School Food Service Association and was named vice president of the Salinas Valley chapter. Two years later, she became the legislative chairman of NORCAL, California School Food Service Association.

In 1981, Becky Bettencourt was placed in charge of the food service programs for the Caualar and Gonzales Elementary School Districts. In that capacity, she was instrumental in formulating an area purchasing system covering 4 counties and 17 school districts.

Also in 1981, Becky Bettencourt was elected area director of area 5 of the California School Food Service Association. Between 1983 and 1985, she was membership director of the California School Food Service Association.

In 1986, Becky Bettencourt was elected president-elect of the California School Food Service Association, and last year, she was installed as president of the organization. Also last year, she became responsible for the food service programs at the Soledad and Greenfield Elementary School Districts, bringing 5 school districts, 10 schools, and 4,000 meals a day under her direction.

Becky Bettencourt originally comes from Idaho. She was educated in that State, receiving her degree cum laude in 1965 with a major in home economics. In 1967, she married Richard Bettencourt. They have three sons.

It is a pleasure to pay tribute to Becky Bettencourt's exemplary career and fine work on behalf of our the children in California and throughout the Nation. I have long believed that no program which we enact here in Congress will be effective unless it is administered by dedicated people who believe in the objectives of the programs. The dedication of food service professionals, like Becky Bettencourt, are what has made child nutrition programs such a successful program.

INTEGRITY OF INVESTIGATIONS AT NUCLEAR REGULATORY COMMISSION

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. SHARP. Mr. Speaker, I am introducing two bills today concerning the integrity of investigations involving the Nuclear Regulatory Commission. The first bill amends the Inspector General Act of 1978 to establish an independent, statutory inspector general for the NRC. The second bill amends the Energy Reorganization Act to establish a statutory Office of Investigations within the Commission.

These bills are necessary to help restore public confidence in the NRC. Recently the NRC has been criticized for being too cozy with the industry it is responsible for regulating. There have been allegations of improper conduct by members of the NRC's Office of Inspector and Auditor, the office which reviews matters involving the conduct of Commission employees and which is charged with ensuring the integrity of internal Commission matters. With respect to the Commission's external enforcement role, there have been allegations that high agency officials, including a Commissioner, have had inappropriate contacts with utilities under investigation by the NRC.

Clearly, the seriousness of these allegations and their sheer number indicate that something is very wrong at the NRC. These allegations have damaged the credibility of the NRC's regulatory process and have raised questions about whether the agency is adequately protecting the public health and safety. This legislation will help ensure the integrity of NRC investigations.

The first bill I am introducing would establish an inspector general for the Nuclear Regulatory Commission. Nineteen agencies already have inspectors general, who act as independent watchdogs in charge of investigating possible misconduct by agency employees. The NRC has been plagued by allegations of improper conduct by its employees and an institutional inability to pursue such charges effectively.

The Senate recently passed an NRC inspector general bill without opposition. The inspector general mechanism is a known quantity which has served many agencies well, and including it in the NRC's structure will help restore public trust in the NRC.

The second bill would give enhanced status to the Office of Investigations, the NRC office which conducts investigations of wrongdoing by NRC licensees. The Office of Investigations was created originally in response to a perception that the NRC staff has mishandled investigations and was not aggressive in pursuing allegations of wrongdoing.

The Commission recently downgraded the status of its existing Office of Investigations in response to language in the statement of managers accompanying the conference report on House Joint Resolution 395, the continuing resolution. Previously, the Office reported directly to the Commissioners. Despite the strong opposition of many members of the authorizing committees to this change, the NRC has indicated it will abide by the report and bury the Office deeper in the Commission structure.

This action can only have an adverse effect on the credibility of the investigative process and on public confidence in the NRC. A strong, competent, and independent Office of Investigations helps assure the public that the NRC is truly interested in uncovering wrongdoing and in vigorously enforcing its regulations. My bill would restore the Office of Investigation's prior role and ensure its continuance by establishing it as a statutory Office reporting directly to the NRC Commissioners. The bill simply restores the situation that existed before the continuing resolution was passed.

IT'S TIME TO LET REFUSENIKS GO

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. BROOMFIELD. Mr. Speaker, today will mark the 17th year the Kosharovsky family has been imprisoned in the Soviet Union. It is with great sadness that I join many of my colleagues in commemorating this anniversary of waiting. This ongoing tragedy began in 1971 when Yuli Kosharovsky first applied for permission to emigrate to Israel. Since that time Yuli and his family have been the repeated subjects of officially sanctioned harassment. Both husband and wife have lost their jobs, their children have been ostracized, and the family has been threatened with arrest. It is so difficult for Americans to realize the power of the Soviet State or the despair of those who challenge its authority.

The thousands of requests made on behalf of refuseniks, both officially and unofficially, have met with indifference. As one of the longest waiting refuseniks cases the Kosharovsky family is now waging a desperate struggle for recognition by the Soviet authorities. Today, Yuli Kosharovsky begins an unlimited hunger strike which will hopefully focus international attention on the plight of his family.

In the spirit of glasnost it is my most sincere hope that the Soviet government will honor its commitments as signatories to the Helsinki accords. The most these individuals ask for is the opportunity to live their lives in peace, in the country of their own choosing. The Kosharovskys have had two sons since their first application to emigrate. These two boys are guaranteed a grim future of uncertainty as long as the Soviet Union continues to ignore the pleas of its refuseniks.

Perhaps this latest attempt will result in the end of a 17-year ordeal for the Kosharovskys. In any event, our voices will certainly give hope to all those who have waited so long for their basic human rights.

FRED N. SUCHER'S THOUGHTS ON TRADE

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. TORRICELLI. Mr. Speaker, I rise to recommend an article written by a good friend, Mr. Fred N. Sucher, on the subject of resolving our Nation's trade deficit. I believe my colleagues would benefit by taking a moment to consider the insightful points made by Mr. Sucher which are included in selections from his article that I would like to submit for the RECORD.

THE NATION'S TRADE DEFICIT

In 1936, Congress passed and President Roosevelt signed the Merchant Marine Act which declared the following policy: "It is necessary for the national defense and development of its foreign and domestic commerce that the United States shall have a merchant marine a) sufficient to carry its domestic water-borne commerce and a substantial portion of the water-borne export and import foreign commerce of the United States and to provide shipping service on all routes essential for maintaining the flow of such domestic and foreign water-borne commerce at all times, b) capable of serving as a naval and military auxiliary in time of war or national emergency."

In 1987, the U.S. merchant marine and ancillary industries have become a minor adjunct to our economic lifeline and for the most part are either controlled or restrained by the policies of our allies and trading partners. Except for the United States and our neighbor Canada, the nations of the world do not have free and open markets in which U.S. commercial, maritime, banking, insurance, and legal interests can participate. The rest of the world engages in restrictive practices and is, therefore, able to dominate the United States economically as well as politically.

No country in the world will permit a foreign national, such as a citizen of the United States, to participate in terminal and transportation activities. There are only five ship lines owned by U.S. interests and not all are flagged with the stars and stripes. These lines call on a limited number of ports and the majority of ports overseas never see a U.S. owned ship or a vessel displaying the U.S. flag. Most foreign carriers employ almost exclusively their own nationals, they operate their own terminal port facilities in U.S. ports, and run trucking companies throughout this country. They place their insurance with their respective national underwriters and put their money in their nation's banks which, because of our liberal laws and regulations, are permitted to have branches in the United States.

It is bad enough that we cannot sell our consumer goods, textiles, machine tools, chemicals and agricultural products because of quota and/or tariff barriers imposed throughout the world but foreign merchant marines carry 96 percent of our water-borne export and import foreign commerce of the United States and provide shipping service on all routes essential for maintaining the flow of such water-borne commerce.

TIBET IS AN APPROPRIATE CONCERN OF AMERICANS NEW YORK TIMES EDITORIAL PROPERLY NOTES

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. LANTOS. Mr. Speaker, today, March 10, 1988, marks the 29th anniversary of the tragic uprising that rocked Tibet in 1959, which resulted in the deaths of thousands of Tibetans and forced the spiritual and temporal leader of the Tibetan people, the Dalai Lama, to flee into exile in India with 100,000 of his people.

Today, memorial meetings are being held around the world to mark this sad anniversary and to mark, as well, the continuing unrest that has rocked Tibet in recent days and again resulted in the deaths of Tibetans and Chinese.

Mr. Speaker, yesterday's edition of the New York Times has a very insightful editorial on the tragedy of Tibet. I urge my colleagues to read this editorial. It clearly and forcefully indicates the justified American interest in Tibet.

As the New York Times notes so clearly and so well:

> China describes criticism from the United States as meddling. . . . But sympathy for a downtrodden people is a proper American concern. Fearing the loss of a rich 1,300-year-old culture is a proper concern. Pleading for a constructive dialog with Tibetan activists is a proper concern.

The editorial follows:

[From the New York Times, Mar. 9, 1988]

WHO MAY CRY FOR TIBET?

When Tibetans rose in protest against Chinese repression last fall, Congress condemned China for human rights failures. Beijing in turn condemned the U.S. for meddling. Now new protests shake Lhasa just as the Chinese Foreign Minister visits Washington to discuss ever-stronger bilateral relations. A reminder, however diplomatic, is in order. For Americans, human rights are as much a part of foreign policy as economics.

China's leaders charge that criticism of its Tibet policies is ill informed. Tibet was feudalistic when Chinese armed forces invaded in 1951. Tibetans' living standard, while still among China's poorest, has greatly improved.

The Cultural Revolution, which brought death and destruction to all of China, was especially hard on Tibet; hundreds of thousands died. But these excesses have been lamented and partly redressed. There is growing freedom of religion and growing freedom to express in dress and language the Tibetan cultural heritage.

Still, Asia Watch, a human rights organization, recently reported arbitrary arrests and imprisonment, torture and forced abortions and harsh repression of political activism. Since last year's protests, Tibet has been largely closed to Westerners. Those allowed in report profound resentment at China's assertions of calm restored and problems resolved.

China describes criticism from the United States as meddling. But there are now 20,000 Chinese students on U.S. campuses, bilateral trade is expected to reach $9 billion this year and American investments in China since 1979 total $3 billion. Such contacts do not grow in a vacuum.

It may not be up to Americans to prescribe the form of independence, greater autonomy or federation for Tibet. But sympathy for a downtrodden people is a proper American concern. Fearing the loss of a rich 1,300-year-old cutlure is a proper concern. Pleading for a constructive dialogue with Tibetan activists is a proper concern, and not only for Americans.

China's long years of isolation may have been conveniently free of international criticism, but the price of convenience was stagnation. Beijing knows that as it now steers China further into an international role. That brings rich international rewards, as China has already found. It also brings international judgments.

SALUTE TO TEENS WEEK

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. EVANS. Mr. Speaker, I rise today to commend Bethany Home of Moline, Il, for declaring the week of March 14-20, 1988 as "Salute to Teens Week." This week has been designated to recognize the positive contributions that teens have made in the Quad Cities.

Pregnancy, drug abuse, and suicide are serious problems facing teens today. Yet, we should remember and honor those many teens who make substantial contributions to their families and community. "Salute to Teens Week" is designed to highlight the positive contributions of our youth through an upbeat, coordinated, week-long community celebration. "Salute to Teens" will include programs that involve the family, community, schools, media, and churches.

Today's youth will assume the leadership roles in our Nation's future. Their generation will have a significant impact upon the shaping of world events and will be faced with many critical decisions in the coming decades. Therefore, I believe it is necessary for the citizens of the Quad Cities to voice their support of our many fine young men and women.

Bethany Home was started in 1897, when Gottlieb H. Germann, a harnessmaker, found a baby boy abandoned in a Rock Island woodshed. His intense work in helping this infant led to the founding of the home, incorporated as the Union Mission on July 12, 1899. During the first 50 years, Bethany Home was largely a custodial facility concentrating on the needs of children whose parents could not or would not help them. In 1938, the agency began a foster care program and in 1956 added unmarried mother and adoption programs.

In 1958, Bethany Home became a member of the Child Welfare League of America. Over the ensuing years, Bethany developed into a professionally staffed agency with 75 employees and an annual budget of $1.8 million. They are a private, not-for-profit, nonsectarian multiservice agency. Their helping hands are extended to infants, children, youth, and families throughout the Quad Cities area.

As a member of the House Select Committee on Children, Youth, and Families, I am pleased to join with the citizens of the Quad Cities in participating in "Salute to Teens Week." I congratulate Bethany Home for organizing a program to recognize the youth of our community.

DUSTY ALWARD

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. ATKINS. Mr. Speaker, I rise today to pay tribute to T. Dustin "Dusty" Alward, the president of the Professional Fire Fighters of Massachusetts, who was tragically killed in August 1987.

For the record, Capt. Dusty Alward was a 30-year veteran in the Randolph, MA Fire Department. While serving as a legislative aide to the Firefighters Association, he became its president when his predecessor was killed in the line of duty. In 1973, he was elected to the first of his eight consecutive terms—spanning 14 years—as head of the firefighters' union, an affiliate of the AFL-CIO-CLC, which represents more than 12,000 firemen in the Commonwealth. In addition, he served as the vice-president of the third district of the international union from 1980 to 1984.

While serving the interest of the firemen, Dusty also found time to serve the general public. At various times during his career, Dusty served on the board of trustees of Framingham State College, as a member of Randolph Town Meeting, and on the town's pension committee.

But the essence of Dusty was his unstinting activity on behalf of his firemen. It is difficult to describe the respect, admiration and love which Dusty Alward earned during his career as a representative of the lobbyist for the firemen of Massachusetts. Certainly there are specific activities which can be cited which further describe his accomplishments—like his service on the State joint labor-management board that resolves collective bargaining disputes between municipal employees and their municipalities. But his reputation rests on his honesty and integrity as a lobbyist seeking to get the most at a time when legislators were trying to give the least.

During my service in the State legislature, I often had the chance to deal with Dusty. I can only add my words of respect and admiration to those which have gone before. Dusty approached his lobbying activities with finesse and good humor. It was my good fortune to have worked with, and known, Dusty.

MAN OF THE YEAR

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. HOCHBRUECKNER. Mr. Speaker, I am pleased to take this opportunity to acknowledge a constituent and good friend of mine who embodies genuine hometown spirit. Peter Cario, of Port Jefferson Station, in New York's First Congressional District has just been named "Man of the Year in Civic Affairs" by the Village Times newspaper.

Pete is active in numerous community organizations and activities. He is vice president of the Comsewogue school board, and director of the Brookhaven Board of Education. As a member of St. Paul's Lutheran Church, he serves on the committee to organize the constitutional convention for the Evangelical Lutheran Church of America.

For most people this might be enough, but Pete has taken on another full helping of extra-curricular activities. He's also a fine baseball umpire, good enough to earn the Outstanding Service Award from the Port Jefferson-Terryville Baseball League. Pete is a wrestling official who serves on the executive committee of the Suffolk County Wrestling Referees Association, and has gained distinction as Junior Varsity Wrestling Official of the Year.

Every community always has a few super-involved citizens. Pete Cario is more than that. Pete is a seasoned political activist whose ability to get to the heart of an issue, and capture the imagination of the public has earned him praise from all corners. Pete cares about the problems which threaten his hometown and he uses every means available to protect the community he loves. This involves researching issues, and digging up facts to make an argument, whether for presentation before fellow school board members, or before the local town council. Presently, Pete has become the community's expert defender against overdevelopment. His testimony before the Brookhaven Town Council has been noted for cogent arguments, and lively presentation on this issue.

Mr. Speaker, it is citizens like Pete Cario who make each town across our great Nation a hometown to its residents. It is these people, living in these communities, who all of us in Congress are proud to represent. Pete may prefer to be outside backing up the catcher at the local ballfield, but in genuine hometown spirit, he's out in the community behind us all, making sure everyone has a chance at bat.

BROWARD COUNTY BICENTENNIAL COMMISSION

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. SMITH of Florida. Mr. Speaker, I want to take this opportunity to recognize the excellent work performed by the Broward County Bicentennial Commission. This commission was created by the Broward County Commission in October 1986, to commemorate the 200th anniversary of the Constitution of the United States.

Under the direction of Walter Falck, executive director to the Broward County League of Cities, the bicentennial commission organized and participated in numerous programs, events, and projects throughout 1987 in conjunction with most of the cities in Broward County. Events included musical concerts, lectures series, Jefferson town meetings, food festivals, an honor guard competition, and reenactments of the signing of the Constitution.

Additionally, many of our local high school social studies classes competed in the National Bicentennial Competition on the Constitution and Bill of Rights. I am proud to report that Miami Coral Park High School, the finalist from my congressional district, won second place in the statewide competition held on March 4, 1988.

As a grand finale, a bicentennial extravaganza was held last night, March 9, at Plantation High School to recognize elementary, middle school, and high school students who have competed in art, essay, and music competitions centered around the theme "We the People." Awards and recognition certificates were distributed to the winning students. The event was cosponsored by the Broward County Bicentennial Commission, the Broward County League of Cities, and the Broward County School Board.

I commend the Broward County Bicentennial Commission for its efforts in building awareness of the U.S. Constitution and reconfirming its importance in our daily lives. All of the bicentennial activities were coordinated with the Commission on the Bicentennial of the United States and the Bicentennial Commission of Florida.

Sincere thanks goes out to all of the bicentennial commission members, the sponsors, and our local students for their participation in commemorating the 200th anniversary of the Constitution.

NEED FOR DEFICIT REDUCTION

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. WELDON. Mr. Speaker, I think that we are all convinced of the urgent need to reduce the deficit. The October crash demonstrated that Washington's failure to make significant budget cuts can have serious economic repercussions on both the domestic and international markets.

It is clear now that the fixed maximum deficit target of $136 billion for fiscal 1989 will not be met because the projections used at the 1987 summit agreement were based on more optimistic real GNP growth, inflation, and interest rates than more recent estimates indicate. According to the more recent statistical estimates of the Congressional Budget Office, the deficit for 1989 will exceed the $136 billion target by over $40 billion, or roughly 30 percent. This event would, of course, make the mandated $100 billion deficit reduction target for 1990 a virtual impossibility.

If we in this Congress are seriously committed to deficit reduction we need to immediately consider what further steps can be taken to attain the $136 billion deficit target for 1989. Not in a day, or a week, or a month, but now. The American people will brook no excuses, nor should we.

TRIBUTE TO MS. PATTY DUKE

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to a truly outstanding woman, Ms. Patty Duke. Ms. Duke is not only an accomplished actress, but also a woman who is deeply committed to helping others and improving the world around her. In recognition of her many accomplishments, on March 22 Ms. Duke will receive the Los Angeles Chapter of the National Association of Women Business Owners' Lifetime Achievement Award.

Ms. Duke is one of the finest actresses of our time. Since she first began acting at age 14, her career has spanned stage, film and television. This talented actress has successfully tackled some of the most difficult and diverse roles imaginable. She delivered a stunning portrayal of Helen Keller in the 1963 film "The Miracle Worker." More than 15 years later, she insightfully played Annie Sullivan, Keller's teacher, in a remake of the film. Television audiences loved her as the endearing free spirited high schooler on the "The Patty Duke Show."

In addition to pursuing her own career, Ms. Duke has been actively involved in both industry and community activities. She is now serving her second term as president of the Screen Actors Guild [SAG]. Through this position, she has provided the Guild members with strong leadership and an effective fight against AIDS, organizing the 1986 West Hollywood Walkathon and 10K Marathon to benefit the AIDS Project Los Angeles. She has also given her time to help such causes as Hollywood for SANE, an organization committed to sane nuclear policy, famine relief, and the Muscular Dystrophy Association. Ms. Duke has toured the country, speaking on behalf of the equal rights amendment.

It is my distinct honor and pleasure to ask my colleagues to join the National Association of Women Business Owners in paying tribute to Ms. Patty Duke. In both her acting career and in working to help others, this tireless woman has made extraordinary accomplishments. She is certainly deserving of a lifetime award.

THE ACT FOR BETTER CHILD CARE

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. MAVROULES. Mr. Speaker, today I draw my colleagues' attention to the impressive legislation entitled the Act for Better Child Care of 1987 [ABC], H.R. 3660. This legislation will establish Federal standards and provide Federal funding for child care facilities. Child care is an increasingly growing necessity in this country and H.R. 3660 promptly and effectively addresses it.

The ABC Act provides Federal assistance and funds to States for a wide variety of purposes. It makes child care more affordable for low- and moderate-income families, it trains child-care workers and increases available staffing, it raises the child-care facility standards, and it provides referral programs that will assist families in discovering child-care programs.

This country has come to a point where we no longer can ignore the problem of the need for child care. As the numbers of families with two working parents or a single working parent continue to grow, we are left with the problem of affordable and quality child care. Low- and moderate-income families are having an extremely difficult time affording child care. If they cannot afford it, then one of the parents is forced to stay at home. Therefore, the family is not improving their financial status and they are lowering their chances of self-sufficiency. We need quality child care at affordable rates. The Act for Better Child Care of 1987 will solve this nationwide problem.

It has taken Congress 16 years to introduce a comprehensive child-care proposal. During those long years, the number of people in need has been increasing and the need for this program has become more urgent. We need to confront the child care situation immediately. Our children and our future rest in the decisions we make. I strongly urge my colleagues to support H.R. 3660 and provide for the children today: the leaders of tomorrow.

KIWANIS ANNIVERSARY NOTED

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. SUNDQUIST. Mr. Speaker, I would like to take just a moment to call the attention of my colleagues to an important anniversary being observed this week by a Kiwanis Club in my district.

This week, the Oak Grove T-K-C Kiwanis Club marks its 25th anniversary of service and support for the communities in Tennessee and Kentucky that surround Fort Campbell.

The work of the Kiwanis Club is well known to Members of the House; I imagine each of us has a Kiwanis Club in our district. Let me share just a few of the contributions the Oak Grove T-K-C Kiwanis organization has made to the community around Fort Campbell. It has supported the Key Club and Fort Campbell High School, sponsored Boy Scouts and Girl Scouts, raised money to support Shrine Hospitals for crippled and burned children, provided scholarships to Austin Peay University for deserving young men and women, and participated in countless community projects on both sides of the Kentucky-Tennessee border.

Since March 1963, this Kiwanis Club, often with a membership of fewer than 40, has played a vital and important role in the life of the Fort Campbell community. As it celebrates its 25th anniversary on Saturday, I hope the Members of this House will join me in extending thanks and congratulations.

INTERNATIONAL AEROSPACE HALL OF FAME'S 25TH ANNIVERSARY—MARCH 10, 1988

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. LOWERY of California. Mr. Speaker, on March 22, 1988 the International Aerospace Hall of Fame, located in San Diego, will celebrate its silver anniversary.

I would like to share this occasion with my colleagues, for this is a most noteworthy celebration, both for San Diego and the international aerospace community.

The International Aerospace Hall of Fame presents an excellent chronology of man's ascent into space. From Montgolfier's 1783 balloon and the da Vinci ornithopter to "Moon Rocks" from Apollo XVII, the history of flight is displayed. The permanent recognition the hall of fame has provided honors the great achievers of aviation and aerospace history. Since its inception in 1963, a total of 91 men and women have been honored. These men and women are the aerospace pioneers, scientists, airmen, and astronauts who have made a significant contribution to the advancement of aerospace science—the exploration of flight and to the industry.

Throughout its 25 years, the hall's mission has been a great and noble one—not only to honor the great achievers, but to inspire all generations and nationalities and provide a permanent public appreciation for these contributions to the welfare of mankind. Mr. Speaker, more than 200,000 visitors a year benefit from the Aerospace Historical Center in San Diego's Balboa Park.

The hall's history has not been without adversity. On February 22, 1978 the hall was destroyed by a malicious arson fire. Only through an enormous outpouring of private, public, and corporate support was the hall rebuilt and rededicated on February 22, 1980. All those involved in this effort deserve our appreciation.

Mr. Speaker, as the International Aerospace Hall of Fame celebrates its silver anniversary I am pleased to bring the goals and accomplishments of this worthy institution to the attention of my colleagues and the American people.

TRIBUTE TO BISHOP H.H. BROOKINS

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. DIXON. Mr. Speaker, it is with a deep sense of pride and honor that I rise to commend the outstanding contributions of Bishop H. Hartford Brookins, the presiding prelate of the 12th Episcopal district of the African Methodist Episcopal [AME] Church, and the chancellor of Shorter College, a century-old black liberal arts college located in Little Rock, AR.

Bishop Brookins has worked tirelessly to help resolve both civil rights violations on the national front, and international human rights issues. During the turbulent years of the 1960's, the bishop was a crusader for justice, and a spokesman for racial equality throughout the United States. He marched with Martin Luther King, Jr., and other civil rights leaders. His strong, unequivocating voice helped to quell the 1965 race riots in Watts, and he worked toward providing affordable housing and increasing job opportunities in impoverished areas of our city.

He has also applied his talent and commitment to international issues. During the bitter fight for freedom in Zimbabwe, Bishop Brookins worked hard to help feed the hungry, provide clothing for the freedom fighters, shelter for the refugees, and medical care for the sick and wounded. He was one of the many proud witnesses of Zimbabwe's independence.

Bishop Brookins has also served the community of Los Angeles well, as a charismatic pulpit preacher, platform orator, and social reform advocate. As a political activist, he has helped to orchestrate the success of distinguished elected officials, including Los Angeles mayor, Tom Bradley. He helped to spearhead Jesse Jackson's Presidential bid in 1984.

Mr. Speaker, Bishop H. Hartford Brookins, a heretofore unsung champion of civil and human rights, is well-deserving of special recognition for his work. He will be honored at a dinner to benefit the "Shorter College Education Fund" on March 16 at the Century Plaza Hotel in Los Angeles. On the eve of Bishop Brookins' dinner tribute, I ask my colleagues in the House of Representatives to join me in congratulating him on a long and distinguished career, and to wish him much happiness in his future.

TRIBUTE TO JAMES M. BUSBEE

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. THOMAS of California. Mr. Speaker, Members of the House, I ask you to join me in paying tribute to James M. Busbee, who will be retiring from Federal service on April 2 after more than 34 years of faithfully serving our Nation.

Mr. Busbee joined the U.S. Air Force in 1953. His 12 years of active duty with the Strategic Air Command spanned many of the cold war years—an era of unparalleled threat in which the U.S. Armed Forces found itself at a crossroads. Mr. Busbee's work during these sensitive years included assignments to distant shores such as Guam and Alaska, and involved the highly classified CRYPTO Communications Program. He was honorably discharged in 1965.

Following his service in the Air Force, Mr. Busbee contributed 22 years to the Federal Aviation Administration [FAA] as an air traffic control specialist, area supervisor, training officer, and assistant manager of quality assurance at Los Angeles Air Route Traffic Control Center where he is concluding his civil service career.

In 1983, at a time when the dismissal of striking employees had disrupted many air traffic control facilities, Mr. Busbee was called upon for a 2-year tour at FAA's headquarters in Washington, DC. As project officer assisting in the identification of precise duty functions for all operational positions in hundreds of air traffic control facilities nationwide, he played a crucial role in bringing order to America's system of air traffic control; and increased safety to our skies.

While many have answered the call to duty, I salute Mr. Busbee as a representative of all who have stood ready to aid their country in time of need. Mr. Busbee's long-standing dedication and commitment to preserving our Nation's security stands as an example of the faithful service Federal employees perform for America. It is with great pride that I, on behalf of the people of the 20th Congressional District, extend to him my deepest appreciation.

IN MEMORY OF SLAIN DEA OFFICERS SETTING THE RECORD STRAIGHT ON THAILAND

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. RANGEL. Mr. Speaker, in February of this year, the Drug Enforcement Administration [DEA] lost two dedicated special agents to the ruthless violence of drug dealers.

Paul Seema, a veteran of the DEA for 24 years, and George Montoya, former Border Patrol agent for 10 years and recent graduate of the DEA Academy, were ambushed, murdered in cold blood, while conducting an undercover heroin investigation in suburban Los Angeles. Another agent, Jose Martinez was seriously wounded. Unaware that their victims were Federal agents, these drug dealers knew no limits to the use of violence and brutality in their attempt to pull off a heist against men that they thought were fellow dealers.

It takes a special person to commit himself to daily combat with these merchants of death. It takes courage, commitment, and caring—caring for the society in which one lives, for children everywhere, for the future of us all—and it takes sacrifice. In this case, supreme sacrifice—these men gave their lives to help keep drugs off our streets and away from our youth.

My heart goes out to their families and loved ones. I will do everything in my power to continue to wage the war on drugs and to ensure that these fine men did not die in vain.

Unfortunately, many of the early news accounts of this tragic incident incorrectly reported that the assailants were Thai heroin traffickers. They were, in fact, Taiwanese traffickers.

Having just returned from a narcotics study mission to Thailand, I was extremely impressed by the dedication and successes of the Thai Government and law enforcement officials in their narcotics control efforts. They, too, have suffered the loss of many fine and dedicated narcotics control officers in their ongoing battle with the drug traffickers.

Let the record stand corrected. I hope that our dedicated Thai colleagues are not offended at this mistake. I would also hope that they are aware of the extent of our appreciation for their great efforts in this important and brutal battle against the tragic spread of narcotics trafficking and abuse.

HONORING OUR STAUNCHEST ALLIES

HON. BEN BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. BLAZ. Mr. Speaker, when we honor those who have stood by us in war and in peace, we honor one of the deepest bonds of friendship—the bond of brotherhood and of comrades-in-arms who are ready to pay the ultimate price for that friendship.

We have an historic opportunity in the 100th Congress to honor such a bond of friendship between two peoples—a bond that will be extremely important in the years ahead in strengthening our strategic position in Asia. Indeed, that bond is a keystone of the Free World's alliance in Asia.

I am speaking about our alliance with the people of the Philippines and I am addressing the subcommittee today not only as a Member of Congress with intimate ties to our Filipino allies but also as a former Marine Corps general officer who can appreciate, perhaps a little better than most, the moral and strategic importance of the legislation before us.

Mr. Speaker, I urge this committee and indeed every Member of the House and Senate to endorse and support the proposal to honor the Philippine Scouts and Filipino veterans who served in the U.S. Army in World War II.

Specifically, I speak today in support of House Joint Resolution 243, a joint resolution authorizing the Philippine Scouts and the U.S. Veterans Association of America to establish a memorial on Federal land in the District of Columbia or the adjacent metropolitan area to honor these stalwart allies and brothers.

As a cosponsor of this legislation, I can assure you it will go a long way not only to demonstrate to our Filipino allies how much we sincerely appreciate their wartime sacrifices but also that we wish to build on that foundation of mutual respect to strengthen our alliance in the future.

I need not stress to you how deep and broad the ties are between the American and Filipino people and how important our future relations are with the Philippines. The recent people power revolution in that nation and the continuing headlines on political and military developments there are more than enough to make that point.

THE NUCLEAR INVESTIGATIONS IMPROVEMENT ACT OF 1988

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. GEJDENSON. Mr. Speaker, I am very pleased to be introducing the Nuclear Investigations Improvement Act of 1988, along with Congressman Sharp, to create a statutory Office of Investigations [OI] at the Nuclear Regulatory Commission [NRC]. The bill establishes OI as an independent statutory office responsible for investigating wrongdoing by NRC licensees.

This bill is similar to section 3 of H.R. 2126, the Nuclear Regulatory Commission Inspector General and Investigations Act, which I introduced on April 22, 1987. This legislation also embodies one of the major recommendations made in a December 1987 investigative report on the NRC issued by the House Interior Subcommittee on General Oversight and Investigations, which I chair. The report recommended that the Congress establish by statute an Office of Investigations, with the necessary authority to conduct full and proper independent investigations of licensee wrongdoing.

An effective and independent OI is crucial to maintaining the safety of nuclear plants in the United States. NRC is an audit agency which relies on licensees to honestly report information. Most of the cases investigated by OI involve some type of false reporting by licensees. An effective OI is needed to ensure that NRC licensees comply with laws and regulations critical to public health and safety.

The Nuclear Investigations Improvement Act of 1988 is necessary because of repeated efforts by the NRC to interfere with the independence of the Office of Investigations. The Commission established OI as an administrative office in 1982 in order to improve its ability to investigate wrongdoing by licensees.

Unfortunately, the NRC staff has attempted to limit OI's effectiveness ever since its inception, and on at least two occasions has actively undermined an investigation of licensee wrongdoing.

NRC staff interference with OI is well documented and has been the subject of hearings conducted by the Senate Governmental Affairs Committee, the Senate Environment Subcommittee on Nuclear Regulation, and the House Interior Subcommitee on General Oversight and Investigations. In addition, the Justice Department has been critical of NRC efforts to limit the independence of OI.

The most recent effort by the NRC to limit the autonomy of OI was its announcement on January 21, 1988 that OI would no longer be an independent office reporting directly to the Commissioners, but would be integrated into the Office of the Executive Director for Operations [EDO]. This action is likely to significantly reduce OI's effectiveness because the EDO has been the primary force behind most efforts to reduce OI's autonomy and investigative capabilities. It would appear that the NRC staff will now be able to censor sensitive OI findings before they reach the Commissioners.

I strongly urge my colleagues to support the Nuclear Investigations Improvement Act of 1988. A strong and effective Office of Investigation at the NRC is crucial to maintaining the long-term viability of nuclear power in the United States. Effective investigations of wrongdoing will encourage NRC licensees to fully comply with laws and regulations critical to public health and safety.

Mr. Speaker, I insert at this point in the RECORD an excerpt from a December 1987 report prepared by the House Interior Subcommittee on General Oversight and Investigations, entitled, "NRC Coziness With Industry: Nuclear Regulatory Commission Fails To Maintain Arms-Length Relationship With the Nuclear Industry"; and a copy of a March 18, 1985 letter from Assistant Attorney General Stephen S. Trott to Chairman Nunzio J. Palladino of the NRC; and a copy of a March 6, 1988 article from the New York Times entitled, "Nuclear Agency Assailed by Staff". The excerpt from the report describes the efforts of the NRC staff to discredit an OI report which concluded that the operators of the Fermi 2 reactor in Michigan had made a material false statement to the NRC. The Trott letter states the Justice Department's opposition to a January 1985 proposal by the Commission to put the Office of Investigations under the EDO. The March 6, 1988 New York Times article describes the efforts of the NRC staff to discredit OI's conclusion that Stephen White, the head of the Tennessee Valley Authority Nuclear Program, made a material false statement to the NRC concerning the safety of the Watts Bar nuclear plant.

EXCERPT FROM "NRC COZINESS WITH INDUSTRY" (DECEMBER 1987), AN INVESTIGATIVE REPORT BY THE SUBCOMMITTEE ON GENERAL OVERSIGHT AND INVESTIGATIONS

D. NRC STAFF UNDERMINED INVESTIGATION OF LICENSEE WRONGDOING

The NRC's Office of Investigations (OI) is responsible for conducting independent investigations of licensee wrongdoing, and for referring, as warranted, such investigations to the Department of Justice from criminal prosecution.

The Office of Investigations found that a nuclear reactor, Fermi 2 in Michigan, had gone prematurely critical (had started up unintentionally) and that the utility knowingly withheld this information from the NRC;[1] this is a potential violation of the Atomic Energy Act which could be the basis of a civil enforcement action by the NRC or a criminal prosecution by the Department of Justice. Despite an OI report documenting the utility's actions, the NRC would not determine that there had been a material false statement on the part of the utility. Rather than using the OI report as a basis for regulatory action, the NRC staff chose to try to discredit the report by issuing its own analysis.[2]

The staff document ignored compelling evidence. The utility knew of the fact that the reactor had gone prematurely critical, but despite the presence of NRC personnel at the plant site, did not inform the NRC for over a week after the occurrence. The utility itself was treating this information as highly significant, with calls to supervisors after midnight, weekend meetings, and studies and re-studies of the problem. The utility sat through the Commission licensing meeting without mentioning a word of the premature criticality, even though it knew that the NRC was unaware of it. The NRC official who signed the license said that had he known of the premature criticality, he would not have issued the license. The NRC was not informed of the premature criticality until the day the utility had the license in hand.[3]

Yet, the NRC staff, before it had seen the final report, was preparing its own response to what it understood to be the OI finding.[4]

The NRC staff opinion found that despite all the evidence to the contrary, including the perceptions of the utility and NRC personnel, the fact that this plant went prematurely critical was not material to the licensing process.[5] Despite the evidence, the staff's instinct was to act as an advocate for the utility, implicate NRC employees for their roles in the situation, and issue an opinion the effect of which would make it problematic for the NRC to take civil or criminal action against the utility.[6]

Mr. John R. Sinclair, the Operations Officer within OI responsible for review of the investigative report, testified:

"Despite the utility's willful material false statements regarding its premature criticality and the OI report documenting the utility's course of action, the NRC has never taken any civil enforcement measures against Fermi for failing to report the premature criticality. Rather than using this information as a basis for regulatory action, the NRC staff took steps that had significant potential to, and in fact did, undermine OI's investigation. NRC staff (those people who work for the Executive Director for Operations) did not even wait for the OI investigation to be completed and the report to be made final before mounting a challenge. This culminated in a staff memorandum, the mere existence of which made any enforcement action based on the material false statement virtually impossible. In essence, the staff, either inadvertently or intentionally, undermined the OI investigative findings." [7]

Mr. Sinclair continued:

"This ELD [Office of Executive Legal Director] Memorandum, dated March 19, 1986, could well have been written by the utility. It uses the facts selectively and mischaracterizes the law (as interpreted by the NRC's Office of General Counsel). It strains to put the utility in the most favorable light possible and tries to shift the blame to NRC employees for failing to discover information being withheld by the utility. In essence, the memorandum reflects the views of an advocate, not of an objective observer, let alone a regulatory agency.

"ELD stated that there was no evidence to support a view that there was an intent not to tell the NRC of the premature criticality. ELD failed to address numerous material facts from the OI report." [8]

Mr. Sinclair continued:

"The ELD memorandum . . . reflects an attitude by NRC staff to support the utilities. With its report on Fermi, OI gave the staff the opportunity to take meaningful enforcement action. The staff chose to support the cat and mouse game played by the utility.

"If staff's intention was to undermine an enforcement action against the utility in order to get Fermi up and running, it was successful." [9]

It is of note that this was not an isolated instance of actions or attempts within the NRC to limit the effectiveness of the Office of Investigations:

(1) there was a proposal to have OI report to the Executive Director for Operations rather than to the Commission;

(2) the NRC established thresholds for OI's authority to investigate;

(3) an Investigations Referral Board was established to screen cases prior to referral to OI; [this Board was effectively deactivated just days before the Subcommittee's June 11th hearing]; and

(4) OI has not been provided with the resources necessary to carry out its responsibilities effectively.[10]

Apparently the NRC has lost sight of why the Office of Investigations was created. To achieve credibility, the NRC established an office independent of the NRC staff, which would report directly to the Commission and would be composed of trained, professional investigators.[11] The attempts at reining in OI to limit its independence are clearly countrary to the NRC's initial objective in establishing the office.

The underlying problem may well have been identified by the Assistant Attorney General of the Justice Department's Criminal Division in his comments on the NRC proposal to place OI under the Executive Director for Operations (EDO):

"Personnel and organizational components within and under the EDO's office not only inspect nuclear facilities under operation or construction, but have also been sponsoring licensee applications before NRC administrative boards. Thus, the existence, detection and full disclosure of violations by OI may not only be (and have been) inconsistent with prior NRC inspection reports, but with positions taken by the NRC before its licensing boards."

The Assistant Attorney General continued:

"We also understand that certain licensees and their representatives favor the proposed realignment, as well as a reduction in the number of OI investigators. Efforts by those who may be or have become subjects of OI investigations to restrict its ability to obtain evidence are not unique." [12]

Thus, in the view of the Department of Justice, the NRC staff and NRC licensees do not perceive it to be in their interest to have a truly independent OI, provided with the resources necessary to properly investigate licensee wrongdoing.

FOOTNOTES

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[1] Office of Investigations, February 14, 1986, Report of Investigation, Enrico Fermi 2, Material False Statement.

[2] Memorandum of March 11, 1986, from Office of Executive Legal Director to Acting Executive Director for Operations.

[3] OI Report of 2/14/86. Prepared Testimony of Eugene R. Pawlik before Subcommittee on General Oversight and Investigations, June 11, 1987.

[4] Prepared Testimony of John Sinclair before Subcommittee on General Oversight and Investigations, June 11, 1987.

[5] Memorandum of March 19, 1986, from Office of Executive Legal Director to Acting Executive Director for Operations.

[6] *Ibid.*

[7] Prepared testimony of John Sinclair.

[8] *Ibid.*

[9] *Ibid.*

[10] Prepared testimony of Commissioner Asselstine, June 11, 1987.

[11] Prepared testimony of Commissioner Asselstine, June 11, 1987.

[12] Letter of March 18, 1985, from Stephen S. Trott, Assistant Attorney General, U.S. Department of Justice, to Chairman Nunzio J. Palladino, NRC.

CRIMINAL DIVISION,
Washington, DC, March 18, 1985.

Hon. NUNZIO J. PALLADINO,
Chairman, U.S. Nuclear Regulatory Commission, Washington, DC.

DEAR MR. PALLADINO: Thank you for your letter of January 23, 1985, concerning a possible realignment of the NRC's Office of Investigations. The Office of Investigations (OI) has been reporting directly to the NRC Commissioners. The contemplated realignment would place OI under the Office of the Executive Director for Operations (EDO). Thus, the realignment would not merely involve a change in reporting relationships, but one of control over OI. For the reasons discussed below, the Department recommends against the contemplated realignment which would subordinate OI to another NRC component, and which we believe would undermine OI's independence.

The Office of Investigations was created in 1982 and was required to report directly to the Commissioners as a result of Congressional and public concern over serious difficulties in the NRC's ability to detect and report violations of law by its licensees. Since OI's creation, we have observed that it has been fulfilling its responsibilities to detect, investigate and report suspected violations to the Commission and the Department of Justice in a professional, competent and trustworthy manner.

However, this important responsibility may be and has been at odds with other activities under the umbrella of EDO. Personnel and organizational components within and under the EDO's office not only inspect nuclear facilities under operation or construction, but have also been sponsoring licensee applications before NRC administrative boards. Thus, the existence, detection and full disclosure of violations by OI may not only be (and have been) inconsistent with prior NRC inspection reports, but with positions taken by the NRC before its licensing boards. At a minimum then such dual operational authority and responsibility under the contemplated realignment could generate doubt and suspicion about the results of even the most conscientious OI investigation. Moreover, such conflicts and potential conflicts which would inevitably arise under the contemplated realignment could jeopardize the full disclosure and fair adjudication of violations of laws.

Experience itself has shown the importance of maintaining the independence of the Office of Investigations from the responsibilities, perspectives or agendas of other NRC components, and the need for the Office of Investigations to report directly to the Commission. Prior to and since the creation of OI there has been some opposition as well as resistance within the NRC to the detection and disclosure of deliberate wrongdoing by NRC licensees. In this regard, several NRC Commissioners have already expressed concern that personnel within these components have not disclosed information in their possession disclosing the likelihood of violations by licensees. Senior personnel within the NRC who could affect or influence OI's ability to detect and report violations if it were realigned may have contributed to this problem.

Prior to the creation of the Office of Investigation, the Department of Justice received very few referrals from the NRC.[1] In contrast, however, the Department has received approximately 23 referrals of cases developed by OI.

We also understand that certain licensees and their representatives favor the proposed realignment, as well as a reduction in the number of OI investigators. Efforts by those who may be or have become subject of OI investigations to restrict its ability to obtain evidence are not unique. When the creation of OI was announced by the Commission in 1982, representatives of licensees proposed the establishment of an NRC advisory committee on investigative procedures for the professed purpose of helping NRC investigators obtain complete and truthful information from licensee employees. As discussed in our previous written comments on that subject, the real effect of their proposals would be to inhibit the abilty of OI to ferret out violations of law by the imposition of investigative restrictions that go well beyond those required by constitutional, statutory or case law.

The foregoing considered and in view of your Februay 6, 1985 letter to Congressman Udall in which you assured him that the Commission has no desire to undermine the effectiveness or independence of OI, the Department strongly recommends that OI not be realigned.

Sincerely,

STEPHEN S. TROTT,
Assistant Attorney General,
Criminal Division.

[From the New York Times, Mar. 6, 1988]

NUCLEAR AGENCY ASSAILED BY STAFF

2 COMMISSION VETERANS CITE BID TO DISCREDIT INQUIRY INTO A T.V.A. OFFICIAL

(By Ben A. Franklin)

WASHINGTON, March 5—Members of the Nuclear Regulatory Commission staff say their superiors have tried to discredit a Justice Department investigation of the Tennessee Valley Authority's top nuclear power manager.

The regulatory commission is moving toward allowing the authority's nuclear power system, shut down because of widespread questions about its safety, to resume operations. T.V.A. officials have been concerned that the investigation of the manager—on suspicion of making deliberate false statements about a reactor's safety—could stand in the way. The manager denies making false statements.

Two veteran members of the regulatory commission's staff said in separate interviews that a committee of agency officials had visited the Justice Department last month and informed its criminal division that top agency officials did not believe the allegations against the T.V.A. official so they were not worth pursuing.

The two staff veterans said the committee was an eight-member "review group" convened by James M. Taylor, deputy executive director of the commission, around the first of the year.

THEY SEE A "SELLOUT"

The two veterans, who charged that the committee actions amounted to a "sellout," each spoke on condition of anonymity, citing fear of retaliation. Their account of the review group was confirmed by a third knowledgeable official, who also asked not to be identified.

Mr. Taylor declined to speak to a reporter about the matter, and N.R.C. and Justice Department press spokesmen said their agencies would have no comment.

The Nuclear Regulatory Commission's investigative office spent 10 months interviewing witnesses and gathering information at T.V.A. sites before concluding that there were grounds for a criminal investigation by the Justice Department. According to the staff veterans, the review group reached the opposite conclusion in a matter of weeks by going over the commission investigators' files.

The Justice Department is investigating Steven A. White, the Tennessee Valley Authority's manager of nuclear power, on suspicion of making illegal "willful material false statements" to the Nuclear Regulatory Commission in certifying that T.V.A. reactors were in compliance with Federal safety standards. He says his statements were not false and were misinterpreted.

In August 1985 all five of the T.V.A.'s operating reactors were shut down for safety deficiencies. The continuing shutdown is costing ratepayers in seven Southern states $1 million a day.

The collapse of the Government utility's reactor system was due to the most widespread management and safety enforcement breakdowns in the 30-year history of civilian nuclear power. As such it was viewed by the privately owned electric utility industry as a blow to public confidence in nuclear power.

VOTE SOON ON REACTOR

Mr. White, a retired admiral of the nuclear Navy, was hired by the T.V.A. in January 1986 as a highly paid outside contractor to turn around the program. The regulatory commission is expected to give approval later this month for the Sequoyah Unit 2 reactor near Chattanooga, Tenn., to resume operation.

On Friday at a "public briefing" before the five-member Nuclear Regulatory Commission, Mr. White said an investment of $12 million and 7 million hours of engineering time had brought the Sequoyah reactor to the threshold of a nuclear power "heat up" and restored generating capacity. Commission members agreed that a few remaining technical questions could be resolved in a matter of days, with a vote on allowing the reactor to resume operation by midmonth.

Lando W. Zech, Jr., the commission chairman, praised Mr. White and urged that the T.V.A. board of directors give him "strong support." After the meeting, when asked about the investigation of Mr. White, Mr. Zech said as he has before that it would not deter a favorable vote by the commission on the Sequoyah operation.

The investigation did not come up during the meeting. Neither did the alleged attempt to discredit it, which was related later by the two veteran staff members.

NOT GOING TO COMMENT

Efforts to obtain comment from Mr. Taylor were unsuccesful. When his office was called, his secretary said he was "not available."

Asked about the Taylor committee's role, Frank Ingram, an N.R.C. spokesman, would say only, "This is a matter still under investigation and we are not going to comment on it." Also noting that the White matter "is still an open criminal investigation by the department," Joe Korvisky, a Justice

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[1] Prior to the creation of OI, two of the more prominent cases only came to the Department's attention after employees of the respective NRC licensees publicly disclosed the same violations that they had previously reported to the NRC.

Department spokesman, said he could not comment.

Mr. White told the Nuclear Regulatory Commission in early 1986 that the T.V.A.'s Watts Bar nuclear power plant, near Knoxville, Tenn., was in compliance with N.R.C. quality assurance safety requirements. The regulatory commission, however, found that the newly completed Watts Bar plant was in disarray and was not licensed. Under Mr. White's schedule for restoring the nuclear power system, the plant will not be ready to operate before 1990.

THE WORLD TRADE EXPANSION, DEVELOPMENT AND FINANCIAL STABILITY ACT OF 1988

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 10, 1988

Mr. PEASE. Mr. Speaker, the arguments for a carefully managed program of international debt relief are absolutely compelling.

Without renewed developing country demand for our exports, I don't see how we can reduce the trade deficit without prompting a worldwide recession. Who in the world is capable picking up the slack?

Europe? Its economy is anemic. The Far East? In these countries, tax and other policies suppress consumption. Gorbachev's Warsaw Pact? Highly unlikely.

We're falling into a global economic box, and the only way out will be through renewed economic growth in the Third World. But this growth cannot and will not happen until debt service burdens in these countries are dramatically reduced.

A shrinking majority in this country believe that we should continue to muddle through the crisis—sitting on our hands while crossing our fingers.

Have you ever tried that? You can't keep it up for too long.

The argument for the status quo is that it preserves developing country access to the private credit markets.

Some favor. The few new loans that are forthcoming generally flow right back to the banks in the form of overdue interest on old loans. Interest capitalization does little to promote economic growth.

The truth is, these loans are just enough to keep the LDC's, the banks, the world economy—all of us—on the treadmill.

It's time to step off the treadmill and assert some control over our economic destiny.

A couple of months ago, I heard Henry Kissinger call for Government intervention in the debt crisis. He argued that our political and strategic interests in the Western Hemisphere were being threatened more by the debt crisis that by the situation in Central America.

Last week, a Republican Wall Street executive made his pitch for Government intervention.

The political center of gravity on the debt issue is shifting rapidly.

The question is no longer whether to provide debt relief, but how best to provide it.

Today, I am introducing the first detailed bill to actually mandate a solution to the debt crisis. The bill is pragmatic. In drafting it, I was guided by four principles. I recommend that the public keep these four points in mind when evaluating other debt proposals.

First, the bottom line is the amount of debt relief provided. This is what creates the economic growth and expansion of world trade that we all want and need. A debt relief plan must be as efficient as possible in translating bank losses into actual debt relief.

Second, the stability of the banking system must be assured. The plan must carefully manage the hit the banks will take. This is a particularly tricky problem because we in government have no authority to mandate financial accounting practices. For this reason, the plan must work within the existing regulatory and financial accounting framework to the extent possible.

Third, taxpayer liability must be minimized. The plan must not be a taxpayer bailout of the banks or the developing countries. If it is perceived as such, it will not attract the political support it will need to get off the ground.

Fourth, existing financial resources must be used as efficiently as possible. Sources of new financial resources for the Third World (private investors, the Japanese capital surplus, World Bank resources, et cetera) should not be tied up in the restructuring of old debt. They should remain free to finance new flows to the LDC's. In addition, most debt relief plans require taxpayers in creditor countries to bear a contingent liability. A contingent liability is just that—contingent. Given the budgetary constraints in these countries, taxpayers should not be asked to fund this contingent liability up front. This would be inefficient, politically self-defeating and unnecessary.

With these principles in mind, I have drafted a bill that mandates a decisive, prudent and cost-efficient solution to the international debt crisis.

The bill is decisive in that it provides massive and prompt principal and interest relief. Seventeen countries would see their payments on private debt cut in half.

It is prudent in that it has been designed to maintain bank capital levels comfortably above existing regulatory minimums and to spread bank losses over several years on their financial statements.

Finally, it is cost-efficient in that neither Congress nor the World Bank nor the Japanese nor private investors—anyone—would be asked to tie up their money in restructuring existing debt. They would all be free to devote their resources to new lending to these countries.

Mr. Speaker, there are few things we could do that would have as great an impact on the trade deficit and the lives of ordinary people around the world.

I urge my colleagues and the American people to give the bill serious consideration.

THE WORLD TRADE EXPANSION, DEVELOPMENT AND FINANCIAL STABILITY ACT OF 1988—DESCRIPTION OF THE BILL

Expands world trade and growth by providing massive, immediate debt relief for 17 highly-indebted countries: Principal would be reduced by a projected average of 45%; interest payments would be reduced even further. Total debt relief would far surpass that offered by the Robinson plan and other plans relying primarily on interest rate relief. As such, the bill is designed to translate bank losses into the maximum boost to LDC and world economic growth and, by extension, to efforts to reduce the U.S. trade deficit without provoking a world recession.

Safeguards and enhances the stability of the banking system: Virtually all sovereign LDC debt would be eliminated from bank portfolios. In addition, bank capital would be protected from the ensuing losses by spreading such losses over at least 5 years for regulatory and financial accounting purposes. In contrast to other proposals, the IMF Special Facility created by the bill is structured to enable banks to qualify for an existing, special accounting practice—FASB 15. This is significant in that Congress has no authority to direct a private professional group like the Financial Accounting Standards Board to change its standards to suit public policy goals. A Generally Accepted Accounting Principle dating from 1977, FASB 15 permits banks in effect to amortize losses over a number of years on their financial statements.

Requires no advance appropriations by Congress: A major shortcoming of other debt relief plans is their need for start-up capital and advance congressional appropriations. Billions would be required above and beyond the Administration's request for a World Bank capital increase. Congress is struggling to meet the Gramm-Rudman-Hollings budget targets as it is. By merely swapping its own debt obligations to the banks for those of the LDCs, and by using existing financial commitments of governments to the IMF to backstop the Special Facility's payments to the banks, the bill has the significant practical advantage of not requiring advance appropriations by Congress and other governments to be implemented.

Uses and strengthens an existing international institution, the IMF: Debt relief proposals involving the World Bank have been criticized by some on the grounds that they may reduce other Bank lending by tying up part of its capital or by undermining its credit rating. Placement of the debt facility in the IMF leaves the World Bank's resources unencumbered, permitting the Bank to maximize its financial flows to the Third World. In addition, by casting the IMF in the new role of a vehicle for higher living standards in developing countries, and by providing for a new, less intrusive style of conditionality, the bill provides the Fund with the opportunity to repair its damaged credibility in the Third World.

Provides for a more humane adjustment process in developing countries: The strings attached to debt forgiveness by the bill are different from those normally attached to IMF credit. Countries meeting balance of payments targets and maintaining policies to combat capital flight are free to design their own economic policies as long as the policies are economically and environmentally sustainable and promote broad-based development. In this way, accountability to creditor countries is maintained without unduly sacrificing the autonomy of developing countries. These procedures and an average one third reduction in total debt service would set the stage for a new decade of development characterized by greater attention to the needs of the poor.

The World Trade Expansion, Development and Finanical Stability Act of 1988—How the Bill Would Work

The Secretary of Treasury in consultation with bank regulators and the IMF would be required to estimate the underlying economic value of the LDC debt held by U.S. banks. The Secretary's estimate would approximate the fair market value of the debt as well the level of debt service that is sustainable and, to the greatest extent possible, consistent with rates of economic growth that prevailed prior to the debt crisis.

Under existing authority, bank regulators would be directed to require banks to create special reserves in 1989 in the amount of the difference between the Secretary's estimate and the value of the debt shown on their books. Banks agreeing to swap their entire portfolio of such debt for the obligations of the IMF Special Facility would be permitted to build the special reserves over a number of years. These participating banks would also qualify for an existing, special accounting rule (FASB-15) permitting them to spread over a number of years the accompanying losses on their financial statements.

The bill directs the Secretary of Treasury to negotiate the creation of a Special Facility in the IMF which would issue its obligations to the banks in exchange for the sovereign debt of 17 highly indebted developing countries. The Special Facility would service its debt to the banks by earmarking the funds it collects on the LDC debt that it receives in the exchange.

The Special Facility would in turn extend debt forgiveness in the full amount of bank writedowns to developing countries that negotiate with an IMF/World Bank team agreements containing balance of payments targets, capital flight prevention policies and principles by which to conduct economic policy consistent with "sustainable and broad-based economic growth and development." The IMF/World Bank team would periodically monitor compliance and issue "shadow" policy recommendations. Countries missing balance of payments targets in two consecutive years would be required to submit to more rigorous, traditional conditionality (i.e., give up a measure of autonomy). However, countries win the right to return to softer conditionality if they meet targets in two consecutive years.

The bill builds in protection for taxpayers in the U.S. and other IMF member countries by:

Requiring the LDC debt Special Facility to be senior to any succeeding debt;

Establishing an insurance fund out of LDC interest payments;

Providing that debt forgiveness could be revoked if country agreements were violated;

Providing for the use of IMF quota subscriptions and authority under the General Arrangements to Borrow to make up for LDC defaults that are temporary or isolated; and

Authorizing the Managing Director to propose under certain circumstances an extraordinary allocation of Special Drawing Rights.

Section-by-Section Analysis of Pease Debt Legislation

SECTION 1—SHORT TITLE

The World Trade Expansion, Development and Financial Stability Act of 1988.

SECTION 2—VALUATION OF HIGHLY INDEBTED COUNTRY SOVEREIGN DEBT

A. Directs the Secretary of Treasury after consultation with the Intragency Country Exposure Review Committee and the Directors and staff of the IMF (in an effort to coordinate participation in the Special Debt Facility described below) to estimate the underlying economic value of bank loans to countries listed in the IBRD World Debt Tables as Highly Indebted Countries. Such estimates shall be consonant with:

(1) Debt service burdens that are sustainable over the medium and long term and, to the greatest extent possible, compatible with rates of economic growth and development that prevailed prior to 1982; and

(2) the net realizable value of such assets.

In determining whether a debt service burden is sustainable and compatible with historical levels of economic growth, the Secretary shall take into consideration appropriate empirical measures of debt service capacity and shall base such estimates on conservative assumptions of world economic growth and the availability of new public and private external financing. In determining the net realizable value of bank assets, the Secretary shall take into consideration prevailing secondary market prices for like or similar assets.

SECTIONS 3, 4 AND 5—REGULATORY AND FINANCIAL ACCOUNTING

A. Regulatory Accounting

Amendments to the International Lending Supervision Act of 1983.

(1) Amends Section 905 to direct special (Allocated Transfer Risk) reserves to be created with respect to bank loans to countries listed in the 1987-88 IBRD World Debt Tables as "Highly Indebted Countries." In general, 1989 reserves shall be in the amount necessary for such assets to conform to their underlying economic value as determined by the Secretary; except that, for banks swapping all such assets for obligations issued by the IMF Special Debt Facility described below, either:

(a) 1989 reserves shall be in the amount of 20% and reserves for succeeding years shall be in the amount of 5% or 50% of earnings before taxes and provisions for credit losses on loans made to Highly Indebted Countries, whichever is less. Such reserves shall be required in each year until the special reserve reflects the underlying economic value of such assets as determined by the Secretary per above; or

(b) reserves in 1989 and thereafter shall be accounted for in a manner consistent with FASB 15.

NOTE: This means that banks failing to participate in the IMF Special Facility (i.e., swap their entire portfolio of Highly Indebted Country debt for IMF paper) would have to reserve for losses on LDC debt all at once.

(2) Amend Section 908 to authorize each appropriate Federal banking agency to exempt temporarily from internationally-negotiated risk-based capital guidelines banking institutions participating in swaps of their entire portfolio of loans to Highly Indebted Countries with the IMF Special Debt Facility established below.

B. Financial Accounting

(1) Finds and states Sense of Congress that banks participating in the IMF Special Facility qualify for FASB 15—an existing accounting practice that enables banks in effect to amortize bank losses over a number of years.

SECTION 6—STUDY ON GRANTING PARTICIPATING BANKS AUTHORITY TO UNDERWRITE SECURITIES BACKED BY OBLIGATION OF DEBTOR COUNTRY

Requires Secretary of Treasury, in consultation with the Board of Governors of the Federal Reserve, to report to House and Senate Banking Committees within a year with recommendations on granting power to underwrite Third World sovereign debt securities to commercial banks participating in the IMF Special Facility described below.

SECTION 7—CREATION OF SPECIAL DEBT FACILITY IN THE IMF

A. Amends the Bretton Woods Agreements Act to direct the Secretary of Treasury to seek the creation of an IMF Special Debt Facility which, though amendment to the IMF Articles of Agreement, would:

(1) issue obligations to private commercial banks in exchange for the obligations of Highly-Indebted Countries; such IMF obligations shall have a maturity schedule reflecting the aggregate maturity of the LDC loans they replace and any further restructuring at the time of the exchange; their principal value shall reflect the aggregate underlying economic value of the LDC loans they replace as determined by the countries' relevant regulatory authorities after consultation with the IMF;

(2) reduce the principal value of Highly Indebted Country obligations to their "underlying economic value" subject to the establishment of an agreement with the LDC government on appropriate balance of payments targets, capital flight prevention policies and a framework for conducting economic policy that is consistent with "sustainable and broad-based economic growth and development;" reduce the interest rate on such obligations to reflect the interest rate on Special Facility obligations swapped to the banks subject to the requirements of the Special Facility insurance fund described in (3) below; such agreement would have a minimum, renewable duration of 3 years and a maximum duration of 15 years or the final maturity date of a country's obligations, whichever comes first; such agreement would be negotiated by a team of IMF and IBRD staff and would be required to be approved by both the IMF and IBRD; reduction of principal could be revoked if terms of such agreement were violated;

(a) a framework of economic policies that is consistent with sustainable and broad-based economic growth and development shall be a framework that is supportive of an appropriate and sustainable balance of payments, promotes growth, minimizes the costs of adjustment; alleviates poverty by minimizing the burden of adjustment on the poorest; emphasizes supply management to the extent possible; promotes appropriate jobs and basic human needs as well as the social, political, and cultural well-being of the people of the country;

(b) conditionality shall be two-tiered: the initial agreement shall contain targets for the balance of payments only and agreement on capital flight policies; targets of other performance indicators or policy instruments shall not be included as long as balance of payments targets are not missed for two consecutive years and the country services its IMF debt in a timely fashion; the IMF/IBRD team shall issue, in an advisory capacity only, its "shadow" recommendations for targets for appropriate targets or policy instruments; however, if the country fails to service its debt in a timely manner or fails to attain within a reasona-

ble margin of error its balance of payments targets in two consecutive years, then agreement would have to be reached between the country and the IMF/IBRD team on appropriate targets of indicators or policy instruments consistent with the principles of the negotiated framework of policies; such heightened conditionality shall terminate upon the attainment of balance of payments targets in two consecutive years and the resumption of the timely servicing of IMF debt;

(3) LDC debt to Special Facility shall be senior to any succeeding debt; a Special Facility insurance fund shall be established by the dedication of an appropriate, minor proportion of the reduction in the spread on bank debt; member quota subscriptions and authority under the General Arrangements to Borrow shall be available to meet bank payments in the event of any default determined by the Managing Director to be temporary or isolated; and the Managing Director of the IMF is authorized to propose under certain circumstances an extraordinary allocation of Special Drawing Rights.

HOUSE OF REPRESENTATIVES—*Monday, March 14, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We know, O God, that You are the Author of every life and the guide for every person who turns to You for help. So lead us through our years, protect us from any wrong, support us in our goals, and encourage us to think and to act and to accomplish what is right and good. Give us Your blessing, O God, this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On February 10, 1988:

H.J. Res. 402. Joint resolution to designate the week of February 7-13, 1988, as "National Child Passenger Safety Awareness Week."

On February 16, 1988:

H.R. 1983. An act authorizing the Secretary of the Interior to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, FL, and for other purposes;

H.R. 2566. An act to amend the National Parks and Recreation Act of 1978, as amended, to extend the term of the Delta Region Preservation Commission, and for other purposes; and

H.R. 3884. An act to rescind certain budget authority recommended in Public Law 100-202.

On February 29, 1988:

H.R. 1612. An act to authorize appropriations under the Earthquake Hazards Reduction Act of 1977 for fiscal years 1988, 1989, and 1990.

On March 4, 1988:

H.R. 3923. An act to make a technical correction to section 8103 of title 46, United States Code.

NEW PRESIDENT OF GALLAUDET UNIVERSITY

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, today is a special day in the history of Gallaudet University. As one of the congressionally appointed trustees at Gallaudet University, it is my distinct honor to report on the meeting of the Board of Trustees yesterday which was attended by the gentleman from Michigan [Mr. BONIOR] and myself. We were a part of making history, for yesterday the board of trustees of Gallaudet University appointed I. King Jordan as not only the next president of Gallaudet University but the first president who happens to be hearing impaired.

Second, we are able to report that the new chairman of the board of trustees is also a person who happens to be hearing impaired, Mr. Phil Bravin, who was also the chairman of the presidential search committee, a highly recognized, well-qualified professional with the IBM Co. in New York who will bring outstanding leadership to the board of trustees.

Gallaudet University has done more in the last week to emphasize its mission because of the conduct of its students and its faculty. Today, we can join with them, with the deaf people throughout America, in going forth in the mission we all seek to serve.

TRIBUTE TO JOHN TURNEY DAVIE

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, more than 300 residents of Hickman, KY, missed the televised University of Kentucky Wildcats' basketball victory over Louisiana State University last Saturday afternoon in order to pay tribute to their neighbor and friend John Turney Davie.

"Mr. Democrat" in western Kentucky is John Turney Davie, chairman of the Fulton County, KY, Democratic Party for 34 years.

Turney Davie has said he may have to step down soon because of health problems.

Mary Frances Major, vice chairman of the Fulton County Democratic Committee, has said Turney Davie is irreplaceable as chairman.

Among those paying tribute to Turney Davie last Saturday at the National Guard Armory in Hickman were Kentucky Governor and Mrs. Wallace Wilkinson; U.S. Senator WENDELL FORD; Kentucky agriculture commissioner; Ward "Butch" Burnette;, State senator and Mrs. Greg Higdon; State representative and Mrs. Charles Geveden; Fulton County judge/executive, James Everett; Hickman mayor, Judy Powell; Fulton mayor, Bill Robertson, and this Congressman and my wife Carol.

Congratulations, Turney Davie, upon your many accomplishments through the years as an elected official—sheriff of Fulton County Democratic Party chairman, and dedicated, hard working promoter for your community of Hickman and all of western Kentucky.

Best wishes to my friends Turney Davie and his lovely wife Esther Byrd Davie of Hickman, KY.

50TH ANNIVERSARY OF THE INTRODUCTION OF DILANTIN

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COELHO. Mr. Speaker, what do Alexander the Great, Julius Caesar, Tchaikovsky, Van Gogh, and Alfred Nobel have in common? Most notably, they are each remembered for their outstanding achievements. In addition, they all had epilepsy.

This year marks the 50th anniversary of the introduction of the anticonvulsant drug, dilantin. For 50 years, dilantin has freed many people with epilepsy from uncontrollable seizures, allowing them to lead full and valuable lives.

Research by Drs. H. Houston Merritt and T. Jackson Putnam led to the introduction of phenytoin made available in the United States in 1938 by Parke-Davis under the trade name dilantin.

Epilepsy affects an estimated 2 to 4 million Americans and is the second most common neurological disorder in the United States, after stroke. It can strike anyone at any age and in the majority of cases, no cause can be identified.

On behalf of all of us with epilepsy, I would like to recognize the strides made by scientists and organizations such as the Epilepsy Foundation of America in the last half-century in helping people to understand and cope with epilepsy. On this anniversary we look to the research currently in progress not only to find ways to improve medical control of the disorder, but also to find a cure.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. HUBBARD) laid before the House the following communication from the Clerk of the House of Representatives:

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 4:35 p.m. on Thursday, March 10, 1988 and said to contain a message from the President whereby he requests the Congress to consider the rescission or repeal of wasteful, unnecessary, or low priority spending projects included in the Fiscal Year 1988 Continuing Resolution (Public Law 100-202).

With great respect, I am,
Sincerely yours.
DONNALD K. ANDERSON,
Clerk, House of Representatives.

RESCISSION OR REPEAL OF CERTAIN SO-CALLED WASTEFUL, UNNECESSARY, OR LOW PRIORITY SPENDING PROJECTS — MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100-174)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate for today, Monday, March 14, 1988.)

ANNUAL REPORT ON INTERNATIONAL ACTIVITIES IN SCIENCE AND TECHNOLOGY FOR FISCAL YEAR 1987—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, without objection, referred to the Committee on Foreign Affairs and the Committee on Science, Space, and Technology:

(For message, see proceedings of the Senate for today, Monday, March 14, 1988.)

ANNUAL REPORT OF ACTION AGENCY, FISCAL YEAR 1987—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

(For message, see proceedings of the Senate for today, Monday, March 14, 1988.)

LEGISLATION TO EXEMPT OFF-HIGHWAY USERS OF DIESEL FUEL

(Mr. MILLER of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Ohio. Mr. Speaker, I urge my colleagues to take a long, hard look at a provision incorporated in the budget reconciliation bill that changed the collection process of the diesel fuel tax as it pertains to certain users.

This provision requires that farmers and others who are already exempt from the tax, when they purchase fuel for off-road use, to pay this tax up front and then file for a refund at a later date.

I am sure the Members who enacted this provision, did not intend to drive businesses, out of business. But that's exactly what could happen in my district if this burdensome and unnecessary provision is not repealed. Many businesses do not have the operating revenue to assume this unexpected additional cost. Many will have to borrow additional operating revenue to pay these taxes, and others will have to pay these taxes from bank reserves that could otherwise be drawing interest to the benefit of that business. In either case an unnecessary financial loss is incurred by those affected that could be avoided by the repeal of this provision.

I urge my colleagues to cosponsor H.R. 3865, which exempts all off-highway users of diesel fuel from paying the 15-cent tax on diesel fuel. This measure does not provide a tax exemption to anyone who is not already exempt under current law.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio. Mr. Speaker, I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Speaker, let me say that I agree with the statement of the gentleman from Ohio [Mr. MILLER]. This is a foolish provision that requires farmers to pay the tax and then in most cases to not get a refund until the next year's income tax return where they will be able to take it as a credit. It puts farmers in the peculiar position, and farmers are the only group that will be in this position, and it does so at a time when farmers can least afford to see the cost of fuel increase 15 percent.

This makes no sense at all. We must change it.

There are several pieces of legislation in Congress on it. I think over 100 Members have cosponsored such legislation.

Mr. Speaker, I appreciate the remarks of the gentleman from Ohio [Mr. MILLER] and I want to say that I and others join him in trying to aggressively repeal that provision in the law.

Mr. MILLER of Ohio. Mr. Speaker, this does affect waterway users, also, and some municipalities. I understand that we will have a problem there starting April 1.

□ 1215

NATIONWIDE PROHIBITION ON DRINKING WHILE DRIVING

The SPEAKER pro tempore (Mr. SKAGGS). Under a previous order of the House, the gentleman from North Dakota [Mr. DORGAN] is recognized for 5 minutes.

Mr. DORGAN of North Dakota. Mr. Speaker, I wanted to take the well briefly to say that tomorrow morning a hearing will held by the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation on legislation, H.R. 637, I have introduced that now has 65 cosponsors. I want to tell my colleagues a little bit about the legislation and the reason I have introduced it.

Mr. Speaker, while driving through the Southern States out to Nevada, you can put one elbow out the window and hold onto a can of beer, or a fifth of Old Crow and drink. In a few States you cannot drink while driving, but the other passengers in the car can drink. It makes no sense to me at all, that in 15 States in this country someone can get behind the wheel of a car, start the engine, begin driving the car and continue to drink an alcoholic beverage as they drive and be within the laws of that State. That does not make sense, and it ought to change, and not just in those States where the driver can get in and start the engine and drink as the driver, but in the 23 other States where it is legal for everyone else except the driver in the automobile to drink while that automobile travels across our public roads.

My legislation would put an end to drinking and driving. I want States to have a uniform prohibition of open containers. Nineteen States now have it. I want all States to have it.

Driving and alcohol do not mix. It makes no sense to have people in an automobile drinking alcoholic beverages, and it certainly makes no sense having drivers of automobiles drinking alcoholic beverages while they drive.

Every 23 minutes in this country someone dies because of a drunk driver. Within the last 10 years, a quarter of a million Americans have died because of a drunk driver. Drunk driving, it is estimated, costs this country $24 billion a year in addition to the lost lives and despair, that are attendant to the carnage on the highways that occurs because of drunk driving.

Mr. Speaker, it is time for us to do something about it. What do I propose? I propose the Congress take the lead and say this is a national problem; we want the States to pass legislation to do two things; first, prohibit open containers in automobiles and, therefore, prohibit the consumption of alcoholic beverages in automobiles; and second, require the States to designate a 0.10 uniform determination of intoxication.

The fact is we have a problem. The problem is not getting better, and we need to do something about it. Drunk driving is a critical problem in this country, and the U.S. Congress needs to persuade those States that have not yet done what they should do to prohibit consumption of alcoholic beverages in vehicles, and especially to prohibit drivers of vehicles from drinking while they drive.

We need, it seems to me, to stimulate the State legislatures to take the actions necessary to correct this problem. Sixty-five of my colleagues have cosponsored H.R. 637 and I would hope Congress will move from the hearing tomorrow to some action that would encourage the States to take steps to prevent drunk driving.

My legislation would do that under the penalty of losing 5 percent of the highway funds if over a specific period of time the State legislatures do not act to conform to this policy.

Mr. Speaker, this is an important issue. I am pleased that the hearing will be held tomorrow on H.R. 637 and several others on highway safety. I hope this stimulates a constructive debate on how Congress can provide some leadership toward a national policy to stop the carnage on America's highways.

INTRODUCTION OF LEGISLATION TO AMEND BANKRUPTCY CODE WITH REGARD TO OIL AND GAS BUSINESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. Brooks] is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, today I am introducing legislation to amend the Bankruptcy Code to cure a problem which is arising often in the oil and gas business. It is a traditional and standard practice in the industry for an owner of mineral rights to transfer a portion of his interest in conjunction with the drilling of wells to develop the lease. For example, a driller may transfer a portion of the oil and gas interest that will be realized to an engineer or geologist in payment for services provided in sinking the well. These contracts are commonly called farm-out agreements.

Under current application of the provisions of the Bankruptcy Code, such farm-out agreements are not recognized as having transferred these interests from the estate of the developer and consequently if bankruptcy is entered into, these interests are pulled back into that proceeding. This unforeseen problem is inhibiting the drilling and development of oil and gas wells throughout the country.

The legislation I am sponsoring today is a narrow and specific response to this critical problem. It would amend section 541(b) of the Bankruptcy Code by clarifying that farm-out agreements in which interests are transferred to geologists and engineers in conjunction with the development of an oil and gas lease are not included in the debtor's estate in a subsequent bankruptcy proceeding. This simple amendment will go a long way to foster the continued development of our Nation's rich oil and gas resources.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Upton) to revise and extend their remarks and include extraneous matter:)

Mr. Bilirakis, for 60 minutes, on March 22.

(The following Members (at the request of Mr. Dorgan of North Dakota) to revise and extend their remarks and include extraneous material:)

Mr. Dorgan of North Dakota, for 5 minutes, today.

Mr. Owens of New York, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Brooks, for 5 minutes, today.

Mr. Owens of New York, for 5 minutes, on March 15.

Mr. Owens of New York, for 5 minutes, on March 16.

Mr. Owens of New York, for 5 minutes, on March 17.

Mr. Owens of New York, for 5 minutes, on March 18.

Mr. Gaydos, for 60 minutes, on March 15.

Mr. Gaydos, for 60 minutes, on March 16.

Ms. Slaughter of New York, for 60 minutes, on March 15.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Dorgan of North Dakota) and to include extraneous matter:)

Mr. Skelton.

Mr. Traficant in two instances.

Mr. Cardin in two instances.

Mrs. Lloyd.

Mr. Andrews.

Mr. Anderson in 10 instances.

Mr. Gonzalez in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Dyson.

Mr. Dymally.

ADJOURNMENT

Mr. DORGAN of North Dakota. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 20 minutes p.m.) the House adjourned until tomorrow, Tuesday, March 15, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3128. A letter from the Director, Defense Security Assistance Agency, transmitting reports of all outstanding letters of offer to sell any major defense equipment for $1 million or more, with addendum, for the quarter ending October 1, 1987, pursuant to 22 U.S.C. 2776(a); to the Committee on Foreign Affairs.

3129. A communication from the President of the United States, transmitting the report on the activities of countries within the United Nations and its specialized agencies; in addition, the report includes the report required of the Secretary of State under section 117 of Public Law 98-164 on the performance of U.N. member countries in international organizations, pursuant to 22 U.S.C. 287b nt.; to the Committee on Foreign Affairs.

3130. A letter from the Acting Comptroller General, General Accounting Office, transmitting a list of all reports issued by GAO during the month of February 1988, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

3131. A letter from the Attorney General, Department of Justice, transmitting the annual report on the assets forfeiture fund of the Department for the fiscal year ending September 30, 1987, pursuant to 28 U.S.C. 524(c)(6); to the Committee on the Judiciary.

3132. A letter from the Acting Comptroller General, General Accounting Office, transmitting the report and recommendation of the General Accounting Office concerning the claim of Charlotte S. Neal for a survivor benefit plan annuity, pursuant to 31 U.S.C. 3702(d); to the Committee on the Judiciary.

3133. A letter from the National President and National Executive Director, Girl Scouts of the U.S.A., transmitting the 38th annual report of activities for the fiscal year ended September 30, 1987, pursuant to 36 U.S.C. 37; to the Committee on the Judiciary.

3134. A letter from the Deputy Federal Highway Administrator, Department of Transportation, transmitting a report of actions taken regarding restrictions on truck usage of I-75/71 and I-471 between I-275 and the Ohio State line, pursuant to 49 U.S.C. App. 2311 (i)(4)(B); to the Committee on Public Works and Transportation.

3135. A letter from the Administrator, General Services Administration, transmitting an informational copy of two prospectuses, Nos. PDC-89W17 and PDC-89W18, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

3136. A letter from the Acting Director, Central Intelligence Agency, transmitting a draft of proposed legislation to authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes, pursuant to 31 U.S.C. 1110; jointly, to the Committees on the Permanent Select Committee on Intelligence and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. S. 858. An act to establish the title of States in certain abandoned shipwrecks, and for other purposes (Rept. 100-514, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. Senate Joint Resolution 216. Joint resolution approving the location of the Black Revolutionary War Patriots Memorial (Rept. 100-515). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. Senate Joint Resolution 225. Joint resolution approving the location of the Korean War Memorial (Rept. 100-516). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL. Committee on Interior and Insular Affairs. H.R. 1845. A bill entitled the "Nevada-Florida Land Exchange Authorization Act of 1987"; with an amendment; referred to the Committee on Merchant Marine and Fisheries for a period ending not later than March 15, 1988 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of the committee pursuant to clause 1(n), rule X (Rept. 100-513, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AuCOIN:

H.R. 4143. A bill to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BROOKS:

H.R. 4144. A bill to exclude certain farmout agreements from property of the estate; to the Committee on the Judiciary.

By Mrs. SMITH of Nebraska:

H. Con. Res. 264. Concurrent resolution expressing the sense of Congress with respect to the renegotiation of a long-term trade agreement with the Soviet Union; to the Committee on Ways and Means.

By Mr. ANDERSON (for himself, Mr. Howard, Mr. Hammerschmidt, and Mr. Shuster):

H. Res. 400. Resolution expressing the sense of the House of Representatives that funding in fiscal year 1989 for the Federal-aid highway and mass transit programs should be at the levels enacted in the Surface Transportation and Uniform Relocation Assistance Act of 1987; to the Committee on Public Works and Transportation.

By Mr. BUECHNER:

H. Res. 401. Resolutoin expressing the sense of the House of Representatives with respect to implications of the Intermediate-Range Nuclear Forces [INF] Treaty for the military security of the North Atlantic Treaty Organization and with respect to other arms control issues; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

280. The SPEAKER presented a memorial of the Senate of the State of New Mexico, relative to a constitutional amendment requiring a balanced Federal budget; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 81: Mr. Garcia, Mr. Synar, Mr. Fuster, Mr. Bevill, Mr. Upton, Mr. DeFazio, Mr. Weiss, and Mr. Rodino.

H.R. 345: Mr. Solomon.

H.R. 2383: Mr. de la Garza, Mr. Bonior of Michigan, Mr. Bilirakis, Mr. Akaka, Mr. Roybal, and Mr. Burton of Indiana.

H.R. 2517: Mr. Stokes.

H.R. 2707: Mr. Howard, Mr. Nowak, and Mr. Visclosky.

H.R. 2787: Mr. Stokes.

H.R. 2854: Mr. de Lugo, Mr. Evans, Mr. Beilenson, and Mr. Ackerman.

H.R. 3193: Mr. Lantos, Mr. Owens of Utah, and Mr. Brennan.

H.R. 3250: Mr. Smith of New Jersey.

H.R. 3312: Mr. Lagomarsino.

H.R. 3375: Mr. Jacobs.

H.R. 3485: Mr. Bateman, Mr. Dyson, and Mr. Lewis of Florida.

H.R. 3553: Mr. Schaefer and Mr. Dorgan of North Dakota.

H.R. 3562: Mr. Whitten, Mr. Burton of Indiana, Mr. Skaggs, Mr. Regula, Mr. Coyne, Mr. Johnson of South Dakota, Mr. Price of Illinois, Mr. Rowland of Connecticut, Mr. Aspin, Mr. Eckart, Mr. McCurdy, Mr. Hayes of Louisiana, Mr. Emerson, Mr. Stark, Mr. Houghton, Mr. Volkmer, Mr. Wheat, Mr. Chappell, Mr. Konnyu, Mr. Lehman of Florida, Mr. Valentine, Mr. Sharp, Mr. Kleczka, Mr. Cooper, Mr. Skeen, Mr. Dellums, Mr. Ortiz, Mr. Bryant, Mr. Kolbe, Mr. Porter, Mr. Durbin, Mr. Carr, Mr. Packard, and Mr. Neal.

H.R. 3660: Mr. Dorgan of North Dakota, Mr. Panetta, Mr. Dwyer of New Jersey, Mr. St Germain, and Mr. Walgren.

H.R. 3742: Mr. Blaz, Mr. Tallon, Ms. Pelosi, Mr. Gonzalez, Mr. Slattery, and Mr. Towns.

H.R. 3944: Mr. Smith of New Jersey.

H.R. 3981: Mr. Lent.

H.R. 4018: Mr. Bevill, Mr. Chapman, Mr. de Lugo, and Mr. Howard.

H.R. 4078: Mr. Miller of California and Mr. Dellums.

H.J. Res. 420: Mr. Hughes, Mr. Livingston, and Mr. Chandler.

H.J. Res. 453: Mr. McGrath, Mr. Bilirakis, Mr. Boehlert, and Mr. Hatcher.

H.J. Res. 459: Mr. Akaka, Mr. Eckart, Mr. Lungren, Mr. Nielson of Utah, Mr. Bryant, Mr. Goodling, and Mr. Markey.

H.J. Res. 466: Mr. Foley, Mr. Coelho, Mr. Akaka, Mr. Andrews, Mr. Annunzio, Mr. Applegate, Mr. Aspin, Mr. Barton of Texas, Mr. Bateman, Mr. Bereuter, Mr. Berman, Mr. Bevill, Mr. Blaz, Mr. Boehlert, Mr. Bonior of Michigan, Mr. Bosco, Mr. Boucher, Mr. Boulter, Mrs. Boxer, Mr. Brennan, Mr. Brooks, Mr. Brown of California, Mr. Brown of Colorado, Mr. Bruce, Mr. Bryant, Mr. Bustamante, Mrs. Byron, Mr. Callahan, Mr. Campbell, Mr. Carper, Mr. Chapman, Mr. Clarke, Mr. Clinger, Mr. Coats, Mr. Coleman of Missouri, Mr. Coleman of Texas, Mrs. Collins, Mr. Combest, Mr. Conyers, Mr. Cooper, Mr. Craig, Mr. Daub, Mr. Davis of Illinois, Mr. de Lugo, Mr. Derrick, Mr. DeWine, Mr. Dickinson, Mr. Dixon, Mr. Dorgan of North Dakota, Mr. Dornan of California, Mr. Durbin, Mr. Dymally, Mr. Dyson, Mr. Eckart, Mr. Emerson, Mr. English, Mr. Erdreich, Mr. Espy, Mr. Evans, Mr. Fascell, Mr. Fauntroy, Mr. Fazio, Mr. Fish, Mr. Flippo, Mr. Florio, Mr. Frank, Mr. Frenzel, Mr. Frost, Mr. Fuster, Mr. Garcia, Mr. Gingrich, Mr. Gonzalez, Mr. Grandy, Mr. Grant, Mr. Gray of Illinois, Mr. Gunderson, Mr. Hall of Texas, Mr. Hammerschmidt, Mr. Hansen, Mr. Harris, Mr. Hastert, Mr. Hatcher, Mr. Hayes of Illinois, Mr. Hayes of Louisiana, Mr. Hefner, Mr. Henry, Mr. Herger, Mr. Hiler, Mr. Hochbrueckner, Mr. Holloway, Mr. Hopkins, Mr. Horton, Mr. Howard, Mr. Hoyer, Mr. Huckaby, Mr. Hughes, Mr. Hunter, Mr. Inhofe, Mr. Ireland, Mr. Jeffords, Mr. Jenkins, Mr. Johnson of South Dakota, Mr. Jones of Tennessee, Mr. Jones of North Carolina, Mr. Jontz, Ms. Kaptur, Mr. Kastenmeier, Mr. Kemp, Mr. Kolter, Mr. Kostmayer, Mr. LaFalce, Mr. Lagomarsino, Mr. Lancaster, Mr. Lantos, Mr. Latta, Mr. Leach of Iowa, Mr. Lehman of California, Mr. Lehman of Florida, Mr. Lewis of Florida, Mr. Lightfoot, Mrs. Lloyd, Mr. Lott, Mr. Lowry of Washington, Mr. Lungren, Mr. McDade, Mr. McEwen, Mr. McHugh, Mr. Mack, Mr. MacKay, Mr. Markey, Mr. Marlenee, Mr. Martin of New York, Mrs. Martin of Illinois, Mr. Martinez, Mr. Matsui, Mr. Mavroules, Mrs. Meyers of Kansas, Mr. Miller of Washington, Mr. Moody, Mr. Morrison of Connecticut, Mr. Morrison of Washington, Mr. Murphy, Mr. Murtha, Mr. Nagle, Mr. Natcher, Mr. Neal, Mr. Nelson of Florida, Mr. Nichols, Ms. Oakar, Mr. Oberstar, Mr. Olin, Mr. Ortiz, Mr. Owens of New York, Mr. Panetta, Mr. Pashayan, Mr. Perkins, Mr. Pickle, Mr. Price of North Carolina, Mr. Price of Illinois, Mr. Quillen, Mr. Ravenel, Mr. Richardson, Mr. Roberts, Mr. Robinson, Mr. Rodino, Mr. Roe, Mr. Rose, Mr. Rowland of Georgia, Mr. Sabo, Mr. Scheuer, Mr. Schuette, Mr. Shuster, Mr. Sisisky, Mr. Skaggs, Mr. Skeen, Mr. Skelton, Mr. Slattery, Ms. Slaughter of New York, Mr. Denny Smith, Mr. Smith of Florida, Mr. Smith of Iowa, Mr. Robert F. Smith, Mrs. Smith of Nebraska, Mr. Spence, Mr. Spratt, Mr. Staggers, Mr. Stallings, Mr. Stangeland, Mr. Stenholm, Mr. Stokes, Mr. Stump, Mr. Sunia, Mr. Sweeney, Mr. Tallon, Mr. Tauke, Mr. Tauzin, Mr. Taylor, Mr. Thomas of Georgia, Mr. Thomas of California, Mr. Towns, Mr.

TRAXLER, Mr. UDALL, Mr. UPTON, Mr. VALENTINE, Mr. VANDER JAGT, Mr. VOLKMER, Mr. WALGREN, Mr. WATKINS, Mr. WEBER, Mr. WEISS, Mr. WHITTAKER, Mr. WHITTEN, Mr. WILSON, Mr. WOLF, Mr. WOLPE, Mr. WORTLEY, Mr. WYLIE, Mr. YATRON, Mr. CLAY, Mr. SYNAR, Mr. PICKETT, Mr. FIELDS, Mr. HUBBARD, Mr. RAY, Mr. VENTO, Mr. GEPHARDT, and Mr. BURTON of Indiana.

H.J. Res. 468: Mr. FAZIO, Mr. LUNGREN, Mrs. BOXER, Mr. DE LUGO, Mr. MATSUI, Mr. ANDERSON, Ms. PELOSI, and Mr. CHAPMAN.

H.J. Res. 470: Mr. BUNNING, Mr. WEBER, Mr. FAWELL, Mr. SMITH of New Jersey, Mr. CLINGER, Mr. PORTER, Mr. CHAPMAN, Mr. GRADISON, Mr. FOGLIETTA, Mr. GUNDERSON, Mr. HASTERT, Mr. CLAY, Mr. LOTT, Mr. NATCHER, Mr. BERMAN, Mr. KOLTER, Mr. VENTO, Mr. DARDEN, Mr. DYMALLY, Mr. OBERSTAR, Mr. GORDON, Mr. CLEMENT, Mr. BENNETT, Mr. FORD of Michigan, and Mr. GAYDOS.

H.J. Res. 485: Mr. BARTON of Texas, Mr. BERMAN, Mr. BRENNAN, Mr. FAWELL, Mr. HERTEL, Mr. HOCHBRUECKNER, Mr. HOYER, Mr. KOSTMAYER, Mr. LOWRY of Washington, Mr. PURSELL, Mr. ROE, Mr. SKELTON, Mr. SMITH of Florida, and Mr. TRAFICANT.

H. Con. Res. 237: Mr. NELSON of Florida, Mr. TORRICELLI, Mr. WATKINS, Mr. GILMAN, Mr. KONNYU, Mr. HUNTER, Mr. PANETTA, Mr. NEAL, Mr. UDALL, Mr. COOPER, Mr. SHARP, Mr. SABO, Mr. WISE, Mr. LEHMAN of California, Mrs. SCHROEDER, Mr. GOODLING, Mr. BADHAM, Mr. SHAW, Mr. REGULA, Mr. COYNE, Mr. STUDDS, Mr. ATKINS, Mr. ECKART, Mr. LUNGREN, Mr. BROOMFIELD, Mr. SISISKY, Mr. CLINGER, Mr. FOGLIETTA, Mr. DORNAN of California, Mr. HOPKINS, Mr. MICA, Mr. SLATTERY, and Mr. CAMPBELL.

H. Con. Res. 238: Mr. HOLLOWAY and Mr. CRANE.

H. Con. Res. 252: Mr. DAVIS of Illinois, Mr. YOUNG of Florida, Mr. DELAY, and Mr. LIPINSKI.

PETITIONS, ETC.

Under clause 1 of rule XXII,

137. The SPEAKER presented a petition of the Legal Committee, The New Philippine Movement for U.S. Statehood, New York, NY, relative to statehood for the Philippines; which was referred to the Committee on Foreign Affairs.

SENATE—*Monday, March 14, 1988*

The Senate met at 12 noon and was called to order by the Honorable RICHARD C. SHELBY, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Then the Lord answered Job out of the whirlwind, and said, Who is this that darkeneth counsel by words without knowledge? . . . I will demand of thee, and answer thou me. Where wast thou when I laid the foundations of the earth? Whereupon are the foundations thereof fastened?—Job 38:1-2, 3-4, 6.

Creator God, eternal and infinite in being and attributes—omnipotent—all powerful—omnipresent—everywhere at once—omniscient—all wise and all knowing—in this quiet moment at the beginning of the week, we come to You. You know all things—infinite and infinitesimal—the future is as plain to You as the past. You know the path America is taking—where it leads and where it ends. You know our lives in microscopic detail: our hearts—our secret thoughts—our motives, desires, and ambitions. Gracious Father in heaven, lead us, individually and corporately, in Your way. Your will be done on Earth as it is in heaven. In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 14, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD C. SHELBY, a Senator from the State of Alabama, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. SHELBY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, I thank the Chaplain for his great prayer this morning. It was instructive, it was reflective, and it was infusive.

He quoted from that great old Book of Job. We might spend our time no better than to think about his prayer. I thank him for the daily sustenance and comfort that he gives us in his quotations of the Scriptures and the thought that he gives to this daily moment that is so good for all of us, a moment of prayer.

Mr. President, I yield the floor.

RECOGNITION OF THE ACTING REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting Republican leader is recognized.

THE CHAPLAIN'S PRAYER

Mr. SIMPSON. Mr. President, I, too, join in the remarks of the majority leader with regard to our Chaplain, who is always most topical and piercing in his remarks and so sensitive to the way we live and move and have our being in this place. He knows what it is, and not many do.

We do not have complaints. We are very privileged to serve this United States in this body, but it is a little different than it appears sometimes. We thank him for his recognition of that which, in itself, is a ministry to us, as he deals with us and shares with us so much. So I thank him, too.

VISIT TO THE SOVIET UNION

Mr. SIMPSON. Mr. President, I greet the majority leader and say that we are ready to go forward and do business on this side of the aisle. We have much to do. I hope it has been a constructive recess period for people as they have gone back to their districts and now returned here.

For me it was—and I will just touch upon it lightly, not lightly in the sense of what we accomplished, but in terms of my brief time this morning—a most fascinating visit to the Soviet Union for Senators CRANSTON, NUNN, LEVIN, COHEN, and myself, not as part of an offical Government delegation but as members of a delegation under the auspices of the Carnegie Corp. and the Aspen Institute. It was the five Senators and renowned physicists Sidney Drell and Charles Townes, and a most noted Kremlinologist, Bob Legvold, and a truly remarkable humanitarian, Dr. David Hamburg, and our former colleague from Iowa, Richard Clark.

It was a most stimulating time in which we had access to, and a visit with, General Secretary Gorbachev for nearly 3 hours and 15 minutes of his time, and in which we visited with Foreign Minister Shevardnadze for some 3½ hours on a separate day. We met with Marshal Akhroneev, and heard his spirited discussion of the defense posture and the military mission of the Soviet Union; and a most touching, inspirational and memorable time with Andrei Sakharov and his amazing spouse, Yelena Bonner. We spent more than 2 hours with them in their apartment in Moscow and were treated to their hospitality and their unique philosophy of freedom—academic and personal and religious freedom.

There really was not much that we did not cover with the members of the Soviet Union—the high officialdom, the party people, the Politburo members. We were privileged to meet with many of those persons also.

It was a superb presentation. I was very proud to be a member of the delegation. We talked with the leaders of the Soviet Union about conventional arms and all our concerns there; NATO; strategic arms; START talks; reduction of arms. We met with the U.S.S.R. Academy of Sciences personnel, Academician Sagdeev and Academician Velikov. We talked with officials and leaders about defense systems, intrusive verification, things that are very much of interest to us all, particularly what kind of verification we will have on INF and the need for ever-increased and different types of verification on the strategic arms reduction.

We talked about emigration. We talked about immigration. We talked about "refuseniks." Senator LEVIN, in his remarkably compassionate way that he has, as a very caring man, submitted a list of "refuseniks" to Ambassador Dobrynin. I think you will see some results there. All of us hope for that.

We talked of Afghanistan. I know the great interest of the majority leader in Afghanistan.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

We talked of Central America. I do not remember that we skipped anything in our review with both the General Secretary and the Foreign Minister, a full range of expressions of five rather diverse Senators from the United States of America.

I want to commend our Ambassador, Jack Matlock, for his marvelous command of the Russian language and his ability to communicate with all members of the Soviet Union. He makes us very proud. I was obviously very impressed by Jack Matlock, especially with his command of the language and knowledge of the people, which is always a critically important thing in dealing with another country.

There are many more who I could speak of. Deana Arsenian, who was with our group, and who speaks fluent Russian; she is a very able member of the Carnegie Corp. staff. And it was a very extraordinary visit where, perhaps, we even had a bit more freedom than would have been the case if we had been part of an official government delegation.

So, I was very proud to be part of it, very proud of the members, Senator CRANSTON, Senator NUNN, Senator LEVIN, and Senator COHEN; and it was very much something that I think will prove to be very worthwhile. At least in terms not only of action but in their understanding of how we feel on issues.

I know the majority leader has just had his tour of NATO and we will combine together and talk about things, and the two delegations will share their views and their information. But it was an excellent opportunity and hopefully will bear fruit in the form of suitable treaties, ratification, important verification measures, interpretations, linkage, all the things that are so vital to us as legislators in the United States.

Again, it was a fine opportunity and I hope, a productive and fruitful one.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. SIMPSON. I yield.

Mr. BYRD. Mr. President, I have been listening to the distinguished acting Republican leader. It sounds like the trip was a very interesting and useful one. The delegation with which he traveled certainly was an alignment of excellent minds and personages. I will be looking forward to hearing more about the trip. I have no doubt that this delegation, made up as it was, certainly contributed much to the discussions that were had. And I have equally no doubt that those discussions will contribute to our better understanding of many issues that were discussed.

I am thankful for the safe journey that was made and we are certainly happy to welcome back the assistant Republican leader and those of his delegation today.

As I say, I, for one, look forward to hearing more about the discussions that were had.

Mr. SIMPSON. I thank the majority leader and I, too, look forward to that. I inadvertently omitted a very fine and effective member of the delegation, Don Rice, president of the Rand Corp. He was also present at all of the activities. And I thank the majority leader and look forward to the coming work period.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business for not to exceed 10 minutes with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin.

HAS NUCLEAR DETERRENCE BROUGHT AN AGE OF PEACE?

Mr. PROXMIRE. Mr. President, without proclaiming it, this generation may be moving into the birth of the age of peace. Is this a blind idealistic hope for an era of living together in harmony and love without violence and incidents of armed conflict? No indeed. This is not idealistic. It is not a hope. It is not an expectation of a new harmony or love. Violence will continue. There will be armed conflict. But the era of large-scale major war between the Earth's great powers has passed. It has passed without even a murmur to mention its passing. Just think of it. We now know that the era of major war ended in August 1945. It ended with the advent of those explosions from American bombers in Hiroshima and Nagasaki. What has happened in the more than 40 years since nuclear explosions ended World War II? What happened is that both the United States and the Soviet Union have built phenomenal stockpiles of nuclear weapons. Each side now has more than 10,000 strategic nuclear weapons. Each side has enough nuclear weapons to obliterate the other literally 100 times over.

What does that mean? That means that a nuclear war would surely end civilization. In a major war today we are absolutely certain that both sides would be totally destroyed. Both would lose. Both would lose utterly. They would lose everything. President Reagan, the most hawkish, anti-Communist President in this century, has said exactly this. So has Communist Secretary Gorbachev. These leaders have said that major war has ended. But the meaning just has not sunk in even with them. Here is the most remarkable message of the last 2,000 years. But we pay no attention to it. We move along as we have for the two centuries that we have been a Republic as if nothing has happened. Indeed, we are now pouring more money into building a military force for the next major war than we ever have in peacetime before. It is as if no one ever tapped us on the shoulder to wake us up and tell us: It is all over. There will not be another major war because if there is we will all be dead, or wish we were dead.

This is not to say that violence is gone from the face of the Earth. It is not. Terrorism is here for a long run, too. So are savage wars among developing nations. And cruel invasions of smaller nations by the big bully nations will also be around. Drugs, corruption, sleaze, theft, exploitation will also plague mankind. But the nightmare of major wars is over. Of course, that leaves plenty of misery in the world. For the great majority of people the world has not changed since the English sage, Thomas Hobbes, observed in 1641 that for most of mankind life is "nasty, brutish, and short." It still is. The only real difference is that today there is more of mankind to suffer.

So what does the elimination of major superpower war signify? It signifies that we have the strongest kind of basis for an agreement between the two superpowers to maintain the nuclear deterrent on both sides. This is critical. That deterrent is what has brought the assurance of peace. In 1972, the United States and the Soviet Union agreed to an Antiballistic Missile Treaty [ABM] that did precisely this. That treaty recognized that both sides should be allowed to maintain the credibility of their nuclear deterrent. That ABM Treaty guaranteed the credibility of each deterrent by prohibiting either side from building a defensive system—a strategic defense initiative or SDI designed to destroy the credibility of the other side's deterrent. It is the very acceptance by both sides of the willingness to preserve the credibility of the other side's deterrent that constitutes the heart of our faith that there will not be another major war involving the superpowers. As long as both sides follow policies that will assure the other that its deterrent is not threatened, both sides know that a nuclear war would be an insane act of mutual suicide. Both sides can be confident that a nuclear war will not be fought.

Once the nuclear deterrent is firmly established, then both sides can begin to enter negotiations to reduce the enormous burden of conventional arms on both sides. Would such a reduction risk the possibility of a conventional war? No. It would not. Because both sides recognize that a conventional war between the United States and the U.S.S.R. could and almost surely would lead to a nuclear war—starting at a low level of nuclear weapons and swiftly escalating into the terrible double tragedy of a full-scale nuclear war with two total losers.

The upcoming long era of superpower peace will enable the world's developed countries to bring a vast improvement in the standard of living to the developing nations with the food, the improved health, the family planning for a far better life.

All of this is based on the practical logic that fear of the horrible consequences of nuclear war has done what the love, the kindness, the heroic appeal to mankind's better nature by great religious leaders have failed to achieve in all the years man has dwelt on this planet. So there is a great day a "comin." It is not coming wrapped in gentleness and love. It has come packaged in fear and infinite lethal power. But it is here. So let us welcome this new era of peace and use it to build a better world.

WE NEED MORE GOVERNMENT AUDITS OF DEFENSE PROCUREMENT

Mr. PROXMIRE. Mr. President, from time to time, Defense Department officials and defense contractors complain about the number of Government audits of defense programs. The General Accounting Office has been singled out for much of the criticism. It is argued that the General Accounting Office has become a tool of those Members of Congress who want to "micro-manage" defense procurement, and who are more interested in seeking publicity than solving problems.

An article in the current issue of the magazine Government Executive examines the controversy. The title of the article is self-explanatory: "Pentagon Growls at Congressional Watchdog." The subtitle captures the essence of the Pentagon's complaint: "Defense Officials Are Finding General Account Office Audits Increasingly Troublesome and Irritating." I have no doubt that to some officials GAO audits, as well as audits by the Pentagon's own auditors, are troublesome, irritating, and also embarrassing.

Attacks against the General Accounting Office and charges of congressional micro-management of defense procurement are thinly veiled attempts to apply pressure on Congress to ease up on congressional oversight. The fact is, Congress spends a great deal of effort, and requires the General Accounting Office to devote much of its resources, to investigations of defense procurement for two reasons: First, because so much of taxpayers' money is spent on defense procurement; and, second, because so much taxpayers' money is wasted on defense procurement through inefficiency, mismanagement, and fraud.

In just the past week, several new cases of procurement foul-ups were reported in the news media.

In the March, 7, 1988, edition of Defense News, an editorial raises questions about several Navy and Air Force aircraft programs whose costs are rising sharply. Defense News points out that the Navy is paying significantly higher unit prices for F-14 interceptors and SH-60F helicopters, although the volume of purchases in the same this year as it was last year. In addition, 100 F-16 fighters will cost $1 billion more next year than the 180 F-16's ordered in 1988. Defense News concludes that an explanation for these price increases is necessary.

On the same day, March 7, 1988, the Washington Times reported that an audit by the Defense Department's inspector general found that Martin-Marietta overcharged the Army $11 million, and Rockwell overcharged the Army $9.3 million on contracts to build the Hellfire antitank missile. According to the inspector general, the two contractors provided the Army with defective price information for about one-third of the parts used to build the Hellfire and charged the Army more than it would have had to pay elsewhere.

On March 8, 1988, the Washington Post reported a new cost overrun on the Navy's 688-class attack submarine program. The Post reports cost overruns of $1.2 billion and construction delays up to 18 months for the construction of 23 submarines being built by General Dynamics and Newport News Shipbuilding & Drydock Co. These cost overruns are the latest in a long series of problems in the 688-class submarine program. What is especially disconcerting about them is that Navy Secretary John Lehman and other Navy officials assured Congress several years ago that the problems in that program had been solved and there would be no further cost overruns.

Also on March 8, 1988, the Los Angeles Times reported that two subcontractors pleaded guilty to conspiracy, tax fraud, and false claims charges concerning the B-1 bomber program. The subcontractors were involved in an illegal check-cashing and fraudulent overbilling scheme.

Finally, on March 10, 1988, it was revealed in the Washington Post that Bell Helicopter Textron, Inc., has agreed to pay back $90 million for overcharges on Army helicopter spare parts. The Post story states that the overbilling was detected by Pentagon and GAO auditors.

These disclosures of cases involving cost overruns and overcharging demonstrate the need for stepping up Government audits and congressional oversight of defense procurement. Congress appropriates funds for procurement in the hope that weapons programs will be well managed and taxpayers will get a decent return on the investment. But given the history of waste and abuse in this area, it would be foolish not to require strict accountability. Government audits are an essential part of congressional oversight and an adequate system of accountability. I fully support the work that has been done by the General Accounting Office in response to congressional requests for audits and investigations of defense programs. The General Accounting Office should be commended for the work that it has done and encouraged to strengthen its efforts.

I request unanimous consent to have printed in the Record at the close of my remarks the articles I referred to: "Pentagon Growls at Congressional Watchdogs," by David C. Morrison, Government Executive, March 1988; "An Explanation Is Necessary," Defense News, March 7, 1988; "Pentagon Accuses Two Contractors of $20 Million Overcharge on Arms," by Paul Bedard, Washington Times, March 7, 1988; "Navy Says Nuclear Subs Over Budget," by George C. Wilson, Washington Post, March 8, 1988; "B-1 Subcontractors Plead Guilty to Fraud Charges," Kim Murphy, Los Angeles Times; "Helicopter Maker Will Repay U.S.," by Michael Isikoff, Washington Post.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Government Executive, March 1988]

PENTAGON GROWLS AT CONGRESSIONAL WATCHDOGS

(By David C. Morrison)

As Congress' perennial furor over the fate of the U.S. binary chemical weapons program was reaching its climax in July 1986, the Defense Department's top expert on the issue, Deputy Assistant Secretary Thomas J. Welch, met with this reporter to discuss the merits of the program and its congressional prospects. What Welch really wanted to talk about, it turned out, was the General Accounting Office (GAO).

Just two weeks before, the GAO's Program Evaluation and Methodology Division had published a highly critical, 125-page study of the technical performance of the Bigeye nerve gas bomb. After a half-decade of legislative skirmishing to forestall the resumption of chemical weapons production, nerve gas foes on Capitol Hill felt confident that they were now armed with the silver bullet to finish off Bigeye once and for all.

"Congress should not fund weapons systems which do not work," House Foreign Affairs Committee chairman Dante B. Fascell, D-Fla., asserted in releasing the devastating study. "The only reliable bombshell we have today is this report by the GAO."

As is so often the case, the GAO's findings and congressional commentary on them resonated powerfully in the press. "Gas Bomb is Flawed, GAO Says," a *Washington Post* headline trumpeted the next day; "Study Disputes Pentagon on Readiness of New Chemical Weapons," announced *The New York Times*.

"Chemical weapons opponents have sponsored more GAO man-years of effort to criticize the program than we have expended here to set up and manage it," groused Welch. "The GAO team that looked at the Bigeye were methodologists and statisticians and auditors," ill-suited to address technical problems, which, in any case, had cropped up earlier in the testing program and had since been ironed out. The GAO, Welch complains, has "put the requirement back on us now to put the word out on the Hill that these are non-problems."

There isn't any question that the GAO report swung some votes into the anti-Bigeye camp, though in the end, Congress gave its grudging assent to begin production of the weapon. The Pentagon's victory, however, hardly assuaged Welch and other defense officials who have drawn an angry bead in recent years on a congressional agency that increasingly functions, in their view, as a goon squad for Capitol Hill Pentagon-bashers. Rushed by its congressional masters to produce quick reports, the GAO no longer performs as thoroughly and dispassionately as it once did, they say.

In the defense community, feelings about the accounting office often run high. A GAO auditor, a contractor complained bitterly in a 1986 *Military Logistics Forum* article, is "someone who comes out at night after the battle's been fought and bayonets the dead and wounded."

If there is a bayonet brigade at the GAO, it leader is Frank C. Conahan, assistant comptroller general for national security and international affairs. He takes such charges in easy stride. As a product of GAO's experimental audit methodology group, the 1986 Bigeye report may have sparked some Pentagon resentment and misunderstanding, he conceded in a recent interview. "But we'll stand by that report. And that's one of many, many GAO products, so I can't get terribly concerned about [it] being of that kind of concern to the folks in the agency."

While congressional demand for GAO defense audits undeniably has grown dramatically in recent years, he observed, so, too, has the defense budget. The 1,200 greeneyeshaders in Conahan's defense and international affairs division alone produced about 200 reports in fiscal 1981, but he expects that staff, which has not grown significantly, to generate approximately 250 reports and 50 committee testimonies during the current fiscal year.

MICROMANAGEMENT

Defense officials' rising resentment of the GAO comes in the context of widespread concern both inside and outside government about Congress' increasing proclivity to oversee the most intimate details of executive branch activity. Attacks on congressional "micromanagement" are regularly heard from government and industry officials at defense procurement conferences, for example.

Even Paul Volcker, the recently retired chairman of the Federal Reserve Board who is now heading the National Commission on the Public Service, recently attacked "the enormous proliferation of congressional committee and personal staff [which] dilutes the ability of any administration to initiate and control the policy agenda." Volcker complained that bright young staffers on Capitol Hill are wasting agency executives' time with huge numbers of inquiries, "including a great many that are either substantively frivolous or more relevant to a staffer's concerns than that of his congressional boss. . . . The result seems to me questionable in terms of coherency and consistency of government."

Inquiries funneled through the GAO, of course, have more weight than others, for they are sure to result in a printed report that is made available to the public and the press.

Along with its workload, the GAO's auditing function has also expanded dramatically over the years. Established in 1921, the agency served solely as a fiscal audit organization until the late 1940s, when that role was transferred to the executive branch agencies. The accounting office then began its transformation into today's comprehensive audit and evaluation outfit; it serves, essentially, as Congress' bureau of investigation. Today, the agency employs about 5,000 people.

Another significant change resulted from the decision a few years back by Charles A. Bowsher, who has served as Comptroller General since 1981, to channel the GAO's energies more narrowly into satisfying mounting congressional demand for audits and investigations. Consequently, at least 85 percent of the GAO's defense work—up from 66 percent in 1985—now flows directly from congressional requests, instead of from the agency's own audit agenda. Some of the national security division's nine subdivisions, including the three focusing on the Army, Navy and Air Force, derive 100 percent of their caseload from congressional requests.

"I see that as a good sign," says Conahan. "I see it as the Congress getting around to using a tool that it's had at its disposal for years better than it has in the past." In fact, a broader cross section of Congress seems interested than in the past. The queries come not only from the House and Senate Armed Services and Appropriations committees, but also, increasingly, from other committees and even individual Members of Congress.

The complaint of a Department of Defense (DoD) executive that the GAO "never turns down congressional requests for a job," however, is not quite on the mark. Although the GAO must by law respond to and consider every request, it does not always agree to follow through. Last year, for instance, 15 House Republicans wanted the GAO to review the prospects for closing 28 military bases—all of which happened to be in Democratic districts. Arguing that the Pentagon already had a methodology for evaluating base closures, Conahan respectfully declined the request.

Nor does the GAO, as also been charged, invariably produce the findings that legislators obviously hoped for in asking for an audit. Rep. Ted Weiss, D-N.Y., strongly objected to a 1985 GAO study he says didn't adequately address the risks of homeporting nuclear-capable Navy ships on Staten Island. "I am particularly dismayed that the report failed to meet my request," he complained in a statement issued at the time. Senate Majority Leader Robert Dole, R-Kan., was similarly disappointed when the GAO reported favorably in 1986 on Fairchild Industries' management of the T-46A Air Force trainer contract. Dole hoped the contract would be terminated (as it eventually was), with the work going instead to continued production of the T-37 by the Kansas-based Cessna Manufacturing Co.

Further, it must be noted that the relationship between the Pentagon and the GAO has not always been one of fear and loathing. Within the department, people's views of the accounting office vary according to whose programmatic ox has been gored. But Jack Montgomery, deputy assistant Defense inspector general for GAO reports analysis, says, "we've gotten to a point where DoD management generally views GAO's work as an effective management tool." In recent years, the department has been concurring with more than 95 percent of GAO's recommendations—in the process, says Montgomery, saving (or avoiding spending) some $12 billion from 1979-87.

Montgomery also praised Conahan and his aides as being "honest, reasonable, [and striving] for the best quality work possible."

DECLINING RAPPORT

For these very reasons, Montgomery continues, "it's sort of painful to me to see the relationship declining, as it seems to be." The biggest contributor to that decline, he says, is the severe deadline pressures imposed on the GAO by congressional requesters. "What that means in practical terms is that the duration of a job gets reduced," says Montgomery, "which means that they correspondingly reduce the scope of the work to fit it in."

Depending on the complexity of the issue at hand, a GAO audit can take from 30 days to, rarely, 18 months. Generally, "we do have very tight time frames around here," says Conahan. "And that's good. It means that people want our stuff, and they're going to use it." Conhan disagrees, however, with the suggestion that the quality of his division's work has suffered in the process.

Montgomery takes the other view, arguing that time constraints have hurt the GAO review process. In the past, nearly every draft report was circulated to defense officials for formal comments, and the comments were included in GAO's final report. This is seldom done any more, and that, says Montgomery, "in my perspective, hurts both the quality and the value of the GAO's work."

The diminishing opportunities for formal comments on reports could also affect the process by which GAO recommendations are acted upon by the agency. "The law requires resolution of audit and management disputes," says Montgomery. But lacking a formal comment process, "GAO cannot refute DoD positions with facts and evidence, and we cannot respond to their final comments. When we lose the draft comment, we lose half of the opportunity to profit from GAO work."

Congress' growing practice of dispensing with the formal comment process has been driven in part, says Conahan, "by a view that we overreacted to agency comments, watered down our findings in reaction to agency comments. I don't share that view, but nonetheless that perception was out there."

VIEW FROM CONGRESS

Some defense specialists on Capitol Hill see little need for the back-and-forth of comment and response. Says Rep. Bill Nichols, D-Ala., chairman of the House Armed Services Subcommittee on Investigations, "There's been a lot of criticisms of GAO reports, that it takes GAO too long to get out a report by circulating it to all the DoD echelons for review and getting comments."

Nichols thinks the GAO's expertise is deep enough to obviate the need for formal agency comment on its reports. "Maybe everybody doesn't have the confidence that I have in the GAO," says Nichols. "But when a GAO stamp is put on something, to me its sort of like John 3:16 in the Bible. I really believe that."

The current climate of investigatory zeal on Capitol Hill, and of distrust between the legislative and executive branches, is epitomized by Nichols' own subcommittee. His oversight caseload has burgeoned to the point that he has had a half-dozen GAO auditors detailed to his subcommittee staff on a semipermanent basis. They are looking into such issues as problems with the Bradley Fighting Vehicle, the issuance of security clearances to aliens and the proliferation of ultrasecret "black" procurement programs.

Leading the charge on Capitol Hill to do away with the formal comment process has been House Government Operations Committee Chairman Jack Brooks, D-Texas. "I expect GAO to verify with the appropriate office all of the facts it has gathered on the program it is reviewing and then arrive at its findings and conclusions and make its recommendations and issue its report," says Brooks. "Then the committee will ask the agency for comments. This allows me to obtain a better and fuller understanding of what problems exist. In addition, the report is not delayed by having to wait for the agencies' comments and GAO's subsequent evaluation of them. I do not believe that this policy has a negative impact on agency compliance."

PRESS DISTORTION?

But the lack of a pre-publication review by agencies probably does have an impact on how GAO findings are reported by the press. Members of Congress often release GAO reports they have requested with a Monday embargo so as to hit the newspapers with a maximum splash on the day of the week that news editors are most hungry for copy. If the Pentagon has not had the opportunity to formally review and comment on the report, Defense officials usually have nothing more to offer the inquiring reporter than a bland "no comment."

"Sometimes newspaper articles are based on interim GAO briefings at the staff level and totally surprise DoD," says Montgomery. "There's nothing worse for an institution that surprises—when it is surprised, it tends to react emotionally." Many Defense officials feel, too, that GAO's finding can become distorted or oversimplified in the transition from its often lengthy and complex blue-bound reports to the pages of the nation's newspapers. "We routinely call the GAO," says Montgomery, "and they say, 'We had all the appropriate caveats in the report, but neither the Congress nor the media were interested in studying that.' "

But Conaham, a 33-year GAO veteran, believes press distortion of GAO's products is less of a problem now than it was during the early 1970s. "I think our stuff gets reported pretty accurately and better than it used to," he says, in part because more reporters these days come to the GAO for explication of particularly complex audits before writing their stories.

The decline of formal commentary shouldn't affect report quality or the value of GAO recommendations, adds Conahan—but, he conceded, it might. He stresses, however, that even in the absence of a formal comment process, GAO findings are always discussed at a "close-out conference" with base commanders of program managers. "We sit down and say this is what we found," he says. "Then all that gets wrapped into a draft report. Not only are the comments incorporated into the report, that's an integral part of the audit."

In any event, the accounting office's chief task is to meet the needs of Congress, Conahan argues, no matter how fast and furious the audit requests may fly."When the folks on the Hill believes that they are being dealt with fairly by the agencies, you'll see a decrease in requests to GAO for audits and ivnestigations," he concludes. "But that's not the mood of the day."

[From the Defense News, Mar. 7, 1988]

An Explanation Is Necessary

While the public spotlight was directed last week at the NATO summit meeting in Brussels, Belguim, Congress heard some worrisome statements from Acting Navy Secretary Lawrence Garrett and Adm. Carlisle Trost, chief of naval operations. Testifying before the House Appropriations defense subcommittee, the Navy's two most senior officials said they could not explain why the costs of several of the Navy's frontline aircraft have risen sharply.

In some instances, the Navy is paying significantly higher unit prices for airplanes and helicopters even though the volume of purchases has not changed. A dozen F-14 interceptors cost $987 million in 1988 and $1.07 billion in 1989. The 1988 program unit price—for the plane, research costs, initial spares, training, support and construction—was $82 million. That is a bargain relative to the 1989 figure of $89.7 million. The Navy will buy 18 SH-60F subhunter helicopters a year in 1988 and 1989, but the unit price rises by $2.6 million the second year.

At $59.7 million the 1989 price of the EA-6B Prowler electronic warfare plane soars above the present figure of $43.6 million. Twelve planes were ordered in 1988, compared to nine in 1989, partly explaining the cost increase of 36 percent. The 72 F/A-18 Hornet tactical aircraft on the Navy's order books for next year each will cost $33 million, up from $28.7 million per unit for the 84 aircraft ordered in 1988.

Other services are struggling with similar figures. The 180 F-16 Falcon fighter planes to be purchased next year will cost $3.7 billion, or almost $1 billion more than the 180 ordered in 1988. The difference of about $5 million per plane is partly attributable to modernization of the F-16.

Admirals and service secretaries are not expected to perform like cost accountants. But some of these figures are troubling in a year when air wings are being deactivated to save money. A complete explanation will bolster public confidence in the military.

[From the Washington Times, Mar. 7, 1988]

Pentagon Accuses 2 Contractors of $20 Million Overcharge on Arms

(By Paul Bedard)

Martin Marietta Corp. and Rockwell International Corp. overcharged the Army more than $20 million on contracts to build the helicopter-launched Hellfire anti-tank missile, according to a confidential Pentagon investigation.

A Defense Department inspector general's audit found that Martin Marietta overcharged the Army $11 million while Rockwell filed excessive bills totaling $9.31 million.

The total alleged overcharge is $20,351, 450.

"The primary cause for the defectively priced items was that both Rockwell International and Martin Marietta Aerospace applied inadequate purchasing, estimating and record keeping procedures with preparing their final" prices, said the report provided to The Washington Times.

Pentagon Assistant Inspector General Richard W. Townley, who prepared the report, wrote that the companies "did not disclose to the government negotitator current, accurate and complete cost or pricing data during negotiations. The disclosure of these data would have shown that lower prices were available than those certified to the government."

Mr. Townley recommended that the Army's missile command, which buys the Hellfires for the Army and Marine Corps, recover the $20 million from the companies. The Army will decide how to seek a refund on the contracts in the next few weeks, a spokesman said.

Martin Marietta refused to comment while Rockwell spokesman Neil Linkon said the company, which builds the missiles at its Duluth, Ga., missile sytems division, disagrees with the findings of the audit.

Army spokesman Don McClow said both companies denied the allegations in the audit, "stating they did not believe they had overpriced the Hellfire. . . ."

The audit reviewed four years of contracts held by each company. Martin Marietta's contracts audited covered $398 million worth of work from 1983 to 1986. The auditor found defective prices were filed for 35 percent of the parts—most supplied by subcontractors—used to build the Hellfire.

In one example, Martin Marietta added $86.94 to the price of 2,095 missile fuses, for a total overcharge of $182,139, according to the audit. In another example, the company, which manufactures the Hellfire in Orlando, Fla., overcharged the Army $364.14 for an equal number of missile warheads, adding $726,873 to the price of those parts.

The audit, which called on the Army to recover the overcharges, faulted the huge arms suppliers for submitting "defective" prices of goods used to build the $32,000 laser-guided air-to-surface missile.

In Rockwell's case, the Pentagon audited $358 million in contracts covering 1982 and 1984 to 1986. The inspector general said defective prices were submitted on 29 percent of 401 parts used to build that company's version of the Hellfire.

The Hellfire is carried on the Army's chief attack helicopter, the AH-64 Apache, and the Marine Corps' Cobra. The armor-penetrating missile is also being considered for use on Army and Marine vehicles, the Pentagon said.

The Army and Marines plan to buy 60,532 missiles for a total of $2.85 billion.

[From the Washington Post, Mar. 8, 1988]

Navy Says Nuclear Subs Over Budget

(By George C. Wilson)

The latest versions of the Navy's Los Angeles-class attack submarines are costing a total of $1.2 billion more than projected and are running as much as 18 months behind their delivery schedule, Navy officials said yesterday.

The Navy's top shipbuilding official vowed the overruns would not become a repeat of the 1970s clash between the Navy and its shipbuilders over who owed how much to whom in building earlier versions of the nuclear-powered sub.

"I'm not going through that again," said Everett Pyatt, assistant secretary of shipbuilding. This time around, said Pyatt, the Navy admits it is liable for at least half the cost of the $1.2 billion above the target prices on 23 submarines, 11 under contract to the Electric Boat Division of General Dynamics and 12 to Newport News Shipbuilding and Dry Dock Co.

There are two types of overruns. One is the amount above the so-called "target" price for the ship agreed upon by the Navy and the shipbuilder. The overrun on this target price is split between the Navy and shipbuilder. The second type of overrun is how much the cost exceeds the maximum allowed in the contract. The builder pays all of that overrun under a fixed price contract.

Industry executives who requested anonymity claimed the Navy during Pyatt's tenure has insisted on artifically low target prices in shipbuilding contracts, setting the stage for the target cost overruns.

Pyatt countered in an interview that he and his colleagues have saved taxpayer money by negotiating low target prices that contractors strive to achieve to avoid paying half the overrun. He estimated Navy pressure has saved $100 million on Los Angeles-class submarines.

The Los Angeles class is designed to sink enemy submarines, and modern versions can also hit shore targets with Tomahawk cruise missiles. The sub's fiscal 1989 price is $758,564,000.

One Navy document circulating within the Pentagon attributes part of the overruns in target prices to the shipbuilders' agreeing to artificially low amounts as part of a desperate effort to find new business in a declining market, a version of the "buy in" approach assailed by Congress in the past.

Although Pyatt said the Navy is liable for half the overrun, shipbuilding executives blamed the Navy for some of the overruns by ordering extra work beyond that covered in the contracts, and said the service should pay for them. Negotiations are underway on this point, Navy and industry officials said.

The Navy has ordered many improvements in the sub's later versions, including launching boxes for Tomahawk cruise missile submarines, reinforcement of the hull so it can punch through arctic ice, noise reduction, and better electronics. How some of these costs should be apportioned is part of the argument.

Four Newport News boats will be delivered 14 months to 18 months late, according to the Navy, with delivery of the USS Albany estimated to move from this May to November 1989; USS Scranton from May 1989 to July 1990; USS Ashevill from September 1989 to November 1990, and another, not yet named, from January 1990 to March 1991. Delivery of seven of Electric Boat's subs is now expected to be from seven to nine months late.

In the 1970s, congressional investigators accused General Dynamics of fraudulent contracting practices by keeping one set of books for itself on the cost of constructing Los Angeles subs and a second, for the Navy, that hid cost overruns and delays. The company and the Navy had a long, bitter fight over who was responsible for cost overruns. Former Navy Secretary Edward Hidalgo settled the claims in 1978, awarding General Dynamics $634 million.

A 1985 staff report by a subcommittee of the Joint Economic Committee assailed the settlement, arguing that the company had deliberately bid low to win the contracts and thus should not be reimbursed for the overruns. The Justice Department investigated allegations of fraud by General Dynamics but no indictments were returned.

Vice Adm. William H. Rowden, commander of the Naval Sea Systems Command, in testimony before the House Armed Services Committee last week, expressed deep concern about a "dramatic decline" of U.S. shipbuilding.

"[This] jeopardizes our ability to meet future Navy peacetime and surge mobilization needs for ship work," Rowden said. "We see no easy solution to these problems but encourage steps aimed at bolstering our sagging industries."

[From the Los Angeles Times, Mar. 8, 1988]

B-1 SUBCONTRACTORS PLEAD GUILTY TO FRAUD CHARGES

(By Kim Murphy)

The former president of Butler Industries Inc. and the company's general manager pleaded guilty Monday to conspiracy, tax and false claims charges stemming from an illegal check-cashing scheme and fraudulent overbilling for construction of parts on the B-1 Bomber.

Robert F. Butler, former owner of both Butler Industries and Purkey Co. Inc., and Steven Wooten, former general manager, entered guilty pleas under a provision of law that allows them to continue to proclaim their innocence.

The two men admitted that the government could prove many of the allegations against the Valencia-based aerospace company but claimed they never intended to violate the law, said Butler's attorney, Gerson S. Horn. The specially structured guilty pleas allow the two men to present their defense in any civil litigation stemming from the allegations.

The first of three federal grand jury indictments charged the two men with cashing 18 company checks made out to fictitious payees. The checks, valued at more than $144,000, were then fraudulently claimed on corporate tax returns as a deduction as a cost of goods sold, according to Assistant U.S. Atty. J. Stephen Czuleger.

A second indictment accused Butler of a similar check-cashing scheme totaling more than $259,000 involving Purkey Co. Inc.

A third indictment accused the two men of overbilling Rockwell Inc., contractor on the U.S. Air Force's B-1 Bomber project, for the cost of change orders on parts that Butler was making as a subcontractor.

According to Assistant U.S. Atty. William Price, Butler overcharged Rockwell by $200,000, inflating estimates of the amount of time the change orders required by up to eight times the actual time spent.

Butler entered the provisional guilty plea to charges of conspiracy, presenting false claims to the United States, subscribing to a false corporate income tax return and assisting in the preparation of a false tax return.

Wooten pleaded guilty to similar charges in two of the three indictments.

But Horn said the two men still claim they were writing the phony checks in order to obtain cash for legitimate business expenses. The company was habitually overdrawn and would otherwise have been unable to obtain the money, he said.

Butler Industries has been sold, and the current company management has no connection to any of the alleged wrongdoing.

[From the Washington Post, Mar. 10, 1988]

HELICOPTER MAKER WILL REPAY U.S.

(By Michael Isikoff)

Bell Helicopter Textron Inc. has agreed to return $90 million to the U.S. government to resolve a Justice Department investigation into allegations it fraudulently overcharged the Army on helicopter spare parts, sources said yesterday.

The agreement was described by a Pentagon official yesterday as the largest settlement of a defense contracting fraud case to date. It is scheduled to be announced by U.S. Attorney Marvin L. Collins in Fort Worth soon, possibly as early as Friday, sources said yesterday.

The settlement marks the end to a four-year dispute between Bell Helicopter and the Army that grew out of findings by Pentagon auditors of numerous accounting and inventory irregularities at the Forth Worth company. During the investigation, there also were allegations that Bell Helicopter officials shredded documents, altered computer entries and covered up evidence of deliberate overbillings to the government.

But federal prosecutors decided that the accounting issues that underlay the alleged coverups were so complex that it would have been difficult to successfully explain them to a jury, sources said yesterday.

As part of the settlement, Bell Helicopter will write a check for $69 million to the U.S. Treasury, sources said.

In addition, it will turn over to the Army about $11 million worth of its inventory and agree not to charge the service for several allowable costs, including about $3.5 million of its legal defense fees.

Much of that amount went to the Washington firm of McKenna Conner & Cuneo, which has specialized in representing defense contractors under investigation by the government.

Also offsetting the $90 million will be about $5 million in interest the company is due on monthly progress payments the Army improperly withheld in 1984.

As part of the settlement, prosecutors have agreed to drop any potential criminal or civil charges against the company.

Bell Helicopter will not acknowledge any wrongdoing, according to sources.

But the investigations subcommittee of the House Energy and Commerce Committee is continuing its own review of the case and plans hearings sometime this spring, a staff member said yesterday.

Among the issues the panel is exploring is why the Army continued to award contracts to the company after the Defense Contract Audit Agency and the General Accounting Office had identified the overbilling, the staffer said.

The panel also has identified several instances of what it calls "possible undue influence," including one in which the Army plant representative who approved the contracts later was hired as the company's manager for government marketing.

Assistant U.S. Attorney Ronald C.H. Eddins in Forth Worth said he could not comment on the resolution of the case. Carl Harris, a spokesman for Bell Helicopter, confirmed that "a settlement is in the offing," but added the company could not comment "until a final agreement is reached."

Harris also said the terms under discussion "will not have a material effect on Bell Helicopter Textron in 1988."

Bell Helicopter is a wholly owned subsidiary of Textron Inc., a diversified conglomerate based in Providence, R.I. In fiscal 1986, the parent company ranked as the Pentagon's 14th largest contractor, with $1.6 billion in defense work.

Bell Helicopter holds contracts from the Army for such major helicopter programs as the AH-1 Cobra attack helicopter, the UH-1 Iroquois utility helicopter and the OH-58D Kiowa light helicopter.

According to sources familiar with it, the $90 million settlement covers most of the $107 million in overcharges that the Defense Contract Audit Agency had identified at Bell Helicopter between the years 1982 and 1986. The largest part of the settlement, about $46 million, involves alleged violations of so-called "savings clause contracts" that the Army required be attached to Bell Helicopter contracts to limit overcharges by the company in early 1984.

While the savings clauses limited profit rates to 12 to 13 percent, Bell Helicopter was actually receiving substantially more than that, sources said.

That happened because it frequently billed the Army for supposedly newly made spare parts, such as helicopter blades, when it actually supplied blades that already were in its inventory.

Auditors also found that the company commingled its government and commercial manufacturing operations in such a way that it may have been charging the Army for parts that had already been paid for by commercial contractors.

This alleged violation, which accounts for about $9.1 million of the settlement, was described by an auditor as "potential double billing."

"They simply had a flawed accounting system and they could not justify the costs they were charging to the Army," said one source.

When Army auditors began to challenge the company's costs, however, they discovered that hard copies of some of its manufacturing records had been destroyed, the source said.

Company officials said that all the inventory information on the destroyed records had been entered into its computer system.

But according to sources, government auditors found that hundreds of entries into the computers had been altered, making it impossible for them to trace back the original entries.

One focus of the House subcommittee investigation will be the role of Bell Helicopter's outside auditors, Arthur Young & Co., which never objected to the firm's accounting controls.

A spokesman for Arthur Young said yesterday the firm would have no comment.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

TREATY DOCUMENT NO. 100-10

Mr. BYRD. Mr. President, around 1 o'clock, I would anticipate that there would be a rollcall vote on going into executive session to take up the Montreal protocol. I had indicated last week that there would be a rollcall vote around 1 p.m. today. I had also hoped that there would be an agreement reached on a time limitation on the Montreal protocol. As of the moment, we have not been able to lock that time agreement in.

So there will be a rollcall vote on proceeding to the protocol at around 1 p.m. Hopefully, once the Senate is on the treaty, that treaty could be disposed of without a great deal of discussion.

IMMIGRATION AND NATIONALITY ACT

Mr. BYRD. Afterward, the Senate will go to the immigration bill. There could very well be several rollcall votes this afternoon on all of these measures, including amendments to the immigration bill.

FILING OF AMENDMENTS

Mr. BYRD. For now, inasmuch as that vote will not occur until about 1 o'clock, I shall ask that the Senate stand in recess.

I ask unanimous consent that notwithstanding the recess, Senators may file amendments under the cloture rule until 1 p.m.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

RECESS UNTIL 1 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1 p.m. today.

There being no objection, the Senate, at 12:30 p.m., recessed until 1 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. Graham].

The PRESIDING OFFICER. The majority leader.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I move that the Senate go into executive session to consider Calendar Order No. 81, Montreal protocol, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the call for the regular order be automatic at the close of 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum and I suggest that our respective cloakrooms alert Senators that a rollcall is imminent.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Burdick). Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia for the Senate to go into executive session.

On this question, the yeas and nays were ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. Boren], the Senator from Louisiana [Mr. Breaux], the Senator from Florida [Mr. Chiles], the Senator from Illinois [Mr. Dixon], the Senator from Nebraska [Mr. Exon], the Senator from Tennessee [Mr. Gore], the Senator from Louisiana [Mr. Johnston], the Senator from Hawaii [Mr. Matsunaga], the Senator from Maryland [Mr. Sarbanes], and the Senator from Illinois [Mr. Simon] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. Dole], the Senator from Utah [Mr. Garn], the Senator from New Hampshire [Mr. Humphrey], the Senator from Nebraska [Mr. Karnes], the Senator from Kansas [Mrs. Kassebaum], and the Senator from New Hampshire [Mr. Rudman] are necessarily absent.

The PRESIDING OFFICER (Mr. Graham). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 82, nays 1, as follows:

[Rollcall Vote No. 46 Leg.]

YEAS—82

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Domenici
Durenberger
Evans
Ford
Fowler
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Inouye
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Sanford
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—1

Helms

NOT VOTING—17

Biden
Boren
Breaux
Chiles
Dixon
Dole
Exon
Garn
Gore
Humphrey
Johnston
Karnes
Kassebaum
Matsunaga
Rudman
Sarbanes
Simon

So the motion was agreed to, and the Senate proceeded to executive session.

MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

The **PRESIDING OFFICER**. The clerk will report the protocol.

The legislative clerk read as follows:

> Treaty Document No. 100-10, Montreal Protocol on Substances that Deplete the Ozone Layer.

The **PRESIDING OFFICER**. Without objection, the protocol will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

> *Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal on September 16, 1987, to the Vienna Convention for the Protection of the Ozone Layer.

Mr. BYRD. Mr. President, I ask unanimous consent that there be a 2-minute time limitation on the protocol to be equally divided so Senators may put their statements in the RECORD.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the protocol.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER**. Who controls time? The Senator from North Carolina and the Senator from Rhode Island.

The Senator from Rhode Island.

Mr. PELL. Mr. President, how much time is there on this?

The **PRESIDING OFFICER**. Two minutes, equally divided.

The Senator from Rhode Island.

MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

Mr. PELL. Nearly 2 years ago, the Senate was called upon to consider whether to recommend Senate advise and consent to the ratification of the Vienna Convention for the Protection of the Ozone Layer. As I said at that time, the Vienna Convention, while clearly evidence of progress on a critical environmental issue of global proportions, was far from enough.

Today, the Senate takes up the Montreal protocol on substances that deplete the ozone layer. I am very pleased that there are now binding international commitments requiring coordinated reductions in emissions of man-made chemicals that imperil our stratospheric ozone. I am also very concerned that the reduction schedule in the protocol is not sufficient to protect public health and the environment from a problem of staggering proportions.

The protocol is a first step toward a true international solution to the threat of ozone depletion. The Environmental Protection Agency and the State Department deserve a good deal of credit for taking an early and strong stand calling for large reductions in chlorofluorocarbons and other ozone depleting chemicals. This position of leadership in the negotiations, as well as an accompanying behind-the-scenes diplomatic initiative, was plainly decisive in alerting other countries to the urgency of the environmental threat from these dangerous chemicals.

There is no doubt that ratification of the protocol is in the interest of the United States. EPA has compiled a record of scientific evidence that conclusively establishes the environmental danger from continued emissions of the CFC's and halons covered by the protocol. Because these chemicals survive for a century or more in the atmosphere, major reductions in their emissions are necessary merely to arrest ozone depletion that may already be occurring. These same chemicals, moreover, contribute to the impending global warming that will cause substantial rises in sea level and potentially severe disruption of agricultural patterns.

International cooperation is obviously in our interest, as emissions of ozone-depleting chemicals from other countries harm us just as surely as emissions from the United States can injure the environments of other countries. The United States, which continues to be the largest user and producer of CFC's on both a national and per capita basis, has an obvious responsibility to accept its share of the reductions required to protect public health and the environment. The protocol equitably distributes this burden among the countries of the world. The Senate should recommend the rapid ratification of this protocol. I also encourage EPA and the State Department to undertake a renewed diplomatic initiative to assure that the requisite number of ratifications are obtained from other countries for the protocol to enter into force as scheduled on January 1 of next year.

At the same time, I am quite concerned that the protocol's reduction schedule is neither sufficiently rapid nor sufficiently large in magnitude. Negotiation of the protocol was complete before the availability of recent scientific evidence that virtually conclusively links the ozone "Hole" over Antarctica to CFC's. New evidence shows unexpectedly large losses of ozone at other latitudes as well. I was disturbed to discover that EPA's current rulemaking on CFC's and halons puposely fails to acknowledge these and other compelling arguments for faster and larger reductions than the minimum required by the protocol. Indeed, these new scientific data demonstrate that the only acceptable solution to the problem of stratospheric ozone depletion is the near-total phaseout of CFC's and halons originally proposed by the United States in the protocol negotiations.

Several nations, such as Canada, West Germany, and the Scandinavian countries, are now considering augmenting the protocol reduction schedule by requiring further reductions domestically. The United States should be prepared to do so as well. By using the leverage of our country's huge international market, we can strongly encourage other countries, and particularly our allies, to take similar steps. I firmly encourage EPA and the State Deparmtment to seek a rapid multilateral review of the protocol reduction schedule. I am concerned, however, that international action on this pressing issue may be intolerably slow. Instead of waiting for consensus multilaterally, the United States should continue to lead by example by requiring larger and faster reductions.

Mr. BAUCUS. Mr. President, I rise in strong support the Montreal protocol to protect the ozone layer. This protocol to the Vienna Convention is a historical first in environmental agreements.

For the first time, the nations of the world have agreed to a worldwide environmental regulation. The step we are about to take in adopting the Montreal protocol will reexert the United States as a world leader in protecting the environment.

Each one of us should recognize the historical step this vote represents. When this treaty takes effect, we will have entered a new phase in worldwide cooperation to protect the global environment. It is my hope that this agreement will be unanimously adopted.

HISTORY OF OZONE DEPLETION

The United States has led the battle to protect Earth's stratospheric ozone from damaging chlorofluorocarbons.

In June 1975—over a decade ago—a Federal Task Force on Inadvertent Modification of the Stratosphere issued a report on chlorofluorocarbons and the environment.

The report stated, and I quote:

> The Task Force has concluded that fluorocarbons released to the environment are a legitimate cause for concern. It has also concluded that unless new scientific evidence is found to remove the cause for concern, it would seem necessary to restrict use of fluorocarbons −11 and −12 to replacement of fluids in existing refrigeration and air-conditioning equipment and to closed recycled systems or other uses not involving release to the atmosphere.

That was a strong statement 13 years ago. And as some of you may recall, this was not a study by a single government agency or environmental group. It was a major interdepartmental effort to examine the effects of CFC's on the environment.

Their report stirred interest in a new environmental problem. Its findings, while criticized, have never been refuted.

In 1978, the United States, Canada and a few Scandinavian countries that took the problem seriously finally took action. The use of CFC's as a propellant in aerosol cans was banned.

That action gave the world a brief respite from the problem—breathing time to become educated on the seriousness of this emerging environmental crisis.

Today we know what we are facing. It is this understanding that leads us to the Montreal protocol.

I, for one, am becoming increasingly concerned that the protocol may be too little, too late. The Montreal protocol may not do enough to help avert serious environmental damage.

But, it is also clear that if there is any hope of lessening the damage to our atmosphere, the protocol must be ratified, and soon.

THREE OBJECTIVES

The protocol really accomplishes three objectives.

First, it caps production of CFC's and calls for phased-reductions in emissions. This will provide the incentives industry needs to develop substitutes.

Second, the protocol entices lesser developed countries to join the agreement. It promises that substitutes will be available for their use. This is critical if meaningful worldwide reductions are to be achieved, for without the participation of the lesser developed countries of the world, any controls we implement will be meaningless.

And third, the protocol provides for the use of trade sanctions against nonparticipants. In short, the agreement has some teeth.

Last week, Mexico became the first nation to ratify the protocol. Eleven countries, representing two-thirds of the world's CFC production, must agree to the protocol for it to take effect.

I believe it is vital to the success of this agreement for the United States to take a leadership role in making the protocol become reality. We are viewed by our global neighbors as a world leader in the protection of the environment.

And we are a major producer of the offending chemical. Thus, it is the United States that holds the ultimate key to the success of the Montreal protocol.

We need to move quickly. We need to ratify the protocol and then actively seek participation by the rest of the world.

Last fall the world was confronted with new evidence supporting immediate action. An expedition to investigate the Antarctic ozone hole conclusively linked CFC's to ozone depletion. This finding is a significant scientific discovery.

But more important to today's discussion, this finding is significant because the protocol specifically excludes consideration of the Antarctic ozone hole.

This situation raises questions about the adequacy of the protocol for a number of reasons.

What does the hole mean for the rest of the world? What does it mean for the southern oceans?

To answer these questions, we must look beyond the fall expedition to the behavior of the ozone hole at the beginning of December.

Each year the hole began to dissipate and disappear in early November. That is, until last year.

For the first time the ozone hole lasted until the first week of December. If the hole persists a few more weeks into the Antarctic summer—the only time in the past when the hole has disappeared—we could find ourselves with an ozone hole that is permanent.

I am troubled by the fact that the Earth's protective shield has been destroyed for a few months each year. The possibility of having a permanent hole caused by a manmade luxury chemical is intolerable.

A second phenomenon that occurred last December which also raises "red flags" is that the hole moved from its perch over Antractica to over the southern ocean.

This raises serious concerns about what effect increased ultraviolet radiation will have on living organisms in the ocean.

An ozone hole over the darkened icesheet of Antarctica when the Sun is low presents a much different threat than unrestrained ultraviolet radiation pounding on the surface of the ocean when the Sun is high in the sky.

In short, we may have reached the point where CFC's are directly affecting the food source for a major portion of the fisheries of the southern oceans.

While this scenario is just conjecture, it is plausible. And I raise the issue because it's likely that we may find a need for even greater reductions of CFC emissions than are now called for in the Montreal protocol.

A major international scientific panel is expected to determine this spring how much worldwide ozone depletion has already occurred. This month an expedition to the Arctic is investigating whether ozone depletion is occurring over the northern pole. These investigations may shed a new, chilling light on the problem we—as a planet—now face.

Mr. President, today's action represents an important first step. I am concerned that this step is not enough to solve the problem, but it is clearly the first step that must be taken if we are to protect the Earth's ozone shield.

Mr. MITCHELL. Last September, 24 nations agreed to the Montreal protocol to protect the stratospheric ozone layer. This is an important first step in protection of the ozone layer which protects all biological life on Earth. Such a depletion of the ozone layer presents a serious threat to human health due to skin cancer, depression of the immune system, and other adverse health effects. The Environmental Protection Agency and the State Department are to be commended for this accomplishment.

It must become the highest priority of this administration to urge that this treaty be ratified by other nations so that the agreement goes into effect at the earliest possible date. The European Community and the Japanese Government should be encouraged to ratify this treaty. When this occurs, we will have ratification by a sufficient number of parties that the protocols will be in effect. If this has not occurred by the time of the June economic summit in Canada, the President should emphasize to our trading partners the importance of this agreement and encourage them to ratify it as soon as possible.

Since the Montreal protocol was signed, new scientific data demonstrates that the primary cause of the ozone hole over the antarctic is chlorofluorocarbons [CFC's]. The protocol, therefore, does not fully reflect the implications of this potentially catastrophic event.

Even under the terms of the protocol, if fully implemented, the concentrations of chlorine will continue to rise in the atmosphere for years, posing increasing risk to the ozone layer. This risk is significantly greater to the extent the ozone layer could be depleted over more populous, midlatitude areas. The best path is to move to a full phase out of CFC's at the earliest possible date.

A phaseout should also occur because CFC's are a greenhouse gas, contributing a significant amount of total global warming that will occur as a result of the greenhouse effect. Already the planet is committed to a significant warming. Such warming can cause a rise in the sea level, shift our existing weather patterns and cause great disruptions in our agricultural areas. We increase trace gases, such as CFC's, in the atmosphere at our peril.

The United States must lead the effort to phase out CFC's in order to fully protect the ozone layer and we must lead the world away from the risks posed by ever-increasing greenhouse gases. The most effective way to accomplish these goals is to place greater effort into phase out of CFC's.

I am pleased that all affected parties support this treaty, as I do, and I hope that all will cooperate in a full-scale effort to find substitutes as quickly as possible.

Mr. WIRTH. Mr. President, I join my colleagues who have spoken in support of ratification of the Montreal protocol. As we have in the past, the United States must continue to exercise leadership to protect the Earth's stratospheric ozone layer. And I commend the distinguished Senator from Vermont, Senator STAFFORD, for his leadership on this issue, as well as many other environmental issues of the day.

In just 14 years, the issue of ozone depletion has evolved from a scientific hypothesis to an urgent global concern. We now know that the composition of the Earth's atmosphere is being changed by human activities. During the relatively short span of 14 years, the scientific community has reached a consensus that continued worldwide emissions of chlorofluorocarbons [CFC's] and halon compounds threaten to break down the stratospheric ozone layer.

That is an environmental threat of unprecedented magnitude. The ozone layer shields the earth, and all living things, from exposure to the Sun's damaging ultraviolet radiation and plays a key role in regulating global temperature levels.

In the absence of purposeful multilateral action to half depletion of the ozone layer, the incidence of skin cancer and eye cataracts could increase dramatically. Scientific modeling also suggests that ozone depletion could trigger significant changes in agricultural production and fish and wildlife populations.

The United States has shown great leadership in working with other nations to curb the production and use of these CFC's. In 1977, unilateral action by the United States banning the use of CFC's as aerosol propellants cut back CFC emissions significantly. And industry has demonstrated its ability to lead the world in developing substitutes for CFC's.

The United States cannot solve this problem by itself, however. In the last decade, the worldwide production and use of CFC's has steadily increased, as new uses for these chemicals were developed. By ratifying the Montreal protocol, the United States will reaffirm its leadership position in protecting the ozone layer. This agreement freezes CFC production at 1986 levels and calls for a 50-percent reduction in both the production and use of ozone-depleting CFC's by 1999.

Support for making these reductions is overwhelming within the United States and among other nations. At home, this agreement has the support of industry officials, the Environmental Protection Agency, and the scientific community. And it was signed last fall by 24 nations and the European Economic Community, and subsequently by the Soviet Union and six other nations.

Implementation of this agreement will lead to significant reductions in CFC emissions around the world. Along with the United States, signatory nations account for well more than two-thirds of the world's production of CFC's. The implications of continued ozone depletion will require that we continue to monitor ozone levels—and we must leave open the possibility that further reductions will be needed. Prudently, the Montreal protocol includes a safeguard that would allow for renegotiation of deeper reductions in production as they are needed.

Ozone depletion and the related concern of the gradual warming of the Earth's atmosphere are distinct threats to life on this planet as we know it. All nations must work together to address these threats and preserve the delicate balance on Earth between man and the environment. The Montreal protocol is an outstanding example of the enormous advantages of international cooperation in these efforts.

Mr. President, the Montreal protocol is a positive step forward toward improved environmental protection and international cooperation. I urge my colleagues to join me in supporting ratification of this treaty.

TIME TO RATIFY THE CONVENTION AGAINST TORTURE

Mr. KENNEDY. Despite universal abhorrence of torture, the practice continues unchecked in many parts of the world today and is all too often condoned by those in power. Political or governmental authority should not be a license to assault human dignity. Such abuses must not be tolerated. As victims are unable to escape their torturers, we must assure that the torturers are unable to escape justice.

As part of a cooperative global effort to combat torture, I urge President Reagan to sign the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which was adopted by the U.N. General Assembly on December 10, 1984.

The convention, already signed by 66 countries, serves to codify international law with regard to torture. It provides for jurisdiction over, and universal extradition of, torturers. It also offers protection for the victims of torture. In addition, the convention establishes a committee against torture as a means of enforcement and provides for dispute settlement.

In September 1984, the Congress passed a joint resolution regarding the implementation of the policy of the U.S. Government in opposition to the practice of torture by any foreign government. That resolution requested the President to continue to involve the U.S. Government in the formulation of international standards and effective implementing mechanisms, particularly what was then the draft Convention Against Torture. The United States was an active and supportive participant in the drafting of the convention and the administration has had more than 3 years to review it. It is time for the President to sign and transmit the convention to the Senate for ratification.

At a time when we are all giving special attention to the INF Treaty, it is important to remember that relations between nations involve more than political and military power—as important as it is to meet the challenges that are posed by such power. Nations must also be concerned about fundamental human rights and individual human beings. As an expression of that concern, the United States should sign and ratify the Convention Against Torture, and demonstrate to the community of nations that we remain staunch defenders of human dignity not only at home, but around the world.

Mr. ADAMS. Mr. President, I rise today to declare my support for ratification of the Montreal protocol. This international agreement will prescribe limits on the use of chlorofluorocarbons and other ozone-depleting substances in an effort to protect public health and the environment from the potential adverse effects of stratospheric ozone depletion.

The layer of stratospheric ozone surrounding the Earth constitutes our sole protection against harmful ultraviolet rays. Yet current evidence suggests that this band of protection may be endangered by our heedless use of chemicals. I have watched with growing concern as the ozone "hole" over Antarctica has increased in size and duration in recent years. Scientists investigating this situation last fall noted that this depletion of ozone extended farther north, to the tip of South America, and was deeper than in previous years. Scientists claim that the chlorofluorocarbon molecules are broken apart by ultraviolet light in the stratosphere, sending the free chlorine molecule to attack ozone. The presence of huge amounts of chlorine monoxide in the stratosphere above Antarctica constitutes the end product of this chemical process.

This protocol constitutes the beginning of what must become an international effort to ban the use of harmful chlorofluorocarbons. CFC's are currently used in air-conditioners, refrigerators, for cleaning microchips, and in the foam containers of our fast food industry. While they serve useful purposes here on Earth, these CFC's eventually find their way to the sky and into the ozone layer. Without its protective shield, it is estimated that an additional 40 million cases of skin cancer and 12 million cataract cases will attack humans in the next century. While the Environmental Protection Agency has already proposed new domestic regulations which would implement the terms of the protocol in the United States, we can't do it alone. Our ratification of this protocol will prove an example of our commitment to this cause to the rest of the world. I urge my colleagues to grant it a swift ratification.

Mr. KERRY. Mr. President, I rise in support of the pending treaty on the Montreal Protocol on Substances That Deplete the Ozone Layer. This treaty is noncontroversial and is essential to our Earth's future environmental protection. Over 24 nations have signed and agreed to the provisions in the treaty. While we would all agree that certainly more still needs to be done to curb the threat to our ozone layer, this treaty is a good beginning and I strongly support it.

A few months ago, this administration came out with one of the most absurd proposals in a long time. Former Interior Secretary Donald Hodel proposed what has come to be known as the Ray-Ban Plan, as an alternative to this treaty. He proposed that, rather than attempting to preserve our ozone layer, Americans should adopt a "personal protection" program of sunglasses, hats, and sunscreen lotion, to protect ourselves from ultraviolet radiation caused by damage to the ozone layer. This proposal was widely and justly ridiculed.

I am glad that the administration has taken a more realistic approach and relinquished the Hodel proposal, and has instead entered into this treaty. But I am still concerned by the fact that the administration has backed away from its own original proposal for a 95-percent reduction in chlorofluorocarbons, or CFC's. Instead, we are now accepting a 50-percent reduction in CFC's.

Cutting CFC's in half is a good start, but it is not enough. Any damage to our ozone layer is too much, and we must take further steps to make greater reductions in CFC's, and provide greater protections for the ozone layer.

This treaty should be ratified promptly by the United States and by other nations as well. It faces major time constraints if we are to accomplish all that it sets out to do, by the year 1989. For example the protocol requires global controls on eight potent ozone-depleting chemicals to be established by July 1989. To that end I strongly urge that we pass the treaty today. But let me be clear, if something boggs down the treaty process and it is not ratified by other nations as planned, we must move ahead to implement its provisions on our own. We should not make our reductions in CFC's contingent on ratification by the EEC countries and all the other countries which are parties to the treaty. This problem is too urgent to wait any longer for action.

For 14 years now, scientists have been warning us that releases of CFC's into the atmosphere will deplete the delicate balance of ozone levels in the stratosphere. The ozone layer acts as a filter for damaging ultraviolet rays from the Sun. We know what the consequences of damage to the ozone layer can be—they include increased incidence of skin cancer, cataracts, harm to marine life, and worldwide damage to agricultural crops. In addition, depletion of the ozone layer causes a warning effect that results in serious consequences to our oceans and atmosphere.

I am concerned by the scientific evidence which links CFC's not only to damage to the ozone layer, but to the greenhouse effect as well. And I am deeply concerned by the alarming evidence of the Antartica Ozone Hole, which is already a serious problem.

We must move ahead with the implementation of this treaty's provisions, but we must also go further in making greater reductions, and in providing incentives for other nations who are our trading partners to do likewise.

This treaty is a good example of how differing interests and nations can come together in an effort to preserve our most precious resource—our environment. It is a model of international cooperation to solve a common problem, which should be emulated in other fields.

I hope that this administration will not attempt to undermine this treaty by coming back to us later with a "broad interpretation" which would scuttle the meaning of the treaty, as they have done in the case of the ABM Treaty. This is a good treaty, and a good foundation for further efforts to preserve our environment. I urge my colleagues today to promptly ratify the treaty.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Rhode Island has yielded back the remainder of his time. The Senator from North Carolina.

MONTREAL PROTOCOL ON OZONE DEPLETION

Mr. HELMS. Mr. President, the protocol now before us has the overwhelming support of both sides of the aisle. It is the result of an agreement signed on September 17 of last year by 24 countries plus the members of the European Economic Community [EEC]. The protocol seeks to control and diminish the release of hazardous chemicals and gasses into the atmosphere causing the serious reduction of the ozone layer and creating serious health risks to everyone.

This is an environmental issue which affects all Americans. It is an issue requiring the full cooperation of both government and industry in order to combat the injurious effects of ozone depletion. That depletion carries within it major environmental risks for all countries.

Business and industry have been supportive of governmental efforts to deal with this problem. A coordinated international approach to this global problem makes a lot of sense. A major conference on the threat of ozone depletion is to be held in Nairobi, Kenya, next week. Senate approval of this treaty will enhance the American position and will contribute to the improvement of world health conditions.

Mr. President, I support this protocol as a way of making possible the development of new and safer technologies and chemicals which will benefit rather than jeopardize mankind. On an issue such as this, it is important to be realistic rather than idealistic. Business and industry must be heard, and their corporation is essential to bring about a meaningful result. This protocol is realistic. It takes into account the interest of all parties. That is why I support the agreement, and why I urge my colleagues to do likewise.

THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

Mr. CHAFEE. Mr. President, I am pleased to rise in strong support of the Montreal protocol on Substances That Deplete the Ozone Layer.

When I testified before the Foreign Relations Committee several weeks ago, I announced that I would be putting together a resolution that the Senate could consider in connection with this protocol. We are continuing to work on that and are circulating a draft resolution. Unfortunately, the resolution is not yet ready to be presented to the Senate.

Since the first priority is ratification of the protocol, we have decided to take this opportunity to address the protocol today and will return to the resolution at a later date, after more people have had a chance to review it and comment on the proposed language.

As I have said before, any discussion about the Montreal protocol to protect the ozone layer undoubtedly will reveal a fair amount of disagreement. But the common theme—the message that should be heard loud and clear—is this: The United States should ratify this agreement, we should ratify it as soon as possible, and we should press the rest of the world to do the same.

The disagreement focuses on a simple question: Does the protocol go far enough? Does it adequately protect the environment?

Unfortunately, it does not. This became painfully obvious at a hearing we held in the Environment Committee last October. The evidence we heard from a distinguished panel of scientists convinced me that we must move quickly and forcefully to eliminate, not just reduce, chemicals that are destroying the Earth's protective ozone shield. The primary culprits are a class of chemicals known as chlorofluorocarbons or CFC's.

Mr. President, those who argue that the protocol adequately protects the environment are assuming that the agreement's reduction schedule will provide a sufficient stimulus for the creation of safe substitutes. They tell us that a 50 percent cut is enough to trigger a market-induced elimination of those harmful chemicals.

Well, put me down as a skeptic and one who is not willing to entrust the survival of our planet to an economic theory. It is not enough to "hope" that the economists are right.

After the October hearing, several of us wrote to Dr. Tolba, UNEP's Executive Director, and urged him to call an emergency meeting of the parties to review and respond to the most recent evidence on the "Hole" over Antarctica. That evidence tells us it is not enough to simply reduce our use of these chemicals.

Mr. President, in the interest of having a complete legislative history as part of today's consideration of the protocol, I ask unanimous consent that several items be printed in the RECORD immediately following my statement. They are: copies of our November 17 letter to Dr. Tolba; his response of November 30; and two recently passed Senate resolutions on this subject. The first, Senate Resolution 226, was passed while negotiations on this protocol were underway. The second, Senate Resolution 312, was approved after the agreement was signed in Montreal and before it was transmitted to the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See Exhibit 1.]

Mr. CHAFEE. Throughout this discussion, it is important to keep in mind that CFC's and halons—the other group of chemicals covered by the protocol—are not only responsible for destruction of our ozone shield, they are also "greenhouse gases." They are significant contributions to the enormous problem of global climate change.

Mr. President, as noted earlier, it is my intention to build on our earlier work in this area, including legislation that Senator BAUCUS and I introduced last year. We need to work on several fronts to achieve the "ultimate objective" of the protocol, namely: elimination of these harmful chemicals.

The resolution that I am working on will make several points:

First, the United States must contribute to be a world leader in this area;

Second, we need to convince the rest of the world to ratify the agreement as quickly as possible;

Third, we need to work through the international process to speed up the agreement's reduction schedule and to go beyond the reductions already agreed to; and

Fourth, if the international process won't move far enough, or if it won't move fast enough, we have to be ready to impose new, more stringent requirements in this country.

Unilateral controls are a tough pill to swallow but, when combined with stringent trade restrictions, they can be a powerful tool to bring other countries around.

In conclusion, Mr. President, as an environmental regulation, the Montreal protocol has its flaws. Fortunately, it can be fixed.

As an international environmental agreement, it is an historic document and a significant achievement. We owe a great deal to those who made it happen—Dr. Tolba, Lee Thomas, Ambassador Richard Benedick, and a host of dedicated staff who worked long and hard on this matter. This protocol deserves to be ratified by this country and by the rest of the world as soon as possible.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS,
Washington, DC, November 17, 1987.

DR. MOSTAFA TOLBA,
Executive Director, United Nations Environmental Programme, Nairobi, Kenya.

DEAR DR. TOLBA: We are writing to you at this time for several reasons. First, to formally congratulate you and your entire organization for the outstanding work that led to the historic Montreal Protocol To Control Ozone Depleting Substances. The success of that effort is a real tribute to your leadership and commitment to forging a solution to this global environmental problem.

Second, to urge you to take whatever steps are appropriate to encourage all countries to ratify both the Vienna Convention and the Montreal protocol as quickly as possible. In the United States, we are pressing the President and Secretary of State to transmit the protocol to the Senate for immediate consideration and approval. A copy of a recently approved Senate Resolution on this subject is enclosed. It is important that similar, prompt action is taken in other countries to bring the protocol into effect as quickly as possible.

Finally, based upon a recent Senate hearing on the Antarctic ozone "Hole" and the new data that has emerged from scientific expeditions to that region, we recommend that you seriously consider the scheduling of two emergency meetings.

The first meeting should bring together scientific experts to review the most recent data from Antarctica and elsewhere. This scientific review should occur within the next six months. The availability and potentially devasting implications of this new data have convinced us that there is no rational reason to delay. The provision of the protocol calling for a 1989 scientific review did not anticipate that such shocking new evidence would appear less than two months after the signing of the protocol.

The second meeting should bring together all interested countries to consider what steps may be needed to protect the Antarctic ecosystem and the entire Southern Hemisphere. This meeting should occur as soon as possible. As with the scientific review, the fact that the protocol provides for such a meeting in 1990 is not a sufficient reason to delay.

The recent, preliminary evidence from Antarctica serves to highlight the need for early ratification of the Convention and the protocol. The loss of ozone over the region in 1987 was greater than any previous year and chlorine from man-made chemicals has been identified as a major cause of such loss. Unfortunately, this evidence also calls into question the adequacy of the control measures that are included in the protocol. Wholly apart from the implications that such data has for future ozone depletion on a global scale, the potentially devasting effect of the "Hole" on the Antarctic ecosystem, the Southern Hemisphere and the world's food chain warrant emergency action.

In the sessions leading up to Montreal, all of the parties understood that the Antarctic "Hole" was not the basis for the agreement. It is our understanding that, as early as the Geneva session in December 1986, you made an explicit pledge to call an emergency session to reopen the agreement if it turns out that the "Hole" is caused by chlorofluorocarbons (CFC's).

That condition now appears to be satisfied. As stated at our hearing of October 27, 1987, by Dr. Michael B. McElroy, Chairman of Harvard University's Department of Earth and Planetary Sciences, a well-respected atmospheric chemist: There is little doubt in my mind that industrial sources of chlorine and bromine contribute in a major way to the loss of ozone observed in recent years in spring over Antarctica. The need for a policy response is urgent and immediate.

We thank you in advance for your personal attention to this important matter, look forward to your response, and pledge to work with you to address this environmental threat.

Sincerely, Senators:
JOHN H. CHAFEE,
MAX BAUCUS,
QUENTIN N. BURDICK,
GEORGE J. MITCHELL,
ROBERT T. STAFFORD,
DAVE DURENBERGER,

UNITED NATIONS ENVIRONMENT PROGRAMME, PROGRAMME DES NATIONS UNIES POUR L'ENVIRONNEMENT,
November 30, 1987.

Hon. JOHN H. CHAFEE,
U.S. Senator, U.S. Senate, Washington, DC.

DEAR SENATOR CHAFEE, Thank you for the letter of 17 November concerning UNEP's achievements on The Montreal Protocol on Substances that Deplete the Ozone Layer and proposals for early measures needed to ratify the protocol and further address the ozone depletion issue.

I am very grateful for your complimentary comments on UNEP's leadership and success in helping governments to reach agreement on the Protocol. I share your view that it is a historic agreement with far-reaching consequences and we are proud to have been able to play an important role in its accomplishment. I know as well that a great deal of effort lies ahead in implementing the protocol, and UNEP is already moving to bring together the information and agreement among governments to that end.

We have already taken steps to encourage governments to move ahead rapidly to ratify the Convention and protocol. On October 27 I wrote to selected governments and international organizations drawing their attention to the need for early ratification, for participation in an early workshop to exchange information on technologies and administrative strategies for reducing emissions of substances controlled under the protocol and for developing alternatives and identifying areas in which further research and technical development are required. I also indicated that in accordance with Resolution 3 of the Final Act at Montreal, I would be convening a method of governmental and international organization experts to recommend ways to harmonize data on production, imports and exports to ensure consistency and comparability of data on controlled substances.

Likewise, I share your concern about the need to decide if there is a need to hold emergency meetings on ozone depletion based upon latest scientific evidence. I did, as you note, pledge to call for additional urgent measures if it is clear that the ozone "hole" is CFC induced.

For several reasons I believe that it would be important to make a comprehensive convincing scientific evaluation of this issue. Despite new findings from the Antarctic studies, the scientific assessment of these findings is still being conducted. While I agree with the urgency of the action, I feel it is very important that whatever steps we decide to undertake be based on firm scientific evidence and that the evidence be considered fully at the international level. Without reasonably broad agreement on the nature and seriousness of the depletion, we will not achieve the collective action we need.

I am, therefore, willing to convene a scientific meeting as soon as we have adequate scientific information. Much of that evidence is available in the United States, particularly through NASA, and I would be willing to consider views of NASA and other scientists about whether we have adequate information to proceed. Based on these views it might well be possible to convene a meeting of select internationally recognized scientists, possibly in May or June 1988, to review the evidence and make recommendations to UNEP.

Since most of the information would be based on the U.S. scientific mission, it would be natural to see the United States hosting such a scientific meeting in the United States.

Based upon the scientific meeting I could then decide whether it would be necessary to convene a meeting of governmental officials to consider the scientific recommendations and decide upon the necessity of further control measures. This could be accomplished later in 1988.

This, I believe is a reasonable and deliberate approach that would allow us to consider fully the available knowledge and bring the international agreement we will need to take further action.

Again, thank you for your letter and your strong interest in one of our most serious global environmental issues.

Sincerely,

MOSTAFA K. TOLBA,
Executive Director.

S. Res. 226

Whereas, the United States is participating as world leader in ongoing international negotiations sponsored by the United Nations Environmental Programme to protect the ozone layer (the Earth's natural shield against harmful ultraviolet radiation) and to control manufactured ozone depleting chemicals;

Whereas, the United States' position calling for a freeze on production of certain ozone depleting chemicals at 1986 levels to be followed by the virtual elimination of such chemicals is a sound policy response to a global environmental threat;

Whereas, the potential human health effects of increased ultraviolet radiation including increased skin cancer, suppression of the immune system, and increased cataracts and other eye disorders;

Whereas, the potential environmental and welfare effects of stratospheric ozone depletion include global climate change, increased "smog" from ground-level ozone, crop and vegetation damage, marine and aquatic ecosystem impacts, and deterioration of man-made materials;

Whereas, suggestions that simply changes in lifestyle can offset these adverse health and environmental effects of ozone depletion are misstatements of fact;

Whereas, considering these health and environmental effects, there is no safe or acceptable level of ozone depletion;

Whereas, even a 50 per centum reduction in the production and use of certain ozone depleting chemicals by the year 1996 is predicted to result in approximately 9 per centum depletion of the ozone layer within the next seventy-five years; and

Whereas any international agreement negotiated by the United States should accomplish two important goals—the protection of the public health and the environmental and the protection of American jobs through adequate trade provisions: Now, therefore, be it

Resolved, That it is the sense of the Senate, that the President of the United States should be urged to strongly endorse the United States' original position in ongoing international negotiations to protect the Earth's ozone layer and the United States should continue to seek aggressively an international agreement which will provide for an immediate freeze in the production of the major ozone depleting chemicals at 1986 levels, a prompt automatic reduction of not less than 50 per centum in the production of such chemicals and, as set forth in the United States' original position, the virtual elimination of such chemicals; such agreement shall provide for regularly scheduled assessments of scientific, economic, and technological factors.

S. Res. 312

Whereas, the United States, in cooperation with other nations, has and is continuing to sponsor major scientific expeditions to investigate the dramatic loss of ozone that occurs over Antarctica each Spring;

Whereas, the loss of ozone over Antarctica and significant portions of the southern hemisphere in the Spring of 1987 was greater than any previous year, measurements showing an almost total loss of ozone at certain altitudes over a portion of the region;

Whereas, the atmosphere's protective ozone layer is so depleted over Antarctica in the Springtime that sponsors of the scientific expeditions are concerned about the safety of scientists in the region as well as the impact that the resulting increased ultra-violet radiation may have on the biota of the region, including the base of the world's aquatic food chain;

Whereas, the continued seasonal expansion of this ozone depletion phenomenon could have serious environmental consequences for the inhabitants of Southern South America;

Whereas, there is growing concern over the potential for chemical reactions occurring in the atmosphere over Antarctica to occur in other areas throughout the world;

Whereas, measurements made from the ground in Switzerland, North Dakota and Maine appear to show significant ozone depletion in Spring or late winter;

Whereas, man-made chemicals are the primary source of the chlorine that is a major cause of the annual ozone loss over Antarctica;

Whereas, the continued build-up of chlorine in the atmosphere that is caused by the use of chlorofluorocarbons and other ozone depleting substances will have detrimental impacts on stratospheric ozone levels over Antarctica and the entire globe throughout the entire next century;

Whereas, the United States is responsible for approximately one-third of the world's production and consumption of ozone depleting substances;

Whereas, United States industries have made a major commitment to the phase-out of certain chlorofluorocarbons and the development of safe substitutes;

Whereas, on September 16, 1987, the United States, together with some twenty-five nations, signed the Montreal Protocol to Control Ozone Depleting Substances, a protocol to the Vienna Convention for the Protection of the Ozone Layer;

Whereas, the Montreal protocol has not been transmitted to the Senate for advice and consent to ratify: Now, therefore, be it

Resolved, That it is the sense of the Senate, that—

(a) Wholly apart from its implications for global ozone depletion, the ozone "hole" that forms over Antarctica poses a threat to public health and the environment in the southern hemisphere and the entire globe;

(b) The United States should take a leadership role and set an example for the rest of the world to protect the environment by taking steps toward ratification of the Montreal Protocol To Control Ozone Depleting Substances as quickly as possible;

(c) The President should immediately transmit the Montreal Protocol To Control Ozone Depleting Substances to the Senate for advice and consent to ratify said protocol as early as possible in the 100th Congress;

(d) The President should immediately call upon a sufficient number of countries to move toward ratification of the Montreal Protocol To Control Ozone Depleting Substances so that the protocol will enter into force as soon as possible.

Mr. STAFFORD. Mr. President, there are few agreements brought before the U.S. Senate that are more important than this.

This agreement is simple and straightforward. The world is called upon to reduce reduction and sale of chlorofluorcarbons, often called freons, by 50 percent within a set period of time. Some projections suggest the treaty may not result in that much of a reduction because of options that are permitted.

Nevertheless, this treaty deserves to be approved by the Senate.

Whatever this agreement's faults, it is vastly preferable to maintenance of the status quo. The world should cease production and use of these chemicals as quickly as is feasible in quest of our urgent need to end depletion of the ozone layer in our stratosphere.

This agreement will set us on the road toward that objective and I urge the Senate to approve that beginning step.

Mr. HELMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The remainder of time have been yielded back, the question is on agreeing to the resolution of ratification. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. Boren], the Senator from Louisiana [Mr. Breaux], the Senator from Florida [Mr. Chiles], the Senator from Illinois [Mr. Dixon], the Senator from Nebraska [Mr. Exon], the Senator from Tennessee [Mr. Gore], the Senator from Louisiana [Mr. Johnston], the Senator from Hawaii [Mr. Matsunaga], the Senator from Maryland [Mr. Sarbanes], and the Senator from Illinois [Mr. Simon] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

I further announce that, if present and voting, the Senator from Illinois [Mr. Dixon] and the Senator from Tennessee [Mr. Gore] would each vote yea.

Mr. SIMPSON I announce that the Senator from Kansas [Mr. Dole], the Senator from Utah [Mr. Garn], the Senator from Nebraska [Mr. Karnes], the Senator from Kansas [Mrs. Kassebaum], and the Senator from New Hampshire [Mr. Rudman] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—83 yeas, 0 nays, as follows:

[Rollcall Vote No. 47 Ex.]

YEAS—83

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Domenici
Durenberger
Evans
Ford
Fowler
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—17

Biden
Boren
Breaux
Chiles
Dixon
Dole
Exon
Garn
Gore
Johnston
Karnes
Kassebaum
Matsunaga
Rudman
Sanford
Sarbanes
Simon

The PRESIDING OFFICER. Two-thirds of the Senators voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. DeCONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECOND READING—S. 2117 AND H.R. 4063

Mr. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. The Chair informs the majority leader there are two bills which have been read the first time.

Mr. BYRD. Mr. President, I object en bloc to any further proceedings on those two bills.

The PRESIDING OFFICER. Without objection, the bills will be considered as having been read a second time prior to the objection. Without objection, it is so ordered. The bills will be placed upon the calendar.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be an extension of the period for morning business not to exceed 5 minutes and that Senators may speak therein for not to exceed 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DeConcini appear later in today's Record under Statements on Introduced Bills and Joint Resolutions.)

THE LIFE OF NANCY CHANDLER

Mr. HATFIELD. Mr. President, our final words about those among us who die are all too often about their death. Bob Chandler's final words about his wife are about her life and the strength of their life together.

Nancy Chandler died last month after fighting Lou Gehrig's disease for the past 6 years. An Oregonian, Nancy was among the bravest people I have had the honor of knowing. More than 3 years ago, she had a tracheostomy put in place to help her breathe. For the past 2 years, she could communicate only by tapping words out on a computer. But Nancy never gave up—and her husband was beside her all the way. We grieve for his loss, but also for our own: Her death leaves a void in the lives of everyone who knew her strength and her spirit.

Bob Chandler's essay on his life with his wife, "Wife/Nancy of 15,111 Days," is among the most beautiful testaments to love and devotion I have ever read. Her disease lasted 6 years, but their life together lasted more than 41 years. Six children and ten grandchildren later, they were as happy together as they were when the young World War II veteran first married the lovely young woman in 1946.

Mr. President, I ask unanimous consent that Bob Chandler's essay be inserted in the Record immediately following my remarks. And I ask that my colleagues join me, not only in grieving for her death but also in celebrating the strength of their life.

There being no objection, the essay was ordered to be printed in the Record, as follows:

Wife/Nancy of 15,111 Days

(By Robert W. Chandler)

Nancy Chandler, my wife of 41 years, four months and 15 days—15,111 days in all—died at our home Monday morning. The obituary notice in Tuesday's Bulletin gave a few details of her life, but none about our full and rich life together.

I used to say she was the first attractive American woman I saw when I got off the boat which returned me home from Army service in World War II. And I used to kid her a little bit, saying that her doting mother had laid a trap for me in our rural Northern California area. I admitted that I fell into it happily. I proposed on our second date; she accepted within five seconds and we were happy ever after.

We even were happy most of the past six-plus years, since she first began to show signs of amyotrophic lateral sclerosis, Lou Gehrig's Disease. The last few months were bad ones, but so long as she could speak, or for the last years tap out messages on her computer, the time together was good time for both of us.

We promised to love, honor and hold ourselves for each other on Sept. 7, 1946, and neither of us ever broke that vow. We became the parents of six wonderful children, all now adults, and they produced 10 lovely grandchildren who brightened our lives in recent years.

And we had hundreds, perhaps thousands, of friends, the major portion of whom were friends more because of Nancy's warm personality than because of mine.

I was surprised once again after her death at how fast news travels. Within a few minutes Frank Gilchrist had called from Gilchrist. Within a few hours an editor friend had called from North Carolina. I had known earlier how rapidly little bits of information make their way around the P.E.O. and Bend Study Club circles, but there are no connections there that I know of with North Carolina. And I heard from people in Boston and New York and Washington and other places too numerous to mention.

Almost seven years ago Nancy and I were in Madrid, Spain. We went for a morning walk. She complained of tiredness, and we cut it short. A couple of weeks later we were in London, and had to take a taxicab back to our hotel after another short walk. When we returned home she went to see Dr. Bud McCusker, her physician.

He tried a couple of things which didn't work. In November of 1982 she and I and our longtime friend Bill Hornby, then editor of The Denver Post, went to Japan to see how that country operated. She had trouble going up the stairs at the train stations; Bill and I had to help her after she had climbed a half-dozen steps.

When we returned home Bud told her she ought to see a neurologist, and tests confirmed what obviously he suspected by that time.

The average ALS patient, we were told lives about three years after diagnosis. Nancy made up her mind that she would do better than that.

Then her heart began to act up. A triple bypass in July 1983, solved that problem. In the summer and fall of 1983 she began to have trouble breathing. The diaphragm, that big muscle which pushes the air out of your lungs then relaxes so the atmospheric pressure can fill the lungs once more, was not doing its job well. Like all her muscles the diaphragm was affected by the disease. The motor nerves deteriorated to the point they no longer could send signals to the muscles, which atrophied rather rapidly.

Dr. Keith Harless told her she would need a tracheostomy, a device which allows air to be pumped to the lungs at regular intervals, in order to live. So it was put in place, and to the surprise of everyone but herself she lived for nearly three and a half years longer.

That she did so was due to a lot of people. Keith, who became a caring friend as well as her skilled physician, was a major factor. A succession of good nurses, three shifts a day after late October of 1983, kept her healthy excepting for the ALS. She never even had a cold for the rest of her life, and occasional infections were halted quickly. Liz Douville, who did the things Nancy no longer could do, did everything from caring for our regular needs to shopping for Christmas presents.

And our wonderful children helped. When Nancy no longer could hold a book Janet Stevens, our eldest daughter, came to the house five days a week and read to her mother. Peggy Cushman, often accompanied by one or more of the members of her family, was on hand almost every day. Cookie Jean (Jordan) and Patsy Moss and Bob, Jr., came home for visits regularly. Betsy McCool was at the house frequently, during the last few months letting her mother see little Alex begin to develop.

On occasion I reflected on how Nancy's illness had been so confining, for me as well as for her. She was not comfortable if she was alone in the house with only a nurse. Liz was there during the daytime. I was there each evening and all weekend excepting for a couple of hours at the office Saturday mornings while she still slept. On the very rare occasions I was gone overnight one of our children or Chris Newton, one of the nurses, stayed to keep Nancy company.

I thought we were losing track of a lot of friends because many of them we never saw for four years.

I was mistaken. The telephone rang constantly this week. There were calls from friends from Oregon, from the East Coast, from California from Hawaii and a number of other places. I really should not have been surprised; her life and our lives had touched a number of others, and they remembered her.

Nancy and I signed on for life together on a typically warm Sacramento Valley early September day not long after World War II. That lovely chapter in my life now has ended, but our fine family has pulled together even closer now. Life will go on.

A BUSINESSMAN'S VIEW OF TODAY'S DRUG CRISIS

Mr. HELMS. Mr. President, driving back to Washington this past weekend following a few days in North Carolina, I heard a talk show on the car radio. The subject was the drug crisis in the United States—and what can be done about it.

Many callers blamed the Government for not doing enough to curb the deluge of drugs flowing into the United States. One lady said: "Why doesn't the Government do something?

Of course, Mr. President, the Government is trying to do something. A lot of money is being spent, and a great many lives of Government drug enforcement officers have already been lost. But the obvious truth is emerging that the Government can't do it all. Unless and until every citizen pitches in and plays a role, the flow of drugs is unlikely to be stemmed.

We owe a debt of gratitude to the enormous number of private citizens who are participating in the war against drugs. Many more are needed, of course, but we have not yet reached the point that enough citizens are making an effort.

My purpose today is to pay my respects to a longtime friend in North Carolina who is doing things that need to be done. His name is J.C.D. Bailey. We call him Jack Bailey. He lives in Rocky Mount, NC, and is a successful executive with a nationally known fast food chain.

Typical of what Jack Bailey is doing is an editorial he personally wrote recently for his company's employee publication. It was entitled, "National Dilemma: Drugs in the Work Place." It was addressed to his employees, and it began by quoting William James who said in 1911, "The deadliest enemies of nations are not their foreign foes: they always dwell within their own borders."

Jack Bailey is right about that. It is a reminder that all of us need to ponder constantly.

In any event, Mr. President, I ask unanimous consent that Jack Bailey's editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NATIONAL DILEMMA: DRUGS IN THE WORK PLACE

(By J.C.D. (Jack) Bailey)

"The deadliest enemies of nations are not their foreign foes: they always dwell within their own borders". William James, 1911

American industry has a problem. We—our industry—have a problem. It is costing us customers, costing us employees, and dollar amounts that are staggering.

The problem is substance abuse. The cost to American society is around $120 billion ($120,000,000,000.00) annually. Industry's tab is $70-$80 billion ($70,000,000,000.00-$80,000,000,000.00) of that.

According to a recent survey conducted by the National Institute on Drug Abuse: 20 million Americans are currently using marijuana/hashish. Four million Americans are currently using cocaine. Two million Americans are using other stimulants. One million Americans are currently using non-prescribed sedatives. One hundred million Americans are currently using alcohol. Current use is defined as within the last 30 days.

Federal experts estimate that between 10% and 23% of all U.S. workers use dangerous drugs on the job.

Equally as alarming is the high percentage of illicit drug use in individuals 18-25 years of age since it is this group that is entering the work force. In this age group, according to the National Institute on Drug Abuse: 65% have experimented with illicit substances: Forty one percent have tried marijuana. Twenty percent have used marijuana daily for at least one month. Eighty four percent use alcohol (Bureau of National Affairs, Daily Labor Report No. 234 p. D-1 (12/5/85).

Furthermore, experts are predicting that the percentage of users will increase. In part, this is based on the fact that the number of Americans addicted to cocaine has increased from 1.5 million to 7 to 8 million in the last 10 years and that the average age of first users dropped below 13 years of age as early as 1981.

According to a report prepared in 1982 by the Employment and Productivity Sub-Committee of the U.S. Senate Committee on Labor and Human Resources, alcohol and drug abuse in the workplace cost business $70 billion. While staggering, this figure is probably low in light of findings that a drug abusing employee:

Is 3.6 times as likely to be involved in an accident.

Has 2.8 times as many absences lasting 8 days or longer.

Receives 3 times the average level of sick benefits.

Is 5 times as likely to file a worker's compensation claim.

Functions at about 67% of his or her work potential.

The following is from the Daily Labor Report, p. D-3, citing Thomas M. Nolan, 1962 Industry Week "Pushers on the Payroll".

A profile compiled by the Associated Building Contractors additionally finds that the typical drug abusing employee:

Was born between 1948-1964.

Is late 3 times more often than other employees.

Request early dismissal or time off 2.2 times more than other employees.

Is more likely to be involved in theft of company property.

Other consequences of drug abuse are lower quality of work, increased turnover, increased training costs, low morale, increased insurance costs, and reduced efficiency in other employees.

Illegal drugs have become so common in the workplace that they are used in almost every industry. Drugs are draining the energy, honesty, and reliability of America's labor force.

I believe drug trafficking is the most serious organized crime problem in the world today, and as more and more companies require job applicants to prove that they are drug free, it will become increasingly difficult to use drugs and make a living. Thus, the economic deterrent may succeed where the legal deterrent has failed.

We are an ethical Company. In this increasingly competitive world, ethics is not a luxury. It is a necessity. It is the key to driving down costs and enhancing the quality of our products and services. It is the key to our survival.

Reporting a pusher/user, or someone drunk on the job, is an expression of your ethics and of pride in your Company. It is a statement of outrage that you, as a concerned citizen, feel when misconduct occurs because it may jeopardize the reputation of our Company and undermine the integrity of our employees.

Identifying misconduct is everyone's responsibility because of our shared values, our reputation, and that our jobs may eventually be on the line.

Substance abuse will stop only with refusal to participate and encouraging others not to participate. Each and every employee must do his or her part to eliminate the use of drugs in our Company. It could make the difference of life or death (yours) in a case of National Defense. We could not win a war, if war came, with 20% of 18 to 25 year olds on drugs.

Turn in the pushers and users and help cleanse your area of these individuals who are poisoning our society and destroying our system of "Free Enterprise". Substance abusers are just as much the enemy as the communists who are exporting drugs into this country.

Help defend our American Flag, which we so proudly fly at each of our Hardee's restaurants. It's up to you.

Your efforts will pay dividends to FEI, to other businesses, to our country, and to society that cannot be measured in dollars and cents.

SOUTH AFRICA REPRESSION: FROM BAD TO WORSE

Mr. KENNEDY. Mr. President, yesterday was Sunday in Cape Town, South Africa. Being Sunday, the people were permitted to gather in their churches to worship. They took this opportunity to show once again their opposition to apartheid—and only because it was Sunday, and only because they were in church did the South African shock troops not cart them all off to jail.

Despite the most recent round of arrests and detentions, the bannings and the beatings, the people turned out in the thousands yesterday to show their continued opposition to apartheid. According to the New York Times, more than 2,000 citizens of South Africa attended the service at St. George's Anglican Church in Cape Town and pledged their support for civil disobedience in the struggle peacefully to rid their country of apartheid.

They heard the words of their church leaders, some of the most eloquent and courageous opponents of apartheid: the Anglican archbishop of Cape Town, Desmond Tutu; the president of the World Alliance of Reformed Churches, Rev. Allan A. Boesak; the Roman Catholic archbishop of Cape Town, Stephen Naidoo; and the rector of the University of the Western Cape, Jakes Gerwel.

In the South Africa of today, it is possible for such a meeting to take place only if it happens in a church as part of a regularly scheduled Sunday service. The repression has gone from bad to terrible; it cannot get much worse.

Today, there is an op-ed piece by Archbishop Tutu printed in the New York Times. This article deserves the attention of every Senator—as well as every American. Archbishop Tutu presents a history of recent events in South Africa and explains the many ways over many years that South African blacks have worked—at such great cost and sacrifice to themselves—to achieve a peaceful, nonviolent end to apartheid. And he shows how—in each and every instance—the racist authorities have responded with repression. Archbishop Tutu quotes from a recent statement issued by himself and other church leaders responding to the most recent crackdown:

> The authorities are deliberately obstructing peace in our country and encouraging violence among our people. Their purpose is to use surrogate forces to smash effective opposition to their heretical policy of apartheid, and to insure as far as possible that it is the blood of black people, and not of white people that is spilled in pursuance of their aim.

Archbishop Tutu concludes, that if the authorities' suppression of the nonviolent antiapartheid forces continues, "the deliberate incitement of violence in our country will turn it into a Lebanon-like wasteland."

Those of us who have admired and respected Desmond Tutu for so many years, those of us who look to him as a powerful and principled moral voice against racial injustice in South Africa must take pause at his words:

> As one who believes that one ought never to resort to violence under any circumstances, I also believe there can come a time—as when the Nazis invaded Europe—when it is justified to take up arms to overthrow an unjust system. I can therefore sympathize with those South Africans who have already decided that violence is justified.

In his concluding words, Archbishop Tutu issues "a challenge to the American, British and West German Governments. He writes: "You say you are against apartheid. If you are, then make three demands of the South African Government:

> First, the state of emergency must be lifted.
>
> Second, last months' restrictions against our people's organizations and leaders must be lifted.
>
> Third, detainees, particularly children, must be tried in open courts or released.

Mr. President, I urge my fellow Senators to read Archbishop Tutu's words and to contemplate our responsibility—as the moral and political leader of the Western World—to support the cause of freedom in South Africa.

I ask unanimous consent that Archbishop Tutu's article be reprinted in its entirety at this point in the RECORD along with the New York Times report of yesterday's meetings in South Africa.

I also ask unanimous consent to include the text of a letter to South African President P.W. Botha signed by 52 Senators urging the release of Zwalakhe Sisulu, a young and brave South African journalist who has been held in jail since December 1986 without bail, without charges, and without a trial.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOUTH AFRICA—A LEBANON?

(By Desmond M. Tutu)

CAPE TOWN.—Black South Africans have exercised the most remarkable patience in pressing for their human rights.

In the 1950's, they launched a nonviolent defiance campaign. In 1960, their peaceful protests were met with the bullets of Sharpeville and the banning of the African National Congress and the Pan-African Congress. With nothing to show for half a century of pleading, the black leadership went underground or into exile to begin an armed struggle.

But the peaceful campaigning went on, with Steve Biko and other young black intellectuals forging a new philosophy of black consciousness that helped people assert their humanity and self-respect. The uprisings of 1976 began as peaceful protests by our children against their fifth-rate education and turned violent only in reaction to police bullets.

In the 1980's, the pattern has continued. While increasing numbers, the young in particular, have chosen violence as a last resort, many of us still explore every last possible peaceful avenue for change. We have developed a range of organizations (the largest of which is the United Democratic Front, a coalition of about 600 antiapartheid groups) whose purpose is to resist a Government that in 1984 went so far as to incorporate apartheid into the Constitution by creating separate chambers of Parliament for different races.

We have used in many nonviolent ways of trying to bring change, such as strikes, rent strikes and consumer boycotts. The authorities have responded by declaring states of emergency and tightening emergency regulations. They ban peaceful protest, they detain our children and they ban our leaders. Step by step, since 1985, President P.W. Botha's Government has closed off avenue after avenue of peaceful political change—most recently, last week's ban on the newly formed Committee for the Defense of Democracy.

At the same time, Mr. Botha isn't even delivering the "reforms" he promised us. A few years ago, many claimed that the Government's "final solution"—its policy of uprooting people from their homes and dumping them to starve in the bantustans in pursuance of its aim of segregation—had been abandoned. Now we hear otherwise. In Mr. Botha's old parliamentary seat, the authorities want to remove the people of a small place called Lawaaikamp. When the people appealed, he told them he was opposed to forced removal "unless it is accompanied by the provision of better living standards."

Just over a fortnight ago, the Government removed nearly all effective means of working for true change by peaceful means when it prohibited political activity by 18 organizations and banned 18 leaders.

What other church leaders and I found particularly horrifying were the restrictions placed on two leaders of the United Democratic Front who had been advocates of peace in two of the most desperate crisis areas of our land—at a squatter camp in Cape Town and the townships around Pietermaritzburg in Natal province.

In an unusually strong statement, we argued that when we saw the banning of these leaders, the harassment of peacemakers, the Government's failure to arrest people against whom there is clear evidence of murder and assault, we could only conclude that "the authorities are deliverately obstructing peace in our country and encouraging violence among our people."

"Their purpose," we said, "is to use surrogate forces to smash effective opposition to their heretical policy of apartheid, and to insure as far as possible that it is the blood of black people, and not of white people, that is spilled in pursuance of their aim."

If allowed to continue, the deliberate incitement of violence in our country will turn it into a Lebanon-like wasteland.

We felt so strongly about this that on Feb. 29 we tried to proceed to Parliament to present a petition calling on the Government to turn from the path it had choosen. The most creative response to a peaceful act of Christian witness that the Government could come up with was to arrest us all.

It has become abundantly clear that the present Government has chosen a military option for the future. The Law and Order Minister, Adriaan J. Vlok, has spoken openly of the need to "eliminate radicals and revolutionaries."

Not only does the Government threaten the security and lives of the people of South Africa, it is destabilizing the whole of Southern Africa and threatening the interests in the region of its major trading partners, including the United States, Britain and West Germany. Even if its most extragavant claims of offering a power sharing deal with blacks were to be delivered, they offer nothing more than token black faces in the Cabinet. The Government has no intention of relinquishing control.

As one who believes that one ought never to resort to violence under any circumstances, I also believe there can come a time—as when the Nazis invaded Europe—when it is justified to take up arms to overthrow an unjust system. I can therefore sympathize with those South Africans who have already decided that violence is justified.

For myself, though, I agree with Dr. Allan Boesak, head of the Dutch Reformed Mission Church and a patron of the United Democratic Front, when he says that we must not descend to the Government's level in responding to its latest actions with violence. That is the reason that a number of us in Cape Town formed the Committee for the Defense of Democracy to fight peacefully against the Government's suppression of its opponents. And now, the Government has chosen to ban even this group.

It should come as no surprise, therefore, that those of us who ask desperate people to take nonviolent action are filled with despair when they learn that the U.S. and Britain have once again vetoed international attempts to do the same. The American and British decisions to veto sanctions in the U.N. Security Council were all the more staggering in the light of the South African representative's arrogant challenge to the Security Council to "do your damndest."

I want to issue a challenge to the American, British and West German Governments. You say you are against apartheid. If you are, then make three demands of the South African Government:

First, the state of emergency must be lifted.

Second, last month's restrictions against our peoples' organizations and leaders must be lifted.

Third, detainees, particularly children, must be tried in open courts or released.

If the Government does not meet these demands, you must cut diplomatic ties. That would not be a radical step to take in the circumstances. It's not going to cost jobs and lives. It would be a gesture, but a dramatic one with profound psychological consequences for those who wield power in South Africa.

Or do you want another Lebanon?

TUTU AND BOESAK URGE RESISTANCE DESPITE SOUTH AFRICAN REPRESSION

(By John D. Battersby)

CAPE TOWN, March 13.—Striking a new note of militancy, South African church leaders today dismissed the latest Government threats to silence them and held defiant and well-attended protest services around the country to reiterate their support for civil disobedience.

"The South African Government has signed its own death warrant," said the Rev. Allan A. Boesak, the president of the World Alliance of Reformed Churches. "No government can take on the living God and survive."

During Mr. Boesak's address, many of the more than 2,000 supporters packing St. George's Anglican Cathedral here cheered and chanted, "Amandla," the Zulu word for power.

IMPASSIONED SPEECH BY TUTU

The Anglican Archbishop, Desmond M. Tutu, in one of his most impassioned addresses, told the same meeting that it was immoral to obey laws that were themselves immoral and un-Christian.

The 1984 Nobel peace laureate said that if it is revolutionary to work for racial equality and democracy in South Africa, then he was a revolutionary.

"I am not going to be told how the Gospel of our Lord Jesus must be preached," Archbishop Tutu said. With arms outstretched above his head, he repeatedly declared, "We shall be free."

PROTESTING GOVERNMENT BAN

Today's services marked National Detainees Day, which remembers those detained under the 21-month-old state of emergency, but they also were a protest against a Government decree last month banning political activities by the United Democratic Front and 16 other anti-apartheid groups, as well as the Congress of South Africa Trade Unions.

A new Government decree Saturday extended the prohibitions to include a new church-sponsored group against apartheid called the Committee for the Defense of Democracy, which was formally begun here today at the mixed-race University of the Western Cape.

In addition to the cathedral service here, four other smaller church services were held in Soweto near Johannesburg, in Port Elizabeth in the Eastern Cape and in Durban and Pietermaritzburg in Natal Province.

Under the state of emergency, church services for all practical purposes are the only public gatherings where anti-apartheid dissent can legally be expressed.

Despite roadblocks set up by security forces around Cape Town, busloads of black and mixed-race supporters wearing T-shirts with political slogans arrived at the cathedral today.

POLICE DON'T INTERVENE

Mr. Boesak and Archbishop Tutu had been among 150 clerics arrested and briefly held here two weeks ago as they tried to carry a petition to President P.W. Botha at his parliamentary office.

But the authorities did not intervene at the cathedral today, although plainclothes police and policemen with video cameras kept a close watch on the crowd before and after the service. Uniformed riot police were deployed a few blocks away with a large water cannon.

Archbishop Tutu reaffirmed support for the political objectives of the outlawed African National Congress, but not its violent methods. Mr. Boesak warned the Government that the church would not tolerate any interference in the financing it receives from overseas.

NO TURNING BACK

South Africa's Law and Order Minister, Adriaan Vlok, had warned Saturday that the Government would not hesitate to take "necessary action" against members of the clergy who followed the path of confrontation. Today, to loud applause and cheers in the cathedral, Mr. Boesak rhetorically responded to Mr. Vlok, "Where do you get the arrogance to tell the church of God that we must toe the line?" Mr. Boesak asked.

"We are entering a new phase of persecution of the church, but there can be no turning back," Mr. Boesak said at another point.

Also speaking at today's service were the Roman Catholic Archbishop of Cape Town, Stephen Naidoo; Jakes Gerwel, the rector of the University of the Western Cape, and Dullah Omar, a lawyer and regional chairman of the United Democratic Front.

Mr. Omar said Western governments, including the United States, Britain, France and West Germany, "had the blood of the oppressed people of South Africa on their hands" because of their support for the South African Government.

He said, however, that the Government's efforts to ban the activities of apartheid's opponents show that it is increasingly isolated.

"Even though we face the awesome might of the state, we are morally superior and stronger than this regime," Mr. Omar said.

The service, which lasted two and a half hours, included the singing of the American civil rights anthem "We Shall Overcome" and the African antiapartheid anthem, "Nkosi Sikelele Afrika," which means "God Bless Africa."

U.S. SENATE,
Washington, DC, March 7, 1988.

Hon. P.W. BOTHA,
State President,
The Republic of South Africa.

DEAR MR. STATE PRESIDENT: We are writing to express our deep personal concern at the continued incarceration of Mr. Zwalakhe Sisulu in South Africa. Mr. Sisulu is well-known and widely respected in the United States, having been a Nieman Fellow at Harvard University in 1984-1985.

Mr. Sisulu has been detained for over a year, and he has not yet been charged with any crime. During the period of his incarceration, his newspaper, *The New Nation,* has been the object of systematic harrassment by South African government authorities.

We know Mr. Sisulu to be dedicated to non-violence and committed to building a genuinely non-racial society in South Africa. Rather than strengthening the role of responsible and moderate black leaders inside South Africa, Mr. Sisulu's continued imprisonment strengthens the cause of those who pursue a radical agenda and who seek a violent solution to South Africa's problems. It is our opinion that Mr. Sisulu's continued detention does great damage to the cause of racial harmony inside South Africa.

For all these reasons, we are writing to urge you, consistent with South African legal procedures, to work for Mr. Sisulu's immediate release. There are many people inside South African jails whom we believe are no less deserving of their freedom, and by focusing our attention on Mr. Sisulu's case, we do not mean to suggest that these other individuals should not also be released. But we have the hope that, at least in Mr. Sisulu's case, you might be willing to consider our request favorably.

Thank you for your assistance in this matter.

Sincerely yours,

Edward M. Kennedy, Lowell P. Weicker, Jr., Claiborne Pell, Nancy Landon Kassebaum, Paul Simon, Mitch McConnell, Alan Cranston, Daniel J. Evans, Brock Adams, Dave Durenberger, Tom Harkin, Barbara A. Mikulski, John F. Kerry, Timothy E. Wirth, George J. Mitchell, Rudy Boschwitz, Patrick J. Leahy, Paul S. Sarbanes, William Proxmire, Jeff Bingaman, Spark M. Matsunaga, Frank R. Lautenberg, Thomas A. Daschle, Dennis DeConcini, Alfonse M. D'Amato, Dale Bumpers, John H. Chafee, David Pryor.

Albert Gore, Jr., Howard M. Metzenbaum, Daniel K. Inouye, David L. Boren, Christopher J. Dodd, Carl M. Levin, Donald W. Riegle, Jr., Joseph R. Biden, Jr., J. James Exon, Bob Graham, John Melcher, Terry Sanford, John H. Glenn, Jr., Bill Bradley, William S. Cohen, Ted Stevens, Arlen Specter, Wyche Fowler, Jr., Mark O. Hatfield, John Heinz, Daniel P. Moynihan, Lloyd Bentsen, Alan J. Dixon, John C. Stennis.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. Without objection, morning business is closed.

IMMIGRATION ACT OF 1988

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2104. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2104) to amend the Immigration and Nationality Act to change the level and preference system for admission of immigrants to the United States.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we begin debate today on a bill to bring long needed reform to our immigration laws. I am pleased to be joined in this effort by my colleague from Wyoming, Senator AL SIMPSON, whose longstanding leadership on immigration reform culminated in the landmark legislation enacted in 1986, "The Immigration Reform and Control Act."

Senator SIMPSON and I have worked closely together to fashion the pending legislation, which builds on the reforms contained in the 1986 act, and which reflects key provisions recommended in 1981 by the Select Commission on Immigration and Refugee Policy—a commission upon which we both served.

The 1986 act, based on the commission's recommendations, was debated for several years and finally adopted in the last Congress, but it dealt only with the complex issue of illegal immigration. Left for the future was the other half of the Commission's recommendations, the proposals for legal immigration reform. This is the issue before the Senate today, and the proposals have been extensively debated and reviewed. The essential provisions of the pending bill have been adopted twice by the U.S. Senate—in 1982 and 1983. As we note in our committee report:

> Few legislative proposals have had greater scrutiny or consideration that the immigration reforms contained in the pending bill. For more than a decade, reforming the system by which we select and admit immigrants has been the subject of interagency task forces, special commissions, and lengthy debate in Congress.

The bill before us reflects these years of study and deliberation, and it represents a consensus on what needs to be done.

Both Senator SIMPSON and I made it clear during the committee deliberations that our goal is to make the immigration system a more accurate reflection of the national interest, more flexible, and also, more open to immigrants from nations which are shortchanged by current law. Our bill accomplishes these objectives while fully maintaining the traditional priority we have given to those in other lands with family ties to the United States, and while preserving the fundamental principles of equity and fairness established in the 1965 reforms.

The bill creates two separate immigrant-visa "preference systems:" one for family members, and another for "independent" immigrants; 55,000 visas will be added to the new independent category; these visas will be available to most users of the present immigration system as well as to earlier sources of immigration to the United States. Because the largest share of all visas will still be reserved for family members of recent immigrants, the intent of the 1965 reforms is maintained.

By redressing the imbalances in immigration which have inadvertently developed in recent years, America will open its doors again to those who no longer have immediate family ties in the United States. For example, in 1986, because of the family restrictions, only 1,852 applicants from Ireland qualified for immigrant visas even though the statutory ceiling is 20,000 for Ireland and for every other country. Similar statistics could be cited for many other nations that have sent large numbers of immigrants to the United States in the past.

By placing more emphasis on the skills and qualities that independent immigrants possess, immigration policy will be more closely coordinated with the national interest. Under this bill, many countries which currently send only a few hundred immigrants per year to the United States may eventually receive a fairer share of our available immigrant visas. The overall benefit to this country will also increase, because a larger proportion of immigrants will have labor market skills.

In short, the bill we are proposing sustains the current emphasis on family reunification, while at the same time opening opportunities for "new seed" immigrants without family ties. And we do this not by restricting "family" visas but by providing additional visas for an independent category of immigrants. We have maintained our traditional priority for family reunification, while alleviating the unfair discrimination that current law imposes on other immigrants.

This bill also sets a national ceiling on immigration within which all immigrants will be counted, except refugees and asylees, whose admission will still be controlled by the Refugee Act of 1980. The level is set at 590,000 for the first 3 years—100,000 higher than the current level.

Within the overall level, we adjust the family preference system to give greater priority to the closest of family members. An additional 30,000 visas are provided to reduce the existing backlog in the current preference category for brothers and sisters of U.S. citizens.

The new category for "independent immigrants" is created for those with skills in short supply in the United States, and those in nations who have been unable to obtain visas under the current system because they have no family connections in this country.

We also assure a regular review of the immigration laws by requiring the administration to report every year on the effects of immigration, by requiring the administration to recommend changes in the level of immigration every 3 years, and by adoption of expedited parliamentary procedures for Congress to implement these recommendations.

These reforms are long overdue, and I urge the Senate to accept them. I am grateful to Senator SIMPSON for his bipartisan cooperation and support in developing this legislation. From the earliest days of our history, America has been a beacon of hope and opportunity to peoples in other lands. We are proud of our immigrant heritage, and we must do all we can to preserve that heritage, to build upon it, and to strengthen it for the future.

Mr. SIMPSON. Mr. President, it is a great pleasure to assist in the floor managing of an immigration bill with my fine friend from Massachusetts. The last time I served as chairman of the Subcommittee on Immigration and Refugee Policy, Senator KENNEDY was the ranking member. This time we switch roles as we deal with the new issue of legal immigration.

I want to say that my friend from Massachusetts, who now serves as chairman of the Immigration Subcommittee, was more than extraordinarily helpful to me in dealing with the issue of illegal immigration. He has proven to me to be a remarkable colleague. It was a very difficult issue for him, representing the State of Massachusetts; that issue of illegal immigration. Remember that the only times in the history of the Senate when we have ever dealt with immigration, illegal immigration, comes from when some Senator rides in from the West like a McCarran or SIMPSON, where the pressures are not as heavy on the colleagues who live in great conflicted resources, with conflicts among ethnic groups. That is not to say that we do not have those problems in the sparser populated States. We do. We have a great many Hispanics in my State, and illegal immigration needed to be corrected to protect them. That job is done.

And in the course of that the Senator from Massachusetts shared his long experience. He has been the central player in the issue of immigration and refugee matters in the Senate. He and his staff person, Jerry Tinker, has been at the task for 20 years in the U.S. Senate. They were always available to me for counsel and discussion, and we grappled with that issue for over 6 years. I think we have reached a good result there with regard to illegal immigration.

The legalization period will draw to a close on May 5, 1988. People are coming forward. Discrimination is nowhere to be seen. Some 70 cases were presented to the special counsels. Those things are pleasing to the sponsor, and to the sponsors in the House, to Democrats and Republicans alike because immigration reform, whether legal or illegal, is not a partisan issue. It never has been, it never will be and certainly it never should be.

So I am very pleased to join with my friend in this one in beginning a floor debate on this bill to reform the Nation's legal immigration system. This legislation is now the very important second step that was directed as our job by the Select Commission. It is a giant step toward what was described as "* * * the sound, coherent, responsible policy which serves the interests of the United States and is true to the deepest and best values and traditions of its citizens." That is the language of the Select Commission on Immigration and Refugee Policy.

As the Senator from Massachusetts has stated, both Senator KENNEDY and I served on the Select Commission along with two other Members of the Senate, one still in our presence, Senator DECONCINI, one absent from us now, Senator Mathias. We served there, and this bill followed very closely the Commission's final recommendations.

Much of what we will address here today was addressed by the original version of the Immigration Reform and Control Act which was introduced back in 1982. The need for immigration reform was great then, legal immigration reform, and is even more pronounced now for our legal immigration system is not now serving the national interest as well as it should or could.

Today, more than 90 percent—this is a rather startling figure—of all immigrants enter this country without any screening at all of their impact on the U.S. labor market and without any determination of what our labor needs are. Rather, they enter solely because they have family connection in the United States of America. Further, there is an apparent growth in our immigration system which has been driven—the engines that drive it are a foreign demand for visas, rather than by what our Government and the public believe is the appropriate level of immigration. This bill will retain our present very generous acceptance of aliens who are the immediate family members of U.S. citizens and permanent resident aliens, while also recognizing the need this country has for many immigrants with particular skills or qualities which are indeed in the national interest. That is our history.

So this legislation indeed, No. 1, sets a national level of immigration. It restructures the family immigration system to give preference to the very closest family members. That is what we should be doing, giving the preference to the closest family members. It creates a new preference category for independent or new-seed immigrants. It was Father Ted Hesburgh, or genial and remarkable friend of tremendous integrity, authority, and knowledge of this area who was so always seeking this issue of new seed, the new-seed immigrants referred to also as the classic immigrants, those who bring special skills, abilities, and substance to the fore.

So this legislation obviously represents a compromise. I put in a bill; Senator KENNEDY put in a bill. We went to work on that; our staffs went to work on that. And we have reached a compromise which has now come through the Judiciary Committee to the floor. We have reached that in order to address both of our serious concerns on immigration policy. We had some serious discussions about the national level of immigration, the necessity of bringing together and keeping together immediate families. Family reunification, yes, but certainly not recognizing as we have before nieces and nephews of persons who are authorized to petition under the preference system. Those were important things.

So this is the compromise. I think it is a compromise that will ensure that, indeed, the national interests will be served.

I have certain reservations about our retention of some aspects of the present family interconnection system. I am also aware that we have increased legal immigration. That is what we have done in this bill. We have increased legal immigration even though policies indicate that the American public generally is opposed to any increase.

However, I am convinced that since we have already witnessed a decrease in illegal immigration, we surely have, the INS apprehensions along our borders have decreased by 30 percent, except for one particular station since we passed the immigration control bill in 1986. The increase in legal immigration should therefore, I think, have no perceptible effect on the Nation other than to make immigration to this country "more legal" than it has been for many years.

Mr. President, finally during the autumn and early winter the committee held these hearings on reforms at which we received testimony from many of the respective immigration experts in this country as well as representatives from the Justice Department and the State Department. The testimony was overwhelmingly favorable and supportive. Changes were made in the legislation in response to what little critical testimony was received. So these reforms of our legal immigration system should be much less contentious than the 6 years of debate that we had on the illegal immigration legislation.

So I urge my colleagues to participate, to assist us in adopting the provisions of this compromise measure, the Kennedy-Simpson bill. I believe they are truly in the national interest and very consistent with our longstanding tradition of a very fair and very generous immigration policy for indeed that is our heritage. And we are now in this legislation revisiting that heritage with very authentic and honest approaches toward correcting an imbalance which was allowed to take place because we just do not revisit our laws often enough. Under this measure it will be revisited every 3 years. We will look at it closely.

We are here to do the oversight regardless of what party is in the majority. The players are here. With this measure the 3-year ability to review that from time to time we can look at what group might be squeezed and what group may not. All of these things can come to pass.

I am very proud to be part of this measure and will work very hard to see that it is passed. I thank the Chair.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me begin by commending the Senator from Wyoming and the Senator from Massachusetts for their work on this bill.

Immigration policy is a vital policy to a nation that is made up of immigrants. Obviously, we always are in the process of changing the mix of our laws that bring immigrants to our shores; but with all our concerns and with all the difficulties of existing law, I could not help but be struck by the fact that of the 10 outstanding high school science students recognized by Westinghouse, four were the children of immigrants who came into this country under the old law.

America has benefited greatly over the years by being the haven for people who sought opportunity, and I believe it is vitally important that that continue to be the case. I think it is vitally important that we have doors open to people who can come, who can contribute, and who can help expand the American dream in this Nation and everywhere in the world.

Obviously, for millions of people who go to bed every night, they go to bed dreaming the American dream. The reality is that, given the constraints we face in our Nation, not all of them can come here. But it is vitally important, when we set out a law which defines who can come and who cannot, that we look at that law very carefully; because, in a real sense, we are choosing the future of America in that law.

I long for the day when people do not have to come to America for the American dream. I long for the day when we can promote free enterprise and capitalism and private property and economic growth and democracy all over the world. Until that day comes—and I am confident that it will one day come—not just to the parts of the world which are free today but to Central Europe and, ultimately, to the people of the Soviet Union, we have to be very concerned about immigration policy.

There are several things, in this bill that I think should be looked at, and I would like to basically go through three of them, in the hope that maybe our two distinguished floor leaders might be swayed by the logic of my concerns and might decide to accept all three of these amendments, or at least some of them.

Let me first talk about user fees. This bill introduces, in a formal sense, a user fee for people who come into the country under what are now called special immigrant programs. These are people who have a combination of talents that we feel we need in our country, and the State Department is given the ability to impose a user fee. I thought my colleagues might be interested in what the current fees are and how close we are coming in terms of collecting a fee that is equal to the actual cost to the American taxpayer of processing the paper.

While I am one of the Members of this body who believes that we should not tear down the Statue of Liberty, that we should continue to let people into the country, I am not one who is hesitant to ask the people who are coming to America, who are having the opportunity to share with us all the bounties that dream brings, to pay the cost of processing their papers. In fact, it is the best buy going, anywhere on the face of this Earth today, to pay the processing cost to come to America.

Currently, we have the following fees in effect: If you are going to apply to come to the United States, it costs you $35 for a petition that is filed on behalf of the immigrant; $125 is paid by the immigrant for a visa application; $25 is paid by the immigrant for the issuance of the visa. That is a grand total of $185. That is currently what is being paid.

I have contacted Immigration and Naturalization, and they tell me that the $35 fee currently being paid covers their cost. The State Department says, however, that the existing $150 of fees does not cover their cost, that their current estimate, based on a study in 1985 and 1986, is that their cost is $187.50.

This means that, currently, the fee structure is short, based on estimates in 1985 and 1986, by $37.50 of covering the full cost of people who are applying to come to the United States and who, therefore, are using services that have to be paid for by the taxpayers.

If you look all the way down to the fifth preference, which are brothers and sisters of people who are U.S. citizens, we have 1,210,610 people who are waiting for fifth preference. So I have no doubt about the fact that we have plenty of people who are willing to reimburse the taxpayer totally for the cost incurred in simply processing their papers. Frankly, in the era of tight budgets, I think this is an eminently reasonable proposal, and I hope it will be adopted.

The second issue I want to look at is the issue related to the subject matter on page 22, and that is the so-called investor provision.

Mr. President, the logic of this bill, as I understand it—and I certainly am not an expert, as are our two colleagues—is that we have so many people who want to come to America that we are now in a position where all of them obviously cannot come, so what we are trying to do is to pick and choose and try to be sure we can get people who can come in and immediately be contributing members of our society.

As a result, we set up these new provisions related to select immigration, to try to make it possible for more people who have specific skills that we need to come to America. I think that is a reasonable proposal.

Comparing our immigration, which in the early days basically entailed taking anybody who wanted to come, with the immigration policies of other nations which have taken only people highly educated and highly talented, and looking at the result, I am not sure that our process did not work better.

In any case, obviously there was a logic in the investor provision, in that if you are going to take people who have skills, who have college degrees, who have scientific training, because scientifically trained labor is a factor of production and that will continue to help all our society, then the idea is that people who have capital that they want to invest are people who have something to contribute to the factor of production and that, therefore, that should be one of the facts—not the only one, not even a major one—but one of the facts whereby people can come to America.

In this bill that level of capital is set at $2 million.

Now, I submit, Mr. President, that $2 million is a lot of money, and I think $2 million would substitute for a couple of Ph.D.'s, depending on the subject matter, and I agree with the logic of it. If people can contribute coming to America with scientific ability, they can contribute coming to America with the ability to invest and start a business and to actually employ people. That is the logic on page 22 of this investor provision.

I think, however, Mr. President, that that figure is too high. I think that figure is too high, and one of the figures that I would like to ask our distinguished leaders to look at is a figure of $250,000. I pick $250,000 because basically that is the rough sum of investment capital that is required to acquire a franchise in most of our franchised companies in this country. It is a figure that is clearly sufficient to set up a grocery store or a laundry or any other small independent business. If we are trying to assure that we have special access to people who can bring new skills and new talents, I think the ability to show that you are capable of setting up a small business is of equal value to showing that you possess some advanced degree. In fact as one of our great Presidents. Calvin Coolidge, once said, "The business of America is business."

I agree with the logic of the existing bill. I just think the figure is so high as to exclude a lot of small entrepreneurs who would like an opportunity to put their talent and their money to work in the one place on Earth where there has always been fertile soil for entrepreneurship.

So I hope that we can do something in adjusting that figure downward because I think quite frankly, it is too high.

Again, I want to be sure that people understand that we are not saying that you have to have capital to come to America. Nor are we saying you have to have some advanced scientific training to come to America.

But clearly part of this bill is to give some degree of preference or at least set up some categories where people who have advanced training, people who have capital and want to invest it can come to America and bring their skills and bring their capital.

I think the figure we have set here is so high as to exclude everybody except people who of all people on Earth are less in need of the fertile soil for American capitalism than most others. And it is the people who would like to see their life's savings grow to those figures that I would like to see come to America along with those who have already made it.

Finally, I would like to just throw something out for discussion that I am a little bit concerned about and that has to do with the provision dealing with fifth preference.

Now I remind my colleagues that fifth preference has to do with brothers and sisters. Last year we had under current law, as I read the numbers, about 64,800 people who came to America under the fifth preference.

I thought I would look up and see how many people are waiting to come to America under fifth preference, and again fifth preference is made up of people who are brothers and sisters of American citizens. As of January 1986 there were 1,210,610 people waiting to come to America as brothers and sisters of American citizens.

Now obviously that is a lot of people. Realistically under the kind of restraint that we have most of those people are never going to make it to America.

I submit, however, that the change in this bill which excludes fifth preference brothers and sisters who are married and simply limits it to those who are not married is not fair. I think this is especially harmful to a lot of Americans who come from Old World cultures that are family oriented that have extended families. I think the net result of this is that it forever slams the door on the possibility that their brothers and sisters who are married would ever have an opportunity to come to America.

I quite frankly am concerned about this. I think it is an arbitrary distinction. If some limit were set in terms of age, that might be logical. But simply setting the limit based on whether you are married or not does not make any sense to me, if the objective is to set out a clear preference that will allow siblings to come into the country.

So I hope that we can at least look at this problem as we consider the bill. Again we are talking about a severe limitation under this bill on fifth preference. Obviously, if you are looking at 1.2 million people waiting to come, a lot of them are not going to make it, but quite frankly I just for the life of me cannot understand the logic of slamming the door on 1.2 million people who would like to come to America by simply saying those who are married we are not even going to consider and those who are not married we are going to consider. That just seems to me to be an arbitrary distinction, and I am not sure that we want to make it.

I quite frankly would be willing to apply almost any other kind of objective criteria to trying to make the distinction. If you wanted to apply these technical proficiency provisions, I could not object to that. But simply on the one criterion of whether people are married or not, I do not think that is fair and I think that is something that ought to be considered.

So, while there are three areas of the bill that I think we ought to look at and we ought to talk about, I would have to say to my colleagues that overall I would have to say that this is a good bill.

I feel sensitive about this issue because I happen to be one of the people who believes that new Americans are often the best and that we have benefitted greatly by having people come into this country and not only share the fruits of America's greatness but contribute to the creation of those fruits. I want to be sure that that continues, and I think this bill goes a long way toward doing it.

So having raised those three points, to give me an opportunity to visit with the floor managers of the bill, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I welcome the general support that has been given to the legislation by the Senator from Texas and would like to address some of the points that have been raised and then perhaps pursue the discussion further with him and with my colleague, the Senator from Wyoming.

As I correctly pointed out when we established the independent category, we did not want to provide additional financial burdens on the American taxpayer. So we consulted with the Immigration Service and also with the State Department to provide sufficient authority to those agencies to ensure that there would not be additional financial burden upon those individuals who by nature, description and purpose will have some additional skills a good opportunity for employment here in the United States, that they would be able to pay their fair share of the load which is the filing, the review, and the finalization of any kind of a visa program. The Senator has correctly explained what was in the current legislation and now, as I understand it, he wants to extend that logic over to the other provisions of the legislation as well.

I have no objection to that, Mr. President, and basically in terms of the concept of user fees I have some sympathy with the concept. I am not going to get into what I think could be done in terms of new drug applications and the financing of the FDA and other issues which I have explored at other times.

But just on this issue, in principle, I have no objection to extending that concept. I only had the briefest opportunity to explore that with the Senator from Wyoming, but perhaps we will have a chance to do that.

On the second point that the Senator has made in terms of the investor provisions, he goes back to a previous condition that existed in the old legislation. Whether he does so by purpose of design, the figures that he has quoted are virtually identical to the older investor provisions of the old legislation.

This particular aspect of the legislation that has been developed now I think has advantages over the older provision. This particular approach has been advanced by the Senator from Wyoming and it is a provision which I support. And the idea is not that we are going to just effectively permit people to buy their way into the United States of America. We do not want to—I do not, quite frankly—have that feature a part of an immigration bill.

We still have significant unemployment, and if we have investors who want to invest in the United States and it appeared with consultation with various financial firms and investing groups and the review of current investment practices, if they invest some $2 million and, most importantly, employ 10 individuals for a period of 2 years, they are given some consideration. They are given the opportunity to be able to invest in the country some significant amount, actually employ American citizens and I think that there is perhaps a role for that limited program. We are just talking about virtually a handful of individuals that we expect to pursue that.

The point that the Senator from Texas makes, if you want to invest in a restaurant, if you want to invest in a laundry, you can do that now. You can get a nonimmigrant visa. There are many who do that in many parts of the country. They can come on over, invest in the United States, have their restaurant, go back and forth in terms of managing it, but they have a nonimmigrant visa.

I think that that distinction is a useful one, to make a distinction for those that, by their design and by a significant investment and by actually employing Americans, showed a different mood or atmosphere than just investing in the stock market or buying some franchise. I think there is some distinction there.

So I hope that the membership would understand that these particular provisions have been reviewed. We have tried to consider some of the points that have been made in previous debates. I believe we will probably face this issue again by amendment perhaps later in the afternoon.

But I want to give the assurance to the membership that the figure that was included in this has been carefully considered. The idea of being able to ensure that you are going to be employing individuals who have been considered and the implications of the ability for smaller investors to come here and invest in these franchises and in smaller businesses still is readily available under this bill as it is under the past bill. So I hope that this provision would be sustained.

The final provision deals with the fifth preference. I point out to the Senator from Texas that those 1,200,000 people are basically grandfathered in at the present time under the bill, so that those who are on the list, so to speak, will remain on the list. I think a part of the advantages of this bill will be sort of truth in legislation. It is virtually unrealistic for hundreds or thousands of those individuals ever to expect they are going to get to the United States during their lifetime because of the list. And it has been trying to recognize the balance between the numbers and what will be acceptable and agreeable both to the American people and in terms of the particular relationships and families that we have tried to make some adjustments in here to be both realistic and to bring those elements of the family, which are generally perceived to be members of the family who are unmarried, with the concept of people who have got married and started their own families or are in a different life cycle, but not completely, though.

So we ensure that the 1,200,000 will be grandfathered. And if I could have the attention of the Senator for 1 minute, what we do provide in this legislation is, even though under our provisions preference is given to the unmarried, that if the parents are alive, they can make application for their children, even if they are not going to be squeezed out of the fifth preference, they will be able to come in under the fourth preference. So we are dealing with a backlog, we are adding numbers to reduce the backlog, and we are still permitting those who are married to come in under other provisions. What we are doing is providing a much greater degree of certainty to the closer members of the family of actually being able to be united with their families.

Mr. GRAMM. Will the distinguished Senator yield? There just may be a confusion here that maybe he could explain. It was my understanding that we were going to have a grandfathering for 3 years and that we were going to take 30,000 people for 3 years or a total of 90,000; is that right?

Mr. KENNEDY. We are doing, effectively, both.

Mr. GRAMM. So the 1,200,000 will remain on the list and will be qualified, given the availability of a slot?

Mr. KENNEDY. The Senator is correct.

I am glad the Senator brought that up because there has been a considerable amount of misinformation about exactly what we are doing here. I think what we are doing is important in this area. I think it is going to be much more realistic. There is going to be a much greater degree of certainty and families will know realistically whether they eventually will be unified or if they will not. And yet there are still provisions that will permit those who may be married and have brothers and sisters here and have their own families—we are not excluding the possibility that they can come under other provisions. But that, as I described it, is my understanding of the legislation.

I welcome the comments of my colleague about the various approaches that the Senator from Texas has made with regard to the financing of the various applications and also on the investor provisions, to see whether the representations made is the understanding the Senator from Wyoming has with regard to why those provisions, in terms of investor, were included in the legislation.

Mr. SIMPSON. Mr. President, I thank the Senator from Massachusetts.

I particularly thank the Senator from Texas. He has been an extraordinary student of this issue. He comes from a State that is most heavily affected and impacted by illegal immigration. He became a player when he came to the Senate from the House. He has been a superb counsel to me because he stays with the total reality of the situation at all times, even though he has a professional bent which is known to us in this Chamber. But he has a remarkable ability to blend that professorial bent with some good old pungent English and you can hear exactly what he says on issues. So he has been very helpful on the illegal immigration issue and I think, obviously, the questions he is asking here are going to be very helpful.

So let me, if I may, briefly try to summarize and dovetail in with Senator KENNEDY's remarks. The user fee issue, I think, is something acceptable; I certainly think it would be to the floor manager of the majority. I think it would be good to include that same user fee as we clear the backlog and place that user fee on those 30,000. I think that is only appropriate. I think that is just a minor technical correction. So I think that that—and, of course, I have not counseled formally with my colleague from Massachusetts—but I think that that would work quite well. I think we can do that.

Just a quick reference to the investment amount, that was originally a provision in the original immigration bill. It was called the investor preference. Now, of course, it is referred to as the employment creation portion of this bill.

The $250,000 investment amount was set by the original 1982 bill. But there has been, I think, a great deal of inflationary activity since then. Unfortunately an investment level as low as $250,000 would allow someone who wanted to misuse this provision which is, we think, a fine provision for creating jobs and creating investment opportunity. To get it too low you would allow someone to come with just enough to build a house and hire people to care for the house and pay them as U.S. citizens or permanent resident aliens; you could do that and then receive an immigrant visa for this rather low investment.

I think, in addition, there appears to be a sufficient number of people who are willing to immigrate and invest the full $2 million.

We tried to check and see how many there might be. We think that is quite a sizable number. But I think if we lowered the investment amount to this figure of $250,000, I think it would act only to deprive the United States of the potential job-creating capital. The figure, I guess, of $2 million is certainly high but it is certainly not what it used to be. I would certainly be glad to visit with the Senator from Texas before he comes to the formal part of submitting an amendment, and maybe we could talk about another figure. I am willing to discuss that. I do not know whether the chairman of the subcommittee is willing to do that but I am certainly ready to discuss a figure which would be less than $2 million but not as low as $250,000. We would be glad to visit with the Senator from Texas concerning that.

Then, finally, with regard to the fifth preference, that is a tough issue; you are in a tough area. But anything to restore the visa numbers or classes of people to the fifth preference category I do not think is appropriate. And here is why: It is a very simple reason. It is not to make it tough on people, although we have one person in New York who has brought in 64 derivative relatives on one U.S. citizenship and I do not think that is what we had in mind when we were talking about "immediate family" and "family reunification."

I do not think anyone envisioned that someone would bring in 64 derivative relatives on one U.S. citizenship. And when they come they come under the fifth preference. So we make a mistake, I think, of granting this extraordinary preference to brothers-in-law, sisters-in-law, and nieces and nephews of U.S. citizens.

Please hear what is happening. They are taking away numbers from others who have a closer family connection. That is what is happening. This is what we are trying to correct.

We made this modest change in the fifth preference and agreed to clear the backlog and I do not know how many are in the backlog. Your figures are absolutely correct, 1,210,000; but we do not know how many became legalized or are being legalized under the present legalization. We do not know how many are deceased or not on the rolls anymore.

One of the State Department persons that we have worked with said it might be 20 or 30 percent that might actually be in that backlog. And if we are going to clear them on the basis of 30,000 per year plus 10 percent moving up into the other preference category, we are going to reach them all and I just do not think it is sense for us to grant visas to the distant relatives when the immediate family of permanent resident aliens are required to wait 3, 4, 5, 6, 10 years to come to the United States for visas. Now should we allocate visas to the category of people when they could be going to our new independent immigrants instead.

That is something I would share with the Senator from Texas, and I think it is an important one. What happens, if you leave it there, once a married brother-in-law or married sister-in-law immigrates, he or she may eventually apply for his or her married brothers and sisters and their family and, as you can see, the increase in the visa demand in that category is simply geometric.

So, in hearings before the Immigration Subcommittee, Senator KENNEDY and I heard one immigration expert, very well known for his clear conception of this, and for his advocacy also of higher levels of immigration, state that current fifth preference is a very poor allocation of valuable "scarce goods," which is a U.S. visa for permanent residents. So we are crushing in on those in the permanent residency when we do that.

I guess the consensus came to us in the last years of dealing with it that the fifth preference is really more of a mirage than a visa category and if we leave it in it prolongs that myth. The Senate, twice, has rejected the fifth preference. We rejected that in the original bill; the 1982 immigration bill eliminated the fifth preference entirely. That was before the Senator from Texas joined us and that passed by a vote of 80 to 19. The 1983 immigration bill removed married brothers and sisters from the fifth preference and that passed by a vote of 76 to 18.

So I would hope that that would not arise and we try to deal with it thoughtfully. I had reserved the right to offer an amendment to eliminate the fifth preference altogether in this measure. In my bill I completely eliminated the fifth preference but I had almost decided to hold the amendment, stay with the compromise. It comes to a choice between the fifth preference as it now stands, brothers, sisters, brothers-in-law, sisters-in-law, nieces, nephews; and I certainly would prefer to go to eliminate it entirely if we were going to do that; but I think we have a balance here. I am ready to hear it out. In the debate we will come to that. But the fifth preference and with the clearing of the backlogs and 20 or 30 percent of the people actually showing up, I think that is very logical, that we will take care of that quite well.

But they impinge on the people we are really trying to join, the immediate family and family reunification and I thank the Senator.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Texas.

Mr. GRAMM. Mr. President, first of all, since we, apparently, have agreement on the user fee provision and since it is an opportunity to see that we pay the bills and we protect the people that are already here trying to pull this heavy wagon from having another cost imposed, I would like to go ahead and offer that amendment.

AMENDMENT NO. 1644

(Purpose: To provide for a user fee)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 1644.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 45 strike all on lines 15 through 21, and insert in lieu thereof:

"(a) VISA FEES FOR IMMIGRANTS.—The Secretary of State shall provide for a schedule of fees to be charged for the filing of a petition for any and all immigrant categories under section 201(a)(3), 203(a) and (b). The fees established under this subsection shall be sufficient to cover administrative and other expenses incurred in connection with the processing of petitions for any and all immigrant categories filed under sections 201(a)(3) 203(a) and (b)"

Mr. GRAMM. Mr. President, this amendment is a simple amendment. It just says that when people apply to come to America that the Secretary of State will have the ability to set a user fee that covers the full paperwork costs. I want my colleagues who might be concerned that this might exclude somebody to realize that, in most cases, except for the State Department, we are coming very close to collecting the actual costs of providing the visas; that this will simply give the ability to cover that extra part of the costs and thereby protect the taxpayer. It will also give the ability to the State Department, as costs rise in the future, to look at the option of asking that they be recovered. I think that this is prudent policy in an era of tight budgets. When we clearly are talking about giving somebody perhaps one of the greatest earthly gifts, and that is the opportunity to be an American, I think asking people to pay the full cost of processing the papers is eminently reasonable.

As I understood the comments of the distinguished chairman and ranking member of the committee, they would find this acceptable.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. KENNEDY. Mr. President, I have no objection. I think it empowers, as the Senator from Texas correctly stated, the Secretary of State to establish that fee and as he correctly pointed out, the fee that is charged now is really quite close to it and it follows what we had recommended in other provisions of the bill. So it is completely consistent with the spirit of the bill and I think it is a useful amendment. I would hope that it will be accepted.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I do have an inquiry. The State Department now, I believe, sets the fees on immediate relatives. I would just want to be certain that the fees that are set here for user fees would be, I hope, the same for the persons that the amendment of the Senator from Texas is intending to reach plus the people that we clear in the backlog plus immediate relatives; is that the intent of the activity?

Mr. GRAMM. Mr. President, the clear intent of the amendment, and I made a change to reflect that, is to ensure that anybody who applies will have to pay the user fee set by the Secretary of State, and that that user fee would be sufficient to cover the full cost.

Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment, as modified is as follows:

On page 45 strike all on lines 15 through 21, and insert in lieu thereof:

"(a) VISA FEES FOR IMMIGRANTS.—The Secretary of State shall provide for a schedule of fees to be charged for the filing of a petition for any and all immigrant categories under sections 201(a)(3), 201(b)(2)(A)(i), 203(a) and (b). The fees established under this subsection shall be sufficient to cover administrative and other expenses incurred in connection with the processing of petitions for any and all immigrant categories filed under sections 201(a)(3), 201(b)(2)(A)(i), 203(a) and (b)".

Mr. GRAMM. Mr. President, this modification simply assures that each applicant, whether they are in the backlog or whether they will be prospective in nature, will pay the full cost of doing the paper work to make application to come to this country.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SIMPSON. Mr. President, I thank the Senator from Texas for modifying that amendment which now covers the immediate relatives and the people reached under the original amendment and those in the backlog. I thank the Senator for his cooperation. It is a good amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment, as modified.

The amendment (No. 1644), as modified, was agreed to.

Mr. GRAMM, Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection, it is so ordered.

AMENDMENT NO. 1645

(Purpose: To eliminate the allocation of visas based on investment in commercial enterprises)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas, Mr. BUMPERS, proposes an amendment numbered 1645.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 21, strike out line 24 and all that follows through line 16 on page 22.

On page 22, line 17, strike out "(5)" and insert in lieu thereof "(4)".

On page 22, line 20, strike out "(3), and (4)" and insert in lieu thereof "and (3)".

On page 25, line 10, strike out "(5)" and insert in lieu thereof "(4)".

On page 25, line 16, strike out "(5)" and insert in lieu thereof "(4)".

On page 25, line 22, strike out "(5)" and insert in lieu thereof "(4)".

On page 26, line 2, strike out "(b)(5)(B)" and insert in lieu thereof "(b)(4)(B)".

On page 29, strike out lines 10 through 12.

On page 29, line 13, strike out "(G)(i)" and insert in lieu thereof "(F)(i)".

On page 29, line 14, strike out "(5)" and insert in lieu thereof "(4)".

On page 30, line 1, strike out "(5)" and insert in lieu thereof "(4)".

On page 30, line 4, strike out "(5)" and insert in lieu thereof "(4)".

Beginning on page 33, strike out line 8 and all that follows through the item between lines 20 and 21 on page 42.

On page 42, line 21, strike out "SEC. 5." and insert in lieu thereof "SEC. 4."

On page 43, line 15, strike out "(5)" and insert in lieu thereof "(4)".

On page 43, line 19, strike out "(5)" and insert in lieu thereof "(4)".

On page 44, line 16, strike out "(5)" and insert in lieu thereof "(4)".

On page 45, line 2, strike out "(5)" and insert in lieu thereof "(4)".

Mr. BUMPERS. Mr. President, I think the floor managers are well versed in this amendment, and we have discussed it. I sent out a Dear Colleague letter to all of my colleagues last week.

We fought the battle on this very same provision in May 1983. It was objectionable in the original immigration bill, and it is even more objectionable to me now. The Senate voted in 1983 by a vote of 51 to 46 in favor of my amendment and 44 of those 51 Senators are still here. I trust that all those 44 will have the same objection to the provision in this bill now that they had then.

Mr. President, it is this: There is a provision in this bill which the floor managers and the distinguished Senator from Texas have already discussed. In 1983, they called it the investor preference provision. In 1988, they call it the employment creating investors provision. The correct name is the fat cat provision. The fat cat provision, very simply stated, is if you have $2 million, and you want to come to the United States, and you will promise to take that $2 million, invest it here, and employ 10 people in the process, you can get on the track to being a full-fledged citizen of the United States.

Mr. President, that is not what America is all about. We have never allowed people to buy their freedom into this country. It violates the very marrow of the moral values of this country. Our character is better than that. In 1983, the provision was if you had $250,000 and would employ 4 people; now it is $2 million and 10 people.

If this amendment stays in the bill, the President ought to pardon every single person that was convicted in the Abscam case. What was the discussion around the table in the Abscam case? The FBI sheiks saying to politicians, "Members of Congress, I may get in a little trouble and I may need to come to the United States. But I will have $20, $40, $50 million to invest." That was all filmed by the FBI. It was a violation of the law, and they were convicted and went to prison for it.

What they went to prison for was taking or agreeing to take money under the table in exchange for allowing these people and handling their immigration rights here in the U.S. Senate and the House of Representatives. Here we are brazenly doing the very same thing on top of the table. The difference is nobody here will benefit out of this. But I know at least one of the Abscam defendants when he was propositioned on this very same thing said, "No, I can't do that," when they offered him money in exchange for citizenship. He said, "I am a United States Senator," if I recall seeing that FBI television show. He said, "That is not the way I operate." But he was convicted anyway.

Here you have a provision that was adopted on a very overwhelming vote by the Select Commission on Immigration who studied this and voted 16 to 1 in favor of this provision. I will never understand that. But you know who the one was?

It sort of reminds me of when Abraham Lincoln took a vote of his Cabinet and about nine Cabinet Members voted "yes" and Lincoln said, "No. The vote is nine to one in favor; you lose."

In this case, so far as I am concerned, the 16-to-1 vote was similar because they lost. Fr. Theodore Hesburgh was the dissenting vote. Father Hesburgh chaired the 1981 commission. He made precisely the same arguments that I am here to make this afternoon.

Let me quote precisely what Father Hesburgh said. "There is nothing wrong with persons who wish to invest, and investment is good for the U.S.A. But the rich should not be able to buy their way into this country."

I can talk longer than that. But I cannot say it any better. How many fathers and grandfathers and great-grandfathers of Members of the U.S. Senate would be here today if there had been such an economic test for their immigration?

The issue I want to make is that why on Earth would we allow somebody to come into this country because he can produce $2 million while over 60,000 deserving brothers and sisters are on a waiting list, and cannot get in?

Mr. President, I have a list of all those who voted in 1983 on this. The Senator from Massachusetts may have changed his mind since then. He voted for it and made a very eloquent speech in favor of the same proposition. I trust that he will do the same thing today.

The arrangement is that if you have $2 million, we have room for 4,800 of you, 4,800 people. If we have room for 4,800 people in this country, it ought not be because they can come up with $2 million. It ought to be because they are deserving and because our national character dictates that they have a right to be reunited with their families.

The argument will be made that we are going to very carefully and zealously guard who comes in, to make sure they do not defraud us.

Mr. President, I was a trial lawyer before I was a politician. The law says that fraud is always a matter of intent, and the Attorney General will have to make a decision that only a jury can make. If they say, "You can't get in because we don't quite trust you," how are you going to prove that this man intends to defraud the Government?

What kind of investment? You have a drug dealer from Panama, and he knows he is about to be caught. He is not likely to be caught in Panama; but, just for the sake of argument, let us assume that we have a drug dealer in Panama who is trying to get out of there. It would not take him a New York minute to come up here and offer $2 million if his life were at stake. There are a lot of drug killings. Maybe his life is on the line. We do not know he is a drug dealer. He has never been convicted of dealing in drugs. He wants to get out of Panama to save his life and get to the United States; and if he has $2 million and if this provision stays in the bill, he can do it.

The provision does not even require him to manage his investment. At least, the 1983 provision said that if you come here and you invest $250,000 and you employ four people, you have to stay here and manage it.

Why would we let somebody in because he had $2 million unless he also had a skill? What if he wants to start a casino? Is that permissible? There is nothing in the law to say that he cannot open a casino. There is nothing in the law that says he cannot establish a house of ill repute.

What if he decides to declare bankruptcy, which was his original intent, anyway? He invests $2 million in some kind of business, and 3 weeks later he decides to declare bankruptcy. What do you do with him? Deport him? Deportation proceedings are not easy. If somebody has $2 million when he comes here, there is a very good chance that he has another $2 million that he is not investing, and that will buy a lot of legal advice and will buy a lot of time in a deportation proceeding.

Mr. President, there is no study showing the economic impact of this provision. Nobody can tell you how many people will come. Nobody can tell you what kind of investment we can expect out of it.

The argument will be made by the floor managers of this bill that Canada and Australia have similar provisions. Do you know what Australia uses theirs for? To try to build population. Australia needs more people. They need more labor, and they use theirs for that reason—to build their population. I do not care. I could not care less what Canada and Australia do. Maybe their national character is not the same as ours.

We have a bill moving through both Houses of Congress now—and this is an interesting contradiction, it seems to me—that says that in the future, people who invest in this country will have to reveal themselves, the size of their investment, and where their investment is going. If you read the New York Times this morning, you saw that some of the lobbyists for some of the biggest corporations in America are objecting to that bill. The biggest corporations in America have lobbyists swarming the Halls of Congress saying, "You can't do this. It is going to be a disincentive for investment."

Do you know why those bills were introduced? To stop the selling off of America. It is not to try to get people to invest more. We do not have these bills floating around here to make the Japanese and the Germans and all the drug dealers of South America identify themselves as an encouragement to more incentive for investment. We have those bills floating around here because we are trying to stop it. We do not want them to own all our banks. We do not want them to own everything in America—land, banks, corporations, and so on.

While I understand why some of these lobbyists are exercised about that, is it not a contradiction that there seems to be a feeling in this country that we have to stop those massive investments in this country and then come in here with a provision in the law that states just the opposite.

As for the argument that very few will use the provision, who knows? I do not know how many people will use it. I suppose the managers of the bill can give you some kind of example of a case that would be an exception rather than the rule as to how and when such provision might have some merit. So far as I know, GAO has not given them an opinion. I do not know of any study by any group on the effects of this provision.

All I know is that I agree with Father Ted Hesburgh when he says it is immoral and it violates what we stand for in this country. I hope my colleagues will join me in striking this from the bill.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SIMPSON. Mr. President, I think all of us in this body know—at least I know I do, after being here 9 years—that when our colleague from Arkansas speaks, he speaks with great sincerity and great passion and great strength, and powerfully so. He has done that once again. I have the greatest admiration for him—and that is not so that what is coming next should unravel him. I enjoy his friendship and his good humor and his counsel. He has been very generous with that, especially with me—his good counsel.

He has said some powerful things, dramatic things. But I assure my colleagues who are listening or watching that this is not Abscam. This does not have a thing to do with Abscam—nothing. This is not "fat cat." That is not what this is.

A select commission voted, 15 to 1, to restore and keep this preference—not for the purpose of rewarding people or allowing people to buy their way into America, or that America is for sale. That is an inflammatory series of comments that do not fit what we are up to.

We have room for millions more, not thousands. We have room for millions more in the United States of America.

That is what we are doing here. We are going to legalize over 1 million, and, under the illegal immigration bill, I hope more. We do not know how many are here. We are going to raise our numbers here by 80,000. We are never going to put a limit on immediate relatives. We are going to revisit the issue annually and every 3 years. That is what we are going to be doing.

We have in our law right today a preference for investors. Please do not anyone be lead astray as to what is happening. This is not just some new novel thing that we have proposed, and 15 of us proposed it out of the 16 members of the Select Commission. We have a preference right now for $40,000, to invest that much, and hire—I cannot recall the figure. No, there is no restriction on how many would be hired.

But here is what I want you all to hear. There is a nonimmigrant category right now in the E visa series called treaty investors, and there are 30,000 of them in that right now. There are people who have homes in Brussels who invest in Florida and who bring jack to the United States, real piles of it, and they are called treaty investors and they are nonimmigrant visas, and there are 30,000 of them in the pipeline. They are here. They are not immigrants. They do not qualify. They are nonimmigrant visas and the only requirement, I think, is that they hire one person and a $150,000 investment, and they are called treaty investors, and they are here and this will not reach them at all. You can knock this provision out. It will not even touch them. I do not know why you would want to touch them. Why would you want to get rid of those who are here as treaty investors, bringing in at least $150,000, and there are 30,000, and they at least create one job and many create more.

So I think we have to keep that in context here. It is not the high drama that is expressed.

I oppose this amendment to delete this employment creation preference in the bill before us and at an appropriate time will move to table the amendment when all the debate has been completed and with complete deference to my friend from Arkansas.

We are talking here about allocation of only 5,000 visas per year to persons who create 10 jobs in the United States of America.

If you want to talk about the little guy, talk about the little guy who is going to get knocked out of the bushes because his investor cannot come in and so if you throw this out, you have denied 10 U.S. citizens or people with permanent resident alien status or people with work status in the United States, under whatever various categories we come up with, new jobs.

What is the purpose of that? I do not understand that. With 5,000 visas you can hire 50,000 American citizens or permanent resident aliens or those authorized to work in the United States. We should not just shuffle them off to Buffalo on this one. That is not what we should do. Fifty thousand people will be involved, little guys, guys maybe who are permanent resident aliens and been waiting for their spouse or minor children for 4, 5, 10, 15 years—some of them wait that long—and now with a job or a person is willing to invest $2 million to create 10 jobs, and those are new jobs in the United States. They must be created through the investment of at least the $2 million in the United States in a new commercial enterprise of which the alien must be the principal manager.

We are not talking about drug dealers who are coming to set up shop just because they have $2 million. We are talking about a new commercial enterprise of which the alien must be the principal manager of the business and then go hire 10 people in this country who I am sure would be very delighted to work. The aliens who create the new jobs and invest the required money will receive a conditional status. They cannot run in and run out. They cannot just hook on and distort and defraud our systems. Under this, they are going to receive a conditional status for 2 years, so that we are then able to ensure that their investments and their job creating activities were not entered into merely to evade the U.S. immigration laws. It is a very key part to remember here, a conditional status.

I cannot imagine anything more in the national interest and that is the whole attempt of the Senator from Massachusetts and the Senator from Wyoming, to get back to the national interest on legal immigration, classic immigrants, people who have certain skills and labor qualifications that add a great dimension to our country; people, only a very limited number under a point system, 50,000 in this bill, with special attributes that apply to age and minimum competency in English and skills, and those are important things. That is a pretty low figure to select out of the number of legal immigrants. But this is less than 1 percent. You can knock it out, but it is only less than 1 percent of the entire national level of immigration to those persons who wish to create new jobs in our country.

And I do seriously and vigorously reject the argument that this is some fat cat preference that will allow people to buy their way past the Statue of Liberty. Let us be quite honest with each other in this debate. Many of the present requirements of the U.S. immigration law are solely economic in nature. They really are. You look at them. They always have been.

We were looking for people to build the dams in the West. So we selected the Italians to come to Wyoming in 1910 to build the first reclamation project. We selected people to do the work. That was economic. And they came and they did the work. There are mothers, there are grandparents and grandmothers and grandfathers. I can tell my story. My middle name is Kooi. My grandfather came from Holland and worked on the railroad in Chicago. He was orphaned early, and he went to Wyoming and eventually ended up running a coal mine.

Not one of us cannot tell those stories. Maybe we can all just admit and take judicial notice of those.

What we are talking about here is something totally different than anything that has to do with buying your way into the United States of America.

The educational and occupational preferences that are in our law, and they are all through the law, educational and occupational requirements in our law simply that a person must have spent money to acquire these skills. We often deny visas to persons who would likely become public charges. We do not even let them in. Talk about discrimination. Who is more ragged than a person who would be a public charge, and yet they cannot come to the United States under our present laws if they are to be admitted as immigrants.

And as I say, in addition, this amendment does not allow anyone to do the nefarious act of buying their way past the Statue of Liberty.

It does require them to create some jobs for the lesser people in the United States who are U.S. citizens and permanent resident aliens and create opportunities for U.S. workers if they wish to receive visas.

I think that it is puzzling to me to speak of this provision which somehow betrayed our concern for the less fortunate, when in fact this provision will create jobs for the less fortunate in our society. The effect is just the opposite as that claimed by the sponsors of the amendment.

So I would say, Mr. President, that I find job creation a goal that is clearly in the national interest.

I believe the Judiciary Committee report sums it up very well. It says:

> This preference is intended to create new employment for U.S. workers and to infuse new capital into our economy, not to provide immigrant visas to wealthy individuals.

And I think this amendment—respectively, I say—completely misrepresents the employment creation preference, and I urge my colleagues to reject it.

The **PRESIDING OFFICER**. The Senator from Massachusetts.

Mr. **KENNEDY**. Mr. President, in 1982, when the Senator from Arkansas offered an amendment to the then immigration legislation that was before the Senate, it was targeted to a provision in that legislation that effectively stated that if you had $250,000 you could get past the Statue of Liberty and enter the whole process by which you could become an American citizen. This provision is an entirely different provision. And I, for one, find that the relationship and the references to the Abscam scandal are completely inappropriate.

I have been on the Judiciary Committee for a period of some 25 years. Both in the House and the Senate we had too many instances—and perhaps the Senator from Arkansas can remember when we had individuals, even individual Members of Congress and the Senate that were involved in introducing private bills, tragically, for money. And for too long a period of time there was a sweetheart arrangement between the House and the Senate Judiciary Committees for the passage of that type legislation.

I believe that was really part of the impetus for addressing some of the more basic and fundamental issues which we began in the early 1960's and culminated in the 1965 act which eliminated the national origin quota system in the Asian-Pacific Triangle.

In consideration of this amendment which has been proposed by the Senator from Wyoming and which I support now, the Senator was quite correct in indicating that there has been as part of our whole immigration law different types of financial considerations in terms of both visas and in terms of investment in the past and now in terms of investment for job creation. We have the treaty investors. We have several thousands of those treaty investors that have invested in the United States in restaurants, primarily in small businesses. They have a nonimmigration visa and they have added to our economy.

The idea that we have all of these kinds of drug dealers flooding into the United States as quick as they would like or to try and fashion houses of prostitution, Mr. President, is hogwash. The record does not show it. The record does not show it. It has not demonstrated that. We have not had those kinds of abuses. We have not had treaty investors who have come in and then try to jump ship and avoid deportation on this. Maybe that has happened in certain circumstances. I am not here this afternoon to say that it has not. But that is not the kind of a situation that exists today where we have the treaty investors.

And it is interesting. You cannot have treaty investors here in the United States unless Americans can invest in those countries, Americans investing abroad. You know, before we shake down the American flag here in order to keep the investors out—and I will leave that issue up to other committees about the revelations and how much we are going to invest and who is going to invest and where we are going to invest; that argument was made by the Senator from Arkansas. That has nothing to do with this.

We have treaty investors. That has been worked out and negotiated. Foreigners want to invest here, we want to invest there. We established a process and procedure and it meant jobs and it has meant jobs here.

We take the concept, not the one that was $250,000 on the barrelhead, but this one that says it has to be new jobs. And does that get Mr. Noriega over here? Of course it does not, because there are provisions in the legislation that provide flexibility to consular offices to keep out individuals which have been described by the Senator from Arkansas, and should be kept out. They do not have to be tried. They do not have to be convicted. All there has to be is reason to believe about that activity. And a good deal of flexibility is provided to the consular offices for that type of individual.

Now, they come here and they are still not ready to go all the way through the process. They are here conditionally for 2 years. You have to help create the new jobs, not replace old jobs. Not being able to buy in and say, "I am employing 10 people"—new jobs. And at the end of the 2-year period, if they are able to demonstrate that they have stayed there for that period of time and have the 10 new jobs, and hopefully other jobs, then they begin the long 5-year process for permanent resident alien.

Mr. President, this is a great deal different from what was considered by the special commission and what was considered in the last legislation. We are talking virtually about a drop in the bucket in this. We are talking about 4,000 of 490,000.

Now, people will say that it is the principle involved in this issue and in this question. But I want to give assurance to those, since I voted the last time in support of the Bumpers amendment, that that actually reduced the numbers. The provision in the legislation in 1982, if it was taken advantage of, it actually reduced the numbers of the kind of extended family that would be able to come in here. That particular aspect of the amendment has been corrected, as well.

So, Mr. President, I do not come to the conclusion of the Senator from Arkansas. I know what his concerns are. I believe that the argument he made very eloquently this afternoon did apply to the 1982 provision. I think we have addressed those concerns, quite frankly. I know they were certainly of concern to me and other members of the Judiciary Committee and to the Senator from Wyoming.

This has represented a compromise in terms of trying to deal with some of the kinds of issues that the Senator has described and I have commented on, as well. I hope that this particular provision would not be struck from the legislation.

Mr. **BUMPERS** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Arkansas.

Mr. **BUMPERS**. Mr. President, first of all, the Senator from Wyoming said a moment ago, as I understood it, that we have room for millions more. Well, in a technical sense, that is certainly true. And this bill let in up to 590,000 people a year.

I like to think that I am a humanitarian and I have a great empathy for people from other countries who are fighting and scratching and clawing to get to this country. They swim. They come any way they can get here. I do not know how many people you can admit into this country before you sink the ship and everybody goes down, both those who came here for the most altruistic reasons as well as those who are already here. But that is not really a part of this debate.

Right now there is a regulation that says if you come to this country and you bring $40,000 and you employ one person, you can get citizenship if you qualify in other ways. The Senator from Massachusetts has said that what I said a moment ago is hogwash; it just has not happened. I do not know whether he is right about that or not.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. BUMPERS. I will in just a moment. Let me make this point and then I will yield to the Senator.

The reason it has not happened is because not one single person has been admitted to this country under that provision. So we do not know what is going to happen. I am telling you some of the things that can happen with this provision. But not one soul has been admitted under that regulation since 1977.

Now I yield.

Mr. KENNEDY. Well, the Senator is quite correct, and that is because of the flow from one category to another. Those provisions have not been implemented. There has not really been an issue or question raised in terms of our consideration, quite frankly. I think it is unrelated to what we are talking about here.

It used to be around here that we were concerned about jobs and unemployment, much more, apparently, than some are here at this point in this debate and this discussion. But the Senator is correct. That provision has not been utilized because of the way of the various triggering. And there is no suggestion to believe that the way it will continue to flow in terms of moving from preference to preference, that that will be addressed either. It is basically excess on the bill. But that is not what we are debating here today.

Mr. BUMPERS. Mr. President, if we are going to talk about jobs, let us talk about education. If we are going to talk about jobs, let us talk about restoring the U.S. competitive edge. If we are going to talk about jobs, let us talk about the Job Training Partnership Act. Let us talk about investment and, above all, let us talk about getting the deficit down.

But let us not try to create jobs by allowing ourselves to be bribed, in violation of what I assume every person in this body believes about this country.

You can call it hogwash. You can put the best face on it you want to, but this is a sample case of saying you can bribe us for $2 million and become a citizen of this country.

It is that simple. You can talk sophisticatedly about jobs and how people come here and so on, and the Senator from Massachusetts says this is an entirely different provision than the one in 1983, and he is right. It is much worse than the one in 1983.

In 1983 the provision was that you had to manage that investment when you came here. That provision is not in this bill. Here it is, it is English. Anybody ought to be able to understand it:

> Visas shall be made available next, in a number not to exceed 4 percent of such worldwide level or 5,000, whichever is greater, to any qualified immigrant who is seeking to enter the United States for the purpose of engaging in a new commercial enterprise which the alien has established and in which such alien has invested, or, is actively in the process of investing, capital, in an amount of not less than $2 million.

English is the mother tongue. There it is. Nothing about management. Nothing about supervision.

Mr. President, you do not have to have this bill to get people to invest $2 million in this country. They can invest now. If there is somebody who wants to invest $2 million in this country right now, there is no prohibition against it.

The thing that makes this unbearably odious is the fact that they get citizenship. How would you like to be sitting over in Greece waiting to be reunited with your family and you are one of those approximately 60,000 brothers and sisters who cannot get in? That is the backlog. And you want to come to the United States, the land of the free and the home of the brave. And they say: "You have got 2 million bucks?" You say: "I ain't got $2,000." Well, it's too bad.

If we are going to let 5,000 more people in, for God's sake, let us let people in who deserve to be here; not because they inherited wealth in their home countries.

Mr. President, the Senator from Wyoming brought up the question about treaty traders and treaty investors. And he is right. We have a treaty with 29 other countries where they can come here and invest. But I will tell you one thing, they have to be engaged in supervisory, technical, as well as managerial functions if they are going to do that.

You think it is hogwash to assume that some drug dealer is going to take advantage of this? Why is that hogwash? This is a drug dealer's paradise. And some countries allow dual citizenship. They can grow it in Colombia and come up here and distribute it.

Why would they do that? Well, they want to put in a $2 million laundry? They would probably keep some shirts and pants hanging out front. And in the back, they would be laundering, all right. They will be laundering drugs and money. And one of the things about this, when they say: Well, they have got 2 years, they can be deported. Did you know that if they are in violation of any of the provisions and the Attorney General decides they are in violation, who do you think the burden of proof is on? It is on the Attorney General. It is on the United States. It is not on the person who comes here and makes the investment; no matter how flagrantly he may violate the regulations, the Attorney General has the burden of proving that he is in violation. And my guess is that none of these people who do come here under this, if they in fact do, are going to be without considerable resources to defend themselves.

The Senator from Wyoming makes the point about: You cannot allow people into this country who are going to become a public charge. My only response to that is being a public charge and being a multimillionaire are two different things.

It is true, we do not want people coming into this country here who are going to be a public charge. But we do not want to allow ourselves to be bought because some foreign fat cat has fallen into disrepute or disgrace with the royal family and needs citizenship here.

Mr. President, there is not point in belaboring this. The point is simple. Father Hesburgh said it as well or better than anybody in this body could say it: It is immoral. It violates our national character. You cannot gloss that over and you cannot use any kind of sophistry to get around that point.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The acting Republican leader.

Mr. SIMPSON. Mr. President, I would move to table the amendment. But I do not want to cut off debate. I indicated that previously and I will do that.

But may I share with the Senator from Arkansas—I think this is important; it has been a good debate—something that is being missed? Well, maybe it is not, but it sure should not be missed, if we do our work correctly.

For years we have given preference to immigrants who are professionals who are persons of exceptional merit or ability; holders of Ph.D.'s and otherwise. These immigrants can, and actually in effect are really "buying their way in," if you want to put it on that basis, by using their money to earn their degrees and thus qualifying for immigration preference. They come in under the third preference. So it could be said that they are buying their way in. They are buying their advanced education but they bring no investment with them. They add greatly to our country but they bring no U.S. workers into the work force. This provision is not seeking some kind of foreign investment, but new investment by a person who wants to become as American.

This is not some foreigner. This is a person, like so many that want to be a U.S. citizen. They want to become American. Is that not preferable to a "foreigner," a nonimmigrant treaty visa holder investing here but having his citizenship and all his allegiance abroad? Thirty thousand of them?

This is better than that. You will not get anybody to believe that this is not better than that.

These people are going to be U.S. citizens instead of somebody, as I say, who lives in France or England or Germany or Japan or Mexico or wherever, who is simply bringing their jack to the United States of America, keeping their citizenship in their own nation, and not contributing to this country or its pluralism or its uniqueness.

That does not sound like sense to me. As I say, I will not go on into Abscam, but there they were just toadying up to the bar and saying: Here's $25,000; I would like a private bill. At least in this one, we are trying to create 10 new jobs for American workers by a new immigrant who is willing to make a substantial investment in a new enterprise in the United States, and that is quite different.

But the mother tongue, the mother tongue—let me refer the Senator from Arkansas to page 18 of the committee report on this bill. On page 18, it says, and I quote:

> Finally, the committee intends that processing of an individual visa not continue under this section if it becomes known to the government that the money invested was obtained by the alien through other than legal means (such as money received through the sale of illegal drugs.)

I would hope that that would put that to rest. And I quote, also on page 18, and this is key. The sentence, and I quote it:

> The committee endorses the present investor requirements as described in 22 CFR 40.7(a)(14), Note 1.3.

That is the provision that ships you right back into our existing law that has to do with just exactly what we have been talking about, and that is what we are doing. They have to meet every single test of eventual citizenship. That is the people in this category, without question. Under this section I just read to you, it requires that they be the principal manager of the business. I can get the language for you of 22 CFR in the mother tongue, and it says clearly what it is that is required.

That is in this report. That is what we have done in this bill.

When we say, "Let's not worry about bringing in these people because there are 67,000 people," and that was a figure the Senator from Arkansas used, I only say to you, how about the 50,000 U.S. citizens who are going to benefit under this bill; the 50,000 U.S. citizens and permanent resident aliens of the United States who are already here?

I will join with you in not worrying about those "foreigners" who are not here, and you join with me in worrying about the 50,000 people of the United States of America and permanent resident aliens who are already here who are going to benefit tremendously under this provision, like going to work and getting a job.

I practiced law in a little old town in Cody, WY, like the Senator from Arkansas practiced in Jonesboro. It was not quiet there. I can assure you, he is not a country lawyer. He is one of the sharpest men in the U.S. Senate.

I remember a great opportunity that came when one of the lawyers in a case in the Park County Courthouse said: "If that's the law, I'll eat the statute book." To which the opposing lawyer said: "And if you do, you'll have more law in your gut than you have in your head." Of course, that was the end of that case.

I say to the Senator from Arkansas, I know his record in humanitariansim and job creating in these United States. I do not follow the argument. It is the first time in 9 years, I must say, I am unable to pick up the threat of the Senator from Arkansas as to why this would be a bad thing for the people of the United States, the people who are already here.

Mr. BUMPERS. Would the Senator yield for a question? Is there any law that the Senator knows of which prohibits people from investing $2 million in this country right now, anybody who wants to?

Mr. SIMPSON. Mr. President, we have people who come to the United States who we do not know what they bring in the way of money.

Mr. BUMPERS. I am not talking about people who come to the United States. I am talking about some fat cat in Paris, France. Is there any reason why he cannot invest $2 million in a business here?

Mr. SIMPSON. No. He can come in under the treaty investor status and invest in the United States.

Mr. BUMPERS. He does not even have to come in under the treaty investor status, does he? Anybody in the world can invest money in the United States all they want; is that not true?

Mr. SIMPSON. Mr. President, maybe if we can get less oblique and more direct. Why not drive in with that question?

Mr. BUMPERS. Getting back to the mother tongue, I do not know how much clearer I can make it. Is it not true anybody who wants to invest money in the United States can do so?

Mr. SIMPSON. Certainly, and they do so as treaty investors if they are nonimmigrants of the United States, noncitizens. That is what they do. But what happened with our investor preference in the United States? It is in there. It is $40,000, but the reason we never got to it is because the fifth preference crowded it out, and when the fourth preference and the fifth preference crushed it out, no one is obviously going to use it. You cannot use it. It is gone. All the numbers disappeared because of the backlogs and the preference. That is what happened to it.

Mr. BUMPERS. Senator, you pointed out correctly that we have treaties with 29 countries. Saudi Arabia is not one of them. Thay have billions of dollars invested in this country, and they are not a part of any treaty.

My question again is, cannot anybody invest in this country who wants to?

Mr. SIMPSON. Mr President, that may be so, but they cannot bring themselves here with their money.

Mr. BUMPERS. That is precisely the point. That is exactly what I wanted the Senator to say.

Mr. SIMPSON. We want them to not only bring their money, but bring themselves and hire 50,000 U.S. citizens or permanent residents under 5,000 visas.

Mr. BUMPERS. That brings me to my next point. I made the point earlier that anybody can invest in this country who wants to. If you want to put $2 million in the stock market or put $2 million in a piece of property in Arkansas, you have a right to do that today. The difference is, this law says that if you are not so inclined to make such an investment, but you would like to become a citizen of the United States, we will let you. It is an incentive to people who would not otherwise invest but who want divinely to become a citizen of the United States. We say the difference is, "Mr. Fat Cat," or whoever, "you can bring your body here and become a full-fledged United States citizen with $2 million." But there is no prohibition now against anybody investing in this country.

The second point I want to make is: It is true that if 5,000 people took advantage of the provision of this bill and if each one of them employed 10 people, it would indeed create 50,000 jobs.

Another point of this provision that is objectionable is, we do not have a GAO study; we do not have an OTA study; we do not have any kind of a study that shows what, if any, economic impact this provision would have.

All we are doing is selling every principle that I believe in for maybe some benefit and maybe none.

Does the Senator have any information he can share with the Senate? Any study? Since nobody has chosen to come here under the $40,000 provision, under the current regulations, not one single living soul, why does the Senator think the people are going to come here for $2 million?

Mr. SIMPSON. Mr. President, I really do not think I need to find that kind of data. We have a Labor Department which tells us what a job is. Jobs are described in America. They are called jobs, and they have a certain salary or wage. People pay in their social security and their unemployment compensation, and there are lots of statistics about those things. They have one word. It is called a job, and under this particular measure, there will be 50,000 new ones.

I really do not think I would want to insult anyone's intelligence to just describe what a job is. That is what this entails: jobs for U.S. citizens and permanent resident aliens of the United States. We do not need any statistics. There are no great white papers to drag out on this one. It is very clear what a job is, especially to a person who does not have one.

So we are not talking about foreigners or fat cats. We are talking about jobs, how you eat in the United States of America.

I cannot understand, with the extraordinary track record of the Senator from Arkansas, how there can possibly be a single objection to that kind of activity in the United States when we are talking about 1 percent of all the visas in this bill. A most extraordinary departure, from my knowledge of the Senator.

In this bill, this investor is not getting citizenship for $2 million. That is an incorrect and erroneous statement. If he does all these things, he may become a U.S. citizen: If he makes the investment in a new enterprise; if he meets the test of the CFR; if he is the principal manager; if he hires at least 10 American workers, United States or permanent residents; if he gets the money legally; if he maintains the investments in the business at least for 2 years; if he maintains the employment of the American workers for at least 2 years; if he has committed no serious crimes and otherwise passes all our examinations and all our conditions; if he resides in the United States for 5 years; and if he speaks English and understands our system of Government, then he may come into the fabric of the United States as a citizen.

So all the things the Senator from Arkansas is proposing about Saudis, and all the rest of it, does not have a thing to do with this because you could get all the money you want to and put it in the United States, but you cannot hire 10 U.S. citizens or 10 permanent resident aliens. That is the difference. You can play around with that all you want to, but it just will not wash as to what they can do and what they can bring in.

The issue is they cannot, under these other policies and under the investor treaties, hire people who would like to work for U.S. citizens and permanent resident aliens in the United States. There are no studies or reports, except the annual reports which will be done under this bill to determine the impact, completely, in the United States.

We held hearings. The testimony was supportive of the provision, and there is not anything I can add to the record as to what 50,000 jobs are in the United States of America by people bringing capital to the United States of America when we have a deficit of 150 billion bucks.

Mr. BUMPERS. I am not going to belabor the debate. I will just take a minute or two more.

I was a trial lawyer for 18 years before I was a Governor or a Senator. I used to have a pretty good feel for what a jury was going to do before they came in with a verdict. I called two or three wrong. Sometimes a jury will fool you. But I tell you what—I would stake my seat in the Senate—if we had a chance, just the two of us, to debate this before the American people, the American people would overwhelmingly repudiate this provision. Do you know why? Because they love their country. They love it because they are free, and they think that anybody else coming here ought to love it the same way and they ought to be coming here because they want to be free or because they want to be reunited with their family. If somebody is coming here simply because he needs to get out of his country and he happens to have $2 million in his pocket, I do not want him as a citizen. And yet he can become one under this provision.

Mr. President, this provision is wrong. I do not care if the Commission voted 100 to 1 or 100 to zip. This is wrong and I hope my colleagues will agree with me on it.

Mr. President, I am prepared to vote.

Mr. SIMPSON. Mr. President, I think the Senator from Texas has a comment. I will just conclude that it is true about what the American people would say they wanted. I practiced law, too, for 18 years, interestingly enough. I tell you what—there is another thing they love, aside from their freedom. They love work and they love jobs. You knock this one out and they lose 50,000 of them.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I would like to begin by saying that if the distinguished Senator from Arkansas had come over to attack the entire bill and had expressed moral outrage that we were picking and choosing among the tens of millions of people every night who go to bed dreaming of coming to America and we were doing it in a discriminatory fashion and that was wrong, that moral outrage would be right on the bull's eye.

But that is not what the distinguished Senator from Arkanas is doing. The distinguished Senator from Arkansas is not outraged at the fact that we say because somebody has a Ph.D. in political science, we are going to let them in America and because somebody else does not, we will not let them into America. He is not saying that is wrong. He is not saying because somebody grew up in a rich family and could go off to graduate school and could learn the English language, that somehow it is wrong for them to come to America when someone who isn't rich, has no Ph.D., and does not speak English cannot come to America. Now, that argument has moral content.

In my opinion, this argument does not. Let us say you have a father in Hong Kong who has two sons. His clever son he puts into business and the son who is not quite so clever he sends to graduate school and he gets a Ph.D. But Hong Kong's lease is ending and the Communists are about to take over, so the two sons decide they want to come to America. The Senator from Arkansas asks, well, the one who has money, does he love freedom? He has this money but does he love freedom? He is not asking the guy who has the Ph.D. if he loves freedom.

You see, Mr. President, this is a discriminatory bill. I do not care how you cut it, it is discriminatory. In fact, I came over here to amend this very provision because I thought the $2 million threshold was too high. The plain truth is that more people want to come to America than we can take. That is the reality. More people want to come to American than we can take. And so as a result the immigration policy of America was designed to bring in the people that were needed.

My wife's grandfather came to this country as indentured labor to the Waialua Sugar Plantation because they needed people to cut sugarcane.

We set the quota to benefit America, not to benefit the people who were coming, because in reality more of them wanted to come than we could possibly take. So this bill sets up all kinds of provisions to look at the talents people have. It says America could benefit by having more civil engineers, more mathematicians, more people who are majoring and getting Ph.D.'s in the pure sciences. And so what this bill says is that we need those talents and if they want to come to America, since we cannot take everybody, we are going to give them preference.

Now, the Senator from Arkansas did not come over here and say that is an outrage.

What he is saying is that we are going to let one son right on in. He must love freedom because he has a Ph.D. But the son who went into the family business, the son who is a practitioner of the business of America, we are not going to let that son in. If he is a businessman, he does not necessarily love freedom.

Now, that makes no sense. The greatness of America basically was that a lot of people came here for various reasons and a lot of them got here because we needed them to come build the railroads and dig the mines and harvest the sugarcane, but they got here and then their children and grandchildren went off and became Ph.D.'s, became doctors and lawyers, and they built America.

Quite frankly, I do not feel too comfortable with the approach of this bill because America was not built with highly educated immigrants. But I can understand the logic of it.

My point is a simple point. If we are going to differentiate and we are going to let people in who are doctors or lawyers or engineers, why not let business people in? What is wrong with the practice of the business of America?

Now, I had an amendment here which, despite the fact that we will have addressed this issue—I hope I have an opportunity to offer it if the Bumpers' amendment fails—would have lowered the threshold. But I ask my colleagues on this amendment to answer the following question. Forget the $2 million. I would like to see that changed. But if we have somebody in another country who has gone out and worked and developed a little business and they build up a nest egg of money and they say, "I would like to plant this seed in the most fertile soil on Earth, I would like to come to America and open up a business, and I can prove I am a good businessman, I built up this nest egg of money," why should this person be excluded when we let some person with a Ph.D. in political science come to America? If you are going to exclude one, exclude both. What is the logic of discriminating against people who have been successful? In fact, the reason for letting the Ph.D.'s in is that we think they are going to contribute. We think they are going to make money; they are going to pay taxes; they are going to be contributing citizens; they are going to create jobs. That is the whole logic for letting them in first.

Well, why not let somebody in who has already proven they can do those things? Why not let somebody in who has built up a nest egg somewhere else and who wants to put that to work in America?

So if you want to be against setting any kind of standards for admission, then that is a logical and a moral position. But do not set it just based on the fact of excluding people who have been in business, and who have built up a nest egg and who want to invest it in America. That is basically what we get down to.

So I think the figure is too high. I think it is unreasonable. I think a lot of people would like to come here, invest their life savings, help America grow, and provide entrepreneurship that we need. This figure is probably too high a cutoff. But to say somebody is buying their way into America because they made some money, and then to say somebody is not buying their way into America because their parents went out and invested for them to get a Ph.D., that just simply does not make any sense.

One set of criteria as a group is no more restrictive than the other. The bottom line is this bill is written to help America because they have more people who want to come than we can take. You can object to that principle, but you cannot pick and choose among those principles.

So I hope my colleagues will reject this amendment but I do hope they will come back and set a more realistic figure in trying to identify the people who may not have advanced degrees but they may have entrepreneurship, and after all that is what built America in the first place. That is what I think will continue to make America the greatest Nation on Earth.

So that is why I am opposed to this amendment. I am opposed to this amendment because it picks out an arbitrary criteria and it says you can benefit from your wealth or success in all of these other ways, but in this one way, we will not let you benefit. I just do not think that argument will hold water. I am not sure how a jury would respond to it because it is a good emotional pitch. But I just do not think it makes sense. If you are going to take somebody because of education, because with that education you think they will be more successful in America and pay more taxes and create more jobs, why exclude someone who has already been successful and who is going to create those jobs the moment they come here?

Both those criteria may be wrong. But one cannot be right and the other be wrong. You either have to accept them both or reject them both. I am not positive which one I want to do. But I do not think we ought to split them. I do not think it is right.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I will be very brief.

I want to say to the Senator from Texas, first, I am only slightly offended that we allow Ph.D's into this country under the preference. But there is one thing about a Ph.D. The chances are about 99 to 1 that he is going to make a contribution. He may not be coming here because we are free and because we have a great Constitution. But if he is that kind of scholar, or she is that kind of scholar, the chances are they are going to make a real contribution.

But under this provision, Mr. President, you may or may not love the country and you may be coming here for the most nefarious of reasons. It only requires $2 million. And therein is the difference. One is a crass violation of everything I believe in. It violates everything I believe in right to the marrow of my bone.

I am prepared to vote, Mr. President.

Mr. SIMPSON. Mr. President, I would renew the motion to table.

The PRESIDING OFFICER. There has been a motion to table.

Mr. SIMPSON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wyoming to lay on the table the amendment of the Senator from Arkansas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Louisiana [Mr. BREAUX], the Senator from Florida [Mr. CHILES], the Senator from Nebraska [Mr. EXON], the Senator from Tennessee [Mr. GORE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Arkansas [Mr. PRYOR], the Senator from North Carolina [Mr. SANFORD], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Nebraska [Mr. KARNES], and the Senator from Kansas [Mrs. KASSEBAUM] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 33, as follows:

[Rollcall Vote No. 48 Leg.]

YEAS—51

Armstrong
Baucus
Bentsen
Bond
Byrd
Chafee
Cochran
Cohen
D'Amato
Danforth
DeConcini
Dixon
Dodd
Domenici
Evans
Fowler
Graham
Gramm
Grassley
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Kasten
Kennedy
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Pell
Pressler
Quayle
Roth
Shelby
Simpson
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson
Wirth

NAYS—33

Adams
Bingaman
Bradley
Bumpers
Burdick
Conrad
Cranston
Daschle
Ford
Glenn
Harkin
Humphrey
Inouye
Kerry
Lautenberg

Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Proxmire
Reid
Riegle
Rockefeller
Rudman
Sarbanes
Sasser
Specter
Weicker

NOT VOTING—16

Biden
Boren
Boschwitz
Breaux
Chiles
Dole
Durenberger
Exon
Garn
Gore
Johnston
Karnes
Kassebaum
Pryor
Sanford
Simon

So the motion to table was agreed to.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 1646

(Purpose: To enhance employment creation)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 1646:

On page 22, line 7, strike "$2,000,000" and insert in lieu thereof, "$1,000,000.00."

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, this dollar amount is the result of a compromise. Quite frankly, I think it is way too high. The idea behind this provision is to let business people who can create jobs, generate growth, and opportunity into our country on an annual basis, along with intellectuals who bring great talent, as part of building America and extending our prosperity into the future.

The bill, however, has such a high dollar amount that people must already be successful before they get here. I would like to see us have a number that would allow people to come in and build up a nest egg and establish a laundry or restaurant or whatever kind of industry they want to go into, and with that nest egg build jobs for Americans and build a future for themselves.

I recognize where the votes are, Mr. President. We have reached a compromise to lower this total from $2 million to $1 million. I think it is a good compromise. It is moving in the right direction. I hope that it will be adopted.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I do not object to the amendment of the Senator from Texas. We are not changing the numbers. The basic figures were established initially. As a result, after study, we believed that it would take $2 million to create 10 jobs. If they are able to get those 10 jobs, which we are preserving, with $1 million, I do not have any objection.

We are not changing the total numbers that will be eligible under this provision.

So it will be satisfactory to me, Mr. President.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, let me share with our colleagues that in doing this we take the level from $2 million down to $1 million, but I call to your attention, and this is acceptable, that the number of visas remain the same, 5,000, not more than. But in the bill it says very clearly that the Attorney General in consultation with the Secretary of Labor and the Secretary of State may prescribe regulations increasing the dollar amount of the investment necessary for the issuance of a visa under this paragraph.

With that, we should be able to reach all the investor category or the economic questions that we would have.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, is this to lower the figure now to $1 million?

Mr. GRAMM. It is.

Mr. SARBANES. So, in other words, if you can pay $1 million you can get a visa; is that correct?

Mr. KENNEDY. Could I answer the Senator?

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Massachusetts for a question?

Mr. SARBANES. I do.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. The initial $2 million was established for the creation of the jobs. This changes the figure. If they can create the jobs with $1 million, the 10 new jobs, then that would be the result. We are not changing anything else. We are not going down to $1 million and 5 jobs or a lower number of jobs.

Mr. SARBANES. Is it lower-paying jobs?

Mr. KENNEDY. No. Where they create the jobs, as established in the other provisions of the bill, is untouched. So if they create those jobs with $1 million, so be it.

I think the basic problem that we saw earlier is that to create the new jobs it was going to take $2 million to do so.

He wants to say they believe they can create the 10 new jobs with $1 million.

Mr. SARBANES. And we presume they are going to have to create lower-paying jobs.

Mr. KENNEDY. Not necessarily.

But we took what was considered to be a ballpark figure to create these new jobs, as defined in the legislation.

Mr. SARBANES. Mr. President, I voted against the provision and this colloquy only underscores why the whole provision is not palatable.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I would not want that imagery left. Any job created under this bill under the preference is going to have to meet all the standards of any job in the United States of America. There is not any extra provision here. This is not slave labor. It is not that type of thing.

What I hope that everyone will understand is that this investor here does not get his citizenship for $1 million only. He has to make his investment in a new enterprise. He has to be the principal manager of the enterprise. He has to hire at least 10 U.S. workers or permanent resident aliens. He has to have obtained the money legally. He has to maintain the investment in the business for at least 2 years. That is in this provision. If he maintains the employment of the American workers, he has to do that for 2 years. He may not have committed any serious crimes, and he must pass all the exclusions under our present law. He has to reside in the United States for 5 years. Then he has to have the minimum competency in English and the understanding of our Government, and only then does he even begin to get to be a U.S. citizen.

So it is not right to indicate that somehow these are lesser jobs that are created, and there are 50,000 jobs created here, in this visa category if all 5,000 of them are issued, but I certainly would not think it appropriate in any way to indicate that these are somehow lesser jobs.

Mr. SARBANES. The only standard he would have to meet on the wage front is a minimum wage standard, is it not? Does the provision have any standard higher than the minimum wage?

Mr. SIMPSON. Mr. President, there are no other standards in here except that they are jobs, American jobs for American people, American U.S. citizens, permanent resident aliens, and that description goes from the lower wage rates to the highest.

Mr. SARBANES. Is this the provision that Father Hesburgh spoke so eloquently against when he was a member of the commission studying the immigration laws?

Mr. SIMPSON. He spoke vigorously about it, Mr. President, and the vote was 15 to 1. Father Hesburgh voted against us. The other 15 of us on the commission voted to keep this type of category because we thought it generated new jobs in the United States of America, and we still think that.

Mr. SARBANES. It does allow a wealthy person, in effect, to come in and get his citizenship through the use of his money, does it not?

Mr. SIMPSON. Mr. President, it does not do that. The wealthy person has to then meet all the tests I have just said.

Mr. SARBANES. Assuming he meets all the tests, then he can get his citizenship; is that correct?

Mr. SIMPSON. What, Mr. President?

The PRESIDING OFFICER. The Senator from Maryland has the floor. He has been recognized. The Senator from Wyoming is responding.

Mr. SARBANES. Assuming he meets the test, he would get his citizenship; is that correct?

Mr. SIMPSON. I cannot hear.

Mr. SARBANES. Assuming he meets the test, he can then get his citizenship; is that correct?

Mr. SIMPSON. After 5 years.

Mr. SARBANES. The threshold he has to get off was $2 million and now is $1 million. Then the $1 million is producing these results, but he has to come in with $1 million assuming this amendment is agreed to; is that correct?

Mr. SIMPSON. That is correct.

Mr. SARBANES. That is my point, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I do not want to beat a dead horse or carry on with an issue that has already been debated and voted on, but I never cease to be struck by the fact that everybody freely goes through and supports a bill that says if you have a Ph.D. in political science, we are going to knock the door down and we are going to rush you right into America and we are going to give you preference over everybody else. And that is wonderful.

But if you happen to be a business person and you have spent a lifetime building up a nest egg and you want to come to America and create jobs, somehow something is wrong with it. Quite frankly, I do not see it. It does not make any sense. And I rejoice that it did not make any sense to a majority of the Members of this body.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 1646) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1647

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO] proposes an amendment numbered 1647.

Mr. D'AMATO. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

SECTION 1. PERMITTING LEGALIZATION OF CERTAIN ALIENS.

(a) IN GENERAL.—Subject to subsection (b), the Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for permanent residence if the alien—

(1) applies for such adjustment during the 12-month period beginning on the date of the enactment of this Act;

(2) would meet the requirements of section 245A(a) of the Immigration and Nationality Act, other than paragraphs (1)(A) relating to timely application, (2) (A) or (B) relating to continuous unlawful residence, and (3)(A) relating to continous physical presence; and

(3) establishes that he or she would meet the requirements of subparagraphs (A) and (B) of section 245A(a) of such Act if "October 1, 1988" were substituted for "January 1, 1982" each place it appears in such provision.

(b) UNITS OF ASSESSMENT.—Each alien applying for adjustment of status under subsection (a) shall be accorded units of assessment based on eligibility criteria as follows:

(A) For aliens having successfully completed grade school through high school or its educational equivalent, 10 units.

(B) For aliens who were awarded bachelors' degrees or their equivalent, 10 units.

(C) For aliens who were awarded graduate degrees, a number of units up to 5 units to be determined by the Secretary of Education based on the level of the degree.

(D) To the extent that the aliens have vocational preparation, the number of units for such preparation to be determined by the Secretary of Labor, 10 or 20 units.

(E) For aliens not less than 21 years of age or more than 35 years of age, 10 units, or not less than 36 years of age or more than 44 years of age, 5 units.

(F) To the extent that the aliens have skills determined by the Secretary of Labor to be needed in the United States, 10 units.

(G) To the extent that the aliens have work experience relating to the skills where there is a present or where there will be a future shortage of individuals, 5 or 10 units.

(H) For aliens who demonstrate an understanding of the English language and the ability to communicate in such language, 20 points.

(c) NUMERICAL LIMITATIONS; ISSUANCE OF VISAS.—(1) Nothwithstanding any other provision of law, 100,000 permanent residence visas shall be made available annually for five years pursuant to subsection (b).

(2)(A) 20 percent of such numbers shall be issued to qualified immigrants described in subsection (a) (and persons described in paragraph (3)) who attain a score of at least 80 points with respect to petitions filed for the fiscal year involved, to be chosen in a random order established (by regulation) by the Secretary of State for the fiscal year involved.

(B) 80 percent of such numbers shall be issued to qualified immigrants described in subsection (a) (and persons described in paragraph (3)) with a qualifying score of 40 in such system, to be chosen in random order, as described under subparagraph (A).

(3) A spouse or child (as defined in section 101 (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa, be entitled to the same order of consideration as his spouse or parent, if accompanying or following to join his spouse or parent.

(d) EFFECTIVE DATE.—This Act shall take effect 90 days after the date of its enactment.

Mr. D'AMATO. Mr. President, I rise today to offer an amendment designed to fill in a gap left between the 1986 Immigration Act and the bill being debated here today.

ADDS TO S. 2104

Let me first say what this amendment does not do. It does not attempt to change or rewrite S. 2104, nor to undo the compromise achieved in the Judiciary Committee in reporting out this bill. That compromise addresses only legal immigration. This amendment is intended to affect a limited group of undocumented aliens not reached by prior legislation—and to do so using the eligibility standards set forth in the pending bill. In that sense, my amendment in effect adds to the Kennedy-Simpson bill by making it a complete immigration measure.

I support the Kennedy-Simpson bill. I was an original cosponsor of S. 1611, Senator Kennedy's bill from which this committee compromise was fashioned.

That bill sought to at least partially correct a longstanding imbalance in the immigration laws, an imbalance reflected in the dramatic decline in the number of immigrants admitted from Ireland, Italy, Poland, and Germany since passage of the 1965 Immigration Act.

PRIOR DISCRIMINATION

That act gave preference to the sons and daughters of U.S. citizens, and to immediate family members of permanent residents. That goal of family unification is one that all of us continue to support, Mr. President.

Unfortunately, that bill also created painful, and in some cases tragic problems for Irish, Germans, Italians, Poles, and others without immediate family members in the United States. Many such individuals had to watch their dreams of becoming American citizens fade, and eventually die, because the years of large-scale immigration—when my own grandparents, Mr. President, came through the great hall of Ellis Island—are long past. Consequently, they do not have the immediate family members residing in this country.

I commend my colleague, Senator KENNEDY, for working so hard to help rectify this imbalance. S. 2104 is an important step forward. It recognizes that these people have been left out, in fact, inadvertently discriminated against, by our laws.

My amendment would take that step all the way forward, Mr. President, holding out hope to those in this category who would not otherwise be covered—those who might qualify under the bill's eligibility criteria, but cannot, simply because they are already here.

This amendment offers an opportunity of legalization to a small but significant number of aliens who entered the United States after January 1, 1982—the cutoff date for the amnesty provided in the 1986 immigration bill.

NOT A BLANKET AMNESTY

This is not a blanket amnesty, Mr. President. It is not an extension or expansion of the amnesty so carefully and, as I recall, painstakingly agreed upon in the 1986 bill.

Instead, it is a reaching-back of the Kennedy-Simpson bill, to provide some hope to those who Kennedy-Simpson recognizes have been discriminated against but who it does not reach.

Not every such person, and certainly not every illegal alien, is legalized under this amendment. Instead, each applicant must meet the eligibility criteria established under S. 2104, the "point system" for priority within the new "independent" category. The difference between my amendment and the committee bill is only that S. 2104 makes visas available to a new category of immigrants, effective after the bill becomes law; my amendment is intended to extend that limited but important remedy to those already here who would otherwise qualify under the bill.

AN ESPECIALLY DESERVING GROUP

Finally, Mr. President, I believe this amendment is worthy for the same reasons I endorsed Senator KENNEDY's original bill: those who would benefit are particularly deserving.

The point system for visa priority set forth in the Kennedy-Simpson bill places heavy emphasis on education, english-language skills, needed labor skills, and youth. Those who would thus be accorded priority under these standards are clearly well-equipped to make immediate and meaningful contributions as American citizens.

This is even truer of those—so qualified—who are already here and working, even if without benefit of legal documents. Many have already proven to be dedicated and hardworking contributors to the Nation's economy. The loss is clearly ours if we fail to find a way to open the gates of citizenship to these people.

Mr. President, I hope that we will at least create a chance, a hope of getting through the door to these people. They seek to be Americans for the same reason our own forebears did: To live in freedom, and make their contribution to the American dream. This amendment is intended to make that opportunity available to those who have shown they can and will make good use of it.

For that reason, Mr. President, I urge its adoption.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, we share the concerns that the Senator has documented here today and regret the hardship that will fall on many, but the record shows we were very lucky a few years ago to get any amnesty at all. I repeatedly offered amendments to move the amnesty date forward so that the largest number could qualify. Regrettably, those amendments were not adopted by the Senate. In fact, the Senator from New York actually voted against them the two times I offered them.

I happen to believe very deeply that in addressing the illegal immigration issue we ought to deal with the subterranean economy that we have in our society, which exists and which is growing and I think is a source of enormous exploitation in our country today. It was my hope that we could come to grips with that issue. But we were able, through the legislative process, to come to grips with that only to a limited extent—although an important extent under the current legalization program. We have now seen about 1½ million people make their application for amnesty. And I think the best judgment is probably there is another half million out there that would be eligible for it. I think all of us hope that they would make application and gain legalization so that they would not be outside the whole American economic system. But we were unable to do that as we addressed that issue time in and time out over the past 6 years.

In the compromise bill Senator SIMPSON and I have fashioned, we tried to address some of these concerns. We have added 100,000 new numbers to go to our immigration system; 55,000, over half, go to the new point system. Many of the persons who are in the United States and unable to qualify for the amnesty can apply to use these numbers. These numbers may not be enough, but they never are and never will be. However, we can only add so many numbers at one time or the legislation simply will not fly.

Senator D'AMATO's amendment loads this bill, I believe, to the point where it will break the significant compromise that has been fashioned to move it forward.

I would like to support the amendment. I would like to have a whole loaf, but I know it would mean we would not even get the numbers we acceded to in order to secure the compromise bill.

Finally, the D'Amato amendments would have an adverse effect on the protections for U.S. labor and workers that are in our laws the way they are fashioned currently. This has been strongly noted by the AFL-CIO in a letter they sent to all Senators, and I ask that the letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, March 11, 1988.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the AFL-CIO, I wish to express support for S. 2104, the Immigration Act of 1988, which amends the present "preference" system regulating immigration to the United States.

In our view S. 2104 takes a constructive approach to the continuing task of adapting the immigration laws to present needs and realities. The bill sets the immigration flow at a reasonable level, while wisely excluding both the spouses and children of citizens and refugees and asylees from any numerical limit. The adjustments made in the preference categories give highest priority to the closest family members while at the same time opening up new opportunities for "independent immigrants". We believe that the legislation is soundly balanced and that the preference categories as revised preserve the principle of family unification, while also admitting as immigrants, rather than nonimmigrant aliens, additional persons whose skills meet America's economic needs.

It is our understanding that Senator D'Amato will offer amendments to S. 2104 designed to grant legal status under a variety of newly-created programs to aliens who arrive without authority at any time up to October 1, 1988 (under one of the D'Amato proposals), who are illegally employed in the United States before that date (under a second), or who arrive here illegally *at any time* (under a third). The AFL-CIO opposes these amendments and urges that each one, if offered, be rejected. The D'Amato amendments run contrary both to last year's Immigration Reform and Control Act and to long-standing principles of our immigration laws. The essence of the two amendments is that they would explicitly encourage *new* waves of illegal immigration. The amendment which would authorize up to 40,000 persons (including those who arrive illegally) to become legal temporary residents with five-year visas on no more than the promise of *eight weeks* of employment—and with the right to convert to permanent status at any time—is also contrary to one of the most basic principles of our immigration laws: that immigration is not to undermine the jobs, wages and working conditions of Americans.

For all of the foregoing reasons the AFL-CIO urges prompt Senate passage of S. 2104 without amendment.

Sincerely,

ROBERT M. MCGLOTTEN,
Director, Department of Legislation.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I have the deepest respect for the Senator from New York. He has worked with me and with Senator KENNEDY on illegal immigration matters. He was a spirited participant in the debate as we did that important thing. He, too, comes from a State heavily impacted by not only illegal immigration, but also this particular bill with regard to legal immigration.

But this amendment would actually, in a sense and in reality, too, grant amnesty to illegal aliens who qualify under what is here a modified version of the bill's point selection system. It is a rather unique departure.

I just swiftly tell you that in my mind—and I speak against the amendment—that I join with my colleague from Massachusetts. There are four major defects in the amendment.

No. 1, it expands the Amnesty Program created by the immigration bill of the last Congress. That is what it does. It then also lowers the standards in the legislation that we have presented here for qualification under the point system. We tried to keep that quite realistic and quite stable.

It encourages new illegal immigration. That is not what we had in mind, certainly with the illegal immigration bill of 1986; nor under this measure.

It adds an additional 100,000 visas each year to the national level of immigration. The amendment grants an amnesty to illegal aliens who enter the United States after the date the Congress set for eligibility, January 1, 1982, and I think it would be quite disruptive. If you consider what would happen in each year, you are going to end up with about 500,000 additional illegals in the United States.

This status is for some illegals who have not even come here yet. That should not be, but that is what is provided here. Some illegals would be covered here who have not even come to this country yet, and that is what we spent 6 years doing, was to prevent or at least lessen the impact on the entry of illegals.

The issues has been debated thoroughly for 5 years and I do not believe we should, in effect, rehash the amnesty debate nor expand the scope of that program. The amendment applies this point selection system to this class of illegal aliens but, as I say, it lowers the standard of the legislation so that anyone from an English-speaking country with a high school degree, between the ages of 21 and 35, would qualify. I do not believe that that ensures selection of an immigrant who would likely serve the national interest. I am not saying that in any spirit of ethnicity or xenophobia or anything of that nature: just reality. That is what this does, and I do not think that is what we have in mind.

It applies to illegal aliens who enter the United States before October 1988, 7 months from today. So, obviously, it would only encourage increased illegal immigrants from particular countries during the next 7 months.

Finally, the amendments, as I say, would add these visas to the legal immigration system, an action every public opinion poll has demonstrated to date the American public is strongly opposed to.

With those four serious flaws, I would urge my colleagues to join in the motion I think the Senator from Massachusetts is going to move to table the amendment.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I do not intend to enter into a long debate on this matter. Let me just respond to several points that were raised.

No. 1, we talk about illegal immigrants. If we had not had the historic Simpson-Kennedy legislation, all those people who are here in this country who do qualify would still be illegals. Let us not kid ourselves. We have millions of illegals who are here and the problem is not going to go away. It is going to continue to grow.

As far as we moved, we did not move far enough. The fact is that in my city of New York, in the city of Boston and, I imagine, in every large urban center, there are many who came since 1982 who are not covered.

I want to talk specifically now about the Irish situation in New York where we have tens and tens of thousands of young Irish men and women who came to this country since 1982 who were not covered. They are working illegally. They are going without many of the protections that they should have. They are being deprived. They suffer cruelly as a result of their inability, ever, to come into this country.

We tried to address it by way of amendment to the original legislation, but we were not able to get the preferences changed. There is no fault for anyone. It was a tough bill to get passed. But there are millions of so-called illegals who are here. At least it would give to them a glimmer of opportunity, particularly those that have special skills, whether it be language, whether it be education, whether it be occupation, et cetera, pursuant to that very enlightened provision of that law, the point system.

Let me say this to you. We talk about lowering the system? Make it tougher. Make it harder. Make it a standard that goes beyond.

This Senator has no pride of authorship. I am saying to you we have this problem. Maybe I have a certain degree of passion in it, as I see many of my own constituents in New York who are afflicted in this manner, particularly from the Irish community.

There are some from the Italian-American community and some from the German community. But it is there. And there is a growing number from the Polish community.

Do you want this disregarded? Fine. We will wait until the problem gets worse and worse and worse, and the churches of America and others begin to demonstrate. If that is what is necessary and that is what it is going to take to pass it, fine. But let us understand it. It is a problem, it is there.

I do not think this legislation is a perfect remedy. Certainly, October 1988 is a date, and if we were to say "as of today," or "as of the passage of this legislation" or "as of some other date, 1987, 1986,"—fine.

We have attempted to address it in a way by saying: Look, there is tremendous room. If we look at the bill that was initially passed, it was established that instead of the 1.3 million people who are going to receive amnesty, I think we expected 3.5 million applicants. You only had 1.3 million. By anyone's standard as to who would apply to become legalized, we are well below that which was anticipated in the bill.

So it does provide some room, both intellectually, morally, et cetera, to justify this without smashing to bits the compromise that was crafted; without opening up the floodgates.

We carefully said 100,000 visas. By the way, that is open to compromise. But give some of these people an opportunity, those that came in after 1982, particularly if they have certain skills.

If someone wants to modify it, to make it stronger, to make it more difficult, that is fine.

We have attempted, our staff has attempted, as it relates to this, to work to see if there is any room for compromise. We have just been told, basically: No. And I understand. I understand it took a lot to get the bill to this point.

About this so-called letter from the unions that oppose it, I wonder if they even know what they wrote about. The American Federation of Labor and Congress of Industrial Organizations, as it relates to this, they will be telling the cardinals and the bishops a whole different story. But I am certain that we could rectify their situation. I am certain that the unions of America do not want people who are here in this country who are working already, in many cases working at substandard, certainly below union level, wages, to be doing that. That is not in their best interests.

I cannot really believe that we cannot handle this situation as it relates to the union opposition, and if the legislation has to be crafted somewhat differently, I am willing to do that.

Mr. President, I ask that we go forward on this and I ask for a vote because I think it is important. We all have to come back here next year or the year after or the year after that. I would hope at some point in time we would be able to develop the kind of consensus to deal with the problem that exists.

It is not going to go away. It is going to continue to grow larger and this Senator is certainly open to suggestions how to deal with that in the most enlightened way possible.

We do not want to open up the floodgates, but to recognize the moral dilemma that we find ourselves in and the practical dilemma that we find ourselves in and that millions find themselves in.

What I am attempting to do is craft a manner by which to give hope to some of those who are here.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. REID). The Senator from Texas.

Mr. GRAMM. Mr. President, I rise in opposition to the amendment for two reasons: No. 1, it is unfair and, No. 2, it is dangerous. First, it is unfair because millions of people all over the world have applied to come to America legally are sitting at the end of these long lists that are set out in our immigration laws. They are going to bed every night dreaming about coming to America, and they are waiting for their number to come up.

In fact, a person comes to this country legally from Mexico and then applies to bring a spouse here, may wait for years for their spouse's number to come up. That is the system which exists all over the world. Nobody likes it, but that is the system.

The distinguished Senator from New York says, "Let's come in and change the law and say to the people who violated the law who are here illegally that we are going to put you in front of the millions of people who have applied to come to the United States of America legally." That is not right.

If the distinguished Senator wants to change this bill and raise the number of people who can come in legally, or wants to join me in helping to eliminate discrimination in the fifth preference by excluding married people, then I think that makes sense, and that is something I would rejoice in.

But to come back now, when we have millions of people who are waiting to come, when this very bill is going to say that brothers and sisters of our own citizens, who happen to be married now, do not qualify for fifth preference to come here legally, and then all of a sudden out of the clear blue sky we have a proposal to change the amnesty date for people who are here illegally from January 1, 1982, to October 1, 1988, in essence saying that if you are not here illegally, hurry up and get here before October 1 and violate the law, and we are going to put you in front of the list. That is so grossly unfair that I cannot believe that it would be seriously considered.

The second point is that it is dangerous. When we gave blanket amnesty to those who had been here prior to January 1 of 1982, that was the extraordinary action, but the point was made over and over that this was to correct an historic problem, and that this was a once-and-for-all action that there would be no change in the amnesty date and there would be no amnesty given in the future. I did not vote for that bill, but it is the law of the land.

If we come back here before all of the provisions of the old law ever go into effect, before the date for applying for amnesty even expires, and we change the date to the future urging people, in essence, to come here illegally, we are literally going to be drowned in a sea of humanity as people enter the country illegally, hoping to get through illegal action what they are not able to get through the legal process. And that is very dangerous, indeed.

So do we want to raise the limits on the number of people who are coming legally? We ought to debate that. If we think the preference system is wrong, we ought to debate that. But to come in at this late date and say that anybody who violates the law prior to October 1 of this year is going to be given preference over people who have obeyed the law and who have waited 10 and 15 years to come to America is an absurd proposal, and one that I absolutely oppose. I urge my colleagues, when a motion is made to table the amendment, to vote for that motion to table.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I do not want to interfere with any further discussion by the Senator from New York but I think we have had a good debate and discussion. I think the issues are quite clear. For the reasons I outlined in my own statement, and for the reasons the Senator from Wyoming outlined, I hope the amendment will be tabled. I make such a motion now.

Mr. D'AMATO. I ask if my colleagues would withhold from making the motion? I am going to ask to be permitted to withdraw the amendment. I indicated I was going to introduce it. I think it is important. I hope that we will be able to get some action to deal with the gross inequity which exists today.

Let me also state, there was nothing magic in October, January 1, 1988, or any date that would certainly give a better opportunity. It certainly was not intended to suggest, nor do I agree with the contention that the millions who flock here would come under a provision that, at best, would guarantee 100,000 additional citizens.

I have no illusions as to what will take place. I think it is important this matter be placed in the RECORD. I would hope Senator KENNEDY, and others, who worked so laboriously on this would look to rectify a situation which exists, and it is a deplorable situation and continues to grow.

I hope that our committees, staff, et certera, could work to attempt to craft legislation to deal with the injustice which exists today.

I would ask to be permitted to withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Massachusetts.

Mr. KENNEDY. I just want to give assurances to the Senator from New York. We are going to continue to monitor those special preferences carefully. As the Senator understands, we have a Presidential review annually. And this is only a 3-year authorization. You have a commitment from both the Senator from Wyoming and myself that we are going to review those provisions carefully. We are hopeful those new categories will be successful, both in terms of the contributions made to our own country and to rectify some of the recent historical imbalances. I believe at that time, from the success of this experience, we may very well be able to build on our findings in a significant way.

I want to give assurances to the Senator from New York, I think there is much to support in expanding the numbers the way we have done in the legislation. In any event, we will carry forward the Senator's concerns. I give him the assurance of working with him in the months and years ahead.

Mr. D'AMATO. I thank the Senator from Massachusetts for his willingness to come up with a system which will give recognition to a problem that does exist.

Mr. KENNEDY. Mr. President, I just want to say, we have tried on our side to find out whether there are additional amendments. We had hoped that any Senators who do have them would have come before now. I only know of one other Senator who has spoken to me, or the Senator from Wyoming, indicating a concern about possibly offering an amendment. I will take the time now to notify that Senator. I hope we could continue to make good progress as we have this afternoon.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I had thought of offering an amendment related to the H-2A program of the immigration bill. I have decided not to do it. I did want to raise a concern, however, today to put Members on notice that there are those who believe that there is a serious problem with our guest worker program.

I think, Mr. President, it is important to note that when the immigration bill was passed which granted amnesty and imposed employer sanctions, an important part of that bill was a safety valve program called the H-2A program. The idea behind this program is that farmers and ranchers who were unable to hire labor in their markets, often isolated and in very rural areas of the Nation, could go through a procedure of certification and in the process get temporary permits for foreign nationals to come into the country to work in agriculture during specific periods and under specific circumstances.

One of the problems that has arisen in this program is that the term "temporary or seasonal" has been interpreted to exclude the livestock industry. This imposes a very heavy burden on livestock producers. It has created problems in American agriculture.

We are trying to get good data on the existence of this problem. If the data indicates that there clearly is a labor shortage in the area of livestock management, an area that is critically important to the living standards of the American people and important to our foreign trade, it will be my intention at some point in the future to propose an amendment that we clarify the interpretation of "temporary or seasonal" to include the livestock industry. I think this may be vital to the health and well being of that industry and to the American economy. I hope when all those facts are put together our colleagues will look at them very closely and decide that this is something we should do.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I wanted to just discuss one point with our two floor leaders, and it has to do with the fifth preference. Let me try to review, if I may, where we are now and what this bill does.

Where we are now is that the fifth preference, under current immigration law, affects brothers and sisters of American citizens and their immediate relatives. Last year 64,800 people came to America under this fifth preference. American citizens were able to bring their brothers and their sisters and then their immediate kinfolk, their spouses and their children, to America under the fifth preference.

Now, under this bill, the level of entry under the fifth preference is going to be lowered to 22,000 people as a long-term level of entry. But because there is a backlog, there will be 30,000 additional people who can come in under the fifth preference for 3 years. So that for 3 years, we are going to have 52,000. Of course, the 22,000 could be affected by the level of entry under the immediate relative preference and the other preferences.

In essence, what I would like is to get some assurance regarding the 1,210,610 people who have already requested to come into the United States under the fifth preference; that is, regarding those whose cases are actually pending right now.

We are trying to deal with this backlog by granting a special 3-year period where 30,000 additional people can come to the United States. Granted, some of these people may have died waiting, some of these people may have decided they do not want to come anymore, some of them may have come legally, some of them may have come illegally. So I am not trying to give any great sanctity to the actual number of people, but the reality is that even if that number has eroded substantially, there are a lot of people whose applications are backlogged.

I would like to get some assurance that—before we reach the end of the third year under this law, where we are going to terminate this 30,000 guaranteed entry that is aimed at trying to reduce this backlog of people, many of whom have waited for years to come to America, that within this 3-year period we will look at this problem and we will try to get a better measure of how many people are actually waiting under the fifth preference. And if, in fact, we find there is a huge number of people out there, that we will have an opportunity to come back and address this question within the 3 years which would be before the 30,000 special quota expires.

I think if we could get that, then we would at least have the ability to get some more facts. We would be guaranteed that we would have the 52,000 for the next 3 years, obviously within the contraints of the overall immigration policy. And I think at that point we could, if we see that there are still a million people waiting who had applied before this bill became law, we might want to go back and look at extending the 30,000.

I would just like to get assurances that we will look at it and try to get the facts and, if there are a large number of people that have been waiting for years to come into the United States and if this 30,000 quota for 3 years does not eliminate that backlog as it is intended to do, that we will at least give them an opportunity.

Mr. KENNEDY. Mr. President, I think the points that have been raised by the Senator in terms of the size of the backlog, even the growth of the backlog—I am just drawing now on memory—but I believe at the time the Senator from Wyoming and I were on the Select Commission the backlog might have been 250,000 to 300,000, and now it is 1.2 million and growing. And part of the suggested changes were the reasons that have been outlined by the Senator from Wyoming and others—and that is to try and ensure the priority of the closest members of the family. But we provided a limited number of the 30,000 visas to begin to go and deal with a backlog. But when this becomes law, we are going to have a smaller pool that actually will be available to use this particular provision. Therefore, if you add both of those together, because we will be moving, effectively, a good part of those visas up into the second preference and then doubling that number, then there will be less that will be eligible under the fifth preference.

I think we are going to have the responsibility to monitor that very closely and find out what exactly has happened as a result of this change, what we are going to be facing in terms of a backlog, how realistic those backlogs are, whether they are related to an unfair distribution to different groups or people. In think all of those things we would want to take a hard look at.

I think it is exceedingly difficult today to be able to predict with a great accuracy what those numbers will look like. As the Senator from Wyoming has pointed out, we are going to say we have got an important increase—the total numbers do not sound enormous in terms of 30,000, but we have got an increase—to try and deal with the backlog. And as a result of this action, we are going to provide real opportunities for the more immediate family members to be reunited.

I certainly welcome the opportunity to work with the Senator from Texas to make sure and monitor very closely what the results of this kind of action will be to those that otherwise might have been effected to some extent by the fifth preference, either by very, very long delays or by earlier reunification with their families.

Mr. GRAMM. I thank the distinguished Senator.

Mr. SIMPSON. Mr. President, I certainly agree with my friend from Massachusetts. Our job here is oversight. For the first time in any immigration bill on legal immigration we have built in here annual reports, and in every 3 years a rather thorough review.

Knowing the chairman as I have come to know him, I think a request at some time for a hearing on this subject—where we are to have the administration come forward to give the extent of the fifth preference backlog and what recommendations to address it, the formula, and all those things—I know would be received well by the chairman and certainly I would lend my efforts to that also.

Mr. BOSCHWITZ. Mr. President, I am very pleased to hear the Senator from Wyoming talk about the availability of hearings. I might say that this immigration bill descended on us rather rapidly without hearings; that there was a very brief hearing—would the Senator from Wyoming wish to respond? I think there was a very brief hearing.

Mr. SIMPSON. If the Senator will yield, yes, I would respond. There were hearings on this. This has been very detailed. We had hearings in October and December; one lasted the entire day. So this is not one of those things that just dropped out of the sky on the Senate floor. That is what they used to say about the illegal immigration bill, and yet we worked on that for 6 years. So this, indeed, has had hearings.

Mr. BOSCHWITZ. I would ask my colleague, in that case, if there was a hearing after you and the chairman reached the agreement?

Mr. SIMPSON. Mr. President, it was all clearly done. There was never any attempt at subterfuge or hiding anything.

We had a Judiciary Committee hearing where the chairman heard his bill and it was sent up and he was gracious enough in the subcommittee to say that when my bill was entered, it would go on to this full committee level and he would hold a hearing on my bill; and that was held. We had some of the most unique, responsible people on immigration in the United States, both for and against.

Then, when the Senator from Massachusetts and I came up with our compromise measure, it was distributed, the report was distributed. It has been available. There has been discussion of the point system, independent immigrants—I am a little surprised that there is a belief that somehow this thing has just been created or not had a thorough airing.

Mr. BOSCHWITZ. I would say to my friend from Wyoming, that the date of the report is February 26. I understand that after he and the chairman agreed on the compromise bill, that it was reported out with a very, very short hearing on February 26. I understand in the development of the bill that hearings were held. However, after the compromise bill was reported on February 26 there was very little time for Senators not on the committee, I would say to my friend from Wyoming, to give this bill very much consideration.

The 26th was a Friday; then we were in the following week and then we were in recess the past week. So I must tell him it was, as I have told him before, informally, difficult for the Senator from Minnesota to focus on this bill together with the other responsibilities that I have.

Mr. SIMPSON. Mr. President, if the Senator would yield?

Mr. BOSCHWITZ. I yield to my colleague.

Mr. SIMPSON. Let me say this to my lovely friend from Minnesota, a man who came here when I did, the same year, and still holds one seniority rank above me, he refers to me as old No. 50 or something—I refer to him as No. 49.

He is so attentive and interested in this issue, and I understand that. But we had hearings in 1982 on all of these issues on legal immigration. All of those were presented. We addressed all the issues that are included here, every single one of them.

Then we had a hearing on my bill, at which there were very few objections or comments. Then we had a hearing on Senator KENNEDY's bill, about which there were very few comments or observations. Then we melded the two. We simply took the two bills, about which there were some comments, but almost no criticisms of any merit—and those that were given we corrected; and then we melded the bills into their present form.

So, there is nothing that is not addressed or was not addressed or could not have been later addressed with regard to this piece of compromise legislation.

Mr. BOSCHWITZ. I thank the Senator from Wyoming. However, I would again point out that between the time when the agreement was made between himself and the distinguished senior chairman from Massachusetts, and the present time, there have been very few days indeed; it is a very complicated piece of legislation, hearings have gone on all the way back to 1982.

I know my colleague well knows when Senators are not on the committee they are not always abreast of matters to the same degree as people who have that assignment.

Does the Senator from Wyoming wish to comment further?

Mr. SIMPSON. Mr. President, I must do that because I have been involved for so many years in this. I have always argued that we have a duty to establish a national level of immigration. That is what this bill does. The people of America have a right to know how many immigrants we will admit each year. It is not the issue of how many other countries will let people go, whether they are Communist countries or authoritarian countries. The issue is how many are we ready to take? We should take them under our own circumstances.

I would remind my friend from Minnesota that this body, in 1982 and 1983, while the Senator from Minnesota was present, passed legislation which set a national level of immigration at 425,000. That is 165,000 less than the level set in this bill. It is an extraordinary departure from fact, to say that somehow that did not occur. This legislation was passed by the Senate by votes of 80 to 19; and by 76 to 18. This bill right here is 165,000 more than the level that was set in that. And I think that, you know, at that time there was no spirited debate; no activity. So it puzzles me. I would leave it at that.

Mr. BOSCHWITZ. Mr. President, I certainly do not disagree with the distinguished Senator from Wyoming that this bill is indeed an improvement. Nobody would argue that it is not. It is an improvement, not only in numbers, but in the whole concept of immigration. I congratulate my friend, the senior Senator from Massachusetts and also my friend, No. 50, the Senator from Wyoming, for their achievements in the field of immigration, which as I have heard so many times from the Senator from Wyoming, is not an easy area in which to deal.

While I congratulate him on the basis of this bill, let me make some comments in general about immigration. They will not be too extended because I do not want to keep the Senate at too great a length. I do have an amendment that I will, perhaps, Mr. President.

I believe that an immigration cap of 590,000 people must be viewed in a different light. I suppose, first of all, it should be understood that it does not include refugees so that, perhaps, together with refugees the number is closer to 650,000, 700,000 people. But even with that number it is still about one-quarter of 1 percent of the population of the United States.

Many people say that if you allow immigrants to come in they take jobs from Americans; that they are a burden on the system. Well, it is important to note that immigrants are, by and large, not a burden on the system. Some immigrants are on welfare, for example, but to a lesser extent than are Americans as a whole. Indeed, immigrants, are part of the energy that have made this country great.

If you look back in the history of our country, and look over the period when we had the fastest and most aggressive economic development in this country, you will see that the fastest and most aggressive economic development took place at a time when immigration was the greatest. At this time immigration numbers were far greater than the number of 650,000.

But if you look back into the 1880's and the 1890's, when many immigrants came here, I am sure some Americans were saying at that time: they are going to take jobs. And, indeed, they did take jobs. But they created more jobs than they took because when an immigrant arrives, he is the ultimate consumer. An immigrant comes in here without much and with a need for just about everything. So, just as they work, they create jobs at the same time. Again, I must point out that our economy expanded at its fastest rate when the immigration numbers were the highest; highest in actual numbers, and far, far higher in percentages.

If you look at the decade beginning in 1880, immigrants came to this country, they represented about 10.5 percent of the population. If you look at the figure that we are going to get in the 10-year period, about one-quarter of 1 percent a year, that would be about 2.5 percent of the population of the country over a 10-year period, assuming the population remains more or less stable.

Let's look at the decade of 1900 to 1910; at the beginning of the decade our population was 76 million, and 8.8 million people came in the succeeding decade, which is 11.5 percent of the population that existed at the beginning of the decade. Yet that was a period of great economic growth. That was a period that people look back to with great warmth, and that was a period when many of the Americans, who now object to immigrants and refugees, I might say, fathers, grandfathers and grandmothers came to this country.

And so it continues, the decade of 1910 to 1920, in the succeeding decade, immigration figures went down, and they went down during the great depression to where there were very few, indeed.

People who want to keep immigrants out of this country, I think, do a disservice to this country. Immigrants create a great amount of energy. Perhaps because of my own immigrant status, I have some stronger feelings than perhaps some Americans.

Nevertheless, there is no question, when you look at the graduating seniors of high school and college classes and just look at their faces, you will see that they are the sons and daughters of immigrants, or immigrants themselves. They reach out, they work harder, they are more driven, and they create some of the energy and upward mobility that our society has always had.

So, while I think this bill has many good aspects to it, I am concerned about one specific point and I have spoken with the chairman earlier about this matter; again I would address these remarks to the chairman. In the event that family reunification grows, perhaps because of the amnesty provisions of other bills or perhaps for other reasons, the 590,000 visa cap this bill could all be consumed by immediate relatives and all the other reforms, and all the other forward steps he foresees in this bill would be for naught.

There has never been a cap on immediate relatives, as I understand the immigration law. Although this bill has very many forward-looking features, this bill, for the first time, puts a cap on family reunification.

I would ask my friend from Wyoming, or the senior Senator from Massachusetts, what happens in the event the expected number of 220,000 in family reunification goes higher than that?

Mr. KENNEDY. Mr. President, as the Senator knows, under the family preferences, the immediate relatives, which are the spouses, minor children, and parents of U.S. citizens, have been outside the preference system under this legislation. They would be included in the total of 590,000, but unrestricted.

The best estimate that we had made had been some 220,000. It was 220,000 in 1987. It actually dropped from the year before when it was higher, and it was about a level of 210,000 the year before.

So we had, I think, built in there about 6 to 8 percent as part of our total raising of the numbers. It is estimated it is probably 6 or 8 percent. It is difficult to be able to reach that precisely in terms of what has been the demography in the past, but that is the best judgment. It may be a few thousand one way or the other, but we have increased the total pool. We do not believe that there will be any real impact in terms of the other provisions.

But the point I think the Senator makes is that it is exceedingly difficult to anticipate now what we are going to face in terms of the immediate families for those who have taken advantage of the amnesty provision. As we had expected 2 million would take advantage, and it is about 1.2 million now, or 1.3 million. Look at the Canadian experience. A lot showed up at the end, just before the expiration of the date itself. And maybe the immediate families, wives and children will come on in. It is exceedingly difficult for us to predict. We are sensitive to it. The Senator from Wyoming is sensitive to it. That is why we have required there be an annual report on every year and why this is a short-term bill of 3 years and why we are quite prepared to come back and at least see if we cannot make any necessary changes.

But to specifically respond to what happens if there are additional immediate relatives, the way this legislation is drafted, even though we estimate it will be 220,000 if it is 240,000 they get in. If it is 300,000 they get in. If it is 400,000 they get in, because that is the first preference. It goes all the way up to the 590,000.

Mr. BOSCHWITZ. If the Senator would yield for a question, the immediate family reunification cannot go above 590,000?

Mr. KENNEDY. I did not say it would.

Mr. BOSCHWITZ. Under the terms of the bill, there is a cap.

Mr. KENNEDY. That is right.

Mr. BOSCHWITZ. In writing this bill, it is assumed that immediate relative visas will be about 220,000, give or take 6 or 8 percent, as you said. And let us say that the entirety of the number 590,000 is subsumed by immediate relatives, and/or those people who come in under amnesty, can the numbers be made larger as a result of the annual review that is called for in this bill?

Mr. KENNEDY. The answer would be it would take legislative action. The best way to respond, over the period of years where we have not had precise figures and where we have required consultation, for example, on refugees, we have made recommendations with the administration which we have worked out over a period of years, and also when the chairman of the committee was the Senator from Wyoming, which I think has reflected the best judgment of the Members of the Senate. No one has suggested, but I know it is of concern to the Senator from Minnesota, that it would exceed the 590,000. I would not hesitate to make the recommendation that those numbers be expanded. I hope and I expect that we will be able to work out a common recommendation on it, but I certainly give the assurance to the Senator that we will have a hearing on it. I cannot believe that we will not take some kind of action, but I want to make it clear, how these numbers have been established and set.

Mr. BYRD. Would the distinguished Senator yield?

The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. BYRD. Would it be possible to reach an agreement as to time limits on this amendment?

Mr. BOSCHWITZ. I will say to the leader I will not offer an amendment and I will not be more than 8 or 10 minutes more.

Mr. BYRD. I thank the distinguished Senator. Could we reach an agreement on a time for a final vote so Senators will know? Will the Senator allow me to inquire?

Mr. SHELBY. Will the majority leader yield?

Mr. BYRD. The distinguished Senator from Minnesota has the floor. I am just trying to get some idea as to when the Senate will be voting on passage of the bill.

Mr. BOSCHWITZ. Let me say to the distinguished majority leader I will not be more than 8 or 10 minutes more. I yield the floor to the majority leader.

Mr. BYRD. Please, do not yield the floor to me.

Let me just ascertain this. Does the Senator have an amendment?

Mr. SHELBY. If the majority leader will yield, I have an amendment I plan to offer.

Mr. KENNEDY. I inquired of the staff previously. I had not even seen the amendment submitted nor had it been drawn to my attention.

Mr. Leader, I would hope that, if I might suggest, we could finish with the Senator's interrogatories. He has talked about these matters with the Senator from Wyoming and myself in the early hours of both this morning and during the course of the afternoon. I think we have had an exchange, but there are one or two other areas he wants to explore. I would like to see if we can do that.

During that time, we can have a chance to study the amendment of the Senator from Alabama. That really is the last of the amendments that I know about. I think perhaps by the time we have the exchange with the Senator from Minnesota we would at least be able to recommend to the joint leadership what the membership might expect and I think we might be able to do that within 10 minutes.

Mr. BYRD. I thank the Senator from Minnesota for yielding.

Mr. SPECTER. If the majority leader will yield.

The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. SPECTER. If the majority leader is looking for a time agreement, I would like to speak for about 5 minutes.

Mr. BYRD. I thank the distinguished Senator. I am sure that he can be accommodated.

Mr. BOSCHWITZ. Mr. President, as the Senator from Massachusetts has pointed out, I have pretty well concluded my comments. I have talked with him during the course of the day and also with the Senator from Wyoming. I will talk to them privately about this bill and the implementation of the bill. What is clear is that there is an upper limit and there has never before been an upper limit on immediate relatives. However, I am pleased to hear the Senator from Massachusetts say that if the immediate relative visas number becomes so large that it begins to push out other possible immigrants, he will look at the bill once again and we will open it to new legislation. But, as he said, if the number is to be changed, it has to be changed legislatively.

It is important to point out the difference between refugees and immigrants. In the case of refugees there is no upper limit. The number of refugees is only 10 or 15 percent of the number of immigrants. The refugees, of course, are people we accept to our shores who have had to leave their own country because of personal safety reasons. This was my case when I came to this country in the 1930's, during the period of very, very small immigration.

Referring to the new nonpreference portion of the Immigration Act of 1988, I think that is a good aspect of the bill. I also agree that the elements of the bill that would open up immigration to individuals with skills, academics, and entreprenurial talents, is an improvement, as well.

I will reserve the remainder of my comments and take them up with the Senator from Wyoming personally, and I will also talk to the Senator from Massachusetts as well.

In closing, I would just like to say that those who feel that immigrants should be kept from our shores should remember that during the period of the greatest immigration to this country, which occurred in the 1870's, 1880's, and 1890's, the number was much greater than the 590,000.

When you also look at the economic growth that occurred during the period of our largest immigration, you have to conclude that there are indeed some relationships and that the energy, vitality, and intellect that came to this country with our grandfathers and great grandfathers is really what gave the greatness to America.

I compliment the Senator from Wyoming and also the Senator from Massachusetts for this bill and I will work with them to see that immigration to our shores remains open and that the numbers increase.

Mr. SIMPSON. Mr. President, that is an act of typical grace by my friend from Minnesota. It is like him. He is perhaps one of the ones I know best in this place. He speaks from a depth of feeling that none of us will ever match because he was born in Germany. He is the only Member of this body who was born in a foreign country. Some were born outside the United States, but they were U.S. citizens. He and his family were driven from their country. The doors closed on his people, his family, his relatives. So he speaks with a conviction with regard to refugees and immigrants which none of us could ever match under any circumstances.

I do appreciate very much what he is saying. I pledge that I will work with him. It is so typical of him. He is one of the busiest persons here. I have never seen a person who can keep more things in context and work on them so well all at the same time. I pledge, as long as I am involved in immigration, that we will conduct the oversight. It is so important to watch what happens with the amnestied aliens who will not be eligible to apply for immediate relatives for about 7 years. They will have 18 months in temporary status and 5 years in permanent residence. So we will have at least two 3-year studies before we get to that.

I assure you we will review them. It is a sensitive balance in terms of the refugees, the aliens, and the needs of the American people. Under the bill, we will get to at least two of the three studies before that occurs, before the amnesty begins to act there.

We should remember that our heritage is very clear, especially in these last years. I will join in supporting a generous immigration system, which right now is one of the most generous on Earth. We already take more immigrants than the rest of the world combined before we add another 580,000 in this bill. We will look at that number in 3 years. It will not be 30 years as in the past. It will be now, annually, and every 3 years. I pledge to work with my colleague from Minnesota, who speaks with a conviction that none of us will ever measure.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I came to the floor to support the amendment of the distinguished Senator from Minnesota. But now that he has decided not to offer it, I will associate myself with his comments. I question whether the immigration laws of this country are as generous as they should be. While I do not have quite the intensity of feeling which the Senator from Minnesota has expressed, I do feel strongly about the matter.

I tend to disagree with one comment of his concerning the decade of the 1900's when my mother came to this country as a child of 5 with her parents; 1911 was the year my father came to this country by himself, without any formal education.

I would associate myself with Senator BOSCHWITZ' comments notably when he talked about the energy, the vitality and the intellect of those who came to this country. During that era of greatest immigration there was the greatest expansion of economic development. I believe that the success of America turns on the immigrants who came to this country because, after all, we are a country of immigrants. We should never lose sight of that fact and never lose sight of the importance of a generous immigration policy.

But is the absence of an amendment being offered, I want to make these comments and associate myself with the references by the distinguished Senator from Minnesota.

I thank the Chair and yield the floor.

Mr. BYRD. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Wirth). Without objection, it is so ordered.

AMENDMENT NO. 1650

(Purpose: To make technical corrections)

Mr. KENNEDY. Mr. President, on behalf of myself and the Senator from Wyoming [Mr. Simpson], I send to the desk a technical amendment to correct various drafting errors in the bill and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. Kennedy], for himself and Mr. Simpson, proposes an amendment numbered 1650.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 9, strike out "(b)(1)" and insert in lieu thereof "(b)".

On page 4, line 5, strike out "resident" and insert in lieu thereof "residence".

On page 6, lines 21 and 22, strike out "consideration" and insert in lieu thereof "considerations".

On page 9, lines 16 and 17, strike out "a fiscal year or years" and insert in lieu thereof "the fiscal years of a 3-fiscal year period".

On page 9, line 18, insert "(i)" immediately after "(3)(A)".

On page 9, line 21, insert "(i)" immediately after "(e)(3)(A)".

On page 9, lines 24 and 25, strike out "fiscal year (or years)" and insert in lieu thereof "the three fiscal years".

On page 10, line 3, strike out "(3)(B)" and insert in lieu thereof "(3)(A)(ii)".

On page 10, line 6, strike out "(e)(3)(B)" and insert in lieu thereof "(e)(3)(A)(ii)".

On page 10, lines 9 and 10, strike out "fiscal year (or years)" and insert in lieu thereof "the three fiscal years".

On page 14, line 22, strike out "in".

On page 16, line 16, insert after "other than" the following: "a special immigrant, as defined in section 101(a)(27), or".

On page 16, line 23, strike out "(a)" and insert in lieu thereof "(a)(2)".

On page 18, line 5, strike out "(ii)" and insert in lieu thereof "(ii)(I)".

On page 18, line 10, insert "and" after "approved,".

On page 18, between lines 10 and 11, insert the following:

"(II) continue to qualify under the terms of this Act as in effect on the day before such date,

On page 18, between lines 23 and 24, insert the following:

Qualified immigrants—

On page 18, line 24, strike out "qualified immigrants".

On page 19, line 3, strike out "qualified immigrants".

On page 19, line 14, after "visas" insert the following: ", in addition to visas otherwise allocated under section 201(a)(3),".

On page 19, line 18, strike out the double quotation marks each place they appear and insert in lieu thereof single quotation marks.

On page 19, line 21, strike out the quotation marks and the second period.

On page 23, line 5, strike out "first day of the fiscal year involved" and insert in lieu thereof "date of filing a petition".

On page 23, strike out lines 6 through 9 and insert in lieu thereof the following:

"(I) at least 21 years of age but has not attained 36 years of age, 10 points; or

"(II) at least 36 years of age, but has not attained 45 years of age, 5 points.

On page 23, lines 11 and 12, strike out "first day of the first year involved" and insert in lieu thereof "date of filing a petition".

On page 24, beginning on line 2, strike out "For" and all that follows through "language" on line 5 and insert in lieu thereof "For an alien who certifies, upon the date of filing a petition, subject to verification by examination after the date of selection, that he has an understanding of the English language and the ability to communicate in such language, 20 points".

On page 24, line 12, strike out "succeeding".

On page 24, line 17, strike out "succeeding".

On page 24, line 21, strike out "training, work experience, or both," and insert in lieu thereof "additional training, work experience, or both, as determined by the Secretary of Labor,".

On page 30, line 15, strike out "self-administered oath by which the petitioner shall certify" and insert in lieu thereof "a certification".

On page 30, line 18, strike out "and that" and insert in lieu thereof ", and".

On page 31, line 24, strike out "by" and insert in lieu thereof "in clause (A) of".

On page 32, line 20, after "203(b)" insert the following: ", except that this paragraph shall not apply to any alien for whom a waiver has been made under section 203(b)(2)(B)".

On page 32, line 23, insert "of the Immigration and Nationality Act" after "212(a)(14)".

On page 45, between lines 14 and 15, insert the following:

Section 286 (8 U.S.C. 1356) is amended by adding at the end thereof the following new subsections:

On page 45, line 15, strike out "(a)" and insert in lieu thereof quotation marks and "(m)".

On page 45, line 22, strike out "(b)" and insert in lieu thereof quotation marks and "(n)".

On page 46, line 9, after the period insert quotation marks and a period.

On page 47, line 2, after "effect" insert the following: ", except that petitions filed before such date for preference status on the basis of unskilled labor under section 203(a)(6) of such Act (as in effect before such date) shall be deemed as of such date to be petitions for the status described in section 203(b)(3) of such Act (as amended by this Act)".

Mr. KENNEDY. Mr. President, as I mentioned before, they are strictly technical amendments and I urge the Senate to accept them.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1650) was agreed to.

Mr. BYRD. Mr. President, there will be no more rollcall votes tonight.

The PRESIDING OFFICER. The Senator from Massachusetts.

ADMINISTRATIVE NATURALIZATION AMENDMENT

Mr. KENNEDY. Mr. President, the respected chairman of the House Judiciary Committee, Peter Rodino, has introduced and passed through the House a very responsible bill—to deal with some of the extreme backlogs in naturalizations. The delays—some for over a year—are robbing eligible applicants of their rightful access to certain jobs. And—more important to our democratic form of government—they are deprived of the right to vote.

I am offering his bill as an amendment today to help expedite its passage.

The problem, Mr. President, arises from the fact that currently naturalizations are performed only by courts. Judges often have their calendars filled with pressing criminal and other cases, and have little time remaining for naturalization.

Chairman Rodino's commendable bill would permit administrative, rather than judicial, naturalizations. This could limit the demands being placed upon our already overburdened judiciary, and allow for timely naturalizations at the same time.

Furthermore, the Congressional Budget Office Estimates that this proposal would save the Federal Government at least $1.5 million.

Mr. President, there is much to be said for the sense of decorum and patriotism of a naturalization proceeding in a court chamber. Naturalized Americans for many years have testified to the role that ceremony plays in emphasizing the high privileges and obligations of American citizenship.

Let there be no doubt that it is our clear intent that administrative naturalization ceremonies will continue the high traditions of the courts, with majesty fully befitting the great moment of being granted citizenship. And under the terms of this provision, current applicants can still opt for a court-administered naturalization ceremony if they desire one.

Mr. President, this amendment also contains two minor changes to strengthen H.R. 735. The first would require the Immigration Service to promote naturalization among immigrants. It is important to reverse declining naturalization application rates among eligible immigrants. So we intend that the Immigration Service handle applications expeditiously, conduct an effective media-based and community-based public education campaign, as well as contract with community groups who are able to reach out to immigrant communities.

The second would permit appropriate judicial review of administrative denials. While this amendment gives authority to the executive branch to naturalize, we still need judicial oversight of this immensely important function.

Finally, Mr. President, this amendment contains an extremely important naturalization provision proposed by my good friend from Hawaii, Senator INOUYE. Senator INOUYE introduced this as S. 109. Some adjustments have been made to that original language to accommodate Justice Department concerns, all of which are part of this amendment.

Senator INOUYE's provision would rectify a grievous omission in our naturalization history from the 1940's related to Filipinos who served in our Armed Forces during the Second World War. It was—and remains—our clear intent to offer U.S. citizenship to Filipinos who risked their lives with us in our military.

Unfortunately, these war veterans have been unintentionally deprived of this possibility due to gaps in naturalization statutes and in their actual administration. Senator INOUYE's provision commendably bridges these gaps.

Mr. President, this amendment has been cleared on both sides of the aisle, and I urge its adoption.

Mr. INOUYE. Mr. President, I would like to commend Chairman KENNEDY and Senator SIMPSON for their efforts in reforming our current system for admitting immigrants. I admire the noble intentions of S. 2104, the Immigration Act of 1988, to increase flexibility and the opportunity for persons to immigrate from nations which are shortchanged by current law.

It is my pleasure to introduce my bill, S. 109, as an amendment to the Immigration Act of 1988. My measure faithfully serves the same noble goal that Chairman KENNEDY and Senator SIMPSON wish to achieve in their bill. This amendment will enable Filipino war veterans, who served valiantly in the U.S. Armed Forces during the Second World War, to be naturalized as U.S. citizens.

Congress previously recognized the contributions made by the Filipino veterans during World War II. In March 1942, Congress amended the Nationality Act of 1940 allowing the naturalization of Filipino noncitizens who served honorably in our armed services during World War II. The law expired on December 31, 1946. Many veterans, however, were precluded from taking advantage of the naturalization process for 9 months as a result of a decision made by the Attorney General to remove the naturalization examiner from the Philippines. This action was taken at the request of the Philippine Government, based on its concern over the large numbers of Filipinos emigrating to the United States.

This 9-month absence of a naturalization examiner, during the filing period, initiated numerous litigations by Filipino war veterans. The common claim raised in these cases is naturalization eligibility under the terms of the 1942 act. The courts have disagreed and continued to disagree over the legal and constitutional validity of the executive decision to remove the naturalization examiner from the Philippines. The issue of Government conduct in the administration of the 1942 act is now being litigated on a case-by-case basis. Meanwhile, it must be noted that many of these veterans are old and frail, and may not live long enough to see the outcome of their cases.

The Department of Justice supports the naturalization of all eligible Filipino war veterans, even those who have not been admitted to the United States as lawful permanent residents. The Department recommends a 1-year application period so no eligible veteran misses the opportunity to file an application with the Immigration and Naturalization Service. My bill is consistent with the recommendations expressed by the Department of Justice.

Presently, there are approximately 6,000 pending petitions before the Immigration and Naturalization Service. Half of these petitions were filed by Filipino war veterans who currently reside in the United States. The majority of these petitions have been held in abeyance for more than 30 years. The passage of my legislation will be a major step forward in ensuring naturalization for these patient, brave veterans who so willingly risked their lives for our country in World War II.

I ask unanimous consent that a letter dated December 15, 1987, from Assistant Attorney General John R. Bolton be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, December 15, 1987.
Hon. DANIEL K. INOUYE,
U.S. Senate, Washington, DC.

DEAR SENATOR INOUYE: This responds to your request for the views of the Department of Justice on the legislation which would permit the naturalization of certain Filipino war veterans (S. 109). The Department of Justice recommends enactment of this legislation with the recommendations below.

This bill would allow Filipino national veterans within the United States present both on the date of enactment and on the date of filing of the application for naturalization, to become naturalized citizens. The veteran must have been eligible for naturalization under the Nationality Act of 1940, as amended, but have failed to file a petition for naturalization before January 1, 1947. The application must be filed no later than 90 days after enactment of the bill.

The provisions of Title III of the Nationality Act of 1940, as in effect before December 24, 1952, allowed qualifying nationals of the Philippines to naturalize if a petition was filed no later than December 31, 1946. Under sections 701 and 702 of that Act, noncitizens who were then serving or had served honorably in the Armed Forces of the United States during World War II could petition for naturalization. Section 701 required that the serviceman at time of enlistment or induction be lawfully admitted for permanent residence into the U.S. or have entered the U.S. prior to September 1, 1943. Section 701 dealt with persons in the U.S. and 702 provided for overseas naturalization of non-citizen military personnel. The provisions required that military service be proven by authentic records of military service or sworn affidavits of two U.S. citizens who were noncommissioned or warrant officers or higher rank and two U.S. citizen credible witnesses who attest to petitioners good moral character.

Following the expiration of the time limit established by Congress, numerous lawsuits were filed on various theories, all claiming the Philippine veterans previously eligible under the terms of the Act of 1940 were entitled to naturalization. The Department recognizes that Filipinos who served so valiantly with United States Armed Forces in the Far East during the Second World War are deserving of the chance to naturalize as United States citizens. Additionally, Congress previously recognized the contribution made by these veterans during World War II, and is clearly free once more to provide the privilege of naturalization in recognition of that service.

The Department suggests, instead of creating eligibility under the terminated 1940 Act, that this group be entitled to naturalization under section 329 of the Immigration and Nationality Act [8 U.S.C. 1440(d)], and that the requirement of presence in the United States on the date of filing of the application be eliminated. We recommend that several requirements of section 329 be amended for this group only, the requirements of lawful permanent residence status and the enlistment (or reenlistment) within qualifying geographic areas [§§ 329(a)(1) and (2)]. This would allow the Filipino war veterans, who enlisted outside of the United States, the Canal Zone, American Samoa, the Swain Islands and who have not been admitted to the United States as lawful permanent residents, to qualify for naturalization under this section. We also see no reason to restrict an application for naturalization to those veterans present in the United States and would prefer a provision that allows an applicant to apply overseas. Applications can be accepted from veterans abroad under section 329. Additionally, eligibilty under this section would remove the witness requirements which seems unnecessary for these applicants. (The witness requirement for all naturalization applicants was eliminated with enactment of Pub. L. 97-116).

Not only would the bill's reference to a terminated law create confusion, but also the administration of two nationality laws simultaneously would be cumbersome and inefficient. The Immigration and Nationality Act should apply to all petitioners for naturalization.

The final issue is the restriction of the filing period to 90 days. The Department sees no particular need for restricting the application time period to 90 days, and suggests instead at least a six-month or one year application period. This will ensure that no eligible veteran misses the opportunity to file an application and would lessen the impact of a sudden onslaught of applications upon the Immigration and Naturalization Service.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BOLTON,
Assistant Attorney General.

AMENDMENT NO. 1651

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] for himself and Senator SIMPSON proposes an amendment numbered 1651.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed later in today's RECORD under Amendments Submitted.)

The PRESIDING OFFICER (Mr. ADAMS). Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1651) was agreed to.

AMENDMENT NO. 1652

(Purpose: to amend S. 2104, the Immigration Act of 1988, to require a report on Cuban entry to the United States)

Mr. KENNEDY. Mr. President, I send an amendment on behalf of the Senator from Florida, Senator CHILES, to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], on behalf of the Senator from Florida [Mr. CHILES], offers an amendment numbered 1652.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

To be inserted in the appropriate place in the bill add the following:

Congress recognizes that resumption of the 1984 Mariel Agreement between the United States and Cuba will have a disproportionate impact on particular regions of the United States, notably South Florida. In anticipation of this impact and the increase in demand for certain services, Congress directs the Attorney General, in conjunction with the Secretary of State, to prepare and transmit to the appropriate committees of Congress a report detailing the number of Cubans granted preference visas.

(a) STUDY AND REPORT—The Attorney General and the Secretary of State shall—

(1) prepare and transmit a detailed projection of the number of Cubans who have applied or have been granted preference immigration visas for entry into the United States; and

(2) such information including the age, occupation, number of dependents, and special medical needs of those Cubans who have applied or have been granted preference immigration visas for entry into the United States.

REPORT DATE—The Attorney General, in conjunction with the Secretary of State, shall submit the report—

(1) during the first quarter of the fiscal year following enactment of this Act; and

(2) thereafter on a quarterly basis.

(c) In preparing these quarterly reports, the Attorney General and the Secretary of State shall cooperate and consult with state and local officials. Such cooperation should include—

(1) adequate notice as to the number of Cubans who have applied or have been granted preference immigration visas; and

(2) the relevant information required in the quarterly reports which would permit state and local entities to prepare for the increased demand for certain services.

Mr. KENNEDY. Mr. President, all this amendment does is require a report on immigration from Cuba.

I would ask unanimous consent that a statement of the Senator from Florida be included in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT ON CUBAN IMMIGRANTS

● Mr. CHILES. Mr. President, I am pleased today to submit an amendment to S. 2104, the Immigration Act of 1988 revising our legal immigration process. My amendment also addresses legal immigration, but originates out of the agreement concluded in November of last year by the State Department and the Government of Cuba.

On November 20, 1987, representatives of the United States and Cuba agreed to immediately resume implementation of the 1984 Mariel Migration Agreement. Resumption of this agreement has been heralded as a return to normalcy between the United States and Cuba but it is most certain to have an impact on south Florida. As many are already aware, in 1985 Cuba unilaterally suspended the 1984 Mariel Agreement under which it was obligated to accept the return of certain Cuban nationals who entered the United States in 1980 via the Port of Mariel. The United States responded by suspending its processing of visa applications in the U.S. interests section in Havana. Now that normal immigration relations have been resumed, south Florida can expect a new stream of Cuban immigrants. That is an important point—a new stream of immigrants. I am hopeful that this controlled, monitored processing of Cuban immigrants will minimize the chances of another uncontrolled as influx, like the Mariel boatlift.

The amendment I offer today requires the Attorney General and the Secretary of State to prepare and transmit to Congress a report projecting the number of Cubans expected to enter the United States as a result of the resumption of the Mariel Agreement. Most will agree that this agreement will primarily affect south Florida, although other areas of the country will be affected as well. Under the terms of the agreement, up to 20,000 Cubans may enter each year. Although we can expect an orderly, controlled processing of Cubans, the impact will put a strain on services provided by State and local governments. The amendment I offer will put Congress, as well as State and local entities, on notice as to the number and demographic makeup of Cubans entering the United States.

Past experience teaches that we must be prepared for any increase in legal immigration. South Florida is especially sensitive to the possibility of being caught off guard as it has been in the past. Even with a host of Federal financial resources available, metro-Dade County can demonstrate a disastrous strain on its resources associated with past surges in immigration flow. My amendment allows the Federal Government in consultation with State and local entities to adjust its programs to accommodate the needs of Cuban entrants.●

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1652) was agreed to.

EXON AMENDMENT ON ALIEN ELIGIBILITY FOR FEDERAL BENEFITS

Mr. EXON. Mr. President, I am prepared to offer an amendment which would prohibit illegal aliens from receiving Federal benefits unless those benefits were authorized by the Immigration and Nationality Act. Over the years, the Congress has crafted AD HOC qualifications in Federal benefit statutes.

At times, due to congressional inaccuracy or expansive court interpretations, these statutes have been used to provide Federal financial benefits to illegal aliens. This situation has led to the payment of unemployment benefits, Social Security benefits, health care benefits, and housing benefits to individuals who have no legal right to even be in the United States.

The Federal Government must insure that limited Federal funds go to their intended beneficiaries. The Congress made good progress in requiring verification of status for certain entitlement programs and in authorizing the systemactic alien verification for entitlement program better known as the Save Program.

However, these steps contained in the Immigration Reform and Control Act of 1986 can only be as effective as the interpretations of the various underlying benefit statutes. The Save Program only verifies "satisfactory immigration status," In an era when our Nation is facing $200 billion annual budget deficits and the constraints of the Gramm-Rudman law, Federal dollars paid to illegal aliens are literally dollars taken away from one of our own citizens or someone who has a legal right to be in the United States.

Mr. KENNEDY. I appreciate the concerns of the senior Senator from Nebraska. He has identified a potential problem which is worthy of serious consideration. I strongly encourage the Senator to withhold his amendment and give the Senate Judiciary Committee an opportunity to consider the Senator's legislation.

Mr. EXON. Mr. President, I will agree to withhold my amendment with the assurance from the distinguished senior Senator from Massachusetts that his committee will hold hearings on this measure this spring.

Mr. KENNEDY. I thank the Senator from Nebraska and give him that assurance.

Mr. EXON. Mr. President, I will not offer my amendment on this legislation. I, of course, reserve the right to pursue it on another legislative vehicle. I look forward to hearings this spring and will be working with my colleagues who serve on the Senate Judiciary Committee in enact this legislation. I appreciate the assistance from the Senator from Massachusetts and the Senator from Wyoming on this matter.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD for the information of my colleagues. Thank you, Mr. President.

There being no objection, the amendment was ordered to be printed in the RECORD as follows:

At the appropriate place in the bill, insert:

SEC. (a) DIRECT FEDERAL FINANCIAL BENEFITS.—That on or after the date of enactment of this Act, notwithstanding any other provision of law, no direct Federal financial benefit or Social Insurance benefit may be paid or otherwise given to any person not lawfully present within the United States except pursuant to a provision of the Immigration and Nationality Act as amended.

(b) UNEMPLOYMENT BENEFITS.—No alien who has not been granted employment authorization pursuant to federal law shall be eligible for unemployment benefits.

(c) DEFINITION.—For the purposes of this Act, the term "person not lawfully within the United States" shall be any person who at the time he or she applies for, receives, or attempts to receive such federal financial benefit is not a United States citizen, a permanent resident alien, an asylee, a refugee, a parolee, or a non immigrant in status.

Mr. MOYNIHAN. On August 6, 1987, I was pleased to join Senator KENNEDY in introducing the Immigration Act of 1987, S. 1611. The bill we consider today, S. 2104, is a compromise version and has emerged as a result of much cooperation between Senator KENNEDY and Senator SIMPSON.

This bill creates two separate immigrant visa preference systems: one for family members; another for independent immigrants. Although the legislation continues to stress family reunification and in fact does much to streamline the existing system, it also recognizes that the United States requires skilled immigrants. To accomplish both these goals, overall immigration is increased by approximately 80,000, with 120,000 visas reserved for independent immigrants, that is, for persons of exceptional merit or with needed skills. Of these 120,000 visas, 55,000 will be distributed according to a point system which will award points for levels of education, occupational demand, occupational experience, and English language proficiency. The cumbersome individual labor certification requirement is eliminated for these visas.

At present, existing preference categories fill up virtually the entire 270,000 visa quota. Indeed, over 90 percent of the visas issued today are family related. Those seeking visas under the nonpreference category have little chance. However, this legislation changes that, and the new category established is expected to benefit individuals from Western European countries such as Ireland, Italy, and others that were earlier sources of immigration to this country, but which have been effectively shut out due to the strict preference system currently in place.

WHY REFORM IS NEEDED

This legislation seeks to inject fairness into our immigration laws. Traditionally, apart from the Chinese Exclusion Acts of the late 19th century, we did little to regulate immigration to this country at all. That is, until 1924 when we enacted the National Origins law that had in mind keeping the United States exactly as it once had been. It set national origin quotas on the basis of the 1890 census, was pro-Northern European, pro-Western Europe, and openly so. This was nativist legislation, though some of the natives were not very welcome when they arrived.

The 1965 Immigration and Nationality Act Amendments were a direct response to this nativist legislation and attempted to undo that earlier bias. The 1965 amendments accomplished this, but overdid in the process. Stressing family unification and family ties, the 1965 law clogged the system and cut off access to this country for the people and nations where immigration took place three or four generations ago. The 1981 report of the Select Commission on Immigration and Refugee Policy—a distinguished panel headed by Father Theodore Hesburgh and counting among its members our two lead sponsors today, Senators KENNEDY and SIMPSON—summed it up well. The report stated that:

> The low priority accorded nonfamily immigrants and a cumbersome labor certification process for clearing them for admission has made it difficult for persons without previous family ties in the United States or extensive training and skills to immigrate.

The effort to limit immigration in 1924 to some groups, to prefer them over others, was not well-received. It was not right, not fair. Now we have moved too far in the other direction. The system now disadvantages individuals from countries which sent the first waves of immigrants to America. Since most European immigrants arrived in this country long before 1965, they do not have any close relatives to bring them in. Clearly, a mid-course correction is in order.

The legislation now before us accomplishes such a correction. It restores fairness and balance to our immigration laws to ensure that certain individuals and nations are not penalized because of their long heritage in this country. Certainly, the interests of family reunification are great and our immigration policies should not hamper such. However, we also need to help the descendants of our forefathers, to open the doors to opportunity for them as well.

It is also worth noting that this is not an overpopulated country. In fact, at some point in the next century the American population will actually start to decline. There is room for some more people in this country; there always has been and should be. I urge my colleagues to support the Immigration Act of 1988.

The chronology of immigration policy follows:

CHRONOLOGY OF U.S. IMMIGRATION POLICY

1875: First federal restriction on immigration prohibits prostitutes and convicts.

1882: First general immigration law enacted which curbs Chinese immigration. Congress excludes convicts, lunatics, idiots and persons likely to become public charges, and places a head tax on each immigrant.

1891: Ellis Island opens as immigrant processing center.

1903: List of excluded immigrants expands to include polygamists and political radicals such as anarchists.

1917: Congress requires literacy in some language for immigrants and virtually bans all immigration from Asia.

1921: Quotas are established limiting number of immigrants of each nationality.

1924: National Origins Law (Johnson-Reed Act) sets temporary annual quotas at two percent of the country's U.S. population based on 1890 Census and sets immigration limit of 150,000 in any one year from non-Western Hemisphere countries.

1943: Chinese Exclusion Laws repealed.

1952: Immigration and Nationality Act of 1952 (McCarran-Walter) Reaffirms national origins system and sets immigration limits.

1965: Immigration and Nationality Act Amendments of 1965 abolish national origins system, and establish preference system and annual ceilings for countries.

1976; 1978: Additional amendments to Immigration and Nationality Act.

1986: Immigration Reform and Control Act imposes sanctions on employers who hire illegal aliens and grants amnesty to illegal aliens in this country since 1982.

Mr. CHAFEE. Mr. President, Senator HATFIELD and I have drawn up an amendment to address the so-called family unity question raised by the amnesty provisions in the Immigration Reform and Control Act of 1986. It is our understanding that the managers of the bill are discouraging the offering of our amendment because of the delicate negotiations which have allowed them to bring the pending bill to the floor. I would like to ask the senior Senator from Massachusetts if this is the case.

Mr. KENNEDY. That is correct. We are presently operating under an agreement that is contingent on not allowing any amendments that pertain to the amnesty provisions of IRCA. I would like to let the Senator know, however, that I support the intent of his amendment.

Mr. CHAFEE. I appreciate the Senator's support of this approach to ensuring the unity of our immigrant families under IRCA. Knowing of the Senator's desire to see substantive action on the pending bill of which he is the sponsor, we will abide by his request to withhold our amendment at this time. We would, however, like to explain the situation and why action is needed to correct our country's current policy, and I yield to my colleague from Oregon for that purpose.

Mr. HATFIELD. Mr. President, the Immigration Reform and Control Act of 1986 contains provisions that allow illegal aliens who have lived in this country since January 1, 1982 to be eligible for legal resident status. The year-long application period for this amnesty is set to expire on May 4 of this year. Unfortunately, many who are eligible for this amnesty are not coming forward because their children and spouses do not qualify and could be subject to deportation, is that not correct, I ask of my colleague from Rhode Island.

Mr. CHAFEE. Yes, the Senator is correct. The amendment that the Senator from Oregon and I are prepared to introduce would prohibit the deportation of the spouse and children of individuals who qualify for legalization. The provisions of our amendment would only benefit those spouses and children who were already in the United States by November 6, 1986, and who meet all the other eligibility requirements of the legalization program.

Mr. HATFIELD. Mr. President, I would like to ask the chairman of the Subcommittee on Immigration, Senator KENNEDY, to express his thoughts on the effects of our current policy and whether he support our efforts to change that policy.

Mr. KENNEDY. I recognize that the problem you have outlined is indeed troubling. I support the thrust of the amendment that my colleagues from Oregon and Rhode Island have drafted. In fact, when Senator CHAFEE introduced a similar amendment on the floor last October, I supported and voted for that effort to change the present situation. You are correct that we cannot address this injustice by amending the pending bill. However, I do wish to continue to help facilitate a resolution to this problem. The lack of a broad and uniform statute to protect family members from being forcibly separated must be corrected if the immigration service insists on deporting close family members.

Mr. HATFIELD. I thank the Senator. Mr. President, a similar amendment was approved by the House in December as an amendment to the continuing resolution. The Senator from Massachusetts wrote a letter to the conferees on the that bill urging their support of that amendment, did he not?

Mr. KENNEDY. That is correct. I was joined by the chairman of the Committee on the Judiciary, and I ask, Mr. President, that that letter be included in the RECORD.

Mr. CHAFEE. If the Senator would yield, I would like to thank the chairman of the Subcommittee on Immigration for being so forthright in his support of our efforts. I know he is aware of the problem we seek to address and that he, too, has been working for a solution. I understand that the Senator is planning to hold hearings on his amnesty extension bill and other related matters in late March or early April. I would ask the Senator if he intends to bring up the subject of family unity during those hearings. In addition, I would like to know the Senator's time schedule for floor action on that bill and whether at that time this amendment will be in order.

Mr. KENNEDY. As my colleagues have pointed out, the lack of protection for family members has been a factor in the lower than expected turnout for the initial amnesty and I am pushing for an extension of the application period. Therefore, it is my intention to address the family unity issue during the hearings on extending the amnesty application period. When the extension bill comes to the floor, hopefully during mid-April, I will see that this amendment is treated fairly if the Senators wish to pursue it at that time.

Mr. HATFIELD. I would like to thank the Senator from Massachusetts for his help on this matter. As the Senator knows, the Immigration and Naturalization Service currently has in place an administrative policy regarding the families of amnesty-eligible aliens known as the "Family Fairness" policy. It is our concern that discretionary application of this policy has not helped to reassure amnesty-eligible aliens that their families' status will be adjudicated fairly and consistently by the INS. In fact, I am aware of three recent cases in Chicago where family members seeking to qualify under this policy were denied and then, even though they came to the INS in good faith, were given 30-day deportation orders. Clearly, in a set of circumstances where something like this could happen, cooperating with the INS represents a roll of the dice for families hoping to make use of the policy. Unfortunately, the stakes for losing are brutally high.

Mr. CHAFEE. I, too, would like to thank Senator KENNEDY for his concern about family unity. I am aware that he has been tireless in his efforts to work out a solution administratively with the Commissioner of the INS. I have also communicated my deep concerns to the Commissioner. In addition, Senator HATFIELD and I have written to President Reagan to urge that he work with the INS to bring about a fair and humanitarian family unity policy. I ask that both the letter to the Commissioner and the President be included in the RECORD. Such a policy, as embodied in the amendment that Senator HATFIELD and I have drafted, is not at all inconsistent with the administration's avowed emphasis on strengthening the family unit. It does appear, however, that congressional action is necessary.

Mr. KENNEDY. I appreciate the information on the cases to which the Senator from Oregon refers. I agree that the current policy relying on the discretionary power of INS District Directors represents an uncertain situation for those hoping to keep their families together. I agree with both of my colleagues that there exists a need not only for a liberal usage of the family fairness policy, but also for additional action to clarify that it is not the intent of Congress that individuals must choose between citizenship and their families.

Mr. CHAFEE. Mr. President, I would like to thank the Senator from Massachusetts for engaging in this exchange. We set out to provide a clear record not only that this problem exists, but that the chairman and other members are intent on solving it in a humanitarian way this year. I believe we have achieved both goals and can at this time, in good conscience, refrain from offering the amendment that the Senator from Oregon and I had planned to introduce.

The letters follow:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, October 14, 1987.
Hon. ALAN C. NELSON,
Commissioner, Immigration and Naturalization Service, Washington, DC

DEAR COMMISSIONER NELSON: As you know, the issue of providing an interim legal status to immediate family members of persons qualifying for the legalization program is one which has been raised with you in oversight hearings by the Subcommittee. We understand this is currently under review within the Immigration and Naturalization Service. While we know that it is not your intent that immediate family members who are disqualified for legalization be deported, we would nonetheless encourage INS to develop a Service-wide policy which would—on a case-by-case basis and to avoid unnecessary hardship—permit such family members to remain in the United States through a number of available interim legal statuses.

We believe these administrative actions in no way contradict the Senate's legislative history in the Immigration Reform and Control Act of 1986, which states:

"It is the intent of the Committee that the families for legalized aliens will obtain no special petitioning rights by virtue of the legalization. They will be required to "wait in line" in the same manner as immediate family members of other new resident aliens." (S. Rpt. 99-132, p. 16)

A policy which permits certain immediate family members an interim legal status would not alter the requirement that they "wait in line" like all other immigrants for their permanent legal status until their legalized relatives can petition for them.

It is our view that a policy directive should be issued which will permit District Directors, on a case-by-case basis, to use any of a number of authorities already available to provide an interim legal status to those immediate family members of legalized aliens who qualify.

We think that such a policy clarification should be made as soon as possible, and the Subcommittee staff is at your disposal for consultation on this matter, as well as any further assistance you might need from us in developing such a directive.

Best wishes, and many thanks for your consideration.

Sincerely,
PAUL SIMON,
EDWARD M. KENNEDY,
Chairman.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, December 17, 1987.

DEAR CONFEREE: The Conference Committee on the Continuing Resolution may be deciding today on a provision in the House version related to certain unqualified spouses and children of persons legalized under the immigration amnesty—the so-called "family fairness" issue. This provision would, under specified conditions, stay the deportation of those family members. It has our unequivocal support.

The crux of the issue is this: An applicant for the immigration amnesty must have been in the U.S. since before January 1, 1982 to qualify. But many applicants have spouses or children who came here after that cut-off date. Their legalized family member qualifies them for eventual permanent residence here. In the meantime, what do we do with them?

Before the Congress passed the amnesty, the Immigration Service would consider status for undocumented family members in only the most extraordinary of cases. However, in enacting the legalization program last year, we were admitting that the lawful system had not worked, and that the normal rules of the game should be put aside for a brief period while we put our immigration house in order.

In our recent experience with the legalization program, we have concluded that most immigration officers in the field reflect this spirit and will not deport these unqualified family members. However the prospect of such deportation still exists for these families, creating a life of fear and furtiveness for them, until such time as they can eventually receive permanent residence.

Current law provides the Immigration Service with ample authority to provide any of a number of interim legal statuses to such persons. Because of the adequacy of current law in this area, we did not feel legislation to be necessary. Rather, the Immigration Service could have solved this administratively.

However, it has become abundantly clear in recent weeks that the Immigration Service leadership would prefer to stifle, rather than unleash, the humane instincts toward this issue which we have witnessed among immigration officials in the field. INS will act to protect children where *both* parents have qualified for legalization. But statements from INS headquarters suggests that it will be the rare case that spouses or children will receive favorable consideration beyond that.

Unfortunately, this makes Congressional action necessary.

This is a difficult issue—one which under ideal circumstances would be thoroughly considered and debated in the Judiciary Committee. But time is running out. The legalization program ends in May, and these families need the security that Congressman Roybal's provision would offer.

Thank you for your assistance on this important matter.

Sincerely,
EDWARD M. KENNEDY,
Chairman, Subcommittee on Immigration and Refugee Affairs.
JOSEPH R. BIDEN, JR.,
Chairman.

U.S. SENATE,
Washington, DC, February 19, 1988.
The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We would like to take this opportunity to congratulate you on your recent State of the Union address. Of particular note was your intent not to rest on the many accomplishments of your administration but, rather, to provide continued leadership in confronting the problems and challenges ahead.

One such problem continues to be of great concern to us. It is an issue that reaches to the very core of our country's values and beliefs. A problem that you, in your speech, acknowledged and pledged to help correct. That problem is the impact of government on the family unit.

You proclaimed in your speech that we must "make certain that the family is always at the center of the public policy process, not just in this administration but in all future administrations." You alluded to the Executive Order you signed on September 2, 1987 which states that Executive departments and agencies must ask whether their actions "strengthen or erode the stability of the family and, particularly, the marital commitment." In addition, it asks them to question what federal policies represent "to the public concerning the status of the family" and "to young people concerning the relationship between their behavior, their personal responsibility, and the norms of our society."

We applaud you for this renewed emphasis on the stability of the family. Sadly, however, the spirit of this message is not being adhered to by the Immigration and Naturalization Service in its treatment of amnesty-eligible aliens. As you know, the provisions of the Immigration and Control Act of 1986 enact a broad amnesty for illegal aliens that have resided in this country since January 1, 1982. Unfortunately, many of these aliens are not coming forward because non-qualifying spouses and children of eligible aliens could be subject to deportation.

The immigration bill allows illegal aliens to emerge from the shadows of life as outsiders; it opens the road to U.S. citizenship and offers them a chance to become legal participants in the affairs of this country. We are afraid, however, that while those amnesty-eligible aliens are able to benefit from this country's government and economy, they are excluded from exercising their commitment to the most basic of American institutions—the family.

Commissioner Nelson has announced that the INS will review each case with "humanitarian concerns," especially regarding children. However, the absence of a broad and uniform policy to protect spouses from being torn away from their families has had a severe impact upon the success of the initial amnesty. In addition, it has seriously damaged the ability of these aliens to maintain cohesive family units. We are sure that Congress did not intend the immigration bill to be anti-family in practice, but that is currently the case.

We urge you to reverse this situation. By ordering the promulgation of INS regulations that would extend amnesty to immediate family members of eligible aliens, you have the opportunity to demonstrate your administration's regard for the family. We are not suggesting a new admissions program, but rather a compassionate response to those family members that are already here. Without amnesty, they will continue to live here as second-class citizens in constant fear of deportation and separation from their families.

Respectfully yours,
MARK O. HATFIELD,
U.S. Senator.
JOHN CHAFEE,
U.S. Senator.

U.S. SENATE,
Washington, DC, October 27, 1987.
Hon. ALAN C. NELSON,
Commissioner, Immigration and Naturalization Service, Washington, DC.

DEAR ALAN: We are writing to express our concerns regarding your recent announcement of a "Family Fairness" policy, which is meant to guide Immigration and Naturalization officials as they confront families in which not all members qualify for amnesty under the Immigration Reform and Control Act (IRCA).

First of all, this policy fails to address the humanitarian concerns arising from the possibility of family separation. Ineligible spouses will be granted voluntary departure status based on a demonstration of "compelling or humanitarian factors." In your testimony before the House Subcommittee on Immigration, Refugees and International Law on October 21, 1987, you clearly pointed out that "compelling or humanitarian factors" could include serious medical problems or the presence of a handicap, but would not encompass marriage or immediate family relationship.

As a result, a large number of potential legalization applicants will continue to find themselves in the unfortunate position of having to choose between staying with their families or pursuing the benefit of legalization. The premise on which your policy is based, that family relationships and hardships caused by separation do not alone constitute "compelling" reasons to grant voluntary departure status to ineligible family members, is ill-founded.

The new guidelines governing children cause us even greater concern. While they are ostensibly more generous than those applying to spouses, they could put families in even more cruel situations. For instance, those children whose parents do not both qualify for legalization may have to choose which parent they will live with. An ineligible parent may choose to divorce and return to his country of origin, so that the children will be legally able to remain in the U.S. with the eligible parent. We believe that the fear of family separation will be increased, rather than decreased, by allowing children to stay only if both parents qualify for legalization.

Since "Family Fairness" provides that most issues will still be left to the discretion of INS District Directors, and since the policy offers no guidance concerning the definition of "compelling or humanitarian factors," different applications of this policy are still likely to occur in different parts of the country. The fact that decisions rendered by local District Directors will be reviewed does not address our concerns about uneven enforcement, because the policy does not specify the criteria upon which the reviews will be made.

In addition, such a case-by-case approach is likely to add to the confusion that already exists in the workplace. Because "Family Fairness" does not clearly indicate the grounds on which INS will allow spouses to remain in the U.S., and because it does not provide for any expedited procedures for those individuals to obtain work authorization, both employers and employees remain uncertain about who is qualified for employment. It may be that employers will be vulnerable to sanctions for employing individuals they believed had "compelling" reasons to remain in the United States. Many employers, both agricultural and non-agricultural, are already confronted with the scarcity of legal workers to perform labor traditionally done by an undocumented workforce. INS's new policy creates even greater burdens.

Failure to set a uniform, national family unity policy threatens to undermine the purpose of the entire legalization program. If illegal aliens cannot be certain that their families will not be separated, they will refrain from applying for legalization. The numbers, as well as reports from Qualified Designated Entities, indicate that a large number of potential applicants are not coming forward. And so long as families hold back, we will continue to have an exploitable shadow population in our midst, that will continue to drain the enforcement resources of the INS. It is clearly to the advantage of all that we ensure that the success of the legalization program.

Your announcement of a "Family Fairness" policy is encouraging to the extent that, in its treatment of children under this policy, the INS recognizes its authority under IRCA to keep families together. We urge you to exercise that authority to allow those families already in the U.S. to remain together, based on the "compelling, humanitarian factor" of family relationship. We are confident that the humanitarian purpose of your current policy can be greatly broadened while at the same time addressing your concerns about a "second amnesty," and the possibility that a more generous program will act as a "magnet for others to enter the United States in an illegal manner, marry a qualified legalization applicant, and attempt to gain benefits."

Many of us have expressed deep concern to you regarding the need for a clear policy supporting family unity in the legalization program. We do so again today, as "Family Fairness" falls far short of our expectations for such a policy. We urge you to reconsider, and develop a policy that is truly practical and, above all, humanitarian.

We look forward to your prompt response regarding this matter.

Sincerely,

SENATORS ALAN CRANSTON, JOHN H. CHAFEE, CLAIBORNE PELL, ROBERT T. STAFFORD, BARBARA A. MIKULSKI, DANIEL P. MOYNIHAN, SPARK M. MATSUNAGA, ALBERT GORE, JR., BROCK ADAMS.

(By request of Mr. KENNEDY, the following statement was ordered to be printed in the RECORD:)

● Mr. SIMON. Mr. President, as a member of the Subcommittee on Immigration and Refugee Affairs, I have closely followed the progress of the legislative reforms that are before us today. A number of the changes are positive and I am pleased to have had a role in shaping them. Some are not so beneficial and I am disappointed they remain in the bill today.

S. 2104 does improve our immigration policy in significant areas. Mindful that there are those in the other body who may be willing to carry on with the efforts I commenced to restore the fifth immigration preference, I can register my qualified support for this bill today.

S. 2104 is very different from the legal immigration reform bill introduced by Senator KENNEDY last summer and considered by the subcommittee last fall. In contrast to the original bill which treated prospective immigrants differently depending upon the country from which they applied, visas under S. 2104 are to be allocated on an even-handed basis.

These independent—not family-related—visas are granted under S. 2104 primarily on objective criteria which will benefit the national interest. While the visas are limited to those we expect to be the most quickly economically viable, applicants from every country can apply on equal footing. That is an important improvement over earlier versions of this legislation which effectively barred applications from India, Korea, China, Hong Kong, the Philippines, Mexico, and the Dominican Republic. I am also pleased that the double penalty for applicants over age 40 has been removed from this bill.

I had been concerned that the legal immigration bill could relinquish to the executive branch too much authority to set and change visa allocations to the detriment of our national immigration policy. The original version of this bill would have allowed for vast changes in family preference visas, for example, and Congress would have been left with the ineffective prospect of undoing those changes by legislative veto. S. 2104 specifies that any change in visa numbers greater than 5 percent requires affirmative approval by both Houses of Congress.

Congress owes it to the Nation—our immigrant origins and our pluralistic future—to give careful scrutiny to changes in our immigration policy. Too often in our history public fervor has ignited immigration exclusion laws which more careful and dispassionate analysis and thought could have prevented. S. 2104 requires triannual review of our immigration policy by the executive branch, including the Departments of State, Labor, Justice, and Health and Human Services, and Congress. This reform makes sense.

One aspect of S. 2104 which I cannot support is its limitations on the fifth immigration preference. The fifth preference enables the brothers and sisters of U.S. citizens to be reunited with their families. It is the most widely requested visa type and its continued availability is of particularly strong importance to Americans of Asian, Hispanic, and Italian ancestry.

S. 2104 unwisely and unnecessarily reduces the number of visas available under fifth preference by 20 percent in the first 3 years of enactment and by 67 percent thereafter. S. 2104 places a new requirement for future applicants for the fifth preference. For the first time, brothers and sisters of U.S. citizens will have to remain "never married" at the time they apply and throughout the waiting period for a visa. Because S. 2104 cuts the number of available visas and makes the now decade-long wait that much longer, the changes to fifth preference before us today will force prospective immigrants with the awful choice of forgoing marriage for 20 to 25 years or losing their chance to be reunited with their U.S. citizen brother or sister.

The changes made to the fifth preference run contrary to the long study and recommendations of the 1981 Select Commission on Immigration and Refugee Policy, considerable expert testimony at the Immigration Subcommittee's hearing, and the observations contained in the subcommittee's own staff report, "Legal Immigration to the United States: A Demographic Analysis of 5th Preference Visa Admissions" (S. Prt. 100-34, U.S. Senate Committee on the Judiciary, April 1987).

As Gary Rubin of the American Jewish Committee told the subcommittee:

> One of the glories of our immigration system is that it responds to family values. Elimination of preferences for married brothers and sisters would detract from this commitment. It would indeed be ironic if at a time when Congress is struggling to reintroduce family values into the Nation's social welfare system, it at the same time cut these same values from the immigration laws, which are built on family concepts. We don't need to do this. (Testimony of Rubin, Subcommittee on Immigration and Refugee Affairs, October 23, 1987.)

Others who have contacted me in support of efforts to retain the fifth preference include the Federation of Korean Associations, National Democratic Council of Asian and Pacific Americans, Chicago Japanese American Citizens League, Chicago Committee for Immigrant Protection, Organization of Chinese Americans, Mexican American Legal Defense and Educational Fund, and the Asian American Legal Defense Fund.

The cuts to the fifth preference are not required for the rest of the bill to go forward. The positive reforms of S. 2104 can be achieved without making these detrimental cuts in eligibility for and number of fifth preference visas. As this bill works its way through the legislative process, fifth preference should be restored.●

LEGAL IMMIGRATION REFORM

Mr. CRANSTON. Mr. President, I rise to express my concerns regarding S. 2104's proposed reduction in the number of visas available to brothers and sisters of U.S. citizens and its limitation on future eligibility for those visas to siblings who have never been married. I believe these changes to the fifth preference category of visas are unnecessary to achieve the overall purposes of the bill and are inconsistent with the traditional priority given to family reunification.

Mr. President, the bill before us represents a significant effort to implement the recommendations of the Select Commission on Immigration and Refugee Policy. The bill seeks to improve the flexibility of the system by which immigrants are admitted to this country and to address the substantial backlog of visa applications for family reunification.

However, as I pointed out to the members of the Judiciary Committee in a letter dated February 16, 1988, the particular changes to the fifth preference category of visas do not serve these purposes. In fact, the proposed changes directly contradict the recommendation made by the Select Commission that "the present policy admitting all brothers and sisters of adult U.S. citizens within the numerical limitations be continued."

I ask that a copy of my February 16, 1988, letter be printed in the RECORD at the conclusion of my remarks.

Mr. President, the other reforms proposed by this bill can be accomplished without curtailing the availability of fifth preference visas. Given the bill's objectives to make the system of admitting immigrants more flexible and to address the substantial backlog of visa applications, the changes to the fifth preference category of visas are unnecessary and counterproductive.

The combination of reducing the number of visas available for siblings to come to the United States, and limiting eligibility to those siblings who have never been married, will have two very negative results.

First, the reduction in the number of visas available for siblings will actually increase the backlog of applications and cause applicants from certain countries to wait even longer to come to the United States. The bill's proposed change will have an especially negative impact on those countries—mainly the Philippines, Mexico, China, Hong Kong, Korea, India, and the Dominican Republic—which already have substantial backlogs of applications for fifth preference visas.

Second, because of the significant wait caused by the backlogs, the effect of these changes may be to force individuals to remain unmarried for a significant period of time—in some cases close to 20 years or more—in order to be reunited with a brother or sister in the United States. Forcing individuals to make this choice is cruel, especially in light of the fact that in many cultures sibling relationships are as important as those relationships in a so-called nuclear family unit.

NEED TO ACT ON LEGISLATION DEALING WITH THE LEGALIZATION PROGRAM

Mr. President, as a number of Senators have observed during the debate on this measure, the Subcommittee on Immigration and Refugee Affairs and the Judiciary Committee moved forward very rapidly with its efforts to deal with reforms in the system of admitting immigrants into this country.

Similar priority attention now needs to be given to making sure that the legalization program for those individuals residing in this country works fairly and effectively.

I am pleased that the chairman of the subcommittee, the Senator from Massachusetts [Mr. KENNEDY], has made a commitment to convening hearings later this month on the legislation, S. 2015, to extend the application process for the legalization program and to seek to bring that measure before the Senate by mid-April.

On February 23, 1988, I along with several other Senators, urged that the subcommittee give expedited attention to this legislation. I ask that a copy of that letter be printed in the RECORD at the conclusion of my remarks.

I am also pleased that the problem of family unity will also be considered at this hearing. The failure of INS to develop a clear statement of policy protecting families from being broken apart as a result of some members qualifying for legalization while others do not has clearly resulted in many individuals failing to submit applications. I hope that we can take swift and humane action to deal with this problem.

CONCLUSION

Mr. President, although I have very strong reservations about the provisions of this legislation which will unnecessarily limit the availability of fifth preference visa numbers to extended family members, I recognize that other provisions of the bill are desirable. I hope that the objectionable provisions will be removed from the final version enacted into law.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, February 16, 1988.

Hon. JOSEPH R. BIDEN, JR.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR JOE: I am writing to apprise you of my concerns regarding S. 1611, a bill effecting changes in the numerical limitation and preference system for the admission of immigrants, which will come before the Judiciary Committee this week. Specifically, I am concerned about the negative impact this bill will have on the family reunification efforts in the Hispanic and Asian communities.

The most troubling provision in the bill is its change regarding the eligibility requirements for fifth preference visas. Under current law, any brother or sister of a U.S. citizen, regardless of marital status, is eligible for a fifth preference visa. S. 1611 limits eligibility for a fifth preference visa to unmarried brothers and sisters of U.S. citizens.

I strongly oppose this change. While the proposed change making married brothers and sisters ineligible for fifth preference visas is intended to reduce the substantial backlog of applicants, the total impact of the bill would in fact increase the backlog by making less visas available for this category. Furthermore, because of the significant waiting period caused by the backlog, the change would effectively force individuals to choose between getting married or coming to the United States.

I agree that our system of admitting immigrants to this country is in need of reform. However, I do not believe that the proposed change to the fifth preference category of visas is necessary to achieve a more equitable immigration system. This change is especially unwarranted in light of the hardship that will be caused for older brothers and sisters (and their children) who desire to have their brothers and sisters (and uncles and aunts) join them in the United States.

In 1952, with the establishment of the current fifth preference category of visas, the importance of sibling relationships and uncle/aunt relationships was recognized. In many cultures, these relationships are as important as those relationships in a so-called "nuclear family" unit. The importance of these relationships was again recognized in 1981 when the Select Commission on Immigration and Refugee Policy recommended "that the present policy admitting all brothers and sisters of adult U.S. citizens within the numerical limitations be continued."

In light of the traditional priority given to family reunification, I urge you to consider alternative means of addressing the backlog of visa applications.

Cordially,

ALAN CRANSTON.

U.S. SENATE,
Washington, DC, February 23, 1988.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Immigration and Refugee Affairs, Committee on the Judiciary, U.S. Senate.

DEAR TED: We are writing to urge that the Subcommittee on Immigration and Refugee Affairs proceed to consider S. 2015 as soon as possible. We are aware that the Subcommittee has recently completed work on S. 1611 which would reform the system of admitting immigrants into this country, and we believe that it is imperative that the Subcommittee now turn its attention to the need to extend the application process for legalization effort for those already in this country.

We have cosponsored your bill to extend the application process by one year because we agree that many undocumented individuals who may be eligible for legalization have—for a variety of reasons—failed to apply. It is clear that the extension of the application process is needed if we are to meet the goals we set when we passed the Immigration Reform and Control Act of 1986.

In this regard, we would like to clarify our position that legislation extending the application process by one year is the only way we will be able to assure the success of the legalization program. Given the number of applications which, INS has received to date, and the fact that certain communities—such as the Asian community—have hardly participated in the legalization program, a full one year extension of the program is absolutely necessary. We do not believe that a last minute media campaign by INS will solve the problem, nor do we believe that it can be resolved by an administrative effort on the part of INS to expedite the processing of applications.

Given that the application process is due to terminate in approximately two months, we feel that the extension bill must be considered by the Senate as soon as possible. For this reason, we urge the Subcommittee to convene hearings on the bill in the very near future and to see that the bill comes to the floor expeditiously.

Ted, we know that you share our concern regarding this issue, and we look forward to hearing from you soon regarding expedition of the Senate's consideration of S. 2015.

Cordially,

ALAN CRANSTON.
JOHN MELCHER.
JOHN CHAFEE.
DANIEL P. MOYNIHAN.
BARBARA A. MIKULSKI.

Mr. ADAMS. Mr. President, in the 99th Congress, after many hours of debate, hearings and negotiations, we passed the Immigration Reform and Control Act of 1986 to deal with the problems of illegal immigration. We are now considering a bill designed to deal with problems which have developed in our system of legal immigration. It too deserves to be fully debated. While that may not happen in the U.S. Senate today, I am convinced that it will happen before this bill moves through the House and then comes back to the Senate in the form of a conference report.

I believe we ought to spend time on this issue because immigration is a complex field which in many ways reflects—and shapes—the image we have of our society. In some ways, I think this legislation makes a positive contribution to that image and to our society. But there are also elements of this bill which are deeply troubling. Let me identify a few of the bright and the dark spots in this proposal.

This bill makes three particularly helpful modifications in current law. First, it increases the total level of immigration into this country while, at the same time, providing for annual review of our immigration policies. On the basis of that review, every 3 years the President will recommend changes to the number of visas allocated. As a result, I believe that we will be better able to revise our immigration quotas in response to shifting realities in a timely fashion.

Second, the bill increases the number of visas available under the second preference category, for spouses and children of permanent residents. Hopefully, this increase will help alleviate a backlog of eligible applications that now results in applications waiting up to 10 years in some countries.

Third, the bill expands the opportunity for "independent" immigrants who have no family ties in this country to immigrate to the United States. And, we are told, it does so without significantly reducing the immigration opportunities available to those with family ties.

In addition to these three changes, an amendment offered by Senator INOUYE has been accepted by the sponsors of the bill that would rectify an injustice done to certain Filipino World War II veterans. In March 1942, Congress amended the Nationality Act of 1940 to allow for the naturalization of Filipino veterans who served honorably in our Armed Forces in World War II. Unfortunately, due to administrative decisions made at that time, many of these veterans were unable to take advantage of the naturalization process. Over 1,600 of these veterans are residing in the United States, most of whom have reached retirement age. This bill would allow the naturalization of these veterans if they currently reside in the United States and if they meet the requirements for naturalization as set forth in the Nationality Act of 1940.

While these provisions are quite worthwhile, I believe that other provisions of the bill require more study and analysis. In particular, I am concerned about the limitations placed on the family unification provisions of the law and the number of fifth preference visas. There is currently a backlog of over 1 million eligible applicants for fifth preference visas—visas for brothers and sisters of U.S. citizens. Under present law, 64,800 visas are allocated annually to brothers and sisters of U.S. citizens. This bill would reduce that number to 52,000 for the next 3 years and then to 22,000 thereafter. Clearly, reducing the number of fifth preference visas available is no way to alleviate the backlog of fifth preference applicants.

I am also disturbed by the fact that many people fear that this bill may end up treating different ethnic groups unfairly and unequally. Many people suggest that one effect of this bill would be to shift immigration away from Asia and Latin America and toward European immigration. As I said earlier, I believe the bill's provisions to expand independent immigration are helpful. We must ensure, however, that these provisions are implemented in a way that does not disadvantage immigrants from any particular country or region. The point system, and the weight given to English language skills in particular, raise the fear of discrimination in administering the independent immigration provisions.

In conclusion, the bill makes positive reforms in many areas of immigration. I am uncomfortable with other provisions that I believe are unsound and require far more attention than they have received in the Senate so far. The debate on this bill will continue, however, here in the Senate and in the House and I am hopeful that there will be an opportunity to mitigate the problems that I have identified with the legislation.

Let me make my position very clear. While I will vote for this bill today, I do so because I believe it will be improved as it continues to move through the legislative process. I will work with my colleagues in the House and the Senate in an effort to make sure that this bill is changed and improved in the weeks and months ahead. If, however, the final legislation which emerges from a conference committee is identical to the legislation now before us, I am not sure that I would support it.

CORRECTION OF THE COMMITTEE REPORT

Mr. KENNEDY. Mr. President, I would like to clarify for the record an error in the committee report on S. 2104. On page 17, paragraph five, the first sentence should begin: "The Committee has taken note of . . ." and the rest of the sentence remains as it appears in the committee report.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, the distinguished Senator from Alabama [Mr. SHELBY] has discussed with the managers of the bill a possible amendment that the Senator from Alabama might offer. He is not sure.

I ask unanimous consent that final passage of the bill occur tomorrow at 2 o'clock p.m., paragraph 4 of rule XII be waived; the final passage occur at 2 p.m., provided that the amendment by Mr. SHELBY is disposed of prior to that time if such an amendment is offered; provided further that no other amendments be in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. No other amendments, that is all inclusive, first- and second-degree amendments.

The PRESIDING OFFICER. That is the Chair's understanding, and that is what the Chair understands was ordered by the Chair in response to the unanimous-consent request of the majority leader.

Mr. BYRD. I thank the Chair.

Mr. President, I have a parliamentary inquiry.

The PRESIDING OFFICER. Will the majority leader state the parliamentary inquiry?

Mr. BYRD. In the event that an amendment by Mr. SHELBY is offered, under the order that has been entered, unless that amendment is disposed of, the order for a vote at 2 p.m. tomorrow on final passage of the bill would not be executed; am I correct?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. With such an order in place, there is nothing within that order that requires the Senate ever to reach a final vote on this bill until such time as the amendment by Mr. SHELBY is disposed of, and that would have to occur prior to 2 p.m.; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. In the event the majority leader wished, for some reason or other, to take down the bill—let us say the amendment by Mr. SHELBY is pending at 2 p.m. tomorrow, what happens?

The PRESIDING OFFICER. The order that was entered by the Chair, if the amendment was still pending at that time, there would not be a vote at 2 p.m. because the amendment would still be pending.

Mr. BYRD. But what happens? The amendment just remains before the Senate?

The PRESIDING OFFICER. Until such time as the amendment is disposed of, disposed of either by tabling motion or by vote or otherwise disposed of. Whatever——

Mr. BYRD. All right. Let us say the amendment is pending at 2 p.m. tomorrow under the order that has been entered and has not been disposed of. What happens?

The PRESIDING OFFICER. There is not a vote at 2 p.m. The amendment remains pending.

Mr. BYRD. So what the Chair is saying is, as I understand the Chair, the Senate has to take action on that amendment in some way to dispose of it at 2 p.m. tomorrow?

The PRESIDING OFFICER. That is correct, in order to have a vote at 2 p.m. If the Senate disposes of the amendment in whatever fashion prior to 2 p.m., the final passage vote will occur at 2 p.m. tomorrow.

Mr. BYRD. Mr. President, I ask unanimous consent that the order be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Now, Mr. President, I ask unanimous consent that no other amendments be in order to this bill, no amendments other than a possible amendment by Mr. SHELBY.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that no motion to recommit the bill with instructions be in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture tomorrow on S. 1721 occur at 11:30 a.m.; that the mandatory quorum be waived.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

GEORGE McGOVERN ON THE FOREIGN POLICY CHALLENGES FACING AMERICA

Mr. KENNEDY. Mr. President, I would like to call the attention of the Senate to our former colleague George McGovern's timely, perceptive, and persuasive article in the current issue of Foreign Affairs. The article "The 1988 Election: U.S. Foreign Policy at a Watershed," is a clear and cogent analysis of the profound foreign policy challenges confronting the Nation on United States-Soviet relations and many other issues.

In his thoughtful discussion, Senator McGovern sets forth six propositions which are consistent with, and demanded by, the realities of our time. He concludes his compelling argument with a word of caution to the 1988 Presidential contenders, admonishing them not to make "hasty pledges under campaign pressure that might hamper their capacity to make unfettered decisions in the White House."

Senator McGovern's eloquent voice is still widely heard and greatly respected in the Halls of Congress and throughout the Nation and the world, and he continues to serve the public interest in many ways. I believe his timely analysis of the challenges facing us in foreign policy will be of interest to all of us, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Foreign Affairs, Vol. 66, No. 3]

THE 1988 ELECTION: U.S. FOREIGN POLICY AT A WATERSHED

(By George McGovern)

As we approach the 1988 election, we may be at the end of an era in American foreign policy. Since World War II the driving force behind our policy has been anticommunism, accompanied by containment of the Soviet Union with an ever more costly arms outlay. For more than four decades this policy has rested on the assumption of a bipolar world dominated by Washington and Moscow. New realities now demand fundamentally different policies if the United States is to remain an effective power.

This is not to suggest that communism is more acceptable today than it was forty years ago. Indeed, even the major communist states—the Soviet Union and China—are turning away from once accepted practices of communism. Without argument, the United States must maintain a sound national defense. But so clearly is communism neither the wave of the future nor the major challenge to American security that our anticommunist orientation has become irrelevant and obsolete. The two major powers—Washington and Moscow—are alike in this regard: they share an urgent need for new policies and priorities at home and abroad. Both must understand that the criteria of power and influence in the world are changing.

Ronald Reagan may represent the end of the line for the bipartisan cold war policy. The president seems to have taken, at least until recently, the most anachronistic aspects of that policy—an excessive reliance on arms, an obsessive anticommunism and an imperial, unilateral behavior at odds with our constitutional democracy—and carried them to the breaking point. However inadvertently, the Reagan Administration has dramatized the inadequacy of policies no longer relevant to the real world. Mr. Reagan has believed he was presiding over "morning in America"; we are about to experience the "morning after."

Unfortunately, the Reagan presidency has taken its toll also on the intellectual and political acuity of the party in opposition. If the ambivalent foreign policy actions of Congress and early presidential campaign performances are indicative, the Administration's obsession with the rhetoric, symbols and trappings of military power has, with some notable exceptions, suffused even a Democratic Party which has traditionally brought a broader perspective to the concept of American national security. In what some have labeled the "geo-economic era," this focus is dangerously outmoded.

Jacques Attali, an economic historian and top adviser to French President François Mitterrand, wrote:

> A great transfer of power is taking place in the world economy. The center of economic power is shifting away from America. When the core nation loses economic hegemony, it has to adjust the global security responsibilities it assumed at the height of its dominance. This is what finally happened to Great Britain in 1967, but it took 20 years from the end of World War II for them to finally conclude that they couldn't afford troops east of Aden.

II

In this crucial election period and beyond, do we have the will and the wisdom to develop a more realistic foreign policy, backed by better management of our economy to avert the further weakening of our position in the world? Will we face the need to shift from an excessive reliance on military power to the political, economic and moral sources of power in an interdependent global economy? Do we understand that even a great and powerful nation can no longer function unilaterally without regard to friend or foe? In this bicentennial of our constitutional democracy, can we profit from the lessons of the Iran-contra scandal and recognize anew the time-tested wisdom of the Founders?

The current economic difficulties of the supposed superpowers serve only to underscore a long-standing truth. Since the late 1940s both powers have overemphasized military and ideological factors and underplayed economic and political opportunities. The painful paradox that now confronts both Washington and Moscow is that the more they spend on armaments, the weaker and more insecure they become. The larger the number of nuclear weapons each side targets on the other, the more certain it is that in the event of war, Americans and Russians would be the first to disappear from the planet. Meanwhile, heavy arms spending deprives the two countries of the resources needed to strengthen their economies, particpate competitively in the international economy and enhance their leadership in the developing world.

The economic costs of a permanent war economy and an interventionist foreign policy have for years been a focus of "liberal" concern. But even the most ardent of American conservatives must now recognize that the dangerous decline of U.S. industries owes much to a major portion of our business and scientific talent having been absorbed in war production for a single buyer—the Pentagon—instead of meeting the growing economic competitiveness of the modern world.

Japan and Germany, the defeated military powers of World War II, are challenging the preeminent status of the erstwhile victors, not by competing with them militarily, but by recognizing that the real arena of world power is not war games but hardheaded business leadership. The most serious enemy of America is not Russian tanks and rockets, or the Nicaraguan government or Cuban leader Fidel Castro. Our enemies are the bankrupting arms race, our mounting foreign debt (after years as the world's greatest creditor), the unpayable debts of the Third World held by U.S. banks, our lack of competitiveness in world trade and our consequent inability to play a more influential and constructive role in Third World development.

Power in the future will be determined increasingly by economic, political and moral factors. The arms race and an excessively interventionist, unilateral foreign policy have weakened those fundamental sources of American power.

It is possible that American military might prevented a Russian takeover of Western Europe in the wake of World War II. At that time an American-led containment strategy seemed logical. But if a Soviet move across Europe was ever imminent, it was in the years when Europe was still devastated by war. That is when the Marshall Plan's economic help and the military power of the NATO shield made the most sense.

Today conditions in Europe, the United States, the Soviet Union and the rest of the world have changed drastically. Western Europe is now strong and prosperous. Its population, material resources, productivity and industrial strength all exceed that of the Soviet Union.

Not since the 1961 Berlin crisis has Moscow engaged in any serious provocation against Western Europe, and even that was an act of political and economic weakness. Paradoxically, the Soviets followed the most belligerent line in those years when the United States either had a nuclear monopoly or at least overwhelming superiority. But as Moscow has moved toward nuclear parity with Washington and increased its dealings on arms control, trade and cultural exchange, it has intended to favor a policy of accommodation with the West.

This tendency has reached an apex in the person of Mikhail Gorbachev, who now emphasizes that in the future Soviet foreign policy will be driven by domestic economic needs. He and other realists in the Kremlin seem far more interested in trading with Europe, encouraging joint economic ventures with European firms and mutually reducing nuclear weapons than in fighting Europeans on the battlefield or exchanging bombs and missiles with them from the skies.

Russians may be notoriously averse to admitting mistakes to the outside world, but it takes little reading between the lines of Mr. Gorbachev's domestic and international speeches to discern his recognition that the Soviet economy has been so warped by its focus on arms production that it is incapable of meeting the needs of its people for modern housing, industrial goods, productive agriculture and scientific-technical break-throughs for its future development. Gorbachev has left little doubt that he knows his country cannot lift its standard of living so long as it is bogged down in an ever-escalating arms race with the United States and Europe.

The Soviet leader has also signaled his belief that big-power interventionism in the emerging Third World is a hazardous and self-defeating policy. The bitter and frustrating experience of the Russians for the last decade in Afghanistan was doubtless in Gorbachev's mind at the Communist Party Congress in February 1986, when he forcefully contended that "encouraging revolution from outside, and doubly so by military means, is futile and inadmissible." It does not take an expert Kremlinologist to see that Gorbachev is saying something new.

On the arms control front, Moscow seized the initiative in 1985 by announcing and implementing a unilateral ban on all nuclear weapons testing. At the arms control discussions in Reykyavik with President Reagan, the Soviet leader seemed willing to make or accept even the most sweeping proposals for the reduction or elimination of nuclear weapons. More recently, in signing with President Reagan the treaty that would eliminate intermediate-range nuclear weapons from Europe, Gorbachev agreed to unprecedented access to Soviet military production and basing facilities for on-site inspection. Arms control offers can be propaganda, but a breakthrough verification regime to monitor the total dismantlement of Soviet SS-20s means there is extraordinary substance here as well.

As we move to shape the American election issues of 1988, the key question is whether we can begin to define foreign and defense policies that are more relevant to the realities of today's world. Can we meet the energetic and forceful challenge of Mikhail Gorbachev's Russia with intelligence, courage and realism? Can we muster the will and wisdom to see that the issues of the future cannot be resolved by a bigger arms race and more military interventions in Central America, Africa or Asia? Can we put forward a new range of policies to end the waste of an obsolete arms race, reduce the shameful deficit that is weakening our economy and our position in the world, safeguard the physical environment that sustains life on our planet and invest our resources more wisely in strengthening our families and educating our children?

We cannot analyze with certainty the motivations and tendencies of the Russian leaders, nor can we anticipate every development in other parts of the globe. But I offer the following propositions for debate in the 1988 election campaign. They are, I believe, consistent with the realities of our time.

III

First, we should replace our obsolete cold-war policy with a concerted effort to identify mutual interests with the Russians—trade, arms reduction, joint environmental efforts, shared exploration of outer space and cooperative efforts in the fields of health, education and cultural exchange. In such trouble spots as the Iran-Iraq war, the Arab-Israeli conflict, Afghanistan and Nicaragua, we should seek out the possibilities of Soviet and American initiatives for settlement.

The current shipping problem in the Persian Gulf stemming from the Iran-Iraq war represents an ideal example of a challenge the two superpowers should meet cooperatively rather than confrontationally. Both Moscow and Washington have an interest in ending the war between Iran and Iraq. Neither Washington nor Moscow has any interest in disrupting the shipping of the Persian Gulf or spreading the Iran-Iraq war further into that area.

The Reagan Administration naively committed our flag and our fleet to the Kuwaitis as a knee-jerk reaction to information that the Russians had responded in a very limited way to Kuwait's request for protection of tankers. Clearly, the Administration was also moved by a desire to regain credibility squandered mindlessly through arms sales to Iran. It would have been far wiser, however, to make our policy judgment on this matter only after careful consultation with all of the Gulf states, with our NATO allies and Japan and, most important, after full consultation with Congress. Then, if all signs indicated the need to protect shipping, the United States might have joined in a multinational escort force in concert with our allies, the Russians and some of the Arab states—perhaps under the aegis of the United Nations.

The Arab-Israel-Palestinian conflict is another prime candidate for energetic and sustained cooperation by the United States and the Soviet Union in seeking a practical and just solution. such other regional problem areas as Central America, Afghanistan and Southeast Asia could also be appropriate matters for Soviet-American consultation. Serious initiatives to cooperate with Mr. Gorbachev might prove more productive than we have accustomed ourselves to expect.

Second, we should join the Soviets in a complete ban on all nuclear testing, press ahead on the mutual elimination of medium-range nuclear weapons from Europe as provided for by the recently signed treaty, and agree to continued compliance with the anti-Ballistic Missile Treaty—which means confining the Strategic Defense Initiative to research—in return for a mutual reduction of 50 percent in strategic nuclear weapons. Gorbachev has signaled his willingness to negotiate such a formula.

The major sticking point on this promising agenda for arms reduction is Mr. Reagan's insistence on the right to engage not only in research, but also testing and development of the SDI system—a position Mr. Gorbachev rejects. Most members of Congress and most arms control authorities, including those who negotiated the 1972 ABM treaty—as well as the Russians—believe that the 1972 treaty precludes anything beyond research and laboratory testing of missile defense systems. A major portion of the scientific and arms control community also believes that Mr. Reagan's concept of a kind of protective astrodome to make America invulnerable to nuclear attack is a destabilizing, frightfully costly fantasy. Former Under Secretary of State George Ball—a man of considerable experience in international affairs and arms issues—has described the socalled Star Wars system as "a fraud," but a very costly fraud that could consume upward of a trillion dollars.

SDI would depend almost entirely on computers and would require, by some estimates, ten million lines of computerized programming to make the system operable. Given the inevitable margin of error and malfunctioning in such an elaborate system, the danger is enormous that it might involve us in a nuclear exchange by mistakes in programming or interpretation. Given these concerns, would it not be better to move ahead on an agreement that will eliminate half of the missiles that Moscow now has targeted on us rather than living with Mr. Reagan's "dream" that we can some day build a shield that will make us safe in the event of nuclear war? I would urge that we confine work on SDI to research alone for a period of years while we proceed now with arms negotiations. As a practical matter, many technical questions must be resolved by research over the next few years before we can even speculate intelligently on whether it makes sense to go forward with SDI.

It has been argued by former Secretary of State Henry Kissinger and others that we are endangering the United States and Europe by eliminating intermediate-range nuclear weapons and cutting strategic nuclear weapons in half before dealing with conventional forces, where the Soviets are said to be relatively stronger. I would agree that we need to get the issue of conventional forces on the negotiating table, but this need not delay the next proposed step to reduce nuclear weapons as envisioned by Reagan and Gorbachev. Even with the 50-percent cuts called for in the tentative outline, each side would retain some 6,000 strategic nuclear weapons, including 4,900 ballistic missiles, with an average destructive capacity of 300,000 tons of TNT in each warhead. Since the only practical purpose of such weapons is to deter the other side from attacking, 6,000 nuclear monsters will serve the purpose as well as 12,000. Either force level is capable of eliminating most if not all of the life on our planet. Certainly we are no safer today with double the number of weapons targeted on our cities than we would be after the proposed second-stage agreement on strategic arms reductions.

Reagan and Gorbachev have both indicated their awareness of the need to move more purposefully on conventional force negotiations. Over the next decade, in close consultation with our allies, we should seek to negotiate with the Soviets mutual reductions in conventional forces that would enable us to draw down on our 300,000 troops in Europe as well as the 40,000 now in South Korea. Obviously, the timetable for these withdrawals should depend on the scale and timing of Soviet reductions in troops, tanks and conventional units. Careful mutual arms control reductions, both nuclear and conventional, with proper verification can lessen tensions and fears. In turn, these steps also reduce the risk of war—which, of course, is the best defense of all in the nuclear age.

Third, if we can improve relations with the Soviets, reduce nuclear arms and draw down our forces abroad, we will have set the stage for a major reduction in U.S. military spending. We are now devoting 60 percent of our military budget to the projection of our power abroad and the defense of other countries, most notably our NATO allies and Japan, against a supposed Soviet or Chinese threat. But the countries we are defending are prosperous and moving steadily into a stronger economic and political relationship with the Russians and the Chinese. Does it make sense for the United States to pay over half the cost of NATO when the European states are as prosperous as we are and engage in more trade and joint ventures with the Soviets than we do?

It is now costing the United States approximately $150 billion annually to provide for the defense of Western Europe and Japan. This is roughly the dimension of our current annual fiscal deficit. For many years we have devoted a much higher percentage of our budget and our GNP to defense than have Japan and the nations of Western Europe. These countries are now pressing us hard to reduce our deficit in the interest of a more stable world economy. One way to do that is for us to cease carrying such a disproportionate share of the collective defense burden. We would be a stronger and a more prosperous nation with greater influence in the world if we shifted over the next ten years at least 30 percent of our military spending into deficit reduction, education, family support, environmental protection, rebuilding our public infrastructure and our railways, assisting our family farmers, upgrading the training and productivity of our industrial workers and strengthening the development of the Third World.

Fourth, while standing clear of Third World military struggles, unless conditions virtually demand our military involvement, we should support in every other reasonable manner democratic centrist forces in developing countries that are caught in power struggles between the hard right and the hard left. American political party professionals, labor union organizers, social activists, religious and public interest groups—all of these and more are needed to train, advise and organize those in the developing countries who seek democracy and justice. We should not hesitate to affirm abroad our active commitment to human rights and democratic ideals. Our 200-year-old experiment with constitutional democracy is the kind of good news we need to proclaim in the developing world.

The time is long overdue for us to recognize that even those countries in the Third World which happen to displease us ideologically are not beyond constructive American influence if we exercise that influence intelligently. We seriously negate that possibility, however, by following too rigidly a policy of economic and diplomatic boycott. It has long seemed to me that our policy of trying to isolate Cuba (to say nothing of earlier covert hit-and-run attacks and assassination attempts against Castro) has been ineffective and self-defeating. The quick decision in the opening stage of the Castro revolution to apply an economic and diplomatic embargo has inadvertently paralyzed American influence in Cuba and maximized Soviet power and influence there.

The same arguments can be made with reference to Vietnam and Angola. More than a decade has passed since the end of our bitter involvement in Vietnam. If that long and costly intervention was a mistake, is it not also a mistake to delay further the process of reconciliation and reconstruction of the country where we not only suffered such grievous losses, but where our arms took such a frightful toll of Vietnamese life and property? In a lengthy conversation with Premier Pham Van Dong in 1976, I was told that Hanoi desperately wanted American diplomatic recognition plus economic, medical and food assistance. The Vietnamese leader also made clear an eagerness to trade with the United States and even to open offshore oil resources to American development.

I found much the same kind of eagerness for U.S. recognition and cooperation in Angola during a visit there in 1978.

Why is it considered prudent and wise for us to carry on diplomatic and trade relations with the communist giants, China and the Soviet Union, while we boycott the little communist states—Cuba, Vietnam and Angola? Has the time not come to end this curious double standard?

There may be instances where it makes sense to employ economic and diplomatic boycotts, but on the record those methods no longer serve our best interests in dealing with the small revolutionary communist states. We have followed a much wiser and more productive course with communist Yugoslavia, notwithstanding the fact that it is in closer proximity to Soviet power than Angola, Vietnam or Cuba. Obviously there are other factors and differences involved, but our long-term approach to Yugoslavia may suggest a more productive approach to other communist states than the one we are now pursuing.

We are also not without influence in some of the Third World countries that are ruled by rightist governments. However belatedly, the Reagan Administration demonstrated that such right-wing leaders as Ferdinand Marcos in the Philippines and Jean-Claude Duvalier in Haiti were subject to local political action combined with American support and encouragement. The Pinochet regime in Chile is a classic example of a rightist government with a bad record on human rights that ought to feel constant diplomatic, moral and economic pressure from the United States.

In the Middle East, the United States understandably feels a special obligation to back the state of Israel, which we helped to create in the wake of the terrifying holocaust of Adolf Hitler's Nazi regime. But here as elsewhere we would be well advised to heed George Washington's warning against "inveterate antipathies" and "passionate attachments." The Arabs after all did not create the holocaust. They are not our enemies. Indeed, they actively seek our friendship and cooperation. Nor does it follow that Israeli objectives are synonymous with ours, including their 1982 invasion of Lebanon, their preference for Iran over Iraq, their support for the South African government and their hostility to the concept of a Palestinian homeland. We should continue to support Israel, but the time is long overdue for America to stand for self-determination for Palestinians as well as Israelis. Instead of closing the Palestinian Information Office in Washington, we should be talking to the Palestinians. Instead of foot-dragging on the proposal for an international conference on Middle East issues, we should be leading the way for such a conference.

It is possible that we may be faced with circumstances that leave us no honorable course except military intervention. I believe that during the genocidal campaign of the crazed Pol Pot against his own Cambodian people in the late 1970s the United States should have taken the lead at the United Nations in promoting a strong multilateral intervention. Perhaps as many as two million innocent Cambodians were slaughthered in this totally irrational and barbarous orgy. Ironically, it was the unilateral intervention of the hated Vietnamese that finally halted the mass killing of Cambodians by their own government.

The bankruptcy of a policy that continues to view the Third World through the prism of an East-West cold war competition is dramatized by the current U.S. stance on Cambodia. The United States now recognizes and supports at the United Nations Pol Pot and his allies, instead of the Vietnamese-backed regime in Phnom Penh—certainly not on the merits, but on the basis of our opposition to Hanoi and Moscow.

There may be other instances in the Third World where we have no acceptable alternative except armed intervention. But for the most part, our power can best be demonstrated with nonmilitary means. We should think of armed intervention as a costly and high-risk measure of last resort and one that we should make every effort to carry out in concert with other nations—not unilaterally.

Improved relations with the Soviet Union and other communist states and substantial mutual arms reductions would not only help in getting our budget and trade deficits under control; they would also enable us to cooperate better with our standing partners in stabilizing the world trade system. We would be in a much stronger position to work with nations such as Mexico, Argentina, Brazil, Egypt and Israel in getting their debts under control and their economies in better shape. Instead of being the major supplier of arms to the Third World, we should seek to strengthen its economic health, not only because this is morally right but because a healthy Third World will be our major market in the future.

Fifth, there are two additional global concerns that lend themselves especially to American political, scientific and technical leadership: halting the degradation of the physical environment and ending human hunger. In concert with other nations and the U.N. system, we should lead the way in halting the pollution of the oceans and waterways, the erosion of the soil, the loss of forests, the contamination of the air and the disruption of the life-preserving ozone. The alarming destruction of our planet by environmental deterioration may constitute a more serious threat to humanity than nuclear weapons. An international effort led by the United States to protect the world's environment could well be our first line of defense and national security.

Closely related to environmental concerns is the urgent need to win the struggle against hunger. Here again the United States is the best-endowed nation on earth to lead the effort to end starvation and malnutrition. We have the technical capability, the agricultural abundance and the shipping to lead the way to a world free from hunger. A more imaginative use of our surplus food in the short term and a greater effort to improve the agriculture of the developing world in the long term is the kind of internationalism that will give new force and respect to America's role in the world.

These environmental and hunger concerns present opportunities for closer cooperation with our allies, the Soviet Union and the developing world.

Sixth, it seems increasingly clear that our national and international concerns are deeply intertwined. There is, for example, little hope of ending or huge annual deficits unless we can bring the arms race under control. Nor can we correct the alarming U.S. trade deficit and the decline of some of our industries, including agriculture, that are dependent on exports unless the Third World, as the largest potential market for American goods, is able to improve its economic health. A further illustration of our inextricable involvement with Third World problems is the scourge of destructive drugs flowing into the United States. The peasants in such poor countries as Bolivia, Peru, Mexico and Colombia survive in considerable part by selling cocaine and marijuana to the American market. Equally poor farmers in Southeast Asia and Turkey supply us with heroin. In short, the poverty, underdevelopment and desperation measures of the Third World spill over into America to feed the most destructive social evil in our society.

The economic, political, environmental and military challenges around the globe demand international cooperation rather than unilateral action by single nations. For all practical purposes, isolationism and unilateralism are inadequate foreign policies in the world of today and tomorrow.

This means, I believe, that we must make increasing use of the United Nations system as a vital foreign policy vehicle. No American adminstration since World War II has given the United Nations the preeminent position it should have in the policies of a major world power. The Reagan Administration has been especially weak if not outright hostile in its attitude toward the United Nations. It is embarrassing that the current delinquency of the United States in paying its assessed contributions to the United Nations has made it necessary for smaller countries including Canada to pay their future assessments in advance so that the United Nations can meet its payroll obligations.

In our efforts to build better relationships with the Soviet Union and China, to address the massive problems of debt, development and hunger in the Third World, to meet the dangers of terrorism and the conflicts of the Middle East, to respond to the new scourge of AIDS—all of these and numerous other concerns challenge us to make greater use of the forum and the machinery of the United Nations. The U.N. Development Program and the U.N. World Health Organization have mounted a global effort against AIDS that is deserving of full U.S. support and participation. It should be noted that it was under the direction of the World Health Organization that smallpox was virtually ended worldwide.

IV

If bringing our relationship with the global community including Moscow up to date in the light of today's realities is the most urgent foreign policy challenge of 1988, the second and equally important challenge is squaring the conduct and substance of American policy with or historical national values. In the bicentennial of or Constitution, it is important that we renew our commitment to the vision of the Framers who drafted the Declaration of Independence and the Constitution.

We have painfully learned again from the Iran-contra fiasco that secretive, illegal or antidemocratic operations abroad are not compatible with the values and needs of our democracy. If I were permitted just one line of advice to the president elected in 1988 it would be: "Heed the Constitution." The only oath we require of our president is that he "preserve, protect and defend the Constitution of the United States" and "take care that the laws be faithfully executed."

Unfortunately, several of our presidents since the end of World War II have violated their inaugural oath. These violations were invariably defended in the name of national security. Most were schemes hatched in secret by a handful of people around the president. Most were not only illegal, but also mistaken ideas that embarrassed the nation.

Congress should act to do what former President Harry Truman recommended in his later years—limit the CIA and other intelligence or security agencies of the United States strictly to the gathering of intelligence. Setting up mercenary armies, mining international harbors, assassinating local officials, overturning governments, using arms dealers to circumvent the laws and our announced foreign policy—all such activities should be terminated by law. This will not, of course, stop a president determined to break the law, but it will, at least, make such actions plainly illegal. That is a step toward constitutional government and a revival of credibility and respect for our standing in the world.

Behind our covert activities of the past four decades has been the worship of "national security" and "the power of the presidency"—notions used to justify an interventionist foreign policy and a permanent war economy. But these concepts have an authoritarian quality that is alien to the founding ideals of our constitutional democracy.

At the heart of our Constitution is the separation of powers—the system of checks and balances. The president is the commander-in-chief of the armed forces and the conductor of foreign policy. But he carries out these activities under definite constitutional checks that give the Congress a strong role in the authorization and shaping of both military and foreign policy. It is the Congress which controls the granting of funds that determine the scope and substance of foreign policy and the size and mission of the armed forces. It is the Congress which declares war and determines whether and how American forces become involved abroad, and how long and under what conditions such interventions are continued. The Senate has a special responsibility to "advise and consent" on American treaty obligations and the confirmation of diplomatic officials, which means that its role in shaping our international obligations and our diplomacy was meant not to be ancillary but integral. The Framers of the Constitution sought to avoid an imperial presidency that would be free to direct the foreign policy and the armed forces unchecked by the people's elected representatives in the Congress.

It was not simply that the Framers distrusted unchecked power, which they clearly did; they also feared an interventionist foreign policy and large, permanent military forces. Washington, Jefferson and Madison were all willing to use military power when they saw no other reasonable alternative. But they all opposed the creation of standing military forces that went beyond emergency requirements, and they all despised an interventionist foreign policy that needlessly embroiled the United States abroad. Jefferson called for "peace, commerce, and honest friendship with all nations, entangling alliances with none." Washington, I repeat, warned against either "inveterate antipathies" or "passionate attachments" to other nations.

The Constitution that was hammered out in Philadelphia in 1787 sought to prevent reckless interventionism and rampant militarism by deliberately tying the hands of the president so that he could not raise huge military forces or involve the nation in foreign expeditions without congressional approval and close executive-legislative cooperation. Today, the postwar results of failing to heed the noninterventionist precepts of the Founders are painfully on view in the fields of white crosses in Arlington Cemetery and on the black marble wall of the Vietnam Memorial. As a former World War II bomber pilot, I lament that many of my countrymen were dispatched in causes far less worthy.

If we are to "intervene" abroad, let us do so primarily with our political, economic and moral strength. A prominent example is the case of South Africa, where the American position should be clear and unequivocal. There is no place for apartheid in the modern world. We should follow a policy of steadily tightening diplomatic and economic pressure on South Africa in concert with other nations which share our rejection of national racism.

For most of our 200-year course as a nation we have been well served by the wisdom of the constitutional Framers. We have seen that document as both a body of principles and a living experiment that has enabled us to meet new and changing circumstances. But especially since World War II we have drifted far from the essential wisdom of the Founders and the constitutional process they bequeathed. This has led us into a series of ill-advised, bloody interventions abroad, a self-defeating arms race, disruptive economic costs at home, and a steady decline of real security and international influence. We are at a watershed, requiring a change in direction. In 1988, as at the beginning of the American nation, we need to build a foreign policy that is consistent with both the procedures and the substance of a genuine constitutional democracy.

V

If I may add a note of personal advice to the presidential contenders, I would warn them against making hasty pledges under campaign pressures that might hamper their capacity to make unfettered decisions in the White House. I blush when I think of a few of the commitments I made as the Democratic nominee in 1972, including a promise that if elected I would move the American embassy in Israel from Tel Aviv to Jerusalem. This might have pleased a few Israelis and a handful of American voters, but it would have been disastrous to our standing in the Arab world, seriously eroding our ability to serve as an "honest broker" of the Middle East conflict.

In 1960 Democratic nominee John Kennedy chided the incumbent Eisenhower Administration for not moving forcefully against Castro. Perhaps in this militant campaign rhetoric Kennedy, the candidate, was helping to set the trap for the Bay of Pigs fiasco that a few months later embarrassed Kennedy, the president. In 1968 candidate Richard Nixon implied that he had a plan to end the war in Vietnam. When the war dragged on for four more years, it produced a sense of betrayal that disillusioned millions of Americans. President Lyndon Johnson's pledge four years earlier that he was "not going to send American boys to do the job that Asian boys should be doing" was an earlier source of presidential credibility problems.

It is not necessary for presidential candidates to take a rigid stand on every one of the world's problems—especially those which carry domestic political lobbies demanding candidate commitments that are tempting to grasp but difficult to live with after the election. Indeed, a president's freedom of action is limited by the Constitution, by acts of Congress, by American public opinion and by the changing complexity of the global scene. Rather than glibly promising a neat solution to each of the foreign policy issues facing the country, a prudent presidential contender should pledge to seek basic policy objectives in consultation with the Congress and our allies, sometimes after negotiations with our rivals but always within the spirit and the laws of our constitutional democracy. It is also still wise, I think, for an American president to form his final judgments and course of action "with a decent respect to the opinions of mankind."

REQUEST TO CONSIDER RESCISSION OF CERTAIN SPENDING AUTHORIZED FOR FISCAL YEAR 1988—MESSAGE FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT—PM 121

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on March 10, 1988, during the adjournment of the Senate, received the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Appropriations:

To the Congress of the United States:

I ask the Congress to consider the rescission or repeal of the wasteful, unnecessary, or low priority spending projects that were included in the full-year fiscal 1988 Continuing Resolution (P.L. 100-202). These are the projects that, if I were able to exercise line item veto authority, I would delete. They consist of Congressional directives and amendments concerning activities which are unnecessary and for which my Administration has not requested funds. It is my hope that the funds appropriated for these projects will not be spent as directed and can instead be spent on worthwhile projects or retained by the Treasury to lower the deficit. Accordingly, I am informally asking that the Congress review these projects, appropriations, and other provisions line by line and either rescind or repeal them as soon as possible. I reserve the option of transmitting at a later date either formal rescission proposals or language that would make the funds available for more worthwhile purposes, for any or all of these items.

Since I assumed this office, the Congress has appropriated billions of dollars for questionable purposes, much of it in the context of massive spending bills passed in great haste that not even Congress had an adequate chance to evaluate. Because current law so severely restricts my ability to impound or not spend appropriated funds, I again appeal to the Congress to provide the Chief Executive with permanent line item veto authority. In the meantime, I urge your prompt attention to this request for legislative action in order to avoid these unnecessary expenditures of taxpayer dollars.

The details of these projects are set forth in the attached letter from the Director of the Office of Management and Budget.

RONALD REAGAN.

THE WHITE HOUSE, *March 10, 1988.*

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON INTERNATIONAL ACTIVITIES IN SCIENCE AND TECHNOLOGY—MESSAGE FROM THE PRESIDENT—PM 119

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with Title V of the Foreign Relations Authorizations Act for Fiscal Year 1979 (Public Law 95-426), I am transmitting the Administration's annual report on international activities in science and technology (S&T) for Fiscal Year 1987. The report reflects a U.S. commitment to international scientific and technological cooperation of impressive range and depth.

New breakthroughs in 1987 demonstrated the increasing importance of international cooperation in science and technology. The discovery of superconductivity at high temperatures has the potential to revolutionalize the way we work and live; international agreement on a protocol concerning protection of the ozone layer was a major accomplishment which will benefit future generations.

Official, government-to-government science and technology cooperation, such as our highly successful cooperative programs with India and China, supports our foreign policy objectives, as well as the mission objectives of the domestic agencies involved. Through the space sciences and environmental agreements we engaged in practical cooperation with the Soviet Union, while the signing of an S&T agreement during the Vice President's September 1987 visit to Warsaw provided a visible signal of our desire to improve relations with Poland. Such international cooperation should provide positive science and technology benefits to involved domestic U.S. agencies commensurate with their cost.

United States preeminence in science and technology has been a major force in our leadership of the free world since World War II. Today we are putting new emphasis on assuring continued U.S. strength in science and technology in the years ahead. Employing science and technology to improve American industry's competitiveness is a major objective of this Administration. On April 10, 1987, I issued an Executive order to facilitate industry access to federally funded research and development and to assure more effective access by American researchers to developments in science and technology abroad. In negotiating new S&T agreements, we are seeking equitable access by American researchers to foreign research facilities, balance in the contributions and benefits for countries participating in the agreements, and assurance of protection for intellectual property rights.

We are working with our economic partners and allies to ensure that all industrialized countries make equitable contributions to the world scientific enterprise. We are negotiating with Japan to restructure our Head of State-level S&T agreement to reflect new realities, including Japan's prowess in science and technology.

In numerous developing countries, science and technology are instrumental in furthering U.S. foreign policy objectives. Agency for International Development-funded programs continue to produce major advances in the health sciences and increased global stability through improved agricultural output, while facilitating the entry of American vendors into overseas markets.

To implement the United States-Brazil Presidential S&T initiative announced in September 1986, a distinguished binational panel of scientific experts met twice during 1987 and identified priority areas of research for cooperative projects. The recommendations of that eminent panel will be considered by the United States-Brazil Joint Commission for an expanded program of cooperation, as envisioned in the 1986 initiative.

Impressive gains were made in Fiscal Year 1987 in utilizing our S&T relations to enhance America's defensive capabilities through increased foreign participation in the Strategic Defense Initiative and through other cooperative S&T activities, such as those carried out under NATO auspices. At the same time we have negotiated several agreements that significantly strengthen free-world efforts to control illicit transfer of advanced technology to potential adversaries.

Participation in international science and technology activities is vital to U.S. national security in the broadest sense. Science and technology can be a powerful force to enrich cooperative relations with friends and adversaries, as well as to strengthen our Nation's competitive posture in the economic arena. International cooperation can accelerate the rate of scientific discovery and the development of new technologies to meet the needs and challenges of the future. In many cases, the benefits of such cooperation accrue first to the partners in the joint effort, and such returns make it feasible to sustain a long-term commitment to cooperation. Ultimately, however, all the world's people are beneficiaries. I remain committed to the belief that international cooperation in S&T is vital to the future prosperity and security of our Nation and of the earth.

RONALD REAGAN.

THE WHITE HOUSE, March 14, 1988.

ANNUAL REPORT OF THE ACTION AGENCY—MESSAGE FROM THE PRESIDENT—PM 120

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 407 of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 5047), I transmit herewith the Annual Report of the ACTION Agency for Fiscal Year 1987.

RONALD REAGAN.

THE WHITE HOUSE, *March 14, 1988.*

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had approved and signed the following bill and joint resolutions:

On February 29, 1988:

S. 2022. A act to amend title 38, United States Code, to authorize reductions under certain circumstances in the downpayments required for loans made by the Veterans' Administration to finance the sales of properties acquired by the Veterans' Administration as the result of foreclosures and to clarify the calculation of available guaranty entitlement and make other technical and conforming amendments; and

S.J. Res. 122. Joint Resolution to designate the week beginning October 16, 1988, as "Gaucher's Disease Awareness Week."

On March 8, 1988:

S.J. Res. 251. Joint resolution designating March 4, 1988, as "Department of Commerce Day"; and

S.J. Res. 262. Joint resolution to designate the month of March 1988, as "Women's History Month."

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on March 8, 1988, received a message from the House of Representatives announcing that pursuant to the provisions of section 9355 of title 10, United States

Code, the Speaker appoints Mr. DeLay to the Board of Visitors to the U.S. Air Force Academy on the part of the House, vice, Mr. Lewis of California, resigned.

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on March 9, 1988, received a message from the House of Representatives announcing that pursuant to the provisions of section 1139 of the Social Security Act, as amended by section 9136 of Public Law 100-203, the Speaker appoints on the part of the House the following as members of the National Commission on Children:

(a) Individuals providing services, activities, or research for children: Mr. Gerald W. McEntee, Washington, DC, Dr. T. Berry Brazelton, Cambridge, MA, Dr. Donald J. Cohen, New Haven, CT, and Mrs. Mary Hatwood Futrell, Washington, DC.

(b) Individuals who are elected or appointed public officials: Representative Miller of California, Mrs. Ruth W. Massinga, Silver Spring, MD, and Mrs. Martha Griffiths, Lansing, MI.

(c) Individuals who are parents or represent parent organizations: Mrs. Nancy M. Daly, Los Angeles, CA, Ms. Sarah C. Shuptrine, Columbia, SC, Mrs. Bernice Weissbourd, Evanston, IL, and Mr. A. Sidney Johnson III, Bethesda, MD.

MESSAGES FROM THE HOUSE

At 1:00 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1430. An act to authorize decorations, medals, and other recognition for service in the U.S. merchant marine, and for other purposes; and

H.R. 2032. An act to authorize the conveyance of the vessel, Lane Victory.

At 1:32 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 2631) to authorize appropriations for the Bureau of the Mint for fiscal year 1988, and for other purposes.

The message also announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 125. Joint resolution to designate the period commencing on May 9, 1988, and ending on May 15, 1988, as "National Stuttering Awareness Week";

S.J. Res. 218. Joint resolution to designate March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; and

S.J. Res. 252. Joint resolution designating June 5-11, 1988, as "National NHS-NeighborWorks Week."

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3967. An act to amend the Department of Defense Authorization Act, 1985, to extend medical benefits for certain former spouses.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 259. A concurrent resolution marking the fourth anniversary of the closing of ABC Color, the only independent newspaper of Paraguay; condemning the refusal of the Government of Paraguay to permit the reopening of ABC Color; and urging the Government of Paraguay to guarantee freedom of the press.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1430. An act to authorize decorations, medals, and other recognition for service in the United States merchant marine, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2032. An act to authorize the conveyance of the vessel, *Lane Victory*; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 259. A concurrent resolution marking the fourth anniversary of the closing of ABC Color, the only independent newspaper of Paraguay; condemning the refusal of the Government of Paraguay to permit the reopening of ABC Color; and urging the Government of Paraguay to guarantee freedom of the press; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

Pursuant to 42 U.S.C. 2159(i)(4), the Committee on Foreign Relations was discharged from further consideration of the following joint resolution; which was placed on the calendar:

S.J. Res. 241. Joint resolution to disapprove the proposed Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Peaceful Uses of Nuclear Energy, transmitted to the Congress by the President on November 9, 1987.

The following bills were read the second time, and placed on the calendar:

S. 2117. A bill to extend the statute of limitations applicable to certain claims under the Age Discrimination in Employment Act of 1967 that were filed with the Equal Employment Opportunity Commission before the date of enactment of this act; and

H.R. 4063. An act to require the Secretary of Labor to permit North Carolina and South Carolina to continue to employ 17-year-old school bus drivers under certain conditions until June 15, 1988.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2727. A communication from the Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to a supplemental contract award; to the Committee on Armed Services.

EC-2728. A communication from the Executive Director, Neighborhood Reinvestment Corporation, transmitting a draft of proposed legislation to amend the Neighborhood Reinvestment Corporation Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-2729. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation "To direct the Secretary of the department in which the Coast Guard is operating to require alerting and locating equipment, including emergency position indicating radio beacons, on United States uninspected vessels and for other purposes;" to the Committee on Commerce, Science, and Transportation.

EC-2730. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report on "EPA Activities and Accomplishments Under the Resource Conservation and Recovery Act"; to the Committee on Environment and Public Works.

EC-2731. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report on a lease-purchase prospectus for Foley Square in New York City; to the Committee on Environment and Public Works.

EC-2732. A communication from the Chairman, National Research Council, transmitting, pursuant to law, a report entitled "From Quality Control to Quality Improvement in AFDC and Medicaid;" to the Committee on Finance.

EC-2733. A communication from the Assistant Secretary (Legislative Affairs), Department of State, transmitting, pursuant to law, a report relative to displaced Tibetans; to the Committee on Foreign Relations.

EC-2734. A communication from the Assistant Secretary (Indian Affairs), Department of the Interior, transmitting, pursuant to law, a report concerning the use of the Navajo Tribe's judgment funds in Dockets 69 and 299, 256-69 and 377-70, and 588-83L before the United States Claims Court; to the Committee on Indian Affairs.

EC-2735. A communication from the Chief Immigration Judge, Department of Justice, transmitting, pursuant to law, a report concerning certain cases involving aliens whose deportation has been suspended; to the Committee on the Judiciary.

EC-2736. A communication from the Chairman, Consumer Product Safety Commission, transmitting, pursuant to law, a report of the Consumer Product Safety Commission on its activities during calendar year 1987 in administering the Freedom of Information Act; to the Committee on the Judiciary.

EC-2737. A communication from the President of the Export-Import Bank of the United States, transmitting, pursuant to law, a report of the Export-Import Bank on the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2738. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, a report of the Federal Energy Regulatory Commission on the Freedom of Information Act during the calendar year 1987; to the Committee on the Judiciary.

EC-2739. A communication from the Chairman for the Federal Election Commission, transmitting, pursuant to law, a report of the Federal Election Commission with respect to the Freedom of Information Act during 1987; to the Committee on the Judiciary.

EC-2740. A communication from the Executive Director for the International Association of Chiefs of Police, transmitting, pursuant to law, a report on effective firearms management; to the Committee on the Judiciary.

EC-2741. A communication from the Attorney General of the United States, transmitting, pursuant to law, a report of litigation challenging the constitutionality of the Sentencing Reform Act of 1984; to the Committee on the Judiciary.

EC-2742. A communication from the Chairman for the National Endowment for the Arts, transmitting, pursuant to law, a report of the National Endowment for the Arts on the Freedom of Information Act for 1987; to the Committee on the Judiciary.

EC-2743. A communication from the Acting Secretary, Department of Agriculture, transmitting, a draft of proposed legislation entitled "To amend section 353 of the Consolidated Farm and Rural Development Act;" to the Committee on Agriculture, Nutrition, and Forestry.

EC-2744. A communication from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on converting to contract by performance the maintenance, utilities, and motor transportation services at the Marine Corps Recruit Depot, Parris Island, South Carolina; to the Committee on Armed Services.

EC-2745. A communication from the Acting Director, Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Co-Production or Co-Assembly of the M1 or the M1A1 Tank; to the Committee on Armed Services.

EC-2746. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a report on multinational agreements entered into by each Military Department during fiscal year 1987 and the total dollar value of purchases and sales from each agreement; to the Committee on Armed Services.

EC-2747. A communication from the General Counsel, Department of Defense, transmitting, a draft of proposed legislation "To provide greater flexibility in military officer personnel management during officer force reductions;" to the Committee on Armed Services.

EC-2748. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, the second report of the General Services Administration to the Congress and the Interagency Council on the Homeless; to the Committee on Banking, Housing and Urban Affairs.

EC-2749. A communication from the Administrator of the Federal Home Loan Bank System Pension Portability Plan, transmitting, pursuant to law, the Actuarial Valuation Report for the Federal Home Loan Banks Pension Portability Plan, for the plan years ending December 31, 1986 and 1985; to the Committee on Banking, Housing, and Urban Affairs.

EC-2750. A communication from the Acting General Counsel, Department of the Treasury, transmitting, a draft of proposed legislation entitled "Federal Banking Enforcement Amendments Act of 1988;" to the Committee on Banking, Housing, and Urban Affairs.

EC-2751. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, a draft of proposed legislation "To authorize appropriations to the National Aeronautics and Space Administration for research and development; space flight, control and data communications; construction of facilities; and research and program management; and for other purposes;" to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of March 4, 1988, the following reports of committees were submitted on March 10, 1988, during the adjournment of the Senate:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 1493. A bill to clarify the authority of the Secretary of the Interior to make land exchanges within the Arctic National Wildlife Refuge (Rept. No. 100-296).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment on the nature of a substitute:

H.R. 1495. An act to designate certain lands in Great Smoky Mountains National Park as wilderness, to provide for settlement of all claims of Swain County, NC, against the United States under the agreement dated July 30, 1943, and for other purposes (with minority views) (Rept. No. 100-297).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BURDICK:

S. 2158. A bill to amend the authority of the Corps of Engineers with respect to bank stabilization and shoreline erosion along the Missouri River; to the Committee on Environment and Public Works.

By Mr. NICKLES:

S. 2159. A bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of certain farm vehicles; to the Committee on Commerce, Science, and Transportation.

By Mr. KASTEN:

S. 2160. A bill to amend the Internal Revenue Code of 1986 to remove certain limitations on charitable contributions of certain items; to the Committee on Finance.

By Mr. BENTSEN:

S. 2161. A bill to exclude certain farmout agreements from property of the estate; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DECONCINI (for himself and Mr. WILSON):

S. Con. Res. 103. A concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan; to the Committee on the Judiciary.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURDICK:

S. 2158. A bill to amend the authority of the Corps of Engineers with respect to bank stabilization and shoreline erosion along the Missouri River; to the Committee on Environment and Public Works.

MISSOURI RIVER BANK STABILIZATION AND SHORELINE EROSION

Mr. BURDICK. Mr. President, a little over a year ago I conducted a hearing in the capital city of my home State. We held that hearing in a small hotel conference room which was soon literally packed with citizens of North Dakota who had come to tell me of the seriousness of bank erosion on the Missouri River. Mr. President, these farmers and ranchers had a different story to tell than is normally the case when river bank erosion is discussed, because as we all know bank and soil erosion generally is a widespread problem in the Western States. What these farmers said was that the erosion pattern on the Missouri River had changed. Before the Corps of Engineers built the mainstem Missouri River Reservoirs, there had been erosion along the river bank, but there had also been land aggression along the Missouri, land "creation" by the river which no longer occurred.

Farmer after farmer testified in vivid detail of the problem, and of the widespread belief that the hundreds of acres of land lost each year was a direct result of the way in which the Army Corps of Engineers operated and maintained the Missouri River reservoirs for their authorized purposes of navigation, flood control, hydroelectric power, et cetera.

At this same hearing the Corps of Engineers testified. The principle witness was General Dominey, whose father inspired much of the water resource development in the West. While he was emphatic that the Corps of Engineers was not responsible for the bank erosion, he would not categorically rule out the possibility that corps operations were responsible for the property loss.

I felt it was necessary to have had an independent assessment of the problem performed, Mr. President. I wrote to the Comptroller General and asked him to determine whether the corps had ever examined the potential erosion problems which would be created by the operation of the Missouri mainstem dams, whether the character of the erosion which now occurs is different than before the dams were built, what responsibility the corps may have for the erosion which has occurred, and what authority the corps has to conduct stabilization measures as a maintenance responsibility under its responsibilities to operate and maintain the Missouri River system.

Mr. President, GAO has completed its investigation, and I am today making their findings public and am introducing legislation in response to those findings to correct the deficiencies in the corps authority which GAO found to exist.

The conclusions of the GAO are very straightforward, and I would ask that the summary pages from the GAO report be included at this point in the Record.

There being no objection, the Summary was ordered to be printed in the Record, as follows:

General Accounting Office,
Washington, DC, March 7, 1988.

Hon. Quentin N. Burdick,
Chairman, Committee on Environment and Public Works, U.S. Senate.

Dear Mr. Chairman: In response to your March 3, 1987, letter and subsequent discussions with your office, this report discusses streambank erosion problems concerning the Corps of Engineers' six dams and lakes located on the upper Missouri River in Montana, North Dakota, South Dakota, and Nebraska. As requested, emphasis is given to the 87 miles of the river between Garrison Dam and Lake Oahe in North Dakota. We address (1) whether the Corps evaluated streambank erosion problems when the dams were planned, and if the planning was deficient; (2) the extent of bank erosion problems between Garrison Dam and Lake Oahe that are caused by the Corps' dam operations; (3) whether the Corps ever examined mitigation measures for bank erosion; (4) whether the Corps ever evaluated the environmental impact of bank erosion; (5) the economic consequences of letting bank erosion continue; (6) whether legal authority exists to enable the Corps to correct streambank erosion problems; and (7) whether the Corps is liable for erosion damages. Also, as agreed with your office, we have identified options the Congress could consider in dealing with streambank erosion involving federal dams.

In summary:

The Corps did not evaluate streambank erosion problems when the dams were planned and, in our opinion, had a reasonable basis for not doing so. The laws that authorized the projects in the 1930s and 1940s did not include bank stabilization measures as part of the projects on the upper Missouri River. At that time the concerns were flood control, hydropower, irrigation, and navigation. Accordingly, the Corps was not required to study, before construction, streambank erosion problems that the projects might create. Additionally, the earliest empirical methods for estimating degradation below dams were developed in the early 1960s, long after the dams were planned. (See sec. 2.)

Corps studies of the Missouri River between Garrison Dam and Lake Oahe show that bank erosion is less now than before the dam was built—reduced from an average annual loss of 222 acres to 71 acres. However, in the period before the Garrison Dam, the 222 acres lost to erosion were offset by a like amount of soil being deposited at other places along the river during floods, a process called "accretion." Since the construction of the dam, both the Corps and North Dakota State Water Commission officials agree that the accretion process has been altered and that now there is a continuous net loss of lands. Past Corps studies of the river have not given consideration to the alteration in the accretion process. However, Corps officials in Omaha plan to review the change in the accretion process as part of their current study on the upper Missouri River. (See sec. 3.)

The Corps did not examine mitigation measures for streambank erosion on the upper Missouri River before construction of the dams. After the dams were constructed, however, the Congress authorized streambank erosion control structures in 1963, 1968, 1974, and 1976. Some of these structures were installed between Garrison Dam and Lake Oahe. In 1987, the Corps identified a total of 192 erosion sites of varying severity that would require an estimated $103.6 million to protect against streambank erosion on the upper Missouri River. Forty-one of these sites, estimated to cost $28.2 million to protect, are between Garrison Dam and Lake Oahe. (See sec. 4.)

Until the National Environmental Policy Act of 1969, the Corps had no requirement to evaluate the environmental impacts of proposed dam construction. The last of the Corps dams and lakes on the upper Missouri River was completed in 1965. While the Corps has not evaluated the environmental impacts of erosion in general, after the construction of the dams, the Corps completed environmental impact statements in 1973 and 1978 for bank protection structures installed between Garrison Dam and Lake Oahe. The U.S. Fish and Wildlife Service also made an environmental evaluation in 1981 for these protection structures. Overall, these statements and the evaluation noted only minor environmental effects. (See sec. 5.)

Our analysis of relevant scientific and engineering data and reports indicated that the river banks will continue to erode, but at a lesser rate than in the past, between Garrison Dam and Lake Oahe. Further, it appears that the worst bank erosion may already have taken place on this stretch of the river. However, the primary economic consequence from the erosion will be borne by landowners who build, farm, or timber on lands adjacent to the river. The Corps has estimated that the annual costs of the protective structures needed between Garrison Dam and Lake Oahe would be $2.3 million, whereas the annual benefits would be only $270,000. (See secs. 4 and 5.)

The Corps has no legal authority to construct bank protection structures using maintenance funds. However, the Corps has authority to provide erosion protection structures under the Water Resources Development Act of 1986; such structures have to be economically justified and environmentally acceptable. The Corps has estimated that the protective structures needed on the upper Missouri River—192 sites estimated to cost $103.6 million—are not economically justified. (See secs. 4 and 6.)

A property owner might make a claim against the United States for bank erosion on the Missouri River alleging a taking of property under the Fifth Amendment of the U.S. Constitution or the government's negligence under the Federal Tort Claims Act. On the basis of past court rulings, we believe there is little chance of anyone obtaining compensation for bank erosion in either instance. (See sec. 6.)

We identified two options that the Congress could consider in dealing with streambank erosion involving federal dams. Both would require legislation and commitments of large amounts of federal funds—$103.6 million for the upper Missouri River and billions nationwide. One option would be to fully or partially fund the cost of erosion control whether economically justified or not. Under this option the federal taxpayer and/or a nonfederal entity would pay for the protection. The other would be to allocate the costs of erosion control, whether economically justified or not, to a project purpose or purposes. Under this option the hydroelectric consumers, other beneficiaries, and federal taxpayers would pay varying portions of the cost of the erosion control structures. Neither of these options may be feasible at this time, however, because of the budget deficits and the efforts of the Congress to reduce federal spending. (See sec. 7.)

Our work was performed between April and December 1987 in accordance with generally accepted government auditing standards. We obtained legal opinions from the Corps' Chief Counsel and our Office of General Counsel on Corps authority to construct and maintain erosion control structures, and on the Corps' liability for erosion on the upper Missouri River. We interviewed Corps officials in Washington, D.C., and in Omaha, Nebraska. We reviewed various documents relating to the construction of the dams and lakes, streambank erosion problems, completed erosion control works, and the laws authorizing construction of bank stabilization works. We also interviewed the State engineer, North Dakota Water Commission, and his staff; the chairman of a five-county board in North Dakota whose counties are affected by the river (this person was also the Chairman of the Upper Missouri River Basin Bank Protection Task Force); the owners of land along the river; and a U.S. Fish and Wildlife Service officials. Additionally, we toured the Missouri River between Garrison Dam and Bismarck, North Dakota. Our staff geologist reviewed and analyzed geological, hydraulics, and engineering data with regard to the character and extent of erosion on the Missouri River.

In its official agency comments (see app. II), the Department of Defense fully agreed with our report. The Department said that the report presents a full and fair explanation of the Army Corps of Engineers' actions, applicable authorities, and responsibilities pertinent to bank erosion on the upper Missouri River.

As arranged with your office, unless you publicly announce its contents earlier, we will not distribute this report until 10 days after the date of this letter. At that time copies will be made available to appropriate congressional committees; the Secretaries of Defense and the Army; and other interested parties.

If you have any questions regarding this report, please call me at (202) 275-7756.

Major contributions to this report are listed in appendix III.

Sincerely yours,

JAMES DUFFUS III,
Associate Director.

Mr. BURDICK. Mr. President, these findings are very significant to the people of North Dakota. GAO found clear evidence that the existing pattern of erosion is related to the operation and maintenance of the Missouri River reservoirs; they have made clear what many of my constituents have known in their heart for a long time, but no one in the Federal Government would ever come out and tell them that the corps is not legally responsible for these damages because there was no way for them to have incorporated these effects into the plans, designs, and costs of the mainstem reservoirs 40 years ago.

The report makes clear that the corps would have to examine this problem if it were building the mainstem dams today, Mr. President. Today they would have to know these effects, and they would have to account for them.

Mr. President, GAO found that the only authorities which the corps has to conduct measures to stabilize the Missouri River banks downstream of the mainstem dams are the basic authorities to conduct erosion control projects. But as I have pointed out, Mr. President, the bank erosion which is occurring in the area examined by GAO does not warrant a "project." It occurs in its current devastating pattern because of the operation of the reservoirs. Bank stabilization is therefore a cost of doing business which is currently not being paid for, and as GAO points out, one of the options available to the Congress to remedy the problems on the river is to make bank stabilization a maintenance responsibility of the corps under its responsibilities to maintain the Missouri River system.

Before I outline my proposed legislation, Mr. President, I want to make one further comment about the GAO report which is very significant. Perhaps it is the most significant aspect of the entire report. That is the fact the Department of Defense, in the person of the Assistant Secretary of the Army, concurred completely in the findings of the GAO report. There was not one question. Not one if, and, or but. They agreed. They agreed that erosion on the Missouri is categorically different than before the dams existed. They agreed the corps had nothing other than project authorities and emergency authorities to meet the need for action. They agreed that the options which were open to the Congress to resolve this problem included the prospect of giving authority to the Corps of Engineers to conduct bank stabilization work as a maintenance duty under its authority to operate and maintain the Missouri River system.

Mr. President, this is very simply what I have done. The bill I am introducing here today takes but one page of text. It simply amends the existing authority of the Corps of Engineers to operate and maintain the Missouri River system to include bank stabilization measures, or where appropriate, and with willing sellers, to purchase an easement from the affected landowner in lieu of such measures. The reasons for this legislation are obvious all along the Missouri River and are now finally objectively outlined for everyone to see.

Mr. President, I would ask that a copy of this legislation be inserted at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public Law 534, 78th Congress, second session, section 9 is hereby amended by adding the following new subsection (f): The Secretary of the Army is directed to undertake such measures, including the maintenance and rehabilitation of existing structures, that the Secretary determines are needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River between Fort Peck Dam, Montana, and Gavins Point Dam, South Dakota and Nebraska. Notwithstanding any other provision of law, the costs of these measures, including the costs of necessary real estate interests and structural features, shall be apportioned among project purposes as a joint-use operation and maintenance expense. In lieu of structural measures, the Secretary may acquire interests in affected areas, as he deems appropriate, from willing sellers.

By Mr. NICKLES:

S. 2159. A bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of certain farm vehicles; to the Committee on Commerce, Science, and Transportation.

COMMERCIAL MOTOR VEHICLES SAFETY ACT AMENDMENTS

● Mr. NICKLES. Mr. President, today I am introducing a bill to amend the Commercial Motor Vehicle Safety Act of 1986 to specify that certain farm vehicles not be considered commercial motor vehicles. I urge my colleagues to bring their support to this bill and eliminate a major problem before it is allowed to occur.

The Commercial Motor Vehicle Safety Act was passed in the 99th Congress as an amendment to an omnibus drug bill, H.R. 5484. Congressional hearing records show the purpose of the act was to improve driver quality, to remove problem drivers from the highways, and to establish a system which would prevent truck and bus drivers from holding more than one license. The focus of the law was on drivers of large interstate trucks and buses.

Unfortunately, the law may also adversely affect a large number of farmers. The problem stems from a provision in the law and regulations published in the Federal Register on December 11, 1987. Under the new rules, any vehicle with a gross vehicle weight rating—weight of truck loaded to its maximum capacity—of 26,001 pounds or more, including many farm trucks, will be classified as a commercial motor vehicle. In addition, vehicles carrying hazardous substances, such as some liquid fertilizers, will also be forced to comply with these regulations.

A farmer's profession is production of commerce, not its transportation. The American Farm Bureau Federation estimates that 90 percent of the farmers in this country will be affected by these regulations. The commissioner of Oklahoma's Department of Public Safety has informed me that accidents involving farm vehicles are few in number and not considered a problem. In many States, the age limit alone will eliminate a substantial portion of the work force and increase the cost of hiring qualified drivers.

Mr. President, I am in no way trying to undermine the Commercial Motor Vehicle Safety Act and its goal to increase the safety of our Nation's highways. I am, however, against the unnecessary burden these regulations will impose on farmers transporting their crops to market. During harvest, farmers must be able to utilize all their resources in order to make their operations profitable. By passing this bill, we can continue to make our Nation's highways safer while allowing our farmers to operate in a safe and practical manner.●

By Mr. KASTEN:

S. 2160. A bill to amend the Internal Revenue Code of 1986 to remove certain limitations on charitable contributions of certain items; to the Committee on Finance.

CHARITABLE CONTRIBUTIONS ON WORKS OF ART

● Mr. KASTEN. Mr. President, I rise today to introduce legislation which will remedy a gross inequity in today's Tax Code.

Under present law, an owner of a work of art may donate that work to charity and claim the full market value as a tax deduction. But if the artist himself donates the same work to a charitable organization, he or she cannot deduct the full value of the work for tax purposes. The artist can only deduct the value of the raw materials used in the creation of the work of art.

In effect, Mr. President, our Tax Code is discouraging artists from contributing their works to charity. We are providing a disincentive for artists to cooperate in charitable endeavors.

Let me give an example of just how unfair this element of the Tax Code really is in certain instances. An artist who chooses to donate one of his paintings to charity can deduct only the cost of the paint, canvas, and frame he used in creating the painting. The Tax Code is blind to the market value of the painting. But if the artist dies and leaves the painting to his children, they have to pay estate taxes on the full market value of the painting.

Mr. President, that's patently unfair. If we want to encourage the involvement of America's artists, our creative people, in community initiatives, we'll have to take this unfair provision out of the Tax Code. That is what the legislation I am introducing today seeks to accomplish.

Once the Tax Code is relieved of this unjust provision, I think we'll see a flood of contributions of artworks to our charitable organizations, libraries, and museums. When these organizations auction off the works to private buyers at the market rate, the cashflow to the charities will increase, and so will the benefit to the community at large.

My legislation differs from other bills on the subject of artists' rights in actually allowing charitable organizations to sell donated artworks and use the proceeds for charitable purposes. As the law currently stands, a charitable organization must use a donated artwork for a very specific purpose, the same purpose for which it is allowed a charitable exemption. For example, a painting cannot be donated to the YMCA in order to be resold to help fund the YMCA's charitable work.

Mr. President, I'm sure that my colleagues will agree we need to start tapping the important national resource we have in our artists.

We need to encourage them to keep on creating, and to contribute some of their creations for the good of the community. The bill I am introducing today is a step in the right direction.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARITABLE CONTRIBUTIONS OF CERTAIN ITEMS CREATED BY THE TAXPAYER.

Subsection (e) of section 170 of the Internal Revenue Code of 1986 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, OR ARTISTIC COMPOSITIONS.—

"(A) IN GENERAL.—In the case of a qualified artistic charitable contribution—

"(i) the amount of such contribution shall be the fair market value of the property contributed (determined at the time of such contribution), and

"(ii) no reduction in the amount of such contribution shall be made under subparagraph (A) or (B) of paragraph (1).

"(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, music, artistic or scholarly composition, any letter or memorandum, or similar property, but only if—

"(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 1 year prior to such contribution,

"(ii) the taxpayer—

"(I) has received a written appraisal of the fair market value of such property by a person qualified to make such appraisal (other than the taxpayer, donee, or any related person (within the meaning of section 465(b)(3)(C)) which is made within 1 year of the date of such contribution,

"(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal, and

"(III) the appraisal takes into account but is not limited to the factors described in clause (vi),

"(iii) the donee is an organization described in subparagraph (A) of subsection (b)(1),

"(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under subsection (c)),

"(v) the taxpayer receives from the donee a written statement representing that the donee's use of the property will be in accordance with the provisions of clause (iv), and

"(vi) the written appraisal referred to in clause (ii) includes evidence of the extent to which property created by the personal efforts of the taxpayer is or has been—

"(I) owned, maintained, and displayed by organizations described in subparagraph (A) of subsection (b)(1), and

"(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (within the meaning of section 465(b)(3)(C)).

"(C) MAXIMUM DOLLAR LIMITATION.—The aggregate amount of qualified artistic charitable contributions allowable to any taxpayer as a deduction under subsection (a) for any taxable year shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year.

"(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

"(i) income with respect to the type of property described in subparagraph (B) that is created by the taxpayer, and

"(ii) income from teaching, lecturing, performing, or similar activity with respect to such property or to similar property created by individuals other than the taxpayer.

"(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS BY PUBLIC OFFICIALS.—Subparagraph (A) shall not apply in the case of any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while such individual was an officer or employee of the United States or of any State (or political subdivision thereof) if the writing, preparation, or production of such property was related to, or arose out of, the performance of such individual's duties as such an officer or employee.

"(F) SALE OF PROPERTY BY DONEE.—For purposes of clause (iv) of subparagraph (B), the sale by a donee of property contributed to it shall be treated as a use related to a purpose or function described in such clause if the proceeds of such sale are used for such purpose or function."

SEC. 2. TREATMENT OF EXCESS DEDUCTION FOR PURPOSES OF MINIMUM TAX.

Paragraph (1) of section 56(b) of the Internal Revenue Code of 1986 (relating to adjustments applicable to individuals) is amended by adding at the end thereof the following new subparagraph:

"(F) DEDUCTION FOR CHARITABLE CONTRIBUTION OF ART, ETC. CREATED BY TAXPAYER NOT ALLOWED.—In determining the amount allowable as a deduction under section 170, subsection (e)(6) shall not apply."

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to contributions made after December 31, 1986, in taxable years ending after such date.●

By Mr. BENTSEN:

S. 2161. A bill to exclude certain farm-out agreements from property of the estate; to the Committee on Finance.

EXCLUSION OF CERTAIN FARM-OUT AGREEMENTS

● Mr. BENTSEN. Mr. President, the financial crisis in this Nation's oil and gas industry has forced a number of oil-related businesses and oilmen to seek protection under the Bankruptcy Code. That situation itself is unfortunate, and this misfortune is compounded by the failure of the Code to recognize longstanding oil industry practices under farm-out agreements. There is an inherent conflict between the Code and real-world oil industry practices, a conflict that the legislation I am introducing today will eliminate.

A little background on common practices in the oil and gas industry is useful prior to a discussion of my bill. Industry practice has been to follow the efficient process of leaving full legal title to oil and gas leases in one individual or entity even though interests in those leases are held by others through a number of unrecorded agreements related to development of the leases.

Apart from the obvious simplicity of leaving record title unamended though other incidents of ownership have been transferred, industry practice facilitates the transfer of oil and gas production rights and avoids unnecessary filings since many transfers are contingent upon actual production of oil and gas. And not to be understated is the fact that industry practice preserves confidentiality as to exploration activities, preserving an important development incentive.

These practical benefits have been traditionally reflected in the types of contractual arrangements used in the industry to allow persons to purchase or earn interests in oil and gas leases as they are developed. There are a number of different types of such agreements, and their usage greatly enhances the generation of capital needed to develop oil and gas reserves. As a legislator who has again and again taken steps to reduce our dependence on foreign oil and increase our domestic production, I know that the last thing that we want to do is allow a condition to persist that inhibits the generation of capital for domestic oil and gas development.

And we will inhibit the generation of capital if we do not take steps to reassert the viability of "farm-out agreements" and other agreements used in connection with the development of oil and gas. Under farm-out agreements, an operator will agree to drill wells on leased property in exchange for an interest in the underlying oil and gas lease. The actual terms of farm-out agreements vary widely, but the typical agreement does not call for an actual transfer of record title until the requirements of the farm-out have been satisfied. Farm-out agreements are also the basis upon which the operator will often provide percentage interests to the geologists, landmen, engineers, and others whose services he retains to assist in the development of the lease.

Because of the inherent uncertainty of oil and gas development, the true extent of the assignment from the leasehold owner to the operator—and from the operator to the geologists, landmen, et cetera—is not discernible until the drilling has been completed, the well is producing and the depth of the well is known. Only at that point will the interests of the operator and his subcontractors be determinable, and only at that point are formal assignments actually executed and recorded.

Yet it is often the case that an oil and gas operator has conducted substantial drilling activity under a farm out, has earned both an equitable and beneficial interest in the well, but will not have received a recorded assignment because the precise percentages and depths are not determinable since his ultimate interest may change through subsequent activity—if they drill deeper and discover additional reserves, his interest and that of his subcontractors grows. So we simply do not know the actual extent of the interest until all further development activity is ceased and the entire focus is shifted to production.

A serious problem arises when any of the parties to a farm-out or similar agreement files for protection under the code prior to the time the interests are made of record. Because of the manner in which the courts have interpreted sections 365 and 544 of the Bankruptcy Code, the interests of an operator are in jeopardy if the leasehold owner files for protection, even though the operator has performed valuable services under the farm-out agreement that led to production of oil and gas. Under the terms of the farm-out agreement, the operator has delivered his consideration and earned an interest in the reserves, but the formalities of recordation have not occurred since the ultimate extent of his interest has not been fixed. Similarly, the interests earned by geologists, landmen, et cetera are in jeopardy if the leasehold owner or the operator file for protection.

Our courts are treating these operators and their subcontractors as simple creditors, leaving them among the class of general unsecured creditors. This is unfair treatment. The transaction is complete in all meaningful respects and the code should recognize the ownership interests of the operator and his derivatives rather than putting them on a plane with persons who have general claims against the debtor totally unrelated to the developed mineral interest.

My bill would remedy this situation in a straightforward manner. It creates a new section 541(b)(3) of the Bankruptcy Code. Section 541 defines the "estate" or property of the debtor in bankruptcy, and my new section 541(b)(3) would expressly provide that the estate of the debtor does not include oil and gas interests that have been earned and the debtor has obligated itself to transfer under a farm-out or related agreement.

The current bankruptcy treatment of oil and gas development agreements threatens the development of energy resources in this country. It makes little sense to undertake the costs and risks associated with oil and gas development if there is no assurance that the interests earned will be protected against the claims of creditors arising in wholly unrelated transactions.

This legislation constitutes a simple, straightforward solution to a real problem in our domestic oil and gas industry. I urge my colleagues to support this legislation and eliminate the inequitable treatment of oil and gas interests that currently exists under our Bankruptcy Code.●

ADDITIONAL COSPONSORS

S. 109

At the request of Mr. Inouye, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 109, a bill to permit the naturalization of certain Filipino war veterans.

S. 430

At the request of Mr. Metzenbaum, the name of the Senator from Rhode Island [Mr. Pell] was added as a cosponsor of S. 430, a bill to amend the Sherman Act regarding retail competition.

S. 628

At the request of Mr. Grassley, the name of the Senator from Idaho [Mr. Symms] was added as a cosponsor of S. 628, a bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest on educational loans.

S. 714

At the request of Mr. Specter, the name of the Senator from Hawaii [Mr. Matsunaga] was added as a cosponsor of S. 714, a bill to recognize the organization known as the Montford Point Marine Association, Inc.

S. 1052

At the request of Mr. Specter, the name of the Senator from Ohio [Mr. Glenn] was added as a cosponsor of S. 1052, a bill to establish a national center for the U.S. Constitution within the Independence National Historical Park in Philadelphia, PA.

S. 1250

At the request of Mr. Rockefeller, his name was added as a cosponsor of S. 1250, a bill to strengthen the criminal justice partnership between the States and the Federal Government.

S. 1381

At the request of Mr. Sasser, the name of the Senator from Maine [Mr. Mitchell] was added as a cosponsor of S. 1381, a bill to improve cash management by executive agencies, and for other purposes.

S. 1429

At the request of Mr. Lautenberg, the name of the Senator from New York [Mr. Moynihan] was added as a cosponsor of S. 1429, a bill to improve the Environmental Protection Agency data collection and dissemination regarding reduction of toxic chemical emissions across all media, to assist States in providing information and technical assistance about waste reduction, and for other purposes.

S. 1469

At the request of Mr. Boschwitz, the names of the Senator from Wyoming [Mr. Wallop], the Senator from Minnesota [Mr. Durenberger], and the Senator from New Hampshire [Mr. Rudman] were added as cosponsors of S. 1469, a bill to amend title VII of the Social Security Act to restrict the use of "Social Security" or "Social Security Administration" on goods not connected with such Administration.

S. 1594

At the request of Mr. GRAHAM, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1594, a bill to improve the operation of the Caribbean Basin Economic Recovery Act.

S. 1839

At the request of Mr. MELCHER, the names of the Senator from Hawaii [Mr. MATSUNAGA], the Senator from North Dakota [Mr. BURDICK], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 1839, a bill to amend title XVIII of the Social Security Act to provide for coverage of adult day health care under the Medicare Program, and for other purposes.

S. 1856

At the request of Mr. SASSER, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 1856, a bill to amend chapter 25 of title 44, United States Code, to provide an authorization for the National Historical Publications and Records Commission Programs, and for other purposes.

S. 1868

At the request of Mr. MOYNIHAN, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1868, a bill to promote nondiscrimination in State medical licensure and medical reciprocity standards, and to amend title XIX of the Social Security Act.

S. 1993

At the request of Mr. BUMPERS, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1993, a bill to amend the Small Business Act to improve the growth and development of small business concerns owned and controlled by socially and economically disadvantaged individuals, especially through participation in the Federal procurement process, and for other purposes.

S. 2015

At the request of Mr. KENNEDY, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2015, a bill to amend the Immigration and Nationality Act to extend for 1 year the application period under the Legalization Program.

S. 2024

At the request of Mr. BAUCUS, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Indiana [Mr. LUGAR], and the Senator from Indiana [Mr. QUAYLE] were added as cosponsors of S. 2024, a bill to amend the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519, to extend certain deadlines.

S. 2025

At the request of Mr. MELCHER, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 2025, a bill to amend title II of the Toxic Substances Control Act.

S. 2036

At the request of Mr. THURMOND, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2036, a bill to redefine "extortion" for purposes of the Hobbs Act.

S. 2042

At the request of Mr. DURENBERGER, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 2042, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statute at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

S. 2046

At the request of Mr. DURENBERGER, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 2046, a bill to amend title XIX of the Social Security Act to provide mandatory coverage for certain low-income pregnant women and infants.

S. 2047

At the request of Mr. THURMOND, the names of the Senator from Utah [Mr. HATCH], the Senator from Ohio [Mr. GLENN], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of S. 2047, a bill to require a health warning on the labels of all alcoholic beverage containers.

S. 2062

At the request of Mr. NICKLES, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 2062, a bill to amend the Internal Revenue Code of 1986 to restore to State and local governments the right to purchase gasoline without payment of the Federal gasoline excise tax.

S. 2065

At the request of Mr. HEINZ, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 2065, a bill to recognize the organization known as Veterans of the Vietnam War, Inc.

S. 2072

At the request of Mr. MOYNIHAN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 2072, a bill to amend title 23, United States Code, to authorize the use of rights-of-way along Federal-aid highways for the construction of transportation systems that will be part of the Federal-aid highway system.

S. 2098

At the request of Mr. HOLLINGS, the names of the Senator from Alabama [Mr. SHELBY], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 2098, a bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

2109

At the request of Mr. KERRY, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2109, a bill to amend title 18, United States Code, to protect the civil rights of individuals from discrimination on the basis of affectional or sexual orientation.

S. 2116

At the request of Mr. KARNES, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 2116, a bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of certain farm and firefighting vehicles.

S. 2122

At the request of Mr. BRADLEY, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 2122, a bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the Medical Program, and for other purposes.

S. 2123

At the request of Mr. KENNEDY, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2123, a bill to provide hunger relief, and for other purposes.

S. 2128

At the request of Mr. WARNER, the names of the Senator from North Carolina [Mr. SANFORD] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 2128, a bill to amend the Internal Revenue Code of 1986 to permit tax-free sales of diesel fuel for use by fishery vessels.

S. 2129

At the request of Mr. BAUCUS, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 2129, a bill to amend the Internal Revenue Code of 1986 to repeal the application of the uniform capitalization rules with respect to animals produced in a farming business.

S. 2152

At the request of Mr. NICKLES, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2152, a bill to increase the authority to transfer unobligated balances between certain accounts of the Department of Defense in order to meet increased military personnel costs resulting from fluctuations in foreign currency exchange rates, and for other purposes.

SENATE JOINT RESOLUTION 141

At the request of Mr. Nickles, the names of the Senator from Kansas [Mrs. Kassebaum] and the Senator from Massachusetts [Mr. Kennedy] were added as cosponsors of Senate Joint Resolution 141, a joint resolution designating August 29, 1988, as "National China-Burma-India Veterans Appreciation Day."

SENATE JOINT RESOLUTION 197

At the request of Mr. Dole, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of Senate Joint Resolution 197, a bill to designate the month of April 1988, as "Prevent-A-Litter Month."

SENATE JOINT RESOLUTION 245

At the request of Mr. Cranston, the name of the Senator from Hawaii [Mr. Matsunaga] was added as a cosponsor of Senate Joint Resolution 245, a joint resolution to designate April 21, 1988, as "John Muir Day."

SENATE RESOLUTION 270

At the request of Mr. Lautenberg, the name of the Senator from Massachusetts [Mr. Kerry] and the Senator from California [Mr. Cranston] were added as cosponsors of Senate Resolution 270, a resolution paying special tribute to Portuguese diplomat Dr. de Sousa Mendes for his extraordinary acts of mercy and justice during World War II.

SENATE RESOLUTION 383

At the request of Mr. Lautenberg, the names of the Senator from Connecticut [Mr. Dodd], the Senator from Nebraska, [Mr. Exon], and the Senator from Ohio [Mr. Metzenbaum] were added as cosponsors of Senate Resolution 383, a resolution to express the sense of the Senate regarding future funding of Amtrak.

SENATE RESOLUTION 384

At the request of Mr. McConnell, the names of the Senator from Washington [Mr. Evans], the Senator from Minnesota [Mr. Boschwitz], the Senator from Connecticut [Mr. Dodd], the Senator from Washington [Mr. Adams], the Senator from California [Mr. Cranston], the Senator from Massachusetts [Mr. Kerry], the Senator from Maryland [Ms. Mikulski], the Senator from North Carolina [Mr. Sanford], and the Senator from Rhode Island [Mr. Pell] were added as cosponsors of Senate Resolution 384, a resolution regarding the banning of political activity in South Africa.

SENATE RESOLUTION 389

At the request of Mr. Lautenberg, the name of the Senator for New Mexico [Mr. Bingaman] was added as a cosponsor of Senate Resolution 389, a resolution to express the sense of the Senate regarding future funding of the Construction Grants Program of the Clean Water Act.

SENATE CONCURRENT RESOLUTION 103—SENSE OF THE CONGRESS REGARDING AWARD OF PRESIDENTIAL MEDAL OF FREEDOM TO CHARLES E. THORNTON, LEE SHAPIRO, AND JIM LINDELOF

Mr. DeCONCINI (for himself and Mr. Wilson) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. Con. Res. 103

Whereas the armed forces of the Soviet Union have waged a brutal war of conquest against the people of Afghanistan for 8 years;

Whereas foreign correspondents attempting to cover the war in Afghanistan have always been subject to extreme danger;

Whereas the danger to foreign correspondents became even greater in 1984 when the Soviet Ambassador to Pakistan explicitly threatened foreign journalists entering Afghanistan in the company of the Afghan resistance, known as the mujahidin;

Whereas, on September 19, 1985, Charles E. Thornton, a medical reporter for the Arizona Republic, was killed by Soviet troops while preparing a story about volunteer doctors in Afghanistan;

Whereas, on October 9, 1987, Lee Shapiro, of North Bergen New Jersey, and Jim Lindelof, of California, were ambushed and murdered by Soviet troops while filming a documentary on the war in Afghanistan;

Whereas the statements of Abdul Malik, the Afghan interpreter and guide who accompanied Lee Shapiro and Jim Lindelof and who witnessed their deaths, demonstrate that the Americans were strafed by helicopter gunships of the Soviet Union and shot by Soviet soldiers who then confiscated their equipment and film; and

Whereas Charles E. Thornton, Lee Shapiro, and Jim Lindelof displayed great courage by facing the perils of war and the lethal threat directed against correspondents and ultimately gave their lives to inform the world of the struggle for liberty taking place in Afghanistan: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the President should posthumously award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof in honor of their brave efforts to document the Afghan struggle for freedom; and

(2) the President should present the award to the families of Charles E. Thornton, Lee Shapiro, and Jim Lindelof at the White House on March 21, 1988, which the people of Afghanistan celebrate as the start of the new year and which date in 1987 was designated as Afghanistan Day in the United States.

Sec. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Mr. DeCONCINI. Mr. President, I am proud to have Senator Wilson join me in expressing the sense of Congress that the President should award the Presidential Medal of Freedom to Charles Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan. Congressmen Courter, Stump, and Matsui introduced a similar resolution in the House of Representatives last Wednesday.

On December 24, 1979, the Soviet Union invaded Afghanistan and has waged a war in that country for 8 years and they have persistently tried to prevent the details of this conflict from reaching the free world. It took 4 days to invade this country. It has been 8 years and Moscow has not yet agreed to Afghan self-determination.

The Soviet Ambassador to Pakistan, Mr. Smirnoft, admonished French journalists:

> I warn you, and, through you all of your fellow journalists: Do not try to enter Afghanistan with the so-called Mujahidin any longer. * * * In the future, the bandits and so-called journalists accompanying them will be killed.

Charles Thorton, a journalist with the Arizona Republic, was undaunted by this threat.

In September 1985 another reporter Peter Schuleter accompanied Mr. Thornton to cover an American medical team helping the Mujahidin. He later wrote the following:

> For the trip out, Charles and Maugnum, myself and 13 Mujahidin crammed ourselves into a Dodge Ram pickup. We were traveling by night to escape detection by Soviet helicopters that patrol the area.
>
> It was about 10 o'clock. We were headed southwest on a dirt road seven miles northwest of Kandahar.
>
> It was cramped and things were tense. There were rumors of Soviet ground troops in the area. But such reports had been common during the trip, and this was a Mujahidin stronghold, so we didn't place much stock in them. Nevertheless, Mujahidin had scouted the route ahead of us. * * *
>
> Something pinned my legs. I wriggled free, then crawled Army-style 15 yards down a shallow ravine as bullets continued to fly overhead.
>
> Ten seconds before, there had been 16 people in the truck. Now I could see no one.
>
> Here I am in a ambush, I thought, and I'm not scared.
>
> I was too busy to be scared. All I could think was, What do I do now? Where are Charles and John?
>
> I was alone, and Soviet tracer bullets were spattering everywhere. For a while there, I didn't dare move.
>
> The soldiers shot at the truck for several hours, until if finally bust into flames. I saw the red glow of the fire and I could hear the rounds exploding. Mujahidin from the surrounding area gathered forces and began shooting back.
>
> In the morning, I moved with Rahim into a cave. I stayed there a day and a half until some Mujahidin arrived and said they had discovered Charles' body. It was behind the truck near the rear wheel. He had been shot in the neck and the chest. I assumed he was knocked out of the truck by the force of the bullets.

Two years later, on October 9, 1987, Lee Shapiro of North Bergen, NJ, and Jim Lindelof of Los Angeles, CA, were ambushed by Soviet troops while filming a documentary on the war. An eyewitnees account by Abdul Malik, their interpreter-guide, states that they were strafed by Soviet helicopter gunships. Soviet soldiers then confiscated their equipment and film.

Mr. President, George Mason said that—

> The freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

This despotic government in Afghanistan has tried to restrain the press. These three men have proven that the freedom of the press must be fought for everyone and sometimes for an extremely high price. These three men are heroes. Each one sacrificed his life to document the struggle of democratic resistance against oppression.

This concurrent resolution is about the Presidential Medal of Freedom. The medal was established by President Truman in 1945 to reward superior, war-connected acts or services, and was revised by President Kennedy to include those who should be honored for special contributions to security or the national interests of the United States, world peace, cultural or other significant public or private endeavors.

Mr. President, these three reporters, who gave their lives to preserve the principle of freedom of the press and to provide the free world with an accurate accounting of events as they were unfolding under the illegal Soviet occupation of Afghanistan, certainly meet the criteria for receiving the Medal of Freedom. I am particularly proud that the Arizona press can point to a hero among its corps in the person of Charles Thorton. Charles Thornton, Lee Shapiro, and Jim Lindelof are the unsung heroes of the Afghan war.

I urge all of my colleagues to join me in supporting this current resolution. Enactment of this concurrent resolution will send the Soviet Government a strong message that the free world press will not be deterred by the Soviet threats—even at the risk of their lives.

AMENDMENTS SUBMITTED

INTELLIGENCE OVERSIGHT ACT

HELMS AMENDMENTS NOS. 1630 THROUGH 1633

(Ordered to lie on the table.)

Mr. HELMS submitted four amendments intended to be proposed by him to the bill (S. 1721) to improve the congressional oversight of certain intelligence activities, and to strengthen the process by which such activities are approved within the executive branch, and for other purposes; as follows:

AMENDMENT No. 1630

Add at the end of the committee substitute amendment the following new section:

"SEC. . Nothing in this Act shall be construed as authorizing any action contrary to the determination that, inasmuch as General Manuel Noriega has been indicted by the United States for drug trafficking, unless and until the Republic of Panama (1) promptly removes General Manuel Noriega from all public offices and authority, and (2) has installed a freely elected government, within 30 days of the enactment of this Section the President of the United States, using existing authority, should notify the Government of Panama the intention of the United States to suspend, should it prove to be required by the supreme national security interests of the United States, the operation of any provision of the Panama Canal Treaties of 1978 mandating the withdrawal of United States military personnel or the closure of any United States military base protecting the Panama Canal.".

AMENDMENT No. 1631

On page 9 strike out lines 13 and 14.

AMENDMENT No. 1632

Add at the end of the committee substitute the following new section:

"SEC. . Nothing in this Act shall be construed as granting authority to take any action in derogation of the treaty making power of the United States Senate.".

AMENDMENT No. 1633

Add at the end of the bill the following new section:

"SEC. . Nothing in this Act shall be construed as granting authority to take any action in derogation of the treaty making power of the United States Senate.".

WALLOP AMENDMENTS NOS. 1634 THROUGH 1639

(Ordered to lie on the table.)

Mr. WALLOP submitted six amendments intended to be proposed by him to the bill S. 1721, supra; as follows:

AMENDMENT No. 1634

Add at the end the following new section:

"SEC. . Nothing in this Act shall be construed as authorizing any action contrary to the determination that (a) substantial discrepancy may exist between various United States intelligence estimates of the number of SS-20 missiles possessed by the Soviet Union and the number of missiles reported by the Soviet Union to the United States pursuant to the Memorandum of Understanding to the proposed Treaty Between the United States of America and the Union of Soviet Socialist Republics Concerning Intermediate-Range Nuclear Forces (hereinafter the "INF Treaty") and such discrepancy may indicate a covert Soviet SS-20 missile force of 300 to 550 SS-20 missiles carrying 900 to 1650 high-yield nuclear warheads; (b) unless such apparent discrepancy is satisfactorily clarified, the United States could put at jeopardy its supreme national interest, its 30,000 troops stationed in Europe, and the security of NATO by ratifying the proposed Treaty and thereafter, pursuant to such Treaty, eliminating its own deterrent INF forces based in Western Europe; and (c) taking account of the foregoing, it shall not be in order for the Senate to consider the proposed INF Treaty in Executive Session unless and until the President of the United States, using existing authority, has certified to the Senate that the Senate can rely with confidence on the accuracy of the number of SS-20 missiles reported to the United States by the Soviet Union."

AMENDMENT No. 1635

At the end, add the following new section:

SEC. 5. Nothing in this Act shall be construed as contradicting the practice that before the beginning of each fiscal year, the President shall prepare and transmit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a classified report setting forth a budget for existing and prospective special activities to be conducted during that fiscal year.

AMENDMENT No. 1636

On page 10, line 1, strike "nothing contained in".

AMENDMENT No. 1637

On page 10, strike out lines 8 through 11.

AMENDMENT No. 1638

On page 14, strike out "; and" on line 3 and all the language through lines 4 and 5.

AMENDMENT No. 1639

Add at the end the following new section:

"SEC. . Nothing in this Act shall be construed as authorizing any action contrary to the determination that a) a substantial discrepancy may exist between various United States intelligence estimates of the number of SS-20 missiles possessed by the Soviet Union and the number of missiles reported by the Soviet Union to the United States pursuant to the Memorandum of Understanding to the proposed Treaty Between the United States of America and the Union of Soviet Socialist Republics Concerning Intermediate-Range Nuclear Forces (hereinafter the "INF Treaty") and such discrepancy may indicate a covert Soviet SS-20 missile force of 300 to 550 SS-20 missiles carrying 900 to 1650 high-yield nuclear warheads; b) unless such apparent discrepancy is satisfactorily clarified, the United States could put at jeopardy its supreme national interest, its 300,000 troops stationed in Europe, and the security of NATO by ratifying the proposed Treaty and thereafter, pursuant to such Treaty eliminating its own deterrent INF forces based in Western Europe; and c) taking account of the foregoing the President of the United States, using existing authority, should certify to the Senate before Senate consideration of the proposed treaty in Executive session, that the Senate can rely with confidence on the accuracy of the number of SS-20 missiles reported to the United States by the Soviet Union.".

HELMS AMENDMENT NO. 1640

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 1721, supra; as follows:

Add at the end of the Committee Substitute amendment the following new section:

"SEC. . Nothing in this Act shall be construed as authorizing any action contrary to the view that, inasmuch as General Manuel Noriega has been indicted by the United States for drug trafficking, unless and until the Republic of Panama (1) promptly removes General Manuel Noriega from all public offices and authority, and (2) has installed a freely elected government, within 30 days of the enactment of this Section the

President of the United States, using existing authority, should notify the Government of Panama of the intention of the United States to suspend, should it prove to be required by the supreme national security interests of the United States, the operation of any provision of the Panama Canal Treaties of 1978 mandating the withdrawal of United States military personnel or the closure of any United States military base protecting the Panama Canal.".

WALLOP AMENDMENT NO. 1641

(Ordered to lie on the table.)

Mr. WALLOP submitted an amendment intended to be proposed by him to the bill S. 1721, supra; as follows:

On page 13 at the end add: Nothing in this Act shall be construed as requiring the executive branch to identify 3d parties involved in special activities to the Congress.

CHAFEE AMENDMENTS NOS. 1642 AND 1643

(Ordered to lie on the table.)

Mr. CHAFEE submitted two amendments intended to be proposed by him to the bill S. 1721, supra; as follows:

AMENDMENT No. 1642

In section 503, subsection (c)(1) delete "forty-eight hours" and in its place substitute "ten days."

AMENDMENT No. 1643

In section 503, subsection (c)(2) delete "forty-eight hours" and in its place substitute "ten days."

IMMIGRATION ACT OF 1988

GRAMM AMENDMENT NO. 1644

Mr. GRAMM proposed an amendment to the bill (S. 2104) to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States; as follows:

On page 45 strike all on lines 15 through 21, and insert in lieu thereof:

"(a) VISA FEES FOR IMMIGRANTS.—The Secretary of State shall provide for a schedule of fees to be charged for the filing of a petition for any and all immigrant categories under sections 201(a)(3), 201(b)(2)(A)(i), 203(a) and (b). The fees established under this subsection shall be sufficient to cover administrative and other expenses incurred in connection with the processing of petitions for any and all immigrant categories filed under sections 201(a)(3), 201(b)(2)(A)(i), 203(a) and (b)".

BUMPERS AMENDMENT NO. 1645

Mr. BUMPERS proposed an amendment to the bill S. 2104, supra; as follows:

Beginning on page 21, strike out line 24 and all that follows through line 16 on page 22.

On page 22, line 17, strike out "(5)" and insert in lieu thereof "(4)".

On page 22, line 20, strike out "(3), and (4)" and insert in lieu thereof "and (3)".

On page 25, line 10, strike out "(5)" and insert in lieu thereof "(4)".

On page 25, line 16, strike out "(5)" and insert in lieu thereof "(4)".

On page 25, line 22, strike out "(5)" and insert in lieu thereof "(4)".

On page 26, line 2, strike out "(b)(5)(B)" and insert in lieu thereof "(b)(4)(B)".

On page 29, strike out lines 10 through 12.

On page 29, line 13, strike out "(G)(i)" and insert in lieu thereof "(F)(i)".

On page 29, line 14, strike out "(5)" and insert in lieu thereof "(4)".

On page 30, line 1, strike out "(5)" and insert in lieu thereof "(4)".

On page 30, line 4, strike out "(5)" and insert in lieu thereof "(4)".

Beginning on page 33, strike out line 8 and all that follows through the item between lines 20 and 21 on page 42.

On page 42, line 21, strike out "SEC. 5." and insert in lieu thereof "SEC. 4."

On page 43, line 15, strike out "(5)" and insert in lieu thereof "(4)".

On page 43, line 19, strike out "(5)" and insert in lieu thereof "(4)".

On page 44, line 16, strike out "(5)" and insert in lieu thereof "(4)".

On page 45, line 2, strike out "(5)" and insert in lieu thereof "(4)".

GRAMM AMENDMENT NO. 1646

Mr. GRAMM proposed an amendment to the bill S. 2104, supra; as follows:

On page 22, line 7, strike "$2,000,000" and insert in lieu thereof, $1,000,000.00

D'AMATO AMENDMENT NO. 1647

Mr. D'AMATO proposed an amendment to the bill S. 2104, supra; as follows:

At the appropriate place, insert:

SECTION 1. PERMITTING LEGALIZATION OF CERTAIN ALIENS.

(a) IN GENERAL.—Subject to subsection (b), the Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for permanent residence if the alien—

(1) applies for such adjustment during the 12-month period beginning on the date of the enactment of this Act;

(2) would meet the requirements of section 245A(a) of the Immigration and Nationality Act, other than paragraphs (1)(A) relating to timely application, (2) (A) or (B) relating to continuous unlawful residence, and (3)(A) relating to continuous physical presence; and

(3) establishes that he or she would meet the requirements of subparagraphs (A) and (B) of section 245A(a)(2) of such Act if "October 1, 1988" were substituted for "January 1, 1982" each place it appears in such provision.

(b) UNITS OF ASSESSMENT.—Each alien applying for adjustment of status under subsection (a) shall be accorded units of assessment based on eligibility criteria as follows:

(A) For aliens having successfully completed grade school through high school or its educational equivalent, 10 units.

(B) For aliens who were awarded bachelors' degrees or their equivalent, 10 units.

(C) For aliens who were awarded graduate degrees, a number of units up to 5 units to be determined by the Secretary of Education based on the level of the degree.

(D) To the extent that the aliens have vocational preparation, the number of units for such preparation to be determined by the Secretary of Labor, 10 or 20 units.

(E) For aliens not less than 21 years of age or more than 35 years of age, 10 units, or not less than 36 years of age or more than 44 years of age, 5 units.

(F) To the extent that the aliens have skills determined by the Secretary of Labor to be needed in the United States, 10 units.

(G) To the extent that the aliens have work experience relating to the skills where there is a present or where there will be a future shortage of individuals, 5 or 10 units.

(H) For aliens who demonstrate an understanding of the English language and the ability to communicate in such language, 20 points.

(c) NUMERICAL LIMITATIONS; ISSUANCE OF VISAS.—(1) Notwithstanding any other provision of law, 100,000 permanent residence visas shall be made available annually for five years pursuant to subsection (b).

(2)(A) 20 percent of such numbers shall be issued to qualified immigrants described in subsection (a) (and persons described in paragraph (3)) who attain a score of at least 80 points with respect to petitions filed for the fiscal year involved, to be chosen in a random order established (by regulation) by the Secretary of State for the fiscal year involved.

(B) 80 percent of such numbers shall be issued to qualified immigrants described in subsection (a) (and persons described in paragraph (3)) with a qualifying score of 40 in such system, to be chosen in a random order, as described under subparagraph (A).

(3) A spouse or child (as defined in section 101(A), (B), (C), (D), or (E) of the Immigration and Nationality Act) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa, be entitled to the same order of consideration as his spouse or parent, if accompanying or following to join his spouse or parent.

(d) EFFECTIVE DATE.—This Act shall take effect 90 days after the date of its enactment.

INTELLIGENCE OVERSIGHT ACT

BOREN (AND BYRD) AMENDMENT NO. 1648

(Ordered to lie on the table.)

Mr. BYRD (for Mr. BOREN, for himself and Mr. BYRD) submitted an amendment intended to be proposed by them to amendment No. 1630 intended to be proposed by Mr. HELMS to the bill S. 1721, supra; as follows:

Strike all after "Nothing in this Act shall be construed as authorizing any action contrary to the determination that", and insert in lieu thereof the following: "inasmuch as President Eric Arturo Delvalle is the duly constituted head of the Government of Panama, and, as such, on February 25, 1988, announced the dismissal of General Manuel Antonio Noriega as commander of the Panamanian Defense Forces, and inasmuch as the Panamanian people enthusiastically support the order dismissing Noriega and yet to date General Noriega has not obeyed President Delvalle's lawful order and gives every indication that he will continue to defy that order, the President of the United States, using existing authority, shall (1) provide the full political and diplomatic support of the United States to the efforts of President Delvalle to restore civilian control over the Government of Panama; (2) terminate any and all official Government contacts with General Noriega since he is no longer lawful commander of the Panamanian Defense Forces; (3) consider further measures, including additional economic sanctions, in the event General Noriega continues to defy President Delvalle's order; and (4) prepare a plan providing for economic aid and financial assistance for Panama in the event that progress toward genuine democracy is achieved."

BOREN (AND BYRD) AMENDMENT NO. 1649

(Ordered to lie on the table.)

Mr. BYRD (for Mr. BOREN, for himself and Mr. BYRD) submitted an amendment intended to be proposed by them to amendment No. 1640 intended to be proposed by Mr. HELMS to the bill S. 1721, supra; as follows:

Strike all after "Nothing in this Act shall be construed as authorizing any action contrary to the view that", and insert in lieu thereof the following: "inasmuch as President Eric Arturo Delvalle is the duly constituted head of the Government of Panama, and, as such, on February 25, 1988, announced the dismissal of General Manuel Antonio Noriega as commander of the Panamanian Defense Forces, and inasmuch as the Panamanian people enthusiastically support the order dismissing Noriega and yet to date General Noriega has not obeyed President Delvalle's lawful order and gives every indication that he will continue to defy that order, the President of the United States, using existing authority, shall (1) provide the full political and diplomatic support of the United States to the efforts of President Delvalle to restore of civilian control over the Government of Panama; (2) terminate any and all official Government contacts with General Noriega since he is no longer lawful commander of the Panamanian Defense Forces; (3) consider further measures, including additional economic sanctions, in the event General Noriega continues to defy President Delvalle's order; and (4) prepare a plan providing for econmic aid and financial assistance for Panama in the event that progress toward genuine democracy is achieved."

IMMIGRATION ACT OF 1988

KENNEDY (AND SIMPSON) AMENDMENT NO. 1650

Mr. KENNEDY (for himself and Mr. SIMPSON) proposed an amendment to the bill S. 2104, supra; as follows:

On page 2, line 9, strike out "(b)(1)" and insert in lieu thereof "(b)".

On page 4, line 5, strike out "resident" and insert in lieu thereof "residence".

On page 6, lines 21 and 22, strike out "consideration" and insert in lieu thereof "considerations".

On page 9, lines 16 and 17, strike out "a fiscal year or years" and insert in lieu thereof "the fiscal years of a 3-fiscal year period".

On page 9, line 18, insert "(i)" immediately after "(3)(A)".

On page 9, line 21, insert "(i)" immediately after "(e)(3)(A)".

On page 9, lines 24 and 25, strike out "fiscal year (or years)" and insert in lieu thereof "the three fiscal years".

On page 10, line 3, strike out "(3)(B)" and insert in lieu thereof "(3)(A)(ii)".

On page 10, line 6, strike out "(e)(3)(B)" and insert in lieu thereof "(e)(3)(A)(ii)".

On page 10, lines 9 and 10, strike out "fiscal year (or years)" and insert in lieu thereof "the three fiscal years".

On page 14, line 22, strike out "in".

On page 16, line 16, insert after "other than" the following: "a special immigrant, as defined in section 101(a)(27), or".

On page 16, line 23, strike out "(a)" and insert in lieu thereof "(a)(2)".

On page 18, line 5, strike out "(ii)" and insert in lieu thereof "(ii)(I)".

On page 18, line 10, insert "and" after "approved,".

On page 18, between lines 10 and 11, insert the following:

"(II) continue to qualify under the terms of this Act as in effect on the day before such date,

On page 18, between lines 23 and 24, insert the following:

Qualified immigrants—

On page 18, line 24, strike out "qualified immigrants".

On page 19, line 3, strike out "qualified immigrants".

On page 19, line 14, after "visas" insert the following: ", in addition to visas otherwise allocated under section 201(a)(3),".

On page 19, line 18, strike out the double quotation marks each place they appear and insert in lieu thereof single quotation marks.

On page 19, line 21, strike out the quotation marks and the second period.

On page 23, line 5, strike out "first day of the fiscal year involved" and insert in lieu thereof "date of filing a petition".

On page 23, strike out lines 6 through 9 and insert in lieu thereof the following:

"(I) at least 21 years of age but has not attained 36 years of age, 10 points; or

"(II) at least 36 years of age, but has not attained 45 years of age, 5 points.

On page 23, lines 11 and 12, strike out "first day of the first year involved" and insert in lieu thereof "date of filing a petition".

On page 24, beginning on line 2, strike out "For" and all that follows through "language" on line 5 and insert in lieu thereof "For an alien who certifies, upon the date of filing a petition, subject to verification by examination after the date of selection, that he has an understanding of the English language and the ability to communicate in such language, 20 points".

On page 24, line 12, strike out "succeeding".

On page 24, line 17, strike out "succeeding".

On page 24, line 21, strike out "training, work experience, or both," and insert in lieu thereof "additional training, work experience, or both, as determined by the Secretary of Labor,".

On page 30, line 15, strike out "self-administered oath by which the petitioner shall certify" and insert in lieu thereof "a certification".

On page 30, line 18, strike out "and that" and insert in lieu thereof ", and".

On page 31, line 24, strike out "by" and insert in lieu thereof "in clause (A) of".

On page 32, line 20, after "203(b)" insert the following: ", except that this paragraph shall not apply to any alien for whom a waiver has been made under section 203(b)(2)(B)".

On page 32, line 23, insert "of the Immigration and Nationality Act" after "212(a)(14)".

On page 45, between lines 14 and 15, insert the following:

Section 286 (8 U.S.C. 1356) is amended by adding at the end thereof the following new subsections:

On page 45, line 15, strike out "(a)" and insert in lieu thereof quotation marks and "(m)".

On page 45, line 22, strike out "(b)" and insert in lieu thereof quotation marks and "(n)".

On page 46, line 9, after the period insert quotation marks and a period.

On page 47, line 2, after "effect" insert the following: ", except that petitions filed before such date for preference status on the basis of unskilled labor under section 203(a)(6) of such Act (as in effect before such date) shall be deemed as of such date to be petitions for the status described in section 203(b)(3) of such Act (as amended by this Act)".

KENNEDY (AND SIMPSON) AMENDMENT NO. 1651

Mr. KENNEDY (for himself and Mr. SIMPSON) proposed an amendment to the bill S. 2104, supra; as follows:

On page 47, after line 13, add the following new title:

TITLE II—NATURALIZATION AMENDMENTS OF 1988

SEC. 201. SHORT TITLE; REFERENCES IN TITLE.

(a) SHORT TITLE.—This title may be cited as the "Naturalization Amendments of 1988".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this title, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act.

SEC. 202. ADMINISTRATIVE NATURALIZATION.

Section 310 (8 U.S.C. 1421) is amended to read as follows:

"NATURALIZATION AUTHORITY

"SEC. 310. (a) AUTHORITY IN ATTORNEY GENERAL.—The original authority to naturalize persons as citizens of the United States is conferred solely upon the Attorney General.

"(b) ADMINISTRATION OF OATHS.—An applicant for naturalization may choose to have the oath of allegiance under section 337(a) administered by the Attorney General or by any district court of the United States for any State or by any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited. The jurisdiction of all courts specified in this subsection to administer the oath of allegiance shall extend only to persons resident within the respective jurisdiction of such courts.

"(c) APPEAL TO BIA; JUDICIAL REVIEW.—(1) A person whose application for naturalization under this title is denied, after a hearing before an immigration officer under section 336(a), may seek review of such denial before the Board of Immigration Appeals (established by the Attorney General under part 3 of title 8, Code of Federal Regulations). The decision of such Board is reviewable by the United States district court for the district in which such person resides. Such review of the district court shall be de novo, and the district court shall make its own findings of fact and conclusions of law and shall, at the request of the petitioner, conduct a hearing de novo on the application.

"(2) The district court shall issue an order authorizing the naturalization of a person in accordance with this title only after determining, upon review of the denial of that person's application for naturalization, that such denial was wrongfully made as a matter of fact or of law.

"(d) SOLE PROCEDURE.—A person may only be naturalized as a citizen of the United States in the manner and under the conditions prescribed in this title and not otherwise.".

SEC. 203. SUBSTITUTING 3 MONTHS RESIDENCE IN THE DISTRICT OR STATE FOR 6 MONTHS RESIDENCE IN A STATE.

Section 316(a)(1) (8 U.S.C. 1427(a)(1)) is amended by striking "and who has resided within the State in which the petitioner filed the petition for at least six months" and inserting "and who has resided within the State or within the district of the Service in the United States in which the applicant filed the application for at least three months".

SEC. 204. PUBLIC EDUCATION REGARDING NATURALIZATION BENEFITS.

(a) IN GENERAL.—Section 332 (8 U.S.C. 1443) is amended by adding at the end thereof the following new subsection:

"(h) The Attorney General shall broadly disseminate information respecting the benefits which persons may receive under this title and the requirements to obtain such benefits. In carrying out this subsection, the Attorney General shall seek the assistance of appropriate community groups, private voluntary agencies, and other relevant organizations, and the Attorney General is authorized to make grants to, and enter into contracts with, such organizations for such purposes.".

(b) ALLOCATION OF FUNDS.—(1) Section 404 (8 U.S.C. 1101, note) is amended by adding at the end thereof the following new subsection:

"(c) Of the amounts authorized to be appropriated by section 404 to carry out this Act for a fiscal year, $1,000,000 shall be available only to carry out section 332(h) for such fiscal year.".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1988.

SEC. 205. NATURALIZATION OF NATIVES OF THE PHILIPPINES THROUGH ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR II.

Section 329 (8 U.S.C. 1440) is amended—

(1) in subsection (a), by striking "Any" and inserting "except as provided in subsection (c), and"; and

(2) by adding at the end thereof the following new subsection:

"(e) Paragraphs (1) and (2) of subsection (a) shall not apply to the naturalization of any person—

"(1) who was born in the Philippines or who was otherwise a noncitizen national of the United States residing in the Philippines before the service described in paragraph (2);

"(2) who served honorably in an active-duty status in the military, air, or naval forces of the United States at any time during the period beginning September 1, 1939, and ending December 31, 1946;

"(3) who is otherwise eligible for naturalization under this section; and

"(4) who applies for naturalization not later than one year after the date of enactment of the Naturalization Amendments of 1988.".

SEC. 206. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS TO SECTION 310 REVISION.—(1) The item in the table of contents relating to section 310 is amended to read as follows:

"Sec. 310. Naturalization authority.".

(2) Section 101(a)(36) (8 U.S.C. 1101(a)(36)) is amended by striking "(except as used in section 310(a) of title III)".

(b) CONFORMING AMENDMENTS TO CHANGE IN RESIDENCE REQUIREMENT.—(1) Section 319 (8 U.S.C. 1430) is amended—

(A) in subsection (a), by striking "has resided within the State in which he filed his petition for at least six months" and inserting "has resided within the State or the district of the Service in the United States in which the applicant filed his application for at least three months",

(B) in subsections (b) and (d), by striking "within the jurisdiction of the naturalization court" and inserting "within a State or a district of the Service in the United States", and

(C) in subsection (c), is amended by striking "within the jurisdiction of the court" and inserting "district of the Service in the United States".

(2) Section 322(c) (8 U.S.C. 1433(c)) is amended by striking "any State or within the jurisdiction of the naturalization court" and inserting "within a State or a district of the Service in the United States".

(3) Section 324(a)(1) (8 U.S.C. 1435(a)(1)) is amended by inserting "or district of the Service in the United States" after "State".

(4) Section 328 (8 U.S.C. 1439) is amended—

(A) in subsection (a)—

(i) by inserting "or district of the Service in the United States" after "State", and

(ii) by striking "for at least six months" and inserting "for at least three months";

(B) in subsection (b)(1), by striking "within the jurisdiction of the court" and inserting "within a State or district of the Service in the United States"; and

(C) in subsection (c), by inserting "or district of the Service in the United States" after "State".

(5) Section 329(b) (8 U.S.C. 1440(b)) is amended—

(A) in paragraph (2)—

(i) by inserting "or district of the Service in the United States" after "State", and

(ii) by inserting "and" at the end of paragraph (2);

(B) by striking paragraph (3), and

(C) by redesignating paragraph (4) as paragraph (3).

(c) SUBSTITUTION OF APPLICATION FOR PETITION FOR NATURALIZATION.—The text of the following provisions is amended by striking "a petition", "petition", "petitions", "a petitioner", "petitioner", "petitioner's", "petitioning", and "petitioned" each place it appears and inserting "an application", "application", "applications" or "applies" (as the case may be), "an applicant", "applicant", "applicant's", "applying", and "applied", respectively:

(1) Section 313(c) (8 U.S.C. 1424(c)).

(2) Section 316 (8 U.S.C. 1427).

(3) Section 317 (8 U.S.C. 1428).

(4) Section 318 (8 U.S.C. 1429).

(5) Section 319 (a) and (c) (8 U.S.C. 1430 (a), (c)).

(6) Section 322(a) (8 U.S.C. 1433).

(7) Section 324 (8 U.S.C. 324(a)).

(8) Section 325 (8 U.S.C. 1436).

(9) Section 326 (8 U.S.C. 1437).

(10) Section 328 (8 U.S.C. 1439).

(11) Section 329 (8 U.S.C. 1440), other than subsection (d).

(12) Section 330(a)(1) (8 U.S.C. 1441(a)(1)).

(13) Section 331 (8 U.S.C. 1442), other than subsection (d).

(14) Section 333(a) (8 U.S.C. 1444(a)).

(15) Section 334 (8 U.S.C. 1445).

(16) Section 335 (8 U.S.C. 1446).

(17) Section 336 (8 U.S.C. 1447).

(18) Section 337 (8 U.S.C. 1448).

(19) Section 338 (8 U.S.C. 1449).

(20) Section 344 (8 U.S.C. 1455).

(21) Section 1429 of title 18, United States Code.

(d) SUBSTITUTING APPROPRIATE ADMINISTRATIVE AUTHORITY FOR NATURALIZATION COURT.—(1) Section 316 (8 U.S.C. 1427) is amended—

(A) in subsection (b), by striking "court" each place it appears and inserting "or the Attorney General",

(B) in subsection (b), by striking "date of final hearing" and inserting "date of any hearing under section 336(a)",

(C) in subsection (e), by striking "the court" and inserting "the Attorney General",

(D) in subsection (g)(1), by striking "within the jurisdiction of the court" and inserting "within a particular State or district of the Service in the United States", and

(E) in subsection (g)(2), by amending the first sentence to read as follows: "An applicant for naturalization under this subsection may be administered the oath of allegiance under section 337(a) by any district court of the United States, without regard to the residence of the applicant.".

(2) The second sentence of section 317 (8 U.S.C. 1428) is amended by striking "and the naturalization court".

(3) The third sentence of section 318 (8 U.S.C. 1429) is amended—

(A) by striking "finally heard by a naturalization court" and inserting "considered by the Attorney General", and

(B) by striking "upon the naturalization court" and inserting "upon the Attorney General".

(4) Section 319 (8 U.S.C. 1430) is amended—

(A) in subsection (b)(3), by striking "naturalization court" and inserting "Attorney General", and

(B) in subsection (c)(5), by striking "naturalization court" and inserting "Attorney General".

(5) Section 322(c)(2)(C) (8 U.S.C. 1433(c)(2)(C)) is amended by striking "naturalization court" the first place it appears and inserting "the Attorney General".

(6) Section 324 (8 U.S.C. 1435) is amended—

(A) in subsection (a)—

(i) by inserting "and" at the end of paragraph (1),

(ii) by striking the semicolon at the end of paragraph (2) and inserting a period, and

(iii) by striking paragraphs (3) and (4);

(B) in subsection (b), by striking "naturalization court" and inserting "Attorney General"; and

(C) in subsection (c)—

(i) in paragraph (2), by striking "the judge or clerk of a naturalization court" and inserting "the Attorney General or the judge or clerk of a court described in section 310(b)", and

(ii) in paragraph (3), by striking "or naturalization court" each place it appears and inserting "court, or the Attorney General".

(7) Section 327(a) (8 U.S.C. 1438(a)) is amended—

(A) by striking "any naturalization court specified in section 310(a) of this title" and inserting "the Attorney General or before a court described in section 310(b)"; and

(B) by inserting "and by the Attorney General to the Secretary of State" after "Department of Justice".

(8) Section 328(c) (8 U.S.C. 1439(c)) is amended by striking "the final hearing" and inserting "any hearing".

(9) Section 331(b) (8 U.S.C. 1442(b)) is amended by striking "called for a hearing" and all that follows through "to be continued" and inserting "considered or heard except after 90 days' notice to the Attorney General regarding the application, and the Attorney General's objection to such consideration shall cause the application to be continued".

(10) Section 332(a) (8 U.S.C. 1443(a)) is amended—

(A) by striking "for the purpose" and all that follows through "naturalization courts" in the first sentence, and

(B) by striking the second sentence.

(11) Section 333(a) (8 U.S.C. 1444(a)) is amended by striking "clerk of the court" and inserting "Attorney General".

(12) Section 334 (8 U.S.C. 1445) is amended—

(A) by amending the heading to read as follows:

"APPLICATION FOR NATURALIZATION; DECLARATION OF INTENTION";

(B) in subsection (a)—

(i) by striking "in the office of the clerk of a naturalization court" and inserting "with the Attorney General",

(ii) by striking "upon the hearing of such petition" and inserting "under this title";

(C) in subsection (b)—

(i) by striking "(1)",

(ii) by striking "and (2)" and all that follows through "Attorney General", and

(iii) by striking "petition for";

(D) by amending subsections (c) through (e) to read as follows:

"(c) Hearings under section 336(a) on applications for naturalization shall be held at regular intervals, to be fixed by the Attorney General.

"(d) Except as provided in subsection (e), an application for naturalization shall be filed in person in an office of the Attorney General.

"(e) A person may file an application for naturalization other than in an office of the Attorney General, and an oath of allegiance may be administered other than in a public ceremony before the Attorney General or a court, if the Attorney General determines that the person has an illness or other disability which—

"(1) is of a permanent nature and is sufficiently serious to prevent the person's personal appearance, or

"(2) is of a nature which so incapacitates the person as to prevent him from personally appearing."; and

(E) by striking the first sentence of subsection (f) and inserting the following: "An alien who has attained the age of 18 years of age and who is residing in the United States pursuant to a lawful admission for permanent residence may file with the Attorney General a declaration of intention to become a citizen of the United States. Such a declaration shall be filed in duplicate and in a form prescribed by the Attorney General and shall be accompanied by an application prescribed and approved by the Attorney General.".

(13) Section 335 (8 U.S.C. 1146) is amended—

(A) by amending the heading to read as follows:

"INVESTIGATION OF APPLICANTS; EXAMINATION OF APPLICATIONS";

(B) in subsection (a), by striking "At any time" and all that follows through "336(a)" and inserting "Before a person may be naturalized";

(C) in subsection (b)—

(i) by striking "preliminary" each place it appears,

(ii) in the first sentence, by striking "to any naturalization court" and all that follows through "to such court",

(iii) by striking "any court exercising naturalization jurisdiction as specified in section 310 of this title" in the second sentence and inserting "any district court of the United States"; and

(iv) by striking "final hearing conducted by a naturalization court designated in section 310 of this title" in the third sentence and inserting "hearing conducted by an immigration officer under section 336(a)";

(D) in subsection (c)—

(i) by striking "preliminary" each place it appears, and

(ii) by striking "recommendation" and inserting "determination"; and

(E) by amending subsections (d) through (f) to read as follows:

"(d) The employee designated to conduct any such examination shall submit to the Attorney General a determination as to whether the application be granted, denied, or continued, with reasons therefor.

"(e) After an application for naturalization has been filed with the Attorney General, the applicant shall not be permitted to withdraw his application, except with the consent of the Attorney General. In cases where the Attorney General does not consent to the withdrawal of the application, the application shall be determined on its merits and a final determination made accordingly. In cases where the applicant fails to prosecute his application, the application shall be decided on the merits unless the Attorney General dismisses it for lack of prosecution.

"(f) An applicant for naturalization who moves from the district of the Service in the United States in which the application is pending may, at any time thereafter, request the Service to transfer the application to any district of the Service in the United States which may act on the application. The transfer shall not be made without the consent of the Attorney General. In the case of such a transfer, the proceedings on the application shall continue as though the application had originally been filed in the district of the Service to which the application is transferred.".

(14) Section 336 (8 U.S.C. 1447) is amended—

(A) by amending the heading to read as follows:

"HEARINGS ON DENIALS OF APPLICATIONS FOR NATURALIZATION";

(B) by amending subsections (a) and (b) to read as follows:

"(a) If, after an examination under section 335, an application for naturalization is denied or continued, the applicant may request a hearing before an immigration officer.

"(b) Where there has been a failure to make a determination under section 335 on an application or a failure to have a hearing under subsection (a) on a denial or continuance of an application, the Board of Immigration Appeals (established by the Attorney General under part 3 of title 8, Code of Federal Regulations) may, in its discretion, and shall, at the request of the applicant in extraordinary circumstances, require such a determination or hearing.";

(C) in subsection (c), by striking "court" and inserting "immigration officer";

(D) in subsection (d)—

(i) by striking "clerk of the court" and all that follows through "naturalization" and inserting "immigration officer shall, if the applicant requests it at the time of filing the request for the hearing",

(ii) by striking "final" each place it appears, and

(iii) by adding at the end the following: "Such subpoenas may be enforced in the same manner as subpoenas under section 335(b) may be enforced."; and

(E) in subsection (e)—

(i) by striking "naturalization of any person," and inserting "administration by a court of the oath of allegiance under section 337(a)", and

(ii) by striking "included in the petition for naturalization of such persons" and inserting "included in an appropriate petition to the court".

(15) Section 337 (8 U.S.C. 1448) is amended—

(A) in subsection (a)—

(i) in the first sentence, by striking "in open court" and inserting "in a public ceremony before the Attorney General or a court with jurisdiction under section 310(b)",

(ii) in the second and fourth sentences, by striking "naturalization court" each place it appears and inserting "Attorney General", and

(iii) in the fourth sentence, by striking "the court" and inserting "the Attorney General";

(B) in subsection (b)—

(i) by striking "in open court in the court in which the petition for naturalization is made" and inserting "in the same public ceremony in which the oath of allegiance is administered", and

(ii) by striking "in the court" after "recorded";

(C) in subsection (c)—

(i) by striking "being in open court" and inserting "attending a public ceremony", and

(ii) by striking "a judge of the court at such place as may be designated by the court" and inserting "at such place as the Attorney General may designate under section 334(e)"; and

(D) by adding at the end the following new subsection:

"(d) The Attorney General shall prescribe rules and procedures to ensure that the public ceremonies conducted by the Attorney General for the administration of oaths of allegiance under this section are in keeping with the dignity of the occasion.".

(16) Section 338 (8 U.S.C. 1449) is amended—

(A) by striking "by a naturalization court",

(B) by striking "the clerk of such court" and inserting "the Attorney General",

(C) by striking "title, venue, and location of the naturalization court" and inserting "location of the district office of the Service in which the application was filed and the title, authority, and location of the official or court administering the oath of allegiance",

(D) by striking "the court" and inserting "the Attorney General", and

(E) by striking "of the clerk of the naturalization court; and seal of the court" and inserting "of an immigration officer; and the seal of the Department of Justice".

(17) Section 339 (8 U.S.C. 1450) is amended to read as follows:

"FUNCTIONS AND DUTIES OF CLERKS AND RECORDS OF DECLARATIONS OF INTENTION AND APPLICATIONS FOR NATURALIZATION

"SEC. 339. (a) The clerk of each court that administers oaths of allegiance under section 337 shall—

"(1) issue to each person to whom such an oath is administered a document evidencing that such an oath was administered,

"(2) forward to the Attorney General information concerning each person to whom such an oath is administered by the court, within 30 days after the close of the month in which the oath was administered,

"(3) make and keep on file evidence for each such document issued, and

"(4) forward to the Attorney General certified copies of such other proceedings and orders instituted in or issued out of the court affecting or relating to the naturalization of persons as may be required from time to time by the Attorney General.

"(b) Each district office of the Service in the United States shall maintain, in chronological order, indexed, and consecutively numbered, as part of its permanent records, all declarations of intention and applications for naturalization filed with the office.".

(18) Section 340 (8 U.S.C. 1451) is amended—

(A) in the first sentence of subsection (a), by striking "in any court specified in subsection (a) of section 310 of this title" and inserting "in any district court of the United States",

(B) by amending the second sentence of subsection (h) to read as follows: "The clerk of the court shall transmit a copy of such order and judgment to the Attorney General.",

(C) by striking the third sentence of subsection (h), and

(D) in subsection (j), by striking "any naturalization court" and all that follows through "to take such action" and inserting the following: "the Attorney General to correct, reopen, alter, modify, or vacate an order naturalizing the person".

(19) Section 344 (8 U.S.C. 1455) is amended—

(A) in subsection (a)—

(i) by striking "The clerk of the court" and inserting "The Attorney General",

(ii) in paragraph (1), by striking "final", and

(iii) in paragraph (1), by striking "the naturalization court" and inserting "the Attorney General";

(B) by striking subsections (c), (d), (e), and (f);

(C) in subsection (g)—

(i) by striking ", and all fees paid over to the Attorney General by clerks of courts under the provisions of this title,", and

(ii) by striking "or by the clerks of the courts";

(D) in subsection (h)—

(i) by striking "no clerk of a United States court shall" and inserting "the Attorney General may not",

(ii) by striking ", and no clerk of any State court" and all that follows through "charged or collected", and

(iii) by striking the second sentence;

(E) in subsection (i), by striking "clerk of court", "from the clerk,", "such clerk", and "by the clerk" and inserting "Attorney General", "from the Attorney General,", "the Attorney General", and "by the Attorney General", respectively; and

(F) by redesignating subsections (g), (h), and (i) as subsections (c), (d), and (e), respectively.

(20) Section 348 (8 U.S.C. 1459) is amended—

(A) by striking subsections (b) and (c); and

(B) by striking "(a)" in subsection (a).

(e) STRIKING MISCELLANEOUS MATERIAL.—(1) Section 311 (8 U.S.C. 1422) is amended by striking the second sentence.

(2) Section 316 (8 U.S.C. 1427) is amended—

(A) by striking subsection (f); and

(B) by redesignating subsection (g) as subsection (f).

(3) Section 329 (8 U.S.C. 1440) is amended by striking subsection (d).

(4) Section 330 (8 U.S.C. 1441(a)) is amended—

(A) by striking paragraphs (2) and (3) of subsection (a) and by striking "(a)(1)" in subsection (a), and

(B) by striking subsection (b).

(5) Section 331 (8 U.S.C. 1442) is amended by striking the second sentence of subsection (d).

(f) CORRECTIONS OF TABLE OF CONTENTS.—(1) The items in the table of contents relating to sections 334 through 336 are amended to read as follows:

"Sec. 334. Application for naturalization; declaration of intention.

"Sec. 335. Investigation of applicants; examination of applications.

"Sec. 336. Hearings on denials of applications for naturalization.".

(2) The item in the table of contents relating to section 339 is amended to read as follows:

"Sec. 339. Functions and duties of clerks and records of declarations of intention and applications for naturalization.".

SEC. 207. EFFECTIVE DATES AND SAVINGS PROVISIONS.

(a) EFFECTIVE DATE.—

(1) NO NEW COURT PETITIONS AFTER EFFECTIVE DATE.—No court shall have jurisdiction, under section 310(a) of the Immigration and Nationality Act, to naturalize a person unless a petition for naturalization with respect to that person has been filed with the court before the effective date (as defined in paragraph (3)).

(2) TREATMENT OF CURRENT COURT PETITIONS.—

(A) CONTINUATION OF CURRENT RULES.—Except as provided in subparagraph (B), any petition for naturalization which may be pending in a court on the effective date shall be heard and determined in accordance with the requirements of law in effect when the petition was filed.

(B) PERMITTING WITHDRAWAL AND CONSIDERATION OF APPLICATION UNDER NEW RULES.—In the case of any petition for naturalization which may be pending in any court on the date of the enactment of this Act, the petitioner may withdraw such petition and have the petitioner's application for naturalization considered under the amendments made by this title.

(3) EFFECTIVE DATE DEFINED.—As used in this section, the term "effective date" means the first day of the fourth month beginning after the date of the enactment of this Act.

(4) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this title are effective as of the date of the enactment of this Act.

(b) INTERIM, FINAL REGULATIONS.—The Attorney General shall prescribe regulations (on an interim, final basis or otherwise) to implement, on a timely basis, the amendments made by this title.

(c) CONTINUING DUTIES.—The amendments to section 339 of the Immigration and Nationality Act (relating to functions and duties of clerks) shall not apply to functions and duties respecting petitions filed before the effective date.

(d) GENERAL SAVINGS PROVISIONS.—(1) Nothing contained in this title, unless otherwise specifically provided, shall be construed to affect the validity of any declaration of intention, petition for naturalization, certificate of naturalization, certification of citizenship, or other document or proceeding which is valid as of the effective date; or to affect any prosecution, suit, action, or proceedings, civil or criminal, brought, or any status, condition, right in process of acquisition, act, thing, liability, obligation, or matter, civil or criminal, done or existing, as of the effective date.

(2) As to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, liabilities, obligations, or matters, the provisions of law repealed by this title are, unless otherwise specifically provided, hereby continued in force and effect.

On page 1, between lines 2 and 3, insert the following:

TITLE I—IMMIGRATION ACT OF 1988

On page 1, strike out line 3 and insert in lieu thereof "section 101. short title; references in title".

On page 1, line 4, strike out "Act" and insert in lieu thereof "title".

On page 1, line 7, strike out "Act, whenever in this Act" and insert in lieu thereof "title, whenever in this title".

On page 2, line 4, strike out "sec. 2." and insert in lieu thereof "sec. 102.".

On page 17, line 6, strike out "sec. 3." and insert in lieu thereof "sec. 103.".

On page 32, line 24, strike out "Act" and insert in lieu thereof "title".

On page 33, line 8, strike out "sec. 4." and insert in lieu thereof "sec. 104.".

On page 42, line 21, strike out "sec. 5." and insert in lieu thereof "sec. 105.".

On page 45, line 14, strike out "sec. 6." and insert in lieu thereof "sec. 106.".

On page 46, line 10, strike out "sec. 7." and insert in lieu thereof "sec. 107.".

On page 46, line 11, strike out "Act" and insert in lieu thereof "title".

On page 46, line 25, strike out "Act" and insert in lieu thereof "title".

On page 47, line 10, strike out "Act" and insert in lieu thereof "title".

CHILES AMENDMENT NO. 1652

Mr. KENNEDY (for Mr. CHILES) proposed an amendment to the bill S. 2104, supra; as follows:

To be inserted in the appropriate place in the bill add the following:

Congress recognizes that resumption of the 1984 Mariel Agreement between the United States and Cuba will have a disproportionate impact on particular regions of the United States, notably South Flordia. In anticipation of this impact and the increase in demand for certain services, Congress directs the Attorney General, in conjunction with the Secretary of State, to prepare and transmit to the appropriate committees of Congress a report detailing the number of Cubans granted preference visas.

(a) STUDY AND REPORT.—The Attorney General and the Secretary of State shall—

(1) prepare and transmit a detailed projection of the number of Cubans who have applied or have been granted preference immigration visas for entry into the United States; and

(2) such information including the age, occupation, number of dependants, and special medical needs of those Cubans who have applied or have been granted preference immigration visas for entry into the United States.

Report Date—The Attorney General, in conjunction with the Secretary of State, shall submit the report—

(1) during the first quarter of the fiscal year following enactment of this Act; and

(2) thereafter on a quarterly basis.

(c) In preparing these quarterly reports, the Attorney General and the Secretary of State shall cooperate and consult with state and local officials. Such cooperation should include—

(1) adequate notice as to the number of Cubans who have applied or have been granted preference immigration visas; and

(2) the relevant information required in the quarterly reports which would permit state and local entities to prepare for the increased demand for certain services.

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will hold a hearing at 1 p.m. on Tuesday, March 15, in SR-301, Russell Senate Office Building. The committee will be receiving testimony on Senate Resolution 260, introduced by Senators KASSEBAUM and INOUYE, to amend Standing Rule XXV of the Senate to improve legislative efficiency, and for other purposes; and S. 1835, introduced by Senator EVANS, the Individual Appropriations Act, to provide that each title of any bill or joint resolution making continuing appropriations that is reported by a committee of conference and is agreed to by both Houses of the Congress in the same form during a 2-year period shall be presented as a separate joint resolution to the President.

Senators who wish to testify or submit a statement for the hearing record are requested to have their staffs contact Carole Blessington of the Rules Committee staff on extension 40278. Interested individuals and organizations who wish to submit a statement for the hearing record are also requested to contact Ms. Blessington.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding the following:

Tuesday, March 15, 1988, beginning at 2:30 p.m., in Senate Russell 485, a hearing on the Pueblo de Cochiti Corps of Engineers' Dam Project; and,

Thursday, March 24, 1988, beginning at 9:30 a.m., in 1324 Longworth House Office Building, a joint hearing with the House Interior Committee on the Salt River Water Settlement Act.

Those wishing additional information should contact the Indian Affairs Committee at 224-2251.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. PRYOR. Mr. President, I would like to announce that the Subcommittee on Federal Services, Post Office, and Civil Service of the Committee on Governmental Affairs will hold a hearing on Friday, March 18, 1988. The subcommittee will hear testimony on Federal employee leave sharing proposal.

The hearing is scheduled for 2 p.m., in room SD-342, Senate Dirksen Office Building. For further information, please call Ed Gleiman, subcommittee staff director, on 224-2254.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Monday, March 14, 1988, in open session to receive testimony in review of the amended fiscal year 1989 defense authorization request and the 5-year defense plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests be authorized to meet during the session of the Senate on Monday, March 14, 1988, to receive testimony concerning H.R. 1860, a bill entitled the Federal Land Exchange Facilitation Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

JOHNNY FLANNERY—A SPECIAL OLYMPIAN MAKES A SPECIAL TRIP TO CALGARY

● Mr. HARKIN. Mr. President, I rise today to pay tribute to a very special Iowan and a good friend—Johnny Flannery. Johnny is a 23-year-old Marshalltown resident who has participated in the Special Olympics since grade school. This year Johnny won the gold medal at the international level for his high jumping efforts.

In past years, Johnny has competed in the high jump, the 200-meter race, and the 400-meter relay. According to his coach, Anne Hendrickson, last year at the district level Johnny qualified to participate internationally in any of those three events. However, as participants may compete in only one event at the International Special Olympic Games held at the University of Notre Dame and Saint Mary's College, Johnny chose the high jump.

Although Coach Hendrickson was unable to accompany Johnny to the International Special Olympics, Johnny's parents, John and Suzie Flannery of Grinnel, Iowa, were able to attend. With two of his biggest fans watching, Johnny cleared 5'6" and took home the gold medal for his age group.

To honor his accomplishments at the Special Olympics, Blue Cross and Blue Shield of Iowa presented Johnny and his parents with a free trip to Calgary for the winter Olympic games. Blue Cross and Blue Shield is the only health insurance sponsor of the games.

Included in the Flannerys' trip to Calgary, besides tickets to skating, skiing, and hockey, were celebrity visits and a behind-the-scenes look at the competition.

I commend Johnny for all his efforts in the Special Olympic Program and applaud Blue Cross and Blue Shield for their sponsorship of the Flannerys' trip. And I ask that an article on Johnny which appeared in Scope, the Blue Cross and Blue Shield newsletter, be placed in the RECORD.

The article follows:

A TRIP TO THE OLYMPICS FOR A SPECIAL OLYMPIAN

Johnny Flannery, a 23-year-old Marshalltown resident, is a high jumper extraordinaire. He jumped so high at the International Special Olympic Games last summer that he earned a gold medal and the number one ranking (for his age and sex) in the world!

This month, Johnny and his parents enjoyed a free trip to the Winter Olympic Games in Calgary, Canada, courtesy of Blue Cross and Blue Shield of Iowa. As the exclusive health insurance sponsor of the Olympic Games, Blue Cross and Blue Shield Plans across the country were given the opportunity to purchase tickets to the events in Canada. Blue Cross and Blue Shield of Iowa's tickets were awarded to Johnny and his parents in honor of his achievements at the International Special Olympic Games.

Johnny competed in his first Special Olympics back in grade school, and since that time he's competed every year that he wasn't involved in school athletics. Last year, at the district level, Johnny competed in the high jump, the 200 meter race, and the 400 meter relay. His performance in all three events was so good that, according to his coach Anne Hendrickson, "He could have competed in any of the three events at International." Athletes can compete in only one event at the International Special Olympics, however, and Johnny chose the high jump.

After he'd qualified for International, Johnny settled into a serious practice routine . . . every afternoon and then again in the evenings. Practice sessions had to be scheduled around Johnny's full-time job (Johnny's a route helper on a Mid-Iowa Workshops can and bottle redemption route), and often, there wasn't much energy left for evening high jumping.

But Johnny stuck with it, and when it was time to head for the International competition, Johnny was in peak form. He could clear 5'4" regularly, and come close to clearing the bar at 5'6". Just before he left for the University of Notre Dame and Saint Mary's College (where the International Games were held), Johnny held a final practice in front of his friends in Marshalltown. He cleared 5'4" several times, then, with considerable encouragement from the group, cleared 5'6".

Then it was off to the International Special Olympic Games! Coach Hendrickson couldn't attend the Games (she works in personnel for Central Iowa Residential Services, Inc., when she isn't coaching Special Olympians), but Johnny was accompanied by two of his biggest fans, parents John and Suzie Flannery of Grinnell.

Johnny jumped in several preliminary trials and cleared 5'4" each time. Then in the finals he jumped 5'4" again—and tied for first place with one other competitor. Because of the tie, a special jump-off was held. In his final jump, Johnny cleared 5'6" to take home the gold!

Not one to rest of his laurels, Johnny is already involved in 1988 Special Olympics events. He is competing in basketball and track & field, and has already qualified for the district games in bowling. In his spare time, Johnny likes to participate in other sports, too. Skiing, swimming, roller skating, golf, and fishing are some of his favorites.

Probably because he enjoys participating in so many sports, Johnny is an enthusiastic spectator, too. At the International Special Olympic Games last summer, Johnny was almost as excited a spectator as he was a competitor, and he was looking forward to cheering on the American athletes in Calgary with the same enthusiasm. The Flannerys had tickets to such Olympic events as figure skating, ice hockey, speed skating, and skiing. Their itinerary also included celebrity visits and a behind-the-scenes look at Olympic competition.

We at Blue Cross and Blue Shield of Iowa were thrilled to be able to send an accomplished athlete like Johnny to Calgary. Plans President Sibery said Johnny Flannery represents the best of the Olympic spirit in this country. "We truly are proud of Johnny's athletic achievements," he said, "and we were delighted to send such a special young man and his parents to the Winter Olympic Games."●

BICENTENNIAL MINUTE

MARCH 14, 1876: SENATE CUTS PRESIDENT'S SALARY

(By request of Mr. SIMPSON, the following statement was ordered to be printed in the RECORD.)

● Mr. DOLE. Mr. President, 112 years ago today, on March 14, 1876, the Senate took the unprecedented step of voting for a 50-percent cut in the President's salary. According to one press account, this action was not to be construed as any sort of reflection on the current President. It was rather a "measure of retrenchment and economy, likely to command the approval of the country."

The story was not that simple. By 1876 the administration of President Ulysses Grant lay mired in scandal and the Presidency, as an institution, enjoyed little popular esteem. To complicate matters, Congress was in a particularly touchy mood on the subject of Federal salaries.

Three years earlier the Senate and House had passed a salary act that doubled the President's compensation, which had remained at the $25,000 level established by the First Congress in 1789. At the same time, Members voted to raise their own annual salaries from $5,000 to $7,500. President Grant gladly signed the measure on the final day of the March 1873 session. In the months before Congress reconvened in December, however, a firestorm of criticism swept the Nation, directed at the allegedly venal Members who sought to raid the Treasury for their own benefit.

Early in 1874, Members of the Senate and House voted to rescind their own pay raise. However, as the Constitution prohibited a similar action for the President during his current term of office, Members had little choice but to delay action until early in 1876 for the next Presidential term.

On April 18, 1876, the President sent the Senate a veto message. In it he calculated that congressional salaries had increased by 500 percent since 1789, whereas the President's salary had only doubled. Considering the increased cost of living over the past nine decades, Grant concluded that his predecessor would be more than entitled to the raise, and the $50,000 rate continued for the next 33 years.●

MINNESOTA MINING AND MANUFACTURING: AN AMERICAN INNOVATOR

● Mr. BOSCHWITZ. Mr. President, I rise today to share with my fellow Senators a story of innovation in the true American spirit from an article in the March 28 issue of Fortune magazine. American industry has recently been the whipping boy of many who blame our trade imbalance on the "shoddy" quality and "narrow" vision of our manufacturing companies. The story of Minnesota Mining & Manufacturing—better known as 3M—is, I believe, ample evidence of the hollowness of such arguments.

While American industry is blamed for a lack of innovation, 3M's 6,000 scientists and engineers continue to develop new products at a rate of more than 200 a year from such ordinary items as masking tape and sandpaper. The company promotes research and development by taking a team approach—researchers and marketers share in the development effort—and stays in touch with the changing times and changing needs of industries and consumers through constant improvement of the product line.

With strong guidance from Allen F. Jacobson, 3M's chairman, 3M has weathered the export-dampening results of the strong dollar, and continues to manufacture 60,000 products and maintain an extremely strong growth record.

3M's success is based on two simple buzzwords—"quality" and "innovation." In my mind, there is no substitute for these traits if American industry is to continue as a world leader. No Federal legislation, no additional rules and regulations, in fact, no speechs here on the Senate floor, can replace the dedication to quality and innovation in American industry exemplified by 3M.

At this time, Mr. President, I ask that a copy of the article on 3M's achievements be inserted in the RECORD.

The article follows:

KEEPING THE FIRES LIT UNDER THE INNOVATORS

Around this time of year, the noonday temperature in St. Paul, Minnesota, is three degrees below freezing, so it seems an unlikely spot for a caldron of innovation. Nonetheless, new products bubble up at a rate of more than 200 a year from the research labs that crowd Minnesota Mining & Manufacturing's 435-acre St. Paul campus. Many of 3M's innovations are modest variations of such ordinary but ubiquitous industrial and consumer items as masking tape, coatings for highway reflectors, and sandpaper.

Some 6,000 scientists and engineers are continually stirring the pot, primarily in chemistry and applied science. In all, the company makes some 60,000 products that last year produced revenues of $9.4 billion, up 10% from the year before. Operations in 50 other countries accounted for 40% of those sales. Assisted by the ailing dollar, earnings rose 18% to $918 million. In Fortune's annual survey of America's most admired corporations, 3M most recently ranked No. 6—out of 306 entries. The company is often cited for its ability to keep innovation alive in a large, necessarily bureaucratic organization.

The man responsible for seeing that the fires don't go out is Allen F. Jacobson, 61, known as Jake, who joined 3M as a chemical engineer straight out of Iowa State University in 1947. In contrast with his popular predecessor, Lewis Lehr, Jacobson is strict and a little cold. He once rebuked the minister at his Presbyterian church for preaching that one person's profit is another's loss. Collaring the young man after the service, Jacobson informed him tersely that his remarks were "not in line with our country's best economic thinking."

While hardly the type to encourage the entrepreneurial whims of 3M's researchers, this Calvin has a dash of the Good Shepherd. To be sure that his flock of innovators share their ideas, Jacobson keeps his organization relatively decentralized. Information flows to the top from clearly defined reporting relationships and lots of shoptalk. He says, "You can't make too many of the decisions on the executive floor. You have to depend on the people who are close to the market and the technology."

Under Jacobson, 3M continues to codify many of the practices that preserve the innovative spirit of its scientists and engineers. Researchers are encouraged to spend 15% of their time pursuing pet projects that might have a payoff for the company down the road—a pastime they call "bootlegging." The stick behind that carrot is that 25% of each division's annual sales are expected to come from products developed in the prior five years.

Small groups staffed with a researcher and a marketer push inventions through the design and development stage. It takes an average of seven years from a product's invention to its successful introduction, although the trek can be made in less. Though Post-it notes took six years, some tapes take only one. Ultimately, 60% of the ideas wind up on the lab floor, but Jacobson wryly notes, "Outsiders say we are very lenient in rewarding failure."

One superior product fresh from the labs is the first videocassette tape for the Super VHS video recorder. The tape, which 3M hopes will be the industry standard by the 1990s, improves picture resolution by capturing 400 lines of broadcast information vs. the standard 230.

Besides coming up with new products, the labs are also supposed to protect and extend the product line against the encroachments of competitors. A case in point: In 1980, 3M developed the first water-activated synthetic casting tape used to set broken bones, but by 1982 eight other companies had brought out copycat products. When 3M researchers discovered that some of these tapes were actually easier to apply than 3M's, they retreated to their labs to develop and test 140 new versions in a variety of fabrics, before introducing the next year an improved product that was stronger and easier to use.

In 1985, 3M's earnings declined 9.5% when the lofty dollar pummeled sales. Though Jacobson responded by cutting costs 35%, he spared R&D spending. Through this period, it actually rose from 4.5% of sales in 1980 to 6.6% today, a figure roughly twice the U.S. average for manufacturers. Now the company is reaping the benefits of that investment.

Every so often the caldron produces a witch instead of a winner. Recently a line of air ionizers used to remove dust from the air in factory production facilities began leaking radiation. Though 3M maintains that the ionizers pose no serious health threat, it recalled them, fearing they would taint the company's reputation. When asked about that reputation, Jacobson dismisses all the business buzzwords and phrases save innovation and the pursuit of quality. "These are the tools for staying ahead in our increasingly competitive society," he says. For a man who goes one on one with God's anointed, he practices what he preaches.●

A HEALTH WARNING ON THE LABELS OF BOTTLES CONTAINING ALCOHOLIC BEVERAGES

● Mr. GLENN. Mr. President, I am pleased to join Senator THURMOND in sponsoring legislation to require health warning labels on alcoholic beverages. This legislation is needed to initiate a coordinated national campaign to educate the American public about the dangers of alcohol consumption.

Alcohol abuse currently accounts for over 100,000 to 200,000 deaths each year. Almost 10 million Americans are classified as alcoholics, that is, persons who experience symptoms of alcohol dependence such as loss of memory, inability to stop drinking until intoxication, and binge drinking. Eight million more Americans are problem drinkers.

Alcohol's adverse effects are not just confined to the adult population in our country—the unborn are also at risk for alcohol related death and disability. Over 3,000 babies are born each year with the fetal alcohol syndrome, a range of behavioral and structural birth defects associated with maternal alcohol consumption during pregnancy. Equally frightening, teenagers today begin drinking at younger ages than did their predecessors, while alcohol-related highway deaths are the No. 1 killer of young adults between the ages of 16 to 24 years.

The magnitude of the economic costs associated with alcohol abuse and alcoholism is staggering, totaling almost $120 billion each year.

Despite these alarming figures, this subject has not received adequate attention from Congress. The seriousness of the alcohol abuse threat both to the public health and to the future of American youth has been largely overshadowed by our national preoccupation with the use of illicit drugs such as marijuana, crack, cocaine, and heroin. Yet, in 1987 alcohol—not marijuana, cocaine, or heroin—was the most widely used and abused drug among adolescents and teenagers in this country. Nearly all high school seniors—92 percent—have had experience with alcohol, and two-thirds have used alcohol in the past 30 days. More importantly, 5 percent are daily drinkers and almost 40 percent report at least one occasion of heavy drinking in the past 2 weeks.

More resources are spent on alcohol advertising campaigns designed to encourage increased consumption of alcoholic beverages than on campaigns to publicize the health hazards and social costs of alcohol abuse. Each year the alcohol industry spends $1.5 billion on advertising to promote beer, wine, and liquor use, while the Federal Government only targets $18 million for alcohol abuse prevention activities.

The bill I am cosponsoring today would begin to balance this consumer education bias by requiring a health warning label on all beer, wine, and distilled spirits containers.

Enactment of this legislation will provide individuals with basic information about the dangerous effects of alcohol intake. A recent study by the Public Health Service concluded that well-designed labels can not only increase consumer knowledge, but can also initiate positive behavior change. These labels, which will be prominently placed on beverage containers, will educate our young people about the adverse effects of alcohol consumption. Now, many young people believe that there is something special about drinking, that drinking alcoholic beverages will make them more popular, sophisticated, and attractive. Health warning labels on beer, wine, and distilled spirits will show them the darker side of alcohol use.

I have supported, and continue to support, legislation that would wage a national war on alcohol abuse. Clearly, a large part of this war must involve increased public awareness about the dangers of alcohol consumption. This bill would initiate this war by ensuring that consumers have access to information alerting them to the serious consequences of alcohol abuse.

I urge my colleagues to support this bill requiring health warning labels on alcoholic beverage containers. In doing so, we shall begin a much needed educational campaign for the American people.●

ON THE 100 BEST PRODUCTS MADE IN AMERICA

● Mr. DURENBERGER. Mr. President, over the last 10 years, we have been hearing endless stories of how American companies cannot compete in the global marketplace; how foreign companies manufacture products with far higher quality; how our leadership in high technology has seriously diminished; and how our economy is eroding into an endless array of dead-end "hamburger-flipping" service jobs.

Mr. President, the facts belie these myths. American business is taking up the challenge of foreign competition and meeting, and beating, the foreign competition on a variety of fronts. From agricultural and aerospace equipment, to computers and pharmaceuticals, U.S. companies are setting the standards that the rest of the world seeks to emulate.

Just last week, the cover story in Fortune magazine was entitled, "What America Makes Best." I am pleased to note that two of the three companies featured in the article are based in Minnesota: 3M Corp., the diversified manufacturer of thousands of industrial and consumer items; and Tennant Co., a manufacturer of industrial and commercial floor sweepers and scrubbers. The other company featured in the article was Crane & Co. of Dalton, MA, a leading supplier of high quality stationery and paper.

Mr. President, the article identifies the 100 best products manufactured in the United States. The listing reflects the dynamic diversity of our economy and the commitment to excellence that more and more American companies are seeking to achieve. Included in the list of the top 100 are pacemakers manufactured by Medtronic of Minneapolis; supercomputers manufactured by Cray of Minneapolis; heating controls from Honeywell; biotechnology drugs synthesized by Genentech; F-16 aircraft manufactured by

General Dynamics, and commercial airliners manufactured by Boeing; jet engines manufactured by GE; and satellites manufactured by Hughes Aircraft.

It is not just visible high technology products that American companies make best. Sheets and towels produced by Burlington Industries, Dan River, and a host of other U.S. companies; cotton denim from Cone Mills; crystal from Steuben Glass; and ball point pens made by A.T. Cross are just a sample of other products that the United States makes best.

Mr. President, I believe that competition from abroad has spurred an industrial renaissance in America. What we have learned in the 1980's is that no company can rest on its laurels, that an emphasis on quality, cost consciousness, innovation, and long-term commitment to product and market are the only ways that American companies can continue to maintain their leadership in world markets.

There is certainly more that American business can do to regain leadership in other industries. That is a continuing challenge that American business must meet in the next decade. I am confident that we will meet that challenge and that the label "Made in U.S.A." will once again stand for the best product, with the best service, at the best price.

Mr. President, I ask that the article from Fortune be printed in the RECORD.

The article follows:

[From Fortune magazine, Mar. 28, 1988]

WHAT AMERICA MAKES BEST

(By Christopher Knowlton)

It's been a long time coming, but American manufacturers finally have reasons to be optimistic. Profits are rising and so are exports. With the engines of many industries revved up to capacity, the makers of the nation's merchandise predict further dips in the trade deficit. The weak dollar is doing its bit, of course, but so is the high caliber of U.S. manufacturing output. That's right, the quality of U.S. goods—so often deplored as fit only for the throwaway society that produced them—is improving. Says Dana Cound, chairman of the American Society for Quality Control, an international organization devoted to the quality-related sciences: "On virtually every front the quality of American products is better than it has ever been on an absolute scale."

The image of American products is still that summed up by the common European attitude: You Americans don't make anything we want to buy. Or by the Japanese repairman who, when asked what was wrong with a garbage disposal machine he was fixing replied, "It's American." Last year a Roper poll of West Germans found that only 6% of them considered the tag line Made in America indicative of quality. Then the newspaper *Frankfurter Allgemeine Zeitung* salted the wound in an April editorial that asked, "Which American products can a sensible European buy? * * * American industry really ought to get more innovative to interest our consumers."

Unfortunately, the pursuit of quality has rarely ranked high among U.S. manufacturing objectives. Tom Peters, in *Thriving on Chaos*, quotes quality consultant W. Edwards Deming: "Henry Ford made great contributions, but his Model T was not a quality car." In the years after World War II, there was so much pent-up demand for goods and services that U.S. consumers were often glad to take what they could get. Says Alexander Trowbridge, president of the National Association of Manufacturers and a former Secretary of Commerce: "We were operating to some degree on a philosophy of planned obsolescence. In that sort of world, quality takes a back seat. Ultimately we got hurt by it."

Today, with quality at the crux of global competitiveness, Fortune set out to determine which American products can be considered the finest of their kind. Examples exist in reassuring abundance, and a partial list is on page 54. Products were selected after consulting with quality experts, management consultants such as Arthur D. Little Inc., security analysts, academics, industry association representatives, Consumers Union, major customers, and other knowledgeable observers of the global manufacturing scene.

To be included, an item had to be state of the art—that is, at the height of innovation and technological advancement. It also had to be the most durable of its kind and provide good to great value for the price. In the cases of commodity items, where quality is tougher to judge, or of ties between competing products, the final selection was based on market share. The list turned out to be as heterogeneous as the society that manufactures the products: It is a mix of high and low tech, basic industrial and consumer goods.

Making distinctions between U.S. and foreign goods is often hard. The global marketplace is characterized by out-sourcing, joint ventures, and foreign subsidiaries (see Competition). Caterpiller and Xerox have joint ventures in Japan, and Toyota builds cars in California arm in arm with General Motors. Steinway & Sons makes pianos in Hamburg, West Germany, and in Astoria, New York. By Fortune's definition, a Made-in-America product is assembled in the U.S. by a U.S. company and fabricated from at least 50% domestic parts.

The glossiest pages in the catalogue of America's best should be devoted to agricultural equipment, aerospace products, computers, and pharmaceuticals. The U.S. is the global leader in these industries, with many goods exemplary for their technological innovation and quality, and all four are big exporters.

American know-how also knows how to manufacture excellent medical instruments. The magnetic resonance imaging (MRI) scanner looks for diseased tissue without surgery, and the laser angioplasty catheter heads upriver like an icebreaker, clearing a path through plaque-obstructed veins. In a less high-tech area, Minnesota Mining & Manufacturing conceives of an endless array of tapes, coatings, and abrasives (see box, page 45). The U.S. also gets A's for craftsmanship in luxury items as diverse as leather handbags, fly-fishing rods, and mink coats.

Among the many products that restore the definition of quality to the words Made in America:

F-16 aircraft. Wolfgang Demisch, director of research for UBS Securities and an aerospace analyst, describes General Dynamic's plane as "the standard setter for combat aircraft * * * It keeps the peace and we sell a lot of them." F-16s are powered by General Electric or Pratt & Whitney jet engines, which are standard setters in their own right. They also come packed with the most advanced gadgetry, including guidance radar from Westinghouse. Now 14 years old and selling for $18 million, in its class the plane is still top gun in a dogfight.

Computer workstations. Sun Microsystems makes what quality consultant A. Blanton Godfrey calls "definitely the best workstations in the world. Even the Japanese use them." Engineers, scientists, and other technicians employ the machines for computer-aided design and desktop publishing, the development of artificial intelligence, securities trading, and scientific research.

Biotechnological drugs. At the heart of this industry is the ability to synthesize in the lab substances that are normally manufactured by the body to fight disease. Genentech's t-PA, a clone of one of the body's own enzymes, dissolves blood clots in the treatment of severe heart attacks. Last December, t-PA broke first-month sales records throughout the world for the launch of a pharmaceutical product. Says Peter Drake, director of equity research at Vector Securities International: "Here is an industry where we are long on brains, money, and implementation."

Pacemakers. The device made by Medtronic of Minneapolis leads in world market share. Says Dr. Mark Sherrid, a cardiologist at St. Luke's-Roosevelt Hospital Center in New York: "We use Medtronic's pacemakers because we think they're at the leading edge of the technology. The company has a wide variety of pacemakers that enable a physician to choose one suitable for each patient. The physician can program them from the outside and adjust them to the patient's needs."

Satellites. Of the 345 satellites in space, 148 belong to the Soviets, 136 to the U.S. The rest are distributed among 13 other countries and international organizations. American-made satellites have longer operational lives than satellites built in other countries. In 1989, Hughes Aircraft will finish building *Intelsat VI*, commissioned by a 114-country consortium for international usage. *Intelsat VI* will be the largest telecommunications satellite ever, capable of carrying 120,000 telephone calls and three television broadcast signals simultaneously. It will have greater coverage of eastern North America and wider communication with Europe.

Stereo speakers. The best-selling speakers are medium-priced products that cost $400 to $600 a pair. Of all the mid-range speakers sold in America and ranked by *Consumer Reports*, the Advent, Allision, and Infinity brands take top honors, scoring 92% in fidelity of sound out of a perfect 100%.

Towels and bed sheets. Take it from Stanley Marcus, former head of Neiman-Marcus: "The Italians make beautiful linen bed sheets for the luxury market, and silk bed sheets that are even fancier, but in the broad category of cotton percales, nobody does it as well as the Americans." The U.S. advantages lie in design, color coordination, and the quality of this tightly woven cotton—still grown better in California and Texas than anywhere else in the world.

The manufacturers of these products have created goods that meet or even exceed worldwide standards of excellence; more than that, these standards are maintained year after year. No one holds a monopoly on quality. It is an attainable goal for every manufacturer. Says Stephen Cohen, co-director of the Berkeley Roundtable on the International Economy and co-author of *Manufacturing Matters:* "I don't believe quality is any cultural secret. I think there are learnable things to do to achieve it."

The best products are designed not so much to meet specifications and fulfill customer *requirements* as they are to match or surpass customer *expectations.* Steinway & Sons likes to say it builds pianos to a standard, not to a price. The company refuses to skimp on materials, labor, and effort in the construction of a musical instrument that is as close to perfection as the hand and cunning of man can make it. Though the Hamburg factory puts mahogany and red beech in its piano rims, the New York factory uses the denser maple to give the American Steinway a brighter, more powerful tone. Says Larry Fine, author of *The Piano Book:* "To put it simply, either one buys a piano or one buys a Steinway."

The form of an excellent product suits its function, and its innovation is evident. Last year Cameron Iron Works of Houston, Texas, won an engineering innovation award for an economical new piece of oil field equipment. The company created a pipeline connector that allows offshore tankers to cap a well temporarily in the event of a hurricane or other severe weather conditions. Cameron is betting there will be growing demand for the connector as oil companies move farther offshore in the search for new oil fields.

Processed-food companies have always been extremely innovative about packaging, not only to attract the consumer who wants convenience but also to win the fight for shelf space. Now that two-thirds of American households have microwave ovens, both Hormel and General Foods are bringing out new microwavable meals—called, respectively, Top Shelf and Impromptu. By virtue of packaging processes that pressurize, seal, and steam the meal in a plastic container, the food requires no refrigeration and can sit on a shelf without spoilage for up to 18 months.

Innovation can occur by serendipity: In fact, it usually does. Engineers from 3M and Boeing, looking for aerospace applications for a new drag-reduction coating, tested the material for the fun of it on rowing shells in Puget Sound. The results were so impressive that last year the coating, inscribed with tiny grooves that replicate sharkskin, was used on the hull of *Stars & Stripes* in its successful bid for the America's Cup. Crew members credited the coating with increasing the yacht's speed two-tenths of a knot and cutting ten seconds off its finishing time. 3M now sells the coating to sailors.

Among the world's best-selling drugs are a pair of billion-dollar-a-year U.S. entries for high blood pressure: Capoten from Squibb and Vasotec from Merck. Capoten resulted from the research of Squibb scientists who noticed that the venom of the Brazilian pit viper killed its victim by lowering its blood pressure. They found a way to synthesize the venom free of its terminal side effects.

The U.S. is world renowned in medicine and the applied sciences in part because industry recruits the top international scientists, and many go on to develop new products. American companies have historically led the world in the number of drugs introduced each year, and are especially good at converting research into prescription products. They maintain their edge because they are willing to finance research and because they can raise capital for R&D from venture entrepreneurs and the public market and, like Merck, from the sales of successful drugs.

Between innovation and production comes product design. That's where the engineer is supposed to build in ease of use and aesthetics. Historically, that's also the place where American manufacturers have cut corners to save money. Companies that do design products properly consult the consumer to find out how he uses the item before contriving the design. For example, Apple Computer organizes focus groups of five to ten users to get customer comments before and during the design stage. Apple calls the procedure a "reality check." In the design process engineers also try to minimize the number of parts required to make the item. The fewer the parts, the smoother the assembly process and the more reliable the final product.

Once the item is ready to move onto the assembly line, the quality effort takes on a different complexion. The hunt has already begun for the best raw materials and the most dependable suppliers. Take the example of fly-fishing rods: Walt Carpenter, an artisan in Chester, New York, spends 30 to 100 hours making superb rods that sell for up to $1,500. Carpenter uses a bamboo called Tonkin cane (*Arundinaria amabilis*) from Southern Asia. As Peter Passell writes in *The Best,* "Tonkin cane is not as light as graphite, but it is stronger * * * [It] imparts a very consistent, predictable feel that makes it the material of choice for expert flycasters." Levi Strauss continues to produce 80% of its jeans from 100% cotton denim, a lightweight durable fabric. Cone Mills, Levi's exclusive supplier of denim for the basic 501 jeans, can weave the fabric with only four or five defects per 100 square yards—a ratio Cone's foreign competitors cannot match.

Upgrading quality on the factory floor requires that manufacturers ride herd on their suppliers to improve the parts they deliver. Faced with competition from Toyota, Tennant Co. (see box, page 48), which makes industrial floor sweepers and scrubbers, enlisted the help of its suppliers to upgrade the parts. The company's purveyor of hydraulic cylinders reduced the number of defective cylinders from 6.4% of each shipment to 0.8%, and a supplier of small motors decreased his defect rate from 8.8% to 2.3%.

Once the parts are on hand, the assembly process must be done correctly from start to finish, with little or no tolerance for the post-assembly repairs known as "rework." Boeing employs a humdrum concept called "system integration" to build 747s that should last about 20 years. Computer bar coding helps the company keep track of 500,000 types of parts, ranging in size from a 3/16-inch rivet to a 103-foot-long wing section, that arrive from some 1,600 subcontractors in 44 states and 13 countries. Then workers aided by sophisticated software make sure that all the parts fit together to form one 747 in a mammoth factory in Everett, Washington.

A.T. Cross urges production workers to toss off the assembly line any pens or mechanical pencils they suspect are flawed. The company unconditionally guarantees its products against defects and does repairs free for the life of the pen or pencil. Fewer than 2% of Cross writing instruments have ever been returned for repairs.

At other companies, like Xerox and Tennant, line employees chart their defect rates and set goals for the workers to reduce them. At Tennant, one assembly worker has been so successful eliminating problems in the floor sweeper he puts together that the company stopped regular inspections of his machines three years ago. Quality-oriented manufacturers understand that it costs less to make the product right the first time. Says Philip Crosby, an independent quality consultant: "I see few companies where the pretax profit is as big as the price of not conforming to specifications."

A tradition of craftsmanship endures in many smaller businesses. At Crane & Co. (see box, page 52) the borders on the sheets of stationery are hand-etched, and the bows that hold the writing paper and envelopes in the box are still hand-tied. The world's best tailored mink coats have traditionally come from Manhattan's Seventh Avenue. The furriers, many of them immigrants from Southern and Eastern Europe, use a secret solution for dressing the skins. Then in a process known as "letting out" they cut, stitch, and stretch the pelts before sewing the long strips together into a coat. Jill Vander Putten, head of fur design at the Fashion Institute of Technology, explains that it takes years of apprenticeship to learn these techniques. Says she: "In Asia and Europe they don't have the necessary experience, but they are improving."

New standards of quality keep surfacing in manufacturing. What leads today risks obsolescence tomorrow. Author and consultant Tom Peters calls this sad pattern the "champ to chump syndrome." The color television, the video recorder, the computer memory chip, textile machinery—all are regrettable examples of products the U.S. created only to let the competitive advantage slip offshore. Xerox, once the uncontested leader in photocopiers, saw its world market share drop from 82% to 41% in six years as a result of Japanese inroads into the copier business.

The achievement of quality, the experts will tell you, must be an ongoing process. Says Blanton Godfrey: "Look how fast products are improving, both in technology and quality. There is no just maintaining the lead. You have to be on a fast track, constantly improving at a good rate, or you will be overtaken." To avoid that fate in the midsize part of the copier market where it still leads, Xerox today makes a habit of competitive benchmarking. Company engineers pull apart competing products to see how they are made and then estimate the costs of production in a search for new, cheaper, and better ways to make their own copiers.

Even a product as basic as Levi's jeans has been adapted and improved to stay competitive since its invention in 1853 by a Bavarian immigrant for the miners in the California gold rush. "Over the years we have made in excess of 20 fundamental changes in our basic jeans," says Peter Thigpen, president of the Jeans Co., a division of Levi Strauss. "And I don't mean fashion changes. I mean changes like increasing the overlap of the fly from 3/8 of an inch to 5/8 of an inch. There is constant drive around here for self-renewal."

Boeing, too, renews itself. Since the 747's introduction in 1970, its flying range has increased from 5,200 miles to 8,500. In January the company introduced the 747-400: sticker price $120 million. By slashing the number of lights, gauges, and switches on the instrument panel from 971 to 365 and by using digital electronics, Boeing was able to reduce from three to two the number of pilots needed to fly the plane. The company also made the 747-400 some 13% more fuel efficient and added a six-foot winglet at the tip of each wing to help eke out an extra thousand miles.

Factory automation is a popular response to the competitive pressures of staying ahead, but by itself it does little to solve the quality problem. You just get the same quality articles more quickly. Says quality authority Armand Feigenbaum of General Systems Co.: "The notion of trying to achieve quality leadership by managing through robots rather than through people is specious." Maintaining excellence boils down to managing—managing the technology, the labor force, the managers themselves.

The commitment of the senior people to the quality process is unquestioned at the companies that make the best products. Executives field customer complaints on hot lines, personally test the products, and meet at least weekly to address quality issues. Quality becomes, in Feigenbaum's words, "an ethic."

The last ingredient for maintaining quality—and the single most important one—is that sales-force bromide: Know your customer. There is a better-educated, more cynical buyer out there with little patience for poor quality. He wants products that work the first time and is willing to pay for them. To respond to customers' changing needs and expectations, the manufacturer must be nimble. Flexible manufacturing helps. Companies like Deere and Tennant can customize a product to a buyer's specifications. Even a venerable producer of commodity items like Levi Strauss knows it must keep up with its customers. The story of the copper crotch rivet on the 501 jeans is a case in point.

According to company lore, copper rivets were added to the Levi jeans pockets and seams in 1873 to protect the pants from ripping under the weight of a miner's tools or, in the words of a Virginia City prospector, "nuggets bigger than your thumb." But when jeans became fashionable in the 1930s, the denim-clad smart set discovered that the rivets on the back pockets scratched chair backs, the paint on the hood of a car, and anything else the wearer sat on. The back-pocket rivets were removed, but despite occasional complaints from cowboys, the crotch rivet remained. In the late 1930s, Walter Haas Sr., the company president, went on a fly-fishing trip wearing a pair of 501s. One night he squatted close to the campfire, which heated the rivet. In the whooping war dance that followed, Haas the president met Haas the customer. A week later the board of directors abolished the copper crotch rivet by unanimous vote.

As the copper rivet anecdote suggests, the achievement and preservation of product excellence take common sense, diligence, and attention to details—as they always have. What is different today is that the pursuit of quality, whether in planes, pacemakers, percales, or pianos, is no longer voluntary. If U.S. industry expects to win still more customers and market share, it has no choice but to improve its products. For the customer, quality is irresistible. For industry, it is essential.

100 PRODUCTS THAT AMERICA MAKES BEST

All-electric Plastics injection-molding machine—Cincinnati Milacron.
Aluminum—Reynolds Metals.
Atomic clock—Frequency Electronics, Hewlett-Packard.
Ball point pens—A.T. Cross.
Balloon and laser angioplasty catheters—C.R. Bard, Eli Lilly, Trimedyne.
Bamboo fly-fishing rods—Walt Carpenter.
Bed sheets and towels—Burlington Industries, Dan River, Dundee Mills, Fieldcrest Cannon, J.P. Stevens, Springs Industries, West Point-Peperell.
Biotech drugs: t-PA—Genentech.
Bobcat skid-steer loaders—Melroe.
Boots and hunting shoes—Timberland, L.L. Bean.
Brain electrical activity mapping system—Nicolet Instrument.
Camera film (color)—Eastman Kodak.
Central office switching equipment—AT&T.
Charcoal briquettes—Kingsford Products.
Charge couple device image sensor—Eastman Kodak.
Clothes dryers—Whirlpool.
Combines—Case IH, Deere.
Computer operating systems software: MS-DOS, Unix, VM, VMS—Microsoft, AT&T, IBM, Digital Equipment.
Copiers—Eastman Kodak, Xerox.
Cotton denim—Cone Mills.
Cruising sailboats, 37 feet and under—Pacific Seacraft.
Crystal—Steuben Glass.
Data parallel supercomputers—Thinking Machines.
Digital plotters—Hewlett-Packard.
Dishwashers—General Electric.
Distributed database management technology—Tandem Computers.
Ditch Witch trenchers—Charles Machine Works.
Drugs: Capoten and Vasotec—Squibb, Merck.
Dustbuster Plus hand-held cordless vacuum cleaners—Black & Decker.
Electrodeposition primers—PPG Industries.
Electrohydraulic servo valves—Moog.
F-16 jet fighters—General Dynamics.
Fast food: hamburgers—McDonald's.
Financial, engineering, and scientific hand-held calculators—Hewlett-Packard.
501 jeans—Levi Strauss.
Flashlights—Mag Instrument.
Flutes—Wm. S. Haynes.
FM two-way radios—Motorola.
Frequency and time interval analyzers—Hewlett-Packard.
Fur coats—Peter Dion, Goldin-Feldman, Ben Kahn, Maximilian, Louis Milona.
Glass fiber for communications—Corning Glass Works.
Gore-Tex waterproof breathable fabric—W.L. Gore.
Handbags—Coach Leatherware.
Hay and forage equipment—Ford New Holland.
Heating controls—Honeywell.
Heavy earthmoving equipment—Caterpillar.
Ice cream and sorbet—New York Fruit Ice.
Industrial and commercial floor sweepers and scrubbers—Tennant.
Instant camera films—Polaroid.
Integrated voice and data communications systems (T-1 multiplexers)—Network Equipment Technologies.
Intelsat VI satellite—Hughes Aircraft.
Ion chromatographs—Dionex.
Jazz music.
Jet aircraft: 747 family of planes—Boeing.
Jet engines—General Electric.
Kevlar fiber—Du Pont.
Loader/backhoe—Case IH.
Locomotives—General Electric.
Longwall mining systems—Joy Technologies.
Lycra spandex fiber—Du Pont.
Magnetic resonance imaging scanners—General Electric.
Marlboro cigarettes—Philip Morris.
Mass spectrometers—Finnigan.
Men's ready-to-wear suits—Oxford Clothes.
Micro-precision machine and measuring tools—Moore Special Tool.
Microprocessors: Motorola 68000 family, Intel 80X86 family—Motorola, Intel.
Microwavable food in shelf-stable packaging: Impromptu, Top Shelf—General Foods, Geo. A. Hormel & Continental Can.
Microwave ovens—Litton Industries.
Minicomputers—Digital Equipment, Hewlett-Packard, IBM.
Minisupercomputers—Alliant Computer Systems, Convex Computer.
Multimeters—Hewlett-Packard, John Fluke Mfg.
Offshore drilling equipment—Cameron Iron Works.
Oscilloscopes—Tektronix.
Pacemakers—Medtronic.
Paper towels—Procter & Gamble, Scott Paper.
Personal computer applications software—Lotus Development, Microsoft, WordPerfect.
Personal computers—Apple Computer.
Pianos—Steinway & Sons.
Post-it note pads—3M.
Powerboats—Cigarette Racing Team, Donzi marine.
Pressure transmitters for industrial process plants—Rosemount.
Row-crop planters—Case IH.
Scotch S-VHS videotape—3M.
Scotchcal drag reduction tape—3M.
Sheet and strip stainless steel—Allegheny Ludlum.
Soft drinks—Coca-Cola.
Stationery—Crane.
Stereo loudspeakers—International Jensen, Allison Acoustics, Infinity Systems.
Sunglass lens—Corning Glass Works.
Supercomputers—Cray Research.
Symbion J-7 and Thoratec artificial hearts—Symbion, Thoratec Medical.
Tampax—Tambrands.
Technical workstations—Apollo, Silicon Graphics, Sun.
Teflon—Du Pont.
Telephone sets—AT&T.
Thermos vacuum containers—Halsey Taylor/Thermos.
Thin film hard disks—Komag, Seagate Technology.
Tillage equipment—Krause Plow.
Tractors, 100 hp and over—Deere.
Washing machines—Maytag, Whirlpool.

KEEPING THE FIRES LIT UNDER THE INNOVATORS

Around this time of year, the noonday temperature in St. Paul, Minnesota, is three degrees below freezing, so it seems an unlikely spot for a caldron of innovation. Nonetheless, new products bubble up at a rate of more than 200 a year from the research labs that crowd Minnesota Mining & Manufacturing's 435-acre St. Paul campus. Many of 3M's innovations are modest variations of such ordinary but ubiquitous industrial and consumer items as masking tape, coatings for highway reflectors, and sandpaper.

Some 6,000 scientists and engineers are continually stirring the pot, primarily in chemistry and applied science. In all, the company makes some 60,000 products that last year produced revenues of $9.4 billion, up 10% from the year before. Operations in 50 other countries accounted for 40% of those sales. Assisted by the ailing dollar, earnings rose 18% to $918 million. In Fortune's annual survey of America's most admired corporations, 3M most recently ranked No. 6—out of 306 entries. The company is often cited for its ability to keep innovation alive in a large, necessarily bureaucratic organization.

The man responsible for seeing that the fires don't go out is Allen F. Jacobson, 61, known as Jake, who joined 3M as a chemical engineer straight out of Iowa State University in 1947. In contrast with his popular predecessor, Lewis Lehr, Jacobson is strict and a little cold. He once rebuked the minister at his Presbyterian church for preaching that one person's profit is another's loss. Collaring the young man after the service, Jacobson informed him tersely that his remarks were "not in line with our country's best economic thinking."

While hardly the type to encourage the entrepreneurial whims of 3M's researchers, this Calivn has a dash of the Good Shepherd. To be sure that his flock of innovators share their ideas, Jacobson keeps his organization relatively decentralized. Information flows to the top from clearly defined reporting relationships and lots of shoptalk. He says, "You can't make too many of the decisions on the executive floor. You have to depend on the people who are close to the market and the technology."

Under Jacobson, 3M continues to codify many of the practices that preserve the innovative spirit of its scientists and engineers. Researchers are encouraged to spend 15% of their time pursuing pet projects that might have a payoff for the company down the road—a pastime they call "bootlegging." The stick behind that carrot is that 25% of each division's annual sales are expected to come from products developed in the prior five years.

Small groups staffed with a researcher and a marketer push inventions through the design and development stage. It takes an average of seven years from a product's invention to its successful introduction, although the trek can be made in less. Though Post-it notes took six years, some tapes take only one. Ultimately, 60% of the ideas wind up on the lab floor, but Jacobson wryly notes, "Outsiders say we are very lenient in rewarding failure."

One superior product fresh from the labs is the first videocassette tape for the Super VHS video recorder. The tape, which 3M hopes will be the industry standard by the 1990s, improves picture resolution by capturing 400 lines of broadcast information vs. the standard 230.

Besides coming up with new products, the labs are also supposed to protect and extend the product line against the encroachments of competitors. A case in point: In 1980, 3M developed the first water-activated synthetic casting tape used to set broken bones, but by 1982 eight other companies had brought out copycat products. When 3M researchers discovered that some of these tapes were acutally easier to apply than 3M's, they retreated to their labs to develop and test 140 new versions in a variety of fabrics, before introducing the next year and improved product that was stronger and easier to use.

In 1985, 3M's earnings declined 9.5% when the lofty dollar pummeled sales. Though Jacobson responded by cutting costs 35%, he spared R&D spending. Through this period, it actually rose from 4.5% of sales in 1980 to 6.6% today, a figure roughly twice the U.S. average for manufacturers. Now the company is reaping the benefits of that investment.

Every so often the caldron produces a witch instead of a winner. Recently a line of air ionizers used to remove dust from the air in factory production facilities began leaking radiation. Though 3M maintains that the ionizers pose no serious health threat, it recalled them fearing they would taint the company's reputation. When asked about that reputation, Jacobson dismisses all the business buzzwords and phrases save innovation and the pursuit of quality. "These are the tools for staying ahead in our increasingly competitive society," he says. For a man who goes one on one with God's anointed, he practices what he preaches.

MAKING IT RIGHT THE FIRST TIME

In 1979, Tennant Co. received two pieces of life-threatening news. Word arrived at Minneapolis headquarters that a potentially fatal defect had appeared in the motorized factory floor sweepers that it was exporting to Japan. The sweepers were chronically dripping oil. The second piece of news was Toyota's announcement that it was bringing out a competing product. In an all-out effort to save its 40% North American market share, Tennant, the world's biggest manfacturer of floor maintenance equipment, embarked on an ambitious, by-the-book quality improvement program that over the next few years upgraded its sweepers and scrubbers from good to great. Today the company has 60% of the North American market and 40% of the world market; sales grew from $98 million in 1979 to $167 million last year.

President Roger Hale started the process of upgrading the company's goods by consulting quality expert Phillip Crosby. Arguing that the product had to be made right the first time, Crosby recommended that the company eliminate its rework area, where 18 of the most experienced mechanics fixed mistakes made during the assembly process. The repercussions of Crosby's reform were enormous: Workers had to make fewer blunders and catch those they did make. In order to eliminate errors, management and workers, brainstorming in small groups, developed scores of new assembly procedures that changed the shape of assembly lines and rerouted the delivery of parts. Employees were taught statistical process control, a method of monitoring defects and setting goals to reduce them.

The group that looked into the oil leaks discovered that the company's engineers had ignored the latest hydraulics technology, and a number of the assembly workers has been improperly trained to put together the hose joints. Worse, 16 different suppliers were delivering fittings and hoses made to varying specifications. As a result, the parts didn't go together properly. Once the workers had been retrained and the number of suppliers reduced, leaks—which averaged two per machine in 1979—occurred in fewer than one of every 18 machines by 1986. Says Roger Hale proudly: "The leadership on the quality program has come from the factory floor."

Tennant succeeded in protecting its leading market share and enhancing its reputation within the industry. Better yet, says Robert Maples, a security analyst with Piper Jaffray, "improved product quality is largely credited with forestalling Toyota's expansion into the U.S. market." Morale has soared. Murals of paddling loons, grouse, and jumping bass adorn what were once bare factory walls. The floors shine, and the workers gladly show off their handiwork to visitors while chatting knowledgeably about quality control. Employees award each other teddy bears—known as Koala T. Bears—for taking the initiative on problem solving and achieving quality goals.

Every 18 months, to keep things in sharp focus, the company celebrates Zero Defect Day with a magic show and other live entertainment. At the end of the all-day fete, the workers renew their pledge to do their work correctly. "It sounds corny," says Maples, "but the corniness works."

A REAL TIGER IN THE PAPER TRADE

In the weathered redbrick mills of Crane & Co. in Dalton, Massachusetts, cotton pulp flows like watery scrambled eggs through tiled vats on its way to becoming fine stationery and paper so durable the currency of the U.S. is printed on it. Since 1801, Crane's 100 percent cotton rag paper has offered a combination of strength, durability, and surface texture that is unsurpassed by other mass-produced papers.

Crane letterhead is used in the White House, and supplied to Tiffany & Co. where it is sold as their stationery. The company makes and sells tracing paper for engineers and architects, the paper for passports, and the high-tech glass-fiber paper used in materials such as formica. Crane is also the U.S. Mint's sole supplier of currency paper. Last year the privately owned firm has revenues just over $100 million.

The company has had some advantages in its effort to preserve the competiveness of its products over its long history. Seven generations of Crane family ownership have provided a consistent management philosophy—one that vigorously pursues quality. A strong work ethic endures in the western part of Massachusetts, and Crane reinforces it with a generous profit-sharing program that distributes 25 percent of pretax profits to the employees. Many of the 730 workers are third- or fourth-generation employees of the company.

Excellence takes effort. Unlike most makers of rag paper, Crane controls the manufacturing process from the purchase of raw materials to the final engraving. The company buys two kinds of cotton: Raw cotton from Texas and California, where the best is grown, and cutting scraps from men's underwear, also among the softest and finest weavable cotton. Why cotton? Says Wayne Cronnell, director of quality control: "It is a long, clean, stable fiber that produces an extremely durable sheet of paper."

The papermaking machinery is imported from West Germany or made by two local companies, Sandy Hill and the Jones division of Beloit. "We buy the Mercedes of the industry when we buy equipment," says Tom Sedgwick, superintendent of the stationery division. Only the finest water-soluble pigments are used for the inks and dyes.

Finishing touches are done by hand. When it comes to painting the borders of the cards and stationery, 12 women workers gently spread out a stack of papers, making sure an even width of border shows on all the sheets before sponging on the ink. Says Sedgwick: "You try and find me a machine to do this. Nothing can match the accuracy of the human hand and eye."

CUT THE CAPITAL GAINS TAX

● Mr. KASTEN. Mr. President, I call to the attention of my colleagues two excellent articles that appeared in the

Wall Street Journal on the issue of capital gains taxation.

The Journal's March 8 editorial makes a strong case for the capital formation and deficit reduction aspects of a capital gains tax rate cut. But the editorial's most important point is that many of the industrialized countries don't tax capital gains at all. In this increasingly competitive world marketplace, it doesn't make much sense to saddle American investors, entrepreneurs, and small businessmen with the heaviest capital gains tax rates in the industrialized world.

Michael S. Malone's op-ed "Not Just for Pin-Striped Fat Cats" explodes the myth that a capital gains tax cut is a giveaway to the rich. Malone argues that "the capital gains is the driving force behind employee stock option plans." If a new start up company becomes successful, thrives, and goes public, that stock will make everyone from the CEO to the assembly-line worker wealthier. Malone points out that "it has been estimated that Apple made dozens of employees into millionaires on the day it went public. Arguably, the stock option programs at new high-technology companies are the most efficient—and fairest—means of wealth creation and redistribution that this country has ever developed."

Mr. President, the 1986 Tax Reform Act's lower marginal tax rates benefit the economy by reducing the overall tax bias against work, savings, and investment. But the tax rate on investment in newly emerging companies and risky ventures remains as much as 65 percent higher than the rate on income. This combination of lower rates on ordinary income and higher rates on capital gains encourages individuals to shift their portfolios from high-risk investments—whose returns come in the form of capital gains—to conservative investments—whose returns come in the form of dividends, interest and rents.

Tax reform is discouraging the kind of investment in high-growth, higher risk small businesses that sparks the most economic growth and job creation. I believe that it's time for Congress to reexamine the taxation of capital gains. I've introduced legislation—S. 1789—to reduce the maximum tax rate on long-term capital gains to 15 percent. The President has called for a restoration of the capital gains differential. Several capital gains bills have been introduced in both Houses of Congress and by members of both political parties. Cutting the capital gains tax rate would restore economic growth as a priority of tax reform policy.

I ask that the Wall Street Journal articles be placed in the RECORD.

The articles follow:

[From the Wall Street Journal, Mar. 8, 1988]

A CAPITAL IDEA

If the presidential primary season has established anything it is that the 1980s' lowered tax rates are untouchable. But prior to passage of the 1986 tax act, there was a lot of rhetoric about how these efforts were a "giveaway to the rich." To counter this tax demagogy, the lawmakers raised the 20% tax rate on capital gains to match the new personal rate of 28% on highest incomes.

That was surely a mistake. Past experience with capital-gains rates suggests that running them up not only hobbles growth industries but also causes the rich to pay smaller, not larger, share of the Treasury's tax revenue.

President Reagan has asked Congress to reduce capital-gains taxes. He pointed out that the higher rates encourage investors to hold on to stocks and other assets rather than sell them and realize taxable gains. The result is likely to be a decline in federal revenue.

The historical evidence that higher capital-gains taxes yield lower revenues is compelling. The maximum rate on long-term gains was doubled in 1969. Revenues plummeted. Five years later they were still below their 1969 levels.

In the face of this kind of historical experience, Congress's Joint Committee on Taxation now calculates that a cut in capital-gains rates would cost the Treasury money. Under the "static revenue" models still in use by the committee, revenue supposedly moves up or down in virtual lock step with rising or falling tax rates; affected taxpayers presumably makes no effort to modify the tax status of their income.

In fact, everyone knows that people notice changes in tax incentives and respond accordingly. Back during the 1978 debate over reducing maximum effective capital-gains taxes to 28% from 49%, the Treasury Department, using static analysis, predicted "the measure would cost more than $2 billion annually." The actual result: Revenues from capital gains jumped from $8.1 billion to $11.7 billion between 1977 and 1979. And the bulk of those new revenues was paid by the rich.

The nearby table offers a thought-provoking look at how other industrialized nations tax capital gains. They have either *lowered* capital-gains taxes in the past few years or they never imposed them at all. The U.S. is the sole exception, indeed, recent data suggest that U.S. venture-capital firms already are redirecting investments away from new ventures and into mature firms.

CAPITAL GAINS TAX RATES

	Maximum long-term rate	Maximum short-term rate
United States	33 percent	33 percent.
United Kingdom	30 percent	30 percent.
Sweden	18 percent	45 percent.
Canada	17.51 percent	17.51 percent.
France	16 percent	16 percent.
West Germany	Exempt	56 percent.
Belgium	do	Exempt.
Italy	do	do.
Japan	do	do.
Netherlands	do	do.
Hong Kong	do	do.
Singapore	do	do.
South Korea	do	do.
Taiwan	do	do.
Malaysia	do	do.

Source: Arthur Anderson and Company.

There is bipartisan support for changing the capital-gains tax. At least five Democrats on the House Ways and Means Committee want to cut the maximum rate to 15%. They observe that five recent academic and government studies indicate that with the higher capital-gains rates now in effect, the Treasury will lose between $27 billion and $105 billion in revenue between fiscal 1987 and 1991. All but one study implies that the tax rate that would maximize revenue falls somewhere between 9% and 21%.

Senator Bill Bradley believes that any attempt to reduce capital-gains taxes could "unravel" the coalition that passed tax reform, and lead a revenue-hungry Congress to consider a third, higher income-tax bracket. We recognize that danger. We also recognize that Congress' treatment of tax matters is barely rational and mostly political.

By what economic logic, for instance, do you raise taxes on capital gains but disallow deductions for capital losses? And surely Senator Bradley recognizes that the greatest threat to the new tax law will be Congress' compulsion to create new revenue enhancements. The tax-increase crowd should understand that if it wants to start that game, a proven revenue-raiser, the capital-gains cut, also will be on the table.

[From the *Wall Street Journal*, Mar. 11, 1988]

NOT JUST FOR PIN-STRIPED FAT CATS

(By Michael S. Malone)

President Reagan has joined the electronics industry's call for a restoration of the old capital-gains tax break, the differential lost during the tax reform of 1986. It wasn't a particularly loud call, however, and it didn't receive much attention.

Talking about cutting taxes, any taxes, in 1988, is like yelling into a hurricane. And cutting capital gains, for heaven's sake! Maybe a lame-duck president can dare mention the idea, but among the candidates only Vice President George Bush and Rep. Jack Kemp—who dropped out yesterday—had the courage to come out for a tax break that, to the man in the street, seems to benefit just pin-striped fat cats.

But that perception isn't true; particularly not in the rough-and-tumble world of electronics. In 1986, Congress increased the capital-gains tax rate. The result was a precipitous drop in the formation of high-technology companies. Consider that while the next three years did see the founding of present-day billion-dollar giant Advanced Micro Devices, that company almost wasn't started because of founder Jerry Sanders's difficulty finding enough venture capital. What other major corporations might have been created during that period had the investment money been available?

The capital drought during that period also kept existing U.S. computer-chip companies from expanding their production capacities. Then, in 1973–74 the computer and video-game markets boomed, and the demand for 16K bit RAM Chips skyrocketed. The American firms couldn't meet the demand, and the Japanese moved in to fill the void.

THE STEIGER AMENDMENT

By the mid-'70s the number of U.S. companies being founded had dropped almost to zero. This was the era of Atari and Amdahl, the latter having to go to Japan's Fujitsu for its seed money. It was during this era, with few U.S. firms to fight them, that the

Japanese made their first great inroads into the world consumer electronics industry.

Only in 1978, after a lobbying effort by the American Electronics Association (under electronics executive and soon-to-be Rep. Ed Zschau), did Congress pass the Steiger Amendment, which cut the maximum capital-gains tax rate to 28% from 49%. Two years later, the maximum rate was cut again to 20%. The result was an explosion of new companies. These are some of the most important American high-tech firms of the 1980s: Apple Computer, Sun, Microsystems, LSI Logic, Cypress Semiconductor, Microsoft, Compaq, etc. They are the companies that are not only holding ground, but actually beating the Japanese.

Created at the same time as these superstars were several thousand little hightech companies. Some have thrived; some have disappeared through mergers, acquisitions or bankruptcies. In the process, they have generated thousands of patents, employed and trained ten of thousands of people, and made electronics the largest manufacturing employer in the U.S.

Needless to say, other factors were at work here as well, including economic ups and downs (though recessions, because of the lack of competition, are traditionally the best time to start new electronics companies) interest rates and the always important magnet of a hot product breakthrough. But beneath everything, there remains the unmistakable driving force of the improved capital formation unleashed by the cuts in the capital-gains tax rate.

Why this should be so is straightforward, Kenneth C.O. Hagerty of Public Affairs Services Inc., who was on the AEA/Zschau team, says: "To compete and succeed in their intensely competitive markets your high-tech firms have to grow at a pace well beyond their capacity to finance through retained earnings alone. They continually must go to the capital market to obtain new infusions of risk capital. The people who put up that capital know they will receive no dividends, because the companies need those dividends to grow. Rather, these investors are seeking capital appreciation and capital gains. So, when the tax on capital gains goes up substantially, so does the risk-to-reward ratio for these investors. They back away and money for new companies dries up."

Between the Steiger Amendment and the Tax Reform of 1986, an estimated one million new jobs were created by the U.S. electronics industry—three times the total employment of the U.S. steel industry. And this took place in the teeth of growing foreign competition enjoying comparative advantages in the cost of labor, materials and capital.

In early 1986, as the tax-reform movement was gaining momentum, Gina Despres, tax counsel to Sen. Bill Bradley, suggested that the AEA types holding out against eliminating the capital-gains tax differential were selfish, and "asking to be singled out for special treatment." The overall tax cut, she argued, would result in increased stock values. And that, Ms. Despres said, would more than make up for any losses due to the increased rate on capital gains. "There is no persuasive evidence," she said. "for the proposition that eliminating the capital gains differential will result in a diminution of venture capital investment."

Some anecdotal evidence is in.

While the roller-coaster stock market is masking what is going on in the venture-capital industry overall, those in the midst of it are sensing a change. Says Jim Swartz, president of the National Venture Capital Association, "In 1974 no one talked about venture capital. It was dead. Likewise today there is a lot less talk about venture capital among people with discretionary money to spend. They are putting their money somewhere else."

Among individual investors, who as a group represent $5 billion to $10 billion in potential venture money, says Mr. Swartz, "a lot of people are waking up right now to the effects of the tax change." Among venture capital firms the trend now, says Mr. Swartz, is to move from high-tech ventures into leveraged buyouts and retail investments.

One senses that underlying the opposition to capital gains tax breaks is a skewed congressional perception of what capital-gains tax breaks are all about.

The capital-gains tax differential is the driving force behind employee stock option plans, which are pervasive in the electronics industry. Joining a start-up company is an enormous risk compared with remaining with an established firm. Typically, the pay is much less, the hours are longer and job security is a memory. What attracts these adventures, from CEO to assembly-line worker, is founder's stock. When and if the company survives, thrives and goes public that stock will make all that risk and time worthwhile.

WEALTH REDISTRIBUTION

It has been estimated that Apple made dozens of employees into millionaires on the day it went public. Similar, but smaller, miracles occurred at Microsoft, Lotus, Campaq and scores of other. Arguably, the stock option programs at new high-technology companies are the most efficient—and fairest—means of wealth creation and redistribution that this country has ever developed.

Yet, as the U.S. electronics industry lobbies the federal government for relief on the capital-gains tax, it will find some of its greatest resistance from people who should know better. Consider presidential candidate and Massachusetts Gov. Michael Dukakis. To date he has been against restoring tax differential that may have done more than anything else to create the state-wide economic "miracle" on which his campaign rests. Reacting to Mr. Reagan's proposal to restore the capital-gains preference, he said: "I think it's preposterous. I can't imagine anything worse. . . . Cutting the capital-gains tax is about the last thing I would do."

Perhaps he should have listened to another Democrat, his own state's former U.S. Sen. Paul Tsongas. As Mr. Tsongas explained to Washington Post columnist William Raspberry in 1984, he voted against the 1978 Steiger Amendment "because I was a Democrat. I considered the ethic in the House among my fellow colleagues that this was pro-business, and therefore, we are against it. That bill, which I did not support, did more for the economy of my state than anything I did as a congressman."●

TENNANT CO.: SUCCESS IS DEDICATION TO QUALITY

● Mr. BOSCHWITZ. Mr. President, I rise today to share a story of American dedication to quality from the March 28 issue of Fortune magazine. American industry has frequently been the whipping boy of many who blame our trade imbalance on the "shoddy" quality of our manufacturing companies. The story of the Tennant Co., the world's leading manufacturer of floor maintenance equipment, is ample evidence of the hollowness of this argument.

While American products are often accused of being of poor quality, the Tennant Co. has made quality its No. 1 priority. Led by President Roger Hale, employees on every level have contributed to improved assembly procedures and quality control.

The effort has certainly paid off. Dedication to quality control has allowed Tennant to retain its leading market share, enhanced its industry reputation, and even played a significant role in halting Japanese expansion into the United States market. Today, Tennant controls 60 percent of the U.S. market, and 40 percent of the world market in floor maintenance equipment.

This story of success—celebrated by Tennant employees on "Zero Defect Day"—is a reminder that no legislation, no additional rules and regulations, in fact, no speeches here on the Senate floor, can replace the dedication to quality in American industry exemplified by the Tennant Co.

At this time, Mr. President, I ask that a copy of the article on the Tennant Co.'s achievements be inserted in the Record.

The article follows:

Making It Right the First Time

In 1979, Tennant Co. received two pieces of life-threatening news. Word arrived at Minneapolis headquarters that a potentially fatal defect had appeared in the motorized factory floor sweepers that it was exporting to Japan. The sweepers were chronically dripping oil. The second piece of news was Toyota's announcement that it was bringing out a competing product. In an all-out effort to save its 40% North American market share, Tennant, the world's biggest manufacturer of floor maintenance equipment, embarked on an ambitious, by-the-book quality improvement program that over the next few years upgraded its sweepers and scrubbers from good to great. Today the company has 60% of the North American market and 40% of the world market; sales grew from $98 million in 1979 to $167 million last year.

President Roger Hale started the process of upgrading the company's goods by consulting quality expert Philip Crosby. Arguing that the product had to be made right the first time, Crosby recommended that the company eliminate its rework area, where 18 of the most experienced mechanics fixed mistakes made during the assembly process. The repercussions of Crosby's reform were enormous: Workers had to make fewer blunders and catch those they did make. In order to eliminate errors, management and workers, brainstorming in small groups, developed scores of new assembly procedures that changed the shape of assembly lines and rerouted the delivery of parts. Employees were taught statistical process control, a method of monitoring defects and setting goals to reduce them.

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TARAS SHEVCHENKO DAY

● Mr. DIXON. Mr. President, March 9, 1988, marks the 174th birthday of the Ukraine's greatest poet laureate and national hero, Taras Shevchenko.

Born into serfdom, the humanist Shevchenko was a revolutionary democrat. In his writings, he exposed the thoughts and sentiments of the Ukrainian people who were oppressed nationally and socially.

Shevchenko's dreams later evolved into an uncanny grasp of the need to unify all the national groups inhabiting Russia against the tyranny of the Russian empire, and indeed, the world's underclasses and masses. He was truly a people's poet in the folk oral tradition. His poems became the programs and battle cries of peasants and serf longing for freedom.

In our generation, Shevchenko has come to be known as the "Father of the modern Ukrainian Nation." His sense of spirit and struggle from his life and writings are infused in the will of the Ukrainian people and all dissidents.

The people of the Ukraine, and their relatives worldwide, many of whom reside in Illinois, have been peacefully resisting Soviet occupation of their land, deportation of their peoples and Russification of their culture. Shevchenko is indeed the Urkaine's national prophet in this struggle.

I am completely committed to self-determination and freedom for the Ukraine. We must never forget the Ukrainian struggle. For, when we support the people of the Ukraine, we support the pursuance of liberty in the United States and everywhere. And when we continue our support of the Ukraine, we know that one day freedom will come to the Ukraine. As Shevchenko wrote, the Ukraine awaits its own General Washington!

FORMATION OF CAPITAL GAINS COALITION

● Mr. BOSCHWITZ. Mr. President, I rise today to announce the formation of a capital gains coalition whose membership includes Senators and Representatives interested in capital gains reform to encourage long-term savings and investment. The first meeting of the coalition, as yet unnamed, was March 1, 1988. I am very pleased to report that there is bipartisan support for capital gains reform. Charter members in the coalition include Senator EVANS, Senator WALLOP, Senator KASTEN, Representative DREIER, Representative MORRISON, and Representative AUCOIN. Not a bad start for an initial meeting.

Few people realize that broad support for reduced capital gains rates exists on both sides of the aisle, Republicans and Democrats. Indeed, if capital gains reform is ever to have a chance it must have the support of the Members in both parties. The coalition will attempt to organize that support so that we speak with one voice about the need for legislative action.

The objectives of the coalition are very simple: Increase bipartisan support for capital gains reform; educate Members of the House and Senate on the merits of reduced capital gains rates; and provide a forum for the discussion of alternative approaches to capital gains.

As I have said many times before, the 1986 Tax Reform Act will do a great deal to encourage entrepreneurial activity. But I strongly disagreed with the elimination of the capital gains exclusion. Indeed, Senator ALAN CRANSTON and I led the fight in the Senate to preserve the exclusion. It can't help but have a serious detrimental effect on capital formation and investment in this country. Not only that, because most of our international competitors enjoy a complete exemption from tax on capital gains, you begin to understand how it is those countries have come so far so quickly in developing their economies.

The first priority of this coalition is to attract Members who support capital gains reform. Therefore, I invite my colleagues, both Republican and Democrat, to become members. Broad participation will ensure that all aspects of the issue are considered. In this way we all will be in a better position to represent our constituents when we are asked to vote on this issue in the future.

Mr. President, I am very encouraged by the support for capital gains reform that is building in Congress. I am convinced this is an issue we can resolve in a constructive and positive manner. I am certain that the capital gains coalition will contribute positively to the debate.●

SISTER MAURICE CROWLEY

● Mr. DASCHLE. Mr. President, St. Patrick's Day this year will have special meaning to thousands of people whose lives have been affected by one special person. Her name is Sr. Maurice Crowley. For the Student Senate at Presentation College in Aberdeen, SD has officially proclaimed it as "Sr. Maurice Day."

I commend the student senate for having done so. They have very good reason. In all my years, I have never met a more memorable or unique person than Sr. Maurice Crowley.

The first line of an old Irish song goes: "When Irish eyes are smiling, all the world is bright and gay!" Sr. Maurice epitomizes that song. Her smile, her laughter, her wit, and her warmth is like sunshine on a gray day. Never have I met someone who so radiated good and who so capably lifts life's burdens when one is around her. For four decades, she has devoted her life to education. Over that time, her laughter and lifelong philosophy of joy has permeated the minds and hearts of countless students, audiences, and colleagues. With a charm only afforded the Irish, yet even more uniquely to her, she has touched the lives of every person with whom she has come into contact. As one of her first grade students more than 30 years ago, I am but only one.

With characteristic humor, Sr. Maurice tells friends that when she was young she wanted to be a temple of the Holy Spirit. She then says that God made her "a basilica, instead!"

Temple or basilica, there is no doubt that God created someone wonderfully unique and broke the mold immediately afterward. Ever since, those of us whose lives she has touched have never been the same.

Therefore, I join with all of those who know and love her in celebrating March 17, 1988 as "Sr. Maurice Day!"●

COMMUNITY DEVELOPMENT BLOCK GRANTS

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD.)

● Mr. GORE. Mr. President, the Community Development Block Grant (CDBG) program has a solid record of benefits for cities and communities across the country, as well as for the

Nation as a whole. Funds made available through CDBG have been used for a variety of purposes, most notably housing rehabilitation and neighborhood and community improvements for low-income citizens. In many rural areas, CDBG is the only possible source of funding for infrastructure projects needed for job creation or better housing.

But CDBG is much more than a "bricks and mortar" program. As the American Planning Association points out, it funds an array of critically needed social services for low-income persons, including day care centers, health care and emergency food distribution programs, job training and placement services, drug abuse prevention centers, delinquency prevention programs, maintenance assistance to elderly homeowners, and minority economic development initiatives.

In recent years, CDBG, like so many other economic and community development programs, has faced severe cuts. Once again this year, the Reagan administration has pursued its acknowledged policy of cutting the Federal Government's investment in cities, towns, and counties. In the administration's budget proposal for 1989, the CDBG program is scheduled for another cut. Funded at $2.88 billion in 1988, CDBG would be cut to $2.6 billion under this plan, including a transfer of $145 million from the section 312 Rehabilitation Loan Fund, which would be terminated.

Mr. President, I have been a staunch supporter of CDBG since my first year in Congress. Because of the benefits of this program, I cosponsored legislation in the last two Congresses to reject the administration's proposed recissions of CDBG funding. I urge my colleagues once again this year to reject unnecessary cuts in this program. CDBG is an investment, and a wise one, in the Nation's cities, towns and counties.

To demonstrate the value of CDBG to Tennessee and other parts of the Nation, I ask that a letter I received from the county executive of Roane County, TN, be printed in the RECORD at this point.

The letter follows:

OFFICE OF THE COUNTY EXECUTIVE,
Kingston, TN, February 26, 1988.

Senator ALBERT GORE, Jr.,
Washington, DC.

Re: Community Development Block Grant Funds

DEAR SENATOR GORE: As a recipient of CDBG funds, we want to let you know the enormous benefits that our County receives from this program and let you know how much we support this program.

Within the last several years we have seen direct benefits to our low and moderate income citizens through the following CDBG grants for jobs, services and infrastructure:

Emory Gap Housing Rehabilitation project	$1,348,000
Great Lakes Carbon loan	333,650
Midtown Sewer project	324,000
Michael Dunn Center	225,000

Indirect benefits have been received by all the citizens of Roane County. The infrastructure, housing rehabilitation and Revolving Loan Fund programs have been our key to reversing economic disasters caused by the closing of several large companies in Roane County and most of the high paying jobs went down with them.

With the absence of Revenue Sharing Funds, such badly needed projects as listed above could not be funded locally. Predominantly rural counties such as Roane County could not fund projects such as these on our existing tax base. With so many avenues for revenue closing to local governments, competition between the counties and cities for CDBG funds has become fierce. These funds have helped us reverse the high unemployment caused by plant closings. However, we continue to be plagued with a high level of underemployment of our citizens in Roane County.

Since 1981, the federal budget has reduced CDBG funding from $4 million to $2.88 million, at the very time these funds should have been increased.

The Tennessee Department of Economic and Community Development is doing an excellent job administering these funds. Their professionalism and positive attitude is admired by us and industries from all over the country who are interested in doing business in Tennessee.

We need your help and support. Any effort on your part to prevent budget cuts on the CDBG program will be greatly appreciated.

Yours truly,

KEN YAGER,
County Executive. ●

NATIONAL LABORATORIES

Mr. DOMENICI. Mr. President, Members of the Senate, I have come to the floor a number of times to praise the work going on in our system of national laboratories. I have spoken of the national laboratories as America's secret weapon in the world economic competition.

I have suggested to my colleagues that we unlock this resource, that we use these national laboratories for more and more scientific challenges. Once again, these national laboratories—in particular, I will speak of one tonight—have proved me right. Sandia National Laboratory in Albuquerque, NM, one of our three so-called nuclear laboratories, has just announced a breakthrough in computer technology that may well be the most exciting and important advance in decades. This advance, which is discussed in detail on page 1 of the Washington Post today, provides far faster computer times than scientists dared to believe.

These scientists have created a method for doing in 1 hour what would take 1,000 hours, over 40 days, on the best computers available today, the super computers of today. Let me repeat that. The scientists in Albuquerque, NM, at one of our national laboratories, have created a method for doing in 1 hour what would take 1,000 hours, over 40 days and nights, on the best super computers available today.

I doubt that we even have the capacity to guess here this evening the importance of such an advance, such a leap forward in the technology and essentially in the technology of knowledge. And it happened, of course, as I indicated in one of our great national laboratories.

The problem, Mr. President, will be in taking that knowledge, that breakthrough and building American-made products with it. That is why I am excited about the prospects for a bill which many have helped me with, called S. 1480. I have introduced it heretofore, and I have recently considered comprehensive amendments by way of a substitute. This legislation not only will accelerate scientific advances but will get those breakthroughs onto the production line in the United States by enhancing and increasing the cooperation between the national laboratories, the private sector, and the universities of this great country.

The intent of this legislation is to make ideas conceived in the minds of our engineers and scientists quickly turn into products that consumers need and want. The national laboratories, one of our Nation's great but underutilized resources, can help do this.

I believe these laboratories are profoundly qualified to serve as the catalyst that brings a new era of cooperation in engineering and science between our universities, our private sector, and our industries.

The citizens of our great Nation will benefit through the number of jobs that will ultimately be created in industry by products developed in this effort. We believe that our economy will benefit because we expect this action will help produce new products which will in turn reduce our trade deficit by making us more competitive in the international marketplace.

This amendment which I briefly discussed has four titles, ones that emphasize superconductors, mapping the human genome, semiconductors, and, of course, the idea of technology transfer between the national laboratories, the universities, and essentially our private sector.

Each has great potential. I want to speak for just a few moments now on semiconductors.

Semiconductors are already the basic building block of a $300 billion annual business. Conservative estimates conclude that electronic sales will grow by another $600 billion in the next 12 years.

Computers are a major component of electronics sales. Much of the $600 billion growth will be in computer sales.

Much of the research called for in this bill will advance computer technology. Another area that is also having dramatic impact on computers is called parallel processing. In parallel processing the computer performs several parts of a problem at the same time rather than each step waiting on completion of a previous step. This is the area in which Sandia has made their breakthrough.

What is so exciting is that this advancement has increased computing speed by 1,000 times; most of the experts believed that no more than a factor of 100 would ever be possible.

This advancement makes practical the solution of important problems that would require years to analyze on ordinary computers.

I would like to personally congratulate my close friend Irwin Welber, president of Sandia National Laboratories, and all the scientists and engineers who contributed to this important advancement. I want to encourage the DOE and Sandia National Laboratories to transfer this technolgoy to U.S. private industry where it can help in the competition for international markets.

America is the Nation of scientific achievement. This new computer advance proves that. We must make certain that it also is the Nation of engineering achievement.

I ask unanimous consent that the article, "New Computer Works 1,000 Times Faster," published on the front page of today's Washington Post, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 14, 1988]

NEW COMPUTER WORKS 1,000 TIMES FASTER

(By Boyce Rensberger)

Scientists at Sandia National Laboratory in New Mexico announced yesterday that they have developed a supercomputer that can solve complex scientific problems 1,000 times faster than a normal computer a rate far faster than scientists believed possible.

The new "hypercube massively parallel supercomputer" consists of 1,024 processors—each the micro-chip equivalent of a single, ordinary computer—linked so that they work simultaneously, or "in parallel," on separate parts of one massive problem, Sandia scientists said in a report embargoed until last night.

The advance opens the way for scientists to tackle some of the most intricate practical problems they face, such as weather prediction. Accurate long-range forecasts must take into account thousands of detailed, continually changing phenomena.

The new supercomputer could also deal with other practical problems such as how pollutants are dispersed in the atmosphere or coolants are circulated in a nuclear power plant.

"We think it's a very exciting result," Bill Gear, head of the department of computer science at the University of Illinois, told the Associated Press. Gear, president of the Society for Industrial and Applied Mathematics and managing editor of its journal, said he has read the paper Sandia scientists submitted to the journal on the break-through last week.

Normally it takes two years from submission of an article to its publication, he said. However, he said, he will try to publish the supercomputer paper by July.

Parallel computers are envisioned as the centerpiece of the next stage of progress in supercomputing. A top-of-the-line Cray supercomputer, often considered the most powerful model on the commercial market, contains four parallel processors. Cray has designed a 16-processor model but it not yet being sold.

Experimental computers with up to 256 processors have been developed at various research centers but none has achieved speedups in proportion to the number of processors, which is what the Sandia scientists said they have done with the computer they call "massively parallel."

The Sandia computer can solve a large problem more than a 1,000 times faster than could an ordinary computer. The feat demolishes a long-accepted belief that there is a limit to how much speedup was possible with parallel computers. It had been thought that improvements of 50- to 100-fold were about the best that could be achieved, no matter how many processors were linked.

The new computer was asked to calculate the detailed stresses and strains throughout a solid metal beam under a load, a standard type of problem used to test supercomputers. The Sandia machine completed the test after running for a week, 1,019 times faster than the 20 years it would have taken an ordinary computer.

"We have achieved results that most computer scientists thought impossible a couple of years ago," said John L. Gustafson, a Sandia computer scientist involved in the project. Others involved included Robert E. Benner, Gary R. Montry and David Womble.

Although technically sophisticated for computers, the idea behind parallel processing is simple. Ordinary computers have one processor—usually a single microchip, or integrated circuit—that can work on a problem only one step at a time. Parallel computers divided the problem into smaller parts and assign each part to one of many processors working simultaneously.

Many factories and businesses routinely break down an overall task into many separate, simultaneous steps in the same way a parallel process computer does. The construction of a house is an example. If only one worker were involved, he or she would have to do one thing at a time—bricklaying, plumbing, wiring, roofing and so on. Since almost none of these jobs depends on another being done first, the house could be finished sooner if each job were done at the same time by separate workers—as it generally is.

The trick to parallel processing in a computer, according to Edwin H. Barsis, director of computer sciences at Sandia, is developing the programming that can break a scientific problem into pieces that can be worked on simultaneously. The software identifies all the steps that need to be done to solve a problem, assigns the relevant data and programming to each processor and then assembles the results into a final product.

The belief that there was a limit to the speedup that could be gained by parallel processing came from the fact that there would always be some part of the work that could not be subdivided and which took longer than any other part. The computer could be no faster than it took to process its largest unit of work. Speedups of 50 to 100 were thought to be near the theoretical maximum, no matter how many processors were used.

Barsis said Sandia exceeded this limit both through clever programming and by tackling much larger problems than had been envisioned before. Bigger problems have more pieces that can usefully be assigned to individual processors.

"Hypercube" refers to the way the processors are linked in Sandia's computer. The ideal is to have a direct line from each processor to every other one, so that all can "talk" directly to one another. That complete a link, however, poses an unwieldy wiring problem and the hypercube is an optimal compromise.

In an ordinary cube there would be one processor at each of the eight corners, linked by lines along each edge. A hypercube consists of any number of cubes inside of cubes. Each corner of an inside cube is linked to the nearest corner of the next cube out.

ORDERS FOR TUESDAY

RECESS UNTIL 10:30 A.M.

Mr. BYRD. I ask unanimous consent, Mr. President, that the Senate, when it completes its business today, stand in recess until the hour of 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE PRIOR TO VOTE ON CLOTURE MOTION

Mr. BYRD. Mr. President, under the order that has been entered, could Senators offer second-degree amendments up to the time the vote on cloture begins, to wit, 11:30 a.m. tomorrow?

The PRESIDING OFFICER. One hour before the vote.

Mr. BYRD. Then I ask unanimous consent, Mr. President, that Senators may be permitted to file amendments in the second degree to the amendments which have already been filed in the first degree at any time during the 1 hour preceding the vote on cloture tomorrow up to and including the point where the vote begins.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the time under the rule, 1 hour tomorrow, be equally divided and controlled between and by the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that during the time tomorrow, prior to the vote on cloture, no motion, no amendment, no action of any kind be in order, other than debate, which is not action. No action be in order, but only debate be in order during that 1 hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. The reason I make that request is the leadership will be at the White House, it is my understanding, tomorrow, and I think it best the leadership protect the Senate against unforeseen motions or other actions which might occur while the leadership is away.

So have I adequately protected the leadership against all motions or any other actions?

The PRESIDING OFFICER. The leader has.

Mr. BYRD. I thank the Chair.

Mr. SIMPSON. Mr. President, we have effectively protected ourselves against ourselves. I want to thank the majority leader for his efforts today on behalf of Senator KENNEDY and myself. I hope it will be resolved, and if not, it surely will be resolved by the will of the Senate at some point.

Without his steady patience and geniality, that situation would not come to pass as it did today. Tomorrow is another story. But I thank the majority leader very much for his assistance to the floor manager, to Senator KENNEDY, and to myself. It was very helpful in a difficult situation.

Mr. BYRD. Mr. President, I thank the distinguished acting Republican leader. I also wish to thank the Chair, the distinguished Senator, Mr. ADAMS, who is presiding. I compliment him concerning his responses to my parliamentary inquiries.

PROGRAM

Mr. BYRD. Mr. President, the Senate will convene tomorrow at 10:30 a.m. following a recess. There will be 1 hour of debate on the motion to invoke cloture on S. 1721, the intelligence oversight bill. That time will be equally divided between the two leaders or their designees. No motions or actions of any kind will be in order during that 1 hour. The 1 hour will be limited to debate only.

At 11:30 a.m. tomorrow, the Senate will vote on the motion to invoke cloture. The mandatory quorum has been waived, but a unanimous-consent request has been entered and agreed to that will allow Senators to offer second-degree amendments to the first-degree amendments that have been already appropriately filed. In the event cloture is invoked, then those second-degree amendments will be in order. If cloture is invoked, the Senate will continue action on the intelligence oversight bill to the exclusion of all other business until action on that bill has been completed.

Upon the disposition of that bill, then the Senate will return to the consideration of the immigration legislation that will have been temporarily held in abeyance by virtue of the cloture vote. At that time, no amendments other than—am I accurate in saying one amendment?

The PRESIDING OFFICER. That is correct. The majority leader has made in order the one amendment by the Senator from Alabama, Mr. SHELBY.

Mr. BYRD. Yes. No other amendments other than the one amendment by Mr. SHELBY will be in order, and no motions to recommit with instructions will be in order.

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. Which means that no amendments to a motion to recommit with instructions would be in order, because the motion to recommit with instructions is made out of order by virtue of the request granted. Hopefully final passage on that bill will occur tomorrow.

In the event, Mr. President, that the Senate proceeds tomorrow to vote on final passage of the immigration bill, I ask unanimous consent that debate thereon be limited to not to exceed 30 minutes, the time to be equally divided between Mr. KENNEDY and Mr. SIMPSON.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. BYRD. Mr. President, anent the order that was just entered providing for no more than 30 minutes debate on final passage of the immigration bill in the event the Senate goes to a final vote tomorrow, I ask unanimous consent that that time limitation obtain whether or not the Senate goes to a vote tomorrow. At such time as the Senate does go to a vote on the immigration bill, I ask unanimous consent that the time for debate thereon be limited to 30 minutes to be equally divided between Mr. KENNEDY and Mr. SIMPSON.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Is there objection? Without objection, it is so ordered.

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10:30 tomorrow morning.

The motion was agreed to; and at 7:38 p.m. the Senate recessed until tomorrow, Tuesday, March 15, 1988, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 14, 1988:

DEPARTMENT OF STATE

GEORGE ARTHUR TRAIL III, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALAWI.

INTER-AMERICAN FOUNDATION

M. ALAN WOODS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 1992, VICE M. PETER MCPHERSON.

DEPARTMENT OF DEFENSE

GORDON A. SMITH, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE DONALD C. LATHAM, RESIGNED.

WILLIAM LOCKHART BALL III, OF SOUTH CAROLINA, TO BE SECRETARY OF THE NAVY, VICE JAMES H. WEBB, JR., RESIGNED.

THE JUDICIARY

JAMES R. MCGREGOR, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA, VICE HUBERT I. TEITELBAUM, RETIRED.

DEPARTMENT OF JUSTICE

STANLEY J. GLOD, OF VIRGINIA, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 30, 1988, VICE BOHDAN J. FUTEY, RESIGNED.

DEPARTMENT OF TRANSPORTATION

EDWARD R. HAMBERGER, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION, VICE REBECCA GERNHARDT RANGE.

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

BARRY M. GOLDWATER, JR., OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM OF 6 YEARS, NEW POSITION.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

RICHARD V. BACKLEY, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF 6 YEARS EXPIRING AUGUST 30, 1994, REAPPOINTMENT.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR TERMS EXPIRING DECEMBER 10, 1993:

MARGARET TRUMAN DANIEL, OF NEW YORK (REAPPOINTMENT).

GARY EUGENE WOOD, OF TEXAS: VICE GLORIA ANN HAY, TERM EXPIRED.

NATIONAL MEDIATION BOARD

WALTER C. WALLACE, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR THE TERM EXPIRING JULY 1, 1990 (REAPPOINTMENT).

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM OF YEARS PRESCRIBED BY PUBLIC LAW 99-498 OF OCTOBER 17, 1986 (NEW POSITIONS):

GAIL BIRD, OF NEW MEXICO
EDITH COLVARD CRUTCHER, OF KANSAS
ROY M. HUHNDORF, OF ALASKA
JAMES COURTNEY JENNINGS, OF VIRGINIA
WILLIAM STEWART JOHNSON, OF THE DISTRICT OF COLUMBIA
DUANE H. KING, OF OKLAHOMA
ALFRED H. QÖYAWAYMA, OF ARIZONA
BEATRICE RIVAS SANCHEZ, OF MICHIGAN
JAMES D. SANTINI, OF NEVADA
IRVING JAMES TODDY, OF ARIZONA

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE NATIONAL MUSEUM SERVICES BOARD FOR THE TERMS INDICATED:

FOR A TERM EXPIRING DECEMBER 6, 1991:

ARTHUR C. BEALE, OF MASSACHUSETTS, VICE ANN DUNCAN HAFFNER, TERM EXPIRED.

FOR A TERM EXPIRING DECEMBER 6, 1992:

WILLARD L. BOYD, OF ILLINOIS, VICE PETER H. RAVEN, TERM EXPIRED.

DEPARTMENT OF JUSTICE

DAVID E. BALDELLI, OF TEXAS, TO BE U.S. MARSHAL FOR THE NORTHERN DISTRICT OF TEXAS FOR THE TERM OF 4 YEARS VICE CLINTON T. PEOPLES, TERM EXPIRED.

IN THE COAST GUARD

THE FOLLOWING RESERVE OFFICERS OF THE UNITED STATES COAST GUARD RESERVE FOR PROMOTION TO THE GRADE OF CAPTAIN:

JOHN M. JACOBS III
WILLIAM L. GILES
EDWARD R. WILLIAMS

THE FOLLOWING RESERVE OFFICERS OF THE U.S. COAST GUARD RESERVE FOR PROMOTION TO THE GRADE OF COMMANDER:

EUGENE S. ALTENA
GEORGE R. MCNIFF, JR.
DANIEL V. RILEY, JR.
ROBERT W. MCELMOYLE
GEORGE J. SANTACRUZ

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF LIEUTENANT:

PERRY J. COLBURN

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF LIEUTENANT (JUNIOR GRADE):

CHRISTOPHER N. ZENDAN
GLENN F. GRAHL, JR.
ROBERT A. HILDIE
ANNE L. BURKHARDT
THOMAS M. MIELE
EDDIE JACKSON III
WILLIAM J. MILNE
GREGORY W. BLANDFORD
WILLIAM E. THOMPSON
DOUGLAS C. LOWE
ALLEN B. CLEVELAND

PURSUANT TO THE PROVISIONS OF 14 USC 729, THE FOLLOWING NAMED LIEUTENANT COMMANDERS OF THE COAST GUARD RESERVE TO BE PERMANENT COMMISSIONED OFFICERS IN THE COAST GUARD RESERVE IN THE GRADE OF COMMANDER.

VINCENT J. SPAGNOLO
THOMAS E. BREI
JOSEPH H. FIELD
THOMAS W. BARTO
RONALD L. FOSTER
SETH J. HUDAK
KENNETH D. PALMER
ANDREW J. MCDONOUGH
NORBERT J. NORMAN
TIMOTHY C. FARLEY
ANTHONY J. ARTINO
DAVID R. STRAETEN
RAYMOND G. MAGNO
DAVID S. SMITH
MICHAEL J. PERPER
CHARLES L. CARTER
HOKE S. THOMAS
MARK E. GOLDMAN
EDWARD D. BROPHY
ARCHIE T. SMITH
ROBERT J. PAPP, SR.
EDDIE L. WALKER
MICHAEL J. RAUWORTH
RALPH S. VOORHIES
BRUCE BELOUSOFSKY
THOMAS J. JOHNSON
KATIE D. TUCKER
ALLEN R. SHOAFF
ROBERT G. MOST
STEPHEN T. BURCH
JOHN T. MILLER
ROBERT E. HAGLUND
MELVIN H. DEMMITT
CHARLES T. BARRETT, JR.
DENNIS J. GILLESPIE
JERRY D. DAVIS
STEVEN M. BERGERON
MARY P. O'DONNELL
WILLIAM F. BAITY
EVELYN M. SHEPARD
DAVID V. EDLING
RONALD L. MURRAY
ROBERT K. ANDERSON
JAMES M. BEGIS
DANNY E. LEMON
THOMAS E. GALLAGHER
STEPHEN J. BUKOWY
GREGORY S. CHAPMAN
MICHAEL D. ELLIOTT
BRUCE P. AUSTIN
ROBERT S. GUDKNECHT
KENNETH M. NORRIS
HARRY F. GWYNNE

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JAMES R. BROWN, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. MURPHY A. CHESNEY, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. DAVID L. NICHOLS, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JIMMIE V. ADAMS, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. THOMAS G. MCINERNEY, 336-30-8725FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8036, TO BE SURGEON GENERAL OF THE AIR FORCE:

To be surgeon general, USAF

MAJ. GEN. MONTE B. MILLER, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THEN LIEUTENANT COLONEL:

LINE OF THE AIR FORCE

ALLAN L. SWAIN, JR., [redacted]

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTIONS 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED, PROVIDED THAT IN NO CASE SHALL ANY OF THE FOLLOWING OFFICERS BE APPOINTED IN A GRADE HIGHER THAN LIEUTENANT COLONEL:

CHAPLAIN

BERNARD J. GROCHOWSKI, [redacted]

NURSE CORPS

PATRICIA C. STRADLEIGH, [redacted]
ANGELA L. WATWOOD, [redacted]

MEDICAL SERVICE CORPS

THOMAS A. PETERS, [redacted]

BIOMEDICAL SCIENCES CORPS

ERNEST H. OERTLI III, [redacted]

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 FOR THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE (EFFECTIVE DATES FOLLOW SERIAL NUMBERS).

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. WILLIAM R. ALBAIR, [redacted] 10/4/87
MAJ. MICHAEL J. BEBON, [redacted] 10/17/87
MAJ. CHARLES C. BETTS JR., [redacted] 9/20/87
MAJ. JOHN V. BEYER, [redacted] 10/4/87
MAJ. ERNEST W. BROUGH, [redacted] 11/10/87
MAJ. ARTHUR H. BRYAN III, [redacted] 10/23/87
MAJ. DONALD E. CAIN, [redacted] 9/16/87
MAJ. JOHN J. CONTI, [redacted] 9/12/87
MAJ. BRIAN R. CRANSTON, [redacted] 11/7/87
MAJ. BRENT L. DANNER, [redacted] 10/28/87
MAJ. HENRY C. FRISBY, [redacted] 10/13/87
MAJ. CHARLES L. HARRISON, [redacted] 11/7/87
MAJ. WILLIAM E. HAYMES, JR., [redacted] 11/8/87
MAJ. GARY T. HEDSTROM, [redacted] 10/4/87
MAJ. VICTOR H. HORTON, [redacted] 8/27/87
MAJ. ERIC L. JOHNSON, [redacted] 9/25/87
MAJ. DONALD S. LOVISONE, [redacted] 11/4/87
MAJ. JOHNNY P. MARCEAU, [redacted] 10/23/87
MAJ. JOSEPH J. POLITO, [redacted] 11/19/87
MAJ. MARVIN L. RIDDLE, [redacted] 11/18/87
MAJ. HARRY J. ROUYER, JR., [redacted] 11/19/87
MAJ. ROY J. SHETKA, [redacted] 10/21/87
MAJ. WILLIAM L. SIBLY, [redacted] 11/8/87
MAJ. PAUL E. VLIEK, [redacted] 11/2/87
MAJ. LAWRENCE H. WOODBURY, [redacted] 10/17/87
MAJ. JAMES R. WYNNE, [redacted] 10/22/87
MAJ. KENNETH G. YEAGER, JR., [redacted] 11/7/87

BIOMEDICAL SCIENCE CORPS

MAJ. KENNETH VANDERZEYDE, [redacted] 10/4/87

IN THE ARMY

THE FOLLOWING-NAMED INDIVIDUALS FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 3353 AND 593:

MEDICAL CORPS

To be colonel

ROBERT C. ANDERSON, [redacted]
ROBERT L. CORN, [redacted]
RAMON B. GUSTILO, [redacted]
ERNEST L. MAZZAFERRI, [redacted]
FRANCIS N. MORTENSON, [redacted]
WILLIAM D. YOUNG, [redacted]

To be lieutenant colonel

JAMES I. ABBENHAUS, [redacted]
GARY R. ALBERTSON, [redacted]
ERDOGAN Y. BAYSAL, [redacted]
RONALD E. BURNAM, [redacted]
ROBERT T. GUELCHER, [redacted]
DELBERT L. HESKETT, [redacted]
WILLIAM H.B. HOWARD, [redacted]
JOHN M. JOHNSON, [redacted]
JAMES A. LEE, [redacted]
MONTE S. MELTZER, [redacted]
RICHARD S. PANUSH, [redacted]
THOMAS S. PARVIN, [redacted]
EDWARD M. PORTMAN, [redacted]
JOHN E. QUAST, [redacted]
SALVADOR M. RAMIREZ, [redacted]
JAMES R. SCHUFT, [redacted]
FRANCISCO H. SUAREZ, [redacted]
HUGH D. THORFINNSON, [redacted]
CARLOS A. TRONCOSO, [redacted]
KENNETH G. TORRINGTON, [redacted]
ROBESPIERRE T. TUMBOKON, [redacted]
SIDNEY A. VINALL, [redacted]
PAUL A. WEHRUM, [redacted]
HERBERT M. WEINMAN, [redacted]
ROBERT M. WILSON, [redacted]

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES ARMY IN ACCORDANCE WITH THE APPROPRIATE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

ARMY

To be lieutenant colonel

THOMAS M. LONGAZEL, [redacted]

To be major

DWIGHT B. VARLEY, [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF MAJOR, UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

FREDERICK C. JENKS

IN THE NAVY

THE FOLLOWING NAMED EX-U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

WILLIAM M. ASHER
CARL G. BUSH

THE FOLLOWING NAMED EX-U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

ROBERT D. WALKER

THE FOLLOWING MEDICAL COLLEGE GRADUATE TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

DANIEL W. NIXON

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT LIEUTENANT IN THE MEDICAL CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

RICHARD D. BALK
DONALD R. BEBB
COLIN BERRY
BARBARA A. BURR
DAVID M. CASTELLAN
RICHARD S. DOHODA
PAUL S. HAMMER
JEFFREY M. HARDIN
BRETT B. HART
ERIC B. HERBERT
DANIEL E. HUHN
MOORE H. JAN
KAREN B. JOHANSEN
DAVID W. LEONARD
PAUL B. MITCHELL
ASA D. MORTON
MICHAEL P. MULDOON
DUANE J. NELSON
YVES NEPOMUCENO
ANDREW K. PARSONS
JOSEPH F. PASTERNAK
MICHAEL J. PESQUEIRA
DENNIS C. PRATT
DAVID A. RANDALL
BILLY G. REDMOND
KEVIN J. REED
STEVEN C. SCHALLHORN
RAYMOND E. SCHMIDT
ROBERT B. SIMPSON
STEVEN D. SMITH
THOMAS S. STONUM
FAY Y. SUNADA
DAVID A TAM
HEIDI A. TERRIO
GLENN F. THIBAULT
LEE P. TOCCHI
GAVIN S. YOUNG
JAMES W. ZACOVIC

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

SHERMAN BALDWIN
CHRISTOPHER A. BLOW
DAVID S. GILMER
BRADFORD S. NEFF
MARCUS A. PRITCHARD
PETER A. ROGERS
CHARLES R. SELLMAN
EVAN A. SMITH
KELLY B. WILLIAMS

THE FOLLOWING-NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

DAVID C. BARTON
COLEMAN A. MOSLEY, JR.

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531.

GEORGE R. ADAMS
JEFFREY E. ANDREWS
LAYNE M. ARAKI
THOMAS M. BACON
JOHN J. BENOIT
JEFFREY R. BIER
RICHARD G. BRANTLEY
RONALD E. BRITZIUS
FREDRICH A. CLARK, JR.
RAYMOND L. COOPER
R. CRAIG COURTNEY
JOE M. CROSSETT
KARL V. DAMBROSIO
JAMES E. DUFFY
SCOTT C. DYSERT
ANTONIO M. EDMONDS
CAMERON R. ELLIOT
CRAIG D. FRASER
JEFF A. GREEN
SCOTT L. HAWKINS
DAVID W. HEGLAR
MICHAEL P. HOLLAND
JOHN W. HOLSHOUSER
JOHN F. HUBBARD
JOSEPH H. KIM
JEFFREY H. KIRBY
KENNETH R. KRUCIAK
MICHAEL W. LEWIS
EVERT T. LINDBERG
WILLIAM K. MCALLISTER
JEFFREY S. MEYER
MICHAEL G. MORROW
DAVID E. O'DONNELL
SHARON M. ORLANDO
DEXTER PHILLIPS
TIMOTHY B. ROONEY
KEVIN H. ROSS
WILLIAM A. SCHWALM
CHRISTOPHER J. SCORSE
EUGENE P. SIEVERS
FRED S. STIVERS
JEFFEREY L. SWAYNE
MIKEL H. THOMPSON
LISA A. WILDES
ANDREW C. WOOD
GREGORY S. YOUNG

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TRAINING CORPS PROGRAM CANDIDATE TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531.

RICHARD J. WAGONER

THE FOLLOWING-NAMED NAVY ENLISTED COMMISSIONING PROGRAM CANDIDATE TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531.

KATHRYN K. RANNO

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531;

BARRY W. ANDERSON
BRADLEY A. BERGAN
CHRISTOPHER A. BIGDEN
JOSEPH C. BLAKE
KENNETH E. CALLEN
MICHAEL P. CARTER
WILLIAM A. KELLEY
JEFFREY M. KINSEY
KENT A. MORIOKA
SEAN P. MURRY
WILLIAM L. STEVENS
ERIC K. WRIGHT
RICHARD K. WOOD II

THE FOLLOWING-NAMED EX-NAVAL RESERVE OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

KENNETH E. HOLSTEN

THE FOLLOWING-NAMED U.S. NAVY OFFICER TO BE APPOINTED PERMANENT CAPTAIN IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

BRUCE D. CARLSON

THE FOLLOWING-NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

EDGAR L. ALLPORT
PETER J. LUKOWSKI

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A GRADE HIGHER THAN THAT INDICATED.

MEDICAL CORPS

To be lieutenant colonel

JOSE B. BUENO, [redacted]
WILLIAM K. BUTLER, [redacted]
DENNIS W. FRANKS, [redacted]
THEODORE P. YURKOSKY, [redacted]

To be major

CHARLES T. MORTON, [redacted]
PETER J. SPOHN, [redacted]
RICHARD B. ZELLMER, [redacted]

To be captain

JAMES D. COLLIER, [redacted]
CLARENCE E. COTTON, JR., [redacted]

DENTAL CORPS

To be lieutenant colonel

ROBERT J. ACHTERBERG, [redacted]
MARVIN D. BELL, [redacted]
ROBERT K. GOODE, [redacted]
THOMAS E. LONG, [redacted]
JAMES E. MARR, [redacted]
JAMES G. MCCARTNEY, [redacted]
MICHAEL A. MIKITKA, [redacted]
DAVID T. MOHS, [redacted]
FREDERICK F. NOLAN, JR., [redacted]

To be major

DANIEL R. BOWMAN, [redacted]
DAVID B. BROOM, [redacted]
SCOTT C. DILORENZO, [redacted]
PAUL D. ENDTER, [redacted]
MITCHELL A. GOODIS, [redacted]
STEVEN R. HANSEN, [redacted]
THOMAS J. HILTON, [redacted]
KENNETH A. LEVIN, [redacted]
WILLIAM F. MESSNER, [redacted]
DAVID P. MJOS, [redacted]
IVAN E. NATION, [redacted]
CHARLES M. OLINGER, [redacted]
JASON M. RAMPTON, [redacted]
JOHN J. RICHTER, III, [redacted]
DOUGLAS P. ROCKWOOD, [redacted]
ROBERT L. RYLES, [redacted]
VALERIE SCHILLER, [redacted]
DANIEL A. SHALKEY, [redacted]
LESLIE M. SHIGETANI, [redacted]
MONTY R. THOMSON, [redacted]
PHILLIPS B. TRAUTMAN, [redacted]
MAURICE G. WOODARD, [redacted]

To be captain

ERIC J. BRENDLINGER, [redacted]
JOHN N. KUHRE, [redacted]
JAMES A. LOE, [redacted]
RICHARD W. MORGAN, [redacted]
BRENT E. NIKOLAUS, [redacted]
DAVID A. RENTON, [redacted]

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN THAT INDICATED.

LINE OF THE AIR FORCE

To be major

WILLOUGHBY G. BURNS III, [redacted]

THE FOLLOWING INDIVIDUALS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be lieutenant colonel

HARRY A. GUZMAN, [redacted]
JOHN E. HARVEY, [redacted]
YOUNG S. KHO, [redacted]
PAUL H. LILLY, JR., [redacted]
WILLIAM I. LUNDBERG, [redacted]
NORBERTO SILVA, [redacted]
JAMES C. THOMAS, [redacted]

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE ACTIVE DUTY LIST OF THE REGULAR AIR FORCE IN THE GRADE INDICATED UNDER THE PROVISIONS OF SECTIONS 1210 AND 1211, TITLE 10, UNITED STATES CODE:

LINE OF THE AIR FORCE

To be colonel

JACKIE L. COPELAND, [redacted]

THE FOLLOWING AIR FORCE OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be major

WILLOUGHBY G. BURNS, [redacted]
DONALD J. CARRICO, [redacted]

THE FOLLOWING AIR FORCE OFFICER FOR APPOINTMENT AS PERMANENT PROFESSOR, UNITED STATES AIR FORCE ACADEMY, UNDER THE PROVISIONS OF SECTION 9333(B), TITLE 10, UNITED STATES CODE.

To be specified later

ALAN R. KLAYTON, [redacted]

IN THE ARMY

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTION 3385:

ARMY PROMOTION LIST

To be colonel

HARVEY L. BELL, [redacted]
TONY E. BOYLE, [redacted]
MICHAEL W. BRENNAN, [redacted]
CHARLES B. CALLAWAY, JR., [redacted]
CHARLES E. CLIFTON, [redacted]
STEPHEN J. DANGERFIELD, [redacted]
MYRON W. DERBAUM, [redacted]
CHARLES G. DOUGLAS, III, [redacted]
RENE J. FERLAND, [redacted]
LOREN W. FRANKE, [redacted]
THOMAS E. GILBERTZ, [redacted]
EDWARD C. GRUETZEMACHER, [redacted]
WILLIAM J. HODNETT, [redacted]
DENNIS M. KENNEALLY, [redacted]
FRANCIS A. LADEN, [redacted]
GARY E. LEBLANC, [redacted]
WILLIAM G. LOWER, [redacted]
WILLIAM C. MC ADAMS, [redacted]
OWEN W. MOON, [redacted]
TIMOTHY E. NEEL, [redacted]
JAMES R. OLSON, [redacted]
JAMES L. PRUITT, [redacted]
ARTHUR W. RIES, III, [redacted]
STEPHEN R. ROBINSON, [redacted]
JOHN C. ROWLAND, [redacted]
STEVEN A. STRAWDER, [redacted]
KARL J. SWINDULL, [redacted]
WESLEY D. TLUSTOS, [redacted]
ALBERT J. TURNAGE, JR., [redacted]
WILLIAM A. WESTERDAHL, [redacted]

MEDICAL CORPS

To be colonel

JOHN D. FERGUSON, [redacted]

MEDICAL SERVICE CORPS

To be colonel

ENNISS E. BERRETT, [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

STEVEN E. ABEL, [redacted]
RAYMOND E. BECK, SR, [redacted]
WILLIAM T. BIGGERS, [redacted]
RODNEY N. BOUFFARD, [redacted]
FRANK A. BROWN, [redacted]
ALEXANDER H. BURGIN, [redacted]
ROGER B. BURROWS, [redacted]
JAMES B. CICHANSKI, [redacted]
PAUL M. COX, [redacted]
EMILIO DIAZCOLON, [redacted]
ARNOLD D. DROKE, [redacted]
GARY B. EDWARDS, [redacted]
BRENT S. EICHERS, [redacted]
FRIENDLY R. GEDDINGS, [redacted]
FREDRICK G. HARRISON, [redacted]
DENNIS J. HATFIELD, [redacted]
KENNETH R. HESTER, [redacted]
GEORGE HOLDEN, JR., [redacted]
PETER HOLMBERG, [redacted]
JACK L. HOWELL, [redacted]
ANDREW JOHNSON, JR., [redacted]
DENNIS A. KAMIMURA, [redacted]
WILLIAM A. KEEBLER, [redacted]
RICHARD L. KEMMING, [redacted]
WAYNE C. KOPPA, [redacted]
HUBERT H. LOGAN, [redacted]
JAMES R. LOWHAM, [redacted]
CARL R. LUNDEN, [redacted]
ROBERT W. MARTINSON, [redacted]
VERN T. MIYAGI, [redacted]
JAMES M. MOENCH, [redacted]
STANLEY D. PARKER, [redacted]
ARTHUR W. PERLEBERG, JR., [redacted]
LARRY G. POWELL, [redacted]
DOUGLAS A. PRITT, [redacted]
RONALD J. RENDE, [redacted]
LARRY W. SHELLITO, [redacted]
HENRY E. TINLEY, [redacted]
RONALD N. TOMAS, [redacted]
JERRY L. TROUT, [redacted]
ROGER R. TURCOTTE, [redacted]
ROY M. UMBARGER, [redacted]
DAVID M. WILSON, [redacted]
PAUL E. WILSON, [redacted]
RICHARD P. WOLFE, [redacted]
ROBERT F. WOOLLARD, [redacted]
JAMES L. YARRISON, [redacted]

CHAPLAIN

To be lieutenant colonel

DONALD W. BECKER, [redacted]
DEAN E. JOHNSON, [redacted]
RICHARD B. THOMPSON, [redacted]

MEDICAL CORPS

To be lieutenant colonel

RICHARD L. RUBIN, [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

KENT A. KAUTZER, [redacted]
RICHARD L. LAUER, [redacted]
ALVIN L. LIEVSAY, [redacted]
JOHN J. WEEDEN, [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTION 3383:

ARMY PROMOTION LIST

To be colonel

WILLIAM M. BOST, [redacted]
WILLIAM CASTRO, [redacted]
DANIEL J. DUFFY, [redacted]
ROBERT J. FISHMAN, [redacted]
RONALD D. GARRISON, [redacted]
JOHN C. HAWKINS, [redacted]
WARREN M. F. HO, [redacted]
MICHAEL W. HODGE, [redacted]
LEE E. KLEINMAIER, [redacted]
GARY A. LANGE, [redacted]
MICHAEL V. MARENGO, [redacted]
LAWRENCE L. SEMRAU, [redacted]
LAWRENCE A. SINKEWICH, [redacted]
KELLEY C. SMITH, [redacted]
JON M. VAN DYCK, [redacted]

MEDICAL CORPS

To be colonel

ABRAHAM M. PHILLIPS, [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

BRUCE A. ADAMS, [redacted]
JERRY L. ANDERSON, [redacted]
FRANK J. ANGYAL, [redacted]
CECIL R. BIGGERS, [redacted]
VERNON E. COLLINS, [redacted]
DUANE J. CRITHFIELD, [redacted]
JACK G. DEMES, [redacted]
LESTER C. ELLIS, [redacted]
WAYNE M. ERCK, [redacted]
FREDERICK H. FERNENGEL, [redacted]
LAWRENCE B. GRAF, [redacted]
JAMES W. HALL, [redacted]
LARRY N. HARPER, [redacted]
ALAN K. IWATA, [redacted]
CHARLES J. KERR, [redacted]
PIERRE A. KLEFF, JR., [redacted]
DAVID W. MAYES, [redacted]
LARRY D. MCGREW, [redacted]
DOUGLAS G. OUTLAW, [redacted]
JAMES H. PIETSCH, [redacted]
WILLIAM F. RADMAN, [redacted]
JAMES K. ROBERTS, JR., [redacted]
RICHARD S. RUSNAK, [redacted]
RICHARD M. TAIRA, [redacted]
DANNY S. TENGAN, [redacted]
CHARLES L. THOMPSON, [redacted]
STEPHEN D. TOM, [redacted]
THOMAS R. UHLER, [redacted]
MICHAEL N. WINDSOR, [redacted]
ALFRED E. ZEHNDER, [redacted]

CHAPLAIN

To be lieutenant colonel

ROBERT C. GILBERT, [redacted]
DAVID B. KENNEDY, [redacted]
PAUL E. STANEK, JR., [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

ALLEN N. HUNT, [redacted]
NEIL A. MORGANSEN, [redacted]
KURT M. SCHOENBERGER, [redacted]

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTION 3370:

ARMY NURSE CORPS

To be colonel

BRENDA K. CUMMINGS, [redacted]
HELEN L. FISHER, [redacted]
ELIZABETH G. GORMAN, [redacted]
HAZEL A. JOHNSON, [redacted]
LORRAINE B. JOHNSON, [redacted]
ELIZABETH C. KOSTER, [redacted]
JOAN LIMOGE, [redacted]
MILDRED K. NEUMANN, [redacted]
LOUISE T. PRUSSACK, [redacted]
MARCIA M. VANWAGNER, [redacted]
SANDRA L. VENEGONI, [redacted]
MARY J. WALSH, [redacted]

DENTAL CORPS

To be colonel

RONALD C. BERQUIST, [redacted]
CRAMER L. BOSWELL, [redacted]
WILLIAM T. BUCHANAN, [redacted]
JERRY L. CAPLES, [redacted]
TOMMY J. DAVIDSON, [redacted]
ALFRED J. DIFIORE, [redacted]
HAROLD L. FITTS, [redacted]
JOHN P. FLEMING, [redacted]
JOHN L. GIUNTA, [redacted]
JOHN A. JOHNSON, [redacted]
STANLEY M. KAUFMAN, [redacted]
RICHARD J. KEYSER, [redacted]
JOHN C. LATVIS, [redacted]
CONSTANTIN LEVANOS, [redacted]
NICHOLAS MANNARINO, [redacted]
JORGE H. MIYARES, [redacted]
WELDON T. NEAL, JR., [redacted]
JEFFREY J. NEMITZ, [redacted]
JOEL C. PIERCY, [redacted]
WILLIA SATTERFIELD, [redacted]
FREDER SCHOENBRODT, [redacted]
RONALD N. SINGERMAN, [redacted]
ALAN M. STROSBERG, [redacted]
WILLIAM A. WARD, [redacted]
JAMES W. WATSON, [redacted]

MEDICAL CORPS

To be colonel

JAMES D. BALES, [redacted]
ARTHUR D. BARNES, [redacted]
JOHN E. BARNETT, [redacted]
ROBERT J. BAUMER, [redacted]
ROBERT J. BOARD, [redacted]
ROBERT U. BREGMAN, [redacted]
HEINRICH A. BRINKS, [redacted]
PAUL W. BROADBENT, [redacted]
CHRISTINE L. BURNS, [redacted]
JOHN M. CAGE, [redacted]
JACK W. CHITWOOD, [redacted]
PETER CHODOFF, [redacted]
PATRICK K. C. CHUN, [redacted]
WILLIAM P. CIESLA, [redacted]
NORMAN G. COLE, [redacted]
ARTHUR M. COLVIN, [redacted]
LEONARDO DISHMAN, [redacted]
JOHN B. EDWARDS, [redacted]
TULIO R. FIGAROLA, [redacted]
DAVID R. GANDARA, [redacted]
JAMES S. GARRISON, [redacted]
LEWIS F. GOLD, [redacted]
CARL W. GRAVES, [redacted]
ROBERT B. GREENBERG, [redacted]
BASILIO M. GUANCO, [redacted]
ALLEN S. JOSEPH, [redacted]
PAUL H. KARSHNER, [redacted]
GEORGE KILPATRICK, [redacted]
URIEL A. LEE, [redacted]
JORGE A. LENTINO, [redacted]
CHARLES E. LIKEN, [redacted]
LAKE LITTLEJOHN, JR., [redacted]
WALLACE W. MARSH, [redacted]
JOSEPH E. MCMULLEN, [redacted]
CHRISTOP MICHELSEN, [redacted]
EUGENE T. MORITA, [redacted]
KENNETH L. NOLLER, [redacted]
MIGUEL OPPENHEIMER, [redacted]
MADISON W. PATRICK, [redacted]
DOUGLAS S. PATTON, [redacted]
TERRY E. PICK, [redacted]
MICHAEL M. RASKIN, [redacted]
KENDALL REED, [redacted]
THOMAS S. SCOTT, [redacted]
WILLIAM F. SHIVERS, [redacted]
HERBERT L. SKOGLAND, [redacted]
HARRY A. SNOWDY, [redacted]
STUART A. SOUDERS, [redacted]
THOMAS I. SOULE, [redacted]
RICHARD A. SPARR, [redacted]
CHARLES W. STRATTON, [redacted]
DENNIS M. SUICH, [redacted]
CHARLES THORNSVARD, [redacted]
THOMAS R. THURMAN, [redacted]
LAWRENCE G. TOMASI, [redacted]
ELIZABETH A. TOTH, [redacted]
JOSEPH WIERZEINSKI, [redacted]
BRIAN H. WILLIAMS, [redacted]
JOHAN T. ZWAAN, [redacted]

MEDICAL SERVICE CORPS

To be colonel

DANIEL B. AHERN, [redacted]
RICHARD C. ALBRIGHT, [redacted]
PAUL F. ANATER, [redacted]
DAVID G. ANDERSON, [redacted]
CLEVE E. ARNSTRONG, [redacted]
ROBERT L. BAKER, [redacted]
DAVID F. BAUTISTA, [redacted]
GLENN D. BEASLEY, [redacted]
DICK I. BELT, [redacted]
EDSON L. BENADUM, [redacted]
THOMAS G. BERTZ, [redacted]
GARY H. BIRD, [redacted]
TOMMY E. BLAKE, [redacted]
PAUL F. BRADICAN, [redacted]
MIC BRETTSCHNEIDER, [redacted]
TERRANCE BROSSEAU, [redacted]
WILLIAM J. CALDER, [redacted]
CHARLES J. CANTE, [redacted]
CHARLES A. CARROLL, [redacted]
CHARLES J. CARROLL, [redacted]
JOHN E. CHADWICK, [redacted]
LAWRENCE E. CHANCE, [redacted]
PHILIP E. CLARK, [redacted]
RONALD G. CONKLE, [redacted]
GARY B. COOPER, [redacted]
ARLIE COX, [redacted]
HARRY K. CRAFT, [redacted]
BARRY L. DAVISON, [redacted]
JOHN D. DAY, [redacted]
ROBERT D. DELGENIS, [redacted]
GERALD O. DIAL, [redacted]
RICHARD E. DOLLIVER, [redacted]
RICHARD A. DONLON, [redacted]
ALFRED L. DUBOSE, [redacted]
MARCUS H. DUNCAN, [redacted]
CLYDE W. DUTTON, [redacted]
KENNETH L. EICHHORN, [redacted]
MICHAEL S. ELLIOTT, [redacted]
ALTON B. FARRIS, JR., [redacted]
LAWRENCE FERAZANI, [redacted]
JOHN R. FLEMING, [redacted]
DONALD D. FRIES, [redacted]
RICHARD A. FUKUMURA, [redacted]
DANIEL E. FURTADO, [redacted]
NATHAN L. GERATHS, [redacted]
DAVID B. GILBERT, [redacted]
NARDIN S. GOTTFRIED, [redacted]
GARRY HAAS, [redacted]
RICHARD J. HERR, [redacted]
RICHARD L. HILL, [redacted]
DAVID A. HILLIARD, [redacted]
ROY K. HIROKAWA, [redacted]
WAYNE R. HOHMAN, [redacted]
RICHARD S. HOPKINS, [redacted]
D. L. HOSTETTER, [redacted]
JOHN L. HOWLETT, [redacted]
JERRY D. HUGGINS, [redacted]
ROBERT M. HULEY, [redacted]
LOWELL J. HURST, [redacted]
ELDON J. JAGER, [redacted]
RICHARD L. JARVIS, [redacted]
PETER F. JOHNSON, [redacted]
ROSS A. JOHNSON, [redacted]
JAMES D. JONES, [redacted]
RICHARD H. KENNEDY, [redacted]
HAROLD KIRKPATRICK, [redacted]
JAMES J. KRAMER, [redacted]
ROBERT M. LACHEEN, [redacted]
DOMENICO LAROSA, [redacted]
RONALD E. LARSON, [redacted]
DAVID D. LAUGHLIN, [redacted]
GERARD A. LOZEAU, [redacted]
NISHAN MALKASSIAN, [redacted]
WILLIAM E. MASSARO, [redacted]
JAMES MAY, JR., [redacted]
WILLIAM V. MCMULLEN, [redacted]
ALFRED MCWILLIAMS, [redacted]
ALLEN H. MIDDLETON, [redacted]
STANLEY I. MINTZ, [redacted]
GERALD R. MOSES, [redacted]
MICHAEL F. MULLINAX, [redacted]
JOHN S. MUNZINGER, [redacted]
TEDFORD C. NEWMAN, [redacted]
WILLIAM W. PAGE, [redacted]
RONALD B. PATTISON, [redacted]
HOWARD V. PAYTON, [redacted]
FRANK E. PEART, [redacted]
WILLIAM H. PENN, [redacted]
RICHARD D. PEPPLER, [redacted]
TERRY R. PETTERSON, [redacted]
JAMES E. PICKETT, [redacted]
JOHN J. PIECORO, [redacted]
CLAUDE C. POLK, [redacted]
JOHN H. RANDLE, [redacted]
ROBERT A. RAYNOR, [redacted]
LAURENCE V. REECE, [redacted]
RICHARD E. REPERT, [redacted]
JOSEPH H. ROLLE, [redacted]
GEORGE C. RUGEN, [redacted]
WILLIAM G. RYLANT, [redacted]
ALEXANDER SAMOFAL, [redacted]
DAVID E. SCOTT, [redacted]
MICHAEL S. SEALFON, [redacted]
WALTER E. SHAIN, [redacted]
JAMES D. SMARSH, [redacted]
JULIUS SMITH, [redacted]
JOEL P. SOMERICK, [redacted]
TYRONE L. STEEN, [redacted]
RICHARD D. STIRLING, [redacted]
MAURICE STONE, [redacted]
THOMAS M. SULLIVAN, [redacted]
JOHN L. SUTHERLAND, [redacted]
LEO A. THOMSEN, [redacted]
JOSEPH W. TONWEBER, [redacted]
JOHN T. TROUT, [redacted]
LAWRENCE TROUTMAN, [redacted]
ORIEN L. TULP, [redacted]
WILLIAM C. TURK, [redacted]
LARRY P. TURNER, [redacted]
LOUIS H. VETTER, [redacted]
JAMES O. WILLIAMS, [redacted]
CARLETON C. WRIGHT, [redacted]
WILLIAM C. WYATT, [redacted]
ANTHONY J. ZONNA, [redacted]

ARMY MED SPECIAL CORPS

To be colonel

MARY H. HUSTON, [redacted]
JUDITH A. MILLS, [redacted]
HAROLD D. SAUNDERS, [redacted]

VETERINARY CORPS

To be colonel

SIDNEY N. ALLEN, [redacted]
ARON G. BARCO, [redacted]
LEONARD H. BILLUPS, [redacted]
LEWIS S. BURGMAN, [redacted]
LEROY G. BURNHAM, [redacted]
KEITH A. CLARK, [redacted]
JOHN H. COLLAMER, [redacted]
PHILIP H. DAVIS, [redacted]
EDWARD I. GORDON, [redacted]
DONALD L. HARRIS, [redacted]
WHAYNE B. HILL, [redacted]
JOHN C. KEY, [redacted]
VIRGIL E. KUMMERO, [redacted]
RONALD MCLAUGHLIN, [redacted]
WILLARD B. NELSON, [redacted]
WILLARD G. NELSON, [redacted]
HERBERT J. SMITH, [redacted]
LEO G. STALEY, [redacted]
LESLIE P. WILLIAMS, [redacted]
EDWIN L. ZEMO, [redacted]

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTION 3366:

ARMY NURSE CORPS

To be lieutenant colonel

CAROL A. ABBOTT, [redacted]
CAROLYN E. ADAMS, [redacted]
SHIRLEY A. ADAMS, [redacted]
SHERRIL L. ADKINS, [redacted]
PATRICIA A. AFFE, [redacted]
PATRICIA AIRINGTON, [redacted]
EXZELIA O. ALFRED, [redacted]
CELIA A. ALLMAN, [redacted]
BARBARA T. ALSINA, [redacted]
LINDA S. ANDERSON, [redacted]

BEVERLEY ANGELILLO, [redacted]
CAROLYN C. APPLER, [redacted]
MYRNA L. ARMSTRONG, [redacted]
TERESA L. ASKREN, [redacted]
LINDA M. AZZATO, [redacted]
LEONARD G. BABCOCK, [redacted]
HELEN T. BAKER, [redacted]
DIANNE K. BALDWIN, [redacted]
ELAINE D. BARBER, [redacted]
JAY E. BARRETT, [redacted]
CAROLYN F. BARTLETT, [redacted]
MERLE R. BASHFORD, [redacted]
CAROLY BASKERVILLE, [redacted]
PATRICIA A. BEACH, [redacted]
VICKIE F. BEAHM, [redacted]
DONNA M. BEHLER, [redacted]
CARMEN L. BELLINGER, [redacted]
LINDA L. BISHOP, [redacted]
FLORA Y. BLACKLEDGE, [redacted]
LELIA BLANKENSHIP, [redacted]
DOROTHY F. BLEAU, [redacted]
MILAG BONILLAORTIZ, [redacted]
STEPHEN BORDEN, [redacted]
LISLE K. BOROM, [redacted]
SHARON E. BOROSKI, [redacted]
JILLANE M. BOSER, [redacted]
SUZANNE F. BOWDEN, [redacted]
CELIA Y. BRAMBLE, [redacted]
BARBARA L. BRATTON, [redacted]
CAROLYN BRAUDAWAY, [redacted]
MOLINDA L. BRINK, [redacted]
MARY B. BROWN, [redacted]
PATRICIA A. BROWN, [redacted]
KATHLEEN M. BUCKLEY, [redacted]
GEORGIA S. BUGGS, [redacted]
PHYLLIS A. BURROWS, [redacted]
JOANN G. BURTON, [redacted]
KATHRYN M. BUSE, [redacted]
KAREN A. BUSH, [redacted]
HARRIET K. BUSS, [redacted]
PAULETTE D. CABRAL, [redacted]
JANIS M. CAMPBELL, [redacted]
MARILYN L. CAMPOLA, [redacted]
MARIANNE O. CANADY, [redacted]
PATRICIA E. CARNEY, [redacted]
KARLENE CAROLIDES, [redacted]
JOYCE J. CASLEY, [redacted]
ELSIE E. CHAPMAN, [redacted]
PATRICIA CHATFIELD, [redacted]
DEBORAH J. CLARK, [redacted]
RITA M. CLARK, [redacted]
ELIZABETH COLEMAN, [redacted]
MARLYS J. CONNALLON, [redacted]
BRENDA COOK, [redacted]
SUSAN G. COOKSEY, [redacted]
KATHLEEN CORSIGLIA, [redacted]
JOYCE M. COVILLE, [redacted]
FRANCES L. CROSBY, [redacted]
CAROL E. DAVIS, [redacted]
CAROLEE K. DAY, [redacted]
DIANE K. DEA, [redacted]
GERTRUDE DEADWYLER, [redacted]
STANLEY N. DEDEN, [redacted]
JOHN T. DELANEY, [redacted]
SHARON DIGERONIMO, [redacted]
JAQUELINE DRILLER, [redacted]
JOAN E. DRUKKER, [redacted]
JUDITH M. DZYAK, [redacted]
DIANE M. EANES, [redacted]
CAROL J. EBERSOLE, [redacted]
MARTA ESBRILOMBA, [redacted]
SANDRA C. EVERETT, [redacted]
ROBERTA B. FEATHER, [redacted]
FRANCES K. FEENEY, [redacted]
IRIS M. FERNANDEZ, [redacted]
SARA J. FERRIL, [redacted]
KATHRYN L. FIANDT, [redacted]
LEON FIELDS, [redacted]
PATRICIA FLANAGAN, [redacted]
FRANCIS A. FLOOD, [redacted]
MARIE E. FOLKLIGHTY, [redacted]
DOROTHY E. FONDREN, [redacted]
FRANCES FORRESTER, [redacted]
ETHEL E. FRANCOIS, [redacted]
FILIPASIC K. FRANKO, [redacted]
CAROLYN A. FULLER, [redacted]
PEGGY C. GADLIN, [redacted]
LURELEAN GAINES, [redacted]
ALICE S. GALFO, [redacted]
MARY ANN S. GARCIA, [redacted]
ELIZABETH GARRETT, [redacted]
NANCY K. GAVI, [redacted]
MARY P. GERMAIN, [redacted]
DOUGLAS A. GIEDT, [redacted]
LINDA R. GODFREY, [redacted]
BARBARA A. GONCALO, [redacted]
MARCEDA M. GUILD, [redacted]
RAE E. HAMILTON, [redacted]
GERALDINE L. HANSEN, [redacted]
SUF K. HARBURG, [redacted]
CAROL L. HARDIMAN, [redacted]
MARY M. HARE, [redacted]
PHYLLIS V. HARRIS, [redacted]
CAROL S. HEMELT, [redacted]
HELEN K. HOGAN, [redacted]
LULA B. HOLLAND, [redacted]
CLARA E. HOLLIS, [redacted]
JOSEPH J. HOPKO, [redacted]
JOYCE A. HORN, [redacted]
CAROLYN A. HORTON, [redacted]
HENRIETTA J. HORTON, [redacted]
CAROL B. JAEGER, [redacted]
JILL C. JAMESON, [redacted]
BARBARA A. JERANEK, [redacted]
EVELYN J. JOHNSON, [redacted]
LEVERNE JOURDONAIS, [redacted]
SANDRA A. KASPRZAK, [redacted]
DOROTHY M. KEARSE, [redacted]
JUDITH A. KEATON, [redacted]
DEBORAH R. KEMERE, [redacted]
MARGARET KENT, [redacted]
ARDIS M. KERKER, [redacted]
ANNA R. KIBILDIS, [redacted]
PATRICIA A. KIERGAN, [redacted]
STEPHEN KILPATRICK, [redacted]
SUSANN M. KIRLIN, [redacted]
BARBARA N. KNAUER, [redacted]
WILLIAMS FRA KRAFT, [redacted]
HELEN KRZEMINSKI, [redacted]
GEORGIE W. LABADIE, [redacted]
MARY BETH E. LIGHT, [redacted]
VIRGINIA K. LOCKE, [redacted]
BARBARA L. LOECKER, [redacted]
BEVERLY I. LOSEY, [redacted]
MARY F. LOUDERBACK, [redacted]
FRANCES E. LOVELY, [redacted]
DANIEL LUCHTEFELD, [redacted]
KATHALEEN J. LUTZ, [redacted]
JAMES L. MABRY, [redacted]
NANCY E. MACH, [redacted]
JOANN K. MACKEY, [redacted]
MARY L. MAHON, [redacted]
MONICA J. MANTIA, [redacted]
GEORGIA A. MARTIN, [redacted]
NANCY L. MAUPIN, [redacted]
JUDITH A. MAY, [redacted]
MARCIA E. MCCALL, [redacted]
ELIZABETH MCCARTHY, [redacted]
MICHAEL K. MCCLURE, [redacted]
HOWARD B. MCCUMBER, [redacted]
MARION F. MCEWAN, [redacted]
DELIA K. MCGINNIS, [redacted]
LAWRENCE T. MCHUGO, [redacted]
BETH M. MENDEL, [redacted]
MARIAGNE MESSINGER, [redacted]
SANDRA J. MILLARD, [redacted]
RUTH A. MOONEY, [redacted]
LAUREL S. MORAGA, [redacted]
SHIRLEY A. MUNFORD, [redacted]
MARTEN P. NELSON, [redacted]
SUE D. NEPTUNE, [redacted]
CAROL L. NICHOLS, [redacted]
NANCY A. NILES, [redacted]
GWENDOLYN M. NOLTE, [redacted]
DIANA L. OBENAUER, [redacted]
MARY J. OLSON, [redacted]
KATHLEEN A. ONEAL, [redacted]
JANET C. OTT, [redacted]
DONNA F. OWEN, [redacted]
PHYLLIS A. PAGE, [redacted]
SANDRA K. PARKER, [redacted]
ELZO PARNELL, [redacted]
RICHARD P. PELTON, [redacted]
DOROTHY A. PELUSO, [redacted]
MAGNOLIA L. PERRY, [redacted]
ANN G. PETERSEN, [redacted]
NANCY J. PILOT, [redacted]
CECILIA K. PINARD, [redacted]
CATHERINE POLLARD, [redacted]
WILLIAM R. POOLE, [redacted]
VIVIAN H. PRESTON, [redacted]
JOHNSON E. RAMSAY, [redacted]
BILLIE P. RATKEY, [redacted]
ROBERTA J. REEDER, [redacted]
SUZANNE C. RICHE, [redacted]
MELINDA ROBERTSON, [redacted]
MARILYN ROCHESTER, [redacted]
GERARD G. ROETS, [redacted]
DOROTHY J. ROMANO, [redacted]
ISRAELITA P. ROMERO, [redacted]
ROBERTO RUIZTORRES, [redacted]
MARJORIE J. SAMS, [redacted]
BERNICE SCOTT, [redacted]
MARY F. SEARS, [redacted]
META E. SELTZER, [redacted]
PHYLLIS W. SHARPS, [redacted]
RICHARD L. SHEEHAN, [redacted]
SARAN E. SHELTON, [redacted]
MARY L. SIMINGTON, [redacted]
CHERYL M. SIMONS, [redacted]
SUSAN D. SIMPSON, [redacted]
LINDA K. SIMS, [redacted]
SHEILA M. SMITH, [redacted]
JUNE G. SPENCE, [redacted]
PEGGY M. SPYKER, [redacted]
ROSE T. STALEY, [redacted]
JOANN R. STEGMAIER, [redacted]
JEWELLEAN STEPHENS, [redacted]
GERTRUDE L. STEVENS, [redacted]
CHERYL J. STEWART, [redacted]
PATRICIA T. STEWART, [redacted]
CARLTON E. STICKNEY, [redacted]
ANITA C. STOEPPEL, [redacted]
GAYLE E. STRICKLAND, [redacted]
MARY JO SUMMAR, [redacted]
JUNE E. SWALL, [redacted]
CATHERINE B. TALLEY, [redacted]
GERALDINE THOMPSON, [redacted]
MARY C. THOMPSON, [redacted]
MARY THROCKMORTON, [redacted]
MYRA S. TILLIS, [redacted]
CAROLYN L. TINDAL, [redacted]
SAUNDER L. TURNER, [redacted]
SUSAN R. UEHLING, [redacted]
MARINA VANDEGRAAFF, [redacted]
GRETCHEN T. VANEK, [redacted]
JIMMIE R. WAGNER, [redacted]
ARDIS E. WAIT, [redacted]
EVELYN L. WALL, [redacted]
SUSAN P. WAMBACH, [redacted]
SANDRA L. WARD, [redacted]
WILLIAM W. WARREN, [redacted]
JOYCE M. WARRINGTON, [redacted]
SUSAN E. WELLS, [redacted]
IVA J. WESTCOTT, [redacted]
JOANN WEVER, [redacted]
DONNA S. WHITE, [redacted]
LULA M. WHITLOCK, [redacted]
SHARON M. WILD, [redacted]
TERESA I. WILHITE, [redacted]
JOANN WILLIAMS, [redacted]
MARILYN J. WILLIAMS, [redacted]
PATRICIA WILLIAMS, [redacted]
RONALD G. WILLIAMS, [redacted]
SYLVIA B. WILLIAMS, [redacted]
BARBARA R. WOOD, [redacted]
PATRICIA G. YOUNG, [redacted]

DENTAL CORPS

To be lieutenant colonel

RANDY ADAMS, [redacted]
JOHN S. BARNEY, [redacted]
WILLIAM BORNSTEIN, [redacted]
ROBERT L. BROADY, [redacted]
WILLIAM Q. BURNS, [redacted]
WILFRED D. CALKINS, [redacted]
NORMAN R. CARLSON, [redacted]
WILLIAM H. CASTEEL, [redacted]
JEFFREY C. CHANG, [redacted]
DAVID C. CHRISTIAN, [redacted]
ROBERT W. CLIFFORD, [redacted]
JOSEPH COMPETIELLO, [redacted]
RICHARD J. CROSETTI, [redacted]
JOSEPH V. DUFRESNE, [redacted]
FRANK M. ELLERO, [redacted]
JOHN P. FISHER, [redacted]
STEPHEN J. GOEPFERD, [redacted]
MICHAEL L. GRIMES, [redacted]
ROBERT HEPPS, [redacted]
PHILLIP M. HERNON, [redacted]
PHILLIP C. HOWELL, [redacted]
DAVID W. IVEY, [redacted]
WILLIAM T. JOHNSON, [redacted]
FRANK R. LAUCIELLO, [redacted]
LARRY S. LEWIS, [redacted]
KARL H. MARAGIDES, [redacted]
FRED T. MCDONALD, [redacted]
MAURICE MERCADANTE, [redacted]
GEORGE L. NANCE, [redacted]
ANTHONY A. PESOLA, [redacted]
DANIEL M. RAIFORD, [redacted]
EDWARD J. ROBINSON, [redacted]
MICHAEL J. SCHEMICK, [redacted]
ALAN F. SHEFNOFF, [redacted]
OLIVER B. SIMPSON, [redacted]
GARY R. SMISEK, [redacted]
JOHN B. THORNTON, [redacted]
ROBERT L. UTLEY, [redacted]
WILLIAM A. WATSON, [redacted]
DEAN T. WEDDLE, [redacted]
JOHN A. WHITSITT, [redacted]

MEDICAL CORPS

To be lieutenant colonel

HIROO H. ADVANI, [redacted]
DAVID W. ALLEN, [redacted]
THOMAS J. ALLRED, [redacted]
VIRGINIA ANDERSON, [redacted]
GORDON L. BALKA, [redacted]
GARY G. BECKER, [redacted]
BENJAMIN BERGES, [redacted]
WILIAM W. BLAKE, [redacted]
SANDERS S. BLAKENEY, [redacted]
STANLEY BLOUSTINE, [redacted]
PAUL D. BOSTROM, [redacted]
ELLEN F. BOUDREAU, [redacted]
HERBERT J. BREITE, [redacted]
ROBERT E. BROUGHTON, [redacted]
ROBERT A. BRUNSVOLD, [redacted]
EVA MARIA K. BUCH, [redacted]
REED BULLEN, JR., [redacted]
WILLIAM A. BULLEY, [redacted]
NELSON A. BURTON, [redacted]
ROBERT C. BUX, [redacted]
RODOLPHO M. CAMPOS, [redacted]
PAULA F. CARACTA, [redacted]
LARRY A. CARVER, [redacted]
TSOI G. CHAN, [redacted]
DANIELLE K. CHEUNG, [redacted]
PAUL CHRISTIANSON, [redacted]
ALBERT A. CLAIRMONT, [redacted]
RICHARD M. CLARY, [redacted]
DAVID G. CLOYD, [redacted]
H. TAN SI CO AURORA, [redacted]
CRAIG B. COLLIER, [redacted]
JOHN W. COLLINS, [redacted]
MARTIN D. CRAVEN, [redacted]
BYRON P. CROKER, [redacted]
ROBERT S. CSERE, [redacted]
ANTONIO S. DAQUIPA, [redacted]
GEOFFREY V. DAVIS, [redacted]
WARD DEAN, [redacted]
DENNIS L. DESILVEY, [redacted]
KEITH F. DESONIER, [redacted]

EVAN W. DIXON, [redacted]
STEVEN T. DODGE, [redacted]
BENJAMIN DOUGLAS, [redacted]
IAN R. DUNCAN, [redacted]
JOHN D. DUNCAN, [redacted]
VICTOR A. DUNCAN, [redacted]
JOHN E. ERPENBACH, [redacted]
JOHN D. FISK, [redacted]
SCOTT P. GARVEY, [redacted]
JOHN M. GARVIN, [redacted]
WILLIAM P. GIFFORD, [redacted]
GENE G. GOODE, [redacted]
DEREK J. GOODMAN, [redacted]
GARY GREENBERG, [redacted]
PATRICK A. GRIFFITH, [redacted]
CHRISTIAN GRONBECK, [redacted]
BRADLEY HALL, [redacted]
MICHAEL L. HALSTEAD, [redacted]
ROBERT P. B. HAYES, [redacted]
MAECENAS B. HENDRIX, [redacted]
PAUL F. HENKE, [redacted]
VIC HERNANDEZREYES, [redacted]
GUILLERMO HERRERA, [redacted]
JAMES S. HICKS, [redacted]
ROBERT S. HINES, [redacted]
JOHN C. HOLLAND, [redacted]
STEPHEN M. HOLMES, [redacted]
WILLIAM H. HUGHES, [redacted]
RICHARD I. HULTS, [redacted]
FARHAT HUSAIN, [redacted]
RASHIDUL ISLAM, [redacted]
MICHAEL H. JACKSON, [redacted]
NEIL A. JACOBSON, [redacted]
LALITHA M. JANAKI, [redacted]
CHESTER J. JANECKI, [redacted]
TERRY L. JOHNSON, [redacted]
CURTIS A. JUHALA, [redacted]
ALGIRDAS A. JUOCYS, [redacted]
ANDREW L. JURIS, [redacted]
CLARK R. KAUFMAN, [redacted]
JOHN J. KEVENEY, [redacted]
NAYERE KHANKHANIAN, [redacted]
DAVID Y. KIM, [redacted]
HEUNG S. KIM, [redacted]
ANDY E. KIRK, [redacted]
STEPHEN KIRZINGER, [redacted]
OLEN E. KITCHINGS, [redacted]
SWATANTRA B. KODALI, [redacted]
MARK A. KORSTEN, [redacted]
STEPHEN A. KORTE, [redacted]
URMILA KOSURI, [redacted]
RICHARD J. LANE, [redacted]
EDWARD W. LEAN, [redacted]
CHOUNG S. LEE, [redacted]
JIN Y. LEE, [redacted]
BENJAMIN W. LEI, [redacted]
BAXTER C. LEONARD, [redacted]
JOSE F. LEYSON, [redacted]
GEORGE W. LIGHTY, [redacted]
ROLAND E. LONSER, [redacted]
ROCHELLE LOPEZ, [redacted]
THOMAS W. LUCAS, [redacted]
JOHN L. LUETKEMEYER, [redacted]
VIRGLE E. LYONS, [redacted]
WILLIAM H. MACK, [redacted]
WAYNE L. MANSON, [redacted]
WITIZAP MARQUEZ, [redacted]
VIOLETA MARTEL, [redacted]
JAMES F. MARTIN, [redacted]
RONALD A. MARTINO, [redacted]
PRAKASH P. MASSAND, [redacted]
LAWRENCE M. MCNIESH, [redacted]
JAMESD V. MELI, [redacted]
EDITA P. MILAN, [redacted]
JACK L. MILLER, [redacted]
YUSUF MONEER, [redacted]
LLOYD T. MORITA, [redacted]
ELSIE C. MORRIS, [redacted]
PONGSA P. MUANGMAN, [redacted]
MARK A. MUESING, [redacted]
KAMAL A. NAGI, [redacted]
ROBERT E. NAGY, [redacted]
JOSE E. NAVARRO, [redacted]
HARRY H. NETTLES, [redacted]
TERRY D. NEUMASTER, [redacted]
KHOA Q. NGUYEN, [redacted]
DAVID L. OHMART, [redacted]
EDUARDO S. OLEGARIO, [redacted]
ALBERT F. OLIVIER, [redacted]
REKHA G. PANVELKAR, [redacted]
DO SUN PARK, [redacted]
BILLY J. PARSON, [redacted]
JYOTI M. PATEL, [redacted]
STANLEY E. PEARSON, [redacted]
JAMES E. PHILLIPS, [redacted]
ANANTHAKRIS PILLAI, [redacted]
RENATO R. PIMENTEL, [redacted]
CHESTER E. PRUETT, [redacted]
ELLIOT J. RAMPULLA, [redacted]
DAVID RASKIN, [redacted]
SUMATHY REDDY, [redacted]
RICHARD R. REECE, [redacted]
MICHAEL L. REID, [redacted]
OCTUBRE A. REYES, [redacted]
JERRY R. RHODES, [redacted]
JOSHUA I. RIBER, [redacted]
CHARLES A. RIGG, [redacted]
DENNIS D. RISTON, [redacted]
TERRANCE ROBINSON, [redacted]
JEFFREY W. ROHLFING, [redacted]
ROB R. ROTH, [redacted]
JOSE H. RUIZORTIZ, [redacted]
KATHRYN L. SAFFORD, [redacted]
ISMET SAKARYA, [redacted]
SHRIHARI SAKHADEO, [redacted]
FRANK E. SCOTT, [redacted]
MAURICE SCOTT, III, [redacted]
ENRICO A. SERINE, [redacted]
SHARAD D. SHAH, [redacted]
GERALD W. SIKORSKI, [redacted]
ROGER L. SMOKE, [redacted]
JAMES B. SPRAGUE, [redacted]
HARVEY STERN, [redacted]
DARWIN STRICKLAND, [redacted]
THARA SUBRAHMANYAN, [redacted]
FIDEL S. SWANA, [redacted]
RICHARD J. TAYLOR, [redacted]
STANISLAUS TING, [redacted]
TONG-SENG TJOA, [redacted]
NGOC D. TRAN, [redacted]
MICHAEL D. WASHBURN, [redacted]
JAMES S. WEISENSEE, [redacted]
JOSEPH R. WHITELEY, [redacted]
DALE G. WICKLUND, [redacted]
ROBERT L. WILSON, [redacted]
VINCE WINKLERPRINS, [redacted]
ALVIN J. WRIGHT, [redacted]
RICHARD A. WRIGHT, [redacted]
ESTER M. ZEPEDA, [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

JACK R. ABO, [redacted]
GENE W. ANDAL, [redacted]
RAYMOND G. ANDERSON, [redacted]
JOHN W. ASHWORTH, [redacted]
DAN A. BAGGETT, [redacted]
JOHN A. BAKER, [redacted]
NEAL R. BANDICK, [redacted]
JAMES M. BARGER, [redacted]
WILLIAM H. BARICOS, [redacted]
RAYMOND W. BEEMER, [redacted]
NATHAN J. BENDER, [redacted]
PAUL R. BEST, [redacted]
BART P. BILLINGS, [redacted]
CHARLES E. BIRMELIN, [redacted]
WILLIAM H. BLAINE, [redacted]
RONALD J. BOURDAGHS, [redacted]
CHARLEY BOURGEOIS, [redacted]
THERON A. BRACEY, [redacted]
STEPHEN A. BRICKMAN, [redacted]
JERRY M. BRITT, [redacted]
DOUGLAS B. BURDICK, [redacted]
ARTHUR C. BUTTERS, [redacted]
STEVEN M. BYERS, [redacted]
LAWRENCE CALABRESE, [redacted]
GLENN S. CAREW, [redacted]
LUIS I. CARRERAS, [redacted]
JON P. CHAPMAN, [redacted]
JON N. CLAAS, [redacted]
JOE E. COLLINS, [redacted]
DONALD G. COLQUHOUN, [redacted]
WILLIAM L. CONOLE, [redacted]
JON R. COTTRELL, [redacted]
STUART R. COTTRELL, [redacted]
DONALD T. CUTTIE, [redacted]
SAM E. DALTON, [redacted]
FRANCIS I. DAVIO, [redacted]
MAURICE A. DEMERS, [redacted]
FLOYD D. DENNEY, [redacted]
LESLIE D. DORRIS, [redacted]
THOMAS R. DORWORTH, [redacted]
JOHN R. DURHAM, JR., [redacted]
RICHARD L. DURST, [redacted]
THOMAS E. EDWARDS, [redacted]
EDWARD P. EPSTEIN, [redacted]
DAVID B. FISH, [redacted]
ROGER FLEMING, [redacted]
ROBERT FORMAN, [redacted]
JACK D. FROST, [redacted]
JOHN R. FULLERTON, [redacted]
WAYNE M. GALBRAITH, [redacted]
GORDON F. GREEN, [redacted]
DANIEL W. HARDESTY, [redacted]
JAMES R. HARDMAN, [redacted]
JERRY D. HARWELL, [redacted]
EUGENE G. HAYUNGA, [redacted]
THOMAS M. HELFER, [redacted]
HOWARD K. HOLLAND, [redacted]
DON A. HOLLIS, [redacted]
OLINS V. HOOKS, [redacted]
RICHARD J. HOWDEN, [redacted]
WILLIAM C. HOWLAND, [redacted]
HAROLD B. HULST, [redacted]
CHARLES B. ISGETT, [redacted]
WILLIE JACKSON, [redacted]
PAUL A. JENDRIAN, [redacted]
CLINTON J. JEWER, [redacted]
DARRYL F. JOHNSON, [redacted]
PHILIP R. JONES, [redacted]
JOHN L. JORDAN, [redacted]
DENNIS F. KIMBERLIN, [redacted]
MILLARD J. KIMMEL, [redacted]
ALAN R. KOPPEL, [redacted]
WALTER P. LAMBERT, [redacted]
LARRY E. LANCE, [redacted]
JAMES H. LATHROP, [redacted]
JACK I. LAVESON, [redacted]
JOHN E. LEONARD, [redacted]
ROBERT N. LERAY, [redacted]
WILLIAM W. LOCKE, [redacted]
ASHLEY C. LOVELL, [redacted]
JAMES M. MAHAN, [redacted]
ROBERT C. MARINO, [redacted]
JOHN M. MARTIN, [redacted]
RICHARD L. MAUGHAN, [redacted]
JOSEPH H. MAURER, [redacted]
SALLY A. MCBEATH, [redacted]
WILLIAM H. MCKENZIE, [redacted]
JOSEPH MCLAUGHLIN, [redacted]
LAWRENCE MCLENNAN, [redacted]
JAMES MEZA, JR., [redacted]
DENNIS F. MILLER, [redacted]
ROGER D. MILLER, [redacted]
ELLEN H. MOTT, [redacted]
ROBERT L. MURRAY, [redacted]
LANE A. MYERS, [redacted]
ARNOLD A. MYHRA, [redacted]
MARK H. NACHMAN, [redacted]
ROBERT G. NELSON, [redacted]
BERTRAM A. NICHOLAS, [redacted]
JOSEPH T. NIETUPSKI, [redacted]
THOMAS W. ORME, [redacted]
ARNOLD S. OSKIN, [redacted]
JAMES M. OTIS, [redacted]
GEORGE E. OULUNDSEN, [redacted]
JIMMY G. PATTERSON, [redacted]
JOE D. PERKINS, [redacted]
JON G. PETERSON, [redacted]
LOUIS POMERANTZ, [redacted]
LEWIS J. POSTLES, [redacted]
GEORGE R. POTTER, [redacted]
TED W. PRATHER, [redacted]
BENJAMIN M. PRIEB, [redacted]
THOMAS A. PUCHALSKI, [redacted]
JAMES R. RAGLAND, [redacted]
JOSE A. RAMIREZ, [redacted]
JOSEPH D. RANKIN, [redacted]
GEORGE A. REYNOLDS, [redacted]
MICHAEL ROEDER, [redacted]
ROBERT J. ROJAS, [redacted]
FRANCIS J. SCALZI, [redacted]
HAROLD C. SCHADE, [redacted]
GERALD I. SCHUCHMAN, [redacted]
CHARLES J. SCHUDER, [redacted]
ROBERT C. SCHWANER, [redacted]
JOHN E. SCOTT, [redacted]
DENNIS E. SELF, [redacted]
JAMES M. SHEEHAN, [redacted]
SAMUEL C. SMART, [redacted]
JAMES D. SMITH, [redacted]
JEFFREY W. SMITH, [redacted]
BENJAMIN S. SNYDER, [redacted]
JOHNNY SOTOVAZQUEZ, [redacted]
MICHAEL K. SPITTLER, [redacted]
WILLIAM D. SPRENGER, [redacted]
WALTER T. STACEY, [redacted]
CHARLES S. STANLEY, [redacted]
EARL S. STEIN, [redacted]
RODNEY L. STRAUB, [redacted]
CONSUELO M. STREETT, [redacted]
EDWARD W. SWART, [redacted]
CECIL F. TACKETT, [redacted]
DAVID J. TAGG, [redacted]
RONALD L. TAYLOR, [redacted]
ROBERT D. TEER, [redacted]
NORRELL THOMAS, JR., [redacted]
ROBERT E. THOMAS, [redacted]
HENRICUS G. VANVEEN, [redacted]
STEPHAN J. VRTISKA, [redacted]
CAREY A. WATSON, [redacted]
FREDERICK J. WEIK, [redacted]
JOHN B. WELLMAN, [redacted]
KENNETH D. WERTZ, [redacted]
JUNE A. WHITNEY, [redacted]
WILLIAM W. WOOD, JR., [redacted]
DAVID G. WRIGHT, [redacted]
WILLIAM J. YOUNG, [redacted]
LAWRENCE M. ZANTO, [redacted]
JERRY L. ZAUGG, [redacted]
MICHAEL A. ZEMMEL, [redacted]

ARMY MED SPECIAL CORPS

To be lieutenant colonel

JOHN H. AGEE, [redacted]
ROBERT L. ALLEN, [redacted]
GRETCHEN B. BRAUN, [redacted]
CHARLES G. BROOKS, [redacted]
GERALD L. COLWELL, [redacted]
ENRIQUE GOMEZLOPEZ, [redacted]
MICHAEL J. HIRSCH, [redacted]
MARY P. JORDAN, [redacted]
FREDERICK J. MAGNER, [redacted]
JAMES A. MARTIN, [redacted]
DONNA K. MARZOUK, [redacted]
ROBERTA H. MAWDSLEY, [redacted]
JOANN M. MCINTYRE, [redacted]
MASON ODRICK, [redacted]
WILLIAM O. PAGE, [redacted]
ELDON R. PARKER, [redacted]
PHYLLIS H. PLOTNICK, [redacted]
MARY S. ROBERTS, [redacted]
GLORIA T. SANDERS, [redacted]
ALLAN M. SORENSEN, [redacted]
ELIZABETH SUNSHINE, [redacted]
LOYDA I. TORRES, [redacted]
DAVID L. WAGNER, [redacted]
PAULETTE WILLIAMS, [redacted]
LYNWOOD ZIMMERMAN, [redacted]

VETERINARY CORPS

To be lieutenant colonel

ALAN H. BRIGHTMAN, [redacted]

THOMAS J. CALLAHAN, [redacted]
RUSSELL W. CURRIER, [redacted]
CARL D. HUMBARGER, [redacted]
DAN W. KNOX, [redacted]
PAUL H. LANGNER, [redacted]
GEORGE A. MILLIS, [redacted]
PATRICK E. PHILLIPS, [redacted]
JORGE L. RIBAS, [redacted]

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTION 3359:

DENTAL CORPS

To be lieutenant colonel

JOHN D. BURLEIGH, [redacted]
RALPH D. PARKS, JR., [redacted]
ADRIAN L. PATTERSON, [redacted]

MEDICAL CORPS

To be lieutenant colonel

TIMOTHY G. BERGER, [redacted]
DONALD J. BERGIN, [redacted]
JOHN D. CURRENT, [redacted]
TOMMY LEONARD, JR., [redacted]
JAMES M. MCCABE, [redacted]
THOMAS P. MCILWAIN, [redacted]
HAROLD F. MOESSNER, [redacted]
PAUL M. ORECCHIA, [redacted]
RICHARD A. REDD, [redacted]
LARRY J. WELLS, [redacted]
CHARLES R. WOLF, [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTION 3366:

ARMY PROMOTION LIST

To be lieutenant colonel

JOHN C. ABSHIER, [redacted]
JEFFREY ACEBO, [redacted]
JAMES N. ACKER, [redacted]
DOUGLAS D. ADAMS, [redacted]
JAMES R. ADAMS, [redacted]
WILLIAM R. AKERY, [redacted]
WARREN L. ALBERTS, [redacted]
JOSEPH G. ALCURE, [redacted]
BERTIE S. ALEXANDER, [redacted]
UREY W. ALEXANDER, [redacted]
BERNARD W. ALGUIRE, [redacted]
MICHAEL L. ALIFF, [redacted]
EDDIE W. ALLEN, [redacted]
JAMES H. ALLEN, [redacted]
MICHAEL W. ALLEN, [redacted]
JOSEPH D. ALSBROOK, [redacted]
BILLY J. ALSTON, [redacted]
EDWARD J. ALTMANN, [redacted]
GLENN E. ALTWEIN, [redacted]
VICEN A. ALVAREZ, [redacted]
ERNEST R. AMADOR, [redacted]
VERNON D. AMMON, [redacted]
DAVID J. ANDERSON, [redacted]
DWIGHT L. ANDERSON, [redacted]
GORDON M. ANDERSON, [redacted]
HAROLD P. ANDERSON, [redacted]
JAMES L. ANDERSON, [redacted]
JAY H. ANDERSON, [redacted]
JERRY E. ANDERSON, [redacted]
JERRY L. ANDERSON, [redacted]
JOHN E. ANDERSON, [redacted]
LESLIE H. ANDERSON, [redacted]
RICHARD V. ANDERSON, [redacted]
STEPHEN P. ANDERSON, [redacted]
STEVEN R. ANDERSON, [redacted]
TERRY L. ANDERSON, [redacted]
JOHN C. ANDREWS, [redacted]
JOHN W. ANDREWS, [redacted]
WILLIAM ANESHENSEL, [redacted]
ROBERT J. ANGUS, [redacted]
FRANK J. ANGYAL, [redacted]
DAVID E. ANKER, [redacted]
JOHN GLENN J. APPEL, [redacted]
LINDEN APPLEQUIST, [redacted]
ROGER T. ARBOGAST, [redacted]
ROBERT A. ARCHER, [redacted]
LARRY L. AREHART, [redacted]
JOHN A. ARENDS, [redacted]
LUIZ E. ARMENDAREZ, [redacted]
GLEN A. ARMSTRONG, [redacted]
THOMAS G. ARMSTRONG, [redacted]
LARRY L. ARNETT, [redacted]
JOSEPH J. ARONICA, [redacted]
WILLIAM F. ARONOW, [redacted]
RICHARD J. ASHBY, [redacted]
JOHN C. ATKINSON, [redacted]
JAMES E. AUSEL, [redacted]
BILLIE A. AUSTIN, [redacted]
TIMOTHY B. AUSTIN, [redacted]
FULLER W. AVANT, [redacted]
JULIUS H. AVANT, [redacted]
ROBERT C. AYERS, [redacted]
THOMAS C. AYERS, [redacted]
WILLIAM O. AYERS, [redacted]
PHILIP A. BADDOUR, [redacted]
KEVIN L. BAGLEY, [redacted]
NED E. BAILEY, [redacted]
JAMES MCKAY J. BAIN, [redacted]
WADE M. BAINE, [redacted]
ROGER E. BAIRD, [redacted]
FRANK T. BAKER, [redacted]
MAURICE R. BAKER, [redacted]
PETER J. BAKER, [redacted]
ROBERT J. BAKER, [redacted]
WILSON BAKER, JR., [redacted]
EDWARD C. BALDWIN, [redacted]
DANIEL F. BALLARD, [redacted]
ROGER P. BALOG, [redacted]
DAVID R. BALTES, [redacted]
JAMES D. BANNISTER, [redacted]
JENNINGS BARFIELD, [redacted]
WILLIE C. BARFIELD, [redacted]
ANDREW P. BARGA, [redacted]
ROBERT C. BARKLEY, [redacted]
ROBERT BARKSDALE, [redacted]
ROBERT H. BARLEY, [redacted]
ROBERT T. BARNES, [redacted]
ROBERT V. BARNES, [redacted]
THOMAS O. BARNES, [redacted]
KENNETH W. BARNEY, [redacted]
RICKY J. BARNICA, [redacted]
ROBERT R. BARR, JR., [redacted]
MICHAEL B. BARRETT, [redacted]
EDMUND D. BARRY, [redacted]
PATRICK D. BARRY, [redacted]
LOWELL E. BARTEL, [redacted]
JOHN R. BASEHART, [redacted]
DONALD R. BASSLER, [redacted]
ALBERT J.I. BAST, [redacted]
EMILE P. BATAILLE, [redacted]
HOWARD BATCHELDER, [redacted]
CLIFFORD W. BATH, [redacted]
DAVID L. BATLEY, [redacted]
MICHAEL W. BAUER, [redacted]
DENNIS A. BEAGLE, [redacted]
RAYMOND P. BEAN, [redacted]
LUTHER K. BEASON, [redacted]
RICHARD J. BECK, JR., [redacted]
PETER K. BECKER, [redacted]
RONALD D. BECKER, [redacted]
CHARLES R. BECKETT, [redacted]
STEWART D. BECKLEY, [redacted]
WILLIAM N. BEEBE, [redacted]
JOHN W. BEEDLOW, JR., [redacted]
JEFFERY S. BEER, [redacted]
MAX C. BELCHER, [redacted]
CARL H. BELL, [redacted]
JAY R. BELL, [redacted]
LEWIS J. BELLAS, [redacted]
WILL BELLINGHAUSEN, [redacted]
MICHAEL J. BELT, [redacted]
DENNIS G. BELTON, [redacted]
WILLIAM R. BENDER, [redacted]
JOHN T. BENNER, [redacted]
ANDREW L. J. BENNETT, [redacted]
GEORGE P. BENNETT, [redacted]
HAROLD J. J. BENNETT, [redacted]
RICHARD L. BENNETT, [redacted]
WALTER BENNEWITZ, [redacted]
JIMMY J. BENTFELD, [redacted]
DAVID T. BERANEK, [redacted]
ROBERT C. BERG, [redacted]
LESTER E. BERGEN, [redacted]
ROBERT A. BERGREN, [redacted]
MYRON J. BERMAN, [redacted]
STEPHEN J. BERTI, [redacted]
DANIEL R. BERTRAM, [redacted]
KENNETH H. BESECKER, [redacted]
ANDREW W. BETTWY, [redacted]
ROBERT B. BICKERT, [redacted]
ZBIGNIEW BIERNACKI, [redacted]
WILLIAM T. BIGGERS, [redacted]
RONALD E. BIRCHALL, [redacted]
LAWRENCE W. BISHOP, [redacted]
ERNEST F. BIVONA, [redacted]
ROBERT E. BLACKMON, [redacted]
PETER J. BLAKE, [redacted]
WILLIAM H. BLALOCK, [redacted]
DAVID G. BLANCHARD, [redacted]
JAMES E. BLAND, [redacted]
JIMMY L. BLAND, [redacted]
STANLEY N. BLAND, [redacted]
EDWARD BLANKENHAGEN, [redacted]
ROBERT E. BLANZ, [redacted]
THOMAS J. BLASI, [redacted]
RONALD BLAZEJEWSKI, [redacted]
HU L. BLAZER, [redacted]
GERALD R. BLISS, [redacted]
DAVID C. BLONIGEN, [redacted]
ROBERT A. BLYTHE, [redacted]
ROGER H. BLYTHE, [redacted]
CLYDE N. BOAN, [redacted]
GORDON F. BOBELL, [redacted]
GLEN H. BODE, [redacted]
GILBERT E. BOEN, [redacted]
DONALD E. BOITO, [redacted]
JAMES A. BOLAND, [redacted]
CHARLES B. BOLDEN, [redacted]
MICHAEL L. BOLEN, [redacted]
GLEN H. BOLON, [redacted]
BRUCE R. BONN, [redacted]
EDWARD M. BORGATTI, [redacted]
PHILLIP BORNEMANN, [redacted]
BRUCE C. BORRETT, [redacted]
RICHARD E. BORTON, [redacted]
DAVID L. BOUCHER, [redacted]
TERRY G. BOUNDS, [redacted]
JOHN M. BOURNE, [redacted]
JOSEPH S. BOWEN, [redacted]
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CARMEN DIGIOVANNI, [redacted]
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STANLEY B. ECKLEY, [redacted]
JUSTICE W. EDGE, [redacted]
JOSEPH H. EDIN, JR., [redacted]
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OLEN L. HILL, JR., [redacted]
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JAMES P. HILLS, [redacted]
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MAX D. HIPP, [redacted]
LARRY D. HITCHNER, [redacted]
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JOHN R. HOFFMAN, [redacted]
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EDWARD M. MATUSZAK, [redacted]
OWEN L. MAUFFRAY, [redacted]
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JOHN T. PETRONE, JR., [redacted]
DANIEL S. I. PETROSKY, [redacted]
THOMAS R. PETTIJOHN, [redacted]
WILLIAM S. PETTIT, [redacted]
PETER D. PETTLER, [redacted]
ALFRED S. PETTY, [redacted]
GERALD W. PEZELY, [redacted]
FRANCIS W. PFORDT, [redacted]
TIMOTHY T. PHALEN, [redacted]
RICHARD K. PHEBUS, [redacted]
CHRISTIAN PHILLIPS, [redacted]
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LINDA C. PHILLIPS, [redacted]
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JAMES H. PIETSCH, [redacted]
BRUCE A. PINNELL, [redacted]
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PAUL A. PIPER, [redacted]
GLENN A. PITMAN, [redacted]
JAMES M. PITMAN, [redacted]
ADELBERT L. PLATZ, [redacted]

WARREN J. POEHLER, [redacted]
ROBERT L. POLLARD, [redacted]
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KENNETH W. POMPLUN, [redacted]
JAMES T. PONZIO, [redacted]
ROBERT E. PONZO, [redacted]
GARY W. PORTER, [redacted]
JAMES J. PORTER, [redacted]
HARVEY R. POST, [redacted]
CHARLES E. POSTON, [redacted]
JOHNNY A. POTOCKI, [redacted]
RANSFORD A. POTTER, [redacted]
EDWARD L. POTTHOFF, [redacted]
CHRIS T. POULOS, [redacted]
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WILLIAM W. PRATHER, [redacted]
ERNEST B. PRATT, [redacted]
ERROL C. PRATT, [redacted]
CURTIS J. PREVOST, [redacted]
DALE E. PRICE, [redacted]
ROBERT L. PRICE, [redacted]
MICHAEL R. PRINGLE, [redacted]
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FRANK H. PROUTY, [redacted]
PAUL G. I. PUGH, [redacted]
VINCENT J. PULEO, [redacted]
OTTIS J. PURVIS, [redacted]
ERNEST R. PUTTHOFF, [redacted]
JAMES E. QUERY, [redacted]
DANIEL G. QUINLEY, [redacted]
FERDINAND J. RABUT, [redacted]
RONALD B. RAGLAND, [redacted]
RONALD D. RAINVILLE, [redacted]
KIM D. RAMEY, [redacted]
JOSEPH M. RAMOS, [redacted]
ALBERT G. RAMPONE, [redacted]
MICHAEL A. RAMSDELL, [redacted]
GERALD T. RANDKLEV, [redacted]
JOHN W. RANTALA, [redacted]
RONALD L. RASCH, [redacted]
JOHN R. RASMUSON, [redacted]
LAMAR C. RATCLIFFE, [redacted]
EDGAR H. RAWL, III, [redacted]
HARRELL B. RAWLINS, [redacted]
AUBREY D. RAY, [redacted]
TOMMY G. RAYBURN, [redacted]
HOMER J. RAYCRAFT, [redacted]
RONALD H. READ, [redacted]
LARRY READER, [redacted]
JIMMY R. REAGAN, [redacted]
JERRY L. REAM, [redacted]
MARTIN C. RECCHUITE, [redacted]
ALAN E. REED, [redacted]
HOMER H. REEVES, [redacted]
CHARLES D. REGAN, [redacted]
ROBERT E. REHBERG, [redacted]
RICHARD T. REHN, [redacted]
DAVID L. REMSEN, [redacted]
THOMAS J. RENISON, [redacted]
COSME E. RENNELLA, [redacted]
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LARRY REYNOLDS, [redacted]
MERLE J. RHODES, [redacted]
STEPHEN T. RICE, [redacted]
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WILLIAM D. RIDGELY, [redacted]
CALBERTH B. RILEY, [redacted]
LESTER G. RILEY, [redacted]
MARK C. RILEY, [redacted]
GARY G. RITTER, [redacted]
DEXTER H. RIVERS, [redacted]
JOHN H. RIVES, [redacted]
JAMES S. ROACH, [redacted]
LIONEL J. ROACH, [redacted]
PHILIP R. ROBBINS, [redacted]
RICHARD T. ROBBINS, [redacted]
FREDERICK ROBELLO, [redacted]
DENNIS F. ROBERTS, [redacted]
RODOLFO ROBERTS, [redacted]
JOHN C. ROBERTSON, [redacted]
CLAYTON S. ROBINSON, [redacted]
JUDITH L. ROBSON, [redacted]
NOEL L. ROBYN, III, [redacted]
JAMES P. ROCK, [redacted]
MICHAEL ROCKELMAN, [redacted]
ROBERT P. ROEDEL, [redacted]
DAVID R. ROEDERER, [redacted]
ROBERT A. ROGERS, [redacted]
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WILLIAM A. ROGERSON, [redacted]
RONALD ROGGENTIEN, [redacted]
GARY J. ROHEN, [redacted]
FABIO A. ROMAN, [redacted]
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WILLIAM E. ROPER, [redacted]
JOSE ROQUEACEVEDO, [redacted]
J. ROSADODECHOUDENS, [redacted]
CLYDE D. ROSE, [redacted]
HOWARD E. ROSE, [redacted]
JORDAN I. ROSEN, [redacted]
DAVID R. ROTHMAN, [redacted]
JOHN E. ROWAN, [redacted]
JOSEPH M. ROY, [redacted]
KEITH L. ROYCE, [redacted]
DAVID P. RUDDER, [redacted]
WILLIAM T. RUDNICKI, [redacted]
LAURIE J. RUFFINO, [redacted]
RICHARD S. RUSNAK, [redacted]
JOHN W. RUSSELL, [redacted]
THOMAS P. RYBCZYK, [redacted]
RICHARD T. RYCKAERT, [redacted]
SICINIO R. SABET, [redacted]
RICHARD A. SACKETT, [redacted]
RUBIN M. SAENZ, [redacted]
RAYMOND J. SAGER, [redacted]
ANTHONY J. SALPINO, [redacted]
CHESTER D. SALVADOR, [redacted]
DANIEL P. SALVANO, [redacted]
DANNY W. SAMPLE, [redacted]
JOSEPH L. SANDERS, [redacted]
SUSAN B. SANDS, [redacted]
JOSEPH J. SAOUTER, [redacted]
DONALD A. SAPIENZA, [redacted]
BENSON C. SARGENT, [redacted]
WILLIAM E. SAUL, [redacted]
JAMES C. SAVAGE, [redacted]
MICHAEL J. SAWYER, [redacted]
GREGORY J. SAXTON, [redacted]
HARRY SCHAEFER, [redacted]
FREDERICK SCHALMO, [redacted]
JOHN F. SCHARFELD, [redacted]
RICHARD SCHEFFING, [redacted]
GEORGE J. SCHELCHER, [redacted]
PHILIP K. SCHENCK, [redacted]
EDWARD C. SCHILLO, [redacted]
GLENN R. SCHIRALDI, [redacted]
ROBERT SCHLOENDORN, [redacted]
DAVID A. SCHLUETER, [redacted]
MICHAEL T. SCHMIDT, [redacted]
HARRY K. SCHMINKEY, [redacted]
STANLEY SCHNEIDER, [redacted]
JOHN P. SCHNORR, [redacted]
LARRY E. SCHWARTZ, [redacted]
SEBASTIAN SCHWARZ, [redacted]
JOHN T. SCHWEICH, [redacted]
JOHN W. SCHWENKER, [redacted]
JESSE W. SCOTT, [redacted]
JOSEPH E. SCOTT, [redacted]
LARRY J. SCOTT, [redacted]
RONALD E. SCRUGGS, [redacted]
RICHARD T. SEAY, [redacted]
SAMUEL E. SEETIN, [redacted]
CHARLES B. SEIFERS, [redacted]
ALEXIS L. SEIFERT, [redacted]
MICHAEL L. SELLS, [redacted]
JOSEPH E. SEMON, [redacted]
ROGELIO C. SERRA, [redacted]
NEAL M. SESSIONS, [redacted]
ROBERT SEVENBERGEN, [redacted]
RONALD L. SEYMORE, [redacted]
EARL W. SHAFFER, [redacted]
THOMAS J. SHAILOR, [redacted]
J. F. SHANER, [redacted]
LARRY A. SHANKLES, [redacted]
DAVID L. SHARPE, [redacted]
ROBERT F. SHATTUCK, [redacted]
GARY E. SHAW, [redacted]
GERALD A. SHEFFIELD, [redacted]
DONALD J. SHELDON, [redacted]
DONALD K. SHELTON, [redacted]
LARRY B. SHELTON, [redacted]
STEPHEN P. SHEPHERD, [redacted]
MELVYN J. SHICHTMAN, [redacted]
FRANK S. SHIER, [redacted]
ROBERT M. SHIRILLA, [redacted]
RONALD A. SHIVELY, [redacted]
STANLEY L. SHIVELY, [redacted]
GUY S. SHORT, JR., [redacted]
JAMES SHORTILL, [redacted]
HUGH W. SHOWN, [redacted]
FREDERICK H. SHUART, [redacted]
JOSEPH W. SILBAUGH, [redacted]
GARY G. SIMMONS, [redacted]
JAMES M. SIMON, JR., [redacted]
STEPHEN R. SIMON, [redacted]
CHARLES N. SIMPSON, [redacted]
LONNIE G. SIMPSON, [redacted]
GERALD M. SINGLETON, [redacted]
RAYMOND SINGLETON, [redacted]
CHARLES R. SITHER, [redacted]
WILLIAM T. SKAHAN, [redacted]
PATRICK L. SKINNER, [redacted]
JAMES A. SLADACK, [redacted]
CARLTON D. SLETTEN, [redacted]
STEVEN K. SLOAN, [redacted]
DENNIS L. SMITH, [redacted]
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ROY D. SMITH, [redacted]
SAMUEL E. SMITH, [redacted]
SAMUEL L. SMITH, [redacted]
THOMAS AL SMITH, [redacted]
THOMAS J. SMITH, [redacted]
THOMAS M. SMITH, [redacted]
WILLIAM V. SMITH, [redacted]
JOHN C. SNELLING, [redacted]
WARDSWORTH SODERS, [redacted]
KENNETH A. SORENSEN, [redacted]
RALPH SOULEYRET, JR., [redacted]
JAMES M. SOWELL, [redacted]
CARL R. SPARKS, [redacted]
HARVEY L. SPARKS, [redacted]
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RALPH C. SPEARS, [redacted]
HUGH E. SPELLMAN, [redacted]
MARK G. SPELMAN, [redacted]
ROBERT B. SPENCER, [redacted]
ROBERT J. SPERA, [redacted]
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THOMAS M. SPINKS, [redacted]
HOWARD E. SPINNER, [redacted]
JOHN ALEX SPOFF, [redacted]
JAMES C. SPROULL, [redacted]
FRANCES J. STACHOUR, [redacted]
DON E. STAGG, [redacted]
WILLIAM STALLINGS, [redacted]
THOMAS M. STAMES, [redacted]
RONALD M. STANFIELD, [redacted]
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MICHAEL C. STANNARD, [redacted]
JOHN W. STANOWSKI, [redacted]
BOYCE STAPP, JR., [redacted]
JACK G. STARICH, [redacted]
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JAMES C. STAUBACH, [redacted]
RUSSELL J. STCLAIR, [redacted]
DAVID A. STCYR, [redacted]
THOMAS T. STECK, [redacted]
THOMAS L. STEELE, [redacted]
MICHAE STEENBERGEN, [redacted]
HOWARD J. STEERS, [redacted]
FRANK STEMPSKI, [redacted]
JOHN H. STENGEL, [redacted]
RONALD L. STENSTROM, [redacted]
LEROY G. STENZEL, [redacted]
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LENITA F. STERRY, [redacted]
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BOBBY A. STEWART, [redacted]
TIMOTHY R. STIVES, [redacted]
PETER W. STOCKUNAS, [redacted]
DAVID P. STOECKEL, [redacted]
RONALD S. STOKES, [redacted]
JOHN O. STONE, [redacted]
JOSEPH H. STONE, [redacted]
EARL R. STOUT, [redacted]
LARRY J. STOVALL, [redacted]
ANDREW B. STRATTON, [redacted]
RICHARD A. STROPHY, [redacted]
DANIEL M. STRUNK, [redacted]
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WILLIAM C. STUDLY, [redacted]
HERBERT G. STURM, [redacted]
DAVID K. STUTZMAN, [redacted]
JAY E. SUDDRETH, [redacted]
GERALD M. SUDICK, [redacted]
PALMER SULLINS, JR., [redacted]
BRIAN F. SULLIVAN, [redacted]
BRIAN T. SULLIVAN, [redacted]
DONALD V. SULLIVAN, [redacted]
JEFFREY P. SULLIVAN, [redacted]
SEVERIN W. SUMMERS, [redacted]
HARRY A. SUNDIK, [redacted]
FRANK C. SUNDQUIST, [redacted]
DAVID J. SUPER, [redacted]
THOMAS H. SUTTON, [redacted]
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DEAN C. SWINTON, [redacted]
HAZEL S. SWOFFORD, [redacted]
GEORGE R. SYLVESTRE, [redacted]
JAMES W. SYMMONDS, [redacted]
CHRISTOPHER TABB, [redacted]
RICHARD J. TAKACS, [redacted]
PAUL Y. TAMAYOSE, [redacted]
GEORGE E. TANGUY, [redacted]
EDWARD N. TANSEY, [redacted]
GENE N. TASSONE, [redacted]
RICHARD M. TAUS, [redacted]
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NEAL E. TOKOWITZ, [redacted]
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JAMES R. TOWNHILL, [redacted]
ROBERT J. TRANTHAM, [redacted]
WILLIAM A. TROTTER, [redacted]
MARTHA J. H. TRUDO, [redacted]
VICTOR E. TUOHY, [redacted]
GARY M. TURNER, [redacted]
RUSSELL C. TURNEY, [redacted]
PATRICK J. TUSTAIN, [redacted]
TERRY L. TYLER, [redacted]
ANTHONY TYSSELING, [redacted]
ROGER W. UHAZIE, [redacted]
MICHAEL J. ULINSKI, [redacted]
ALEX N. UMRICHIN, [redacted]
WILLIAM R. UNGER, [redacted]
THOMAS UPTAGRAFFT, [redacted]
HOWARD U. UPTAIN, [redacted]
BENJAMIN VALENTINO, [redacted]
WILLIAM F. VANASKIE, [redacted]
WILLIAM L. VANASSE, [redacted]
RAYMOND J. VANCOTT, [redacted]
WILLIAM VANDALSEM, [redacted]
WAYNE G. VANDRE, [redacted]
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STEWART M. VANKIRK, [redacted]
JAY D. VANNEST, [redacted]
ROGER A. VANZANEN, [redacted]
CESAR VAZQUEZDIAZ, [redacted]
JOHN A. VINSON, [redacted]
PAUL Z. VITALI, [redacted]
FREDERICK C. VOIGT, [redacted]
GARY W. VOLLMER, [redacted]
DANIEL J. VONER, [redacted]
WILLIAM J. VORLICEK, [redacted]
EUGENE A. VOSTAD, [redacted]
DAVID S. WAGGONER, [redacted]
BURKHARD E. WAGNER, [redacted]
JOHN A. WAGNER, [redacted]
CAREY D. WALKER, [redacted]
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MICHAEL K. WALTERS, [redacted]
OWEN L. WALTMAN, [redacted]
ARTHUR WANNER, [redacted]
CLAUDIA M. WARD, [redacted]
FREDERICK W. WARD, [redacted]
LARRY W. WARDEN, [redacted]
JEROME C. WARE, [redacted]
DANIEL K. WARNER, [redacted]
JOHN P. WARREN, [redacted]
MARVA L. WASHINGTON, [redacted]
BRUCE WASIELEWSKI, [redacted]
JOSEPH W. WATHEN, [redacted]
RICHARD E. WATKINS, [redacted]
HENRY WATSON, III, [redacted]
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EDWARD D. WEBB, [redacted]
CHRIS T. WEBER, [redacted]
DENNIS H. WEBSTER, [redacted]
JAMES M. WEEG, [redacted]
WILLIAM H. WELLBORN, [redacted]
WILLIAM G. WENTZ, [redacted]
GARY H. WENZLAFF, [redacted]
LEON M. WESSEL, [redacted]
HAYWOOD L. WEST, [redacted]
WILLIAM P. WHELIHAN, [redacted]
FREDERICK E. WHITE, [redacted]
HORACE L. WHITE, [redacted]
JOHNNIE H. WHITE, [redacted]
PAUL V. WHITE, [redacted]
ROBERT S. WHITE, [redacted]
SIDNEY S. WHITE, [redacted]
WILLIAM V. WHITE, [redacted]
CLAUDE WHITEHURST, [redacted]
GERALD R. WHITFIELD, [redacted]
RICHARD WHITFIELD, [redacted]
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BYRON J. WILLIAMS, [redacted]
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JERRY B. WILLIAMS, [redacted]
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STUART M. WILSON, [redacted]
TERRANCE C. WILSON, [redacted]
KARSTEN G. WINGER, [redacted]
KENNETH N. WINKLER, [redacted]
PHILIP A. WINN, [redacted]
WAYNE A. WINTER, [redacted]
MICHAEL C. WINTON, [redacted]
WILLIAM A. WISDON, [redacted]
DENNIS M. WOLF, [redacted]
RICHARD P. WOLFE, [redacted]
WILLIAM J. WOLSKI, [redacted]
NELSON O. WOOD, [redacted]
DREW H. WOODALL, [redacted]
JAMES S. WOODARD, [redacted]
PAUL J. WOODROW, [redacted]
MICHAEL W. WOODS, [redacted]
LARRY W. WOOTEN, [redacted]
JOHN R. WORREL, [redacted]
JERRY R. WOUTERS, [redacted]
CLARENCE A. WRIGHT, [redacted]
FLOYD D. WRIGHT, [redacted]
FREDERICK W. WRIGHT, [redacted]
RICHARD M. WRIGHT, [redacted]
ROBERT T. WRIGHT, [redacted]
BARBARA WUNDERLICH, [redacted]
JAMES A. WUNDERLY, [redacted]
JAMES D. WYATT, [redacted]
MARVIN M. WYATT, [redacted]
COLLINS E. WYNN, [redacted]
ANDREW S. WYSOR, [redacted]
LINCOLN YAMASHITA, [redacted]
FRANK K. L. YAP, JR., [redacted]
JAMES L. YARRISON, [redacted]
ROBERT E. YOHE, [redacted]
RICHARD P. YOOD, [redacted]
JOHN M. YORK, [redacted]
HARRY M. YOSTE, [redacted]
BENNETT H. YOUNG, [redacted]
DONALD D. YOUNG, [redacted]
JACK R. YOUNGER, JR., [redacted]
GEORGE YOUNGWIRTH, [redacted]
TADASHI G. YUGUCHI, [redacted]
ELIZABETH M. YULL, [redacted]
BRONISLAW ZAMOJDA, [redacted]
ERIC L. ZANCANELLA, [redacted]
WALTER T. ZDUNOWSKI, [redacted]
BRUCE P. ZELLIS, [redacted]
EARL D. ZERBACH, [redacted]
KENNETH L. ZEUTZIUS, [redacted]
EDWARD ZGLENSKI, [redacted]
LEE F. ZIEGENBALG, [redacted]
MICHAEL ZIMMERMAN, [redacted]
JAMES P. ZOELLER, [redacted]

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTION 3359:

DENTAL CORPS

To be lieutenant colonel

ELADIO DELEON, JR., [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

MEDICAL SERVICE CORPS

To be lieutenant colonel

ROBERT E. ABODEELY, [redacted]
TIMOTHY P. ALLEN, [redacted]
BRADLEY K. ARTHUR, [redacted]
ALONZO M. ATKINSON, JR., [redacted]
GEORGE R. BACKMAN, [redacted]
STEPHEN M. BAILEY, JR., [redacted]
WILLIAM F. BARKO, [redacted]
PETER A. BASLER, JR., [redacted]
PAUL S. BEATY, [redacted]
FRANK J. BERLINGIS, [redacted]
TODD W. BESSETTE, [redacted]
DANIEL E. BLUM, [redacted]
PAUL E. BLUTEAU, [redacted]
FREDERICK M. BOCK, [redacted]
JAMES C. BOLTON, [redacted]
JOHN W. BONGARD, JR., [redacted]
CHARLES R. BOTTOMS, [redacted]
WILLIAM A. BOZO, [redacted]
RAY G. BRUELAND, [redacted]
RUSSELL R. BURDETTE, II, [redacted]
LLOYD R. BURTON, [redacted]
WILLIAM A. BUTKOVICH, [redacted]
JESSIE B. CABELLON, [redacted]
JAMES J. CANELLA, [redacted]
JAMES W. CARROLL, [redacted]
WILLIAM R. CHAMBERS, [redacted]
RUFUS B. CHAPMAN, JR., [redacted]
HAROLD J. CHRISTOPHER, [redacted]
JAMES M. CHURCHMAN, JR., [redacted]
GEORGE R. COLLINS, [redacted]
DANIEL W. CZUPRYNA, [redacted]
MICHAEL F. DAGOSTINO, [redacted]
BRIAN W. DALTON, [redacted]
WILLIAM A. DEBLOIS, [redacted]
THEODORE W. DOLZINE, [redacted]
DONALD P. DRIGGERS, [redacted]
MICHAEL W. DUKES, [redacted]
GARY W. EGMON, [redacted]
EDDIE D. EVANS, [redacted]
CORNELIUS R. FAY, III, [redacted]
CHARLES F. FEHRING, [redacted]
DARWIN E. FINE, [redacted]
JOSEPH G. FLANNERY, [redacted]
DAVID W. FOXWORTH, [redacted]
CHARLES C. FRANZ, [redacted]
GARY R. GILBERT, [redacted]
JOSE M. GONZALEZ, JR., [redacted]
RICHARD M. GOYNE, [redacted]
LARRY K. HAMMERBACHER, [redacted]
PAUL H. HATKOFF, [redacted]
JOEL T. HIATT, [redacted]
RICHARD M. HODGE, [redacted]
BERNARD J. HORAK, [redacted]
GERARD S. INDRISANO, [redacted]
MARJORIE A. JACKSON, [redacted]
JOHN H. JARRETT, JR., [redacted]
JOHN C. JOHNSON, [redacted]
STEPHEN H. JOHNSON, [redacted]
WILLIAM B. JOHNSON, [redacted]
RICHARD A. JONES, [redacted]
RICHARD I. JONES, JR., [redacted]
RAYMOND T. KEITH, [redacted]
WENDELL C. KING, [redacted]
STANLEY M. KROL, [redacted]
RICHARD S. LANN, [redacted]
LAWRENCE M. LEAHY, [redacted]
THOMAS E. LEONARD, [redacted]
PETER A. LEVENTIS, [redacted]
CAREY O. LEVERETT, [redacted]
GAYLORD C. LINDSAY, III, [redacted]
DARRYL W. LLOYD, [redacted]
GRIFFIN D. LOCKETT, [redacted]
WILLIAM C. LOWERY, [redacted]
WILLIAM R. LUCAS, [redacted]
RICHARD L. LYDAY, [redacted]
PETER D. MADEO, [redacted]
STEPHEN L. MARKELZ, [redacted]
ROBERT J. MARTIG, [redacted]
FERNANDO MARTINEZ, [redacted]
CARLENE M. MCCLINTON, [redacted]
PATRICK B. MCGREEVY, [redacted]
DOUGLAS W. MILLER, [redacted]
ALBERT C. MOLTER, JR., [redacted]
JEFFREY P. MOON, [redacted]
GEORGE R. MURNYAK, [redacted]
EDGAR B. MURPHY, JR., [redacted]
ROBERT E. NEVILLE, [redacted]
JAY H. NIEMEYER, [redacted]
DAVID L. NOLAN, [redacted]
RICHARD B. PARRY, JR., [redacted]
ROBERT J. RANKIN, [redacted]
JOHN D. RICHARDS, [redacted]
ROY S. RICKARD, [redacted]
RODGER R. SEXTON, [redacted]
KEITH O. SHAFER, [redacted]
LEONARD J. SLY, [redacted]
JOHN H. SMITH, [redacted]
MICHAEL L. SMITH, [redacted]
STEPHEN R. SPEIGHTS, [redacted]
JAMES E. SUTTON, [redacted]
FEDERICO M. TAMAYO, [redacted]
WALTER W. WAKEFIELD, II, [redacted]
IRA F. WALTON, III, [redacted]
DAVID J. WESTHUIS, [redacted]
GRAHAM L. WILDE, [redacted]
HERSHELL E. WOLFE, [redacted]
ROBERT L. WOOD, JR., [redacted]
WILLIAM J. YEARTA, [redacted]
EDWARD J. ZAYAC, JR., [redacted]

ARMY MED SPEC CORPS

To be lieutenant colonel

ROBERT W. DENNIS, [redacted]
DEE C. LEGGETT, [redacted]
MOLLY S. MAGUIRE, [redacted]
SCOTT D. MCPHEE, [redacted]
THERESA M. NEMMERS, [redacted]
MARGARET J. SATTERFIELD, [redacted]
DAVID R. STOEHR, [redacted]
JAMES H. SWAIN, [redacted]
KATHLEEN P. WADDELL, [redacted]
LAWRENCE L. WOOD, [redacted]

VETERINARY

To be lieutenant colonel

CARL BERRYMAN, III, [redacted]
AL T. BURRS, SR, [redacted]
JOHN S. FOURNIER, [redacted]
JOHN R. LATENDRESSE, II, [redacted]
GEORGE P. MIXON, [redacted]
RAY MOBLEY, [redacted]
MICHAEL V. SLAYTER, [redacted]
RICHARD P. SOLANA, [redacted]
THOMAS G. TECEC, [redacted]
RONALD W. TROTTER, [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

CANDACE P. ACKERMAN, [redacted]
MARY C. AKERS, [redacted]
DENNIS C. ALLISON, [redacted]
FRANCES D. ANDERSON, [redacted]

JAMES A. ANDRESEN, [redacted]
GAIL E. ANGLE, [redacted]
MARY A. BALDY, [redacted]
ELIZABETH A. BARTZ, [redacted]
EILEEN K. BERLIN, [redacted]
WILLIAM T. BESTER, [redacted]
MARY B. BLACKBURN, [redacted]
PATRICIA A. BORUP, [redacted]
ANN D. BOTTOMS, [redacted]
WESLEY V. * BRANSTITER, [redacted]
DOROTHY A. BRINK, [redacted]
HOLLY K. BUCHANAN, [redacted]
SHELIA D. * BUNTON, [redacted]
CATHERINE A. CALL, [redacted]
REBECCA S. CARLSON, [redacted]
MARYANN * CARR, [redacted]
NAOMI E. CARROLL, [redacted]
CHRISTINE L. CASH, [redacted]
JANET E. CHISOLM, [redacted]
JEANNE H. CHUDY, [redacted]
RICHARD L. CLINCH, [redacted]
SHIRLEY J. COLLINS, [redacted]
LESLIE A. CORMIER, [redacted]
MARY R. COX, [redacted]
DELOIS DANIELS, [redacted]
BRIDGET W. DAVIS, [redacted]
ELAINE F. DAVIS, [redacted]
MARY C. DAVIS, [redacted]
FRANCES E. DAVISON, [redacted]
SHERYL V. DEXTER, [redacted]
DALE A. DOUGLASS, [redacted]
MARY A. DUNN, [redacted]
CAROL D. DURHAM, [redacted]
DOROTHY A. ELLIS, [redacted]
DENNIS J. * FARRELL, [redacted]
ROYCE A. FISHELL, [redacted]
KATHRYN M. FORSYTHE, [redacted]
PATRICK M. * GARVIN, [redacted]
MARY E. * GRANT, [redacted]
RHONDA L. GRAVES, [redacted]
DEBORAH A. GUSTKE, [redacted]
MARY L. * HAGAN, [redacted]
SUSAN A. HALAVIN, [redacted]
JANET L. HARPER, [redacted]
DIANE M. HENDERSON, [redacted]
MOZETTIA H. HENLEY, [redacted]
BARBARA A. HIRSCHINGER, [redacted]
CAROL A. * HODGES, [redacted]
CLARA M. HUFF, [redacted]
NANCY E. HUNT, [redacted]
LORNA R. IMBRUGLIO, [redacted]
RICHARD G. JENSEN, [redacted]
CATHERINE JOHNSON, [redacted]
DORIS S. * JOHNSON, [redacted]
JACQUELINE D. * JOHNSON, [redacted]
LINDA C. KIRK, [redacted]
WONNEY R. * KOTT, [redacted]
STEPHANY M. LAVALLEE, [redacted]
NANCY J. LESTER, [redacted]
JANICE K. * LEVINE, [redacted]
MARGARET M. LONG, [redacted]
DEAN R. LOSS, [redacted]
PATRICIA K. LOVAAS, [redacted]
BONNIE MACGHEE, [redacted]
GAIL M. * MAESTAS, [redacted]
PATSY L. MALONEY, [redacted]
RAYMOND E. MARTIN, [redacted]
DIANE E. MATHEWS, [redacted]
ELAINE D. * MAYO, [redacted]
CLAIRE M. MCCORMACK, [redacted]
CHRISTINE P. MILLER, [redacted]
PATRICIA L. MUSSNUG, [redacted]
CHERYL L. NEMETSKY, [redacted]
CHERYL L. * NORMAN, [redacted]
MELISSA N. OPIO, [redacted]
MARCIA R. PATRICK, [redacted]
AIDA R. * PEREZ, [redacted]
LEE A. PERRY, [redacted]
JEFFREY B. * PETERSON, [redacted]
LESLEY A. PETRIK, [redacted]
MARTHA C. * POHL, [redacted]
MICHELLE T. RENAUD, [redacted]
JUDITH A. REYNOLDS, [redacted]
LEE W. RICHARD, [redacted]
JOYCE RICHARDSON, [redacted]
LINDA A. ROBERTSHAW, [redacted]
MARYLOU V. ROBINSON, [redacted]
MARY J. ROMANO, [redacted]
ROBIN M. ROMPRE, [redacted]
CAROL J. RUBBELKE, [redacted]
WADE T. RUTT, [redacted]
DEBRA L. SAVINSKE, [redacted]
JACKIE W. SAYE, [redacted]
DONALD C. SCHAEBERLE, [redacted]
JOY E. SCHANK, [redacted]
HARRIET L. SCHEELE, [redacted]
GLEN A. SCHOFER, [redacted]
PATRICIA A. SCHOMMER, [redacted]
CONNIE K. SCHULTZ, [redacted]
JEFFERSON H. SCROGHAM, [redacted]
TIM C. SELDEN, [redacted]
ELIZABETH S. SENESAC, [redacted]
KATHERINE C. SHINNERS, [redacted]
NANCY M. SIMPSON, [redacted]
PATRICIA K. * SOWDER, [redacted]
SUSAN A. SPAULDING, [redacted]
WILLIAM B. SPRING, JR., [redacted]
NANCY L. STAGGERS, [redacted]
JERRY M. STANFIELD, [redacted]
SANDRA B. STEPHENSON, [redacted]
JANET M. * STOFFEL, [redacted]
KATHLEEN A. * TANIS, [redacted]
RUSSELL W. TAYLOR, [redacted]
JUDY C. TERRY, [redacted]
LINDA S. THOMAS, [redacted]
THERESA M. TOMINEY, [redacted]
VIRGINIA M. * TORSTRICK, [redacted]
CHRISTINE A. TREIBER, [redacted]
PATRICIA G. TULLY, [redacted]
WAYNE F. VOELMECK, [redacted]
CHARLENE H. WALKER, [redacted]
JOYCE M. * WALLER, [redacted]
IRIS J. * WEST, [redacted]
CLAUDIA M. WHITLATCH, [redacted]
CAROLYN R. WIER, [redacted]
JULIA B. WILLIAMS, [redacted]
TIMOTHY P. WILLIAMS, [redacted]
CAROLYN V. WIRTH, [redacted]
PATRICIA B. WISE, [redacted]
ROBERTA E. WOLFE, [redacted]
SYLVIA H. WOOD, [redacted]
TERREE L. WOZNY, [redacted]
DONNA M. * WRIGHT, [redacted]

IN THE NAVY

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U.S. NAVAL RESERVE, LINE, LIEUTENANT

To be lieutenant, line, USN, permanent

EMIL C. CASCIANO
RALPH D. CRISTIANI
JEROME DYCK
CHARLES M. GAOUETTE
MARK S. GLAZE
JEFFREY P. MARQUARDT
DANNY R. POWELL
CHARLES A. RICHARD
ROBERT D. SCHMIDT

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U.S. NAVAL RESERVE, LINE, LIEUTENANT (JUNIOR GRADE)

To be lieutenant (junior grade), line, USN, permanent

JUAN ALVAREZ
JAMES D. ATKINSON, IV
DARYL L. CAUDLE
CHARLES H. HAMILTON, II
LOYDE E. HAWKI
KENNETH J. KARWOSKI
RANDALL L. KEEFER
VANCE E. KEMEGE
WILLIAM S. SAUNDERS
SCOTT B. TORVIK
NELSON C. TUBBS, II

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U.S. NAVAL RESERVE, LINE, ENSIGN

To be ensign, line, USN, permanent

MICHAEL J. BONTATIBUS
ERNEST E. BOOTH, JR.
KENNETH D. BREWER
HERBERT R. BRUCE
CRAIG P. BUROW
CLAYTON H. CHA
JAMES A. DAUB
DION C. DEPAOLIS
JEFFREY J. ENGLEBERT
GERALD A. GROSS
JAY L. HALL
JAMES J. HAMELL
KENNETH J. HOUSH
MARTIN W. HUKLE
MICHAEL S. JOHNSON, JR.
CHRISTOPHER J. KELLY
JOHN P. LARKIN, II
MELVIN E. LEE
JOSEPH E. MALLOY
MICHAEL W. MIDDLETON
GLAYDE A. MYERS
MARTIN J. NEWSHAN
CHAD L. PAINTER
DAVID D. SAUDER
MARK A. SHERADEN
GARY A. SIPE
JEFFREY L. SOPATA
RANDALL C. SYKORA
VICTOR D. THOMAS
MARK A. THURMON
THOMAS E. WALTON, IV
JEFFREY S. WILSON
CHRISTOPHER A. WRATE

THE FOLLOWING-NAMED REGULAR OFFICERS, TO BE REAPPOINTED PERMANENT LIEUTENANT IN THE SUPPLY CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

LINE, LIEUTENANT

To be lieutenant, Supply Corps

JOEL WILLIAM KERNEN
ROSA VICTORIA RUIZ
EDWARD TULENKO

THE FOLLOWING-NAMED REGULAR OFFICERS, TO BE REAPPOINTED PERMANENT LIEUTENANT IN THE CIVIL ENGINEER CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

LINE, LIEUTENANT

To be lieutenant, Civil Engineer Corps

THOMAS WILLIAM CUNNINGHAM
HARRY H. KEITH, III

THE FOLLOWING-NAMED REGULAR OFFICERS, TO BE REAPPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE CIVIL ENGINEER CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

LINE, LIEUTENANT (JUNIOR GRADE)

To be lieutenant (junior grade), Civil Engineer Corps

HOWARD HOMER HAYNES, JR.
JEFFREY DAVID LAMBERSON
DAVID MICHAEL SCHMODE
GEORGE EDWYN TAYLOR, II

THE FOLLOWING-NAMED REGULAR OFFICERS, TO BE REAPPOINTED PERMANENT LIEUTENANT IN THE SUPPLY CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

LINE, LIEUTENANT

To be lieutenant, Supply Corps

JOEL WILLIAM KERNEN
ROSA VICTORIA RUIZ
EDWARD TULENKO

THE FOLLOWING-NAMED REGULAR OFFICERS, TO BE REAPPOINTED PERMANENT LIEUTENANT IN THE CIVIL ENGINEER CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

LINE, LIEUTENANT

To be lieutenant, Civil Engineer Corps

THOMAS WILLIAM CUNNINGHAM
HARRY H. KEITH, III

THE FOLLOWING-NAMED REGULAR OFFICERS, TO BE REAPPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE CIVIL ENGINEER CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

LINE, LIEUTENANT (JUNIOR GRADE)

To be lieutenant (junior grade), Civil Engineer Corps

HOWARD HOMER HAYNES, JR.
JEFFREY DAVID LAMBERSON
DAVID MICHAEL SCHMODE
GEORGE EDWYN TAYLOR, II

THE FOLLOWING-NAMED REGULAR OFFICER, TO BE REAPPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582:

LINE, LIEUTENANT (JUNIOR GRADE)

To be lieutenant (junior grade), Medical Service Corps, USN, permanent

LARRY ALAN MCFARLAND

THE FOLLOWING-NAMED LIMITED DUTY OFFICERS, TO BE REAPPOINTED PERMANENT LIEUTENANT AS REGULAR OFFICERS IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

LIMITED DUTY OFFICERS, LINE, LIEUTENANT

To be lieutenant, line, USN, permanent

WILLIAM CALDERWOOD
LARRY D. CLINE
ANDREW VERNON COLE
EDWARD WALTER EVERETT
RANDALL HERMAN FORREST
DALE EUGENE LITTLE
DOUGLAS F. MCGOWAN, JR.
RICHARD STANLEY SEELEY, JR.

THE FOLLOWING- NAMED LIMITED DUTY OFFICER, TO BE REAPPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) AS A. REGULAR OFFICER IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

LIMITED DUTY OFFICER, LINE, LIEUTENANT (JUNIOR GRADE)

To be lieutenant (junior grade), line, USN, permanent

MICHAEL LEE NAUS

THE FOLLOWING-NAMED LIMITED DUTY OFFICER, TO BE REAPPOINTED PERMANENT LIEUTENANT COMMANDER AS A. REGULAR OFFICER IN THE SUPPLY CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

LIMITED DUTY OFFICER, SUPPLY CORPS, LIEUTENANT COMMANDER

To be lieutenant commander, Supply Corps, USN, permanent

CLIFFORD JAMES ALLIGOOD

THE FOLLOWING-NAMED TEMPORARY LIMITED DUTY OFFICER, TO BE APPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(E):

LIMITED DUTY OFFICER, LINE, LIEUTENANT (JUNIOR GRADE)

To be lieutenant (junior grade), line, USN, permanent

RHONDA LOUISE BUCKNER

THE FOLLOWING-NAMED TEMPORARY LIMITED DUTY OFFICER, TO BE APPOINTED PERMANENT LIEUTENANT AS A LIMITED DUTY OFFICER IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

PERMANENT LIMITED DUTY OFFICER, LINE, LIEUTENANT

To be lieutenant, limited duty officer, line, USN, permanent

CLOYCE W. OUTRAM

THE FOLLOWING-NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT AS LIMITED DUTY OFFICERS IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

TEMPORARY LIMITED DUTY OFFICERS, LINE, LIEUTENANT

To be lieutenant, limited duty officers, line, USN, permanent

CHARLES A. COLE
LARRY N. PETERS

IN THE NAVY

THE FOLLOWING-NAMED NAVAL ACADEMY MIDSHIPMEN TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

NAVAL ACADEMY MIDSHIPMEN

To be ensign; permanent

MATTHEW BRADFORD AARON
CHRISTOPHER LEON ABBOTT
ELENA LODRONIO ABUYEN
RICK JAMES ACHESON
GREGORY LEE ACTON
JEFFREY DAVID ADAMS
TAMMY MICHELLE ADAMS
LOUIS GERARD ADISSI
JEFFREY JACKSON AKIN
ALBERTO REY ALBERTO
DAVID JEROME ALBRITTON
BRIAN THOMAS ALEXANDER
EDWARD EUGENE ALEXANDER III
PETER DIETZ ALEXANDER
STEPHEN THOMAS ALEXANDER
BRYANT DAVID ALLAM
GLENN ROBERT ALLEN
MELINDA WALDO ALLEN
RONALD DUANE ALLEN, JR.
JULIENNE EMILY CREDO ALMONTE
MARK DANIEL ALTOBELLO
DANIEL THOMAS ALTOMARE
NICHOLAS JOHN AMATUCCIO
PAUL ALFRED AMBROGI
VAN ANTHONY ANDERSON
TIMOTHY ANDREWS
ALAN ANDROSKI
JAMES PATRICK ARGUELLES
KEVIN SCOTT ARNOLD
THOMAS EUGENE ARNOLD, JR.
KENNON ANTHONY ARTIS
DARREN WAYNE AULT
CURTIS DUNCAN AVERY
JOHN FRANCIS AVERY
WILLIAM LANCE BACH
DANIEL KEITH BACON, JR.
ROBERT TODD BADEER
JOHN KARL BAILEY
CHARLES MACKIN BAILLEY, JR.
DEADRICK DAVID BAKER
KRISTIN ANN BAKKEGARD
JUAN RAMON BALBOA
FRANCISCO MARTIN BALL
MATTHEW LEE BALTERS
ROBERT EDWARDS BANKER, JR.
JAMES DOUGLAS BARBER
ANDREW BOWMAN BARKER
KEVIN ROBERT BARNETT
PHILIP LEE BARNETT
BRIAN STEPHEN BARTHOLF
JAMES ERNEST BARTLETT
JOSEPH GABRIEL BARTON
THOMAS EDWARD BASE
DAVID CARL BASS, JR.
DONALD ROBERT BATES
WALTER THOMAS BAUGH
PETER BRIAN BAUMGARTEN
MICHAEL CHRISTOPHER BAYESA
CABELL WEBSTER BAYNES
KEITH ALBERT BEALS
MARTIN RONALD BEAULIEU
THOMAS HOBART BECK
CHERYL ANN BEDDICK
DANIEL LOUIS BEGEMAN
ALAN ROBERT BEHNING
BRIAN EDWARD BELL
ROBERT JOHN BELLO
CRAIG STANLEY BENDER
BRUCE SCOTT BENNETT
DAWN LOUISE BENNETT
MICHAEL LAWRENCE BENO
JEFFREY SCOTT BENSING
GREGORY CHRISTOPHER BERNARD
PAUL FRANCIS CHENE BERTHOLF
MARK WILLIAM BIBLE
TODD RONALD BIBZA
TERRY MICHAEL BICKHAM
THEODORE ALBERT BIGGIE, III
MATTHEW HOWARD BILLS
CHARLES RICHARD BINGHAM, II
MICHAEL KENNETH BINNIX
ROGER WAYNE BIVANS
WILLIAM JOHN BLACKSTONE
MATTHEW BLAKE BLACKWELL
ERIC SCHUYLER BLOCK
JAMES PIUS BOLAND
RICHARD LEE BOMHOLD, JR.
DAVID ANDREW BONDURA
BRAD ALLEN BOOKWALTER
VANDER LEONARD BOUDREAU
KIMBERLEY FRANCES BOYER
MICHAEL LEE BRAMBLE
WILLLIAM RICHARD BRAY
JOSEPH PATRICK BRENNAN
KATHLEEN MARY BRENNAN
JOSEPH REYNER BRENNER, JR.
JOSEPH MATEO BRINKMAN
GEORGE ALLEN BRISBIN
WAYNE PAUL BRISSON
KEVIN ARNOLD BROOKS
MARGARET MARY BROUNK
CURTIS LEO BROWN
MICHAEL THOMAS BROWN
PATRICK WINSTON BROWN
WILLIAM MATTHEW BROWN
TIMOTHY JAMES BRUNN
RICHARD DAVID BRUNS, JR.
RICHARD RENARD BRYANT
ERIC JAMES BUCH
THOMAS MICHAEL BUEHNER
PHILLIP GREGORY BUNCE
ALFRED ANTON BUNGE
JON DAVID BUNN
EUGENE ANDREW BURCHER
KEITH NELSON BURGESS
KENNETH BRUCE BURGETT, JR.
JAMES MONTGOMERY BURGUM
JASON BYRON BURKE
WILLIAM WYLIE BURKHART
RICHARD ALLEN BURR
BRYAN PATRICK BURT
CHRISTOPHER JOHN BUSHNELL
ERIC KENDALL BUSKO
JAMES MICHAEL BUTLER
MARK ANDREW BUTLER
ROBIN DALE BUXTON
MICHAEL RAY BYNUM
MARTIN MARSHALL CADE
ANTHONY THOMAS CALANDRA
ANDREW LAWRENCE CALDERA
MATTHEW ALAN CALDWELL
PETER JOSEPH CALLAGHAN
DERIC ALVIN CAMARIGG
MICHAEL TERRENCE CAMILLERI
JAMES ROBERT CAMPBELL
PHILIP EARL CAMPBELL, JR.
MARJORIE FRICKE CANBY
RICHARD CANEDO
KENNETH WILLIAM CARAVEO
ROBERT STEVEN CARLISLE
MARK SHANNON CARLTON
FRANK THORWALD CARR
MICHAEL CARSLEY
HELGE FRANK CARSON
CHARLES LOUIS CASH
STEPHEN THOMAS CASSETTA
JEFFREY ALLEN CASSIDY
AUGUSTO GISBERT CATA
ROBERT ANTHONY CECCHINI
STEVEN EDWARD CEDRUN
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GINO CELIA, JR.
RENE LUIS CERDA
JULIE STEELE CHALFANT
DAVID CARL CHAPATES
TIMOTHY BRUCE CHERRY
MICHAEL FRANCIS CHESIRE
EDWARD CHAO HSIUNG CHOW
PAUL HAYES CHRISMAN
SCOTT JAY CHRISTOPHER
JOHN CARL CHURCH, JR.
DOMINICK ANTHONY CIPOLLA
MICHAEL JOSEPH CIVELLO
BRIAN PATRICK CLANCY
RICHARD MELVIN CLARK, JR.
ROGER CHARLES OTTO CLARK
DAVID ALLEN CLAUSELL
DAVID GERARD CLEARY
THOMAS MYLES CLEARY
EUGENE WILLIAM COBEY
CHRISTINE ANN COETZEE
STEPHEN CONWAY COKER
HANK ALAN COLBURN
CRAIG ALAN COLBY
GORDON EDWARD COLE
MICHAEL GLENN COLEMAN
BRIAN ALLAN COLLEY
WILLIAM MICHAEL COLLIER
JANE MARIE COLLINS
SHAWN ERIC COLSON
DANIEL BRENDON CONLEY
LEE MICHAEL CONLEY
WILLIAM PATRICK CONLEY
TIMOTHY WALTON CONWAY, IV
JOHN DUFFY COODE
CHRISTOPHER MARVIN COOK
DANA WYNNE COOK
WILLIAM GREGORY COOK
KENNETH CHARLES COOPER
ROBERT WILLIAM COOPER
RONALD CURT COPLEY
BRENT MONTENEGRO CORNELL
CHESSLEY DION CORNETT
EUGENE GERARD CORRAO
MICHAEL ANTHONY CORRIERE
CLAYTON CULVER COSBY
STEPHEN JAMES COUGHLIN
JAMES LENDON COX
JIMMY DEAN COX
JOHN STEWART COX
MARTIN BRADFORD COX
MICHAEL JAY COX
ROBERT RIDER COX
DEAN EDWARD CRAFT
TROYE CARRIE CRICKETTE
STEVEN DONALD CRONQUIST
CURRIE PATRICK CROOKSTON
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RICHARD CHARLES CULP
MARY LOUISE CUMMINGS
ROBERT EDWARD CURRAN
ALEXANDER CHARLES CUTLER
ALAN DONALD CZESZYNSKI
RHODEL FELIX DACANAY
JONATHAN BRETT DACHOS
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MICHELE ANN DALEY
WILLIAM JOHN DALY
MARK DANIEL DAMISCH
MICHAEL SCOTT DANFORD
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CHRIS DAUGHERTY
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LANCE GREGORY DAVIDSON
BRIAN TIMOTHY DAVIS
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RICHARD WILLIAM DEHN
ARTHUR DELEON
NELSON JOSE DELGADO
KIRK ANTHONY DELMAS
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JOHN MARTIN DEVINE
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SHAUN HAYDEN DONNELLY
STEPHEN HAROLD DONNELLY
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RASHEED ELMOSLIMANY
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TERENCE GORDON EMMERT
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TRISTRAM EVAN FARMER
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JOHN RUSSELL FELDKAMP
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THOMAS JOSEPH FERGUSON, JR.
STEPHEN JOSEPH FERNANDEZ

MATTHEW JOSEPH FERRIER
ALBERT LOUIS FERRO
STEPHEN ALFRED FERRO
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DAMON ERIK FIELDS
WILLIAM EVAN FIERY
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PAMELA SUE FINLEY
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GREGORY JAMES FLORENCE
CARLOS RAFAEL FLORES
KEITH EDWARD FOLKERTS
JAMES JOSEPH FONTANELLA
DWIGHT DEANE FONTILLA
GARY LEE FORMET, JR.
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JUDITH MARIE FORTIER
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JOSEPH PAUL FRANSON, JR.
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JOHN MICHAEL FREESE
PENN DAVID FREY
ANDREW JAMES FRIE
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KEVIN MICHAEL FURR
THOMAS JOSEPH GAFFNEY
STEVEN EUGENE GALL
DANIEL LAWRENCE GARCIA
JOHN ROBERT GARCIA
RUBEN MARTIAS GARCIA
EPHRAIM SPENCER GARRETT, IV
STUART SCOTT GAUDET
GLENN ROBERT GAY
DAVID MARK GEBHARDT
DOUGLAS KEITH GELBACH
DAVID VINCENT GENTILE
MICHAEL WAYNE GEORGE
THOMAS FERVIER GEORGE
NICOLAS JOHN GERACE
MICHAEL JOSEPH GIEDRAITIS
CORNELIUS WARD GILES
LAWRENCE EDWARD GLOSS
CURTIS HENRY GOETSCH
KEITH ALLEN GOETZ
EDWARD AARON GOMEZ
THOMAS CHRISTOPHER GOMEZ
KEVIN GREGORY GONTER
RICARDO MIGUEL GONZALEZ
MARK WILLARD GOODWIN
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SCOTT FRANKLIN GRANGER
MAXIMILIAN ANTONY GRANT
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JAMES DANIEL GRASSEY
CARL DAVID GRAVES
STEVEN MITCHELL GRAVES
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ROBERT KENDRICK GRAY
ROGER SHERALD GRAYSON, IV
EDGAR ALEXANDER GREEN, III
ANDREW JON GREENE
MICHAEL RODNEY GREENE
ALAN MORGAN GREENWOOD
DAVID ANTHONY GREER
LISA RENE GREGORY
ERIC JOSEPH GRESIA
SEAN DESMOND GRIFFIN
EDWARD CLYDE GRINNELL
WILLIAM MAYFIELD GROSS
MICHAEL HIRO GUERRERA
THOMAS KEVIN GUERRERO
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BRIAN KENT GUMMIN
STEPHEN GUTOSKY
MILTON KENNETH GUZMAN
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MARK ALAN HADEN
MARK LENZ HAGENLOCHER
JEFFREY JOSEPH HAHN
MARK GERARD HAKUN
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JOHN SCOTT HALLENBERG, JR.
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ROBERT CURTIS HAMILTON
SEAN MICHAEL HAMILTON
STUART EMERSON HAMILTON
MICHAEL JAMES HAMMOND
BRIAN MICHAEL HARE
CHRISTOPHER LEE HARKINS
JAMES ELIOT HARLAN
WENENA KERR HARMAN
ROBERT SCOTT HARRILL
CORDEL WENDELL HARRIS
STEPHEN CHARLES HASSELL
KURT BLAIR HAUER
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TIMOTHY BEARD HEATHERINGTON
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ANDREW JOHN HEINO
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RICHARD JOSEPH HERNANDEZ
FRED KARL HERRMANN
LAWRENCE JOSEPH HERTZOG
TODD WILLIAM HANSO HICKERSON
ANDREW LEONARD HICKS
TODD EDWARD HIETT
DANIEL JOSEPH HIGGINS
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SANDRA MARIE HILL
PAMELA LEE HILTON
WILLIAM WARFIELD HISCOCK
GREGORY DAVID HITCHAN
DAVID MICHAEL HITCHCOCK
TUCKER SLOCUM HITE
DAVID ALEXANDER HITT
WILLIAM RUSSELL HITTINGER
WILLIAM WALTER HOBAN
MICHAEL PATRICK HODGES
CHRISTOPHER EARL HODSDEN
DAVID JOHN HOFF
MICHAEL JOSEPH HOGAN
TIMOTHY EDWARD HOKE
THOMAS ANDREW HOLE
DONALD GEORGE HOLL, JR.
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JON STEVEN HOOPER
ROBERT WILLIAM HOOPER
JAMES EDWIN HORTEN
MICHAEL JOHN HOSKEN
ANDREW GERARD HOWELL
CHARLES ROBERT HOWSARE
DONALD SCOTT HUGHES
DOUGLAS CLARK HULL
TREVOR CLAY HUNLEY
JERRY PAUL HUPP
JONATHAN RICHARD HUPP
DANIEL JOHN HURDLE
CURTIS MICHAEL IRBY
ROGER GEROME ISOM
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ROBERT CHRISTOPHER JACKSON
MICHAEL THEODORE JAMES
RUDOLPH MICHAEL JANICZEK
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MARGARET MAVOURNEEN JOCKEL
ANDREW SCOTT JOHNSON
JAMES LAWRENCE JOHNSON
JONATHAN EDWARD JOHNSON
LELAND BARRY JOHNSON
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EARL FRANKLIN JONES, III
GREGORY ALLAN JONES
JAMES ALAN JONES, JR.
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MICHAEL CHRISTOPHER JONES
KURT WILLIAM JUENGLING
NEIL RICHARD JURKOVIC
RICHARD WILLIAM KAMMANN, JR.
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KEITH RANDOLPH KANS
CHRISTOPHER KARP
JOHN MICHAEL KASUDA
HOPE KATCHARIAN
DAVID LAWRENCE KAUFMAN
WESLEY BRENT KAUFMAN
SHANNON EDWIN KAWANE
TIMOTHY PATRICK KEEFE
COREY EARL KEEHN
JOHN JOSEPH KEELING
ROBERT WAYNE KELLOGG
ANASTASIA KELLY
DALE AVRIL KELLY
SCOTT KERR KELLY
JUDY LYNN KEMPISTY
JEFFERY ALAN KENDRICK
CHRISTOPHER XAVIER KENNEDY
PIERRE ROBERT KENNEDY
JOHN ERIC KENNINGTON
JOSEPH PATRICK KERSTIENS
TODD ALAN KIEFER
STEPHEN GENE KIM
CHRISTOPHER MICHAEL KING
RONALD JOHN KINN
SCOTT LAWRENCE KISCH
THOMAS KOLOMAN KISS
KEVIN KERMIT KITTS
MAURICE JOHN KLEIN, III
KYLE DUANE KLIEWER
SCOTT JOHN KNOX
ERIK JOHN KNUTILA
DANIEL JOHN KOERSCHNER
GREGORY JENNINGS KOLCUM
CARL JOHN KOLEK
RICHARD ATSUHIKO KONDO
CHRISTOPHER ALLEN KORN
ERNEST PETER KOTSOS
LINDSAY THOMAS KOUGH
MICHAEL JUDGE KRAFT
DANIEL LYMAN KRAMER
KENNETH JAMES KRISTENSEN
JOHN KROPCHO, III
KATHLEEN ANN KUBISKE
ERIC GREGORY KUKANICH
TIMOTHY MICHAEL KUNKEL
MARK ERIC KUTSCHER
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JAMES PALMER LAINGEN
JAMES ARTHUR LAKES
GREGORY CHESTER LAMB
MARK ANTHONY LAMCZYK
STEVE WADE LANDESS
JAMES JOSEPH LANDON
JAMES EDWARD LANOUE
MICHAEL MEARNS LANTERMAN
CHRISTOPHER JOHN LAPENNA
JOSEPH FRANK LASALA
SUSAN MARY LAUFENBERG
MICHELLE JOAN LAURENZANO
MICHAEL SEAN LEARY
SEAN DENNIS LEARY
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PAUL CLINTON LEHMAN, JR.
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MICHAEL JAMES LEIDINGER
JOHN STEPHEN LEMMON
WILLIAM TREVOR LENNARD
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PAUL LEO LHOTE
JACK CAGLE LIKENS, JR.
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PETER THOMAS LIMOGE
TODD MATTHEW LIPANI
PATRICIA ANN LIPOMA
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CHARLES WILLIAM LOCHARD, JR.
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CHRISTOPHER JOHN LORD
STEPHEN EDWARD LORENTZEN
MARK PAUL LOTZE
MICHAEL ROBERT LOWE
SCOTT FOSTER LOWRY
DAVID JAMES LUCCHESI
RODNEY KEVIN LUCK
ANTHONY JOHN LUDOVICI
MARK ANDREW LUTA
DAVID CHARLES LYLE
JOSEPH FRANCIS LYONS
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WILLIAM ANTHONY MACCHIONE
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WILLIAM GRANT MAGER
MARK PRESCOTT MAGLIN
JAMES RICHARD MAGUIRE
JOSEPH ROBERT MAGUIRE
MICHAEL DAVID MAHANEY
MICHAEL FRANCIS MAJEWSKI
LUIS AHMAD MALDONADO
FREDERIC WILLIAM MALEK
DENNIS ANDREW MALONEY
CHARISSE MARIA MANN
SCOTT FLETCHER MANNING
THOMAS CRELLIN MANNING
GREGORY BEN MARBACH
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GREGG WILLIAM MARTIN
RANDALL HAROLD MARTIN
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JASON RICHARD MATIC
JAMES ALLEN MATTHEWS
TIMOTHY EDMUND MATTISON
DAVID WAYNE MAXWELL
FRANK EDWIN MAYS
ANTHONY JOSEPH MAZZEO
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LINI MCCARTHY
THOMAS RAYMOND MCCARTHY, JR.
ANDREW PATRICK MCCARTIN
SCOTT ALAN MCCLURE
MICHAEL PATRICK MCCONNELL
LAWRENCE OWEN MCDONNELL
PERRY LEWIS MCDOWELL
PAUL RAYMOND MCGOWAN
TIMOTHY MICHAEL MCGOWAN
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RICHARD BRIAN MCGRATH
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ROBERT TIGNER MCKENNEY, JR.
JOHN ELUWENE MCKEON
MATTHEW MCKIERNAN, JR.
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TAURIA BETH MCMILLAN
GEORGE DANIEL MEEHAN
JOHN MICHAEL MEIGHAN, III
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DARRYL COREY MELTON
MARK EUGENE MERCER
MICHELLE LYNN MERIA
LIAM PATRICK MERRICK
DANIEL OBRIEN MERRILL

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THERESA CATHERINE MICHAL
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KEITH EDWARD MILLER
KURT FREDERICK MILLER
MARK ALAN MILLER
ROBERT JONATHAN MILLER
RUTH ANN MILLER
WILLIAM CHARLES MILLER, JR.
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RODNEY ALAN MILLS
MICHAEL GEORGE MILO
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RICHARD THOMAS MONTGOMERY
JAMISON CURRIER MOORE
JOHN ERIC MOORE
FREDERICO ORLANDO MORALES
JOSEPH MARK MORALEZ
MICHAEL FRANCIS MORAN
TERENCE BREFFNI MORAN
BRUCE JAMES MORRIS
MICHAEL CHRISTIAN MORRIS
SCOTT DAVID MORRISSEY
ADRIAEN MEREDITH MORSE, JR.
CHRISTOPHER SCOTT MOSHER
MARK JON MOURISKI
ANDREW BERNHARD MUECK
KENT KELLY MUILENBURG
TOAALE SUIAVA MULITAUAOPELE, JR.
BRADLEY SCOTT MULLEN
JEFFREY SCOTT MULLER
PAUL LAWRENCE MULLER
DANIEL WILLIAM MULLIGAN
MICHAEL JOAQUIN MUNOZ, JR.
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DOUGLAS MATTHEW MURPHY
PATRICK JOSEPH MURRAY
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ERIK ARVID MYHRE
GREGG MUSASHI NAKANO
JEFFREY THOMAS NAPOLIELLO
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CHRISTOPHER NOEL NEUGEBAUER
MICHAEL STONE NEWMAN
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JOHN JOSEPH NOBERS
JEREMY JAY NOONAN
TIMOTHY RAYMOND NOONAN
CHRISTIAN JENS NORDLIE
JAMES PATRICK OBRIEN
JOHN FRANCIS OBRIEN
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ROBERT DANIEL OCONNOR
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EDWARD CHARLES OLSHAW
DARREN MONTGOMERY OLSON
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PEGEEN MARIE ONEIL
DEAN HERBERT ORVIS
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KENNETH MICHAEL PASCAL
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HOWARD PAYTON, JR.
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THEODORE ALLEN PECK
BENJAMIN BRAMAN PEET
GLENN WILLIAM PENDRICK
BLAINE STANLEY PENNYPACKER
SHAWN LEE PENROD
PAUL ANTHONY PENSABENE
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ROBERT ALFRED PESCATORE
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NEIL ARNOLD PETTIGREW
TIMOTHY LLOYD PFEIFER
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CHRISTOPHER THOMAS PHILLIPS
JOSEPH PHIL PHILLIPS
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WILLIAM GEORGE PLOTT
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ILYA ALEXEY POLUEKTOV
STEVEN ELIOT PONTELL
PATRICK JAMES PORTER
MARILOU POTENZA
KAREN BETH POVLOCK
KEEHLN BAIN POWELL
CASSONDRA LASHA PREER
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DESMOND PAUL QUIGLEY
MICHAEL JOHN QUILTY
JON CHRISTOPHER QUIMPO
TIMOTHY WILLIAM QUINN
WARD VINCENT QUINN
RICHARD CAREY QUINTAL
CHRISTOPHER JOHN RACKOW
RAMON ROXAS RAMIL
ANDREW GEORGE RANDER
STEVEN ROSS RASMUSSEN
BRIAN ALBERT RATHJEN
JEFFREY MICHAEL REAGAN
CLIFF DUANE REES
TIMOTHY WILLIAM REICHER
SEAN FREDERICK REID
SCOTT EDWARD REIN
ERIC JOHN REINHOLD
AUSTIN EUGENE RENFORTH
MARK JOHN RETZLOFF
JOHN HENRY REUTER
VINCENT LUIS REYES
CLAUDE EDWARD RICHARDSON
ROSALIND JEANETTE RICHMOND
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DAVID JAMES ROGERS
NANCY LORRAINE ROGERS
SCOTT WILLIAM ROGERS
THOMAS EUGENE ROGERS
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DANIEL MARK ROSSER
JAMES MICHAEL ROSSI
JOSE ELOY ROSSY
GREGORY WILLIAM ROUILLARD
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STEPHEN GREGORY SANDOVAL
JOHN THOMAS SANTOSALVO
JAMES CARL SARFERT
TROY SAUNDERS
GREGORY PAUL SAUTER
ERIC JOHN SAVAGE
PAUL EDWARD SAVAGE
SAMUEL THOMAS SCAFFO
MARK FRANCIS SCANLON
COLLIN WILLIAM SCHAFFER
CHRISTOPHER FRANCIS SCHAIER
ROBERT DONALD SCHASEL
DANIEL JOHN SCHEBLER
TIMOTHY RICHARD SCHICK
FREDERICK ANTHONY SCHLUETER
ANNETTE DEL CARMEN SCHLUTERMANN
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DOUGLAS RHEA SCHUELER
JOHN CARL SCHULTE
MICHAEL BRUCE SCHULTZ
JAMES STEVEN SCHWAB
RICHARD SCHWARZ
RICHARD EARL SCOTT
ZACHARY MICHAEL SCRUTON
WILLIAM BEN SEAMAN, JR.
JUAN IGNACIO SEGOVIA
RONALD GEORGE SEITS
FRED JOHN SEVERSON
ELIZABETH JANE SHAFFER
DAVID BRIAN SHANES
JOHN JOSEPH SHANLEY, III
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ANDREW LOUIS SHAW
JEFFREY STEPHEN SHEEDY
BARRY KENNETH SHELTON
DAVID ALLEN SHELTON
DAVID MARSHALL SHELVER
GREGORY ROBERT SHIMP
SCOTT ROBERT SHIRE
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JON CHARLES SILVEY
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GREGORY LANIER SIMMONS
DAVID UDELL SIMON
CHRISTOPHER JAMES SIMONES
PAUL GLENN SIMPSON
ALAN TODD SITLINGER
WILLIAM THOMAS SKINNER
STEPHEN DOUGLAS SKLENKA
STEVEN DAVID SLADKY
RUSSELL EDWARD SLOOP
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DARRYL LEVERNE SMITH
DESMOND NOEL SMITH, JR.
JED CHARLES SMITH
JESSE DEREK SMITH, JR.
JON ARTHUR SMITH
JOSEPH ERIC SMITH
RONALD ANDREW SMITH
THOMAS ANDREW SMITH
THOMAS PETER SMITH, JR.
MICHAEL WILLIAM SNEATH
CHRISTOPHER BRADFORD SNYDER
FRANK ALEXANDER SNYDER
DOMINIQUE EMILIO SOAVE
STEPHEN PHILLIP SOBIESKI
MARK HOIN SONG
LORI LYNN SOROKATCH
ROBERT CURTIS SPARROCK
JOSEPH BRIAN SPEGELE
JAMES HUGH SPENCE, IV
WESLEY WILLIAM SPENCE
JOHN GALLAGHER SPRENGER
KENNETH REACE SPURLOCK
PAUL ANTHONY STADER
GRETCHEN CAROL STAGE
BRUCE ALLEN STANFILL
DOUGLAS ORA HOWARD STANFORD
RONALD FREEMAN STARTZEL, JR.
ROBERT ALLEN STATEN
PATRICK RICHARD STEELE
MICHAEL BRENT STEINBACH
TRUMAN STEPHENS, JR.
GRANT BOEHLER STEPHENSON
JAMES CLIFFORD STEWART
JAMES JAY STEWART
WILLIAM JAMES STITES, JR.
ANDRE EDWARD STOKES
JERRY KENNETH STOKES
EDWARD JOHN STRASSER, III
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BRIAN EDWARD STREET
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STEVEN DOUGLAS STUCK
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WILLIAM HAROLD SUGGS, JR.
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WESLEY INNES SUMMERS
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DAVID NEIL SWEEN
TIMOTHY SCHUYLER SWEET
WILLIAM BENJAMEN SWENT
MARSHALL LLOYD SWOR
JAMES STEPHEN SZERBA
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ROBERT WYNNE TAMARO
HAMPTON HOLLIS TANNER
MICHAEL DAVID TANNER
WHITNEY GORDON TANTLEFF
WILLIAM DAVID TAYLOR
THOMAS WILLIAM TEMPLE
JAMES LAWRENCE THIEN
ANTHONY L. THOME
JEREMY STEWART THOMPSON
JACK JOSEPH THOMSEN
JOHN DANE THORLEIFSON
STEVEN CRAIG THORNE
ROBERT FRANCIS THORNHILL, JR.
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STEVEN LEE TIEDEMANN
THOMAS ANDREW TIPPETT
WILLIAM EDWARD TOBIN, JR.
ROBERT BRIAN TOMIAK
MAUREEN KATHERINE TOOHEY
KATHLEEN MARY TOOMEY
ROBERT PARRIS TORTORA
STEVEN CHARLES TOWNSEND
JAMES FRANCIS TRAA
JOHN MICHAEL TRAMONT
NHUT QUANG TRAN
OWEN MACPHERSON TRAVIS
BRADDOCK WILLIAM TREADWAY
MATTHEW THOMAS TREASTER
STEVEN EUGENE TRENT
JOHN CARL TREUTLER
CHRISTOPHER FRANKLIN TRIGG
THOMAS GEORGE TROTTER
DOUGLAS ALLEN TUCKER
TIMOTHY PATRICK TUMELTY
DEAN WLADISLAW TURCZYN
GEORGE WASHINGTON TURNER
THOMAS EDWARD TURNER
PATRICIA ANNE TURNEY
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KEVIN ROBERT UMBAUGH
CRAIG DAVID UNION
RICHARD CURTIS VAILL
DAVID RAY VALADEZ, III
MICHAEL JOHN VALAIK
BENEDICT JOSE BUSTOS VALECRUZ
DEAN FRANCIS VALENTINE
GORDON SCOTT VALENTINE
KURT ANDREW VANETTEN
ALAN WILFORD VANLOON
BRIAN MATTHEW VANNORMAN
GEORGE JOHN VASSILAKIS

TODD CARLTON VAUPEL
EDWIN GALANTIN VEAZEY
ERIC MICHAEL VEIT
MICHAEL HARRISON VELTRE
CHRISTOPHER JAMES VERDONI
THOMAS JAMES VICTORY
ANTHONY ASTILERO VILLANUEVA
DAVID ELIAS VILLARREAL
JAMES ALEXANDER VOHR
LAWRENCE AUSTIN WADFORD
ERICH JOSEPH WAHL
SCOTT JACOB WAIDELICH
COLLEEN MICHIKO WALKER
VERNON LAVELL WALLACE
DENNIS JOSEPH WALSH, JR.
ANDREW DRYDEN WANNAMAKER
THOMAS EMIL WARNER, JR.
CHRISTOPHER DEAN WARREN
SCOTT WILLIAM WASSEL
ANDREW THOMAS WATERS
CHADWICK KINGSLEY WATSON
JOHN STEPHEN MCRAE WATSON
ANNE ELIZABETH WATT
DONALD MARION WAYMIRE, JR.
ROBERT EARL WEBB, JR.
ERIC FIRDAUS WEILENMAN
ALEXANDER MILES WEINER
MICHAEL WEINSTEIN
ERIC WERNER WEISEL
DAVID PATRICK WELLS
BERNARD RAYMOND WERNER
MARK MEADORS WESLEY
BRIAN KEITH WEST
JEFFREY RAYMOND WEST
KEVIN JOSEPH WHEARTY
MALCOLM SCOTT WHEATLEY
DAVID MICHAEL WHEELER
WILLIAM WANDLE WHEELER, III
JOSEPH SCOTT WHITAKER
THOMAS EDWARD WHITE
WENDI LEE WHITE
GERALD ANDREW WHITMAN, JR.
DANIEL RICHARD WHITNEY
ANDREW FARLLING WICKARD
DANIEL BRENT WIDDIS
STEVEN JEROME WIEMAN
MARK STEVEN WIERMAN
DIANE RAE WIGGINS
GREGORY JOHN WILD
FORD ALAN WILLIAMS
GLENN NEIL WILLIAMS
GREGORY SCOTT WILLIAMS
JEFFREY ROBERT WILLIAMS
KIRK ANDREW WILLIAMS
THOMAS MAYO WILLIAMS
VARANDA KELITA WILLIAMS
JON ALBERT WILLS
MICHAEL JAMES WILMOT, JR.
ERIN AYLIFFE WILSON
SCOTT ERIC WILSON
RONNIE CRAIG WINCE
HENRY HOLMES WINGATE
HARRY MATTHEW WINGO, JR.
LOREN LOIS WISNIEWSKI
CURTIS ALAN WOLD
LESTER MARION WOLF
JAMES AARON WOLTERS, II
DAVID LYNN WOODBURY
CLARKE MICHAEL WOODFIN
CHET HILBURN WOOLLEY
SHANNON LEE WORKMAN
ANTHONE RAYNELL WRIGHT
DONALD ALEXANDER WRIGHT, IV
ERIK CHARLES WRIGHT
MATICE JEANEAN WRIGHT
ERIC RE WYATT
MICHAEL MASON YANCEY
PETER JOHN YANNAKAKIS
TIMOTHY PATRICK YANUCIL
JOHN TY YANVARY
JAMES HENRY YEE
HAROLD STEPHFON YELDELL
JOHN DAVIS YORK
TRAVIS DANE ZACH
KEVIN MICHAEL ZACHERY
JOHN EDWARD ZEBERLEIN
JOSEPH ANTHONY ZEBROWSKI, JR.
KENNETH ZIELECK
JOHN DAVID ZIMMERMAN
MICHAEL TONE ZIMMERMAN, II
JAMES ANTHONY ZITO
THOMAS JOHN ZOHLEN
THOMAS ANDREW ZWOLFER

IN THE NAVY

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TRAINING CORPS CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

NAVAL RESERVE OFFICERS TRAINING CORPS, USN

To be ensign; permanent

TODD A. ABLER
CRAIG J. ABOUCHAR
KARLA M. ABREU
GEORGE H. ACEVEDO
PAUL W. ACKER
LYNN M. ADAM
CHRISTOPHER A. ADAMS
DANIEL L. ADAMS
WILLIAM H. ADAMS
PETER W. AGUILAR
HUGH D. AHN
WILLIAM H. AHRENS
WAYNE M. AIELLO
KACY W. AINSWORTH
THOMAS C. ALAKSA
ANGELA D. ALBERGOTTIE
GREGORY M. ALBERTSON
DENNIS M. ALBRECHT
GREGORY J. ALCORN
MARLON R. ALDRIDGE
KELLY P. ALEXANDER
RICHARD D. ALEXANDER
JOHN T. ALFORD, JR.
TOMAS A. ALKSNINIS
STEPHEN F. ALLARD
JOHN M. ALLEN
JOSEF D. ALLEN
STEVEN B. ALLEN
WAYNE L. ALLEN
LEE K. ALLRED
JOHN M. ALMER
KEVIN L. ALVIS
ROBERT A. AMANN, JR.
TONY L. AMMONS, JR.
PAUL S. AMONS
BRIAN L. ANDERSON
DOUGLAS J. ANDERSON
MARK K. ANDERSON
ROBERT J. ANDERSON
VINCENT D. ANDERSON
FRANCIS D. ANDRES, JR.
MARK D. ANDRESS
ALLAN D. ANDREW
DARRELL S. ANDREWS
MICHELE R. ANDREWS
LAWRENCE A. ANGEL
RODERICK R. ANNET
BRYAN H. ANSCHUETZ
PAUL M. AOKI
PETER E. APERLO
GREGORY A. ARCHIBALD
JOSEPH P. ARELLANO
BRYAN E. AREMAN
JOHN C. ARMERDING
SCOTT E. ARNOLD
TIMOTHY ARRINGTON
SAMUEL W. ASBURY
MICHAEL D. ATKINSON
NILS P. AULISIO
GARY R. AUSTIN
MARK T. AVALLONE
ROGER A. AVATS
ALAN J. AVERHOFF
LAWRENCE P. AVERSANO
BRIAN H. AVERYT
DWIGHT A. AYLES
TERRENCE W. AYLESWORTH
CHARLES J. BABCOCK
GEORGE L. BABKA
BRUCE G. BACHAND
EDWARD S. BACON
EMMANUEL S. BAGNAS
BRADLEY W. BAILEY
SCOTT M. BAILEY
STEWART J. BAILY
ANDREW P. BAKER
JOHN C. BAKER
LYNN R. BAKER, III
TIMOTHY H. BAKER
ANDREW W. BALCH
LORENZO G. BALDWIN
ERIK L. BALLINGER
THOMAS P. BALLINGER
ERIC E. BALOW
DANIEL T. BANGS
CRAIG P. BARDEN
MAURICE D. BARKER
ALAN R. BARKMAN
ANDREW P. BARLOW
DANIEL J. BARNABA
DANNY T. BARNES
MICHAEL S. BARNOVITZ
MICHAEL F. BARR
JEFFERY S. BARRATT
MICHAEL R. BARRETT
JEFFREY B. BARRON
JEFFREY B. BARTA
MANUEL C. BARTHELEMY
BRETT M. BARTHOLOMAUS
NILES E. BARTHOLOMEW
STUART A. BARTOSH
JOSEPH J. BASISTA
DAVID J. BASLER
EDWARD BASQUILL
KENNETH D. BASSLER
BENJAMIN G. BATES
JEFFREY R. BATSON
MICKEY S. BATSON
CHARLES J. BATTLE
THOMAS BAU
MATTHEW W. BAUER
MATTHEW C. BAUGHER
BRIAN G. BAULIER
GLENN E. BAUTISTA
JOSEPH L. BAXTER
BENITO E. BAYLOSIS
STEPHEN M. BAYSE
DOUGLAS R. BEACH
MERLIN E. BEATTY, JR.
CRAIG A. BEAUDOIN
WILLIAM J. BECKER
KYLE B. BECKMAN
SCOTT L. BEDGOOD
ROBERT W. BELCHER
JOSUE M. BELLINGER
JOSEPH C. BELTON
AUGUSTUS P. BENNETT
DANIEL E. BENNETT
SCOTT A. BENNETT
MICHAEL L. BENTON
WILLIAM D. BERGER
JOHN D. BERGIN
KENNETH G. BERGMAN
CHARLES L. BERRY, III
KIMBERLY A. BERRY
CHRISTIAN A. BESSEY
MATTHEW A. BEST
HUGH J. BETTENDORF
MICHAEL BEVACQUA
AVERY A. BEVIN
MARK A. BEYER
ANDREW D. BIANCA
GEOFFREY B. BICKFORD
TIMOTHY D. BIENLIEN
GREGORY A. BIERSACK
JOHN A. BINGER
MICHAEL L. BINNING
MATTHEW R. BIONDI
STEVEN J. BIOREN
ERIKA C. BIRG
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TODD D. BJORKLUND
JONATHAN D. BLACKER
RENELL D. BLACKWELL
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CHARLES R. BLAIR
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DONALD L. BLAIR, JR.
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SCOTT R. BLAKE
LEE A. BLAKELY
PHILLIP H. BLANK
KIRBY W. BOCK
NOEL R. BOEKE
CAROLYN R. BOGGS
ROGER F. BOISSE
CHARLES D. BOLAR
KEVIN G. BOLES
WAYNE D. BOLL
DAVID A. BOLTON
MICHAEL W. BOND
TODD W. BONE
COREY K. BONNELL
DWAYNE M. BOONE
KAREL H. BOONZAAYER
ANDREW J. BOOTH
WILLIAM N. BOOTH
CHRISTOPHER J. BOOVA
ALISTAIR BORCHERT
JOHN K. BORDELON
RUSSELL C. BORGNIN
DAVID BOSSERT
ANDREW R. BOSTOCK
BRADFORD L. BOTKIN
JAMES W. BOUCK
ROBERT K. BOURKE
JEFFREY L. BOWDEN
CAROLE P. BOWER
JERRY A. BOWLES
JOAN R. BOYCE
ROBERT W. BOYCE
ANDREW T. BOYER
MICHAEL R. BOYLE
TRACY A. BRAATEN
JOHN F. BRABHAM
LAWRENCE J. BRACHFELD
THOMAS P. BRADY
BRUCE K. BRAHE, III
ROBERT M. BRASSAW
SCOTT H. BRAVERMAN
MILINDA D. BRAY
STEPHEN N. BRAY
MICHAEL S. BREARLEY
THOMAS I. BREED
LESLIE R. BREELAND
DOUGLAS V. BRENNAN
KEVIN J. BRENNAN
THOMAS J. BRENNAN
JEFFREY A. BRESLAU
COURTNEY R. BREWER
HENRY G. BRICE
EDWARD P. BRICKLEY
ANDREW L. BRIDGE
HUGH P. BRIEN
PAUL B. BRIGHT
RENNIE N. BRIMSTEIN
GREGORY R. BRIOLAT
BRIAN K. BRITTON
CHARLES C. BROCK
SAMUEL S. BRODY
BRENT R. BROOKS
MATTHEW S. BROTHERTON
MICHAEL L. BROWDER
EDWARD D. BROWN
ELLEN M. BROWN
ERIC C. BROWN
GEORGE V. BROWN
JEFFREY M. BROWN
KEVIN W. BROWN
KING E. BROWN

LANCE A. BROWN
MATTHEW T. BROWN
MICHAEL L. BROWN
MICHAEL R. BROWN
MICHELLE N. BROWN
ROBIN E. BROWN
RODNEY E. BROWN
ROGER J. BROWN
WILLIAM E. BROWN
CHRISTOPHER L. BROWNING
ROBERT F. BROWNING
ROBERT E. BROZ
JOHN S. BRUCE
RUSSELL S. BRUNER
MARK R. BRUNNER
MICHAEL P. BRUNNICK
KEVIN M. BRUNSON
STEVEN D. BRYAN
GREGORY R. BUCK
RONALD W. BUCK
DANIEL D. BUCKEY
HENRY T. BUCKLEY
TIMOTHY K. BUCKLEY
EDGAR D. BUCLATIN
JOHN B. BUFFALO
DELL D. BULL
TODD R. BURCH
MARK S. BURDGICK
BRUCE P. BURGESS
DUANE N. BURGHARD
JOSEPH C. BURGHARDT
CHARLES J. BURK
ERIC T. BURK
JAMES P. BURKE
MICHAEL F. BURKE
PETER A. BURKE
ROBERT T. BURNLEY
MICHAEL P. BURNS
DAVE W. BURTON
THOMAS L. BURTON
TIMOTHY J. BURTON
THOMAS K. BUSH
SEAN A. BUTCHER
PATRICK B. BUTLER
RAYMOND D. BUTLER
WILLIAM B. BUTLER
WILLIAM S. BUTLER
CHAD A. BUXTON
CARLTON A. BYRD
JOSEPH L. BYRD
CHRISTOPHER G. CAHILL
WILLIAM F. CALCAGNO
DONALD W. CALDER, JR.
JAMES N. CALDERAZZO
RICHARD J. CALDERONE
WILLIAM A. CALDWELL
CHRISTOPHER J. CALICO
COLIN M. CALLAHAN
JOSEPH T. CALTO
J. S. CALVERT
ANDREW R. CAMERON
GARRY V. CAMERON
ANDREW P. CAMPBELL
GLEN H. CAMPBELL
PETER J. CAMPBELL
MICHAEL J. CAMPION
MICHAEL P. CANNING
CHRISTOPHER P. CANNON
CAROLYN J. CAPOZELLA
LOUIS J. CAPPUCCI
MICHAEL A. CARAMBAS
CHRISTOPHER S. CARDONE
STEPHEN D. CARLIN
PETER T. CARLSON
JOHN Y. CARLSTROM
NEIL C. CARNS
CHRISTOPHER C. CAROLAN
LAWRENCE R. CARPENTER
STEPHEN S. CARPENTER
JOHN A. CARTER
JOHN R. CARTER
RICHARD M. CARTER
THEODORE N. CARTER
BRIAN K. CARUSO
TIMOTHY C. CASEY
WILL K. CASTLE
WALTER C. CATLETT
MICHAEL CAUDELL
COLLETTE C. CAVALIER
GEORGE P. CAVALIER
MICHAEL B. CAVANAUGH
CHARLES C. CAYCE, III
MICHAEL CENTANNI
FRANK E. CESARIO
DAVID G. CHAIKIN
MICHAEL D. CHALEFF
MICAHEL D. CHALFANT, JR.
TYRONE B. CHAN
PHILLIP W. CHANDLER
JAMES D. CHANEY
JOHN R. CHANEY
ELLEN M. CHANG
BYRON V. CHAPMAN
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CATHERINE L. CHASE
TODD N. CHASE
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KENNETH A. CHAUVIN
GLENN R. CHAVE
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MARTIN L. CHEN
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MICHAEL D. CHENARD
GREGORY L. CHESTERTON
ANDREW G. CHILDRESS
DAVID E. CHINICK
CHRISTOPHER J. CHIVERS
JEFFREY W. CHLEBOWSKI
BARBARA D. CHRISTENSEN
BRIAN K. CHRISTIANSON
WARREN B. CHRISTIE
BRADLEY S. CHRISTMAS
DANIEL G. CHRISTOFFERSON
KEVIN N. CHRISTOPHER
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JEREMY CHUCKO
TRACY D. CHUN
MARTIN D. CIBICH
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JESS T. CLARK
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ROBERT E. CLARK
WILLIAM P. CLARK, III
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ROBERT S. CLEMENTS
CHRISTOPHER M. CLEMOW
PAUL D. CLIFFORD
JAMES P. CLINTON
JAMES W. COFFMAN
BRETT E. COHEN
STEVEN J. COLCOMBE
DAVID J. COLE
LYNDON D. COLE
CHRISTOPHER H. COLEMAN
MICHAEL C. COLEMAN
CARLOS R. COLL
MICHAEL D. COLLIER
CHARLES K. COLLINS
MICHAEL J. COLMAN
BRYAN K. COLVIN
THEODORE E. COMEAU
SHAWN P. CONLON
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JAMES P. CONNOLLY
GREGORY L. CONNOR
ROBERT D. CONSOLAZIO
CATHERINE D. COOK
CHRISTOPHER A. COOK
KEVIN D. COOK
NATHAN S. COOK
TODD A. COOK
MICHAEL COOLICAN
DANIEL P. COOMBES
JAMES E. COONEY
DON C. COOPER
GLENN E. COOPER
BENJAMIN W. COPELAND
JOHN C. COPELAND
DAVID A. COPP
KELLY J. CORMICAN
CHRISTOPHER J. CORR
MICHAEL J. CORRIGAN
STEPHEN J. CORY
MATTHEW P. COSGROVE
EUGENE D. COSTELLO
JOHN M. COVER
JAMES D. COVINGTON
TRACY J. COWAN
CARL E. CRABTREE, III
GREGORY K. CRAMER
DALE E. CRANDELL
PAUL J. CRANN
STEVEN T. CRAWFORD
ANDREW L. CREED, JR.
JOHN D. CRISP
JEFFERY D. CRITSER
MICHAEL L. CROCKETT
THOMAS D. CROISANT
WILLIAM A. CROOK
CHRISTOPHER E. CROOKER
DEIDRA R. CROSBY
SCOTT Z. CROW
KIRSTIN M. CROWE
PATRICK CROWELL
ERIC P. CRUDO
DENNIS R. CRUZ
TED CUDAL
ALVARO F. CUELLAR
WILLIAM P. CULP
THOMAS C. CUMMINGS
MICHAEL L. CUNNINGHAM
STEPHEN P. CUNNINGHAM
JOHN F. CUPSCHALK
DARRELL E. CURLS
TIMOTHY D. CURP
CHOLE R. CURRENT
ROBERT W. CURRY
WILLIAM G. CUSACK
RUBENS G. DALAISON
RONALD M. DALLA
PATRICK D. DALMAN
JOHN F. DALTON
JOHN L. DANGELO
DALE S. DANIEL
ALBERT D. DANIELS
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DOUGLAS M. DAVIDSON
TRACY B. DAVIDSON
BARBARA J. DAVIS
CHRISTOPHER J. DAVIS
EDWARD J. DAVIS
FREDERICK T. DAVIS
JACK E. DAVIS
JEFFREY P. DAVIS
JOEL J. DAVIS
PHILIP D. DAVIS
ROBERT B. DAVIS
ROBERT S. DAVIS
STEVEN H. DAVIS
VICTOR J. DAVIS
WALTER T. DAVIS
WILLIAM E. DEALA
MARK A. DEANGELO
THOMAS L. DEARBORN
CRAIG R. DEARTH
JOSEPH M. DEBONO
JAMES T. DEBORD
DAVID J. DEEP
ADRIENNE N. DEFOREST
BENJAMIN D. DEFRANCESCO
JOSEPH L. DEGRAFF
ANTONIO DELACRUZ
ROBERT J. DELANEY
JAMES M. DELANI
ALLEN DELATTRE
SCOTT W. DELISIO
JAMES P. DELL
ARTHUR E. DELLER
GERALD DELOACH
LUIS G. DELVALLE
BRUCE R. DEMELLO
CAL T. DEMIER
CHARLES L. DENNIS
RONALD M. DENNIS
WILLIAM Q. DERROUGH
MARK C. DERUSHA
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DOUGLAS F. DESROCHERS
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PAUL A. DEVEREUX
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JEFFREY P. DEVRIES
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JONATHAN A. DIEN
DARRELL A. DIFABIO
ERIC DIFRANCESCO
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IAN G. DOBBINS
TREY W. DOCKERY
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THEODORE E. DOGONNIUCK
MICHAEL S. DOHNANYI
MATTHEW C. DOLAN
DANIEL S. DOLL
HENRY J. DOMINGUE
DAVID J. DOMMEL
THERESE DONAHEY
PETER A. DONIS
JAMES E. DONNELLAN
WILLIAM J. DONNELLY
VINCENT J. DONOHUE
MARK H. DONOVAN
JAMES F. DOODY
WINNIE L. DOOLING
JAMES A. DORAN
ELLEN J. DORGAN
JEFFREY C. DORSEY
CHARLES J. DOUGHERTY
RANDALL L. DOUGHMAN
STEVEN A. DOVE
DANIEL V. DOWD
KEVIN A. DOWGIEWICZ
MATTHEW L. DOYEL
MARTIN S. DRAGAN
STEVEN H. DREXLER
PETER D. DUERST
SCOTT A. DUFFY
DAVID M. DUFOUR
SCOTT E. DUGAN
DANIEL J. DUGGAN
ERIK M. DULLEA
JOHN L. DUMAS
ROBERT C. DUNCAN
STEVEN S. DUNIPACE
GRANT D. DUNMIRE
DOMINGO L. DURAN
VON B. DURAN
THERESA C. DURRANCE
FRED P. DUTTON
ROBERT V. DWYER
WILLIAM R. DYER
JOHN R. DYSART
GUS EADY
JOHN E. EANS
STEVEN A. EARLY
STEVEN J. EARNEST
JOSEPH W. EASON
JEFFERY P. EATON
JOHN F. ECCKER
CLEMENT B. EDGAR, III
JOHN E. EDMAN
PAUL L. EDWARD

HENRY B. EDWARDS, III
RICHARD B. EDWARDS
ROSS E. EDWARDS
SCOTT A. EDWARDS
CHARLES EGERTON
TODD L. EGGERS
WILLIAM T. EHRET
EDWARD W. EIDSON
CHARLES K. EINEICHNER
JOSEPH D. ELIE
THOMAS A. ELKINS
GERALD L. ELLIOTT
MARY J. ELLIOTT
WILLIAM C. ELLIOTT
NEALE R. ELLIS
RICHARD W. ELLIS
TODD R. EMO
TRACEY L. EMSWILER
TONY R. ENCINIAS
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DARREL W. ENGWELL, JR.
ANDREW J. ENMAN
BROOKS L. ENSIGN
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JAMES W. ERICKSON
RICHARD P. ERICKSON
RICHARD S. ERIE
DANIEL P. ERMER
JEFFREY R. ERMERT
BRETT H. ESHLEMAN
EMILSON M. ESPIRITU
WALTER R. ESQUIVEL
MARK R. ESTES
RAYNARD G. ESTRADA
JAMES D. ETHERIDGE
RUSSELL E. ETHERIDGE, JR.
DANIEL A. EULBERG
DOUGLAS E. EUROM
KATHLEEN G. EVANS
ANTHONY L. EVERGIN
ELIZABETH A. FAHY
RYAN N. FAHY
MATTHEW T. FAIRBANKS
MICHAEL P. FALCONE
MICHAEL FARACE
KATHRYN R. FARKAS
DANA D. FARMER
RAYMOND K. FARRIN
TRACEY A. FARRIS
DANIEL D. FASTENAU
ROBERT W. FEINDT
JOHN W. FELKNER
MARK A. FELTON
FREDERICK G. FERARES
JERRY FERDINAND
RICHARD FERNANDEZ
XAVIER F. FERNANDEZ
THEODORE T. FERRAZANO
TODD E. FERRIN
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DANIEL B. UHLS
THOMAS A. UPCHURCH
CRAIG E. VALENTINE
TIMOTHY T. VANATTA
KENNETH M. VANDERWORP
JOHN C. VANHECKE
MICHAEL L. VANMETER
GERARD J. VANWARMERDAM
STEPHEN F. VARGA
ALICE M. VARGAS
MATTHEW G. VAUGHAN
LEE F. VEAZEY
SCOTT T. VEJSICKY
DIEGO J. VELASQUEZ
MICHAEL A. VICKNAIR
FRANK W. VIDO
CHARLES W. VILLA
MICHAEL L. VINKAVICH
THOMAS K. VINSON
COLIN S. VISSERING
MICHAEL L. VITULANO
COLBY C. VOKEY
JEFFREY R. VONHOR
CARLOS M. VORHER
JAMES E. VROOM
CHRISTOPHER M. WAALER
BRETT A. WADSWORTH
GREGORY WADSWORTH
JOSEPH K. WAGNER
ANN P. WALKER
JACQUES P. WALKER
RICHARD W. WALKER
THOMAS V. WALLACE
MARY F. WALLS
TOBY J. WALLS
JON P. WALMAN
DANIEL WALSH
JOHN D. WALSH
THOMAS F. WALSH
WILLIAM F. WALSH
JOHN E. WALTERS
LEO A. WALTERS
MICHAEL J. WALTERS
ROBERT A. WALTERS, JR.
LEIF E. WALTHER
HOWARD S. WALTON
RONALD D. WALTON
JOHN J. WANAT
BERNARD P. WANG
PETER J. WARD
DAVID M. WARNER
ROBERT W. WARNER
SCOTT M. WARNER
THOMAS H. WARREN
WILLIAM R. WARREN
TRACIE L. WARRICK
DAVID C. WARUNEK
STEVE W. WASCOM, JR.
ANDREW WASIELEWSKI
JAMES P. WATERS
JAMES R. WATKINS
TODD W. WATKINS
JAMES G. WATSON
LORITA D. WATSON
MICHAEL P. WATSON
ROBERT M. WATSON
SCOTT A. WATSON
THOMAS J. WATSON
MATTHEW B. WATTS
WILLIAM M. WAUBEN
STEPHEN J. WAYMAN
DAVID J. WEARS
KELLY J. WEAVER
BRADLEY A. WEBB
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SHAWN M. WEBB
JAMES R. WEBBER
MARK M. WEBER
VICTOR K. WEBER
CHRISTOPHER B. WEBSTER
KENNETH C. WEBSTER
RANDOLPH R. WEEKLY
CHARLES B. WEEKS
MICHAEL S. WEIDMAN
HENRY D. WEIGEL
ROBERT J. WEIR
LARRY A. WEISBERG
EDMOND J. WEISBROD, JR.
CARL F. WEISS
GERHARD P. WEISS
BRADLEY WEISZ
ROBERT C. WEITZMAN
CHARLES M. WELCH
DAVID C. WELCH
DEREK C. WELLS
TIMOTHY K. WELSH
DAVID E. WERNER
MARK A. WERNSMAN
RANDAL T. WEST
SCOTT A. WEST
TIMOTHY J. WEST
CATHY M. WESTERMANN
CHRISTINE L. WESTHAUS
SCOTT G. WESTLAKE
FRANKLIN D. WESTMORELAND
JOHN R. WHEELER
TAMPER N. WHEELER
TIMOTHY WHELAN
MICHAEL P. WHICHARD
JOHN M. WHIPPLE
JOHN B. WHISENANT
GEORGE T. WHITBRED, IV
CARAMINE WHITE
FRANKIE L. WHITE
MARVIN G. WHITE
ROBERT E. WHITE, JR.
ROBERT C. WHITIS
GILBERT E. WHITLEY
JAMES D. WHITLOCK
MICHAEL WHORTON
JAMES R. WICKMAN
BRYAN C. WIDMER
JAMES W. WIECKING
ALAN J. WIGGS
JULIA M. WILCZYNSKI
STEVEN W. WILCZYNSKI
JAMES A. WILEY
MARK A. WILK
BRUCE C. WILKINSON
BRUCE O. WILKINSON
KELLY A. WILKINSON
TEDRIC G. WILKINSON
DOUGLAS M. WILLCOX
LAWRENCE G. WILLCOX
DOUGLAS J. WILLEY
AMY S. WILLIAMS
CONDRETTA O. WILLIAMS
DAVID A. WILLIAMS
DAVID L. WILLIAMS, JR.
DELANEY C. WILLIAMS
EUSEEKERS WILLIAMS
GEORGE S. WILLIAMS
JEROME L. WILLIAMS
LISA L. WILLIAMS
MARK H. WILLIAMS
MARVIN H. WILLIAMS
PAUL M. WILLIAMS
WILLIAM M. WILLIAMS, JR.
STEPHEN F. WILLIAMSON
ERIC A. WILLS
GARY A. WILSON
JAMES S. WILSON
JOHN P. WILSON
JON E. WILSON
MARK R. WILSON
PENNEY S. WILSON
STEPHEN M. WILSON
JEFFREY S. WINAKER
CONRAD J. WINKLER
MARK J. WINTER
MARK J. WINTER
PETER WINTER
SHANNAN M. WINTERMEYER
CHADWICK P. WIRZ
SCOTT D. WITTE
WILLIAM P. WITZIG
WILLIAM A. WOJCIESZEK
DEAN J. WOJCIK
MICHAEL T. WOLFF
PAUL A. WOLFF
DONALD W. WOLFGANG
MATTHEW A. WOLKA
DAVID C. WONG
DAVID E. WOOD, JR.
ROBERT K. WOODFORD
ANTHONY R. WOODLEY
MARK D. WOODSIDE
ERIC W. WOOLEY
ANDREW J. WOOLLEY
TERRI E. WORLEY
DAVID WRAY
IVAN WRAY
BROOK L. WRIGHT
CHRISTOPHER W. WRIGHT
JOHN A. WRIGHT
KENNETH S. WRIGHT
ROBERT L. WRIGHT
ROAHN H. WYNAR
JULIAN J. WYNN
STEFAN D. XAUDARO, JR.
GUST P. XIDES
THOMAS M. YAMBRICK
JOHN W. YATES
JONATHAN E. YELLEN
ANDREW C. YENCHKO
DAVID B. YOUMANS
CHRISTOPHER G. YOUNG
FRANK S. YOUNG
GEORGE K. YOUNG
HENRY S. YOUNG
ROBERT E. YOUNG
WILLIAM C. YOUNGBLOOD
DAVID F. YUKNES
ROY W. YUNKER
JON D. ZABINSKI
KIP B. ZACHARIAS
ANDREW T. ZAHAREVITZ
DARON ZAKARIAN
EDWARD F. ZALESKI
GERALD M. ZAMPA
JAMES A. ZANINO
JAMES B. ZEH
LOUIS W. ZEHIL
JUDITH E. ZELLER
RICHARD J. ZIEGLER
RICHARD A. ZIELINSKI, JR.
DAVID J. ZIERATH
ANDREW A. ZIMMERMAN
JEROME ZINNI
RICHARD ZINS
DAVID M. ZITZEWITZ
DAVID H. ZUANELLI
TODD A. ZVORAK

EXTENSIONS OF REMARKS

STATE OF OUR PRESENT FINANCIAL MARKETS, WHERE SHOULD WE GO FROM HERE?

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mr. MARKEY. Mr. Speaker, I wish to insert into the RECORD a speech that I delivered on March 9, 1988, before the Brookings Institution's symposium on the policy implications of the stock market crash of 1987. In my remarks, I have addressed the actions taken by market regulators and investors during and following the market break, the consequences and implications of the decline, and possible regulatory reform that may implicate congressional action.

REMARKS OF HON. EDWARD J. MARKEY, CHAIRMAN, SUBCOMMITTEE ON TELECOMMUNICATIONS AND FINANCE BEFORE THE BROOKINGS INSTITUTION SYMPOSIUM ON THE POLICY IMPLICATIONS OF THE STOCK MARKET CRASH OF 1987

I am very pleased to be here among this august group and I thank Mr. Cabot for inviting me to participate. Today's topic, the Policy Implications of the Stock Market Crash of '87 relates directly to the safety and reliability of our financial way of life. It is an issue which demands the most serious attention of our public and private institutions and a commitment on the part of all of us to reach beyond our parochial concerns and seriously address the fault lines in our regulatory structure which so nearly resulted in catastrophe on October 20. As Nick Brady continually reminds us: "We are looking down the barrel of the same gun, and it is still loaded."

Everyone on Capitol Hill would like the markets to cure themselves. I recently joined Chairman John Dingell along with the ranking minority members of the Energy and Commerce Committee and Telecommunications and Finance Subcommittee in requesting an expedited contingency plan for dealing with the possibility of another episode similar to last October's. The industry and the self-regulatory organizations are being given every opportunity to effect intermarket agreements which will address short circuiting of future downward cascades in our unified securities and futures markets. A number of unilateral initiatives have already been undertaken by several marketplaces. The Chicago futures exchanges have voluntarily increased initial margins and created price movement limits on their contracts; the NASDAQ system has adopted new regulations which ensure that all orders entered into their Small Order Execution System will be executed automatically, regardless of the market conditions; the options exchanges are revising their formats for creating and opening new series of options and the NYSE has made their DOT computer system unavailable on days of excessive market volatility. And this is by no means an exhaustive list.

Despite these progressive and laudable undertakings, there remains the nagging perception that we are dealing on an ad hoc basis with a deadly serious matter requiring comprehensive reform.

Such reforms will not be easy to accomplish. The business press tells us that the strength of the futures lobby in Washington and jurisdictional turf battles between powerful committees will make tough, responsible legislative responses unlikely in this legislative session. But Congress is also getting calls from back home. Regional brokers are calling to tell us that their customers have deserted the stock market in unprecedented number. Larger national retail brokers are sending the same message. And those retail customers themselves are calling and writing and sending telegrams, and the message is startlingly uniform: the stock market has become too volatile for the average investor, the vast majority of whom are unwilling and unable to participate in a market where their net worth can fluctuate by as much as 22% in a single trading day! The usually hardy American investor seems to have learned the lesson of Mark Twain's cat who sat on a hot stove. True enough, that cat never sat on a hot stove again, but she never sat on a cold one, either.

Statistics compiled by the Securities Industry Association indicate that as many as 40% of pre-October stock players are now on the sidelines. Many of them are saying that they are going to stay there until they perceive that they will get a fair shake in the market. So where is the villain? Well, the cards and letters are telling us that the American investing public believe the Brady Commission, the General Accounting Office and the Securities and Exchange Commission. The culprit is unbridled intermarket trading strategies based not upon market fundamentals but computer evaluations and executions commonly referred to as program trading.

Last July, the Subcommittee held a full-day hearing on all aspects of program trading and portfolio insurance. I was concerned that our securities markets had become too volatile and that forces were at work in the marketplace that were not fully comprehended by the regulators or even by the users of these relatively new trading strategies.

Well, regulator after regulator, and user after user, testified that program trading and portfolio insurance posed no threat to our securities markets. The fact that neither strategy had ever been employed during a genuine bear market was of little concern.

I remained skeptical. Indeed, two weeks before the October 19 crash, I wrote to Chairman Ruder of the SEC expressing serious concern about the increased intraday and end-of-day volatility in our securities markets. When the market fell 91 points on October 6, the usual array of market analysts and technicians rushed into print to point out that, although that was the largest market drop in history, it was still only 3.4 percent of the Dow and that it was not a significant event.

I disagreed. In my October 7 letter to Chairman Ruder, I stated that the volatility in the Dow was becoming so great in absolute terms, that it was possible that the sheer magnitude of these numbers, coupled with the markets' ever-increasing velocity as a result of program trading, "could affect investor response and create a near free-fall situation that feeds on itself." I concluded that October 7 letter by telling Chairman Ruder, "[f]rankly, I remain unconvinced that program trading might not someday play an important role in a rapid, uncontrolled market decline."

We all know what happened less than two weeks later.

Ladies and gentlemen, our securities markets were, and still are, too volatile. In recent months, the exchanges and large market participants have appreciated the results of this volatility. Several large firms have now suspended program trading for their own accounts. Two weeks ago, the New York Stock Exchange voted to suspend program trading through its DOT system if the market moved intraday more than 50 points in either direction.

This experiment at the exchanges with somewhat larger futures margins and limitations on use of the DOT system are reasonable and responsible steps, but they are aimed at symptoms rather than the causes of the problem. They may control the spread of the disease but they won't cure it.

The decade of the 80's has witnessed a much-heralded drive for increased market efficiency. More transactions, larger block trades, executed instantly, in global markets. Obviously, in general terms, efficiency is preferable to inefficiency. However, we must keep in mind that we are not trying to create a perpetual motion machine. We are trying to develop markets that are conducive to large-scale capital information and to design market mechanisms that facilitate investment flow. Efficiency is not the end in itself that some perceive it to be. It is a means to an end. That end is capital formation; and broad-based capital formation retreats from markets whose trading charts look like the outline of a roller coaster. This isn't just a theoretical problem. Recent analysis of SEC focus reports indicate that funds raised for new corporate issuers, excluding closed and mutual funds, were 250 and 110 million dollars for January and February, 1988, respectively. This compares with a third quarter 1987 average of 2.2 billion dollars a month.

The impact of these numbers is staggering. The stock market exists in our capitalist system for one paramount reason, to facilitate the formation of capital for the financing of American enterprise. We have created a frighteningly efficient market mechanism, but at what cost?

Simply put, market efficiency at the expense of market stability is counterproductive and contrary to our nation's interest. It might be more "efficient" to drive your car at 125 MPH to the store and back. You would get there twice as fast. But we made a decision that society as a whole functions better without that kind of efficiency. Now we need to make certain that the kind of "efficiency" our markets are capable of achieving works in the interest of those markets and their investors, and not against them.

It is time to recognize the unity between our futures and equity markets and treat them accordingly. We need unified regulation of stocks and stock index futures. We need equivalent margin treatment within these markets. Congress needs to take these and other steps to reduce volatility in our markets and reinvigorate investor confidence in the stability and integrity of our securities markets. As Professor Samuel Hayes has said, our markets are too important to suffer the "benign neglect" of Congress and the regulators.

But on a broader spectrum, and possibly not for immediate resolution, we need to scrutinize the rules that govern our securities markets. Are they rules that were designed to govern a marketplace for individuals, but are now stretched beyond capacity in trying to deal with a market dominated by institutions? Do we need a new set of up-to-date regulations that are better suited to govern the market as it exists today, not as it was 30 years ago?

The foundation of America's securities laws are disclosure and risk assessment. The 1933 Act and each of the subsequent securities acts followed the principle that the greater the disclosure, the more refined the risk assessment. For individual investors, disclosure is key.

But in a marketplace where large institutions hedge vast equity positions in the futures and options markets, principles governing risk transfer, which are not presently embodied in our securities laws, are just as important as those governing risk assessment. In a zero-sum game, when risk leaves one corner, it moves to another; it does not simply vanish.

As we saw on October 19 and 20, cumulative hedging of large equity positions may expose those positions to overvaluation of such magnitude that the market may not be able to absorb a return to true market dislocation which is still working to the detriment of the capital formation process. Therefore, we need to make certain that a market that is moved by institutions is governed by modern rules designed for institutions. Otherwise, the structural safety of our markets will remain subject to question.

We can talk a great deal about the changes that are taking place in the world with regard to national productivity and international competitiveness and America's proper role in that process. But if our capital markets fail us because of some structural dysfunction exacerbated by either the absence of proper regulation or the intrusion of antiquated regulation, we will have only ourselves to blame.

I am reminded of a recent cartoon in which a giant bear leans smugly against the outer walls of a tiny long cabin; inside the cabin, Congress and the administration reassure themselves that "whatever it was, its gone now." It is not gone; it is still there; and it can cause catastrophic economic hardships to our nation if we fail to bite the bullet and commit ourselves to the hard choices.

For my part, I cannot ignore that bear, even if he hasn't growled in recent days. I intend to press hard for the kind of new, smart up-to-date regulation that will bring individuals back to the marketplace and that will renew the capital formation process instead of crippling it. Thank you.

TRIBUTE TO MR. WILLIAM G. LYDEN, JR.

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Mr. William G. Lyden, Jr., of Youngstown, OH. He has been selected as the Ancient Order of Hibernians, 1988, Irishman of the Year.

William is currently serving as chairman of the board and chief executive officer of the Lyden Co. He was educated at St. Edward Elementary and Ursuline High Schools, graduating in 1944. While attending Ursuline he was a member of the varsity football team. William then entered the U.S. Army and served from 1945 through 1947. After leaving the military, he attended the University of Notre Dame where he received a bachelor of science degree graduating magna cum laude in 1950.

In 1950, he married Miss Donna Binsley and they were blessed with five children who have in turn given them six grandchildren.

Mr. Lyden's service in this community is epic in stature. In 1987, he was instrumental in presenting a program at Youngstown State University titled "Ireland and the Irish"—a Study of Stereotypes. It was so well received that a second conference is presently in the planning stages. William has been honored as the grand marshall of the annual St. Patrick's Day Parade, is a past president and director of the Chesterton Club and the Youngstown Area Development Foundation, past president of the Mahoning Valley Boy Scouts and the Notre Dame Alumni Club Man of the Year in 1969. He is also a member of the advisory board for St. Elizabeth Hospital Medical Center and Goodwill Industries. This is by no means an exhaustive list of William's community contributions but a sample to show what a giving and caring citizen he is.

It is with great pride that I pay tribute to such an outstanding man. I congratulate Mr. William Lyden on being named Irishman of the Year and I am proud to represent him in the U.S. House of Representatives.

LET THE KOSHAROVSKY FAMILY GO

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mr. CARDIN. Mr. Speaker, 17 years ago the Kosharovsky family was first denied permission to leave the Soviet Union. When they first applied to emigrate, Yuli Kosharovsky was fired from his job at the Automation Research Institute where he was an engineer. Yuli's wife was also fired from her job as a mathematician. Once again, the possession of state secrets has been the excuse used to justify the denial of permission to emigrate.

Over the past two decades the Kosharovsky family has survived being labeled as refuseniks and have suffered through many arrests, house searches, and detention. Their two sons Eli and Moti have known no other life than that of being a refusnik and being labeled a "dirty Jew" by their classmates. Mr. Speaker, despite their hardships, Yuli Kosharovsky is one of Moscow's leading Hebrew teachers. Although he has been threatened many times by the KGB to stop his teaching, Yuli's determination to pass on his knowledge of Jewish culture and language has continued to grow.

On March 10, 17 years from their first denial, the Kosharovskys will be starting a hunger strike to call attention not only to their plight, but to the plight of all citizens who have been refused permission to emigrate. There are demonstrations being held in solidarity with the Kosharovskys in front of the Soviet Embassy, here in Washington, as well as in London, Moscow, and Jerusalem. I urge my colleagues to convey their strong messages of support for the Kosharovskys to the Soviet Ambassador and to continue congressional support for all people seeking to emigrate from the Soviet Union.

TRIBUTE TO ELLEN BUMP

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mr. AUCOIN. Mr. Speaker, I would like to take this opportunity to bring to the public's attention the life and work of a woman who has served the community of Forest Grove, OR, for nearly half a century.

Mrs. Ellen Bump has not garnered big headlines in the newspapers, she has not been the center of public attention, but she has won the hearts and thanks of hundreds of Forest Grove citizens for her countless hours of dedicated volunteer work and unwavering willingness to come to the aid of those in need. She is the kind of unassuming individual that one meets only rarely in a lifetime, an individual who makes no distinction between their professional work and their volunteer activities—an individual who's life is dedicated to serving people whenever and wherever they are in need of help.

Mrs. Bump will retire this year after practicing law in Forest Grove for 43 years. Not only was she one of Forest Groves first women lawyers—one of the first women to become the senior partner in a well known law firm—she has also been one of the most active; working first as the county's juvenile court attorney and later as the attorney for the Banks School District. She has been an active participant in civic organizations as well, being at various times a member of the Washington County Welfare Commission and the Forest Grove Library Commission.

We can all take a page from the book of Ellen Bump. We salute her for her long service to the community, for her honesty and integrity and dedication to help those in need. I congratulate her on her recognition by the Forest Grove chapter of the Delta Kappa Gamma society which has honored her with their distinguished Excellence in Action Award.

HISTORICAL INSIGHT ON ANGOLA

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mr. DYMALLY. Mr. Speaker, today, I would like to share with my colleagues an excerpt from a fascinating study entitled "Angola: A Chronology of Major Political Developments" as prepared by the Angola Peace Fund.

I would like to thank the Angola Peace Fund for providing us with an opportunity to review its excellent contribution of historical insight on Angola. I trust that my colleagues will find it most informative in analyzing future developments in Angola and the southern African region.

ANGOLA: A CHRONOLGY OF MAJOR POLITICAL DEVELOPMENTS

INTRODUCTION

Developments in Angola have been the subject of intense debate in U.S. domestic and international political circles for more than 27 years. Few conflicts have involved as many international forces or have had recorded as many failed attempts at resolution.

Yet, in spite of the availability of the facts, Angola Peace Fund (APF) finds that few debates in recent years have concentrated as little on historical detail, and as much on emotional sentiment, as those concerning the future of human and material development in Angola.

Based upon this finding, APF has prepared this chronology as a contribution toward illuminating key facts surrounding this historically important country in Africa.

This chronology covers the period beginning February 1961 through January 1988. No claim is made that this document represents all developments during this period. However, those events APF considers as vital to Angola's domestic or international development are represented.

During the months ahead, APF has determined that events in Angola and the southern Africa region, will make the value of this document increasingly apparent.

In reviewing the chronology, we are impressed by the single chord of reconciliation that seems to bind all the events. Whether in discussions with Portuguese during the period of transition to independence or in discussions among themselves, MPLA, UNITA and FNLA have at various times sought to reconcile their differences.

This desire for reconciliation and for development is what APF intends to promote, through this chronology and through all its future activities.

15 February, 1988.

April 25, 1974—The Portuguese dictatorship of Premier Marcello Caetano is overthrown by the Armed Forces Movement in an almost bloodless coup. Gen. Antonio de Spinola, the leader of the coup, indicates a commitment to continue Portugal's colonial rule in Africa.

"The Overseas territories are a prerequisite for our survival as a free and independent nation. Without the African territories, the country . . . . will be reduced to a voiceless corner of a gigantic Europe."—Gen. Antonio de Spinola in his 1974 book, "Portugal and the Future"

April 29, 1974—A coalition of opposition groups in Portugal meets with junta leader Gen. Antonio de Spinola to request independence for Portugal's African colonies. Spinola only agrees to open talks on "self-determination," which he considers less than full independence.

May 19, 1974—Gen. Franco Pinheiro, commander of the Portuguese military forces in Angola, suspends all military operations to "allow the emergency of a peaceful cease-fire" with the three liberation movements.

June 14, 1974—UNITA signs a truce with the Portuguese.

June 1974—FNLA begins receiving Chinese instructors and small weapons.

July 1974—FNLA begins receiving small amounts of U.S. financial assistance.

August 1974—After reconciling their differences with MPLA's leadership, the Soviet Union resumes arms shipments following a nearly two-year hiatus.

August 23, 1974—The three factions of MPLA hold a party congress in Zambia at the urging of African leaders. Acrimony among the parties leads to a walkout of forces loyal to Agostinho Neto. This results in the election of Daniel Chipenda as the new MPLA presdent. However, Chipenda's election is only accepted by his closest supporters in the party.

September 2, 1974—A second MPLA congress is held in Zambia, resulting in the presidency being restored to Agostinho Neto. Chipenda is relegated to one of two vice-president positions. He and a third faction soon repudiate the election results and take their supporters to Zaire.

October 21, 1974—MPLA signs a cease-fire agreement with the Portuguese.

Late October 1974—FNLA agrees to a cease-fire with the Portuguese.

November 25, 1974—UNITA President Jonas Savimbi and FNLA President Holden Roberto sign a reconciliation agreement and vow to jointly negotiate with Portugal for Angola's independence.

December 1974—The OAU recognizes UNITA.

December 18, 1974—Following separate talks with Portuguese High Commissioner for Angola Adm. Rosa Countinho, UNITA's Jonas Savimbi and MPLA President Agostinho Neto sign an agreement to jointly negotiate with Portugal to form a transitional government, which also would include FNLA.

December 19, 1974—UNITA proposes a meeting of all three liberation movements to work out details of a joint negotiating position with the Portuguese for Angola's independence.

January 5, 1975—Kenyan President Jomo Kenyatta invites MPLA, UNITA and FNLA to attend a conference in Mombassa, where they sign an agreement to jointly negotiate Angola's independence from Portugal.

January 15, 1975—After holding joint negotiations at Mombassa, FNLA, UNITA and MPLA sign with Portugal the Alvor Agreement, which calls for the establishment of a transitional government of national unity in Angola and sets November 11th of that year as the date for independence.

"The Transitional Government shall organize general elections for a constituent assembly within nine months as from the 31st of January 1975, the date of its coming into power."—Article 40—The Alvor Agreement

January 31, 1975—The transitional government agreed upon at Alvor is inaugurated in Luanda with representatives of MPLA, UNITA and FNLA dividing responsibilities for governance.

February 1975—A nationwide poll conducted by a Luanda newspaper estimates that UNITA enjoys the support of 45 percent of the population, while MPLA and FNLA each have 20 percent support.

February 23, 1975—After continuing disagreement with MPLA leadership, Daniel Chipenda announces that he and his supporters have joined FNLA.

March 1975—An estimated 60 persons are killed and more than 200 wounded in fighting between MPLA and FNLA before the two liberation movements agree to end hostilities.

March 25, 1975—The first large shipment of Soviet and Yugoslavian arms is received by MPLA.

April 28, 1975—Heavy fighting erupts in Luanda between MPLA and FNLA. After three days of continuous battle, more than 700 are dead and 1,000 wounded.

May 1975—Portuguese Gen. Antonio Cardoso confirms that more than 200 Cuban military advisers are in Angola to train MPLA soldiers at Beneguela, a seaport south of Luanda.

June 6, 1975—UNITA President Jonas Savimbi meets with Zambian President Kenneth Kaunda to seek his help in arranging a second summit to end the increasingly bitter conflict between the three Angolan liberation movements. The site selected for the meeting is Nakuru, Kenya.

June 21, 1975—The second summit of MPLA, UNITA and FNLA is convened in Nakuru, again presided over by Kenyan President Jomo Kenyatta. The conference concludes with the signing of the Nakuru Agreement, which calls for an end to the fighting among the lieberation movements and reaffirms the necessity of elections prior to independence.

"Because of the little time left until the 11th of November and because of the complexity of the electorial process, the iberationmovements promise to make every effort to hold elections."—The Nakuru Agreement—June 21, 1975

June 29, 1975—The "40 Committee" of the U.S. National Security Council authorizes a grant of $300,000 to FNLA.

July 31, 1975—The Front for the Liberation of the Enclave of Cabinda (FLEC) declares indpendence from Portugal and establishes a provisional government in Kinshasa, Zaire. All three Angolan liberation movements oppose the secession of Cabinda.

August 1, 1975—The OAU Heads of State summit in Kampala, Uganda, condemns the renewal of fighting in Angola and proposes the dispatch of an all-African peacekeeping force to restore order.

August 4, 1975—The conflict among the three Angolan liberation movements intensifies as UNITA joins in the fighting for the first time after reporting an attack by MPLA.

August 11, 1975—Following months of periodic fighting among the liberation movements, MPLA claims exclusive control over Luanda and its surrounding areas.

August 14, 1975—Portugal announces its intention to resume direct and exclusive reponsibility for governing in Angola until independence because of the fighting among the liberation movements. In response, MPLA refuses to relinquish its military positions in Luanda.

August 29, 1975—MPLA and UNITA agree to a cease-fire following separate meetings with Portuguese President Francisco da Costa Gomes. However, reports indicate that fighting among the three liberation movements ceases only temporarily.

September 9, 1975—South Africa confirms that its troops have entered southern Angola illegally. The South Africans claim to have entered Angola to protect a water pumping station and its staff at the Calueque Dam project after receiving no assurances for its safety from Portugal. They reportedly withdraw a few weeks later.

"According to MPLA sources, the South African forces now have withdrawn into South-West Africa (Namibia), and MPLA troops have reoccupied the abandoned area."—Christian Science Monitor—October 3, 1975

October 10, 1975—Delegates from nine OAU member nations meet in Kampala, Uganda, to discuss a third attempt at reconciling the warring parties in Angola. The meeting coincides with the dispatch of an OAU fact-finding commission to Angola.

Mid-October 1975—Portuguese military units pull back toward Luanda in preparation for withdrawal from Angola prior to independence. Holden Roberto's FNLA forces respond by launching a major drive to recapture the capital.

October 20, 1975—An OAU fact-finding commission visits Angola to assess the situation before independence. The commission reports that UNITA enjoys greater support than MPLA or FNLA. It reaffirms OAU support for elections in Angola and calls on all nations to refrain from recognizing any liberation movement that declares unilateral independence.

October 24, 1975—MPLA orders a general mobilization to repel a reported invasion by a joint South Africa-FNLA force led by former MPLA central committee member Daniel Chipenda.

November 5, 1975—Cuban troops assume a direct role in the fighting on behalf of MPLA to help repel the FNLA assault on Luanda.

November 11, 1975—Portugal officially ends five centuries of colonial rule in Angola by pulling out of the country without ceremony and without fulfilling its obligation under the Alvor Agreement. In Luanda, MPLA declares itself the new government of independent Angola.

"I knew very well that elections could not be held in the territory during the time that elapsed. . . . I had stated at that time that the only solution was to recognize the MPLA as the only force capable of directing Angola, and that Portugal should make a separate agreement with the MPLA and transfer power to the MPLA on the fixed date of 11th November."—Adm. Rosa Countinho, former Portuguese High Commissioner in Angola, in the 1987 Canadian documentary "New Liberation Wars: Angola"

REMARKS OF SECRETARY OF STATE GEORGE P. SHULTZ IN JERUSALEM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues the remarks of Secretary of State Shultz made in Jerusalem February 26, 1988 regarding the Palestinian issue.

During his recent trip to the Middle East, Secretary Shultz had hoped to meet with some West Bank and Gaza Palestinian leaders. The Palestinian leaders did not attend the meeting but the Secretary of State used the occasion at the American Colony Hotel in Jerusalem to issue the following statement.

The Secretary's remarks follow:

A STATEMENT TO PALESTINIANS BY SECRETARY OF STATE GEORGE P. SHULTZ

Palestinian participation is essential to success in the peace process. I had hoped to carry this message to East Jerusalem this evening, and to hear first hand from leading Palestinians about your aspirations and your point of view. Peace making is difficult. Peace has its enemies. But peace is a necessary ingredient to a decent life. Even small steps toward peace can be significant in moving beyond mistrust and hatred. In a small way, I wanted to do that this evening.

All the peoples of this land need to be able to look to a future of dignity, security and prosperity. New respect for rights and new readiness for political change must replace old recriminations and distrust.

The United States is for positive and rapid change. Fundamental considerations guide our approach.

First, Palestinians and Israelis must deal differently with one another. Palestinians must achieve control over political and economic decisions that affect their own lives. Palestinians must be active participants in the negotiations to determine their future. Legitimate Palestinian rights can be achieved in a manner which protects Israeli security. Israeli security and Palestinian security are necessary conditions for a better future for Palestinians, as well as for Israelis.

Second, these moves must be part of a broader effort to reach a comprehensive settlement. Israel and the occupied territories do not exist in isolation. Jordan, Syria, Lebanon and Palestinians living outside the territories have concerns which need to be resolved. In moving toward a comprehensive settlement, Resolutions 242 and 338, in their entirety, must be the basis for negotiations.

Third, what we are seeking must be achieved through negotiations. Negotiations work. Negotiations produce agreements which meet the fundamental concerns of all parties. Experience shows you can make an agreement with Israel, and it will be kept by Israel.

Fourth, the start of negotiations must be soon, and the pace of the negotiations must be rapid, so that results can be achieved with equal rapidity.

The human resources and potential of Arabs and Israelis are boundless. They have energy and drive which, if not directed against each other, can be marshalled collectively to explore science and technology, literature and the arts. This region, which nurtured three great world religions, carries within it a powerful and moral force. Islam, Christianity and Judaism can work together in creating a more durable moral and spiritual world for us all.

Our vision is of Israelis and Palestinians living together in peace in this land; where the rights of each are respected; where the energies of all are directed at peaceful purposes; where security and trust exist. Israelis and Palestinians need to see in each other the embodiment of their own dreams. They will realize that the fulfillment of their own dreams is impossible without the fulfillment of the other side's dreams. They will see that dreams rooted in reality are dreams which can be fulfilled.

Opportunity knocks loudly on your door. Now is the time to get to work. We have a workable plan, and we are ready to commit our efforts to it. The time is right, together, to make decisions of historic proportions. Let us translate our dreams into the reality of peace, rights and security for all.

INTRODUCTION OF THE BILL TO ESTABLISH THE COMMONWEALTH OF GUAM

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mr. DE LUGO. Mr. Speaker, the other members of the leadership on insular issues of the Committee on Interior and Insular Affairs and I have joined the gentleman from Guam, BEN BLAZ, in introducing a bill to establish a Commonwealth of Guam. I was particularly pleased to cosponsor this legislation for several reasons. One is that I chair the subcommittee with basic jurisdiction over the relationships between insular areas such as the territory of Guam and the United States.

A second is that one of my priorities as chairman is to help bring about mutual decisions between the territories and the United States implementing the type of political relationship that the people of a territory decide that they want to have with the United States.

A third is that there are a number of very real problems in the current relationship between Guam and the United States which our Nation has a responsibility to correct.

A fourth is that Guam's efforts to have these problems corrected may set precedents for the other territories, such as the Virgin Islands, which I represent.

Over 4 years ago, the leadership of the Committee on Interior and Insular Affairs pledged to seriously consider legislation to improve Guam's current relationship with the United States when Guam's Congressman proposed such a bill. They advised Guam's leaders to develop proposals in consultation with the committee to help in obtaining the necessary Federal approval.

Since then, Guam's Commission on Self-Determination drafted the bill that we have now introduced and obtained the support of the people of Guam for it. They took some—but not all—of the advice that other committee leaders and I gave regarding the draft.

I have joined in sponsoring the bill because it apparently represents the will of the people of Guam and I believe that the aspirations of the people of a territory should be given the fullest possible consideration.

Members—and the people of the territory—should not misunderstand my sponsoring the legislation to mean more than that I believe that the people's requests should be given full consideration, however.

Although the bill is a serious attempt to address problems in the current relationship, some of its proposals themselves create problems. These are proposals which the drafters did not adequately change when advised of the problems with them by members of the committee over the past few years.

Some of these provisions raise constitutional or other important policy concerns. Some may not appropriate for a relationship within the American political family.

I believe, though, that the problems with the bill can be corrected through the legislative process. I also believe that meaningful, fair, and attainable solutions can be found to the problems which the people of Guam legitimately want to have addressed.

I am committed to working with Congressman BLAZ and other Members, as well as territorial leaders, to find such solutions so that a bill that can actually establish a Commonwealth of Guam can be enacted.

TRIBUTE TO MRS. BETTY J. GAHAGAN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mr. TRAFICANT. Mr. Speaker, it is with great pride that I pay tribute to Mrs. Betty J. Gahagan of Youngstown, OH.

Betty attended Saint Patrick's School and Ursuline High School. She is a member of Saint Patrick's Church and its Alter Guild and is a member of the Ladies of the Ancient Order of Hibernians. She is a member and past president of the Canfield Federated Democratic Women's Club, is a corresponding secretary of the Mahoning County Democratic President's Club, and has been a member of the State Democratic Convention for the past 10 years.

Betty is married to Mr. Donald B. Gahagan and they have three sons, Donald B. Jr., James D., and Jeffrey P. They have been blessed with five grandchildren, Kelly, Jamie, Melissa, Jonathan, and Andrew.

It is with great pride that I pay tribute to such an outstanding woman. I thank her for all that she has given to the Ohio community and I am proud to represent her in the U.S. House of Representatives.

THE PLIGHT OF THE TUFELD FAMILY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mr. CARDIN. Mr. Speaker, in participating in the congressional call to conscience vigil, I would like to call to your attention the plight of only one family out of the many that are seeking to emigrate from the Soviet Union. The Tufeld family has been refused permission to leave the Soviet Union 25 times. Isolda was a mathematics teacher and Vladimir Tufeld was an electrical engineer, having left his job in 1973, and both have been denied emigration for security reasons.

Isolda Tufeld has been in the United States for over 2 months on a 3 month medical visa and has undergone extensive brain surgery to correct an operation she had many years ago in the Soviet Union. She is currently recuperating from the surgery at the Johns Hopkins Hospital in Baltimore. Unfortunately, the Soviets have refused to permit her husband, who also suffers from serious medical problems, to join her in the United States for this ordeal. I and many of my colleagues have been urging the Soviets to permit Vladimir to be by his wife's side while she is recuperating to ultimately permit them to be reunited with their son in Israel.

I would like to thank Secretary of State George Shultz for personally speaking to the Soviets about the Tufelds on his trip to the Soviet Union in February. It is only through this type of constant attention and pressure that the Soviets will be forced to grant basic human rights, as granted under the Helsinki accords and the Soviet Constitution, to all people in the Soviet Union.

LEGISLATION CREATING PERMANENT LAND BASE FOR CONFEDERATED TRIBES OF GRAND RONDE COMMUNITY

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mr. AuCOIN. Mr. Speaker, today marks an important step in the effort to create an economic base for the Confederated Tribes of the Grand Ronde Community of Oregon, as I am introducing compromise legislation which will create a permanent land base for the tribe.

This bill, which I have worked out after hearing from hundreds of people in western Oregon and working with Senator MARK HATFIELD, redesignates 9,811 acres of Oregon and California County grant lands in Yamhill County, now managed by the Bureau of Land Management, as the tribal reservation.

Approximately 12,035 acres of public domain lands in Yamhill and Tillamook Counties, also managed by the BLM, will be redesignated O&C lands, in order to avoid reducing timber sale receipts for western Oregon's counties.

This acreage represents a compromise from the tribe's original request of over 17,000 acres, but it will still help generate revenues from the sale of timber to help the tribe improve its socioeconomic standing. In this light, I am particularly proud to note that the tribe has suggested, and I have included in this bill, a requirement that at least 30 percent of the timber revenues go to a special fund for use exclusively on economic development projects.

While this will clearly benefit the tribe, I believe the economic development set aside will be a big winner for the whole community, bringing new business opportunities to the area.

Mr. Speaker, last summer I held a public meeting in Grand Ronde to hear testimony from the public on the merits of creating a reservation. One of the biggest concerns I heard was whether the reservation would reduce the supply of timber available to local lumber mills. This concern arose because timber sold from Federal Indian reservations may be sold for export in unprocessed form.

At that time, the tribe proposed a 10-year restriction on the export of raw logs from its reservation, but this was felt by many to be insufficient.

Subsequently, I personally toured the Tillamook State Forest, which as most Oregonians know was largely destroyed in the infamous Tillamook Burn over 50 years ago. While that increasingly productive forest land was replanted after the fires, the timber there is not yet mature, and it will not be harvestable in substantial quantities for another 20 years.

In order to build a bridge to ensure stable log supplies to local mills, then, the tribe has agreed to restrict exports for 20 years from the day the reservation is created.

A similar concern raised locally is whether creating the reservation would enable the tribe to build a sawmill in an already hotly competitive area. The timber from the reservation itself could not sustain a profitable mill, however, and the tribe has agreed, again for a 20-year period, not to bid for, purchase, cut of remove timber from the reservation itself or from adjacent public lands.

An additional concern raised during last summer's public meeting was over the creation through this reservation of hunting and fishing rights for the tribe. I believe that public meeting clarified this concern, and the legislation before the House adds an extra level of certainty on this issue. Simply put, this reservation will not grant or restore any hunting, fishing, or trapping rights. The tribe's hunting, fishing, and trapping rights were settled once and for all by a judicial consent decree issued January 12, 1987, and they arise irrespective of whether the tribe has a reservation.

A final concern raised during that public meeting was over public access to the reservation lands. Several points are important here. First, the bill protects valid existing rights, such as reciprocal road rights of way, easements, and permits. Second, reservation closures are dictated by Bureau of Indian Affairs regulations, and the tribe must follow those rules. In effect, tribal members and nontribal members are treated equally when access must be restricted, as is occasionally required due to fire threats and other unusual circumstances.

Mr. Speaker, to those who have raised legitimate questions over the effects of this reservation proposal, I believe those questions are satisfactorily answered by this bill. This compromise legislation is something the entire community should support, for it means a better life for all residents of the area. I look forward to early, favorable action on this bill by the House and the Senate.

A MORE UNIFIED NATO IS NEEDED

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mrs. SCHROEDER. Mr. Speaker, the spirit of last year's Vienna summit lives on. It is getting rather repetitive. Every year the President goes to the summit and reassures the allies that nothing is wrong. Unfortunately, the allies and the President know that there are serious problems that are undermining the health of the alliance.

The President failed to provide the leadership necessary to address the most pressing issue that concerns NATO—burdensharing. Until we have a frank and more open dialog among the NATO allies, we will still end up paying more than our proper share.

The President had the opportunity to start a new relationship with our European allies. Unfortunately, he came away with nothing at a particularly crucial time. The threat of towering budget deficits and the prospect of successful arms control negotiations are now forcing us to reexamine how we spend our defense dollar. Since, according to Department of Defense estimates, we devote around 60 percent of our defense budget to NATO commitments, the implications for NATO are alarming. Our allies must share more of the costs and therefore more of the responsibility for the direction of NATO. This would promise a more cohesive and unified NATO. I only hope that the next administration will take advantage of the opportunities to strengthen NATO.

EDUCATION AND LABOR

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mr. FORD of Michigan. Mr. Speaker, the jurisdiction of the Education and Labor Committee is not a marriage of convenience. It reflects a very important substantive overlap between training and education programs. More importantly it embodies a broad concern for the quality of the American work force in terms of fair wages, the opportunity to bargain collectively and safety in the workplace as well as the education and training received by American workers. In addition, education and labor represents a productive political alliance in which organized labor in particular has provided enlightened support for educational programs throughout the decades since World War II. Recently, a very perceptive article by Frank Mensel, vice president for Federal relations of the American Association of Community and Junior Colleges and director of Federal relations for the Association of Community College Trustees, described and analyzed the role that organized labor plays in supporting education. The article is entitled, "For Education, an Ally for Many Seasons," and it appeared in the AACJC Journal, December/January 1987-88. I am very pleased to insert a copy of this article in the RECORD and to bring it to the attention of my colleagues.

FOR EDUCATION, AN ALLY FOR MANY SEASONS

(By Frank Mensel)

Since World War II, education has grown in prominence as a national priority. In those years education has had no stronger ally in the federal lawmaking process than organized labor. In fact, labor has been more than an ally, it has often been education's most constant, unified advocate.

During the Kennedy-Johnson administrations, which culminated in the programs of the Great Society, labor gently boasted that its advocacy for education programs, incidental to labor's own legislative agenda, produced more education laws than the education community produced on its own. It was no idle boast.

History eventually may show that the education programs that were signed into law by President Johnson were the Great Society's greatest legacy. Labor's support, delivered with a cohesive voice, was more influential in the passage of such Great Society programs as the first Higher Education Act, the Elementary-Secondary Education Act, and library assistance, among many others, than were the then factionalized forces of education.

Organized labor's devotion to the American system of public education is as old as the labor movement itself. Speaking recently to the National Association of State Directors of Vocational Education (NASDVE), Jim Auerbach of the AFL-CIO's Department of Education made the right point when he said labor's partnership with education on federal legislation "is far more important than is generally understood."

Senator Claiborne Pell, D-RI, the author of Pell Grants and chair of the Senate Education Subcommittee, has worked at close range with this partnership through a quarter century of legislative warfare. In the second year of the Reagan Administration, he expressed his appreciation to AFL-CIO President Lane Kirkland this way:

"At this time when federal education programs so vital to our nation's future are seriously threatened by the cutback proposals of this Administration, I wanted to let you know how valuable has been the staunch support of the AFL-CIO to this vital cause.

"As chairman of the Senate Subcommittee on Education, Arts and Humanities from 1969 through 1980, I can attest from firsthand experience to the unswerving commitment the AFL-CIO made to education and the tireless efforts it has contributed whenever education needed help."

As early as 1829, organized workers in both Philadelphia and New York City began to trumpet the need for public school systems. Both the New York Workingmen's Party and Philadelphia's voluntary association of workingmen were founded in 1829, and the latter immediately drew up a questionnaire for all candidates for the state legislature asking where they stood on "an equal and general system of education." The results prompted the formation of a committee that pushed both free public schools and the popular election of school boards. Pennsylvania became the first state in 1834 to legislate a free public school law, and New Jersey followed suit in 1838.

Labor also led the struggles for compulsory school attendance laws—intended to work in complement with child labor laws. From its founding in 1881, the American Federation of Labor repeatedly called for compulsory attendance laws "so as to enable [children] to acquire an education fitting them to become intelligent and important factors in . . . the system of government under which they live." Crusading for child labor protection, AFL President Samuel Gompers told his 1893 convention, "The damnable system which permits young and innocent children to have their lives worked out of them in factories, mills, workshops, and stores is one of the very worst of labor's grievances. . . . We shall never cease our agitation until we have rescued them, and placed them where they should be, in the schoolroom and the playground."

Among the many legislative successes for education to which labor has contributed, none is more graphic than the evolution of the Vocational Education Act. Auerbach reminded NASDVE that "Some of the early unions such as the Bricklayers, Pressmen, and Typographers established their own vocational schools by the late 19th century. The success of these early efforts encouraged interest in 'industrial education' throughout the labor movement. By the early 1900s, the American Federation of Labor regularly issued reports to the AFL convention on the status of vocational education.

"The AFL's efforts during the formative years of the vocational education movement helped shape the final language of the Smith-Hughes Act of 1917. The AFL supported vocational education in the public schools because it believed vocational education was a necessity that should be conducted at public expense."

In 1909 the AFL issued a prescription for vocational instruction that is as valid in 1987 as it was when it was drafted. The content of such instruction, it held, "should be English, mathematics, physics, chemistry, elementary mechanics, and drawing . . . and for each trade represented, the drawing, mathematics, mechanical, physical, and biological science applicable to the trade, the history of that trade, and a sound system of economics, including and emphasizing the philosophy of collective bargaining."

While noting that the AFL-CIO has always believed that vocational students should receive "a comprehensive education with emphasis on basic skills rather than a program that is too job specific," Auerbach said labor is equally concerned that "the same resources that are alloted to college-bound academic students should be allocated to students in the vocational education system. For too long this system has been considered inferior to the general education offerings."

Ironically, education itself did not develop strong unity as a legislative voice until 1969, when President Nixon vowed, soon after taking office, to abolish or drastically cut most of the Great Society programs for education. Labor again played a pivotal role. More than 100 education organizations, including several unions, were drawn together in the National Committee for the Full Funding of Education Programs (popularly known for years simply as Full Funding), to fight the President's requested cuts. A constant advisor to the Committee in the early years was Kenneth Young, a renowned AFL-CIO legislative strategist.

More recently, the committee shortened its name to the Committee for Education Funding. It still stands as education's strongest coalition. Among the more than a dozen educational leaders who have served as CEF presidents have been the principal legislative officers of the National Education Association (NEA), the American Federation of Teachers (AFT), and the American Association of University Professors (AAUP).

As the American system grows in complexity, coalitions—and allies—are increasingly essential to legislative successes. It is a lesson educators have not always grasped, locally or nationally. All of education ought to consider Jim Auerbach's advice to the vocational community: "As you continue to examine the Carl Perkins Act, and to work on the development of the next reauthorization, it would be wise to consider the political process necessary to make reauthorization a reality. Part of the process involves coalitions and partnerships. True partnerships involve more than having an education organization call for partnership, but really simply mean, give us complete and uncritical support for our draft of a bill."

SHAW COMMUNITY CENTER FOOD COMMITTEE HONORS JEFFREY COHEN

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mr. FAUNTROY. Mr. Speaker, I am privileged today to bring to the attention of my colleagues that on Tuesday, March 15, 1988, the Shaw Community Center Food Committee will honor Jeffrey N. Cohen for his longstanding commitment to community service in the Washington metropolitan area.

Mr. Cohen is indeed deserving of this appreciation celebration for he has served this community in many capacities. He is a member of the Greater Washington Board of Trade, a member of the Columbia Historical Society and has served as a member of the United Planning Organization.

His involvement in the local business community has been demonstrated by his leadership on numerous boards of directors of financial institutions. He currently is chairman of the board of directors of Commerce Bancorp, Inc., JNC Enterprises, Inc., and Festival Development Corp., to name a few.

As the managing partner of the Shaw Development Limited Partnership, which is working with the District of Columbia government in a public-private "cooperative project" to improve and revitalize five parcels of land in the Shaw area of Northwest Washington, DC, Mr. Cohen's background as a real estate developer, bank investor and attorney have enhanced his contributions to our city.

I invite you to join me in saluting Jeffrey Cohen, citizen, civic leader, and business entreprenuer.

CONGRESSMAN WILLIAM NICHOLS HONORED BY VETERANS OF FOREIGN WARS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mr. SKELTON. Mr. Speaker, last week, our colleague from the State of Alabama, the Honorable WILLIAM NICHOLS, was awarded the VFW Congressional Award for Outstanding Service to the Nation at the VFW annual conference in Washington, DC. The recipient of this honor truly deserved it and I know that all Members want to congratulate our friend from Alabama on this outstanding recognition.

BILL NICHOL'S responsive address was extremely informative, and I urge the Members to read it because it reflects upon the work of BILL NICHOLS as a leading member of the Armed Services Committee.

The address follows:

CONGRESSMAN BILL NICHOLS REMARKS FOR VFW CONGRESSIONAL AWARD, MARCH 8, 1988

Commander Stock, Director Holt, fellow Members of Congress and distinguished guests, tonight I am honored both humble and highly to receive this year's "Congressional Award" from the Veterans of Foreign Wars. I am flattered to have been put in the same ranks with such notables as the late Senator Carl Hayden of Arizona, who was presented with the first VFW Congressional Award in 1964, and Senator Daniel Inouye of Hawaii, last year's recipient.

I can appreciate what this award means because I am a member of VFW Post 4432 in Sylacauga, Alabama, and I know of the many services the VFW provides for its members—the soldiers, sailors, airmen and marines who defended our Nation on foreign soil during times of war.

Tonight I feel that I am accepting this award for the 241 young Americans who were killed over five years ago in the terrorist attack on the marines at the Beirut Airport. The Investigations Subcommittee, which I chair, conducted the inquiry. No one who took part in that investigation will ever forget it; the magnitude of the tragedy indelibly seared our consciousness. And so I believe the members of the Investigations Subcommittee who fought so hard for the Goldwater-Nichols Act would want me to report to this organization, whose very reason for being is to honor veterans who have served on foreign shores, that they memorialized those marines' deaths with the most far-reaching reform of the U.S. Military Establishment since the World War II era.

My subcommittee laid the blame for the tragedy in Beirut on the shoulders of the commander on the ground and his superiors in the chain of command right up to the U.S. European commander. We held them responsible. But responsibility is only one side of the coin. The other side is authority to carry out a responsibility. Subsequent enquiries revealed that America's combatant commanders in the field, who would be responsible for our very survival as a nation if war should come, had limited authority to exercise genuine command—that is, to organize their commands; train and employ forces as they saw fit and establish the chain of command to their subordinates. We held the European commander responsible in 1983. In 1986. the Congress gave him and the other combat commanders the fullest measure of autority so that they and their subordinates right down to the commander on the ground have the means to carry out their responsibilities.

I am pleased to report this evening that the new chain of command arrangements are working in the Persian Gulf. The old rigid chain that was seldom if ever altered has given way to a streamlined command structure tailored to get the job done. Whereas there were five intermediate echelons—and two more mandatory stops—in the chain of command running from the President and Secretary of Defense to the commander on the ground in Lebanon, there is only one today to the commander in the Persian Gulf all of which has served to strengthen and bring efficiency and expedience to the chain of command.

In my home State of Alabama there live more than 400,000 veterans. For that reason, I devote much of my time in Congress addressing the needs of the men and women who proudly wore the uniform during times of war. In fact, a large percentage of the casework done in our Washington office as well as in our three district offices in Alabama is devoted to handling the problems brought to our attention by veterans living in east Alabama.

In addition, the needs of the active duty soldier are also of great concern to us since the military has many installations in my State.

Anniston Army Depot and Ft. McClellan are two large Army installations located in my district. Ft. Benning and the infantry school is just across the Chattahoochee River in Columbus, Georgia, Maxwell and Gunter Air Force Bases are located in Montgomery, Ft. Rucker is in south Alabama and Redstone Arsenal in Huntsville.

And so tonight I accept this award not only for whatever service we may have accomplished during the twenty-one years since coming to Congress, but I accept it in deep appreciation for admiration and respect I hold for this great organization. The Veterans of Foreign Wars in indeed committed to serve the more than two million American veterans that it represents along with their widows and orphans.

This evening I would like to share with you a couple of examples of how the VFW has represented the needs of veterans living in my State of Alabama.

Not too long ago a veteran called our Washington office to request assistance with the hearing loss he was suffering. He too was an old artillery man and so I could appreciate his concern for not being able to hear well due to the muzzel blasts from the 105 guns.

This veteran came to Washington to plead his case before a board at the Veterans Administration and I joined him as did a representative of the VFW.

Now I am sure the VFW receives many cases like this every year from veterans of all walks of life from all of our fifty States, but they still had the time to work with us and try to help this veteran who came all the way from Alabama, over one-thousand miles away from home who was trying to get some assistance for his service-connected hearing loss.

Another example of the VFW's effort is one in which I am especially proud. Many of you may know of the growing need for nursing homes in this country. Unfortunately, as more of the Nation's population grows older the need for such facilities is becoming especially acute.

Thanks to my friend Congressman Sonny Montgomery, who chairs the House Committee on Veterans' Affairs, and to the interest throughout America from the Veterans of Foreign Wars, we now have some 55 State operated veterans' homes in 37 States. And we have some 7 additional homes underway including Alabama's first veterans' nursing home located in my Congressional district.

This facility will care for some 200 aging veterans. However, this project would never have seen the light of day had it not been for the able assistance from our State department of veterans' affairs and our State veterans organizations including the Veterans of Foreign Wars.

Besides tending to the needs of its membership, the VFW also represents our members' belief for this Nation to have a strong defense. Your VFW Commander-in-Chief Earl Stock has said, "two-hundred years ago, we Americans gained our freedoms in the war for independence but our independence gave us the responsibility for defending our newly won freedoms and today, thanks to those who carried out their responsibility, we remain a free nation."

I view my prime responsibility in Congress is to keep this Nation strong. Wars are not prevented nor are ideals preserved because one country is more logical, better educated or more considerate than the other. America today is great because it continues to be strong. Its individual citizens have believed in the values of this great country of ours so strongly that they have been willing to maintain a strong and ready defense force and if need be, to wear the uniforn and defend their flag.

As President Franklin D. Roosevelt once said, "Our security is not a matter of weapons alone. The arm that wields them must be strong, the eye that guides them clear, the will that directs them indomitable."

And, the father of our country, George Washington, when speaking to a joint session of Congress almost two-hundred years ago said, "To be prepared for war is one of the most effectual means of preserving peace."

As a member of the United States Congress, I am a firm believer that peace comes through strength and that it is the better course of wisdom to spend dollars for readiness than to risk American lives.

Although it has been almost a half-century since the world's nations have been involved in direct conflict, much of today's world still remains in turmoil—from the waters of the Persian Gulf where the Iran-Iraq war is still being waged and where we still have thousands of American military personnel protecting shipping lanes that are important to the entire world—to the conflicts in Central America where both sides of the civil war in Nicaragua have yet to sit down to negotiate peace and where a political uprising in Panama is very possible due to the recent turmoil we have seen there over the past several weeks.

War still wages on in Afghanistan where the Soviets remain despite promises to pull their troops out. The war still lingers in Africa where nations have fought for years and years only to spawn new nations that continue to fight with each other. And in the Middle East the war seems to have been going on for centuries now.

However, the beatitudes admonish: "Blessed are the peacemakers for they are the sons of God." And although we remain strong we must never forget the ultimate wish that all the world may one day be at peace no matter how hard mankind must work together to achieve it.

Finally this evening let me share with you one observation. And that is that there are fewer and fewer combat veterans coming to Washington to serve in Congress. As I said earlier, the major powers of the world have not been in direct conflict with one another for almost fifty years now so we haven't had an entire generation at war as was the case when many of us in this room were young men.

However, I believe that of all the duties to which the VFW is responsive certainly one of those duties must be to impress upon the present generation, who have never worn the uniform nor smelled the smoke of battle, the basic ideals on which this Nation was founded.

And so tonight, I salute our great organization—two million strong and growing—and would remind us all in the words of President Reagan, "We must never forget that freedom is never really free; it is the most costly thing in the world. And freedom is never paid for in a lump sum; installments come due every generation. All any of us can do is offer the generations that follow a chance for freedom."

KILDEE HONORS MEMBERS OF LOCAL 599 OF THE UNITED AUTO WORKERS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mr. KILDEE. Mr. Speaker, I rise today to honor several members of Local 599 of the United Auto Workers who have been loyal General Motors employees and committed union activists for the last 20 years.

For the past 13 years, Local 599 in Flint, MI, has honored 85 individuals who have held leadership positions in the union for at least 20 years. On March 20, 1988, Local 599 of the United Auto Workers will present the "Walter May-Reuther Distinguished Service Award" to an additional 11 union members. Those receiving the prestigious Walter Reuther Medallion are Algin Bonner, Arthur Brill, Donald Spillman, James Unrath, Raymond Talley, Russell Hobson, Edward Foy, Thomas Hager, Kenneth Poma, William Read, and Willis L. Leach.

On this special day, Local 599 will also honor one of their former union presidents, Albert Christner, a man of great courage and integrity. As one of the longest serving presidents in the history of Local 599, Albert Christner was a guiding light for equality and justice in our community. Although Al retired 4 years ago, he continues to play an influential role in the community.

In many ways, these individuals exemplify the ideals that the unions have always championed. They have been very active in improving the work conditions in the manufacturing facilities, and they have worked hard to make a decent living for themselves and their families. It is for their deep committment to improving and protecting human dignity for their fellow workers that we pay tribute to these individuals. Undoubtedly, their countless years of leadership and involvement in Local 599 has contributed significantly to making our city a better place to work and live. We in Flint are indeed fortunate to have such fine people among us.

Mr. Speaker, I want to join Local 599 in honoring these fine individuals who have dedicated so much of their lives to improving the quality of life in our community. I am confident that they will continue to work to solve the complex problems facing our community today, just as they have done for the last 20 years.

A TRIBUTE TO JACK McCARTHY UPON HOSTING HIS 40TH ST. PATRICK'S PARADE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mr. GILMAN. Mr. Speaker, New Yorkers of all races, creeds, and colors all become Irish on March 17.

The St. Patrick's Day festivities always remind us of the rich cultural heritage of our Irish neighbors, and the invaluable contributions that the Irish have made to American culture.

In New York, Jack McCarthy's TV coverage of the St. Patrick's Day parade is just as intertwined with the traditions of St. Patrick's Day as are the shamrock and the wearing of the green.

This year, Jack McCarthy celebrates his 40th year of St. Patrick's parade coverage for WPIX television. His stirring and vivid commentary on the colorful events of the parade have won millions of friends for the Irish over the past four decades.

As we mark this major milestone, let us reflect on the career of Jack McCarthy, who has been an inspiration to all of us.

John Joseph McCarthy was born in Manhattan to Irish immigrant parents in August 1914. His childhood spent on the East Side was a memorable slice of life from a colorful, long-gone era. As a student at the parochial schools of the Sisters of Charity, Jack McCarthy earned a still-remembered reputation as a fun loving prankster.

From his earliest days, Jack was imbued with a sense of pride in the history and heritage of the Irish people. At one time, he informed his mother that George Washington had five cousins named McCarthy. "How lucky can one President be?" was Mrs. McCarthy's reply, which Jack still fondly remembers.

A star high school athlete who excelled in track, baseball, and football, Jack entered New York University, admittedly due to their excellent sports program. In fact, Jack's love of sports was so intense that he seriously considered becoming a physical education teacher. However, instead he went to work for the National Broadcasting Company [NBC] in 1933, as a page.

According to Jack, it was not the spell of the broadcasting airwaves which led him to NBC's doors, but rather the rumor that NBC had the best baseball team in the corporate leagues. Due to Jack's love and knowledge of sports, he was in no time a regular sports announcer—at the age of 21, the youngest such announcer on network radio.

As a ringside blow-by-blow announcer, and as a turf announcer of horseracing events throughout the New York area, for over a decade the resonant tones of Jack McCarthy's voice became well known to sports fans.

Soon after World War II, with the coming of the television age, Jack McCarthy was one of the first to switch over from radio to the new medium. Jack's Irish face soon became familiar to the early purchasers of those first TV sets. Broadcasting over WPIX from New York City, Jack McCarthy soon became a household word.

Ironically, sports, which had brought Jack to broadcasting in the first place, played an integral part of his most famous role, the host of the St. Patrick's Day parade. WPIX wished to test some new cameras it had purchased for baseball coverage. It was decided to utilize the St. Patrick's Day parade as a vehicle for that test. Jack McCarthy was tapped to host the parade, the total coverage of which was supposed to last for some 45 minutes.

As soon as the viewers heard Jack's resonant voice, his colorful delivery, and his obvious love of the Irish, the WPIX switchboards were jammed. What was supposed to be a 45-minute television program was expanded to a 5-hour event.

And Jack has hosted the St. Patrick's Day parade for WPIX every year since.

Although we love Jack for his St. Patrick's Day activities, he is a man of many hats. He has continued his colorful coverage of sports events, and is a sought-after toastmaster for charity events. He has always been known as a commentator who can take the helm before the camera at momentous events. Many New Yorkers remember his touching commentaries following the assassinations of the 1960's, and his joyous description of the Pope's visit to New York.

Jack McCarthy has been honored with the Catholic Big Brother of the Year Award, the National Salesman's Award, the Irish Ambassador of Good Will Award, and the designation of "Honorary Fire Chief" by the Uniformed Fire Officers Association of Greater New York. He has been honored by the Emerald Society on numerous occasions, and earned a great deal of admiration with his fund raising efforts on behalf of the Artane School for Boys in Dublin.

Jack recently received another honor, as the Guiness Book of World Records announced it would henceforth list his 40 years of covering the St. Patrick's Day Parade as a record breaker. On March 26, the Irish Echo, one of the most respected Irish publications in our Nation, will be publishing a special edition honoring Jack McCarthy.

Jack tragically lost his beloved wife Betty last summer, shortly after the passing of his brother Philip "Stitch" McCarthy. A devoted family, Jack and Betty McCarthy raised two sons, Peter and Sean, and one daughter Tara.

Mr. Speaker, I invite all of our colleagues to join in saluting Jack McCarthy on the occasion of his 40th year of broadcasting the New York St. Patrick's Day Parade. Jack, who entered broadcasting to play baseball, has brought much joy and happiness to countless millions of television viewers. We hope he continues to do so for many years to come.

A STRONG ANTITRUST ENFORCEMENT POLICY IS A MAINSTAY OF OUR FREE ENTERPRISE SYSTEM

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mr. BRYANT. Mr. Speaker, in recent years, the Reagan administration has led an assault on free enterprise in this country. I am speaking of the antitrust laws, which the administration has sought ultimately to write off the books and meanwhile to ignore. Its lax antitrust enforcement has paved the way for a record number of mergers among some of the Nation's largest companies and an unprecedented concentration of economic power.

Merger and takeover activity jumped from 3,091 acquisitions worth $67 billion in 1979-80 to 7,723 acquisitions worth $357 billion in 1986-87. Yet the percentage of cases in which the FTC or the Justice Department took any enforcement action dropped more than fourfold, from 2.5 to 0.57 percent.

In 1986, for the first time in American history, more money—$190 billion—was spent on corporate mergers, leveraged buyouts, and takeovers—4,022 of them—than on all of the manufacturing plants and equipment purchased by all of the manufacturing plants in the entire country. On a single day last week—February 29—mergers and takeover offers totaling more than $12 billion were announced.'

The administration's assault on antitrust policy is based on the theory that mergers result in new efficiencies needed to enable U.S. corporate giants to compete with foreign firms. There is little concern for the impact that such freewheeling corporate concentration has on our domestic free enterprise system.

President Reagan's first antitrust chief, William Baxter, called the Robinson-Patman Act—which prohibits a company from discriminating in the prices it charges various buyers of the same product in order to reduce competition—an "unjustified protection for small business from the rigors of competition." Robinson-Patman enforcement has become a dead letter during this administration.

In 1985, the Reagan Justice Department proposed new vertical price restraint guidelines which gave manufacturers and suppliers new power to impose resale price demands on distributors and retailers. House Judiciary Committee chairman, PETER RODINO, called the standards contrary to the most fundamental notions of free enterprise; ranking minority member, HAMILTON FISH, saying the new guidelines would allow obvious vertical price fixing, introduced legislation to signal Congress' bipartisan opposition, which passed both Houses in 1986.

In 1986, seeking to capitalize on concern over the massive trade deficits its economic policies have ushered in, the administration proposed altering the antitrust laws for the avowed purpose of increasing American business competitiveness. A heightened standard required for proof of anticompetitive result would make it harder to challenge a proposed merger under the Clayton Act, and U.S. industries found to be injured by foreign competition could gain exemption from the act's merger restrictions entirely. Treble damages for most antitrust violations would be eliminated. Interlocking directorates—the same directors serving on the boards of companies supposedly competing against each other—would be eased.

The administration defended these changes by erroneously charging that courts and antitrust enforcement agencies were focusing solely on competition in domestic markets, rather than competition in the world market. But the administration also recommended eliminating a U.S. company's right to sue a foreign-owned company in the U.S. courts for an antitrust violation. In other words, the administration wanted to render the antitrust laws inapplicable to anticompetitive practices in the U.S. market, and to render the laws unenforceable against anticompetitive practices in the world market.

I was pleased that Congress rejected the administration's effort, under the guise of increasing competitiveness, to rewrite the laws that are vital to protecting competition. Neither the House nor the Senate version of the comprehensive trade legislation now in conference contains any of the administration's antitrust provisions.

Only the provision regarding interlocking directorates has received any favorable consideration. On July 31, the Senate passed S. 1068, raising the threshold company size which invokes the ban against serving on two boards from $1 million to $10 million and creating an exception when there is only a very small overlap in competition between the two companies. But that same bill also strengthens antitrust enforcement. It closes a loophole by bringing mergers of large partnerships under coverage of the Hart-Scott-Rodino Act, and gives the Justice Department and Federal Trade Commission more time to review proposed mergers for anticompetitive effects.

I was also pleased last November 9 when, with my support, the House of Representatives passed H.R. 585, to strengthen and clarify the Sherman Act's prohibitions against vertical price fixing. The Senate Judiciary Committee has approved the legislation, and it is now awaiting full Senate action. The administration has used ambiguity in the current law to argue in the courts for lax enforcement. Not surprisingly, the Reagan Justice Department, which ignored Congress' strong signal in 1986, is fighting this legislation strenuously.

Also pending before the House of Representatives is H.R. 586, which contains the extension of time for merger review and the partnership provisions which are contained in S. 1068, as well as a provision requiring an economic impact statement for proposed mergers.

Hundreds of thousands of small businesses are created each year. They are responsible for most of the new jobs, new growth, and new ideas in our economy. And our antitrust laws are the bedrock of a business environment which nurtures the creation of these small businesses, protects them from anticompetitive predators, and enables them to flourish. The commitment to competition, the hallmark of a true free enterprise system, has helped make our economy the most resilient, the most prosperous, and the most innovative in the world.

THE 50TH ANNIVERSARY OF JOSEPH AND MARY HIESTAND

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mr. McEWEN. Mr. Speaker, on March 18 a special couple who I have known dearly for the past three decades will celebrate their 50th wedding anniversary.

Joe and Mary Hiestand have served as a shining example to many of us in Highland County, not only for their commitment to our community, but for their deep and abiding affection for one another.

A former elementary school teacher for 25 years, Mary Hiestand has learned the art of patience which makes a marriage strong. And Joe Hiestand, a full-time farmer and faithful public servant including former county commissioner and other State legislators, understands the perserverance and hard work that goes into a successful longterm relationship.

This is a joyous occasion for Joe and Mary as well as their three children—James Edwin, Linda Hiestand Dennis and Marilyn Hiestand McCaffery—and five grandchildren—Susan Dennis, Jason Dennis, Joseph Hiestand, Janis Hiestand, and Rebecca O'Brien.

They are celebrating a truly wonderful thing: 50 years of love for one another. It is something for which all of us who believe in strong families can all be proud.

THE ROLE OF A WOMAN PUBLISHER IN THE MEDIA WORLD—THE IMPACT OF A MIDWEST NEWSPAPER ON ITS READERS IN THIS COUNTRY—AND THE RELATIONSHIP AND INTERPLAY BETWEEN NATIONAL AND LOCAL MEDIA

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 14, 1988

Mr. DYSON. Mr. Speaker, I rise in recognition of Mrs. Marajen Stevick Chinigo, publisher of the Champaign-Urbana News-Gazette. Mrs. Chinigo has, in the ensuing speech, asserted her concerns on the principles of the news media, be it television or printed matter.

Mrs. Chinigo asserts that many of todays publishings and broadcast news reports are too obsessed with predicating their opinion and trying to manage operations rather than report them. This malady has become so diffused throughout the major media, that they have it all but within their power to make or break any Presidential candidate. She, as a publisher, emphasizes the importance of representing unbiased and unlimited news. She urges her writers to collect news and leave behind their prejudices. Her paper strives for objectivity, that it should reach out to touch readers everywhere providing them with access to information not readily available elsewhere.

I wish to commend Mrs. Chinigo for her dedication to her readers. The Champaign-Urbana News-Gazette provides a model of responsible reporting. She has proven it is possible to publish a well respected paper through objective means. I urge my colleagues to read Mrs. Chinigo's speech which reflects the ideals which are presented to the readers of the Champaign-Urbana News-Gazette.

The Role of a Woman Publisher in the Media World—the Impact of a Midwest Newspaper on its Readers in This Country—and the Relationship and Interplay Between National and Local Media

(By Marajen Stevick Chinigo)

It is difficult to believe there is a true generation gap of some 35 years between me and most of you today. I hope what I have to say will be meaningful. I am honored and flattered to be asked to speak here. I also very much appreciate the introduction I received today. It certainly was better than the last time I spoke in public, when the master of ceremonies said in his introduction that he didn't even know me.

Hopefully, when this day is over, you will not only know me, you will also understand why I believe it is important to have a woman publisher in the media world, particularly one from a modest-size Midwest newspaper, The Champaign-Urbana News-Gazette.

The histories of the University of Illinois and my family's holdings have closely paralleled each other in the Twin Cities. Both have risen to pre-eminence in their respective fields: The University of Illinois is consistently ranked among the top 10 great universities in the United States; The News-Gazette has twice in the last four years been adjudged by its peers as the best daily newspaper in the state of Illinois. That accomplishment is all the more remarkable when you consider that we were in competition with such papers as Rockford, Springfield, Peoria, Decatur and Aurora and a number of others, all owned by large corporate chains.

From the University of Illinois' founding in 1867, our hometown newspaper has helped spread its fame. The University's athletic triumphs were and are heralded by our newspaper. Beginning with my father, David W. Stevick, through the years of leadership under my mother, Helen Mary Stevick, to this very day, we continue to express the strongest editorial support for the academic excellence of this university.

From the effort to raise $2 million dollars in the early 1920s to build a memorial stadium honoring the dead of World War I, to the most recent eminently successful campaign to raise more than $100 million dollars for the 1980s and 1990s, The News-Gazette has always stood in the vanguard for this university—my university—more properly, my adopted alma mater, since I never had the privilege of receiving a formal college education.

Since 1915 for The News-Gazette, and since 1937 for radio center, WDWS, there has always been a close affinity for this institution. Not that we have agreed at all times. But, then, if our media are not controversial, we would not be giving people both sides of the news. Nevertheless, in looking back over the past 72 years, I feel assured that University of Illinois historians will view with kindness what the Stevick family has done for this university. In looking as far forward as a 75-year old woman—well, almost 75—dares look, let me assure you that my successors and I will continue our support for this great institution. To that end, you have our firm pledge and resolve. The News-Gazette is no more than a candleglow in the window of truth, but we all know what can happen if everyone will light just one candle.

As the University of Illinois cannot be provincial, my media interests cannot be provincial. Both must reach out—far beyond this community—and attempt to touch people everywhere. It is for that very reason I chose as the title for this presentation, "The Role of a Woman Publisher in the Media World—the Impact of a Midwest Newspaper on its Readers in This Country—and the Relationship and Interplay between National and Local Media Sources."

Such a topic is a major challenge. I will do my best to meet it. Not all of my comments will be pleasant: A "happy" talk is not always possible in this day and age. Some of my own prejudices and predilections may become painfully visible. I apologize in advance if that occurs.

As an aside, let me assure you that we are constantly criticized for not running more "good news" in our paper. My reply to such criticism is identical to that of Sen. Daniel Patrick Moynihan of New York: "Show me a country whose newspapers are full of good news," he said, "and I will show you a country whose jails are full of good men."

What really troubles me is this: Very little in modern journalism is really what I would call the "news." Most of it is little more than opinion. Too many of our modern journalists—particularly those with a national following—are more concerned with running things than with reporting things.

These same people scream for a free press. God knows I am for a free press. It is essential to a free people. But just like the people it is supposed to serve, such a press does not have license to distort, omit or alter news for its own political or ideological ends. I believe such aberrations occur. Indeed, I believe they are the rule and not the exception.

At least some of the blame rests with our journalism schools. Too many students are taught that their journalistic duty consists not in reporting, but rather in helping to run the affairs of men, including running our government. This cancer is so pervasive that today, a few major newspapers, three television networks plus CNN, and three news magazines have it all but within their power to make or break any presidential candidate, or any president. They have the power and they show no moral compunction in using it.

The magnitude of such power reminds me of the story of Alexander the Great, Julius Caesar and Napoleon coming back to view a military parade in Soviet Moscow. Alexander could not take his eyes off the tanks. "If I had had chariots like those," he said, "I could have conquered all of Asia."

Caesar eyed the Russian missiles: "With such arrows, I could have ruled the world," he said.

Napoleon glanced up from a copy of "Pravda" and exclaimed: "With a newspaper like this, no one would have ever heard of Waterloo."

In television, in particular, our country has created what the Ratham-Lichter study refers to as a "media elite"—i.e., "upper-middle class men and women of largely East Coast origin, socially liberal in philosophy, who try and impose their views on society." They are overpaid, over-indulged and overbearing. According to a study done on these media denizens, the majority never darken a church door, favor abortion on demand, have never voted for a Republican presidential candidate, scorn capitalism and praise Fidel Castro.

Am I overreacting? Is my vision dimmed because I am a woman, from the Midwest, the owner of privately held enterprises? I think not.

Our newspaper reports as much news as possible. We utilize columnists who reflect every political nuance. Unlike television, we do not decide which story is worth covering, what emphasis a particular view should receive, or which sources we will quote and which we will ignore. The News-Gazette is pages and pages long—every day. Television news is 15 minutes at best. Whose news is it? All of you have watched the anchormen. I think you know whose news it is.

And yet, that same biased television news molds minds, hundreds of millions of them every day. As Nicholas Johnson of the Federal Communications Commission said: "It is long past time we find out just what it is that these potters are making out of the clay they knead inside our head."

I think we already know, Roger Mudd told us way back in 1970 when he said: "The inherent limitations of our (television) media make it a powerful means of communication, but also a crude one which tends to strike at the emotions rather than the intellect. Our (television) broadcasts have not been improved. If anything, their quality has declined. The tube has become a trip, a national opiate, a babysitter who charges nothing, something to iron by, to shave to, to doze over."

I do not want to imply that everything in The News-Gazette is objective. The editorials are not; neither are our columnists. They are not supposed to be. Our news should be. We strive for it. We demand that each member of our news staff gather "news" and leave behind his or her ideological prejudices. We may not achieve perfect objectivity, but we differ from the "big boys" in this respect: We at least try!

When we editorialize, we tell you we are editorializing. We do not do it in news stories.

As a Midwest woman publisher, I believe we must editorialize. I have a duty to try to restore a sense of balance, a sense of proportion; I believe The News-Gazette must stress tolerance—that we all differ by race, and creed, and color, and custom. That we are what we are, and not what the giant media owners might like us to be. Most importantly, we must reflect courage—moral courage—the courage of our convictions.

That is what I think The News-Gazette must do. Let me briefly tell you what I believe all of media collectively should be and do.

First, it should function as a unique and vital force in providing the general public with access to information not readily available elsewhere; second, it should protect people's right to know the facts so that they may make informed and responsible decisions in an atmosphere of openness and freedom; third, it should provide its readers, listeners and viewers with accurate, timely and useful information to help them plan and conduct their daily lives safely and successfully; and it must be economically strong so as to have the independence to report news and opinions free from outside influences.

The smaller newspapers and most radio stations have faithfully followed these guidelines; major media have not. As a result, if the big and the influential had a distinguished past, the lustre is long gone.

Permit me also to tell you what the media should not be and should not do:

It should not consistently assume an adversary posture toward our government, be it Democrat or Republican.

It should not, as a matter of policy, oppose everything that is wrapped up in the words "religion," "morals," and "ethics."

It should not refuse to adopt a critical view of Communism.

It should not indulge itself—almost with glee at times—in presenting only a single view of the problems in South Africa—a view that may well send South Africa the way of South Vietnam. And, while on the subject of South Africa, the media should also abandon their not too subtle form of racism—quit implying that that which is evil is only evil if committed by a white, but understandable if committed by a black. It is a two way street. In today's coverage, South Africa's crimes are magnified by the media because the government is white. Our national newspapers, magazines and television networks ignore the fact that there is equal violence and deprivation of rights in black Africa, for example, the countries and governments of Angola, Cameroon, Ethiopia, Kenya, Zimbabwe and a host of others.

South Africa is properly condemned; why not black Africa as well?

The media should cease judging their performance only by whether or not they made a year-end profit; ask instead: "Did we cover the news?"

It should not ignore the Soviet's takeover of Mozambique (an event that had so little media coverage most Americans don't even know where it is); it should not fail to repeatedly condemn the monstrous atrocities in Afghanistan; it should not divert our attention from the Soviet military base established in Aden, right in the heart of our oil supply center. (With such inept coverage, is it any wonder that the Soviets believe they can move at will, without any United States opposition?)

It should quit "libeling" and "slandering" the leaders of the free world.

It should not eulogize every new Soviet leader. If the media want to praise Gorbachev for "openness," then why not wait until we have a visible demonstration, for example, the destruction of the Berlin Wall.

Most important of all, it must quit spreading disinformation. This university and all great universities can be of great assistance here, for disinformation exists in direct ratio to the inefficiency of education. It succeeds because so many people are not merely uneducated; they are diseducated.

Too many students at too many institutions of higher learning are encouraged to believe in the absolute relativism of everything. There are no more heroes: Everyone must be reduced to the grayness of the pack. All values are merely matters of taste; any course within a curriculum is as good as any other.

Students so trained have been effectively diseducated!

As a result, each spring, at commencement, many graduates have never read a play by Shakespeare, a dialogue of Plato, a work of Aristotle, a treatise by Aquinas, a book of the Scriptures, or an essay by Locke. If put to the test, many could not intelligently discourse for five minutes on any aspects of philosophy, art, music or history.

John Henry Newman asserted that the purpose of education was not to satisfy curiosity, but to inspire the right curiosity. Education was a vehicle through which a cultural legacy was transplanted to each succeeding generation. An institution of higher learning, therefore, should be a place that protects the untutored from a multiplicity of free choices, rather than a supermarket where they can find anything that pleases them. It must have a curriculum of required disciplines of demonstrated substance.

Although my viewpoint may infringe on a student's freedom (as contemporary thought defines "freedom"), in reality it makes possible real freedom—because, only the truly educated mind, familiar with the articulated thoughts and concepts of the past, can consistently cull fact from fancy, reality from propaganda, and information from disinformation.

The media cannot and do not do that today. It is, therefore, not truly educated, and spreads disinformation, perhaps more from ignorance than malicious intent.

Finally, the media need to give us citizens some credit. We are just as intelligent as its specialists are—and I am certain we have more common sense. When the president of the United States appears on national television for the "State of the Union" or some other address, we don't need some anchorman to come on afterward and explain to us what the president really said. This is demeaning and an affront to our intelligence.

In spite of everything I have criticized today. I repeat: I favor a free press.

But I feel compelled to admonish the "giants" in my industry that, while freedom is the right to be wrong, it is not the right to do wrong. The difference may be subtle, but it is a difference nonetheless, and must not be ignored.

In my role as a woman publisher; I will never be intimidated or coerced, just as this university should not be intimidated or coerced; as a Midwest media owner, I intend to see our policies and philosophies prevail, just as proper educational policies of a great Midwest university should prevail. And we will both succeed for the very same reason—by appealing to and performing well on behalf of every American.

Such service created our distinguished past; such a performance heralds a promising future.

Thank you.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the Congressional Record on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, March 15, 1982, may be found in the Daily Digest of today's Record.

Meetings Scheduled

MARCH 16

9:30 a.m.

Armed Services

To continue hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.

SR–222

Commerce, Science, and Transportation

To hold hearings in conjunction with the National Ocean Policy Study to

review federal enforcement of foreign fishing activities in the Bering Sea.
SR-253

Finance
Energy and Agricultural Taxation Subcommittee
To hold hearings on recent changes in collection procedures on gasoline, diesel, and special motor fuel taxes.
SR-215

Judiciary
Technology and Law Subcommittee
To hold hearings on information and competitiveness.
SD-562

10:00 a.m.
Budget
To resume hearings in preparation for reporting the first concurrent resolution of the fiscal year 1989 budget.
SD-608

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on S. 2100, to authorize programs for the conservation and development of water resource projects of the U.S. Army Corps of Engineers.
SD-406

1:30 p.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Joseph T. Nall, of North Carolina, to be a Member of the National Transportation Safety Board.
SR-253

2:00 p.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of the Senate, Office of the Senate Sergeant at Arms, and the Architect of the Capitol.
SD-124

Armed Services
To continue hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.
SR-222

Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on activities of the Federal Aviation Administration.
SR-253

2:30 p.m.
Foreign Relations
To resume hearings on the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).
SD-419

MARCH 17

9:00 a.m.
Veterans' Affairs
Business meeting, to consider the President's budget request for fiscal year 1989 for veterans programs, and S. 2049, Veterans Home Loan Program Improvements Act.
SR-418

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to review matters relating to the October 1987 market break.
SD-562

Armed Services
Manpower and Personnel Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on manpower requirements for the total force.
SR-222

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.
SD-608

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Railroad Passenger Corporation (Amtrak).
SR-253

Judiciary
Antitrust, Monopolies and Business Rights Subcommittee
To hold hearings on competitive issues in the cable television industry.
SD-226

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for the Department of the Air Force.
SD-192

Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Technology Assessment, Congressional Budget Office, and the Government Printing Office.
SD-138

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1988 for the National Transportation Safety Board, and the Research and Special Programs Administration.
SD-124

Banking, Housing, and Urban Affairs
To hold oversight hearings to review whether legislation should be adopted that would require corporate issuers to have a one-share one-vote standard in order to be listed on the national securities exchanges.
SD-538

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To continue hearings on S. 2100, to authorize programs for the conservation and development of water resource projects of the U.S. Army Corps of Engineers.
SD-406

Finance
To hold hearings on proposed legislation relating to the U.S./Canada Free Trade Agreement.
SD-215

Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 21, S.J. Res. 130, and S.J. Res. 166, measures proposing amendments to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, Presidential, and State elections.
SD-628

2:00 p.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the General Accounting Office, and the Library of Congress.
S-128, Capitol

Armed Services
To continue hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.
SR-222

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1508, S. 1570 and H.R. 1548, bills to withdraw and reserve certain Federal lands for military purposes.
SD-366

Foreign Relations
To hold open and closed hearings on the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).
SD-419

2:30 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.
SD-608

MARCH 18

9:00 a.m.
Veterans' Affairs
Business meeting, to continue consideration of the President's budget requests for fiscal year 1989 for veterans programs, and proposed legislation relating to veterans' home loan guarantees.
SR-418

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
Domestic and Foreign Marketing and Product Promotion Subcommittee
To hold joint hearings on soybeans and the world market.
SR-332

Armed Services
To resume open and closed hearings on issues relating to the Intermediate-Range Nuclear Forces (INF) Treaty.
SR-222

Finance
Business meeting, to consider proposed legislation relating to Internal Revenue Service issues, including Taxpayer Bill of Rights and diesel fuel tax.
SD-215

Select on Intelligence
To resume closed hearings on the provisions of the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).
SH-219

10:00 a.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for nuclear fission programs and uranium enrichment, and nuclear waste management programs.
SD-138

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.
SD-608

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To continue hearings on S. 2100, to authorize programs for the conservation and development of water resource projects of the U.S. Army Corps of Engineers.
SD-406

Foreign Relations
To continue open and closed hearings on the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).
S-116, Capitol

10:30 a.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Tax Court, Committee for the Purchase from the Blind and Other Severely Handicapped, Advisory Commission on Intergovernmental Relations, Merit Systems Protection Board, Office of the Special Counsel, Advisory Committee on Federal Pay, and the Federal Labor Relations Authority.
SD-116

Judiciary
Courts and Administrative Practice Subcommittee
To resume hearings on S. 1482, to make certain improvements with respect to the Federal Judiciary.
SD-226

2:00 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on the state of the United States strategic deterrence.
S-407, Capitol

Armed Services
Defense Industry and Technology Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.
SR-253

Governmental Affairs
Federal Services, Post Office, and Civil Service Subcommittee
To hold hearings on leave sharing.
SD-342

MARCH 21

8:30 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Park Service.
SD-192

9:00 a.m.
Foreign Relations
To resume hearings and to consider the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).
SD-419

9:30 a.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of the Treasury, focusing on the Financial Management Service, Bureau of the Public Debt, U.S. Mint, and the Internal Revenue Service.
SD-116

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on H.R. 2090 and S. 1478, bills to designate certain National Forest System lands in the State of Montana for release to the Forest Planning process, protection of recreation value, and inclusion in the National Wilderness Preservation System.
SD-366

Governmental Affairs
To hold hearings to review Department of Defense contractor supply system access.
SD-342

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Science Foundation.
SD-124

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for military construction, focusing on base rights and burdensharing.
SD-192

MARCH 22

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to review the President's proposed budget request for fiscal year 1989 for the National Aeronautics and Space Administration.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To continue hearings on H.R. 2090 and S. 1478, bills to designate certain National Forest System lands in the State of Montana for release to the Forest Planning process, protection of recreation value, and inclusion in the National Wilderness Preservation System.
SD-366

Finance
Health Subcommittee
To hold hearings on S. 1673, to require States to provide Medicaid coverage of community and family support services for severely disabled individuals.
SD-215

Governmental Affairs
To resume hearings on proposals to establish a national nutrition monitoring and related research program.
SD-342

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Foreign Agricultural Service, Food for Peace Program (P.L. 480), Office of International Cooperation and Development, and the Office of the General Sales Manager.
SD-138

Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for the Department of the Navy, and the U.S. Marine Corps.
SD-192

Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1989 for the National Science Foundation.
SD-116

Banking, Housing, and Urban Affairs
To hold oversight hearings on the implementation of the Community Reinvestment Act.
SD-538

1:30 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on the President's proposed budget request for fiscal year 1989 for the National Aeronautics and Space Administration.
SR-253

2:00 p.m.
Judiciary
Courts and Administrative Practice Subcommittee
Business meeting, to mark up S. 953 and S. 954, bills to require Federal judges to permit attorneys to participate directly in the examination of prospective jurors to determine their competence (voir dire).
SD-226

Small Business
To hold hearings on the President's proposed budget for fiscal year 1989 for the Small Business Administration.
SR-428A

MARCH 23

9:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to resume mark up of S. 1516, Federal Insecticide, Fungicide and Rodenticide Act Reform of 1987.
SR-332

Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings to examine Health Care Financing Administration's management of medical laboratories.
SD-342

10:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Minerals Management Service.

SD-116

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Landsat and NOAA weather modernization programs.

S-146, Capitol

Banking, Housing, and Urban Affairs,

To continue oversight hearings on the implementation of the Community Reinvestment Act.

SD-538

Finance

To hold hearings to review current programs and policies relating to children's health care.

SD-215

Select on Intelligence

To hold closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.

SH-219

2:00 p.m.

Select on Indian Affairs

Business meeting, to resume consideration of S. 802, to transfer ownership of certain lands held in trust for the Blackfeet Tribe, and to begin consideration of S. 1236, to authorize funds for fiscal year 1988 for housing relocation under the Navajo-Hopi Relocation Program.

SR-485

MARCH 24

9:30 a.m.

Agriculture, Nutrition, and Forestry

Conservation and Forestry Subcommittee

To hold oversight hearings to review implementation of conservation programs.

SR-332

Commerce, Science, and Transportation

To hold hearings to review federal collection activities of information relating to foreign investment in the United States.

SR-253

Governmental Affairs

Oversight of Government Management Subcommittee

To continue oversight hearings to examine Health Care Financing Administration's management of medical laboratories.

SD-342

Select on Indian Affairs

To hold joint hearings with the House Committee on Interior and Insular Affairs on S. 2153, to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona.

1324 Longworth Building

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Farm Credit Administration.

SD-138

Appropriations

Defense Subcommittee

To hold hearings to review proposed budget estimates for fiscal year 1989 for the National Guard and reserve programs.

SD-192

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Railroad Administration, and the National Railroad Passenger Corporation (Amtrak).

SD-124

Finance

To hold hearings on S. 1245, to authorize the issuance by States of tax-exempt bonds for high-speed intercity rail transportation projects under certain circumstances.

SD-215

1:30 p.m.

Budget

To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.

SD-608

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1593, to designate the site of the Glorieta Battle in the Civil War as a national historic site, S. 1693, to provide for a study of the Coronado Trail, and S. 1912, to authorize a study of the feasibility of establishing a National Mimbres Museum in Silver City, New Mexico.

SD-366

3:00 p.m.

Select on Intelligence

To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.

SH-219

MARCH 25

9:30 a.m.

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Archives and Records Administration, U.S. Secret Service, and the Administrative Conference of the United States.

SD-124

Select on Intelligence

To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.

SH-219

10:00 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold closed hearings on proposed budget estimates for fiscal year 1989 for atomic energy defense programs, including nuclear energy, weapons research and development testing and production programs, and a new production reactor program.

SD-116

10:30 a.m.

Finance

Taxation and Debt Management Subcommittee

To hold hearings on the tax treatment of single-premium and other investment-oriented life insurance.

SD-215

MARCH 28

8:30 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Mines, and the Office of Surface Mining.

SD-128

9:30 a.m.

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Management and Budget (OMB), and the Office of Federal Procurement Policy.

SD-116

Finance

Taxation and Debt Management Subcommittee

To hold hearings to review certain tax provisions which have recently expired or will expire this year, focusing on the exempt treatment of mortgage revenue bonds and the targeted jobs tax credit.

SD-215

Governmental Affairs

To resume hearings on proposed legislation relating to the elevation of the Veterans Administration to Cabinet status.

SD-342

10:00 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Power Marketing Administrations, including Bonneville Power Administration.

SD-138

Special on Aging

To hold hearings to examine adverse drug reactions in the elderly.

SD-628

2:00 p.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Naval Petroleum Reserve, and the Strategic Petroleum Reserve.

SD-116

MARCH 29

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings to review proposed budget estimates for fiscal year 1989 for force structure programs.

SD-192

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Na-

tional Aeronautics and Space Administration.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Indian Affairs.
SD-116

2:00 p.m.
Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

MARCH 30

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Rural Electrification Administration.
SD-138

Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1989 for the National Aeronautics and Space Administration.
S-126, Capitol

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Smithsonian Institute, and the Woodrow Wilson International Center.
SD-116

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for military construction and family housing programs.
SD-192

Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for the Legal Services Corporation.
S-146, Capitol

Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

MARCH 31

9:00 a.m.
Veterans' Affairs
To hold hearings on proposed legislation relating to agent orange and related issues.
SR-418

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for the Strategic Defense Initiative.
SD-192

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Geological Survey.
SD-116

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Aviation Administration, and the General Accounting Office.
SD-138

Banking, Housing, and Urban Affairs
To hold hearings on proposals for structural and regulatory reform in the securities markets.
SD-538

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 314, to require certain telephones to be hearing aid compatible.
SR-253

Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

APRIL 11

8:30 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Forest Service.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Environmental Protection Agency.
SD-124

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.
SD-192

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.
SD-192

APRIL 12

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.
SD-342

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Environmental Protection Agency, and the Council on Environmental Quality.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy conservation and emergency preparedness programs.
SD-116

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.
SD-138

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.
SD-138

APRIL 13

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the legislative priorities of AMVETS, Vietnam Veterans of America, and the Jewish War Veterans.
SD-106

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Labor.
SD-124

Governmental Affairs
Oversight of Government Management Subcommittee
To continue hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.
SD-342

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Farmers Home Administration, and the Federal Crop Insurance Corporation.
SD-138

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for reserve components' military construction and defense agencies' military construction and family housing programs.
SD-116

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.
SD-192

Commerce, Science, and Transportation
To hold oversight hearings in conjunction with the National Ocean Policy

Study on the implementation of the Marine Mammal Protection Act.

SR-253

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

2:30 p.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for ACTION, Corporation for Public Broadcasting, Railroad Retirement Board, Federal Mediation and Conciliation Service, National Mediation Board, National Labor Relations Board, and the Occupational Safety and Health Review Commission.

SD-124

APRIL 14

10:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Gallery of Art, Commission on Fine Arts, FDR Memorial Commission, and the Advisory Council on Historic Preservation.

SD-138

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Urban Mass Transit Administration, and the Washington Metropolitan Transit Authority.

SD-124

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

APRIL 15

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Prospective Payment Assessment Commission, Physician Payment Review Commission, Federal Mine Safety and Health Review Commission, National Commission on Libraries and Information Science, National Council on the Handicapped, Soldiers' and Airmen's Home, and the U.S. Institute of Peace.

SD-192

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the General Services Administration and the Executive Office of the President (with the exception of OMB).

SD-116

APRIL 18

8:30 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for fossil energy research and development, and clean coal technology programs.

SD-116

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.

SD-124

1:00 p.m.

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Postal Service, and the Office of the Secretary of the Treasury.

SD-116

APRIL 19

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.

SD-138

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.

SD-124

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for drug enforcement and coordination programs.

S-146, Capitol

APRIL 20

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Social Security Administration, and the Health Care Financing Administration, both of the Department of Health and Human Services.

SD-192

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Army military construction and family housing programs.

SD-124

1:30 p.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Territorial Affairs, and territorial governments.

SD-138

2:30 p.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Family Support Administration, and the Human Development Services, both of the Department of Health and Human Services.

SD-192

APRIL 21

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Assistant Secretary for Health, and the Centers for Disease Control, both of the Department of Health and Human Services.

SD-116

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Commodity Futures Trading Commission, and the Food and Drug Administration of the Department of Health and Human Services.

SD-138

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Transportation, and the General Accounting Office.

SD-124

APRIL 22

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Alcohol, Drug Abuse and Mental Health Administration, and the Health Resources and Services Administration, both of the Department of Health and Human Services.

SD-192

APRIL 25

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Home Loan Bank Board, Neighborhood Reinvestment Corporation, National Institute of Building Sciences, and the Office of Science and Technology Policy.
SD-124

APRIL 26

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-124

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Emergency Management Agency.
S-126, Capitol

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary, Office of the Solicitor, and the Office of the Inspector General, all of the Department of the Interior, and the Navajo-Hopi Indian Relocation Commission.
SD-116

APRIL 27

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-192

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Navy military construction and family housing programs.
SD-124

APRIL 28

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-116

10:00 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for diplomatic security programs.
S-146, Capitol

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Coast Guard.
SD-124

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Land Management.
SD-116

APRIL 29

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Health and Human Services.
SD-138

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Personnel Management.
SD-192

MAY 9

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.
SD-124

MAY 10

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Education.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.
SD-124

MAY 11

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Compensatory Education for the Disadvantaged, School Improvement Programs, Impact Aid, Bilingual, Immigrant and Refugee Education, Education for the Handicapped, Rehabiliation Services and Handicapped Research, and Vocational and Adult Education.
SD-192

10:00 a.m.
Appropriations
Miltiary Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Air Force military construction and family housing programs.
SD-124

MAY 12

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Student Financial Assistance, Guaranteed Student Loans, Higher Education, Higher Education Facilities Loans and Insurance, College Housing Loans, Howard University, Special Institutions (includes American Printing House for the Blind, National Technical Institute for the Deaf, and Gallaudet), Education Research and Statistics, and Libraries.
SD-192

10:00 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for trade activities of the Department of Commerce and the U.S. Trade Representative.
S-146, Capitol

MAY 17

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 18

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 19

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 24

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 25

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 26

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-138

JUNE 7

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

JUNE 8

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

JUNE 9

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

CANCELLATIONS

MARCH 16

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on activities of the Federal Aviation Administration.
SR-253

HOUSE OF REPRESENTATIVES—*Tuesday, March 15, 1988*

The House met at 12 noon and was called to order by the Speaker pro tempore [Ms. OAKAR].

DESIGNATION OF SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore laid before the House the following communication for the Speaker:

WASHINGTON, DC, *March 15, 1988.*

I hereby designate the Honorable MARY ROSE OAKAR to act as Speaker pro tempore on this day.

JIM WRIGHT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, gracious God, that we will not need to have our lives filled by the pomp and glory of life, or that we will need the praise of others, but, sustained by Your promises, we can discover satisfaction by giving thanks, instead of receiving, by putting forth hope, instead of cynicism, by loving, instead of selfishness. Help us, O God, not to lose heart in the walk of life, but be renewed by the gifts of Your spirit, day by day. Amen.

THE JOURNAL

The **SPEAKER** pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3689. An act to designate the United States Post Office Building located at 300 Sycamore Street in Waterloo, Iowa, as the "H.R. Gross Post Office Building".

DISPENSING WITH CALL OF THE PRIVATE CALENDAR

Mr. **SENSENBRENNER**. Madam Speaker, I ask unanimous consent that the call of the Private Calendar be dispensed with today.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PRESERVE HIGHWAY AND TRANSIT FUNDING

(Mr. ANDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON. Madam Speaker, along with Chairman HOWARD, and Congressmen HAMMERSCHMIDT and SHUSTER, I yesterday introduced House Resolution 400, expressing the sense of the House that our Nation's highway and public transit programs should be funded in fiscal year 1989 at the amounts authorized by Public Law 100-17, the Surface Transportation and Uniform Relocation Assistance Act of 1987.

Forty-six thousand people died on our Nation's highways in 1987. That averages out to 126 people a day, every day. That is a safety crisis that must be addressed. But it cannot be addressed if we slash funding that is needed to build safer roads and to improve and operate public transit systems around the country.

There is another crisis on our Nation's roads, and that is our current capacity shortage. In southern California alone, freeway delays amount to 485,000 hours every day with an economic impact estimated at $507 million per year. And of course, Madam Speaker, our colleagues from around the country know that Los Angeles is no longer unique.

To address the safety crisis and capacity crisis that exists on our Nation's surface transportation network, we must fund our highway and transit programs at levels approved overwhelmingly by the Congress less than 12 months ago.

Madam Speaker, I invite all of our colleagues to join in cosponsoring House Resolution 400.

FRAUD AND WASTE

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Madam Speaker, since 1981 the President's Council on Integrity and Efficiency and inspector general recommendations have saved or put to better use more than $110.5 billion in Federal funds. The administration has been responsible for over 22,000 successful prosecutions against wrongdoers who defraud Federal programs, and over 8,000 administrative sanctions against unscrupulous individuals and firms doing business with the Government.

Madam Speaker, these are milestones and not stopping points. If we are going to make more efficient use of our limited Federal funds we will need the participation of the American people. I would encourage the American people to contact the General Accounting Office and report any cases of waste, fraud, or mismanagement they may observe. The fraud hotline is 1-800-424-5454 and is open from 8 a.m. to 4 p.m. eastern time.

TRADE NEGOTIATIONS WITH RUSSIA SHOULD BE EXPEDITED

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Madam Speaker, I rise to urge my colleagues to cosponsor House Concurrent Resolution 264, which I have just introduced, concerning renewing the long-term agricultural trade agreement between the United States and the Soviet Union.

These trade negotiations are scheduled to begin this week.

My resolution would express the sense of Congress that these trade negotiations should be expedited and that any new agreement should be broadened and expanded from the present one, which expires in September this year.

United States negotiators also should seek clarifications of definitions to avoid future conflicts, such as have marred operations under the present agreement.

The needs of both countries need to be better understood so that we can build on the wheat, corn, and other grains that have made up the bulk of the $11.5 billion of Soviet purchases from the United States since 1981.

While we want to increase our grain exports, of course, we have much more to offer: beef, pork, processed foods, vegetables, soybean oils, sunflower oils, and other oils; fruits, dairy products, and much, much more.

We are in the battle of our lives to regain some of our lost export markets. And we are succeeding. In wheat, for example, U.S. wheat exports may total 42 million tons this year, 50 percent more than in 1987.

I urge my colleagues to cosponsor House Concurrent Resolution 264, for the land's sake!

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

REMEMBER TERRY ANDERSON AS HE BEGINS FOURTH YEAR AS HOSTAGE

(Ms. SLAUGHTER of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER of New York. Madam Speaker, tomorrow Terry Anderson, chief Middle East correspondent for the Associated Press, begins his fourth year of captivity by terrorists in Lebanon. During many of these 1,095 days of captivity, Terry has been held in solitary confinement. There are reports that he has been blindfolded, beaten, and harassed.

On this anniversary of his kidnapping, several events are planned to emphasize that Terry and the eight other Americans held hostage in Lebanon have not been forgotten. Peggy Say, Terry's courageous sister, will be in Washington to participate in a "Candlelight Ceremony of Hope and Concern." At that service hostage family members, religious leaders, and Terry's fellow journalists will remember Terry and the other hostages.

In Batavia, NY, Peggy Say's hometown, the community has organized a full day of observances. A sunrise prayer service will be followed by an afternoon service including a rollcall of the hostages and the citywide ringing of church bells. In the evening a rally at the Genesee County Mall will culminate in a candlelight march and an ecumenical service. Combined with the wearing of yellow ribbons and a gigantic greeting card to Terry, the day's events symbolize Batavia's determination that Terry has not and will not be forgotten.

I ask my colleagues and all Americans to take a moment tomorrow to think about the continuing plight of Terry Anderson and the other hostages in Lebanon. As Terry begins his fourth year of deprivation and inhumane isolation from his family and friends, let us reflect on the toll 3 years of separation from our spouses, children, parents, and brothers and sisters would take on each of us. Then join Terry's colleagues and community, friends and family in remembering him and praying for the release of all the hostages.

ESTABLISH OIL IMPORT FEE

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Madam Speaker, earlier this month, Federal Reserve Chairman Alan Greenspan called for a 15-cent increase in the Federal gasoline tax. In testimony before the Senate Banking Committee, Mr. Greenspan also recommended against enacting an oil import fee.

I disagree. A gas tax would heavily burden consumers and reignite inflation. And it would undercut the domestic petroleum industry's efforts to recover. By giving foreign nations an even greater share of the U.S. energy market we would seriously threaten our national security.

If Mr. Greenspan wants to raise revenues, he should recognize that an oil import fee has numerous advantages. It would help American producers to compete with cheap imported oil and go far toward reducing our growing and dangerous dependence on foreign-supplied oil and gas.

Additionally, an oil import fee is the better alternative for consumers, because 20 to 50 percent of the price increase would be shifted to foreign suppliers.

It is time to establish an environment where domestic producers are able to develop new energy resources. This must be our goal, not Mr. Greenspan's prescription for disaster in the form of higher gas taxes.

COMMEMORATING THE 1848 HUNGARIAN REVOLUTION

(Mr. KONNYU asked and was given permission to address the House for 1 minute.)

Mr. KONNYU. Madam Speaker, I rise today to commemorate the 1848 Hungarian revolution. On March 15, 1848, with the battle cry "freedom and independence," the people of Hungary began their revolt against their Austrian oppressors.

That fight, after Russian army interference, was lost but Lajos Kossuth, the leader of that revolution, escaped and visited the United States in the 1850's. As a result, that 140-year-old quest for freedom is remembered even today through streets and statues in the United States including ones in St. Louis, MO, which was erected by a committee headed by my dad, Leslie Konnyu.

The oppression of 2.5 million ethnic Hungarians living in Romania today is documented in the newly released book entitled "Red Horizons" by Lt. Gen. Ion Mihai Pacepa who was the head of the Romanian KGB under Ceausescu before his defection to the West.

So on this day, I want to remind the world that the spirit of a people living under communism cannot be broken. Instead it smolders waiting for the day to burn brightly in the open air of freedom.

MORELLA CONDEMNS HATE VANDALISM

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Madam Speaker, I rise today to express my outrage and concern about on-going expressions of hate-violence and hate-vandalism in our country and in my congressional district.

Those Members who were not in Washington this past weekend may not have heard of the vandals who desecrated Magen David Bet Eliahu Sephardic synagogue in Rockville, MD. Worshipers arriving to celebrate the Jewish sabbath Saturday morning were rudely greeted by two swastikas, the letters "SS" denoting Hitler's infamous secret police, and the words "Die Jew."

Madam Speaker, I share the pride felt by the great majority of Americans for the progress we have seen in civil rights and racial and religious tolerance in this great land during the past 40 years. But last weekend's desecration, along with other deplorable manifestations of intolerance and hate-violence around the country, serve to remind us that we must remain ever vigilant against those who would foster division and hatred among Americans. Indeed, we must not forget that one of our Nation's greatest strengths is our tolerance and encouragement of diversity of peoples, cultures and ideas.

The Bet Eliahu congregation has decided to leave the vandalism on its walls for the next few weeks, because they know that removing the words will not eliminate the problem. Instead, the congregation has decided to take advantage of the vandalism to help better educate the community to the existence of hatred. I encourage my colleagues to view the desecration only 30 minutes from our Nation's Capital. It is a strong reminder not only of how far we have come, but of how far we have yet to go, in our quest for total racial and religious harmony.

□ 1215

THE TRUTH IN GOVERNMENT SPENDING ACT

(Mr. DioGUARDI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DioGUARDI. Madam Speaker, do you know what this is? This is our congressional voting card. It is, in reality, the most expensive credit card in the world. And do you know what you bought with this card last year and how much you owe on it?

If you don't know, it's understandable. While every American taxpayer receives a lengthy instruction booklet with their tax forms explaining how to pay their taxes, what they don't get is a statement explaining just where their tax dollars are going—until today.

Today, I am introducing the Truth in Government Spending Act, a bill requiring the IRS to mail every taxpayer a personalized statement of how much each individual owes for his or her share of the national debt.

Just like the statement a consumer receives when he uses his personal charge card, the U.S. taxpayer's personal credit card statement will show all the items taxpayers buy, their share of Government spending, the payments they make, their share of taxes, and the balance due their share of the national debt. Of course, it will also include a finance charge and their share of the interest on the national debt.

By explaining the trillions of dollars of national debt in terms that taxpayers can relate to, maybe then will we be able to put an end to Congress' credit card mentality.

And by the way Madam Speaker, you and every American taxpayer owe the U.S. Treasury $18,560.10 for your unpaid bills last year.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1195

Mr. MOODY. Madam Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1195.

The SPEAKER pro tempore (Ms. Oakar). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The Speaker pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that she will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, March 16, 1988.

TECHNICAL AMENDMENTS TO FEDERAL EMPLOYEES EXPERIMENTAL LEAVE SHARING PROGRAM

Mr. ACKERMAN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3981) to make section 7351 of title 5, United States Code, inapplicable to leave transfers under certain experimental programs covering Federal employees, except as the Office of Personnel Management may otherwise prescribe.

The Clerk read as follows:

H.R. 3981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, except as the Office of Personnel Management may by regulation prescribe, nothing in section 7351 of title 5, United States Code, shall apply with respect to a solicitation, donation, or acceptance of leave under any program under which, during the fiscal year ending on September 30, 1988, unused accrued annual leave of officers or employees of the Federal Government may be transferred for use by other officers or employees who need such leave due to a personal emergency.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York [Mr. Ackerman] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. Morella] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. Ackerman].

Mr. ACKERMAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 3981 is a technical bill to exempt the current experimental Federal employee leave-transfer program from the provisions of section 7351 of title 5, United States Code. The bill also grants the Office of Personnel Management authority to apply section 7351 in appropriate cases.

Section 7351 prohibits Federal employees from soliciting, donating, or accepting a gift from an employee receiving less pay then oneself. Violation of this section results in separation from service.

The Office of Personnel Management has determined that transfers of annual leave under the experimental program would constitute a gift for purposes of section 7351. Therefore, transfers of annual leave could only be made from higher paid employees to lower paid employees.

This puts higher paid employees at a distinct disadvantage since the pool of annual leave from which they could accept transfers would be very small.

Madam Speaker, H.R. 3981 would correct an unintended inequity in the current leave-transfer program. Adoption of this bill would allow all Federal employees to participate equally in the program.

Madam Speaker, I urge my colleagues to support passage of H.R. 3981.

Mrs. MORELLA. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, I strongly support H.R. 3981 and commend the gentleman from New York [Mr. Ackerman], for introducing the bill.

This legislation will address the problem of leave transfers which comes under the gift statute in title 5.

The continuing resolution, which was passed for fiscal year 1988, included a provision which would enable Federal workers with an excess of annual leave to voluntarily donate this accrued leave to those employees who have depleted their sick and annual leave and need time to deal with a personal emergency.

However, an impediment exists because the United States Code, title 5, section 7351 prohibits Federal employees of a lower grade from donating a gift to an official superior or for an employee to accept a gift from an employee receiving less pay than himself. There is also a question of the meaning of "gift" in terms of "something of value." Time donated by an employee receiving less pay would not be something of value, since it would be worth less than what the superior would be giving or receiving. On the other hand, since time donated by an employee in a higher grade would be of more dollar value than that of a lower grade, the person in the lower grade would have been prevented from accepting the time because it would be more valuable in terms of monetary value. By the same provision of the code, in practical terms, those in the higher grades would have fewer employees above them who would be able to donate their leave to them, therefore, they would have less opportunity to participate in the leave-sharing program.

H.R. 3981 would void the code provision in regard to the leave-sharing program, but OPM would still have final authority to state otherwise should the necessity arise.

The leave-sharing concept is a humanitarian one and this bill would make the provisions applicable to all Federal employees.

Madam Speaker, I take this opportunity to commend the sponsor of this bill again. And, additionally I urge Congress to endorse H.R. 3757, the Federal Employees' Leave-Transfer Act, also sponsored by the gentleman from New York [Mr. Ackerman], which expands the present leave-sharing provisions and provides for demonstration projects, including transfer of accrued sick and annual leave and the concept of a leave bank.

I believe that this House is on the right track with the passage of H.R. 3981 which is before us at the moment and consideration of H.R. 3757 when it comes to the floor.

Madam Speaker, I know the ranking minority member, the gentleman from Indiana [Mr. Myers] joins me in echoing that statement.

Madam Speaker, I yield 3 minutes to the gentleman from my neighboring State of Virginia [Mr. Wolf] a prime sponsor of this bill.

Mr. WOLF. Madam Speaker, I thank the gentlewoman for yielding me this time.

Madam Speaker, I rise in support of H.R. 3981 and appreciate the effort of our colleague, Mr. Ackerman, in bringing this technical correction to the floor.

H.R. 3981 is a simple fix to a problem with the fiscal year 1988 leave-sharing program in the Federal agencies established in last year's continuing resolution. The problem was brought to our attention long after Congress authorized the extention of the earlier pilot program. The Office of Government Ethics considers the transfer of leave from a lower-graded employee to a higher graded one to be a violation of the Ethics Act since it would be a "gift."

This violation would occur if a subordinate wished to donate annual leave to someone in his or her supervisory chain—or would occur if a GS-5 husband donated leave to his GS-6 wife to care for their desperately ill child. Obviously, Congress did not intend such prohibitions.

Mr. ACKERMAN's legislation simply fixes this glitch, without doing damage to the Government Ethics Act. Such a fix is already part of H.R. 3757 which will make leave sharing a permanent part of the Federal employment structure and which should come before us in the very near future.

For the moment, however, we need to take care of the immediate problem and clarify the intent of Congress to assist Federal employees in emergency situations. I urge unanimous support for H.R. 3981.

Madam Speaker, Federal employees are really obligated to the gentleman from New York [Mr. ACKERMAN], chairman of the subcommittee, and I want to thank him and I know he shares my concern that now that he has moved this legislation quickly that OPM gets off the dime and makes these regulations permanent so that Federal employees who may have a very serious illness or a particular problem can take advantage of this program before we end this fiscal year and get into the next fiscal year.

Mr. PARRIS. Madam Speaker, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Virginia.

Mr. PARRIS. Madam Speaker, I rise in support of H.R. 3981, technical amendments to the Federal Employees Experimental Leave-Sharing Program, the measure that is before the House for consideration today, as well as creation of a permanent leave-sharing program for Federal workers.

Late last year Congress passed legislation that extended for 1 year the experimental leave policy for Federal employees. The legislation, unfortunately and inadvertently, did not provide for donation of leave by lower paid employees to higher paid employees. H.R. 3981 is necessary legislation to correct a simple oversight.

Leave sharing, which allows Federal workers to donate leave to a colleague experiencing a personal, family, or medical emergency situation, is a concept whose time certainly has come. The program is good for Federal workers, good for the Federal Government, and fosters the sense of community and nurturing spirit that Federal workers have developed over the years. Efforts to make the leave-sharing program permanent should not be stalled by technicalities and rules that were never intended to apply to the program, and would not, but for legislative oversight. I urge my colleagues to support passage of H.R. 3981 and legislation soon to be considered by the House that would create a permanent leave-sharing program.

Mrs. MORELLA. Madam Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. MYERS] the ranking minority member of the subcommittee.

Mr. MYERS of Indiana. Madam Speaker, I thank the gentlewoman for yielding me this time and apologize for not being on the floor on time. We have oversight hearings in the Appropriations Committee right at this moment with the executive branch, and we were tied up there. Members are kind of spread thin.

But I rise in strong support of this legislation which is badly needed and I thank the gentleman from New York [Mr. ACKERMAN], chairman of the subcommittee, for bringing this legislation to the floor and expediting the proceedings. I urge everyone to vote for it because it is badly needed.

Madam Speaker, as the ranking Republican member of the Post Office and Civil Service Subcommittee on Compensation and Employee Benefits, I join with my chairman, Mr. ACKERMAN, in urging adoption of this measure.

This legislation simply makes technical corrections in language contained in Public Law 100-202 which establishes an experimental Federal leave bank for fiscal year 1988. Under Federal law, a Federal employee is prohibited from giving gifts to his/her immediate supervisor. A donation from some employees under section 7351 of title 5 is ambiguous; this measure should clear up any misunderstanding which may exist.

Leave sharing is an arrangement that allows employees to pool some of their paid leave days in a common fund. If an employee or someone in his/her immediate family encounters an extensive illness, the employee can draw upon the fund once his/her own paid leave is exhausted. A committee usually judges each request to insure fairness.

Most new concepts in employee fringe benefits originate in private industry and then spread to government. In the case of leave sharing, however, all existing programs are in the public sector.

Madam Speaker, the current leave-sharing program is due to expire at the end of fiscal year 1988. I fully expect the committee will soon bring legislation to the floor that will establish a 5-year Experimental Federal Leave-Sharing Program. In the meantime, I urge my colleagues to join me in support of this technical correction legislation in order that all Federal employees will have the opportunity to benefit from this innovative Federal program.

Mrs. MORELLA. Madam Speaker, I also commend, as I did before, the gentleman from New York [Mr. ACKERMAN] chairman of the subcommittee, for so expeditiously bringing this legislation to the floor.

Mr. BRENNAN. Madam Speaker, I rise today in support of H.R. 3981, a measure which exempts the Experimental Federal Employee Leave-Sharing Program from the provision of current law prohibiting gifts by Federal employees to those employees who are higher paid.

This measure will enable the Experimental Leave-Sharing Program authorized under House Joint Resolution 395, the Continuing Appropriations Act for Fiscal Year 1988, to cover all Federal employees. Current law prohibits gifts by Federal employees to those employees who are higher paid. In February, the Office of Personnel Management determined that transfers of annual leave would be gifts of greater than nominal value. Without this correcting legislation, the intent of Congress to establish a new leave policy for Federal employees who require leave for major medical or family emergency situations would be negated.

As a cosponsor and strong supporter of H.R. 2487, the measure which was adopted into the continuing resolution, I urge my colleagues to join me in making this necessary correction to the program. During these times of restricted budgets, it is encouraging to support a program which expands employee benefits without the usual budgetary impact. I remain confident that creative changes in benefit packages, such as this one, will encourage individuals to remain in Federal service. By maintaining a proficient and content Federal work force, the American taxpayer is the real beneficiary.

Again, I urge my colleagues to join me in a strong vote of approval for H.R. 3981.

Mr. GILMAN. Madam Speaker, I rise in support of H.R. 3981, a technical amendment to the Federal Employees Experimental Leave-Sharing Program. H.R. 3981 allows Federal employees to share their accrued annual leave with fellow employees that need the extra time because of a personal emergency, unless OPM specifically states otherwise.

Legislation has already been passed to allow leave sharing, however, a regulation released by OPM reflects a statute in the United States Code that makes implementation of the program impossible. This amendment, which has the support of the administration, takes care of this technicality.

Accordingly, I urge my colleagues to support the legislation.

Mr. LUJAN. Madam Speaker, today I rise in support of H.R. 3981, the technical amendments to the Federal Employees Experimental Leave-Sharing Program. This corrective legislation knocks down the final barrier to implementation of this long needed program.

Madam Speaker, I became aware of the need for a Federal leave-sharing program for serious illness early last summer, when I learned the situation of a Federal worker in my district who spent her entire working career as a Federal employee. She had devoted 35 years to serving the public at the Bureau of Indian Affairs in New Mexico.

Several years ago, this Federal worker won a fight against cancer, only to have it reappear in another form. In this second struggle against cancer, she used up all her leave and vacation time.

Despite the fact that she was undergoing an aggressive form of cancer therapy, she wanted to continue working. That is when she contacted me. Her coworkers wanted to give her their leave time, so that she could stay home on those days when she was too sick to come in to work.

Madam Speaker, I learned that this situation was not unique, when I testified at a hearing on H.R. 2487, introduced by my colleague from Virginia, [Mr. WOLF]. The heartbreaking stories shared at that hearing underscored the need for this leave-sharing program in cases of serious illness.

The momentum behind this legislation comes from the Federal workers across our Nation who want to help their colleagues in need. They want to give up leave time they have earned to help someone else. It is that simple, and that important.

In closing, Madam Speaker, a major criticism often unfairly leveled against Federal employees is that they don't care about their jobs, they are just working for their retirement pension. This situation illustrates how wrong that stereotype is. And while this change in the law comes too late to help my constituent, it will give other dedicated Federal workers the chance to continue to serve us all, through the compassion and generosity of other Federal workers.

Although I believe this program should only be used for serious illness, I urge the House to suspend the rules and pass these technical corrections to the Federal Leave-Sharing Program.

Mrs. MORELLA. Madam Speaker, I yield back the balance of my time.

Mr. ACKERMAN. Madam Speaker, I thank my colleague, the gentlewoman from Maryland and the ranking minority member for their kind remarks and for their support and for their endorsement of this legislation, and for their continuing support of Federal employees.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. ACKERMAN] that the House suspend the rules and pass the bill, H.R. 3981.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ACKERMAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 3981, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

APPROVING THE LOCATION OF THE BLACK REVOLUTIONARY WAR PATRIOTS MEMORIAL

Mr. VENTO. Madam Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 216) approving the location of the Black Revolutionary War Patriots Memorial.

The Clerk read as follows:

S.J. RES. 216

Whereas section 6(a) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (100 Stat. 3650, 3651), provides that the location of a commemorative work in the area described therein as area I shall be deemed disapproved unless, not later than one hundred and fifty days after the Secretary of the Interior or the Administrator of General Services notifies the Congress of his determination that the commemorative work should be located in area I, the location is approved by law;

Whereas the joint resolution approved October 27, 1986 (100 Stat. 3144), authorizes the Black Revolutionary War Patriots Foundation to establish a memorial on Federal land in the District of Columbia and its environs to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom; and

Whereas the Secretary of the Interior has notified the Congress of his determination that the memorial authorized by the said joint resolution approved October 27, 1986, should be located in area I: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the location of a commemorative work to honor the slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom, authorized by the joint resolution approved October 27, 1986 (100 Stat. 3144), in the area described in the Act approved November 14, 1986 (100 Stat. 3650), as area I, is hereby approved.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on Senate Joint Resolution 216, the Senate joint resolution presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Madam Speaker, I yield myself such time as I might consume.

Madame Speaker, Senate Joint Resolution 216 grants congressional approval to area I for the Black Revolutionary War Patriots Memorial. The blacks memorialized by this bill, not allowed to vote with the ballot, voted with their feet, their hands and their hearts. They sought freedom, a freedom still being sought.

We need to remember the efforts of blacks who fought for their freedom in the American Revolution because we inadequately recognize the impacts of Afro-Americans in our Nation's history. Their lives and efforts have been essential to the cultural, economic and social history of this country.

The Subcommittee on National Parks and Public Lands held a hearing on a very similar bill, House Joint Resolution 413, a bill introduced by our colleague, NANCY JOHNSON. The Committee on Interior and Insular Affairs reported out Senate Joint Resolution 216, which has already passed the Senate.

This legislation comes under the Commemorative Works Act passed in the last Congress. The act specifies that commemorative works are only to be placed in area I if they are of preeminent historical and lasting significance to the Nation. At the hearing, various witnesses testified that this particular commemorative work meets the standards set forth in the Commemorative Works Act.

As chairman of the Subcommittee on National Parks and Public Lands, and a sponsor of the Commemorative Works Act in the last Congress, I want to ensure that the process set forth in that legislation is faithfully followed. I want to note specifically that Senate Joint Resolution 216 conforms to the Commemorative Works Act. It grants congressional approval to area I but does not specify any particular site within area I. Nor should it. Much of the rationale behind the Commemorative Works Act was that the National Park Service must be allowed to manage the land under its jurisdiction. For the Congress—or any individual or group—to specify a particular site for a commemorative work damages that ability to manage the land. Any site eventually chosen for the Black Revolutionary War Patriots Memorial must be negotiated with the National Park

Service to ensure that the site chosen is appropriate, given the setting and all the activities that occur on this scarce land. Any design chosen must also be appropriate in size and impact on the surrounding park land. Madam Speaker, I endorse Senate Joint Resolution 216 and recommend that it pass.

Madam Speaker, I reserve the balance of my time.

☐ 1230

Mr. LAGOMARSINO. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of Senate Joint Resolution 216. This bill would approve the location of the Black Revolutionary War Patriots Memorial on Federal land administered by the National Park Service or the General Services Administration known as area I. Area I generally encompasses The Mall area, Theodore Roosevelt Island, Lady Bird Johnson Park, and the areas around the White House, the Lincoln Memorial, the Jefferson Memorial, and the Washington Monument.

During the last Congress, Chairman VENTO and I worked together on the Subcommittee on National Parks and Recreation to develop legislation to limit the number of future commemorative works placed within area I in an effort to preserve the open space in this area. The legislation we crafted was passed by Congress and became Public Law 99-652. Under its provisions, any memorials proposed for location in area I must be determined by the Secretary of the Interior or the Administrator of the General Services Administration, as appropriate, to be of "preeminent historical and lasting significance to the Nation." If such a finding is made, Congress must approve it within 150 days or it is automatically disapproved.

The Black Revolutionary War Patriots Memorial would honor the estimated 5,000 slaves and free black persons who served during the American Revolution, as well as those black individuals who sought freedom by fleeing or through legal means. On November 9, 1987, the Secretary notified Congress that the memorial met the criteria under Public Law 99-652 for placement in area I.

Although Senate Joint Resolution 216 expresses the concurrence of Congress concerning the general location of the Black Revolutionary War Patriots Memorial, it does not authorize a specific site. Final site selection is determined by the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission, in consultation with the National Capital Memorial Commission. The site and design of the memorial should be reasonable and appropriate, as well as compatible with the surrounding environment, including other memorials. It is our hope that those entrusted with the responsibility of determining the sites and designs for the memorials would exercise good judgment in this regard.

Before closing, I would like to commend the sponsor of the House companion bill (H.J. Res. 413) to Senate Joint Resolution 216, the gentlelady from Connecticut, Mrs. JOHNSON. She has invested a great deal of time and effort in this issue and it has been a pleasure to work with her. I would also like to commend the subcommittee chairman, Mr. VENTO, for moving forward on this legislation in an expeditious manner.

Madam Speaker, Senate Joint Resolution 216 has already been approved by the Senate. It is a good bill which has received broad-based bipartisan support. Therefore, I urge all of my colleagues to approve Senate Joint Resolution 216 and send it to the President for his signature.

Madam Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. I thank the gentleman for yielding.

Madam Speaker, democracy is fundamentally government of the people, by the people, and for the people. The bill which we consider today, appears to be a small piece of legislation, but it uniquely demonstrates the power of our form of government even in today's complex society.

If there was ever doubt in anyone's mind that we are a Nation of citizen power, let this bill lay that doubt to rest. For this bill is the fruit of one citizen's dedication, determination, and vision and that one citizen, to whom we all owe our thanks, is Maurice Barboza, formerly of Plainville, CT.

I have worked with Maurice, my colleagues, Mr. BRUCE VENTO, of Minnesota, Mr. "BOB" LAGOMARSINO, of California, Mr. CHARLES RANGEL, of New York and many others in this body for years now on this, and thank them for their enormous support of this effort. Now together, through citizen action, through legislative action, we are going to realize a vision of great significance, by adopting this project which is small in size but large in message. We are today taking final action to rectify a great shortcoming in our consciousness as a Nation and in the record of our history. We are going to allow to be built, in prime space in our Nation's capital, a monument to those blacks who fought for our freedom in America's birthing revolution.

The black revolutionary war soldiers are men who have not been recognized in our history books. Today's prejudices, today's discrimination, the whole civil rights movement, the agonies this Nation has endured to try to realize the promise of equality that its Constitution offers, are all in some real measure the consequence of our inability to recognize at our inception the nature of the revolution that brought us freedom and independence.

If we could have, back then, fully understood the power and implications of the fact that our freedom was the result of blacks and whites fighting side by side as equals, if from that moment forward we could have defined Americans as blacks and whites, as males and females, we could have moved forward to provide the world not only with a vision of the power of freedom but also with a vision of the power of equality.

We have become a free people over these 200 years. But it has taken the Civil War, it has taken the civil rights movement, it took action by this House only a few days ago to push forward the work necessary to fulfill the vision of equality that is fundamental to the spirit that drove our forefathers to break with England and to spill their blood for the realization of their hopes for freedom.

So I pay tribute here today to my friend Maurice Barboza, to a citizen with a vision who made it his business to share that with us and drive this House and the Senate of the United States of America to action. A citizen who will, with us, be able to give to the people of our Nation a worthy monument recognizing the simple fact that we are a Nation of free and equal people because we were founded by blacks and whites fighting side by side in our War of Independence.

Today we pass a small bill. It will accomplish in a sense a small act. But the message it sends will reverberate in the decades ahead. By clarifying the facts of our history, it secures the foundation for our future.

I thank the chairman, ranking member and my colleagues, very much for their many years of support and hard work to bring us to this important vote. This monument will serve our children and our grandchildren.

Mr. VENTO. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to thank the gentlewoman for her comments and her cooperation in this matter.

Madam Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. VISCLOSKY] who has been very helpful in support of this issue and in fact chaired one of the hearings we had in the subcommittee.

Mr. VISCLOSKY. Madam Speaker, I rise in support of Senate Joint Resolution 261, legislation to approve the location of the Black Revolutionary War Patriots Memorial in area I of the Nation's Capital.

The symbol of black soldiers' contributions to the struggle for independence should be prominently displayed in this city. It will serve as a reminder that black and white stood united in the cause of freedom and liberty.

In February we celebrated black history month. As we remembered the rich and extensive history of blacks in America, I noted that the talents, contributions, and achievements of black Americans have too often been overlooked. The Patriots Memorial will serve as a reminder of the 5,000 soldiers of the American Revolution and the countless slaves who ran away or petitioned for their freedom during that time.

Placing the memorial in area I will ensure that millions of visitors a year will be educated as to the role of blacks in the revolution. They will learn about the 90 slaves and 35 free men of the black Rhode Island regiment. They will hear the names of heroes such as Prince Hall, Edward Hector, and Henry Christophe. And perhaps they will realize that the fight for civil rights is a centuries old struggle, one which must be resolved for our country to realize its full potential as a free nation.

We should not forget the words of Maurice Barboza, whose dedication has made this patriots memorial possible, "this is not just a memorial for black people. It's a memorial to a concept that transcends color: freedom."

Mr. RODINO. Madam Speaker, I was proud to be one of the sponsors of the public law that authorized the Black Revolutionary War Patriots Foundation to erect a memorial in Washington, DC, to the black soldiers, freedom petitioners, and runaway slaves of the American Revolution. I am also privileged to serve as a member of the Advisory Council of the Black Revolutionary War Patriots Foundation which has done so much to bring to the forefront of public attention the crucial role black patriots played in winning our independence and their own freedom.

The establishment of this memorial will honor the estimated 5,000 courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution. It will equally pay tributes to the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom.

These gallant individuals fought for freedom without any guarantee that once the battle was over, they would share in all the blessings of the peace. They exemplified the true meaning of the word American: struggle, hard work, perseverance, and love of freedom. We are heirs to the history these men and women made and their example inspires all Americans. They are not simply heroes of black history, they are the heroes of American history.

This is why the Black Revolutionary War Patriots Memorial will be an important symbol for us all. It will serve as a permanent reminder of the struggle for freedom by Americans—a struggle that is at the very heart of the birth of our Nation. It will recognize the contributions of blacks to the Nation's independence, to the development of the constitution and to the concept of human rights for every citizen. It will celebrate the beginning of the civil rights movement which lived on in the courage of Frederick Douglass, Harriet Tubman, W.E.B. Du Bois, A. Phillip Randolph, and Dr. Martin Luther King, Jr. Finally, this memorial will deepen our appreciation of the indomitability of the human spirit. It will stir us to renew our commitment to the goals of a fairer and more just society and to continue to ensure that America remains a nation where dreams and aspirations become reality.

For all of the reasons, I believe that the Black Revolutionary War Patriots Memorial should occupy a prominent site in our Nation's capital alongside the other monuments to our national heroes. The resolution before us today, which has already passed the Senate, will provide congressional approval for Interior Secretary Hodel's recommendation to allow the Black Patriots Memorial to stand in Washington's monumental core. This is only fitting and I urge my colleagues to support this resolution.

In closing, I also want to express my pride in the fact that many blacks in my own State of New Jersey contributed to our Revolutionary War heritage. Cudjo was a Newark slave who participated in the American Revolution as a continental soldier in place of his master and he received his freedom for this bravery. He was among the many brave and courageous black New Jerseyites who risked their lives in the cause of independence.

Madam Speaker, with your permission, I would like to include in my remarks the testimony of Judge Lawrence W. Pierce who is a descendant of Adam Pierce—a brave New Jerseyite who fought for freedom. Judge Pierce's eloquent words provide a powerful and meaningful argument for supporting the resolution before us today.

TESTIMONY OF JUDGE LAWRENCE W. PIERCE BEFORE THE HOUSE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS, IN BEHALF OF H.J. RES. 413 RECOMMENDING THE LOCATION OF THE BLACK REVOLUTIONARY WAR PATRIOTS MEMORIAL IN AREA I

I am pleased to be here today with my colleague Robert Lunney to speak in support of the proposed area selection for the erection of a monument in memory of the black patriots of the Revolutionary War. I commend the commitment, dedication and leadership of Maurice Barboza and his aunt, Lena Ferguson, who have become modern day heroes in promoting this worthy cause.

Although I am a life member of the New York Chapter of the Sons of the Revolution, and have been a member in good standing of the New York Chapter of the Sons of the American Revolution since 1976, and, although I serve on the Board of Directors of each, I do not speak today for either of these organizations. I speak for myself, for my aunt, Mildred Pierce Dart, who is a member of the Daughters of the American Revolution; for my brother Dr. Harold E. Pierce, Jr., of Philadelphia, PA; and for my three sons, Warren, Michael and Mark Pierce—all of whom are members of the Sons.

Our membership in these organizations is borne of the fact that one of our direct black forbears and several of his collateral black relatives participated in the Revolutionary War, as did some 5,000 or more other persons of color.

Our direct forbear was Adam Pierce. He was born in Cumberland County, New Jersey around 1756. He was the son of Richard and Hannah Pierce. Richard, like his brother Anthony, had been a slave but the two brothers somehow managed to gain their freedom and they became seamen. On one voyage from Europe, the brothers, Richard and Anthony Pierce, met two Dutch indentured servant women, Hannah and Marie Van Aca, who were sisters. The two brothers purchased the freedom of the two sisters; Anthony married Marie; Richard married Hannah; and they settled in South Jersey. Adam Pierce was born to the latter union.

Adam and three of his cousins were simple farmers when the Revolutionary War began. All four of them enlisted. Adam served in the militia and the Continental Army as a private. He served in the Company of Captain John Noble Cummings, which was part of the Second New Jersey Regiment, under the command of Colonel Israel Shreve. After serving in the Battles of Monmouth and Crosswicks, Adam Pierce was honorably discharged. Later, he received a revolutionary war veteran's pension.

I recall once telling our youngest son Mark that he bore the name of his forbear Adam Mark Pierce who served in the Revolutionary War. Only later did I realize that this was incorrect. I had seen "Mark" written on some of Adam's pension documents and I mistakenly concluded that it was his middle name. In fact, the word mark appeared on the documents only to identify his X mark since, like so many others of his time, he could neither read nor write.

I am quite certain that Adam Pierce had no understanding of political issues such as whether there should be taxation without representation, or whether bills of attainder or ex post facto laws were to be condemned. But clearly Adam Pierce and his cousins did know something about freedom and liberty and about the lack of the full measure of it—perhaps they learned about freedom and liberty from their fathers who had been slaves or perhaps from their mothers who came here as indentured servants. Whatever the motivation, Adam and his cousins participated as volunteers in the War of Independence along with some 5,000 other black members of the land and sea forces which comprised our army and our navy.

Although I have the privilege of serving as a member of several historical societies, there is no historical goal with which I am associated that is more important to me or to my family than the goal of seeing a memorial to black Revolutionary War patriots erected—and erected in the area proposed, that is, between the monuments which honor Washington and Lincoln.

The black patriots served under the overall leadership of Gen. George Washington; and though most, and probably all, of them were no doubt free persons, the great masses of blacks later attained freedom from enslavement through the signing of the Emancipation Proclamation by President Lincoln. How fitting it would be to place the memorial to these black patriots and freedom seekers between these two great leaders!

This area is visited daily by multitudes of Americans and by many visitors from other continents. Through this monument our Nation would convey to all who see it a striking historical message of unity and sacrifice made in the cause of freedom.

Adam Pierce's descendants have served in every major war involving the U.S. My father served in France in World War I in the field artillery; my brother is a veteran of World War II and is a retired Brigadier General and Flight Surgeon of the Penna Air National Guard; my own service occurred during World War II in the infantry in the North Appenines Mountains of Italy.

From the time of Adam Pierce through the present in all of our great conflicts, black Americans have offered their lives alongside other Americans—many have been killed, captured or wounded—in order to obtain and to preserve freedom in this land.

I urge you to approve today's proposal in fitting tribute to the black patriots of the Revolutionary War who have been invisible in our Nation's history much too long. The decision you make will determine whether history views their sacrifices and contributions as having had preeminent and lasting historical significance to this nation.

Mrs. JOHNSON of Connecticut. Madam Speaker, the legislation on the floor of the House of Representatives today is as important as any in defining our national character. Senate Joint Resolution 216 allows the memorial approved by the 99th Congress—a monument to more than 5,000 blacks who fought, side by side with their white brethren for the freedom of the colonies and the creation of our Nation—to be placed in the monumental core of the Nation's Capital.

Now the location of an individual monument may not seem like an issue worthy of the attention of the U.S. Congress. But in my opinion, it is well worth the attention of the entire American people. Designating a prominent location for this particular monument at long last recognizes and applauds the contributions of black Americans to our founding and to our growth in the decades since that remarkable revolution.

The land encompassed in the monumental core—the Ellipse, the Mall, Lady Bird Johnson Park, West Potomac Park, and Constitution Gardens—is itself an important national treasure. These grounds are a symbol of the strength of democracy. They are the destination for millions of visitors from all parts of the United States and from many foreign countries glorifying our common history and our commitment to democracy and freedom.

Under Public Law 99-558 memorials approved for placement in the monumental core must be of preeminent and lasting historical significance. The Black Patriots Memorial meets that test. For 200 years this country has acknowledged the contributions of its black citizens with but one monument in a remote area of the Capital City: to educator Mary McLeod Bethune in Lincoln Park on East Capitol Street.

Six years ago, Mr. Maurice Barboza, a former resident of northwestern Connecticut, shared a dream with me. For over 200 years, the experience of black Americans has been an unfinished chapter in American history. As Maurice Barboza has said:

> An American is a person who cherishes freedom, and who exercises * * * rights and privileges guaranteed by the Constitution in a way that assures the perpetuation of freedom. Therefore, there are no minorities in America. There are just Americans here. It is the concept of freedom which defines us as a people and not our place of origin or pigmentation.

If we were able to record history accurately from the beginning, we might have avoided many of the problems that plague our Nation today. The establishment of the memorial in a prominent site will serve as a reminder to every visitor to Washington, as well as to our educators, that the strength of the Nation is in all of its people. Let us approve this legislation without further delay. America cannot wait another 200 years to instill pride in the contributions of its citizens.

Mr. RANGEL. Madam Speaker, I rise today in support of Senate Joint Resolution 216, approving Federal land known as area I, as the location of the Black Revolutionary War Patriots Memorial. Being one of the original cosponsors of the legislation establishing this memorial to honor the black patriots of the American Revolution, I am pleased that this momentous day of securing a home for the memorial has finally come.

Madam Speaker, we as Americans hold a special place in our hearts and minds, the story of the birth of our Nation. As school children, we learned of the ideals and of the people who struggled for and gained independence.

However, our education and the education of our children on the American Revolution has been inadequate. We and our children have not been taught the full history of our foundation. As Mr. Maurice Barboza of the Patriot's Foundation stated in his testimony before the Subcommittee on National Parks, there were many blacks who made prominent contributions in the fight for freedom. Among them was, James Lafayette, a spy who gathered vital information from General Cornwallis, that led to the final victory at Yorktown.

Yet, the contributions of James Lafayette, and the estimated 5,000 other black patriots, who fought in battle for their and their future Nation's freedom, have ominously been missing from most of our history books.

But, today, we are in the process of rectifying our past neglect in recognizing the contributions of black patriots, by establishing a place of honor to house the Black Revolutionary War Patriots Memorial.

By, placing the memorial among the great monuments of Lincoln and Washington, an area of frequent and large public visitation, the memorial will serve to educate the public about the valuable contributions of black patriots and will be a catalyst for people to seek additional knowledge.

This memorial does not bring to light just "black history" but American history, plain and simple! History that for too long has been ignored and kept in darkness; it will make it clear that blacks' fight for freedom and equality, began with the founding of this Nation, and not with the Emanicipation Proclamation and the civil rights movement.

Therefore, I fully support locating this important memorial in the general area of the Mall and I wish to commend Congresswoman NANCY JOHNSON, Senator GORE, and Mr. Maurice Barboza of the Patriot's Foundation for their efforts in bringing this memorial into existence. I am inserting an article into the RECORD written by Mr. Barboza, regarding the significance of this memorial.

[From the Washington Times, January 18, 1988]

THE CLEAR VISION OF AMERICA'S FUTURE

(By Maurice A. Barbosa)

We have not yet reached the "promised land," and it is not clear when we will. But where we stand today tells us that the Rev. Dr. Martin Luther King Jr. was correct: We will get there—black, white and the entire ethnic and religious quilt that makes up America the beautiful. Generations after the end of slavery and the death of Jim Crow, Americans appear ready to learn what is necessary to continue the journey and to fulfill the pledge we all have made a million times—"one nation under God, indivisible, with liberty and justice for all."

However, our journey will be a long one unless we are able to create an intellectual Marshall Plan to change ingrained perceptions and attitudes.

Dr. King's vision—an America of opportunity, without poverty and prejudice—was not an idle dream, spun from wishful thinking and fanciful imagination. Rather it was built on a solid understanding of history. He understood how history in even its subtlest forms shaped his generation's behavior. In the Declaration of Independence, the Revolutionary War, the Constitution, the Underground Railroad, the Civil War, Jim Crow and the relationship between master and slave, he found the answers. These answers, he knew—through the exertion of intellect, non-violent action and perseverance—could unravel the mistakes of history that bound America to bigotry.

We have the same opportunity to influence history. But few of us today have Dr. King's clear vision of the future and his scholarly understanding of the past. Those—particularly children—who see only his dream may never come to understand the skills, intellect and sacrifices needed to attain it.

Dr. King's dream grew out of an unshakable confidence in the principles upon which the nation was founded and in the capacity of all Americans to change.

He had faith in white people because he knew that since Colonial America there always had been some sympathetic whites and that their ranks would swell if their brethren could be made to understand. He had faith in blacks because each generation for 300 years had made its own contribution to attaining this dream, from slave ship to the summit of the Supreme Court. The great poet Langston Hughes summed up the determination of the 12 generations that preceded Dr. Kings birth in his verse:

"The line of progress," Dr. King said, "is never straight. . . . Often it feels as though you were moving backward . . . but in fact you are moving ahead . . . " Since his death we have traveled 20 years down the road toward the promised land.

Some may say little has really changed. Too many blacks still can trace their ancestry in an unbroken chain of poverty and lack of educational opportunity back to slavery. Incidents that occur periodically in places such as Howard Beach, N.Y., and Forsythe County, Ga. remind us of the sad fact that average black and white Americans are by and large strangers to each other in their own cities and towns—captives of mutual ignorance, distrust, and the legacy of bigotry.

But the sounds of barking dogs, shouted racial epithets, crackling gunfire, belching firehoses and shattering stained-glass windows are merely echoes from a former time of unbridled racial hatred. Now, the true cost of their meals and lodging may never occur to a black family traveling the highway that connects North and South.

However, the agony over what appears to be a loss of ground has given way to the sound of silent despair—no less frightening. And a new generation of anguished black men live lonely, jobless, street-corner existences on the avenues where Dr. King once marched and decried the lack of progress on jobs and education.

But there are hopeful signs that the "crooked road" can be "made straight" in a growing black middle class, a re-emergence of our cities maturing black political influence in Congress and across the land, a slowly expanding cadre of black professionals who move more easily in the business world. And there is the periodic rise of a black person to prominence as the mayor of a large city, the owner of a major corporation, as national security adviser, or as a viable presidential candidate.

Americans have become uneasy with injustice here and abroad, even while some remain uneasy with living, working and going to school with blacks and minorities and voting for political candidates who are not white. However, I believe that practically every American would like to rid himself of all lingering prejudices.

But getting to know and like each other takes time, patience, understanding and a different strategy than does a challenge to an unconstitutional law or discrimination in housing, employment and education. During the past four decades, many barriers that kept blacks from realistically striving for economic and political well-being have been torn down, yet still standing are mental barriers—erected just after the Mayflower—that perpetuate prejudice and racial separation and dampen the urge to excel.

Inaccurate images of blacks, minorities, women, ethnic groups and even whites that may flash momentarily across a person's mind while meeting someone of a different background or sex are not the result of conscious thinking but of generations of conditioning.

The suppression of history was intended to keep certain people in their place. Subtle prejudice, like lint on the soul, is hard to get out of one's system, and so it remains an unspoken influence on how Americans view each other.

In order to change this, we must begin to look inside ourselves, to try harder to understand each other and what makes us unique as individuals as well as one people. It will require educational programs starting earlier in our children's development that stress accurate history. It will require an increasing awareness in the television, motion picture and publishing industries of our history as it actually was and black actors portraying the full panoply of human emotions so as to depict their complete humanity.

And in November, Secretary of the Interior Donald P. Hodel took an important step that a generation from now could change completely the way Americans see each other and the nation's history. He declared the Revolutionary War-era contributions of blacks to the nation's independence and to the struggle for freedom to be of "pre-eminent historical and lasting significance to the nation."

This makes the congressionally approved Black Revolutionary War Patriots memorial eligible for placement in Washington's monumental core in the company of the Lincoln Memorial and the Washington Monument—subject to the passage of yet another act of Congress by April 7, 1988. The memorial would honor the 5,000 black soldiers of the American Revolution and the tens of thousands of slaves who began the civil rights movement by running away from slavery or petitioning for their freedom during that era.

In its interaction with the other symbols of freedom on the Mall, the Patriots Memorial would remind Americans of the beginning of the struggle for freedom, the black churches and institutions that were founded before the Constitution was ratified, the Underground Railroad to freedom, the 180,000 black soldiers who were critical to the winning of the Civil War, and the fact that thousands of blacks had secured freedom for themselves and their descendants generations before the Emancipation Proclamation.

The memorial also would link the patriots of the contemporary civil-rights movement to the continuing American Revolution that began in 1770 when the blood of runaway slave Crispus Attucks was spilled on the white snow of Boston's King Street and on the conscience of Colonial white America.

The memorial will stimulate motion pictures, books, scholarly research and a new healthy dialogue about America's past, while helping to shape its future.

Its existence on the country's most important and visible land will help to liberate the nation's spirit because, in the words of James Baldwin, white people are "still trapped in a history which they do not understand; and, until they understand it, they cannot be released from it." Blacks, too, are caught in the same trap. The presence of the memorial will help to unravel the mistakes of history and beckon the day when America truly will be "one nation."

Mr. FRENZEL. Madam Speaker, I rise in support of Senate Joint Resolution 216, which would provide for the placement of the Black Revolutionary War Memorial on area I of the Nation's capitol.

On November 6, 1985 the House unanimously passed House Joint Resolution 142, which authorized the establishment of a memorial to honor these black patriots. At that time the Committee on House Administration, which had original juisdiction over this legislation, urged that when a final site was selected that it be in Constitution Gardens.

I am pleased that Senate Joint Resolution 216 provides for placement within area I which includes the National Mall, the Ellipse, Lafayette Park, and several other areas. Hopefully, with the passage of this legislation, the final site-selection process can be narrowed to Constitution Gardens, the site desired by the sponsors of the establishing legislation. I urge support of Senate Joint Resolution 216.

Mr. LEWIS of Georgia. Madam Speaker, it is a special privilege for me to come before you today to speak in favor of Senate Joint Resolution 216, a bill to approve the location of the Black Revolutionary War Patriots Memorial.

The Commemorative Works Act, passed in 1986, established a process for the placement of commemorative works in the Nation's Capital on land administered by the National Park Service, and the General Services Administration. By law, the subject of a commemorative work must be of "preeminent historical, and lasting significance to the Nation." Certainly, a memorial honoring the slaves, and free black persons who served as soldiers or sailors, or provided civilian assistance during the American Revolution, falls within this criteria.

The contributions of black American's to the founding of this great country have never received the recognition they deserve. The education of our young people has been diminished by this lack of attention to the role of blacks during our Nation's earliest days. I believe the construction of a Black Revolutionary War Patriots Memorial is an important step in bringing attention to these contributions.

When I was growing up, very little was said about Crispus Attucks, the first black American to die for his country. Attucks was the first of five patriots to die for freedom in what history remembers as the Boston Massacre. Nor was I taught about black poet Phillis Wheatley, who was honored in February of 1776 with a reception, hosted by General George Washington at his Cambridge headquarters, for her contributions.

In my home State of Georgia, black pilots were assigned to patrol State waterways and seacoast. There were black marines as well as black soldiers; and there were black men serving on privateers and warships.

And the list of black Revolutionary War hero's goes on and on, but the point is that the contributions of black American's to the Revolutionary War effort have not been recognized and I believe the authorization of this memorial is highly fitting.

In closing, I want to extend my heartfelt thanks to Congresswoman NANCY JOHNSON whose understanding and hard work has made this legislation possible.

Mr. MONTGOMERY. Madam Speaker, I rise in strong support of Senate Joint Resolution 216, which would approve the placement of the Black Revolutionary War Patriots Memorial in area I here in Washington, which includes The Mall, the Ellipse, the Washington Monument Grounds, West Potomac Park, Theodore Roosevelt Island, and Lady Bird Johnson Park.

Though a specific site will be determined later, it is altogether appropriate that a memorial of this historical significance be placed in such a prestigious, highly visible area.

I want to commend my colleagues on the Interior Committee and its Subcommittee on National Parks and Public Lands for their prompt consideration of this measure and for reporting it to the House for a vote.

Madam Speaker, the black persons who served as soldiers and sailors during the American revolution were prominent players in the Nation's history. That they should be so honored is a tribute to their contributions to freedom and, in a larger sense, to the service and sacrifice of all black persons who have served in the Armed Forces of the United States.

I urge my colleagues to approve Senate Joint Resolution 216.

Mr. LAGOMARSINO. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Ms. OAKAR). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate joint resolution, Senate Joint Resolution 216.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

A motion to reconsider was laid on the table.

APPROVING LOCATION OF KOREAN WAR MEMORIAL

Mr. VENTO. Madam Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 225), approving the location of the Korean War Memorial.

The Clerk read as follows:

S.J. RES. 225

Whereas section 6(a) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes," approved November 14, 1986 (100 Stat. 3650, 3651), provides that the location of a commemorative work in the area described therein as Area I shall be deemed disapproved unless, not later than 150 days after the Secretary of the Interior or the Administrator of General Services notifies the Congress of his determination that the commemorative work should be located in Area I, the location is approved by law;

Whereas the Act approved October 28, 1986 (100 Stat. 3226), authorizes The American Battle Monuments Commission to establish a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean War, particularly those who were killed in action, are still listed as missing in action, or were held as prisoners of war; and

Whereas the Secretary of the Interior has notified the Congress of his determination that the memorial authorized by the said Act approved October 28, 1986, should be located in Area I: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the location of a commemorative work to honor members of the Armed Forces who served in the Korean War, particularly those who were killed in action, are still listed as missing in action, or were held as prisoners of war, authorized by the Act approved October 28, 1986 (100 Stat. 3226), in the area described in the Act approved November 14, 1986 (100 Stat. 3650), as Area I, is hereby approved.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognized the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Madam Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution before us.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, Senate Joint Resolution 225 grants congressional approval under the Commemorative Works Act to area I for the Korean War Memorial. The Subcommittee on National Parks and Public Lands held a hearing last year on a very similar bill, House Joint Resolution 405, a bill introduced by our colleague, JAMES FLORIO. The Committee on Interior and Insular Affairs reported out Senate Joint Resolution 225 which has already passed the Senate.

This legislation comes under the Commemorative Works Act passed in the last Congress. That law specifies that commemorative works may only be placed in area I if they are of preeminent historical and lasting significance to the Nation. Witnesses at the hearing the subcommittee held testified that the Korean War Memorial meets the standard set forth in the Commemorative Works Act.

The memorial is dedicated to the memory of those Americans who fought on our behalf, particularly those who were killed in action, are still listed as missing in action, or were held as prisoners of war in Korea. This commemorative work is dedicated to the people who fought the war, not to the war itself. We should never be in the position of honoring war, but should always show our appreciation to all those people who have defended our country.

Senate Joint Resolution 225 grants congressional approval to area I but does not specify any particular site within area I. As with all commemorative works, the site and design chosen for the Korean War Memorial must be negotiated with the National Park Service to ensure that they are appropriately given the setting and all the activities that occur on this scarce land. Any design chosen must also be appropriate in size and impact on the surrounding parkland. Madam Speaker, I endorse Senate Joint Resolution 225 and recommend that it pass.

Madam Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of Senate Joint Resolution 225. This bill would approve the location of the Korean War Veterans Memorial on Federal land administered by the National Park Service or the General Services Administration known as area I. Area I generally encompasses the Mall area, Theodore Roosevelt Island, Lady Bird Johnson Park, and the areas around the White House, the Lincoln Memorial, the Jefferson Memorial, and the Washington Monument.

During the last Congress, Chairman VENTO and I worked together on the Subcommittee on National Parks and Recreation to develop legislation to limit the number of future commemorative works placed within area I in an effort to preserve the open space in this area. The legislation we crafted was passed by Congress and became Public Law 99-652. Under its provisions, any memorials proposed for location in area I must be determined by the Secretary of the Interior or the Administrator of the General Services Administration, as appropriate, to be of "preeminent historical and lasting significance to the Nation." If such a finding is made, Congress must approve it within 150 days or it is automatically disapproved.

The Korean War Veterans Memorial would honor the estimated 5.7 million Americans who served in the war, and particularly the approximately 55,000 who lost their lives, and those who are listed as missing in action, or were held as prisoners of war. On November 10, 1987, the Secretary notified Congress that the memorial met the criteria under Public Law 99-652 for placement in area I.

Although Senate Joint Resolution 225 expresses the concurrence of congress concerning the general location of the Korean War Veterans Memorial, it does not authorize a specific site. Final site selection is determined by the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission, in consultation with the National Capital Memorial Commission. The site and design of the memorial should be reasonable and appropriate, as well as compatible with the surrounding environment, including other memorials. It is our hope that those entrusted with the responsibility of determining the sites and designs for the memorials would exercise good judgment in this regard.

Before closing, I would like to commend the gentleman from New Jersey [Mr. FLORIO], for sponsoring the House companion bill (H.J. Res. 405) to Senate Joint Resolution 225. I would also like to commend the subcommittee chairman, Mr. VENTO, for moving forward on this legislation in an expeditious manner.

Madam Speaker, it is entirely fitting and appropriate for the Korean War Veterans Memorial to be placed in area I. Senate Joint Resolution 225 has already passed the Senate and enjoys broad-based bipartisan support, including that of the administration. Therefore, I urge my colleagues to approve Senate Joint Resolution 225 and send it to the President for his signature.

Mr. VENTO. Madam Speaker, I yield 3 minutes to the distinguished chairman of the Committee on Veterans' Affairs, the gentleman from Mississippi [Mr. Montgomery] who has been interested in support of this measure since the time it was considered in this Congress.

Mr. MONTGOMERY. Madam Speaker, I rise in strong support of Senate Joint Resolution 225, which stresses that, because of the significance of the Korean War Veterans Memorial, it should be placed in area I on the Mall here in Washington, and the specific site in this area will be negotiated with the Park Service.

I want to commend my distinguished colleague from Minnesota, Bruce Vento, chairman of the Subcommittee on National Parks and Public Lands, Ron Marlenee of Montana, and Bob Lagomarsino of California for their hearing, at which I was privileged to testify, and for their related work on this legislation.

I also want to thank the gentleman from Arizona, Mo Udall, and Don Young of Alaska, the chairman and ranking minority member of the Interior Committee, for allowing this measure to be brought to the floor for consideration.

I especially want to thank the gentlewoman from Ohio, Mary Rose Oakar, who is our presiding officer today, who has played a major role in keeping this project on track. It was largely through her efforts as chairwoman of the Subcommittee on Libraries and Memorials, from which the authorizing legislation to establish the memorial originated, that the project was taken from the back burner and moved into the legislative mainstream. Without her leadership and support, we would certainly not be at the point today of considering a site for the memorial.

And certainly, we are indebted to Jim Florio, the gentleman from New Jersey, who has earned the gratitude of this body as well as all Korean conflict veterans for spearheading the overall effort to establish the memorial. His words and his convictions and his hard work have been the keystone of this effort.

Madam Speaker, I am very proud also to be a Korean veteran.

There is no doubt about the strong support in the Congress for the establishment of this memorial. H.R. 2205 passed the House on November 6, 1985, by a vote of 406-0.

The issue before us today concerns its location at a suitable site. Last March, I and other Members of the House wrote to Interior Secretary Hodel urging him to favorably consider placing the Korean Memorial in area I on the Mall. He agreed with us and is asking the Congress to allow the memorial to be constructed in this area.

Madam Speaker, when hearings were held and legislation subsequently passed to establish the Korean War Veterans Memorial through private donations, I applauded and supported the gentlelady from Ohio, Ms. Oakar, and others on the House Administration Committee for their leadership and efforts.

When legislation was introduced authorizing the Secretary of the Treasury to invest the funds collected from private donors, I also expressed my approval of this measure. H.R. 1454 was subsequently enacted.

Madam Speaker, placing the memorial on the Mall will ensure that our Korean war veterans—the silent veterans who served then slipped back into civilian life practically unnoticed—will receive a fitting tribute for the sacrifices they made during a difficult period in our Nation's history.

We have an obligation to those who died and to our 5 million living Korean conflict veterans and to future generations to leave a tangible reminder of the high cost of this conflict, as well as a reminder of the courage of those who served so honorably and heroically.

Let's approve this resolution and get on with constructing a long overdue memorial.

□ 1245

Mr. LAGOMARSINO. Madam Speaker, I yield 3 minutes to the gentleman from New York [Mr. Solomon], the ranking Republican on the Veterans' Affairs Committee.

Mr. SOLOMON. Madam Speaker, I thank the gentleman from California [Mr. Lagomarsino].

Madam Speaker, I commend the gentlewoman from Ohio [Ms. Oakar] and the gentleman from Minnesota [Mr. Vento] for allowing this legislation to come before the floor.

Madam Speaker, I rise in strong support of Senate Joint Resolution 225, which authorizes a Korean War Memorial on the Mall here in the Nation's Capital.

On October 28, 1986, 33 years after the end of the Korean war, Congress passed and President Reagan signed Public Law 99-572, authorizing the American Battle Monuments Commission to raise private funds for the construction of a memorial honoring members of our Armed Forces who served during the Korean war.

Madam Speaker, almost as many Americans died in Korea—54,246—in 3 years as did during the 10 years of the Vietnam war—58,135. This memorial is a lasting tribute to the over 54,000 Americans who died in the Korean war, the over 100,000 Americans who were wounded in the Korean war and the over 5 million American veterans who served in the Korean war.

Madam Speaker, while we are on this subject I wish to make two additional points. First, I wish to thank those Members of Congress who are Korean war era veterans who assisted Chairman Montgomery and myself by signing a letter to the 200 largest corporations in the United States, requesting them to contribute to the construction of the Korean War Memorial.

The Members who joined Chairman Montgomery and myself in this important bipartisan effort are James Florio, Norman Lent, Alfred McCandless, Lawrence Coughlin, Stan Parris, Robert Badham, Michael Bilirakis, Larry Hopkins, and Samuel Stratton. These Members should be commended for their extra effort on behalf of our Nation's veterans.

Second, Madam Speaker, I would like to say that in the next few days I will be sending out a "Dear Colleague" requesting all Members of the House and Senate to insert into their next newsletter a short statement in support of the Korean War Memorial. I believe that this would go a long way in obtaining the $6 million we still need to construct the Korean War Memorial.

Madam Speaker, I would simply conclude by expressing my appreciation to all those Members of the House and Senate who have moved this most important legislation in a timely manner.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. Florio].

Mr. FLORIO. Mr. Speaker, as the author of the House legislation to site the Korean War Memorial in the special area designated in our Nation's Capital as area I, I would like to urge my colleagues to support this legislation. I would like to thank Chairmen Udall and Vento and the members of the Interior Committee for their timely consideration of this important legislation.

Last Congress, I authored the law that authorized a memorial to honor the 5.7 million Americans who served in the Korean war. With that law, we took steps to recognize the sacrifices made by those who participated in the Korean war.

As we discovered with the Vietnam memorial, monuments to those who served in a war and to those who gave their lives for their country honor not only those who never came home but also provide a place where veterans, their families, and future generations can come to reflect and pay tribute.

Some 55,000 Americans lost their lives in the Korean war with 103,000 who were wounded and 8,200 servicemen missing in action. And yet, no national monument now exists to honor the dead and missing and to heal the wounds of those who came back.

As you know, Public Law 99-652 designated a special area in the Nation's Capital as area I where memorials could be sited if they were of preeminent historical and lasting significance to the Nation. The Interior Secretary would have to petition Congress to permit a memorial in area I and Congress would have to approve the petition within 150 days.

Veterans' Day 1987 has special significance for Korean war vets because on this day, Secretary Hodel announced plans to petition the Congress to allow the Korean War Memorial to be sited in area I. This legislation, with bipartisan support, approves that petition.

The Korean War Memorial meets the test of significance that was laid out in criteria by the Congress for siting a memorial in area I. I hope that, with the overwhelming support this resolution has received from all quarters and with the spirit of cooperation that has existed between the Korean war vets, the American Battle Monuments Commission, the Congress and the National Park Service, we can move speedily toward realizing this longstanding dream.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank my friend for yielding time. Today I commend the gentleman from Minnesota [Mr. VENTO] and the gentleman from California [Mr. LAGOMARSINO] for their work in approving the location of the Korean War Memorial.

Mr. Speaker, I rise in strong support of Senate Joint Resolution 225, which would approve the location of the Korean War Memorial in area I of the Nation's Capital.

I am intensely proud of the fact that I was the original sponsor of the bill creating this memorial just as I was the original sponsor of the bill creating the Vietnam Memorial.

Mr. Speaker, it is right and proper that the Korean War Memorial be in area I of the Capital City of the United States. This is the location in the Capital where many beautiful and deserved monuments and memorials already exist. Certainly, those honored for their heroic service during the Korean war also deserve to have a memorial to them erected in an area of Washington, DC, that is revered as a place of great dignity and respect.

Mr. Speaker, this memorial has been long in coming. As many as 5,720,000 Americans served in the Korean war. At least 55,000 lost their lives and 103,000 were wounded. They and the 5 million other veterans of that war who live today deserve and have the respect and admiration of each of us.

Mr. Speaker, the action we take today by the passage of Senate Joint Resolution 225 moves our Nation ever closer to a memorial that is long overdue. I congratulate Secretary of the Interior Don Hodel for his action which he has sent to us for approval. And I congratulate my colleague on the Committee on Interior and Insular Affairs for bringing this resolution before us. I urge unanimous support for it from each of our colleagues.

Mr. VENTO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio [Ms. OAKAR], my counterpart on the House Administration Committee, who has been so cooperative in working with us.

Ms. OAKAR. Mr. Speaker, I thank the distinguished subcommittee chairman for yielding me this time.

Mr. Speaker, I am especially pleased to have had the pleasure of presiding temporarily for our distinguished Speaker when the previous bill passed related to the black soldiers who served in the American Revolution. It was indeed a pleasure to chair many hearings on this issue, and it is a very belated memorial, I think, in coming, and this piece of legislation is important as well. Mr. Speaker, I want to compliment the distinguished chairman of the Interior Subcommittee because we worked out a program, I think, that really relates to the kinds of memorials that are of consequence that should be on the Mall, and I think that is very, very important to follow those guidelines, and I am very pleased that two of the three pieces that passed our subcommittee last year are now being looked upon favorably this year. I want to compliment General MONTGOMERY, who is the Presiding Speaker, and the gentleman from New Jersey [Mr. FLORIO], the gentleman from Virginia [Mr. PARRIS], and others who are responsible for the wonderful testimony relative to this legislation.

Mr. Speaker, I certainly support it. Many of us have relatives who served in the Korean war, and they were really forgotten in terms of their service, and I think this is something that is belated as well.

I do want to say that there was one piece of legislation that happened to be sponsored by myself related to those women who served in the military during the course of our country's history, and I guess I am wondering why that particular piece of legislation is not up today as well. I hope because of the fact that very often women who serve their country, and the men who served in the military I must say were the biggest supporters of memorializing those females who served, which was very gratifying, that the Commission, as well, will give the memorial related to women who served the same kind of consideration that we have given the other two pieces of legislation. It certainly deserves it, and I want to compliment my colleague and classmate and friend, the chairman of the distinguished subcommittee, for working out the differences along with the chairman, the minority leader of the subcommittee.

Mr. LAGOMARSINO. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I thank my good friend from California, Mr. LAGOMARSINO, for yielding this time to me and thank the gentleman from Minnesota, Mr. VENTO, for expediting the consideration of this matter and for supporting the same.

Mr. Speaker, this is, indeed, an important day in remembering the history of this Nation. Today, we will adopt Senate Resolution 225 which marks one of the final steps in at last recognizing the many sacrifices of those 5.7 million American men and women who served their country with such distinction during the years 1951 through 1953, of whom I was but one.

The matter which this distinguished body will decide today concerns the proposed memorial for veterans of the Korean war, and those who died, were wounded or are unaccounted for as a result of that conflict. More specifically, we are here to determine whether that memorial should be located on the Mall area of our Nation's Capital or in a less prestigious location—I would hope, and I am confident that the answer to that question is self-evident to every Member of this body and to every American.

Those of us in the Congress who have been working for the past 3 years to correct the oversight of the past 35 years are very pleased, indeed, with the progress thus far. Senate Resolution 225 will be the third piece of legislation which has passed the Congress. The first, of course, was the authorization to build the memorial of which I was an original cosponsor. The second was my bill to allow the American Battle Monuments Commission to invest the memorial funds in interest bearing accounts until such time as it is utilized. This measure is the third.

I am very pleased to report to my colleagues that public support for this endeavor is very strong. To date, the ABMC has received 3,132 individual contributions totaling $2,175,638.17. The contributions have ranged from $1 from a large number of individuals, to $1 million from the Hyundai Motor America Co., and its franchised dealers. Also heavily involved in the fundraising have been the Disabled American Veterans, the Veterans of Foreign Wars, and the Paralyzed Veterans Association. Regardless of the amount, it is patently clear that these contributions are coming right from the heart.

As I indicated earlier, 5.7 million Americans served in that war, more than 55,000 of whom made the ultimate sacrifice. In addition, over 103,000 were wounded and more than 5,000 were either captured or are missing in action.

Having served in combat during the Korean war, the fight to get a Korean War Memorial in our Nation's Capital has been a labor of love for me which is dedicated to the memory of so many young men who were involved in that contest. In closing, I would like to share with my colleagues just one paragraph from a letter which I wrote to President Reagan shortly after the memorial authorizing legislation was forwarded to him by Congress urging him to provide his signature in support of the bill, and I quote:

> Mr. President, as you may recall, I was one of those young men returning home from Korea as an Air Force jet pilot. That contest may be the forgotten war but that experience is one which I cannot and will not ever forget—it is forever a part of me. Similarly, the experience of all of us is and should be an integral part of the sum total of American history and tradition. I am committed to do everything in my power as a Member of Congress and as an American citizen and veteran, to see that America will not forget the Korean war, and will remember it in part through an appropriate memorial, appropriately located within our Nation's Capital. It is my belief that the sacrifices of almost 6 million Americans, their families and their friends, deserve at least that consideration.

I would strongly urge passage of this resolution.

□ 1300

Mr. LAGOMARSINO. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of this measure and commend the gentleman from New Jersey [Mr. FLORIO] and the gentleman from Minnesota [Mr. VENTO], and the gentlewoman form Ohio [Ms. OAKAR] for bringing the measure to the floor at this time.

I want to commend the committee for bringing to our attention the need to establish an appropriate monument in the city of Washington honoring those who gave so much in the Korean war. Having lost over 50,000 of our servicemen and women in that battle, I think it is long overdue that we give this kind of recognition.

Mr. Speaker, I, too, want to remind our colleagues that there are still several thousand unaccounted for and missing-in-action in that war. I hope that we can pause a moment and reflect on their service to our Nation. Accordingly, I urge my colleagues to lend their full support to this measure.

Mr. LAGOMARSINO. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, this is the last of our first 8-year Presidency since Dwight Eisenhower. To let this year go by and this 100th Congress that we keep referring to as so historic because of the roundness of the number 100, is meaningless when we have not even recognized our heroes from the Korean war.

For many years now the Vietnam Memorial has been the number one visited site in this great Federal city of ours.

You know, there are no missing-in-action, or POW's, left behind from the Spanish-American War or World War I or World War II. Not since the Indian wars on the American plains did we have live men captured, never to be heard from again. This precedent of leaving American soldiers which became so horrible in the Vietnam war began with the Korean war. We left behind 389 men in prison camps, in their bunks, saying to someone next to them, "If you get released, tell the world that I have not been released." These were men who were not suffering amoebic dysentery, no head wounds and no amputations, just men who were healthy as prisoners, clean and maintaining.

I have a friend who was a quadruple ace in World War II, shot down four Mig's in the Korean war, Walter "Bud" Mahurin, and Walter Mahurin was taken within sight of the Freedom Bridge. They said, "You're an MIA. We have never announced that we had you. You see that bridge? You will not cross that bridge unless you sign this germ warfare confession."

He spent the next 6 months in a pit beneath the ground level. He signed the germ warfare confession. It cost him his command, as he was a wing commander later at the Georgia Air Force Base. They took the wing away from him because of this. Now they have re-thought it and said that that would not damage a man's command responsibility. But that is the attitude, the cynical attitude that the North Koreans have had.

When I visited the 8th Command Headquarters last year they said that they still carry on the books 389 MIA's. The hang-up with this is that the North Koreans were told to negotiate with the entire U.N. command. I will put in the RECORD at this point the exact number of Turks, of Greeks, of Canadians, of British forces, and Ecuadorians missing, because all those other missing men, less than a 100, a tragedy also. The U.N. Allied Forces in the Korean war carry 2,233 POW military personnel and 18 U.N. foreign nationals. The U.N. Allied Forces involved 16 countries including the United States Canada, India, Britain, New Zealand, Australia, South Africa, Belgium, Colombia, Ethiopia, France, Greece, Luxembourg, Netherlands, Philippines, Thailand, and Turkey. We have never bilaterally negotiated for our 389 MIA's with the Koreans, some of whom probably were sent to Siberia for deep interrogation.

Now, those men's names will be on a wall, or if there is not a wall similar to Vietnam, they will be memorialized in this city as long as this city and our great country exist.

Mr. Speaker, I hope that this resolution—Senate Joint Resolution 225—will expedite this process of honoring the 33,629 who are dead in that war, all of those who were wounded, the thousands in their wheelchairs and all the ones that the gentleman in the Speaker's chair has so eloquently spoken out about in the last three decades.

Please, Mr. Speaker, let us get it done in the 100th historic Congress, the ground breaking of a beautiful memorial for these heroes who have given us our very liberties.

Mr. GILMAN. Mr. Speaker, I rise in strong support of Senate Joint Resolution 225, to approve the Committee on Interior and Insular Affairs' recommendation that the Korean War Memorial in Washington, DC, be located in area I of our Nation's Capital.

On November 10, 1987, the Committee on Interior and Insular Affairs determined that the monument should be placed in area I. However, congressional approval is necessary for final determination concerning the site for this memorial. Final site selection requires consultation with the National Capital Memorial Commission and the approval by the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission to ensure appropriate design.

By supporting Senate Joint Resolution 225, we will be taking one of the most important steps to honor members of the Armed Forces who served in the Korean war, particularly those who were killed in action, are still missing in action, or were held as prisoners of war. It is long overdue that we commemorate their courage and their bravery. And let us not forget our several hundred servicemen still listed as missing in action in Korea.

Accordingly, I urge my colleagues to support this resolution.

Mr. RITTER. Mr. Speaker, I am pleased to have the opportunity to support Senate Joint Resolution 225 which authorizes the American Battle Monuments Commission to establish a memorial to honor members of the Armed Forces of the United States who served in the Korean war—particularly those 54,000 Americans who lost their lives in the 3-year conflict. I point with pride to the fact that a constituent and friend, John B. Curcio, chairman, president and CEO of Mack Trucks, is a member of the President's Advisory Council on the establishment of this memorial. In addition, Mr. Curcio also serves as national chairman of the International Korean War Memorial which, I understand, is a grassroots organization spearheaded by Korean War Marine Vets to establish a memorial in Los Angeles.

Morever, Mr. Speaker, I am honored to be part of a group that oversees the creation of a special kind of memorial in the Lehigh Valley that will give due credit to both our Korea and Vietnam veterans. The memorial is one of the most important and valued responsibilities of my staff and I since I've been in Congress.

The Korea/Vietnam Living Memorial Committee, with retired Gen. William C. Westmoreland as national honorary chairman, is a group of citizens who care about how present and future generations see the Korea and Vietnam wars. Our aim with this living memorial, this educational memorial, is modest and yet ambitious. It is to shed light on shadowed times by giving sight and voice to experiences, stories, letters and pictures of Lehigh Valley veterans. The memorial will house and display books, films, and tapes from the Korea and Vietnam eras.

John B. Curcio also serves as the finance chairman for our effort whose goal is the completion of a monument that is more than a statue; a kind of museum or library that will serve to educate new generations as it honors our men and women veterans.

At the Veterans Day dinner providing the kickoff for our committee's efforts, General Westmoreland said:

"Historically, wars in foreign lands are fought to conquer. Both Korea and Vietnam were exceptions * * * The U.S. aid to Korea and Vietnam may have been one of history's most noble aims.

Mr. Speaker, it is impossible to understand the world today without greater understanding of the two conflicts.

Mr. MOAKLEY. Mr. Speaker, in 1950 Members of Congress wrestled with the question of whether the "Korean crisis", as it was then called, was indeed a war or a "police action." After consultation with those serving in Korea, "war" was correctly chosen as the most fitting adjective to describe the events in Korea.

Now, 38 years and one TV sitcom later, we in the 100th Congress are considering a measure to establish a memorial to all those who served in the Korean war.

I support this measure and urge my fellow colleagues to do the same.

The men and women who served in Korea deserve to be remembered. The actions and sacrifices made during that period of time transformed the Korea war into the cornerstone of America's postwar policy which we live with today. Gratitude must be shown to the men and women who served their country at a time of crisis in a time of uneasy peace following World War II.

We should all be appreciative of the men and women who served in the Korea war. Their services should not be forgotten by this generation nor unlearned by future generations.

Mr. FRENZEL. Mr. Speaker, I rise in support of Senate Joint Resolution 225, to approve the location of the Korean War Memorial in area I. The Committee on House Administration has jurisdiction over the establishment of memorials. The committee reported H.R. 2205 unanimously, authorizing the Korean War Memorial and on October 14, 1985, the House passed this legislation, also unanimously.

I am pleased the Interior Department has recognized that this memorial will have preeminent historical and lasting significance to the Nation and is recommending it's placement in area I. I urge your support of Senate Joint Resolution 225.

Mr. RANGEL. Mr. Speaker, I rise today in support of Senate Joint Resolution 225, approving the use of Federal land known as area I to locate the Korean War Veterans Memorial.

It is customary in our society to honor those, who served in battle and who sacrificed their lives to preserve freedom and liberty. Our Nation has in the past honored these men and women by erecting memorials of their deeds and service. These memorials range from the majestic triumph of the raising of the flag on Iowa Jima, to the stark, solemn Wall of Names, reminding us of the high price of war.

Yet, there is no memorial to honor those who served and died in Korea, where the United States and other nations came to the assistance of the Koreans in defending their homeland against the aggressors from the north.

Having served in the hills of Korea during the war, I saw firsthand the sacrifice of many who served along my side. I know of the hardships and horrors of battle that we endured for the sake of liberty and I acknowledge the 54,000 Americans, who paid the highest price of death, so that the people of Korea may live in freedom.

Mr. Speaker, Korea like Vietnam, was not a popular war, but this fact should not diminish the accomplishments of those who served. Accordingly, a memorial to the veterans of Korea is long overdue, and fittingly belongs in the corridor of monuments, along the Mall. Therefore, I wish to commend Mr. FLORIO, for establishing a place of honor to house the Korean War Veterans Memorial.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate joint resolution, Senate Joint Resolution 225.

The question was taken.

Mr. DORNAN of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

RE-REFERRAL OF H.R. 4036 TO PERMANENT SELECT COMMITTEE ON INTELLIGENCE

Mr. STOKES. Mr. Speaker, I ask unanimous consent that the bill, H.R. 4036, to establish the Commission on International Security and Satellite Monitoring, which was jointly referred to the Committees on Science, Space, and Technology and Foreign Affairs, be jointly referred to the Permanent Select Committee on Intelligence.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

NEVADA-FLORIDA LAND EXCHANGE AUTHORIZATION ACT OF 1988

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 854) entitled to "Nevada-Florida Land Exchange Authorization Act of 1988."

The Clerk read as follows:

S. 854

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nevada-Florida Land Exchange Authorization Act of 1988".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "land" means lands and interests (including the reserved mineral estate) therein, including leaseholds.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Aerojet" means the Aerojet-General Corporation, an Ohio corporation.

(4) The term "exchange agreement" means an agreement between the Secretary and Aerojet which is entered into for purposes of making the exchange authorized by this Act and which meets the requirements of this Act.

(5) The term "lease agreement" means an agreement between the Secretary and Aerojet which is entered into for the purpose of making the lease authorized and directed by this Act and which meets the requirements of this Act.

(6) The term "endangered or threatened species" means an endangered species or a threatened species, as defined in the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 3. EXCHANGE.

(a) AUTHORIZATION.—Subject to valid existing rights, the Secretary is authorized and directed to convey and lease public lands in the State of Nevada, described in subsection (b)(1), in exchange for the conveyance of the United States of the lands in Dade County, Florida, described in subsection (b)(2).

(b) LANDS TO BE EXCHANGED.—

(1) NEVADA.—(A) Public lands to be conveyed by the Secretary pursuant to this Act are the public lands, comprised of approximately twenty-eight thousand eight hundred acres, described as "For Conveyance to Aerojet General Corporation" on the map entitled "Public Domain Lands to be Exchanged and Leased to Aerojet-General Corporation, Clark and Lincoln Counties, Nevada," dated October 1987, and the public lands, comprised of approximately ten thousand and forty acres, generally depicted on the map entitled "Public Domain Lands to be Exchanged to Aerojet-General Corporation, Mineral County, Nevada," dated February 1987.

(B) In furtherance of an exchange pursuant to this Act, the Secretary shall also lease to Aerojet the lands described in section 4.

(2) Florida.—The private lands to be acquired by the Secretary pursuant to this Act are all right, title, and interest of Aerojet (exclusive of severable use rights) in and to approximately four thousand six hundred and fifty acres of land as generally depicted on the map entitled "Aerojet-General Corporation Lands to be Exchanged to United States Fish and Wildlife Service, Dade County, Florida," dated February 1987, and available for inspection in the Office of the Secretary.

(c) Conveyance Documents.—

(1) Before survey.—Lands to be conveyed by the United States pursuant to this Act which have not been surveyed, or with respect to which any boundary needs to be surveyed, shall be conveyed by an interim conveyance. An interim conveyance under this paragraph shall convey to and vest in the recipient the same right, title, and interest in and to such lands as the recipient would have received in a patent issued pursuant to this Act.

(2) Patent.—Upon being surveyed, the Secretary shall issue a patent for such lands. The boundary of such lands shall be that which was defined in and conveyed by the interim conveyance, except that the boundary may be corrected and redescribed in the patent, where necessary, as a result of the survey of such lands.

(3) Finality.—The issuance of an interim conveyance or patent pursuant to this section shall be subject to valid existing rights and shall be final and irrevocable. The United States shall not be required to accept a reconveyance or to take any actions with regard to the lands covered by such interim conveyance or patent.

(4) Discrepancies.—The acreages cited in this Act are approximate, and in the event of discrepancies between cited acreages and the maps referred to in this section, the maps shall control.

(d) Terms and Conditions.—The Secretary shall include in any interim conveyance, patent, or lease subject to this Act all terms and conditions required by this Act. Such terms and conditions shall apply to all subsequent purchasers, transferees, and other holders of any land covered by any such interim conveyance, patent, or lease.

(e) Legal Description.—Within six months after the completion of an exchange pursuant to this Act, the Secretary shall file maps and legal descriptions of the lands so exchanged (including lands conveyed and leased by the United States) with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. Such legal descriptions shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal descriptions and in the maps referred to in subsection (a). Such legal descriptions and maps shall also be on file and available for public inspection in the Nevada office of the State Director of the Bureau of Land Management, Department of the Interior. For purposes of this subsection, the issuance of a conveyance document (either a patent or an interim conveyance) or lease, whichever is later, shall constitute completion of an exchange.

SEC. 4. LEASE OF CERTAIN LANDS IN NEVADA.

(a) Lease.—

(1) General authority.—The Secretary is authorized and directed to lease to Aerojet the approximately fourteen thousand acres of public lands described as "for Lease to Aerojet" on the map entitled "Public Lands to be Exchanged and Leased to Aerojet-General Corporation, Clark and Lincoln Counties, Nevada," dated October 1987. Any such lease shall be subject to subsection (b) and to the terms and conditions specified in section 5.

(2) Withdrawal.—Subject to valid existing rights, the lands described in paragraph (1) are withdrawn from all forms of entry and appropriation under the public land laws (including the mining laws) and from the operation of the mineral leasing and geothermal leasing laws. The withdrawal of such lands shall remain in effect so long as such lands are leased under authority of this Act.

(b) Requirements Relating to Lease.—

(1) Term.—Any lease issued pursuant to subsection (a) shall be for an initial term of ninety-nine years, during which time no rental shall be required to be paid to the United States. Lands leased pursuant to subsection (a) shall not be deemed to be entitlement lands for purposes of Public Law 94-565 (31 U.S.C. 1601 et seq.).

(2) Use of leased lands.—During the term of any lease issued pursuant to subsection (a), the lessee shall be entitled to use the lands which are subject to such lease only for purposes of constructing and using necessary roads, utility lines, storage facilities, and wells. The lessee also shall be entitled to use such lands for such other related purposes as the Secretary may from time to time permit, subject to the requirements of this Act and other applicable law and to reasonable requirements the Secretary, acting through the Director of the Fish and Wildlife Service, may establish for the protection of fish, wildlife, or plants. The lease shall provide that the lessee shall consult with the Secretary concerning the location of any roads, utility lines, facilities, and wells on the leased lands, and that with regard to any such location, the lessee, so far as possible, shall follow recommendations of the Secretary intended to minimize adverse impacts on the desert tortoise and other species of wildlife or plants.

(3) Fish, wildlife, and plants.—Any lease issued pursuant to subsection (a) shall require the lessee to take all reasonable steps the Secretary, acting through the Director of the Fish and Wildlife Service, may from time to time require to minimize adverse impacts on desert tortoises and any other species of fish, wildlife, and plants (including, but not limited to, endangered or threatened species) from the lessee's activities occurring on such lands.

(4) Assignability.—A lease issued pursuant to this section may be assigned or transferred by Aerojet only with the consent of the Secretary, which shall not be unreasonably withheld.

SEC. 5. CONDITIONS OF EXCHANGE.

(a) Value.—

(1) Equalization of value.—Any exchange of lands pursuant to this Act shall be on the basis of equal value as determined by the Secretary, except that the Secretary may accept a payment of money in order to equalize values between lands transferred, or leased, to Aerojet by the Secretary and lands transferred to the United States by Aerojet. The Secretary shall require that any conveyance of a production well drilled at Federal expense which Aerojet or its successors or assigns subsequently uses for withdrawal of water for industrial purposes shall be in consideration of receipt by the United States of land or money equal in value to the cost of drilling a well suitable for industrial purposes and located at the same site as the well conveyed.

(2) Appraisal.—Any determination by the Secretary of values of lands to be conveyed or leased by the Secretary pursuant to this Act shall be based on the fair market value of such lands, as determined by appraisals carried out in accordance with established procedures used by the Bureau of Land Management and done after the date of enactment of this Act by qualified appraisers selected and reimbursed by the Secretary. The values of lands to be conveyed by Aerojet pursuant to this Act shall be the values agreed to pursuant to section 7(a).

(3) Notice and public inspection.—Upon completion of such appraisals, the Secretary shall—

(A) publish in newspapers of general circulation in Clark, Lincoln, and Mineral Counties, Nevada, a notice as to where and when the results of appraisals carried out pursuant to this Act will be available for public inspection, and

(B) transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a copy of such appraisals and the determination by the Secretary of the values of lands to be conveyed and leased.

The Secretary shall not issue any interim conveyance, patent, or lease pursuant to this Act before ten days after such transmittals are made to the committees specified in subparagraph (B).

(b) Transmission Corridor.—

(1) Reservation to the United States.—The transfer of the lands in Clark and Lincoln Counties, Nevada to be conveyed to Aerojet under this Act shall be subject to the reservation to the United States of the right-of-way corridor described in the draft exchange agreement referred to in subsection (g). This corridor shall be designated and administered by the Secretary, who may grant rights-of-way over, upon, under, and through the corridor for systems and facilities used or useful for the construction, operation, and maintenance of electric transmission lines consistent with title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.).

(2) Activities in transmission corridor.—Activities to construct, operate, and maintain electric transmission lines within the corridor shall be given priority over all conflicting activities. The Secretary shall take all reasonable actions to facilitate and protect the activities planned and proposed for the land in Clark County and Lincoln County, Nevada, referred to in section 3(b), by Aerojet-General Corporation relating to the development, manufacture, and testing of rocket motors or other aerospace and defense products, including the granting of rights-of-way to Aerojet-General Corporation for roads across the corridor connecting the eastern and western portions of the land in Clark County and Lincoln County, Nevada, referred to in section 3(b).

(3) Alternative to corridor on certain lands.—If, after five years from the date of enactment of this Act, other public lands within the six-mile width of land immediately west of the Clark County and Lincoln County, Nevada, land referred to in section 3(b) are returned to multiple use, are suitable as an alternative to the corridor reserved in this subsection, and are made available for the construction, operation, and maintenance of electric transmission lines, no further rights-of-way or other rights or privi-

leges to construct, operate, and maintain electric transmission lines within the corridor reserved in this subsection shall be granted by the Secretary unless—

(A) such rights-of-way or other rights or privileges are pursuant to or in furtherance or continuation of the specific rights referred to in subsection (c);

(B) at the time the land becomes so available there is pending an application for a right-of-way in the corridor reserved in this subsection and in the opinion of the Secretary such application is being diligently pursued; or

(C) such rights-of-way or other rights or privileges are in renewal of a right-of-way granted prior to the land becoming so available.

(c) Preservation of Existing Rights.—The existing rights referred to in section 3(a) include the right-of-way (Number U-42519, granted April 3, 1980) to construct, operate, and maintain an electric transmission line from the International Power Project at Delta, Utah, through the land in Clark County and Lincoln County, Nevada, referred to in section 3(b), and the interest of the White Pine Power Project in the Southern Transmission System (described and analyzed in the final Environmental Impact Statement as the selected alternative and displayed on the map attached to the Record of Decision approved on March 26, 1985), within the land in Clark County and Lincoln County, Nevada, referred to in section 3(b). Nothing in this Act or in the draft exchange agreement referred to in subsection (g) shall negate or diminish such existing rights in any respect, except that (unless otherwise agreed to by the owner of the land in Clark County and Lincoln County, Nevada, referred to in section 3(b)) on and after the consummation of the exchange of lands authorized by this Act and without further act by the holders of such existing rights, such existing rights shall be altered so that—

(1) all transmission lines and related facilities to be located on the land in Clark County and Lincoln County, Nevada, referred to in section 3(b) pursuant to such existing rights may only be located within the corridor referenced in subsection (b); and

(2) the right to locate such transmission lines and related facilities pursuant to such existing rights on the land in Clark County and Lincoln County, Nevada, referred to in section 3(b) outside of that corridor shall be extinguished and of no further force or effect.

(d) Off-Road Vehicles and All-Terrain Vehicles.—Except for purposes of administration or in cases of emergency or for public safety, off-road vehicles and all-terrain vehicles may not be used on unroaded portions of land located in the State of Nevada which is conveyed or leased under this Act.

(e) Immunity.—Notwithstanding any other provision of law, the United States, its officers, employees, and instrumentalities, may not be held liable for, and shall be immune from, any claim arising from any acts or omissions of Aerojet, its employees, agents, successors, or assigns, on or related to any land conveyed or leased pursuant to this Act.

(f) Other Requirements.—Any exchange pursuant to this Act (including any conveyance and any lease) shall be performed in accordance with and subject to the terms of this Act, the exchange agreement, and the lease agreement.

(g) Agreements.—

(1) In general.—The issuance of any interim conveyance, patent, or lease in furtherance of an exchange under this Act shall be governed by and be in accordance with a written exchange agreement and lease agreement between the Secretary and Aerojet which shall incorporate the relevant terms and conditions of this Act. Such agreements shall incorporate all provisions of the draft exchange agreement and draft lease agreement, respectively, dated October 1, 1987, printed as Appendices to the Report of the Committee on Energy and Natural Resources to accompany S. 854 (S. Rept. 100-292), which are not inconsistent with this Act.

(2) Limitations.—The Secretary shall not agree to the inclusion in the exchange agreement of any terms or conditions which, after completion of the exchange authorized and directed by this Act, would limit the ability of the Secretary to properly manage lands in Nevada or Florida for which the Secretary will have responsibility, or which, after completion of such exchange, would prevent the Secretary from properly discharging the responsibilities of the Secretary under then-applicable provision of law. Nothing in the exchange agreement shall afford Aerojet or any other party a preferential position with regard to purchase or lease of any public lands other than those described in this Act.

(3) Rule of construction; notification.—In the case of any inconsistency between the terms of the exchange agreement or the lease agreement or any amendments thereto and this Act, the provisions of this Act shall prevail. The Secretary shall not agree to any amendment to either the exchange agreement or the lease agreement without first consulting with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and shall transmit copies of any such amendment to such committees at the time of agreeing to such amendment.

SEC. 6. HABITAT PROTECTION.

(a) Ground Water.—

(1) Monitoring of conditions and habitat.—The Secretary, acting through the Director of the Fish and Wildlife Service, shall monitor the conditions and habitat of endangered or threatened species whose habitat the Secretary believes could be affected by the withdrawal of ground water from the aquifer beneath lands conveyed or leased pursuant to this Act.

(2) Potential adverse effects.—If the Secretary has reasonable evidence to believe that the withdrawal of ground water from the aquifer beneath lands conveyed and leased pursuant to this Act is likely to adversely affect the habitat of any endangered or threatened species, the Secretary shall—

(A) promptly notify Aerojet (or its successors or assigns in the event that Aerojet has transferred its interests in such lands), the Committee on Energy and Natural Resources of the Senate, the Committee on Interior and Insular Affairs of the House of Representatives, and the State Engineer of Nevada concerning such likely adverse effect of such withdrawal; and

(B) request the State Engineer to take appropriate action, in accordance with applicable laws of the State of Nevada, to ascertain whether the withdrawal of ground water from such aquifer is in fact reducing the supply of water to the habitat of any endangered or threatened species, and, if so, to mitigate that reduction in accordance with applicable laws of the State of Nevada.

(3) Depletion.—In the event that the State Engineer of Nevada determines that the withdrawal of ground water from beneath lands conveyed or leased pursuant to this Act or from beneath other lands underlain by the same aquifer is causing depletion of water to a surface water habitat of any endangered or threatened species, Aerojet (or its successors or assigns) and the Secretary shall jointly petition the State Engineer to reduce the total water allocation in the affected area, or to take any other actions authorized by State law, in order to eliminate such depletion of water to such habitat.

(b) Alternative Sources of Water.—The Secretary may not convey or lease lands under this Act until the Secretary has been assured by the State Engineer of Nevada that Aerojet has developed a feasible plan, consistent with applicable laws of the State of Nevada, for obtaining an alternative source of water (other than the withdrawal of ground water from the aquifer beneath lands conveyed and leased under this Act) to be used, in total or in part, in the event that Aerojet or a successor in interest is required to cease pumping ground water from beneath the conveyed or leased lands.

(c) Access for monitoring.—The Secretary, acting through the Director of the Fish and Wildlife Service, shall have access at any time to any land conveyed or leased under this Act to monitor—

(1) the pumping of ground water from such land,

(2) the condition of endangered or threatened species located on such land,

(3) the impact of any activity occurring on such land on wildlife and plants, including (but not limited to) endangered or threatened species.

In exercising such right of access, the Secretary shall afford reasonable notice to Aerojet (or its successors or assigns).

(d) Pollution Controls.—Nothing in this Act shall be construed as limiting or impairing the power of any Federal or State agency to monitor and regulate the handling by Aerojet or its successors in interest of hazardous materials or wastes or air or water pollutants to assure compliance with applicable State and Federal laws. The Secretary, from time to time, shall consult and cooperate with the Administrator of the Environmental Protection Agency and appropriate officials of the State of Nevada to facilitate such monitoring and regulation.

SEC. 7. TRANSFER OF FLORIDA LANDS TO WATER MANAGEMENT DISTRICT.

(a) Sale To South Florida Water Management District.—Notwithstanding any other provision of law, the Secretary is authorized and directed to sell by issuance of a quitclaim deed any lands acquired in accordance with an exchange pursuant to this Act to the South Florida Water Management District at such per-acre price as may be mutually agreed upon by the Secretary and the District.

(b) Use of Funds Received by the United States.—Notwithstanding any other provision of law, any funds received by the United States from the sale of lands authorized by subsection (a) and from any payments by Aerojet to equalize values of lands exchanged pursuant to this Act shall be deposited in the "Contributed Fund Account" of the Fish and Wildlife Service, and shall be utilized for the purchase of additional lands at existing elements of the National

Wildlife Refuge System in the State of Florida. Such funds shall be available for obligation without appropriation.

(c) Notice to Congress.—The Secretary shall notify the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives of any proposal to obligate funds received in accordance with the provisions of subsection (a) at least sixty days prior to the obligation of such funds.

SEC. 8. WILDERNESS STUDY AREAS.

Any public land in the State of Nevada which, as of March 1, 1987, was managed pursuant to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) shall be retained in Federal ownership and shall continue to be so managed until Congress determines otherwise.

SEC. 9. CLAIMS.

Nothing in this Act or in the exchange and lease agreements shall be construed as affirming or denying the validity of any claim which is pending on the date of enactment of this Act by any Indian tribe or any other person with respect to any lands in Nevada.

SEC. 10. JUDICIAL REVIEW.

(a) General Provisions.—Except as provided in subsection (b), nothing in this Act shall be construed as limiting any right of the Secretary or any other person to bring any action with regard to the responsibilities of the Secretary or any other person under applicable law, as affected or modified by this Act. The Secretary shall not include in the exchange agreement any term or condition that would limit the ability of the Secretary to bring any action or take any other step the Secretary may find appropriate in order to carry out the responsibility of the Secretary under this Act or any other applicable provision of law, as affected or modified by this Act.

(b) Finding and Limitation.—The Congress hereby finds that studies and analyses completed prior to the date of enactment of this Act have made available information sufficient to meet the objectives of the National Environmental Policy Act of 1969 and other relevant law so far as concerns the possible environmental and other effects of the conveyance and lease of public lands in Nevada as provided for in this Act, and that the provisions of this Act adequately address such possible effects.

(c) Limitation.—Based on the finding set forth in subsection (b), the Congress directs that the execution or consummation of any agreement, or the issuance of an interim conveyance, patent, or lease, pursuant to and in accordance with the provisions of this Act, shall not be subject to judicial review with respect to any complaint alleging a failure by the Secretary or any other person to comply with any provision of law other than the provisions of this Act.

SEC. 11. DEADLINE.

It is the sense of Congress that the Secretary shall execute the exchange agreement and the lease agreement and shall implement the conveyance and lease of lands pursuant to this Act no later than one hundred and twenty days after the date of enactment of this Act.

SEC. 12. DESERT TORTOISE PLAN.

(a) Preparation.—The Secretary shall—

(1) review the status of populations of desert tortoises on lands in Nevada and other States managed by the Secretary, other than lands conveyed or leased pursuant to this Act;

(2) assess the nature and extent of threats to the continued health or stability of such populations on such lands; and

(3) prepare a comprehensive plan to address such threats through—

(A) reductions in the extent to which uses of such lands which are potentially harmful to such populations are permitted to occur; and

(B) other measures to remove or mitigate such threats.

(b) Consultation.—In preparing the plan required by subsection (a), the Secretary shall consult with State officials, other Federal agencies responsible for management of lands where desert tortoise populations are located, the Desert Tortoise Council, and other persons or groups identified by the Secretary as having expertise relevant to the requirements of this section.

(c) Deadlines and Reports.—

(1) Review and assessment.—The review and assessment required by paragraphs (1) and (2) of subsection (a) shall be completed and the results thereof shall be made available to the public and transmitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives no later than two years after the date of enactment of this Act.

(2) Plan.—The plan required by subsection (a)(3) shall be developed and transmitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives no later than three years after the date of enactment of this Act. A failure by the Secretary to transmit such report within such three-year period shall not relieve the Secretary from the requirement to prepare such plan.

The SPEAKER pro tempore. Is a second demanded?

Mrs. VUCANOVICH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes, and the gentlewoman from Nevada [Mrs. Vucanovich] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 854, the Senate bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. Fascell], the chairman of the Foreign Affairs Committee.

Mr. FASCELL. Mr. Speaker, I rise simply to express my appreciation for the consideration of this matter by the committee, and in doing it so promptly and thoroughly.

Mr. Speaker, I rise in strong support of S. 854, the "Nevada-Florida Land Exchange Authorization Act."

This legislation authorizes the exchange of lands owned by the Aerojet Corp. in south Dade County, FL, for federally owned lands in Nevada. The Florida lands would then be sold to the South Florida Water Management District, with the proceeds to be used for land acquisition in U.S. wildlife refuges in Florida.

As a cosponsor of the legislation, I believe it is good for all concerned. It not only serves a national interest, but it benefits both Florida and Nevada in particular. Aerojet would gain land it needs to proceed with rocket development for our Nation's defense and space programs; the Department of the Interior will obtain revenue for the purchase of lands necessary for the preservation of endangered wildlife without the need for an appropriation of new funds; and the State of Florida will become owner of property immediately east of Everglades National Park. The water management district, which administers the central and southern Florida flood control project for the Army Corps of Engineers, intends to manage water flows over this property in a manner designed to restore the natural water regime of the park—a stated goal of the National Park Service.

With respect to the funds derived from the sale of the property to the water management district, these moneys are specifically designated by the legislation to be used for land acquisition in national wildlife refuges in Florida. It would be my sincere hope that a good portion of the money will be used for the Key Deer National Wildlife Refuge in the Florida Keys. Although established in 1957 to protect the highly endangered key deer, much of the land within the boundaries of the refuge remains in private ownership and now faces considerable development pressure. It is estimated that $5 million is required this year to purchase the most vulnerable of these properties. Since this is a great deal of money to be appropriated at a time of very stringent budget cuts, the use of funds from the sale of the Aerojet property will be a tremendous help in this effort.

I wish to commend the chairman of the Subcommittee on National Parks and Public Lands, Mr. Vento, for his outstanding work on this legislation. He has given us a bill that is environmentally sound and that makes good sense for all of the reasons I have already indicated. I urge our colleagues to vote for it.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill, entitled the "Nevada-Florida Land Exchange Authorization Act of 1988."

It was passed by the Senate on March 4, after adoption of an amendment that made the bill the same as the House companion bill (H.R. 1845) as reported by the Committee on Interior and Insular Affairs. Since the bills are the same, passage of the Senate bill is the most efficient way for us to proceed.

The bill before us would authorize and direct an exchange of Federal lands in Nevada for private lands in Florida.

The Nevada lands in question are public lands managed by the Bureau of Land Management. The Federal Land Policy and Management Act of 1976 does provide the Secretary of the Interior with exchange authority for BLM lands but that authority is limited to exchanges involving lands in the same State. Therefore, the proposed exchange requires separate legislative authorization.

The proposed exchange is also unusual in that it is not proposed that the Federal Government would retain the lands it would receive. Instead, these Florida lands would be sold by the United States to the South Florida Water Management District, and the proceeds of that sale would be used under existing authority of NFWS to purchase other Florida lands that would be added to existing units of the national wildlife refuge system.

At the time of our hearing on the bill, it became evident that there were a number of concerns about the proposal, especially with regard to the Nevada lands involved. In particular, there were serious questions raised about the accuracy of the appraisals of the value of the Nevada property and about the terms and conditions under which the exchange was proposed to be carried out—including the environmental protection that would apply to future use of the Nevada lands.

After the hearing, there were extensive discussions aimed at determining whether it would be possible to reach agreement on revisions which would address concerns raised at the hearing. I worked especially with the the able Member from Nevada [Mr. BILBRAY], and those discussions brought us to a point where we could proceed, and resulted in the changes included in the bill now before us today. The assistance and effort of all involved was key at that time and again today as we prepare to take final action.

The bill would authorize and direct that the exchange take place. But it would require that the Secretary's determination of the value of the Nevada lands covered by the bill would have to be based on a new appraisal carried out by appraisers selected and reimbursed by the Secretary.

Further, a major part of the lands in Coyote Springs Valley in Nevada would not be transferred outright to Aerojet, but would be leased to them on a long-term basis. These leased lands could be used only for necessary roads, utility lines, storage facilities, and wells, unless the Secretary permits related additional uses. All use of the leased lands would be subject to conditions to reduce adverse impacts on wildlife and plants. The Secretary would have a continuing and direct involvement in the use of the leased lands.

The requirements applicable to the leased lands and the other Nevada lands involved would be embodied in new agreements between the Secretary and Aerojet that will conform to the bill's requirements.

The bill also includes a number of important provisions aimed at protecting the habitat of threatened and endangered species that might be affected by activities on the Nevada lands, and dealing with other environmental concerns.

Finally, the bill provides for an expedited study of the status of desert tortoise populations on public lands, and for development of a plan to meet threats to the tortoises.

In summary, I believe that the bill as it now stands is a balanced measure that addresses many of the serious questions that arose at our subcommittee's hearing, and I urge its passage. In doing so, Mr. Speaker, I also want to express my deep appreciation for the cooperation and assistance we have received from the distinguished gentleman from Florida [Mr. FASCELL] as well as from Mrs. VUCANOVICH, a member of our committee, as we have worked on this bill.

Mr. Speaker, I also, of course, want to extend a special thanks to the gentleman from Nevada [Mr. BILBRAY], and his counterpart in the Senate, Senator REID, who was in constant communication with me on these matters, and who played invaluable roles in enabling us to resolve a number of the most difficult issues related to this legislation. This assistance, this constant support for the actions we took, has been most helpful as we have tried to embody a compromise that would address the concerns and still provide for the land exchange. They all deserve a major share of the credit for the shaping of this important legislation.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in strong support of S. 854, a bill I introduced which would permit Aerojet General, a private corporation, to exchange wetlands it owns in Florida for public lands in Nevada. The land in Nevada is presently managed by the Bureau of Land Management.

I'm very pleased that we are considerring this bill today. It has been a long, sometimes tedious process to produce a document that, by and large, everyone agrees with. I would like to thank my colleague from Minnesota, the chairman of the subcommittee, Mr. VENTO, for his tireless efforts and willingness to cooperate with me and my constituents on a bill that is extremely important to my State. I would also like to thank my colleague from Florida, Mr. FASCELL, for cosponsoring the bill and for his support and efforts to move it through the legislative process.

I also think it is important that we acknowledge the tremendous effort that was put forth by Aerojet General. They approached it from a business aspect, as they should, to their credit, they were willing to make adjustments, work with the public, and all the agencies involved. That was no small task, but the end product was better because of it. This will give them the opportunity to develop a test site for their rocket motors. As a nation we need test sites such as this if we are to remain a leading player in space.

This legislation is beneficial to both Nevada and Florida. It will give the South Florida Water Management District the opportunity to acquire lands it has been hoping to for some time which are similar and contiguous to the Everglades National Park. This bill will also allow Aerojet to expand its operations in Nevada thereby generating hundreds of jobs in an economically depressed county. It will give a much needed boost to the State of Nevada and return public rangeland to the tax rolls of the State. This legislation is supported and cosponsored by the entire Nevada delegation, Governor Bryan, Senator HECHT, Senator REID, and my colleague, Congressman BILBRAY.

I would also like to thank Mr. UDALL, the chairman of the full committee for his quick consideration of this measure, and again, I want to thank Mr. VENTO for all of his help. We've all worked very hard on this bill. I think this is a good bill, for Nevada and Florida, and I hope we report it favorably today.

☐ 1315

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the comments of the gentlewoman from Nevada [Mrs. VUCANOVICH], and commend her for her assistance in this matter.

I also want to pay special recognition to the gentleman from North Carolina [Mr. JONES], the chairman of the Committee on Merchant Marine and Fisheries, who has been very helpful in this process, and for the concerns he raised, and we have had many opportunities to work with him in the past on this matter. He has been most helpful and one of our strong allies in dealing with conservation issues in this Congress.

Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada [Mr. BILBRAY], who has been very helpful in this matter. He has focused on this issue constantly. None of us like to face up to some of the difficult tasks that we have in the Congress in terms of making a decision on many issues, but he did force us to do that and to make these decisions. I think great credit should go to him and other members of the Nevada delegation that kept pressure on us so that this issue would be resolved.

Mr. BILBRAY. Mr. Speaker, I thank the distinguished chairman of the Subcommittee on National Parks and Public Lands, and ask unanimous consent to revise and extend my remarks.

I wish to commend Chairman VENTO on his outstanding leadership on this bill. Through his foresight, skill and energy the House today is presented a measure which will simultaneously benefit the wildlife refuge system and strengthen Nevada's efforts toward economic diversification.

This legislation would permit Aerojet General Corp. to acquire 38,840 acres and lease 14,000 acres of Bureau of Land Management land in Clark, Lincoln, and Mineral Counties in Nevada by transferring to the Department of Interior approximately 4,800 acres of Aerojet-owned land contiguous to the Everglades. The Department of the Interior would in turn sell the Florida land to the State of Florida and purchase environmentally sensitive lands in Florida with the funds. My colleague from Nevada, Mrs. VUCANOVICH, the distinguished gentleman from Florida, Mr. FASCELL, and I joined together in the introduction of this measure.

Aerojet is a high-tech firm which designs and tests rocket motors that are used in the defense-related activities of our Nation. Their current facility for testing the design of rocket motors is located in Sacramento, CA. Because of the growth of the surrounding community and the rigorous requirements mandated by the Government which regulate many aspects of their testing activities, Aerojet cannot expand at the Sacramento facility. As a result, and in order to support Aerojet's growing business, the entire Nevada congressional delegation joined in introducing this measure to permit Aerojet to design, construct, and operate a rocket motor testing facility in Coyote Springs Valley. Gov. Richard Bryan has been a vocal supporter of adding Aerojet to Nevada's economic diversification project as well.

Mr. Speaker, rural Nevada is sparsely populated with few lands held in private ownership. Many of these rural communities are facing difficult economic times, and because such a large percentage of the land in the country is not privately owned, development opportunities are limited.

Nevada, recognizing the dire consequences of this pattern should economic hard times continue, has vigorously pursued a program of economic development and diversification. This program can only succeed if development of private lands is possible.

I am particularly proud of the work contained in this package that addresses environmental concerns. Under the able leadership of Chairman VENTO, language has been included to protect wildlife and plants, specifically prohibiting mineral and geothermal leasing, off-road vehicle use and grazing. All lands nearby or within the exchange and lease boundaries currently designated as wilderness study areas must continue to be managed under provision of law concerning wilderness until the Congress decides the final disposition of the lands. Additionally, the Secretary of the Interior is directed under this bill to review the status of the desert tortoise, and to prepare a plan outlining methods to reduce any threatens to these animals. Before the exchange outlined in this measure can take place, the State engineer of Nevada must assure the Secretary of Interior that Aerojet has a legal and feasible plan to obtain a water supply other than stressing ground water from the underground acquifer under the boundaries of the lands conveyed or leased to Aerojet. Finally, the Department of the Interior is mandated to check the habitat of species potentially affected by stressing the aquifer.

The State Department of Conservation and Natural Resources as well as the State water engineer will require permits for any water use. In addition, these agencies will closely monitor Aerojet's activities in conjunction with appropriate Federal agencies. Any permit for water use or waste disposal will be conditional upon the company's compliance to State and Federal requirements. From my tenure in the Nevada Senate Committee on Natural Resources, I can attest firsthand that Nevada's standards in these areas are among the most stringent in the Nation.

In response to inquiries and concerns regarding the comparable value of the Nevada and Florida parcels of land outlined in this mesure, a new appraisal of the Nevada lands to be conducted by the Department of Interior is included. A report containing the findings of this new appraisal will then be provided to the Congress.

Aeroject receives no guarantee under provisions of this bill. The Government cannot be forced to take the Nevada lands back, and Aerojet does not get preferential rights to purchase buffer lands.

The bill before us represents a unique opportunity—one which serves to better the Nation's wildlife refuge system while providing economic benefit and diversification in Nevada. For her able work, the efforts of the gentlewoman from Nevada, Mrs. VUCANOVICH, are to be commended.

Mr. Speaker, the proposed legislation if enacted would not only bring jobs to Nevada but would expand her property tax rolls. I join the Governor of Nevada and the other members of the congressional delegation in support of this measure. This bill represents a sound balance between economic diversification and environmental sensistivity.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from Minnesota [Mr. VENTO] for acknowledging the assistance of the gentleman from North Carolina [Mr. JONES), chairman of the Committee on Merchant Marine and Fisheries, as well as the gentleman from Alaska [Mr. YOUNG] for his help on this matter. Both of our colleagues have helped to expedite this legislation.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume to say that this is an important matter to both Florida and Nevada, as is evident by the Members present. They have all worked hard on this matter. I think it is good, sound policy, and it is an equal value exchange in terms of land, and it does some positive things for both sides, enhancing Florida's new environmental awareness led by Senator GRAMM and Senator CHILES in the other body, who have been very effective in terms of carrying that message not just with respect to this particular parcel, but with respect to other land use policies. I think this is a good piece of legislation, from our Subcommittee on National Parks and Public Lands, which is a very busy subcommittee, which has a staff that has worked very well in this instance, particularly Mr. Sloss, a long-time member of our subcommittee who has done a great job in terms of putting together this particular compromise. I want to commend him and the others on my staff that worked so hard to provide laws and good public policy for us to work on in this forum.

Mr. JONES of North Carolina. Mr. Speaker, I rise today in support of S. 854, the Nevada-Florida Land Exchange Authorization Act. This legislation contains a number of provisions dealing with matters within the jurisdiction of the Merchant Marine and Fisheries Committee—including measures dealing with the National Environmental Policy Act [NEPA], the Endangered Species Act, additions to units of the National Wildlife Refuge System, and the welfare of fish and wildlife on public lands. Therefore, I am pleased that the committee receive a sequential referral of H.R. 1845 in recognition of our jurisdictional interest in this legislation. Today, I will briefly outline the nature of these interests.

First, S. 854 gives the Secretary of the Interior, acting through the Director of the U.S. Fish and Wildlife Service [FWS], authority to develop and impose on a long-term lease of Federal public lands conditions for the protection of fish, wildlife, or plants. It further provides that the lessee must follow the recommendations of the director in order to minimize adverse impacts on the desert tortoise and other species of wildlife or plants. In addition, the bill also directs the Secretary to undertake various actions for the conservation of the desert tortoise. Under the House rules, the jurisdiction of the Merchant Marine and Fisheries Committee specifically includes fisheries and wildlife matters, including research, restoration, wildlife refuges and conservation. Moreover, this committee has jurisdiction over the programs and policies of the service and activities of the director of that agency. Therefore, the general wildlife and conservation provisions within S. 854 and responsibilities assigned to the Director of FWS fall within our committee's jurisdiction.

Second, the bill specifically requires that the Secretary—again through the Director of FWS—monitor the habitat of certain endangered or threatened species. He and the Aerojet Corp. must also follow a specific course of action to address changes in the habitats of these species. These provisions modify the current responsibilities under the Endangered Species Act for the Directors of both the FWS and the Bureau of Land Management, as well as the restrictions which would be applicable to Aerojet once the land exchange was completed. The Parliamentarian has historically held that jurisdiction over the Endangered Species Act rests solely with the Merchant Marine and Fisheries Committee.

Third, S. 854 directs the Secretary to use certain funds to purchase properties for addition to units of the National Wildlife Refuge System, and limits the expenditure of those funds to land within the State of Florida. Jurisdiction over the expansion of wildlife refuges through the purchase of lands rests with this committee. In addition, this provision restricts the use of funds in the "contributed fund account" of the Fish and Wildlife Service. The Committee on Merchant Marine and Fisheries had sole jurisdiction over the Fish and Wildlife Improvement Act of 1978 which established the contributed funds account and authorized the use of this account by the Director of FWS for any purpose in support of the agency's programs. S. 854 would impose a new limitation on the exercise of the Director's discretion in managing that account by requiring that the Aerojet Funds be utilized for acquiring refuge lands in Florida.

Fourth, S. 854 specifically limits the applicability of the National Environmental Policy Act of 1969 to certain actions and limits the judicial review of Federal actions under that statute. Since its passage in 1969, legislative actions involving NEPA have been continually recognized as the sole responsibility of this Committee.

Given the jurisdictional interests of this committee outlined above, we have reviewed S. 854 and are prepared to support its adoption. Although there are a few issues that we might have approached differently, none are substantial or substantive enough to warrant further delay of this proposal which has generated broad bipartisan support. In recognition of this support, the Committee on Merchant Marine and Fisheries only requested a pro forma 24 hour sequential referral of H.R. 1845. Subcommittee Chairman BRUCE VENTO and his staff are to be commended for making the improvements in the land exchange proposal as originally suggested by the Department of the Interior. This measure is acceptable to us in part because of their efforts, and I would urge my colleagues to vote in favor of its adoption.

Mr. SMITH of Florida. Mr. Speaker, I would like to express my support for S. 854 the Nevada-Florida Land Exchange Authorization.

In exchange for public land in Nevada, this bill authorizes the Interior Department to accept from Aerojet General Corp. the conveyance of 4,650 acres in Dade County, FL. The Department in turn would then sell this property to the South Florida Water Management District. The bill stipulates that the funds received from the water management district must be used by the U.S. Fish and Wildlife Service to purchase additional lands at existing wildlife refuge system units in Florida.

This land exchange will work to the benefit of Florida in two ways. First, the acquisition of these 4,650 acres in Dade County will improve the water supply to south Florida. As a result, south Florida will be in a better position to keep pace with the growth of its urban areas. Second, additional land to Florida's existing wildlife refuges will improve wildlife habitat throughout the state.

Florida's unique environment qualities have established Florida's reputation on a national level in which I take pride. The improvement of south Florida's water supply and the addition of land to wildlife refuges once again reinforces to the entire Nation the importance of environmental preservation to our State.

I urge my colleagues to support this authorization.

Mr. DAVIS of Michigan. Mr. Speaker, I am pleased today to join with my good friend and colleague WALTER JONES of North Carolina, chairman of the Merchant Marine and Fisheries Committee, in addressing S. 854, concerning the Nevada-Florida Land Exchange Authorization Act.

S. 854 involves the transfer of lands that will benefit several endangered and threatened species, as well as provide overall benefits to our national refuge system. These two specific issues are clearly in the jurisdiction of the Merchant Marine and Fisheries Committee and I have found it a pleasure to consider this bill with the chairman during our sequential referral on this legislation. I urge my colleagues to adopt this measure.

Mr. UDALL. Mr. Speaker, I rise in support of S. 854, the Nevada-Florida Land Exchange Authorization Act of 1988. The bill is identical to H.R. 1845, a product of the Committee on Interior and Insular Affairs. The committee has worked very hard on this legislation to make sure that it is fair and provides reasonable protections for important resources on the Federal lands.

There is one matter, Mr. Speaker, that I wish to take note of at this time. As I stated to you in my letter of February 5, 1988, the bill before the House today does not modify or amend the Endangered Species Act. It does provide for a long-term lease of certain public domain lands in Nevada and requires the lessee to comply with the requirements of existing law, including the Endangered Species Act.

It also requires the lessee to go further to minimize adverse impacts on species of fish, wildlife, and plants even if they do not come within the purview of the Endangered Species Act. It would not modify the current authority of any Federal agency under that act, nor would it affect the discretion of any Federal official in discharging his or her responsibilities under the act.

As I further noted in my February 5 letter, the bill does make reference to the Endangered Species Act, but only to reiterate the existing requirements of the act to monitor possible impacts of ground water withdrawal on the habitat of endangered species. This emphasizes the importance of such monitoring, but it does not modify the current authority of the Fish and Wildlife Service nor does it affect the discretion of any Federal official under the Endangered Species Act.

Finally, the bill also contains a reference to the National Environmental Policy Act. It deals only with judicial review. The bill includes a finding that already-conducted studies and analyses are sufficient to meet the requirements of NEPA insofar as the land transfers are concerned. On the basis of that finding, judicial review of specified actions by the Secretary would be precluded. The adoption of such a finding would not constitute an amendment to NEPA, but would merely state the conclusion that adequate information exists and that the NEPA's purposes have been satisfied.

Mr. Speaker, with these understandings, I urge my colleagues to support this important piece of legislation.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 854.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MONTGOMERY). Without objection, a similar House bill, H.R. 1845, is laid on the table.

There was no objection.

AGRICULTURAL ACT OF 1949 AMENDMENTS

Mr. PANETTA. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2151), to amend section 416 of the Agricultural Act of 1949, and for other purposes, as amended.

The Clerk read as follows:

S. 2151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. ELIGIBLE COMMODITIES.

(a) IN GENERAL.—Section 416(b)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(2)(A)) is amended—

(1) by striking out "grains," and inserting in lieu thereof "wheat, rice, feed grains,"; and

(2) by inserting ", and the products thereof," after "price support operations".

(b) CONFORMING AMENDMENTS.—(1) Section 416(b)(10)(B)(i) of such Act is amended by striking out "grains" both places it appears and inserting in lieu thereof "wheat, rice, feed grains,".

(2) Section 416(b)(7) of such Act is amended by striking out ", and products thereof,".

SEC. 2. AVAILABILITY OF COMMODITIES.

Section 416(b)(3) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(3)) is amended by adding at the end thereof the following:

"(D) If eligible commodities are made available under this subsection to a friendly country, nonprofit and voluntary agencies and cooperatives shall also be eligible to receive commodities for food aid programs in the country.".

SEC. 3. MULTIYEAR AGREEMENTS.

Section 416(b)(4) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(4)) is amended by adding at the end thereof the following: "In agreements with recipients of eligible commodities under this subsection (including nonprofit and voluntary agencies or cooperatives), subject to the availability of commodities each fiscal year, the Secretary, on request, shall approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements otherwise meet the requirements of this subsection.".

SEC. 4. FOREIGN CURRENCY USE AND ALLOCATION REQUIREMENTS.

(a) FOREIGN CURRENCY USES.—Clause (ii) of section 416(b)(7)(D) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)(ii)) is amended to read as follows:

"(ii) Foreign currencies generated from partial or full sales or barter of commodities by a nonprofit and voluntary agency or cooperative shall be used—

"(I) to transport, store, distribute, and otherwise enhance the effectiveness of the use of commodities and the products thereof donated under this section; and

"(II) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities.".

(b) ALLOCATION REQUIREMENTS.—Section 416(b)(7)(D)(iii) of such Act is amended—

(1) by striking out "5 percent" and inserting in lieu thereof "10 percent"; and

(2) by inserting ", or the minimum tonnage required, whichever is greater," after "furnished".

SEC. 5. PERIODS FOR REVIEW AND COMMENT.

Section 416(b)(8) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(8)) is amended by adding at the end thereof the following:

"(C)(i) If a proposal to make eligible commodities available under this subsection is submitted by a nonprofit and voluntary agency or cooperative with the concurrence of the appropriate United States Government field mission or if a proposal to make such commodities available to a nonprofit and voluntary agency or cooperative is submitted by the United States Government field mission, a decision on the proposal shall be provided within 45 days after receipt by the Agency for International Development office in Washington, D.C. The response shall detail the reasons for approval or denial of the proposal. If the proposal is denied, the response shall specify the conditions that would need to be met for the proposal to be approved.

"(ii) Not later than 30 days before the issuance of a final guideline issued to carry out this subsection, the Secretary shall—

"(I) provide notice of the proposed guideline to nonprofit and voluntary agencies and cooperatives that participate in programs under this subsection, and other interested persons, that the proposed guideline is available for review and comment;

"(II) make the proposed guideline available, on request, to nonprofit and voluntary agencies, cooperatives, and others; and

"(III) take any comments received into consideration before the issuance of the final guideline.

"(iii) Not later than 15 days after receipt of a call forward from a field mission for commodites or products that meets the requirements of this subsection, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.".

SEC. 6. EXTENSION OF FARMER-TO-FARMER PROGRAM.

Section 1107(a) of the Food Security Act of 1985 (7 U.S.C. 1736 note) is amended by striking out ", and September 30, 1987" and inserting in lieu thereof "through September 30, 1990".

SEC. 7. INAPPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT TO AGRICULTURAL AID AND TRADE MISSIONS.

Any agricultural aid and trade mission established under section 1 of that portion of the joint resolution entitled "Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes" approved December 22, 1987, under the heading "Agricultural Aid and Trade Missions Act", and any other activity under this section and sections 2 through 7 of such portion, shall not be considered an advisory committee for the purposes of the Federal Advisory Committee Act.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is a second demanded?

Mr. ROBERTS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. PANETTA] will be recognized for 20 minutes, and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill (S. 2151) will make a technical amendment to, and correct an oversight in the drafting of, the Agricultural Aid and Trade Missions Act. I originally introduced this act as H.R. 1809, and it was enacted as part of the fiscal year 1988 continuing resolution.

I urge the House to approve the adoption of S. 2151, as amended. S. 2151 was unanimously adopted by the Senate on March 4. This legislation does three things.

First, it would enact a section of the Agricultural Aid and Trade Missions Act that was inadvertently not included in the fiscal year 1988 continuing resolution. This act had been approved earlier in the year by House and Senate conferees on subconference committee No. 6 of the omnibus trade bill.

Second, to accommodate concerns raised by the administration, it would exempt the missions from the Federal Advisory Committee Act.

And third, the amendment would delete section 6 from the Senate-passed bill. Section 6 would increase minimum commodity donations abroad, subject to restrictions under current law including the requirement that such donations can not interfere with distributions to domestic feeding programs. While the provision would not increase direct spending because it is subject to advance appropriations, it is superfluous at this time since appropriations were not provided for this provision in fiscal year 1988.

The bill before us today, with the amendment, would have no budgetary impact whatsoever. The chairmen and ranking minority members of the committees with jurisdiction over this act—the Committees on Agriculture and Foreign Affairs—support enactment of this measure to ensure that the Aid and Trade Missions Act is implemented without further delay.

At this time, I would like to provide background on the aid and trade missions legislation. Title VI of the omnibus trade bill (H.R. 3), which was passed by the House in April 1987, included provisions of the Agricultural Aid and Trade Missions Act that I introduced in March of 1987. The act encourages greater private sector and foreign country participation in U.S. agricultural trade and aid activities. This legislation has three major segments. First, it requires the establishment of agricultural aid and trade missions to 16 eligible countries to encourage their participation in U.S. agriculture export promotion programs. These missions are unique because they link the development efforts of food aid programs with agricultural export promotion efforts.

The second and third segments, respectively, strengthen Public Law 480—our country's Food for Peace Program—and section 416 of the 1949 Agricultural Act—the surplus commodity disposal program—to make them stronger market development tools. Most important, these two sections are designed to improve the utilization of donated food to enhance community development in poor countries and to improve the nutrition and health of individual living in those countries.

It also reauthorizes the Farmer-to-Farmer Program, which expired at the end of fiscal year 1987. This is a Food for Peace Program that sends U.S. farmers to developing countries to provide technical assistance.

In December 1987, the Senate attached the Agricultural Aid and Trade Missions Act to the Continuing Appropriations Act for Fiscal Year 1988. In a letter to the chairman of the Committee on Appropriations, Chairman Kika de la Garza and Chairman Dante B. Fascell expressed reservations about the action since the legislation was already included in the omnibus trade bill. Nevertheless, they requested that if the conferees on the continuing resolution adopted the provision—that it be the language that was agreed to by House and Senate conferees of subconference No. 6 on the omnibus trade bill.

Unfortunately, it has since been discovered that several provisions of the Agricultural Aid and Trade Missions Act, as agreed to by House and Senate Conferees on subconference No. 6 of the omnibus trade bill, were inadvertently not included in the continuing resolution. These provisions included the section 416 and the Farmer-to-Farmer provisions.

Thus, the bill before us today incorporates those portions of the Agricultural Aid and Missions Act that were approved by House and Senate conferees on subconference No. 6 of the trade bill and were intended to be included in the fiscal year 1988 continuing resolution.

In addition, to accommodate concerns raised by the administration when it began to implement the act, S. 2151 would exempt the Missions Act from the Federal Advisory Committee Act. Several weeks ago, USDA indicated that all activities associated with establishing the missions would be significantly delayed because the General Counsel's Office announced that the missions would be subject to requirements under the Federal Advisory Committee Act. S. 2151 responds to this problem to ensure that the measure is implemented without further delay. I want to emphasize that Congress intends that the private sector be involved in all phases of establishing and carrying out the missions and the only reason for this exemption is to expedite implementation of the missions.

And finally, I urge adoption of the amendment to S. 2151, which would delete section 6 of the Senate bill. Section 6 would increase the minimum quantities of commodities that must be made available for foreign donations under the section 416 program. Pursuant to existing law, these requirements are applicable only if they will not reduce the amount of commodities available to domestic feeding and specified farm programs, and will not disrupt world markets or regular U.S. commercial sales. While the provision would not increase direct spending because it is subject to advance appropriations, it is superfluous at this time since appropriations were not provided for this provision in fiscal year 1988. Furthermore, this issue can be considered again—with respect to fiscal year 1989—at the pending conference on the omnibus trade bill since the House-passed trade bill contained a similar provision.

Mr. Speaker, the legislation before us today would simply conform the Agricultural Aid and Trade Missions Act to be the type of program that was originally intended. And as I mentioned earlier, it would have no budgetary impact. Therefore, I urge my colleagues to support this legislation, as amended, so the food aid programs and the missions can proceed this year as Congress had originally intended.

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Mr. Speaker, I reserve the balance of my time.

Mr. ROBERTS. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I concur with the remarks of the gentleman from California [Mr. Panetta] my able colleague and fellow member of the House Committee on Agriculture. The gentleman from California has worked very diligently on this matter to secure both an adequate program for food aid and assistance for foreign countries as well as expanding opportunities overseas for our producers.

Mr. Speaker, in March 1987 the Members of the Agriculture Committee did adopt the Panetta amendment to H.R. 3, and it was without objection. There are presently no objections that I know of to Senate bill 2151 from the minority members of the committee.

Mr. Speaker, I urge adoption of the modified version of S. 2151 so that we can implement a program of agricultural aid and trade missions for this year as originally intended by the Agriculture Committee.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. Gilman].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am pleased to rise in support of the Agricultural Aid and Trade Missions Technical Amendments Act. I would like to point out the timeliness and importance of several provisions of this bill.

Section 416 permits the Secretary of Agriculture to donate agricultural commodities to foreign countries. The law specifically points to the importance of distributing these products through private entities—private voluntary agencies and cooperatives—rather than giving these products directly to foreign governments. In fact, the law specifies that section 416 be implemented using a mechanism similar to that of the Food for Peace Donation Program, which promotes overseas development and provides humanitarian assistance.

Despite this emphasis on using private voluntary agencies and cooperatives, the administration has discouraged their participation by sending overseas air missions extremely restrictive section 416 program guidelines. These guidelines restrict the use of local currencies generated from the sale—or monetization—of donated commodities by specifying that such funds should only be used to augment traditional direct feeding programs. Such activities as cooperative and agricultural development, which help provide incomes for the poor and establish enterprises that will help people escape from the cycles of famine and poverty, are not encouraged.

The legislation we are considering today clearly states that monetization by private voluntary agencies and cooperatives shall be used to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities. These are the types of activities that food aid should encourage—they provide the link between relief and recovery. They focus on how to help people help themselves, rather than creating dependence.

Private voluntary agencies and cooperatives are on Nation's partners in development. Providing assistance through them helps us to reach the private sector and individuals. Under current administrative procedures, their proposals for food aid programs, especially if they include monetization, may not be acted upon for months or even years by the U.S. Government Interagency Committee—the Development Coordinating Committee. Such delays essentially send the message loud and clear—don't submit section 416 food aid proposals.

The legislation we are considering today will prevent such delays. If this legislation is enacted, once an aid country mission approves a private voluntary agency or cooperative proposal and sends it to aid Washington for action, that proposal must be acted upon within 45 days. If it is denied, the private organization must be told the specific conditions that need to be met for approval. In essence, this is a sunshine provision. After the investment of time and money to develop projects, private voluntary organizations and cooperatives deserve to have their proposals reviewed in a timely manner and to know why a proposal is denied.

In order for our food aid programs to work in a constructive, developmental manner, we need the participation and expertise of private voluntary agencies and cooperatives to reach the private sector and individuals in a foreign country. This legislation will help us achieve this goal—making section 416 a tool for development. I urge my colleagues support of this legislation.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman from New York for his contribution.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER], my friend and colleague who is not only the watchdog of the treasury for that very great State, but for the entire country. It is my assumption that he has some growling and biting to do in regard to this legislation.

Mr. WALKER. I thank the gentleman for yielding me this time.

Mr. Speaker, when we originally look at this bill, the title of it says to amend section 416 of the Agricultural Act of 1949 and for other purposes.

That sounds pretty innocuous when one listens to my colleagues describe this bill. It sounds pretty innocuous. It sounds like something we ought to be doing.

I think, though, when we review the details of this bill, we will come to the conclusion that it is not an innocuous bill. It, in fact, has some very dangerous things within it. I think this bill might be better called the Foreign Aid Expansion and Waste, Fraud and Abuse Promotion Act of 1988, because if we take a look at what we are doing here, what we are really doing is expanding the foreign aid program, and we are doing it in ways that are going to make it difficult to monitor that foreign aid so that we know whether or not it is being used wisely and effectively overseas.

If we take a look at the bill itself, what we will find is that, for instance, it requires the Department of Agriculture to approve multiyear agreements to provide surplus agricultural commodities for donation to foreign countries.

The problem with that is that with those multiyear agreements, what we tend to do is ignore important and unpredictable factors such as the future food needs of recipient countries. Thereby, what we get is an expansion of the program without any guarantee that as conditions change the program will be able to respond to those changing conditions. That is not only bad policy, it is a waste of money, and I would suggest that that is not the direction that we want to go.

Second, under this program, what we are going to do is we are going to expand the allowable uses by private and voluntary organizations of foreign currencies. I happen to think that going through private and voluntary organizations is probably a good idea, but what we are going on to do in this bill is we are going to allow them to use the foreign currencies that they derive from the sale of the commodities we donate, and that also is inappropriate.

In other words, these commodities are going to go to these foreign countries. They are going to go to these private organizations. The private organizations will, in some cases, sell those goods for the foreign currency involved. That foreign currency then, under this bill, can be used to buy more things out of.

What is the problem with that? The problem is that it does not allow for the necessary long-term planning for effective economic development programs. We simply have an expansion of the use of the moneys, and then we are not going to be able to monitor.

If there was ever a formula for waste, fraud and abuse in a program, it is this formula. We are opening up the Pandora's box of telling people, go ahead and sell the products and then use it for a whole slew of things that we will not be able to monitor. That is bad planning, and it is also a bad use of our taxpayers' money.

One final thing that concerns me, the committee has done the right thing here in taking out section 6. They amended the bill as they brought it to the floor to take out section 6 of the bill. Section 6 of the bill was a bad provision of the bill.

Under CBO's prediction it was going to cost at least $180 million. The administration estimates the cost could have gone as high as $300 million. The problem is, however, when this bill passed the other body, it passed over there unanimously.

I know of no guarantee we have, having passed this bill out of the House, sending it to a conference committee that we are not ultimately going to get a bill back that has section 6 included.

If section 6 is in the bill when it comes back in the conference report, we in fact will have a bill that not only is an expansion of foreign aid, not only is waste, fraud and abuse promotion, but is also a costly item to the taxpayer to the tune of $180 million to $300 million.

I would suggest the House would be wise to turn down this bill. This is a bad bill. It needs to be reworked. We need to get doing things that the committee is talking about and not expand foreign aid and, at the same time, promote waste, fraud, and abuse.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman from Pennsylvania for his contribution. Let the record show the gentleman from Kansas is opposed to fraud, waste, and abuse.

Mr. Speaker, I reserve the balance of my time.

Mr. PANETTA. Mr. Speaker, I yield myself such time as I may consume to respond to the comments made by the gentleman from Pennsylvania.

I think the gentleman from Pennsylvania has mistaken this proposal for a program that he feels is somehow something new. We are not talking about anything new here. We are talking about private, voluntary agencies that make use of these commodities in poor countries.

What agencies are we talking about? We are talking about CARE. We are talking about the Catholic Relief Agencies. We are talking about Bread for the World.

These are groups now working within these countries providing commodities and trying to promote community development. They are in existence today. This is a program that is operating today.

As a matter of fact, it is subject to more restrictions than any government-to-government programs that are currently existing.

At the present time these groups that want to promote these kinds of plans have to submit them to a food aid subcommittee made up of the USDA, the State Department, AID, the Treasury, and OMB for their approval.

They have to sign off on the approach that is recommended by these agencies. In addition to that, they have to make reports on the use of the proceeds that are filed both with AID as well as other agencies.

We have no information, no information, that there is any fraud, waste, or abuse in the way these agencies conduct their business.

In addition to that, the recommendations that are contained here have already been approved by the conferees on the trade bill, and in addition to that, were adopted by the other body. So it is for those reasons that we urge the Members of the House to support this legislation to help these agencies be able to serve a real need and in these communities and to promote community development.

Mr. Speaker, I reserve the balance of my time.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to concur with my friend and colleague, the gentleman from California [Mr. PANETTA], and make the point that the chairman of the Committee on Agriculture received a letter from the acting director of the Congressional Budget Office, and we also have correspondence with OMB with reference to section 6 of this legislation which, in my personal view, represents the only cost outlay that would be adverse to the budget summit and what we are trying to do around here, and obviously would be of great concern to the gentleman from Pennsylvania as it would be to the gentleman from Kansas. We struck that section, and so in regard to the cost item of that particular section I think we made some progress.

I would also like to point out, as my friend and colleague from California has, that we are not talking about any new authority here, and we are not talking about additional funds. We are talking about an additional 5 percent of the existing funds.

In regard to the oversight responsibility, the gentleman from California has already mentioned the many agencies that will still be conducting oversight, even more, or even more stringently than a government-to-government program. I understand that it has been increased from 1 to 2 years. But in regard to getting these programs working in terms of practical effect, I think we probably need that time.

In addition I would say, Mr. Speaker, in regard to fraud and waste and abuse I suppose that unfortunately we do not have a line item for fraud and waste and abuse in any Government program, but I can tell my colleagues in terms of the more practical effect for the dollars spent that an organization like CARE and Bread for the World, who are very professional in this regard, while certainly I am concerned about it, and while I think they ought to submit a plan, and while the USDA must conduct the oversight and AID will conduct the oversight, while I share the gentleman's concern I just do not think it is that much of a problem.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

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Mr. ROBERTS. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I would like to point out section 6 of the bill does in fact amend the current way in which we are doing business. It was to that that this gentleman referred. The gentleman from California and the gentleman from Kansas made the point that this is simply doing what we are now doing. That is specifically different from what the administration interprets and certainly I interpret.

We are in fact expanding the uses that can be made of foreign currencies derived from the commodities. So that does open up a new Pandora's box in the bill.

Second, I would ask the gentleman whether or not we have any assurance from the other body that they are going to go along with the striking of section 6? They passed this bill unanimously. It was sponsored in the Senate by the distinguished majority leader of the Senate.

Do we have some indication that they are going to back down from their position and accept our deletion of section 6? Because otherwise we are simply sending a bill to the Conference Committee that could likely come back here with a multimillion-dollar item in it.

Mr. ROBERTS. Mr. Speaker, reclaiming my time, I say to the gentleman that I do not have any assurance from the Senate in regard to anything. But on that basis if in fact they do not agree the legislation is simply going to come back to this body and we can insist on our point of view.

Mr. Speaker, I yield 2 minutes to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, with regard to the Senate, I have been informed that there are assurances from the Senate staff that they would go along with the striking of section 6. With regard to the gentleman's objection with regard to the multiyear provision in the bill, it is only allowed if the commodities are available and if the agreements otherwise meet the requirements of this subsection. So there is not any loose arrangement for going out and purchasing these commodities. Further, with regard to the gentleman from Pennsylvania's objection to monetization, I would like to point out that the monetization will permit the PVO's to help rebuild the infrastructure, to help in development.

These dollars would be used in local development, for example, transportation, storage facilities, et cetera.

So that the food can actually reach the people in need rather than rot on the wharves or on the docks as so often has happened in the past.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is absolutely right. That is the intent. The problem is there is no monitoring capability with regard to that transfer of currency. That is the problem. That is where the waste, fraud, and abuse comes in; we are opening up that new area without any monitoring capability under the provisions of the bill. That is what concerns the administration, I have to tell the gentleman.

Mr. GILMAN. In response to the gentleman's question, I do not think we have abrogated the Agency for International Development [AID] responsibility. They have to approve the agreements initially. I believe AID would provide the kind of monitoring the gentleman is concerned about.

Mr. Speaker, I thank the gentleman for yielding.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I know my colleagues appreciate the contributions of the gentleman from Nebraska, Mr. BEREUTER, who made reference and extended the farmer-to-farmer program under the provisions of this bill for less than 1 percent of the funds.

Mr. Speaker, I reserve the balance of my time.

Mr. PANETTA. Mr. Speaker, may I ask how much time remains.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from California [Mr. PANETTA] has 13 minutes remaining, and the gentleman from Kansas [Mr. ROBERTS] has 6 minutes remaining.

Mr. PANETTA. Mr. Speaker, I yield myself 2 minutes, in order to make clear that what we are doing here is basically instead of a 5-percent monetization for these private development organizations, we are allowing them 10 percent.

Mr. Speaker, there is no evidence at the present time under the 5-percent monetization that there is any waste or fraud or abuse. Indeed, they are subject to oversight by a number of agencies to ensure that these funds are spent properly. And there is no evidence of that.

Indeed, if there were evidence, then I would like to hear it on the floor. The fact is, there is no such evidence.

These agencies have been performing in an outstanding fashion in trying to deliver food to these countries, A; and, B, trying to develop an infrastructure within these countries so they could develop their own agriculture in terms of responding to the needs within their own societies.

That is the purpose here. This program only takes effect if commodities are available. I can let you know at the present time even with regard to the temporary emergency feeding program that we have in this country that it is likely there will not be commodities available for that program much less for this program. But if they are available at least these agencies can then begin to try to use some of these funds for development within these nations.

So this is an essential task, these are programs that are currently operating and operating effectively and we would urge the Congress to support the additions here.

In response, specifically, to the gentleman from Pennsylvania's question, I have absolutely no information that the Senate would in any way oppose the striking of section 6. So that in

terms of any funding impact of this legislation, the CBO confirms that there is no budget impact.

Mr. BEREUTER. Mr. Speaker, I rise today in support of S. 2151, which will make technical corrections to the Agricultural Aid and Trade Missions Act.

I appreciate that the committee has included an extension of the authorization of the Farmer-to-Farmer Program in this bill. I want to briefly discuss the program and explain why it has been an inexpensive example of a truly successful foreign aid program.

Under this bill, the Farmer-to-Farmer Program will be extended for 2 years, or until the end of fiscal year 1990. At some point in the future, it would be worth considering a permanent authorization of the program, but for now I appreciate that we are using this bill as the vehicle for extending the program for 2 years.

The Farmer-to-Farmer Program is designed to offer short-term technical and managerial assistance by U.S. farmer volunteers to farmers in developing countries. The program is cost effective because it utilizes the services of unpaid farmer and agricultural specialist volunteers, and it achieves results by operating at the people-to-people level where technical assistance has proven the most effective.

Several years ago, I had the opportunity to visit Guatemala and El Salvador. The conditions in rural areas, the farming practices, and the plight of farmers in those countries was abysmal to say the least. It was apparent that if these farmers could receive some very basic help from U.S. farmers, their crop and livestock production, and the income and diets of these impoverished farmers could be dramatically improved so that they could move toward a greater degree of food self-sufficiency.

Although the Farmer-to-Farmer Program was originally authorized in 1954, no funding was provided until 1985 when a very small percentage of Public Law 480—Food for Peace—funds were earmarked for the program—one-tenth of 1 percent—by this Member.

I want to praise the work of the Agency for International Development [AID], and Volunteers in Overseas Cooperative Assistance [VOCA] for their work in implementing the program. They have done an excellent job in identifying good projects, selecting farmer volunteers, and monitoring the progress and the followup work in project countries.

During the short time which the Farmer-to-Farmer Program has operated, it has been deemed a success by farmers in developing countries, by those Americans who have volunteered their time and talent, and by the U.S. Government.

During 1986 and 1987, hundreds of farmer volunteers were sent to Latin America and the Caribbean where they were involved in a wide range of agricultural projects including cattle, swine, and poultry production, vegetable crops, peanuts, dairy and cheese production, beekeeping, and more.

The amount of time which farmers volunteer is from 30 to 90 days. In most cases married couples have been sent as a team. In some cases, farmers have already made return, followup visits; I hope that becomes a regular pattern for more volunteers in the future.

The Farmer-to-Farmer Program is also designed to solicit the support of communities, civic groups, and churches to enable more farmers to volunteer. My hope for the future is that entire communities can be involved with the program which will help promote not only better agricultural practices and higher standards of living, but also a better understanding of the problems and conditions faced by people in foreign countries.

This year, the Farmer-to-Farmer Program will be expanded to the Peace Corp Program. Thus far, the program has been confined to Caribbean and Latin American countries. Adoption of the Farmer-to-Farmer Program by the Peace Corps will allow it to expand worldwide and be more successful.

Finally, the point which should be made clear is that the technical assistance which U.S. farmers are providing in this program is directed toward the most basic levels of agriculture. Some may have concerns that this type of technical aid is contributing to the problem of surplus global production which eventually will hurt U.S. farmers. I can assure Members that the projects which U.S. volunteers have been involved in are basic, subsistence-level agriculture.

Mr. Speaker, in closing I would like to include for the RECORD an article describing the Farmer-to-Farmer Program which appeared in the Washington Post on March 9, 1988. I urge my colleagues to support S. 2151.

PLANTING AN IDEA AND SEEING IT GROW—FARM PROJECT FOSTERS AGRICULTURAL GOOD WILL

(By Ward Sinclair)

In the mind of Representative Doug Bereuter (R-Neb.), it was something akin to planting a seed—put it in the ground, treat it right, then watch it flourish and multiply.

Bereuter's idea, in the form of language added to the 1985 farm bill, has grown like that seed into a federal program that will send more than 200 U.S. farmers and agricultural experts to developing countries this year to help farming projects take root.

The farm bill amendment requires that one-tenth of one percent of the money appropriated for the Food for Peace program, administered by the State Department's Agency for International Development (AID), be used to send volunteer farmers overseas on short-term advisory tours.

An AID pilot project in 1986 and 1987 that sent several hundred volunteers to Latin America is being expanded to more countries through the Peace Corps's new Farmer-to-Farmer program.

The first of the Peace Corps' volunteer farmers, retired Pennsylvania beekeepers Bess and William Clarke, left recently for two months' duty in Tunisia, where they will instruct Tunisian farmers, extension agents and regular Peace Corps workers on the techniques of beekeeping.

The Clarkes will be expanding on the work of Peace Corps volunteer Brian Leudy of Sea Girt, N.J., who in 1986 set up a program to involve villagers in honey production by lending them beehives. With profits from the sale of honey from the borrowed hives, the farmers are able to buy their own equipment, Peace Corps officials said.

The Tunisians and American volunteers who go through the Clarke workshops will be expected to pass their newly found expertise to other local farmers who want to go into honey production. A national beekeeping project keeps about 20 Peace Corps volunteers busy in Tunisia each year.

"Within a few months," said Peace Corps Director Loret Miller Ruppe, "we hope to place agricultural teachers, dairy plant managers, rice production specialists, horticulturalists and cooperative experts in carefully selected projects in Africa, Asia and Latin America."

That's exactly what Bereuter had in mind when, after a trip several years ago to Guatemala and El Salvador, he decided that hog farmers there could make major gains in productivity if they could get some hands-on help from Nebraska swine experts.

"I was amazed at the primitive and unsanitary way of raising swine that I saw there," Bereuter recalled. "I said to myself that if I could send 30 or 40 farmers from home down there in the wintertime, we could really turn around their agriculture."

But the problem was how to make it happen. The 1985 farm legislation, with the Congressman's amendment, provided the chance. The program will have about $1.3 million available this year to pay the travel expenses of approximately 250 volunteers who will go abroad on six to eight-week tours.

The program is being administered for the government by the Volunteers in Overseas Cooperative Assistance (VOCA), an arm of U.S. cooperatives and credit unions, that has been channeling American rural development technical aid to developing countries for more than 15 years.

After the government receives a country's formal request for technical help, VOCA locates the appropriate volunteers through its nationwide network and makes arrangements for them to head overseas.

"We began with an AID pilot program in 1985-1986 and sent more than 200 volunteers to Latin America," said Bill Brands, project director for VOCA. "We sent farmers, extension agents and university professors and we felt it was extremely successful. . . . Projects ranged from crop production help to post-harvest handling techniques, livestock and disease control. The whole purpose is to increase the economic return to farmers."

As the Farmer-to-Farmer program takes root, the Peace Corps also is widening its search for volunteers with agricultural expertise who are willing to sign up for longer overseas tours that could range up to two years.

Mr. PENNY. Mr. Speaker, this bill simply adds provisions that were intended to be included when the Agricultural Aid and Trade Missions Act was passed by the House in April 1987. Those provisions include important changes in the monetization program of section 416 of the Agricultural Act of 1949.

When the House and Senate subconference on agricultural reached a compromise on the bill, the compromise language was inserted into the Continuing Appropriations Act fiscal year 1988. At that time several pages were accidently omitted from the Aid and Trade Mission Act that addressed section 416 food aid program.

This bill makes the same changes to section 416 monetization programs as last year's bill did to the monetization programs under title II of Public Law 480, the Food for Peace Program. Those changes include: Increasing the amount of commodities that must be monetized under section 416 programs from 5 to

10 percent; setting the maximum time of response by the Development Coordination Committee to a private voluntary organization proposal with field approval at 45 days; allowing for proposals to be approved for multiple years; and clarifying that proceeds from monetization of commodities may be used for a range of development activities including transportation, storage, community development, and nutrition projects.

These changes are vitally important to the monetization program because they allow for: Greater use of commodities for developmental purposes that encourage long-term solutions to food shortages and development of market structures that will increase trade; lower costs and delays to the organizations that are trying to implement these programs; and greater continuity in programs and the possibility for more extensive long-term planning.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of S. 2151 with the House amendment. This legislation will resolve an unanticipated problem that is delaying the work of the aid and trade missions established in the continuing appropriations resolution for fiscal year 1988—Public Law 100-202—and will complete legislative action on the Agricultural Aid and Trade Missions Act of 1987.

The agricultural aid and trade missions program is designed to encourage greater U.S. private sector and foreign country participation in trade development and food assistance efforts. The authorizing legislation for this program was originally considered in the Committee on Agriculture and the Committee on Foreign Affairs last year at the time the two committees were formulating proposals for inclusion in the omnibus trade bill, H.R. 3. The aid and trade legislation was made part of both the House and Senate versions of the trade bill, having been favorably reported by the House and Senate Agriculture Committees and the House Foreign Affairs Committee. Later, the legislation was tentatively approved by the House-Senate conferees on subconference six of the trade conference last November.

Because of strong support by members of the respective committees and in an effort to expedite congressional action, the Senate added the aid and trade missions legislation as an amendment to the continuing resolution for fiscal year 1988, which was signed into law as Public Law 100-202. The Department of Agriculture announced the program and appointed a mission coordinator on January 14, 1988.

Recently, the Department of Agriculture Office of General Counsel ruled that, technically, the aid and trade missions constitute advisory committees to the department and, thus, are subject to the Federal Advisory Committee Act. This ruling has resulted in a delay in efforts to achieve completion of the 16 missions required by the continuing resolution this year. The difficulty in completing this large number of missions in the remaining months of 1988 is further compounded by the fact that eight of the missions are required to be completed by June. The bill before us today will exempt these missions from the Federal Advisory Committee Act, to enable the program to meet the goals for it set by Congress in a timely manner.

S. 2151 also contains the provisions of the Agricultural Aid and Trade Missions Act pertaining to the section 416 commodity donation program. The provisions in the continuing resolution incorporating the Agricultural Aid and Trade Missions Act included the amendments to the Public Law 480 program to assist private voluntary agencies and cooperatives in their use of commodities received through the Public Law 480 program. However, the similar amendments to the section 416 program in the original aid and trade missions bill were inadvertently not included. S. 2151 includes the section 416 amendments to complete the aid and trade package as originally intended.

The amendment to the bill offered today removes from the Senate bill section 6, which will increase the minimum quantities of eligible commodities that must be made available for the section 416 program in fiscal years 1988 through 1990. Section 6 requires that any such increase in the minimum quantity of commodities for foreign donation must be provided for in advance in an appropriations act.

Since no such appropriations have been provided, or likely will be provided, for increased tonnage in fiscal year 1988, this section of the original aid and trade missions bill can be eliminated from S. 2151, and considered again for fiscal years 1989 and 1990 in the trade bill conference.

Finally, the bill will authorize the farmer-to-farmer program, through fiscal year 1990. I am pleased to note that this program, initially authorized in the 1985 farm bill, has received favorable reviews. Under the program, U.S. farmers travel to poor, developing countries and provide hands-on expertise to local farmers in improving their operating efficiencies.

I urge my colleagues to join me in approving S. 2151, with the House amendments.

Mr. ROBERTS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PANETTA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. PANETTA] that the House suspend the rules and pass the Senate bill, S. 2151, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on the Senate bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was an objection.

FREEDOM OF INFORMATION DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 126) to designate March 16, 1988 as "Freedom of Information Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I would like to inform the House the minority has no objection to this resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 126

Whereas a fundamental principle of our Government is that a well-informed citizenry can reach the important decisions that determine the present and future of the Nation;

Whereas the freedoms we cherish as Americans are fostered by free access to information;

Whereas many Americans, because they have never known any other way of life, take for granted the guarantee of free access to information that derives from the First Amendment to the Constitution of the United States;

Whereas the guarantee of free access to information should be emphasized and celebrated annually; and

Whereas March 16 is the anniversary of the birth of James Madison, one of the Founding Fathers, who recognized and supported the need to guarantee individual rights through the Bill of Rights: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 16, 1988, is designated as "Freedom of Information Day", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies and the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution, Senate Joint Resolution 126.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO FILE CERTAIN REPORTS ON H.R. 2707

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until 8 p.m. tonight, March 15, 1988, to file certain reports on H.R. 2707.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

TAX CREDITS FOR HISTORIC PRESERVATION AND LOW-INCOME HOUSING SHOULD BE RESTORED

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, today, I am introducing legislation which would remove historic preservation tax credits and low-income housing tax credits from the passive loss rules of the Internal Revenue Code.

Prior to the Tax Reform Act [TRA] of 1986, taxpayers were able to apply historic preservation and low-income housing credits up to the first $25,000 of their net tax liability and up to 75 percent of their tax liability in excess of $25,000.

However, under the TRA, these tax credits were subjected to passive loss rules. These passive loss rules permit individual taxpayers to apply historic rehabilitation tax credits only to reduce taxes from "passive" earnings—in which the taxpayer does not take an active part—but not from active earnings.

There is one exception. The 1986 tax act allows up to $7,000 in tax credits to be used to reduce taxes from active earnings. But only if an individual's adjusted gross income is less than $250,000.

As a result of these 1986 tax law changes, recent figures reveal that, nationwide, historic preservation activities declined 35 percent between 1986 and 1987 and that applications for approval of rehabilitation work are down 52 percent today.

To underscore this, I have heard from James Allen, director of the Louisville Department of Housing and Urban Development, Michael Brown, executive director of inspections, permits and licenses of the city of Louisville, and Ann Hassett of Louisville's Landmarks Commission, who have brought to my attention the devastating effects the passive loss changes have had on historic preservation and rehabilitation in our community.

In 1985, the city of Louisville was sixth in the Nation in the dollar value—$18.9 million—of approved rehabilitation projects. In 1986, this amount rose to $31.6 million.

However, in 1987—the first year that the 1986 tax changes became effective—final certification for preservation projects was down to $7.8 million—a drop of 75 percent. In addition, $18 million of approved proposed work is stalled in the pipeline. I am sure that other cities across the Nation have a similar experience.

I believe that the work done through these credits is far too important to let go by the wayside. That is why I have introduced legislation which will correct this situation. I hope we act quickly and favorably on this measure.

Following is an article "Tax Law Changes Curtail Rehabilitation of Historic Buildings;" which appeared in the Washington Post and which discusses further the effects the tax change has had on historic rehabilitation activities.

[From the Washington Post, Mar. 12, 1988]

TAX LAW CHANGES CURTAIL REHABILITATION OF HISTORIC BUILDINGS

(By Ann Mariano)

Rehabilitation of historical buildings plummeted by 35 percent last year as a result of 1986 tax law restrictions on historic preservation tax credits, according to a recent National Park Service report.

The number of projects fell from 2,964 in fiscal 1986 to 1,931 in fiscal 1987, when tax changes became effective. The amount of money invested in historic rehabilitation also dropped by 35 percent over the same period, to $1.1 billion from $1.7 billion, the report said. Fiscal years begin Oct. 1.

Historic rehabilitation activity began to decline even before the 1986 tax law was signed, "largely due to concern over the proposed changes," the Park Service report said. Without the tax benefits that remained after the 1986 changes, 80 percent of the 1987 projects would not have been undertaken, the report said.

More severe declines are yet to come, said Ian D. Spatz, a preservation policy official with the National Trust for Historic Preservation. The decline last year was expected, and "the news in the future is going to be worse, unless there are legislative changes," he said. "The decline . . . hasn't even leveled off yet." Spatz said the decline last year probably was more severe than it appeared because some of the projects covered by the report started before the law changed.

In the District of Columbia, applications for approval of projects, which are reviewed and approved by the Park Service, indicate that historic rehabilitation work declined sharply last year.

Developers submitted 13 applications during fiscal 1987, down from 28 applications the previous year, said Betsy Chittenden, the Park Service analyst who prepared the report. Most of the historic rehabilitation in the Washington metropolitan area occurs in the District, Chittenden said.

Many developers considered the historic rehabilitation tax incentives inadequate even before the 1986 changes, and now look on the credits as "inconsequential," said Robert Peck, president of the D.C. Preservation League.

In the downtown commercial area, the pace of preservation has not slowed, chiefly because of city legal requirements rather than tax credits, Peck said.

"It's the stick, not the carrot," he said. "The D.C. law is considered one of the stronger preservation ordinances in the country."

Legislation recently introduced in the House and the Senate would restore some of the tax incentives removed in 1986, said Spatz, who is assistant director for preservation policy studies for the National Trust. "I expect and hope there will be widespread support" for the measures, he said.

The legislation would change the passive income loss rules to enable more investors to use low-income housing and rehabilitation credits, and would make other changes to encourage housing development by nonprofit organizations, said Sen. Jack Danforth (R-Mo.), who introduced the bill in the Senate. A similar measure was introduced in the House by Rep. Barbara B. Kennelly (D-Conn.).

Rules governing use of the 1986 tax credits are "very complex" and "technicalities . . . seriously obstruct its use," Danforth said.

The 1986 tax revisions cut the historic rehabilitation tax credit by only a small margin, to 20 percent from 25 percent, but other provisions of the law made the credit far less attractive than before. Depreciation periods were lengthened substantially and use of the credit is subjected to new passive activity rules limiting the size of investments allowed, the report said.

Nearly half of the historic renovation projects in 1987 involved housing, but the number of new units created by these projects dropped by about 40 percent, to about 4,200 last year from more than 7,200 in fiscal 1986. More than 1,200 low- and moderate-income housing units were created by rehabilitation projects, "a substantial increase in both absolute and relative terms," the report said. A total of 11,306 housing units were rehabilitated in last year's projects.

In addition to the 20 percent credit for historic renovations, the 1986 law allows a single 10 percent credit per investor for nonhistoric buildings constructed before 1936. This compares with a generous, three-tiered investment tax credit established by the Economic Recovery Tax Act of 1981, which permitted a 25 percent credit for historic buildings, a 20 percent credit for nonhistoric structures more than 40 years old and a 15 percent credit for nonhistoric buildings more than 30 years old.

More important to investors, however, were the passive loss and passive credit provisions of the old statute, which permitted investors to use historic rehabilitation losses and credits to offset taxes on other sources of income, the report concluded. Major changes in 1986 reduced or eliminated the benefits for a large number of investors.

The new law imposes "an effective maximum of $7,000 worth of tax credit per investor per year, as well as restricting the income level of those who may use losses and credits," the report said.

Tax benefits for historic rehabilitation have existed in some form since 1977, but the rehabilitation activity did not accelerate until the 1981 changes. By the end of fiscal 1987, "more than 18,000 buildings had had rehabilitation plans certified, representing a potential investment of more than $12 billion," the report said.

THE SHARPEVILLE SIX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DYMALLY] is recognized for 5 minutes.

Mr. DYMALLY. Mr. Speaker, today is a very sad day for me and I wish to share the source of my sadness with my colleagues. Yesterday, I was shocked to learn that, despite pleas from world leaders, including the Pope, President Botha of South Africa denied clemency to six young black South Africans. As a result, these six are scheduled to die on Friday.

Mr. Speaker, this is a travesty of justice and another indicator, if we need more, of the intransigence of the Botha regime and its clear intent to move toward an absolute totalitarian government. These six persons were convicted of murder and subversion as a result of a crowd killing of a town councilor during the protests in Sharpeville in September 1984. The protests resulted from popular opposition to constitutional changes which continued to deny political participation to the 73-percent black majority and offered only limited participation to the colored and Asian populations. During one of these protests, a crowd marched to the home of a councilor who fired into the crowd. The attack on him was in response to this shooting.

This is the incident in which the Sharpeville Six were implicated. They were tried in connection with the councilor's death and convicted on both the offense of murder and of subversion. Much of the evidence seems to have been taken from witnesses under duress and the witnesses themselves were never identified.

Mr. Speaker, I am very concerned about this situation and the growing trend in South Africa to sentence political prisoners to death, to deny them clemency and to execute them. This is certainly not the answer to political and social unrest driven by repressive conditions and the apartheid regime.

South Africa has one of the highest per capita execution rates in the world, averaging more than 100 executions annually. This number includes a number of political activists involved in resistance activities.

Mr. Speaker, we must express our outrage. Since the declaration of the state of emergency, more than 30,000 people have been detained without charge or trial. Hundreds have been subjected to torture and disappearances. How many more must die before we in Congress legislate an adequate response?

DEPLOYMENT OF THE "U.S.S. JOHN H. SIDES" (FFG 14) NAVAL RESERVE SHIP TO THE PERSIAN GULF

The SPEAKER pro tempore (Mr. PENNY). Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I want to take this opportunity to acknowledge an important event that recently occurred. The event was the approval by the Secretary of Defense to deploy the U.S.S. *John H. Sides,* a Naval Reserve Force [NRF] ship to the Persian Gulf. The *Sides* will be fulfilling an active duty deployment for the Middle East Force [MEF] and thereby alleviate the limited time other active duty FFG's can be in homeport.

The U.S.S. *Sides* will be manned in part by members of the U.S. Navy Reserve who are being voluntarily recalled to active duty. As will all Reserve members recalled to active duty, they will accrue full pay and allowances and all rights as any other active duty service member.

The U.S.S. *Sides* was commissioned in May 1981, entered the Naval Reserve Fleet in August 1986 and is homeported in Long Beach, CA. Previously, in October 1987 the U.S.S. *John A. Moore,* was deployed in a similar situation and by all reports is performing successfully. This decision by Secretary Carlucci is an excellent demonstration of our total force policy in action.

THE POSTAL REORGANIZATION ACT AMENDMENTS OF 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. FORD] is recognized for 5 minutes.

Mr. FORD of Michigan. Mr. Speaker, today I am introducing legislation which will guarantee that severe reductions in postal operations and sudden cancellations of postal construction contracts can never again occur as a result of the Federal budget process.

The bill, in effect, returns the U.S. Postal Service to the off-budget status it enjoyed prior to fiscal year 1986. Its receipts and disbursements would no longer be counted for purposes of determining the Federal deficit. So, the administration or the Congress could not reduce that deficit by increasing stamp prices or decreasing postal services. And deficit reduction could not be used as an excuse to meddle in the operations of the Postal Service.

As a result of last year's reduction effort, the Postal Service must reduce capital expenses by $815 million and operating expenses by $430 million. Seventy-four percent of new construction projects have been deferred or canceled. Post office window hours have been reduced by about 10 percent. Sunday mail collection and processing have been eliminated. Administrative expenses have been cut and procurements delayed. Hundreds of construction projects—new starts, expansions, and modernizations—will be affected. Were these cuts ordered because congressional oversight showed they would improve postal service in the Nation? No, in fact they will probably result in poorer service. They were ordered because, as an accounting matter, they result, on paper, in a lower Federal deficit. This would not have occurred if the Postal Service were off-budget.

The bill also removes existing statutory limitations on the Postal Service's borrowing authority. Under the Postal Reorganization Act of 1970 new borrowing is limited to $1.5 billion per year for capital needs and $500 million per year for operations. Further, the aggregate amount of outstanding Postal Service debt cannot exceed $10 billion.

These borrowing limits were established in the Postal Reorganization Act of 1970 when postal revenues were less than $10 billion per year. The Postal Service points out that postal revenues today are approaching $35 billion, but these borrowing "caps" have never been adjusted. It further says that the cap on aggregate outstanding debt, if not adjusted soon, could disrupt the 5-year Capital Improvement Program approved by the Board of Governors last year.

I know that moving any entity off-budget is a controversial issue. But the Postal Service is unique. The 1970 act which established it as an independent entity mandates that it break even. After a shaky start, it has met that mandate. It pays its own way. It has broken even over the last 10 years. Since 1982, the Postal Service has received no appropriations for operating purposes—moneys are appropriated to subsidize certain "preferred" classes of mail. It pays its expenses from its own revenues. And unlike most Federal agencies, its costs are driven by a factor beyond its control—mail volume.

Because it breaks even, it really does not contribute to or affect the Federal deficit over time. In fact, keeping the Service on budget significantly distorts Federal deficit figures because of the way the large Postal Capital Improvement Program is presented, and because the Postal Service uses accrual accounting while the Government is on a cash basis. In the Federal budget, postal capital improvements are included as budget authority when commitments are made and as outlays when cash payments are disbursed. This treatment inflates the deficit because it suggests that postage should have been collected to cover all the cash payments as post offices, for example, are built. This accounting treatment ignores the fact that as capital assets are acquired the Postal Reorganization Act makes provision for the expense to be recognized through depreciation charges and for the assets to be paid for by postage collected over their useful lives. In effect, the Federal budget treats the standard businesslike financing of postal capital projects as if it were deficit spending.

There are those who have argued that moving the Postal Service off-budget will remove it from congressional oversight. But this is not the case. The question of whether or not the Postal Service should be off-budget, that is, whether its income and expenditures should be counted in determining the Federal deficit, is not the same as the question of whether or not it should be an accountable Government agency subject to aggressive congressional oversight.

For 12 years, fiscal years 1974 through 1985, it was off-budget. During those years the Congress amended the Postal Reorganization Act 33 times; there were more than 400 congressional hearings on postal related issues; 903 bills dealing with postal issues were introduced in the House alone; and Congress' investigating arm, the General Accounting Office, issued 225 reports on postal matters. All this occurred while the Postal Service was off-budget. The argument that budget treatment and accountability are related is an empty one.

The real issue is whether decisions on postal policy, postal financing, and postal operations should be driven by political agreements aimed at reducing the Federal deficit. As long as the Postal Service is on budget there are two ways it can be used as an instrument for deficit reduction. First, it can be required to increase revenues, that is, raise postal rates. Second, it can be required to decrease expenditures, that is, reduce costs by cutting services or canceling or deferring capital investment.

The authors of the 1970 Reorganization Act believed it was in the best interests of the post office, its employees and customers, and the Nation as a whole to have an independent Postal Service. Today, that independence is seriously threatened.

We must insulate the Postal Service from political pressures, including those resulting from the ongoing battles over the Federal deficit. Returning the Service to an off-budget status is a step in the right direction. I invite my colleagues to join me in sponsoring this important legislation.

DECERTIFICATION OF DRUG TRAFFICKING COUNTRIES

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Florida. Mr. Speaker, today I am introducing resolutions disapproving the President's certification that the Bahamas, Mexico, Bolivia, Peru, and Paraguay have "fully cooperated" with the United States in antinarcotics efforts.

As chairman of the House Foreign Affairs Committee's Task Force on International Narcotics Control, I cannot in good conscience accept the assertion that these countries deserve certification.

To assist my colleagues on this issue, I am including at the end of my remarks point papers explaining the certification procedure itself and why these disapproval resolutions deserve the approval of the House.

PROCEDURES FOR DECERTIFICATION OF DRUG COUNTRIES

On March 1 of each year, the President must certify that major drug producing and transit nations have "fully cooperated" with the United States. Standards for "full cooperation" are outlined in the law. Until March 1, and during the period of Congressional review, 50% of U.S. bilateral aid must be withheld from these countries. This year, of the 24 "major" countries, all were certified as having "fully cooperated" except Lebanon, Laos, and Paraguay, which were certified on "national interests" grounds, and Afghanistan, Syria, and Iran, which were de-certified.

There are two certifications for each major drug producing and drug transit nation: one under section 481(h) of the Foreign Assistance Act, relating to bilateral and multilateral aid, and a second under section 802(b) of the Trade Act, relating to trade.

The Congress has 45 days of continuous session to pass a joint resolution of disapproval disagreeing with the President's aid certifications under section 481(h). (Estimated deadline: May 13, assuming Senate is out both the weeks of March 7 and the first week of April). The Congress has 30 days of continuous session to pass a joint resolution of disapproval disagreeing with the President's trade certifications (Estimated deadline: April 19).

Should the resolutions be passed by both Houses and signed by the President, the impact is as follows:

Bilateral aid: the 50% of bilateral aid which was withheld is cut-off (exceptions: anti-narcotics aid, food and medicine, refugee aid, Inter-American Foundation programs, disaster relief, and Child Survival funds).

Multilateral aid: U.S. representatives to the multilateral banks must vote against aid to de-certified countries (Note: the U.S. does not have enough voting weight, by itself, to deny loans to a country).

Trade: The President is supposed to choose from a "menu" of five trade-related sanctions: 1) denial of any or all products receiving tariff treatment under the GSP, the CBI, or any other law providing perferential tariff treatment, 2) 50% increase in duty on any or all dutiable products, 3) 50% increase in duty-free products, 4) abrogation of bilateral airline agreements, 5) shutdown of U.S. Customs pre-clearance operations (only the Bahamas is affected by this).

If the Congress passes resolutions of disapproval for aid, the President may (a) sign them, (b) veto them, or (c) resubmit them on "national interest" grounds instead of "full cooperation", which the Congress must then approve. In the case of resolutions of disapproval on trade, the President may (a) sign them, (b) veto them, or (c) resubmit them on "national interest" grounds, which takes effect unless the Congress disapproves them.

THE BAHAMAS

The Bahamas is not a producer nation, but is a major transit point for at least half of the cocaine and marijuana entering the United States, according to DEA. It also has strict bank secrecy laws which encourage drug money-laundering. While the Bahamians have cooperated with us in interdiction efforts by allowing the United States "hot pursuit" rights, and have increased the number of drug seizures in 1987, massive corruption in the government has precluded meaningful anti-narcotics efforts. According to a State Department report submitted in January, 1988, there is

"An absence of a serious commitment by the Bahamian government to fight corruption. A police unit to investigate allegations of corruption among law enforcement officers was formed but reportedly has done nothing. There have been reports in the Bahamian news media that the Senior Deputy Commissioner of Police, who would normally succeed the outgoing Commissioner, is being forced to retire because he is honest . . . the poor performance of the Bahamian judicial system in dealing with drug offenders provides a low-risk environment for drug smugglers. The Bahamian government's complacency over corruption continues to undermine the optimal effectiveness of joint interdiction efforts."

The March 1 State Department report accompanying the President's certification contains the following assessments:

"PLP (the ruling party) leaders last year re-nominated George Smith and Kendal Nottage for parliamentary seats. Both won their seats and both were identified in the 1984 Commission of Inquiry Report—Nottage for fronting for an organized crime figure/drug smuggler and Smith for narcotics-related corruption. In August 1987, Nottage was appointed by the GCOB as Chairman of the Bahamas Broadcasting Corportion . . .

"To date, the GCOB has not vigorously enforced the new narcotics legislation enacted in January 1987. No court proceedings to seize or forfeit assets gained through narcotics trafficing have been undertaken during 1987 . . . the lack of meaningful enforcement of current statutes raises questions about actual impact of any new laws. The government has yet to demonstrate the necessary will to go after assets of those known to owe their wealth to drugs . . . Extradition proceedings against major trafficer Nigel Bowe are progressing slowly (NOTE: Bowe, a personal friend of the Prime Minister, was indicted in Florida in 1985 on drug charges)

Information supplied to the Task Force by the Government of the Bahamas also indicates a poor record on prosecutions of major smugglers. Here are just a few examples:

January 26, 1987: Four smugglers caught with 3,237 pounds of marijuana: on March 10, 1987 were fined $50,000 or four years in prison

March 9, 1987: Four smugglers caught with 12,650 pounds of marijuana: bail granted at $50,000 each (two jumped bail)

April 1, 1987: two Colombians caught with 1,158 pounds of cocaine: acquitted for insufficient evidence

April 8, 1987: two smugglers caught with 448 pounds cocaine: deported

April 17, 1987: At least two of five smugglers caught with 891 pounds of cocaine granted bail of $300

May 3, 1987: two smugglers with 702 pounds of marijuana acquitted (although boat was kept by Government)

July 11, 1987: two smugglers with 732 pounds of cocaine fined $10,000 and three years in prison

BOLIVIA

Bolivia is the second largest producer of coca leaf in the world, with more than 40,000 hectares (100,000 acres) of coca under production. Despite much talk of Bolivia's courageous stand in allowing the presence of U.S. military forces during "Operation Blast Furance" in 1986, the fact remains that it is not even illegal to grow coca in Bolivia. Despite repeated promises by successive governments to outlaw non-traditional coca growing (80% of the crop), the necessary laws have never been enacted.

A "voluntary" program of eradication (which the U.S. is funding) eradicated 1,000 hectares of coca in 1987—an improvement over the 200 hectares eradicated in 1986, but still only 2.5% of total production, since coca production between 1985 and 1987 increased by 10%. Nor does it meet the 2,000 hectares a year target we were promised by Bolivia in 1983 (never achieved). Meanwhile, U.S. aid has almost doubled—in fiscal year 1985 in was $44 million, while in fiscal year 1987 it was $80 million.

Seizures of coca paste (a primitive form of cocaine) were likewise unimpressive. Although the State Department estimates that 200 metric tons of coca paste was produced for export by Bolivia, Bolivian authorities managed to seize only five metric tons and to destroy only 22 cocaine laboratories.

As for prosecutions, according to the State Department Bolivian narcotics control programs are hampered by "an unwillingness or inability to enforce narcotics laws". To the best of our knowledge, no major trafficker has ever been successfully prosecuted in Bolivia. Like many other Latin American nations, Bolivia also refuses to extradite its citizens to the United States for prosecution. Corruption is endemic; according to a former U.S. military adviser to the Bolivian anti-narcotics unit, it completely undermined U.S. efforts to stop illicit drug production and trafficking.

Sanctions have proven effective in the past in spurring Bolivia to greater action: in 1986, when Congressionally-imposed sanctions were looming on Bolivia, authorities permitted "Operation Blast Furance". In 1987, when Congressionally-imposed sanctions were again on the horizon, Bolivia began its first serious eradication campaign. Humanitarian funds, food assistance, anti-narcotics aid, and Child Survival Funds are exempted from the sanctions imposed by this resolution of disapproval.

MEXICO

Mexico is the number one source of heroin and marijuana to the United States, and at least one-third of the cocaine entering the U.S. transits Mexico.

In the opinion of the U.S. Customs Service, "The single most important factor which undermines effective and meaningful narcotics cooperation with Mexico is the level of official corruption within the Mexican government. Documented violations by Mexican law enforcement officials are becoming more prevalent . . . Information gathered to date indicates significant levels of narcotics corruption on the part of Mexican officials."

Although U.S. anti-narcotics funds to Mexico doubled between FY 84 and FY 87, opium production increased by at least 30% and eradication decreased by one-third, and marijuana production and eradication levels remain at 1984 levels. Of more than 75 tons of opium produced in 1987, Mexican authorities managed to seize no opium, and less than 100 kilos of heroin, and to find only four heroin labs. The U.S.-funded air fleet operated only 65% of the time, and specialized, more efficient planes had to be withdrawn because the Mexicans refused to use them. Mexico has also refused to grant the United States "hot pursuit" rights, or to allow joint crews on surveillance missions which would overfly both countries.

The GAO faulted the Mexicans for providing unreliable and inadequate information on the narcotics crop cultivation base, and found that the U.S.-funded program suffers from poor management, a shortage of personnel, and a lack of agreement on basic goals and standards.

As for money-laundering, according to the State Department's own report, "money laundering of narcotics profits through investment in legitimate businesses is extensive." However, no data is available on the extent of money-laundering because "Mexican banks, all but two of which are nationalized, do not provide information to the U.S. on their activities."

Hundreds of drug traffickers who are fugitives from U.S. indictments live in Mexico, which refuses to either extradite them to the U.S. or prosecute them domestically. Although a number of major violators were arrested during 1987, none have been convicted—the last major trafficker convicted was more than a decade ago. The U.S. Commissioner of Customs has stated that "powerful Mexican officials are providing safe havens to drug traffickers and making it possible for narcotics to be smuggled into and out of Mexico with impunity."

Perhaps most frustrating is that more than three years after the torture-murder of DEA special agent Camarena, and almost two years after the torture of DEA special agent Victor Cortez—both at the hands of Mexican law enforcement officials—there have been no convictions in either case.

President Reagan himself clearly had misgivings about providing a "full cooperation" certification for Mexico, since he found it necessary to attach a special "justification" for fully certifying Mexico. In that justification, he noted that "Mexico has the capability for far greater achievement in narcotics control . . . Mexico's effort has not kept pace with the increased flow of drugs, and is below the level of efficiency and effect of which it is capable."

PARAGUAY

Paraguay is now both a major marijuana producer (3,000 metric tons per year) and a major transit point for cocaine (according to the State Department, more than a ton of cocaine passes through Paraguay each year). In addition, State believes that Paraguay is a "significant money-laundering location for narcotics traffickers due to lax government controls". Foreign narcotics money reportedly is being used to purchase land and property in Paraguay. Further, Paraguayan laws do not permit asset seizure, conspiracy, control of precursor chemicals, undercover operations, electronic surveillance, and plea bargaining, while Paraguayan sentences for drug trafficking are among the most lenient in the world. Enforcement of the law—such as it is—impossible for Paraguayan police in the Chaco region, where cocaine laboratories are strongly suspected, since Paraguayan military authorities control that area.

Most significant, however, is involvement by Paraguayan officials in narcotics trafficking activities. For detailed information, Members are urged to consult the classified transcript of the Committee's hearing on Paraguary in October, 1987. However, the State Department's own report suggests a link between recent cocaine seizures in other countries and Paraguayan officials.

The State Department recognized the weak basis for certifying Paraguay on "full cooperation" grounds, and instead granted Paraguay a "national interest" certification. The "vital national interest" cited is, ironically, the narcotics issue itself. The waiver was granted "to determine more precisely the scope of the problem and the willingness of Paraguay's officials to cooperate with DEA on drug investigations. It is noted that Paraguay has given drug intelligence to U.S. officials", according to the certification.

Experience suggests that the officials—most notably, General Noriega—have also been "willing to cooperate with DEA" and have "given us drug intelligence" while playing us for suckers. Sufficient evidence exists of Paraguayan complicity in the drug trade to merit full decertification. Paraguay receives virtually no direct aid from the United States other than a recent $200,000 anti-narcotics grant.

PERU

Peru is the world's largest producer of coca leaf, with more than 110,000 hectares (250,000 acres) under production by the State Department's "conservative" estimate. This is almost double the amount estimated to have been produced in 1984 (60,000 hectares). Meanwhile, Peru's eradication effort—the first and initially one of the most successful—has dropped from 4,830 hectares eradicated in 1985 to virtually no eradication (only 355 hectares in 1987).

Seizures likewise were negligible—400 metric tons of coca leaf out of almost 110,000 metric tons produced, and only .03 tons of cocaine out of 15 metric tons produced.

No major traffickers have been successfully prosecuted in Peru, despite this massive industry.

Concerned Members of Congress have long been sympathetic to Peru, first because of its impressive efforts in the mid-1980's, and then because of the fierce insurgency campaign it has been battling from the Sendero Luminoso and the Tupac Amaru. However, the virtual halt of meaningful anti-narcotics actions, combined with persistent corruption, has led to questions about the commitment of the Government to effectively address coca production and trafficking through Peru.

Peru is scheduled to receive some $42 million in fiscal year 1988; of this amount, food aid, humanitarian assistance, Child Survival Funds, and anti-narcotics aid would be unaffected.

TRIBUTE TO DONALD L. HOUSTON

The **SPEAKER** pro tempore. Under a previous order of the House the gentleman from Texas [Mr. DE LA GARZA] is recognized for 60 minutes.

Mr. DE LA GARZA. Mr. Speaker, I rise to address the Members of the House today to recognize the tragic loss of a distinguished civil servant and to pay tribute to his memory.

On February 19, 1988, Donald L. Houston, a 27-year veteran of the U.S. Department of Agriculture and an outstanding agricultural leader died of cancer. His dedication to the Department of Agriculture, to the men and women with whom he worked, and most of all, to the public who he served was exemplary.

□ 1400

Dr. Houston's abilities as an administrator of the Food Safety and Inspection Service and most recently, as Administrator of the Animal and Plant

Health Inspection Service were well-recognized in both the Department and the Halls of Congress. A distinguished scientist and manager, Dr. Houston's skills will be sorely missed.

Dr. Houston joined USDA in 1961 as a veterinary meat inspector in East St. Louis, IL. After moving to Washington, DC in 1965, which is the year I came to Congress and first met Dr. Houston, he served in various positions in the Meat and Poultry Inspection Program. Dr. Houston's knowledge, dedication, and leadership capabilities led to his advancement in the Food Safety and Quality Service and ultimately, to his appointment as the agency's administrator in 1979. Under his leadership, the Service—now known as the Food Safety and Inspection Service—dealt effectively with a variety of pressures and problems, ranging from dramatic reductions in agency budgets to controversial changes in inspection procedures. Throughout it all, Dr. Houston illustrated a capability to take the issues head on, to innovate and make changes in programs when needed, and to ensure that the employees of FSIS were provided with the skills and the confidence needed to effectively perform their duties.

In 1987, Dr. Houston was asked to accept a new role as Administrator of the Animal and Plant Health Inspection Service. Although Dr. Houston's tenure as the Administrator of APHIS was short, his influence has already been felt in many positive ways.

Fortunately, Dr. Houston's dedication and service did not go unnoticed during his tenure at USDA. Dr. Houston was the recipient of many awards and honors at the Department and was recognized by both Presidents Carter and Reagan for his capabilities and achievements.

Mr. Speaker, all Americans owe a debt of gratitude to Dr. Donald Houston, although most will never know it. As Administrator of the Food Safety and Inspection Service, Dr. Houston was entrusted with protecting the health and safety of the agricultural products on which we all depend. And during his watch as head of FSIS, the public's safety was never more secure.

We on the Committee on Agriculture will miss Dr. Houston for his honesty, his integrity, and his knowledge and dedication. My sincere condolences go to his family and friends. We all share in your loss. God bless Don Houston, and may we have more throughout the Government of the United States who will follow in his footsteps.

Mr. Speaker, I yield at this point to my distinguished colleague from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I thank my chairman for yielding.

Mr. Speaker, I rise to pay tribute to Dr. Donald L. Houston, a distinguished Federal executive who died of cancer on February 19. He will be sorely missed and long remembered.

Dr. Houston was the consummate public servant during his 27 years with the U.S. Department of Agriculture. He worked harder and cared more deeply than most in the public or private sector.

For much of the past 8 years, Dr. Houston managed the vast, complex agency that protects America's meat and poultry. It was an important job, but Dr. Houston was anything but self-important. He was an unassuming man who attributed successes to his staff and failures to himself.

Though he never sought the limelight, his highly visible position often thrust him there. Each time he was articulate, forthright, and effective.

A man of Dr. Houston's stature and strength does not go unnoticed. He received many honors in his lifetime, including, in 1984, the top Presidential award for career Federal executives.

We in the Halls of Congress remember Dr. Houston as a keenly intelligent scientist and administrator. His colleagues and employees remember a gifted leader. To all of us, he was a wise and gentle man who left us far too soon.

Dr. Houston joined the Agriculture Department in 1961 as a veterinary meat inspector in East St. Louis, IL, his home town. He moved to Washington, DC, in 1965 to serve the first in a series of staff positions with the meat and poultry inspection program. In 1979 he became Administrator of the Food Safety and Quality Service, the predecessor agency to the Food Safety and Inspection Service. He held that position until last October, when he was appointed Administrator of the Animal and Plant Health Inspection Service.

I had the good fortune of coming to know Dr. Houston these past several years—first as a public official, then as a friend. From the beginning, his legislative efforts had a clarity and cohesiveness typical of his work. Dr. Houston knew what he wanted and how to get it, and, more often than not, he succeeded.

As the chief meat and poultry inspection official, Dr. Houston was committed to providing the American public with an efficient, effective food protection program that took advantage of scientific and technological advances. It was a difficult job, fraught daily with the pressures of controversy and budgetary constraints. Nevertheless, Dr. Houston was able to implement several new inspection systems that met his goals. And, recognizing that people, not systems, ran the agency, he provided the training and encouragement his employees needed to meet the demands of a changing agency and a changing world.

Dr. Houston was never one to avoid change. In fact, he thrived on it. He had an uncanny ability to anticipate and plan for the future, and uncanny success in communicating his ideas to the work force. Even at the pinnacle of his career, he never ceased to look for ways to improve his own performance and that of the employees and programs he oversaw.

Dr. Houston began his tenure at the Animal and Plant Health Inspection Service with the same drive and the same dream. In his few short months there, I am told he mobilized the agency to a point where important changes were imminent. We can only guess at the mark he could have made.

Dr. Houston was one of the most respected and highly acclaimed career officials in the Federal Government. Along with the Distinguished Executive Rank Award conferred by President Reagan, he also received the Meritorious Executive Rank Award from President Carter in 1980. In 1982, he won the Agriculture Department's highest service award, the Distinguished Service Honor Award. And every year since 1981, he was honored with a Senior Executive Service Performance Award.

Dr. Houston also was recognized several times for his efforts to expand career opportunities for women and other minorities in the Food Safety and Inspection Service.

Whether you agreed or disagreed with Dr. Houston, you had to respect him. He knew his facts, yet he also grasped the big picture. He took the time to listen, and he asked the right questions. But most important, he had integrity—a trait which he sought and admired in those he worked with as well.

I marvel still at how this career official, with no partisan political ties, could move so easily in political circles and know so much of the way of Washington. Year after year, as other Federal agencies saw their budgets fall away, Dr. Houston's budget stood firm—a tribute to the man at least as much as his mission.

Dr. Houston was loyal to his employees, and they responded in kind. Since his untimely death, I have heard repeatedly how his work inspired their own. Perhaps it would surprise this reserved—sometimes shy—man, how many considered him a mentor and friend.

I miss my friend. His death represents a great personal loss to so many, and it leaves a permanent void in our Government and our Nation.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman from Texas [Mr. STENHOLM].

Mr. Speaker, I yield to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I thank my friend and my colleague and my chairman for yielding.

Mr. Speaker, it is with great sadness that I join my colleagues and the many friends of Dr. Don Houston in paying a real tribute to a good friend and outstanding public servant and a loving father and husband.

Our Secretary of Agriculture, Dick Lyng, put it best when he said Don's untimely death was a tragic loss to the Department and to our Nation. He was one of the most dedicated and professionally superior executives in our Federal Service.

Mr. Speaker, let me repeat that: dedication and professionally superior.

Mr. Speaker, my colleagues have pointed out and my other colleagues will point out in the various extensions of remarks, and Don's résumé of public service will also point out and highlight his many achievements from a veterinarian meat inspector back when he joined the Department back in 1961 to Administrator of the Department's Animal and Plant Health Inspection Service. He achieved these leadership roles the old-fashioned way. He earned them. And it was with rare management skill both as a scientist and a manager, indeed a unique and most helpful combination, but the thing I want to stress is the contribution he made to all of my farmers and ranchers and those of us who are privileged to represent our rural areas. And, yes, consumers, too.

Mr. Speaker, the folks who work in our many Federal agencies seldom receive the credit that they are due, and in this case, as my colleague from Texas has pointed out, credit is certainly due and probably overdue. He was indeed a man for all bipartisan seasons in terms of achievement through receiving the Meritorious Executive Award from President Carter and Distinguished Service Award from President Reagan.

I would be remiss, Mr. Speaker, if I did not also mention the fact of how much this man is and will be missed by his coworkers. Under Dr. Houston a generation of experts have achieved much and will achieve much more on behalf of all Americans. That truly is his living legacy. They will miss him as a friend, a leader, a mentor and a coworker. We in the Congress will as well.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman from Kansas [Mr. ROBERTS].

Mr. MADIGAN. Mr. Speaker, it was with great sadness that those of us in the Congress who knew Dr. Donald L. Houston, U.S. Department of Agriculture's Animal and Plant Health Inspection Service [APHIS], learned in late February of his untimely passing.

The Committee on Agriculture and all of its Members worked closely with Dr. Houston during his tenure as Administrator of the Department's Food Safety and Inspection Service from 1979 to 1987. Many of us expressed our congratulations to him in 1987 when he was named the Administrator of APHIS, a position he held until his untimely death.

A veterinarian, Dr. Houston, joined the U.S. Department of Agriculture in 1961 as a veterinary meat inspector and served in a variety of increasingly responsible positions with the Department. Dr. Houston was recognized numerous times for his work and his leadership in the Department. He received the Meritorious Executive Award from President Carter in 1980 and was awarded the Distinguished Executive Award by President Reagan in 1984. From 1981 to 1987, he also received the Agriculture Department's Senior Executive Service Performance Awards. Dr. Houston was a member of the American Veterinary Medicine Association and the Federal Veterinarians.

Dr. Houston was respected and well-liked not only by his peers in the veterinarian community and in the Federal executive, but also here on Capitol Hill where he testified before numerous committees on both the House and Senate sides. His expertise, his helpfulness, and his enthusiasm for his work and our legislative endeavors will be sorely missed in the Congress.

I wish to extend our heartfelt condolences to Dr. Houston's widow and son who reside in nearby Arlington, VA.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order today, Dr. Don Houston.

The SPEAKER pro tempore (Mr. PENNY). Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1415

MORE GREEN TEA AND DIRTY TRICKS

The SPEAKER pro tempore (Mr. PENNY). Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLY. Mr. Speaker, in recent weeks I have been reading some chapters, some of the words from the book "The Japanese Conspiracy" called "The Plot to Dominate Industry Worldwide and How to Deal With It." The book is by an American author, Marvin J. Wolf, who lives in Los Angeles.

Mr. Wolf in this book depicts in great detail how the Government of Japan, together with the Japanese industries, all conspired to go after certain United States industries, to dominate them and to destroy them and then to take them over.

Now, in the last session, I discussed and related the television industry, the electronics industry, and how these three groups, the Okura Group, the Palace Group and the Tenth Day Group all got together and how they conspired and set prices and determined what television sets would come to the United States and under what conditions, et cetera. This is in a chapter called "Green Tea and Dirty Tricks." The reason for that title is that, of course, as Mr. Wolf points out so well, that a great deal of green tea is consumed while the leaders in industry over there and the Government sit around and decide who they are going after and how they are going after them.

It pointed out in the last segment that one of the ways they did this, one of the ways they got their television sets into the United States so much cheaper, is that they falsified the records, the bills that came in through the U.S. Customs Service, so that we were not aware of the full cost of the item, but we were sent in phony bills.

Now, I am picking up what I call section 4 of that chapter concerning television sets. The reason again I want to point out, Mr. Speaker, is that this book is not available in the United States. I had to buy it overseas. I had to buy it in England. I understand it is also available in Japan. Mr. Wolf does not receive any royalties from it in Japan. He does from the copies that are sold in England. We are hoping that we can get it published here because I think the American people need to know what is happening to their industries. It is not that our industries do not know how to do things. It is not that our labor is not productive. It is a combination of an international conspiracy against our industry.

Picking up on section 4, chapter 2, Mr. Wolf says:

> In trying to determine the actual value of the millions of dumped sets, U.S. investigators spent several years exploring a labyrinth of blind alleys, hobbled by the uncooperative Japanese as their guides. The U.S. Customs Service had finally found the Japanese guilty of dumping. In an internal memo they stated: "The U.S. Customs Service has at present in its possession documented evidence that Japanese producers of television receivers in concert with certain U.S. purchasers, have engaged in double-invoicing to circumvent the provisions of the U.S. anti-dumping statutes." In setting the fine, the investigators gave up trying to determine the fair market value price of each dumped set, and, with misgivings, accepted the check price—

And that is the low price that these groups had agreed upon on exporting their products—

> which at a conservative estimate represented about half the actual cost of manufacture and export, as their benchmark. Using that as a basis for calculating the extent of the damage, customs officials assessed an $800 million duty on the Japanese companies, covering all color TV dumping from 1964 through 1979.
>
> It was an admirable attempt at restitution, but it was not a practical fine in a world in which the Japanese have economi-

> cally intimidated major nations. In 1980, officials in the Commerce Department, of this country, which had inherited the case from Treasury during the Carter Administration, reduced these duties to a mere $67 million, plus an $11 million fine. The relatively small settlement has been challenged by both American and Japanese TV manufacturers, and will likely drag on in the U.S. courts for years, though it seems the U.S. is apparently bound to uphold the $67 million sum.

Now, I want to point out here that this book was published in 1984. It was written in 1983, published in 1984, so some of the events might have already been completed.

Mr. Wolf points out further:

> There are American participants as well in this economic tragedy—

And that is a very apt description of what happened here—

> companies whose greed made them willing collaborators in this grandiose, and successful, scheme. In March 1979, Alexander's, Inc., the department store chain, pleaded guilty in New York City to U.S. Customs fraud, the first conviction of a U.S. importer in the Japanese dumping scandal. According to David W. O'Connor, the federal prosecutor, Alexander's received 13 shipments of about 2,000 TV sets each, which were marketed under Alexander's private brand name. All were manufactured in Japan by General Corp., which according to court documents secretly rebated $25 of the declared $72 wholesale price on each set.
>
> The major American perpetrator allegedly was Sears, Roebuck, which the U.S. government is currently prosecuting. On February 26, 1980, a federal grand jury indicted Sears for conspiracy and 12 counts of customs fraud in filing false documents on TV sets Sears bought from Sanyo and Toshiba. "The case first came to court to June 1980," explains U.S. government attorney Herb Hoffman, who prepared the case against Sears in Los Angeles. "Sears's pretrial motions to dismiss the indictment were denied in October of 1980, and Sears appealed these rulings to the Ninth Circuit, which stayed the case until March of 1981, when the government's case was argued. In May, the Ninth Circuit upheld the ruling, and the case was scheduled to be tried in June of 1981. In the meantime, because the first judge had removed himself from the case without stating a reason, a new judge was appointed. On the first day of trial, Sears renewed the same motions they had earlier made. The new judge granted a motion to dismiss the indictment.
>
> "This case has been pending since June 1981, over two years in a pretrial case," Hoffman explains. "It is going to be very difficult to put this together for the trial, three years after we indicted, over ten years after all this occurred."

Of course, that is part of the process is trying to delay and delay.

Continuing the quote:

> "The witnesses are going to claim lack of recollection—it's going to be difficult. There are old witnesses, some with health problems, and that sort of thing. Delay always works in favor of the defendant because the burden of proof is on the government. We're waiting to see what the Ninth Circuit does, and we sent them a letter that any further delay puts our case in jeopardy. But my intention is to go forward with it. I feel that strongly about it. I'm not going to drop it. I'm going to give it my best shot."
>
> Hoffman's persistence may soon be rewarded. In September 1983, the Ninth U.S. Court of Appeals reinstated the criminal charges against Sears, Roebuck, which, the government claims, concealed rebates from Japanese manufacturers from June 1968 to August 1972, and also filed 12 falsified customs declarations between December 1974 and July 1975.
>
> But in the final analysis, the Big Six conspirators of the Tenth Day Group have had their way. Amortised over the 15 years that the Japanese firms dumped sets in America, the $78-million fine, which they have yet to pay in full, amounts to much less per company than the kickbacks Sanyo gave to Sears through their Swiss bank in only one year. For a petty cash expenditure, and the ingestion of considerable amounts of tea, Japan had taken another major American industry.
>
> The television conspiracy was an elaborate case of destroying the enemy by dumping. Japan does not have an exclusive franchise on dumping, but it is clearly the one country in the capitalist world that does it systematically. "You want to know about Japanese dumping?" asks Stuart Chemtob, an attorney in the Foreign Commerce Section of the U.S. Justice Department. "Here's a partial list of Japanese commodities or products which have antidumping findings and orders in effect." He began to read:
>
> "Spun acrylic yarn; birch 3-ply doorskins; melamine in crystal form; ferrite cores (type used in consumer electronic products); television receiving sets; roller chain; portable electric typewriters; carbon steel plate; fish netting; large power transformers; pipe and tubing. . . ."

And the list goes on and on and on. These are industries, and I want again to point out to the American public, these are industries which were targeted by the Government of Japan, MITI, together with their industries, to put them out of business in the United States, to stop this manufacturing in our own country and to put our people out of work in this way.

Mr. Wolf goes on to point out:

> The full list is current through only October, 1982, but it itemizes 28 separate incidents of Japanese dumping. In the dumping of steel, an activity that has made depression towns of several once-thriving American communities, the Japanese trading firm Mitsui is a leading culprit. On July 21, 1982, "Mitsui pleaded guilty to 21 counts, 20 of them substantive, and one count of conspiracy," explains Herb Hoffman, who pressed the government case. Mitsui, federal investigators agree, was only the latest "big" offender; Japanese steel dumping had been going on for a long time before Herb Hoffman caught up with Mitsui. On Stuart Chemtob's list of 28 confirmed dumping incidents, there are five other steel product dumping orders in effect, and undoubtedly many more have escaped prosecution.

Mr. Speaker, I know a little bit about steel dumping and what it has done to our country, because I have a large steel mill in my district, the Bethlehem Steel Sparrow's Point plant, and I have seen that plant drop from employing 35,000 people down to 8,000 people in these past 25 years. That means that more than two-thirds of these people and of the work at that place has been cut down, has been cut out.

One of the things that too much of our public does not realize, Mr. Speaker, is that we say, "Well, you know, let them import these items. We don't need these heavy industries in this country."

Well, I say we need it not only for national security, not only for these jobs, but we also need it because there are so many retirees from these basic industries. For instance, in Bethlehem's case where we have 8,000 working in the steel mills today, we have 17,000 living in Maryland who are retirees of Bethlehem Steel. Just think what will happen to all those families, nearly 30,000 families, if a company like Bethlehem Steel is forced out of business because of illegal practices of other countries.

□ 1430

Let me go on now with what Mr. Wolf has to say in "The Japanese Conspiracy":

> Japan began a systematic program of dumping steel in the U.S. in the early 1970s. The goal was the same as that of Japan's TV manufacturers: to drive American competition out of business by selling their steel cheaper than U.S. makers could afford to price theirs. In 1971 Japanese steel imports into the U.S. reached 18.3 million tons, all of it at the expense of U.S. steelmakers. When they complained to the federal government, the Japanese agreed to a "voluntary" curtailment of steel imports. A Trigger Price Mechanism (TPM), a list of minimum prices for imported steel, was established by U.S. authorities. Once again the federal regulation was a challenge to the ingenious Japanese, who found ways to circumvent it.
>
> In Detroit, in 1973, a customs inspector intercepted a shipment of steel coil valued at $1 million that had supposedly been produced in Canada. When the inspector examined a few coils, he noticed that the stenciled weight on each coil was marked in kilograms. It was obvious that the claim was false: Canada, like the U.S., uses pounds to measure such products, while Japan uses kilos.
>
> About the same time, other customs inspectors reported that shipments of steel entering the country from both Canada and Mexico had been marked with Japanese lettering. Through a London broker, a New York importer purchased flat-rolled steel sheets ostensibly made in Taiwan; but at the time, Taiwan had no rolling mills. "It reminds me of the story about the woman who found a fish in her milk," a Bethlehem Steel executive angrily commented. "She couldn't prove anyone had watered the milk, but then how else would the fish have gotten there?"
>
> This infraction took place in 1973, when the U.S. steel industry was still comparatively strong. Today it is a rusting hulk. Dozens of steel mills and blast furnaces have been torn down and 300,000 American steelworkers are unemployed. Even with its reduced capacity, the U.S. industry is operating at only a 60 percent level.
>
> Mitsui, whose 1981 total worldwide sales were $45 billion, began their illegal cam-

paign to evade the trigger price sometime late in 1977. Their strategy was simple: They listed the steel's price on customs declarations at just above the TPM, then arranged under-the-table kickbacks to their U.S. buyers, the same technique used in the television conspiracy. As a major Japanese trading company which sells a variety of products, Mitsui does not manufacture steel, yet it handles some 40 percent of all Japanese steel sold in the U.S. "Mitsui has ten offices in the U.S. and each has a steel department with between two and seven people working in it," Hoffman points out.

Mr. Hoffman being the Federal attorney.

Mr. Wolf notes that—

Dumping is an effective technique for a nation like Japan which is unencumbered by Western notions of business morality. Cases are hard to prove because most of the documents needed are buried in the files of the domestic buyers, who are not anxious to admit they have benefited from unscrupulous Japanese tactics. But after Hoffman started his investigation in 1980, he learned how to make these vital pieces of paper appear almost magically.

"I brought officials or employees of Mitsui's customer companies before grand juries, or I sent customs agents to their offices on informal visits to question them," Hoffman reveals. "This became an embarrassment for Mitsui. After a customer has been before a grand jury or has a couple of agents drop over and question him about Mitsui's pricing, they tend to avoid buying from Mitsui."

Using promises of immunity from prosecution, Hoffman's investigators built a case against Mitsui; the evidence was the testimony and files of companies that had received kickbacks. Faced with this evidence, Mitsui pleaded guilty to 20 counts of filing fictitious invoices and one count of conspiracy. The criminal penalty was $210,000 or $10,000 per count, the maximum the law allows. But Mitsui also agreed to $11 million in dumping penalties, the heaviest fines levied in the 194 year history of the U.S. Customs Service.

A few months later, Hoffman's office struck again, this time against Marubeni, another large Japanese trading company. "Marubeni was the company that actually paid the $2 million in bribes to [former Japanese Prime Minister Kakuei] Tanaka in the Lockheed case," remembers Hoffman. Marubeni had also been convicted a few years earlier in connection with the Alaska Pipeline project, when they distributed bribes to get their bids accepted. Hitachi Cable Ltd. was convicted in the same case. During that investigation, the U.S. government developed an informant inside Marubeni who told the U.S. attorney he thought Marubeni was also filing false customs invoices on steel.

"Marubeni operated a little differently than Mitsui," Hoffman continues. "National Can Company was purchasing two types of products from Marubeni, tin plate and aluminum. While tin plate was covered by TPM regulations, aluminum was not. Therefore, Marubeni fictitiously increased their prices on tin plate to get it above the TPM, and offset it by charging decreased prices on the aluminum. This went on for months until customs went in and told National Can they'd like to talk about it."

A grand jury investigation followed, and in October 1982 Marubeni and National Can agreed to negotiate. Marubeni pleaded guilty to ten counts, National Can to one. The fines were again the maximum, $10,000 per count. "Marubeni also agreed to pay $2 million in civil penalties," said Hoffman. "But even at that price, it doesn't seem to be much of a deterrent. Perhaps the law should be changed to allow some kind of suspension of all trade in cases like these."

At this point, I would like to interject that we also had a large canning manufacturing industry in my district, and most of it is gone. Most of it is gone because of activities like these from overseas, and I know this is true throughout the United States where there were other canning plants. I am interested in the comment that Mr. Hoffman had to say here that perhaps the law should be changed to allow some kind of suspension of trade in cases like this.

I would like to point out that a number of us here in the Congress have been trying to get Toshiba suspended from trading in the United States because of their sale of the milling equipment to the Russians, the milling equipment that produced the silent submarine propellers for our submarines and which we have taken a beating on. I think it is very interesting that Toshiba has spent lobbying in Washington over $60 million to prevent that from happening, and the manufacturers, the United States manufacturers who use Toshiba products, have spent another $30 million on that, and every year Japan Inc. spends $50 million lobbying in Washington.

Can you imagine what the press would have to say if one American company spent $1 million in any country in the world trying to lobby and to persuade their legislators in any way on what should happen in that country? But here nobody touches it. I have to point that out.

I am going to go on with a little bit more of this section of "Green Tea and Dirty Tricks" as Mr. Wolf prepared it.

He says that—

The Japanese, a strongly law-abiding people at home, seem unconcerned about the laws, rules, and conventions of Westerners. In August, the U.S. Commerce Department ruled that 59,000 Japanese pagers, small portable radio receivers used to call people to a telephone, were sold at unfairly low prices. The pagers, made by Matsushita and NEC, were valued at $7 million. In 1979, the Japanese firm Pioneer Electric was fined $2.9 million by the European Common Market's Court of Justice in Luxembourg for secretly establishing a protected market for its consumer electronics products in France. Pioneer's marketing arms in England and France had sought to block the imports of lower-priced competitive goods made in Germany and England. In May, 1983, after reviewing a petition from Kaiser Cement Corporation, the U.S. Commerce Department ruled that Japanese-made cement was being sold in Oakland, California at less than fair value.

We have what happened in the electric typewriter and other industries. I will discuss these on another day, but once again, I want to emphasize that the reason I have decided to bring this before the American public is that they need to know that it is not the inefficiency of our industries, it is not that our people are not productive and that we have not made the effort, it is because there has been an international conspiracy, a conspiracy of government and many major businesses to destroy the industries here.

Mr. Speaker, I yield back the balance of my time.

MEMORIAL HONORING BLACK AMERICAN REVOLUTIONARY WAR PATRIOTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, I am pleased that the House has enacted legislation approving the location on the National Mall, a memorial honoring black American Revolutionary War patriots.

Passage of Senate Joint Resolution 216 will nearly complete another chapter in a centuries old history that will not end with the dedication of this national memorial. Enactment of this legislation will be savored by many of us who have supported the memorial in its long and tortuous legislative history. But, of course, the real victory belongs to 5,000 black soldiers, sailors, and countless men, women, and children who served the Nation as civilians in the Revolutionary War. In the Black Revolutionary War Patriots Memorial we will see visualized an enduring symbol of the strength of the human spirit and the struggle for human dignity.

The memorial this legislation authorizes honors the contributions of black Americans in the War for Independence more than 200 years ago. Oppression from across the Atlantic, unfortunately, was only one of the tyrannies from which these patriots hoped to escape. Serving in integrated units, thousands of slaves won their freedom many years before emancipation. Free blacks, serving in hopes of winning the equality that was promised in an independent America, however, were to be disappointed.

Americans of every creed and color have since given their lives, both figuratively and literally, in the service of our country. In 200 years of history, we have paid a price for freedom, often during times of national emergency, more often in the daily struggle to build a future for our children. Philosophers and historians may argue our definition of freedom, but the men and women remembered in the legislation we consider today understood that equality of opportunity defines who we are as a people.

There may be no greater symbol of what marks us as a people—as a nation, than the spirit that underlies the Black War Patriots Memorial. The passion for freedom, faith in the future, and the determination to fulfill our fundamental national promise are at the heart of this memorial. And at the heart of the hard work of people like Maurice Barboza, the man who is chiefly responsible for the success of this effort, lies that same devotion to what this nation represents.

On a personal note, Mr. Speaker I should note that in my own Prince George's County there were a number of black Revolutionary War patriots. Prominent among these was Cupid Plummer, who fought for 7 years in the Revolutionary War. Mr. Plummer is the father of a prominent family whose lives are intertwined in the history of our county.

Mr. Speaker, the struggle for freedom and human dignity begun by Cupid Plummer and other black Revolutionary War patriots continues. Because of the perseverence and vision of Americans like Maurice Barboza, and others whom he gathered around him in this cause, the Black Revolutionary War Patriots Memorial and all it represents will become a reality. Mr. Speaker, the struggle for freedom and opportunity must be relentless, and I want to commend my colleagues for recognizing the historical and lasting significance of this memorial to that struggle and to our Nation.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HOYER) to revise and extend their remarks and include extraneous material:)

Mr. WYDEN, for 5 minutes, today.

Mr. HOYER, for 5 minutes, today.

(The following Members (at the request of Mr. GILMAN) to revise and extend their remarks and include extraneous material:)

Mr. DORNAN of California, for 5 minutes, today.

(The following Members (at the request of Mr. DYMALLY) to revise and extend their remarks and include extraneous material:)

Mr. MAZZOLI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DYMALLY, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

Mr. SMITH of Florida, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GILMAN) and to include extraneous matter:)

Mr. CRANE.
Mr. CLINGER.
Mr. FISH.
Mr. HASTERT.
Mr. LAGOMARSINO in two instances.
Mr. McDADE.
Mr. BEREUTER.
Mr. BLAZ.
Mr. MOORHEAD.
Mr. GALLO.
Mr. SENSENBRENNER.
Mr. RITTER.
Mr. BUNNING in two instances.
Mrs. BENTLEY.

(The following Members (at the request of Mr. DYMALLY) and to include extraneous matter:)

Mr. RICHARDSON.
Mr. LANTOS in three instances.
Mr. MAZZOLI.
Mr. HOYER.
Mr. STARK.
Mr. VENTO.
Mr. LIPINSKI.
Mr. FLORIO in two instances.
Mr. GORDON.
Mr. ASPIN.
Mr. STOKES.
Mr. DORGAN of North Dakota.

ADJOURNMENT

Mr. HOYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 p.m. and 43 minutes p.m.) the House adjourned until tomorrow, Wednesday, March 16, 1988, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3137. A letter from the Acting General Counsel, Department of Energy, transmitting notification of meetings related to the International Energy Program to be held on March 17, at the offices of the IEA, Paris, France; to the Committee on Energy and Commerce.

3138. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's proposed letter(s) of offer to Canada for defense articles and services estimated to cost $16 million (Transmittal No. 88-10), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3139. A letter from the Secretary of the Air Force, transmitting a report on waivers of minimum funding and staffing requirements for technology transfer from Federal Laboratories, pursuant to 15 U.S.C. 3710(b); to the Committee on Science, Space, and Technology.

3140. A letter from the Secretary of Health and Human Services, transmitting final report and recommendations of the Disability Advisory Council, pursuant to Public Law 99-272, section 12102(e) (100 Stat. 284); to the Committee on Ways and Means.

3141. A letter from the Assistant Secretary of the Army (Installations and Logistics), transmitting notification of the decision to convert the industrial operations at Fort Leonard Wood, MO, to contractor performance as the most cost effective method of accomplishment, pursuant to 10 U.S.C. 2304 notes, Public Law 99-190, section 8089 (99 Stat. 1216; jointly, to the Committees on Armed Services and Appropriations.

3142. A letter from the Assistant Secretary of the Army (Installations and Logistics), transmitting notification of the decision to convert the directorate of engineering and housing at Fort Leonard Wood, MO, to contractor performance as the most cost effective method of accomplishment, pursuant to 10 U.S.C. 2304 note, Public Law 99-190, section 8089 (99 Stat. 1216); jointly, to the Committees on Armed Services and Appropriations.

3143. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting the President's annual report to the Congress on the Panama Canal Treaties of 1977 for the period October 1, 1986, through September 30, 1987, pursuant to 22 U.S.C. 3871; jointly, to the Committees on Foreign Affairs, the Judiciary, Merchant Marine and Fisheries, and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 2707. A bill to amend the Disaster Relief Act of 1974 to provide for more effective assistance in response to major disasters and emergencies, and for other purposes; with an amendment (Rept. 100-517). Referred to the Committee of the Whole House on the State of the Union.

[Omitted from the Record of March 14, 1988]

DISCHARGE OF COMMITTEE

H.J. Res. 439. Pursuant to section 130i.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2159), as amended, the Committee on Foreign Affairs discharged; H.J. Res. 439 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BUSTAMANTE:

H.R. 4145. A bill to amend title 5, United States Code, to provide that the wage schedules for all prevailing rate employees be adjusted consistently in accordance with public policy; to the Committee on Post Office and Civil Service.

By Mr. CHANDLER (for himself, Mr. Swift, and Mr. Miller of Washington):

H.R. 4146. A bill to designate wilderness within Olympic National Park, Mount Rainier National Park, and North Cascades National Park complex in the State of Washington, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DAUB:

H.R. 4147. A bill to authorize and direct the Secretary of Agriculture to allow producers to extend for 1 year loans for the 1985 and 1986 crops of wheat, feed grains, and soybeans; to the Committee on Agriculture.

By Mr. DAVIS of Michigan:

H.R. 4148. A bill to designate the library building located on the Wurtsmith Air Force Base in the State of Michigan as the "General Earl T. O'Loughlin Library"; to the Committee on Armed Services.

By Mr. DioGUARDI (for himself, Mr. Donald E. Lukens, Mr. Swindall, Mr. Porter, Mr. Dornan of California, Mr. Smith of New Hampshire, and Mr. Herger):

H.R. 4149. A bill to amend the Internal Revenue Code of 1986 to require that certain Federal budget information be shown in graphic form on the first page of the instructions for Federal individual income tax returns; to the Committee on Ways and Means.

By Mr. FORD of Michigan (for himself, Mr. Taylor, Mr. Leland, Mr. Horton, Mr. McCloskey, Mr. Young of Alaska, Mr. Clay, Mrs. Schroeder, Mr. Garcia, Mr. Yatron, Ms. Oakar, Mr. Sikorski, Mr. Ackerman, Mr. Dymally, Mr. de Lugo, Mr. Gilman, Mr. Pashayan, Mrs. Morella, Mr. Lent, Mr. Solomon, Mr. Fish, Mr. Moakley, Mr. Hubbard, Mr. Murtha, Mr. Perkins, Ms. Slaughter of New York, Mr. Lewis of Georgia, Mr. Duncan, and Mr. Bates):

H.R. 4150. A bill to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service Fund, and for other purposes; jointly, to the Committees on Government Operations and Post Office and Civil Service.

By Mr. DORGAN of North Dakota:

H.R. 4151. A bill to amend the Internal Revenue Code of 1986 to permit tax-free purchases of certain fuels, including purchases by farmers; to the Committee on Ways and Means.

By Mr. FASCELL (for himself, Mr. Crockett, Mr. Fauntroy, Mr. Oberstar, Mr. Gilman, Mr. Towns, Mr. Rodino, Mr. Weiss, Mr. Pepper, Mr. Lehman of Florida, Mr. de Lugo, Mr. Dorgan of North Dakota, Mr. Garcia, Mr. Owens of New York, Mr. Levin of Michigan, Mr. Dixon, Mr. Morrison of Connecticut, Mr. Rangel, Mr. Conyers, Mr. Berman, Mr. Dymally, Mr. Yatron, Mr. Studds, Mr. Frank, Mr. Brown of California, and Mr. Fuster):

H.R. 4152. A bill to support democracy and respect for human rights in Haiti, jointly, to the Committees on Foreign Affairs; Banking, Finance and Urban Affairs; Ways and Means; and Appropriations.

By Mr. GALLO (for himself, Mr. Roe, Mr. Shuster, Mr. Boehlert, Mr. Gray of Illinois, Mr. Courter, Mr. Chapman, Mrs. Johnson of Connecticut, Mr. Upton, Mr. Saxton, and Ms. Slaughter of New York):

H.R. 4153. A bill to require the Secretary of Transportation to conduct analyses, by regions of the United States, of hazardous materials transportation incidents and the flow of hazardous materials on highways, water, and railroads; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

By Mr. MAZZOLI:

H.R. 4154. A bill to amend the Internal Revenue Code of 1986 to eliminate tax credits from the passive activity rules, to modify the business credit limitation provisions, and for other purposes; to the Committee on Ways and Means.

By Mr. MONTGOMERY (for himself, Mr. Nichols, Mr. Price of Illinois, Mr. Bennett, Mr. Stratton, Mr. Dellums, Mrs. Byron, Mr. Mavroules, Mr. Hutto, Mr. Leath of Texas, Mr. McCurdy, Mr. Dyson, Mrs. Lloyd, Mr. Ray, Mr. McCloskey, Mr. Ortiz, Mr. Robinson, Mrs. Boxer, Mr. Pickett, Mr. Dickinson, Mr. Stump, Mr. Ireland, Mr. Bateman, Mr. Martin of New York, Mr. Kyl, Mr. Blaz, and Mr. Harris):

H.R. 4155. A bill to designate the Armed Forces Recreation Center at Fort DeRussy, HI, as the "Dan Daniel Armed Forces Recreation Center"; to the Committee on Armed Services.

By Mr. MOORHEAD:

H.R. 4156. A bill to amend the act entitled "An act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes"; to the Committee on the Judiciary.

By Mr. ROE (by request):

H.R. 4157. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes; to the Committee on Science, Space and Technology.

By Mr. SHARP (for himself, Mr. Moorhead, Mr. Bryant, Mr. Dannemeyer, Mr. Gejdenson, Mr. Leland, Mr. Markey, Mr. Oxley, Mr. Richardson, Mr. Walgren, and Mr. Wyden):

H.R. 4158. A bill to amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for fluorescent lamp ballasts; to the Committee on Energy and Commerce.

[Submitted March 15, 1988]

By Mr. SMITH of Florida (for himself, Mr. Feighan, Mr. Gilman, Mr. Bilbray, Mr. Dornan of California, Mr. Hochbrueckner, Mr. Levine of California, and Mr. Lewis of Florida):

H.J. Res. 491. Joint resolution disapproving the 1988 certification by the President with respect to the Bahamas under section 481(h) of the Foreign Assistance Act of 1961; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

H.J. Res. 492. Joint resolution disapproving the 1988 certification by the President with respect to the Bahamas under section 802(b) of the Trade Act of 1974; to the Committee on Ways and Means.

H.J. Res. 493. Joint resolution disapproving the 1988 certification by the President with respect to Bolivia under section 481(h) of the Foreign Assistance Act of 1961; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

H.J. Res. 494. Joint resolution disapproving the 1988 certification by the President with respect to Bolivia under section 802(b) of the Trade Act of 1974; to the Committee on Ways and Means.

H.J. Res. 495. Joint resolution disapproving the 1988 certification by the President with respect to Paraguay under section 481(h) of the Foreign Assistance Act of 1961; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

H.J. Res. 496. Joint resolution disapproving the 1988 certification by the President with respect to Paraguay under section 802(b) of the Trade Act of 1974; to the Committee on Ways and Means.

H.J. Res. 497. Joint resolution disapproving the 1988 certification by the President with respect to Peru under section 481(h) of the Foreign Assistance Act of 1961; jointly, to the Committee on Foreign Affairs and Banking, Finance and Urban Affairs.

H.J. Res. 498. Joint resolution disapproving the 1988 certification by the President with respect to Peru under section 802(b) of the Trade Act of 1974; to the Committee on Ways and Means.

By Mr. SMITH of Florida (for himself, Mr. Feighan, Mr. Bilbray, Mr. Dornan of California, Mr. Hochbrueckner, and Mr. Lewis of Florida):

H.J. Res. 499. Joint resolution disapproving the 1988 certification by the President with respect to Mexico under section 481(h) of the Foreign Assistance Act of 1961; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

H.J. Res. 500. Joint resolution disapproving the 1988 certification by the President with respect to Mexico under section 802(b) of the Trade Act of 1974; to the Committee on Ways and Means.

By Mr. HOYER:

H.J. Res. 501. Joint resolution to designate the month of November 1988 as "National Diabetes Month"; to the Committee on Post Office and Civil Service.

By Mr. MONTGOMERY:

H.J. Res. 502. Joint resolution authorizing the Vietnam Women's Memorial Project, Inc. to establish a memorial on Federal land in the District of Columbia or its environs to honor women of the Armed Forces of the United States who served in the Republic of Vietnam during the Vietnam era; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII:

281. The SPEAKER presented a memorial of the General Assembly of the State of Colorado, relative to additional welfare requirements upon State governments; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII:

Mr. DAVIS of Michigan introduced a bill (H.R. 4159) to direct the Secretary of the Army to renew the license of the Ira D. MacLachlan Post Numbered 3, the American Legion, Sault Sainte Marie, MI, to use a certain parcel of land; which was referred to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 115: Mr. Lott and Mr. Davis of Illinois.

H.R. 190: Mr. Upton.

H.R. 578: Mr. Upton.

H.R. 807: Mr. Berman.

H.R. 1119: Mr. Durbin.

H.R. 1352: Mr. Torricelli and Mr. Richardson.

H.R. 1580: Mr. DeFazio, Mr. Torres, Mr. St Germain, Mrs. Boxer, Mr. Cardin, Mr. Borski, Mr. Sabo, and Mr. Lehman of Florida.

H.R. 1765: Mrs. Martin of Illinois.

H.R. 1907: Mr. Smith of New Hampshire.

H.R. 1908: Mr. Smith of New Hampshire.

H.R. 1909: Mrs. Vucanovich and Mr. Smith of New Hampshire.

H.R. 1910: Mr. Smith of New Hampshire.

H.R. 1911: Mr. Smith of New Hampshire.

H.R. 1924: Mr. Lewis of Georgia and Mr. DeWine.

H.R. 1966: Mr. Torricelli and Mr. Richardson.

H.R. 2173: Mr. Regula.

H.R. 2489: Mr. Chappell, Mrs. Patterson, Mr. English, Mr. Sunia, Mr. de Lugo, Mr. Lewis of Florida, Mr. Rinaldo, Mr. Atkins, Mr. Clarke, Mr. Buechner, and Mr. Upton.

H.R. 2707: Mr. Smith of New Hampshire and Mr. Hammerschmidt.

H.R. 2854: Mr. Edwards of California.

H.R. 3010: Mr. Martinez.

H.R. 3119: Mr. Smith of Florida, Mr. Wortley, Mr. Howard, Mr. Hertel, Mr. Mollohan, and Mr. Ford of Tennessee.

H.R. 3250: Mr. Borski and Mr. Pashayan.

H.R. 3312: Mr. Lowry of Washington.

H.R. 3374: Mr. Fauntroy, Mr. Dwyer of New Jersey, Mr. de Lugo.

H.R. 3392: Mrs. Collins, Mr. Akaka, Mr. McGrath, Mr. Savage, Mr. Schuette, Mr. Kolbe, Mr. Gallegly, Mr. Upton, and Mr. DioGuardi.

H.R. 3511: Mr. Smith of Florida.

H.R. 3553: Mr. Daub.

H.R. 3573: Mr. Frank.

H.R. 3680: Mr. Boulter.

H.R. 3726: Mr. Gekas, Mr. Conyers, Mr. Staggers, and Mr. Frank.

H.R. 3840: Mr. Hawkins, Mr. Towns, Ms. Kaptur, and Mr. Schuette.

H.R. 3850: Mr. Wolpe, Mr. Kanjorski, Mr. Markey, Mr. Sisisky, Mr. Craig, Mr. Volkmer, Mr. Spence, Mr. Traficant, Mr. Visclosky, Mr. Huckaby, Mr. Lehman of California, Mr. Gaydos, and Mr. Price of North Carolina.

H.R. 3879: Mrs. Patterson, Mr. Goodling, Mr. Brennan, Mr. Holloway, Mr. Kolter, and Mr. Kennedy.

H.R. 3882: Mr. Mrazek, Mr. Kolbe, Mrs. Boxer, Mr. Boehlert, Mr. Glickman, Mr. Bryant, Mr. Foglietta, Mrs. Johnson of Connecticut, and Mr. Buechner.

H.R. 3892: Mr. Nowak, Mr. Tauke, and Mr. Martinez.

H.R. 3903: Mr. Holloway.

H.R. 3907: Mr. Yatron, Mr. Slaughter of Virginia, Mr. Shuster, Mr. Clinger, Mr. McCloskey, Mr. Saxton, and Mr. Walgren.

H.R. 3914: Mr. Owens of New York.

H.R. 3937: Mr. Harris and Mr. Watkins.

H.R. 3969: Mr. Cooper, Mr. Lott, Mr. Davis of Illinois, and Mr. Martinez.

H.R. 3991: Mr. Ackerman, Mr. Owens of New York, Mr. Torricelli, and Mr. Garcia.

H.R. 4014: Mr. Lagomarsino, Mr. Walker, Mr. Whitten, Mr. Boucher, Mr. Weber, Mr. Bustamante, Mr. Wise, Mr. Perkins, Mr. Johnson of South Dakota, Mr. Hayes of Louisiana, Mr. Bunning, Mr. Gunderson, Mr. Williams, Mr. Owens of Utah, Mr. Hastert, Mr. Shuster, Mr. Herger, Mr. Rahall, Mr. Young of Alaska, Mr. Schuette, Mr. Gordon, and Mr. Chapman.

H.R. 4019: Mr. Derrick, Mr. Dickinson, Mr. Erdreich, Mr. Flippo, and Mr. Jenkins.

H.R. 4074: Mr. Brennan, Mr. Houghton, and Mr. Glickman.

H.R. 4088: Mr. Owens of New York, Mr. Howard, and Mr. Jontz.

H.R. 4101: Mr. Florio.

H.J. Res. 391: Mr. Kolter, Mr. Anderson, Mr. Hall of Texas, Mr. Owens of New York, Mr. Denny Smith, Mr. McCloskey, Mr. Henry, Mr. Bateman, Mr. Traxler, Mr. Lagomarsino, Mr. Schuette, Mr. Frost, Mr. Hochbrueckner, Mr. Matsui, Mr. Tallon, Mr. Ravenel, Ms. Snowe, Mr. DioGuardi, Mr. Rhodes, Mr. Hammerschmidt, Mr. Stark, Mr. Stokes, Mr. Nielson of Utah, Mr. Wilson, Mr. Brown of Colorado, Mr. Ortiz, Mr. Valentine, Mr. Weiss, Mr. Callahan, Mr. Weldon, Mr. Solomon, Mr. Shaw, Mr. McMillen of Maryland, and Mr. Rahall.

H.J. Res. 415: Mr. Whittaker, Mr. Frenzel, Mr. Sabo, Mr. Spratt, Mr. Coelho, Mr. Hubbard, Mr. Skaggs, Mr. Fields, Mr. Packard, Mr. Jacobs, Mr. Rowland of Connecticut, Mr. Clarke, Mr. Mollohan, Mr. Gordon, Mr. Latta, Mr. Dymally, Mr. Courter, Mr. Gray of Pennsylvania, Mr. Duncan, Mr. Martin of New York, Mr. Michel, Mr. Smith of New Jersey, Mr. Crane, Mr. Sharp, Mr. Robinson, Mr. Madigan, Mr. Tauzin, Mr. Feighan, Mr. DioGuardi, Mr. Smith of Iowa, Mr. Buechner, Mr. Flake, Mr. Vander Jagt, Mr. Bustamante, Mr. Kildee, and Mr. Quillen.

H.J. Res. 438: Mr. Lungren and Mr. Gonzalez.

H.J. Res. 445: Mr. Valentine, Mr. Mfume, Mr. Price of Illinois, Mr. Murtha, Mr. Natcher, Mr. Bevill, Mr. Akaka, Mr. Lantos, Mr. Gray of Pennsylvania, Mr. DeFazio, Mr. Bryant, Mr. Lehman of Florida, Mr. Stenholm, Mr. Huckaby, Mr. Lagomarsino, Mr. Rodino, Mr. Panetta, Mr. Volkmer, and Mr. Traxler.

H.J. Res. 452: Mr. Lagomarsino, Mr. Smith of New Hampshire, and Mr. Fascell.

H.J. Res. 460: Mr. Ackerman, Mr. Anderson, Mr. Andrews, Mr. Aspin, Mr. Atkins, Mr. AuCoin, Mr. Barton of Texas, Mr. Biaggi, Mr. Bilirakis, Mr. Borski, Mrs. Boxer, Mr. Brennan, Mr. Brown of Colorado, Mr. Clinger, Mr. Conte, Mr. DeFazio, Mr. de Lugo, Mr. DeWine, Mr. Dingell, Mr. DioGuardi, Mr. Espy, Mr. Fields, Mr. Gallo, Mr. Gilman, Mr. Gradison, Mr. Grant, Mr. Gray of Pennsylvania, Mr. Guarini, Mr. Gunderson, Mr. Hansen, Mr. Hastert, Mr. Hawkins, Mr. Henry, Mr. Hertel, Mr. Hopkins, Mr. Hoyer, Mr. Hughes, Mr. Jones of North Carolina, Ms. Kaptur, Mr. Kemp, Mr. Kolter, Mr. Lantos, Mr. Leland, Mr. Levin of Michigan, Mr. Lowery of California, Mr. Lujan, Mr. Lungren, Mr. McCloskey, Mr. McEwen, Mr. Mack, Mr. Manton, Mr. Mavroules, Mr. Matsui, Mr. Mineta, Mr. Mrazek, Mr. Natcher, Mr. Ortiz, Mr. Owens of Utah, Mr. Pashayan, Mr. Porter, Mr. Quillen, Mr. Rowland of Connecticut, Mr. Scheuer, Mr. Schumer, Mr. Shaw, Mr. Stangeland, Mr. Tauzin, Mr. Volkmer, Mr. Weber, Mr. Whittaker, Mr. Whitten, and Mr. Wolf.

H.J. Res. 466: Mr. Montgomery.

H.J. Res. 470: Mr. Davis of Illinois, Mr. Coughlin, Mr. Rose, Mr. Tauke, Mrs. Vucanovich, Mr. Shaw, Mr. Madigan, Mr. Dingell, Mr. Durbin, and Mr. Mineta.

H. Con. Res. 238: Mr. Bates.

H. Con. Res. 262: Mrs. Johnson of Connecticut, Mr. Gallo, Mr. Shuster, Mr. Dwyer of New Jersey, Mr. Anderson, Mr. Towns, Mr. Lipinski, Mr. de Lugo, Mr. Rahall, Mr. DeFazio, Mr. Borski, Mr. Roe, Mr. Applegate, and Mr. Boehlert.

PETITIONS, ETC.

Under clause 1 of rule XXII,

138. The SPEAKER presented a petition of Second Olbiil Era Kelulau, Republic of Palau, relative to supplemental funding for Palau; which was referred to the Committee on Interior and Insular Affairs.

SENATE—*Tuesday, March 15, 1988*

(Legislative day of Monday, March 14, 1988)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable Alan J. Dixon, a Senator from the State of Illinois.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

And God is able to make all grace abound toward you; that ye, always having all sufficiency in all things, may abound to every good work * * *.—II Corinthians 9:8.

Our Father in heaven, we are profoundly thankful for this remarkable promise of grace. With heavy hearts, we think of our friend and brother, Senator Biden. We ask You to touch him with healing, restore him to strength and service, bless and encourage his lovely lady.

Gracious Father, we have so much for which to be thankful: we slept in a comfortable, clean bed last night—many slept in the streets. We awakened—many did not. We had incentive to get out of bed—many had no reason to. We showered without a thought of the water going down the drain—many have no water to drink. We ate a nourishing breakfast—many had no food, will have no lunch or dinner, today, tomorrow—many will die of starvation. We have families—many families are decimated. We have work—many are unemployed. We have friends—many are friendless. Our lives are surfeited daily with common benefits which we so easily take for granted. We take health, strength, sight, hearing, mobility for granted until we get sick, have difficulty with sight, hearing, or mobility. Forgive us, Father. And thank You for Your inexhaustible grace, through Him in whom Your unconditional love was incarnate, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, March 15, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Alan J. Dixon, a Senator from the State of Illinois, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. DIXON thereupon assumed the chair as Acting President pro tempore.

INTELLIGENCE OVERSIGHT ACT

The ACTING PRESIDENT pro tempore. The 1 hour under rule XXII will be equally divided and controlled by the two leaders or their designees with no motion, amendment, or action of any kind to be in order during the hour.

The clerk will report the intelligence bill, S. 1721.

The assistant legislative clerk read as follows:

> A bill (S. 1721) to improve the congressional oversight of certain intelligence activities, and to strengthen the process by which such activities are approved within the executive branch, and for other purposes.

The Senate resumed consideration of the bill.

RECOGNITION OF THE ACTING DEMOCRATIC LEADER

The ACTING PRESIDENT pro tempore. The acting Democratic leader, the distinguished Senator from Wisconsin [Mr. Proxmire] is recognized.

Mr. PROXMIRE. Mr. President, speaking for the majority leader, I yield myself 5 minutes to speak on another subject.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized for 5 minutes.

GOOD NEWS FOR NATO: PACT MAY DROP OFFENSIVE PLANS

Mr. PROXMIRE. The Soviet Union may be about to change its military doctrine. It may shift from an offensive to a defensive doctrine. Is that important to the strategy of the United States in Europe? It could be the best news for NATO in many years. If it takes place would it mean we could negotiate with the Soviet Union a reduction of the NATO forces led by our Nation in Europe? Does it mean that both the Warsaw Pact countries and the NATO countries would be more secure and at far less cost? Mr. President, a confident affirmative answer on both these questions depends on whether the Soviets actually translate their statements and professional literature into a shift in the structure of the Soviet military forces. Soviet Defense Secretary Dmitri Yazov has told our Defense Secretary Frank Carlucci that he wants to discuss changes in military doctrine when they meet on March 16. Carlucci has said:

> I will be pleased to hear what they mean by it. Does it mean that they are changing the character of their forces to be increasingly defensive in nature instead of offensive?

Before we act, of course, we should wait and see. But meanwhile let us consider why this might enable both sides to agree to a major and a disproportionate reduction in conventional arms in Europe. This could justify a much more substantial reduction in the number of forces for the pact than for NATO. This Senator has, along with Senator Levin, argued that the NATO forces and pact forces are roughly equal now. We contend that the quality of NATO weapons, the training of NATO troops, the superior loyalty of the NATO alliance and the far stronger NATO economy and technology compensates for the pact's advantage in number of weapons and the offensive doctrine that has characterized pact structure and deployment.

The offensive deployment of pact troops has been a prime reason why many have argued that the pact forces have a conventional advantage. It is a fact and an advantageous fact for pact forces that their troops are forward positioned, ready to move in an offensive on the northern German plain where the terrain is more conducive to rapid advance of motorized units. The pact has located some of its strongest motorized and air support forces at or very near to the border in that sector. NATO troops are farther back. They are in reserve and they do not constitute NATO's strongest forces. This offensive strategy has enabled the pact to pick the time, the place, the manner, and the intensity of attack. It means the Soviets would be in position to attack on the basis of an imagined as well as a real threat. On the other hand NATO has pursued a consistently defensive posture. It not only has mustered a lesser overall conventional force, it has kept its force in reserve, away from the borders. The disposition of NATO's land and air-based forces represent no threat to pact countries in the size of those forces, their makeup, their deployment, their expressed doctrine or the nature of NATO practice maneuvers.

In an article in the March 7 New York Times, Bernard Trainor cites a communiqué that appeared in the official Communist Party daily Pravda that said that both NATO and pact forces should be so structured as to preclude a surprise attack or the mounting of a general offensive. Compliance with this communiqué would require a change by the pact forces—not NATO forces. In his recently published book "Perestroika," Secretary Gorbachev wrote that both sides should "amend their strategic concepts to gear them more to the aims of defense." And then there is the change in the standard Soviet military texts. In the official Soviet text on tactics dated January 1987 Soviet Defense Secretary Yazov declared: "The offense is the main form of battle." In an October 1987 book by the same Yazov, the Soviet Defense Chief changes this, he writes: "Soviet military doctrine considers the defense as the main form of battle."

In his New York Times article Trainor cites American military experts as doubtful that the Soviet "official discussion is a ploy to lull the West into easing up on their military plans for NATO." But it is clear that the Carlucci reaction that we should wait and see is the right one. Certainly the Soviets are not above sending rhetorical signals to the NATO countries designed to diminish NATO defenses. We cannot and will not rely on this encouraging Soviet conversation. On the other hand a Soviet decision to agree to change their offensive doctrine would be very welcome. It would make the prospect of an agreement for substantial conventional military reductions on both sides a realistic prospect. Even before such an agreement a Soviet withdrawal of forces from the northern German plain and a pullback all along the central front line to positions in the rear would be a highly constructive reaction.

Why would the Soviets give up their superiority in numbers and the advantage of their offensive deployment of forces? The answer is twofold. First, the Soviets now fully understand that an attack on free Europe—if successful would certainly launch a full scale nuclear war. Second, the Soviet economy is suffering severely from the diversion of so much of its limited production into the military. Far and away its best chance to revive its economy is to sharply reduce its military buildup by a mutual agreement with NATO and the United States.

Mr. President, I ask unanimous consent that the article to which I have referred by Bernard Trainor in the March 7 New York Times be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Soviet Arms Doctrine in Flux: An Emphasis on the Defense

(By Bernard E. Trainor)

Washington, March 6.—The Soviet Union is making fundamental changes in its strategic military doctrine, from one of offense to defense, American military experts and scholars agree.

MILITARY ANALYSIS

Specialists who follow the shifts and trends of Russian military theory and strategy base their conclusions on Soviet statements and professional literature. But so far the doctrinal shift has not changed the structure of Soviet armed forces in the field.

Officials in the Defense Department say they have no doubt that a change in Soviet doctrine has taken place. But the general view is, according to one official: "We hear what they say. Let's wait and see what they do."

Defense Secretary Frank C. Carlucci said in an interview with the Associated Press on Saturday that the Soviet Defense Minister, Dimitri T. Yazov, wants to discuss changes in military doctrine when they meet on March 16.

"I will be pleased to hear what they mean by it," said Mr. Carlucci, who added, "Does it mean that they are changing the character of their forces to be increasingly defensive in nature instead of offensive?"

Some American Government experts say they think the new defensive doctrine could account for Soviet willingness to reduce nuclear arms in treaties with the United States, and that it could also be a keystone of future Soviet proposals for the reduction of conventional forces in Europe.

NON-OFFENSIVE DEFENSE

Though it is not certain what a defensively reorganized Soviet Army might look like if Moscow follows through with what it calls a "non-offensive defense," it could logically include a reduction of armored forces in East Germany.

A sign of the new thinking appeared in a recently published book, "Perestroika," by the Soviet leader, Mikhail S. Gorbachev, who wrote that it was time for the East and West "to amend their strategic concepts to gear them more to the aims of defense."

Last spring the official Communist Party daily Pravda published a Warsaw Pact communiqué saying that both NATO and Warsaw Pact forces should be so structured as to preclude a surprise attack or the mounting of a general offensive. By summer Mr. Gorbachev began calling for armed forces on both sides that were adequate only for defense.

Evidence of the apparent Soviet turnaround is seen by contrasting the standard Soviet military text on "Tactics," published in January 1987, with guidance given Soviet officers by Mr. Yazov in October in a book called "In Defense of Socialism and Peace." The earlier publication sets forth the traditional Soviet doctrine: "The offense is the main form of battle." The second changes this: "Soviet military doctrine considers the defense as the main form of military operations."

Experts also say Soviet military theoreticians and high-ranking officers no longer talk about a blitzkrieg against the North Atlantic Treaty Organization in Europe, and the use of such terms as "superiority" in references to military strength has given way to expressions such as "parity" and military "sufficiency."

According to Raymond L. Garthoff of the Washington-based Brookings Institute, most Western experts doubt the Soviet strategic about-face is a ploy to lull the West into complacency. A Defense Department official confirmed this view.

Most specialists agree that changing the Soviet military structure to conform with the new doctrine would take time and this would permit the West to evaluate the changes as they occur.

"It is one thing to approve a new doctrine," said Michael McGuire, another specialist on Soviet military affairs, "but quite another to translate that into reality. It is bound to stir debate at the technical level of the Soviet military and political hierarchy."

QUESTIONS OF DEFINITION

There are already signs of disagreement between Soviet civilians and the military over the meaning of the change, particularly on the question of how much defense is enough. Soviet theoreticians use the phrase "reasonable sufficiency," while the military favors the term "defense sufficiency," which allows them more flexibility in * * * able sufficiency, where the military favors the term "defense sufficiency," which allows them more flexibility in determining force levels.

A retired Soviet lieutenant general, Mikhail Millstein, of the Institute of U.S.A. and Canada Studies recently defined reasonable sufficiency as "possession of a military potential that, on one hand, would be enough to safeguard the security of one's own country and, on the other, not enough to give effect to offensive plans, especially to surprise attacks."

Robert Legvold, of the W. Averell Harriman Institue at Columbia University, quotes the Chief of the Soviet General Staff, Marshal Sergei F. Akhromeyev, as being more ambiguous, saying that sufficiency is having forces, both in quantity and quality, commensurate with "the level of military threat."

If the Soviet Union matches its talk with a defensive reorientation of its armed forces, military experts believe it will provide a major opportunity to make reductions in NATO and Warsaw Pact ground and air forces.

CREDIT TO GORBACHEV

In the past, Soviet national security planning was based upon the need to defeat NATO in the event of war. Soviet specialists say the Soviet political and military leadership has now concluded that the danger of escalation to a nuclear exchange makes war between East and West unthinkable. Their new doctrine is therefore aimed at defensively structuring military forces sufficient to deter war.

Experts give Mr. Gorbachev credit for sparking the change. Andrew C. Goldberg, of the Washington-based Center for Strategic and International Studies, said Mr. Gorbachev created the "critical mass" to allow the new thinking to surface. But much of the thinking that led to the new doctrine has taken place over most of a decade.

The realities of a faltering economy and the need to redirect military expenditures to restructure the Soviet Union's economic base are cited as other reasons for the apparent change. Some authorities on the Soviet Union also believe the technological implications of President Reagan's program for a space-based anti-missile system, popularly called "Star Wars," also prompted a Soviet rethinking of strategy because of the Soviet Union's questionable ability to compete with the West in high-technology weapons.

NATO and the Warsaw Pact both say their alliances are purely defensive. NATO says its strategy is designed to deter war and its forces plan to remain on the defensive if the Soviet Union attacks. But the NATO doctrine holds out the threat of using nuclear weapons if a conventional defense fails.

Until now, Warsaw Pact strategy has called for a pre-emptive conventional attack into Western Europe if an attack by NATO is thought imminent. Otherwise, a counteroffensive with overwhelming artillery and mechanized forces against the West was to be launched as soon as possible.

The Soviet political leadership now appears to have abandoned this idea, even though some specialists say some Soviet military officers may interpret a non-offensive defense as nothing more than a pause before a counteroffensive. Soviet military officers are also expected to resist a unilateral reduction of forces. Marshal Akhromeyev has written that defense must be tied to the "prevailing correlation of forces"—in other words, how Soviet forces match up against the West.

The experts say Soviet thinking has gone through distinct stages. In the late 1940's, the Soviet leadership believed war between the two social systems was inevitable. By the mid-1950's war was seen as only a possibility, but if it came, the Russians were convinced it would be nuclear. This prompted the development of a Soviet strategy in which a land offensive against Western Europe would be accompanied by preemptive nuclear strikes against the United States to limit American nuclear retaliation.

Another major strategic change came in the late 1960's, when the Soviet Union concluded that mutual assured destruction made an intercontinental nuclear exchange unlikely. Reductions in nuclear weapons could even be made as long as sufficient missiles remained to negate their use by either side. While the Russians sought nuclear arms limitations in the 1970's, they restructured their conventional forces for a non-nuclear offensive in Europe if war broke out.

NATO has adhered to its strategy of flexible response, seeking to deter a Warsaw Pact attack by maintaining strong forces at each level of potential escalation, including nuclear weapons.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time on the quorum I am going to call be equally divided between both sides.

The ACTING PRESIDENT pro tempore. Without objection, the time will be divided between both sides.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

INTELLIGENCE OVERSIGHT ACT

The Senate resumed consideration of the bill.

Mr. WALLOP. Mr. President, as I understand it, the time is equally divided between the two leaders.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming is correct. The Senator from Maine is controlling the time.

Mr. WALLOP. Mr. President, I ask the Senator from Maine for up to 20 minutes.

Mr. COHEN. I yield 20 minutes to the Senator from Wyoming.

The ACTING PRESIDENT pro tempore. May I say to the Senator from Maine, he has 24 minutes.

Mr. WALLOP. Would the Senator care to reconsider his generosity?

Mr. COHEN. I yield 15 minutes to the Senator from Wyoming.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming is recognized for 15 minutes.

Mr. WALLOP. Mr. President, I come down this morning to oppose this bill and hope that cloture is not invoked. I do so not out of any desire to be in conflict with the Senator from Maine or the Senator from Oklahoma or the Intelligence Committee, but out of a desire to point out to the Senate and to the country that this bill is a flight of fancy. It is badly drafted, badly conceived, and the worst of its conceptions is that somehow or another you can legislate intelligence. And I do not mean the intelligence to which the bill refers itself, I mean common, ordinary, human intelligence.

We can, through this, perhaps prevent another Iran-Contra perhaps. It is hard for me to believe that one piece of legislation can obviate stupid activity.

But what we would do at the same time is fully deny ourselves some very competent activity that this country ought to have the privilege of engaging in. Activities that have been severely weakened over the years, and that are further weakened by this legislation. These activities are crucial to our national security.

I would just suggest that in the instance of Iran-Contra, the system worked. It was an aberration. It was not well thought out and there has been an enormously heavy political price to pay. But I would also suggest that had this piece of legislation been in place during earlier events in Iran, when the courageous activities of the Canadian Ambassador and his Embassy staff permitted us to get some of our State Department employees out and avoid the painful hostage circumstances that afflicted some of their colleagues, we would not have been able to do that. We would have been denied it.

Now, I do not think it is wise for us to suppose that the Congress can substitute its judgment in every instance for the things that take place in a real world, things that we constitutionally do not and cannot have any day-to-day control over.

The idea that is the central concept of this bill represents a sort of specious arrogance, that somehow or another we can legislate wisdom and legislate intelligence. Moreover, Mr. President, this bill is integrally contradictory. The general provisions of the act state that, and I quote:

> Nothing . . . shall be construed as requiring the approval of the Intelligence Committees as a condition precedent to the initiation of such activities.

It goes on to state that—

> Nothing . . . shall be construed as a limitation on the power of the President to initiate such activities in a manner consistent with his powers conferred by the Constitution.

But, in section 503 of the bill we indeed and precisely limit the President's powers by requiring that he keep Congress fully informed and by requiring that he report to Congress before such activities can be engaged in, or in rare circumstances, within 48 hours. As a practical matter, Mr. President, it is absolutely absurd on its face to state that covert actions do not require the approval of the Intelligence Committees. Having served on the Senate Select Committee on Intelligence, I know, section 502 of current law, which becomes section 504 in the bill before us, has long been interpreted to require the written approval of the two Intelligence Committees and the two Appropriations Committees, intelligence subcommittees to release funds for covert operations. Spending any moneys on special activities requires the committee to sign off before OMB will release the money from the reserve for contingency into DCI's account. Otherwise it remains in the Federal Treasury.

All this is not to say that the power of the purse is not Congress' constitutional role. But let us not fool ourselves with the language in this bill that we do not approve each and every covert action prior to its implementation.

The Intelligence Committee and the Congress and the Senate must be prepared to take responsibility for the responsibility that we already exercise.

On top of that, Mr. President, the bill is variously ambiguous. One good example of the ambiguity in this bill is a provision requiring the President to inform, personally, Congress of any "significant" change in a special activity or any "significant" undertaking, pursuant to a previously approved funding. I would be more than halfway grateful if anybody in this world could define "significant."

How is it that we can insist that a President be precognitive? That he know in advance every possible consequence to an action that, on its face, might otherwise have seemed rather simple? Will the Congress, or even worse, some special prosecutor, be able to determine, ex post facto, whether a change in the finding should have been issued? Whether it should have been considered significant?

Suppose we are resupplying freedom fighters via one overland route and must at the last minute change that route because of intelligence gathered. And suppose our resupply efforts happen to be interdicted by hostile forces because, for some reason or another, somebody determined that we have changed that route, and supposing they would be wiped out. Would it then be considered insignificant or significant? Who would decide? Is this the President's sole discretion? If so, what does it mean?

Would an ordinary operational change, based on the best available information, be determined to be significant? Would anybody dare make a change on the off chance that its consequences might be later viewed as having been significant?

You cannot operate in a real world with such a total inhibition on behavior; and this language, like much else in the bill, will set the executive and the legislative branches against one another; not working toward a common goal, which is the stated aim of the chairman and the vice chairman of this committee. It sets them in conflict.

"Significant" is a bad piece of language, Mr. President. It cannot, in the ordinary course of events, be viewed as specifically binding but it becomes binding on the very basis that a special prosecutor or a Congress or an investigating committee, in its ex post facto view, decides that something which seemed rather insignificant at the moment, because of a change in circumstances, develops a significance in the minds of people who are set in conflict.

Another flaw in this bill is the definition of "special activity." It is at once overbroad and too specific; a rare achievement. It is too specific in that it singles out the CIA for special treatment. It is CIA bashing at its best. As in other aspects of this legislation, it singles out the CIA as though it were the cause of the trouble; as though it were not a part and policy of the Government of the United States; and though it were some independent country over whom we had reach. It is, in fact, an arm of the policy of the Government of the United States. What it does wrong is something that the Government, whichever executive at that moment in time, is doing wrong. If it is doing something right, we never hear about it. That is one of the problems with intelligence work, that most successful activities of it are never known to the public. Only its flaws come to light.

But the definition does not actually specify the types of activities that fall under special activities; so can anyone doubt that we are referring, here, to covert operations although the definition seems overbroad for that? It is essential that we get straight exactly the types of activities that fall under this category, because people may go to jail over this provision in the future. The bill even refers to something called illegal intelligence activities, without defining them either.

The CIA conducts a number of activities, other than covert action, which fit this definition. Among them: counterintelligence, security liaison, and communications. Is it the intention of the sponsors of this bill to include those things as well?

For example, counterintelligence activities are not solely for obtaining necessary intelligence. Sometimes we can influence or turn to our advantage hostile foreign intelligence activities against us.

Suppose we could change the power supply going into a Soviet jammer aimed at United States broadcasts? Would this be something we would need a finding for? Under this definition it certainly would appear to be. How minutely can the Congress get into the business of the executive branch in the conduct of the affairs of the world of intelligence?

There is another area, section 2, which deals with all other intelligence activities outside the preview of the CIA. It does not tell us either what specifically is covered by this legislation. It tells us that it is not diplomatic or related support activities, but this still leaves a whole range of things such as military liaison and military assistance that might be applied. The bill apparently neglects the fact that the activities of our military attachés are diverse. One of them is intelligence collection, and while this activity is curiously exempted in section 1 of the definition with respect to the CIA, it is conspicuously absent from section 2.

Can military attachés perform this function, absent a finding? I think, maybe, they cannot.

Now, there is a provision in the bill which says that we cannot make a finding that authorizes any action that would violate any statute of the United States. Mr. President, I cannot imagine a provision of a piece of legislation more to tie the hands of the United States in its covert activities, its ordinary intelligence activities, than that. Is it not permissible to jam broadcasts in the United States? Is it not permissible to do, as we have sometimes encouraged and made possible for people to do, to overtake their airwaves and produce a television program in their language in their ordinary circumstances of broadcast? We have invaded their television broadcasts and been able to broadcast the views of freedom fighters, from time to time.

It is not possible in the United States to bribe a customs official. But I would doubt anybody on the committee would tell me that customs officials have not been bribed to try to get arms into Afghanistan. It is not possible under the laws of the United States to tamper with the mails. I would doubt that anybody can tell me somebody's mail has not been tampered with in the context of some covert operation. If the retort is that we can do all these things outside of the country, then what of conspiracy to commit these crimes? What exactly does this provision mean?

It appears as though it is not possible to do a whole range of ordinary activity, but the point specifically is that this language is wholly and totally ambiguous.

Have they done a search of every law of the United States? Have they done a search to say that some U.S. statute is not violated in the planning and execution of covert operations? Or do we have an intelligence community neutered, utterly incapable of doing the actions that this country needs? The next step will be to involve the military in these court actions, a task they are ill-equipped to perform.

Mr. President, this is a bad bill. It has had but one public hearing and only three hearings altogether. It actually should have been referred to both the Armed Services Committee and to the Foreign Relations Committee. It repeals a piece of the Foreign Assistance Act. Apparently, the chairman of the Foreign Relations Committee is so unconcerned about the territory of his committee that he would let this go.

But all of those things set aside, let us go back. The U.S. Government, any modern government, in seeking to defend its freedoms, needs an active intelligence community with a covert action capability. Such a capability will be denied in any competent way through the passage of this bill, though it is not the proponents intention. I suggest therefore, that before we vote cloture we take the time that is necessary to examine in detail a number of the provisions of this bill which are probably not the specific intention of the chairman and vice chairman, but are going to be the consequences of the action of this Senate. Mr. Carlucci has said the President will veto the bill. I hope it will not have to come to this. There are things we can do to improve the capabilities of the Intelligence Committee. Mr. President, this bill is not one of those things.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Wyoming yields the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. On behalf of the majority leader I yield myself 5 minutes.

(The remarks of Mr. BINGAMAN pertaining to the introduction of legislation appear later in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

Mr. COHEN. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I think we ought to come back to the major purpose of this legislation before this body. First of all, S. 1721 does several things. It requires that the President, before initiating or authorizing a covert activity, make a finding; that that finding be in writing; that there be no retroactive authorizations of covert actions; that when third parties are involved, a mechanism be set up so the Intelligence Committees can be at least apprised that there are parties outside of the United States or private individuals who are going to be called upon to carry out those activities.

Basically, all of these requirements in S. 1721 are merely reflective of what the President has already agreed to in his own national security decision directive. They are virtually identical. There is a major difference and the major difference is that we specify the timeframe in which Congress should be notified of a covert action.

A lot of argument has been made just a few moments ago that we are trying to substitute our judgment for that of the President of the United States; we are trying to legislate wisdom. Nothing could be further to the contrary. All we are seeking to do really is to ask the President to comply with existing law, except now we have to specify it because of an opinion offered by the Attorney General. But with respect to complying with other laws, that is already part of our legal structure. I am going to quote from the existing Executive order:

> Nothing in this order shall be construed to authorize any activity in violation of the Constitution or statutes of the United States.

That is the President's own Executive order. There is nothing new in our bill. The President has already directed his administration not to violate the Constitution or the laws of the United States. So we are not imposing any additional burdens upon this administration or any future ones.

Second, it was suggested that somehow it is false for us to come before this body and suggest that we do not have to authorize every single covert action. The way in which the law reads today, and which we intend to continue, is simply this: If an administration wishes to carry out covert actions, intelligence activities, they must come to Congress and secure authorization and appropriation of funds. That is required under existing law. They can, however, turn to a contingency reserve, and in that case where there is a contingency fund, what they are required to do is notify us that they are, in fact, carrying out these activities.

Under existing law, it was always contemplated that prior notice be given if at all possible.

Time was to be the determining factor; if there was not time to notify Congress, well, then, post-notice could be given in a timely fashion. This administration has interpreted that phrase, "timely fashion" to mean unfettered discretion by the President of the United States. It could mean he could withhold notice for days, for weeks, for months, or even for years under their interpretation. That is totally inconsistent with the intent of the 1980 act.

And so what this legislation simply tries to do is to strike an accommodation. We think there ought to be prior notice. How can we effectively exercise oversight if we take the position that the administration, this one or a future administration, in seeking to achieve a legitimate foreign policy objective, for which they ordinarily would have to go before the authorization and appropriating committees of this body and the other, now declares it to be a covert activity. We say, "All right, we recognize the need for covert activity. If you go to a covert activity, you must at least notify the Intelligence Oversight Committees." But now they wish to say, "Well, there might be cases in which we don't want to notify you either and we will withhold such notice as we determine in the best interests of the country." If we accept that argument, Mr. President, then we are abdicating our constitutional obligations.

There are three arguments to be made for this legislation. One is that it is prudential. It is only prudent for the administration to come before the very body that has to authorize and appropriate funds for future covert activities. That is good judgment, I think.

Another is the policy argument; that it is good policy for the President to go outside of his administration to secure the advice, at least hopefully the collective wisdom, of people on the Hill, four people under this legislation if necessary, only four. They do not have to resign as some Members wanted Secretary Shultz or perhaps Weinberger or others to do. We do not have to resign. We are coequals.

And there is one of constitutional principle; that this body should not abdicate its constitutional obligation in helping to formulate foreign policy goals of this country.

For all of these reasons, I think we have tried to strike a balance with the administration. The one major dispute is 48-hour notice. It has been suggested that if we pass this legislation it will deprive us of important intelligence capabilities. I have to ask the question, Why? Why will it deprive us of important intelligence capabilities?

The administration cannot have it both ways. They cannot argue to this institution that "We have notified you each and every time we have undertaken a significant intelligence activity; that there has been a change in intelligence activities or we are initiating a covert activity. We have notified you each and every time for the past 8 years."

If that is the case, what damage has been inflicted to our intelligence capabilities? But the fact is damage has not been inflicted by notifying Members of Congress. The damage was inflicted when they decided to try and circumvent the requirements of the law, to interpert the phrase "timely fashion" to mean anything the President wants. That is where the damage came about, not in notifying eight Members of Congress. And under this legislation it would be only four Members of Congress. The damage came about when they tried to circumvent the intent and rule of law itself.

So I would hope at the appropriate time, indeed, the Senate will invoke cloture so that we may finally conclude debate within a reasonable time on this legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

Mr. COHEN. And the time to be divided equally.

The legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. All time having expired, under the previous order the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute for S. 1721, a bill to improve the congressional oversight of certain intelligence activities, and to strengthen the process by which such activities are approved within the executive branch, and for other purposes.

Senators David Boren, David Pryor, Edward Kennedy, Brock Adams, John C. Stennis, Bill Cohen, Robert C. Byrd, Kent Conrad, J.J. Exon, Tom Daschle, Barbara A. Mikulski, Alan Cranston, Daniel Moynihan, Patrick Leahy, Harry Reid, Dale Bumpers, Spark Matsunaga, Quentin Burdick, Terry Sanford, and Carl Levin.

VOTE

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the committee substitute for S. 1721, the Intelligence Oversight Act, shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Alabama [Mr. Heflin], the Senator from Illinois [Mr. Simon], and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] and the Senator from Hawaii [Mr. Matsunaga] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. Bond], the Senator from Kansas [Mr. Dole], and the Senator from Wisconsin [Mr. Kasten] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 73, nays 18, as follows:

[Rollcall Vote No. 49 Leg.]

YEAS—73

Adams
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dodd
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatfield
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Stafford
Stevens
Trible
Warner
Weicker
Wirth

NAYS—18

Armstrong
Cochran
Danforth
Dixon
Garn
Gramm
Hatch
Hecht
Helms
Humphrey
McCain
McClure
Nickles
Specter
Symms
Thurmond
Wallop
Wilson

NOT VOTING—9

Biden
Bond
Dole
Gore
Heflin
Kasten
Matsunaga
Simon
Stennis

The PRESIDING OFFICER. On this vote, the yeas are 73, the nays are 18. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. BYRD. Mr. President, may I have the attention of the Senate?

The PRESIDING OFFICER. The Senate will be in order.

The majority leader.

Mr. BYRD. Mr. President, I thank the Chair.

ORDER OF PROCEDURE

Mr. BYRD. On yesterday, the Senate made great progress on the immigration bill and at the close of the day there was an order entered that no further amendments to that bill would be in order, with one exception, that being an amendment by the distinguished junior Senator from the State of Alabama, Mr. Shelby; and that if he did not elect to offer an amendment, the remaining time on the bill, without further amendments, would be not to exceed 30 minutes.

Mr. Shelby has just informed me and the managers of that bill that he will not offer that amendment. Consequently, if I could get unanimous consent that the Senate proceed to that bill, notwithstanding the cloture vote having carried, possibly we could cut that time of 30 minutes down to 10 minutes equally divided and vote on that bill, adopt it, and let it be on its way to the House and then the Senate could return to its clotured matter.

Mr. Simpson is the manager of the immigration bill on the other side. He is very agreeable to this procedure.

I ask unanimous consent that, notwithstanding the fact that cloture has been invoked on the intelligence oversight bill, the Senate return to the consideration of the immigration bill; that the time remaining for debate on that bill be reduced to 10 minutes to be equally divided in accordance with the usual form, at the close of which or upon the yielding back of which the Senate proceed immediately without further action on the final vote on that bill; and that there be no time on any motion to reconsider.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, I see my good friend from Wyoming is here and he may have some viewpoints on the basic request. But I understand that a group of Senators, right after they voted, have gone to a meeting downtown. I wonder if it would be something that the majority leader would consider that we set a time certain for the vote on this, if there is an agreement. I do not have an objection, but I would just like to have a way to get them back here before that vote takes place. Let us say, for instance, have it 10 minutes before 2 and have the vote at 2 or something like that.

Mr. BYRD. Very well. Mr. President, the distinguished Senator from Alaska makes a very good point. I withdraw my request. I ask unanimous consent that the time remaining on the bill, however, for debate, be limited to 10 minutes; that that 10 minutes begin running at 2 p.m. today; and that the time be equally divided in accordance with the usual form; that the vote then occur on passage at 2:10 p.m. today.

I make that request.

The PRESIDING OFFICER (Mr. Daschle). Is there an objection? The Senator from Florida.

Mr. GRAHAM. Mr. President, I would like to ask a question of the majority leader.

Mr. Leader, I do not believe I will object but I have a series of questions which I would like to ask of the sponsors for purposes of inclusion in the Record of this bill before we go to final passage. I do not believe that the time required to respond to these questions would exceed 10 minutes but I would like to reserve the right to have those questions responded to for the record, prior to final vote on passage of this legislation.

Mr. KENNEDY. I appreciate it, and look forward to responding to the Senator from Florida. The leader had asked for 10 minutes. I wonder if that could be extended to 20 so we would be able to respond to it; if that would be agreeable to the leader?

Mr. BYRD. It would be.

Mr. GRAHAM. I am certain that would be ample time to respond to questions.

Mr. BYRD. I make that request, Mr. President.

The PRESIDING OFFICER (Mr. Fowler). Is there objection? If there is no objection, it is so ordered.

Mr. BYRD. I thank the Chair. Have the yeas and nays been ordered on the final passage of the immigration bill?

The PRESIDING OFFICER. The yeas and nays have already been ordered on final passage.

Mr. BYRD. Mr. President, I ask unanimous consent that today at 12:45 p.m. the Senate stand in recess until the hour of 2 o'clock p.m. to accommodate the two party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. It is so ordered.

Mr. BOREN. Mr. President, we are now back on the intelligence oversight legislation which we discussed before the break last week. Cloture of course has now been invoked by a very large majority. There are some amendments that have been filed at the desk prior to the vote on cloture and I know that there are at least some Senators who intend to call up those amendments. I do not know if all Senators continue to plan to call up their amendments.

Mr. President, I would just say to my colleagues that I would appreciate it if they could let me know which of the amendments they desire to call up. We have a few minutes here before the recess for the caucus meeting in which we could dispose of one or two of these amendments, if Members want to bring them to the floor at this time.

So I would just ask my colleagues if they are prepared to offer their amendments to come to the floor and offer them now; also if they will let the managers of the bill on both sides know how many bills they intend to call up so we can expedite consideration of the bill and bring it to a conclusion this afternoon.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate now stand in recess until the hour of 2 o'clock p.m. today.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Thereupon, at 12:35 p.m., the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. DECONCINI].

IMMIGRATION ACT OF 1988

The PRESIDING OFFICER (Mr. DECONCINI). Under the previous order, the Senate will now resume consideration of S. 2104, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2104) to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States.

Mr. THURMOND. Mr. President, I rise in support of S. 2104, a bill which amends the Immigration and Nationality Act of 1965. This legislation is the result of a compromise agreement reached between Senators KENNEDY and SIMPSON. It reflects the concerns addressed in S. 2050, a bill introduced by Senator SIMPSON, and S. 1611, a bill introduced by Senator KENNEDY, regarding reform of the legal immigration preference system.

Generally, this bill reforms the current procedure regarding priority when application is made for entry visas into the United States. It accomplishes this reform by adjusting the categories of family preferences giving greater priority to relatives who are immediate family members.

In addition, it also establishes a new category for independent immigrants—those whose labor skills, educational background, or presence in the United States are deemed to be in the best interests of this country.

Regarding current law, new visas are granted under preference guidelines that favor applicants with relatives, other than immediate family members, who have recently become citizens of the United States. As a result, this system works to the disadvantage of relatives of seed immigrants—those individuals from the countries of Western Europe who immigrated to America in the 1800's and 1900's. These immigrants no longer have the family relationships required for a preference visa under current law. The independent immigrant classification will reverse this situation and put Western Europeans on a more equal footing with the rest of the immigrant pool.

A very important component of this bill is that it sets an overall limit on the number of applicants who may be granted preference visas to enter the United States. Additionally, this bill includes a provision which requires review of this legislation every 3 years.

In closing, this compromise bill substantially follows the 1981 recommendations of the Select Commission on Immigration and Refugee Policy. By implementing the provisions of this legislation, we can correct inequities that exist under current law and provide a system of legal immigration that is fair to all who apply.

Therefore, I support S. 2104 and urge its passage.

Mr. PELL. Mr. President, I rise today to congratulate the distinguished senior Senator from Massachusetts and the distinguished acting minority leader, Senator SIMPSON of Wyoming, on the fine work that they have done in bringing immigration reform to the national agenda. The bipartisan support which this legislation has commanded is a sign of the care, thought, and attention which has been given to achieving genuine immigration reform. I commend my distinguished colleagues for their hard work, and support wholeheartedly their good intentions.

The legislation which we will vote on today wisely addresses the need to both reunify families and open our borders to those who, absent family connections, simply seek a better place to live. By correcting existing imbalances in immigration flow, we are making the hope of a new life in the United States available to many who have had to wait too long and with too little hope, but who have too little alternative but to continue to wait and hope.

But, Mr. President, I must say that while I support the goals of this legislation, and will support this bill, I am concerned that its good intentions may be achieved at the expense of some existing policies of the United States. While we all agree that sensible immigration reform is desperately needed, both to ensure the integrity of our borders and to provide those wishing to immigrate to this land realistic expectations about their chances for entry, I do not wish to see dashed the hopes of others, who have waited to join family members and to begin a new life in the United States. Moreover, I am concerned that certain preference categories, specifically involving those with "English language skills" and those who qualify as "employment generating investors," may not achieve the desired effect and may instead create reverse imbalances or improper criteria for admission.

I am, however, Mr. President, greatly reassured by the foresighted sunset provision of the bill, which ensures that Congress will have the opportunity to review the implementation and effects of this legislation. I look forward to examining carefully the impact of this legislation on the families of our Nation, and on the social and economic fabric of our Nation.

Once again, Mr. President, may I congratulate those who have worked so hard to devise a sensible, comprehensive immigration policy, and who have brought this legislation before the Senate today.

Mr. DECONCINI. Mr. President, it is only with great reluctance that I must cast my vote in opposition to this bill. I say this because I am in full support of the vast majority of this bill. As my colleague, Senator SIMON of Illinois, and I stated in our additional views in the committee report, the bill makes a number of important and positive reforms to our Nation's legal immigration policy. First, it requires annual executive branch review of our immigration policies; second, it increases second preference visas; and third, it makes available for the first time a number of "independent" visas for individuals who would like to enter the United States but have no family ties to this country.

While this bill contains many positive reforms, each of these reforms can be accomplished without the changes the legislation makes in the fifth immigration preference. The drastic reduction in the number of visas available under the fifth preference for brothers and sisters of United States citizens and the limitation on future eligibility only to siblings who have never married are unnecessary to the overall bill and an unwise step away from the traditional importance we Americans have placed upon family reunification as a cornerstone of our national immigration policy.

The changes made to the fifth preference are also contrary to the long study and recommendations of the 1981 Select Commission on Immigration and Refugee Policy, on which it was my distinct privilege to serve. The changes are also diametrically opposed to the considerable expert testimony given before the Immigration Subcommittee and the observations contained in the Subcommittee's own staff report, "Legal Immigration to the United States: A Demographic Analysis of the Fifth Preference Visa Admissions." [S. Rept. 100-34, U.S. Senate Committee on the Judiciary, April 1987.] These reports all recommended that the present policy of admitting all brothers and sisters of adult U.S. citizens within the numerical limitations be continued.

As was made clear in the committee report, the changes this bill makes to the fifth immigration preference hit potential immigrants with a double whammy.

First, the bill drastically reduces the number of available fifth preference visas by 20 percent to 52,000 in the first 3 fiscal years of its implementation and by 67 percent to 22,000 thereafter. This reduction only serves to make an intolerably long backlog for fifth preference visas even longer.

Second, and compounding the numerical reduction, is the requirement that fifth preference visas be granted only to brothers and sisters of U.S. citizens who have never been married. The effect of this unfair restriction is that siblings will have to remain unmarried throughout the entire waiting period. Given that the current backlog is over 10 years for some countries, future applicants under the fifth preference will be forced into the unacceptable choice of staying unmarried for a decade or more, or foregoing their eventual reunification with a brother or sister in the United States.

Mr. President, reducing the availability of fifth preference family reunification visas is detrimental to the national interest. The importance of fifth preference to family reunification was made eloquently clear by the American Committee on Italian Migration in testimony in the 97th Congress:

> For Italian-Americans and for many other ethnic groups, brothers and sisters, whether or not they are married, are an integral part of the family reunion concept. Elimination of this preference category would violate a sacrosanct human right of an American citizen to live with his family according to his own traditional lifestyle.

In conclusion, Mr. President, while the bill makes positive reforms in some areas of immigration law, I am unable to support it because of the fifth preference provisions which I believe to be both unfair and a radical departure from our historical immigration policies on family reunification.

The PRESIDING OFFICER. Who yields time?

Mr. BREAUX. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I thank the Senator from Louisiana for his courtesy.

The Senator from Massachusetts will be here in a moment—yes, there he is.

Mr. President, I will go forward with my concluding remarks, under the time limitation. Then there will be a colloquy between Senator GRAHAM and Senator KENNEDY, and if I can produce any further information on that, I will be pleased to do so.

It has been a great pleasure to work with Senator KENNEDY on passing this reasonable and forward-looking compromise legislation on legal immigration. I have enjoyed that very much. We do not always vote together, but we have learned to work well together, and especially in this area of refugee and immigration matters.

I very much appreciate the participation of the Senator from Texas [Mr. GRAMM]. He has been very excellent in presenting issues to us.

I also appreciate very much the courtesy of the Senator from Alabama [Mr. SHELBY], who had an amendment which means a great deal to him, and he chose to remove it from this bill and place it upon some other vehicle on which it will be as eminently acceptable as it would have been under this bill, except that it would have been quite disruptive with regard to this legislation. I thank Senator SHELBY for his good, earnest efforts there. That was most helpful to the comanagers of this bill.

I believe this is a good bill which reforms legal immigration in order that it better serves the national interest. Because of this bill, we will know for the first time exactly how many immigrants will arrive in the United States in the coming year. That is for the country to decide on its own: What is its limit of immigration? How many people should be here? Those are things that we must finally address, and we have.

In addition—and this is important—we will be able to adjust very swiftly the national level of immigration every 3 years, if such an adjustment is necessary, because of the new immigration review mechanism established in this bill. Never again will we allow stale immigration statutes to remain on the books for 20 or 30 years without addressing them because we cannot. Now we have done it, with this measure, and it preserves a significant share of permanent resident visas for the closest of family members, yet it expands the number and proportion of the visas that will be distributed to aliens who bring special qualities that will serve our country well.

I think of my own State of Wyoming: The original settlers brought with them the drive and skill to make a go of it. More immigrants today should be chosen because of their likely ability to make a go of it and contribute to this country.

Finally, we have also opened up the immigration system to countries that have been shutout in recent years, and we thus bring a desirable diversity and evenhandedness to U.S. legal immigration policy.

There is still much to be done on immigration reform. We have to continue our oversight of the 1986 legislation on illegal immigration. We have to revise the system of immigration exclusions. Senator KENNEDY and I know the sensitive nature of that. We dealt with that with the select commission.

We have to review and study the annual reports on the social and economic impacts of immigration, required by this legislation, and respond to the recommendations of the International Migration Commission, which is now working on economic solutions to hemispheric migration problems.

I look forward to working with Senator KENNEDY and the Members of the House of Representatives; with Chairman RODINO in the House, who has announced today his retirement, as well as Representative MAZZOLI, Representative SWINDALL, and Representative FISH, who worked diligently on this matter. We are going to present this package to the House of Representatives and say: "Here. We believe sincerely that this is a measure that deserves your earnest attention." We look forward to working with Chairman RODINO, whom we revere and respect with regard to all fields.

As I have said, I think this is an important reform of our legal immigration system. It is many years overdue, and I urge my colleagues to support it.

I reserve the remainder of my time.

Mr. MURKOWSKI. Mr. President, will the acting minority leader yield?

Mr. SIMPSON. I yield.

Mr. MURKOWSKI. Mr. President, I thank the acting minority leader. I should like to address this to the Senator from Massachusetts as well.

Mr. President, I should like to take a moment to inquire of the Senator from Wyoming about the disposition of an immigration question that has been of great concern to me.

I have long been interested in the well-being and security of over 7,000 Polish nationals who fled their native country after the imposition of martial law in 1981. These people have been living in a virtual state of limbo in the United States since that time, unable to return to Poland and unable to remain permanently in this country.

The Senator from Maryland Ms. MIKULSKI and I, cosponsored legislation that would allow these Poles to apply for permanent resident status in the United States, and thus release them from the repeated series of temporary stays of deportation they have experienced since 1981.

It is my understanding that this language was added to the 1988 continuing resolution, is now law, and therefore there is no need to address the issue in this legislation. Is that correct?

Mr. SIMPSON. That is correct. Title IV, section 902, of the continuing resolution gives these Poles, as well as the nationals of any other country who qualify for extended voluntary departure status and who entered the United States before July 21, 1984, the opportunity to apply for temporary residence, and then in 18 months, for permanent residence in this country.

I thank the acting minority leader and Senator KENNEDY.

Mr. KENNEDY. I thank the Senator.

Mr. MURKOWSKI. I thank my colleagues.

Mr. KENNEDY. Mr. President, how much time remains now?

The PRESIDING OFFICER. The Senator from Massachusetts has 8 minutes under his control.

Mr. KENNEDY. Does that conclude the time that we had?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, the Senator from Florida had asked for actually 10 minutes for the answering of certain requests. I only wanted to speak a final 2 minutes on the bill.

If this will go shorter I will be glad to accommodate the Senator from California.

Mr. WILSON. I have a statement.

Mr. KENNEDY. We only have 8 total minutes.

Mr. SIMPSON. Mr. President how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Wyoming has 3 minutes.

Mr. SIMPSON. I yield 2 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Thank you, Mr. President.

Mr. President, I commend the managers of this very difficult and very challenging legislation. There is no field that I think more sorely taxes the Senate and the House than immigration reform. It is a difficult area in which we are cast in the role of Solomon.

I think that this is a bill which in many of its aspects is a very good bill. I particularly commend the managers for those provisions having to do with the independent immigrant visas that will, I think, go a long way toward solving the problems in this country that relate, for example, to nursing shortages.

I also think that they have made good on a 40-year-old promise to Filipino veterans who fought for the freedom of this Nation, and I commend them upon that, and indeed were something to occur that prevented the enactment of those provisions, I would undertake with them to find some alternative means to make them law.

Having said that, it is with some regret that I find myself in disagreement on the fifth preference. That is a very difficult question.

My fear is that the change in the law as is being proposed will work unfairly against the interest of the United States. I think that, while it is clear the intent of the managers in this regard, they will to a considerable extent undermine even the success of the new independent immigrant portions.

But having said that, I do think they have made a monumental effort. The depth of my feeling about the fifth preference section will unhappily compel me to vote against it. I do not think that is going to prevent passage.

Mr. President, I rise today in opposition to the Immigration Act of 1988, S. 2104. I have followed the debate on this bill with great interest, and I must commend my good friends, the chairman [Mr. KENNEDY] and the ranking member [Mr. SIMPSON] of the Subcommittee on Immigration and Refugee Affairs, for their tireless efforts to address and direct American immigration policy. But, while theirs is not an easy task, I am compelled to oppose this piece of legislation even though there are many aspects which under other circumstances I would extend my wholehearted support.

But in this instance that is not the case, Mr. President, because this bill's treatment of the fifth preference visa category is unfair and wholly contrary to the principles of family reunification. I would submit that the changes implemented by S. 2104 are indeed unnecessary to the overall bill. While many of the reforms and changes contemplated in this legislation make significant progress in implementing the recommendations of the Select Commission on Immigration and Refugee Policy, I must reiterate that these proposed changes to the fifth preference category are contrary to that Commission's recommendations regarding the treatment of brothers and sisters of adult U.S. citizens. Therefore, this would work against my very constituency, many of whom are of Asian and Hispanic origin.

Right from the very start, a reduction in this category's visa allocation will impose dramatic hardship on U.S. citizens who have already petitioned for their siblings who reside in those countries contributing to the existing heavy backlog. While those currently on that backlog are to be grandfathered in terms of their marital status, they will now be faced with the prospect of competing for a severely curtailed number of visas. Furthermore, Mr. President, this country has in recent years accepted large numbers of refugees and asylees many of whom reside in my home State of California; they, too, will be adversely affected in their efforts to reunify their families. And, finally Mr. President, I cannot help but ask myself whether or not those who are intended to benefit from the new independent visa category will ever have a realistic opportunity to use the fifth preference in a meaningful manner. This unrelated consequence would undermine the very advantages that would come to the United States by the extension of the new independent immigrant visas, which I wholeheartedly support.

The changes S. 2104 makes to the fifth preference category work unfairly to the disadvantage of a number of people who will be shunted further down the list, increasing pressures on the backlog. Ironically, Mr. President, at a time when we are striving to eliminate the incentive to immigrate illegally to this country, this bill could have the very unfortunate effect of increasing that incentive, thus reversing the advances of the many worthy provisions the Congress put into law under the Immigration Reform and Control Act of 1986.

Mr. President, I mentioned earlier that there are provisions in this legislation which I support wholeheartedly. And, though I will oppose this bill, I am pleased the Senate has recognized the plight of a very heroic and mostly forgotten group of veterans of the Second World War. I am speaking of the Filipino veterans who took up arms and joined our own in battle against America's enemies in the Pacific.

In the spring of 1942, Mr. President, the United States faced one of its darkest hours. The Pacific Fleet was a smoking shambles at Pearl Harbor and the Philippines were falling. During this crisis, President Franklin Roosevelt sent out a call-to-arms to foreign nationals, offering the reward of U.S. citizenship to those who would take up arms and fight alongside our own forces. Mr. President, Congress agreed with President Roosevelt and put that promise into law. Filipinos joined guerrilla units by the thousands, heroically fighting in the Battle of Corregidor and suffering indignities ranging from disfigurement to death during the Bataan Death March.

However, Mr. President, Filipino veterans were denied that reward of U.S. citizenship which had been promised by the President and the Congress of the United States. The United States removed its only naturalization office from the Philippines in 1946. And, the law insuring U.S. citizenship for these brave veterans expired at the end of 1946. The war won and security secured, everyone suddenly turned their backs on Filipino veterans.

Since that time, Filipino veterans have fought for this lost right to citizenship. Joining in this battle has been my very good friend from Hawaii [Mr. INOUYE] who introduced S. 109 early in this historic 100th Congress. I was pleased to join with Senator INOUYE as a cosponsor of that very important legislation, but I was concerned that it was only half the loaf because it did not include those Filipino veterans residing outside of the United States. I had intended to introduce my own legislation to remedy that shortcoming and extend citizenship to all Filipino veterans. However, this provision as accepted by the Senate does exactly that, justly and appropriately recognizes this Nation's commitment to all Filipino veterans whose defense and dedication to freedom of democracy can no longer be forgotten.

Ironically and in light of their brave and selfless contributions to that victory in the Pacific so many years ago, the plight of Filipino veterans has been overlooked until now. Should this provision be delayed or otherwise altered during the course of debate on this bill, I will introduce legislation to pursue it further.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Senator from Florida had wanted to inquire of the managers about certain provisions of the legislation. I yield now for that purpose and then retain the final 3 minutes.

Mr. GRAHAM. Thank you, Mr. President.

Will certain countries gain greater access to the United States; will others have diminished access?

Mr. KENNEDY. Let us first remember that this bill adds numbers; 100,000 more visas will be available to all nationalities wanting to come to the United States. Over a third of those extra visas will be added to the family preferences where we can continue to expect the same nationalities benefiting from the family preference under current law to continue benefiting under the new law.

The rest of the new visas will go to independent immigrants who qualify for the various independent categories. Particularly in the selected immigrant category, under the point system, natives of countries currently not able to immigrate to the United States will benefit—this is because they do not have relatives to petition for them. I stress, however, under this new provision well-qualified immigrants from all continents will benefit.

Mr. GRAHAM. Why are unmarried children over 26 years old being excluded from the preference category 2?

Mr. KENNEDY. As in the rest of the bill, preference is given to the most immediate family members and those members of the family most likely to still be part of the family unit. In any case we grandfather those aliens with pending petition still will be able to qualify.

Mr. GRAHAM. Won't this adversely affect those persons whose status was recently adjusted, Cubans and Haitians?

Mr. KENNEDY. No. This bill has no bearing on Cuban-Haitian adjustment. Cuban-Haitian adjustment is a completely separate provision of the 1986 reform bill, which already allowed for the adjustment of all eligible family members.

Mr. GRAHAM. Does the bill promote more immediate family reunion?

Mr. KENNEDY. Yes.

First, the second goal for limiting 5th preference and transferring about 42,000 visas to the 2nd preference (for spouses and unmarried children of legal residents), is to promote more immediate family reunion. In recent years backlogs have been growing worldwide in this preference for immediate family members of residents, and will likely continue to grow unless additional visas are made available.

Second, this should be particularly important to Hispanic-American families.

Mr. GRAHAM. Will new workers be competition against Americans for the same jobs or is there a demonstrated need to fill certain skilled positions.

Mr. KENNEDY. For part of the independent visas the bill continues the same protections given to labor as are in current law (third and sixth preference). The new selected immigrants would qualify for areas of work where we have an occupational demand. As I pointed out yesterday, the AFL-CIO endorses this bill for its constructive approach to the needs of the country.

Mr. GRAHAM. Mr. President, I would like to ask one final question of the Senator from Massachusetts. And since the Senator from California has raised the issue of fifth preference, I would ask that question.

By dramatically reducing the number of fifth preference immigrant brothers and sisters and restricting the usage of the fifth preference by insisting that these brothers and sisters not be or have ever been married are we not further aggravating the already-backlogged preference category which currently is taking up to 18 years to get a fifth preference visa and are we alleviating the situation or making it worse by the passage of this legislation?

Mr. KENNEDY. I welcome the question because there has been a good deal of discussion on the fifth preference and I think during the debate we have had an opportunity to try and clarify some of the misunderstandings on that particular issue.

Let me mention in response to the Senator's question that the growing and lengthy backlog in fifth preference has made it an illusory and false hope of family reunification.

When the Senator from Wyoming and I served on the Select Commission there was about a backlog of 300,000; now it is 1,200,000. In some countries individuals wait anywhere from 12 to 15 years.

So the concept of family reunification is mainly an illusory one.

One of the goals of the bill is to address the issue of escalating backlogs in the preferences for brothers and sisters.

The different preference backlogs have grown enormously, as I mentioned. At the current rate at which fifth preference backlog is being met for most countries—the waiting list is moving by just 4 months a year—it will take an applicant who receives an approved petition this year 18 years for his or her visa to come up, or until the year 2006. It is even longer for high demand countries such as the Philippines, Mexico, India, and China.

So what we have attempted to do in the formulation of this legislation is to give prioritise to the unmarried brothers and sisters, believing that in most circumstances those will be individuals who have not started their families and for a variety of reasons may very well be closer to their relatives here in the United States. This does not exclude the possibility for any of those who are married brothers and sisters of American citizens if their parents are here. Their parents can apply for those married brothers and sisters and they would move to the fourth preference which would be a higher preference and be able to gain entrance a good deal quicker than they would under the fifth preference.

So I think it is a careful balance in attempting to prioritize the family relationship and make the fifth preference a real preference of some reality and not an illusion.

Beyond that, we have also grandfathered all those that are on the list now so they will not lose whatever rights they have under the old system. That is important.

What we have done is also added 30,000 numbers each year for the next 3 years. We may very well continue that when we find out how much of a backlog and how real that list is and how desirous people are of really coming here and how effective our new proposal will be.

So it seems to me we are trying to take into consideration the real family relationship and also to the new realities that we are facing in terms of that particular provision.

Mr. President, finally, I want to pay real tribute to my friend and colleague from Wyoming. I think all of us in this body wrestle with various policy issues and questions and some years ago the Select Commission was set up on migration to deal both with the illegal immigration as well as review of legal immigration policy. I think it is rare indeed when a Member of this body really takes on an issue and deals with all of the aspects, in this case both the immigration policy affecting illegals and now with the immigration policy affecting legal migration. It is an extraordinary achievement.

We have agreed on many issues; differed on some. I think both of us might have been right or might have been wrong about various past conclusions. But we have not let those differences halt progress in that area and what I think is common to this legislation is the real desire to review the actions that we have taken.

I think that is enormously important not only in general policy areas but certainly in this area of immigration that is constantly moving and changing and evolving and where the needs and demands of our own country are altering and changing.

But I think all those Americans and all those who are permanent resident aliens and all those around the world ought to know that we have placed the greatest emphasis on families and the reunifications of families. Those are the underlying and continuing criteria. We have insisted that no provisions be included in here that could be the source of discrimination as often in the past. We have corrected some of the inequities which have developed as a result of denying some of those countries which had historically made a contribution and provided their sons and daughters to our country and provided a diversity to our society, a rich diversity, will also have some opportunity if they have special skills that can make a contribution to our Nation.

This is a balanced program. I do think it is one that commends itself to the Senate and to the American people.

I have been enormously appreciative of all his work and of those that have testified before our committee and those that have participated in this debate and discussion and for their interest and their concerns. We want to give them the assurances, whether it is on the question of preferences or other provisions of this legislation. One of the key elements of this bill is an ongoing and continuing review of immigration. We are committed to that. I hope that the Senate would feel that, based upon the work of Chairman SIMPSON when he was chairman of the Immigration Subcommittee, as well as our recent efforts, that we will meet our responsibilities to the Senate in ensuring that we are going to have a fair and just and humanitarian immigration policy.

I thank the Chair.

The PRESIDING OFFICER. All time having expired, the clerk will read the bill for a third time.

Mr. SIMPSON. Mr. President, I think I have a remaining minute.

The PRESIDING OFFICER. I am afraid that is not the case.

Mr. SIMPSON. I had given 2 minutes to the Senator from California, who reserved a minute of my 3 minutes. That is all I recall.

The PRESIDING OFFICER. The time was used by the Senator from California.

Mr. SIMPSON. I ask unanimous consent for an additional minute.

The PRESIDING OFFICER. Without objection, the Senator's unanimous-consent request is granted.

Mr. SIMPSON. Mr. President, I wish to thank the Senator from Massachusetts for his generous remarks. It has been a real pleasure for 9 years to work with him on immigration, whether I have been in the minority or majority. We do not vote together an awful lot, but we legislate together a lot. And that is the way the system should work. It is a great pleasure to do that and I enjoy it. I thank him and I enjoy his friendship.

I wish to thank Dick Day and Jerry Tinker, our chief counsels; Carl Hampe, and Heather Hodges. Whatever has moved it this far is the civility, the extraordinary civility, and professionalism of these people. It has been exemplary to watch.

So, with that, Mr. President, I complete my remarks. I do hope our colleagues will embrace this measure and that it will be something that the House will soon pass.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and the bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Alabama [Mr. HEFLIN], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Hawaii [Mr. MATSUNAGA] are absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND] and the Senator from Kansas [Mr. DOLE] are necessarily absent.

The PRESIDING OFFICER (Mr. SASSER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 4, as follows:

[Rollcall Vote No. 50 Leg.]

YEAS—88

Adams
Armstrong
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
Dixon
Dodd
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hecht
Heinz
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wirth

NAYS—4

DeConcini
Hatfield
Helms
Wilson

NOT VOTING—8

Biden
Bond
Dole
Gore
Heflin
Matsunaga
Simon
Stennis

So the bill (S. 2104), as amended, was passed, as follows:

S. 2104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—IMMIGRATION ACT OF 1988

SEC. 101. SHORT TITLE; REFERENCES IN TITLE.

(a) SHORT TITLE.—This title may be cited as the "Immigration Act of 1988".

(b) REFERENCES IN ACT.—Except as specifically provided in this title, whenever in this title an amendment or repeal is expressed as an amendment to, or repeal of a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

SEC. 102. NATIONAL LEVEL OF IMMIGRATION.

(a) WORLDWIDE LEVEL OF IMMIGRATION.—(1) Section 201 (8 U.S.C. 1151) is amended to read as follows:

"WORLDWIDE LEVEL OF IMMIGRATION

"SEC. 201. (a) IN GENERAL.—Exclusive of aliens described in subsection (b), aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(1) family connection immigrants described in section 203(a) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a)) in a number not to exceed in any fiscal year the number specified in subsection (c) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year;

"(2) independent immigrants described in section 203(b) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b)), in a number not to exceed in any fiscal year the number specified in subsection (d) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year; and

"(3) for fiscal years 1990, 1991, or 1992, qualified backlog immigrants as described in section 203(a)(4)(B), not to exceed 30,000 in any fiscal year.

"(b) ALIENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATIONS.—The following aliens are not subject to the worldwide levels or numerical limitations of subsection (a):

"(1)(A) Special immigrants described in subparagraph (A) or (B) of section 101(a)(27).

"(B) Aliens who are admitted under section 207(c) pursuant to a numerical limitation established under section 207(b).

"(C) Aliens whose status is adjusted to permanent residence under section 210, 210A, or 245A.

"(D) Aliens provided permanent resident status under section 249.

"(2)(A)(i) Aliens who are immediate relatives. For purposes of this clause, the term 'immediate relatives' means the children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such citizens shall be at least 21 years of age.

"(ii) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative.

"(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.

"(C) Aliens who are admitted under section 207(c) pursuant to a numerical limitation established under section 207(a) and aliens who are granted asylum under section 208.

"(c) WORLDWIDE LEVEL OF FAMILY CONNECTION IMMIGRANTS.—(1) The worldwide level of family connection immigrants under this subsection for a fiscal year is equal to—

"(A) 440,000, minus

"(B) the number computed under paragraph (2), plus

"(C) the number (if any) computed under paragraph (3).

"(2) The number computed under this paragraph for a fiscal year is the sum of the number of aliens described in subparagraph (A) or (B) of subsection (b)(2) who were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence in the previous fiscal year.

"(3) The number computed under this paragraph for a fiscal year (beginning with fiscal year 1991) is the difference (if any) between the maximum number of visas which may be issued under subsection (a)(2) (relating to independent immigrants) during the previous fiscal year and the number of visas issued under that subsection during that year.

"(d) WORLDWIDE LEVEL OF INDEPENDENT IMMIGRANTS.—(1) The worldwide level on independent immigrants under this subsection for a fiscal year is equal to—

"(A) 150,000, minus

"(B) for each of fiscal years 1990, 1991, and 1992, 30,000, plus

"(C) the number computed under paragraph (2).

"(2) The number computed under this paragraph for a fiscal year (beginning with fiscal year 1991) is the difference (if any) between the maximum number of visas which may be issued under subsection (a)(1) (relating to family connection immigrants) during the previous fiscal year and the number of visas issued under that subsection during that year.

"(e) REPORT ON, AND REVISION OF, WORLDWIDE LEVEL OF IMMIGRATION.—(1) In January before the beginning of fiscal year 1993 (and before each succeeding fiscal year thereafter), the Attorney General, in consultation with the Secretary of Labor, the Secretary of State, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Administration, and the Secretary of Housing and Urban Development, shall prepare and transmit to the President and to the Judiciary Committees of the Senate and of the House of Representatives a report discussing the effect of immigration on the United States. The report shall consider—

"(A) the requirements of citizens of the United States and of aliens lawfully admitted for permanent residence to be joined in the United States by immediate family members;

"(B) the impact of immigration on labor needs, employment, and other economic and domestic conditions in the United States;

"(C) the impact of immigration with respect to demographic and fertility rates and resources and environmental factors; and

"(D) the impact of immigration on the foreign policy and national security interests of the United States.

The report for fiscal year 1993 (and each third fiscal year thereafter) shall include a discussion, based upon such considerations, of the need (if any) to revise the number specified in subsection (c)(1)(A) or the number specified in subsection (d)(1)(A) for the 3-fiscal year period beginning with the first fiscal year following transmittal of the report. Beginning with fiscal year 1993, and every three fiscal years thereafter, the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives shall hold hearings on the findings of the latest such report.

"(2) In March before the beginning of fiscal year 1993 (and of each third fiscal year thereafter), the President shall, after considering the corresponding report transmitted under paragraph (1) and after soliciting the views of members of the Committees on the Judiciary of the House of Representatives and of the Senate, determine whether or not the number specified in subsection (c)(1)(A) or the number specified in subsection (d)(1)(A) should be changed for the 3-fiscal year period beginning with the next following fiscal year, and, if so, which number should apply instead of the number specified in the respective subsection for the fiscal years of that period. The President shall transmit such determination to the Congress by not later than March 31 before the fiscal year involved and shall deliver such determination to both Houses of Congress on the same day and while each House is in session.

"(3)(A) Notwithstanding the provisions of subsections (c)(1)(A) and (d)(1)(A), if the number transmitted in a determination of the President with respect to subsection (c)(1)(A) or subsection (d)(1)(A) for the fiscal years of a 3-fiscal year period—

"(i) is not less than 95 percent, nor more than 105 percent, of the number specified in that respective subsection, unless the Congress, by not later than August 31 following the date of the transmittal, enacts a joint resolution the substance of which disapproves the change with respect to the number for that respective subsection for the fiscal years of that 3-fiscal year period, the number so transmitted shall take effect and apply, instead of the number specified in that respective subsection, during that period; or

"(ii) is less than 95 percent, or more than 105 percent, of the number specified in that respective subsection, if the Congress, by not later than August 31 following the date of the transmittal, enacts a joint resolution the substance of which approves the change with respect to the number specified in that respective subsection for the fiscal years of that 3-fiscal year period, the number so transmitted shall take effect and apply, instead of the number specified in that respective subsection, during that period.

"(B) For purposes of this paragraph, a number transmitted by the President under paragraph (2) which takes effect and applies under this paragraph with respect to subsection (c)(1)(A) or (d)(1)(A) shall thereafter be deemed to be the number specified in that same subsection.

"(4) Paragraphs (5), (6), and (7) are enacted—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each respective House, but applicable only with respect to the procedure to be followed in the case of joint resolutions described in paragraph (5), and supersede the other rules only to the extent that such paragraphs are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change such rules at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(5) For purposes of this subsection, the term 'joint resolution', with respect to a change in number transmitted by the President under paragraph (2) for the fiscal years of a three-fiscal year period, in the case described—

"(A) in paragraph (3)(A)(i), means only a joint resolution of the Congress, the matter after the resolving clause of which is as follows: 'That Congress, pursuant to subsection (e)(3)(A)(i) of section 201 of the Immigration and Nationality Act, disapproves the change proposed by the President in the number specified under subsection   of that section for the three fiscal years   transmitted to the Congress by the President on   ', the blank spaces therein to be filled appropriately; or

"(B) in paragraph (3)(A)(ii), means only a joint resolution of the Congress, the matter after the resolving clause of which is as follows: 'That Congress, pursuant to subsection (e)(3)(A)(ii) of section 201 of the Immigration and Nationality Act, approves the change proposed by the President in the number specified under subsection   of that section for the three fiscal years   transmitted to the Congress by the President on   ', the blank spaces therein to be filled appropriately.

"(6)(A) No later than the first day of session following the day on which a determination is transmitted to the House of Representatives and to the Senate under paragraph (2), which determination provides for a change in a number specified in subsection (c)(1)(A) or (d)(1)(A) for a fiscal year, a joint resolution (as defined in paragraph (5)) with respect to each such change shall be introduced (by request) in each House by the chairman of the Committee on the Judiciary of that House, or by a Member or Members of the House designated by such chairman.

"(B)(i) Each joint resolution introduced in a House shall be referred to the Committee on the Judiciary of the respective House. The committees shall make their recommendations to the respective House not later than June 15 following the date of introduction.

"(ii) If the Committee has not reported such a joint resolution with respect to a change by such date, it is in order to move to discharge the Committee from further consideration of the joint resolution, except that no motion to discharge shall be in order after the Committee has reported a joint resolution with respect to the same change.

"(iii) A motion to discharge under clause (ii) may be made only by a Member favoring the joint resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution, the time to be divided equally between, and controlled by, in the Senate by the majority leader and the minority leader or their designees and in the House of Representatives by the chairman of the Committee on the Judiciary and the ranking minority member of such committee or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C)(i) When the Committee has reported, or been discharged from consideration of, a joint resolution, a motion to proceed to the consideration of the joint resolution shall be highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"(ii) Debate on a joint resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided in the Senate between, and controlled by, the majority leader and the minority leader or their designees and to be equally divided in the House of Representatives between individuals favoring and individuals opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which a joint resolution is passed or rejected shall not be in order.

"(iii) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the joint resolution shall occur.

"(iv) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

"(D) If, prior to the passage by one House of a joint resolution of that House, that House receives a joint resolution with respect to the same change transmitted by the President in a number specified under a subsection for a fiscal year, then—

"(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(ii) the vote on final passage shall be on the resolution of the other House.".

(2) The item in the table of contents relating to section 201 is amended to read as follows:

"Sec. 201. Worldwide level of immigration.".

(b) Per Country Immigration Levels.—Section 202 (8 U.S.C. 1152) is amended—

(1) in subsection (a)—

(A) by striking "(a) No person" and inserting "(a)(1) Except as specifically provided in paragraph (2) and in section 101(a)(27), 201(b) (2)(A)(i), and 203, no person",

(B) by striking ", except as specifically" and all that follows through "following fiscal year", and

(C) by adding at the end the following new paragraph:

"(2)(A) Subject to subparagraphs (B) and (C), the total number of immigrant visas made available to natives of any single foreign state or dependent area under subsection (c) of section 201 (relating to family connection immigrants) in any fiscal year may not exceed 7 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas made available under such subsection in that fiscal year.

"(B) If for fiscal year 1990 or a succeeding fiscal year the number of aliens described in subparagraph (A) or (B) of section 201(b)(2) (relating to immediate relatives and similar individuals) who are natives of a particular foreign state or dependent area and who are issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence in the fiscal year exceeds the greater of—

"(i) the numerical level computed under subparagraph (A) for that state for that fiscal year, or

"(ii) the level of such immigration of natives of that foreign state in fiscal year 1988 or fiscal year 1989 (whichever is greater),

then the numerical level applicable to that foreign state or dependent area in the following fiscal year under subparagraph (A) shall be reduced by the amount of such excess, except that such reduction shall not exceed one-half of the numerical level otherwise provided without regard to this subparagraph.

"(C) If, because of the application of subparagraph (A) with respect to one or more foreign states, the number of visas available under section 201(c) for a calendar quarter exceeds the number of qualified immigrants who otherwise may be issued such a visa, subparagraph (A) shall not apply to visas made available to such states or areas during the remainder of such calendar quarter.

"(3)(A) Subject to subparagraph (B), the total number of immigrant visas made available to natives of any single foreign state or dependent area under subsection (d) of section 201 (relating to independent immigrants) in any fiscal year may not exceed 7 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas made available under such subsection in the fiscal year.

"(B) If, because of the application of subparagraph (A) with respect to one or more foreign states or dependent areas, the number of visas available under section 201(d) for a calendar quarter exceeds the number of qualified immigrants who otherwise may be issued such a visa, subparagraph (A) shall not apply to visas made available to such states or areas during the remainder of such calendar quarter.";

(2) in subsection (b), by striking "the numerical limitation set forth in the proviso to subsection (a) of this section" each place it appears and inserting "a numerical level established under subsection (a)";

(3) in subsection (c)—

(A) by striking "other than" and all that follows through "section 201(b)" and inserting "other than a special immigrant, as defined in section 101(a)(27), or an alien described in section 201(b)(2)(A)(i)", and

(B) by striking "section 202(a)" and all that follows through the end and inserting "subsection (a)(1), to the foreign state"; and

(4) Section 202(e) is amended to read as follows:

"(e) Whenever the maximum number of visas have been made available under subsection (a)(2) to natives of any single foreign state or to any dependent area, then in the next following fiscal year a number of visas, not to exceed the number specified in subsection (a)(2) for a foreign state or a dependent area, as the case may be, shall be made available and allocated for such state or such area for the same classes of aliens described in, and the same percentages specified in, paragraphs (1) through (4) of section 203(a).".

SEC. 103. PREFERENCE SYSTEM FOR ADMISSION OF IMMIGRANTS.

(a) In General.—(1) Section 203 (8 U.S.C. 1153) is amended to read as follows:

"ALLOCATION OF IMMIGRANT VISAS

"Sec. 203. (a) Preference Allocation for Family Connection Immigrants.—Aliens subject to the worldwide level specified in section 201(c) for family connection immigrants shall be allotted visas as follows:

"(1) Unmarried sons and daughters of citizens.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a number not to exceed 15 percent of such worldwide level, plus any visas not required for the class specified in paragraph (4).

"(2) Spouses and unmarried sons and unmarried daughters of permanent resident aliens.—Qualified immigrants who are—

"(A) the spouses of aliens lawfully admitted for permanent residence, or

"(B) the unmarried sons or unmarried daughters of an alien lawfully admitted for permanent residence, if the sons or daughters—

"(i) are under 26 years of age, or

"(ii)(I) as of the date of the enactment of the Immigration Act of 1988, had a petition filed on their behalf for preference status under section 203(a)(2) (as in effect on such date) by reason of such relationship and such petition was subsequently approved, and

"(II) continue to qualify under the terms of this Act as in effect on the day before such date,

shall be allocated visas in a number not to exceed 65 percent of such worldwide level, plus any visas not required for the class specified in paragraph (1).

"(3) Married sons and daughters of citizens.—Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed 10 percent of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) and (2).

"(4) Never married brothers and sisters of citizens and previous fifth preference.—Qualified immigrants—

"(A) who are the never married brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, and

"(B) who—

"(i) as of the date of enactment of the Immigration Act of 1988 had a petition filed on their behalf for preference status by reason of the relationship described in paragraph (5) of section 203(a) of this Act as in effect on the day before such date and such petition was subsequently approved, and

"(ii) continue to qualify under the terms of this Act as in effect on the day before such date,

shall be allocated visas, in addition to visas otherwise allocated under section 201(a)(3), in a number not to exceed 10 percent of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) through (3). For purposes of this paragraph, the term 'never married', with respect to an individual, means an individual who has never been married or whose marriage was annulled or otherwise legally determined never to have had effect.

"(b) Preference Allocation for Independent Immigrants.—Aliens subject to the worldwide level specified in section 201(d) for independent immigrants in a fiscal year shall be allocated visas as follows:

"(1) Special immigrants.—Visas shall be made available, in a number not to exceed 5 percent of such worldwide level, to qualified special immigrants described in section 101(a)(27) (other than those described in subparagraph (A) or (B) thereof).

"(2) Aliens who are members of the professions holding advanced degrees or aliens of exceptional ability.—(A) Visas shall be made available next, in a number not to exceed 23 percent of such worldwide level to qualified immigrants who are members of the professions holding advanced degrees or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

"(B) The Attorney General may, when he deems it to be in the national interest, waive the requirement of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

"(C) In determining under subparagraph (A) whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning or a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(3) Skilled workers.—(A) Visas shall be made available next, in a number not to exceed 23 percent of such worldwide level, to the following two classes of aliens:

"(i) Qualified immigrants who are capable, at the time of petitioning, of performing skilled labor (requiring at least 2 years training or experience), not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(ii) Qualified immigrants who hold baccalaureate degrees and who are members of the professions.

"(B) An immigrant visa may not be issued to an immigrant under subparagraph (A) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(4) Employment creation.—Visas shall be made available next, in a number not to exceed 4 percent of such worldwide level or 5,000, whichever is greater, to any qualified immigrant who is seeking to enter the United States for the purpose of engaging in a new commercial enterprise which the alien has established and in which such alien has invested or, is actively in the process of investing, capital, in an amount not less than $1,000,000, and which will benefit the United States economy and create full-time employment for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence (other than the spouse, sons, or daughters of such immigrant). The Attorney General, in consultation with the Secretary of Labor and the Secretary of State, may prescribe regulations increasing the dollar amount of the investment necessary for the issuance of a visa under this paragraph.

"(5) Selected immigrants.—(A) Visas authorized in any fiscal year under section 201(d), less those required for issuance to the classes specified in paragraphs (1), (2), (3), and (4), shall be made available to qualified immigrants who attain a score of not less than 50 points, based on the point assessment system described in subparagraph (B).

"(B) The point assessment system referred to in subparagraph (A) shall accord points based on criteria as follows:

"(i) Age (10 points).—For an alien who (as of the date of filing a petition is—

"(I) at least 21 years of age but has not attained 36 years of age, 10 points; or

"(II) at least 36 years of age, but has not attained 45 years of age, 5 points.

"(ii) Education (25 points).—For an alien who (as of the date of filing a petition)—

"(I) has completed successfully grade school through high school or its educational equivalent (as determined by the Secretary of Education), 10 points;

"(II) has been awarded a bachelors' degree or its equivalent (as determined by the Secretary of Education), 10 additional points; and

"(III) has been awarded a graduate degree, an additional number of points (up to 5 additional points) to be determined by the Secretary of Education based on the level of the degree.

"(iii) English language ability (20 points).—For an alien who certifies, upon the date of filing a petition, subject to verification by examination after the date of selection, that he has an understanding of the English language and the ability to communicate in such language, 20 points.

"(iv) Occupational demand (20 points).—For an alien who is in an occupation for which the Secretary of Labor determines (before the fiscal year involved)—

"(I) there will be increased demand in the United States for individuals in the occupation in the fiscal year, 10 points, and

"(II) there is a present or there will be a future shortage of individuals in the United States to meet the need in the occupation in the United States in the fiscal year, 5 or 10 points.

"(v) Occupational training and work experience (20 points).—To the extent the alien has training, work experience, or both, as determined by the Secretary of Labor, in the occupation described in clause (iv), 10 or 20 points, such points multiplied by the number of points awarded under clause (iv) divided by 20.

"(C) The point assessment system described in subparagraph (B) shall be established by regulation by the Secretary of State in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education.

"(c) Treatment of Family Members.—A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b) (except for subsection (b)(5)) be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(d) Order of Consideration.—(1) Immigrant visas made available under subsection (a) or (b) (other than paragraph (5)) or under section 201(a)(3) shall be issued to eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General (or in the case of special immigrants under section 101(a)(27)(D), with the Secretary of State) as provided in section 204(a).

"(2) Of the immigrant visa numbers made available under subsection (b)(5) (relating to selected immigrants) in a fiscal year—

"(A) 20 percent of such numbers shall be issued to eligible qualified immigrants who attain a score of at least 80 points on the assessment system described in subsection (b)(5)(B) with respect to petitions filed for the fiscal year involved, to be chosen in the random order described in clause (B); and

"(B) 80 percent of such numbers shall be issued to eligible qualified immigrants with a qualifying score on such system strictly in a random order established by the Secretary of State for the fiscal year involved.

"(3) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.

"(e) Presumption.—Every immigrant shall be presumed not to be described in subsection (a) or (b) of this section, section 101(a)(27), or section 201(b)(2), until the immigrant establishes to the satisfaction of the consular officer and the immigration officer that the immigrant is so described. In the case of any alien claiming in his application for an immigrant visa to be described in section 201(b)(1) or in subsection (a) or (b) of this subsection, the consular officer shall not grant such status until he has been authorized to do so as provided by section 204.

"(f) Lists.—For purposes of carrying out his responsibilities in the orderly administration of this section, the Secretary of State may make reasonable estimates of the anticipated numbers of visas to be issued during any quarter of any fiscal year within each of the categories under subsections (a) and (b), and to rely upon such estimates in authorizing the issuance of visas. The Secretary of State shall terminate the registration of any alien who fails to apply for an immigrant visa within one year following notification to him of the availability of such visa, but the Secretary shall reinstate the registration of any such alien who establishes within 2 years following the date of notification of the availability of such visa that such failure to apply was due to circumstances beyond his control.".

(2) Nothing in this subsection may be construed as continuing the availability of visas under section 203(a)(7), as in effect before the date of enactment of this Act.

(b) Changes in Petitioning Procedure.—Section 204(a) (8 U.S.C. 1154(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (5), and

(2) by striking "(a)(1)" and all that follows through the end of paragraph (1) and inserting the following:

"(a)(1)(A) Any citizen of the United States claiming that an alien is entitled to classification by reason of a relationship described in paragraph (1), (3), or (4) of section 203(a) or to an immediate relative status under section 201(b)(2)(A)(i) may file a petition with the Attorney General for such classification.

"(B) Any alien lawfully admitted for permanent residence claiming that an alien is entitled to a classification by reason of the relationship described in section 203(a)(2) may file a petition with the Attorney General for such classification. An alien may be classified as an alien described in paragraphs (2), (3), or (4) of section 203(a) with respect to a specific fiscal year on the basis of a petition filed in a previous fiscal year only if the alien has filed with the Attorney General a notice of continuing intent to be admitted to the United States as an immigrant under such section within the 2 fiscal years immediately previous to the specific fiscal year involved.

"(C)(i) Any alien (other than a special immigrant under section 101(a)(27)(D)) desiring to be classified under section (203)(b)(1) (or any person on behalf of such an alien) (relating to special immigrants) may file a petition with the Attorney General for such classification.

"(ii) Aliens claiming status as a special immigrant under section (101)(a)(27)(D) may file a petition only with the Secretary of State and only after notification by the Secretary that such status has been recommended and approved pursuant to such section.

"(D) Any alien desiring to be classified under section 203(b)(2) (or any person on behalf of such an alien) (relating to professionals) may file a petition with the Attorney General for such classification.

"(E) Any person desiring and intending to employ within the United States an alien entitled to classification under paragraph (2) or (3) of section 203(b) (relating to professionals and skilled workers) may file a petition with the Attorney General for such classification.

"(F) Any alien desiring to be classified under section 203(b)(4) (relating to employment creation) may file a petition with the Attorney General for such classification.

"(G)(i) Any alien desiring to be provided an immigrant visa under section 203(b)(5) (relating to selected immigrants) may file a petition at the place and time determined by the Secretary of State by regulation. While the place of filing may be designated inside the United States, the petitioner shall be physically outside the United States when submitting the petition. Only one such petition may be filed by an alien with respect to any petitioning period established. If more than one petition is submitted all such petitions submitted for such period by the alien shall be voided.

"(ii)(I) The Secretary of State may designate a period for the filing of petitions with respect to visas which may be issued under section 203(b)(5) during either of the next two fiscal years beginning after the close of such period.

"(II) Aliens who qualify, through random selection, for a visa under section 203(b)(5) shall remain eligible to receive such visa only through the end of the specific fiscal year for which they were selected.

"(III) The Secretary of State shall prescribe such regulations as may be necessary to carry out this clause.

"(2) A petition or registration under this subsection shall be in such form as the Secretary of State may by regulation prescribe and shall contain such information and be supported by such documentary evidence as the Secretary of State may require.

"(3) The petition under this subsection shall include a certification in writing at the time of filing a petition that all information contained within the petition is true and correct to the best of the petitioner's knowledge, and any willful misrepresentation of the facts or statements included in the petition shall be deemed a violation of section 212(a)(19).

"(4) On or after October 1, 1989, an alien who—

"(A) previous to being admitted as, or otherwise provided the status of, an alien lawfully admitted for permanent residence was married to an individual, and

"(B) is so admitted, or provided such status, as a child or as the unmarried son or unmarried daughter of a citizen of the United States or of an alien lawfully admitted for permanent residence,

may not file a petition under this section on behalf of any alien to whom the alien was married previous to being so admitted or provided such status.".

(c) Revision of Labor Certification.—(1) Paragraph (14) of section 212(a) (8 U.S.C. 1182(a)) is amended to read as follows:

"(14) Aliens seeking to enter the United States to perform skilled labor unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that (A) there are not sufficient qualified workers (or equally qualified workers in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or arts) available in the United States in the positions in which the aliens will be employed; and (B) the employment of aliens in such positions will not adversely affect the wages and working conditions of workers in the United States. The Secretary of Labor may, in his discretion, substitute for the determination and certification described in clause (A) of by the preceding sentence a determination and certification that there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts), and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled labor. In making either determination under this paragraph, the Secretary of Labor may use labor market information without regard to the specific job opportunity for which certification is requested, but if such determination is adverse, the Secretary of Labor shall make a certification with regard to the specific job opportunity if the employer submits evidence that such specific certification would result in a different determination. An alien on behalf of whom a certification is sought must have an offer of employment from an employer in the United States. The exclusion of aliens under this paragraph shall only apply to immigrants seeking admission under paragraph (2) or (3) of section 203(b), except that paragraph shall not apply to any alien for whom a waiver has been made under section 203(b)2(B);".

(2) The Secretary of Labor shall conduct a comprehensive study to determine whether the process of obtaining an immigrant labor certification under section 212(a)(14) of the Immigration and Nationality Act, as amended by this title, has been simplified or otherwise expedited. In conducting this study, the Secretary shall hold public hearings. Not later than March 31, 1992, the Secretary of Labor shall prepare and transmit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report containing the findings of such study and including any recommendations of other relevant agencies of the Federal Government with respect to such findings.

SEC. 104. DETERRING IMMIGRATION-RELATED ENTREPRENEURSHIP FRAUD.

(a) Conditional Basis for Permanent Resident Status Based on Establishment of Commercial Enterprises.—Chapter 2 of title II of the Immigration and Nationality Act is amended by adding at the end the following new section:

"CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, AND CHILDREN

"Sec. 218. (a) In General.—

"(1) Conditional basis for status.—Notwithstanding any other provision of this Act, an alien entrepreneur (as defined in subsection (f)(1)), spouse, and child (as defined in subsection (f)(2)) shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence, to have obtained such status on a conditional basis subject to the provisions of this section.

"(2) Notice of requirements.—

"(A) At time of obtaining permanent residence.—At the time an alien entrepreneur, spouse, or child obtains permanent resident status on a conditional basis under paragraph (1), the Attorney General shall provide for notice to such an entrepreneur, spouse, or child respecting the provisions of this section and the requirements of subsection (c)(1) to have the conditional basis of such status removed.

"(B) At time of required petition.—In addition, the Attorney General shall attempt to provide notice to such an entrepreneur, spouse, or child, at or about the beginning of the 90-day period described in subsection (d)(2)(A), of the requirements of subsections (c)(1).

"(C) Effect of failure to provide notice.—The failure of the Attorney General to provide a notice under this paragraph shall not affect the enforcement of the provisions of this section with respect to such an entrepreneur, spouse, or child.

"(b) Termination of Status if Finding that Qualifying Entrepreneurship Improper.—

"(1) In general.—In the case of an alien with permanent resident status on a conditional basis under subsection (a), if the Attorney General determines, before the second anniversary of the alien's obtaining the status of lawful admission for permanent residence, that—

"(A) the establishment of the commercial enterprise was intended solely as a means of evading the immigration laws of the United States, or

"(B)(i) a commercial enterprise was not established by the alien;

"(ii) the alien did not invest or was not actively in the process of investing the requisite capital; or

"(iii) the alien was not sustaining the actions described in clause (A) or (B) throughout the period of the alien's residence in the United States,

then the Attorney General shall so notify the alien involved and, subject to paragraph (2), shall terminate the permanent resident status of the alien involved as of the date of the determination.

"(2) Hearing in deportation proceeding.—Any alien whose permanent resident status is terminated under paragraph (1) may request a review of such determination in a proceeding to deport the alien. In such proceeding, the burden of proof shall be on the Attorney General to establish, by a preponderance of the evidence, that a condition described in paragraph (1) is met.

"(c) Requirements of Timely Petition and Interview for Removal of Condition.—

"(1) In general.—In order for the conditional basis established under subsection (a) for an alien entrepreneur, spouse, or child to be removed—

"(A) the alien entrepreneur must submit to the Attorney General, during the period described in subsection (d)(2), a petition which requests the removal of such conditional basis and which states, under penalty of perjury, the facts and information described in subsection (d)(1), and

"(B) in accordance with subsection (d)(3), the alien entrepreneur must appear for a personal interview before an officer or employee of the Service respecting the facts and information described in subsection (d)(1).

"(2) Termination of permanent resident status for failure to file petition or have personal interview.—

"(A) In general.—In the case of an alien with permanent resident status on a conditional basis under subsection (a), if—

"(i) no petition is filed with respect to the alien in accordance with the provisions of paragraph (1)(A), or

"(ii) unless there is good cause shown, the alien entrepreneur fails to appear at the interview described in paragraph (1)(B),

the Attorney General shall terminate the permanent resident status of the alien as of the second anniversary of the alien's lawful admission for permanent residence.

"(B) Hearing in deportation proceeding.—In any deportation proceeding with respect to an alien whose permanent resident status is terminated under subparagraph (A), the burden of proof shall be on the alien to establish compliance with the conditions of paragraphs (1)(A) and (1)(B).

"(3) Determination after petition and interview.—

"(A) In general.—If—

"(i) a petition is filed in accordance with the provisions of paragraph (1)(A), and

"(ii) the alien entrepreneur appears at the interview described in paragraph (1)(B),

the Attorney General shall make a determination, within 90-days of the date of the interview, as to whether the facts and information described in subsection (d)(1) and alleged in the petition are true with respect to the qualifying commercial enterprise.

"(B) Removal of conditional basis if favorable determination.—If the Attorney General determines that such facts and information are true, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status effective as of the second anniversary of the alien's obtaining the status of lawful admission for permanent residence.

"(C) Termination if adverse determination.—If the Attorney General determines that such facts and information are not true, the Attorney General shall so notify the alien involved and, subject to subparagraph (D), shall terminate the permanent resident status of an alien entrepreneur, spouse, or child as of the date of the determination.

"(D) Hearing in deportation proceeding.—Any alien whose permanent resident status is terminated under subparagraph (C) may request a review of such determination in a proceeding to deport the alien. In such proceeding, the burden of proof shall be on the Attorney General to establish, by a preponderance of the evidence, that the facts and information described in subsection (d)(1) and alleged in the petition are not true with respect to the qualifying commercial enterprise.

"(d) Details of Petition and Interview.—

"(1) Contents of petition.—Each petition under subsection (c)(1)(A) shall contain facts and information demonstrating that—

"(A) a commercial enterprise was established by the alien;

"(B) the alien invested or was actively in the process of investing the requisite capital; and

"(C) the alien sustained the actions described in clauses (A) and (B) throughout the period of the alien's residence in the United States.

"(2) Period for filing petition.—

"(A) 90-day period before second anniversary.—Except as provided in subparagraph (B), the petition under subsection (c)(1)(A) must be filed during the 90-day period before the second anniversary of the alien's obtaining the status of lawful admission for permanent residence.

"(B) Date petitions for good cause.—Such a petition may be considered if filed after such date, but only if the alien establishes to the satisfaction of the Attorney General good cause and extenuating circumstances for failure to file the petition during the period described in subparagraph (A).

"(C) Filing of petitions during deportation.—In the case of an alien who is the subject of deportation hearings as a result of failure to file a petition on a timely basis in accordance with subparagraph (A), the Attorney General may stay such deportation proceedings against an alien pending the filing of the petition under subparagraph (B).

"(3) Personal interview.—The interview under subsection (c)(1)(B) shall be conducted within 90 days after the date of submitting a petition under subsection (c)(1)(A) and at a local office of the Service, designated by the Attorney General, which is convenient to the parties involved. The Attorney General, in the Attorney General's discretion, may waive the deadline for such an interview or the requirement for such an interview in such cases as may be appropriate.

"(e) Treatment of Period for Purposes of Naturalization.—For purposes of title III, in the case of an alien who is in the United States as a lawful permanent resident on a conditional basis under this section, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be in the United States as an alien lawfully admitted to the United States for permanent residence.

"(f) Definitions.—In this section:

"(1) The term 'alien entrepreneur' means an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise) under section 203(b)(4).

"(2) The term 'spouse' and the term 'child' mean an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise) by virtue of being the spouse or child, respectively, of an alien entrepreneur.".

(b) Additional Ground for Deportation.—Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended by inserting before the semicolon at the end thereof the following: ", or (C) is an alien with permanent resident status on a conditional basis under section 218 and has such status terminated under such section".

(c) Criminal Penalty for Immigration-related Entrepreneurship Fraud.—Section 275 of such Act (8 U.S.C. 1325) is amended by adding at the end thereof the following new subsection:

"(c) Any individual who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years, or fined not more than $250,000, or both.".

(d) Limitation on Adjustment of Status.—Section 245 of such Act (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

"(f) The Attorney General may not adjust, under subsection (a), the status of an alien lawfully admitted to the United States for permanent residence on a conditional basis under section 218.".

(e) Conforming Amendment.—The table of contents of such Act is amended by inserting after the item relating to section 217 the following new item:

"Sec. 218. Conditional permanent resident status for certain alien entrepreneurs, spouses, and children.".

SEC. 105. MISCELLANEOUS CONFORMING AND TECHNICAL CHANGES.

(a) Sections 101(b)(1)(F), 202(a), 202(c), 204(b), 204(e), 216(g)(1)(A), 222(a), 244(d), 245(c)(2), and 245(c)(5) (8 U.S.C. 1101(b)(1)(F), 1152(a), 1152(c), 1154(a)(1), 1154(b), 1154(e), 1186a(g)(1)(A), 1202(a), 1254(d), 1255(c)(2), 1255(c)(5)) are each amended by striking "201(b)" each place it appears and inserting "201(b)(2)(A)(i)".

(b) Section 204 (8 U.S.C. 1154) is amended—

(1) in subsection (b)—

(A) by striking "section 203(a) (3) or (6)" and inserting "section 203(b)(3)",

(B) by striking "section 201(b)" and inserting "section 201(b)(2)(A)(i)",

(C) by striking "a preference status under section 203(a)" and inserting "preference under subsection (a) or (b) of section 203",

(D) by inserting "(and, in the case described in section 203(b)(5), specify the point score on the assessment system)" after "approve the petition", and

(E) by striking "The Secretary of State" and inserting "Subject to section 203(b)(5), the Secretary of State";

(2) in subsection (e)—

(A) by striking "preference immigrant under section 203(a)" and inserting "immigrant under subsection (a), (b), or (c) of section 203", and

(B) by striking "section 201(b)" and inserting "section 201(f)";

(3) by striking subsection (f);

(4) by redesignating subsections (g) and (h) as (f) and (g), respectively;

(5) in subsection (f)(1), as redesignated by paragraph (4), by inserting "(as in effect before the date of the enactment of the Immigration Act of 1988)" after "203(a)(4)"; and

(6) in subsection (g), as redesignated by paragraph (4), by striking "preference status" and inserting "status under section 203(a)(2)".

(c) Section 212(a)(32) (8 U.S.C. 1182(a)(32)) is amended by striking "203(a) (3) and (6) and to nonpreference immigrant aliens described in section 203(a)(7)" and inserting "203(b) (2), (3), and (5)".

(d) Section 244(d) (8 U.S.C. 1254(d)) is amended by striking "201(a) or 202(a)" and inserting "201(c) or 202(a)(2)(A)".

(e) Section 245 (8 U.S.C. 1255) is amended—

(1) in subsection (b), by striking "203(a)" and inserting "203", and

(2) in subsection (c), by redesignating clause (5) as clause (4) and by inserting before the period at the end the following: ", or (5) an alien who is applying for adjustment of status to preference status under section 203(b)(5)".

(f)(1) Section 3304(a)(14)(A) of the Internal Revenue Code of 1986 is amended by striking "section 203(a)(7) or".

(2) Section 1614(a)(1)(B) of the Social Security Act is amended by striking "section 203(a)(7) or".

(g) Section 2(c)(4) of the Virgin Islands Nonimmigrant Alien Adjustment Act of 1982 (Public Law 97-271) is amended by inserting before the period at the end the following: "(as in effect before October 1, 1989) or by reason of the relationship described in section 203(a)(2)(B), 203(a)(3), or 201(b)(2)(A)(i), respectively, of such Act (as in effect on or after such date)".

SEC. 106. USER FEES.

Section 286 (8 U.S.C. 1356) is amended by adding at the end thereof the following new subsections:

"(m) Visa Fees for Immigrants.—The Secretary of State shall provide for a schedule of fees to be charged for the filing of a petition for any and all immigrant categories under sections 201(a)(3), 201(b)(2)(A)(i), 203 (a) and (b). The fees established under this subsection shall be sufficient to cover administrative and other expenses incurred in connection with the processing of petitions for any and all immigrant categories filed under sections 201(a)(3), 201(b)(2)(A)(i), 203 (a) and (b).

"(n) Creditable Fees.—Notwithstanding sections 1 and 2 of the Act of June 4, 1920, as amended (41 Stat. 750; 22 U.S.C. 214) or any other provision of law, up to $20,000,000 in fees collected by consular officers for issuance of visas and for execution of applications for visas shall be credited to a Department of State account which shall be available only for the payment of the expenses of research, development, equipment, and automation of visa and passport functions, including related software. Each fiscal year thereafter additional amounts of such consular fees may be credited to such account, except that not more than $20,000,000 of such fees may be available for such purposes in any one fiscal year.".

SEC 107. REPORT ON CUBAN ENTRY INTO UNITED STATES.

(a) Congress recognizes that resumption of the 1984 Mariel Agreement between the United States and Cuba will have a disproportionate impact on particular regions of the United States, notably south Florida. In anticipation of this impact and the increase in demand for certain services, Congress directs the Attorney General, in conjunction with the Secretary of State, to prepare and transmit to the appropriate committees of Congress a report detailing the number of Cubans granted preference visas.

(b) Study and Report—The Attorney General and the Secretary of State shall—

(1) prepare and transmit a detailed projection of the number of Cubans who have applied or have been granted preference immigration visas for entry into the United States; and

(2) such information including the age, occupation, number of dependants, and special medical needs of those Cubans who have applied or have been granted preference immigration visas for entry into the United States.

(c) Report Date—The Attorney General, in conjunction with the Secretary of State, shall submit the report—

(1) during the first quarter of the fiscal year following enactment of this Act; and

(2) thereafter on a quarterly basis.

(d) In preparing these quarterly reports, the Attorney General and the Secretary of State shall cooperate and consult with State and local officials. Such cooperation should include—

(1) adequate notice as to the number of Cubans who have applied or have been granted preference immigration visas; and

(2) the relevant information required in the quarterly reports which would permit State and local entities to prepare for the increased demand for certain services.

SEC. 108. EFFECTIVE DATES AND TRANSITION.

(a) In General.—The amendments made by this title shall take effect on October 1, 1989, and shall apply to immigrant visa numbers issued for fiscal years beginning with fiscal year 1990; except that the amendments made by section 3(b) (relating to immigrant visa petitioning process) shall take effect on the date of the enactment of this Act and apply to immigrant visa numbers issued for fiscal years beginning with fiscal year 1990.

(b) General Transition.—In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1989, for preference status under section 203(a)(3) or section 203(a)(6) of such Act (as in effect before such date), such petition shall be deemed as of October 1, 1989, to be a petition for the status described in section 203(b)(2) or 203(b)(3) of such Act (as amended by this title), as elected by the petitioner, and the priority date for such petition shall remain in effect, except that petitions filed before such date for preference status on the basis of unskilled labor under section 203(a)(6) of such Act (as in effect before such date) shall be deemed as of such date to be petitions for the status described in section 203(b)(3) of such Act (as amended by this title).

(c) Admissibility Standards.—When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1989, makes application for admission, the immigrant's admissibility under paragraphs (20) and (21) of section 212(a) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa.

(d) Construction.—Nothing in this title shall be construed as affecting the provisions of section 19 of Public Law 97-116, section 2(c)(1) of Public Law 97-271, or section 202(e) of Public Law 99-603.

On page 47, after line 13, add the following new title:

TITLE II—NATURALIZATION AMENDMENTS OF 1988

SEC. 201. SHORT TITLE; REFERENCES IN TITLE.

(a) Short Title.—This title may be cited as the "Naturalization Amendments of 1988".

(b) Amendments to Immigration and Nationality Act.—Except as otherwise specifically provided in this title, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act.

SEC. 202. ADMINISTRATIVE NATURALIZATION.

Section 310 (8 U.S.C. 1421) is amended to read as follows:

"NATURALIZATION AUTHORITY

"Sec. 310. (a) Authority in Attorney General.—The original authority to naturalize persons as citizens of the United States is conferred solely upon the Attorney General.

"(b) Administration of Oaths.—An applicant for naturalization may choose to have the oath of allegiance under section 337(a) administered by the Attorney General or by any district court of the United States for any State or by any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited. The jurisdiction of all courts specified in this subsection to administer the oath of allegiance shall extend only to persons resident within the respective jurisdiction of such courts.

"(c) Appeal to BIA; Judicial Review.—(1) A person whose application for naturalization under this title is denied, after a hearing before an immigration officer under section 336(a), may seek review of such denial before the Board of Immigration Appeals (established by the Attorney General under part 3 of title 8, Code of Federal Regulations). The decision of such Board is reviewable by the United States district court for the district in which such person resides. Such review of the district court shall be de novo, and the district court shall make its own findings of fact and conclusions of law and shall, at the request of the petitioner, conduct a hearing de novo on the application.

"(2) The district court shall issue an order authorizing the naturalization of a person in accordance with this title only after determining, upon review of the denial of that person's application for naturalization, that such denial was wrongfully made as a matter of fact or of law.

"(d) Sole Procedure.—A person may only be naturalized as a citizen of the United States in the manner and under the conditions prescribed in this title and not otherwise.".

SEC. 203. SUBSTITUTING 3 MONTHS RESIDENCE IN INS DISTRICT OR STATE FOR 6 MONTHS RESIDENCE IN A STATE.

Section 316(a)(1) (8 U.S.C. 1427(a)(1)) is amended by striking "and who has resided within the State in which the petitioner filed the petition for at least six months" and inserting "and who has resided within the State or within the district of the Service in the United States in which the applicant filed the application for at least three months".

SEC. 204. PUBLIC EDUCATION REGARDING NATURALIZATION BENEFITS.

(a) In General.—Section 332 (8 U.S.C. 1443) is amended by adding at the end thereof the following new subsection:

"(h) The Attorney General shall broadly disseminate information respecting the benefits which persons may receive under this title and the requirements to obtain such benefits. In carrying out this subsection, the Attorney General shall seek the assistance of appropriate community groups, private voluntary agencies, and other relevant organizations, and the Attorney General is authorized to make grants to, and enter into contracts with, such organizations for such purposes.".

(b) Allocation of Funds.—(1) Section 404 (8 U.S.C. 1101, note) is amended by adding at the end thereof the following new subsection:

"(c) Of the amounts authorized to be appropriated by section 404 to carry out this Act for a fiscal year, $1,000,000 shall be available only to carry out section 332(h) for such fiscal year.".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1988.

SEC. 205. NATURALIZATION OF NATIVES OF THE PHILIPPINES THROUGH ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR II.

Section 329 (8 U.S.C. 1440) is amended—

(1) in subsection (a), by striking "Any" and inserting "Except as provided in subsection (e), any"; and

(2) by adding at the end thereof the following new subsection:

"(e) Paragraphs (1) and (2) of subsection (a) shall not apply to the naturalization of any person—

"(1) who was born in the Philippines or who was otherwise a noncitizen national of the United States residing in the Philippines before the service described in paragraph (2);

"(2) who served honorably in an active-duty status in the military, air, or naval forces of the United States at any time during the period beginning September 1, 1939, and ending December 31, 1946;

"(3) who is otherwise eligible for naturalization under this section; and

"(4) who applies for naturalization not later than one year after the date of enactment of the Naturalization Amendments of 1988.".

SEC. 206. CONFORMING AMENDMENTS.

(a) Conforming Amendments to Section 310 Revision.—(1) The item in the table of contents relating to section 310 is amended to read as follows:

"Sec. 310. Naturalization authority.".

(2) Section 101(a)(36) (8 U.S.C. 1101(a)(36)) is amended by striking "(except as used in section 310(a) of title III)".

(b) Conforming Amendments to Change in Residence Requirement.—(1) Section 319 (8 U.S.C. 1430) is amended—

(A) in subsection (a), by striking "has resided within the State in which he filed his petition for at least six months" and inserting "has resided within the State or the district of the Service in the United States in which the applicant filed his application for at least three months",

(B) in subsections (b) and (d), by striking "within the jurisdiction of the naturalization court" and inserting "within a State or a district of the Service in the United States", and

(C) in subsection (c), is amended by striking "within the jurisdiction of the court" and inserting "district of the Service in the United States".

(2) Section 322(c) (8 U.S.C. 1433(c)) is amended by striking "any State or within the jurisdiction of the naturalization court" and inserting "within a State or a district of the Service in the United States".

(3) Section 324(a)(1) (8 U.S.C. 1435(a)(1)) is amended by inserting "or district of the Service in the United States" after "State".

(4) Section 328 (8 U.S.C. 1439) is amended—

(A) in subsection (a)—

(i) by inserting "or district of the Service in the United States" after "State", and

(ii) by striking "for at least six months" and inserting "for at least three months";

(B) in subsection (b)(1), by striking "within the jurisdiction of the court" and inserting "within a State or district of the Service in the United States"; and

(C) in subsection (c), by inserting "or district of the Service in the United States" after "State".

(5) Section 329(b) (8 U.S.C. 1440(b)) is amended—

(A) in paragraph (2)—

(i) by inserting "or district of the Service in the United States" after "State", and

(ii) by inserting "and" at the end of paragraph (2);

(B) by striking paragraph (3), and

(C) by redesignating paragraph (4) as paragraph (3).

(c) Substitution of Application for Naturalization for Petition for Naturalization.—The text of the following provisions is amended by striking "a petition", "petition", "petitions", "a petitioner", "petitioner", "petitioner's", "petitioning", and "petitioned" each place it appears and inserting "an application", "application", "applications" or "applies" (as the case may be), "an applicant", "applicant", "applicant's", "applying", and "applied", respectively:

(1) Section 313(c) (8 U.S.C. 1424(c)).

(2) Section 316 (8 U.S.C. 1427).

(3) Section 317 (8 U.S.C. 1428).

(4) Section 318 (8 U.S.C. 1429).

(5) Section 319(a) and (c) (8 U.S.C. 1430(a), (c)).

(6) Section 322(a) (8 U.S.C. 1433).

(7) Section 324 (8 U.S.C. 324(a)).

(8) Section 325 (8 U.S.C. 1436).

(9) Section 326 (8 U.S.C. 1437).

(10) Section 328 (8 U.S.C. 1439).

(11) Section 329 (8 U.S.C. 1440), other than subsection (d).

(12) Section 330(a)(1) (8 U.S.C. 1441(a)(1)).

(13) Section 331 (8 U.S.C. 1442), other than subsection (d).

(14) Section 333(a) (8 U.S.C. 1444(a)).

(15) Section 334 (8 U.S.C. 1445).

(16) Section 335 (8 U.S.C. 1446).

(17) Section 336 (8 U.S.C. 1447).

(18) Section 337 (8 U.S.C. 1448).

(19) Section 338 (8 U.S.C. 1449).

(20) Section 344 (8 U.S.C. 1455).

(21) Section 1429 of title 18, United States Code.

(d) Substituting Appropriate Administrative Authority for Naturalization Court.—(1) Section 316 (8 U.S.C. 1427) is amended—

(A) in subsection (b), by striking "court" each place it appears and inserting "or the Attorney General",

(B) in subsection (b), by striking "date of final hearing" and inserting "date of any hearing under section 336(a)",

(C) in subsection (e), by striking "the court" and inserting "the Attorney General",

(D) in subsection (g)(1), by striking "within the jurisdiction of the court" and inserting "within a particular State or district of the Service in the United States", and

(E) in subsection (g)(2), by amending the first sentence to read as follows: "An applicant for naturalization under this subsection may be administered the oath of allegiance under section 337(a) by any district court of the United States, without regard to the residence of the applicant.".

(2) The second sentence of section 317 (8 U.S.C. 1428) is amended by striking "and the naturalization court".

(3) The third sentence of section 318 (8 U.S.C. 1429) is amended—

(A) by striking "finally heard by a naturalization court" and inserting "considered by the Attorney General", and

(B) by striking "upon the naturalization court" and inserting "upon the Attorney General".

(4) Section 319 (8 U.S.C. 1430) is amended—

(A) in subsection (b)(3), by striking "naturalization court" and inserting "Attorney General", and

(B) in subsection (c)(5), by striking "naturalization court" and inserting "Attorney General".

(5) Section 322(c)(2)(C) (8 U.S.C. 1433(c)(2)(C)) is amended by striking "naturalization court" the first place it appears and inserting "the Attorney General".

(6) Section 324 (8 U.S.C. 1435) is amended—

(A) in subsection (a)—

(i) by inserting "and" at the end of paragraph (1),

(ii) by striking the semicolon at the end of paragraph (2) and inserting a period, and

(iii) by striking paragraphs (3) and (4);

(B) in subsection (b), by striking "naturalization court" and inserting "Attorney General"; and

(C) in subsection (c)—

(i) in paragraph (2), by striking "the judge or clerk of a naturalization court" and inserting "the Attorney General or the judge or clerk of a court described in section 310(b)", and

(ii) in paragraph (3), by striking "or naturalization court" each place it appears and inserting "court, or the Attorney General".

(7) Section 327(a) (8 U.S.C. 1438(a)) is amended—

(A) by striking "any naturalization court specified in section 310(a) of this title" and inserting "the Attorney General or before a court described in section 310(b)"; and

(B) by inserting "and by the Attorney General to the Secretary of State" after "Department of Justice".

(8) Section 328(c) (8 U.S.C. 1439(c)) is amended by striking "the final hearing" and inserting "any hearing".

(9) Section 331(b) (8 U.S.C. 1442(b)) is amended by striking "called for a hearing" and all that follows through "to be continued" and inserting "considered or heard except after 90 days' notice to the Attorney General regarding the application, and the Attorney General's objection to such consideration shall cause the application to be continued".

(10) Section 332(a) (8 U.S.C. 1443(a)) is amended—

(A) by striking "for the purpose" and all that follows through "naturalization courts" in the first sentence, and

(B) by striking the second sentence.

(11) Section 333(a) (8 U.S.C. 1444(a)) is amended by striking "clerk of the court" and inserting "Attorney General".

(12) Section 334 (8 U.S.C. 1445) is amended—

(A) by amending the heading to read as follows:

"APPLICATION FOR NATURALIZATION;
DECLARATION OF INTENTION";

(B) in subsection (a)—

(i) by striking "in the office of the clerk of a naturalization court" and inserting "with the Attorney General",

(ii) by striking "upon the hearing of such petition" and inserting "under this title";

(C) in subsection (b)—

(i) by striking "(1)",

(ii) by striking "and (2)" and all that follows through "Attorney General", and

(iii) by striking "petition for";

(D) by amending subsections (c) through (e) to read as follows:

"(c) Hearings under section 336(a) on applications for naturalization shall be held at regular intervals, to be fixed by the Attorney General.

"(d) Except as provided in subsection (e), an application for naturalization shall be filed in person in an office of the Attorney General.

"(e) A person may file an application for naturalization other than in an office of the Attorney General, and an oath of allegiance may be administered other than in a public ceremony before the Attorney General or a court, if the Attorney General determines that the person has an illness or other disability which—

"(1) is of a permanent nature and is sufficiently serious to prevent the person's personal appearance, or

"(2) is of a nature which so incapacitates the person as to prevent him from personally appearing."; and

(E) by striking the first sentence of subsection (f) and inserting the following: "An alien who has attained the age of 18 years of age and who is residing in the United States pursuant to a lawful admission for permanent residence may file with the Attorney General a declaration of intention to become a citizen of the United States. Such a declaration shall be filed in duplicate and in a form prescribed by the Attorney General and shall be accompanied by an application prescribed and approved by the Attorney General.".

(13) Section 335 (8 U.S.C. 1146) is amended—

(A) by amending the heading to read as follows:

"INVESTIGATION OF APPLICANTS; EXAMINATION
OF APPLICATIONS";

(B) in subsection (a), by striking "At any time" and all that follows through "336(a)" and inserting "Before a person may be naturalized";

(C) in subsection (b)—

(i) by striking "preliminary" each place it appears,

(ii) in the first sentence, by striking "to any naturalization court" and all that follows through "to such court",

(iii) by striking "any court exercising naturalization jurisdiction as specified in section 310 of this title" in the second sentence and inserting "any district court of the United States"; and

(iv) by striking "final hearing conducted by a naturalization court designated in section 310 of this title" in the third sentence and inserting "hearing conducted by an immigration officer under section 336(a)";

(D) in subsection (c)—

(i) by striking "preliminary" each place it appears, and

(ii) by striking "recommendation" and inserting "determination"; and

(E) by amending subsections (d) through (f) to read as follows:

"(d) The employee designated to conduct any such examination shall submit to the Attorney General a determination as to whether the application be granted, denied, or continued, with reasons therefor.

"(e) After an application for naturalization has been filed with the Attorney General, the applicant shall not be permitted to withdraw his application, except with the consent of the Attorney General. In cases where the Attorney General does not consent to the withdrawal of the application, the application shall be determined on its merits and a final determination made accordingly. In cases where the applicant fails to prosecute his application, the application shall be decided on the merits unless the Attorney General dismisses it for lack of prosecution.

"(f) An applicant for naturalization who moves from the district of the Service in the United States in which the application is pending may, at any time thereafter, request the Service to transfer the application to any district of the Service in the United States which may act on the application. The transfer shall not be made without the consent of the Attorney General. In the case of such a transfer, the proceedings on the application shall continue as though the application had originally been filed in the district of the Service to which the application is transferred.".

(14) Section 336 (8 U.S.C. 1447) is amended—

(A) by amending the heading to read as follows:

"HEARINGS ON DENIALS OF APPLICATIONS FOR
NATURALIZATION";

(B) by amending subsections (a) and (b) to read as follows:

"(a) If, after an examination under section 335, an application for naturalization is denied or continued, the applicant may request a hearing before an immigration officer.

"(b) Where there has been a failure to make a determination under section 335 on an application or a failure to have a hearing under subsection (a) on a denial or continuance of an application, the Board of Immigration Appeals (established by the Attorney General under part 3 of title 8, Code of Federal Regulations) may, in its discretion, and shall, at the request of the applicant in extraordinary circumstances, require such a determination or hearing.";

(C) in subsection (c), by striking "court" and inserting "immigration officer";

(D) in subsection (d)—

(i) by striking "clerk of the court" and all that follows through "naturalization" and inserting "immigration officer shall, if the applicant requests it at the time of filing the request for the hearing",

(ii) by striking "final" each place it appears, and

(iii) by adding at the end the following: "Such subpoenas may be enforced in the same manner as subpoenas under section 335(b) may be enforced."; and

(E) in subsection (e)—

(i) by striking "naturalization of any person," and inserting "administration by a court of the oath of allegiance under section 337(a)", and

(ii) by striking "included in the petition for naturalization of such persons" and inserting "included in an appropriate petition to the court".

(15) Section 337 (8 U.S.C. 1448) is amended—

(A) in subsection (a)—

(i) in the first sentence, by striking "in open court" and inserting "in a public ceremony before the Attorney General or a court with jurisdiction under section 310(b)",

(ii) in the second and fourth sentences, by striking "naturalization court" each place it appears and inserting "Attorney General", and

(iii) in the fourth sentence, by striking "the court" and inserting "the Attorney General";

(B) in subsection (b)—

(i) by striking "in open court in the court in which the petition for naturalization is made" and inserting "in the same public ceremony in which the oath of allegiance is administered", and

(ii) by striking "in the court" after "recorded";

(C) in subsection (c)—

(i) by striking "being in open court" and inserting "attending a public ceremony", and

(ii) by striking "a judge of the court at such place as may be designated by the court" and inserting "at such place as the Attorney General may designate under section 334(e)"; and

(D) by adding at the end the following new subsection:

"(d) The Attorney General shall prescribe rules and procedures to ensure that the public ceremonies conducted by the Attorney General for the administration of oaths of allegiance under this section are in keeping with the dignity of the occasion.".

(16) Section 338 (8 U.S.C. 1449) is amended—

(A) by striking "by a naturalization court",

(B) by striking "the clerk of such court" and inserting "the Attorney General",

(C) by striking "title, venue, and location of the naturalization court" and inserting "location of the district office of the Service in which the application was filed and the title, authority, and location of the official or court administering the oath of allegiance",

(D) by striking "the court" and inserting "the Attorney General", and

(E) by striking "of the clerk of the naturalization court; and seal of the court" and inserting "of an immigration officer; and the seal of the Department of Justice".

(17) Section 339 (8 U.S.C. 1450) is amended to read as follows:

"FUNCTIONS AND DUTIES OF CLERKS AND RECORDS OF DECLARATIONS OF INTENTION AND APPLICATIONS FOR NATURALIZATION

"SEC. 339. (a) The clerk of each court that administers oaths of allegiance under section 337 shall—

"(1) issue to each person to whom such an oath is administered a document evidencing that such an oath was administered,

"(2) forward to the Attorney General information concerning each person to whom such an oath is administered by the court, within 30 days after the close of the month in which the oath was administered,

"(3) make and keep on file evidence for each such document issued, and

"(4) forward to the Attorney General certified copies of such other proceedings and orders instituted in or issued out of the court affecting or relating to the naturalization of persons as may be required from time to time by the Attorney General.

"(b) Each district office of the Service in the United States shall maintain, in chronological order, indexed, and consecutively numbered, as part of its permanent records, all declarations of intention and applications for naturalization filed with the office.".

(18) Section 340 (8 U.S.C. 1451) is amended—

(A) in the first sentence of subsection (a), by striking "in any court specified in subsection (a) of section 310 of this title" and inserting "in any district court of the United States",

(B) by amending the second sentence of subsection (h) to read as follows: "The clerk of the court shall transmit a copy of such order and judgment to the Attorney General.",

(C) by striking the third sentence of subsection (h), and

(D) in subsection (j), by striking "any naturalization court" and all that follows through "to take such action" and inserting the following: "the Attorney General to correct, reopen, alter, modify, or vacate an order naturalizing the person".

(19) Section 344 (8 U.S.C. 1455) is amended—

(A) in subsection (a)—

(i) by striking "The clerk of the court" and inserting "The Attorney General",

(ii) in paragraph (1), by striking "final", and

(iii) in paragraph (1), by striking "the naturalization court" and inserting "the Attorney General";

(B) by striking subsections (c), (d), (e), and (f);

(C) in subsection (g)—

(i) by striking ", and all fees paid over to the Attorney General by clerks of courts under the provisions of this title,", and

(ii) by striking "or by the clerks of the courts";

(D) in subsection (h)—

(i) by striking "no clerk of a United States court shall" and inserting "the Attorney General may not",

(ii) by striking ", and no clerk of any State court" and all that follows through "charged or collected", and

(iii) by striking the second sentence;

(E) in subsection (i), by striking "clerk of court", "from the clerk,", "such clerk", and "by the clerk" and inserting "Attorney General", "from the Attorney General,", "the Attorney General", and "by the Attorney General", respectively; and

(F) by redesignating subsections (g), (h), and (i) as subsections (c), (d), and (e), respectively.

(20) Section 348 (8 U.S.C. 1459) is amended—

(A) by striking subsections (b) and (c); and

(B) by striking "(a)" in subsection (a).

(e) STRIKING MISCELLANEOUS MATERIAL.—(1) Section 311 (8 U.S.C. 1422) is amended by striking the second sentence.

(2) Section 316 (8 U.S.C. 1427) is amended—

(A) by striking subsection (f); and

(B) by redesignating subsection (g) as subsection (f).

(3) Section 329 (8 U.S.C. 1440) is amended by striking subsection (d).

(4) Section 330 (8 U.S.C. 1441(a)) is amended—

(A) by striking paragraphs (2) and (3) of subsection (a) and by striking "(a)(1)" in subsection (a), and

(B) by striking subsection (b).

(5) Section 331 (8 U.S.C. 1442) is amended by striking the second sentence of subsection (d).

(f) CORRECTIONS OF TABLE OF CONTENTS.—(1) The items in the table of contents relating to sections 334 through 336 are amended to read as follows:

"Sec. 334. Application for naturalization; declaration of intention.
"Sec. 335. Investigation of applicants; examination of applications.
"Sec. 336. Hearings on denials of applications for naturalization.".

(2) The item in the table of contents relating to section 339 is amended to read as follows:

"Sec. 339. Functions and duties of clerks and records of declarations of intention and applications for naturalization.".

SEC. 207. EFFECTIVE DATES AND SAVINGS PROVISIONS.

(a) EFFECTIVE DATE.—

(1) NO NEW COURT PETITIONS AFTER EFFECTIVE DATE.—No court shall have jurisdiction, under section 310(a) of the Immigration and Nationality Act, to naturalize a person unless a petition for naturalization with respect to that person has been filed with the court before the effective date (as defined in paragraph (3)).

(2) TREATMENT OF CURRENT COURT PETITIONS.—

(A) CONTINUATION OF CURRENT RULES.—Except as provided in subparagraph (B), any petition for naturalization which may be pending in a court on the effective date shall be heard and determined in accordance with the requirements of law in effect when the petition was filed.

(B) PERMITTING WITHDRAWAL AND CONSIDERATION OF APPLICATION UNDER NEW RULES.—In the case of any petition for naturalization which may be pending in any court on the date of the enactment of this Act, the petitioner may withdraw such petition and have the petitioner's application for naturalization considered under the amendments made by this title.

(3) EFFECTIVE DATE DEFINED.—As used in this section, the term "effective date" means the first day of the fourth month beginning after the date of the enactment of this Act.

(4) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this title are effective as of the date of the enactment of this Act.

(b) INTERIM, FINAL REGULATIONS.—The Attorney General shall prescribe regulations (on an interim, final basis or otherwise) to implement, on a timely basis, the amendments made by this title.

(c) CONTINUING DUTIES.—The amendments to section 339 of the Immigration and Nationality Act (relating to functions and duties of clerks) shall not apply to functions and duties respecting petitions filed before the effective date.

(d) GENERAL SAVINGS PROVISIONS.—(1) Nothing contained in this title, unless otherwise specifically provided, shall be construed to affect the validity of any declaration of intention, petition for naturalization, certificate of naturalization, certificate of citizenship, or other document or proceeding which is valid as of the effective date; or to affect any prosecution, suit, action, or proceedings, civil or criminal, brought, or any status, condition, right in process of acquisition, act, thing, liability, obligation, or matter, civil or criminal, done or existing, as of the effective date.

(2) As to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, liabilities, obligations, or matters, the provisions of law repealed by this title are, unless otherwise specifically provided, hereby continued in force and effect.

The title was amended so as to read:

"A bill to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes".

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, now that the Senate has acted, I want to say for the record that it was a particular privilege to move this legislation forward with the support and assistance of the Senator from Wyoming [Mr. SIMPSON]. In a very real sense, this bill picks up where Senator SIMPSON left off in 1986.

I also want to acknowledge the important contributions of our staff on both sides on the Immigration Subcommittee.

Over the past 8 years I have enjoyed working with Senator SIMPSON's chief counsel, Dick Day, and Carl Hampe. There is a genuine and professional working relationship between them and my staff over these past several years, and I appreciate that.

And on my part I want to thank the time and effort given by Jerry Tinker, staff director of the subcommittee, who has been with me for many years, and by Michael Myers, who has joined us as counsel. But I want to pay particular tribute to Heather Hodges who has worked on this bill as a Pearson Congressional Fellow from the Department of State, where she serves with distinction as a Foreign Service Officer with the Bureau of Consular Affairs.

She absolutely made an extraordinary contribution. Her knowledge and expertise has been invaluable to our subcommittee. It is one of the programs in terms of working with the Department of State in providing this institution with expertise which was absolutely enormously valuable and helpful to all of us. I am very grateful to her not only professionally but she has been a wonderful person to work with.

Again, I thank the distinguished Senator from Wyoming, and I know under the terms of the bill we will be back here in 3 years—if not before.

Now we go the House, and I look forward to working with Mr. RODINO, Mr. MAZZOLI, Mr. FISH, Mr. SWINDALL, Mr. DONNELLY, Mr. FRANK, and others.

INTELLIGENCE OVERSIGHT ACT

The PRESIDING OFFICER. The Senate will now resume consideration of the committee substitute for S. 1721, the Intelligence Oversight Act, which the clerk will report.

The bill clerk read as follows:

> A bill (S. 1721) to improve the congressional oversight of certain intelligence activities, and to strengthen the process by which such activities are approved within the executive branch, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode island.

Mr. CHAFEE. Mr. President, I have two amendments at the desk. If I might get the attention of the managers of the bill, both of these amendments are to change a time in the bill from 48 hours to 10 days. Both amendments do exactly the same thing. That is, one changes the 48 hours in one place and one changes the 48 hours in other place. The only reason I have two amendments is that if I had them in one amendment, it would be subject to a point of order. Therefore, I can call up both amendments at once or I can call up one and, if successful, assume the other would be adopted by a voice vote.

I will just call up either one of those amendments and ask for its immediate consideration.

AMENDMENT NO. 1642

The PRESIDING OFFICER. The clerk will report the first amendment.

The assistant legislative clerk read as follows:

> The Senator from Rhode Island [Mr. CHAFEE] proposes an amendment numbered 1642.
>
> In Section 503, subsection (c)(1) delete "forty-eight hours" and in its place substitute "ten days."

Mr. COHEN. Will the Senator yield?

Mr. CHAFEE. Yes.

Mr. COHEN. Does that mean if the Senator's first amendment is unsuccessful, he will withdraw the second amendment?

Mr. CHAFEE. In the event of the tragic situation where the first one is not successful, yes. And, vice versa if I prevail, I hope the managers will accept the other one.

Mr. President, what is the time situation?

The PRESIDING OFFICER. We are operating under cloture, the Chair will advise the Senator from Rhode Island. Each Senator may speak for no more than 1 hour.

Mr. CHAFEE. I thank the Chair.

I believe the managers of the bill know where the 10-day substitution for the 48 hours occurs.

Mr. President, let me start by saying that in the intelligence oversight legislation we are considering, the terms of "special action" and "covert activity" have been used interchangeably in the description of activities, even though I believe covert activity has a special meaning unto itself.

What does covert activity mean?

Covert activity means that it might be in the form of propaganda, booklets, special letters in the newspaper, special dissemination of information within a foreign land, all instigated by American activities. That is covert activity or covert action.

Or it might be political support. That is, advice or money or aid to certain individuals in opposition to the government or who are part of the government.

What else is commonly thought of as covert action? Paramilitary activity. That is, munitions, training provided to certain outside groups to overthrow the established government.

But what I am concerned with is none of those. That is what the Iran-Contra affair was all about.

What I am concerned with and what I do not think those who have been responsible for this legislation have addressed, is the situation where Americans are called upon to go into a foreign country, presumably a country unfriendly to the United States, to take part in an activity which may not even be intelligence-gathering. It could be a rescue operation, such as we are so familiar with in Iran at the time that our hostages were held there.

To me, I do not think that should be called a covert action. But as I understand this legislation, that is what is meant and that is where the notification has to be made because there is no term "covert action" in this legislation. It is "special activity."

I might say I would like some clarification, if I might, from the managers of the legislation. If they will turn to page 17 of the bill, and section (3) on that page—it would be (5)(3), possibly, on page 17, line 10—it says as follows:

> As used in this section, the term "special activity" means:
>
> (1) any operation of the Central Intelligence Agency conducted in foreign countries, other than activities intended solely for obtaining necessary intelligence.

I wonder if either one of the managers would be good enough to explain to me whether an activity solely designed for obtaining necessary intelligence would fall under the compass of this bill.

Mr. COHEN. The short answer to the question is no.

Mr. CHAFEE. The answer is no.

What would be the situation for an activity that was solely for obtaining necessary intelligence? Where would that fall?

Mr. BOREN. That would not be defined as a special activity under this section.

Mr. CHAFEE. Let me pose this exact situation.

In Iran, prior to the rescue operation, the CIA had individual American citizens fly into Iran, land on the desert, test the core of the soil that was in that particular area where they landed, and come out. That was solely for obtaining necessary intelligence.

Mr. BOREN. If the Senator will yield, I will answer my good friend. In that situation, the intelligence that was gathered was an integral part of a planned activity. So in that situation, intelligence would not have been gained solely for the purpose of having intelligence. It would have been gathered for the purpose of making provision for the anticipated operation, the specific operation being planned.

So the judgment has to be made—as the Senator knows, all the time we are collecting intelligence on all sorts of developments around the world—are we collecting intelligence simply to have that intelligence and to evaluate it and then maybe later, after we see what is going on in a situation, decide to develop some plan?

On the other hand, if you already know there is an operation anticipated and we send out a person to obtain intelligence, which is necessary for the actual conduct of that operation, we know we are going to put some people in a certain place, we want to see if there is a landing zone or some other intelligence necessary to it, then that really is part of an operation. That is not intelligence solely as intelligence standing alone.

Mr. CHAFEE. Therefore, in that particular situation, a finding would be made and the President, depending on what subjective appraisal he put on the secrecy of this mission, would either have to tell the entire membership of both parties, that is, both Intelligence Committees, or he would have to tell—I wish we had a general word other than gang of eight or gang of four. I call them group of eight.

Mr. BOREN. Group of four distinguished statesmen.

Mr. CHAFEE. Group of eight or group of four. It is the view of the distinguished Senator from Oklahoma that one of those groups, let us say the minimal one, the group of four, would have to be told that this expedition was going to take place.

Mr. BOREN. Yes, the Senator is correct. In this kind of situation, let us suppose we were undertaking a hostage rescue or we were undertaking some other kind of operation, and send someone in to bring out certain materials or something else, and we sent people in as a part of that operation to gain intelligence about the terrain or about the movement of government officials, whatever it might happen to be. Then that would be a part of that operation.

So in that circumstance, the Senator is correct, a finding would have to be issued, and within 48 hours, as the bill is written, of the time in which the finding was issued, the Intelligence Committees normally would be notified. If the President felt it was a very sensitive situation and justified him curtailing notice, can only notify the group of eight—the vice chairmen, and the chairmen of the two Intelligence Committees and the two leaders of each House—or if it was an extreme situation, risk of life, dire danger to our national security might be at stake, he could limit the notice to only the four people.

As I understand the Senator, under his amendment, he would say that notice would be given within 10 days, as opposed to the 48 hours. The only thing I would say to my good friend is, if we really believe in oversight and we really believe in this partnership process, and that is what we are trying very hard to establish in the way the Intelligence Committee operates now with the Central Intelligence Agency and the other intelligence agencies, which are part of the total community, and with the executive branch, we believe that there is some benefit to be derived in pooling the thoughts and the advice.

The Senator from Rhode Island, I am sure, has participated in that kind of discussion himself. There is benefit to be derived in having these people not only informed by the President, but also have the President be the beneficiary of their constructive advice. I think usually it is constructive advice.

That is the reason I would say to my good friend that 48 hours makes it much more likely, as the operation is in process, that advice could be given which might be meaningful, where if we wait 10 days, we are still going to be telling the same people there are still the same risks, I suppose, to some degree, but it would deprive the President of the constructive advice those people might offer in that period of time, whether it is the full committee or the chairmen, vice chairmen, group of four, whatever it might be.

Mr. CHAFEE. Here is my problem: my problem is balancing off the dangers which could ensue to those Americans who are placed in this situation. Or, even taking it a step further, the reluctance of foreign powers who we might be calling upon for their assistance to achieve one of these goals, the reluctance of them with their individuals, their nationalities involved in one of these efforts, their reluctance to even participate in such an undertaking because they knew that while the very enterprise was underway, information would have to be given to at least the four people in the U.S. Congress.

There was some suggestion earlier that it be 3 months, or some lengthy period like that. There is nothing magic about 10 days, but the reason I chose 10 days was so that one of these operations that I have described, and I will soon describe another one, will be over, and the individuals whose lives are in peril will be out of there by the time the information is disclosed. Yet, it cannot be a lengthy undertaking, such as the one that brought this very measure to the floor, which is the Iran-Contra matter, which went on for months and months. Clearly, under the amendment I propose, that would have to be disclosed.

Mr. BOREN. Mr. President, I would have to say I understand exactly the kind of struggle the Senator from Rhode Island is having in his own mind. It is a struggle I had in regard to this legislation. It took me a long time to determine where I would strike the appropriate balance between the needs for virtual total secrecy in an operation to serve the national security interests of this country, on the one hand, and the need to have some sort of accountability, since we are a government with separation of powers and two branches of government involved: one providing the appropriation of funds to conduct operations, the other, the executive branch, actually carrying them forward. There has to be some sort of an appropriate balance struck between the need for secrecy and yet the need for accountability.

I would say again to my colleague from Rhode Island, I have great respect for him, and I am very pleased he has taken the time to struggle with the provision of this bill. He provided an excellent amendment to us as we considered this bill a few days ago.

I think, No. 1, it is not only a matter of notification that is involved, it is a matter of consultation, and consultation has great value. Consultation between the two branches of Government is really what brings about bipartisanship; it brings about unity; it brings about shared responsibility for and support for very delicate operations. Frankly, we have had a breakdown of that kind of cooperative relationship, that kind of unity, that kind of bipartisanship in our foreign policy of this country.

So I am concerned if we wait too long, and I honestly believe that 10 days is too long, to have actual, meaningful consultation between people like the Speaker of the House and majority leader of the Senate, the minority leaders in those two bodies and the President of the United States, on operations that are highly sensitive, I think it is going to be less likely that those same people will provide support to the President for having undertaken that operation later on. I think it is going to be more likely we will have partisan division or divisions between Congress and the executive branch over operations. That is the reason I proposed an amendment in the committee to reduce it down to four people.

(Mr. SANFORD assumed the chair.)

But I think the more consultation we have the better oppportunity we have for unity in these operations. And I am concerned about this. I know the Senator from Rhode Island understands that this Senator is a believer in covert operations. I believe there are times and circumstances. I know it should not be a substitute for normal foreign policy, but there are times and circumstances in which we must have the flexibility to undertake covert operations.

Quite honestly, as we listened to the Iran-Contra hearings there were some members of that committee from time to time who seemed to be expressing the view that they felt covert operations per se were somehow evil and wrong, and inconsistent with the democratic process. I do not believe that way. I think we have to undertake them.

But if we do not have adequate accountability, if we do not have an adequate opportunity for consultation, I am very fearful that in the long run more and more of our colleagues here in the Senate and in the House of Representatives as well are going to say since we do not have adequate accountability, since we do not have adequate consultation for covert operations we just simply need to rigidly prohibit those kinds of activities from taking place. I think that would be very damaging to the country, and that is the reason it is all a matter of balance. I would agree with the Senator. There is nothing magic about 48 hours. There is nothing inherently evil about 10 days.

It is all a matter of strkiing that balance between the need for secrecy and the positive value that comes from accountability, and consultation between the two branches of Government.

I guess I just have to say in all candor that I believe that that balance is more appropriately struck with 48 hours where we can maximize consultation, cooperation, and accountability than it is with 10 days, especially when you consider we can limit it down to just four people. We are really in trouble if we cannot trust four people, the two from each House that are elected by all of their peers to those leadership positions.

I think it would have been a rare circumstance if ever in this country those four people would not have been worthy of that trust. Surely, you have to tell these people in the executive branch, those involved in the operation, many, many people—usually there are involved scores of people, maybe more, maybe hundreds in the executive branch—I just simply do not believe that the patriotism, the dedication to this country of those people is any greater than those, particularly, of our four elected leaders, the two from each House.

So I urge the Senator to strike this balance in a way that would give us more opportunity for consultation at the 48-hour level rather than those 10 days. Because I can imagine the Senator from Rhode Island in his own service has offered excellent ideas about operations, and the country would have been well served if some of those operations, perhaps, would have been modified. Maybe the President would have modified certain operations had he heard testimony; maybe not. We have to continue to give him that power as Commander in Chief. But two heads are better than one sometimes. Five are certainly better than one.

Mr. CHAFEE. I appreciate that. But obviously we are evidencing the same concerns—the balance between notification and thus presumably absent vigorous dissent of support for a measure and bipartisan support for an undertaking that is deemed to be in the best interests of the country. On the other hand, the other problem is leaks that could endanger lives, and unintentional leaks. No one is questioning the loyalty of those four that would be involved in this. It seems to me it is not the best system in many ways in that those four are probably the busiest people in the Congress of the United States. First of all, whether they can be located immediately, and I suppose they can; and then you inform them somehow, presumably on the telephone if one of them is in Czechoslovakia, England, Australia, or wherever it might be. So there you have a problem.

The second problem is because they are so busy, are they the people who are going to take the time to digest this, and say to the President, "Now, wait a minute, does this make sense?" I am not sure they are the right people for that because of that very reason.

Then you get something even larger. You say, "All right, how about the group of eight?" The group of eight are distinguished individuals. But I would point out that I have the fullest confidence in those occupants, certainly both the floor managers of this legislation—the fullest confidence in their total dedication to preserving secrecy. But I would point out that the chairmanship of those committees—I do not know how the House works but certainly in the Senate—and the vice chairmanship are purely by seniority. There is not a selective process. And the possibility exists that you get people who through no maliciousness on their part tend to discuss things.

Furthermore, most individuals when placed in this situation want to discuss the situation with somebody other than the members of the administration. You are in Australia, you are high up, let us just say chairman or vice chairman of the Senate Intelligence Committee. You have with you your most trusted aide. Through the telephone comes the discussion, alertness to a program that is going to be undertaken, call it a special activity or covert action, whatever you want to call it. The first thought of that individual is as he thinks about it, does this make sense. It seems to me the logical thing is to try to discuss it with some trusted person. He is not permitted to do that. That is against the law.

Certainly with the group of four who are so busy, when they can get the time to go to see the President and say to the President, "I am not sure we should undertake this," seems to me is questionable.

Now let us get back to the extension of the time. The extension of the time is purely to allow these special activities that involve individuals' lives to be completed. As I say, it could be 5 days. The only reason I put in 10 is it seemed to me 10 days would be able to take care of some expedition that required very careful planning and the individuals could be in and out during that time. So there would be no danger of disclosure.

So there we are, Mr. President. Again, I would like to get back, if I might, to the other point.

First, when American lives are in danger, but I would appreciate it if the chairman or the vice chairman could address the problem of the cooperation and trust of other countries. We like to think that we can do it all alone in America. But in these special activities, covert, whatever one wants to call them, there is no question that we frequently are called upon to rely upon our allies for help. We need those individuals to help us.

It was my experience, and certainly in discussions with those who head our intelligence activities, that when we had the total Freedom of Information Act applying to the CIA, and when we had the access that the press seemed to have to our intelligence activities, much of which has been diminished over the years, that foreign nations would be just plain reluctant to cooperate with the United States of America. Their citizens' lives were endangered.

So, thus I believe that this 10-day period would encourage greater cooperation and would make more feasible the ability of the United States to call on nationals from other countries, or other nation's intelligence services to lend those people to help us out if they knew that no one would be told outside of the very, very closest circles within 10 days.

I think that is an important facet of all of this. I would be interested in the rebuttal if that is what it is called by the vice chairman of the committee.

Mr. COHEN. I thank the Senator for yielding.

First of all, let me point out that notice to the group of eight or the group of four has not been a problem for the past 8 years. It seemed to me to be somewhat curious to be raising this as an argument.

First, the Senator from Rhode Island has suggested we may not be able to find these eight individuals or four individuals, that even if you find them, they will probably be too busy and, even if they are not too busy, they will tell their staff and then their staff will tell somebody else. That has not been the experience of this institution under the law as it is currently written.

The administration, with the exception of the Iran-Contra affair, has notified the Intelligence Committees prior to initiating any covert activity. So, all the arguments raised about "aren't you going to jeopardize these activities because we can't find them, they're too busy, or they talk too much" has no basis in fact.

Second, the Senator from Rhode Island raises the question: "Well, we're trying to save lives; we're engaging in hostage rescue efforts to save American lives."

I respectfully suggest that you can also save American lives by giving notice to the Intelligence Committees or the leadership of the Intelligence Committees and thereby help to prevent a foolhardy act from taking place.

When I was a new member of the Intelligence Committee, you pointed out what you thought of such a covert activity. You raised your eyebrows in disbelief. You expressed your opinions very forcefully. As the result of your effort and that of others, the administration took another look at that covert action. Under your amendment, an administration could carry that action out and take 10 days to notify us.

I think the arguments the Senator is raising really are hypothetical. They are not borne out by the facts and do not contribute to solving the problem.

I think there already has been a compromise providing flexibility. We have created a contingency account. We could say at this point, let us not have any contingency funds for the CIA. That means that for every covert activity, they have to come before us and get an authorization and an appropriation to carry out the particular activity. We say: "We know you need flexibility, and here is a contingency fund. But if you are going to carry out that activity, please notify two of us on the committee or the leaders, so we will know what is going on." That is the kind of flexibility we have been giving the administration for the last 8 years, and it has worked until the Iran-Contra affair.

Mr. CHAFEE. What about the cooperation and trust of the other countries? I think that is harder to define; because when a nation will not cooperate, it is harder to know about it than when they cooperate and tell you, "We do this with great reluctance."

Mr. COHEN. But if you accept that argument, then every other country will say to the President: "I'm sorry. We'll help you on this particular matter, but you can't tell even four Members of Congress because we don't trust them."

If you accept that proposition, it seems to me that you have engaged in a wholesale invitation at any time in the future for any President to say to Congress 10 days later: "I'm sorry. I would like to have told you about this initiative, which blew up in our faces, but the other government we called on to assist us said it wouldn't cooperate if we told you."

Mr. CHAFEE. But you are not a little bit pregnant when you have gone for the 48 hours.

As to the dire circumstances that the Senator says will result from 10 days, I chose 10 days because I thought that was the time—in the very instance I chose, the pilots flew in and landed in Iran on this desert; no one had been there before. Several weeks before the actual rescue attempt was made, they flew in there, took a soil sampling of that desert landing strip, and set up lights and came out. How long that took from the time of the finding until the time they were out, I do not know. I just wanted it to be enough time so that we would be back safely.

The Senator asks, if they cannot trust the majority leader, the minority leader, the Speaker, and the majority leader in the House, what kind of outfit is this? But have you not agreed that there are certain circumstances where you do not want to tell them, with your 48-hour exception?

Mr. COHEN. I say to the Senator that if I had my choice, I would insist upon prior notice. In fact, that is what this administration has done. It has given prior notice in every instance but one, that we are aware of. The mining of the harbors is a debatable point. They have given prior notice. That is what the law originally contemplated. But the argument was made: What if we cannot locate the Intelligence Committee in time? An exception was made. That was done in 1980.

All we are doing is defining "timely fashion" as being 48 hours. This is a reasonable timeframe within which the intelligence community leaders have said they can notify us.

So if you are asking whether we want to continue extending the definition of timeliness, I suppose you could establish a 9-month limitation. The 48 hours was there to try to give definition to a timely fashion requirement which, frankly, was written in to give some flexibility in case the administration could not locate members in time and give prior notice.

Mr. CHAFEE. There is one point I should like to make in closing, and I think the distinguished Senator from Wyoming wishes to speak. I believe I am correct in saying that every Director and former Director of the CIA has not supported this legislation or has supported a longer period of time. Is that an unfair characterization? I am not sure of Mr. Colby, I must say.

Mr. COHEN. I do not know the answer to that. I think Stansfield Turner did testify before the House.

Mr. CHAFEE. I know that Stansfield Turner does not support 48 hours. He supports a longer period of time, and he so wrote in a letter to your committee and testified.

Mr. Webster, it is my understanding, takes the same position. About Mr. Colby, I do not know. I think these are the people who are on the firing line. Obviously, they have a tilt toward their constituency, and we recognize that.

Mr. COHEN. I mentioned this several times. When the Deputy Director, Mr. Gates, came before the committee, when he was nominated to be the Director of the Central Intelligence Agency, he was asked this question specifically, because we were contemplating the legislation at that time. He said he would have no difficulty in coming to the Hill within the 48 hours and would do so within that period of time.

Director Webster subsequently repeated essentially the same message or statement, because we were asking about the notice requirement. He said that he could at that time foresee a circumstance in which he would delay longer. Since that time, he has become director and has perhaps a different viewpoint.

Those were the two people who came most recently, who expressed no objection at the time. The third person was former CIA Deputy Director John McMahon, who said he supported the 48-hour notice requirement.

Mr. BOREN. Mr. President, will the Senator yield?

Mr. CHAFEE. I yield.

Mr. BOREN. I say to the Senator that, as Senator COHEN indicated, Mr. MCCANN testified in support of it. When Judge Webster testified on this specific legislation, he and Mr. Gates supported the concept of 48 hours in their confirmation hearings; but, in addition, Judge Webster's testimony was not against the 48 hours because it created any problem from an intelligence point of view. He testified on behalf of the administration to express the constitutional argument of the President, simply that there should be the right of the President, in his own discretion, from a constitutional point of view, to totally withhold notice if he so desired, under his own discretion using his constitutional powers as Commander in Chief.

So Judge Webster was not quarreling with the 48-hour period. He did not think that that created any particular problem from the point of view of the operation of intelligence. But he was talking about the problem from a constitutional point of view.

So, I would say this, that we have also gone a long way toward addressing this problem of the other countries. That is one of my concerns as well. The Senator is struggling with some of the same provisions that I struggled with in this legislation. We do not want to discourage third countries from cooperating with us. We do not want to discourage the intelligence services of those countries from cooperating, but we have changed the definition, as has been mentioned.

Originally in the bill we talked about naming those countries in the finding and it would be specified in the finding which different foreign country was involved or which third party might be involved.

We have changed that on the advice of the intelligence community. We no longer have that provision.

We just say that the finding must state if a third party is contemplating to be involved. It does not have to say which third party. It does not have to say if it is another country or simply another party not related to the U.S. Government.

Then it indicates that the Intelligence Committee following up on the finding when they receive it may request additional information as to the participation of others, and it says in the bill "consistent with the preservation of sources and methods."

So what we have really done is leave open for negotiation, you might say, between the Intelligence Committees, and this has usually been a matter between the vice chairman and the chairman and the Director of Central Intelligence or the National Security Adviser has been in on it who might be involved, usually the Director of Central Intelligence, to determine what kind of information would be given by third parties or third countries and have it done in a way that would be acceptable to those countries.

Let me just say this is working out in a very practical way at this time, and we have been able to establish procedures, without going into them here, between our committees and the executive branch that thus far have been very satisfactory to any third countries that might be of assistance, and we have changed the bill to take care of that particular problem.

So, I think from an intelligence point of view, we have addressed both the third country and the 48-hour problem. We are still left with the fact that Judge Webster and others in testifying on behalf of the administration were obligated to state the constitutional point of view of the President in this regard.

Mr. CHAFEE. I thank the Senator.

Mr. COHEN. Mr. President, will the Senator yield for 1 moment?

Mr. CHAFEE. Yes.

Mr. COHEN. The President sent Chairman BOREN and myself a letter trying to outline some of the steps that should be taken and in paragraph 4 of that letter, he said:

> The Intelligence Committee should be appropriately informed of participation of any Government agencies, private parties, or other countries involved in assisting the special activities.

This was a recommendation of the President himself in terms of what he believed to be the proper relationship between Capitol Hill and the executive branch in dealing with cover activities.

We have taken that language and modified the original bill to make sure that we do not have to have identification in the finding itself, but rather set up a mechanism whereby the appropriate committees can be advised of how the procedure is going to be implemented. So we have taken that into account.

Mr. BOREN. If the Senator will yield to me on one other brief point on this matter, if I could, if he would allow me to quote from the testimony of Judge Webster on this very question when he appeared before the House committee on February 24, here is what Judge Webster said:

> The bill reported out of the Senate Intelligence Committee sought to address constructively some of these important concerns which I and other administrative officials raised before the Senate Intelligence Committee when it considered the original bill. That bill, for example, recognize the need to report on special activities and intelligence collection in a manner consistent with the due regard for the protection of sensitive intelligence sources and methods. I am also pleased that neither the House nor the Senate bills require that the finding specify the identity of foreign countries assisting the agency in the conduct of special activities. This proviso and protection of sources and methods and the ability to protect the identity of foreign countries assisting us will go a long way in assuring friendly services and potential agents the source identification information will not be widely disseminated and probably compromised.

So Judge Webster seemed greatly reassured by the changes we made from the original version of the bill particularly as it related to the foreign intelligence sources, as I was indicating a while ago.

Mr. CHAFEE. I did note he said it would go a long way. He did not say you were there.

Let me ask a question if I might. What is the situation in the House? Do they have a mirror image of your legislation, or where do they stand there?

Mr. COHEN. As I understand it, they have a comparable piece of legislation that does not go as far in being flexible as this one. Theirs would require notification to the eight under those extraordinary circumstances. We went one step further under the recommendation of Senator BOREN to confine it to four. So they have essentially the same legislation, but it is eight instead of four.

Mr. CHAFEE. Does the Senator know what is the time for notification in theirs?

Mr. COHEN. Forty-eight hours.

Mr. CHAFEE. Forty-eight hours. I thank the Senator.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I want to speak in favor of this amendment. I find the argument of the two managers unpersuasive. I think their argument in fact works against itself because they say the system has been working well with the process now but for the one event of Iran-Contra.

I do not think it is wise to put in place this whole ponderous mechanism to take care of but one event.

The problem is when Gates and Webster were up for confirmation, they responded that way.

It is one thing in the abstract to say that they see no problem with it. It is quite another thing to have this binding in the law to take care of every conceivable circumstance.

There was a conceivable circumstance, in fact there was an actual circumstance in which this particular provision would not have permitted us to rescue the State Department personnel through the Canadian Embassy. It would not have.

And it seems to me for us to take the view that we might have protected lives by notifying people, we can as well and as intelligently take the view that we cannot protect lives under the provisions of this bill.

What is impossible for us to do, no matter how much we would like to, is to legislate wisdom on behalf of anybody. We in Congress possess it not. Administrations possess it not. They try. Errors are made. But you do not, I think, minimize errors by maximizing the exposure of those errors to various personnel in areas so complex and so necessarily tightly held as the intelligence world.

The Senator from Maine has suggested in this area that they have taken care of flexibility by providing for a CIA contingency fund. But I am sure the Senator knows that OMB will not release contingency funds without the say-so of the chairman and vice chairman of the committees. So those committees already have, in effect, the power of the purse. It is in place.

So, you are talking about 48 hours versus 10 days. I think the 10 days will improve the bill. But I still believe there should be that discretion under certain circumstances in which the administration, any administration, Republican or Democratic, ought to be able in their own best judgment to act in behalf of the country.

The reason I say that is the reason that we see right now. In order for somebody to be accountable you have to allow them to be accountable.

The problem with this is that it takes everybody off the hook and the one big sufferer is the country's ability to operate in the real world. The administration can say that we would have done this thing but the Congress would not permit it. The Congress can say, the administration did not come forth with a good idea. Everybody is off the hook and the interests of the Nation suffer. I point again to the fact of this aberration of the Iran-Contra

Affair is proof positive that accountability is already extant.

What we do not want to do is to eliminate our ability under any set of circumstances to act in behalf of the country. I think that is what this bill does.

I think the move of the Senator from Rhode Island to make it 10 days helps. My own view is the absolute requirement that the President report by a time certain it ought to be eliminated entirely.

The provision of the law and in practice now for notification is working, according to the Senator from Maine and according to the Senator from Oklahoma.

Now, I would like to ask the Senator from Oklahoma this question: when you say that you have gone a long way as Director Webster said, gone a long way easing that fear about third party and third countries, you have provided that the committee can request more specific information and you can negotiate that out. I would say from the standpoint of—as the Senator from Oklahoma was—a former chief executive of a State, would that not then transfer a hammer of the Congress. The operation can be stopped in its tracks. All kinds of things can take place. Leaks can take place.

The problem is that putting this into law makes the negotiation with the Congress meaningless. The choice is simple: capitulation of the loss of an operation.

Mr. BOREN. Will the Senator yield?

Mr. WALLOP. Yes.

Mr. BOREN. I want to answer my good friend by saying that really is the way the law operates at the present. What we have done is really restate the practice now. Because, for example, if the executive branch——

Mr. WALLOP. Will the Senator yield for a second?

Mr. BOREN. Yes.

Mr. WALLOP. You state "restate the practice." That is a different thing than restating the law. We have an era of special prosecutors and the like. But, in practice—I agree and I think both Senators managing this bill have said that—in practice it is working pretty well.

Mr. BOREN. It is working out very well.

Let me say that I do not think we have changed even the real political relationships by making this statutory language.

Let me give an example: The agency comes to us with a Presidential finding that talks about some operation and we begin to probe and we begin to say, "Now, are there other countries involved in this? Are there third parties involved in this? We want to know who they are."

If the administration gives us a good reason right now for why they should not reveal certain things, or at least certain specific identities, perhaps, we will listen to their side of the argument. But if we decide that the reasoning is not sufficient, we still have the option of saying we are going to cut this off right now, at least in terms of providing future funding.

Now, you cannot prevent, and we do not in this bill prevent, the President from taking emergency action. He can notify us and we can say no, and he can go right ahead and do it. The problem comes when he needs funds replenished for the coming year. We can then say, "Well, you wouldn't listen to us on these matters and, therefore, we are reducing the funds available to you in the future."

But that is the case now. So I really do not think that we are changing that relationship. In fact, as Judge Webster said, we have gone a long way. We were more specific than that. When this bill was reported out, we reported it out with a delay. We voted to report it at a time certain, a period of about a week, as I recall, maybe longer, maybe 10 days. A month, I am told. So that the administration and the agency would have a chance to look at this with a fine-tooth comb.

I remember many members of the committee had the same feelings I did. We wanted to legislate well and we wanted to be thorough and we wanted to be constructive. We did not want to take some sort of knee-jerk reaction to a particular set of facts like the Iran-Contra matter and arrive at a statute of broad principles that would not probably apply to other cases. Hard cases sometimes make bad law.

So we said we are going to put this bill down for a long period of time. First we made the change on the third countries that the Director suggested. Then we said, apart from the constitutional question which was still there, philosophically the White House would take that point of view, we said we want you to come back to us, look this over the next month to resolve the problems. If there is anything left from an intelligence community point of view that is a problem, come back and tell us and we will still look at that before we finally send this bill to the Senate.

And they did not come back with any additional concerns from an intelligence point of view. So we had addressed the intelligence community.

Mr. WALLOP. But the Senator would agree they have come back with a statement that they would veto it.

Mr. BOREN. Solely on constitutional grounds. I have not found that they are opposed to it on any other grounds. If they are, it is not because they think 48 hours is the wrong period, or they think we have required too much in the findings as to which third country. I think the basis of it—and I understand this. We had quite a long discussion with our committee. I respect the President's point of view in this regard. It is a matter of philosophy in terms of the power of the executive branch.

Mr. WALLOP. Will the Senator agree, in the case of the Canadian Ambassador and his personnel, that the condition of the Canadian Government was that Congress not be informed?

Mr. BOREN. Well, it is my understanding that, in fact, several Members of Congress were briefed; certain key leaders of Congress were briefed.

Mr. WALLOP. That was not my question. Was it not the condition of the Canadian Government that Congress not be briefed?

Mr. BOREN. I do not know that it was. I assume, if certain Members of Congress were briefed, that the Canadian Government agreed to the briefing of those particular people.

Mr. WALLOP. I think that they were not, unless it was well after it was underway. But it was a condition. It is my understanding that it was a condition of the Canadian Government.

Now, this was not a sinister act on the part of the Canadian Government. This was to protect the lives of their personnel and their Embassy, as well as those of ours.

Mr. BOREN. Let me give the Senator an example of how I think something like that might work out. We have had situations, not really the same kind of situation, obviously, but situations not totally unrelated to this kind of situation that you have described. If the President sends to us a finding that said, "I am going to rescue hostages that are being held in country X and I am going to bring them out throught a system under which they are going to be held for a few days secretly in the Embassy of a third country which is friendly to the United States," that would not be the finding.

Mr. WALLOP. No, but the very fact of revealing that an embassy was involved would be sufficient to endanger the lives of those involved. Every single embassy in that country would then become under surveillance if it were to be released.

I would only say to the Senator from Oklahoma, who knows full well that when the briefing took place about the raid on Libya, before those airplanes got there, there was news, and that was as classified as anything could have been.

Mr. BOREN. I think that came out of the executive branch, as I understand what was said at that time. It was first released by the executive branch.

Mr. WALLOP. There is some argument about that.

Mr. BOREN. There is some argument. But I believe it did.

The fact is, if there were circumstances under which third countries were involved in the kind of circumstances that you are talking about, I do not think there is any way that the leaders of the intelligence committees or, I would think, the Speaker of the House or the majority or minority leader of the Senate would say that we demand to know which friendly country embassy these people are going to be in. The other thing is, remember, they can tell only four people.

Mr. WALLOP. I understand that.

Mr. BOREN. I simply cannot believe that we have come to the point where we cannot trust those four people. We are not talking about someone who just happens to serve on the Intelligence Committee by seniority long enough to become chairman. I was not elected by the full Senate. I can really grapple with that in writing an amendment which, in essence, would mean I would not have the right to be notified.

Mr. WALLOP. One of the things that causes me concern is that we have today a Speaker who is negotiating himself with foreign powers. And, you know, if we have a Speaker who takes unto himself the stature of President as well as Speaker, it is of concern to any administration. It does not have to be a Republican administration. It does not have to be a Democratic administration. Now, there is a consequence to be paid if the judgment is bad. We are seeing that consequence paid in spades today.

Mr. BOREN. That is right.

Mr. WALLOP. And it was bad judgment, you will get no argument from this Senator. But I do not believe that it is possible in a bill like this to forever prevent bad judgment when most of the judgment has been good. The judgment of the Speaker has not been good. I do not expect the Senator from Oklahoma to sit there and admit that on the floor today, but I think most of America would.

Mr. BOREN. Well, the Senator from Wyoming is right. I will not admit to that on the floor today at all.

But I would say this: I was just in a meeting this morning, for example, at the White House on an important matter of foreign policy related to Central America and other questions on which there have been sharp disagreements between the President and the Speaker and others. They were sitting there side by side in the Cabinet Room sharing thoughts, sharing ideas, trying to see how they might get together to work out some sort of a bipartisan consensus. I honestly do not believe this Speaker or any other Speaker I can remember—and I have just finished reading the new book that is out about Speaker Rayburn—would have—remember, under the provision I think correctly inserted by the Senator from Rhode Island, we are talking about violating a provision of law.

If those four people are notified under conditions that the President is stating, "I am notifying these four and no others," they are prohibited by law as we have now amended this bill from notifying anyone else. I have to say to my good friend from Wyoming that we may agree or disagree from time to time with the judgment of whoever happens to be Speaker or majority leader or minority leader, but I——

Mr. WALLOP. Will the Senator explain to me under the bill what the penalty of law is?

Mr. BOREN. Well, I suppose that would be a violation that would be punishable as certainly violating the law as a breach of our own ethical standards in the Senate, for example, and the House, and you would be subject to the disciplinary actions by your own body.

Mr. WALLOP. But, again, I would suggest that these bodies have not been very anxious to indulge in disciplinary action. The Speaker is prohibited by the Constitution from negotiating on behalf of the country, yet he did.

Mr. BOREN. All of us are prohibited from negotiating in these matters and I would have to say that a number of people in the Congress have undertaken negotiations in the past.

Mr. WALLOP. The Senator makes my point.

Mr. BOREN. But I do not think whether we agree or disagree with any particular action taken by this speaker or another, I would simply say to my friend from Wyoming, balance off the tiny, and I think infinitely small possibility, almost nonexistent possibility in my mind, that one of those four people who hold those positions, selected by all the Members of both Houses, would violate their relationship and obligation of trust, especially one spelled out by statute; I think that is so unlikely. I think that is much more unlikely than that one of the dozens of people who would have to be told in the executive branch, for example, would violate that responsibility.

One of the favorite things around this town, as the Senator well knows, we have seen it when we have had differences of opinion between the State Department and Defense Department and intelligence community, for example, is a well-placed leak, not only in this administration but past administrations, in my party as well. People try to defeat policy by improperly leaking information about a policy decision and thereby they block something from happening.

But let me say, I just——

Mr. WALLOP. Again, the Senator makes my point. That is against the law as well, and yet it is done by both the executive branch and the legislative branch.

Mr. BOREN. I do not think I make the point of the Senator from Wyoming at all. Because what I am saying is consider the grave damage that would be done to this country, No. 1, if we were not able to have covert actions because a growing majority of both Houses decides we do not have enough accountability in the process to allow for it. And that is a very real danger. Believe me, there are people who do not think like I and the Senator from Wyoming think about it, who would love to cut it all off so we should not have the kind of flexibility for these kinds of operations at all. And the degree to which we do not give them a system that ensures accountability strengthens the hand of those who would deprive them of the right of using these kinds of operations altogether.

The other thing we do is this: I think the worst thing that is happening in this country now is the breakdown in communication, I am talking about real communication, between the executive branch and the Congress in terms of truly sharing a responsibility to help bring this country through very perilous times on issues of grave importance to our national security.

I simply wanted to weep this morning as I sat at the White House and listened as people talked about the difficulty of bringing us together, for example, in a coherent way on Central America. It is a great tragedy. There is a consensus out here in the Congress, both Houses, that we ought to have humanitarian aid to the Contras. Because of all sorts of political breakdowns, we do not seem to be able to put it together. It is a tragedy. The more we minimize consultation and accountability, the more we fail to get together and share thoughts as people like Sam Rayburn and Everett Dirksen and Lyndon Johnson shared talks with Dwight Eisenhower, for example, the more we are apt to set up a situation that will damage our country in the long run.

And I say the small risk, the tiny risk that any of these four people would violate their fiduciary, sworn duty under the Constitution and laws of this country is tiny compared to the great gain that would come to this country by having a system of accountability that will assure that we will continue to have the flexibility to have covert operations and that we will have greater opportunity for unity between the Congress and the President on all these matters. I just truly believe that. I know the Senator from Wyoming knows we agree on far more things than we disagree.

Mr. WALLOP. Can I just state to my friend from Oklahoma that I do not think you can legislate collegiality. I do not think you can legislate cooperation. Those are kinds of things that are developed by other means than by having it in the law.

Indeed, by having it in the law, one of the problems that I see in your legislation is it sets up the pathways of confrontation and not cooperation. That is the whole point, I think, that I am making here. It is to the interest of any administration to have a bipartisan foreign policy; to have a bipartisan intelligence and covert action capacity.

I wrote an article one time in which I roundly criticized the administration as using covert action as a substitute for policy, not as an arm of policy. I believe strongly in that today. But I do not believe that by setting up a ponderous legal procedure that this bill initiates, that we foster, that we stimulate cooperation. That comes in different ways.

That it has not, I regret. I believe the Senator from Oklahoma and I agree on almost every kind of thing that would take place. But I do not believe that this bill in any way fosters a spirit of cooperation by mandating it. By putting these things into law, we erect barriers to cooperation and catalysts to controversy and pathways to confrontation that do not exist between administrations and Congresses.

Where there is a willingness and desire to be cooperative you do not need the law. Where there is none the law will not do it. But by putting in this ponderous element, that creates those pathways of confrontation, I think you minimize rather than maximize the opportunities for good working relationships.

So, again I would hope that the Senate would accept the appeal of the amendment of the Senator from Rhode Island. I do not think it is in violation of the concepts of the bill. In fact, again, I would restate that from my own perspective, 10 days is too short as well. But I do believe that you get a little flexibility that you do not have with 48 hours.

I yield the floor.

Mr. CHAFEE. I want to thank my able colleague from Wyoming for that very helpful discourse on that bill.

Now let me, if I might, summarize where we stand. Under this legislation the President of the United States must immediately, in advance, actually, of any finding, inform the entire Intelligence Committee of what he intends to do. The Intelligence Committee on the Senate side and the Intelligence Committee on the House side. He must let them know. There are no secrets here. It is a limited secret, if you would. He tells it.

But then it says, it gives him a minor escape hatch, and it says that if he determines, listen to this language, it is essential to meet extraordinary circumstances affecting vital interests of the United States, then in that situation he does not tell the entire Intelligence Committee on the House side, which I believe is about 14; nor the entire Intelligence Committee on the Senate side, which probably is about 16; no. He can restrict it to eight individuals. Mind you, this is when it is affecting the vital interests of the United States and it is essential to meet extraordinary circumstances.

So, those eight individuals are the majority leader in the Senate, the minority leader in the Senate; the minority leader in the House and the Speaker of the House; plus the chairman and vice chairman of the House Intelligence Committee; the chairman and vice chairman of the Senate Intelligence Committee.

But then there is a further limitation. When the President determines it is essential to meet extraordinary circumstances affecting the most vital security interests of the United States—this is moving it up to a little higher urgency, it is not affecting the vital interests of the United States, it is affecting the most vital security interests of the United States, and the risk of disclosure constitutes a grave risk to such vital interests—this is limiting it to a very, very limited situation and there it is limited to an even more restricted group, not the chairman and vice chairman of the Senate and House Intelligence Committees and the Speaker and the leaders in the Senate and the House; it has narrowed it even further to just four individuals. Those four are the Speaker, minority leader in the House, the majority and minority leaders in the Senate.

There it is. And yet, we are saying; Let us go one step further, which will very rarely occur. This is not going to be the everyday occurrence by a long shot.

The President, would have to meet very restrictive situations in which he would say, in addition to all this, "I want to delay a little bit longer and I will delay not 48 hours but," he would say, "10 days in order to get those Americans, or foreigners who were dependent upon the United States and the essentialness of maintaining this a secret, to get into Iran," or wherever it might be, "and out again safely."

That is the occasion I am discussing. I just believe it is very rarely going to come up. Indeed, if this is abused, none will say, "These committees, the distinguished Senator from Oklahoma, the distinguished senior Senator from Maine and their opposite numbers, can come forward with remedial legislation and they can report to us not that the situation has worked very satisfactorily, as they have said in the past, but it is not working, and the President is abusing this, and so is the head of the CIA. We are not going to put up with it any longer and this is what we propose. We do not give him 10 days. We do not give him a 48-hour delay. Every single covert activity or special activity, if such they want to name it, has to have prior notice and if they do not the President is subject to the penalties of the law."

It seems to me that is the way we ought to proceed. That is the reason I have the 10-day proposal in there.

The **PRESIDING OFFICER.** Is there further debate on the amendment?

Mr. COHEN. If I might respond briefly, I agree with many of the Senator's arguments. After going through all of these steps we tried to insert in the legislation to accommodate the President, it is now taken as a means of imposing ponderous burdens upon the administration.

Of course, the Senator from Rhode Island does not change this. He still requires notification to eight and under certain circumstances requires notification to four. He would simply extend the notification from 48 hours to 10 days. I find that somewhat ironic since the Senate Intelligence Committee really tried to take into account the current situation with the administration.

For example, the proponents of this particular amendment talk about the ponderous mechanism that would be imposed upon the administration by this legislation.

The fact of the matter is the President's own directive provides for delaying notice to Congress if the President determines it is necessary in order to meet rare, extraordinary circumstances.

This is the President's own language. We are simply incorporating the President's own language into this legislation. We have done nothing more. There are no additional ponderous burdens here that are imposed upon the administration other than what they are already required to do on their own.

The President has said, "No action without findings. No retroactive findings. We will put them in writing. We will notify the committees in advance."

The only difference here is that we impose a definite time limitation as opposed to what the administration would like to have.

I suppose we can suggest many hypotheticals. What if the Israelis were to tell the President, "We will help you sell arms to Iran, provided you do not tell four Members of Congress"?

I would suggest, Mr. President, that this is not simply one event that we are reacting to. I was, again, intrigued by the reference to this one event as if it was some sort of minor, little blip on the screen. We went through nearly a year of turmoil in this country over that one little event. It is almost equivalent to what Warren Spahn reportedly said when asked, after he threw a home run ball to Willie Mays, "What did you think of the pitch?"

Spahn said, "It was great the first 60 feet."

That one went sailing clear out of the park. It went sailing out of the park because of poor judgment. We are not trying to legislate against that.

My colleague from Wyoming said we cannot legislate good judgment, and we cannot. We cannot legislate morality, and we cannot legislate wisdom. But we can set a standard to which Members of Congress can reasonably expect any administration, this administration or future administrations, to measure up to.

I would suggest that what we have here and what really prompted the legislation was not simply the one event. That was not it. What prompted it was an interpretation of current law that came out of an Assistant Attorney General who said section 501(b) of the National Security Act gives unfettered discretion to the President of the United States. Therefore, he can give prior notice or he can withhold notice. The Justice Department interprets the words "timely fashion" to mean as long as the President in his unfettered discretion deems necessary to withhold that information.

What we are saying is that we object to the unfettered discretion. We believe that "timely fashion" was a phrase that was adopted in 1980 contemplating several days. We are now trying to amend that "timely fashion" phrase to establish a time certain, which is 48 hours.

So we are not seeking to legislate morality; we are not seeking to legislate wisdom. We are seeking to set a standard under which we are saying, "If you are going to undertake covert action, give us prior notice and in those rare extraordinary circumstances where you cannot at least notify eight people. If you think it is that serious and you are worried about a risk, notify four, but do it within a 48-hour period so we have some opportunity to give you the benefit of our own advice on this matter. We are not seeking to veto it. We simply want to give you the benefit of our own advice."

We do not want to wait 10 days until the action is totally over. In 2 days it could be over. We have to take that particular risk. But the effort here is not to give the President, any President, time to complete a covert activity but rather to give him the opportunity to come before Congress and give us some opportunity to comment.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, it seems almost needless, but I think it bears repeating that the title of Commander in Chief is the President's and the title of the President is Commander in Chief. I do not think that 99 percent of the time the Commander in Chief wants unfettered license to do things, but in the 1 percent of time when he alone is responsible for the welfare of all America, he is alone.

I would suggest for him to be accountable he must have the ability to act on his own. That really is the fundamental point of the argument and the amendment of the Senator from Rhode Island.

There have to be times when the President must be President. If he makes a bad judgment, there will be hell to pay, and it is being paid by the hour and by the day to day.

I think that is the point. There was no escape from accountability. In fact, accountability was raining and has been raining on them. But this is a judgment and that is a part of the responsibility of the Office of President of the United States.

Not one of us has it. Not the Speaker, not the majority leader, not the minority leader. None of us has that single moment of accountability and responsibility.

We cannot, serving one constituency even if that constituency is the Senate of the United States, substitute ourselves for the unparalleled responsibility and the awesome judgment that belongs to the President of the United States alone. For us to seek to do that weakens our country.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, as debate draws to a close, I want to make two points quickly.

First of all, it has been made very clear on this floor that the Iran situation would not necessarily have been prohibited or would not have occurred had this legislation been on the books. I think everybody admits that.

The Iran situation could have been taken care of regardless of whether this measure was written in stone.

Second, the distinguished senior Senator and the chairman of the committee read extensively—or I believe maybe it was the Senator from Maine—about the views of the administration on this measure. But certainly the implication was that the administration approves of this measure.

The administration may have had some corrective provisions that would hopefully make it better, but the administration and the President did not approve of this bill.

Mr. COHEN. If the Senator will yield, the administration was given the opportunity to comment for a period of time. They specifically in the record indicated they had no objection to the legislation with the exception of the 48-hour requirement.

Mr. CHAFEE. That is right. And I have extended it.

So, Mr. President, I hope the amendment will be adopted.

MR. COHEN. Mr. President, I move to table the amendment.

Mr. CHAFEE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine to lay on the table the amendment of the Senator from Rhode Island. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Alabama [Mr. HEFLIN], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Hawaii [Mr. MATSUNAGA] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND] and the Senator from Kansas [Mr. DOLE] are necessarily absent.

The PRESIDING OFFICER (Mr. BREAUX). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 60, nays 32, as follows:

[Rollcall Vote No. 51 Leg.]

YEAS—60

Adams
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dodd
Domenici
Evans
Exon
Fowler
Glenn
Graham
Harkin
Hatfield
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Specter
Stafford
Trible
Warner
Weicker

NAYS—32

Armstrong
Chafee
Cochran
Danforth
Dixon
Durenberger
Ford
Garn
Gramm
Grassley
Hatch
Hecht
Helms
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
Nickles
Packwood
Pressler
Quayle
Shelby
Simpson
Stevens
Symms
Thurmond
Wallop
Wilson
Wirth

NOT VOTING—8

Biden
Bond
Dole
Gore
Heflin
Matsunaga
Simon
Stennis

So the motion to lay on the table amendment No. 1642 was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I had a companion amendment to this. I will not offer that as a result of the vote on this. Thank you.

Mr. COHEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, let me state again to my colleagues that I know Senator WALLOP is coming to the floor to offer an amendment in just a moment. But I have not heard from any other Senators that they plan to call up their amendments. If that continues to be the case, we are hopeful that we can finish this legislation in the next couple of hours. I would urge my colleagues to come to the floor and offer their amendments. If we do not hear from them, we will go ahead and move to go to final passage of the legislation.

I know Senator WALLOP is coming to offer an amendment. As of this point, I do not know of any other Senators that have notified us they intend to actually call up amendments which they have filed prior to the adoption of the cloture motion.

So I want to again urge my colleagues to assist us in expediting consideration of this very important legislation. We had full consideration of this legislation several days ago. On the Senate floor we had prolonged debate. I think we have had an excellent discussion of the bill. We have heard from those who have concerns about it. They have very adequately expressed their concerns and have articulately done so. We have engaged, I think, in a very meaningful debate about the purposes of the legislation.

So, Mr. President, there is really not much need in prolonging the debate on this measure itself. Several Members have been asking me if we can complete this bill today. I hope we can. We certainly will be able to do so if our colleagues will cooperate by coming on the floor to offer these amendments. If we do not hear from them, we are going to assume that they did not intend to offer the amendments.

So I want to say in fairness again that this is a notice to all Senators that we intend to press ahead, and again I urge them to come to the floor and offer their amendments.

Mr. President, I suggest the absence of a quorum.

Mr. President, I withhold my request.

Who seeks recognition?

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

AMENDMENT NO. 1641

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The Chair inquires of the Senator from Wyoming whether the amendment he is proposing is an amendment that is at the desk, filed prior to cloture.

Mr. WALLOP. It is. It qualifies. It is amendment 1641.

The PRESIDING OFFICER. The Clerk will report the amendment of the Senator from Wyoming.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 1641:

On page 13 at the end add: Nothing in this Act shall be construed as requiring the executive branch to identify third parties involved in special activities to the Congress.

Mr. WALLOP. Mr. President, I listened with interest to the debate on the amendment offered by Senator CHAFEE, in which the Senator from Oklahoma said that they had resolved the problem, or gone a long way—I think that was his phraseology—to solving the problems of intelligence activity with regard to third-party reporting.

If that is their intent, this amendment ought to be acceptable, because it clarifies in the bill, itself, that the executive branch is under no obligation to identify third parties involved in or contemplating being involved in U.S. special activities. As I understood the statements of the Senator from Oklahoma, that was an area of negotiation between the executive branch and the Intelligence Committees. The problem that I have with the provision is that I do not think that is the case.

Section 503(a)(4) requires notification of contemplated third-party involvement.

The committee report then states that the finding itself—just the finding—need state only whether such use is contemplated, without actually identifying the third party or parties concerned. However, it goes on to state:

> Additional information concerning the involvement of such third parties would be provided to the Intelligence Committees in accordance with subsection 503(b).

That section states that there is a second obligation upon officials designated in the introductory clause to furnish the Intelligence Committees any information or material concerning special activities which is in their possession, custody, or control, and which is requested by either of the Intelligence Committees in order to carry out its authorized responsibilities.

Further, there is a general provision to the bill that prohibits withholding information from the Intelligence Committees on the grounds that it would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods.

As I understood the Senator from Oklahoma, speaking on the previous amendment, his stated concern was the protection of classified sources and methods. That cannot be done if the requirement is under the law to notify the committees who those third parties or third countries may be.

This amendment is very simple. It is trying to do what the Senator from Oklahoma said their intent was and that the bill did. It simply clarifies in the law that the executive branch is under no obligation to identify third parties involved in or contemplated in being involved in U.S. special activities.

The reason for this is that I believe the bill, itself, is unclear. It may be the clear purpose of the committee that those third parties and sources and methods must be disclosed, but that is not what the chairman of the committee said a little earlier.

My point, again, is that sources and methods are the lifeblood of effective intelligence. The committee has the power of the purse. The committee has all kinds of powers to force this thing, and it was the subject of the little dialog between the Senator from Oklahoma and myself.

I said that the provision gives Congress the hammer in the hand. It perhaps does that. But the hammer in the hand ought to be just about the project, not the disclosure of third parties or sources and methods.

That is the specific purpose of my amendment. It is not sinister. It does not try to undo the work of the bill.

Mr. COHEN. Mr. President, the amendment is simple, but I think simply overlooks one of the fundamental problems we face.

I call the attention of the Senator to the letter that President Reagan sent to Senator BOREN. I will offer this as part of the record. I read from paragraph 4 on page 2 of the letter:

> The Intelligence Committee should be appropriately informed of the participation of any Government agencies, private parties, or third countries involved in assisting in special activities.

This is the President's letter to us.

What we did in the legislation, after consulting with Director Webster and other members of the intelligence community, was to modify the legislation so that the finding itself which is sent to the Intelligence Committee does not contain the names of third parties or third countries, but, rather, that a reporting system is set up so that the committees could be appropriately notified under other sections of the bill but not in the finding itself.

The reason for that is simple. What if the administration were to undertake a covert activity with an unidentified third country and the country turns out to be South Africa, or it turns out to be a nation that does considerable trade with the United States at a time when the Congress is contemplating imposing a trade embargo on such country? It seems to me important to know whether there was any quid quo pro or understanding.

So, by eliminating notification under the Senator's amendment, he eliminates an opportunity that the committee be notified of the identity of a third country, and thus he eliminates learning of a situation which many Members might object to. We might have a stated policy against doing business with that country. Yet, by not disclosing it in any form to the Intelligence Committees, we are kept in the dark.

For that reason, I would have to oppose the Senator's amendment.

Mr. WALLOP. I say to the Senator that his chairman spoke quite differently in arguing on the amendment of the Senator from Rhode Island when I said, "Does not the fact that this requires a negotiation between the executive branch and the committees give the hammer to the hand of Congress?" In effect, he said, "Yes." So it does.

But negotiation does not imply to this Senator the requirement under the law that sources and methods be disclosed. And that is the problem that I have.

I think the Senator from Maine is as well versed as anyone in the Congress, certainly in the Senate, as to the absolute critical nature of sources and methods.

So I do not see what possible benefit there is to not having it in the findings only to be required later on.

If you are going to do that, you should just as well have it in the findings and be straight out in the first place.

When the President's letter says "appropriately informed," that is precisely what I am saying, appropriately informed.

There may be times when sources and methods of third parties ought not to be disclosed, and you will have notification entirely of the special activity. You will be able to do as much as you care to, but I do not believe the third parties ought to be named, and I think that will stop us entirely.

Mr. COHEN. As I read paragraph four of the President's letter, it says, "The Intelligence Committee should be appropriately informed." It does not imply the committees should be appropriately uninformed.

What it implies is that they should be informed in a manner consistent with maintaining protection of sources and methods consistent with section 503(b), for example, "To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods," and subparagraph "(1) keep the intelligence committees fully and currently informed . . ."

So we are simply taking any designation in the finding of third parties and countries consistent with the President's own letter, saying the committees shall be appropriately informed, consistent with section 530(b).

Mr. WALLOP. I again say to my friend that——

Mr. COHEN. And that is current law.

Mr. WALLOP. He is entirely tying the hands of this country to effective covert action on specific occasions. That is reason enough, and I do not understand what possible benefit—no wonder the Director says you may have gone a long way toward solving the problems and concerns we have with third party reporting and did not say you have solved them because I do not understand what possible benefit there is in withholding that information from the finding and requiring it under other terms of the legislation. What possible use is there?

Mr. COHEN. Current law today would require them to identify the third parties, as I read section 503(b).

Mr. WALLOP. But there is I think also the ability of the administration not to notify. That is in the general provisions of the legislation that is in front of us.

But my point is this: Because even if it were to be the case because current law requires it is no need to follow blindly down that when you are so vastly expanding the powers of the committee and the reporting requirements under it.

Mr. COHEN. The committee is not vastly expanding anything. The committee is simply requiring the President to notify the Congress, the four leaders within 48 hours. In that notification, even though the finding itself does not designate who that third country or parties might be, indeed the intelligence community may be called upon by those four people to say exactly which nations we are working with.

Mr. WALLOP. What about third interests?

Mr. COHEN. Third interests or parties.

Mr. WALLOP. I understand that.

What happens when you have an intelligence operative of a friendly country, say, deep inside the Soviet Union?

Mr. COHEN. Consistent with protecting sources and methods. I do not think you get into the specific identities of agents.

Mr. WALLOP. But this requires it.

Mr. COHEN. No, it does not.

Mr. WALLOP. You show me how it does not. If the committee insists upon it, it must be done unless you have this amendment.

Mr. COHEN. I come back to section 503(b) "To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods * * *."

Mr. WALLOP. Then read the rest of your bill which is section 501(e) on page 2 saying "Nothing in this act shall be construed as authority to withhold information from the Intelligence Committees on the grounds that providing the information to the intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods." You do in fact require it.

Mr. COHEN. That is not the reading of the Senator from Maine of the act.

Mr. WALLOP. How can you read that as saying anything else? "Nothing in this act," no matter where in the act it is, "Nothing in this act shall be construed as authority to withhold information from the Intelligence Committees on the grounds that providing the information to the Intelligence Committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods."

And I would say to the Senator if his reading of that does not do that, is it not at the very least ambiguous and would it not at the very best be cleared up by this amendment of the Senator from Wyoming?

Mr. COHEN. In our report, on page 28, we have the language subsection (e) repeats the current subsection 501(e) that makes clear "providing the information to Intelligence Committees does not constitute unauthorized disclosure of classified information or information relating to intelligence sources and methods under the act."

I think we tried to make it very clear in the report itself that it is not required.

Mr. WALLOP. But the report is not the law. The report is a comment on the law, that in a day of special prosecutors and as the Senator himself knows, since he is well versed in the English language, writes and composes verse in it, the bill says——

Mr. COHEN. Occasionally blank verse.

Mr. WALLOP. This is blank verse of the starkest kind.

Whatever the report says this blankly says in the age of special prosecutors that it cannot constitute grounds for withholding information.

The report simply adds to the ambiguity of the legislation in front of us.

Mr. COHEN. I am sorry. Could you repeat that?

Mr. WALLOP. I am simply saying it does not matter what the report says. The law says there is nothing in here, that it cannot be construed as authority to withhold information. At the very best the report merely adds to an ambiguity that already I have traced to existing within this legislation, and what I am only trying to do in my amendment is to seek to simply clarify that ambiguity. You have on the one hand a report that says it is not required. I said a conflicting requirement of 503 (a) and (b) and then in 501(e) a directly contradictory statement which simply and clearly in the age of special prosecutors may be grounds for prosecution.

Mr. COHEN. Just a moment. There is nothing in here that would send anybody to jail.

I think we made the point in the last amendment, there is no penalty involved in this particular section, no criminal sanction. You can go to jail for violating other provisions of criminal laws, but you cannot go to jail on the basis of this.

Mr. WALLOP. Will the Senator tell me what he has heard of the special prosecutor, especially the Iran-Contra one, that he got a guilty plea for something that was not a violation under the law?

Mr. COHEN. That is not what he got a guilty plea for. He got guilty pleas for false statements.

Mr. WALLOP. I am not talking about Mr. McFarlane. I am talking about the man who theoretically had some violation of the income tax laws who the IRS says would not have been a violation under the law and they would not prosecute.

Mr. COHEN. But the special prosecutor is not prosecuting any individuals involved in the so-called Iran-Contra affair based upon legislation we have here.

Mr. WALLOP. My point is he cannot. My point is you have created a standard in here which is typical of most of the work of Congress in recent years that is ambiguous. And why send it out of here ambiguous when we have the opportunity to clarify it?

You have a requirement on one side that says you cannot and an understanding on the other side that says you may.

Mr. COHEN. I would say to my colleague that what is required under the law is that the President notify four members or eight members or the entire committee, depending upon the circumstances of the nature of the activity. If there are third parties involved, even though the finding does not require specificity, he may be required in appropriate circumstances to tell us which third countries are involved.

Mr. WALLOP. But the act does not permit him to withhold any information of sources and methods. That was not my understanding of what the Senator from Oklahoma said. The Senator from Oklahoma indeed quoted Judge Webster as saying you have gone a long way toward solving our problems with regard to third parties.

Mr. COHEN. You can have the Senator from Oklahoma come back. Perhaps he can explain what he said, because that is not my understanding.

Mr. WALLOP. While we are perhaps waiting for him, again I would ask the Senator why we feel it incumbent upon us to send out a piece of legislation that is ambiguous on its face, it conflicts with the report and two provisions within it, when we have the opportunity to strengthen it? It just does not seem to be wise legislating to report out things that are on their face ambiguous and these two provisions are in conflict with each other.

Mr. COHEN. Well, I think the Senator from Wyoming would like to strike out that language to make it clear that the President is not required to disclose the identity of third parties.

Mr. WALLOP. But the Senator from Oklahoma was specific in saying that it only required negotiation. I said, "Does not that, in fact, give the hammer to the Congress?" And he, as a former chief executive, said, "Yes," he supposed it did, because you ultimately had it through the power of the purse anyway.

But at least the President of the United States ought to be able to withdraw entirely the thing and not be required, as this does, to disclose certain parties if he wants to abandon the project altogether. Yet the bill will not give him that privilege. I think that is a dreadful mistake if this country is going to conduct intelligence activities in the real world.

Mr. COHEN. I think the Senator's dispute is with the Senator from Oklahoma and not with the Senator from Maine.

Mr. WALLOP. Well, then the Senator from Maine can accept the amendment in the absence of the Senator from Oklahoma.

Mr. COHEN. I think the Senator from Wyoming would like to strike the provision altogether that would require the President to identify third parties. I do not share that view.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I ask unanimous consent that I may be permitted to withdraw my amendment and substitute an amendment for it with no further amendments to the substitute to be in order.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Hearing none, it is so ordered.

AMENDMENT NO. 1661

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposed an amendment numbered 1661.

On page 11, strike lines 3 through 8.

Mr. WALLOP. Mr. President, I think this essentially accomplishes what I set out to do, which was to remove a conflicting set of requirements under the law and the third-party reporting requirement. I think that it returns us to the State we were in when I was discussing with the Senator from Oklahoma on the previous amendment that this would be a status of negotiation between the executive branch and Intelligence Committee and I think that is appropriate.

Mr. BOREN. Mr. President, I think the Senator from Wyoming is absolutely correct and I do, after listening to his discussions on this matter, understand why he felt there might have been a conflict between this particular section of the bill and the provisos which indicated that the name of the third country would not have to be included in the finding. I think that he performs a service by simply taking this language out of the bill and making sure that there is no ambiguity.

So, from the point of view of this side of the aisle, this amendment is certainly acceptable.

Mr. COHEN. Mr. President, it is also acceptable to the minority. The provision which is being stricken is something in current law. It was designed to protect whistle blowers. It is part of the law today, and we have no objection to taking it out if it will clarify the bill that we are seeking to pass today.

Mr. WALLOP. Mr. President, I would just say, too, that it is not the intention of the Senator from Wyoming to put in harm's way whistle blowers. I do not think that it is intended or its effect would be that.

The PRESIDING OFFICER. Is there any further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1661) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COHEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1638

(Purpose: To strike section 503(a)(6) dealing with the violation of U.S. statutes)

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes an amendment numbered 1638.

The text of the amendment reads as follows:

On page 14, strike out "; and" on line 3 and all the language through lines 4 and 5.

Mr. WALLOP. Mr. President, what this amendment seeks to do is to eliminate a provision which is absolutely designed, not only for prosecutors, but for conflict between the executive branch and the legislative branch.

It is a new provision in the law which reads, "A finding may not authorize any action that would violate any statute of the United States."

On the surface that sounds pretty good. We certainly do not want to get our hands dirty in these dirty little clandestine operations. But what does the provision mean?

Clandestine operations frequently violate the laws of the nations in which they are executed. Does the planning to commit these crimes in the United States violate any U.S. statute? I would think that is a question, perhaps, I might direct to either the chairman or vice chairman.

Mr. COHEN. If the Senator would yield, I am not aware of any provision in our law which says that you can have a conspiracy to violate somebody else's laws.

Mr. WALLOP. Under the terms of the Foreign Corrupt Practices Act? Is the Senator sure?

Mr. COHEN. Let me refer the Senator to the President's own Executive order. This is President Reagan's Executive order which says: "Consistency with other laws. Nothing in this order shall be construed to authorize any activity in violation of the Constitution or the statutes of the United States."

We are simply incorporating into the statute what the Executive order says.

Mr. WALLOP. But there is a big difference, again, between having something in a statute or something in the Presidential order.

Mr. COHEN. Sure. The President can automatically, or without any consent, change his Executive orders.

Mr. WALLOP. Let me ask the Senator this. Is it not possible that we would make use of the U.S. mails to plant some false information that would constitute mail fraud in this country?

Mr. COHEN. The intelligence community does not violate U.S. law now. If the Senator is suggesting that currently the CIA has been involved in a violation of mail fraud statutes, that would be news to this Senator.

Mr. WALLOP. I am suggesting no such thing and that is not a reasoning way to argue. I am asking if we, in this country, use the mail to plant some false information which we viewed as useful to this country, would that be a violation of mail fraud statutes of the United States?

Mr. COHEN. Our agencies do not plant false information in this country.

Mr. WALLOP. But by mailing it out of the country from this country, do they escape all provisions of mail fraud?

Mr. COHEN. I assume an act in some other country, not in this country, is not a violation.

Mr. WALLOP. What about bribery? Bribery is against the statutes of the United States.

Mr. COHEN. Are you suggesting that our intelligence community violates the bribery statutes here in the United States?

Mr. WALLOP. I am not suggesting it. That is not what this provision says.

"Any action that would violate any statute of the United States." It does not say "Any action of the United States in the United States." It says, "would violate any statute of the United States."

I mean it is clearly against the statutes of the United States to indulge in bribery.

Mr. COHEN. We are simply trying to conform to what the President has provided in his own Executive orders and that is: "Nothing shall be construed in this order to authorize any activity in violation of the Constitution or the statutes of the United States." That is what the Executive order says. That is what this statute says.

Mr. WALLOP. I would say to my friend that he knows as well as I do that there is a difference between an Executive order and a statute of the United States, especially in an era of special prosecutors.

Mr. COHEN. So what you are saying is anytime the President wants to waive the Executive order, then he should do so?

Mr. WALLOP. Furthermore, he can change the Executive order.

Mr. COHEN. Of course.

Mr. WALLOP. He cannot change the statute.

Mr. COHEN. That is precisely why we are putting in statutory language. The President has said he does not believe that we should be authorizing covert activities that would, in effect, violate either the Constitution or the statutes of the United States.

Mr. WALLOP. Would the Senator suggest that there was an exhaustive search of the statutes of the United States and that there is no set of circumstances under which the routine activities of the intelligence community or special activities would constitute a violation of the laws of the United States,

It is, in fact, not against the law of the United States for somebody outside the control of the United States to murder somebody outside the United States. But it is a violation of the statutes of the United States to murder. It is a violation of the statutes of the United States to steal classified information. It is a violation of the statutes of the United States to interrupt television broadcasts and radio broadcasts. It is a violation of the statutes of the United States to have officials lie under oath.

And yet, that is not an unusual pastime, that you have people in foreign countries cooperating with the United States.

Mr. COHEN. Is the Senator suggesting that it is the practice to have U.S. officials lie under oath?

Mr. WALLOP. I am not saying U.S. officials. This does not say U.S. officials. This does not. My whole point on this bill is once again the ambiguity of it.

Mr. COHEN. There is no ambiguity.

Mr. WALLOP. It says, the findings shall not authorize any action that would violate any statute of the United States. It does not say in the United States.

Mr. BOREN. Will the Senator yield?

Mr. WALLOP. Yes.

Mr. BOREN. I was glad my good friend from Wyoming asked. I am not a legal expert in this particular field, but we specifically consulted with the general counsel of the Central Intelligence Agency on this matter. The activities of the Central Intelligence Agency, as the Senator knows, are nearly always, virtually always, conducted outside the boundaries of the United States. That is the charter of the Central Intelligence Agency.

Mr. WALLOP. They are indeed.

Mr. BOREN. For the agency to take some activities, directly or indirectly, to obtain documents in another country, that activity may be against the law in that country but not in this country. They are operating outside our boundaries. About the only area where there would be a problem would be the Foreign Corrupt Practices Act in which we specify certain delineated activities which are violations of the laws of other countries which we thereby incorporate and make a violation of our laws. Generally we do not do that. We do not incorporate the murder statutes of other countries, for example.

I am not suggesting in any way that that never happens.

But we did specifically question the general counsel of the Central Intelligence Agency about the application of all statutes and we went further, and we said, "What about the Foreign Corrupt Practices Act?" We had the very concern you are raising.

The answer we received back was the agency felt there was no problem in terms of this provision of the law and the applicability of the Foreign Corrupt Practices Act to their own ability to act within the statutes of the United States.

Part of that, and I am not expert enough to go through it section by section, according to the general counsel, rests upon the fact that the agency has its own positive authorizing statutes which empower them to act in a certain way. The combination of those authorizing statutes and the way the Foreign Corrupt Practices Act was written creates no problem of their being able to operate within the statutes of the United States.

In other words, they have no problem with the Executive order of the President saying that the Constitution and the statutes shall not be violated. They have no problem with our putting this into statutory language.

We also asked the White House about this matter and the administration also indicated to us that they likewise had no problem with the statutory codification of this particular provision of the President's executive order.

So while I am not expert enough to go section by section with the Senator and say exactly why certain provisions of the Foreign Corrupt Practices Act would not apply in this situation, would not create a problem, we did ask the general counsel of the CIA specifically to look at that, not only as a general matter but, "if there is any problem that you know of, is there any problem with the Foreign Corrupt Practices Act?"

We were told by the general counsel who consulted with our staff at the time that there was not a problem with the Foreign Corrupt Practices Act.

I understand why the Senator is raising concern. The thought crossed my mind as well that we might have a problem under the Foreign Corrupt Practices Act. But we were assured by the leading expert in this field, the general counsel of the CIA, that there was not a problem.

Mr. WALLOP. But the problem right here is not whether the counsel said that or not. You have a problem with what it says. It says a finding may not authorize any action that would violate any statutes of the United States.

I believe that bribery is not an uncommon activity in covert operations. My point is that I do not believe that we can conduct normal clandestine operations with this provision. We may do it but discover to our dismay that the general counsel was not right.

What happens if you authorize an action that turns out to have violated a statute of the United States that nobody either knew of or intended to do when they authorized the action?

Mr. BOREN. I am sorry. I was looking at the language. I did not quite get the question.

Mr. WALLOP. I will state it again. What happens if an action is authorized that nobody contemplated as being in violation of a law of the United States, that nobody intended as being that, either because of the way it was conducted by some third party or by virtue of the fact that the statute was not known? That is not unusual in our days.

What happens if that takes place?

Mr. BOREN. I would say to my friend that many of the kinds of statutes with which he is dealing, for example, bribery, which my colleague has mentioned, first of all require that, and I think that would be an element of it. I think if a person undertook an action under legal authority of opinion, say the general counsel of the Central Intelligence Agency—and one of the problems that we had with the Iran-Contra matter was that the normal process of findings was not followed—if the normal process is followed in 99.9 percent of the time, in that process the President is going to assure that he is acting appropriately. It always involves a very careful review of the activity to be undertaken by the legal staff of general counsel of the Central Intelligence Agency, and usually by the Department of Justice and the Attorney General of the United States.

So I suppose that there is no way that I can assure the Senator that there would never, by mistake, be undertaken some activity that later the lawyers might differ with in terms of a change in opinion, but I honestly think that the Senator is seeing a problem here that does not really exist, with the oversight process and other appropriate discretion of prosecutors, and so on. If there were actual events undertaken, after very careful legal research and opinions of the general counsel, the Attorney General, and others, I think it would be very unlikely that there would be a problem.

Let me just say that this is not a radical proposal. We are simply stating again, virtually word for word, the very language to which President Ronald Reagan has signed his name in an executive order. He has said, "It is not our intent and in fact I direct that there should be no activity undertaken which violates the Constitution or the statutes of the United States."

Mr. WALLOP. But my point is this: I do not want the President or anybody else authorizing the laws of the United States to be broken. This says the laws of the United States cannot be broken in another country. I do not think that makes it possible for us to operate.

Mr. BOREN. Let me read this again.

Mr. WALLOP. That is the problem with the drafting of this language. It may well be the problem with the drafting of a Presidential memorandum. It would not be the first time.

Mr. BOREN. Let me read this again. "A finding may not authorize any action that would violate any statute of the United States."

Mr. WALLOP. It does not say in the United States.

Mr. BOREN. I understand what the Senator is saying, but in reading this as a matter of law, these are terms of art that have meaning under the law. "Any statute of the United States." In no case do I know where we have extended and incorporated in essence the laws of another country. They are to some degree in the Foreign Corrupt Practices Act, where we have said by incorporation we bring certain provisions of law of other countries into our law, but otherwise the statutes of the United States only apply within the territorial boundaries of the United States.

Mr. WALLOP. That is not what it is saying. I can read it again to you, Senator. It says:

> A finding may not authorize any action that would violate any statute of the United States."

Any action that would violate a statute of the United States could take place in Antarctica. It does not give you an exclusionary rule and says if it is outside the country. It says it would violate any statute of the United States.

Mr. BOREN. I do not know that I can go further than I have gone. I have to say the Senator from Wyoming and I have an honest difference of opinion as to what this provision means. It is exactly the provision contained in the executive order. We have asked the general counsel of the Central Intelligence Agency to review it, and we have asked the administration to review it. I assume they relied upon the Department of Justice to review it. They have all come back and said to us, "This provision creates absolutely no problem for us to operate in any way in which we can possibly envision we would ever want to operate." Specifically, they have indicated to us they do not feel it binds them or causes them any problem under the Foreign Corrupt Practices Act.

I just do not read it the same way. I do not believe we are talking about violating the laws of other countries. I think we are talking about violating the statutes of the United States within the United States. There are other policies and other provisions of law which restrict what the Central Intelligence Agency can do, for example.

Mr. WALLOP. But the Central Intelligence Agency does not, as we all know, operate within the United States.

Mr. BOREN. Correct.

Mr. WALLOP. What we are saying here is that we are binding them to the laws of the United States wherever they are operating. It may not be the intention of the committee, but it is the flat statement of the committee, and I can understand why the general counsel of the White House would not do it because he is probably the one who wrote that in the first place. Now all of a sudden, you have a requirement which does not authorize any acts in violating any statute of the United States on an agency which does not operate within the United States.

Mr. BOREN. I think, again, with all due respect to my colleague from Wyoming, and I do not know whether we can resolve this issue other than voting on this, which I proposed we do in a moment, because we are just not reading this the same way.

The Iran-Contra Committee, the special committee which was established to look into the fact situation, felt strongly about this issue. As I say, this is not a radical departure. This is restating what is in the executive order.

The kind of situations we are talking about are ordering American officials, for example, to commit perjury within the United States. That is a violation. Undertaking certain kinds of sales of American equipment which are governed by American statutes, and having officials taking such action within the United States, that is what we are talking about. We are talking about the statutes of the United States which virtually always, with the exception of the Foreign Corrupt Practices Act, apply only to actions within the United States.

So we are not talking about tying the hands of the Central Intelligence Agency in terms of, let us say, undertaking to obtain necessary classified documents in other countries, or pieces of equipment, or something else we might think we need to have for our national security interests.

Mr. WALLOP. After bribery?

Mr. BOREN. That is correct. We are not thinking about those kinds of situations. What we are thinking about is, if the law says a certain amount of military equipment cannot be transferred without authority of Congress, or officials of Government shall be truthful when testifying under oath, or something similar to that, which applies to their actions within the United States, that the statutes of the United States should not be violated. That is the way I read that. That is the way the general counsel reads it. That is the way the White House legal staff reads it, and they are all in agreement with it.

So I just have to say I understand what my colleague from Wyoming is saying, and if I believed, as he does, that this was tying the hands of the intelligence community in being able to operate overseas by applying upon their actions overseas the requirements which would apply to them if they were acting within the United States, I would agree with him, but I just do not agree with that interpretation of the law. Therefore, I do not think we should take it out because the President himself has said strongly in his own Executive order that he does not want the intelligence community to violate the statutes or the Constitution of the United States.

Mr. WALLOP. I would say, I have no problem with that requirement. The problem, as stated in here, goes further. I do not want them running around bribing U.S. officials or selling U.S. equipment or doing any of the kinds of things which took place, or did not take place, in the Iran-Contra affair. But we have a strange new world in which people interpret things, to their own conclusions. We have seen that with regard to a variety of things, specifically dealing with Iran-Contra. There are so many ways of interpreting the variety of provisions in which lack of clarity became the source of argument and confrontation.

What I might suggest to the Senator, if he would indulge me in a brief quorum call—it is not my intention to purposely delay this—but let me have a few minutes to see if maybe there are words which might be acceptable. I believe our purpose is ultimately the same thing. Your statement of what you believe it to say is my belief of what it ought to say. I am just not sure that it does.

Mr. BOREN. I thank the Senator. We absolutely do not differ as to what we think the legal restrictions should be on the Central Intelligence Agency or should not be. We are in full agreement on that. We do not want to restrain the flexibility of the intelligence community to act overseas in our national security interests. We are simply differing over what this means. It is not a difference of opinion as to policy between us. I think there is a difference of opinion as to meaning of law, and we did try to get every legal expert we could find in this field to look at this question, and they all came back with a reassurance to us that this was appropriate language.

I will be happy to see if there is any way we can answer the apprehensions of the Senator from Wyoming without undermining the basic policy of the President, which is to make sure the statutes are not violated.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WIRTH). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, we have been in consultation with the Senator from Wyoming and as a result of this consultation, which indicates sometimes that in further conversation points which seem difficult to understand become clear, as we talked I think we focused on the fact that it is the word "would" in the bill that is troubling the Senator from Wyoming. The present language says "a finding may not authorize any action that would violate any statute of the United States." I understand now why the Senator from Wyoming is saying well, does that mean if it is an action undertaken in some foreign country that does not violate U.S. law but that would violate the U.S. law if it were undertaken in this country, that it would be prohibited? That is not our intent.

Mr. President, I wondered if the Senator from Wyoming would be willing to modify his amendment to read as follows:

> 6. A finding may not authorize any action that violates the Constitution or any statutes of the United States.

That would parallel the language—since the Executive order also mentions the Constitution as well as the statutes of the United States—that would parallel that. It would make clear we are talking about which actually violates, not would violate if performed in this country.

Mr. WALLOP. The Senator from Wyoming would be agreeable to that. As I understand, I would again have to get unanimous consent to proceed in that manner.

Mr. BOREN. Mr. President, I ask unanimous consent that the amendment of the Senator from Wyoming be modified to read as follows: "A finding may not authorize any action which violates the Constitution or any statutes of the United States." So 6 would read exactly as I just read it, No. 6, "A finding may not authorize any action which violates the Constitution or any statutes of the United States."

I ask unanimous consent that the Senator from Wyoming be authorized to modify his amendment to read, if it is agreeable to him. I will yield to the Senator from Wyoming to make that request.

The PRESIDING OFFICER. The Chair would inquire of the Senator from Oklahoma if the language that he is attempting to change is at the desk, or if, as it appears to the Chair, he is attempting to make quite extensive changes in the provisions of the legislation?

Mr. BOREN. The Senator from Oklahoma would have to suggest the absence of a quorum while we put this in language. It is very brief. It is two sentences. We are taking three or four words in the existing amendment. So I suggest the absence of a quorum and we will propound the request.

The PRESIDING OFFICER. If the Senator might suspend for a minute, I believe, is it not the case, that the language in front of us offered by the Senator from Wyoming is language to strike. Is that correct?

Mr. WALLOP. If the Senator from Oklahoma would yield, the President is correct. My guess is that we would have to do precisely what we did in the last amendment.

I ask unanimous consent to withdraw the amendment and substitute for it an amendment to subsection 6 on page 14.

The PRESIDING OFFICER. Is there objection?

Mr. BOREN. Reserving the right to object, would that also be with the understanding it would not be subject to further amendment?

Mr. WALLOP. It would.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered. The Senator from Oklahoma notes the absence of a quorum, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1662

Mr. WALLOP. Mr. President, it is my understanding that the consent agreement that we had prior to the quorum call was that I would be permitted to withdraw my amendment and substitute for it certain changes in subsection 6, lines 4 and 5 of page 14. I have that amendment at the desk. I ask now that the consent agreement be implemented.

The PRESIDING OFFICER. The Senator has stated the unanimous-consent request.

Mr. BOREN. Reserving the right to object, Mr. President, it is my understanding that the unanimous-consent request also contained the agreement that the new amendment that was sent to the desk would not be subject to further amendment.

Mr. WALLOP. It did, yes.

The PRESIDING OFFICER. The Senator from Oklahoma is correct. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 1662.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

To amend section 6 of the bill beginning at line 4 on page 14 by striking all the language on lines 4 and 5 and insert in lieu thereof the following:

"6. A finding may not authorize any action which violates the Constitution of the United States or any statutes of the United States."

Mr. WALLOP. Mr. President, as far as I know this baby has been born, and the birth is acceptable.

Mr. BOREN. Mr. President, I believe the Senator from Wyoming is correct. It is an unusual situation. All Senators present on the floor have actually read the amendment completely, and there is no objection to it on this side of the aisle. I think it clearly reflects the intent that we all have. I urge adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming [Mr. WALLOP].

The amendment (No. 1662) was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOREN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ADAMS. Mr. President, I yield 30 minutes of my 1 hour to Senator BOREN and 20 minutes of my time to the majority leader, Senator BYRD.

Mr. President, I suggest the absence of a quorum.

Mr. BOREN. If the Senator will withhold his request.

Mr. ADAMS. I withhold.

Mr. BOREN. Mr. President, I thank the Senator from Washington for yielding me additional time in the event we should need time under the postcloture situation. It was very thoughtful of him to do so. I express my appreciation to him for taking this action.

Mr. President, I know the Senator from North Carolina has been here earlier. I see the Senator from Idaho. I do not know if the Senator from Idaho wishes to offer an amendment.

Let me announce again that very shortly in the next 15 minutes or so if we do not have an indication that other amendments will be offered to the bill it would be my intent to try to go to the motion to adopt the committee substitute.

I say this not to be unfair in any way but as far as I know we have been working expeditiously.

I thank the Senator from Wyoming, who was just on the floor, for offering his amendment.

We have had some good discussion. We have had some good improvements made in the legislation. But we do hope to finish this bill tonight. I urge Senators to come to the floor if they do intend to call up amendments. We want to be fair to all Senators and protect the rights of all Senators, but if they do wish to offer amendments I urge them to come to the floor; otherwise, we will attempt to go on to adopt the committee substitute.

So let me just again urge Senators if they have amendments to please come to the floor to offer those amendments; otherwise, we will assume that we have dealt with all the pending amendments that Members desire to call up and we will proceed on the question of adoption of the committee substitute.

The PRESIDING OFFICER (Mr. WIRTH). The Chair in his capacity as a Senator from Colorado yields an hour of time to the manager of the bill, the Senator from Oklahoma.

Mr. BOREN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1635

Mr. WALLOP. Mr. President, I call up amendment No. 1635.

The PRESIDING OFFICER (Mr. HARKIN). The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 1635.

At the end, add the following new section:

SEC. 5. Nothing in this Act shall be construed as contradicting the practice that before the beginning of each fiscal year, the President shall prepare and transmit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a classified report setting forth a budget for existing and prospective special activities to be conducted during that fiscal year.

Mr. WALLOP. Mr. President, basically——

Mr COHEN. Will the Senator yield? If this is the Senator's last amendment, we take it.

Mr. WALLOP. It is possible that it will be and it is possible that you will take it before all is said and done. But I think it is fairly obvious what its intent is. It is perhaps the reason why the Senator from Maine might wish to take it.

But the fact is, at the beginning of each fiscal year the President is already required to do this, yet the bill is redundant in that respect, is it not? That is the purpose of this amendment; that "The President shall prepare and transmit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a classified report setting forth a budget for existing and prospective special activities to be conducted during that year."

So here we are trying somehow or another to deal with what takes place. This will force the Central Intelligence Agency to own up to its obligations to advocate covert action.

I believe that it was Deputy CIA Director McMahon who was quoted as having no problems with the 48-hour notification. I also would state for the record that it was John McMahon who specifically disliked all covert action. It was John McMahon who specifically viewed covert action as a stain on the Agency's reputation. And yet it is part and parcel of the obligation and the policy of the United States from time to time that covert action take place.

And so one of the purposes of this is to have the Central Intelligence Agency advocate those things which its Director and the President, and I assume probably the Secretaries of Defense or State, from time to time, might have as policies of the United States.

So, in point of fact, while this may seem redundant, it is a requirement on the Agency to belly up to the bar and stand up for some of the things that it is supposed to do as an element of policy in the United States.

Mr. HELMS. Will the Senator yield?

Mr. WALLOP. I am happy to yield to the Senator.

AMENDMENT NO. 1657

(Purpose: No provision in this act shall be effective until the President, using existing authority, certifies that the Soviet Union has provided accurate data regarding the size and composition of its SS-20 missile force)

Mr. HELMS. Mr. President, I send a second-degree amendment to the desk and ask that it be stated in full, please.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1657.

Add at the end of the pending question the following new section:

"SEC. . No provision in this Act shall be effective (inasmuch as (a) a substantial discrepancy may exist between various United States intelligence estimates of the number of SS-20 missiles possessed by the Soviet Union and the number of missiles reported by the Soviet Union to the United States pursuant to the Memorandum of Understanding to the proposed Treaty Between the United States of America and the Union of Soviet Socialist Republics Concerning Intermediate-Range Nuclear Forces (hereinafter the "INF Treaty") and such discrepancy may indicate a covert Soviet SS-20 missile force of 300 to 550 SS-20 missiles carrying 900 to 1650 high-yield nuclear warheads and (b) unless such apparent discrepancy is satisfactorily clarified, the United States could put at jeopardy its supreme national interest, its 300,000 troops stationed in Europe, and the security of NATO by ratifying the proposed Treaty and thereafter, pursuant to such Treaty, eliminating its own deterrent INF forces based in Western Europe until the President of the United States, using existing authority, has certified to the Senate that the Senate can rely with confidence on the accuracy of the number of SS-20 missiles reported to the United States by the Soviet Union.".

Mr. HELMS. Mr. President, I thank the distinguished clerk for reading the entire amendment. I am not sure anybody followed every single syllable of it, but it will be in the RECORD tomorrow morning.

For the purposes of identification, I am going to call it the SS-20 amendment.

Mr. SYMMS. Will the Senator yield for a question?

Mr. HELMS. Yes.

Mr. SYMMS. Will the Senator please include the Senator from Idaho as a cosponsor to the amendment?

Mr. HELMS. I will be delighted to do so. I ask unanimous consent that the distinguished Senator from Idaho, Mr. SYMMS, be added as a cosponsor of the second-degree amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. President, this SS-20 amendment, as I call it, is just as clear and simple as it can be. The President of the United States, as everybody knows, has signed the so-called INF Treaty, trusting in the Soviet data on the number of SS-20's the Soviets have. And the President has submitted this treaty to the Senate for its advice and consent, under the Constitution.

If the President has enough confidence in the Soviet SS-20 data that he has received and that we have received; if he has enough confidence in the Soviets that they are being honest for a change, or for once; if he has enough confidence to sign the INF Treaty with Mr. Gorbachev, then surely the President of the United States ought to be able to certify to this Senate that the Senate can trust in the accuracy of the Soviet SS-20 data involved in the memorandum of understanding, the MOU.

It is just as simple as that. You cannot make anything complex out of it to save your life.

The Senate needs, and this Senator feels that the Senators should demand, the President's certification of the accuracy of the Soviet SS-20 data. That is what the pending second-degree amendment does, and that is all it does.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, we broached this subject of the Symms-Wallop-Helms SS-20 amendment last week before we went on recess, late on Friday afternoon. It will be a week ago Friday. We discussed the issue that, in order to do justice to this SS-20 amendment, the Senate needs to go into closed session and there are several important reasons why we should go into closed session.

There are two important arms control issues which demand the urgent attention of this Senate: The Soviet SS-20 covert force in the INF Treaty debate, and evidence of a Soviet breakout to the ABM Treaty in the concurrent START debate.

I know of no better time than on the intelligence bill to air these SS-20 covert force and ABM breakout issues clearly with all of our colleagues in closed session, so sensitive, classified matters may be discussed.

I just want to give an unclassified summary of some of the unclassified data that would be discussed in a more indepth and classified fashion in a closed debate.

One is that there are reports that there are over 1,000 SS-20's. These are in various press and DOD reports. Another very important point, and that is: Has the CIA attempted to cook the books on the SS-20 covert force issue? I think if a person reads the sensitive, classified material, either the CIA has made a mistake and "cooked the books" or they have attempted to try to confine themselves to a more favorable assessment of what has already been signed by the President. Senator HELMS has charged in open hearings that the CIA has "cooked the books" on the INF Treaty SS-20 covert force.

Mr. President, the Soviets deliberately falsified their data on the mutual force reduction negotiations which are closely related to the INF Treaty in order to preserve their military advantages in covert forces. This fact emerges from several books on MBFR and Soviet strategic deception.

Another question that has to be discussed in a sensitive closed session is whether or not the INF Treaty is verifiable. Yet according to press reports, this conclusion was misleadingly buried in the classified section of an administration report whose unclassified sections have been given to the press.

On that subject, Mr. President, of verification, it is interesting to note the distinguished Senator from Indiana this morning in the Armed Services Committee brought up the issue of the fact that the Iraqis recently fired a SCUD missile at Tehran. That is supposed to have a range of some 300 kilometers, yet it flew over 650 kilometers, making the verification question even more sensitive and more important, that the Senate gets a full understanding.

According to press reports, INF verification hearings have been resisted and delayed several times in order to cover up the conclusion that the INF Treaty is not verifiable.

Another issue that needs to be discussed in a closed session, where Senators can discuss in depth all areas, is what the report of the INF Red Team was and what their warnings were, and whether in their warnings they warned that the INF Treaty might not be verifiable.

According to open testimony of Admiral Crowe, there is conclusive agreed intelligence evidence of a large SS-20 covert force. Again, according to press reports, there is strong evidence that the SS-20 covert force could use the SS-20 and SS-25 infrastructure.

According to press reports, there are five bodies of new evidence supporting the President's assessment that the Soviets may be breaking out of the ABM Treaty.

There are new administration assessments that each of the 10 Soviet large radars is an illegal battle management radar, and as such, they form a prohibited base for an illegal nationwide ABM defense system of the Soviet Union. It is all related to the INF.

Before the Senate Intelligence and Armed Services Committees make their formal reports to the Foreign Relations Committee, several rebuttals to the administration misrepresentations and possible distortions in the INF intelligence need to be presented to this Senate. We may never get a chance, Mr. President, to clear up these problems if we have to wait until they become buried in other reports and then we try to set the record straight in a much more difficult atmosphere.

So I think it is urgent that these misrepresentations and distortions be cleared up immediately before further confusion sets in.

This report which we need to discuss in closed sessions attempts to extract all the most important intelligence related to the INF Treaty and put it in one place for interested Senators. This report needs to be presented urgently because we believe it to be of overriding importance to the Senate and we believe the report should be presented before other committee reports in order to give them a chance to comment upon and discuss the intelligence extracts.

We will have little chance to comment on the committee reports if we have to make our report later. But we will welcome their comments upon these extracts. The whole Senate will be better served if we have this closed session and this report prior to the reports of other committees.

Our extracts contain unique material, unlikely to be even considered by the committee reports, and by giving the extracts now to the whole Senate, we not only hope to inform Senators of those unique materials but also to stimulate the debate that is necessary as to whether we move forward with the INF Treaty.

I think that that is the only way, Mr. President, that we are going to clear the air of this matter of the Soviet SS-20 covert force and ABM breakout; and the only way to present this material is in a closed session in the Senate.

On the ABM Treaty, we believe that some important new evidence of Soviet breakout into a nationwide ABM defense needs to be aired in closed session. Violations of any existing arms control treaty are of special interest to the Senate when it is considering its advice and consent to a new arms treaty.

So, I see no need for further discussion, only to say that the majority leader indicated on Friday a week ago that he would be willing to schedule a time, and I think it is the wish of Senator WALLOP and Senator HELMS and certainly myself to do this sometime which would be convenient for all Senators but it should be done, I would say, within this week.

I yield the floor.

Mr. HELMS. Mr. President, I suggest the absence of a quorum on my time.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. HELMS. Mr. President, I asked for a quorum call. I wonder if I might inquire—to tell you the truth, I do not know to whom I should make the inquiry, because there are so few people on the floor.

I think what Senator SYMMS has in mind is getting an approximation of a suitable and convenient time with the leadership, with respect to a closed session of the Senate. Am I correct in that?

Mr. SYMMS. That is correct. I have discussed this briefly with Senator BYRD this past week and it is not my intention to try to interfere with his schedule of the Senate, but to work it out at the convenience of all Senators, to have a closed session in the near future. I am talking about the next 3 or 4 days, so that a report may be presented to the Senate with respect to what is the case with regard to the INF Treaty and the relationship of the SS-20's covert force and how many there are, and some of these other sensitive matters that need to be discussed.

Mr. HELMS. I thank The Senator and I certainly agree with him that before the Senate proceeds too far in its consideration of the INF that the questions the Senator has raised, and the answers are classified, by the way, need to be discussed and understood by all Senators.

I would say to the distinguished managers of the bill that it would be my intent to withdraw this amendment immediately if we can get some approximation from the distinguished majority leader as to which day and which hour would be the most convenient time for the closed session which the Senator from Idaho apparently has requested.

Mr. COHEN. Will the Senator yield for a comment?

Mr. HELMS. Yes.

Mr. COHEN. I have no objection whatsoever to having such a closed session. Frankly, this is a debate which is important. The Intelligence Committee is looking at it. The Armed Services Committee is looking at it. It is something that everybody should be apprised of. I am not in a position to say when it should take place. I think it is a legitimate issue that ought to be discussed and debated. I felt last week that this was not the bill to do it. I understand the Senator's sense of urgency and hope he can be accommodated.

Mr. HELMS. If the Senator will yield, I believe I have the floor. I thank him for his comment.

The point that is important to me is that along about Christmastime I made an actual count of the Senators who had endorsed this treaty. This was prior to the time that they even had it in their hand. They did not know what was in it. They were saying it was a great treaty, that we ought to ratify it without amendment or reservations, that sort of thing. I do not know how they reached that conclusion. But I do believe that before the Foreign Relations Committee proceeds with the markup, we ought to have—and it could be relatively brief—a discussion about the contradiction and the confusion with respect to the SS-20's and other details in the treaty.

I do not imagine the Senator from Idaho has in mind a long session. Certainly, I do not think it would be necessary.

Mr. BOREN. Will the Senator yield?

Mr. HELMS. Yes.

Mr. BOREN. Of course, as chairman of the Intelligence Committee, I am not in a position to make a decision as to the schedule. I know the majority leader himself is a man very concerned about national security affairs, as the Senator from North Carolina knows. We have been looking, as the Senator from North Carolina knows, at this very issue and have had several hours of hearings specifically related to questions raised by the Senator from North Carolina. We have asked various elements of the intelligence community to give us their own assessments about this issue.

It also is a matter that will be addressed by our committee in our report, both the classified and the unclassified version, to the Senate Foreign Relations Committee and to the entire Senate. So we will continue to deliberate on that this week.

I anticipate that the vice chairman and myself probably will be appearing before the Foreign Relations Committee sometime next week after our committee has deliberated on our final report and we are in a position to present it to the committee.

Let me say to the Senator, he knows that this Senator takes very seriously the responsibility we as trustees, the entire Senate, have, and I know the Senator from North Carolina has joined us in a recent case, to serve as a watchdog, to make sure that we are not just trusting, but that we are able to verify with sufficient clarity that we are not risking the national security interest and that we are keeping close tabs on all developments, whether we are talking about this issue, the ABM developments, or any other potential developments.

The Senator knows I take very seriously this responsibility and will continue to do that in the Intelligence Committee.

We will be addressing these matters as we present our report to the Foreign Relations Committee, on which he serves. So it is a matter that certainly has my attention.

Again, as I say, I cannot speak for the majority leader as to when he thinks it will be appropriate, at what point, whether soon, immediately, or whether closer to the time that we have had a chance to look at the INF Treaty after final deliberations in the Foreign Relations Committee. It is appropriate, perhaps, to wait until we issue our preliminary report from the Intelligence Committee.

We have sent word to the majority leader that you have raised this question and we will await his answer. In the meantime, I wanted you to know that the matter is something that the Intelligence Committee is carefully studying.

Mr. HELMS. I thank the Senator.

Mr. WALLOP. Will the Senator yield?

Mr. HELMS. Certainly.

Mr. WALLOP. I think one of the other points of the Senator is that, absent the intention to enforce this treaty—and the President and the Secretary of State have only talked about our ability to verify, but have not answered the questions of the Senator from Wyoming as to what happens if, as in all other treaties we find the Soviets in violation of this one, what will we do? Before the Senate endorses a treaty such as the INF Treaty that we have no intention of enforcing, the least we can do is to expect the ground to be level before entering into it. I believe questions have been raised by the amendment which the Senator from Wyoming had originally filed at the desk and which the Senator from North Carolina has offered. The criteria sought in there is some understanding of what it is that each side begins this treaty with or without.

My problem is that it is fairly obvious that we are going to begin this treaty without. The worry of the Senator from North Carolina is that the Soviets are going to begin this treaty with.

Those are sets of circumstances with whether or not they are in violation under the terms of the treaty. I believe that the treaty is so badly drafted in one provision that they would not be in violation. Indeed, the baseline data that is controlling for this treaty is not supplied to us until 30 days after the treaty goes into effect, and that could be any number because it is unchallengeable.

I have had people say to us, "Well, if the number was totally ridiculous, they would lose face all over Europe." They might lose face all over Europe but they would gain strength all over the world. And who would challenge them and with what? That is the problem we face here.

I believe that the Senate, taking its responsibility for advise and consent as to the ratification of this treaty, seriously must know if there is a big discrepancy between baseline data submitted to date by the Soviet Union and best level estimates by the various levels of the U.S. intelligence community.

So I think this classified session is important not because it in any way interferes with the report that the Intelligence Committee is due to present to the Foreign Relations Committee. This is a certification that we are asking the President of the United States to make as to his best belief.

I have no doubt, none whatsoever, what the Intelligence Committee is going to be able to produce by way of its report. But it will be able to do and produce by way of its report only that which has been provided to it by the intelligence community.

We have an obligation to have the President of the United States say that this, too, is his best estimate. Then when we know and compare baseline data we at least have some leverage should the number that comes in 30 days after the treaty goes into effect be an even greater discrepancy over the belief as to the present baseline data submitted by the Soviet Union.

I thank the Senator.

Mr. HELMS. I thank the Senator.

Mr. President, I understand that the distinguished majority leader is on his way to the floor. He is always accommodating. I do not propose to interfere with his agenda, but I would like to have some expression from him as to what would be most convenient in terms of his directing traffic in the U.S. Senate.

Could we have a quorum call? If it is all right, I will ask that the time be charged to a quorum call.

We were just paying you a compliment, Mr. Leader. The suggestion has come up again about the closed session of the Senate with respect to this treaty, and certainly none of us would want to interfere with your agenda. On the other hand, I hope something can be worked out before the Foreign Relations Committee gets too deeply involved in the markup. I would just appreciate any indication the Senator might give as to the closed session. It need not be long, I might add.

Mr. BYRD. Let me, in response to the distinguished Senator, read a memorandum, which I hold in my hand, from the Secretary of the Senate. I recall that last week there was a discussion here among us with respect to a closed session of the Senate. I indicated at that time that perhaps we could arrange a day or date, time when such a closed session could be had. That conversation, of course, was heard and created a reaction.

Let me read from this memo.

This memorandum is addressed to both the majority leader and the minority leader, from Joe Stewart, Secretary of the Senate:

> The Senate Chamber, even after being electronically "swept" and monitored, does not constitute a secure facility for the purpose of discussing Sensitive Compartmented Information, [SCI], commonly referred to as "codeword." Therefore, the Symms amendment (No. 1629) to S. 1721 (the Intelligence Oversight bill) should not be fully considered in a closed session on the Senate floor.
>
> The problem: Given the proliferation of telephone, TV, and power cables in and

> around it, the Senate Chamber does not meet the requirements for a facility in which "codeword" information can be discussed. The Friday March 4, debate on the Symms amendment included discussion of a closed session of the Senate to consider intelligence estimates relating to the number of SS-20 missiles in the Soviet arsenal. Those estimates are classified at the "codeword" level. The possibility that such information will be discussed in the Senate Chamber caused great consternation at the Central Intelligence Agency and the Defense Intelligence Agency.

I am trying to read ahead to be sure I should not read something out here in the public.

Mr. **HELMS**. You want to know what the bottom line is I do not blame you.

Mr. **BYRD**. Here is the recommended solution:

> Discussion of classified information related to the Symms amendment should take place in the Intelligence Committee hearing room or in room S-407 in the Capitol. After such a discussion, the Senate could conclude consideration of the Symms amendment in open session on the Senate floor.

I will be very happy to participate in arranging a closed session, but I believe, because of the elements of concern that are raised in this memorandum addressed to both leaders by the Secretary of the Senate, that I would be very wary of proceeding with any discussion of items that are at the codeword level.

Mr. **BOREN**. Would the leader yield?

Mr. **BYRD**. I will be happy to yield.

Mr. **BOREN**. Mr. President, as the leader was coming to the floor, the Senator from North Carolina was indicating he might be willing—we are dealing with the same subject matter as was in the Symms amendment in regard to the estimate of the number of SS-20's and alleged divergence of SS-20's. The Senator from North Carolina indicated, and he has indicated to me several times, it is not his intent to complicate the action on this particular bill that is before us now, but he is concerned that the entire Senate have a chance to air this question of the SS-20, that he might be willing to withdraw the pending amendment from this bill so we can go ahead and take up the remaining amendments on this bill and act then upon this bill one way or the other, as long as he could be assured that the Senate would have a chance to meet as a body to discuss this SS-20 question.

I believe he was hoping that could be done before the Foreign Relations Committee completes its final action on the treaty.

Mr. **HELMS**. The Senator is exactly right, if he would yield. Mr. President, I have been around this place going on 16 years now, and I have worked many times with the distinguished majority leader. He is a man who operates always in good faith.

I have tried to go that way with him. Why do we not explore the dilemma we find ourselves in? We would be providing a Senator a secret session, balanced against the Secretary of the Senate warning about the lack of, shall we say, confidentiality even in a closed session.

Why do we not just leave it right there? I will withdraw the amendment, and we can confer. I know the majority leader will act, as he always does, in good faith.

Mr. **BYRD**. Yes, and I will certainly be happy to use my good offices in arranging for a meeting of Members in either room S-407 or in the Intelligence Committee. Working with the chairman and the ranking member, we can work that out. I will try to be as helpful as I can be in trying to get the Senators to come to that meeting.

Mr. **BOREN**. Will the Senator yield to me?

The **PRESIDING OFFICER**. The Senator from North Carolina has the floor.

Mr. **BOREN**. Will the Senator from North Carolina yield to me?

Mr. **HELMS**. I certainly do not presume to speak for the Senator from Iowa or the Senator from Wyoming. I want to interject that point. What the distinguished majority leader said is satisfactory to me.

Mr. **BOREN**. I thank the Senator from North Carolina. Of course, the Intelligence Committee will be happy to operate in any way in hosting this meeting or arranging for it. Undoubtedly, when the meeting is held, it will be at an official meeting of the Senate and a briefing for the Senators in an appropriately secure place.

I believe the Secretary of the Senate raises a good point. We are doing everything possible to safeguard all information, both from the point of view of intentional human disclosure and the point of view of any kind of inadvertent electronic surveillance of any of our conversations. We do have the secured facilities which have been constructed for that purpose. I certainly think that is wise.

I would say, the remainder of this week, the Intelligence Committee staff, which would undoubtedly be called upon to help arrange such a meeting and to structure it so that the briefings would be conducted with the appropriate comprehensiveness, is very tied up this week in terms of trying to get the draft of the Intelligence Committee report on the INF completed so that we will be able to give our report to the Foreign Relations Committee on time.

I would hope perhaps if such a meeting were scheduled, that it might be after Tuesday of next week, simply because that will give our staff time to complete their work on this other project, turn their attention to making sure they can give every possible assistance to the majority leader and others who would arrange for this session.

Mr. **HELMS**. That is prior to the markup.

Mr. **BOREN**. I understand that will be prior to the markup on the treaty, but it will give us a chance to complete our responsibilities that our committee staff has this week on the other matter.

Mr. **WALLOP**. Mr. President, would the Senator from North Carolina yield?

Mr. **HELMS**. I yield.

Mr. **WALLOP**. If I might address a question to the majority leader, I am concerned twofold. One is, it is clearly not the desire or the intention of the Senator from Wyoming or any Senator that we engage in a debate which would release classified code-word information into any hands.

On the other hand, it would seem now that unless we are able to meet as the Senate somewhere outside this Chamber, that forever that kind of debate is going to be precluded from us in serious situations and circumstances which deserve it.

I hope that in the process of doing this we can find the means by which we can meet as the Senate in some place that is secure for the purposes of discussing this kind of amendment. Now, as I understand, the Senator from North Carolina is withdrawing this amendment. But at some moment in time during the consideration of this treaty as the Senate we are going to want to get into, I would hope, areas of code-word debate for edification of people whose judgment is required in every dimension.

Mr. **SYMMS**. Will the Senator from North Carolina yield?

Mr. **WALLOP**. I have a question addressed to the majority leader.

Mr. **BYRD**. Well, I can understand the concerns of the distinguished Senator. This Chamber, of course, was first used by Senators in 1859. That was at a time when, of course, they did not have all of the electronic gadgets that are available now, nor could they even foresee such. So I think time and events have marched on beyond the capability of this Chamber as a secure room in which to hold certain discussions.

But I agree with the Senator there will be times during the debate on the treaty when Senators may want to retire from this room and go to a secure room for necessary discussions on matters that should not be revealed publicly. We have room 407 and we also have a room over at the Intelligence Committee offices and rooms, and we will just have to arrange I think to make ourselves available in those rooms to such questions and conversations and discussions as may be necessary.

Mr. WALLOP. If the majority leader would respond further, would it be possible for us to meet as the Senate in a room outside this Chamber?

Mr. BYRD. No, I do not think so. No, I do not think we could formally meet outside this Chamber as the U.S. Senate unless the President under the Constitution asks us to do so. He can require that Congress meet at another place. But I think our purposes will be served if we can meet in a secure room which is close by and to which we could go within 3 or 4 minutes, and I daresay you will probably have better attendance than you have here because Senators would be on notice that some matters are going to be discussed in that room that are important to the judgments they may have to reach on the treaty.

Mr. WALLOP. If the majority leader will yield again, one of the problems that I foresee is that there may well be amendments or understandings or parliamentary offerings to that treaty which might, because of information developed through the meeting upstairs, need or require modification, amendment, change in the first or second degree. It just strikes me that we have a twofold obligation here that is going to be difficult to satisfy. One is to maintain the security and secrets of the United States. Surely the Senator from Wyoming wants that. On the other hand, I surely hope we can have or develop a means by which a debate, not a briefing, can take place on certain—I do not even know what they are today, but I feel quite certain in my own mind that before we are done with the treaty, there will be matters, elements relating to amendments or understandings that will require a classified debate to whatever end. I just hope that the majority leader keeps in mind that it is going to be difficult to satisfy that need and yet I think it must be satisfied if we are to fulfill our role.

Mr. BYRD. I think that either in room 407 or, possibly even better, in the Intelligence Committee rooms there can be perhaps not a debate in the terms that we use it here but certainly discussions back and forth and questions and responses thereto to fulfill the needs that Senators will be required to fulfill in reaching their judgments on amendments. I do not see any possibility of the Senate convening as the Senate at another place. I do not think there is any provision for that other than if the President under the Constitution requires it. I do not think there are any impediments that cannot be overcome which are absolutely necessary to Senators in fully debating this or other matters and reaching their judgments in relation to amendments or reservations or understandings or conditions or minutes or whatever to the treaty.

The Senate meets here. We could arrange to have an official reporter as we can arrange to have one if we are in secret session there, but even then they have official reporters in the committee rooms, they have official reporters in-closed sessions of committees. They can have them in or they can have them out. But it seems to me this is not a problem which can only be resolved by having the Senate officially meet in some other place. I cannot recall of the Senate's having done that.

Mr. SYMMS. Will the majority leader yield for a question?

Mr. BYRD. Yes.

Mr. SYMMS. Has the Senate ever formed a committee of the whole to go to a place and have a meeting in that fashion?

Mr. BYRD. No, not "go to a place and have a meeting in that fashion," But the Senate in the early days always worked in the committee of the whole first, just as the House does most of the time now. The Senate used to do that.

Mr. SYMMS. That might be a way that the majority leader could do it. I was thinking about the way the House operates yet today.

Mr. BYRD. But it does not go some other place. I am not sure about the House but I dare say that Chamber is not secure either.

Mr. SYMMS. If the Senator will yield, to further compound the dilemma the majority leader has—and I do not envy the task because I know he has been trying to accomodate us—it is my understanding that the Foreign Relations Committee is scheduled to start markup next Tuesday, and that is why I think it is important we do this at least before you get into that markup, I say to the leader and to the Presiding Officer.

Mr. HELMS. If the Senator will yield to me, Senator PELL, chairman of the Foreign Relations Committee, is an entirely reasonable man and he will understand. I just do not think there will be a problem to work it out.

Mr. BYRD. I do not think there will be any.

Mr. HELMS. All this has been on my time, has it, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. This is fine. I have a few minutes left?

The PRESIDING OFFICER. Thirty-one minutes remaining.

Mr. HELMS. Good Lord, I do not need anything like that. Why not just think about it overnight and I will talk with the majority leader tomorrow. I appreciate his coming to the floor and working with us on it.

Mr. BYRD. Mr. President, we can arrange for that meeting in 407 any morning this week.

Mr. HELMS. That is not a problem with me, but it is a problem with the distinguished chairman of the Intelligence Committee.

Mr. BYRD. Very well. Then we could do it next week. We can set aside a certain number of hours and not come in here or recess and go there.

Mr. HELMS. Why not think about it overnight and discuss it then?

Mr. BYRD. Very well.

Mr. HELMS. I genuinely thank the majority leader.

Mr. BYRD. I thank the Senator for his usual cooperation, understanding, and courtesies.

Mr. HELMS. I thank the Senator.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HELMS. For the benefit for the manager of the bill, I was going to call up a little Panama amendment, but I believe I will not do that at 10 minutes of 7. I will do that on a subsequent piece of legislation.

Mr. BOREN. Mr. President, I thank the distinguished Senator from North Carolina for the fine news that he has just given the sponsors of this legislation.

Mr. HELMS. I thought the Senator would like that.

Mr. BOREN. It warms my heart, and I will read even more carefully his amendment when he offers it on some other piece of legislation. I thank the Senator from North Carolina.

Mr. President, I know of no other pending amendments to this legislation. So I yield the floor.

The PRESIDING OFFICER. The Chair would remind the Senator from Oklahoma that the underlying first-degree amendment offered by the Senator from Wyoming is still pending.

Mr. WALLOP addressed the Chair.

Mr. BOREN. I yield the floor.

Mr. WALLOP. Mr. President, the Senator from Wyoming withdraws the pending amendment.

The PRESIDING OFFICER. The Senator has that right, and the amendment is withdrawn.

Mr. MITCHELL. Mr. President, I would like to commend my distinguished colleague from Maine, Senator COHEN, for his primary sponsorship of S. 1721, the Intelligence Oversight Act of 1987. This legislation can play an important role in tightening and refining existing laws governing the oversight of national intelligence operations.

As we learned from the Iran-Contra debacle, such laws can be—and have been—ignored or broken. But any ambiguity or loophole, each imprecise phrase, makes it easier to circumvent the law and violate its intent.

I am therefore pleased to be an original cosponsor of the Intelligence Oversight Act. This legislation will—within the existing framework of laws enacted since the CIA's creation in

1947—clarify congressional oversight of intelligence activities, including covert action.

In so doing, the bill will place into current law the reforms that President Reagan already has incorporated into administration policy.

The bill will not alter existing committee structure, nor will it impose any new restrictions on the President's ability to conduct intelligence activity. On the contrary, S. 1721 will provide specific statutory authority for the President to conduct covert operations, and clarify that the President does not need Intelligence Committee approval in order to initiate a covert action.

What the legislation will do is address some of the most pertinent problems with current intelligence oversight law—problems which became apparent during the Iran-Contra investigation—by clarifying the conditions under which covert operations may be conducted.

Specifically, the bill will require that all covert operations be consistent with U.S. law. The President will be required to provide written authorization of each covert action before it is initiated by any Department or Agency—not just the CIA. No retroactive findings will be permitted.

The legislation will continue to require that all covert actions be reported to the Intelligence Committees before they are undertaken. It will also allow the President to unilaterally initiate covert action to protect U.S. interests in the rare instance that time is critical—as long as the Intelligence Committees or congressional leadership is notified within 48 hours of the decision. This time limit is sorely needed.

We learned from the Iran-Contra investigation that the administration had evaded the law's intent that Congress be provided notice of an authorized covert action in "a timely fashion." Left to its own interpretation of "timely," the administration waited nearly a year to inform Congress of the Iran arms sale finding. Clearly, the meaning of timely notification must be carefully spelled out. S. 1721 will do this.

As it is now written, the bill would allow the President, in rare circumstances, to notify only the four congressional leaders—and not the Intelligence Committee chairmen and vice chairmen—of a previously authorized covert action. I do not believe that this exclusion of Intelligence Committee leaders would help the congressional oversight process.

Those who lead the Intelligence Committees are in the most advantageous position from which to evaluate the wisdom or utility of a covert action program. Excluding these leaders would deprive Congress as a whole of the very expertise and experience these leaders have gained while serving on the Intelligence Committees. I can see no benefit to gain by reducing the congressional notification group from eight to four Members. However, this does not detract from the bill's overall positive impact on current intelligence oversight.

The bill will clarify the intent of intelligence oversight law and close loopholes that currently exist. This is not to say that this measure can prevent future abuses of our legal system. Only the actions of this and future administrations will determine whether such laws will be upheld. But the Intelligence Oversight Reform Act is a serious and effective approach to tightening existing law and decreasing the likelihood that oversight laws will be broken or manipulated in the future.

For these reasons, I urge my colleagues to support S. 1721.

Mr. DURENBERGER. Mr. President, I rise today to comment on S. 1721, the Intelligence Oversight Act of 1988.

I would like to commend the authors of S. 1721, particularly the Senator from Maine, for what is clearly the product of careful deliberation and hours of labor. Having served on the Senate Select Committee on Intelligence for 8 years, and having been chairman from 1985 to 1987, I have a deep and abiding interest in legislation that makes fundamental and far-reaching changes in the intelligence oversight process in the United States.

The Nation knows why we are considering the pending legislation. The Iran-Contra affair—and the prolonged investigations—have led to S. 1721 in an effort to prevent such fiascos in the future. This process of intelligence debacle and congressional response has occurred before and was predictable by those who had first-hand knowledge of the approach to covert action in the 1980's.

In 1985, while chairman of the Senate Intelligence Committee, I gave a speech detailing problems in the current administration's approach to covert action. I warned that "one of these daring deals will blow up in their face." I went on to predict that "in the aftermath of a U.S. failure, a predictable Congress will enact a new War Powers Act or Oversight Act."

That is where the Senate finds itself today in considering S. 1721. The myriad miscalculations and mistakes that took place in the Iran-Contra affair have led to a series of prohibitions contained in the current legislation. S. 1721 contains many useful and important changes to the laws governing intelligence operations and intelligence oversight. Presidential authorization for covert action—known as findings—is subject to new restrictions. Though the administration has already implemented many of these steps by executive order, S. 1721 prohibits retroactive findings which attempt to legitimize covert actions after the fact. The bill also requires all findings to be made in writing. Through these provisions, S. 1721 aims to ensure that all covert actions are authorized in writing and in advance.

S. 1721 requires that all Government agencies involved in a given operation must be explicitly named in the finding and that any significant involvement by third parties must be indicated in communications to Congress. These measures address the flaws evident in the Iran-Contra operation: findings signed after operations had taken place; mental findings that left no paper trail; National Security Council personnel and private citizens extensively involved in covert action without accountability.

While these provisions are useful and generally not controversial, S. 1721 also contains a requirement for notification of Congress that has generated great debate. Section 503(c) of the bill requires notification of Congress in advance of intelligence activities. It also provides that "when time is of the essence" activities can be intitiated before notification but that such notification must be made "in no event later than 48 hours after" Presidential authorization. Existing law—the Intelligence Oversight Act of 1980—also requires advance notification of Congress in all but the most extreme cases. In such extreme cases, an administration is directed to notify Congress "in a timely fashion" after a finding is signed.

Mandating notification of Congress within 48 hours of commencing any covert action is designed to define the parameters of "timely" and limit an administration's ability to withhold notification. It is clear that the 10 months that elapsed between the finding and notification of Congress in the Iran-Contra affair is not timely. And it is clear that oversight cannot work if operations are indefinitely withheld from Congress. But it is also clear that the executive must have the flexibility necessary to conduct foreign policy, including covert action in support of foreign policy.

Many of my colleagues have discussed various operations—real and hypothetical—which would be difficult at best under the restriction of S. 1721. Former Directors of Central Intelligence ranging from Richard Helms to Stansfield Turner have testified in opposition to the 48 hour clause. The current administration reportedly plans to veto the legislation if it contains this provision.

While I understand and sympathize with the intentions of the authors, I continue to have reservations about legislative "fixes" to the problems of intelligence oversight. Oversight is a process that can only work if people are willing to make it work. Laws will not deter those determined to circumvent them, nor can you legislatively prevent poor judgment. Like the authors of S. 1721, I am concerned about the implications of the Iran-Contra affair. No one in this body has been a more vigorous supporter of effective congressional oversight of intelligence.

However, I am also concerned about the possible negative effects of restricting executive flexibility to cope with fast-moving events. Former DCI Turner testified that he would have been reluctant to authorize the abortive rescue attempt in Iran in 1980 had this provision been law. It is not difficult to envision opportunities that will be foregone under this legislation. As I pointed out in my 1985 speech, the proliferating congressional restrictions on the executive can lead to choosing courses of action that fit within—or just avoid—legal "triggers" regardless of whether such actions are the best available option to further U.S. policy goals.

Because of my reservations about unduly limiting executive flexibility, I supported an amendment to this bill which would have changed the definition of "timely" from 48 hours to 10 days. While any attempt to define "timely" is arbitrary, I believed that requiring notification in cases of extreme urgency within 10—rather than 2 days created a better balance between executive flexibility and congressional accountability. Because the amendment was defeated, timely is defined in S. 1721 as no later than 48 hours.

While I have reservations about the 48 hour clause of S. 1721, I recognize the importance of rebuilding the credibility of the intelligence community in the eyes of the American public. One of the key achievements of congressional oversight of intelligence has been the restoration of public trust in the vital role intelligence plays in national security policy. I do not want a return to the days of the 1970's when many spoke of banning covert action, or even abolishing the Central Intelligence Agency. Because public confidence has been deeply shaken by the Iran-Contra affair, Congress needs to act. S. 1721 will, on balance, contribute to public confidence that the intelligence community is not "out of control" and that the legislative and executive branches of government can work together on the most sensitive national security issues.

I will support S. 1721 as a means to restore the faith of the American people in the ability of Congress and the executive to work together in intelligence matters. It should not, however, be seen as a complete cure for what went wrong in Iran-Contra. As long as individuals attempt to place themselves above or beyond the system of checks and balances we cherish, scandals will not be avoided.

Mr. President, I ask unanimous consent that the 1985 speech I referred to in my remarks be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the Record, as follows:

WHEN THE FRAMEWORKS WON'T FIT: CAN THE WAR POWERS AND INTELLIGENCE OVERSIGHT PROCESSES COPE WITH COUNTERTERRORIST OPERATIONS AND "OVERT" COVERT ACTIONS?

(Remarks of Senator Dave Durenberger)

Last week we were faced with yet another terrorist incident. For the second time in a month the President was faced with selecting the right course of action from a series of alternatives on how best to deal with the terrorists. Fortunately, before the crisis had proceeded too far, President Mubarak of Egypt was able to separate the hijackers from their victims and they were subsequently apprehended through direct military action by the United States with cooperation from Italy. The application of lethal force was not necessary. What would we have done if this fortunate turn of events had not occurred? What if the Achille Lauro had remained a captive on the high seas, in Syria, or Egypt, or even perhaps Greece? What if the Navy fighters had been required to fire on the Egyptian aircraft and had destroyed it and its occupants? What if this had led to a series of ever widening military conflicts? We were in a crisis of great potential impact and U.S. National Security and U.S. Foreign Policy, yet at no time in the initial stages, final planning, or execution was Congress notified of the final planning, or execution was Congress notified of the proposed Administration course of action. No consultation took place.

Nothing went awry, therefore this is not an issue, but had it, our attention today would be unquestionably focused on the nature and extent of prior consultation and on compliance with the law which requires notification the War Power Resolution and the intelligence oversight act.

Tonight, I would like to demonstrate my belief that the legal and conceptual frameworks provided by the War Powers and Intelligence Oversight provisions may not only be inadequate, but may actually impede successful formulation and effective conduct of vital aspects of U.S. foreign policy.

The Constitutional division of powers between the executive and legislative branches was no accident. The records of the Constitutional Convention reveal clearly that while the framers remained wary of unbridled executive power and took special pains to ensure Congressional involvement in a decision to take the nation to war, they also recognized that it would at times be necessary for the President to act with dispatch or secrecy in foreign affairs.

Nonetheless, a so-called "zone of twilight" exists in which the President and the Congress may have concurrent authority, or in which the distribution of power is uncertain. The Congress has made efforts to illuminate that in "Twilight Zone". Two of those efforts are the War Powers Resolution and the Intelligence Oversight Act.

The framework established by the War Powers Resolution is straightforward:

First, the President may use his Constitutional powers as Commander-in-Chief to introduce U.S. armed forces into hostilities or into situtations where involvement in hostilities is imminent; but he may do so only pursuant to a declaration of war, specific statutory authorization, or a national emergency created by attack upon the United States, its territories, possessions, or armed forces.

Second, the President is required to (and I quote) "consult with Congress in every possible instance" before introducing U.S. armed forces into hostilities or imminent hostilities.

Third, the President is required to submit a report to the speaker of the House and to the President Pro Tempore of the Senate within 48 hours of such introductions, as well as in any case in which U.S. armed forces are introduced: into the territory, airspace or waters of a foreign nations "while equipped for combat;" or in numbers which "substantially enlarge" the combat-ready forces already located in a foreign nation.

The intelligence oversight framework was the mid-seventies result of a cooperative process of negotiation and accommodations between the executive and legislative branches.

Under the Intelligence Oversight Act, the director of Central Intelligence and the heads of all other intelligence community organizations now have the obligation to: keep the Intelligence Committees *"fully and currently informed"* of all intelligence activities, including "any significant *anticipated* intelligence activity."

In addition, every CIA covert action operation is to be considered a "significant anticipated intelligence activity."

It is also important to note that, under what the Act calls "extraordinary circumstances," prior notice of intelligence activities may be limited to only the chairman and ranking minority member of the Intelligence Committees and the Democratic and Republican leaders of the House and Senate.

This statutory system is supplemented by Executive Order 12333, which defines the term "special activities." This euphemism for covert action means: "activities conducted in support of national foreign policy objectives abroad which are planned and executed so that the role of the United States Government is not apparent or acknowledged publicly . . ." Note those words: *"not apparent* or *acknowledged publicly.*

The Executive order also has provisions for Presidential approval of the conduct of special activities by organizations other than CIA, and it specifies that all such activities are subject to the standard itelligence oversight requirements.

The central questions before us today is whether either the War Powers or Intelligence Oversight systems can cope with the counterterrorist operations and the phenomena of so-called 'overt' covert actions.

From kidnappings to car bombings, and from hijackings to piracy on the high seas, international terrorism seems increasingly to be evolving from isolated "incidents" to almost daily occurences. And Americans are prime targets. The Administration repeatedly has indicated that the use of force against terrorists is justified, and will be employed in appropriate circumstances. The United States clearly has sufficient conventional military power for such operations, and in recent years considerable effort has gone into the creation and training of special military operations forces.

Possibilities for use of military forces to counter terrorism range from 16-inch battleship guns and "surgical" air strikes, to commando-type operations by special military forces. U.S. forces surrounding an Egyptian plane on a Sicilian airfield while they and their transport are surrounded by Italian police is part of real life today, not Bonzo-Steven Speilberg-Robert Ludlum plots. Any of these types of military forces might figure in a hostage rescue situation, as well as in a preemptive or retaliatory strike. Intelligence would inevitably play a key role in producing the framework for such an operation and in assisting more directly in the operation itself.

Scenarios involving the use of force in a counterterrorist operation could involve the Intelligence Oversight provisions of the Intelligence Oversight Act, the War Powers Resolution, both of these frameworks, or either of them. Let me give you some examples:

Suppose that a U.S. Aircraft with U.S. citizens has been hijacked and is being held by terrorists at the airport outside Cairo. The hijackers have killed some of the passengers and dumped their bodies on the runway. Egyptian security forces have surrounded the airport and blocked the runway, but let's assume these security forces lack specialized training in hostage-rescue techniques.

Now suppose that U.S. special military operations forces, equipped for combat, are deployed to a forward staging area in Italy. All available intelligence assets are developing information on the physical situation at the airport, the identity of the hijackers, the attitude of the Egyptian government toward the situation, etc.

At this point, even though no U.S. military action has been taken, and though none may even have been decided upon, the War Powers Resolution arguably requires a report to the Speaker and the President Pro Tempore within 48 hours.

Moreover, the activation of U.S. intelligence assets in Egypt or the deployment of those assets in or around that country, could be a "Significant anticipated intelligence activity" under the Intelligence Oversight Act, requiring prior notification.

Now, further suppose that the government of Egypt indicates privately that it will do everything it can to cooperate with the U.S. if we want to employ our special military operations forces in an attempt to seize the aircraft. The hijackers issue an ultimatum stating that they will kill all of the passengers if their demands are not met within 24 hours, and U.S. special military operations forces are ordered to rescue the hostages.

The big question now, insofar as any obligation to consult with the Congress is concerned, is whether the potential for an exchange of fire with the hijackers should be construed as the introduction of U.S. armed forces into a situation where imminent involvement in "hostilities" is "clearly indicated by the circumstances."

Now, suppose, on the other hand, that the government of Egypt has indicated, both publicly and privately, that its troops will oppose any U.S. attempt to employ U.S. special military operations forces. The CIA is then ordered to use its assets to stage an anti-government demonstration downtown, in the hope of drawing security forces away from the airport.

Now the executive branch has two oversight decisions: First, how to handle the requirement for Congressional notification of the covert action to be undertaken by the CIA; And second, whether the potential for a clash with Egyptian security forces means that hostilities are "clearly indicated by the circumstances" and that the advance consultation provisions of the War Powers Resolution are applicable as well.

Let's take another scenario. Suppose that the U.S. has pinpointed, in Lebanon, the location of a car and truck bomb assembly facility. The facility is being operated by a radical international terrorist group that has as its avowed purpose the destruction of U.S. embassy and other facilities in the region. The group has in the past carried out suicide bombings in which Americans were killed. Suppose that a half-dozen minivans are known to be in the facility, and are being outfitted to attack undetermined U.S. targets. Suppose that the facility is in the heart of a crowded slum district, and that even precision bombing would be likely to cause extensive civilian deaths. Suppose that the facility is heavily guarded, and that the government of the country in which the facility is located is incapable of taking action to prevent the arming and dispatch of the min-vans.

Now suppose that the President orders the deployment of U.S. special military operations forces, equipped for combat, to Israel. Acting in concert with the armed forces of Israel, U.S. forces plan to enter Lebanon with the purpose of attacking the terrorist facility, seizing the mini-vans, and capturing the perpetrators of previous attacks on U.S. installations. Although U.S. forces will proceed to the target secretly, they will wear U.S. military uniforms, and the U.S. fully intends to publicize acknowledgment that the raid has been carried out with the participation of U.S. military personnel.

Let's assume that section 3 of the War Powers Resolution, the advance consultation section, is determined to apply to this situation, and that the President wishes to consult with the Congress before the operation proceeds. With whom in the Congress should he consult?

The War Powers Resolution doesn't specify, nor is there any procedure under the War Powers Resolution for ensuring the confidentiality of any such consultation.

Now let's suppose the same basic situation, except that the U.S. and Israel have reached an agreement under which U.S. forces will participate in the operation, but Israel will claim full responsibility; U.S. participation will be neither apparent nor acknowledged publicly, whether the operation succeeds or fails. U.S. Participants will wear Israeli uniforms, carry Israeli weapons and documentation, and will be hand-picked to be supposedly indistinguishable from Israeli personnel.

Let's assume that the President has made the determination required by Executive Order 12333 that this is a "special activity," whose objective is more likely to be achieved by elements of the Department of Defense than by the CIA. Let's further assume that pursuant to another requirement of the Executive order, the President has made a so-called "finding" and that the intelligence committees have been notified in accordance with the National Security Act.

Having done all this, however, the executive branch still has to decide if the Congress has to be consulted under the War Powers Resolution.

Now let's once again assume the same basic situation, except that no special steps are planned to conceal the participation of U.S. special forces in the operation, although the plan remains for Israel to claim full responsibility. In other words, the U.S. role will be apparent, but it will not be acknowledged publicly.

The question now is whether this is still a "special activity" requiring notification to the intelligence committees. Does a "special activity" have to be one in which the role of the U.S. is both not apparent and not acknowledged publicly? Or is meeting either one of those criteria enough. Keep that one in the back of your mind, because we will return to it when we look at 'overt' covert actions.

Well, we could go on, but let me stop here, because I believe we already have enough examples to demonstrate that the frameworks don't fit very well singly, and that the only result of combining them is to compound the confusion.

I think most of us would agree that in the kinds of situations described in the scenarios we have just looked at, where lives are at stake, it is absolutely crucial to carefully plan for the most appropriate intelligence assets and military forces. Neither the War Powers Resolution nor the Intelligence Oversight provisions were, in my view, designed with these types of situations in mind. Yet they are there, and they may both be applicable to the same situation simultaneously.

Despite the difficulties created by timing, secrecy and deception, I believe in the value of prior consultation between the executive and legislative branches. I believe that such consultation can be accomplished in a secure fashion. And that its benefit to a President, especially in the kind of situations we have been discussing, outweighs the risks.

Consultation with the legislative branch gives the President valuable insight into likely public reaction to various alternatives. More importantly, such prior consultation automatically lines up support within the Congress, a crucial element in influencing public reaction and sustaining public policy.

My problem with the War Powers and Intelligence Oversight frameworks is that they will more often operate to inhibit rather than encourage such consultation, because of the intricate legal gameship that inevitably results.

The executive branch spends its time figuring out whether and how a particular activity fits into either framework, when we might be conducting a more meaningful exchange of ideas on the wisdom of underlying basis policy, or even the advisability of a particular operation as a whole.

This is not a theoretical problem. It exists today. In the view of the Administration, notification of Congress is tantamount to public disclosure. Therefore, in shaping the options available to counter a terrorist threat, planners in the executive department limit their consideration to actions which do not fall under the War Powers Act. What may be the most effective course of action from the military or political point of view may be rejected because of the current requirements for notification.

In short, the Administration may prefer to do the wrong thing in secret, rather than doing the right thing with congressional knowledge.

The system has truly been stood on its head—and the effect could be disastrous.

Let me turn now to the second oversight framework, the Intelligence Oversight Act. I submit that this framework no longer accommodates the evolution of a new and broader use of lethal force beyond our borders. That troubling contradiction in terms: the phenomenon of "overt" covert action.

The phrase "War of National Liberation" was once used only by Moscow to describe communist-led insurgencies against colonial or pro-western governments. In recent years, however, the world has witnessed the rise of armed resistance of Soviet or other communist occupation, and armed insurgencies against "Marxist-Leninist" regimes that depend on the Soviets or their surrogates for survival.

Let me review for you briefly the process for notification of covert action.

First, the President consults with members of the National Security Council and finds that our activity should be undertaken in the interest of national security which should not be directly attributable to the United States.

Second, he notifies Congress of this finding, either the entire oversight committee in both houses or just the leadership and the Chairman/Vice Chairman.

Third, the Committee reviews the program and gives the President their agreement or non-agreement. The President can override a non-agreement, because Congress does not approve a finding but he has never done so.

Fourth, the President authorizes release of reserve funds set aside for this purpose and the activity commences.

Fifth, the committee reviews all covert action service annually for legality and propriety.

Sixth, the President notifies the Committee of any significant change in the activity in the program whenever it occurs.

Seventh, the committee reviews every covert action program in the annual budget review. And at this point can delete funding if it sees fit and the activity stops.

Eighth, the President cancels a finding upon completion of the action or upon deletion of the funds by Congress.

What we're going to talk about is the strain put on implementing mechanisms and congressional oversight when U.S. assistance programs become too costly, too complex, or too subject to media attention to remain covert.

There have been instances in which programs of support for democratic elements have been maintained and covert programs have been successfully overseen by the Congress under applicable provisions in the Intelligence Oversight, despite press or other allegations of U.S. involvement. I am not in any way suggesting that covert action operations should necessarily be abandoned just because they are repeatedly described along with "all the news that's fit to print." Under that policy, our adversaries could put us out of business rather quickly.

What I am concerned about, however, are paramilitary covert action programs featuring paramilitary activity which is observable, continuous, not self-sustaining, and in conformity with U.S. policy goals—the ones in which the fact of U.S. involvement becomes unmistakably apparent. When these characteristics are apparent before the shooting starts I'm even more troubled.

Earlier, I alluded to the definition of "special activities" in the Executive Order on intelligence activities, and I noted that it is possible to argue that the definition applies so long as the role of the United States has not been acknowledged publicly, even if that role has become apparent. There are cases in which maintaining such a facade has some value, and in which no harm is done in maintaining congressional oversight within the intelligence oversight context. But this is likely to be the case only where the program commands support across the U.S. political spectrum, and where the only debate in our own country is over whether we are funding the program adequately and if the implementing agency is supplying enough of the right weapons.

If, on the other hand, there is significant controversy about a paramilitary program in which the role of the U.S. has become apparent, the normal framework for congressional oversight is likely to be strained to the breaking point. The consequences may well be detrimental to the formulation and execution of sound U.S. policy, disruptive to the implementing agency, and harmful to the intelligence oversight process itself.

I have learned from the recent experience with Nicaragua what happens in such a situation. The issue dominates the agendas of members and staff of both intelligence committees, crowding out other projects that bear directly on the long term effectiveness of the intelligence community. News media call us up, hunt us down, and stake us out. In addition, the normal bipartisan atmosphere within and between the intelligence committees tends to break down, with a potential for damaging spillover onto other issues.

Next, the attention of the intelligence committees is diverted to subsidiary controversies, issues that arise over compliance of implementing agencies with whatever restrictions opponents of the program have been able to enact. I wish I could forget the months of reckless debate in 1983 over the original Boland amendment prohibition on the use of CIA and DOD funds "for the purpose of overthrowing the government of Nicaragua." In case anyone has forgotten, we were bogged down in a semantic morass over whose "purpose" the prohibition referred to; was it the "purpose" of the provider of funds that mattered? Or was it the "purpose" of the recipient?

Debates over whether the CIA has violated the law in ambiguous situations like this do no good for our intelligence agencies or our country. There has to be a better way to handle controversial "overt" covert action; a way that at least temporarily removes the issue from the intelligence oversight context and allows debate to take place immediately on the real issue. The wisdom of the underlying U.S. policy without months or years of disruptive legislative guerrilla warfare.

The point here is that large scale controversial covert actions will certainly become public, and the framework built by the Intelligence Oversight act works only so long as the covert action does not become a subject of public debate. The special exception from full congressional review granted to a covert action cannot be extended to an issue of common knowledge and public concern. Mere notification of the Intelligence Committee—with the implication that no further congressional process will take place—is absurd. A double irony here is that the Intelligence Committee—the most knowledgeable and informed Members of Congress on the issue—is prohibited from participating in the open debate because of the requirement for secrecy. We end up with an environment least conducive to effective foreign policy and congressional oversight.

So here we have two oversight frameworks which I have characterized as at times ambiguous, counter-productive and even dangerous. Where do we go from here?

First, Congress must recognize that the problem exists.

I am encouraged that many of my colleagues already do. That's the real value of limited terms of oversight committees. We turn out a lot of experts. No subject is more important to the Congress today than terrorism and the need to develop a mechanism to counter it. In our committee hearings the question of congressional notification of counterterrorism actions contemplated by the administration was raised repeatedly. It is number one on the list of issues on terrorism we have provided to the Vice-Presidential counterterrorism panel headed by Admiral Holloway. It will be the subject particularly emphasized in our committee report on terrorism which will be published late this fall.

Congress is also beginning to exercise a more responsible role in the overt/covert action debate. The Clark Amendment, which prohibited any support of operations in Angola, was a perfect example of an overt restraint against covert action which results from public debate. It was a restriction imposed outside the framework of the Intelligence Oversight Act without reference to the jurisdiction or position taken by the Intelligence Committee.

That act has been repealed, the good news is that the President is again free to exercise his constitutional authority and to notify Congress through the Intelligence Committee prior to taking any new action. The bad news is that just last week an article in The Washington Post reported discussions within the Executive Branch on support of Jonas Savimbi through covert assistance. We now have two bills before Congress on providing Savimbi humanitarian aid. The likelihood of keeping the issue of Angola quiet, whatever the Presidential Policy, is dim indeed.

As another example, Congress has shown restraint in not reimposing a "Son of Boland" amendment restricting aid to Nicaragua. We still have a residual restriction in the House Intelligence bill however, and unfortunately, debate over removal of that restriction is likely to focus not on the good or evil of the Sandinistas and the goals of U.S. policy, but on the Administration's good faith in adhering to the rules.

On the other hand, Congress must not violate its own rules. It must not abrogate its responsibility to uphold its end of the oversight bargain and work through the Intelligence Committee. Even though the current framework doesn't work, we must adhere to the rules currently in effect. These rules prohibit public disclosure and limit debate except through the process contained in the Intelligence Oversight Act.

Second, the Administration must recognize that it has a problem; a problem that must be resolved by working with Congress—not be efforts to avoid Congress.

I see no indication whatever that the Administration recognizes a need to consult with Congress on the need for a new framework, either in general or specifically, on anticipated actions planned in response to terrorism. The Administration argues that Congress has no right to operational planning details. Beyond that, they argue that Congress cannot be trusted to maintain the secrecy of the operation or be trusted not to interfere if they don't agree with the scope or objectives.

For example, I specifically asked the Administration to inform the Intelligence Committee of any "significant anticipated intelligence activity" taken in response to the Achille Lauro highjacking as soon as I heard of the incident through the news media. This is a specific request in keeping with oversight activity. However, the Committee was never notified of any such activity and has yet to receive the offer of a detailed briefing on the action which occurred. But the executive branch was quick to criticize some members for speaking critically early.

In the case of covert action, the Administration must consider with absolute care what it plans to do and recognize that if it involves significant or controversial military action overseas, it will with certainty become a matter of public debate. The Administration cannot expect the intelligence community to circumscribe or control the limit of that debate.

My fear is that the Administration will continue to slight the role of Congress in counter-terrorist actions. And it will ignore the problems of overtness in some covert action. And then one of these daring deals will blow up in their face. In the aftermath of U.S. failure, a predictable Congress will enact a new War Powers Act or oversight act. At the minimum, we can expect more Clark and Boland type restrictions on the Administration. Congress will, in effect, continue to write the parameters of Administration policy.

Finally, it is not enough to recognize that a problem exists. We must exercise wise leadership in both branches to create new frameworks . . . establish new criteria and reporting procedures to protect the constitutional prerogatives of the executive and legislative branches.

The Executive Branch must trust Congress with information of critical importance to national security, the safety of our citizens, and our interests abroad.

We in Congress must build this trust by acting responsibly with the information we are provided. The flawless record of the Intelligence Committee in protecting our most sensitive secrets and the consequent willingness of the Executive Branch to entrust us with those secrets, proves it can be done.

I propose that we embark on a mutual nonpartisan effort to design a new strategy which will do just that. A strategy which calls for a formalized notification process in its implementation and an annual review of the effectiveness of the procedure and the wisdom of the action. We need a new framework and we need it now.

We on the Intelligence Committee have taken the first steps to design such a strategy. We are sponsoring a series of seminars composed of representatives from all interested committees of the Congress and Executive agencies to sit down and talk through the issues I have laid out before you. We will use this information to propose new frameworks to replace those that no longer fit today's world. What we seek from you, the informed public, is your considered opinion and contribution to that process.

Mr. CHAFEE. Mr. President, as the past several days indicated, I have deep concerns about this bill. I will vote for it and let us see what happens when it goes through further changes.

I did want to make it clear that I certainly reserve my right, which is obvious, to vote against the conference report or if the President should veto it to sustain the veto.

So I wanted to make that clear in advance. I hope that as it goes through the further process and meetings with the House, and so forth, changes can be made along the lines that I have evidenced concern.

Mr. KARNES. Mr. President, I appreciate the efforts that have gone into this piece of legislation and commend my colleague from Oklahoma and my good colleague from Maine, Senator Cohen.

Also, I state for the record that in the event this legislation does change dramatically as it goes through the conference process, I do have some reservations that may require me to make a review, if the process through the conference report is one that significantly changes the piece of legislation which I think is a fair and equitable treatment of this very complex issue.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BOREN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, has there been third reading of the bill?

The PRESIDING OFFICER. The bill has been read for the third time.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. BYRD. Mr. President, before there is a response, may I say this will be the last rollcall vote today, and I thank all Senators, particularly the managers, again Mr. Wallop, Mr. Helms, and others who have suddenly cleared the way for passage of this measure tonight.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Alabama [Mr. Heflin], the Senator from Illinois [Mr. Simon], and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden], the Senator from Georgia [Mr. Nunn], and the Senator from Hawaii [Mr. Matsunaga] are absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. Gore] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. Bond], the Senator from Kansas [Mr. Dole], and the Senator from New Hampshire [Mr. Humphrey] are necessarily absent.

The PRESIDING OFFICER (Mr. Leahy). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 71, nays 19, as follows:

[Rollcall Vote No. 52 Leg.]

YEAS—71

Adams
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dodd
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatfield
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Packwood
Pell
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Specter
Stafford
Stevens
Thurmond
Trible
Warner
Weicker
Wilson
Wirth

NAYS—19

Armstrong
Cochran
Danforth
Dixon
Garn
Gramm
Hatch
Hecht
Helms
Kasten
McCain
McClure
Nickles
Pressler
Proxmire
Quayle
Simpson
Symms
Wallop

NOT VOTING—10

Biden
Bond
Dole
Gore
Heflin
Humphrey
Matsunaga
Nunn
Simon
Stennis

So the bill (S. 1721), as amended, was passed.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, I thank the Senator from Rhode Island for his remarks and I want to extend my appreciation to all of the Members of the Senate who have participated in the debate on this legislation. I think we have had very thoughtful debate on a piece of legislation that is extremely important, as we struggle to strike that proper balance between the needs for the United States, the interests of our own national security, to be able to conduct what covert operations we are about to conduct at times with total secrecy and at the same time to assure that we have the right degree of accountability and consultation with the elected officials of this Government in both branches of the Government.

This work product that is contained in this bill represents the work of the entire Intelligence Committee on both sides of the aisle through many hours of deliberation, represents the hard work of members of the staff and particularly I want to thank Mr. Britt Snider, the minority legal counsel Jim Dykstra, John Elliff, Sven Holmes, General Counsel and Staff Director, and many, many other members of our Intelligence Committee staff who worked diligently on this piece of legislation.

It is an extremely important step that the Senate has taken today to clarify the law.

We take these steps in the hope that we will never again have the kind of tragic situations that took so much of our time and our attention and our energies last year.

We hope that this bill will help improve cooperation between the two branches of Government and will help to unify our Government in this important national security area.

Mr. President, I especially want to pay tribute to the Senator from Maine, who is the principal sponsor of this legislation. I am privileged to be his cosponsor. I am also privileged to work with him on a daily basis in the Intelligence Committee which I chair and in which he serves as vice chairman.

I can think of no other Senator whose opinion I value more than I do that of the Senator from Maine. He has helped to forge the kind of bipartisan spirit, thoughtful consideration, effective and efficient oversight that we are now practicing in the Senate Select Committee on Intelligence.

So I want to pay tribute to him tonight not only for his work on this landmark legislation, which he more than any other person helped to craft, but also to his constant and diligent work on behalf of our national security and on behalf of the kind of bipartisan consensus that should typify all of our actions in this body, particularly when it relates to important national security concerns. So I thank him for his work.

This legislation will now go to the other House. I hope it will ultimately find its way to the President's desk and, since it includes so many of the provisions, in many cases identical provisions with the President's own national security directive, the language contained in the letter which he wrote to the Senate Intelligence Committee as we worked together to try to find common ground to make the oversight process work, without unduly restricting the powers of the President to act as Commander in Chief, I am hopeful that the President will ultimately see fit after he has a chance to reflect upon the total legislative product as both Houses complete work on this legislation to sign this measure into law because I think it will help immeasurably to prevent the kinds of mistakes that have been made in the past. I think the President of the United States will be the beneficiary of the consultation and the communication process that is established by this piece of legislation.

I think we will all gain by having ambiguities in the current law removed. This is a clear piece of legislation. It sets up a process that is easy for all to understand, and it is a process that I am convinced will serve our country well in years to come.

It has been a great privilege for me to chair a committee that contains 14 dedicated people who work with me there as the vice chairman at the head of the list and to try to do what is right, to do a thorough job, and I think that is exactly what has been accomplished here.

Mr. COHEN. Mr. President, as my good friend from Oklahoma was speaking I was tempted to declare the absence of a quorum with the hope that the majority leader might pull all the Members back in to hear his specific references to the vice chairman's contribution to the legislation. I did not want to have those kinds of generous comments go unnoticed by my colleagues. It is not often I am a recipient of them. I wanted to be sure I had a wider audience than those here right now.

But I do thank you for your comments but more than your comments, your contribution. This bill would not have been possible without your cosponsorship.

And I should point out for the benefit of my colleagues that Governor Boren was not a cosponsor of this bill initially when it was proposed because he had reservations and despite our friendship and despite the fact that we work very closely together that was not good enough. That was not good enough for him and he wanted to make sure that every possible benefit could be given to the chief executive in those cases in which the Commander in Chief has to present some discretion and it was only after he was satisfied that changes were made that he agreed to say that "I can put my stamp of approval on that legislation" and as a result of satisfying himself that this was a worthy measure, one that would make a contribution to the national security interests of this country, did he agree to be the principal cosponsor.

So I thank him not only for his comments today but his contributions to the development of the legislation, and without his help it would not have received the overwhelming vote that it did today.

While he mentioned a number of staff people who deserve a good deal of credit, we omitted one, Natalie Bocock, who is no longer here, but she also made a contribution to me at least in helping to develop the legislation. I did not want that to go unmentioned.

So, Mr. President, I should not take any more time of the Senate this evening to make statements about the legislation. We debated it for several days. We do not intend to attempt to legislate either good judgment or to prevent mistakes through statute. All we can hope to do is set certain standards with the hope that men and women of good will can work out the tolerable accommodation of competing interests almost that we have in this field of foreign policy.

We have concurrent jurisdiction in many respects. There is an area of ambiguity, jurisdictional ambiguity, and it really requires the good will and the good faith of men and women in the executive and congressional branches, and I hope that we have structured this legislation in such a way that we have struck the balance.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I congratulate the chairman of the committee, Mr. BOREN, and the ranking member of the committee, Mr. COHEN, on the dedication and the high sense of purpose that has been evident throughout this debate, the public debate, and the debate here on the floor, the high sense of purpose that they have demonstrated, together with the other members of the Intelligence Committee. They have shown a dedication that transcends party politics. They have subordinated party to the entire overriding purposes of the Nation in writing and developing this bill through the hearings process and through their work on the floor. They have set a fine example of teamwork, the kind of teamwork that all of us should attempt to emulate.

I believe that as a result of this legislation, if the legislation becomes law, the security interests of our Nation will be better assured.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business at this time, that that period not extend beyond 15 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISABILITY CIVIL RIGHTS VICTORY AT GALLAUDET UNIVERSITY

Mr. CRANSTON. Mr. President, as my colleagues are aware, the students of Gallaudet University, our Nation's only liberal arts college and university for hearing-impaired persons, for 7 days waged a highly inspiring and astoundingly successful crusade to have a deaf individual named as the president of the university.

On March 6, despite the students having actively campaigned for a deaf president, the board of trustees voted to appoint as Gallaudet president Dr. Elisabeth Zinser, a well-qualified educator but a person who has normal hearing and does not know sign language. According to the March 12 edition of the Washington Post, all three hearing-impaired members of the board who voted cast their ballots for a deaf person—the fourth hearing-impaired member was himself one of the three finalists and did not vote.

One week later the students, with strong broad-based support from the faculty and from many other concerned individuals, prevailed. Seldom has a civil rights victory been won so completely. Never can I recall one being achieved so swiftly and with such a minimum of adverse consequences. This was a true example of an issue arising at exactly the right point in time and of the richness and opportunity that inhere in our democratic ideals and traditions.

Mr. President, as a principal author of section 504 of the Rehabilitation Act of 1973—often called the magna carta of civil rights legislation for persons with disabilities—and of several other major disability civil rights provisions and a long-time advocate of the rights of disabled individuals, I am delighted to offer my heartiest congratulations, admiration, and praise to the students of Gallaudet University for their courageous, inspiring, and effective protest. In the spirit of the disability civil rights movement which began in the seventies, continued on into the eighties, and receives new impetus from brillant achievements such as this, the Gallaudet students were able to publicize their plight and successfully encourage all those involved to reassess their attitudes and actions. In the process, through their commitment to the recognition of—and their object lesson in demonstrating—the abilities of hearing-impaired individuals, the students at Gallaudet and the entire deaf community have enlightened the public and have helped to remove another barrier to the fair treatment of disabled persons.

For all of their efforts and achievements, I applaud them and their myriad supporters on the faculty and staff, in the disabled community, in California, and elsewhere in our society.

I also want to offer a word of praise for Elisabeth Zinser who, although thrust into a most difficult situation, acted throughout in a dignified, intelligent, and sensitive manner. She did the best she could and will no doubt continue to be an asset to the University of North Carolina at Greensboro or wherever her career takes her.

The appointment of I. King Jordan as the first deaf president of Gallaudet University is a tremendous milestone in the life of this great institution, and I am confident that it will be followed by the achievement of another of the students' goals—a board of trustees with a majority membership of hearing-impaired individuals.

I say thank you, students, faculty, and staff—and how the board of trustees as well—of Gallaudet, for inspiring us all to remember our obligation to strive to be the best we can and to offer others that same opportunity.

THE PASSING OF ERNEST CUNEO

Mr. PELL. Mr. President, a few months ago I spoke in this Chamber about Ernest Cuneo who was celebrating his 82d birthday. I recounted the full, rich, marvelous life he had led, a life full of adventure and of contributions to his Nation and to his many, many friends.

It is with immense sadness that I rise today to report that on March 1, death struck Ernest Cuneo. We have all lost a truly gallant gentleman, this country lost an intense patriot, and I lost a friend.

The memorial service for him was held at the Bethlehem Chapel of the National Cathedral on March 4 and his ashes were interred at Arlington at a deeply moving, martial ceremony on March 14.

I ask unanimous consent that the eulogies delivered by Jabob Stein and by me on March 4 be inserted in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR CLAIBORNE PELL

Ernest Cuneo was a giant, rather I should say is a giant, as his memory lives and his spirit reverberates in so many of us today.

Here we are in this beautiful chapel where not too long ago we prayed at the memorial service of his beloved wife, Margaret, and, in this Cathedral where his daughter, Sandra, was married.

To his wonderful son and daughter, Jonathan and Sandra, to his granddaughter, Lucy and to Lucille, who gave so much of herself to him, we extend our deep, deep sympathy.

Ernie was truly of heroic stature, a man of immense talents, superb intellect, mesmerizing personality. In sum, a Renaissance man. I know nothing he ever undertook at which he did not excel. And he undertook so much—he was a scholar, a lawyer, a political and an intelligence operative, an author and a journalist, an athlete, a public servant, in fact, a savant, too, a raconteur, a husband and father and grandfather, a Marine, a Grand Officer of the Order of Merit of Italy—and, to us all, a friend.

Born in New Jersey of an old and proud Genovese family, he was educated at Columbia University, where he was an all American in football.

We, his friends, forget that before he was in Washington, he was in New York working as personal assistant to Fiorello LaGuardia. He had many adventurous times there in the hurly burly of New York's roaring 20's and 30's. His legal talents were of the highest order as I know Drew Pearson and Walter Winchell would affirm. And he was a man of many talents.

Then as his family grew, he moved from New York City and dropped his roots in a lovely house upstate in Cambridge, New York. And with his interest in affairs of government and his growing family moved to Washington.

In Washington, as an assistant to President Roosevelt and as a partner and friend of Tom Corcoran and Jim Rowe, he had a wide circle of friends and admirers.

Ernie was terribly and justifiably proud of his service in the OSS during World War II, as attested by Sir William Stevenson in "A Man Called Intrepid' and often told sparkling tales of his exploits. He was immensely proud of our country. In fact, I think he may have been the most patriotic man I ever knew.

He later together with his wartime intelligence friend and colleague, Ivan Bryce, took over and became President of NANA (North American Newspaper Alliance—of which he also was nice enough to make me a vice President.)

My own connection with him was long and deep. He was a student of my father when Dad lectured at Columbia University in the 20's. In the late 40's, Ernie urged me to go to law school, advice I did not take but wish I had as I later went into my present occupation of not studying, but making, law.

He has been a kingpin around whom many, many of us have revolved. Whatever the subject, whatever the debate, whatever the need, Ernie had a strong and original view.

Awarded a special commission as Major in the Marine Corps, he personified the bravery and dash, the vigor and discipline of that service. And as the years went by, his wisdom increased and he was generous in the sharing of that wisdom with his friends and those whom he loved or of whom he was fond.

I know I felt as if he were an older brother with whom one could discuss any matter or any subject and, somehow I feel that his spirit will remain with us for a long, long time.

He not only showed gallantry and bravery in his whole way of life but also in the way he endured the hideous days, weeks, and months he spent in the hospital as he progressively lost various portions of his right leg and left foot to the surgeon's scalpel.

There was no subject about which Ernie was not informed, but he was particularly knowledgeable in politics which gave him an immense supply of stories that he would recount. And he was an absolute master of words, written and spoken. He wrote such clear and engaging prose. His stories—and they were always fresh and new—were spellbinding. And he had a marvelous storehouse of always apt quotations—from the ancient Greeks and Romans, from Laguardia, from Justice Holmes.

The only comforting thought is that through the strength and vigor of his intellect, he still seems alive and among us.

The greatest compliment one can pay an individual is that he lives in the memory and love of others and this is where Ernie certainly lives, through the life time of so many of us.

In this regard, Ernie and I often discussed what happens when we come to life's greatest adventure—death.

His view was very strong that, like energy, the soul, the spirit, the being continues. It cannot disappear. And, this is why I think Ernie is and will often be with us.

In sum, Ernie was a gentleman and I say a gentleman in every sense of the word, with the highest sense of honor, one who was loved and admired by those with whom he came in contact and whom we shall all miss very much. I know we all join in not only missing Ernie but in saying "May we stay in touch and God bless you Ernie!"

REMARKS BY JACOB STEIN IN MEMORY OF ERNIE

Last night I read again two books in which the authors undertook what I shall try to do. They tried to describe Ernie. Francis Biddle and Ivar Bryce, two close friends of Ernie's, finally despaired of capturing him in a net of words. They found the best one can do with such an assignment is to fail with honor. The difficulty is that Ernie was so many people. When we lost Ernie we lost not one friend we lost 5 or 10 or is it 15. He was the great athlete, the great patriot, the companion and advisor to the powerful, the helping hand to the unfortunate, the writer, the lawyer, the philosopher, the enthusiastic urbanophile and there are many more.

In the course of a conversation with Ernie each person appeared as necessary to make the point. One element was common to the multitudes of the Ernies. It was the sense of humor.

Last Tuesday night I dialed 920-2211 because I had to share some humorous gossip with Ernie. Lucille answered in her cheerful way. She called to Ernie. We talked as we had a thousand times before. We had a good laugh together over one of life's absurd coincidences. It was to be the last time we were to talk.

We all shall miss Ernie's gift of humor—we have all shared it. But what I shall miss most of all and will never discover again is the companionship of the man whose interests coincided with mine at so many points. We loved to talk about New York, long forgotten vaudevillians, the gossip columnists—the three dot men as Ernie called them, Walter Winchell, Drew Pearson, Damon Runyon, literature and always books, books, books.

Ernie always got the best of me in the recall game because he knew the times, he met the people, he knew the popular songs including the verses, the headlines came tumbling out along with statistics and insider information of times gone by. Everything was only yesterday to Ernie. By the way, he had also found time to—I don't know how—memorize the favorite book of the newspaperman in him, the World Almanac.

I return to the original question—How to describe Ernie—it may be he was in fact Wordsworth's Happy Warrior

Whose high endeavors were the inward light
That made the path before him always bright
The Happy warrior that every man in arms would wish to be
Ernie, Ernie was he.

AQUATIC RESOURCES TRUST FUND

Mr. PRESSLER. Mr. President, today I am joining my colleagues, Senators MALCOLM WALLOP of Wyoming and JOHN BREAUX of Louisiana, in sponsoring S. 2032, a bill to authorize expenditures for boating safety programs and other purposes. This legislation would permanently increase the funding for the boating safety account in the Wallop-Breaux trust fund, also known as the aquatic resources trust fund, to $60 million per year—up from the original authorization of $45 million. Each State and the U.S. Coast Guard use a portion of this money for boat safety activities.

Federal excise taxes levied on motorboat fuel pay for this fund. Prior to congressional passage of the Wallop-Breaux fund in 1984, motorboat users saw no benefits from these taxes. The funds went into the highway safety trust fund for road improvements, mass transportation, and other purposes. Since 1984, both motorboat users and anglers have received benefits through boating safety account and the sport fishing restoration account, which receives any funding in excess of the current $60 million cap on the boating safety account.

South Dakota's State recreational boating safety program annually receives between $150,000 and $220,000. South Dakota's boaters and fishermen are familiar with one or more of the activities of the State's recreational boating safety program. These include:

Boat access sites on the Tabor Area, Lake Vermillion, Lake Hendricks, Lake Carthage, and Lake Lewis and Clark; motorboat licensing; safety patrol boats staffed by conservation officers; the large rescue boats on the Missouri River reservoirs; installation of the marine band radio system on the State's waterways which—through carefully sited repeaters and receivers located in local law enforcement agencies—constantly monitors the airwaves for distress calls from boaters; a boating safety correspondence course for motorboat owners, for which some insurance companies will give a 10-percent discount on premiums for motorboat insurance; and annual training for two conservation officers at a special boating safety officer course in order to develop a cadre of highly qualified boating safety officers.

The aquatic resources trust fund is an excellent example of a user-pay/user-benefit program that does not come from general revenue money. Boating and fishing are among South Dakota's most popular recreational activities.

In 1986, over 138,000 fishing licenses were sold to South Dakota residents. This represents nearly 20 percent of South Dakota's population. Another 55,000 nonresidents enjoy fishing in South Dakota. The Wallop-Breaux trust fund greatly enhances boating and fishing opportunities in South Dakota and across the country.

It is imperative that our many waterways be as safe as possible to assure their continued enjoyment by our citizens. I am proud to work toward improving and enhancing this fine program.

Mr. President, I urge my colleagues to join in support of this important legislation.

SOUTH DAKOTA SMALL BUSINESS EXPORT SUCCESS

Mr. PRESSLER. Mr. President, today I would like to bring to the attention of our colleagues the success of a South Dakota small business, Air Ambulance Systems, a division of Medivest Aviation Group, in successfully entering the export market.

Air Ambulance Systems, headquartered in Sioux Falls, recently began equipping aircraft with ambulance equipment. Air Ambulance Service is a relatively recent development in the United States and throughout the world. Last year Air Ambulance Systems ventured into the export market. However, because foreign-owned aircraft were brought into the United States for installation of ambulance equipment and then returned to the countries of origin, a great deal of redtape was involved. James Lilla of Air Ambulance Systems, contacted my office concerning this problem. I contacted the various Federal departments involved and through the efforts, primarily of the Department of Commerce, much of the redtape was eliminated and the transactions were successfully completed. Several export sales have been made and future sales are pending with South America, Australia, and Europe.

I bring this case to the attention of our colleagues for several reasons. First, it demonstrates to thousands of small businesses throughout America that they too can move into the export market and succeed. Small business owners often are afraid to enter the export business. They may feel that they cannot compete with huge corporations or do not know how to go about obtaining an export license and other processing paperwork. However, in most cases a small business can be very competitive in the world market and can beat the huge corporations. Foreign buyers often prefer to buy from a small business because the quality of workmanship is better and the possibility of developing a personal relationship with the seller is greater. I also encourage foreign buyers to consider seeking out U.S. small businesses as potential sources of higher quality products at competitive prices.

Great progress has been made by the current administration in recent years in simplifying and speeding up the export licensing process. For example, the Department of Commerce has reduced the amount of time it takes to process an export license application from 46 days in 1984 to less than 5 days for trade with our major allies and less than 14 days for other free world nations.

Second, the Air Ambulance case demonstrates the contribution small businesses can make in reducing our record trade deficit. Small Business Administration studies have documented the enormous export potential of smaller enterprises. Such businesses need encouragement and assistance to identify and develop potential export markets. They usually do not have the resources enjoyed by major corporations to spend on developing export markets. With a little assistance and initiative many small businesses can successfully move into the export market.

Finally, I wish to point out the great domestic economic benefits provided by successful small businesses. We have heard a great deal about the need for rural development. One of the most effective rural development programs would be to help small businesses move into the export market. They create local jobs and bring profits to their communities. Too often major corporations moving into a rural area may create jobs, but their profits are taken out of the area.

Mr. President, I commend Air Ambulance Systems for its initiative and success in developing an export market and urge other small businesses to follow its example.

SHARPEVILLE SIX

Mrs. KASSEBAUM. Mr. President, today it was announced by the White House that President Reagan has appealed to the South African Government for clemency from the death penalty for the South African Sharpeville Six on compassionate and humanitarian grounds. The President has been joined by other countries, including Britain and West Germany, in his plea.

I would like to add my support to the President's efforts on behalf of the Sharpeville Six. The murder convictions of these six South African blacks and the announcement of their scheduled hanging on this Friday have drawn worldwide outrage. The six were convicted in connection with the killing of a black township councillor in Sharpeville in 1984 during widespread civil unrest.

International human rights groups have raised serious concerns about the conduct of the trial against the Sharpeville Six. Doubt has also been cast on the ability of the courts to isolate the action of these six individuals in a crowd that was reported to be of several thousand.

They were convicted under the doctrine of common purpose which holds that they were responsible for the killing by being part of the crowd that gathered outside the home of the victim with the intent to kill him.

I urge the South African Government to listen to the calls for clemency both within South Africa and worldwide.

I wish again to say I think President Reagan's announcement of a call on the South African Government is a wise and thoughtful request.

CAMPAIGN REFORM

Mr. PRESSLER. Mr. President, I was pleased with a recent editorial in the Clark County Courier regarding the intense debate we had on campaign reform.

I ask unanimous consent that the editorial may be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Clark County Courier, Feb. 24, 1988]

THANKS PRESSLER

Then Senator Pressler stands not alone, but certainly not by the multitude when he points out that he is not opposed to limiting the spending of candidates when seeking office, but he does not want to include in the law the use of funds from the federal government. Under the proposal, if a candidate agreed to the limit and his opponent exceeded it, the candidate would get federal money to match whatever the opponent spent above the limit.

Our national leaders are strong on giving lip service to cutting the budget, to balancing the budget and to getting the government out of phases of business. But when it comes to federal assistance they have trouble severing the tie. A limit on candidate spending, the right and opportunity to raise their own funds, and forget government aid for politicians sounds right to us.

"FOR KIDS' SAKE DAY"

Mr. SPECTER. Mr. President, on April 16, 1988, KDKA-TV2, Pittsburgh, PA, will be holding "For Kids' Sake Day" as part of its third annual "For Kids' Sake" campaign, a community service endeavor for and about kids and families. Now in its third year, the campaign is made up of special television programming, news stories, public service announcements, editorials, community events, and education pamphlets—all designed to improve the well-being of area youth and their families.

In this effort, KDKA has had as its partners the Children's Hospital, First Federal of Pittsburgh, and Giant Eagle.

On "For Kids' Sake Day," Saturday, April 16, KDKA and its partners are asking family members to spend time with each other. To promote this goal, the television station will air only family programming between 7 a.m. and 6 p.m. on April 16. During this 11-hour span, KDKA will broadcast no locally originated commercials but, instead, will use this time for family-oriented messages which will contain socially relevant material.

In addition, KDKA has arranged for families to get special admission discounts at the Carnegie Museum of Art, the Carnegie Museum of Natural History, the Pittsburgh Zoo, the Buhl Planetarium, the Phipps Conservatory, the Pittsburgh Aviary, the Bowling Proprietors Assn. of Greater Pittsburgh Bowling Alleys, and the Cinema World Theaters throughout western Pennsylvania.

These efforts by KDKA and its partners in trying to improve the lives of youngsters and their families are, indeed, commendable and deserving of our attention and support.

Our children are the future of our Nation and their families provide the indispensable environments of love and dedication necessary for their best development.

It is altogether fitting then that the U.S. Senate take note of this fine endeavor by KDKA-TV and its partners, Children's Hospital, First Federal of Pittsburgh, and Giant Eagle, and congratulate and commend them for their efforts on behalf of young people and their families.

IN HONOR AND MEMORY OF LESTER L. BATES, FORMER MAYOR OF COLUMBIA, SOUTH CAROLINA

Mr. THURMOND. Mr. President; the State of South Carolina suffered a great loss with the death of former Columbia Mayor, Lester L. Bates, who died on Wednesday, February 24, 1988, at the age of 83.

Mayor Bates was one of the most highly respected and well-liked Mayors of Columbia. During his 12-year tenure, many historic, economic and social changes took place in the State's capital. Mayor Bates promoted the creation of the Metropolitan Airport in Columbia, worked diligently for the construction of the Carolina Coliseum and took the lead for the prestigious Columbia "Opera House," a center for the performing arts. His strong personal values and his firm, progressive leadership helped Columbia earn national recognition as an all-American city.

Outside of government, Mayor Bates was also a very successful businessman and a devoted member of the Park Street Baptist Church. His volunteer work showed the depth of his concern for others and the extent of his fine character.

His life will serve as an example for future generations of South Carolinians. We are saddened by the death of

Mayor Bates, and Mrs. Thurmond joins with me in extending our deepest sympathy to his lovely wife, Julia, his son, Lester, and his daughter, Julia Breland.

Mr. President, I would like to ask unanimous consent that two articles and an editorial from the State paper on Mayor Lester Bates be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the State (Columbia, SC), Feb. 25, 1988]

EX-MAYOR LESTER BATES DIES AT 83

(By Charles Wickenberg)

Former Columbia Mayor Lester L. Bates, who led the city calmly through the stresses of the Civil Rights movement to the integration of public facilities, died Wednesday.

He was 83, an invalid from a stroke in 1980.

Bates served eight years on City Council and 12 years in the mayor's office during historic economic and social changes. His firm, progressive leadership twice earned Columbia designation as an All-America City.

Three times, Bates tried to become governor, but that office was not to be his destiny.

Bates, who had an eighth-grade education, was regarded by many as a visionary. He established the Capital City Development Foundation with the help of local business and civic leaders.

A noted city planner, the late Constantine Doxiadis, designed a central city development plan that is still a blueprint for Columbia's future.

Ever alert to promoting Columbia's progress, Bates enlisted the state's congressmen and senators in persuading the federal government to allow Fort Jackson to be included in city boundaries, a move that increased the city's population by 20,000 in one day.

It was the first military base to become part of a municipality.

He promoted the creation of the Metropolitan Airport by Columbia, Richland County and Lexington County to replace a dowdy little facility at the old World War II Army Air Base near Cayce-West Columbia.

And with Richland County and the University of South Carolina, Bates saw to the construction of Carolina Coliseum on Assembly Street. He campaigned for years for a city convention center and for an "opera house" for the performing arts.

He took controversial political stands, advocating the merger of Columbia and Richland County governments and supporting a statewide campaign to abolish the "brown bag" liquor laws in favor of the sale of mini-bottles.

As an active Baptist layman, Bates took a lot of heat from some pulpits and his fellow churchmen, but he didn't waver: "He never knew how to drink, other than an occasional glass of sherry," his son said, adding that the mayor's father was an alcoholic.

Mayor Bates' achievements won for him the 1969 Distinguished Citizen Award of the National Municipal League, and he was honored many times locally for Distinguished Salesmanship, for creating "an ideal relationship between city government and the business community."

But his legacy is the change that came with peaceful integration of public facilities.

Racial tensions ran high in the 1960s after federal Civil Rights laws abolished segregation in public places. Many white Columbians were angered by the removal of signs designating segregated drinking fountains and rest rooms in downtown stores. But many blacks, including students at Allen University and Benedict College, were encouraged. Blacks marched in orderly squads through downtown Columbia, and in and out of stores protesting segregated lunch counters.

Shoppers avoided Main Street, but there was little violence, and only once was a city-wide curfew ordered to contain demonstrators.

Anticipating integration of the lunch counters, Bates convened a group of black leaders and another group of whites. At first they met separately and clandestinely to discuss relaxing tensions and avoiding violence. They talked the store owners and managers into peaceful integration of the lunch counters, and it was done in one day—without local news media coverage.

Lester Bates Jr. recalls that one local dime store manager declined to cooperate because he hadn't had instructions from the chain's management. The mayor telephoned the chairman of the chain's board and told him that he might not have a store in Columbia the next day if he didn't go along.

After the lunch counter integration, the two groups combined and evolved as the present Columbia Community Relations Council, now sponsored by the city, county and chamber of commerce. It led in an equal employment program for local businesses and still effectively deals with local racial problems.

In 1969, the National Council of Christians and Jews presented the Columbia mayor with its Brotherhood Award for distinguished service in the field of race relations.

Bates was born Sept. 7, 1904, on a tenant farm in the Hell Hole Swamp area of Berkeley County, a son of the late A.E. and Ella Cumbee Bates. He was the eighth of 15 children, and grew up in ignorance and poverty in the rural Lowcountry. Although his ancestors were large property owners, their holdings were devastated in the aftermath of the Civil War, and the family struggled into the 20th century.

Bates eventually bought a 3,000-acre plantation on the Wando River in Charleston County. He told his son that as a child he had sat on the side of a Lowcountry highway and watched wealthy Yankees ride in their limousines to exclusive plantations they'd bought.

Lester Bates was never ashamed of his beginnings. He was proud of his rags-to-riches accomplishments, and spoke often and candidly of his early life.

In public appearances, he told amusing stories about his childhood in Hell Hole Swamp, and happily identified with Berkeley-born Gov. Robert E. McNair, a childhood friend, the late Congressman L. Mendel Rivers, and State Sen. Rembert C. Dennis.

At age 12, Bates almost died when he slipped beneath a train's wheel and the calf of his right leg was severed. He was taken to Charleston for treatment, and he ended up staying there, taking odd jobs to earn his keep. He learned to read, write and figure at the Salvation Army.

At 19 he was hired by the Atlantic Coast Life Insurance Co. as an agent. He was an energetic and ambitious employee, a natural salesman. He collected small premiums from low-income whites and blacks, and learned a great deal about human nature, which helped him in later years to recruit and inspire salesmen for his own insurance companies.

In 1931 he moved to Columbia as district manager for Atlantic Coast Life, and five years later was ready to open his own company, Capital Life and Health Co.

Bates, married and with a young son and daughter, lived in a two-bedroom house and worked hard for his company.

He merchandised Capital Life all over South Carolina, with a hired male quartet to entertain at all sorts of events. Bates joked that anybody could get a speaker "but where can you get one with a quartet?" He put the gospel singers on a Sunday afternoon radio show on WIS, and also employed WIS' popular country music group, The Hired Hands, to promote his company.

In 1942, Bates first entered politics, running for city council. He lost, but in 1944 won a council seat and immediately set his sights on the mayor's office. He lost that race in 1946 and did not run for mayor again until 1958, when he defeated John T. Campbell, another councilman and later mayor himself, by 14 votes. Bates was re-elected mayor in 1962 and 1966.

He ran three times for governor, losing to James F. Byrnes, George Bell Timmerman and John C. West.

After the election, Capital Life and Health Co. was merged with the United Insurance Co. of America. It was later charged that the state insurance commissioner and two others had pressured Bates into selling his company for $3 million when its real worth exceeded that. The three were charged with splitting an $88,000 brokerage fee, allegedly paid by United. They were charged with conspiracy and malfeasance in office in 1956 but won acquittal.

In 1955, Bates founded another insurance company, New South. And in 1972 it ran into financial difficulties; the company reported a $9 million deficiency in the state-required reserve, and entered into a process of court-granted rehabilitation. Bates lost the company.

The energetic businessman was ahead of Columbia's cultural times in building a plush dinner-theater, the Laurel Hill Theater and Restaurant, at the intersection of Assembly and Richland streets. Featured weekly were top-drawing performers and orchestras. But it wasn't profitable and Bates eventually sold the building.

Lester Bates was as generous as he was successful. Friends and family say there is no telling how much he contributed to churches and charity throughout South Carolina.

Bates was a devoted member of the Park Street Baptist Church, a former vice chairman of the State Baptist Convention, and a former member of the board of trustees of the S.C. Baptist College. A charter member of the University of South Carolina Education Foundation Chair Endowment Fund, he was presented an honorary doctor of laws degree by USC.

He seldom left his home, at 2408 Marion St., after the stroke, but his son said the mayor "never once complained" about his condition.

[From the State (Columbia, SC), Feb. 25, 1988]

BATES LEFT LEGACY OF GROWTH, CHANGE

Lester L. Bates lived out a South Carolina Horatio Alger story. He rose from poverty in

Hell Hole Swamp to become a millionaire, the mayor of the state's largest city and head of an insurance empire.

But he failed to achieve one intense ambition—to become governor of the state—and he had to endure a cloud cast over his once-thriving business late in his career. Still, this self-made man, who had only an eighth-grade education and was the eighth of 15 children, carved a vital niche in the history of Columbia.

A dynamic leader, Mr. Bates served eight years on city council and 12 years as mayor during wrenching economic and social changes. Gregarious and energetic, he knew how to get the power brokers together and to make things happen for his community.

Indeed, many things "happened" under his aegis. Columbia was twice named an All-American city. The Capital City Development Foundation was born. Famed urban planner Constantine Doxiadis was hired to design a central city development plan—one which remains a vital blueprint for Columbia's growth.

Mr. Bates enlisted the state's congressmen to include Fort Jackson in the city's boundaries and swelled the city's population by 20,000 in one day.

He promoted the improvement of Columbia Metropolitan Airport, saw to the construction of the Carolina Coliseum, then pushed for a city convention center and an "opera center" for the performing arts.

The mayor didn't fear controversy. He plugged merger of the Columbia and Richland County governments. And he supported a state-wide campaign to abolish "brown bag" liquor laws in favor of minibottles. A man who never took a drink, except for an occasional glass of sherry, he withstood the heat from the state's pulpits.

But Mayor Bates, reared in the Berkeley County swamps, faced his greatest challenge in coping with convulsing social changes in the big city. Anticipating integration of lunch counters, he convened separate meetings of black and white leaders and talked store owners and managers into peaceful integration of the lunch counters. Later blacks and whites of the two groups combined and evolved as the present Columbia Community Relations Council, now sponsored by the city, county and chamber of commerce.

In 1969, the National Council of Christians and Jews presented the Baptist layman with its Brotherhood Award for distinguished service in the field of race relations.

After an impoverished beginning that included working at age 12 for a logging crew, Mr. Bates became an insurance agent at age 19. His natural salesmanship later enhanced his own prospering insurance business and completed his rise from rags to riches.

Despite his success in Columbia, Mr. Bates failed in three runs for governor against James F. Byrnes, George Bell Timmerman and John C. West.

He was also to find bitter disappointment when, late in his career, he lost his insurance company, which was forced into court-granted rehabilitation.

An invalid since a stroke in 1980, Mr. Bates died Wednesday at the age of 83. While he failed to realize all his dreams, he helped Columbia realize many of its own and shepherded the city through some of the most turbulent times in its history.

Interstate 126 carries his name, but Columbia needs to find a more substantial way to honor the memory of this remarkable civic leader.

[From the State (Columbia, SC), Feb. 25, 1988]

BATES REMEMBERED AS MAN WITH VISION

(By Mike Livingston)

Former Columbia mayor Lester Bates, dead at 83, was remembered Wednesday as a man who led Columbia through turbulent times and whose farsighted visions in the 1960s are now being realized in a booming capital city.

"His death really came as a surprise, although I knew he had been in declining health," former S.C. Gov. Robert E. McNair said from his firm's Washington D.C. law office. McNair was governor in the late 1960s when Bates was mayor.

"He really gave Columbia a lot of recognition and his idea was to plan for the future," McNair said. "Some of the things we are seeing today are part of that vision."

McNair remembered Bates as a "terrific salesman" for the city as well as a warm personal friend.

Former Columbia mayor and now S.C. Secretary of State John Campbell recalled that Bates was one of the city's most aggressive mayors. Campbell, a former city councilman, succeeded Bates as mayor in 1970.

"I thought the world of him and I will miss him a lot," he said. "He did a lot for Columbia and for the people. When he became mayor, Columbia became an All-American City.

"The people in Columbia know they owe him a debt of gratitude for so many things."

Former Richland Sen. Hyman Rubin, who served with Bates for many years on the Columbia City Council, said Wednesday that one of Bates' major accomplishments was assuming leadership during the turbulent 1960s.

"He was able to bring together people of good will both black and white and those efforts developed good will in a critical time," Rubin said. "He had a great sense of humor and a friendly spirit. The good will he generated helped make him so effective."

Veteran Columbia City Councilman William C. Ouzts said Bates did great things for the city, and agreed with Rubin that one of the former mayor's principal deeds was to take charge during the Civil Rights movement.

"Through his leadership our city came through that, I think, in fine fashion," Ouzts said. "He was the right mayor at the right time for that very, very important matter. And he did the job superbly."

Columbia City Manager Gray Olive agreed. "There were tense racial problems and the mayor was way out front in getting a resolution to them. I thought he was a master politician and was able to do so many things which the city will be benefited by for many, many years."

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Charles Riemenschneider:									
England	Pound	208.47	342.00					208.47	342.00
Total			342.00						342.00

PATRICK J. LEAHY,
Chairman, Committee on Agriculture, Feb. 16, 1988.

AMENDED CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
John D. Podestal:									
Nicaragua	Dollar						208.34		208.34
Niels C. Holch:									
United States	Dollar				2,671.00				2,671.00
Soviet Union	Dollar		850.00						850.00
Greece	Drachma	35,582	252.00					35,582	252.00
Total			1,102.00		2,671.00		208.34		3,981.34

PATRICK J. LEAHY,
Chairman, Committee on Agriculture, Feb. 16, 1988.

AMENDED CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Patrick Leahy:									
Italy	Lira			541,938	408.84			541,938	408.84
Total					408.84				408.84

PATRICK J. LEAHY,
Chairman, Committee on Agriculture, Feb. 16, 1988.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Sam Nunn:									
United Kingdom	Pound	122	215.94					122	215.94
Arnold L. Punaro:									
United Kingdom	Pound	171.75	304.06					171.75	304.06
Romie L. Brownlee:									
Republic of Korea	Won	659,900	834.26					659,900	834.26
Senator Edward M. Kennedy:									
Switzerland	Franc	270	220.00					270	220.00
Bahrain	Dinar	78.430	208.00					78.430	208.00
France	Franc	1,072.82	194.00			276.50	50.00	1,349.32	244.00
Gregory B. Craig:									
Switzerland	Franc	270	220.00					270	220.00
Bahrain	Dinar	78.430	208.00					78.430	208.00
France	Franc	1,072.82	194.00			276.50	50.00	1,349.32	244.00
William L. Lynn:									
Bahrain	Dinar	78.430	208.00					78.430	208.00
France	Franc	1,072.82	194.00			276.50	50.00	1,349.32	244.00
Total			3,000.26				150.00		3,150.26

SAM NUNN,
Chairman, Committee on Armed Services, Feb. 8, 1988.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Ernest F. Hollings:									
France	Franc	2,542.36	403.00	4,542.23	737.00			7,084.59	1,140.00
Switzerland	Franc	769.20	499.89					769.20	499.89
Sweden	Krona	2,719.80	416.00					2,719.80	416.00
Norway	Krone	5,137.90	764.00					5,137.90	764.00
England	Pound	280.64	452.00					280.64	452.00
Thailand	Baht	23,263.79	906.10					23,263.79	906.10
Korea	Won	330,870	410.00					330,870	410.00
United States	Dollar				1,372.00				1,372.00
Total			3,850.99		2,109.00				5,959.99

ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation,
Feb. 16, 1988.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Glenn R. DeLaney:									
Korea	Won	396,550	492.00					396,550	492.00
Japan	Yen	123,392	852.00					123,392	852.00
Taiwan	Dollar	12,737	424.00					12,737	424.00
United States	Dollar				2,225.00				2,225.00
Martin P. Kress:									
England	Dollar		576.00		874.00		424.00		1,874.00
Peter B. Perkins:									
England	Dollar		576.00		887.00		424.00		1,887.00
Total			2,920.00		3,986.00		848.00		7,754.00

ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation,
Feb. 16, 1988.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM OCT. 1, TO DEC. 31, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Christopher J. Dodd:									
Mexico	Peso	121,950	75.00					121,950	75.00
United States	Dollar				789.21				789.21
Panama	Dollar		37.00						37.00
Costa Rica	Colon	11,029	164.00					11,029	164.00
Senator Nancy L. Kassebaum:									
Panama	Dollar		70.40						70.40
Costa Rica	Colon	7,579	111.00					7,579	111.00
Senator Claiborne Pell:									
Nicaragua	Dollar		50.00						50.00
Jack A. Blum:									
Costa Rica	Colon	16,076.10	246.00					16,076.10	246.00
United States	Dollar				525.19				525.19
Costa Rica	Colon	16,175	248.85					16,175	248.85
Geryld B. Christianson:									
Nicaragua	Dollar		70.00						70.00
Costa Rica	Colon	17,622	263.00					17,622	263.00
Gerald E. Connolly:									
Costa Rica	Colon	32,103	492.00					32,103	492.00
United States	Dollar				375.00				375.00
Deborah De Moss:									
Honduras	Dollar		460.00						460.00
United States	Dollar				598.00				598.00
Robert H. Dockery:									
Mexico	Peso	487,000	300.00					487,800	300.00
United States	Dollar				339.00				339.00
Panama	Dollar		97.00						97.00
Costa Rica	Colon	11,029	164.00					11,029	164.00
Richard L. McCall:									
Costa Rica	Colon	51,480	792.00					51,480	792.00
United States	Dollar				375.00				375.00
Lori Murray:									
Panama	Dollar		70.40						70.40
Costa Rica	Colon	8,044	121.00					8,044	121.00
Janice M. O'Connell:									
Mexico	Peso	487,800	300.00					487,800	300.00
United States	Dollar				339.00				339.00
Panama	Dollar		97.00						97.00
Costa Rica	Colon	11,029	164.00					11,029	164.00
Barry Sklar:									
Nicaragua	Dollar		50.00						50.00
Costa Rica	Colon	12,216	185.00					12,216	185.00
Kathleen Smith:									
Costa Rica	Colon	16,175	248.85					16,175	248.85
Amendments to 3d Quarter of 1987:									
Senator Larry Pressler:									
Portugal	Escudo	16,023	109.00					16,023	109.00
United States	Dollar				3,879.00				3,879.00
William Triplett:									
Japan	Dollar		918.00						918.00
United States	Dollar				1,513.00				1,513.00
Senator Alan Cranston:									
Soviet Union	Dollar		892.00						892.00
Mongolia	Dollar		178.00						178.00
	Tugrick			263.68	95.00			263.68	95.00
People's Republic of China	Dollar		142.00						142.00
Hong Kong	Dollar	1,174.40	150.00					1,171.40	150.00
Korea	Won	276	342.00					276	342.00
Philippines	Peso	3,435.21	168.00					3,435.21	168.00
United States	Dollar				4,925.79				4,925.79
Soviet Union	Dollar		670.00						670.00
Senator Mitch McConnell:									
Greece	Drachma	35,582	252.00					35,582	252.00
United States	Dollar				2,671.00				2,671.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM OCT. 1, TO DEC. 31, 1987—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jack A. Blum:									
Costa Rica	Colon	35,424	656.00					35,424	656.00
United States	Dollar				636.00				636.00
Robin Cleveland:									
Soviet Union	Dollar		790.00						790.00
Greece	Drachma	35,582	252.00					35,582	252.00
United States	Dollar				2,671.00				2,671.00
Gerald E. Connolly:									
Kuwait	Dinar	100	356.00					100	356.00
Bahrain	Dinar	56.565	150.00					56.565	150.00
Saudi Arabia	Riyal	540	144.00					540	144.00
Oman	Riyal	166.234	432.00					166.234	432.00
United Arab Emirates	Dirham	1,005.58	274.00					1,005.58	274.00
United Kingdom	Pound	1,424.40	226.00					1,424.40	226.00
United States	Dollar				2,885.00				2,885.00
Gerald Warburg:									
Soviet Union	Dollar		300.00						300.00
United States	Dollar				2,689.00				2,689.00
Peter Galbraith:									
Soviet Union	Dollar		250.00						250.00
Kuwait	Dinar	150	534.00					150	534.00
Iraq	Dinar	183.10	590.93					183.10	590.93
United States	Dollar				2,407.00				2,407.00
Amendment to 2d Quarter of 1987:									
Peter Galbraith:									
Australia	Dollar	515.48	366.46	184.00	130.63			699.48	497.09
Indonesia	Rupiah	368,200	327.00					368,200	327.00
Philippines	Dollar		200.00						200.00
United States	Dollar				3,469.00				3,469.00
Total			14,545.89		31,311.82				45,857.71

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, Jan. 1988.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON GOVERNMENTAL AFFAIRS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
R. Ian Butterfield:									
United Kingdom	Pound	319.48	576.00	30	54.00	289	522.00	638.48	1,152.00
Total			576.00		54.00		522.00		1,152.00

JOHN GLENN,
Chairman, Committee on Governmental Affairs, Jan. 29, 1988.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Michael Myers:									
United States	Dollar				5,886.00				5,886.00
Thailand	Baht	25,842	1,008.27					25,842	1,008.27
Vietnam	Dollar		525.00		280.00				805.00
Burma	Kyat	481	70.00					481	70.00
Italy	Lira	374,374	286.00					374,374	286.00
Jerry Tinker:									
United States	Dollar				5,886.00				5,886.00
Thailand	Baht	25,842	1,008.27					25,842	1,008.27
Vietnam	Dollar		525.00		280.00				805.00
Burma	Kyat	481	70.00					481	70.00
Italy	Lira	374,374	286.00					374,374	286.00
Richard W. Day:									
United States	Dollar				5,470.00				5,470.00
Thailand	Baht	27,759	1,083.27					27,759	1,083.27
Vietnam	Dollar		525.00		280.00				805.00
Burma	Kyat	481	70.00					481	70.00
Total			5,456.81		18,082.00				23,538.81

JOSEPH R. BIDEN, JR.,
Chairman, Committee on the Judiciary, Feb. 22, 1988.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Cecilia Swensen:									
Austria	Schilling	4,524.26	352.00					4,524.26	352.00
West Germany	Mark	1,020.84	564.00	144.80	80.00	92.31	51.00	1,257.95	695.00
Total			916.00		80.00		51.00		1,047.00

JOSEPH R. BIDEN, JR.,
Chairman, Committee on the Judiciary, Jan. 26, 1988.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Sven Holmes			1,287.00		2,686.00				3,973.00
John Elliff			1,059.61		2,429.00				3,488.61
John Nelson			1,505.00		2,319.00				3,824.00
David Holliday			258.00		695.00				953.00
James Currie			258.00		695.00				953.00
John Despres			831.00		1,882.78				2,713.78
Total			5,198.61		10,706.78				15,905.39

DAVID L. BOREN,
Chairman, Select Committee on Intelligence, Dec. 31, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE, FOR TRAVEL FROM JULY 1 TO SEPT. 31, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
David Smith:									
Austria	Schilling	6,204.92	488.00					6,204.92	488.00
Daniel Bond:									
Austria	Schilling	7,781,16	610.00					7,781.16	610.00
United States	Dollar				2,147.00				2,147.00
Dale Jahr:									
Austria	Schilling	7,781.16	610.00					7,781.16	610.00
United States	Dollar				2,147.00				2,147.00
Total			1,708.00		4,294.00				6,002.00

PAUL SARBANES,
Chairman, Joint Economic Committee, Feb. 10, 1988.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
J. Lee Price:									
United States	Dollar				2,019.00				2,019.00
Japan	Yen	186,594	1,362.00					186,594	1,362.00
David Freshwater:									
United States	Dollar				247.13				247.13
Canada	Dollar		261.40						261.40
Total			1,623.40		2,266.13				3,889.53

PAUL SARBANES,
Chairman, Joint Economic Committee, Feb. 10, 1988.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jane S. Fisher:									
Austria	Schilling	9,372.90	796.00					9,372.90	796.00
Switzerland	Franc	2,008.70	1,477.00					2,008.70	1,477.00
United States	Dollar				1,237.00				1,237.00
Total			2,273.00		1,237.00				3,510.00

DENNIS DeCONCINI,
Chairman, Commission on Security and Cooperation in Europe, Jan. 6, 1988.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER, FROM OCT. 1 TO DEC. 31, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Alfred Cumming:									
Panama	Dollar		388.00						388.00
United States	Dollar				703.00				703.00
Haiti	Gourde	125	22.93					125	22.93
Barry Sklar:									
Panama	Dollar		343.00						343.00
United States	Dollar				703.00				703.00
Gregory B. Craig:									
Panama	Dollar		388.00						388.00
United States	Dollar				703.00				703.00
Total			1,141.93		2,109.00				3,250.93

[S1

ROBERT C. BYRD,
Majority Leader, Feb. 17, 1988.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER, FROM AUG. 30 TO SEPT. 1, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Robert J. Dole:									
Honduras	Lempira	160	83.84					160	83.84
Costa Rica	Colon	4,040	67.11					4,040	67.11
Senator Thad Cochran:									
Honduras	Lempira	184	92.00					184	92.00
Costa Rica	Colon	5,195	82.00					5,195	82.00
Senator Steve Symms:									
Honduras	Lempira	184	92.00					184	92.00
Costa Rica	Colon	5,195	82.00					5,195	82.00
Senator John McCain:									
Honduras	Lempira	126.42	63.21					126.42	63.21
Costa Rica	Colon	5,195	82.00					5,195	82.00
Senator David Karnes:									
Honduras	Lempira	184	92.00					184	92.00
Costa Rica	Colon	5,195	82.00					5,195	82.00
Dean Burridge:									
Honduras	Lempira	184	92.00					184	92.00
Costa Rica	Colon	5,195	82.00					5,195	82.00
Tom Carter:									
Honduras	Lempira	184	92.00					184	92.00
Costa Rica	Colon	5,195	82.00					5,195	82.00
Lorne Craner:									
Honduras	Lempira	126.42	63.21					126.42	63.21
Costa Rica	Colon	5,195	82.00					5,195	82.00
Yvonne Hopkins:									
Honduras	Lempira	184	92.00					184	92.00
Costa Rica	Colon	5,195	82.00					5,195	82.00
Al Lehn:									
Honduras	Lempira	184	92.00					184	92.00
Costa Rica	Colon	5,195	82.00					5,195	82.00
Alan Porter:									
Honduras	Lempira	184	92.00					184	92.00
Costa Rica	Colon	5,195	82.00					5,195	82.00
Walt Riker:									
Honduras	Lempira	184	92.00					184	92.00
Costa Rica	Colon	5,195	82.00					5,195	82.00
Sam Routson:									
Honduras	Lempira	160	83.84					160	83.84
Costa Rica	Colon	4,040	67.11					4,040	67.11
Baker Spring:									
Honduras	Lempira	184	92.00					184	92.00
Costa Rica	Colon	5,195	82.00					5,195	82.00
Delegation expenses: [1]									
Costa Rica							1,082.64		1,082.64

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER, FROM AUG. 30 TO SEPT. 1, 1987—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Nicaragua							558.99		558.99
Honduras							1,646.27		1,646.27
Total			2,332.32				3,287.90		5,620.22

[1] Delegation expenses include direct payments and reimbursements to the State Department and the Defense Department under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95-384, and S. Res. 179, agreed to May 25, 1977.

ROBERT DOLE,
Republican Leader.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER, FROM OCT. 1 TO DEC. 31, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Deborah De Moss:									
Panama	Dollar		388.00						388.00
United States	Dollar				525.00				525.00
Shawn Smeallie:									
Panama	Dollar		388.00						388.00
United States	Dollar				703.00				703.00
Randy Scheunemann:									
Panama	Dollar		388.00						388.00
United States	Dollar				703.00				703.00
Total			1,164.00		1,931.00				3,095.00

ROBERT J. DOLE,
Republican Leader, Feb. 18, 1988.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment:

S. 1609: A bill for the relief of James P. Purvis (Rept. No. 100-298).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2162. A bill to provide for the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. INOUYE:

S. 2163. A bill to amend title XVIII of the Social Security Act to provide coverage for social worker services furnished at rural health clinics; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 2164. A bill to temporarily suspend the duty on octadecyl isocyanate; to the Committee on Finance.

By Mr. EVANS (for himself and Mr. ADAMS):

S. 2165. A bill to designate wilderness within Olympic National Park, Mount Rainier National Park, and North Cascades National Park Complex in the State of Washington, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WARNER:

S. 2166. A bill to amend the Internal Revenue Code of 1986 to permit tax-free sales of diesel fuel use in the mining process; to the Committee on Finance.

By Mr. METZENBAUM (for himself, Mr. JOHNSTON, Mr. FORD, Mr. WEICKER, Mr. WIRTH, and Mr. EVANS):

S. 2167. A bill to amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for fluorescent lamp ballasts; to the Committee on Energy and Natural Resources.

By Mr. JOHNSTON:

S. 2168. A bill to amend the Internal Revenue Code of 1986 to permit tax-free sales of gasoline for use by State and local governments and to permit tax-free sales of diesel fuel for off-highway uses; to the Committee on Finance.

By Mr. HECHT:

S. 2169. A bill to authorize the United States Army Corps of Engineers to construct a project for flood control in Truckee Meadows, Nevada; to the Committee on Environment and Public Works.

By Mr. GRAHAM (for himself, Mr. KENNEDY, Mr. DECONCINI, Mr. KERRY, Mr. D'AMATO, and Mr. DIXON):

S. 2170. A bill to support democracy and respect for human rights in Haiti; to the Committee on Foreign Relations.

By Mr. QUAYLE:

S.J. Res. 271. A joint resolution to designate August 20, 1988, as "Drum and Bugle Corps Recognition Day"; to the Committee on the Judiciary.

By Mr. DURENBERGER (for himself, Mr. BOSCHWITZ, Mr. GARN, Mr. JOHNSTON, Mr. BURDICK, Mr. INOUYE, Mr. NICKLES, and Mr. REID):

S.J. Res. 272. A bill to designate November 1988, as "National Diabetes Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HEINZ:

S. Res. 394. A bill expressing the sense of the Senate that funding in fiscal year 1989 for the Federal-aid highway and mass transit programs should be at the levels enacted in the Surface Transportation and Uniform Relocation Assistance Act of 1987; to the Committee on Appropriations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2162. A bill to provide for the establishment of Zuni-Cibola National Historical Park in the State of New

Mexico, and for other purposes; referred to the Committee on Indian Affairs.

ZUINI-CIBOLA NATIONAL HISTORICAL PARK ESTABLISHMENT ACT

Mr. BINGAMAN. Mr. President, I rise today on behalf of myself and Senator DOMENICI to introduce the Zuni-Cibola National Historical Park Act of 1988. This historic legislation will create the first national historical park in the United States located entirely on Indian trust lands. Consideration of such a park has been under discussion since 1960 when the Secretary of Interior declared the ancient Zuni city of Hawikku eligible for Registered National Historic Landmark status.

Since that time, the National Park Service has diligently studied the potential for including certain areas of the Zuni reservation in the National Park System. I am pleased that we are now able to introduce legislation that accomplishes the goals first set more than 20 years ago. I am proud that the Honorable Robert Lewis, governor of Zuni Pueblo, is in the Capitol this morning to observe this legislation being introduced. He has long championed the idea of national park at Zuni, a national park that could serve as a model for future designations on trust lands.

This legislation exemplifies a new spirit of cooperation between the Federal Government and Indian people. This may seem an unusual partnership, Mr. President, but a partnership we can be very proud of because it was formed by the Pueblo's interest in sharing its history and the Government's interest in protecting the resources.

The national significance of the historic sites of the Zuni culture is well documented. In the many studies conducted by the National Park Service, Zuni has been identified as a major focal point of the Anasazi culture, as a crossroads of Southwestern events since 1539, and as one of the most important centers of ethnological studies in the United States.

The park will be a prime example of an Indian-owned area of national importance, containing cultural, historical, and archaeological sites and resources. It deserves to be preserved and properly interpreted.

The legislation will designate certain portions of the Zuni reservation as the Zuni-Cibola National Historic Park, to be managed by the Park Service as a unit of the National Park System.

The bill also establishes within the Department of the Interior an advisory commission which will consult with the Director of the Park Service in the planning, management, and administration of the park. The commission will be chaired by the governor of Zuni. The Secretary of the Smithsonian, who has long been an advocate of this particular proposal will also be a member of the commission. I also hope the legislation will eventually assist members of the Pueblo of Zuni in preserving and interpreting the Zuni culture, provide for appropriate development of the recreational resources of their lands and waters, and provide training opportunities for Indians in the interpretation and management of their cultural, historical, and recreational resources.

Mr. President, this legislation is unique in one other way. For most of our previous national parks, we have had to acquire private land, sometimes at tremendous cost to the Federal Government. This legislation does not involve the purchase of any private lands; moreover, it specifically authorizes the Secretary to acquire land only through donation.

In order to preserve and protect this rare natural treasure for the benefit of present and future generations, I urge my colleagues to support this legislation.

By Mr. INOUYE:

S. 2163. A bill to amend title XVIII of the Social Security Act to provide coverage for social worker services furnished at rural health clinics; to the Committee on Finance.

COVERAGE OF SOCIAL WORKER SERVICES IN RURAL HEALTH CLINICS

● Mr. INOUYE. Mr. President, today, I am introducing legislation to amend the Rural Health Clinic provision of the Medicare Act to ensure that citizens of rural America will have access to the services of qualified clinical social workers if they desire.

Mr. President, in 1977, Congress adopted the Rural Health Clinic provision, Public Law 95-210, which under Medicare and Medicaid would ensure that nurse practitioners in rural health clinics would be able to practice autonomously if their written plan of treatment was "periodically reviewed and approved" by a physician. The statute allows similar administrative flexibility for physician assistants and based on our action during the first session of the 100th Congress, for psychologists.

The legislation I am proposing today would treat our Nation's clinical social workers in the same manner and allow these important rural health clinics to utilize their expertise pursuant to State statute. Presently, under the Department of Defense CHAMPUS Program and the Federal Employees Health Benefits Act, clinical social workers are deemed autonomous providers and beneficiaries have direct access to their services. I believe that it is equally important for citizens of rural America, who rely on Medicare and Medicaid reimbursement, to have a similar choice.

Accordingly, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COVERAGE OF SOCIAL WORKER SERVICES IN RURAL HEALTH CLINICS.

(a) IN GENERAL—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B) is amended by striking "Secretary)," and inserting "Secretary) or clinical social worker (as defined in subsection (hh)),".

(b) CONFORMING AMENDMENTS.—Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(1) by redesignating subsection (ff), as added by section 4073(c) of the Omnibus Budget Reconciliation Act of 1987, as subsection (gg);

(2) in subsection (s)(2)(H)(ii), as amended by section 4074(a)(1) of the Omnibus Budget Reconciliation Act of 1987, by striking "subsection (ff)" and inserting "subsection (hh)";

(3) by redesignating subsection (ff), as added by section 4074(b) of the Omnibus Budget Reconciliation Act of 1987, as subsection (hh); and

(4) by redesignating subsection (gg), as added by section 4077(b)(5) of the Omnibus Budget Reconciliation Act of 1987, as subsection (ii).

(c) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall apply with respect to services furnished on or after the date of enactment of this Act.

(2) The amendments made by subsection (b) shall become effective on the date of enactment of this Act.●

By Mr. EVANS (for himself and Mr. ADAMS):

S. 2165. A bill to designate wilderness within Olympic National Park, Mount Rainier National Park, and North Cascades National Park Complex in the State of Washington, and for other purposes; referred to the Committee on Energy and Natural Resources.

WASHINGTON PARK WILDERNESS BILL

● Mr. EVANS. Mr. President, today I am pleased to introduce, along with my colleague from Washington, Senator ADAMS, a landmark bill that would designate wilderness areas in the three national parks in our State—Olympic, Mount Rainier, and the North Cascades National Park Complex. An identical bill will be introduced today by Congressman ROD CHANDLER in the House of Representatives.

In total, this legislation will add over 1.7 million acres of wilderness to the Wilderness Preservation System in Washington State. For Washington State, it will virtually complete the mandate required under the 1964 Wilderness Act for designating wilderness areas on Federal land. In 1984, the Washington delegation successfully passed legislation that established wilderness on our national forest land. The bill we are introducing today will accomplish the same thing for those lands administered by the National Park Service.

Importantly, this is the first attempt to designate wilderness in national parks on a statewide basis. It is my hope that this will lead the way for other States with national parks to follow suit. With increasing pressures on our recreational areas, I believe we must do all that we can to ensure the permanent protection of one of our Nation's most treasured assets—its national parks.

The importance of this bill is not in its immediate impact on the parks. All of Washington's parks were established and are managed as wilderness parks. However, the long-term impact is important. We want the national parks in Washington to remain wilderness parks. This bill would prevent development from encroaching further into the wilderness areas of the parks. It will ensure that the original purposes for which these parks were set aside in the first place will be protected.

What this bill would not do is to keep the park visitor shut out of the park. All the existing transportation and development corridors would be excluded from wilderness designation. Those corridors include areas that the parks have deemed necessary for additional campgrounds and developed facilities to accommodate park visitors. For instance, the unique experience offered by the residents of Stehekin and the park in the Lake Chelan National Recreation Area would be unaffected by this bill as the valley is excluded from designation as wilderness.

I believe that the parks are there to provide for recreation as well as the preservation of a natural ecosystem. Even in the wilderness areas, the Park Service will be able to construct needed trails and back-country campsites.

Specifically, the bill would designate 871,730 acres of wilderness and 594 acres of potential wilderness in Olympic National Park, 634,614 acres of wilderness and 5,226 acres of potential wilderness in the North Cascades National Park Complex, and 216,855 acres of wilderness in Mount Rainier National Park.

Potential wilderness designation is used for lands that are either not owned by the Federal Government but are targeted for acquisition or on which there is a nonwilderness use that the National Park Service anticipates terminating. The potential wilderness designation allows the Park Service to administratively declare the area as wilderness once it has been acquired or the nonconforming use is terminated.

The bill also contains a number of general provisions that have been requested by the parks. These provisions amend unclear provisions in existing law to clarify the parks' authorities. There are also some minor boundary adjustments that are authorized in the bill. Although minor in the number of acres, the exchanges are important. Approximately 31½ acres are excluded from the park and added to the Mount Baker-Snoqualmie National Forest. On this acreage sits a portion of the Crystal Mountain ski lift. The exchange is needed so that the Crystal Mountain Resort can make necessary repairs and modifications to the lift. Rather than the Mount Rainier National Park granting a special use permit, it is preferable to both administrative agencies that the nonconforming use be deleted from the park's jurisdiction.

A total of 240 acres of forest land will be added to the Mount Rainier National Park in the areas of Backbone Ridge and Klapatchee Point. This exchange will place two roads wholly inside the park that briefly cross over into Forest Service land. Including all of the roads inside the national park will ease management conflicts.

I am aware that there are a number of environmental groups that have proposed larger boundary adjustments between the Forest Service and the Mount Rainier National Park and the North Cascades National Park. While we have not included those adjustments in this bill, I support the sentiment that boundaries follow logical land management lines. I am a strong believer that we should try to correct nonsensical boundaries that transect rather than follow hydrological and ecological lines. This bill does not contain any more ambitious exchanges for a number of reasons. A primary concern is that there has been little to no public review of those proposals. As these types of exchanges impact a large public user population, I believe the public must be included in a debate about the realignment of boundaries. I urge continued public discussion of these proposals so that conflicts that may exist between national park and national forest management policies may move closer to resolution.

Mr. President, I urge my colleagues to support this important legislation and I request that a copy of the bill and a section-by-section analysis be reprinted in the Record following my statement.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this bill may be cited as the "Washington Park Wilderness Bill of 1988".

TITLE 1—OLYMPIC NATIONAL PARK WILDERNESS

SEC. 101. DESIGNATION AND ADMINISTRATION

(a) Wilderness.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.; 78 Stat. 890), certain lands in the Olympic National Park, Washington, which—

(1) comprise approximately eight hundred seventy one thousand seven hundred and thirty acres of wilderness, and approximately five hundred ninety four acres of potential wilderness additions, and

(2) are depicted on a map entitled "Wilderness Boundary, Olympic National Park, Washington", numbered 149/60,051 and dated January 1988,

are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System. Such lands shall be known as the Olympic Wilderness.

(b) Administration.—(1) Subject to valid existing rights, the wilderness area designated under this section shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated as wilderness, except that reference to the Secretary of Agriculture shall be deemed, where appropriate, to be a reference to the Secretary of the Interior, and any reference to the effective date of the Wilderness Act shall be deemed, where appropriate, to be a reference to the effective date of this Act.

(2) Lands designated as potential wilderness additions shall be administered by the Secretary of the Interior insofar as practicable as wilderness until such time as said lands are designated as wilderness. Any lands designated as potential wilderness additions, upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon that are inconsistent with the Wilderness Act have ceased or that non-federal interests in land have been acquired, shall thereby be designated as wilderness and managed accordingly.

(c) Map and Description.—As soon as practicable after the effective date of this Act, the Secretary of the Interior shall file a map of the wilderness area and a legal description of its boundaries with the Energy and Natural Resources Committee of the United States Senate, and the Interior and Insular Affairs Committee of the United States House of Representatives. Such boundaries shall be drawn no more than 200 feet from the centerline of any paved road. Such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in the map and legal description may be made. Such map and legal description of the boundaries shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the office of the Superintendent of the Olympic National Park.

SEC. 102. AUTHORIZATION FOR WOLF CREEK POWERLINE.

The Secretary is authorized to maintain and replace, as appropriate, the Wolf Creek underground powerline to Hurricane Ridge.

SEC. 103. AUTHORIZATION OF PAYMENT TO CLALLAM COUNTY.

There is hereby authorized to be appropriated not to exceed $155,000 to the Secretary of the Interior to make a payment to the Clallam County Historical Society and Museum of Port Angeles, Washington, not to exceed $155,000 to compensate the Society for its possessory interest in the National Park Service visitor center, Pioneer Memorial Museum, Olympic National Park, Washington. Upon relinquishment by the Clallam County Historical Society of all interests and use in the facility, the Secretary of the Interior shall make payment to the Clallam County Historical Society and such payment shall be considered full and just compensation for the Society's participation in the construction of the Pioneer Memorial Museum.

SEC. 104. GENERAL PROVISIONS.

(a) MISDEMEANOR PENALTIES.—Section 3 of the Act of March 6, 1942 (56 Stat. 136; 16 U.S.C. 256b) is hereby revised as follows: after "shall be deemed guilty of a misdemeanor penalty and shall be subject to a fine of not more than", strike "$500" and insert in lieu thereof "$25,000".

(b) FORFEITURE OF PROPERTY.—Section 4 of the Act of March 6, 1942 (56 Stat. 135; 16 U.S.C. 256c) is hereby revised to read as follows: "Sec. 4. All guns, bows, traps, nets, seines, fishing tackle, clothing, teams, horses, machinery, logging equipment, motor vehicles, aircraft, boats, or means of transportation of every nature or description used by any person or persons within the limits of the park when engaged in or attempting to engage in killing, trapping, ensnaring, taking or capturing such wild birds, fish or animals, or taking, destroying or damaging such trees, plants, or mineral deposits contrary to the provisions of this Act or the rules and regulations promulgated by the Secretary of the Interior shall be forfeited to the United States and may be seized by the officers in the park and held pending prosecution of any person or persons or organization arrested under or charged with violating the provisions of this Act, and upon conviction under this Act of such persons or organizations using said guns, bows, traps, nets, seines, fishing tackle, clothing, teams, horses, machinery, logging equipment, motor vehicles, aircraft, boats, or other means of transportation of every nature and description used by any person or persons or organization, such forfeiture shall be adjudicated as a penalty in addition to the other punishment prescribed in this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior: *Provided*, that the forfeiture teams, horses, machinery, logging equipment, motor vehicles, aircraft, boats, or other means of transportation shall be in the discretion of the Court."

(c) FUGITIVES FROM JUSTICE.—(1) The Act of March 6, 1942, revising the boundary of Olympic National Park, as amended (56 Stat. 135 et seq.; 16 U.S.C. 256) is hereby revised as follows: Section 5 is renumbered as Section 6 and succeeding sections are renumbered accordingly and a new Section 5 is inserted as follows: "Sec. 5. All fugitives from justice taking refuge in Olympic National Park shall be subject to the same laws as refugees from justice found in the State of Washington."

(2) The Act of March 6, 1942 (56 Stat. 137, 16 U.S.C. 256l) is hereby revised as follows: after "the provisions of sections 3" strike "and" and insert in lieu thereof ","; after "4" insert "and 5".

(d) TECHNICAL CORRECTIONS TO BOUNDARIES.—The Act of November 7, 1986 (PL 99-635; 100 Stat. 3527) revising the boundaries of Olympic National Park is hereby amended as follows:

(1) in section 1(b) after "numbered 149/60,030A, sheets 1 through" strike "10" and insert in lieu thereof "9";

(2) in section 2(a) after "within section 15, township", strike "15" and insert in lieu thereof "24";

(3) in section 2(a) after "Provided, however, that the Secretary of Agriculture shall" strike "not"; and

(4) Section 4 is renumbered as Section 5 and a new Section 4 is inserted as follows: "SEC. 4. Effective upon acceptance thereof by the State of Washington, the jurisdiction which the United States acquired over those lands excluded from the boundaries of Olympic National Park by this Act is hereby retroceded to the state."

TITLE 2—NORTH CASCADES PARK WILDERNESS

SEC. 201. DESIGNATION AND ADMINISTRATION.

(a) WILDERNESS.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.; 78 Stat. 890), certain lands in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area, Washington, which—

(1) comprise approximately six hundred and thirty-four thousand, six hundred and fourteen acres of wilderness, and approximately five thousand, two hundred and twenty-six acres of potential wilderness additions, and

(2) are depicted on a map entitled "Wilderness Boundary, North Cascades National Park Complex, Washington", numbered ______ and dated January 1988,

are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System. Such lands shall be known as the Stephen Mather Wilderness.

(B) ADMINISTRATION.—(1) Subject to valid existing rights, the wilderness area designated under this section shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated as wilderness, except that reference to the Secretary of Agriculture shall be deemed, where appropriate, to be a reference to the Secretary of the Interior, and any reference to the effective date of the Wilderness Act shall be deemed, where appropriate, to be a reference to the effective date of this Act.

(2) Lands designated as potential wilderness additions shall be administered by the Secretary of the Interior insofar as practicable as wilderness until such time as said lands are designated as wilderness. Any lands designated as potential wilderness additions, upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon that are inconsistent with the Wilderness Act have ceased or that non-federal interests in land have been acquired, shall thereby be designated as wilderness and managed accordingly.

(c) MAP AND DESCRIPTION.—As soon as practicable after the effective date of this Act, the Secretary of the Interior shall file a map of the wilderness area and a legal description of its boundaries with the Energy and Natural Resources Committee of the United States Senate, and the Interior and Insular Affairs Committee of the United States House of Representatives. Such boundaries shall be drawn no more than 200 feet from the centerline of any paved road. Such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in the map and legal description may be made. Such map and legal description of the boundaries shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the office of the Superintendent of the North Cascades National Park.

SEC. 202. INTERNATIONAL BOUNDARIES.

The Secretary of the Interior shall manage the area fifty feet south of the common boundary between Canada and the United States in a manner consistent with the International Boundary Commission and agreements between the governments of Canada and the United States, including the cutting of vegetation along the boundary as necessary and appropriate, notwithstanding the designation of such area of wilderness.

SEC. 203. AUTHORIZATION FOR HYDROELECTRIC PROJECTS.

Section 505 of the Act of October 2, 1968 (82 Stat. 930; 16 U.S.C. 90d-4) is amended as follows: strike "in the recreation areas," and insert in lieu thereof "in the lands and waters within the Skagit River Hydroelectric Project, Federal Energy and Regulatory Commission Project 553, including the proposed Copper Creek, High Ross, and Thunder Creek elements of the Project, and the Newhalem Project, Federal Energy and Regulatory Commission Project 2705, within the Ross Lake National Recreation Area, and in the lands and waters within the Lake Chelan Project, Federal Energy and Regulatory Commission Project 637, and the Company Creek small hydroelectric project at Stehekin within the Lake Chelan National Recreation Area."

SEC. 204. LAND ACQUISITION FOR ADMINISTRATIVE FACILITIES.

Section 301 of the Act of October 2, 1968 (82 Stat. 927; 16 U.S.C. 90b) is hereby amended to add a new subsection as follows: "(b) The Secretary is hereby authorized to acquire, on a willing seller basis, lands outside of the authorized boundaries of North Cascades National Park for the purpose of construction and operation of a visitor and information center not to exceed 20 acres in fee and 80 acres in easements. The lands so acquired shall be managed as part of the park. The Secretary of the Interior is further authorized to acquire on a willing seller basis, lands for the construction of a headquarters and administrative site or sites, for the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area not to exceed 10 acres."

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to complete the land acquisitions authorized pursuant to Section 204 of this Act.

SEC. 206. MINERAL RESOURCE USE IN RECREATION AREAS.

Section 402(b) of the Act of October 2, 1968 (82 Stat. 928; 16 U.S.C. 90c-1) is hereby revised as follows: Strike the subsection in its entirety and insert in lieu thereof "Section 402(b). The lands within the Recreation Areas, subject to valid existing rights, are hereby withdrawn from all forms of appropriation or disposal under the public land laws, including location, entry, and patent under the United States mining laws, and disposition under the United States mineral leasing laws; *Provided*, however, that within the Lake Chelan National Recreation Area, sand, rock and gravel may be made available for lease to the residents of Stehekin for local use so long as such leasing and disposal does not have significant adverse effects on the administration of the National Recreation Area.

SEC. 207. RENEWABLE NATURAL RESOURCE USE IN RECREATION AREAS.

Section 402(a) of the Act of October 2, 1968 (82 Stat. 928; 16 U.S.C. 90c-1) is hereby revised as follows: Strike the subsection in its entirety and insert in lieu thereof: "Section 402(a). The Secretary shall administer the recreation areas in a manner which in his judgment will best provide for (1) public outdoor recreation benefits and (2) conservation of scenic, scientific, historic, and other values contributing to public enjoyment. Within the Lake Chelan National Recreation Area such management, utilization, and disposal of renewable natural resources and the continuation of existing uses and developments as will promote, or are compatible with, or do not significantly impair public recreation and conservation of the scenic, historic, or other values contributing to public enjoyment, is authorized. In administering the recreation areas, the Secretary may utilize such statutory authorities pertaining to the administration of the national park system, and such statutory authorities otherwise available to him for the conservation and management of natural resources as he deems appropriate for recreation and preservation purposes and for resource development compatible therewith. Within the Ross Lake National Recreation Area the removal and disposal of trees within power line rights-of-way is authorized as necessary to protect transmission lines, towers, and equipment."

TITLE 3—MOUNT RAINIER NATIONAL PARK WILDERNESS

SEC. 301. DESIGNATION AND ADMINISTRATION.

(a) WILDERNESS.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.; 78 Stat. 890), certain lands in the Mount Rainier National Park, Washington, which—

(1) comprise approximately two hundred sixteen thousand eight hundred fifty-five acres of wilderness, and

(2) are depicted on a map entitled "Wilderness Boundary, Mount Rainier National Park, Washington", numbered 105-20,014 and dated May 1987,

are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System. Such lands shall be known as the Mount Rainier Wilderness.

(b) ADMINISTRATION.—(1) Subject to valid existing rights, the wilderness area designated under this section shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated as wilderness, except that reference to the Secretary of Agriculture shall be deemed, where appropritate, to be a reference to the Secretary of the Interior, and any reference to the effective date of the Wilderness Act shall be deemed, where appropriate, to be a reference to the effective date of this Act.

(2) Lands designated as potential wilderness additions shall be administered by the Secretary of the Interior insofar as practicable as wilderness until such time as said lands are designated as wilderness. Any lands designated as potential wilderness additions, upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon that are inconsistent with the Wilderness Act have ceased or that non-federal interests in land have been acquired, shall thereby be designated as wilderness and managed accordingly.

(c) MAP AND DESCRIPTION.—As soon as practicable after the effective date of this Act, the Secretary of the Interior shall file a map of the wilderness area and a legal description of its boundaries with the Energy and Natural Resources Committee of the United States Senate, and the Interior and Insular Affairs Committee of the United States House of Representatives. Such boundaries shall be drawn no more than 200 feet from the center-line of any paved road. Such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in the map and legal description may be made. Such map and legal description of the boundaries shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the office of the Superintendent of the Mount Rainier National Park.

SEC. 302. BOUNDARY ADJUSTMENTS.

(a) PARK BOUNDARY ADJUSTMENTS.—The boundaries of the Mount Rainier National Park as established in the Act of March 2, 1899 (30 Stat. 993), as amended; (16 U.S.C. 91-110b), is further revised to add to the Park approximately two hundred and forty acres, and to exclude from the park approximately thirty-one and one-half acres, as generally depicted on the map entitled "Mount Rainier National Park Proposed 1987 Boundary Adjustments", numbered 105-80,010B and dated January 1987, which shall be on file and available for public inspection in the Washington office of the National Park Service, United States Department of the Interior and at Mount Rainier National Park.

(b) FOREST BOUNDARY ADJUSTMENT.—The boundaries of the Mount Baker-Snoqualmie National Forest and of the Gifford Pinchot National Forest, are hereby revised to include in the Mount Baker-Snoqualmie National Forest approximately thirty-one and one-half acres, to exclude from the Mount Baker-Snoqualmie National Forest approximately thirty acres, and to exclude from the Gifford Pinchot National Forest approximately two hundred and ten acres, as generally depicted on a map entitled "Mount Rainier National Park Proposed 1987 Boundary Adjustments", numbered 105-80, (010B), and dated January 1987, which shall be on file and available for public inspection in the Washington D.C. office of the Forest Service, United States Department of Agriculture and at the Mount Baker-Snoqualmie and Gifford Pinchot National Forests.

(c) ADMINISTRATION OF PARK LAND.—(1) Federal lands, waters, and interests therein formerly within the boundary of the Mount Baker-Snoqualmie National Forest and the Gifford Pinchot National Forest, which are included within the boundary of the Mount Rainier National Park pursuant to this Act are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of the Interior for administration as part of the Park, and shall be subject to all the laws and regulations of the park.

(2) The Secretary of the Interior is authorized to accept either concurrent or exclusive jurisdiction over lands and waters included within Mount Rainier National Park. The Secretary shall notify in writing the Governor of the state of Washington of the acceptance of any such jurisdiction ceded to the United States by the state. The existing exclusive federal jurisdiction, where it exists in the park, shall remain in effect until such time as the Secretary and the Governor shall agree upon the terms and conditions of concurrent legislative jurisdiction for said park pursuant to Section 320(i) of the Act of October 21, 1976 (90 Stat. 2741).

(3) AUTHORIZATION OF DONATIONS.—The Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, bequest, or othewise all non-federal lands, waters, and interests therein included within the boundary of the Mount Rainier National Park pursuant to this Act.

(d) ADMINISTRATION OF FOREST LAND.—(1) Federal lands, waters, and interests therein formerly within the boundary of the Mount Rainier National Park, which are excluded therefrom and are included within the boundaries of the Mount Baker-Snoqualmie National Forest pursuant to this Act are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of Agriculture for administration as part of the Forest, and shall be subject to all the laws and regulations applicable to the National Forest System.

(2) For the purposes of Section 7 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903, as amended; 16 U.S.C. 4601-9), the boundaries of the Mount Baker-Snoqualmie National Forest and the Gifford Pinchot National Forest, as modified pursuant to this Act, shall be treated as if they were the boundaries of these national forests on January 1, 1965.

(3) Effective upon acceptance thereof the state of Washington, the jurisdiction which the United States acquired over those lands excluded from the boundaries of the Mount Rainier National Park by this Act is hereby retroceded to the state.

SUMMARY OF THE WASHINGTON PARK WILDERNESS BILL

OLYMPIC NATIONAL PARK

1. Wilderness.—designates wilderness throughout most of the Park except the transportation and development corridors. Acreage: 872,431 acres (approximate). Recommends "potential" wilderness of 548 acres. Potential wilderness is land that the NPS is negotiating to acquire or is tied up with nonwilderness uses such as existing mining claims. Potential wilderness is managed as wilderness and allows the Park administratively to declare the area as wilderness once it becomes suitable for wilderness.

Boundary corridors.—The bill includes a provision to apply to all parks that would require that wilderness boundaries be drawn no further than 200 feet from centerline of any paved road. This is written to allow Parks to draw the lines closer than 200 feet where appropriate.

2. General Provisions Included (not related to wilderness but requested by the Park):

a. Authorizes $150,000 payment to Clallam County for possessory interest in visitor center.

b. Increases the misdemeanor penalty from $500 to $25,000 for illegal hunting and fishing and damaging Park property.

c. Strengthens the Parks' authority to seize property of people committing illegal acts in the Park.

d. Reinstates authority for Park personnel to detain people in the Park who have broken Washington state law.

e. Cleans up typos's and misidentified boundaries in the 1986 Park Boundary Adjustment bill.

NORTH CASCADES NATIONAL PARK

1. Wilderness.—designates 634, 614 acres of wilderness in the Park and the two Recreation areas. Recommends potential wilderness areas of 5.226 acres. N.B. Wilderness is dedicated to Stephen Mather, the first Director of the National Park Service. This is a request of the Park.

2. General Provisions Included (requested by Park):

a. Restricts the development of small hydro projects in the National Recreation Area's to existing projects only.

b. Authorizes the acquisition of 20 acres of property outside of the Park for a visitor center. Authorizes the acquisition of 10 acres outside the Park for administrative headquarters.

c. Requires the park to adhere to international agreements with Canada to maintain the border in the wilderness area.

d. Increases authorization levels for land acquisition for the visitor center and the administrative headquarters.

e. Clarifies the intent of existing law to prohibit mining in the National Recreation Areas except for prior existing claims and sand, rock and gravel mining for the local use of Stehekin residents.

f. Clarifies the intent of existing law to prohibit the consumptive use of renewable natural resources except for local use by the residents of Stehekin and right-of-way cutting by Seattle City Light.

MOUNT RAINIER NATIONAL PARK

1. Wilderness.—Designates most of the Park as wilderness. Acreage: 216,845 acres. Designates potential wilderness of 10 acres.

2. General Provision Included (requested by Park):

a. Revises boundaries between the Park and the Forest Service in three areas: Backbone Ridge, Klapatche Point, and Crystal Mountain. Both the Park and the Forest support the proposed changes.●

● Mr. ADAMS. Mr. President, in 1964, this country decided that there were some areas in this vast land which ought to be preserved, which should be exempt from the scars of human intrusion, and which need to be protected from human exploitation. For over 20 years, we have debated the details of that decision but never waivered from the commitment we made then.

Today, I am pleased to join with my colleagues in introducing legislation which would designate areas within the three Washington State national parks as wilderness. In the 1964 Wilderness Act, provision was made for the Secretaries of Agriculture and Interior to review areas in the national forests and national parks for designation as wilderness. National forest areas in Washington State have already received such designation. This legislation would fulfill our commitment by completing certification of wilderness areas in our national parks.

Wilderness is recognized as an "area where the earth and its community of life are untrammeled by man, where man itself is a visitor who does not remain." This legislation proposes to designate large areas of the Olympic, Mount Rainer, and North Cascades National Parks as wilderness. Such designation would not remove the National Park Service's current authority over the areas; the Park Service will merely alter its management plans to reflect that such areas are to be preserved as wilderness. This designation will ensure that these areas of the parks retain their current, and historic, natural status.

People may continue to visit the wilderness areas and thereby appreciate nature at its most pristine state, but will be prohibited from altering that condition. Those all too common signs of human activity, such as roads, buildings, and recreational facilities, will not be allowed.

The legislation makes exception for those areas where human influence is already present. Such areas will retain their current status and use under Park Service direction. The bill also includes language which calls for boundary adjustments and other administrative changes desired by the parks. These changes are not controversial yet are necessary in order to improve park operations.

In passing the Wilderness Act, Congress deemed it essential that areas be designated for protection and preservation in their natural condition to ensure that our growing population would not totally destroy all pristine areas. Under this legislation, these newly designated wilderness areas would fulfill the policy in that original Wilderness Act; they would secure for current and future Americans the benefit of an enduring resource of wilderness. As this bill moves through the legislative process, there will undoubtedly be modifications to some provisions. However, I think we can all agree that the concept is good, and one that should be supported.●

By Mr. WARNER:

S. 2166. A bill to amend the Internal Revenue Code of 1986 to permit tax-free sales of diesel fuel for use in the mining process; to the Committee on Finance.

TAX EXEMPTION FOR DIESEL FUEL USED IN MINING

● Mr. WARNER. Mr. President, I am introducing legislation today to correct a tax collection procedure which the mining industry will face starting on April 1. Although the new procedure is mandated by an act of Congress, I think few Members anticipated that it would be in the form which will shortly be implemented by the Internal Revenue Service.

The recently enacted Budget Reconciliation Act contained a revenue provision that would change the collection point for the diesel fuel excise tax on Federal highway users from retailers to wholesalers. Clearly, this new tax collection procedure, which is scheduled to take effect April 1, was intended to strengthen enforcement and collection of the diesel tax from those who use our Nation's highways. I am sure we all agree that this is a worthy goal.

However, the unintended effect of this provision will be to force virtually all diesel consumers to pay the tax up front on their fuel. Only thereafter can those who can demonstrate that they did not use the fuel on a federally funded highway be eligible to apply for a refund from the Internal Revenue Service.

Before this act passed, a retailer, who was collecting the tax, was presumed to be able to distinguish between sales of fuel to highway and nonhighway users. Under the new procedure a diesel wholesaler will have no idea who the end-user of the fuel will be and will thus have to charge the tax on all fuel sales.

The Reconciliation Act does provide for several exceptions: commercial aviation, home heating oil, State and local governments, and railroads. These exceptions are provided because it was generally believed that those categories of users could be easily identified as nonhighway users at the wholesale level, and therefore not be required to go through the cumbersome procedure of applying for a tax refund or credit on a tax no one ever intended them to pay.

The same holds true for the mining industry. My bill would simply add them to the list of exceptions already enacted into law. I have made provisions in this bill to apply the same rules and regulations that will face diesel wholesalers to ensure that the tax is collected from those who are meant to pay it.

One example, pertinent to my State, is the effect this new procedure will have on the coal industry. The coal mining industry utilizes enormous quantities of diesel fuel in off-road vehicles and other machinery incident to mining and ore preparation at the mine site. These categories of uses, which have been historically exempt from the tax, would remain exempt. However, coal mine operators and other mining operators will be required to pay the Federal Excise tax and to seek recoupment through a refund or a tax credit. Our estimate is that this new procedure will result in the coal industry alone being required to "loan" up to $100,000,000 to the Federal Government interest-free pending the IRS refund or tax credit.

Using accepted carrying charges on the lost use of that money it is estimated that this collection procedure will result in the coal mining industry losing $6,000,000 to $10,000,000 annually at existing levels of use for diesel fuel. Additionally, the increased paperwork associated with filing for and pursuing refunds or utilizing the crediting procedures which the IRS has been directed to promulgate under the change of law will result in additional administrative costs to the mining industry.

This seems particularly ill-timed as the coal industry and other mining industries work to regain their world competitive position following the fall of the dollar. As they rebuild their domestic and international market, the last thing they need is to fill out even more tax forms and see this money removed from their crucially important cash flow.

I appreciate the improved tax enforcement intentions behind the original legislation contained in last year's Reconciliation Act, to eliminate documented and well-known abuses. However, the application of this new tax collection procedure across-the-board to all users of diesel fuel, no matter how unrelated their activities are to use of the Nation's highways, is a prime case of an overreaction to correct a specific problem.

I hope my colleagues will join with me in cosponsoring this legislation to liberate the mining industry from involvement with a tax and has absolutely nothing to do with them. Ironically, I note that this new procedure will take effect on "April Fool's Day."

I ask unanimous consent that the full text of the bill be printed in the RECORD:

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX EXEMPTION FOR DIESEL FUEL USED IN THE MINING PROCESS.

(a) IN GENERAL.—Section 4093 of the Internal Revenue Code of 1986 (relating to exemptions; special rule), as added by section 10502 of the Revenue Act of 1987, is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) MINING PROCESS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on the sale of any taxable fuel for use in the mining process. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to the sale of any taxable fuel for resale for use in the mining process.

"(2) MINING PROCESS.—For purposes of this subsection.—

"(A) IN GENERAL.—The term 'mining process' includes not merely the extraction of the ores or minerals from the ground but also the treatment processes considered as mining described in section 613(c)(4) (and the treatment processes necessary or incidental thereto), and the off-highway use of taxable fuel in the transportation of ores or minerals from the point of extraction from the ground to the transfer points, plants, or mills in which such treatment processes are applied thereto.

"(B) OFF-HIGHWAY USE.—The term 'off-highway use' means any use not as a fuel in a diesel-powered highway vehicle or a diesel powered train.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987.●

By Mr. METZENBAUM (for himself, Mr. JOHNSTON, Mr. FORD, Mr. WEICKER, Mr. WIRTH, and Mr. EVANS):

S. 2167. A bill to amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for fluorescent lamp ballasts; to the Committee on Energy and Natural Resources.

NATIONAL APPLIANCE ENERGY CONSERVATION AMENDMENTS

● Mr. METZENBAUM. Mr. President, I am pleased today to join with several of my colleagues in introducing the national Appliance Energy Conservation Amendments of 1988.

One year ago, Congress enacted legislation establishing energy conservation standards for several household appliances. However, there was one "appliance" which was not included in that legislation because final agreement could not be reached on a standard. That appliance was the fluorescent light ballast, the component of fluorescent light fixtures which transforms source electricity into the characteristics needed to operate fluorescent light tubes. Recently, agreement has been reached between energy conservation groups and the National Electronic Manufacturers Association [NEMA], representing the manufacturers of fluorescent light ballasts, on an energy conservation standard for ballasts. The legislation I am introducing today would add ballasts to the existing appliance energy conservation law.

The justification for enactment of this legislation is the same as was the justification for enacting the Appliance Energy Conservation Act 1 year ago. Industry benefits because the law reduces their regulatory burden. Consumers benefit because there is a reduction in the demand for, and the cost of electricity.

During consideration of last year's appliance law it was made clear that State governments were enacting separate, and usually different, energy conservation standards for household appliances. These separate State laws were creating a complex and ever-changing patchwork of regulatory requirements which made it extremely difficult and expensive for manufacturers to design, produce and market appliances.

A similar regulatory patchwork is now developing with respect to fluorescent light ballasts. Five States: California, New York, Massachusetts, Florida and Connecticut have enacted laws establishing State standards for appliance ballasts. Several other States are considering legislation which would establish such standards. This bill would eliminate the problem of conflicting State standards by preempting them with a single Federal regulation. The bill would reduce the regulatory burden on ballast manufacturers who will now have a simple and predictable national energy standard to meet. The easing of this regulatory burden will mean lower costs for industry, and thus, lower costs for consumers.

The other broad benefit of this legislation is the energy savings it would bring. Fluorescent light ballasts are a major consumer of electricity in our Nation. Approximately 40 percent of the electricity used in our Nation's commercial sector is consumed by fluorescent lights. This legislation would establish standards on fluorescent light ballast efficiency which would result in an efficiency increase of about 10 percent. Thereby, the commercial sector of our energy economy would reduce its electrical demand by 4 percent overall. The impact of such a savings is substantial. There are the direct cost savings to consumers in reduced electrical bills, and there are additional cost savings which result from deferring the construction of new powerplants. The reduction in peak electrical demand as a result of this bill is estimated to be 7,000 mw by the year 2000, or the capacity of seven large generating plants. The cumulative net savings for consumers is estimated to exceed $10 billion by the year 2000. These are compelling reasons to enact this legislation.

Mr. President, we must also remember that there are other benefits to energy conservation; benefits beyond saving comsumers money. Energy conservation enhances our Nation's security by reducing the demand for foreign energy. This, in turn, helps to reduce our Nation's trade imbalance—helps to slow the flow of dollars out of our country to other nations to pay for oil, gas, and electricity. Energy conservation helps to keep capital here in the United States and makes it available for new investments instead of having it go overseas, or go up in smoke to generate power to operate inefficient lighting equipment.

This Nation continues to face a chronic energy crisis, and it needs a comprehensive energy policy to respond to this crisis. Although there is often little agreement here in the Senate on what such a policy should be, I believe most of my colleagues agree that conservation is an essential component of that policy. I was pleased that last year the Senate voted overwhelmingly to establish energy conservation standards for appliances, and I am hopeful that this year the Senate will broaden the scope of that law to include standards for fluorescent lighting.

The treatment of fluorescent ballasts under this legislation will be essentially the same as the treatment of the other covered products under the existing appliance law. This new law would establish an energy efficiency standard, it would provide a 2-year leadtime before the standard would go into effect, and it would provide for a review of the standard by the Secretary of Energy every 5 years after it goes into full effect. Finally, the new Federal standard would preempt all existing State standards for ballasts upon the effective date of the Federal standard, and would block States without a standard from establishing one, upon the date of enactment of this bill. Adoption of this legislation will strengthen our Nation's energy policy by keeping it vital and updated. This legislation offers an opportunity to expand energy conservation efforts from household appliances into commercial lighting, an area of the energy economy with a great potential for energy conservation. I urge my colleagues to join with me, industry, and energy conservation organizations in support of this proposal.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2167

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be referred to as the "National Appliance Energy Conservation Amendments of 1988".

SEC. 2. AMENDMENTS FOR FLUORESCENT LAMP BALLASTS

(a) Definition.—(1) Section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)) is amended by adding the following new paragraph at the end:

"(29)(A) The term 'fluorescent lamp ballast' means a device which is used to start and operate fluorescent lamps by providng a starting voltage and current and limiting the current during normal operation.

"(B) The term 'ANSI standard' means a standard developed by a committee accredited by the American National Standards Institute.

"(C) The term 'ballast efficacy factor' means the relative light output divided by the power input of a fluorescent lamp ballast.

"(D)(i) The term 'F40T12 lamp' means a nominal 40 watt tubular fluorescent lamp which is 48 inches in length and one-and-a-half inches in diameter, and conforms to ANSI standard C78.1-1978(R1984).

"(ii) The term 'F96T12 lamp' means a nominal 75 watt tubular fluorescent lamp which is 96 inches in length and one-and-a-half inches in diameter, and conforms to ANSI standard C78.3-1978(R1984).

"(iii) The term 'F96T12HO lamp' means a nominal 110 watt tubular fluorescent lamp which is 96 inches in length and one-and-a-half inches in diameter, and conforms to ANSI standard C78.1-1978(R1984).

"(E) The term 'input current' means the root-mean-square (RMS) current in amperes delivered to a fluorescent lamp ballast, as determined in accordance with the test procedures specified in ANSI standard C82.2-1984.

"(F) The term 'luminaire" means a complete lighting unit consisting of a fluorescent lamp or lamps, together with parts designed to distribute the light, to position and protect such lamps, and to connect such lamps to the power supply through the ballast.

"(G) The term 'nominal imput voltage' means the rated input voltage of a fluorescent lamp ballast.

"(H) The term 'nominal lamp watts' means the wattage at which a fluorescent lamp is designed to operate.

"(I) The term Power factor' means the power input divided by the product of input voltage and input current of a fluorescent lamp ballast.

"(J) The term 'power input' means the power consumption in watts of a ballast and fluorescent lamp or lamps, as determined in accordance with the test procedures specified in ANSI standard C82.2-1984.

"(K) The term 'relative light output' means the light output delivered through the use of a ballast divided by the light output delivered through the use of a reference ballast, expressed as a percent, as determined in accordance with the test procedures specified in ANSI standard C82.2-1984.

"(L) The term 'residential building' means a structure or portion of a structure which provides facilities or shelter for human residency, except that such term does not include any multifamily residential structure of more than three stories above grade.".

(2) Section 321(a)(6)(B) of such Act (42 U.S.C. 6291(a)(6)(B)) is amended by striking out "(13)" and inserting in lieu thereof "(14)".

(b) Coverage.—Section 322(a) of such Act (42 U.S.C. 6292(a)) is amended—

(1) by redesignating paragraph (13) as paragraph (14); and

(2) by inserting after paragraph (12) the following: "(13) Fluorescent lamp ballasts.".

(c) Test Procedures.—Section 323(b) of such Act (42 U.S.C. 6293(b)) is amended by adding at the end the following:

"(5) With respect to fluorescent lamp ballasts manufactured on or after January 1, 1990, and to which standards are applicable under section 325, the Secretary shall, no later than July 1, 1989, prescribe test procedures that are in accord with ANSI standard C82.2-1984.".

(d) Labeling—Section 324 of such Act (42 U.S.C. 6294) is amended—

(1) in subsection (a)(2)—

(A) by striking out "(2) The" and inserting in lieu thereof "(2)(A) The"; and

(B) by adding at the end the following:

"(B) The Commission shall prescribe labeling rules under this section applicable to the covered product specified in paragraph (13) of section 322(a) and to which standards are applicable under section 325. Such rules shall provide that the labeling of any fluorescent lamp ballast manufactured on or after January 1, 1990, will indicate conspicuously, in a manner prescribed by the Commission under subsection (b) by July 1, 1989, a capital letter 'E' printed within a circle on the ballast and on the packaging of the ballast or of the luminaire into which the ballast has been incorporated.".

(2) by striking out "(13)" and inserting in lieu thereof "(14)" in subsection (a)(3) and in paragraphs (1)(B), (3), and (5) of subsection (b); and

(3) by adding at the end of subsection (c) the following:

"(7) Paragraphs (1), (2), (3), (5), and (6) of this subsection shall not apply to the covered product specified in paragraph (13) of section 322.".

(e) Standards.—(1) Subsection (g) of section 325 of such Act (42 U.S.C. 6295(g)) is amended—

(A) by inserting '; Fluorescent Lamp Ballasts;' after "Dryers" in the heading; and

(B) by adding at the end the following:

"(5) Except as provided in paragraph (6), each fluorescent lamp ballast—

"(A)(i) manufactured on or after January 1, 1990;

"(ii) sold by the manufacturer on or after April 1, 1990; or

"(iii) incorporated into a luminaire by a luminaire manufacturer on or after April 1, 1991; and

"(B) designed—

"(i) to operate at nominal input voltages of 120 or 277 volts;

"(ii) to operate with an input frequency of 60 Hertz; and

"(iii) for use in connection with an F40T12, F96T12, or F96T12HO lamps;

shall have a power factor of 0.90 or greater and shall have a ballast efficacy factor not less than the following:

Application for operation of	Ballast input voltage	Total nominal lamp watts	Ballast efficacy factor
One F40T12 lamp	120	40	1.805
	277	40	1.805
Two F40T12 lamps	120	80	1.060
	277	80	1.050
Two F96T12 lamps	120	150	0.570
	277	150	0.570
Two F96T12HO lamps	120	220	0.390
	277	220	0.390

"(6) The standards described in paragraph (5) do not apply to (A) a ballast which is designed for dimming or for use in ambient temperatures of 0° F or less, or (B) a ballast which has a power factor of less than 0.90 and is designed for use only in residential building applications.

"(7)(A) The Secretary shall publish a final rule no later than January 1, 1992, to determine if the standards established under paragraph (5) should be amended, including whether such standards should be amended so that they would be applicable to ballasts described in paragraph (6) and other ballasts. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1995.

"(B) After January 1, 1992, the Secretary shall publish a final rule no later than five years after the date of publication of a previous final rule. The Secretary shall determine in such rule whether to amend the standards in effect for fluorescent lamp ballasts, including whether such standards should be amended so that they would be applicable to additional ballasts.

"(C) Any amendment prescribed under subparagraph (B) shall apply to products manufactured after a date which is five years after—

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective;

except that in no case may any amended standard apply to products manufactured within three years after publication of the final rule establishing such amended standard.".

(2) Subsection (i) of section 325 of such Act (42 U.S.C. 6295(i)) is amended by striking out "(13)" in paragraphs (1) and (2) and inserting in lieu thereof "(14)".

(3) Section 325 of such Act (42 U.S.C. 6295) is amended—

(A) in subsection (j)(B)—

(i) by inserting "fluorescent lamp ballasts," after "clothes dryers,"; and

(ii) by striking out "hearing" and inserting in lieu thereof "heating"; and

(B) in subsection (k)—

(i) by inserting "and in paragraph (13)" after "(11)" in paragraph (1); and

(ii) by inserting "fluorescent lamp ballasts," after "clothes dryers," in paragraph (3)(B).

(f) EFFECT ON OTHER LAW.—(1) Section 327(b)(1) of such Act (42 U.S.C. 6297(b)(1)) is amended by inserting before the semicolon at the end the following: ", or in the case of any portion of any regulation which establishes requirements for fluorescent lamp ballasts, was prescribed or enacted before the date of the enactment of the National Appliance Energy Conservation Amendments of 1988".

(2) Section 327(b)(4) of such Act (42 U.S.C. 6297(b)(4)) is amended by inserting before the semicolon at the end the following: ", or is a regulation (or portion thereof) regulating fluorescent lamp ballasts other than those to which paragraph (5) of section 325(g) is applicable".

(3) Section 327(c)(1) of such Act (42 U.S.C. 6297(c)(1)) is amended by inserting before the semicolon at the end the following: ", except that a State regulation (or portion thereof) regulating fluorescent lamp ballasts other than those to which paragraph (5) of section 325(g) is applicable shall be effective only until the effective date of a standard that is prescribed by the Secretary under paragraph (7) of such section and is applicable to such ballasts".●

By Mr. JOHNSTON:

S. 2168. A bill to amend the Internal Revenue Code of 1986 to permit tax-free sales of gasoline for use by State and local governments and to permit tax-free sales of diesel fuel for off-highway uses; referred to the Committee on Finance.

LEGISLATION TO AMEND THE INTERNAL REVENUE CODE OF 1986

● **Mr. JOHNSTON.** Mr. President, one of the many provisions in the fiscal year 1988 omnibus budget reconciliation bill changes the collection point for the diesel fuel excise tax from the retail level to the wholesale terminal. As adopted, this provision allows four traditionally exempt groups—namely railroads, commercial aviation, nonmotor industrial users and State and local governments—to continue to purchase diesel on a tax free basis. Unfortunately, in drafting this provision we inadvertently forgot to extend this exemption to many other traditionally offroad users such as oil and gas drilling and service contractors, farmers, shrimpers, fishermen, offshore marine operators, construction contractors, et cetera. Therefore, effective April 1, 1988, these users will have to pay a 15.1-cent tax that they do not even owe.

This just is not right. This provision will create a bureaucratic and economic nightmare for these industries, many of which have been suffering from an economic recession that has not been shared by the rest of the Nation. Not only does the new law require them to pay the 15.1-cent tax upfront and apply for a refund; if an offroad user—many of which are small businessmen—does not have at least $1,000 due to him at the end of the first quarter, he must apply for his refund at the end of the year when he files his income tax return. In effect, he will provide the Government with an interest free loan for 12 to 18 months. To make matters even worse, in the event a taxpayer does not owe any taxes in a given year—which is very likely—he will have to carry his refund forward to a future year—giving the Government an even longer tax free loan. Where will these small businessmen get this money? Chances are they do not have the money sitting in their savings or checking account. They will be required to go to the bank and borrow the money, probably at 14 or 15 percent interest. Money which they can ill afford to borrow, and if they could afford to borrow they would prefer to use to drill their wells or plant their crops.

I submit to you that this provision of the law is inane. Consequently, today I am introducing legislation which will place these offroad users on par with the other traditionally exempt groups that were taken care of in the reconciliation bill last year. In addition, my legislation attempts to correct a flaw in the 1986 tax act by allowing State and local governments to purchase gasoline on a tax free basis.

Adoption of this bill is especially important to many businesses in my State. As I have mentioned to my colleagues on numerous occasions, for well over 2 years now, Louisiana and West Virginia have shared the dubious honor of having the Nation's highest unemployment rates. Louisiana's unemployment rate has consistently been in the double digits and almost double the national average. Let me assure you this is not an honor that we voluntarily seek. Rather, it is a result of depressed oil prices and a recession in the agricultural sector, industries which make up the backbone of Louisiana's economic base and two industries that will be hit hard if my bill does not become law.

Due to the decline in the world price of oil, oil and gas drilling activity has almost come to a standstill. In 1981, the last year of peak production, we had 4,800 rigs in operation in the United States. Today, less than 1,000—or approximately 20 percent—of those rigs are operating in the United States. The other 80 percent are idle or have been lost forever. In Louisiana, we had 450 rigs in operation in 1981. Today, we only have 220—or less than 50 percent—in operation.

As evidenced by the numbers, in Louisiana, inactive drilling rigs means high unemployment. The firms that have managed to survive the deep and prolonged depression in the oil and gas industry have just barely managed to do so. Many have not shown a profit in years and operate with a negative cash flow. By making these firms pay a 15.1-cent tax that they do not even owe, we may very well be driving the final nail into their coffins.

In terms of dollars, the number are astronomical. For example, today we have approximately 1,000 active drilling rigs and given the world oil situation, we do not expect that number to improve in the next year. Now the average onshore rig (of which there are approximately 878 in operation today) consumes 280,770 gallons of diesel per year and the average offshore rig (of which there are approximately 122 in operation today) consumes a whopping 612,000 gallons per year. All told, these rigs consume 328 million gallons of diesel per year. If these rig operators are required to pay the 15.1 cents diesel tax upfront, it will create a cash flow impact of $49,528,000 per year.

In Louisiana, we currently have 125 land rigs and 95 offshore rigs in operation. Consequently, just for drilling wells in Louisiana, the industry will incur an additional upfront tax liability of $14,078,674—close to one-third of the nationwide tax liability. In essence, this one small part of the oil and gas industry will be lending over $49 million to the Federal Government interest free. This is not 1981. Virtually none of these companies are making money. They simply do not have surpluses of this magnitude. Therefore, in order to give the Government this tax which it does not owe but is required to pay, many if not all of these companies will have to borrow this money. This is not fair; nor is this the only sector of the oil and gas industry that is affected by this provision.

The oil and gas well servicing industry is also heavily dependent upon diesel fuel. The industry currently has 6,227 active servicing rigs, 54 percent of which are actually working today. The average service rig consumes 24,960 gallons of diesel per year. This means that this provision will increase the cash flow requirement of this industry by $12,675,012 per year. There are currently, 383 well servicing rigs in operation in Louisiana today. The increased tax liability that is attributable to these rigs will be $1,443,512 per year.

The geophysical industry is also a heavy user of diesel fuel and plays an important role in the oil and gas exploration business. There are approximately 175 land and 30 offshore seismic crews working in the United States today. The 175 land crews use an average of 1,680,000 gallons of diesel per year while the 30 offshore crews use approximately 21,600,000 gallons of diesel per year—giving the industry an increased tax burden of $3,515,280. The industry estimates that 15 percent of its land crews and 50 percent of its marine crews are currently working in Louisiana. Therefore, this provision will decrease the cash flow of Louisiana seismic crews by $1,668,852 per year.

Another industry that will be adversely affected by this provision is the offshore marine services industry, which among other things supply and service the offshore rigs. One can conservatively estimate that this industry uses 300 million gallons of diesel per year and unless an offroad exemption is enacted, it will see its tax liability increase by $45,300,000 per year; 85 percent of these vessels operate in the Gulf of Mexico, meaning that approximately $38,505,000 of this increased burden will be borne by businesses that operate in or pass through Louisiana.

Just as the offshore marine service vessels will be affected, so will those tugs and barges that primarily operate along our inland waterways. These vessels are at a double disadvantage in that they compete directly with railroads for business and as we know, Congress has already expressly exempted railroads from paying diesel tax upfront. The tug and barge industry currently transports 40 percent of our Nation's petroleum and petroleum products and 57 percent of all U.S. grain that is bound for shipment overseas. One of its primary routes is down the Mississippi with New Orleans being its primary destination point. This industry uses 1.6 billion gallons of diesel per year, the tax on which amounts to $24.16 million per year.

In addition to this tax, the tug and barge industry is also liable for a 10-cent-per-gallon waterway tax. This tax, which will gradually increase to 20 cents per gallon in 1995 goes into the Inland Waterway Trust Fund to pay for lock and dam construction. I think it is worth noting that when Congress reconsidered this tax in 1986, we made a decision to hold back future increases for as long as possible because the industry was just beginning to recover from an economic slump. It does not make sense to now require this industry to pay a tax that it does not even owe.

Mr. President, these are just some of the unfair tax burdens that will be suffered if this provision is not changed immediately. All together, these industries—all of which play some role in producing or transporting oil and gas—will have an increased tax burden of $135,178,292—none of which they actually owe. When one adds to this total the $400 million burden which will be suffered by our farmers—$12 million of which will be suffered by Louisiana's farmers, we can see that the ramifications of this provision of the reconciliation bill are astronomical. And this number does not even begin to include the provision's effect on other off-road users such as timber operations, shrimpers, construction workers, etc.

Given the April 1, 1988, effective date, time is of the essence. Therefore, I urge my colleagues to address this matter as expeditiously as possible.

Mr. President, I ask unanimous consent that the text of my bill be printed in the Record immediately following my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY OF STATE AND LOCAL GOVERNMENTS TO PURCHASE GASOLINE TAX-FREE.

(a) In General.—Subsection (a) of section 4221 of the Internal Revenue Code of 1986 (relating to certain tax-free sales) is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding provisions of this subsection, under regulations prescribed by the Secretary, the tax imposed by section 4081 shall not apply to the sale (or any removal in connection with such sale) of any gasoline (as defined in section 4082) to a State or local government for the exclusive use of a State or local government or to any purchaser for resale by such purchaser to a State or local government for such a use.".

(b) Effective Date; Special Rule.—

(1) Effective date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) Special rule for refunds.—If any taxpayer whose use of gasoline is described in the last sentence of section 4221(a) of the Internal Revenue Code of 1986, as added by this section, pays a tax imposed by section 4081 of such Code during the period beginning on January 1, 1988, and ending on the date of the enactment of this Act, such taxpayer may file after such date a claim for a refund of such tax paid during such period and the Secretary of the Treasury or a delegate of the Secretary shall pay (without interest) to the taxpayer the amount of such tax paid.

SEC. 2. TAX-FREE SALES OF DIESEL FUEL FOR OFF-HIGHWAY USES.

(a) In General.—Section 4093 of the Internal Revenue Code of 1986 (relating to exemptions; special rule), as added by section 10502 of the Revenue Code of 1987, is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) Exemption for Off-Highway Use.—

"(1) In general.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on the sale of any taxable fuel for use by the purchaser in an off-highway use. Subject to such terms and conditions as the Secretary may prescribe (including the application of secion 4101), the treatment under the preceding sentence also shall apply to the sale of any taxable fuel for resale for use in an off-highway use.

"(2) Off-highway use.—For purposes of paragraph (1), the term 'off-highway use' means any use not as a fuel in a diesel-powered highway vehicle or a diesel-powered train.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987.●

By Mr. HECHT:

S. 2169. A bill to authorize the United States Army Corps of Engineers to construct a project for flood control in Truckee Meadows, NV; referred to the Committee on Environment and Public Works.

TRUCKEE MEADOWS FLOOD CONTROL ACT

● Mr. HECHT. Mr. President, today I am introducing legislation to correct longstanding flood control problems in Truckee Meadows, NV. The Truckee Meadows area, which includes the cities of Sparks and Reno, has a long history of floods. Particularly damaging floods occurred in 1950, 1955, and 1963. In 1964, the then Committee on Public Works of the U.S. Senate issued a resolution requesting the Department of the Army's Board of Engineers for Rivers and Harbors to review a report on the Truckee River and its tributaries with a view to providing additional flood protection to the area known as Truckee Meadows, at and below Reno, NV. It took over 20 years for the Board to issue its findings and recommend undertaking improvements for flood control and recreation along the Truckee River. On July 25, 1986, the Department of the Army's Chief of Engineers concurred in the findings, conclusions, and recommendations of the Board.

The Truckee Meadows Flood Control Act of 1988 would authorize the Secretary of the Army to construct a flood control project in accordance with the plans of, and subject to the conditions recommended by, the Chief of Engineers. The total cost of the project is estimated at $78.4 million, with an estimated first Federal cost of $39.2 million and an estimated first non-Federal cost of $39.2 million. Local authorities are aware of and have agreed to assume their share of project costs—a fine example of local willingness to pitch in to get the job done and not resort solely to Federal handouts.

Mr. President, the Truckee Meadows area is experiencing rapid population growth and is, in fact, one of the fastest growing regions in the Nation. Population in the Reno/Sparks metropolitan area increased from 121,000 in 1970 to 194,000 in 1980. In addition, industrial land use, such as warehousing and manufacturing, is expanding and displacing traditional agricultural pursuits. Of course, tourism is still predominant in the Reno area. Clearly, there is much life and property at stake here. In 1955 a flood caused an estimated $1.68 million in damage to this area. The Board of Engineers predicted that if this flood were to recur today it would create $277 million worth of damage and destruction!

The Truckee River is also a significant environmental and recreation resource. Six historic bridges span its waters. The river supports 28 fish species and trout fishing is a popular recreation activity. The Truckee River corridor is one of the principal areas of riparian vegetation in Nevada, providing rest and refuge to a wide assortment of wildlife species. The area's growing population increasingly seeks outdoor recreation experiences in and around the river.

The Department of the Army's recommended plan would provide protection against a 100-year frequency flood event on the Truckee River within the Reno/Sparks-Truckee Meadows area. Benefits would also accrue from floods greater than the 100-year frequency event due to reduction of flood stages. Average annual flood damages would be reduced by about 41 percent. The plan would provide a substantial number of additional days of general recreation and fishing. It remains for Congress to direct the Secretary of the Army to proceed with this critical project which will have significant economic, environmental and public health and safety benefits. I encourage my colleagues to support this long overdue legislation.●

By Mr. GRAHAM (for himself, Mr. KENNEDY, Mr. DECONCINI, Mr. KERRY, Mr. D'AMATO, and Mr. DIXON):

S. 2170. A bill to support democracy and respect for human rights in Haiti; referred to the Committee on Foreign Relations.

SUPPORT FOR DEMOCRACY AND HUMAN RIGHTS IN HAITI

Mr. GRAHAM. Mr. President, we hear, see, and read daily of the flames which are increasingly rising in our nearest neighbors in the Caribbean and Central America.

Panama is a nation in which we have seen the effects of a military dictatorship which has now become a narcomilitary dictatorship, supported by enormous funds derived from drug trafficking.

We hear today new reports of active military confrontations in Nicaragua and possibly in adjacent countries. I am going to talk about a third site within our nearest neighbors, where we also are faced with a major challenge. I would suggest, before turning to that third country, Mr. President, however, that there are some common elements which bring together these apparently independent crises. One of those is the very fact that the United States has taken a crisis orientation, historically, toward problems within our hemisphere.

We have seen our role as being one of entering when there was an economic or political or military crisis, responding with that force which we thought was required to put down the crisis, then withdrawing, not only withdrawing in a physical sense but also in an emotional sense and allowing the underlying causes of that crisis to continue.

Second, we have had a tendency to confuse process with substantive goals. We have focused on how to deal with the problem often to the exclusion of what ultimate impact we wanted to have on the problem.

And finally, there has been the common element of an assumption that if the problem was ignored long enough it would in some way go away or dissipate. What we have found is that rather than moderate the problem, ignoring it has caused it to fester and to become more difficult.

All those elements are part of tonight's consideration of the United States in its relationship with Haiti.

Haiti is not the nation in flames as is Panama, as is Nicaragua. It is a slow and unfortunately silent burning which is occurring within our hemisphere.

Haiti is the silent tragedy of the Western Hemisphere. The murderous events of last November, when people had lined up to exercise their democratic rights for the first time in three decades and then were mowed down by those who wanted to continue the dictatorial oppression that has been so much a part of that nation—those murderous events of last November and the months preceding Haiti's attempts to hold a constitutionally mandated election have now faded from public view.

But the theft of democracy in Haiti by the military, the remnants of the old Duvalier regime, is as vividly painful today to the Haitian people as it was when it happened a hundred days ago.

The United States has a moral obligation to send a sustained message of hope to those who seek democracy in Haiti and the same sustained message to those who control Haiti today that we will not stand silent for the bankrupting and corrupting of the Haitian society.

Democratic elections must be returned to the Haitian people. An independent press and independent political parties must be returned to Haitian people.

Free trade unions and a healthy, private economic sector must be returned to the Haitian people.

The integrity of Haiti, which is increasingly defiled by the use of that island as a major drug transshipment point from Latin America to the United States of America—that integrity must be returned to the Haitian people.

The legislation I am introducing today, along with my Senate colleagues, Mr. KENNEDY, Mr. DECONCINI, Mr. KERRY, Mr. D'AMATO, and Mr. DIXON, sends that message of outrage and concern.

This is a bipartisan and bicameral effort to right a grievous wrong.

Mr. FASCELL, Mr. FAUNTROY, Mr. OBERSTAR, and others are sponsoring identical legislation in the House of Representatives. It continues the suspension of United States assistance to the Government of Haiti, excepting only humanitarian aid.

This legislation directs United States representatives in the World Bank, the International Monetary Fund, and the International Development Bank to vote against loans to the Haitian Government.

It suspends trade preferences to Haiti under the Caribbean Basin Initiative, the generalized system of preferences and sections 806 and 807, the assembly preferences.

It suspends these trade preferences, Mr. President, in the absence of constitutionally mandated political reforms.

This legislation will suspend the United States sugar quotas for Haiti.

Mr. President, it calls for a reevaluation of Haiti as a major way station for illegal drug trafficking and calls for Haiti to be placed on the list of those countries which will be annually evaluated to determine if they are fully cooperating with the United States in our efforts at drug suppression.

This legislation provides for the lifting of these sanctions to parallel the lifting of the current repression within Haiti.

We want this message to be abundantly clear. This hemisphere is not a stage for desperadoes and criminals who would mock the rule of law and subjugate their people for personal gain and glory and the retention of ill-gained power.

Haiti has paid dearly for its chance at a real democracy.

Mr. President, I send to the desk legislation which would provide for United States sanction and hope for renewed formal relations with Haiti when the Haitian people have regained what is their right to democracy, freedom, human justice, and respect. I would ask that this legislation be appropriately referred.

By Mr. QUAYLE:

S.J. Res. 271. Joint resolution to designate August 20, 1988, as "Drum and Bugle Corps Recognition Day"; referred to the Committee on the Judiciary.

DRUM AND BUGLE CORPS RECOGNITION DAY

● Mr. QUAYLE. Mr. President, nothing may be as thrilling as an "old brass band," but for sheer pageantry and excitement, a performance by a drum and bugle corps goes far beyond. Drum and bugle corps competition is in actuality a sporting event that uses music and a football field. Today, I am introducing a resolution designating August 20, 1988, as "Drum and Bugle Corps Recognition Day" to honor the dedicated thousands who participate in the competition.

Drum and bugle corps date back to World War I, when veterans returning from the war formed corps to perform in parades. The units were attached to the Veterans of Foreign Wars or the American Legion. In the last two decades, the corps have branched from the traditional marching music to a broad repertoire and choreographed performances to rival any seen on the Broadway stage. The keen competition of the corps has resulted in breathtaking performances of precise intricate drill designs and visual effects in addition to expert musicianship in brass and percussion.

Each corps is made up of youths between the ages of 14 and 21, with the largest corps having no more than 128 members. The corps must engage in fundraising activities or seek corporate sponsorship in order to finance their activities.

I am particularly proud of the Star of Indiana Corps, formed in 1984, which took 10th place in its first year of competition. In 1987, at the Drum Corps International World Championships it tied for seventh place. This year's world competition will be held in Kansas City, MO, and the final round of competition will be held on August 20. I look forward to another stellar performance by the Star of Indiana Corps.

I ask that the text of the resolution be printed in the Record following my remarks.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

S. J. Res. 271

Whereas the American public has for more than seventy-five years enjoyed the music and performances of drum and bugle corps;

Whereas more than a million young musicians have participated and enjoyed this unique commitment and;

Whereas the support for this unique form of muscial presentation has its roots with the Veterans of Foreign Wars and American Legion;

Whereas since 1972 Drum Corps International has elevated this form of musical entertainment to its present popularity;

Whereas the reputation of the drum and bugle corps has been enhanced as both innovative and trend setting since the formation of Drum Corps International; and

Whereas countless opportunities are available throughout the United States of America for participation by musicians parents, friends, and support organizations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 20, 1988, is designated "Drum and Bugle Corps Recognition Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.●

By Mr. DURENBERGER (For himself, Mr. Boschwitz, Mr. Garn, Mr. Johnston, Mr. Burdick, Mr. Inouye, Mr. Nickles, and Mr. Reid):

S.J. Res. 272. Joint resolution to designate November 1988, as "National Diabetes Month"; to the Committee on the Judiciary.

NATIONAL DIABETES MONTH

● Mr. DURENBERGER. Mr. President, I am pleased to introduce today a joint resolution to designate November 1988 as "National Diabetes Month."

Since 1948, November has been designated and given special recognition as National Diabetes Month. Since 1982, a joint resolution declaring November as National Diabetes Month has been passed by Congress and signed into law by the President. I have had the privilege of sponsoring this resolution over the years. I have been very impressed by the dedication and ability of the American Diabetes Association and its State affiliates to use this proclamation to focus on the need for support for diabetes research, care and treatment. We are all indebted to the fine work of the many volunteers whose efforts are invaluable in spreading this important message.

Diabetes touches so many of our lives with either a family member, friend, or neighbor afflicted with this disease. About 5 percent of the U.S. population has diabetes—that's 11 million Americans, and a half a million more will be diagnosed this year. But only 6 million of the 11 million know they have diabetes. The remaining 5 million have it but don't know they do. Clearly, these individuals must be identified and given the health care they need.

Over $14 billion are spent each year for health care, disability payments, and premature mortality resulting from diabetes. And the over 2 million elderly diabetics' health care expenses cost the Medicare Program about $3 billion a year. Most of these costs are from the treatment of the complications of diabetes. The National Diabetes Data Group has reported that:

Diabetes is a leading cause of death by disease in the United States.

Diabetes eye disease is the No. 1 cause of new blindness in adults aged 20–74.

Twenty percent of all cases of kidney failure result from diabetes.

Nearly 50 percent of all nontraumatic foot and leg amputations are caused by diabetes.

Maternal diabetes is a major cause of birth defects and infant mortality.

Those with diabetes spend twice as many days in hospitals as those without diabetes and diabetes is the fourth leading cause of visits to physicians offices.

A disproportionately large number of women and black, hispanic, and native Americans suffer from diabetes and its numerous complications. In fact, over 20 percent of the adults in some native American tribes have diabetes. These statistics are sobering, yet can be improved. And, although recent advances in research are very encouraging, much more needs to be done.

Diabetes is unique. The control or prevention of complications is particularly dependent on the individual with diabetes becoming the manager of his or her disease. Proper diet, exercise and medication are the keys to good control, and health professionals cannot ensure that these stay in balance without the participation and active involvement of the person with diabetes.

This is why National Diabetes Month is so important. I am particularly proud of the leadership in my home State of Minnesota. The American Diabetes Association of Minnesota [ADAM], with Virginia Hanson-Ullom as chairman of the board, Roseanne Eschle-Smedstad, R.N., C.D.E. as president, and Giles Kobilka as executive director, is recognized as one of the Nation's top diabetes associations. With 23 local chapters and an annual budget of $1 million, the Minnesota association has mounted a strong campaign against this disease.

Minnesota is also a national leader in diabetes research. Three of the Nation's twenty-one federally funded studies, the Diabetes Control and Complications Trials, are in Minnesota at the University of Minnesota, Mayo Clinic, and the International Diabetes Center. I am proud of the excellent research and public service that these three facilities and the ADAM are providing to my home State and to the Nation.

Diabetes takes a huge toll on individuals and their families—physically, emotionally, and financially. Better awareness and understanding of this disease and its costs can encourage more intensive research which leads to better methods of preventing the disease, new types of treatment, and a heightened sensitivity to the challenges we face in continuing to make breakthroughs that can improve an individual's chances for a long and healthy life.

Mr. President, I urge my colleagues to join me in sponsoring this important resolution. I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 272

Whereas diabetes is a leading cause of death by disease in the United States;

Whereas diabetes afflicts 11,000,000 Americans and over 5,000,000 of these individuals are not aware of their illness;

Whereas nearly $14,000,000,000 annually are spent on health care costs, disability payments, and premature mortality costs due to diabetes;

Whereas up to 85 percent of all cases of non-insulin dependent diabetes may be prevented through greater public understanding, awarness, and education;

Whereas diabetes is particularly prevalent among Black, Hispanic, Native Americans, and women;

Whereas diabetes is the number one cause of new blindness in people between the ages of 20 and 74, and is a leading cause of kidney disease, heart disease, strokes, birth defects, and lower life expectancy, the severity of which all may be reduced through greater patient and public understanding, awareness, and education: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November, 1988 is designated as "National Diabetes Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate programs, ceremonies, and activities.●

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. MOYNIHAN, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 123

At the request of Mr. INOUYE, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 123, a bill to amend title XVIII of the Social Security Act to provide that psychologist services are covered under part B of Medicare.

S. 1161

At the request of Ms. MIKULSKI, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1161, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the Medicare Program for routine mammograms.

S. 1162

At the request of Ms. MIKULSKI, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1162, a bill to amend chapter 89 of title 5, United States Code, to provide authority for the direct payment or reimbursement to certain health care professionals; to clarify certain provisions of such chapter with respect to coordination with State and local law; and for other purposes.

S. 1340

At the request of Mr. PRYOR, the names of the Senator from Arkansas [Mr. BUMPERS], and the Senator from Montana [Mr. MELCHER] were added as cosponsors of S. 1340, a bill to provide for computing the amount of the deductions allowed to rural mail carriers for use of their automobiles.

S. 1378

At the request of Mr. THURMOND, the names of the Senator from Indiana [Mr. QUAYLE], the Senator from Alaska [Mr. STEVENS], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1378, a bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

S. 1381

At the request of Mr. ROTH, the name of the Senator from Virginia [Mr. TRIBLE] was added as a cosponsor of S. 1381, a bill to improve cash management by executive agencies, and for other purposes.

S. 1426

At the request of Mr. PRYOR, the name of the Senator from Idaho [Mr. SYMMS], the Senator from Montana [Mr. MELCHER], the Senator from North Dakota [Mr. BURDICK], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 1426, a bill to amend the Internal Revenue Code of 1986 to encourage small businesses to extend retirement and fringe benefits to all employees, and for other purposes.

S. 1776

At the request of Mr. ARMSTRONG, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1776, a bill to modernize United States circulating coin designs, of which one reverse will have a theme of the Bicentennial of the Constitution.

S. 1777

At the request of Mr. ARMSTRONG, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1777, a bill to amend title II of the Social Security Act to phase out the earnings test over a 5-year period for individuals who have attained retirement age, and for other purposes.

S. 1797

At the request of Mr. THURMOND, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1797, a bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax.

S. 1817

At the request of Mr. KENNEDY, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1817, a bill to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from U.S. savings bonds which are transferred to an educational institutional as payment for tuition and fees.

S. 1885

At the request of Mr. DODD, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 1885, a bill to provide for a Federal program for the improvement of child care, and for other purposes.

S. 1892

At the request of Mr. DIXON, the name of the Senator from Ohio [Mr. GLENN] was withdrawn as a cosponsor of S. 1892, a bill to amend title 10, United States Code, and other provisions of law to maintain and improve the defense industries base of the United States by specifying the management responsibilities of the Under Secretary of Defense for Acquisition, encouraging investment in emerging technologies and modernized production facilities, fostering the dedicated participation of private domestic sources, and discouraging unfair practices by foreign sources.

S. 1995

At the request of Mr. DODD, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1995, a bill to provide for demonstration projects for the improvement of child care, and for other purposes.

S. 2033

At the request of Mr. THURMOND, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 2033, a bill to amend title 18, United States Code, with respect to child protection and obscenity enforcement, and for other purposes.

S. 2075

At the request of Mr. DASCHLE, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2075, a bill to amend the Internal Revenue Code of 1986 to permit tax free purchases of certain fuels, including purchases by farmers.

S. 2077

At the request of Mr. KASTEN, the names of the Senator from New York [Mr. D'AMATO], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 2077, a bill entitled the "Livestock Producers' Recordkeeping Act of 1988".

S. 2122

At the request of Mr. BRADLEY, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from North Dakota [Mr. BURDICK], and the

Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 2122, a bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the Medicaid Program, and for other purposes.

SENATE JOINT RESOLUTION 197

At the request of Mr. DOLE the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution, 197, a bill to designate the month of April 1988, as "Prevent-A-Litter Month."

SENATE JOINT RESOLUTION 234

At the request of Mr. THURMOND, the name of the Senator from Indiana [Mr. QUAYLE] was added as a cosponsor of Senate Joint Resolution 234, a joint resolution designating the week of April 17, 1988, as "Crime Victims Week."

SENATE JOINT RESOLUTION 263

At the request of Mr. BRADLEY, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Arkansas [Mr. PRYOR], the Senator from Nebraska [Mr. KARNES], the Senator from Missouri [Mr. BOND], the Senator from Louisiana [Mr. JOHNSTON], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Massachusetts [Mr. KERRY], the Senator from Rhode Island [Mr. CHAFEE], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Georgia [Mr. NUNN], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Maine [Mr. MITCHELL], the Senator from Colorado [Mr. ARMSTRONG], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Joint Resolution 263, a joint resolution to designate the period commencing November 13, 1988, and ending November 19, 1988, as "Geography Awareness Week".

SENATE JOINT RESOLUTION 266

At the request of Mr. SYMMS, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Virginia [Mr. WARNER], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Joint Resolution 266, a joint resolution to designate the week beginning June 12, 1988, as "National Scleroderma Awareness Week."

SENATE CONCURRENT RESOLUTION 97

At the request of Mr. ADAMS, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from South Dakota [Mr. PRESSLER], the Senator from North Dakota [Mr. CONRAD], the Senator from North Dakota [Mr. BURDICK], the Senator from Illinois [Mr. DIXON], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of Senate Concurrent Resolution 97, a concurrent resolution to commend the President, the Secretary of State, and the Administrator of the Agency for International Development on relief efforts that have been undertaken by the U.S. Government for the people in Ethiopia and other affected nations of sub-Saharan Africa, and encourage these officials to continue to extend all efforts deemed appropriate to preclude the onset of famine in these nations, and for other purposes.

SENATE RESOLUTION 384

At the request of Mr. MCCONNELL, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Resolution 384, a resolution regarding the banning of political activity in South Africa.

SENATE RESOLUTION 391

At the request of Mr. HEFLIN, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of Senate Resolution 391, a resolution calling on the United States to assist the Government of Colombia in its battle against the terrorist activities of illegal drug producers and traffickers.

SENATE RESOLUTION 394—RELATING TO FUNDING FOR FEDERAL-AID HIGHWAY AND MASS TRANSIT PROGRAMS

Mr. HEINZ submitted the following resolution; which was referred to the Committee on Appropriations:

S. RES. 394

Whereas the obligation ceiling for the Federal-aid highway program in fiscal year 1989 established by the Surface Transportation and Uniform Relocation Assistance Act of 1987 is $12,350,000,000;

Whereas the funding level in fiscal year 1989 established for the mass transit program by the Surface Transportation and Uniform Relocation Assistance Act of 1987 is $3,600,000,000;

Whereas the levels of funding established by the Surface Transportation and Uniform Relocation Assistance Act of 1987 for the Federal-aid highway and mass transit programs are consistent with estimated revenues for the Highway Trust Fund, are below the levels of funding which such Fund can support, and will result in increasing the surplus in the Highway Trust Fund;

Whereas construction and rehabilitation needs for maintaining our Nation's highway and bridge system are estimated at nearly $50,000,000,000 per year and the Federal contribution toward meeting such needs has been reduced to 25 percent which is the lowest Federal contribution in at least 3 decades;

Whereas more than 42 percent of the bridges in the United States are currently classified as deficient or obsolete and much of our highway system is near the end of its design life;

Whereas more than 9,000,000,000 mass transit trips were taken in 1986 which reflects a ridership increase of nearly 8 percent since 1982;

Whereas the projected capital needs for mass transit is $6,290,000,000 per fiscal year through fiscal year 1992;

Whereas Federal assistance for highway and mass transit programs contributes to the Nation's prosperity and economic growth, every dollar of Federal expenditure for the mass transit program produces more than $3 in business revenue;

Whereas every $100,000,000 reduction in Federal-aid highway spending reduces employment in the United States by 6,300 jobs, whereas every $100,000,000 reduction in Federal mass transit operating assistance results in a loss of 9,600 jobs and every $100,000,000 reduction in Federal mass transit capital assistance results in a loss of over 7,500 jobs; and

Whereas the recent report of the bipartisan National Council on Public Works Improvement recommends a doubling of our national commitment of capital investment in infrastructure, including mass transit and highway programs: Now, therefore, be it

Resolved, That it is the sense of the Senate that funding in fiscal year 1989 for the Federal-aid highway and mass transit programs should be at the levels established by the Surface Transportation and Uniform Relocation Assistance Act of 1987.

● Mr. HEINZ. Mr. President, today I am submitting a resolution expressing the sense of the Senate that in fiscal year 1989, the Congress should provide funding levels for highway and mass transit programs for fiscal year 1989 at the level authorized in the Surface Transportation and Uniform Relocation Assistance Act of 1987. This resolution was introduced yesterday in the House of Representatives by Congressmen ANDERSON, HOWARD, HAMMERSCHMIDT, and SHUSTER.

I am submitting this resolution for four reasons. First, the Federal Highway Program is, in its purest sense, about economic development and jobs. Each $1 billion in construction spending generates 10,600 construction jobs, and 31,000 jobs in all sectors of the economy. In my State of Pennsylvania alone, nearly 125,000 jobs depend on highway and mass transit funding.

Second, highways and mass transit have huge and growing needs for capital expenditures. Construction and rehabilitation needs for maintaining our Nation's highway and bridge system are estimated at nearly $50 billion per year, and projected capital needs for mass transit are $6.3 billion per year. More than 42 percent of the bridges in the United States are currently classified as deficient or obsolete. This resolution calls for funding levels of $12.35 billion for the Federal Highway Program and $3.6 billion for the Federal Mass Transit Program, which will help defray the enormous costs of essential capital projects in these areas.

Third, the funding levels authorized in last year's highway/mass transit legislation are fiscally responsible. I would point out that the highway trust fund, which finances highway construction and rehabilitation and about one-half of federally assisted mass transit capital projects, is entirely financed by motorists through a 9 cent-per-gallon gas tax, and currently has a surplus of more than $10 billion. This surplus, moreover, is increasing, as receipts in the trust fund continue to outpace expenditures.

Finally, Mr. President, as if we needed further reminder of national infrastructure needs, just last month the bipartisan National Council on Public Works Improvement issued a report that found that we must double our national commitment to capital investment in infrastructure by the end of this century just to keep pace with the rate of economic growth. Clearly, the Federal Government will need to play a major role in this regard.

Mr. President, we all know that the Senate will face hard choices as it considers the budget resolution for fiscal year 1989. Although last fall's budget summit agreement between Congress and the administration set the overall budgetary ceilings for the coming year, the agreement presents Congress with a challenge in setting priorities among the various programs. Before this process gets underway, I think it's important to point out that highway and mass transit needs are profound, are financed to a great extent through dedicated revenues, and should be set at levels that this Congress adopted less than 1 year ago.

The resolution I am submitting sets out this objective, and I urge its adoption.●

AMENDMENTS SUBMITTED

INTELLIGENCE AUTHORIZATION ACT

HELMS AMENDMENTS NOS. 1653 THROUGH 1655

(Ordered to lie on the table.)

Mr. HELMS submitted three amendments intended to be proposed by him to the bill (S. 1721) to improve the congressional oversight of certain intelligence activities, and to strengthen the process by which such activities are approved within the executive branch, and for other purposes; as follows:

AMENDMENT No. 1653

Add at the end of the pending question the following new section:

"SEC. . No provision of this Act shall be effective (inasmuch as General Manuel Noriega has been indicted by the United States for drug trafficking and the Republic of Panama has not 1) promptly removed General Manuel Noriega from all public offices and authority and 2) installed a freely elected government) until the President of the United States, using existing authority, has notified the Government of Panama of the intention of the United States to suspend, should it prove to be required by the supreme national security interests of the United States, the operation of any provision of the Panama Canal Treaties of 1978 mandating the withdrawal of United States military personnel of the closure of any United States military base protecting the Panama Canal.".

AMENDMENT No. 1654

Add at the end of the pending question the following new section:

"SEC. . No provision of this Act shall be effective (inasmuch as General Manuel Noriega has been indicted by the United States for drug trafficking) until the President of the United States, using existing authority, has notified the Government of Panama of the intention of the United States to suspend, should it prove to be required by the supreme national security interests of the United States, the operation of any provision of the Panama Canal Treaties of 1978 mandating the withdrawal of United States military personnel of the closure of any United States military base protecting the Panama Canal.".

AMENDMENT No. 1655

Add at the end of the pending question the following new section:

"SEC. . No provision of this Act shall be effective until the President of the United States, using existing authority, has notified the Government of Panama of the intention of the United States to suspend, should it prove to be required by the supreme national security interests of the United States, the operation of any provision of the Panama Canal Treaties of 1978 mandating the withdrawal of United States military personnel of the closure of any United States military base protecting the Panama Canal.".

WALLOP AMENDMENTS NOS. 1656 THROUGH 1658

(Ordered to lie on the table.)

Mr. WALLOP submitted three amendments intended to be proposed by him to the bill S. 1721 supra; as follows:

AMENDMENT No. 1656

Add at the end of the pending question the following new section:

"SEC. . No provision in this Act shall be effective until the President of the United States, using existing authority, has certified to the Senate that the Senate can rely with confidence on the accuracy of the number of SS-20 missiles reported to the United States by the Soviet Union.".

AMENDMENT No. 1657

Add at the end of the pending question the following new section:

"SEC. . No provision in this Act shall be effective (inasmuch as a) a substantial discrepancy may exist between various United States intelligence estimates of the number of SS-20 missiles possessed by the Soviet Union and the number of missiles reported by the Soviet Union to the United States pursuant to the Memorandum of Understanding to the proposed Treaty Between the United States of America and the Union of Soviet Socialist Republics Concerning Intermediate-Range Nuclear Forces (hereinafter the "INF Treaty") and such discrepancy may indicate a covert Soviet SS-20 missile force of 300 to 550 SS-20 missiles carrying 900 to 1650 high-yield nuclear warheads and b) unless such apparent discrepancy is satisfactorily clarified, the United States could put at jeopardy its supreme national interest, its 300,000 troops stationed in Europe, and the security of NATO by ratifying the proposed Treaty and thereafter, pursuant to such Treaty, eliminating its own deterrent INF forces based in Western Europe) until the President of the United States, using existing authority, has certified to the Senate that the Senate can rely with confidence on the accuracy of the number of SS-20 missiles reported to the United States by the Soviet Union.".

AMENDMENT No. 1658

Add at the end of the pending question the following new section:

SEC. 5. Nothing in this Act shall be construed as contradicting the practices that before the beginning of each fiscal year, the President shall prepare and transmit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a classified report setting forth a budget for existing and prospective special activities to be conducted during that fiscal year.

HELMS AMENDMENTS NOS. 1659 AND 1660

(Ordered to lie on the table.)

Mr. HELMS submitted two amendments intended to be proposed by him to the bill S. 1721, supra; as follows:

AMENDMENT No. 1659

Add at the end of the pending question, the following new section:

"SEC. . No provision of this Act shall be construed in derogation of the powers of the Senate to state its view that United States support for Israel, including diplomatic, economic, and military support, should not be used by the Department of State to coerce elected leaders in Israel to consent to proposals involving the relinquishing of land or the injecting of the Soviet Union into the Middle East peace process.".

AMENDMENT No. 1660

Add at the end of the pending question, the following new section:

"SEC. . No provision of this Act shall be effective until the President, using existing authority, has by message to the Senate, acknowledged the power of the Senate to state its view that United States support for Israel, including diplomatic, economic, and military support, should not be used by the Department of State to coerce elected leaders in Israel to consent to proposals involving the relinquishing of land or the injecting of the Soviet Union into the Middle East peace process.".

WALLOP AMENDMENT NO. 1661

Mr. WALLOP proposed an amendment to the bill S. 1721, supra; as follows:

On page 11, strike lines 3 through 8.

WALLOP AMENDMENT NO. 1662

Mr. WALLOP proposed an amendment to the bill S. 1721, supra; as follows:

To amend section 6 of the bill beginning at line 4 on page 14 by striking all the language on lines 4 and 5 and insert in lieu thereof the following:

"6. A finding may not authorize any action which violates the constitution of the United States or any statutes of the United States."

NATIONAL COMMISSION ON AIDS

CRANSTON (AND OTHERS) AMENDMENT NO. 1663

(Ordered referred to the Committee on Labor and Human Resources.)

Mr. CRANSTON (for himself, Mr. KENNEDY, and Mr. MURKOWSKI) submitted an amendment intended to be proposed by them to the bill (H.R. 2881) to establish a National Commission on Acquired Immune Deficiency Syndrome; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Commission on Acquired Immune Deficiency Syndrome Act".

SEC. 2. ESTABLISHMENT.

There is established a commission to be known as the "National Commission on Acquired Immune Deficiency Syndrome" (hereinafter in this Act referred to as the "Commission").

SEC. 3. DUTIES OF COMMISSION.

(a) GENERAL PURPOSE OF COMMISSION.—The Commission shall carry out activities for the purpose of studying and making recommendations for national policy concerning the acquired immune deficiency syndrome (hereinafter in this section referred to as "AIDS").

(b) FUNCTIONS.—The Commission shall perform the following functions:

(1) Evaluate the adequacy of, and make recommendations regarding, the financing of health care and research needs relating to AIDS, including the roles for and activities of private and public financing, especially the role of the insurance industry and the States.

(2) Evaluate the adequacy of, and make recommendations regarding, the dissemination of information which is essential to the prevention of the spread of AIDS, and which recognizes the special needs of minorities and the important role of the family, educational institutions, religion, and community organizations in education and prevention efforts.

(3) Address any necessary behavioral changes needed to combat AIDS, taking into consideration the multiple moral, ethical, and legal concerns involved.

(4) Make recommendations regarding how financial resources can best be allocated to various Federal departments and agencies, including the Veterans' Administration, and State and local governments.

(5) Make recommendations regarding testing and counseling concerning AIDS, particularly with respect to maintaining confidentiality.

(6) Evaluate the adequacy of and make recommendations regarding Federal and State laws, including civil rights laws, relating to AIDS, specifically—

(A) rules, regulations, and ethical considerations relating to infectious diseases that are designed to protect the health of all individuals at risk of contagion, including those relating to immigration, liability, and discrimination; and

(B) problems encountered by individuals with AIDS in obtaining and retaining employment, housing, and insurance and participating in educational systems, including possible violations of rights of privacy and confidentiality.

(7) Evaluate the adequacy of and make recommendations regarding international coordination and cooperation concerning data collection, treatment modalities, and research.

(c) HEARINGS.—The Commission shall hold hearings to determine the views of individuals and organizations interested in matters relating to the purposes of the Commission as provided in subsection (a), including representatives of appropriate government agencies and responsible representatives of groups principally affected by the human immunodeficiency virus.

SEC. 4. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Secretary of Health and Human Services;

(II) the Administrator of Veterans' Affairs; and

(III) the Secretary of Defense;

who shall be nonvoting members, except that, in the case of a tie vote by the Commission, the Secretary of Health and Human Services shall be a voting member; and

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in chapter 17 of title 38, United States Code (relating to veterans' health care), title XIX of the Social Security Act (42 U.S.C. 1901 et seq.) (relating to Medicaid), and the Public Health Service Act (42 U.S.C. 201 et seq.) (relating to the Public Health Service).

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their education, training, or experience; and

(B) engage in consultations for the purpose of ensuring that the expertise of the 10 members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of medicine, science, law, ethics, health-care economics, and health-care and social services.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be earlier than September 1, 1988, and not be later than 60 days after the date of the enactment of this Act, or September 30, 1988, whichever is later. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least three times each year during the life of the Commission.

(e) PAY.—Members of the Commission who are officers or employees of the United States shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—While away from their homes or regular places of business in the performance of duties for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not earlier than July 11, 1988, and not later than 45 days after the date of the enactment of this Act, or August 1, 1988, whichever is later, the members of the Commission shall be appointed.

SEC. 5. REPORTS.

(a) INTERIM REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 4(a), the Commission shall prepare and submit to the President and to the appropriate committees of Congress a comprehensive report on the activities of the Commission to that date.

(2) CONTENTS.—The report submitted under paragraph (1) shall include such findings, and such recommendations for legislation and administrative action, as the Commission considers appropriate based on its activities to that date.

(3) OTHER REPORTS.—The Commission shall transmit such other reports as it considers appropriate.

(b) FINAL REPORT.—

(1) IN GENERAL.—Not later than 2 years after the date on which the Commission is fully constituted under section 4(a), the Commission shall prepare and submit a final report to the President and to the appropriate committees of Congress.

(2) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 6. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

(e) DETAILED PERSONNEL AND SUPPORT SERVICES.—Upon the request of the Commission for the detail of personnel, or for administrative and support services, to assist the Commission in carrying out its duties under this Act, the Secretary of Health and Human Services and the Administrator of Veterans' Affairs, either jointly or separately, may on a reimbursable basis (1) detail to the Commission personnel of the Department of Health and Human Services or the Veterans' Administration, respectively, or (2) provide to the Commission administrative and support services. The Secretary and the Administrator shall consult for the purpose of determining and implementing an appropriate method for jointly or separately detailing such personnel and providing such services.

SEC. 7. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this Act, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this Act.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this Act. On request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1988 $2,000,000, and such sums as may be necessary in any subsequent fiscal year, to carry out the purposes of this Act. Amounts appropriated pursuant to such authorization shall remain available until expended.

SEC. 9. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 5(b). The President may extend the life of the Commission for a period of not to exceed 2 years.

Mr. CRANSTON. Mr. President, I am very pleased to submit, with my good friends the distinguished chairman of the Labor and Human Resources Committee Mr. KENNEDY, and the distinguished ranking minority member of the Committee on Veterans' Affairs, Mr. MURKOWSKI, an amendment to H.R. 2881, to establish a National Commission on AIDS.

H.R. 2881 was introduced on July 1, 1987, by my good friend, the distinguished Representative from Georgia, Mr. ROWLAND. As the only physician in the Congress, Dr. ROWLAND has brought medical expertise and leadership to Federal efforts to combat AIDS. I congratulate him for his efforts on H.R. 2881—which, I would add, was introduced before the President formed the current Commission—and for his overall efforts to put forth, a national policy on AIDS that is based on public health and medicine, not politics and hysteria. I would also like to thank very much Representative MONTGOMERY, chairman of the House Veterans' Affairs Committee and Representative WAXMAN, chairman of the Health and Environmental Subcommittee of the Energy and Commerce Committee, both of which reported H.R. 2881. Representatives ROWLAND, MONTGOMERY, and WAXMAN have worked closely with us in developing this amendment.

The Commission we are proposing is intended to continue the very important efforts begun by the current Presidential Commission established by President Reagan last fall. I am very encouraged by the work that that Commission is now doing and believe that the Commission's recommendations that I have seen thus far will be very helpful in the development of public policy and assessing the needed resources to combat AIDS. The first interim report, released 2 weeks ago, made excellent policy and funding recommendations regarding basic research and drug development, health care, and intravenous drug-abuse treatment and prevention. I look forward to the Presidential Commission's further recommendations regarding education, prevention, counseling and testing, nondiscrimination, and confidentiality.

However, the Presidential Commission is scheduled to complete its task and present its final report to the President on June 25. Much more work will need to be done in order to monitor implementation of that Commission's recommendations and make further policy recommendations. That is what the National Commission we are proposing is intended to do. It will take up where the Presidential Commission leaves off and carry on that very important task for years to come.

Because I believe that continuity between these two commissions is so important, I would urge that the President appoint the current Chairman of the Presidential Commission, Adm. James D. Watkins, to the new National Commission. I would also urge that, to as great an extent as possible, the staff of the current Commission be retained—again, in order to provide continuity and to reduce startup time that would be necessary to hire new staff.

PROVISIONS OF THE PROPOSED AMENDMENT

Mr. President, our substitute amendment to H.R. 2881 would establish a commission, known as the National Commission on AIDS, to consider and make recommendations to the Congress and the President on national policy and priorities with respect to health care financing, education and prevention, testing and confidentiality of test results, discrimination, resource allocation, and research regarding AIDS. The specific functions of the Commission would be substantively identical to those specified in Senate Resolution 190—a bipartisan Senate resolution that I authored, together with Senators DOLE and BYRD and which the Senate passed on April 10, 1987—which urged the President to establish a Presidential Commission on AIDS.

H.R. 2881 as introduced would similarly require the Commission to make recommendations for national policy concerning AIDS.

Under our amendment, the National Commission would be composed of 15 members, 5 of whom would be appointed by the President, 5 by the President pro tempore of the Senate, and 5 by the Speaker of the House. In order to minimize partisanship and encourage consensus, our amendment would require that the congressional appointments in each House would be made upon the joint recommendations of the majority and minority leaders of the Senate and the House of Representatives, respectively.

In making those appointments, the majority and minority leaders would be required to select individuals who are specially qualified by reason of education, training, or experience and to give due consideration to any recommendations made by the chairmen and ranking minority members of the committees with jurisdiction over veterans' health care, Medicaid, and the Public Health Service.

In addition, the majority and minority leaders of the two Houses would be required to engage in consultations for the purpose of ensuring that the expertise of the congressional appointees provides as much balance as possible and, to the greatest extent possible, covers the fields of medicine, science, law, ethics, health-care economics, and health-care and social services.

Regarding the President's five appointments, two would be voting members required to be selected from the general public on the basis of being specially qualified for service on the Commission and the other three would be the Secretary of Health and Human Services, the Administrator of Veterans' Affairs, and the Secretary of Defense, or their designees who would be nonvoting members. However, in the event of a tie vote—since there would be 12 voting members—the Secretary of Health and Human Services would cast the tie-breaking vote.

Under H.R. 2881 as passed by the House, the Speaker of the House and the majority leader of the Senate would each select three commission members and the minority leaders of the House and the Senate would each select two. At least three of the members selected each by the House of Representatives and the Senate would be required to be appointed from among recognized experts in the scientific and medical communities and in legal and ethical issues. The House-passed bill would provide for the President to appoint five members to the Commission, two of whom would be the Secretary of Health and Human Services and the Administrator of Veterans' Affairs.

Like H.R. 2881, our amendment would require a comprehensive interim report to be submitted not later than 1 year after the date on which the Commission is fully constituted, with a final report not later than 2 years after the date on which the Commission is fully constituted.

Our amendment would further require that the members of the Commission be appointed within 45 days after the date of enactment or July 11, 1988, whichever is later, and that the first meeting be held within 60 days after the enactment date or September 1, 1988, whichever is later. The deadlines in the bill as introduced were 45 days after 60 days, respectively, after the date of enactment. In order to ensure that the National Commission would not overlap with the current Presidential Commission, our amendment would provide that no appointments be made prior to July 11, 1988, the due date for the final report of the Presidential Commission, and that the first meeting could not be held prior to September 1, 1988, by which date the Presidential Commission will have disbanded.

Our amendment would modify the provision in H.R. 2881 regarding the VA providing personnel and support services to the Commission to provide, instead, that the Administrator of the VA and the Secretary of HHS would consult and develop a mechanism whereby each agency, either separately or jointly, may detail personnel and provide support services.

Finally, as would H.R. 2881, our amendment would authorize the appropriation of $2 million for fiscal year 1988. However, our amendment would also authorize the appropriation of such additional sums as may be necessary for any subsequent fiscal year.

CONCLUSION

Mr. President, as I said earlier, I am very pleased that this amendment to the House-passed measure has the support of the three Members of the other body most involved with that measure, Representative ROWLAND, the author of H.R. 2881, Representative MONTGOMERY, chairman of the Veterans' Affairs Committee which reported H.R. 2881, and Representative WAXMAN, chairman of the Health and the Environment Subcommittee of the Energy and Commerce Committee, all of whom have been key leaders on AIDS issues in the Congress.

AIDS will continue to be a national crisis demanding the full attention of an expert panel—working with full cooperation and information from the Federal Government—in order to help ensure the development, based on the most expert public health advice, of the policies necessary to bring an end to this tragic epidemic.

This Commission is intended to provide that kind of national leadership. I urge all of my colleagues to join with us in this vitally important effort.

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 2 p.m., on Thursday, March 24, 1988, in SR-301, Russell Senate Office Building, to hold hearings. The committee will be receiving testimony from the members of the Federal Election Commission on their fiscal year 1989 budget authorization request. The committee will also be receiving testimony on Senate Concurent Resolution 88, introduced by Senator MELCHER, to facilitate the convening of a Silver Haired Congress. The committee anticipates that the oversight hearing on the FEC authorization will begin promptly at 2 p.m. and end at 3 p.m., at which time the hearing on Senate Concurrent Resolution 88 will commence.

Senators who wish to testify or submit a statement for the hearing record on the FEC authorization request and/or Senate Concurrent Resolution 88 are requested to have their staffs contact Carole Blessington of the Rules Committee staff. Other interested individuals and organizations who wish either to testify or to submit a statement for the hearing record are also requested to contact Ms. Blesington on 202-224-0278.

Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9 a.m., on Wednesday, March 30, 1988, in SR-301, Russell Senate Office Building, to hold a hearing on S. 1888. This bill, introduced by Senator CRANSTON, would establish national standards for voter registration for Federal elections.

Individuals and organizations interested in testifying or submitting a statement for the hearing record are requested to contact, Jack Sousa, chief counsel of the Rules Committee, on 202-224-5648.

SUBCOMMITTEE ON FEDERAL SPENDING, BUDGET, AND ACCOUNTING

Mr. CHILES. Mr. President, I would like to announce that the Government Affairs Subcommittee on Federal Spending, Budget and Accounting will hold a hearing on legislation dealing with the reauthorization of the Office of Federal Procurement Policy on Friday, March 25, 1988, at 9:30 a.m. in SD-342.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on Tuesday, March 22, 1988, at 2 p.m., on the President's fiscal year 1989 budget proposal for the Small Business Administration. The hearing will be held in room 428A of the Russell Senate Office Building. For further information, please call Patty Barker, counsel for the committee at 224-8495.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold hearings on Wednesday and Thursday, March 23 and 24, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building, on the Health Care Financing Administration's management of medical laboratories.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, March 15, to hold hearings on proposed legislation on the elevation of the Veterans' Administration to Cabinet status.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, March 15, to hold markup on S. 2037, the Presidential Transition Effectiveness Act; S. 1856, Reauthorization of National Historical Publications and Records Commission Amendment Act of 1987; and S. 1381, the Cash Management Improvement Act of 1987; and on the nominations of Frank Schwelb to be an associate judge of the D.C. Court of Appeals; and Cheryl Long to be an associate judge of the D.C. Superior Court.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 15, 1988, to hold a hearing on tax incentives for education.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, March 15, 1988, in open session to receive testimony from certain unified commanders in review of the amended fiscal year 1989 defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, March 15, 1988, in open session to receive testimony from certain unified commanders in review of the amended fiscal year 1989 defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PATENTS, COPYRIGHTS AND TRADEMARKS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Copyrights and Trademarks of the Committee on the Judiciary be authorized to meet during the session of the Senate on March 15, 1988, to consider S. 1883, the Trademark Law Revision Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Tuesday, March 15, 1988, to hold a hearing on the Pueblo de Cochiti Corps of Engineers' dam project.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HAZARDOUS WASTES AND TOXIC SUBSTANCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Hazardous Wastes and Toxic Substances and the Subcommittee on Superfund and Environmental Oversight, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on March 15, 1988 to conduct a joint hearing to investigate implementation of the Asbestos Hazard Emergency Abatement Act and to consider the problem of asbestos in commercial buildings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, March 15, 1988, to conduct a hearing on child care.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE KENTUCKY TOYOTA PLANT

● Mr. McCONNELL. Mr. President, I come before the Senate today to applaud the efforts of Kentuckians, such as David Everly and Walt Klein, and their employer, Toyota Motor Manufacturing, U.S.A., Inc.

An article appeared in the Sunday, March 13, 1988, edition of the Washington Post which described the training program introduced by Toyota for its first North American plant in Georgetown, KY. The training program allows Kentuckians, such as Mr. Everly and Mr. Klein who have been hired to work at the plant, to travel to Japan for a month-long course in the Toyota production system. These "team leaders" and "group leaders" will return to Kentucky to oversee production in the new Georgetown plant. The training process has been challenging for the Japanese trainers and their pupils from Kentucky but both have risen to the occasion. I believe that both Toyota and its new employees in Kentucky are determined to make the new plant a success and in the process develop stronger ties between the United States and Japan.

The future of our relationship with Japan is intertwined through trade and economic development, as illustrated by Toyota's $1.1 billion manufacturing plant in Kentucky. During his recent visit to the United States, Japanese Prime Minister Takeshita noted the increasing flow of investment between our two nations. He pointed out that Japanese investment in the United States had already created 200,000 American jobs. We have certainly seen the benefits in Kentucky where Toyota and related industries are opening up new job opportunities. Recent statistics indicate that Japanese companies have invested over $1.7 billion in Kentucky and should provide over 9,000 jobs.

I would be dishonest, however, if I did not mention my ongoing concerns about market access for American products in Japan. Over the past four decades Japan has become an export superpower. I am hopeful that Japan's economy continues to thrive so that within the near future, Japan will balance her accomplishments and become an import superpower. Without fair market access, especially for agricultural products, relations between the United States and Japan can only take a turn for the worse. The trade bill is evidence enough of the groundswell of American public anger over closed markets and trade restrictions. I believe Japan has an important leadership role to play by improving its worldwide trade practices and preventing a trade war.

Toyota has made a long-term investment in Kentucky and with employees such as David Everly and Walt Klein, the chances for success are great. I commend both Toyota and its American employees in Kentucky to my Senate colleagues this day.

I ask that the Washington Post article to which I referred be printed in the RECORD.

The article follows:

[From the Washington Post, Mar. 13, 1988]

AMERICANS SHIFT INTO TOYOTA GEAR—CATCHING THE COMPANY SPIRIT PRECEDES KENTUCKY PLANT DEBUT

(By Fred Hiatt)

TOYOTA CITY, JAPAN.—David Everly, 37-year-old visitor from Elizabethtown, Ky., struggled to keep pace with the half-built Toyota Camrys inching relentlessly down the assembly line, one every 58 seconds.

All around him, more experienced Japanese workers welded and buffed with seemingly inexhaustible deftness. Everly, his solid six-foot frame a liability as he ducked and pivoted on a line scaled to smaller bodies, worked up a good American sweat and fell further and further behind.

"They work really hard here," Everly had said earlier with admiration. "My main job will be to motivate American workers to work as hard and as fast as Japanese workers. Frankly, I think it's going to be a challenge."

Everly, who will be a "team leader" when Toyota opens its first North American factory this May in Georgetown, Ky., thinks he can do it. Toyota, Japan's biggest car maker and a relative latecomer in opening its own U.S. plant, hopes he's right.

At stake is a $1.1 billion investment Toyota expects to make in Georgetown, where a car factory and newly built access road named "Cherry Blossom Way" have risen from the horse-training fields of rural Kentucky. Also at stake, in a sense, is the changing economic relationship between the United States and Japan, which is moving from exporter to direct investor in American land, industry and labor.

To increase the chances of success, Toyota has been bringing its newly hired American workers, most of whom have never built an automobile, to its corporate center here for month-long training courses. The meticulously planned, $55 million education program, funded mostly by the taxpayers of Kentucky and the United States, aims at nothing short of exporting the Toyota spirit—the group loyalty, dedication to the company and willingness to work hard—that has helped make Toyota such a success.

The process has not been easy for either side. American workers have had to contend with bowing, raw eggs for breakfast and total withdrawal from Kentucky basketball.

The Japanese trainers, plucked from the line to begin learning English months ago, have been tutored in AIDS, the no-smoking movement and the peculiarities of American etiquette: shaking hands, looking people in the eye and not slurping spaghetti. They have learned not to be too solicitous toward women workers, a species that does not exist on the assembly lines of Toyota's Japanese plants.

With about 230 future foremen trained so far—"group leaders" and "team leaders" in Toyotaspeak—both sides say they are pleased with the results.

"They are more dexterous than I expected, and easier to teach," said Nobuyuki Matsuoka, Everly's trainer, as he watched his protege at work. On a table next to the assembly line lay a mimeographed sheet of Japanese phrases with English translations, beginning with "MY name is . . ." and climaxing with "Let's do our best!"

"Let's do our best!"

"If these trainees implement the Toyota production system step by step," Matsuoka added, "I believe it can be successfully exported to Kentucky."

Toyota, of course, is not the first. Honda already exports Ohio-made cars to Japan, Nissan operates a plant in Tennessee, and Toyota builds cars in California in a joint venture with General Motors.

But Toyota hesitated long before building its own plant, and then planned its training program with characteristic thoroughness. Now Toyota executives are hoping to achieve Japanese-level quality and productivity in their U.S. plant.

"Ten years ago, I was not confident that Toyota could be successful in the United States, where many top-class producers existed," said Kaneyoshi Kusunoki, a director of Toyota Motor Corp. and president of the Kentucky venture. "The importance of the Japanese economy in the world has shifted over the past 10 years."

And, Kusunoki added in a recent interview, "I really have great faith in the people in Kentucky."

The feeling appears to be mutual. More than 93,000 people have applied for 2,000 jobs. One-third of those hired so far have college degrees.

On a recent Friday, the day began with 6 a.m. breakfast for Walt Klein, 28, and about 50 other American workers in the third week of their Japanese tour.

Klien, broad and bearded, is a big man, even by Kentucky standards. Big enough to give his trainer, the compact Tomohiko Ushijima, pause.

"When I saw him, I thought he was very, very big," Ushijima, 44 and a Toyota employee for 18 years, acknowledged. "I was worried whether he could work in such a small space. But, as you can see, he can move very quickly. I didn't have to worry."

By 7:45 a.m., Klein was sitting with Ushijima and a dozen other workers in the bumper meeting room. Although they would not start getting paid until 8, the entire bumper assembly team was in uniform, ready to work, discussing the day ahead.

With inspirational messages and warm-up exercises finished, the workers were in position before the starting bell sounded.

For two hours, the bumper assembly team and the rest of the factory workers toiled without rest, some of them literally running from task to task. Even when the siren sounded for a 10-minutes coffee break, many workers continued working for a minute or two while others gathered into small groups for further cheerleading sessions on safety and hard work.

In the eyes of some workers, there is a price to be paid for such discipline. Ronald Dore, a British sociologist, once wrote that "joining Toyota as a regular worker is indeed rather more like joining the Army in America than like going to work for General Motors.

"You can expect to get 'posted' from one plant to another and even have to uproot the family as a consequence," Dore wrote. "You can expect to have your leave canceled in an emergency."

Nor, if you object to such treatment, can you expect much help from the company union, which sees its role mostly as a partner of the corporation dedicated to increasing productivity for the good of all.

So far, the American workers seem willing to buy into that philosophy. But Kusunoki, the Toyota executive in charge of the U.S. plant, said he has no illusions about the difficulty of transplanting the spirit of "mutual trust" into American employees.

"We are successful in the first step," he said. "I can say that they all have the basic understanding of the spirit, and they all basically agree to the spirit.

"But once they start working at the plant, they may face some problems, and they may raise some questions about the spirit," Kusunoki said.

For example, he said, Toyota operates on the principle of kaizen—constant improvement. But U.S. workers may think, at first, that if they suggest ways to speed production, their wages should rise accordingly.

Moreover, Kusunoki said, some U.S. workers will question Toyota's expectation that strong workers will work harder, when necessary, to carry slower or weaker workers in their team.

"Americans tend to have a clear-cut sense of individual responsibility, but when it comes to teamwork and helping each other, I see some differences between Americans and Japanese," he said.

Eventually, Kusunoki said, he expects the Japan-trained American workers, in concert with Japanese trainers who will be sent to Kentucky, to overcome these crises of doubt.

Toyota is betting that the American workers it trains will stay long enough to repay its investment. Although most of the direct costs for the training program are borne by Kentucky state and federal subsidies offered as incentives for Toyota's investment, Toyota is bearing some of the costs, too. And, in the long run, the success of its $1.1 billion investment depends on the training program.

The Americans in Toyota City said they have made a long-term commitment, too.

"There was a time in America when you could say p— — — on this job, and go find another one," Everly said. "You can't do that anymore. This is my last job."●

BICENTENNIAL MINUTE

MARCH 18, 1917: SENATE ADOPTS FIRST CLOTURE RULE

(By request of Mr. Simpson the following statement was added to be printed in the Record.)

● Mr. DOLE. Mr. President, 71 years ago this month, on March 8, 1917, the Senate adopted it first cloture rule. This rule provided for the limitation of debate to 1 hour per member when two-thirds of the Senators present and voting agreed to a cloture petition signed by at least 16 members.

The Senate took this action as it debated entering World War I. Several weeks earlier, the House had readily approved President Woodrow Wilson's urgent plea for authority to arm U.S. merchant ships against German attack. In the Senate, however, the President's proposal ran into the determined opposition of a dozen Members opposed to intervention in this European conflict. These opponents launched a historic filibuster on March 2, 1917, just hours before the arrival of the mandatory March 4 adjournment date. The filibusters succeeded and the session expired without action.

That same day, President Wilson took his oath of office for a second term and then angrily attacked the Senate dissidents as "a little group of willful men, representing no opinion but their own, who, have rendered the Government of the United States helpless and contemptible." He called the Senate into special session on March 5, and demanded that it change its rules to permit cutting off debate. After decades of resisting similar provisions to limit its ancient tradition of unrestricted debate, the Senate quickly complied.

Over the half century that followed, the cloture rule proved very difficult to apply. Between 1917 and 1964, the Senate invoked cloture on only 5 times in 28 attempts, and no cloture effort was successful between 1927 and 1962. Today rule 22 provides that when three-fifths of all Senators "duly chosen and sworn" agree to a cloture petition, no more than 30 hours of debate may be devoted to the pending matter on which cloture has been invoked.

RULES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JOHNSTON. Mr. President, pursuant to Senate rule XXVI, I submit for publication in the Congressional Record the rules of the Committee on Energy and Natural Resources.

The rules follow:

RULES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

GENERAL RULES

Rule 1. The Standing Rules of the Senate as supplemented by these rules, are adopted as the rules of the Committee and its Subcommittees.

MEETINGS OF THE COMMITTEE

Rule 2. (a) The Committee shall meet on the third Wednesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

(b) Business meetings of any Subcommittee may be called by the Chairman of such Subcommittee, Provided, That no Subcommittee meeting or hearing other than a field hearing, shall be scheduled or held concurrently with a full Committee meeting or hearing, unless a majority of the Committee concurs in such concurrent meeting or hearing.

OPEN HEARINGS AND MEETINGS

Rule 3. (a) Hearings and business meetings of the Committee or any Subcommittee shall be open to the public except when the Committee or such Subcommittee by majority vote orders a closed hearing or meeting.

(b) A transcript shall be kept of each business meeting of the Committee or any Subcommittee unless a majority of the Committee or the Subcommittee involved agrees that some other form of permanent record is preferable.

HEARING PROCEDURE

Rule 4. (a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee or any Subcommittee at least one week in advance of such hearing unless the Chairman of the full Committee or the Subcommittee involved determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the Committee or the Subcommittee involved concurs. In no case shall a hearing be conducted with less than twenty-four hours notice.

(b) Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee or Subcommittee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

(c) Each member shall be limited to five minutes in the questioning of any witness until such time as all Members who so desire have had an opportunity to question the witness.

(d) The Chairman and ranking Minority Member or the ranking Majority and Minority Members present at the hearing may each appoint one Committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman and the ranking Majority and Minority Members present may agree.

BUSINESS MEETING AGENDA

Rule 5. (a) A legislative measure or subject shall be included on the agenda of the next following business meeting of the full Committee or any Subcommittee if a written request for such inclusion has been filed with the Chairman of the Committee or Subcommittee at least one week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the Committee or Subcommittee to include legislative measures or subjects on the Committee or Subcommittee agenda in the absence of such request.

(b) The agenda for any business meeting of the Committee or any Subcommittee shall be provided to each Member and made available to the public at least three days prior to such meeting, and no new items may be added after the agenda is so published except by the approval of a majority of the Members of the Committee or Subcommittee. The Staff Director shall promptly notify absent Members of any action taken by the Committee or any Subcommittee on matters not included on the published agenda.

QUORUMS

Rule 6. (a) Except as provided in subsections (b), (c), and (d), seven Members shall constitute a quorum for the conduct of business of the Committee.

(b) No measure or matter shall be ordered reported from the Committee unless ten Members of the Committee are actually present at the time such action is taken.

(c) Except as provided in subsection (d), one-third of the Subcommittee Members shall constitute a quorum for the conduct of business of any Subcommittee.

(d) One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure or matter before the Committee or any Subcommittee.

VOTING

Rule 7. (a) A rollcall of the Members shall be taken upon the request on any Member. Any Member who does not vote on any rollcall at the time the roll is called, may vote (in person or by proxy) on that rollcall at any later time during the same business meeting.

(b) Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only upon the date for which it is given and upon the items published in the agenda for that date.

(c) Each Committee report shall set forth the vote on the motion to report the measure or matter involved. Unless the Committee directs otherwise, the report will not set out any votes on amendments offered during Committee consideration. Any Member who did not vote on any rollcall shall have the opportunity to have his position recorded in the appropriate Committee record or Committee report.

(d) The Committee vote to report a measure to the Senate shall also authorize the staff of the Committee to make necessary technical and clerical corrections in the measure.

SUBCOMMITTEES

Rule 8. (a) The number of Members assigned to each Subcommittee and the division between Majority and Minority Members shall be fixed by the Chairman in consultation with the ranking Minority Member.

(b) Assignment of Members to Subcommittees shall, insofar as possible, reflect the preferences of the Members. No Member will receive assignment to a second Subcommittee until, in order of seniority, all Members of the Committee have chosen assignments to one Subcommittee, and no Member shall receive assignment to a third Subcommittee until, in order of seniority, all Members have chosen assignments to two Subcommittees.

(c) Any Member of the Committee may sit with any Subcommittee during its hearings and business meetings but shall not have the authority to vote on any matters before the Subcommittee unless he is a Member of such Subcommittee.

SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 9. Witnesses in Committee or Subcommittee hearings may be required to give testimony under oath whenever the Chairman or ranking Minority Member of the Committee or Subcommittee deems such to be necessary. At any hearing to confirm a Presidential nomination, the testimony of the nominee and at the request of any Member, any other witness shall be under oath. Every nominee shall submit a statement of his financial interests, including those of his spouse, his minor children, and other members of his immediate household, on a form approved by the Committee, which shall be sworn to by the nominee as to its completeness and accuracy. A statement of every nominee's financial interest shall be made public on a form approved by the Committee, unless the Committee in executive session determines that special circumstances require a full or partial exception to this rule. Members of the Committee are urged to make public a statement of their financial interests in the form required in the case of Presidential nominees under this rule.

CONFIDENTIAL TESTIMONY

Rule 10. No confidential testimony taken by or confidential material presented to the Committee or any Subcommittee, or any report of the proceedings of a closed Committee or Subcommittee hearing or business meeting, shall be made public, in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee at a business meeting called for the purpose of making such a determination.

DEFAMATORY STATEMENTS

Rule 11. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open Committee or Subcomitee hearing tends to defame him or otherwise adversely affect his reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

BROADCASTING OF HEARINGS OR MEETINGS

Rule 12. Any meeting or hearing by the Committee or any Subcommittee which is open to the public may be covered in whole or in part by television broadcast, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the seating, vision, and hearing of Members and staff on the dais or with the orderly process of the meeting or hearing.

AMENDING THE RULES

Rule 13. These rules may be amended only by vote of a majority of all the Members of the Committee in a business meeting of the Committee: Provided, That no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the Committee agenda for such meeting at least three days in advance of such meeting.

FULL COMMITTEE ISSUES

Jurisdiction of the Full Committee includes oversight and legislative responsibilities for strategic petroleum reserves; intergovernmental relations; Outer Continental Shelf leasing; investigation and oversight; international energy affairs; natural gas pricing and regulation; utility policy; nuclear waste and insurance programs; territorial affairs including Commonwealths; Free Associated States; and Antarctica. [In addition, other issues are retained in the Full Committee on an ad hoc basis. Generally, these are issues which (1) require extremely expeditious handling or (2) substanially overlap two or more subcommittee jurisdictions, or (3) are of exceptional national significance in which all Members wish to participate fully.]

MEMBERSHIP AND JURISDICTION OF SUBCOMMITTEES

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

[Italic denotes Republican Members]

Howard M. Metzenbaum, *Chairman*
Bill Bradley
Jeff Bingaman
Wyche Fowler, Jr.
Don Nickles
Lowell P. Weicker, Jr.
Daniel J. Evans

J. Bennett Johnston and *James A. McClure* are Ex Officio Members of the Subcommittee

Jurisdiction of the Subcommittee includes oversight and legislative responsibilities for Federal energy conservation programs; energy information; commercialization of new technologies (e.g., wind, solar, ocean thermal energy conversion); liquified natural gas projects; oil and gas pipelines and pipeline regulation including regulation of Alaska Natural Gas Transportation System, Trans-Alaska Pipeline System, and other oil or gas pipeline transportation systems within Alaska (e.g., the Trans-Alaskan Gas line system); regulatory functions of ERA; refinery policy; gasoline rationing; emergency preparedness; petroleum allocation; and coal conversion.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

[Italic denotes Republican Members]

Wendell H. Ford, *Chairman*
Wyche Fowler, Jr., *Vice Chairman*
Dale Bumpers
Howard M. Metzenbaum
John Melcher
Pete V. Domenici
Daniel J. Evans
Lowell P. Weicker, Jr.
Chic Hecht

J. Bennett Johnston and *James A. McClure* are Ex Officio Members of the Subcommittee

Jurisdiction of the Subcommittee includes oversight and legislative responsibilities for nuclear R&D; coal and synfuels R&D; nuclear and nonnuclear energy commercialization projects; nuclear fuel cycle policy, including uranium resources; new technologies R&D (e.g., conservation, solar, OTEC, and MHD); nuclear facilities siting; and breeder reactor development.

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

[Italic denotes Republican Members]

John Melcher, *Chairman*
Timothy E. Wirth, *Vice Chairman*
Wendell H. Ford
Jeff Bingaman
Kent Conrad
Chic Hecht
Don Nickles
Malcolm Wallop
Frank H. Murkowski

J. Bennett Johnston and *James A. McClure* are Ex Officio Members of the Subcommittee

Jurisdiction of the Subcommittee includes oversight and legislative responsibilities for energy and nonfuel mineral resources; Federal mineral leasing; national mining and minerals policy and general mining laws; surface mining, reclamation and enforcement; coal production, distribution and utilization; oil and gas production and distribution; mining education and research; minerals exploration, development and production from public and acquired lands; mineral conservation; royalty management; coal severance tax, Naval Petroleum and Oil Shale Reserves; deep water ports; and deep seabed mining.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

[Italic denotes Republican Members]

Dale Bumpers, *Chairman*
Jeff Bingaman, *Vice Chairman*
John Melcher
Bill Bradley
Timothy E. Wirth
Wyche Fowler, Jr.
Kent Conrad
Malcolm Wallop
Lowell P. Weicker, Jr.
Mark O. Hatfield
Pete V. Domenici
Frank H. Murkowski
Chic Hecht

J. Bennett Johnston and *James A. McClure are Ex Officio Members of the Subcommittee*

Jurisdiction of the Subcommittee includes oversight and legislative responsibilities for the public lands administered by the Bureau of Land Management; National Forest System; National Park System; National Wilderness Preservation System; Wild and Scenic Rivers System; National Trails System; establishment of wildlife refuges on public lands; Alaska Native Claims Settlement Act; Alaska National Interest Lands Conservation Act; reserved water rights; military land withdrawals; national recreation areas; national monuments; historic sites; military parks and battlefields; Land and Water Conservation Fund; historic preservation; renewable resources; outdoor recreation resources; and on the public domain, preservation of prehistoric ruins and objects of interest.

SUBCOMMITTEE ON WATER AND POWER

[Italic denotes Republican Members]

Bill Bradley, *Chairman*
Kent Conrad, *Vice Chairman*
Dale Bumpers
Wendell H. Ford
Howard M. Metzenbaum
Timothy E. Wirth
Daniel J. Evans
Mark O. Hatfield
Frank H. Murkowski
Malcolm Wallop
Don Nickles

J. Bennett Johnston and *James A. McClure* are Ex Officio Members of the Subcommittee

Jurisdiction of the Subcommittee includes oversight and legislative responsibilities for irrigation; reclamation projects, including related flood control purposes; power marketing administrations (e.g., Bonneville Power, Alaska Power, Southwestern Power, Western Area Power, Southeastern Power); energy development impacts on water resources; ground water resources and management; small power producers; hydroelectric power; low head hydro.●

THE SODBUSTER LAW

● Mr. ARMSTRONG. Mr. President, the U.S. Department of Agriculture's final regulations on the sodbuster law improve on regulations proposed last summer and should provide a strong disincentive to the plowing of fragile grasslands.

The sodbuster law passed in the 1985 farm bill ends farm subsidies for the plowing of highly erodible grasslands, which are lands that, frankly, should never be plowed and generally cannot sustain cultivation. Permanent, irreparable damage is often the result and, only a few years ago, highly erodible lands were being plowed at the rate of over 2,000 acres a day.

The law did, however, provide a narrowly intended exception for those instances where the land can be cultivated under a "conservation plan" approved by the Soil Conservation Service. A conservation plan is a system of farming practices that minimize soil loss.

The key to an effective sodbuster law lies in approving only conservation plans that restrict erosion to the minimum amount the soil can sustain without permanent damage to the resource. Fortunately, the rate of erosion in tons per acre that a soil can sustain and still remain productive can be measured by the soil loss tolerance rate, or T. Thus, effective conservation plans and an effective sodbuster law require adherence to the T standard.

The improvement in the final sodbuster regulation reinstates the T standard, which the Department had earlier proposed to remove.

The importance of adhering to a T standard was recently explained in an article by Kenneth Cook and Justin Ward prior to USDA's final regulations, and I ask that their article be inserted in the Congressional Record.

[From the Des Moines Register, Jan. 14, 1988]

"Sodbuster" Law Is Good, So Why Is USDA Fixing It?

(By Justin R. Ward and Kenneth A. Cook)

The 1985 farm bill's "sodbuster" provision was designed to get the federal government out of the business of subsidizing farmers who cultivate highly erodible soils without adequate protection. To date, the measure has retained very strong support in Congress. For its part, the U.S. Department of Agriculture has developed basically sound regulations to implement sodbuster—with one extremely worrisome exception.

Congress, in drafting sodbuster, prudently balanced farmers' interests with natural-resource protection. The law allows farmers to continue to receive large crop loans, deficiency payments, and other USDA benefits even if they cultivate highly erodible soils—so long as they use soil-saving cropping systems developed and approved by local conservation officials. This process makes sense. It places conservation planning and monitoring authority in the hands of the people most familiar with local soil conditions and erosion-control needs.

The USDA first ruled that these locally approved conservation plans must generally reduce erosion to the level of site-specific "T" values, which are guidelines based on experts' judgment about how much erosion particular soils can tolerate before they suffer long-term productivity damage. Most Iowa soils have a T value of 5 tons per acre per year (about one one-thirtieth of an inch of soil loss annually). In the original sodbuster regulation, USDA proposed a waiver allowing erosion at rates up to twice the T value in cases where the cost of attaining T was exorbitant.

Unfortunately, USDA abandoned this sensible course in a June 29 Federal Register notice. The department eliminated the use of T-based sodbuster standards nationwide, replacing them with entirely local determinations, which are based on vague and unspecified "considerations of economic and technical feasibility and other related factors."

Proponents say the change is necessary to avoid "unreasonable" economic burdens on crop producers. That's a worthy goal, but USDA's total neglect of T values for sodbuster enforcement goes much too far. It compromises the basic integrity of the farm bill's landmark conservation title.

By abandoning existing erosion standards, the proposed rule exposes local conservation officials to enormous pressure. Where money is involved, a completely local process invites widespread abuse. We anticipate unfair and uneven sodbuster enforcement from state to state, county to county, and farm to farm, as local officials struggle to decide how much conservation is economically or technically feasible in the absence of any clear standard.

USDA has fixed a rule that wasn't broken. Farmers incur no out-of-pocket expenses when they forgo sodbusting new lands. Lax standards may only result in further conversion of unplowed marginal land, undermining the natural-resource and supply-control benefits of the farm bill's Conservation Reserve Program. Nor is a relaxed standard needed for erodible fields already in the cropland base. By the department's own estimates, much of the land in this category is already farmed within tolerable erosion levels, or can be by the 1995 "conservation compliance" deadline set by the farm bill. The very worst cropland can—and should—be enrolled in the reserve.

USDA has scrapped a feasible national goal to satisfy complaints from a few farming regions—notably cotton-growing areas in the Texas plains—where heavily subsidized producers have difficulty reducing erosion even to three or four times the tolerable rate. The rule change was good news for them. The "flexibility" theme sounded by USDA signals that local pressure will largely determine how much conservation is appropriate.

Many people in the conservation community—inside and outside the USDA—have vigorously protested this misplaced rule change, a sentiment echoed in strong letters to Agriculture Secretary Richard Lyng from Senator William Armstrong, the original sponsor of the sodbuster bill, and from Senators Charles Grassley and Sam Nunn.

The department must carefully weigh these views before publishing the final sodbuster rule.

Farmers who plow erodible land currently in grass or trees should be held to a T-value standard to remain eligible for USDA programs. A less-stringent standard makes sense for erodible fields already in production, but reference to T values should be retained as a safeguard against too much "local flexibility."

USDA's final decision may well determine whether sodbuster results in business as usual in soil conservation or the historic reform Congress intended.●

U.S. NAVAL PRESENCE IN PUERTO RICO

● Mr. QUAYLE. Mr. President, in January of this year Adm. William J. O'Connor, commander of U.S. Naval activities in the Caribbean, gave a speech outlining the importance of the U.S. Naval presence in Puerto Rico.

His speech is one that merits our attention today for a number of reasons. Political unrest in Panama underscores the difficulties we have experienced in the last few decades in maintaining the needed U.S. presence in this area of the world. Admiral O'Connor provides a much-needed reminder of just how dependent the United States has become on maritime traffic, both civilian and military, moving through the Caribbean.

Second, the ongoing conflicts in the Caribbean and Central America remind us of the importance of economic stability and growth to the political stability of countries in this area. To put it bluntly, our policies from the alliance for progress through the Caribbean Basin Initiative have been woefully inadequate to promote the sort of economic growth needed as a foundation for democracy and political stability in the Caribbean and Central America. Again, Admiral O'Connor is eloquent in outlining the ways in which we have developed and should continue to promote economic strength in Puerto Rico. Clearly, this is one of the better examples of success in our economic policies in this region.

Mr. President, I commend Admiral O'Connor's remarks to all of my colleagues as guidance for our future economic and defense policy in the Caribbean Basin and Central America. We must do better in this region both to protect our own national security and to promote democracy in the region.

Mr. President, I ask that Admiral O'Connor's remarks be placed in the Record.

Remarks of Rear Adm. William J.M. O'Connor, Commander, U.S. Naval Activities, Caribbean

Today I plan to spend about fifteen minutes or so explaining to you the role of the U.S. Navy here in Puerto Rico and the Caribbean. My purpose is both to inform you and provide you a frame of reference within which to view U.S. Naval operations in this area of the world. I am also going to tell you why the Navy and Puerto Rico enjoy a mutually beneficial relationship from both an economic and social perspective.

First, let's look at the Caribbean. As many of you well know, the United States, unlike Soviet Russia, is no longer a self-sufficient nation. It is dependent on numerous imports from throughout the world to keep its industries working. Of course, oil comes to mind; and more than 50 percent of all oil imported into the United States passes through the Caribbean. Just as important as oil, though, are about 40 other strategic materials like chromium, bauxite, tungsten, titanium, manganese, etc. without which our industrial economy could not survive. Most if not all of these materials must also use the Caribbean sea lanes to reach the Continental U.S.

Another major factor that affects the economic well being of the U.S. is the Panama Canal. Somewhere between 12,000 and 15,000 ships transit the Canal each year and 80 percent of these ships have either sailed from U.S. ports or are destined for them. While I have no verifiable figure as to what the economic impact would be if we lost maritime control of the Caribbean to a foreign power, I would guess our gross national product would shrink by about 25 percent, wreaking economic havoc.

A solid historical example of what can happen if we lose the Caribbean Basin, even temporarily, was seen in the early months of 1942. A wolf pact of the German submarine fleet ruled the Caribbean from mid-February to mid-June. During that four-month period they sank 122 tanker or cargo ships. It wasn't until the wolf pack was cleared out that the U.S. was able to go into high gear production, producing and shipping the weapons and machines that eventually won the war.

A final fact all of us need to keep in mind is the immense threat that Cuba poses in the event war breaks out in Europe. More than half of all manpower and material that is presently programmed to support U.S. and allied forces against Soviet aggression in the European theater will sail from the U.S. ports in the Gulf of Mexico and transit either the Florida straits between Florida and Cuba or the Caribbean en route to the battleground. Through aerial interdiction, land and sea based anti-ship missiles, mining, and submarine warfare, Cuba could substantially damage our European resupply efforts. In war, should Cuba actively ally itself with Russia, it will have to be taken out of action as swiftly as possible.

Now, given the economic importance of the Caribbean sea lanes, the essentiality of the Panama Canal and the threat posed by Cuba * * * what advance bases does the U.S. Navy have in the area to provide for high intensity wartime operations?

The answer is that there are only three: Naval Station Panama Canal, Naval Station Guantanamo Bay, Cuba and Naval Station Roosevelt Roads, in Puerto Rico. All three are under my command, and in my opinion, Roosevelt Roads is the most vital. I say that because our facilities at Panama are very limited * * * they can provide fuel and limited chanderling services but little more to support the fleet, even in this role, because of limited waterfront facilities, they barely can keep pace with medium intensity peacetime operations in their area. Their harbor patrol craft can protect against clandestine mining by merchant ships in the canal but are incapable of defending against submarine mining of the approaches or any other significant naval threat. We need also to recognize that under the provision of the Panama Canal Treaty, all U.S. Military and Naval Forces are to be withdrawn from Panama by the year 2000.

The Naval Station at Guantanamo is a marvelous facility for peacetime training and operations. In wartime however, it will be of little use, at least initially. It is surrounded by Cuban ground and Air Forces and the possibility of it surviving as functioning advance naval operating base seems unlikely to me should Cuba decide to move against it. Eventually, we would prevail but extensive repairs would most probably be required before it could operate as an advance base for the fleet.

Naval Station Roosevelt Roads, however, has ample facilities plus adequate fuel and ammunition storage and a capacity to expand rapidly to combat demands. Repair facilities including floating drydocks could be in place within weeks. In wartime, then, the advance base on which the Navy will depend to support Caribbean Naval Operations, both U.S. and allied, will be Roosevelt Roads. Access to Roosevelt Roads is indispensable for controlling the Caribbean in a wartime scenario.

Up to now, I've been talking about the vital geostrategic position of Roosevelt Roads under a wartime scenario. What is its importance to the Navy and the U.S. in peacetime? My answer to that is, it is vital to the process of peace keeping because it permits our Atlantic and Mediterranean Fleets to train as they would fight and thereby maintain a very high state of combat readiness, that makes the other guy think twice before treading on vital U.S. national interests or those of our allies.

There is no question that our facilities here on the main island, at Vieques—which is the centroid of all our training—at St. Thomas and St. Croix, and the surrounding waters and airspace make the Puerto Rico operating area the finest naval warfare training area anywhere in the world.

First and foremost, thanks to the good weather, we can operate our forces 95 percent of the time. For a carrier battle group to lose a day of training because of poor weather is very costly to U.S. taxpayers.

But aside from the good weather, our land facilities and controlled open ocean area of approximately 200,000 square miles, allow our battle groups to exercise all facets of naval warfare and do it simultaneously. No other exercise area offers this advantage. Although there are places where shore bombardment is permitted, it must be practiced in isolation, away from the amphibious force landing it is practicing to support. Other facilities are available for aerial bombardment, but because of their desert location, our planes must be land-based. However, we can do it all, pretty much like we will be required to do it in a wartime environment.

For example, supersonic drones, pilotless remote controlled jet aircraft, and regimental size air raids launched from our airfield can exercise the command and control structure in bringing to bear surface to air missile batteries and fighter aircraft in a realistic anti-air warfare scenario. Simultaneously, submarine simulators launched in our fully instrumented underwater range provide invaluable anti-submarine warfare training to our attack submarines, maritime patrol aircraft and surface combatants. In the midst of this, threat emitters simulating friendly and hostile ship-based radios and radars fill the air with electromagnetic signals to train and test our operators in the art of electronic warfare which, in some ways, is rapidly becoming more important than our radars for searching out the enemy. We even have the capability of electronically jamming our ships' radars which we anticipate our likely enemy to do. The impact area at the far eastern tip of Vieques, less than a square mile in size, is used for delivering both practice and live ordnance. On our carriers, our ordnance men, many for the first time, practice breaking bombs out of storage areas down in the bowels of the ship, raising them by elevators to the mess decks were the high speed or high drag fins are attached, then up another set of elevators to the flight deck where fuzes and laser seekers are installed, and then finally they must be carefully mated to the very complex aircraft weapon release system. Pilots, also many for the first time, get to experience, in good weather, very heavy weight catapult shots which require special techniques in getting airborne. Finally, the pilots get to deliver the live ordnance and a close eye is kept on duds to see if each squadron's ordnance men have done everything correctly to ensure a detonation. If not, it's back to the schoolhouse for more training. In combat, you cannot tolerate dud ordnance.

A few thousand yards from the live ordnance impact area amphibious ships disembark the marine assault force. The helicopters and landing craft come under the protective air cover of carrier based fighters and the guns of the surface ship combatants as they make their way ashore. Once they cross the beach there is ample maneuvering area for the tanks and armored personnel carriers. Marine artillery and mortor units can fire into the impact area gaining necessary accuracy skills.

I could elaborate more on other training activities such as surface to surface and air to surface missile firings and aerial minelaying and paratrooper drops, but in the interest of time I ask you to believe me when I say that our facilities here are unique and singularly important to the readiness of the Atlantic and Mediterranean Fleets. Remember, it was here that the carriers *Coral Sea* and *America* practiced night radar bombing that was used against Lybia. Here also the carrier *Saratoga* practiced air intercepts with her fighter aircraft—the method used in capturing the *Achille Lauro* terrorists * * * events that restored pride to the American people, instilled fear in the heart of the terrorist movement, and put an end to the idea that we are powerless to act against terrorists.

Let me now turn to the status of relations between the commonwealth government and the Navy. Perhaps I'm better qualified to talk on that subject than anyone else in the Navy today. As you may know, I commanded the Naval Station Roosevelt Roads from 1980 to 1982. While I personally had excellent relations with the local communities, it was a difficult time, as it had been for the previous eight years, for the Pentagon and "La Fortaleza" due to a multitude of factors, on both sides; some of omission, some of commission, followed by misunderstandings, arrogance, communication breakdowns, etc., the relationship between the commonwealth and the Navy was clearly a debacle. There were suits followed by countersuits dealing with the Navy's use of its training areas. Actions of both sides bordered on intemperate. The local press, of course, loved it. It made great copy. On national TV, 20/20 did a particularly derogatory story about the Navy on Vieques. It became very popular to bash the Navy. Congressmen without a Puerto Rican constituency, entered the fray against the Navy for heaven knows what reasons. Passions were aroused with excessive rhetroic and certain small but excessively vocal segments of the Puerto Rican population actively demonstrated to get the Navy off Vieques. It was a public relations mess that threatened the Navy's continued access to the single most important naval training area in the world.

Eventually, the futility of the continuous and useless legal and public affairs warfare became evident to both parties. No one was going to win except the enemies of democracy. After reestablishing a dialogue, laying out the real problems, and as you would guess they were economic, and mutually agreeing to a reasonable approach to their solution, the foundation for productive cooperation was established. Our agreement was formalized in a memorandum of undertanding signed by both the Navy and the commonwealth in November 1983, which committed both parties to act in a responsible fashion. This agreement today guides our mutually beneficial relationship.

It is a healthy, honest, forthright, and beneficial partnership. We are working together for the benefit of all, and the people of Puerto Rico know that to be true and appreciate it. Let me tell you why.

We, the Navy, are one of the major businesses on the island. We directly employ more than 2,000 government civilians. Together, with our 2,400 active duty Navy men and women we pump a $70 million dollar payroll into the local economy. In addition, we contract with local business to provide services varying from operating our training ranges to cutting grass. These in turn employ more than 800 people to carry out their responsibilities and more than $26 million annually are spent for these services. Finally, the value of our purchases here in Puerto Rico are more than $47 million annually. In sum, the Navy directly adds $143 million to the economy.

The Navy working with FOMENTO [Economic Development Administration of Puerto Rico], and Defense Logistics Agency actively participates in annual workshops designed to show "Puertoriqueño" entrepreneurs how to successfully bid on government contracts. Through efforts such as this, we, the Navy, have been instrumental in raising the dollar value of defense contracts from less than $180 million in 1982 to more than $420 million in 1986. The 1987 figure is estimated to be above $400 million. In 1985 we actually exceeded $500M but that was a single spike in our generally upward trend.

Through a Navy initiative, funding has been provided by the Office of Economic Adjustment in the Department of Defense to create and operate a Vieques local economic development corporation. That organization with strong support from the Navy, FOMENTO, PRIDCO and the land administration has created more than 350 jobs on Vieques and is working to create more. I personally meet with the directors of the corporation each month to review status of ongoing and proposed projects to see where and how the Navy can assist. I have, as a consultant on my staff, a former director of the Texas State Industrial Development Commission. Earlier this week, we were discussing new initiatives for enhancing the economic growth of Vieques and eastern Puerto Rico. Our progress is such that I hope we will bring down unemployment on Vieques, which was more than 40 percent in 1982, down below the 15 percent rate experienced on the main island by the end of calendar year 1988. That assumes of course there is no net migration from the main island. From an economic perspective, the Navy is pulling its oar to the benefit of Puerto Rico and will continue to do so.

We also are good neighbors from a humanitarian standpoint. In 1987 our decompression chamber was instrumental in saving from permanent injury or death 23 non-Navy civilians afflicted with the bends. During the new year's eve tragedy at the Dupont Plaza, where 96 people died, our helicopters rescued seventy-five survivors from the rooftop. This was done at great personal risk by our aircrews.

Of course, there are many needs in Puerto Rico that, under the law, we cannot spend government funds for. But our people can and do volunteer their spare time and effort. Our Chief Petty Officer Association actively supports an orphanage, donating their labor and their money. In Vieques our CB's are always ready to assist charitable activities using their skills during off-duty hours. The list can go on, but to make my final point about the Navy being a good neighbor, I point with pride to the recently completed combined federal campaign which supports "Fondos Unidos De Puerto Rico". The Navy, uniformed and civilian, contributed more than $140,000, surpassing its assigned goal.

We are also very conscious of our responsibility in preserving cultural artifacts and the environment for future generations. In 1987 I presented to the President of the University of Puerto Rico and chancellor of the Rio Piedras campus, two large truckloads of properly catalogued cultural artifacts from Vieques such as pottery, tools, weapons, and game implements that spanned the period from 1,200 years ago to the beginning of the 20th Century. We spent close to three quarter of a million dollars since 1980 surveying all 26,000 acres of Navy land, identifying 218 significant archeological sites and then, proceeding under the direction of archeologists, recovered the artifacts. I can say in all honesty, Vieques is the most thoroughly archeologically surveyed island in all the Caribbean. My previous aide, who has an undergraduate degree in archeology, claims it is the most complete survey anywhere on the face of the Earth. Of major consequence is the recent approval within the Navy of a land use management plan for Navy lands on Vieques that will substantially protect the relatively pristine environment and the many species of wildlife that inhabit the island and at the same time benefit directly the people of Vieques. We will commit more than $5 million to this effort over the next several years.

We now have what I feel are good strong ties with the commonwealth. Unfortunately there are those who through misguided moral or ethical reasoning as well as a few for malevolent reasons would like to see that relationship destroyed. We need to guard against that happening. It is not the future of the Navy that is at stake but peace. We train here, not for the purpose of fighting. We train here because a ready and capable force is the only proven deterrent to war.

By being a ready force in the Caribbean, I firmly believe that the Navy provides a social benefit greater than all the Federal and commonwealth social programs put together. That benefit is the protection of the freedom and democratic traditions that the 3.3 million American citizens in Puerto Rico value as much as life itself.

Finally, let me paraphrase something I read recently. "In the roughly 3,000 years of recorded history man has been at war for all but two hundred. The most obvious lesson learned from analysis of all those wars was that if a nation wishes to remain free of foreign domination and the ravages of war, it must be capable and prepared to fight against aggression." These are not the thoughts of a military man; they are the words of those eminent American historians Will and Ariel Durant in their scholarly work "The Story of Civilization". They wrote that almost a half century ago; but it is just as true today. By being ready for war, the U.S. Navy will prevent war.

Thank you for your attention, and God bless you all.●

CENTRAL AMERICA AS THE LOUISVILLE COURIER-JOURNAL SEES IT

● Mr. McCONNELL. Mr. President, over the past several months, the peace process in Central America has limped along. Similarly, efforts here in Washington to forge a bipartisan, sustainable policy and package of assistance have edged forward only to suffer setbacks. Following the House vote in early February to reject aid to the Contras, I was struck by the comments attributed to opposition leaders in Nicaragua. They said, and I quote:

> First Congress said, "The Contras are no good, they are not doing anything, they are wasting our money * * * now that the Contras are proving their military effectiveness, Congress cuts them off anyway."

The differences in Washington over U.S. policy toward Cental America divide those who believe the resistance provides meaningful pressure on the Sandinistas to fulfill pledges they have made since 1979, and those who view the Contras as counterproductive. I think the case that the Sandinistas are simply playing politics and are not seriously interested in the pursuit of peace and democracy in the region has been convincingly demonstrated in the last 2 months. All you have to do is compare the Sandinistas public rhetoric with actual practices. The day they announce they will deal directly with the Contras, they arrest seven leaders of the opposition, as if to say we will try to appease international opinion but democracy is not for home consumption. They have recently announced plans to raise the levels of talks to higher officials, but have dismissed Cardinal Obando Y Bravo as the mediator, who has demonstrated both patience and credibility throughout this laborious process.

Mr. President, I have always had doubts about the Sandinistas commitment to democracy and freedom in Nicaragua. Although, I have had high hopes for the Arias peace initiative and will continue to support every effort undertaken to fulfill its goals, I am increasingly concerned that absent Contra military pressure, the Sandinistas will not live up to the plan. What brings me to the Senate floor today is to take note of the fact that the largest newspaper in my State of Kentucky, the Louisville Courier-Journal, has come around to a similar point of view. In an editorial on Monday, March 9, the paper noted:

> Many well-meaning and patriotic Americans oppose U.S. aid to the Contras. This newspaper did, too, until recently. But we're persuaded that pressure from the Contras is the only effective way to force the Sandinistas to live up to their promises of political freedom and pluralism.

Obviously, this was not a spur of the moment nor an easy decision by the Courier-Journal. It clearly gave a great deal of thought to a change in its view. The editorial board carefully observed the Sandinistas' record over the past few months and reached the only conclusion they could: The Contras provide pressure that is absolutely critical to the survival of both the peace process and hopes for political freedom in Nicaragua.

In reviewing the recent wave of repression in Nicaragua, the newspaper noted:

> In the last few days (the Sandinista regime) has unleased its thugs against striking members of independent unions, against the opposition newspaper La Prensa, and in a particularly nasty confrontation Sunday against marchers protesting the military draft. Why? * * * could it be because shipments of U.S. aid to the * * * Contra guerrillas have ended and Congress seems in no hurry to renew them? That's the Reagan line, and it's persuasive.

I welcome the Courier-Journal's change of view and applaud the courage and judgment it took to publicly reverse its opinion. I hope that this prestigious paper's opinion will be noted by everyone struggling with the the issue of U.S. policy in Central America. I would ask that the editorial be inserted in the RECORD and thank my colleagues for taking the time to hear my comments.

The editorial follows:

[From the Louisville Courier-Journal, Mar. 9, 1988]

THE POLITICS OF CONTRA AID

Nicaragua's Sandinista regime seems determined to prove Ronald Reagan right. In the last few days, it has unleashed its thugs against striking members of independent unions, against the opposition newspaper *La Prensa* and, in a particularly nasty confrontation Sunday, against marchers protesting the military draft.

Why the new wave of repression? Could it be because shipments of U.S. aid to the anti-Sandinista *contra* guerrillas have ended and Congress seems in no hurry to renew them?

That's the Reagan line, and it's persuasive. The U.S. House of Representatives last month rejected the President's request for continued military aid for the *contras*. Then, last week, it rejected an alternative plan, put together by Speaker Jim Wright, that offered only "humanitarian" assistance.

The politics of last week's vote must have looked crazy to anyone in Managua. It doesn't look very sane even from Louisville. Here were House Republicans, with the President's blessing, joining liberal Democrats to defeat aid to the *contras*. Why? Because Republicans believe that non-lethal aid is useless to the anti-Sandinista cause—and that the Democrats can be made to pay a price in November if they abandon the *contras*.

Maybe so. The *contras* need ammunition, too, of course, but food, clothing and medical supplies are better than nothing.

Nothing, however, is what they're going to get—until or unless Congress changes its mind. And with the guerrillas facing near certain decline as a military force, the Sandinistas have little incentive to make any concessions in ceasefire talks with *contra* leaders. That may explain why President Daniel Ortega dismissed Nicaragua's Catholic primate, Miguel Cardinal Obando y Bravo, as a mediator in those talks.

Many well meaning and patriotic Americans oppose U.S. aid for the *contras*. This newspaper did, too, until recently. But we're persuaded that pressure from the *contras* is the only effective way to force the Sandinistas to live up to their promises of political freedom and pluralism.

We also believe—as does Costa Rican President Oscar Arias—that if the Sandinistas don't live up to those promises—and if the governments of neighboring countries don't do likewise—peace in Central America will remain an elusive goal. And that just increases the chances that U.S. soldiers will end up fighting there.●

SPECIAL OLYMPIAN

● Mr. GRASSLEY. Mr. President, I would like to take this opportunity to introduce to you an extraordinary young man from the State of Iowa. Johnny Flannery, 23, of Marshalltown, is the current High Jump Gold Medalist of the 1987 Summer International Special Olympic Games. With that accomplishment, he is now rated No. 1 in the world.

Johnny Flannery has competed in every Special Olympics since the first grade. After excelling in the high jump, the 200-meter race, and the 400-meter relay, he decided to concentrate all of his energies on the high jump.

After qualifying for the international games, Johnny practiced diligently afternoons and evenings to obtain his goal. This was all scheduled around his full-time job. Johnny's a route helper on a mid-Iowa workshops can and bottle redemption route.

Johnny attended the games with his parents and performed to his best capability. He tied for first place with a jump of 5 feet 4 inches. In the special jump-off he jumped an outstanding 5 feet 6 inches and brought home his gold medal.

Johnny Flannery not only won a gold medal at the international games, but Blue Cross/Blue Shield of Iowa made it possible for him to travel to Calgary to watch the 1988 winter Olympic games. It has been said that Johnny is also a gold medal spectator. His enthusiasm runs high for any sport whether he is a participant or a spectator.

Johnny never stops. He is already preparing for the 1988 Special Olympic events. He has already qualified for the district games in bowling and is also competing in the basketball and track and field events.

Mr. President, Johnny is an extraordinary person and an outstanding athlete. His enthusiasm and determination have taken him to a height not known by many of us here today.

In today's world, everyday activities for a normal person are a struggle. Johnny Flannery is mentally retarded. He has overcome this complication in his life and has risen above it to achieve a gold medal and a number one ranking in today's athletic world.

Most important, Johnny Flannery has proven to himself that he can attain anything he sets his mind to.

Johnny is an example for all of us. At any point, whatever our physical or mental status, we can do anything that we want. The only way to accomplish our dreams is to work and sacrifice for them.

Mr. President, Johnny Flannery should be a model to us all, and I am very proud to know that such a fine young man comes from my home State of Iowa.●

YOUTH UNEMPLOYMENT—WHAT SHOULD WE DO?

● Mr. QUAYLE. Mr. President, I am very pleased that the Employment and Productivity Subcommittee has scheduled hearings on the issue of youth unemployment and the appropriate Federal response for that vexing and persistent problem. Any look at the data on this problem over the last 20 years or so shows that we can take no solace in the proposition that Federal programs have found the answer. For example, the employment to population ratio of nonwhite youth—16-24—was under 50 percent in 1960 and it remains there in 1987—while that ratio for white youth has climbed from 50.6 percent in 1960 to 63.6 percent in 1987—see table I.

If we are to take a realistic look at the problem—or rather at possible solutions—we must also recognize the realities of the Federal budget. For fiscal year 1989, we have a bipartisan agreement on the level of domestic discretionary spending. What that means is that any proposal to increase that spending must find an equivalent reduction. The situation for years after fiscal year 1989 is not going to be that different—no matter what the outcome of the elections. What we must do therefore is to look at choices. We must look not only at what we should be doing—but also at what we should not be doing. The purpose of this statement is to try to highlight the choices that we must make.

It seems to me that we must discuss three basic questions in looking at the youth unemployment issues.

First, how much should we be spending on youth? Or, more realistically, what proportion of the job training dollar should go for youth and what proportion for adults?

Surprisingly, in the heyday of the CETA youth program, only 49 percent of the total employment and training outlays were devoted to young people, while the fiscal year 1986 level reached 69 percent—see table II. Should we be allocating an even larger share of the job training dollar to youth?

Second, who should we be spending it on?

In simplistic terms, youth can be categorized as in-school and out-of-school and as high school graduates and dropouts. Should Federal job training dollars be targeted to all of these categories or, for example, should we target our efforts on the out-of-school dropout? Are some of these categories more appropriately the responsibility of State and local governments?

Currently, Jobs Corps targets its services at dropouts, while the overwhelming majority of the participants in the summer programs are still in school. Roughly the same level of resources are devoted to those two programs. Is that appropriate? Title II-A youth programs serve approximately the same number of dropouts, high school completers, and students—see table III. Should we concentrate our efforts on dropouts instead of completers and nonstudents rather than students?

Third, are we spending the available funds on the right kinds of services?

Simplistically, again, one can categorize the types of youth services provided into three basic classes: high-cost intensive services such as provided by the Job Corps, short-term relatively low-cost services, typically provided under title II-A, and income support as provided under title II-B. Roughly, about one-third of our expenditures go into each type of activity—see table IV. Is this appropriate distribution? Should we increase the relative effort for one or more of these categories? Should we concentrate on services that are more intense than II-A but less intensive than Job Corps?

I do not accept the proposition that what we need to do is to authorize one or two more pilot projects as a way of gaining new insights into ways of dealing with the employment problems of the very hard-to-serve. In the late 1970's, we spent close to $1 billion a year on the Youth Employment Projects Demonstration Act and those projects produced an enormous volume of evaluation literature. The questions we face today are not research questions; they are choice questions. If the system is creaming, should we change eligibility standards? If we need to concentrate on dropouts, should in-school youth remain eligible? These are the issues we must face; that is why I have placed this statement in the RECORD; and I hope that witnesses and others interested in improving our youth training programs will address these issues in their statements. The choices we have to make will not be easy, but if we work together, we will hopefully find the best solution possible.

The tables follow:

TABLE I.—EMPLOYMENT TO POPULATION RATIOS

[16 to 24-year-olds; in percent]

	1960	1965	1970	1975	1980	1985	1987
White	50.6	50.8	54.6	56.9	62.0	62.6	63.6
Black and other	46.7	45.7	44.1				
Black				36.7	39.3	40.2	42.4

TABLE II.—CETA AND JTPA OUTLAYS [1]

[Dollar amounts in millions]

	Total outlays	Youth outlays	Youth outlays as percent of total outlays
Fiscal year:			
1980	$8,845	$4,346	49
1982	4,170	2,472	59
1984	2,835	1,738	61
1986	3,638	2,181	60

[1] For detailed outlay charts, see table V.

TABLE III.—EDUCATIONAL ATTAINMENTS

Time period and program	Dropouts as percent of terminees, participants, enrollees [1]	Completers [2] as percent of TPE	Ratio of dropouts to completers	Students as percent of TPE	Nonstudents as of TPE	Ratio of students to nonstudents
PY 1986: II–A youth [3]	27	34	1:1.3	38	62	1:1.6
Summer 1986: II–B [4]	6	13	1:2.2	81	19	4.3:1
PY 1986: Job Corps	81	19	4.3:1	0	1F0	

[1] Information was available for II–A youth terminees, II–B participants, and Job Corps enrollees.

[2] While "high school completer" is not a consistent measure of educational attainment, the data sources presented in this table use this measure to represent a given level of achievement.

[3] JTPA output reports for June 1987, U.S. Department of Labor, Employment and Training Administration, Office of Employment and Training Programs.

[4] The Job Training Partnership Act, a report by the Natonal Commission for Employment Policy, September 1987.

TABLE IV

[Title II–A, II–B and Jobs Corps programs mainly provide: Title II–A: Low-cost/nonintensive service (i.e. short-term training, job search etc.). Title II–B: Work experience with a current emphasis on remedial and basic education. Jobs Corps: Intensive/total service program (i.e., skills training, work experience, etc. in addition to housing, health care, etc.)]

Time period and program	Percent fiscal year 1986 youth outlays spent on program	Cost per enrollee
PY 1986: II–A Youth [1]	38.6	$1,834
Summer 1986: II–B [2]	34.2	1,021
PY 1986: Job Corps	27.2	9,738

[1] JTPA output reports for June 1987, U.S. Department of Labor, Employment and Training Administration, Office of Employment and Training Programs.

[2] The Job Training Partnership Act, a report by the National Commission for Employment Policy, September 1987.

TABLE V.—CETA AND JTPA OUTLAYS

[CETA programs 1980 and 1982: Title II—Parts B and C: Comprehensive Employment and Training Services; Part D: Public Service Employment. Title III—Special Federal Responsibilities. Title IV—Part A: Youth Employment Demonstration Programs; Part B: Job Corps; Part C: Summer Youth Programs. Title VI—Countercyclical Public Service Employment. Title VII—Private Sector Initiative Program. Title VIII—Young Adult Conservation Corps. JTPA programs 1984 and 1986: Title II—Disadvantaged Adults and Youth; Part A: Block Grants; Part B: Summer Youth Programs. Title III—Dislocated Workers. Title IV—Federally Administered Programs Job Corps. Dollar amounts in million]

	Total outlays [1]	Percent youth participants [2]	Youth outlays
FISCAL YEAR 1980			
Title II:			
Parts B and C	$2,144	48	$1,029
Parts D	1,900	26	494
Title III	503	(3 4)	
Title IV:			
Parts A	905	100	905
Parts B	470	100	470
Parts C	721	100	721
Title VI	1,796	24	431
Title VII	172	36	62
Title VIII	234	100	234
Total	8,845		4,346
Youth outlays as a percent of total outlays: 49 percent			
FISCAL YEAR 1982			
Title II:			
Parts B and C	1,695	41	695
Parts D	84	(3 4)	
Title III	[5] 449	(3 4)	
Title IV:			
Parts A	336	100	336
Parts B	595	100	595
Parts C	695	100	695
Title VII	246	33	81
Title VIII	70	100	70
Total	4,170		2,472
Youth outlays as a percent of total outlays: 59 percent			
FISCAL YEAR 1984			
Title II:			
Parts A	1,333	43	573
Parts B	584	100	584
Title III	135	(4)	
Title IV: [6]	783	(4)	
Job Corps	(581)	100	(581)
Total	2,835		1,738
Youth outlays as a percent of total outlays: 61 percent			
FISCAL YEAR 1986			
Title II:			
Parts A	1,911	44	841
Parts B	746	100	746
Title III	188	(4)	
Title IV	793	(4)	
Job Corps	(594)	100	(594)
Total	3,638		2,181
Youth outlays as a percent of total outlays: 60 percent			

[1] 1980 total outlays source: The Comprehensive Employment and Training Act: A Compilation of Data, Congressional Reserach Services, May 14, 1982. 1982 Total outlays source: U.S. Department of Labor, FY 83 President's Budget Briefing Materials, February 6, 1982. 1984 and 1986 total outlays source: U.S. Department of Labor, Employment and Training Administration, Office of Financial and Administrative Management, Office of Comptroller, Division of Budget.

[2] 1980 percent youth participants source: Employment and Training Report of the President, 1981. 1982 percent youth participants source: Employment and Training Report of the President, 1983.

[3] Youth percentage not available.

[4] Youth percentage insignificant.

[5] Includes services to native Americans, migrants, and seasonal farmworkers; other title III programs; and program support.

[6] Includes services to native Americans, migrants, seasonal farmworkers, and veterans; national activities including technical assistance and training; labor market information; research, development, and evaluation; National Commission for Employment Policy; National Occupational Information Coordinating Council; pilots and demonstrations; and Rural Concentrated Employment Programs.●

MORTGAGE REVENUE BONDS

● Mr. DODD. Mr. President, last summer, the Senate Housing and Urban Affairs Subcommittee held a hearing on the declining affordability of home ownership. Though a wide range of issues were discussed, one dominant theme emerged; that in housing and home ownership issues, effective results can be achieved only if the Federal Government works in partnership with State and local governments and the private sector. Mortgage revenue bonds are a critical part of such a partnership. The hearing demonstrated the need for extending the Mortgage Revenue Bond Program to finance home ownership programs.

Mr. President, today I am pleased to submit testimony given on February 23, 1988, by the Governor of the State of Connecticut, Bill O'Neill, before the House Subcommittee on Housing and Community Development. Governor O'Neill spoke on behalf of the National Governors' Association [NGA]. He discussed the Mortgage Revenue Bond Program, and presented the NGA's position on the direction housing policy is taking in this country. Additionally, Governor O'Neill talked about Connecticut's efforts to address housing affordability and availability problems.

Under Governor's outstanding leadership, the State of Connecticut has made great progress in filling the financial void resulting from the 70-percent cutbacks in Federal housing programs since 1980. Over the past 2 years, $200 million has been approved for State housing programs in Connecticut, and the Governor has requested an additional $100 million for this year. To ensure the continued success of Connecticut's home ownership program, however, it is imperative that Congress extend the Mortgage Revenue Bond Program. I urge my colleagues to join me in supporting S. 1522 to extend for 4 years the sunset date on the Mortgage Revenue Bond Program, as it is the only State mortgage financing mechanism remaining after the 1986 tax bill.

Mr. President, in closing I ask that the full text of Governor O'Neill's testimony before the House Subcommittee on Housing and Community Development be printed in the RECORD in its entirety.

[The material follows:]

TESTIMONY OF GOV. WILLIAM A. O'NEILL, NATIONAL GOVERNORS' ASSOCIATION

Mr. Chairman: On behalf of the National Governors' Association, I express our appreciation for the opportunity to address the development of a new national housing policy and to describe some of the state activities in housing.

The National Governors' Association believes that the commitment Congress made in 1949 to "ensure a decent and a suitable living environment for all Americans" is as important now as it was then. It is time for Congress to renew its pledge, and to develop a new national housing policy.

The need for housing has not dissipated with time. Over the next fifteen years, the nation will need to supply more housing due to population growth and increasing numbers of households. Most of this supply will be provided by the private sector, but private sector involvement in meeting the demands for shelter declines with the income of the resident. Where the private sector involvement declines, the public sector's role may have to increase.

At its just concluded Winter Meeting, the National Governors' Association adopted a statement of priorities to help in developing a new national housing policy. We commend these principles to you as you and your Senate counterparts begin establishing the outlines of a renewed federal presence in support of housing.

The statement of priorities follows:

In order to respond to the nation's current housing needs, a new national housing policy must include several key objectives.

Partnership.—It is essential that the federal government assume a leadership role in the development and implementation of a national housing policy, in partnership with the states, local governments, the private sector, and consumers. Neither the public sector nor the private sector alone can resolve the nation's housing problems. Meaningful solutions require a coordinated effort and a genuine partnership. The federal government's leadership is key; however, the states, local governments, the private sector, and consumers of housing also must contribute to efforts to address the problem of a lack of affordable housing.

Preservation of Affordable Housing. The federal government must protect its substantial investment in the current stock of affordable housing. Over the years, the federal government has subsidized the construction of thousands of units of affordable housing, through the use of below-market interest rate programs and public housing construction programs. Much of this housing stock now is at risk, due to expiring use restrictions, sale of properties, mortgage prepayment, or physical deterioration. It is essential for the federal government to take creative steps to ensure the preservation of these units.

Mechanisms to Expand Affordable Housing. Efforts should be undertaken to preserve the mechanisms currently available for expanding the supply of affordable housing. A wide variety of mechanisms currently are in place to encourage the development of affordable housing. Examples include mortgage revenue bonds, general obligation bonds, the mortgage insurance programs, tax credits for low-income housing, and community development block grant funds. Preservation and enhancement of these mechanisms is essential in providing citizens with affordable housing.

Subsidization of Rental Housing. The federal government must retain its key role in the subsidization of rental housing. A substantial portion of the nation's low income population depends on federal rental subsidies, in the form of Section 8 certificates and housing vouchers. Without such assistance, these families and individuals would be required to spend an extraordinary portion of their modest monthly income on housing, far exceeding the national standard. Currently, one-fourth of the poor spend over three-fourths of their income on rent.

Home Ownership. Homeownership, especially for first-time buyers, should continue to be a key public policy objective. Homeownership in the U.S., a widely embraced goal, has declined annually since 1981, following thirty-five years of steady increase. In recent years housing costs have accelerated at a much faster pace than incomes. For many Americans, homeownership can be achieved only with below-market mortgages underwritten by the federal, state, and local governments.

Homelessness. The problem of homelessness must continue to be a national priority. In recent years, homelessness has emerged as one of the nation's most challenging problems. Increasing numbers of the homeless are families with children who cannot afford the high cost of housing. Many of the homeless are unemployed, or mentally or physically disabled. Throughout the country both the public and private sectors are committing substantial resources to the homeless population. The federal government, in cooperation with state and local efforts, must continue to assume a leadership role in addressing this substantial problem.

State Role in Allocating Federal Funds. Representatives of state governments should participate in the allocation of federal funds to be used to promote affordable housing. There are significant regional differences in the nature and extent of housing problems. Efforts to address affordable housing problems should be tailored to local needs and geographical differences. Therefore, it is important that federal assistance should be in the form that is sufficiently flexible to be used creatively to complement state and local efforts.

Privatization. The important role of the private sector in the creation and expansion of affordable housing opportunities is a necessary element of any new housing policy.

A thorough understanding of the nation's current affordable housing problem requires a detailed examination of several key issues. These include the problems of the supply and cost of affordable housing, the challenge of meeting low-income housing needs, and the nature of fair housing policies and practices. It is also important to begin to clarify the federal government's and the states' unique and shared responsibilities.

The Governors also decided during our Winter Meeting to send a letter to the Congressional leadership urging them to support the extension of the December 31, 1988 sunset of the mortgage revenue bond program as a reaffirmation of Congress' commitment to making the dream of homeownership a reality for families of modest income throughout the United States. A copy of the letter is attached. NGA urges you as individual members of the House Banking Subcommittee on Housing and Community Development to co-sponsor H.R. 2640, and as a Committee to recommend the program's reauthorization to the Committee on Ways and Means.

The States are fully supportive of a continuing and vigorous federal role in housing. But because of the recent reductions in federal funding for housing programs, states have had to become more actively involved. While states can never compensate for the total federal housing cutbacks, they have begun to make a substantial contribution—in developing innovations to meet local needs and closing critical housing gaps. Before 1980, only 44 state-funded housing programs existed, primarily in California, Connecticut and Massachusetts. From 1980 to 1987, however, the states created 112 housing programs. Since 1983, states have established 92 programs. State housing programs fall mostly into the special needs (31 percent of all housing programs) and moderate rehabilitation—conservation (24 percent) categories. In addition to these state housing programs funded wholly or primarily by state own-source revenues, states have helped finance over 900,000 homes for predominantly first-time homebuyers and 650,000 units of rental housing through tax-exempt bonds. Between the mid-1970s and the end of 1987, states have borrowed almost $150 billion through mortgage revenue bonds and low-income, multi-family rental housing industrial development bonds to assist their low- and moderate-income citizens.

In my remarks regarding Connecticut's housing programs, I set out in some detail the commitment one state has undertaken to perform its part in the private sector-federal-state-local government partnership. Other states are making similar commitments.

Mr. Chairman and Members of the Committee, thank you for your attention, and I look forward to responding to your questions.

NATIONAL GOVERNOR'S ASSOCIATION,
Washington, DC, February 21, 1988.

Hon. ROBERT C. BYRD,
Senate Majority Leader, the Capitol, Washington, DC.

Hon. ROBERT J. DOLE,
Senate Minority Leader, the Capitol, Washington, DC.

Hon. JAMES C. WRIGHT,
Speaker of the House of Representatives, the Capitol, Washington, DC.

Hon. ROBERT H. MICHEL,
House Minority Leader, the Capitol, Washington, DC.

DEAR SIRS: Throughout the nation, we are facing a crisis of housing affordability. State and local governments are increasingly faced with the burden and responsibility of addressing the housing needs of low- and moderate-income families.

The overall rate of homeownership, especially among those under the age of 35, is declining drastically. The Joint Center for Housing Studies of the Massachusetts Institute of Technology and Harvard University reports that homeownership by those under 25 declined 25 percent in the period from 1981 to 1985. During the same period, homeownership rates in the 25-29 age group declined by 10 percent, an 8 percent decline among those 30-34, and a 5 percent decline among households headed by those 35- to 39-years-old. Homeownership in all groups declined by an average of 2 percent. Until 1980, homeownership rates had increased steadily for 35 years. Since the beginning of this decade, however, these rates have fallen every year for a total drop from 65.6 to 64.1 percent.

As a countervailing force, the mortgage revenue bond program represents one of the last housing programs that allow Americans of modest income to realize the American dream of owning their own homes. In these times of rising home prices and diminishing home affordability, it is crucial that this program continue.

As you know, the Tax Reform Act calls for a December 31, 1988, sunset of this crucial resource.

Nationally mortgage revenue bonds have helped to finance over 700,000 new homes and over 1,000,000 existing homes through 1987. The national average household income is $26,700.

As if the program's overwhelming success were not reason enough for its continuation, we note that its extension is revenue neutral. We are all aware of the volume limitations placed upon "private purpose" tax-exempt bonds by the tax reform bill. Since an extension of mortgage revenue bonds will not require an increase in volume for tax-exempt bonds, they cannot possibly cost the federal government lost revenues. Rather, they simply afford us at the state level an important option with respect to how we choose to spend the scarce resource that tax-exempt bonds represent.

Legislation (H.R. 2640 and S. 1522) has been introduced to extend the life of this program through 1992. We respectively urge that you support the extension of this program as a reaffirmation of your commitment to making the dream of homeownership a reality for families of modest income throughout these United States.

Sincerely,

Gov. John H. Sununu,
Chairman.
Gov. Gerald L. Baliles,
Vice Chairman.
Gov. Edward D. DiPrete,
Chairman, Committee on Economic Development and Technological Innovation.
Gov. Roy Romer,
Vice Chairman, Committee on Economic Development and Technological Innovation.

Testimony of the Honorable William A. O'Neill, Governor of the State of Connecticut

Good Afternoon Mr. Chairman, Members of the Subcommittee.

I would like to take this opportunity to thank you for your kind invitation, extended through the National Governor's Association, to appear before you this afternoon to discuss what has developed into one of the most important issues in Connecticut at this time—housing,

Lack of housing at all for some,

Deplorable conditions for others,

Rent levels and entry level homeownership prices that are making hard work and saving yield an increasingly meager return on the "American Dream" for the majority of young households of modest means.

However, before discussing Connecticut and what we have been doing over the past couple of years and hope to do in the future let me take a moment to compliment this Committee—and indeed the whole Congress—for the action which you took recently in passing the Housing and Community Development Act of 1987.

THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987

Knowing the resistance, and at times virtual hostility, that you all have faced from the Administration over the past several years, I would be remiss if I did not take note of and commend the persistence, even tenacity, with which this Committee has pursued housing and community development legislation over the past several years.

I think that the passage of the 1987 Act is a positive sign for those of us who are concerned with housing issues—that after so many years of impasse and frustration we may be able to see our way to an agreement on the future of Federal housing programs. I, for one, hope that an era ended with the passage of the 1987 Act, and that in the future your lives will be easier when it comes to passing housing authorization bills.

I would like to commend the Committee for several aspects of the legislation which we, in Connecticut, look at positively—

The Nehemiah Housing Opportunity Grants Program: this innovative concept provides needed assistance to neighborhood revitalization efforts and lower income homeownership that often have not received adequate attention in recent years; I can assure you that the State of Connecticut will do all that it can through its agencies to ensure that in cooperation with local governments successful use is made of this program in our state; Notably, the late Stewart McKinney was a strong advocate of this initiative and Representative Morrison worked hard to ensure that it was useful in our urban centers of New Haven, Hartford, Bridgeport and Waterbury as well as those of New York and Los Angeles;

The permanent reauthorization of FHA single family insurance, a cause championed by our own Senator Dodd among others, provides significant relief for those homebuyers who need to make use of this important and valuable homeownership tool and can now count on its availability whenever they need to purchase a new home;

The increase of FHA single family home mortgage maximums in high cost areas is also a signficant help to those trying to purchase homes in those areas, such as Connecticut, where even the current national maximum is a severe limit on the program;

The FHA pilot program for the insurance of home equity conversions is an intriguing initiative which we in Connecticut will be looking at closely; through its Reverse Annuity Mortgage (RAM) Program the Connecticut Housing Finance Authority (CHFA) is one of the largest home equity conversion lenders in the country; it recently has been charting some new territory of its own by using this mechanism to finance long-term care expenses for the elderly; this initiative was undertaken upon the recommendation of a Commission which I established to investigate the issue of long term care finance; we look forward to the opportunity to share our experience and expertise in this area with the FHA as it moves to implement this program.

Finally, I would like to commend the Committee for all its work in passing the Stewart B. McKinney Homeless Act. Connecticut has had a long commitment to the homeless. We currently provide state grants to non-profit agencies and municipalities engaged in emergency shelter and transitional living operations. Additionally, the Department of Housing operates programs for the renovation of shelters and the preservation or development of Single Room Occupancy (SRO) structures. Recently CHFA approved its first loan, for $1.4 million, to finance the preservation and renovation of a SRO hotel. The McKinney Act funds are being used for shelter renovation, follow-up housing services, mental health services and primary health care.

This Act was a moving and fitting final tribute to a man who labored long and hard, often alone, for the issues in which he believed. His knowledge of and concern for the housing issues facing the people of Connecticut was well known and respected. His passing was a true loss for our state.

HOUSING ISSUES IN CONNECTICUT

In Connecticut, housing issues are receiving a level of attention that is unprecedented in recent years. This concern and attention focuses on a wide range of issue—from the homeless to the problems that employees of many of our state's local governments and firms experience when trying to buy a home in reasonable proximity to work. Without dwelling too long on the specifics, let me briefly describe to you our problem in general terms.

Spurred by several years of high levels of economic growth, rising personal income and falling interest rates, local residential real estate markets have been very strong. Annual double-digit increases in value are common. Some areas have experienced annual increases in home sales prices of 20 to 30 percent. For example, the median sale price for a single-family home in north central Connecticut was recently reported to have increased from $132,000 in the third quarter of 1986 to $165,400 in the third quarter of 1987, an increase of just over 25 percent. Some recent predictions hold that these increases will "moderate" this year, falling back into the teens.

While the level of building activity has been high by historic standards, it has not kept pace with burgeoning demand. In the single family home market for first-time homebuyers, significant condominium conversion has been taking place to meet the demands of the traditional first-time homebuyer. This has had serious implications for the supply of rental housing in our state, which in some suburban communities is virtually disappearing. I have attached to my testimony several recent newspaper articles dealing with these conditions.

Recent economic growth has provided the means for many in our state to survive reasonably well and even prosper in this climate—especially if they are fortunate enough to own real estate purchased before the recent significant runup in value. However, I fear that many in our state are being left behind. Homeownership is becoming an increasingly solid dividing line between the "haves" and the "have-nots". It is becoming an increasingly improbable aspiration for many young households in our state. Most cannot afford to live in the communities in which they were raised—and neither could their parents if they were forced to purchase their home now under current market conditions with their present level of income.

You can be sure that if the "middle class" is having serious housing affordability problems—the situation facing low income families often is desperate. A limited supply of affordable rental housing contributes to increased rents. Poorer families are paying an extremely high portion of their income in rent. The Connecticut Blue Ribbon Commission on Housing has estimated that there is currently a need of an additional 161,444 units in our state to adequately address the issues of rental and homeownership affordability and inadequate physical condition.

While different communities across the state have different concerns, all are grappling with symptoms of the same basic issue—the supply of housing has not increased enough to meet demand.

Regarding homeownership, this basic problem has set up strong price competition. Those who have insufficient savings and income can not compete and as a result witness a deterioration in their standard of living and the frustration of their dreams. I think this issue has serious long term consequences for our young people and communities—as the aspirations traditionally satisfied through sacrifice and hard work are frustrated or denied, and many of our towns are denied the life and energy that young families bring to a community.

Regarding rental housing, the problems are numerous and many are often related to the problems that are being faced by those trying to purchase their first home. As many families with incomes that have traditionally made homeownership an expectation have been forced to rent longer, lower income individuals are displaced, adding to already serious housing problems these lower income groups face, including discrimination. Tragically, those least able to compete in these circumstances eventually end up on the streets or in our homeless shelters.

CONNECTICUT'S RESPONSE: STATE PROGRAMS

This Committee needs no briefing on the severe budgetary reductions that housing programs have witnessed over the past several years.

Facing this reality, and the housing problems that I have just noted, I believe that Connecticut is well on its way to developing a broad-based approach to addressing our problems.

Housing issues have been the subject of annual statewide conferences, bringing together some of the best in our state to discuss our housing problems and their ramifications, and to develop a consensus around practical and realistic solutions.

My administration and the General Assembly have convened a special "Blue Ribbon" commission, with participants from a wide range of interested parties in the state, to consider the serious housing issues that face us and recommend solutions that will address changes in state programs and policies including the manner in which local governments exercise their granted power of land-use control.

Over the past two years, I have requested, and the Connecticut General Assembly is approving, dramatic and unprecedented increases in state funding for housing programs—the total funding requested by me and subsequently approved by the General Assembly being well over $200 million.

For the 1987-1988 state fiscal year our program included:

$6.5 million from the General Fund, for rent subsidies, building on a pilot program, and to gradually increase our experience and commitment to a direct income subsidy approach;

$94.5 million in capital spending to finance a broad range of state housing programs. These funds were allocated for specific programs for projects for the poor, elderly, homeless, sweat equity housing development, site development, down payment assistance for lower and moderate income first-time homebuyers, the development of affordable rental housing, and for neighborhood revitalization;

In 1987, I also designated the Connecticut Housing Finance Authority (CHFA) as the statewide administrator for the new Federal Low Income Housing Tax Credit (LIHTC) program.

This year's budget request, which I just recently submitted to the General Assembly, again called for additional funds of well over $100 million for housing programs:

From the state's capital budget, I requested that the State Department of Housing be allocated $100 million more for its housing development programs, giving my Commissioner of Housing total budgetary discretion on how to allocate these funds to the wide range of housing programs which we will operate this year. This discretion affords the Department the opportunity to be a flexible partner in collaboration with other state agencies, local governments and the private sector to bring to reality the development of more housing.

Additionally I recommended

A $1.5 million increase in the funding for our state's rental assistance program,

An increase in funding for assistance to the homeless with greater emphasis on social services for those living in our shelters and assistance in locating permanent housing arrangements,

An increase of $50 per month to AFDC families in private housing whose rent exceeds 30 percent of their income and who are not receiving other continuing housing assistance.

Additionally, the legislative package which I submitted to the General Assembly this year contained a number of proposals designed to foster the development of affordable housing including:

Modifying certain state programs to make them compatible with the new Federal LIHTC program,

Requiring that all state surplus property be reviewed for possible use in the development of permanent housing,

A requirement of one year's notice by any owner of a federally financed rental development in Connecticut of intention to prepay their federal mortgage,

Combining state programs to fund up to ⅔ of the cost of necessary infrastructure activities related to the development of low and moderate income housing.

I anticipate that this package will be supplemented by a package of legislative recommendations arising out of the final report of the Blue Ribbon Commission.

ROLE OF THE CONNECTICUT HOUSING FINANCE AUTHORITY

Additionally, our state housing finance agency, CHFA, has been active in supplementing the state budget with crucial loan programs for moderate and lower income first-time homebuyers and for the development of rental housing.

Housing programs have received a significant portion of the "private activity" bonding authority remaining to the state after the passage of the Tax Reform Act of 1986. This reflects the strong priority given to housing in our state and the continued commitment of my administration to make resources available for housing programs.

In 1986 the CHFA was allocated $50 million or 20 percent of the $250 million statewide "private activity" volume limitation. This authority was carried forward under the act to provide part of the financing for a major urban revitalization in the city of New Haven.

Of the $250 million statewide limit in 1987, CHFA was allocated $150 million, or 60 percent of all authority available. These funds were also carried forward from 1987 to finance both single and multifamily programs throughout the state within the next three years.

In 1988 I anticipate that CHFA will also receive a similarly significant portion of the available bonding authority.

A CENTRAL CONCERN: HOMEOWNERSHIP PROGRAMS

The State of Connecticut since 1970 has recognized the importance of homeownership for the well-being of our communities and young people by providing assistance through CHFA to lower and moderate income first-time homebuyers. The CHFA Home Mortgage Program has had strong bipartisan support in Connecticut, as witnessed by the fact that its operating reserves are backed by the State. As a result its bond issues have been rated the same as State of Connecticut paper in the marketplace.

Over the years this program has raised over $2.0 billion in mortgage capital to assist over 46,000 households, nearly all of which are first-time homebuyers. Since January of 1985, the Authority has financed nearly $565 million in mortgages for approximately 8,600 such lower and moderate income homebuyers. This role has continued over the past three years despite the devastating impact that the Tax Reform Act of 1986 has had on all state and local programs financed with various types of revenue bonds. I have attached to this testimony tables and charts which summarize major aspects of the performance of the CHFA Home Mortgage Program over the past three years.

Our experience with CHFA's Home Mortgage Program since January of 1985 demonstrates clearly that this program serves households of modest means. The average household income of a CHFA mortgagor ranged from $26,734 in 1985 and $26,881 in 1986 to $31,509 in 1987. HUD estimated statewide median income in 1986 was $34,500 and $38,500 in 1987. The average purchase price of a home financed with a CHFA mortgage increased from $63,358 in 1985 and $72,491 in 1986 to $91,884 in 1987. Given the historically high home purchase prices in most of the state's major real estate markets during the past few years, it is clear that the Home Mortgage Program serves those facing the most difficulty in financing their first home purchase today in Connecticut.

It should be of interest to the Committee to know that over the past three years an increasing share of the mortgages by CHFA have been insured by the FHA. In fact, CHFA has recently become the major purchaser of FHA loans in Connecticut. Informal estimates indicate that in the past year 70 to 80 percent of all FHA business in our state was the result of the CHFA Home Mortgage Program, and recently this figure has risen. This figure should also be a matter of concern to the Committee because it indicates that FHA was having serious difficulty providing service to conventional borrowers in Connecticut. While the new mortgage maximums provided in the 1987 Act will help, it may be unable to restore to FHA the role it once had in our state.

We view this relationship between our state programs and FHA to be appropriate, productive, and beneficial for all. FHA is more able to provide insurance to many borrowers who would not be able to otherwise make use of this fine program. CHFA is able to use FHA's generous underwriting criteria in order to qualify buyers that otherwise would be ruled ineligible by present private mortgage insurance underwriting standards. Struggling first-time buyers are able to realize the opportunity to achieve homeownership that would have been beyond their reach otherwise.

The level of cooperation between the Hartford FHA office, CHFA with its Home Mortgage Program, and the Department of Housing Down Payment Assistance Program has been outstanding. The Down Payment Assistance Program is a state funded second mortgage program for those eligible households lacking sufficient cash to make closing. Our commitment to this special program has been strong, with $19 million committed over the past two years, and $25 million scheduled for release later in 1988.

Many of the reforms that you have enacted in recent years, such as the direct endorsement process, have helped dramatically to improve the level of service that these agencies, working cooperatively, can provide. This cooperation is a quiet but impressive example of true Federalism at work—different levels of government with complementary abilities working together for a common goal which benefits all.

In addition to being important to FHA, the CHFA Home Mortgage Program is also critical to neighborhood and housing revitalization efforts that are much more valuable to the state's urban communities than can be understood from a strictly "dollars and cents" perspective. Through the support of such efforts, the Authority has been a partner in working with the state's cities and nonprofit neighborhood development organizations in their neighborhood improvement programs, and has developed and offered its own special programs directly aimed at fostering new construction and homeownership for lower income families.

CHFA HOME MORTGAGE PROGRAM FACES TERMINATION

In the midst of all of the concern and activity addressed to the housing problem or crisis we face in Connecticut, it seems almost inconceivable to me that we are in real danger of losing this program in the Congress in 1988. Although all of the Members of Congress from Connecticut have cosponsored legislation extending the ability of state housing finance agencies to continue to issue Mortgage Revenue Bonds, this important legislation was not acted upon in 1987 and must be acted upon in the 1988 session.

Unless the Congress acts this year to extend the authority of the state to choose to issue mortgage revenue bonds under the statewide volume limitation, there will be no more new funds raised to finance our Home Mortgage Program after December 31, 1988.

I must tell you, that as a Governor who is a strong believer in the need for state government to address housing issues, and as a strong believer in state government responsibilities, as well as rights and prerogatives, I find this situation wholly unacceptable and intolerable. When the Tax Reform Act of 1986 was passed, and the volume of all revenue bonds was dramatically reduced—an aspect of this legislation that I strongly opposed—I remember being told that if housing was a priority we would be able to use what was left of the state's ability to issue to finance housing programs. Well, in Connecticut that happened, and now we're faced with losing what remains.

In the face of the substantial reductions in direct spending programs over the past several years for housing assistance and lower income homeownership, it was said that states would need to step to the plate and "do more for housing." We in Connecticut have done so, and are committed to a sustained effort, using a broad-based approach for the foreseeable future. The CHFA Home Mortgage Program is the basic homeownership component of this broad-based approach and its loss would leave our overall state effort dramatically lacking by comparison to what we have been able to accomplish in recent years. To lose this program would really be more than adding insult to injury. It would be adding injury to injury. The efforts of all of us to reinvigorate the housing agenda cannot cope with this damage at this critical time.

Also, Congress should have no illusions that another major state homeownership program will appear, to take the place of this program—serving the same targeted populations—if it lost. While I am strongly committed to homeownership programs, we could not in times of eocnomic and budgetary uncertainty develop a concensus to use state funds and the state capital budget to support such efforts and meet such a severe need.

Therefore, I urge you to do all that you can to assure the passage of legislation to extend our ability to choose to use revenue bonds to finance home mortgage programs. I urge any member of this Committee who has not yet become a co-sponsor of HR 2640 to do so. I urge this Committee to communicate support for the passage of this legislation to the members of the Ways and Means Committee. I urge each member of this Committee who supports HR 2640 to speak to all your friends and colleagues, including those on the Ways and Means Committee, to urge them to support and work for the passage of the sunset extension this year. At a time when we at the state level are being asked to do much more for our constituents, please help us to maintain this vital component of the housing effort.

CHFA HOME MORTGAGE ACTIVITY

[Jan. 1, 1985 thru Dec. 31, 1987—Various aspects]

	1985	1986	1987	1985–87
Mortgage bonds issued	$225,000,000	$166,000,000	$167,000,000	$558,000,000
Amount purchased	$192,695,000	$139,819,600	$199,613,231	$563,955,731
Loans purchased	3,476	2,180	2,909	8,565
Average amount	$55,436	$64,137	$78,867	$65,845
Average income	$26,734	$26,881	$31,509	$28,393
Average purchase price	$63,358	$72,491	$91,884	$75,371
Percent: Targeted (percent)	32.3	32.7	35.6	33.5
Percent: Condominium (percent)	25.4	24.5	33.3	27.8
Percent: FHA insured (percent)	55.2	62.1	68.3	61.4
Percent: Minority (percent)	16.3	16.9	20.0	17.7

[From the Hartford Courant, Dec. 6, 1987]

FIRST-TIME BUYERS FACE COMPLEXITIES IN HOT HOME MARKET

(By Sean Horgan)

The apartment in the Hartford Housing Authority complex on Berkeley Street is clean, yet somewhat cluttered, and for the past 13 years it has been home for Caroline Camby.

But perhaps not for much longer.

Camby, a 36-year-old single parent of two, decided about a year ago that she had experienced enough of the frustrations of apartment living. The four-room apartment is on the second floor, up well-worn stairs that creak as they rise along scratched and scarred walls. Space, it seemed, was always at a premium in the unit, which she shares with her 4-year-old daughter and 18-year-old son.

Rents, while subsidized and reasonable by most market standards, continued to rise without the benefit of building equity. Camby may have had a place to live, but it was never a place she would ever truly call her own.

"I haven't had any problems here. It's been very quiet," she said one day while sitting in her living room. "I just wish I had thought about doing this earlier. As my income has gone up every year, so has my rent. It's just something that I always wanted, but never thought I could afford."

Camby is one example of the legion of first-time home buyers who are braving the expense, frustrations and complexities of home buying in one of the hottest, residential real-estate markets in the country.

On a whim, Camby, who works at Southern New England Telephone Co., stopped at the office of a real estate agent to inquire if there might be any way she could afford to buy a house.

The answer was in the affirmative and now, about seven months later, Camby is awaiting final loan approval from her bank on a four-bedroom house on Cleveland Avenue.

Real-estate professionals say that Camby and those like her now entering the market are doing so at a relatively opportune time. They say that shifts in the market in the past few months have created more of a buyers' market than has existed in recent years. Sellers, they say, now are willing to negotiate a bit on price, and they say that interest rates have fallen since the stock market's nose dive in October.

But John Tuccilli, chief economist at the National Association of Realtors in Washington, D.C., said most of the activity in the national housing market is being generated by people who already own property and are looking to move up, not by first-time buyers. He said that applies to the Greater Hartford market as well.

The reason, he said, is simple: For the first-time buyer who lacks the equity from an existing property, the high cost of houses—and the corresponding need for steep down payments—make the entry-level market tough to crack.

Houses in the Greater Hartford market cost an average $182,600 in the first 10 months of this year, up 34 percent from $136,600 during the same period in 1986, according to the Multiple Listings Service of Greater Hartford.

Next year, according to Tuccillo, the hot real-estate markets in the Northeast are expected to soften and housing prices should appreciate at a significantly slower rate.

"That means that in Hartford, those 20 [percent] and 30 percent rates of appreciation will diminish and be down in the teens," be said. "That's substantially above the 6.5 percent national average, but well below what they have been."

Still, that does little for the current first-time buyer.

"It is difficult for first-time buyers, but that's not really anything new," said Chris Cook, regional vice president at William M. Ravels Real Estate in Simsbury. "Most still have to make a call to the parents or in-laws to ask for help on the down payment. Now, though, they have to ask for a little bit more."

Some find other ways to do it.

Camby, if her loan is approved by her bank, will buy her $82,000 home with a 5 percent down payment—instead of the usual down payment of between 10 percent and 20 percent—because she qualified for one of the programs offered by the Connecticut Housing Finance Authority.

Camby said she was able to save the money for that down payment though a savings plan at work.

"When the time came, I took that money out of that savings plan, I put it into the bank and I said I wasn't going to touch it because I wanted this so badly," she said.

But programs designed to make it easier for first-time buyers—programs such as those at CHFA and the state Department of Housing, or federal programs offered by the Veterans Administration and Federal Housing Authority—do not necessarily lend themselves to everyone in the market.

The programs tend to affect buyers differently, primarily because of restrictions on a buyer's income and the maximum price of a house. The programs, unfortunately, also have developed a reputation for taking longer than traditional financing through a bank or mortgage company.

"Often sellers are not going to want to accept an offer from a buyer involved in these programs because it usually takes a long time," Cook said. "A lot of times, sellers who want to get it done quickly just don't want to get involved with these programs."

Debbie Hodge, 22, and David Demette, 24, know exactly how those delays might occur. The couple, who plan to marry next July, began their house-hunting at the end of last summer. Oct. 18, they visited an open house, on Lafayette Avenue in East Hartford, and saw that the house was within their price range and that it was eligible for CHFA and state Department of Housing programs. They then made an offer for $112,000.

That night, they were told their offer was accepted, and then the work began. The two had not saved their federal income tax returns from the past three years and had to send for copies. That took nearly five weeks and the delay has jeopardized the chances of meeting their Dec. 4 closing date.

Meanwhile, the people selling the house on Lafayette Avenue are waiting to move into their new home, but cannot do so until they get the money from Hodge and Demette.

"We haven't been officially approved yet, we've been told there is no problem and it should go through," Hodge said, with more hope than certainly in her voice.

Demette said they have applied for a combined loan from CHFA ($82,000) and the state Department of Housing ($30,000). He said that total includes the couple's down payment, but said they will pay the closing costs of about $4,000 with their combined savings.

Barbara and Mark Tracy of West Hartford wanted to take advantage of the CHFA programs, but they say the restriction on the prices of eligible houses made it impossible for them to utilize the authority.

The top price a prospective buyer can pay in Hartford County under CHFA guidelines is $118,000 for an existing house and $149,000 for a new house. In certain targeted towns, the limits vary. For example, CHFA's limits in the city of Hartford are $129,000 for an existing house and $155,000 for a new house.

"We tried to do CHFA, but there were no houses out there that we wanted for those prices," Mark Tracy, 35, said.

The Tracys estimate that they looked at about 40 residences before signing a contract to purchase a $126,000, three-bedroom ranch off Forbes Street in East Hartford. They, too, are awaiting final approval from the bank on their mortgage. They said they should know within five weeks.

"It's just awful having to wait like this," Barbara Tracy, 30, said. "My nerves are just shot. The whole process is absolutely frustrating."

The Tracys, who were adamant that the first home they own should be a house and not a condominium, said they plan to use a 10 percent down payment. "That will come from savings and the fact that I had to sell all of my toys, like the Corvette and my boat," Mark said.

That is a fairly common, albeit somewhat painful, method of generating the necessary cash for the down payment, according to Joan O'Brien, owner of RE/MAX of Avon.

"Either they already have the down payment, or they have to forgo some of the other luxuries," O'Brien said. "You just have to limit your debt today if you're trying to buy a house. Sometimes you just have to sell all the toys, or forget about things like buying a new second car."

Mark Tracy also mentioned another problem that could await first-time buyers who have yet to go through the mortgage-loan qualification procedure. "It seems that people selling houses would rather sell them to people who already own homes and want to move up," he said. "That way, they know they're dealing with somebody who's been qualified before."

Bob Mynott decided to take another route to enter the market for the first time. The 27-year-old Hartford man joined forces with a friend, John Russo, and they have bought a condominium in Manchester as an investment.

"I just thought it was time," Mynott said. "I figured I was old enough and I had a little extra cash. But, I couldn't do it myself, so I found a partner."

The condo, which they bought for about $75,000, already has been rented and Mynott said the rent nearly meets the mortgage costs. The two men received an investor-loan from their bank and split the down payment.

Mynott figures he will hold onto the investment property for about two years and then use the accumulated equity to buy himself a place.

[From the Hartford Courant, Feb. 16, 1988]

Demand Causing Home Prices To Soar—Housing Supply Lags in Connecticut Despite Increase in Construction

(By Paul Bradley)

Prospective home buyers in Connecticut are paying a price for the state's booming economy.

Housing experts say the spiral that has moved housing prices beyond the reach of many in the middle class is driven by shifting demographics and the application of a basic economic law: supply and demand.

Even with a record number of housing starts in 1986, and only slightly fewer in 1987, the demand for housing in Connecticut far outstrips the supply. When that happens, prices rise.

"Unless the supply approaches the demand, the price will continue to go up," said Frank Mairano, a Canton developer and former member of that town's planning commission. "Why can a piece of land sell for $175,000? Because someone is willing to pay."

Man forces contribute to the strong demand, a report by the Connecticut Business and Industry Association shows.

One is Connecticut's robust economy, Connecticut employers pay relatively generous salaries, putting more and more people in economic positions that ought to enable them to buy houses.

But even the state's 1986 median family income of $38,800, the nation's highest, is not enough in a housing market where prices routinely exceed $200,000.

"We are in danger of choking on our own economic success," said John F. Papandrea, state housing commissioner. "The economic success that we have had has created this problem."

Another is demographics. The report says the population between the ages of 25 and 34 will increase 15 percent between 1980 and 1990. Many in this group are first-time home buyers.

A third is economic geography.

"Connecticut is unique." Almost every corner of the state is near a hub or a mini-hub that has been booming right along," said Richard H. Matoon, who prepared the report. "That creates tremendous pressures" as people working in Providence, R.I., for example, look for housing in the New London area.

A fourth reason for the strong demand is interest rates. When mortgage interest rates dipped below 10 percent about two years ago, the pent-up demand for housing was released. That demand diminished only slightly as rates inched upward.

Lower interest rates also spurred building. A record 28,201 housing units were started in 1986 and 26,570 in 1987. But most of that housing is priced beyond the reach of many people.

The construction of multifamily rental housing—apartment buildings—has fallen far short of the demand, in part because of changes in federal tax laws. Those changes have proved to be important disincentives for builders to construct apartment buildings, Papandres said. Such activity is nearly at a standstill, he said.

"The cost, in terms of affordability, has been enormous, especially the effects of the 1986 tax reform," he said. "Syndication benefits have been pretty much wiped out."

Builders say they want to build affordable housing, but that restrictive zoning requirements and state and local regulations preclude them from doing so. Those rules continue to drive up the cost of land, they say.

"Materials, labor and the cost of money are constants," said Richard W. Davis, executive director of the Home Builders Association of Connecticut. "Land prices are out of control."

A developer's land cost includes the price of everything needed to get a lot to the point where a house can be built on it, Davis said. Much of that work involves complying with development regulations, which drives costs up, he said. If large lots are required, as they are in many towns, the cost is even higher, be said.

Bob Fusari, president of Real Estate Service of Connecticut Inc., a Middletown development company, said land is becoming a larger percentage of the cost of a house.

"The rule of thumb used to be 25 percent," he said. "Now it's all over the place. It could be one-third, it could be 40 percent.

"You have so many procedures to follow that take a lot of expense and a lot of time. I'm not opposed to reasonable protection of the environment. But you can't throw out the baby with the bath water."

Fusari and other builders favor a regional approach. Towns working by themselves, builders say, cannot solve the housing problem.

A pilot regional housing program will be started later this year by the state housing department in hopes it can prove that regional approaches work.

The severity of Connecticut's housing-affordability crisis prompted creation of the state's Blue Ribbon Commission on Housing, a group of business and government leaders formed last year to propose solutions.

The problem's severity also is the reason Gov. William A. O'Neill made housing a priority in his budget for next year, including $100 million in added bonding for housing. The money would be made available as a lump sum to be used where there is the greatest need among programs promoting housing development, rehabilitation, purchase and rental.

Housing officials say broad changes are needed because the crisis involves much more than housing.

The crisis is blamed for labor shortages, because workers cannot afford to live in many areas.

It has contributed to transportation problems as workers commute farther to reach the state's economic centers, where jobs are plentiful but housing prices are highest.

It has inflated the rental market as people unable to buy houses stay in apartments, keeping vacancy rates down and prices up. Low-income residents are pushed out, sometimes onto the streets.

It has raised fears that police officers, firefighters and service-industry workers soon will be scarce in many towns, particularly in Fairfield County, where the average cost of a single-family house is more than $300,000.

"It is an extremely interrelated problem, because what people are doing is moving further and further away and clogging up the transportation system," Matoon said. "You have people working in Stamford and living in Litchfield County. It becomes the quintessential socioeconomic problem. And it is a problem that will be around for several years."

Areas along the transportation corridors to Fairfield and Hartford counties, in particular, are seeing housing prices skyrocket.

Real estate analysts predict that property values along Route 2 from East Hartford to Colchester and along Route 9 between Cromwell and Old Saybrook could rise 20 percent this year.

Business and industry members report difficulty in attracting entry-level and mid-management employees whose pay is not enough to cover housing costs. When pay is increased, the cost of doing business rises, robbing state businesses of a key competitive edge.

"No area of Connecticut is free of the problem," Papandrea said. "That's why it is getting the amount of attention that it is. The problem now is a statewide problem."

[From the Middletown Press, Jan. 6, 1988]

Affordable Housing Short

(By Bill Nagler)

A study of housing needs in upper Middlesex County by regional planners shows a "serious" shortage of affordable housing for lower income groups, the author of the study said today.

The study by the Midstate Regional Planning Agency said "he most significant need is for adequate affordable rental units. The deficiency in this area accounts for almost two thirds of the region's total housing deficiency."

James F. Dunn, assistant director of Midstate and an author of the report, said, "We have a serious problem." He added, "Almost 10 percent of the households in the region are living in substandard housing or are paying excessive rents."

Dunn said the Midstate region needed at least 3,901 more housing units, most of them affordable rental units, to address the shortage. He termed the figure "a very conservative" estimate, noting it was largely based on 1980 Census numbers.

The figure did not include the impact since then of the growing gulf between rents and income, he said. The study said while rents had more than doubled from 1980 to 1986, median family incomes had risen only by 63 percent.

"The increases in rents have been much greater than the increases in income," Dunn said, because of increased demand and diminished supply.

"I think the market has shrunk somewhat in terms of available units," he said, in part from lack of new construction and conversions of apartments to condominiums. "As a percentage the number of rental units hasn't kept pace with the demand for rental units," he said.

The 20-page study of housing needs for the eight upper-county towns was released at the agency's meeting last night. The study is like that being done in all the state's 16 planning regions. They are required by legislation last year for a statewide housing study this spring by a special blue-ribbon panel.

The study generally used 1980 Census figures as a starting point, then added data from later surveys by the state Department of Health, Connecticut Housing Finance Authority and other groups to show changes to 1986. The same method was set by the state Office of Policy and Management for all the planning regions.

The study did not break down housing needs town by town, Dunn said, because the method used would tend to show that towns like Middletown that already provide most of the affordable housing need to do the most.

A next step, Dunn said, "could be to look at some type of allocation for . . . what's an appropriate distribution of units among all the communities." He said the same legislation calling for the studies had reconstituted regional housing councils to deliberate on regional needs.

The study showed the need for affordable homes was less serious than for affordable apartments.

From 1980 to 1986 the study said median house prices has increased 40 percent—less than the increase in incomes. As of about spring of 1986, the median house price in the upper county was $92,500, affordable for the median family income of $37,200, the study said. Those figures were dated, though, Dunn said by steep house price rises in the past two years.

Median price is the midpoint at which half the houses sell above and half below. It is different and typically lower than the average house price. The average house and condominium price in the county in November 1987 was about $149,000, according to a national data service.

The study said from 1980 to 1986 vacancy rates for both houses and apartments had declined sharply, far below levels needed to give people choice in the market. "We have a very tight market now," Dunn said. The study said at least 447 more owner units and 464 rental units were needed to allow proper vacancy rates.

[From the Manchester Journal Inquirer, Nov. 14, 1987]

Home Prices Still Climbing—Average for State Reached $165,000 This Year

(By Tom Caruso)

Resale prices for Hartford area homes continue to climb at a slower pace than last year, but still rank as the nation's second highest in percentage of increase, the National Association of Realtors reported Friday.

The association said the median sale price for existing homes in the region, which includes all of north-central Connecticut, reached $165,400 in the third quarter this year compared to $132,000 a year ago.

That 25.3 percent increase in the 37-town region was second only to Providence, where housing prices shot up from $91,900 to $126,000—a 37.8 percent jump. Home resale prices in central Connecticut had been rising more than 28 percent annually in 1986.

In terms of cost, Hartford area homes also continued to rank as the nation's fifth most expensive. New York City and Boston held onto their spots as the costliest housing areas in the country, with median sales prices of $183,100 and $181,600 respectively.

On the downside, prices dropped from 5.7 percent to 3.4 percent in Las Vegas, Toledo, Ohio, Ft. Worth/Dallas and Houston in the July 1-Sept. 30 reporting period. The housing depreciation there is blamed on continued weak energy prices.

On a national basis, home prices rose, with the median sales price climbing to $85,400, 5.8 percent higher than the third quarter of 1986. In the summer of 1986, the median, or mid-point, price for an existing home was $80,700.

As for units sold, Connecticut ranked sixth in terms of the largest increase in 50 states. The 56,400 units sold represent a 17.7 percent increase over the 47,900 units sold in the same 3-month period a year ago.

Sales of existing homes fell in 28 states during the peak summer sales season as steadily rising mortgage rates dampened demand, a real estate trade group reported Friday.

The group said that Colorado, with a decline of 28.3 percent, suffered the biggest setback of any state during the July-September period, when compared to sales a year ago.

In all, 14 states had sales declines of 10 percent or more, with the weakness blamed in large part on a big increase in mortgage rates, which housing industry analysts said squeezed many people out of the market.

Overall, the seasonally adjusted annual rate of sales of existing single-family homes dropped to 3.80 million units during the summer, down 3.3 percent from the same period a year ago.

In addition to Colorado, other states with big declines in sales during the summer were Wyoming, down 25.8 percent; Idaho, down 24.4 percent; Nebraska, down 23.4 percent; Arkansas, down 22.7 percent, and Montana, with a 20.1 percent sales decline.

By contrast, sales were up 70.7 percent in Delaware, the biggest increase of any state, followed by a 50 percent gain in Alaska, and a 34 percent increase in Nevada.

Other areas with double-digit sales declines were Illinois, Missouri, Mississippi, Washington, Michigan, Ohio, Wisconsin, Utah and the District of Columbia.

[From the Hartford Courant, Jan. 4, 1988]

GOLD COAST BECOMING TARNISHED AS REAL ESTATE PRICES SOAR

(By Bill Ryan)

The affluence of Fairfield County, often referred to as Connecticut's Gold Coast, is getting in deeper and deeper in trouble.

"In a way, we're victims of our own success," says John B. Margenot, first selectman of Greenwich, the 60,000-population town that has long symbolized the wealth of the county.

Home prices in Fairfield County have escalated out of reach of not only low- and moderate-income families but of executives who once were immune to such anxieties as wondering what kind of roof they could afford to have over their heads.

It is true that there are a few communities in the county—Bridgeport, Danbury, Shelton, Stratford—where homes are more moderately priced. But they are more than offset by towns such as Greenwich, Darien, New Canaan and Westport, where prices go well into six figures and sometimes seven. The million-dollar home is not uncommon in these towns, some of the closest in the state in proximity to New York City.

And even in the towns that still have a tinge of blue collar, home prices have risen to heights that once would have been unthinkable.

The average price of a home in Bridgeport, for instance, is now $160,897, according to The Commercial Record, a publication that keeps tabs on all real estate transactions in the state.

It is the lowest average of all 23 communities in the county. The highest is in Greenwich.

The average price of a home in Greenwich has reached $660,945, followed by New Canaan, $562,173; Darien, $495,300; Weston, $469,819; and Westport, $457,437.

The average price of a home for the entire county is now $281,776 and the prices in that range exclude a great majority of the population today.

Example: John Margenot himself. Before becoming first selectman, he worked in a family construction business and owned a home. He is quite candid in admitting that if he had been renting during that time, he would be out of luck today if he wanted to buy.

"I couldn't buy a house here on my salary," he says. The first selectman's job pays $58,000 a year.

Example: The Greenwich librarian is retiring and the library trustees have been conducting a national search for a successor. Their first choice was a librarian from the West Coast, who was flown in to look over the town. Shortly after, he flew back home.

"He couldn't afford to live here," says Arthur McCully, president of the library board of trustees.

* * * * *

"Traditionally, a good carpenter would earn a good living," Cunningham said. "And he would own his own home because he would buy a lot and then build the home himself. It's just not a viable alternative anymore because of the cost of land. Now, in Fairfield County, the only alternative is to look in the downtown areas of Bridgeport for abused houses.

"Our young carpenters are good solid citizens," Cunningham said. "They're really bright young people. And they can't find a place to live. It's really sad."

Even the recent stock market crash did not reflect that much on the real estate action, said Thomas I. Purcell, executive officer of the Stamford Board of Realtors.

Some sales in the $175,000 range fell through he says, "because some buyers decided to wait, even though the stock market loss was only on paper." But in the medium-income buying range there was no change, he added. He defines medium income as about $60,000 yearly.

The major side effect of the skyhigh housing market—which home owners love because their original investments have turned to gold—is the choking up of roads as more and more people who work in the county but can't afford to buy homes there commute from further and further away to get to work.

And the big fear is that they might stop commuting, and the towns will be without sufficient employees to carry on.

"The base of middle income people is eroding here, says Lynn R. Laitman of Stamford, manager of Fairfield 2000, a volunteer group planning for the county's future.

This is everybody's problem . . . If you go to a bank and there's no teller to wait on you, if there's no ambulance service, no volunteer firemen."

And there's a brain drain in the county, she says. "The guy who makes $300,000 a year, he's fine. But how about the bright young executive who goes somewhere else because he can't afford to live here?"

Fairfield 2000 has about 800 volunteers from business, education and government who are studying the problems facing the county as the year 2000 approaches and are trying to find solutions before it gets too late.

The two biggest problems—housing and transportation—were quickly identified and are very much intertwined.

A Fairfield 2000 report issued in November was a welter of grim statistics on prices and ominous facts, led off which the fact that all Fairfield County employers, private and public, trouble recruiting employees because of high housing prices compared with other parts of the country.

"If the problem is not addressed," the Fairfield 2000 Task Force on Housing warned in doomsday fashion, "the present economic vitality of the region will degenerate into any one or all the following traffic gridlock, widespread human suffering, empty corporate headquarters, failing commercial enterprises and serious environmental problems."

The task force, of some 200 members has recommended changes in local zoning laws to allow higher density housing—in a county that has traditionally encouraged very restrictive zoning. It also wants to establish a corporation that could build or finance projects or work on joint ventures to get some affordable housing.

An educational campaign launched by Fairfield 2000 is geared at making people realize the future of the area depends on an awareness that the county cannot live in its own world, hard as it may have tried to do that in the past. And the report stresses, the effort for smaller lots, multifamily housing "accessory" apartments to be created in large homes, should not be stymied by small towns politics and pressures.

"Is it democratic for a relative handful of residents in an area marked off as municipalities in distant, rural times to block the careful plans of state and regional planning organizations, calling for more housing related to jobs?" the task force report asks.

"It's tough," admits Ruth L. Sims of Greenwich, chairman of the task force, about the efforts to educate. But she is hopeful that the one thing people will most understand is that unless less expensive housing is forthcoming, the children of present residents will never be able to live in the county.

It is an argument that Lynn Laitman also thinks is going to be persuasive. "These are our kids who can't live here," she says.

If the "haves" of Fairfield County do not get the picture that some things had better change, John F. Papandrea, the new state housing commissioner, will lay it out for them.

The state's 169 cities and towns have been delegated the authority to establish their own planning and zoning procedures, Papandrea says, but the real power is in the state legislature. And if the towns do not act to solve some of their housing problems, the state could step in with new legislation.

"All we're saying is that communities should be able to act responsibly to solve their own problem or the legislature at some point in the future is more likely to assume some kind of control, or decide to let the courts do it."

Actually, Papandrea says, all of Connecticut is in some sort of housing crunch, even eastern Connecticut, which until recently was considered the last outpost of low- to moderate-priced homes.

"Eastern Connecticut is still quite reasonable compared to other areas of the state, but it's getting pressure from Massachusetts. Worcester people are coming in and buying. The state is really such a small land base that every area is beginning to feel the pinch," Papandrea said.

But Fairfield County leads the parade because it is what it is; upscale, monied, where the four-acre lot and the million dollar house are almost commonplace, "near Paradise" as Fairfield 2000 described it in its report on its problems.

And even near Paradise, there is evidence that things are changing, not in a big way, not dramatically, but at least changing.

The town of Wilton, for instance, is planning to use isolated lots—originally taken by the state years ago in an aborted plan to relocate Route 7—as sites for affordable housing for town employees who now must live outside of town. The average salary of a Wilton town employee is $30,000. The average price of a house in Wilton is now $411,057.

Valerie L. Greene, chairwoman of the town's housing committee, says any town can act as its own housing developer because of a law passed by the legislature in 1987.

She says she is not sure how many lots will be deeded to the town by the state but her committee plans to start putting up modular homes in the spring on some of them. The plan is to sell the homes for $100,000.

"This is not public housing," she adds. "This is to provide for my police, firemen, teachers who should live here."

The town development bill was introduced by state Rep. Margaret Gill, whose district covers Wilton and Bedding.

Gill says the law allows 69 towns that did not have housing authorities—the vehicles used to erect public housing—to also get into the business of providing low- and moderate-cost housing for town employees and other residents. Redding, she says, is using the new law to put up some low-cost housing for senior citizens.

Darien, its First Selectwoman Ann Mandel reports, is now building a 70-unit low-income project for the elderly on $1 million worth of land the town has donated for the purpose.

The Greenwich school population has shrunk from 11,000 to 7,000 in the past decade, says First Selectman Margenot, partly because young people cannot afford the homes that become available. One of three schools that were closed is being converted into 51 apartments for senior citizens and 21 apartments for people of moderate income. It is scheduled to open in a few weeks.

The 21 units are a start for the town, but the problem of affordable housing for town employees is a huge problem in this most golden of towns, says Louisa Carey.

"Fifty percent of our teachers have to come here from out of town," says Carey, coordinator of the Greenwich Housing Coalition, a citizen's lobby group, "and 60 percent of our hospital workers, 48 percent of our police force."

The present median price of a condominium in Greenwich is $251,500, she says.

The buyer of a $251,500 condominium, after putting 20 percent down should have an income of $75,000 to cover a 25-year, 10 percent mortgage, Carey says.

Such prices are simply outside the range of employees of the town. They do not make $75,000 a year.

[From the Norwich Bulletin, Jan. 17, 1988]

DISCOVERY OF RURAL AREA HIKES HOUSING

(By Kim Nauer)

It is no secret among the area's long-time residents that housing prices have skyrocketed. Once considered Connecticut's poorest area, Windham County has recently gained new popularity as executives from Worcester, Providence and Boston discovered the previously unclaimed rural countryside.

The effect, according to the Northeastern Connecticut Regional Housing Needs Assessment, has been that many of the region's long-time residents have been priced out of the housing market.

Without some type of government assistance, the report concluded, these people will not be able to own their own homes.

While the affordable housing shortage is not limited to the northeast corner, many of the region's residents hope to maintain the area's rural character.

Although towns may not actively discourage low- and moderate-income housing, in point of fact that is what the regulations and land prices achieve, said Anita Baxter, co-chairman of the land and zoning subcommittee of Governor William A. O'Neill's Blue Ribbon Commission on Housing.

"There is a lack of attention (on the issue) in many towns," she said. "Just maintaining the town's character or the rural character . . . that can become exclusionary."

Dennis Duprey, chairman of Sterling's Planning Commission, argues that maintaining a town's rural atmosphere is well within its rights.

"We're trying to keep a rural atmosphere and spread out the buildings," he said, explaining the town's regulations require a two-acre building lot for a single family home. "We're not governing the price per acre. I think it's absolutely ridiculous that two acres cost $20,000 to $30,000."

"Northeast Connecticut is probably the last (rural) threshold," he said. The marketplace merely reflects this, he said.

Woodstock First Selectman Douglas Cutler agreed, but added the town is beginning to see the potential problems associated with high land costs.

"Children who wanted to make their homes in Woodstock were finding that they couldn't afford to buy the land," Cutler said. The town's Planning Commission has hired a consultant to study affordable housing options and will use the recommendations for the next town plan of development, he said.

How to convince Connecticut's towns to address the issue and increase their affordable housing stock is likely to be hotly debated in the legislature this session, said Peg Morton, a public relations official for the Department of Housing.

Ideally, incentives will work, she said.

"There are mechanisms (to increase affordable housing) and I think we have to market them by making them interesting enough so that people say 'Hey, this could work in our area,'" Morton said.

Robert Gluck, former chairman of the Plainfield Planning and Zoning Commission, said he hasn't been impressed with the state's incentives.

"That's all a lot of talk from the state. They say that (money) is available, but they haven't pushed it too hard," said Gluck.

Requiring towns to provide affordable housing would also create problems, though, said John Harris, Brooklyn's Planning and Zoning Commission chairman.

"The towns aren't going to build the buildings themselves," Harris said. Developers will still have to have incentives to build the housing and the state will have to keep that in mind, he said.

"This country has traditionally avoided making decisions for the market," Harris said. "You expect that in Europe or Russia."

Anita Baxter, of the governor's housing commission, said the state may choose to use incentives with a backbone provided by requirements. However, she added that one way or another, towns will have to start providing housing for lower income citizens.●

FRIENDS MARK RETIREMENT OF GEORGE E. LOUX, SR.

● Mr. PELL. Mr. President, I would like to share with my colleagues an excellent tribute to George E. Loux, Sr., 83, of Rhode Island, who is retiring this month after 67 years as an oil burner mechanic.

As you will see from the tribute, Mr. Loux has earned the devotion of family and friends by hard work, kind words, and charitable deeds.

He is, in addition, somewhat of an armchair traveler. I had the pleasure of meeting him last November on what I understand was his first plane ride.

Before sharing this tribute with my colleagues, I would like to join with his hundreds of family and friends in wishing Mr. Loux a happy and fulfilling retirement.

I ask that the tribute be printed in the RECORD.

The tribute follows:

A TRIBUTE TO GEORGE E. LOUX, SR.

Born in Perth Amboy, New Jersey, George is the son of very unique parents. His father was a Sea Captain who sailed the Hudson River and his mother, an adventurer, who crossed our great country by covered wagon—twice! From his day of birth, on October 4, 1904, George was destined to be one of those extraordinary people who would live his life to the fullest. He made every day a new discovery and life for himself and his family an adventure and wonder. He has done this by having a continued love-affair with life.

As a young boy, he would rise at 5:00 a.m. and start a fire so his family could wake up to a warm house. He was reared with a strong sense of the work ethic and would, in later years, find this his greatest strength.

At the Church of the Immaculate Conception, his eyes gazed upon a beautiful 17 year old girl. She had a smile that could set birds singing in the cold of winter. At that moment, he knew she would always be "Peg of his heart." On March 6, 1925, a marriage was made in heaven! With his beloved Peg, George lived each day with a deep faith in love—despite adversity, disappointments, losses, illness and scars.

Providing always for his family first, George nonetheless made time to be "his brother's keeper." He gave his talents, his time, his love and his possessions to help others in need. Although his family was poor by most standards, George could always see others less fortunate than himself. He has always been known as a man who has special gifts of the heart that just seem to multiply with age—the most obvious being his 11 children, 24 grand-children and 5 great-grand-children!

However, it is not because George is the type of man that can "Leap tall buildings" that we pay tribute to him this evening, it is because he is the tall building—our tower of strength!

George is a kind, loving man. His kindness is of that special type that, when received, one never feels it is given with sacrifice. He has a genuine consideration for the feelings of others. His kindness is a spontaneous and friendly act of forgetting his own present interests to respond to the needs of someone else.

George is a very spiritual man. He is a grateful man, who every day of his existence is thankful to his Lord for that which he has and accepts that which he does not have. He is a true disciple for mankind, not by what he preaches, but rather by what he practices.

George is a witty man. His is a sharp wit, but he uses it kindly. There is never malice to his humor nor is his wit used for criticism. Most of the time it is a statement of his years of wisdom crystallized into a moment of wit. It is refreshing, humorous and given with a twinkle in his eye.

George is a hand-working man. He is of that rare breed that tackles the hardest jobs first. Not only is the quality of his work superior, but he has remained—throughout his working years—understanding, fair, patient and ambitious for himself and his family.

George is a patriotic man. Although he never had the privilege to personally serve in uniform for his country, he proudly offered four sons and a daughter to represent him. He is a lover and defender of his American heritage. As an avid reader; he has been an "armchair traveler" throughout this entire country. At 83, he still tears when he hears the National Anthem.

Most importantly, George is a gentleman. A lean tall man who sports a distinguished mustache and wears a soft hat. His trademark is giving beautifully worded greeting cards and sweet smelling flowers. He has a deep appreciation and respect for nature, is a simplistic man who treats everyone alike, and appeals to everyone as a role model for how to live one's life. He is that rare kind of gentleman that is at home what he is outside.

George is a very special man—husband, father, grand-father, employee, colleague, citizen and friend! For all this—and much more—we pay tribute to him tonight.●

ZUNI-CIBOLA NATIONAL HISTORICAL PARK ESTABLISHMENT ACT

● Mr. DOMENICI. Mr. President, I am pleased to join the junior Senator from New Mexico as an original cosponsor of the Zuni-Cibola National Historical Park Establishment Act.

Located 40 miles south of Gallup, Zuni Pueblo is the largest of the 19 pueblos in New Mexico. The Zuni Valley has been occupied continuously from an early period. Several of the ancient pueblo sites on the present-day reservation were visited by Coronado in 1540 during his famous search for the "Seven Cities of Cibola."

The Zuni Reservation encompasses the prehistoric and historic ruins of Yellow House, Kechipbowa, and Hawikuh, which was occupied from about AD 1300 to 1680 by the ancestors of the modern Zuni. These sites comprise the Zuni-Cibola National Historic Landmark. The pueblo of Zuni itself is on the National Register of Historic Places.

In order to preserve the historical and cultural sites associated with the Zuni, this bill will create the Zuni-Cibola National Historical Park. The land within the park would continue to be under the ownership of the Zuni people, but the National Park Service will manage the area as a unit of the National Park System through a no-cost lease arrangement.

The bill will create an advisory commission to work with the National Park Service in the planning, management, and administration of the park. This commission will consist of the Governor of Zuni Pueblo, the Director of the National Park Service, the Secretary of the Smithsonian, and four members appointed from recommendations by the Governor of Zuni.

This legislation is a pioneering example of cooperation between the National Park Service and the Indian people. It is noteworthy that the impetus for this bill came from the Zuni people themselves. Gov. Robert Lewis of the Zuni Pueblo is to be commended for his work on this legislation.

I am particularly pleased that this bill will include the Zuni-Cibola National Historical Park as a component of the Masau Trail. The Masau Trail, which was created by the El Malpais legislation that I introduced last year and which the President signed in December, is an automobile touring route that, when fully implemented, will link a variety of historic and prehistoric sites in New Mexico. The trail will introduce visitors to the wealth of historic, cultural, and natural sites in northwestern New Mexico, providing a comprehensive perspective on the history of the Indian peoples of the region.

As modern travelers follow the Masau Trail, they will follow signs with giant footprints, the footprints of Masau, the great God-Man who welcomed the Indian people to the Earth from the underworld as they came through the sipapu, or place of emergence. The trail begins at a visitors center in Grants, NM, and radiates to Aztec ruins, Bandelier, Chaco Canyon, El Malpais, El Morro, Pecos, and Gila Cliff Dwellings National Monuments, as well as other sites of interest. The addition of the Zuni-Cibola National Historic Park will be an excellent addition to the Masau Trail and will allow visitors to experience yet another historic area of New Mexico.

Finally, the bill requires the Park Service to preserve the archeological resources of the area under the Archeological Resources Protection Act. This act, which I sponsored, assures the protection of archeological resources on Federal and Indian land. It regulates the excavation and removal of artifacts and imposes criminal and civil penalties for the theft of archeological resources. The land management agencies of the Federal Government need to pay greater attention to the preservation of archeological resources. For too long, they have neglected these cultural treasures that are the shared heritage of all Americans.●

ORDERS FOR WEDNESDAY, MARCH 16, 1988

RECESS UNTIL 10 A.M.

Mr. BYRD. Mr. President, I know the distinguished Senator from Florida [Mr. GRAHAM], is waiting, but if he would allow me, while the distinguished Senator from Colorado [Mr. ARMSTRONG], is here, who is the acting leader this evening, I ask unanimous consent—this consent having been previously cleared with the distinguished assistant leader, Mr. SIMPSON—that when the Senate completes its business today it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

REDUCTION OF LEADER TIME

Mr. BYRD. Mr. President, I ask unanimous consent that, following the prayer of the Chaplain, the time of the two leaders be reduced to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRICE-ANDERSON LEGISLATION

Mr. BYRD. Mr. President, I ask unanimous consent that, at the conclusion of or yielding back or reservation of the time of the two leaders on tomorrow, the Senate then proceed to the consideration of the Calendar Order No. 281, H.R. 1414, an act to amend the Price-Anderson provision of the Atomic Energy Act of 1954.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE ON TOMORROW

Mr. BYRD. Mr. President, there will be a rollcall vote at circa 10:15 a.m. tomorrow.

Mr. ARMSTRONG. Mr. President, will the leader yield to me?

Mr. BYRD. Yes.

Mr. ARMSTRONG. Could the leader tell us the nature of that vote and could he also give us an indication whether that will be a 15-minute vote or a 30-minute vote?

Mr. BYRD. Mr. President, yes, I will be happy to answer that question. As to the nature of the vote, I had earlier thought that I would have a vote instructing the Sergeant at Arms in order to get Senators to come to the floor early so that debate and amendments could begin with respect to the Price-Anderson bill as early as possible. But Mr. JOHNSTON and Mr. METZENBAUM have indicated that there will be an amendment offered at that point, apparently, which is noncontroversial but which has to be done. They suggested that the vote occur on that rather than instructing the Sergeant at Arms. That would be a substantive matter on which to have a vote.

So I suggest that Senators then, therefore, be prepared to vote at 10:15.

Now, that being the first rollcall vote of the day, although that is not an early hour, particularly, I could make the vote 30 minutes or I could keep it at 15, whichever the Senator would like to suggest.

Mr. ARMSTRONG. Mr. President, my request, if the leader will yield, was just simply so we could spread the word on our side. I do not think it is actually a matter of any difference to us whether it is 15 or 30 minutes, but I believe our colleague from Michigan has some interest in it. Either way is OK, but I hope we could pin it down as to which it would be.

Mr. BYRD. I thank the distinguished Senator.

Mr. RIEGLE. Will the leader yield?

Mr. BYRD. Yes.

Mr. RIEGLE. I was going to suggest, if we start at 10:15, if that is the set time to start the vote, that it be a 30-minute vote; otherwise, that we start the vote at 10:30, and make it a 15-minute vote.

Mr. BYRD. Well, in view of the fact that both Mr. METZENBAUM and Mr. JOHNSTON agreed to the 10:15 hour for the rollcall vote, they having left the floor, I ask unanimous consent that the rollcall vote be a 30-minute rollcall vote and that the call for the regular order be automatic at the expiration of the 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I thank the Senator.

Mr. BYRD. I thank the Senator.

I ask unanimous consent that it be in order at this time to order the yeas and nays on such motion or amendment as the two Senators, Messrs. METZENBAUM and JOHNSTON, have in mind.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. Mr. President, would the leader yield?

Mr. BYRD. Yes.

Mr. ARMSTRONG. We are proceeding in a way that gives me a small degree of discomfort since we have ordered the yeas and nays on an amendment the subject of which I think is not known on our side. Is it the leader's understanding that this is a matter that has been cleared over here or which is not controversial?

Mr. BYRD. I gather that it is a matter that is not controversial. If it is, I certainly will lead the way of vitiating the yeas and nays on that matter until such time as there can be discussion.

In that event, I would ask unanimous consent, Mr. President, that it be in order for me, tomorrow morning at 10:15, or thereabouts, in the event there is some problem with that particular motion or amendment, at that time that it be in order for me to set that aside for later consideration and that, instead, I be recognized to suggest the absence of a quorum in connection with which there would be the early vote. And in that case I ask unanimous consent that that be a 15-minute rollcall vote.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Hearing none, without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, I am grateful to the leader for working that out. As far as I know there is no controversy but that will be helpful in case somebody has something they want to say.

Mr. BYRD. I think the Senator certainly was within his rights and acted dutifully. I am sorry I am not conversant with the matter to the extent that I could alleviate his concern.

Mr. President, I yield the floor. I would ask my friend from Florida, if it is agreeable with the distinguished Senator from Colorado, that when he completes his statement and no Senator seeks recognition that he move that the Senate stand in recess until 10 tomorrow morning under the order. I thank the Senator.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President. Mr. Majority Leader, I appreciate your generosity.

(The remarks of Mr. GRAHAM pertaining to the introduction of legislation will be found later in today's RECORD under "Statements of Introduced Bills and Joint Resolutions.")

RECESS UNTIL 10 A.M. TOMORROW

Mr. GRAHAM. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m. tomorrow.

The motion was agreed to, and at 7:35 p.m., the Senate recessed until tomorrow, Wednesday, March 16, 1988, at 10 a.m.

EXTENSIONS OF REMARKS

TRIBUTE TO KEITH W. ECKEL

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. McDADE. Mr. Speaker, I want to bring to the attention of my colleagues the remarks made on March 10 by Keith Eckel, president of the Pennsylvania Farmers' Association, at a breakfast meeting with the members of the Pennsylvania congressional delegation.

Mr. Eckel has done an outstanding job as PFA president since he was first elected in 1981. Along with his father and brother, he is a partner in a 320-acre tomato and pumpkin growing operation and packing facility outside of Clarks Summit, PA. His hands-on experience in farming and his leadership in PFA provide him with a unique perspective on the issues facing American agriculture.

Mr. Eckel has some well-stated and thought-provoking comments about free and fair trade, world competitiveness, agriculture export promotion, government spending, Federal regulation on the farm and tax legislation affecting farmers. I believe my colleagues would benefit from reading Mr. Eckel's remarks. It is my pleasure to insert his speech in the CONGRESSIONAL RECORD.

SPEECH OF KEITH W. ECKEL

Good morning. It's again my pleasure to speak to you about some very important issues facing Pennsylvania agriculture.

Free and fair trade is important to the agricultural economy and the U.S. general economy. We know that Congress has delved into this subject in legislative proposals that have been approved by the respective houses. A conference committee is now attempting to iron out the differences.

We in the farming business have some rather definite ideas about exports and imports, but the one aspect that we all agree on is that we must work toward freer and fairer international trade.

Freer and fairer trade does not include protectionism. It does not mean that agriculture should be protected against good, old competition, because we all eventually lose in this situation.

Freer and fairer trade does not mean that we protect an inefficient business in the U.S. versus an efficient operation in Japan, or vice versa.

Freer and fairer trade does not mean that governments will not be involved in international trade.

It means exactly what it says, "Freer and Fairer Trade."

Farm Bureau's and PFA's support of a trade bill hinges on the easing of "protectionist" provisions. We want a bill that would be a firm foundation for boosting the competitiveness of U.S. exports.

We want trade legislation that will strengthen the U.S. response to unfair foreign trade practices—legislation that would enhance export assistance programs and provide new assistance programs, both for the American worker and American business harmed by foreign trade practice.

The House and the Senate have passed their versions of trade legislation. They differ in their approach. The House bill contains the controversial Gephardt amendment requiring U.S. retaliation against countries that refuse to reduce excess trade surpluses, while the Senate bill contains a more palatable version.

Agriculture and most other U.S. industries would be severely hurt by "retaliation" with high excess trade surpluses, because some of these countries are U.S. agriculture's best customers. That's why we prefer the Senate's approach which attacks specific unfair trade practices.

Our agriculture depends on heavy exports. Many of our economic problems can be solved with the aid of a strong export program. U.S. agriculture can not survive without free and fair international trade.

Our voting delegates attending the American Farm Bureau Federation Annual Meeting called for a reform of all entitlement programs through a "freeze-and-fix" system.

By freeze-and-fix, we mean an across-the-board freeze on all federal spending at the previous year's level—long enough to fix what is wrong with national spending programs.

We suggest a three year spending freeze on everything including farm programs, only exempting interest payments on the national debt and an adequate defense.

Three years should be enough time to allow Congress to generate both the means and the political will to fundamentally fix the entitlement programs.

If Congress sitll refuses to act, we say the freeze should continue. This fundamental overhaul of the economy is our top priority and a number-one interest in the up-coming presidential election.

Congress and the Administration needs to address the financial crisis this country faces with government spending still running out of control. The nation can not—and should not suffer through another one of those last ditch, no budget sessions. We can not stand another Omnibus Budget Reconciliation Act, which passed in December to take the place of a budget.

I think we all realize without long-term economic growth farmers will not enjoy economic freedom and higher living standards. Our nation is in the same economical condition.

We've had another "quick political fix". But the results are short lived.

We have become enamored of the "quick political fix" rather than the slower, long-term solution. As a result we make so many "short runs"—that there is a question of survival in the long-run.

No new taxes and meaningful, long-range budget cuts are the solution. It's crucial we get the job started. The clock is running. We need to act before it's too late.

One of those quick fixes was contained in the 1986 Tax Reform Act. Farmers are now required to capitalize the costs of raising livestock with a preproduction period of two years or more.

The repeal of this "heifer tax" is important to farmers because it would permit producers to return to the old method of expensing costs. The new capitalization requirements significantly add to the cost of raising replacement animals because costs cannot be recovered as quickly. These same rules would apply to the development of orchards and vineyards, where it takes longer than 24 months to reach their productive state.

There is legislation before you that would correct this situation, but we will need your support.

A few years ago, February of 1981, I had the privilege of speaking to the National Peach Growers Council in Phoenix, Arizona.

I talked to them, the growers, about the Seasonal Farm Labor Contractor Act, and the seeming muddled picture of legal entanglements it was creating for farmers but no real justice for anyone.

Let me relate some of my comments.

When the Seasonal Farm Labor Contractor Act, which is now the Migrant and Seasonal Worker Protection Act, was given congressional approval there's no doubt in my mind Congress' intent was to protect seasonal farm workers from exploitation by certain unscrupulous farm labor contractors, who took advantage of these hard-working and skillful people.

I told them that growers want proper housing facilities; healthy working conditions and fair compensation for their farm workers.

For good reason. We as growers appreciate better than anyone else the arduous tasks that seasonal farm workers perform as they harvest the fresh fruit and vegetables across this great nation.

Unfortunately, the federal government has created an environment in which the seasonal farm workers have been made to feel inadequate, dependent and unwanted. Government has accomplished this feat through interpretation of current laws through the process of regulations.

Likewise, their employers—growers—have been harassed and intimidated to the point that many have either curtailed operations or closed their businesses.

These thoughts and comments were expressed in February, 1981. Although we have a new law to address the issue times have not changed. Those words could describe the situation today. If any change can be detected, I would be forced to say the situation is worse than it was six year ago.

I can remember that period of my life because we, I and my family, had been put through our own personal meat grinder of harassment. Today it's my fellow growers and their families who are suffering the brunt of the on-going onslaught of harassment that's promoted and nurtured as a way of life by the Legal Service Corporation, which is supported by our taxes and charity including many churches.

Sometimes you feel it's a crime to offer somebody a job in our business, because of the ever growing regulations governing the employment of the seasonal labor force. To hire a person for what they agree is a fair wage for a particular job and then to see

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the worker and the work put down as demeaning is very discouraging and disheartening. That's what Legal Service Corporation and other worker advocate groups do on a daily basis.

The harassment might be more sophisticated today—like bringing legal action in a federal court against a Pennsylvania grower in a class—action suit demanding civil damages in excess of $50,000 under the provisions of the Migrant and Seasonal Worker Protection Act. The potential cost of this legislation, coupled with the immense potential liability forces growers to settle our of court.

This precedence then is cited to other growers who take similar action. I call it legal blackmail.

Unfortunately, it's taxpayers monies being used by a private organization to harass farmers who are attempting to operate a business and pay their taxes which must be done with less and less of a profit margin each year. So the farm goes out of business with many workers losing their jobs, and the welfare roles keep getting bigger.

Where's the justice in such a system? What happened to common sense and logical reasoning?

This session you, the members of Congress, are deliberating on proposals that—if approved—would increase the load of regulatory paper work and compliance to nuisance regulations. These proposals would be giving a tax-supported group like the Legal Service Corporation additional ammunition to harass growers. You need to rein in the realm of legal terror that is afforded groups like the Legal Service Corporation with the passage of ill-conceived laws and regulations.

For example: the proposed High Risk Occupational Disease Notification Bill (S. 79) would require farmers to inform their employees when exposed to some toxic material as far back as 30 years ago. It would also require employers to offer an exposed worker a transfer to a less hazardous job at equal pay and benefits if recommended by a doctor. If a transfer is not possible a year's leave of absence must be paid by the employer.

Many of our state's farm workers are temporary or seasonal workers making it difficult for farmers to locate past employees. Employers of less than ten full-time employees would be exempt from this law, but no mention is made of seasonal workers who may have only been employed for a short period of time.

This is just one of many proposals before the Congress—but there are others like increasing social security coverages and rates.

Ladies and gentlemen, it's time to remove the shackles from free enterprise. It's time to put reason into the employment of farm workers. We plead with you to act in a responsible manner permitting the farmer to operate his business in response to supply and demand—not by government decree through regulations.

The omnibus Budget Reconciliation Act of 1987 seemed to have given us all little surprises. One could have done without its provision changing the collection point for diesel fuel excise tax from retail to wholesale starting April 1.

This provision requires the tax to be added to the price farmers pay for fuel when they purchase fuel, and then file for a refund. Farmers don't owe the tax for off-highway agricultural use. So why pay it?

Farmers under this switch will be required to pay 15 cents more per gallon, which means amounts to a $420 million loan to the U.S. Treasury. We are not saying that the Treasury couldn't use some additional funds, but we believe agriculture needs them a lot worse.

In all sincerity, this mistake will cost farmers in Pennsylvania $315 on the average. We don't need the hassle, nor the paper work. We've had enough of both.

There are many bills in both houses to correct this situation. We are counting on your help in this matter.

Our members, your constituents, met with you yesterday and today to discuss several other important legislative considerations before the Congress now: the new and far-reaching endangered species pesticide labeling regulations, and key amendments to the Federal Insecticide, Fungicide and Rodenticide Act.

Each of them impact agriculture. We are here to let you know what farmers are thinking about in the Commonwealth and hopefully this will help you in future deliberations.

We thank you for your support in past years, and we look forward to working with you in the future.

BURNING BRIDGES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. FLORIO. Mr. Speaker, funding the Contras in Central America has resulted in the diminishing prospect for peace in the region.

Giving ammunition and aid to the Contras on the one hand and holding out for peace on the other hand are two contradictory policies. There is nothing "humanitarian" about prolonging a conflict that claims the lives of innocent men, women, and children in Central America.

More money for the Contras is only fueling the fire that is burning down those bridges of communication between the United States and the people of Central America.

The best way to seek peace is not by throwing money at Contras, who are only exacerbating the problem.

In the meantime, while the Contras and the Sandinistas wage war on each other and while the United States sponsors the Contras, the people of Nicaragua continue to pay the price of suffering and turmoil.

The war in Nicaragua is best addressed by understanding. And funding the Contras shows a lack of understanding that the Contras are not the solution to the needs of Nicaragua's citizens.

Funding the Contras creates additional problems and complications. Funding the Contras puts a roadblock in the path of good-faith efforts on all sides.

The Guatemalan accord signed by the Central American nations last year is a step in the direction of a good-faith, constructive exchange. It has established objective criteria with which to measure the progress of reform and democracy.

The framework of the Guatemalan accord is a basis for the United States as a partner in progress, monitoring the resolution of the conflict to ensure that the Sandinistas stay at the bargaining table instead of pushing them away.

There are far better uses here in our Nation for the funds that would otherwise have been sent to the Contras. There are young mothers in Camden, NJ, who are fighting a more pertinent battle for survival, workers who are looking for jobs, students who need loans to go to school.

Funding the Contras will not help those mothers, workers, and students.

Abraham Lowenthal has been closely observing the progress of the Sandinistas in meeting the requirements for democratic reforms and freedoms as well as the progress of the United States in recognizing the needs of the Nicaraguan people.

Recently, an editorial by Mr. Lowenthal in the Los Angeles Times expressed the hope and the frustration of the peace process in Central America. In light of the March 3 vote in the House against continued funding for the Contras, this article is relevant to the future course of relations between the United States and Central America.

The article follows:

[From the Los Angeles Times, Jan. 21, 1988]

AVOID PEACE, AT ANY PRICE? IF WE WON'T TAKE RISKS NOW, INTERVENTION WILL BE REQUIRED

(By Abraham F. Lowenthal)

President Daniel Ortega's offer to end Nicaragua's state of emergency, negotiate a cease-fire directly with the armed resistance (the Contras) and release prisoners as part of an amnesty program is a welcome step, and yet it may also be somewhat beside the point.

The concessions announced by Ortega last weekend are an important advance in the Central American peace process initiated by Costa Rica's President Oscar Arias Sanchez and highlighted by last August's Guatemala accord among the five Central American presidents. Seven years of the Contra war had not achieved what diplomatic and political pressures have produced in five months: strong commitments by Nicaragua to expand domestic political space.

This progress is fragile and could be reversed, but it amounts to considerable movement in the desired direction. No one should expect instant and full-blown democracy in Nicaragua, a country that has never known truly free elections, but the conditions slowly being established should allow Nicaragua's democrats to gain important ground.

This progress is jeopardized, however, by the determination of some within the Reagan Administration to avoid peace with Nicaragua, almost at any price. They justify the request for further military aid to the Contras as necessary to keep the pressure on Nicaragua, despite appeals from all five Central American presidents as well as eight other Latin American nations to end outside support for the insurgents. But military force is useful as a negotiating instrument only if it is subordinated to clear political aims, not if it becomes a substitute for diplomacy.

The plain fact is that some within the Administration want to ensure that no agreements are reached with Nicaragua on this President's watch—that accommodation with the Sandinistas is left to the next Administration. Nothing that Ortega can do or offer, short of committing political suicide, will satisfy these officials. They still want to remove the Sandinistas, not deal with them.

That is why Ortega's new move, however welcome, is in one sense irrelevant. The struggle for Nicaragua that needs to be decided now is not so much the one between Sandinistas and Contras, however important that is, but rather between the true believers within the Administration and those who want to protect the interests of the United States pragmatically—balancing aims and resources, objectives and available instruments.

Despite the bitterly divisive debate about Nicaragua, there really is not much argument today about the correct objectives of our national policy. A broad spectrum of public and congressional opinion supports the aims that were stated cogently by President Reagan and House Speaker Jim Wright last August. As they put it at that time, the United States has three legitimate concerns: to ensure that no Soviet or Cuban military base is established in Nicaragua, that Nicaragua poses no military threat to its neighbors through invasion or subversion, and that Nicaragua's government respects the basic human rights of its people, established in the country's constitution. As the President, and the Speaker underlined, "The United States has no right to influence or determine the identity of the political leaders of Nicaragua [or] the social and economic system of that country; those matters are for Nicaraguans to decide."

The unresolved debate in Washington, now heating up again as another vote on Contra aid looms, is whether these objectives can be achieved through agreement with the Sandinista government or whether they require removing the Sandinistas from power.

More aid will not resolve this question, for the Contra war amounts to taking pokes at the Sandinistas and bleeding them, but not dealing with them effectively. More U.S. aid will lead, as Arias has emphasized, to more Soviet and Cuban aid for the Sandinistas. It will fuel, not contain, a further Sandinista military buildup. It will tend to justify, not erode, Sandinista restictions on the rights and activities of the Nicaraguan opposition. And it will surely destroy the Central American peace process, returning the locus of conflict from the political arena to the battlefield.

The real issue confronting Washington now is whether to join with its numerous friends in Latin America in a concerted effort to build on the momentum that is being generated by the peace process in order to contain the Sandinista government and to nudge it toward political opening and national reconciliation. If we want to grasp that opportunity, the next steps are to suspend aid to the Contras in order to keep the moral and political pressure on Nicaragua to comply with its commitments, and to open direct negotiations with Managua and Moscow on our prime security concerns.

The alternative course for the United States would be to go it alone, to make a unilateral and decisive move to oust the Sandinistas. That is the logic of the renewed attempt to push through more Contra aid, and Congress should be ready to face the implications of such a vote. If the Administration and Congress believe that no meaningful agreement can be reached with the Sandinistas, they should be ready to step up the war. If they are not willing to do that, and to take the risk of direct U.S. involvement, then it is time to take risks for peace.

No one can guarantee that the Central American peace process, if it is supported and encouraged, will be crowned with full success. What can be assured, however, is that if Washington sabotages the peace process now, it will have destroyed the best chance for achieving the U.S. goals. Then we might be left with the cruel choice between humiliation or outright military intervention.

ARTHRITIS FOUNDATION HONORS TOM TEMPLETON

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. LAGOMARSINO. Mr. Speaker, I rise today to bring to the attention of my colleagues the fact that the Arthritis Foundation is holding a testimonial dinner to honor my friend Tom Templeton.

Tom is service operations director for GTE California and is a 31-year veteran of the telephone industry. He joined GTE in 1956 as a lineman and subsequently served in a variety of craft positions. From 1963 through 1968, he held the positions of installation and maintenance supervisor service center superintendent, equipment maintenance supervisor, plant staff superintendent and customer services superintendent. In 1969, he became service manager in General's Granada Hills Division. The following year he was promoted to area traffic administrator and in 1973 he was appointed general training manager.

From 1974 to 1977 he served as Ventura County division manager then became manager of the company's West Los Angeles division. He held that position until April 1980 when he returned to Oxnard as Ventura County division manager. In May 1987, he was promoted to service operations director at the GTE headquarters in Thousand Oaks.

Tom is very active in civic organizations and has served as president of the Ventura County Taxpayers' Association, Ventura County Economic Development Association, the Greater Oxnard Chamber of Commerce. Additionally he has served on the board of the United Way of Ventura County and currently serves on the Board of Directors of the Las Posas Country Club and the Council of Advisors to the President of California Lutheran College.

He has also been a member of the Advisory Council of the Conejo Future Foundation, Oxnard Rotary and a past trustee of GTE Good Government Club.

Tom has twice been presented resolutions from the California State Legislature and from the Board of Supervisors of the County of Ventura. He was the recipient of the Independent Telephone Pioneers Association 1985 "Hall of Fame" Award for his leadership and service to his community.

He and his wife, Marianne, live in Camarillo and have two sons Gary and John Junior.

This honor by the Arthritis Foundation is eminently deserved and I ask my colleagues to join me in congratulations to Tom.

SERVICE TO MORRIS COUNTY FAMILIES

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. GALLO. Mr. Speaker, I ask my colleagues to join with me to honor an organization of dedicated volunteers who are carrying on a 175-year tradition of service to those in need.

Family Service of Morris County, founded in 1813 as the Female Charitable Society, is the third oldest family services agency in the Nation and the oldest within the State of New Jersey.

With a staff of 50 dedicated individuals, Family Service provides therapy, education, and advocacy services at four office locations in Morris County—Bulter, Flanders, Morristown, and Rockway.

From the beginning, FSMC has focused on meeting the needs of individuals and families in the Morris County area. As the agency responded to changing times and to advances in the understanding of human behavior, the methods of service have changed to become more effective in a complex modern community.

Over 170 years ago, the agency's work reflected the social philosophy of the times, and the early volunteers responded to the basic needs of indigent families with food, clothing, fuel, and shelter. Through the years the response to human concerns has changed in form but not in focus. Early in the agency's history, FSMC worked with other local organizations to develop networks of agencies concerned with human needs. This cooperative effort continues in the present time.

In 1922, the agency began to employ professionally trained social workers as therapists. Today all social work staff are professionally trained men and women who hold graduate degrees in social work; many have additional training and certification in the areas of marriage and family counseling, divorce mediation, and the treatment of drug and alcohol abuse. They are experienced in individual, couple, family, and group techniques. A staff psychiarist provides consultation as needed. Agency services include therapy, educational programs, advocacy in local communities, and consultation services for local businesses and organizations.

FSMC is a member of Family Service America and is accredited by the Council on Accreditation of Services for Families and Children. To plan and budget for future programs, the agency uses a 3-year planning system, which is updated annually to meet changing community needs. Sources of income include United Way funds, public funds for special programs, foundation grants, private contributions, and client fees. The agency is governed by the Board of Managers, a group of civic minded men and women who set policy and are accountable to funding sources and the community. Overall program is administered by the executive director who is appointed by the board.

The mission of the agency is to foster the strengths and coping abilities of families under stress. The goals are the prevention of family breakdown, the improvement of relationships within the family, and the strengthening of values which are the basis of effective family life. FSMC carries out three separate but interlocking areas of service: therapy, community education, and advocacy.

Family Service of Morris County is committed to providing comprehensive, family focused services in an ethical, confidential manner. These services are designed to prevent family or personal problems and to strengthen families experiencing stress.

Family Service also works closely with other agencies to coordinate services and develop ways to improve services and meet the needs of Morris County residents.

The agency has developed and expanded services in response to community needs consistent with its mission. It will continue to be responsive to changing needs in the future.

I am proud to represent these dedicated individuals who are committed to protection of family values through service. I know my colleagues join with me to commend and congratulate Family Service of Morris County, NJ, and to praise the spirit of volunteer service that has been constant within our communities since 1813.

WREATH LAYING CEREMONY

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. BUNNING. Mr. Speaker, recently the Crescent Springs Elementary School had a trip to Washington for their fifth and sixth graders. One of the highlights of this trip was a special wreath laying ceremony at the Tomb of the Unknown Soldier. Four students were selected to place the wreath at the tomb. They were selected based upon an essay that they had to write on why they wished to be selected.

I was deeply moved by the essays and wanted to share them with my colleagues in the House today.

AMY WAGNER

When I was a little girl, my mother would take me to dancing lessons at the Fort in Fort Thomas. She would park the car and we would walk past a lot of men in wheel chairs. Some of them would be in a group, but a lot of them were off by themselves just staring into space. She explained to me that these men lived at the V.A. Hospital because they had fought in the war so that we could be free. They had been wounded and disabled. It always seemed sad to me—they couldn't dance and I could. I don't pass these men anymore, but I will always remember their faces. If I could place the Crescent Springs wreath on the tomb of one of these men's possible friend or fellow soldier, it would be one of the most wonderful experiences of my life. A very small way of saying, "Thank you, mister."

KEN KOCAN

I would like to be selected to place the wreath on the grave site of the Unknown Soliders. This would not only be a thrill for me, it would also give me the opportunity to honor a very close friend of my mother and father.

While serving in the United States Marine Corps, my father became friends with Sgt. Fredrick Langer. They served our country in France, Italy, Spain, and Greece. Mr. Langer was transferred to Viet Nam where he was killed in action in 1965.

I never met Sgt. Langer but my parents have pictures of him and they still think about him. Last year my father visited the Viet Nam Wall and found his name listed among the many names of service people who were killed in the Viet Nam War.

When I grow up I would like to go into the Marines or the Air Force. I would go to be trained for combat but would never like to fight a war.

JOHNICA BROWN

The Tomb of the Unknown Soldier is an honored place of remembrance for our country's soldiers. It is guarded 24 hours a day by members of The Old Guard.

My father told me that it is a very high honor to be selected as a member of The Old Guard because it symbolizes our country's concern and commitment to the memory of our country's soldiers, particularly the soldiers who died during combat.

My grandfathers and my father fought and their friends fought in combat to defend our country. My father received the Bronze Star honor for heroism during combat in Vietnam. The Bronze Star is the third highest honor for soldiers. Twelve of my father's closest friends died during combat.

I would be honored to help lay a wreath at the Tombs of the Unknown Soldiers because it would be a tribute to my grandfathers and my father.

TIANA DAVID

I would like to assist in laying the wreath on the Tomb of the Unknown Soldier. It would be a great honor to me because I would be remembering the brave young soldiers who laid their lives down for us. Also, I would consider it an honor because I would be representing my school.

CHEMICAL USE IN OUR SOCIETY

HON. RICHARD H. STALLINGS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. STALLINGS. Mr. Speaker, last November Mr. Raymond C. Tower, President and CEO of the FMC Corp. addressed the Drug, Chemical, and Allied Trades Association in New York City. He discussed the issue of chemical use in our society and I found his comments to be particularly timely since, as you know, reauthorization of FIFRA, the Federal Insecticide, Fungicide, and Rodenticide Act is before Congress this year.

I urge my colleagues to read Mr. Tower's remarks as we begin this important debate regarding FIFRA reauthorization. I believe the FMC Corp. has taken a responsible role in addressing public concern about the use of chemicals, particularly in the field of food production and I would like to share Mr. Tower's views with you at this time.

I entered the chemical industry in 1946, along with thousands of other young men just home from the war. We were looking for interesting and rewarding careers—and there was a real spirit of exhilaration throughout the chemical industry. Wartime research had discovered a wide range of new chemical products; now a huge civilian market was waiting eagerly for them. (For a sense of the high esteem in which chemicals were held—60 women in Tulsa, Oklahoma were asked what they had missed most during the war. A third of them said "men." The other two-thirds said "nylons.")

Plastics were in their infancy. So were pharmaceuticals, synthetic materials, and pesticides. In 1948 a Swiss chemist received a Nobel prize in medicine for discovering DDT—a chemical that had already saved the lives of thousands of American servicemen, and would go on to save the lives of an estimated one hundred million people around the world.

This is why a chemical industry veteran like myself is so dismayed by the current attitude toward our industry. A fear of chemicals now pervades the public, the media, and the government.

The public that once eagerly welcomed new life-saving and life-enhancing chemical products has developed a deep suspicion of our industry. One example: A few years ago Scientific American reported the results from a poll taken of members of the League of Women Voters, college students, and members of business and professional clubs. They were asked to rank 30 possible sources of risk in order of the number of deaths they cause each year in the United States.

Actual mortality data would rank pesticides 28th. Members of the League of Women Voters, however, ranked pesticides 9th; college students, 4th; and even members of business and professional clubs ranked pesticides 15th among 30 potential causes of death.

This fear of chemicals is stimulated by the media. After all, chemical scares make good headlines. But scientific studies that dispute these scare stories, or put them in perspective, generally win neither a front page story nor a spot on the evening news. To the media, these are not "events."

A recent PBS documentary on television's portrayal of business included an interview with the author of an "A-Team" episode entitled "Waste 'Em"—about a chemical company that was caught dumping toxic wastes into a city's sewer system. The author got the idea from a Reader's Digest article about how the mob was dumping toxic wastes. When asked why the bad guys were changed from the Mafia to a chemical company, the screenwriter explained that the network had rules against portraying the Mafia as villains.

When it comes to inciting fear of chemicals, however, the media gets a lot of help from government. Think of the hasty press conference where EPA announced an "emergency" at Love Canal. Today, nine years after that "emergency" EPA press conference, the cleanup of Love Canal has not even begun. It has been delayed by endless studies and tangled in reams of government red tape.

We're likely to see a similar wave of government-induced panic as the provisions of California's Proposition 65, SARA's Title III, and, possibly, the risk notification bill now pending in Congress begin to take effect.

Do not mistake me: I believe the public needs, and deserves, full information about chemical risks. But this information needs to be scientifically rigorous; it needs to explain the minute nature of most chemical risks; and it needs to convey some understanding of the trade-off between the potential risks and the potential rewards of chemical products.

I would like to make three observations about the fear of chemicals. It is largely unfounded in fact. It is self-defeating. And it can be countered—in part.

Let's start with the facts.

In 1980 the Director of the National Institute of Environmental Health Sciences told the Senate Subcommittee on Health and Scientific Research that "the entire population of the United States" is at risk for developing chemically-induced cancers.

He was absolutely right, but not in the way he meant. As research into the causes of cancer has advanced, scientists have discovered that our environment is filled with potential chemical carcinogens, only a small fraction of which are man-made. Today we know that by Delaney amendment standards sex causes cancer—or at least the sex hormones naturally produced by the body do. So does drinking beer, eating a peanut butter sandwich, breathing the air in a forest and rubbing two sticks together to make a fire.

Twenty-five years ago Rachel Carson poetically compared the bracken fern, which, quote, "lifted high its proud lacework," unquote, to the quote, "unnatural" and "hideous", unquote, products of modern technology. Today we know that the bracken fern, which is eaten in salads in Japan, is highly carcinogenic—it has been linked to cancer of the esophagus, bladder, and intestine.

What scientific research has not uncovered, says the American Medical Association, is any "definite epidemiological evidence that the United States has experienced an overall increase in the incidence of cancer related to high levels of pollutants or contaminants in the environment."

The public, the media, the government and especially the chemical industry must not grow complacent about possible health risks from chemicals. But we should all become better informed, not only about the risks, but also about the rewards of the chemical age.

For example, thanks largely to advances in agricultural chemicals, in the past forty years the worldwide combined output of the 17 most important food, feed and fiber crops has more than doubled—while land in cultivation has increased by only 3%.

The example of agricultural chemicals also counters the widespread fear that chemicals are becoming more dangerous. Agricultural chemicals are in fact becoming much safer. During the nineteenth century, crop-destroying insects were fought with arsenic, mercury and lead. DDT and chemicals like it represented a tremendous safety advance; these in turn have been replaced by highly-targeted crop protection chemicals that work more effectively—in smaller quantities—and are safer for the environment as well.

If our industry is going to reduce this fear of chemicals, we will have to bring these facts before the public—and remind ourselves of some facts about our industry.

In 1986, a year in which the overall U.S. trade deficit reached $170 billion, the chemical products industry produced an $8 billion trade surplus.

Moreover, as American businesses are fighting to become more competitive, the chemical industry has helped lead the way. Chemical processes are becoming more efficient, sometimes dramatically so. Consider, for example, the impact of statistical process control. At FMC, the introduction of statistical process control brought the "right first time" record at one of our plants from 56% to 99% in just two years.

Even more exciting are some of the technological advances now taking place in our industry. Chemical companies are developing new, specialized catalysts that permit reactions heretofore impossible. They are introducing separation technologies that can significantly increase the purity of food, drugs, and a wide range of chemical products—technologies that may also revolutionize the treatment of wastewater. Ultra high strength fibers will someday transform the automobile industry, while genetic engineering is already transforming the pharmaceutical industry.

In my view, the chemical industry is on the verge of breakthroughs far more dramatic than anything we witnessed in those exhilarating postwar years—if the fear of chemicals does not destroy that promise.

Let me mention just two ways in which the fear of chemicals can prove self-defeating.

First, fear of chemicals can stifle innovation.

Our current regulatory system has a powerful bias against new products and new ideas. The Food and Drug Administration's slow-moving and cumbersome approval process has created a five to ten year drug lag between the United States and our major foreign competitors. The pesticide registration and approval process devours from a third to a half of the patent years available to agricultural chemicals, reducing the incentive for investment in new product development. Regulatory restrictions may yet cripple the biotechnology industry, despite the United States' leadership in this growing field.

Fear of chemicals can also impede efforts to enhance health and safety.

Again, the pharamceutical industry provides an excellent example. Major drugs for the treatment of abnormal heart rhythms, epilepsy, and high blood pressure were sold in Europe years before they were available in the United States. For example, Genetech's highly effective blood clot dissolver, TPA, has been available in Europe and Asia, but here in the United States—where it was invented—the FDA initially rejected this life-saving drug. Finally, in late 1987, it was approved for use.

Likewise, Superfund regulations have created so many legal snarls, and such voluminous reporting requirements, that years generally elapse before cleanup begins. FMC is involved in one case where cleanup has already been delayed for six years, and the legal costs for FMC alone have already exceeded 3 million dollars.

While government red tape continues to complicate many pollution reduction efforts, industry on its own is doing an excellent job. For example, chemical facilities in the Kanawha Valley of West Virginia, including FMC's, have voluntarily reduced hazardous air emissions by 26% over the past two years.

So what do we do about fear of chemicals? How do we calm the fears and communicate the benefits of our industry to the public?

First we need to define our public. Everybody thinks of "the public" as somebody else. In fact, the chemical industry's most important public is ourselves. More specifically, it is our employees, the communities in which we operate, and the consumers we serve.

Our most important chemical industry public is our employees. Chemical industry employees are increasingly well-informed about the potential hazards of their occupation—and contrary to much of the current political rhetoric, I believe industry has done a good job of both educating and protecting workers. In fact, we have one of the best safety records of any American industry.

At FMC we have tested over 15,000 past and present employees who've handled chemicals at our plants. What we've found is that these employees are more than 10% less likely to die of cancer than individuals of similar age and sex from the surrounding community. In fact, they are healthier overall. And I know that our findings are not unique.

Do our employees know about our industry's excellent health and safety record? About the benefits of the chemicals they produce? Even a simple fact sheet about chemicals could help employees talk more intelligently to their friends and neighbors.

We could also do a much better job of communicating with a second major chemical industry constituency: the communities in which we operate.

The Community Awareness and Emergency Response program has, of course, moved the industry in the right direction—although it took the Bhopal crisis to do it.

Like most chemical companies you represent, FMC participates actively in this program. We have conducted large scale emergency drills in cooperation with the local fire and police departments. We have prepared and distributed community manuals listing the chemicals used and produced in a local plant, and outlining emergency procedures in case of an accident. We have instituted open door policies, inviting community residents to come into our plants and ask questions. We have worked with state and local officials to address public concerns.

These are good efforts, but we can do more. FMC, and the chemical industry, needs a better strategy for reaching community leaders, for working cooperatively with schools and universities, and for establishing a solid information link with local media.

If that sounds like a tough job, I would just remind you that people in our plant communities want to be reassured. They value the jobs and the tax base we bring. But they need to be convinced that we're not bringing major hazards as well.

A third chemical industry constituency is our customer base. I am referring not only to our direct customers, but even more to the indirect consumers of chemical products.

Consumers vote with their pocketbooks—and in the last forty years they have given the chemical industry their overwhelming support. Chemical industry opponents would prefer to ignore this strong demand for chemical industry products. Behind much of the chemical fear-mongering, especially among special interest groups, is a fundamental hostility towards consumers and the choices they freely make. It's what I like to call the snail darter vision of the world—a vision that sees people not as producers and consumers, but as interlopers and polluters of the natural world.

This vision doesn't really have a whole lot of takers. The vast majority of Americans—and probably an even larger majority of the rest of the world—can't afford to insist that their clothes all be made of natural fibers, or that their food all be organically grown. They welcome new medical breakthroughs. They acknowledge—every time they sit down behind the wheel of their cars—that modern life entails some risks, but even more rewards.

These are the chemical industry's customers—and its ultimate constituency. Yes, these consumers will continue to worry about the risk of cancer. They will continue to demand government laws and regulations to protect their safety. But they will also continue to want the fruits of progress, and that means the fruits of the chemical industry.

We can reach this audience. But first we must throw off our own spirit of defensiveness, and recover our sense of excitement about America's most exciting industry. We need to get the facts out. We need to demonstrate that fear of chemicals is hindering the development of better, safer products and more cost-effective environmental solutions. And above all we need to communicate much more effectively with our employees, our communities, and the consumers of our products, and mobilize their support for our common goal of a healthier and more prosperous world.

The chemical industry has made a tremendous contribution to this nation, indeed to the world. Let's acknowledge that achievement. Let's regain confidence in ourselves. And let's communicate that confidence to the world.

EAGLE SCOUT ERIC C. HANSEN

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. LIPINSKI. Mr. Speaker, it is with great pleasure that I call to the attention of my colleagues an exemplary young citizen, Eric C. Hansen. He will be recognized on Sunday, April 10, for achieving the highest rank in Scouting, "Eagle Scout," in Boy Scout Troop 1399.

Eric is joining the ranks of a very select group. The individual tasks which he had to complete are impressive alone. These tasks challenged every facet of his personality—mental, physical, psychological, and more. His accomplishment becomes even more notable when it is viewed cumulatively. The high caliber of this individual is illustrated by the entire sum of achievements and the perseverance of character they demanded.

In today's society, our youth are truly bombarded with a variety of lifepaths from which to choose. While the freedom of choice is in itself good, too often we hear of young people who are led astray by the ignorance of their years to a lifestyle they do not deserve. It is always refreshing to recognize young men who choose a constructive way of life and also excel at it. Though credit is certainly due to the family of this young man and to the scout leaders who provided support, Eric knows today that he can participate independently in society in a manner that will benefit himself as well as his community.

The achievement of attaining the rank of Eagle Scout lays an excellent base for a productive future. I'm sure my fellow Members of Congress join me in wishing Michael the best of luck in his future endeavors.

A TRIBUTE TO MR. MARSHALL BRACHMAN

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. RICHARDSON. Mr. Speaker, I wish to bring to the attention of my colleagues a man I am sure you are proud to call a fellow Texan.

Mr. Marshall Brachman has been recognized as one of the Rising Stars of Texas in this month's Texas magazine. Mr. Brachman has been so honored for his insightful business leadership, success, and commitment to civic duty.

In a time when the idea of minicomputers in small business was just a pipedream to many, he and his father founded Computerized Business Systems Inc. and turned it into a monumental success. Not content with just being a successful businessman, Marshall Brachman got involved in his community's political and civic affairs. He has displayed leadership and compassion for his fellow man in organizations as diverse as: The American-Israeli Public Affairs Committee, the Fort Worth Art Museum, the Child Study Center, the Jewish Foundation of Fort Worth, the Fort Worth Youth Symphony, the Dan Danciger Jewish Community Center, and the Forum Fort Worth Coalition.

In an age when making money is the only concern of many people, Marshall Brachman has shown all of us that having concern for one's community can go hand in hand with business success.

The article follows:

MARSHALL BRACHMAN

By choice, 37-year-old Marshall Brachman is constantly on the move. During any given week, Brachman may start in his home town of Fort Worth, helping a small business develop a multiterminal computer system; then move on to Washington, D.C., to consult with House Speaker Jim Wright on Texas politics. The final stop could find Brachman literally anywhere in the country representing any number of Jewish causes.

Brachman's dual career of business and politics was established by recognizing opportunity and unhesitatingly taking chances. An MBA graduate of the University of Texas at Austin, Brachman began his career as a financial analyst for General Dynamics in Fort Worth. In 1977 he and his father, Leon Brachman, discovered an overlooked Metroplex market niche. The pair founded Computerized Business Systems, Inc. and began to sell, service, program, and maintain minicomputer systems for various types of businesses.

Such companies may abound today, but a decade ago Brachman found himself as one of the few North Texas computer system designers serving small businesses. With a strong core of Texas clients, Computerized Business Systems soon expanded to serve customers nationwide.

Building a successful business wasn't enough for Brachman. He immersed himself in state and national politics, serving on Democratic Party committees for an eclectic mix of candidates and causes. Currently, he's helping spearhead the Texas campaign of presidential candidate Richard Gephardt, and continues to be a valued adviser to native Texans like Wright and U.S. Sen. Lloyd Bentsen. "In business and in politics, Marshall Brachman is not divisive," says Fort Worth attorney Rice Tilley Jr., who, as chairman of the Fort Worth Chamber of Commerce board, works with Brachman in business and, as an active member of Tarrant County's Republican Party hierarchy, often works against him in politics. "Everyone who meets him is impressed with his objectivity and ability to get things done."

Brachman's current business goals are in a state of flux. From its base in Fort Worth, Computerized Business Systems easily could expand to a network of statework or national offices. Brachman's straightforward dedication to business must be tempered with political demands; he often is mentioned as a potential candidate for Congress, or as a future chairman of the Tarrant County Democratic Party.

Brachman is an officer of the American-Israeli Public Affairs Committee, a key group in developing better communications between the governments of both countries. In Fort Worth, he serves on the boards of the Dan Danciger Jewish Community Center, the Jewish Federation of Fort Worth, the Fort Worth Art Museum, the Child Study Center, the Fort Worth Youth Symphony, and the Forum Fort Worth coalition.

CLEMENTON ELEMENTARY SCHOOL EXEMPLIFIES THE OLYMPIC SPIRIT

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. FLORIO. Mr. Speaker, on February 7, 1988, I had the pleasure of visiting the fourth grade class of Clementon Elementary School taught by Ms. Penny Smith. I want to commend the students and teachers at Clementon Elementary School for outstanding programs such as the annual learning connection which I participated in.

As 1988 is an Olympic year, the students chose the Olympics as the theme for their 1988 learning connection. As the athletes strive to reach their peak performance in the games of Calgary and Seoul, the students of Clementon will be striving to reach their fullest educational potential.

I was especially impressed by the participation of the entire community in this program. As the Olympics endeavors to promote better communication between the nations, the Clementon program has improved communication between parents, teachers, and the students. I would like to enter into the RECORD for review by my colleagues a letter by Amanda Short, a student at Clementon Elementary, who aptly expresses this spirit:

CLEMENTON ELEMENTARY SCHOOL,
Clementon NJ, March 7, 1988.

Congressman JAMES J. FLORIO,
208 White Horse Pike, Suite 5,
Barrington, NJ.

DEAR CONGRESSMAN FLORIO: My name is Amanda and I am writing on behalf of the fourth grade in Clementon Elementary School. I would like to tell you about our school.

Every time a student has a problem they don't have to go to a certain teacher; all the teachers are willing to help.

Every year we have a day called the Learning Connection. On that day everyone in the community comes together and displays projects and looks at exhibits from different classes and organizations. This year it is based on the Olympics. The theme is "striving for the gold at C.E.S."

We would be honored if you could read this letter in front of the Congress. Thank you for visiting us.

Sincerely,

AMANDA SHORT.

CATHERINE JOHNSTON RETIRES FROM VENTURA COUNTY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. LAGOMARSINO. Mr. Speaker, I ask my colleagues to join me in congratulations to Mrs. Catherine E. Johnston as she retires as county treasurer-tax collector of Ventura County.

"Katie" Johnston began her career with Ventura County as an account clerk in July 1946 and was appointed assistant tax collector in 1969. In 1981 she was appointed assistant treasurer-tax collector, a position she held until being appointed treasurer-tax collector on the retirement of Robert Branch on January 1, 1985.

Mrs. Johnston was reelected to the position in 1986 with a 99 percent majority and has served until her announced retirement, effective March 31, 1988.

During Mrs. Johnston's term she has managed investment portfolios worth more than $800 million and collected millions of dollars in taxes for the County of Ventura.

"Katie's" enthusiasm and constant smile made her a very popular figure in the county and it came as a shock to supervisors and staff when she announced her retirement. She states that she plans to spend more time with her husband and they plan to travel in the future. Mr. Johnston's business leases offshore utility boats, a job requiring frequent travel and now "Katie" will be able to make these trips with him.

I request that my colleagues join me in congratulating Catherine Johnston on her retirement and in thanking her for her 42 years of dedicated service to the people of Ventura County.

THE HAZARDOUS MATERIAL TRANSPORTATION INFORMATION ACT

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. GALLO. Mr. Speaker, every year more than 1.5 billion tons of potentially hazardous materials, including gasoline, dangerous chemicals, explosives, and hazardous waste, are transported across the United States.

However, the U.S. Department of Transportation does not have the basic information necessary to properly regulate these shipments. The Department has only a limited knowledge about the shipments of hazardous materials through our Nation's vast transportation network.

Mr. Speaker, the Federal Government must have more accurate information about the transportation of these dangerous materials. To respond to this need, I have introduced the Hazardous Material Transportation Information Act, which calls for a regional examination of hazardous material transportation issues so that we will have better commodity flow and accident data.

We need this information so that we can target enforcement efforts, determine whether specific routes should be designated as hazardous routes, help emergency response personnel by identifying hazardous material accident "hot spots," and improve the Federal regulations for hazardous materials shippers and transporters.

The bill also requires the Secretary of the U.S. Department of Transportation to cooperate with other Federal agencies, the States, and with hazardous material shippers and carriers to improve the commodity flow and accident databases.

Examining this vital transportation information is consistent with my Community Right-To-Know legislation, now part of the Superfund law. We must get the right information to the right people at the right time. And to ensure the safe transportation of hazardous materials, we must have accurate records describing where, how, when, and in what quantities these materials are transported.

In a recent report to Congress, the Office of Technology Assessment [OTA] concluded that the transportation of hazardous materials is largely a regional phenomenon. The average trip length for trucks hauling chemicals, for example, is 260 miles, making these trips regional and more likely to be interstate in nature. Based on their comprehensive analysis, OTA concluded that "annual DOT summaries of aggregate regional shipments could provide useful regional and State commodity flow data."

Mr. Speaker, over the coming months the House Public Works and Transportation Committee will be holding hearings on the reauthorization of the Hazardous Material Transportation Act.

While there are many issues that need to be addressed in the reauthorization, a regional study will help to ensure that 1.5 billion tons of hazardous materials are transported safely.

I urge my colleagues to support the Hazardous Material Transportation Information Act.

SALUTE TO THE COVINGTON CATHOLIC COLONELS

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. BUNNING. Mr. Speaker, it is with a great deal of pride that I rise today to salute the Covington Catholic Colonels.

Last year the Colonels were the Kentucky State "Triple A" football champs. They achieved their first ever State championship with a 16 to 6 win over Paducah Tilghman at Cardinal Stadium in Louisville. Head Coach Lynn Ray led the Colonels to an overall record of 14 and 1.

Today I wish to salute the Colonels and their championship by placing the names of the champions in the RECORD.

Principal, Mr. Paul F. Brinker; A.D. Mr. Mike Guidugli; Asst. A.D. Mr. Mike Listerman; Head Football Coach: Lynn Ray; Asst. Coaches: Mark Goetz, Bob Noll, Joe Hartke, Tim Hobbs, Dave Schneider; Team Doctors: Dr. Jack Brueggemann, Dr. Mark Pelstring, Dr. Dan Rutterer, Dr. Tom Lubbe; Certified Trainer: Bob Mangine; Student Trainers/Managers: Jim Scott, Rob Butcher and Statisticians: Bob Fey, Dick Lohre.

Number—Name.

10—Don Bieger, 11—Paul Hladon, 13—Jamie Conway, 16—Kevin Butler, 18—Tim Schuh, 19—Chris Wagner, 20—Bob Beatrice, 21—Mike Wilson, 22—Andy Disken, 23—Bill Kuchel, 24—Tony Russo, 25—Kevin Fieger, 26—Brian Murphy, 27—David McGee, 31—Gary Snyder, 33—Mike Woolf, 38—Ted Koester, 40—Scott Spivey.

42—Matt Ziegler, 43—Dan Ruh, 44—Scott Tranter, 47—Jeff Ziegler, 48—Greg Middendorf, 51—Dana Granger, 52—Jason Guenther, 53—Martin Crowe, 56—Jeff Schabell, 57—John Becker, 58—Ron Beard, 60—Charlie Duncan, 61—David Meier, 62—Brian Good, 64—Mike Flesch, 65—Don Brossart, 66—Jack Lenihan.

67—Scott Norris, 68—Nick Rabe, 69—Andy Brueggemann, 70—Chris Noel, 71—Dan Martin, 72—Chris Thiel, 73—Mike Schneider, 74—Brian Ziegler, 76—Joe Bensman, 77—Chip Fritz, 78—Dave McDonald, 79—Rob Busch, 80—Jason Baute, 81—Brian Williams, 83—Dave Legeay, 84—Jerry Anneken, 85—Rob Newman, 86—Dean McCoy, 87—Joe Nienaber.

GROVE CITY A BAD BILL WITH MANY PITFALLS

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. SENSENBRENNER. Mr. Speaker, a recent article by Pat Buchanan, entitled "Ambush Lurking in New Rights Act?" Points to the flaws in the new civil rights bill recently passed by the House and sent to the President. I recommend the membership read the article and I submit it for inclusion in the CONGRESSIONAL RECORD.

The article follows:

Resting on the president's desk today is legislation mandating the most sweeping expansion of federal power in the Reagan era. And it is a measure of the loss of faith in Mr. Reagan's Revolution that half the GOP is begging him to sign. "I implore you . . . sign this bill," Sen. Rudy Boschwitz of Minnesota has written the president.

Under the Civil Rights Restoration Act, as this monster has been christened to frighten timid Republicans, one dollar in federal aid, directly or indirectly, to any institution, brings the entire institution under federal control. Virtually everyone, from the Girl

Scouts to the community college, would henceforth be fair game.

If, for example, one welfare recipient in Paducah, Ky., used her food stamps once, at a suburban Safeway, Washington would have the same authority to mandate racial quotas at that Safeway as it now has at General Motors.

If a tiny Christian college in South Carolina fired a teacher for being drunk, setting a bad example for students, that teacher would have the right to sue for discrimination.

If one grammar school in a vast county that gets impact aid decided, on its own, how to deal with a pupil or teacher with AIDS, that decision could be overruled, from Washington.

(Congress, however, did see fit to exempt one institution, itself, from the requirements of the legislation.)

The underlying premise of this bill is that America is a bigoted, sexist society whose institutions need constant monitoring by Big Government to prevent their mistreatment of women, blacks, gays, Indians, handicapped, elderly, diseased, etc. Without constant supervision, we are apparently incapable of behaving as good men and women.

The bill is truly a Trojan Horse through which the social agenda rejected in '80 and '84 is to be smuggled onto the books and imposed upon the nation. If the president's veto is overridden, feminists, gay rights activists and the Black Caucus will have successfully reversed the election returns; America's institutions will be hit with a hurricane of lawsuits; and the number of bureaucrats making on-site inspections of our private schools, foundations, firms and factories would take a quantum leap.

Over two decades Americans have seen the once-hallowed term, "civil rights," wholly perverted. Historic laws, enacted to end discrimination, have been twisted by activist judges to require quotas. Laws to protect the handicapped have been twisted to require employers to indulge the most outrageous behavior.

Millions of Americans still regard drunkenness, drug abuse and homosexuality as immoral conduct, manifestations of grave character flaws. Yet, courts are ruling today that people have no control over these proclivities, that to deny alcoholics, addicts and gays jobs, promotions and housing is irrational discrimination.

This bill represents a wholesale reversal of what Ronald Reagan came to Washington to accomplish, i.e., to roll back government and restore power to the people.

Even the one victory won as this legislation was rammed through Congress remains tenuous. (Under the Danforth Amendment hospitals connected with the Catholic Church would be exempt from having to perform abortions.)

In an agonized letter to President Reagan, Civil Rights Commissioner William Allen warns that the Danforth Amendment is almost certain to be thrown out as unconstitutional, since the Supreme Court will rule that Congress cannot restrict a right that is in the Constitution itself.

Once again, Congress is transferring vast power to our unelected rulers in the federal bureaucracy. Once again, Congress is writing a law with such vague, disputed terms as "handicapped," "diseased" and "civil rights," leaving it to the courts to determine what those terms mean.

Is it a handicap to be a transvestite; is it a functional disorder; or is it simply a chosen lifestyle? We will not know the answer until some federal judge has told us, and tells us how henceforth we must behave.

Historically, the Republican Party has seen its role as sheltering the free society from the dictation of that ancient antagonist of human freedom, government controlled by ideologues anxious to reshape society to conform to their image of the good.

Yet, half the Republican Party voted for this bill, and party leaders are imploring the president to sign. Why? Because nothing so terrifies a moderate Republican as the charge that he is insufficiently progressive on civil rights.

A veto would have a "dangerous downside," Frank Fahrenkopf, party chairman, warns the president; our critics will charge us with being "not interested in equal opportunity."

Well, Frank, if the GOP lacks the courage and capacity to sustain the president and defend itself in public against the noisemakers and special interest clamoring for this bill that tramples under Republican principle, explain to us why the party is even worth worrying about this coming November.

SUMMARY OF PROCEEDINGS OF PACIFIC PARLIAMENTARY CAUCUS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. BEREUTER. Mr. Speaker, it is my pleasure to call to my colleagues' attention a summary of the proceedings of the Pacific Parliamentary Caucus which was cosponsored by the Pacific Forum and the Atlantic Council of the United States.

The caucus provides an informal forum to bring together under private auspices Pacific and European legislators who have responsibilities in Pacific policy affairs. The conference, held at Mikaha, Hawaii on January 9–11, 1988, was the fourth such caucus. In alternative years, as in 1988, European parliamentarians also participate.

This outstanding forum was attended this year by parliamentarians from Canada, France, Indonesia, Japan, Malaysia, New Zealand, the United States as well as a very distinguished delegation from the North Atlantic Assembly led by its president, Ton Frinking of the Netherlands.

The rapporteur for the conference was M. Mark Earle, Jr. He has prepared a summary of the proceedings of the conference which I insert in the CONGRESSIONAL RECORD as follows:

EXECUTIVE SUMMARY PACIFIC PARLIAMENTARY CAUCUS

(By L.R. Vasey, President, Pacific Forum, and M. Mark Earle, Jr., Consultant, Asia-Pacific, The Aspen Institute for Humanistic Studies, and Caucus Rapporteur)

HIGHLIGHTS OF THE PRESENTATIONS AND EXCHANGES

1. Economic Issues

a. Economic issues will be the dominant factor in international affairs in the mid-term and will significantly influence political and military developments.

b. There was general acceptance that the three main problems facing the world economy today are: the U.S. trade and budget deficits; the trade surpluses of Japan, the FRG, and the NICs, and; the burden of developing country debt.

c. The solution to these problems needs to come first from the U.S. (meaningful budget cuts, appropriate tax increases, sustained export expansion) and then be blended with reduction of trade surpluses by others. The boldness of the changes necessary to restore financial confidence increases significantly with time.

d. Most U.S. participants thought that the majority of the changes needed to improve economic performance were internal, not external. Focusing on domestic issues, however, is not synonymous with a retreat to fortress America.

e. The perceptions of the debt problem and feasible solutions varies among economic specialists, public officials, and parliamentarians. Most favor a pragmatic step-by-step approach because it is more realistic politically than solutions that might destabilize the financial and commercial systems.

f. A new attitude is needed regarding LDC debt—that pragmatic partial solutions do not involve just rolling-over the debt because of a series of mini-crises. Developing country leaders and private sector investors need to be convinced that the process underway will actually reduce the debt burden that is limiting growth.

g. A Southeast Asian commented that the developing countries are facing a trilemma: making adjustments to meet imposed stabilization programs; achieving growth rates that will continue to increase well-being, and; the necessity of implementing social programs such as income or land redistribution to further broaden the process of democratization and ensure stability.

h. The Southeast Asian further held that developed countries are viewed as not fully understanding these problems from developing countries' perspectives. Moreover, industrialized countries are, in general, viewed as reacting to immediate self-interests, rather than formulating and implementing bold policies that would assist developing countries respond to domestic and international realities.

2. The Soviet Union

a. Even though the Soviet Union has continued to improve its military capability in the Pacific, the U.S. and its allies and friends currently enjoy a posture of regional military superiority. This is due to a number of factors: the capability of U.S. forces; access to a network of forward support bases; cooperation of allies and friends through a variety of security and political agreements, and; certain inadequacies and vulnerabilities of the Soviet force posture. This superiority is expected to continue into the foreseeable future but will be influenced by budget considerations.

b. The total dimension of the Soviet threat, however, should include non-military aspects of Soviet behavior, such as subversion, political influence of opposition leaders, increased diplomatic activity, and misinformation. This is particularly true as it relates to developing countries, including the South Pacific Islands.

c. There is a cautious optimism in East/West relations created by a series of reform pronouncements by Gorbachev and other Soviet leaders.The parliamentarians, however, believe that the Soviet's intentions and behavior should be tested over time; attitudes and policies should not be altered based only on declaratory reform statements.

d. The parliamentarian's primary interest in Gorbachev's reform policies was in the impact of their success or failure on West/West and East/West relations. What would constitue success or failure of the reforms was not raised during the Caucus discussions.

3. The INF Treaty and Arms Control Negotiations

a. The INF Treaty is universally viewed in more political than military terms. While some find certain flaws in its logic or provisions, it is more comprehensive (especially relating to verification) than the parliamentarians would have predicted several years ago. It's general content is favorably endorsed, and it's passage without major change by the U.S. Senate is expected.

b. The next steps in negotiations will be undertaken in several areas—strategic missiles, tactical nuclear forces, and conventional forces. At a minimum, these negotiations should be based on a comprehensive view of the interrelationship of all military, political and economic aspects of East/West relations, including human rights.

c. A clear majority of the parliamentarians thought that linkage issues among negotiations should not be employed to inhibit progress on specific agreements. However, the overall progress of the negotiating process must remain satisfactory and a difficulty encountered in a specific negotiation should not be of such a "unique" nature that it would change the pace or scope of the negotiating process.

d. Arms control negotiations with the Soviet Union should be conducted from a "global" perspective. For example, the SS-20 elimination was not treated as a "Europe only" issue. The INF experience also illustrated the value of Pacific rim countries conveying directly to Moscow their interests relating to specific negotiating issues, when appropriate.

e. Military strength and options should be maintained until arms control negotiations achieve acceptable outcomes. Reductions should follow successful completion of arms control negotiations.Those involved in arms control negotiations believe that the Soviets respect power and real power is a major factor in achieving satisfactory results in negotiations.

f. As has been the case for sometime, not all agree on the credibility and wisdom of the concept of flexible response in NATO. As negotiations proceed further, the impacts of possible arms control outcomes on the flexible response concept need to be publicly explored in order to develop continuing support for NATO's defense strategy.

4. Political Issues

a. The factors with the highest potential for destabilizing regional relationships are a significant worsening of U.S. and Japanese trade frictions and/or passage of a highly protectionist U.S. trade bill.

b. European and Pacific rim parliamentarians believe that Japan must play a broader role in economic affairs than previously. Japan should also provide appropriate political leadership when circumstances warrant.

c. The expansion of Japanese military defense oriented capabilities is viewed by some as an action of considerable importance and priority. Others favor a modest expansion of force levels, and that only following a multilateral coordination of security issues.

d. At a minimum, given the current yen-dollar ratios, the financial support for U.S. forces in Japan by the Japanese should be increased.

e. One factor limiting the Japanese from assuming new and expanded roles is the lack of specific suggestions from allies and friends as to such roles. Moreover, the suggestions would need to be sufficiently coordinated so as to have credibility. They should not be so put in final form, however, that they might be viewed by Japan as "demands."

f. Another factor limiting Japan assuming new roles is the lack of an internally generated "vision" of such responsibilities. Perhaps what is needed is a statement like the MITI "Vision of the 1980s" which was successfully used to shape and guide Japan's international industrial activity.

g. Asia-Pacific parliamentarians had little or no support for continued testing of nuclear weapons by the French in the Pacific Islands. Participation, however, of French parliamentarians in the Caucus dialogues is considered important to develop better mutual understanding of a range of other regional issues.

5. Key Factors Influencing Regional Policy Trends

a. The need is evident for an in-depth evaluation of the factors that will have major impacts on Asia-Pacific political and economic policies over the next decade. Among the most important are: a slow but continuing realignment of relations among Asia-Pacific countries is occurring, particularly as a result of the growth of Japan and the NICs. These changes are altering the relative weights of the elements of national power; the fact that the economic changes have not been accompanied by shifts in military power; the declining value of military conflict as an element of power, a trend that can be expected to continue; the leadership of most Pacific nations can be expected to be of a new type—one that is not rooted in the experiences of the 1940s and 1950s. The mood of these new leaders fits well with the external orientations of their economic strategies, and; regional cooperation in Asia-Pacific will increase but remain non-governmental in nature, strongly influenced by private sector initiatives and interests. The tripartite Pacific Economic Cooperation Conferences is one example of such activities.

b. European parliamentarians tended to be more concerned than their Pacific counterparts about gaps and tensions arising from the lack of a more formal multilateral coordination mechanism than anticipated by those from Asia-Pacific.

c. The realignment of power now underway means, in part, that the industrialized countries must improve their ability to listen to the non-popular perspectives from other countries, especially those from developing countries.

6. European-Pacific Basin Linkages

a. The need to manage Western relations with the Soviet Union and Eastern Bloc will remain the central link between the Pacific Basin's interests and those of Western Europe. A successful GATT Round would also be an important forum for interregional linkage.

b. But, it seems unlikely that a new, comprehensive negotiations will be initiated to move the international financial system beyond "Bretton Woods." Yet, some interregional financial interests are addressed through the G-7 financial ministers' consultation process, and by the U.S. and Japan on a bilateral basis.

c. The role of Western Europe in Asia-Pacific is an economic and political one—helping keep markets open, supporting developing country expansion, and broadening the processes of democratizations. None of the participants thought that an out-of-area security role should be pursued. However, the deployment of European forces to the Mid-East to protect oil tankers reflects a willingness to project forces in situations of critical importance.

7. Parliamentary Exchanges

a. Parliamentary exchanges within Asia-Pacific and between this region and Western Europe should be expanded for several reasons. Among them is the need to clarify differences on key issues. Examples noted during the Caucus discussions include: the Philippine situation (the Europeans were much more pessimistic about political stability than their Asia-Pacific counterparts); next steps in regional cooperation (the Europeans tended to want more formal government involvement than did those from Asia-Pacific); and, differing views on the nature and potential dangers of bilateral U.S. and Japan frictions.

b. The need to strengthen parliamentary exchanges within the Pacific Basic and interregionally should be pursued first within existing mechanisms. The initial exchanges should stress dialogue more than consensus building.

At the conclusion of the 1988 Caucus, it was agreed that the Caucus was of such high value that it should continue on an annual basis. The format will be expanded so that Asia-Pacific issues can be fully treated as well as common global problems and those of an interregional nature.

ROLE REVERSAL: U.S. EXPORTING ELECTRONICS TO JAPAN

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. GORDON. Mr. Speaker, I would like my colleagues, especially those in the trade conference, to consider carefully an article that appeared March 3 in a newspaper in my district, the Lebanon Democrat.

There is a Toshiba America manufacturing plant in Lebanon, TN, that employs some 650 American workers. These workers have been doing their job so well that now, with a little help from the currency exchange rate, their plant is exporting microwave ovens to Japan. Plans are to begin exporting televisions to Japan from the Tennessee plant this June.

However, if the Trade and International Economic Policy Reform Act of 1987 becomes law including the blanket sanctions against Toshiba Corp. proposed by our colleagues in the Senate, efforts such as those of the 650 Americans in Lebanon, TN, and several thousand other Toshiba America workers around the country will end.

Toshiba Machine Corp., a partly owned subsidiary of Toshiba Corp., violated Japanese law and international agreements when it sold advanced propeller milling machines to the Soviet Union. A state-owned Norwegian company, which has since been reorganized, Kongsberg Vaapenfabrik, also violated the law and international agreements when it sold the

Soviets the computer technology needed to operate the milling machines. Apparently companies in several other NATO countries also have sold restricted technology to the Eastern bloc.

The exposure of these deplorable acts has led directly to tougher laws and better enforcement procedures in Japan and Norway to prevent future illegal high technology sales. It has also resulted in a strengthening of the Coordinating Committee for Export Control, or Cocom, which is the key to stopping the flow of sensitive technology in the future.

Singling out Toshiba and imposing blanket sanctions on the entire corporation for the actions of one of its subsidiaries is unlikely to force further changes on our Cocom partners, including Japan. Blanket sanctions will cause major disruptions to businesses large and small all over the United States, and they will probably put thousands of American workers out of a job.

The House trade bill negotiators have come up with a position on Toshiba in the trade conference that looks to the future. It calls for a constructive system of tough, fair and clear sanctions to deal with future violations. It does not punish innocent Americans.

I urge my colleagues on the trade conference to stick to their guns in negotiations with the Senate, and I urge the rest of my House colleagues to support our negotiators.

Mr. Speaker, I commend this article to my colleagues and ask unanimous consent to have it reprinted in the RECORD.

[From the Lebanon (TN) Democrat, Mar. 9, 1988]

JAPAN SENT MICROWAVES BUILT HERE

(By Lounita Howard)

Toshiba America's Lebanon plant recently became the first U.S manufacturer to export microwave ovens to Japan. Leonard Tyree; manager for industrial and public relations, manufacturing division, said Wednesday.

Toshiba exported 3,000 units to Japan recently and may soon export more, pending the results of market testing there, Tyree said.

"I'm pretty sure it's accurate that we are the first company to export microwave ovens to Japan." Tyre said. "This 3,000 was shipped for market testing over there and we are now waiting for results. We hope to keep on shipping to them.

Tyree said the reason behind exporting the locally produced microwave ovens to Japan, where the firm's parent company is located, is because of the value of the dollar in relation to the Japanese Yen.

"We can actually produce them cheaper and better here than in Japan" due to the current low value of the U.S. dollar, Tyree said.

The microwaves, shipped about a month ago, are now on the market in Japan, and depending on sales and receptibility in that market. Toshiba America could soon begin regular shipments. Tyree said market testing will include such factors as quality cosmetic appearance and pricing.

"We have tentative plans of exporting TVs in June or July" to Japan. Tyree added.

The 650-employee plant will celebrate its 10th anniversary in August. The firm began manufacturing television sets in 1978 and added the production of microwave ovens in November 1981.

The Lebanon plant also exports to Canada, Mexico, Panama and Venezuela with a total of approximately 250,000 TVs and microwaves exported on an annual basis. Tyree declined to name the total production at the plant, citing competition reasons.

"If [market testing] is approved, we would follow immediately with more shipments." Tyree said, but added he does not know when the study will be complete.

The microwaves shipped to Japan are produced with Japanese symbols rather than English on the controls, instructions and shipping crates.

Tyree noted the company purchases "close to 90 percent of components" in the United States. "It is not a case where the components come from Japan and we assemble them here. In fact we have a number of suppliers in Tennessee."

The Lebanon plant deals only in manufacturing, Tyree said, while sales distribution, marketing and customer service are handled at Toshiba America in New Jersey.

CONGRESSIONAL TRIBUTE TO IRENE YASUTAKE HIRANO

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. DIXON. Mr. Speaker, it is with great pleasure that I rise to salute the accomplishments of a good friend and great administrator, Irene Yasutake Hirano. Irene is leaving her post as executive director with T.H.E. Clinic for Women in Los Angeles, for the directorship of the Japanese American National Museum.

Irene obtained her undergraduate and graduate degrees in public administration from the University of Southern California [USC], a distinguished educational institution located in my congressional district. Her graduate work at USC also led to her receipt of a certificate in Health Services Administration and Information Systems.

In both her professional and community activities, Irene has distinguished herself as a highly effective, hardworking and popular administrator, and dedicated advocate of numerous health issues. As executive director of T.H.E. Clinic for Women she has been responsible for overall administrative activities, including fiscal, personnel, fundraising, and community relations. T.H.E. Clinic is a nonprofit community clinic providing medical counseling and education services for over 10,000 Los Angeles residents each year, with a staff of 35 health care professional and ancillary workers.

Prior to her work with T.H.E. Clinic, Ms. Hirano worked for numerous projects funded by the U.S. Department of Health, Education and Welfare, including the National Asian American Field Study, the Project Advocacy for the Elderly, and the Asian Women's Center. She has also worked as an Administrative Resident for the Children's Hospital, and as Project Administrator of the USC School of Public Administration's Center for Social Action.

Irene has also found time to devote herself to a number of health and community organizations. She is the president of the California Reproductive Health Association, and on the advisory board of the Santa Monica Rape Crisis Center. She is on the board of directors of the Southern Christian Leadership Conference and a board member of the Asian Pacific Legal Defense and Education Fund. She is also actively involved in the Asian community and has served as chair of the National Japanese American Citizens League's Women Concerns Committee, and on the State Superintendent's Council on Asian Pacific Affairs.

Irene's dedication to her job and to the Los Angeles community has not gone unrecognized. She has been awarded the National Outstanding Asian/Pacific Islander Award by the National Education Association, and the Outstanding Service Award by the National Institute for Women of Color. She has received community service awards from the Little Tokyo Service Center, and the Liberty Hill Foundation, and women's achievement awards from Women FOR, and the Wilshire Chapter of the Business and Professional Women.

Mr. Speaker, in both her professional and personal life, Irene Hirano has compiled an impressive resume of service to the Los Angeles community. To thank her for her fine work at T.H.E. Medical Clinic, and to congratulate and wish her the best of luck in her new job, Irene's many friends and colleagues are honoring her on April 7, 1988. On the eve of Irene's farewell celebration, I ask my colleagues in the House of Representatives to join me in congratulating her on her many achievements, and to wish her much happiness and continued success in her future.

McCULLOM HIGH SCHOOL BAND

HON. ALBERT G. BUSTAMANTE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. BUSTAMANTE. Mr. Speaker, I would like to pay special tribute to an outstanding group of high school students in San Antonio. These young men and women are members of the McCullom High School Band and they will be representing San Antonio and the State of Texas in our Nation's Fourth of July festival in Washington, DC, this summer.

Last June the McCullom band was chosen from among the hundreds of bands in Texas to represent our State at the national festival and parade. Their success comes as a result of hours of practice every week and a commitment to excel beyond the goals of others.

Having earned an invitation to this once-in-a-lifetime event, the band only lacks the funds to make the opportunity a reality. The students, their directors, and the band boosters have been hard at work raising the needed $66,000 for the trip. So far they have collected almost half that amount and are confident that the San Antonio business community will support them in their drive to earn the rest.

I am pleased to have the McCullom High School Band members represent San Antonio and the State of Texas in our Nation's Capital. They have every reason to be proud of their accomplishments.

NATIONAL DIABETES MONTH

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. HOYER. Mr. Speaker, today, I am pleased to introduce legislation to designate November as "National Diabetes Month." The joint resolution I am introducing will commemorate November 1988 as National Diabetes Month.

This is the sixth consecutive year I have had the privilege of working with the American Diabetes Association to promote the commemoration of National Diabetes Month. By passing this legislation, the 100th Congress can continue to call public attention to the human and economic costs of diabetes. I am convinced that this public attention and awareness can only help to promote greater understanding of the challenges we face in mitigating the impact of the disease. Through the designation of November as National Diabetes Month, the Congress can help to provide a forum for seminars, speeches, and workshops, and other educational and informational activities designed to help educate the public in diagnosing, treating, and dealing with diabetes. Finally, this commemorative underscores the urgent need for continuing to fund biomedical research.

One American in 20 has diabetes. Yet, despite the fact that this disease is the third leading cause of death by disease in the United States, nearly half of the victims of diabetes do not even realize that they are diabetic. This year, 600,000 Americans will learn that they suffer from diabetes, and over $14 billion will be expended on health care, disability payments, and the costs associated with premature mortality.

In addition, diabetes decreases life expectancy by one-third. Diabetes is the prime cause of new blindness in adults over 20 years of age. Those who suffer from diabetes are twice as likely to face heart disease and stroke and are 17 times more prone to kidney disease. Every year, in this country, diabetes leads to 20,000 leg and foot amputations from gangrene.

It must also be stressed that diabetes is particularly prevalent among black Americans, Hispanic Americans, native Americans, and women. Indeed, women are twice as often victims as men and blacks are twice as often victims as whites.

In 1986, the National Diabetes Advisory Board, which advises the Congress and the Secretary of Health and Human Services on the implementation of the long-range plan to combat diabetes, issued an annual report that contained both good and bad news. On the distressing side, the report noted that diabetes is the leading cause of new blindness in adults between the ages of 20 and 74 and is responsible for higher rates of cataracts and glaucoma in people with diabetes; diabetes accounts for 25 percent of all new cases of end-stage renal disease; after 20 years of diabetes, 45 percent of people with the disease have peripheral vascular disease, a rate four to seven times higher than in the general population; people with diabetes are twice as likely as the general population to die of heart disease; the incidence of strokes is two to six times higher in people with diabetes; the perinatal death rate in infants of diabetic mothers is two to four times higher than in nondiabetic pregnancies; and diabetic ketoacidosis, an acute complication of uncontrolled diabetes, contributes to 10 percent of diabetes-related deaths each year.

On a more positive note, the National Diabetes Advisory Board added,

> Despite these rather bleak statistics, the future for people with diabetes appears promising. Major advances in biomedical research have greatly expanded our understanding of the pathogenesis of diabetes. Our ability to treat the disease and to prevent or reduce the severity of some of its complications has improved markedly.

Mr. Speaker, to keep the future promising for people with diabetes, it is imperative that we in the Congress continue to focus public attention and research dollars on diabetes. Toward this end, I am asking my colleagues in the House of Representatives to join me in cosponsoring my legislation to designate November 1988 as "National Diabetes Month."

Joint Resolution to designate the month of November 1988 as "National Diabetes Month"

Whereas diabetes is a leading cause of death by disease in the United States;

Whereas diabetes afflicts 11,000,000 Americans, of whom 5,000,000 are not aware of their illness;

Whereas diabetes costs the Nation more than $14,000,000,000 annually in health care costs, disability payments, and premature mortality costs;

Whereas up to 85 percent of all cases of noninsulin dependent diabetes may be prevented through greater public understanding, awareness, and education;

Whereas diabetes is particularly prevalent among black Americans, Hispanic Americans, native Americans, and women; and

Whereas diabetes is a leading cause of blindness, kidney disease, heart disease, strokes, birth defects, and lower life expectancy, incidences of which may be reduced through greater patient and public education about diabetes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1988 is designated as "National Diabetes Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

THE REAGAN JUDICIARY: MOSTLY WHITE, MOSTLY MALE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. STOKES. Mr. Speaker, recently, I read with great concern an article in the Cleveland Plain Dealer entitled "The Reagan Judiciary: Mostly White and Mostly Male." The article which originally appeared in Newsday magazine summarizes President Reagan's record in appointing minorities and women to the Federal bench.

Recent hearings held by the Senate Judiciary Committee have disclosed that out of a total number of 761 Federal judicial positions, 48 or 6.3 percent are black; 28 or 3.7 percent are Hispanic; and 66 or 8.7 percent are women. This occurrence is particularly distressing considering that blacks constitute at least 12 percent of our Nation's population; Hispanics 6.4 percent; and women represent a clear majority.

More importantly, a review of Mr. Reagan's record in this area reveals that his actions have not only helped to exacerbate the underrepresentation of minorities on the Federal bench, but they are unconscionable as well. For instance, out of the 20,000 black lawyers practicing within our Nation's courts, surely more than the handful appointed by Mr. Reagan during his two terms in office qualify for appointment to the Federal bench. Consider, for example, that President Jimmy Carter appointed 37 blacks during one term in office.

Mr. Speaker, blacks and other minorities have much to offer in interpreting and enforcing the Constitution and related Federal laws. Moreover, the Democratic principles set forth within our Nation's constitution require the appointment of persons to the Federal bench who possess the diverse characteristics which distinguish our Nation from all others.

For these reasons, Mr. Speaker, I would try to encourage my colleagues to read this important article and take the steps necessary to improve the representation of minorities and women on the Federal bench.

The article follows:

[From the Cleveland (OH) Plain Dealer, Feb. 7, 1988]

THE REAGAN JUDICIARY: MOSTLY WHITE, MOSTLY MALE

WASHINGTON.—By the time he leaves office, Ronald Reagan will have appointed a sizable majority of the federal judiciary. While it is too soon to tell whether his legacy will be a firmly entrenched conservative legal philosophy in the courts, one thing is already certain about his choices—most of them were white and most of them were male.

Of the 575 federal district and appeals court judgeships in the United States, Reagan already has filled 334 seats. According to Department of Justice figures, 8%, or 27, of those appointed were women. Five judges were black and 13 judges were Hispanic—for a minority representation of slightly more than 5%.

As a result, after seven years of Reagan's appointments, the judiciary remains close to 90% white and male.

This concerns Sen. Edward Kennedy, D-Mass., who is holding a hearing of the Judiciary Committee this week to highlight what he calls the Reagan administration's "inexcusable" attempt "to homogenize the federal bench."

Defending the administration's record, Stephen Markman, assistant attorney general for legal policy, said, "our commitment was to appoint the best-qualified judges we could find for the federal bench.

"There is no indication whatsoever that we have not looked aggressively to identify persons coming from a wide variety of backgrounds for those positions. This administration is very concerned in making sure that no one is excluded because of race, nationality or gender," Markman said.

Asked if he thought there were more than five black lawyers in the nation qualified to be judges, Markman said that he would answer specific questions when he testifies. He denied that minority groups were excluded from consideration because of the perception that they were liberals. "I don't think we have stereotyped anyone," he said.

Reagan's percentage of black appointments was the lowest by any president in 25 years, according to Senate Judiciary Committee figures. There are approximately 20 federal districts, out of the 90 in the nation, that have neither a woman nor a minority on the bench in that jurisdiction.

In the District of Columbia, which has the highest percentage of women and minority lawyers in the nation, all 14 of Reagan's appointments were white males. But Reagan does hold one distinction over any other president; Sandra Day O'Connor, the first woman to sit on the Supreme Court, was appointed by Reagan.

In contrast, critics say, Jimmy Carter, who had fewer opportunities to make appointments to the bench, averaged about 15% each for women and minorities.

"Carter gave direction from the top that this was an important goal to pursue," said Estelle Rodgers of the Federation of Women Lawyers, an organization of several women's bar groups.

Michael Martinez, president of the National Hispanic Bar Association, charged that the Department of Justice has never made an affirmative effort to seek Hispanic candidates. Martinez said that neither he nor his group has ever been consulted by the White House, and that offers to help with recruitment have been rebuffed. As a result, in December, Hispanic groups went to the White House to make their case with Howard H. Baker, Jr., Reagan's chief of staff.

"After our plea, we started to see some activity, but it is too late in the administration to rectify years of inactivity," Martinez said.

He believes that the Department of Justice mistakenly stereotypes Hispanic lawyers "as liberals who don't believe in their philosophy."

But Rodgers believes it goes beyond ideology. "There are many conservative Republican lawyers who are women," she said. "They just have no particular desire to appoint you if you are black or a woman."

Kennedy's congressional spotlight is unlikely to change the range of Reagan judicial appointees which it pretty much set for the final year of his administration. There are 49 vacancies in the federal district and appeals courts. Even with all the 27 nominations pending—almost all of whom are white, Anglo males—there are still 22 openings for which no nominations even have been made. Five of six new nominations are expected to be made soon, Markman said.

A TRIBUTE TO REPRESENTATIVE CHARLES WILSON CAPPS

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. ESPY. Speaker, I am very honored today to speak on the House floor in recognition of one of the most influential and respected citizens in the Second Congressional District. State Representative Charles Wilson Capps, Jr., of Cleveland, MS, has dedicated his entire life to improving the quality of life for all Mississippians.

Since my election to the U.S. Congress in November 1986, Charlie Capps has become one of my most valued and closest advisers on issues which directly affect the people of the Second District. Because of his varied experiences, Mr. Capps is knowledgeable in many areas—the economy, farming, education, industrial development, and community service. His opinions on these matters are held in high regard not only by myself but many other community leaders in Mississippi.

Throughout his 17-year service as a member of the Mississippi House of Representatives, Mr. Capps has been a fair and thoughtful legislator while serving as chairman of the House Appropriation Committee and a member of the Legislative Budget Committee. In line with his lengthy legislative experience, he has taken on a national leadership role as Chairman of the powerful Southern Legislative Conference and a member of the Executive Committee of both the National Council of State Legislators and Council of State Government.

But, his influence does not stop there. As a member and past president of Delta Council, an agriculture and business leadership organization in the second district, Mr. Capps has helped to influence national farm policy which has benefited farmers and agriculture-related businesses all across this country. His understanding of the farm problems facing this nation comes from, not only being associated with farming, but also working closely with other farmers, business owners, and public officials for many years as a past director of the Bolivar County Farm Bureau, director of the Sunburst Banking System in Grenada, MS, and president of the Capps Insurance and Real Estate Co.

His service in the business community includes his contributions as past president of both the Cleveland-Bolivar County Chamber of Commerce and the Exchange Club. He is also a past chairman of the local industrial development foundation of the chamber of commerce and was a member of the Mississippi Marketing Council from 1976 to 1980 and a member of the Mississippi Agriculture and Industrial Board appointed by the Governor from 1956 to 1960.

His contributions to Mississippi have not only been in the area of farming and business. Unlike so many people today who are often too busy to involve themselves in community service, Charlie Capps has not forgotten the importance of this kind of public assistance. Foremost, he is a Christian leader, serving on the Administrative Board of the First Methodist Church in Cleveland. He is the president of the Delta Area Boy Scouts Council and was the first president of the United Givers Fund.

I am proud to say that this man who has accomplished so much in his lifetime was educated in Mississippi at the University of Mississippi. And, he has not forgotten his alma mater, nor has he forgotten the importance of an education for all of the young people in Mississippi. Mr. Capps is a member of the south regional education board, and he also serves on the board of directors of the Ole Miss Business School and the Chancellor's Fund and was the chairman of the Ole Miss Development Foundation.

I am extremely fortunate to have Charlie Capps only a telephone call away. He has given much to the State of Mississippi as a public official, a community leader, and businessmen. I am thankful today that I can stand here and give honor to his many contributions and accomplishments.

MANAGEMENT OF THE MX PROGRAM

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. ASPIN. Mr. Speaker, the Committee on Armed Services has been reviewing the management of the MX program with growing concern. We have reported in the past about the problems of Northrop Corp. in delivering the brains of the MX guidance systems, called the inertial measurement unit.

Documents recently received by the House Armed Services Committee show that while Northrop is undeniably having its difficulties, the Air Force is part of the problem. The documents were obtained through unofficial channels from persons who oversee the MX program and from the Air Force Plant Representative Office at Northrop Electronic Division's Hawthorne, CA plant.

The Air Force has institutionalized corner-cutting at that plant. It is allowing Northrop to bypass testing of many components in the IMU even though the units have demonstrated reliability problems once they are delivered to the Air Force. And when even that isn't enough, the Air Force is willing to bypass its inspection routine entirely and simply order its inspectors to pass an IMU.

When the Air Force representatives at the plant suggested this wasn't the way to do business, they were ignored. When an inspector protested in writing, action was taken to remove his comments from the record.

The bureaucratic device used to bypass tests is aptly named "Deviation 177." Such deviations allow contractors to skip tests of components provided the equipment they go into is tested at the next highest level. Experts tell us that such an exemption—intelligently used—can save needless hassle. But that doesn't seem to be the case at the Hawthorne, CA, plant where Northrop Electronics Division produces the IMU.

There, Deviation 177 grew at Northrop's request to encompass more and more components. Doubts were raised internally. According to a document obtained by the committee, an officer at the Air Force Plant Representative Office at Hawthorne wrote to the Air Force Ballistic MIssile Office—which runs the MX programs—about the problem in January 1987. He was concerned about an expansion of Deviation 177's coverage.

He wrote—and I'm quoting now:

> Granting this deviation may save the contractor time in the processing of circuit card-stack assemblies at the lower level of the IMU build cycle, however, the proposed alternate higher level testing may have

greater impact if defects are not detected at the lowest possible level.

Even in engineer-ese, that message is clear. He went on to say that having to tear down a component to find a flaw that could have been caught earlier would be more time consuming. It also risks destructive wear and tear on parts that are supposed to work unattended for thousands of hours in the nose cone of an intercontinental missile.

The officer recommended disapproval of the deviation. The Air Force turned a deaf ear.

But the difficulties go deeper than Deviation 177. The case history of one IMU—numbered P21—shows that sometimes, any inspection can be too much for the Air Force.

The story of P21 begins with another document, this one a memorandum written in late November 1986 from the ballistic missile office to the Air Force representatives at the plant. In it, the chief of the guidance and control division says flatly that there aren't enough IMU's at F.E. Warren Air Force Base where the MX is being installed. So—to use his words—"It is essential to the program to have IMU P21 shipped * * * immediately" from Northrop.

A glance at the calendar shows why the Air Force was willing to take extraordinary steps. Although Congress imposed delays amounting to a year in the program, the Air Force didn't see fit to change the date when MX was supposed to reach its initial operational capability, which means having enough weapons on hand and working to be militarily useful. For MX that date was set as December 1986.

At the Northrop plant, the order to move P21 out the door was obeyed, but with a hitch. The Air Force inspector added a handwritten note to the acceptance form. It said inspection and acceptance for P21 was "not accomplished."

The Air Force can move swiftly when it wants to. The same day, a "correction" copy of the form was ordered at the plant to remove the handwritten comment.

Why would the Air Force behave this way? We have at least a partial answer, and it's one we've seen too many times in the past: it is being done in pursuit of a paper schedule.

With P21 the Air Force faced both a quality standard and an arbitrary deadline of its own making. It decided to deep six the quality standard in order to meet the deadline, which speaks volumes about the Air Force's judgment.

P21, by the way, did not perform very well in the field. It failed after fewer than 200 hours on alert atop an MX missile. An IMU should operate more than 3,000 hours between failures.

During committee review of this program, an officer commented privately that the Air Force treats schedule events such as initial operating capability as God-given and acts accordingly.

Mr. Speaker, I insert in the RECORD at this point the texts of the two letters to which I referred. The material inspection report cannot be reproduced because it is a form, but photocopies of it are available in the Armed Services Committee offices.

[Attachment A]

DEPARTMENT OF THE AIR FORCE,
DET. 37, AF CONTRACT MGT. DIV.,
AF PLANT REPRESENTATIVE OFC.
(AFSC), NORTHROP CORP.
Hawthorne, CA, January 30, 1987.

Subject: Contracts #F04704-84-C-0041, F04704-84-C-0020, and F04704-85-C-0082; Request for Deviation #D000177R1.

To: BMO AWC/CCB.

1. Contractor requests authorization to deviate from the Automatic Test Equipment (ATE) requirements called out on drawings for Circuit Card/Stack Assemblies.

2. The deviation requested is for three contracts. Granting this deviation may save the contractor time in the processing of circuit card/stack assemblies at the lower level of the IMU build cycle, however, the proposed alternate higher level testing may have greater impact if defects are not detected at the lowest level possible. Tear down from IMU level to card or stack level will be more time consuming. Card component damage due to excessive handling, overstress due to operator error, and improper test documentation and control are some of the possible things that could happen. Reliability of the logistics hardware (spare cards/stacks) could be impacted if circuits are not functionally tested at lower level of assembly.

3. It is recommended that subject request for deviation be disapproved and that the Material Review Board (MRB) system be used on a case by case basis when the ATE/TPS is down. It is also recommended that Northrop develop a comprehensive/high priority corrective action to put back the ATE on the line whenever it is down.

4. If you have any question, please call Mr. Jesse Fernandez at telephone number (213) 600-7657.

JAMES D. GERAGHTY, Capt., USAF,
Chief, Electronics Division.

[Attachment B]

DEPARTMENT OF THE AIR FORCE,
HEADQUARTERS BALLISTIC MISSILE
OFFICE (AFSC),
Norton Air Force Base, CA,
November 21, 1986.

Subject: Shipment of IMU P-21.

To: PKAC/N. Thomas

Due to limited assets at F.E. Warren AFB, it is essential to the program to have IMU P-21 shipped from NED to Autonetics immediately. This will require shipment prior to completion of all reviews by the NED AFPRO and completion of the approval of all waivers. Pleases direct NED to ship IMU P-21 to Rockwell International, Autonetics Strategic Systems Division, Anaheim, CA for final acceptance at that destination. The NED AFPRO will complete their review of the paper for this IMU, BMO will process all waivers for this IMU, and the missing word problem will be demonstrated not to exist for this IMU prior to final acceptance of this IMU at Autonetics.

MARTIN L. MARLER, Maj., USAF,
Chief, Guidance and Control Division.

HOPE FOR THE PEOPLE OF HAITI

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. DORGAN of North Dakota. Mr. Speaker, since I traveled to Haiti last summer with the Select Committee on Hunger, I have been actively working with several of my colleagues to support the struggle of the Haitian people for democracy and self-reliance. I join hands again today with my colleagues—and the people of Haiti—in sponsoring legislation to tighten economic sanctions against the illegally established Government of Haiti and to encourage the flowering of a genuine democracy in that poor and troubled land.

Haiti is without question the poorest nation in our hemisphere. Yet this grinding poverty and extensive malnutrition manifest themselves in a nation closer to Washington, DC, than are many States west of the Mississippi River. To be concerned about democracy and human suffering among our neighbors is to be concerned about the future and welfare of Haiti.

I recognize that our legislation may bring some short-term suffering to the people of Haiti. But I further believe that it will hasten their long-term liberation from oppression and exploitation by governments whose trade marks are corruption, drug dealing, and violence. Only recently, did the successor government of the Duvalier dynasty, engage in murder and physical intimidation as a way to undercut legitimate elections. It then proceeded to stage a sham election which brought the current Manigat government to power.

The United States has a responsibility to stand with its neighbors in the cause of justice, freedom, and human dignity. By stiffening sanctions and withdrawing all but humanitarian aid to the Government of Haiti, we make clear that we in Congress stand with the Haitian people and against the subjugation of human rights. I can only urge the Reagan administration to join hands with us in this needed initiative.

A summary of the bill's provisions follows:

SUMMARY OF PROVISIONS OF HAITI MEASURE

Contains a comprehensive policy statement on U.S. policy toward Haiti, urging observance of constitutionally mandated democratic processes, internationally recognized human rights, and support for grassroots economic development;

Continues suspension of U.S. assistance to the Government of Haiti, tightens restriction to allow only humanitarian aid;

Expresses concern about increased drug trafficking using Haiti as a transshipment point for the South American drug cartel;

Directs U.S. representatives of international financial institutions—IDB, World Bank, IMF—to vote against loans to the Government of Haiti;

Suspends trade privileges under C.B.I., G.S.P. and section 806 and 807 (assembly industry preferences);

Suspends U.S. sugar quotas for Haiti;

Imposes an embargo on arms exported to Haiti from the United States;

Requires the administration to submit to the Congress a comprehensive plan to encourage the development of individuals and institutions within Haiti committed to a transition to democracy, including an independent press, free trade unions, private development organizations, independent political parties;

Allows termination or suspension of all sanctions by joint congressional resolution if a democratically elected civilian government is in power;

Allows Presidential suspension of trade sanctions if he determines and certifies to the Congress that the Government of Haiti is making significant progress toward establishment of a democratic government;

Requires a report to the Congress on the extent to which Haiti has become a major narcotics transshipment point in the Caribbean.

ENERGY SAVING FLUORESCENT BALLASTS

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. SHARP. Mr. Speaker, today I am introducing the National Appliance Energy Conservation Amendments of 1988, which I am jointly cosponsoring with a number of my colleagues from both parties. This bill would add fluorescent ballasts to the list of products covered by last year's very important appliance efficiency law.

NATIONAL APPLIANCE ENERGY CONSERVATION ACT OF 1987 [NAECA]

Last year an unprecedented coalition of appliance manufacturers, environmental groups, States and others came together to develop and support legislation which set minimum energy efficiency standards for a dozen home appliances. The bill attracted a large number of cosponsors from both parties and was enacted in the first months of the 100th Congress. As a result, consumers will be saving billions of dollars between now and the end of the century, and the need for new power plants will be reduced by roughly 20,000 megawatts.

THE AMENDMENTS OF 1988

The bill we are introducing today would simply add fluorescent ballasts to the products covered under last year's law and set minimum energy efficiency standards for them. Similar to last year, there is a broad ranging coalition of manufacturers, environmentalists and States that support this legislation.

Ballasts are electrical devices that start and operate fluorescent lamps. Every fluorescent light has one. Ballasts come in different levels of energy efficiency. The standards set in this bill would phase out the least efficient ballasts. The remaining ballasts, which all manufacturers make, are typically 10 to 15 percent more efficient. The more efficient ballasts run cooler, last longer and deliver the same quantity and quality of light.

CONSUMER SAVINGS

Because almost every office building in the country uses fluorescent lights, there is a tremendous opportunity for energy savings. The American Council for an Energy Efficient Economy [ACEEE] estimates that there are over 50 million new ballasts sold each year. With each higher efficiency ballast saving 10 to 24 watts, the savings add up fast. They estimate this legislation will reduce the need for 7,000 megawatts of new electric generating capacity and save consumers $10.7 billion by the year 2000.

The savings to consumers occurs because the reduced energy used by higher efficiency ballasts pays for the slightly higher initial cost of the ballast. The typical payback is about 2 years, and the ballasts last 12 to 15 years. Other savings occur because of the reduced cooling load in buildings and the reduced need to build new powerplants.

RELATIONSHIP TO STATE BALLAST LAWS

The standards in this bill are virtually identical to standards already in effect in California, New York, Florida, and Massachusetts. The manufacturers have had no technical problems meeting those standards but desire uniform national regulations about testing, labeling and enforcement. After the standards in this bill go into effect, States would be preempted from setting different standards for the types of ballasts regulated here. States could still set their own standards for types of fluorescent ballasts that are not regulated here.

RELATIONSHIP TO FEDERAL STANDARDS FOR OTHER APPLIANCES

In no way would this legislation change the requirements for appliances covered under last year's law. It only seeks to add ballasts. As such it does not damage the compromise agreed to by all groups last year for other appliances and should not be seen as an opportunity to modify that compromise.

SUPPORTERS

This legislation is supported by a wide range of groups including the National Electrical Manufacturers Association, the Certified Ballast Manufacturers, the Natural Resources Defense Council, the Energy Conservation Coalition, ACEEE, the American Public Power Association, the Alliance to Save Energy, the National Association of Regulatory Utility Commissioners, and the National Association of State Energy Officials.

CONCLUSION

This legislation is a winner for everyone—consumers, manufacturers and the environment. I predict that this bill will achieve the overwhelming support and success of the 1987 National Appliance Energy Conservation Act. I urge swift consideration and passage and welcome my colleagues' support or cosponsorship.

TERRORISM IN NAMIBIA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. CRANE. Mr. Speaker, last month, the South West African Peoples Organization [SWAPO] declared that 1988 would be a year of "unity and popular action" in Namibia, and that "every installation, facility and service that is identified with or used by the enemy is a legitimate target." It now seems that SWAPO's leaders are making good on their promise. February 19, 1988, a bomb exploded in a crowded bank in northern Namibia, killing at least 18 innocent civilians and injuring over 30 others.

As support for SWAPO continues to decline, we can only anticipate more cowardly attacks such as this on the innocent population of Namibia. Sadly, as long as the United Nations continues to recognize and subsidize SWAPO as the "sole and authentic" representative of the Namibian people, there is no reason for SWAPO to participate in meaningful negotiations which will lead to Namibian independence.

I commend the following article from the Washington Post to my colleagues:

[From the Washington Post, Feb. 20, 1988]

14 KILLED IN NAMIBIAN BANK BOMBING—POLICE ACCUSE SWAPO REBELS, BUT SPOKESMAN DENIES ROLE

(By William Claiborne)

JOHANNESBURG, Feb. 19.—A powerful bomb ripped through a crowded South African-owned bank in the northern Namibian border town of Oshakati today, killing at least 14 persons and injuring 31 more, most of them seriously, police officials said.

Police blamed the blast on the South West Africa People's Organization (SWAPO). It caused the largest loss of life in the 21 years that the guerrilla group has been fighting for independence for Namibia, which is administered by South Africa in defiance of United Nations resolutions.

It came as SWAPO military activity in the border region has fallen off dramatically in the face of heavy South African military pressure on both sides of the frontier.

Police officials in Windhoek said that 10 women, one child and three men, all civilians, were killed. They said all but one woman were black.

A police spokesman, Kirie Durond, said that approximately 55 pounds of plastic explosives were used in the bomb. It completely demolished the branch of the First National Bank in Oshakati, which serves the main South African Army base operating along the Angolan border with Namibia, also known as South West Africa.

Authorities said a fire hampered rescue operations, and that the death toll could rise.

Christopher Ball, chief executive of the First National Bank, flew to Oshakati from Johannesburg immediately after the explosion. The parent bank, South Africa's largest, was Barclays Bank before the British firm divested its holdings in South Africa last year.

Although no group claimed responsibility for the blast, police spokesman Durond said, "This confirms [SWAPO president] Sam Nujoma's New Year's message when he said he will bring the struggle to the home of every Namibian."

SWAPO's spokesman in Windhoek, Hibipo Hamutemya, said his group had nothing to do with the explosion. "The bomb is part of South Africa's dirty propaganda campaign to smear the name of SWAPO," Hamutemya said.

The bank, which was the target of a limpet mine blast last year in which no one was killed, was packed with lunchtime customers when the bomb exploded at 12:55 p.m. today, police said.

The South African Press Association said that most of the customers were employees of the Ovamboland civil administration who had been paid today. The administration governs the 220-mile-wide Ovambo tribal territory and has been criticized by SWAPO as being collaborationist.

Reports from Oshakati said security guards had locked the bank's doors to control the crowd until those inside had been served, and that some customers waiting outside were injured in the blast. The news reports said that some victims inside had been blown apart by the force of the explosion.

The chairman of the Namibian Cabinet, Moses Katjiuongua, said his government was "deeply shocked by the senseless attack on civilian lives and the destruction of property." He said that groups that commit "such brutal deeds are not entitled to enjoy the freedom of the society in South West Africa."

The multiracial transitional government has moved slowly to hammer out a constitution that could lead to independence for the Texas-sized former German colony.

However, negotiations have been hampered by Pretoria's insistence, backed by the United States, that an estimated 40,000 Cuban troops in Angola be withdrawn first.

In 1973, the U.N. General Assembly recognized SWAPO as the "sole and authentic representative of the Namibian people," and five years later the U.N. Security Council passed a resolution calling for South Africa's withdrawal and for U.N.-supervised elections leading to Namibian independence.

A GOOD PLACE FOR MEDICARE SAVINGS: CAPITAL REIMBURSEMENT

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. STARK. Mr. Speaker, when we next consider savings in the Medicare Program, a good place to look again is Medicare's reimbursement for capital expenditures.

The Congressional Budget Office's March study entitled, "Reducing the Deficit: Spending and Revenue Options," lists as a possibility the reduction of reimbursements for capital expenditures under Medicare. Under one scenario, they point to a savings of $2.85 billion over a 5-year period.

The reason I point to capital reimbursement as a possible area of savings is that the national hospital bed occupancy rate is about 60 percent, but hospitals throughout the country continue to remodel and rebuild—and while many of these reconstructions do result in fewer and more efficiently laid-out beds, many others add new beds.

For the public to be paying a separate charge for new hospital beds when there is 60 percent occupancy is insane. It would be like the Department of Defense paying defense contractors to build new steel mills if steel millls were at 60 percent utilization. It would be like the Department of Transportation paying a separate charge for the construction of new auto factories just so it could buy some cars from today's underutilized auto assembly lines.

In our Medicare capital policy, we are helping pay for hospital bed expansion. The only new hospital we need in Washington is a psychiatric hospital for those who designed this policy.

Hospital construction also seems to have no relation to the needs of the local economy. I would like to include in the RECORD the opening section of an article from Modern Healthcare of July 31, 1987. The occupancy rate of hospitals in Houston is below 60 percent, but in 1986 nine new hospitals opened. The best thing that could have happened for the control of runaway health inflation is for several hospitals to have just plain closed.

With the Federal Government running a deficit of about half a billion dollars a day, it is time we stopped paying for hospitals to expand. Society would save money if we paid some to close.

The article follows:

[From the Modern Healthcare, July 31, 1987]

HEALTHCARE BUILDING'S UP IN HOUSTON

DESPITE OIL WOES IN TEXAS, SEVERAL INSTITUTIONS BELIEVE NOW IS THE TIME TO BUILD

(By Sandy Lutz)

In the looming shadow of Texas' depressed oil industry, the Houston healthcare market shows signs of both boom and bust.

Last year, the Houston labor force lost 70,000 workers, the Texas Employment commission reported. Unemployment reached 10.3 percent in 1986, a stark contrast to the 3.8 percent level in 1980, when the oil economy flourished.

But difficult times haven't seemed to harm the Texas Medical Center, which plans to undertake $1.5 billion in construction projects by 1990. The medical center incorporates 38 not-for-profit healthcare providers, including 13 hospitals, which treated 2 million outpatients and 182,000 inpatients last year. Nine colleges, including two medical schools, are located on the medical center's 546-acre campus.

Texas Medical Center employs 52,000 people, including 40,000 full-time employees. Defying local trends, TMC's workforce increased by seven percent last year.

At the hub of the medical center is Methodist Hospital, Houston's largest facility. Last year, Methodist admitted 37,174 patients. The hospital, which has 1,218 licensed beds, plans to add another 300 beds in November 1988. When the $125 million patient tower is completed, Methodist will become the nation's largest private hospital, based on licensed beds at a single facility, said Larry Mathis, Methodist president and chief executive officer.

CONSTRUCTION BINGE

But Methodist is just one of many healthcare providers that have decided to build. No longer restrained by state certificate-of-need laws, Houston hospitals are on a construction binge. Nine new hospitals, including five psychiatric facilities, opened last year, the Greater Houston Hospital Council reports. A recent council survey showed Houston-area hospital expansions and new construction totaled $404.2 million last year. An additional $819.2 million will be completed this year, and $138.5 million more is planned by 1988, the survey showed.

Despite the construction activity, occupancy levels at Houston's 37 hospitals have dropped faster than the national rate, the American Hospital Association reports. In 1983, Houston facilities enjoyed a 74.4 percent occupancy rate, compared with the national rate of 73.5 percent.

But two years ago, occupancy at Houston hospitals had dropped to 60.7 percent, four points below the national norm. While more recent statistics on occupancy levels for Houston hospitals haven't been compiled, they have fallen "significantly below 60 percent, said Lance Loria, regional vice president in the Houston office of Amherst Associates, a healthcare consulting firm.

SANDOZ CROP PROTECTION CORP. SAFETY MILESTONE

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. BROOKS. Mr. Speaker, Sandoz Crop Protection Corp., a Chicago-based firm committed to the ongoing development, production, and safe application of environmentally sound crop protection products, operates its largest manufacturing facility in my district.

On March 21, the 250 employees of its Beaumont, TX, plant will reach a remarkable milestone—8 full years of operation without a lost-time injury.

Plant manager Marvin Fannin and all the workers at the site are to be commended for this notable accomplishment, which represents more than 2.9 million safe work hours at the plant site. Put another way, this is the equivalent of 31 individuals working a lifetime without missing a single day of work because of an injury.

This accomplishment is an especially noteworthy one for a manufacturing facility. Existing data for those companies who report to the National Safety Council, show the Beaumont plant workers are actually five times safer than the national industry average. They are over one-and-a-half times safer than other agricultural chemical company workers.

In addition, the Beaumont employees are to be commended for the safe startup of their multipurpose plant, operating throughout 1987 without a single environmental, health, or safety incident.

This kind of safety record will, I am certain, encourage Sandoz Crop Protection to continue to expand its operations at the Beaumont site, thus providing even further business opportunities in this important part of our State.

Mr. Speaker, I am proud to represent constituents like these who adhere to the highest principles of safety, setting a good example for other chemical companies, and industry in general. They are truly to be commended for their fine efforts. I look forward to hearing of their continued outstanding safe record in the months and years ahead.

MARKING THE 140TH ANNIVERSARY OF THE HUNGARIAN REVOLUTION OF 1848

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. LANTOS. Mr. Speaker, today marks the 140th anniversary of the start of the Hungarian people's struggle for independence. March 15 marks the beginning of the Hungarian Revolution of 1848–49. On March 15, a bloodless revolution broke out in the city of Pest (later to be joined with its sister city Buda to become the capital of Hungary, Budapest). The Hungarian Diet that same day enacted the "March Laws" which established a Hungarian Government responsible to a Hungarian Parliament.

The laws also guaranteed key liberties and provided humanitarian reforms for all citizens.

The leader of this democratic national revolution was Hungarian revolutionary statesman Lajos (Louis) Kossuth. While imprisoned for seditious activity, Kossuth learned English and studied extensively the history of the American Revolution. After he was released from prison, he became the editor of an influential newspaper that urged broad liberal reforms. Upon hearing of the French Revolution, which began in Paris in February 1848, Kossuth proposed what became the "March Laws." Kossuth's inspired leadership rallied the masses of Hungarians to rise up, against incredible odds and at great sacrifice, to fight for their freedom.

The democratic revolution in Hungary, however, was tragically short lived. The reactionary Vienna regime deposed the reigning monarch and installed a new Hapsburg on the throne, who promptly rescinded the democratic "March Laws" and invaded Hungary. Despite a major campaign by the Austrian Army and an effort to rally ethnic minority opposition to the democratic Hungarian Government, the Hungarian people fought valiantly and succeeded in holding the Austrians at bay. The struggle for Hungarian freedom continued for over a year.

In the summer of 1849, the Russian Army, at the request of the Austrian Emperor, invaded Hungary. Czar Nicholas I of Russia detested the influx of revolutionary ideas from the West. The Russian Army vastly outnumbered the small Hungarian Army, and the revolution was overthrown on August 13, 1849. A few leaders of the revolution managed to escape by fleeing their country. Lajos Kossuth, who became the first president of an independent Hungary in April 1849, barely managed to escape. Most of the others were executed or incarcerated. The Hapsburg monarchy quickly imposed martial law and crushed the fledging Hungarian democratic state.

Mr. Speaker, the U.S. Government was one of the few countries at that time to recognize the significance of the Hungarian uprising, and we expressed our sympathy with and support for the Hungarian revolution. An American diplomat in Europe was instructed to give Kossuth assurances that the U.S. Government recognized his government, but the revolution was overthrown before he could reach the Hungarian President. The American people and our Government reacted bitterly when the revolution was crushed with the assistance of the Russian Czar.

Hailed as one of the greatest European reformers, Lajos Kossuth received an extraordinary welcome when he visited the United States in December 1851. No European visitor since the Marquis de Lafayette's triumphal tour was given such a welcome. He was received as a head of state in Washington, was warmly received by President Zackery Taylor, and was given the honor of addressing a joint session of the Congress. Counties and streets were named after him, and even in our century Kossuth appeared on an American postage stamp in the series "Champions of Liberty."

Mr. Speaker, 140 years ago, Hungary was inspired by the democratic ideals of the United States, and the United States has continued to show an interest and concern for the people of Hungary. Americans saluted the Hungarian freedom fighters of 1848-49 and the Hungarian freedom fighters of 1956 who gave their lives for freedom and democracy in their native country.

In honor of this anniversary, an outstanding bust of Lajos Kossuth by the American-Hungarian artist Csaba Kur of Warren, OH, is on temporary display in my congressional office in the Longworth building. Mr. Kur is a prominent artist whose bust of Bela Bartok is in the Kennedy Center. Bishop Tibor Domotor of Akron, OH, the bishop of the Hungarian Reformed Church of America and president of the American Hungarian Federation, made this wonderful sculpture available for display on the occasion of this important anniversary.

Mr. Speaker, I am certain that my colleagues in the Congress join me today in extending to the American-Hungarians and to the people of Hungary our best wishes on the 140th anniversary of the Hungarian Revolution of 1848.

Among those who gave their lives fighting for freedom in Hungary was a young Hungarian poet Sandor (Alexander) Petofi. It was he, who on March 15, 1848, inspired his countrymen to rise up against their oppressors. At the demonstration in Buda, the 25-year-old Petofi, already acknowledged as a youthful leader in the Hungarian desire for freedom, read his poem "National Song," which became the national anthem of the revolution. I ask that this poem be placed in the RECORD.

NATIONAL SONG

(By Sandor Petofi)

Rise, Magyar! for this, thy Land,
Calls to thee—the hour's at hand!
Are we slaves or are we free?
This to ask—the choice to thee!
By the God of the Magyar,
Do we swear,
Do we swear, chains no longer
Will we wear!

Slaves were we, until today,
Cursed are forebears, cursed are they,
Free they lived and free they died,
In servile Earth, restless bide.
By the God of the Magyar,
Do we swear, chains no longer
Will we wear!

Craven, barely breathing dust
Dares not die when die he must,
Holds his ragged life of fear,
Not his country's honor, dear.
By the God of the Magyar,
Do we swear,
Do we swear, chains no longer
Will we wear!

Brighter than the chain, the blade,
Better far by arm displayed,
But we still endure the chain!
Flaunt our ancient sword again!
By the God of the Magyar,
Do we swear,
Do we swear, chains no longer
Will we wear!

Worthy of its ancient fame,
Still will be our Magyar name!
Off we scour, off we sluice,
Centuries of vile abuse.
By the God of the Magyar,
Do we swear,
Do we swear, chains no longer
Will we wear!

Where our gravemounds grow one day,
Sons of sons shall kneel to pray,
Blessing us with proud acclaims,
Uttering our sacred names.
By the God of the Magyar,
Do we swear,
Do we swear, chains no longer
Will we wear!

TRIBUTE TO MS. PATTY DEDOMINIC

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to Ms. Patty DeDominic, who has had an especially successful career. Ms. DeDominic started her own small business in 1979; today it is thriving. Ms. DeDominic is a model small business owner in Los Angeles. For her professional success as well as for her efforts to help others with similar goals, Ms. DeDominic has been named by the Los Angeles Chapter of the National Association of Women Business Owners [NAWBO] as the "1988 Entrepreneur of the Year."

Ms. DeDominic began PDQ Personnel Services because she wanted to create an operation that functioned with high ethical standards. Today, the company does as much business in 1 week as it did in its entire first year. The two-person company has grown to 4 branches with 24 employees. The concern is expected to expand even further in 1988. With a projected 1988 income of $7 million, PDQ is certainly a success story.

In addition to running her growing company Ms. DeDominic has been actively involved in local trade groups. She served as NAWBO president in 1983-84. In this position, she helped to double chapter membership, brought visibility to many women entrepreneurs and helped start an Orange County chapter. Ms. DeDominic now serves on two California State Assembly committees representing NAWBO and small businesses. She is also a member of the Los Angeles Advisory Council, Small Business Administration. Her work in the field demonstrates that she is truly committed to helping other small business owners achieve success.

It is my distinct honor and pleasure to ask my colleagues to join the National Association of Women Business Owners in paying tribute to Ms. Patty DeDominic, a woman who has shown that hard work and determination are still the foundations of success.

HOUSE/SENATE CONFERENCE ON CATASTROPHIC HEALTH INSURANCE (H.R. 2470)

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. ROYBAL. Mr. Speaker, as the House and Senate conduct what is likely to be a difficult conference on the Medicare Catastrophic Protection Act (H.R. 2470), I, as chairman of the House Select Committee on Aging, would like to take this opportunity to express my position on several provisions contained in the House and Senate bills.

In order to come up with a conference bill that would be acceptable to the House members, I ask that the House conferees press hard for the following critical House provisions:

Financing: House's Medicaid buy-in for poor and lower flat premium, but consider Senate's progressivity in supplemental premium. If at all possible, I urge you to consider adding a revenue source which would reduce the premium burden.

Catastrophic cap: No higher than the House's dollar cap and index, but consider Senate's general method.

Prescription drugs: Full House coverage, including insulin, with no more than a $500 deductible indexed to no more than medical CPI. Require assignment, with Secretarial discretion for rural areas. Accept Senate's supplemental premium covering 50 percent of costs. Possibly compromise on phase in, but no later than 1990 or 1991.

Respite care: At least the House's 80 hours/year.

Home health days: House's position on 35 consecutive days.—Note: Have some concern over impact of shifting home care to part B.

Medicaid buy-in: House's requirement that States "buy in" to Medicare on behalf of elderly below 100 percent of poverty.

Medicaid spousal impoverishment protection: Support House position generally at higher income level of $925/month.

Separate catastrophic trust funds: Opposite separate trust funds for catastrophic, prescription drug or any other benefit change.

I am especially concerned that the conferees hold down both deductibles/limits and their indexes, not drop the two Medicaid provisions or the respite benefit, and not weaken or greatly delay the drug benefit.

Of the changes that are proposed by the Senate, several deserve favorable consideration by the House.

Hold beneficiaries harmless for Social Security checks.

Treat part of Government annuitant's pension like Social Security.

Limitation on length of prescription of 90 days for chronic conditions and 60 days on all else.

The sum of $2.5 million for beneficiary counseling and assistance.

Prevention services—including pap smears, mammography, and so forth—count toward cap.

Though the Bipartisan Commission on Long Term and Comprehensive Care has been accepted by both the House and Senate, I want to strongly reinforce its inclusion in the final package. This commission can play a major role in moving the Congress and the administration toward protection of 37 million uninsured Americans and the 200 million Americans who are underinsured for long-term care.

For some time, I have strongly supported Congress' effort to provide better catastrophic insurance protection to all Americans, including Medicare and Medicaid beneficiaries. I even went so far as to introduce my own catastrophic insurance bill, H.R. 1930, as a way to expand the issues considered by the House. I appreciate the fact that many of my bill's provisions—prescription drugs, the mixed financing package, respite care, improvements in extended and home care, spousal impoverishment, the Medicaid buy-in for low income beneficiaries, and protection for children and pregnant women—have been supported by the House.

However, I remain deeply concerned over the continued vulnerability of near poor and lower middle income beneficiaries under even the House bill. Further, I greatly fear that the House and Senate conference might further weaken what is already substantially less than what I consider to be adequate catastrophic insurance protection.

I trust that the House conferees will work hard to preserve the key protections in the House catastrophic bill and to preserve the support of members such as myself and my Committee on Aging colleagues.

MODERNIZATION OF U.S. TRADEMARK LAW

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. MOORHEAD. Mr. Speaker, I would like to bring to the attention of my colleagues a bill I am introducing today to modernize our country's 41-year-old trademark law, the Lanham Act. This legislation is comprehensive and it is significant. Importantly, however, it does not depart from the principles and policies that have governed the use and protection of trademarks in the United States for over 100 years.

Today, a large U.S. corporation may spend hundreds of thousands, if not millions, of dollars to develop a new product and bring it to the marketplace. While the stake is not so large in dollar terms for a small business or individual entrepreneur, it is just as significant in relative terms because a small concern may have invested everything it has in developing, packaging and selling its one product. Unfortunately, current U.S. law makes this process unduly risky by introducing unnecessary uncertainty into what is already a very uncertain undertaking. Moreover, U.S. trademark law favors foreign companies seeking to obtain and register trademark rights in the United States. The legislation I introduce today considerably reduces the risk of trade or service mark (both brand names and logos) selection and registration, addresses the inequity that gives foreign trademark owners an advantage and generally strengthens and improves our trademark system.

The legislation puts American and foreign businesses on essentially the same footing when they apply to register trademarks in the United States. It does this by allowing domestic applicants to file applications to register marks without first using these marks in commerce; they can base their applications on an intention to use the mark, rather than on actual use, as the law currently requires. While the bill eases the application requirements for U.S. business, it increases them for foreign applicants. Presently, foreign companies can file and obtain a U.S. trademark registration without first using the mark at all, anyplace. They do not even have to state that they have an intention to use the mark in the United States. If enacted, this legislation would require that they state such an intent.

Permitting U.S. business to apply to register marks based on a bona fide intent-to-use the mark in commerce also decreases the uncertainty they face when introducing new products or services by giving them greater assurance that the mark they select will not conflict with one that is already being used by someone else. When this happens, it can cost them a sizable investment of time, resources and money by forcing them to begin again the process of selecting and clearing a trade or service mark, designing and developing packaging, and preparing and planning advertising and promotional materials. Even worse, it can lead them into a lawsuit.

While the centerpiece of this legislation provides for a dual system permitting applications to register marks on the basis of intent-to-use as well as on actual use, the bill contains several other provisions which directly complement this proposal and further enhance U.S. trademark law. These changes will benefit all aspects of the economy. They will enhance the ability of U.S. law to protect consumers from confusing the products they select. They will improve the competitiveness of industry by permitting it to operate more efficiently and with greater certainty. They will facilitate the entry of new companies, products and services into the marketplace by decreasing the number of unused marks that certainly clog the register. And they will give the courts greater guidance in resolving trademark disputes and determining trademark rights.

In this regard, the bill will:

Halve the term of a Federal trademark registration from 20 to 10 years and increase the requirements for maintaining a registration once it is obtained so that only those marks which are in use appear on the Federal trademark register;

Eliminate the contrived, commercially transparent practice of "token use" as a means of obtaining U.S. trademark rights;

Prevent trading on the goodwill that has been built in particularly famous and distinctive marks by protecting those marks from use that would dilute their distinctiveness and possibly confuse consumers as to the sponsorship of the goods or services with which the mark is used;

Promote fair competition by preventing companies from making misrepresentations about their competitor's products or services;

Protect trademarks from use by others that tarnishes or disparages the mark's reputation; and

Clarify certain provisions of the act which have been interpreted differently by the courts thereby increasing the consistency with which trademark and unfair competition law will continue to evolve.

It has been many years since Congress addressed trademark law in a comprehensive way. This legislation, which is the product of over 2 years of study, analysis, debate and consensus-building among trademark owners and practitioners of all sizes, from all parts of the country and from all types of businesses and industries offers us just that opportunity.

The provisions of companion legislation, introduced in the Senate last November by Senator DECONCINI, have already been endorsed by the United States Trademark Association, under whose auspices the proposals contained in the legislation were developed, the Patent, Trademark and Copyright Section of the American Bar Association, the American Intellectual Property Law Association, Intellectual Property Owners, Inc., the Cosmetic, Toiletry and Fragrance Association, the International Franchise Association, the Pharmaceutical Manufacturers Association, the U.S. Chamber of Commerce, several State and local bar associations and many large and small businesses. This cross-section of endorsements, which is steadily expanding, reflects the broad range of support this legislation enjoys. I urge my colleagues to support it as well.

A TRIBUTE TO MRS. VERA McCORVEY-HOLLOMAN

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. FISH. Mr. Speaker, it is with great pride that I bring to the attention of my colleagues the story of a resident of the 21st Congressional District of New York, Mrs. Vera McCorvey-Holloman.

On Saturday, March 12, Vera McCorvey-Holloman was honored by the Zeta Phi Beta Sorority, Inc., as Woman of the Year for her continual dedication and service to the poor and homeless in Westchester County. Vera McCorvey-Holloman is cofounder and executive director of the Family Resource Center, Inc., Peekskill, NY. She is also a member of the Commission on the Homeless of Westchester County, having been appointed by Westchester County Executive Andrew P. O'Rourke in 1987 and reappointed this year.

Vera works full-time at the Family Resource Center, which is primarily a one-woman operation. Right now the center is housing two families at 156 North Division Street in Peekskill where Vera provides counseling on parenting, job training, and seeking housing. She also helps teach individuals at the center how to negotiate with government agencies to obtain help with welfare, Social Security, Medicare, and other concerns. In the process of buying another building in Peekskill, she plans to expand care and counseling to another seven families.

I think Vera must have known at a young age what she wanted to do with her life. Her commitment to helping our Nation's needy began with her studies as an undergraduate at the University of West Florida, graduating cum laude with a bachelor's degree in social welfare. Vera continued her scholarship at the University of Alabama, receiving a master's degree. Currently she is a doctoral candidate at Fordham University, NY, specializing in child welfare.

For all her adult life, Vera McCorvey-Holloman has in her work unselfishly given of herself to people in need. She combines practice and theory thus adding to the quality of life for all in her community. I am proud to count Vera among my friends.

A TRIBUTE TO ELLIOT HOLT, A BRAVE AND TRULY OUTSTANDING YOUNG MAN

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention a fine and brave young man, Elliot Holt, of Reva, VA. Elliot, the son of Warren and Edna Holt and grandson of Ms. Geneva Suggs, was recently recognized as the top fund-raiser in the Fall Readathon sponsored by the Blue Ridge Chapter of the National Multiple Sclerosis Society. Elliot, who is battling multiple sclerosis, is a second grader at Criglersville Elementary School and raised $270 of the $500 raised by his fellow schoolmates. About 150 Criglersville students joined Elliot in the fundraising effort, each reading at least one book. As the top fundraiser, Elliot has won a trip for four to King's Dominion amusement park. Elliot earned pledges through reading books, 100 of them in all, to help others with multiple sclerosis. Mr. Speaker, please join me in honoring Elliot Holt, a truly outstanding young man.

A TRIBUTE TO EVERETT G. MILLER

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mrs. BENTLEY. Mr. Speaker, this month we in Maryland will celebrate the accomplishments of a man who has played the roles of minister, labor leader, writer, broadcaster, teacher, and outdoorsman during his long and productive life. The man I describe to you is Everett G. Miller, Sr., and I find it difficult to come up with just one adjective to describe him due to the fact that he has been so many things. He is a "doer", a "believer", a "thinker", but—more than anything else—Reverend Miller is a man who tirelessly fights for those causes he feels are right. Too many people in the world today let others fight their causes for them, so I feel that it is only appropriate that some of his many accomplishments be recognized on the floor of this great body.

His resume is almost a book in itself, and to give a truly detailed account of his whole life would require a biographer. However, Reverend Miller can best be described as a pious man, one who has served in many capacities in the Methodist church. He is the president of the Dundalk School of Religion, the president of the Maryland Religion and Labor Institute, and pastor of Arlington United Methodist Church. His activities as preacher and religious teacher have earned him a listing in "Who's Who in Religion."

Reverend Miller's other passion is his concern for and devotion to those that make up our Nation's labor force. In 1985 he was unanimously named "Maryland's Chaplain for Labor" at the 15th biennial convention of the Maryland State and District of Columbia chapter of the AFL-CIO. He also serves as director of labor studies at Dundalk Community College as well as president of the Maryland Labor Education Association. His is a strong voice in terms of affirming the needs of labor in America, and his intellect and eloquence have attracted many listeners.

Reverend Miller is obviously a very busy man, and his load of responsibilities has not decreased at all over the years. He has found time to be all the things that he wanted to be as well as to raise a family. I am glad that this special person—this "fighter of the good cause"—will be saluted by his friends and admirers at a testimonial dinner to be held in his honor. I am sure that this display of sincere appreciation will please this selfless man more than any one will ever know.

Congratulations to you, Reverend Miller, and I hope that you will count this day of celebration as one of your most special. However—more than anything else—congratulations for a job well done.

TOMAS RAMIREZ SANTOS: A LEGACY OF SERVICE AND LEADERSHIP

HON. BEN BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. BLAZ. Mr. Speaker, I rise today to pay tribute to a son of Guam and a superbly patriotic American—Tomas Ramirez Santos.

The son of a carpenter, Tommy Santos rose, through hard work and dedicated service, to be a prominent and highly respected leader of the Guam community.

Tommy Santos served his family, community and nation with dedication and courage. A man of deep principle and vision, his achievements cover a wide spectrum of activities as an educator, civil servant, judge, territorial senator and leader of the Guam Republican Party, and distinguished member of the National Republican Party.

Throughout his life, he demonstrated the leadership qualities that made him one of the most respected men in the community. This led to his appointment by President Truman as the first U.S. Postmaster of Guamanian ancestry in the territory.

Every once in a while a person touches our lives in such a way that we end up being better for having known him. That was the impact that Tommy Santos had on people. He sought to make a difference and he succeeded. He never gave up in his high expectations for the territory of Guam and her people. He was a man of vision who saw Guam for what it could be and was not satisfied with the status quo.

Tommy Santos is gone but his memory lingers on and we continue to draw abundantly from his leadership.

THE DISTURBING CONSEQUENCES OF TEEN PREGNANCY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. BROWN of California. Mr. Speaker, the teen years are often exploratory years—a time to test one's limits, a time to explore one's options; a time to develop one's life-time goals and objectives. In the process—as turbulent as it often is—most of us grow into stronger, more self-assured adults. Some are not so fortunate. More than ever before, our teens are having children. Last year, over 1 million teenaged girls became pregnant.

Experts cite a variety of contributing factors: Deterioration of the nuclear family, lack of education, and low self-esteem are but a few reasons why our Nation has one of the highest teen pregnancy rates among all industrial nations. Whatever the reasons, the fact remains that another million teenaged girls will become pregnant this year—nearly 30,000 of those girls will be age 14 and under. Nearly half of teenaged pregnancies will be terminated. A few—about 4 percent of unmarried mothers—will give their babies up for adoption. But most of the teens will attempt to raise their children themselves despite the hardships which lie ahead.

Pregnant teens face unique problems of which they are all too often unaware. After a teen has decided to take her pregnancy to term, her first consideration should be the health and well-being of the unborn baby. Yet, pregnant teens often delay or forgo adequate prenatal care, threatening their health and the health of their child. Mothers under 18 years of age suffer higher than average levels of toxemia, anemia, bleeding, cervical trauma and premature delivery. For teenagers under age 15, the statistics are even more disturbing. For young teens, the mortality rate is 60 percent greater than for women in their twenties.

The babies born to teen mothers suffer more problems than babies of older women. Mothers under 18 years of age are more likely to give birth to low birthweight babies. The babies are often born too small, too soon. Low birthweight babies—weighing less than 5½ pounds—may have organ systems—brain, heart, lungs—that are not fully developed; difficulty controlling body temperature and blood sugar levels; mental retardation; and a higher chance of dying early in infancy than normal weight babies.

But even if a teen is fortunate to have a relatively carefree pregnancy and birth, her problems are really only just beginning. Few teens—in fact, few new parents—fully comprehend the economic risks and hardships of raising a baby. But more teens don't even have the fundamental skills to provide adequately for their child. Only 20 percent of teenage women who give birth before age 18 ever complete high school, compared to 96 percent of those who do not have children before age 20. Women who have their first baby as a teenager have lower-status occupations, accumulate less work experience, receive lower hourly wages and earn less annually than women who postpone childbearing. Teenage mothers typically earn about half of the income of those who first give birth in their twenties.

Not surprisingly, most efforts addressing teen pregnancy focus on the teen mother. But just as the teen father had a responsibility to prevent conception, he now has the moral and fiscal responsibilities to provide for the mother and child. Some fathers do attempt to share child raising responsibilities, but they, too, face a tough future. Men who become fathers before age 18 are 40 percent less likely to graduate from high school than men who delay fatherhood until they are 18 years old. And the divorce rate among couples who marry in their teens is substantially higher than for couples who marry when they are older.

When teen parents fail to adequately provide for their child, they often turn to the Government for assistance. In 1985, the United States spent $16.65 billion on families that were begun when the mother was a teenager. The families that were begun by first births to teenagers in 1985 will cost the United States $5.2 billion by the time the babies become 20 years old. The cycle of poverty is influenced by fertility patterns; the children of teenage parents are more likely to become teenage parents themselves than are the children of parents who are older at first birth. It is long past time to break that cycle.

But the cycle will not be easily broken. Because there is no single cause, there is no single cure. Instead, a variety of different approaches are needed—before and after a teen has become pregnant. Efforts to prevent teen pregnancy include early sex education, school-based clinics, and free contraceptives to teens. But it can't end there. Teen parents need early and good prenatal care and childbirth education, pediatric care, parenting education, remedial education, day care, job training, financial assistance, employment services, counseling, family planning, and a host of other services to help them become adequate parents.

No government program or series of programs can guarantee adequate parenting, but such programs can provide help and assistance to these young and often confused parents. For example, the D.C. public schools system has recently opened a day care center for teen parents not at a high school, but at a junior high school. As distressing as it may seem, this day care center services the needs of 12-, 13-, 14-year-old girls and their children. Statistically, less than 1 in 6 mothers under age 14 finish the 9th grade. Therefore, the program stresses the need for parents to stay in school while at the same time teaches good parenting skills. The center has placements for 12 children, with a waiting list three times that number.

Our teens—as they struggle to discover who they are and what they stand for—must fully comprehend the physical, emotional, and financial consequences of teen parenthood. The birth of a newborn child should be cause for joy and celebration, not turmoil and uncertainty. While government can assist and attempt to meet the health and financial needs of teen parents and their children, it cannot meet their emotional needs. That responsibility is the purview of our communities and families. As government, communities, and families work together on the problems of teen pregnancy, we must also promote the foundations which would prevent teen pregnancies. For in the end, it is how we take care of our children which will determine how our children take care of themselves and, eventually, their own children.

A TRIBUTE TO MR. SAMUEL A. JORDAN

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. CLINGER. Mr. Speaker, I rise today to pay tribute to Mr. Samuel A. Jordan who will be retiring as mayor of the city of Parker, PA, a position he has held for 12 years.

Mr. Jordan is also active on the city council, a position he has held for 14 years. He has also been active in community activities for many years. For example, Mr. Jordan helped plan Parker's community building and was instrumental in securing funding for it.

In addition to his fine civic involvements, Mr. Jordan is an active member of the Parker VFW Post 7073, the American Legion Post 598, and the Parker Volunteer Fire Department.

Mr. Jordan is a well-respected leader of the Parker community and has carried out his duties as mayor with dedication and efficiency. He is an example of someone who carries out his civic responsibilities by becoming involved in his community.

Sam Jordan will be honored at a reception at the Parker Community Building on Saturday, March 19, 1988. I admire his dedication, and join his family and friends in commending him for his longstanding contributions.

DELVING INTO THE PAST FOR HISTORY'S LESSONS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. SOLARZ. Mr. Speaker, recently I spent a fascinating day at the U.S. Military Academy at West Point. The purpose of my visit was to ascertain if America's past wars hold any lessons that might be of utility to our country's current political or military leadership.

During my stay I was fortunate enough to have the opportunity of picking the brains of some of the Nation's foremost military historians. We explored various aspects of the American Revolution, the Civil War, each of the world wars, the Korean war, and last, the Vietnam war. In each instance we sought to determine whether the way in which the United States became involved in, planned for, and fought its conflicts can guide those of us who are entrusted with responsibility today. I was especially interested in learning of the role Congress played in prosecuting each war, whether on balance this was a constructive role, and how the legislative branch might have better served the Nation in its time of peril.

I cannot help but believe that my congressional colleagues and I would greatly benefit if we had more opportunities to do just this sort of serious and sustained thinking about issues of war and peace. Certainly I returned from my day at West Point more convinced than ever of the crucial role historical perspective can play as we wrestle with complex questions which will help determine the ultimate fate of civilization.

Mr. Speaker, I wish to take this opportunity to salute the cadets, faculty, and staff of West Point. Judging from the caliber of the men and women I met during my recent visit, we can be assured that the military leadership of our Nation as we prepare to embark upon a new century will be the best trained and most informed in America's proud history.

RESTORE THE MINIMUM WAGE

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. VENTO. Mr. Speaker, the Washington Post—March 13, 1988—carried an editorial endorsing an increase in the minimum wage. More importantly, however, this editorial explains why it is necessary for Congress to raise the minimum wage. The gap between the richest and the poorest in our country is widening and is the greatest that it has been in over 40 years. Contrary to popular belief, not all of those who work at minimum wage jobs are teenagers. In fact, teenagers only make up about one-third of the Nation's minimum wage work force. The other two-thirds include young adults and particularly, single women who have children. Many of these workers often hold multiple jobs; sometimes even multiple minimum wage jobs, just so that they can make ends meet. These are the most vulnerable workers in America. They deserve the protection of a decent minimum wage law. I hope that my colleagues will reflect upon this enlightening editorial.

[From the Washington Post, Mar. 13, 1988]

LET'S RESTORE THE MINIMUM WAGE

The income gap between the richest and poorest fifths of the population—their shares of total income—is the greatest it has been since World War II. That's the wrong direction, and now the House Education and Labor Committee has taken a tentative step to help right it. It has given provisional approval to a bill to raise the minimum wage.

The minimum was last increased in the Carter administration; the current level of $3.35 an hour took effect Jan. 1, 1981. At the time, that was 46 percent of the average hourly wage, not far below the traditional target of half. A person working full-time year-round at the minimum could earn 96 percent of the federal poverty threshold for a family of three. The neglected wage floor has since lost about a fourth of its purchasing power; to have kept up with inflation it would have to be about $4.45 today. The minimum has slipped to 36 percent of the average hourly wage; a person working full-time year-round at the minimum would earn only 74 percent of the poverty line for a family of three.

The House committee bill would not restore the minimum completely. It would lift it to $3.85 next year and $4.65 by 1991. But that would be a decided improvement in the lot of the low-wage population, which is larger than many people believe. Some 5 million people now work at the minimum wage or below. About another 9 million work at the wage levels that would be directly affected by this bill. Together these are a seventh of the work force.

Opponents, who say an increase in the minimum would both add to inflation and reduce the number of jobs as employers sought to recover the cost, dismiss the intended beneficiaries as secondary workers. That is a label that lies in the eye of the beholder. A third of them are teen-agers, but many of these are 18 and 19 years old. Two-fifths are 25 and over, the rest young adults. Two-thirds are female. Younger and female-headed families with children are precisely the groups that have lost the most ground in the income race in recent years.

It's probably true that some marginal jobs will probably be lost. But the number of winners from an increase—a companion bill is pending in the Senate—will be greater by far than the number of losers. Some people say the government should not be in the business of regulating the labor market. We regulate a lot of markets in this country, and much of the time for reasons far less compelling than this. The minimum wage is an important protection of the weakest among us that Congress should restore as quickly as it can.

IN SUPPORT OF THE NATIONAL APPLIANCE ENERGY CONSERVATION ACT OF 1988

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 15, 1988

Mr. GEJDENSON. Mr. Speaker, I am pleased to pledge my support for the National Appliance Energy Conservation Amendment Act of 1988. This legislation simply adds fluorescent ballasts, which are the electrical devices that start and operate fluorescent lamps, to the list of products covered by the appliance efficiency law passed last year. This legislation gives us the opportunity to help consumers save even more money on their utility bills, save energy and, like the Appliance Energy Conservation Act, will reduce the need for the construction of expensive new power plants.

Fluorescent lighting represents about 14 percent of total electricity use in the United States or about 22 billion kilowatt hours per year. Experts estimate that this legislation will result in a nationwide reduction in peak demand of 7,000 megawatts by the year 2000 which translates into over $11 billion in savings for consumers in their utility bills. The energy saved by these standards is equivalent to the energy produced by 15 large coal powerplants or 7 nuclear power plants.

Assuming that each nuclear powerplant costs $3 billion to build, over $21 billion in powerplant construction costs will be avoided. As a result, the "rate shock" that can occur when new powerplants come on line could be avoided and the consumer's energy costs are further reduced.

The State of Connecticut recently adopted fluorescent lighting energy efficiency standards similar to the ones that we are proposing today. The Connecticut Office of Policy and Management estimates a cumulative savings to Connecticut residents of between $223 to $496 million between 1988 and the year 2000.

Another benefit of this legislation is that it will bring uniformity to the fluorescent lighting industry. Currently five States, including California, Massachusetts, New York, Connecticut, and Florida, representing approximately 25 percent of the Nation's fluorescent lighting market, have all initiated slightly different lighting efficiency standards covering different types of ballasts and having slightly different exemptions. Consequently, manufacturers must keep abreast of which ballasts meet which standards and which ballasts can be sold in which States. This has created an administrative nightmare for lighting manufacturers.

Though the initial purchase price of the energy efficient ballast is higher than the standard ballast, the more energy efficient ones, which are currently available on the market, have more than twice the operating life of the standard ballasts. The increase in energy savings that the efficient ballasts offer provides a net cost savings of more than four times the amount of its initial purchase cost.

With the amount of energy savings available, there are no losers with this bill. Facilitating consumers to use more energy efficiency lighting while saving them money is the cheapest way to increase America's energy supply. In addition, as a domestic energy source, improving lighting efficiency reduces our dependence of unstable foreign energy supplies. Finally, energy efficiency is the most environmentally sound energy source because it reduces emissions from fossil fuel plants and it reduces the generation of nuclear waste from nuclear powerplants.

SENATE—*Monday, March 16, 1988*

(Legislative day of Monday, March 14, 1988)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable RICHARD C. SHELBY, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Finally, my brethren, be strong in the Lord, and in the power of his might. Put on the whole armour of God, that ye may be able to stand against the wiles of the devil. For we wrestle not against flesh and blood, but against principalities, against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places.—Ephesians 6:10-12.

God of righteousness, truth and justice, help us to comprehend that we are presently engaged in world war. Greed and lust, pornography, drugs, alcohol, and casual sex, are attacking our homes—our families—our children—our future—as effectively as bombs and guns. Like chemical warfare, immorality, injustice, and deception permeate our society—decimating, debilitating, destroying. Alert the people to the apathy, indifference, and selfishness which serve the enemy. Remind them that in our political system, government receives "its just power from the consent of the governed." Like nature, our political system abhors a vacuum. When people abdicate, powerful, destructive forces move into the gap. Awaken us all to the real war—the real enemy—and energize us all—every one of us—to counterattack by prayer, righteous living, and involved citizenship. Send Your Spirit upon us. Revive us before it is too late and we are overwhelmed by insidious, pervasive, moral and spiritual anarchy. In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 16, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD C. SHELBY, a Senator from the State of Alabama, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. SHELBY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized for not to exceed 5 minutes.

Mr. BYRD. I thank the Chair.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I believe we have 5 minutes each, do we?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BYRD. Is there any morning business provision?

The ACTING PRESIDENT pro tempore. No morning business.

Mr. BYRD. Mr. President, I yield my 5 minutes to the distinguished Senator from Wisconsin [Mr. PROXMIRE].

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

WHAT SHOULD BE THE OBJECTIVE OF ARMS CONTROL?

Mr. PROXMIRE. Mr. President, is it possible that the superpowers could work toward agreements that gradually reduced and finally eliminated nuclear weapons? President Reagan has declared that this should be our objective. Some see the INF Treaty that eliminates intermediate nuclear weapons from the inventories of both superpowers as a step in that direction. That view is encouraged by the administration's plans to follow the roughly 4-percent reduction of nuclear weapons in the INF treaty with a START Treaty that would eliminate a whopping 50 percent of the strategic nuclear weapons on both sides. This would bring both superpowers down from their present inventories of 10,000 strategic warheads each to 5,000 each.

Dr. Richard Garwin, a leading arms control expert has proposed an ambitious third step. Garwin would slash the total, overall warheads in United States and Soviet inventories to 1,000 on each side. He would extend the agreement further to include the other nuclear powers: Great Britain, France, and China. He would propose warhead limits for these nations of 200 each. Garwin suggests these additional steps: Both sides would respect the 1972 ABM Treaty. He would extend the treaty to a total ban on defense against strategic ballistic missiles. He would prohibit antisatellite tests. He would also ban the testing and deployment of any space weapons. Garwin also proposes that the agreement include a comprehensive antiproliferation agreement to assure that no other nations acquire nuclear weapons. To assure the credibility of this ambitious arms control program Garwin proposes far-reaching verification, including, of course, onsite inspection. He would also call for each side to deploy their nuclear weapons so as to strengthen the credibility of deterrence for both superpowers. Garwin would not mandate any particular mode of deployment in the treaty but for the United States. Garwin suggests we include 400 warheads each deployed in separate single warheads silos. Another 400 warheads would be deployed among 50 small submarines, each carrying 8 small single warheads SLBM's and 200 warheads carried on 100 aircraft as air-launched cruise missiles. This scattered deployment would help insure the survivability of the much smaller U.S. nuclear deterrent.

The details of the Garwin deployment are significant. They demonstrate how a much smaller nuclear warheads force could provide credible deterrence for both superpowers. By preserving the ABM Treaty he would make it feasible for both sides to reduce the size of their deterrent without compromising its credibility. The ban on antisatellite testing would help secure the credibility of verification. Reassuring as on-the-spot verification may be, it is the new technology of satellite observation that provides the most reliable basis for assuring treaty compliance.

Garwin has made a useful and thoughtful proposal. It is far more realistic than the visionary proposal by President Reagan that we can somehow banish nuclear weapons from the face of the Earth. The Garwin prescription recognizes the supreme and ironic fact that it is the very threat of total destruction carried by nuclear arsenals that has brought peace to Europe for the longest period in four centuries and promises to bring surcease from a truly major war for many more decades. The Garwin proposal depends very heavily on preserving the full credibility of nuclear deter-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

rence on both sides while permitting a significant reduction in both arsenals. It is clear that the superpowers can only achieve this if both foreswear a strategic defense initiative or SDI. SDI has the sole, simple purpose of destroying the credibility of the opponent's nuclear deterrent. There is no possibility of expecting either superpower to agree to any reduction in its nuclear arsenal, if that reduction might make it feasible for the adversary to deploy an SDI that would render its reduced arsenal less than credible.

This Senator would add one vital ingredient to the Garwin proposal. I believe it is essential that both sides agree to stop the technological nuclear arms race. How do we do this? We do it by agreeing to a treaty that provides a comprehensive end to nuclear weapons testing. Such a treaty could extend the deterrent standoff indefinitely. Without it there would always be the prospect that a swift series of technological breakthroughs by the other side might overcome—the deterrent standoff and precipitate a nuclear attack.

Mr. President, I ask unanimous consent that the article from the March 1988 "Bulletin of the Atomic Scientists" by Richard Garwin be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A BLUEPRINT FOR RADICAL WEAPONS CUTS

(By Richard Garwin)

Deterrence has prevented the use of nuclear weapons so far, and this will continue to be necessary until someone identifies a path to the elimination of these weapons and persuades the nuclear powers to take that path. There is, however, an interim goal: to replace the 50,000 existing nuclear weapons with 1,000 long-range, strategic weapons in the U.S. armory, a similar number for the Soviet Union, and perhaps 200 each for Great Britain, France, and China.

In order to insure the stability of such a regime against first strike, the 1972 Anti-Ballistic Missile (ABM) Treaty must be respected and strengthened; and there must be a ban on antisatellite tests and deployment and on space weapons. Furthermore, an increasingly effective and cooperative verification program for the destruction of remaining nuclear weapons and delivery vehicles must be formulated and followed. Proliferation of nuclear weapons to other nations would present an ever greater threat and must be opposed by a stringent antiproliferation regime, augmented by an increasingly strict and eventually total ban on nuclear tests. One path toward this interim goal of 1,000 weapons on each side, described below, would lead to that posture by 1997, after which it would be costly and time consuming to return to the present vastly excessive number of nuclear weapons.

The ultimate goal, of course, is not only the elimination of weapons but the elimination of conflict, which would reduce not only the economic but also the psychological burden and fear of more conflict, either nuclear or conventional. There is certainly no consensus on how to attain this goal. What I propose is that the United States assume a far more rational, less costly, and less threatening posture until we learn how to go further in the reduction of nuclear weapons and the threat of war.

Over the last few years there has been much discussion of a deep-cut regime such as the following:

The total of 50,000 warheads in U.S. and Soviet inventories would be reduced to 1,000 on each side, to be based on national territory or as SLBMs (submarine-launched ballistic missiles).

Both sides would respect the 1972 ABM Treaty, which would evolve to a total ban on defense against strategic ballistic missiles.

Antisatellite tests would be banned, as would the testing and deployment of any space weapons.

The nuclear warheads of Great Britain, France, and China would be reduced to 200 each.

A stringent antiproliferation regime would be mounted to insure that additional countries do not acquire nuclear weapons. One goal of this regime would be a future total ban on nuclear explosion tests, to be approached by a decreasing annual quota of low-yield tests.

Adequate verification, including cooperative means and on-site inspection as agreed upon and necessary, would be essential to achieve and maintain this regime.

Each side would deploy its permitted weapons so as to strengthen stability against a first strike. Although each side would explain and open for verification the basing of its 1,000 warheads, neither side could force a particular basing mode on the other.

An appropriate plan for U.S. weapons would be to base 400 warheads in the form of single-warhead small ICBMs in soft (vulnerable) silos; 400 warheads divided among 50 small submarines, each carrying eight small single-warhead SLBMs; and 200 warheads carried on 100 aircraft as air-launched cruise missiles, two per aircraft. Each warhead, including the reentry vehicle for a strategic ballistic missile, could weigh no more than 300 kilograms; the warhead maximum yield would be held by the weight limit to about half a megaton. Any lower yield would be permitted, including the possibility of variable-yield weapons, such as exist at least in the U.S. inventory.

The reduction of British, French, and Chinese weapons—to judge by the announced plans of the first two nations—is clearly necessary if the superpowers are to undertake the proposed 95 percent reductions. China long ago committed itself to weapons reductions as soon as the United States and the Soviet Union reduce theirs by 50 percent or more, and still appears willing to go to the level of 200. The same seems true of Britain, but there is as yet no public commitment by France. It should be emphasized that while neither France, Britain, nor China could by its own behavior impel deep cuts in superpower inventories, each has the power to *prevent* such cuts, by an unwillingness to limit itself to the prescribed number of warheads.

Nor could such massive reductions take place without considerable confidence that other nations would abstain from the development and acquisition of nuclear weapons. To assure this, ending nuclear tests seems essential. Among the nuclear nations opposition to nuclear tests by additional nations would probably be greatly strengthened if no nuclear testing were allowed at all, and such a total ban, if it cannot be achieved immediately, should at least be approached by a small and declining annual quota of tests of one kiloton or less.

Verification that numbers of nuclear weapons and delivery systems do not exceed the declared numbers and types would be achieved by national technical means, supplemented by cooperative measures, as set forth in the SALT treaties, and by challenges and visits, as agreed to and needed. SALT I and SALT II included commitments not to conceal the controlled activities, such as fitting out of submarines, maintenance of missile silos, and the like. They also included the preservation of functionally related observable differences to distinguish those aircraft capable of carrying air-launched cruise missiles from others. In this deepcut regime, verification will be aided by the elimination on each side of all nuclear weapons other than the strategic 1,000. Presumably, all tactical and medium-range missiles will have been eliminated long before. Compliance with the nuclear test ban will be verified by many unmanned seismic stations.

Nuclear warheads have the capability to destroy entire cities, whether delivered by ICBMs or commercial aircraft. No one will be comfortable unless reassured that the side which has supposedly reduced its nuclear armory from 25,000 to 1,000 warheads has, in fact, nonsecretly retained or capable of quick production. At this point, I can only sketch a control system, as yet insufficiently worked out, which will be invoked in stages as warhead numbers are reduced.

Ultimately, each nuclear weapon will have an effective *seal* which must be so contrived that it cannot be counterfeited or removed without revealing that fact. There must also be a *tag*, identifying the particular weapon. The verification program would include the ability to freeze on demand certain establishments or military vehicles or locations, and the right to search (unobtrusively) for nuclear materials or weapons. The host nation should reveal at the beginning of the search the location of any legitimate weapon within the defined area, and have its location and identity verified.

There might also be agreement that weapons may be deployed only in defined areas and on specific launch vehicles. To verify the latter, a nation might have 1,000 envelopes, sealed and tagged, in a particular safe in its capital. Perhaps ten times a year, the other nation could request to see an envelope at random, or to look at the envelope corresponding to a launcher identified precisely by position. The launcher would be frozen at that site, the envelope produced, and agreement determined between the actual identity of the warhead on the launcher and that specified in the envelope.

For instance, if the 50 U.S. ballistic-missile submarines were proscribed from operating within 2,500 kilometers of Moscow, and their Soviet counterparts proscribed from being within 2,500 kilometers of Washington, compliance could be verified by an occasional random challenge—to submarine-33, let us say. Within two hours, sub-33 would have to surface and identify itself in a way that could be unambiguously verified by an encrypted tag within the submarine and on its missiles and warheads. An actual visit to the spot by aircraft would be permitted, but unnecessary, in view of the capability of determining position and identity from the cooperative verification system on board, and from time of arrival of the radio signal at the receiving satellites.

There is room for much more ingenuity in devising seals and tags capable of sustaining such a burden of security, but the more fundamental problem is to insure the absence of illegitimate nuclear weapons. This would be done in large part by the identification and monitoring, perhaps under International Atomic Energy Agency (IAEA) safeguards, of any establishments with fissile material, and by random, cooperative searches to establish that no fissile material is anywhere else under the control of the nation in question.

What if a nation abruptly, or after extensive planning, abrogates the agreement and launches an all-out effort to build vast numbers of nuclear weapons and delivery systems? Fundamental to any accepted security regime is the concept of "timely warning," which means that it would be incompatible with such security to allow possession of plants capable of building, say, 10,000 nuclear warheads per year along with delivery means. But there would be no legitimate use for such plants, which would be of substantial size if they were able to augment the permitted stockpile significantly, given the very considerable number of warheads retained in this deep-cut regime. The question itself implies additional controls on facilities and on the readiness to build additional weapons of the permitted type or of a novel type.

The stability of much-reduced strategic forces depends largely on the absence of defense. Thus, the unconstrained evolution of air defense against the cruise missiles on one side makes the other side less willing to reduce to very small numbers. Similarly, unconstrained peacetime antisubmarine warfare practices, which imperil the prelaunch survivability of the much-reduced number of sea-based missiles, would seriously threaten the stability of the massive reduction program.

A Soviet group recently analyzed stability in a regime of massive reductions, taking for their example 600 single-warhead mobile ICBMs for the Soviets and for the United States. [See the following article.] If the Soviet Union feels more comfortable with 600 mobiles than with 600 silo-based, single-warhead small ICBMs, they should be encouraged to deploy their residual force in that way. Nevertheless, where single-warhead ICBMs are concerned, silo basing does not contribute to instability—tempting one side to attack the other's nuclear forces—as it may for MIRVed ICBMs. It is generally recognized that two or more warheads must be used to destroy a missile in its silo with a high degree of reliability. Thus a country attacking another country's forces with single-warhead missiles would rapidly disarm itself, unless it had a much larger force to begin with. Nor is there any longer reason to believe that mobile missiles are less accurate, and thus more destabilizing, than those based in silos. Moreover, silo-based missiles are far cheaper than those made survivable by mobility and concealment.

Nuclear weapons and their delivery vehicles would be destroyed in the following manner:

First, it is intended that not only the nuclear warhead but also the unmanned carrier (ICBM, SLBM, cruise missile) be destroyed. A particular missile selected for destruction by identification or location should be observed closely enough to determine that the nuclear weapons are disassembled from it and transported to the nuclear weapon destruction establishment. The carrier vehicle should in turn be taken to an appropriate destruction establishment, where dangerous materials are removed, and the structure and instrumentation crushed and scrapped. Alternatively, the missile can be destroyed by explosion.

The disassembly plant would be operated entirely by nationals of the country concerned, with appropriate measures taken to identify clearly the nuclear weapon and to establish that it has the correct amount of fissile material when it is brought into the plant. All of that weapon must leave the plant, the fissile material in small protective containers, allowing it to be assayed for mass and composition, and transferred to IAEA safeguarded stocks. Uranium 235 should be denatured to 20 percent enrichment, and the plutonium carefully safeguarded. Safeguarded tritium can be withdrawn as necessary to compensate for tritium decay in the legitimately retained weapons. The matter of destruction of weapons and the transfer of the fissile material to the civil and IAEA inventory has been studied by nuclear power experts.[1] In the case of nuclear bombs, only the bombs and their ballistic cases will be destroyed, not the bombers.

First candidates for destruction are medium-range forces as stipulated by the new treaty. Then, over a 10-year period, all nonstrategic nuclear weapons would be eliminated. This could be done by a declaration of numbers of weapons by types, and a mutually satisfactory selection for destruction, according to proposed techniques.[2] For instance, the Soviet Union might assign "values" to individual U.S. tactical weapons, adding up to a total of 10,000. The United States could then choose which weapons, totalling a value of 1,000, to destroy. The next year, the Soviet Union could similarly assign values to the remaining U.S. tactical weapons, to a total of 9,000, and the United States would again choose which weapons, totalling 1,000, it wishes to destroy. If one assumes about 10,000 strategic and approximately 13,000 tactical and naval weapons on each side, at the end of the first year—by which time the 1,000 medium-range missiles would be gone—there would remain 11,700 tactical nuclear weapons and 9,000 strategic weapons.

The United States and the Soviet Union have negotiated at length about a 50 percent reduction in strategic weapons, but I will give here only a simple example of how one issue might be handled. It is *warheads* that each side wants limited on the other side, not *launchers*. Nevertheless, launchers may well be important to limit, in order to avoid a capability for too rapid growth should the treaty be abrogated. There is an interesting point in the reduction process when only one warhead remains on each ICBM and SLBM. The United States would then have 1,000 warheads deployed in its Minuteman silos, and another 600 on SLBMs, each carrying a single warhead. The 100 B-1 bombers would carry four warheads each, totaling 2,000. The Soviet Union would also have 2,000 warheads. The only construction that need be done to achieve this goal is the manufacture of a suitable number of aluminum, concrete, and steel dummy warheads, to occupy the position on the MIRV "bus" from which real warheads are taken. If strategic warheads are reduced to 5,000 in five years and to 1,000 in 10 years, and in view of the minimal changes in force structure and zero investment requirement to go to 2,000 strategic weapons, this goal might be achieved in the seventh year—1994.

In principle, one could then reach the interim goal of 1,000 strategic weapons on each side—to hold indefinitely until replaced by a further agreement on reductions or elimination of nuclear weapons—simply by eliminating half of the launch vehicles. However, if one side were to have 20 warheads on each of 20 large submarines, one warhead on each of 400 large missiles, and two cruise missiles on each of 100 large bombers, it would only need to produce warheads to increase its delivery capability tenfold. Each side would feel much more secure if the other had delivery vehicles tailored to the single warhead, so that it would require a much longer and more costly effort to rebuild the force.

I have considered the possibility of reducing the permitted number of warheads to 500 as a penalty, if one party insisted on keeping the oversize elivery vehicles; but no matter how much good faith was expressed, and indeed adhered to, I believe such an imbalance would be untenable. The side with 1,000 warheads on 1,000 tailor-made small delivery vehicles would be all the more convinced that the other side with massive delivery vehicles had accepted a limit of 500 warheads only because it valued the capability to break out of the limit. Thus I believe that the plan must be to replace, by 1996, the MX, which now carries 10 warheads, with a small ICBM of perhaps 15,000 kilograms, which carries a single reentry vehicle. Similarly, the large submarines should be replaced with small ones carrying eight or ten single-warhead missiles.

It is not clear what to do about the bombers. It would be perfectly reasonable to make much smaller bombers, capable of flying unrefueled to the point where they could launch cruise missiles. But if the B-52 and the B-1, instead of being destroyed were put to use as conventional weapon carriers, they would be available to carry a vast number of cruise missiles if those weapons were produced in violation of or on abrogation of the agreement.

Perhaps this hazard would be compensated for by air defenses. If air defenses were to be restrained, on the other hand, the United States might be willing to give up the B-52 and B-1 bombers in order to have the Soviet Union give up its less capable large-bomber fleet. That, in my view, should be left for negotiation.

MARCH GOLDEN FLEECE GOES TO NSF AND NIMH

Mr. PROXMIRE. Mr. President, I am presenting my Golden Fleece for the month of March to the National Science Foundation and the National Institute of Mental Health for spending more than $107,000 to study the sexual behavior of Japanese quail under carefully controlled laboratory conditions. Cole Porter lyrically told us the obvious, that "Birds do it," but what "stimuli and responses are involved in various components of their sexual behavior" was nevertheless deemed worthy of a detailed study by these two agencies.

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[1] F. Calogero, "Some Remarks, and a Proposal, Concerning the Limitation of Strategic Armaments," *Proceedings of the 22d Pugwash Conference*, Oxford, Sept. 1972, pp. 305-17; F. Calogero, "A Novel Approach to Arms Control Negotiations," *Proceedings of the 27th Pugwash Conference*, Munich, Aug. 1977, pp. 170-76; S.H. Salter, "Stopping the Arms Race: A Modest Proposal," *Issues in Science and Technology* (Winter 1986).

[2] John Taylor et al., "Converting Nuclear Weapons to Peaceful Use," *Bulletin* (February 1985), pp. 35-38.

According to the research proposal submitted to the NSF, the project was expected to "obtain evidence relevant to three sexual learning phenomena: sexual looking, classical conditioning of sexual arousal, and improvement in copulatory performance with practice." Japanese quail were used because the species is known for its rapid and uninhibited mating habits—"when a sexually mature male is placed with a female, copulation occurs rapidly, often in less than 5 minutes."

The study found that male Japanese quail spent large amounts of time staring at female quail by peering through a small window in an adjacent cage. The "sexual looking" phenomenon was so strong that these amorous males didn't seem to care whether or not the female recipient of their longing glances was alive or dead. However, these male quail showed a distinct viewing preference for female quail over male quail or female ducks.

This project gives new meaning to bird watching.

The study also found that practice improved sexual performance. Even the most inhibited males "eventually acquired as vigorous performance as all other subjects."

While this research project may be well designed and carefully executed, the question remains, whether, with massive Federal deficits and limited funds for scientific research, spending for this project is the best use of taxpayers' moneys. There may well be groups in the private sector who would find this research interesting and useful enough to support.

The final NSF project summary states:

> The objective of the research project was to further the understanding of learning mechanisms and to discover how organisms rely on what they have learned to guide their actions in complex social situations critical to the survivial of their species. Investigators have pursued the study of learning in animals in an effort to understand the evolution of intelligence, to gain insights into how the nervous system works, and to test important idea (sic) about human behavior that cannot be empirically evaluated in studies with people. Studies of learning in reproductive behavior systems potentially can contribute to each of these goals. Such research will also tell us about an aspect of sexual behavior that has received little systematic attention to date. Given the life-threatening nature of certain forms of sexual behavior with the spread of AIDS, knowledge of how sexual habits are acquired is very important.

How studying the sexual behavior of birds in a laboratory can help us understand and contain the human epidemic of AIDS is beyond me.

The National Science Foundation funded the early parts of this research for $58,173 from October 1984 through March 1987. Since then, the National Institute of Mental Health has provided an additional $48,931. Additional funding of more than $100,000 is expected to be spent by NIMH over the next 2 years for completion of this work. These two agencies will have spent more than $200,000 in trying to develop a learning theory for the sexual behavior of these highly active birds—and that's not chicken feed!

Mr. President, I thank my good friend, the majority leader, for so graciously yielding me time, and I yield the floor.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the Republican leader is now recognized for not to exceed 5 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that the Republican leader's time be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I indicated to Senators that there would be a rollcall vote at circa 10:15 a.m. I was under the impression that there would be an amendment ready based on the discussions I had last night with the distinguished Senator from Louisiana, Mr. JOHNSTON and with the distinguished Senator from Ohio, Mr. METZENBAUM. I put it in the alternative for the RECORD last evening; that there would be a vote on that subject matter or there would be a vote on the question of Sergeant at Arms so as to establish a quorum and get off to an early start on the Price-Anderson legislation. Otherwise, we might flounder around 2 or 3 hours before Senators come to the floor with their amendments.

So may I ask that the prospects are for the substantive matters?

Mr. JOHNSTON. Mr. President, we are ready to proceed on the Price-Anderson matter. And our plan as of last night was to bring up the Price-Anderson bill; to then offer an amendment from the Senate Committee on Energy and Natural Resources which we would discuss very briefly, and then have a vote; and then after that amendment is in place Senator METZENBAUM would bring up his amendment on the same subject matter; that is, on subrogation.

Mr. METZENBAUM. Actually, the issue has to do with the enforcement provisions against the contractors, and the committee bill provides for some penalties and criminal penalties. We believe there ought to be civil penalties. The committee bill, we have agreed between Senator JOHNSTON and myself, is a bill that would be before us today. I would guess that there would be a unanimous-consent vote in support of that. At least, I would hope so. Certainly Senator JOHNSTON supports it, and I support it. I do not know of any opposition to it. We could actually dispense with the vote unless the leadership feels there is a need for a vote.

Mr. BYRD. There is going to be a vote, Mr. President. I said there would be. Senators have come to the floor anticipating a vote. So I intend to proceed with the vote.

QUORUM CALL

Mr. BYRD. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. I ask unanimous consent that there be morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

The ACTING PRESIDENT pro tempore. Morning business is closed.

PRICE-ANDERSON AMENDMENTS ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 1414, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 1414) to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents.

The Senate proceeded to the consideration of the bill.

QUORUM CALL

Mr. BYRD. Mr. President, I suggest the absence of a quorum. This will be a live quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 13]

Bingaman
Breaux
Bumpers
Burdick
Byrd
Cranston
Fowler
Heinz
Johnston
Metzenbaum
Proxmire
Sarbanes
Shelby

The ACTING PRESIDENT pro tempore. A quorum is not present.

The clerk will call the names of the absent Senators.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Hawaii [Mr. MATSUNAGA] are absent because of illness.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 71, nays 24, as follows:

[Rollcall Vote No. 53 Leg.]

YEAS—71

Adams
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Graham
Grassley
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McClure
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Stafford
Stennis
Stevens
Thurmond
Trible
Warner
Wirth

NAYS—24

Armstrong
Bond
Evans
Gramm
Hatch
Hecht
Helms
Humphrey
Chafee
Cohen
Kasten
McCain
McConnell
Murkowski
Nickles
Packwood
Conrad
D'Amato
Quayle
Specter
Symms
Wallop
Weicker
Wilson

NOT VOTING—5

Biden
Bradley
Gore
Matsunaga
Simon

So the motion was agreed to.

The ACTING PRESIDENT pro tempore. A quorum is present.

PRICE-ANDERSON ACT AMENDMENTS

The Senate continued with the consideration of the bill (H.R. 1414).

Mr. BYRD. Mr. President, what is the pending matter before the Senate?

The ACTING PRESIDENT pro tempore. H.R. 1414 is pending before the Senate.

Mr. JOHNSTON. Mr. President, today we are beginning consideration of legislation to reauthorize and extend the Price-Anderson Act. The Price-Anderson Act provides a system for public compensation in the event of a nuclear accident. This legislation is long overdue. I urge the Senate to act quickly on this legislation so that it is not delayed any further.

The Price-Anderson Act provides a unique benefit to the public in the form of swift, assured compensation in the event of a catastrophic nuclear accident. To be sure, our Nation's nuclear facilities—commercial power reactors and facilities of the Department of Energy—have an enviable safety record. But if a serious accident were to occur, the resulting damage could be very, very expensive.

The Price-Anderson system is a comprehensive, compensation-oriented system of liability insurance for DOE contractors and NRC licensees operating nuclear facilities. Under Price-Anderson, a form of no-fault insurance is in effect at each facility where there is risk of a nuclear accident. In the event of a catastrophic accident, the operating entity—a utility or DOE contractor—would accept all liability for injuries caused by the accident and would waive traditional legal defenses. The issues in court would simply be to establish causation and the extent of the damages. Damages determined by the court would then be paid, quickly and without question.

Under current law, the aggregate amount of damages that could be paid to the victims of a catastrophic nuclear accident is limited to just over $700 million in the case of an accident at a commercial reactor and to $500 million in the case of DOE facilities. Compensation above these limits would be available only if Congress enacted a law providing for such compensation. Today, it is universally recognized that these limits are too low. But the limits are written into the law, so the law needs to be changed to reflect current costs.

Moreover, currently there is no authority to provide insurance under the Price-Anderson system for new reactor licensees and new or renewed DOE contracts. The authority to indemnify new licensees or contractors under Price-Anderson Act expired on August 1, 1987.

Of course, the Federal Government will not shut down its essential national security activities simply because it cannot indemnify its contractors under the Price-Anderson system. Work for the Department of Energy will continue.

So there is an urgent need to extend and reauthorize the Price-Anderson Act not to protect the contractors or the nuclear utilities but to protect the public. Public protection in the case of a catastrophic nuclear accident is far superior under a renewal of the Price-Anderson system. In the absence of Price-Anderson for DOE contractor activities, compensation for victims would be less predictable, less timely, and potentially inadequate compared to the compensation that is available under the current system. For that reason, I have asked and made sure that the legislation before us will require the Department of Energy to go back and indemnify all of its contractors under Price-Anderson, even those who have been indemnified under the authority of Public Law 85-804 in the meantime.

Let me address briefly the specific provisions of the legislation before the Senate. H.R. 1414, as passed by the House, would replace the existing limit on liability under Price-Anderson to about $7 billion, a tenfold increase over the limits of existing law. In the event that damages were greater than $7 billion, a compensation plan would be submitted to the Congress by the President. In the case of an accident involving nuclear waste, the $7 billion limit would be lifted automatically if Congress failed to act within a year. H.R. 1414 will extend Price-Anderson authority for 10 years for NRC licensees and for 12 years for DOE contractors.

Personally, I would prefer to extend the act for longer. The bill reported by the Energy and Natural Resources Committee would extend Price-Anderson for 30 years, so at the appropriate time, I may offer an amendment to so extend H.R. 1414.

Let me take a minute to address some concerns I have about one amendment that Senators have indicated they plan to offer. Several Senators have indicated they intend to offer a subrogation amendment to address the so-called contractor accountability issue. Such an amendment, which would require the Attorney General to sue a contractor after an accident to recover the damages if the accident resulted from "gross negligence" or "willful misconduct," would totally undermine the Price-Anderson system. In theory, this amendment is intended to make contractors more "accountable" for their actions by threatening large financial exposure in the case of an accident. In fact, such an amendment would make the Price-Anderson compensation scheme unworkable.

First of all, such an amendment will inevitably foster litigation that will interfere with the primary purpose of Price-Anderson. Subrogation will inject fault-finding into the Price-Anderson system, converting it from an efficient system for compensating victims in a mass tort situation to something like the system that has yet to compensate any of the victims of Bhopal, the asbestos cases, the agent orange cases, or the Dalkon shield cases.

Let's not forget in the process of trying to make contractors "accountable" that the purpose of Price-Anderson is to compensate the public—quickly. Under a system of subrogation, prudent counsel for a contractor will move quickly first to protect his company. Simply for the purpose of self-protection, each and every contractor will intervene in court proceedings to determine damages and the amount of compensation due members of the public. And this intervention will simply serve to delay compensation to the public and minimize any benefits of swift, sure compensation that are the essence of the Price-Anderson system.

It is disingenuous to pretend that the threat of punishing contractors will provide an incentive for safety. The responsibility for this rests with DOE and the Congress. The contractors are merely operators of Government facilities on the Government's terms. The Government should bear the risks of this arrangement, not the contractors.

Responsible contractors have made it clear that without Price-Anderson indemnification for all work performed on DOE nuclear contracts, they will leave the business. That is not a threat. That is simply a fact. And why should they stay in the business? Why should a responsible company put all of its corporate assets at risk for a contract that represents a relatively small part of its overall business? The answer is that it shouldn't—and it won't.

Let me offer an example. Last fall, the General Electric Co. notified the Department of Energy that it would not sign a contract without Price-Anderson indemnification. Accordingly, GE chose to walk away from a multimillion dollar contract for the Dynamic Isotope Power Systems project.

Subrogation simply doesn't make sense in the Price-Anderson compensation scheme. It is a killer amendment—and it would undermine the entire purpose of Price-Anderson. So, I hope my colleagues will see that we have a system set up for compensation and we should leave it intact. The alternative proposed by this amendment will simply leave the victims out in the cold. This amendment will not improve the system. It will simply destroy it.

So let's get going. The legislation pending before the Senate, H.R. 1414, was passed by the House of Representatives on July 30. It has taken us a long time to get to Price-Anderson, and I am a little bit embarrassed that we are only considering this legislation now. Nonetheless, it is a good piece of legislation and I hope we can pass it with little amendment. I am glad that Senator McClure and I could reach agreement with our distinguished colleagues from the Environment and Public Works Committee to take up the House bill. It is a clean bill, and it will allow for consideration of the issues in the most straightforward and effective manner.

At this time, I ask unanimous consent to place in the Record the text of several letters I have received from the administration on various aspects of this legislation.

There being no objection, the material was ordered to be printed in the Record, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, March 3, 1988.

Hon. J. Bennett Johnston,
U.S. Senate, Washington, DC.

Dear Senator Johnston: I understand that the Senate may soon consider H.R. 1414, legislation reauthorizing Price-Anderson liability coverage. The Administration strongly supports H.R. 1414 as passed by the House. I am writing to reaffirm the urgent need for this legislation and to underscore particular concerns the Administration has with certain proposed amendments.

Reauthorization of Price-Anderson is critical to the future availability of nuclear power as an energy supply option for this country and is vital to continued private sector participation in government-sponsored research and national defense activities. It ensures that in the unlikely event of an accident, victims will be compensated on a swift and reliable basis, providing the financial protection that is essential if nuclear power is to play its crucial role in the areas of energy security and national defense.

I am concerned, however, that amendments may be offered that would compromise these objectives by attempting to address issues unrelated to the underlying thrust of the Price-Anderson Act.

One area of special concern involves safety oversight of the Department's atomic energy defense facilities. I fully appreciate the importance of ensuring the safe operation of these facilities. Through recent experience with outside oversight panels, the Department has demonstrated the value of such bodies in accomplishing this purpose. As a result of this experience, and in response to a recommendation of the panel from the National Academy of Sciences, I recently established a continuing oversight organization, the Advisory Committee on Nuclear Facility Safety. The Committee will provide the Department with valuable independent safety advice and will contribute significantly to the safe operation of these sensitive facilities. Because of the recent establishment of this advisory body, the creation of another safety oversight body is unnecessary. The new panel should be given an opportunity to fulfill its responsibilities. Moreover, consideration of independent oversight is outside the scope of Price-Anderson objectives. Renewing this system of swift compensation should not be delayed or endangered by the insertion into Price-Anderson legislation of the issue of a new safety oversight organization. The careful balancing of safety and national security necessary in considering the oversight issue should be undertaken separately.

I also understand that an amendment may be offered that would make the United States liable for claims above $7 billion and pay them out of the Judgment Fund administered by the U.S. Treasury. This amendment not only would undermine long-established rules governing liability under the Federal Tort Claims Act, it also would subject the Government to liability for the actions of private parties who are not acting at the Government's direction. In the unlikely event that an accident occurs involving damage in excess of $7 billion, Congress should tailor a compensation program based on a full review of the facts and circumstances at the time of a nuclear accident.

It is also my understanding that a subrogation amendment may be offered. I would oppose vigorously such an amendment, which would discourage and compromise the working relationships between the Department and its contractors. These contractors engage in special working relationships with the Department to operate Government-owned facilities that are vital to our national security. These relationships are founded on an understanding that the interests of the Department and its contractors are largely inseparable. Current and potential contractors have indicated a new level of uncertainty about the risks and costs of entering into contracts with the Department. These contractors are concerned with the possible inclusion of broad subrogation provisions in the contract. I firmly believe that including such provisions would jeopardize the availability of future contractors and thus threaten the Department's ability to carry out its national defense responsibilities. Although three contractors have accepted a limited subrogation provision in indemnification agreements entered into with the Department since the Price-Anderson "expired" last August, these provisions are substantially less burdensome than the subrogation provisions that have been proposed in legislative amendments.

Finally, as the Department of Energy and the Department of Justice have previously stated, we are opposed to any provision that would further subject the Government to liability by permitting suits against the Secretary of Energy as if he were a contractor. The issue of Government liability is a sensitive one and the balance between providing compensation in tort cases while enabling the Government to perform its duties freely was struck long ago in the Federal Tort Claims Act. Changing the rules of Government liability would represent a major departure from existing law, upsetting well established principles that have governed this area of law for years.

It is my hope that the Price-Anderson Act, which was passed to enable the orderly development of nuclear power and ensure its availability for research and national security needs, can be reauthorized. I could not support, however, counterproductive provisions that would discourage contractors from operating facilities that are critical to the national interest, or provisions that would upset the basic institutional framework or Price-Anderson which has served the Nation well for decades. Therefore, I would recommend disapproval of legislation that included the proposed amendments I have described in this letter.

Yours truly,

JOHN S. HERRINGTON.

THE SECRETARY OF ENERGY,
Washington, DC, March 3, 1988.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to provide more detail on and underscore the Department's concerns regarding an amendment that may be offered when the Senate considers H.R. 1414, a bill which would reauthorize Price-Anderson indemnity coverage for the Department's nuclear contractors. Several Senators have expressed an interest in offering a subrogation amendment that, if enacted, would create a large exception to the indemnity provided Department of Energy contractors. The Department strongly supports passage of H.R. 1414 without amendment.

Price-Anderson was designed to provide a means of swift compensation to the public by establishing a no-fault liability determination in the unlikely event of a catastrophic nuclear accident. Exceptions to indemnity based on degree of fault could result in significant more extensive litigation, undermining the speedy recovery that is such an essential element of the Act.

Our contractors engage in special working partnerships with the Department to operate government-owned facilities vital to our national security. Our interests are largely inseparable, and placing the Department in an adversarial relationship with these entities would lessen safety and diffuse accountability. Several current and potential contractors have indicated they would not sign a contract containing the subrogation provision now being proposed. Indeed, in some cases, they will not renew any contract with the Department, at least in part, because of the high degree of risk and uncertainty this issue has raised for them.

Although the August 1, 1987, expiration of Price-Anderson forced several of the Department's contractors to renew their contracts under the terms and conditions of P.L. 85-804, this should not be construed to mean that Price-Anderson is unnecessary or that the proposed amendment is acceptable. Each of these contractors reluctantly agreed to accept the P.L. 85-804 indemnity, with the exception mandated by the implementing Executive Order, based on the belief that new Price-Anderson authority would be enacted and their contracts would then come under the Price-Anderson umbrella. If H.R. 1414 were enacted, section 4 would require that the Department provide Price-Anderson coverage in all existing nuclear contracts, including those now containing P.L. 85-804 indemnities.

I firmly believe that safety at Departmental facilities should be a top priority and I have instituted several initiatives to improve and enhance the safe operation of our nuclear facilities. Creating broad exceptions to the financial protection provided will jeopardize the Department's efforts to retain contractors of the highest caliber. Thus, the Department's ability to carry out its national defense responsibilities would be threatened.

Thank you for your efforts in securing passage of renewed Price-Anderson authority and I urge speedy passage of H.R. 1414 without amendment.

Yours truly,

JOHN S. HERRINGTON.

FEBRUARY 26, 1988.

Hon. ROBERT C. BYRD,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR BYRD: As the Senate considers H.R. 1414, legislation to reauthorize the Price-Anderson Act, we want to underscore the importance to the national security of passing this needed legislation in its current form, unencumbered by amendments.

Price-Anderson liability coverage, which expired last August, is crucial to the continued availability of outstanding contractors to operate nuclear facilities vital to our national defense. These contractors perform services that are critical to the maintenance of our defense capabilities. We are concerned that amendments could be offered to H.R. 1414 that would impose burdens on these contractors that could discourage the commencement or continuation of their contractual relationships with the United States.

The Department of Energy has continued to seek contractors with an established history of competence, excellence and financial responsibility to operate vital defense facilities. Some of these entities have indicated that their services are contingent on the availability of Price-Anderson coverage, which enables them to provide services in the national interest at little or no profit.

We are concerned specifically that this situation could affect negotiations for a new contract for the operation of the Savannah River Plant. A new contractor must be selected with negotiations beginning this fall. We must be able to contract with a firm maintaining standards of quality similar to those of the plant's current operator, duPont. This task, however, has been made more difficult by the expiration of Price-Anderson, a factor that duPont cited as a consideration in its decision not to seek to renew its contract to operate the Savannah River facility. It is crucial that Price-Anderson legislation be enacted in its current form without the imposition of amendments that could only impair the availability of contractors of the highest quality to operate our facilities.

Congress has invested a great deal of time and effort to produce legislation that we believe accomplishes traditional Price-Anderson objectives. We urge the Senate to complete its work on this measure, expeditiously, resisting the attachment of amendments that, no matter how well intended, could risk severe consequences to the quality of our national defense capabilities.

Yourrs truly,

FRANK C. CARLUCCI,
Secretary of Defense.
JOHN S. HERRINGTON,
Secretary of Energy.

THE SECRETARY OF ENERGY,
Washington, DC, February 18, 1988.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I understand that the Senate may soon consider H.R. 1414, legislation authorizing Price-Anderson liability coverage. The Administration strongly supports H.R. 1414 as passed by the House. I am writing to reaffirm the urgent need for this legislation and to underscore particular concerns the Administration has with certain proposed amendments.

Reauthorization of Price-Anderson is critical to the future availability of nuclear power as an energy supply option for this country and is vital to continued private sector participation in government-sponsored research and national defense activities. It ensures that in the unlikely event of an accident, victims will be compensated on a swift and reliable basis, providing the financial protection that is essential if nuclear power is to play its crucial role in the areas of energy security and national defense.

I am concerned, however, that amendments may be offered that would compromise these objectives by attempting to address issues unrelated to the underlying thrust of the Price-Anderson Act.

One area of special concern involves safety oversight of the Department's atomic energy defense facilities. I fully appreciate the importance of ensuring the safe operation of these facilities. Through recent experience with outside oversight panels, the Department has demonstrated the value of such bodies in accomplishing this purpose. As a result of this experience, and in response to a recommendation of the panel from the National Academy of Sciences, I recently established a continuing oversight organization, the Advisory Committee on Nuclear Facility Safety. The Committee will provide the Department with valuable independent safety advice and will contribute significantly to the safe operation of these sensitive facilities. Because of the recent establishment of this advisory body, the creation of another safety oversight body is unnecessary. The new panel should be given an opportunity to fulfill its responsibilities. Moreover, consideration of independent oversight is outside the scope of Price-Anderson objectives. Renewing this system of swift compensation should not be delayed or endangered by the insertion into Price-Anderson legislation of the issue of a new safety oversight organization. The careful balancing of safety and national security necessary in considering the oversight issue should be undertaken separately.

I also understand that an amendment may be offered that would make the United States liable for claims above $7 billion and pay them out of the Judgment Fund administered by the U.S. Treasury. This amendment not only would undermine long-established rules governing liability under the Federal Tort Claims Act, it also would subject the Government to liability for the actions of private parties who are not acting at the Government's direction. In the unlikely event that an accident occurs involving damage in excess of $7 billion, Congress should tailor a compensation program based on a full review of the facts and circumstances at the time of a nuclear accident.

It is also my understanding that a subrogation amendment may be offered. I would oppose vigorously such an amendment, which would discourage and compromise the working relationships between the Department and its contractors. These contractors engage in special working relationships with the Department to operate Government-owned facilities that are vital to our national security. These relationships are founded on an understanding that the interests of the Department and its contractors are largely inseparable.

Current and potential contractors have indicated a new level of uncertainty about the risks and costs of entering into contracts with the Department. These contractors are concerned with the possible inclusion of broad subrogation provisions in the contract. I firmly believe that including such provisions would jeopardize the availability of future contractors and thus threaten the Department's ability to carry out its national defense responsibilities. Although three contractors have acccepted a limited subrogation provision in indemnification agreements entered into with the Department since Price-Anderson "expired" last August, these provisions are substantially less burdensome than the subrogation provisions that have been proposed in legislative amendments.

Finally, as the Department of Energy and the Department of Justice have previously stated, we are opposed to any provision that would further subject the Government to liability by permitting suits against the Secretary of Energy as if he were a contractor. The issue of Government liability is a sensitive one and the balance between providing compensation in tort cases while enabling the Government to perform its duties freely was struck long ago in the Federal Tort Claims Act. Changing the rules of Government liability would represent a major departure from existing law, upsetting well established principles that have governed this area of law for years.

It is my hope that the Price-Anderson Act, which was passed to enable the orderly development of nuclear power and ensure its availability for research and national security needs, can be reauthorized. I could not support, however, counterproductive provisions that would discourage contractors from operating facilities that are critical to the national interest, or provisions that would upset the basic institutional framework of Price-Anderson which has served the Nation well for decades. Therefore, I would recommend disapproval of legislation that included the proposed amendments I have described in this letter.

Yours truly,

JOHN S. HERRINGTON.

DEPARTMENT OF ENERGY,
Washington, DC, February 12, 1988.

Hon. QUENTIN N. BURDICK,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of February 9, 1988, requesting the Department's views with respect to an amendment to Price-Anderson legislation that would designate federal funds as the exclusive source of payment for claims arising from an accident at a contractor-operated facility.

I appreciate the interest you have expressed in this matter. In the Department's view, however, an amendment of the nature described in your letter would merely reaffirm a provision already contained in H.R. 1414, the legislation to be used as the Senate floor vehicle. Section 4 of H.R. 1414 specifically provides that the Department shall indemnify its contractors to the full extent of their liability under Price-Anderson. Accordingly, the amendment described in your letter would not alter or enhance the quality of Price-Anderson coverage for Department contractors.

In our view, the legislation in its current form offers an acceptable package for the reathorization of the Price-Anderson Act, and we believe strongly that the legislation should be passed without further amendment. Attaching amendments in an effort to reshape this legislation on the Senate floor could delay unnecessarily the passage of this important legislation and raise concerns that could undermine the widespread support which has brought work on this bill so close to completion. We remain hopeful that this legislation will be enacted in its current form and look forward to working with the Congress toward this objective.

Sincerely,

THEODORE J. GARRISH,
Assistant Secretary for Nuclear Energy.

Mr. McCLURE. Mr. President, I want to express in very general terms my support for the measure.

Mr. President, I am pleased to join my colleagues, Senators JOHNSTON, BURDICK, STAFFORD, BREAUX, and SIMPSON, in their effort to renew and broaden the Price-Anderson nuclear indemnification system, a system that has served this Nation well over the past 30 years.

The Price-Anderson system provides a unique mechanism for prompt, assured compensation of victims in the event of a catastrophic nuclear accident at any of our commercial nuclear powerplants and at any of the Department of Energy's nuclear facilities. The mechanism embodied in Price-Anderson consists of two elements. The first element is a no-fault insurance scheme, under which the operating entity involved in a nuclear accident accepts all liability for that accident—often referred to as "umbrella coverage." In addition, the operating entity agrees to waive all traditional tort defenses in court settlement of the claims, thus greatly reducing the court's task to that of simply establishing causation and the extent of damages. The second element, the quid pro quo to the operator accepting all liability and waiving his defenses, is a limitation on liability. That limit, however, is set at a relatively high value—and would be substantially augmented under H.R. 1414—due to the pooling of premiums by all commercial nuclear powerplants, or, in the case of DOE facilities, by a broad Federal indemnity provision.

Imagine, if you will, what such a system could bring to victims of other, nonnuclear disasters, had Congress chosen to address in advance the type of mass tort disaster claims that we are now experiencing in other industries. Imagine what it could have saved in both time and legal fees in the settlement of agent orange claims, now in 7 years of litigation, or the Manville asbestos claims, 6 years of litigation with the company now bankrupt, or the Dalcon Shield cases—again, with the company in chapter 11, and no claims paid out to date—or even in the Bhopal disaster, where the litigation route could take 10 to 15 years, and Union Carbide will defend itself to the maximum. In all these cases, the victims are likely to win a very hollow victory. After years of litigation and endless legal fees, very little in real compensation will be paid to claimants after the corporate coffers have dried up, or bankruptcy is declared.

Imagine, if you will, how much such a liability insurance system would enhance the ability of this Nation to clean up its toxic waste sites and its asbestos-laden buildings, if contractors doing such thankless jobs knew beforehand the exact nature of their liability risk during and after such cleanup. But as it is, such a system is not in place in these high-risk endeavors aside from self-insurance. As a result, very few companies are willing to undertake these tasks in today's litigious, "deep-pockets" mentality, tort system.

If I have got your attention now, let me take a moment to explain how the nuclear industry might survive without Price-Anderson. Excuse me—"might" is the wrong word—for the nuclear industry is and will continue to survive quite well without Price-Anderson, which has, in fact, already expired. The present Price-Anderson Act expired on August 1 of last year, yet the commercial nuclear industry is still indemnified up to $700 million, using the pooling and private insurance authorities that are grandfathered in price-Anderson. The Department of Energy has turned to other statutory authority, Public Law 85-804, to indemnify its contractors in the renewal of four major contracts since last August—contracts for Los Alamos, Lawrence Livermore, Brookhaven, and the Nevada test site. While the alternative provisions of Public Law 85-804 may be quite adequate from the contractors' perspective, let me assure my colleagues that these provisions are far inferior to Price-Anderson from the perspective of timely victims' compensation, as anyone familiar with the Federal Tort Claims Act would agree.

So, I say to my colleagues, do not be misled into believing that we are spending time these next several days defending the renewal of Price-Anderson for the sake of the nuclear industry. What we are really doing, in taking up H.R. 1414, is renewing and augmenting Price-Anderson for the sake of the potential victims who would seek timely relief in the event of a catastrophic nuclear accident. From the victims' perspective, H.R. 1414 does an admirable job. The amount of money made available to victims under H.R. 1414 increases over

10-fold compared to the present Price-Anderson scheme. If we enact this piece of legislation, $7 billion, indexed for inflation, will be made readily available to victims of a catastrophic nuclear incident at a nuclear power plant, or at a Department of Energy nuclear facilty, or during the course of disposal of nuclear waste. Furthermore, if claims were to exceed the $7 billion, the President and Congress would step in to provide additional funds.

The House bill, H.R. 1414, is a good bill. It is a realistic and responsible bill. It is one that this body should consider expeditiously so that it can be enacted into law sooner rather than later.

There are some Members who would use this opportunity to tamper with the system, or open up the debate to include discussions not directly relevant to the Price-Anderson compensation scheme. There are even some who would intentionally or not, subvert the entire system for reasons more appropriately tied to a discussion of the "merits" of nuclear power, or the "evils" of nuclear weapons, or the safety or oversight of our nuclear complex. I would say to my fellow colleagues that such discussions do nothing for the victims but compromise their interests.

There is no one in this body more anxious than I am to renew and improve upon the Price-Anderson system. However, if the debate is undermined by issues that wind up subverting the purpose of Price-Anderson—timely victims' compensation—thus creating a monster out of the Price-Anderson system, I would rather see us drop the legislation. From a victim's compensation perspective, I would hope that we can keep the debate on track.

Mr. President, I ask unanimous consent that a letter from Secretary Herrington to Senator JOHNSTON, dated February 18, 1988, concerning reauthorization of Price-Anderson, be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, February 18, 1988.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I understand that the Senate may soon consider H.R. 1414, legislation reauthorizing Price-Anderson liability coverage. The Administration strongly supports H.R. 1414 as passed by the House. I am writing to reaffirm the urgent need for this legislation and to underscore particular concerns the Administration has with certain proposed amendments.

Reauthorization of Price-Anderson is critical to the future availability of nuclear power as an energy supply option for this country and is vital to continued private sector participation in government-sponsored research and national defense activities. It ensures that in the unlikely event of an accident, victims will be compensated on a swift and reliable basis, providing the financial protection that is essential if nuclear power is to play its crucial role in the areas of energy security and national defense.

I am concerned, however, that amendments may be offered that would compromise these objectives by attempting to address issues unrelated to the underlying thrust of the Price-Anderson Act.

One area of special concern involves safety oversight of the Department's atomic energy defense facilities. I fully appreciate the importance of ensuring the safe operation of these facilities. Through recent experience with outside oversight panels, the Department has demonstrated the value of such bodies in accomplishing this purpose. As a result of this experience, and in response to a recommendation of the panel from the National Academy of Sciences, I recently established a continuing oversight organization, the Advisory Committee on Nuclear Facility Safety. The Committee will provide the Department with valuable independent safety advice and will contribute significantly to the safe operation of these sensitive facilities. Because of the recent establishment of this advisory body, the creation of another safety oversight body is unnecessary. The new panel should be given an opportunity to fulfill its responsibilities. Moreover, consideration of independent oversight is outside the scope of Price-Anderson objectives. Renewing this system of swift compensation should not be delayed or endangered by the insertion into Price-Anderson legislation of the issue of a new safety oversight organization. The careful balancing of safety and national security necessary in considering the oversight issue should be undertaken separately.

I also understand that an amendment may be offered that would make the United States liable for claims above $7 billion and pay them out of the Judgment Fund administered by the U.S. Treasury. This amendment not only would undermine long-established rules governing liability under the Federal Tort Claims Act, it also would subject the Government to liability for the actions of private parties who are not acting at the Government's direction. In the unlikely event that an accident occurs involving damage in excess of $7 billion, Congress should tailor a compensation program based on a full review of the facts and circumstances at the time of a nuclear accident.

It is also my understanding that a subrogation amendment may be offered. I would oppose vigorously such an amendment, which would discourage and compromise the working relationships between the Department and its contractors. These contractors engage in special working relationships with the Department to operate Government-owned facilities that are vital to our national security. These relationships are founded on an understanding that the interests of the Department and its contractors are largely inseparable.

Current and potential contractors have indicated a new level of uncertainty about the risks and costs of entering into contracts with the Department. These contractors are concerned with the possible inclusion of broad subrogation provisions in the contract. I firmly believe that including such provisions would jeopardize the availability of future contractors and thus threaten the Department's ability to carry out its national defense responsibilities. Although three contractors have accepted a limited subrogation provision in indemnification agreements entered into with the Department since Price-Anderson "expired" last August, these provisions are substantially less burdensome than the subrogation provisions that have been proposed in legislative amendments.

Finally, as the Department of Energy and the Department of Justice have previously stated, we are opposed to any provision that would further subject the Government to liability by permitting suits against the Secretary of Energy as if he were a contractor. The issue of Government liability is a sensitive one and the balance between providing compensation in tort cases while enabling the Government to perform its duties freely was struck long ago in the Federal Tort Claims Act. Changing the rules of Government liability would represent a major departure from existing law, upsetting well established principles that have governed this area of law for years.

It is my hope that the Price-Anderson Act, which was passed to enable the orderly development of nuclear power and ensure its availability for research and national security needs, can be reauthorized. I could not support, however, counterproductive provisions that would discourage contractors from operating facilities that are critical to the national interest, or provisions that would upset the basic institutional framework of Price-Anderson which has served the Nation well for decades. Therefore, I would recommend disapproval of legislation that included the proposed amendments I have described in this letter.

Yours truly,

JOHN S. HERRINGTON.

Mr. BURDICK. Mr. President, today the Senate is beginning its consideration of H.R. 1414, the Price-Anderson Amendments Act of 1987. The Price-Anderson Act establishes a method for determining compensation and liability in the event of a nuclear accident.

The act covers nuclear accidents arising from activities at commercial nuclear powerplants and from activities involving Department of Energy contractors.

The act's authority to cover new activities expired on August 1, 1987. Activities that are now covered will continue to be covered under existing law, but no new NRC licensees and no new DOE contractors will be covered. It is important to extend the authority of the act so that these new activities also will be covered.

It also is important to extend the act so that the improvements in the various Price-Anderson bills before the Senate can be applied to existing activities. I hope that many of these improvements will be incorporated into the final legislation.

To understand where we are today, it is helpful to briefly review the history of the Price-Anderson Act.

The Price-Anderson Act was first enacted in 1957. At the time the commercial marketplace had little experience with the use of nuclear materials. Persons wishing to participate in nuclear activities could not obtain adequate private insurance for the risks of this new technology. They were reluctant to participate in these activities without adequate insurance for these risks.

Accordingly, in order to remove the deterrent of potentially catastrophic liability to persons interested in nuclear activities, the Congress passed the Price-Anderson Act.

The act has three main features.

First, it limited the liability of nuclear licensees and contractors to the sum of $500 million plus the amount of private insurance that was available.

Second, it provided up to $500 million of Federal indemnity. This Federal indemnity was to be provided for liability in excess of the amount of private insurance that was required. In 1957, $60 million of private insurance was available.

Third, the act channeled all liability to the indemnity party. No matter who is actually responsible for damages arising from the accident, the indemnified person is considered to be the liable party. The liability limit and the source of funds provided by the act then apply to this channeled liability.

Congress anticipated that more private insurance would become available with more nuclear experience. The authority under the original act was, therefore, set to expire in 10 years.

However, the lack of adequate private insurance remained a problem.

Thus, in 1966, Congress extended the act for another 10 years. At this time Congress added the "waiver of defense" provision, which applies in the event of a large accident—what the act calls an "extraordinary nuclear occurrence," or "ENO."

In the event of a large accident—or ENO—this provision requires the persons indemnified by the act to waive all defenses related to fault of the claimant or of the persons indemnified. It would not matter who was at fault for the claimant to recover. Basically, a person injured in a major accident would need to prove only that the accident caused the damages and the amount of damages in order to recover. For small accidents, recovery would still be determined according to the normal rules of State tort law.

Thus, today, the act also provides major benefits to the public. The channeling of liability, the waiver of defenses, and a specified source of funds would make it easier for a claimant to recover in the event of a large accident than if normal tort law applied.

These substantial benefits to both the public and nuclear activity participants provide good reasons to reauthorize the act.

In the 1975 extension Congress added the retrospective premium system.

This system was designed to replace the $500 million of Federal indemnity for large commercial reactors with a pool of funds to be provided by the persons licensed to operate those commercial reactors. Government funds would no longer be needed for a commercial accident.

Under this retrospective premium system, after an accident at any reactor with damages greater than the amount of private insurance available, the operator of each large reactor would be required to contribute up to $5 million to cover public liability.

The limit on liability is set at the total amount available from retrospective premiums and private insurance, or $560 million, whichever is greater. When the 80th large commercial reactor was licensed in 1982 the Federal indemnity was eliminated.

With $400 million available from retrospective premiums, and $160 million from private insurance, a total of $560 million—the minimum amount of the liability limit—was available for public liability.

Today, there are 112 reactors.

Thus, with each operator of these 112 reactors contributing $5 million, or $560 million in total, plus $160 million in private insurance, $720 million would be available to compensate victims of an accident. Liability is limited to this amount.

The act contains a pledge by Congress to do whatever is necessary if damages exceed the limit.

Mr. President, the bill before the Senate, the House bill—makes several important improvements to existing law. I would like to note some of these now.

The first is an increase in the amount of the premium to be paid by each utility after an accident, and a corresponding increase in the limit on liability. The bill increases the maximum premium per reactor from $5 million to $63 million.

No more than $10 million per reactor must be paid in any 1 year. Thus, the full premium would be paid in about 6 years. With 112 reactors in the pool, approximately $7 billion would be available for public liability after an accident.

This is about a tenfold increase over the amount available under current law.

The House bill provides that the liability limit and corresponding amount of Federal indemnity for activities of DOE contractors be raised to this amount also.

The increase in the retrospective premiums is justified for several reasons. First, it is justified by available estimates of the potential consequences of a commercial nuclear accident, which, it must be admitted, are by nature quite speculative.

No one can say for sure how much an accident may cost, or how unlikely one is. Nonetheless, these estimates can indicate some sort of level of funding it might be wise to specify in advance of the accident in order to cover the most possible of these unlikely events.

The General Accounting Office [GAO] calculated that the average damages for the worst catastrophic nuclear powerplant accident could range from $67 million to $15.5 billion. On the basis of these figures the GAO concluded that the liability limit should be raised.

The increase in the retrospective premiums is also justified by the ability of nuclear utilities protected by the act to assume a greater financial responsibility for an accident arising out of activities at commercial nuclear powerplants.

The nuclear industry is in a better financial condition than ever before to pay these retrospective premiums. In 1983 the Nuclear Regulatory Commission concluded that a $10 million annual premium would be affordable to the nuclear utilities.

These findings led the House to increase the maximum premium per reactor to $10 million per year for 6 years. Similarly, on this basis the Environment and Public Works Committee increased the premium per reactor to $12 million per year for 5 years.

The ability of the nuclear utilities to pay a greater share of the costs of an accident is not the only factor supporting this increase. It also is fair that the nuclear utilities should assume a greater burden for the costs of a commercial nuclear accident.

The costs of an accident should be borne primarily by and shared by the beneficiaries of the activities that create the risk of that accident rather than by the victim. The costs of an accident should be considered no less than a cost of doing business. At the same time, however, the House bill maintains a limit for the liability of nuclear utilities. A limit on liability of the nonresponsible utilities is necessary as a matter of equity. These utilities would not be responsible for the accident. They are not the only beneficiaries of nuclear activities. They should not be the only ones to bear the full costs of an accident.

The House bill, like current law, has a provision indicating congressional intent to compensate damages in excess of the limit. The House bill states that if damages exceed the limit, then Congress will take whatever action is necessary to provide full and prompt compensation for all damages arising from the accident.

Unfortunately, this statement of intent by Congress is nonbinding. It provides no legal rights to any compensation above the utility limit. The courthouse doors would be closed to victims who did not get in early. Some persons would have legal rights to full compensation and others would have no rights to any compensation.

It is unfair to make the unlucky victims bear the full costs of an accident arising from nuclear activities, while some of those who benefited from those activities are relieved of all legal responsibility to contribute toward those costs.

On behalf of the Environment and Public Works Committee, Senator BREAUX will offer an amendment to strengthen the commitment to full compensation that already is in the House bill, and to more equitably distribute the full costs of an accident.

I urge my colleagues to support this important amendment when it is offered.

Mr. President, the House bill contains other important improvements and changes from current law. I hope that these will be adopted too.

Mr. President, I would like to explain why the vehicle we are using for consideration of this issue is the House bill. The reason for this is that two Senate committees reported different versions of this legislation. We compromised on this vehicle so that the Senate can now consider this issue. We did not wish jurisdictional disputes to hold up the bill any further.

Nonetheless, I feel confident in saying that the Environment and Public Works Committee still strongly supports provisions such as those in our committee bill that provide a more certain commitment to full compensation than the one in the House bill.

We therefore still intend to offer an amendment to this House bill that will provide a stronger commitment to full compensation.

In sum, Mr. President, this legislation provides substantial protections to the public. It also enables persons to continue to participate in nuclear activities.

It is time for the Congress to reauthorize this legislation.

I urge the Senate to support this bill and the amendments our committee will offer.

As is frequently our practice in the Committee on Environment and Public Works, I am pleased to designate Senator BREAUX as floor manager for our committee. Senator BREAUX is the chairman of our Nuclear Regulation Subcommittee. He has done an excellent job in developing this legislation and deserves the privilege of managing the bill on the committee's behalf.

Thank you.

Mr. SIMPSON. Mr. President, I have just a few brief remarks that I should like to make about the legislation currently before the Senate. The bill now before us for consideration represents the culmination of nearly 3 years of effort, beginning back in 1985 when the Senate Environment and Public Works Committee and the Senate Energy and Natural Resources Committee embarked upon our effort to reauthorize and amend the Price-Anderson system for compensating victims in the event of a nuclear accident involving either Department of Energy contractors or Nuclear Regulatory Commission licensees. We have held extensive hearings and heard from numerous witnesses. The legislation has been crafted in an effort to come up with a responsible, effective, and efficient system for compensating claimants in the unlikely event of a catastrophic nuclear accident.

My colleagues who have preceded me with their remarks have done an excellent job of summarizing the effort that has gone into this initiative and the substance of the legislation currently before us for consideration and, accordingly, I will not repeat what has already been said. Suffice it to say, however, that I think the bill before us represents a sound program for achieving the objectives that I think we all share. On the NRC licensee issues, I want to commend my fine subcommittee chairman, Senator BREAUX, for his effort in bringing forward this bill—the first major nuclear initiative from the subcommittee since he has been responsible for shepherding.

There are two additional points that I should like to emphasize. First, the Price-Anderson Act expired in August 1987—and the House of Representatives sent us a bill extending the act in July of last year. I trust that because of the urgency associated with extending this legislation—and the need to reconcile our differences with the House after we finish our work here—that we will be able to move forward with dispatch in processing this bill, and any amendments that Members might wish to offer. We have much work ahead of us, before we send a bill to the President.

Second, I just want to emphasize that my good colleagues on the Energy Committee—where they have focused with great care on the DOE contractor issues—have been a pleasure to work with as we have sought to reconcile our committee's two positions, and our ability to get this bill to this point is, I think, a testament to the good faith efforts on both sides of the aisle in that regard.

I thank you Mr. President, and I yield the floor.

Mr. BREAUX. Mr. President, today, the Senate has an opportunity to take action which will significantly improve the protections afforded our citizens from the hazards associated with this Nation's nuclear program. We will seize this opportunity if we vote to reauthorize and amend the so-called Price-Anderson Act.

For the benefit of those Members who do not serve on either the Environment and Public Works Committee or the Energy and Natural Resource Committee of the Senate, it should be remembered that the Congress first enacted Price-Anderson in 1957, as section 170 of the Atomic Energy Act, in an effort to promote the emerging nuclear power industry and protect those citizens who might live in the vicinity of a civilian or Government nuclear facility. The law was designed to strike a delicate balance between the concerns of electric utilities and equipment manufacturers, who were reluctant to risk having their companies wiped out by the huge damage claims that could follow a major accident, if one ever occurred, and citizens living near one of these technological innovations, who personally risked the consequences of such an accident.

The original statute limited the accident liability of, and provided Federal indemnification for, companies entering the nuclear business. This was felt to be necessary as insurance companies, who could not predict the likelihood of nuclear accidents, would not provide coverage. The law was extended and revised in 1965 and 1975. It should be noted that the act expired on August 1, 1987.

Existing law requires all nuclear utilities to carry the maximum available private liability insurance, currently $160 million per reactor. If public damages from an accident exceed this primary layer of compensation, then each licensed reactor with more than 100 megawatts of rated capacity must contribute a one-time payment, a retrospective premium, of up to $5 million to cover additional claims. The retrospective premium makes up what is referred to as the "secondary layer" of Price-Anderson damage compensation.

With 112 reactors meeting the Price-Anderson threshold for premium payments, as of March 1, 1988, the nuclear power industry's liability limit for an accident stands at $720 million—$5 million multiplied by 112, plus $160 million.

In return for receiving a limit on their potential liability payments, Price-Anderson requires nuclear utilities to accept sole responsibility—rather than reactor manufacturers, for example—for public damages caused by a nuclear plant accident.

In addition, nuclear utilities must waive certain legal defenses if an accident is determined by the Nuclear Regulatory Commission to involve dangerous off-site radiation, an extraordinary nuclear occurrence—or ENO. Victims of an ENO, therefore, would not have to prove, in seeking compensation, that a utility was negligent in allowing the radiation release. They would, however, have to prove that an incident caused their damages, as well as the amount of those damages.

If public damages from a commercial reactor accident exceed the industry's $720 million liability limit, the act currently states that Congress will take whatever additional action is necessary to protect the public from the consequences of the accident.

During the debate over the Price-Anderson reauthorization during the 99th Congress, and again this year during the 100th Congress, much of the attention has focused on the liability limits contained in the statute and the means for ensuring accident victims that they will be made whole, what is often referred to as the third tier of liability. Many witnesses testifying before our subcommittee argued that the current limits, in conjunction with what amounts to a commitment by the present Congress that a future Congress will address the situation and provide compensation to the victims of an ENO, do not provide adequate assurances of full compensation to victims. Some cited the Soviet Chernobyl accident as an example of the widespread off-site radiation contamination for which current limits would not adequately cover all damages. It was also argued that such limits constitute an unfair Federal subsidy for nuclear power by relieving the industry of full responsibility for the technology's dangers.

Other participants in the debate argued that the framework of Price-Anderson ensures swift compensation to victims of an accident. In particular, representatives of current U.S. insurance pools, that provide the first tier of Price-Anderson private insurance, argued rather persuasively that unlimited liability proposals would destroy the market for such insurance and create unwieldy mass tort situations in the event of an accident that would slow, if not undermine, compensation to victims.

The Subcommittee on Nuclear Regulation, which I chair, held our hearings on April 30 of last year, at which time we received testimony on a number of legislative proposals. As a result of those hearings, I requested the staff to attempt to put together a markup vehicle that provided the necessary certainty to the industry and its insurers, so that the existing Price-Anderson framework, which usefully channels liability and allows for the development of a private insurance market, could be maintained.

At the same time, however, I wanted the bill to go beyond previous efforts in the area of certainty to victims of an ENO event, ensuring, to the maximum extent possible within the Price-Anderson framework, that they would be made whole for their damages. Finally, I believed that it would be useful to set forth the procedures under which Congress would be able to maintain the flexibility I think is necessary to respond to any unanticipated deficiencies in the Price-Anderson system that might become apparent in the wake of such an accident. The result was the development of the bill that was unanimously reported by the Environment and Public Works Committee on November 12, 1987 (S. 1865, S. Rept. 100-218).

As reported by the Environment and Public Works Committee, S. 1865 contains the following major provisions.

First, commercial reactor liability—the first and second tier:

The first layer of protection would remain as in existing law, that is, the maximum amount of available private liability insurance—$160 million. Retrospective premiums would total up to $60 million per reactor, with payments to be made in annual installments of not more than $12 million. Given 112 licensed reactors as of March 1, 1988, the industry's liability, in the event of an accident, would total $6.88 billion—$160 million in primary and $6.72 billion in secondary (112 plants times $60 million) coverage. As reported by the committee, the bill directs the NRC to adjust the amount of this standard deferred premium to reflect changes in the gross national product deflator. The bill also allows the NRC to borrow up to the industry's overall liability limit, including interest, to pay immediate compensation, although the borrowing would require Congressional approval. Obviously, the borrowed funds would be repaid when retrospective premiums were collected from the nuclear utilities.

Second, third tier compensation:

As I previously indicated, Mr. President, our committee was unsatisfied with the current laws approach to the provision of compensation over and above the industry's liability limit. Thus, while we favored retention of the Price-Anderson system, including liability limits for utilities and the so-called channeling features of the act, we were determined to find a fair and equitable means of ensuring that the victims of an ENO were not left without an identifiable means of receiving compensation.

I believe we accomplished that goal by requiring the Nuclear Regulatory Commission to enter into indemnity contracts with its licensees for all public liability that might result from an accident at a nuclear powerplant; by establishing clear limits on the liability of the licensee; and by susbstituting the United States for the licensee in actions for damages above the liability limits of the licensee.

Additional compensation under the committee bill would be provided as a result of the Government making good on these unlimited indemnity agreements. The bill reported from our committee set forth the general rule that, in the absence of congressional action, this commitment to make the victims of an ENO whole will be satisfied through the judgment appropriation. However, we were very careful in spelling out the procedures by which Congress could exercise discretion and either identify a different source of funds, if a court had already awarded damages, or even establish a different procedure for providing compensation and adjudicating damage claims if no such court actions had ensued.

Speaking for myself, the bill reported by the committee contained the following judgment about the policy direction we should take in our reauthorization effort:

First, true unlimited liability, that is, normal tort liability, it not good policy because it either forecloses the nuclear option in this Nation's energy policy, or, it leaves the potential victims of a nuclear accident holding the bag, to put it crassly. In the event of an accident at a plant, the utility in question would surely find itself in bankruptcy and no source of funds would be available for compensation. Moreover, any insurance protection that is now available would simply not exist.

Second, a variation on unlimited liability, such as the proposal that all utilities kick in a predetermined amount of money until all judgments have been satisfied, seems to me to raise questions of equity as to those utilities and ratepayers who would be subject to the potential for unlimited payments meant to redress the harm done by some other utility whose plant was involved in an accident;

Third, in the event of the truly large catastrophe, one which far exceeds our imagination, Congress simply must be able to avail itself of the opportunity to review the situation and consider alternative methods of providing compensation; and

Fourth, a mere promise by this Congress that a future Congress will take action to provide victims with compensation is just not adequate.

I am well aware that the method by which our committee chose to accomplish these policy objectives and goals has raised a number of issues that some have taken objection to. Indeed, in the discussions that have been taking place over the past couple of months, it became evident that any effort to pursue the provisions adopted by our committee would bring about Budget Act points of order and were we to press our point, the passage of Price-Anderson could well be threatened.

Having said that, Mr. President, I must confess that for a time I felt that we should press our position. It seems to me that there are valid reasons for waiving the Budget Act, as its rules regarding entitlements and contract authority run in the opposite direction of what the policy behind the Price-Anderson compensation system has been since its original enactment in 1957. Indeed, as will become evident shortly, the bill that is now the pending business of the Senate is in violation of the Budget Act; amendments that the managers, including myself, hope will be adopted today violate the Budget Act; indeed, the original Price-Anderson bill violates the Budget Act.

Notwithstanding our desire to press ahead, Mr. President, we reluctantly determined that compromise was the better part of valor. And to that end, we have modified our so-called third tier in a manner that fully addresses all of the objections that had been lodged against our original position.

Mr. President, a few comments are probably in order concerning the floor vehicle. H.R. 1414 passed the House of Representatives on July 30, 1987, by a vote of 396-17. It has been determined by the leadership of both the Environment and Public Works Committee and the Energy and Natural Resources Committee that using H.R. 1414 as the starting point for the debate here in the Senate is the best means of reconciling the differences between our two bills, particularly in light of the fact that the environment bill focused on Price-Anderson coverage for NRC licensees and the Energy bill focused on Price-Anderson coverage for DOE contractors.

In addition, with the exception of the third tier compensation issue, the House bill's approach to many of the Price-Anderson issues that we addressed in the Environment and Public Works Committee is satisfactory. In particular, both the House and the Environment Committee bills:

Raise the financial protection requirements for nuclear utilities to roughly $7 billion;

Clarify the ability of the NRC to borrow funds when the retrospective premiums are not being collected fast enough to satisfy valid claims;

Provide for an inflation adjustment to the retrospective premium;

Clarify the applicability of Price-Anderson coverage to those DOE contractors conducting activities funded by the Nuclear Waste Fund;

Provide for a court review of legal costs;

Reform the current statute of limitations;

Clarify that punitive damages may not be awarded where such an award would result in the payment of such damages by the Federal Government; and

Establish a Presidential Commission that will study and provide recommendations to the Congress on the best means for ensuring full compensation to the victims of a nuclear accident.

Mr. President, as far as I know, with a couple of limited exceptions, the amendments that we are currently aware of are modestly noncontroversial. Mr. President, on this bill, I think everyone can be a winner and I look forward to expeditious action on the bill.

AMENDMENT NO. 1664

(Purpose: To impose civil and criminal penalties for violations of Department of Energy regulations)

Mr. JOHNSTON. Mr. President, on behalf of myself and the distinguished Senator from Ohio, Mr. METZENBAUM, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON), for himself and Mr. METZENBAUM, proposes an amendment numbered 1664.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 39, between lines 2 and 3, insert the following:

CIVIL PENALTIES

SEC. 17. The Atomic Energy Act of 1954, as amended, is further amended by adding a new section 234A as follows:

"Section 234A. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF DEPARTMENT OF ENERGY REGULATIONS.—a. Any person who has entered into an agreement of indemnification under subsection 170 d. (or any subcontractor or supplier thereto) who violates (or whose employee violates) any rule, regulation or order related to nuclear safety prescribed or issued by the Secretary of Energy pursuant to this Act (or expressly incorporated by reference by the Secretary for purposes of nuclear safety) shall be subject to appropriate enforcement action or a civil penalty of not to exceed $100,000 for each such violation. If any violation under this subsection is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty.

"b. (1) The Secretary shall have the power to compromise, modify or remit, with or without conditions, such civil penalties and to prescribe regulations as he may deem necessary to implement this section.

"(2) In determining the amount of any civil penalty under this subsection, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

"c. (1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within thirty days after the date of receipt of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

"(2)(A) Unless an election is made within thirty calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

"(B) Any person against whom a penalty is assessed under this paragraph may, within sixty calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

"(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty, by order, after the date of the receipt of the notice under paragraph (1) of the proposed penalty.

"(B) If the civil penalty has not been paid within sixty calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

"(C) Any election to have this paragraph apply may not be revoked except with consent of the Secretary.

"(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3), the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

"d. The provisions of this section shall not apply to:

"(1) The University of Chicago (and any subcontractors or suppliers thereto) for activities associated with Argonne National Laboratory;

"(2) The University of California (and any subcontractors or suppliers thereto) for activities associated with Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Lawrence Berkeley National Laboratory;

"(3) American Telephone and Telegraph Technologies, Inc. (and any subcontractors or suppliers thereto) for activities associated with Sandia National Laboratory;

"(4) Universities Research Association, Inc. (and any subcontractors or suppliers thereto) for activities associated with FERMI National Laboratory;

"(5) Princeton University (and any subcontractors or suppliers thereto) for activities associated with Princeton Plasma Physics Laboratory;

"(6) The Associated Universities, Inc. (and any subcontractors or suppliers thereto) for activities associated with the Brookhaven National Laboratory; and

"(7) Battelle Memorial Institute (and any subcontractors or suppliers thereto) for activities associated with Pacific Northwest Laboratory.".

CRIMINAL PENALTIES

SEC. 18. Section 223 of the Atomic Energy Act of 1954, as amended, is further amended by adding a new subsection c. as follows:

"c. Any individual director, officer or employee of a person indemnified under an agreement of indemnification under section 170 d. (or of a subcontractor or supplier thereto) who, by act or omission, knowingly and willfully violates or causes to be violated any section of this Act or any nuclear safety-related rule, regulation or order issued thereunder by the Secretary of Energy (or expressly incorporated by reference by the Secretary for purposes of nuclear safety), which violation results in or, if undetected, would have resulted in a nuclear incident as defined in subsection 11 q. shall, upon conviction, be subject to a fine of not more than $25,000, or to imprisonment not to exceed two years, or both. If the conviction is for a violation committed after the first conviction under this subsection, punishment shall be a fine of not more than $50,000, or imprisonment for not more than five years, or both.".

On page 39, line 3, strike "SEC. 17." and insert "SEC. 19.".

Mr. JOHNSTON. Mr. President, I send a modification to the desk and ask that the amendment be so modified.

The ACTING PRESIDENT pro tempore. The Senator has a right to modify the amendment. The amendment is so modified.

The modification is as follows:

On page 2, line 5, strike the word "safety", and insert "safety, except that the Secretary shall not incorporate by reference any rule, regulation, or order issued by the Secretary of Transportation.)"

On page 6, line 16, strike the word "safety", and insert "safety, except that the Secretary shall not incorporate by reference any rule, regulation, or order issued by the Secretary of Transportation.)"

Mr. JOHNSTON. Mr. President, the latest modification is an agreement among all of the affected committees in order to provide that the Secretary of Energy would not enforce the Department of Transportation standards. As thus modified, Mr. President, this amendment provides language with respect to civil penalties for nuclear contractors.

To step back for just a moment and inform our colleagues what this matter is about, we are dealing with the Price-Anderson Act. Price-Anderson provides for the protection of the public and indemnification of contractors operating the Department of Energy's nuclear facilities and utilities who operate nuclear powerplants. First with regard to nuclear contractors, those are contractors who deal with the nuclear fuel cycle from enrichment of uranium to the fabrication of nuclear weapons to research, to all of those activities undertaken by the Government in the name of national defense.

There is also another distinct and separate part of Price-Anderson and that relates to civilian nuclear plants to provide for the protection of the public.

The amendment at issue at the present time relates only to the part that concerns DOE contractors. In the Committee on Energy and Natural Resources, which has jurisdiction over the DOE contractors, there was a raging debate over whether or not contractors should be criminally liable in the case of gross negligence, should be civilly liable in the case of gross negligence, should be assessed fines in the case of gross negligence, or whether there should be a right of subrogation by the Government against those contractors.

We went round and round, Mr. President, in the Committee on Energy and Natural Resources, on what were the appropriate standards. On the one hand we wanted to make it difficult enough so that, in the case of gross negligence, contractors would exercise the highest degree of care.

On the other hand, we wanted to balance that with the fact that if penalties were made too severe, if liability was made too great, that we would, in effect, drive out of the business the best and most responsible of the contractors, leaving, in effect, fly-by-night people to run the most sensitive, most important national defense facilities in the whole country.

So what we came up with, Mr. President, is the amendment now pending. It provides for civil, monetary penalties for violations of Department of Energy regulations and those penalties are set at a maximum of $100,000 per violation, or for a violation that extends beyond 1 day, it can be $100,000 per day.

In determining the amount of the civil penalty, Mr. President, the Secretary is admonished to take into account the nature, circumstances, extent and gravity of the violation and the ability to pay with respect to the violator, the effect on his ability to do business, any history of prior violations, the degree of culpability, and other matters that justice may require.

There also is an appeal to the court where the penalty can be reversed or modified or amended.

So, Mr. President, this amendment, which came out of the Energy and Natural Resources Committee, is being offered by Senator METZENBAUM and I to provide these penalties which were not provided in the House bill and we hope our colleagues will go along with this. We hope unanimously because it represents a good balance between not driving the good contractors out of business on the one hand and yet providing a severe enough penalty. After all, $100,000 per day is a tremendous penalty and we think it is sufficient to ensure that their conduct will be of the very highest order of care.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, first, I want to confirm that which was stated by the chairman of the committee. When this matter came up, it was a question of whether or not we start with the House bill that provides no responsibilities at all in connection with the contractors, or whether we go to the Energy Committee bill, which provides some responsibilities but not nearly enough, in the minds of the Senator from Ohio as well as 12 other Members of the Senate. We will be prepared at a later point to offer an amendment indicating the extent to which we believe that the responsibility should go.

The language, as Senator JOHNSTON has correctly stated it, is identical to that which was adopted by the Senate committee when the bill was reported last June. Frankly, we did deliberate for weeks over contractor penalty provisions. We finally settled on this language, although at points we had gone to a much greater extent and talked more specifically about what the contractor's liability should be.

This amendment allows but does not require the Secretary of Energy to assess fines of up to $100,000 a day on contractors who violate safety rules. These fines are entirely discretionary on the part of the Secretary.

It also subjects contractor employees to criminal penalties for knowing and willfull violations of safety rules. These criminal penalties cannot exceed fines of $25,000 and/or 2 years of imprisonment for the first conviction, and $50,000 and/or 5 years' imprisonment for any subsequent conviction.

Frankly, the penalties are minimal; not to say criminal penalties could not, in the ordinary course of events, be significant. But they are minimal as far as the reality of the world in which we live. They provide some leverage for the Department of Energy to seek compliance with its safety rules. I agree with the Senator from Louisiana that the amendment should be accepted and at a subsequent point, on behalf of myself and others, I will offer another amendment having to do with the whole issue of contractor liability.

Mr. McCLURE. Mr. President, I think there does not need to be an extensive discussion about the provisions of this amendment. I believe everyone understands what its provisions are. It has been well explained already.

I would ask for the yeas and nays on the adoption of the amendment.

The ACTING PRESIDENT pro tempore. The yeas and nays have already been ordered.

Mr. McCLURE. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I ask unanimous consent to proceed for not more than 5 minutes as if in morning business.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. JOHNSTON. I wonder if the Senator would let us get this vote out of the way. There are reasons we want to get it out of the way at this time.

Mr. HEINZ. I can be less than 5 minutes.

Mr. JOHNSTON. We are afraid that there might be other amendments if we wait.

Mr. McCLURE. We do not want amendments to the amendment.

Mr. JOHNSTON. I certainly want to accommodate my dear friend from Pennsylvania——

Mr. HEINZ. Would the Senator endeavor to have me recognized after the vote?

Mr. JOHNSTON. Yes, indeed.

Mr. HEINZ. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Is there further debate? If not, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON I announce that the Senator from New Jersey [Mr. Bradley], the Senator from Tennessee [Mr. Gore], and the Senator from Illinois [Mr. Simon], are necessarily absent. Are absent on official business.

I also announce that the Senator from Delaware [Mr. Biden] and the Senator from Hawaii [Mr. Matsunaga], are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. Hatch], is necessarily absent.

The PRESIDING OFFICER (Mr. Reid). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 54 Leg.]

YEAS—94

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—6

Biden
Bradley
Gore
Hatch
Matsunaga
Simon

So the amendment (No. 1664), as modified, was agreed to.

Mr. BYRD. Mr. President, I hope that Senators will be prepared to call up their amendments.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. The Senate will have to close down its business today around 6 p.m. because of an event across town. Yesterday was the Ides of March.

The Democrats have an appointment this evening which will require their presence elsewhere at 6 p.m. I hope in the meantime we can make as much progress as possible on this legislation. I hope also that we can wind it up today. But Senators need to be ready with their amendments.

May I take this moment also to caution Senators, I note that certain Senators on both sides are habitually getting in the door just at the time when the 15 minutes are up. Now, they are going to get caught. It is not my business if they miss a vote, but I want to do all I can to urge Senators to get started earlier because we are not holding these votes. This first vote this morning was held longer because of a misunderstanding on the part of Senators who felt it was going to be a 30-minute rollcall vote, and it turned out to be the Sergeant at Arms vote. That is my fault. I left that misimpression. I want to caution Senators that we are not holding votes any longer, and we are not going back to the old ways.

So I would suggest they get here on time. I said my piece now, and I yield the floor.

Mr. METZENBAUM and Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I ask unanimous consent to proceed as if in morning business not to exceed 5 minutes.

Mr. BYRD. Mr. President, I will not object, but I have already indicated this is going to be a relatively short day, having to close off at 6 o'clock. Senators have come here, come to make the rollcall votes. Senators are here ready to do business, and we just simply are not going to stop and start having morning business now while we have this legislation going.

I would suggest that Senators take a minute and put their statements in the Record because it breaks the momentum here. Senators leave the floor, and then we have to have other rollcalls and quorum calls.

Mr. HEINZ. If the majority leader would yield, I attempted to do this earlier. I withheld my remarks earlier to accommodate the Senator from Louisiana who asked me to speak at this time.

Mr. BYRD. How much time does the Senator need?

Mr. HEINZ. Not more than 5 minutes.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, would the Senator from Pennsylvania be good enough to let me lay down my amendment, and then I will yield the floor?

Mr. HEINZ. I certainly will be pleased to do that.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 1665

(Purpose: To require recovery of funds paid by the United States to a Federal contractor indemnified if such person was guilty of gross negligence or willful misconduct)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk on behalf of myself, Mr. Adams, Mr. Humphrey, Mr. Durenberger, Mr. Proxmire, Mr. Hatfield, Mr. Leahy, Mr. Stafford, Mr. Bumpers, Mr. Sanford, Mr. Reid, Mr. Kerry, and Mr. Biden, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. Metzenbaum], for himself and Mr. Adams, Mr. Humphrey, Mr. Durenberger, Mr. Proxmire, Mr. Hatfield, Mr. Leahy, Mr. Stafford, Mr. Bumpers, Mr. Sanford, Mr. Reid, Mr. Kerry, and Mr. Biden, proposes an amendment numbered 1665.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 3, strike out the quotation marks and the second period, and insert in lieu thereof the following: "(8)(A) Notwithstanding any other provision of this subsection, with respect to a nuclear incident arising from contractual activities for the purpose of—

"(i) the physical production, processing, fabricating, testing, or manufacturing of defense nuclear materials or weapons;

"(ii) the enrichment of uranium; and

"(iii) activities related directly to the storage, disposal, and transportation of high level or transuranic nuclear waste,

subsequent to a nuclear incident or precautionary evacuation covered by an indemnity agreement entered into pursuant to this subsection, the Attorney General of the United States shall commence an action on behalf of the United States to recover from persons indemnified that portion of any funds paid, pursuant to an indemnification agreement entered into under this subsection, for public liability arising from gross negligence or willful misconduct of persons indemnified, provided that no funds recovered shall exceed the value of the contract, or the aggregate liability limit pursuant to subsection 170d, and further provided that no funds may be recovered from any university.

"(B) Nothing in this paragraph shall affect the contractual obligation of the Secretary to make full and prompt payment to a contractor pursuant to any existing indemnification agreement.

"(C) The waiver of any defenses for public compensation in accordance with paragraph (1)(B)(i)(II) shall not limit the rights of indemnified parties to raise any defense in a subsequent suit brought by the Attorney General pursuant to this section."

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for up to 5 minutes.

Mr. HEINZ. I thank my colleagues and the majority leader.

(The remarks of Mr. HEINZ are printed later in today's RECORD.)

Mr. PROXMIRE. Mr. President, I rise in support of the Metzenbaum amendment which would allow the U.S. Government to recover from its contractors any indemnifications paid for nuclear accidents resulting from contractors' gross negligence or willful misconduct. Such payment is limited to the value of the contract and includes nuclear weapons manufacture and testing, uranium enrichment and the storage, disposal and transportation of nuclear waste. It does not include university contracts.

Now, why do I support this amendment? The answer is simple. In no other instance does the U.S. Government immunize its contractors against their intentional misconduct or gross negligence. While no such actions have yet resulted in the kinds of accidents that produce Price-Anderson claims, this may be due as much to good luck as to the safe operation of Government facilities.

According to the GAO, the Department of Energy's nuclear contracting activities are "potentially one of the more dangerous industrial operations in the world." But under both existing law and this bill almost 100 million dollars' worth of contracts per year are removed from even the minimal requirements dictated by common sense. The Department of Energy currently has no way of punishing contractors who mismanage its facilities, so it comes as no surprise that these facilities have serious safety problems.

Would requiring contractor subrogation kill industry's incentive to make these kinds of contracts with the U.S. Government? The answer is "No." Since the Price-Anderson Act expired last summer several new contracts were signed between DOE and the nuclear industry without the kind of immunity this bill provides.

Opponents of this amendment claim that most contractors get involved in the Nation's nuclear program solely out of a sense of patriotism and not for any profit motive. Thus, these public spirited enterprises should not be expected to meet the standards we require for other kinds of contracts. Yet, just this January, even after Price-Anderson had expired, 93 interested parties showed up at an informational meeting at the Department of Energy on taking over the management of the Savannah River plant. Obviously, contractors find these contracts attractive.

Mr. President, what do we mean by gross negligence in our amendment? Isn't it a vague term that would introduce uncertainty into the nuclear program? The fact is that nothing could be further from the truth. Gross negligence is a venerable legal concept, defined in Prosser's Law of Torts as the failure to exercise even that level of care which a careless person would use. Do we want to protect contractors from that minimal standard? Even worse, indemnification of contractors may result in shielding from liability even criminals and terrorists who divert nuclear materials or sabotage plants since damages from willful misconduct would be covered by the Department of Energy.

Finally, Mr. President, opponents of this amendment have mistakenly claimed that this amendment would delay payment of compensation to those injured. The amendment does not work that way. Instead, the subrogation takes place after claims are paid.

I urge my colleagues to support this amendment and vote for the common sense protections consistent with our legal tradition.

I congratulate the Senator from Ohio for offering the amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, we adopted a bill I believe unanimously. That is the bill that came out of the Energy Committee, and it is a first step. But civil and criminal penalties, frankly, do not create meaningful safety incentives. They are completely discretionary under the bill as it stands before us now.

Given the extensive failures by DOE to adequately monitor and control contractor activities affecting public health and safety, it is unlikely that these penalties would provide a sufficient safety incentive. That is the reason 13 of us have offered an amendment that is before the body at this moment.

Similar civil penalties are imposed by the Nuclear Regulatory Commission on commercial nuclear powerplants, but they have not deterred carelessness.

Since enactment of Price-Anderson in 1957, contractors operating DOE's nuclear weapons facilities have been totally absolved of any financial responsibility for accidents at these sites.

In other words, contractors are completely indemnified from any liability associated with their DOE contracts.

The Federal Treasury—under the law at the moment and under the law as it would be under this bill—picks up the tab for all costs related to an accident at a DOE facility.

Our amendment would change that. It makes DOE contractors liable for the costs of an accident caused by the contractor's gross negligence or willful misconduct.

When I offered a stronger amendment in the Energy Committee, I am frank to say that it lost by only one vote. Subsequently we have modified that amendment to respond to concerns that have been raised.

First, this amendment exempts universities from any liability.

Second, this amendment limits contractor liability to the contract's fee award—that is, the profit on the contract. That is, our amendment as it presently stands goes to the question of the total amount of the contract but nothing beyond that. It is my understanding before very long the distinguished Senator from Arkansas will offer an amendment to limit it to the contractor's actual fee.

That means that a contractor under this amendment which we are prepared to accept would only stand to lose his potential profit from the contract. No corporate assets would be put at risk by our amendment as amended by the Bumpers amendment.

I believe that this amendment is eminently reasonable. It makes contractors liable only for accidents resulting from intentionally unsafe behavior and total disregard for safety standards.

Why do we need this amendment? There are two very basic reasons.

First, it creates a financial incentive for safety. I have long believed that unless we hold contractors accountable for accidents caused by their own negligence or willful misconduct, there is absolutely no incentive for them to operate their facilities as safely as possible.

And before we conclude our discussion in connection with this amendment, I will read into the RECORD excerpts from editorials throughout the country that have advocated just that position.

As long as DOE contractors are completely shielded from financial penalty for irresponsible behavior, there is no reason to expect them to improve the terrible safety record at DOE facilities. And let there be no doubt about it—that safety record is atrocious.

Last October, the well-respected National Academy of Sciences released a highly critical report on safety at DOE's weapons facilities.

That report cited inadequate attention to safety on the part of the contractors and DOE.

I have here 10 recent reports by the General Accounting Office which are critical of health and safety at DOE facilities. There are more.

I have here 10 recent reports by the General Accounting Office which are critical of health and safety at Department of Energy facilities, 10 separate reports. Members of the Senate, there are more available. Here are a few of the titles of these reports:

June 1986,"Safety Analysis Reviews for DOE's Defense Facilities Can be Improved."

September 1986, "Environmental Issues at DOE's Nuclear Defense Facilities."

August 1981, "Better Oversight Needed for Safety and Health Activities at DOE's Nuclear Facilities."

September 1981, "Congress Should Increase Financial Protection to the Public From Accidents at DOE Nuclear Operations."

July 1980, "Department of Energy's Safety and Health Program for Enrichment Plant Workers Is Not Adequately Implemented."

November 1983, "DOE's Safety and Health Oversight Program at Nuclear Facilities Could Be Strengthened."

December 1985, "Environment and Workers Could Be Better Protected at Ohio Defense Plants."

March 1986, "Department of Energy's Waste Disposal Plan Needs Revision."

Those are just a few among many critical GAO studies.

The second purpose of this amendment is to protect the Federal Treasury. We talk all the time about balancing the budget, and how we are going to protect the public. But without this amendment the American taxpayers will bear the costs of an accident even if it is caused by a contractor's intentional misconduct or gross negligence.

Let me repeat that. Without this amendment, the American taxpayers will bear the costs of an accident even if it is caused by a contractors intentional misconduct or a gross negligence. It is not right to tell the American taxpayers that their tax dollars are to be used to bail out a corporation that has behaved irresponsibly just because that company happens to hold a Department of Energy contract.

Time after time we talk about the need to run our Nation's fiscal affairs like a business. I do not believe any business person would enter a contract which indemnifies the supplier even in the event of gross negligence or willful misconduct.

It is illogical to think that any business person would do that. Yet, that is what the Federal Government does, and that is what the issue is all about that is before us today.

Also, consider the fact that no other Federal contractors have the blanket protection enjoyed by DOE contractors, not even Defense Department contractors who engage in extremely dangerous and risky activities. Defense contractors do not get the protection. These nuclear contractors do have that kind of protection.

Why should DOE contractors be given such singular, special treatment? There is no rational explanation for this exception. None whatsoever. Yet, there are some who are unwilling to change this ludicrous situation. Why?

Because the companies holding DOE contracts do not want their cozy arrangement changed. They have been walking the Halls of this body, trying to convince everybody that somehow nobody is going to accept these contracts if you give them any sort of responsibility. That is absurd. Every day of the week, people in business expose themselves to some liability. They buy insurance in some instances, and in some instances they accept the liability themselves, but they strive to see to it that accidents do not occur.

The reason why you find the lobbyists making the calls and walking the halls of Senators' offices is that they have the sweetheart deal of the century. Why shouldn't they resist change? Listen to this: A senior vice president of EG&G, which was recently awarded the management and operating contract for the Mound facility in Ohio, was quoted in September as saying: "You have nothing at risk, the Government provides everything, so the return on investment on that kind of business is essentially infinite."

Is that not unbelievable? He says it is a sweetheart deal, a perfect deal: "You have no risk, and you know you're going to make money."

When the Energy Committee considered this measure, the contractors came to the Hill claiming they would never be able to operate these contracts if exposed to a dollar of liability.

They pleadingly told committee members that they would simply walk away from the whole business "if my amendment were adopted." They threatened that no contractors would be willing to operate the Nation's defense production facilities.

Letters from the industry were sent to members of the Senate Energy Committee during markup.

One letter, from the American Nuclear Energy Council, states:

> The inclusion of subrogation, limitations of indemnity, civil penalties, or additional criminal penalties on DOE contractors will force those companies doing business with the Government to reassess their ability to continue those relationships.
>
> Many companies with the special expertise needed to operate and manage Government facilities will be unwilling to undertake that additional risk.

They are saying: "If you put this into the law, or if you don't give us the protection we want, nobody will take your contracts."

Well, since that time, their bluff has been called, and their dire predictions have not played out.

Since the Price-Anderson law expired last August, five contracts have been renewed without Price-Anderson's indemnification.

Lo and behold, the contractors did not walk away after all. They renewed their contracts under the indemnification authorities of another law, Public Law 85-804.

That law is used to indemnify defense contractors. And, yes, it does expose contractors to some liability.

And, the fact that Price-Anderson has expired did not daunt 93 companies and universities from expressing interest in taking over the Savannah River contract last month.

The American Nuclear Energy Council said that contractors will walk away and be unwilling to participate, and the fact is that 93 companies and universities submitted proposals to take over the Savannah River contract last month.

It seems clear, beyond the shadow of a doubt, that contractors are not going to abandon lucrative contracts which cost the Federal Government over $100 billion.

In fact, competition for these lucrative contracts will continue.

The fact is, we are not talking about a small number of facilities. There are 280 DOE facilities covered by Price-Anderson, located in 20 States. In addition, DOE will soon begin construction of a high-level nuclear waste repository. A temporary, above-ground storage site for nuclear waste may also be built.

Once these waste sites are completed, shipments of waste will begin traveling across our highways and interstates, affecting many other States and endangering the lives and safety of many more Americans.

Very few States will remain unaffected by transportation, and the potential for accidents is enormous. I recently held a public forum in Columbus on the issue of hazardous materials transportation.

I was shocked by the number of accidents which occur daily on our interstates and railways. In 1987 alone, 6,142 accidents occurred in this country involving the transportation of hazardous materials.

The potential for dangerous accidents will skyrocket when DOE begins shipping the Nation's high-level nuclear waste out West for disposal. As early as this fall, DOE will begin shipping waste to the waste isolation pilot plant in New Mexico.

Missourians were outraged last year to learn that DOE was shipping radioactive material from Pennsylvania's Three Mile Island to Idaho, via downtown St. Louis, during rush hour. Four Federal statutes may have been violated.

All it takes is one drunk driver, one careless train operator, and thousands of people could be exposed to radioactive materials.

As if that were not bad enough—the contractor hauling the materials gets off scot-free—he does not pay a dime for the damages he causes.

Do you not think that companies would screen their drivers more carefully and take other precautions if they were liable for damages?

I hope it does not take a major accident to convince people that financial incentives improve safety.

Given the abyssmal safety record at the Department of Energy's current facilties, there is absolutely no reason to believe that transportation and waste storage activities will be any safer.

If DOE will not do its job, other approaches are needed. I believe we must hold contractors directly responsible for accidents caused by their own intentional misconduct or total disregard for safety requirements.

I understand that accidents can happen, but we are not talking about that here. If a contractor is operating in good faith to follow the safety and environmental regulations, he would not be held liable under this amendment.

Frankly, it makes me very uneasy to know that contractors are opposed to this amendment. Are they saying that they might intentionally act irresponsibly, or might be grossly negligent of the rules? If not, what are they afraid of? As far as I am concerned, any contractor troubled by this amendment has no business operating a nuclear facility.

Contractors, in my opinion, should be embarrassed to oppose this amendment.

I say to my colleagues, we have a responsibility to the citizens of this Nation to assure a safe system for the production of nuclear defense materials. It is vital for public safety, and it is vital to the continued viability of the Nation's defense complex.

Given the sad shape of many DOE nuclear facilities throughout the Nation, we must put a premium on safety in the operation of these plants.

I have letters here from more than 20 public interest groups who support this amendment.

Just to name a few: the National Taxpayers' Union, the National Consumers League, the Sierra Club, the Union of Concerned Scientists, the U.S. Public Interest Research Group, Public Citizen, Rural Coalition, the Nuclear Information and Resource Service, the National Resouces Defense Council, the National Insurance Consumers Organization, and many others.

Mr. President, I urge my colleagues to support this amendment. It is right, it is fair, and it is in the interest of the taxpayers of this Nation.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. METZENBAUM. I do indeed.

Mr. JOHNSTON. Mr. President, the Senator's amendment says that there would be the right to go against persons indemnified in the case of gross or willful negligence.

My question is, who are the persons referred to? Is that a corporation?

Mr. METZENBAUM. That is the contractor.

Mr. JOHNSTON. The Senator is talking about a corporation?

Mr. METZENBAUM. Yes.

Mr. JOHNSTON. Now, would a corporation that was safe and careful as far as the corporation itself was concerned be liable for sabotage intentionally created by an employee?

Mr. METZENBAUM. In my opinion, absolutely not.

Mr. JOHNSTON. Would it be liable for, let us say, a drunk employee if it had no knowledge or reason to suspect that the employees were drunk?

Mr. METZENBAUM. In my opinion, the answer is no.

Mr. JOHNSTON. So that the only negligence which the corporation would be liable for is that created how, by the corporation itself?

Mr. METZENBAUM. Let us assume this. Let us assume that the corporation has had an employee who has been drunk on the job time and time again and they let that employee stay on the job, knowing that he may again be drunk, and that employee then causes a major accident or a minor accident. That I think very well might be so determined, although I do not believe that the Senator and I on the floor of the U.S. Senate can determine what is gross negligence or willful misconduct, that being a term of art as the Senator knows and I know as a lawyer. But I think it will take something more than mere negligence and we give the Attorney General the authority to enforce the matter.

The Senator must understand, this is not John Smith or Peter Jones who is coming in and bringing the action.

Mr. JOHNSTON. I understand that.

Mr. METZENBAUM. John Smith and Peter Jones already have collected the money. So it is only the Attorney General who says based on these facts it appears there was gross negligence or willful misconduct.

Mr. JOHNSTON. I understand.

Mr. SPECTER. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. SPECTER. Will the Senator yield for a question?

Mr. METZENBAUM. I yield for a question.

Mr. SPECTER. When the Senator from Ohio makes the distinction between negligence and gross negligence, the Senator from Ohio is stating that the indemnification ought to apply to a company which is guilty only of ordinary negligence. Is that correct?

Mr. METZENBAUM. The indemnification and the right of the Attorney General to bring an action would not be present if there were only casual negligence, that type of thing. The Attorney General would first make a determination as to whether or not there was gross negligence or willful misconduct and, if so, the Attorney General would assert a claim against the defense contractor.

Mr. SPECTER. So if there is negligence or ordinary negligence, the Attorney General could not assert a claim for subrogation.

Mr. METZENBAUM. The Senator from Pennsylvania is correct.

Mr. SPECTER. What is the definition that the Senator from Ohio would seek to apply to gross negligence?

Mr. METZENBAUM. The Senator from Pennsylvania is an excellent lawyer. He practiced law and so did the Senator from Ohio as well as the Senator from Louisiana. And we all know that the courts have time and time and time again defined gross negligence in a totally different manner than mere negligence and if you go to the annotations, you can find gross negligence defined time and time again. The courts have said that certain kinds of conduct is gross negligence. They have also said that certain kinds of conduct is not gross negligence but mere negligence.

According to Prosser & Keeton on the Law of Torts, gross negligence is defined as a failure to exercise even that care which a careless person would use, and gross negligence and willful misconduct, as the Senator well knows, are both very, very well-accepted terms of art in the legal profession.

Mr. SPECTER. The followup question I have of the Senator from Ohio involves the risk factor which a contractor is going to undertake as to what a jury might find on the definition between ordinary negligence and gross negligence.

The Senator from Ohio defines gross negligence as failure to exercise even that care which a careless person would exercise.

Mr. METZENBAUM. I did not define it that way. That is Prosser & Keeton on the Law of Torts.

Mr. SPECTER. I thought the Senator from Ohio had adopted that definition.

Mr. METZENBAUM. Let me say I think that is one definition but, as I earlier said to my friend from Pennsylvania, you can find a host of definitions in the law on this issue. It is not a new subject to those of us who practiced law, and the whole question of what is gross negligence and what is not has been defined time and time again by the courts. I am certain that before the Attorney General would see fit to make a claim he and the members of his team would look into the facts to determine whether or not there was enough gross negligence or willful misconduct to assert that claim.

Mr. SPECTER. Does the Senator from Ohio believe that contractors would not undertake these kinds of contracts if they were liable for ordinary negligence?

Mr. METZENBAUM. I think that could be or could not be. I am not certain, because I think this——

Mr. SPECTER. The Senator——

Mr. METZENBAUM. Let me just finish. I think that contractors probably would be far less inclined to accept contracts if they were to be held liable for orindary negligence, although it is only fair to point out that the whole corporate world operates today with responsibility for ordinary negligence. What we are trying to say here is to provide for a higher degree of responsibility, in other words, a higher degree of proof being necessary in order for the Attorney General to assert the subrogation right.

Mr. SPECTER. Implicit in what the Senator has said is that the contractor ought not to be liable for ordinary negligence. The Senator is seeking to allow the Attorney General to elect against a contractor only where there is more than ordinary negligence, where there is gross negligence or intentional misconduct. So is it not true that the Senator from Ohio is accepting the proposition that a contractor ought not to be liable if the contractor is guilty of only ordinary negligence?

Mr. METZENBAUM. The Senator from Ohio tried to be practical on the floor of the U.S. Senate and the Senator from Ohio is a realist enough to understand that there is considerable opposition even to this amendment that provides for responsibility only when there is gross negligence or willful misconduct.

If the Senator from Pennsylvania thinks that the votes are present in order to hold the contractors responsible for just plain ordinary negligence, which is the usual standard as far as liability is concerned, the Senator from Ohio has no quarrel with it. But the fact is the Senator from Ohio is trying to get this amendment adopted and, therefore, has tried to be compromising.

As I have already indicated, the liability, in my opinion, could extend to hundreds of millions of dollars up to $7 billion, as a matter of fact, from the Federal Government. But the fact is that under this bill and our amendment, there is no effort to hold the contractor responsible for an amount up to $7 billion. And, as I have already stated, the amendment, as presently drafted, would provide that the contractor would be responsible for the total amount of the contract. But I have also indicated that the distinguished Senator from Arkansas will, at some point, offer an amendment to hold the contractor responsible to the extent of the contractor's actual fee. So that if the fee is $4 million on a contract involving $103 million, the contractor would only be held responsible for $4 million. And even that I am concerned will be opposed by my distinguished friends who are managing the bill.

Mr. SPECTER. My followup question goes to the distinction between ordinary negligence and gross negligence which is at the heart of the amendment by the Senator from Ohio.

Mr. METZENBAUM. No.

Mr. SPECTER. If I may finish my question.

Mr. METZENBAUM. Are you saying the distinction——

Mr. SPECTER. If I may finish my question. The answer which the distinguished Senator from Ohio gave on other issues in addition to the definition of ordinary negligence and gross negligence go to different matters, but this Senator fails to see how there is a public policy objective where the definition of ordinary negligence and gross negligence is so vague and indecisive. When the distinguished Senator from Ohio refers to experience in the courtroom, his and mine, where an issue is submitted to a jury as to the degree of negligence to be imposed, whether it is failure to exercise ordinary care, which is the definition of ordinary negligence, or whether it is the failure to exercise even that care which a careless person would exercise, these are not ironclad legal definitions. They are subject to the vagaries of a given factual situation and as to what a jury may impose.

So my question to the distinguished Senator from Ohio is: If you are willing to exonerate a contractor for ordinary negligence, which is implicit in the bill and the Senator's amendment, and the conclusion is rendered that you have to give exoneration for ordinary negligence, why does the Senator from Ohio feel that contractors would be willing to enter into contracts safe only from ordinary negligence when the standard is so vague that a jury may impose on the standard of gross negligence which the Senator has advanced?

Mr. METZENBAUM. I have to say to my distinguished colleague that I believe that you are into the area of Tweedledee and Tweedledum, because I think what you are saying is: "Look, it is fine what you are doing, but why don't you go further? Why don't you try to hold them responsible for ordinary negligence?"

Let me tell you others have adopted the position of the Senator from Ohio. Let me read to you from the Philadelphia Inquirer, a paper with which you are familiar.

> Congress should also hold utilities and defense contractors liable for the full cost of an accident if it is the result of gross negligence. Such an amendment is fundamental to protecting the public.

The point that I make is I do not take issue with the Senator. I think the contractor ought to be responsible for its negligence. But I do not believe that I have a ghost of a chance of getting that amendment through on the floor of the U.S. Senate. And if, after my amendment is adopted, and hopefully with the support of the Senator from Pennsylvania, he sees fit to go further with it, I will be very happy to support that. I think the contractor should be responsible for ordinary negligence. But, realistically speaking, with this host of editorials that have come out in support of this amendment, I would say to you that most of them have indicated their support for responsibility in the event of gross negligence.

Mr. SPECTER. My final question, in terms of the response of the Senator from Ohio to the question posed by the Senator from Louisiana, you stated that you would not impose gross negligence on the corporation from gross negligence on the part of the employee or on the corporation for drunkenness of an employee unless the corporation was on notice that the employee had been drunk on many occasions in the past. Is the Senator from Ohio saying that vicarious liability does not attach here, that if the servant in the master-servant relationship or the employee in the employee-employer relationship, if the actor employee is guilty of gross negligence or intentional misconduct or wrongdoing that the employer is not responsible?

Mr. METZENBAUM. I think that that would be an issue for the courts to determine as to whether or not the agency responsibility on the part of the corporation would be present when an individual employee was guilty of gross negligence or willful misconduct. But I do not believe that we can resolve that legal issue here on the floor of the U.S. Senate. I think you are now addressing yourself to a matter that would first have to be determined by the Attorney General and then have to be determined, if it were contested, by the courts.

Mr. SPECTER. Well, is the Senator saying that the law the Congress establishes does not hold a corporation responsible for the gross negligence or intentional misconduct of an employee? That is a question of law. That is not a question for the Attorney General.

Mr. METZENBAUM. I think that is a question of law. I have answered the Senator from Louisiana as to what my views are.

But I am frank to say that my views are purely personal when it comes to interpreting a legal question and that we can make laws here but we cannot make legal interpretations as to what the courts are going to decide.

Mr. SPECTER. Well, as the sponsor of the amendment, it would seem to me the legislative intent is very important as to what the prosper of this amendment is offering.

I thank the Senator.

(Mr. WIRTH assumed the chair.)

Mr. JOHNSTON. Mr. President, April Fool is fast approaching and it is appropriate, considering this amendment.

Mr. President, this amendment is a problem in search of a solution. Really, what it does, it substitutes a problem for a solution.

The Price-Anderson Act has been one of the most successful acts that this Congress has passed. In 30 years, Mr. President, there has been only $1.5 million in claims. There have been $1.5 million in claims under the Price-Anderson Act and those have been paid quickly and without having to get over all the common law defenses of contributory negligence, assumption of the risk, et cetera.

Now in place of that, Mr. President, my friend from Ohio wishes to put in a whole scheme which will, first of all, delay tremendously the access to not only the courts but access to recovery of injured parties; will, second, drive away the best of our nuclear contractors; third, will, in effect, make an uninsurable risk on these Government contractors and do so in an area, Mr. President, where there is no record of gross negligence, there is no record of a problem.

The only problem here, Mr. President, is we ourselves. That is to say the responsibility lies with the Federal Government, with the Department of Energy, and ultimately with the Congress. The Department of Energy owns what we call Government owned contractor operated facilities, who provides the rules and the means of operations of these GOCO's. It is our problem. It is not the nuclear contractors'.

Let me explain.

First of all, Mr. President, we are dealing with the most sensitive, most important function of Government that we have; that is our nuclear weapons complex. And the Government contractors here involved are involved in the whole nuclear fuel cycle, the enrichment of uranium, the manufacture of plutonium and tritium, the research and development of weapons, the testing of those weapons, the fabrication of those weapons. In fact, Mr. President, every step of the way in the most important national defense functions we have are being dealt with by this amendment.

What the Senator from Ohio would do is to create an uninsurable risk. That is the whole point of his amendment, to create an uninsurable risk. Because, after all, there is no point in doing it if the risk in insurable, because then the costs would just be passed along to the Federal Government. If you are going to pass along the costs to the Federal Government, why put in a profit to the insurance company since they are going to pay anyway?

So the intent here is to create an uninsurable risk. Does it create that risk evenly among contractors? No, it does not. The amount of the risk would vary according to the fee. Mr. BUMPERS has an amendment that says it limits it to the contract award fee. I assume if they do not have a contract award fee, then the limit is $7 billion.

So, Mr. President, with respect to the Sandia Corp., which is a subsidiary of AT&T Technologies, the amount of the liability, since they have no fee, would be, I suppose, $7 billion.

Now, I ask my colleagues, Mr. President, do they think that AT&T Technologies, which makes no fee running the Sandia Laboratory, dealing with research and fabrication on nuclear weapons, is going to be willing to risk $7 billion in order to provide the most essential advice that this Government has? Seven billion dollars, Mr. President? Why, of course they are not going to do that, and they have said just as much.

The distinguished Senator from Ohio says that, well, there are some contractors who have been willing to put in a bid on some other facilities. Maybe so. Maybe not. Why did they do it? Well, some of those who put in bids think that the Congress is going to pass Price-Anderson, and so they think that we would not be so foolish as to do this. I do not know why they did and who they are and what the amount is. I can tell you that Sandia has no fee.

Mr. METZENBAUM. Would the Senator yield for a question?

Mr. JOHNSTON. Yes.

Mr. METZENBAUM. Is the Senator aware of the fact that under the Bumpers amendment which I am prepared to accept, there would be no liability on the part of AT&T? There is no basis at all because they get no fee. Under the Bumpers amendment the extent of the liability would be the amount of the fee and, therefore, they would not be liable at all.

If that needs clarification I am very willing to work with the Senator from Louisiana to see that it is clarified. I do not know where one gets the $7 billion?

Mr. JOHNSTON. I would tell my friend from Ohio, in the first place I was not able to get a copy of this amendment until this morning. In the second place, I was assured there would only be one amendment. Now I am told that there is a Bumpers amendment to that amendment. And now when I read the Bumpers amendment——

Mr. METZENBAUM. The Bumpers amendment only modifies the amendment of the 13 Senators.

Mr. JOHNSTON. I understand, but I am just alerting my colleagues to the way we are doing business here, which is very haphazard. You want to know how it reads? Here is the way it will read if we adopt the Bumpers amendment, which has not yet been put in.

It says that "No funds recovered shall exceed the contract award fee or the aggregate liability limit pursuant to section 170(d)," which is $7 billion.

Now, where there is no contract award fee, then it seems to me this very plainly says the amount will be equal to the limit of liability under section 170(d), which is $7 billion.

Mr. METZENBAUM. If that is the only problem of the Senator from Louisiana we will work it out. We will clarify it. We do not want to hold AT&T liable for $7 billion.

Mr. JOHNSTON. What do you do where there is not a contract award fee or management fees? Other kinds of fees? The Senator has not thought of that either.

Mr. President, this was not considered in committee in these terms. We considered other amendments in committee which were rejected. But we did not consider this in committee. Mr. President, the most sensitive, most important functions of this whole Government—national defense and, specifically, nuclear weapons. All of us have differing feelings about nuclear weapons. Some think we have too many. Some think we have not enough. But I think most Senators are not ready to scrap our whole policy of deterrence based upon nuclear weapons. And when we are dealing with something of that importance and of that sensitivity, it makes no sense to be drafting up handwritten amendments that call for $7 billion liability. Maybe you can fix it. I do not know. But the problem is it is like taking your finger out of one part of the dike in order to plug a leak in another: You create other problems.

In any event, Mr. President, if what the Senator from Ohio says is so, if it is not $7 billion but it is zero, then where is the logic in that? Where is the logic of saying that some of these contracts have liability of $7 billion, others might have liability of $18 million. Here is one fee of $18 billion. Where is the logic of it? There is no logic.

The logic is that we want to punish nuclear contractors; that somehow, nuclear contractors have done something wrong.

Well, Mr. President, where is the record of that? There is no evidence of that presented before our committee.

Oh, I have read articles from time to time. The Senator from Ohio sent me some article in the Washington Post about some faults of DOE and said is it not therefore plain that we have to be able to hold nuclear contractors liable?

Well, Mr. President, DOE does a lot of things wrong; most of those things that they do wrong, they do wrong because we do not provide the money.

I can tell you the cleanup cost for nuclear matters for the Department of Energy runs into the multi-tens-of-billions of dollars. And I can tell you this Congress is not going to put up that kind of money. Not in this session, I do not believe; even though we should.

Now, you could go all around the country and look at the aging nuclear facilities. The total cost I have heard estimated of upgrading those nuclear facilities is $100 billion. That includes enrichment facilities to fabrication facilities, weapons production, testing. The total cost could run in the neighborhood of $100 billion.

Maybe I am off by a factor of 50 percent. Let us say it is $50 billion. There is where the fault lies. These GOCO's, Government-owned contractor-operated plants, are in fact owned by the Federal Government. The regulations are put out by DOE. The regulations are enforced by DOE. And these contractors are simply acting under DOE.

Now, DOE is the one that ought to be punished, if we are going to punish someone, we are going to hold them liable. It is not the contractors that have caused the problem.

As I say, in 30 years of the Price-Anderson Act we have only $1.5 million that has been paid.

Mr. President, would this amendment create any problem? Well, in the first place, the President has indicated he would veto the bill if we had this kind of amendment, and well he should. And, if we do not have a Price-Anderson Act, you are going to have a lot of companies that are not going to bid.

GE has already withheld its bid from the dynamic isotope power systems project. They have indicated that they would not renew their contract to operate the Knolls atomic power lab, a research lab involving a contract of over $1 billion.

On a GE weapons facilities at Pinellas, a $625 million contract, they have already indicated they would not rebid for the contract.

There may be some companies that are willing to do this kind of work with this kind of an amendment. I suspect that they are, and my guess is that they would be, not the giants, not the big ones that have the ability to respond in damages. Instead, they would be what I would call the fly-by-night people, the shell corporations, who would be able to go in and make a bid and get the work but not have the ability to respond and not have the kind of corporate knowledge, not have the degree of expertise, not have what this country needs in terms of its national defense.

Mr. President, I ask my colleagues if they are willing to somehow submerge this question of national defense and the need to get the best contractors; are they also willing to not be concerned about the injured party and what it does to them.

Under the present law and under the proposal which we are submitting concerning an injured party—injured by release of radiation—all they would have to do is come in and prove that they were injured and they would be able to get paid. If they had to go to court, it would be a simple court procedure. There would be no claim of fault. It would be an easy thing to do.

If we adopted this amendment, then, in that case, Mr. President, every contractor and every subcontractor would have to intervene in that litigation because they would have to protect themselves as to the quantum of the award. So what you would tend to have is a very protracted amount of litigation. What you would also have, Mr. President, is a problem involving subcontractors because the subcontractors would all feel the necessity of coming in and intervening in this litigation because they, too, would have to protect themselves against the subrogation by the Federal Government.

So what you would have instead of a quick and easy piece of litigation is you would have a no-fault writ lodged in the case of a major nuclear incident.

Mr. President, I submit this amendment is not bad; it is terrible. This amendment cannot survive as part of this legislation. I can tell my colleagues that.

It is veto bait, if it passed through both Houses, and it ought to be vetoed because with this amendment, this would be worse than nothing.

Mr. President, I implore my colleagues to consider that we are dealing with the national defense here, with the most important functions of national defense, the enrichment of uranium, the manufacture of tritium, plutonium, weapons research, the testing of weapons, the fabrication of those weapons, the manufacture, the whole nuclear fuel cycle, Mr. President, and we are putting in language that is untested. The Senator from Pennsylvania made a very good point. There is no body of law other than that which we call the principle of respondent superior which holds the master corporation liable for the acts of its servants. What we have heard from the Senator from Ohio is some new interpretation where, "Well, the master is not liable for intentional acts unless they knew about it, or they are not liable for plain negligence."

Mr. President, that is not the master-servant relationship under common law. That is not the law that you would read in the handbook on torts. That is some new kind of law. I do not know what it is. The courts would have to create it. It would create this vast cloud of uncertainty.

As a matter of fact, we are uncertain right now as to what amendments are going to be introduced. They are being drawn here on the floor in pen.

I have here the Bumpers amendment, Mr. President. It is written out in handwriting. It has not been offered. We are told it will be offered. I suspect it will be changed since we have pointed out such obvious problems with it.

Is this the way we want to legislate with respect to our national defense, to come here on the floor and draw up some amendments and say, "Well, if that will not do it, we will change it"?

I think not, Mr. President. I hope our colleagues will go along to table this amendment which is very, very bad.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I am sorry to jump in ahead of the Senator from South Carolina. I have been here longer than he has been, at least waiting for recognition. He has been in the Senate longer than I have, of course. If the Senator wants to present his statement, I would be happy to let him proceed, provided I am recognized next.

May I inquire if the remarks of the Senator from South Carolina are brief?

Mr. THURMOND. Just about 4 or 5 minutes.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the Senator from South Carolina be next recognized and that the Senator from New Hampshire follow him without any intervening business.

Mr. THURMOND. Mr. President, I appreciate the consideration of the able Senator from New Hampshire.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. THURMOND. I thank the Senator very much for his kindness.

Mr. President, I rise in strong opposition to the amendment offered by the distinguished Senator from Ohio. Under this amendment, the Attorney General would be required to sue indemnified DOE contractors, in the case of gross negligence, to recover compensation paid by the Government to the public for nuclear accidents. On the surface, this appears to be a desirable change. However, upon closer examination, this amendment represents unwise policy. I say this for several reasons.

Permitting subrogation will undermine the stability of national security activities. Under current law, there exists a special working relationship between the Department of Energy and private contractors who operate DOE defense-related, nuclear facilities. The Department of Energy seeks only those contractors with established histories of competence and excellence.

Mr. President, these contractors perform essential services to the Federal Government, some at little or no profit. For example, the DuPont Co. has operated the Savannah River plant since 1954 for a fee of cost plus one dollar. DuPont has recently notified the Department of Energy that it will not seek to renew its contract to operate this facility. One reason cited by DuPont for not seeking renewal of its contract was the threat that Price-Anderson provisions may not be extended or that an extension might include an amendment like this with its threat to corporate assets.

Mr. President, the Department of Energy is in the process of seeking a new contractor for the Savannah River plant. The passage of this amendment would make renegotiation of the Savannah River contract very difficult. This has grave implications to our national security. The Savannah River plant is engaged in the production of tritium and weapons-grade plutonium, which is vitial to the defense of this country.

If this amendment passes, we run the risk of having no willing contractor to take over the operation of this plant, thus jeopardizing this important national security work. Moreover, over 16,000 jobs at the Savannah River plant would be seriously at risk. Mr. President, I suspect that many other facilities engaged in important security work across the National will likewise be affected.

Mr. President, I understand there is a letter that indicates there will be a veto if this amendment is adopted. I sincerely hope this amendment will not be adopted. It should not be adopted.

As the able Senator from Louisiana, Senator JOHNSTON, just stated, the Price-Anderson law has worked well for years, for years. Why change it?

There is nothing wrong with the way the operation has been conducted. Now, why go into something which is going to cause a serious problem? And this will cause a serious problem. I am telling the Senate now, the adoption of this amendment will be a serious handicap to going forward with our defense work. We must have this tritium; we must have this plutonium. The Savannah River plant is the only plant I know which makes this tritium.

Mr. President, the Energy Department, the Justice Department, and the Department of Defense have all opposed this amendment. I cannot feel that all three of those Departments of the Government would come in and oppose an amendment if they felt it was not important to our country. I repeat, the Energy Department, the Justice Department, and the Department of Defense all oppose this amendment. It is just not good policy.

I urge my colleagues to vote against this amendment and, again, I thank the able Senator from New Hampshire.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I can see the lawyers are having a field day in here today. That is all right. They enjoy it. They are entitled to their fun, but you do not have to be a lawyer to understand simple concepts and principles, and there is an important concept and principle at stake here.

Lawyers were throwing back and forth like a tennis ball the world subrogation. That is a nice lawyerly word. Borrowing the Black's Law Dictionary from the desk of my esteemed neighbor, Senator SPECTER, let us see what subrogation means. It is quite easy to understand. Subrogation is defined as the substitution of one person in the place of another with reference to a lawful claim.

Now what does that mean in this case? With respect to Price-Anderson, it means substituting the taxpayers, holding the taxpayers, if you will, liable for damages caused by negligence on the part of those indemnified by Price-Anderson; that is, those who build and operate and conduct nuclear facilities. That is the simple concept we are talking about here. Relieving fabricators and builders and contractors and operators of nuclear facilities of liability for damages caused by negligence and sticking it to the taxpayers, that is the simple concept here. That is what the substitution is all about. That is what this big word "subrogation" is all about that the lawyers are having fun with today. That is the matter on which Senators should focus.

I disagree with my friend from South Carolina. This is not bad legislation. It ought to be adopted and ought not to be vetoed. We all know it will not. It is going to be modified shortly by an amendment from the Senator from Arkansas to make it more palatable. I wish it could be adopted, frankly, as it is. But as a practical matter, we are willing to settle for something less and something much less, and that is limiting liability to the fees, even if it is a dollar.

So it is going to be a very practical and important amendment when we finally perfect it. Needless to say, the nuclear industry has launched an impressive lobbying effort against the amendment.

All the Senator from Ohio seeks to do is to hold these companies liable and accountable for gross and willful negligence. The taxpayers will still be stuck for damages incurred by virtue of ordinary negligence and, of course, those are matters to be decided by the courts, matters to be defined case by case by the courts.

Why should we not hold these parties in the nuclear industry accountable? There is no good reason, in the view of this Senator, because accountability produces diligence, prudence, and care on the part of the parties who will be held liable and accountable. That is what we want to encourage: diligence and prudence and care. And in what industry is that more important than the nuclear industry? I can think of none.

The Metzenbaum amendment simply allows the U.S. Attorney General to recover compensation costs from a contractor for damages caused by the contractor's gross negligence or willful misconduct. Ultimately, if the Bumpers amendment is adopted, that liability will be limited to the fee. The Government would continue to compensate victims immediately.

What does the Department of Justice have to say about this concept of indemnification?

To quote:

> Indemnification removes the safety incentive created by the tort system. To the extent liability can be passed to the Government—

Referring to the taxpayers—

> neither the contractors nor the insurers have a financial interest in ensuring that a product is designed and made with the safety of the user in mind.

Mr. President, the nuclear industry, by virtue of Price-Anderson, particularly, enjoys special treatment in a number of areas. How can we in Congress, how can we in Government, and how can the American people make the right choices when we disguise the real costs of the various options?

One of the ways we disguise the real costs of various options is to subsidize something or to indemnify parties, which is a kind of subsidy in itself in that it allows the indemnified party to avoid the cost of insurance, one of the real costs of doing business.

It is no wonder we have such a mishmash of energy policy in this country, because if a host of subsidies and indemnifications, which exist in our energy policy—not just the nuclear, let us be honest about that, but all across the board. If we ever hope to rationalize our energy policy, if we ever hope to have an efficient energy policy, one that delivers abundant energy at real costs and obvious costs, then we have to get out of this business of subsidies and indemnifications.

The Metzenbaum amendment makes a small move in that direction, even smaller if the Bumpers perfecting amendment is adopted. I certainly hope it will be adopted for practical reasons. I would prefer the amendment not be amended, but we are not going to succeed in passing it, and, therefore, the Bumpers amendment will be the best we can do under the circumstances.

I would urge my colleagues to consider the concept of the simple principle that is involved here, and that is letting the nuclear industry, in this case, off the hook, sticking the taxpayers with the liability for gross negligence and willful negligence. I thank the Chair.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Colorado.

Mr. WIRTH. Mr. President, the purpose of the Metzenbaum amendment is very simple: It says that if a Department of Energy contractor causes a nuclear incident, the Attorney General could then sue to recover damages from the contractor if the accident was caused by the contractor's gross negligence or willful misconduct. That is a very modest proposal, for several reasons.

First, the amendment specifically says that the Attorney General could only recover from a contractor if that contractor was guilty of gross negligence or willful misconduct. Second, the Attorney General could only recover damages that equal the value of the contract.

This amendment does not threaten the safe management and operation of these facilities. In fact, this amendment would create a strong incentive for enhancing safety and environmental protection at these facilities—where the cost of cleaning up toxic chemicals and hazardous wastes could run as high as $100 billion.

Mr. President, the American taxpayers should not be left holding the bag for compensating victims of an accident that is caused by the contractor's gross negligence or willful misconduct. That is not fair, and it does not make sense.

I hope there is never an accident that injures innocent people who just happen to live near one of these DOE facilities. This amendment would reduce the chances of such an accident. And if there ever is an accident, this amendment takes the very reasonable step of making the contractor bear part of the costs, if that contractor's gross negligence caused the accident.

Mr. President, the amendment before us is not new, as has been suggested by somebody. It is not coming up de novo but, in fact, was discussed at some length in the committee when it was offered by the Senator from Ohio and supported by a number of us.

In that debate, and it was quite an extensive debate, there seemed to me to be one question which was particularly troublesome about the amendment, and that is, would passing the amendment of the Senator from Ohio drive away contractors? That seems to be the nub of much of the opposition here today.

I think that is a perfectly legitimate question to be asked. As we discussed this in the committee, and as the amendment has been modified, and will be further modified by the Senator from Arkansas, it seems to me that that fundamental concern of has been well answered.

There are a number of provisions; there are real protections for contractors in this.

First, as has been discussed, it has to be determined that this is gross negligence, not mere negligence. As has been discussed earlier, this is an issue that the courts deal with all the time. So certainly the distinction between gross negligence and mere negligence is one protection that the contractor has.

Second, the Attorney General, under the amendment offered by the Senator from Ohio, files but the courts decide. There is a long and careful process before liability gets determined.

Third, the contractor's total liability is going to be limited by the value of the contract. If there is a really serious accident, damages would far exceed the value of the contract and still there would be taxpayer responsibility.

So, Mr. President, the first issue and the one that has been much discussed here, would this drive contractors out of the business, it seems to me, has been answered by the fact that the contractors still have a great deal of protection.

There are two other issues that we have been discussing as well. One of those is, should nuclear contractors be treated in a special fashion? And third, is this a solution in search of a problem?

The NRC has responded to the first question, should nuclear contractors be treated in a special fashion? In a 1985 study, the Nuclear Regulatory Commission under this administration said that it was perfectly feasible to hold the industry accountable for its facilities without breaking the industry financially. What is wrong with encouraging cautious policies that put a premium on public health and safety? The Denver Post stated it very well in an editorial of last November 22:

> Broad protection from liability isn't given to other industries. The nuclear industry doesn't need or deserve sweetheart treatment. The Nuclear Regulatory Commission has said it is entirely possible to hold its industry accountable for its facilities without driving it out of business.

The Post went on to say:

> Safety is the primary argument for change. Sheltering nuclear firms from fallout should they ever be guilty of mistakes or carelessness is no incentive for them to avoid mistakes and exercise caution. The way to reinforce emphasis on safety is to make contractors accountable for lack of caution.

So the second issue, should we be treating the nuclear industry different than any other industry, the answer is no. We are not into changing the basic proviso of Price-Anderson that the Federal Government should assume responsibility for potentially catastrophic consequences of a genuine nuclear accident. If there is an earthquake or if there is a tornado, clearly that is an act of God. That is beyond the responsibility that a nuclear contractor has. Such destruction is extremely unlikely and would be so overwhelming it would not be insurable anyway. But the taxpayers should not be stuck with the bills for losses that are caused by a company or an executive's deliberate violation of safety rules or neglect of responsibility.

For example, what we have to do is answer the question, what happens if, when an inspection occurs at a nuclear plant, the nuclear plant does not follow the recommendations of that inspection? And that, we know, has occurred. There have been a variety of nuclear plants inspected. They are told what to do in terms of safety. They are told they have to change valves. They are told they have to do different kinds of inspections for the health of the employees. But the company does nothing. Why are they doing nothing in those situations? Because they do not have any responsibility or accountability for doing so. Why should nuclear contractors be treated differently? They certainly should not be.

If the first issue is, are we going to drive contractors away, and the answer to that is no, we will not, and the second issue is, should nuclear contractors be treated differently, and they should not be, then we are back to the question asked by the chairman of the committee, is this just a solution in search of a problem? Hardly. We have a law that was written 30 years ago, and this law was written in an age of relative innocence. We can all remember as students or young people when there was a hope and a dream for nuclear power; it was remarkably unrealistic, but it was a great dream.

I can remember textbooks that said nuclear power is going to be so cheap that it cannot be metered, and we had a very different view of nuclear weapons plants as well. When the Rocky Flats nuclear weapons plant was originally identified to come to Colorado, it was to be far outside of the city of Denver, and heavy lobbying by the Chamber of Commerce and the Government at that point brought it right outside the city limits of Denver, and there was a joyous headline in the Rocky Mountain News that said, "A-Plant Comes to Denver."

Well, that day and age has come and gone. Our innocence in the area of nuclear plants has gone. We now are facing the stark reality of extraordinary costs in nuclear powerplants and we are facing, more importantly, the stark reality of the near meltdown at Three Mile Island and the disaster at Chernobyl. And we are also facing the fact, as the chairman of the committee pointed out, we have on our hands a rapidly aging plant for the building of nuclear weapons, from Savannah River through the processing plants in Ohio, through the fabrication plant at Rocky Flats, OR, Washington, New Mexico, Texas, a plant that is 30 years old and in need of replacement. It is a $100 billion tab.

We have to get serious about the fact that we are in this aging plant until we get the political will and the ability to go about building a new plant that is absolutely necessary. Until we do that, we are going to have to do everything possible to make the existing plant as safe and sound as possible. That means some investment to shore up the existing plant, but it also means a much greater accountability on the part of the operator of the plant to make it as safe and secure as possible.

This is not a solution in search of a problem. This is a very grave problem, indeed. It is a problem that runs all the way across the country, from Savannah River to Hanford, with a lot of very dangerous stops in between.

This plant, aging and very dangerous to the communities around it, is going to need a lot of help. It needs upgrades right now to make it safer, and it needs greater accountability by contractors to make sure that that plant and the area surrounding it is safe.

The amendment offered by the Senator from Ohio provides a kind of accountability and another check on the safety and soundness of these institutions. That must be done. I hope, in looking at this issue and in listening to this debate, not only will we agree to the amendment offered by the Senator from Ohio but that this debate begins to open the door to the much broader debate we must have as to how are we going to treat this aging weapons complex and where and how soon are we going to find the money to replace it. That must be done and must be done rapidly.

Mr. President, I ask unanimous consent that three articles on this subject be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

NUCLEAR CONTRACTORS SHOULD BE HELD LIABLE WHEN THEY'RE AT FAULT

A recent pact between the feds and the University of California undercuts the case for sheltering nuclear-power providers from liability for accidents. In other words, the case is strengthened for major changes in the Price-Anderson Act.

This 30-year-old legislation sharply restricts liability for accidents at commercial nuclear plants, federal nuclear weapons, research and testing facilities, and in nuclear-waste transportation.

The House voted last summer to renew the measure. When the full Senate takes up the issue in the next several weeks, the recent University of California contract should be a focus of attention.

One change suggested during the House debate would have stripped nuclear contractors—the firms that build or operate nuclear power plants for the Department of Energy—of cushy protection. Currently these firms aren't required to purchase nuclear liability insurance and wouldn't be liable to the public in the event of an accident.

The proposed amendment would have made federal nuclear contractors subject to limited financial responsibility for accidents caused by gross negligence or intentional misconduct. Opponents prevailed by arguing that DOE contractors would abandon nuclear contracts en masse.

But that claim carries less weight in the wake of the new University of California contract. The university operates two nuclear labs, Lawrence Livermore in California and Los Alamos in New Mexico. The new contract exposes DOE to unlimited liability and the university, as the contractor, to potential liability for certain accidents.

Why are similar arrangements unthinkable for other facilities—such as Rocky Flats near Denver, operated by Rockwell International? Senators should ponder that question before acting on a Price-Anderson renewal.

Broad protection from liability isn't given to other industries. The nuclear industry doesn't need or deserve sweetheart treatment. The Nuclear Regulatory Commission has said it is entirely possible to hold the industry accountable for its facilities without driving it out of business.

Safety is the primary argument for change. Sheltering nuclear firms from fallout should they ever be guilty of mistakes or carelessness is no incentive for them to avoid mistakes and exercise caution. The way to reinforce emphasis on safety is to make contractors accountable for lack of caution.

[From the Rocky Mountain News, July 6, 1987]

NUCLEAR INDUSTRY MATURE ENOUGH TO BE RESPONSIBLE FOR ITS ACTIONS

The liability shield that guards the nuclear power industry endangers the country as a whole. This summer Congress has an opportunity to put that situation right, and provide protection to those who really deserve it—the American people. Failure to do so would be a serious public disservice.

At issue is the Price-Anderson Act, a 30-year-old measure that sharply restricts liability for accidents at commercial nuclear plants, federal nuclear weapons, research and testing facilities, and in nuclear-waste transportation.

The law was meant to promote investment in nuclear power. Yet there is an ominous side-effect: It has the potential to promote unsafe construction and risky practices at nuclear sites.

Under the measure, the liability of the entire nuclear power industry is limited to around $700 million. The federal government's liability for accidents involving Department of Energy (DOE) nuclear sites is limited to about $500 million.

Beyond those limits, nobody is legally responsible for covering the costs of compensation. The likely result, in the event of a nuclear accident, would be that taxpayers would have to cough up to assist victims.

For nuclear contractors—the firms that build nuclear power plants—along with companies that manage DOE's nuclear waste, weapons and research programs, the protections are especially cushy. These firms aren't required to buy nuclear liability insurance, and they wouldn't be liable to the public in the event of an accident.

In the Denver area, that means Rockwell International, which operates Rocky Flats for DOE, wouldn't have to pay a cent for damages to the public—even if the accident resulted from a violation of safety regulations.

Is that any way to encourage cautious policies that put a premium on public health and safety, policies that ensure America is never visited with the specter of its own Chernobyl? The clear answer is "no."

The solution is to end this special deal. Broad protection from liability isn't enjoyed by other industries. The nuclear industry ought to be put on a similar playing field: Indeed, in a 1983 proposal for changing the system, the Nuclear Regulatory Commission said it was perfectly feasible to hold the industry accountable for its facilities without breaking it financially.

Price-Anderson will expire in August and Congress is currently considering whether to extend it another decade or modify it to promote principles of corporate accountability and just compensation for victims.

On Tuesday a House committee voted to raise the liability cap for the DOE and the industry to a total of $7 billion. That represents a major progress, and deserves approval of the full Congress. At the same time, lawmakers also should look take a hard look at the rules that shelter contractors from accountability.

Fairness and public safety demand brakes on nuclear power's near-free ride.

[From the Denver Post]

CONGRESS GETS NUKED ON CATASTROPHIC LIABILITY

The makers of nuclear weapons have dropped a rhetorical bomb on Congress, and once all the smoke clears, taxpayers may find themselves badly burned. The manufacturers—most of them corporate giants like Rockwell International, which operates the Rocky Flats plant northwest of Denver—have threatened to quit the business if they're required to pay damages for nuclear "accidents" caused by their own gross negligence.

The companies say their profits on weapons work are so low they couldn't afford to buy insurance to cover such catastrophies.

In the face of this warning, a key House committee last week backed away from a proposal that would have held the arms merchants accountable for willful misconduct and would have made them subject to the same sanctions that other industrial firms face in cases of corporate irresponsibility.

To its credit, the House Energy and Commerce Committee did vote to hold companies that transport nuclear waste liable for negligence. But unless the munitions makers are included in the measure when it reaches the floor later this month the nation's taxpayers will be forced to cover the costs of any Chernobyl-type disaster that may occur in a nuclear complex like Rocky Flats.

Under the Price-Anderson Act, which expires Aug. 1, weapons manufacturers enjoy blanket immunity from all liability claims arising out of nuclear mishaps—whether the incidents are caused by unforeseen problems like equipment malfunctions, or by human mischief-makers like the three officials now on trial for causing the near-meltdown in the Soviet Union last year.

The U.S. law was passed 30 years ago, when the nuclear arms race was just beginning and national security needs seemed to justify a go-for-broke approach. But times have changed. Incidents like Chernobyl and Three Mile Island have pointed up the continuing risk of nuclear mishaps, and the recent closures of several defense facilities—including the military reactor at Hanford, Wash.—have focused public attention on safety problems in the aging network of nuclear weapons plants.

There's no reason to change the law's most basic proviso—that the federal government should assume responsibility for the potentially catastrophic consequences of a genuine nuclear accident caused by, say, an earthquake or tornado. Such destruction, while extremely unlikely, would be so overwhelming it would be uninsurable anyway.

But the taxpayers should not be stuck with the bills for losses caused by an executive's deliberate violation of safety rules, for example, or by a company's intentional installation of defective valves.

The current policy encourages a devil-may-care attitude on the part of the weapons contractors, and should be changed. It may be necessary to produce nuclear warheads, but civilian lives don't need to be jeopardized in the process.

Mr. WIRTH. I thank the Chair and I yield the floor.

Mr. McCLURE. Mr. President, let me first respond to a couple of things that have been said by various Members, and I want to address myself first to the comments made by the distinguished Senators from Colorado with respect to the aging plant.

I agree with the Senator from Colorado that we need to attend to the condition of the plant facilities which we provide, from Savannah River through the entire process. Indeed, the Senator is correct; it is an aging plant and equipment, and it does need our careful attention. But I think that is a part of the reason why the Metzenbaum amendment should not be adopted, not a reason to adopt it but a reason not to adopt it, because the very condition of those plants tells to any contractor of any intelligence at all do not expose yourself to the liability of operating a plant that is already beyond design life.

Now, I am not going to tell you that I think there is imminent failure, and I am not going to tell you that we ought to ignore the opportunities for increasing safety in operation by careful attention to the safety conditions at each of these plants.

(Mr. WIRTH assumed the chair.)

Mr. McCLURE. But I am saying that if indeed a contractor who will operate those facilities is going to be exposed to liability, he is not going to operate; just that simple. If you want somebody to operate Savannah River, you are going to have to reject the Metzenbaum amendment. If you want a contractor to operate at Rocky Flats, you are going to have to reject the Metzenbaum amendment. If you want indeed to have the Nation's weapons complex operating, you are going to have to extend the protections of the pending legislation absent the Metzenbaum amendment, and not the other way around.

So I think the Senator from Colorado is exactly right. But you are asking the contractors to accept the responsibility for the operation of the plant the conditions of which are controlled by this Congress, and by this administration.

And I am not the smartest guy in the world, but I will tell you, I do not want to be the contractor under those circumstances unless I have some kind of protection against the liability over conditions I would be powerless to prevent. I think there is no question that when you deal with an aging plant and equipment of the kind that we have, and if an accident did occur, there would be immediate charges of irresponsibility of the contractor, not of the Congress of the United States and the administration for having failed to provide the money to update those plants and equipment as the Senator from Colorado has urged us to do.

I agree wholeheartedly that that is the solution to which we should look. The Metzenbaum amendment is not the solution but becomes a part of the problem.

I want to also suggest that the proponents of the amendment—or amendments, because we have not yet seen the second amendment. But we have heard it described, and I can only assume that the amendment, when offered, will be as described and that we will then have before us a piece of legislation which we have been talking about but have not yet seen. It is suggested that indeed we will increase accountability by making it possible for the Federal Government to sue the contractor. And at the same time we have been told by the same people, "Oh, don't worry about that; there won't be any liability because there is no fee."

How ridiculous can you be? Try to say on the one side the presence of liability is a great protection to the public, and on the other side, but it is no threat to the contractor because there will not be any liability. You cannot have it both ways.

If as a matter of fact there is going to be some accountability, if that is severe enough and the threat of that is severe enough to create any real response on the part of the contractors, it is because they have exposure, not because they do not.

So for the Metzenbaum amendment to say we are going to create accountability but we are going to modify it by the Bumpers amendment which takes it all away seems to me to be a political exercise, not one in legislation.

There are a number of reasons to oppose the Metzenbaum amendment. I would hope that indeed Members of the Senate listening thoughtfully to the debate, looking at the issues, will not be overpersuaded by editorial comment of people who have not looked at the issues, and who have thought only superficially of, "Hey, isn't it right that people that cause injury ought to be responsible?" It is a much deeper and more difficult question than that.

Let us stop for a moment to think about what happens under the current law under the proposal that the committee has presented to the Senate.

The whole idea is that people, if they are injured by an extraordinary nuclear event, should be compensated. There should not be any quibbling about it. There should not be any delay in it. There should be certainty that there will be a fund available to provide that compensation and that they will be compensated in very short order. But now we are going to inject into that the other side of the litigation coin; that is, we are going to say to the contractor, "You are no longer protected by Price-Anderson. You are going to be exposed to the subrogation claims under the Metzenbaum amendment." And the contractor is, under the current situation, defended by the Government. The contractor does not have any particular problem with that because he has no direct liability.

So the Government comes in to defend against the claims or to represent the contractor and the Government in the actions in which claims are presented.

The contractor can rely upon that under the present circumstances. Under the Metzenbaum amendment, can you imagine that, having a contractor say, "Well, the Department of Justice is going to defend me and while they are defending me, they are going to be making the case so they can bring suit against me, but not to worry about that, that is only a small detail." That is nonsense. It is patently nonsense.

The contractor is going to have to assert every possible defense from the moment of the accident onward, and will do so. And history has indicated that indeed if that is the case, we will not have prompt payment, but we will have prolonged litigation. It seems to me if you are really concerned about victims here, if you are really concerned about people who are supposed to be recovering damages for their injury, you would not want the Metzenbaum amendment to stand between you and prompt recovery as the Metzenbaum amendment certainly will if adopted.

Contractors will challenge the act's requirements that they waive legal defenses in any case where they are going to be subject to Government recovery. Can you imagine any contractor coming in and saying "I not only am going to be exposed to liability but I am required by the statute to waive my legal defenses"? No contractor that I am aware of is stupid enough to do that. So they are certainly going to challenge that provision or they are not going to enter into any contracts.

It is being alleged that this amendment would enhance safety or that it is necessary to deter contractors from irresponsible action. But I would suggest that there is absolutely no evidence on the record to sustain that particular allegation. As a matter of fact, we have had I do not know how many hearings over what length of time with respect to how Price-Anderson works, or does not, how people view it or what their concerns might be, but never once has there been one shred of evidence to support the notion that indeed the exposure to liability will enhance safety or that it is necessary to deter irresponsible action.

We are left only to the assertions of the sponsors of the amendment that this is so, and their own argumentation that they believe it to be so. But there again is no evidence on the record to indicate that.

I said before in response to the comments made by the Senator from Colorado that I do not believe that it wise for us to try to impose upon contractors the hazards of an aging system which is our responsibility.

First, it would be foolish for them to accept them. The control over the facilities and their condition is a responsibility of the Congress and of the administration. And it is disingenous to believe that we can neatly transfer away from our shoulders the responsibility for something which rests squarely here.

I agree that we ought to address that question. We ought to address it, and I agree with the Senator from Colorado that I hope this debate and the concerns which it surfaces will focus some attention on exactly that condition and that hopefully then the Congress and the administration working together will cure the problem without trying to pass the buck to the contractor that is subject to whatever conditions we create; not of their own making, powerless for them to correct and the only options that they have will be to avoid contracting.

Certainly, we do not want to have the result of a law that drives the most competent contractors away from these installations and leaves the least competent to be the contractor. We certainly do not want to adopt, as a matter of policy, something that provides an incentive to set up a shell corporation that is immune from liability but also reduces the competence to operate. I know that will be the result.

I think Senator JOHNSTON, a few moments ago, gave some examples of contractors who have already indicated their lack of willingness to expose themselves to that hazard and, indeed, one or two instances in which successful bidders, responsible companies, have turned down the business they were successful in acquiring, simply because of this hazard.

It strikes me that Congress, instead of dealing with the question, is running away from the question and trying to erect some diversions from the attention which ought to be focused on plant safety, plant conditions, and operating conditions, which are the direct initial responsibility of Congress and of the administration.

It seems to me that we ought to focus again on what is the purpose of Price-Anderson. If safety and environmental protection are the goals of this amendment, then these goals should be addressed in a broader framework than is allowed by the provisions of Price-Anderson, because Price-Anderson only addresses nuclear incidents after an accident has occurred. Price-Anderson deals with the financial questions of liability, but it was never intended to address the questions of safety, and they should be addressed.

Certainly, the adoption of the Metzenbaum amendment will impede the settlement of victim's claims. There is no question that under the current condition, under the current statute, in the event of an extraordinary nuclear incident, DOE would retain a law firm to represent all defendants, and that includes the contractors, the subcontractors, and the suppliers, in a public liability lawsuit.

I refer to section 178 of the current Price-Anderson law. That greatly facilitates resolution of the issue and the settlement of the case.

If, on the other hand, the defendants were faced with the possibility of later being sued by DOE, they would refuse to cooperate with DOE in the initial litigation of the victims' claims, insisting on defending the case themselves, at DOE's expense. The net result would be a delay in compensating the victims of the incident, at significantly increased cost to the Government. It does not help the Government; it does not help the victims. Whom does it help?

This will certainly be a disincentive for private firms in contracting with DOE.

Again, without belaboring the point or being too redundant, I will almost guarantee that there will be dummy corporations set up, if at all, to contract in the operation of these DOE facilities.

Let us stop for a moment and think what happens if you cannot get a contractor to operate the DOE facilities which are essential to our Nation's defense. We will end up with the Government operating them; and if the Government operates these facilities, there is no guaranteed protection. Price-Anderson does not apply. There is no instant fund available.

The victims of any such accident would then have to file suit under the Tort Claims Act and eventually receive compensation in that form, rather than in the form created and under the conditions created by Price-Anderson—a very great reduction in the protection of individuals who might be injured, and certainly no enhancement of protection for the Federal Government. It works contrary to both.

It would also create an instantly adversarial situation between DOE and the contractors and among the contractors themselves. Any attempt to get at the root cause of the accident would be thwarted by this adversarial relationship, and future safety depends upon the ability to cooperate to find the root cause of the accident.

If you are really concerned about future accidents, do not create this condition. Allow us to continue to work under Price-Anderson, where there is every reason to cooperate and little reason to have adversarial relationships among DOE, the contractors, the subcontractors, and the suppliers.

I suppose, also, you have to ask yourselves if, indeed, there is a problem; and, if so, what is that problem? Over the last several years, only $1.5

million has been paid out under Price-Anderson for DOE contractor incidents since 1957. Commercial plant incidents during the same period of time have totaled approximately $50 million in claims relating to the TMI accident.

This amendment has the potential for serious impact on national security. Many of the contractor operations at DOE facilities involve sensitive national defense activities. The adversarial relationship inherent in the subrogation provision would undermine the willingness of qualified and responsible contractors to participate in such work, and that certainly does reduce the Government's options and threatens our security interests.

I would also question whether what is really behind the Metzenbaum amendment is not a desire to be punitive, rather than a desire to be helpful to the victims of accidents. If it were not so, we would indeed have simple negligence or ordinary negligence as the rule, rather than gross negligence, unless you perceive that there is no difference between the two standards. It certainly would not exempt university research reactors from the subrogation requirement of the Metzenbaum amendment. People who are injured by an extraordinary nuclear incident are just as injured, even though it may be a university facility.

States and municipalities, which are currently held harmless under Price-Anderson, would not be held harmless if what we are really concerned about is the victims of accidents.

Should not the contractors be allowed to countersue DOE if they can prove that actions of a DOE employee contributed to the accident?

There are a number of questions which are obviously so ignored by the Metzenbaum amendment as to make one wonder why the Metzenbaum amendment is being offered. I suppose that anybody who presses for this amendment must know that they must be prepared to take the heat for weakening the ability of the bill to compensate victims expeditiously, take the heat for reducing the overall safety at DOE facilities, take the heat for increasing the cost to the Federal Government, and accept the responsibility for threatening national security, because this amendment does all those things.

(At this point, Mr. CONRAD assumed the Chair.)

Mr. McCLURE. Mr. President, I want to address myself to a very thoughtful dissertation with respect to victim compensation under the Price-Anderson Act and the importance of maintaining a ban on subrogation actions under the act. This statement is by Kenneth Feinberg who is a claimant's attorney. He is not a man who knows much, by his own statement, about the nuclear industry, but he knows a great deal about lawsuits. He knows a great deal about victim's rights. He knows a great deal about the way our legal system works to protect people who have been injured by accident of this character.

Kenneth Feinberg, I believe, was Senator KENNEDY's designated staff on the Judiciary Committee for some time before entering the private practice of law, to give further identification to who this gentleman is.

Let me read from his statement, if I may, because I think it is too important to gloss over. Mr. Feinberg says in summary:

> In the unlikely event of a major nuclear accident, the Price-Anderson Act provides a system of no-fault recovery for victims without the uncertainty, delays, and expense that have come to typify mass tort litigation. The Act guarantees a pool of money for victims and modifies tort law by waiving certain defenses. It streamlines litigation and encourages settlements, thereby facilitating prompt compensation for victims.
>
> An essential feature of the Price-Anderson scheme is the longstanding ban on subrogation: neither the government nor commercial power plants are permitted to seek recovery from other parties for compensation paid to victims. Proposals to introduce the concept of subrogation to Price-Anderson significantly undermine the victim compensation scheme and threaten to burden the system with the delay and cost that now plague the tort system.

He goes on to say:

THE ALTERNATIVE TO PRICE-ANDERSON: THE PRESENT TORT SYSTEM

> The sound approach that Price-Anderson takes to protect potential nuclear accident victims can best be understood in comparison with its alternative: the present-day system of mass tort litigation. Experience with Agent Orange, asbestos, Dalkon Shield, Love Canal, Bhopal, and similar cases vividly demonstrates that the ordinary litigation system does not serve mass tort victims well.
>
> When mass tort victims seek compensation for their injuries, they must usually first spend many years litigating such extraneous matters as where the action should be tried, which state's laws should apply, and which party was at fault. Uncertainty over who will be responsible for any liability greatly complicates and delays the proceedings and interferes with settlement. Defendants bring in new parties with actions for contribution and cross-claim against each other, and they wage bitter battles with their insurance carriers over coverage.
>
> In this litigation environment, defendants are very reluctant to settle individually. Since they do not know what their share of the total liability will be, they cannot assess what an economically acceptable settlement is. Further, the multiplicity of potential defendants and insurers discourages any one of them from settling with victims individually, for fear that others will ask a court to second-guess the wisdom of the settlement in later proceedings, and refuse to contribute. To guard against such second-guessing, defendants sometimes feel obliged to forego settlement unless and until all potential liable parties agree to the settlement or until liability is established through a litigated judgment. Nowhere was this problem more visible than in asbestos liability litigation, where victims' settlements were delayed while defendants and insurance carriers litigated and negotiated liability allocations among themselves.
>
> Furthermore, this kind of protracted mass tort litigation means that less is available for victims. The remainder goes to attorneys, expert witnesses and others who, unlike the victims themselves, thrive under the present tort system.

And he has a footnote that indicates:

> According to the Rand Corporation, injured victims receive only 37 cents to every dollar spent by manufacturers and insurers on asbestos claims.
>
> The victim's right to compensation is further eroded if defendants are not adequately insured and seek protection in bankruptcy. When this occurs, as exemplified by the Johns Manville case and the Dalkon Shield litigation, victims must stand in line for years with other "creditors."

PRICE-ANDERSON'S ANSWER TO THE EXPENSE AND DELAY OF LITIGATION

> Price-Anderson reduces the delay and transaction costs associated with obtaining compensation through mass tort litigation, and guarantees a reliable source of funds to compensate victims. The Act achieves these goals in the following ways:
>
> *Guaranteed Compensation Pool*—Under the Price-Anderson Act, nuclear power plants have exclusive liability for commercial power accidents, and are responsible not only for their own contribution to an accident, but also for the contributions of the parties with whom they contract. This "channeling" feature maximizes the amount of insurance available to cover a nuclear accident. Because responsibility is fixed, it is possible for insurance carriers to insure an individual power facility for $160 million—the maximum available coverage. Were it to become necessary to provide coverage for each and every contractor at a nuclear facility, the insurance companies have made clear that coverage for any individual party would have to be decreased substantially. As a consequence, the prospect of full recovery for victims would be delayed and very likely diminished.
>
> The Act requires each nuclear power plant to obtain the maximum amount of available insurance (currently $160 million) to cover an accident at its own facility. If liability exceeds a facility's insurance coverage, all other power plants pay a specified "retroactive insurance premium" to cover the costs of that accident. This latter source of self-insurance currently guarantees an additional half billion dollars to compensate victims in the event of a commercial power plant accident.
>
> Regarding government contract facilities, the federal government indemnifies its contractors for accidents stemming from federal defense and energy initiatives. Because the cost of self-insurance or private insurance would be passed on to the government in higher fees for services, the Department of Energy has concluded that it is less expensive to indemnify contractors against the remote prospect of a nuclear accident than endure the continuing cost of insurance coverage.[2] Therefore, in case of an ac-

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[2] In any event, adequate insurance or self-insurance would probably not be available, with the result that victims would run the serious risk of uncompensated injury.

cident at a government contract facility, funding for compensation is guaranteed by the federal government.

Waiver of Defenses—To reduce transaction costs and speed recovery in large-scale accidents, the Act requires waiver of key defenses common to mass tort litigation, establishing a no-fault basis for victims' recovery.[3]

Consolidation of Claims—To avoid confusion, inconsistency, and duplicative litigation in large-scale accidents, the Act requires that all victims' claims be consolidated and tried in a single federal court. This sharply contrasts with the experience in the asbestos litigations, in which tens of thousands of lawsuits have been scattered throughout state and federal courts across the United States. As a consequence, the asbestos litigations have defied coherent resolution, and have fostered unfair and disparate judgments and settlements at great expense to all parties, and only after considerable delay. In addition to conserving funds for victims that would otherwise go to legal fees, consolidating claims in one court helps assure that victims with similar injuries are treated alike.

Absence of Subrogation—To avoid costly and protracted litigation, the Act does not permit power plants or the government to seek recourse from the parties with whom they contract. As explained above, when defendants are permitted to implead third parties, the prospect that victims will obtain prompt settlements quickly dims. This is because (1) defendants and insurers are reluctant to pay claims until they have a firm feel for what their share of the total liability will be—a process that can take years of so-called "intramural" litigation among defendants and their insurers—and (2) those inclined to settle fear that those who do not settle will challenge the wisdom of the settlements when the settling parties later seek contribution or indemnity. Of course, getting all potential parties to agree to a settlement may be difficult or impossible, so the result is protracted litigation. Furthermore, and of key importance, suppliers, engineers, builders and other contractors, not being subject to subrogated liability, forego separate liability insurance coverage and, as noted, thereby leave a higher aggregate pool of nuclear liability insurance available to power plant operators and potential victims.

PROPOSALS TO REINTRODUCE SUBROGATION

Recently, proposals have surfaced that would permit subrogation of claims under the Price-Anderson Act. According to new reports, the controversy attendant to this effort threatens to jeopardize reauthorization of the Act. Since the limitations on liability afforded by the Price-Anderson Act have been critical components of nuclear energy and national security contracts for decades, and since the compensation provisions of the Act provide important protections to victims in the event of a nuclear accident, the public interest would clearly be disserved if this effort were allowed to thwart reauthorization. Moreover, as noted above, experience with mass tort litigation uniformly demonstrates that subrogation would be bad for victims, chilling settlements and adding significant delay to the resolution of claims. Limiting subrogation to cases of "gross negligence" or "willful misconduct" does not avoid these problems, since these determinations can themselves be the subject of protracted litigation.

With respect to government contractors, these proposals have been advanced, in part, to allow the government to recover the cost of settlements. The probability, however, is that these proposals would cost the government more money than would be recovered in the unlikely event of a nuclear accident, because the costs of insuring against this risk would have to be passed on to the government in the form of higher charges. If private insurance proved to be unavailable to cover the unknown risks associated with projects that are often highly classified, many contractors might turn down vital security projects to avoid the uninsurable potential liabilities associated with the project.

Moreover, as discussed above, subrogation would chill settlements. Even if Congress instructed the Government to pay victims before seeking subrogation, the uncertain prospect of recovering the costs of such settlements would in most cases force the government to preserve its rights against subrogees by going to trial rather than promptly settling with the victims.

CONCLUSION

The Price-Anderson Act provides a system for recovery of damages in the unlikely event of nuclear accidents that ensures prompt and sure relief for victims. An important component of this system is the longstanding ban on subrogation of claims. Introducing subrogation would disserve victims by chilling settlements and delaying recovery. Moreover, far from reducing the costs of the program to the government, subrogation would increase costs by driving up the costs of government contracts.

Mr. President, that is the statement by Kenneth Feinberg. I took the time to read it so that all Members who might be interested in this subject would have a look at the system from a practitioner within the system. Somebody who is a claimant's lawyer in these kinds of lawsuits who could make the kind of statement that he did ought to rather conclusively persuade them that subrogation is a bad idea and that the amendment ought not to be adopted.

Mr. METZENBAUM. Mr. President, now I have heard everything. I heard the argument about the plaintiffs' lawyers and how they are going to do things, make money, get legal fees. It has nothing at all to do with this amendment, really nothing at all to do with this bill.

Under the law at the moment, when there is a victim, the victim gets paid directly from the Government. He does not have to prove negligence. The victim gets paid from the Government just by proving casual effect and what the injuries are. So there is nothing about the lawyers involved as far as that matter is concerned.

Now what then happens under our amendment would be that the Attorney General would have a right to determine if there has been gross negligence or willful misconduct. But if there had not been, no claim at all against the defense contractor. And if there is, then a right to make the claim but not even for the total amount of the damages, because in the committee we lost that by a 10-to-9 vote to have the right to go against the contractor for the total amount of damages which the Government had to pay out.

In my amendment, we limit that to the total amount of the contract that has been entered into by the contractor. Under the Bumpers amendment, which is to be offered to my amendment, we would again limit it and limit it only to the amount of the fee. So that the contractor would not be in a position to make any money out of that particular contract but the contractor would not have any additional liability.

Now, the fact is you can make a very strong case that the contractor ought to be held liable for whatever the Federal Government has to pay out, because when the Federal Government pays it out and they do not get reimbursement from the contractor, who do you think pays it? Who do you think pays it? Do you think the money comes from somewhere out of heaven? The American taxpayer pays it. We are talking about whether the American taxpayer ought to again be the fall guy.

All our amendment does is says we will make the contractor responsible at least for a little bit of it, so that there is some persuasive reason for the contractor to be concerned about its conduct in operating that contract. That is all we are talking about.

My distinguished colleague from Idaho talks about waiving legal defenses. Well, our amendment specifically takes care of that. Our amendment says:

> The waiver of any defense for public compensation in accordance with paragraph (1)(B)(i)(II) shall not limit the rights of indemnified parties to raise any defense in a subsequent suit brought by the Attorney General pursuant to this section.

So enough of that.

Then the distinguished Senator from Idaho talks about somebody standing between the claimant and the contractor. Well, there is not any question somebody stands between the claimant and the contractor. Neither under our amendment or under the bill as it stands before us is there any provision, or has there ever been, depriving the individual the right to sue the contractor directly. And we are not maintaining that. It is not in my amendment. It has never been contemplated, nor has it been suggested.

Then there was some talk from the Senator from Idaho who says that we desire to be punitive. We do not want to be punitive. If we wanted to be punitive, we would say the contractor ought to pay double the amount of the total contract or double the amount of the damage or at least the total amount of the contract. No, all we are saying is the contractor ought to be responsible in some way, some little way.

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[3] Price-Anderson does not foreclose the need for claimants to establish that their injuries were caused by the nuclear accident at issue. However, because settlements generally reserve questions of causation, the Act reduces the burden on claimants to prove causation by making settlements easier and less costly for the government and defendant power facilities.

And what is that little way about which we are speaking? I have some embarrassment that it is so little. All we are saying is the contractor ought to be responsible to the extent of the amount of dollars that the contractor is getting out of this particular contract.

What we are really trying to say is we want the contractors to be more responsible. We want the contractor to be concerned about whether or not they are taking the necessary steps to see to it that this contract is executed in such a way that they are not wantonly careless, willfully negligent, grossly negligent through willful misconduct.

Mr. President, I must tell you that I have had a number of bills on the floor of the Senate in the course of the time that I have been here but I do not know of any measure that has had as widespread support across this Nation as has this particular proposal of ours. I am going to impose upon the time of my colleagues, until such time as the Senator from Arkansas arrives, to recite the language of some of those editorials.

Mr. McCLURE. Will the Senator yield for a question before doing that?

Mr. METZENBAUM. Yes.

(Mr. BAUCUS assumed the chair.)

Mr. McCLURE. If it is the desire of the Senator to say that the contractor ought to be exposed to some financial hazard for their acts, and I think that is what the Senator has said——

Mr. METZENBAUM. That is correct.

Mr. McCLURE. Would the Senator also agree that then you ought to ban the availability of insurance so that they could not insure against that financial exposure?

Mr. METZENBAUM. No, I would not do that at all.

Mr. McCLURE. Does not insurance prevent the kind of exposure you desire?

Mr. METZENBAUM. My good friend knows only too well that if you have enough claims against the insurance company, you are going to get an increased rate or you are going to lose your opportunity to buy insurance.

So, buying insurance is not just saying: "Well, we will spend x dollars and not worry about it." You still have to worry that if you have too many automobile accidents, too many fires, too many thefts, you are going to have your insurance canceled or you are going to be rated.

So I would say that the mere fact that a contractor buys insurance does not mean the contractor does not still have a sense of responsibility.

Mr. McCLURE. Would the Senator yield further?

Mr. METZENBAUM. I will.

Mr. McCLURE. Is it not true that if your motivation is to expose them to the financial liability as a consequence of their actions, that the availability of insurance to cover those actions as fully protects them against that exposure, as does Price-Anderson, which is another way of shielding them against that consequence?

Mr. METZENBAUM. I am not sure I get the Senator's question. Will you repeat it?

Mr. McCLURE. Well, Price-Anderson is a means by which there is a funded amount available for the payment of victims.

Mr. METZENBAUM. Paid by the American taxpayer.

Mr. McCLURE. An insurance policy is exactly the same kind of a fund, provided by payment of people who buy insurance policies.

Mr. METZENBAUM. No way is it the same. In a funded amount, the American taxpayer pays. When the insurance is paid, the contractor pays. It is a totally different proposition.

Mr. McCLURE. But when the insurance company pays it, those that pay premiums to insurance companies pay it. But that is not the point.

If I understood what the Senator from Ohio was saying, that somehow the exposure to financial liability will require the contractors to be more conscious of safety?

Mr. METZENBAUM. I think that is correct. Right.

Mr. McCLURE. Is it not also true, then, that they should not have the availability of insurance so that they would be equally exposed to financial liability in the event of an accident?

Mr. METZENBAUM. I would say to my friend that the insurance will not solve the problem for the contractor. If you are suggesting that we bar them from the right to buy insurance, I would not suggest that at all. I would say to you, also, that seldom can you get insurance for willful misconduct. You probably can get it for gross negligence but I do not think you get it for willful misconduct.

Now, if I may proceed?

Mr. JOHNSTON. Would the Senator yield for a question?

Mr. METZENBAUM. For a question? Sure.

Mr. JOHNSTON. I would simply ask the Senator, I would hope that he would either get Senator BUMPERS to offer his amendment, if that is his plan, or introduce it himself, because I think we are getting to the point where we ought to vote on the matter.

Mr. METZENBAUM. The Senator from Louisiana and I are not in disagreement. I am going to read some excerpts from editorials. If at the conclusion of those excerpts the Senator from Arkansas is not here, I will offer it on his behalf.

Let me read what as a matter of fact editorial writers have said throughout the country, because there has been a breadth of support that is unbelievable to me.

> The clear choice for the Senate is to whittle federal contractor's armor, which Sens. Howard Metzenbaum and Dave Durenberger are expected to suggest when the reauthorization bill comes up for a floor vote. Senator can encourage safety and corporate responsibility for heeding the advice.—Minneapolis Star Tribune, 2/17/88.
>
> The public has a huge stake in the safe operation of the Savannah River Plant. . . . It's time for Congress to hold the Department of Energy and its contractors to tough new standards of public responsibility.—Atlanta Constitution, 11/6/87.
>
> Senator Howard Metzenbaum . . . is offering an amendment to end this boon for energy contractors and allow them to be held accountable for accidents caused by gross negligence or intentional misconduct. Missouri Sens. John Danforth and Christopher Bond should join the list of co-sponsors.—St. Louis Post Dispatch, 2/2/88.
>
> Congress should also hold utilities and defense contractors liable for the full cost of an accident if it is the result of gross negligence. Such an amendment is fundamental to protecting the public.—Philadelphia Inquirer, 7/28/87.
>
> Congress ought to be guided by the public's interest in nuclear accountability, not by bluff and bluster from the industry.—Milwaukee Journal, 7/28/87.
>
> Nuclear safety is a vital concern to the entire nation. Congress should adopt legislation that is in the best interests of all citizens, not just the nuclear contractors.—The Asheville Citizen, NC, 2/22/88.
>
> Safety is the primary argument for change. * * * The way to reinforce emphasis on safety is to make contractors accountable for lack of caution.—Rocky Mountain News, Denver, 11/22/87.
>
> It's time to make the strapping industry accountable for its mistakes. * * * Accountability won't break the nuclear industry. Indeed, it will make it a safer, more responsible business.—Arizona Daily Star, Tucson, 8/3/87.
>
> The nuclear power industry is no longer a baby. It needs to accept more of the liability for potential accidents. That might just make the industry more safety conscious.—Tennessean, Nashville, 7/24/87.
>
> The solution is to end this special deal. Other industries lack broad protection from liability. The nuclear industry ought to be treated the same.—Birmingham Post-Herald, AL, 7/28/87.
>
> * * * three decades later, in the aftermath of the accidents at Three Mile Island and Chernobyl, such blanket coverage is neither just nor justifiable.—Dallas Times Herald, 7/29/87.
>
> Changing the law to make the industry rather than the victims liable could greatly reduce the chances of a first U.S. Chernobyl.—Iowa Register, Des Moines, 10/6/86.

Mr. JOHNSTON. Will the Senator yield?

Mr. METZENBAUM. If the manager of the bill would permit me, Mr. President, I ask unanimous consent that I might yield to the Senator from Arkansas for the purpose of offering an amendment which the Senator from Ohio is prepared to accept and that immediately thereafter the Senator from Ohio be accorded the right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1666

(Purpose: To modify the liability provisions)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an amendment numbered 1666 to amendment No. 1665.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. BAUCUS). Is there objection?

Mr. JOHNSTON. I object.

The PRESIDING OFFICER. There is objection. The clerk will read the amendment.

The legislative clerk read as follows:

On page 2, line 17, strike out "value of the contract" and insert in lieu thereof "lesser of the contract's award fee".

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I sat on the Energy Committee when this whole issue was being debated. While I generally agree with the position of the Senator from Ohio that people who are grossly negligent or engage in willful misconduct ought to be held accountable, this amendment changes his very dramatically and I would hope that the Senate would approve it.

What the amendment of the Senator from Ohio did was to say that if a DOE contractor is grossly negligent, or engages in willful misconduct, that the Attorney General would be required to bring an action on behalf of the United States against that contractor and that contractor's liability would be up to the total amount of the contract.

Now, if that amendment were to be adopted, quite frankly, I do know that you would ever get anybody to bid on a DOE contract. It has probably already been stated here but I just want, for my amendment, to make the record clear. We are talking about people who contract with the Department of Energy to manage their plutonium production and uranium enrichment facilities. Quite frankly, we are talking about DOE facilities associated with the manufacture of bombs.

These DOE contractors who contract with the Department of Energy do it for a relatively small fee, in most instances.

I will give you an illustration. Let us assume that the Sandia Corp.-AT&T Technologies at Sandia Laboratory took a contract for $1,100,000,000—I am not sure whether that laboratory is private or not. I think it is.

If they took this contract, which was $1,100,000,000, and they were found by the Attorney General to be willfully and grossly negligent, the Attorney General would have no choice under the Metzenbaum amendment but to file suit for up to $1,100,000,000, even though in this case the Sandia Corp.-AT&T Technologies is performing this contract at no charge.

There are only 2 contracts that I know anything about among about 20 contracts that are for no fee. But under my amendment, they would not be held liable for any damages resulting from a nuclear accident, because they get no fee out of the contract. They are doing this for reasons I do not understand, but they are earning an award fee from DOE to administer the contract and, therefore, would not be liable under my amendment.

Let me give you another example. Here is a contract by General Electric at the Pinellas plant. This contract is for $125 million. The total amount of the fee out of $125 million that General Electric will get is $5.5 million. That represents a 4.95 percent fee.

Under the Metzenbaum amendment, they could be held liable for $125 million. Under the Bumpers amendment they could only be held liable for $5.5 million, which is the amount of the fee they are going to get.

I could go ahead and read all these other contracts.

While the contractors might not just rush to embrace the Bumpers amendment, I do not really think they can object to it very much. Their fees are fairly small and the idea of making them liable for the total value of the contract when their fee is only a very small percentage of the contract really is excessive.

Having said that, Mr. President, people ought to be held accountable for some standards of conduct. I do not care how small the fee is. People ought not to be grossly negligent or engage in willful misconduct. I must say people that in my knowledge, the contractors have not been grossly negligent. I do not know, but I doubt that we have had any cases where they have been. But in the future, if contractors are grossly negligent, I think they ought to be held accountable for some amount. What this simply says is if the Attorney General decides that in one of these instances where there is a contractor at one of our atomic plants and an accident occurs and the Attorney General finds that contractor has been grossly negligent, then he must bring an action against them for damages up to—up to, and it does not mean necessarily to get all of it—the amount of the fee. These fees are relatively small numbers. Such limited potential liability will not be a deterrent, in my opinion, to any contractor bidding on these contracts, whereas under the Metzenbaum amendment I do not think anybody would bid.

All I am trying to do is to make this amendment more reasonable and to say that at the same time people ought to be held accountable for gross misconduct negligence.

We have a $7 billion limit under the pending Price-Anderson bill for property and personal damages. But that does not cost the contractors anything. All of that is a Government guarantee.

What I am saying is people ought to be held accountable. You cannot run red light without being held accountable for it. And that is not necessarily grossly negligent. Some people just are not paying attention. But in this case, when you are dealing with something as lethal as uranium and plutonium, you have to be very careful. This is a small incentive to be doubly careful. I hope the floor managers will accept this. I think they would not be hurting the contractors if they do accept it.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, as I indicated in the early part of the debate, I was aware of the fact that Senator BUMPERS was going to offer this amendment. I do not believe it resolves the problem as far as the taxpayer absorbing responsibility for the cost of gross negligence or willful misconduct or the accidents that occur by reason thereof. But I do believe it does something that is particularly important. That is, it provides a deterrent, it provides an alarm, it provides a push on the contractors to see to it that they maintain the highest standards possible because while the amount is small, $3 million, $4 million or $5 million, nobody wants to give back that kind of money.

I am aware of the fact that there are two contracts where no fee is paid. I want to comment on that. Although no fee is paid in connection with these contracts and a modest fee in others, it is a fact that the contractor is allowed to allocate a part of its expenses in running the contract to the overall cost. I do not find that particularly to be a problem. I find the Bumpers amendment to be acceptable and, Mr. President, I am prepared to accept the amendment to my amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. JOHNSTON. The Senator has a right to modify his amendment.

Mr. METZENBAUM. I could offer it as a modification, but since he has offered it, I am prepared to accept it as the Bumpers amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. JOHNSTON addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I hate to oppose the amendment of my good friend from Arkansas and I hate to subject it to a degree of ridicule, having such a high regard for my friend from Arkansas, but, it cannot be avoided in this case. We have one of these rolling handwritten amendments, Mr. President. At the last minute, we are told this morning that a Bumpers amendment is going to be offered this morning and we have an extended debate talking about how difficult it is on the fundamental national defense functions of this country to come in and amend at the very last minute with a handwritten amendment and have it make sense.

We pointed out that some of the contractors would be subjected under the Bumpers amendment to a $7 billion liability when their profit in the contracts would vary from no profit at all to a few million dollars in profit.

We pointed out that the matter was opposed vigorously by the Secretary of Defense, by the Secretary of Energy, by the administration, by the contractors, by many who say that with this kind of amendment, they would not offer to do the work on this very vital defense function.

So, Mr. President, having pointed out these things, there is still another change in the rolling Bumpers amendment. Now they have put in since this morning's description of the amendment the phrase "lesser of the" and it now reads that subrogation could not exceed the "lesser of the contract's award fee" and $7 billion.

The problem is that with at least six contracts, there is no "contract's award fee." There is no contract award fee on Battelle Memorial Institute and Pacific Northwest Laboratory, which has a contract fee of almost $1 billion. There is no contract award fee at Du Pont at Savannah River, which has a $5.5 billion total contract amount.

There is no contract award fee at General Electric Co., at the Knolls Atomic Power Laboratory with a contract amount exceeding $1 billion. Well, $1.25 billion to be precise. There is no contract award fee at Rockwell International Corp., and specific manufacturing which has a contract amount of over $200 million.

There is no fee at Sandia Corporation at the Sandia Laboratories, which is a subsidiary of AT&T, which has a contract amount of $5.5 billion which fabricates and does research on our nuclear weapons. There is no contract award fee at Bettis Atomic Power Laboratory, which has a total contract amount exceeding $1 billion, just to name a few.

Mr. BUMPERS. Will the Senator yield? I do not understand the point. What is the Senator's point?

Mr. JOHNSTON. The point is where there is no contract award fee——

Mr. BUMPERS. There would be no liability. I said that a moment ago, and that is the way the amendment reads.

Mr. JOHNSTON. The Senator may have said that, but where it says it may not exceed the lesser of "the contract award fee"——

Mr. BUMPERS. It says the lesser.

Mr. JOHNSTON. I know.

Mr. BUMPERS. You cannot get less than zero. If the figure is zero, then that is it. At least I cannot get less than zero.

Mr. JOHNSTON. That may be the Senator's intention that where there is no contract award fee that that means there would be no liability at all, but that is not what the amendment says. The amount is at least ambiguous since there is no contract award fee. Contract award fee is a term of art and, indeed, is used in the Senator's amendment as a term of art because it is put in quotation marks. So where there is one, then if follows that the liability under the second phrase, which is liability limits pursuant to 170(d), would be the operative limit.

I would say to the Senator, if that is not what it says, and I think it is, then it makes no sense. If it is appropriate to have this subrogation to affect the conduct of these contractors, why should you have two contracts at $5.5 billion where there is no possibility at all of any liability and subject them to liability on these much smaller contracts? Where is the logic in that? Just on the happenstance of the size of the fee.

The size of the fee has no relationship, first, to the conduct, to the egregious nature of the conduct to the danger to which the public is subjected to the amount of the contract. There is simply no logic at all in making the amount of what is a penalty, in effect, subject to the contract award fee.

More than that, I submit, if my colleagues will carefully read this amendment, it is at least ambiguous, and I think what it means is, where there is no contract award fee, then the limit is $7 billion. That is not so.

Mr. BUMPERS. The Senator does not believe that. The Senator is trying to obscure and obfuscate the issue. The Senator knows that is neither the intention of the amendment nor the intention of the author of the amendment. I have said in the mother tongue about three times now that the effect of this amendment is that no contractor shall be liable for more than the fee. It will be the lesser of the fee or the aggregate liability limit.

I suppose I could redraft the amendment to make it crystal clear. I do not think the Senator is confused about this. The contractor's liability will be the amount of the fee which may be zero.

Mr. JOHNSTON. What the Senator's amendment says, that the liability may not exceed the "contract's award fee" or the liability under section 170(d), the lesser of the two. Where there is no contract's award fee, you can read it at least two ways. That is, you can say that is not applicable and, therefore, you go to the limit in the 170(d). It may be subject to the Senator's interpretation, and maybe that is a defense which could be used in court, but I wonder if the Senator thinks that AT&T would be willing to risk $7 billion in liability based on the fact that Senator BUMPERS at 2 o'clock in the afternoon on a day in Senate debate said that is his interpretation? Indeed, when others in the body, including myself, subject it to other interpretations, I do not think they would be willing to gamble their whole corporate structure, their whole network, the whole value of the corporation on a hope that some court would say, "Senator BUMPERS is right," especially when they are getting no fee for it.

That is why these companies object so strongly to this kind of amendment.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. JOHNSTON. Yes, indeed.

Mr. BUMPERS. If I redraft the amendment to meet the Senator's objections so it is crystal clear we are talking about fee being the total maximum liability of the contractor, then the Senator, I take it, would not have any objection to the amendment; is that correct?

Mr. JOHNSTON. The amendment itself, even as ambiguous, is better than the Metzenbaum amendment because the Metzenbaum amendment is for sure these higher liabilities. As the Senator pointed out when he first introduced his amendment——

Mr. BUMPERS. Why does the Senator think I offered this amendment? The Senator's interpretation is the second-degree amendment does the same thing the Metzenbaum amendment does.

Mr. JOHNSTON. No. What I say is, the second-degree amendment does not cure the problem. it cures part of the problem because where there is a contract's award fee, then under the Bumpers amendment, it clearly would be the lower amount which, by the way, is not so low. When you are talking about liability which may be as high as, for example, Martin Marietta on the Pudacah, KY, plant would be subject to a penalty of——

Mr. BUMPERS. $18.5 million.

Mr. JOHNSTON. No. Multiply that by 5 because these are 5-year contracts. So you multiply 5 times 18.

What is that, $90 million? Is that right? In that order of magnitude; $90 million is not chicken feed. It may be chicken feed in the Senate Chamber, but it is not chicken feed to Martin Marietta Corp.

By the way, that is an uninsurable loss. If it is in fact insurable, then why go through this charade of having them charge the insurance premiums to the U.S. Government? All you do is end up with profit for the insurance company. The United States is already insuring the loss.

The point I am making is that it is not thought out. This matter was not brought up for hearings in the Energy Committee to determine what this language means because the language was just drafted. It is being drafted as we go. This is the third variety. We did not even know there was going to be a Bumpers amendment before this morning when it was drawn by pen, and now there is a second iteration of it. It does not cure the problem. Even if it is changed, it makes no sense to base the amount of liability on the contract award fee.

It just makes no sense because some of these contracts are over $5 billion in scope, and yet there would be no liability. Some of the contracts are less than $100 million in scope, and there would be a very large liability. So if you are going to have some kind of penalty against the Government contractor, then base it on some logic. Base it in relationship to the size of the risk, the total amount of the contract, or something other than this contract award fee.

I mentioned this morning that the administration was strongly opposed to this kind of legislation. And I said, there was a veto threat. I misspoke myself on the veto threat. Obviously, the administration has not seen the amendments that are being drafted as we go. So to say there is a veto threat with an amendment they have not seen would exceed even the enthusiasm for veto of this President.

I think it is fair to say that the administration would, in fact, veto this kind of amendment. But I think it was not fair to say that they have made that threat.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, March 3, 1988.

Hon. J. BENNETT JOHNSTON,
United States Senate,
Washington, DC

DEAR SENATOR JOHNSTON: I understand that the Senate may soon consider H.R. 1414, legislation reauthorizing Price-Anderson liability coverage. The Administration strongly supports H.R. 1414 as passed by the House. I am writing to reaffirm the urgent need for this legislation and to underscore particular concerns the Administration has with certain proposed amendments.

Reauthorization of Price-Anderson is critical to the future availability of nuclear power as an energy supply option for this country and is vital to continued private sector participation in government-sponsored research and national defense activities. It ensures that in the unlikely event of an accident, victims will be compensated on a swift and reliable basis, providing the financial protection that is essential if nuclear power is to play its crucial role in the areas of energy security and national defense.

I am concerned, however, that amendments may be offered that would compromise these objectives by attempting to address issues unrelated to the underlying thrust of the Price-Anderson Act.

One area of special concern involves safety oversight of the Department's atomic energy defense facilties. I fully appreciate the importance of ensuring the safe operation of these facilities. Through recent experience with outside oversight panels, the Department has demonstrated the value of such bodies in accomplishing this purpose. As a result of this experience, and in response to a recommendation of the panel from the National Academy of Sciences, I recently established a continuing oversight organization, the Advisory Committee on nuclear Facility Safety. The Committee will provide the Department with valuable independent safety advice and will contribute significantly to the safe operation of these sensitive facilities. Because of the recent establishment of this advisory body, the creation of another safety oversight body is necessary. The new panel should be given an opportunity to fulfill its responsibilities. Moreover, consideration of independent oversight is outside the scope of Price-Anderson objectives. Renewing this system of swift compensation should not be delayed or endangered by the insertion into Price-Anderson legislation of the issue of a new safety oversight organization. The careful balancing of safety and national security necessary in considering the oversight issue should be undertaken separately.

I also understand that an amendment may be offered that would make the United States liable for claims above $7 billion and pay them out of the Judgment Fund administered by the U.S. Treasury. This amendment not only would undermine long-established rules governing liability under the Federal Tort Claims Act, it also would subject the Government to liability for the actions of private parties who are not acting at the Government's direction. In the unlikely event that an accident occurs involving damage in excess of $7 billion, Congress should tailor a compensation program based on a full review of the facts and circumstances at the time of a nuclear accident.

It is also my understanding that a subrogation amendment may be offered. I would oppose vigorously such an amendment, which would discourage and compromise the working relationships between the Department and its contractors. These contractors engage in special working relationships with the Department to operate Government-owned facilities that are vital to our national security. These relationships are founded on an understanding that the interests of the Department and its contractors are largely inseparable. Current and potential contractors have indicated a new level of uncertainty about the risks and costs of entering into contracts with the Department. These contractors are concerned with the possible inclusion of broad subrogation provisions in the contract. I firmly believe that including such provisions would jeopardize the availability of future contractors and thus threaten the Department's ability to carry out its national defense responsibilities. Although three contractors have accepted a limited subrogation provision in indemnification agreements entered into with the Department since Price-Anderson "expired" last August, these provisions are substantially less burdensome than the subrogation provisions that have been proposed in legislative amendments.

Finally, as the Department of Energy and the Department of Justice have previously stated, we are opposed to any provision that would further subject the Government to liability by permitting suits against the Secretary of Energy as if he were a contractor. The issue of Government liability is a sensitive one and the balance between providing compensation in tort cases while enabling the Government to perform its duties freely was struck long ago in the Federal Tort Claims Act. Changing the rules of Government liability would represent a major departure from existing law, upsetting well established principles that have governed this area of law for years.

It is my hope that the Price-Anderson Act, which was passed to enable the orderly development of nuclear power and ensure its availability for research and national security needs, can be reauthorized. I could not support, however, counterproductive provisions that would discourage contractors from operating facilities that are critical to the national interest, or provisions that would upset the basic institutional framework of Price-Anderson which has served the Nation well for decades. Therefore, I would recommend disapproval of legislation that included the proposed amendments I have described in this letter.

Yours truly,

JOHN S. HERRINGTON.

Mr. JOHNSTON. Mr. President, I think this matter has been adequately discussed.

Who has the floor, Mr. President?

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. JOHNSTON. Mr. President, I certainly do not want to cut anybody off, but the matter has been pending now for 4½ hours. We had talked in terms of an hour or some time limit.

Mr. BUMPERS. Will the Senator allow me about 5 minutes and then we can vote?

Mr. JOHNSTON. Of course.

Mr. METZENBAUM. Have we accepted the Bumpers amendment to the Metzenbaum amendment?

Mr. BUMPERS. No.

Mr. METZENBAUM. I do not think so.

Mr. JOHNSTON. Mr. President, I do not want to cut the Senator off, but I think the matter has been adequately discussed. So why not let Senator BUMPERS put in whatever amendment he wishes?

Did the Senator from Pennsylvania wish to speak?

Mr. SPECTER. I do.

Mr. JOHNSTON. I wonder if we could get a time agreement on the amendment so that we can try to wind this thing up.

Mr. METZENBAUM. The Senator from Ohio is willing to agree to a time agreement.

Is the Senator from Pennsylvania contemplating an amendment?

Mr. SPECTER. I have a statement, and I have some questions for the Senator from Ohio. I do not think it is going to take very long. I would not want to enter into any specific time agreement. I think it will be faster just to go ahead and make a short statement and have a colloquy with the Senator from Ohio.

Mr. JOHNSTON. Mr. President, I certainly do not want to discombobulate my colleagues who want to speak, but let us just hold the possibility of a motion to table out there and maybe with that encouragement we can get on with the business and get a vote on the amendment. So I will not make that motion at this time, but I do hope we can get a vote soon.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Arkansas.

Mr. BUMPERS. Madam President, I withdraw my second-degree amendment.

The PRESIDING OFFICER. The Senator has a right to do that. The amendment is withdrawn.

AMENDMENT NO. 1667

Mr. BUMPERS. Madam President, I now send another amendment to the desk, an amendment in the second degree to the Metzenbaum amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an amendment numbered 1667 to Amendment 1665:

On page 2, line 17, strike out the phrase beginning "the value of the contract" through "170d," and insert in lieu thereof: "the contract's award fee,"

Mr. BUMPERS. Madam President, this amendment is perhaps clearer than the last one, though I think anybody would agree that the last one was not that obscure. The Senator from Louisiana takes a simple position on this. I want everybody in the Senate to know when they come in here—this is not the biggest thing in my life, incidentally. It is not the most important amendment I ever offered, so I am not going to take a lot more of the Senate's time. But I want everybody in the Senate to be aware of this proposition on behalf of the Senator from Louisiana, and I am speaking for him and then I am going to speak for myself.

The Senator from Louisiana does not want any company that contracts with DOE to be liable for a red cent, no matter how grossly and willfully negligent they may be.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. BUMPERS. I will be happy to yield.

Mr. JOHNSTON. The Senator is aware that we have adopted the committee position which subject them to a $100,000 per day fine for violation of these regulations? The Senator is aware of that?

Mr. BUMPERS. I am talking about for gross negligence and willful misconduct. They should be held accountable for that. And the Senator's position is that that is no different than ordinary negligence. The Senator makes no distinction about the kinds of negligence of which a contractor may be guilty. It is true we adopted a civil penalty this morning of $100,000, and there is a criminal penalty. But all this amendment says is that if a DOE contractor is grossly and willfully negligent, he will be liable for up to the profit he was going to make.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. BUMPERS. Yes.

Mr. JOHNSTON. The Senator said gross and willful negligence. Actually, the Metzenbaum amendment reads "gross or willful negligence," and there can be an awful lot of difference between gross or willful.

Mr. METZENBAUM. I want to say that neither Senator happens to be correct on this one. It says "gross negligence or willful misconduct."

Mr. BUMPERS. And the Senator is right, those are two different things. But I am just simply saying that the Senator is saying that a DOE contractor is not going to be held to any higher degree of damages, no higher damages, no higher degree of responsibility for gross negligence or willful misconduct than he is for any other negligence. This is a very simple addition which every tort law in every State in the Nation recognizes.

Mr. McCLURE. Will the Senator yield for a question?

Mr. BUMPERS. Yes.

Mr. McCLURE. The Senator is aware, I think, that one of the DOE contractors is Du Pont at Savannah River; is that not correct?

Mr. BUMPERS. Yes. On the Savannah River laboratory.

Mr. McCLURE. And their management fee is $1 a year?

Mr. BUMPERS. That is right. Does the Senator know what their liability is under my amendment? $1 a year.

Mr. McCLURE. $1 a year. Contrast that, if you will, for a moment to the $100,000 per day per violation which they could be assessed under the bill. Is the Senator aware of the contract that is held by the University of California?

Mr. BUMPERS. Universities are exempted under this amendment.

Mr. McCLURE. That is for their research laboratories. That is not for the management of a weapons complex.

Mr. BUMPERS. The Senator raised a question. I thought maybe he knew something I did not, but I am not sure he knows something I do not.

Mr. McCLURE. All I am saying to the Senator, if he will yield, is that to limit it on a fee negotiation under contract can completely miss the reasons why contracts exist and inviting contracts to be renegotiated without fee. Then they would have no liability. Perhaps we ought to say this is enough; go ahead and adopt it; you have wiped out Metzenbaum, and that is better than defeating Metzenbaum. Just let everyone think they have done something and go home and pat themselves on the back, breaking their arm in the process.

But frankly, the amendment that the Senator has offered makes just a totally unworkable shambles of a contract process in which some with very large fees would have very large exposure, some with very low fees would have very low or no exposure, and that does not seem to have anything to do with what the Senator from Ohio says he is trying to accomplish.

Mr. BUMPERS. Madam President, if I may proceed to discuss what we are talking about here, I want to make the point that what the Senator from Louisiana and the Senator from Idaho are talking about is a civil penalty of not to exceed $100,000 for each such violation. Now, what violation are we talking about? A rule, regulation or order related to nuclear safety and prescribed or issued by the Secretary of Energy.

There is absolutely no penalty for gross negligence or willful misconduct. This is a simple civil penalty which is discretionary. They can violate all the rules and regulations they want, and they may not be liable for one thin dime.

It is discretionary. And it is a civil penalty. And all I am saying with this amendment is it is very simple. When people perpetrate gross negligence and willful misconduct, there ought to be a higher degree of responsibility. What we are saying is you cannot be guilty of gross negligence and willful misconduct and go scot-free which if we do not adopt this amendment is precisely the result.

What we are saying in an attempt to be reasonable is even if you are grossly negligent, even if you are guilty of willful misconduct, you still only lose your profit. We are not getting into corporate pocketbooks compared to the kinds of damages that could result from gross negligence which could run into billions. You are talking about in some instances zero and in some instances 2 percent of the value of the contract, or 3 or 4 percent of the value of the contract. If you do not do that, if you reject this second-degree amendment, you are just simply saying as long as people are working for the Department of Energy they get a free ride. And they are not really going to be held accountable for anything. You can talk all day about those civil penalties of $100,000. They may or may not be imposed. It is discretionary. I can tell you the way things are right now they will not be imposed. Everybody here knows that.

Madam President, my amendment's effect on DOE contractors represents a very dramatic difference, a several thousand percent difference than the amendment offered by the Senator from Ohio.

I am not trying to penalize these people. I am not trying to persecute them. I am not trying to make it tough for DOE to find a contractor. I am just simply saying when people are grossly negligent or perpetrate willful misconduct there ought to be a higher standard of damages. And I repeat: There is not a single State in the Union whose tort laws do not say precisely the same thing. What makes this situation so different? The answer is there is not any difference.

I yield the floor.

Mr. METZENBAUM and Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Madam President, I accept the modifying amendment.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

Madam President, I have a relatively brief statement to make, and then I have a series of questions for the distinguished Senator from Ohio and the distinguished Senator from Arkansas. I notice that Senator BUMPERS has left the floor. I wonder if the staff member could relay to him my message that I have a question or two for him based on the arguments which he just made. I thought it preferable not to ask the Senator from Arkansas to yield for a question but instead lay a foundation for the comments and questions which I will raise.

Madam President, I have serious questions about the amendment offered by the distinguished Senator from Ohio for a number of reasons. First, I believe that it is totally impractical to make a distinction between negligence and gross negligence. And I sought earlier today in a series of questions to the Senator from Ohio to raise this issue but could not advance the substantive arguments at that time. But I will do so now.

The definition of negligence as it appears in 157 American Jurisprudence 2d at page 447 is this:

> Negligence is defined as the failure to exercise such care as the great mass of mankind ordinarily exercises.

Then, on the same page, gross negligence is defined as "very great negligence * * *" or the want of "* * * even slight care or slight diligence."

Those definitions are extremely hard to apply and when put to a jury, may yield very unpredictable results.

The purpose of the indemnification agreement in this bill is to encourage contractors to enter into undertakings which are very hazardous.

It may be that there ought to be no absolution from liability. Maybe contractors ought to be liable for any form of negligence, and if that argument were to be raised, that might have some foundation. I personally am persuaded that there is an important public policy served by the governmental indemnification because of the evidence which has been presented that contractors will not enter into these high-risk contracts. But if that is wrong, if contractors will enter into these high-risk contracts, then we ought not give them any indemnification at all.

Earlier today the distinguished Senator from Ohio referred to the fact that contractors were undertaking these contracts even though the provisions of Price-Anderson have lapsed. But as Senator METZENBAUM noted, they are doing so significantly under another indemnification process, under the Department of Defense procedures. So there is a body of evidence suggesting that this kind of indemnification is in fact necessary. If indemnification is necessary, then it makes absolutely no sense, as this Senator sees it, to make the distinction between ordinary negligence and gross negligence because of the vagaries of that definition. If a contractor will refuse to enter into a contract where he is not liable for ordinary negligence, that same contractor would, if well advised, refuse to enter into a contract where he is liable for gross negligence because of the vagaries of the definition.

I am now about to deal with a section of the law which is in direct conflict with what the distinguished Senator from Arkansas had to say. So I hope he can hear my statement. And I will have some questions for him if he would be able to return to the floor.

In American Jurisprudence 2d, there is a scholarly analysis of the concept of negligence and gross negligence. This statement is made at 57 American Jurisprudence 2d, page 443:

> The concept that the degrees of negligence designated as slight, ordinary, and gross which appears to have been introduced into the common law from the civil law as it was expounded by scholastic jurists of the Middle Ages is disproved either in whole or in part by many authorities as impractical and inconsistent with the theory upon which liability for negligence is imposed

It continues:

> It has been said that because of the historical development of the concept of gross negligence, its reason for existence, the content of the concept, and the inequitable results and consequences of its application, the doctrine should be interred in the limbo of jurisprudence.

The article goes on to say that:

> However, some States apparently still recognize the traditional view that degrees of negligence exist.

The implication is direct that many States do not recognize this distinction which is directly contradictory to what the distinguished Senator from Arkansas related.

But, Madam President, the reality of the situation is that if a contractor is going to undertake a high-risk contract because he is indemnified, he is not going to do so if the matter can be submitted to a jury, where these very vague standards are to be applied, and essentially turns on the skewed question of fact.

Mr. JOHNSTON. Madam President, would the Senator yield for a question?

Mr. SPECTER. Yes.

Mr. JOHNSTON. Is not the Senator saying that the practical effect of this would be that the jury is going to decide whether it is simple negligence or gross negligence, or whatever the jury decides is going to govern the amount of the liability here? Is that not essentially what the Senator is saying?

Mr. SPECTER. I thought it was going to be a friendly question, or I would not have yielded in the middle of my complex statement.

The answer is, "Yes." It is going to turn on what the jury decides, under very imprecise standards.

When a contractor is trying to decide whether he is going to undertake one of these high-risk contracts, he will go to his lawyer and will say: "I'm not liable for simple negligence, I'm not liable for ordinary negligence, but I am liable for gross negligence."

His lawyer will say: "It doesn't mean a thing. You're going to have to defend this case. In this day and age, the costs of litigation are frequently more important than the amount of the verdict, and you run a high risk of being held liable. Whatever the conduct has been, it is no substantive help to be exonerated for negligence if you are going to be held for gross negligence, because nobody can tell what that is in advance. If you want to know that you are not going to be liable, you have to be absolved from liability for any degree of negligence."

Then, the lawyer will tell the contractor, further: "This is such a muddy field that the legal authorities say that these concepts ought to be abolished."

That is why I say that any litigation grounded on a distinction between negligence and gross negligence simply is not realistic to apply.

The distinguished Senator from Ohio made another point which, in my opinion, is very elusive and is really not the kind of precision necessary for a Federal statute.

In response to a question from the distinguished Senator from Louisiana, the distinguished Senator from Ohio said that a company would not be liable for the negligence of its employee, or would not be liable for an employee who was drunk, unless the company had independent knowledge of the person being drunk. If the company has independent knowledge that the person was drunk, then the liability does not turn on the drunkenness; it turns on the independent knowledge of the proclivity to be drunk. But the language of the amendment which the Senator from Ohio has offered imposes liability on the company for the gross negligence, for the drunkenness of the employee.

It is a fundamental standard of tort responsibility, civil liability, that liability is imputed to the company for the conduct of the employee. If the employee is drunk and then does something wrong, that is obviously going to be gross negligence. It is a standard which is well accepted for criminal conduct.

A person drives while drunk. It is not only gross negligence, it rises to a higher level of misconduct and warrants a criminal penalty. So that the language of the amendment of the Senator from Ohio is going to hold the company liable.

There are ways to deal with this problem in a different manner. The provisions of 50 U.S. Code 1431, which involves the indemnification under the Department of Defense, impose a different standard of liability. This is set forth in 50 U.S. Code, at page 203:

> Indemnification and hold harmless agreements entered into pursuant to this subsection, whether between the United States and a contractor, or between a contractor and a subcontractor, or between two subcontractors, shall not cover claims or losses caused by willful misconduct or lack of good faith on the part of any of the contractors or subcontractors, directors or officers, or principal officials.

And it goes on.

If you are seeking to leave out the gross negligence of an employee, as the section I just referred to seeks to do, then you have to be specific. That it has to be a ranking official, somebody like a principal official or a director or officer, and that it has to turn on willful misconduct or lack of good faith, which is a very different standard from gross negligence.

When the Senator from Arkansas refers to the amendment which was adopted earlier today—and I have just secured a copy from the desk—there are two parts to the document. One provides for a $100,000 civil penalty for each violation. The Senator from Arkansas objected to that provision, saying that it was discretionary. But the amendment of the Senator from Ohio and the additional amendment by the Senator from Arkansas would be imposed only in a discretionary context, if pursued by the Attorney General. Any act by a public official, such as an Attorney General or a district attorney, is a discretionary act, and it requires action by that official. So that really is not a difference.

I am glad the Senator from Arkansas has returned to the floor. I just made the point, I say to the Senator from Arkansas, that where he had raised the concern that the civil penalties would be enforced only as a discretionary matter, the amendments which are pending—which the Senator from Ohio has offered and the Senator from Arkansas has offered—would apply only in a discretionary manner when the Attorney General chooses to do so.

Any prosecuting attorney has the discretion to pursue that law or not, so that the discretionary aspect is present under either circumstance. But there is a great fundamental issue involved here.

I think the Senator from Arkansas raised a good point when he said that there ought to be some stronger penalty and some stronger medicine where you have a willful violation. There are criminal penalties which are attached to page 6 of the Johnston-Metzenbaum amendment which was offered earlier today. They provide that where there is "an act or omission knowingly and willfully entered into," there is a penalty of a $25,000 fine and imprisonment not to exceed 2 years, or both.

Under the existing law, there are provisions which will take into account willful misconduct, which is a standard that can be applied. But I believe that the business of gross negligence is simply not realistic to apply on the pending amendment.

At this time, I should like to direct a question to the distinguished Senator from Ohio, if he is willing to respond.

The question is this: Is it his intent to hold a company liable under the provisions of his amendment if the employee of the company is guilty of gross negligence?

Mr. METZENBAUM. That would be a determination for the Attorney General to make, as to whether he felt that, under the circumstances, the agent's acts were the responsibility of the prime contractor.

Further, even if the Attorney General made the determination in one way, it is very possible that a court might arrive at a contrary conclusion.

I do not believe it is the basic issue before us. I say to my good friend that I am not all aware that it is relevant to the discussion before us. I think the discussion before us is this: Are we going to hold the contractor responsible in some degree for its willful misconduct or gross negligence? Also, whether or not the employee provides a basis to hold the contractor responsible will be a determination for others to make.

Mr. SPECTER. I am a little at a loss as to why the Senator from Ohio says he questions its relevance. The answer which the Senator from Ohio has just given is that under his statute the employer company can be liable for the gross negligence of the employee if the Attorney General seeks in his discretionary judgment to bring the action. Am I not correct?

Mr. METZENBAUM. That is not what I said. I said if the Attorney General decides that he thinks that the employee's conduct is of such a nature that the Attorney General should maintain a claim against the general contractor then the Attorney General has the right to do that regardless of what his determination is and once he asserts the claim the contractor may or may not accede to it. If the does not accede to it then it would be a matter for the court.

Mr. SPECTER. I would not accept that answer. What that boils down to is that if the Attorney General comes to a conclusion that the evidence is sufficient in his judgment to show gross negligence by an employee, then he can bring the action and it woud go to a court, go to a factfinder, and if there is sufficient evidence under the definition of gross negligence, which I have just read, that company could be liable for the full extent of the damages which are provided by the Senator's amendment. That is a much toughter line than the Senator responded this morning when the Senator from Louisiana asked the question and the Senator from Ohio said, "No, the company would not be liable for the conduct of the employee unless he was drunk and the company knew that he was drunk," something of that sort.

Mr. METZENBAUM. I think it depends on the circumstance and the facts that exist at the time, and I do not believe that here on the floor of the U.S. Senate we can make a determination as to what constitutes willful misconduct or gross negligence.

The example that we were talking about when the Senator from Louisiana brought up the subject was not to indicate that there was any final answer about that. It was an answer that the Senator from Ohio thinks is probably right but certainly made it very clear at the time that in the last analysis it was a subject both for the Attorney General and for the courts.

Mr. SPECTER. I have to disagree, and I do this respectfully, with the distinguished Senator from Ohio as to what the import of our action would be. If we pass this amendment, we are saying that the law of the United States is that if an employee does something which constitutes gross negligence under the vagaries of that definition, the employer can be held liable for the tremendous damages which are possible under this bill.

I would further ask the distinguished Senator from Ohio what his reaction is to the vagaries of the definition of negligence as opposed to gross negligence and what his reaction is to the authorities who have studied this subject and who have urged that, as they put it, this distinction be "interred in the limbo of jurisprudence" because it is impossible realistically to make the distinction in a meaningful way between negligence and gross negligence.

Mr. METZENBAUM. I say to my colleague I know he read from a legal journal and I would say that I have learned long ago as a practicing lawyer and the head of a law firm in private life that lawyers can usually find some quote or some support for their position; usually you can find support for a contrary position as well. I do not have any difficulty at all with the assertion that the Senator from Pennsylvania is making, but I must confess to him that I still have difficulty in understanding its relevance to this matter.

All we are talking about here is whether or not we ought to put a provision in the law providing that a contractor can be held liable up to the extent of its contract fee for gross negligence or willful misconduct, and we will leave it to others to decide exactly what that definition is.

So whether or not the courts or the law books refer to a definition of gross negligence one way or say it is difficult to make a decision between gross negligence and ordinary negligence, I believe is irrelevant to the subject before us because it provides no basis at all as to whether to vote for or against this amendment.

Mr. SPECTER. I am at a loss to understand that response in light of the fact that, if the Senator's amendment is adopted, we are going to be imposing liability on contractors for an employee's gross negligence but we are not going to be imposing liability on a contractor for ordinary negligence.

Now, it is true that resourceful lawyers can find a variety of authorities. I would suggest to the Senator from Ohio that this discrediting of the distinction between ordinary negligence and gross negligence is well established in the law, and I would ask the Senator from Ohio, as the proponent of this amendment, if he has a definition of ordinary negligence contrasted from a definition of gross negligence which would make some sense and which could be put to a fact-finder in a litigation matter which could have a sensible distinction?

Mr. METZENBAUM. I say to my colleague that I think we have discussed this 3 hours ago when he was on the floor. He has been discussing it for the last half-hour or 40 minutes. He is asking me for a legal definition of negligence, and I think he and I both understand what that definition is, that it is a question of whether or not it meets the standard that a reasonable person would conduct himself or herself under ordinary circumstances.

I say to my colleague I have tried to be very courteous and cooperative, and I have tried to answer all of his questions, but, frankly, I believe that the managers of the bill are anxious to move forward with this legislation. I am prepared to let our amendment go to a vote. If we prevail, fine; if we do not prevail, fine, too. Then let the matter come to a final vote.

I say to my colleague I have a lot of respect for him, but I think I have answered all his questions.

Mr. SPECTER. I thank the Senator. I have been on the floor a few minutes taking only a fraction of the time the Senator from Ohio did in his initial presentation. I cannot agree with him about the relative importance of this precise issue.

I raised the question, very briefly, because I did not have the floor this morning, and in my opinion I did not get a satisfactory answer then. I do not think we have gotten an answer yet as to how the Senator from Ohio, the proponent of this amendment, distinguishes ordinary negligence from gross negligence. But I shall not pursue the issue any more.

I would like to ask a question of the distinguished Senator from Arkansas, if I might have his attention for a moment.

The question that I have for the distinguished Senator from Arkansas is, in agreeing with him about the need to be tougher on those who engage in willful misconduct, whether it is not sufficient to have two factors present. One is the $100,000 per day fine, even though it is a discretionary matter to be brought by the officials responsible, just as it is discretionary for the Attorney General to enforce the amendment by Senator Metzenbaum and Senator Bumpers. Second, if it is not sufficiently tough to subject that kind of knowing and willful violation to a 2-year jail sentence.

Mr. BUMPERS. In answering the question, if I may, let me just review the bidding on the different kinds of liability that exist in this bill. Perhaps this will make certain that at least the Senator and I are both on the same wavelength so we understand and we are not two ships passing in the night.

Mr. SPECTER. Fine.

Mr. BUMPERS. Number one, there is a civil penalty of $100,000 for violation of any rule or regulation of DOE. The Senator understands that if the contractor who is operating one of our plutonium plants, for example, violates one of those rules, he is subject to up to $100,000 per day for violation.

Now, let me also make certain everybody understands at this point that is also discretionary with the Secretary. He may find mitigating circumstances so that it would not be imposed, or for other reasons as set out in the bill, he is not required to assess that, though he may.

Mr. SPECTER. If I may interrupt the Senator on that point, in terms of getting down to the essential elements, is it not equally discretionary under the Metzenbaum-Bumpers approach that the Attorney General seek to impose the liability on the contractors?

Mr. BUMPERS. Let me say the Metzenbaum amendment as amended by me does not deal with this civil penalty problem.

Mr. SPECTER. No, but it deals with imposing responsibility on a contractor for improper conduct which affects safety, which affects negligence, gross negilgence, et cetera.

Mr. BUMPERS. That is true.

Mr. SPECTER. What we are dealing with here is we are trying to see to it that public safety is preserved. We are trying to see to it that contractors exercise sufficient care so that the public is protected. We approach this problem in a variety of ways. One way is to say that if they are negligent, they have to pay for it. Everybody's approach so far rules that out.

Another approach is to say if they are grossly negligent, they pay for it. That is what Senator Metzenbaum is urging. Then you seek to put a limitation on what the cost would be under Senator Metzenbaum's amendment because you want to limit it to the amount of the contract.

Mr. BUMPERS. To the fee.

Mr. SPECTER. To the amount of money the contractor is going to get, the payment given to the contractor under the contract. And you say that there ought to be some stiffer fine if somebody does something intentionally wrong, willfully wrong and also if it is gross negligence, and I dealt with that.

Then I come back to this question, that certainly it is discretionary for the $100,000 fine to be imposed per day—and that is a lot of money—but is it not equally discretionary for the Attorney General to sue under Senator Metzenbaum's amendment?

Mr. BUMPERS. It is not.

Mr. SPECTER. Why not?

Mr. BUMPERS. Because the Attorney General must first conduct an investigation as to whether or not the contractor is grossly negligent or is guilty of willful misconduct. That is the first thing the Attorney General does. If he does that, then he must bring the action.

Mr. SPECTER. I do not think that is true. The Attorney General of the United States does not bring every action to court that he could bring. He makes a judgment about which actions ought to be brought, about the availability of his staff, about the availability of court time, about the amount of money involved, and about the quality of the action involved. The Attorney General has vast discretion in his decisions as to what actions to bring.

Mr. BUMPERS. Well, he may have discretion in some instances, but he does not under this language. This says that if he finds the contractor has been grossly negligent or guilty of willful misconduct, on line 11, page 2 of the Metzenbaum amendment, it says, "he shall commence an action on behalf of the United States."

Mr. SPECTER. Mr. President, language which says "shall" is interpreted broadly to mean "may."

Mr. BUMPERS. Well, that is not the way I studied English, I say to the Senator, quite frankly.

Mr. SPECTER. Well, that is the way the courts define "shall," and I can bring you lots of authorities on that proposition. The Criminal Code says if the Attorney General finds a violation of the Criminal Code, he shall commence action and seek certain penalties. Certainly, the Senator from Arkansas would not disagree that the Attorney General has vast discretion whether or not to bring criminal prosecution or a civil action when the language "shall" is used.

Mr. BUMPERS. Let us be clear. This is the amendment of the Senator from Ohio. He drafted it. Perhaps he ought to speak for himself.

But I can tell you as a country lawyer that if I saw this language I would advise my client that if he is guilty of gross misconduct and it is shown he is guilty of gross misconduct, he is going to get sued, because that is the intent and that is the way I read it.

Mr. METZENBAUM. If the Senator from Arkansas will yield, that certainly is the intention of the language of the amendment; that if the attorney general finds willful misconduct or gross negligence, he shall commence an action. I do not know how we could have said it any more directly or emphasized it any more unless we put two or three exclamation points in.

Mr. SPECTER. The difficulty with the language "shall" is that it is broadly interpreted by public officials who have discretion that they can exercise.

Will the distinguished Senator from Ohio or the distinguished Senator from Arkansas care to make the representation that the Attorney General of the United States, the present one or ones in the past, has always done all the things which the Senator from Ohio thinks are mandated under the law?

If there is one objection that I have heard repeatedly from the Senator from Ohio, it is that the Attorney General is not doing that; and who can force him to carry them out?

Mr. METZENBAUM. Of course, the Senator from Pennsylvania is correct. Many times the Attorney General does not do that which he is directed to do. We have no way of forcing him to do that. But that is the way Government operates. We are legislators. We do not run the Government. We make the laws and then the Attorney General is directed to take certain action. If he does not do it, perhaps under some circumstances he might be held responsible, but that would be in a most far-fetched case. But, under ordinary circumstances, he exercises such restraint as he wants to exercise, so we have no way of compelling him to take such action.

Mr. SPECTER. Well, I would suggest to the Senator from Ohio that both as a matter of law—and I had substantial experience at a somewhat different level as a public official as the district attorney of Philadelphia, where I dealt with a wide variety of statutes which used the word "shall." There is broad discretion in the district attorney as there is in the Attorney General.

But I would have to take it from the statement made by the distinguished Senator from Ohio that, as a practical matter, if you use "shall," and if you interpret it that it is mandatory, the realities of life are that the Attorney General picks and chooses what he is going to do because of the limited staff and the limit as to what he can undertake. So when this language is used, getting back to Senator BUMPERS' point, it is really a discretionary act, both as a matter of law, but certainly as a matter of practice.

Mr. BUMPERS. Mr. President, if I could comment on that, I suppose that you could say that if the Attorney General begins this investigation and during the course of the investigation just makes the decision in his own mind that he is not going to find them grossly negligent or guilty of willful misconduct, that is discretionary at that point. And they are home scot-free, unless he makes the decision otherwise. So he has discretion to that extent.

But, under the amendment, the way I read the language, it would certainly be the intent that if the Attorney General decides that they are guilty of gross negligence or willful misconduct under this amendment, in my opinion, he has no discretion at that point and he shall then commence an action.

He may find it against all odds. Maybe you could not find a jury in the United States of 12 men and women who would agree with him that they were not grossly negligent, but that is within his discretion at that point.

Mr. SPECTER. Well, I do not have the regulations in hand as to the language of direction, but I would suggest to the Senator from Arkansas that they are probably articulated the same way and that the enforcement of the regulations as a realistic, practical matter is discretionary, just as the enforcement of the Attorney General issue.

But let us move on to the second point in terms of the sufficiency of the 2-year prison sentence as a pretty tough response for, under the language of the statute, a knowing and willful violation.

Mr. BUMPERS. Is the Senator asking me whether I think that is sufficient or not?

Mr. SPECTER. Correct.

Mr. BUMPERS. The answer to that is no, I do not. I think that a $25,000 fine and even the threat of a 2-year prison sentence is not sufficient.

For example, a case of gross negligence may be a case of somebody drinking on the job which would be gross negligence and willful misconduct. But I think a criminal penalty is where, for example, the contractor openly condoned misconduct, knowing that it very well might lead to an accident or severe damage to people and property and simply did not do anything about it. Now, that is what I normally think of as criminal misconduct.

I am simply saying that the test for criminal violation is doing something, knowing that it is calculated to cause the damage that actually results.

Mr. SPECTER. I appreciate the answer of the Senator from Arkansas. I would just say on that point that I think that 2 years in jail is a tougher response than liability up to the amount of the contract.

But let me just ask one final question, if the distinguished Senator from Arkansas is satisfied with the difference between negligence and gross negligence. If a contractor came to the Senator from Arkansas, who is a very, very distinguished lawyer, and the contractor said, "I'm about to enter into this contract but I want to know what my liability is." Now, under the law that is fashioned by Senator METZENBAUM, I do not have any liability for negligence, ordinary negligence, but I do not have liability for gross negligence.

And the Senator from Arkansas knows that the differences articulated are very, very fuzzy, that the definition of negligence is failure to exercise such care as the great mass of mankind ordinarily exercises and gross negligence is defined as very great negligence or as the want of even slight care or slight diligence; and that when these issues are put to a jury, it is very unpredictable whether the jury will make any distinction as they apply the law and the facts to the responsibility.

If the client said to the Senator from Arkansas, a distinguished lawyer, "Is there any realistic difference between liability under negligence or gross negligence," what would the Senator-lawyer's response be?

Mr. BUMPERS. Well, the law is very long and detailed on the differences between negligence and gross negligence. When I practiced law in my State, for example, you could not bring an action under the guest statute, that is where I voluntarily get into the car with somebody else and they are driving and they have a wreck. In the case of simple negligence, as a passenger I do not have a cause of action.

If I get in the car and the driver is drunk, but I do not know it, and he will not let me out—I say "You are drunk, I do not want to ride with you," and he keeps going and has a wreck and I am severely injured, that is gross negligence and as a passenger in that car I can bring an action. But if it is just a case of simple negligence, I am not entitled to recover anything.

Negligence or gross negligence is like beauty, oftentimes, Senator. I have argued to many juries as has the distinguished Senator from Pennsylvania about why it is gross negligence, and my opponent on the other side is telling the jury there is nothing gross about this, this is simple negligence at best. And the jury makes that decision about which one it is.

As another example, you cannot get punitive damages in my State unless you prove gross negligence.

The laws of the United States are replete with references to degrees of negligence. Here is the Clean Water Act, 33 U.S.C. section 1321:

> Liability of the discharger for Federal cleanup costs may not exceed * * *.

And so fourth, and here is the last paragraph:

> Liability limits do not apply where the United States shows that the discharge was the result of willful negligence or willful misconduct * * *.

Mr. SPECTER. Willful negligence is very different from gross negligence.

Mr. BUMPERS. Let me proceed. Section 18 of the Deepwater Port Act.

> Liability limits do not apply if it can be shown that the discharge was the result of gross negligence or willful misconduct * * *.

Precisely the same language we have in this bill.

The Federal statutes are replete with references to gross negligence and willful misconduct.

I admit, it is always a jury determination in tort cases and here it is going to be an initial determination by the Attorney General. And, if he decides that there was not gross negligence or there was no willful misconduct, even though, as I say, 98 percent of the people looking at the same facts might disagree with him—but if he says no, they are not guilty of any of those things, he is not required to bring an action. On the contrary, he is prohibited from bringing an action.

Mr. SPECTER. With all due respect, that is a good description of the law, but does that really bear on the question which I addressed? And that is, as a lawyer advising a contractor, would you say there is any significant distinction? Has he avoided any real problem of liability if he is exonerated from ordinary negligence but responsible for gross negligence? Is he not going to have to go to court and defend himself, and is he not going to be at material risk if the liability is imposed for gross negligence?

Mr. BUMPERS. If I were a corporate attorney for General Electric and they said, we want to bid on this contract for $1 billion that DOE has out and we think, if we bid a 3.5 percent fee we will get the contract, but before we bid the 3.5 percent on the contract, we want to know what kind of liability do we have in this thing; and if the Bumpers and Metzenbaum amendments are defeated, I would say virtually none. Do not worry about it. And if this amendment is passed, the first thing I would say is: You need to make sure your employees are trained, they need to understand the rules and regulations and they need to not engage in gross misconduct because if they do you could lose the whole fee that you would otherwise collect.

And that potential liability is not very big, in my opinion, quite frankly. The amendment I am offering is just peanuts compared to the amount of potential liability in the Senator from Ohio's amendment. The Senator from Pennsylvania, obviously, does not want contractors to be liable for anything but I think they should be. There is a standard of misconduct that people ought to know they ought to stay under. I hope we will never collect a dime under this, but we might. And I think people ought to be told if you are guilty of gross negligence or willful misconduct, there is a standard there that you have violated and you have to be accountable. You have to pay a little bit more than you do than if you just happened to make a mistake.

Mr. SPECTER. I thank the distinguished Senator from Arkansas for his response. Speaking from my own judgment on the matter, I believe that there are adequate penalties in the $100,000 per day and the possibility of 2 years in jail. If it does make good sense as a matter of public policy to give indemnification to encourage people to enter into these hazardous contracts, then we ought to undertake that. But it makes absolutely no sense to give the indemnification for ordinary negligence and then to take it back for gross negligence because those terms are so vague, fuzzy and elusive as not to be meaningful in any realistic distinction.

I thank the Chair and I yield the floor.

Mr. HATFIELD. Mr. President, I would like to take a few minutes of the Senate's time to register my support for the amendment currently being debated, and am pleased to join the distinguished Senator from Ohio as a cosponsor of his Department of Energy contractor accountability amendment. Although a similar amendment was defeated by one vote during the Senate Energy Committee's deliberations last year, I am pleased that this important issue is now receiving another hearing before the full Senate.

As many of my colleagues know, I have been immersed in issues surrounding the various Department of Energy operations at the Hanford Reservation for nearly 2 years. During this time, I have had the opportunity to examine closely many of the operational activities at Hanford. Unfortunately, I regret to report to my colleagues that the safety record at Hanford has not lived up to the high standard of excellence that the American public both expects and deserves from its nuclear contractors.

For example, as recently as 1986, we learned that a DOE contractor at Hanford had ignored its own internal safety audits indicating that workers had overlooked safety regulations designed to prevent catastrophic nuclear chain reactions. Again in 1986, two Hanford workers were injured and portions of their bodies were contaminated with plutonium. Even though an internal audit indicated that design flaws were at fault, no immediate corrective action was taken. In fact, management continued to lay the blame on the workers themselves.

Finally, in the fall of 1986, the Roddis Commission completed its much publicized independent review of the N reactor at the Hanford Reservation. One member of that panel, Dr. H.W. Lewis, went as far as to say that there was widespread complacency at the N reactor generated by a long period of accident-free operation. Furthermore, he concluded that this situation "is sufficiently common to be cause for serious concern." Finally, Dr. Lewis reported that the operation of the N reactor "resembles a family operation." Is this type of operation the best we can expect from our nuclear contractors? I would hope not.

Mr. President, the manufacturing activities in which these DOE contractors engage are some of the most dangerous in the world. In fact, plutonium, the material manufactured and handled at many of our DOE facilities, is the most deadly substance known to man. With that in mind, we should demand nothing but the highest level of performance by the DOE defense complex's contractors.

In my view, the amendment offered by the Senator from Ohio would provide an additional degree of safety at these facilities. It is grossly inadequate and inequitable that we continue to give DOE contractors special privileges that we do not extend to other contractors—not even the commercial nuclear industry. This is especially the case in light of the fact that DOE lets a total of over $90 billion in nuclear production and research contracts. To exempt an industry of this magnitude from any liability whatsoever is unreasonable, to say the least. There is no credible reason why we should exempt these contractors from the full accountability associated with actions which are found to be grossly negligent or are the result of willful misconduct.

I also want to congratulate the Senator from Ohio for his willingness to compromise on the provisions in his amendment. Although I supported his original, more stringent, amendment when it was offered in the Senate Energy Committee, I believe that this new approach, which limits the liability to which a contractor would be subject, is reasonable and equitable. This liability cap should help to nullify the argument that the amendment will drive away the responsible contractors from participating in the industry.

Mr. President, it is time to put these contractors on notice that their gravy train of carefree, haphazard operation is over. The citizens of this country have caught on to their less-than-conscientious work, and demand that they take full responsibility for their actions.

I urge my colleagues to support the Metzenbaum amendment.

Mr. JOHNSTON. Madam President, I announced some time ago that I was going to complete my comments and move to table. The Senator from Ohio, however, wants to be recognized for 5 minutes. So I ask unanimous consent that I may yield to the Senator from Ohio for not to exceed 5 minutes and then be recognized.

The PRESIDING OFFICER. Is there objection? There is none. The unanimous consent request is agreed to.

The Senator from Ohio.

Mr. METZENBAUM. Madam President, I only wanted to be recognized for the purpose of completing a task that I assigned to myself prior, at an earlier point, and that was to refer to the unbelievable amount of support that this amendment has, and has had throughout the country.

As a matter of fact, in all fairness, the amendment that I originally offered is the one that most of the editorials have addressed themselves to, but I am certain that whole includes all of the lesser parts and certainly would include the amendment as modified. I just want to go on with some of the other editorial comments.

> "Contractors should be held liable for the quality of their work. * * * It's time this bum industry got off the welfare rolls and learned to make its way independently in the world."—Missoulan, Missoula, MT, 7/21/87.
>
> "Not only is it in the interest of public safety to make contractors accountable, it also is in the best interest of national security. The government needs weapons production facilities but if they are operated irresponsibly accidents could shut them down."—Spokane Chronicle, WA, 4/20/87.
>
> "It stands to reason that nuclear power companies which are held accountable for all the damage they do will be more conscientious when building and operating their facilities."—Times Union, Albany, 7/27/87.
>
> "* * * the Senate should accept amendments that would make the industry, and especially government contractors, liable for injuries due to 'gross negligence' or 'intentional misconduct' * * *"—Greensboro News & Record, NC, 8/4/87.

The Meadville, Pennsylvania Tribune supported our position editorially.

The Spokane Spokesman-Review supported our position.

The Lake Wales, FL, Highlander supported our position.

The Tallahassee Democrat indicated its support for this amendment.

The Times Record from Brunswick, ME said:

> Financial accountability is the best way to ensure corporate responsibility.

The Lexington Herald Leader of Kentucky supported this amendment.

The Times Union of Albany said:

> It stands to reason that nuclear power companies which are held accountable for all the damage they do will be more conscientious when building and operating their facilities.

The Greensboro News & Record, another paper there, supported the position that we have taken with this amendment.

The Meadville, PA, Tribune, likewise, supported it.

The Spokesman-Review, another paper in Spokane, WA, supports this amendment.

The Highlander—I guess I mentioned the Highlander from Lake Wales, FL, supports it.

In Huntington, WV, the Herald Dispatch:

> We see no reason why the Federal Government should continue to exempt companies from liability for their own reckless behavior.

The Eagle and Beacon of Wichita, KS, said:

> Congress should rewrite Price-Anderson to place responsibility for safety where it belongs—on the nuclear industry.

The Louisville Courier, the other paper, supports this amendment and says:

> Some corporate chieftains must be told if they want a share of U.S. business, they will be expected to pay for carelessness or mistakes.

The Lynwood Enterprise, in Washington, and on and on.

With that kind of support all across the country, I feel my colleagues should be prepared to support this amendment. We are not saying that the nuclear contractor is to be responsible for the total amount of the damages. The taxpayers will still have to bear that responsibility. We are not even saying that the contractor ought to be responsible for the total amount of the contract. We are now saying that the contractor ought to be responsible in some degree and that degree is to the extent of the amount of its fee.

I hope that the discussion today will have provided a sufficiently persuasive case and my colleagues will see fit to adopt this amendment which is submitted on behalf of 13 of my colleagues.

(Mr. SANFORD assumed the chair.)

Mr. JOHNSON. Mr. President, when my colleague was speaking earlier on these editorials, I had a question, but he wanted to respond to Senator BUMPERS. I wanted to point out that many of those editorials he was reading did not apply to contractors but applied to nuclear power companies, which are the generators of electricity and which are not at issue in this amendment.

In any event, those that did deal with Government contractors could not have been referring to this amendment because they could not have seen this amendment. I did not see the main Bumpers amendment until this morning, and the Bumpers corollary thereto has been changed two or three times as we have been speakng here. It has been a rolling, floating crap game that has been changed every 15 minutes. And we still do not know what it means.

The distinguished Senator from Pennsylvania just went into what I thought was a very scholarly discussion about the role of gross negligence and what it means. I think it is fair to say it means whatever a jury says.

Second, the question of what willful misconduct means, and it means about the same thing that gross negligence means, which relegates itself to the jury.

Third, the question of respondent superior, that is, is the contractor responsible for the gross negligence of its employee. We have heard two different answers. One from the Senator from Ohio which says no, they are not responsible for the gross negligence of the employee unless the employer is himself guilty of gross negligence in the supervision of that employee.

The Senator from Arkansas said, "Yes, under the rules of respondent superior the employer, the master, is responsible for the gross negligence of his servants."

Which is it? We do not know, Mr. President. With handwritten amendments on matters which are essential to the national security, it is like operating on the space shuttle with a screwdriver before launch. It is just that important to this country. Oh, it may not involve the lives of those who are going up in the shuttle, but it involves matters of dramatic national security to this country; $44 billion worth of contracts involving the enrichment of uranium, the fabrication of nuclear weapons, the testing of nuclear weapons, R&D on nuclear weapons, that is what is involved in this amendment.

We are being asked here on the floor of the Senate to take a rolling written amendment—rolling because it has been changed three times and we still do not know what it means.

The latest version, Mr. President, says that the Attorney General shall commence an action to recover from persons indemnified the portion of any funds paid pursuant to an indemnification agreement.

The whole amount. In other words, if you have a nuclear meltdown in the L reactor, then the Attorney General shall commence an action to recover any funds paid.

That is limited by this written amendment. What is the limitation? It says it limits it to the contract's award fee.

Suppose there is no contract award fee? Suppose, as in some of these contracts, it is a "fixed fee." Is a fixed fee the same as a contractor's award fee? I do not think so. I think contractor's award fee is a term of art. It is used as such in the industry. It is used as such in this amendment. It is put in quotation marks. They must mean something by putting it in quotation marks. The industry and the Department of Energy must mean something in using that term of art. Is it the same as a "fixed fee?" Is it the same as a "reimbursement of expenses?" That is another term of art.

Is it the same as a "management fee?" They use the term "management fee" in that same group of contracts.

Mr. President, the intention of the Senator from Ohio and the intention of the Senator from Arkansas are, of course, important. There are reams of litigation, court cases deciding questions of legislative intent. The language says one thing. Senators come on the floor and say another thing and explain. Sometimes the courts take that as being dispositive of the issue. Sometimes they say the plain language of the statute dictates and whatever they intended is irrelevant when the language of the statute is clear.

I do not know, Mr. President, I know I personally have been involved in legislative matters where descriptions and explanations were made on the floor and the courts did absolutely the opposite thing. I personally have been involved in that, so it is not a matter of looking it up in the law books for me. I know sometimes the courts do not take those statements, however ingenuously made, however passionately felt, however articulately stated. They sometimes just do not take them.

The problem here, Mr. President, is you dealing with a difficult industry. DuPont, for example, down at Savannah River, has already said they are not going to renew their contract, even if we do not pass this, because they say that the DOE facilities, what we in the Congress do, that is, not giving DOE the amount of money to replace the L reactor and the K reactor, because they do not give that money, they are just not going to operate. It is not because DuPont is afraid of their own negligence, but because what DOE does is so difficult.

General Electric has said with respect to three contracts that unless we renew Price-Anderson they will not renew theirs.

So what we are talking about, Mr. President, is an already debilitated, difficult industry where the Nation in its most dramatic and most important national defense function is struggling to get the best contractors we can. What this amendment says is, "We are going to give you a hand-drawn amendment, drawn here on the floor of the Senate; no hearings held on it; no considered legal exegesis on what the meaning is and what the prior statutes are; no testimony from the contractors whom we hope to enlist in this matter."

We are just asked to take it on faith. That is what they mean, says the Senator from Arkansas and the Senator from Ohio. "Take it on faith because we are in good faith."

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. JOHNSTON. No, Mr. President. As the Senator from Ohio said a little while ago, this has gone on long enough. I am just about to wind up.

Mr. METZENBAUM. Would the Senator have felt better about the amendment if it had been put on the typewritter in a high-priced lawyer's office? I thought it was pretty good.

Mr. JOHNSTON. My daddy used to say. "The safety of the Republic lies in a well-paid bar." So I guess it would be a little better if it were put into some high-priced lawyer's typewriter, other than just drawn up quickly and dropped into the slot out here on the floor.

Let me give you one example, and I have already talked too long, but I think this example is important. In this last week's New York Times there was an article about a new breakthrough with respect to the armor to be used on NATO tanks. With all the M-1 tanks in Europe, they are going to put uranium 238, which is a nonfissionable form of uranium which will shield the M-1 tanks against any known projectile of the Warsaw Pact, together with any that is being developed which we know anything about. Most of the experts think that is great.

There is a small minority, however, who point out that uranium 238 has radioactivity and that it is, therefore, dangerous.

I wonder if the Department of Energy comes in and passes rules and regulations that says, uranium 238 is permissible and a contractor is asked, therefore, to retrofit all these M-1 tanks with a huge contract, I am wondering whether they will want to do that? Keep in mind 20 years from now, 1,000 people turn up with leukemia, and they go back to sue the Government for that leukemia. They do not have to prove fault, remember.

The Government at that time, maybe under some administration, seeks to sue the contractor, and the contractor says, "Well, it was not a violation of the rules." It is no defense to say you were complying with the rules of the Department of Energy.

I just wonder how they would feel about that potential liability? Well, I can tell you in today's litigious world, people are saying no to the assumption of liability. DuPont has already said no to the assumption of liability in a $5.5 billion contract at Savannah River. GE is threatening to do that on three other contracts. A host of others are threatening the same because legal uncertainty is almost as bad as liability. It means legal expense; it means exposure of the board of directors to liability themselves; it means exposing the companies to bankruptcy themselves.

This is a well-intended amendment, but a very bad amendment involving the basic national defense interests of the United States. I hope my colleagues will go along with this motion. I, therefore, move to table.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio.

On this question, the yeas and nays were ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Illinois [Mr. Simon] and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] and the Senator from Hawaii [Mr. Matsunaga] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. Stafford] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 41, as follows:

[Rollcall Vote No. 55 Leg.]

YEAS—53

Armstrong
Bentsen
Bingaman
Bond
Boren
Breaux
Burdick
Cochran
D'Amato
DeConcini
Dixon
Dole
Domenici
Evans
Exon
Ford
Fowler
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Johnston
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Moynihan
Murkowski
Nickles
Nunn
Pell
Pressler
Quayle
Roth
Rudman
Sasser
Shelby
Simpson
Specter
Stevens
Symms
Thurmond
Trible
Wallop
Warner

NAYS—41

Adams
Baucus
Boschwitz
Bradley
Bumpers
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
Danforth
Daschle
Dodd
Durenberger
Glenn
Graham
Harkin
Hatfield
Humphrey
Inouye
Kennedy
Kerry
Lautenberg
Leahy
Levin
Melcher
Metzenbaum
Mikulski
Mitchell
Packwood
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Weicker
Wilson
Wirth

NOT VOTING—6

Biden
Gore
Matsunaga
Simon
Stafford
Stennis

So the motion to lay on the table amendment No. 1665, as modified, was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOTION PICTURE ACTORS

Mr. SIMPSON. Mr. President, I appreciate the floor managers' giving me just a moment to express, if I may, that during the last 2 days two very distinguished motion picture actors, Jimmy Stewart and Burt Lancaster, along with several prominent Hollywood directors, have been calling upon Members of Congress with their message. The directors, actors, and other creative people are off the Chamber. They have just returned from a meeting with a former colleague of theirs down on Pennsylvania Avenue. And now they would like to visit with any others who might wish to meet with them. They are in room 211 between now and 4 o'clock; Jimmy Stewart and Burt Lancaster.

The PRESIDING OFFICER. May we have order in the Chamber?

PRICE-ANDERSON ACT AMENDMENTS

The Senate continued with the consideration of the bill (H.R. 1414).

Mr. BYRD. Mr. President, are there any other amendments on this bill?

AMENDMENT NO. 1668

(Purpose: To make changes to conform with provisions of existing law and to delete provisions that would remove the limitations on liability for accidents involving nuclear waste)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Mr. Johnston] proposes an amendment numbered 1668.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) On page 8, beginning on line 16, after the words "subsection b.", strike all through line 24; and

(2) Beginning on page 15, line 8, strike all through page 16, line 12, and renumber subsequent paragraphs accordingly.

Mr. JOHNSTON. This is a budget amendment submitted on behalf of myself, Senator McClure, Senator Burdick, Senator Breaux, and Senator Simpson which provides for payment of indemnification for the Price-Anderson Act under the existing act and it removes language in H.R. 1414 that appears to condition payments on provision of appropriations accounts.

I ask unanimous consent that a brief description of this matter be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Budget Amendment—Johnston, McClure, Burdick, Breaux and Simpson

1. Provides for payment of indemnification under the Price-Anderson Act as under the existing Act. Removes language in H.R. 1414 that appears to condition payments on provisions of appropriations Acts.

2. Deletes provision for unlimited liability in the case of nuclear incidents from nuclear waste activities.

3. Retains specification that Nuclear Waste Fund be the source of payments for incidents from activities supported by the fund.

4. Payment procedure anticipated:

(a) Judgment for victim against contractor.

(b) contractor seeks indemnification under Price-Anderson contract with DOE.

(c) DOE pays from: 1. available funds, 2. supplemental appropriations, or;

(d) indemnification satisfied from judgment appropriation.

5. Removes any ambiguity about intent of Congress that payments be made as automatically as possible—without a requirement of intervening actions by Appropriations Committees.

Provisions of H.R. 1414 would violate the Budget Act by providing new entitlement, would be subject to point of order under Sec. 303(a) of Budget Act.

Mr. BREAUX and Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I strongly support this amendment and urge its adoption.

Mr. BREAUX. Mr. President, I also rise in strong support of the amendment offered by my senior colleague from Louisiana. He is correct in that the amendment simply restores the current system whereby victims are assured that they would receive payment for any injuries that may result from the activities of indemnified contractors, up to the indemnification level. The amendment basically takes out the subject to appropriations language which gave some people including myself, problems. And I just join in supporting the amendment of the Senator from Louisiana.

Mr. President, I also would like to clarify as to how, under current law, the funds required to be paid by the Federal Government after an accident would be paid, because it appears that one effect of this amendment will be to preserve this method of payment. It is this Senator's understanding that there is general agreement that the method of payment under current law should be preserved.

Mr. BREAUX. With respect to the source of payment for liabilities under the limit on aggregate liability for DOE indemnified activities, this amendment does not alter the basic substance of provisions that already are in the House bill, and the two Senate bills, that state that payments required to be made by the Federal Government as a result of liabilities arising out of nuclear waste activities that are funded by the nuclear waste fund shall be paid from that nuclear waste fund. Each of these bills has a provision specifying that the nuclear waste fund is to be the source of payments for liabilities that arise from activities funded by the nuclear waste fund.

Although this amendment preserves that which already is in the House bill regarding the source of funds for these nuclear waste activities, it also eliminates the language in the House bill that could be interpreted as altering the method under current law by which the Federal Government would make required payments for any accident. There is no indication, however, that the House had any intent to alter this method of payment. So this amendment will simply clarify what I think everyone has in mind.

Under current law, the method of payment is as follows. Suppose there is an accident at a DOE nuclear facility, and that there is a contractor involved that is indemnified under Price-Anderson. Persons injured as a result of the accident would assert their claims in Federal district court against whoever may have been responsible for the accident. The court would render judgment on all claims that were appropriately filed and proven.

Under the omnibus coverage of Price-Anderson, whoever is found liable for these damages—not just the contractor—would be covered by the indemnification agreement with the contractor. DOE would be legally obligated to indemnify whoever the court held to be liable to the persons injured, for the amount of damages determined by the court.

Where the money would come from to make these indemnification payments would depend upon the amount of money required. Payments first would be made from the DOE appropriation account that generated the activity that resulted in the incident. If that account did not contain enough funds to cover the liability, the Department would need to seek additional appropriations from Congress.

In the event that DOE was required to seek additional appropriations to satisfy its obligations under an indemnity agreement, the Congress would be obligated to appropriate the amounts necessary to satisfy the indemnity agreement. A failure of Congress to appropriate the required amounts would subject the Federal Government to an action by the indemnified party for breach of the indemnity agreement.

This result is reached because section 170j of the Atomic Energy Act expressly waives the application of the Antideficiency Act to any indemnity agreement authorized by the Price-Anderson Act. In brief, the Antideficiency Act prohibits obligations or expenditures in advance of, or in excess of, appropriations unless such authority has been expressly granted by statute. Thus, the antideficiency waiver that has been in the Price-Anderson Act ever since Price-Anderson first passed permits the incurring of binding obligations, up to the liability limits, before any money has actually been appropriated for the satisfaction of such obligations.

The result is that Price-Anderson indemnity agreements are binding contractual obligations enforceable against the United States. If Congress failed to make the necessary appropriation, the indemnified person could sue under the indemnity agreement, and any resulting final judgments against the United States would presumably be payable from the permanent judgment appropriation, 31 U.S.C. 1304 (1982). Most judgments against the United States are paid from the judgment appropriation.

Until the Federal Government or the person indemnified provided to a person with a valid judgment for public liability the funds necessary to satisfy that judgment, the person indemnified would remain responsible for satisfying that judgment. A person indemnified is subject to action by a claimant for a valid judgment until that judgment is satisfied.

It is expected that use of the judgment appropriation or further action by claimants against persons indemnified will not be necessary. In enacting this legislation, Congress is pledging that funds up to the specified limits will be provided to satisfy public liability as adjudicated by the courts.

If the system works as intended, there should be no delay between the rendering of a valid judgment against an indemnified person and the provision of funds by the Federal Government—either by DOE through the use of appropriated funds, or by the Congress through a supplemental appropriation—to honor its indemnity contracts for the funds necessary to satisfy that judgment. In this manner both the claimant and the person indemnified would receive the compensation and financial protection anticipated.

The purpose of this legislation is to provide the public and the DOE contractors with certainty as to how much compensation will be provided, under what conditions, and who will be providing it. With respect to valid claims resulting from Price-Anderson indemnified activities that are less than the aggregate limit on public liability, Congress is not preserving for itself the discretion to decide, during the appropriations process after an accident, the appropriate level of compensation for that accident. To preserve this discretion would undercut the very purpose of this legislation.

The House bill included some language that could create confusion as to whether or not Congress would in fact be obligated to appropriate the required funds. Because it appears that everyone's intent is that there be no such discretion, this amendment eliminates that potentially confusing language.

Although I have described the process as it would apply in the event of an incident arising out of a contractual activity undertaken by a person indemnified by DOE, the process would be the same as if the accident arose out of an activity to which an indemnity agreement with the NRC applied, except that NRC appropriated funds would initially be used, if available.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BREAUX. I am happy to yield.

Mr. CHILES. This does not raise any budget point of order problem, I ask the Senator.

Mr. BREAUX. This is an agreement that we worked out with his staff in taking out the subject to appropriations language.

Mr. President, if there is no further debate on the amendment, I urge adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Louisiana [Mr. JOHNSTON].

The amendment (No. 1668) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1669

(Purpose: to encourage the continued use and availability of radioisotopes for medical purposes)

Mr. BREAUX. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] proposes an amendment numbered 1669.

Mr. BREAUX. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, delete lines 7 through 13, and insert in lieu thereof the following:

"U.S.C. 2210 (k)), as amended, is amended to read as follows:

'(k) EXEMPTION FROM REQUIREMENTS OF FINANCIAL PROTECTION.—

'(1) With respect to any license issued pursuant to section 53, 63, 81, 104(a), or 104(c) for the conduct of—

'(A) educational activities to a person found by the Commission to be a nonprofit educational institution, or

'(B) under byproduct material licenses issued by the Commission or by an Agreement State to a person for the conduct of medical and related activities of operating nuclear pharmacies or hospital nuclear medicine departments,

the Commission shall exempt such licensee from the financial protection requirement of subsection 170 a.

'(2) With respect to licenses issued pursuant to paragraph (1) of this subsection between August 30, 1954, and August 1, 1997, for which the Commission grants such exemption:

'(A) the Commission shall agree to indemnify and hold harmless the licensee and other persons indemnified, as their interests may appear, from public liability in excess of $250,000 arising from nuclear incidents. The aggregate indemnify for all persons indemnified in connection with each nuclear incident shall not exceed $500,000,000, including such legal costs of the licensee as are approved by the Commission;

'(B) such contracts of indemnification shall cover public liability arising out of or in connection with the licensed activity and shall include damage to property of persons indemnified, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs; and

'(C) such contracts of indemnification, when entered into with a licensee having immunity from public liability because it is a State agency, shall provide also that the Commission shall make payments under the contract on account of activities of the licensee in the same manner and to the same extent as the Commission would be required to do if the licensee were not such a State agency.

'(3) No contract of indemnification entered into by the Commission pursuant to paragraph (2) of this subsection for the conduct of activities described in subparagraph (1)(B) of this subsection shall provide indemnification of public liability for, or preclude claims arising out of, the administration or misadministration of radio-pharmaceuticals dispensed by nuclear pharmacies or nuclear medicine departments of hospitals or clinics in the course of diagnosis or therapy.

'(4) With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, 1997, the requirements of this subsection shall apply to any license issued for such facility subsequent to August 1, 1997.

'(5) Any licensee may waive an exemption to which it is entitled under this subsection.'."

Mr. BREAUX. Mr. President, the amendment that I have proposed to the Senate is really quite simple. It is essentially the same amendment that was unanimously adopted by the Environment and Public Works Committee. The amendment deals with what are known as nuclear pharmacies. The amendment in essence says that the Nuclear Regulatory Commission, the NRC, shall enter into indemnification agreements with persons who are operating nuclear pharmacies, or hospital nuclear medicine departments. The indemnification under this amendment shall provide coverage for such persons from public liability under Price-Anderson up to $500 million. The indemnifying party is responsible for the first $250,000 in liability.

I would note, first of all, that we did not in our committee create a new liability regime especially for nuclear pharmacies. What we did in the committee, and what we proposed to the Senate through this amendment, is to treat nuclear pharmacies in the same manner as the current law treats nonprofit education institutions that are handling certain radioactive materials. When all the fancy arguments are made, the policy behind this recommendation is really quite simple.

The purpose of Price-Anderson is to encourage certain uses of nuclear materials for the benefit of mankind, while simultaneously affording the public with certain protections. We believe that the benefits to be derived from radiopharmaceuticals, which are used extensively in the diagnosis of, and therapy for, a broad array of medical problems, speak in favor of this type of protection that is afforded only under the Price-Anderson system.

As set forth more fully in our committee's report—Senate Report 100-218—nuclear pharmacies provide radioisotopes to hospitals and the medical profession for the diagnosis and treatment of various diseases and injuries. The use of these radiopharmaceuticals is widespread and essential for many activities in modern medicine.

Information and evidence presented to the Environment and Public Works Committee indicated that nuclear pharmacies licensed by the NRC are unable to obtain adequate private insurance to cover liability in the event of a nuclear incident involving such materials. In fact, the NRC itself, in a November 9, 1987 letter to Senators JOHNSTON and MCCLURE stated that commercial insurance is simply not available to radiopharmacies.,

In our view, this situation is completely analogous to the situation faced by nuclear utilities and contractors which led to the development of Price-Anderson in the 1950's. We believed that it was important to address this situation and to take steps which ensure a continued supply of these vitally important medical products.

It is important to note up front, Mr. President, that claims arising from the administration or misadministration of radiopharmaceuticals during diagnosis or therapy would not be covered by the amendment. Thus, this amendment does not provide Federal indemnification or limited liability for malpractice suits against physicians, hospitals, or nuclear pharmacies using or dispensing radiopharmaceuticals. Similarly, it does not provide indemnification or limited liability for product liability suits against manufacturers, hospitals, or nuclear pharmacies dispensing radiopharmaceuticals. The scope of the coverage provided by this provision is limited to releases of such materials as a result of activities other than patient diagnosis or therapy.

Mr. President, I have read that this amendment is designed to overturn a decision rendered in the Missouri Court of Appeals, styled *Bennett* v. *Mallinckrodt,* 698 S.W. 2d 854 (Mo.Ct.App. 1985), cert. den., 106 S.Ct. 2903 (1986) (hereinafter referred to as the Mallinckrodt decision or Mallinckrodt). This is not true, and I would like to take a moment to discuss that case.

Mallinckrodt is a Missouri case involving a suit for damages based on alleged injuries from routine radioactive releases from a radiopharmaceutical processing plant. In this case, the plaintiff's complaint was dismissed by the trial court in response to the defendant's motion to dismiss. As ground for dismissal, the trial court stated that it lacked subject matter jurisdiction and that the complaint failed to state a claim upon which relief could be granted. The Missouri Court of Appeals reversed the trial court's judgment and remanded the case for a trial and judgment on the merits.

Even though the Missouri Court of Appeals could have reversed the case on narrow procedural grounds, the court proceeded to discuss the merits of the case. And, although the court found "that States are precluded from regulating the safety aspects of nuclear development and of hazardous nuclear materials," it also stated that the existence of Price-Anderson, and its structure, laid the groundwork for the following propositions:

First, as is the case with other manufacturers, producers, and operators functioning in a regulated field, Mallinckrodt is not guaranteed absolute isolation from the consequences of its act through compliance with Federal regulation;

Second, State law remedies, in whatever form they might take, are available to those injured by nuclear incidents; and

Third, States may be preempted from setting their own emission standards, but they are not preempted from compensating injured citizens.

Obviously, one of the implications of Mallinckrodt on NRC and agreement State licensees who operate nuclear pharmacies and hospital nuclear medicine departments is that they may be held liable under State tort law for injuries resulting from radiation exposure, even though they may not have violated any Commission or applicable State regulations. That this is the result of Mallinckrodt should be no surprise. The Price-Anderson Act relies on the application of State tort law for any determination of damages.

But, Price-Anderson does not affect those tort laws to the extent that it puts limits on liability and provides a system of Federal indemnification for various nuclear related activities. In this sense, the amendment adopted by the Environment and Public Works Committee, and the amendment before the Senate, adds not one new element to the existing Price-Anderson system and does not overturn the basic holding of Mallinckrodt.

Mr. President, another criticism of this amendment is that it simply involves too many licensees, and will prove burdensome to the NRC. I think I have heard that this amendment will involve the issuance of indemnities to over 7,800 licensees nationwide. I think that the NRC, which is the source for that estimate is, quite simply, wrong. In its responses to House and Senate committees that have inquired about this matter, the NRC based its estimate of covered licenses on the number of licenses it has issued to individual practitioners and double counted licensees who offer different nuclear medicine services at the same site.

In this respect, the language of the amendment is quite clear. The amendment only covers persons conducting medical and related activities of operating nuclear pharmacies or hospital nuclear medicine departments. In our committee report we indicated that the "related activities" addressed by the amendment only included "the manufacture of the radiopharmaceuticals, since the intent of the provision is to remove barriers to the production and distribution of these items."

Under this interpretation of the amendment, we believe that the actual number of licensees that would be covered is less than half of the NRC estimate, some 3,650 licensees. Of these, only about 150 constitute nuclear pharmacies, and the vast majority of the rest are hospitals, many of which are not private but are operated by State and county governments.

In any event, it seems to us that the basic policy question is not dependent upon the number of licensees, but on the beneficial uses for which this very special material is utilized.

Mr. President, another argument raised against the amendment is that it would require the Federal Government to indemnify activities licensed by State agencies. This argument, we think, fails to make clear that the NRC plays a large role in so-called agreement State licensee activities.

First, the NRC must delegate its authority to these States under section 274 of the Atomic Energy Act. There are currently 29 of these so-called agreement States.

Second, the NRC controls agreement State licensee activity by allowing the State to apply no less stringent regulations than those in effect for NRC licensees. In this way, the NRC sets uniform minimum Federal standards for byproduct material licensees and does, in a practical sense, license their activities. In lieu of these facts, it is erroneous to suggest that the Federal Government might be responsible for incidents about which the NRC is unaware and does not permit.

There are two additional arguments, Mr. President, that have been raised against this amendment that I would like to quickly dispose of.

The first is that this amendment will result in an inordinate drain on Commission resources and because the risk of liability is very small, we should not commit substantial resources to the effort. Again, we respectfully disagree with the Commission.

We believe that the indemnity agreement could be made a part of the license agreement. Byproduct material licenses are renewed, on the average, every 3 years at a cost of approximately $1,400 to each NRC licensee and up to $2,200 for each agreement State licensee. In addition, amendments to byproduct material licenses cost $230.

If we assume that each covered license will need an amendment, and we accept our figure of approximately 3,650 licensees, that would make available $839,500 to cover the cost of execution of a standard form. If, on the other hand, the indemnity arrangement was made a part of the license renewal process, that would make available some $8.03 million.

The second is that the Commission already has the discretion to provide these indemnities, but has determined that it is not necessary. It is true that the Commission, in 1980, conducted a study to determine whether it should exercise its discretionary authority to indemnify certain of its licensees, including byproduct material licensees. And, based upon that 1980 staff study and work performed by the Oak Ridge National Laboratory, NRC Chairman Zech, in March 27, 1987 testimony before the House Interior and Insular Affairs Committee maintained that Price-Anderson indemnities should not be extended to nuclear pharmacies and hospital nuclear pharmacy departments.

However, the 1980 study did not examine the risks to which nuclear pharmacies might be exposed and most unfortunately, the premise of the 1980 NRC staff study in deciding that such indemnifications were unnecessary contained the assumption that 140 million dollars worth of insurance was available to licensees that handle small quantities of nuclear material. Clearly, from the information made available to our committee, this assumption as applied to nuclear pharmacies and hospital nuclear medicine departments is fanciful, at best.

Nuclear pharmacies and hospital nuclear medicine departments have been denied entrance to nuclear risk pools, such as American Nuclear Insurors, which provide insurance to nuclear facilities. For example, ANI has told these licensees that they would only consider providing coverage to entitites that handle 6,000 or more curies of radioactive material at a single time. Nuclear pharmacies and hospital nuclear medicine departments simply do not have access to specialized nuclear risk pools nor may they obtain insurance commerically or through the development of a captive company, as the NRC has just recently admitted.

I would also say again to my colleagues, that the whole concept of Price-Anderson is to provide those individuals and corporations—that cannot get insurance and are involved in the nuclear industry providing services that are needed in this country—that Price-Anderson provides them that type of coverage by restricting the amount of liability they can be exposed to.

We do it for contractors who do work for the Department of Energy. We have just handled that particular subject area. We do it for the other licensees of the Nuclear Regulatory Commission whose use of nuclear materials we want to encourage.

This amendment would extend the Price-Anderson concept to nuclear pharmacies or hospital nuclear medicine departments.

I would be the last person to come to the floor of this Senate and say to a private industry that we are going to protect them from any kind of liability if they could acquire private insurance to cover their actions. The simple fact is that they cannot get insurance. How do we know that? We know it because of the testimony that was presented to the committee.

In fact, the Nuclear Regulatory Commission—not this Senator, not anybody else, but the Nuclear Regulatory Commission—in a November 9, 1987, letter to Senators JOHNSTON and McCLURE, stated very clearly that commercial insurance is simply not available to radiopharmacies. If it were, I would not be offering the amendment. If they could go into the private sector and purchase insurance to cover this type of activity, there would be no need for this amendment. But the fact is otherwise. The fact is that they cannot get the type of insurance that is needed to conduct a business that is in the national interest.

I want to make clear that the amendment in no way establishes new claims. It in no way provides any kind of protection for claims arising from product liability suits.

Mr. JOHNSTON. Mr. President, will the Senator yield.

Mr. BREAUX. I yield.

Mr. JOHNSTON. As the Senator knows, I have had some misgivings about this amendment.

However, let me ask the Senator, first: Would this create a precedent for anything other than radiopharmaceuticals—for example, x-ray technicians, if they ask for the same release? Would that necessarily be a precedent for them?

Mr. BREAUX. I say to my senior colleague that the answer to that question is, "No." We are limiting it to the limited class of licensees that have come before the Senate and have made their case, that private insurance is not available, and it is limited to the specific language of the amendment.

Mr. JOHNSTON. I further ask my colleague: There is some thought that if this protection is to be extended, there ought to be some fee for this. I am in no position to say what the size of the fee should be, but would it be possible that if it does appear to be an appropriate thing to do, perhaps in the conference committee some fee could be added? I am not asking the Senator to agree to that; but, really, what I am asking him is, would there be flexibility in conference on those kinds of questions?

Mr. BREAUX. I say to the senior Senator from Louisiana that the answer to that question is, "Yes."

Mr. JOHNSTON. Mr. President, there are a number of matters here that I think are of concern. But, considering the fact that my colleague has indicated that there would be flexibility in conference, and keeping in mind his statement that there has been some showing that private insurance is not available, I would not object to the matter at this time.

Mr. BREAUX. I thank the distinguished senior Senator from Louisiana.

I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, I am a little puzzled and more than a little concerned about the amendment.

I do not believe I intend to oppose the amendment. I do want to look at some of the consequences that may flow from adoption of the amendment. I guess that is the best way I can say it, and I invite the response of the distinguished Senator from Louisiana, the author of the amendment.

I think one of the problems we have is that we have not had hearings on it and have not had an opportunity in our committee to develop the basic background on information with respect to it.

I do not intend to be critical of the Senator from Louisiana. It is just that some of the questions I have in my mind, I have not had the opportunity to explore.

The Senator from Louisiana is correct, that there is some showing that private insurance is not available. I believe that is rather basic to the approach that is taken here, because I think it would be fair to say that if private insurance were available, we would not be taking this action.

Am I correct?.

Mr. BREAUX. I stated that in my opening comment. I would not be here offering the amendment if there were any showing that private insurance was available to cover the type of activity. The only reason we are here is that it has been shown, in this narrow area of the industry of nuclear pharmaceuticals, that there is no available private insurance.

Mr. McCLURE. I thank the Senator.

I think it should be noted that this amendment is not limited to the manufacturers of radiopharmaceuticals. It includes other users, such as nuclear medicine departments. There are those in the nuclear medicine departments who fear that the extension of Federal indemnity for those programs in their areas may also lead to the imposition of Federal standards for nuclear medicine practitioners, including certification of individual doctors and technicians.

Does the Senator from Louisiana see that as a potential problem?

Mr. BREAUX. Let me respond to the Senator by saying one thing and then trying to directly respond.

No. 1, it is important to note what the indemnification does not cover. It does not cover product liability. If the manufacturer makes a product that is found to be negligently made or improperly made, this indemnification would not cover product liability suits. It also does not cover the use of the radiopharmaceuticals which would amount to malpractice. If they use it in the way that is negligent making them guilty of malpractice, this indemnification would also not cover the malpractice claims against manufacturers or those who administer the product.

When these people get their license, they have to meet certain standards from the NRC and these standards are set by Federal rules and regulations. And that is already the case as far as this industry is concerned.

Mr. McCLURE. Would I be correct in saying that this amendment really is the outgrowth of the Mallinckrodt case, a case in which that were preliminary findings of liability?

Mr. BREAUX. If the Senator will allow me to respond, I say that the amendment has absolutely nothing to do with the case the Senator from Idaho has just mentioned. My understanding of that case is it set the precedent that allowed individuals to sue in State courts for activities that caused them injury by nuclear pharmaceuticals. Our amendment does not affect that at all. If that is the law, they can sue under State courts. Our amendment does not affect that.

Our amendment only goes to the question of indemnification for injuries or damage as a result of their activities for which they cannot get coverage and liability insurance. It does not affect the Mallinckrodt case which is the premise as I understand it that you can bring an action in a State court even though it is a federally licensed activity.

Mr. McCLURE. The reason I asked that question is I know of no other cases that are pending in this field. I do not know of any crisis that has yet come to the industry. I think it is a problem that this industry has but it is not singular to radiopharmaceuticals. It is not singular to the pharmaceutical industry.

I think what we are really facing here is a stort reform question more perhaps than it is a radiopharmaceutical question by itself.

Mr. BREAUX. What brings the Senator to the floor with this amendment is a showing that I think is unquestioned and uncontested that there is a certain activity in this country that should be encouraged, that is, to the production of radiopharmaceuticals, medicines for the treatment of very serious illnesses, that that activity has been shown to us to be uninsurable because it deals with nuclear activities. We should encourage the continuation of that activity.

I submit this amendment is only to encourage the continuation of that activity which I am fearful would not continue because they cannot buy private insurance.

Mr. McCLURE. I think that may well indicate the basis of the problem which is not the nature of the materials but the nature of this tort claims system in this country in which the threat of liability brings about a response on the part of the insurance company that says "We do not know what is going to happen in this area, because of the proliferation of claims which have not even started yet, but we are fearful and therefore we are not going to insure you," leaving a perfectly legitimate and necessary function in our society uncovered by insurance. If that is the case and I believe that is probably the case here, we have a fundamental tort liability question and we are only dealing with one very small segment of that large problem.

Mr. BREAUX. Let me respond to the Senator's point by saying this, that these companies can get private insurance for other activities, even though they are risky and there is potential damage and the result of those damages is very, very serious. They can get coverage in these other areas, but when they are dealing with the nuclear aspect of it, there is always a nuclear exclusion. So the problem really is narrow in the sense that they can get private insurance but not when they are trying to get it for coverage of nuclear medicine activities.

Mr. McCLURE. That can well be, and if it is true, then I think what we see is the other side of that threat picture that we will be setting a precedent that invites eventual indemnification of NRC byproduct materials licensees. If it is really that specific, then I suspect it is going to direct itself toward all of those activities and if we do not, then I think we are certainly going to be hit with that particular kind of effect. If it is not limited just to those, then I think we see the beginning of a Federal indemnification program for all activities which are thought to be important to the public interest. That is something I think we should be very, very careful about doing.

I am persuaded, however, that there is a problem here. I am a little concerned that if we enter into these provisions, we may have stimulated rather than retarded lawsuits. We now have "Uncle Deep Pockets" standing in line or ready for almost unlimited access. I know that is not quite true and I have overstated that because it is limited, but it will stimulate the likelihood of claims against these manufacturers, distributors, and users of these products, because there is now behind it and assured response.

I believe that the assured response is important in these other areas. I am not all certain we ought to be extending it into this area. However, I am persuaded by those who are involved in the industry that if we want to keep several in it and benefit from the opportunities of some kinds of competition in development of products, in the distribution and the use of products, we better find a solution to their problem.

There are very few involved in it. It is a relatively small industry, and we need all of the competition we can stimulate in that area for all of the benefits of that potential competition.

I guess I can say that unless it proceeds further in on of the two directions I have discussed there really is no danger. The exposure is relatively small. The impact upon government is very small while the impact upon the industry might be very large.

But I could not avoid the necessity in my own mind of raising at least the issues which have been raised here as to what this may mean or imply with respect to other activities either the NRC related activities or their licensees and, second, what it may or may not mean with respect to tort liability in medically related fields.

I really fear the latter because we have an explosion of tort liability in this country that must be dealt with sometime. This is only a miniscule part of that total problem.

But I certainly am not going to oppose the Senator's amendment. If there are others who have similar concerns I know that they will express them between now and the time that this goes to conference.

The amendment was offered on the House side, as I recall, and was not adopted on the other side, although it was a close vote. Therefore, there may be a predisposition either to be opposed to it or to support it in view of the Senate's action, but, certainly there will be another opportunity for those who are concerned about its ramifications to express those before we get through with the conference on this legislation.

Mr. **BREAUX.** I appreciate the Senator's comments and discussion for the RECORD. I think it is important to note.

I conclude with: No. 1, we have an up-front liability of up to the first $250,000, that they would have to eat themselves individually;

Second, we have a cap on the Price-Anderson coverage of $500 million.

The third point I would make is with regard to the comments of the Senator from Idaho about liability and the whole question of liability and where we are going. That is really why we have Price-Anderson. We have Price-Anderson because of the potential plethora of lawsuits against the nuclear industry that was so potentially high that we could not get private insurance. So we created Price-Anderson back in 1954 to really cover it way back then. Here we are in 1988 saying it is still needed. So we still have that problem that requires us to have a Government indemnification for a certain type of activity that is deemed to be in the national interest, nuclear power, and radiopharmaceuticals in addition to producing power, produce life-saving techniques with regard to disease control. It is a function that we should encourage, and I think this amendment does encourage it, and without it I think we are doing grave damage to that industry we need to have.

Mr. **REID.** Mr. President, I rise in strong support of the Price-Anderson Amendments Act to extend the nuclear liability system. Authority expired on August 1, 1987 for the Nuclear Regulatory Commission to include future reactors in the Price-Anderson system and for the Department of Energy to indemnify its nuclear contractors under Price-Anderson. Obviously the purposes for which Price-Anderson were created—to ensure prompt and full compensation to the public in the event of a nuclear accident and to encourage the use of nuclear power applications—are compromised without extension.

But, I am distressed about efforts to remove a critical provision in this legislation designed to provide the public with as much protection as possible to the hazards of nuclear waste. To date, we have amassed 333,000 cubic meters of defense-related wastes and 9,700 cubic meters of commercially generated wastes. The storage itself is suspect, from crowded spent fuel pools at nuclear reactor sites in high density urban areas to leaking steel tanks on large government-operated reservations.

Amendments to the Nuclear Waste Policy Act of 1982, enacted in December, direct the Department of Energy to site and develop a nuclear waste repository at Yucca Mountain, NV. A Monitored Retrievable Storage facility is authorized as well. DOE also plans to begin receiving defense wastes at the Waste Isolation Pilot Plant in southeastern New Mexico later this year. Of all hazardous materials transported annually—approximately 1.5 billion tons—only 3 percent of the total is classified as nuclear. And, less than 1 percent of that amount is spent fuel or nuclear waste. But, should the repository, the MRS and WIPP open, unprecedented shipments of these highly toxic wastes will occur. DOE estimates that up to 3,000 shipments per year will go to the repository, 3,000 shipments will go to the MRS each year, and 1,450 shipments will be sent to the Waste Isolation Pilot Plant. Every State is potentially affected once the waste disposal program becomes operational. It is very likely that the greatest potential threat to the public health and safety in the entire nuclear waste issue may be the transportation of radioactive waste.

No one can be sure of the consequences of an accident involving a major release of radioactivity. However, there is no doubt that if a nuclear accident occurs, the effects would be catastrophic. One Nuclear Regulatory Commission study of worst case accident scenarios found that if even 1 percent of the contents of a spent fuel cask were to escape in an urban area, thousands of latent cancer fatalities could result and billions of dollars in decontamination costs. In short, the costs involved are astronomical.

Given the fact that Yucca Mountain may, by default, be the burial ground for thousands of tons of nuclear waste, the provisions pertaining to the nuclear waste disposal program in the Price-Anderson legislation before us warrant our support. This legislation establishes unlimited liability for nuclear waste accidents, unless Congress approves an alternative "full and prompt" victim compensation scheme within a year after receiving a compensation plan from the President. The Price-Anderson system must cover all aspects of the Federal waste program, including storage, handling, transportation, disposal treatment and research.

Mr. President, I am strongly opposed to attempts to alter this provision for budgetary reasons. The public deserves no less.

The **PRESIDING OFFICER.** Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1669) was agreed to.

Mr. **BREAUX.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **JOHNSTON.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRESIDENT REAGAN'S VETO OF THE CIVIL RIGHTS RESTORATION ACT

Mr. KENNEDY. Mr. President, later today, the White House is expected to announce that President Reagan has vetoed the Civil Rights Restoration Act.

This veto is a kick in the teeth of civil rights. It is the most regrettable and least justifiable of all the Reagan vetoes.

Attorney General Ed Meese and Assistant Attorney General Brad Reynolds have served President Reagan and the Nation badly. They are distorting the meaning of the bill, pandering to the Republican right, and engaging in an unseemly effort to escalate their longstanding anti-civil rights vendetta, by undermining some of America's greatest civil rights achievements.

The President of the United States is supposed to be the President of all the people. This veto is a sad, sad commentary on the current state of the party of Lincoln at its highest levels.

It is also an unjustified affront to millions of women, blacks, hispanics, elderly, and disabled Americans and other minorities. They deserve a government that stands up for them against discrimination, and that steadfastly refuses to become an accomplice to injustice by granting Federal funds to those who engage in bias.

This Republican administration has never met a civil rights bill it didn't dislike. The opponents of this measure are the same diehard adversaries of every past advance in civil rights. They pay lip service to the concept of equal justice under law, but they never practice what they preach.

We know them by their deeds and not their words. They advocated tax credits for segregated schools. They opposed extension of the Voting Rights Act. They delayed enactment of the Martin Luther King holiday bill. And they are resisting every effort in this Congress to strengthen the fair housing laws, and enact more effective economic sanctions against apartheid in South Africa.

This veto is especially deplorable, because the bill is precisely what it says it is—a restoration act. Nothing—nothing—contained in this legislation confers any civil right that did not exist before the Supreme Court's notorious decision in the Grove City College case in 1984.

For many, many years before that decision, discrimination because of race, six, age, or handicap had been prohibited in programs receiving Federal aid. That was the intent of Congress when the great civil rights laws of the 1960's and 1970's were written into the statute books, and that is our intent today—nothing more, but certainly nothing less.

The truth is, the same enemies of civil rights who tried to block those past historic laws are seeking another turn at bat.

They are misusing a single unfortunate decision by the Supreme Court as an excuse to roll back the clock on 20 years of progress on civil rights. The opponents of civil rights struck out in their previous times at bat, and they do not deserve to get on base today in the final inning of this anti-civil rights administration.

President Reagan's so-called alternative proposal is a sham. It would wink at flagrant bias, and enshrine blatant discrimination financed by the Federal Government.

It would open gaping new loopholes in our civil rights laws, and permit thousands of corporations, colleges, and universities to engage in racism, sex discrimination, and other forms of bias while continuing to receive Federal dollars.

The overwhelming majority of Protestant, Catholic, and Jewish denominations in America support this legislation.

It is a travesty of the noble role and progressive social conscience of religion in America that a few institutions of the right wing are now seeking greater leeway to discriminate, while continuing to receive Federal aid.

I urge the Senate and House to override this shameful veto. Federal tax dollars should not be used in any way, shape, or form to subsidize discrimination.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Graham). Without objection, it is so ordered.

PRICE-ANDERSON ACT AMENDMENTS

The Senate continued with the consideration of the bill (H.R. 1414).

AMENDMENT NO. 1670

(Purpose: To increase the amount of financial protection available to compensate persons injured as a result of a nuclear incident at a commercial nuclear power plant)

Mr. BREAUX. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. Breaux] for himself, Mr. Burdick and Mr. Stafford, proposes an amendment numbered 1670.

Mr. BREAUX. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) On page 7, delete lines 3 through 5 and insert in lieu thereof the following:

"Section 170 c. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

'c. (1) The Commission shall, with respect to licenses issued between August 30, 1954, and August 1, 1997, agree to indemnify and hold harmless the licensee and other persons indemnified, as their interest may appear, from public liability arising from nuclear incidents which is in excess of the level of financial protection required of the licensee as follows:

'(A) Except for those licensees covered by subparagraph (B), the aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed $500,000,000: Provided, however, That this amount of indemnity shall be reduced by the amount that the financial protection required shall exceed $60,000,000.

'(B) With respect to licenses issued between August 30, 1954, and August 1, 1997, for which the Commission requires such licensee to have and maintain financial protection equal to the maximum amount of liability insurance available from private sources, the Commission shall agree to indemnify and hold harmless the licensee and other persons indemnified, as their interests may appear, from public liability arising from nuclear incidents which is in excess of the level of financial protection required of the licensee and which is not in excess of the aggregate limit on public liability set forth in section 170e.

'(2) Any contract of indemnification entered into under paragraph (1) of this subsection shall cover public liability arising out of or in connection with the licensed activity, including the costs of investigating and settling claims and defending suits for damages.

'(3) With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, 1997, the requirements of this subsection shall apply to any license issued for such facility subsequent to August 1, 1997.'";

(2) On page 14, delete lines 4 through 6, and insert in lieu thereof the following:

"twice the maximum amount of financial protection required of such facilities under subsection b. or twice the amount of indemnity and financial protection required under paragraph (3) of subsection d., whichever amount is greater (plus any surcharge assessed under subsection o. (1)(E));"; and

(3) On page 32, line 8 strike "is" and insert in lieu thereof "would thereby become".

Mr. BURDICK. Mr. President, I am pleased to support the amendment offered by the junior Senator from Louisiana. This amendment will double the amount of compensation in the House bill available for victims of accidents at commercial nuclear powerplants.

The amendment creates a third tier of financial protection by providing for victims of commercial accidents the same amount of Federal indemnity that would be available for victims of an accident arising from an activity of a Department of Energy contractor.

However, the Federal contribution for a nuclear powerplant accident would be used only after the first $7 billion of financial protection provided by private insurance and the nuclear utilities had been exhausted. For an accident involving a DOE contractor covered by Price-Anderson, the Federal indemnity would apply from the first dollar of damages. Thus, it is much less likely that any Federal indemnity would be used for a powerplant accident than for a DOE contractor accident.

It is very unlikely that we will have any accident with billions of dollars of damages. However, just as Price-Anderson protects licensees and contractors for such unlikely events, it should provide the public with the same protection from the same consequences.

For this reason, this Senator supports this effort to provide as much protection to the public as possible. It also is why I supported our committee bill which legally promised full compensation without limit for these types of accidents.

The House bill as is contains a commitment by the Congress to provide full and prompt compensation regardless of the limit on liability in the bill. In fact, the goal of full compensation is stated in all the Price-Anderson bills that have been considered. No one has disputed that this should be one of the goals of Price-Anderson. The only disputes have been in just how to achieve full compensation.

We believe that our amendment improves the method in the House bill of achieving this goal.

The commitment to full compensation in the House bill is not a very strong one. It is nonbinding. Victims would have no legal rights for damages above the $7 billion limit. Congress would be under no legal obligation to act above the limit.

This amendment strengthens the commitment toward full compensation in the House bill making this commitment legally binding up to about $15 billion. A legal commitment will provide persons with much more than a moral pledge.

If Congress is willing to make a commitment, then it should be willing to make it as binding as possible.

I would like to emphasize that this amendment will not increase the potential financial liability of any nuclear utilities or other private persons. The potential financial liability of utilities and other persons is limited to the amounts in the House bill. This amendment only affects the scope of the Federal Government's obligation to provide financial protection to the public.

Some persons may question the use of Federal funds to pay the liabilities of commercial enterprises. However, beyond the industry's limit in the House bill it is not a question of the Federal Government making payments to protect private industry. They are protected by the limit.

It is rather a question of whether the Federal Government should make payments to protect the victims of an accident. Either the victims or the Federal Government will pay the cost above $7 billion. If we do not provide a third layer of Federal indemnity, it is not private industry that will pay. It will be the victims.

This is not an acceptable alternative. As between the Federal Government and the victim, the Federal Government should pay.

Some have said that we should not provide more total protection for persons that live near a nuclear powerplant than live near a DOE contractor facility. Why should people who live near a contractor facility be able to get only half as much as some others?

The answer is that they shouldn't. But it is not fair to reduce one person's compensation because of an unwillingness or inability to provide that same amount to another. Two wrongs do not make a right. We should try to provide as much as possible to everyone. This amendment tries to do that.

Another concern is that raising the limit will lead to pressure to increase the utility premiums to cover the amount of Federal indemnity.

Let me state now that I would oppose such efforts. The utility premiums are as high as they should be.

The Federal indemnity actually may reduce the pressure to use more utility money after an accident with damages greater than $7 billion. Congress will already have specified where this money would come from.

If we keep the cap at $7 billion, without providing any more; then there surely will be pressure to use more utility money for payments over $7 billion. In fact; the House bill clearly states that Congress may use utility money for claims over the limit.

At any rate; there is not much we can do here today or in this bill that will prevent Congress from making whatever changes it wants to in the future. We cannot prevent Congress from increasing the premiums at some later date; or from reducing the limit.

We should do the best we can today, and leave what we must for tomorrow.

I believe this amendment is the best we can do today. It provides significantly more protection to the public. It does not cost the utilities any more money than the House bill.

Instead, it pledges that the same amount of Federal money will be available for an accident caused by a Federal licensee as by a Federal contractor.

I urge my colleagues to vote in favor of it.

Mr. STAFFORD. Mr. President, several of my able colleagues have already spelled out the need to reauthorize and extend the Price-Anderson law. Those of us who have worked on the legislation may differ in the weight we give to the various interests served by the law, but we are in agreement on the need to extend it.

In its consideration of Price-Anderson, the Environment and Public Works Committee focused on provisions dealing with commercial nuclear reactors and activities related to high-level nuclear waste. For most, if not all, of us, and certainly for this Senator, the primary issue was to assure that victims of a major nuclear accident would be fully compensated for any damage they sustained.

The position of the Senator from Vermont historically has been that to the maximum extent possible, those causing damage or benefiting from activities that lead to damage should pay for a compensation scheme for accident victims. The Nuclear Regulatory Commission in 1983 proposed such a scheme for commercial nuclear reactors, but committees in both Houses of Congress have chosen not to place full responsibility on the nuclear utility industry.

The bill reported by the Environment and Public Works Committee, S. 1865, was an attempt to provide assured compensation to victims while retaining limits on the amounts that nuclear utilities would be required to pay. The committee's approach clearly established the principle that victims of a nuclear accident should not be the ones to bear its costs.

The bill provided that once a set level of damages had been compensated by the utility industry, the Federal Government would have the responsibility for finding the funds to compensate victims. A procedure was established to permit the President and the Congress to determine what the source of those funds should be.

And an incentive to act was provided by giving victims access to the Federal Treasury if Congress failed to act within 180 days after receiving an alternative funding plan from the President.

I want to emphasize that the goal of the Environment Committee's bill was to assure that victims of a nuclear accident are not left to pay the costs while a future Congress—or Congresses—debate who should pay for damage done.

Other committees in the Congress have arrived at different judgments. The House bill, which is the product of three committees, rhetorically commits the Federal Government to assure full compensation of victims but actually provides a cap at approximately $7.2 billion.

The leadership of the Senate Energy Committee and the Budget Committee strongly opposed the provision for full victim compensation in the Environment Committee's bill. And we were facing a possible Budget Act point of order primarily on policy rather than procedural grounds.

Thus, the amendment that is being offered today by the junior Senator from Louisiana is not the bill that was reported by the Environment Committee.

Rather, the amendment adds to the protection provided by insurance and the retrospective premiums assessed against nuclear utilities, a third tier of Federal indemnity equal to the Federal indemnity provided in the House bill for DOE nuclear contractors. That is, the exposure of the Federal Treasury in the event of an accident at a nuclear utility will be the same as its exposure in the event of an accident at a DOE facility.

The total compensation available to victims of an accident at a commercial reactor would be on the order of $14 to $15 billion. Those dollar figures happen to be the numbers that GAO arrived at as a realistic estimate of damages from a major accident at a reactor located in a heavily populated area.

Mr. President, let me just review what it is that the Senate is being asked to consider with this amendment. We are asking that the Senate adopt a policy to assure victims of an accident at a commercial reactor of compensation at least up to the level of foreseeable damages.

At the same time, we are limiting the potential drain on the Federal Treasury to a known sum—a sum that many have already embraced as reasonable with regard to Federal contractors.

Now, some of those who support the Federal indemnity for contractors are arguing that there should not be disparate protection for different kinds of nuclear accidents, that is, $7 billion for DOE contractor accidents and $14 billion for commercial reactor accidents.

I would simply say to this argument, this Senator, for one, would be happy to increase the protection for victims of a contractor accident to $14 billion, too. If someone proposes such an amendment, I would support it.

I believe we owe it to those who live near nuclear facilities to provide the greatest assurance we can that they will not be left to bear the costs of a nuclear accident. That is what this amendment would do, and I urge my colleagues to support it.

Mr. BREAUX. Mr. President, as I indicated earlier, the Committee on Environment and Public Works, during our consideration of the legislation to reauthorize and improve the operation of the Price-Anderson Act, was unsatisfied with the approach contained in both the current law and also the legislation under development in the other body, the House of Representatives.

Briefly, it should be clear to our colleagues who have listened to the debate thus far that the existing Price-Anderson statute as it relates to commercial nuclear power reactors establishes a system of payments of primary and secondary financial protection to the victims of a nuclear accident. Should an accident occur, the licensee of a plant involved would pay up to $160 million toward liability claims from their private insurance and all other licensed facilities would be required to pay up to $5 million in retrospective payments. That is the current law. With 112 plants operating, you are looking at a total of $720 million.

The legislation as reported by the House and Senate increases that amount because, obviously, there is a very serious need to raise those limits. The two tiers of public protection are significantly increased to roughly $7 billion in the bill that we are now in the process of amending. This increase is accomplished by increasing the maximum retrospective premium per reactor from $5 million, as is the current law, up to $63 million, payable over approximately 6 years at a rate of $10 million a year.

With respect to any damages from a catastrophic accident of a nuclear powerplant that is above that amount, the House bill essentially says, "Well, we have a moral obligation to take care of it." That is the obligation that we feel should be made stronger. In order to have people confident about nuclear power in this country it is not enough to tell them that we are going to insure you up to $7 million but, if something happens above that, well, do not worry about it; we know we have an obligation to take care of you and we promise to do that.

Well, this promise to do that would have an awful lot of people in this country worry about where would the money come from in the event of a major, major nuclear accident. This is what this amendment tries to address.

In a truly catastrophic accident, we should have something on the books now that tells the people of this country that we are going to take care of any victim's injuries if the amount is above the $7 million.

Now, some would say, "Well, you know, we are not going to have an accident that is going to cost more in damages than $7 billion. Seven billion dollars is a tremendous amount of money." And it is.

But we asked the GAO, the General Accounting Office, to take a look at it and to see if they could come up with some parameters of what a truly catastrophic accident might cost. In a 1987 study, the General Accounting Office indicated that the average estimated offsite financial consequences of a catastrophic accident could run between $14 billion and $15 billion.

So the legislation now before the Senate, without any amendment, says that we are going to take care of $7 billion. The industry is going to put up the money. Unlike the situation with regard to DOE contractors, where the industry does not put up a single dime or even a red penny for compensation even for damages less than $7 billion, the private utilities are putting up the money for the first $7 billion. They are paying the premiums. They are paying the first $160 million and then coming up with $63 million after that is just over 6 years. That is from their pockets. It is not really from their pockets, it is from the consumers of electricity; it is from the people who buy the public power. But the utilities are responsible for it. It is not coming out of Uncle Sam's pocket. It is not coming out of the Treasury.

That is not the way we deal with DOE contracts. DOE contractors put up no money. The utilities put up the money for the first $7 billion and is outright coming out of their pocket.

So my concern is what happens after that $7 billion is reached, and it is something that could happen. GAO has given us some figures, and their figures are between $14 billion and $15 billion.

So this is what my amendment addresses—what happens when the claims reach the $7 billion limit and how claims would be paid after that. I think it is not enough just to tell the people that we are going to take care of them. This does not provide the credibility in this industry that we need. We are trying to correct that, because I am a strong supporter of nuclear power for this country.

We had a bill reported out of our committee that addressed it one way, which we have changed. The way that our committee bill treated accidents above $7 billion would be to say that if Congress took no action, victims of this type of a massive accident would obtain compensation from the judgment appropriation they would be entitled to an automatic payment from this permanent appropriation after their claim is proven. They would obtain payment for their claims straight from the judgment fund.

We have changed that. We decided that we can present a more acceptable third-tier level of compensation, from the standpoint of the Budget Committee, than what our committee originally did. The budget committee had some problems with our committee bill. I understood their concerns and we have addressed them. We have modified our approach to accommodate their concerns and that is the amendment that we have now.

We have modified it. The amendment at the desk would set a new limit equal to twice the maximum amount of financial protection required of all of the licensees. In other words, twice the first tier of $160 million and the second tier of $63 million over 6 years. In other words, we are talking about a figure that would be twice the approximately $7 billion that the first and second tier in the House bill provides.

Thus, under the provisions of our amendment the public would be fully protected from a nuclear power plant accident up to just over $15 billion.

At that point, my goodness, if we have an accident that is even above that—heaven help us if we ever did—but if something occurs even more than that, the features of the House bill allowing for futher congressional action would of course become effective.

The first and second tier would be no different from what already is in the House bill, namely private insurance for the first part, retrospective payments by the nuclear utilities for the second tier. If the public liability exceeded that amount provided by these first 2 tiers, then the third tier, which could provide an amount of financial protection equal to that amount already provided by the first two tiers, would be supplied by the Federal Government through indemnity agreements with the nuclear industry.

To be clear, this third tier arrangement that I am explaining now is the same as is proposed in this bill as modified by the earlier amendment for contractors doing business with the Department of Energy. This amendment would commit the same amount of Federal resources because the first tier for DOE contractors is $7 billion from the Federal Government and the third tier for utilities also is $7 billion from the Federal Government.

What do we have for DOE contractors? Seven billion dollars from the Federal Government. Our amendment provides a better system because at least the first part of any victim's compensation with private utility companies is put up by the utility companies. They come up with the $7 billion. DOE contractors do not come up with anything. The Federal Government completely picks up the whole $7 billion, totally. At least with utility companies, they are putting up the first $7 billion. We are talking about what after that? And then the "what after that" is the same features as DOE contractors have. That means that the Federal Government would be responsible for up to $7 billion for one of these catastrophic accidents.

I would also say that nothing in this amendment would prevent a future Congress from taking a different course of action. We are trying to address what would happen if Congress did not do anything. Are we to tell victims in this country that, well, we might have helped you but we decided not to do it? This amendment says that, in the event of an accident, we are putting in place now a procedure that would take care of victims up to approximately $15 billion. If something is worse than that then Congress could come up with another way of handling it.

Congress could also find a different fund or a different way of funding damages above the industry's limit, other than handling it through the system established by the provisions of this amendment. There is nothing wrong with suggesting that we cannot have a different way of handling it. Congress could certainly come up with a different way, if they decided to. But what I am saying is we should have a commitment now, a clear commitment that we are going to take care of victims even beyond the $7 billion that the industry puts up themselves. That is what my amendment does and I would hope that the Senate would consider it favorably and adopt it.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I rise in opposition to the amendment. I hope that Members know that Senator BREAUX had originally suggested an unlimited liability fund and payments would be made out of the judgment fund with unlimited liability. What we have done in previous actions by the Congress, commencing in 1975, with the renewal of Price-Anderson at that time, was that Congress removed the Federal indemnity role from commercial plants by creating the self-insurance retrospective premium approach. It was thought by the Congress that the industry could and should bear the expense of whatever indemnity there was above that fixed in the insurance pool itself.

I think there is no reason at this time to reinvolve the Government in the indemnification scheme. I see no justification for an automatic provision that the Government should assume responsibility for private-sector liability. Certainly, the bill that is before us indicates that if that $7 billion should prove to be inadequate, there would be expedited congressional reaction to the condition that then existed and could then be judged by the Congress in light of the events that were then known.

According to GAO, the $7 billion limit is adequate to cover 95 percent of the worst-case scenarios. There are only a couple of exceptions out of those reactors that even conceivably could be in the $12 to $16 billion damage range. So there is really no pressing need for this amendment at this time. In the event there were that kind of a catastrophe, which I do not think the Senator from Louisiana or I believe is going to happen, but in the event that should occur, Congress ought to have the right to act. We should not now presume to act in the context of events which we neither anticipate nor could fully understand.

So it seems to me appropriate that Congress should not only be given the right to act but should be mandated, required to act, as the bill before us does require. There would be no congressional flexibility unless Congress wants to get in and change the law. It would be prescribed; which seems to me at this time to be an irresponsible commitment of Federal Treasury funds.

Again, there is another parallel that the Senator from Louisiana mentioned. With respect to DOE contractor and waste disposal limits, which are $7 billion, is it suggested that we ought to raise those to $14 billion as well? Again, this is a large exposure for us to assume without congressional involvement.

The ultimate consequence of this might well be to cause a doubling of the retrospective premiums in order to reach the $14 billion goal. That is equally unacceptable, in my judgment, because in the event of that kind of an accident it seems to me to be prudent or fair to spread the risk a little more broadly than just an individual commercial licensee or their ratepayers, who would have to shoulder the burden.

So for a number of reasons I think it is important for us to look at the effects of this amendment and to stop for a moment. I would remind people, as the Senator from Louisiana has, that the current law above the insurance pool is that there would be a retrospective insurance premium charged against the commercial nuclear industry; and that that would take care of all claims up to the $7 billion threshold, which is by most people deemed adequate to meet all of the claims that are likely to happen in anything except the worst case scenarios which you can theorize are technically possible but not likely to happen, under the worst of circumstances.

I know that the Senator has not indicated that it is his desire that the entire amount be levied on the industry and their ratepayers. This is just one step in the process. There is no parallel provision in the House matter, with the $7 billion cap, and we are going to be negotiating in conference.

I think it is entirely possible that you will see in the conference an increase in the cap and an increase in the retrospective premiums, which is the reason for my comments.

Mr. President, I think it is also worthwhile to note that the Department of Justice in looking at this proposed amendment has indicated their strong opposition to the amendment. That letter is dated March 16, 1988, addressed to the Honorable QUENTIN N. BURDICK, Chairman of the Committee on Environment and Public Works, and to the Honorable J. BENNETT JOHNSTON, Chairman of the Committee on Environment and Natural Resources.

There is also a letter from the Office of Management and Budget dated March 16 addressed to myself that indicates that not only the strong objection to the provisions of this amendment but concludes by saying: "For these reasons we will recommend that the President veto Price-Anderson legislation if it contains any of these objectionable provisions."

I would also make reference to a letter dated March 16, addressed to the Honorable J. BENNETT JOHNSTON, Chairman of the Committee on Energy and Natural Resources, in which they again, on behalf of the administration, strongly oppose the addition of this amendment and urge that the amendment be defeated.

Mr. President, I ask unanimous consent that a copy of each of these letters be made part of the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, March 16, 1988.

Hon. QUENTIN N. BURDICK,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR CHAIRMEN BURDICK AND JOHNSTON: We recently have had the opportunity to review an amendment to the Price-Anderson Act reauthorization bill (H.R. 1414) which we understand will be offered by Senator John Breaux in lieu of the Senate Environment & Public Works Committee amendment based on S. 1865. This amendment, entitled "Related to Third Tier Indemnification," would create a third tier of indemnification of approximately $7 billion to be paid by the United States. This would be in addition to the approximately $7 billion already provided for in H.R. 1414.

As you know, in a letter dated March 3, 1988, Attorney General Meese and Secretary Herrington informed you that they would strongly urge the veto of a Price-Anderson Act reauthorization bill that includes the liability scheme established by S. 1865. We have carefully reviewed the "Third-Tier Indemnification" alternative amendment, and we feel that the alternative amendment has largely the same deficiencies as the amendment based on S. 1865. Accordingly, should a bill including the "Third-Tier Indemnification" approach be presented to the President, the Department of Justice would strongly urge a veto.

While the "Third-Tier Indemnification" amendment, unlike the amendment based on S. 1865, does not expressly mention the Judgment Fund, we believe that there is a strong likelihood that payments from this third-tier would come largely from the Judgment Fund appropriations statute. Consequently, the primary difference between the "Third-Tier Indemnification" amendment and the amendment based on S. 1865 is that the liability of the United States under the former amendment would—for the present—be limited to $7 billion. Because we do not believe that a liability limitation of $7 billion is particularly significant, this modification does not alter our firm intention to strongly urge a veto.

The Office of Management and Budget has advised that there is no objection to the presentation of this report to the Congress, and that the "Third-Tier Indemnification" amendment described above is not in accord with the program of the President.

Sincerely,

TOM M. BOYD,
Acting Assistant Attorney General.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, March 16, 1988.

Senator JAMES A. MCCLURE,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR MCCLURE: We have had the opportunity to review an amendment to the Price-Anderson Act reauthorization bill (HR 1414) which we understand will be offered by Senator John Breaux. This amendment, entitled "Related to Third-Tier Indemnification," would create a third tier of indemnification of approximately $7 billion to be paid to injured parties by the United States in the event of an accident at a commercial nuclear power plant. This would be in addition to the approximately $7 billion already provided for in HR 1414 which would be paid by the nuclear industry.

We strongly object to any such provision. In light of Administration and Congressional efforts to reduce the Federal deficit, it is completely irresponsible for the Senate to consider exposing the United States to billions of dollars of liability exposure. The fact that the exposure would be limited to $7 billion is not significant. This modification does not alter our firm view that any such provision should be vetoed.

At the same time, predetermining Federal liability in the event of an accident in the commercial sphere sets a dangerous precedent. It is acknowledged that the plants in question would not be owned by the Federal Government. It is also acknowledged that the Government would not be at fault in such an accident. Nevertheless, the Breaux amendment would provide for payment from the Treasury to injured parties in the event of such an accident.

As the Department of Justice has previously stated, inclusion of this provision would not only undermine long established rules governing liability under the Federal Tort Claims Act, it would also subject the Government to liability for the actions of private parties who are not acting at the Government's direction. We agree with the Department of Energy's position that a compensation program be based on a full review of the facts and circumstances at the time of a nuclear accident in the unlikely event that an accident occurs involving damage in excess of $7 billion.

For these reasons, we will recommend that the President veto Price-Anderson legislation if it contains any of these objectionable provisions.

Sincerely yours,

JAMES C. MILLER III,
Director.

THE SECRETARY OF ENERGY,
Washington, DC, March 16, 1988.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I understand that Senator Breaux may propose an amendment to legislation reauthorizing the Price Anderson Act. This amendment would raise the limitation on liability for a nuclear incident arising out of a commercial powerplant activity to approximately $14B. Any liability between $7B and $14B would be paid through Government indemnity. The Administration adamantly opposes this amendment, and senior advisors would recommend a veto if such a scheme is presented to the President as part of a Price Anderson reauthorization bill.

H.R. 1414 represents a carefully crafted balancing of interests and should be enacted as passed by the House of Representatives. Not only does the $14B figure represent an unreasonable and exaggerated approximation of potential damages from an unlikely nuclear incident, but an underlying concept of Price Anderson for 30 years has been that Congress review the actual circumstances surrounding an event and tailor a compensation scheme to ensure expeditious payment of valid claims while reducing legal and administrative costs.

The pre-determination embodies in the amendment that the Federal government should subsidize the liability of private parties is harmful to the public and the future development of a critical fuel source. It would represent a potentially uncontrolled expenditure of Federal funds.

Thank you for your efforts in securing passage of reviewed Price Anderson authority. I urge rejection of any amendment which would jeopardize the essential thrust of speedy recovery and careful liability assessment. The Office of Management and Budget (OMB) has advised us that passage of the proposed amendment would not be in accord with the President's program.

Yours truly,

JOHN S. HERRINGTON.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho has yielded.

The Senator from Louisiana.

Mr. BREAUX. Mr. President, I take this time just to make a couple of comments about the concerns raised by the Senator from Idaho, raised with that dreaded veto letter.

We could paper this Chamber with veto threats from various departments because of some Assistant Secretary who would like to write the legislation a little bit differently from the way the Senate would like to write it. Those come on a day-to-day basis and we generally file them in file 13 after we give them due consideration.

The Justice Department letter that the Senator quotes from is really still based on the amendment which came out of our committee, which is no longer the case.

I would only point out for the benefit of the Justic Department now that the revised amendment, unlike the committee amendment, does not make the U.S. Government a liable party as the committee bill did.

The revised amendment does not require the Justice Department to defend any suits, as the original amendment of the committee did.

The revised amendment does not contain unlimited Federal responsibility in the event that Congress does not act, as the original amendment does.

The Justice Department letter, I think, really relies on the potential that the indemnity contract could lead to a payment out of the judgment fund.

If that is the case, it is certainly the same case for DOE contractors. I cannot see how the Senator from Idaho, whom I have great respect for, could argue that somehow, if in this amendment we are making the Federal Government potentially liable for $7 billion, that that is bad. That is exactly what the Senator's legislation does with regard to contractors who do business with DOE. They do not put up a nickel, not a penny, they do not carry any insurance, they do not pay any premiums. Yet they are on the hook for $7 billion.

The Senator argues that that is good, solid, and makes a great deal of sense. I agree and I support that.

But this is patterned exactly, word for word, after the Energy Committee's approach to protecting DOE contractors with the $7 billion cap. The only difference is that we are asking the utilities in addition to put up $7 billion of their private funds. That is not the case with DOE contractors. I supported that.

We are saying that after the utilities put up $7 billion in the event of a catastrophic accident, after $7 billion they are going to get the same protection that DOE contractors get without putting up a nickel.

I do not understand how that is good policy with regard to one set of contractors but is not good public policy with regard to others.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I want to correct just one misimpression which may have been created or is in the mind of the distinguished Senator from Louisiana. The letter from the Department of Justice to which I make reference is not based upon the bill as reported by the Environment and Public Works Committee. It is specifically directed toward the amendment which is on the floor right now.

Mr. BREAUX. If the Senator will yield, I did not mean to say they were addressing the committee amendment but their whole basis was based upon what is contained in the committee amendment.

Mr. McCLURE. If I may, what they say is despite the differences, there are no differences in basic substance which caused them to object to the provisions in the bill as developed by the Environment and Public Works Committee. That amendment still remains even though the amendment now offered varies from that position.

I might add, too, that we have a communication from Edison Electric Institute, which, as you know, is the association of electric companies, which indicates that they would be opposed to Price-Anderson extension if this provision is adopted.

Mr. BREAUX. Mr. President, perhaps I should yield to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. It is my understanding that why we are here is because for the first time since I have been ranking member with this remarkable Senator from Louisiana, I am on the other side. I want to commend him for a splendid job. It is a great privilege for me to be the ranking member as he chairs the Subcommittee on Nuclear Regulation. He and his staff have worked very hard and diligently to try to reach a good result here. He is to be richly commended. It is very much with considerable reluctance that I do oppose this amendment of my good friend from Louisiana.

After giving the matter long and careful thought, I have concluded that there are some fundamental problems with this approach. I will be very brief.

First, the proposed amendment would reintroduce this concept of compensating for any damages resulting from accidents in commercial nuclear facilities out of Federal funds. This reliance on Federal indemnity which was phased out—we phased that out in 1975 with the Price-Anderson amendment—is a movement in the wrong direction, and particularly if one feels as I do, that the Congress will act responsibly to compensate victims above the $7 billion in funds available in the bill now before us.

That is for us to do. That is for Congress to do.

Second, this amendment involves two different liability schemes now for DOE contractors and NRC reactor licensees, the former subject to a $7 billion liability limit and the latter to a $14 billion limit. That approach to me is rather counter to a recommendation by the GAO that comparable levels of coverage be provided by DOE and NRC facilities. That will mean that the public will be compensated at one level for an accident at a civilian nuclear reactor but at one-half of that amount for an accident at a DOE nuclear reactor.

Third, the combination of this amendment and the underlying House bill effectively eliminates detailed procedures for congressional review. Those were contained in the Environment and Public Works Committee bill and I think they are an essential ingredient of any kind of compensation system. In particular, the environmental bill guaranteed the Congress the opportunity to intervene. I think that is so important. It would be following a Presidential proposal to do so.

It would come in three instances: The Environment Committee bill guarantees the Congress the opportunity to step in prior to the payment of claims in excess of $7 billion, to fashion an alternative compensation system.

The Environment Committee bill guarantees the Congress the opportunity to approve the expenditure of Federal funds.

Then the Environment Committee bill guarantees Congress the opportunity to restructure the Price-Anderson system, prior to the adjudication of any claims, for the purpose of providing an administrative approach to settling claims or for the purpose of defining the type and amount of damages that could be recovered.

Under the approach proposed in this amendment, there is no guarantee now that Congress will have that option. In fact, the approach contemplates that $7 billion in Federal funds will be paid out of the Treasury without any opportunity for congressional review. I think that is a mistake.

Finally, the amendment will effectively mean that the Department of Justice will have to defend claims above the $7 billion in utility contributions with utilities no longer having any final interest at stake with regard to those claims which would ordinarily lead them to mount a very vigorous defense. They would no longer have that impetus and that drive, if you will.

Moreover, the obligation for Justice to defend will grow in the future. Certainly it will as the Federal indemnity increases when the number of reactors operating goes down as they get to the end of their life systems.

For those reasons, I reluctantly oppose the amendment with some trepidation, and I have great regard for my colleague, because this is the first occasion where the two of us have disagreed on issues within that committee. This is a very central and important bill. However, I reluctantly oppose this amendment.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I just take this time to close on my amendment, if I might, with regard to some of the points that have been made in opposition to the amendment.

First, one of the groups which represent utilities, Edison Electric Institute, is quoted as saying we do not need any coverage over $7 billion. They say that because they say: "Utilities believe that the $7 billion made available by the legislation is adequate."

Suppose they are wrong? Did they believe that TMI was going to become a problem? Probably not. I could probably have obtained a letter from Edison Electric saying: "We don't have any problems with any utility in the United States." But we do. We have accidents, thank God with minimal amount of damage. We have plants that have to shut down. We have plants that have shut down today.

I bet I could have obtained a letter from Edison Electric saying: "We don't believe that will happen."

The simple fact is, we are talking about something nobody can guarantee will or will not happen. We are talking about the possibility of an accident which goes beyond $7 billion.

The utilities say: "We don't believe we need any more coverage after that." Of course not; they are protected. They have indemnification. After $7 billion, you cannot get a red cent out of them.

For them to say we do not need more than that, of course, but we are not trying, through this amendment, to further protect the utilities. This amendment is designed to protect the victims, the innocent people who are injured by perhaps a catastrophic nuclear accident, which we hope will not occur.

If we buy what they are saying, that they do not need any additional protection, they are right, because you cannot get anything more than $7 billion out of them. If you have a victim who is horribly injured, and they have already paid $7 billion, without my amendment we are telling him: "You are out to lunch. We are not going to do anything for you unless Congress might decide to take action."

The only thing my amendment says is that the Government ought to be willing to be responsible to victims of nuclear plant accidents for damages in the same amount that this Senate is willing to say we are responsible to victims if the accident is caused by a contractor doing business with the Department of Energy.

I would ask the Senators: Does it make any sense to say if victims are injured by accidents when a contractor is working for DOE we are going to take care of him, but if he is injured in an accident which is caused by a utility, a nuclear powerplant, we may, but we may not? What kind of logic is that? Do you think that is going to be any comfort to a victim who is laying in a hospital bed horribly injured by saying: "You were hurt by a DOE contractor so we are going to take care of you, but if you were hurt by a utility accident, well, we may, but we may not. Maybe Congress will act."

The only thing my amendment is saying is the exact language the Energy Committee crafted for DOE contractors requiring the Federal Government to provide $7 billion for the damages and injuries of victims who have suffered as a result of accidents caused by contractor accidents should apply to utility accidents. That is all.

I am tremendously pleased the utilities are willing to front the first $7 billion. I am just saying this Government ought to have the same responsibility for utilities in nuclear accidents as we do with DOE contractors in nuclear accidents.

The PRESIDING OFFICER. Is there further debate?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I understand the reluctance of the sponsor of the amendment and what he is attempting to portray. The Congress will not respond and will not be responsive nor responsible.

I would like to enter into the RECORD a table of the outlays from the President's disaster relief fund and the disposition of requests there for fiscal years 1983 through 1987. On each occasion, there was a very generous response from the Congress. It is the same kind of thing we would find here if there were a commercial nuclear disaster, a transient or an extraordinary act.

In this table, it is very clear. There were 22 requests in the fiscal year 1983, and Congress responded with $201 million. In 1986, there were 30 requests, and Congress responded with $335 million. We do respond. These are the types of disasters that would be the same with perhaps a transient or some difficulty. But there is a history of congressional response. In fact, we really do not turn our back on anybody, whether it is disaster response or almost any kind of monetary assistance to those in extremity.

I would like to enter that table in the record of the debate, and also the letter from the Secretary of Energy, dated March 16, with regard to the administration's view of the proposed amendment, the necessity to recommend veto if that provision were presented as part of the reauthorization bill; and another memorandum, dated March 16, directed to Chairman BURDICK and Chairman JOHNSTON from Tom Boyd, the Assistant Attorney General, with regard to this same provision.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, March 16, 1988.

Hon. QUENTIN N. BURDICK,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, Washington, DC.

DEAR CHAIRMEN BURDICK AND JOHNSTON: We recently have had the opportunity to review an amendment to the Price-Anderson Act reauthorization bill (H.R. 1414) which we understand will be offered by Senator John Breaux in lieu of the Senate Environment and Public Works Committee amendment based on S. 1865. This amendment, entitled "Related to Third Tier Indemnification," would create a third tier of indemnification of approximately $7 billion to be paid by the United States. This would be in addition to the approximately $7 billion already provided for in H.R. 1414.

As you know, in a letter dated March 3, 1988, Attorney General Meese and Secretary Herrington informed you that they would strongly urge the veto of a Price-Anderson Act reauthorization bill that includes the liability scheme established by S. 1865. We have carefully reviewed the "Third-Tier Indemnification" alternative amendment, and we feel that the alternative amendment has largely the same deficiencies as the amendment based on S. 1865. Accordingly, should a bill including the "Third-Tier Indemnification" approach be presented to the President, the Department of Justice would strongly urge a veto.

While the "Third-Tier Indemnification" amendment, unlike the amendment based on S. 1865, does not expressly mention the Judgment Fund, we believe that there is a strong likelihood that payments from this third-tier would come largely from the Judgment Fund appropriations statute. Consequently, the primary difference between the "Third-Tier Indemnification" amendment and the amendment based on S. 1865 is that the liability of the United States under the former amendment would—for the present—be limited to $7 billion is particularly significant, this modification does not alter our firm intention to strongly urge a veto.

The Office of Management and Budget has advised that there is no objection to the presentation of this report to the Congress, and that the "Third-Tier Indemnification" amendment described above is not in accord with the program of the President.

Sincerely,

TOM M. BOYD,
Acting Assistant Attorney General.

THE SECRETARY OF ENERGY,
Washington, DC, March 16, 1988.

Hon. QUENTIN N. BURDICK,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I understand that Senator Breaux may propose an amendment to legislation reauthorizing the Price Anderson Act. This amendment would raise the limitation on liability for a nuclear incident arising out of a commercial powerplant activity to approximately $14B. Any liability between $7B and $14B would be paid through Government indemnity. The Administration adamantly opposes this amendment, and senior advisors would recommend a veto if such a scheme is presented to the

President as part of a Price Anderson reauthorization bill.

H.R. 1414 represents a carefully crafted balancing of interests and should be enacted as passed by the House of Representatives. Not only does the $14B figure represent an unreasonable and exaggerated approximation of potential damages from an unlikely nuclear incident, but an underlying concept of Price Anderson for 30 years has been that Congress review the actual circumstances surrounding an event and tailor a compensation scheme to ensure expeditious payment of valid claims while reducing legal and administrative costs.

The pre-determination embodied in the amendment that the Federal government should subsidize the liability of private parties is harmful to the public and the future development of a critical fuel source. It would represent a potentially uncontrolled expenditure of Federal funds.

Thank you for your efforts in securing passage of reviewed Price Anderson authority. I urge rejection of any amendment which would jeopardize the essential thrust of speedy recovery and careful liability assessment. The Office of Management and Budget (OMB) has advised us that passage of the proposed amendment would not be in accord with the President's program.

Yours truly,

John S. Herrington.

Congressional Research Service,
The Library of Congress,
Washington, DC, February 19, 1988.

To: Senate Environment and Public Works Committee: Attn, Jim Curtis.

From: Keith Bea, Analyst, American National Government, Intergovernmental Relations Section, Government Division.

Subject: Information on Disaster Relief Payments and Assistance Requests.

This memorandum responds to your request for information on disaster relief payments made over the past five years. As we discussed in our telephone conversation, this memorandum identifies: (1) outlays made from the President's disaster relief fund through the Federal Emergency Management Agency (FEMA) for the past five years pursuant to the authority of the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq); and (2) the number of requests for assistance submitted by State Governors, the number of requests approved for the past five years, and the number not declared. The data on the disposition of requests for assistance include the three categories of assistance authorized by the Disaster Relief Act: major disaster assistance; emergency assistance, and five suppression grants. Please call me if you need this information presented according to these categories.

TABLE 1.—OUTLAYS FROM THE PRESIDENT'S DISASTER RELIEF FUND AND DISPOSITION OF REQUESTS FOR ASSISTANCE, FISCAL YEARS 1983–87

Fiscal year	Actual outlays	Disposition of requests		
		Number initiated	Number declared	Number not declared
1983	$201,905,000	45	22	23
1984	243,014,000	53	40	13
1985	191,683,000	43	19	24
1986	335,444,000	43	30	13
1987	137,700,000	38	31	7

Sources: Outlay data for 1983–85 from: U.S. President, Budget of the U.S. Government, appendix, various years. Outlay data for 1986 from: U.S. Congress. House. Committee on Appropriations. Department of Housing and Urban Development—Independent Agencies Appropriations for 1988, part 5. 100th Congress, 1st session, Washington, U.S. Government Printing Office, 1987, p. 636. Data on disposition of requests data for 1983–86 from: U.S. Congress. House. Committee on Appropriations. Subcommittee on HUD-Independent Agencies. Appropriations hearings, various years. Outlay and disposition of requests data for 1987 from Federal Emergency Management Agency.

The PRESIDING OFFICER. Is there further debate?

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I had put in a quorum call because a Senator had indicated his desire to speak. He is not going to be able to come at this point to speak, and I therefore suggest we go ahead and vote.

The PRESIDING OFFICER. Is there any further debate?

Mr. McCLURE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Illinois [Mr. Simon], and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] and the Senator from Hawaii [Mr. Matsunaga] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. Armstrong] and the Senator from Vermont [Mr. Stafford] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 21, nays 72, as follows:

[Rollcall Vote No. 56 Leg.]

YEAS—21

Adams
Breaux
Bumpers
Burdick
Chafee
Cranston
Graham
Inouye
Kennedy
Lautenberg
Leahy
Metzenbaum
Mikulski
Moynihan
Pell
Reid
Riegle
Rockefeller
Sarbanes
Shelby
Wirth

NAYS—72

Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Byrd
Chiles
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Johnston
Karnes
Kassebaum
Kasten
Kerry
Levin
Lugar
McCain
McClure
McConnell
Melcher
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pressler
Proxmire
Pryor
Quayle
Roth
Rudman
Sanford
Sasser
Simpson
Specter
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson

NOT VOTING—7

Armstrong
Biden
Gore
Matsunaga
Simon
Stafford
Stennis

So the amendment (No. 1670) was rejected.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. Dixon). The majority leader.

Mr. BYRD. Mr. President, I wonder if the managers could indicate what the prospects are for action on the bill for the rest of the day, up to around 6 p.m.

Mr. JOHNSTON. Mr. President, I say to the majority leader that there is a Glenn amendment to be brought up, which would take more than the hour, more than past 6 p.m., if brought up.

I think Senator McClure has an expedited procedures amendment, which could be dealt with in very short order, probably 10 minutes or less.

Does the Senator from Idaho have another amendment?

Mr. McCLURE. There may be a total of five amendments on this side. I think most of them will not take long.

Mr. JOHNSTON. Would any of them require a record vote?

Mr. McCLURE. Not so far as I am concerned, but there might be one or two that would.

Mr. BREAUX. Mr. President, will whoever has the floor yield?

Can the Senator tell us what sections of the bill are involved?

Mr. McCLURE. The one that I see that is going to take some time is the Glenn amendment, and it will take more time than we have between now and 6 o'clock.

Mr. JOHNSTON. I wonder if we could deal with some of the other five amendments. I assume that the majority leader wants no record votes between 6 and 9.

Mr. BYRD. No record votes after 6.

Mr. JOHNSTON. I think we could try to get some of these other amendments out of the way, as many as possible. Maybe even if we have votes on those, we could put them over until the morning—for a wake-up call.

Mr. BYRD. I do not want to put them over until the morning, if we can avoid it, I say to my distinguished friend, but I am not saying that we will not.

Mr. JOHNSTON. Maybe we could deal with some of the small amendments, and I think we could stay on those until 6 o'clock.

Mr. BYRD. The reason I say that is that I do not know what is going to happen with regard to the veto. The Senate may have to go on that the first thing in the morning, if the veto message should come up this evening.

Mr. SIMPSON. Mr. President, I can inform the majority leader that the veto message will be coming. It has to come today, and apparently it will come before midnight tonight, obviously.

I assure the majority leader that I will work with him to see if there can be a time. It is a debatable matter. Those who are interested in that issue will meet on that issue tomorrow and discuss that. I will deeply wish to go into that.

There is a function at the White House now for certain Republican Senators. One of our Members missed the vote because it is impossible, in the evening traffic, to get back. So if we were to meet that invitation on this side of the aisle, we would not be able to get back if a vote were to occur between now and 6.

I do not like to ask those things. That is like raising your hand in the classroom and saying you have to leave the room. Nevertheless, we are ready to proceed to the veto message, but I cannot give the majority leader any particular time. I am unable to do that. I wish I could, but that is impossible.

Mr. BYRD. I indicated earlier today—I say to the manager and other Senators—that we should proceed until around 6 o'clock; that we on our side have an appointment around 6 o'clock, across town, that we have to keep. From time to time, our friends on the other side of the aisle have those things, and we try to be accommodative as much as we can.

That leaves us open until 6 o'clock, or thereabouts. If we could make better progress after that, I should think we ought to go then.

The manager is doing an excellent job, and so is the ranking member.

I thank the acting Republican leader.

AMENDMENT NO. 1671

(Purpose: To provide for expedited congressional consideration of compensation plans submitted to Congress following a catastrophic nuclear accident)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an amendment numbered 1671.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, line 2, strike "subsection i.," and insert "the procedures set forth in subsection 170i. and will in accordance with such procedures,"

On page 18, line 20, insert after the words "plans.", the following new paragraphs:

"(3) Any compensation plan transmitted to the Congress pursuant to paragraph (2) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

"(4) No such compensation plan may be considered approved for purposes of subsection 170e. (2) unless between the date of transmittal and the end of the first period of sixty calendar days of continuous session of Congress after the date on which such action is transmitted to such House, each House of Congress passes a resolution described in paragraph 6 of this subsection.

"(5) For the purpose of paragraph 4 of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day calendar period.

"(6)(A) This paragraph is enacted by Congress—

"(i) As an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by clause (B) and it supersedes other rules only to the extent that it is inconsistent therewith; and

"(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

"(B) For purposes of this paragraph, the term 'resolution' means only a resolution of either House of Congress the matter after the resolving clause of which is as follows: "That the   approves the compensation plan numbered   submitted to the Congress on   , 19   .", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one compensation plan.

"(C) A resolution once introduced with respect to a compensation plan shall immediately be referred to a committee (and all resolutions with respect to the same compensation plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(D)(i) If the committee to which a resolution with respect to a compensation plan has been referred has not reported it at the end of twenty calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration with respect to such compensation plan which has been referred to the committee.

"(ii) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same compensation plan), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(iii) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same compensation plan.

"(F)(i) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution or motions to proceed to the consideration of other business, shall be decided without debate.

"(ii) Appeals from the decision of the Chair relating to the application of the rules of the Senate and the House of Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate."

Mr. BREAUX. Mr. President, may we have a copy of the amendment?

Mr. McCLURE. Mr. President, this amendment will assure the public that Congress will act expeditiously if additional funding beyond the liability limit is needed. This provision tracks similar provisions in other pieces of legislation, such as the Nuclear Waste Policy Act, where prompt congressional action is warranted.

I do not know of any controversy with respect to this amendment. I hope it can be accepted.

Mr. JOHNSTON. Mr. President, the Senator from Idaho is correct. This amendment simply accommodates in case there is the unmentionable accident. It makes possible a more rapid congressional action to help those injured who cannot be compensated within the $7 billion limit.

I think it is perfectly noncontroversial, and we hope the Senate will accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1671) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1672

(Purpose: To clarify the provisions requiring the Department of Energy to enter into indemnification agreements under subsection 170d. with all contractors engaging in activities involving a nuclear risk)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McClure] proposes an amendment numbered 1672.

On page 39, line 8, renumber subsection (b) to be subsection (b)(1); and

On page 39, after line 10, insert the following new subsection (b)(2):

"(2) Section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) as amended by this Act shall apply to all contracts with the Department of Energy whether executed before, on or after the date of enactment of this Act."

Mr. McCLURE. Mr. President, I think the distinguished managers have a copy of this proposed amendment.

This amendment assures that the provisions of the renewed Price-Anderson bill will apply to all DOE contracts including those renewed under Public Law 85-804 and these new Price-Anderson provisions will be retroactive to August 1, 1987, when the existing Price-Anderson Act expired.

Mr. JOHNSTON. Mr. President, the Senator is correct. This just prevents there being any interregnum between those who executed contracts under the old law. It makes clear that they are covered under the new law. We support it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1672) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1673

(Purpose: To provide that the DOE funds indemnifying contractors will be the exclusive source of payments for public liability where such liability does not exceed the aggregate limit on liability established under the Price-Anderson Act)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McClure] proposes an amendment numbered 1673.

On page 11, after line 3, insert the following new paragraph:

"(8) The funds provided in accordance with agreements of indemnification under paragraph (1) shall be the exclusive source of payments for public liability claims where such liability does not exceed the aggregate level of liability established under subsection e(1)."

Mr. McCLURE. Mr. President, this amendment is designed to clarify that Price-Anderson funds are the sole source of funds for claims against DOE contractors. I believe this is the intention of the legislation.

Mr. JOHNSTON. Mr. President, I think the Senator from Idaho is correct. It could be argued that the amendment is redundant of the bill. But in any event, it clarifies at least that this fund shall be the sole source and that the parties cannot go after the contractors as well. We support the amendment.

Mr. BREAUX. Mr. President, I am looking at the amendment. I do not understand why it is needed. I do not understand why it is necessary. I do not understand why, if the amendment is adopted, we are not removing all of the incentive for contractors to pursue their claims against the Government. I just have some real problems with that.

Even DOE, which I do not agree with on a lot of things dealing with nuclear power, says it is not necessary.

If the amendment is adopted, what incentive is the contractor going to have to ever pursue his claim against the Federal Government, if the Congress does not appropriate the funds for the victim?

I do not understand. The point I am making is why is the amendment necessary?

Let me ask the author of the amendment. Would the adoption of this amendment mean that the victim who had secured a judgment would have no legal right to obtain payments for liability from the DOE contractor?

Mr. McCLURE. The contractor would have the legal right against the Government, but the claimant would not.

Mr. BREAUX. If the Senator's amendment were adopted, the claimant would have no way of trying to enforce any claim against the contractor?

Mr. McCLURE. This would parallel the NRC existing provision in the bill.

Mr. BREAUX. Would the victim have any legal right to obtain money from the Federal Government if the Senator's amendment were to be adopted?

Mr. McCLURE. No. That is current law.

Mr. BREAUX. Where does he go for his legal right to get compensated?

Mr. McCLURE. The Price-Anderson fund.

Mr. BREAUX. What fund are we talking about, I will ask? I am not sure I know of the fund the Senator is speaking of. There is no fund as I understand it. I do not know where he would go.

Mr. McCLURE. The claimant would go against the contractor who in turn would look to the fund.

Mr. BREAUX. First of all, I'm not sure there is a fund he could look to, but under the Senator's amendment, could he or she do that?

Mr. McCLURE. Yes; he could.

Mr. BREAUX. What does the Senator's amendment do, then, I will ask the Senator?

Mr. McCLURE. It says that the Price-Anderson fund is the sole source of the funding, that ultimately regardless of what the chain is, that is the source of the funds that will be recovered.

Mr. BREAUX. But under the Senator's amendment, if it were to be adopted, the victim would have no right to proceed against the contractor and he would have no right to proceed against the Federal Government. Is that not correct? He would have no legal right to proceed against either the Government or the contractor for satisfaction of his claim?

Mr. McCLURE. He would proceed against the contractor and the contractor would have the indemnity fund to back up his liability.

Mr. BREAUX. Where would the victim get the money to be paid is what I am asking.

Mr. McCLURE. Out of the Price-Anderson fund.

Mr. BREAUX. The point I would make is this—there would be no fund unless Congress took actions to appropriate it. What happens if Congress does not take action to appropriate the money? The victim is without any place to go.

Mr. McCLURE. First there is a liability insurance fund that is by insurance coverage already. Second, Price-Anderson itself creates the indemnity fund out of retroactive assessment against the existing nuclear industry.

Mr. BREAUX. But DOE contractors do not have retrospective payments.

Mr. McCLURE. No. I am talking about the private non-Federal contractors.

Mr. BREAUX. But, there are no retrospective payments. There are no insurance payments. The victim cannot sue the contractor and cannot sue the Government if we do not appropriate the money. That leaves the victim holding the bag. He has absolutely no right to collect from either the contractor or the Government for a claim that has been fully adjudicated.

I suggest the Senator's amendment is fraught with imperfections. It think it does grave damage to victims. It is something that is not needed. The Department of Energy says it is not needed. I think it raises an incredibly serious question about what the victim is going to do if the Congress does not act. Where does he go? If we do not appropriate the money there are no funds. You cannot sue the contractor. You cannot sue the Federal Government. The victim remains a victim without any place to go whatsoever.

Mr. McCLURE. If the claimant does sue the contractor, the contractor has recourse against the Government.

Mr. BREAUX. My understanding is that under the Senator's sole-source amendment, he eliminates the contractor as being one that can be sued.

Mr. McCLURE. He can be sued and he in turn would sue the Government under the provisions of the act.

Mr. BREAUX. And if the Government does not provide the money for that victim because we fail to act, the victim has no place to get any recovery whatsoever under the Senator's amendment, and that is the problem with this amendment.

I point out that the Senator is creating a loophole which makes a real possibility of a victim never being compensated because his amendment is not going to let him get a judgment against the contractor, and if the Federal Government does not take the action to pay him, the victim is going to be sitting out there, by an amendment that is going to be adopted with no one here on the floor at 5:20, when we tell the victim he can forget about being compensated.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. BREAUX. I think I have the floor. I am happy to yield.

Mr. JOHNSTON. It seems to me my colleague from Louisiana is asking some very pertinent questions. I think there are adequate answers to them. But it seems to me that we might do well to put this over until tomorrow and let staff work on it and if within the four corners of the amendment the answer is not there, we can otherwise change it to make it clear.

Mr. BREAUX. That is agreeable.

Mr. McCLURE. That is perfectly satisfactory to me.

Before doing that I wonder if the Senator will yield.

Mr. BREAUX. Certainly.

Mr. McCLURE. Under a DOE contractor's liability scheme under the Price-Anderson Act, under what we have here, the claimant would sue the contractor, the contractor has a claim against the Government, and ultimately the judgment fund of the United States would pay.

Now, that seems to me to be an adequate protection to the claimants. I do not know of any judgment against the U.S. Government that has not been satisfied through the judgment fund.

Mr. BREAUX. Well, I agree with your analysis of how the indemnity currently works. My concern is that your sole-source amendment would completely remove any incentive for the contractor, who has had a judgment entered against him from pursuing the Government and ever obtaining payment from the judgment fund.

Mr. McCLURE. Certainly I have no objection to giving it some time. Certainly they are good questions and I certainly want you to be satisfied that the amendment does not do substantial wrong to anyone.

Mr. President, I ask unanimous consent that I may withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 1674

(Purpose: To extend the indemnification authority under the Price-Anderson Act for 30 years, until August 1, 2017; and to require the Nuclear Regulatory Commission to report to Congress by August 1, 2013, and the Secretary of Energy by August 1, 1997, and every 10 years thereafter, on the need for modifications to the Price-Anderson Act provisions)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 1674.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 5, strike the date "1997" and insert the date "2017".

On page 7, line 16, strike the date "1999" and insert the date "2017".

On page 30, line 18 and 19, strike " "and the Secretary shall submit to the Congress by August 1, 1993, detailed reports";" and insert " "shall submit to the Congress by August 1, 2013, and the Secretary shall submit to the Congress by August 1, 1997, and every ten years thereafter, detailed reports";"

Mr. McCLURE. Mr. President, this extends the period of time for the application of this Act, of course recognizing that at any time a future Congress can act to take other actions if they indeed wish to do so.

I would point out that the bill already provides for an inflation indexing so that the $7 billion will be inflation-proof over time. This will assure the public that there will be no lapse in coverage when waste begins to be accepted in the waste repository, wherever that may occur, around the year 2000.

In any event, where Congress identifies the problem, they can always amend the act before this date as stated in the amendment. The reports provided by DOE and the NRC every 10 years will help Congress identify any problems and keep Congress adequately informed.

Mr. President, I think the difficulty we have already experienced in extending this act indicates the wisdom of providing this period of time for its application.

The PRESIDING OFFICER. Is there further debate in the amendment?

Mr. JOHNSTON. Mr. President, I wonder if my colleague from Idaho could take 20 years. I think that could be a consensus amendment.

Mr. McCLURE. Mr. President, I modify the amendment to provide a 20-year period.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 1674), as modified, is as follows:

On page 7, line 5, strike the date "1997" and insert the date "2007".

On page 7, line 16, strike the date "1999" and insert the date "2007".

On page 30, line 18 and 19, strike " 'and the Secretary shall submit to the Congress by August 1, 1993, detailed reports';" and insert " 'shall submit to the Congress by August 1, 2003, and the Secretary shall submit to the Congress by August 1, 2003, detailed reports';"

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1674) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, the Senator from New Mexico [Mr. DOMENICI], has an amendment. He is not able to be here this evening to offer it. I understand that he will be able to offer it on tomorrow and I expect he will do so.

There is also the possibility of an amendment by the Senator from Alaska [Mr. MURKOWSKI]. He is trying to ascertain the attitude of the administration with respect to that amendment. If they have no objection, he will offer it. If they do object strongly to the amendment, he will not offer it. But I wanted to put people on notice that he might offer that amendment on tomorrow.

Mr. JOHNSTON. Mr. President, I wonder if there are other Senators in the Chambers who have amendments.

Mr. President, I wonder if the majority leader thinks there is any chance of getting a unanimous-consent agreement limiting amendments on tomorrow to those just described—we know of no other amendment—or whether it is worth trying to put a hot line out on that.

Mr. BYRD. Yes, I think we would have to do that. I would have to work with the Republican leader, who would likewise have to be sure of his clearance procedures. We certainly will both endeavor to do that.

I can assure the managers I will do everything I can to quickly clear that request. I might even still be able to make clearance before we go out today.

AMENDMENT NO. 1675

(Purpose: To provide Price-Anderson coverage when the Secretary undertakes work involving nuclear waste)

Mr. JOHNSTON. Mr. President, on behalf of myself, Mr. DOMENICI, Mr. BINGAMAN, Mr. MCCLURE, and Mr. BREAUX, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for himself, Mr. DOMENICI, Mr. BINGAMAN, Mr. MCCLURE, and Mr. BREAUX, proposes an amendment numbered 1675.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 4 of H.R. 1414 is amended by adding the following new subsection:

"(c) Subsection s. of section 11 of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof the following: 'In the event that the Secretary of Energy, in carrying out any activity that the Secretary is authorized or directed to undertake pursuant to this Act or any other law involving the risk of public liability for a nuclear incident as a result of the storage or disposal of, or research and development on, spent nuclear fuel, high-level radioactive waste, or transuranic waste (including the transportation of such materials to a storage or disposal site or facility), undertakes such activity in a manner that involves the actual physical handling of spent nuclear fuel, high-level radioactive waste, or transuranic waste by the Secretary, the Secretary shall be considered as if he were a contractor with whom an indemnity agreement has been entered into pursuant to subsection 170d. of this Act.'."

Mr. McCLURE. Mr. President, I ask that the Senator from Wyoming [Mr. SIMPSON], be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, the Senator from Wyoming is added as a cosponsor.

Mr. JOHNSTON. Mr. President, this amendment was actually part of the bill reported by the Senate Committee on Energy and Natural Resources. We did not include it not because we were not for it in the initial draft, but simply because we did not cover everything. But it is a needed amendment, I believe. Certainly the two Senators from New Mexico are most anxious to have it.

What it provides is that in the event that the Secretary of Energy, through his own employees, undertakes work which is envisioned by the Price-Anderson bill, in the event there is an accident, that the Secretary of Energy shall be considered to be a nuclear contractor, as that term is used and defined herein, for the purposes of that accident should one occur if that work is undertaken by his own employees.

It is simply designed to cover that situation where the Secretary of Energy does something which he usually does by contractors but does by his own employees. We do not want there to be a hiatus where injured victims might not be compensated because the Secretary does it through his own workers.

I urge my colleagues to accept the amendment.

Mr. DOMENICI. Mr. President, I want to first take this opportunity to compliment the manager and ranking member of this bill for their handling of this bill.

I think everyone knows the Anderson in the Price-Anderson Act was the senior Senator from New Mexico for many years. Clinton P. Anderson was the man that I succeeded in office. He decided to retire in New Mexico, and I had the privilege of coming here. The Price-Anderson legislation was a monumental stepping stone for the United States that allowed the development of nuclear technology, nuclear energy, and the nuclear arsenal of this country. Without it, in our kind of society, obviously we would have never developed this very difficult technology.

It has been my privilege to participate to some extent in the Energy Committee in its evolution.

I think my friends managing the bill would agree with me that there were times when we were quite pessimistic that we would ever be here, whether we would ever pass legislation to modernize and bring up to speed, so to speak, this rather important act.

I want to say that I have not had a chance to speak to this point before, but I really am very proud of the legacy of Clinton P. Anderson. Even though we are moving into another generation of legislation, it still is called the Price-Anderson approach. I am very proud of that and I compliment the managers for their efforts.

I want to thank the chairman of the committee for offering the amendment in my behalf that is now pending. I am sure that, if I do not talk too long, the Senate will accept it so I will try to be judicious. If we do not adopt this there is at least one place within the management of nuclear activities where there might be a vacuum that we really did not intend. That would be where DOE employees, acting as agents of the Federal Government, could be, in that agency relationship, involved in an accident. If we do not cover them under the Price-Anderson indemnification, we would have the Federal Torts Claims Act come into play with all of the defenses and all of the difficulties that it brings.

So I think that, for those few circumstances where this might be a situation that could arise, we ought to make sure that we extend the Price-Anderson coverage for that kind of principal agency accident relationship. That is what my amendment does.

I do not think over the years it will have broad application. But where it might, it seems to me we want to make it eminently clear. In my State there is the waste isolation pilot project. If the Department of Energy, instead of Westinghouse or one of the contractors, happens at some time during its evolution to take over the management of the facility—and it could be when they are finished with it and we are just maintaining it—there could be an accident. This would say that Price-Anderson would then come into play. Although this is highly unlikely, I think those are the kinds of situations where this is needed to make sure we have offered the right kind of protection to somebody who might be injured or some property damage that might occur. They do not have to come in with the cumbersome defenses of the Federal Tort Claims Act. They have this coverage.

I also would mention, just to be totally forthright, our committee, the Energy and Natural Resources Committee, had indeed included this kind of coverage under their bill. I think it is a needed amendment to the House bill and we ought to take it to conference. I hope they will accept it because it does fill a vacuum or a void that otherwise could create some problems.

I yield the floor.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1675) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LISA WEIL

Mr. WIRTH. Mr. President, over the course of the last 14 years as a Member of Congress, I have had the good fortune to employ some of the most hardworking, most dedicated and brightest staff persons that the Hill has known. As a result, the people of Colorado and I have greatly benefited. The only disadvantage to this happy circumstance has been the bittersweet necessity of bidding farewell to treasured members of my staff who, having made significant contributions in the public interest, ultimately move on to even greater challenges and rewards.

Such is the case now as my staff and I prepare to say goodbye to Lisa Weil after 2½ years of valuable service, first to my 1986 senatorial campaign and, for the past 14 months, in my Washington, DC, legislative shop. Throughout our association, Lisa has distinguished herself as a talented and committed individual who believes deeply in the possibilities of social progress. Her unflagging commitment to progressive values, her leadership ability, her warmth and wit, and her outstanding productivity are going to be sorely missed by me, and by each and every member of my staff.

I know that Lisa will be a tremendous success in whatever challenge she chooses to undertake in coming years. On behalf of all of Colorado's citizens—especially the children, the elderly, the disadvantaged and "down on their luck underdogs," who are losing a great champion from the Halls of Congress—I extend my heartfelt gratitude and best wishes for a satisfying and successful future.

MY HOMETOWN—HUMBOLDT, SOUTH DAKOTA CENTENNIAL CELEBRATION

Mr. PRESSLER. Mr. President, I rise today to recognize my hometown—Humboldt, SD's upcoming centennial celebration. It is with great pride that I call Humboldt my hometown.

Mr. President, in June and July 1989, Humboldt will celebrate its centennial. Community events preparing for the celebration have already begun. On February 14, the first community fundraiser got underway. I was honored to be able to attend to speak. It always brings me great pleasure to get together with family and friends in the town where I grew up.

As these community events continue, I will continue to speak about the proud heritage of Humboldt throughout her 100 years of existence. Today I ask unanimous consent to insert a homespun article from the Humboldt Journal on our first centennial fundraiser. The Humboldt Journal is an old-fashioned, grassroots weekly newspaper which I have read for over 40 years. In fact, my Mother had the Humboldt Journal sent to me when I served in Vietnam and attended school in Oxford, England, and Harvard Law School.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Humboldt (SD) Journal, Feb. 25, 1988]

FIRST CENTENNIAL FUNDRAISER GETS SNOWBALLED

On February 14th, Humboldt area people got together and ate a lot of soup. This was the first fundraiser held for the Humboldt Centennial on June 29, 30, and July 1 of 1989. In spite of the snow blowing, blizzarding, snowblocked roads, approximately 250 people came out to eat 16 electric roasters of soup prepared by Catherine Starnes, Rose Rehfeldt, Ruby Kramer, Erna Beaner, Janet Truex, Edith Jarding, Marge Shumaker, Blanche Ideker, Sally O'Hara, Barb Hanisch, Vernique Bannwarth, and Deanna Hanisch. There was crying over the onions and laughter in the kitchen as these dozen people worked together for the first time making the chili, vegetable, and chicken noodle soup. Delicious it all was.

As people came in the hall with pies, bars, buns or whatever, Paula Jarding, Connie Meyer and Kathryn Boll stood buttering buns, Sunday. Kathryn said she never made 8 dozen buns at one time in her life. Those who donated their time and talent for homemade buns were Janet Truex, Kathryn Boll, Delores Gillen, Eva Hanisch, Eileen Meyer, Doris Becker, Marie Ginsbach, Marion Puthoff, and Vernique Bannwarth.

The hamburger, stew meat and soup bones were donated by the Fire Department, Flamettes, Legion, Auxiliary, and the St. Paul Lutheran Church. The vegetables and chili beans were brought in from the Congregational Church and the National Catholic Society of Foresters. The Women of Today furnished onions and soup ingredients. The Humboldt Jaycees gave 6 pounds of coffee. The Catholic Daughters of the Americas brought in all the pans of bars. the St. Ann's Catholic Church furnished the pies.

United States Senator Larry Pressler had already sent a donation of $100.00 for the start of a great kick-off fundraiser for the centennial. The people were honored to have Larry and his mother, Loretta, come to the soup and pie luncheon. Mayor Tom Puthoff and family welcomed Larry. Larry spoke to all present. Even as a United States Senator, Larry has not forgotten the people back home in Humboldt. He knew Harry Stofferahn as his 4-H leader, Arleen Reuter as Minnehaha History Book representative, Deanna Hanisch as the one with the chickens, who sells eggs. As he greeted more there was something he remembered about many of us. A great man, his is an excellent memory.

Shirley Price and Barb Bassett cut pies and bars; Lesa and Laura Jarding helped set tables; and Bob Searl was in the kitchen doing dishes; David Hatfield cleared tables. Many more people helped throughout the days.

Now this just goes to show many, what a small community can do, if we only work together. A thank you to you all who were involved. See you for the next fundraiser.

Ken and Dianne Struck worked at the centennial table. We are now selling chances on the one-of-a-kind rifle and the quilt. Get your T-shirts bought. Let's advertise! Beverly Starnes crocheted a beautiful doll in royal blue, white, and gold, Humboldt colors. As Dale Garry was cleaning up, we had him draw for the chance on the doll. Betty Gaspar was the winner. Get your recipes and histories sent in, please. Thank you. Centennial Chairman Deanna Hanisch.

[From the Aberdeen American News, Mar. 3, 1988]

FROM OUR FILES

MARCH 1963

Diplomatic informants reported that Russia had informed the United States that several thousand Soviet troops would be withdrawn from Cuba within the next three weeks.

Secretary of Defense Robert S. McNamara told senators that "the Communist threat in Europe is the largest single threat we face in the world."

Larry Pressler, Humboldt, now South Dakota's U.S. senator, was selected as one of six 4-H Club members who made coast-to-coast appearances to present the story of the nation's 2,300,000 4-H members. Pressler, then 20, had been a national citizenship award winner in 1962. The award provided him with a $400 scholarship, which he used at the University of South Dakota where he was a sophomore.

ADDRESS BY SENATOR PRESSLER BEFORE TRUSTEES OF ARMENIAN ASSEMBLY OF AMERICA

Mr. PRESSLER. Mr. President, recently I had the honor of addressing the trustees of the Armenian Assembly of America at their March 5, 1988 meeting in Florida. I ask unanimous consent that my remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

STATEMENT OF U.S. SENATOR LARRY PRESSLER TO THE TRUSTEES OF THE ARMENIAN ASSEMBLY OF AMERICA, MARCH 5, 1988

Thank you, my friend, Barry Zorthian. I am delighted to be the first public official to be introduced by you following the Vice President last October. The Armenian Assembly's national conference in Boston was an extraordinary moment for Governor Deukmejian, your organization and the Armenian-American community.

Some of you might wonder how a Senator from South Dakota became interested in Armenian-Americans. I am interested in the full range of questions in our society. When I was Chairman of the Foreign Relations Subcommittee on European Affairs, I held a number of hearings and did a number of studies. I came to the conclusion that the Armenian-American community represents some very solid values that we should all follow. In addition, my good friend Barry Zorthian has guided me in this area. I first met Barry in Vietnam. I was a second lieutenant then. He was one of the top spokesmen at the U.S. mission in Vietnam. Barry Zorthian is a great American and can be cited as an example to all young Americans whether or not they are Armenian-Americans. So it was especially nice to have Barry Zorthian introduce me. I am making a trip to Vietnam soon and will carry some messages from Barry to some of our mutual acquaintances who are still there.

Getting down here to Miami was difficult. Indeed, several Senators who were traveling to Miami were on the same flight leaving Washington National Airport. We spent several hours waiting as the rain cleared and I had a chance to visit with some of my colleagues, including Senator Kennedy who recalled the fine event in Boston. He and I concurred that it was one of the most spirited events we have seen. It was my pleasure to be present at the invitation of Mr. Hovnanian and my privilege subsequently to place in the Congressional Record the full texts of the Vice President's, Senator Dole's, Senator Kennedy's and the honoree Governor Deukmejian's remarks. You were not boasting when you said that the Armenian-American community has arrived on the political scene. And you obviously are not satisfied with merely arriving. As I reviewed your meeting agenda and your political plans for the future, it is apparent that you will not rest easy until your political record is the equal of your enviable record in business, the professions, the arts and academe. As your friend in the United States Senate, I offer my support so that you may achieve your goal of greater involvement in our nation's democratic process. This is good for your community and good for America. Armenian-Americans have earned a wonderful reputation as public servants at the federal, state and local levels in their elective, appointive and career capacities. From Assemblyman Chuck Haytaian, who is with us this evening, to other Armenian-American political luminaries throughout the country, they have made a difference and set the tone for others to follow. As Barry said last October, this country could do worse than by getting into the "ian" habit. I couldn't agree more, unless of course an Armenian-American were my opponent in my next campaign.

The issues you deliberated today in your meeting are fundamental ones—issues of reunification, justice, history and universal human rights. Your cause is ultimately and simply the will of a people to exist in perpetuity. You have the right—may I even say the obligation—to pursue this cause with vigor. For over 2,500 years the global community has been enriched by the contributions of the Armenian community—and Armenian and non-Armenian alike have a role in insuring that this contribution continues.

Let us begin with the unprecedented events of the past month in Gharabagh and Soviet Armenia. I need not tell you that the American media are intensely interested in this story. When the New York Times, Washington Post, Wall Street Journal and Los Angeles Times stay with an issue over an extended period of time with prominent placement of the articles day after day, the message is clear—the issue is deemed to be of compelling interest to the American people. I can also assure you that the Armenian issue is of great interest to the Senators and Congressmen who are responsible for articulating and carrying out U.S. foreign affairs. As former chairman and current ranking minority member of the Senate Foreign Relations Subcommittee on European Affairs, I concur with the assessment of the Assembly that recent events in Armenia represent a significant test of General Secretary Gorbachev's policies of openness and restructuring. Gorbachev's new nationalities policy will be measured against his success in dealing with the Armenians—who in the hundreds of thousands are conveying a simple, compelling message to the Soviet authorities—let our people reunite. This is not a dissident movement. Over 80 percent of the people of Gharabagh and 30 percent of the population of Soviet Armenia cannot be labeled as such. This is instead a genuine and obviously intense desire of Soviet citizens to correct a historical injustice in response to Mr. Gorbachev's announced intent to create a new nationalities policy. This is an internal matter, however. The options before us as Americans must be considered in this light. We must demonstrate that the government of the United States is interested in this matter without giving the impression to the Soviets that we are interfering in their internal affairs. Conversely, the Soviets must know that we in the United States government view this matter in the context of a full range of recent Soviet commitments and assurances. I say these things to you as Armenian-Americans, but in particular to a special gentleman here this evening—Mr. Karlen Dallakian, Chairman of the Committee for Cultural Relations with Armenians Abroad. I am genuinely interested in a new, cooperative and realistic relationship with the Soviet Union. I wish General Secretary Gorbachev well in the implementation of his new policies of glasnost and perestroika. And I certainly hope that President Reagan and Mr. Gorbachev will be able to continue the process of normalizing relations between our nations. But I also join my President in his oft-repeated remark to General Secretary Gorbachev—trust, but verify. Between now and March 26, Soviet officials will weigh this issue carefully. I sincerely hope that this question of the Armenians of Gharabagh will be resolved as it began—peacefully and with reason prevailing.

While the Gharabagh question is presently the most urgent matter before the community, I am also aware of your continuing interest in U.S. affirmation of the Armenian Genocide, the emerging Armenian refugee problem, and the rights of Armenian minorities in the Middle East and elsewhere. With regard to the Armenian Genocide, I have in the past and will continue to be in the future a proponent of U.S. affirmation—by action in Congress and by inclusion of the Armenian Genocide in the U.S. Holocaust Council's museum and educational programs. I do not accept the position that support for the Armenians constitutes a rejection of the Republic of Turkey. Recognition of Armenian history is, firstly, tantamount to recognizing a significant, parallel chapter of American history. Secondly, affirming that tragic period of Armenian history casts no aspersions on the present Republic of Turkey. The genocide against the Armenians resulted from policies of the Ottoman Empire before the government of the Republic of Turkey was even formed. I believe that our alliance with Turkey would be stronger, not weaker, if Turkish leaders would stop lobbying against these resolutions and Armenian inclusion in the programs of the Holocaust Council. Turkish conduct notwithstanding, I join you in pursuing U.S. affirmation. This may be a long journey, requiring of us great patience, skill and determination. But it is worth the effort if we save the lessons of the first genocide of the Twentieth Century.

Each issue you have identified in your governmental affairs program is of general interest to all who are committed to improving the human condition. Success in resolving your specific concerns, therefore, will help shape policies that affect us all. Gorbachev's new nationalities policy cannot be formulated without taking into account the Armenian question of reunion. Similarly, U.S.-Turkish relations cannot evolve without taking into account policies regarding the Armenian Genocide.

The timing of the Assembly's Boston event, therefore, could not have been better. However compelling an issue, it cannot be resolved in the political arena without strong, organized support. In that regard, the Armenian Assembly is on the right path. I came to know the Assembly by way of my long relationship with one of your distinguished members—Barry Zorthian. I first met Barry in Vietnam, where I learned to appreciate his political judgment and ability. Through Barry, I have learned that the Assembly demonstrates similar skills as an organization. I urge you to push forward as rapidly as possible.

Before concluding, let me pay tribute to your fine professional staff, especially Ross Vartian—whom I have discovered is a fellow Vietnam veteran. Ross does a great job representing you in Washington. Also to Gwen Essegian, who does such a good job on your Washington staff. I might also add that at this meeting I have learned that Joe Stein is a great golfer! All of us have one common goal, that is to spread and preserve the principle of freedom and equality of treatment of all human beings. It has been good to be among you.

These are unique times in American political history. With a wide-open Presidential race in both parties, the opportunities for the Assembly and your community are extraordinary. Seize this and other opportunities, as Hirair Hovnanian and Chuck Haytaian have with Senator Dole, and Barry has with the Vice President, and as others in your organization have with other candidates. Support as much as you can these colleagues of yours who have stepped forward to participate in the elective process on your behalf. They need you, you need them, and we in government need you all.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise today to mark a very solemn occasion: the third anniversary of the kidnaping of Terry Anderson in Lebanon. Mr. Anderson is one of nine American citizens now being held in that nation. He has been there the longest.

Three years ago, Mr. Anderson was active as the Chief Middle East correspondent for the Associated Press. He worked out of Beirut. On his way back from a tennis game one morning, the former marine was apprehended by gunmen and taken hostage.

Mr. Anderson has spent the last 3 years as a prisoner, often shackled and blindfolded in a small room in Beirut. He has been kept from the sunlight, kept from exercising, kept from the news of the world. His father and brother have died since he was taken captive; his wife gave birth to a daughter. Mr. Anderson has no idea. Perhaps most disturbing to his family here, there is no indication Mr. Anderson will be free soon.

The administration broadly proclaims a policy never to negotiate with terrorists. The Iran-Contra affair has shown all that this is only a policy of expedience, from which the administration departed when it wished. Some in the administration have gone so far as to place part of the blame for that sordid scandal on the families of the hostages, saying President Reagan could not resist their pleas. If all is quiet, they argue, the situation will be resolved. But how?

Mr. Anderson is reportedly being held by Islamic Jihad, a fundamentalist Muslim group with close ties to Iran. The group has demanded that before Mr. Anderson is released, the Government of Kuwait must release the "Daw'a 17," a collection of terrorists who bombed the French and American Embassies in Kuwait in the autumn of 1983. The Government of Kuwait has no intention of releasing these criminals, and the U.S. Government will not ask them to. Nor should it.

But to assert that there is nothing that can be done to free Mr. Anderson or the other hostages, that the U.S. Government should just wait for events to change, shows a certain callousness to the plight of those who are being held.

When Americans are kidnaped, as has happened periodically over the last 3 years, our Government has often responded with a massive effort to win these Americans' freedom. When TWA flight 847 was hijacked to Beirut, our Government pursued every diplomatic means to win the passengers' release—I should add that in that case, the terrorists' initial demands were the same as they have made for Terry Anderson's release. When former ABC News correspondent Charles Glass was kidnaped last June, our Government worked through the Syrians to free him. Most recently, the kidnaping of Lt. Col. William Higgins in Lebanon has unleashed another massive diplomatic effort. Are we to understand that the U.S. Government has given up on Terry Anderson, Thomas Sutherland, Frank Herbert Reed, Joseph James Cicippio, Edward Austin Tracy, Jesse Turner, Robert Polhill, and Alann Steen? I most certainly hope not.

On December 16, 1987, I introduced Senate Resolution 345, cosponsored by my distinguished friend and colleague from Rhode Island, Senator PELL. The bill calls for the Secretary of State to name a special envoy to negotiate the release of the Americans held hostage in Lebanon. We need not make concessions to terrorists, but we must at least maintain channels of communication.

I will not accept the explanation that nothing can be done. Something must be done. While Americans may be numbed by the thought of spending 3 years as a captive in a foreign country, Terry Anderson must face that reality daily, with no idea when he might be released. This is a human tragedy of the greatest proportions.

Naming a special envoy will not instantly result in the release of the nine Americans held in Lebanon, but it is an essential step we must take. Without such an envoy, our Government and those holding these men will likely remain in a continued sense of complacency. Under no circumstances should we proceed in a business-as-usual manner while these nine men are being held.

I ask unanimous consent that an article from the August 10, 1986 Washington Post be printed in the RECORD following my remarks. I urge my colleagues to read it, for it describes a courageous man in the days before he became a captive. The article helps relieve the numbness, and replaces the numbness with pain.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REMEMBER TERRY ANDERSON: STILL HELD HOSTAGE

(By David Ignatius)

One of Terry Anderson's friends from the Associated Press tells this story about him: Anderson is in Tripoli in northern Lebanon in late 1983 covering the bloody fighting there between Palestinian factions. He is on the main boulevard of the city which is desolate and deserted.

"We ought to go up that road and see what's happening," said Anderson to his AP colleague, Bill Foley.

"Why? The road is deserted for a good reason!" responds Foley.

"I'm going," insists Anderson. They head up the road together. They have travelled about 100 yards when all hell breaks loose and the area is pounded with artillery shells. Anderson agrees on the wisdom of a tactical retreat. But he is back on that same road the next day.

Edward Behr of Newsweek describes reporters as people who want to see what's around the next corner, regardless of the risks. Terry was that kind of correspondent. He wasn't the sort of bureau chief who wanted to sit in the office and write checks. He wanted to go see the action, no matter where it was. That was part of why he stayed on in Beirut long after most of his American colleagues had left town.

Anderson liked to quote Winston Churchill: "Nothing in life is so exhilarating as to be shot at without result."

Terry Anderson is now a hostage. Most Americans know him only as one of the faces in the grainy photographs that appear occasionally in newspapers and on television. Recent reports suggest that he spends his days chained to the wall.

I met Anderson during my visits to Beirut in the early 1980s when I covered the Middle East for The Wall Street Journal. Like many of Terry's friends from Beirut, I feel a sense of outrage and shame that he is still in captivity 17 months after he was seized by the kidnappers who call themselves Islamic Jihad. I don't know how we can get Terry back among us. But I do wish other Americans could see him the way his friends remember him—as a courageous reporter who represented the very best of his profession—and not as the anonymous face that stares out from the photographs. That dehumanized anonymity seems like a victory for the kidnappers.

Anderson's world in Beirut revolved around the AP office, where he was the bureau chief. The bureau was on the fourth floor of a building across the street from the Commodore Hotel. When the electricity was out in the neighborhood, as it often seemed to be, you climbed the stairs to the AP office. It was one of the great journalistic outposts in the world, staffed by a cast of characters worthy of "The Front Page."

There was Farouk Nassar, a short, white-haired man with a large stomach, who had suffered two heart attacks on duty in the bureau. Farouk loved to play the horses, and he regarded the closing of the Beirut race track as one of the unforgiveable depredations of the Lebanese Civil War.

Farouk wrote most of the AP leads and bulletins. He was very fast and rarely made mistakes. He had once worked for the AP as a stringer in Syria, and his colleagues claimed that he had filed stories and run up such huge bills that the AP decided it would be cheaper to take him on as a full-time reporter.

Next there was Francois Ghattas, a simple Lebanese man with little education who had taught himself electronics. He was the bureau's technician, and he would make the rounds in Beirut repairing broken telex machines so that subscribers could receive the news from AP. Anderson recognized Ghattas' talents and encouraged him to travel on repair jobs to Cairo, Amman and the Gulf states.

Then came the office manager and "fixer," a diminutive Lebanese Christian named Charles Bishara. He seemed able to obtain anything. During the height of the Israeli siege of West Beirut in 1982, for example, Bishara took Anderson aside.

"Terry, would you like some mineral water?" asked the fixer.

"Are you kidding? Of course I would" replied Anderson. At the time, mineral water was selling for about $20 a bottle.

An hour later, a truckload of mineral water arrived from East Beirut, the driver having somehow navigated the Israeli blockage of the city. Nobody was quite sure how Bishara accomplished this miracle, and it was probably better not to ask.

Anderson joined the AP bureau in Beirut in 1982 in the midst of the Israeli invasion. He was coming from the AP bureau in Johannesburg.

The first thing most of us knew about Anderson was that he was an ex-Marine. He certainly looked the part. He was stocky, with a beard and glasses, dressed often in a safari suit. As time passed, Anderson's looks changed a bit: He lost weight, the beard turned into a moustache, and he switched to aviator glasses. But he still looked like an ex-Marine.

Anderson tried to impart his Marine Corps training in September 1983 to the Washington Post's correspondents in Beirut, Herbert Denton and Nora Boustany. There was sniping and shelling of West Beirut that day as the Lebanese Army tried to regain control of the Moslem half of the city, and the three decided to leave the relative safety of the Commodore Hotel and see what was happening. Denton remembers that an argument erupted between Boustany, who thought they should run fast to avoid getting shot, and Anderson, who said that as an ex-Marine, he was convinced that they should walk slowly.

The argument was interrupted at one point by a Lebanese woman screaming at them in Arabic: "You fools! You're going in the direction of the shelling!" When Anderson returned to the hotel, he told the other two that he had only been joking about how the Marines do things. "I'm just getting old and have to go slow," he explained.

Anderson chose to stay on in Beirut long after the story stopped being glamorous. He covered the internecine Palestinian warfare in Tripoli; he covered the harsh Israeli anti-terrorism campaigns in South Lebanon, and he covered the daily round of car bombs and carnage in West Beirut. That the world seemed to have lost interest in the Lebanon story didn't deter him.

"He had a real sense of right and wrong. He was troubled by what was happening in Lebanon, and he thought that if somebody was covering it, perhaps it would make a difference," recalls his former AP colleague Foley, now a photographer with Time.

Anderson knew the risk that he would be kidnapped, and a kind of fatalism developed. The militias all kept files on the dwindling group of foreign reporters in West Beirut, and they knew where Anderson lived, his daily schedule, the license number of his car. They increasingly came to see foreign journalists as pawns—bargaining chips—in the vicious game of Lebanese politics.

Explains Foley: "The bottom line was that if these guys wanted you, they would get you."

The day before Anderson was actually kidnapped, someone tried unsuccessfully to grab him. A car attempted to block his automobile, and he escaped only by gunning the engine and driving on the curb. Characteristically, he didn't mention the incident in the office because he didn't want to frighten his colleagues.

Foley warned Anderson that night to keep his head down. But Anderson dismissed the attempted kidnapping, saying: "It was nothing."

The next morning, March 16, 1986, on his way back home from playing tennis, Anderson was stopped by three men in a green Mercedes and thrown into their car. That was the last time he was seen by any of his friends in West Beirut. A British correspondent who was a close friend of Terry's risked his life over the next few days distributing handbills with Anderson's picture to checkpoints throughout the Bekaa Valley. But there was no sign of him. Only a cruel silence.

A lot of people, quite understandably, like to find fault with American press coverage overseas. I have a collection of books and articles at home, for example, taking my colleagues and me to task for our alleged failures covering the Middle East in the early 1980s. And this week I came across a long article in a publication called "The National Interest" criticizing press coverage of Central America. "It is common," opines the author of this broadside, "for journalists to flesh out sometimes sedentary stays in controlled nations with some very careful language."

Maybe so. Maybe there are foreign correspondents as lazy and tendentious as the critics claim. But Terry Anderson isn't one of them. He is a person of the highest character and professional commitment. Like most of the foreign correspondents I know, he worked hard and selflessly at his job, without any political stake in the events he was covering. What made him tick was that odd curiosity that makes some people determined to know what's around the next corner. He must not be forgotten. I hope he's back on the job soon.

THE PASSING OF FEDERICO SISNEROS

Mr. DOMENICI. Mr. President, I rise today to express great sorrow upon the death of our Nation's oldest National Park Service ranger, and a truly legendary New Mexican.

Federico "Fred" Sisneros died March 12, 1988, at the age of 93. A man of selfless aspirations, his contribution to the preservation, understanding, and enjoyment of our Nation's diverse cultural history will be forever remembered.

Mr. Sisneros was born in 1894 in a house near the Indian ruins. He lived with his wife, Guadalupe, in a house just a few yards away from one of the Abo Mission's most popular sites.

Mr. Sisneros' career began in the 1930's when he became caretaker of the San Gregorio de Abo Mission, a monument near Mountainair, NM, that stands on land his family donated to the State. When the monument became part of the National Park System, Mr. Sisneros was named ranger. In 1981, Abo Mission officially became part of Salinas National Monument, but to those who worked closely with Federico Sisneros, it will always be fondly referred to as "Fred's place."

In 1938, Mr. Sisneros and his wife donated part of the mission so that it would be incorporated within the Abo State Monument and thereby, be perpetually preserved.

To Federico Sisneros, the Salinas National Monument was more than a piece of land. The land and the Abo Mission were a legacy that we would care for, handed down by his father. His true love for the site and keen interest in seeing the ruins preserved were a key factor in making Salinas National Monument possible.

Glenn Fulfer, the chief ranger of Salinas, remarked, "Fred was the type of fellow that the love of the site outweighted the importance of money." For many years he worked for hardly any wages at all, disregarding scheduled hours.

In many ways Mr. Sisneros became a part of the cultural heritage of the site—he and the ruins were, and still are, inseparable. His great knowledge of the mission enabled him to interpret this special meaning for each of the visitors who came to see the Abo Mission.

The Department of the Interior recognized his outstanding efforts in 1981 when he was awarded the coveted Superior Service Award. At this time it was said that Mr. Sisneros was a very unique individual and that he represented the very heart and core of the mission of the National Park Service.

In 1986 he received an honor award from the National Trust for Historic Preservation on the occasion of the trust's 40th anniversary. He was accompanied in this honor by a select group of developers, architects, investors, and others involved in historic preservation.

Mr. Sisneros has requested that he be buried at the mission, and the National Park Service has authorized his grave to be located there. He will be buried on the north side of the ruins near a shade tree overlooking the ruins to which he was devoted.

Federico Sisneros is survived by his wife, Guadalupe, four sons, two daughters, 21 grandchildren and 21 great-grandchildren.

Mr. President, I hope my colleagues will join me in expressing my deepest sympathy to Mrs. Sisneros and her family.

BICENTENNIAL MINUTE

MARCH 9, 1933: FIRST HUNDRED DAYS OF THE NEW DEAL

Mr. DOLE. Mr. President, 55 years ago this month, on March 9, 1933, the 1st session of the 73d Congress convened for a legislative period that lasted 100 days. This was the "first hundred days" of Franklin D. Roosevelt's New Deal, one of the most productive congressional sessions in our history.

Roosevelt took office at the nadir of the Great Depression. Millions of Americans were unemployed. Factories were closed, and banks had failed. It was vital that the Government respond quickly and positively. Members of Congress closed ranks to enact Roosevelt's sweeping program of recovery, relief, and reform. Attesting to the bipartisan nature of the response to the national economic crisis—although the Democrats were the majority party—Republican Senator George Norris fathered the Tennessee Valley Authority Act and Arthur Vandenberg proposed Federal deposit insurance for bank accounts.

In addition to TVA and FDIC, the first hundred days saw enactment of major banking and securities reforms to stabilize the Nation's precarious banking system and prevent fraud in the stock markets. The Agricultural Adjustment Act aimed at reducing vast farm surpluses by paying farmers to take land out of cultivation. The National Industrial Recovery Act set up the NRA, which attempted to increase production while holding the line on wages and prices. The Federal Emergency Relief Act provided the first direct Federal aid to the unemployed. And the Home Owners Loan Corporation helped families refinance their mortgages and save their homes.

By June 16, Congress had passed 15 major laws recommended by the President. Never had a Chief Executive enjoyed more support. As Will Rogers observed: "The whole country is with him. Even if what he does is wrong, they are with him. Just so he does something. If he burned down the Capitol, we would cheer and say, 'Well, at least we got a fire started, anyhow.' "

IMPACT OF DIVERSION OF ADVANCED MILLING MACHINERY TO THE SOVIET UNION

Mr. HEINZ. Mr. President, for many months now, we have been waiting for the Defense Department to issue findings on the defense impact of the diversion of advanced milling machinery to the Soviet Union by Toshiba Corp. and Kongsberg of Norway. These findings are critical to our deliberations on proposed sanctions against these companies in the trade bill. I recently received a letter from Assistant Secretary Richard Armitage that answers this critical question. It is an amazing piece of illogic, and I would like to share it with my colleagues.

Mr. Armitage reports that the U.S. Navy cannot determine—I repeat, cannot determine—the direct costs of the Toshiba/Kongsberg diversion. Not only has the Navy lost its lead in quiet submarine technology to the Soviets, it has lost its ability to do budget estimates. Defense planners at the Kremlin are undoubtedly celebrating their dual successes: acquiring critical Western technology, and doing it so cleverly that the best minds at DoD cannot even figure out what happened.

The reasons provided for this analytical failure are two: the Soviets had started to deploy quiet propellers several years before the first diversion; and, second, the Defense had expanded R&D programs to deal with this development prior to the Toshiba/Kongsberg case. Thus, the Defense Department argues that because the problem of quiet submarines had already emerged, the fact that it was made many times worse by the Toshiba diversion somehow does not matter.

Mr. President, this argument makes no sense at all. On this basis, DoD would see no difference between development of a new Soviet prototype missile and targeting of thousands of those missiles at the United States. I hope this is not the way we do our defense planning, but after this letter I am not so sure.

The Toshiba/Kongsberg division was a disaster and it does indeed matter. The loss of this sophisticated, computer-controlled milling technology has permitted the Soviets to move from handcrafting quiet submarine propellers to mass production of propellers at very fine tolerances. It has advanced full deployment of quiet propellers by many years and permits reconfiguration and redesign on an expedited basis. It must increase U.S. defense costs for R&D and implementation of new antisubmarine warfare measures by billions of dollars.

This impact is a simple, staggering fact, but it is dismissed by Mr. Armitage. And not only does he dismiss it, he claims that damage to U.S. security is not the real issue. For Mr. Armitage, the real question is not how Toshiba's actions have damaged our security. In his view, the key issue is that our amendment will weaken U.S. efforts to strengthen Cocom.

This not only misses the point—it is just plain baloney. Cocom is stronger today than it was a year ago precisely because of the Senate-passed Toshiba/Kongsberg amendment. It may be unwelcome news to defenders of Cocom in the executive branch, but the sanctions threat has worked very well indeed. More has happened to improve export enforcement in Norway, Japan and Cocom in the last 6 months than in the last 20 years.

I would argue, further, that sanctions are critical to progress in the case of Japan. The history of trade and security dealings with Japan is that the Japanese Government responds only to firm action, not bluffs. Those of us who have spent many years working on these issues know that the progress will stop when the pressure ends. We do not intend to let that happen.

The Toshiba/Kongsberg amendment is an appropriate response that has gotten results. It deserves support from DOD and the administration, not the double-talk it gets in the Armitage letter. America would be a safer place if our Defense Department spent more time defending against the drain of technology to our adversaries and less time defending a guilty Toshiba Corp. and flawed Japanese export control systems against the nasty Congress.

As we move toward the conclusion of our trade conference, I hope that the Defense Department and the Reagan administration at large will see the light and support our efforts to put real teeth in the Export Administration Act. This is protectionist legislation of our national defense that should have unanimous support of Republicans and Democrats alike—it protects our national security.

I ask unanimous consent that the text of the Armitage letter be placed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, February 8, 1988.
Hon. LES ASPIN,
Chairman, Committee on Armed Services, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Prior to the House Conferees' consideration of various measures in the Omnibus Trade Bill, I would like to provide you with Department of Defense views on the possible impact of the Toshiba/Kongsberg provisions on U.S. defense policy interests.

All Americans who appreciate the importance of national security deplore the actions of the Toshiba Machinery Company in illegally exporting milling machines to the Soviet Union from 1983-1985. As a result, the indignation felt in the United States is understandable. My counterparts in the Japanese defense establishment, in their Ministry of Foreign Affairs and many members of the National Diet feel the same way. Perhaps some Americans don't fully realize that many Japanese feel a similar indignation complemented by acute embarrassment.

Owing to these feelings, the Japanese Government has taken legal and administrative actions of unprecedented dimensions. The companies involved have been punished; the GOJ has strengthened its export control law, making it close to ours; and the Toshiba Corporation has instituted a tough, new export control policy which has become a model for Japanese industry.

The actual damage done from the Toshiba Machinery diversions is difficult to assess. Despite allegations of tens or even 100 billion dollars in damages, our Navy cannot determine the direct costs of this diversion to U.S. national security because the Soviets had quiet propellers three years before the first diversion and we had already planned R&D programs to deal with this development.

The real question is the effect of U.S. legislation on future Japanese behavior. The Japanese who abhor what Toshiba Machinery did, have succeeded in punishing the guilty, establishing stronger controls, and funding anti-submarine warfare programs which will help both the U.S. and Japanese Navies. Actions by the U.S. Government against Toshiba would be interpreted in Japan as motivated by trade imbalances, rather than by national security concerns, and would weaken our efforts to strengthen COCOM.

For these reasons, the Department of Defense opposes U.S. sanctions against Toshiba or other foreign companies, limits on Presidential flexibility and authority to deal with diversions, standards that are extraterritorial, and legislative provisions that specifically mandate restrictions on U.S. Government procurement from individual companies.

I strongly believe that Japanese anti-submarine and COCOM performance will greatly improve as a result of what has happened, but only if we don't undercut the post-Toshiba actions by the GOJ. Accordingly, I hope you will consider these concerns in your deliberations.

Sincerely,

RICHARD ARMITAGE.

THE DISTINGUISHED CAREER OF CONGRESSMAN PETER RODINO

Mr. BRADLEY. Mr. President, late Monday afternoon, PETER RODINO announced to his constituents that he would not seek reelection this November. While everyone recognized that such a distinguished public servant certainly deserved an opportunity to enjoy some time for himself, it was a decision that his constituents and all New Jerseyans recognize will be a loss to the Congress and the country.

For 40 years PETER RODINO has represented the people of New Jersey with grace and distinction. He championed the cause of civil rights at the time it was most in need of support. As chairman of the House Judiciary Committee his fairness and wisdom helped steer the Nation through the most difficult constitutional crisis in our history. But most important to those he represents, PETER RODINO has always been a relentless advocate for all the people of Newark and for New Jersey. He sets an extraordinarily high standard for whomever will succeed him and for all who aspire to public service.

I would like to share with my colleagues some of the tributes that have been made to Congressman RODINO in two editorials and in spontaneous comments from his constituents. All three articles demonstrate the great personal respect in which the Dean of our delegation is held. I will miss his knowledge and his friendship.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The New York Times, Mar. 16, 1988]

CHAIRMAN RODINO RETIRES, WITH GRACE

For one who has enjoyed the power and privileges that Congressional seniority bring, leaving Capitol Hill for good isn't easy. So it was understandable that Representative Peter Rodino of New Jersey, who has spent more than half his 78 years in the House, might have had second thoughts about retiring after his current term.

But Mr. Rodino has now confirmed his plans to leave, and ended a distinguished career with grace. "I believe that my part of the journey in this great American experiment is at its end," he said. "I feel I have served my time and a purpose."

Some time. Some purpose.

When Peter Rodino was first elected to the House in 1948, America was a radically different nation. For one thing, it had a home-grown variety of apartheid. It was part of Mr. Rodino's purpose to eradicate that evil. He did so as a legislative champion of civil rights—floor managing the 1966 Civil Rights Bill and, as Judiciary Committee chairman, writing the Voting Rights Act extension in 1982.

Reluctantly at first, then vigorously, he put his influence behind the landmark Immigration Act of 1986. But what he may best be remembered for was the fairness with which he presided over the Judiciary Committee's 1974 Nixon impeachment hearings. More than a decade later, a colleague recalled yesterday, Mr. Rodino would proudly display mementos from those hearings, which he justifiably regarded as among his finest hours.

It was the Voting Rights Act that led some in his district to push for Mr. Rodino's retirement. Largely white, ethnic and middle-class in 1948, his district acquired a black majority by court order in 1972. The intent had been to open a path for the election of a black representative, but the voters kept returning Mr. Rodino to Congress by wide margins. In 1986, against an opponent backed by the Rev. Jesse Jackson, he won by a margin of almost 2 to 1. He implied in that election that his 20th term would be his last. Now it is official.

There are two ways to retire from Congress, a colleague said. Some stay on until they are over the hill and have begun to embarrass themselves; some leave while they are on top and still appreciated. Typically, Peter Rodino took the noble way.

[From The Washington Post, Mar. 16, 1988]

MR. RODINO STEPS ASIDE

When it became clear in 1973 that the House of Representatives might have to consider the impeachment of Richard Nixon, people ran down the list of committee chairmen to see who would be conducting the hearings and came upon the name of Peter Rodino. It was not a familiar one to many outside the House: Mr. Rodino had been elected from the 10th district of New Jersey in 1948, but he did not become chairman of the Judiciary Committee until more than two decades later. But as has happened before in American history, the responsibility devolved upon a person capable of fulfilling it. Chairman Rodino superintended the staff that built the factual record, he gave all sides opportunity to present their arguments, and he made the case of the result that he, with some reluctance, believed was right. It was a judgment that was quickly and entirely vindicated.

Conducting those impeachment hearings was not Mr. Rodino's only large contribution in the House, from which he announced Monday he will retire this year. As a member and chairman of the Judiciary Committee, he had an important part in the framing of civil rights and immigration legislation, in handling technical matters like bankruptcy and the broad economic issue of antitrust. In the 1980s, he played a key role in the renewal of the Voting Rights Act, the passage after arduous debate of immigration reform and the passage just this year of the Grove City bill. He has not only passed good laws; he has also worked to thwart bad ones.

Mr. Rodino brought to his long career an unusual ability to adapt as the political world changed around him. He was first elected to the House as a young Italian-American New Dealer in a historically Republican and white Protestant district; by 1972 most of his constituents were black. He was elected altogether 20 times by solid majorities—even in recent Democratic primaries against serious black opponents, when his longtime support of civil rights and work helping black constituents when they were only a small minority in the district were remembered. Mr. Rodino will also be well remembered in the House for his 40 years of remarkably vigorous and productive service.

[From The New York Daily News, Mar. 16, 1988]

MANY BLACKS REGRET RODINO'S FAREWELL

(By Henry Stern)

New Jersey Rep. Peter Rodino Jr.'s decision not to seek a 21st term was greeted with regret yesterday by a number of black constituents, despite the probability that his successor will be a black Democrat.

"I regret that he's not running," said Betty Morse, 57, while waiting for a bus in downtown Newark. "I don't know anybody else who could take his place. When I contacted him with a problem, he helped me right away."

Rodino, a 78-year-old Democrat who as chairman of the House Judiciary Committee presided over the impeachment hearings of President Richard Nixon in 1974, announced Monday he will not run again.

There will be at least three Democrats—all black—who are candidates for Rodino's seat representing the 10th Congressional District, which has changed during his tenure from a mix of mostly white ethnic groups to mainly black and hispanic. Two Newark city councilmen are among the candidates.

But several blacks interviewed in the district wished Rodino would stay a while longer.

"He's been there quite a while," said James Lee Pugh, 54, a postal worker. "I'd like to see him stay there. As long as they treat me fair—that's what's important, not color."

Whites and Hispanics shared in the praise for Rodino, who managed the landmark Civil Rights Act of 1966 on the House floor and wrote the 1982 Voting Rights Act.

"He's the best person for the job—that's all that counts," said Ray Shanahan, a white 69-year-old retiree.

[From The Star-Ledger, Mar. 16, 1988]

COLLEAGUES AND RIGHTS LEADERS PRAISE RODINO'S 40-YEAR LEGACY

(By Robert Cohen and David Wald)

Rep. Peter W. Rodino Jr., whose decision to retire is expected to open the door for the election of New Jersey's first black congressman, yesterday received warm praise from his colleagues and leaders in the civil rights community for his distinguished 40-year career in the House of Representatives.

Rodino, the Newark Democrat who represents the 10th District, said yesterday he felt "perfectly at peace" with his decision not to seek re-election. He maintained that his decision was based on his own sense of what was right for him, and not on any outside pressure from Newark community, church and political groups.

"I always believed I would know when the time was right, and this was it," Rodino said. He said he made up his mind around Christmas.

"It was a little strange when people described me as a legend and said I had done a great job, and then said it was time for me to go," he said. "It is unfortunate the so-called political leaders acted as they did. If they had known the complete story, they might have understood. I didn't permit that to actually affect my decision."

Rodino, 78, said he believed he would have been reelected if he had chosen to run again.

However, Rodino's decision to retire opens the door for voters in the predominantly black district to elect the state's first black congressman.

Newark Councilman Ralph Grant and Donald Payne are now competing for the Democratic nomination in the June 7 primary. A friend of Councilman Donald Tucker said yesterday that Tucker also is considering entering the primary campaign. All three councilmen are black.

Tucker said, "I'm not going to comment on that. I've received calls all day about it, and I'm not saying anything."

A victory in the primary is considered tantamount to election in the predominantly Democratic district, which includes Newark, East Orange, Orange, Irvington, Hillside and part of Belleville. The district has had a majority black population since 1972.

Rodino said he would make no endorsement of any successor, but added that he hoped there would be an open primary contest.

In Washington yesterday, Rodino encountered many well-wishers in the halls of Congress, and received tributes from his New Jersey colleagues, civil rights leaders and from members of the House Judiciary Committee, which he has chaired since 1973.

U.S. Sen. Bill Bradley (D-N.J.) said in a statement, "Peter Rodino has always been a relentless advocate for all the people of Newark and New Jersey. He sets an extraordinarily high standard for whomever will succeed him and for all who aspire to public service."

U.S. Sen. Frank Lautenberg (D-N.J.) said he will miss Rodino's "thoughtfulness and wise counsel" and praised the congressman's leadership during some of the "most dramatic moments of our time."

Rep. William Hughes (D-2d Dist.), who serves on the Judiciary Committee with Rodino, said his colleague "rose to the occasion during Watergate" and had a career that was marked by concern and care for the poor and the less fortunate in society.

Rep. Jack Brooks, a Texas Democrat who is expected to serve as chairman of the Judiciary Committee next year, said Rodino has been "an eloquent voice for the rule of law, for equal rights for all of our citizens, and for a judicial system that carries out the tenets of our Constitution."

"We will miss his voice of calm and reason," Brooks said.

U.S. Sen. Edward Kennedy (D-Mass.), who has worked with Rodino on a range of issues over the years, called him "one of the true giants" of the Congress.

Benjamin Hooks, director of the National Association for the Advancement of Colored People (NAACP), said he felt "some sadness" at the announced retirement of a man who has championed the cause of civil rights for years.

But Hooks said Rodino "exited the stage with grace and dignity" that reflects his entire career.

Newark Mayor Sharpe James said he would host a testimonial dinner for Rodino in Newark in appreciation of Rodino's 40 years of service.

Former Newark Mayor Kenneth Gibson, who supported Rodino's continued tenure in the Congress even as the district's makeup changed, said, "He was there in Congress long before I thought about politics. He was always supportive and helpful when I was in the public sector."

"Peter Rodino was probably one of the most outstanding congressional reps this country has ever had," said Gibson, who was mayor from 1970 to 1986, losing re-election for a fifth term in 1986 to James.

Gibson remembered writing letters to Rodino for his father, the secretary-treasurer of the United Packing Workers, when he was in high school. He also remembered Rodino would show up at private birthday parties for elderly constituents. "There would be 20 or so family members and Peter in the room. He came with no press, no photographers, no expectations."

Gibson would not speculate on the primary race in the wake of Rodino's decision to retire, other than to state again that he would not be a candidate. "When you get to politics, I quit talking," he said.

Rodino, the chairman of the House Judiciary Committee which voted to impeach President Richard Nixon in 1974, said nearly two years ago, after defeating Payne 60 percent to 36 percent in the 1986 Democratic primary, that he intended to retire at the conclusion of his current term. But last year he began raising money to run for reelection, sending out mixed signals about his plans this year.

Grant, 52, a councilman-at-large in Newark since 1978, formally declared his candidacy for the Democratic nomination for Congress last March. Payne is scheduled to formally open his campaign next week, although he has made it clear since his loss in the last primary that he would run again this year.

Payne, 53, has been a councilman representing the South Ward since 1982. He was a county freeholder from 1973 and 1978, and is a former president of the National Council of YMCAs. Payne will have the backing of Democratic Party organization leaders in the district and is favored to win the primary and the congressional seat.

Democratic State Chairman Raymond Durkin, who is also the Essex County Democratic boss, said he believed Payne will win the nomination and the election. Durkin, who was committed to Payne before Rodino announced that he would not seek re-election, declared, "It is a lock."

Payne was more modest. "I am continuing to move ahead as I've done for the past year-and-a-half, widening my base. I take every other candidate seriously."

Grant, who won the endorsement last month of a grass-roots convention of community activists which was co-sponsored by the district chapter of Jesse Jackson's Rainbow Coalition, said, "We will continue our campaign vigorously."

"I went to a people's convention. They selected me to run," Grant said. "I'd welcome the support of the party organization, but in the absence of that support we will be reaching people on a daily basis."

Saidi N'Guvu, the Democratic organization chairman in Newark's Central Ward and an organizer of the convention, yesterday repeated his support for Grant.

Jackson, a candidate for the Democratic nomination for President, campaigned for Payne in the closing days of the 1986 primary, urging the district's voters to make Payne the state's first black congressman. This spring, however, he is expected to be neutral as he himself competes for votes and delegates in New Jersey's presidential primary.

Grant and Payne said there is always the possibility that the primary field will grow, but they had no knowledge of any other candidates.

Cecil Banks, an attorney from Orange who has talked about running, said yesterday that he has been urged by friends to consider running, but was not prepared to throw his hat into the ring. Banks did not compete for support for this campaign at the grass-roots convention, although he endorsed the convention process.

Robert Pickett, an attorney from Newark who competed unsuccessfully against Grant, said he intended to stick to his commitment not to run.

Pickett added, "I think it's a wide-open race now. Some who thought they would sit it out might go. But I made a commitment not to get in it."

Assembly Minority Leader Willie Brown (D-Essex), a close friend of Payne's, said that if the field grows, it should not hurt Payne's candidacy. "I think now that Donald is definity the front-runner and he should win by a landslide. If the number of candidates gets bigger, I don't think it will affect Payne's support. That's solid."

Brown, like others in Newark, applauded Rodino's decision not to seek re-election. "He is retiring with dignity, without any bloodbath or primary fight. I'm honored he has chosen this route. He's served this district well for 40 years. I know it was not an easy decision. He was a civil rights leader, an honorary member of the black congressional caucus. He will always be remembered for Watergate and the impeachment hearings."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:37 p.m., a message from the House of Representatives, delivered by Mr. Hayes, one of its reading clerks, announced that the House has passed the following bill and joint resolutions, without amendment:

S. 854. An act entitled the "Nevada-Florida Land Exchange Authorization Act of 1988";

S.J. Res. 126. Joint resolution to designate March 16, 1988, as "Freedom of Information Day"; and

S.J. Res. 216. Joint resolution approving the location of the Black Revolutionary War Patriots Memorial.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3981. An act to make section 7351 of title 5, United States Code, inapplicable to leave transfers under certain experimental programs covering Federal employees, except as the Office of Personnel Management may otherwise prescribe.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 5:07 p.m., a message from the House of Representatives, delivered by Ms. Goetz, announced that the Speaker has signed the following enrolled bills and joint resolutions:

H.R. 2631. An act to authorize appropriations for the Bureau of the Mint for fiscal year 1988, and for other purposes;

H.R. 3689. An act to designate the United States Post Office Building located at 300 Sycamore Street in Waterloo, Iowa, as the "H.R. Gross Post Office Building";

S.J. Res. 125. Joint resolution to designate the period commencing on May 9, 1988, and ending on May 15, 1988, as "National Stuttering Awareness Week";

S.J. Res. 126. Joint resolution to designate March 16, 1988, as "Freedom of Information Day";

S.J. Res. 216. Joint resolution approving the location of the Black Revolutionary War Patriots Memorial;

S.J. Res. 218. Joint resolution to designate March 25, 1988, as "Greek Independence

Day: A National Day of Celebration of Greek and American Democracy"; and

S.J. Res. 252. Joint resolution designating June 5-11, 1988, as "National NHS—Neighbor-Works Week".

The enrolled bills and joint resolutions were subsequently signed by the Acting President pro tempore (Mr. SHELBY).

MEASURES PLACED ON THE CALENDAR

The following bill, received from the House of Representatives on March 15, 1988, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3967. An act to amend the Department of Defense Authorization Act, 1985, to extend medical benefits for certain former spouses;

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, March 16, 1988, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 126. Joint resolution to designate March 16, 1988, as "Freedom of Information Day."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 384: A resolution regarding the banning of political activity in South Africa (Rept. No. 100-299).

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, with amendments:

S. 952: A bill to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review, and for other purposes (Rept. No. 100-300).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 552: A bill to improve the efficiency of the Federal classification system and to promote equitable pay practices within the Federal Government and for other purposes (Rept. No. 100-301).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PROXMIRE:

S. 2171. A bill to amend certain laws relating to the Presidential inauguration to limit the disbursement of public funds and furnishment of assistance to the Presidential Inaugural Committee; to the Committee on Rules and Administration.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 2172. A bill relating to the tax treatment of the Maryland Deposit Insurance Fund Corp.; to the Committee on Finance.

By Mr. ROTH:

S. 2173. A bill to create a Federal initiative for quality affordable child care, and for other purposes; referred to the Committee on Finance.

By Mr. BURDICK:

S. 2174. A bill to amend the Department of Transportation Act so as to reauthorize local rail service assistance; to the Committee on Commerce, Science, and Transportation.

By Mr. RIEGLE (for himself, Mr. HEINZ, Mr. ROCKEFELLER, and Mr. LEVIN):

S. 2175. A bill to provide for an additional, optional indicator for making available extended unemployment compensation benefits under the Federal-State Extended Unemployment Compensation Act of 1970; to the Committee on Finance.

By Mr. DIXON (for himself, Mr. NICKLES, and Mr. HARKIN):

S. 2176. A bill to amend the Internal Revenue Code of 1986 to permit the tax-free purchase of motor fuels by individuals who are exempt from paying the motor fuels excise tax, and for other purposes; to the Committee on Finance.

By Mr. MITCHELL (for himself, Mr. COHEN, Mr. STAFFORD, Mr. LEAHY, and Mr. RUDMAN):

S. 2177. A bill to amend the Federal Aviation Act of 1958 to provide for use of the Nation's airports on a cost-recovery basis; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSTON (for himself, and Mr. MCCLURE (by request):

S. 2178. A bill to establish a Commonwealth of Guam, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FORD:

S. 2179. A bill to amend the Petroleum Marketing Practices Act; to the Committee on Energy and Natural Resources.

By Mr. METZENBAUM (for himself, Mr. THURMOND, Mrs. KASSEBAUM, Mr. CHAFEE, Mr. KENNEDY, Mr. BRADLEY, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. PELL, Mr. DODD, and Mr. SIMON):

S. 2180. A bill to amend the chapter 44, title 18, United States Code, to prohibit the manufacture, importation, sale or possession of firearms, not detectable by metal detection and x-ray systems; to the Committee on the Judiciary.

By Mr. WALLOP:

S. 2181. A bill to amend the title XVIII of the Social Security Act to allow physicians to charge Medicare beneficiaries without regard to the fee freeze if the patient chooses to pay the physician from private sources; to the Committee on Finance.

By Mr. MITCHELL (for himself, Mr. BRADLEY, Mr. DURENBERGER, Mr. ROCKEFELLER, Mr. CHAFEE, and Mr. BAUCUS):

S. 2182. A bill to amend title XVIII of the Social Security Act to increase the amount authorized for the patient outcome assessment research program, and for other purposes; to the Committee on Finance.

By Mr. PRESSLER:

S. 2183. A bill to improve the provision of services under the Medicare and Medicaid Programs to individuals with Alzheimer's disease or related disorders and to amend the Public Health Service Act to provide assistance for education, research, and treatment programs relating to such disease and disorders; to the Committee on Labor and Human Resources.

By Mr. LUGAR (for himself, Mr. REIGLE, Mr. SARBANES, Mr. DOLE, Mr. BOSCHWITZ, Mr. INOUYE, Mr. SPECTER, Mr. CONRAD, and Mr. KERRY):

S.J. Res. 273. Joint resolution designating October 6, 1988, as "German-American Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THURMOND (for himself and Mr. HOLLINGS):

S. Res. 395. Resolution relating to a survey of the shores of the State of South Carolina in the interest of beach erosion control, hurricane protection, and for other purposes; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE:

S. 2171. A bill to amend certain laws relating to the Presidential inauguration to limit the disbursement of public funds and furnishment of assistance to the Presidential Inaugural Committee; to the Committee on Rules and Administration.

PRESIDENTIAL INAUGURAL REFORM

Mr. PROXMIRE. Mr. President, today I am introducing legislation to clarify the role that Government agencies play in the Presidential inauguration process. In my opinion, the festivities and costs associated with this event are more suited to a coronation than an inauguration.

I have given two Golden Fleece Awards to the Presidential Inaugural Committee [PIC] for spending excessive amounts of Federal funds on President Reagan's two inaugurations while claiming that no public money was spent on these celebrations. This abuse of Federal agencies, in particular the Department of Defense and the General Services Administration, has got to stop and this bill will provide strict and clear legal guidelines for the future.

Let me detail some of the extravagant expenses that were incurred at recent inaugurations.

For the 1981 inauguration, the Presidential Inauguration Committee commandeered 1,120 marines, soldiers, sailors, and other service personnel to act as chauffeurs, personal escorts to VIP's, and social aides at events. The Armed Forces chauffeurs ferryed 274 VIP's around and logged a whopping 250,000 miles. Some Presidential Inaugural Committee members had military chauffeurs for 2½ months. The total cost to taxpayers for this inauguration was at least $4 million.

For the 1985 inauguration, $15.5 million was spent from tax dollars, most of it coming out of the DOD budget. DOD provided 8,400 military personnel to the inaugural, again including chauffeurs, personal aids to visiting VIP's, ushers, and "coordinators" who were party organizers. The General Accounting Office concluded that most of this DOD support was provided without legal authority.

Only a small part of the Federal expenditures for the 1981 and 1985 inaugurations were repaid by the PIC. This bill will correct this outrageous situation. It contains three major provisions.

First, it declares the Presidential Inaugural Committee to be a private entity. This will make it improper to use any taxpayer funds.

Second, it states that the PIC must reimburse all Government agencies for goods and services that are provided at private inaugural events.

Third, it states that any military personnel used by DOD for private inaugural events must volunteer for the service.

Mr. President, an identical bill is being introduced in the House today by my distinguished colleague from South Dakota, Representative Tim Johnson. Tim Johnson and his excellent staff, especially his aide Libby Conrad, have been instrumental in moving this bill forward. We both believe that the time has come to get the hand of the Federal Government out of the taxpayers pocket at inaugural time. This legislation can do the job, and I urge my colleagues to support it.

By Mr. ROTH:

S. 2173. A bill to create a Federal initiative for quality affordable child care, and for other purposes; referred to the Committee on Finance.

CHILD CARE DEVELOPMENT ACT

Mr. ROTH. Mr. President, in the past few months, this Chamber has echoed with calls for action on child care. And with good reason: Affordable, quality child care is one of the most pressing needs in our Nation today. As we are all aware, more and more mothers are entering the labor force, usually out of economic necessity. The Census Bureau determined 3 years ago that there were more than 26 million children in America under the age of 15 with working mothers. Those numbers have almost certainly increased since then, and will continue to increase in the years ahead. Yet there is currently, by all accounts, a shortage of affordable, quality child care, both for preschool children and also for school-age children—the so-called latchkey children—who would otherwise return to empty homes after school. In my home State of Delaware, there are only 13,000 licensed day care slots for an estimated 75,000 children under 13 who have working mothers.

It is clear that steps must now be taken to increase the availability of affordable, quality child care for American families who need it. The current shortage imperils the safety and development of a future generation of Americans, and hinders economic development in those communities where companies may be reluctant to locate or expand.

Before we commit to Federal involvement in child care, we must make certain that any plan we adopt is flexible, fiscally responsible and coordinated. The best way to assure flexibility is to enact legislation that will promote innovative, locally conceived approaches to child care within each State. Currently in Delaware, a variety of innovative programs exist, including latchkey care supervised by the Girl Scouts Organization, evening care for the children of parents who work night shifts, and a computer data base with information for parents on the types of day care available in the State. We must expand the availability of such programs in communities throughout the Nation. The most fiscally responsible way to accomplish this goal is to draw funding from other sources within the budget. The enormity of the budget deficit compels us to take a hard look at the usefulness of other programs before we spend Federal money in a new area. And as we contemplate a new Federal child care initiative, we must take care to ensure that we avoid unnecessary duplication and overlap with existing programs.

With these principles—flexibility, fiscal responsibility and coordination—in mind, I am today introducting the Child Care Development Act of 1988. This bill will improve the quality and availability of child care while acknowledging the primary role that the States should play in this area.

The major portion of the bill authorizes $340 million to be provided each year for the next 3 fiscal years to the States for child care programs. The States are to distribute the funds as grants or loans to child care providers for capital expenditures, furnishings, operating expenses or training. The possible uses for these funds are, by intention, broadly defined, to permit maximum flexibility for the States in funding innovative approaches to child care. States may also use portions of their grants to provide child care training to adults receiving Aid to Families with Dependent Children. This provision is designed to increase the number of qualified child care workers while at the same time helping welfare recipients to become self-supporting.

The requirements that the States must meet in order to receive funding are as simple as they are sensible: Each State must adopt its own child care accreditation standards along with methods of inspection and certification of child care facilities; each State must certify that at least 25 percent of the persons receiving assistance under the act will be from low-income families; and each State must coordinate any programs funded as a result of the act with other child care services available in the State. The bill also provides that States may transfer child care funds provided under other Federal programs for use in accordance with this act.

The cost of the grant program established by the bill will be offset by the repeal of the Urban Development Action Grant Program and the Public Works Construction Program administered by the Economic Development Administration. While it is never easy to terminate any Federal programs, the current state of the budget demands that we make difficult choices, and establish priorities rather than increase Federal spending indiscriminately. I believe that a program aimed at confronting the shortage of child care throughout the Nation must take priority over two programs that target economic development in selected communities. Moreover, the availability of child care is itself a stimulus to economic development. In this respect, the Child Care Development Act of 1988 could very well have a more positive effect on economic development than the programs from which its funding is derived.

Another provision of the bill would establish, at minimal cost, an incentive for a largely untapped labor pool—Social Security recipients aged 62 to 69—to get actively involved in child care. Many older Americans have already chosen to begin second careers as child care employees. However, many more are reluctant to enter this rewarding field for fear that they will sacrifice their Social Security benefits. My bill would exempt income earned in child care from consideration under the Social Security earnings test for recipients aged 62 to 69—earnings for those 70 or over are already exempt. At the same time as helping to alleviate the shortage of qualified day care providers, the bill would help promote a valuable interaction between generations.

Finally, the bill provides for a study of child care programs funded by the Department of Health and Human Services, with the intent of enhancing cooperation and coordination between those programs. This provision will insure maximum efficiency and adaptability in the Federal response to child care.

If the future of our Nation lies with its children, the Child Care Development Act of 1988 is a smart investment, and, better yet, one that can be undertaken without adding to the deficit. I call on my colleagues to join me in supporting this bill.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Child Care Development Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Definitions.
Sec. 4. Authorization of appropriations.
Sec. 5. Allotments.
Sec. 6. Lead Agency.
Sec. 7. Use of allotments.
Sec. 8. State application and plan.
Sec. 9. Payments.
Sec. 10. Child care services coordination transfers.
Sec. 11. State report.
Sec. 12. Social security exclusions.
Sec. 13. Regulations.
Sec. 14. Coordination study.
Sec. 15. Repealers.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) an increasing number of children are cared for in various settings outside the home or by people other than the parents of such children;

(2) while many mothers continue to stay home with their children, the rapid influx of mothers into the workforce has made child care a primary concern of American families;

(3) the issue of quality affordable child care is of concern to people of all economic classes;

(4) there have been increases in the number of female heads of households and in the number of women who fall below the poverty line;

(5) only a small portion of American businesses now provide assistance for their employees in obtaining quality child care;

(6) the absence of quality day care can hinder able-bodied persons from working, and can therefore hinder an area's economic development;

(7) there are persons between the ages of 62 and 69 who, though qualified and interested in working as child care providers, decline to do so for fear that their social security benefits would be reduced;

(8) there are persons receiving benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) who, if properly trained, would qualify as child care providers; and

(9) there is no coordinated Federal system to deal with all Federal child-care programs.

(b) PURPOSE.—It is the purpose of this Act to—

(1) provide assistance and maximum flexibility to States to expand the availability of child care;

(2) promote innovative programs which respond to local child care needs;

(3) promote greater private sector involvement in the provision of child care;

(4) enhance the quality of available child care;

(5) coordinate all available child care programs;

(6) encourage the economic development of the Nation through the provision of affordable quality child care services;

(7) provide incentives for attracting and retaining highly qualified child care workers; and

(8) provide new opportunities for those receiving benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) to be trained to perform as highly qualified child care workers.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ELIGIBLE ENTITIES.—The term "eligible entities" means any public, nonprofit, and private organization.

(2) ELIGIBLE PROVIDER.—The term "eligible provider" means a child care center, family day care provider, or other facility which meets requirements as determined by the Secretary or lead agency.

(3) LEAD AGENCY.—The term "lead agency" means the agency designated as such under section 6.

(4) STATE.—The term "State" means each of the several States and the District of Columbia.

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

To carry out the provisions of this Act, there are authorized to be appropriated $340,000,000 for each of the fiscal years 1989 through 1991.

SEC. 5. ALLOTMENTS.

(a) RESERVATION.—The Secretary shall reserve not to exceed 1 percent of the amounts appropriated under section 4 in each fiscal year for payments to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Commonwealth of Puerto Rico, to be allotted in accordance with their needs.

(b) STATE ALLOTMENT.—From the remainder of the sums appropriated under section 4 for each fiscal year, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)) an amount determined on the basis of a formula prescribed by the Secretary that takes into account—

(1) the number of individuals under the age of 16 in the State and the relationship of such number to the total number of such individuals in all States; and

(2) the number of women in the workforce in the State and the relationship of such number to the total number of women in the workforce in all States.

(c) MINIMUM ALLOTMENT.—No State shall be allotted less than one-half of 1 percent of the funds appropriated under section 4, or $2,000,000, whichever is greater.

(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

(e) CARRYOVER.—Any portion of the allotment to a State under subsection (b) that remains unobligated at the end of the fiscal year for which the allotment was made, shall remain available to the State for the next fiscal year to carry out the purposes for which such allotment was made.

(f) ADDITIONAL ALLOTMENTS.—

(1) IN GENERAL.—A State shall receive an additional allotment if funds appropriated and available for allotment for a fiscal year are not allotted to States under subsection (b) because—

(A) at least one State has notified the Secretary that the State does not intend to use the full amount of the allotment;

(B) at least one State has failed to file an application in accordance with section 8 with the Secretary for the fiscal year; or

(C) at least one State has failed to meet the certification requirements under section 8.

(2) METHOD OF ALLOTMENT.—The excess amounts available for allotment under paragraph (1) shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for such fiscal year.

SEC. 6. LEAD AGENCY.

The Governor of a State desiring to participate in the program authorized by this Act shall specify in the application to the Secretary submitted under section 8 an appropriate State agency to act as the lead State agency for the purposes of administering the funds provided to the State under this Act.

SEC. 7. USE OF ALLOTMENTS.

(a) GRANTS.—Amounts paid to a State under this Act shall be used by the State to make grants or loans to eligible providers, or other eligible entities for capital expenditures, furnishings, operating expenses, and training.

(b) TRAINING OF SPECIFIC INDIVIDUALS.—A State may use funds paid to a State under this Act to provide child care training to adult recipients of benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) if the lead agency determines that such recipients are qualified to receive such training.

(c) ADMINISTRATIVE EXPENSES.—A State shall not use more than 7 percent of the total amount paid to a State under this Act for a fiscal year to administer the State plan. A State may use non-Federal funds, if required, for the purpose of carrying out the State duties under this Act.

SEC. 8. STATE APPLICATION AND PLAN.

(a) APPLICATION.—To qualify for assistance under this Act, a State shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

(b) CONTENTS OF APPLICATION.—

(1) CERTIFICATIONS.—An application submitted under subsection (a) shall contain certifications by the State that it shall—

(A) coordinate the provision of child care services with funds provided under the Act with other child care services available in the State;

(B) use Federal funds made available under this Act for any fiscal year to supplement and increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the programs and activities for which funds are provided under this Act and will in no event supplant such State, local, and other non-Federal funds;

(C) adopt standards of accreditation or licensing for family based and group child care providers and implement methods of inspection and certification based on such standards; and

(D) certify that not less than 25 percent of the persons receiving benefits through the assistance provided under this Act will be below the higher of—

(i) the Federal poverty level as indicated by the most recent data collected by the Bureau of the Census; or

(ii) 50 percent of the State median income.

(2) Plan.—An application submitted under subsection (a) shall include a State plan submitted in accordance with subsection (c).

(c) State Plan.—A State plan contained in an application submitted under subsection (a) shall—

(1) identify the lead agency designated in accordance with section 6;

(2) provide a method for, and means of, collecting data on the need for child care services within areas in the State, and the availability of such services in such areas, including the number and income levels of individuals in such areas;

(3) describe how the State has met the requirements of certification under subsection (b)(1);

(4) describe child care activities to be supported with funds provided under this Act;

(5) describe how information will be disseminated to individuals seeking child care services and providers seeking assistance through grants and loans made by the State from its allocation under this Act;

(6) describe procedures that the State will use to consider and approve applications for grants or loans to be made with funds provided under this Act;

(7) contain assurances that the State, in awarding grants or loans made with funds provided under this Act, will give priority to those applicants that ensure that they will continue to carry out the purpose of this Act without receiving future Federal funds; and

(8) provide such fiscal control and accounting procedures as may be necessary to insure the proper accounting of Federal funds.

SEC. 9. PAYMENTS.

(a) Amount of Grant.—Each State having an application approved by the Secretary under section 8 shall be entitled to payment under this section for each fiscal year in an amount not to exceed its allotment under section 5.

(b) Limitation.—A State may require any provider of services that is funded or seeking funds made available under this Act to furnish, in cash or in kind, contributions.

SEC. 10. CHILD CARE SERVICES COORDINATION TRANSFERS.

Notwithstanding any other provision of law, a State may transfer amounts paid to it under title XX of the Social Security Act (42 U.S.C. 1397 et seq.), section 670B of the State Dependent Care Development Grants Act (42 U.S.C. 9872), and section 674 of the Community Services Block Grant Act (42 U.S.C. 9903), to the lead agency for use in accordance with the provisions of this Act.

SEC. 11. STATE REPORT.

Not later than 6 months after the end of each fiscal year in which a State has been a recipient of Federal funds under this Act, the Governor of the State shall prepare and submit to the Secretary in such form as the Secretary shall prescribe, a report describing the States' use of the funds received under the Act.

SEC. 12. SOCIAL SECURITY EXCLUSIONS.

(a) Child Care Earnings Exclusion.—

(1) Wages.—Section 203 (f)(5)(C) of the Social Security Act (42 U.S.C. 403(f)(5)(C)) is amended—

(A) by striking out "or" at the end of clause (i),

(B) by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and

(C) by adding at the end thereof the following new clause:

"(iii) the amount of any payment made to an employee by an employer for child care services performed by such employee after the month in which such employee initially becomes entitled to insurance benefits under this title.".

(2) Self-employment income.—Section 203(f)(5)(D) of such Act (42 U.S.C. 403(f)(5)(D)) is amended—

(A) by striking out "or" at the end of clause (i),

(B) by adding "or" at the end of clause (ii),

(C) by inserting immediately after clause (ii) the following new clause:

"(iii) an individual who has become entitled to insurance benefits under this title, any income attributable to child care services performed after the month in which such individual becomes entitled to such benefits,", and

(D) by striking out "royalties or other income" and inserting in lieu thereof "royalties or income".

(3) Effective date.—The amendments made by this section shall apply to wages or income earned after the date of the enactment of this Act.

(b) Use by Child Care Providers Exclusion.—

(1) In general.—Subparagraph (A) of section 141(b)(6) of the Internal Revenue Code of 1986 (defining private business use) is amended by inserting "or a child care provider (within the meaning of section 3(2) of the Child Care Development Act of 1988)" after "governmental unit".

(2) Effective date.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 13. REGULATIONS.

(a) In General.—The Secretary is authorized to issue such regulations as are considered necessary to reasonably ensure that there is compliance with the requirements of this Act.

(b) Negotiated Rulemaking.—

(1) In general.—The Secretary shall ensure that, before publication in the Federal Register, proposed regulations pursuant to this section are developed by means of the negotiated rulemaking process, as defined by the Administrative Conference of the United States in Recommendation 82-4, "Procedures for Negotiating Proposed Regulations" (47 Fed. Reg. 30708, June 18, 1982).

(2) Participation.—Federal, State, and local administrators, employers, parents, teachers, and any other individuals involved with the implementation of programs authorized under this Act shall have the opportunity to participate in the negotiated rulemaking process.

SEC. 14. COORDINATION STUDY.

(a) Study.—The Secretary, in consultation with the Assistant Secretary for Human Development Services, and the Administrator of the Family Support Administration shall conduct a study of programs providing funding or services relating to child care which are administered by or through the Department of Health and Human Services to improve the coordination of such programs by the Department.

(b) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prepare and submit, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report that—

(1) summarizes the conclusions reached in the study conducted under subsection (a); and

(2) proposes recommendations to alleviate problems identified in the study, including recommendations—

(A) on the appropriate placement of child care programs within the Department of Health and Human Services to enhance coordination and cooperation;

(B) on legislative and regulatory measures that should be undertaken to enhance coordination and cooperation among child care programs;

(C) on legislative and regulatory measures that should be undertaken to provide the flexibility that is needed to meet the child care needs of individual States; and

(D) on changes in State plan requirements under this Act to streamline and expedite applications for and receipt of grants under this Act.

SEC. 15. REPEALERS.

(a) Public Works and Facilities.—Sections 101 through 201 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131-3141) are repealed.

(b) Urban Development Action Grants.—Sections 119 and 121 of the Housing and Community Development Act of 1974 (42 U.S.C. 5318 and 5320) are repealed.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Section 1 states the short title of the bill, "The Child Care Development Act of 1988," and contains the table of contents.

SECTION 2

Section 2 describes the Congressional findings on which the legislation is based, and the precise purpose of the legislation. The thrust of the findings is the rapidly growing numbers of households in which mothers are working outside the home, creating a growing need for affordable child care services. This section explains that Congress recognizes that child care programs are a worthy target for economic development and that child care needs vary from place to place. Accordingly, the legislation is designed to provide maximum flexibility to the states with incentives to attract and retain highly qualified child care workers.

SECTION 3

This section defines certain terms used in Sections 5 through 11, which describe the child care block grant program established by the legislation. By defining "eligible entities," this section makes it clear that the legislation is intended to benefit public, non-profit and private organizations. Also, by defining "eligible providers," this section leaves the program created by the bill open to a variety of child care settings as determined by the Secretary of HHS or the lead agency of each state. The section also defines "lead agency" as defined in Sec. 6 (which requires that each stated designate a single state agency to administer the funds, thus underscoring the bill's purpose to coordinate programs, consolidate information, and streamline the processing of paperwork related to the block grant program.

SECTION 4

Section 4 provides for an authorization of $340 million for a child care block grant for fiscal years 1989, 1990 and 1991.

SECTION 5

Section 5 establishes the formula for the distribution of the child care block grant. The formula is based on the number of children under the age of 16 in the state and the number of women in the workforce in relation to the total numbers of children under the age of 16 and women in the workforce in all states.

This section also establishes a minimum allotment of the greater of one half of one percent of the funds appropriated or $2 million to ensure that each state could establish a viable program. The Secretary of Health and Human Services will use the most recent data available to allot funds.

This section provides that funds received by the states under the child care block grant may be carried over into the following fiscal year when not obligated in the fiscal year for which the allotment was made.

This section also establishes a mechanism for distributing additional allotments to the states in the event that funds become available as a result of a state not being able to use its allotment or part of its allotment.

SECTION 7

This section provides that the governor of a state must designate a lead state agency for the purposes of administering the child care block grant to be able to participate in the program.

SECTION 7

Section 7 stipulates that federal child care block grant funds may be used by the states to make grants or loans to public, nonprofit, and private organizations and child care centers or family day care providers for capital expenditures, furnishings, operating expenses and training.

This section also establishes that not more than 7 percent of the federal funds received by the state may be used for administrative expenses.

SECTION 8

Section 8 establishes the application process by which states qualify to receive federal child care block grant funds.

In its application, a state must certify that it will coordinate child care services initiated with child care block grant funds with other child care services available in the state, that federal child care block grant funds will supplement and not supplant efforts to provide quality child care, that standards of accreditation or licensing for family-based and group child care providers have been adopted and methods of inspection and certification have been implemented, and that not less than 25 percent of the persons benefiting from the assistance provided with child care block grant funds will be below the higher of the federal poverty level or 50 percent of the state's median income.

This section also provides that the application submitted by the state must include a plan. The plan must identify the lead agency which has been designated by the governor to administer the funds, provide the method and means for collecting data on the need for child care services in the state, the availability of child care services and the number and income levels of persons in need of child care services, and describe how the state has complied with the certification requirements. In addition, the plan must describe the child care activities to be supported with the child care block grant funds, describe how information will be disseminated to individuals seeking child care services and providers seeking grants or loans through the funds provided, and describe the procedures that a state will use to consider and approve applications. The plan will also include assurances that priority will be given to applicants who demonstrate the ability to continue services undertaken with funds provided through the child care block grant without continued federal support and that fiscal control and accounting procedures are in place to ensure the proper accounting of federal funds.

SECTION 9

This section provides for payment of federal funds to the state when the Secretary of Health and Human Services has approved the state's application.

This section also provides that a state may require in cash or in kind contributions from applicants for funds provided through the child care block grant.

SECTION 10

Section 10 provides that a state may transfer other federal funds which are received through the Title XX Social Services Block Grant, the Community Services Block Grant, and Dependent Care Development Grants and are used for the provision of child care services to the agency which has been designated by the governor to administer the child care block grant program.

SECTION 11

This section requires the governor to submit a report to the Secretary of Health and Human Services within six months after the close of the fiscal year in which the state has received child care block grant funds which describes how funds received through the program were utilized.

SECTION 12

Section 12 amends Section 203(f)(5)(C) of the Social Security Act which currently provides that Social Security beneficiaries under the age of 65 may earn up to $6120 per year in wages or self-employment income; those between the ages of 65 and 69 may earn up to $8400 per year without any effect on their benefits. For those who earn more, for each $2 earned above those amounts, the beneficiaries lose $1 (though starting in 1990, those between the ages of 62 and 69 will lose $1 for every $3 they earn). The exempt amounts are adjusted each year. Those over 70 may keep all their benefits no matter what they earn. This section would exempt all earnings and self-employment income from child care facilities for those between the ages of 62 and 69.

SECTION 13

Section 13 authorizes the Secretary of Health and Human Services to promulgate regulations through "negotiated rulemaking," in accordance with procedures described in the Federal Register by the Administrative Conference of the United States. The procedure involves seeking the participation of interested parties in the development of regulations from the very beginning of the process.

SECTION 14

Section 14 requires that the Secretary of Health and Human Services together with the Administrator of the Family Support Administration study all child care programs administered by the Department of Health and Human Services and issue a report, within a year of the date of enactment. The report will contain an evaluation of all programs and recommendations for further regulatory and legislative changes that would further the purposes of the legislation.

SECTION 15

Section 15 repeals the statutes authorizing and pertaining to the Urban Development Action Grants and the Public Works provisions of the Economic Development Act of 1965.

By Mr. BURDICK:

S. 2174. A bill to amend the Department of Transportation Act so as to reauthorize local rail service assistance; referred to the Committee on Commerce, Science, and Transportation.

LOCAL RAIL SERVICE ASSISTANCE REAUTHORIZING ACT

● Mr. BURDICK. Mr. President, today I am introducing legislation that would reauthorize a program vital to agriculture and industry. This bill would provide for the continuation of Local Rail Service Assistance thereby encouraging States to continue participating in major rail improvement projects.

Local Rail Service Assistance (LRSA) was introduced as part of the Regional Rail Reorganization Act of 1973 for the purpose of trying to prevent the occurrence of rail line abandonments.

The bill I introduce today would reauthorize this program through 1993 with States providing 50 percent of funds for construction and acquisition of rail lines and matching 30 percent of the cost of rehabilitation.

It disappoints me to know that since 1985—in only 3 years time—7,464 miles of our Nation's rail lines have been abandoned. At the end of many abandoned rail lines are communities, factories, and farm operations which have lost their link to markets. If we write off support for the rehabilitation and maintenance of our rail lines, we write off our farms and small factories. I am confident that no one serving in this body is willing to allow that to happen.

There is no question that the vitality of our farms and industries is dependent on a thriving transportation system. When rail service is lost, the movement of fertilizer, seeds, and machinery to our farming communities is slowed. When this happens, the movement of thousands of bushels of grain and oilseeds from farms to ports is similarly affected.

In his fiscal year 1989 budget recommendations, President Reagan called for the elimination of any and all Federal funding for rail activities. I have to wonder how a "bare bones" rail system can possibly benefit our Nation. More and more the large carriers are operating on only the most profitable, heavy traffic lines.

I am pleased that my colleagues Senator EXON and Senator LAUTENBERG recognize the shortsightedness of the administration's approach to our rail system.

Without an adequate rail cargo and rail passenger system, ours would be a disabled nation. We must emphasize now the maintenance of our current rail system. Once a line is abandoned, a good deal of commerce and future plans die with it.●

By Mr. RIEGLE (for himself, Mr. HEINZ, Mr. ROCKEFELLER, and Mr. LEVIN):

S. 2175. A bill to provide for an additional, optional indicator for making available extended unemployment compensation benefits under the Federal-State Extended Unemployment Compensation Act of 1970; referred to the Committee on Finance.

THE UNEMPLOYMENT INSURANCE SYSTEM

● Mr. RIEGLE. Mr. President, our employment insurance system is failing the very people it was intended to help—the long-term unemployed. In 1987, the percentage of workers covered by the unemployment insurance system was a record low—31.5 percent. The average total unemployment rate in 1987 was 6.2 percent, which is comparable to 1978, when 43 percent of all workers could depend on unemployment compensation. Peak coverage was in 1975, when 75.5 percent of workers were covered by the unemployment insurance system.

What are the reasons for this apparent gap in services? The changes which were part of the 1981 Reconciliation Act effectively gutted the Extended Benefits [EB] Program by changing the qualifying triggers, making it more difficult for a State to meet the criteria. EB provides the second tier of unemployment benefits following the regular 26 weeks of benefits available in most States. Because of these changes, today, Alaska is the only State eligible to pay the additional 13 weeks of benefits, the cost of which is shared by Federal and State funds. So, in 1988, for most unemployed workers in this country, only 26 weeks of benefits are available. During the Nixon administration, in 1971, with a national unemployment rate of 6 percent, the maximum number of weeks of benefits available were increased to 52 weeks.

Today, I am introducing legislation with Senators HEINZ, ROCKEFELLER, and LEVIN, to create an alternative, optional trigger for the EB Program. The insured unemployment rate [IUR] does not accurately reflect the true need for extended benefits and should be augmented by another trigger which does. This bill will do just that, by factoring in the very people meant to be served—recipients who have exhausted their benefits. This trigger will be optional, and States will have to enact legislation in order to use it.

The Department of Labor currently collects this information from the States on a monthly basis. Our legislation will direct the Department to collect it weekly, and, as in the case of the insured unemployment rate, calculate a 13 week rolling average so that States with an exhaustion rate of 25 percent or higher over that period, would qualify for the second tier of benefits.

Eight years ago, there was an unemployment insurance system that worked better than it does today. The 1981 changes had a devastating effect on workers in the last recession, and continue to be felt by the 7 million workers who are officially counted as unemployed. There were numerous attempts to address the changes several years ago, however, the only thing we were able to do was provide a temporary solution, a federally funded Federal supplemental compensation program which expired in March 1985.

In the last recession, there were numerous attempts to make the unemployment insurance system more responsive to those it was meant to serve. Many bills were introduced, and hundreds of speeches were made. Since that time, perhaps because of the appearance of improved unemployment figures and the administration's reports of record employment levels, the speeches stopped, the focus changed and we have done nothing to fix the safety net which is not catching 68.5 percent of the unemployed. The same problems that were identified in the last recession are no less apparent today. The continuing decline in coverage is a poignant indicator of the problem. The intention of this bill is to raise the issue of the current inadequacy of the unemployment insurance program. There may be other approaches which should be explored. But the bottom line is that we haven't been working on a solution and we must.

There are several problems with the system which should be addressed before the next recession. Short of a total revamping which I believe should be considered, there are changes which could be implemented which would provide greater credibility.

One is to make the change we are sponsoring today by creating this optional trigger. Second, our data base needs to be expanded. Too many programs depend on unemployment statistics that are based on information from extrapolated numbers and survey data which is insufficient. For instance, in the surveys conducted, if a person is identified as having worked for one single hour in a week, that individual is counted as employed for purposes of these data. Discouraged workers—those who have given up trying to find work in towns where there are no jobs to be had—are not counted at all in the totals. We need to improve this so that we have a better data base from which to distribute benefits more accurately.

There has been considerable interest over the years in establishing a mechanism to have substate triggers to address pockets of unemployment in States which are otherwise not experiencing high State-wide unemployment. However, the current data are not sufficient to generate accurate sub-state figures. This is alarming because too many Federal programs are dependent on these data. Federal funds for the homeless, for youth employment programs, dislocated workers programs and many others are based on these figures. The Department of Labor has been studying this for several years. It is time to bring this data collection system into the modern era.

Last week, I asked the General Accounting Office to research a number of issues related to the apparent ineffectiveness of the unemployment insurance system: the way the total unemployment rate is calculated, the accuracy of the household survey data and whether the sample should be expanded; identify who is not covered in the statistics and by the programs; the role of Federal and State program cutbacks to the decline of unemployment insurance benefits; and suggested triggers for the extended benefits program.

Once I receive the report from the General Accounting Office, I may introduce further legislation to respond to the concerns I have raised.

Why are these figures so significant? Long term unemployment has increased during the last decade and sources of aid other than unemployment insurance do little to take up the slack. Local cash assistance programs may be limited to the disabled or provide limited financial help. Unemployed single or childless couples are not eligible for AFDC. Food stamp eligibility has been made more stringent; cuts in employment and training programs and other grants in aid have placed even more strain on local programs to fill the gaps left by these Federal cuts.

I recently met with a group of unemployed auto workers from Flint, MI. Flint is my hometown. I have watched the business cycle affect people's lives there my entire life. Flint's unemployment level was 23.1 percent in January. Neither the city of Flint, nor Genesee County's unemployment rate of 17.7 percent has been that high since early 1983.

But these are not just numbers. Each number represents a person, and several others in that person's family who are devastated by an area in decline.

Homes will be lost, health care coverage will lapse, utilities will be turned off and cupboards will be bare. The emotional strain of joblessness and its effect on families will take its toll on hundreds of thousands of people and the system that was meant to serve them.

It may be difficult for some of my colleagues to imagine such devastation, given the pockets of prosperity in other parts of this country. In States doing better than the national average, there may not be a concern—at least not yet. But I want my colleagues to remember the last recession, and understand that economically, we are in far worse shape now than we were then. The present economic platform is built on record budget and trade deficits. They have this Nation on an economic high-wire that has caused great volatility in our financial markets and have lead to concerns about the long-term stability of our economy.

You don't have to tell the workers in Flint about the long run of prosperity the President keeps talking about. They don't see it. Neither do many who ask themselves the old question about being better off than they were 8 years ago. Thousands of jobs have been lost, and every State in the country has communities which have experienced disruption. This administration talks a good free-market game, but does not have a coherent trade policy. As manufacturing facilities close, and good jobs disappear, responsibility for the victims of these changes must be met.

When people are desperate, discouraged and disillusioned by a system that doesn't meet their needs, explanations about political realities, budgetary constraints, structural changes in the American economy and macroeconomics just don't make a difference. So, today, I ask that we begin to look at these problems in a constructive fashion.

Mr. President, I urge all of my colleagues to consider cosponsoring this legislation and ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STATE "ON" AND "OFF" INDICATORS.

(a) IN GENERAL.—Section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding the following new sentence at the end: "Effective with respect to compensation for weeks of unemployment beginning on the date established pursuant to State law, a State may by law provide that the determination of whether there has been a State "on" or "off" indicator beginning or ending any extended benefit period shall be made on the basis of whether the weekly average of the rate of individuals exhausting regular unemployment compensation benefits for the period consisting of such week and the immediately preceding 12 weeks exceeded 25 percent, as determined by the number of exhaustees in the current week divided by the number of first payments of regular unemployment compensation 26 weeks prior to the current week."

(b) REPORTING.—Each week the Secretary of Labor shall compile the following for each State:

(A) the number of individuals who receive their first regular unemployment compensation benefit for their current benefit year; and

(B) the number of individuals who exhaust regular unemployment compensation benefits.

SEC. 2. APPLICATION OF AMENDMENT.

The amendment made by this Act shall apply only to weeks of unemployment beginning after the date of the enactment of this Act. In determining whether there has been a state "on" or "off" indicator beginning or ending any extended benefit period, however, a State may make such determination based on a weekly average rate which includes the 12 weeks beginning before such date of enactment.●

By Mr. DIXON (for himself, Mr. NICKLES, and Mr. HARKIN):

S. 2176. A bill to amend the Internal Revenue Code of 1986 to permit the tax-free purchase of motor fuels by individuals who are exempt from paying the motor fuels excise tax, and for other purposes; to the Committee on Finance.

MOTOR FUELS EXCISE TAX RELIEF ACT

Mr. DIXON. Mr. President, as many of us are keenly aware, the collection procedures for the Federal excise tax on motor fuels have resulted in many serious problems for a large portion of American taxpayers. This tax treatment, as it stands today, has adversely affected farmers, State and local governments, educational institutions, and many small businesses throughout our country.

Changes in the collection procedures are the result of provisions in both the Tax Reform Act of 1986 and the Reconciliation Act of 1987. The rationale for change was the growing concern that the Federal Government was losing substantial revenues due to underreporting, tax evasion, and cheating. As a result, we attempted to devise a method in which increased compliance could be ensured, and the ability of the IRS to detect fraud enhanced.

Neither the Tax Reform Act of 1986 nor the Reconciliation Act of 1987 altered the tax liability of these groups. These groups were tax exempt before those acts were passed into law and they remain so today. What has changed, however, is that these groups must now pay the tax up front, and then apply and wait for a refund from the Government. Today, farmers, local governments, and small businesses are required to provide Government with an interest-free loan. In addition, we have forced upon these groups higher operating costs, as well as a diminishing cash flow.

Many of us in this Chamber have come to view this current policy as inherently unfair. Although in theory it had some merit, in practice it will have a devastating impact on thousands of innocent citizens. There is no doubt that tax evasion must be stopped, and when cheating occurs it must be penalized. However, there has to be a more equitable solution to combat these problems.

There have been a number of bills recently introduced in an attempt to find such a solution. These bills, while differing in approaches and themes, are all good. None of them, however, adequately address the entire array of conflicting requirements posed by the current law.

The problems we confront today are, to a large extent, the result of piecemeal and patchwork measures from the past. Many of us believe that to continue such an approach to this problem is not an adequate response. What is needed is a comprehensive bill to clarify the many pressing issues pertaining to diesel, gasohol, and gasoline. To that end, Senators NICKLES, HARKIN, and I, have taken what we believe are the best components of previously introduced legislation and added them to several new sections.

It is our belief that this comprehensive bill, which we are introducing today, will provide the essential relief to which thousands of our taxpayers are truly entitled.

The Motor Fuels Excise Tax Relief Act seeks to ensure equity and balance in our Tax Code. The bill does not expand the classes of exempt taxpayers. Rather, it seeks only to restore to the historic classes of exempt taxpayers the true meaning and right of their exemption—tax exempt purchases. It also seeks to correct the competitive imbalances in the marketplace which have resulted from the changes in the motor fuels collection procedures. Furthermore, this bill will alleviate the unfair and burdensome requirements now imposed on farmers, educational institutions, State and local governments, and small businesses. In so doing, this bill will also alleviate the tremendous administrative costs of sorting and processing hundreds of thousands of refunds which the IRS will incur in the process.

We in Congress must act with quick resolve in this matter. It is essential that we address the many pressing problems posed by these changes in a comprehensive and bipartisan approach. I urge my colleagues on both sides of the aisle to join us in this effort.

Mr. NICKLES. Mr. President, today Senator DIXON and I are introducing legislation that would restore fairness and equity to the portion of our tax laws that deals with motor fuels excise taxes.

The Tax Reform Act of 1986 and the Budget Reconciliation Act of 1987 gave rise to many changes in our tax laws. Those changes have had major effects on the lives of millions of Americans. These new tax laws were enacted to improve upon some imperfections found in the old laws. However, as we have seen too often, increasing regulation often does not mean that we are improving regulation.

The Motor Fuels Excise Tax Relief Act, which Senator DIXON and I are introducing today, will help alleviate several flaws which we feel are imposing unnecessary and unfair requirements upon certain groups of motor fuels users who have historically been—and are still—exempt from owing Federal motor gasoline or diesel fuel excise taxes. Among these groups are farmers, State, and local governments, educational institutions, and small businesses throughout the country.

The changes in the tax laws which are affecting these exempt taxpayers in this adverse manner deal with the process by which they must submit payments for the Federal gasoline and diesel excise tax. In the past, these groups could claim an exemption from the Federal excise tax at the time of purchase from a gasoline or diesel wholesaler. Under the new law, they must pay all Federal excise taxes on the front end or at the time of purchase, and then must apply and wait for the IRS to refund their money. This process may take over a year. While the Federal Government has possession of the money and draws interest from it, the taxpayers must wait and hope that their paperwork is in order so that they can receive their money back with no interest.

We simply want to rescind this burdensome change in the excise tax collection procedures and return to the "up front" exemption for these historically exempt taxpayers. It is important to note that the bill that we are introducing today does not expand the classes of exempt taxpayers.

The intent of Congress when they created this new system of taxation was to ensure against any abuses or fraud that might have been occurring. It is this Senator's opinion that we have imposed a major economic and bureaucratic burden upon millions of taxpayers for the mere convenience of tax collectors. Not only will it cost the taxpayers extra time and money for recordkeeping, but also the IRS will incur tremendous administrative costs while sorting and processing this new paperwork.

A number of bills have surfaced recently which address various points or include certain groups. This bill that we are introducing today includes the classes of exempt taxpayers found in those bills—including farmers and, as covered in my bill, S. 2062, State and local governments—and adds the remaining taxpayers that fall within the category of off-highway business use in the case of the diesel fuel excise tax, such as commercial boats, oil field equipment, and coal mine equipment.

Also included in the Motor Fuels Excise Tax Relief Act of 1988 are two other excise tax collection provisions that correct competitive inequities created under the current code. First, section 4 permits wholesale distributors to remit the gasoline excise tax directly to the Treasury. Under current law, wholesale distributors must remit the tax to the gasoline manufacturer, who is then able to hold the money for several weeks before remitting it to the Treasury. The change proposed in this bill simply puts the wholesale distributors on the same footing in terms of floating the tax receipts as the gasoline manufacturers, with whom they are in competition in the marketplace.

The second correction in this bill is a provision that permits gasohol blenders to receive the lower tax rates that apply to gasohol even if they remove the gasoline from the wholesaler prior to blending in the ethanol. Section 5 further permits the Secretary of the Treasury to impose such terms and conditions on these blenders as he deems necessary.

I know that many of my colleagues share Senator DIXON'S and my concern with the effects of the current excise tax collection laws on their own constituencies. And I am sure my colleagues have been hearing from their farmers, State and local governments, police and fire departments, universities, commercial fishermen, aviation related businesses, and other small businesses. I hope that my colleagues will listen to the merits of the concerns of these groups and join in cosponsoring the Motor Fuels Excise Tax Relief Act.

By Mr. MITCHELL (for himself, Mr. COHEN, Mr. STAFFORD, Mr. LEAHY, and Mr. RUDMAN):

S. 2177. A bill to amend the Federal Aviation Act of 1958 to provide for use of the Nation's airports on a cost-recovery basis; to the Committee on Commerce, Science, and Transportation.

FEDERAL REVIEW OF AIRPORT LANDING FEES

● Mr. MITCHELL. Mr. President, I am today introducing legislation to provide the U.S. Department of Transportation with authority to conduct a binding review of airport plans to impose or increase landing fees and comparable charges.

The legislation is identical to H.R. 4074, which was introduced in the House of Representatives on March 3, 1988, by Representative SHERWOOD BOEHLERT of New York. It is strongly supported by the Aircraft Owners & Pilots Association and others in the aviation community. It is also a logical extension of actions which I have taken over the past 2 months, with other Members of Congress from New England, relative to a proposed Program for Airport Capacity Efficiency [PACE], under consideration for Boston's Logan Airport by the Massachusetts Port Authority [Massport].

The PACE plan has met strong opposition throughout the New England region. The plan is intended to relieve local airport congestion—but poses many troubling, potentially severe implications for air transportation throughout the region, and particularly for Maine.

Massport's PACE plan departs from the traditional method of calculating airport landing fees on aircraft weight, and for the first time, seeks to allocate a substantial portion of airport costs on a per landing basis. This means an increase in minimum landing fees. It also represents a structural bias in the airport landing fee structure against general aviation and smaller commuter aircraft, in favor of large jet aircraft.

Big planes serve big airports. Smaller cities and towns are served by smaller aircraft—but also depend on access to large hub airports, like Boston, for critical transportation needs.

Any major change which affects Boston's Logan Airport affects aviation in Maine. Maine is on the farthest northeastern edge of the United States, and has a geographic area as large as the rest of New England. Access to Logan Airport means access to the rest of the Nation.

Maine's smaller airports are keystones for economic development in many diverse areas of the State. Access to Logan Airport is an essential component for development of Maine's economic frontier. Take away that access, and you risk taking away Maine's future.

The Massport PACE plan poses troubling questions for the future of the New England region. It also poses broad national implications, from the point of view of national aviation policy, and the protection of State and regional access to critical airport hubs.

On January 29, 1988, I joined others in the New England congressional delegation in writing to the Secretary of Transportation, James H. Burnley IV, asking for appointment of a blue ribbon panel to conduct an independent review of the Massport PACE plan.

On March 10, 1988, the Secretary of Transportation replied that the only Federal requirement was that airport fees must be fair, reasonable, and nondiscriminatory. On that basis, the Department of Transportation intends to examine comments submitted on the Massport PACE plan before taking any final position. However, substantial concern exists that the Secretary of Transportation may lack sufficient authority to conduct an immediate, formal, binding review.

There is no defined Federal process for conducting a review of the Massport PACE plan under current law. The legislation which I am introducing today seeks to provide such a process.

The legislation provides that no airport which receives Federal aviation money may impose or increase landing fees if a request for Federal review is made according to certain conditions. The conditions are intended to ensure that Federal review will not occur every time a local airport wishes to adjust its landing fee schedule, but only when very strong regional interests are present.

Federal review would only occur when two or more Governors of States make a joint request to the Secretary of Transportation. There then would occur an immediate 6-month moratorium, in which the Department of Transportation, through the Federal Aviation Administration, would conduct a review of the proposed airport plan, providing an opportunity for notice and comment to all interested parties.

The Secretary of Transportation could approve the increase or change in airport fees only upon a determination that the plan is in the public interest and in accordance with the overall policy goals stated within the Federal Aviation Act of 1958.

I believe that this process provides a reasonable balance between Federal, State, regional and local interests in overall aviation policy. It does not eliminate local control of airport management, and it does not require mandatory Federal review of proposed landing fee changes.

The legislation provides a mechanism with the opportunity for regional interests to be protected. It would be used only when two States believe that their interests are not being adequately considered, motivating them to request Federal review.

The legislation does not contain a requirement for any special regional nexus between the Governors of the States making the request, or between the States and the particular airport involved. I do not believe that it is immediately possible to define such a nexus which would be adequate for all cases in which the Federal review process might become necessary.

With regard to Massport's PACE plan, strong concern is concentrated in the approximate regions of New England and Upstate New York. Under some circumstances, Federal review might be necessary for widely dispersed regional interests—involving, hypothetically, for example, concern in California or Texas with access to major airport hubs such as Chicago or Atlanta.

I believe the legislation strikes a reasonable balance between regional and local interests—and is consistent with overall Federal aviation policy. As a precedent for the future, I also believe it is of critical importance to smaller cities throughout the country, in ensuring access and service to major airport hubs.

It also should put Massport on notice. The legislation will apply to any proposed landing fee increase put into effect after March 1, 1988. I intend to do everything necessary to prevent a mistake being made at Logan Airport which might jeopardize the broader interests of the New England region, and the broader interests of national aviation policy.●

By Mr. JOHNSTON (for himself and Mr. McCLURE (by request)):

S. 2178. A bill to establish a Commonwealth of Guam, and for other purposes; to the Committee on Energy and Natural Resources.

GUAM COMMONWEALTH ACT

● Mr. JOHNSTON. Mr. President, today I am introducing Guam's Draft Commonwealth Act at the request of the Delegate from Guam, BEN BLAZ; the Governor of Guam, Joseph F. Ada; and members of the Commission on Self-Determination.

This legislation had its origins in plebiscites held in Guam in the early 1980's to determine what political relationship the people of Guam wanted with the United States. In January 1982 voters went to the polls in Guam to select among six status optiship with the rest of the union.

It is important to be aware of this debate over the definition of commonwealth because use of the term may obscure the true nature of the relationship being sought. Although glossing over these differences can have political advantages in the short-term, it can be damaging in the long term. For example, short-term political interests may support state-like treatment for welfare policies but treatment as an independent entity for taxation or trade. Such countervailing policies can ultimately block a move toward either statehood or independence because ongoing policies cannot be easily reversed.

As a practical matter, this legislation is a set of discrete provisions designed to define the relationship between the Federal Government and the Government of Guam. As such, the term "Federal Relations Act" may better describe the nature of the legislation than does the term "Commonwealth Act." Nevertheless, this legislation represents a great effort by the people of Guam to improve their relationship with the rest of the Nation. It is the end of many years of effort on Guam to develop a consensus and define solutions to problems of concern to the people of Guam. It is also the beginning of a process here in Washington of Federal Government consideration of these problems, and of the solutions proposed in this act.

This bill has a broad scope, covering such issues as land rights, immigration, and trade. It should be no surprise to my colleagues that there are provisions in this legislation which they will find controversial. Indeed, there are provisions which I do not support. However, I strongly support this process and the right of Americans to petition their Government and to participate in decisions which affect their lives.

Guam has been a part of the United States since 1899, and although the people of Guam did not become citizens until 1950, many considered themselves Americans. The people of Guam suffered under Japanese occupation in World War II, and have spilled their blood in support of America. Mr. President, we cannot underestimate the contribution of Guam and the people of Guam to our Nation. In the future, our relations with Asia will become increasingly important and Guam's role in the Pacific will grow. These facts underscore the importance of Guam to our Nation, and to our future.

I urge my colleagues to support this process of seeking a new relationship between Guam and the Federal Government. I also urge the administration to commit itself to this effort. The involvement and contribution of Federal agencies to this process is essential. Although some of us may question solutions proposed in this legislation, careful consideration must be given to the issues raised. It may be that other, more acceptable, solutions can be developed to resolve these concerns.

Finally, I urge that Guam's representatives appreciate the complexities and difficulties of the process here in Washington. To further this process, communication and priorities must be clear. Reasonable goals must be established and resources allocated accordingly. It is important to recognize that Congress is constantly considering legislation to address the concerns of the people of Guam. There is legislation currently under consideration regarding the disposal of excess Federal lands. Moreover, Congress recently enacted laws on taxation and judicial reform—two components of this Draft Act. I expect that the process of consideration of this act may lead to the enactment of legislation outside of the Commonwealth Act. In Washington you must learn "to strike while the iron is hot." If an opportunity arises to enact legislation regarding an issue covered in this act, it would be unwise to delay enactment to wait for a comprehensive Draft Act to be ready.

Mr. President, the people of Guam request our consideration of this legislation which represents their aspirations for the future of Guam and its relationship to the United States. I am pleased to introduce the Draft Commonwealth Act and to initiate and support the next step in this process. I urge the support of my colleagues in this effort.●

By Mr. FORD:

S. 2179. A bill to amend the Petroleum Marketing Practices Act; referred to the Committee on Energy and Natural Resources.

PETROLEUM MARKETING PRACTICES ACT AMENDMENTS

Mr. FORD. Mr. President, today I am introducing the Petroleum Marketing Practices Act Amendments, which make minor modifications to that act consistent with the original congressional intent. A similar measure, H.R. 1842, was introduced in the House of Representatives last year, and hearings have been held. That measure presently enjoys 56 cosponsors.

The Petroleum Marketing Practices Act was enacted in 1978 to promote fair competition in the retail gasoline market and prevent the unreasonable termination of a marketer's franchise agreement. It was intended to put marketers in a fair bargaining position during the renewal or renegotiation of franchise agreements.

Mr. President, this legislation makes three modifications to the PMPA in an attempt to fulfill the original purposes of the act. First, it requires any changes proposed at the time of renewal of a franchise agreement to be "fair and reasonable." Present law allows franchise terminations based on changes or additions to the franchise agreement so long as they are made in "good faith" and not "for the purpose of preventing the renewal of the franchise relationship." This standard poses the danger of requiring overly subjective assessments of the motivation underlying changes or additions to franchise agreement. I believe the "fair and reasonable" standard will enable changes or additions to be viewed in a much more objective manner.

Second, the legislation clarifies the definition of "franchise" to make clear that all contracts "economically necessary to the operation of the franchise" will be considered part of the franchise agreement, so that changes or additions to contracts between a franchisor and franchisee that are closely related to the operation of a retail gasoline facility will also be subject to the PMPA.

Third, the legislation protects franchisees from being terminated in situations where the retail gasoline facility is operated pursuant to a lease negotiated between the franchisor and the owner of the property, and the franchisor allows that lease to expire. Under this proposal, if the franchisor intends to let the lease expire and the franchisee is able to negotiate its own lease agreement with the owner of the property, then the franchisee may continue to operate.

Mr. President, I believe these changes are straightforward and necessary, and will go a long way toward assuring that the PMPA is being implemented as initially intended. I urge my colleagues to join me in cosponsoring this measure and securing its swift passage.

By Mr. METZENBAUM (for himself, Mr. Thurmond, Mrs. Kassebaum, Mr. Chafee, Mr. Kennedy, Mr. Bradley, Ms. Mikulski, Mr. Moynihan, Mr. Pell, Mr. Dodd, and Mr. Simon):

S. 2180. A bill to amend chapter 44, title 18, United States Code, to prohibit the manufacture, importation, sale or possession of firearms, not detectable by metal detection and x-ray systems; to the Committee on the Judiciary.

FIREARMS DETECTION ACT

● Mr. METZENBAUM. Mr. President, I rise to introduce legislation to deal with the crucial problem of firearms which are not detectable by metal detectors or other security screening devices. Such firearms provide an open invitation to terrorists to smuggle weapons aboard an airliner or into a public building such as a courthouse or legislative chamber. We are courting disaster if we do not act immediately to ban production of such firearms before they become widely circulated among the public.

I am very pleased to be joined by a long list of distinguished bipartisan cosponsors, including Senators Thurmond, Kassebaum, Chafee, Kennedy, Moynihan, Dodd, Bradley, Mikulski, Pell, and Simon. I am especially pleased that the ranking minority member of the Judiciary Committee, Senator Thurmond, has lent his support to this effort. He has steadfastly supported the interests of strong law enforcement and has made a major contribution to the formulation of an approach which protects the public as well as respects the legitimate interests of gun owners.

Earlier, we introduced S. 465, which dealt with this same issue. After extensive discussions with members of the law enforcement community and experts in airport security systems, we have decided to introduce this revised version of the earlier bill, which clarifies and improves it. The new bill responds to constructive suggestions by members of the law enforcement community and addresses concerns raised about the approach taken in S. 465.

As supporters of this measure have stated repeatedly, it is our intention to bar production only of those firearms which are undetectable based on currently available technology. Newly developed metal detectors are now available which are capable of detecting smaller weapons and distinguishing these weapons from small, scattered metal objects such as keys, fountain pens, and coins. Because of this new technology, we have revised the detectability standard from that included in S. 465.

This modified standard allows continued production of somewhat smaller weapons without creating a security risk. It is important to note, however, that the latest available technology does not allow production of weapons which do not meet this detectability standard. Firearms which have so little metal that they do not meet this standard are simply undetectable at any setting of a metal detector, or they are detectable only if the detector is calibrated to its maximum sensitivity. At that level of sensitivity, over 90% of airport passengers would have to be hand searched.

Members of the law enforcement steering committee which support this legislation, include: Federal Law Enforcement Officers Association; International Brotherhood of Police Officers; Major Cities Administrators; National Organization of Black Law Enforcement Executives; National Troopers Coalition; Police Foundation; Fraternal Order of Police; International Association of Chiefs of Police; National Association of Police Organizations; Police Executive Research Forum; and Police Management Association.

I urge my colleagues to support this measure and to enact responsible legislation before a terrorist uses an undetectable weapon to hijack an airliner or to assassinate a public figure. I ask unanimous consent that a copy of the bill be printed in the Record as well as a section-by-section analysis and a series of questions and answers about the bill.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2180

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

SECTION 1. TITLE.

This act may be cited as the "Firearms Detection Act of 1988"—

SEC. 2. UNDETECTABLE FIREARMS.

(a) "Sec. (a). Section 922 of Title 18, United States Code, is amended by adding at the end thereof a new subsection (p) as follows:

"(p)(1) It shall be unlawful for any person to manufacture, assemble, import, sell, possess, transfer, receive, ship, or deliver any firearm that the Secretary determines, after consultation with the administrator of the Federal Aviation Administration:

"(A) is not as detectable as the Minimum Security Standard Exemplar, after removal of grips, stocks, and magazines, by walk-through metal detectors calibrated and operated in accordance with Federal Aviation Administration standards for use at airports in the United States; or

"(B) is not impregnated with barium sulfate or other compound sufficient to make any firearm containing a non-metallic barrel, frame, receiver, slide or cylinder in a manner approved by the Federal Aviation Administration to facilitate detectability as a firearm by cabinet X-ray systems, as defined in regulations prescribed by the Federal Aviation Administration (14 C.F.R. 108.17) designed for inspection of carry-on baggage; provided that such requirement shall not apply if the firearm is detectable as a firearm in a cabinet x-ray without impregnation; provided further that nothing in this section shall be construed as requiring that the Federal Aviation Administration utilize the Minimum Security Standard Exemplar as a Federal Aviation Administration detection standard.

"(2) For purposes of this section—

"(A) the term 'firearm' does not include a firearm described in subsection 921(a)(3)(B) of this title; and

"(B) the term 'Minimum Security Standard Exemplar' means a firearm substitute used for testing that resembles a revolver, is made of material type 17-4 PH stainless steel and weighs 4 ounces; provided that nothing in this bill should be construed to require that a firearm be made of any particular material or be of any particular weight so long as the detectability standard is met.

(b) Section 925 of title 18, United States Code, is amended by adding at the end thereof a new subsection (f) as follows:

"(f)(1) The Secretary shall not authorize, under subsection (d) of this section, the importation or bringing in of any firearm that—

"(A) is not as detectable as the Minimum Security Standard Exemplar, after removal of grips, stocks, and magazines, by walk-through metal detectors calibrated and operated in accordance with Federal Aviation Administration standards for use at airports in the United States; or

"(B) is not impregnated with barium sulfate or other compound sufficient to make any firearm containing a non-metallic barrel, frame, receiver, slide or cylinder in a manner approved by the Federal Aviation Administration to facilitate detectability as a firearm by cabinet X-ray systems, as defined in regulations prescribed by the Federal Aviation Administration (14 C.F.R. 108.17) designed for inspection of carry-on baggage; provided that such requirement shall not apply if the firearm is detectable as a firearm in a cabinet x-ray without impregnation; provided further that nothing in this section shall be construed as requiring that the Federal Aviation Administration utilize the Minimum Security Standard Exemplar as a Federal Aviation Administration detection standard.

"(2) As used in this section, the terms 'firearm' and 'Minimum Security Standard Exemplar' have the meanings given those terms in section 922(p) of this title."

(c) The first sentence of section 925(d) of title 18, United States Code, is amended by striking out "The Secretary" and inserting in lieu thereof "Except as provided in subsection (f) of this section, the Secretary".

(d) The administrator of the Federal Aviation Administration shall conduct such research and development as may be necessary to improve the effectiveness of airport security metal detectors and airport security x-ray systems with respect to detection of firearms prohibited by section 922(p) of title 18, United States Code.

(e) When appropriate because of changed technology, the Secretary of the Treasury after consultation with the Administrator of the Federal Aviation Administration shall submit to the Congress proposed legislation (including technical and conforming provisions) to amend the definition of the term "Minimum Security Standard Exemplar" contained in the amendments made by this Act.

(f) The Administrator of the Federal Aviation Administration, the Director of the Secret Service, the Director of the Marshal's Service, and any other agency head responsible for maintaining or regulating security checkpoints shall conduct such study, as required to identify available state-of-the-art equipment capable of detecting the Minimum Security Standard Exemplar while distinguishing innocuous metal objects likely to be carried on one's person sufficient for reasonable passage of the public.

(1) Each such study shall be completed within six months of the date of enactment of this Act and shall include a schedule providing for the introduction at the earliest practicable time of equipment at checkpoints within their jurisdiction.

(2) The Federal Aviation Administrator is hereby authorized to spend such sums as may be necessary from the Airport and Airway Trust Fund to implement the security enhancements identified by this Act at security checkpoints under the jurisdiction of the Administrator. These funds shall be available to cover both the costs of the study and the costs of new security equipment. These funds shall be available for the entire period of time identified by the study for implementation, limited only by the length of the Trust Fund authorization.

(g) Section 922 of Title 18, United States Code, is further amended by adding at the end of subsection (p) as added by this Act, a new subsection (q) as follows:

"Whoever, during and in relation to the commission of a crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of the United States, uses or carries a firearm the manufacture or importation of which is prohibited by the provisions of 922(p) as added by this Act, shall, in addition to the punishment provided for the commission of such crime of violence or drug trafficking crime, be sentenced to a term of imprisonment for not less than five years.

For purposes of this subsection, the term "drug trafficking crime" means any felony violation of Federal law involving the distribution, manufacture, or importation of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))."

(h) This Act and the amendments made by this Act shall become effective thirty days after the date of enactment of this Act but it shall be a bar to prosecution for an offense involving the sale, possession, transfer, shipment, receipt, or delivery of a firearm in violation of subsection 922(p) of title 18 that the firearm was manufactured before the date of enactment."

S. 2180; SECTION-BY-SECTION ANALYSIS

Section (a) adds a new subsection (p) to section 922 of title 18. It sets out the basic prohibition on future manufacture, assembly, importation, sale, possession, transfer, receipt, shipment and delivery of firearms that do not meet the detectability standards set out in the bill.

In order to meet the detectability standards of the bill, a firearm must be as detectable as the "minimum security standard exemplar" in a metal detector; and any firearm with a major non-metallic component must be impregnated with barium sulfate to insure that it is detectable by x-ray.

The "minimum security standard exemplar" is a detectability standard based on the recommendation of security experts. The "exemplar" is simply a metal device in the shape of a firearm that provides an objective standard of detectability. A firearm is not required to be of any particular weight or composition as long as the detectability standard is met.

Sections (b) and (c) require the Secretary of the Treasury to insure that firearms are not imported if they do not meet the detectability standards in the bill.

Section (d) requires the FAA to conduct research and development to improve the effectiveness of airport security screening equipment.

Section (e) provides that the Secretary of the Treasury is to submit proposed legislation to modify the detectability standards if developments in detection technology allow the standards to be changed.

Section (f) provides that the most sophisticated metal detectors be installed at airports and other Federal facilities based on a schedule to be determined after a short study by the relevant agencies.

Section (g) adds a new offense to title 18—using an undetectable weapon in the commission of a violent crime or drug trafficking offense. A mandatory additional 5-year penalty is provided in addition to the penalty required for the underlying offense. This provision is similar to that included in legislation barring production of armor-piercing bullets.

Section (h) provides an effective date of 30 days after the date of enactment. It also makes clear that the bill does not apply to firearms manufactured at the time the bill becomes law. Thus, persons who own any firearms which are prohibited by the bill may retain these weapons and transfer them.

QUESTIONS AND ANSWERS REGARDING S. 2180

1. What firearms are prohibited by S. 2180?

S. 2180 prohibits future production, importation and sale of firearms which are not detectable as a firearm in an X-ray cabinet and which are not as detectable as a 4.0 ounce stainless steel "exemplar." (An exemplar is a testing device in the shape of a firearm.) No firearm has to be of any particular shape, weight or composition as long as these detectability standards are met.

2. What firearms now available in the United States are affected?

Only one firearm sold in the U.S. today would not meet this detectability standard. All other firearms are unaffected by the bill since they are out of production, or they have enough metal to meet the standard.

3. What is the effect of the bill on firearms now in circulation?

Any firearm manufactured at the time the bill becomes law would be unaffected. Those who owned these firearms could keep them or transfer them.

5. Does the Secretary of the Treasury have discretion under the bill to ban production of firearms?

No. The Secretary is given authority under the bill only to apply a specific, expressly stated standard. He or she would have no discretion to apply a different standard. The bill requires that non-metallic guns be impregnated with barium sulfate to make them detectable by x-ray. The Secretary would have no discretion to ban metallic firearms on the grounds that they are not detectable by x-ray.

6. Does S. 2180 insure that all firearms would be detectable?

Yes. S. 2180 sets a floor on detectability for any firearm which would be produced or imported in the future. In addition, it mandates the installation of improved metal detectors which are capable of detecting these firearms without causing disruption at airports or other public facilities.

7. Does S. 2180 take account of the best available technology for detecting firearms?

Yes. The detectability standard in S. 2180 is based on the latest available technology. The bill provides that if improved technology becomes available which would allow the detectability standard to be modified, the Secretary of the Treasury is to propose such modifications to Congress.●

● Mrs. KASSEBAUM. Mr. President, I am pleased to join as an original cosponsor of S. 2180, legislation to prohibit the manufacture and importation of nondetectable firearms. This bill incorporates various suggestions to clarify the provisions of S. 465. Moreover, it addresses the concern that S. 465 did not specifically mandate airports to improve their detection systems.

The bill has the strong support of numerous police and law enforcement organizations, as well as various airline employee associations. It will remove the incentive of weapons manufacturers both here and abroad to channel their resources into developing plastic weapons specifically designed to evade security systems and instead encourage them to improve the traditional firearms used for sporting, hunting, and self-defense. The bill does not affect the legitimate interests of gun owners and strikes a reasonable balance between protecting the rights guaranteed by the second amendment and common sense.

Metal detectors and x ray machines form the backbone of our airport and Government security. The ready availability of nondetectable firearms would enable terrorists and emotionally disturbed individuals to penetrate our most sophisticated security systems. This would threaten the security not only of our airports but many of our Federal buildings as well, including the Supreme Court, the Capitol, and the White House.

As is the case with any initiative affecting handguns, this legislation has become subject to a great deal of disinformation. Many have attempted to recast it into a referendum on firearms in general. Others have attempted to portray it as a conspiracy to confiscate all handguns. Suggestions have been made that the bill is drafted in such a manner as to apply to antique firearms and various nylon rifles. A list of some 50 supposedly affected guns has been circulated naming many well-known models.

The emotionally charged allegations of conspiracy, confiscation, and referendum do not stand up to scrutiny in light of the bill's specific language and cosponsors. The language clearly states that for a weapon to be subject to the bill it must be nondetectable by standard security detection equipment. To address the rather far-fetched assertion that the Treasury Department might classify all guns nondetectable, the bill is very specific as to the definition of detectability. The definition ensures that all standard handguns would not be affected. The claim that this legislation is a crusade by certain Senators against general gun ownership is contradicted by the records of the bipartisan cosponsors.

Mr. President, Senator McCLURE and Senator HATCH recently introduced S. 2051, the Prohibition of Undetectable Firearms Act, which would also prohibit the manufacture and importation of nondetectable firearms. I am pleased that Senator McCLURE and Senator HATCH have undertaken this initiative, and I look forward to a joint effort between the supporters of S. 2180 and S. 2051 to come to grips with the nondetectable firearm problem.

Despite its intended purpose, there are problems with S. 2051 that must be addressed if it is to be effective. For example, in its present form S. 2051 does not appear to cover nondetectable single-shot weapons or miniature Derringers. The bill also does not provide a workable standard of detectability. Both of these concerns are detailed in a letter by the Law Enforcement Steering Committee. I believe the views of our police and law enforcement agencies should carry special weight on this matter, and I ask that the letter signed by 12 law enforcement groups be included in the RECORD following my remarks.

Mr. President, I believe it is possible for us to come to an agreement that will allow us to resolve the problem of nondetectable firearms. The threat is real and immediate, and I hope that supporters of both bills will seek to ensure that timely action is taken to address this problem.●

By Mr. WALLOP:

S. 2181. A bill to amend title XVIII of the Social Security Act to allow physicians to charge Medicare beneficiaries without regard to the fee freeze if the patient chooses to pay the physician from private sources; referred to the Committee on Finance.

LEGISLATION TO AMEND THE MEDICARE ACT

● Mr. WALLOP. Mr. President, the bill I am introducing today was drafted at the suggestion of a Wyoming physician who had become quite exasperated with the Medicare Program. I am afraid that this doctor is not alone in his frustration with the Medicare Program. Every time I have talked with physicians in Wyoming, I have received a litany of legitimate complaints about the regulatory morass which HCFA and its carriers has created for physicians serving Medicare patients.

The bill I am introducing would allow physicians and their Medicare patients to voluntarily agree to bypass the Medicare system and use some other alternative to provide reimbursement for physician services. This could be personal resources, private insurance, or another method. Current law creates a barricade to such agreements. My bill breaks down the barricade, and allows the use of voluntary agreements.

I would ask that the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2181

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 1842(j) of such Act is amended by adding at the end thereof the following new paragraph: "(5) Paragraph (1) shall not apply to any case where no payment is made or requested under this part with respect to the particular physicians' services involved.". (b) The amendment made by subsection (a) shall apply to services furnished after the date of the enactment of this Act.●

By Mr. MITCHELL (for himself, Mr. BRADLEY, Mr. DURENBERGER, Mr. ROCKEFELLER, Mr. CHAFEE, and Mr. BAUCUS):

S. 2182. A bill to amend title XVIII of the Social Security Act to increase the amount authorized for the patient outcome assessment research program, and for other purposes; to the Committee on Finance.

PATIENT ASSESSMENT RESEARCH PROGRAM

● Mr. MITCHELL. Mr. President, I rise today to introduce an amendment to title XVIII of the Social Security Act to increase and improve the outcomes assessment research program. This authorization will increase the resources committed from the Medicare trust funds to this type of research. It will improve both the quality and efficiency of our Medicare expenditures.

Medical outcomes research is a logical next step in the effort to improve the way Medicare funds are expended. The outcome of a medical procedure is the best indicator of quality. There is a lot of variation from one place to another in the number of services provided the Medicare population. We know there are many services that are either under or over used. There is considerable uncertainty in the minds of many researchers and practitioners due to lack of information on comparative outcomes. In most circumstances we do not know if the outcome in the broad sense is better for alternative treatment theories. For example, considering arterial disease of the main arteries supplying the brain, we do not know if surgery or aspirin is more effective in reducing the incidence of stroke and other complications. There are countless similar examples. Medical outcomes research addresses these concerns.

An outcomes research effort was first authorized in the Omnibus Budget Reconciliation Act of 1986. However, only a small amount of money was authorized at that time. Since then the effort has had appropriations well below the authorized level. The total research effort by the Health Care Financing Administration examining the Medicare Program is less than 0.04 percent of expenditures. If one views this as a research and development for the way we purchaser health care, we are sorely underinvesting.

It is time for us to improve our tools of decisionmaking. There is too much uncertainty about the appropriate therapy in many situations. In evaluating these services we need to look at the short and long run. It's not whether the surgery was successful, but whether the patient lived.

We hear more and more about buying medical services with an eye to quality as well as cost. With the budget pressures we will be experiencing in the foreseeable future, carefully fine tuning the placement of Medicare dollars will be ever more important. There are a number of small efforts in the Department of Health and Human Services to improve the quality of care. The purpose of this bill is to direct research into the area of outcomes which should be the final arbiter and best definition of quality.

An important element in the decision to direct resources is the interaction between quality as measured by outcome and the cost of the service. At the present time we have only price and proof of some benefit for a service to be made available. There are often competing services for the same problem that are indistinguishable with the knowledge we now have. We need to be able to sort what is best and put our resources behind those decisions.

To evaluate the full range of possible outcomes we will need good, validated instruments that look beyond the short term and beyond the narrow definition of outcome. Some instruments are available. More need to be developed. To develop these tools a sustained effort with sufficient resources is needed. I have, therefore, proposed a phased-in increase of the resources spent on this endeavor. I fully expect this effort to be sustained on a permanent basis.

This legislation will be of benefit to all of us. It will improve the ability of Congress to make those hard decisions about Medicare coverage. It will help the Health Care Financing Administration in its efforts to improve the administration of the Medicare Program. It will provide information for providers in their difficult daily tasks of patient care. And, it will give patients more information in their decisions about personal health choices. This research effort will be an important step toward improving the quality of medical care.●

● Mr. BAUCUS. Mr. President, I am pleased to join with the Senator from Maine, the Health Subcommittee Chairman of the Senate Finance Committee, on this legislation to encourage further efforts to improve health care quality and reduce unnecessary health costs.

We Americans have grown accustomed to the claim that we have the finest health care in this world. And, judging from the numbers of those from other countries who come to the United States in times of serious illness, it's a claim we can back up with results.

But I also suspect that few of us really know much about why some types of medical care produce good results and why others do not.

In fact, as a member of the health subcommittee, I have often heard from medical professionals about the broad range of uncertainty that surrounds complex treatment decisions.

These are questions about health care quality, an issue all of us need to care more about. It is not enough to say that simply paying more and more for health care will solve whatever concerns we have about quality. But it's just not that easy.

We need to start directing the enormous resources already dedicated to health care in our society toward those procedures and medical practices that have demonstrated proven good results. And we need to move away from those continually spending money on procedures and practices that infrequently produce successful results.

Research spent on what works is one of the best investments that most industries make. In fact, many American firms are now learning the hard lesson that improving quality and controlling costs must go hand-in-hand.

It is time that we began to learn the same lesson in the day-to-day practice of health care.

We know that we can do a better job by giving health care professionals better, more reliable, and more practical information on health care quality and results. And for the rest of us who must make personal and often difficult health care choices, we should expect that better information will make us more equipped to make more appropriate medical decisions.

Finally, if we can make more intelligent choices about what constitutes appropriate care, we just might find an acceptable and intelligent way to better control escalating health care costs and redirect health dollars. With Federal studies projecting U.S. health spending to triple by the year 2000 to a staggering level of $1.5 trillion, this is an investment well worth making today.●

By Mr. PRESSLER:

S. 2183. A bill to improve the provision of services under the Medicare and Medicaid programs to individuals with Alzheimer's disease or related disorders and to amend the Public Health Service Act to provide assistance for education, research, and treatment programs relating to such disease and disorders: to the Committee on Labor and Human Resources.

COMPREHENSIVE ALZHERIMER'S ASSISTANCE, RESEARCH, AND EDUCATION ACT

Mr. PRESSLER. Mr. President, I rise today to introduce legislation which would provide comprehensive care and assistance for the 3 million middle-age and elderly Alzheimer's victims in our Nation.

This bill is identical to H.R. 3130 which was introduced by our distinguished colleague EDWARD R. ROYBAL in the House of Representatives last August.

I remember the day I returned to the States after finishing my tour in Vietnam. At home, my father warmly embraced me. That was a special moment in my life. It never crossed my mind that 20 years later he would not recognize my face or remember my name. My father has Alzheimer's disease. At 72 years of age, he now resides in a nursing home in Salem, SD.

I am afraid to say that this personal tragedy is not my own to carry. Tens of thousands of families across this Nation must cope with caring for a loved one with Alzheimer's disease—the same way my family coped with caring for my father.

Personal correspondence from my constituents and newspapers articles from South Dakota and across the country continue to make me aware of the tragic impact of Alzheimer's disease and other dementias on families across the Nation. Wives, husbands and children who must care for their loved ones quickly became aware that community resources are fragmented and often nonexistent. It is difficult for them to find needed services. As I personally know, the burden of caring for those afflicted with Alzheimer's disease becomes what some consider a 36-hour day.

Taking care of individuals afflicted with Alzheimer's disease was a topic at many of the 30 public forums I recently held across the State of South Dakota. Many individuals spoke of their problems in taking care of family members with Alzheimer's disease. They feared financial bankruptcy due to paying for costly nursing home care—costs ranging from $750 per month to over $3,000. They knew that such an expense would quickly wipe out their life savings.

The impact of Alzheimer's disease goes beyond paying for costly nursing home care. Caregivers must sacrifice both wages and salaries when they must choose not to work in order to stay at home to provide informal care. Small businesses and large corporations alike lose. Experienced workers leave the work force to take care of relatives or friends. Lost productivity is a result.

We must not forget the human side of the equation. Caregiver burnout can result when individuals become physically and mentally depleted, and they become more susceptible to illness.

Let us not fool ourselves. The problem of Alzheimer's disease will not go away. America is growing older. As its population ages, the number of its citizens afflicted with Alzheimer's disease will increase, 1 percent of the population up to the age of 75 has Alzheimer's disease. The number significantly increases—up to 10 percent—from age 75 to 85. Within the age group of 85 and older, it again doubles to 20 percent.

Even though most dementing illnesses do not strike until after age 65, it is estimated that 5 to 10 percent of persons with dementia develop the disease in middle age. The exact number of cases that begin during the middle years is not known—but some experts estimate the 75,000 under 65 have severe dementia.

I can foresee the future impact of this demographic time bomb. We must act quickly and decisively. More money must be spent on research to either slow the advent of Alzheimer's disease or cure it. Currently, research is being conducted at 17 sites around the United States testing the experimental drug THA to find a cure for Alzheimer's disease.

Testing of experimental drugs such as THA is more tightly regulated in the United States, to prevent harm to the participants. We must continue to adequately fund research on THA and other experimental drugs to increase our momentum toward finding a cure. It is amazing to me that only $67 million is spent on Alzheimer's related research when the cost of care to the victims of Alzheimer's disease is more than $50 billion annually.

I have actively sponsored legislation to alleviate the impact of Alzheimer's disease on Alzheimer's patients and caregivers. During the last Congress, I sponsored the Comprehensive Alzheimer's Research and Education Act [CARE] to provide funding and resources to assist researchers, providers and caregivers. The bill's objective was to promote research and improve access to and delivery of care. Unfortunately, this bill was not enacted.

In order to continue the long fight against the catastrophic effects of Alzheimer's disease, I am calling for a major initiative similar to the one launched in the 1950's to conquer polio. As we then committed our resources to develop the ultimate weapon of polio vaccine, so must we take similar action during the 100th Congress against Alzheimer's disease.

Through a major research initiative and commitment of resources to reduce the burden that millions of caregivers shoulder, we must move quickly toward finding a cure for Alzheimer's disease. Our Nation must make a total commitment to provide relief to ease the pain and suffering of those afflicted with the disease.

The legislation I am offering today authorizes: First, a serious commitment to increase research funding—including 5 additional Alzheimer's research centers; second, the creation of State Alzheimer's programs—with 25 to 50 percent of the funds for respite care; third, the formal establishment of the National Alzheimer's Education Program; and fourth, new Medicare and Medicaid research and demonstrations.

Mr. President, now is the time to act. I have not forgotten that the statistics we so routinely quote when we discuss Alzheimer's disease represent human beings. I hope that our colleagues here in the Senate will recognize this fact and support passage of this legislation. I urge your support and cosponsorship.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2183

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Alzheimer's Assistance, Research, and Education Act of 1987 (CARE)".

TITLE I—PUBLIC HEALTH SERVICE PROGRAMS WITH RESPECT TO ALZHEIMER'S DISEASE

SEC. 101. ESTABLISHMENT OF PROGRAMS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) by striking sections 444(d) and 445; and

(2) by adding at the end of title III the following new part:

"PART K—ALZHEIMER'S DISEASE

"Subpart I—Research Grants

"SEC. 395. RESEARCH CENTERS.

"(a) Establishment of Program.—The Secretary, acting through the Director of the National Institutes of Health, may make grants to, and enter into cooperative agreements with, public and private nonprofit entities for the purpose of assisting grantees in establishing and maintaining, with respect to Alzheimer's disease and related disorders, not less than 15 centers for—

"(1) conducting basic and clinical research, training, and dissemination of clinical information;

"(2) demonstrating advanced diagnostic, prevention, treatment, and management methods;

"(3) conducting programs of community education; and

"(4) maximizing research in Alzheimer's disease and related disorders by—

"(A) coordinating, to the extent practicable, research activities among such centers;

"(B) coordinating, to the extent practicable, research activities of such centers with related research activities of the Department of Health and Human Services, the Veterans' Administration, State Alzheimer's programs, other public entities, and private entities; and

"(C) collaborating with such entities, and exchanging information with such entities, to the extent practicable.

"(b) Certain Uses of Funds.—In carrying out the purposes described in subsection (a), grantees under such paragraph—

"(1) may provide for the construction of centers for Alzheimer's disease (notwithstanding any limitation under section 496), for demonstration purposes, and for staffing and other basic operating costs of such centers, including such patient care costs as may be required for research; and

"(2) may not acquire land or conduct research training for which National Research Service Awards may be provided under section 487.

"(c) Limitation on Support of Centers.—Support of a center under subsection (a) may be for a period not to exceed 5 years. Such period may be extended by the Secretary for additional periods of not more than 5 years each if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Secretary and if such group has recommended to the Secretary that such period should be extended.

"(d) Requirement of Certain Consultations in Administration of Program.—In carrying out this section, the Secretary shall consult with the Director of the National Institute on Aging, the Director of the National Institute of Mental Health, the Director of the National Institute of Neurological and Communicative Disorders and Stroke, and the Director of the National Institute of Allergy and Infectious Diseases.

"(e) Authorizations of Appropriations.—For the purposes of carrying out this section, there are authorized to be appropriated $20,000,000 for fiscal year 1988, $20,900,000 for fiscal year 1989, and $21,800,000 for fiscal year 1990.

"SEC. 396. BASIC AND CLINICAL RESEARCH.

"(a) Establishment of Program.—The Secretary, acting through the Director of the National Institutes of Health and the Director of the National Institute of Mental Health, may make grants to, and enter into contracts with, public and private nonprofit entities for the purpose of enabling grantees to conduct basic and clinical research with respect to Alzheimer's disease and related disorders.

"(b) Requirement of Certain Consultations in Administration of Program.—In carrying out this section, the Secretary shall consult with the Director of the National Institute on Aging, the Director of the National Institute of Neurological and Communicative Disorders and Stroke, and the Director of the National Institute of Allergy and Infectious Diseases.

"(c) Allocation of Certain Appropriations.—For the purposes of carrying out subsection (a), the Secretary shall as appropriate in the determination of the Secretary, allocate between the Director of the National Institutes of Health and the Director of the National Institute of Mental Health, any amounts appropriated pursuant to subsection (d)(3).

"(d) Authorizations of Appropriations.—(1) For the purposes of carrying out this section through the Director of the National Institutes of Health, there are authorized to be appropriated $140,000,000 for fiscal year 1988, $146,000,000 for fiscal year 1989, and $152,300,000 for fiscal year 1990.

"(2) For the purposes of carrying out this section through the Director of the National Institute of Mental Health, there are authorized to be appropriated $17,500,000 for fiscal year 1988, $18,250,000 for fiscal year 1989, and $19,050,000 for fiscal year 1990.

"(3) For the purposes of allocations under subsection (c), there are authorized to be appropriated to the Secretary $17,500,000 for fiscal year 1988, $18,250,000 for fiscal year 1989, and $19,050,000 for fiscal year 1990.

"SEC. 397. FAMILY SUPPORT AND STRESS RESEARCH.

"(a) Establishment of Program.—The Secretary, acting through the Director of the National Institute of Mental Health, may make grants to, and enter into contracts with, public and private nonprofit entities for the purpose of enabling grantees to conduct research and demonstration projects with respect to teaching the families of individuals with Alzheimer's disease or related disorders methods for providing appropriate care to such individuals and with respect to assisting such families in managing stress associated with caring for family members with such disease or disorders.

"(b) Authorizations of Appropriations.—For the purposes of carrying out this section, there are authorized to be appropriated $25,000,000 for fiscal year 1988, $26,100,000 for fiscal year 1989, and $27,200,000 for fiscal year 1990.

"SEC. 398. FAMILY SUPPORT DEMONSTRATION PROJECTS.

"(a) Establishment of Program.—The Secretary, acting through the Commissioner on Aging, may make grants to, and enter into contracts with, public and private nonprofit entities for the purpose of enabling grantees to conduct demonstration projects with respect to teaching the families of individuals with Alzheimer's disease or related disorders methods for providing appropriate care to such individuals and with respect to assisting such families in managing stress associated with caring for family members with such disease or disorders.

"(b) Authorizations of Appropriations.—For the purposes of carrying out this section, there are authorized to be appropriated $12,000,000 for fiscal year 1988, $12,500,00 for fiscal year 1989, and $13,100,000 for fiscal year 1990.

"SEC. 399. LONG-TERM CARE RESEARCH.

"(a) Establishment of Program.—The Secretary, acting through the Director of the National Institute on Aging, may make grants to, and enter into contracts with, public and private nonprofit entities for the purpose of enabling grantees to conduct long-term care research with respect to Alzheimer's disease and related disorders and with respect to the coordination of long-term care services.

"(b) Authorizations of Appropriations.—For the purposes of carrying out this section, there are authorized to be appropriated $12,000,000 for fiscal year 1988, $12,500,000 for fiscal year 1989, and $13,100,000 for fiscal year 1990.

"SEC. 399A. MODEL DELIVERY SYSTEMS RESEARCH.

"(a) Establishment of Program.—The Secretary, acting through the Director of the National Center for Health Services Research, may make grants to, and enter into contracts with, public and private nonprofit entities for the purpose of enabling grantees to conduct research with respect to developing methods for improving the delivery of supportive services to individuals with Alzheimer's disease or related disorders, including the delivery of such services by the families of such individuals. Such research shall include determining the methods of delivery most appropriate to various ethnic and cultural groups.

"(b) Authorizations of Appropriations.—For the purposes of carrying out this section, there are authorized to be appropriated $5,000,000 for fiscal year 1988, $5,200,000 for fiscal year 1989, and $5,400,000 for fiscal year 1990.

"SEC. 399B. REQUIREMENT OF APPLICATION.

"The Secretary may not make a grant under any of sections 395 through 399A to an applicant unless the applicant has submitted to the Secretary an application for the grant involved. The application shall, with respect to carrying out the purpose for which the grant is to be made, provide assurances of compliance satisfactory to the Secretary and shall otherwise be in such form, he made in such manner, and contain such information and agreements as the Secretary determines to be necessary to carry out this subpart.

"SEC. 399C. DEVELOPMENT OF RESEARCH PLAN BY SECRETARY.

"(A) In General.—The Secretary shall, in consultation with such advisory entities as the Secretary may establish, develop a plan for a research program for the study of Alzheimer's disease and related disorders. The plan shall incorporate current and proposed research. The plan shall provide for—

"(1) coordinating and promoting research into the biological, medical, psychological, social, and economic aspects of Alzheimer's disease and related disorders;

"(2) identifying steps for increasing research training in geriatrics and gerontology; and

"(3) disseminating research findings to relevant Federal and State agencies.

"(b) Certain Requirement With Respect to Administration of Program.—Research under the plan established under subsection (a) shall be carried out through the National Institutes of Health (including the National Institute on Aging), the National Institute of Mental Health, and other appropriate entities of the Service.

"(c) Submission of Plan to President and Congress.—Upon completion of the plan required in subsection (a), the Secretary shall submit the plan to the President and the Congress.

"Subpart II—Grants to States

"SEC. 399D. PROVISION BY STATES OF CERTAIN SERVICES.

"(a) In General.—The Secretary shall make grants to States to plan, establish, and operate programs to—

"(1) coordinate the development and operation by public and private organizations of diagnostic, treatment, care management, respite care, legal counseling, and education services provided within the State to individuals with Alzheimer's disease or related disorders and to the families and care providers of such individuals, which organizations include the Veterans' Administraton, the Alzheimer's disease centers established pursuant to section 395, and organizations representing such individuals and such families;

"(2) provide home health care, personal care, day care, companion services, short-term care in health facilities, and other respite care to individuals with Alzheimer's disease or related disorders;

"(3) provide to health care providers, to individuals with Alzheimer's disease or related disorders, to the families of such individuals, to organizations established for such individuals and such families, and to the general public, information with respect to—

"(A) diagnostic services, treatment services, and related services available to such individuals and to the families of such individuals;

"(B) sources of assistance in obtaining such services, including assistance under entitlement programs; and

"(C) the legal rights of such individuals and such families;

"(4) coordinate the development and operation of training programs and continuing education programs for health care providers on the diagnosis, treatment, and care management of Alzheimer's disease and related disorders;

"(5) review State policies on the financing of and reimbursement of the costs of health care (including respite care) for individuals with Alzheimer's disease or related disorders, review State nursing home and home monitoring regulations that apply to such individuals, and identify policy changes that can improve the care provided to such individuals; and

"(6) coordinate with any Federal programs relating to Alzheimer's disease or related conditions.

"(b) Restrictions on Use of Funds.—

"(1) Amounts provided under a grant under subsection (a) may not be used to—

"(A) make cash payments to individuals with Alzheimer's disease or related disorders or to the families of such individuals; or

"(B) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment.

"(2) Not less than 25 percent, and not more than 50 percent, of a grant under subsection (a) may be used in any fiscal year to provide respite care.

"(c) Duration of Grant.—A grant made under subsection (a) shall be made for 3 years, subject to annual evaluation by the Secretary.

"(d) Amount of Grant.—The amount of a grant under subsection (a) may not—

"(1) be less than $250,000; and

"(2) exceed one half of the costs of the program for which the grant is made.

"(e) Requirement of Application.—The Secretary may not make a grant under subsection (a) to a State unless the State has submitted to the Secretary an application for the grant. The application shall, with respect to carrying out the purpose for which the grant is to be made, provide assurances of compliance satisfactory to the Secretary and shall otherwise be in such form, be made in such manner, and contain such information and agreements as the Secretary determines to be necessary to carry out this section.

"(f) Evaluations by Secretary.—The Secretary shall annually evaluate programs for which grants are made under subsection (a) and may contract with private entities to conduct such evaluation. For any evaluation in the first year of any such program the amount of the evaluation contract may not exceed 2 percent of the amount of the grant made for the program.

"(g) Authorizations of Appropriations.—For the purposes of carrying out this section, there are authorized to be appropriated $30,000,000 for fiscal year 1988, $50,000,000 for fiscal year 1989, and $80,000,000 for fiscal year 1990.

"Subpart III—Mental Health Services

"SEC. 399E. PROVISION OF SERVICES BY STATES.

"(a) Agreement by States With Respect to Alcohol and Drug Abuse and Mental Health Services Block Grant.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall require that, as a condition of receiving funds under subpart 1 of part B of title XIX, a State must agree that—

"(1) activities carried out pursuant to section 1915(a) will include the increased provision of mental health services (including outreach services) to individuals who are 65 years of age or older, to individuals with Alzheimer's disease and related disorders, and to the families of individuals with such disease or disorders; and

"(2) the report submitted pursuant to section 1917 will include a description of the activities carried out pursuant to paragraph (1).

"(b) Authorizations of Appropriations.—For the purpose of making allotments under section 1913, there are authorized to be appropriated, in addition to amounts authorized to be appropriated pursuant to section 1911, $50,000,000 for fiscal year 1988, $52,200,000 for fiscal year 1989, and $54,400,000 for fiscal year 1990.

"Subpart IV—Training of Health Care Professionals

"SEC. 399F. ESTABLISHMENT OF GRANT PROGRAM.

"(a) In General.—The Secretary, acting through the Director of the National Institute on Aging, may make grants for the purpose of assisting grantees in providing training programs and continuing education programs with respect to health care for individuals with Alzheimer's disease or related disorders (including programs relating to diagnosis, treatment, and management) and with respect to long-term care for such individuals;

"(b) Minimum Qualifications of Grantees.—The Secretary may not make a grant to an applicant unless the applicant is—

"(1) an educational institution providing training in medicine, psychology, nursing, social work, gerontology, or health care administration;

"(2) an educational institution providing training in the provision of home health services, homemaker services, or other home care services; or

"(3) an Alzheimer's disease center established pursuant to section 395.

"(c) Geographic Distribution of Services.—The Secretary shall ensure that grants under subsection (a) are made so as to provide for an equitable distribution of services under the grants among the geographic regions of the United States.

"(d) Availability to Certain Persons of Programs.—The Secretary may not make a grant under subsection (a) to an applicant unless the applicant agrees that the applicant will—

"(1) make the training programs and continuing education programs described in subsection (a) available to health care professionals, health care paraprofessionals, and family caregivers; and

"(2) coordinate such training and continuing education programs with the Alzheimer's disease centers established pursuant to section 395.

"(e) Grants for Development of Curricula for Programs.—The Secretary, acting through the Director of the National Institute on Aging, may make grants to the Alzheimer's disease centers established pursuant to section 395 for the purpose of assisting the centers in developing curricula for the training programs and continuing education programs described in subsection (a), including obtaining the most recent relevant research data available.

"(f) Requirement of Application.—The Secretary may not make a grant under subsection (a) or subsection (e) to an applicant unless the applicant has submitted to the Secretary an application for the grant involved. The application shall, with respect to carrying out the purpose for which the grant is to be made, provide assurances of compliance satisfactory to the Secretary and shall otherwise be in such form, be made in such manner, and contain such information and agreements as the Secretary determines to be necessary to carry out this section.

"(g) Authorizations of Appropriations.—

"(1) For the purpose of carrying out the grant program established in subsection (a), there are authorized to be appropriated $10,000,000 for fiscal year 1988, $10,400,000 for fiscal year 1989, and $10,900,000 for fiscal year 1990.

"(2) For the purpose of carrying out the grant program established in subsection (e), there are authorized to be appropriated $2,000,000 for fiscal year 1988, $2,100,000 for fiscal year 1989, and $2,200,000 for fiscal year 1990.

"SEC. 399G. DETERMINATION OF HEALTH MANPOWER NEEDS.

"(a) In General.—Not later than 12 months after the date of the enactment of this section, the Secretary, acting through the Administrator of the Health Resources and Services Administration, shall initiate a study for the purpose of determining—

"(1) the health manpower needs with respect to providing health care services and long-term care services to individuals in the United States with Alzheimer's disease, related disorders, and other disorders requiring long-term care services;

"(2) the number of health care training programs necessary with respect to providing such services;

"(3) the geographic distribution of such services and such training programs;

"(4) the health manpower needs with respect to providing such services to members of minority and ethnic groups, including the distribution of such services among such groups and the number of minority and ethnic personnel providing such services and enrolled in such training programs; and

"(5) mechanisms for coordinating, to the extent practicable, the health manpower efforts of the Health Resources and Services Administration with such efforts by other Federal agencies and by State agencies.

"(b) Authorizations of Appropriations.—For the purpose of carrying out the study required in subsection (a), there are authorized to be appropriated $200,000 for each of the fiscal years 1988 through 1990.

"Subpart V—National Alzheimer's Disease Education Program

"SEC. 399H. ESTABLISHMENT OF PROGRAM.

"(a) In General.—With respect to Alzheimer's disease and related disorders, the Secretary shall establish a National Alzheimer's Disease Education Program for the purpose of—

"(1) promoting the coordination of health care financing, service, research, education, and training programs in and by the National Institutes of Health, the National Institute of Mental Health, the Health Resources and Services Administration, the Health Care Financing Administration, the Veterans' Administration, other Federal entities, State and local governments, and private organizations;

"(2) collecting, through the Clearinghouse on Alzheimer's Disease, information on research and treatment programs relating to such disease and disorders, information on education and training programs relating to such disease and disorders, information relating to the services available to individuals with such disease or disorders and to the families of such individuals, and information relating to the legal rights of such individuals and such families;

"(3) making such information available to health care professionals, to individuals with such disease or disorders, to the families of such individuals, and to the general public; and

"(4) providing technical assistance to States and to public and private agencies and organizations, including agencies and organizations providing services to such individuals and the families of such individuals and agencies and organizations representing such individuals and such families.

"(b) Authorizations of Appropriations.—For the purposes of carrying out subsection (a), there are authorized bo be appropriated $1,000,000 for fiscal year 1988, $1,500,000 for fiscal year 1989, and $2,000,000 for fiscal year 1990.".

TITLE II—IMPROVEMENT OF SERVICES UNDER MEDICARE AND MEDICAID PROGRAMS

SEC. 201. ASSURING ADEQUATE FUNDING FOR TREATMENT OF INDIVIDUALS WITH ALZHEIMER'S DISEASE OR RELATED DISORDERS.

(a) Medicare.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services (hereafter in this Act referred to as the "Secretary") shall review the levels of reimbursement provided under title XVIII of the Social Security Act for home health services, extended care services, and inpatient hospital services for medicare beneficiaries in an advanced stage of Alzheimer's disease or a related disorder. To the extent that such levels do not accurately reflect the reasonable amounts required to provide adequately for services furnished to such patients, the Secretary shall, not later than 18 months after the date of the enactment of this act, adjust such levels accordingly.

(b) Medicaid.—Each State with a State plan approved under title XIX of the Social Security Act shall report to the Secretary, not later than 12 months after the date of the enactment of this Act, on how the levels of reimbursement under the plan for home health services, nursing facility services, inpatient hospital services, and community-based care take into account the special needs of medical beneficiaries in an advanced stage of Alzheimer's disease or a related disorder.

SEC. 202. UPGRADING QUALITY OF CARE REVIEWS FOR HEAVY CARE PATIENTS.

(a) Medicare.—The Secretary shall modify contracts with utilization and quality control peer review organizations under part B of title XI of the Social Security Act in a manner that ensures that such organizations conduct adequate and representative quality of care reviews on patients (such as patients in an advanced stage of Alzheimer's disease or a related disorder) who require intensive home health services or extended care services.

(b) Medicaid.—As a condition of approval of a State plan under title XIX of the Social Security Act, on or after January 1, 1988, a State must provide assurances satisfactory to the Secretary that the State is providing for the conduct (by peer review organizations or other qualified organizations) of adequate and representative quality of care reviews on patients (such as patients in an advanced stage of Alzheimer's disease or a related disorder) who require intensive home health services, nursing facility services, or other long-term care services.

SEC. 203. ASSURING ACCESS TO NEEDED SERVICES.

(a) Review.—The Secretary shall review the practices of home health agencies, skilled nursing facilities, and intermediate care facilities participating under the medicare or medicaid program with respect to whether they limit or restrict the home health services or nursing facility services they provide to individuals with Alzheimer's disease or a related disorder.

(b) Report.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall report to the Congress on the results of such review and shall include in the report findings as to whether access of Alzheimer disease patients to necessary home health services or nursing facility services is being restricted and, if so, appropriate changes that should be made in the law or regulations to prevent such restrictions.

SEC. 204. RESEARCH AND DEMONSTRATION PROJECTS.

(a) In General.—The Secretary shall provide for research and demonstration projects concerning methods of improving the delivery of necessary health care services to medicare and medicaid beneficiaries with Alzheimer's disease or a related disorder.

(b) Particular Projects Included.—Among the projects which are conducted under this section, the Secretary shall provide for at least—

(1) a project that demonstrates the provision of community-based care (including day care) and in-home care, as well as improved nursing home and home health staffing and training, for medicare beneficiaries with Alzheimer's disease or a related disorder;

(2) a project that demonstrates alternative methods of health delivery to such beneficiaries, including services designed to maintain such beneficiaries in their home;

(3) a project that demonstrates alternative methods of payment under the medicare and medicaid programs for long-term care (including home health care and nursing facility services) for medicare and medicaid beneficiaries (such as those in an advanced stage of Alzheimer's disease or a related disorder) who require an intensive level of services; and

(4) a project that demonstrates coverage of nursing home care for medicare beneficiaries with Alzheimer's disease or a related disorder without regard to prior hospitalization or the need for skilled nursing care.

(c) Evaluation and Report.—The Secretary shall provide for an evaluation of the research and demonstration projects conducted under this section and shall submit to the Congress a report on such projects, which report shall include recommendations for appropriate legislative changes.

(d) Funding.—To carry out this section, there are authorized to be appropriated $5,000,000 for fiscal year 1988, $6,000,000 for fiscal year 1989, and $7,000,000 for fiscal year 1990. To the extent that research and demonstration projects relate to medicare beneficiaries, such funds shall be appropriated, in appropriate proportions, from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund. Grants and payments under contracts under this section may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section.

(e) Waiver of Medicare and Medicaid Requirements.—The Secretary is authorized to waive compliance with the requirements of part B of title XI, title XVIII, and title XIX of the Social Security Act to the extent and for the period the Secretary finds necessary for the conduct of the research and demonstration projects under this section.

ADDITIONAL COSPONSORS

S. 1088

At the request of Mr. Lautenberg, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of S. 1088, a bill to provide the Federal Trade Commission with authority to regulate the advertising of commercial airlines, and for other purposes.

S. 1381

At the request of Mr. Sasser, the name of the Senator from Michigan [Mr. Levin] was added as a cosponsor of S. 1381, a bill to improve cash management by executive agencies, and for other purposes.

S. 1522

At the request of Mr. Riegle, the names of the Senator from Louisiana [Mr. Johnston], the Senator from Kentucky [Mr. Ford], the Senator from Nevada [Mr. Hecht], the Senator from Idaho [Mr. Symms], and the Senator from Arizona [Mr. DeConcini] were added as cosponsors of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1861

At the request of Mr. DeConcini, the name of the Senator from Oregon [Mr. Hatfield] was added as a cosponsor of S. 1861, a bill to amend the Controlled Substances Act to suppress the diversion and trafficking of precursor chemicals and essential chemicals utilized in the illicit manufacture of controlled substances.

S. 1929

At the request of Mr. Bumpers, the name of the Senator from Washington [Mr. Adams] was added as a cosponsor of S. 1929, a bill to amend the Small Business Investment Act to establish a corporation for small business investment, and for other purposes.

S. 2000

At the request of Mr. Cranston, the name of the Senator from Washington [Mr. Adams] was added as a cosponsor of S. 2000, a bill to provide for the acquisition and publication of data about crimes that manifest prejudice based on race, religion, affectional or sexual orientation, or ethnicity.

S. 2032

At the request of Mr. Wallop, the names of the Senator from Michigan [Mr. Riegle], the Senator from Delaware [Mr. Roth], the Senator from Indiana [Mr. Lugar], the Senator from Nevada [Mr. Hecht], and the Senator from Mississippi [Mr. Cochran] were added as cosponsors of S. 2032, a bill to authorize expenditures for boating safety programs, and for other purposes.

S. 2042

At the request of Mr. Durenberger, the name of the Senator form Arizona [Mr. McCain] was added as a cosponsor of S. 2042, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statute at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

S. 2066

At the request of Mr. Roth, the name of the Senator from Rhode Island [Mr. Chafee] was added as a cosponsor of S. 2066, a bill relating to the ocean dumping of municipal sludge.

S. 2098

At the request of Mr. Hollings, the names of the Senator from Virginia [Mr. Trible], and the Senator from Indiana [Mr. Lugar] were added as cosponsors of S. 2098, a bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

S. 2129

At the request of Mr. Baucus, the name of the Senator form Illinois [Mr. Dixon] was added as a cosponsor of S. 2129, a bill to amend the Internal Revenue Code of 1986 to repeal the application of the uniform capitalization rules with respect to animals produced in a farming business.

SENATE JOINT RESOLUTION 239

At the request of Mr. Ford, the names of the Senator from Utah [Mr. Hatch], the Senator from Indiana [Mr. Lugar], and the Senator from Michigan [Mr. Riegle] were added as cosponsors of Senate Joint Resolution 239, a joint resolution to designate

May 1 through May 31, 1988, as "Worldwide Bluegrass Music Month."

SENATE JOINT RESOLUTION 272

At the request of Mr. Durenberger, the names of the Senator from Illinois [Mr. Dixon], and the Senator from Florida [Mr. Graham] were added as cosponsors of Senate Joint Resolution 272, a bill to designate November 1988, as "National Diabetes Month."

SENATE RESOLUTION 395—RELATING TO A SURVEY OF THE SHORES OF THE STATE OF SOUTH CAROLINA

Mr. THURMOND (for himself and Mr. Hollings) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. Res. 395

Resolved, That the Senate Committee on Environment and Public Works shall, in accordance with section 110 of the River and Harbor Act of 1962, request the Secretary of the Army to direct the Chief of Engineers to make a survey of the shores of the State of South Carolina, from the Georgia State line to the North Carolina State line, in the interest of beach erosion control, hurricane protection, and related purposes.

Mr. THURMOND. Mr. President, today, along with my distinguished colleague Senator Hollings, I am submitting a resolution which will permit the U.S. Army Corps of Engineers to survey the South Carolina coastline and determine how to best address shoreline erosion, flooding, and storm damage.

Over the past few years, damage to South Carolina beaches and shoreline communities from the winds, high tides and ocean storms has been severe. In the winter of 1987, the beaches and shoreline communities were particularly hard hit, with two storms causing up to 8-foot tides. These storms eroded portions of the coast and caused up to $20 million in commercial and residential property damage.

Mr. President, in January 1987, I had the opportunity to visit these coastal areas, and saw firsthand the havoc wreaked upon the communities and the beaches by these storms. In addition to these two storms, there have been other instances of damage to the coast from high tides. In 1987, tides of 6 feet or higher were recorded on over 50 occasions. These tides also contributed significantly to the damage.

Mr. President, I have been in communication with the Charleston District Office of the Army Corps of Engineers and they have indicated this resolution would give them the authority needed to assimilate technical data, develop plans for storm damage protection, and prioritize areas for renourishment and restoration. The results of this survey will provide the necessary foundation for further addressing erosion damage. Accordingly, I am today submitting a resolution to accomplish this and I ask unanimous consent that letters in support of this resolution appear immediately following my remarks.

There being no objection, the letters were ordered to be printed in the Record, as follows:

South Carolina Coastal Council,
January 19, 1988.

Re reauthorization of the S.C. Shores Resolution Study for the Army Corps of Engineers by the Senate Committee on Environmental Public Works.

Hon. Strom Thurmond,
Senate Office Building,
Washington, DC.

Dear Senator Thurmond: As you are very well aware, our shoreline has suffered a significant amount of erosional damage due to storms and natural processes that has awakened many to the vulnerable position of much of our coastal development. In truth, the tide conditions which combined with high winds to produce this damage during 1987 are a common situation. Tides of 6 feet or higher were recorded on over 50 occasions during 1987. Any tides above 6 feet with winds can be expected to cause erosional problems and damage. I am sure that you would agree, we are indeed vulnerable to damaging conditions with high density development so close to the dynamic erosional zone.

The S.C. Coastal Council recognizes the seriousness of this situation and has expressed concern in recent years over the explosiveness of our coastal growth rate. There is just cause to question the very viability of the public beach in this state if this trend continues and the mistakes of the past are repeated. This is a matter of both state and local concern. The health of our tourism industry is dependent upon the existence of the public beach. For too long this resource has been abused to the point that a dry sand beach is virtually nonexistent in some areas and shoreline development is jeopardized by its exposed proximity to the ocean.

My staff and I have worked closely with the U.S. Army Corps of Engineers, Charleston District, in looking at the alternatives for addressing these serious problems. These discussions have prompted this request to you for assistance. The Corps of Engineers has had the authority to assist the state and needy coastal communities in studying the problem and developing possible solutions by virtue of Congressional authorization contained in a Committee Resolution of September 28, 1969, Senate Committee on Public Works, at the requests of Senator Hollings and yourself commonly referred to as the "S. C. Shores Resolution". Although Congress expressed its desire to have the Army Corps of Engineers become active in shoreline study and problem solving in South Carolina, and the Corps is very supportive of any work under this authority, no funds were appropriated. The Charleston District requested and received a determination of capability from the Assistant Secretary of the Army in 1987, in the amount of $180,000, to allow for state and local assistance if an appropriation could be gained. However, the lack of funding resulted in expiration of this resolution in December 1987 under Section 710 of PL 99-662.

In response, we have drafted a new authorization for approval by the Senate Committee on the Environment and Public Works which reestablishes this needed authorization for assistance and expands its coverage to the entire coastal area of South Carolina.

I encourage you to do what you can to seek approval for reauthorization and appropriation to the Charleston District in this amount as a part of the Fiscal 1989 appropriation to the Corps of Engineers.

This funding would enable the Charleston District to undertake a one-year study at federal expense for areas of our coastline where problems exist due to erosion, flooding, storm damage and related problems. Essentially every area of our coastline would qualify. At least one community, the Town of Pawleys Island, has already come to the Corps with such a request. In cooperation with the S.C. Coastal Council and its staff, this funding would allow both agencies to begin addressing the need for better technical data relative to erosion in specific areas; to study and prioritize areas needing renourishment and beach restoration; to develop plans for storm damage protection in exposed areas, and to protect the viability of the public beach.

Your assistance in this request would be greatly appreciated. My staff and I will be happy to discuss this with you further at your convenience to more fully discuss the need for these studies and the areas most needing state and federal assistance.

Sincerely,

H. Wayne Beam,
Executive Director.

Parks, Recreation and Tourism Commission,
Lancaster, SC, March 3, 1988.

Senator Strom Thurmond,
Senate Office Building, Washington, DC.

Dear Senator Thurmond: As I'm sure you know, the South Carolina coastline has experienced serious storm damage and erosion problems in recent years. We cannot control the storms and the tides but efforts are being made to deal with the problem through the development of an effective beach management and renourishment program in the state.

Through the years, the U.S. Army Corps of Engineers has developed expertise in this field which is very much needed at this time. I am writing to ask your support for Congressional reauthorization and funding for the South Carolina Shores Study Resolution. This would permit the Corps to provide important and essential data to the South Carolina Coastal Council, the Department of Parks, Recreation & Tourism, cities and counties along the coast and private developers who need guidance in locating properties.

As the state legislature works toward a beach management plan and a beach renourishment program, the participation of the U.S. Army Corps of Engineers would be a valuable element in dealing with a real economic problem before us in this state.

I hope you can support this effort.

Sincerely yours,

Charles A. Bundy

The Senate of South Carolina,
February 29, 1988.

Hon. Strom Thurmond,
U.S. Senate, Washington, DC.

Dear Senator Thurmond: It is my understanding that there is now pending before Congress a resolution authorizing the United States Corps of Engineers to address the serious erosion problems concerning our beaches. I am sure that I do not have to tell you the problems that we now face. I urge you to work to obtain Congressional approval of the South Carolina Shores Study Resolution.

Thank you for your assistance in the matter.

With kindest regards, I am

Very truly yours,

WILLIAM W. DOAR, Jr.

THE CITY OF FOLLY BEACH,
OFFICE OF THE MAYOR,
March 1, 1988.

Senator STROM THURMOND,
Russell Building, Washington, DC.

DEAR SENATOR THURMOND: I am writing to ask your support of funding for the South Carolina Shores Resolution Study. We're 25 years behind Florida in getting help from the Corps. It is my understanding that this Resolution would enable the Charleston District study the coast and be better able to respond to many coastal South Carolina needs such as erosion, renourishment, storm damage, flood protection and other related items.

It is my understanding that the Study Resolution must be authorized by either the Senate Committee on Environmental and Public Works or the House Committee on Public Works and Transportation.

Please do what you can to help. A similar study of Florida's coast has been of immeasurable help to that state in managing its coast. I have enclosed a copy of suggested Committee language.

With best wishes for a beautiful Spring, I remain

Sincerely,

RICHARD L. BECK, D.M.D.,
Mayor.

BERKELEY COUNTY,
SUPERVISOR'S OFFICE,
March 2, 1988.

Hon. STROM THURMOND,
U.S. Senator, Senate Office Building, Washington, DC.

DEAR SENATOR THURMOND: Aware of your keen interest and untiring support toward the preservation of the South Carolina Coastline, I wish to add my support for the revival of the South Carolina Shores Study Resolution and subsequent funding of the study. The study resolution would give the U.S. Army Corps of Engineers authority to respond to State and local government requests for assistance in coastal management problems. South Carolina is one of only 23 states enjoying a coastline environment which provides varing opportunities, recreation and wealth. Such a valuable resource should be treasured and guarded for all generations.

I thank you for your continued support.

Respectfully,

JOHNNIE T. FLYNN,
Supervisor, Berkeley County.

TOWN OF ATLANTIC BEACH,
North Myrtle Beach, SC, March 2, 1988.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: We urge you to support and approve South Carolina Shores Study Resolution.

It is my understanding the study resolution would give the Charleston District the authority to respond to state and local government requests for assistance in addressing coastal management problems, and solutions such as coastal erosion, renourishment, storm damage, and flooding protection. This protection is needed badly in the coastal area.

Thanking you in advance for your cooperation and consideration on this matter.

Sincerely,

JOE MONTGOMERY,
Mayor.

LAW OFFICES,
HARVEY & BATTEY, P.A.,
Beaufort, SC, February 25, 1988.

Senator STROM THURMOND,
U.S. Senate, Senate Office Building, Washington, DC.

Re: South Carolina Shores Study.

DEAR STROM: The participation of the Federal Government, through the U.S. Army Corps of Engineers in beach erosion control and hurricane protection of our Atlantic Coast has always been important. It is my understanding that consideration is being given by you and our Congressional Delegation to introduction of a South Carolina Shores Study Resolution with funding provisions. If this would give the Charleston District of the Corps of Engineers the authority and resources to work with State and Local Government in addressing our erosion, re-nourishment, storm damage and other coastal management problems, it would be of tremendous assistance.

As a lifelong resident of the coast and particularly as a member of the State's Park, Recreation and Tourism Commission, I strongly urge your assistance and support in the introduction and passage of this Resolution. Erosion at our four ocean front State Parks is always a problem. However, of even higher concern is the direct impact which a healthy shoreline has upon our tourism industry.

Thanks in advance for your usual fine help on a matter of importance such as this which directly effects the well being, property and economy of the citizens of South Carolina.

Sincerely,

W. BRANTLEY HARVEY, Jr.

CITY OF ISLE OF PALMS, SC,
February 26, 1988.

Senator STROM THURMOND,
Senate Office Building, Washington, DC.

DEAR SENATOR THURMOND: I am writing to ask for your support and assistance in gaining Congressional reauthorization and funding for the South Carolina Shores Resolution Study. This resolution study would give the Charleston District the authority to respond to State and local government requests for assistance in addressing coastal management problems and solutions such as coastal erosion, renourishment, storm damage and flooding protection and related issues.

As you know, the South Carolina Shores Study Resolution was an active authorization, though never funded, that was terminated in December, 1987 by Congressionally enacted procedures. I am sure the need for such a Resolution Study is evident to you, given the extent of the erosion, flooding and storm damage problems on our coast. This resolution may be authorized by the Senate Committee on Environment and Public Works and should be identified by the following Committee language:

Resolved by the Senate Committee on Environment and Public Works, That the Secretary of the Army, be, and is hereby requested to cause to be made a survey of the shores of the State of South Carolina, from the Georgia state line, in the interest of beach erosion control, hurricane protection, and related purposes.

Senator Thurmond, I urge your support of this Resolution Study and look forward to your response.

Sincerely,

CARMEN R. BUNCH,
Mayor.

AMENDMENTS SUBMITTED

PRICE-ANDERSON ACT AMENDMENTS

JOHNSTON (AND METZENBAUM) AMENDMENT NO. 1664

Mr. JOHNSTON (for himself and Mr. METZENBAUM) proposed an amendment, which was subsequently modified, to the bill (H.R. 1414) to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents; as follows:

On page 39, between lines 2 and 3, insert the following:

CIVIL PENALTIES

SEC. 17. The Atomic Energy Act of 1954, as amended, is further amended by adding a new section 234A as follows:

"Section 234A. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF DEPARTMENT OF ENERGY REGULATIONS.—a. Any person who has entered into an agreement of indemnification under subsection 170 d. (or any subcontractor or supplier thereto) who violates (or whose employee violates) any rule, regulation or order related to nuclear safety prescribed or issued by the Secretary of Energy pursuant to this Act (or expressly incorporated by reference by the Secretary for purposes of nuclear safety, except that the Secretary shall not incorporate by reference any rule, regulation, or order issued by the Secretary of Transportation) shall be subject to appropriate enforcement action or a civil penalty of not to exceed $100,000 for each such violation. If any violation under this subsection is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty.

"b. (1) The Secretary shall have the power to compromise, modify or remit, with or without conditions, such civil penalties and to prescribe regulations as he may deem necessary to implement this section.

"(2) In determining the amount of any civil penalty under this subsection, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

"c. (1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within thirty days after the date of receipt of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

"(2)(A) Unless an election is made within thirty calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

"(B) Any person against whom a penalty is assessed under this paragraph may, within sixty calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

"(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty, by order, after the date of the receipt of the notice under paragraph (1) of the proposed penalty.

"(B) If the civil penalty has not been paid within sixty calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

"(C) Any election to have this paragraph apply may not be revoked except with consent of the Secretary.

"(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3), the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

"d. The provisions of this section shall not apply to:

"(1) The University of Chicago (and any subcontractors or suppliers thereto) for activities associated with Argonne National Laboratory;

"(2) The University of California (and any subcontractors or suppliers thereto) for activities associated with Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Lawrence Berkeley National Laboratory;

"(3) American Telephone and Telegraph Technologies, Inc. (and any subcontractors or suppliers thereto) for activities associated with Sandia National Laboratory;

"(4) Universities Research Association, Inc. (and any subcontractors or suppliers thereto) for activities associated with FERMI National Laboratory;

"(5) Princeton University (and any subcontractors or suppliers thereto) for activities associated with Princeton Plasma Physics Laboratory;

"(6) The Associated Universities, Inc. (and any subcontractors or suppliers thereto) for activities associated with the Brookhaven National Laboratory; and

"(7) Battelle Memorial Institute (and any subcontractors or suppliers thereto) for activities associated with Pacific Northwest Laboratory.".

CRIMINAL PENALTIES

SEC. 18. Section 223 of the Atomic Energy Act of 1954, as amended, is further amended by adding a new subsection c. as follows:

"c. Any individual director, officer or employee of a person indemnified under an agreement of indemnification under section 170 d. (or of a subcontractor or supplier thereto) who, by act or omission, knowingly and willfully violates or causes to be violated any section of this Act or any nuclear safety-related rule, regulation or order issued thereunder by the Secretary of Energy (or expressly incorporated by reference by the Secretary for purposes of nuclear safety, except that the Secretary shall not incorporate by reference any rule, regulation, or order issued by the Secretary of Transportation), which violation results in or, if undetected, would have resulted in a nuclear incident as defined in subsection 11 q. shall, upon conviction, be subject to a fine of not more than $25,000, or to imprisonment not to exceed two years, or both. If the conviction is for a violation committed after the first conviction under this subsection, punishment shall be a fine of not more than $50,000, or imprisonment for not more than five years, or both.".

On page 39, line 3, strike "SEC. 17." and insert "SEC. 19.".

METZENBAUM (AND OTHERS) AMENDMENT NO. 1665

Mr. METZENBAUM (for himself, Mr. ADAMS, Mr. HUMPHREY, Mr. DURENBERGER, Mr. PROXMIRE, Mr. LEAHY, Mr. STAFFORD, Mr. BUMPERS, Mr. SANFORD, Mr. REID, Mr. KERRY, and Mr. BIDEN) proposed an amendment to the bill H.R. 1414, supra; as follows:

On page 11, line 3, strike out the quotation marks and the second period, and insert in lieu thereof the following: "(8)(A) Notwithstanding any other provision of this subsection, with respect to a nuclear incident arising from contractual activities for the purpose of—

"(i) the physical production, processing, fabricating, testing, or manufacturing of defense nuclear materials or weapons;

"(ii) the enrichment of uranium; and

"(iii) activities related directly to the storage, disposal, and transportation of high level or transuranic nuclear waste,

subsequent to a nuclear incident or precautionary evacuation covered by an indemnity agreement entered into pursuant to this subsection, the Attorney General of the United States shall commence an action on behalf of the United States to recover from persons indemnified that portion of any funds paid, pursuant to an indemnification agreement entered into under this subsection, for public liability arising from gross negligence or willful misconduct of persons indemnified, provided that no funds recovered shall exceed the value of the contract, or the aggregate liability limit pursuant to subsection 170d, and further provided that no funds may be recovered from any university.

"(B) Nothing in this paragraph shall affect the contractual obligation of the Secretary to make full and prompt payment to a contractor pursuant to any existing indemnification agreement.

"(C) The waiver of any defenses for public compensation in accordance with paragraph (1)(B)(i)(II) shall not limit the rights of indemnified parties to raise any defense in a subsequent suit brought by the Attorney General pursuant to this section."

BUMPERS AMENDMENTS NOS. 1666 AND 1667

Mr. BUMPERS proposed two amendments to amendment No. 1665 proposed by Mr. METZENBAUM (and others) to the bill H.R. 1414, supra; as follows:

AMENDMENT No. 1666

On page 2, line 17, strike out "value of the contract" and insert in lieu thereof "lesser of the contract's award fee".

AMENDMENT No. 1667

On page 2, line 17, strike out the phrase beginning "the value of the contract" through "170d," and insert in lieu thereof: "the contract's award fee,".

JOHNSTON (AND OTHERS) AMENDMENT NO. 1668

Mr. JOHNSTON (for himself, Mr. MCCLURE, Mr. BURDICK, Mr. BREAUX, and Mr. SIMPSON) proposed an amendment to the bill H.R. 1414, supra; as follows:

(1) On page 8, beginning on line 16, after the words "subsection b.", strike all through line 24; and

(2) Beginning on page 15, line 8, strike all through page 16, line 12, and renumber subsequent paragraphs accordingly.

BREAUX (AND OTHERS) AMENDMENT NO. 1669

Mr. BREAUX (for himself, Mr. BURDICK, and Mr. SIMPSON) proposed an amendment to the bill H.R. 1414, supra; as follows:

On page 19, delete lines 7 through 13, and insert in lieu thereof the following:

"U.S.C. 2210 (k), as amended, is amended to read as follows:

'(k) EXEMPTION FROM REQUIREMENTS OF FINANCIAL PROTECTION.—

'(1) With respect to any license issued pursuant to section 53, 63, 81, 104(a), or 104(c) for the conduct of—

'(A) educational activities to a person found by the Commission to be a nonprofit educational institution, or

'(B) under byproduct material licenses issued by the Commission or by an Agreement State to a person for the conduct of medical and related activities of operating nuclear pharmacies or hospital nuclear medicine departments,

the Commission shall exempt such licensee from the financial protection requirement of subsection 170 a.

'(2) With respect to licenses issued pursuant to paragraph (1) of this subsection between August 30, 1954, and August 1, 1997, for which the Commission grants such exemption:

'(A) the Commission shall agree to indemnify and hold harmless the licensee and other persons indemnified, as their interests may appear, from public liability in excess of $250,000 arising from nuclear incidents. The aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed $500,000,000, including such legal costs of the licensee as are approved by the Commission;

'(B) such contracts of indemnification shall cover public liability arising out of or in connection with the licensed activity and shall include damage to property of persons indemnified, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs; and

'(C) such contracts of indemnification, when entered into with a licensee having immunity from public liability because it is a State agency, shall provide also that the Commission shall make payments under the contract on account of activities of the licensee in the same manner and to the same extent as the Commission would be required to do if the licensee were not such a State agency.

'(3) No contract of indemnification entered into by the Commission pursuant to paragraph (2) of this subsection for the conduct of activities described in subparagraph (1)(B) of this subsection shall provide indemnification of public liability for, or preclude claims arising out of, the administration or misadministration of radio-pharmaceuticals dispensed by nuclear pharmacies or nuclear medicine departments of hospitals or clinics in the course of diagnosis or therapy.

'(4) With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, 1997, the requirements of this subsection shall apply to any license issued for such facility subsequent to August 1, 1997.

'(5) Any licensee may waive an exemption to which it is entitled under this subsection.'."

BREAUX (AND OTHERS) AMENDMENT NO. 1670

Mr. BREAUX (for himself, Mr. BURDICK, and Mr. STAFFORD) proposed an amendment to the bill H.R. 1414, supra; as follows:

(1) On page 7, delete lines 3 through 5 and insert in lieu thereof the following:

"Section 170 c. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

'c. (1) The Commission shall, with respect to licenses issued between August 30, 1954, and August 1, 1997, agree to indemnify and hold harmless the licensee and other persons indemnified, as their interest may appear, from public liability arising from nuclear incidents which is in excess of the level of financial protection required of the licensee as follows:

'(A) Except for those licensees covered by subparagraph (B), the aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed $500,000,000: Provided, however, That this amount of indemnity shall be reduced by the amount that the financial protection required shall exceed $60,000,000.

'(B) With respect to licenses issued between August 30, 1954, and August 1, 1997, for which the Commission requires such licensee to have and maintain financial protection equal to the maximum amount of liability insurance available from private sources, the Commission shall agree to indemnify and hold harmless the licensee and other persons indemnified, as their interests may appear, from public liability arising from nuclear incidents which is in excess of the level of financial protection required of the licensee and which is not in excess of the aggregate limit on public liability set forth in section 170e.

'(2) Any contract of indemnification entered into under paragraph (1) of this subsection shall cover public liability arising out of or in connection with the licensed activity, including the costs of investigating and settling claims and defending suits for damages.

'(3) With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, 1997, the requirements of this subsection shall apply to any license issued for such facility subsequent to August 1, 1997.' ";

(2) On page 14, delete lines 4 through 6, and insert in lieu thereof the following: "twice the maximum amount of financial protection required of such facilities under subsection b. or twice the amount of indemnity and financial protection required under paragraph (3) of subsection d., whichever amount is greater (plus any surcharge assessed under subsection o. (1)(E));"; and

(3) On page 32, line 8 strike "is" and insert in lieu thereof "would thereby become".

McCLURE AMENDMENTS NOS. 1671–1674

Mr. McCLURE proposed four amendments to the bill H.R. 1414, supra; as follows:

AMENDMENT No. 1671

On page 15, line 2, strike "subsection i.," and insert "the procedures set forth in subsection 170i. and will in accordance with such procedures,".

On page 18, line 20, insert after the word "plans.", the following new paragraphs:

"(3) Any compensation plan transmitted to the Congress pursuant to paragraph (2) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

"(4) No such compensation plan may be considered approved for purposes of subsection 170e. (2) unless between the date of transmittal and the end of the first period of sixty calendar days of continuous session of Congress after the date on which such action is transmitted to such House, each House of Congress passes a resolution described in paragraph 6 of this subsection.

"(5) For the purpose of paragraph 4 of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day calendar period.

"(6)(A) This paragraph is enacted by Congress—

"(i) As an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by clause (B) and it supersedes other rules only to the extent that it is inconsistent therewith; and

"(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

"(B) For purposes of this paragraph, the term 'resolution' means only a resolution of either House of Congress the matter after the resolving clause of which is as follows: "That the   approves the compensation plan numbered   submitted to the Congress on   , 19 .", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one compensation plan.

"(C) A resolution once introduced with respect to a compensation plan shall immediately be referred to a committee (and all resolutions with respect to the same compensation plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(D)(i) If the committee to which a resolution with respect to a compensation plan has been referred has not reported it at the end of twenty calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration with respect to such compensation plan which has been referred to the committee.

"(ii) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same compensation plan), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion with agreed to or disagreed to.

"(iii) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same compensation plan.

"(F)(i) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution or motions to proceed to the consideration of other business, shall be decided without debate.

"(ii) Appeals from the decision of the Chair relating to the application of the rules of the Senate and the House of Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate."

AMENDMENT No. 1672

On page 39, line 8, renumber subsection (b) to be subsection (b)(1); and

On page 39, after line 10, insert the following new subsection (b)(2):

"(2) Section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) as amended by this Act shall apply to all contracts with the Department of Energy whether executed before, on or after the date of enactment of this Act."

AMENDMENT No. 1673

On page 11, after line 3, insert the following new paragraph:

"(8) The funds provided in accordance with agreements of indemnification under paragraph (1) shall be the exclusive source of payments for public liability claims where such liability does not exceed the aggregate level of liability established under subsection e(1)."

AMENDMENT No. 1674

On page 7, line 5, strike the date "1997" and insert the date "2007".

On page 7, line 16, strike the date "1999" and insert the date "2007".

On page 30, line 18 and 19, strike " "and the Secretary shall submit to the Congress by August 1, 1993, detailed reports";" and insert " "shall submit to the Congress by August 1, 2003, and the Secretary shall submit to the Congress by August 1, 2003 detailed reports";"

JOHNSTON (AND OTHERS) AMENDMENT NO. 1675

Mr. JOHNSTON (for himself, Mr. DOMENICI, Mr. BINGAMAN, Mr. MCCLURE, Mr. BREAUX, and Mr. SIMPSON) proposed an amendment to the bill H.R. 1414, supra; as follows:

Section 4 of H.R. 1414 is amended by adding the following new subsection:

"(c) Subsection s. of section 11 of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof the following: 'In the event that the Secretary of Energy, in carrying out any activity that the Secretary is authorized or directed to undertake pursuant to this Act or any other law involving the risk of public liability for a nuclear incident as a result of the storage or disposal of, or research and development on, spent nuclear fuel, high-level radioactive waste, or transuranic waste (including the transportation of such materials to a storage or disposal site or facility), undertakes such activity in a manner that involves the actual physical handling of spent nuclear fuel, high-level radioactive waste, or transuranic waste by the Secretary, the Secretary shall be considered as if he were a contractor with whom an indemnity agreement has been entered into pursuant to subsection 170d. of this Act.'."

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the full Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the Department of Energy's fiscal year 1989 budget request for civilian nuclear radioactive waste activities and the Department's plans to implement the amendments to the nuclear waste program enacted by Public Law 100-203.

The hearing will take place on March 28, 1988, at 10 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

For further information, please contact Teri Curtin or Mary Louise Wagner at (202) 224-7569.

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. METZENBAUM. Mr. President, I would like to announce for the information of my colleagues and the public that a hearing has been scheduled before the Subcommittee on Energy Regulation and Conservation.

The hearing will take place on Tuesday, March 29, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony concerning S. 2167, a bill to amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for flourescent lamp ballasts.

For further information, please contact Allen Stayman of the subcommittee staff at 202/224-7865.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GLENN. Mr. President, I would like to announce that the Governmental Affairs Committee will hold a hearing on Monday, March 21, at 9:30 a.m. on the subject of DOD contractor supply system access. For further information, please call Len Weiss, staff director, on 224-4751.

Mr. President, I would like to announce that the Governmental Affairs Committee will hold a hearing on Tuesday March 22, at 9 a.m. on S. 1081, the National Nutrition Monitoring and Related Research Act of 1987. For further information, please call Len Weiss, staff director, on 224-4751.

SPECIAL COMMITTEE ON AGING

Mr. MELCHER. Mr. President, I would like to announce for the public that a hearing by the Special Committee on Aging has been scheduled.

The hearing will take place Friday, March 25, 1988, at 9:30 a.m. in room 628, Dirksen Senate Office Building, in Washington, DC.

The purpose of this hearing is to receive testimony on adverse drug reactions: Are safeguards adequate for the elderly?

For further information, please contact Max Richtman, staff director, at (202) 224-5364.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, March 16, 1988. In open session to receive testimony in review of the amended fiscal year 1989 defense authorization request and the 5-year defense plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION NATIONAL OCEAN POLICY STUDY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and the National Ocean Policy Study [NOPS] be authorized to meet during the session of the Senate on March 16, 1988, to hold oversight hearings on Bering Sea fishery management and enforcement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 16, 1988, to hold hearings on the nomination of Joseph T. Nall, of North Carolina, to be a member of the National Transportation Safety Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Agricultural Taxation of the Committee on Finance be authorized to meet during the session of the Senate on March 16, 1988, to hold a hearing on recent changes in collection procedures on gasoline, diesel, and special motor fuel taxes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY AND THE LAW

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Technology and the Law of the Committee on the Judiciary be authorized to meet during the session of the Senate on March 16, 1988, to hold a hearing on information and competitiveness.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Aviation of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 16, 1988, to hold oversight hearings on the activities of the Federal Aviation Administration [FAA].

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, March 16, to conduct a hearing on the Water Resources Act of 1988 and related issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

A TRIBUTE TO LOUIS J. GAMBACCINI

● Mr. LAUTENBERG. Mr. President, Louis J. Gambaccini, a friend and former colleague, is bringing a long and distinguished career of government and public service to a close. I rise today to pay tribute to Lou, and to take note of his accomplishments.

Lou Gambaccini is a nationally recognized expert in the field of transportation, and an articulate advocate for high performance standards. He has also worked hard to promote public service as a career.

He has served for over 30 years in the field of transportation in his native New Jersey, and the metropolitan area. First joining the Port Authority of New York and New Jersey in 1956, after earning a masters in public administration at Syracuse University, Lou Gambaccini proved himself a capable administrator and within 5 years became deputy director of the rail transportation department. Five years later, he was given charge of the PATH commuter railroad as vice president and general manager. In the years since the port authority acquired PATH, the bankrupt Hudson & Manhattan Railroad, he has been instrumental in reviving that vital commuter rail service.

In 1966, Lou was made director of the rail transportation department of the port authority. He served at that post until 1978, when New Jersey Gov. Brendan T. Byrne called on him to serve in his cabinet as commissioner of transportation. There he further distinguished himself with major achievements in the improvement of the State's transportation infrastructure and the creation of the NJ Transit Corp.

In 1981, Lou Gambaccini returned to the port authority. He assumed responsibilities as assistant executive director, most recently overseeing all surface transportation activities of the agency, including the interstate bridges, tunnels and transit facilities that handle 650,000 travelers each day. In the past few years, that role was most challenging, including the planning of an extensive and ambitious capital improvement program that commits $1.5 billion over 5 years to the Trans-Hudson network of facilities, including a new, mass transit-scale ferry service.

Mr. President, before coming to the Senate, I served as a commissioner of the Port Authority of New York and New Jersey. While there, I came to know Lou and his considerable talents and dedication. His achievements are truly impressive: his service as an officer in the Army, his founding of the Center for Excellence in Government, the professional honors and affiliations. However, a look at his résumé gives one less an impression of so many individual achievements, but more of a life of dedication to good government and sound transportation policy.

What is so noteworthy about Lou Gambaccini is the way he has approached his work. He combines practical transportation operating experience with public administration abilities and a deep commitment to creative government. The result is a real sense of vision as to how the vexing problems of transportation in the high growth New Jersey-New York metropolitan region can and must be tackled. Perhaps this is his greatest contribution. He has played a central role in both States coming to the realization that our highway and transit systems must be seen and dealt with as parts of an integrated whole.

In that region, as I know all too well, there is no such thing as an isolated traffic incident on any one of the major arteries. A major tieup on the New Jersey Turnpike can result in significant delays at the Hudson River crossings and even in New York City.

It is that integrated approach that has resulted recently in a level of communication between transportation agencies in the two States nonexistent in years past. It has also resulted in the creation of TransCom, a bistate organization of all highway, bridge, tunnel and public safety agencies in the region to facilitate active communications and planning between the States, and TransitCenter and TransitCheck, to encourage the use of mass transit. Lou Gambaccini helped plan and bring into being those important initiatives.

Lou has left his work at the port authority, but he is, in fact, not leaving his career in public service. I am pleased to note that he has agreed to serve as president of the Institute of Public Administration, an admired and venerable nonprofit organization dedicated to improving governmental process. In addition, Lou will continue his active role in public transportation as vice chairman of the Transportation Research Board and in a leadership role at the American Public Transit Association.

I thank him for his years of creative public service with the port authority, and I wish him great success.●

LONG BEACH CELEBRATES 100TH ANNIVERSARY

● Mr. WILSON. Mr. President, this year marks an important milestone in the history of one of California's most well-known and important cities. The city of Long Beach celebrated the beginning of its centennial anniversary on January 30, 1988, and as the people of Long Beach join in a year-long recognition of their city's 100th birthday, I wish to share this historic event with all Americans.

With a colorful and rich history dating back to 1784 when Manuel Nieto received a vast land grant from Spain, Long Beach was formally incorporated on January 30, 1888, by a group of land investors with the intent of developing it as a resort city.

Anyone who has had the pleasure of visiting Long Beach can readily see why it was conceived as a resort center. Named for its 7 miles of white, sandy beaches, this beautiful seaside community enjoys a balmy, temperate climate which has beckoned thousands of visitors and new residents alike, swelling its initial population of 2,000 to its present population of 350,000.

The Long Beach of today has changed dramatically from its origin as a resort center into a prosperous coastal city boasting a strong economy indicative of its thriving industry, its status as a major seaport, and its attraction as a center of tourism for people from around the world.

I take great pleasure in joining with all Californians in congratulating the people of Long Beach on the 100th anniversary of their city and am proud to have this occasion to honor the city of Long Beach within this Chamber of the U.S. Senate.●

THE SHARPEVILLE SIX

● Mr. MOYNIHAN. Mr. President, six black prisoners in South Africa, five men and one woman, have been informed that they will be executed on Friday, March 18. After banning peaceful protest by antiapartheid groups, South Africa now moves to execute those who demonstrate against its racist policies.

The South African Government did not charge any of these six with direct acts of violence. In fact, that Government did not try anyone for directly committing the killing upon which these six death sentences were based. The six prisoners face execution because they marched with a crowd of antiapartheid protesters in Lekoka township, a crowd that also included some unidentified persons who later committed a murder.

The South African court convicted the six prisoners after refusing to admit defense evidence that a primary prosecution witness had been coerced into giving incriminating testimony.

The six death sentences were upheld in spite of a ruling by the African appellate court "that it has not been proved in the case of any of the six accused that their conduct had contributed causually to the death of the deceased." The South African appellate court affirmed the death sentences based on a completely new application of the "common purpose" doctrine.

Joseph Lelyveld, in his Pulitzer Prize-winning book "Move Your Shadow," described the laws supporting apartheid:

> It is not a body of law really but a tangle of legalisms designed to maximize the power to officialdom and minimize the defenses of the individual, a labyrinth of words the meanings of which are determined by the white functionaries who administer it.

The "tangle of legalisms" has now allowed those officials to create a politically convenient redefinition of the crime of murder.

According to an article published in the Washington Post on March 14, "[h]uman rights groups, both in South Africa and internationally, have called for clemency." On December 18, the U.N. Security Council authorized by consensus a statement by the Security Council president that read in part:

> The members of the Security Council strongly urge the Government of South Africa to commute these death sentences in order to avoid further aggravating the situation in South Africa.

The United States supported that consensus.

The United States has also joined with several other Western governments and human rights groups in directly appealing to the South African Government for clemency. The State Department has transmitted its appeal for clemency at senior levels in both Washington and Pretoria. In a white paper issued on March 7, the State Department made its position clear:

> We believe that carrying out the death sentences would further weaken efforts towards reconciliation and set back attempts to negotiate the political future of South Africa.

The South African Government responded to these appeals by announcing the Friday execution date.

That announcement followed by less than 3 weeks the South African Government's edict banning all political activity by 17 antiapartheid groups. In a column in the New York Times on March 14, Bishop Desmond Tutu wrote of this ban:

> We have used many nonviolent ways of trying to bring . . . change, such as strikes, rent strikes, and consumer boycotts. The authorities have responded by declaring states of emergency and tightening emergency regulations. They ban peaceful protest, they detain our children and they ban our leaders. Step by step, since 1985, President P.W. Botha's Government has closed off avenue after avenue of peaceful political change. . . .
>
> If allowed to continue, the deliberate incitement of violence in our country will turn it into a Lebanon-like wasteland.

The South African Government has found a frightening strategy for dealing with those seeking social justice. When opponents of apartheid pursue peaceful means of expressing their opinions, the South African Government bans their activities. When frustration with apartheid erupts into violence, the Government finds new ways to impose the death penalty based on the most offensive of pretexts.

The White House has announced on March 15 that the President urges clemency. Marlin Fitzwater stated:

> We have a situation that we think would incur the outrage of all citizens, and clemency is warranted.

Let us hope that such clemency prevails.●

ST. PATRICK

● Mr. HATFIELD. Mr. President, on the day when all the country honors Ireland's patron saint, St. Patrick, I thought it only appropriate to dispel some of the myth about St. Patrick with a bit of history.

As Irish descendants celebrate their heritage, no matter how distant, on this day honoring the saint it appears that many overlook the fact that Patrick did indeed become a saint. Many of the stories about Patrick are based on legend rather than the accomplishments of his life. One story tells of how he used the clover to symbolize the trinity and it thus became the national symbol. One of the best known stories tells how he charmed the snakes off of Ireland and into the sea where they drowned. But the fact of the matter is, that it is unlikely that there ever were snakes on Ireland.

The son of a wealthy British alderman, 16-year-old Patrick was captured during a raid by pirates and sold as a slave in Ireland in AD 405. There he served as a shepherd to a chieftain in Ulster. During his time as a slave, Patrick dedicated himself to Christianity. After 6 years of captivity, he managed to escape and return to his home in Britain.

As a result of his experience in Ireland, Patrick became driven by the idea of converting the Irish to Christianity. In preparation for the task, he began his studies at the monastery of Lerins, located on a small island off the southeast coast of France. He latter went to Auxerre, France, where he studied religion under the French bishop, St. Germanus. Due to his inadequate previous education, his superiors were hesitant to let him return to Ireland as a missionary. But Palladius, the first Irish missionary bishop, died in 431 and Pope Celestine sent Patrick to Ireland to begin his mission.

Once back in Ireland, Patrick began his work in northern and western Ireland, where no one had previously preached Christianity. He soon gained the trust and friendship of many tribal leaders and gradually was able to convert them to Christianity. From there, he established more than 300 churches using clergymen from England and France and baptized more than 120,000 people.

During his later years, he wrote several books accounting of his spiritual development and giving justification for his mission to Ireland. Through his teachings, he introduced the Roman alphabet and Latin literature to the Irish people, allowing his monasteries to flourish as centers of learning. Even though British clergymen opposed him and the way he organized his churches, he continued to teach and write in Ireland for the remainder of his life.

The feastday of St. Patrick is a national holiday in Ireland and is widely celebrated in many other parts of the world.●

NEW FUTURES SCHOOL

● Mr. DOMENICI. Mr. President, I rise today to share with my colleagues a promising story that appeared on the front page of yesterday's New York Times. The article, "More Teen-Agers Take Their Babies to School" gives special recognition to a model school for pregnant and parenting adolescents located in my home town of Albuquerque, NM—the New Futures School.

I urge my colleagues to take just a few moments to read this article. It tells a story about a very special population of youth, youth that are at risk of failing our educational system and our future economy.

Mr. President, lately we are hearing a lot about this population. We hear that economically and educationally disadvantaged children are failing in our schools. These students are our future work force and they are leaving school, becoming pregnant, and falling behind in grade level. Quite simply, they will not be ready for our new knowledge-based economy. That is not good news.

That is why I bring to the attention of my colleagues the New York Times article with additional facts and figures not included in the article about the New Futures School. For a change, there is good news.

Nationally, less than half of school-age mothers graduate from high school. More than 40 percent of the New Futures' students have been former dropouts.

A major followup study completed by the New Futures School in 1987 found that 77 percent of their students had a high school diploma or were still in school; 54 percent had post-secondary education or training.

Nationally, studies have found repeat pregnancy rates of 18–25 percent. The New Futures follow-up study found repeat pregnancy rates of 6–18 percent.

Mr. President, this is a success story we should listen to. I would like to commend the principal of New Futures School, Mrs. Caroline Gaston, the teachers, and the students for their hard work and dedication. They are truly making a difference in their own lives and in the lives of those around them.

The article follows:

[From the New York Times, Mar. 15, 1988]

MORE TEEN-AGERS TAKE THEIR BABIES TO SCHOOL

(By Tamar Lewin)

ALBUQUERQUE.—If a 13-year-old girl with an 8-month-old daughter can be considered lucky, Angela Lopez may qualify.

Most teen-age mothers are unmarried high-school dropouts. But as a student at the New Futures School, an Albuquerque public school for girls who are pregnant or have babies, Angela can keep up with her eighth-grade classes while her daughter, Crystal, plays in the New Futures nursery.

Over the last decade, several big-city school districts have begun to provide day care for babies whose parents need to continue their schooling, but the number of day care slots in the schools is still far too small to meet the demand.

One of every eight babies born in the United States has a teen-age mother, and more than a fifth of the 478,000 teen-agers giving birth every year have already had at least one child.

One expert in teen-age pregnancy said the idea of day care in schools was slowly taking hold because it helps the young parents and because other pupils who work in child care can get a lesson in how hard it can be.

"It used to be that a lot of people opposed day care in the school, saying it would make it too attractive for girls to get pregnant," said Karen Pittman, of the Children's Defense Fund, an advocacy group in Washington. "On-site day care may actually be a deterrent to teen pregnancy, and it certainly helps teen-agers learn about parenting."

Such programs are aimed at helping the infants as well, particularly those like New Futures that add counseling and care for girls while they are still pregnant. The babies of teen-age parents face a greater likelihood of low birth weight and other medical problems and are more likely to grow up in poverty, drop out of school and become teen-age parents themselves.

Breaking that cycle is difficult. Angela Lopez, whose mother and aunt also had babies as teen-agers, too, says it almost seems that teen-age parenthood runs in the family. Indeed, most of the students interviewed at the New Futures School said their mothers had been teen-age parents.

Most of the young parents who use school-based day care have had to transfer from their home school to one that is farther away—requiring a daily commute with baby, diaper bag, bottles and schoolbooks.

Carol Lockhart transferred to Bronx Regional High School, an alternative school in New York City, to get day care there rather than leave her 10-month-old daughter with her grandmother.

"It's nicer for Shatara here because she is with other babies," she said. "The people here, they don't be nasty, they talk to you like a person. They help me know what to do, if Shatara has a rash or something. It's a job, being a parent."

MOST DON'T SEE IT AS PROBLEM

Despite the work, Carol says she has no regrets—her daughter is the best thing in her life. "Most of the teen-age kids who have babies see being a parent as a positive thing, not a problem," said Mark Weiss, her principal. "They hate all these newspaper stories about babies having babies."

Such attitudes have led many in the field to believe that it may be counterproductive to design pregnancy prevention programs around the idea that teen-age parenthood is bad.

"Adolescent pregnancy is a problem, but it's not a problem like drug abuse or criminality, which are inherently negative," said Ms. Pittman of the Children's Defense Fund. "Having children is a positive behavior, but one that we want adolescents to delay." She said that what works best rather than saying parenthood is too difficult, is to get teen-agers involved in activities or in plans for college.

"You have to help young people learn that they are worth something, that they have other options for making a difference in the world," said Bernice Weissbourd, who heads a Chicago group called Family Focus, which runs pregnancy prevention programs.

Nationally, 23 percent of all teen-age mothers have another baby within two years of their first child, and 43 percent have another baby within three years.

But at Albuquerque's New Futures School, the repeat pregnancy rates are lower.

"Preventing that second child is what it's all about," said Marian Wright Edelman, president of the Children's Defense Fund. "If you can delay that next baby, you can stop that teenager from messing up her whole life."

New Futures, which also enrolls the occasional teen-age father, has an excellent record in helping young parents keep their lives on track: A 1987 study of students who attended the school between 1980 and 1985 showed that three-quarters of those who attended New Futures had finished high school, and more than half had some post-secondary training or education. Only 16 percent of the New Futures students surveyed were receiving welfare payments and more than half were employed.

With a track record like that, New Futures attracts a steady stream of education officials looking for help in designing their own schools for teenager mothers.

In most major cities, the shortage of day care places for students remains acute. In New York City, for example, where there are about 5,000 births a year to school-age girls, only 350 places are available in the 17 day care centers in city high schools.

In Washington, there are four day care centers, one of which is in a junior high school, with space for a total of 56 babies. But last year, there were 326 reported pregnancies among the city's public school students.

At Albuquerque's New Futures, the enrollment averages about 250 and babies seem to be everywhere. In the morning, before classes start, mothers, and babies sit on the red carpet in the main hall, or amid highchairs in the cafeteria. They have lunch together, too, and since most New Futures students take only two weeks off after childbirth, babies are frequently shuttled in and out of the classrooms for breast-feeding.

Students are required to spend time working in the school's three nurseries, getting practical experience in diapering, feeding and bathing babies even before their own child is born. There are childbirth classes, and courses in child health, infant development, the care and raising of toddlers and children's literature.

"I came here because my parents thought people would make fun of me and tease me at my regular school," said Tonya Maestas, who expects to graduate from New Futures in May.

Some New Futures students go back to one of Albuquerque's 16 other high schools in the semester after their baby is born, but others, like Angela Lopez, stay on often because they have no access to other day care.

"When I see the people I used to go to school with, they look at me like I'm weird," said Angela, who in the last year and a half has been shunted from her mother's house to one aunt and then another, and more recently to her grandmother's house. "It's hard some times being a mom, like if you're depressed and you want to be cuddled by your mother, but people think you're a mother yourself and you're supposed to be too grown up for that."

In its own way, New Futures provides its students with a lot of nurturing, from hot breakfasts to weekly group counseling sessions to frequent hugs from the staff. And most students at New Futures say that, despite the demands of parenthood, they are more interested in school and in their academic performance.

"I just never felt like doing homework before," said Mary Sanchez, who got pregnant at 14, and had a teen-age mother herself. "Here they pay more attention to you. I'm serious about school now, because I'm thinking about how I'm going to be able to take care of the baby."

All her old classmates talk about is boys and parties, while at New Futures "you can talk about you and the baby, and everybody's in the same boat."

Mary, who got a part-time secretarial job at a construction company through the school's job-training programs, says she has become scrupulous about birth control since coming to New Futures. "Now, I will not miss a pill," she said. "I will not, I will not. I'm going to graduate and I'm going to work."●

THE TRUJILLO FAMILY

● Mr. DOMENICI. Mr. President, I would like to bring to the attention of my colleagues, a recent article from the Christian Science Monitor featuring the Trujillo family, a family of weavers from Chimayo, NM. This article tells the story of a traditional Hispanic weaving business given added vitality by an entirely new generation of weavers.

The Trujillo family's weaving is a fine example of the attention to quality and tradition that is so prevalent in craftwork throughout our State. The skill, patience, and care that go into these crafts can't be duplicated by any of today's automated manufacturing techniques. Without families like the Trujillos, working to keep these old skills alive, we would be in danger of losing touch with our past, and with the common cultural bond that makes us uniquely New Mexican.

Those who read this article will witness an important event for an area blessed, as New Mexico is, with a rich heritage, the passing down of an ancestral skill from one generation to another. The Hispanic and Indian cultures are integral parts of New Mexico's heritage that constantly enrich our lives. They are reflected in the state's architecture, in its music, in its art, and in its literature. The successful transferal of these traditions is a vital occurrence in our State and all across America.

I would like to commend the Trujillo family for its enterprising spirit, and for its dedication to weaving as an art. I ask that the aforementioned article at this point be inserted into the RECORD.

The article follows:

THE SPIDER'S SKILL SPINS IN THEIR SOUL

(By Hattie Clark)

Weaving may be an old yarn in this valley village that goes back almost three centuries, but the Jacob Trujillo family is threading some new twists into the tradition. Jacob (Jake) Trujillo, dad and senior weaver, has been handy at the loom ever since his teen-age days. In the mid-'20s, he peddled his wares to tourists whose Model-Ts bumped along a dried-up arroyo, Chimayó's makeshift highway of the time. Back then, Jake stayed mainly with a standard weaving pattern—the "Rio Grande," earmarked by its horizontal stripes.

Today, Jake and family are still grounded in tradition, but they're also taking their weavings down some avantgarde avenues. Maybe that's because son, Irvin, a civil engineer, is home to stay. And with him is his wife, Lisa, a non-Hispanic who adds her own flair to this seventh generation of family weavers.

"Even before we were married [in 1982], Irvin told me—in so many words—that he had to move back here to Chimayó someday," says Lisa, who grew up in California and graduated from the University of New Mexico, Albuquerque, with a marketing degree. "This is his family home. At that point, I realized if I'm going to get married to him, I had to find a way to live here, too."

The challenge loomed large because most of the citified genre see Chimayó as a siesta settlement where the hottest spots around are chili-pepper fields.

But Lisa had her solution—husband Irvin taught her to weave. And his wife from the "outside" soon found that the spider's skill slept in her soul. Lisa now spins and weaves with the cream of Hispanic contemporaries.

"Just this year she completed a 'Saltillo' serape. A very intricate one. It's an incredible piece," says Helen Lucero, curator of New Mexico Hispanic crafts and textiles at Santa Fe's Museum of International Folk Art.

The Saltillo took six months to weave. Muted in color, it plays out the delicacy of a minuet, the gentility of a Cassatt. And into the Saltillo's traditional diamond design, Lisa wove a non-traditional heart.

"Seems as though every time I go see them, they amaze me with something new," says Dr. Lucero. "They're exploring combinations that aren't what traditional Spanish weavers would have been doing back in the 1800s or early 1900s."

Although weaving runs smooth for Lisa and Irvin, there's a hitch in their life's tapestry: they're not always embraced by the Hispanic community. Irvin went to school in the more cosmopolitan Los Alamos, birthplace of the A-bomb, where his dad worked as a property manager in the lab complex. Thus, much of Irvin's growing-up time was spent on English-speaking turf. The family returned to their home in Hispanic Chimayó only on weekends to weave and tend crops.

Later, Irvin went off to the University of New Mexico in Albuquerque, undergoing more immersion in the Anglo world. "I just don't speak the language [Spanish] as fluently as a low rider [the local young Hispanic men who drive low-slung cars]. So I'm not always accepted," Irvin explains.

As for Lisa, Lucero of the folk art museum says flatly, "She's not Hispanic. For us [at the museum], it's a little difficult. We just haven't come up with a definitive solution what to do" about Hispanic arts from non-Hispanics.

But Lisa seems to put this dilemma aside because she has backing where it counts—her father-in-law. Jake says, "Oh, I'm really proud of her. She's not only a weaver—she's an artist, one of the best."

Both Lisa and Irvin visit museums to study early examples, and they collect old dye recipes. If you walk into their kitchen, chances are you'll see dye brewing on one stove and enchiladas on the other.

It's in summer and autumn that Lisa hunts for her natural dyes gathering the yellow blossom of the chamisa along roadsides and arroyos; the flowers of the cota for oranges and bronze; the fruit of the prickly pear cactus for tans.

But the family buys its natural red made from the cochineal. "They're insects imported from Peru," explains Irvin. "Ten thousand to dye a pound of wool. You grind [the dried ones] into red powder."

Lisa has taken to all three phases—dyeing, spinning, and weaving. "But weaving really has turned out ideal for me. It appeals to the type of thinking I like to do. I don't like to plan ahead, and in weaving you only have to plan ahead six inches or so," she says with a laugh that's slightly tentative.

According to Irvin, most weavers carry their designs "in their heads," although he has seen some families with sketches. That pattern-on-paper approach definitely isn't this crew's style. "The best part of it is I create things that I don't know how they're gonna look until I'm finished," says Jake.

Almost any day finds Jake in the workshop, weaving wool spun by his wife, Isabelle. Outside, the countryside is quiet, but the craft drums up its own cadences—the pedaling of the treadles, the bobbing of the bobbins, and the steady slam of the beater as Jake pulls it toward him to tighten a woven row. Seven wooden looms—clunky as kids' climbers in a tot lot—crowd the room. They're all rough-hewn, handmade.

When the weather warms, sightseers will stream out of Stanta Fe, heading for the high road to Taos. And en route, they'll see the sign to Jake's place.●

CABINET-LEVEL STATUS FOR THE VETERANS' ADMINISTRATION

● Mr. D'AMATO. Mr. President, I rise today in support of S. 533, legislation introduced by my distinguished colleague, Senator THURMOND, to elevate the Veterans' Administration to a Cabinet-level department. I am pleased to join my colleague as a cosponsor of this worthwhile initiative.

For more than three decades, the Veterans' Administration has faithfully carried out the responsibility of administering programs and services to benefit the men and women who have risked their lives in defense of freedom. Currently, in the United States, there are approximately 27.7 million veterans, 48.7 million family members of living veterans, and 2 million survivors of deceased veterans—totaling some 78.4 million actual or potential beneficiaries of veterans' benefits and services. VA actions directly affect better than one-third of the population of the United States. VA programs touch in some way virtually every family in America.

The VA's commitment to our veterans is reflected in the size and dimensions of its programs, which were created and are maintained to heal both the physical and psychological wounds of war. With 172 major medical facilities and 229 out-patient clinics, the VA operates the largest health care system in the world. The VA also administers the largest direct insurance program in the United States, one of the Nation's largest income-maintenance programs, and an education program that interacts with almost every postsecondary and vocational institution in the Nation.

The effort to create a Cabinet-level VA was helped greatly when President Reagan endorsed the idea at a White House ceremony last November. Less than a week later, the House of Representatives passed H.R. 3471, which calls for the creation of a Cabinet-level department, by a vote of 399 to 17. Given the enormity of the VA's responsibility as the largest independent Federal agency, I believe it is only appropriate that the Senate now move to provide for a secretary of veterans' affairs within the President's Cabinet.●

UNANIMOUS CONSENT AGREEMENT

AMENDMENTS TO BE CONSIDERED

Mr. BYRD. Mr. President, if I may have the attention of Senators, this request has been cleared by the managers on both sides of the aisle, and has been cleared by the leadership on both sides of the aisle.

I ask unanimous consent that no further amendments be in order to the pending bill with the following exceptions:

An amendment by Mr. GLENN dealing with the subject matter of title I of S. 1085 as reported by the Armed Services Committee and titles II and IV as reported from the Governmental Affairs Committee; and one amendment to the Glenn amendment by Mr. EXON, that amendment being germane if Mr. EXON so chooses to exercise his right under the order agreed to; an amendment by Mr. JOHNSTON; an amendment by Mr. MCCLURE; an amendment by Mr. MURKOWSKI; and an amendment by Mr. MCCAIN, which can be explained or identified by the distinguished ranking manager.

Mr. McCLURE. Will the distinguished majority leader yield?

Mr. BYRD. Yes.

Mr. McCLURE. The Exon amendment would have to be germane to the Glenn amendment.

Mr. BYRD. Yes, it would be.

Mr. JOHNSTON. And the McCain amendment would be germane to the bill.

Mr. BYRD. Yes.

Mr. McCLURE. We have no objection.

Mr. BYRD. Mr. President, reserving the right to object.

Mr. President, the list of amendments in order will be increased as follows: One amendment by Mr. KERRY, one germane amendment by Mr. KERRY, and one germane amendment by Mr. HUMPHREY.

And that no motions to recommit with instructions be in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate resumes consideration of H.R. 1414, an act to amend the Price-Anderson provision of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents, there be no further amendments in order except the following:

Glenn amendment, relative to title I of S. 1085 as reported by the Armed Services Committee and titles II and IV of S. 1085 as reported by the Governmental Affairs Committee.

Exon amendment to the Glenn amendment, which must be germane to the Glenn amendment.

Johnston amendment.

McClure amendment.

Murkowski amendment.

McCain amendment, which must be germane to the bill.

Kerry amendment, which must be germane to the bill.

Humphrey amendment, which must be germane to the bill.

Ordered further, That no motion to recommit with instructions be in order.

Mr. BYRD. Mr. President, I thank the Chair and I thank Mr. JOHNSTON, Mr. MCCLURE, Mr. SIMPSON, Mr. BREAUX, Mr. EXON, and all others who have cooperated to make this agreement possible.

Also, while I have the floor, I want to congratulate the two managers on the progress which has been made on this bill today. It is a very important bill and it had to be acted upon during this session. I anticipated it might take a great deal more time than apparently it is going to require. I am thankful for that and I congratulate both managers and yield the floor.

I might say first there will be no more rollcall votes today. I would urge Senators to be present early tomorrow. There will be a rollcall vote early tomorrow.

BILL PLACED ON CALENDAR—H.R. 3967

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 3967, a bill dealing with the extension of medical benefits for certain spouses, just received from the House of Representatives, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY

RECESS UNTIL 10 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETO MESSAGE—S. 557

Mr. BYRD. Mr. President, under the rules, the veto message will be immediately laid before the Senate, except by unanimous consent or actions that would otherwise dispose of the matter.

REDUCTION IN LEADERSHIP TIME

Mr. BYRD. Mr. President, once the Chaplain's prayer is given, I ask unanimous consent that the two leaders may have not to exceed 5 minutes each tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. That will be for the purpose of fulfilling the standing order.

Upon the expiration of the 10 minutes or the yielding back thereof, the Chair will direct that the veto message be read as it will be spread upon the Journal. It is then automatically before the Senate. It is debatable. So that we might have Senators give their attention to this veto message beginning early tomorrow, and I do not know how long they want to carry on the debate, there will be a vote immediately upon the Chair's having the message read. There will be a rollcall vote instructing the Sergeant at Arms. That is about the best way I know to get the attention of Senators to enable the Senate to get on with its business. Senators come to the floor early and give their attention early to amendments. It used to be that the Senator from Louisiana would have been forced to sit and listen for 2 or 3 hours of speeches on various subjects. Now, he can come and be confident that, with a rollcall vote, he will have the attention of Senators who will be here early to offer amendments. We can see the progress that has been made today because of this policy of getting down to business early in the day, in connection with which, I will say that several Senators have expressed their approval.

I like to have a few pats on the back, if, in fact, I have to create them myself.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. BYRD. Yes.

Mr. JOHNSTON. Mr. President, I have heard many compliments on the floor, but in connection especially with the 1-week-off policy, the wake-up call policy has received less compliments than the week-off policy. But I appreciate the Senator's help and support of the floor managers. It has been very helpful.

Mr. BYRD. I thank the Senator.

Mr. President, that is the week-out policy, not a week-off policy. It is 3 weeks in and 1 week out. Am I not correct?

Mr. JOHNSTON. Some of us take a week off; others take a week out.

Mr. BYRD. The purpose is that the Senators may take a week out.

Mr. President, there will be a rollcall vote in the neighborhood of 10:10 or 10:15 a.m. tomorrow. That being the first rollcall vote of the day, I will attempt to be as liberal in my policy as I know how to be; therefore I ask unanimous consent that there be a time limitation on that rollcall of 30 minutes; that the call for the regular order occur at the expiration of the 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock a.m. tomorrow.

The motion was agreed to, and the Senate, at 5:53 p.m., recessed until tomorrow, Thursday, March 17, 1988, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 16, 1988:

DEPARTMENT OF COMMERCE

MICHAEL E. ZACHARIA, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE NEW POSITION.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8037, TO BE THE JUDGE ADVOCATE GENERAL, U.S. AIR FORCE:

TO BE THE JUDGE ADVOCATE GENERAL, U.S. AIR FORCE

MAJ. GEN. KEITHE E. NELSON, [redacted] FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8037, FOR APPOINTMENT AS THE DEPUTY JUDGE ADVOCATE GENERAL, U.S AIR FORCE, IN THE GRADE OF MAJOR GENERAL:

To be the Deputy Judge Advocate General and Major General

BRIG. GEN. DAVID C. MOREHOUSE, [redacted] FR, U.S. AIR FORCE.

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE OF LIEUTENANT GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

KEITH A. SMITH, [redacted] U.S. MARINE CORPS RESERVE.

HOUSE OF REPRESENTATIVES—*Wednesday, March 16, 1988*

The House met at 2 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pause in this our prayer, gracious God, to remind ourselves of our heritage of liberty and to give thanks for all Your benefits. On this day we especially remember the hostages and their families, all those who mourn the absence of someone near and dear to them. Just as Your spirit is not bound by language or boundaries, so may that same spirit of truth and light encourage those who know not the freedoms we enjoy and share the gifts of peace and comfort and hope. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SOLOMON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 280, nays 124, not voting 28, as follows:

[Roll No. 29]

YEAS—280

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clement
Coats
Coelho
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coyne
Craig
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Frost
Garcia
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (PA)
Green
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Livingston
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McEwen
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Morrison (WA)
Murtha
Myers
Nagle
Natcher
Neal
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parris
Patterson
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Price (IL)
Price (NC)
Quillen
Rahall
Ravenel
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sawyer
Saxton
Scheuer
Schneider
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Sweeney
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NAYS—124

Armey
Baker
Ballenger
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Cheney
Coble
Coughlin
Courter
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Grandy
Gregg
Hastert
Hawkins
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Hunter
Hyde
Inhofe
Ireland
Jacobs
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
McCandless
McCollum
McDade
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Morella
Murphy
Oxley
Packard
Pashayan
Penny
Porter
Pursell
Regula
Rhodes
Ridge
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stangeland
Stump
Sundquist
Swindall
Thomas (CA)
Towns
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wheat
Whittaker
Wolf
Young (AK)
Young (FL)

NOT VOTING—28

AuCoin
Badham
Biaggi
Boulter
Chandler
Clay
Clinger
Coleman (MO)
Fazio
Ford (MI)
Gaydos
Gephardt
Gray (IL)
Guarini
Kastenmeier
Kemp
Lightfoot
Lipinski
Mack
Mica
Mrazek
Nelson
Nichols
Rangel
Ray
Savage
Stratton
Wortley

☐ 1424

Mr. HASTERT changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1721. An act to improve the congressional oversight of certain intelligence activities, and to strengthen the process by which such activities are approved within the executive branch, and for other purposes.

NATIONAL AGRICULTURE DAY

(Mr. PETRI asked and was given permission to address the House for 1 minute.)

Mr. PETRI. Mr. Speaker, today, I rise to talk about National Agriculture Day. March 20 is the first day of spring. It is also the day we should all pause to recognize the contributions of our Nation's farmers. As you eat your Sunday breakfast of bacon, eggs, toast, homefries, coffee, and juice, think about the work that went into producing the cream for your coffee, the cranberries for your juice, and the wheat for your toast.

As you sit in your cozy house, think about the dairy farmer who milks his cows every day in all kinds of weather. Think about the long hours the farmer works in the field at planting and at harvest. Don't forget the egg and pork producers either. Let's also remember the rural businessmen: the seed sellers, the equipment dealers, the milk processors, and the rest.

It is easy for those who do not farm to forget how much work goes into producing our Nation's food. So, let us thank all of those in agriculture for their hard work and dedication on March 20, National Agriculture Day.

PRESIDENTIAL INAUGURAL EVENTS AT TAXPAYERS' EXPENSE

(Mr. JOHNSON of South Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of South Dakota. Mr. Speaker, today I am introducing legislation, with Senator PROXMIRE, which will prevent taxpayer dollars from being used to pay for inaugural balls and other private social events at future Presidential inaugurals.

A GAO study of the 1985 inaugural revealed that many such private events "were largely planned, staffed, and executed by Federal employees at the taxpayers' expense." According to the study, the 1985 inaugural involved seven Government agencies and cost $16 million in Government funds. At a time when our Nation is facing huge deficits, we need to carefully scrutinize where and how Federal moneys are being spent. It is unthinkable to ask the taxpayers, who have already borne their share in the deficit reduction process, to pay for extravagant social events that they cannot even attend.

The legal authority of the Presidential Inaugural Committee has not been clear in the past. My legislation will clearly define the status and the authority of the inaugural committee and requires the committee to reimburse the Government for the costs of private events. Federal spending should be restricted to the actual swearing-in ceremony, protection of the President, and other expenses that are absolutely necessary.

□ 1430

JUDGE NIXON SHOULD RESIGN

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, Walter L. Nixon, Jr. should immediately resign his position as Federal judge for the Southern District of Mississippi. It is my understanding that Judge Nixon's bribery conviction has been upheld, and his direct appeals are exhausted. He is scheduled to go to prison on March 23. The judicial conference has just recommended to the House of Representatives that impeachment proceedings should be initiated.

Today, I am sending, by registered mail, a letter to Judge Nixon requesting his immediate resignation. Should he not submit his resignation by March 23, 1988, I will exercise my privilege as a U.S. Representative to introduce a resolution to begin proceedings for his impeachment.

Taxpayers should not subsidize a convicted felon who collects a Federal paycheck while sitting in prison. The House of Representatives laid down a principle in the Claiborne case: a convicted felon can expect a fair, but swift, no-nonsense impeachment proceeding. Judge Nixon should spare the country, the Federal judiciary, his family, and himself the ordeal of impeachment. If he is honorable, he will resign.

DID THE CIA TURN ITS BACK ON NORIEGA'S DRUG-SMUGGLING ACTIVITIES?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the record shows that General Noriega had dealings with the KGB, Fidel Castro, the Sandinistas and of course drug traffickers. It is also alleged that General Noriega was on the payroll of the Central Intelligence Agency for some 20 years. Evidently he is a real wheeler dealer. But what I find hard to believe is that the CIA could have dealt with Noriega for 20 years and had no inkling that he was involved in drug smuggling.

The question that must be answered in this Congress is did the CIA turn its back on Noriega's drug-smuggling activities? And did they have knowledge of that activity?

Let us face it, if a 10-year-old in New York can find heroin and crack I believe the CIA knows who is bringing the drugs into this country.

The CIA has lied to us too many times. The American people are beginning to lose confidence in the CIA. They must come clean to this Congress and we must do something about Noriega. He is a valid and real threat to America.

OUR GOVERNMENT IS FINALLY DOING SOMETHING ABOUT THE BRUTAL MURDER OF MAJ. ARTHUR D. NICHOLSON

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, after beating around the bush for 3 years our Government is finally doing something about the brutal murder of Maj. Arthur Nicholson.

Today Defense Secretary Carlucci has announced he will ask for an apology from the Soviet Union for that fatal shooting. Major Nicholson, a member of the United States military liaison team permitted to work in East Germany, was gunned down in 1985.

Soviet soldiers refused to allow another United States soldier to administer aid to the dying officer.

I was outraged by that cruel and senseless act and introduced legislation calling for the expulsion of the Soviet Ambassador to the United States if Moscow refused to apologize for that tragic slaying.

It is regrettable that our diplomats have refused to do anything on this matter until now. I want to congratulate the Secretary for his efforts in this matter.

GOP AND THE POLITICS OF CYNICISM IN CENTRAL AMERICA

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COELHO. Mr. Speaker, when the Republicans voted 171 to 5 to kill Contra aid this month, were they voting their consciences or playing politics? The answer can be found in today's Washington Post.

According to Contra sources, members of the resistance came to Washington to lobby on behalf of both the Republican and Democratic aid packages. They specifically told Members of Congress they would accept either plan.

But the administration ordered resistance leaders to stop lobbying and get out of town. According to Contra leader Alfredo Cesar: "The White House felt it was better to leave our forces up in the air than vote with the Democrats. The botton line is the resistance has been hurt in the field."

After all the pious and sanctimonious talk about surrender and appeasement—charges leveled by the Republicans against the Democratic plan—we now know the truth: The Republicans abandoned the Contras to the politics of cynicism in Central America.

HUB AIRPORTS PLAN TO SHUT OUT COMMUTER AVIATION

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, at this very moment, the Massachusetts Port Authority is voting on a plan to effectively squeeze commuter aviation out of Boston Logan Airport; an economic lockout.

What does this decision have to do with my district in central New York? Plenty. Why should my colleagues care? It's simple.

At least 40 communities in New York and New England could suffer an immediate economic blow as a result of today's vote. These cities depend on commuter aviation for access to interstate commerce.

And it's not just my region in trouble. It's a national crisis. Airports in metro New York, Chicago, St. Louis, and California are considering the Massport approach. Unless we find an alternative, the ripple effect across the country will grow.

Think how hard it will be to attract and keep new jobs if our small cities are left stranded—if they are denied service. I can cite many examples where commuter aviation is crucial to economic development in my district and everywhere.

The issue is not airport safety; it's access. No one is willing to compromise on safety, no one.

Nor is the goal reduced airport congestion. In fact, the real aim is more room for larger airplanes with more passengers—squeeze out the little guys so the big boys can have it all. I've been told Massport wants to replace an existing runway with a hotel.

The Massport director says he "will not give in to crude political pressure from hysterical special interests * * *" This is nothing of the sort. I have no desire to interfere in the proper, normal operations of any airport.

I've got a real problem with anyone dictating my area's access to interstate commerce. I have offered H.R. 4074 to block the Massport plan and any others like it while the Secretary of Transportation makes a determination on what best serves the public interest. The bill has strong support and I look forward to hearings at the first possible opportunity.

Commuter air service is a lifeline. We must preserve vital access.

NEGOTIATIONS PRIOR TO THE VOTE ON THE DEMOCRATIC ALTERNATIVE ON CONTRA AID

(Mr. SPRATT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SPRATT. Mr. Speaker, as I told the House when we debated Contra aid, I met on three occasions during the time we were drafting the Democratic alternative with the Contra leadership.

I asked them what they wanted and reviewed with them the package that we were providing. They wanted nonmilitary aid and we provided it in the amount they wanted. They wanted U.S. Government delivery and we provided it through the Department of Defense which the Contras said was fine with them. They wanted communications equipment for their forces and we gave it to them in the exact amount they requested, $250,000 now, $750,000 after a cease-fire, exactly what they wanted.

Finally they asked for the assurance of a second vote, and we gave them that in the month of June which was the month they specified in writing to us in a letter on their letterhead addressed to the Democratic Members who were drafting that package. We met their requests so substantially that we were literally close to a handshake when suddenly there was an abrupt about-face. I thought then there was an outside influence at work.

The Washington Post today on page A20 confirms my suspicions at the time and what Alfonso Robelo has told me since. It was wrong to abandon the Contras. It would be wrong to dump the Contras. The aid package we provided to support them was what they sought and I hope we will reconsider it again.

A WAR CANNOT BE WON BY THROWING FOOD AGAINST TANKS

(Mr. DONALD E. LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONALD E. LUKENS. Mr. Speaker, I would like to address myself to the comments made by the majority whip who just said the Republicans abandoned the Contras. I do not know any war can be won by throwing food against tanks. I do not know of a war when you can throw vegetables and radio parts against guns and gunships.

The leftwingers, the leftwing leadership of this Congress had their will. They abandoned the Contras, they abandoned the Contras to the tender mercy of the Sandinistas in Nicaragua.

You may have your kind of peace in Nicaragua today but you have got war in Honduras and you caused it. You people always want to help—the leftwing seems to take the word of every Communist that comes along, but you will not accept the word of your own Government.

You people would not vote for military means to sustain the Contras against the Sandinistas and are going to regret it for the rest of your lives.

History is in the making. Yes, you may have peace in Nicaragua, but you have got war in Honduras. Today they overran the Contra front camps, a medical hospital where I brought 500,000 dollars' worth of equipment to save lives. Now the Contras have had that equipment destroyed by the Communists. Before this day is done, before this year is out you will have to face a very tough question, whether or not, now that you have injected the American military, you are going to follow it with military force because you effectively disarmed the Contras and the freedom fighters.

The Arias peace plan dug the grave, the Wright plan placed flowers on that grave. You have peace in Nicaragua, but now you have got war in Honduras and your votes caused it.

SPEAKER WRIGHT'S IDEA OF PEACE

Yesterday's major Communist offensive is the latest example of how the Communists never planned to comply with the so-called peace plan. Before that it was the firing of Cardinal Miguel Obando y Bravo, as mediator of the National Reconciliation Commission.

This invasion serves to focus attention on their Communist compliance and emphasizes the danger of a naive faith in the empty promises of Communists.

On August 7, 1987, the five Central American Presidents agreed to comply to a plan for democratization. Under the terms, each had to implement plans for amnesty and cease-fire within 90 days.

But the peace agreement is doing exactly what the Communists wanted it to: it's buying them time. You leftwingers have done this. More time simply means more time to consolidate the Marxist regime. Let me remind my liberal Democrat colleagues of what the Communists mean by compliance with the peace plan.

Recall that on August 15, the Sandinistas brutally crushed two peaceful demonstrations organized by civic opposition groups with dogs, sticks, and electric cattle prods.

On January 16, the same day the Sandinistas announced lifting of state emergency, the secret police arrested six opposition leaders.

On January 19, Jaime Chamorro Cardenal, editor of La Prensa was arrested.

On January 21, Mothers of Political Prisoners first anniversary meeting was disrupted by Sandinistas. This is the group dedicated entirely to bringing public attention to the inhumane treatment of their family members in government political prisons.

President Arias said on January 15: "They have not complied with the amnesty, democratization, free elections, lifting of the state of emergency, and all the rest—without even excuses that would serve as a pretext for not complying with the peace plan."

And yet you leftwingers took away their arms. Now recall and believe the words of the Sandinistas themselves: "We are not going to lose at the polls what we have won through arms."

And you leftwingers buried the freedom fighters with the Wright plan.

To the liberals, peace means taking away military resistance from the Contras so the Communist Sandinistas can get billions of dollars from the Soviet Union without worrying about United States interference.

By failing to recognize that compliance is a joke to the Communist Sandinistas, the liberals are effectively disarming the only legitimate force in Nicaragua struggling for freedom. And they are fighting against a Communist military machine supported by the Soviet Union. They are fighting our fight for freedom. But because of the Wright peace plan, they are fighting this fight alone.

The Arias peace plan? A respectable try. But it has run its course. Its admirable intentions gave the Communists too much credit. The liberal Democrats should have recognized it. This lack of resolve threatens to kill the only real chance of restoring freedom.

Yes, the liberal "surrender caucus" of this leftwing Congress has disarmed the Contras. You have peace in Nicaragua, but you now have war in Honduras.

Thanks to the leftwing leadership of this House.

OZONE DEPLETION IS REASON FOR CONCERN AROUND THE WORLD

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, Federal scientists yesterday released a study on ozone depletion that is reason for grave concern around the world.

The scientists found that the Earth's protection ozone layer is being depleted far more quickly than earlier estimates suggested. Over North America and Europe, ozone has been reduced by as much as 3 percent since 1969. In Alaska and other northern latitudes, the problem is even more severe.

These conclusions strongly suggest that we need to dramatically accelerate current efforts to halt worldwide production of chlorofluorocarbons.

The United States has taken the lead on this issue in the past, and the Senate has now voted to approve the Montreal protocol on ozone depletion. However, it now appears as if the reduction schedule contained in the protocol may not be sufficient to prevent dramatic increases in serious illness and rapid climate change.

At home, the United States needs to set an example by drastically reducing remaining production of these dangerous chemicals. Internationally, we must reopen negotiations to obtain faster and larger reductions than those called for in the Montreal accord.

I call on the President to heed yesterday's warning and to make this issue a top priority in the coming months.

LET US HAVE ANOTHER VOTE ON CONTRA AID

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, and I address a different Member of this Chamber from New York, because you have left your chair, and Mr. Majority Whip from California, you have also fled the floor. In 10 years Jim and Tony—I am not using any traditional titles like "distinguished gentleman"—Jim and Tony, in 10 years I have never heard on this floor so obnoxious a statement as I heard from Mr. Coelho, which means "rabbit" in Portuguese, as ugly a statement as was just delivered. Mr. Coelho said that we on our side of the aisle and those conservative Democrats, particularly those representing States which border the Gulf of Mexico, sold out the Contras. That is absurd, and I'll tell you why. At this very moment as we speak young campesino peasants, boys and girls from the fincas, the coffee and cotton farms and the now deserted cattle ranches of Nicaragua are dying at the hands of the Soviet-supplied Sandinistas. These are our fellow Judeo-Christian-cultured young men and women who are dying for us. That is what they told me when I was in their hospital camps, in dusty little farms in Honduras. This is where the amputees are left, some of them lucky enough to have had their amputations and their wounds treated in Miami. These young people now are learning to read and write because they can no longer fight. Others with minor wounds who are going back into the battle told me and my 28-year-old son to my face that they believe they are dying for us, so that your sons and my sons will not have to go down to Central America to fight communism. Panama is in chaos and Communists in Nicaragua, thanks to the liberal and radical left leadership in this House, are winning a major victory, right now.

The SPEAKER pro tempore (Mr. Ackerman). The time of the gentleman from California [Mr. Dornan] has expired.

Mr. DORNAN of California. Wait a minute. On Honduran soil and on Nicaraguan soil.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DORNAN of California. And it was set up in this House as you set up the betrayal of the Bay of Pigs.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DORNAN of California. I ask—wait a minute—I ask unanimous consent for 30 seconds. People are dying.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DORNAN of California. People are dying.

Mr. VOLKMER. Mr. Speaker regular order, regular order.

The SPEAKER pro tempore. The time of the gentleman has expired. Will the Sergeant at Arms please turn off the microphone?

Mr. DORNAN of California. You get your regular order, people are dying. You get your regular order now. People are dying because of this Chamber. I demand a Contra vote on aid to the Democratic Resistance and the freedom fighters in Central America. In the name of God and liberty and decency I demand another vote in this Chamber next week.

Don't get a hernia and break your gavel. Don't get a hernia.

I yield back the balance of my time.

□ 1445

INTRODUCTION OF LEGISLATION TO PROTECT SOUTH CAROLINA'S COAST

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, today the entire South Carolina delegation has joined together in introducing legislation to protect our State's greatest natural and economic resource—our coast. This resolution directs the Army Corps of Engineers to make a survey of South Carolina's coast in the interest of beach erosion control and hurricane protection.

South Carolina's identity is as closely bound to its coast as waves are to water. It shaped our past as one of the Original Thirteen Colonies and as a trading center of the New World. And, just as surely as it guided our past, South Carolina's coast is now defining our future. The same shores that connected the New World with the Old now draw industry and tourists, pumping billions of dollars into our State economy every year. Our beaches are fast becoming a national treasure making tourism the second leading industry in the State. Last year, over 11 million people visited the beaches in my district alone, bringing in over $1.5 billion.

But as financially valuable as our coast has become, its beaches, creeks, rivers and bays are equally as valuable as an irreplaceable home for sea life. From fish to birds to shellfish, all of our marine life depends on this 3,000-mile long network of waterways and half-million acres of salt marsh. Our salt marsh alone is one of the most productive natural resource areas in the world, generating as much or even more organic matter than the most productive wheat field.

However, despite its size our coast remains a fragile place which can be easily damaged by careless or uncontrolled development. Nature too, holds an ever-present threat. Storm damage potential along our coast is enormous. A hurricane coupled with the extensive development along the Grand Strand would spell disaster for South Carolina.

Anyone at all familiar with the coast knows that its only constant characteristic is that it is always changing. And change means choices. Up until now the abundance and variety of our coastal resources has enabled these choices to address types of development not the question of development itself.

No where is this more clearly illustrated than in the case of beach erosion. Beach erosion is actually a natural, expected process. In this era of a rising sea level, coastal islands move or migrate, and erosion is the process by which this migration occurs. As sea level rises, the ocean side of an island usually erodes, while the back side expands. So there is no beach erosion problem—until a structure is built along the ocean. Inevitably, as erosion on the seaward side of the island continues, the structure becomes threatened.

The help sought by desperate homeowners often makes a bad situation much worse. Determined to protect his investment, the owner erects a seawall, bulkhead, or similar device in an effort to stop the advancing waves. But, the tragic fact about seawalls and similar devices is not only that they don't work, but also that they destroy the beach. Placing a seawall on the beach throws the natural system into shock.

All South Carolinians agree on the importance of preserving our beaches. The problem is not an incongruity of goals, but a difference in approaches. A comprehensive study of the entire coastline will set the foundation for coordinated, successful future efforts at prevention and renourishment. Such a study could not be in more competent hands than those of the U.S. Army Corps of Engineers.

We know that coordinated, long-term prevention works. In a recent study of beach erosion in my district, the corps concluded that for every dollar spent, $2 in benefits would be realized. The city of Myrtle Beach is another illustration of the wisdom of prevention. From 1985 through 1987, the city of Myrtle Beach spent approximately $4.5 million to place one million cubic yards of sand on a 10-mile stretch of its beach. As a result, the high tide beach that had all but disappeared was restored to a width of 30 to 50 feet. Moreover, the 1987 New Year's Day storm that caused over $13 million in damage on the coast caused only minimal losses along the renourished sections. During the one storm, the value of the property saved probably exceeded the total cost of the project. A comprehensive study by the corps will be the basis for similar results all along South Carolina.

Our State's coast has given me a lifetime of enjoyment and pride. I hope my colleagues will join me in insuring that this legacy is protected for future generations.

CALLING FOR A COALITION PLAN FOR AID TO THE CONTRAS

(Mr. DREIER of California asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, on December 13 of last year Daniel Ortega said, if by chance elections were to be held in Nicaragua and if by chance the Sandinistas were to lose, that they would give up government but not power.

Now, anybody who might have believed 3 minutes ago that Ortega was interested in giving up power or government, having listened to my distinguished colleague from Orange County, California [Mr. DORNAN], would have come to a different conclusion. We know full well that Ortega plans to keep power, and he has demonstrated that.

We got a recent figure which was declassified last night which showed that nearly a quarter of a billon dollars has come from the Soviet Union into Nicaragua this calendar year. That is since January 1 of this year. That was after the ceasefire was scheduled to go into effect as this Esquipulas II agreement was coming about. We know full well that Esquipulas II addressed the United States aid to Nicaragua but never addressed the flow of munitions coming in from the Soviet Union.

We have 67 colleagues on the other side of the aisle who in a letter condemned Ortega and the Sandinistas. Let us put together that coalition, Mr. Speaker, and bring about an aid package which will insure that we never have to send a single United States combat troop to Nicaragua.

INTRODUCTION OF RESOLUTION CALLING FOR A GEOLOGICAL STUDY OF SOUTH CAROLINA BEACHES

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, South Carolina's dry sand beaches are among her most irreplaceable assets. Traditionally, they have offered us a place of recreation and of solitude. Today, they attract more than 70 percent of the State's tourist revenues; and tourism is South Carolina's No. 1 industry.

But we have failed to treat our beaches with the respect they must have if they are to survive our generation. Many of the problems we have created are due to our lack of knowledge of the dynamic nature of beach-dune systems. We have rushed to build on portions of the beach that are unstable and erosional.

South Carolina urgently needs to know more about the character of our shoreline so that coastal population growth will not conflict with the geological processes that have governed the State's healthy, ever changing beaches for thousands of years.

To make it possible for us to learn what we need to know about our shoreline, I am joining my South Carolina colleagues today in introducing the South Carolina shores resolution that will grant the Army Corps of Engineers authority to perform a geological study of the State's beaches. This study will provide the tools we need to plan intelligently for the future of our coast.

JOBS FOR THE HOMELESS

(Mr. LOWERY of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOWERY of California. Mr. Speaker, I would like to draw the attention of my colleagues to a program in my district that is helping those who so desperately need help—the homeless.

The San Diego County Hotel-Motel Association has come up with a plan that would give those with no place to turn, a turn in the job market. The association's personnel managers are now being asked to look first to the St. Vincent de Paul Joan Kroc Center for the Homeless when there's a job to do—a position to fill. And why not, when a third of the center's residents are ready and available to work—immediately employable?

This program is working. In the past few weeks, the Sheraton Harbor Island hotels in San Diego have hired two people from the center. Two people are now on the payroll when a short time ago they were on the streets.

Mr. Speaker, I urge my colleagues to share this idea with businesses in their districts. The homeless people in this country need more than Government dollars—they need a chance to make their own way—in their own communities.

LET US VOTE AID TO THE CONTRAS BEFORE IT IS TOO LATE

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, the overwhelming number of liberals predominantly in the Democratic Party in this House said we should give peace a chance. We did. We may succeed for a while. In the meantime hundreds, perhaps thousands, of freedom fighters may die in Nicaragua in the next few weeks because the Sandinistas are closing in for the kill, and we, the greatest deliberative body in the world, do nothing.

Because this House under this Democratic leadership will not support a reasonable bill for economic aid for the freedom fighters, it may be peaceful in Nicaragua for a while. Unless, of course, you happen to be one of those who believes in freedom in Nicaragua and is prepared to stand up for that freedom.

Mr. Speaker, we cut off the funds and cut off the freedom fighters, the very people we put into action, and now we are getting ready for the Easter recess. Lots of those freedom fighters will never live to see Easter—this Easter or any other, because of our lack of action. El Salvador, Honduras, Costa Rica, and all Central America will be severely threatened by our lack of action and by the Sandinista government. We might ultimately have to send our boys to some Central America front before very long because we have given peace a chance.

Mr. Speaker, let us avoid catastrophy. Let us vote aid to the Contras today before it is too late.

PERSONAL EXPLANATION

Mr. GRANT. Mr. Speaker, on Wednesday, March 9, I was absent from the House due to a death in my family. Had I been here, I would have voted "yea" to rollcall vote No. 27 and "yea" to rollcall vote No. 28. I ask unanimous consent to have this personal explanation printed in the permanent RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

FREE ENTERPRISE WEEK

(Mr. CRAIG asked and was given permission to address the House for 1 minute, and include extraneous matter.)

Mr. CRAIG. Mr. Speaker, in the 1870's, Horatio Alger wrote a series of rags-to-riches stories that soon came to exemplify America. The "Tattered Toms" who peopled these tales were the newsboys who became the big wheels, the downtrodden who worked their way up. Alger's novels stood in testimony to America's free enterprise system and the belief that, with honesty, intelligence, and diligence, a person could both dream a dream and realize it.

As you know, the free enterprise system is a structure of social, political, and economic arrangements that allows private business to organize and operate for profit in a competitive system without undue interference by government. Developed in reaction to the monopolistic and restrictive practice of mercantilism, the acceptance of free enterprise in America can be traced to the political freedoms Americans fought for and won.

Free enterprise has since stood as a fundamental principle of American economics, a fixture in American life and a reason for Americans to work and to aspire.

I am today introducing legislation to designate the week of January 15, 1989, as "National Free Enterprise Week," to salute and to celebrate this unique concept. I commend the Distributive Education Club of America [DECA] in Lewiston, ID, for suggesting this commemorative effort, and I insert in the RECORD the letter I received from Steve Ellsworth, the DECA president who contacted me with this idea.

LEWISTON SENIOR HIGH SCHOOL,
Lewiston, ID, February 29, 1988.

DEAR CONGRESSMAN CRAIG: I'm a Lewiston High School Marketing/DECA student who believes in economic freedom. I'm grateful to live in the United States and enjoy our Free Enterprise System. I feel strongly about the proposal for a "National Free Enterprise Week."

The economic freedoms that we enjoy give us the right to own property to start a business, and the freedom to choose the goods and services we want to buy or sell. The heart of American free enterprise is that which is afforded to us in the constitution—"Personal Liberty."

Each person in America makes his/her own decisions. Since free enterprise has such an impact on all of our lives, it is important that we set aside at least one week during the year where all people can recognize the freedoms we possess. I propose that the week of January 15, 1988 be used to remind us, as Americans, to think of how fortunate we are to live in this country. This proposal would not only encourage our free enterprise system, but would extend the presence of our belief in it to other countries. All citizens could use this week to show that they honor and support our free enterprise system we so frequently use in every-day life.

I would like to petition your support and urge you to vote in favor of a Bill to recognize "Free Enterprise Week."

Sincerely yours,
STEVEN P. ELLSWORTH,
DECA Chapter President.

EXCLUDING ILLEGAL ALIENS FROM THE 1990 CENSUS

(Mr. VALENTINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VALENTINE. Mr. Speaker, I rise today to speak about a matter that is of great concern to me and which, I believe, is of growing concern to many of my colleagues.

In just 2 years, the 1990 census will be conducted. When final census figures are compiled, they will be used for, among other purposes, the reapportionment of congressional districts.

By all indications, the U.S. Census Bureau intends to continue its policy of counting illegal aliens but excluding the men and women of our Armed Forces who are stationed abroad for reapportionment purposes.

I think the Census Bureau policy borders on the absurd. If I had to single out one group of Americans that is most deserving of representation in the Halls of Congress, it would be our military personnel who are serving on foreign soil protecting the interests of this country.

If these men and women are excluded from the 1990 census, we will in effect be saying that certain American citizens are less deserving of a voice in the governing of this country than persons whose very presence in the United States is illegal. Is this fair? I dare say not a single Member of Congress would answer yes to this question.

Our colleague, TOM RIDGE, has introduced legislation that would direct the Census Bureau to exclude illegal aliens from the 1990 census for congressional reapportionment purposes. His bill would also require the Census Bureau to include military personnel stationed abroad in the census count for purposes of reapportionment. As an original cosponsor of this measure, I urge the other Members of this body to add their support to this much needed and worthwhile legislation.

AID TO THE CONTRAS

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, I do not think I have ever been so insulted as I was insulted just a while ago by the majority leader of this House. The very hypocrisy, the very misinformation that the majority whip put out saying that the Republicans are against Contras and against Contra aid when the liberal majority of this House has consistently and repeatedly defeated any aid, any meaningful aid for the Contras. When the liberal majority of this body defeated a responsible, well-planned package of aid to the Nicaraguan freedom fighters, we warned them what could happen. When the liberal Members destroyed the viability of the Contras, they destroyed the last chance for peace in Central America. The Communist Sandinistas, strongly equipped with modern Soviet and Cuban military aid, have invaded Honduras in the last week in search of freedom fighters.

Just what do you think happened to the Sandinista cries of "give peace a chance"? What happened to their good faith negotiations and promises of democracy? What did we tell you would happen? You weaken the Contras, and you are then responsible for the consolidation of the Soviet-style expansionist state in Central America, and we have done that. We have lost Central America.

How do you feel today? We told you so. We want aid to the Contras. We want meaningful aid to the Contras. We want freedom in Central America, and Texas wants the Soviets out of Central America.

PARLIAMENTARY INQUIRIES

Mr. GREGG. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. ACKERMAN). The gentleman will state his parliamentary inquiry.

Mr. GREGG. Mr. Speaker, I was just in my office viewing the proceedings here, and during one of the proceedings, when the gentleman from California [Mr. DORNAN] was addressing the House, it was drawn to my attention that the Speaker requested that Mr. DORNAN's microphone be turned off, upon which Mr. DORNAN's microphone was turned off.

Mr. Speaker, my inquiry of the Chair is: Under what rule does the Speaker decide to gag opposite Members of the House? Under what rule does the Speaker decide to close down the debate and pursue a policy of shutting up the opposition by not allowing us access to the public and to the media and to our own microphones, the microphones of this House? Under what rule of this House or of our country or our Constitution is freedom of speech so grossly violated in this institution?

The SPEAKER pro tempore. The gentleman asked to proceed for 1 minute——

Mr. GREGG. No, I am asking that of the Chair.

The SPEAKER pro tempore. The Chair is referring to Mr. DORNAN. He requested permission of the Chair to proceed for 1 minute, and that permission was granted by the House. Mr. DORNAN grossly exceeded the limits and abused the privilege far in excess of 1 minute, and the Chair proceeded to restore order and decorum to the House.

Mr. GREGG. Mr. Speaker, I see nothing in the rules of this House that gives the Speaker of this House the capacity to turn off the debate of this House by requesting that the speakers be turned off or that the microphone be turned off so that a Member cannot make his point. In fact, at the time the point was being made, Mr. DORNAN was asking unanimous consent, as I recall.

□ 1500

The SPEAKER pro tempore (Mr. ACKERMAN). The Chair will state that unless a person receives permission to address the House, under the rules of the House he is not addressing the House.

The gentleman from California [Mr. DORNAN] requested permission for 1 minute, that permission was given to him by the Chair with the unanimous consent of this body, the gentleman from California [Mr. DORNAN] abused the unanimous consent of every Member of this body by grossly exceeding his time.

Mr. GREGG. Mr. Speaker, that is——

Mr. WALKER. Mr. Speaker, what rule are you referring to?

Mr. GREGG. Mr. Speaker, I have not yielded.

I have not heard the Chair respond to my inquiry which is what ruling is the Chair referring to which allows him to turn off the microphone of a Member who has the floor?

The SPEAKER pro tempore. Clause 2 of rule I.

Mr. GREGG. Mr. Speaker, I would ask that that rule be read. I would ask that that rule be read, Mr. Speaker, so that I may understand how the Chair can interpret it to mean that he can close down the process of free speech in the one institution in this world which most represents free speech?

The SPEAKER pro tempore. It reads, 2. He shall preserve order and decorum, and, in case of disturbance or disorderly conduct in the galleries, or in the lobby, may cause the same to be cleared.

Mr. GREGG. Mr. Speaker, this is in the well of the House.

Mr. WALKER. Mr. Speaker, that has to do with the gallery, not the House floor.

Mr. GREGG. Mr. Speaker, this is not a lobby. This is an issue of whether or not the Speaker has the right to close down the capacity of a Member to speak his rights on the floor of the House.

Mrs. MARTIN of Illinois. Mr. Speaker, that refers to the gallery.

The SPEAKER pro tempore. The gentleman from California [Mr. DORNAN] had a right to proceed for 1 minute. That right was given by the Chair with the unanimous consent of the body.

Mr. GREGG. Mr. Speaker, that——

The SPEAKER pro tempore. The gentleman from California [Mr. DORNAN] abused that right and the Chair restored order and decorum.

Mr. GREGG. Mr. Speaker, a further parliamentary inquiry. It was my impression that while watching this interchange on the television, before the sound went off, that gentleman from California [Mr. DORNAN] had requested the right for a unanimous consent to continue to speak for an additional period of time.

I heard no objection to that request, and I presumed that that discussion of the unanimous-consent request was continuing.

The SPEAKER pro tempore. Under the precedents established in this House, 1 minute speeches are not extended for any additional period of time.

The gentleman from California [Mr. DORNAN] requested 1 minute. He was granted 1 minute. The House agreed to 1 minute, unanimously, and the gentleman from California proceeded to abuse the 1-minute time period after two warnings of the Chair.

Mr. GREGG. Mr. Speaker, am I to conclude from your representations that a Member of the House can have the microphone turned off and his ability to address this House turned off at the unilateral action of the Chair when that Member is in the process of discussing a parliamentary issue such as his request for unanimous consent?

The SPEAKER pro tempore. The gentleman from New Hampshire is to assume from the Chair ruling that when unanimous consent is granted to a Member to address the House for 1 minute, that Member may not filibuster any length of time he so chooses and disrupt the decorum established in this body.

Mr. GREGG. Mr. Speaker, I heard no ruling from the Chair that this individual was out of order. I also heard no ruling from the Chair that the Chair has the right to turn off the microphone.

The SPEAKER pro tempore. The Chair repeatedly rapped the gavel quite loudly for all to hear and told the gentleman from California [Mr. DORNAN] that his time had expired.

Mr. GREGG. Mr. Speaker, is the Chair taking the position that by rapping the gavel and when no response occurs in this House, that that gavel rapping, of which has become almost commonplace during the 1-minute process, that the Chair then can proceed to turn off the microphones of the speaker who is speaking?

The SPEAKER pro tempore. The Chair allows Members the courtesy of knowing their time has expired by rapping the gavel.

Mr. GREGG. Mr. Speaker, the Chair has just ruled, therefore, that Members of the Republican side it appears, because——

The SPEAKER pro tempore. It is the ruling of the Chair that the gentleman from New Hampshire [Mr. GREGG] was recognized for a parliamentary inquiry. The parliamentary inquiry was responded to, and the House will now proceed.

Mrs. MARTIN of Illinois. Parliamentary inquiry, Mr. Speaker.

Mr. GREGG. Is the Chair now shutting me off? Will the Chair shut off my microphone also, is that the plan, if I continue? Does the Chair intend to turn off my microphone?

The SPEAKER pro tempore. The gentleman from New Hampshire [Mr. GREGG] was recognized for a parliamentary inquiry. The Chair has answered the gentleman's parliamentary inquiry.

Mr. GREGG. I have a further parliamentary inquiry, Mr. Speaker. Is it the Chair's intention to turn off my microphone?

The SPEAKER pro tempore. What is the gentleman's parliamentary inquiry?

Mr. GREGG. My parliamentary inquiry is that I want to know how the Chair can specifically turn off the microphone and what rule the Chair does it under, because the Chair has not answered that question.

The SPEAKER pro tempore. The Chair has responded to the parliamentary inquiry of the gentleman from New Hampshire.

Mr. GREGG. Mr. Speaker, I reserve my time, and yield to the gentlewoman from Illinois [Mrs. MARTIN].

Mr. LUNGREN. Mr. Speaker, parliamentary inquiry.

Mrs. MARTIN of Illinois. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The Chair advises that a Member may not yield time to another Member under a parliamentary inquiry.

Mrs. MARTIN of Illinois. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman will state her parliamentary inquiry.

Mrs. MARTIN of Illinois. The gentlewoman from Illinois would inquire of the Chair, because it was difficult occasionally to hear the rather strained ruling from the Chair, when I heard the Chair read from the rule, and I hope the Chair will recheck that sentence, because the Chair talked about disturbances in the gallery and disturbances outside the floor of the House.

Would the Speaker reread the exact sentence that would indicate why and how a microphone could be turned off of a duly elected Member of the House on the floor of the House?

The SPEAKER pro tempore. The Chair will proceed to explain it one more time.

Mrs. MARTIN of Illinois. Please.

The SPEAKER pro tempore. Under rule I, clause 2—and I will only read the half of it that applies, so as not to cause confusion in the minds of those who appear to be confused—"He shall preserve order and decorum."

Mr. WALKER. Mr. Speaker, the sentence goes on.

Mrs. MARTIN of Illinois. I believe, Mr. Speaker, that you have been requested specifically to quote that rule that affects a Member of the House on the floor, and that is not that sentence. We have the book, too, and the Chair knows it and I know it. I do not mind a Speaker ruling against us, even an unelected Speaker, but I will not accept on behalf of any Member, and this is an incredible right that is being abrogated and abridged here. The Chair is not saying that a Member of the House, is subject to the same rule, even though it does not state it, as applied to the gallery, will apply to Members of the House. I do not believe that that can happen in an elected representative body.

Mr. Speaker, would the Chair please quote how it affects an elected Member speaking on the floor?

The SPEAKER pro tempore. The Chair will read just what he read before.

"He shall preserve order and decorum, and,—" Then it proceeds to speak about in another place.

"Order and decorum" is not just in the halls and in the galleries. The word "and" is followed by a comma.

Mrs. MARTIN of Illinois. Mr. Speaker, if I may, I will try again because surely, although I recognize this is a difficult experience for the Chair, we are talking about speaking on the floor of the House. We are not talking about a Member throwing things at the Speaker—as tempting as it may be.

What is the specific rule that says that the Chair can terminate the speech of a Member?

Mr. SMITH of Florida. A point of personal privilege, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman's temptations are not a matter for this body to consider.

Mrs. MARTIN of Illinois. Mr. Speaker, I could not hear.

Mr. SMITH of Florida. Mr. Speaker, I rise to a point of personal privilege. I believe that the words of the gentlewoman from Illinois [Mrs. MARTIN] are inciteful and spiteful and I demand that they be taken down.

Mrs. MARTIN of Illinois. All right. What were they?

The SPEAKER pro tempore. The Chair will request that the gentleman from Florida [Mr. SMITH] reconsider his request.

Mr. SMITH of Florida. Mr. Speaker, I will withdraw my point of personal privilege.

The SPEAKER pro tempore. The Chair thanks the gentleman from Florida.

Mrs. MARTIN of Illinois. Mr. Speaker, as tempting as it is to let things be carried away, I think there is an issue at stake of more than one Member or a person walking in or hearing something. I truly mean this, Mr. Speaker, the Chair has turned off the microphone of a Member. If it were a Member from the other side of the aisle and someone who I disagreed with to the depth of my soul, I would want to protect that right.

Mr. Speaker, the Chair has quoted nothing that would indicate the power of a dictator.

The Speaker is not a dictator, especially a not-elected Speaker. The Chair cannot possibly believe that.

The SPEAKER pro tempore. The Chair will suggest that neither is it the prerogative of individual Members to turn off the microphone of other recognized Members or the entire House of Representatives by monopolizing the microphone and making speeches in excess of the time alloted.

The Chair would like to read another precedent cited in the manual.

Mr. WALKER. Mr. Speaker, I offer a privileged motion.

Mrs. MARTIN of Illinois. Mr. Speaker, let me assure the Chair I would never attempt to turn off the Speaker's microphone.

The SPEAKER pro tempore. The Chair will read a precedent cited under rule I, clause 2:

> Recognition is within the direction of the Chair who may deny the Member recognition to speak under the one minute rule in order to uphold order and decorum in the House as required under clause 2, rule I. August 27, 1980.

Mrs. MARTIN of Illinois. Mr. Speaker, the Chair had already recognized that Member.

PRIVILEGES OF THE HOUSE

Mr. WALKER. Mr. Speaker, I rise to a personal privilege of the House.

Mr. LUNGREN. Mr. Speaker, parliamentary inquiry.

Mr. WALKER. Mr. Speaker, I have a question of a privilege of the House under rule IX.

Mr. LUNGREN. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, I have a question of privilege before the House under rule IX.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

> Whereas, the Speaker pro tempore ordered the microphone cut off as a duly-elected Member of the House was speaking; Be it therefore
>
> *Resolved*, That the Speaker, Speaker pro tempore, or any Member of the House as the Presiding Officer of the House of Representatives may not order the microphone to be cut off while any Member is speaking on the floor of the House of Representatives.

Mr. WALKER. Mr. Speaker, I think I must be recognized to debate my resolution, is that not correct?

The SPEAKER pro tempore. The resolution does not allege an abuse of the House rules, and is not a question of privilege.

The House will proceed to the unfinished business.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed——

Mr. WALKER. Mr. Speaker, I question the ruling of the Chair.

The **SPEAKER** pro tempore. Is the gentleman from Pennsylvania appealing the decision of the Chair?

Mr. WALKER. Mr. Speaker, I am appealing the ruling of the Chair.

It is my understanding, Mr. Speaker, that I am given a chance to debate that issue.

Mr. DONNELLY. Mr. Speaker, the vote is automatic.

Mr. WALKER. I have 1 hour, I believe.

The **SPEAKER** pro tempore. The appeal is debatable unless there is a motion to table.

The gentleman from Washington [Mr. FOLEY] is recognized.

MOTION TO TABLE OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Speaker, I did not hear the Speaker's ruling with respect to the appeal. Would the Speaker restate the ruling?

The **SPEAKER** pro tempore. The Chair had stated that the resolution did not raise a question of privilege from which ruling the gentleman from Pennsylvania [Mr. WALKER] has appealed.

Mr. FOLEY. The gentleman from Pennsylvania [Mr. WALKER] has appealed the ruling of the Chair, is that correct?

The **SPEAKER** pro tempore. Yes, that is correct.

Mr. FOLEY. Mr. Speaker, I move to lay the appeal on the table.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 237, nays 167, not voting 28, as follows:

[Roll No. 30]

YEAS—237

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
Barnard
Bates
Beilenson
Bennett
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clement
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Glickman
Gonzalez
Gordon
Grant
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Murtha
Nagle
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—167

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Cheney
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—28

AuCoin
Badham
Berman
Biaggi
Boulter
Chandler
Clay
Clinger
Ford (MI)
Gephardt
Gibbons
Gray (IL)
Kemp
Lightfoot
Lipinski
Mack
Martin (NY)
Mica
Molinari
Mrazek
Murphy
Nelson
Rangel
Ray
Savage
Stratton
Waxman
Wortley

□ 1531

Mr. SCHULZE changed his vote from "yea" to "nay."

So the motion to table the appeal was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRIES

Mr. HENRY. Mr. Speaker, I have a parliamentary inquiry.

The **SPEAKER** pro tempore (Mr. ACKERMAN). The gentleman will state it.

Mr. HENRY. Mr. Speaker, I rise for a point of parliamentary inquiry.

Mr. Speaker, I was among those who were on the floor during the exchange which we have been debating and would like to indicate it was the consensus of many of us that when the gentleman from California [Mr. DORNAN] was addressing the House the floor microphones were not turned off but the difficulty arose in part that the television broadcast, the C-SPAN microphones were cut off. Mr. Speaker, the rules of the House clearly stipulate that electronic broadcast of the proceedings of the House shall be a fair and accurate proceedings, recording and rendering of proceedings of the House.

I am wondering if the Speaker would respond as to the appropriateness in this instance when apparently the C-SPAN electronic broadcast of the proceedings of the House were cut off while the House microphones were not.

The SPEAKER pro tempore. Let the Chair assure the gentleman that the Chair was directing his remarks to the in-house microphones and certainly not to the coverage of the proceedings of the House by electronic media or the press.

The unfinished business——

Mr. DORNAN of California. Mr. Speaker, I have a point of parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DORNAN of California. Mr. Speaker, I would like to inquire if this Member is able to take a point of personal privilege, that is 1 hour of debate on the House floor at the moment it is granted, if I feel that my honor was impugned when the majority whip, who also spoke way beyond 1 minute, way beyond 60 seconds, if Mr. Coelho tells me that I have sold out the young men and women that I visited with not more than a month ago who are at this moment being strafed and rocketed by Soviet gunships, to tell me to my face—and I am sitting in the front row—that I sold them out impugned my honor.

The SPEAKER pro tempore. The gentleman will state a parliamentary inquiry.

Mr. DORNAN of California. Do I have a right for a point of personal privilege on that?

The SPEAKER pro tempore. That is not a remedy that the gentleman has under the circumstances.

Mr. DORNAN of California. May I ask the ruling of the Chair as to why I cannot maintain a point of personal privilege that my honor was impugned.

The SPEAKER pro tempore. The point of personal privilege does not derive from words spoken in debate.

Mr. DORNAN of California. Then, Mr. Speaker——

The SPEAKER pro tempore. The unfinished business of the House——

Mr. DORNAN of California. Mr. Speaker, point of personal privilege.

The SPEAKER pro tempore. The gentleman will state his point.

Mr. DORNAN of California. Mr. Speaker, I take a point of personal privilege that in violation of both House rules and tradition set forth when this House went on television on my birthday, April 3, 1979, that the representation of the—that the representation of the parliamentary procedures in this Chamber would be broadcast identically to Alaska, Hawaii, Puerto Rico, and all U.S. States and territories in between. It is my understanding and my own hearing verifies this that my microphones were not cut off on the House floor, that the microphones were only cut off to my home in Garden Grove where my wife was watching and to all people observing these proceedings through the national technical means of these six cameras on this Chamber.

My point of personal privilege is that I was offended as a Member by having my words cut off going to the outside world through the electronic means that this House voted for—not unanimously—voted for in this Chamber.

The SPEAKER pro tempore. The Chair has already just previously stated that his directions were to the House microphones and not to the electronic microphones.

Mr. DORNAN of California. Wait a minute, Mr. Speaker.

The SPEAKER pro tempore. Pursuant to clause 5, rule I the Chair will now put the question on each motion——

Mr. DORNAN of California. Mr. Speaker——

The SPEAKER pro tempore. On which further proceedings were postponed——

Mr. DORNAN of California. Mr. Speaker, the House was not in order.

The SPEAKER pro tempore. In the order in which that motion was entertained.

Mr. DORNAN of California. Mr. Speaker——

The SPEAKER pro tempore. Votes will be taken in the following order——

Mr. DORNAN of California. I asked you courteously——

The SPEAKER pro tempore. Senate Joint Resolution 225, the yeas and nays, S. 2151 de novo.

Mr. DORNAN of California. Mr. Speaker, the House was not in order when you addressed——

The SPEAKER pro tempore. The Chair will reduce to 5 minutes the time for any electronic votes after the first such——

Mr. DORNAN of California. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. For any electronic votes after the first such vote in this series.

The unfinished business is the vote on the motion of the gentleman from Minnesota——

Mr. HENRY. Mr. Speaker, parliamentary inquiry.

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, a number of us were waiting to give 1-minute speeches just a little bit ago.

Do I understand now that the Chair has cut off our privilege of having a 1-minute speech today in order to proceed ahead with other business?

The SPEAKER pro tempore. At the Chair's discretion, 1-minute speeches may be taken up later in the day.

Mr. WALKER. And those Members of the minority, I think it was only minority members that are left, are going to be shut off from our privilege of having the 1-minute right now, is that correct?

The SPEAKER pro tempore. No, that is not correct. Any Member who has a 1-minute that they would like to make will be recognized at the end of the day at the discretion of the Chair.

For what purpose does the gentleman from Michigan rise?

Mr. HENRY. Mr. Speaker, I have a point of parliamentary inquiry and to respond. I had been recognized on this issue and I would like to be very clear for the Record because of the serious importance of this issue: As I understand the Chair's response we are told that your instructions were in fact to turn off the House floor microphones—whether that is appropriate or not is another question—but that was mistakenly acted upon by the internal broadcast mechanism so in fact the House floor's inadvertently remained on and the electronic microphones for internal broadcast system which the other electronic relays rely on was cut off. Am I correct in that, Mr. Speaker? I want to clarify very clearly that the Chair does not have the power to turn off——

The SPEAKER pro tempore. The gentleman is correct for coverage of proceedings of the House. It was the intent of the Chair to turn off the House microphones.

Mr. HENRY. Thank you very much, Mr. Speaker.

APPROVING LOCATION OF KOREAN WAR MEMORIAL

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate joint resolution, S.J. Res. 225.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the Senate joint resolution, S.J. Res. 225, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 404, nays 0, not voting 28, as follows:

[Roll No. 31]

YEAS—404

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Cheney

Clarke
Clement
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris

Hastert
Hatcher
Hawkins
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)

Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Murtha
Myers
Nagle
Natcher
Neal
Nichols
Nielson
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)

Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Studds
Stump
Sundquist
Sweeney
Swift
Swindall

Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren

Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—28

AuCoin
Badham
Biaggi
Boulter
Chandler
Clay
Clinger
Ford (MI)
Gephardt
Gray (IL)

Hayes (LA)
Kemp
Lewis (FL)
Lightfoot
Lipinski
Mack
Mica
Molinari
Mrazek
Murphy

Nelson
Obey
Patterson
Ray
Savage
Stokes
Stratton
Wortley

☐ 1558

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1600

POSTPONING CONSIDERATION OF VETO MESSAGE ON S. 557 CIVIL RIGHTS RESTORATION ACT OF 1987 UNTIL TUESDAY, MARCH 22, 1988

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that if the House receives from the Senate a message informing the House that that body has passed the bill, S. 557, the objections of the President to the contrary notwithstanding, that consideration of the bill and veto message be postponed until Tuesday, March 22, 1988.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. SENSENBRENNER. Reserving the right to object, Mr. Speaker, I just say this is all right with the minority.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair had postponed further proceedings.

AGRICULTURAL ACT OF 1949 AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 2151, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. PANETTA] that the House suspend the rules and pass the Senate bill, S. 2151, as amended.

The question was taken.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 360, noes 39, not voting 33, as follows:

[Roll No. 32]

AYES—360

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Clarke
Clement
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)

Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crockett
Darden
Daub
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos

Gejdenson
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier

Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Murtha
Myers
Nagle
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—39

Archer
Armey
Barton
Broomfield
Brown (CO)
Cheney
Crane
Dannemeyer
Davis (IL)
DeLay
Dickinson
Dornan (CA)
Dreier
Fawell
Fields
Gekas
Gregg
Hansen
Herger
Ireland
Kyl
Latta
Livingston
Lujan
McCandless
McCollum
McEwen
Meyers
Moorhead
Nielson
Oxley
Sensenbrenner
Shumway
Skeen
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stump
Walker

NOT VOTING—33

AuCoin
Badham
Biaggi
Bonior
Boulter
Chandler
Chappell
Clay
Clinger
Dixon
Ford (MI)
Gephardt
Gray (IL)
Kemp
Leland
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Mack
Mica
Molinari
Mrazek
Murphy
Nelson
Ray
Ridge
Savage
Saxton
Stokes
Stratton
Vucanovich
Wortley

□ 1610

Mr. RITTER changed his vote from "no" to "aye."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES BY STANDING AND SELECT COMMITTEES

Mr. GAYDOS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 388) providing amounts from the contingent fund of the House for the expenses of investigations and studies by standing and select committees of the House in the 2d session of the 100th Congress, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 388

Resolved, That there shall be paid out of the contingent fund of the House in accordance with this primary expense resolution not more than the amount specified in section 2 for investigations and studies by each committee named in such section, including expenses—

(1) in the case of a committee named in section 3, for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946; and

(2) in the case of a committee named in section 4, for provision of assistance for members of professional staff in obtaining specialized training under section 202(j) of such Act.

Sec. 2. The committees and amounts referred to in the first section are: Select Committee on Aging, $1,463,229; Committee on Agriculture, $1,639,720; Committee on Armed Services, $2,146,214; Committee on Banking, Finance and Urban Affairs, $3,307,321; Select Committee on Children, Youth, and Families, $801,463; Committee on the District of Columbia, $357,072; Committee on Education and Labor, $3,517,029; Committee on Energy and Commerce, $4,857,587; Committee on Foreign Affairs, $2,923,920; Committee on Government Operations, $2,834,542; Committee on House Administration, $1,110,000; Committee on House Administration—House Information Systems, $7,200,000; Select Committee on Hunger, $603,993; Permanent Select Committee on Intelligence, $58,000; Committee on Interior and Insular Affairs, $1,741,540; Committee on the Judiciary, $2,177,243; Committee on Merchant Marine and Fisheries, $2,008,073; Select Committee on Narcotics Abuse and Control, $637,240; Committee on Post Office and Civil Service, $1,524,575; Committee on Public Works and Transportation, $2,226,710; Committee on Rules, $655,000; Committee on Science, Space, and Technology, $2,709,953; Committee on Small Business, $930,600; Committee on Standards of Official Conduct, $400,000; Committee on Veterans' Affairs, $614,215; and Committee on Ways and Means, $3,328,000.

Sec. 3. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for consultant services under paragraph (1) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Committee on Armed Services, $40,000; Select Committee on Children, Youth, and Families, $5,000; Committee on the District of Columbia, $13,000; Committee on Education and Labor, $80,178; Committee on Energy and Commerce, $25,000; Committee on House Administration, $75,000; Committee on House Administration—House Information Systems, $400,000; Permanent Select Committee on Intelligence, $5,000; Committee on Interior and Insular Affairs, $3,000; Committee on the Judiciary, $150,000; Committee on Post Office and Civil Service, $50,000; Committee on Science, Space, and Technology, $10,000; Committee on Standards of Official Conduct, $300,000; Committee on Veterans' Affairs, $31,500; and Committee on Ways and Means, $10,000.

Sec. 4. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for specialized training under paragraph (2) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Select Committee on Aging, $3,400; Committee on Armed Services, $8,000; Committee on the District of Columbia, $2,500; Committee on Education and Labor, $10,000; Committee on Government Operations, $1,000; Committee on House Administration, $10,000; Committee on House Administration—House Information Systems, $180,000; Committee on Interior and Insular Affairs, $2,000; Committee on the Judiciary, $3,000; Committee on Post Office and Civil Service, $10,000; Committee on Rules, $1,000; Committee on Science, Space, and Technology, $6,000; Committee on Standards of Official Conduct, $3,000; and Committee on Veterans' Affairs, $2,500.

Sec. 5. In addition to the amount made available under section 2, there shall be paid out of the contingent fund of the House not more than $811,320 for investigations and studies by the Committee on the Judiciary (to be available only with respect to judicial impeachment), any of which may be used for consultant services. Notwithstanding section 202(i) of the Legislative Reorganization Act of 1946, or any other law, or any rule, regulation, or other authority, selection of consultants under this section shall be carried out by the Chairman of the Committee on the Judiciary.

Sec. 6. The Committee on House Administration—

(1) shall, through House Information Systems, develop, operate, maintain, and improve computer and information services for the House, including direct computer and information systems support for Members, committees, administrative offices, and other governmental entities, and shall conduct necessary investigations and studies of such services;

(2) is authorized to receive reimbursement for services under paragraph (1) and to expend amounts so reimbursed in accordance with policies of the committee; and

(3) is authorized to provide for professional development programs, office and personnel management consultation services, and periodic publication of handbooks, guides,

bulletins, and other items necessary for the House.

Sec. 7. Payments under this resolution shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, and approved by the Committee on House Administration.

Sec. 8. Amounts shall be available under this resolution for investigations and studies carried out during the period beginning at noon on January 3, 1988, and ending immediately before noon on January 3, 1989.

Sec. 9. Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Administration.

Mr. GAYDOS (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the resolving clause and insert:

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Resolved, That there shall be paid out of the contingent fund of the House in accordance with this primary expense resolution not more than the amount specified in section 2 for investigations and studies by each committee named in such section, including expenses—

(1) in the case of a committee named in section 3, for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946; and

(2) in the case of a committee named in section 4, for provision of assistance for members of professional staff in obtaining specialized training under section 202(j) of such Act.

Sec. 2. The committees and amounts referred to in the first section are: Select Committee on Aging, $1,388,367; Committee on Agriculture, $1,611,111; Committee on Armed Services, $1,657,528; Committee on Banking, Finance and Urban Affairs, $3,092,883; Select Committee on Children, Youth, and Families, $688,308; Committee on the District of Columbia, $298,609; Committee on Education and Labor, $3,250,922; Committee on Energy and Commerce, $4,756,248; Committee on Foreign Affairs, $2,748,528; Committee on Government Operations, $2,731,633; Committee on House Administration, $1,109,634; Committee on House Administration—House Information Systems, $7,200,000; Select Committee on Hunger, $588,995; Permanent Select Committee on Intelligence, $58,000; Committee on Interior and Insular Affairs, $1,670,958; Committee on the Judiciary, $1,923,722; Committee on Merchant Marine and Fisheries, $1,974,493; Select Committee on Narcotics Abuse and Control, $632,892; Committee on Post Office and Civil Service, $1,495,536; Committee on Public Works and Transportation, $2,152,890; Committee on Rules, $583,984; Committee on Science, Space, and Technology, $2,220,240; Committee on Small Business, $925,808; Committee on Standards of Official Conduct, $400,000; Committee on Veterans' Affairs, $560,932; and Committee on Ways and Means, $3,326,487.

Sec. 3. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for consultant services under paragraph (1) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Committee on Armed Services, $40,000; Select Committee on Children, Youth, and Families, $5,000; Committee on the District of Columbia, $13,000; Committee on Education and Labor, $80,178; Committee on Energy and Commerce, $25,000; Committee on House Administration, $75,000; Committee on House Administration—House Information Systems, $400,000; Permanent Select Committee on Intelligence, $5,000; Committee on Interior and Insular Affairs, $3,000; Committee on the Judiciary, $150,000; Committee on Post Office and Civil Service, $50,000; Committee on Science, Space, and Technology, $10,000; Committee on Standards of Official Conduct, $300,000; Committee on Veterans' Affairs, $31,500; and Committee on Ways and Means, $10,000.

Sec. 4. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for specialized training under paragraph (2) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Committee on Armed Service, $8,000; Committee on the District of Columbia, $2,500; Committee on Education and Labor, $10,000; Committee on Government Operations, $1,000; Committee on House Administration, $10,000; Committee on House Administration—House Information Systems, $180,000; Committee on Interior and Insular Affairs, $2,000; Committee on the Judiciary, $3,000; Committee on Post Office and Civil Service, $10,000; Committee on Rules, $1,000; Committee on Science, Space, and Technology, $6,000; Committee on Standards of Official Conduct, $3,000; and Committee on Veterans' Affairs, $2,500.

Sec. 5. In addition to the amount made available under section 2, there shall be paid out of the contingent fund of the House not more than $350,000 for investigations and studies by the Committee on the Judiciary (to be available only with respect to judicial impeachment), any of which may be used for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946.

Sec. 6. The Committee on House Administration—

(1) shall, through House Information Systems, develop, operate, maintain, and improve computer and information services for the House, including direct computer and information systems support for Members, committees, administrative offices, and other governmental entities, and shall conduct necessary investigations and studies of such services;

(2) is authorized to receive reimbursement for services under paragraph (1) and to expend amounts so reimbursed in accordance with policies of the committee; and

(3) is authorized to provide for professional development programs, office and personnel management consultation services, and periodic publication of handbooks, guides, bulletins, and other items necessary for the House.

Sec. 7. Payments under this resolution shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, and approved by the Committee on House Administration.

Sec. 8. Amounts shall be available under this resolution for investigations and studies carried out during the period beginning at noon on January 3, 1988, and ending immediately before noon on January 3, 1989.

Sec. 9. Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Administration.

Sec. 10. The Committee on House Administration shall have authority to make adjustments in amounts for investigations and studies under sections 2 and 5, if necessary to comply with an order of the President issued under section 252(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 or to conform to any reduction in appropriations for the purposes of such sections 2 and 5.

Mr. GAYDOS (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 1 hour.

Mr. GAYDOS. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Minnesota [Mr. FRENZEL], the ranking minority member of the Committee on House Administration, for purposes of debate only, pending which I yield myself such time as I may consume with the understanding that any additional time which I may yield will be subject to the specific limitation for debate purposes only.

Before explaining this amendment, I wish to thank all of the members of the Accounts Subcommittee for their hard work in considering each budget request from the respective committees. Attendance at each of the sessions was excellent. The product which I present to the full committee has the support of a united committee. It is not perfect, but it does reflect the best possible agreement that could be crafted in the spirit of reasonable compromise.

In particular, I wish to thank the minority members of the subcommittee, BOB BADHAM, BILL THOMAS, PAT ROBERTS, and BARBARA VUCANOVICH for their diligent and thoughtful work. BILL THOMAS and PAT ROBERTS must clearly be singled out for their attendance and discerning analyses. Their work was exceptional. Additionally, I am grateful to BILL FRENZEL for participating ex officio in the subcommittee's budget review process. He played a significant role in constructing this agreement. In my judgment, the minority members made constructive and significant contributions to the policies which guided our deliberations.

On the majority side, AL SWIFT, MARY ROSE OAKAR, TONY COELHO, BILL CLAY, SAM GEJDENSON, and JOE KOLTER are to be lauded for their effective participation on the subcommittee. Additionally, I wish to thank Chairman ANNUNZIO for his participation in the markup and his consultations during the whole budget review process. He is our distinguished leader and his wisdom is always appreciated. In particular, I wish to commend him for submitting the best budget ever for HIS. This budget was $178,998 below the 1987 authorization, and it represents a very responsible amount at a time when our total available financial resources are limited.

Furthermore, I wish to thank all the chairmen and ranking minority members from the respective committees and their staffs. Their cooperation with the Accounts Subcommittee enabled us to evaluate all the budgetary requests in a thorough and timely manner. In particular, I commend the committee chairmen this year for submitting very reasonable and responsible budgets. The majority of the committees requested increases which were below 7 percent. In fact, the total of all the requests for 1988 was $225,422 less than the total of all the requests for 1987. We are now witnessing a very responsible trend in committee budgeting.

The committee amendment in the nature of a substitute is the product of the deliberations of the Subcommittee on Accounts over each committee's budgetary request. The subcommittee's proposed amendment was subsequently adopted unanimously without change by the full Committee on House Administration. It represents a truly bipartisan agreement. The committee amendment provides a total authorization of $49,398,708 for investigations and studies by all standing and select committees of the House of Representatives with the exception of the Committees on Appropriations and the Budget for 1988. Of this total amount, $350,000 is specifically authorized for the Committee on the Judiciary to be available only for studies and investigations with respect to judicial impeachment.

This year the sum of all the budget requests from the committees was $52,584,559. The total authorization for 1987 was $48,207,433. Therefore, the total amount approved by the subcommittee for 1988 is only $1,191,275 or 2.47 percent over the total 1987 authorization. Furthermore, this approved amount is $3,185,851 less than the sum of all the amounts requested by the committees in their original resolutions for 1988. Additionally, the 1988 authorization is only 2.89 percent over the total amount authorized for 1985, the year prior to the first and only Gramm-Rudman sequestration.

In fact, the 1988 authorization is only 0.47 percent over the 2-percent COLA that most Federal employees, including congressional employees, are eligible to receive. Compared to the rate of inflation, the 1988 authorization's percentage increase of 2.47 percent is below the two leading inflation indicators for 1988. Specifically, it is 1.03 percent below the projected 1988 GNP price deflator of 3.5 percent and, also, it is 1.83 percent below the projected 1988 Consumer Price Index of 4.3 percent. Both of these inflation rates are based on OMB estimates.

Compared to 1980, the 1988 authorization represents only a 12.25 percent increase. As a result, over the 8-year period from 1981 through 1988, the average annual growth rate would be a mere 1.53 percent if the pending amendment is adopted. Additionally, over the 4-year period from 1985 through 1988, the 1988 authorization represents an average annual growth rate of 1.95 percent. Such growth rates do not appear to be excessive or unreasonable.

In making its determinations, the subcommittee did not use any set mathematical formula. Instead, it evaluated each budget proposal on its own merits. Proposed spending levels in each of the respective budget categories were examined very closely. The final product attempted to direct most of the large increases to the major legislative standing committees, such as Ways and Means, Banking, Agriculture, Energy and Commerce, and Foreign Affairs. Furthermore, a judgment was made to treat four select committees uniformly by providing them with only a 2-percent increase based on the 2-percent COLA.

Additionally, since, for the fiscal year beginning on October 1, 1988, the appropriations level has not been established, and since the possibility of sequestration does exist, the amendment provides authority for the Committee on House Administration to make adjustments in the authorized amounts if necessary to comply with an order of the President issued under section 252(a) of the Balanced Budget and Emergency Deficit Control Act of 1985, or to conform to any reduction in the applicable appropriations. Similar authority was granted to this committee through the 1986 and 1987 omnibus primary expense resolutions.

On the subject of discrimination based on gender in the determination of compensation for committee employees, I wish to indicate that the provisions of clause 9 of House rule 43 govern such determinations. Enforcement of this clause is within the jurisdiction of the Committee on Standards of Official Conduct. However, as chairman of the Subcommittee on Accounts, I have encouraged the committee chairmen and the ranking minority members to review their compensation practices on a continuing basis to assure that there is no prohibited discrimination. This encouragement was made on the record during the hearings on the individual primary expense resolutions, and in the annual budget review meetings between the staff of the Accounts Subcommittee and the staff directors of the respective committees. During the past 4 years improvements have been made. More and more women are occupying key policymaking positions at the subcommittee and full committee levels. For example, women hold the position of staff director on the Committee on Education and Labor, the Select Committee on Children, Youth and Families, and the Select Committee on Hunger. On the Committee on House Administration, the minority staff director is a woman. And a woman holds the position as general counsel to the Committee on the Judiciary. These are but a few of many examples indicating substantial progress.

Finally, I urge my colleagues to vote in favor of the committee amendment in the nature of a substitute and the resolution.

☐ 1615

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. ANNUNZIO], our full committee chairman, who has been so sensitive to our needs and so cooperative.

Mr. ANNUNZIO. Mr. Speaker, I rise in support of the amended resolution. I want to commend my distinguished colleague, the gentleman from Pennsylvania [Mr. GAYDOS], for his hard work and dedication in accomplishing this delicate and demanding task. The Subcommittee on Accounts has an excellent record of holding the line in these days of budget constraints. At the same time, every committee's primary needs have been funded.

We could all use more money, and with the additional funds, do a more thorough job. But these are constraining times, and we all have to do our part. And in that regard, I want to thank the chairmen of each standing and select committee for working within these limitations.

I also want to commend the gentleman from Minnesota [Mr. FRENZEL], who is the ranking minority member of the full committee, and the gentleman from California [Mr. BADHAM], who is the ranking minority member on the subcommittee, for their hard work, and willingness to compromise and accommodate. And I would be remiss if I didn't also compliment the committee's staff for its diligence and professionalism.

Turning for a moment to the resolution, the committee amendment represents a crucial compromise on the allocation for available funds. In this day of deficits, its a resolution we can all live with. We have held the line by an overall increase of only 2.47 percent. I repeat—2.47 percent.

I hope the day will arrive, and I hope it will be soon, when we don't have to pinch every penny. But with the continuing high Federal deficit, we have little choice. We must all do our part.

This funding resolution will provide basic resources to ensure the continuation of the essential activities of the House during the second session of the 100th Congress. Let's all be mindful of our responsibilities, and resourceful in our use of these funds, and put these constraints behind us.

I urge your support vote aye.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG].

(By unanimous consent Mr. YOUNG of Alaska was allowed to speak out of order.)

CLOSING OF THE PANAMA CANAL PIPELINE

Mr. YOUNG of Alaska. Mr. Speaker, I have been notified as the Congressman from Alaska that the Trans Alaskan Panama Canal Pipeline has been shut down as of 25 minutes ago. That means that there are approximately 500,000 barrels of oil that cannot be and will not be delivered to the east coast. It is, in fact, a protest against Noriega by the electrical workers that run the pipeline.

We have not been notified of the effect on the Panama Canal, but I would like the body to know that if this is, in fact, reality for a long period of time that there can be a shortage of crude oil that is delivered to the east coast.

Mr. FRENZEL. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Minnesota [Mr. FRENZEL] for yielding me this time.

Mr. Speaker, I want to thank the gentleman from Pennsylvania [Mr. GAYDOS], the distinguished chairman of the Subcommittee on Accounts, and the ranking minority member for bringing this measure to the floor in this manner.

I rise in strong support of the measure and particularly on behalf of the Select Committee on Narcotics Abuse and Control.

As my colleagues know, it is a very critical issue and we welcome the support we are receiving from the committee and from the entire House, and I urge my colleagues to support this measure.

Mr. FRENZEL. Mr. Speaker, I yield myself 2 minutes.

First of all, I want to endorse the statement made by the distinguished gentleman from Pennsylvania [Mr. GAYDOS], the chairman of the Subcommittee on Accounts, and the gentleman from Illinois [Mr. ANNUNZIO], the distinguished chairman of the Committee on House Administration.

Mr. Speaker, I agree with the facts as they have been presented, and I agree with the recommendation of the gentleman from Pennsylvania [Mr. GAYDOS] on the bill. The minority has worked hard with the majority on this bill, was given full rights of representation, had a chance to help in putting the bill together, and as a result, we believe that we have made a constructive contribution to the bill and that the bill is a good one.

We recommend it to all Members of the House knowing that there are some who would wish we were more frugal. I number myself among that group.

There are some who would like to have more resources to do the vital work of the House of Representatives but unfortunately we do not have enough resources to take care of that group.

Mr. Speaker, this budget resolution in the past has been a matter of contention in the House. Under the inspired leadership, however, of the gentleman from Illinois [Mr. ANNUNZIO] and the gentleman from Pennsylvania [Mr. GAYDOS] we have taken the contention at least out of the process up to this stage. We have found a way to work together.

It would be my fervent hope that sometime we could bring a resolution to the floor that would be a real freeze or a real reduction, but until that glorious day arrives, I must say this is a pretty good substitute and represents a fine piece of work by the committee.

I am going to have more to say about this bill later when other Members have had a chance to express themselves.

Mr. Speaker, I reserve the balance of my time.

□ 1630

Mr. GAYDOS. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I rise in support of House Resolution 388, which will provide funding for the committees of the House for the second session of the 100th Congress. The Committee on House Administration has scrutinized the individual committees' funding requests very carefully and has brought to the floor a prudent measure that will permit the committees to operate in an efficient and cost effective manner.

Mr. Speaker, the committees of this House play the central role in this body's discharge of its responsibility under our Constitution to legislate and oversee the activities and programs of the Federal Government. Clearly, if the House is to fulfill its proper role, our committees must have available adequate resources to do the job.

In carrying out its duty to monitor the operation of the programs that it has authorized, and when necessary changing that authority through further legislation, the Congress helps to improve the efficiency of Government operations and thereby saves the taxpayer's dollars. In this light, the funds that we are considering today for operations of the committees of the House can be considered prudent investments.

I personally can cite for you one instance in which oversight activity by the Government Operations Committee resulted in increased revenues to the Federal Government amounting to a sum greater than the figure we are requesting for the committee for the entire year. The Government Operations Committee paid for itself with that one case, and we and the other committees of the House can continue to do so if we have sufficient resources.

Mr. Speaker, House Resolution 388 represents an increase of only 2½ percent over the total amount that was authorized for 1987. It deserves the support of all the Members of this body, and I urge its adoption.

Mr. FRENZEL. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California, Mr. THOMAS, a member of the Accounts Subcommittee.

Mr. THOMAS of California. Mr. Speaker, I am glad to rise in support of House Resolution 388, our committee funding resolution for 1988. First of all, I would like to thank our accounts subcommittee chairman, Mr. GAYDOS of Pennsylvania, for all of his dedication and guidance during this process. It is not an easy process. Each committee budget request deserves careful consideration. Each committee has special needs. It is our job to ensure that those needs are met with appropriate funding amounts. However, it is also our job to determine the fat from the lean in these budget requests. The total amount requested from all committees (including standing committees, select committees, and the House Information Systems) was $52,584,559 a 9.1-percent increase over what was authorized in 1987. We managed to cut the total request by over $3 million—$3,185,851 to be exact—and bring the total amount authorized for 1988 down to $49,398,708 or a 2.47-percent increase over 1987's total authorization.

We on the minority are particularly grateful to Mr. GAYDOS for the manner in which he conducted the hearing schedule. We felt included; we felt a part of the nuts and bolts that make up this budget process. In all the years I've served on this subcommittee, I have never felt it was a particularly partisan panel but this year was the best yet. The overall process was very much a bipartisan, joint effort. Maybe there were a few committees I thought deserved a little more or a little less, and I'm sure there were members on the other side who had particular needs that differed from the final package but I think we all agree that it's the best we could do. I urge my colleagues to support House Resolution 388, the committee funding resolution for 1988.

Mr. GAYDOS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois, [Mr. ROSTENKOWSKI], the chairman of the Ways and Means Committee.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in strong support of the House committee funding resolution, House Resolution 388. This resolution provides funding for House committees during the second session of the 100th Congress. Overall, the resolution provides an increase of only 2½ percent over last year's authorization.

As chairman of the Committee on Ways and Means, I am naturally most familiar with those portions of the resolution which affect my committee. The moneys provided by this resolution will allow the Committee on Ways and Means to efficiently conduct its legislative and oversight responsibilities in the manner the House has come to expect. We have a record of fiscal restraint and continue to maintain a major committee operation on a conservation budget. This funding resolution provides a modest increase over last year's authorization for our committee.

Our budget was developed carefully and with bipartisan cooperation. It is a conservative, realistic budget that was approved by the committee without a dissenting vote.

The resolution before us today provides necessary funds for the major committees in the House, allowing us to properly conduct committee business and fufill our legislative obligations. I urge the Members to support the resolution.

Mr. Speaker, I want to express my gratitude to the members of the House Administration Committee for their patience and understanding. One knows in this austere state in which we live the tedious job that you do, and I, as a chairman, recognize that and appreciate it.

Mr. FRENZEL. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from Nevada, Mrs. VUCANOVICH, a member of the subcommittee and the committee.

Mrs. VUCANOVICH. Mr. Speaker, I rise in support of House Resolution 388 which provides funding for the expenses of investigation and studies by standing and select committees of the House in the second session of the 100th Congress.

This resolution represents a 2.47-percent increase over the 1987 authorization. This amount is approximately $3 million less than the sum of all amounts requested by the committees in their original primary expense resolutions for 1988.

Mr. Speaker, this is a modest increase and represents the very responsible action taken by the Committee on House Administration in this time of severe budget restraints. As a member of the Committee on House Administration I would like to commend Chairman ANNUNZIO, the gentleman from Pennsylvania, Mr. GAYDOS, and the gentleman from Minnesota, Mr. FRENZEL for their hard work and their bipartisan effort in arriving at a fair and reasonable committee funding bill.

As you are aware there is going to be a lot of belt tightening taking place around here in the next few months. In arriving at this modest funding increase, I believe that the members of the committee have demonstrated action that is both fair and responsible. I hope that the other Members of this House will follow the example set by the distinguished colleagues on the committee and I urge that this resolution be reported favorably today.

Mr. GAYDOS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida, Mr. FASCELL, chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Speaker, I rise in support of House Resolution 388, the committee funding resolution for 1988.

I want to express my appreciation to the members of the Subcommittee on Accounts, and in particular, to the gentleman from Pennsylvania, Mr. GAYDOS, chairman, for the outstanding job that he is doing under adverse circumstances. I also would like to take this opportunity to thank my colleague from Michigan, Mr. BROOMFIELD, the ranking minority member of the Foreign Affairs Committee, for his cooperation and support during the budget process. May I also express my gratitude to the ranking minority members Mr. FRENZEL and the subcommittee members Mr. BADHAM and Mr. THOMAS. This bipartisan effort is most welcome and appreciated by all chairmen.

I do not envy the task before the Subcommittee on Accounts. It had a limited amount of appropriated funds with which to work in order to insure that the authorization did not exceed the appropriation. It is my understanding that the situation was further complicated as it became necessary to fund the Iran-Contra Select Committee through March, and the Judiciary Committee had a special requirement for additional funds to be used with respect to judicial impeachment.

Mr. Speaker, I am, of course, disappointed that the amount authorized for the Committee on Foreign Affairs falls substantially short of our original request, as every effort was made to keep that request as low as possible in light of the heavy agenda before the committee. In particular, the committee will need to continue its extensive oversight in the area of arms control, where it has been very active in trying to integrate the many issues into a context of foreign policy and national security considerations. The war on illegal drugs, international terrorism, base rights, and other issues, continue to occupy center stage. In addition, the committee has begun an exhaustive review of the entire foreign assistance program and hopes to ascertain ways in which to make our foreign assistance program more effective.

The amounts provided for in House Resolution 388 will most certainly require belt tightening for all concerned. At the same time, I believe that under the current budgetary situation, the Committee on House Administration has delivered a funding resolution which is also fair to all concerned. I commend them once again for their endeavors.

In closing, I urge the Members of the House to support House Resolution 388, as reported from the Committee on House Administration, so that we may go forward to discharge the respective responsibilities mandated to us.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Kansas [Mr. ROBERTS], a member of the subcommittee and the full committee.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I think this effort actually reminds me of the old saying, "This is not the best possible bill, but, rather, the best bill possible under very, very difficult circumstances."

What we are really talking about here is a 2.47-percent increase in committee funding, and I think probably members of the subcommittee will tell you that this Member worked very hard for a freeze, in some cases for a reduction in funding, especially in regard to select committees, and I will live, I guess, to fight another day.

Sometimes even though you are the duty Doberman pinscher, there comes a time when you recognize the subcommittee did the very best job possible.

I want to tell all of my colleagues who actually bookshelved themselves in the fiscal conservative category or maybe library that this is the best job the subcommittee has done since I have had the privilege of serving on the House Administration Committee. I think this has been due in large part to the fair and the reasonable effort of the gentleman from Illinois [Mr. ANNUNZIO], the chairman, and the leadership and the bipartisan efforts in behalf of the gentleman from Pennsylvania [Mr. GAYDOS], chairman of the subcommittee, in working with the gentleman from Minnesota [Mr. FRENZEL], and the gentleman from California [Mr. THOMAS], and others on the subcommittee. These increases, for the most part, really reflect simply cost-of-living allowances, and that is all. That is all.

That I would say to my colleagues in face of the various lion dens of the committee chairmen and all that is done around here in regard to the budget is, indeed, a real achievement.

I recommend a yes vote on this resolution.

Mr. GAYDOS. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. KOLTER] the newest member of our subcommittee, who has been so regular in his attendance and has worked so hard. This is his first assignment on our committee, and we really needed him.

Mr. KOLTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, it has been both an honor and an education for me to participate for the first time in the annual committee budget review process conducted by the Accounts Subcommittee. Chairman GAYDOS brings a funding resolution to the floor today which represents a truly bipartisan approach to a very difficult task. The job of allocating funds to the standing and select committees of the House was particularly difficult this year because of a limited amount of resources, and a time of obvious need for fiscal austerity. On the other hand, during this atmosphere of austerity, there exist pressing demands for our committees to address the many urgent problems which are facing the country. So therein lies the problem: diminishing resources to meet those pressing demands.

The approach to this problem adopted by the Accounts Subcommittee was both rational and fair. The total aggregate increase which we are recommending is only 2.47 percent over 1987's authorized level. This is enough for the committees to cover the 2 percent-pay comparability increase signed into law by the President, but not as much as the rate of inflation which is estimated to be 3.5 percent for calendar year 1988—OMB's figure. The major standing committees who demonstrated pressing needs were funded at slightly higher levels, but in no instance did a committee receive more than a 5 percent-increase over 1987's authorization.

Clearly, the facts indicate that the era of soaring committee budgets is over. For example, as compared to 1980, the recommendation before you today represents an increase of less than 2 percent per year in 8 years. This minimal amount of growth is all our committees have had to cope with the mind-boggling problems which we face. Such problems include the huge foreign and domestic deficits, the deterioration of our national infrastructure, the demise of the family farms, the reduction of our manufacturing base, and the increasingly complex arena of foreign affairs.

Our committees must have the resources available to adequately address these problems. At the same time, we must all live with the fact that such resources are dwindling and will continue to do so as we struggle to balance the budget.

This, then, is the difficult task which was so ably met by Chairman GAYDOS and the Accounts Subcommittee. The amount of funds proposed to be authorized were not as high as some would have liked, and not low enough for others. But, the subcommittee structured a viable compromise in the best spirit of bipartisanship. I urge my colleagues to support the hard work and sound recommendations of the Accounts Subcommittee.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I guess one could say this is a reasonably responsible bill. It certainly is a reasonably responsible bill if we start with the premise that everything we are doing is absolutely necessary. I think that there probably would be about 2 in 100 Americans who would agree that everything we do around here is absolutely necessary and it needs a 2.47-percent boost.

I guess it is a reasonably responsible bill if we agree that there is absolutely no place we can cut around here. I would guess that there are about 2 in 100 Americans who would admit that there is absolutely no place in the Congress that we can cut.

I think it is a reasonably responsible bill if we start with the premise that there are not places around here where we are overstaffed and overfunded.

□ 1645

And again I imagine there are about 2 in 100 Americans who think there are not instances of overstaffing and overfunding in the U.S. Congress.

It is a reasonably responsible bill as well if you do not think that there are some of our special committees that were created for temporary purposes and have achieved a degree of permanence unknown in the history of man.

Some of us think that maybe we ought to take a look at those and could eliminate some of those and therefore reduce spending.

But that is not my chief point here today because I think the committee has tried their best, has done some hard work. That is not my chief point.

My chief point is this today: I am disappointed that we bring the bill to the floor under a process that does not allow for any amendments. I say that because we have a reasonably serious situation developing around here where Congress time and time again exempts itself from the laws that we pass that cover others. And when we try to correct that problem we find that the rules of the House are used to allow us to stay above the law. For example when we try to correct that problem in the bills that come before us, when we try to offer amendments to the bills that come before us that would include the Congress, we are told that those bills are not germane, that those amendments are not germane because they deal with matters that are properly under the jurisdiction of the Committee on House Administration.

However, when the Committee on House Administration brings a bill to the floor that we might properly amend to say that Congress ought to be covered by the laws of the land, then it is brought out under a process that does not allow for any amendments.

So therefore we have no chance to get at it then.

When the appropriations bills come to the floor we are told that is legislation in an appropriations bill and so therefore you cannot cover it there.

So this process is one which ends up allowing the Congress to continually keep itself above the law and not obey the laws that we require other people in the country to obey.

I would suggest that maybe it would be a good idea one of these days for one of these bills to be brought to the floor in a way that it could be amended, where we could deal with some of these issues. I think the American people are becoming increasingly disturbed by a Congress that takes the position that we are so arrogant, we are so privileged, we are so high-handed that none of the laws of the land that cover other people that we pass around here ought to apply to us.

And I would hope that at some point that we would have the kind of process that would permit us to come to the floor and offer amendments that would say that which we require of others we should require of ourselves.

I am disappointed we did not have a chance on this bill today. I would hope we would have the chance in the future.

I thank the gentleman for yielding.

Mr. FRENZEL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, earlier in this discussion I expressed my approval of the bill and the process that created it and urged all Members to vote for it. Notwithstanding, I cannot help but agree with the previous speaker, the distinguished gentleman from Pennsylvania, that there are places where we could cut and I do not think anybody who has ever observed the Congress could be put in a position of disagreeing with that.

However, the 2.47-percent increase, had it been applied to the overall budget of the United States for the fiscal year that we are now in, would have resulted in a saving of $35 billion.

So I think it is fair to say at least in this one instance we are being sterner on ourselves and our work than we have been on the Republic at large. So perhaps that is at least some consolation at this time.

As the distinguished subcommittee chairman has already indicated, our committee authorizations are about at the point they were in 1985, which is not all our doing. Some of it is the self-inflicted wounds of Gramm-Rudman.

Nevertheless there are not a lot of spending areas that are still at the 1985 level.

Mr. Speaker, we have talked about the good side of the bill; now I want to talk about some of the things that are usually not mentioned and are not quite as pleasant to talk about.

The bill that we bring before the House today calls for spending of about $50 million for committee investigative expenses. What is less well known—well, it calls for less than that, $46 million really.

What is less well known is that there are a number of exemptions from the expenses authorized by the House Committee on House Administration.

The first is the statutory expenses of every statutory committee which is allowed 30 employees, and those statutory staff expenses amount to just about what we are bringing before you today.

So you can double the amount of money that we are authorizing today and say that is the additional salary moneys required.

In addition there are two committees that are exempt from the purview of the Committee on House Administration, both of them, oddly enough, among the largest spenders of the congressional committees.

The Committee on Appropriations receives $13 million in 1987 for its staff work. The Committee on the Budget receives $5.8 million.

Those are the top-spending and the third-spending committees of the House when one considers all ranges of expenditures.

In addition there are certain printing expenses which are not assessed to the committees. Those amount to, over a year's time, or last year, to about a half-million dollars.

Committees' foreign travel is also not included, although domestic travel is. There are also stenographic reporting expenses that are not always reported because they are taken in other ways.

My combined total which I will enter into the Record for these investigative expenses, the statutory salaries, the expenses of Appropriations and Budget Committee staffs and expenditures out of the contingency fund come to about $96 million. That is a lot of money and we want to be careful how we spend it. It is important that we know how we spend it.

At this point, Mr. Speaker, I would like to insert a table in the Record showing these full expenses of all the committees from 1984 through the authorized level in 1988.

The document referred to is as follows:

FUNDING FOR COMMITTEE INVESTIGATIVE STAFF

Committee	1987 authorized	1988 request	1988 recommended after markup	Recommended dollar increase	Recommended percent increase	Amount request cut
Aging	$1,361,144	$1,463,229	$1,388,367	$27,223	2	$74,862
Agriculture	1,549,145	1,639,720	1,611,111	61,966	4	28,609
Armed Services	1,609,250	2,146,214	1,657,528	48,278	3	488,687
Banking and Finance	2,976,788	3,307,321	3,092,883	116,095	3.90	214,438
Children	674,812	801,463	688,308	13,496	2	113,155
District of Columbia	291,326	357,072	298,609	7,283	2.50	58,463
Education and Labor	3,125,887	3,517,029	3,250,922	125,035	4	266,107
Energy and Commerce	4,577,717	4,857,587	4,756,248	178,531	3.90	101,339
Foreign Affairs	2,655,583	2,923,920	2,748,528	92,945	3.50	175,392
Government Operations	2,653,359	2,834,542	2,731,633	78,274	2.95	102,909
House Administration	1,062,359	1,110,000	1,109,634	47,275	4.45	366
Hunger	577,446	603,993	588,995	11,549	2	14,998
Intelligence	58,000	58,000	58,000	0	0	0
Interior and Insular Affairs	1,630,203	1,741,540	1,670,958	40,755	2.50	70,582
Judiciary (Less impeachment)	1,877,727	2,177,243	1,923,722	45,995	2.45	253,521
Merchant Marine	1,927,270	2,008,073	1,974,493	47,223	2.45	33,580
Narcotics	620,482	637,240	632,892	12,410	2	4,348
Post Office	1,451,977	1,524,575	1,495,536	43,559	3	29,039
Public Works	2,090,184	2,226,710	2,152,890	62,706	3	73,820
Rules	569,740	655,000	583,984	14,244	2.50	71,017
Science and Technology	2,163,977	2,709,953	2,220,240	56,263	2.60	489,713
Small Business	907,655	930,600	925,808	18,153	2	4,792
Standards of Official Conduct	400,000	400,000	400,000	0	0	0
Veteran's Affairs	548,321	614,215	560,932	12,611	2.30	53,283
Ways and Means	3,168,083	3,328,000	3,326,487	158,404	5	1,513
Judiciary Impeachment	300,000	811,320	350,000	50,000	16.67	461,320
Subtotal (less HIS)	40,828,435	45,384,559	42,198,708	1,370,273	3.36	3,185,851
House Information Systems	7,378,998	7,200,000	7,200,000	(178,998)	−2.43	0
Total	48,207,433	52,584,559	49,398,708	1,191,275	2.47	3,185,851

1988 RANKING BY PERCENT INCREASE

Committee	1987 authorized	1988 request	1988 recommended after markup	Recommended dollar increase	Recommended percent increase
1 Ways and Means	$3,168,083	$3,328,000	$3,326,487	$158,404	5
2 House Administration	1,062,359	1,110,000	1,109,634	47,275	4.45
3 Education and Labor	3,125,887	3,517,029	3,250,922	125,035	4
4 Agriculture	1,549,145	1,639,720	1,611,111	61,966	4
5 Energy and Commerce	4,577,717	4,857,587	4,756,248	178,531	3.90
6 Banking and Finance	2,976,788	3,307,321	3,092,883	116,095	3.90
7 Foreign Affairs	2,655,583	2,923,920	2,748,528	92,945	3.50
8 Public Works	2,090,184	2,226,710	2,152,890	62,706	3
9 Armed Services	1,609,250	2,146,214	1,657,528	48,278	3
10 Post Office	1,451,977	1,524,575	1,495,536	43,559	3

1988 RANKING BY PERCENT INCREASE—Continued

	Committee	1987 authorized	1988 request	1988 recommended after markup	Recommended dollar increase	Recommended percent increase
11	Government Operations	2,653,359	2,834,542	2,731,633	78,274	2.95
12	Science and Technology	2,163,977	2,709,953	2,220,240	56,263	2.60
13	Interior and Insular Affairs	1,630,203	1,741,540	1,670,958	40,755	2.50
14	Rules	569,740	655,000	583,984	14,244	2.50
15	District of Columbia	291,326	357,072	298,609	7,283	2.50
16	Merchant Marine	1,927,270	2,008,073	1,974,493	47,223	2.45
17	Judiciary (Less impeachment)	1,877,727	2,177,243	1,923,722	45,995	2.45
18	Veteran's Affairs	548,321	614,215	560,932	12,611	2.30
19	Aging	1,361,144	1,463,229	1,388,367	27,223	2
20	Small Business	907,655	930,600	925,808	18,153	2
21	Children	674,812	801,463	688,308	13,496	2
22	Narcotics	620,482	637,240	632,892	12,410	2
23	Hunger	577,446	603,993	588,995	11,549	2
24	Standards of Official Conduct	400,000	400,000	400,000	0	0
25	Intelligence	58,000	58,000	58,000	0	0

1988 RANKING BY DOLLAR INCREASE

	Committee	1987 authorized	1988 request	1988 recommended after markup	Recommended dollar increase	Recommended percent increase
1	Energy and Commerce	$4,577,717	$4,857,587	$4,756,248	$178,531	3.90
2	Ways and Means	3,168,083	3,328,000	3,326,487	158,404	5
3	Education and Labor	3,125,887	3,517,029	3,250,922	125,035	4
4	Banking and Finance	2,976,788	3,307,321	3,092,883	116,095	3.90
5	Foreign Affairs	2,655,583	2,923,920	2,748,528	92,945	3.50
6	Government Operations	2,653,359	2,834,542	2,731,633	78,274	2.95
7	Public Works	2,090,184	2,226,710	2,152,890	62,706	3
8	Agriculture	1,549,145	1,639,720	1,611,111	61,966	4
9	Science and Technology	2,163,977	2,709,953	2,220,240	56,263	2.60
10	Armed Services	1,609,250	2,146,214	1,657,528	48,278	3
11	House Administration	1,062,359	1,110,000	1,109,634	47,275	4.45
12	Merchant Marine	1,927,270	2,008,073	1,974,493	47,223	2.45
13	Judiciary (Less impeachment)	1,877,727	2,177,243	1,923,722	45,995	2.45
14	Post Office	1,451,977	1,524,575	1,495,536	43,559	3
15	Interior and Insular Affairs	1,630,203	1,741,540	1,670,958	40,755	2.50
16	Aging	1,361,144	1,463,229	1,388,367	27,223	2
17	Small Business	907,655	930,600	925,808	18,153	2
18	Rules	569,740	655,000	583,984	14,244	2.50
19	Children	674,812	801,463	688,308	13,496	2
20	Veteran's Affairs	548,321	614,215	560,932	12,611	2.30
21	Narcotics	620,482	637,240	632,892	12,410	2
22	Hunger	577,446	603,993	588,995	11,549	2
23	District of Columbia	291,326	357,072	298,609	7,283	2.50
24	Intelligence	58,000	58,000	58,000	0	0
25	Standards of Official Conduct	400,000	400,000	400,000	0	0

Total number of subcommittees

Committee	*Number*
Agriculture	8
Appropriations	13
Armed Services	7
Banking	8
Budget	0
District of Columbia	3
Education and Labor	8
Energy and Commerce	6
Foreign Affairs	8
Government Operations	7
House Administration	5
Interior	6
Judiciary	7
Merchant Marine and Fisheries	6
Post Office and Civil Service	7
Public Works and Transportation	6
Rules	2
Science, Space, and Technology	7
Small Business	6
Standards	0
Veterans'	5
Ways and Means	6
Aging	4
Children, Youth, and Families	0
Hunger	0
Intelligence	3
Narcotics	0
Total	138

I would like to proceed by talking about some of the difficulties that we have.

Under the so-called 5(d) rule subcommittee chairmen and ranking members are allowed certain staff resources which have been very difficult for us to provide under the discipline of Gramm-Rudman, and of increasing fiscal restraint. We have not completed the process of providing all of this personnel but the gentleman from Pennsylvania and I and the gentleman from California and the gentleman from Illinois are pledged to do all we can to see that we abide by the rules.

But I must say, Mr. Speaker, that this is a terrible rule.

We have created, by my last count, 138 subcommittees of this House not counting panels, task forces, centers and policy groups, all, each of which is allowed special staff resources under our rules.

At this point I would like to submit a statement for the record, a list showing the number of subcommittees by committees and ask unanimous consent to do so.

The document referred to is as follows:

TOTAL COMMITTEE COSTS FOR CALENDAR YEAR 1984

Committee	Committee expenses	Statutory staff salaries	Contingent fund expenses [2]	Total by committee
Aging	$1,315,932	(2)	0	$1,315,932
Agriculture	1,371,209	$1,393,736	$14,636	2,778,718
Armed Services	1,106,220	1,235,757	12,145	2,354,122
Banking	2,531,762	1,131,601	7,939	3,689,136
Children, Youth and Families	637,982	(3)	0	637,982
District of Columbia	280,153	1,333,457	6,247	1,619,857
Education and Labor	2,710,029	1,491,319	16,552	4,217,900
Energy and Commerce	4,461,023	1,607,861	120,997	6,203,935
Foreign Affairs	2,241,840	1,605,529	20,348	3,867,885
Government Operations	2,507,498	1,041,335	10,691	3,559,524
House Administration	889,100	1,217,368	7,620	2,108,690
Intelligence	57,693	881,745	0	943,000
Interior	1,363,233	1,614,802	14,712	2,985,588
Judiciary	1,705,642	1,542,161	38,886	3,286,689
Merchant Marine and Fisheries	1,745,373	1,346,849	30,890	3,236,528
Narcotics Abuse and Control	620,195	(3)	0	620,195
Post Office and Civil Service	1,392,996	1,492,714	13,224	2,898,934
Public Works and Transportation	1,880,615	1,650,250	11,935	3,542,800
Rules	505,551	1,285,428	3,003	1,793,982
Science and Technology	2,022,688	1,445,388	9,686	3,477,762
Small Business	878,984	1,166,723	14,992	2,060,699
Standards	64,961	384,516	159	449,636
Veterans' Affairs	440,153	827,959	7,513	1,275,625
Ways and Means	2,382,490	1,680,568	29,262	4,093,969
Hunger	347,847	(3)	0	347,847
Subtotal	35,461,168	27,377,064	391,437	63,366,935
Appropriations	3,305,294	6,829,058	17,267	10,278,716
Budget	276,208	4,193,077	26,933	4,487,294
H.I.S.	7,809,983	0	0	7,809,983
Total	46,852,653	38,399,199	435,637	85,687,489

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[1] Includes costs such as equipment, domestic travel, investigative staff salaries.

[2] According to the regulations of the Committee on House Administration, only standing committees may charge expenditures for "legislative functions" to the contingent fund; however, this has been interpreted to include Aging and Intelligence. Education and Labor, Judiciary, and Merchant Marine telephone costs are through September 1984; Energy and Commerce telephone costs are through October 1984; Science and Technology and Small Business telephone costs are through November 1984.

[3] Not authorized statutory staff. The Permanent Select Committee on Intelligence was authorized statutory staff allotments on February 25, 1983 (H. Res. 58), thereby deleting salary costs from its committee funding request.

TOTAL COMMITTEE COSTS FOR CALENDAR YEAR 1985

Committee	Committee expenses [1]	Statutory staff salaries	Contingent fund expenses	Total by committee
Aging	$1,395,059	(2)	0	$1,395,059
Agriculture	1,326,918	$1,502,610	$22,408	2,851,936
Armed Services	1,324,888	1,452,261	27,242	2,804,391
Banking	2,556,128	1,178,599	11,037	3,745,764
Children, Youth and Families	671,738	(2)	0	671,738
District of Columbia	278,131	1,480,565	5,975	1,764,671
Education and Labor	2,875,899	1,596,822	25,314	4,498,035
Energy and Commerce	4,526,040	1,757,121	113,953	6,397,114
Foreign Affairs	2,573,231	1,800,053	20,516	4,393,800
Government Operations	2,582,230	1,142,993	9,667	3,734,890
House Administration	794,993	1,223,067	16,704	2,038,764
Intelligence	50,265	1,005,594	0	1,055,859
Interior	1,577,225	1,730,317	20,774	3,328,316
Judiciary	1,783,342	1,634,345	39,423	3,457,110
Merchant Marine and Fisheries	1,816,312	1,403,681	40,205	3,260,198
Narcotics Abuse and Control	599,996	(2)	0	599,996
Post Office and Civil Service	1,299,377	1,553,302	14,371	2,867,050
Public Works and Transportation	1,899,802	1,687,825	13,292	3,600,919
Rules	529,321	1,381,886	7,572	1,918,779
Science and Technology	2,139,099	1,546,345	26,608	3,712,052
Small Business	859,018	1,254,008	15,128	2,128,154
Standards	25,717	378,719	0	404,436
Veterans' Affairs	461,958	933,028	8,907	1,403,893
Ways and Means	2,836,402	1,752,092	39,525	4,628,019
Hunger	573,422	(3)	0	573,422
Subtotal	37,360,511	29,395,233	478,621	67,234,365
Appropriations	4,308,108	8,018,520	24,631	12,351,259
Budget	302,470	4,704,755	32,362	5,039,587
H.I.S.	7,895,511	0	0	7,895,511
Total	49,866,600	42,118,508	535,614	92,520,722

[1] Includes costs such as equipment, domestic travel, investigative staff salaries. For appropriations and budget, only investigative staff salaries are included; no other committee costs are included. Figures as of Jan. 31, 1986. Late bills pending.

[2] Not authorized statutory staff. The Permanent Select Committee on Intelligence was authorized statutory staff allotments on Feb. 25, 1983 (H. Res. 58), thereby deleting salary costs from its committee funding request.

[3] According to the regulations of the Committee on House Administration, only standing committees may charge expenditures for legislative functions to the contingent fund; however, this has been interpreted to include Aging and Intelligence.

TOTAL COMMITTEE COSTS FOR CALENDAR YEAR 1986

Committee	Committee expenses [1]	Statutory staff salaries	Contingent fund	Total
Agriculture	$1,315,097	$1,508,400	$16,845	$2,840,342
Armed Services	1,324,838	1,508,113	19,711	2,852,662
Banking	2,457,777	1,185,237	9,088	3,652,102
District of Columbia	261,852	1,475,079	5,875	1,742,806
Education and Labor	2,788,340	1,567,528	20,509	4,376,377
Energy	4,196,221	1,599,994	95,711	5,891,926
Foreign Affairs	2,328,882	1,816,381	19,965	4,165,228
Government Operations	2,408,198	1,155,993	13,737	3,577,928
House Administration	877,301	1,153,663	8,270	2,039,234
Interior	1,452,360	1,751,608	21,840	3,225,808
Judiciary	1,619,320	1,623,724	38,472	3,281,516
Merchant Marine	1,732,503	1,159,418	20,495	2,912,416
Post Office	1,324,167	1,575,055	11,678	2,910,900
Public Works	1,757,454	1,646,491	15,201	3,419,146
Rules	490,371	1,372,216	2,403	1,864,990
Science and Technology	1,946,828	1,554,594	16,848	3,518,270
Small Business	796,900	1,265,278	6,104	2,068,382
Standards	347,329	296,587	0	743,916
Veterans' Affairs	455,676	867,037	5,933	1,328,646
Ways and Means	2,663,990	1,642,533	41,707	4,348,230
Appropriations	3,793,831	8,159,473	27,831	11,981,135
Budget	260,325	4,971,666	50,348	5,282,339
Selects:				
Aging	1,280,130	(2)		1,280,130
Children	642,774	(2)		642,774
Hunger	538,709	(2)		538,709
Intelligence	54,135	971,502		1,025,637
Narcotics	590,796	(2)		590,796
Subtotal	39,706,104	41,927,670	468,571	82,102,345
H.I.S.	7,349,009		[3] (989,289)	7,349,009
Total	47,055,113	41,927,670	1,457,860	89,451,354

[1] As reported in each committee's funding request. Includes such costs as investigative staff salaries, domestic travel, equipment.

[2] Not authorized statutory staff.

[3] Not a contingent fund expense. This is the total amount H.I.S. would have billed committees were computer costs charged to committees.

TOTAL COMMITTEE COSTS FOR CALENDAR YEAR 1987

Committee	Committee expenses [1]	Statutory staff salaries	Contingent fund [2]	Total
Agriculture	$1,505,638	$1,519,270	$22,790	$3,047,698
Armed Services	1,604,188	1,532,864	31,873	3,168,925
Banking	2,685,836	1,240,745	6,777	3,933,358
District of Columbia	289,118	1,623,919	8,601	1,921,638
Education and Labor	3,071,849	1,589,596	20,104	4,681,549
Energy	4,508,342	1,833,534	93,167	6,435,043
Foreign Affairs	2,646,281	1,960,427	27,705	4,634,413
Government Operations	2,480,028	1,176,438	9,698	3,666,164
House Administration	930,201	1,334,591	8,125	2,272,917
Interior	1,596,036	1,765,933	25,947	3,387,916
Judiciary	1,682,444	1,714,359	34,271	3,431,074
Merchant Marine	1,775,328	1,452,152	29,086	3,256,566
Post Office	1,430,261	1,661,499	17,917	3,109,677
Public Works	1,945,938	1,723,768	14,499	3,684,205
Rules	567,125	1,464,820	6,156	2,038,101
Science and Technology	2,160,288	1,667,840	27,029	3,855,157
Small Business	906,009	1,395,454	9,010	2,310,473
Standards	112,625	463,773	0	576,398
Veterans' Affairs	500,764	1,084,200	8,315	1,593,279
Ways and Means	2,997,500	1,831,561	40,021	4,869,082

TOTAL COMMITTEE COSTS FOR CALENDAR YEAR 1987—Continued

Committee	Committee expenses [1]	Statutory staff salaries	Contingent fund [2]	Total
Appropriations [3]	4,300,000	8,779,039	25,268	13,104,307
Budget [3]	329,000	5,450,173	54,840	5,834,013
Selects:				
Aging	1,289,082	(4)		1,289,082
Children	605,658	(4)		605,658
Hunger	533,124	(4)		533,124
Intelligence	44,062	1,053,126		1,097,188
Narcotics	566,149	(4)		566,149
Subtotal	43,062,874	45,319,081	521,199	88,903,154
H.I.S.	7,365,672		[5](1,009,316)	7,365,672
Total	50,428,546	45,319,081	1,530,515	96,268,826

[1] As reported in each committee's funding request. Includes such costs as investigative staff salaries, domestic travel, equipment.

[2] Includes stationery and telephone costs not charged to committee budgets.

[3] Source for committee expenses: Legislative branch appropriations.

[4] Not authorized statutory staff.

[5] Not a contingent fund expense. This is the total amount H.I.S. would have billed committees were computer costs charged to committees.

Mr. Speaker, until we get control over rule 5(d) we will not, in fact, be able to execute the kind of discipline that I think the people of the United States request and the Congress would like to have.

Mr. Speaker, I do want to talk for a moment about minority ratios.

The minority has chafed under what it considers to be inadequate staffing for a number of years. We finally decided that we could live with the amount of staff that we had if only the majority could get down to some kind of a 3:1 ratio.

In statutory staff, that is half of our budgets, the ratio is indeed 1:2, that is, 33 percent for the minority, 67 percent for the majority.

When we get to investigative, the staff ratios are not nearly so good. Sometimes that is a matter of choice between the vice chairman and the chairman of the committee, sometimes it is a matter of the minority taking a licking, and sometimes it is a matter of the majority being overstaffed.

However that may be, I do not have staff ratios to introduce into the RECORD today. I will do so at a future time. They are often not a pretty case.

To get back to the positive side finally and in summation I want to say that all the problems that I have listed have been considered and attacked diligently by the committee.

The gentleman from Kansas [Mr. ROBERTS] indicates as far as he is concerned this is the best committee budget resolution that he has taken part in in the time that he has been in Congress. I would like to say the same thing.

Without being oversyrupy I would like to commend the gentleman from Illinois [Mr. ANNUNZIO] who was chairman of the Subcommittee on Accounts at the time the fiscal squeeze began and who was the first to begin the discipline and the bipartisanship on that committee.

His work has been, I think, very effectively followed by the gentleman from Pennsylvania who has tried to carry out the same discipline and yet give sensitive attention to the needs of the various committee chairmen and vice chairman who have to have the proper resources to do their job.

Again it would please me if there were reductions or a freeze. It nevertheless pleases me greatly that the committee has produced this resolution.

Mr. Speaker, I urge an affirmative vote by every Member of the House.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I rise in support of House Resolution 388, the Committee Funding Resolution that would authorize $49.4 million for the 25 House standing and select committees and the House Information System for the second session of the 100th Congress. This authorization represents an increase of 2.5 percent over last year's funding resolution. With respect to the House Select Committee on Narcotics Abuse and Control, on which I serve as ranking minority member, House Resolution 388 would authorize $632,900 or a modest 2 percent increase over the 1987 authorization.

Drug trafficking and drug abuse have reached epidemic proportions not only in the United States but throughout the world. Illicit drugs of all types are more readily available, at a lesser price, than ever before in our history. Opium production is on the increase in Asian producer nations, and the cultivation of coca, and its processing into cocaine and crack continues to rise at an alarming rate in Latin America.

In many nations, heroin and cocaine have become the currency for international trade and commerce. Cocaine billionaires have literally paralyzed governmental institutions, including their judiciary. In remote areas beyond the effective control of Colombia, Peru, Bolivia, Thailand, Burma, and Pakistan, these notorious drug traffickers have literally become a state within a state by providing goods and services to the local citizens that normally would be provided by the central government.

And now, Mr. Speaker, we are seeing the corrosive tentacles of the drug traffickers allegedly reaching into the highest levels of government in Panama, Honduras, Haiti, and the Bahamas. Societies are reeling under this onslaught of corruptive influence where heroin and cocaine have become the underground economy for many nations and the largest product for export.

Ironically drug producing nations have become drug consuming nations and drug consuming nations have become drug producing nations.

Against this background, our House Narcotics Select Committee attempts to oversee this global problem with a very small staff and very modest budget.

Last year, our Narcotics Select Committee, which is the only committee in the Congress that is mandated to oversee the entire drug trafficking and drug abuse problem, held oversight hearings on the implementation of the recently enacted Anti-Drug Abuse Act of 1986, which for the first time in its history authorized a comprehensive $3 billion, 3-year antidrug trafficking and drug abuse measure this legislation provided a five-pronged attack to provide funds for drug eradication, interdiction, enforcement, education, prevention, treatment, and rehabilitation programs. Our select committee continues to monitor the implementation of that act and to prod the administration to formulate a comprehensive, coordinated drug strategy.

During the first session of this Congress, we have held 15 hearings and have issued—or about to issue—20 drug-related reports, including oversight hearings on the implementation of the Anti-Drug Abuse Act, Colombian drug trafficking and control, narcotics control in Mexico drug abuse prevention in America's schools, pediatric aids, sports and drug abuse prevention, and cocaine babies.

Mr. Speaker, given the herculean nature of the drug problem and our mission to oversee the complexity of these problems House Resolution 388, is a bare minimum funding authorization for our Narcotics Select Committee. Accordingly, I urge my colleagues to support this measure.

Mr. DE LA GARZA. Mr. Speaker, I rise today in support of House Resolution 388 which provides funding for the standing and select committees of the House, including the Committee on Agriculture.

I believe that the funding authorization developed by the Subcommittee on Accounts and by the Committee on House Administration is prudent and conservative, based on the increasing responsibilities which fall upon all of us.

During the coming year, the House Agriculture Committee will have a busy legislative schedule as it deals with the continuing problems of providing adequate funding for human nutrition needs, increasing our vigilance in protection of the environment, in protecting farmer income in order to maintain the fabric of family-based agriculture, and in assisting those farmers who can no longer maintain their family farms to make an orderly and productive transition to other work. In addition, the committee will have greater oversight responsibilities as the 1985 farm bill—the Food Security Act of 1985—begins to make its maximum impact on the exporting of American agricultural products around the world.

In that regard, agricultural exports have been the brightest spot in what has been an otherwise fairly dismal export picture. We want agriculture to play an even more important role in the years ahead in solving our balance-of-payment problems. Our members play an active and important role in the one-on-one discussions with foreign agricultural leaders who are so important to this process. I, as chairman of the committee, have visited Japan, one of our most important purchasers of agricultural products in the last year, and have met with considerable numbers of Japanese groups and individuals of great important to our agricultural trade with that country.

Mr. Speaker, these and other efforts in support of our agricultural exports to Japan, the Soviet Union, and most of the developed world must be carried out in the most prudent and cost-effective way—but they are essential if we are to go forward and play our rightful role in the policymaking efforts of this body.

Our efforts in the area of agricultural trade take on even greater important as we approach the all-important Uruguay round of GATT negotiations.

In the past, the Committee on House Administration has cited the Committee on Agriculture for its record of fiscal management and for our equitable distribution of available resources between the majority and minority. I am proud to report to you today that the staff of the Committee on Agriculture, in spite of our increased responsibilities and needs, is smaller than in previous years. Also, the committee was able to manage its affairs in such a way as to utilize less than our budget allocation for last year.

Mr. Speaker, I am proud of our past record and I want to assure you that we expect to continue to administer the work of the Committee on Agriculture in such a way as to reflect favorably upon every member of the committee and this body.

The funding measure which you have before you today, House Resolution 388, is one that is, I believe, prudent and reasonable and which should have the support of all Members of this body.

Mr. GAYDOS. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. [Mr. MURTHA.] Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agree to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 302, nays 104, not voting 26, as follows:

[Roll No. 33]

YEAS—302

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
Ballenger
Barnard
Bateman
Bates
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clement
Coats
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dickinson
Dicks
Dingell
Donnelly
Dorgan (ND)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Emerson
English
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Frenzel
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Grant
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McEwen
McGrath
McHugh
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Murtha
Myers
Nagle
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Parris
Patterson
Pease
Pelosi
Pepper
Perkins
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Quillen
Rahall
Rangel
Ravenel
Richardson
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Shaw
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Studds
Sundquist
Sweeney
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weiss
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—104

Archer
Armey
Baker
Bartlett
Barton
Bereuter
Bliley
Brown (CO)
Buechner
Bunning
Burton
Callahan
Cheney
Coble
Coleman (MO)
Combest
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
DioGuardi
Dreier
Early
Edwards (OK)
Erdreich
Fawell
Fields
Gallegly
Gekas
Goodling
Gradison
Grandy
Gregg
Hansen
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hunter
Ireland
Jacobs
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Leath (TX)
Lewis (CA)
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Marlenee
Martin (IL)
McCandless
McCollum
McMillan (NC)
Miller (OH)
Miller (WA)
Moorhead
Nielson
Olin
Oxley
Pashayan
Penny
Petri
Pursell
Regula
Rhodes
Ridge
Ritter
Roth
Rowland (CT)
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shays
Shumway
Slaughter (VA)
Smith (NE)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stump
Swindall
Tauke
Walker
Weber
Weldon

NOT VOTING—26

AuCoin
Badham
Biaggi
Boulter
Clay
Clinger
Dixon
Dornan (CA)
Ford (MI)
Gephardt
Gray (IL)
Kemp
Lewis (FL)
Lightfoot
Lipinski
Mack
Mica
Molinari
Mrazek
Murphy
Nelson
Ray
Rose
Savage
Stratton
Wortley

□ 1717

The Clerk announced the following pair:

On this vote:

Mr. Rose for, with Mr. Boulter against.

Mr. HOUGHTON changed his vote from "yea" to "nay."

So the resolution as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 388, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2707, DISASTER RELIEF AND EMERGENCY ASSISTANCE AMENDMENTS OF 1987

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-518) on the resolution (H. Res. 403) providing for consideration of the bill (H.R. 2707) to amend the Disaster Relief Act of 1974 to provide for more effective assistance in response to major disasters and emergencies, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now recognize Members for 1-minute speeches.

THE RESULT OF "GIVING PEACE A CHANCE"

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, a few weeks ago those of us who favored giving limited military aid to the freedom fighters in Nicaragua were told to "give peace a chance." We were told that such aid would destroy the Arias peace plan.

Now we know the result of giving peace a chance and then giving the Communists a chance to launch a brutal military offensive against the democratic resistance.

The Arias peace plan has been violated in its most basic provisions. The Nicaraguan Communists have invaded their neighbor, Honduras. This is peace? Those who voted to unilaterally withdraw military aid from the freedom fighters have not given us peace. The liberal Democrats have given us Communist killing fields in Central America. Just as their abandonment of Southeast Asia resulted in the Communist killing fields there, their policy toward Central America has produced a tragedy and a security threat to this country.

Earlier today the majority whip indicated that Republicans were responsible for this debacle. Well, is it not interesting, Mr. Speaker, that only a few days before the Communists launched this offensive, the Speaker of this House, the gentleman from Texas, sent a telegram to the democratic resistance which they interpreted as asking them to surrender.

What was the politics behind that telegram. I say to the gentleman from California [Mr. COELHO]? Was it not the politics of the killing fields?

CONGRESSWOMAN MORELLA SALUTES UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. MORELLA. Mr. Speaker, located in Bethesda, MD is a unique and valuable national resource—the Uniformed Services University of the Health Sciences [USUHS]. The university serves as the Nation's military medical school, training physicians for the Army, Navy, Air Force, and the Public Health Service. Since its creation by Public Law 92-426 in 1972, USUHS has provided a cadre of career physicians to serve the uniformed services. More than 900 university graduates are stationed throughout the world wherever military members need quality medical care. USUHS also offers quality graduate and continuing education programs.

The 644 young men and women of the USUHS student body, representing all 50 States and Puerto Rico, have made a commitment to serve their country as uniformed physicians. During their 4 years of medical school they will receive unique training in military medicine and preventive medicine in addition to the traditional medical school curriculum. In return for this quality tuition-free education, students serve a 7-year tour after residency. For the student who chooses USUHS, it is a commitment of lifelong service to medicine and country.

On April 23 the families of these young people will come from throughout the country to support their sons and daughters as they begin their challenging careers.

I am honored to host the second annual USUHS parents' day and open house. On behalf of the parents' chapter of the USU alumni association and the USUHS student body, I invite my colleagues to learn more about USUHS, its mission, and its students.

NEXT 72 HOURS CRITICAL IN CENTRAL AMERICA

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, I wish to address the House for the singular purpose to say that I am fearful this is a very important historical moment for the United States of America. Presently as we have reneged from our responsibilities and obligations in the Western Hemisphere, we have watched as now the Marxist Communist Sandinistas have crossed the border into Honduras. As they are mopping up the supplies for the democratic resistance and have the leadership surrounded in Nicaragua, the question is, What does America stand for? The question is, What do we believe in? The question is, in giving peace a chance does America stand for freedom or democracy, or when faced with confrontations to our ideals will we continually opt solely for the definition of a peace at any price?

Mr. Speaker, I believe the next 72 hours are critical to what America can and should be. I believe that we have done ourselves and our cause a disservice these past 2 weeks and if America does not change its course in the next 3 days, history will record a tremendous error.

DEMOCRATIC POLICY FAILED IN NICARAGUA

The SPEAKER pro tempore (Mr. PERKINS). Under a previous order of the House, the gentleman from Pennsylvania [Mr. RITTER] is recognized for 5 minutes.

Mr. RITTER. Mr. Speaker, I yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I know the gentleman is going to speak for 5 minutes about the fast moving situation in Central America. I have a special order for 1 hour this evening on this subject, so does Congressman BOB McEWEN, so does Congressman BOB WALKER.

I would hope that anybody who is interested in the national security of the Americas in this hemisphere will track this House, as they usually do, and listen to the discourse among Members about the history of what is happening today in Central America.

Mr. Speaker, I thank the gentleman for yielding.

Mr. RITTER. Mr. Speaker, I thank the gentleman for his leadership.

Mr. Speaker, the Democrats in the House have been laboring under a gross misapprehension: if we somehow disarm the democratic resistance, the so-called Contras in Nicaragua, the peace process will be enhanced.

At the same time, of course, they do not talk about disarming the Sandinista Communists, armed to the teeth by the Soviet Union. Never are words heard from our Democratic colleagues about the vast military buildup the Sandinistas are conducting, fostered by the Soviets and Cubans.

Today the Democratic leadership took to the floor of the House to denounce the administration for the Sandinista-Communist invasion of the Contra base camps in Honduras. This is the height of hyprocrisy. It is the final straw in the "blame America first" mentality of the Democratic leadership in this House.

Mr. Speaker, let us get it straight. The Sandinista Communists, on the eve of the cease-fire talks, have invaded the Contra camps to deliver a knockout blow. So much for the Democratic policy of keeping arms from the Contras while not keeping arms from the Communist Sandinistas.

☐ 1730

The Democratic Party has put its trust in the Ortega brothers. And, the Ortega brothers' adherence to the Arias process has been shattered.

The Democratic policy of disarming the resistance while letting the Sandinistas arm to the teeth has been shattered.

Bombs are being dropped from high-altitude Antonov bombers. Tanks, artillery, helicopter gunships, armored personnel carriers and 6,000 Sandinista troops have broken the spirit and the letter of the Arias peace process.

What, I ask, is the Democratic response to this invasion?

The Democratic response is to blame the Republicans for this invasion of the Contra camps in Honduras.

The Democrats have the audacity to come to the floor and blame us for the lying and cheating of the Sandinista Communists and to somehow say that the food, clothing, and beans would have repelled the bombers, helicopter gunships, and the tanks.

I ask my colleagues again, when will our Democratic colleagues come to the floor and denounce the Communist invaders in Central America?

When will they come to the floor and denounce the Soviet Union for continuing to supply sophisticated military equipment to the Communists who sit astride the Panama Canal central to the strategic interests of the United States?

When, I ask, will the Democrats come to the floor and admit the failure of their policy and join with us in a bipartisan fashion to protect our hemisphere from the Soviets, the Cubans, and their Nicaraguan proxies?

IMPLEMENTING THE GENOCIDE CONVENTION

The SPEAKER pro tempore (Mr. Perkins). Under a previous order of the House, the gentleman from Kentucky [Mr. Mazzoli] is recognized for 5 minutes.

Mr. MAZZOLI. Mr. Speaker, today the Subcommittee on Immigration, Refugees and International Law, which I have the great honor to chair, is holding a hearing on H.R. 807, The Genocide Convention Implementation Act. This measure, which was introduced by the distinguished Judiciary Committee chairman, Mr. Rodino, constitutes the implementing legislation that the Convention itself requires each signatory nation to enact. Indeed, the Senate, in giving its advice and consent to ratification, expressly conditioned U.S. ratification of the Convention on the enactment of implementing legislation.

In that spirit and to that end the subcommittee is continuing a process that began 40 years ago when President Truman first submitted the Convention to the Senate for its advice and consent. That process culminated on February 19, 1986 when the Senate, by a vote of 83 to 11 and after adding 8 provisos, approved the Convention for ratification. Now, however, remains the task of enacting implementing legislation, and as we consider such legislation I am hopeful that the Senate's action in 1986 will lay to rest the issues that prevented Senate endorsement for 38 years.

The Convention itself is a surprisingly simple and terse document. Its text is as follows:

Text of Genocide Convention

ARTICLE I

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

ARTICLE II

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group.

ARTICLE III

The following acts shall be punishable:

(a) Genocide;

(b) Conspiracy to commit genocide;

(c) Direct and public incitement to commit genocide;

(d) Attempt to commit genocide;

(e) Complicity in genocide.

ARTICLE IV

Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

ARTICLE V

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for the persons guilty of genocide or of any of the other acts enumerated in article III.

ARTICLE VI

Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

ARTICLE VII

Genocide and the other acts enumerated in article III shall not be considered as political crimes for the purposes of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

ARTICLE VIII

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.

ARTICLE IX

Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

ARTICLE X

The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall bear the date of 9 December 1948.

ARTICLE XI

The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

After 1 January 1950 the present convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid.

Instruments of accession shall be deposited with the Secretary-General of the United Nations.

ARTICLE XII

Any Contracting Party may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

ARTICLE XIII

On the day when the first twenty instruments of ratification or accession have been deposited, the Secretary-General shall draw up a process-verbal and transmit a copy thereof to each Member of the United Nations and to each of the non-member States contemplated in article XI.

The present Convention shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession.

Any ratification or accession effected subsequent to the latter date shall become effective on the ninetieth day following the deposit of the instrument of ratification or accession.

ARTICLE XIV

The present Convention shall remain in effect for a period of ten years as from the date of its coming into force.

It shall thereafter remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.

Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

ARTICLE XV

If, as a result of denunciations, the number of Parties to the present Convention should become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.

ARTICLE XVI

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

ARTICLE XVII

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in article XI of the following:

(a) Signatures, ratifications and accessions received in accordance with article XI;

(b) Notifications received in accordance with article XII;

ARTICLE XVIII

The original of the present Convention shall be deposited in the archives of the United Nations.

A certified copy of the Convention shall be transmitted to each Member of the United Nations and to each of the non-member States contemplated in article XI.

ARTICLE XIX

The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

RESOLUTION

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide, adopted unanimously by the General Assembly of the United Nations in Paris on December 9, 1948 (Executive O, Eighty-first Congress, first session), Provided that—

I. The Senate's advice and consent is subject to the following reservations:

(1) That with reference to Article IX of the Convention, before any dispute to which the United States is a party may be submitted to the jurisdiction of the International Court of Justice under this article, the specific consent of the United States is required in each case.

(2) That nothing in the convention requires or authorizes legislation or other action by the United States of America prohibited by the Constitution of the United States as determined by the United States.

II. The Senate's advice and consent is subject to the following understandings, which shall apply to the obligations of the United States under this Convention:

(1) That the term "intent to destroy, in whole or in part, a national, ethnical, racial, or religious group as such" appearing in Article II means the specific intent to destroy, in whole or in substantial part, a national, ethnical, racial, or religious group by the acts specified in Article II.

(2) That the term "mental harm" in Article II(b) means permanent impairment of mental faculties through drugs, torture, or similar techniques.

(3) That with regard to acts committed outside a state, the pledge to grant extradition in accordance with a state's laws and treaties in force found in Article VII extends only to acts which could be punished under the laws of both the requesting and the requested state and nothing in Article VI affects the right of any state to bring to trial before its own tribunals any of its nationals.

(4) That acts in the course of armed conflicts committed without the specific intent required by Article II are not sufficient to constitute genocide as defined by this Convention.

(5) That with regard to the reference to an international penal tribunal in Article VI of the Convention, the United States declares that it reserves the right to effect its participation in any such tribunal by a treaty entered into specifically for that purpose with the advice and consent of the Senate.

III. The Senate's advice and consent is subject to the following declaration:

That the President will not deposit the instrument of ratification until after the implementing legislation referred to in Article V has been enacted.

Clearly, Mr. Speaker, our inability to bring the Genocide Convention ratification process to a close has constituted a national embarrassment. In his October 16, 1985 letter to Senator DOLE, President Reagan explained why:

THE WHITE HOUSE,
Washington, DC, October 16, 1985.

Hon. ROBERT J. DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: We now have an important opportunity to reaffirm to the international community the fundamental and unswerving American commitment to human rights.

Last September, following an extensive review by the Executive Branch, I announced the Administration's vigorous support for ratification of the Genocide Convention. The Senate Foreign Relations Committee, after careful consideration, subsequently recommended that the Senate give its advice and consent to ratification of the Convention subject to eight provisions. I am convinced that ratification of the Convention with these eight provisions would further the national interest and fully protect the United States.

Ratification of the Convention would serve as an important statement in opposing the gross human rights abuses the Convention addresses. I believe that we can also use this Convention effectively in our efforts to expand human freedoms and fight human rights abuses around the world. Ratification of the Convention after thirty-seven years would serve to counter the criticisms the U.S. had received over the years for its failure to ratify.

I urge the Senate this year to give its advice and consent to ratification of the Genocide Convention with the eight provisions adopted by the Committee on Foreign Relations.

Sincerely,

RONALD REAGAN.

Though one may rightfully wonder why it took 38 years for the Convention to receive favorable advice and consent, our past failures can be redeemed, to some extent, by moving forward expeditiously with the implementing legislation required for final ratification. As a recent New York Times editorial stated, there is still work to be done:

[From the New York Times, Feb. 22, 1988]

UNFINISHED WORK ON A GENOCIDE TREATY

After 40 years, Congress is moving toward the final step on an international convention against genocide. The Senate gave its approval to the treaty in 1986, and it only remains for Congress to pass implementing legislation to amend the criminal code.

Unlikely delays have so often kept this job from completion that a target date is advisable. For an effort that springs from international revulsion to Nazi annihilation of Jews during World War II, the World Holocaust Day of Remembrance, April 14, is the perfect choice.

On Friday, the Senate Judiciary Committee held a hearing on the genocide convention, which was originally adopted unanimously by the United Nations in 1948. The United States led that effort, and Harry Truman presented the treaty to Congress the next year. Sadly, it still languishes there. Meanwhile 97 other countries, including every major power and virtually every democratic country, have ratified it.

The unseemingly U.S. foot-dragging can be credited to a handful of conservatives whose imaginations took flight in fears about the treaty undermining United States sovereignty. In fact, all the treaty does is to define genocide (an attempt to destroy a national, ethnic, racial or religious group), and commit signatories to work toward its prevention and to punish anyone guilty of such crimes. And the treaty is as important for its symbolism as for anything—as seven Presidents have said in pressing for ratification.

Both House and Senate judiciary committees seem poised for the final step to bring the 40-year work to an end. All that takes now is for the committees and Congress to amend the Federal criminal laws to include the new crime and penalties. Congress could redeem itself somewhat on this issue by not letting the annual, day of remembrance of the Holocaust—April 14 this year—again pass with the job still undone.

As the Times editorial points out, April 14 is "Holocaust Remembrance Day." It is a day for us to pause and reflect on the horrors of past genocides and to marshall the resolve and outrage to speak against and take action against acts of genocide that are occurring today or that might occur tomorrow.

WILL COMMUNISM WIN IN CENTRAL AMERICA?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes.

Mr. GINGRICH. Mr. Speaker, this is one of the saddest days I have served in the House. Today while we are talking in Washington the people of Honduras and Nicaragua are paying the cost in blood and lives for the Democratic policy of unilateral disarmament and withdrawal.

The Democratic Speaker met in secret with the Nicaraguan Communist dictatorship and today the Nicaraguan Communists are invading Honduras and killing pro-American freedom fighters.

The Democrats killed military help for the pro-American Nicaraguans but did nothing to stop the Soviets from helping the Communist Nicaraguans, and now the Communists are taking advantage of the opportunity the Democrats created in order to massacre America's allies.

Faced with this disaster, carried by the Democrats' weak unilateral disarmament, the Democratic Whip attacks those who tried to help the pro-American freedom fighters.

Have you no shame?

As men and women who love freedom and love America are killed by Communists, have you no sense of decency?

The Wall Street Journal put it correctly this morning in an editorial entitled "Jim Wright's Vietnam," and I quote:

> It took more than a decade for three Presidents to lose Vietnam. It may take less than a year for one Speaker of the House to lose Nicaragua.
>
> On Feb. 3, House Speaker Jim Wright engineered a dramatic defeat of President Reagan's aid request for the Nicaraguan Contras, and effectively took U.S. policy in Central America away from the executive branch and lodged it squarely in the legislature. Less than two months later, the U.S. has no policy whatsoever.
>
> Yesterday, the Sandinistas made it clear that the road to "peace" runs along two tracks. Daniel Ortega announced in Managua that the Nicaraguan army has undertaken a large-scale military operation against the recently defunded Contras, code-naming the assault "Triumph or Death." According to a State Department briefer, this offensive includes 12 combat battalions with some 6,000 troops and about 10 Soviet MI-17 helicopters.
>
> How this is possible in an economy that is reportedly flat on its back was indicated late last week by an Associated Press story, reporting that according to a Pentagon estimate the Soviet Union in the first eight weeks of this year has sent Nicaragua 3,100 metric tons of weapons and war materials worth about $100 million. So at the same time that Jim Wright is killing aid to the Contras, the Russians are sending the Sandinistas aid to kill the Contras.
>
> Do the Democrats care? Not likely.
>
> On Feb. 26 the House Democratic Study Group sent an extraordinarily revealing letter to the Central American Working Group, a collection of anti-Contra organizations. "Nothing will bring peace faster," the letter says, "than destroying Contra hopes for more military aid." The Democrats wanted to reassure their outside allies that they wished to "send a strong message to the Contras that our support of their war has ended. The sooner the Contras understand that fact, the sooner the fighting will end in Nicaragua and the sooner we can begin addressing the real problems in Central America of poverty and the maldistribution of wealth."
>
> This, then, is what the foreign policy of the United States looks like when Congress expropriates a constitutional responsibility from the presidency. It looks like the Flying Dutchman—tattered, adrift, pathetic. Yesterday, trying to regain control of the rudder, President Reagan met with the congressional leadership.

They go on to say, and I will close with this,

> Surely it should be perfectly clear to any serious person what is going on in Nicaragua. The Sandinistas, financed by the Russians, are running their version of North Vietnam's victory strategy—sign onto an endless negotiation, let Congress defund its own ally, import Communist-bloc war material and roll over the weakened opposition.
>
> Asked about a new presidential aid request, Jim Wright talked about morality. "If I schedule it, the President would have some moral responsibility to help pass it," he said. "I don't want to run it out there and be defeated again." Mr. Wright should be less timid in his convictions. After all, he isn't the one who has to risk getting hit over the head with a metal pipe.

Let me say this in closing, decent men and women who believed in America, who love freedom, who are willing to stand up to fight communism are being killed today by well-armed, Communist-trained, trained by Cubans, armed by the Soviet Union, and the answer the Democrats in the House have is to do nothing. The answer is to let America's friends be killed while the Democrats in the House sit on their hands.

We have had week after week of arguing this out. Every prediction of left-wing Democrats has been wrong. Every time they have disarmed America's friends, the Nicaraguan Communists have been bolder. Every time they have stopped helping America's friends, the Nicaraguan Communists have been more aggressive.

I think if freedom dies in Central America it's the Democrats in the United States House of Representatives who will have done fully as much as the Soviet Union, fully as much as Cuba, fully as much as the Nicaraguan Communists to make it possible. Without the unilateral disarmament of the House, it would not be possible for communism to win in Central America.

TRIBUTE TO ARTIST ROMARE BEARDEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. MFUME] is recognized for 5 minutes.

Mr. MFUME. Mr. Speaker, I rise in tribute to renowned African American artist Romare Bearden who died in New York City on March 12.

Through the use of bold blue, ruby red, and gleaming gold oils, Romare Bearden stroked an indelible mark on the international art world. Combining paint with scraps of photographs, cloth, and paper, collages became his trademark during a career that spanned 50 years.

Born in Charlotte, NC, 75 years ago, Bearden grew up in Pittsburgh and Harlem. After high school, he attended Boston University. A gifted athlete, Bearden pitched for the Boston Tigers—in the old Negro leagues—and was encouraged by friends to break the color barrier of the majors.

Sweltering in the hot sun of a professional baseball field was not the way well-rounded Romare Bearden wanted to spend his valuable time. After 2 years in Boston, he transferred to New York University where he majored in mathematics—with the ultimate goal of attending medical school.

After taking a job as the cartoonist for a college magazine, Bearden's life—and the world of 20th century art—changed. Early paintings reflecting images of his Southern childhood so impressed contemporaries Aaron Douglas, Augusta Savage, and Jacob Lawrence that they insisted that he join them in forming the Harlem Artists Guild in 1935.

With Duke Ellington, Billie Holiday, and Fats Waller as personal friends, it's not surprising that music played a key role in Bearden's life. One of his compositions, "Seabreeze," was recorded by Billy Eckstine. Wherever Bearden worked magic on canvas, jazz, and the blues played in the background. "Carolina Shout" and "New Orleans Farewell" are the music-inspired titles of two of his greatest works.

Much of Bearden's versatility and creativeness was credited to his mother, affectionately known as Bessye J. During her illustrious career, Bessye J. was the New York editor of the Chicago Defender; national treasurer of the Council of Negro Women; a member of the executive board of the New York Urban League; and the first woman appointed to a school board in New York City. As writer Calvin Tomkins explains, "everyone in Harlem knew Bessye J., and Bessye J. knew everyone: Eleanor Roosevelt and Mary Bethune, councilmen and judges, editors and mayors, not to mention all the musicians."

By the mid-1960's, Bearden was regarded as a preeminent American artist. He was elected to the American Academy of Arts and Letters in 1966, won a Guggenheim Award in 1970, and a Ford Fellowship in 1973. Major museums—including the Baltimore Museum of Art—have featured his work and include Bearden paintings in their permanent collections.

The African American experience was the prevalent theme in Romare Bearden's art. Be it musicians performing on stage or children playing games on the steps of a Harlem tenement, he captured the essence of our culture and brought it to life in vibrant colors. Pulitzer prize-winning African American playwright August Wilson was so moved by Bearden's painting "Mill Hand's Lunch Bucket" that it served as the inspiration for his current hit, "Joe Turner's Come and Gone."

In the book, "The Art of Romare Bearden," the painter was quoted as saying,

> I work out of a response and need to redefine the image of man in the terms of the Negro experience I know best.

As a Romare Bearden painting stares back at us, we see that he managed to do just that. He was a great man and a great American whose contributions will be a part of society for generations to come.

THE OTHER SIDE OF THE COIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, several articles have appeared in newspapers around the country supporting the proposal to eliminate the $1 note. Proponents of this legislation are well organized groups such as the vending machine industry and the metal industry which would benefit financially from the replacement of the $1 note with a $1 coin. I do not believe that the views of such organizations are representative of the views held by most Americans on the issue.

Unfortunately, it is very rare that we hear arguments for keeping the $1 notes. This is certainly not because Americans want it replaced. I believe that individuals in this country prefer the $1 note over the $1 coin. However, because the average citizen is not involved in lobbying the Congress, we will not hear his or her views until after such action is taken. Then we will be burdened with complaints and faced with the prospect that the new coins will meet the same fate as the Susan B. Anthony dollars, most of which now sit in Government vaults.

I would like to bring to the attention of my colleagues an article which appeared in Coin World—March 2, 1988—a publication marketed toward coin collectors. Harold F. Eccleston wrote this in response to a previous article written by the executive director of the Coin Coalition lobbying group. In that article, the executive director concedes that the American public is not seeking a change in currency. Mr. Eccleston relays what I believe are the sentiments of most Americans about the $1 coin proposal. The coin will be inconvenient, and will not be widely circulated. Instead, it will end up being stowed away until enough have accumulated to make a trip to the bank to exchange them for paper currency.

I am inserting into the CONGRESSIONAL RECORD Mr. Eccleston's article with the hope that my colleagues will consider the views presented. I believe that if the proposed change is made to the currency system, it will be an annoyance as well as a waste of money and effort.

DOLLAR COIN PROPOSAL PROMPTS CALL FOR COFFEE CAN STRATEGY

(By Harold F. Eccleston)

I have finished reading your Nov. 18 article regarding the proposal to replace the paper dollar with a metal, gold-colored substitute and would like to submit the results of a personal "pocket survey" (my pocket) which I have charted over a six-week period.

But, before giving you the actual statistics, you should be informed that I use a money clip to carry all paper bills, said money clip being deposited in my desk in the evening and removed and placed in my pocket (pants, of course) every morning; this system has served me very well for many years and, unless you carry excessive amounts of paper money (which I don't have), far outweighs the wallet system, or should I call it the "pickpocket" system.

Now to the survey: On a daily basis, my money clip carried an average of six $1 bills for the six-week period. My survey also covered the small change which I ended up with every day and they averaged, at least, 12 coins. Of course, I realize my survey was very limited but it still shows an indication of 18 coins (metal, that is) for me to haul around every day if the paper dollar is eliminated. (How heavy will the metal dollar be?)

While I am on the subject of small change, let me ask your gentleman readers what they do with the coins in their pockets every night. Do they dump them on a night table? Throw them into a desk drawer? Whatever the answer is, somehow or other they have to get that change into a pocket, right?

Do they pick up one coin at a time? Or do they swoop them off the high table hoping they will all end up in the other hand and thus into the pocket?

Whatever your method, gentlemen, do you want more coins to be added to the pile? And how about your poor wife? Do you want her condemned to the drudgery of sewing up more holes in your pocket? On the other hand, do you want to be forced to help your wife carry her purse around?

My solution is very simple because whatever change I have at the end of the day goes into a coffee can and that's where the metal dollar will end up until I get around to "rolling" them and taking them to a bank to be exchanged for paper, not metal!

I am not sure what effect my "coffee can" strategy will have on creating a shortage of the new dollar coin, if it is ever issued and the paper dollar is eliminated, but it will give me some personal satisfaction and I hope that the majority of your readers agree with me and will do likewise.

In a more serious vein, my final comments concern Mr. James Benfield who, according to the Nov. 18 article in Coin World, is executive director of the Coin Coalition, a Washington, D.C., based lobbying group which supports the dollar coin.

You quote this gentleman as having said: "Why make something so extraordinarily complicated when it isn't? If a survey of the American public is taken, they will say leave it [$1 Federal Reserve note] alone. But the role of government is to look ahead.

I wonder if similar thoughts and words occurred to George III when the tea tax was imposed on the Colonies prior to the American Revolution? There was also someone back in our history who said, "Let the public be damned!"

My personal reaction to Mr. Benfield's statement will be to write to my state's congressional representatives opposing the change in the dollar and also request from them what "interests" the Coin Coalition represents; does anyone want to bet they don't grow trees?

WINTER SPORTS CLINIC FOR DISABLED VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, recently the Veterans' Administration Hospital in Grand Junction, CO, conducted a highly successful winter sports clinic for disabled veterans. Approximately 105 veterans from 18 different States participated. Many of those veterans suffer from severe spinal cord injury, traumatic amputations, and blindness.

The winter sports clinic was the fruition of the vision of Santo Trombetta, recreational therapist at the VA Medical Center. Recognizing the importance of opportunities such as were available there to seriously disabled veterans, Sandy Trombetta, with the support of hospital director Arch Bourett, brought together all the resources of the community to make it possible for veterans to experience a range of winter sports activities. Veterans were taken to the Powderhorn ski area each day by bus. There they enjoyed sit skiing, or other skiing with adaptive equipment compatible with their physical needs. They also had an opportunity to utilize snowmobiles to tour the Powderhorn Mesa. Those who were not on the ski slopes were exposed to skeet shooting and fly tying.

The ladies auxiliary of American Legion Post 33 in Mesa, CO, prepared the lunches enjoyed by the veterans each day. The Vietnam Veterans of America chapter from Grand Junction assisted in the loading and unloading of buses going to the ski areas. The VFW, DAV, and American Legion departments of Colorado each contributed monetarily so that the program would be a success. Various service organizations also contributed funds to send veterans from their regions to Grand Junction. On Sunday, March 6, Charles Kuralt, host of the "CBS Sunday Morning Show," featured the winter sports clinic, using the best techniques of television to show all Americans what it is our veterans, and those committed to serving them, are made of.

In all, the winter sports clinic demonstrates the best that there is—the Veterans' Administration. The VA staff participating are but typical of dedicated Veterans Administration employees throughout the country committed to providing high quality service to veterans.

Mr. Speaker, the mutually supportive relationship with the community typifies the sort of relationship VA facilities have with their host communities everywhere. The service actually received by the veterans, and their own commitment to make the most of opportunities and minimize the limitations of the physical conditions are merely a reinforcement of the spirit of America's veteran.

These special programs mean a lot to many people—veterans and nonveterans. This event was very successful and many people benefited from it.

I applaud the leadership of Sandy Trombetta and others who contributed so much to the success of the winter sports clinic.

EMPLOYEE STOCK OWNERSHIP PLANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing legislation which would, in certain circumstances, require an employee stock ownership plan [ESOP] to be approved by a majority vote of all employees of the corporation concerned before becoming effective. When the circumstances described in the bill are met, the principle of "one worker, one vote" would be brought to bear. In this way, all affected employees will be given the right to vote on such risktaking prior to implementation of the ESOP.

The employee stock ownership plan concept was originally created as a mechanism to enable employees to share in the ownership and profitability of their employer's company. Under the original concept, employees would benefit as well as the employers. In more recent years, ESOP's have been used by employees of failing companies to finance the purchase of their troubled company with the hope that, through wage and benefit concessions, they will be able to continue operations and thereby maintain their jobs.

Today, there are cases in which one or more groups of employees are attempting to purchase a controlling interest in a financially healthy corporation over the objections of other employee groups. In some cases, the formation of an ESOP is critical to the outcome of such efforts.

In the cases that particularly concern me, the employee pension funds would be diverted to the ESOP to pay for the acquisition of the company's stock by those employees. If the company fails, the employees might be left with inadequate retirement income from the pension plan and no retirement income from the ESOP because the Pension Benefit Guaranty Corporation does not guarantee any benefits promised by the ESOP.

I think it would be an abuse of the ESOP concept if the establishment of the ESOP put pension rights, wages, and benefits at risk contrary to the wishes of a majority of the affected work force. This abuse is magnified if one employee group, organized as a collective bargaining unit, proposes an ESOP which may use the assets of a terminated pension plan that covers a substantial number of nonrepresented employees who have had no voice in the decision to terminate their pension plan.

At the very least, the work force needs to be fully apprised of the risks as well as the benefits involved in the establishment of an ESOP. The notification process and the vote required by this bill will vastly increase the likelihood that all employees will be made fully aware of what the proposed transfer of ownership will mean to each of them personally.

At the same time, it is not my intention to impose a prohibition against one employee group trying to succeed in having an ESOP own all, or some, of their corporation.

By allowing all employees to pass judgment on one employee group's ESOP proposal, and allowing the ESOP proposal to go forward if a majority of employees approve, this bill places the power of decisionmaking in the hands of those affected—the employees.

This legislation would address only those situations where:

First, the ESOP is proposed, or agreed to, by employees represented by a collective bargaining unit in a corporation with more than one of such units—an "agreement" for this purpose is not restricted to an election of other similar procedure;

Second, nonrepresented employees constitute at least 30 percent of the employer's work force; and

Third, it is proposed, or it is reasonable to assume, that assets from a pension plan will be transferred to the plan.

Where these specific criteria apply, the employer may not establish an ESOP without a majority vote approving the plan by the employer's employees. Under the bill, the employer involved in the covered transaction must meet the following notice and election requirements:

First, an employer must notify employees of all material facts concerning the proposed ESOP, including whether assets will be transferred to the ESOP from any other employee plan, whether the ESOP will replace any other employee plan, the terms of the ESOP, and the terms of the plan—if any—from which assets are being transferred;

Second, this notification must take place no later than 90 days, but no sooner than 180 days, before establishment of the proposed ESOP;

Third, the proposed ESOP must be approved by a majority of the employer's employees pursuant to an election conducted by secret ballot; and

Fourth, the election must be conducted no sooner than 60 days after notice of the proposed ESOP is provided to employees, and not later than the day before the ESOP is established.

The bill is effective for ESOP's established after March 16, 1988, the date of introduction of the bill. Existing plans that are converted to an ESOP after March 16, 1988, are considered as being established after March 16, 1988. A copy of the text of the bill follows.

H.R. 4184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REQUIREMENT THAT EMPLOYEES APPROVE EMPLOYEE STOCK OWNERSHIP PLAN.

(a) IN GENERAL.—Section 409 of the Internal Revenue Code of 1986 (relating to qualifications for tax credit employee stock ownership plan) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) EMPLOYEES MUST APPROVE PLAN.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if during the election period, a majority of the employees of the employer establishing the plan approve the establishment of the plan pursuant to an election conducted by secret ballot.

"(2) NOTICE.—An employer seeking to establish a plan meeting the requirements of this section shall notify his employees during the notification period of all material facts concerning the plan, including—

"(A) whether assets will be transferred to the plan from any other plan and whether the plan will replace such other plan,

"(B) the terms of the plan, and

"(C) the terms of the plan (if any) from which the assets are being transferred.

"(3) LIMITATION.—This subsection shall apply only if—

"(A) the plan is proposed (or agreed to) by employees represented by a collective bargaining unit in a corporation with more than 1 of such units,

"(B) at least 30 percent of the employees of such corporation are not represented by a collective bargaining unit, and

"(C) it is proposed (or it is reasonable to assume) that assets from a defined benefit plan will be transferred to the plan.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) ELECTION PERIOD.—The term 'election period' means the period begining 60 days after the day on which notice is provided under paragraph (2) and ending on the day before the day on which the plan is established.

"(B) NOTIFICATION PERIOD.—The term 'notification period' means the 90-day period ending with the 91st day before the day on which the plan is established."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 409(a) of such Code is amended by striking out "and (o)" and inserting in lieu thereof "(o), and (p)".

(2) Section 4975(e)(7) of such Code is amended by inserting "section 409(p)," after "section 409(o),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plans established after March 16, 1988.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. FORD] is recognized for 5 minutes.

Mr. FORD of Michigan. Mr. Speaker, I would like to let the RECORD show that on March 16, I did not vote on Rollcalls 29, 30, 31, 32, and 33 because I was in Michigan attending the funeral of my aunt.

SMALL BUSINESS ADMINISTRATION REAUTHORIZATION AND AMENDMENT ACT OF 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 5 minutes.

Mr. LAFALCE. Mr. Speaker, today, on behalf of Mr. MCDADE, the ranking minority member on the Small Business Committee, and myself, I have introduced legislation to extend the authorization for Small Business Administration programs and to make certain changes in these programs. Basically, this bill does three major things.

First, it authorizes SBA programs for the next 3 fiscal years, 1989, 1990, and 1991. The amounts authorized for these programs generally would be the same as those provided for fiscal year 1988, with minor adjustments to cover anticipated inflation.

In continuing the existing programs, the legislation inherently rejects certain proposals in the administration's budget request for fiscal year 1989.

The bill would not eliminate the relatively small amount of direct loans now provided to handicapped, to minorities and to Vietnam and disabled veterans. These are loans of last resort and can be made only if the applicant cannot secure the funds from any other source, and thus elimination of these programs simply will deny any avenue of financial assistance to these targeted groups.

The bill would not reduce the amount of the loan guarantees which entices lenders to make loans to small businesses, that is, it would not limit reimbursement of lenders to 75 percent of any losses on loan guarantees rather than 85 to 90 percent.

The bill would not eliminate the minority assistance now provided through consulting contracts under section 7(j), business development expense funds, and the special incentives to MESBIC's to encourage them to provide venture capital to minority small business.

The bill would not cutback and eventually eliminate the management assistance being provided through the small business development center partnership program.

The bill would not eliminate the pollution control contract guarantees program which is designed to provide small businesses with access to capital to meet expenditures mandated by Federal pollution laws.

The bill would not impose new or expanded user and guarantee fees which would essentially indirectly tax the users of certain SBA programs for $23 million annually.

The bill would not eliminate disaster loan assistance to businesses and individuals which cannot prove that they are unable to secure the money from any other source to permit them to rebuild and recover from a natural disaster such as a flood or hurricane; nor would it increase the cost of Federal loans to those few disaster victims who would still have qualified.

One of SBA's primary missions is to help small businesses gain access to capital. Lack of capital is a critical problem, particularly to firms which need relatively small amounts such as $40,000 or $50,000. I have been long concerned that even though we recognize the difficulty of obtaining this size of loan, our programs do not now address this problem adequately.

Thus, the bill provides more incentives to lenders to make smaller loans by allowing participants in the preferred lenders program and the certified lenders program to retain one-half of the 2-percent guarantee fee on smaller loans, of $50,000 or less, and it allows certified lenders to use their own forms rather than having to complete Government forms.

Due to economies of scale involved in the processing and servicing, it is more profitable for lenders to make larger loans, and thus some lenders simply will not make business loans in amounts less than $50,000.

Current law and regulations already emphasize delivery of guaranteed loans through SBA's "best lenders," that is, those in the preferred lenders program or the certified lenders program. These lenders have demonstrated their proficiency in SBA loan making and servicing and have received a delegation of some of SBA's authority to approve loans.

These programs now account for more than one-third of our guaranteed loans as compared to one-fifth 5 years ago. On the other hand, the size of loan being processed by certified lenders is larger than size of average guaranteed loans, and it has increased at twice the rate of increase of the average size loan.

By allowing these lenders to keep one-half of the loan fee and by allowing them to use their own forms, these institutions will have a financial incentive to make smaller loans. This is particularly important since only meager amounts of direct loans are available today and then only for targeted groups.

I also believe we must do more to help those small firms which are our builders and manufacturers. Many of those firms would like to bid on the procurement needs of Federal, State, and local governments, as well as the private sector, but they must provide a "guarantee" that they will perform. That guarantee is a surety bond which insures their performance. Without it, they cannot obtain the contract even if they are the low bidder, as surety bonds are required by law on Federal procurements and on many other projects.

SBA has a program designed to help with this problem by guaranteeing to reimburse a surety bond company for part of any loss. In essence, SBA operates a reinsurance program to repay surety companies for losses they pay due to a small contractor breaching or failing to perform a contract.

As with the guaranteed loan program, I do not believe the surety bond program works as well as it could, as too many small firms still cannot get the necessary bonding as major surety companies do not participate in the program. I believe that we should be using the expertise of these companies.

Accordingly, the final major provision of the bill is to authorize and direct SBA to establish a preferred surety bond program. This would parallel the preferred lenders program and authorize SBA to delegate bond approval authority to those companies which demonstrate their proficiency with program requirements and justify the placing of additional trust in their judgment.

The end result, if successful, would be more participation by sureties and thus more help for small business contractors, while at the same time allowing SBA to better utilize its total resources.

Mr. Speaker, a section-by-section analysis of the bill follows:

Section-by-Section Analysis

Section 1.—Provides that this Act may be cited as "The Small Business Administration Reauthorization and Amendment Act of 1988".

Section 2.—Amends section 20 of the Small Business Act to provide program levels and budget authority for all of SBA's programs for each of fiscal years 1989, 1990 and 1991. (See charts attached)

Section 3.—Amends section 7(a) of the Small Business Act to authorize a new targeted loan program to provide up to $1 million in loan guarantees to assist small business concerns in industries engaged in or adversely affected by international trade. The loan proceeds could be used only for plant and equipment and would be required to be secured by a first lien or first mortgage on the property.

In addition, the small business could apply for an additional guaranteed loan under the regular 7(a) loan program of up to $250,000 solely for working capital, supplies or revolving lines of credit for export purposes.

A small business would be considered to be engaged in or adversely affected by international trade if the business was either in a position to significantly expand existing export markets or develop new export markets or if it could demonstrate that it was adversely affected by import competition from foreign firms and has suffered injury attributable to such competition.

Finally, SBA would be required to authorize lending institutions and other entities in addition to banks to make loans authorized under section 7(a).

Section 4.—Amends section 7(a) of the Small Business Act to provide incentives to preferred lenders and to certified lenders to make loans of $50,000 or less by allowing them to retain one-half of the usual 2 percent fee collected from the borrower and by allowing certified lenders to use their own loan forms in lieu of SBA loan forms. This would be a two-year pilot program.

Section 5.—Amends section 7(a) of the Small Business Act by eliminating the present statutory authority which SBA has to limit the maximum loan guarantee on loans approved in the preferred lenders program to a lower amount than is provided for loans not in that program.

Section 6.—Amends section 411 of the Small Business Investment Act of 1958 to authorize SBA to reimburse sureties participating in the surety bond guarantees program for amounts spent to prevent breach of contracts guaranteed by surety bonds or to minimize the losses due to such breach. Reimbursement would be limited to SBA's maximum dollar exposure under the guarantee on the bond and would be further limited to the percentage of the guarantee it agreed to provide.

Section 7.—Amends Section 411 of the Small Business Investment Act of 1958 by establishing different levels of guarantee for surety bonds, depending upon the amount of the contract which is the subject of the bond. If the amount of the contract is $100,000 or less, SBA's liability to reimburse the surety for losses sustained under a bond on the contract would be 90%, and if the contract was over $100,000 would be 80%.

Section 8.—Amends Section 411 of the Small Business Investment Act of 1958 to authorize SBA to delegate to surety companies its authority to guarantee surety bonds on contracts issued on behalf of small businesses. This delegation of authority to approve the bonds, without further Administration approval, would be contingent upon SBA determining that the surety company has underwriting expertise and the capability to approve, issue, monitor and service the bonds.

SBA would be required to revoke the delegation of authority if it determines that the surety is not adhering to its rules and regulations or if it determines the loss experience of the surety is excessive as compared to other surety companies.

The SBA would be required to report to the Committee on Small Business on the amount of the surety bond guarantees issued pursuant to this delegation of authority and on the amount of losses on them. An interim report would be required by February 1, 1990 and a final report by February 1, 1991.

This section would also rewrite existing law to require that before SBA can issue a surety bond guarantee, there must be a reasonable expectation that the contract will be performed, and that the terms and conditions of the bond are reasonable in the light of the risks involved.

Section 9.—Amends section 310 of the Small Business Investment Act of 1958 by eliminating a requirement that the Inspector General conduct an annual audit of each small business investment company. Instead, the Inspector General would be required to conduct an audit at least every two years, of the following seven areas:

(1) Whether the investment company has engaged solely in lawful activities and those contemplated by this Act;

(2) Whether it has engaged in prohibited conflicts of interest;

(3) Whether it has acquired or exercised illegal control of an assisted small business;

(4) Whether it has made investments in small business for not less than 4 years in the case of a minority enterprise small business investment company or for not less than 5 years in all other cases;

(5) Whether it has limited its investments to not more than 20% of its capital in any individual small business;

(6) Whether it has engaged in relending, foreign investments, or passive investments; or

(7) Whether it has charged an interest rate in excess of the maximum permitted by law.

It also authorizes the Administration to delay the examination for 1 additional year if it deems the delay to be appropriate, and also authorizes the Administration to waive the examination if the company has ceased operations due to litigation or being in receivership.

Section 10.—Amends section 301 of the Small Business Investment Act of 1958 by authorizing limited partnerships of at least 10 years duration to form small business investment companies (in lieu of the 30 years now required).

Section 11.—Amends title III of the Small Business Investment Act of 1958 by adding a new section requiring SBA to issue guarantees of small business investment company debentures or trust certificates representing pools of such debentures at regular intervals.

Section 12.—Requires the Comptroller General, by June 1, 1989, to report to the Small Business Committees on the functions being performed by volunteers in the Service Corps of Retired Executives and the Active Corps of Executives. The report would include conclusions and recommendations concerning the efficiency and cost effectiveness of such volunteers.

Section 13.—Amends section 9(j) of the Small Business Act to authorize SBA to issue policy directives concerning the standardized and orderly withdrawal from program participation by an agency having a Small Business Innovation Research program and concerning voluntary participation in such program by a Federal agency.

Section 14.—Requires SBA to develop a program to provide statistical and analytical data on the assistance provided to small businesses (The program will permit the "tracking" of individual assistance and an evaluation of its merits.)

Section 15.—Provides that notwithstanding any law, rule or regulation, the Small Business Administration is required to issue final regulations to carry out the provisions of this Act within six months after the date of enactment.

MORE GREEN TEA AND DIRTY TRICKS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, in the last several days I have been reading various sections out of the book "The Japanese Conspiracy" for the purpose of advising or notifying the American public of what has really happened to this country's industrial base.

The book is written by Marvin J. Wolf, an author living in Los Angeles, CA, and on the front cover it says, "The plot to dominate industry worldwide and how to deal with it."

Mr. Speaker, over these several days we have discussed how the Japanese Ministry of International Trade and Industry together with the Japanese manufacturers had targeted various industries in this in order to destory them, one of them being steel, the other electronics, all of which involve the television sets and how much of it was done by double invoicing, and by setting prices by the Tenth Day Group, the Okura Group, and the Palace Group, all of whom connived and conspired to set the prices in the United States to dump television sets in this country at very low prices while keeping the prices at home at almost double, and how the double invoicing was accomplished to fool the U.S. Customs so that these products could come in here at a much lower price and be sold here.

□ 1745

In connection with my efforts to keep the American public advised on what has really happened and how the destruction of our industrial base was not as much from lack of productivity or the American worker not being a good worker but on an international conspiracy, I received a letter from a company in Minnesota. I am from Maryland, and this company is writing to me from Minnesota, and the name of the company is Lake Center Industries, and it is from the president and general manager of that company. What he says in this letter really supports what we have read in this book.

It says:

> DEAR REPRESENTATIVE BENTLEY: I'm writing to you as the President of a medium-sized, forty-year old, original equipment auto parts manufacturer (OEM) and on behalf of our 1,850 dedicated, quality conscious, employees in Minnesota, Wisconsin, Ohio, and Michigan. Our problem is that after two years of concerted effort we are unable to generate any interest in our products (e.g., turn signal, head lamp, and wiper switches; and heater and air conditioning controls) to the Japanese car manufacturers located either in the U.S. or Japan. Meanwhile approximately 150 transplanted Japanese auto parts manufacturers are not only exclusively enjoying all of their countrymen's business but an ever-increasing portion of the U.S. auto parts business as well.
>
> Predictions are that by 1990 the Japanese will export two and a half million cars to the U.S. and manufacture another two and a half million in the U.S. Based on a ten million car-per-year market, this will most certainly lead to the closing of even more U.S.-owned auto plants, further eroding our business.
>
> Over the past two years, we have attempted to penetrate the Japanese car market, both here and in Japan. Our people recently returned from our second extensive trip to Japan (and our first to Korea) and are even more disillusioned and frustrated than before. We have made sales calls on the Japanese auto manufacturers, both in the U.S. and Japan, and we've investigated joint ventures with other Japanese part suppliers but with no success. U.S.-based Japanese car manufacturing purchasing people have often treated our people rudely or unprofessionally and were uninterested in what our company could do for them. In Japan our people were treated somewhat better by members of JAMA (Japan Automobile Manufacturers Association). However, they're being protected by such groups as MITI (Ministry of International Trade and Industry), and they (MITI) were openly arrogant and abrasive and inferred that American companies and products are inferior.
>
> U.S. Government assistance and representation on our behalf has proven to be inadequate. My suggestion would be to have the U.S. Department of Commerce pick someone with extensive automotive manufacturing knowledge to represent the U.S. in these matters. Our experience to date suggests the people representing us are inadequately informed to deal with their foreign counterparts.

Mr. Speaker, I think I can attest to that, because when, unfortunately, the Department of Commerce people were going to negotiate with the Government of Japan's people last fall on auto part imports, it was very obvious that our people, the employees of the Department of Commerce, were not very well versed on the auto parts business.

Mr. Keller goes on to say:

> We are not asking for protectionism but we're definitely forced to compete against it abroad and against favoritism shown to Japanese automobile parts suppliers by U.S.-based Japanese car manufacturers. It would appear our "open arms" foreign investment policy is going to cost us ownership of a major portion of our industry. Many states are offering free land and extensive tax incentives in order to entice the Japanese supplier base to locate in their states. This is happening at an alarming rate and it is predicted that 200 additional Japanese auto parts manufacturers will locate to the U.S. by 1990.
>
> Because of the favoritism shown to Japanese auto parts suppliers by the Japanese car manufacturers, they will thrive in the U.S.; and because of size and financial strengths they will soon own a major share of the U.S. auto parts supply business.
>
> We realize that our company has little impact on the overall economic well being of the country, but we know we are only one of several hundred U.S. companies that are being similarly affected. We can ignore the problem or blame U.S. industry, but the ultimate problem will become a loss of size and strength of U.S. industry as we know it.
>
> We would like to know what you as an individual and government in general are doing to address this most serious problem. We want to know if anything is being done on our behalf to ensure the future of American-owned industry and auto parts suppliers in particular.
>
> I receive countless requests from our employees and the local media as to what we are doing to assure our continued success, and I would appreciate a personal response from you to share with them.

Mr. Speaker, to receive a letter like that at a time when I hear that our conference committee on the trade bill is decimating that bill, is literally wiping out any requirements of our trading partners to open up their doors to our people, really disturbs me a great deal. I have to wonder just where the lobbying dollars that we have heard about that Japan is spending in this area, $50 million by the Government and the industries every year, $60 million right now by Toshiba and another $30 million by the U.S. companies that use Toshiba products.

What is happening? How effective has that lobbying money been?

I am very disturbed when I see and hear about companies like that of Mr. Keller. American companies cannot survive, because we have opened our doors totally to anybody who wants to come in, but we do not require trade in return, open doors in return. We do not require fair trade.

In the book "The Japanese Conspiracy," and I have referred to this already, but I am going to repeat it in view of Mr. Keller's letter, he talks about the auto parts, and here is what he had to say:

> Japan's protectionist policy, which insures the basic strength of its domestic industries against fair competition while it assaults foreign markets with its exports, is not an ad hoc program. It has been carefully orchestrated by MITI, which by persuasion and arm twisting, manipulates Japan's import and export strategy, down to the behavior of customs officials. "We enable the Japanese to bring in everything they want when they don't even give us the right of entry," said Charles L. Nicolosi, an analyst in the New York offices of Dean Witter Reynolds.
>
> As the world's leading manufacturer of automobiles, for example, Japan sells millions of its cars in the U.S. and Europe, but imports few. Before a car is shipped to the United States, each Japanese manufacturer certifies that it meets U.S. product and safety standards; America accepts its certifications and freely admits the Japanese imports. But the Japanese view every import into their market as currency lost in the war of trade balances.
>
> In a guerrilla war of harassment, certifications by foreign manufacturers are disregarded by Japanese customs. Every car, every baseball bat, every foreign product attempting entry to Japan is subject to elaborate testing, and those not meeting standards must be reworked to meet them before entry is allowed. The handful of U.S. cars imported in Japan are sometimes virtually rebuilt in Yokohama harbor before leaving the Japanese customs area, a cost born by the importer.

This verifies, this supports what Mr. Keller was trying to point out is happening to American manufacturers, to American goods.

In the second chapter of "The Japanese Conspiracy" I have read three other segments, and the second chapter is entitled, "Green Tea and Dirty Tricks." In that chapter it points out, again, and I will repeat how the Tenth Day Group, the Okura Group, the Palace Group, got together with MITI and targeted the electronics industry and the steel industry and others.

Let us hear about typewriters. Mr. Wolf points out that:

> One of the most attractive targets for classic Japanese marketing techniques has been the portable typewriter. In 1973, there were four American manufacturers of portable electric typewriters, employing some 25,000 people. Shortly after, the Japanese targeted this market. In 1974, U.S. Treasury Department officials ruled that Japanese portable typewriters were being sold at less than fair market value. But the following year, the ITC ruled that Smith-Corona, which had brought the complaint, had not been injured by the dumping. Between 1976 and 1978 Japanese-made portables doubled in annual volume to 500,000, and in 1979, Sears, Roebuck dropped Smith-Corona as its principal supplier in favor of Japanese firms.
>
> In 1980 the Commerce Department finally agreed that SCM had been injured and set antidumping tariffs of between 36.5 percent and 48.7 percent. Following that, Brother and Silver Seiko, two leading Japanese typewriter makers, appealed the Commerce decision, claiming to have since raised their prices to competitive levels. In August, Commerce lowered the tariffs to between 4.3 percent and 14.9 percent. Smith-Corona appealed. So did Japan, claiming there should be no dumping tariffs at all.
>
> Annual imports of Japanese typewriters into the U.S. grew from 144,000 in 1971 to 603,00 in 1981.

□ 1800

Between 1973 and 1980 the Western competition, Olympia, Royal, and Underwood, were forced, Mr. Wolf says, to buy or assemble their typewriters in Japan, Taiwan, and other countries.

It had taken the U.S. Government 5 irreplaceable years to decide that SCM was being injured but by that time it was too late; 21,000 American jobs were permanently lost.

Another chapter in how this conspiracy overseas helped to destroy an American industry.

I shall continue with the saga, the sad saga of the Japanese conspiracy and the destruction of the American industrial base another day under special orders.

I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentlewoman for yielding. She is providing a real educational service to this House. I just wanted to mention to the gentlewoman that in the continuing Toshiba saga, some more relevations about the selling to the Eastern bloc, to the Communist Warsaw Pact nations of microelectronic capability by the parent corporation Toshiba will be revealed sometime tomorrow. And as a result of intelligence briefings, Members of this House have become aware of the fact that not only did Toshiba Machine sell the propeller-milling equipment to the Soviet Union to quiet their submarines, but the parent corporation, which has now spent about $20 million lobbying Congress, is in fact selling out.

Mrs. BENTLEY. I have heard that the figure, and we saw it in print one day, that the parent company has actually spent about $60 million on that lobbying effort.

Mr. HUNTER. I noticed, to comment on that, that $20 million or $60 million, when it was proposed that possibly International Harvester was not going to make it, when Chrysler was not going to make it, you did not see the tremendous purchasing of lobbying power in this city that you see when it appears that another corporation, Toshiba, is in fact in danger of losing part of its American market.

Mrs. BENTLEY. I am happy the gentleman brought that out. But does the gentleman not find it a little, shall we say, paradoxical or ironic or sad that the U.S. media has failed to really pick up on this? What do you think would happen if an American company of any kind went to any country overseas and spent even $1 million trying to lobby that Government? What would our media do to that company?

Yet we let this just happen.

Mr. HUNTER. My answer is that if you had an American company that put the lives of young Japanese sailors in jeopardy as the actions by Toshiba put American sailors in jeopardy, sailors who cannot afford the $1,000-a-day lobbyists, you would see, I think, a revulsion toward the attempted purchase back of the American market that Toshiba is working on right now.

I think it is tragic that you have Americans, in fact some lobbyists who refused to take the case and I want to commend them; but I think it is tragic that you have people who should be working for this country's interests receiving their $1,000 a day in attempting to persuade Congress under a case that really is not a trade case, it is a security case, and it is a case of betrayal.

I hope that the conferees in the Senate and the House on this trade conference have the backbone to withstand the lobbying offensive that Toshiba has unleashed on the U.S. Capitol, and I hope we come up with some very stiff sanctions.

Mrs. BENTLEY. Let me ask the gentleman a question while we are on that subject. We keep hearing, we have heard so much from the Toshiba parent company that:

> We are clean, we have done nothing, it was the subsidiary, these two people employed by the subsidiary who are the rascals. We fired them. We sent them out.

What about this?

Mr. HUNTER. You know when Toshiba made that claim pursuant to that full-page newspaper advertisements put on across the country we in Congress asked, we in Congress and the Committee on Armed Services asked our Intelligence Committee to brief us.

We have had those briefings. In fact the parent corporation, that is Toshiba Electric, has been selling out the security of the Western world by providing microelectronic capability to the Warsaw Pact nations, that the Warsaw Pact nations are using in their complete array of weapon systems, whether you are talking about planes, or sensors, or missiles, or tanks or other systems that will have a devastating effect on American personnel in time of war; Toshiba has absolutely sold out. I am talking about the greater company.

So the allegation that they were clean and "junior" was "doing these bad things" is a lie. In fact if you were to analogize it to a case in which parents acknowledge that their son has been selling marijuana, in this case we find that the parent corporation, Toshiba, has been selling cocaine. The policy that was followed by Toshiba Machine in selling this submarine-milling technology to the Soviet Union was simply—they simply followed the parent company's policy of selling illegally to the Warsaw Pact.

Mrs. BENTLEY. They had had an example, is that what the gentleman is saying?

Mr. HUNTER. Absolutely. Incidentally I have watched a few Members try to cross-examine the intelligence briefers on this subject and they have been absolutely blown away. And other people who came in skeptical have been convinced. Some of our sources are sources which have 100-percent reliability ratings based on their track record and past history.

Conclusively, greater Toshiba, that is the parent corporation, that is the corporation that has 3 billion dollars' worth of the American electronic market, has sold microelectronic capability illegally to the Warsaw Pact.

Mrs. BENTLEY. Let me ask the gentleman, is there not any concern, any law, anything in Japan concerning espionage?

Mr. HUNTER. There is no espionage law in Japan.

Mrs. BENTLEY. Why not?

Mr. HUNTER. There was an attempt to put one over. It was stopped by a coalition of Japanese businessmen who like the idea of selling to our adversaries.

Mrs. BENTLEY. Maybe the Tenth Day group.

Mr. HUNTER. And other fairly far-left radical groups.

But the point is there was not enough support in the Japanese Diet to pass an espionage law. It is not against the law to sell out national secrets in Japan.

Mrs. BENTLEY. And now we want to give the Aegis missile cruiser to Japan too.

Mr. HUNTER. That is true. You have some people who want to make that transaction.

The gentlewoman does not want to make that transaction; and I commend her for that.

Mrs. BENTLEY. I thank the gentleman. I am happy that the gentleman joined me in this special order today.

Mr. Speaker, I yield back the balance of my time.

UPDATE ON SITUATION IN CENTRAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. I thank the Speaker.

Mr. Speaker, some days in history, some dates in history just seem to attract cataclysmic events like a magnet.

I was going to do a 1-minute today that this begins the fourth year in captivity, in some dank, miserable cell or prison, for the Associated Press bureau chief in the Middle East, Terry Anderson. He was captured March 16, 3 years ago. And on a joyous date tomorrow, St. Patrick's Day, parades all over the country, his family, particularly his sister, Peggy Say, will sit there heartbroken wondering what is to be the fate of this American journalist, this newsman, Terry Anderson.

I have worn his bracelet along with the bracelets of MIA's from Laos and Vietnam, Jewish refuseniks, Christian Pentecostal dissidents in the Soviet Union and now hostages from Beirut. I alternate occasionally. I am wearing Tom Sutherland's bracelet today. He was taken prisoner June 9. He begins his fourth year on June 9, in just a few months. But this day, March 16, is not going to be remembered as the third anniversary of Terry Anderson's kidnapping; it is going to be remembered as the time, the day the Communist dictator in Nicaragua, Daniel Ortega, ordered his brother, younger brother Humberto Ortega, to invade the country that joins them on their northern border, the nation of Honduras.

And the response, not deliberately but very coincidentally, the response that most people will see on their evening news tonight to an invasion of an allied country, Honduras, is that this afternoon Lt. Col. Oliver North, retired Maj. Gen. Richard Secord, retired Adm. John Poindexter, and American citizen Hakim, and I forget his first name, have all been indicted universally on a couple of dozen counts and individually on spearate counts in the so-called Iran/Contra conspiracy.

The Contra part of it being the diversion of funds from the Middle East to the freedom fighters in Nicaragua because this Congress had cut off yet another group of freedom fighters that we encouraged and then helped recruit and then trained and uniformed and then armed and then helped insert into an ever-increasing Communist dictatorship, ever increasing in its cruelty, ferocity and numbers of political prisoners, until it topped 11,000 in the prison systems of Managua—16 prisons spread out throughout the country, not just in Managua—and then we air-supplied them, with airdrops. It was top secret initially and there is nothing secret in the United States of my adulthood; everything leaks out here within minutes and days.

Now because of a break in service where I was not in this body in 1983 and 1984, and maybe it would not have mattered anyway if I had 12 years of seniority instead of this being my 10th year, I am not in the elected leadership on my side of the aisle. But for the first time, and no one seemed to mind, I sat in this afternoon on a leadership meeting between you, Mr. Speaker, majority leader TOM FOLEY, whom we all like and think well of, Mr. COELHO, my silence speaks loudly in no evaluation of that person, and Mr. BONIOR, one of the majority whips who has on more than one occasion come to that lectern and described these Contras as bayonetters of pregnant women, murderers, thugs, rapists, pillagers, incendiaries. They sat there with various staff members of the Speaker. And at the head of the U-shaped table in the Speaker's dining room down there was Secretary of State of the United States of America, George Shultz; the President's National Security Adviser, four-star general Colin Powell; and our Republican leader, BOB MICHEL; our Republican whip, TRENT LOTT; one other nonmembership leader, Mr. MCEWEN, State of Ohio, "BOB" MCEWEN; our second-ranking member on the Intelligence Committee, "DICK" CHENEY; the majority chairman of the Intelligence Committee, Mr. STOKES of Ohio, same as "BOB" MCEWEN; also on our side was the head of our Research Committee, MICKEY EDWARDS. The only member of our leadership not there was our secretary. Mr. CHENEY is our conference chairman now. As I said, he was there in two capacities, No. 2 on intelligence on our side of the aisle. Our Policy Committee leader was not there and our vice chairman of the conference was not there. It was a pretty good leadership meeting. They talked and talked and talked at cross-purposes. One word kept just going through my mind: surreal. I am an eyewitness to history and it is surreal.

I will not tell any of what I would assume might be classified although I cannot think of anything, but I will tell you what the Secretary of State said when he came out of the Speaker's dining room into the hall: that 1,500 to 2,000 Sandinista Communist forces under the command of—he has general officer rank—of Daniel Ortega's brother, Humberto Ortega, have used Soviet-built Hind helicopters and Soviet-built—these are NATO code words—Hip helicopters; to use the Russian designation, MI-7's, slightly larger than MI-8's and the slightly larger MI-17's and the MI-25, that is the export version of the MI-24, the gunships; the gunships flying cover although they can carry 14 troops each, and the troop-carrying helicopters, MI-8's and 17's, performed an excellent blitzkrieg encirclement, violated the sovereign territory of Honduras and put between 1,500 and 2,000 men in a blocking maneuver behind the freedom fighters, the Democratic resistance, to set up an encirclement and a slaughter that is going on at this very moment.

□ 1815

Before I came into the room—and this was confirmed, Mr. Speaker, by your staffer, Wilson Morris—before I came into the room, the Speaker announced that he had just gotten off the phone with the suspended priest who is the figurehead foreign minister of Nicaragua. The intelligence people I believe in tell me the real foreign minister is a hard-core Communist. This was confirmed by Maj. Roger Miranda, who moved in the high Communist circles as a then-Communist himself. The main foreign minister is the so-called deputy, Victor Hugo Tinico. But when they need a mouthpiece who speaks fluent English, it is Mike Brockman, who was born in the United States and lived in Hollywood, CA. Mike Brockman, otherwise known as Miguel D'Escoto, calls up the mouthpiece, the front man, the so-called foreign minister, and tells the Speaker of this great deliberative body that the troops are being withdrawn. And I heard you say, Mr. Speaker, that if they are being withdrawn, this is a whole different situation that we are confronted with.

My staff is sending over to me the name of the only man who left the Alamo, Mr. Speaker. We are standing right outside those doors in 1986, when you did not know whether you would be the next Speaker, third in line to the Presidency of the United States. God forbid something should happen of a fatal nature to both the President and the Vice President, you would be the President. And you stood out there and told me that you were being hammered on by the far left forces of your party, and that your votes—those were the days when you had to vote; as Speaker, you only have to vote when you feel like it or to break a tie—you said that your votes were not reflective of your true feelings on national security and defense.

I said, "I am going to remember this conversation, Jim, and I am going to remember this moment and right where we are standing, because I expect you to start acting like a Texan who loves his country, once you are the Speaker, and I think you are going to make it." And you did, Mr. Speaker.

But coming from the shadow of that Alamo, which does not stretch with any difficulty from San Antonio up to Fort Worth, the great district you represent, I cannot believe that you feel as did the 183 Texans and Tennesseans under Davy Crockett, who died in the Alamo. I am now getting this constant image of the Frenchman who, when Colonel Travis drew a line in the sand with his saber and said, "If anybody wants to leave, because it looks like we are all going to die, step across that line," that one Frenchman—and I am going to find out from the Library of Congress if he was an American citizen by then—stepped forward and said, "Colonel, Mr. Travis, I was at the Battle of Waterloo in 1815. I have seen enough killing for one lifetime, and I'll take the story out to the world." And he left the Alamo.

If that man is your hero, Mr. Speaker, that you want to opt from this slaughter that is going on right now of these boys and girls, I said this morning before the mikes were cut off on me—and that is a first in the history of the House—that I saw these boys and girls down there whose eyes I looked into with my 28-year-old son just a few weeks ago and told them I would never forget them, and I said I would never stand by and see them slaughtered. Well, those boys and girls are dying for freedom just as certainly as those Tennesseans and Texans did at the Alamo.

Mr. Speaker, when Patrick Buchanan wrote that the liberal leadership of the House had become the indispensable arm of the Communist expansion in this hemisphere, I sent a message to Patrick that I thought those words were too harsh. I do not know whether it was 1 year ago or 6 months ago, but I do not think those words were too harsh right now. The leadership of this House has become the indispensable arm of the Soviet Union's intent to lock in and consolidate a colony for all the world, a mere image of one of the East Bloc nations right on the isthmus between us and that area of turmoil called Panama and, until 1999, our Panama Canal.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. I am pleased to yield to my colleague, the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding.

I want to get this straight. During the debate on whether we would give even humanitarian aid to the freedom fighters in Nicaragua, those people fighting the Sandinistas, the Speaker of the House, JIM WRIGHT, said, "Let's give peace a chance," and using that as his theme, he managed to defeat an attempt by this administration to get aid, to get bandages, to get food, and to get humanitarian aid to the freedom fighters. So we cut them off, and we did it on the basis that Mr. WRIGHT thought we should give peace a chance.

Daniel Ortega, the Communist dictator of Nicaragua, has now invaded Honduras in his attack phase of his peace plan, and he is slaughtering the men and women who make up the armed resistance, the freedom fighters.

Mr. DORNAN of California. That is correct.

Mr. HUNTER. Let me ask the gentleman this question.

Mr. DORNAN of California. Mr. Speaker, will the gentleman hold that up for 5 seconds?

I have the name of the man at the Alamo, and I want to ask unanimous consent to have it inserted with this sentence right after my relating of that tale. The battle of the Alamo started the third week of February. It was all over on March 6. We found out from the century-and-a-half-old diary discovered only in the last few years of one of the Mexican federal soldiers that they actually captured a lot of these people alive and tortured them to death and burned their bodies on a funeral pyre. It was the day before the Alamo collapsed on March 6, so on March 5 Colonel Travis drew the line in the sand. The Frenchman, who by then was an American citizen or certainly a Texan, was named Luis Rose, R-o-s-e. And Luis Rose chose to cross the line and leave that struggle for freedom. I believe that our Speaker is setting himself up to become the Texan who is most like Luis Rose in this period of our American history, that he is walking away from this struggle, even though in the meeting today our Speaker—and I heard this with my own ears; BOB MCEWEN will back me up in our leadership—called the Contras, the democratic resistance, the freedom fighters, "our people." And our people are surrounded and being slaughtered, including a man I think we can all call friend now, Ricky Bermudez.

Now, the gentleman can ask his question.

Mr. HUNTER. Mr. Speaker, I think the gentleman has framed his statement very well. My question is: The freedom fighters are surrounded, and they are being cut to pieces. It has been confirmed by the White House and by the National Security Adviser's staff that in fact the Sandinistas have invaded Honduras and they are using MI-24 killing machine helicopters.

Mr. DORNAN of California. The 25, the export version.

Mr. HUNTER. Yes, the 25's. They are using those to cut these people up. We have now given peace a chance, and Daniel Ortega has decided to exterminate the freedom fighters.

Mr. DORNAN of California. That is right.

Mr. HUNTER. So my question is: What reaction or what new action has JIM WRIGHT taken today in light of the fact that peace has been given a chance and peace has not been accomplished.

Mr. DORNAN of California. I am going to hold my answer to see if the gentleman from Indiana (Mr. BURTON) has something he wants to add. I have been down to Agua Calientes, one of the deserted main camps, deserted except for the hospital facilities, with both of you at different times, and I have also been down there with the gentleman from Pennsylvania [Mr. WALKER]—and I hope people will wait for his special order tonight—and also with a group of nine during a very critical political period 2 years ago. So I have been with all of you down there on various trips. But I was there with you two to be briefed by Colonel Bermudez, the onsite field commander.

I will ask, does the gentleman from Indiana [Mr. BURTON] have something to add?

Mr. BURTON of Indiana. I do, Mr. Speaker, and I thank the gentleman for yielding.

I was just thinking as he said that of the response of the Speaker to all this killing that is going on, this genocide that is taking place, because those people are out of ammunition, they are running out of food, and there are 1,000 of them retreating into Honduras to try to protect themselves and their families, because there are a lot of women and children down there with them. And his response was that they had talked with someone over at the United Nations, and that they were trying to develop a cease-fire line on the Honduran-Nicaraguan border and to stop the battle from taking place.

The fact of the matter is by the time they get that accomplished, if it is possible, there is going to be an eradication of probably half of these people, if not all of them, and we will be responsible. This body, and particularly the ones on the other side of the aisle that voted against additional aid for those people, we are going to be responsible for the murder of those people down there. And it is tragic, because the only thing they are guilty of is fighting for freedom and democracy that was promised them in 1979 and again last August at Esquipulas in Guatemala.

Mr. HUNTER. And also trusting the liberals in Congress.

Mr. BURTON of Indiana. Yes, trusting the liberals in Congress.

It is a tragedy, and what I would like to see happen, I would like to see those of us who have been supporting the Contras all along insist that there be a vote on military assistance, not humanitarian but military assistance, for those who remain, and if those folks on the other side continue to be as abrasive as they have been and blocking any aid to the freedom fighters down there, then as this thing evolves and as these people are destroyed one by one and there is no longer any resistance, the people of this country will know very clearly where the responsibility lies for the malaise and the problems we are going to face down there.

You will recall when we were in Tegucigalpa, Honduras, and we sat across the table with Senator HARKIN from the other body with President Escona, he told us——

Mr. DORNAN of California. That was September 6.

Mr. BURTON of Indiana. Yes. Escona looked me right in the eye when I asked him the question, did he request additional military support down there, and he said point blank that if the peace process fails, which it is, and if the Contras are destroyed, which is what is happening right now, he was going to request 50,000 United States troops be stationed in Honduras alone and request $250 million in additional military support.

Now, I hope my colleagues on the other side of the aisle realize that that is going to come to pass because if there is no organized resistance, if the freedom fighters go down the tube because of them, then President Escona and those other Presidents of those fledgling democracies are going to out of necessity ask for direct military support, and we are going to have our boys down there involved in a war that is not necessary.

Mr. DORNAN of California. Mr. Speaker, I will invite the gentleman from Ohio (Mr. BOB MCEWEN) to join in if he would like to. Let me briefly state what we are all about to discuss here.

As a personal statement, I find myself in an uncomfortable position, and I am very close to trying to get Air Force transport to try to go down there over the weekend, because one of the Democratic leaders said, "Let's wait until Tuesday."

Mr. MCEWEN was a witness to that. This was a cool, quiet, civilized, dispassionate meeting, with the exception of a couple of occasions when the Secretary of State and the National Security Adviser, Colin Powell, said, "But they are dying now."

Toward the end there was no discussion of the slaughter that will go on Thursday, St. Patrick's Day, Friday, Saturday, Sunday, and Monday, when it was expressed that they may all be gone by then, slaughtered, with a 12th of the Contras either dead or captured, the mainfighting force and the most trained fighting force, and maybe a seventh of all their supplies, which will then be put in a press conference, and they will have a big dog-and-pony show, the Ortega brothers, bragging about how they overran our people and telling Jose Escona, the President of Honduras, "Back off. We were in and out. You got what you deserved because you gave these people sanctuary and they operated out of your country."

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield for 1 more second?

Mr. DORNAN of California. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, the report of the resistance officials says that there are 4,500 Communist Sandinista troops involved in this maneuver. Mr. Redman of the State Department said that as many as 6,000 troops could be involved. If we wait until next Tuesday, remember right now there are about 1,000 resistance fighters caught in this trap, so we are going to have 6,000 fighting 1,000 for 5 days. There will not be any of them left.

Mr. DORNAN of California. Of course not. And the ones that are captured will be paraded down Managua, and then they will release a few of the leaders—probably not those with wounds, a la the style in Hanoi—they will release a few of the leaders to HARKIN, DODD, COELHO, whoever wants to go down there, Bill Press, who is running for the Senate in California. They can maybe go down and pick up these prisoners one at a time, the way Senator KENNEDY, then Attorney General, and Cardinal Cushing in Boston had to beg with money, with tractors, and with medicine to get the Latin boys, the Cubans, that we deserted on the beach at the Bay of Pigs.

Mr. MCEWEN. Mr. Speaker will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from Ohio.

Mr. MCEWEN. Mr. Speaker, this is the definition of a Democratic Wright-Coelho plan of "give peace a chance." They told us then, they strongly said, "Let us give peace a chance." They said that if the United States will withdraw giving aid, then the Soviet Union has given their honest word, the word of a Marxist, the word of a Communist, the trustworthy, reliable word of a Sandinista, that they would not send military aid if the United States were to cut off aid to the freedom fighters and to the resistance.

What has been the answer? Within the last 45 days the Soviet Union has sent over $150 million in Soviet assistance to the Government in Managua to overrun the democrats in Central America.

Mr. DORNAN of California. And this is not just since August. This is just in the last 2 months.

Mr. MCEWEN. The last 45 days.

Mr. DORNAN of California. This was the tail end of the so-called peace process. That was when Secretary Shultz was at his strongest. Our colleague, the gentleman from Michigan, Mr. BONIOR, said, "Well, am I to understand correctly that the Soviet Union"—he meant General Secretary Gorbachev—"said that he was willing to discuss this?" And this was the most embarrassing part of the discussion, where the Secretary of State was the strongest and where there was virtually no response from the other side, and the Secretary of State said—and he used the letters, not the blasphemy—he said, "It is no g-d business of the Soviet Union's how we dispense assistance in our hemisphere."

Mr. McEWEN. And their response was that they were not going to discontinue aid to the Marxist government in Managua as long as the United States had the audacity to maintain troops at the Panama Canal, to have South Com in Panama in accordance with our treaties. As long as we had "warships in the Caribbean" and since the United States had the audacity to have warships in the Caribbean, then the Soviet Union would dictate whatever Communist policy it wishes to pursue in Central America irrespective of the pledges that were given, that if we would just turn our backs on the democratic resistance, if we would wash our hands of the freedom fighters, if we would throw in with the Marxist government in Managua, then the Soviet Union would become peace-loving, give-peace-a-chance comrades. The answer has been and the question remains: How many times must we be fooled?

□ 1830

Mr. DORNAN of California. Well, I cannot document it right now how many times Ortega has slapped the leadership in the face symbolically by his deeds; the trip to Moscow in between a House and Senate vote 2 years ago, the invasion, December 1986, into Honduras, the firing on the morning of March 3 when we were debating this last on the floor of Cardinal Obando the Brave down there, and there are other instances where this bold, arrogant, young Communist does exactly what he pleases because he knows nothing will offend the leadership in this House.

Mr. McEWEN. And repeatedly says so that their guiding light is Marxism, that their revolution is Marxist, it is a Leninist revolution in Managua, and then, when confronted with the Speaker of the House of Representatives on nationwide television less than 72 hours ago when he was asked is Daniel Ortega a Marxist, he said that he did not know him well enough to make that judgment.

In other words, the words of the Ortega brothers and the words of the leadership claiming and proclaiming and loudly screaming to the world, not only by their actions and their deeds, but their very words, that they are Marxist was not sufficient to convince the Speaker of the House of Representatives that what they intend to do and what they stand for and what they are is what they say they are.

Mr. DORNAN of California. Exactly. Here is a communique from the battlefield. I called my staff right before I got up. I said, "Call the Central Intelligence Agency," which the five colleagues on this floor trust, our young men and women, and some not so young, over there gathering intelligence for us. We believe in them.

One of the leadership told Colin Powell and the Secretary of State to his face, "We do not trust you on this issue. We trust you on Panama, and we trust you on the Middle East; good going there, but we do not trust you on this issue."

But here is what the Central Intelligence Agency in the clear over an open telephone was able to tell my staffer about the situation as of this moment, the most current battlefield situation in Honduras: "That vast majority of the fighting is occurring in Honduras."

I am reading this cold for the first time.

Second. Contrary to what WRIGHT and BONIOR say, the Sandinistas are not, not withdrawing from Honduras.

This is an intelligence statement just as of a few seconds ago.

Third. Continued bombing. This is from Atonov 26 Curl airplanes with bomb racks that they have adapted to these transports. The bombing and the strafing is currently 10 to 15 kilometers inside Honduras. This is absolutely horrendous.

Mr. McEWEN. This is giving peace a chance?

Mr. DORNAN of California. This is giving peace a chance.

Mr. McEWEN. This could be a mistake; according to Speaker WRIGHT could be a mistaken invasion.

Mr. WALKER. It could be inadvertent from what we have heard. The Speaker said a few minutes ago on television that this could all be inadvertence.

Mr. BURTON of Indiana. Wait just a minute. The inadvertent invasion, as I understand it, is that they have gone up to Chinandega at least that is what I have been told, where there was a hospital where you visited and I visited which is well inside the Honduran border. That is not a mistake, folks. That has got to be at least 6 to 8 miles at the absolute minimum and probably quite a bit further.

Mr. McEWEN. And the accidental, inadvertent incursions happen to be where the supplies of the democratic resistance are located.

Mr. BURTON of Indiana. Or the hospital is.

Mr. McEWEN. So it is remarkable that this inadvertent incursion is taking place.

Mr. DORNAN of California. My colleagues, there are seven points here. Let us get them all out.

I am sorry; that is fascinating and unacceptable. Now I guessed correctly. Here is a footnote. They are using AN, Atonov, 26; Curl is the NATO name, Curl, transports, and MI-17's extensively and the Hind helicopter gunships of which we have no equivalents because our Apache, 864 Apache, AH-64, cannot hold troops in the back. The Hinds are backup circling inside the border at Nicaragua.

Fourth. There are about 2,000 BLI's, B-L-I; that is the military short form for light infantry battalion in Spanish. That is why the numbers are reversed, but you could say battalion light infantry—2,000 BLI's, the best trained Nicaraguan forces now inside Honduras, so the intelligence agency is not saying 1,500 to 2,000; 2,000 inside Honduras.

Fifth. Ortega says that—here goes the arrogant bragging again—that there are about 6,000 of his men involved in the operation, so, Mr. BURTON, you can correct the lower estimate. Ortega is shoving it in our face. He says that he has got 6,000 people involved. There are now about 700 Contras trying to hold off this offensive as we speak, kids that we met. Some of the ones slightly wounded are back in combat now including those young girls and women that we saw. When someone is 15, 16, 17, and you have got three daughters who are in their twenties, you tend to think of these as young girls.

Two more points to go, and then I will yield to you.

Sixth. Ortega says the resistance dead is now over 100. The Contras have not lost more than two men in any combat operation in the last 5 or 6 months. That is how effectively they have been operating since a mission on the Rama Road in the southeastern part of the country months ago. There are now over 100 dead all over the battlefield—go ahead right there.

Mr. McEWEN. Will the gentleman settle on that point, the actions you mentioned, that in any democratic resistance effort less than two died in any conflict? Now over 100 have died because of the actions that were taken here on this floor on February 3. This is the definition of giving peace a chance.

The gentleman may proceed.

Mr. DORNAN of California. The last line is the worst. You do not have to surmise any more. Now you can quote our intelligence sources; that is, the Defense Intelligence Agency, and the Central Intelligence Agency, and our attachés in the Embassy and everybody who contributes to the overall package of what package of what is called U.S. intelligence.

Seventh (final note). The intelligence people characterize the situation as approaching a blood bath.

That is what is going on as we stand here and talk.

Mr. McEWEN. I would ask the gentleman in the well if he feels that these actions are accidental. Does he believe that the people who supported the actions of the Congress that brought us to this point; were they naive, or is this the conclusion for which they have struggled for lo these many years?

Mr. DORNAN of California. I remember one of those leaders in this meeting saying, "Well, now all this started to deteriorate a few days ago," and our four-star general, National Security Adviser to the President, said, "Mr. Speaker, the deterioration began on March 1."

Within a few hours of the cutoff of aid, on February 29, they began to move the helicopters and troops into the region, carve out some new drop zones, helicopter landing zones, and to move more radars into the area in case we mustered the guts to try to at least give some cover to these young people that we have helped put into combat as they withdrew.

Go ahead.

Mr. McEWEN. Mr. Speaker, I would ask unanimous consent that the rollcall on rollcall No. 7 taken on February 3 that appears on page H 217 of the official Record of the House be inserted in the Record at this point in keeping with the actions that have brought us to what we are discussing tonight and be abundantly clear for those that are following the Record closely as to how we came to this point.

Mr. DORNAN of California. I am sorry to say that there will be 12 Members of our party on the cutoff of aid to the freedom fighters side of that vote, but at least 9 or 10 of them have come to their senses and changed their vote a month later on March 3.

The SPEAKER pro tempore. Without objection, so ordered.

The rollcall follows:

[Roll No. 7]

AYES—211

Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Chandler
Chapman
Chappell
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dowdy
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Fascell
Fawell
Fields
Fish
Flippo
Frenzel
Gallegly
Gallo
Gekas
Gibbons
Gilman
Gingrich
Goodling
Gradison
Grandy
Grant
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Herger
Hiler
Holloway
Hopkins
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Johnson (CT)
Kasich
Kemp
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morrison (WA)
Murtha
Myers
Nelson
Nichols
Nielson
Ortiz
Oxley
Packard
Parris
Pashayan
Patterson
Pepper
Petri
Pickett
Porter
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roemer
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Skelton
Slaughter (VA)
Smith (FL)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Upton
Vander Jagt
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Wilson
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOES—219

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Berman
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Espy
Evans
Fazio
Feighan
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Glickman
Gonzalez
Gordon
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hefner
Henry
Hertel
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Hughes
Jacobs
Jeffords
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Nagle
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Pease
Pelosi
Penny
Perkins
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Richardson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Shays
Sikorski
Skaggs
Slattery
Slaughter (NY)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tauke
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—3

Biaggi
Jones (TN)
Lightfoot

Mr. DORNAN of California. Gentlemen, to come back to the indictment today of Gen. Richard Secord, who flew over 260 combat missions in Vietnam in 1963, his combat airplane was a small propeller-driven T for trainer 28 that I flew in pilot training in 1954. That is what he was flying 9 years later in Vietnam and won the Silver Star. He is indicted.

Colonel North, who won the Silver Star, a Bronze Star, and several Purple Hearts in Vietnam, he is indicted today only because he could not stand to see us reliving the betrayal of Vietnam where he saw so many of his particularly young platoon leaders die.

Mr. BURTON of Indiana. I would like to point out one thing.

Mr. DORNAN of California. Sure.

Mr. BURTON of Indiana. The day that they are being indicted, these men who served their country well for decades, the Communists are invading Honduras with impunity.

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Mr. DORNAN of California. And sending them a blood bath, and certain people using the sovereign soil of Honduras.

Let me point out what became known as the Ollie North slide presentation, the slides that he showed, 57 of them, were actually put together, that Intelligence briefing, for American citizens that a distinguished Member of the Senate, a war hero, would not allow to be shown in the Senate room under the guise that the lights would have to be lowered and it would be unsafe. We all know that we sit in lighted rooms when we show these color slides with that powerful projector light on a bright screen with little beads that enhance the lights, you do not have to turn the lights down; but Ollie North held up the slides and narrated them, which was just as effective, and it went into the written record and now we have those slides available.

Well, those slides were put together by a then active duty colonel, Lawrence Tracy, who is now available to all of us in the private sector. Like every good retired officer in these dangerous times, he did not go home to the home of his birth to retire and hit the golf courses somewhere or go to Hawaii or the beaches of Puerto Rico. He stayed right here inside the beltway to hear the screams of the Christians and the roar of the lions.

Here is a memo from him. I have not yet read it. His memos are so good. I will read it and then solicit your comments and see what Col. Larry Tracy's analysis is—and by the way, it is an updated version of Colonel North's slide presentation with 60 slides, updated graphics, and it is powerful. Here is a memo to me it is available to any Congressman, from Colonel Tracy.

> Subject: The need for a final offensive by President Reagan.

I do not know what he is going to say.

> The news of March 15—

yesterday—

> is that the Sandinistas have launched a multi-battalion offensive to eliminate the Contra Freedom Fighters as an effective fighting force. We should not be surprised, Daniel Ortega said in late February, that he was preparing to crush the Contras. With logistic assistance cut off by the U.S. Congress as of midnight, February 29, 1988, Ortega obviously feels he is in a strong position to move with impunity and that the U.S. Congress will continue its policy of unilateral disarmament of the Contra Freedom Fighters. If the Sandinistas can destroy the Contras now it will make meaningless any future debate in Congress. The United States will be faced with a fait accompli of a consolidated communist government in Nicaragua.

The Intelligence community told me last night that they are within days of performing that consolidation by the police state apparatus they have set up. Then try and get visas to go down there and talk to the poor mothers of the 10,000-plus political prisoners.

> Ortega will then be able to appear more open to reforms as a means of gaining foreign economic aid and the anti-Contra coalition in Congress will claim that the communization of Nicaragua was the fault of the House Republicans who voted against Speaker Wright's humanitarian aid plan on March 3rd.

When Larry Tracy wrote this yesterday, he did not know that TONY COELHO would come to the well and in a 1-minute speech say that we had sold out these young men and women that we admire, fellow North Americans who are dying for freedom closer to my State of California than I am at this moment to my district in California.

Mr. McEWEN. Mr. Speaker, if the gentleman will yield, because we did not send blankets and did not give airlifts to the refugees, none of which would have helped anyway.

Mr. DORNAN of California. Exactly. Now, point two.

> The vote of February 3, 1988, certainly placed the anti-Contra coalition under the leadership of Jim Wright in the historic role of being responsible for the communization of Central America. The confusing series of votes on March 3rd, a month later, however, had muddied the waters. The position taken by the Republicans was correct, denying Speaker Wright and his supporters the political cover that purely humanitarian aid could have provided them. But the Republicans in the House now run the risk of being charged with petulance by the anti-Contra coalition for refusing a half a loaf because they could not have the whole. As the reality of the irresponsible tactics of the coalition fade, future historians may erroneously conclude that it was the intransigence of the hard-liners in the Republican ranks that set the stage for the demoralization of the Contras and their subsequent annihilation by the Sandinistas' final offensive.

Do you begin to feel like we were had?

> Three. In the almost eight years that I have been involved with the Central American issue—

this was his prime responsibility as senior officer and Colonel in the Pentagon with much Vietnam experience, speaks fluent Spanish and several other languages.

> in the Pentagon, the State Department, and now as a private citizen, I have never—

underlined—

> seen a time more critical or more fraught with danger than this present moment. An historic precedent for the plight of the Contras as a result of the congressional aid cutoff is the situation that confronted the government of South Vietnam in the Spring of 1975.

Mr. McEWEN. That is exactly right.

Mr. DORNAN of California. After the Communists cut off aid to that country and, of course, cut off Cambodia, which was being on-slaughtered by Ancar, Uncle, the genocidal maniac of the Khmer Rouge, which fell on the eve of the 200th anniversary of Paul Revere's ride, because I was up in Boston, could not believe my ears.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I think that is an important point the gentleman makes, because as I said earlier today, what we are seeing created in Central America is the killing fields of Central America, just like we had the killing fields in Southeast Asia.

When the gentleman quoted a few minutes ago from our Central Intelligence capabilities that we have the advent of a blood bath in Nicaragua and Honduras, it seems to me that the scariest thing about that is the fact that we are in fact creating the killing fields in Central America where massive numbers of people will die because the Communists believe the killing fields are their way to power.

Mr. McEWEN. And in Southeast Asia, I would say that in Southeast Asia the American people have closed their eyes to what happened. Sure, we saw the Hollywood movie, "The Killing Fields." Sure, we see the boatpeople who are dying everyday, but in Central America closing our eyes will not be sufficient. We will have to hold our ears, because it is only a 2-day drive, it is only a 4-day hike to the borders of Mexico and the United States and those people will be here with their stories as every freedom loving person does when overrun by a Marxist regime.

Mr. DORNAN of California. And a 3-hour plane flight from Ilopango to Houston.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. This will not end if they consolidate power as it appears they are going to do with just Nicaragua and Honduras. It is going to be El Salvador. It is going to be Guatemala.

Bayardo Arce looked me right in the eye at the Managua Airport, one of the 9 comandantes, and he said, yes, they did want to build in fact a 600,000-man army in that nation of 2½ to 3 million people, one out of every six people under arms.

He said, "If I had my way, we would have a million under arms."

Daniel Ortega is out on the world market trying to buy 3 million rifles. Their goal is to expand their military force to a couple million people throughout Central America, and then, by golly, we in the United States that only have 2 million in our armed forces are going to have a real formidable foe to deal with just south of the Mexican-American border, the soft underbelly of America.

I mean, this thing is a lot bigger than most people realize.

You know, after we get a little further on in the discussion, there is a letter that I would like to read at least in part into the RECORD from four pages of Democrats. This letter was written to the President on February 23 regarding what he ought to do in Central America, and I think this is an appropriate time for the people in this body, Mr. Speaker, to hear what our colleagues were asking him to do, because it is really enlightening.

Mr. DORNAN of California. Now, 167 people signed that letter, including three conservative Republicans. Because of some of the tough language in it, they did not mind signing it, but it becomes an abominable act, not of hypocrisy, but of naivete to suddenly start using the words "resistance" and talking about national security threats. We will put that in the RECORD. I was going to do that, too. I have got it here.

Mr. BURTON of Indiana. Well, if the gentleman could give me just about 3 or 4 minutes.

Mr. DORNAN of California. Sure.

Mr. BURTON of Indiana. Let me read some of the more salient points in it.

Mr. DORNAN of California. Well, let me have the gentleman do it at the end of this paragraph. Larry Tracy has seven paragraphs. I will conclude this paragraph and then the gentleman can do it. Then I will go back to his other four.

He points out that the parallel is to Vietnam in 1975, April, after the Congress cut off the aid to that country, and I added Cambodia.

> Then the past—

in which 58,000, I will add 132, 58,132 young Americans, 9 of them Army nurses, died in that conflict, led Congress to say no more.

> Now the future may again see young Americans dying in Central America because Congress is again saying no more. There is only one man who can save the day—Ronald Reagan. He must launch his own final offensive in his last year, an all-out effort to save the Contras and his place in history.

And we will leave that thought, because I do not know what he is going to say next in the following four paragraphs, after the gentleman from Indiana puts in the parts of the letter of February 23 and then we will ask that it be inserted in the RECORD in its entirety.

Mr. BURTON of Indiana. As a preface to what I am going to read, I would just like to say that I agree with what the gentleman said, that Ronald Reagan, our President, is the only one that can deal with this problem right now. It certainly is not going to happen by the action of this body.

Mr. DORNAN of California. You know, there is so much negative news, let us tell some good news here to the folks.

The gentleman from Ohio [Mr. McEWEN] and I could tell from the remarks of the gentleman from California [Mr. COELHO], because he said the President was very upset yesterday in the Cabinet Room, asking for military assistance for the Contras, that the press stories are true, that unnamed anonymous people came out of the meeting and said that the President pounded on the Cabinet table and said in his inimitable style, "There are people around this table who don't seem to understand who the bad guys are down there."

Now I know that was true, does the gentleman from Ohio [Mr. McEWEN] not think so?

Mr. McEWEN. You see, we understand that we have three options in situations like this.

No. 1, we can ignore what happens and by our inaction support the Marxist consolidation.

No. 2, we can give the freedom fighters the opportunity to defend themselves.

Or No. 3, we can send troops to fight and to die.

Now, unfortunately, when we have the option of supporting the freedom fighters, we are now left with the dilemma of either sending troops or by our inaction supporting a Marxist consolidation. That is what the other side of the aisle has offered us.

I do not know which they prefer. Deep in their hearts I do not know if they want to go to war, as they did in Korea, as they did in Vietnam, as they did in World War II and World War I. Maybe that is their goal. Or is their goal to see the consolidation of the Marxist regime in Central America? I do not know. All I know is that we had the option to stand on the side of freedom, to give the eye dropper of aid to let those who are willing to fight for their own defense, that we chose to deny the President that option. Now the two alternatives are very unsalable in my opinion and very, very unfortunate.

Mr. DORNAN of California. Excellent.

May I ask the gentleman from Indiana [Mr. BURTON], would the gentleman underscore some of the tougher parts of the February 23 letter, and then I will follow up with Mr. WRIGHT's March 1 telegram to the Sandinistas and what he addressed as the resistance. For once he did not call them the Contras.

Mr. BURTON of Indiana. The more salient part of the letter starts off:

> It is important now to modify our policy so that it can tain solid bipartisan support of the Congress and the people. Such a policy can be implemented with confidence and consistency. We would like to call to your attention one element that such a policy should contain and request your support.

Now, get this part:

> The United States has valid security concerns in Central America. Chief among these is to make sure that the United States and the neighboring countries of Central and South America are not threatened or endangered by the presence of military materiel, personnel or facilities of the Soviet Union or its allies. At present, the greatest danger of such a threat is in Nicaragua under the government of the Sandinista Junta.

They admit that—

> It is evident that our recent policy of supporting the counter-revolutionary contra forces has not led to the reduction of a Soviet threat.

Listen to this part:

> In fact, a case could be made that our policy has encouraged the Sandinistas to seek and receive an increasingly lethal complement of military hardware—

they are blaming us for the Sandinistas getting more hardware.

> Including the Mi-24 Hind attack helicopters. There are also rumors of the construction of submarine bases and airfields capable of landing the largest bombers.

That is no rumor. It is at Punta Huete. We have seen pictures of it on the floor.

Mr. DORNAN of California. Congressman STUMP of Arizona on our side of the well, we discussed this today, and Congressman McCURDY, one of the vacillating, unpredictable, on-again off-again Members who have created all this confusion, Congressman McCURDY of Oklahoma, together they walked the 9,000-foot deep concrete runway at Punta Huete that can take IL-76 and IL-86 Ilyushin transports.

Mr. BURTON of Indiana. And remember, they were only walking on a rumor.

Mr. DORNAN of California. That is right. And now they are building barracks at those facilities.

Mr. McEWEN. If they are to defend themselves from the Costa Ricans who have no military, or merely to defend the Nicaraguan Government that is there, lest they be overrun by the poor Guatemalans, if that is the case.

Mr. BURTON of Indiana. That is right.

It goes on:

> It is clear that, irrespective of the support that the United States gives to the Contras, they are simply incapable of preventing the importation into Nicaragua of the kind of hardware that would present a threat to our country.

Who is going to interdict those supplies, our boys? That is the implication.

> Nor should we delegate to a proxy army the responsibility for protecting against a major national security threat to the United States.

Once again the implication is that they are going to want our boys down there, these people that signed this letter.

> This is properly the function of the United States, itself—

to interdict those supplies.

Once again, the implication is American boys. That is not what they are saying flat out, but that is the implication of their remarks.

> Therefore, we request that you initiate negotiations with the Soviet Union and the government of Nicaragua leading to the exodus of military personnel, facilities and materiel from Nicaragua and an agreement that such exodus should be permanent.

Now, how in the world are you going to get the Government of Nicaragua and the Soviet Union to sit down and agree to an exodus of foreign troops and materiel without any opposition? I mean, are we going to do it with a piece of paper, or just pass a resolution?

Mr. DORNAN of California. Would the gentleman go to the second page of the letter and read a few of the names of the leadership that is on there?

□ 1855

Mr. BURTON of Indiana. Mr. Speaker, let me read the rest of the salient parts.

> Since General Secretary Gorbachev has indicated—

Listen to this naivete—

> Since General Secretary Gorbachev has indicated a willingness to enter into discussions of this security issue and the climate seems conducive to recognition of individual and mutual interests, it would seem timely for such discussions to start.

Listen to that. They just sent how many millions worth of war materials in the last 45 days in there and they are saying it is conducive to good discussions with Gorbachev. He is willing to sit and talk.

Mr. DORNAN of California. And they have sent in $100 million in January and $75 million in February, $175 million in just the last 2 months.

Mr. CRAIG. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. Mr. Speaker, I am happy to yield to the gentleman from Idaho.

Mr. CRAIG. Mr. Speaker, I wanted to stop by and thank my colleagues for taking this special order tonight and beginning to clarify an issue for the American people that we have seen the other side work very hard to confuse over the last several months. I have said that in my State of Idaho, and I know my colleagues have that similar experience, the one very clear reason that we supported aid to the freedom fighters was so that our young men and women would not have to go into Central and Latin America to stabilize the hemisphere. That was one of the driving reasons to offer support to bring stability to Nicaragua.

Mr. DORNAN of California. And there is not one of us here who wants to see one American soldier die down there, or have American troops fighting in Central America.

Mr. CRAIG. If the gentleman will continue to yield, that was the strong reason for us working so hard to provide aid to the freedom fighters. Now the other side is saying, "Well, my goodness, if this happens this way then maybe."

But maybe what?

Mr. BURTON of Indiana. If the gentleman will yield, what they are saying is that we should not ask them to interdict supplies or take on the task of fighting for their own freedom and stopping the Communist expansion, we should do it ourselves. That is the implication. That was almost just what they said in their letter.

Mr. CRAIG. And they risk that very chance now. In fact there was a rumored story out this evening that we had troops headed toward Honduras. Apparently that is not true.

Mr. DORNAN of California. Mr. Speaker, that is a rumor, and a rumor only.

Mr. CRAIG. It is a rumor, but it is not the truth. That is the concern that we have.

Mr. BURTON of Indiana. If the gentleman will continue to yield to me, what the truth is is that President Azcona told the gentleman from California [Mr. DORNAN] and myself face to face that he would request up to 50,000 U.S. troops be stationed in Honduras alone if the peace process failed and the Contras were destroyed.

Mr. CRAIG. Of course, because it is his only alternative to peace.

Mr. BURTON of Indiana. But what about El Salvador, Guatemala, and Costa Rica?

Mr. McEWEN. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. Mr. Speaker, I am happy to yield to the gentleman from Ohio.

Mr. McEWEN. Every single one of the leaders of Central America has said the same thing, that if the Contras are not successful and if the Marxists from the Soviet Union can consolidate their base in Nicaragua, that these Central American leaders will ask for American troops to be stationed in their respective countries. They have no alternative.

Mr. DORNAN of California. Mr. Speaker, reclaiming my time, let me get some of this paperwork out of the way to further our discussion, since I believe we are interested enough in kids dying down there that we will stay with this for a couple of hours.

Let me set up the letter that the gentleman from Indiana [Mr. BURTON] will be reading, the letter to the President from 67 Members including the leadership, the gentleman from California [Mr. COELHO], the whip, the gentleman from Michigan [Mr. BONIOR], the deputy whip, and the majority leader, the gentleman from Washington [Mr. FOLEY], the gentleman from Oklahoma [Mr. McCURDY], the gentleman from Texas [Mr. BUSTAMANTE], the gentleman from Ohio [Mr. TRAFICANT], the gentleman from Pennsylvania [Mr. KOSTMAYER], the gentleman from Illinois [Mr. DURBIN], the gentleman from Massachusetts [Mr. MRAZEK], the father of the so-called Mrazek line down there where we cannot go within 20 miles of the border of these countries. Also, the gentleman from Washington [Mr. DICKS], the gentleman from California [Mr. PANETTA], the gentleman from Maine [Mr. BRENNAN], the gentleman from Michigan [Mr. WOLPE], the gentlewoman from California [Mrs. BOXER], and that shows that there is a pretty good representation out of the Democratic leadership that works this issue. I guess Mr. MILLER is on there, too.

Listen to this letter 22 days earlier from Colin Powell, NSA adviser, a four-star Army general, to Chairman LEE HAMILTON, who was doing a press conference a few moments ago on the indictments of Oliver North and Admiral Poindexter and Mr. Hakim, and Major General Secord.

Here is Colin Powell, in the name of the President, writing this letter.

"Dear Mr. Chairman: Thank you for your letter of January 25, 1988, inquiring about President Reagan's discussions with General Secretary Gorbachev regarding Nicaragua during the recent Washington summit"—which began on Pearl Harbor Day, December 7.

"President Reagan raised the issue of Nicaragua with the General Secretary by pointing out that continuing massive Soviet supply of military equipment to the Sandinista regime aggravates the situation in Central America and constitutes another instance in which Soviet actions in regional conflicts made United States-Soviet relations more difficult.

"Secretary Shultz pursued this same topic with the Soviets in postsummit consultations.

"The Soviet position on the question is clear, they propose to limit military assistance to the Sandinistas to only small arms which the General Secretary characterized"—my colleagues will love this—"as police arms"——

Mr. BURTON of Indiana. The AK-47 is a police arm?

Mr. DORNAN of California. Yes, right.

"In exchange for the United States stopping its military assistance programs to the other nations of Central America and to the Nicaraguan Democratic Resistance." That is what most of the people on the other side call the Contras which is what Ortega nicknamed them.

"This proposal, needless to say, is not congruent with our commitments to the Central American democracies nor with our national interest. Its acceptance would leave the present dangerous Sandinista military preponderance over its neighbors entirely intact. Moreover, it would have us legitimize a dangerous extension of Soviet power on to the mainland of the Western Hemisphere. We will, however, continue to press the Soviets to develop a more constructive approach to Central America—what happened to the Monroe Doctrine—and in the other regional conflicts where Soviet aims and actions and exacerbating the situations.

"Sincerely, Colin Powell."

I wonder if he had in mind Angola and Afghanistan?

Mr. BURTON of Indiana. If the gentleman will yield, 22 days later the naivete of these individuals shows clearly in this paragraph when they said after reading this letter from Colin Powell, "Since General Secretary Gorbachev has indicated a willingness to enter into dicussions of this security and the general climate seems conducive to the recognition of individual and mutual interests, it would seem timely for such discussions to start."

The Russians are sending millions and millions of dollars of additional aid in there, and they say they want to continue to send military assistance and they will reduce it a little if we cut off all aid. That is the kind of "conducive and mutual discussion" that we want to see take place?

Mr. DORNAN of California. Mr. Speaker, reclaiming my time, let me put the Wright telegram in at this point.

[Telegram]

> DIRECTORS OF THE NICARAGUAN RESISTANCE.
>
> The negotiations for a ceasefire and peace in your nation have reached a critical stage. The destiny of Nicaragua hangs in the balance.
>
> In the cause of peace and democracy I urge you—as I urge those in the Sandinista leadership who lead the military operation against you—to proceed immediately and diligently to the negotiating table.
>
> It is essential that the parties to the talks meet at the highest levels and with the utmost dedication and stay at the table until there is an agreement.
>
> JIM WRIGHT.

First came the Colin Powell memo specifically to one of their leaders, the gentleman from Indiana [Mr. HAMILTON], then 22 days later on February 23 this incredibly absurd letter signed by 67 Members, then on March 4, about 10 days later, 4 days after all assistance was cut off and our intelligence people and everybody are blocked because there is no legal mandate to have anything to do with these kids that we put into combat down there, they are willing to go into combat and we supplied them, but here is what our Speaker writes to them, and I understand he sent a similar telegram to the Sandinista Communists. He probably addressed that to "the duly elected government of Managua," which has never been a duly elected government, but he writes to the directors of the Nicaraguan resistance—and apparently the Speaker cannot bring himself to call them "democratic resistance."

"The negotiations for a cease-fire and peace in your nation"—conceding it is their nation of Nicaragua, also—"have reached the critical stage. The destiny of Nicaragua hangs in the balance."

That is only 12 days ago.

"In the cause of peace and democracy I urge you as I urge those in the Sandinista leadership who lead the military operation against you to proceed immediately and diligently to the negotiating table."

I guess he should have added "unless you are dead."

"It is essential that the parties to the talks meet at the highest levels and with the utmost dedication and stay at the table until there is an agreement."

But 2 days later Ortega's answer to JIM WRIGHT is, "We are going to crush the Nicaraguan resistance."

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. Mr. Speaker, I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, that telegram that I referred to a couple times on the floor, and I think it is important to note concerning that that when the democratic resistance leadership received that telegram they regarded it as a message asking them to surrender. The reason for that is, and they made the point, when one tells them to go to the table and sit down and do not get up until they have an agreement, at that time the Congress had just cut off all aid to them, so they took nothing to the table.

Mr. DORNAN of California. Exactly.

Mr. WALKER. At the same time, they knew, because as Colin Powell has pointed out as of March 1 the supplies were being massed against them and troops were being massed against them, they knew this offensive was about to take place and they hear from the Speaker that they are supposed to sit down and come to an agreement and stay there until they do.

I will tell my colleagues that the direct communication to me from the democratic resistance states that they regarded that telegram as asking them to surrender.

Mr. DORNAN of California. I concur.

Mr. WALKER. When we see the events that have unfolded since that time, it is very disturbing. It is particularly disturbing that that telegram was sent based on the information I tried to dig out, sent without any consultation whatever with our Department of State.

Mr. DORNAN of California. Exactly.

Mr. WALKER. It was done purely on a foreign policy initiative by the Speaker of the House, who was out on his own formulating his own foreign policy again, and he did it without consultation.

Mr. DORNAN of California. And all of this happening since the end of July.

Mr. WALKER. And the intelligence estimates were that there was a major offensive being planned when he sent that telegram to the democratic resistance. That is what got us into major difficulties in Central America. It is one of the things that is likely to lead to the loss of Nicaragua to the Soviets, and I think it is extremely disturbing that as the gentleman from Indiana [Mr. BURTON] has pointed out, this telegram went out to people who were fighting on our side.

Mr. DORNAN of California. Mr. Speaker, the gentleman from Ohio [Mr. McEWEN] has a special order now and later on this evening we can come up with more information, because Allan Crenowitz, and the team at the White House, and I say that respectively, I hope will watch proceeding by, if nothing else, national technical means; that is, videotapes, on tomorrow so that they understand what we will recommend.

Let us see what Larry Tracey recommends. In paragraph 4 of 7:

> Those who care about how history will treat the Reagan presidency should be concerned that events are now conspiring to cause future historians to blame not the Democrats, but Ronald Reagan, for either the loss of Central America to Communism, or the loss of thousands of young Americans in combat in that area. He could be criticized for failing to galvanize the American people, for failing to exercise the leadership of the office of the presidency, and for failing to implement a policy that prevented another Cuba while avoiding another Viet Nam.

Then, going on to paragraph 5, he says:

> The President must do what he does best—communicate directly with the American people on a prime time telecast from the Oval Office. He should immediately order the intelligence community to prepare and declassify the most recent intelligence, especially that derived from NSA resources, on Sandinista political and military goals. He should personally demand of the networks the time for the address to the nation in which he reveals this intelligence complete with state-of-the-art graphics and overhead photography.

Now the networks have said privately that they will not turn him down if he were to call them directly.

Mr. McEWEN. And if the gentleman will yield, my colleagues will remember that the last time this came up it was before the decision was made which was judged by the major networks as being inconsequential and nothing new.

Now we see what the "new" facts were and how significant it was and those who really control the power of this country, and the access to the people which was denied the President of the United States.

Mr. DORNAN of California. It would certainly have intimidated five Republicans' votes, and we would have won on that vote.

Mr. BURTON of Indiana. If the gentleman will yield, the gentleman then says the President will be blamed for not galvanizing support, and it is tragic because how can one galvanize support when one cannot get the people through the media?

The SPEAKER pro tempore. The time of the gentleman from California has expired.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

UPDATE ON SITUATION IN CENTRAL AMERICA

The SPEAKER pro tempore (Mr. PERKINS). Under a previous order of the House, the gentleman from Ohio [Mr. MCEWEN] is recognized for 60 minutes.

Mr. McEWEN. Mr. Speaker, I yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, as we have just seen a Presidential message delivered, I would hope that instead of a perfunctory piece of legislation, however important it is, it would rather be a Presidential announcement that Honduras had been assured that if they protect their sovereign soil and shoot those AN-26's and HIP helicopters out of the air that are over their territory, that we will back them up and not turn on them and terrorize them as we terrorized Thailand and Malaysia and the Philippines when we pulled out of Indochina in the spring of 1975, with the class of Watergate babies, as they are called, the class of 1974, turning the debate in this House.

Mr. Speaker, we had only 144 Republican Members then, and in the next 2 years we were down to 143. I say to my Republican colleagues, can they imagine what it is like with 178 now and we can hardly get any support for freedom fighters?

□ 1910

"The President must do what he does best—communicate directly with the American people in prime time. He should immediately order the intelligence community to prepare and declassify," amen, "the most recent intelligence, especially that derived from NSA," National Security Agency, "resources," and that means scraping what we hear in the air with our listening sources around the world, "on Sandinistas political and military goals. He should personally," personally, "demand of the networks the time for the address to the Nation," and Colonel Tracy is reading my mind, "in which he reveals this intelligence, complete with state-of-the-art graphics," show the overhead photography. "To heighten the dramatic effect, he should invite to his desk at the appropriate moment during the speech Major Roger Miranda. Miranda, speaking in his deliberate Spanish, with an off-screen sequential interpreter," and all they have to do is lower the volume on his voice and bring up the volume of the simultaneous translation, and everybody will swear a month later he spoke in English. I do not know how effective that is. "He can then"—Major Miranda—"tell the American people how his erstwhile Communist colleagues have intended to use the President Arias peace plan to consolidate their Communist dictatorship, of their plans for extending their influence throughout Central America, of his own disillusionment with the betrayal of the 1979 revolution by the Sandinistas, and, finally, of his belief that the Contras do indeed represent the views of a sizable segment of the Nicaraguan population," or to put it in the words of Major Miranda, he came to realize it truly was a civil war, and that he was on the wrong side as an idealistic Marxist with a degree from Santiago, Chile, and another degree from the Pueblo Institute of Mexico that he was truly crushing the peasant class of his country and of all of his Marxist, college youthful idealism drained out of him.

6: "With Miranda at his side," President Reagan "should then ask the American people to deluge this Congress, not the White House, with requests for an up-or-down vote on military aid for the Contras," which I disagree with the Democratic leadership. I think it would pass tomorrow, particularly if we close this Chamber and ask Jack Russ, our Sergeant at Arms, to block all the doors. It should not be classified anyway. Why can we not let the people know who we represent at this moment of ultimate peril? Give us a top secret briefing with all the state-of-the-art graphics and intelligence update right here in the well of this House and then open up the doors, let the people into the galleries as our guests and vote up or down on a small, temporary package of military aid so that we can "give peace a chance" in the words of Yoko Ono Lennon.

He continues, with Miranda beside the President and the request for up-or-down military aid, "he can say, 'You have heard the facts, now you decide.' He should then conclude with generous words for Speaker WRIGHT," and I concur, "Senator DODD of the other body and others who have opposed his policy by saying that he knows they are just as determined as he is to not permit a Soviet beachhead in Central America." They smell it coming, and so as Mr. COELHO did today, they are going to try and blame us. "The difference, he then points out," the President, between his policy and theirs is that he wants to provide arms to young Nicaraguans, while the Wright-Dodd policy may force a future President and Congress to send young Americans to fight" and die "in Central America."

In the concluding paragraph, and my eyes jumped ahead at the words "Vice President BUSH"—as the first Member of this body or the other Chamber to endorse our Vice President who I think is a great man—I am going to read this cold with some interest. "Vice President Bush has a vested interest in persuading the President to launch this final offensive immediately. Events are now moving at such a pace that the critical decision of whether to acquiesce to a permanent Communist dictatorship in Central America" mirroring Cuba with all the attendant risks to U.S. security this would entail, or sending U.S. troops to fight and die there, will likely come during the next Presidency.

I am working hard to make that 41st President the first George since George Washington. "Allowing the present situation to deteriorate will only make matters worse for a President Bush."

I can just hear the words on the other side of the aisle, "Let George do it." That is what is going to face us for the next 4 to 8 years.

Who wanted to comment on the Larry Tracy thing? We are going to assume the President is listening to this, as he received Mr. BURTON and me into the Oval Office on returning from one of our trips to Central America. Let us give the President some advice. That is what we are paid to do, even if we are not in the leadership.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

I think the gentleman from California has given the President a great deal of good advice in the form of that letter, and I would just add my support to what you have already said.

I think it is extremely important that the President of the United States literally take the bull by the horns at this very important time and do what has to be done in stemming the tide of the Communist expansion, particularly in view of the fact that they have gone into Honduras illegally and in violation of their previously stated positions.

I would just like to make a couple of real brief remarks and mention a couple of quotes that have been made by the leaders of the Sandinistas, because we seem to lose sight of what they are all about and what they have been saying down there.

Tomas Borge, one of the nine commandantes, one of the leaders in the Sandinista Government said, and I quote, and the question was put to him, "Will you respond to the remarks that Nicaragua is the first domino in Latin America, that since the revolution triumphed in Nicaragua, it will be exported to El Salvador, Guatemala, Honduras, Mexico?" We need to be reminded that Borge responded to that question by saying, "That is one historical prophesy of Ronald Reagan's that is absolutely true." So they told us their goal is not just Central America but Mexico, and they plan to export the revolution to do that.

Daniel Ortega was quoted last November as saying this, "What I would really like to be doing is what Che Guevara did, going to other lands to struggle," and they are already in another land today, in Honduras. There is a bit of history I would like to quote that happened on November 4, 1956, and I hope this does not happen again. We seem to not profit from history.

Listen to this, this is a quote from a freedom fighter broadcasting from a radio station in Budapest, Hungary, November 4, 1956. He cried out to the conscience of the world when he said, "Their tanks and their guns are roaring over Hungarian soil. People of the world, listen to our call. Help us, not with advice, not with words, but with action. Please do not forget this wild attack of bolshevism will not stop. You may be the next victim. Save us. SOS. Civilized people of the world, in the name of liberty and solidarity, we are asking you to help. The shadows grow darker from hour to hour. Listen to our cry. Start moving. Extend to us a brotherly hand, people of the world, save us. SOS. Help, help, help. God be with you and with us." After that there was only silence.

I want to follow up that quote. This Hungarian freedom fighter, like his colleague, probably died at the hands of a Soviet firing squad. A man who was in charge of that operation for the KGB in Hungary was a man named Andropov, and Andropov promised all of these Hungarian freedom fighters that if they would lay down their arms and surrrender that he would give them amnesty. They laid down their arms and they surrendered. They were lined up against a wall, and they were mowed down like corn. They were all killed. One of the great proteges of Mr. Andropov is a man that our colleagues on the other side of the aisle say that we should be sitting down with and negotiating with regarding Central America, and his name is Mr. Gorbachev.

Mr. DORNAN of California. Do you know where Andropov was at that minute? Guess where he was when those words were going out from Hungary? He was the Ambassador to Hungary, and he was the man who engineered that.

Mr. BURTON of Indiana. He wanted them to lay down their arms, and he had them mowed down after he promised them amnesty if they would lay down their arms. He murdered them. His chief proteges, or one of his chief proteges, is Mr. Gorbachev. Our colleagues say we should sit down and negotiate with him, because the spirit of cooperation is so prevalent right now with the Soviet Union, that is, the INF Treaty. At the same time they are talking about that they are sending additional millions and millions of dollars worth of war materials into Central America.

I just want to make one reference here to a speech made by Mr. Gorbachev 3 weeks before he came over to this country to sign the INF Treaty. This speech took place last November. This speech was to the Supreme Soviet. It was his major address of the year, and in the last paragraph of that speech, this is what he said, and I do not think I will paraphrase it very much. It is almost an exact quote, because I pretty much committed it to memory. He said that in 1917 we departed the old world. We departed toward a new path, the world of communism, the world of communism. We shall never deviate from that path.

Mr. DORNAN of California. Mr. BURTON, who was sitting in the audience at Mr. Gorbachev's feet when he said that on October 2?

Mr. BURTON of Indiana. As I recall, it was Mr. Ortega of Nicaragua.

Mr. DORNAN of California. And Castro and Gus Hall of the U.S. Communist Party. They were all sitting within 3 chairs of one another, and they were all in a photograph, but the New York Times chose to cut one of them out, and I forget which one it was.

Mr. BURTON of Indiana. The point I want to make is my colleagues on the other side, the appeasers, the Lord Chamberlains of our generation who want to give freedom away when they talk about giving freedom a chance, they want us to negotiate the freedom of the people of Central America with Mr. Gorbachev, when in fact he said he wants worldwide communism. He said it very clearly last November in the speech to the Supreme Soviet.

By golly, if there is one thing we ought to learn, we should deal from a position of strength. That means we should be supporting the forces of freedom, not only in Angola and Afghanistan but Nicaragua as well. It is imperative. Otherwise, we are going to have our 2,000-mile border between us and Mexico, the soft underbelly of America, threatened by the Soviet Union and Soviet surrogates, and I do not want T-55 tanks or Hind MI-25 helicopters looking across the Rio Grande at my boy, and I do not think you guys do either.

Mr. DORNAN of California. If I could touch on a piece of history. I was in an F-100 squadron at George Air Force Base in that week when that cry went out, and I memorized it at the time another one, "Our ship is sinking, our light is going out, do not let the bolshevik tide overrun us." That was Radio Free Hungary, and then it went off the air.

My wife was as pregnant as you can get with our second child, Bob, Junior, who was born November 9, 1956.

A few days later, I kissed my 9-month pregnant wife, goodbye, we went down to operations, we drew up our maps to fly to Seymour Johnson Air Force Base in North Carolina, and then to the Azores and then to a NATO country, and I do not mind saying what country it was—Turkey. We were going to stage out of there with what was then the world's best fighter aircraft. The Soviets had no supersonic aircraft at that time except in a dive. These were production straight and level F-100 supersabers capable of supersonic straight flight in afterburn. We were going to stage out of there and support the Hungarian freedom fighters. After all, we had told them over Radio Free Europe to revolt, and we told them for months that under a 5-star general and a pretty good President, Ike Eisenhower. Everything cut loose that month. The Suez Canal was going on, Britain and France and Israel fighting the Egyptians, and Eisenhower had a mild heart attack. Everything kind of went to heck.

Eisenhower's Vice President, Richard Nixon, was at the bridge watching the people come across as in the darkness tonight, because Managua is on Chicago time, just 1 hour earlier, so it is 6:20 dark down there now, still in winter, and they are now coming across in the drought, to low level across the Rio Cocos River, which constitutes more than two-thirds of the border between Honduras and Nicaragua. Those kids are coming across, fording that, some of them are wading, dragging their compatriots, freedom fellow fighters, so that scene at the Andau Bridge is going on right now. Nixon witnessed that and told me he could never forget that. It haunted him. We told them to revolt and indicated we would help them, and 7 days later—I looked this up—I looked up how many Members are in this Chamber that were here in April 1961 when we did recruit and train and clothe and arm and put on the beach at the Bay of Pigs another Latin fighting force with promises of air cover.

□ 1925

Twenty-one Members were here including BOB MICHEL, our leader, and our other great leader, as great as BOB, "BILL" BROOMFIELD, his colleague from Michigan, our senior man on Foreign Affairs, they were here. "Mo" UDALL missed being here by 13 days. That is the cutoff point. He won a special election 13 days later. But those 21 must have sat here, and the House did not have responsibility then that was all a covert operation that had been set up initially under President Eisenhower and John F. Kennedy opted to execute, but pulled off the air cover.

Now the words of the beach commander, I used to know his name, Fernando something, his code name was "Pepe," his words on April 19, the day it was all collapsing as two Soviet—excuse the Freudian—two Cuban, given by us, T-33 jets which had been turned into F-80 Shooting Star fighters because they put the .455-caliber machine guns back in the nose. Our intelligence did not see that. Even with the best satellites you cannot see what is happening in hangars. They were strafing the beach and they had tanks on the bluffs. They were raking these people in the crossfire.

So the beach commander, the Enrique Bermudez of that operation who miraculously survives to this day to tell this horrible story, is up to his knees in the surf and he is saying "Command,"—that is the United States command—"this is Pepe. We are in the surf. We are engaging in hand-to-hand combat. Where is the promised air cover? My men are being slaughtered. Do not let us die like dogs in the water. Give us the air cover. Where is the air cover?"

And the dilettante, nice man but he had a problem with coming to decisions in his life, executing them, the Ambassador up at the U.N., Adlai Stevenson—a little-known story about Mr. Stevenson: as a young boy he picked up a .22 rifle that he and some friends had been dealing with in a wealthy home in the Chicago area. As young lads they were doing the manual of arms with it. And a little 13-year-old girl, a family friend, appeared in the doorway and he, inexplicably—nobody could figure out, kids do strange things—he picked up the rifle and fired at the young girl and struck her between the eyes killing her dead on the spot.

Without being an amateur psychiatrist, people have analyzed for years that that incident which haunted his life, a few weeks later as though she were still alive, the little girl, as though she were still alive in the letters that were found, with no mention that he had killed her accidentally a few weeks before; some people say that is why he was never able to come to a decision.

But he was in the U.N. and called up President Kennedy and said, "How can you embarrass me with this incident?" He had been clued in on the intelligence operation of trying to liberate the Cubans from 30 years of horrors and AIDS, the AIDS epidemic that they brought back from Central Africa, the killing of black young men and women, freedom fighters that they are doing—engaged in right now with Soviet officers in Angola right now, that summer offensive is still trailing off with the forces of freedom probably going to win that one or at least fight to a standstill until the next dry season when the Soviets will put in more armor, more Mig's and more commanders down to the company and battalion level.

But with this order of Adlai Stevenson telling Kennedy, "Call off the air cover or I will quit," Kennedy, supposedly a naval officer and a man of action in the South Pacific, called off the air cover. Those men were slaughtered. I guess the only answer was, "Pepe, swim for it, baby." I do not know how you say that in Spanish. They started to swim out. Some of our young Coast Guardsmen, Navy men who were driving those landing ships, the old-fashioned open type like at Tarawa, Iwo Jima, with the flap in the front where you hear the bullets hitting the flap and you are on the other side right before it goes down and worrying about whether a bullet is going to catch you in the face; some of those men came into the beach and circled under fire—we lost some of those—and the men that survived that sinking got out and made it to other landing barges and they went out to the coast.

Now what was classified top secret until recently is the U.S. aircraft carrier—I asked Tom Moorer in our Republican Study Committee hearings if this was all true because he was then commander of the Joint Chiefs of Staff from 1972—no, he was in a naval assignment. He was commander in the Pacific. Later in the seventies he became the Chairman of the Joint Chiefs. I said, "Was not the U.S.S. *Essex* not off the coast with the promised air cover?" He said, "Yes."

I said, "Did they not have the Navy version of the F-86 Sabres called the FK Fury on the decks ready, loaded with bombs and bullets to give help to those men on the beaches?"

"Yes," he said.

And I said, "Were those planes spray-painted with the American insignias off as though they would be part of this strange covert operation of these mysterious unmarked, you know, American-profile jet fighters shooting down the two T-33's and buzzing the beach?"

And he said, "Yes, absolutely."

What is also not known by most people in this or the other body is that the Alabama National Guard played a role in that because they were then flying obsolete B-26 Douglas Invader bombers. They took them off active duty. You know you put the resignation down in the bottom drawer of the squadron commander. They went to Nicaragua and appeared. Hence this obsession of Castro to crush Nicaragua and make it Communist someday. Out of Nicaragua, a long 6-, 7-hour flight to the combat zone, these men from the Alabama Guard flew these older B-26's. They were to hit and take out the Cuban Air Force on the evening of April 16 to set up the invasion the next day on the 17th.

They were sharp—they pulled off that raid and they did not catch these T-33's with the guns in them, making them Shooting Star fighters. Then the next day they came back, the T-33's shot down the Alabama Guard B-26's. One of the commanders, one of the pilots, a colorful character known all through the Guard squadrons of the United States at that time because he weighed over 250 pounds was named Riley Shamberger. You could not miss his portly body. His body, his corpse, laid there in the wreckage of his B-26. Castro went over and put his foot on Captain Riley Shamberger's corpse and bragged about his T-33's had shot down the one little effort of our air power used on the eve of this Bay of Pigs tragedy in our history. And Kennedy said he will never again believe anybody in Government.

He got his answer quickly the next year with the missile crisis of October when nuclear-tipped missiles were in Cuba.

What is the lesson we ought to learn from that? Here is the advice and I solicit please your comments: What I would have done had I been President Kennedy was I would have said, "Look, the men are getting slaughtered and if we are not going to give them air cover to try and make a successful beachhead and see if the people will get rid of this Communist Castro who betrayed his revolution," as did he and his brother, and the Ortega brothers have, "we must at least give air cover to the rescue operation. Let's start—let's call it a failure and let's extract these Cuban lads that we put on the beach, the 2506 brigade." I will never forget President Kennedy in the Orange Bowl holding up the flag which the survivors begged for years and finally got back from Senator "TED" KENNEDY and Kennedy held up that flag and said, "Someday this banner will fly again over a free Cuba," holding up the banner that they rescued off the beach in the last terrible moments when we deserted them.

If I had been President Kennedy I would have said, "Extract them, give them cover and try to save as many lives as we can because I have decided not to give air cover to the military operation."

You and I, Mr. BURTON, flew in Honduran jets last September, September 5; we flew in those little Casa 101's; one of them had a C-47 painted on the side where they had shot down a drug airplane; we saw the morale of those pilots, the Commander Navarro, who I flew with, you flew with one of the young squadron commanders. What the gentleman did not see and what I saw on a subsequent trip up at La Ceiba on the coast were the ones flying the Israeli Super Mysteres, the very planes that turned back the Arab attempt to annihilate Israel in the lighting war of 1967. Those young pilots when I went and walked in, if I squinted I would not have told them from Americans or British or fighter pilots anywhere in the world. Those young guys are straining at the bit tonight as we speak to take the few viable Super Mysteres that are left and go down to that Nicaraguan border, never penetrate their airspace, just defend the sovereign soil of Honduras and shoot those AN-26's and MI-17's out of the air. And the only reason they are probably not going down there is because President Azcona, whom we met with the next night and told him of our flying with his great young pilots in the Honduran Air Force, is wondering if we are going to follow through.

Are we going to do to Honduras what we did to Thailand and Malaysia, pull out of this whole mess and stare down the barrel of this hemisphere and watch the consolidation of another Communist country and then Duarte's fragile democracy begin to unravel as the Farabundo Marti continue their newly returned urban terror?

What are we going to do? I suggest the least the President can do, and I am telling him this through the television in front of the American people who track this House, the very least we should do is unleash the Honduran fighter pilots, many of them trained in this country, their planes reworked up here in Texas to keep them flyable, these 25-year-old French-built Mysteres, if we will not unleash them and not get them involved but just back them up, that we will protect for example their bases at Palmerola and La Ceiba; if we will not do that much then I think we owe it to Ricky Bermudez, who stood in that hallway when I asked GEORGE MILLER of California to come out and at least meet the military commander and he says, "I am not going to meet with any of your thugs, DORNAN;" we owe it to Bermudez and his men to maybe violate their airspace, not to prosecute with some military operation but to do the minimum that KENNEDY failed to do, and that is to give cover even if it is with our Navy airplanes, introducing combat Americans only in a rescue operation to tell these Hondurans, "Let's get out of it. We are getting the men out. We are getting the Nicaraguan kids out of there. We are going to give them cover and extract them in a merciful rescue operation." And there would not be any shooting if we told Ortega, "You win this round, you Commie, you Communist you, but you had better back off and let us get these kids out of there that we put in there and we will bring them to the United States," hopefully to settle them at Fort Worth in your district, JIM WRIGHT's district, Mr. Speaker.

Now what do you think, Mr. BURTON, of at least a rescue operation if we are not going to do anything else over the weekend?

Mr. McEWEN. I yield to the gentleman from Indiana.

Mr. DORNAN of California. I would like to have your comment on a rescue operation if we are going to do anything else.

Mr. BURTON of Indiana. I just think it is inconceivable that we would let those valiant young soldiers down there who have been fighting for freedom die without some kind of an effort to get them out of there, particularly since they have been fighting not only for the freedom of the people of Nicaragua but ultimately for the security of Central America and the United States as well.

So I think that the gentleman makes a salient point. But I would just like to say one thing to our Speaker, Mr. JIM WRIGHT, and that is, JIM, I believe that you are a patriotic American.

Mr. DORNAN of California. I do, too.

Mr. BURTON of Indiana. You really do care about this country and the security of it and I believe that you really don't want American boys to have to go fighting an unnecessary war. And I think if you will just sit down in the quiet of your own office and take a close look at the facts, what the Communists are doing down there right now and turn this over in your mind I think you will come to the conclusion that we really are on the wrong track because of the policies which you have been advocating, and Mr. BONIOR and others have been advocating. And I hope, Mr. Speaker, if you will sit down and do that that you will admit that something must be done right now, not just to protect those valiant people who are fighting for their freedom.

Mr. DORNAN of California. This weekend.

Mr. BURTON of Indiana. Right now. But that we also in the very near future ought to develop a package that will support them militarily in their fight for freedom, those that are still left.

For us to do less is to commit them to a cause of total annihilation, to a course of total annihilation and their blood is going to be on the hands of those who turn their back on them.

I know you do not want that, JIM, and I do not want that. We must do something now to help the cause of freedom down there and help save those people's lives.

We cannot let them go on dying like this, it is just unthinkable.

Mr. McEWEN. I thank the gentleman. I point out that blankets will not stop it, good will will not stop it, and peace talks in and of themselves will not stop it. The only thing that brought the Soviets and the Marxists and their surrogates, the Sandinistas, to the table was when this body was committed to giving aid to the resistance.

When they did that then it turned the tide toward democracy. They said, "We will sit down at the table." Negotiations were going to take place; Obando y Bravo was going to mediate. Then at that moment of strategic importance, and that moment of potential peace and that moment of possible democratic reform, right when La Prensa was opened and progress was being made, then, lest democracy be successful, the leadership of this House of Representatives reneged on that promise, pulled the rug out from under the Democratic Resistance, sold them out to the Marxists' resupply effort from the Soviet Union, and now we see them crushed with no promise of democratic reform, with no promise of free elections or free press or free speech or free assembly. I have to ask is this accidental? We have history; we have seen from the report just made by the gentleman from California, we have a candidate for President of the United States, came in second in the primary in Illinois just yesterday, who went to Havana and chanted, "Viva Fidel Castro, viva Che Guevara."

I have to ask a very simple question: Is this naivete? Is this mistaken ideology? Or is this a deliberate effort on the part of those who consistently side on those who are the enemies of democracy?

I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

The gentleman will remember too another one of the leading Democratic candidates on Meet the Press just recently seemed to accept the idea of a Soviet client-state in Central America. He made it quite clear under intense questioning that as long as it was inoffensive, did not have offensive weapons, that it might be something that we would have to accept and that the Monroe Doctrine is an outmoded doctrine.

Mr. DORNAN of California. Who was that on Meet the Press?

Mr. WALKER. That was Mr. Dukakis.

Mr. McEWEN. That is the leading candidate.

The Monroe Doctrine says that we will not tolerate foreign influences that are antagonistic influences in our hemisphere that are a threat to our national security. That is a position that is no longer supported by the majority party in this country. I cannot help but remember the statement of Jeane Kirkpatrick when she was at the Democrat Platform Committee in 1980 in which the proposal before the Democratic Platform was that the United States should not be inferior to any of its adversaries.

□ 1940

That proposal that the United States should not have parity, should not be superior, the fact that the United States of America would be willing to be inferior to its opposition, to its adversaries, that was something that could not even pass, that we should not be inferior. Then she began to recognize that the party of which she was a member had long since left the goals and the principles of Hubert Humphrey and Harry Truman and Lyndon Johnson and others.

Now, you ask, what is taking place here today? We see those who are relaxed and comfortable and gleefully content to see the demise of democracy in Central America. That is a source of no small frustration to me.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, it is interesting to me that I did not hear one Democratic leader and in fact I do not remember hearing one Democrat come to this floor today condemning the Sandinista invasion of Honduras. There were Republicans here doing it, but not one Democrat felt that it was serious enough to come out and condemn it. The only thing we heard from the Democratic leadership was the majority whip, Mr. COELHO, came to the floor and condemned the Republicans.

Mr. DORNAN of California. Right.

Mr. WALKER. And we had one other Member, I think, come out to the floor and condemn the Republicans.

Mr. DORNAN of California. That was in a 2-minute, 1-minute speech.

Mr. WALKER. Right. But nobody saw fit to condemn the Sandinistas, to condemn the Communists in Central America. Giving peace a chance in their parlance is simply accepting that which the Sandinistas do, no matter how terrible.

Mr. McEWEN. In the future, whatever they decide to do comes under their level of toleration.

Mr. DORNAN of California. Would any of the three of you guess whether Ted Koppel tonight on Nightline will do the Ollie North-Secord-Hakim-Poindexter indictments, or will they do the invasion of Honduras by the Communists in Nicaragua. They should at least split the show 50-50.

Mr. McEWEN. Mr. Speaker, I cannot understand why we are unwilling to learn from history. They said that if we supported the democratic resistance, that was the only way we could have a negotiated settlement. Indeed we had 60 days ago the potential for a negotiated settlement. We brought them to the table. We said if we renege on that commitment at that critical moment, the Sandinistas will renege from their pledges they made for personal liberties, for freedom of the press, and for freedom of assembly, that they will destroy the democratic resistance.

We follow through, and it is all there. Today I think being a leftist means never having to say you are sorry. You never admit you made an error. When confronted with facts, you never conceded them. You just go on to the next point.

We now are in the critical factor; this is April 1975. This is the helicopters leaving the Saigon Embassy. When we said we reneged from those 1974 peace accords, we knew that South Vietnam and Laos and Cambodia would go.

I was not a Member of the Congress at that point. This is the first nation of which I have deliberately and intentionally observed the surrender to the Soviet bloc, and I am not suited to it. When South Yemen went, and when our Ambassador to the United Nations said, "We think Khomeini might be a saint," and when the President went out to the Rose Garden and said, "We think the Shah should step down," I was in Ohio.

When the Sandinistas were having their revolution and Warren Christopher was negotiating turning over power to these thugs, there was nothing I could do about it. When the sellout in Zimbabwe and Mozambique took place, I was not a Member. I came here with the Reagan election in 1980, and from 1981 until this time we had not conceded a free nation to the Marxists since that time. In fact, we have captured Grenada after its fall to the Marxists under the previous administration.

We are now here at a moment at which we have, through the actions of the Congress, through the additional seats that were picked up, through five Members of Congress making a difference, reached a point where we are willing to say that we will not be concerned if this consolidation takes place.

Mr. DORNAN of California. You came here with the class of 52 Republican freshman; correct?

Mr. McEWEN. Correct.

Mr. DORNAN of California. And we hit a high water mark for the first time since Eisenhower in 1952 when he had 203, I think, or 204 Republicans. Actually he had a majority, and then it fell to two or three or four. But in three decades that was the high water mark. We had 192.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding.

The gentleman made the comment: Are some of these people maybe in league with those people down in Central America? I believe there are some people who are sympathetic to the Marxist government of Nicaragua in our Chamber, albeit I hope a small number. There are some people who generally have leftist leanings in our body, I believe we all know that, but I believe most of my colleagues on the other side of the aisle who voted against the Contras, the freedom fighters down there, did it for reasons that are not unlike what happened back in the 1930's.

In 1938, in August, Lord Chamberlain was not a leftist. He was not a pro-Fascist, but he wanted the Nazis to adhere to the Treaty of Versailles which was signed in 1918, I believe.

Mr. McEWEN. And he wanted peace in our time.

Mr. BURTON of Indiana. And he wanted peace in our time. But the Treaty of Versailles said the Germans would never build more than a 100,000-man army. But what Hitler did was, he used that 100,000-man army as a cadre and then trained millions of troops.

So Lord Chamberlain went to Munich to buy peace by giving away half of Czechoslovakia, and Winston Churchill, like BOB DORNAN—I equate you with Winston Churchill, and you, Mr. McEWEN, and you, Mr. WALKER, because you are of that caliber, I think—Winston Churchill went to the floor of the House of Commons to talk about this peace agreement with Hitler. The House of Commons shouted him down. They would not let him talk. The popularity of Lord Chamberlain was higher than the ceiling. If there had been Gallup polls, they would have been 99 percent in favor and 1 percent opposing him because he said, "peace in our time." It is not unlike "peace at any price" or "give peace a chance."

Unfortunately, the gentleman on the other side of the aisle will not profit from history. This is not a unique phenomenon. It has happened before, but unfortunately we are going down the same path to war, the appeasement path that we went down in 1938 and 1939, and I hope to God that we do not end up with an all-out war in Central America that is going to cost a lot of American lives, like what happened in World War II because of that appeasement policy.

That is the problem. Surely there are some leftists in our body, but I think most of them are just liberals who do not want to get involved. They want to close their eyes and appease the Communist enemy and hope they will go away. If you do not believe that, read this letter that I put in the RECORD a while ago. That is what they are saying—sit down and negotiate, kill them with paper. That is what Lord Chamberlain tried to do, and that is what they are doing now. It is going to get us in an all-out war down there and kill a lot of American boys. It is really unfortunate.

Mr. DORNAN of California. There is one point of history that has been a personal sore spot with me, because I envy the gentleman from Ohio, coming here with President Reagan. I know you were not one of that class of 52 Republicans that came in on his coattails. Some did that, and you would have won on your own as a legislator from Ohio. But that great class really turned history around here. The gentleman from Pennsylvania [Mr. WALKER] and I had been struggling here since the bicentennial year, and we could hardly believe it in 1981 when we were winning votes. Then the gentleman from Indiana joined us in the class of 1982, the class when I was gerrymandered out of here, so I did not get to serve with Mr. BURTON in his first 2 years.

Even when we dropped—what was it, 26 Members?—then we had this great addition here, with another young Churchill, if I may return the compliment, and those 4 years were pretty good years. Grenada was liberated, and we got off in the second term to a pretty good start when Mr. Reagan bit the bullet—and I hope I am going to see some of that courage in the next few hours—and rattled Qadhafi's brains, literally rattled his brains and blew down his big custom tent right on his head that he had built up in the middle of his circular Pentagon-type war headquarters building. And we have not seen American children or old men or whole families blown out of the side of airplanes, like the Klug family, a grandmother, pregnant mother, and young child blown out of a TWA airplane over Greece. We have not seen all that killing because of the direct action and the liberation of Grenada.

But let me tell you that the gentleman from Pennsylvania [Mr. WALKER] and I began as freshmen trying to stop the incredible giveaway of the Panama Canal to an unstable government right in front of our eyes. Then we watched the slow destruction of the Shah. That was certainly not the great democrat who spoke here in this Chamber under President John F. Kennedy or like Marcos who spoke here under President Johnson.

Then they began to let power go to their head. As Lord Acton said, power corrupts, or total power corrupts absolutely, or absolute power corrupts absolutely. We watched these horrible things happen, and we watched here in the cloak room when on ABC News we saw the execution by a stupid, young teenage guardia of Samoza, the brutal, vicious execution of Bill Stewart, an ABC newsman.

I came out and told one of the Democrats who was going down there because of a personal West Point friendship with Samoza. I said, "Forget it. You're wasting your time. Samoza is a thug, an oligarch, and one of his stupid guards just murdered a U.S. newsman. It is all over in Nicaragua. Let's pray that communism does not steal this revolution."

Then we watched this House with some of our heroes like HENRY HYDE, who still uses it effectively to this day, because he voted for the $75 million for the emerging Sandinista government, although the gentleman from Pennsylvania [Mr. WALKER] and I did not. But I did not fault anybody who did. It was a wedge to try and keep the private sector alive.

Mr. McEWEN. That was more aid to the Sandinista government than had been given to the Nicaraguan Government in the previous 20 years.

Mr. DORNAN of California. That is right. And Jimmy Carter himself, as he turned the Embassy in El Salvador into a fortress, as he put the 55 advisers down there—to use the then speed limit of the day, 55—then President Reagan has respected that figure of 55, only adding some more doctors and nurses and medical personnel, but it was President Carter who asked that aid be cut off. Then there was the invasion of Afghanistan in Christmas of 1979, as you were beginning to plan your career. You probably declared that month, for all I know.

Then BOB BYRD called him and said, "President Carter, forget about ratifying the SALT II Treaty here with Soviet shock troops on Christmas arriving on Christmas Eve and breaking out of their airplanes on December 27 and beginning the genocide of Afghanistan."

Mr. McEWEN. And Mr. Carter said that he learned more in one night about communism than he had learned about communism in all his life.

Mr. DORNAN of California. Even as a submarine nuclear officer in Annapolis and an Annapolis graduate. I do not know what courses he studied in Annapolis, but he made that incredible statement.

Well, we lived through some painful things in the 4 Carter years. But I think we all agree that President Carter, even with a good man like Zbigniew Brzezinski as his national security adviser, would never have had the ability, since he surrounded himself with McGovernites, young people from Georgia, or would never have had the guts to rattle Qadhafi's brains with Air Force F-111's and A-7's and A-6's. He would not have done it. He would never have liberated Grenada, costing us 19 young American lives.

The President has a tough decision to make. Let me tell you why I loathe that date, that leap year date of February 29, 1988, when at midnight the aid was cut off to these young kids that we visited down there who were fighting, as you put it, for us. As the gentleman from Indiana [Mr. BURTON] put it, they were fighting for themselves and for us, and they told us that. They said, "Your men don't have to die down here. We will fight and die for you."

Mr. McEWEN. They asked the question, "Don't you understand that the Soviet Union is not interested in Nicaragua or Central America? We have nothing to offer. Qadhafi doesn't give $500 million if he wants to buy bananas. The PLO, the East Germans, and the Bulgarians don't put aid and assistance in there because they care about Costa Rica or Guatemala." They understand what is at risk.

Mr. DORNAN of California. Exactly.

Mr. McEWAN. And these little international strategists, the campesinos in Central America, pleaded with us when they saw us and said, "Don't you understand what is at risk here? We are fighting your war."

As one young wife with four small children who serves in the El Salvador Embassy said to me, "What does America stand for anymore? Do you not stand for something?"

She and her husband and family were giving their lives in service to our country. They were at risk on the battle front right there, watching the Soviets in the international conspiracy, with the South Vietnamese and North Vietnamese assistance and the Chinese assistance coming in there. And the U.S. Congressmen cannot even understand what is at risk a mere 4-hour flight from our borders.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield further?

Mr. McEWEN. I yield to the gentleman from California.

Mr. DORNAN of California. If the radicals, as Mr. WRIGHT described them to me, the leftwing radicals in the House, have so affected the quality of his leadership as to prevail and this leap year date of February 29 goes down as the ultimate cutoff to this democratic resistance, even in this small, torn, starving country of Nicaragua, if it fails, I will have no trouble remembering that date because 20 years earlier, on February 29, 1968, while the Tet offensive was still raging in its final death throes, a major victory for the United States, as we destroyed forever the infrastructure of the Viet Cong, the Communist infrastructure inside South Vietnam, and turned the conduct of the Communist aggression from then on ever forward to their Communist victory, over to the North Vietnamese on that day, February 29, with the *Pueblo* crew captured less than 5 weeks before on January 23. Then Robert Strange McNamara for 7 years of the Kennedy-Johnson 8-year period, for 7 of those years, as head of the Pentagon, as the Secretary of Defense, tried to wash his hands on that leap year day—he only has to think about it every 4 years—and he walked off the battlefield. He was not just a civilian Secretary of Defense who, by the way, is in the combatant chain of command. It goes President, Secretary of Defense, and then to 9 and now 10 combatant commanders, all four-star Air Force, Navy, Army, and Marine generals.

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And the other secretaries are out of the picture, so he is a combatant. That is last in the chain of two of civilian combatant commanders. McNamara walked off the battlefield with hundreds of POW's being tortured at that very moment by Cubans who ran the torture program in 1968 and 1969 in Hanoi. The crew in the *Pueblo,* with Dwayne Hodges' dead body machine gunned on the deck of that ship, which is still a museum in Wonsan Harbor at this minute, the only U.S. ship ever kidnapped off the high seas, and we had to ingloriously take it off the rolls of the U.S. Navy while the sailing ship, the *Constitution,* and the U.S.S. *Arizona* is in the silt at the bottom of Pearl Habor, remain as current ships of line out of tribute to the service of the *Constitution* floating in Boston Harbor and the *Arizona* as a tribute to the 1,103 dead men on board. Those are still ships in the line that we had to quiet one day. I wonder what the Secretary of the Navy did to scratch off the U.S.S. *Pueblo,* now an anti-imperialist, anti-U.S. war museum in Wonsan Harbor, with that *Pueblo* crew captured 5 weeks and this torture was starting of those men including Commander Bucher, and in one fortnight, in February, the highest death toll month of the 10-year effort in Vietnam was that month of February. In one 10-day period I remember we lost—easy to memorize—1,111 Americans, KIA, in the first 10 days of the Tet offensive. In that month McNamara tries to wash the blood off his hands and walk from the battlefield kissing our POW's goodbye, the men missing in Loas who never returned to this day, many of them held in caves at that moment like my friend, Dave Artleca, giving torture-extracted tape recordings out to the world. Never has been heard from again after 5 years as a known POW. The *Pueblo* crew and the fighting in the streets of Saigon and all the major cities, it was our victory. He walks away and goes to a $300,000 a year—$400,000 in now dollars tax-free job as head of the World Bank, tells the press of the world, "Don't even talk to me, and I never will speak about Vietnam ever again"—remains in much deserved but well-accumulating obscurity for 18 years and then comes out of hiding 2 years ago on Ted Koppel's program to advise us about how to defend ourselves from nuclear missiles and to rip up—and he has not stopped for 2 years the Strategic Defense Program. That man resigned on February 29 of 1968, our worst month of KIA's in Vietnam and missing.

And here we are 20 years later on February 29. This House allows the aid to be cut off to the Democratic Resistance. So I am going out to do a sacramental, live satellite broadcast. I return your own special order to you, and I will come back, and, if you gentlemen are still going at it while these kids fight and die, let us fight with words and try to figure out what advice we can give to—by the way, Howard Baker was at that meeting. Just occurred to me. He had done his speaking and was quiet, but that was one more leader that was at the meeting with you, and I and Mr. MCEWEN. I shall return.

Mr. HUNTER. I thank the gentleman, and with that I yield back the balance of my time.

CIVIL RIGHTS RESTORATION ACT OF 1987—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100–175)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States which was read and, together with the accompanying papers, without objection, referred to the Committee on the Judiciary and the Committee on Education and Labor, and ordered to be printed:

To the Congress of the United States:

In returning to the Senate without my approval S. 557, the "Grove City" bill, I urged the Congress to enact promptly, in lieu of S. 557, my alternative proposal, the "Civil Rights Protection Act of 1988."

My proposal, which is enclosed, would address the many serious shortcomings of S. 557, as explained in the attached copy of the veto message on the bill.

I pledge my wholehearted support in working with the Congress to enact promptly this carefully crafted and effective alternative to S. 557.

RONALD REAGAN.

THE WHITE HOUSE, *March 16, 1988.*

SANDINISTAS: FULL-FACED COMMUNIST REVOLUTIONARIES

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, earlier today on this House floor, the majority whip of this body came to the floor and made one of the most outrageous statements of his career of outrageous statements. I am going to talk a little bit about what he had to say.

Mr. Speaker, I would inform the House that my staff called Mr. COELHO's office earlier today to tell him that I would be mentioning him in this special order to give him a chance to come here and respond, if he wanted to, to anything I might say. I think it is out of courtesy of the House that that be done. It was done, and so, therefore, I would hope that, if he does want to discuss it, he would come. I will be very happy to yield to him at that point.

Mr. Speaker, I say that the Coelho statement was outrageous. The Associated Press story on it indicates that the Coelho statements set off a verbal brawl. That is probably an understatement.

Let me quote what Mr. COELHO said. And I ask unanimous consent to be able to read from papers.

The SPEAKER pro tempore. Without objection, so ordered.

Mr. WALKER. I quote: "After all the pious and sanctimonious talk about surrender and appeasement of the charges leveled by the Republicans against the Democratic plan, we now know the truth. The Republicans abandoned the Contras to the politics of cynicism."

That is what Mr. COELHO said earlier today on this floor. No greater untruth has been spoken, and I think the record will bear out that the Republicans have consistently stood with the President and with the democratic resistance in Nicaragua. It has been the liberal Democrats, TONY COELHO among them as a leader, who has consistently undermined the Contra force and the democratic resistance and through their actions have tended to support the Sandinista Communists in Nicaragua. I am sure that it is not their intent. They said time and time again it is not their intent, that they do not like the Sandinistas either, but the problem is that the policies they have adopted have encouraged the Sandinistas to the detriment of the democratic resistance, and so, therefore, the Communist efforts to coalesce their power in Nicaragua right now have in fact been helped by people who may have meant differently, but the results of their actions were to bring us to this day when those Communist forces are attacking unmercifully the Contras who this body and who those liberal Democrats have helped to disarm.

I think that the history of how that came about, the history of the last few weeks, is very, very telling. For example, we have heard quoted a letter earlier this evening that was sent by 67 Members of Congress, mostly Democrats, sent on February 23 to President Reagan. It is a letter obviously aimed at doing what Mr. COELHO was trying to do on the floor today, and that is take the monkey off their back. One has to suspect that these people knew when they wrote this letter that there was trouble ahead in Nicaragua, that in fact we might arrive at a day when the Sandinistas would once again do something that they are typically prone toward doing, and that is to become full-faced Communist revolutionaries, people committed to their cause far more than they are committed to peace, people who are willing to use violence in order to pursue Communists goals rather than pursue peace. And so they wrote President Reagan in this letter basically saying to President Reagan,

> Well, now you know the House has cut off help to the Democratic Resistance down there. We are not going to give the military aid, so what you need to do is negotiate with the Soviets because we want you to understand that we think that the Sandinistas are a threat down there, and you should do something about it.

Well, the problem is that the President had been trying to do something about it, and his policies had been frustrated time and time again by this body. In fact, the Democrats admit that in this letter. They say, and I quote, "We understand the disappointment that your policy was not adopted by the Congress." They understood precisely that the President had tried to bring about a solution in Nicaragua that denied that nation to the Communists, preserved peace, but also assured that we did not have to put American boys in there at some point.

Mr. BUECHNER. Will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Missouri.

Mr. BUECHNER. Well, after that letter was sent and it was leaked to the press, then what did the Speaker do and some of the other signatories of that letter? Did they try to back off of that letter and then recant what they actually said?

Mr. WALKER. It was kind of interesting. Some of the signatories of this letter than said that they signed it and they really didn't read it.

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As a matter of fact, one of the people who signed the letter was right up at the top. I mean, his name is right up here at the very top of the letter. He later said in the newspaper that he did not know what was in it. He did not read it, because what they were told was there were letters in here that said that at present the greatest danger of such a threat is in Nicaragua under the government of the Sandinista junta, and they are talking about the threat to the security interests of Central America and to the United States.

So when confronted with those kinds of statements, they said, "We didn't really read this letter," because they did not really want, I guess, to be associated with remarks that sounded like they were being the least bit tough on the Sandinista government.

Mr. BUECHNER. Mr. Speaker, if the gentleman will yield further, I just happened to be watching on public television the cross-fire and I noticed that one of our Members, the gentleman from New York [Mr. SOLARZ], who admitted that when confronted by Patrick Buchanan asking if he had any moral misgivings about the fact that the freedom fighters were now being attacked, of course, after we have left them high and dry—and by left I mean Members of this Congress who have consistently voted against any aid, and he said, "No, I don't have any problem, because I didn't believe we should be there, anyway."

Now, at no time, we have some Members who at no time have ever believed that we should give any aid at any time. Is that correct?

Mr. WALKER. Yes. I think that is fair, that they would have allowed the Communist state to go into place and stay in place years ago without the democratic resistance.

I think it is important to recognize the history, because the Democrats have spread a myth about what really took place in Nicaragua. There has been the constant theme, I hear it from liberals, I hear it from church groups and all this, that the reason why the Contras are there is because the CIA set them up, and the CIA set them up because we were trying to destroy the revolution down there. We did not like it from its earliest days.

I mean, that just turns history on its head.

Mr. BUECHNER. Well, if the gentleman will yield again, is that another one of these old saws that these were actually ex-Somoza officers? This would make them how old? What is the average fighting age?

Mr. WALKER. Most of the people fighting in the field down there are kids who are 13, 14, 15, and 16 years old, who were hardly—who were grade school students at the time of the Somoza regime.

Mr. BUECHNER. And even the people in prison in Nicaragua, and the gentleman has been down there and visited with some of those people and so have I, the people who are in prison accused of being Somocistas, many of them are 18, 19, or 20 years old. Is that correct?

Mr. WALKER. Sure. And at the very least would have been maybe soldiers in the National Guard, but certainly not committed to the Somoza policy.

When I say it turns history on its ear, this Nation in the earliest days of the Sandinista revolution sent millions upon millions of dollars into Nicaragua to help rebuild the country, to help them put in place education and health, something which is totally ignored in much of the discussion that comes from the left in this country.

It was not Ronald Reagan who pulled out that aid. It was President Jimmy Carter who found out that what the Sandinistas were doing was utilizing the resources within their country to buy weapons from the Cubans and from the Soviets. He decided at that point that we ought not to be a part of that effort and he pulled out the aid, saying that the revolution was being betrayed, that the agreements, the signed agreements the Sandinistas had made with us and with the OAS in the earliest days were in fact being violated.

Reagan came to office some months later, and by about 1981 the slaughter, the genocide against the Miskito Indians was taking place and at that point the embryonic development of the Contra movement began among the Miskitos, and about the same time Eden Pastora who had been the battlefield commander for the Sandinista revolution decided that he could no longer take what was happening within the revolution and he formed his own group in the southern part of Nicaragua, that was another part of the Contra army. So they did rise indigenously.

No doubt about the fact that our CIA then began to help them because we recognized that what was underway there was the coalescing of a Communist state, a Stalinist state. So we did begin to help those indigenous forces. We did begin to help them to expand. We did begin to supply them. No doubt about that.

Congress was aware of those particular actions that we were taking, but there came the point that the Left decided in this country that they could no longer countenance us taking strong actions against the Communist government, and so at that point we began to undermine and withdraw the support and began to ignore the early history that led us into the decisions that we made.

Mr. BUECHNER. Mr. Speaker, if the gentleman will yield further, I think it is important at this point that we emphasize something. One of the southern conservative Democrats, the gentleman from Texas, Mr. CHARLES STENHOLM, stood on this floor and pointed out when we were turning down the President's last proposal that had a very meager amount of military aid in it, he stood in the well and he said, "I would like to remind the Members on both sides of the aisle that there are only"—what is it, 67 or 57, I cannot remember which—"members of the Democratic side who have ever voted for any form of aid to the Contras, any form, a can of Spam, a bandage, a bullet, any form." Is that correct?

Mr. WALKER. Yes; that is right; the point being that from the very beginning there has been no desire by the left wing of the Democratic Party to provide any help whatsoever to the anti-Communist forces in Central America.

Mr. BUECHNER. Then does it not appear rather disingenuous that you would have the gentleman from California [Mr. COELHO] stand and say now that the burden of what appears to be an absolute breach of the peace accord, probably the annihilation of the domestic resistance in Nicaragua, not just in the fields, but probably in the cities, that to say that the burden lays upon the President and the members of the Republican Party, is that not just an absurd statement, based upon the history, the voting record, and the statements, not to mention even the letter?

Mr. WALKER. Well, I think that is the reason why when he made the statement, there were shouts of "shame, shame" on this floor, because it was a shameful statement to make. It was an attempt to politicize the issue in such a way as to begin taking the burden of defeat off the back of the Democratic Party, and particularly the left wing of the Democratic Party. It was a blatant attempt to try to wash their hands of the responsibility that they have for selling out the anti-Communist forces in Nicaragua.

Mr. BUECHNER. One of the statements made on that program that I was watching right before I came over here, and I guess the reason I came over to join this, and I hope the gentleman does not mind, but I was outraged by the statements. The statement was, and the Nicaraguan Ambassador had informed Members of the Democratic leadership that, yes; Sandinista soldiers had crossed into Honduras. They were unarmed. They were unarmed.

Mr. WALKER. Who said this?

Mr. BUECHNER. This was the gentleman from New York [Mr. SOLARZ] who said that, that the statements they have been told were that the Nicaraguan Ambassador said yes; some soldiers had crossed over and they were unarmed.

Mr. WALKER. Well, let me say that Mr. Ortega himself disagrees with the gentleman from New York [Mr. SOLARZ]. Here is a UPI news story in which Daniel Ortega confirmed that his army was carrying on an offensive against the U.S.-backed Contras.

Now, is the gentleman from New York [Mr. SOLARZ] claiming that that offensive is taking place by unarmed soldiers?

Mr. BUECHNER. Well, I imagine they just, you know, aimlessly wandered across the border or got out of a Hind helicopter that had lost its way. They were there probably just reconnoitering and they were going to go back.

Mr. WALKER. Well, you know, that goes along with the Speaker who earlier on TV tonight said something about the fact that what we may have here is an inadvertent attempt by the Sandinistas to go into Nicaragua, that it may not be very serious, that it may have been inadvertent on their part.

Well, you know, it takes a lot of inadvertence to get 10 kilometers inside the country, which according to the information that we have is about how far that incursion took place.

Mr. BUECHNER. I think if it is inadvertent, I find it an interesting contrast that in the same statements being made by the Democratic leadership and some of the members of the left, that they are using the term "hot pursuit."

Now, that is a term that you cannot use with the inadvertence. It is a term that is used by say a highway patrolman who is allowed to go into the next State chasing a fleeing felon. Now, they are trying to use that as a cover for the incursion and at the same time they are saying it is inadvertent. You cannot have it both ways.

Mr. WALKER. Well, of course, the point is that is exactly where the left is. They want to have it both ways on everything. That is the reason why the gentleman from California, Mr. TONY COELHO, came out here on the floor today and made the statement that he did because he wants to have it both ways. He wants to be anti-Contra when they go before the leftwing groups in the country, and he comes down hard on them, like the letter I have here from the DSG.

Mr. BUECHNER. What is the DSG?

Mr. WALKER. Well, that is the Democratic Study Group. That is the coalition of liberals in this body.

They said in this memo that nothing will bring peace faster than destroying the Contra hope for more military aid. I mean, those are the kinds of statements they make when they are talking among the leftwingers, but then he wants to come to the floor today and say because Republicans would not vote for their leftwing package, that that in fact destroyed the Contras and that they were really trying to help the Contras. Well, their help for the Contras was to give the Contras Spam to throw against grenades.

Mr. BUECHNER. Would the gentleman just back up a minute.

Mr. WALKER. Sure.

Mr. BUECHNER. The Democratic Study Group, how is that funded?

Mr. WALKER. I think that it receives funding through the House accounts.

Mr. BUECHNER. So the members of the Democratic Party that belong to that actually take some taxpayers' money and they use that money to hire the staff and to print those publications, is what the gentleman is saying to me?

Mr. WALKER. As far as I know, that is what they would be doing, yes. I mean, we have conservative groups doing the same thing.

Mr. DORNAN of California. Mr. Speaker, if the gentleman will yield to me, in fairness, is that not what we do in the Republican organizations?

Mr. WALKER. Yes, sure. We have conservative groups that do the same thing. There is no doubt this would be paid for by tax money.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield for one moment?

Mr. WALKER. I yield to the gentleman from California.

Mr. DORNAN of California. I just went out on the lawn and did one of these winter interviews by satellite with Sacramento NBC television. The opening question from the TV host, I think his name is Atkinson, said, "Congressman, it's pretty hot there today. Your microphone was cut off."

I said, "That's the first time it has ever happened since the House has been miked, and probably the last because a resolution will be submitted soon making clear, and will probably win with an overwhelming vote, that never again will the mikes be turned off on anybody, certainly not when it is left on in the Chamber, as my mike was, but was turned off for the electronic beam that we project the images here across the world that is supposed to be a perfect representation of what takes place in the Chamber."

The host of the Sacramento program—we are doing this live on the evening news, it is 5 o'clock out there, and he said, "Well, isn't it true that JIM WRIGHT, the Speaker, came out of the White House yesterday and said that the reason all this is happening, and it just shocks him, is because the Republicans in the main voted down the humanitarian aid package to the Sandinistas on March 3?"

Now, would the gentleman, and I am not just blowing smoke that way to pay the gentleman from Pennsylvania a compliment as a parliamentarian, the gentleman really is part of the leadership, by acclamation of all our Members, even the new freshmen. The gentleman is the House watchdog, as H.R. Gross was and then Bob Bauman in his salad days. The gentleman sits there and gives up a lot of committee time and soon the gentleman will be the ranking Republican on the Science and Technology Committee, if we ever take this body by a miracle on November 8, the gentleman would be the chairman of the Science and Technology Committee overseeing the entire space program of the United States. The gentleman sits there giving up a lot of excellent committee time, and I forget what the gentleman's other major committee is.

Mr. WALKER. Government Ops.

Mr. DORNAN of California. Government Ops, which oversees everything. The gentleman sits there day in and day out watching the parliamentary procedures of this House and protecting the interests of the minority. Would the gentleman for me, and I cannot think of a better one to do it, walk through that so-called alternative package and how the Speaker constructed it so that his conservative Democrats, so-called Boll Weevils, those who are from the Southern States that do not want their States flooded with poor pathetic refugees fleeing the tempest-tossed shores, coming up here to seek refuge from communism, to keep his Members from joining an overwhelming Republican majority, minus the piddling $3 million in military aid, we would have gotten back 10 of our 12 Republicans, so it would have won for sure if our bill had come first. Would the gentleman explain how it was constructed to shove in our face what was really a refugee package of surrender to tell the Freedom Fighters, "Get out of Nicaragua. Here is the food. You are not going to be the Bataan Death March, because we are going to feed you on your ignominious march out of your country of Nicaragua. Come on out and then we will figure out if we can foist you on the Government of Honduras, rather than give you refugee status."

Walk us through how that was constructed.

Mr. WALKER. People will think this is a setup, because I just happen to have the whole thing here.

Mr. DORNAN of California. Excellent.

Mr. WALKER. But what we had been promised was a vote on a Republican package. So what was done——

Mr. BUECHNER. If the gentleman will yield, what was in the Republican package? Give the profile.

Mr. WALKER. I think that is important, because that is really the response to the gentleman from California [Mr. COELHO], because the Republican package was, in fact, a humanitarian aid package as well, but it also did permit some of the supplies that were previously in place to be delivered to the Contras against the Sandinistas, so this provided them with additional aid over and above the cutoffs that were involved in the Democratic package.

The way it was structured parliamentarywise so that there was a vote on the Democratic plan before we ever got to the Republican plan.

But the differences between those two plans were very fundamental. I think it is well to focus on that. For instance, when we state the specific policy objectives of the Republican plan, the Republican plan had as a specific policy objective, "genuine democracy in Nicaragua, an end to the Soviet-Cuban and other Communist bloc military and security assistance, an end to advisers in the establishment or use of bases in Nicaragua, an end to Nicaraguan aggression and subversion against other countries in Central America, and reduction of the military and security forces of Nicaragua to the level consistent with the security of other countries in the region."

Those were the policy statements that the Republicans wanted to endorse as a part of the plan that we were developing.

What the gentleman from California [Mr. COELHO] says that we voted against had some policy statements in it, too. I would submit that most Americans would want us to vote against these policy statements.

Mr. DORNAN of California. Let me question before the gentleman reads, what percentage, an honest guesstimate, what percentage of the membership, 435 of us, does the gentleman think were aware of the policy statements in the Democrat majority proposal?

Mr. WALKER. I do not think very many, because I do not think very many of them could possibly vote for a provision that had some of these things in it.

Mr. DORNAN of California. Would it be safe to say less than 43 or 44 people, less that 10 percent? I never heard of them.

Mr. WALKER. I mean, it is very, very scary what I am about to read. I mean, this is what we voted against. We did not vote against the Contras. We voted against this kind of ludicrous proposal.

Now, remember what I said about the Republican policy statement. The Republican policy statement is for genuine democracy. We are for an end to Soviet-Cuban and other Communist bloc military assistance. We are for an end to Nicaraguan aggression and we are for a reduction of the military and security forces in Nicaragua.

The Democrat proposal was, and I quote:

> A commitment to preserving the security of the United States and its allies by preventing the Soviet Union and its allies from developing or deploying an offensive military capability in Central America and that directly threatens the United States or its allies.

In other words, what that says is that we will accept a Soviet client state as long as it does not have offensive weapons. It is exactly the Mike Dukakis point that as long as a Soviet client state is inoffensive, we can take it.

In other words, this particular provision says, "Abandon the Monroe Doctrine."

Mr. DORNAN of California. A point on that.

Mr. WALKER. Sure.

Mr. DORNAN of California. If they remain for say a decade inoffensive to their neighbors in Central America, but began to send Nicaraguan boys, baptized as Christians in secret by their mothers, to augment the Cuban mercenary forces in 18 African countries and South Yemen on the Saudi Arabian Peninsula, I wonder, would there be any outcry from the other side of the aisle, other than from their conservatives, if there would be an outcry about Nicaragua may not be offending us in this hemisphere, but they are sending Nicaraguan boys to shore up the Cuban boys to ensure that communism stays in Angola, Mozambique, or Ethiopia. I wonder if they would consider that inoffensive conduct?

Mr. WALKER. I have no idea, but I do know they wrote a policy that in the first part of it here was a commitment to abandon the Monroe Doctrine.

The second part, they had another commitment, a commitment to protect the security and territorial integrity of any nation of Central America in conformance with the Charter of the Organization of American States and the Inter-American Treaty of Reciprocal Assistance, which provides for collective action.

Now, in light of what has taken place down there, think what that means. What they are saying is that is a commitment to protect the security and territorial integrity of any nation in Central America.

The Democrat commitment that they made the other day would say in the instance of what has happened now in Honduras, they are prepared to have the collective-security agreements of Central America brought into play, given what has happened today in Honduras.

Now, think what that means. That means that the United States would have to commit troops as a part of the Rio Pact. We would have to do all the things that are involved with that concept of collective security, based upon the fact that the territorial integrity of Honduras has been violated. That is a commitment of the Democratic Party that they voted for the other day.

Mr. BUECHNER. I think we need to emphasize the point that there are some Members from the other side who are now accusing the President of being prepared to throw American troops into the fray. Is that not correct?

□ 2025

Mr. WALKER. Mr. Speaker, I have heard today that some people are claiming, and the President has said he would not do that, that we were not going to invade, is what Fitzwater, the press spokesman, said.

Mr. BUECHNER. If we would have adopted that minimalist package the Democrats had——

Mr. WALKER. We would have given the President Gulf of Tonkin type authority to do exactly what they are now condemning. They all voted for it.

This was a Gulf of Tonkin resolution in Central America with that particular provision.

Let me get to the next provision because it makes it clearer.

The next commitment they made was, "a commitment to take appropriate military action if Nicaragua takes offensive military action against its neighbors or obtains a military capacity to directly threaten the United States."

I ask my colleagues to understand what that means. Nicaragua today has taken offensive military action against one of its neighbors. Here is a commitment put in writing voted for by a majority of Democrats that says that we take appropriate military action if that happens.

It also says here that if they obtain a military capacity that directly threatens the United States, and we already have the pictures of the submarine bases, we have the pictures of the MiG revetments, and we already know they are laying in place the offensive military capability. What do the Democrats have as an alternative to giving military support to the Contras to fight the battle down there?

Their action was specifically stated in their document that says that we are going to send American boys in there to take the action.

Mr. Speaker, that is what we Republicans voted against. A lot of us were very disturbed about a policy that made those kinds of commitments that was nothing less than a Gulf of Tonkin resolution for Central America.

Mr. BUECHNER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Mr. Speaker, I yield to the gentleman from Missouri.

Mr. BUECHNER. Mr. Speaker, it was emphasized more by the fact that they were going to withdraw the extant Central Intelligence Agency delivery systems and who was going to take the place of the Central Intelligence Agency?

Mr. WALKER. Let me go back here and quote directly. My colleagues do not have to take my word for it, I will quote from their document.

> Direction and management, the Department of Defense shall be responsible for the direction, management and delivery of assistance authorized by this joint resolution.

Mr. BUECHNER. That would be U.S. aircraft, not the contract aircraft of the CIA, but U.S. aircraft flown by U.S. personnel.

Is that the way the gentleman reads it?

Mr. WALKER. That is certainly something that could be done. What they said on the floor was that they were going to have the same people doing the job that are now doing the job.

Mr. Speaker, if that is the case, then why not let the same people direct the job that are now directing it?

I gather there is such a vicious denial on the Democratic left of a need for a Central Intelligence Agency that they do not even want to dirty their hands touching it. So, therefore, what they did was fold out the support from the Central Intelligence Agency and everybody admits the CIA has been running a good operation, and they turned around and turned it over to the Department of Defense, but they did it with very general language that could have involved precisely what the gentleman from Missouri [Mr. BUECHNER] says, and that could have involved U.S. planes, it could have involved U.S. soldiers and airmen to deliver those supplies because we are authorizing in this bill exactly that kind of thing to take place.

Mr. BUECHNER. Those are some of the things that we as members of the Republican Party, and those few Democrats who voted with us that turned down that package, brought up as specific reasons why we could not support that package. But we were never given an opportunity to do anything else.

Mr. WALKER. And we were also a little concerned about another provision back here in the bill that basically sent reparations money to the Sandinista communists.

Mr. DORNAN of California. If the gentleman will yield, that one I do love.

Mr. WALKER. There was a provision in here, and I think they miswrote it, they should have looked at the Republican proposal where we provided some assistance for the children that have been hurt as a result of the war. That was in the Republican proposal. We provided assistance.

But the Democrats did not provide assistance. They provided funds.

I quote, "*Provided further,* that at least one-half of the funds transferred under this section shall be provided through nonpolitical private and voluntary organizations and international relief organizations operating inside Nicaragua."

The important thing about that is, under Nicaraguan law, when anyone sends funds there, they have to go through the government. There is no way that one can send funds directly to the groups they wanted to get them to. They named a number of very good groups here, the children's fund, the United Nations High Commissioner for Refugees, for example, but it would never get there. It had to go through the government down there because the government says by its own law that any funds would have to come through that government.

So what we were doing was providing about $14 million in funds that were going to go to the Nicaraguan Government with the idea that hopefully they were going to end up with the children.

We know the Nicaraguan Government lies all the time. The Nicaraguan Government is made up of liars. So the idea that we were going to do this was precluded, because there was no way of monitoring this money in the bill and we were going to end up with a Nicaraguan Government picking up in cold cash about 14 million American taxpayer dollars, and a lot of us thought that that was a bad idea, the idea of giving 14 million of our dollars to a bunch of Communist thugs and liars. So we were opposed to that portion of the resolution that did that and we preferred our resolution which provided assistance to the children rather than funds to the Sandinista Communists.

Those are the provisions that Republicans objected to. We specified them very clearly on the floor during the debate. We made it quite clear why we were turning that measure down.

The Democrats never gave us a chance to vote on the Republican measure. They got enough of their left wing to vote for their measure to pass it as an amendment to our measure and then basically wanted us on final passage to switch over and say, "OK, now that it comes to final passage, anything is better than nothing," so we were going to buy that package, they thought.

Mr. Speaker, why should we buy a package that committed our military for the first time into the conflict, made commitments about the future use of our military in the conflict, and paid reparations to the Sandinista Communists?

Why would we vote for such a package? It was not a matter, I would say to the gentleman from California [Mr. COELHO], of the politics of cynicism. It was a matter of the realities of a bad package and that they ought to have been embarrassed to bring it to the floor in the first place, and it deserved no support from anybody who truly believed that the Contras should be supported.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Mr. Speaker, I am glad to yield to the gentleman from California.

Mr. DORNAN of California. My wife follows the debate closely from about 2,788 miles away—that is what it says on my ticket stub when I fly home—but she says that our leader, the gentleman from Illinois [Mr. MICHEL], because we were all getting this information without much time to digest it, was backed down by our friend the majority leader, the gentleman from Washington [Mr. Foley], on this point of whether the Government would handle the money and that clarifying this issue now such as the gentleman from Pennsylvania [Mr. Walker] is doing, is clearly needed.

Humberto Ortega, because Roger Miranda, the highest level rallier we had who gave up the communism of all his college years and youth, Roger Miranda said that he ran the account of Daniel Ortega's younger brother, Minister of Defense Humberto Ortega, who was the commander probably on the scene for this invasion into Honduras, and Roger Miranda gave us the account number. That number is 58-9-46, on the Paris Bank in Geneva, Switzerland. The amount was $1,495,596.

Mr. Speaker, a man who would run a secret bank account, and I believe we all know the saying that good Communists are not supposed to have bank accounts, but if they do, they just better not be found out. Roger Miranda ran a secret bank account, for the Ortegas and Tomas Borge. The next rallier before Miranda was 2 years ago, and I know the gentleman from Pennsylvania [Mr. Walker] met him many times, however I do not believe the gentleman from Missouri [Mr. Buechner] has had the chance to. He is Oliver Baldizon, who left his wife, a child, and a brother back in Nicaragua. His brother has been in prison since that time. He was to Tomas Borge under the secret account what pretty much Roger Miranda was to Humberto Ortega. Baldizon told us that in addition to capital punishment, one of the things that was most offensive was that Borge ran cocaine. Borge gave him an order as an investigative lieutenant, one of the highest in the field for a minister of the interior Borge, and every time he confiscated drugs of any kind, particularly cocaine, that they would be turned over always in every case to Borge himself.

□ 2035

These are the kinds of people with these corrupt Communists as if all Communists are—well maybe there are some Communists who are idealistic—but Lenin was a killer, a murderer, a deceitful liar, but he did lead a puritanical life as far as we know staying close to Mrs. Lenin at all times, but he was corrupt in every other way. But these men corrupt at the mention of money and drugs.

How was the $14 million in that Democratic package the gentleman had in front of him supposedly going to children who have been injured by the war, and that would be all children I guess, inside Nicaragua, because the Contras do not travel with their families with them except unless they are the children who were the fighters themselves, the 14-, 15,- 16-, 17-, 18-year-old kids who are fighting and surrounded right now inside both Honduras and Nicaragua, how was that $14 million going to be administered, supposedly for the children, the victims of the war?

Mr. WALKER. What the bill says again and maybe it is naivete, I do not know, and if it is naivete it is very dangerous, but what the bill says is that at least one-half of the funds transferred shall be provided to nonpolitical, private and voluntary organizations, and it specified the Catholic Relief Services, the International Committee for the Red Cross, and so on.

But the fact that they used the word "funds" means the money had to go to the Government in the first place because under Nicaraguan law you cannot have foreign funds coming into the country to groups outside the Government. The Government has to process them.

On up here it is $14,560,000 of unobligated funds from the appropriations accounts. What we do know from reading this is that half of that has to go through these private accounts. It does not say who is going to use the other half. So we have to assume that they meant for maybe as much as $7 milllon of that money to end up directly going to the Sandinistas. But the fact is because of the way they structured the program all $14 million was going to go to the Sandinistas.

Mr. BUECHNER. Gentlemen, is there not a cruel irony in the fact that the most constant theme that has come from the left about support for the Contras has been we cannot monitor the money, we think that there is money being filtered off, siphoned off that is being used for illegal purposes? So they have set up this huge mechanism of confirmation and monitoring by the U.S. Government of assistance to the Contras, but they would require no, no system of accounting for the Sandinistas. Is that not correct?

Mr. WALKER. There is absolutely not one word in this document about how we were going to account for this money.

What we know is it was going to go through the Sandinista government, but there was not one word in here as to how the money was going to be monitored, how we were going to assure that at least half of the money got to these groups, or if any of the money got to these groups, not one word. There is no mechanism here for doing the job of auditing and watching the money whatsoever. We audited the world out of all of the rest of the funds, but when we got to this, somehow that just got ignored.

I must say to the gentleman that when we go back and look at the Republican proposal, the Republican proposal did not have anything in it to monitor the money either for the medical assistance. However, the funds there were transferred to the President. So you at least had someone to hold accountable. Under theirs there is nobody even to hold accountable.

Mr. BUECHNER. I think this was the point I was going to make, to emphasize what the gentleman said, that the President would be accountable in this case.

What are we going to do to Daniel Ortega? I do not remember his standing for election very often in Pennsylvania or California or Missouri.

Mr. WALKER. I do not think he even stands for election in Nicaragua.

Mr. BUECHNER. That is a good point.

Mr. DORNAN of California. Will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from California.

Mr. DORNAN of California. We have gone down to analyze the election process in the 3 democracies that we add to the fragile 40-year-old democracy in Costa Rica, and most Members of this Chamber and the other body, the U.S. Senate, are not aware of the simple fact that all of these names, those of us who studied the issue, these names we have come to know, and in many cases met personally down there or personally up here, Arias, Azcona, Duarte, and Cerezo of Guatemala, these people are all one-term presidents. Two of them, the 2 with the immediately joining borders, because El Salvador, if anybody takes the time to look at the map, is only joined to Nicaragua by the Gulf of Fonseca. Nicaragua only has two borders, on the north Honduras and on the south Costa Rica. Both of these countries have a one-term, 4-year presidency, like Reagan, but limited to one term.

The other two countries, El Salvador and Guatemala, who share a common border with Honduras, they are single-term, 5-year presidencies.

The first one elected when Costa Rica had their former President of the new emerging 3 democracies was Duarte, and his 5 years are up 2 months after the next President is sworn into office in the United States. In the spring of next year, his term of 5 years, from March 1984, and then he had a runoff in May, but assuming there is no runoff, the next President wins a simple majority, it is March 1989.

Azcona goes out that same year because Duarte had a 1-year lead on him with a 5-year Presidency. Azcona is only 4 years, so Azcona goes out in November 1989, next year.

A few months after that, because I went down to his inauguration with Vice President Bush, and it was in May 1986, the one that has created a lot of problems still seems so naive if not a dilettante now, Oscar Arias, he goes out in the spring of 1990, just a year after Duarte. In that same year of 1990 when we are having our congressional elections, of the President's first midterm point of his first term, and I hope it will be President Bush, and it looks like the others want President Dukakis, whichever one is in office and as he approaches his first midterm election of November 1990, out the door one-term president, Vinicio Cerezo, so all 4 of these people will be gone by 2 years from next November.

But Mr. Communist Dictator, one term for 6 years, and another term and another term as long as he wants to stay, with his brother as his defense minister controlling the guns, and Ortega got elected, as you will recall, with all the rumors of Soviet Migs in crates coming on a freighter named after the older brother of Lenin, we had these rumors of Migs on the way, and on November 4, the same day the whole Iran thing started to break, this dictator gets elected in a one-party election with no opposition for 6 years. So Ortega comes up also in 1990 along with Cerezo. But he will not be running for election. Ortega will, and if he consolidates his Communist dictatorship which are within days of happening, he will not have any opposition party. Who is going to run the opposition? Is Robelo going to when he left in disgust when he was not allowed to speak, and when they have turbas divinas beating people and kicking that little girl down the stairs. I wonder if it is safe for her? Let us not mention her name until we think about it. She passed out in your arms in the hot sun when we were down there on the 70th anniversary of bolshevism when they stoled their revolution 7 years ago. So in November 1986 you and I are in the march in the State of Managua, and they are not beating up people because there are congressional observers, and there are 4 United States Attorneys General who are following in a car, and there is one former ambassador of El Salvador, and the girl passed out in the heat because of the beating that she took a week before on the steps of a church. Do you think it is safe for us to mention her name, or do you think if we mention her name that her father will be beaten in prison where he has been for 7 years?

Mr. BUECHNER. Her name has come up twice since then because she was arrested by the Sandinistas subsequently and beaten and told that if she would stop demonstrating against the Sandinistas that she would be allowed to go to the university. As you remember, she was denied admission to the university. So Yvette's name is out here on the floor. And gentlemen, I guess I know we are using your time, but one of the reasons I came over is I thought about Yvette tonight. I thought about those people that we marched with and I wondered if the Democratic left understands that they have not just isolated some fighting men and women in the jungles of Nicaragua, that they have sentenced to prison or death people who are trying to develop the very, very, very small seedlings of democracy, to try to have a breathing space of a few minutes for freedom of speech, to be able to practice their religion and those people are doomed. I believe that in my heart. What happened today is the last chapter in freedom in Nicaragua, I believe that, and I hope everybody out there understands that.

Mr. DORNAN of California. What does the gentleman in the well think will happen to the so-called internal political democratic opposition, the ones who only fight with words? What do you think is going to happen to them in Managua if the Contras are sufficiently crushed today and wrapped up in the month of April?

Mr. WALKER. I think we already have a pretty fair idea of what is going to happen. We have a period of time when we shut down all aid to the democratic resistance military forces for about 1½ years here during the time period of 1984, somewhere in that time frame.

Mr. DORNAN of California. Into half of 1985?

Mr. WALKER. Yes, 1984 into half of 1985, and what we know is that is the period during which they shut down La Prenza, during which they began to crack down on all of the political opposition. The parties that did have the nerve to run against the Sandinistas in the election were muscled out.

Mr. DORNAN of California. Verjillio Gadoy's party still has 350 people in prison at this moment.

Mr. WALKER. They sent the turbas out to the party meetings to beat up people who were there. They were in fact attacking candidates who were running. We know what they are going to do. They are going to take those people out of the political process either by jailing them or by in some cases murdering them.

Mr. BUECHNER. I think it is important that we remind the world of something that happened the day of that vote when we turned down that Democratic appeasement package. The Sandinistas took the Ministry of Justice, which would be like the Justice Department in this United States, all the district courts, the Federal courts, the bankruptcy courts, the courts of appeals, the U.S. Supreme Court, they took the Ministry of Justice, and what did they do with it? They said it no longer is an independent agency. And who took over? I yield to the gentleman from California. Who took over the Ministry of Justice, the mint, and tell us about who runs the mint.

Mr. DORNAN of California. That is right. Tomas Borge.

Mr. BUECHNER. Not really the mint.

Mr. WALKER. No; it is the Secret Police. They have put the Ministry of Justice under the Secret Police, pure and simple. What they said was there is no longer a Ministry of Justice. The Ministry of Justice is now part of the Secret Police.

That has to send a little terror into the minds of those people that might feel as though they would like to oppose the Sandinista government.

Mr. DORNAN of California. Something just popped into my memory banks here. There is no end to the outrages.

The morning of that disgraceful March 3 debate we were all aware of the breaking story in Managua that Cardinal Obando y Bravo has been fired by the Communist Ortega brothers as the mediator, but what only barely received a little mention, it just occurred to me, was that one of their trial judges defected or rallied to the side of freedom in Geneva that morning. We have a time lag of 6 hours and Geneva would be 6 hours away. Also with him was the head of the government human rights operation, one of their phony human rights things, who had pangs of conscience and he resigned in Geneva, and that got a little itty-bitty story in the Washington Post, I think at page A-24, and in the New York Times I do not even know if it got a mention. But these little significant moments in history go totally through this Chamber that is beginning to take on the description of the United Nations. Mr. MOYNIHAN gave it the name of a cave of winds.

Mr. WALKER. When you say that I am amused because I was reading in my local newspaper just recently a story of one of the Witness for Peace people who came back. As you know, the Witness for Peace group is directly alined with the Sandinistas, and he came back and was being interviewed up home. He described the Sandinista government not as a Communist government but as a socialist government much like the government of Switzerland. It is unbelievable how deluded people can be about the nature of this brutal, dictatorial Communist regime, and yet that is a point of view that is shared by many on the left in this body who do not want to believe the reality of the situation they are dealing with.

□ 2050

Mr. DORNAN of California. Let me ask you to come up, without names, with probably the severest characterization of the handful of members who now seem to be the driving engine of Mr. WRIGHT's foreign policy, which I think is unconstitutional, to have even an august person as the Speaker of this Chamber striking out in his own foreign-policy directions when we have a constitutionally elected President: on the night of April 30—and I guess this is going to all come down, the full disgrace of it, next month like the Bay of Pigs in April of 1961 and the fall of Saigon in April of 1975—on April 30 Tom Hayden, a man who I publicly called a traitor and a liar, a traitor to freedom and a tool of the Communists in Hanoi and now Jane Fonda's husband, Tom Hayden happened to be on—he was married to Fonda by then—on a radio station KPFK, an FM, so-called public broadcast station in Los Angeles. He was on the radio station—and I have listened to the transcription of this several times—when the words finally came across that Communist Soviet-built tanks driven by North Vietnamese Communists knocked down the gates of President Thieu's White House in the center of Saigon, that Hayden said on the air, and I do not butcher this too badly over the course of time, it is close to what he said, very simply, "Victory, victory at last. Isn't the sound of it wonderful to your ears?" Here is what Tom Hayden, praising this Communist victory over the forces of our friends, the ARVN forces, and Saigon was about to be renamed Ho Chi Minh City. Peter Arnett, who was one of the last journalists that had maintained such objectivity as many of our major broadcast networks do, and their men in the field—he is now in the Soviet Union getting a taste of what communism is like, having the cables cut to his cameras, being beaten up for CNN, the world's greatest network, self-described—Peter Arnett went out the next day on May 1—Communist celebration date around the world, they had a big celebration, Commie celebration that year because they had taken yet another plum of Vietnam and Cambodia 13 days before—Arnett went out with a squad of North Vietnamese soldiers hunting down our former allies who were then in the position of snipers in some of the buildings in Saigon. And I remember Arnett crouching behind a building saying, "This is a very peculiar feeling. I don't know how to describe it. But today I am with the victorious forces of North Vietnam." He probably would not dare to call them Communists, "hunting down people, killing them one by one who only a few days ago were, I guess, the allies of the United States of America."

Now I wonder if Ortega—there is no limit to his arrogance—would be arrogant enough to let some leftwing journalist into Nicaragua during the mop-up operation if, God forbid, it comes to that, where one of our American journalists can feed to the Canadian Peter Jennings or the "Gunga" Dan Rather or Tom Brokaw who, in Mother Jones' magazine a few years ago gave an open interview just excoriating Reagan and the whole policy of the White House down in Central America—if one of these people would take a feed from Nicaragua and have one of their reporters say, "It is very peculiar to be out in the field here in Nicaragua hunting down the last freedom fighter, as Reagan called them, whoever he or she is," and watching them be hunted down by these Communist BLI, light infantry battalions, people who used to be our enemies, now we are out there covering and killing the last Contra."

Mr. BUECHNER. Does the gentleman know why that will not happen? Because of that very slick public-relations firm that the Sandinistas pay.

Mr. DORNAN of California. Applebaum?

Mr. BUECHNER. Applebaum, here in New York and in Washington, would have better sense than to do that. They will let the American public not have the outrage it should justly have tonight.

Mr. DORNAN of California. Does the gentleman think that the Applebaum firm signed off on the Ortegas' invading with 2,000 light infantry battalion troops carried in with Soviet equipment, with commercial transports turned into bombers bombing Honduran soil, does the gentleman think Applebaum signed off on that?

Mr. BUECHNER. The gentleman will notice there was no TV cameras there covering that.

Mr. WALKER. That is right. They did not sign off on it; they just made sure there is nobody out there to cover it. Just as the Communists made certain when the killing fields were open in Southeast Asia there was no one there to cover it. The thing that disturbs me is I think there probably are people on the political left in this country who tonight are cheering, as they hear the news about the mop-up operation that the Sandinistas are trying to run in that country. I am afraid there are people on the political left in this country who are cheering a Sandinista Communist victory in that country. I hope there is no one in this Chamber who is cheering it. I hope there is no one here cheering it, because the fact is that what has happened is that the killing fields have been opened in Central America and they were not opened because Republicans did not support a bad Democratic package the other day; they were opened because Democrats refused to support the President's policy of giving military aid to people who were attempting to keep the killing fields from ever happening. And yet today, today we know that the killing fields have been opened in Central America.

Mr. DORNAN of California. You bet they have. Before the gentleman's time runs out, because again he is the best man to describe this, remember each year on our strategic defense initiative, SDI, how the chairman of Armed Services will structure what he calls a Christmas tree and a king-of-the-mountain, and you will have the President's request, putting it out on the fringe—I am usually the one offering that—then the one a little bit less, that is usually the Armed Services Committee against its own chairman's wishes, then the chairman structures himself in the middle as the alternative, the Wisconsin alternative for the Nation, then comes one a little bit less and then RON DELLUMS, and he is sincere about it, he offers a billion dollars for strategic defense. Even RON has to come up with a billion dollars.

Now we have that. Now how come we vote on each one even though one prevails? This year we ended up with the next-to-lowest number, No. 4. The year before it was structured where we ended up with the chairman's middle one.

How come we were not allowed to vote on the Michel amendment after the Wright? Why did ours get swallowed when WRIGHT's won? Because I think we would have had every moderate Democrat vote for ours and then swallow WRIGHT's. But once WRIGHT's came up we went to final passage and then all the far-left ones, those that might be inclined to cheer what a great victory, or at least would be smart enough to keep their mouth shut and say, "Well, we have gotten rid of the thugs, the murderers, the bayoneters of pregnant women," but keep it to themselves. They came over and joined most of the Republican Party, all but what, four, five, three of us? And then down went final passage. Why did we not get a vote?

Mr. WALKER. We asked for a king-of-the-mountain, king-of-the-hill scenario to be written in the rule and were denied that.

Mr. DORNAN of California. Why?

Mr. WALKER. We got it because—because the Rules Committee wrote a rule that the Speaker wanted. The Speaker writes most of the rules these days. So he wrote himelf a rule that assured that we would have the process that we ended up with.

Mr. DORNAN of California. But does the gentleman not think that rule was written because JIM WRIGHT knew well that the Republican alternative, even if it passed, would also pass by an even wider margin?

Mr. WALKER. I think there was a fear that we would be able to get sufficient votes for the Republican alternative.

Mr. DORNAN of California. Because it had no military aid in ours.

Mr. WALKER. You know, they were bound and determined that the Republicans were going to have to swallow their alternative, that we were going to have to buy into this commitment to use our own military forces in that part of the world, we were going to have to buy into their commitment to abandon the Monroe Doctrine; we were going to have to buy into all of these things in order to get anything for the Contras.

And when we would not go along with that kind of hypocrisy then they run out and scream that we have abandoned the Contras.

We did not abandon the Contras, we did not abandon the Contras in any way, shape, or form. The abandonment took place when, on February 3, the Democrats refused to go along, the left wing of the Democratic Party refused to go along with a bipartisan foreign policy toward helping the freedom fighters in Nicaragua.

Mr. DORNAN of California. There were two provisions that did not go down with Mr. BONIOR, who was the man really calling most of the shots here and backed up by most of the Democratic study group. He is the man that puts most of the pressure on the man I used to think was from the Alamo, JIM WRIGHT. Here are the two things that really stuck in their craw: Even if we took out our piddling, pathetic $3 million of military so-called lethal aid—we do not call it lethal when it goes to Israel, only when it goes to the freedom fighters, Angola, Afghanistan, and Nicaragua—if we took out that $3 million, keep in mind the avionics, just the black boxes and the electronic wiring on an F-15 is worth $8.7 million, one airplane, one jet fighter, just the avionics but this $3 million, if we took it out, the two things that stuck in their craw JACK just reminded me of one, the first one was that whatever military aid was left in the pipeline would continue until it was all exhausted to be air-dropped along with the bandages and the food. They wanted all aid, even aid that we had already voted for them by a healthy vote in this House, they wanted it all to be denied to them, whatever was left in the warehouses.

But the second one that JACK reminded me of was they did not want the President of the United States to have reviewability if exactly what has happened on the 16th of March had happened sometime between now and May, an expedited process.

Mr. WALKER. Precisely.

Mr. DORNAN of California. An expedited process in this Chamber to go along with the majority in the Senate and the leadership of the Democrat from Oklahoma, Mr. BOREN, to address ourselves to an invasion of Honduras, that is what they did not want to be allowed in our package.

Mr. WALKER. I thank the gentleman for participating.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FORD of Michigan (at the request of Mr. FOLEY) for today on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DONALD E. LUKENS) to revise and extend their remarks and include extraneous material:)

Mr. DORNAN of California, for 60 minutes, today.

Mr. MCEWEN, for 60 minutes, today.

Mr. MILLER of Washington, for 60 minutes, today.

Mr. WALKER, for 60 minutes, today.

Mr. RITTER, for 5 minutes, today.

Mr. GINGRICH, for 5 minutes, today.

Mr. BURTON of Indiana, for 60 minutes, today.

(The following Members (at the request of Mr. MFUME) to revise and extend their remarks and include extraneous material:)

Mr. MAZZOLI, today, for 5 minutes.

Mr. MFUME, today, for 5 minutes.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

Mr. LAFALCE, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, on March 17.

Mr. GONZALEZ, for 60 minutes, on March 21.

Mr. FEIGHAN, for 60 minutes, on March 23.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

The following Members (at the request of Mr. DONALD E. LUKENS) and to include extraneous matter:)

Mr. BROOMFIELD in two instances.
Mr. GALLO.
Mr. COURTER.
Mr. INHOFE.
Mr. SHUSTER.
Mr. COATS.
Mr. ROWLAND of Connecticut.
Mr. MILLER of Washington.
Mr. DENNY SMITH.
Mr. GREEN.
Mr. ROTH.
Mr. RITTER.
Mr. BURTON of Indiana.

(The following Members (at the request of Mr. MFUME) and to include extraneous matter:)

Mr. TRAFICANT in two instances.
Mr. LANTOS in two instances.
Mr. MAZZOLI.
Mr. STARK.
Mr. TALLON.
Mr. PEPPER.
Mr. MONTGOMERY.
Mr. COELHO.
Mr. SMITH of Florida.
Mr. ST GERMAIN in three instances.
Mr. ANNUNZIO.
Mr. COLEMAN of Texas.
Mr. KILDEE.
Mr. EDWARDS of California.
Mr. KOLTER in two instances.
Mr. RAHALL in two instances.
Mr. GARCIA.
Mr. BRUCE.
Ms. BYRON.
Mr. DYMALLY.
Mr. LAFALCE.
Mr. FRANK.
Mr. APPLEGATE in two instances.
Mr. CHAPPELL.
Mr. SOLARZ.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2631. An act, to authorize appropriations for the Bureau of the Mint for fiscal year 1988, and for other purposes; and

H.R. 3689. An act to designate the U.S. Post Office Building located at 300 Sycamore Street in Waterloo, IA, as the "H.R. Gross Post Office Building."

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled Joint resolutions of the Senate of the following titles:

S.J. Res. 125. Joint resolution to designate the period commencing on May 9, 1988, and ending on May 15, 1988, as "National Stuttering Awareness Week";

S.J. Res. 126. Joint resolution to designate March 16, 1988, as "Freedom of Information Day";

S.J. Res. 216. Joint resolution approving the location of the Black Revolutionary War Patriots Memorial;

S.J. Res. 218. Joint resolution to designate March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; and

S.J. Res. 252. Joint resolution designating June 5-11, 1988, as "National NHS—Neighbor Works Week".

ADJOURNMENT

Mr. DORNAN of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to accordingly (at 9 p.m.), the House adjourned until tomorrow, Thursday, March 17, at 11 a.m.

CONTRACTUAL ACTIONS, CALENDAR YEAR 1987 TO FACILITATE NATIONAL DEFENSE

The Clerk of the House of Representatives submits the following report for printing in the CONGRESSIONAL RECORD pursuant to section 4(b) of Public Law 85-804:

DEPARTMENT OF ENERGY,
Washington, DC, March 15, 1988.

Hon. JAMES C. WRIGHT,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: The following information is submitted pursuant to the provisions of Public Law 85-804, and implementing instructions contained in Federal Acquisition Regulation Part 50.

For the calendar year ending December 31, 1987, the following actions, under the subject Act, are reported for the Department of Energy.

1. Actions Approved;

Residual powers

(1) Amount Requested: Undetermined Amount.

Amount Approved: Undetermined Amount.

(a) Contractor: The Regents of the University of California (UC).

(b) Services Involved: Contracts for the management and operation of the Lawrence Livermore National Laboratory (LLNL) and the Los Alamos National Scientific Laboratory (LANSL). Work under these contracts shall, in general, comprise research, development, and educational activities related to the nuclear sciences and the use of energy in mutually selected military and peaceful applications, engineering services, and such other activities as the parties may agree upon from time to time, including operations both at the Laboratory and at such other sites as have been or may be agreed upon by the parties hereto either within or without the continental limits of the United States.

(c) Circumstances Justifying the Action: Contracts with the UC for the management and operation of LLNL and LANSL were due to expire on September 30, 1987. They represented the first contracts that contained a "Nuclear Hazards Indemnity" clause which indemnified the UC pursuant to the provisions of Section 170(d) of the Atomic Energy Act of 1954, as amended (Price-Anderson Act), in which the indemnity could not be continued due to the expiration of that Act on August 1, 1987. The nuclear risks involved in the proposed contract renewals were the same risks which were already in existence, and had required the prior indemnification under the Price-Anderson Act. The Secretary of Energy determined that indemnification under Public Law 85-804 should be included in these contracts, and in appropriate subcontracts, based on a finding that the contract programs related to military and atomic energy production, construction, and stockpiling are essential elements of the contracts and that these and other activities under the contracts impose on the UC a risk of claims for liability arising out of or resulting from a nuclear risk.

(2) Amount Requested: Undetermined Amount.

Amount Approved: Undetermined Amount.

(a) Contractor: Associated Universities, Inc. (AUI).

(b) Services Involved: Contract with AUI for the management and operation of the Brookhaven National Laboratory (BNL), which has a primary mission of basic and applied research in high energy physics, nuclear physics, basic energy sciences, environmental studies, and life sciences. The High Flux Beam Reactor (HFBR) and the Brookhaven Medical Reactor (BMR), which are operated by the BNL, use fuel elements which contain special nuclear material.

(c) Circumstances Justifying the Action: The contract with AUI for the management and operation of the BNL was due to expire on December 31, 1987. It contained a Price-Anderson indemnity clause. However, the Price-Anderson Act which expired on August 1, 1987, had not been extended by Congress during the present term, and, thus, the indemnity clause was unavailable for inclusion in the anticipated contract renewal. The contract scope of work for the next 5 years was not expected to differ from prior efforts, thus subjecting AUI to exposure to the same risk of public liability previously covered under the Price-Anderson Act. The Secretary of Energy determined that indemnification under Public Law 85-804 should be included in this contract, and in appropriate subcontracts, based on a finding that the contract programs involving military and atomic energy activities are essential elements of the contract related to the national defense and that these and other activities under the contact impose on AUI a risk of claims for liability arising out of or resulting from a nuclear risk.

(3) Amount Requested: Undetermined Amount.

Amount Approved: Undetermined Amount.

(a) Contractor: EG&G Energy Measurements, Inc. (EG&G).

(b) Services Involved: Contract with EG&G for the operation of the Nevada Test Site. EG&G performs management and operating services in connection with the Department's nuclear testing and related programs.

(c) Circumstances Justifying the Action: The contract with EG&G for the operation of the Nevada Test Site was due to expire on December 31, 1987. It contained a Price-Anderson indemnity clause which could not be continued due to the expiration of that Act on Aguust 1, 1987. Since Congress had not enacted legislation that would extend Price-Anderson, the Department had to utilize some other method of indemnifying certain of its contractors to protect both the contractors and the public. The Secretary of Energy determined that indemnification under Public Law 85-804 should be included in this contract, and in appropriate subcontracts, based on a finding that the program related to nuclear testing, both for military and peaceful applications, and other programs in the nuclear field are essential elements of the contract and that these and other activities under the contract impose on EG&G a risk of claims for liability arising out of or resulting from a nuclear risk.

2. Actions Denied: None.

Sincerely,

LAWRENCE F. DAVENPORT,
Assistant Secretary, Management and Administration.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3144. A letter from the Assistant Secretary of the Army (Financial Management), transmitting a report of property, services and commodities provided by the Berlin Magistrate for the quarter October 1, 1987 through December 31, 1987, pursuant to Public Law 99-190, section 8014 (99 Stat. 1205); Public Law 99-591, section 9010 (100 Stat. 3341-102); to the Committee on Appropriations.

3145. A letter from the Deputy Secretary of Defense, transmitting copies of two reports of violation by the Department of the Army and the Department of the Air Force on the obligation or expenditure of funds in excess of amounts available in an appropriation, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

3146. A letter from the Deputy Secretary of Defense, transmitting the most recent 5-year defense program for the period fiscal year 1988-92, pursuant to 10 U.S.C. 114(g); to the Committee on Armed Services.

3147. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed commercial manufacturing license agreement for the production in Japan of M735 and M735J 105mm cartridges, pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

3148. A communication from the President of the United States, transmitting the classified and unclassified versions of the report on Soviet noncompliance with the 150-kiloton limit of the Threshold Test Ban Treaty [TTBT], pursuant to 22 U.S.C. 2592a; to the Committee on Foreign Affairs.

3149. A communication from the President of the United States, transmitting the report on U.S. adherence to obligations undertaken in arms control agreements and on problems related to compliance by other nations with the provisions of bilateral and multilateral arms control agreements to which the United States is a part, pursuant to 22 U.S.C. 2592; to the Committee on Foreign Affairs.

3150. A letter from the Secretary of Health and Human Services, transmitting the Department's third annual report of the actions taken to increase competition for contracts during fiscal year 1987, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

3151. A letter from the Secretary of Transportation, transmitting the 13th annual report to the Department on its activities under the Freedom of Information Act during 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3152. A letter from the Chief, Forest Service, Department of Agriculture, transmitting the agency's first annual Federal lands cleanup day activities report, pursuant to 36 U.S.C. 169i-1(c)(1); to the Committee on Interior and Insular Affairs.

3153. A letter from the Assistant Secretary (Management and Administration), Department of Energy, transmitting the calendar year 1987 report on "Extraordinary Contractual Actions to Facilitate the National Defense," pursuant to 50 U.S.C. 1434; to the Committee on the Judiciary.

3154. A letter from the Secretary, Judicial Conference of the United States, transmitting determination that U.S. District Judge Walter L. Nixon, Jr., of the Southern District of Mississippi has engaged in conduct which might constitute one or more grounds for impeachment, pursuant to 28 U.S.C. 372(c)(8); to the Committee on the Judiciary.

3155. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report of the Chief of Engineers entitled, "Local Cooperation Agreements Annual Report," pursuant to 42 U.S.C. 1962d-5b(e); to the Committee on Public Works and Transportation.

3156. A letter from the Assistant Secretary of the Army (Installations and Logistics), transmitting notification of the decision to convert the Directorate of Logistics at Fort Sill, OK, to contractor performance as the most cost effective method of accomplishment, pursuant to 10 U.S.C. 2304 note; jointly, to the Committees on Armed Services and Appropriations.

3157. A communication from the President of the United States, transmitting a report on the issues relating to Soviet underground nuclear testing practices, pursuant to Public Law 100-180, section 903; jointly, to the Committees on Armed Services and Foreign Affairs.

3158. A letter from the Secretary to the Board, Railroad Retirement Board, transmitting a report on the ability of the Railroad retirement account to pay benefits in each of the next succeeding 5 years, pursuant to 45 U.S.C. 231u(a)(1); jointly, to the Committees on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BEILENSON: Committee on Rules. House Resolution 403. Resolution providing for consideration of H.R. 2707, a bill to amend the Disaster Relief Act of 1974 to provide for more effective assistance in response to major disasters and emergencies, and for other purposes (Rept. 100-518). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROOKS:

H.R. 4160. A bill to amend title 28 of the United States Code to authorize the appointment of one additional bankruptcy judge for the eastern district of Texas; to the Committee on the Judiciary.

By Mr. COLEMAN of Texas (for himself, Mr. Bustamante, Mr. de la Garza, Mr. Edwards of California, Mr. Skeen, and Mr. Ortiz):

H.R. 4161. A bill to reestablish the authority of the Small Business Administration to make disaster assistance loans in the case of economic injury resulting from currency devaluation; to the Committee on Small Business.

By Mr. CROCKETT:

H.R. 4162. A bill to make the International Organizations Immunities Act applicable to the Organization of Eastern Caribbean States; to the Committee on Foreign Affairs.

By Mr. DeFAZIO:

H.R. 4163. A bill to amend the Controlled Substances Act to suppress the diversion and trafficking of chemicals utilized in the illicit manufacture of methamphetamine, and for other purposes; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. DeFAZIO (for himself, Mr. AuCoin, and Mr. Wyden):

H.R. 4164. A bill to amend the Wild and Scenic Rivers Act, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DeWINE:

H.R. 4165. A bill to amend title 18, United States Code, with respect to penalties, for driving under the influence of drugs and alcohol in the special maritime and territorial jurisdiction of the United States, and with respect to implied consent for certain test to determine the drug and alcohol content of blood; to the Committee on the Judiciary.

By Mr. GAYDOS:

H.R. 4166. A bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of certain farm and firefighting vehicles; to the Committee on Public Works and Transportation.

By Mr. GREEN:

H.R. 4167. A bill to provide for permanent duty-free treatment on imports of certain tartaric chemicals; to the Committee on Ways and Means.

By Mr. GREEN (for himself, Mr. Fazio, Mr. Ackerman, Mr. AuCoin, Mr. Bates, Mr. Beilenson, Mr. Berman, Mr. Bosco, Mrs. Boxer, Mr. Clay, Mrs. Collins, Mr. Conyers, Mr. Crockett, Mr. DeFazio, Mr. Dellums, Mr. Dixon, Mr. Downey of New York, Mr. Dymally, Mr. Edwards of California, Mr. Evans, Mr. Fauntroy, Mr. Ford of Tennessee, Mr. Frank, Mr. Garcia, Mr. Gejdenson, Mr. Gilman, Mr. Hawkins, Mr. Hayes of Illinois, Mr. Kastenmeier, Mr. Kostmayer, Mr. Lehman of Florida, Mr. Leland, Mr. Levine of California, Mr. Lewis of Georgia, Mr. Lowry of Washington, Mr. Martinez, Mr. Matsui, Mr. Miller of California, Mr. Mineta, Mr. Morrison of Connecticut, Mr. Owens of New York, Ms. Pelosi, Mr. Rangel, Mr. Scheuer, Miss Schneider, Mrs. Schroeder, Mr. Schumer, Mr. Skaggs, Ms. Slaughter of New York, Mr. Solarz, Mr. Stark, Mr. Studds, Mr. Torres, Mr. Towns, Mr. Udall, Mr. Waxman, Mr. Weiss, Mr. Wheat, Mr. Williams, Mr. Wilson, Mr. Wolpe, Mr. Wyden and Mr. Yates):

H.R. 4168. A bill to amend various provisions of law to ensure that services related to abortion are made available in the same manner as are all other pregnancy-related services under federally funded programs; jointly, to the Committees on Energy and Commerce, Post Office and Civil Service, Armed Services, Foreign Affairs, the District of Columbia, the Judiciary, and Interior and Insular Affairs.

By Mr. GREGG (for himself, Mr. Smith of New Hampshire, and Mr. Rowland of Connecticut):

H.R. 4169. A bill to amend title 11 of the United States Code to provide for participation by affected States and consumers of electric power in cases involving debtors who are engaged primarily in the business of selling electric power; to the Committee on the Judiciary.

By Mr. HALL of Ohio (for himself, Mr. Garcia, Mr. Moorhead, and Mr. Wolf):

H.R. 4170. A bill to amend Public Law 82-324 to provide for the annual proclamation of the first Thursday in May as a National Day of Prayer; to the Committee on Post Office and Civil Service.

By Mr. HANSEN:

H.R. 4171. A bill to extend the deadline for completion of the chemical weapons demilitarization program and to require that destruction of chemical weapons under that program be carried out on site where such weapons are stored; to the Committee on Armed Services.

By Mr. HUBBARD:

H.R. 4172. A bill to amend the Internal Revenue Code of 1986 to permit tax-free purchases of certain fuels by farmers and waterway business users; to the Committee on Ways and Means.

By Mr. JOHNSON of South Dakota:

H.R. 4173. A bill to amend certain laws relating to the Presidential inauguration to limit the disbursement of public funds and furnishment of assistance to the Presidential Inaugural Committee; jointly, to the Committees on Armed Services and Government Operations.

By Mr. LaFALCE (for himself and Mr. McDade):

H.R. 4174. A bill to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes; to the Committee on Small Business.

By Mr. LATTA:

H.R. 4175. A bill to amend the Internal Revenue Code of 1986 to permit tax-free sales of diesel fuel for use on a farm; to the Committee on Ways and Means.

H.R. 4176. A bill to amend the Internal Revenue Code of 1986 to provide an exemption from the requirements to furnish taxpayer identification numbers in the case of certain deposits or accounts of members of certain religious faiths; to the Committee on Ways and Means.

By Mr. McCOLLUM (for himself, Mr. Smith of Texas, Mr. Shaw, Mr. Gekas, and Mr. Bateman):

H.R. 4177. A bill to amend title 18, United States Code, to prohibit certain firearms especially useful to terrorists; to the Committee on the Judiciary.

By Mr. MATSUI (for himself and Mr. Downey of New York):

H.R. 4178. A bill to amend the Federal Unemployment Tax Act with respect to employment performed by certain employees of educational institutions; to the Committee on Ways and Means.

By Mr. MAZZOLI:

H.R. 4179. A bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from certain rules for determining contributions in aid of construction; to the Committee on Ways and Means.

By Mr. RAHALL:

H.R. 4180. A bill to establish a mining experimental program on critical minerals, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 4181. A bill to amend the Mineral Leasing Act for acquired lands to permit a portion of Federal mineral revenues to be used to expand opportunities for sport fishing and hunting; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. RICHARDSON (for himself and Mr. Udall):

H.R. 4182. A bill to authorize the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RITTER:

H.R. 4183. A bill to require that the Director of the Office of Management and Budget include a reference to Easton, PA, in the official title of the metropolitan statistical area of which it is a part; to the Committee on Post Office and Civil Service.

By Mr. ROSTENKOWSKI:

H.R. 4184. A bill to amend the Internal Revenue Code of 1986 to require in certain cases a majority of employees to approve the establishment of an employee stock ownership plan; to the Committee on Ways and Means.

By Mr. SMITH of New Jersey:

H.R. 4185. A bill to amend title 38, United States Code, to authorize the stretching out of the $1,200 basic-pay reduction of Montgomery GI bill participants; jointly, to the Committees on Veterans' Affairs and Armed Services.

By Mr. DENNY SMITH:

H.R. 4186. A bill to provide for a State prison construction assessment to be imposed on individuals convicted of Federal offenses; to the Committee on the Judiciary.

By Mr. SOLOMON:

H.R. 4187. A bill to require the Secretary of the Interior to prepare a plan to repair and restore the Saratoga Battlefield Monument located in the Saratoga National Historical Park in the State of New York; to the Committee on Interior and Insular Affairs.

By Mr. STRATTON (for himself, Mr. Martin of New York, Mr. Kemp, Mr. Lent, Mr. Ackerman, Mr. Scheuer, Mr. Manton, Mr. Owens of New York, Mr. Horton, Mr. Wortley, Mr. Mrazek, Mr. Garcia, Mr. McGrath, Mr. Schumer, Mr. DioGuardi, Mr. Nowak, Mr. Solarz, Mr. McHugh, Ms. Slaughter of New York, Mr. Solomon, Mr. Rangel, Mr. Boehlert, Mr. Hochbrueckner, Mr. Weiss, Mr. Fish, Mr. Towns, Mr. Downey of New York, and Mr. Molinari):

H.R. 4188. A bill to designate the building located at 445 Broadway in Albany, NY, as the "James T. Foley United States Post Office and Courthouse"; to the Committee on Public Works and Transportation.

By Mr. STUDDS (for himself, Mr. Jones of North Carolina, Mr. Davis of Michigan, and Mr. Young of Alaska):

H.R. 4189. A bill to authorize appropriations to carry out the Marine Mammal Protection Act of 1972 for fiscal years 1989 through 1993; to the Committee on Merchant Marine and Fisheries.

By Mr. CRAIG:

H.J. Res. 503. Joint resolution to designate the week beginning January 15, 1989, as "National Free Enterprise Week"; to the Committee on Post Office and Civil Service.

By Mr. DAVIS of Michigan:

H.J. Res. 504. Joint resolution to designate May 8 through 14, 1988, as "National Correctional Officers Recognition Week"; to the Committee on Post Office and Civil Service.

By Mr. FLAKE (for himself, Mr. Ackerman, Mr. Brennan, Mr. Dorgan of North Dakota, Mr. Gilman, Mr. Hall of Ohio, Mr. Kostmayer, and Mr. Mfume):

H.J. Res. 505. Joint resolution designating May 1-7, 1988, as "Students for Child Survival Week"; to the Committee on Post Office and Civil Service.

By Mr. LANTOS (for himself, Mr. DioGuardi, Mr. Natcher, Mr. Gilman, Mr. LaFalce, Mr. Lott, Mr. Foley, Mr. de la Garza, Mr. Hyde, Mr. Perkins, Mr. Coble, Mr. Owens of Utah, Mr. Wolf, Mr. Cooper, Mr. Rogers, Mr. Rinaldo, Mr. Broomfield, Mr. Sisisky, Mr. Bateman, Mr. Jones of North Carolina, Mr. Boehlert, Mr. Lewis of Georgia, Mr. Hammerschmidt, Mr. Campbell, Mr. Solomon, Mr. Flippo, Mr. Rhodes, Mr. Murtha, Mr. Buechner, Mr. Price of Illinois, Mr. Livingston, Mr. Dowdy of Mississippi, Mr. Miller of Washington, Mr. Hatcher, Mr. Frenzel, Mr. Wyden, Mr. Davis of Michigan, Mr. Ortiz, Mr. Brown of Colorado, Mr. Cardin, Mr. Ballenger, Mr. Boland, Mr. Gingrich, Mr. Stratton, Mrs. Kennelly, Mr. Neal, Mr. Slaughter of Virginia, Mr. Espy, Mr. Hansen, Mr. Nichols, Mr. Mack, Mr. Sabo, Mr. Craig, Mr. Derrick, Mr. Lagomarsino, Mr. Miller of California, Mr. Grandy, Mr. Robinson, Mr. Parris, Mr. Pickle, Mr. Young of Alaska, Mr. Berman, Mr. Boucher, Mr. AuCoin, Mr. Morrison of Washington, Mr. Carr, Mr. English, Mr. Hall of Texas, Mr. Hefner, Mr. Ray, Mr. Daub, Mr. Rowland of Georgia, Mr. Ravenel, Mr. Staggers, Mr. McEwen, Mr. Gray of Illinois, Mr. Skeen, Mr. Kanjorski, Mr. Smith of New Jersey, Mr. Johnson of South Dakota, Mr. Lungren, Mr. Hoyer, Mr. Akaka, Mr. Pepper, Mrs. Boxer, Mr. Lipinski, Mr. Feighan, Mr. Fascell, Ms. Oakar, Mr. Bevill, Ms. Pelosi, Mr. Spratt, Mr. Wilson, Mr. Hamilton, Mr. Walgren, Mr. Andrews, Mrs. Morella, Mr. Rahall, Mr. Smith of Texas, Mr. Horton, Mr. Moody, Mr. Smith of Florida, Mr. Frost, and Mr. Bustamante):

H. Con. Res. 265. Concurrent resolution commemorating the 50th anniversary of the Javits-Wagner-O'Day Act, which occurs on June 25, 1988, to the Committee on Post Office and Civil Service.

By Mr. MILLER of Washington (for himself, Mr. Bonker, Mr. Chandler, Mr. Dicks, Mr. Lowry of Washington, and Mr. Young of Alaska):

H. Res. 402. Resolution calling for the United States to require appropriate position fixing and identification equipment on foreign fishing vessels operating in the U.S. exclusive economic zone in the Bering Sea and north Pacific Ocean or fishing in international waters adjacent to the U.S. exclusive economic zone in the Bering Sea and north Pacific Ocean; to the Committee on Merchant Marine and Fisheries.

By Mr. NEAL (for himself and Mr. Barnard):

H. Res. 404. Resolution concerning the dual banking system; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RAVENEL (for himself, Mr. Derrick, Mr. Spence, Mr. Spratt, Mrs. Patterson, and Mr. Tallon):

H. Res. 405. Resolution relating to a survey of the shores of the State of South Carolina in the interest of beach erosion control, hurricane protection, and related purposes; to the Committee on Public Works and Transportation.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

282. By the SPEAKER: Memorial of the General Assembly of the State of Indiana, relative to nerve gas or other lethal chemical agents; to the Committee on Armed Services.

283. Also memorial of the 19th Legislature of Guam, relative to the Hon. Tosiwo Nakayama, President, Federated States of Micronesia; to the Committee on Interior and Insular Affairs.

284. Also memorial of the 19th Legislature of Guam, relative to the Hon. Hirosi Ismael on his election as Vice President of the Federated States of Micronesia; to the Committee on Interior and Insular Affairs.

285. Also memorial of the Legislature of the State of Alaska, relative to oil and gas exploration, development, and production within the Arctic National Wildlife Refuge, Alaska; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 39: Mr. Nelson of Florida and Mr. Coyne.

H.R. 81: Mr. Pickett, Mr. Slattery, Mr. Manton, Mr. Eckart, and Mr. Hertel.

H.R. 111: Mr. Moorhead.

H.R. 245: Mr. Nagle.

H.R. 637: Mr. Upton.

H.R. 903: Mr. Towns, Mr. Craig, Mr. Dwyer of New Jersey, Mrs. Collins, Mr. de Lugo, Mr. Rangel, Mr. Mfume, Mr. Moakley, Mr. Owens of New York, Mr. Borski, Ms. Pelosi, Mr. Buechner, and Mr. Chapman.

H.R. 956: Ms. Oakar.

H.R. 1003: Mr. Matsui.

H.R. 1115: Mr. Roe.

H.R. 1200: Mr. Hiler and Mr. Howard.

H.R. 1394: Mr. Sweeney.

H.R. 1531: Mr. Kennedy, Mr. MacKay, Mr. Stenholm, and Mr. Tauzin.

H.R. 1699: Mr. Owens of Utah, Mr. Garcia, and Mr. Vento.

H.R. 1721: Mr. Burton of Indiana.

H.R. 1782: Mr. Grandy and Mr. Cardin.

H.R. 1786: Mr. Brennan, Mr. Lipinski, Mr. Petri, Mr. Pursell, Mr. Hubbard, Mr. McEwen, Mr. Dyson, and Mr. Horton.

H.R. 1808: Mr. Torricelli.

H.R. 1810: Mrs. Kennelly and Mr. Flippo.

H.R. 1834: Mr. Vento, Mr. Moakley, Mr. Mrazek, Mr. Schumer, and Mr. Flake.

H.R. 1924: Mr. Donald E. Lukens.

H.R. 2266: Mr. Clement, Mr. Gallo, Mr. Rowland of Georgia, and Mr. Wise.

H.R. 2726: Mr. Henry.

H.R. 2762: Mr. Conyers, Mr. Evans, Mr. Grant, Mr. Gonzalez, Mr. Leland, and Mr. Dyson.

H.R. 2854: Ms. Pelosi and Mr. Garcia.

H.R. 2955: Mr. Fish, Ms. Snowe, and Mr. Hayes of Louisiana.

H.R. 3014: Mr. Smith of New Hampshire.

H.R. 3146: Mr. Courter, Mr. Vento, Mr. Howard, Mr. Kastenmeier, Mr. Synar, Mr. Oberstar, and Mr. McCurdy.

H.R. 3361: Mr. Biaggi, Mr. Young of Alaska, Mr. Lujan, Mr. Gray of Illinois, Mr. Hastert, Mr. Coyne, Mr. de la Garza, Mr. Horton, Mr. Wilson, Mr. Yatron, Mr. Ortiz, Mr. de Lugo, Mr. Roberts, Mr. Nichols, Mr. Fields, Mr. Hawkins, Mr. Bilbray, and Mr. Durbin.

H.R. 3390: Mrs. Collins, Mr. Erdreich, Mr. Holloway, Mr. de la Garza, Mr. Pursell, Mr. Emerson, Mr. Konnyu, Ms. Pelosi, Mr. Bateman, Mrs. Lloyd, and Mr. Upton.

H.R. 3454: Mr. Atkins, Mr. Foley, Mr. McEwen, Mrs. Schroeder, and Mr. Studds.

H.R. 3455: Mr. Garcia.

H.R. 3619: Mr. Glickman, Ms. Kaptur, and Mr. Jeffords.

H.R. 3624: Mr. de Lugo and Mr. Martinez.

H.R. 3633: Mrs. Boxer, Mrs. Collins, Mr. Dellums, Mr. Dixon, Mr. Ford of Tennessee, Mr. Hall of Ohio, and Mr. Markey.

H.R. 3663: Mr. Cardin and Mr. Bartlett.

H.R. 3719: Ms. Oakar, Mr. de Lugo, Mrs. Lloyd, Mr. St Germain, Mr. Daub, Ms. Pelosi, Mr. Chapman, Mr. Mollohan, Mr. Lott, Mr. Bliley, and Mr. Rahall.

H.R. 3764: Mr. Garcia and Mr. Shays.

H.R. 3774: Mr. Goodling.

H.R. 3788: Mr. Nichols, Mr. Carr, Mr. Towns, Mr. Mfume, Mr. Ackerman, Mr. Valentine, Mr. DeFazio, and Mr. Huckaby.

H.R. 3791: Mr. Buechner, Mr. Miller of Washington, and Mr. DeFazio.

H.R. 3814: Mr. Harris.

H.R. 3830: Mr. Bereuter.

H.R. 3865 Mr. Sweeney, Mr. Ireland, Mr. Dowdy of Mississippi, Mr. Fawell, Mr. Synar, Mr. Bunning, Mr. Donald E. Lukens, Mr. Taylor, Mr. Bosco, Mr. Rowland of Georgia, Mr. Rhodes, and Mr. Ridge.

H.R. 3879: Mr. Brown of California, Mr. Frank, and Mr. Jeffords.

H.R. 3881: Mrs. Bentley, Mr. Wilson, Mr. Armey, Mr. Huckaby, Mr. Dyson, and Mr. Carper.

H.R. 3893: Mr. McMillen of Maryland, Mr. Houghton, Mr. Dickinson, Mr. Tauke, Mr. Callahan, Mr. Boulter, and Mr. Stenholm.

H.R. 3903: Mr. Donald E. Lukens.

H.R. 3907: Mr. Ray, Mr. Smith of Texas, Mr. Murtha, and Mr. Martin of New York.

H.R. 3969: Mr. Weiss.

H.R. 3971: Mr. Durbin and Mr. Gilman.

H.R. 3977: Mr. Vento, Mr. Richardson, Mr. Sabo, Mr. Craig, and Mr. Owens of New York.

H.R. 4000: Mr. Owens of Utah, Mr. Ackerman, Mr. Martin of New York, Mr. Smith of New Hampshire, Mr. Nielson of Utah, Mr. Tauzin, Mr. LaFalce, Mr. Bustamante, Mr. Hastert, Mr. Price of Illinois, Mr. Wortley, Mr. Boehlert, Mr. Miller of Ohio, Mr. Morrison of Washington, Mr. Grandy, Mr. Owens of New York, Mr. Davis of Illinois, Mr. Holloway, Mr. Martinez, Mr. Donald E. Lukens, and Ms. Pelosi.

H.R. 4003: Mr. Coelho, Mr. Lehman of Florida, Mr. Schumer, Ms. Pelosi, Mr. Frank, Mr. Studds, Mr. Martinez, Mr. Mfume, Ms. Kaptur, and Mr. Frost.

H.R. 4011: Mr. Neal, Mr. LaFalce, Mr. McCloskey, Mr. Clarke, Mr. Emerson, Mr. Cheney, Mr. Murtha, Mr. McCurdy, and Mr. Watkins.

H.R. 4024: Mr. Fauntroy, Mr. Ackerman, Mr. Martinez, Mr. Coelho, Mr. Bustamante, and Mr. Frost.

H.R. 4056: Mr. Hochbrueckner, Ms. Kaptur, Mr. Lagomarsino, Mr. Manton, Mr. Pickett, and Mr. Solomon.

H.R. 4067: Mr. Schulze and Mr. Chapman.

H.R. 4072: Mr. Durbin and Mr. Schroeder.

H.R. 4074: Mr. Gregg and Mr. Chapman.

H.R. 4136: Mr. Garcia, Mr. Berman, Mr. Dixon and Mr. Mfume.

H.J. Res. 138: Mr. Bennett.

H.J. Res. 148: Mr. Bonker, Mr. Boucher, Mr. Coyne, Mr. Fascell, Mr. Ford of Tennessee, Mr. Markey, Mr. Robinson, Mr. Roe and Mr. Tallon.

H.J. Res. 377: Mr. Hatcher and Mr. McEwen.

H.J. Res. 403: Mr. AuCoin, Mr. Buechner, Mr. Davis of Illinois, Mr. Fuster, Mr. Gallo, Mr. Gordon, Mr. Hughes, Mr. Lehman of California, Mr. Manton, Mr. Nielson of Utah, Mr. Owens of New York, Mr. Roe, Mr. Sikorski and Mr. Upton.

H.J. Res. 408: Mr. Brennan, Mr. Anthony, Mr. Grant, Mr. Hayes of Louisiana, Mr. Nagle, Mr. Price of North Carolina, Mr. Sawyer, Mr. Hoyer, Mr. Frank, Mr. Yates, Mr. Bruce and Mr. McCloskey.

H.J. Res. 421: Mr. Annunzio, Mr. Bliley, Mr. Boucher, Mr. Brennan, Mr. Cardin, Mr. Coble, Mr. Coyne, Mr. de Lugo, Mr. Donnelly, Mr. Dwyer of New Jersey, Mr. Dyson, Mr. Fuster, Mr. Henry, Mr. Hochbrueckner, Mr. Jacobs, Mr. Lungren, Mr. Matsui, Mr. Mfume, Mrs. Morella, Mr. Nagle, Mr. Ravenel, Mr. St Germain, Mr. Savage, Mr. Synar, Mr. Vento and Mr. Waxman.

H.J. Res. 422: Mrs. Bentley, Mr. Borski, Mrs. Boxer, Mr. Bruce, Mr. Buechner, Mrs. Collins, Mr. Crockett, Mr. Davis of Illinois, Mr. DeFazio, Mr. Dwyer of New Jersey, Mr. Dyson, Mr. Fields, Mr. Frank, Mr. Garcia, Mr. Gordon, Mr. Jeffords, Mr. Jontz, Mr. Kennedy, Mr. Kolbe, Mr. Kostmayer, Mr. Levin of Michigan, Mrs. Lloyd, Mr. Lungren, Mr. McDade, Mr. McEwen, Mr. McGrath, Mr. MacKay, Mr. Rahall, Mr. Schuette, Mr. Towns, Mr. Waxman, Mr. Weiss, and Mr. Whitten.

H.J. Res. 440: Mr. Courter, Mr. Morrison of Washington, Mr. Bryant, Mr. Mineta, Mr. Wyden, Mr. Carper, Mr. Boland, Mrs. Bentley, Mr. Bonior of Michigan, Mr. Bosco, Mr. Callahan, Mr. Conyers, Mr. Harris, Mr. Savage, Mr. Blaz, Mr. Lungren, Mr. Ravenel, Mr. Gray of Illinois, Mr. Clement, Mr. Brennan, Mr. McEwen, Mr. Lewis of California, Mr. Martin of New York, and Mr. McGrath.

H.J. Res. 452: Mr. Wilson, Mr. Donald E. Lukens, and Mr. Blaz.

H.J. Res. 453: Mr. Grandy, Mr. Burton of Indiana, Mr. Weber, Mr. Davis of Illinois, Mr. Upton, Mr. Madigan, Mr. Bilbray, Ms. Kaptur, Mr. Leath of Texas, Mr. Lewis of California, Mr. Rowland of Georgia, Mr. Donald E. Lukens, and Mr. Bustamante.

H.J. Res. 466: Mr. Donald E. Lukens.

H.J. Res. 469: Ms. Pelosi, Mr. Dreier of California, Mr. Lehman of Florida, Mr. Kostmayer, Mr. Kanjorski, Mr. Hochbrueckner, Mr. McDade, Mr. Harris, Mr. Boland, Mr. DeFazio, Mr. Wortley, Mr. Lagomarsino, Mr. Lantos, Mr. Henry, Mr. Dornan of California, Mr. Matsui, Mr. Ford of Tennessee, Mr. Solarz, Mr. Hughes, Mr. Garcia, Mr. Courter, Mr. Perkins, Mr. Hayes of Illinois, Mr. Bliley, Mr. Owens of New York, Mr. Dwyer of New Jersey, Mr. Hopkins, Mr. Fauntroy, Mr. Roe, Mr. Horton, Mr. Bruce, Mr. Neal, Mr. Weiss, Mr. Guarini, Mr. Beilenson, Mr. Manton, Mr. Gallo, Mrs. Boxer, Mr. Applegate, Mr. Smith of Florida, Mr. Clay, Mr. Walgren, Mr. Skelton, Mr. Rodino, Mr. Levine of California, Mr. Morrison of Washington, Mr. Evans, Mr. Wolf, Mr. Sawyer, Mr. Jeffords, Mr. Holloway, Ms. Slaughter of New York, and Mr. McEwen.

H.J. Res. 470: Mr. Stangeland, Mr. Spratt, Mr. Green, Mr. Kemp, Mr. Fish, Mr. Early, Mr. Brown of Colorado, Mr. Kildee, Mr. Stokes, Mr. Goodling, Mr. Levine of California, Mr. Sikorski, Mr. Dorgan of North Dakota, Mr. Hochbrueckner, Mr. Coyne, and Mr. Kleczka.

H.J. Res. 475: Mr. Atkins, Mr. Bustamante, Mr. Fish, Mr. Martinez, Mr. McGrath, Ms. Pelosi, and Mr. Vento.

H.J. Res. 485: Mr. Ackerman, Mr. de la Garza, Mr. Foley, Mr. Harris, Mr. Horton, Ms. Kaptur, Mr. Madigan, and Ms. Slaughter of New York.

H. Con. Res. 28: Mr. Burton of Indiana, Mr. Weber, and Mr. Wolf.

H. Con. Res. 232: Mr. Fish, Mr. Boucher, Mr. Smith of New Hampshire, Mr. Bateman, Mr. Denny Smith, Mr. Pickett, Mr. Carper, and Mr. MacKay.

H. Con. Res. 238: Mr. Donald E. Lukens and Mr. Gunderson.

H. Con. Res. 252: Mr. Buechner and Mr. Eckart.

H. Con. Res. 256: Mr. Lagomarsino.

H. Res. 395: Mr. Donald E. Lukens.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[Omitted from the Record of March 15, 1988]

H.R. 1195: Mr. Moody.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

[Submitted March 16, 1988]

139. The SPEAKER presented a petition of the City of Clarksdale, Clarksdale, MS, relative to "Sunflower Landing" in Coahoma County, MS; which was referred to the Committee on Interior and Insular Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2707

By Mr. DAVIS of Michigan:

—Page 62, after line 20, insert the following new section:

SEC. 211. GREAT LAKES COASTAL BARRIERS STUDY.

(a) Recommendations of the Secretary of the Interior.—

(1) For inclusion in resources system.—

(A) Deadline.—Except as provided in subparagraph (B), within 6 months after the date of the enactment of this Act, the Secretary of the Interior (hereinafter in this section referred to as the "Secretary") shall recommend to Congress, and prepare maps identifying, the boundaries of those undeveloped coastal barriers along the shore areas of the Great Lakes that the Secretary considers appropriate for inclusion in the Coastal Barrier Resources System authorized under the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.).

(B) Limitation.—The Secretary may not recommend for inclusion as an undeveloped coastal barrier any area that is publicly owned and protected by Federal, State, or local law, or is held by a qualified organization defined in section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)), primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes.

(2) CONSULTATION; CONSIDERATION OF UPDATED MAPS.—Before recommending undeveloped coastal barriers under paragraph (1), the Secretary shall—

(A) consult with and provide an opportunity for comment by appropriate United Stated agencies, State agencies (including the coastal zone management agencies) of the Great Lakes States, and the public; and

(B) update on the basis of aerial photographs and consider the draft coastal barrier inventory maps prepared by the Secretary in January 1985 for the States of Michigan, Wisconsin, Ohio, New York (Great Lakes), and Minnesota.

(3) PROVISION OF MAPS.—As soon as practicable after the revision of the maps referred to in paragraph (2)(B) is completed, the Secretary shall provide copies of the maps to—

(A) each appropriate State and county or equivalent jurisdiction in which shore areas recommended and identified by the Secretary under this section are located;

(B) the coastal zone management agency in each appropriate Great Lakes State that has a coastal zone management program approved under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455);

(C) each appropriate United States agency; and

(D) Congress.

(4) PUBLIC INSPECTION OF MAPS.—The Director of the United States Fish and Wildlife Service shall make available for public inspection all maps prepared under this section.

(b) EXCEPTIONS.—The limitations on the use of the Federal expenditures or financial assistance within the Coastal Barrier Resources System under section 6(a)(3) of the Coastal Barrier Resources Act (16 U.S.C. 3505(a)(3)) shall not apply to public highways located within the State of Michigan if Congress adds by law new units to the Coastal Barrier Resources System and these units include portions of public highways in the State of Michigan.

Page 62, line 21, strike out "SEC. 211." and insert in lieu thereof "SEC. 212.".

EXTENSIONS OF REMARKS

A VICTORY FOR THE U.S. AND HUMAN RIGHTS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. BROOMFIELD. Mr. Speaker, I want to share with my colleagues a very moving speech on human rights abuses in Cuba. It was given in February by Ambassador Armando Valladares, the U.S. Representative to the 44th session of the U.N.'s Commission on Human Rights in Geneva. I believe that the Ambassador's persuasiveness and his memorable address contributed in a major way to the U.N. Commission's recent decision to dispatch a special team to Cuba to investigate charges of human rights violations there.

Last week, the U.N.'s Commission on Human Rights was scheduled to vote on an important U.S.-sponsored resolution calling for a review of human rights violations in Cuba. As might be expected, Cuba and some of Fidel's followers in Geneva opposed the resolution. The proposal would have put the Commission on record voicing concern about the reported human rights violations in Cuba.

Thanks to the good efforts of Ambassador Valladares and extensive consultations with our friends in that organization, the Commission accepted a Latin proposal and the U.S. delegation withdrew the U.S.-sponsored resolution. In some respects, the Latin American resolution is stronger than the one proposed by our delegation to the Commission.

The adopted resolution requires that a U.N. Commission on Human Rights inspection team visit Cuba. The investigative team will include the head of the U.N. Human Rights Commission and representatives from Western Europe, Eastern Europe, Africa, Asia and Latin America.

Having recently participated in the Commission's session in Geneva, along with Chairman DANTE FASCELL, I am pleased that a favorable compromise was arrived at which puts Fidel Castro's little police state under close U.N. scrutiny. In the final analysis, I hope that the cause of human rights will be well served by this planned investigative visit.

Ambassador Valladares is to be commended for the success of our efforts in Geneva. He has personally experienced Castro's brutality. The Ambassador spent nearly 23 years in Castro's prisons before being released in 1982. He was imprisoned for having casually expressed his concerns to his coworkers about the direction that the government of Fidel Castro was taking in the 1960's. During his time in seven Cuban prisons and work camps, he was tortured, regularly beaten and subjected to degrading and inhuman treatment. He spent a total of 7 years in solitary confinement.

The following speech paints a graphic and tragic picture of life in Castro's prisons. It is mute testimony to man's inhumanity to man. I urge my colleagues to read it and think about the blessings of freedom and justice that we enjoy in this great country.

STATEMENT BY AMBASSADOR ARMANDO VALLADARES

Mr. Chairman: I am not a career diplomat nor am I an expert on the technical aspects of this Commission. I will not, therefore, make a detailed presentation on the reports and subjects that are considered under item 10. We will listen to other interventions on those important subjects.

Mr. Chairman, I would like to talk today about torture, of what it means for a human being to be tortured, humiliated, and, what is almost worse, of what it means to watch a friend or a companion or a relative being tortured.

As many of you know, I spent twenty-two years in prison for political reasons. Perhaps I am the only delegate in this Commission that has spent such a long time in prison, although I do know that some of you here know in your own flesh what torture means. I do not care what your political ideology might be; human beings are more important than any ideology—I offer you my solidarity, that one tortured person to another.

I had many friends in prison. One of them, Roberto Lopez Chavez, was practically a child. He went on a hunger strike to protest abuses. The guards denied him water. Roberto, on the floor of his punishment cell, delerious and in agony, asked only for water * * * water. The guards entered his cell and asked: You want water? They urinated into his mouth and onto his face. He died the following day. We had been cellmates. When he died, I felt something wither inside me.

I remember when they had me in a punishment cell, naked, my leg fractured in several places—fractures that were never treated and eventually fused into a mass of deformed bones. Through the wire mesh that covered the cell, the guards would pour over me buckets of urine and excrement that they had collected earlier.

Mr. Chairman, I know the taste of other men's urine and excrement * * * that form of torture leaves no physical trace. What does leave traces are the beatings with metal bars or bayonets. My head is covered with still detectable scars and wounds. But what is more harmful to human dignity? Buckets of urine and excrement thrown in one's face or blows from a bayonet? Under which item should we discuss this question? Under which technical point should this be discussed? Under what mass of numbers, hyphens, or strokes should we include this trampling of human dignity?

For me and for so many others around the world, human rights violations were not a matter of reports, negotiated resolutions, and elegant and diplomatic rhetoric. For us, it meant daily sorrow. For me, it meant eight thousand days of hunger, systematic beatings, forced labor, solitary confinement, sealed punishment cells, solitude. Eight thousand days struggling to show that I was still a human being. Eight thousand days trying to prove that my spirit could triumph over the exhaustion and the pain. Eight thousand days of testing for my religious convictions, my faith, of struggling not to allow the hatred that my atheist guards sought to sow with their bayonets to flower in my heart. Eight thousand days of fighting not to become like them, not to think of torture as a weapon, of trying to forgive, of trying never to think of vengeance, of retaliation, and of cruelty.

And when cruelty is extended to one's relatives, is that not a form of torture? My father is an elderly man. He is very ill. He also served time in political prisons. Because he is my father he is not allowed to leave the country. Over the past two years the authorities have been tormenting him—revenge for my activities. They do not beat him, but they call and tell him that he may leave the following day. My father makes the long trip to the capital full of hope. And when he is almost on board the airplane, they tell him that there was a bureaucratic error, that he has to return to his town. They do this to him every four or five weeks. They are torturing him in the same way that they tormented my sister, who now finds herself under psychiatric care.

The world of those who suffer and endure pain often has certain poetic characteristics. I think it was in a book by Victor Frankel, a survivor of the Nazi extermination camps, where I read that in the midst of their total despair, the camp inmates were kept alive by a violinist—a companion in misery who every afternoon played a piece of classical music. Everyone in the concentration camp would suddenly become quiet to hear him. That violin, with its musical notes scraped out in the midst of so much pain, was a ray of hope.

Bertold Brecht, the German playwright, tells a similar tale about a young Jewish couple imprisoned in a labor camp and separated by a fence. They had never talked, but had seen each other and loved one another. On the wall that separated them both left a daily testimony of their love: a little flower picked from the fields. One day, her flower was missing. The next day his would not be there either. Despair killed them.

Totalitarians treat their adversaries like animals. They bind them, lock them up, beat them with no explanations. The tyrant's arbitrariness reduces victims to beasts. It dehumanizes them. At times, when one is treated like a beast, the only thing that saves him from humiliation, that keeps him strong is knowing that somewhere, someone loves him, respects him, fights to return to him his dignity. I was lucky, Mr. President: I had someone to fight for my freedom; I had my wife, who travelled the world knocking on doors and on the consciences of peoples and governments, pressuring them to demand my freedom. But the majority of those that suffer violations of human rights have only the hope that the international community, against all hope, will think about them. You are their only hope.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

About these painful matters, unfortunately, I have some personal knowledge. Many years ago, perhaps twenty, a political prisoner named Fernando Lopez del Toro, came to my cell. In a tone of despair, he said to me that what hurt the most out of all of the torment, the beatings, the hunger we suffered, was that our sacrifice might be in vain. It was not the pain, but the apparent uselessness of enduring it that was defeating Fernando. I sought to explain to him that despite the ignorance and indifference of the rest of the world, our suffering still had a purpose and a transcendental significance. I do not believe that I convinced him.

Some years later, we were now in different prisons, I found out that one night Fernando could no longer endure; he took his life. Later, I learned the details of his death from his cellmates, who, also almost annihilated by the physical and moral abuses they had undergone, had stood by immobile. Fernando climbed up on his bunk, coiled a dirty towel around his neck, and with a sharp piece of metal tore open his skin, searched with his fingers for the jugular vein and in one stroke cut it. He died a few minutes later. It was said that his jailers had direct responsibility for his death; I know that Fernando was also the victim of indifference, of silence, of that terrible echoless universe in which, in this century of horrors and violations, so many good men and women die.

Torture, violations of human rights, come from where they might, are offenses against all and must be fought with equal vigor. That is what will make our message efficacious. International condemnation is the only thing capable of pressuring the torturers, it is the only thing capable of forcing them, in order to repair their public image, to free prisoners, to be more careful, to transgress less.

Denouncing the criminal does not always ensure his punishment, but, possibly it could prevent new crimes. We must raise our voices without fear and use all available means in defense of those who are persecuted, of the tortured of the world. We have to shout about the pain that they suffer and we must accuse their executioners without fear. We have to reach into the cells of all the world's Fernando Lopez del Toros to tell them with firmness and solidarity, "Listen, do not take your life; men of good will are with you. Your dignity as a human being will prevail. In some corner, in your honor and in your memory, there will always be a flower, the note of a violin, or the voice of compassion of those who feel they are your brothers and who will defend you. Look, you are not an animal. Do not take your life. Liberty will never disappear from the face of the earth". Thank you, Mr. President.

CONGRATULATIONS TO THE URI BASKETBALL TEAM

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. ST GERMAIN. Mr. Speaker, I had planned to come before this body today, to congratulate a basketball team. I had planned to congratulate the great basketball team of my alma mater, Providence College, for once again being selected for the NCAA national tournament.

But it was not to be. Fate has dealt a cruel blow to my beloved Friars; the Nation will be denied the privilege of viewing their splendid feats of athletic prowess. I can, however take some consolation in the triumph of another college in my State, the University of Rhode Island.

Mr. Speaker, the URI basketball team had an excellent season. At 26-6, it was their best ever, and it earned them their fourth invitation to the tournament, their first since 1978. URI fielded the best basketball team in Rhode Island this year.

I would like to extend my congratulations to the players, coaches and fans of the URI Rams. They are exemplary representatives for our State, and all of Rhode Island is proud of them. I wish them luck on their road to the final four.

TRIBUTE TO THE FAMILY SERVICE ASSOCIATION

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. TRAFICANT. Mr. Speaker, it is with great admiration that I pay tribute to the Family Service Association of Warren, OH.

This institution provides for the family needs of my constituents in Trumbull County. In 1987 the F.S.A. counseled 522 families and held nearly 3,850 interviews for a total of 4,800 direct service hours. They hold group therapy sessions for teenage victims of sexual abuse, provide a small adoption program, provide a consumer credit counseling service, and assist businesses in increasing the productivity of their personnel. The services they provide to the Warren area are necessary and vital to the health of the community. The F.S.A. has been an important contributor to the Warren community and I recognize and applaud the fine job they have done.

The current board of directors are, Carl G. Rausch, president; Milton E. Plumm, 1st vice president; Theresa F. Nephew, 2d vice president; Carolyn Andrews, secretary, and Dana Howard, treasurer. All these fine and talented people deserve high praise.

Mr. Speaker, it is with great pride that I pay tribute to the Family Service Association of Warren, OH. The institution is unreplaceable and provides an outstanding array of services. I congratulate the staff on their efforts to repair the family fiber of America and more specifically, that of Warren, OH. They have my deepest respect and admiration.

COMMEMORATING PERRY LIEBER FOR HIS COURAGEOUS FIGHT AGAINST CANCER

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. BILBRAY. Mr. Speaker, I rise today to pay respectful tribute to an outstanding and inspirational Nevadan, Perry Lieber. This year Mr. Lieber has been selected to receive the Cancer Courage Award given by the American Cancer Society, in recognition of his successful battle with prostate cancer.

Many years ago, Perry worked for RKO in the public relations department and later as the director of public relations; a position he still held when RKO was purchased by Howard Hughes. Following his work with RKO, he became assistant public relations and advertising director at 20th Century Fox Studios.

Currently employed as a consultant for Summa Corp. in Las Vegas, Perry has been an active American Cancer Society volunteer for the Nevada division for more than 10 years. During his career, this remarkable individual has worked with such world renowned celebrities as Betty Grable, Cary Grant, and Fred Astaire.

In 1983 Mr. Lieber was first diagnosed with prostate cancer. He underwent partial radiation therapy, and in May 1985, his doctors diagnosed him with bone metastasis. Now 3 years later, at age 82, his condition is stable. This Nevadan represents a true triumph of modern medicine and the human spirit.

The American Cancer Society's Cancer Courage Award is presented annually to one American who symbolizes the courageous efforts of all cancer victims, to call attention to the public at large to the hopeful side of fighting cancer. This year, one recipient from each of the society's 57 divisions will receive the award in honor of the American Cancer Society's 75 years of dedicated effort to conquer cancer.

Mr. Speaker, it is my privilege and pleasure to stand before my colleagues today and recognize this indomitable Nevadan. Perry Lieber is a man who symbolizes the hope and dream of every American that cancer can be vanquished.

A TRIBUTE TO JACK FRAZIER

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. KOLTER. Mr. Speaker, I rise today to pay tribute to a good friend and community leader, Jack Frazier. It is a great pleasure that I take this opportunity to join the many friends of Jack in honoring him on the occasion of his retirement from Teamsters Local 261 after 24 years of dedicated service.

As the president of local 261, Frazier was responsible for negotiating contracts, mediating grievances, arbitrating labor-management disputes and overseeing the general affairs of the local. Prior to becoming president, he held the positions of secretary-treasurer, business agent, and recording secretary.

A good father and family man, Jack has been married to his wife Doris for 36 years and they have two children, Richard and Le Ann. Jack has set a fine example for all of us in the Fourth District through his untiring efforts on behalf of the community.

Jack is a past president and currently a member of the board of directors for Lark Enterprises. He was a member of the Government Affairs Committee and executive board of the United Way. He is a member of the

American Heart Association, the Mental Health/Mental Retardation Board for Lawrence County and the chairman of the Projects With Industry Council, an organization comprised of business and labor leaders who are interested in providing employment opportunities for the disabled. In 1983, he was chosen to be the first labor cochairman of the New Castle Area Labor-Management Committee.

As Jack seeks to enjoy a rewarding and certainly well deserved retirement, I take this time to tip my hat to Jack and say "thanks." You will be greatly missed by your coworkers and fellow Teamsters.

Best of luck to you, Jack. Thank you for all you have done. You are a tribute to Pennsylvania.

IN HONOR OF RICK SPEER—V.F.W. VOICE OF DEMOCRACY WINNER

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. APPLEGATE. Mr. Speaker, I had the distinct honor last week of being a member of the head table during the Veterans of Foreign Wars' congressional banquet at which our distinguished colleague from Alabama, the Honorable WILLIAM NICHOLS, received the VFW Congressional Award for outstanding service to the Nation.

Besides the honor that was bestowed on BILL NICHOLS, the winners of the VFW 1988 Voice of Democracy Scholarship Program were also announced at the banquet held on March 8, with Frederick Wayne Speer, a senior at the Zweibrucken American High School in West Germany, taking first place.

I must admit that I and many of the thousands of people who gathered at the Sheraton Hotel that evening were deeply impressed and touched by the eloquence expressed by Rick in his speech, "American's Liberty—Our Heritage."

I would like to take this opportunity to provide my colleagues in the House with the full remarks that Rick gave to a captive audience last week. I'm certain that each and every Member of this Chamber will be affected by the touching statement from one of America's students. I fully expect that we'll all be hearing a lot more about this distinguished young man throughout the future.

Mr. Speaker, I wish to extend my utmost congratulations to Rick and to his parents, Mr. and Mrs. Corbett D. Myers. I will long remember the evening that he held the attention of the mighty and the powerful in Washington through the smooth and forceful delivery of his remarks.

Statement of Mr. Speer follows.

AMERICA'S LIBERTY—OUR HERITAGE

(By Frederick W. Speer)

It is, and yet it is not. It is a glimmer of hope for mankind, and yet it is not unlike the holy grail—perfection, but somehow always just out of reach . . . except in America. It is a principle which is our birthright, yet it is an idea which has been contemplated through the millenniums by men and women who have asked themselves: What is it? What is that sacred, but elusive, idea that we call liberty?

Is liberty a bell, like the famous bell of Philadelphia which, though cracked, still tolls the golden notes of freedom? If liberty were just a bell, then the Czar Kolokol bell outside the Kremlin in Moscow would also be a symbol of personal freedom. And since this bell in the Soviet Union weighs a hundred and ninety-three tons, making it the largest bell on the face of the earth, we would expect it to produce far more liberty than our own special bell in Philadelphia. But from the rusty bronzen throat of the Czar Kolokol bell do not flow the blessed melodies of liberty.

Is liberty, then, a statue, like that world-renowned status of ours in New York harbor which holds aloft a glowing torch and gazes out at the tired, poor, teeming masses which long to immigrate to the great land of freedom? If liberty were just a statue, then the Brancusi statue in the Milepogang Museum of Art in Bucharest, Romania, would also be a symbol of that sacred idea contemplated by the great thinkers of the past. The Brancusi statue, like our own, is that of a woman standing, holding in her upraised hand a torch, but from this torch do not radiate the blessings of liberty.

Clearly, liberty is not merely a statue or a bell. But if it is not made of iron or marble, or fashioned out of any kind of inanimate matter, then why did it matter so much to Patrick Henry that he demanded death as its only alternative? The people of the present join those of the past in asking: What is liberty, besides just a word that sounds good with "and justice for all"?

Liberty is the precious heirloom of our heritage, bequeathed by our nation's courageous founding fathers to every man, woman, and child fortunate enough to be a United States citizen, to secure freedom and liberty as our birthrights, the brave soldiers of our armed forces have fought and toiled in the face of incredible resistance since the founding of our great nation over two hundred ten years ago. They've helped keep liberty alive in America. All our citizens have kept our land a vestige of hope in a world where freedom of speech, press, and religion are as rare as flawless diamonds.

America has made it her mission to see the day when all the world's people will enjoy the same inalienable rights guaranteed to us by the brave, brilliant men and women of our heritage. Thanks to them, America is the champion of liberty, a nation founded on that noble principle and dedicated to translating the ingenious philosophy of our Constitution directly into reality. Tilton said, "Liberty will not descend to a people: A people must raise themselves to liberty". How very true, and how very many times in our history America has raised herself to this most priceless of all commodities.

However, simply recognizing the triumphs of our past is not enough. The fact that George Washington heroically crossed the Delaware, that Elizabeth Katy Stanton crusaded for women's rights, that Martin Luther King, Jr., peacefully rallied for racial equality—these deeds of vision and valor mean nothing if we of the present are content to coast along on the ever-waning momentum of the past. We face the perpetual responsibility of keeping liberty alive and well, if not through extraordinary or heroic feats, then through quiet, dedicated patriotism in everything we do. The young people of today face this noble duty, along with the middle-aged and the elderly. Indeed, all Americans share the same ultimate challenge: to insure that one day our Statue of Liberty will be joined by the Brancusi State of Romania in radiating freedom to all who gaze upon their torches, to ensure that one day our Liberty Bell will be joined by the Czar Kolokol Bell of Moscow, and that all the world's other bells, from Belfast to Belgrade to Leningrad, will ring out in unison and toll the harmonious chorus of liberty, the precious heirloom of our heritage.

CRITICAL MINERALS MINING EXPERIMENTAL PROGRAM

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. RAHALL. Mr. Speaker, today I am introducing legislation to establish a mining experimental program on critical minerals within the Bureau of Mines. The specific purpose of this program would be to develop mining, mineral processing and other technologies that will substantially reduce the dependency of this Nation on critical minerals produced in the Republic of South Africa.

This legislation transcends the debate over whether the United States should impose additional sanctions on South Africa. I think we all can agree that there are national security implications associated with the reliance on any essential commodity from any politically volatile country, be it minerals from South Africa or crude oil flowing through the Persian Gulf.

In this regard, the United States is heavily dependent on South Africa for a number of strategic and critical minerals, including chromium, manganese, platinum, vanadium, and cobalt.

The Comprehensive Anti-Apartheid Act of 1986 [CAAA] did not impose an outright prohibition on imports of South African strategic and critical minerals for this very reason. Pursuant to the CAAA, 10 minerals were certified as strategic and critical and exempted from the act's sanctions.

However, the CAAA in section 504(b) directed the President to develop a program which reduces the dependence of the United States on these minerals.

The development of such a program makes good sense, even if it is not associated with anti-Apartheid legislation. There are great advances we could be making to reduce our minerals dependency through the development of substitute materials, primary and secondary recovery techniques and the development of alternative supply sources both domestically and in non-Council for Mutual Economic Assistance countries.

Yet, the administration has made very little effort to develop this program and I think this not only defies the letter and intent of a duly enacted law but undermines the security of this Nation.

The legislation I am introducing today seeks to establish a credible program aimed at reducing U.S. dependence on these strategic and critical minerals.

RESOLUTION INTRODUCED TO HALT ILLEGAL FISHING IN THE NORTH PACIFIC

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. MILLER of Washington. Mr. Speaker, I rise to introduce a resolution that is the first step toward stopping the illegal fishing in our rich fishing grounds in the North Pacific. This illegal activity is costing the American fishing industry millions of dollars. It is undermining our efforts to manage and preserve one of our most important resources. It is jeopardizing the creation of thousands of jobs in a strong, growing industry. And this illegal fishing is making a mockery of the "Americanization" of our exclusive economic zone. This resolution calls upon the appropriate Government agencies to enforce existing laws that allow the United States to require position indicating beacons on foreign fishing vessels.

According to the text of the governing international fishing agreements with Japan and other countries which fish in the North Pacific, the United States can require that "appropriate position-fixing and identification equipment, as determined by the Government of the United States is installed and maintained in working order on each fishing vessel." Moreover, no new legislative authority is required from Congress as the Magnuson Fisheries Conservation and Management Act in 16 U.S.C. 1821(c)(2)(C) expresses gives the United States authority to require transponders if they permitted in the GIFA with another nation.

Mr. Speaker, this resolution is cosponsored by my colleagues Congressmen DON BONKER, ROD CHANDLER, NORM DICKS, MIKE LOWRY, and DON YOUNG. I am delighted that they have joined me in taking this first step toward stopping the thievery in the North Pacific. Our resolution states three things. First, and most important, we call on the United States to exercise its acknowledged right to require position-fixing and identification equipment on foreign fishing, fish processing and fish tender vessels operating in our exclusive economic zone. Second, we argue that based on the text of the GIFA that a strong case can be made that the same regulations apply to vessels fishing in international waters adjacent to U.S. waters in the Bering Sea and North Pacific. That means the so-called donut hole area in the Bering Sea. Third, we want some response from the Federal Government within 60 days.

I understand a similar resolution is being developed in the Senate.

Congressman DON BONKER and I just held a hearing on the status of fishery exports. Congressman MIKE LOWRY joined us for that hearing and we heard from Assistant Secretary of State Ed Wolfe about illegal fishing. Ambassador Wolfe spoke favorably of our objective of requiring position-fixing equipment on foreign fishing vessels. He cautioned us that he was speaking as an official of the State Department and his views had not yet been endorsed by the administration. I am hopeful that Ambassador Wolfe's view will become administration policy.

Mr. Speaker, this resolution speaks of certain equipment. It does not mandate a specific type of equipment. Rather, our objective is to see that the provision in the G.I.F.A.S. is implemented promptly. The Coast Guard, the State Department and the National Marine Fisheries Service are our experts on this technology. They have the expertise to properly determine the type of transponder or other appropriate equipment which should be "installed and maintained in working order on each fishing vessel" of the foreign governments operating in the North Pacific.

I also want to point out that we are trying to be good neighbors with these nations. We are not asking them to do anything they have not already agreed to. I believe that the United States is within its rights to require position-fixing equipment on vessels fishing in international waters commonly referred to as the donut hole area. Under international agreements, we can regulate the at-sea harvesting of anadromous fish like salmon caught outside of our 200-mile zone. It is commonly known among the fishermen from the United States that catching mixed stocks on the high seas will result in taking some anadromous fish. If the foreign fishing vessels are taking some salmon then they are subject to our regulations and they must install the appropriate equipment. We are not usurping international law, we are enforcing agreements negotiated in good faith.

Mr. Speaker, the resolution I am introducing today is carefully crafted. It is a reasoned response to a serious problem. It is easy to understand and relatively easy to implement. I urge my colleagues to support it. It is time to bell the cat and stop the theft of our fish.

H. RES. 402

Mr. MILLER of Washington (for himself, Mr. BONKER, Mr. CHANDLER, Mr. DICKS, Mr. LOWRY, and Mr. YOUNG of Alaska)

RESOLUTION

Calling for the United States to require appropriate position-fixing and identification equipment on foreign fishing vessels operating in the United States Exclusive Economic Zone in the Bering Sea and North Pacific Ocean or fishing in international waters adjacent to the United States Exclusive Economic Zone in the Bering Sea and North Pacific Ocean.

Whereas, evidence of substantial illegal fishing by vessels registered to foreign nations has been found in the Bering Sea and North Pacific Ocean;

Whereas, foreign fishing in the so-called "donut hole" area of the Bering Sea is not subject to necessary and appropriate conservation and management and appears to have served as a sanctuary for vessels engaged in illegal fishing in the Exclusive Economic Zone of the United States;

Whereas, the Governing International Fishery Agreements with foreign nations fishing in the Exclusive Economic Zone of the United States recognize the authority of the United States to require that "appropriate position-fixing and identification equipment, as determined by the Government of the United States is installed and maintained in working order on each fishing vessel" of such foreign nations;

Whereas, foreign nations which are parties to Governing International Fishery Agreements recognize the authority of the United States with respect to fishery resources in the Exclusive Economic Zone of the United States and to anadromous fish stocks originating in the waters of the United States while present in such Exclusive Economic Zone and in areas beyond national fisheries jurisdictions recognized by the United States; and

Whereas, the Magnuson Fishery Conservation and Management Act in 16 U.S.C. 1821(c)(2)(C) expresses the sense of Congress that Governing International Fishery Agreements shall bind foreign fishing nations to install and maintain in working order on each fishing vessel such "position-fixing and identification equipment" as the Secretary of the Department in which the Coast Guard is operating determines to be appropriate.

Resolved, the House of Representatives hereby,

(1) Calls for the United States to exercise its authority under the Governing International Fishery Agreements with nations fishing in the United States Exclusive Economic Zone or fishing in international waters adjacent to the Exclusive Economic Zone in the Bering Sea and North Pacific Ocean to install and maintain in working order on each fishing vessel apppropriate position-fixing and identification equipment; and

(2) that the Secretary of Commerce, after consultation with the Secretary of Defense, the Secretary of State and the Secretary of Transportation report to the Congress within 60 days of passage on progress toward achieving the objective of this resolution and the cooperation of such foreign nations.

SHARPEVILLE SIX AND THE DEATH SENTENCE IN SOUTH AFRICA

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. DYMALLY. Mr. Speaker, I have read the attached materials and feel that my colleagues in the House of Representatives would benefit from the information contained therein:

SHARPEVILLE SIX AND THE DEATH SENTENCE IN SOUTH AFRICA

I. FACTS

The Sharpeville Six Case

On December 1, 1987, the highest court in South Africa, the Appellate Division of the South African Supreme Court in Bloemfontein, denied the appeal of six (6) South African political activists who were convicted of murder and subversion, on December 10, 1985. All six have been sentenced to death. The six condemned people are Mojalefa Sefatsa, aged 33, Oupa Moses Diniso, aged 31, Reid Malebo Mokoena, aged 25, Theresa Ramashamola, aged 27, Duma Joshua Khumalo, aged 27, and Francis Don Mokhesi, aged 31. They have been commonly referred to as "The Sharpeville Six",[1] citing the location of the incident which led to their arrest and conviction.

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[1] Of the accused persons who originally numbered eight, two members Motsiri Gideon Mokone, aged 21 and Motseki Christian Mokubury, aged 23 were acquitted of the most serious charge of murder and convicted of public violence and subversion. They

The arrest of The Sharpeville Six took place in a context of widespread civil unrest which erupted in the Vaal Triangle townships south of Johannesburg in early September 1984, and eventually spread through South Africa. It was the imposition a month earlier of a revised Constitution that touched off this new level of resistance. Popular opposition to the constitutional changes which continued to deny political participation to the 73% black majority and offered only limited participation to the Colored and Asian population groups was spontaneous. In addition, the government appointed "township councils" to implement the established Nationalist Party policies in the townships. These new township councils were also authorized to manage public services in these areas but were given no new revenue sources. In an effort to create sufficient revenues, local authorities levied rent and tax increases on endemically impoverished residents already hard-pressed by rising prices and high unemployment. The new financial demands on township residents coupled with the bitterness over the new Constitution sparked the worst outbreak of violence since the Soweto protests of 1976.

Thousands of angry township residents demonstrated en masse their opposition. Mass meetings were held throughout the area. Boycotts of work and school were launched. Protest marches against the rent increases followed, as crowds of demonstrators—thousands strong—marched on local Development Board offices and converged on the residences of local township councillors who themselves became live targets of anger from fellow township residents.

Human rights groups monitoring the trial of The Sharpeville Six, report that the trial Court accepted the following sequence of events for September 3, 1985,: "a crowd of protesters marched to the home [of Khuzwayo Jacob Dlamini] early on Monday morning. Police used tearsmoke and rubber bullets to disperse the people but were unable to persuade Dlamini to leave the house. Instead, he preferred to stay and confront the protesters—in the process shooting at least one person, Motsiri Gideon Mokone. The attack on him was initiated by his shooting at the demonstrators".[2] Councillor Dlamini died at the hands of the crowd.

This is the incident in which the Sharpeville Six were implicated. They were tried in connection with Dlamini's death and convicted both on the common law offense of murder and the statutory offense of subversion. This combination of statutory and common law charges is becoming characteristic of political trials in South Africa.

The trial itself was marked by glaring irregularities. The conviction was based on evidence given in camera by two unnamed state witnesses identified only as Mr. X and Mr. Y. The Court denied defense counsel the right to cross-examine Mr. X with respect to certain key statements made by him. Defense cross-examination of state witness Y revealed evidence of police brutality used to obtain "satisfactory evidence". Doubt was cast on the possibility of accurately isolating the actions of six particular individuals in a crowd that was reported to be several thousand.

Three of the accused testified that they had been tortured and assaulted. At the time of his arrest at his home, Mojalefa Sefatsa was so severely assaulted that his jaw bone was broken. Later, at the police station, he was tortured with electric shocks. The District Surgeon from Bloemfontein, a government employee who in 1984 examined Sefatsa at Groenpunt Prison, confirmed the extent and seriousness of the injuries on his arms and chest, cheek, left leg, and also noted that his vision was affected and his hearing impaired by the ill treatment.

Defendant Malebo Reid Mokoena challenged the admissibility of a confession he had allegedly made voluntarily citing his torture during detention. He told the Court how, after some days in custody with his injuries still fresh, he was forced to write a letter to the Minister of Law and Order describing how Dlamini had been killed. In addition, he said that a statement which the police alleged he had made voluntarily to a magistrate had actually been dictated to him under duress by Warrant Officer Schoeman. Again, a District Surgeon who examined Mokoena confirmed his injuries: "Pain in the chest and neck could have been consistent with electric shocks having been applied to his body." Evidence was submitted that defendant Theresa Ramashamola was also tortured by electric shocks to her breasts.

Acting Justice Human based many of his findings on the evidence of a single state witness, and rejected most of the evidence given by the six accused, as well as the expert evidence concerning their torture. He sentenced the defendants to the maximum penalty: execution by hanging.

This is the first time in South Africa that six persons have been collectively sentenced to hang for the death of one individual. To reach that result the trial Court made an unusual reliance on a conspiracy theory. The Appellate Court noted:

". . . it has not been proved in the case of any of the six accused convicted of murder that their conduct contributed causally to the death of the deceased . . . In the present case I am dealing with the position of the 6 accused *who have been convicted of murder solely on the basis of common purpose."* (Emphasis ours).

The Court found that none of the six had actually caused the death of the deceased nor had they in a premeditated fashion entered into a compact to kill Dlamini. For example, Theresa Ramashamola, according to the facts accepted by the Court, had at no time come into physical contact with the deceased, nor was she causally linked to the means of his death. The only malfeasance on her part was to shout out, after Dlamini had fired into the crowd, statements that allegedly incited the crowd. The specific act for which Reid Malebo Mokoena was inculpated was the throwing of a stone at the deceased, a stone which the Court accepted was not causally responsible for his death. Nevertheless, because they were part of the crowd that killed the town councillor, through an expansive application of the notion of common purpose they were judged to be guilty of murder.

II. SOUTH AFRICA AND POLITICAL EXECUTIONS

South Africa has one of the highest per capita execution rates in the world, averaging more than 100 executions annually. In recent years, a number of political activists involved in resistance activities have been sentenced to death.[3] Trials on charges of "high treason", a capital offense often with alternative common law charges, are increasing as authorities attempt to demonstrate that any form of popular mobilization and organization—be it a boycott, stay-away, "street committee" or people's court—constitute a treasonous activity. The 1983 execution of three alleged ANC members augured this ominous trend; they were the first Black South Africans to be executed for treason since 1914.[4]

Despite a growing outcry for protest from the international community, direct appeals for clemency for people on Death Row by the United Nations Security Council and numerous governments and non-governmental organizations, the executions have continued. For example, on October 18th, 1985, 30 year old Black poet and ANC supporter, Malisela Benjamin Moloise was hanged. In July 1987, when the number of people under sentence of death for political offenses grew to at least 32, the South African Youth Congress (SAYO) spearheaded a campaign to save their lives. Since then, fifteen more death sentences have been imposed.

The authorities have also resorted to hasty and sometimes secret executions as a tactic to circumvent public pressure. Two men, Mlamli Wellington Mielies, aged 22, and Moses Mnyanda Jantjies aged 27, sentenced to death for their alleged involvement in the killing of a township councillor, Kinikini and others, received only a week's notice of their imminent executions. No official notification was sent to their families. They had not yet even received the response to their petitions for clemency lodged with the Justice Department in May 1987. One week later on September 9th, 1987, in Britain, an anti-apartheid delegation visiting the Foreign and Commonwealth Offices in Britain, learned that three other Death Row prisoners, Solomon Maowasha, Alex Matsepane and Elili Webushe, believed by all to be awaiting execution had in fact been hung secretly months earlier.

III. THE CONTEXT OF POLITICAL OFFENSES IN SOUTH AFRICA

To reestablish its control shaken by the nationwide rebellion that is now over three years old, the South African Government has engaged in a coordinated violent assault on all forms of opposition in the country. The June 12, 1986 declaration of a State of Emergency set the stage for unprecedented State violence to be unleashed against anti-apartheid activists and even against entire black communities. Since, then, over 30,000 people have been detained without charge or trial. More than 10,000 have been children. Torture, ill-treatment, disappearances, deaths in detention, extra-judicial killings as well as an upsurge in judicial executions are the salient features. It is this picture of apartheid violence that forms the backdrop for the acts of those condemned political prisoners on Death Row in South Africa. Their actions cannot be judged nor evaluated in artificial isolation from their social and political context. In South Africa, that

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were sentenced to eight years. Hereinafter, "defendants" or "accused" will refer exclusively to "the Sharpeville Six".

[2] "Save the Sharpeville Six," London: SATIS (Southern Africa the Imprisoned Society), April 1986.

[3] For example, over the last ten years eight ANC combatants have been executed. Weekly Mail Nov. 7-13, 1986, p. 4.

[4] John Harris, one of only two white political prisoners sentenced to death since World War II, was executed in 1963 (Weekly Mail November 7-13, 1986 p. 4).

context is apartheid. A system which violates the most fundamental norms of international law. Further, The Sharpeville Six and all other political prisoners in South Africa have been tried and convicted by a legal system flawed by its subversion to enforce apartheid laws and practices. To maintain apartheid requires unjust laws and a judiciary willing to enforce them. No trial of a person accused of having infringed these laws can be called fair. Whatever our view may be of their tactics, the acts of political activists are inspired by their legitimate opposition to apartheid and, thus should they be judged.

To continue to execute political prisoners in the politically charged context that is South Africa today, will further exacerbate a rapidly deteriorating situation. It will be counterproductive to the quest for a nonviolent democratic solution and will reduce drastically the possibility of achieving viable non-racial political structures in South Africa. Rather than quelling unrest, to execute political activists merely creates new martyrs, which in turn solidifies resistance.

The International Community must urge the South African Government to take a wiser path:

1. Forego as a matter of policy the imposition of the death sentence on political prisoners, and

2. Commute the death sentence for The Sharpeville Six and those other political prisoners presently on Death Row.

The facts and figures cited in this memorandum were drawn from the following sources: The Weekly Mail (Johannesburg); various reports of Amnesty International; Focus on Political Repression in Southern Africa; "Save The Sharpeville Six: No to Apartheid Executions", by the London-based Southern Africa The Imprisoned Society; and publications and reports of the UN Centre Against Apartheid.

THE SHARPEVILLE SIX AND POLITICAL EXECUTIONS IN SOUTH AFRICA

On December 1st, 1987, the Appellate Division of the South African Supreme Court denied the appeal of six political activists who were convicted of murder and subversion on December 10, 1985 and sentenced to death. Commonly known as The Sharpeville Six, they are: Mojalefa Sefatsa (33), Oupa Moses Diniso (31), Reid Malebo Mokoena (25), Theresa Ramashamola (27), Duma Joshua Khumalo (27) and Francis Don Mokhesi (31).

The arrest of The Sharpeville Six took place in a context of widespread civil unrest touched off by the 1984 imposition of a revised but unacceptable Constitution which denied political participation to the 73% Black majority and offered only limited participation to the Indian and "Colored" populations. Unpopular government appointed township councils, which had attempted to levy rent increases, bore the brunt of public enmity as impoverished residents, pushed to the breaking point, demonstrated en masse their opposition. Township Councillors became live targets of public anger.

Township Councillor Jacob Dlamini was killed after he provoked a crowd, thousands strong, by shooting into it. In convicting the Sharpeville Six for his murder, the judge acknowledged that none of the six accused had committed acts which in fact caused his death. At most they played a part in inciting an already provoked crowd. In addition, the trial was marked by glaring irregularities, notably: secret witnesses, denial of cross-examination, and confessions extracted under torture.

South Africa has one of the highest per capita execution rates in the world. Trials on charges of high treason, a capital offense, often with alternative common law charges, are increasing as authorities attempt to criminalize any form of popular mobilization and organization as treasonous activity. Despite the growing international outcry, South Africa still continues to execute political prisoners. The July, 1987 count of 32 political activists on Death Row has now climbed nearer to 40. The authorities have also resorted to hasty and sometimes secret executions as a tactic to circumvent public pressure.

Since the declaration of the State of Emergency, more than 30,000 people have been detained without charge or trial, more than 10,000 have been children. Torture, ill treatment, disappearances, deaths in detention, extra-judicial killings, as well as an upsurge in judicial executions form the backdrop for the acts of those condemned prisoners on Death Row in South Africa. Whatever our view may be of their tactics, the acts of political activists are inspired by their legitimate opposition to apartheid. The Sharpeville Six and all other political prisoners have been tried by the apartheid legal system, an inherently flawed legal system. Therefore the accused are themselves victims.

The international community must urge the South African Government to take a wiser path;

1. Forego as a matter of policy the imposition of the death sentence on political prisoners, and

2. Commute the death sentence for The Sharpeville Six and those other political prisoners presently on Death Row.

UNEMPLOYMENT BENEFITS FOR NONPROFESSIONAL SCHOOL EMPLOYEES BETWEEN SCHOOL TERMS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. MATSUI. Mr. Speaker, today I am introducing a bill to allow States to extend unemployment benefits to nonprofessional school employees between school terms. The Social Security Amendments of 1983 Public Law, 98-21, required the States to deny unemployment benefits between academic years or terms to nonprofessional school employees if the employees have "reasonable assurance" of returning to work in the next academic year. States were also given the option to extend or deny between term unemployment benefits to workers performing services on behalf of an educational institution or an educational service agency but who are not directly employed by either the institution or agency.

As a result of this new Federal mandate, many thousands of nonprofessional employees of elementary, secondary, and higher educational institutions have lost protection against unemployment between academic years or terms. These nonprofessional school employee—custodians, cafeteria workers, bus drivers, crossing guards, and secretaries—are among the lowest paid group of workers in the Nation. Typically, such workers are paid on an hourly basis, at or near the minimum wage level, during the 9-month school period. Given the very low hourly rate of compensation of these workers, it cannot be reasonably maintained that their wages are intended to cover nonwork periods. The automatic unemployment benefits denial requirement is creating a devastating financial hardship for thousands of nonprofessional school workers who are temporarily out of work through no fault of their own. Many of these workers end up applying for public assistances to make ends meet for their family budgets.

Although these workers are willing to work, often they do not possess the additional vocational skills needed to qualify for other employment. In addition, employers may refuse to hire these workers because they know that they will lose the worker when the next school term begins.

It is not fair to single out nonprofessional public school employees for denial of unemployment benefits. All other major categories of seasonal occupational workers are eligible to apply for unemployment benefits. Unworthy benefit claims will be eliminated by existing eligibility requirements set forth in State laws regarding availability for work and work search efforts.

I believe that this bill is consistent with the basic principles of the unemployment compensation program as established in the 1930's. It will extend to a hard-working class of citizens the protection and security they deserve during temporary periods of unavoidable unemployment. I urge my colleagues to cosponsor this bill.

HENRY J. BARON: CANCER SOCIETY COURAGE AWARD WINNER

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. RINALDO. Mr. Speaker, the American Cancer Society will celebrate its 75th anniversary this year, and as proof of its success in saving the lives of countless victims of cancer, it will present "Courage Awards" to the survivors of serious cancer operations and treatment on March 28-29. Among those to be honored will be Henry J. Baron of Clark, NJ.

A survivor of laryngectomy, Mr. Baron has given other families in Union County, NJ, the courage to overcome the fear, anxiety, and physical trauma of cancer of the larnyx. Before receiving the "Courage Award" of the American Cancer Society, Mr. Baron will sign a cancer survivors' bill of rights, which seeks to ensure that cancer patients who recover from their operations and treatment do not suffer discrimination in employment, insurance, and medical coverage.

For 20 years, Mr. Baron served as city clerk of the city of Linden, he was city health commissioner, member of the board of education, and on the Linden City Council.

He gave up his career in city government following his cancer operation. Since 1977, he has served on the rehabilitation and public education committees of the Union County unit of the American Cancer Society. In overcoming the loss of his voice, Mr. Baron has been able to educate others to meet this terrible crisis. He has frequently visited hospitals and worked with patients and their families in laryngectomy voice rehabilitation.

The message of hope and cancer prevention has been carried to schools, where Mr. Baron has spoken to thousands of students about the health dangers of tobacco and drugs.

He also has assisted in developing a film sponsored by the New Jersey Division of the American Cancer Society on "The Laryngectomy Visitor," and he has written about his experiences.

Henry Baron's courage in dealing with his own ordeal of cancer is inspiring. It brings hope to those faced with the calamity of losing their voices and perhaps their lives to cancer of the larnyx. Through the American Cancer Society's research and training programs, volunteers like Mr. Baron have salvaged many lives from the desperate despair that once afflicted victims of cancer of the larnyx.

I join my friends in the Union County Chapter of the American Cancer Society in saluting Henry Baron, a man of uncommon courage and devotion to public service and public health.

THE CONTRAS NEED OUR SUPPORT—NOW

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. BROOMFIELD. Mr. Speaker, the failure of Congress to renew aid to the Contras has seriously hurt their morale. Resistance fighters inside Nicaragua may soon have the unpleasant choice of retreating, surrendering, or fighting a last-ditch battle.

Most disturbing to me, however, was an article that appeared in the New York Times last Saturday. In this article, the Sandinistas' American attorney described Sandinista plans to neutralize the resistance.

The Sandinistas are pressing for a ceasefire in which the Contras withdraw into small areas. They could be provided only humanitarian assistance. Undoubtedly, they would be surrounded by elements of the Sandinista army.

Mr. Speaker, the Sandinista plan strongly resembles the ill-fated majority package that was considered in this House earlier this month. It is a formula for turning the freedom fighters into refugees in their own country.

We must not continue to procrastinate, we must provide effective assistance to the Contras. This means: effective delivery of supplies; logistical and relief supplies; and a procedure that permits the President to request further assistance.

We must act before the time runs out for democracy in Nicaragua. The time for real assistance to the Contras is now.

I ask that the article I referred to earlier be inserted in the RECORD at the conclusion of my remarks.

[From the New York Times, Mar. 12, 1988]

ORTEGA SAYS CONGRESS HURT THE CONTRAS

(By Stephen Kinzer)

MANAGUA, NICARAGUA, March 11.—President Daniel Ortega Saavedra says he thinks contra leaders will come to the negotiating table this month in "a position of weakness" because of the recent Congressional vote cutting off aid to their movement.

Mr. Ortega said the contras had agreed to three days of talks beginning March 21. The Government, he said, is willing to remain at the negotiating table indefinitely if substantial progress is being made.

In an interview Thursday night, Mr. Ortega said he expected the contras to be conciliatory to "accommodate themselves to a new situation." He said Sandinista military pressure was taking a toll on contra units, which he said were in retreat and "conserving their bullets."

"The Reagan Presidency is coming to a close," Mr. Ortega said. "If contras don't reach a negotiated solution, they face the prospect of total military and political defeat."

AFFECTING US MORE EVERY DAY

The principal contra leader, Adolfo Calero, said Thursday that the Congressional vote March 3 against a Democratic plan for contra aid showed that the United States was an unreliable ally.

"It is sad that the Soviet Union can be a more consistent ally, and that the United States is an inconsistent ally, not as it should be," Mr. Calero said in a statement broadcast over the clandestine rebel radio station. "The cutoff of aid to the Nicaraguan Resistance is affecting us more every day, because without resources it is very difficult to maintain a war against an ally that has full Soviet support."

"In the long run, the cutoff of aid from allies could be fatal for the Nicaraguan Resistance," Mr. Calero said.

Government radio stations were planning to transmit portions of the Calero statement, Mr. Ortega said.

"This is the statement of a defeated leader," Mr. Ortega said several hours after Mr. Calero spoke. "The morale of a contra in the mountains is not going to be improved by hearing this statement on the radio."

SUSPICION OF CONTRA MOTIVES

Mr. Ortega expressed concern over the possibility that the contras are coming to the talks only as part of a strategy to win new aid from Congress.

"The contras are interested in pressuring Congress to get a little aid by seeming to want negotiations," he said.

Several obstacles that had held up the cease-fire talks were resolved this week. The contras accepted the Government's suggestion that the talks be held in the southern border village of Sapoá, and that both delegations be headed by senior officials. Mr. Calero is expected to head the contras negotiating team. The Sandinistas will be represented by Defense Minister Humberto Ortega Saaveda, brother of the President.

The Government had sought to remove Miguel Cardinal Obando y Bravo, the Roman Catholic Primate, from the mediation role he has been playing since November. But agreement has now been reached to invite the Cardinal to Sapoá as a witness. The other witness is to be João Baena Soares, secretary general of the Organization of American States.

Mr. Ortega said Thursday that Cardinal Obando and Mr. Baena have agreed to come to the Sapoá talks on March 21.

Debate over the agenda was the final obstacle. The contras had asked for a preliminary meeting to set topics for discussion, and said they wanted to talk about press freedom and other political questions. The Sandinistas refused, saying they would discuss only the mechanisms by which contras would disarm and resume civilian life.

The contras finally dropped their insistence that topics be decided in advance. Mr. Ortega said that fixing an agenda would probably be the first order of business in Sapoá.

An American lawyer who represents the Sandinistas, Paul Reichler, said this week that the Sandinista proposal in Sapoá would not require the contras to surrender unconditionally.

"They would be able to keep their arms and ammunition after entering cease-fire zones," Mr. Reichler said in an interview in Managua. "This could be for as long as six months. It would be a kind of test period."

"As changes are made, they would gain the confidence to lay down their arms and reintegrate themselves into the country. They could conduct military training, as long as they don't shoot anyone, and they could receive humanitarian aid from the United States or anyone else."

ACCUSATIONS OF A CRACKDOWN

Leaders of opposition political parties in Nicaragua have charged that the Government is conducting a crackdown on their activities. Several times in recent weeks, crowds of Sandinista demonstrators, some of them violent, have clashed with anti-Government protesters.

COMMENDING A HERO

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. ST GERMAIN. Mr. Speaker, there are few bona fide heroes in the world today. And unfortunately, often when one performs a genuine act of heroism, it goes unnoticed. That is why we are indebted to the Carnegie Hero Fund Commission, a group that tries to gain recognition for some of the ordinary heroes who walk among us.

The Carnegie Commission has informed me that one of my constituents, Mr. Raymond S. Cairo of Riverside, RI, has been awarded the Carnegie Medal for heroism. I would like to simply congratulate Mr. Cairo, and call a little bit of attention to his act of bravery.

When three young children, one of them a nonswimmer, were carried into the deep water of a cove of the Atlantic Ocean by a strong tidal current, they called for help. Mr. Cairo, 20, lived nearby, heard their calls and ran to help. He then swam about 100 feet out to the children, and saved the nonswimmer from drowning. After helping the others get to shore, he was swept away by the current, and was forced to grab hold of an abutment to a nearby bridge. Later he was helped out of the water, unharmed.

Mr. Speaker, I am sure you share with me a sense that Mr. Cairo's selflessness stands as a testament to the best instincts of many fine Americans. There were 17 others also recognized by the Carnegie Commission, and I would like to salute them as well as Mr. Cairo: Your heroism is a reminder to us all of how good we can be.

TRIBUTE TO THE NORTH ELEMENTARY SCHOOL

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. TRAFICANT. Mr. Speaker, it is with great pride that I stand before you today to pay tribute to the North Elementary School of Poland, OH, which celebrates its 30th anniversary on March 24, 1988.

In the early 1950's, the Poland Board of Education saw the need for a new building on the north side of town. Mr. H.H. Hunneke was president of the board at that time. The board contracted Cocco Fortunato Construction Co., to build the school which consisted of 12 classrooms and auxiliary rooms. The cost of constructing this building on the 12 acre site was $266,834.00. It was completed and opened in the fall of 1957 for grades one through six. John Saunders was President of the Board in 1958 and G.R. Mehl was the superintendent. The first principal at North Elementary was Nila Beard.

The building now has kindergarten through fourth grades plus a Special Education Unit. North Elementary School has current enrollment of 230 students.

Mr. Speaker, I am pleased to honor such a valuable institution and I send to the current staff my warmest regards and admiration for the fine job they have done and continue to do.

COMMEMORATING THE LAS VEGAS ART MUSEUM'S VOLUNTEER CORE

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. BILBRAY. Mr. Speaker, I rise today with great pride and admiration to bring to the attention of my colleagues the valuable efforts of a number of generous Nevadans.

In 1979, 29 years after its first conception, the Las Vegas Art Museum was established at Lorenzi Park. Volunteers gained the city's permission to use buildings at the park, and the museum had a new home in which to give classes, seminars, and exhibitions.

But major obstacles remained before the art museum could become a true community center—the buildings had obsolete wiring and the plumbing didn't work. Volunteers organized and set out to solve this problem. The seabees were called in and used the museum buildings as a training exercise. They replaced wiring, heating, plumbing, and completed needed carpentry repairs.

The Boy Scouts then became involved when troop 295 volunteered to help redecorate the museum and gathered necessary paint and equipment. The architects' wives, aware of the historical and architectural significance of the museum buildings and environs, gathered and recorded the early history of the area. As a result of an appeal to the national Historical Register, the museum was declared historically significant and emblematic of old Vegas.

But the efforts of volunteers have not ceased at the Las Vegas Art Museum. Today member volunteers continue to donate time and money to help cover the basic expenses of operating the museum. Volunteers are on duty 6 days a week answering phones, maintaining the premises, and they even administer a volunteer hotline. They donate their time, vehicles, and expenses to help move paintings and equipment to the museum.

Mr. Speaker, I ask my colleagues to join with me today in honoring these men and women who have given so unselfishly of themselves to create a community center for all to enjoy. These great Nevadans deserve specific recognition, they are:

Jean Baum, Carolyn Cole, Sylvia Gilbert, Jean Jordan, Laura Mann, Marie Morris, Helen Rawlins, Heinz Rettig, Jackie Dalton, Joan Northrup, Erna Delareuelle, and Jim Hamberg.

Sharon Bryan, Betty George, Elinor Holcomb, Rindy Lanuraglia, Carol McGovern, Muriel Nelson, Joyce Reed, Lucile Stevens, Shirley Selig, Marilyn O. Jones, Lisa Kessler, and Valorie Tobler.

A TRIBUTE TO THOMAS A. GEORGE, SR.

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. KOLTER. Mr. Speaker, I rise today to pay tribute to a good friend and community leader, Thomas A. George, Sr. It is a great pleasure that I take this opportunity to honor him on being named man of the year by the Arab-American Society of New Castle. He was recently honored at a dinner on February 27, 1988, at the St. John Hall in New Castle, PA.

Born in Pittsburgh, PA, to Anthony and Lucille George, Tom spent his early years in Pittsburgh before moving to New Castle.

Husband of the late Rose Bara George and father of nine children, Tom has set a fine example for all of us in the Fourth District through his untiring efforts on behalf of the community.

Tom has been a Democratic committeeman for 40 years and formerly was treasurer of the Lawrence County Democratic Party for 16 years. He is presently serving as Lawrence County jury commissioner, and is now in his fifth term.

Tom has been very active with the St. John's Maronite Roman Catholic Church. He has worked on every building and developmental project the church has undertaken. He is a charter member of St. John's and has served as a member of the parish council for over 30 years, as well as president of its Holy Name Society.

I would like to wish Tom a healthy and prosperous future. He truly deserves the Arab-American Society Man of the Year honor.

BUDGET CONSTRAINTS AND MAXIMUM PRODUCTIVITY

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. APPLEGATE. Mr. Speaker, In these times of budget constraints and efforts to achieve maximum productivity, I feel compelled to bring to the attention of my colleagues a matter of taxpayer abuse; in other words, spending more money than is necessary by a Government agency. And, again, the culprit is the Defense Department.

A company in my congressional district, the Gradall Co., was recently denied an Army contract for the construction of nearly 1,600 materials-handling vehicles, a special type of fork-lift truck. Instead, the contract went to another company even though that companys' bid was $11 million more than the low bid of Gradall. In fact, if all the options of the contract are exercised by the Army, the excess cost to the taxpayer could be some $28 million.

Let me emphasize that Gradall met all of the technical specifications of the contract as did the winner of the contract, as well. The Army had indicated that cost would account for about 50 percent of the basis for awarding the contract. All things considered, Gradall should have been awarded the contract.

As a result, the American taxpayer is again being taken advantage of by the Army in the spending of more money than is necessary for these vehicles.

Mr. Speaker, these practices must stop if we are to again gain the trust and confidence of our constituents.

SPORT FISHING AND HUNTING OPPORTUNITY IMPROVEMENT ACT

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. RAHALL. Mr. Speaker, today I am introducing legislation entitled the "Sport Fishing and Hunting Opportunity Improvement Act." This bill is almost identical to legislation I introduced on December 9, 1987, as H.R. 3731 which was referred jointly to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

The version I am introducing today differs from H.R. 3731 in some minor aspects, and is being reintroduced in order to facilitate its consideration.

DR. RICHARD N. WRIGHT, P.E., FEDERAL ENGINEER OF THE YEAR

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. WALGREN. Mr. Speaker, the National Society of Professional Engineers has named Dr. Richard N. Wright, Director of the Center for Building Technology of the National Bureau of Standards, as Federal Engineer of the Year. My 7 years of working closely with Dr. Wright cause me to agree with his selection for his honor. Dr. Wright is a talented engineer. He also brings unique personal qualities and communication skills to his job which have permitted the Center for Building Technology to perform valuable work despite the repeated attempts during the 1980's by the Reagan administration to eliminate the Center.

This year I have also had the opportunity to see first hand Dr. Wright's unique ability to step into a crisis situation, to study its causes, and to make recommendations for the avoidance of future related occurrences. When the massive oil spill occurred in Florette, PA on January 2 and cut off water supplies to over 1 million people, Dr. Wright and others from the National Bureau of Standards made their expertise available almost immediately. They increased public understanding of what had happened and are now using their considerable knowledge of catastrophic collapses to write a definitive engineering report on the incident. We Western Pennsylvanians are deeply appreciative of the efforts of Dr. Wright and his colleagues and look forward to the publication of his detailed study.

The National Association of Professional Engineers' press release on Dr. Wright's honor follows:

DR. RICHARD N. WRIGHT, P.E., NAMED FEDERAL ENGINEER OF THE YEAR

ALEXANDRIA, VA—February 17, 1988—Dr. Richard N. Wright, an internationally renowned expert in building research and structural failures, has been named Federal Engineer of the Year. Wright, who is with the Commerce Department's National Bureau of Standards (NBS), in Gaithersburg, MD, defeated 32 competitors, each a winner in his own agency, to win the national honor. He received his award today at a special ceremony in Crystal City, Virginia, leading into National Engineers Week, February 21-27.

The ninth annual Federal Engineer of the Year Awards are sponsored by the National Society of Professional Engineers (NSPE) to bring recognition to government engineers. The U.S. government employs more than 200,000 engineers. Judges for this competition were: Congressman Roy Dyson (D-MD); Donald L. Hiatte, P.E., Past Chairman of Professional Engineers in Government, NSPE; and Louis L. Guy, Jr., P.E., an NSPE National Director and President-Elect, Virginia Society of Professional Engineers.

Wright is the Director of the Center for Building Technology in NBS's National Engineering Laboratory. He recently led the Congressionally mandated investigation of the structural integrity of the new U.S. Embassy Office Building in Moscow, and his studies of several major structural failures have improved standards, codes, test methods and construction practices. Those investigations included the Bridgeport L'Ambiance Plaza, the Kansas City Hyatt Regency walkway and the East Chicago Bridge, among others.

Wright's research activities demonstrated that a 30 percent increase in thermal efficiency can be attained in refrigeration systems; U.S. industry was quick to apply that knowledge in its new designs. His other areas of expertise include seismic safety, wind effects and lightning damage.

The author of more than 70 publications, Wright is the first U.S. citizen in 33 years to be honored by serving as President of the International Council for Building Research, Studies and Documentation. His other honors include the Special Presidential Award of the Illuminating Engineering Society and Commerce's Gold Medal. He's a Fellow of the American Society of Civil Engineers, having chaired numerous ASCE committees, and is active in the American Society for Engineering Education, National Institute of Building Sciences and Illumination Engineering Research Institute, among others.

Wright earned a Ph.D. degree in civil engineering from the University of Illinois after receiving a master's (Parcel Fellow) and a bachelor's (summa cum laude) in the subject from Syracuse University. He has contributed to upgrading courses and programs for improving the competence of engineers at the University of Maryland, Carnegie Mellon University and the State University of New York at Buffalo.

Wright provides service to civic, community, humanitarian and church groups, among them SOME (So Others May Eat) and the House of Ruth.

The National Society of Professional Engineers, headquartered in Alexandria, Virginia, represents more than 75,000 engineers in all technical branches of the profession.

MINIMUM WAGE CONCERNS

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. INHOFE. Mr. Speaker, on March 10 the Education and Labor Committee adopted a measure to raise the minimum wage to $5.05 by 1992. The committee approved the increase by a closely divided vote of 18 to 14.

I am very concerned about this action because in my home State of Oklahoma there are thousands of businesses that are on the verge of bankruptcy. Oklahoma is suffering a recession that has reached crisis proportions and is comparable to the 1930's. A sharp rise in the minimum wage would cause many employers to cut the numbers of employees. In fact, according to a study by the National Federation of Independent Business (NFIB), raising the minimum wage to $4.65 as originally proposed would cause a potential loss of between 200,000 to 600,000 jobs. Much of this loss would be borne by the groups with the highest unemployment rate—minority youth and working poor—the very groups the committee is claiming to help.

If the wage were raised to $5.05 as suggested by the Labor Committee, NFIB estimates that between 400,000 and 1,000,000 job would be lost. Additional job opportunities would be lost as businesses are forced to scale down rather than increase the size of their operations. Fifteen States are reviewing their minimum wage rates and some have already made upward adjustments. I am a firm believer that States should retain that right; they are better able to set wage rates according to their individual economies. Any intrusion by the Federal Government would stifle desperately needed jobs in economically depressed areas. States with full employment and growing economies should not be permitted to bring policies, such as higher minimum wage, to bear on States in a less fortunate position. The proposed Federal rate does just that—forcing a uniform economic policy on all States without regard to individual circumstances.

I hope the House will oppose any changes in the minimum wage and instead let the States decide what their rate will be. In addition, I request that the enclosed factsheet by the NFIB be printed in the CONGRESSIONAL RECORD following my remarks.

SMALL BUSINESS CONCERNS WITH THE MINIMUM WAGE

The impact of an increase in minimum wage is felt especially by small businesses, which are responsible for 70% of all new jobs in the United States. Two-thirds of all workers entered the workforce in a small business.

Consider the following issues:

1. According to Dr. Charles Brown, Senior Economist for the Minimum Wage Study Commission the proposed increase to $4.65 would result in a potential loss of between 200,000 to 600,000 job opportunities. Much of this loss will be borne by the groups with the highest unemployment rate—minority youth and working poor.

2. Of a civilian workforce near 114 million, no more than 5.1 million earn only $3.35 per hour. This represents less than 5% of all working Americans.

3. Most minimum wage earners do not fit the Kennedy-Hawkin's profile:

Two-thirds of all minimum wage earners are under 25 years old, many are students.

60% of all minimum wage earners are single, and

Two-thirds of the 5.1 million minimum wage earners are part-time workers.

4. Only 9% of all minimum wage earners are heads of households or only 459,000 individuals of a 114,000,000 work force.

5. States are increasing their minimum wage based upon their individual economies. Many strong, full employment states such as Massachusetts and other New England states have state minimum wages well above the federal standard. However, states with less vibrant economics are reluctant to raise the standard for fear of pricing many job applicants out of the market, stifling desperately needed job creation and reducing their state's attractiveness to new businesses.

6. An increase in the minimum wage has an indirect, or "ratchet", effect on other workers' wages, increasing all wages to some extent. This also fuels inflation.

7. Indexing the minimum wage to guarantee an increase each year, regardless of need or economic factors, will fuel inflation and keep wage levels at artificially high levels, jeopardizing the marketability of low or unskilled workers.

Bottom line—An increase in the minimum wage raises the legal minimum price of labor above the productivity of the least skilled workers, reducing their chances of finding employment. While some workers will receive an income boost, many will lose their jobs. In a competitive market place, wages should have some bearing on performance value.

THE JAVITS-WAGNER-O'DAY ACT ANNIVERSARY COMMEMORATIVE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. LANTOS. Mr. Speaker, today Mr. DioGuardi and over 100 of our colleagues are introducing a concurrent resolution to commemorate the 50th anniversary of the passage of the Javits-Wagner-O'Day Act. That act provides for the Federal Government to purchase goods and services from sheltered workshops for the blind and other severely handicapped.

Over the half century of the program we have seen many thousands of handicapped individuals employed in manufacturing and service industries. These individuals gain a measure of independence, as well as a feeling of the dignity of work. In exchange, the Federal Government contracts for quality products which range from the pens used by most agencies to more complex electrical harnesses for the military.

While our resolution commemorates the act, our main purpose is to acknowledge and commend the thousands of blind and other severely handicapped individuals who are making extraordinary efforts to fully participate in our society. As we reflect on the last 50 years, we should also look ahead to the next 50 years to ensure that all workers in this program continue to have meaningful employment and an opportunity to advance to the greatest extent of their abilities whether that is a more responsible job on a production line or a supervisory position.

The Javits-Wagner-O'Day Act is about more than procurement of goods and services from sheltered workshops for the blind and handicapped. It is about letting individuals develop to their highest potential and become part of the everyday economic and social life of our Nation.

Along with the workers, this anniversary resolution commends those Federal agencies who have fully participated in the program, and those involved in the development of technologies for use in workshops. Javits-Wagner-O'Day is truly a team effort where everyone is a winner.

JERRY AND BETTY BALSAM: BROOKLYN CYSTIC FIBROSIS FOUNDATION'S "COUPLE OF THE YEAR"

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. SOLARZ. Mr. Speaker, I want to congratulate Jerry and Betty Balsam who are the Brooklyn Cystic Fibrosis Foundation's couple of the year. Jerry and Betty Balsam are a wonderful couple who live on Brooklyn's shorefront. They, like great achievers and humanists are involved in more activities than I can recite. They are both professional teachers in the fullest sense of that noble word.

The Balsams have taken St. Francis' motto "it is better to light the smallest candle than condemn the darkness" to heart. Nobody can say they have had an easy life. They have suffered deep hardship where it hurts most—in their own family. They have struggled, against amazing odds, to live a full and happy family life.

Doctors told Betty and Jerry that David, their only son, might die of cystic fibrosis any day. The family needs time to talk, hug, think, and heal when tragic news invades. The miracle of daily life, so often forgotten in the shuffle of less important things, becomes obvious. Many families decide to completely withdraw to a private world.

The Balsams have continued to care—night and day—for David for over a decade. The Balsams have beat the odds again and again. David's courage inspires and sustains Betty and Jerry.

The Balsams are an incredibly strong family. They are strong enough, in fact, that they have gone to work so other families will never have to suffer the same tragedy.

Jerry and Betty chose to lead and inspire others by living both intense personal lives and becoming community activists. They have raised money, written letters, and lobbied legislators in search of a medical solution to cystic fibrosis. They have dedicated their lives to helping people who need help today and tomorrow.

Jerry Balsam, a retired high school gym teacher, works tirelessly against this medical evil that plagues thousands of families every year. Betty, who chairs Community Board 13 Youth Services Committee, also works constantly to improve the lives of all of Brooklyn's children. Together, they exert a strong, positive influence throughout Brooklyn.

That's why the Brooklyn Chapter of the Cystic Fibrosis Foundation has named Betty and Jerry Balsam, the "Couple of the Year."

The Balsams add dignity, honor, and grace to our community. They represent the best of Brooklyn. They are, in simple words, great people.

A VITAL VOICE ON NICARAGUA

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. CHAPPELL. Mr. Speaker, I rise today to share with my colleagues a letter I recently received from a young lady in my district who is concerned about the congressional response to the situation in Nicaragua.

So that all of the Members of the House might benefit from her thinking, I would like to include in the Record the letter from 10-year-old Sharon Grier of Jacksonville, FL. After viewing the Healing Wall, the scaled-down replica of the Vietnam Memorial currently touring the country, Sharon has expressed herself in very eloquent terms why it is in America's interest to support the Contras now.

I commend her remarks to my colleagues, and I applaud Sharon for her vision, her civic spirit, and especially her desire to be a vital voice on this issue.

Jacksonville, FL,
February 24, 1988.

Hon. Bill Chappell,
Rayburn House Office Building, Washington, DC.

Dear Mr. Chappell: I am 10 years old. Recently my family and I went to the Healing Wall in Jacksonville. After the ceremony at the Healing Wall, Mom explained to me that Congress met to talk about Contra aid. Dad told me what Congress had decided. Why are they making the same mistake again? Why didn't Congress support Vietnam? And now, why won't they support the Contras?

If Congress does not help stop the war, it could spread into America and my younger brother could be drafted and forced to fight. I do not want to see the name, Mark C. Grier, on a wall someday.

Because you voted for aid to the Contras, I would like you to read this letter to the other Congressmen and especially to those who voted no to Contra aid.

Thank you very much.

Love,

Sharon Marlane Grier.

EXCELLENCE IN FORENSICS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. BURTON of Indiana. Mr. Speaker, I would like to recognize the achievements of two fine young Americans who have demonstrated an excellence in forensics. Joe Lephart and Joe Zompetti, juniors from Ben Davis High School in Indianapolis, have qualified through cocurricular debate to participate in the National Debate Finals of the National Forensic League.

These two young men have shown their skills in debating a topic which is of the utmost importance to the United States: "Resolved that the Federal Government should establish a policy to guarantee political stability in Latin America." This is an issue that directly affects our Nation's national security and is currently being debated here in Congress. As a member of one of the world's greatest deliberative bodies, I know that the art of debate is key to success in any profession.

Ben Davis High School should also be commended for its commitment to excellence and for directing the necessary resources to promote a first class forensics program. I would also like to praise the director of debate at Ben Davis, L.B. Highbaugh.

Once again, I would like to commend John Lephart and Joe Zompetti for their already outstanding achievements and wish them continued success at the National Debate Finals this June in Nashville, TN.

CELEBRATION WELCOMES A GREAT TEAM

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. ROTH. Mr. Speaker, I wish to take this opportunity to extend congratulations to the Luxemburg-Casco Spartans girls' basketball team, of Luxemburg and Casco, WI, newly crowned class B State champions.

Under the leadership of coach Mike Schanhofer, the Spartans made their first appearance ever in State tournament play. The team finished the year with a perfect record of 27 to 0, and won the title with a 71 to 60 victory over Horicon High School in the championship game. Both teams deserve praise for a well-played, hard-fought game.

This is a victory not only for the team, but for the students of Luxemburg-Casco High School and the communities of Luxemburg and Casco, who have given the team their undying support and enthusiasm throughout the season.

Congratulations to team members Tracey Baierl, Jenny Jauquet, Ann Seidl, Cindy Devos, Debbie Thiry, Marnie Vandermause, Carmen Stahl, Shelly Midbon, Holly Hoffman, Lynn Kaye, Bridget Hutchison, Sally Suess, Kelly Nelsen and team manager Wendy Blahnik.

Congratulations also go out to Dave Tymus, principal of Luxemburg-Casco High School; Coach Mike Schanhofer and his assistants Glen Gillis and Randy Jilot; Athletic Director Fred Yagodinski and the student pep band, directed by Dave Ehren, all of whom share in this accomplishment.

These girls have worked hard and learned the value of teamwork and perseverance. Their reward is a championship and the thrill of victory. Our reward is the pride that their victory has brought to the people of northeast Wisconsin. We salute them for their success. The entire State of Wisconsin is proud of these outstanding young people.

Insert the following article, which offers further background on their triumph:

[From the Green Bay (WI) Press Gazette, Mar. 14, 1988]

CELEBRATION WELCOMES A "GREAT TEAM"—LUXEMBURG, CASCO HONOR STATE CHAMPS

(By Jim Egle)

LUXEMBURG.—Forget George Bush. Rule out Jesse Jackson. The candidate most likely to carry this part of Kewaunee County at this time is Mike Schanhofer, girls basketball coach at Luxemburg-Casco High School.

"There are three things I promise to do—lower taxes . . ." joked Schanhofer Sunday, noting the "Schanhofer for President" posters that have popped up around Luxemburg and Casco.

Schanhofer and the Luxemburg-Casco girls basketball team were honored Sunday after winning the WIAA Class B state championship on Saturday by defeating Horicon 71-60. It was the first basketball championship in the history of the school and concluded a perfect 27-0 season for the Spartans.

A rally in the school gymnasium Sunday afternoon drew a crowd estimated at more than 1,100. The bleachers, which seat about 900, were full. Perhaps 200 or 300 more people stood near the gym entrances.

According to Spartans Athletic Director Fred Yagodinski, the celebration was unequaled in the school's history. Luxemburg-Casco has an enrollment of 581 students.

"I was astonished," Schanhofer said. "I did not believe it. I didn't realize what effect a state championship could have on an area. I found out."

Said Kelly Nelsen, a senior center on the team: "They said there would be a rally for us, but we said we didn't believe there would hardly be anybody there. It's hard to believe that there were that many people following us."

Upon their return from Madison, Sunday, the Spartans toured Casco, which is four miles east of Luxemburg. They rode on a horse-drawn wagon and were escorted by a Casco Fire Department truck.

About 50 cars lined State Highway 54 to await the team's entourage, which arrived shortly after 1:15 p.m. When the team passed, people got out of their cars and cheered.

After circling Casco, the Spartans got into a van and made the four-mile drive to Luxemburg. There they boarded a flatbed truck and led a procession down County Trunk A.

The weather, however, was hardly conducive to parades. The temperature on the Bank of Luxemburg sign read 24 degrees, and it was windy, with snow flurries.

"We were so warm inside," Schanhofer said. "That probably meant we could absorb the cold temperature and come out all right. You can go a long way on excitement."

The Luxemburg parade ran a little long, so fans inside the gymnasium had to wait. The bleacher seats were full long before the team arrived.

At the rally, Schanhofer introduced each member of the team. He paid special tribute to his five senior starters: Nelsen, Ann Saidl, Tracey Baierl, Marnie Vandermause and Carmen Stahl.

"We hate to see them leave," Schanhofer said. "I'm sure all the other coaches in the conference are ecstatic."

Schanhofer told the crowd that he resisted the temptation all season to call his team "a great team." After the Spartans won their first three games, Schanhofer said, he told them they were a good team.

After Luxemburg-Casco beat Kewaunee, Schanhofer amended that a "a very good team." The Spartans later became "a very, very good team" after winning the Packerland Conference championship and "a very, very, very good team" after advancing to Madison.

But on Sunday, with the state Class B championship trophy to his left, Schanhofer finally gave in.

"I have to concede and admit, with tremendous pride in these women, that they indeed are a great basketball team," Schanhofer said.

TRIBUTE TO THE NEWPORT ELKS

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. ST GERMAIN. Mr. Speaker, I would like to take this opportunity to congratulate Newport Lodge No. 104 of the Benevolent and Protective Order of Elks on reaching their centennial. Their accomplishment is worthy of pride, a testament to their quality and strength.

Twenty-eight years in Congress has taught me many things, not the least of which is that 100 years is indeed a very long time, particularly for an organization with so active and ambitious an agenda. Over those years, Mr. Speaker, Newport Lodge BPOE No. 104 has established a tradition of civic service that is among the finest in Rhode Island.

I commend the lodge's membership for its perseverance, its dedication and its steadfast commitment to its principles. If they maintain those qualities, as they undoubtedly will, another 100 years of success is sure to come.

COMMEMORATING MARION B. EARL FOR HIS OUTSTANDING SERVICE TO NEVADA

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. BILBRAY. Mr. Speaker, I rise today to pay respectful tribute to an outstanding civil and political leader, Marion, B. Earl. Marion Earl was an esteemed member of the Las Vegas legal community and an early leader in civil activities who recently passed away. A quiet man whose standing in the legal community was unmatched, he was affectionately known as the Earl of Las Vegas attorneys.

Mr. Earl initially came to Nevada in 1925 with his wife and founded the first permanent Boy Scouts of America troop in the State. During his college years Marion worked two full time jobs while attending evening law classes at George Washington University, from which he graduated as a member of the distinguished Order of the Coif.

He was an early member of the Las Vegas Chamber of Commerce and served in the offices of both president and director. Elected justice of the peace in 1934, his duties occasionally included those of coroner. In addition, he was the first official to formally reject accusations that govenment negligence led to the deaths of workmen at Hoover Dam.

In 1948 Mr. Earl was named to the Clark County Draft Board where he served until 1968. He also served in the county Democratic Party during the 1940's and 1950's and was a member of the Rotary Club for more than

50 years. The longest serving attorney in Las Vegas, Mr. Earl continued his work in probate cases until being struck down by a heart attack only a few weeks ago at the age of 90.

I ask my esteemed colleagues to join with me now in recognizing this great Nevadan. Marion Earl was a man whose life spanned the spectrum of civic activities, service clubs, Boy Scouts, church, and the law. He was a true community builder and leader whose loss will be sorely felt by the citizens of our great State.

NATIONAL TECHNICAL INFORMATION SERVICE: INFORMATION TREASURE TROVE

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. WALGREN. Mr. Speaker, the National Technical Information Service [NTIS] has repeatedly been a privatization target of the Office of Management and Budget [OMB]. These attacks occur even though NTIS could not function the same way as a private company. NTIS could not acquire the same documents as a private sector company. Hundreds of agreements for documents from international sources would have to be renegotiated, and some countries will refuse to deal with the private company. Submission of documents by U.S. Government agencies is also voluntary. Their volume of submissions could decrease if the agencies felt they themselves could do a better job of distributing documents than the company.

NTIS is the one place researchers can purchase at a reasonable price almost any document arising from federally funded research. It maintains an archives which is by far the most complete source anywhere of past Federal research documents. It runs foreign and domestic licensing of many Federal patents. And it operates at a profit.

A provision in the trade bill would end this privatization threat. However, the need for NTIS modernization would remain. It is clear that state-of-the-art information technology would make NTIS more efficient, and its sales presumably would increase.

In the Science, Research and Technology Subcommittee this spring we will be considering alternative business forms for NTIS, including Government corporation status. I, therefore, wish to bring a March 10, 1988 Washington Post article to my colleague's attention to increase their familiarity with NTIS and as background for legislation we may bring to the floor later this session.

The article follows:

ADMINISTRATION'S POLICY FOR A PROFIT-PRODUCING AGENCY: SELL IT

(By Bill McAllister)

If the recent antics over a small federal agency that sells copies of technical government reports were on television, Rep. Sherwood L. Boehlert (R-N.Y.) said, the show would be preceded by a warning: "something like, 'The story you are about to hear is true' or 'There is nothing wrong with your TV set.'"

The caveat would be needed, Boehlert said, because he can find no logical explanation for the Reagan administration's determination to sell to private business the Commerce Department's highly acclaimed National Technical Information Service.

Nor can the National Academy of Public Administration, the Office of Technology Assessment, library and industry associations, labor unions, public interest groups, the House and Senate and, least of all, the 341 NTIS employees.

They work in a Northern Virginia industry park just off the Beltway, cataloguing and selling esoteric reports such as "Conceptual Design Study for a Mirror Fusion Breeder," "Magnetic Islands Created by Resonant Helical Windings" or "Messenchymal Tissue Response to Heterotopically Placed Demineralized Bone Powder Particles in the Rat."

The NTIS manages to make a profit of about $20 million a year, selling thousands of the 1.7 million reports in its inventory.

That success, according to many NTIS supporters, is apparently what has made the tiny agency a prime target for the administration's effort to "privatize" government functions it contends can be better handled by private industry.

"I happen to believe that the federal government has taken over too much from the private sector," said Joseph R. Wright Jr., deputy director of the Office of Management and Budget and a longtime advocate of selling NTIS. It's "a superb organization," he said, but "I do not believe they should be part of the federal government."

"When you're a self-supporting agency, you look like—you smell like—a private business," said Tom Cox, NTIS administrative director. "You're a natural."

Congress, however, hasn't seen it that way. The administration's four previous attempts to sell the agency have been stalled or delayed by internal reviews. Last year the House and Senate, responding to outcries from groups that fear a privately owned NTIS will fail, passed separate bills blocking any sale. Those provisions, however, are bottled up with pending trade legislation and probably will not see action until spring.

Meanwhile, the Commerce Department, under pressure from OMB, has begun what some have called a "fast-track" effort to make the NTIS the first "fed co-op," a federal agency sold to its employees. It is as controversal a proposal as the earlier sale attempts.

"It is absolutely bizarre, absolutely incomprehensible," said Harold Seidman of the National Academy of Public Administration, a nonprofit research organization that studies governmental bureaucracies. Seidman recently testified against the plan before a House Science, Space and Technology subcommittee, describing the co-op proposal as "probably illegal and one that really makes no sense."

Rep. Doug Walgren (D-Pa.), who chaired the hearing, charged that the administration's "fed co-op" plan is based entirely on a 1986 proposal released by the Office of Personnel Management after earlier privatization plans failed. "The fed co-op plan is nothing more than four pages of paper, written some time ago by individuals who no longer work for OPM," Walgren said.

Administration officials, led by Wright, a former Commerce Department aide, disagreed sharply.

"The fed co-op plan was a terrific idea," Wright said in an interview. He rejected as "total hogwash" charges that the administration devised it for the NTIS after earlier plans to sell the agency encountered congressional opposition.

Wright and the administration have painted a rosy picture in the private sector for NTIS and its employees. In a paper given to prospective NTIS buyers in January, the Commerce Department wrote optimistically of the benefits of private ownership.

"Government agencies traditionally lack the marketing and innovative business approaches of the private sector," it said, asserting that federal regulations often prevent product expansion. Moreover, NTIS employees would stand to gain by being guaranteed the right to "exchange their government jobs for salaried positions with a contractor" while earning stock in the new firm, the department said.

At the NTIS' warehouse-like production facility in Springfield, few workers seem attracted to the idea of leaving the federal payroll. According to a survey of 293 workers by Local 1627 of the National Federation of Federal Employees, 153 said they would transfer to other agencies, 55 would retire and 66 were undecided. Only 19 would accept a position with a private firm that would take over the agency's central functions.

The administration's repeated efforts to sell the NTIS have hurt morale and the agency, said Robina Brown, head of the local. She said a number of workers have left because of the NTIS' uncertain future.

Seidman, who chaired a review of the NTIS for the academy, said efforts to sell the agency have left it "in a holding pattern" and have prevented it from undertaking modernization programs needed to contain costs. His review panel urged that the agency be converted to an independent government corporation.

Formed in 1945 by President Harry S. Truman to distribute declassified World War II documents, the NTIS for years has been "off budget," supported by proceeds from the documents it sells.

In 1973 it became the first U.S. agency to accept credit cards; today, computerized programs and reports constitute the fastest-growing segment of its product line.

Most NTIS products are culled from reports by the National Aeronautics and Space Administration and the Energy and Defense departments. They are touted in newsletters containing summaries of the 5,000 reports the service receives each month, making it "a treasure trove of technical information," in Walgren's words.

Most NTIS customers are technical and research libraries. Fred B. Wood, a project director at the Office of Technology Assessment, said the average NTIS document sells no more than 10 copies and one in four never sells.

Even so, demand for NTIS documents is strong among research organizations. Groups seeking to keep the NTIS under government control say they fear a private organization would have difficulty obtaining all the reports that are readily made available to the Commerce Department agency and that a private company's profit would increase user's costs.

Even if the latest privatization plan succeeds, the critics said the Commerce Department by law must maintain some of the agency's functions. The department has said that an NTIS would remain part of Commerce, overseeing a privately owned NTIS and handling other tasks.

At the recent congressional hearing, NTIS supporters said they suspected the administration's philosophical commitment to privatization was driving the dispute. Wright virtually concedes the point.

Harry R. Lewis, a lawyer with Public Citizen, a group founded by Ralph Nader, called the sell-off plan "a triumph of idelogy over reason." Boehler said the reasoning reminded him of what Alice had encountered in wonderland.

Then he recalled that author Lewis Carroll also had said, "Everything's got a moral, if only you can find it." The moral of the NTIS saga, he said, "is that ideology can make people blind to facts."

"I don't consider it ideology," countered Wright, "I consider it good management."

THE KOSHAROVSKY FAMILY'S STRUGGLE FOR FREEDOM

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. INHOFE. Mr. Speaker, last Thursday marked the 17th anniversary of the Kosharovsky family's status as refuseniks. This is an anniversary of sadness and frustration, and because of their sense of helplessness, the Kosharovskys have embarked on a hunger strike.

This is a drastic step, but the Kosharovskys have no choice. Last year Yuli Kosharovsky was permanently refused permission to emigrate and told that he could not apply again.

It seems unbelievable to people here in the United States that any country would want to restrict the ability of their citizens to move to another country. It certainly tarnishes the Soviet Union's international reputation to have such arbitrary restrictions, and it would seem to make sense domestically to let those who oppose the system leave. So why won't the Soviet Government let the Kosharovskys go?

The government says that Yuli once had access to "sensitive" information. That was 20 years ago. According to the standards of the institute where he worked, Yuli has not been a security risk for 17 years. According to Secretary General Gorbachev's stated standards, he hasn't been a security risk for 10 years.

Yuli Kosharovsky and his family are not threats to anyone's security. They are merely a family that wishes to emigrate to a country that is ready to welcome them with open arms. I hope the Soviet Government will have the humanity to recognize this fact and make the Kosharovskys' hunger strike a short one by granting them permission to leave.

MEMBERS OF CONGRESS SUPPORT HUMAN RIGHTS OF THE TIBETAN PEOPLE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. LANTOS. Mr. Speaker, just a few days ago on March 10, just a few feet from this Chamber on the steps of the Capitol, a meeting was held to mark the 29th anniversary of the 1959 uprising in Tibet, which forced the Dalai Lama, the spiritual and temporal leader of the Tibetan people, to flee into exile in India. He was joined by some 100,000 of his countrymen. The memorial meeting in Washington was only one of several gatherings being held around the world on that same day. Others took place in Los Angeles, San Francisco, and New York at the United Nations, as well as in Great Britian, France, Germany, Canada, Switzerland, Nepal, and in 50 cities in India, including New Delhi.

The memorial was also made more timely and urgent by the recent examples of Chinese violation of human rights in Tibet. The latest problems began just over a week ago. Some 2,000 Chinese security police were flown to Lhasa in anticipation of the anniversary of 1959. When Tibetan monks protested restrictions on their freedom, the Chinese troops began firing tear gas and live shells and reports indicate that as many as 16 may have been killed.

Mr. Speaker, our meeting on the steps of the Capitol took place just at the end of the visit to Washington of Chinese Foreign Minister Wu Xueqian. During that visit, China agreed to support an arms embargo against Iran and the United States agreed to resume trade in high technology products with China. There was also discussion of having the Peace Corps function in China. The one issue, however, on which there was not agreement was the matter of human rights in Tibet.

Mr. Speaker, we must insist that human rights in Tibet be included as an integral part of the United States' agenda with China, just as human rights is an integral part of our agenda with the Soviet Union.

Foreign Minister Wu said, "Tibet is open to journalists and others." It is my hope that Members of Congress will visit Tibet—just as we visit the Soviet Union. And it is also my hope that, just as we meet with human rights activities in the Soviet Union, we will insist on meeting with Tibetan victims of human rights abuse in China.

A number of our distinguished colleagues in the Congress spoke at the memorial meeting on the steps of the Capitol and others sent messages to that gathering. Among our colleagues who attended this memorial meeting and spoke were Congresswoman NANCY PELOSI, Congressman CHRIS SMITH of New Jersey, Congressman DON EDWARDS of California, and Congressman BENJAMIN A. GILMAN of New York.

I would like to place in the RECORD the speeches of Congresswoman NANCY PELOSI of California and Congressman DON EDWARDS, also of California, who were among the Members who personally participated with us in the meeting.

I would also like to place in the RECORD the statements from a number of Members which were read on the occasion—Congressman JOHN PORTER of Illinois, Cochairman of the Congressional Human Rights Caucus; Congressman GUS YATRON of Pennsylvania, Chairman of the Subcommittee on Human Rights of the House Foreign Affairs Committee; Congressman CHARLIE ROSE of North Carolina, a long-time supporter of Human Rights in Tibet; Congressman FRANK MCCLOSKEY of Indiana; Congressman TED WEISS of New York; Congressman MEL LEVINE of California; Congressman BILL GREEN of New York; Congressman JOHN CONYERS, Jr., of Michigan; Senator WILLIAM PROXMIRE of Wisconsin; and Senator ALFONSE D'AMATO of New York.

STATEMENT OF CONGRESSWOMAN NANCY PELOSI OF CALIFORNIA

Today we commemorate the 29th anniversary of a very tragic day in the history of the Tibetan people. I believe we must take this opportunity to continue the fight for Tibetan independence from the People's Republic of China, whose ruthless treatment of Tibetans is unacceptable.

Chinese human rights abuses against Tibetans began with the invasion of Tibet in 1950 and have continued, unabated, to the present day. The statistics are alarming: 1.2 million Tibetans killed; 6,254 monasteries destroyed; one out of every ten Tibetans imprisoned for 10 to 20 years; and 5,000 Tibetan religious and political prisoners still interned.

The courageous Tibetans have fought valiantly over the past thirty years to resist the oppressive treatment of the Chinese. The many thousands of Tibetan political prisoners held by the People's Republic of China are proof of the Tibetans' undying commitment to be free and to practice their religion in peace once again.

In order to restore basic human rights and religious freedom to the people of Tibet, governments of the world must voice their outrage at China's abusive treatment of Tibetans. Specifically, the following demands must be made on the People's Republic of China: a halt of the execution and imprisonment of Tibetan nationalists; the release of Tibetan political and religious prisoners; a halt in the massive Chinese population transfer into Tibet; restoration of Western media access to Tibet; and finally, Chinese support of his holiness the Dalai Lama's five-point peace plan.

The Dalai Lama has provided spiritual enrichment for millions of people all over the world. Observing this day gives me hope that someday in the near future the people of Tibet will be able to live and worship in freedom. Thank you.

STATEMENT OF CONGRESSMAN DON EDWARDS OF CALIFORNIA

Today, I am pleased to join not only my Congressional colleagues, but all individuals concerned about human rights throughout the world, in once again calling on the Chinese government to recognize the basic human rights of the Tibetan people.

Since 1958, Tibetans have suffered under the rule of a Chinese government which refuses to give them the same rights as other Chinese citizens. Although officials in the Chinese government insist that this is not true, there is too much evidence to the contrary to believe otherwise.

We only have to look at a couple of recent events to remind ourselves that the situation in Tibet certainly is not improving. We all remember the events of last October when Chinese police officers fired on a group of unarmed Buddhist monks and other individuals who were demonstrating for independence as well as the release of certain political prisoners. And just this past Monday, we read newspaper accounts of the rioting in Lhasa which was touched off by the arrest by Chinese police of a Buddhist monk who shouted pro-liberation slogans during a prayer service.

In addition to these events, the international human rights group Asia Watch has just issued a report which outlines a deliberate pattern of human rights abuses on the part of the Chinese government in Tibet. Their report provides detailed information about discrimination in housing and education, surveillance of the Tibetan population, arbitrary arrests and brutal prison conditions. Thus, Tibetans are forced to live in conditions which represent gross violations of internationally accepted human rights standards.

These events only reinforce our conviction that we cannot sit by and allow these kinds of abuses to continue. That is why we are taking the time today to let the world know of our opposition to the Chinese government's policies in Tibet. The continuation of these practices only serve as a barrier to improved relations between the United States and China. Those of us participating in this event today believe that it is time for the Chinese government to tear down that barrier.

STATEMENT OF CONGRESSMAN JOHN PORTER OF ILLINOIS

I am proud to join you on this 29th anniversary of the National Uprising of 1959. This somber occasion represents a period of Tibetan history which the people of Tibet and the rest of the world must never forget.

As we stand here today, the situation in Lhasa is tense and unsettling. The BBC reports that last Saturday at least eight people were killed and 300 wounded in a new round of demonstrations.

These demonstrations, like the ones which spread through Lhasa last October, demonstrate that the struggles that began 29 years ago continue unabated. Just after the Dalai Lama presented a five-point peace proposal before the Congressional Human Rights Caucus, hundreds of Tibetan monks and Lhasa residents flooded the streets to denounce Chinese rule.

China blamed these riots on the Dalai Lama, and condemned the U.S. Congress for meddling in their internal affairs. Since then, Chinese authorities have tried to persuade the Tibetans and the rest of the world of the improvements of living standards for the Tibetan people.

The Tibetans' loyalty to the Dalai Lama and the future of their culture has only strengthened. The Tibetans' know that improvements in living standards must involve political freedoms and a restoration of basic human rights.

The U.S. Congress must be relentless in its support for the peaceful Tibetan people. My colleagues Charlie Rose, Ben Gilman and Tom Lantos have consistently ensured that this situation is addressed at the highest levels. I am proud to join them in their courageous struggle to protect the national identity and aspirations of the Tibetan people, and restore their fundamental freedoms.

STATEMENT OF CONGRESSMAN GUS YATRON OF PENNSYLVANIA

As chairman of the Subcommittee on Human Rights and International Organizations, I want the Tibetan people to know that we, in the Congress, are concerned about their welfare. For the first time, legislation was passed in the House and in the Senate denouncing the human rights violations in Tibet. For the first time, the Subcommittee on Human Rights and the Subcommittee on Asian and Pacific Affairs held a hearing to investigate the human rights situation in Tibet. And, for the first, but not the last time, the American people voiced their strong disapproval through their representatives of the treatment of Tibetans.

Today, Tibetan memorial day, signifies the loss of life and liberty of thousands of Tibetans, but it does not signify the loss of hope for the future. As we mourn for the Tibetans who have given their life to preserve their identity and culture in the past, let us come together in our struggle to insure that Tibetans are no longer the forgotten people on the "roof of the world."

An editorial in yesterday's New York Times asked "Who Will Cry for the People of Tibet?" My response to that question is when the story of the suffering of the Tibetan nation reaches the American people, when they fully understand what is going on in this region, there will be no shortage of tears for these brave individuals. Until that day comes, I, and many of my colleagues, will never stop feeling the pain of the Tibetan people.

STATEMENT OF CONGRESSMAN CHARLIE ROSE OF NORTH CAROLINA

Dear friends, I thank you all for gathering here today, the Tibetan National Uprising Day, to express your support and concern for the rights and welfare of the six million freedom-loving Tibetans suffering under Chinese oppression. I send my greetings to you with mixed emotions. Once again, Tibet has been driven, by its Chinese oppressors, into one of its darkest hours. Because the Chinese have again sealed off Tibet from the rest of the world, we can only imagine the horrors that the Tibetan people must now endure. For those of us that have been painfully aware of Tibet's recent history, tragic images of the Tibet's so-called "peaceful liberation" and the Cultural Revolution quickly come to mind—and linger heavily on our conscience.

At the same time, I greet you with a feeling of victory that I am sure that many of our brethren in Tibet share. Although our friends continue to suffer under the same Communist party that brought Tibet the so-called "peaceful liberation" with hundreds of thousands Tibetans dead and the so-called "Great Leap Forward" with over a million Tibetans killed; I am encouraged by the fact, even after thirty-nine years of attempts by the Chinese to destroy their cultural identity and nationalism, the Tibetans still hold dear to their heritage and have, time and time again, found the courage from within to assert their demands for the respect of human rights in Tibet and for the establishment of a true democracy in Tibet that will allow Tibetans the opportunity to control the future of their homeland. Armed only with the desire for freedom and with faith in truth and humanity, our friends in Tibet have made a touching and powerful statement against the oppression of the Chinese military regime present in Tibet. The lies about the Chinese "peaceful liberation" of Tibet have been laid bare to the rest of the world, but the truth has not come without grave consequences—my prayers go out to these brave "freedom fighters" that now live under the most fearful and most dreadful of circumstances.

Just as importantly, my energies to expose and to correct the injustices that now occur in Tibet have been charged with new vigor. I assure you that I will continue to investigate the human rights conditions in Tibet; I assure you that I will continue to strongly speak out against the Chinese violations of the human rights of the Tibetan people; I assure you that legislation to encourage substantive changes in Tibet will continue to be introduced; and I assure you that I will do everything in my power to ensure that the noble aspirations of the Tibetan people are met.

Today, I can tell you that many more members of the U.S. Congress share my same sentiments than did a year ago, and many more join every day. Those of us that are concerned with freedom, justice and humanity see the situation in Tibet as a true test to the power of freedom, justice and humanity everywhere. A culture that emulates all that is good about humanity—the Tibetan culture—is in danger of extinction through the designs of the Chinese government. All of us assembled here today, and many, many others, have an unspoken vow within us—a commitment that we will not allow the extinction of a race, the Sinocization of an ancient culture, to occur on this earth while it is under our watch. Hold the course, seek the truth and keep the faith—just be vocal about it, that way we can be assured that others will see the truth in this very important matter and will contribute to this just cause.

The Chinese have failed miserably in Tibet. The so-called "Tibetan Question" has proven unsolvable to the Chinese. It is not the Tibetans that need "re-education," but the Chinese. Instead of sending Tibetans from Tibet to China for a proper education, the Chinese government should seriously consider sending Chinese settlers living in Tibet to China for re-education—preferably all of them. After serious study I think the Chinese will find the answer quite clear—Tibetans deserve the right to chart the future of Tibet.

STATEMENT OF CONGRESSMAN FRANK McCLOSKEY OF INDIANA

World public opinion is a powerful force for change. And change is badly needed to avoid further suffering for our faraway friends in Tibet. Simply put, the American people and all peoples of conscience must convey their concern to the People's Republic of China until it halts the ongoing human rights violations in Tibet.

Those of us in the West who are following this issue in the newspapers know that on March 5 as many as nine persons may have died in clashes in the Tibetan capital of Lhasa. The clashes were between Chinese police and a group of Tibetans that included many young Buddhist monks.

This past fall, the monks, nuns and other everyday Tibetans protested Chinese policies in Tibet. These policies include the importation into Tibet of Han Chinese in order to "dilute" the strength of the native Tibetan population. In addition, there are credible reports, confirmed by Amnesty International, of the incarceration and killing of Tibetans for the nonviolent expression of their religious and political beliefs.

To make things worse, foreign journalists who would report to the world community on this issue were expelled. In addition, in December 1987 the Chinese protested to the U.S. ambassador in Beijing that U.S. congressional resolutions had distorted the facts and constituted interference in China's internal affairs.

The Chinese government should know better about our government and understand our concern instead of excoriating the United States when it stands up for human rights around the world. More importantly, people anywhere in the world should not be jailed for insisting on the right to openly and freely practice indigenous Tibetan religions and culture.

This government of the people would be ignoring its history and obligations if it were to remain silent about the Chinese treatment of Tibetans. Our interests in pursuing good relations with the Chinese need not require turning a blind eye to the suffering in Tibet. Indeed, our relations with China could improve substantially if the causes of the Lhasa riots were to be addressed by the Chinese in a peaceful manner that accommodates the needs of the people of Tibet.

On this 29th anniversary of the Tibet National Uprising Day, humans of all varieties must remember the suffering of Tibet and join to work for a fair and peaceful way to end the suffering in Tibet forever.

STATEMENT OF CONGRESSMAN TED WEISS OF NEW YORK

Thank you for inviting me to address your demonstration commemorating the 1959 uprising of the Tibetan people against the occupation of their country by the People's Republic of China. I regret that I am unable to join you today, but I am honored to be able to send a statement of support.

Last fall, the tragic struggle of the Tibetan people received international attention as violent demonstrations erupted in which 40 Tibetans died. However, the suffering of the Tibetan people did not begin last year. Since the People's Republic of China annexed Tibet in 1950, it is estimated that hundreds of thousands of Tibetans have died as a result of the Chinese occupation. Furthermore, it is believed that between 100,000 and 300,000 Tibetan political prisoners are being held in Chinese jails. Despite the news blackout on the area imposed by the Chinese government late last year, reports, of torture and arrests of Tibetans continue to be received by the outside world.

The struggle of the Tibetan people to preserve their culture and age-old traditions must not be forgotten. In demonstrating here today, you ensure that the continuing violations of human rights in Tibet by the Chinese government will not be ignored.

STATEMENT OF CONGRESSMAN MEL LEVINE OF CALIFORNIA

Now, more than ever, America is taking notice of events in Tibet. I have been heartened to see over the past five years how much awareness and concern about Tibet's tragic recent history has increased in the United States. Today, on the 29th anniversary of the 1959 Lhasa uprising, we have real cause to celebrate, for your message is being heard more and more.

In my six years in Congress, I have been a participant in this education process. I have learned a great deal about Tibet, its culture, and its history. And, working with many of my colleagues who actively share my concerns, I have tried to do what I can to meet our collective responsibility to draw the world's attention to the oppression of the Tibetan people.

We in Congress have the highest admiration for the Tibetan people. Over the nearly forty years since the Chinese invasion of Tibet, you have never given up. The struggle for Tibetan autonomy continues today, embodied in the efforts of Tibet's spiritual leader, his holiness the Dalai Lama, to involve the international community in pursuing a diplomatic remedy to Tibet's suffering.

I join you in celebrating today the continuing determination of the Tibetan people to achieve their right of self-determination, and I pledge to continue to do all that I possibly can to support your efforts to regain what is rightfully yours—a Tibet free from oppression.

STATEMENT OF CONGRESSMAN BILL GREEN OF NEW YORK

I am sorry that I am not able to attend the Committee's commemorative demonstration on March 10, 1988, as Congress will be in session.

The human rights violations committed against the Tibetan people by China have not escaped the attention of myself or other Members of Congress. As a member of the Human Rights Caucus and a vocal human rights advocate, I sympathize with the plight of the Tibetan people and support efforts aimed at safeguarding this rich culture.

This past November, I and several of my colleagues sent a letter to President Reagan stressing the urgency of this matter and requesting him to give the five-point plan outlined by His Holiness, the Dalai Lama, full attention.

I commend you on holding this rally and march from the United Nations to the Chinese Consulate and assure you that your concern for human rights is shared by all Americans.

STATEMENT OF JOHN CONYERS, JR., OF MICHIGAN

The latest round of repressive tactics of Chinese authorities in Tibet should tell the world again, and the United States Congress, what is a clear and systematic violation of human and democratic rights. Tibetans continue to be denied rights and freedoms of expression, travel and representation. They continue to be subject to a system of law and criminal justice that allows for the worst abuses: no due process, unchecked torture, arbitrary arrests. The evidence has been chronicled by news reports, congressional hearings and reports from the international human rights community, most from notably the Asia Watch Committee.

One of the most encouraging trends in the international human rights movement is the acknowledgement by governments worldwide that a country's human rights record is a legitimate basis for setting policy. As Americans concerned about due processes and democratic rights, we should do everything we can to advance that, to make human rights as much part of foreign policy as economics. That is why Americans of all colors and creeds, and of all political parties and persuasions, should speak out on the abuses in Tibet.

The Reagan Administration's tentative interest in human rights casts aspersions on that human rights effort which needs to be bi-partisan to be successful. It's invocation of the human rights argument in selective instances to achieve its policy goals, and the ignoring of it in other instances—on Tibet for instance—only raises persistent questions in the world community as to how seriously the United States is interested in human and democratic rights.

The visit of the Chinese foreign minister this week in Washington is an important test. Whether officials that have ordered the repression, tortures, and other abuses against the Tibetans will be addressed as any sincere interest in human rights would require, now awaits to be seen.

One of the most puzzling aspects of tyrannical abuses of rights, wrote Jacob Timmerman, an Argentinean newspaper editor imprisoned and tortured with thousands of others by generals in that country in the late 1970s, is not so much the conduct of the perpetrators, but the frequent silence in the world community that accompanies it. We know from that and other experiences that we have two choices: either to speak out on the abuses of values and rights that characterize us as a nation, or to be silent.

Congress, in its unanimous judgment, has already made its decision with respect to Tibet. Now the Administration must decide.

STATEMENT OF SENATOR WILLIAM PROXMIRE OF WISCONSIN

I want to thank the U.S.-Tibet Committee for inviting me to make a statement in support of human rights in Tibet. I share the distress of the people assembled at this rally over the treatment of Tibetans by the People's Republic of China. The time has come for the government of the PRC to realize that the United States and the Western World will no longer tolerate the systematic eradication of the Tibetan culture and the consistent brutal suppression of human rights.

Ever since the PRC invaded and occupied Tibet in 1950, the Tibetan people have been subjected to massive violations of human rights. Tens of thousands of Tibetans have been killed during China's occupation of Tibet. Many were victims of clashes with Chinese troops, many others died as a result of imprisonment, mistreatment, and famine. Since 1980, the State Department has documented a new and improved trend in Chinese policy toward Tibet. The actions of the PRC during the demonstrations that occurred in Tibet last Fall, however, have proven that while the Chinese government has spoken about improving the lot of the Tibetan people, it is not yet willing to allow fundamental human rights and democratic freedoms to Tibet. I call upon the government of the PRC, in the word of the Dalai Lama, to allow the Tibetan people to "once again be free to develop culturally, intellectually, economically and spiritually, and to exercise basic democratic freedoms."

I have gone on record strongly protesting against the repressive actions of the PRC in Tibet. I shall continue to do everything in my power to bring the full weight of world opinion down on that regime until reforms are allowed.

STATEMENT OF SENATOR ALFONSE D'AMATO OF NEW YORK.

Today marks the 29th anniversary of the uprising of the Tibetan people in their capital, Lhasa, against the Chinese occupation of Tibet. This is a day of special significance, symbolizing the determination and will of Tibetans to regain their freedom and independence.

Probably few Americans are aware of the history of oppression, arrests and executions carried out in Tibet by the People's Republic of China. Far from the observing eye of world scrutiny, in the ancient and revered confines of Tibet, political and religious prisoners have been taken on a regular basis from their homes and monasteries. They face a tragically certain fate; either isolation to cells in maximum security prisons, or quick execution in secret proceedings. The system of justice that Americans take for granted does not exist for the people of this ancient, sacred land. There are few trials, as we know them, and no presumption of innocence.

One need only look at the events of this past week to recognize the severity of the Chinese measures and the Government's willingness to use absolute force to brutally control the Tibetan people—and the Tibetans still enduring hopes for national liberty. On Saturday, March 5th, thousands demonstrated for at least 14 hours. The demonstrations started around 10 a.m. when 300 young monks gathered in front of the Jokhang and shouted slogans calling for the independence of Tibet and protesting the arrest of a monk who had spoken out in public for Tibetan freedom. 2000 armed special security forces in 12 army trucks arrived at the scene, terrorizing the demonstrators with their tear gas and gunfire. The fighting and shooting lasted until at least 2 a.m. on Sunday; an undisclosed number of people were killed.

The actions against the people of Tibet finally are becoming the subject of greater concern to the world community. Legislation condemning human rights violations in Tibet and calling for sanctions against China will soon be introduced in Congress. These matters were a main subject of discussion during China's Foreign Minister Wu Xueqian's visit to Washington. As we pursue a more solidified relationship between the United States and the People's Republic of China, it is vitally important that we not blind ourselves to the cause of those who have no opportunity to sit at the diplomatic negotiating table. It is time that the people of Tibet were heard, and for the sake of freedom, it is up to us to make our voice heard in Tibet and around the world.

CONGRESSMAN TONY P. HALL INTRODUCES NATIONAL DAY OF PRAYER BILL

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. HALL of Ohio. Mr. Speaker, today, along with the gentleman from New York [Mr. GARCIA], the gentleman from California [Mr. MOORHEAD], and the gentleman from Virginia [Mr. WOLF], I am introducing a bill to designate the first Thursday in May as the annual date on which the National Day of Prayer is celebrated. This bill is a companion measure to S. 1378.

Since 1952, by act of Congress—Public Law 82-324—the President has declared "a suitable day each year, other than a Sunday" as the National Day of Prayer. It is 1 of 39 annually recurring commemorative observances established by statute.

This year, by Presidential Proclamation 5767 of February 3, 1988, the President has proclaimed May 5, 1988, as a National Day of Prayer. This will be the 36th consecutive observance of the National Day of Prayer.

The bill we are introducing would amend the current law to set a definite date each year for the observance of the National Day of Prayer, rather than "a suitable day each year, other than Sunday." This will help to bring more certainty to the scheduling of events related to the National Day of Prayer, and permit more effective long-range planning.

For the past 7 years, the day has been observed in May, but before this period it was observed at different times of the year. Clarifying legislation is needed to ensure consistent and dependable observance of the National Day of Prayer.

I would urge our colleagues to join with us in cosponsoring this adjustment to the annual observance of the National Day of Prayer.

For the benefit of our colleagues, the text of the bill follows:

H.R. 4170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution entitled "Joint resolution to provide for setting aside an appropriate day as a National Day of Prayer", approved April 17, 1952 (Public Law 82-324; 36 U.S.C. 169h), is amended—

(1) by striking "set aside and"; and

(2) by striking "a suitable day each year, other than a Sunday," and inserting "annually the first Thursday in May".

CONGRATULATIONS TO MRS. MARY B. LEVISTER

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. DIOGUARDI. Mr. Speaker, it is a pleasure for me to rise today and extend my heartiest congratulations to Mrs. Mary B. Levister on the occasion of her 100th birthday.

Mrs. Levister lived in Rye, NY for 65 years where she not only made several contributions to the local community, but also raised, with her late husband James, two outstanding daughters. As an active member of the Bethesda Baptist Church in Port Chester, she touched and enhanced the lives of countless others who will always remember her service and dedication.

While she now resides in the DuMont Nursing Home in New Rochelle, Mrs. Levister can look back on the past century with fond memories and satisfaction.

I join the entire Westchester community in celebrating this joyous milestone with Mrs. Levister and am proud to represent her in the U.S. Congress.

CRIMINALS SHOULD HELP PAY FOR PRISONS

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. DENNY SMITH. Mr. Speaker, many Members of Congress realize that prison overcrowding is a problem throughout the Nation. Federal prisons have reached an overcrowding rate of 60 percent, and the GAO estimates that State prisons will have an overcrowding rate of 26 percent by 1990.

The overcrowding epidemic is one of the reasons that States are forced to release criminals before their sentence is served. In my home State of Oregon, a 5-year sentence means 1 month in jail, and some felons spin through the revolving door of justice with only a 1-day sentence.

President Reagan is to be commended for reprioritizing his 1989 budget and requesting $1.4 billion for prison construction, renovation, and expansion.

I believe, however, that the criminals who are forcing us to build these prisons should also pay some of the costs of these expenses.

Today, I have introduced legislation which mandates that the sentence imposed on every person convicted of a Federal crime include a prison construction assessment ranging from $100 to $5,000.

The money collected in this fund will be made available to the States for prison construction grants. From 1981-85, an average of 34,469 persons were convicted of Federal crimes each year. An average assessment of $500 would have provided $86,120,000 to such a fund.

I invite other Members who are concerned with the overcrowding situation and with putting some punishment back on our judicial system, to join me in sponsoring this legislation.

H.R. 4186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STATE PRISON CONSTRUCTION ASSESSMENT.

(a) IN GENERAL.—Subchapter C of chapter 227 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3575. State prison construction assessment

"(a) In addition to any fine or other monetary payment imposed on an individual convicted of a Federal offense, such individual shall pay an assessment of not less than $100 and not more than $5,000. Assessments under this section shall be used for construction of State prisons under section 524(d) of title 28.".

(b) TECHNICAL AMENDMENT.—The table of sections for subchapter C of chapter 227 of title 18, United States Code, is amended by adding at the end the following new item:

"3575. State prison construction assessment.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to offenses committed after the date of the enactment of this Act.

SEC. 2. STATE PRISON CONSTRUCTION FUND.

Section 524 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) There is established in the Treasury a fund to be known as the State Prison Construction Fund, which shall be available to the Attorney General, in such amounts as may be specified in appropriation Acts, to aid the States in constructing prisons. There shall be deposited in the fund all amounts received from assessments imposed under section 3575 of title 18.

"(2) As used in this subsection—

"(A) the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States; and

"(B) the term 'prison' means a prison, jail, correctional institution, or other penal facility.".

THE DANCING RAISINS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. COELHO. Mr. Speaker, I am sure that you and most of my other colleagues are quite familiar with the "Dancing California Raisins" and their hit version of the classic "I heard it through the grapevine." Their unique commercials for the Golden State's raisins are among my all-time personal favorities—and it turns out that I am not alone in this sentiment.

The results of the 1987 survey of America's most outstanding television commercials have just been released, and they confirmed what I have suspected for quite some time—the "Dancing California Raisins" commercials were the people's favorite last year. These clay raisins have not only danced their way into people's hearts, but more importantly they have served to remind the public of the great taste and outstanding nutritional value contained in each delicious nugget of "nature's candy."

Since the introduction of this ad campaign in November of 1986, consumer sales of raisins have increased by almost 14 percent. The dancing raisins commercials have been effective because they have served to remind American consumers just how tasty, nutritious, and versatile raisins are. Consumers have discovered that raisins are an excellent and inexpensive way to dress up almost any dish, and they make an excellent snack all by themselves as well.

The dancing raisins commercials are sponsored by the California Raisin Advisory Board, a cooperative association of the State's raisin producers. I would like to take this opportunity to congratulate CALRAB for its successful advertising campaign and wish it continued success in its efforts to promote one of California's most important—and most delicious—crops.

TRIBUTE TO CHRIS HARRIS FOR HIS OUTSTANDING CONTRIBUTION TO NEVADA

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. BILBRAY. Mr. Speaker, I rise today to pay tribute to one of Nevada's most spirited citizens, Chris Harris. Chris has been chosen the 1988 State poster child for the Muscular Dystrophy Association of Nevada.

During this coming year, he will serve as the Nevada MDA junior goodwill ambassador and inspire volunteers in the association's year-round educational and fundraising drives. He will aslo represent the association on radio and television programs and participate in a number of special events.

At 12 years old, Chris is no stranger to notoriety. Last year he was the MDA poster child for southern Nevada. Jerry Lewis and Gov. Richard Bryan are two of the celebrities Chris has met so far while working with MDA. Currently a fifth-grader at Ruth Fyfe Elementary School, Chris enjoys playing games and reading in his spare time.

I ask my colleagues to join with me now in recognizing this courageous and inspirational young man. Chris Harris illustrates our hope that one day muscular dystrophy will be completely defeated. In the meantime he continues to lead a rewarding life, and serves as an example to us all.

CATASTROPHIC EARTHQUAKES IN THE EASTERN UNITED STATES

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. WALGREN. Mr. Speaker, I would like to bring to the attention of my colleagues an article which appeared in the New York Times on March 1, 1988, entitled, "Eastern U.S. Is Warned About Big Earthquakes". The article presents details on how the next catastrophic U.S. earthquake could strike not in California but in the heavily populated, highly industrialized and poorly prepared States east of the Rocky Mountains.

Although most people know that the States along the Pacific Coast are the most vulnerable to damaging earthquakes, they are unaware that States east of the Rockies are vulnerable, too. Damaging earthquakes have occurred and will occur again, as will great earthquakes, such as the New Madrid, MO series in the winter of 1811 and 1812. In addition, current scientific data show that eastern earthquakes could be as severe as earthquakes in California and could damage a much wider area.

To address the nationwide threat posed by earthquakes, Congress in 1977, passed the Earthquake Hazards Reduction Act. The act established a national program to coordinate Federal efforts to reduce future losses of life and property from earthquakes throughout the Nation.

H.R. 1612, "An Act to Authorize Appropriations under the Earthquake Hazards Reduction Act of 1977 for Fiscal Years 1988, 1989 and 1990," which was signed into law on February 29, 1988 (P.L. 100-252), also addresses the earthquake threat posed in the Eastern United States. The legislation which originated in the Subcommittee on Science, Research and Technology, which I chair, contains an initiative for the study of earthquake hazards in the Eastern United States. The increase of $1 million in fiscal year 1988 and $2 million in fiscal year 1989 and fiscal year 1990 would maintain and improve the existing Eastern regional seismic networks and university seismic research.

The article on the threat posed by earthquakes in the Eastern United States follows:

[From the New York Times, Mar. 1, 1988]

EASTERN U.S. IS WARNED ABOUT BIG EARTHQUAKES

(By James Gleick)

The next catastrophic American earthquake could well strike not in California but in the densely populated, highly industrialized and poorly prepared Eastern United States, many geologists now believe.

They are not basing their conclusions on new signs of seismological activity; rather, they are re-examining the sparse history of Eastern earthquakes and seeing an unrecognized level of danger. Neither the hazard maps of seismologists nor the construction practices of Eastern builders adequately reflect the possibility of a great earthquake, the geologists contend.

A past generation of research has focused on the notoriously active faults on the West Coast, where earthquakes are much more common. But geological and historical evidence shows that Eastern earthquakes can be as severe as California's and can damage a much wider area. An earthquake of a given size typically devastates an area 100 times greater in the East than it does in the West, where the fault-ridden crust of the Earth thins out the shock waves relatively quickly.

"The potential for damage is much higher than in California," said Leonardo Seeber of Columbia University's Lamont-Doherty Geological Observatory. "We're looking at something that is very poorly defined and may have a low probability, but if it does occur it could be a tremendous disaster.

A striking shift in attitudes has emerged among those analyzing the likelihood, and the likely consequences, of a major Eastern earthquake. Seimologists, structural engineers and other earthquake experts met in New York last week to assess the hazards and propose new techniques for construction and rehabilitation.

No one can say how likely a major earthquake is or where it is most likely to occur. Just what controls the timing and placement of great earthquakes in the East remains unclear.

"We have earthquakes without faults and faults without earthquakes," said Klaus Jacob of Lamont-Doherty. "You get the feeling the story is about to break, but it hasn't broken yet."

Indeed, seismologists emphasize the enormous uncertainties of their science—uncertainties that have come into sharp focus as they have learned more about how earthquakes shake buildings and alter soil formations.

But they said, a false sense of safety prevails, because of the relatively low level of seismic activity on the East Coast and the scanty data from earthquakes known to have occurred before the 20th century.

"Potential seismic problems are largely unrecognized, particularly in the Eastern United States," said Masanubu Shinozuka of Princeton University.

The problem with earthquakes is the problem of predicting an intermittent, extreme phenomenon that occurs on time scales longer than recorded history. In the post-industrial era, a fleeting period by geological standards, eastern North America has had no major earthquakes in urban areas.

As a result many geologists used to believe that the most devastating earthquakes belonged strictly to active faults like California's. A decade ago that view was almost dogma; now, all but a few geologists have abandoned it.

"I would characterize them as a dying breed," said Dr. Jacob, who was co-chairman of the New York meeting, which was sponsored by the New York Academy of Sciences and the National Center for Earthquake Engineering.

The greatest earthquakes ever recorded in the United States, slightly outstripping in intensity even the famous San Francisco earthquake of 1906, were a series of three jolts at New Madrid, Mo., in the winter of 1811 and 1812. The earthquakes at New Madrid (pronounced MAD-rid) created an 18,000-acre lake and permanently re-routed the Mississippi River. Anecdotal accounts and evidence buried in the earth suggest a magnitude of 8 on the Richter scale.

In 1886, a quake of magnitude 6.5 to 7 struck Charleston, S.C., rattling buildings as far west as St. Louis and as far north as New York; Chicagoans felt a strong shaking, 800 miles away. Several other major earthquakes have followed the line of the continental shelf off the East Coast: near Cape Ann, Massachusetts, in 1755; Grand Banks, Newfoundland, in 1929 and Baffin Bay in northern Canada in 1933.

Government maps meant to show areas at risk for earthquakes have tended to give their attention to the sites of these great events.

"Most, if not all, of the seismic hazard estimates have assumed that, in the future, the large earthquakes are going to recur in the same locations as they have occurred historically," said Peter W. Bashem of the Geological Survey of Canada. "Existing maps went on the assumption that history's going to repeat itself."

But many geologists now believe that the next major earthquake could just as well take place elsewhere along the coast or inland. They note that the seismological history of regions like New Madrid and Charleston gave no clue that a cataclysm was likely.

Last month in Australia, for example, three fairly large earthquakes struck in a single day in an area that had long seemed dead quiet. the locations of several other recent earthquakes have startled seismologists, including the 1976 catastrophe in Tangshan, China.

The vulnerability of buildings, particularly in aging urban areas, is a special concern. Outside of California, the codes governing construction almost universally disregard seismic hazards.

GUIDELINES DEVELOPED

Computer models have shown the extreme difficulty of predicting the physics of vibrations and sudden shocks in different kinds of structures. Using evidence from recent earthquakes like those in California and Mexico City, engineers have developed guidelines for relatively safe buildings. They proposed different kinds of reinforcement and lateral support for walls meant to counter the particular kinds of motions that earthquakes produce, and they say that in many cases the improvements could be inexpensive.

Whether such design guidelines will influence building codes in eastern cities, where earthquakes are only a faint part of the local psychology, is another matter.

"There's a certain amount of resistance to recognizing the earthquake potential and doing something about it," and Chris D. Poland of H.J. Begenkolb Associates, a San Francisco engineering firm, who helped create the new guidelines.

Several widely used styles of construction have proved especially vulnerable even to moderate quakes. One category, common in New York brownstones, is unreinforced masonry: brick buildings with wood floors supported by brick walls and non steel reinforcement.

Another class of buildings that tends to collapse in major earthquakes, he said, uses concrete slabs supported by concrete columns, with only modest steel reinforcement. Tall skyscrapers, on the other hand, tend to be better off, because they are built to resist the sideways pressure of strong winds; even there, however, the difference between force, applied to the side walls of a building and unexpected shocks at the foundation can be critical.

Earthquakes also have the power to churn soil violently, as some researchers have discovered. Water-saturated soil that remains strong under most circumstances can suddenly act like a liquid under the shaking of an earthquake, creating "sand boils" and "sand volcanoes," turbulent eruptions that leave visible remains in the geological record.

One reason that seismologists have tended to focus on active fault lines like those in California and Mexico has been the development over the last generation of plate tectonics, recognizing that the earth's continents float across its surface on plates. Most earthquakes occur at the boundaries between plates; the interiors, including eastern North America, have received less research attention.

THEORIES ADVANCED

"We were distracted and we were told by theory that interiors should be quiet areas," Dr. Seeber said. "Then people started building nuclear power plants and started to look at the details of data and discovered in fact that there is a lot of seismicity in interior plates and that we know very little about it."

Because the middle and Eastern United States lack the obvious active faults of areas like California, geologists have found it more difficult to understand eastern earthquakes.

Still, scientists have made some progress in formulating theories. Dr. Seeber argues that the key structures are features extending through the earth on a large scale: small fractures strewn through the crust at the East Coast all the way from northern Canada down through the Carolinas.

Although the earth in the east is not split by huge faults like those at the edges of plates, an important set of fractures remain where the great continental masses once pulled apart—Europe and Africa drifting away from North and South America, opening the Atlantic Ocean in between. The crust was stretched and weakened like taffy, leaving a zone of rifts.

Such processes may be ultimately responsible for the great historic quakes, but they do not suggest that the same sites will be struck again and again. "Each earthquake has been a single, isolated event," Dr. Bashem said. "The question is, where's the next one going to be?"

OREGONIANS DO NOT TAN

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. DeFAZIO. Mr. Speaker, Oregon has a wealth of water. As one of the State's best known humorists wrote, "Oregonians don't tan, they rust."

Oregon's rivers are an embarrassment of riches. And what is most embarrassing is that so few of these riches have been protected from damming, diversion, and development.

Today, Mr. AuCoin, Mr. Wyden, and I will introduce legislation adding segments of 45 of Oregon's finest rivers to the Nation's Wild and Scenic River System. This historic legislation will set the standard for river protection for the rest of the Nation.

The Wild and Scenic River Act declares that it is the policy of the United States that rivers possessing "outstandingly remarkable" values shall be preserved "in free-flowing condition * * * for the benefit and enjoyment of present and future generations." Unfortunately, the intent of this act has not been fulfilled. Of the 61,700 river miles identified in the nationwide rivers inventory as potential additions to the Wild and Scenic River System, only 7,709 miles have been added. That is only 12 percent of an inventory that is widely regarded as being incomplete. Mr. Speaker, that's just not good enough.

There are about 35,000 miles of major named rivers and streams in Oregon. Of those 35,000 miles, just 317 miles have so far been added to the Wild and Scenic System. That is a sorry record for a State that has traditionally led the Nation in the enlightened management of its natural resources.

This bill will add about 1,750 additional river miles to the Wild and Scenic River System. That represents the single largest addition to the System in the lower 48 States, yet it represents only 5 percent of the State's named major named rivers. Certainly, there are many deserving rivers not included in this legislation. In the case of some rivers, we were not able to determine to our satisfaction that the river met the criteria for wild and scenic designation. In many cases, private or State ownership of adjacent lands persuaded us to forego designating a river for inclusion into the Wild and Scenic System at this time. It is important that we develop a methodology for protecting outstanding rivers with private lands adjacent, while providing for the rights of property owners. We need more experience developing cooperative arrangements between Federal, State, and local authorities for the management of rivers included in the Wild and Scenic System. I hope that these issues can be addressed during the development of this legislation.

Our rivers provide us with far more than the electricity we light our homes with. They provide the spawning grounds for one of the Nation's richest runs of anadromous fish. They provide extraordinary trout fishing and unequaled whitewater recreation. And they provide an undefinable, but significant, component of a very special quality of life enjoyed by the people of my State.

Congress, when it passed the Wild and Scenic River Act, wisely declared that the Nation's policy of hydroelectric development should be complemented by a policy that would preserve selected rivers "in their free-flowing condition to protect (their) water quality * * * and to fulfill other vital national conservation purposes." Our goal is to identify those rivers whose natural values outweigh the benefits provided by development. This legislation is the first step toward accomplishing that end in the State of Oregon.

Mr. Speaker, without the leadership of the senior Senator from the State of Oregon, this legislation would still be a pipe dream. His courage and foresight have made this discussion possible. In addition, the work of many committed groups and individuals in Oregon have gone into the development of this bill; foremost among them are the Oregon Rivers Council and the Oregon chapter of the Sierra Club. I want to thank them wholeheartedly for their efforts.

One last word is in order. As I mentioned, there are many deserving rivers we have not included in this bill. What follows is a partial listing of rivers that may also be eligible for inclusion into the Nation's Wild and Scenic River System.

Some other potentially eligible rivers in Oregon: Breitenbush, Chewaucan, Little Chetco, Nehalem/Salmonberry, Pistol, North Santiam, Little North Santiam/Opal Creek, Siletz, Sixes, South Fork of the McKenzie—above and below Cougar Reservoir—Snake, from the north boundary of Hells Canyon NRA to the Washington borders, Sprague, Trask, and Wallowa.

Mr. Speaker, it is my fervent desire that this bill represent the first step in a process that will ultimately result in a comprehensive, statewide policy for the sound management of our water resources. I look forward to working with the entire Oregon delegation and with the citizens of the State toward that end.

MR. KILDEE HONORS DR. EVELYN GOLDEN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. KILDEE. Mr. Speaker, I would like to ask all of my colleagues in the House of Representatives to join with me in paying tribute to Dr. Evelyn V. Golden of Flint, MI. Dr. Golden is the recipient of the American Lung Association's annual Health Advocate of the Year award, presented to an outstanding volunteer in the area of health awareness in community affairs.

Dr. Golden's dedication and leadership have had a lasting impact on the quality of health of children and adults in Michigan, especially in Flint. Dr. Golden's professional chain includes the links of many organizations her services have benefited. For 17 years she served as medical adviser to the Flint Public Schools. She has been on the board of many organizations: Hurley School of Nursing, Community Mental Health Services, Genesee County Community Action Agency, Flint Community Planned Parenthood and other organizations concerned with health and health education.

Mr. Speaker, Dr. Golden's philosophy of life must be that a man's life is not happiness but worthiness. Without a doubt, our community is a better place in which to live as a result of Dr. Golden's efforts. Her acts of kindness, generosity, and hard work make her a role model for us all. It is indeed a great honor for me to pay tribute to Dr. Evelyn V. Golden.

LET'S PUT EASTON, PA, BACK INTO ALLENTOWN-BETHLEHEM-EASTON MSA TITLE

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. RITTER. Mr. Speaker, today I have introduced legislation which requires that the Director of the Office of Management and Budget [OMB] include a reference to Easton, PA, in the Allentown-Bethlehem-Easton [ABE] metropolitan statistical area [MSA] of which it is a part. The people of my district look forward to the day when the Congress favorably resolves this issue which has resulted in a distortion to this historic metropolitan area in the Lehigh Valley involving civic pride, geographic cohesion, community individuality, and business identity.

As Bruce P. Frassinelli, managing editor of the Express newspaper of Easton puts it:

> Easton deserves equal footing with the Lehigh Valley cities of Bethlehem and Allentown in the official statistical marketing area designation sanctioned by the Office of Management and Budget. There is a strong geographic cohesion among the three cities, and ABE is a familiar designation not only to residents but to those acquainted with the area and to those who do business here. The location and designation of the Allentown-Bethlehem-Easton International Airport underscores the familiarity of travelers and their knowledge of this tri-city area. There are no fewer than 49 business establishments which carry ABE as part of their names, as affirmation of the facility of identification. The designation ABE immediately signifies a specific geographic area.

Mr. Speaker, Mr. Frassinelli also emphasizes:

> Aside from geographic considerations, Easton's role in our Nation's formative years, its strategic location, long-standing industrial and commercial significance, its visibility as the Northampton County seat of government and soon-to-be site of a federal courtroom all confirm why Easton should be an equal partner in this area's designation.

Not only is the above of key significance in the title of our MSA but what is also fundamental in the logic of Allentown-Bethlehem-Easton is the fact that Interstate I-78 is about to be completed. The interstate will make the Lehigh Valley with current, optimistic projections of growth even more attractive, not only for business and job development but for arts, tourism, recreation, et cetera. I-78 puts the Lehigh Valley sitting only a little more than an hour from the megalopolis of New York. Mr. Speaker, Easton's role as gateway to the Lehigh Valley becomes even more important.

In 1980, the Department of Commerce published their final rule in the January 3d Federal Register regarding MSA classification. That notice included the following:

> The final standards are published here in order to give notice of the standards that will be used to define metropolitan statistical areas following the availability of the 1980 census data. Comments relating to the clarity and understanding of the standards will be welcomed. The comment period will be open until March 3, 1980.

Therefore we have a paradox from the very beginning—first we note they are final standards and in the same notice we see a request for comments relating to their clarity and understanding. It is clear the rule should have permitted MSA's to establish their own titles.

But the Paperwork Reduction Act transferred jurisdiction to the Office of Management and Budget [OMB] in August 1981. Then, after evaluating the MSA standards along with the census data obtained over the next 2 years, OMB announced the new titles of all MSA's in a press release in June 1983. Since then, many MSA's have been trying to change their titles or redesignate their areas.

Mr. Speaker, OMB advised me on February 26 that they will be reviewing the MSA criteria prior to 1990 as a prelude to redefining MSA's following the 1990 census. A notice to this effect will be published in the Federal Register in the next few months. Even though we can expect the OMB rule-making procedure to begin soon, with the need for census data, it is obvious we might have to wait until 1993 before we can correct this ridiculous situation.

Mr. Speaker, I do want to emphasize that my bill only changes the title and does not create a new MSA designation, including determinations about eligibility and benefit levels in certain Federal programs. Easton is currently a central city in the MSA which highlights the absurdity of not being included in the title. My bill requires the OMB Director to modify their title to include Allentown-Bethlehem-Easton. This is because the application of the title without the word Easton is entirely inappropriate for Federal agencies or private concerns that use Federal reports for statistical and nonstatistical purposes.

TRIBUTE TO OFFICER JOE LEON

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. STARK. Mr. Speaker, I would like to share with my colleagues the accomplishments of a most distinguished constituent, Officer Joe Leon, of the Union City, CA, Police Force. Described by fellow officers as the cornerstone of the department, Officer Leon is retiring after 27 years of dedicated service to his community.

As Union City's first Hispanic peace officer, Officer Leon withstood great hardships to serve on the force—earning a place for himself among the city's most respected citizens. Before joining the Union City Department, Officer Leon held positions with the Oakland, Hollister, and Piedmont Police Departments and was an animal control officer in Oakland. To Officer Leon, the police force was not just a job—it was his second home.

Under his direction, the department's Explorer Scout Program has thrived—leading several of its members to enter into law enforcement careers. His legacy will be the many young Hispanics that he has brought into the police force through the shining example of his own career. In addition to his many accomplishments, he also earned a bachelor's degree in administration of justice from the California State University, Hayward.

Officer Leon's involvement in his community, both as a paid officer and as an unpaid volunteer, has shown a commitment to public service which is truly exemplary. I join his many coworkers and friends in honoring him for his dedication and service to the people of Union City.

A TRIBUTE TO JAMES I. SMITH III

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. WALGREN. Mr. Speaker, as a member of the Allegheny County Bar Association, I am pleased to join other members in saluting James I. Smith III for his 25 years of dedicated service to the lawyers of Allegheny County as the executive director of our bar association. This Saturday, March 19, 1988, we will all join in recognizing Jim at a testimonial dinner in Pittsburgh.

Jim Smith was in his early years as head of the bar association when I first became a lawyer in Allegheny County, and I am pleased to say that, under him, the bar association has never been better.

Throughout his 25 years, Jim has done a remarkable job administering an association which has continually grown and changed. Lawyers in Allegheny County have been the clear benefactors of Jim Smith's hard work in developing a top-flight bar association of which we are all proud to be members.

Jim administers with considerable skill an association of over 4,700 lawyers. Our membership has tripled in the last 10 years. He operates a lawyer and legal secretary placement service, as well as over 100 programs of continuing education each year. On top of this, he is the managing editor of the daily Pittsburgh Legal Journal and its monthly magazine. He supervises a lawyer referral service and a wide variety of public service programs. And, somehow, Jim Smith does all this within a $3 million budget! The Federal Government could learn from him.

The time and energy which Jim has devoted to the Allegheny County Bar Association is truly deserving of recognition because it has had real meaning to every lawyer in Allegheny County, not once but many times during their own careers.

I commend Jim Smith's example to my colleagues in the Congress. It is a great honor for me to join his many friends in paying tribute to this wonderful, and still very young, fixture in the Pittsburgh legal community.

TRIBUTE TO DEPUTY CHIEF KENNETH M. FREEBORN

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. FRANK. Mr. Speaker, I take this opportunity to pay tribute to Deputy Chief Kenneth M. Freeborn, who on April 1 will formally retire from the Fall River Police Department. For over 32 years, Chief Freeborn has upheld the highest standards for public service. He is a professional law enforcement officer and he has served as an outstanding role model for other officers. On Friday, April 8, his family and friends will gather at a testimonial to honor Chief Freeborn for his service to the department and his community. I know my colleagues here in the House join me in extending to Kenny and his wife Mildred, our best wishes and our congratulations and thanks for a job well done.

I would like to share with you this article that appeared in the Providence Journal describing Chief Freeborn's last day at work.

[From the Providence Journal, Mar. 14, 1988]

DEPUTY POLICE CHIEF GETS A ROUSING SEND-OFF ON HIS LAST DAY OF WORK

(By James H. McDonald)

FALL RIVER.—An honor guard of high-ranking officers greeted Deputy Police Chief Kenneth M. Freeborn with formal salutes as he entered the police station Friday.

"What's this all about?" he said, "Most days when I come in, you guys don't even know I'm here."

But Friday was special because, after 32 years of service to the day, Freeborn went to police headquarters to clean out his desk. It was his last workday before leaving for retirement, which will begin formally on April 1.

To a certain extent, it was a sad day for many department officers and civilian employees, many of whom made special efforts to visit the departing deputy in his first-floor operations office. Handshakes and good wishes came from all directions. A couple of female employees apologized for cutting their congratulations short because they didn't want to risk crying.

Acknowledged by many as one of the department's most popular officers, Freeborn, 56, leaves a position difficult to fill, according to Chief Ronald Andrade.

"He has been an asset to the department ever since his first day on the job," Andrade said. "His greatest attribute is that he can relate to people. He's the personification of a professional police officer. I hope his replacement is half as good as he is."

Freeborn began his police career on March 11, 1956, as a reserve patrolman and was appointed a permanent officer 15 months later. Working his way through the ranks, he was promoted to captain, then was placed in charge of the Major Crimes Division and, eventually, was named acting deputy chief of operations.

In May 1986, he was assigned to oversee the Uniform Division, Major Crimes Division, vice and intelligence and crime prevention. Recipient of numerous commendations, Freeborn was cited for bravery in a shooting incident on Eastern Avenue in November. He was able to persuade a distraught Marine combat veteran to surrender his rifle peacefully, after the man shot and wounded a taxi driver. The gunman also shot at a police officer whose bulletproof vest kept him from being injured.

Reminiscing with colleagues during a coffee-and-pastry retirement party, Freeborn recalled that he never planned on a law-enforcement career.

After four years in the Navy during the Korean War, "I was working in a factory when I heard they were giving classes to teach potential recruits how to pass the police exam, because too many were flunking," he said. "So I decided to enroll, and I finally passed the entrance test with an 85."

The retiring deputy has seen many changes in the department over the years, including expansion of the cruiser fleet from 12, to more than 40.

"When I started, everybody walked, and we had no walkie-talkie radios," he said. "Now we have better response, better communications and 12 cruisers deployed at any given time. So now we don't have to worry about being caught alone in a dark alley behind a mill without any backup." Although the department "has come a long way in 32 years, the one thing that hasn't changed is human nature," he said. "That's the unknown factor."

Detective Larry Ferreira walked into Freeborn's office to offer congratulations.

"Hey, I'll still see you around, deputy," Ferreira said. "Maybe in church. I'll say a prayer for you."

Coincidentally, Patrolman Norman Alves, also a 32-year police veteran, retired with Freeborn, "so we killed two birds with one stone," the deputy chief laughed. "I must be liked more than I thought because even the custodians came in to shake hands."

A lifelong city resident, Freeborn said he plans to do some fishing and traveling with his wife, Mildred. "This place has been like family to me," he said, with a sweep of his arms. "I just hope I can let enough of it go, so I can rest."

OUR ERODING INDUSTRIAL BASE

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. BRUCE. Mr. Speaker, I rise on this occasion to address a matter which deserves all of our attention. I am speaking about the eroding industrial base that we face in this country, and how it may have grave consequences for us in times of military crisis.

As the United States shifts away from its reliance on the nuclear deterrent, we place an ever increasing burden on our conventional forces. At the same time, however, more and more of our conventional defense material is being provided by foreign sources.

I do not think this is such a good idea, Mr. Speaker, since it leaves us at the mercy of foreign nations. This includes their security arrangements, their transportation networks, and their suppliers. And then we are faced with transporting these products over potentially hostile seas, or through unfriendly skies. Now I am not trying to imply that our allies would intentionally leave us in a lurch, Mr. Speaker, however, the delivery of vital, materiel may be much more readily compromised as the number of hands through which each item passes grows.

It is because of this concern that I have joined several of my colleagues in cosponsoring H.R. 4128, the Defense Industrial Base Preservation Act of 1988. This bill will ensure that critical defense items are produced by domestic companies, to make our Nation self-reliant for the items we need most.

I hope that my colleagues will examine this bill, and join me in supporting this worthwhile objective.

HOLDING THE PALESTINIANS TO NO STANDARD AT ALL

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. SMITH of Florida. Mr. Speaker, I would like to commend Washington Post writer Richard Cohen for his incisive comments on an aspect of the Arab-Israeli conflict which is rarely brought to light.

In his March 9 column, Mr. Cohen points out that the same international community which applies a rigorous moral standard to Israel holds the Palestinians to no moral standard at all.

Last week alone, Yassir Arafat's PLO claimed responsibility for two terrorist operations—an unsuccessful attempt on the life of Secretary of State Shultz and an attack on an Israeli bus which claimed the lives of three Israeli citizens. Why didn't the international community and media express its moral outrage over these acts of Palestinian terror? How is it that these groups are so zealous in expressing their indignation when acts of violence are perpetrated against Palestinians but are silent when the blood of Israelis is spilled?

Mr. Cohen's article accentuates the double standard that is applied to Israel and the Arabs by the world community. I hope my colleagues share my feelings after reading this article.

... AND THE SILENT CRITICS

(By Richard Cohen)

What is the sound of one hand clapping? It's the sound of Israelis talking about peace. The sound coming from the other hand, the Palestinians, is either silence or the noise of continuing terrorism. Twice in the past week, this has been the sound coming from Palestinians.

The first incident was doubly astounding. While Secretary of State George Shultz was in Jerusalem, a bomb-laden car was discovered near his hotel. In Beirut a caller told the Associated Press that the bomb was the work of the Al Fatah faction of the Palestine Liberation Organization, headed by Yasser Arafat, and that Shultz was the target. The PLO denied it, but the AP said the caller was known to its reporters.

What's the explanation? As one State Department source put it, "Who knows?" Maybe there was an attempt to assassinate Shultz, although probably not by the PLO. What we do know is that the incident was treated as—yawn—just another example of Arab terrorism. The State Department, according to one source, has not received a single press inquiry about it.

What's going on here? It's one thing to hold Israel to a high standard, to treat it as a member of the community of Western democracies, and expect that it will conduct itself accordingly. Thus, it's fair to condemn it for incidents of brutality. And it's not at all illogical to hold the Arabs to a lower standard of conduct. The Palestinians, in particular, are led—or misled—by a collection of leaders ranging from the responsible to the deranged.

But it is quite another thing to hold the Palestinians to no standard at all. That, though, seems to be what is being done. The other day, for instance, three Palestinians hijacked an Israeli bus and demanded the release of Arab prisoners being held in Israel. To back up their demands, they murdered a civilian passenger. When troops stormed the bus, two more civilians—and all the Palestinians—were killed. In a broadcast from Baghdad, the PLO took responsibility for the incident—which is to say the cold-blooded murder of civilians.

It will be interesting to see whether the world condemns the PLO with the same vehemence that it has Israel. Maybe there is no comparing these things, but the murder of civilians really is worse than the beating of them. There is no excusing—as opposed to explaining—what the Israelis have done recently, but so far as we know they have not killed innocents in cold blood. To their credit, Israeli authorities have arrested some of the soldiers accused of brutality.

In a New York appearance recently, the former Israeli representative to the U.N., Abba Eban, said that no one should underestimate the Palestinian ability "to miss no opportunity to miss an opportunity for peace." This is no hard-line right-winger talking; Eban is a dove who would trade land for peace, and so his quip is both telling and sad.

Of course, Palestinians are burdened by a factionalized leadership. Arafat, the personification of the terrorist, to most Israelis and many Americans, is suspected by some Arabs of being a moderate. To his left is an array of zealots who would try to kill him if he ever recognized Israel's right to exist. Lacking a state, and therefore a central government, the Palestinians are in a position similar to that of Palestinian Jews before Israel achieved independence. They, too, had their terrorists and militants.

But explanations are not excuses. The refusal of Palestinians to commit to the peace process and their infatuation with terrorism do no one any good. Those actions vindicate the views of hard-line Israelis who, echoing what used to be said about American Indians, think the only good Palestinian is a dead one—either that, or living far away in Jordan. The recent bus incident alone did much to ease the pressure on Prime Minister Yitzhak Shamir to accommodate Shultz and his desire to trade land for peace.

Four times before the bus incident, the PLO attempted to infiltrate terrorists into Israel. A week ago, someone attempted a car bombing in Jerusalem that, had it succeeded, surely would have killed many innocent people. A world and a press that rightly condemn Israel for its excesses and intransigence cannot allow the PLO's even worse excesses to go uncriticized. Silence to the ear is like beauty to the eye of the beholder. To the PLO, apparently, it sounds like approval.

PUBLICATION: SYKESVILLE, PAST AND PRESENT

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mrs. BYRON. Mr. Speaker, I am pleased and proud to share with my colleagues and constituents a recent publication, "Sykesville, Past and Present" by Healan Barrow. Published by Greenberg Publishing Co., Inc. in Sykesville, this interesting look at a small town in southern Carroll County, MD, has an unusual architectural approach to the area's history. The book introduces newcomers to the small town heritage of the community by providing readers a walking and driving tour. The guide also invites newcomers from around the area to experience Sykesville's activities and shopping opportunities. The author, Healan Barrow, a journalist from Howard County, demonstrates throughout the book her excellent rapport with the Carroll County residents she interviewed while writing the book.

Mr. Speaker, I invite you and all my colleagues to enjoy this book and visit Sykesville, a prospering and historic small town in the heart of western Maryland.

TRIBUTE TO MR. JAMES A. WEST, SR.

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. WALGREN. Mr. Speaker, I would like to recognize a fine citizen and a personal friend of mine on his 60th birthday—Jim West of Fox Chapel Borough.

Jim is a highly successful real estate entrepreneur who has given back so much to the Pittsburgh area in the way of time, energy, and resources. His exemplary conduct is evidenced by the donation of a local public library; generous support of foster children; service as local constable, the local Civil Service Commission, and the Fox Chapel Fire Department.

Two of the numerous boards on which he has served as director are the PACE Academy for children with learning difficulties and the board of Inner City Urban Affairs. Jim has also been extremely generous in contributing to worthwhile charities that benefit so many others in Pittsburgh.

Most importantly, however, Jim is a devout family man whose strength begins with his lovely wife Annetta. Those fundamental values of love and devotion ever present in the West family inspire Jim's ambition to help all those he touches and in turn to make life better for others. I know I speak for many others in saying "Happy Birthday" to an extremely fine individual.

RODINO STEPS ASIDE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. EDWARDS of California. Mr. Speaker, it was with deep sadness that I received the news of Mr. Rodino's pending retirement. It has been my great pleasure and honor to serve in Congress with our distinguished colleague from New Jersey. What a wonderful experience it has been to have Mr. RODINO chair the Committee on the Judiciary, a committee on which I serve.

At the end of this session of Congress, the American people will lose a truly great leader in Congress. Newspapers around the country already are paying tribute to this remarkable man. I want to share with our colleagues just a few of those commentaries. I submit them for the RECORD.

[From the Washington Post, March 16, 1988]

MR. RODINO STEPS ASIDE

When it became clear in 1973 that the House of Representatives might have to consider the impeachment of Richard Nixon, people ran down the list of committee chairmen to see who would be conducting the hearings and came upon the name of Peter Rodino. It was not a familiar one to many outside the House: Mr. Rodino had been elected from the 10th district of New Jersey in 1948, but he did not become chairman of the Judiciary Committee until more than two decades later. But as has happened before in American history, the responsibility devolved upon a person capable of fulfilling it. Chairman Rodino superintended the staff that built the factual record, he gave all sides opportunity to present their arguments, and he made the case for the result that he, with some reluctance, believed was right. It was a judgment that was quickly and entirely vindicated.

Conducting those impeachment hearings was not Mr. Rodino's only large contribution in the House, from which he announced Monday he will retire this year. As a member and chairman of the Judiciary Committee, he had an important part in the framing of civil rights and immigration legislation, in handling technical matters like bankruptcy and the broad economic issue of antitrust. In the 1980s, he played a key role in the renewal of the Voting Rights Act, the passage after arduous debate of immigration reform and the passage just this year of the Grove City bill. He has not only passed good laws; he has also worked to thwart bad ones.

Mr. Rodino brought to his long career an unusual ability to adapt as the political world changed around him. He was first elected to the House as a young Italian-American New Dealer in a historically Republican and white Protestant district; by 1972 most of his constituents were black. He was elected altogether 20 times by solid majorities—even in recent Democratic primaries against serious black opponents, when his longtime support of civil rights and work helping black constituents when they were only a small minority in the district were remembered. Mr. Rodino will also be well remembered in the House for his 40 years of remarkably vigorous and productive service.

[From the New York Times, March 16, 1988]

CHAIRMAN RODINO RETIRES, WITH GRACE

For one who has enjoyed the power and privileges that Congressional seniority bring, leaving Capitol Hill for good isn't easy. So it was understandable that Representative Peter Rodino of New Jersey, who has spent more than half his 78 years in the House, might have had second thoughts about retiring after his current term.

But Mr. Rodino has now confirmed his plans to leave, and ended a distinguished career with grace. "I believe that my part of the journey in this great American experiment is at its end," he said. "I feel I have served my time and a purpose."

Some time. Some purpose.

When Peter Rodino was first elected to the House in 1948, America was a radically different nation. For one thing, it had a home-grown variety of apartheid. It was part of Mr. Rodino's purpose to eradicate that evil. He did so as a legislative champion of civil rights—floor managing the 1966 Civil Rights Bill and, as Judiciary Committee chairman, writing the Voting Rights Act extension in 1982.

Reluctantly at first, then vigorously, he put his influence behind the landmark Immigration Act of 1986. But what he may best be remembered for was the fairness with which he presided over the Judiciary Committee's 1974 Nixon impeachment hearings. More than a decade later, a colleague recalled yesterday, Mr. Rodino would proudly display mementos from those hearings, which he justifiably regarded as among his finest hours.

It was the Voting Rights Act that led some in his district to push for Mr. Rodino's retirement. Largely white, ethnic and middle-class in 1948, his district acquired a black majority by court order in 1972. The intent has been to open a path for the election of a black representative, but the voters kept returning Mr. Rodino to Congress by wide margins. In 1986, against an opponent backed by the Rev. Jesse Jackson, he won by a margin of almost 2 to 1.

He implied in that election that his 20th term would be his last. Now it is official.

There are two ways to retire from Congress, a colleague said. Some stay on until they are over the hill and have begun to embarrass themselves; some leave while they are on top and still appreciated. Typically, Peter Rodino took the noble way.

[From the New York Daily News, March 16, 1988]

MANY BLACKS REGRET RODINO'S FAREWELL

(By Henry Stern)

New Jersey Rep. Peter Rodino Jr.'s decision not to seek a 21st term was greeted with regret yesterday by a number of black constituents, despite the probability that his successor will be a black Democrat.

"I regret that he's not running," said Betty Morse, 57, while waiting for a bus in downtown Newark. "I don't know anybody else who could take his place. When I contacted him with a problem, he helped me right away."

Rodino, a 78-year-old Democrat who as chairman of the House Judiciary Committee presided over the impeachment hearings of President Richard Nixon in 1974, announced Monday he will not run again.

There will be at least three Democrats—all black—who are candidates for Rodino's seat representing the 10th Congressional District, which has changed during his tenure from a mix of mostly white ethnic groups to mainly black and Hispanic. Two Newark city councilmen are among the candidates.

But several blacks interviewed in the district wished Rodino would stay a while longer.

"He's been there quite a while," said James Lee Pugh, 54, a postal worker. "I'd like to see him stay there. As long as they treat me fair—that's what's important, not color."

Whites and Hispanics shared in the praise for Rodino, who managed the landmark Civil Rights Act of 1966 on the House floor and wrote the 1982 Voting Rights Act.

"He's the best person for the job—that's all that counts," said Ray Shanahan, a white 69-year-old retiree.

CONVENTION II DELIBERATION

HON. JOHN G. ROWLAND

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. ROWLAND of Connecticut. Mr. Speaker, for the past 13 years a group of talented and ambitious young people have assembled in the Halls of Congress to participate in a unique educational experience. Convention II provides these students an opportunity to deliberate current issues for the purpose of proposing possible amendments to the Constitution of the United States.

One hundred and six high school students from across the Nation came to Washington, from February 2 through February 6, to consider over 100 potential amendments to the U.S. Constitution. Of those resolutions, 10 were considered by the entire convention in three plenary meetings. All 10 of the resolutions were defeated by the convention. It is interesting to note that 4 of the 10 proposed resolutions pertained to limiting or further defining the powers of three branches of Government proscribed by the Constitution. As a member of the Convention II Founders Committee, I have the honor of transmitting to the U.S. House of Representatives the findings of the 13th annual session of Convention II, and to include their report in the CONGRESSIONAL RECORD.

Mr. Speaker, I invite my colleagues to join me in commending the delegates of Convention II for their initiative and enthusiasm, as well as their dedication to and participation in the American political process. The delegates and the many volunteers who spent countless hours preparing for this educational experience should be recognized for their tremendous interest in government—they are the future leaders of our country and the defenders of our Constitution. I would also like to express my appreciation to the Speaker and the other Members of the House for allowing the delegates to hold their final session in the House Chamber.

Mr. Speaker, I proudly present the findings of the 1988 Convention II for placement in the CONGRESSIONAL RECORD.

The material follows:

Findings of the thirteenth Annual Session of Convention II.

CR 270—Relative to Presidential Crisis Powers (Defeated 36 for, 55 against).

CR 160—Relative to Students' Rights (Defeated 33-40).

CR 350—Relative to Limiting the Power of the Supreme Court (Defeated 14-75).

CR 419—Relative to the Power of the Commander-in-Chief (Defeated 24-62).

CR 590—Relative to an Economic Bill of Rights (Defeated 51-28).

CR 310—Relative to Congressional Approval of Supreme Court Judges (Defeated 32-56).

CR 257—Relative to Naturalized Citizens becoming President (Defeated 51-28).

CR 143—Relative to a National Drinking Age (Defeated 17-68).

CR 575—Relative to D.C. Voting Rights (Defeated 53-31).

CR 426—Relative to Conscription of Both Sexes (Defeated 28-57).

CR 330—Relative to the Abolition of Juvenile Death Penalty (Defeated 20-62).

CR 251—Relative to the Election of the President (Defeated 22-54).

Although two resolutions obtained a majority vote, the Rules of Convention II require a two-thirds vote of the Convention for passage of a resolution. Therefore the Delegates to Convention II 1988 decided to leave the Constitution of the United States intact. Perhaps this represents a national sense of satisfaction with the Constitution. Or maybe these delegates were unable to reach sufficient compromises on the ultimate question concerning these constitutional changes.

The delegates to Convention II wish to extend their appreciation to the Members of the U.S. House of Representatives and Senate, who enable them to deliberate in several historic and inspirational chambers on Capitol Hill. They also offer special thanks to the Speaker of the House and to the minority and majority leaders for permitting the Final Plenary Meeting to take place on the floor of the House.

The Office Journal Convention II 1988 will soon be available. For a copy of the Journal, and for further information on Convention II, please contact Arnold Golub at Convention II National Headquarters, P.O. Box 1987, Washington, DC. 20013-1987, (202) 544-1789.

Respectfully submitted.

TOM ROONEY,
Convention Secretary.

THE 69TH ANNIVERSARY OF THE AMERICAN LEGION

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. ANNUNZIO. Mr. Speaker, March 15 marked the 69th anniversary of the founding of the American Legion, and its proud tradition of service, patriotism, and care for our Nation's veterans.

Sixty-nine years ago, a small group of members of the American Expeditionary Forces in Paris, France was called upon to recommend ways that the morale of the troops could be improved. An organization for veterans was suggested, and on March 15, 1919, the first organizational meeting occurred and was attended by about 1,000 officers and enlisted men. They reaffirmed that their responsibility to each other and to their country's citizens did not end with the signing of the armistice agreement.

Months later this commitment was embodied in the preamble to the constitution of the American Legion, which states:

> For God and country we associate ourselves together for the following purposes: to uphold and defend the Constitution of the United States of America; to maintain law and order, to foster and perpetuate a one hundred percent Americanism; to preserve the memories and incidents of our associations in the great wars; to inculcate a sense of individual obligation to the community, State and Nation; to combat the autocracy of both the classes and the masses; to make right the master of might; to promote peace and good will on earth; to safeguard and transmit to posterity the principles of justice, freedom and democracy; to consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

Since then, the membership of the American Legion has grown to about 2.7 million veterans belonging to about 14,500 local groups, and the woman's auxiliary adds an additional 1 million members, belonging to about 12,000 local groups. These dedicated individuals continue to perpetuate the Legion's founding pledge in their perseverance "For God and Country."

The American Legion has maintained the highest standards in its support of the adjustment of the veteran to civilian life, restoring his health and usefulness to society, maintaining his dignity, and assuring the welfare of his family. The American Legion is largely responsible for development of the Veterans' Administration, and among its most significant legislative achievements was the passage of the GI bill of rights. Throughout its proud 69 years of service, the American Legion has contributed mightily to the strength and greatness of America. It has helped our Nation's veterans immeasurably, and in countless ways it has assisted the communities where veterans and their families live.

During the depression, the American Legion transformed itself into a nationwide employment service, and also helped keep local school districts in operation with financial support. Today, numerous community houses and playgrounds which the American Legion helped to build, and continues to build, are a testimonial to its commitment to the education and welfare of our Nation's youth, and its dedication to the promotion of patriotism.

Mr. Speaker, by serving the veterans of our country and their families, the legion has provided outstanding service to America. On this 69th anniversary of the founding of the American Legion, I commend the Legionnaires in the 11th Congressional District of Illinois, which I am honored to represent, and American Legion posts throughout the country, for their many efforts in preserving and promoting the ideals of freedom. I extend to all the members of the American Legion my best wishes as they continue to build on their splendid record of excellence and achievement in service to our Nation.

U.S. ECONOMY SUFFERING FROM RUSSIAN DISEASE

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. PEPPER. Mr. Speaker, Mr. Arthur Burck, a prominent citizen of Palm Beach, FL, whom I have known from the war days when he as a pilot flew me around over Eastern Europe when I was in the Senate, always writes interestingly. Mr. Burck has had very valuable business experience and has achieved outstanding business success. He is a student of our Nation's economy and I have found his observations to be particularly worthy of note. I am, therefore, pleased to offer for the RECORD following my remarks one of his articles, "U.S. Economy Suffering From Russian Disease." Those who read it may be assured that it reflects the views of a knowledgeable businessman and distinguished citizen of our country.

[From the Staten Island Advance, Dec 10, 1987]

U.S. ECONOMY SUFFERING FROM RUSSIAN DISEASE

(By Arthur Burck)

The visit of Soviet Premier Mikhail Gorbachev should remind us that in this fast-changing world so filled with immediate problems, it is easy to overlook what historians may eventually assess as the most significant development of our times. It is that on the economic front there has been complete and total victory over socialism and its offshoot, communism.

It was not always clear that victory would be ours. Those of us who grew up in the Great Depression remember the arguments from a surprisingly large and varied section of American life that communism-socialism was the wave of the future. With 25 percent unemployment and "a third ill-fed, ill-clad, and ill-housed," it was little wonder that many dedicated Americans then flirted with the untried promises of communism and socialism.

Indeed, as recent as the early 1980s socialism was still on the move; the socialist government of France then took over 95 percent of the banking industry and many giant industrial firms, so that government was in control of most of the 20 largest corporations. Moreover, 17 of the 50 largest industrials in Western Europe—and of course everything in Eastern Europe—were government-owned, including eight of the top 10 in Italy and basic industries in leading democracies such as Britain, Sweden and Austria.

In recent years the tide has turned. France, Britain and other nations have been busy returning many of these big companies to private ownership—"privatization." Why? Experience confirmed the fact that big businesses, already burdened by huge and inflexible bureaucracies, became even more stagnant under the heavy hand of government bureaucrats.

The industrial units of communist nations, of course, remain skackled to massive government bureaucracies. Nevertheless, in the first several decades of the postwar period, the vigor of the Soviet economy surprised many Western economists.

Soviet Premier Nikita Khrushchev in the early 1960s confidently thundered to American diplomats that, on the economic front, "We will bury you."

But gradually over the past decade the Soviet economic engine has been malfunctioning. For details see the recent book of Harvard's Professor Marshall Goldman, "USSR in Crisis: The Failure of an Economic System."

Today, the Achilles' heel of the USSR is its stagnating economy. Soviet industry is choked by a massive government bureaucracy that, like big bureaucracies everywhere, tends to stifle innovation and needed change. Imagine what United States industry would be like if it were run by government bureaucracies patterned after the U.S. Postal Service.

Then too, a lackadaisical labor force is the inevitable consequence when government is the only employer, especially when workers lack incentives to earn because adequate consumer goods are not available to buy.

Gorbachev therefore faces the mind-boggling task of implementing a thorough reorganization of Soviet industry, a job of unprecedented difficulty and seemingly insuperable challenges.

However, Gorbachev has yet to make the crucial decision: To open up significant sectors of the economy to free enterprise, as has been done in other communist countries such as Hungary, Yugoslavia and more recently, China. It is unlikely he ever will.

Why? Because once the gates are open and the public tastes the advantages of free enterprise, can the tide be stopped? Wouldn't Gorbachev then find himself in the position of the sorcerer's apprentice? Isn't a little bit of freedom like a little bit of pregnancy?

But before we gleefully write off the USSR with a knowing "I told you so; we always knew communism wouldn't work," we should focus attention on our own economy to make sure we are not making the same mistakes. When we scrutinize our own situation, we find that there are too many parallels.

Bureaucracy is inherent in communism; it will always be there because it has to be there. The free-enterprise system, on the other hand, thrives best when businesses are dynamic, nimble, and creative—in other words, where bureaucracies are minimal.

Nevertheless, the natural flow of events is in the direction of ever-enlarging bureaucracies. And today America is entangled by the bureaucracies of big business, big government and big labor.

Just as the USSR has erred in building its economy around big, burgeoning bureaucracies, so to a degree we have done likewise. In America the giant corporation dominates most industrial activity. That was all right when American industry dominated world markets with its mass-produced products, but the world is now one of fast-moving change. Nimble small competitors, usually foreign, have been able to run rings around our giants that are hindered by slow-moving bureaucracies.

An illuminating study of our business bureaucracies is a recent book by Columbia's Professor Eli Ginzberg and Bankers Trust Executive Vice President George Vojta, "Beyond Human Scale—the Large Corporation at Risk."

To compound the damage, we have for three decades engaged in a maniacal merger mania that not only has made the big bureaucracies ever bigger, but also weakened or damaged most of the 60,000 smaller companies that were so acquired.

In sum, our quest for bigness has resulted in a case of the Russian disease—that is, the bureaucratic stagnation that is now choking the Soviet economy.

In view of the wreckage we see on our industrial scene, we now have ample proof that the huge industrial bureaucracies have outgrown their day of usefulness in a hotly competitive world where innovation is the name of the game.

For too long, just like the Soviets, we have worshipped the gigantic and the idolatry of "economics of scale." But there are no meaningful economies of scale when products face obsolescence. In an uncertain world, the only certainty is that every product eventually will become obsolete.

The clear lesson is that in today's changed circumstances the nation is served only when there is the largest possible number of viable, independent companies engaged in vigorous competition.

ZUNI-CIBOLA NATIONAL HISTORICAL PARK ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. RICHARDSON. Mr. Speaker, I am very pleased to introduce today the Zuni-Cibola National Historical Park Act. This bill will create a new national park, the Zuni-Cibola National Historical Park, on the Zuni Pueblo in western New Mexico. This park is unprecedented in that for the first time a national park will be created on Indian land. As a national park, the nationally significant historical, archaeological, cultural and natural sites on the Zuni Pueblo will be open to the public. The park will allow the public for the first time to discover the ancient history of the Zuni people. It will also combine the resources of the National Park Service with those of the Zuni Pueblo in preserving and interpreting the great heritage that exists at Zuni.

As far back as 2500 BC, native peoples lived, hunted, farmed and worshiped in the area that has now become Zuni Pueblo. The creation of this new national park will unlock for the American people many of the historical treasures of this ancient land and many of the cultural treasures of the Zuni people. This is a rich and fascinating land where the great Spanish explorer Coronado discovered one of the fabled "Seven Cities of Cibola."

Through the generous donation of a leasehold of approximately 340 acres of Zuni land, the Zuni-Cibola National Historical Park will include some of the most historically valuable sites in our Nation:

The Village of the Great Kivas, site of the Mogollon and Anasazi traditions, three separate house blocks and two great kivas covering 3½ acres;

Hawikuh, the first of the "Seven Cities of Cibola" that Coronado encountered in 1540;

Yellow House, a site representative of the 14th century Zunis;

Kechipbowa, an ancient pueblo from the Zuni culture of the 15th and 16th centuries, and nearby ruins of an earlier pueblo from the 8th or 9th century.

As part of the Zuni-Cibola National Historical Park, these sites will be managed by the National Park Service in consultation with an advisory commission chaired by the Zuni Pueblo Governor and including members of the Zuni Pueblo. Through this commission and a provision for Zuni preference in hiring, the Zunis will play a leading role in the development, interpretation and management of these historic sites.

This bill is due in large part to the efforts of the Governor of Zuni Pueblo, Robert Lewis, who has spent years working to put the Zuni-Cibola park proposal into legislation. I should also note that this park is the idea of former Interior Secretary Stewart Udall, who first envisioned an American Indian national park 20 years ago and has provided continuing guidance on this project. I see this park as the model for additional parks preserving nationally significant resources on Indian lands. Finally, I appreciate the cosponsorship of MORRIS K. UDALL, chairman of the Committee on Interior and Insular Affairs, who has been a leader on both Indian issues and the goal of protecting and expanding our national parks.

Mr. Speaker, this is a historic moment in the efforts of the U.S. Government and the American Indians to work together to preserve our cultural and historical heritage. I urge my colleagues to join me in making the Zuni-Cibola National Historical Park a reality this year.

A TRIBUTE TO TOMMY TOMEO

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. COURTER. Mr. Speaker, I rise today to recognize the civic achievements of one man and his lifetime of service to his community and his party. I am honored to tell my colleagues that his man is a personal friend of mine, one who worked to allow me to reach the position which I now hold. That man is Tommy Tomeo.

Tommy Tomeo did not attain his respected reputation as a social and political leader without a selfless devotion to the community in which he lived. In 1955, he started a project with Dr. Frank Rocco to improve health services for the citizens of Hackettstown. Today, that project has borne fruit, resulting in the Hackettstown Community Hospital. I think this example reveals a lot about Tommy, about his ability to recognize a problem and seize the initiative in order to create a solution. Finally, Tommy's involvement with the founding of the Hackettstown Community Hospital shows some of his fierce perseverance and his determination to see a project to a successful conclusion.

In order to appreciate the length of Tommy's leadership in the Republican Party, one must go back, before Reagan, before Carter, Ford or Nixon. One must go back to another time, to 1947, before anyone was a neo-anything, to when Harry Truman occupied the White House. In 1947, Tommy served his first year as a Republican committeeman, and founded the Hackettstown Republican Club. Since then, Tommy has been elected president of the Hackettstown Republican Club numerous times, and has also supervised the organization of Republican clubs throughout Warren County. After being a New Jersey

Young Republican national delegate in 1947-48, Tommy formed the Young Teenage Republican Organization in late 1949. He was rewarded with a delegate's seat at the National Republican Convention in 1952, when Eisenhower was nominated for the Presidency, and later met with President Eisenhower and Vice President Nixon at the White House with the young teenage Republicans, in 1954. By that time, Tommy was a Republican State committeeman, and served as a delegate for Richard Nixon at the Republican National Convention in 1960.

Tommy had established himself as a force in the New Jersey Republican Party, and it was in that capacity that I began my acquaintance with him. His vibrant personality quickly transformed our political relationship into one of a true long lasting friendship. I want to make it clear that I wish to express my gratitude not merely for the work Tommy has done for me, but for the pleasure of having Tommy work for me.

FAREWELL TO PETER RODINO

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. GARCIA. Mr. Speaker, this past Monday signaled the end of an era in Congress as Representative PETE RODINO announced his retirement after over 40 years as the Representative of New Jersey's 10th District.

I have had the pleasure of working with PETE RODINO throughout my 10 years in Congress on issues ranging from civil rights to immigration reform, and have always known him to be a man of great ability and conviction. Throughout his long and active service to this country, PETE RODINO has been a caring and effective champion of civil and voting rights legislation.

Pete Rodino will perhaps best be remembered for the just and honorable way he handled the 1974 Nixon impeachment hearings. As chairman of the House Judiciary Committee, he displayed the courage and depth of character which have made him such a highly respected Member of Congress. He departs this year with the same grace and class I have come to admire over the years.

I am submitting three editorials which appear today in the New York Times, the Washington Post, the Wall Street Journal, marking his retirement. I wish him well in all of his future endeavors. He will be sorely missed.

Chairman Rodino Retires, With Grace

For one who has enjoyed the power and privileges that Congressional seniority bring, leaving Capitol Hill for good isn't easy. So it was understandable that Representative Peter Rodino of New Jersey, who has spent more than half his 78 years in the House, might have had second thoughts about retiring after his current term.

But Mr. Rodino has now confirmed his plans to leave, and ended a distinguished career with grace. "I believe that my part of the journey in this great American experiment is at its end," he said. "I feel I have served my time and a purpose."

Some time. Some purpose.

When Peter Rodino was first elected to the House in 1948, America was a radically different nation. For one thing, it had a home-grown variety of apartheid. It was part of Mr. Rodino's purpose to eradicate that evil. He did so as a legislative champion of civil rights—floor managing the 1966 Civil Rights Bill and, as Judiciary Committee chairman, writing the Voting Rights Act extension in 1982.

Reluctantly at first, then vigorously, he put his influence behind the landmark Immigration Act of 1986. But what he may best be remembered for was the fairness with which he presided over the Judiciary Committee's 1974 Nixon impeachment hearings. More than a decade later, a colleague recalled yesterday, Mr. Rodino would proudly display mementos from those hearings, which he justifiably regarded as among his finest hours.

It was the Voting Rights Act that led some in his district to push for Mr. Rodino's retirement. Largely white, ethnic and middle-class in 1948, his district acquired a black majority by court order in 1972. The intent had been to open a path for the election of a black representative, but the voters kept returning Mr. Rodino to Congress by wide margins. In 1986, against an opponent backed by the Rev. Jesse Jackson, he won by a margin of almost 2 to 1.

He implied in that election that his 20th term would be his last. Now it is official.

There are two ways to retire from Congress, a colleague said. Some stay on until they are over the hill and have begun to embarrass themselves; some leave while they are on top and still appreciated. Typically, Peter Rodino took the noble way.

Mr. Rodino Steps Aside

When it became clear in 1973 that the House of Representatives might have to consider the impeachment of Richard Nixon, people ran down the list of committee chairmen to see who would be conducting the hearings and came upon the name of Peter Rodino. It was not a familiar one to many outside the House: Mr. Rodino had been elected from the 10th district of New Jersey in 1948, but he did not become chairman of the Judiciary Committee until more than two decades later. But as has happened before in American history, the responsibility devolved upon a person capable of fulfilling it. Chairman Rodino superintended the staff that built the factual record, he gave all sides opportunity to present their arguments, and he made the case for the result that he, with some reluctance, believed was right. It was a judgment that was quickly and entirely vindicated.

Conducting those impeachment hearings was not Mr. Rodino's only large contribution in the House, from which he announced Monday he will retire this year. As a member and chairman of the Judiciary Committee, he had an important part in the framing of civil rights and immigration legislation, in handling technical matters like bankruptcy and the broad economic issue of antitrust. In the 1980s, he played a key role in the renewal of the Voting Rights Act, the passage after arduous debate of immigration reform and the passage just this year of the Grove City bill. He has not only passed good laws; he has also worked to thwart bad ones.

Mr. Rodino brought to his long career an unusual ability to adapt as the political world changed around him. He was first elected to the House as a young Italian-American New Dealer in a historically Republican and white Protestant district; by 1972 most of his constituents were black. He was elected altogether 20 times by solid majorities—even in recent Democratic primaries against serious black opponents, when his longtime support of civil rights and work helping black constituents when they were only a small minority in the district were remembered. Mr. Rodino will also be well remembered in the House for his 40 years of remarkably vigorous and productive service.

A Different Chairman

Rep. Peter Rodino of New Jersey announced his retirement this week after 40 years of service, 15 of them as chairman of the House Judiciary Committe. Although Mr. Rodino was nothing if not a partisan Democrat he placed an old-fashioned premium on fairness. His handling of the Nixon impeachment hearings contrasted favorably with the outrages of the Iran-Contra hearings. When some committee Democrats recently wanted to use an appearance by Attorney General Ed Meese solely to rail against an administration "ethics gap," Mr. Rodino canceled the session. Moreover, he is one of the few Democrats who think independent counsels should be appointed to investigate Congress as well as the executive branch. We hope his successor is capable of the same independence, but we're prepared to be disappointed.

SMALL BUSINESS ADMINISTRATION DISASTER LOANS

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. COLEMAN of Texas. Mr. Speaker, I am today introducing a bill to empower the Small Business Administration to make disaster assistance loans in instances where economic injury has resulted from currency devaluations in a neighboring country. The legislation is narrowly drawn—it refers to currency fluctuations and exchange freezes in contiguous countries that in effect limit the proposed beneficiaries to businesses along the United States-Mexico border.

This loan program has been authorized on two previous occasions. It has also been deauthorized twice, most recently by Public Law 99-272 in April 1986. In seeking to legislate the reestablishment of the program, two points should be made. First, this program should not be confused with the "peso pack" program, launched with considerable fanfare by the Department of the Treasury in 1982 as part of the mythical Vice Presidential Southwest Border Initiative. Although designed to assist United States businesses which saw sales plummet from the Mexican Government's incapacity to meet its foreign debt obligations, the "peso pack" was a failure. Hearings conducted by the Committee on Government Operations, on which I served as a freshman Member in 1983, made that point very clearly.

Second, this is not a giveaway program. In 2 years of operations between 1984 and 1986, the SBA approved only 93 loans under section 7(b)(4), 65 of them in Texas. Just under $6 million dollars were loaned to small businesses.

This program is a familiar one to many members of the Committee on Small Business. In late 1982, the Subcommittee on the SBA went to San Diego to take testimony and to gauge the seriousness of the then unprecedented devaluation of the peso. Subsequently, section 7(b)(4) was written into law. But in both 1983 and 1984, there were questions raised about the effectiveness of the loans—where they went, how much was lent, what the terms were. Some of the answers received indicated that a number of loans had to be either liquidated or listed as either delinquent, charged off, or past due. I was sharply critical of the SBA and the program as a result. When the Senate Finance Committee saw fit to repeal the program in the 1986 budget reconciliation bill, I did not mourn its loss.

Recent economic events in Mexico have brought into sharp relief the need to prevent a repeat of the localized depression of 1982 and 1983. On November 16, 1987, the Central Bank of Mexico allowed the peso to drop 20 percent on its free market exchange. In January, a similar devaluation was announced for the controlled rate. You do not have to be an economist to realize that the purchasing power of Mexican consumers of goods priced in dollars has dropped through the floor.

Border businesses have never fully recovered from the reversals in the Mexican economy of 6 years ago. In those few parts of the border where unemployment has dropped below 15 percent, it has done so either through good fortune or economic diversification. But many communities along the border simply cannot diversify sufficiently in the short term. They lack the requisite population and tax bases to expand quickly.

The latest devaluations of the peso constitute a second depression in the retail sector, beginning from a substantially lower plateau. The legislation I have introduced is designed to provide modest assistance to businesses which truly need it and not, as was the case before, to those which liked the idea of extra cash on hand. As chairman of the congressional border caucus, I want to ensure my colleagues from border districts that I do not envision a flood of cash flowing to the Southwest. The Federal Government must carefully examine applications and approve only those for businesses which are cash-poor only as a result of the peso crash. This is not different than the case of SBA disaster assistance to farms in rural areas, where the intended beneficiaries find themselves indebted with insufficient funds due to acts of God.

This bill is intended as a companion to legislation introduced in the Senate by the junior Senators from Texas and Arizona, with one important addition—the requirement that the head of the SBA report to the Congress on all its loans on a semiannual basis. We cannot tolerate the hollow rhetoric and diversion of scarce resources which has characterized the program in its earlier versions. My language will curb any such potential abuses.

Lastly, to my colleagues who are mistrustful of any disaster assistance for reasons other than strictly defined acts of God, let me invite you to our southwestern border. The border economy is not some statistical oddity for economists to ponder. Border businesses are not exotic restaurants for tourists from all other parts of the United States. They are businesses like those that exist anywhere else in this country. They also serve a clientele from another country because of the interdependence of two very different economic systems. I hope this measure will move quickly. Our people and our business community along our border need the attention this reauthorization would give them.

TRIBUTE TO DR. CHARLES ROOSEVELT HUMPHREY, JR.

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. ESPY. Mr. Speaker, today I am honored to bring attention to the contributions of one of my most distinguished constituents, Dr. Charles Roosevelt Humphrey, Jr., a physician, administrator, and community leader in Jefferson County, MS.

Just recently, Dr. Humphrey was honored by Mississippians for 25 years of community service to his native State of Mississippi. He has been recognized by numerous organizations and institutions across the State for his many accomplishments and contributions. He has received awards from the Jefferson County Hospital, Alcorn State University, the Jefferson County Booster Club, and the Jefferson Comprehensive Health Center in respect of his untiring efforts and sacrifices made over the years in behalf of the people of Jefferson County and Mississippi as a whole.

Recently, the Jefferson County Board of Supervisors approved a resolution commending Dr. Humphrey's faithful service to the community and extending thanks and sincere appreciation to him from the community.

Dr. Humphrey, who was graduated from Alcorn A&M College and Meharry Medical College in Nashvile, TN, has served as a teacher of chemistry and biology, a general practitioner, and a director of several health care centers in Mississippi.

In 1969, Dr. Humphrey established a community health center in Fayette, MS, to provide health and medical services in Jefferson County, an extremely poor county in the Second Congressional District, which I represent. Dr. Humphrey developed the grant proposal for the community health center which was later approved and funded by the then U.S. Department of Health, Education, and Welfare. While developing the grant proposal, Dr. Humphrey attended the Community Health Center in Mound Bayou 3 days a week to study the planning and implementation of the community health center program.

In 1971, a 10-year grant proposal was approved by HEW, and the Medgar Evers Comprehensive Health Center received a $10 million grant for 10 years. Dr. Humphrey served as the project director of the Health Center until 1972. He joined the Jackson-Hinds Comprehensive Health Center-Satellite Clinic at Utica as the project director until 1975.

Dr. Humphrey, who is chairman of the Jefferson County Democratic Executive Committee, served as a member of the Board of Trustees of the Jefferson County Hospital until October 1, 1987, when he resigned. He also is a member of many professional associations, such as the Mississippi Medical & Surgical Association, Inc., the National Medical Association, and the National Association of Community Health Centers.

Dr. Humphrey, the father of three daughters, Nancy, Tara, and Verna, all of whom live in Fayette, MS, is loved and respected by the people of Jefferson County for his dedication and hard work through the years.

I am honored today to be able to thank Dr. Humphrey for his professional and personal service to the Jefferson County community. He has touched so many people and made life better for them. I hope I can accomplish as much in my service as a U.S. Congressman.

THE REPRODUCTIVE HEALTH EQUITY ACT

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. GREEN. Mr. Speaker, today I am introducing legislation for myself and my colleague from California, Mr. FAZIO. We are joined in this effort by 61 of our colleagues representing every geographic sector of the Nation. The Reproductive Health Equity Act [RHEA] addresses the fact that equal access to abortion for all women is no longer a question of constitutional rights. It is a matter of legislated economic discrimination. It is a material and child health care issue. Women who depend on the Federal Government for their health care, either as an earned benefit or an entitlement, do not have the same access to abortion as do other women. RHEA is designed to eliminate this discriminatory health policy.

Fifteen years ago, the Supreme Court ruled that a constitutional right to privacy was "broad enough to encompass the decision of a woman whether or not to terminate her pregnancy." Since its 1973 ruling in Roe versus Wade, the Supreme Court, on numerous occasions, has reaffirmed that a woman's right to choose an abortion is protected under the 14th amendment. And yet this constitutional right is being denied hundreds of thousands of American women because Congress over the past decade has succumbed to guerrilla attacks on "must-pass" spending bills. As a result, Peace Corps volunteers, military personnel and their dependents, Medicaid recipients, Federal employees, D.C. residents and Native American women face obstacles imposed by Congress that are not encountered by women who are not subject to Federal Government control over their health care. In one way or another, either through denying funds for medical assistance or restricting earned benefits, the Federal Government has attempted to exercise control over women's medical choices. We believe that both the tactics used by abortion opponents and the policies they perpetuate are wrong.

Hapless minorities have been picked off one by one, in a context where the overriding pressure has been to pass broadly based bills for the funding of the Government. These groups are rarely represented; singularly they lack clout. The most lenient of the abortion restrictions on appropriations bills prohibits the use of Federal funds for abortion except to save the life of the mother. However, these restrictions do not consider the health risks that may be involved by denying other women access to abortion.

We are introducing the Reproductive Health Equity Act to remove the current restrictions on the use of Federal funds for abortions in order to bring these women under the same umbrella of rights the Supreme Court affirms for the general citizenry.

The Reproductive Health Equity Act should not be viewed as a means of making abortion a method of family planning. Clearly, abortion should be considered a last resort to unwanted pregnancy, not a means of birth control. Improving family planning education and access to contraceptive services remains first priority.

However, we must realize that a woman's right to choose whether or not to terminate a pregnancy is the right to make a private, personal health care decision. For many women who are forced to carry an unwanted pregnancy to term, both mother and child frequently face great health risks and other difficulties. It must also be realized that denying women access to their constitutional right to choose does not reduce the numbers of abortions. It only results in many women who are discriminated against having few options other than to resort to self-induced abortions. We can recall enough horror stories from the pre-Roe-versus-Wade days to know that this is not a solution to unwanted pregnancy.

This discriminatory health care policy represents an intrusion that is unjust. It is clear that the general public does not support abridging a woman's right to choose abortion. For example, a New York Times/CBS poll taken in October 1984 and a report prepared for the National Abortion Rights Action League in January 1988 both show that 63 percent of the public opposes a constitutional amendment outlawing abortion. Therefore, I believe there would be little public support were the Congress to try to abridge the right to choose for all of these affected groups directly instead of behind the cloak of riders and amendments. Indeed, in the 1986 election alone, voters rejected attempts to restrict equal access to abortions for poor women in Arkansas, Massachusetts, Oregon and Rhode Island—diverse States from different regions of the Nation. Similar referendums have been defeated 11 of the 12 times they have been before the voters since 1978. Passage of the Reproductive Health Equity Act will end this blatant economic discrimination, and ensure that all members of our society may exercise their constitutional right to terminate a pregnancy.

THE 75TH ANNIVERSARY OF DENVILLE

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. GALLO. Mr. Speaker, historic milestones in the development of our communities provide an excellent opportunity to assess our development as a people. On April 14, 1988, the township of Denville, Morris County, NJ, celebrates the 75th anniversary of its incorporation as a municipality.

As a colonial settlement to the time of its incorporation in 1913, Denville typified the values of small-town America. In spite of its growth and development during the last 75 years, it has retained its strong sense of community.

As Denville celebrates a historic milestone in 1988, its people can look forward with a sense of dedication to the year 2013, knowing that Denville's strength as a community will depend on an understanding of its past and a willingness to apply that understanding to future decisions regarding growth.

I recently had occasion to read "Bridging the Years in Denville," published in 1963, as part of the community's 50th anniversary celebration.

The book provides the reader with a compelling snapshot of life in Morris County in the second decade of the 20th century before the automobile transformed our lives as a nation.

From the pre-Revolutionary settlements of John Den and others, the portion of Morris County now known as Denville grew with the construction of the Morris Canal and the Morris & Essex Railroad in the 1830's, which opened the Denville area to the avenues of commerce and resulted in the development of resort facilities to attract summer residents. In addition to the Wayside Inn and other resort hotels, so many summer residents owned homes in Denville that the summer population was more than twice the year-round population.

In 1913, a horsedrawn carriage was still the transportation of choice for rail commuters and visitors alike and the village smithy still did a good business shoeing horses and repairing farm equipment. As a junction point for the railroad and the county trolley system, Denville had grown into a community by 1913, with very few farms still operating within its new boundaries, although farming was still a major activity in the surrounding countryside.

Signs of change were in the air, with the widening of Main Street and the construction of a four-room school to replace the one-room school house, which became the first meeting place of the new town government.

With the construction of Route 46, and later, Interstates 80 and 280, Denville has become a suburban community. The 1913 population doubled by 1940, doubled again by 1950 and again by the early 1960's.

Denville gained its identity as a community in 1913, driven forward by its location as a crossroads of travel and commerce. Today, it retains its identity as a pleasant community that offers many opportunities for its residents as a good place to live, work, and play.

I am proud to represent the township of Denville as the Member of Congress from the 11th Congressional District of New Jersey.

Denville's local government officials and its people deserve national recognition for the quality of life and the high standards for community development that characterize this historic crossroads and resort community.

I ask my colleagues to join with me in salute to the people of Denville on the occasion of the community's 75th anniversary.

RESTORE TAX EXEMPTION FOR CONTRIBUTIONS IN AID OF CONSTRUCTION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. MAZZOLI. Mr. Speaker, recently, I have been in touch with several members of the Home Builders Association in Louisville, KY—which city I am privileged to represent—as well as Robert Weiss, executive vice president of the Home Builders Association of Kentucky.

These men and women have discussed with me their support for legislation to repeal a provision of the Tax Reform Act [TRA] of 1986 which made contributions in aid of construction [CIAC] subject to Federal taxation.

Prior to the TRA, the Internal Revenue Code had allowed a utility company to exclude from its gross income for Federal income tax purposes the amount of money or value of property which a utility customer or another party had contributed to the utility to allow the utility to provide or continue electric, water, gas and sewer services to its customers.

The TRA changed this tax treatment. Now, utility companies are required to pay taxes attributable to CIAC's. Inevitably, it is the utility consumer who ends up paying the CIAC tax indirectly—through increases in rent, utility costs, or even the prices of new homes.

I hope that during this session of the 100th Congress, my colleagues and I can take the action necessary to repeal the 1986 changes and restore the tax exemption for CIAC's.

WELCOME TO FOURTH DISTRICT CONGRESSIONAL STUDENT PROGRAM

HON. DAN COATS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. COATS. Mr. Speaker, it is my privilege to welcome the following members of the Fourth District Congressional Student Program from Indiana to Washington, DC, this week:

Jerry Andrews II, Elmhurst High School; Jonathan Beams, Canterbury High School; Jennifer Bruening, North Side High School; Eric Connerly, Snider High School; Julia Decker, Norwell High School; Matt Elder, Wayne High School; Ali Farhoumand, New Haven High School; Steven Feller, Adams Central High School; Heather Fisher, Churubusco High School; Paul Fleck, Columbia City

High School; Darryl Johnson, Northrop High School; Lisa Johnson, Fremont High School; Terrance Johnson, Harding High School; Mike Kelly, Lakeland High School; Kristina King, Carroll High School; Renee Leffel, DeKalb High School; Marla Lengacher, Woodlan High School; Michele Lovelady, Southern Wells High School; Kimberly Manns, Westview High School; Cara McCoy, Blackhawk Christian School; Cathleen Meyer, Prairie Heights High School; Carol Miller, Eastside High School; Dan Miller, West Noble High School; Tonya Mishler, Fort Wayne Christian High School; Richard Mishler, Leo High School; Beth Moore, Huntington North High School; Melinda Norden, Garrett High School; Thomas Payne, Homestead High School; Susan Pictor, Bishop Luers High School; Jason Prosser, Angola High School; Ann Rogers, South Side High School; Sara Schaefer, Bellmont High School; Tonya Schaffter, South Adams High School; Rebecca Scheiman, Heritage High School; David Schneider, Whitko High School; Jeffrey Smith, Concordia Lutheran High School; Todd Vandegrift, Central Noble High School; Jeremy Walker, Jay County High School; Erin Weigus, Hamilton High School; Mandy Wirick, East Noble High School. Special thanks to chaperones Ilze Koch of Portland, Wes and Cindy Steury of Huntington, and Mark and Anita Wickersham of Huntington.

Each year, every high school in my district has the option of selecting one student to participate in this program. Officials from each school choose its student representative from numerous applicants. Each delegate chosen possesses high academic standards and is a proven school leader. I commend these students on their scholastic accomplishments and their desire to learn more about the Federal Government.

My special thanks to Indiana Senators RICHARD LUGAR and DAN QUAYLE and my colleagues JIM SLATTERY, ROBERT GARCIA, WILLIAM DANNEMEYER, LYNNE MARTIN, and RALPH HALL for taking time from their busy schedules to speak to these young people.

Mr. Speaker, the Congressional Student Program provides an excellent opportunity for these outstanding young men and women to experience the city of Washington, DC, and, in the process, learn more about how our Government operates. Throughout the week, they will visit the historic sites in our Nation's Capital and will meet with individuals who serve our country. I hope that the participation in this week's program will one day encourage these students to become active in government and civic service.

Again, it is with great delight that I welcome these very special Hoosiers to Washington.

RESCUE MISSION

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. OWENS of Utah. Mr. Speaker, I would like to rise today to honor the entrepreneurial spirit—and those Americans who, in the face of overwhelming odds, refuse to let dreams, hopes, and ideas slip away.

Recently, Geneva Steel, a large steelmaking concern in Orem, Utah, was faced with closure and the loss of some 2,000 jobs. USX Steel, Geneva's parent company, had warned of such a closing by 1989 due to a USX decision to replace Geneva's output with imported Korean steel. However, a national steelworkers strike in August 1986 caused USX to accelerate its plans, and USX announced the plant would not reopen after the strike.

It was at this point that Joe Cannon, armed with nothing more than an idea, stepped in and began to negotiate a buyout of the plant. A buyout that would eventually reopen the Geneva works, and, as of today, put some 1,900 plus Utahns back to work.

Mr. Speaker, I would like to enter into the RECORD an American Lawyer account of Joe Cannons story. We in Utah are proud of this achievement, it is a profile in courage and a testament to the American dream.

[From the American Lawyer, December 1987]

RESCUE MISSION

(By Susan Adams)

It is a bright September morning in Orem, Utah, and Joseph Cannon—lawyer, Mormon, and now steel plant president—is enjoying the fruits of his year-long, faith-driven labors. Clad in steel-toed boots and hard hats, Cannon and a dozen plant managers gaze at ten-ton slabs of molten metal that come booming through the finishing mill, a 20-foot-high line of roaring black machinery. E. B. "Bud" Patten, the broad-shouldered, gray-haired plant manager, has tears in his eyes. "This is a real emotional day for us," he shouts over the din. "This mill hasn't run in fourteen months and three days."

Patten is referring to a six-month-long work stoppage by the steelworkers and then the idling of the plant by its former owner, USX Corporation, putting 2,200 employees out of work. "Six months ago we thought there was about a one percent chance this would run again," says Patten, who was once a bishop in the Mormon church. "We thought we were all dead, and now we've been resurrected."

Patten's religious metaphor is appropriate. That the plant, known as Geneva Works, is running at all is, in fact, a kind of miracle.

Geneva is running again and providing much-needed jobs in the community because 38-year-old Joe Cannon—until recently a partner in the Washington office of San Francisco's Pillsbury, Madison & Sutro and now of counsel to the firm—pursued a seemingly insane venture: the $40 million leveraged buyout of a failing steel mill at a time when the American steel industry was in deep trouble. An environmental lawyer who had never done a business deal in his life, Cannon found himself transformed from an intermediary into the deal's key player.

As recently as July 31 of this year, Geneva Works and the jobs of some 1,500 rehired workers looked to be dead in the water. Amid ultimatums and deadlines, a tense drama of delicate negotiations was played out, reaching to climax that involved Utah Senator Orrin Hatch, USX corporate chief David Roderick, and scores of lawyers, executives, bankers, and accountants.

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Over the years, Geneva Works had played a strong role in Utah's economy. At peak capacity the plant provided 5,000 of the most highly paid hourly wage jobs in the state—plus at least that many positions in allied industries. But Geneva was an economic anomaly: What was a full-fledged steel mill doing in Utah, far from major waterways and supply sources?

Built in the early 1940s by the U.S. government to supply steel to West Coast defense industries, the plant had been located in the Utah mountains to place it beyond the range of Japanese bombers. In 1946 USX—then called U.S. Steel—bought Geneva Works but never bothered to modernize the aging equipment. Still, the mill was well maintained and the work force was among the company's most productive. Over time, though, the plant evolved into a steel-industry dinosaur.

By the mid-1980s, the mill's future looked particularly bleak. Hurt by the influx of foreign steel, Geneva's profits declined along with those of the rest of the American steel industry. The main buyer of Geneva steel was another USX plant in California, but that market was scheduled to dry up: In 1985 USX had entered into a joint venture with a Korean concern to modernize the California facility. Geneva's steel wouldn't be needed after the project was completed in 1989. But closing the Utah plant would mean massive cleanup costs—estimates ran as high as $30 million—and considerable political damage for USX at a time when it was struggling and needed a sympathetic ear in Congress.

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Cannon immediately understood the potentially devastating effect Geneva's closing would have on his home state. He volunteered to tap his Mormon business network. Says Cannon: "What I thought is, I'll call up some entrepreneurial types out in Utah, they'll buy the steel plant, and I'll be their lawyer."

But Cannon's solicitations to potential buyers met with instant rejection. They refused even to consider investing in Geneva. "Everybody said they thought it was the most idiotic idea they'd ever heard," Cannon recalls with a chuckle. But he received a more optimistic response from several steel industry consultants he knew through his work at the EPA. If managed properly, they told him, the plant had the potential to make money.

Joe Cannon turned to his brother Christopher, then an associate solicitor at the Department of the Interior. Only 15 months apart in age, the two have always been close, though they offer a sharp contrast in attitudes and styles. While Joe had headed straight into a legal career, Chris instead had attended a year at Harvard's business school, then tried buying and running a trucking company before becoming a lawyer.

* * * * *

At first the idea seemed outrageous to Joe. He was no businessman. In nine years as a lawyer, he had gained only the most rudimentary experience in transactional work. But if he didn't act to save Orem's steel mill, who would? Using the information they had gathered from consultants, Joe and Chris mapped out rough financial projections on a chalkboard.

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The more Joe and Chris thought about it, the more the deal did make sense. There were several ways Geneva could become a profitable enterprise. One way was to remove corporate restrictions. USX distributes its overhead throughout its properties, and the brothers believe Geneva was bearing a disproportionate share. In addition, to avoid competition with its other plants, USX limited Geneva's market to the western states. All that would end when the plant was in private hands. More important, the Cannons intended to cut costs across the board—mainly by negotiating a new union agreement and lower-cost contracts with local suppliers.

* * * * *

Serious negotiations on the buyout didn't get under way until last January—six months after the Cannons' initial meeting with USX. The Cannons had submitted a contract offer in late summer of 1986, but USX cut off negotiations after a companywide work stoppage began that August. By the time the Cannons and USX were talking again the buyout of Geneva had become even riskier.

The plant, for one thing, was no longer in operation. The work stoppage had lasted six months, and during that time USX reached a fateful decision about its Utah plant: Geneva would not come back on-line when the stoppage ended, and the contract with the California plant would be shifted to a Pennsylvania mill. USX, though, would temporarily maintain Geneva in an idle state, leaving open the gas flow that powered the coke ovens—at a cost, it claimed, of $100,000 per day. Once the gas was shut off, returning the coke ovens to operation would be prohibitively expensive.

Instead of a straightforward leveraged buyout, the Cannons were now looking at a proposition that was almost equivalent to starting a new business. They no longer had a secure buyer for much of Geneva's product. And they suddenly found themselves under intense time pressure. Keeping the plant idle was costing USX $3 million a month. If no deal was reached soon, the corporation made it clear, the plant would be closed down permanently.

Despite the turn of events, Joe and Chris Cannon pushed ahead. By spring they had incorporated as Basic Manufacturing & Technologies of Utah, Inc., and assembled a board of directors and a formidable team of lawyers, bankers, and accountants, many of whom were linked not only by dealmaking skills but also by the strong bonds of community and the Mormon faith.

The first lenders the Cannons and their group approached turned down the Geneva deal. The prospects changed in late June, though, after Kimball, Parr partner James Cannon (a distant cousin) succeeded in negotiating a contract for BM&T with the steelworkers union. Union leaders knew that BM&T was the idled workers' only hope for future employment—if the deal went through—and they made substantial concessions in both wages and benefits, accepting in return a profit-sharing arrangement. By slashing the work force of the new Geneva, BM&T stood to save more than 30 percent a year—$12 million—in labor costs alone.

Several weeks later—in mid-July—BM&T secured a commitment letter from the merchant banking group of Houston-based First Texas Financial Corporation to finance Geneva's $58 million purchase price. Appropriately, the early contact at First Texas was with vice-president John Romney, a Mormon who shared the BM&T group's concern for Utah.

With a July 31 deadline looming, both First Texas and the BM&T team worked feverishly to nail down the deal. To conduct its due diligence, First Texas retained three law firms. Regular counsel Butler & Binion of Houston worked with local counsel in the Salt Lake office of Denver's Holme, Roberts & Owen, while Washington, D.C.'s Beveridge & Diamond handled the environmental aspects.

On the BM&T side, six partners and four associates from Kimball, Parr worked on the closing, with one partner and five associates from Pillsbury providing assistance particularly on the environmental portion of the deal. "It was a mammoth task," recalls Kimball, Parr partner Scott Loveless. "A plant of this magnitude has thousands of contractual relationships and legal issues.

On July 28 a USX team led by Francis Adams a vice-president in the steel division, flew to Salt Lake City prepared to close the deal at the Kimball, Parr offices, the command post for the buyout. A sense of optimism was in the air. Two days later, it abruptly vanished.

The letter First Texas had signed in June included a standard, though important, stipulation: The financing was dependent on the completion of due diligence to the satisfaction of the bank's loan committee. Working on an unusually tight schedule, the lawyers simply ran out of time. When the deadline arrived with questions still unanswered, the committee decided that the deal was too risky.

Late in the afternoon on July 30, a Thursday, First Texas phoned from Houston to announce that the loan committee had vetoed a portion of the bridge financing.

"I remember actually getting the telephone call and thinking, this is Kafkaesque," Cannon says. "This is something unreal that is happening here." When the initial shock wore off, Cannon rebounded. "We were going to go not until we died but until somebody killed us," he says. Within an hour, negotiations resumed with Adams and his USX team, and by mid-evening a new financing agreement was reached that would give USX much less money up front. Everything now depended on an okay from USX's Pittsburgh headquarters. Adams promised an answer by next morning.

Discouraged by the collapse of the deal. Constance Lundberg had left around dinnertime. "The day the financing blew apart was one of the darkest days of my life," she recalls. The next day, Friday, she drove past the plant on her way back to Kimball, Parr. "The parking lot was full of people who were waiting to get their physicals," she says. "They thought they were going back to work the next day. I cried all the way to Salt Lake."

Lundberg's spirits didn't lift when she arrived at Kimball, Parr. The reply from Pittsburgh was blunt: no deal. USX would not accept a reduced sum up front, Adams told Cannon, and he conveyed a chilling ultimatum: Unless BM&T came through with the agreed-on $33 million in bridge financing by Monday at 9 a.m., USX would shut off the gas at Geneva, effectively closing down the plant for good.

Adam's news wasn't all black. USX was willing to grant a ten-day extension, but only if BM&T came up with $1 million, nonrefundable, to cover the cost of keeping the plant idle for that period. "I tried to find someone who'd be dumb enough to give me a million bucks," Cannon recalls. "But no one would lay a check on the table for a million dollars unless they could be sure the deal was going to close."

Friday, as it happened, was Cannon's birthday. He had turned 38. His wife and five children were waiting for him to come home and cut his birthday cake. But Cannon was closeted at Kimball, Parr trying to salvage the deal. By Friday afternoon he realized that he needed help from someone with major clout. He put in a call to Senator Orrin Hatch.

Hatch, a Republican from Utah, wanted to see Geneva saved. Along with Utah's other senator, Jake Garn, and Representative Howard Nielson, he had already called on USX chief David Roderick to express support for the sale of the plant to BM&T. Once Hatch got Cannon's call, he galvanized himself into action—more action, in fact, than Joe Cannon had sought. On Saturday Hatch pulled USX Washington representative Earl Mallick off a golf course and requested a meeting with Roderick as soon as possible. The CEO was unavailable. Buying time, Hatch met with Adams on Monday. At that meeting, the senator exercised all the clout he could muster.

"I wouldn't let them off the hook," Hatch says, recalling the meeting with relish. "I said, 'This can't be shut down until I chat with Mr. Roderick.' . . . I frankly said, 'It's owed me. I was the only one in my delegation who didn't badmouth you.'" He was referring to Garn's blast at USX when the company idled the plant. Hatch won a reprieve for Geneva.

On Wednesday—August 5—Roderick flew to Washington, and the senator got his meeting. It didn't go well at first. "He was upset because this had fallen through," Hatch recalls. "I made it clear these fellows had pulled a miracle to get it together so fast." In the course of an hour and a half, the senator pressed Roderick to give the Cannons an extension—and to reduce the $58 million price.

Joe Cannon had not asked Hatch to renegotiate the purchase price. All the lenders Cannon had dealt with agreed that $58 million was fair. The liquidation value of the plant alone, according to Cannon, was worth more than that amount. In fact, Cannon said he had pleaded with Hatch not to push USX too far. "Truly, I said to him, 'Senator, just get us the extension,'" recalls Cannon. "'Don't bug these people by trying to renegotiate the price for us.'"

But in Hatch's view, $58 million was just too high a price to pay for Geneva Works, and he believed he was in a position to bring it down. "Frankly, [the Cannons] made some mistakes," Hatch asserts.

Hatch prevailed. When Roderick called the senator back the next morning, he agreed to an astonishing cut of $18 million—a one-third reduction in the purchase price. The Cannons, according to the new agreement, would pay a total of $40 million for the plant, with $30 million up front plus a 2 percent royalty up to $10 million on gross revenues. Finally, the closing deadline was extended to August 31. Any reservations Cannon might have had about the unauthorized negotiations on the purchase price gave way to relief and gratitude.

But time was tight. BM&T had only three weeks to pull together a new group of lenders—First Texas was interested in doing only a portion of the deal. The lenders' counsel would need time to complete their due diligence, and their loan committees would have to give their approval. Then, too, the lenders would need to "marry up"—settle all the tricky inter-creditor agreements.

Once again, the pace at Kimball, Parr turned frenzied, though now Joe Cannon and everyone else could see that the tenor of the transaction had changed. With a labor agreement and a new contract with USX in place, lenders were more eager to do the deal. Word was reaching the steel market that Geneva was about to come back on-line."Our phone was ringing off the hook from people who wanted to buy steel from us," Cannon says.

Three more lenders joined the deal, along with three more law firms. St. Paul—based ITT Commercial Finance Corp. relied on in-house counsel, and Washington Square Capital, Inc., of Minneapolis, tapped regular counsel Winston & Strawn of Chicago and retained Salt Lake's Poole, Cannon & Smith as local counsel. A third lender, Union Carbide's pension fund, turned to New York's Kelley Drye & Warren. Thirty-five outside lawyers crammed into Kimball, Parr's offices for the last two days of the closing. From the morning of August 30—a Sunday—until late the following day, work on the deal continued without pause.

On Monday morning the pace grew frantic. The lenders had yet to sign the crucial inter-creditor agreement. First Texas had last-minute questions about USX's indemnification of the plant. By lunchtime, these matters were settled. At 3:30 in the afternoon, the money from the lenders arrived by wire in Salt Lake City. At precisely 4:21 P.M.—uncomfortably close to the 5 P.M. deadline when USX was to shut off the gas at the plant—Joe Cannon handed a certified cashier's check to Adams.

By early evening, after three hours of signing documents, the buyout was done, and most of the weary dealmakers headed home. Exhausted and exhilarated, the Connons still had one more thing to do that evening. At midnight, joined by Bud Patten, they went out to the plant gates to welcome the first shift of steelworkers as they returned to the mill. "That was the capstone to this whole deal," says Joe."I wouldn't have missed it for the world."

REVISIONS IN THE STAGGERS RAIL ACT

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. SHUSTER. Mr. Speaker, the Subcommittee on Transportation, Tourism, and Hazardous Materials last fall considered legislation which would make substantive revisions in the Staggers Rail Act. These revisions, I believe, would be a mistake, particularly to the newly privatized Conrail. When we in Congress passed legislation providing for the sale of Conrail, we did so in a regulatory environment which had made and is continuing to make Conrail profitable.

On March 7, 1988, an editorial commentary appeared in Barron's which outlines the devastating effects these revisions in the Staggers Act would have on Conrail. Mr. Speaker, I submit the editorial for the RECORD.

[From the Barron's, Mar. 7, 1988]

DON'T SIDETRACK PROGRESS—REREGULATION OF THE RAILROADS LOOMS AS A MOUNTING THREAT

(By Robert M. Bleiberg)

"Even in the real world of lost causes and dashed hopes, the good guys somehow win one now and then. That's how we felt late last month, when, after years of political tugging and hauling, the Consolidated Rail Corp. finally came to market with 58,750,000 shares at $28 per share, thereby raising upwards of $1.5 billion for the U.S. Treasury in the biggest initial public offering of common stock in the annals of Wall Street.

"Ever since Conrail's privatization became an issue, *Barron's* has argued that this was the way to go. . . . Investors seemed to agree. Weeks before the scheduled sale, demand ran so heavy that the underwriters raised the proposed offering price from the low to the high 20s. In its first day of trading on the New York Stock Exchange, Conrail common stock opened at $31.50 and closed at $30.75, comfortably—but not excessively—above the official price. As one interested party said with some satisfaction: 'Everybody's pretty happy.'

"Everyone has reason to be. After all, from a perennial loser which the Department of Transportation once sought to abandon and sell for scrap, Uncle Sam has salvaged nearly $2 billion (including several hundred million dollars in direct payments from the company) . . . Investors can count their blessings, too. For roughly 10 times earnings and perhaps two-thirds of book value, they have acquired a stake in one of the most balanced (traffic-wise), efficient Class I rail carriers in the country. And, of course, all those who bought at the offering price still show a profit. . . ."

Let the good times roll might have been in the watchword in those heady days; after April 13, 1987, when the comments cited above first saw the light of day, roll they did. Indeed, for most of the company's first year of public ownership, which winds up late this month, it's been onward and upward.

From the low thirties, Conrail common stock climbed as high as 40⅞ before coming down to earth with a crash. Even today, however, it boasts the unusual distinction of remaining well above the initial offering price. Conrail has begun to pay quarterly dividends on the common—25 cents per share—and early on was tapped as a component of the 20 Dow Jones Transportations. Last year, by the way, turned out to be a good one, with revenues scoring a solid gain, and earnings, on a pro forma basis, somewhat higher. A few weeks ago, the feisty chairman and chief executive, at the end of a career loaded with achievement, announced that in coming months he will be riding—perhaps on one of his speedy intermodal coast-to-coast freight carriers—into the sunset.

Lately, however, the amber light has been flashing and some of the ebullience has begun to ebb. Last month, a Conrail engineer, admitting that he was smoking pot while at the throttle of a freight train involved in a fatal accident, pleaded guilty to one count of manslaughter. Around the same time, in what a leading business daily described as a "fresh piece of bad news," the Federal Railroad Administration issued a sharply critical report on the carrier's safety procedures and practices. (The company, which soon will issue a formal reply, has indicated that there are a "number of instances" where it will disagree with the official findings.) FRA is seeking to impose $1.5 million-$2 million in fines for the alleged violations.

A more palpable menace may be looming farther down the track. Last fall, the curiously named House Transportation, Tourism and Hazardous Materials Subcommittee, by a vote of 9-6, approved the so-called ICC Reform Act of 1987. Despite its fair-sounding name—in keeping with time-dishonored custom on Capitol Hill—it's foul legislation. Among other things, it would pressure railroads into surrendering switching service and trackage rights, at below-market rates, to their customers. It would shift to the carriers the burden of showing that charges are "reasonable." Most eyebrow-raising of all, the bill would also force the industry to pass through, in lower regulated prices, all the gains in productivity achieved in the 'Eighties.

The threat is real: The full committee, headed by the powerful Rep. John Dingell, Democrat of Michigan, is known to support such legislation and soon may press for passage. And in an election year, who knows what the illustrious Senate may be capable of passing?

Be that as it may, this is a potentially disastrous bill. It would bite deep into the coffers of companies, which, even after an unprecedented peacetime business recovery, by and large are none too financially robust. It would throw into reverse much of the progress which the industry has made under the enlightened Staggers Act and similar measures toward regaining its competitive prowess. It would turn back the clock to the bad old days when Conrail was a collection of bankrupt carriers fit only for the scrap heap, and many other Class I carriers were in danger of becoming wards of the state. If it ain't broke (as we have said before), don't break it.

At the moment, to be sure, Conrail is far from broke. On the contrary (as top management late in January told the New York Society of Security Analysts), it has just completed a successful 12 months, with revenues climbing for the second year in a row, and profits (as adjusted for corporate taxes, among other things) scoring a solid gain.

On a pro forma basis (i.e., taking into account the prepublic offering first quarter of 1987, which benefited from lower taxes and higher interest income on a higher cash balance), Conrail netted a $250 million, or $3.62 per share, a 20% increase over the $3.01 of 1986 ($1.09 vs. 85 cents in the fourth quarter). Despite greater traffic, payrolls, even in the transportation realm, continued to decline, while operating ratios improved. For 1988, in view of the lighter corporate tax load, the road, even with a slight drop in revenues, expects another good year.

Financially, that is. From a political standpoint, prospects are chancier. For, at the behest of a clutch of electric utilities and coal companies, which on Capitol Hill boast considerable clout, the lawmakers seem to be going hellbent for election to pass the mischievous piece of legislation cited above. Under the pretext of inequity—the pressure group is known as Consumers United for Rail Equity, which strikes us as an inspired misnomer—and the accompanying cry of "captive," these special interests are seeking, in effect, to reregulate the railroads.

Like admirals and generals, lawmakers are famous—or notorious—for getting ready to fight the last war. Whatever valid grievances shippers may have had in the past few years, they have grown few and far between. In 1986-7, the ICC has reduced its pending caseload by more than half, and, in the past two years only three new complaints have been filed. In a number of cases, moreover, the Commission has given shippers significant rate relief.

In any case, CURE would be far worse than anything that ails the system. Despite the existence of costlier alternatives (and tracks go almost anywhere), such customers claim the right to "competitive access" at prices lower than the cost to the carriers of maintaining the switching facilities and trackage. Under the Staggers Act, prices can be challenged only if railroads are found to dominate the traffic, and price levels are well above cost. However, "under the proposed legislation," so Conrail points out, "railroads would have to prove that their prices are reasonable," a switch which would "vastly increase" the number of challenges.

"Perhaps most outrageous of all," Conrail went on to say, "the proposed reregulation bill would also force railroads to pass through to shippers, in lower regulated prices, all improvements in efficiency, retroactive to 1980. In other words, all of the productivity improvements Conrail people achieved and have sacrificed for in order to make the company profitable over the last eight years would be of no benefit whatever to Conrail, its employees, or its stock value—all of these savings would have to be paid out of the company in cash refunds to shippers! If railroads cannot use future productivity savings for reinvestment in continued maintenance and upgrading of facilities and equipment, then service, safety, and job security inevitably will decline. Imagine the reaction of General Motors if Congress suggested that GM should give back to Chevrolet buyers all of its productivity improvements for the last eight years. Yet that is what Congress is seriously considering for the railroads. And this provision alone could turn Conrail from a money-maker to a money-loser once again." Talk about reactionary.

Nor would Conrail be the only victim. By curtailing the ability of management to manage, reregulation would have a major impact on railroad revenues, cash flow and earnings. By throwing roadblocks in the way of competition, it would threaten to reverse the steady and sizable decline in shippers' costs—upwards of 20%—that has marked the decade of the 'Eighties. Perhaps worst of all, in a world day by day growing more closely linked, it would discourage innovation—computerized tracking systems, double-stack containers, intermodal shipments—and dampen efficiency. Don't sidetrack progress.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, March 17, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 18

9:00 a.m.

Veterans' Affairs

Business meeting, to continue consideration of the President's budget requests for fiscal year 1989 for veterans programs, and proposed legislation relating to veterans' home loan guarantees.

SR-418

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Production and Stabilization of Prices Subcommittee

Domestic and Foreign Marketing and Product Promotion Subcommittee

To hold joint hearings on soybeans and the world market.

SR-332

Armed Services

To continue open and closed hearings on issues relating to the Intermediate-Range Nuclear Forces (INF) Treaty.

SR-222

Select on Intelligence

To resume closed hearings on the provisions of the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).

SH-219

10:00 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for nuclear fission programs and uranium enrichment, and nuclear waste management programs.

SD-138

Budget

To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.

SD-608

10:30 a.m.

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Tax Court, Committee for the Purchase from the Blind and Other Severely Handicapped, Advisory Commission on Intergovernmental Relations, Merit Systems Protection Board, Office of the Special Counsel, Advisory Committee on Federal Pay, and the Federal Labor Relations Authority.

SD-116

Judiciary

Courts and Administrative Practice Subcommittee

To resume hearings on S. 1482, to make certain improvements with respect to the Federal Judiciary.

SD-226

11:00 a.m.

Foreign Relations

Closed briefing on the situation in Afghanistan.

S-116, Capitol

2:00 p.m.

Armed Services

Strategic Forces and Nuclear Deterrence Subcommittee

To resume closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on the state of the United States strategic deterrence.

S-407, Capitol

Armed Services

Defense Industry and Technology Subcommittee

To hold hearings on the management of the national defense technology base.

SR-253

Governmental Affairs

Federal Services, Post Office, and Civil Service Subcommittee

To hold hearings on a proposed Federal employee leave sharing program.

SD-342

MARCH 21

8:30 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Park Service.

SD-192

9:00 a.m

Foreign Relations

To resume hearings and to consider the Treaty Between the United States and the U.S.S.R. on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).

SD-419

9:30 a.m.

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of the Treasury, focusing on the Financial Management Service, Bureau of the Public Debt, U.S. Mint, and the Internal Revenue Service.

SD-116

Armed Services

Conventional Forces and Alliance Defense Subcommittee

To hold hearings on requirements and plans for close air support modernization.

SR-222

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on H.R. 2090 and S. 1478, bills to designate certain National Forest System lands in the State of Montana for release to the Forest Planning process, protection of recreation value, and inclusion in the National Wilderness Preservation System.

SD-366

Governmental Affairs

To hold hearings to review Department of Defense contractor supply system access.

SD-342

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Science Foundation.

SD-124

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for military construction, focusing on base rights and burdensharing.

SD-192

Labor and Human Resources

Handicapped Subcommittee

To hold hearings on the Commission on the Education of the Deaf's Report to Congress.

SD-430

2:00 p.m.

Armed Services

To hold hearings on the nomination of William L. Ball III, of South Carolina, to be Secretary of the Navy.

SR-222

6:00 p.m.

Conferees

On H.R. 5, to improve elementary and secondary education.

2261 Rayburn Building

MARCH 22

9:00 a.m.

Governmental Affairs

To hold hearings on S. 1081, to establish a nutrition monitoring and related research program.

SD-342

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to review the President's proposed budget request for fiscal year 1989 for the National Aeronautics and Space Administration.

SR-253

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To continue hearings on H.R. 2090 and S. 1478, bills to designate certain National Forest System lands in the State of Montana for release to the Forest Planning process, protection of recreation value, and inclusion in the National Wilderness Preservation System.

SD-366

Finance

Health Subcommittee

To hold hearings on S. 1673, to require States to provide Medicaid coverage of community and family support services for severely disabled individuals.

SD-215

10:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on the President's proposed budget request for fiscal year 1989 for the Department of Agriculture.

SR-332

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Foreign Agricultural Service, Food for Peace Program (P.L. 480), Office of International Cooperation and Development, and the Office of the General Sales Manager.

SD-138

Appropriations

Defense Subcommittee

To hold hearings to review proposed budget estimates for fiscal year 1989 for the Department of the Navy, and the U.S. Marine Corps.

SD-192

Appropriations

HUD-Independent Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1989 for the National Science Foundation.

SD-116

Banking, Housing, and Urban Affairs

To hold oversight hearings on the implementation of the Community Reinvestment Act.

SD-538

Foreign Relations

To continue open and closed hearings on the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).

SD-419

1:30 p.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To continue hearings on the President's proposed budget request for fiscal year 1989 for the National Aeronautics and Space Administration.

SR-253

2:00 p.m.

Judiciary

Courts and Administrative Practice Subcommittee

Business meeting, to mark up S. 953 and S. 954, bills to require Federal judges to permit attorneys to participate directly in the examination of prospective jurors to determine their competence (voir dire).

SD-226

Small Business

To hold hearings on the President's proposed budget request for fiscal year 1989 for the Small Business Administration.

SR-428A

MARCH 23

9:30 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to resume mark up of S. 1516, Federal Insecticide, Fungicide and Rodenticide Act Reform of 1987.

SR-332

Armed Services

Readiness, Sustainability and Support Subcommittee

To hold open and closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on the readiness and sustainability posture of selected unified combatant commands.

SR-222

Commerce, Science, and Transportation

Aviation Subcommittee

To resume hearings on S. 1600, to create an independent Federal Aviation Administration.

SR-253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings to examine Health Care Financing Administration's management of medical laboratories.

SD-342

Judiciary

Constitution Subcommittee

To hold hearings on S.J. Res. 3, S.J. Res. 11, S.J. Res. 112, and S.J. Res. 161, measures proposing amendments to the Constitution of the United States relating to a Federal balanced budget.

SD-226

10:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Minerals Management Service.

SD-116

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Landsat and NOAA weather modernization programs.

S-146, Capitol

Banking, Housing, and Urban Affairs

To continue oversight hearings on the implementation of the Community Reinvestment Act.

SD-538

Finance

To hold hearings to review current programs and policies relating to children's health care.

SD-215

Select on Intelligence

To hold closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.

SH-219

MARCH 24

9:30 a.m.

Agriculture, Nutrition, and Forestry

Conservation and Forestry Subcommittee

To hold oversight hearings to review implementation of conservation programs.

SR-332

Commerce, Science, and Transportation

To hold hearings to review federal collection activities of information relating to foreign investment in the United States.

SR-253

Governmental Affairs

Oversight of Government Management Subcommittee

To continue oversight hearings to examine Health Care Financing Administration's management of medical laboratories.

SD-342

Select on Indian Affairs

To hold joint hearings with the House Committee on Interior and Insular Affairs on S. 2153, to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona.

1324 Longworth Building

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Farm Credit Administration.

SD-138

Appropriations

Defense Subcommittee

To hold hearings to review proposed budget estimates for fiscal year 1989 for the National Guard and reserve programs.

SD-192

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Railroad Administration, and the National Railroad Passenger Corporation (Amtrak).

SD-124

Finance

To hold hearings on S. 1245, to authorize the issuance by States of tax-exempt bonds for high-speed intercity rail transportation projects under certain circumstances.

SD-215

Judiciary

Business meeting, to consider pending calendar business.

SD-226

1:30 p.m.

Budget

To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.

SD-608

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1593, to designate the sight of the Glorieta Battle in the Civil War as a national historic site, S. 1693, to provide for a study of the Coronado Trail, and S. 1912, to authorize a study of the feasibility of establishing a National Mimbres Museum in Silver City, New Mexico.

SD-366

Judiciary

To hold hearings on pending nominations.

SD-226

Rules and Administration

To hold hearings on proposed legislation authorizing funds for fiscal year 1989 for the Federal Election Commission.

SR-301

3:00 p.m.

Rules and Administration

To hold hearings on Senate Concurrent Resolution 88, to facilitate the convening of a Silver Haired Congress.

SR-301

Select on Intelligence

To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.

SH-219

MARCH 25

9:30 a.m.

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Archives and Records Administration, U.S. Secret Service, and the Administrative Conference of the United States.

SD-124

Armed Services

Readiness, Sustantiability and Support Subcommittee

To resume open and closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.

SR-222

Finance

Business meeting, to consider proposals relating to Internal Revenue Service procedures and collection practices, including the Taxpayer Bill of Rights, an alternative means of collecting the exise tax on diesel fuel, and an extension of the IRS refund offset program under which the IRS collects debts owed to Federal agencies.

SD-215

Governmental Affairs

Federal Spending, Budget, and Accounting Subcommittee

To hold hearings on proposed legislation authorizing funds for the Office of Federal Procurement Policy.

SD-342

Select on Intelligence

To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.

SH-219

10:00 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold closed hearings on proposed budget estimates for fiscal year 1989 for atomic energy defense programs, including nuclear energy, weapons research and developmoent testing and production programs, and a new production reactor program.

SD-116

10:30 a.m.

Finance

Taxation and Debt Management Subcommittee

To hold hearings on the tax treatment of single-premium and other investment-oriented life insurance.

SD-215

2:00 p.m.

Armed Services

Strategic Forces and Nuclear Deterrence Subcommittee

To resume closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on the Air Force revised space launch program and policy.

SR-222

MARCH 28

8:30 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Mines, and the Office of Surface Mining.

SD-218

9:30 a.m.

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Management and Budget [OMB], and the Office of Federal Procurement Policy.

SD-116

Finance

Taxation and Debt Management Subcommittee

To hold hearings to review certain tax provisions which have recently expired or will expire this year, focusing on the exempt treatment of mortgage revenue bonds and the targeted jobs tax credit.

SD-215

Governmental Affairs

To resume hearings on proposed legislation relating to the elevation of the Veterans Administration to Cabinet status.

SD-342

10:00 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Power Marketing Administrations, including Bonneville Power Administration.

SD-138

Energy and Natural Resources

To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on civilian nuclear radioactive waste activities and the Department's plans to implement the amendments to the nuclear waste program enacted by Public Law 100-203 (Omnibus Budget Reconciliation Act, 1987).

SD-366

Special on Aging

To hold hearings to examine adverse drug reactions in the elderly.

SD-628

2:00 p.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Naval Petroleum Reserve, and the Strategic Petroleum Reserve.

SD-116

MARCH 29

9:30 a.m.

Energy and Natural Resources

Energy Regulation and Conservation Subcommittee

To hold hearings on S. 2167, to provide for Federal energy conservation standards for flourescent lamp ballasts.

SD-366

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings to review proposed budget estimates for fiscal year 1989 for force structure programs.

SD-192

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Aeronautics and Space Administration.

SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Indian Affairs.
SD-116

2:00 p.m.
Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

3:00 p.m.
Select on Indian Affairs
Business meeting, to resume consideration of S. 802, to transfer ownership of certain lands held in trust for the Blackfeet Tribe, and to begin consideration of S. 1236, to authorize funds for fiscal year 1988 for housing relocation under the Navajo-Hopi Relocation Program.
Room to be announced

MARCH 30

9:00 a.m.
Rules and Administration
To hold hearings on S. 2061, to establish national standards for voter registration for elections for Federal office.
SR-301

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Rural Electrification Administration.
SD-138

Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1989 for the National Aeronautics and Space Administration.
S-126, Capitol

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Smithsonian Institute, and the Woodrow Wilson International Center.
SD-116

Appropriations
Military Construction Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for military construction and family housing programs.
SD-192

Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Legal Services Corporation.
S-146, Capitol

Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

MARCH 31

9:00 a.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To hold hearings on proposed legislation authorizing funds for the Department of Energy, focusing on atomic energy defense activities.
SR-222

Veterans' Affairs
To hold hearings on proposed legislation relating to agent orange and related issues.
SR-418

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for the Strategic Defense Initiative.
SD-192

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Geological Survey.
SD-116

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Aviation Administration, and the General Accounting Office.
SD-138

Banking, Housing, and Urban Affairs
To hold hearings on proposals for structural and regulatory reform in the securities markets.
SD-538

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 314, to require certain telephones to be hearing aid compatible.
SR-253

Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

APRIL 11

8:30 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Forest Service.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Environmental Protection Agency.
SD-124

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.
SD-192

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.
SD-192

APRIL 12

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.
SD-342

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Environmental Protection Agency, and the Council on Environmental Quality.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy conservation and emergency preparedness programs.
SD-116

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.
SD-138

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.
SD-138

APRIL 13

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the legislative priorities of AMVETS, Vietnam Veterans of America, and the Jewish War Veterans.
SD-106

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Labor.
SD-124

Governmental Affairs
Oversight of Government Management Subcommittee
To continue hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.
SD-342

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the De-

partment of Agriculture, focusing on the Farmers Home Administration, and the Federal Crop Insurance Corporation.

SD-138

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for reserve components' military construction and defense agencies' military construction and family housing programs.

SD-116

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

Commerce, Science, and Transportation
To hold oversight hearings in conjunction with the National Ocean Policy Study on the implementation of the Marine Mammal Protection Act.

SR-253

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

2:30 p.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for ACTION, Corporation for Public Broadcasting, Railroad Retirement Board, Federal Mediation and Conciliation Service, National Mediation Board, National Labor Relations Board, and the Occupational Safety and Health Review Commission.

SD-124

APRIL 14

9:30 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings to review environmental conditions and trends in marine and near shore-coastal waters.

SD-406

10:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Gallery of Art, Commission on Fine Arts, FDR Memorial Commission, and the Advisory Council on Historic Preservation.

SD-138

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Urban Mass Transit Administration, and the Washington Metropolitan Transit Authority.

SD-124

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

APRIL 15

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Prospective Payment Assessment Commission, Physician Payment Review Commission, Federal Mine Safety and Health Review Commission, National Commission on Libraries and Information Science, National Council on the Handicapped, Soldiers' and Airmen's Home, and the U.S. Institute of Peace.

SD-192

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the General Services Administration and the Executive Office of the President (with the exception of OMB).

SD-116

APRIL 18

8:30 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for fossil energy research and development, and clean coal technology programs.

SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.

SD-124

1:00 p.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Postal Service, and the Office of the Secretary of the Treasury.

SD-116

APRIL 19

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.

SD-138

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.

SD-124

Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for drug enforcement and coordination programs.

S-146, Capitol

APRIL 20

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Social Security Administration, and the Health Care Financing Administration, both of the Department of Health and Human Services.

SD-192

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Army military construction and family housing programs.

SD-124

1:30 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Territorial Affairs, and territorial governments.

SD-138

2:30 p.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Family Support Administration, and the Human Development Services, both of the Department of Health and Human Services.

SD-192

APRIL 21

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Assistant Secretary for Health, and the Centers for Disease Control, both of the Department of Health and Human Services.

SD-116

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Commodity Futures Trading Commission, and the Food and Drug Administration of the Department of Health and Human Services.

SD-138

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Transportation, and the General Accounting Office.
SD-124

APRIL 22

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Alcohol, Drug Abuse and Mental Health Administration, and the Health Resources and Services Administration, both of the Department of Health and Human Services.
SD-192

APRIL 25

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Home Loan Bank Board, Neighborhood Reinvestment Corporation, National Institute of Building Sciences, and the Office of Science and Technology Policy.
SD-124

APRIL 26

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-124

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Emergency Management Agency.
S-126, Capitol

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary, Office of the Solicitor, and the Office of the Inspector General, all of the Department of the Interior, and the Navajo-Hopi Indian Relocation Commission.
SD-116

APRIL 27

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-192

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Navy military construction and family housing programs.
SD-124

APRIL 28

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-116

10:00 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for diplomatic security programs.
S-146, Capitol

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Coast Guard.
SD-124

10:30 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on S. 2068, to protect marine and near shore-coastal waters through establishment of regional marine research centers.
SD-406

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Land Management.
SD-116

APRIL 29

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Health and Human Services.
SD-138

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Personnel Management.
SD-192

MAY 9

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.
SD-124

MAY 10

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Education.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.
SD-124

MAY 11

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Compensatory Education for the Disadvantaged, School Improvement Programs, Impact Aid, Bilingual, Immigrant and Refugee Education, Education for the Handicapped, Rehabilitation Services and Handicapped Research, and Vocational and Adult Education.
SD-192

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Air Force military construction and family housing programs.
SD-124

MAY 12

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Student Financial Assistance, Guaranteed Student Loans, Higher Education, Higher Education Facilities Loans and Insurance, College Housing Loans, Howard University, Special Institutions (includes American Printing House for the Blind, National Technical Institute for the Deaf, and Gallaudet), Education Research and Statistics, and Libraries.
SD-192

10:00 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for trade activities of the Department of Commerce and the U.S. Trade Representative.
S-146, Capitol

MAY 17

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 18

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 19

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 24

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 25

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 26

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-138

JUNE 7

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

JUNE 8

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

JUNE 9

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

HOUSE OF REPRESENTATIVES—*Thursday, March 17, 1988*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Loving God, as You reach out to each person from the time of infancy to the last day, we pray that under the leading of Your hand we will walk in love and peace, and at each moment of testing Your blessing will be upon us. May we not be distracted by the evils of our world, but seek righteousness and justice, knowing that all good things will then be given to us. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

POINDEXTER AND NORTH: FALL GUYS

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, Adm. John Poindexter and Lt. Col. Oliver North are not criminals. They were carrying out the orders of the Commander in Chief for which they have been indicted by the special prosecutor for alleged crimes, but Poindexter and North are not criminals. They are victims, Mr. Speaker, victims of a Presidential policy of simple-minded deception of the Congress and the American people.

In plain talk, Poindexter and North are fall guys, fall guys of Ronald Reagan.

REPEAL FUEL TAX COLLECTION CHANGES

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, the Budget Reconciliation Act that passed the House in December changed the way fuel taxes are collected. Instead of being collected from the end user of the fuel, taxes are now charged when a wholesaler sells to a dealer.

This change is aimed at preventing loss of revenue due to fraud. Unfortunately, the change also forces farmers and others who are exempt from fuel taxes to first pay the tax, then collect a rebate later.

I have looked at the effects of the new law, Mr. Speaker, and it has become clear to me that the problems it causes—temporary loss of capital and burdensome paperwork—are worse than the problem it attempts to fix.

I suggest that we abandon this poorly thought-out change. Today I am introducing a bill that simply repeals the portion of the Budget Reconciliation Act dealing with fuel tax collection, reverting to the code as previously written. I urge my colleagues to join me in supporting the farm sector by supporting this repeal.

TURMOIL AND HEARTBREAK IN IRELAND

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, instead of happiness and celebration in Ireland on this St. Patrick's Day, there is turmoil and heartbreak.

Yesterday in Belfast as mourners stood at a funeral, they were pelted with grenades and fired upon. Relations between the British and Catholics in Northern Ireland have reached a new ebb.

Since the time of the Greeks and Romans warring parties have taken time out to bury their dead in peace.

Today, instead of rejoicing, Northern Ireland has more senseless deaths and a multitude of serious injuries. It is time for all those in positions of leadership on all sides to step forward and end this chaos and mayhem.

An eye for an eye has never solved a problem or resulted in peace; further escalation of violence and more senseless death will not bring peace to Northern Ireland.

Enough. Civil and religious leaders should renew their commitment to bringing an end to this senseless destruction. More violence is not the answer on this March 17, but rather our sympathy and our prayers for the injured and the families of the dead and renewed commitment to peace for their children.

SANDINISTAS SEEK CONSOLIDATION OF THEIR COMMUNIST REGIME IN NICARAGUA

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, to achieve peace in Central America, the Arias peace plan calls for reconciliation and a cease-fire and to "make dialog prevail over violence and reason over rancor." The House Democratic leadership has promoted the Arias peace plan as the salvation of Central America and it pressured the Sandinistas to take minimal actions in support of the Arias plan to help defeat military aid for the Contras.

Now, that there's no military aid for the Contras—or any kind of aid at all for the Contras—House Democratic leaders are trying to shift the focus and the blame for what's going on in Central America. The Sandinistas aren't seeking reconciliation, a cease-fire or dialog over violence, they're seeking the total defeat and surrender of the democratic resistance. They're seeking the consolidation of their Communist regime in Nicaragua and the defeat of democracy and freedom in Central America, and the Democratic leadership is trying to say it's not their fault. Well, they cannot escape the responsibility. They control this House; they make the rules; they have the votes; and they have to recognize the Sandinistas quite obviously aren't interested in giving peace a chance.

ONE STEP CLOSER TO INVADING NICARAGUA

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, Ollie North and John Poindexter didn't have such a bad day yesterday. While they were being indicted in a Washington courtroom, America took a step closer to invading Nicaragua.

Today, planes filled with 2,400 United States troops landed in Honduras while 800 more servicemen parachuted into that country. This is Olie North's and John Poindexter's fantasy world.

Foreign policy by parachute.

This policy is just as disorganized as the North-Poindexter fiasco.

At 7 last night the administration was saying it would not send troops, at 10 it announced it was sending them, and this morning the Pentagon chiefs are saying that they weren't even informed about the decision.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

This is not good strategy when our military leaders don't know where their troops are going. Today's headline reads "Troop Order Takes Pentagon Chiefs by Surprise."

Mr. Speaker, I think the American people are very suspicious.

Suspicious that the administration has seized the pretense of a border skirmish to send 3,200 troops to Honduras.

I think the American people are suspicious that just as the House of Representatives has moved away from intervention in Nicaragua, the administration has found this excuse to send troops to the region.

I heard the news called this a "golden opportunity" for the Reagan administration. a golden opportunity for what? A golden opportunity for bloodshed and panicked policymaking? A golden opportunity for America to become mired in the muck of military intervention?

Everyone says don't use the "V" word. Well, how can we simply forget history? America did inch its way into Vietnam without clear objectives. could this be another Tonkin Gulf?

HASTENING THE DAY OF AMERICAN MILITARY INVOLVEMENT IN NICARAGUA

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, we take no joy in having to send troops to Central America. As a matter of fact, I would like to remind my colleagues that this is precisely what we predicted would happen when the majority of this body cut off the aid to the Contras.

Our support for the aid was to enable people who wanted to fight for their own freedom to have the capability of doing that. We wanted to avoid the situation where we would have to send troops to Central America, but by cutting off that aid we hastened the day when American troops had to be sent to Central America.

It is very clear that right after the vote on February 3, Daniel Ortega made a decision. He made a decision to fight rather than negotiate. He fired Cardinal Obando y Bravo as mediator and began immediately to make plans to invade Honduras.

Mr. Speaker, now that this is now clear to all of us, is it not time to acknowledge the facts and to influence Daniel Ortega in the only way that he can be influenced, through pressure from the Contras?

It is time to help those who are willing to fight for themselves and for their own freedom rather than to send American troops to Central America.

DEPLOYMENT OF TROOPS TO HONDURAS

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, all of us should be concerned when this Nation deploys 3,200 troops to a sensitive area of conflict like Central America. For me it is a particular concern because it involves the soldiers and families of the Seventh Light Infantry Division stationed at Fort Ord in my district of California. There is no question that this Nation should respond when there is a legitimate threat to our security, but this action follows in the footprints of a haphazard policy in Central America that is virtually in shambles. It is mired in deceptions and lies and lack of diplomatic effort and almost single-minded emphasis on military responses and partisan political confrontation.

For these reasons it is difficult to know whether this is a legitimate security threat and response to that threat, or a political ploy to push for additional military aid to the Contras.

The only hope for resolving the conflict in Central America remains the effort of the five nations led by President Arias to find a negotiated settlement. In the middle of this effort for peace, it is wrong for the Contras, Nicaragua, or the United States to intervene militarily in other nations. The fear is that this deployment threatens not only greater military escalation but also the peace process itself.

REESTABLISHMENT OF THE NATIONAL BIPARTISAN COMMISSION ON CENTRAL AMERICA

(Mr. PURSELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PURSELL. Mr. Speaker, obviously there is concern over yesterday's announcement that more United States troops are being sent to Honduras.

However, I think we all would be in agreement the situation in Central America is getting worse and that it's time to look for a bipartisan approach to our policy.

Today along with my colleague from Pennsylvania, Mr. MURTHA, we will introduce a resolution calling for the reestablishment of the National Bipartisan Commission on Central America. This Commission would be modeled after the Kissinger Commission appointed in 1983 by President Reagan.

This bipartisan group would be charged with making recommendations regarding the nature of United States interests in Central America and assessing the threats now posed to those interests.

Based on its findings, the Commission would provide advice to the President and Congress on the key elements of a long-term bipartisan foreign policy.

Mr. Speaker, Mr. MURTHA and myself believe the time is right for a bipartisan initiative. I ask my colleagues to join with us in cosponsoring this resolution.

□ 1115

TROOPS IN HONDURAS

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, the President has undertaken a dangerous escalation in Central America by sending American troops to Honduras. This gross overreaction on the part of the President seriously undermines the ongoing Central American peace process and significantly raises the risk of direct American participation in the Contra war.

Two weeks ago today the administration argued against the Democratic plan for humanitarian Contra aid by insisting that the Department of Defense should not be involved in contracting for the delivery of Contra supply efforts. Today, with their lethal aid plan soundly defeated and former high administration officials under indictment for unlawful conduct, the administration has jumped at the opportunity to introduce American troops into the region. They will try anything, it seems, to have their way, including hypocrisy and deceit.

Incidents such as yesterday's along the Honduran border are inevitable so long as the Contra war continues. But President Reagan's decision to further militarize the region will do nothing to halt the cycle of violence. Instead, it sabotages the peace efforts and brings us ever closer to a Vietnam-style involvement in Nicaragua.

JOB ENHANCEMENT FOR FAMILIES ACT

(Mr. PETRI asked and was given permission to address the House for 1 minute.)

Mr. PETRI. Mr. Speaker, the purpose of the minimum wage is supposed to be to help low-skilled workers to support families. But, the minimum wage proposal now making its way to the floor threatens to destroy hundreds of thousands of entry-level jobs. This is a lousy way to help the working poor!

There's a better way.

I'm proposing a compromise $4 minimum wage, coupled with a reform of the earned income tax credit as contained in my proposal, the Job Enhancement For Families Act.

My compromise proposal would provide more help to the people who need it than would the current minimum wage bill.

And this compromise avoids most of the bad side effects of the committee bill—namely, the destruction of jobs, higher inflation, and higher welfare payments to those who get kicked out of work because they've been priced out of the job market.

I urge my colleagues to think about doing something to really help the working poor. Take a serious look at the numbers, and support a reasonable compromise.

SEPARATE FACT FROM FICTION IN CENTRAL AMERICA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, it is time to separate fact from fiction in Central America. The President said that Nicaragua has invaded Honduras. I believe the President is overreacting. In fact, I believe he is making another dramatic attempt to mislead this Congress so that we would send more money to the Contras who have not overthrown an outhouse and who do not even enjoy the support of the Nicaraguan people. In fact, they have to operate out of Honduras.

The bottom line is what can Congress believe. Elliot Abrams admitted in the Iran-Contra hearings he lied to Congress. Can we be lied to now just so we can continue to send money to a group of inept, so-called freedom fighters?

I say to the Congress we do not need another Gulf of Tonkin resolution, and Congress has to stick to its guns. We want the facts, Mr. President. This time we want the facts, not theatrics.

The Oscar Award stops here in Congress, not in Hollywood.

BY NOT SUPPORTING CONTRA AID UNITED STATES MUST RESORT TO TERMS OF BONIOR AMENDMENT

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute.)

Mr. DORNAN of California. Testing, testing.

Happy St. Patrick's Day, Mr. Speaker, and I know you would rather your name was O'Wright than Luis Rose, the one man who chose to leave the Alamo on May 5, 1836.

Mr. Speaker, you are going to have lunch today with our great Irish American President, and while you are dining, young boys and girls, fellow North Americans will be dying in Central America.

The former great orator, the gentleman from Ohio [Mr. TRAFICANT], says we are overreacting, but we are told by our intelligence sources that the Nicaragua resistance is surrounded. Don't you people listen to our CIA? Or do you prefer to believe what the Sandinistas tell you? Eurique Bermudez, the resistance commander, may be hung up by his heels with a sign "mercenary" hung on him by your friend Danny Ortega right now. That is a sight I do not want to see this weekend.

Here are the words of the Bonior amendment to the Democrat's referee package for the Contras which was voted down: It says, and I quote:

> A commitment to take appropriate military action if Nicaragua takes offensive military action against its neighbors or obtains a military capacity that directly threatens the United States.

The Communist Sandinistas are taking such action, but Mr. Bonior doesn't want to react. Now, we see that the Democrat package was really only window dressing.

The President's response is measured and correct, and I hope you pat him on the back at lunch today, Mr. Speaker, and say, "O'Reagan, O'Wright agree with you. Onward freedom in Central America."

WHITE HOUSE PLAYING POLITICS WITH AMERICAN AID

(Mr. MARKEY asked and was given permission to address the House for one minute).

Mr. MARKEY. Mr. Speaker, history teaches us to be skeptical of invasions of Honduras that follow administration defeats on Contra aid.

Two years ago, the White House lost the vote on the Contras, and within a week, the White House was screaming about a Nicaraguan invasion of Honduras, while the Honduran Government was saying there was no problem at all.

We would up sending boats to the Honduran Navy in response to a land incursion in the middle of Honduras.

It was hyped the last time. It is being hyped this time. It has more to do with American politics than it does with American security.

You have to wonder if President Reagan is sending the 82d Airborne south to divert attention from Oliver North.

The White House has been playing politics with American aid. They have been playing politics with the Contras, and now they are playing politics with American boys. That is wrong, Mr. President.

Oliver North and John Poindexter were just indicted for doing an end run around Congress, and they did not get their way on Contra aid. Well, Oliver North is gone, but his spirit lives on in the White House.

REPEAL OF WINDFALL PROFITS TAX

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, in a recent letter to House conferees, 50 House Members joined with me in urging repeal of the windfall profits tax in the final version of the trade bill.

We believe this provision is essential if we are to restore this vital domestic industry to a competitive position and enhance the Nation's energy security. This is truly one of the key trade issues. With U.S. domestic production falling by 4.5 percent last year at the same time that demand increased, our oil import bill contributed $42 billion to the trade deficit.

The windfall measure—which is mislabeled a tax on profits because it actually imposes taxes on production—is a disincentive to investment that has also failed to generate significant revenue. It is overly burdensome and has contributed to cutting in half the number of operating drilling rigs. No other industry has been singled out and forced to pay such high tax rates.

The repeal provision included in the Senate trade bill provides us with the opportunity to do something meaningful to give the oil and gas industry renewed incentive to explore for and produce more domestic fuel.

We must not be lulled into the complacency that was so costly during the 1970's. Again, I urge House and Senate conferees to end this burden and agree to repeal of the windfall profits tax.

CONTINUED TRAGEDY IN NORTH IRELAND

(Mr. DONNELLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONNELLY. Mr. Speaker, unfortunately it is with deep sadness and regret that we celebrate this St. Patrick's Day.

Once again, the weeks preceding St. Patrick's Day, have seen an outbreak of senseless killing that has added additional tragedy in north Ireland.

Yesterday's hand grenade attack into a crowd of mourners at a cemetery in Belfast, was a new low in the level of terror that is pervasive in Northern Ireland. More men, women, and children are victims of the mindless cycle of terror employed by those who oppose any and every step toward reconciliation.

I ask all those who care about Ireland to refrain from providing any assistance or support to this alliance of terror that stalks the land that we hold so dearly.

OPTIONS IN CENTRAL AMERICA

(Mr. McEWEN asked and was given permission to address the House for 1 minute.)

Mr. McEWEN. Mr. Speaker, when America's allies are overrun by Soviet gunships, we have three potential responses. No. 1 is to close our ears, close our eyes, wash our hands and ignore it. No. 2 is to send assistance to those fighting for their democratic freedoms. No. 3 is to use American troops to do it ourselves.

Mr. Speaker, the President used the second alternative very successfully. He brought the Sandinistas to the table and negotiations were about to take place. La Prenza was printing. Those in prisons were being released.

But yet on February 3 this Congress chose to deny him that option. Now we are left with two, to stand by and watch the helicopter gunships move into our democratic neighbors in Central America or do as the majority in this Congress supported on March 2, 1988, to "use United States policy toward Nicaragua to include a commitment to take appropriate military action if Nicaragua takes offensive military action against its neighbors."

The question is, Mr. Speaker, do you support standing aside and doing nothing or do you support sending troops? I believe neither option is advisable.

TROOPS IN CENTRAL AMERICA POLITICAL DECISION, NOT MILITARY

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, "this is a political decision, not a military decision," said one ranking Pentagon official. According to the Washington Post, White House orders late last night to send more than 3,200 United States troops to Honduras caught top Pentagon leaders by surprise and left several officials angry that they were not informed of the decision.

The entire decisionmaking process agitated officials at several levels of the Pentagon throughout the day. I repeat: "This is a political decision, not a military decision," said one of our officials.

Interestingly, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff were not even in town when this decision was made.

Mr. Speaker, I do not know whom to believe anymore. I do not believe Daniel Ortega and the Sandinistas who say it was not an invasion. The credibility gap on both sides is so wide that it is increasingly difficult for us who have to make decisions affecting people's lives to make honest judgments.

The time is now for bipartisanship, not recriminations. The time is now for unity, not politics.

INCREASING THE MINIMUM WAGE IS ANTICOMPETITIVE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, yesterday, the Committee on Education and Labor favorably reported an amended version of H.R. 1834, a bill to increase the minimum wage. Although the indexing provisions were dropped, the bill now calls for an increase in wage rate to $5.05 per hour by 1992.

Boosting the wage rate increases labor costs and, therefore, the costs of production. Unless these increases are tied to increases in productivity, they contribute to rising inflation and a loss of competitiveness with foreign countries.

With the current emphasis in Congress toward fostering America's competitiveness, this is not the time to saddle American industry with another Federal mandate. Our Nation is already experiencing difficulty competing with foreign countries whose wage rates are substantially lower than ours.

Upon the 50th anniversary of the Fair Labor Standards Act, Congress should take a fresh look at the economic and social costs of increasing the minimum wage. There are alternatives which do not further erode our competitiveness. I urge my colleagues to take a look at them. We cannot afford to export more jobs overseas.

PEACE IN CENTRAL AMERICA

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, do you remember the original rationale for aiding the Contras? I do. The original rationale was to interdict arms from Nicaragua to El Salvador.

When that rationale did not work, do you remember what the second was? It was to aid the Contras so that they could facilitate the peace process.

Remember the third rationale? The third rationale and the one that we see so boldly reached before us today is to get rid of the Government of Nicaragua. President Reagan has been very candid about this process, even though his policies have taken many twists and turns. He wants the Government of Nicaragua removed, and by hook or by crook or American soldiers he intends to see that accomplished.

Mr. Speaker, we have an opportunity here to restrain ourselves. We must restrain ourselves and so must Daniel Ortega. The next couple of days will really make a big difference because now we can keep the peace talks focused on a cease-fire. Ortega will have to withdraw and so will we if peace is to be given a chance in Central America.

□ 1130

ON THE 15TH ANNIVERSARY OF SENATOR JOHN McCAIN'S RELEASE FROM PRISON IN NORTH VIETNAM AND HIS RETURN TO THE UNITED STATES

(Mr. RIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIDGE. Mr. Speaker, I rise today to honor one of our most distinguished former colleagues, my friend and now Senator, JOHN MCCAIN. On this day 15 years ago, JOHN MCCAIN returned to the United States after spending 5½ grueling years in a North Vietnamese prison.

On October 29, 1967, JOHN MCCAIN, at 31 years of age, was on his 23d flying mission over Hanoi when a hit from a Russian missile forced him to eject from his crippled Skyhawk. He ejected, was knocked unconscious, his leg was broken at the knee, his left arm was pulled from its socket and his right arm was broken in three places. His captors slammed a rifle butt down on his left shoulder and bayoneted his foot and groin area. This started an odyssey of 5½ years of solitary confinement and torture for JOHN MCCAIN. The Vietnamese unsuccessfully tried to exploit JOHN MCCAIN because of his relationship with his father, Adm. John McCain, commander of aircraft carriers in the Pacific during World War II. Throughout this ordeal, JOHN MCCAIN remained a patriot, a hero, a source of pride for all servicemen in Vietnam.

On March 15, 1973 JOHN MCCAIN was released from prison, 2 months after the signing of the Paris peace accords. On March 17, he returned home.

Since his release JOHN MCCAIN continued his service to his country, first in the Navy and then in the House and now in the Senate.

He is living testimony to the valor and heroism of American servicemen and women of all wars, but particularly the 3 million who served in Vietnam.

He is living proof that many Americans believe freedom is worth fighting for.

VIOLENCE WILL BE MET BY VIOLENCE IN CENTRAL AMERICA

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, yesterday supporters of the President's Central American policy repeated their tired time worn assertions that those of us who oppose aid to the Contras support Daniel Ortega and that we are responsible for losing Nicaragua to the Communists.

In response, I want to set out two simple facts to clear up the confusion in those Members' minds.

First, those of us who oppose aid to the Contras do so because we believe the Contra leadership is no more dedicated to meeting the legitimate aspirations of the Nicaraguan people for a democratic government than the Sandinistas.

Second, the cause of events in Nicaragua today is the excess of the despotic regime of Anastasio Somoza. Somoza, not any Member of this body, lost Nicaragua to the Communists.

Mr. Speaker, before Members on the other side of the aisle reflexively applaud the President's decision to send American boys to Honduras, I hope they will take note of a geopolitical law of nature that is evidencing itself around the world from Northern Ireland to the Middle East to South Africa.

Every act of violence will be met by an equal and opposing act of violence.

Before they go any farther in involving our troops in Central America, the President and his supporters should carefully assess the implications in terms of American lives at stake and the long-run damage intervention would do to our foreign policy interests in this hemisphere and abroad.

THE CENTRAL AMERICAN PRESIDENTS DO NOT WANT THE SAME GOAL THAT WE HAVE

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, my very good friend from California who took the well a few moments ago and talked about how he proudly represents Fort Ord said that our involvement in Central America and the fact that the troops have been deployed to Honduras jeopardizes the Arias peace plan.

Yet Mr. Speaker, it was this morning that President Oscar Arias said that the most reprehensible thing that has developed has been Nicaragua's incursion into Honduras. He in no way condemned the plan that President Reagan launched last night and it is really unfortunate. And I have said it about four times down here that the four democratically elected Central American Presidents do not have the same goal that we have, Mr. Speaker. They do not want us to fund the Contras so that we will send in U.S. troops. That is what they want.

They have said it time and time again. Mr. Arias has said it in the past, and he now has condemned the Nicaraguan incursion into Honduras for just what reason, so that there will be United States involvement.

We know full well that this statement has been read several times. Why is it that Members on the other side of the aisle are condemning what was done last night when their proposal read "a commitment to take appropriate military action if Nicaragua takes offensive military action against its neighbors or obtains the military capacity that directly threatens the United States."

That is just what happened, and that is exactly what we should be doing now.

THESE DEMOCRATS HAVE VOTED FOR "A COMMITMENT TO TAKE APPROPRIATE MILITARY ACTION"

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, we should not be surprised, I guess, when the left wing of the Democratic Party comes to the floor and justifies the Communist invasion of Honduras and blames America instead. We should not be surprised, except that some of these same folks voted just the other day for what was virtually a Gulf of Tonkin resolution. Mr. WEISS, Mr. RICHARDSON, Mr. SCHUMER, Mr. DOWNEY, Mr. PANETTA, Mr. MARKEY, all of whom have spoken on the floor today, voted for language which said, and I quote: "a commitment to take appropriate action if Nicaragua takes offensive military action against its neighbors."

But the thing is, they voted for it but they did not really mean it, it was an attempt to sound tough about dealing with the Communists without really doing anything.

Today we find out their real position. Their real position, that of the American left, is that the Communist invasion of their neighbors is acceptable. Some speakers here today have called it a relatively minor matter. The anti-Communist forces in Nicaragua were stopping this kind of invasion. The anti-Communist forces in Nicaragua were stopping this kind of invasion and were keeping us from having to deploy American forces. When we stopped helping the anti-Communist forces in Nicaragua, we produced a tragedy.

THE ACTION ON THE HONDURAN-NICARAGUAN BORDER WAS INEVITABLE WHEN CONGRESS DECIDED TO VOTE NO MORE MILITARY ASSISTANCE TO THE CONTRAS

(Mr. DEWINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEWINE. Mr. Speaker, there has been talk about the 3,200 United States troops going to Honduras. But frankly, what is significant is what is going on along the border. What is going on along the border was inevitable. It was inevitable. It was inevitable once this Congress decided to vote no more military assistance to the Contras. It is predictable, it was inevitable, it is tragic.

What we are seeing is that the Communists are engaged in a final wipe-up operation of the Contras. They have crossed over into Honduras to kill the Contras, they have crossed over to get the last military materiel that the United States was able, under the old law, to deliver. So, yes, this is the end or nearing the end, unless this Congress changes its position and changes its mind.

And let there be no doubt where the responsibility for what is going on in Central America, where that responsibility lies; it lies with the those in this Congress who refused to vote for additional funds for the Contras.

It is inevitable, it is tragic, and yes, there may be eventually peace in Nicaragua, but it will be the peace of communism, it will be that dull, drab peace of a poor economy, it will be the peace of a Cuba.

WE MADE THE DECISIONS, WE HAVE TO ACCEPT THE CONSEQUENCES

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, if we will recall a few years ago the criticism of the Contras uttered on this floor was they were ineffective, there were too few of them, there is no way they could mount a real offensive to bring any real pressure to bear on the Sandinistas.

As they became more successful, as they began to increase in their numbers, the criticism was that they might be too effective and we ought to be concerned about that.

As the Sandinistas came grudgingly to the bargaining table and as the Contras continued to increase and become more effective, the debate that raged in this House was, was it the proper thing for us to support them?

We made decisions here on the floor—I am not going to question the reason why we did anything—but we made decisions and we have to accept the consequences.

The consequences are that we gave a very strong indication in the last couple of weeks that we are willing to send bread and mashed potatoes to the Contras but not willing to give them continued military support.

I ask you, Mr. Speaker, how we expect that they were going to stop tanks and artillery and other people with guns, with food? Did we really think that was going to be the case?

Now we have the situation in which there is evidence that the Sandinistas have moved on into the Honduran area. The question is, what are we going to do about it?

The question still is here; the answer is for us to give. Let us hope it is an answer for peace with honor and liberty.

THERE IS NO TRUTH TO THE RUMOR

(Mr. JACOBS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JACOBS. Mr. Speaker, to the best of my knowledge, there is no truth to the rumor that the Sandinistas have demanded that President Reagan negotiate with Walter Mondale.

I yield back the balance of my time.

PRIVILEGES OF THE HOUSE—BROADCAST COVERAGE OF HOUSE PROCEEDINGS

Mrs. MARTIN of Illinois. Mr. Speaker, I rise to a question of the privileges of the House pursuant to rule IX of the rules of the House, and I have a resolution at the desk and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 406

Whereas, the broadcast coverage of House proceedings affects the dignity, decorum and integrity of those proceedings; and

Whereas, House Rule I, clause 9(b) requires the "complete and unedited audio and visual broadcasting" of House proceedings; and

Whereas, the Speaker held on April 30, 1985, that H. Res. 150, directing the Speaker to "provide for the audio and visual broadcast coverage of the Chamber while Members are voting," raised a legitimate question of the privileges of the House (House Rules & Manual, 100th Congress, § 662); and

Whereas, on Wednesday, March 16, 1988, the audio broadcast coverage of House proceedings was terminated during a Member's spoken remarks while the audio system in the Chamber continued to operate; and

Whereas, such termination of audio broadcast coverage violates the provision of clause 9(b)(1) of House Rule I requiring "complete and unedited audio and visual broadcasting of House proceedings: Now, therefore, be it

Resolved, The Speaker is hereby directed to take such steps as are necessary to ensure future compliance with House Rule I, clause 9(b) that the audio and visual broadcast coverage of House proceedings not be interrupted, including instructions to any Members acting as Speaker pro tempore, and any officers or employees of the House involved with the broadcast system, and the implementation of any necessary safeguards to prevent the termination of such coverage.

The SPEAKER. The Chair believes that the resolution offered by the gentlewoman from Illinois [Mrs. MARTIN] does constitute a question of the privileges of the House under the precedents cited in the preamble of the resolution since it directs compliance with clause 9(a)1 of rule I, which requires complete and unedited broadcast coverage of the proceedings of the House.

Therefore, the gentlewoman from Illinois [Mrs. MARTIN] is recognized for 1 hour.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we thank you and thank the Chair for recognizing how appropriate and necessary such a discussion is today, which we hope can be relatively brief.

Yesterday, events occurred which, to put the best face on it, were less than desirable for Members of the House from either party. It was the deeply held and felt belief of many Members, and again on this side of the aisle, but we think joined by others, that as we move into this new technological age and as we attempt, in effect, to have the House's deliberations as open as possible to the public whom we serve and represent, that if the Chair, for whatever reason, cut that discussion so that America cannot see what is happening on the House floor, indeed we have a real problem.

Yesterday's instance could be, although we accept that it was accidental, the beginnings, if someone were ever in the chair who chose to behave in a way not appropriate to a speaker and, indeed, each Member would have no recourse, and the people whose interests we must serve and whose interests must come first, would be sadly misrepresented.

That is the purpose of this. It is not done in the spirit of either spite, but in a spirit of moving forward so that even when we may wish that America would not see us, that we recognize America has the right to see us and to hear us.

And that is the purpose of this resolution.

Mr. FOLEY. Mr. Speaker, will the gentlewoman from Illinois yield to me?

Mrs. MARTIN of Illinois. If I may, for purposes of debate only and since I know the microphones are on, a Happy St. Patrick's Day wish to the gentleman from Washington, I will certainly yield to him.

Mr. FOLEY. I thank the gentlewoman for her good wishes.

Mr. Speaker, we have no objection to the adoption of the resolution on this side, but I think it is important to note as well that while the American people certainly have the right to see whatever occurs on the floor of the House during the legislative session of the House, it is also incumbent on all Members of the House on both sides of the aisle to observe the rules of the House and to observe good order and decorum. And without attempting to characterize the events of yesterday, it is clear that under the traditions and rules of the House, Members who proceed out of order after their time has expired or proceed when not properly recognized by the Chair are not in good order and are not debating in the spirit of the rules of the House.

□ 1145

That also must have our bipartisan disapproval. When Speaker O'Neill, on the occasion of the beginning of radio and television broadcasting in the House of Representatives, on June 8 and June 14, 1978, welcomed the opportunity for that coverage to occur, he cautioned all the Members of the House on both sides of the aisle that they should seek proper recognition and assure proper decorum. As the gentlewoman has said, the American people have the right under our rules to see what occurs on the House floor. We hope that Members on both sides of the aisle will behave in a way that indicates that they are observing good order and decorum, that they are responding to the rulings of the Chair, and that they are also observing the rules that proper debate cannot take place in the House when the time allotted to the Member has expired or the Member is acting in contravention to the proper rulings of the Chair.

Mr. GREGG. Mr. Speaker, will the gentlewoman yield?

Mrs. MARTIN of Illinois. I am happy to yield to the gentleman from New Hampshire.

Mr. GREGG. Mr. Speaker, having been involved in the process which raised this issue yesterday, I congratulate the gentlewoman for continuing the question and raising this point of privilege and asking for this resolution.

I respect the majority leader's decision to support this resolution. I think that that is very appropriate, and the action of the majority side on this issue obviously sets the matter to rest. But I do think the question of yesterday was a question of where the issue of enforcement of decorum stops and where the issue of initiation of censorship begins. Yesterday I believe that the action which occurred relative to the Representative from California really did not involve the question of decorum but rested more on the issue of censorship. It was an error in judgment, in my opinion, and I think it is an error we all regret, but I think it is one that we can all agree results in more comity in the House.

Mrs. MARTIN of Illinois. Mr. Speaker, I thank the gentleman from New Hampshire not just for his statement today, but the gentleman from New Hampshire comes from that heritage of free speech and town meetings, and he was quick to carefully note how important that was on the House floor.

Mr. WALKER. Mr. Speaker, will the gentlewoman yield?

Mrs. MARTIN of Illinois. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentlewoman for yielding. I, like the gentleman from New Hampshire, was directly involved in the events of yesterday, and in fact at one point I offered a resolution roughly similar to what the gentlewoman brings to the floor today that was ultimately ruled out of order by the Chair.

It was a hastily drafted resolution, but it seems to me that it raised exactly the same questions the gentlewoman is raising here today. We had a vote not to sustain my position yesterday. I am glad the gentlewoman has been able to bring to the floor a resolution that deals with this matter that hopefully is going to pass because it is a very fundamental question, and the only difference I would have with what the majority leader said a few moments ago is the fact that a part of that also has to be a fundamental fairness on the part of the Chair with regard to these matters because what we in the minority feel is unfair at times is that when there are Members making partisan statements against the minority, they seem to get a stretch of time on some of these time allocations. When there are statements being made from our side which may be admittedly partisan, the time seems to be very carefully monitored.

Mr. Speaker, what we would ask is just fundamental fairness in all of this to assure that everybody lives under the same rules and there are not some rules for the majority and some rules for the minority. I think with that understanding that we could have the kind of decorum in the body that is necessary for the legislative process to go forward.

Mrs. MARTIN of Illinois. Mr. Speaker, I thank the gentleman.

I must say we freely copied and give you pride of authorship on this, and may I say on that point of fairness that it seems, I think, appropriate from our side, whether it would be this gentlewoman in the chair or another Member of the leadership, when we get the chair, we promise to be fair to the other side of the aisle and, in fact, to treat them in the way we know they should be treated.

Mr. LUNGREN. Mr. Speaker, will the gentlewoman yield?

Mrs. MARTIN of Illinois. I would be happy to yield to the gentleman from California.

Mr. LUNGREN. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, one of the things I think we should always remind ourselves is that we serve here at the pleasure of the people.

Being from California, recognizing that many of my constituents, particularly my young constituents, are not able to get to the Nation's Capital, as is the case with many people from this side of the continent, I have always viewed television as basically expanding the galleries of the House. That is people from California and other parts of the United States can see what is happening without the price of a ticket of flying here.

The problem with using the microphone as a weapon within our debates is that it really does not punish us; it punishes our constituents. To turn the microphone off is the same as immediately throwing every single person out of the galleries who is here so they cannot hear, or in another case see what is happening here, and even though we may have ways of establishing decorum in the House at the discretion of the Chair, I think it is valuable for us to recognize that using the microphone as a means of doing that does not really affect decorum here. What it does is it blacks out what is happening here for the people of the Nation.

Mr. Speaker, that is the last thing that we would ever want to do.

Mrs. MARTIN of Illinois. Mr. Speaker, I thank the gentleman, and I assure the majority leader that there is no question that all must obey the rules, and this is not an abridgment of the power of the Speaker, but a shared reflection of the power of the people.

Mr. MURTHA. Mr. Speaker, will the gentlewoman yield?

Mrs. MARTIN of Illinois. Mr. Speaker, I am happy to yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Speaker, as one who has presided over floor, I just want to relate the difficulty I had. It is not only on your side of the aisle, but on this side of the aisle where Members criticize the Chair for cutting them off, and I certainly try, as I think do most Speaker pro tempores, in giving everybody an opportunity to finish their thought, but it goes beyond that when a person obviously is violating the rules and you have no alternative except to forceably remove the person.

So, you have a difficult decision to make. You try to end the thing as expeditiously as you can, and, as one who was not for televising the proceedings of the House in the first place, I saw the danger of playing to the gallery rather than talking to the people on the floor of the House.

But at any rate, I think, if you look and keep track of the record, you will find that the Chair in most cases lets people go beyond the 1 minute, and, if they have something to say, if they mention it to the Chair, they usually get as much time as they need within reason.

So, we have to have some respect. If everybody went just a minute long and we had 435 Members speaking, you could imagine how long it would take us to finish our proceedings. So I understand and agree that we have to follow the rules very closely and also understand what the gentlewoman is saying about the ability of the Chair to cut somebody off.

So, Mr. Speaker, I appreciate very much what she is doing and support her resolution.

Mrs. MARTIN of Illinois. Mr. Speaker, I thank the gentleman from Pennsylvania whose presence in the Chair is welcomed by this side of the aisle and whose fairness, and even though we gush about each other a little too much on the floor, let me say that the gentleman is a good Chair.

I will say, however, considering how difficult it is for the gentlemen and this side, this side is willing to take this pressure on its shoulders, if need be, and assume the Chair, if that would be appropriate. This is done, as I think and I hope the audience can see, in the kind of spirit that should always rule this House.

Last night, Mr. Speaker, I had the opportunity to be with a former Member of the other body, Eugene McCarthy, who talked about the speakership and how a Speaker is not of one party or the other, but must represent the House. That is true whether it is a temporary or the elected Speaker. This resolution is merely to enforce that which we know any good Speaker would want and has done so in a bipartisan way.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 381, not voting 51, as follows:

[Roll No. 34]

YEAS—381

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Moakley
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Murtha
Myers
Nagle
Natcher
Neal
Nichols
Nielson
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (NC)
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Studds
Stump
Sundquist
Sweeney
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—51

Aspin
AuCoin
Badham
Baker
Berman
Biaggi
Bonker
Boulter
Boxer
Campbell
Clay
Clinger
Conyers
Dannemeyer
DeFazio
Dixon
Flake
Florio
Ford (TN)
Gephardt
Gibbons
Gilman
Gray (IL)
Hammerschmidt
Ireland
Kemp
Kleczka
Kolter
Konnyu
Latta
Lewis (FL)
Lightfoot
Lipinski
Lujan
Mack
Mica
Mineta
Molinari
Mollohan
Mrazek
Murphy
Nelson
Obey
Price (IL)
Pursell
Savage
Sharp
Slattery
Stratton
Swift
Wortley

☐ 1215

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 390

Mr. DAUB. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Joint Resolution 390.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Nebraska?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL NOON, FRIDAY, MARCH 18, 1988, TO FILE SEVERAL REPORTS

Mr. FRANK. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be extended until noon on Friday, March 18, 1988, to file reports on three bills that will be on the calendar on Monday: House Joint Resolution 480, H.R. 1259, and S. 1397.

Mr. Speaker, this has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISASTER RELIEF AND EMERGENCY ASSISTANCE AMENDMENTS OF 1988

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 403 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 403

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2707) to amend the Disaster Relief Act of 1974 to provide for more effective assistance in response to major disasters and emergencies, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with the provisions of clause 2(l)(6) of rule XI and clause 7 of rule XIII are hereby waived. After general debate, which shall be confined to the bill and to the substitute made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered by titles instead of by sections, each title shall be considered as having been read, and all points of order against and substitute for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. It shall be in order to consider the amendments en bloc printed in the report of the Committee on Rules accompanying this resolution, said amendments shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, and all points of order against said amendments for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The **SPEAKER** pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes for purposes of debate only to the gentleman from Missouri [Mr. TAYLOR], and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 403 is the rule providing for consideration of H.R. 2707, the Disaster Relief and Emergency Assistance Amendments of 1988. It is an open rule, providing for 1 hour of debate to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Public Works and Transportation.

The rule waives clause (2)(1)(6) of rule XI, which requires a 3-day layover after a bill is reported from committee. Because H.R. 2707 was reported just 2 days ago, this waiver is needed to allow the consideration of this bill on the floor of the House of Representatives today. It also waives clause 7 of rule XIII, which requires a cost estimate to be included in the committee report. Although the Public Works Committee's estimate of the cost of H.R. 2707 was not prepared in time to be included in the accompanying report, the committee has since made it available.

The rule makes in order the Public Works Committee's amendment in the nature of a substitute, now printed in the bill, as original text for the purpose of amendment; and, it provides that the substitute will be considered by title, rather than by section. The rule waives clause 7 of rule XVI, which prohibits nongermane amendments, against the substitute. This germaneness waiver is needed because the committee-approved substitute is broader than the bill as introduced.

The rule also makes in order the amendments en bloc which are printed in the report accompanying this resolution, and it also waives clause 7 of rule XVI, the germaneness rule, against these en bloc amendments. These amendments are not subject to a demand for a division of the question in the House or in the Committee of the Whole. The Rules Committee provided the germaneness waiver at the request of the Public Works Committee as a way of allowing more expeditious consideration of this bill.

Finally, the rule provides for one motion to recommit, with or without instructions.

H.R. 2707, the bill for which the Rules Committee has recommended this rule, will provide for more effective Federal assistance in cases of disasters and emergencies. It also authorizes a new program of grants to Great Lakes-area States for assistance to owners of properties threatened by erosion or flooding, and it increases the authorization for the New York Harbor driftwood removal project.

Mr. Speaker, to summarize, House Resolution 403 is an open rule which includes the waivers needed to allow us to consider this important bill today.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 403 is an open rule under which the House will consider a bipartisan initiative to reorganize the Disaster and Emergency Relief Program operated by the Federal Emergency Preparedness Agency.

The bill made in order by the rule, H.R. 2707, improves the way the Federal Government will respond to major disasters and emergencies and creates a stronger partnership among Federal, State, and local governments who bear the brunt of helping our citizens following hurricanes, tornadoes, storms, and floods.

Mr. Speaker, the rule waives the requirements in clause 2 of rule 11 that the bill lay over for 3 days before being brought up for consideration. The majority leadership has scheduled the bill for today, and the Rules Committee acted upon that schedule.

The rule makes in order a substitute reported from the Committee on Public Works and Transportation, and waives clause 7 of rule 13 against the committee report. The waiver is included because the committee did not have enough time to obtain a Congressional Budget Office cost estimate, which is required by the rules of the House.

The committee substitute, which is now printed in the bill, will be the text for amendment under the 5-minute rule. The committee report is now available, and the CBO letter outlining the estimated cost is also now available.

Mr. Speaker, the rule also waives clause 7 of rule 16 for the committee substitute, because the Committee on Public Works adopted amendments that are nongermane to the bill as introduced by the gentleman from Pennsylvania [Mr. RIDGE].

Mr. Speaker, the rule also makes in order a specified group of committee amendments, which are printed in the Rules Committee report accompanying House Resolution 403.

The committee amendments, which were presented to the Rules Committee during our hearing yesterday, will be considered en bloc and are not subject to a demand for a division in the House or in the Committee of the Whole.

Mr. Speaker, the rule also provides a waiver of clause 7 of rule 16 against the committee amendments, since they are likewise not germane to the bill.

Mr. Speaker, the various waivers in this rule are ample evidence of the kind of difficulties the House has in setting a schedule and holding to it, especially when legislative committees are unable to meet and report bills in accordance with the rules of the House.

I mention this point to underscore that there is no reason to oppose this rule, since the Committee on Public Works and Transportation does not have the ability to decide when its legislation will be brought to the floor.

Mr. Speaker, the Committee on Public Works has reported a three-title bill designed to broaden eligibility of local and State governments for Federal disaster relief, that includes special circumstance funding for flooding in the area around the Great Lakes, as well as an increase in the authorization for drift removal in the New York Harbor.

There is no controversy about the bill, and there is little quarrel about the need for the legislation.

Mr. Speaker, I support this rule and I urge it be adopted.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I guess my concern is that we are now in one of those areas where we do not seem to have any enforcement powers, but that which we are doing has really serious consequences.

There was a bipartisan agreement about how we were going to deal with budget matters that was arrived at last year. It was done by the Congress and by the administration. It was an attempt to make certain that as we dealt with legislation that we would deal with it in a format that assured that everybody agreed to the spending levels involved.

What we now have is a bill which the administration says very clearly would violate the budget agreement and would result in substantial increases in Federal disaster relief expenditures.

I suppose that if we want to break the bipartisan agreement the first time, one of the best ways to do it is to do it in disaster relief. That sounds very innocuous and everybody ought to be for putting additional disaster relief money in. But the problem is having broken it once we will open the flood gates for additional violations of that which I thought we had locked in last year, and we are now going through a budget process in the committee which has not yet been completed, but yet here we are.

Let us understand what we are doing when we are busting the budget agreement. We are not purely acting in the area of disaster relief, the nice title that goes with this bill. We are in fact putting provisions in this bill to protect vacation homes along the Great Lakes. Those are probably homes owned by people who can well afford to do something themselves, but now the Federal taxpayers are going to help bail out people along the Great Lakes who have vacation homes.

We have also added $25 million to clean up driftwood in the New York Harbor. I would suggest that that is not exactly something that fits into the disaster relief title of this bill.

So here we are adding millions of dollars of additional funding that is nondisaster relief, and doing so in ways that violate the bipartisan budget agreement.

We ought not waive the Budget Act. In this case we do not waive the Budget Act, but we are providing waivers that will cause problems. We ought not do it.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, we have no requests for time, but I just take a moment to point out, as the gentleman from Pennsylvania [Mr. WALKER] finally did, there is no waiver of the Budget Act involved here.

Mr. Speaker, I yield back the balance of my time and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 403 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2707.

The Chair designates the gentleman from Oklahoma [Mr. MCCURDY] as Chairman of the Committee of the Whole, and requests the gentleman from California [Mr. BEILENSON] to assume the chair temporarily.

□ 1229

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2707) to amend the Disaster Relief Act of 1974 to provide for more effective assistance in response to major disasters and emergencies, and for other purposes, with Mr. BEILENSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey [Mr. HOWARD] will be recognized for 30 minutes, and the gentleman from Minnesota [Mr. STANGELAND] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HOWARD].

Mr. HOWARD. Mr. Chairman, I yield myself such time as I may consume.

□ 1230

Mr. Chairman, H.R. 2707, the Major Disaster Relief and Emergency Assistance Amendments of 1987, reported without objection by the Committee on Public Works and Transportation, is an important bill. It will enable federal officials to work with their State and local counterparts to prepare an effective Federal response to disasters and emergencies caused by natural catastrophies.

It will also provide assistance to Great Lakes Homeowners faced with the problem of shore erosion.

The committee bill revises the Disaster Relief Act of 1974 to improve the delivery of Federal assistance to State and local governments that have been victimized by disasters. This is the first major revision of the program since 1974.

Many members are aware of problems with the administration of the disaster relief program by the Federal Emergency Management Agency. There have been many complaints about the Agency's response to local need during disasters.

The concerns about the program became especially widespread 2 years ago when FEMA proposed cutbacks in the program that would have reduced Federal disaster assistance despite the expressed intent of Congress. This bill ensures that those changes in policy cannot be made by administrative action.

H.R. 2707 has strong bipartisan support. The disaster relief title closely follows the bill introduced by the gentleman from Pennsylvania [Mr. RIDGE] which had more than 100 cosponsors.

Many members have made significant contributions to the legislation we are bringing before the House today. The chairman of the Subcommittee on Water Resources, Mr. NOWAK, has devoted a great deal of effort to its development. The gentleman from Arkansas [Mr. HAMMERSCHMIDT] the ranking Republican member of the committee and the gentleman from Minnesota [Mr. STANGELAND] the ranking Republican member of the Subcommittee on Water Resources, deserve much of the credit as do the chairman of the Subcommittee on Investigations and Oversight, the gentleman from Minnesota [Mr. OBERSTAR] and the ranking Republican member of the Subcommittee, the gentleman from Pennsylvania [Mr. CLINGER].

Title I of the substitute maintains the Federal share at 75 percent for major disasters and 100 percent for emergencies to prevent implementation of FEMA's proposal to reduce it to 50 percent. It also prohibits the use of mathematical sliding scales such as the one proposed by FEMA in 1986 which would have discriminated against large population States such as California, New York, and New Jersey.

Title II deals with the very important problem of shore erosion on the Great Lakes. The gentleman from New York and other members of the committee have been working on this issue for several years and have produced a program that will provide much needed protection for shorefront homeowners.

Title III is very important to the New Jersey-New York region. This provision raises the cap on appropriations for the harbor driftwood collection project from $30.5 to $55 million to allow continuation of the project.

The project was first authorized in 1974 to remove the many rotting timbers that are floating in the area waters. Most of these have broken off from the numerous abandoned piers that dot the shoreline.

Unfortunately, this worthwhile effort is only about half completed and the authorization cap has been reached. The project involves a low level of spending annually but pays great dividends in terms of the elimination of safety hazards in the area.

The floating logs threaten boaters, fishermen, and swimmers in the waters off the New Jersey shore. Last year, two young children were struck by floating logs and seriously injured while swimming in the ocean off Mantoloking in my district.

The driftwood collection program operated by the Corps of Engineers is not a high visibility program but it is an important safety and environmental project. It has a high level of non-Federal cost-sharing totalling about 65 percent of the overall project cost. It is a key to the effort to reclaiming our shoreline and to providing protection from the threat of submerged logs in the ocean.

Mr. Chairman, this legislation is designed to provide help for people when they need it the most, at the time of disasters and emergencies. It will help get that assistance there in a more timely and effective manner. I urge my colleagues to support the Public Works and Transportation Committee bill.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. NOWAK], the chairman of the Subcommittee on

Water Resources of the Committee on Public Works and Transportation.

Mr. NOWAK. I thank the gentleman for yielding time to me.

Mr. Chairman, I am pleased to speak on behalf of the bill H.R. 2707 and urge its prompt passage by the House of Representatives. This bill amends the Disaster Relief Act of 1974. It represents the first major revision of this act since that time. It provides for a more efficient and orderly Federal response to assist the citizens of this country, when they have been devastated by catastrophe.

Mr. Chairman, I would also like to thank the many Members who have made significant contributions to forming this legislation, and bringing it to the floor today. These include, of course, my chairman, JAMES J. HOWARD of New Jersey, and the ranking Republican member of the committee, JOHN PAUL HAMMERSCHMIDT, and the ranking Republican member of the subcommittee, ARLAN STANGELAND. I would also like to acknowledge the work of Congressman TOM RIDGE of Pennsylvania, and the work of the chairman and ranking Republican member of our Subcommittee on Investigations and Oversight, Mr. JAMES OBERSTAR and WILLIAM F. CLINGER.

The Disaster Relief Act of 1974 provides assistance for disasters, where substantial efforts are needed to repair and restore facilities and provide housing and other assistance to individuals, and for emergencies, where a lesser level of assistance is needed to save lives and protect health and property.

The Disaster Relief Program is well established and well regarded, and generally has performed well in assisting State and local governments and individuals in overcoming the damage and hardships resulting from disasters.

The program provides three basic categories of assistance:

First, activities immediately following a disaster or emergency to save lives and protect public health and property, including search and rescue, distribution of food and medical supplies, and reestablishment of transportation and communications;

Second, helping State and local governments, and owners of certain "private nonprofit" facilities repair, restore and replace damaged and destroyed facilities, such as roads, schools, and hospitals; and,

Third, helping individuals and families with grants, temporary housing, and unemployment assistance.

The bill reported by the committee contains three titles. Title I is a modified version of H.R. 2707, differing mainly in style, with few substantive changes. Title II establishes a program of assistance to homeowners and local governments for erosion and flooding damages caused by high water levels in the Great Lakes. Title III increases the authorization for the ongoing project for removal of drift and debris in New York Harbor.

Title I contains a number of amendments to the Disaster Relief Program designed to assure consistency in the types of assistance provided and to make it more responsive to the needs of communities and individuals.

These include:

Modifications to the definitions of disaster and emergency to better delineate the differences between the two situations and the types of assistance available;

Establishment of the Federal share at 100 percent for emergencies and not less than 75 percent for disasters;

A provision for the Federal Government to advance the non-Federal share, and for forgiveness of repayment in extreme circumstances;

A prohibition on the use of a sliding scale or arithmetic formula to deny relief to a particular geographic area;

Federal assistance for mitigation measures to reduce the risk of future damage; and,

Improvements in temporary housing, individual and family grants, delivery of assistance, and disaster preparedness assistance.

Title II authorizes a program of grants to the Great Lakes States to enable the States to make payments to reduce interest not more than 5 percent on loans not to exceed $25,000 to elevate, relocate, floodproof or protect a home. A State may also make payments to reduce interest not more than 5 percent on loans not to exceed $300,000, and make grants not to exceed $200,000, to local governments for the repair, restoration, replacement, relocations and protection of public facilities. State and local governments would have to enact and enforce 30 year erosion setback requirements for new construction. A State share of 30 percent is required.

This title will reduce the amount of Federal disaster assistance that might otherwise have been incurred in the future in the Great Lakes by helping to move structures out of the danger area and preventing new construction in the erosion or flood-prone areas. It may also reduce expenses under the National Flood Insurance Act which gives FEMA authority to purchase homes in circumstances where they have been severely or repeatedly damaged by flooding. In short, this new program should more than pay for itself in economical and ecological benefits over time.

Title III increases the authorization ceiling on the New York Harbor drift removal project to $55,000,000, to enable completion of the project. This project was originally authorized in 1974 and is currently producing benefits almost six times its costs.

Mr. Chairman, this bill is a bipartisan effort of our committee, and the Members of the House of Representatives. It has the widespread support of all interested groups. I urge my colleagues to join me in giving this legislation their unanimous support.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 16, 1988.

Hon. JAMES J. HOWARD,
Chairman, Committee on Public Works and Transportation, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 2707, a bill to amend the Disaster Relief Act of 1974 to provide for more effective assistance in response to major disasters and emergencies, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them

Sincerely,

JAMES L. BLUM,
Acting Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, MARCH 16, 1988

1. Bill Number: H.R. 2707.

2. Bill Title: A bill to amend the Disaster Relief Act of 1974 to provide for more effective assistance in response to major disasters and emergencies, and for other purposes.

3. Bill Status: As ordered reported by the House Committee on Public Works and Transportation, March 15, 1988.

4. Bill Purpose: Title I, the Disaster Relief and Emergency Assistance Amendments of 1988, amends the Disaster Relief Act of 1974 to modify existing programs and to establish new forms of federal assistance in response to major disasters and emergencies.

Title II, the Great Lakes Erosion Damage Assistance and Prevention Act of 1988, authorizes grants to each Great Lakes state for the purpose of providing assistance to homeowners and local governments whose structures have been damaged, or are threatened to be damaged, by the high water levels in the Great Lakes.

Title III increases the authorization for the New York Harbor collection and removal of drift project to enable completion of the project.

5. Estimated Cost to the Federal Government: The potential budget impact of H.R. 2707 is very uncertain because it depends upon the extent and nature of future disasters, the manner in which the Administration would implement certain programs, and ultimately, on appropriations provided by the Congress. CBO projects that the cost of this bill could range from $50 million to $150 million annually. Our best estimate would be about $80 million in 1989, rising to about $90 million in subsequent years, assuming appropriation of the necessary amounts. Because the effective date would be well into fiscal year 1988, and because new regulations would have to be issued to implement many of the provisions, no significant cost would be incurred in this fiscal year.

The costs of this bill fall within budget functions 300 and 450.

Basis of Estimate: A July 1988 effective date is assumed. All amounts reflect the additional cost to the federal government of implementing the bill, assuming appropriation of the necessary sums. Provisions of the bill not discussed below are not expected to result in additional outlays by the federal government.

TITLE I

Private Nonprofit Facilities. In the bill, private nonprofit facilities are redefined to include facilities that provide services of a governmental nature to the general public. Based on information from FEMA, the number of nonprofit facilities eligible for public assistance would increase by 50 percent, resulting in additional costs of about $2.5 million per year to the federal government.

Preparedness Grants. The maximum State Preparedness Grant is increased from $25,000 to $50,000 per year. In recent years, 52 states and trust territories have participated in the program, with the average award roughly equaling the maximum grant of $25,000. Assuming that the number of grants awarded would remain constant and that the grant amounts would rise to the maximum, additional costs of about $1 million per year would be incurred by the federal government.

Recovery of Assistance. The federal government is empowered to recover any funds expended for a disaster when it is determined that a private party acted in a negligent way and thereby caused the disaster to occur. Insufficient data are available to estimate with any precision the amount of such recoveries. CBO has included in its estimate $1 million per year in savings for such recoveries, although potential savings could be much greater.

Hazard Mitigation Measures. The federal government is required to contribute 50 percent of the cost of hazard mitigation projects undertaken by state or local governments. Total contributions under this provision could not exceed 10 percent of the sum of all grants made under Title IV, or $1 million, whichever is greater. Historically, total Title IV grants made by the federal government have averaged $330 million annually. If the 10 percent contribution is assumed, additional costs of about $33 million per year would be incurred by the federal government.

However, based on information from a number of states, CBO estimates the cost of this provision to be less than the maximum, or about $7 million for fiscal year 1989, increasing to about $20 million annually in 1991 and beyond. This gradual increase in costs is assumed because it is expected that states would require a number of years to fully develop mitigation programs.

Flood Insurance Requirement. Any public or private nonprofit facility that is located on a special flood hazard area is required to be covered by flood insurance in order to receive full federal assistance in the event of a flood. The Federal Emergency Management Agency (FEMA) has estimated that insurable structures comprise 6 percent of total disaster costs and that floods comprise 75 percent of all disasters. Federal assistance for non-covered, insurable public and nonprofit structures totals nearly $7.8 million annually. This provision would result in savings to the federal government of about $6 million annually through both additional premium collections and a reduction in disaster relief benefits for uninsured structures.

Minimum 75 Percent Federal Share. A minimum federal contribution for public assistance is set at 75 percent of net eligible costs. For the purposes of this cost estimate, it was assumed that the present 75/25 federal/state share would continue in effect as under current law. Therefore, no additional cost is expected to be incurred as a result of this provision.

Net Eligible Costs. Net eligible costs are redefined to include the following.

(1) Hazard mitigation required by the federal government. Mitigation is required on 10 percent of projects over $5,000 (which account for 92 percent of federal public assistance dollars). The cost to the federal government of public assistance totals approximately $330 million per year. CBO estimates the cost of this provision would be 15 percent of the total cost of the covered projects, or about $5 million per year.

(2) Cost of repairing facilities under construction. Under current law, facilities under construction that are the responsibility of the contractor are eligible for repair assistance. The bill eliminates assistance for projects under the contractor's responsibility, resulting in savings of about $2 million per year.

(3) The administrative costs associated with requesting, obtaining, and administering federal assistance. The federal share of this expense is 100 percent. Applying historical data to the cost schedule included in the bill, this provision would result in additional costs of about $4 million per year.

(4) Cost of preparing damage reports and inspections by state employees. Again, the federal share for this expense is 100 percent. Based on historical data of per diem, overtime and travel expenses of state inspectors, the cost of this provision would range from $0.5 million to $1 million annually.

(5) Cost associated with using the National Guard and/or prison labor. It is expected that there would be little change from current practice; therefore no significant costs would result.

(6) Fringe benefits of applicant's employees. The estimated cost would be $8 million per year, based on a FEMA estimate of work done by the employees of applicants.

Temporary Housing Assistance. The federal share of temporary housing assistance is set at 100 percent—the level specified under existing law. Some additional costs would result because the bill provides for the federal government to pay 90 percent of group site development costs. Under current practice, the federal share for group site development is 75 percent. The additional costs would total about $0.4 million per year.

IFGP Administrative Costs. The Individual and Family Grant Program (IFGP) is amended to increase the maximum allowance for administrative expenses from three percent to five percent. Because FEMA has indicated that combined verification has reduced administrative costs to states, it is expected that this provision would result in no additional costs to the federal government.

Increased IFGP Limit. The IFGP is further modified to increase the maximum individual grant from $5,000 to $10,000. Since the program's inception in 1974, an average of 515 individuals have received the maximum grant each year. For the purposes of this estimate, it was assumed that, on average, 515 grants each would be increased by $2,500. The federal share of this increase would remain at 75 percent. If enacted, this provision would result in additional costs of about $1 million per year.

Forgiveness of State Share. The President is empowered to advance to a state an amount not to exceed the state's share in any case where a state is unable to immediately assume its financial responsibility under the cost sharing provisions of Title IV. The President is further empowered to "issue rules describing the terms and conditions under which advances under this section may be made and repayment of such advances (or portions thereof) may be forgiven." Historically, the state share under this title has averaged nearly $105 million each year. Due to the subjective nature of this forgiveness provision, it is difficult to predict what percentage of the state's share will be forgiven. Depending on the extent of forgiveness, the cost of this provision could amount to over $100 million annually. For the purposes of this cost estimate, a forgiveness rate of 20 percent of the state share has been assumed resulting in additional costs of about $21 million per year.

Emergency Assistance. A new Title V is created to provide specific guidelines for the use of emergency declarations. The federal share of assistance for emergencies is increased from the current level of 75 percent to 100 percent of eligible costs, thereby transferring the state/local government's share to the federal government. Historically, the state/local share for emergencies has averaged approximately $10 million per year. Therefore, assuming no change in the frequency of emergency declarations, the additional costs to the federal government would total $10 million annually.

Although it is not reflected in this cost estimate, this provision may carry an additional cost if there is an increase in the number of emergency declarations made by the President. Due to the elimination of the state/local share, there may be an increase in the number of requests made by state and local governments for emergency rather than disaster declarations. This could potentially result in additional costs to the federal government of tens of millions of dollars each year.

TITLE II

Authorization of Appropriations. The bill authorizes appropriations of not to exceed $20 million in each of the fiscal years 1988 through 1992 for grants to Great Lakes states for programs of assistance related to high water levels in the Great Lakes. For the purposes of this cost estimate, it was assumed that $20 million would be appropriated each year and that all of the funds would be expended in the first or second year.

TITLE III

Authorization of Appropriations. The authorization of appropriations for the New York Harbor collection and removal of drift project is increased by $26.3 million. CBO estimates that outlays from this increased limit will total $4 million to $5 million a year over the next several years, assuming appropriation of the authorized amount.

6. Estimated Cost to State and Local Governments: Under Title I, state and local governments would save $50 million to $60 million per year, largely because of the forgiveness of state share provision, the 50 percent federal contribution toward hazard mitigation projects, and the 100 percent federal contribution for emergency assistance. These savings could be greater depending upon the extent and nature of future disasters, and the way in which the Administration would implement certain provisions (i.e., the extent of forgiveness of the state share, and the number of emergency declarations made by the President). Savings would be smaller in 1988, probably about $20 million.

Title II would require each state that receives grants under this title to expend $3 of nonfederal funds for every $7 of federal funds made available to the state. Assuming use of the full $20 million authorized, the state share would be about $9 million per year.

State and local governments participating in the harbor drift program are required to share in its cost. The added state and local share would be about $2 million per year over the next several years.

7. Estimate Comparison: A cost estimate of the introduced version of H.R. 2707 was prepared by FEMA in August 1987. The bill, as introduced, did not include Titles II or III of the reported bill, and Title I was somewhat different. The total annual cost of H.R. 2707 to the federal government was estimated to range from $66.4 million to $82.8 million. The FEMA cost estimate differs from this estimate primarily because of the absence of Titles II and III in the introduced bill and differing assumptions regarding a number of provisions (e.g. the extent of forgiveness of the state share and the level of hazard mitigation projects undertaken).

8. Previous CBO Estimate: On October 15, 1987, CBO transmitted a cost estimate for H.R. 2707 as introduced on June 17, 1987. The introduced bill did not include Titles II or III, and the estimated costs reflect this difference along with a number of changes of Title I.

9. Estimate Prepared By: Douglas Criscitello (226-2850).

10. Estimate Approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

Mr. STANGELAND. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 2707, a bill to reform the Disaster Relief Act and prevent erosion along the Great Lakes.

This legislation clearly bears the mark of the Public Works and Transportation Committee's Chairman JIM HOWARD, ranking Republican JOHN PAUL HAMMERSCHMIDT, and subcommittee Chairman HENRY NOWAK. Through their hard work and leadership, we are able to bring before you today a truly bipartisan and widely supported bill. I also want to commend Congressmen TOM RIDGE, JIM OBERSTAR, and BILL CLINGER for their efforts. They have certainly been instrumental in mobilizing Congress to reform the Disaster Relief Program. In addition, I would like to thank the other committees for their cooperation in moving this legislation swiftly.

H.R. 2707 has three titles. Title I, the Disaster Relief and Emergency Assistance Amendments of 1988, contains needed reforms to FEMA's Disaster Relief Program. It makes very few substantive changes to H.R. 2707, the bill which Congressmen RIDGE, CLINGER, OBERSTAR, and I introduced last June and which has received overwhelming support. Title II, the Great Lakes Erosion Damage Assistance and Prevention Act of 1988, addresses erosion and flooding problems in the Great Lakes States due to high lake levels. Title III increases the appropriations ceiling for a project in New York Harbor to collect and remove drift and debris.

In July 1987, the Water Resources Subcommittee held an extensive hearing on H.R. 2707 and possible amendments to the Disaster Relief Act. Title I of the committee reported bill contains H.R. 2707 virtually unchanged, except for various perfecting amendments and fine-tuning provisions to reflect the views and comments of emergency management officials.

The new bill builds upon the strong base of H.R. 2707, clarifying the Federal Government's response authorities and financial responsibilities and establishing a stronger partnership among Federal, State, local, and private entities. It strengthens FEMA's existing program by adding needed uniformity, consistency, timeliness, and above all else, fairness.

In general, title I reorganizes the Disaster Relief Program to clearly define Presidential authority to respond to major disasters and emergencies. Major disasters would include primarily natural catastrophes or, in certain instances, nonnatural catastrophes while emergencies would include any occasion or instance in which Federal assistance was necessary. The committee, however, does not intend for emergency declarations to be available in responding to public health problems such as AIDS epidemics or environmental or nuclear catastrophes for which Federal assistance is already available. Nor do we intend to interfere with existing Federal emergency authorities or the Comprehensive Crime Control Act's law enforcement emergency assistance provisions.

Perhaps most importantly, the bill clarifies cost sharing requirements under the law, establishing a minimum Federal share of 75 percent for major disaster expenses. The bill also details what eligible assistance State and local governments can expect to receive.

Besides improved cost sharing requirements, the bill provides greater recognition of hazard mitigation by encouraging measures which would prevent a recurrence of a major disaster or minimize the damages that might be sustained. The bill authorizes Federal grants for hazard mitigation and increases the amounts of money available for disaster preparedness grants to the States. This small increase in Federal funding should provide enormous dividends in the future, since local governments and even private homeowners will find greater incentives to prevent, rather than merely react to, disasters. The bill also injects greater discipline into the planning procedures of State and local governments by conditioning future Federal disaster assistance upon flood insurance. Requiring flood-prone areas to obtain flood insurance and participate in the National Flood Insurance Program should save the Federal Treasury millions of dollars in the future.

H.R. 2707 also makes administrative reforms. In response to FEMA's 1986 proposed regulations, this legislation contains important provisions on eligibility of communities for Federal assistance, the date of eligibility, and the ability to advance payments and wave cost sharing requirements when necessary. We recognize FEMA should have flexibility in determining threshold questions of eligibility. However, we do not condone and will not allow arbitrary decisions based solely on sliding scales or mathematical formulas involving population or income.

H.R. 2707 will also help to cut the redtape experienced by individuals and State, local, and private nonprofit entities. People should be able to receive assistance when they truly need it and without endless hassles. This bill helps ensure that happens without creating a drain on the Federal Treasury or unnecessarily increasing the Federal Government's role.

Title II of H.R. 2707 establishes within FEMA a 5-year grant program to help the Great Lakes States prevent or reduce shoreline damages attributable to high lake levels. The bill encourages wise shoreline development and environmentally protective responses, but steers clear of any kind of Federal land use planning. The basic message in title II is: We know we can't completely control the lake levels, just as we can't control Mother Nature, but we can minimize or prevent future damages by establishing incentives for improved lake shore management and environmentally sensitive development.

Thus, Mr. Chairman, title II conditions Federal assistance upon certain State and local activities. To receive funding, a State must provide a plan for assisting shoreline homeowners and local governments, describe present and future efforts, and meet 70 percent Federal and 30 percent non-Federal cost sharing requirements. No funds, however, can be used in an area where the State or local government does not enforce 30-year erosion setback and 100-year flood plain requirements. Frankly, Mr. Chairman, I had hoped for even tougher requirements such as 50- or 60-year setbacks. But to be consistent with newly enacted provisions in the national flood insurance act, we have agreed to the 30 year setbacks.

This is not a Federal bailout; nor is it a reward to States for previous failure to participate in the National Flood Insurance Program or the Coastal Zone Management Program. If the Great Lakes States want Federal assistance, they should be expected to do their part first. They should participate in the Coastal Zone Management Program; they should adopt tough erosion setback requirements; and, they should not build in the flood zone.

Title II also authorizes the Corps of Engineers to provide emergency assistance to prevent erosion or flooding damage, to provide technical assistance, to compile and disseminate information on water levels, and to demonstrate low-cost methods of damage prevention.

In addition, title II encourages, where feasible, the use of natural, nonstructural measures to control shoreline erosion. This is an important, environmentally protective policy and I am proud to support it. Title II also encourages—but does not require—the use of dredged material for beach nourishment when feasible and mutually acceptable to the parties. Nothing in this bill, however, conditions the issuance of a section 10 or section 404 permit on using dredged material for such purposes.

Mr. Chairman, I urge all of my colleagues to support this legislation. H.R. 2707 is timely and important. We need to pass it now to continue the road to comprehensive reform in providing disaster relief and environmentally sensitive shoreline protection.

Mr. Chairman, I reserve the balance of my time.

Mr. STANGELAND. Mr. Chairman, I yield 7½ minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, since we are doing this in a kind of hurry-up fashion, we waived the 3-day rule, and none of us who do not serve on the committee seem to be very familiar with what is in this legislation, I am going to try to figure out what is in it, if I can ask a few questions here.

If you will look on the front of the bill you will find out I am a cosponsor of this legislation.

Now the legislation that I cosponsored was, I think, what is in title I of the bill. It seems to me that that was in the original Ridge bill, title I, is that not correct?

Mr. STANGELAND. That is correct.

Mr. WALKER. So what we were trying to do was to reform the Disaster Assistance Program in order to make it more efficient, more effective and so on.

Now as I understand my name has been attached as a cosponsor of the bill that now puts some additional titles in the bill. So what I am trying to figure out is what is my name attached to here?

First of all, title II, how much is it going to cost?

Mr. STANGELAND. About $100 million.

Mr. WALKER. 100 million bucks.

Mr. STANGELAND. If I may take a moment to explain to the gentleman from Pennsylvania why his name appears.

Mr. WALKER. OK.

Mr. STANGELAND. The Subcommittee on Water Resources in the Committee on Public Works and Transportation took the Ridge bill, H.R. 2707, as an original bill for markup. Any amendments were added to that. As a result, you have a committee bill with the Ridge bill number and the Ridge bill cosponsors. Of course, anyone, if they do not like what is in the committee bill, what the committee did to the bill, can withdraw as a cosponsor.

Mr. WALKER. I understand. Maybe I should have done that, but it came as—in kind of a hurry.

But I am trying to figure out just exactly what we are committed to. Maybe I will ask my name to be withdrawn later.

All right, we have $100 million.

Mr. STANGELAND. If I might, the Great Lakes Initiative is a 5-year initiative under FEMA, $20 million a year for 5 years, $100 million.

Mr. WALKER. So it is $100 million, $20 million a year. OK.

I appreciate that.

Then if I go back here to title III, if I understand correctly, there it is an increase of about $25 million that is being added there, is that right?

Mr. STANGELAND. Yes.

Mr. WALKER. OK. So we have $125 million that have been added in those two sections of the bill that are distinctly nondisaster relief. I mean we are not talking about emergency disaster relief in either of those two areas. We are talking about a serious problem that affects the Great Lakes, but it is not an emergency, it is something that has been taking place for some period of time and where I am sure there is a desire on the part of the States involved to have something done, but it can hardly be deemed an emergency disaster relief situation.

We have got a situation in New York where I assume that the driftwood coming down the stream is indeed a problem but it is hardly something which can be termed an emergency disaster relief matter.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New Jersey [Mr. HOWARD], the chairman of the committee.

Mr. HOWARD. I thank the gentleman for yielding.

Mr. Chairman, if I may just talk to that one point, and I will not argue with the others, but there is an ongoing problem that we have had in the New York Harbor area with the rotting piers, trying to pick up this driftwood and these huge pier pilings. This has been going on for quite some time. This is a continuation to complete that job, I would say, also.

And in this effort the non-Federal interests are paying 52 percent of the cost of it. And I would like to state that in my own area on the New Jersey shore, it is something of a disaster, something of an emergency, because just last summer we had a 3-year-old girl and her 4-year-old brother, both of whom were almost killed, who spent much time in the hospital, many serious injuries due to this floating debris that comes down.

So an emergency? I do not know. A serious problem? I would say yes.

Mr. WALKER. I thank the gentleman. But the fact is that a number of us thought that something should be done about disaster relief and emergency assistance. What we have got out here now is a bill that adds $125 million of cost that is distinctly not in those particular areas. I have got some concerns about that, particularly since the administration makes the point that this particular bill now causes problems with the bipartisan agreement that was arrived at last year for purposes of the budget.

Now we may want to make a decision that there are emergency conditions that allow, that should allow us to move beyond that budget agreement. I might be willing to buy into that.

So title I of this bill seems to me to be a perfectly rational thing to do, since it is an authorization bill. But I will tell you, I have got real problems with adding titles II and III that add $125 million over and above the budget agreement. None of this was even contemplated in the budget agreement last year.

It seems to me that it makes a mockery of our ability to do something about budgets when we come to the floor with things that are non-emergency, which add to our inability to deal with the budget.

So I would say that given that, it would be my intention to try to save that $125 million by offering an amendment that will strike titles II and III from the bill and thereby assure that we at least have a chance to deal with only the original part of the bill, that being the emergency disaster assistance, and that would save us some $125 million of budget-breaking activity.

Mr. STANGELAND. Mr. Chairman, will the gentleman yield briefly to me?

Mr. WALKER. I yield to the gentleman from Minnesota [Mr. STANGELAND].

Mr. STANGELAND. I thank the gentleman for yielding.

Mr. Chairman, the $100 million in title II is over 5 years. So to say it is $125 million in excess of the budget agreement is not correct.

Mr. WALKER. OK.

Mr. STANGELAND. The gentleman is talking at the maximum, $65 million for both programs, $25 million for New York and $40 million here.

Mr. WALKER. Sure.

Mr. STANGELAND. We put this title in, held hearings on the excessively high water levels in the Great Lakes, the highest, virtually, in history and the damage to the lakeshore that was being done. I was one who insisted on tough language in here that the States participate but that we not reward States for not being a part, in the past, of shoreline management, of coastal zoning, and to make sure that we do not build in the flood plains and have this damage. We get that now with this legislation.

This appeared to us in the committee at least the appropriate vehicle to move this kind of legislation.

Our chairman has a real problem in New Jersey, in the waters off New Jersey and New York Harbor with debris. It was essential to increase the authorization level. That authorization level is just that, an authorization level. The corps will have to go—and the appropriate agencies will have to go to the Appropriations Committee to get the money appropriated.

So I would hope my dear friend and colleague from Pennsylvania would withhold on an amendment to strike those two sections. However, in this body one must do what one must do.

The committee went to the Rules Committee for an open rule, so that each member would have every opportunity to take part in the legislative process.

Mr. WALKER. Well, I thank the gentleman. The gentleman will notice I did not get a vote on the rule because I thought it was a good thing.

I just want to point out that I have read through the provisions on the Great Lakes, and I think there was some good work in trying to limit that, and so on.

But the fact is, what I am concerned about is we have no way of protecting that budget agreement, under the rules of this House, other than our own will to live within it.

That is my concern. It seems to me that the way that we can show our will to live within it today is by eliminating the $125 million additional spending over the next 5 years that we would be committing ourselves to under this bill.

I thank the gentleman very much for yielding the time.

□ 1245

Mr. STANGELAND. Mr. Chairman, I yield 7 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I rise in strong support of the Major Disaster Relief Assistance Amendments of 1988 (H.R. 2707). This bill is the culmination of nearly 3 years of effort on my part as well the result of literally years of appeals from disaster victims and State and local emergency management professionals. I would also like to commend my colleagues on the Public Works and Transportation Committee who in the past 2 years have helped moved this issue from the back burners to where we are today.

While time would not allow me to mention all of those who have been involved, our colleagues ARLAN STANGELAND, BILL CLINGER, TRENT LOTT, HENRY NOWAK, and JIM OBERSTAR have all helped to craft this final bill. A special word of appreciation is also due to the chairman and vice chairman of the Public Works Committee, JIM HOWARD and JOHN PAUL HAMMERSCHMIDT, for supporting this measure and bringing the bill to the House floor in such a timely fashion.

Our colleagues should also be aware that this legislation was not created in a vacuum on Capitol Hill. In particular, assistance provided by the National Emergency Management Association, the National Coordinating Council on Emergency Management, the Association of State Floodplain Managers, and the National Rural Electric Association, was essential in the drafting of the bill and in helping to build a bipartisan coalition of 112 cosponsors.

Most of all, I would like to dedicate our effort today to the families of the 65 residents of Pennsylvania who tragically lost their lives in the national tornado disaster of May 31, 1985. While the suffering and loss which they have endured, along with thousands of other victims of natural disasters in America, can never be erased, their strength and courage above all else has driven me to proceed with this reform effort.

Mr. Chairman, I was not at all pleased with the recovery effort which the Federal Emergency Management Agency directed in my district during the summer of 1985. Disaster victims were waiting for housing assistance for up to 6 weeks after their homes were destroyed. I was touring demolished homesites arguing with Federal officials regarding which trees to remove from a lot, debating whether the tree was either damaged or destroyed, whether it was uprooted enough to be "eligible" for removal.

I discovered that the Federal agency responsible for meeting the needs of our constituents following a national disaster declaration was more concerned with asserting authority than in working partnership with State and local governments. They were more concerned with scoring well on agency performance reviews than in meeting the needs of suffering individuals who had unique personal needs and problems. Federal housing assistance, clearly mandated by Federal law, was being offered for the convenience of the Government and not to meet the critical needs of the individuals affected.

From that time forward, I was convinced, that somewhere along the way, the Federal Emergency Management Agency had lost its sense of mission. What I discovered in talking with many of my colleagues was that such negative performance reviews were commonplace and frustration with the Federal disaster relief efforts ran far and wide. State and local emergency management officials had been calling for reform for years and yet FEMA was allowed to continue to whittle away by rulemaking and regulation at the very core and substance of the Disaster Relief Act of 1974.

Mr. Chairman, it is time for Congress to reassert our proper authority to ensure that the trustees of our national disaster programs are performing up to the standards which the American people deserve. The bill we bring forth today can help put Federal disaster assistance programs back on track, back in the proper perspective.

Our bill will clearly State what types of assistance are eligible for Federal support, at what level, and for what purpose. Specific cost-sharing formulas will ensure that bureaucratic infighting does not impede the expeditious delivery of disaster relief. It will also ensure that individuals, and State and local governments will know what is available to assist them at all times. These cost-sharing formulas will not be subject to abuse by arbitrary and capricious rulemaking as has been a common practice in the past several years.

This legislation will also mandate that Federal disasters be declared based on all of the available information. The decision to declare a national disaster will remain where it should, with the President. The bill will prevent FEMA from using any arithmetic formula to exclusively determine whether a disaster declaration is in order. FEMA's backdoor attempt to reduce disaster assistance by nearly 50 percent in 1986 which was so soundly rejected, will not be a problem in the future.

We will mandate that families who have lost their homes and do not have insurance to cover temporary living expenses, will be placed in a temporary housing situation as expeditiously as possible, usually within a week's time. They will be offered assistance which will take into account the unique and individual needs of their family.

The inevitable debris that is left in the wake of a natural disaster will be removed. FEMA regulations which have been established to prevent the job from being completed properly will have to be rewritten.

Incentives will be provided to individuals and State and local governments to encourage them to perform hazard mitigation measures. Such measures can save lives and personal property and will help to protect the Federal disaster fund from being used twice to repair the same damage in future disaster situations.

The ceiling for the individual and family grant program will be increased to reflect today's costs. The current cap was set in 1974. This program provides funds for disaster victims to purchase only essential household goods and personal property items. By definition, to be eligible for any assistance in this small grant program, you must first be denied an SBA disaster loan which offers 4 percent interest on loans which can be extended for as much as 30 years. Clearly, such individuals who cannot qualify for such low interest loans are clearly in desperate need of assistance.

A major provision in the bill encourages the use of an emergency declaration when such assistance is warranted. The assistance will be immediate and short term. Federal expenditures in the emergency declaration title will be capped. Such assistance can be used to respond to both natural and nonnatural disasters, such as the crisis that can be posed by a major chemical spill. It is expected that the authority provided to the President to provide assistance in the event on an emergency will serve as a practical and useful tool in protecting the lives and properties our citizens, short of declaring a national disaster.

And finally, the bill will require FEMA to report to Congress with respect to a number of provisions which mandate prompt and effective delivery of disaster assistance and regarding the issue of timely reimbursement to State and local government. Congressional oversight and program improvements must become the norm rather than a once a decade exercise.

Mr. Chairman, for Members of the House who have been fortunate enough not to have had a Federal disaster declared in their district, I would share with them some basic facts. While we automatically appropriate nearly $100 million each year for the international disaster fund, for our own citizens, there is no cash assistance, and there are no guarantees.

Most natural disasters receive no Federal help. Only about half of all of our Governor's requests for a disaster declaration receive a favorable reply from the President. Nothing that is insured, be it public or private, is eligible for any Federal assistance. There is no direct cash program or support for our citizens even though they send millions overseas each year in private contributions. Our Federal disaster response programs are modest—to say the very least. But from time to time, American citizens need and deserve our help.

I urge my colleagues to support this bipartisan reform effort which is long overdue. I can state with some certainty that nature will not wait until the 101st Congress before it stikes again, in your congressional district, or in mine.

Mr. HOWARD. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York [Ms. SLAUGHTER], a member of the committee, who performed very important services in bringing this legislation to the floor.

Ms. SLAUGHTER of New York. Mr. Chairman, I thank the gentleman for yielding this time to me, and as a Representative of a Great Lakes State, I rise in strong support of the bill, H.R. 2707.

Mr. Chairman, I rise in strong support of the bill H.R. 2707, amendments to the disaster relief program. This is a good piece of legislation drafted in Public Works and Transportation Committee under the able leadership of our chairman, Mr. HOWARD, and my colleague from New York, the chairman of the Subcommittee on Water Resources, Mr. NOWAK.

Mr. Chairman, I wish to focus my remarks on that section of the bill which provides assistance to those who reside along the shores of the Great Lakes. As a member of the Commitee on Public Works and Transportation and the Subcommittee on Water Resources, I have a continuing interest in the problems that have been created by the fluctuating levels of the Great Lakes.

Legislating in this area involves the delicate balancing of interests. Certainly we recognize the people who are dependent on the continued generation of hydroelectric power, as well as those who depend on shipping along the St. Lawrence Seaway. But Mr. Chairman, it is crucial that we also recognize the rights of the homeowners, those people who have put their lives and their fortunes into shoreline property. I have worked to see that their interests are represented, to see if a solution could be found to their problem of seeing their lives' work erode away. Although the level of Lake Ontario has been relatively low this year, the one thing we can be sure of is that it will go back up.

I am pleased to say that the interest of the riparians—the homeowners—are well addressed under H.R. 2707. Title II of the bill authorizes the Federal Emergency Management Agency to make grants to the States to provide homeowners along the shores of the Great Lakes with interest "buy-downs" of up to 5 percent on loans to elevate, relocate, floodproof, or protect their homes. This will provide a much needed and welcome source of assistance to many people in my district whose homes have been damaged or are threatened by the level of Lake Ontario.

In addition, the bill makes local governments eligible for interest rate subsidies for loans and provides grants to protect, repair, and relocate public facilities.

Mr. Chairman, I am pleased to support this important legislation to fine tune the Disaster Relief Act, and to provide assistance to homeowners and municipalities whose property is threatened by erosion or flooding on the Great Lakes. I urge my colleagues to join me in a strong "yes" vote in favor of passage of this bill.

Mr. STANGELAND. Mr. Chairman, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. SAIKI].

Mrs. SAIKI. Mr. Chairman, as an original cosponsor of H.R. 2707, I want to express my strong support for the passage of this vital measure.

H.R. 2707 includes several provisions which will enhance the ability of State and local governments to respond to major disasters. In Hawaii, we have recently experienced the devastation caused by severe flooding. On New Year's Eve, certain areas of Hawaii were hit with 20 inches of rain over a 24 hour period. Fortunately, there were no lives lost as a result of the flooding. However, many Hawaii residents suffered severe damage to their homes, and some homes were completely destroyed. It has been estimated that over 30 million dollars' worth of damage to property occurred as a result of the rainfall and subsequent flooding.

While Federal, State, and local government agencies responded immediately to the crisis, I feel that the legislation before us today will make several improvements in the coordination of disaster relief efforts. Of particular note are provisions which establish minimum levels of Federal funding for major disaster and emergency assistance, as well as provisions for temporary housing, unemployment assistance, and hazard mitigation. I am also pleased that this bill authorizes assistance for the distribution of food and medical supplies, as well as for crisis counseling for victims.

I want to commend my colleague, Congressman RIDGE, for the excellent work he has done on this legislation, and I respectfully urge the support of my colleagues in passing this measure.

Mr. HOWARD. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise in strong support of H.R. 2707, and I commend Chairman NOWAK, Chairman HOWARD, and Representative RIDGE for their dedication and hard work in moving this bill. This legislation will make critical changes in our Nation's disaster relief program. I am particularly pleased to support this bill because it reflects many of the contributions made by the chairman of the Santa Cruz County Board of Supervisors, Mr. Joe Cucchiara, who is also chairman of the Emergency Management Subcommittee of the National Association of Counties. Joe has decided not to run for reelection to the board of supervisors this year, but I believe that passage of H.R. 2707 will stand as a great tribute to his commitment and service to his constituents.

I have long advocated changes in our Nation's disaster programs, and I was pleased to share my thoughts on this issue in testimony before the Subcommittee on Water Resources this summer. I would like to review some of the concerns which I shared with the subcommittee and some of the problems which have prompted me to support changes in the disaster relief program.

My congressional district in California has had the unfortunate opportunity of experiencing some of the worst natural disasters on the west coast. One of the most difficult tasks I have had to deal with in my years of representing the 16th Congressional District is to visit citizens who have been impacted by a disaster whether it was a mud slide, lives lost, property lost, business lost, or people who are still suffering from the shock of what just took place. You want to tell these persons, "We are going to try to help you in some meaningful." Today when I face somebody who has been in a disaster, I literally have to honestly say, "I am sorry to say you are not going to get very much help."

I recognize the budget constraints faced by all agencies as we all work to reduce the Federal deficit. However, vital Federal programs such as disaster aid relief cannot be slashed in an inequitable manner. State and local governments are already under increased financial stress as a result of reductions in a variety of Federal programs. Under current policy, FEMA finances 75 percent of eligible disaster expenses for uninsured public losses. During the last 5 years, the Federal cost share rate has gone down from 100 to 75 percent. But, in practice, once eligibililty and audit criteria are applied, the Federal cost sharing in California counties struck by disasters in 1982 and 1983 averaged 42 percent of actual costs. In fact, FEMA reimbursed Santa Cruz County only 38 percent in 1985. Moreover, under regulations which FEMA proposed in 1986, Santa Cruz County would only have been reimbursed 8 percent for disaster relief assistance. Our communities cannot afford further reductions in disaster relief programs.

The bill which we are considering today addresses many of the concerns which I noted in my testimony before the subcommittee, and will make improvements in our disaster relief efforts. Among the important improvements are the following: The bill clarifies the definition of disasters and broadens the definition of emergencies, giving more flexibility for Federal aid to be provided; the bill sets a statutory minimum level of Federal disaster assistance of 75 percent and establishes a statutory level of Federal emergency assistance at 100 percent, up to $5 million per emergency; the bill allows the Federal Government to advance the non-Federal share of disaster assistance and, in certain cases, to forgive repayment; it permits the Federal Government to contribute up to 50 percent of the cost of hazard mitigation measures, to reduce the risk of future disasters, up to a specified level; the bill also increases the maximum grant level for assistance to individuals and families; it allows for expedited handling of certain small grant applications; and it increases State grants for disaster preparedness.

These measures will help to ensure that localities and individuals receive the kind and level of aid which they need in times of disaster and emergency and will give the Federal Government some needed flexibility in the administration of the program. I commend the Committee on Public Works and its members for their hard work and their contributions to improving our Nation's disaster programs, and I urge my colleagues to support passage of H.R. 2707.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in strong support of H.R. 2707, the Major Disaster Relief and Emergency Assistance Amendments of 1988.

At the outset, let me thank the chairman of the Committee on Public Works and Transportation, Mr. HOWARD, for his leadership on this matter and for the expeditious and fair consideration that this bill has received by the full committee. The bill enjoys wide support in the House and in this committee, as well as among all interest groups which would be affected by the bill. I compliment the gentleman from New York [Mr. NOWAK] and the gentleman from Minnesota [Mr. STANGELAND], who are the chairman and ranking Republican members of our Subcommittee on Water Resources for their excellent work in refining and improving the bill. I aslo must express my deep appreciation to the gentleman from Pennsylvania [Mr. RIDGE] who is the principal author of H.R. 2707. Congressman RIDGE has worked diligently with all affected interest groups and with the committee for several years to develop this excellent bill. The bill is a tribute to his commitment to make the program work compassionately and effectively. It deserves our strong support.

Unlike the introduced bill, the bill which we bring before the House today has three titles. Title I contains a number of amendments to the Disaster Relief Act. It is virtually the same as the introduced bill—a bill which has over 100 cosponsors. The bill also contains two new titles which were added by the Committee on Public Works and Transportation. Title II authorizes FEMA to provide up to $20 million per year for 5 years to local governments and homeowners on the Great Lakes who have suffered or are likely to suffer erosion or flood damages as a result of the high water levels experienced there recently. Finally, title III would increase the authorization level for a project to remove drift and debris from New York Harbor.

The heart of this bill, title I, represents a reaction to drastic, and I might add, draconian proposals made by FEMA 2 years ago to revise the eligibility criteria of the Disaster Relief Program. The changes which had been proposed by FEMA would have greatly reduced the number of situations in which Federal assistance would have been made available and would have also reduced the amount of assistance offered when Federal aid was called for. A storm of protest greeted FEMA's proposals almost as soon as they were announced. Thanks largely to prompt action by this committee, these controversial program changes were never implemented.

H.R. 2707 ensures that FEMA will not be able to arbitrarily reduce benefits or cut off aid based entirely on mathematical formulas. The bill establishes minimum levels of Federal assistance whenever a major disaster or emergency is declared. In most cases, these minimum levels are nothing more than the level of assistance ordinarily provided under current practice. Also, the bill incorporates some new, innovative improvements to the bill, some of which could save Federal dollars in the long run.

While the bill makes a number of changes and modifications to the Disaster Relief Act, I would like to specifically highlight only a few. Perhaps the most significant new initiative is the authorization for FEMA to provide up to 50 percent funding of hazard mitigation projects. Under existing law, Federal assistance is limited to the amounts needed to restore or rehabilitate damaged facilities to their predisaster condition plus whatever changes are needed to bring the project in conformance with local codes. FEMA has found, however, that additional expenditures during reconstruction can significantly reduce the risk of any future damages, hardship, loss or suffering. Flood proofing or additional strengthening or damaged buildings or facilities are examples. Therefore, the bill provides FEMA with discretionary authority to help fund up to 50 percent of hazard mitigation projects which FEMA determines are justified based on an evaluation of natural hazards.

This authority is limited to 10 percent of nonprivate assistance or $1 million for each major disaster, whichever is higher. Although the Congressional Budget Office has indicated that this new authority could increase costs in the near term, I believe that these additional expenditures will pay for themselves in the long run in both lives and property saved.

Another measure worthy of special mention is the new provision prohibiting recovery for any costs that could have been compensated through the purchase of flood insurance. FEMA administers a comprehensive program of flood insurance which requires that communities take steps to reduce flood threats through local zoning. This bill sends the clear message that communities will have to participate in the Flood Insurance Program or lose their eligibility for disaster assistance payments. Of course, individuals and private nonprofit organizations who are unable to obtain insurance because their local government fails to participate would not be penalized. If the insurance is available, however, and they refuse to sign up, they should not then turn to the Federal Government for further aid.

One measure that could save all parties time and money is the new simplified grant authority contained in new section 422. This section authorizes FEMA to provide prompt assistance payments based on the Federal estimate of the work to be done. This provision was included by the committee as a way to cut through the redtape and lengthy delay that often accompany disaster assistance payments. The provision adequately protects the rights of both the Federal Government and applicants because payment is based on the Federal estimate, and the new procedure is only available at the applicant's request. This procedure would be available for work costing under $35,000, adjusted for inflation. This practice will benefit the applicant by allowing claims to be processed much faster and with greater certainty. It also will assist FEMA by allowing it to focus its resources on those relatively few claims that involve the lion's share of disaster assistance payments.

While I fully support these improvements in the bill, I would be less than candid if I did not indicate that FEMA and the administration still have a few reservations with a few of its provisions. For example, I believe that the new authority to advance the non-Federal share of assistance with authority for FEMA to forgive repayment of advances is well intentioned and fully justified in the most dire of circumstances. However, because of the potential for overuse, the committee worked to include language in our substitute limiting forgiveness of an advance to only those situations where damage or destruction is so severe that it is beyond the ability of the recipient to repay the grant. Certainly, the advance and forgiveness provisions will have to be very carefully administered to ensure that State and local participation continues to be the rule in the overwhelming majority of cases.

Similarly, the committee was concerned that the introduced bill unnecessarily tied FEMA's hands with respect to the use of subjective criteria to assist in the eligibility determination process. Therefore, we included a change to this provision to clarify that FEMA may not use a mathematical formula or sliding scale as the sole criteria in determining eligibility. This would allow greater objectivity while preserving the need to factor in intangible and subjective criteria, for example, in determining whether a disaster or emergency declaration is warranted.

On balance, however, this is a noncontroversial, bipartisan bill. The list of cosponsors includes conservative Republicans and liberal Democrats. Every member or interest group that testified before our committee urged enactment of the bill. It enjoys broad support because all of us realize that, when disaster strikes, the Federal Government must do what it can to help those in dire need. Certainly, it is a bill I support and one that I would urge this body to approve.

Mr. SMITH of New Hampshire. Mr. Chairman, as a cosponsor and supporter of H.R. 2707, the first comprehensive reform of Federal disaster relief programs in many years, I am pleased that this legislation is before us for approval today. By more clearly defining the President's ability to respond to a major disaster, H.R. 2707 will enable the Federal Government to extend a more useful and competent helping hand to local communities.

One year ago, in April 1987, New Hampshire was hit hard by severe spring storms and extensive flooding throughout the State. Damage to private homes, bridges, businesses, and public roads was over $4 million. Over 2,500 people were forced to evacuate their homes and two people lost their lives. The impact was devastating, in both human and economic terms, and a Presidential Disaster Declaration was issued.

In New Hampshire we were lucky because there were virtually no complaints about the Federal Government's response last April. In other areas of the country, however, the Government's response to victims of catastrophic events has been less than sympathetic and effective.

To make it easier to get needed aid to our local people, H.R. 2707 details the type of Federal assistance available, clarifies which costs are eligible for assistance, and establishes deadlines that the Federal Government must meet in the assistance appeal process. It gives authority to provide States and local communities with an advance for their share of the relief efforts if they are unable to immediately assume financial responsibility.

The Disaster Relief Act of 1974 (Public Law 93-288) has been of enormous value assisting States and local communities come to grips with the aftermath of natural disasters such as the one we experienced last year in New Hampshire. However, H.R. 2707 recognizes that there are a complex array of disasters which communities may face. The classification of events as a major disaster or an emergency have been made more flexible to allow the President to use emergency authority in a broader range of situations. These may include, for the first time, aid for nonnaturally occurring events such as toxic releases into the environment, epidemics and explosions.

Importantly, H.R. 2707 takes a common sense approach to disaster relief by initiating a sincere effort to prevent the same kind of destruction of homes and businesses from reoccurring in the future. Specifically, the legislation allows the Federal Government discretion to fund hazard mitigation and floodplain management efforts as part of its recovery assistance.

Mr. RAHALL. Mr. Chairman, as a cosponsor of H.R. 2707, I rise in strong support for the Major Disaster Relief and Emergency Assistance Amendments, as passed out of the Public Works and Transportation Committee.

The changes mandated by this legislation will enable the Federal Emergency Management Agency to more effectively assist State and local governments in responding to major emergencies and disasters. The bill requires that the Federal Government pay 75 percent of the cost of disaster relief and 100 percent for emergency assistance and will simplify procedures for obtaining grants and pursuing appeals. Additionally, H.R. 2707 authorizes the President to provide up to $1 million for hazard mitigation to reduce the risk of future damage in an area affected by a major disaster. The Federal Government would be allowed to advance the non-Federal share of assistance and in extreme circumstances, would be allowed to forgive payment. The bill also would make improvements in the delivery of assistance and in temporary housing.

This legislation will be of great benefit to the people of my home State of West Virginia who have repeatedly suffered the ravages of flooding, especially in the flood-prone areas of the Tug Valley in Mingo County. During that area's most recent severe flooding in 1977, many West Virginians lost the homes and businesses they had spent lifetimes working for. Severe flooding brought death and destruction to West Virginia as recently as 1985. The legislation we have before us today will ensure that the needs of all those effected by disasters are met in a timely and efficient manner to assist in economic and emotional recovery.

Mr. Chairman, I urge my colleagues to support this important and meaningful legislation.

Mr. CLEMENT. Mr. Chairman, I am proud to join my colleagues on the Public Works Committee in recommending passage of H.R. 2707, the Disaster Relief Act amendments.

When a natural disaster strikes a community, its neighbors respond. I believe it is only proper that the National Government also respond and help restore and revitalize the lives and community activities disrupted by nature's wrath.

We in Tennessee are no stranger to such disaster. Most recently, parts of western Tennessee were devastated by a series of floods and tornadoes. Neighboring communities and State officials responded immediately. The Federal Government, too, assisted in every way it could under the provisions of the 1974 Disaster Relief Act.

Today's amendments, however, offer a significant improvement in the hand which the Federal Government can extend. And, I am pleased to learn that Tennessee State emergency management officials assisted the bill's sponsor, Representative RIDGE, in evaluating some of the shortfalls of the 1974 act and in drafting some of the improvements incorporated into H.R. 2707. Lacey Suiter, executive director of the Tennessee Emergency Management Agency, and his staff, are to be congratulated. Not only are they among the first to respond to natural disasters in the State of Tennessee, but they are among the most active emergency management officials in assisting Congress and the Federal agencies in making improvements in the way the Federal Government responds.

Mr. Chairman, I appreciate the opportunity to speak in support of H.R. 2707 and urge my colleagues to support this important bill.

Mr. FRENZEL. Mr. Chairman, I support H.R. 2707 as introduced. The title I provisions are improvements in the law.

The additional titles may themselves be meritorious, but at a time of fiscal difficulties, the various projects should be deferred.

CBO indicates that this bill will cost from $50 to $150 million for the period from fiscal year 1989 to fiscal year 1993. Title II alone is capped at $20 million a year. That's $100 million for a few Members projects.

Without passing judgment on any of the specific projects. I believe the extra $100 million ought to be deferred. Therefore I shall vote against H.R. 2707.

Ms. SNOWE. Mr. Chairman, I rise in support of H.R. 2707, which I consider to be a very important step forward to reorganize and strengthen this Nation's disaster and emergency response capabilities.

I first want to congratulate the gentleman from Pennsylvania [Mr. RIDGE] for introducing this excellent legislation. The gentleman's district and my district in the State of Maine have both endured major catastrophes in recent years.

In the spring of 1987, the State of Maine was crippled by a nightmarish flood, which caused nearly all of Maine's major rivers to expand well beyond their embankments. In Maine the total estimated damage last year exceeded $100 million; Over 2,000 homes were flooded, with hundreds permanently destroyed; 400 Maine small businesses were flooded, wrecking foundations, equipment and inventory; 100 small dams, and scores of roads and bridges and public facilities were all damaged by floodwaters as well.

To this end we required a major response, and assistance for thousands of residents, businesses, and entire communities. State officials also worked fast to confront major damage to dozens of roads and bridges throughout several counties in my State. I believe Maine did the best it could, but the Federal support was insufficient.

During my subsequent inspection of numerous towns throughout the State, I listened to the frustrations of many homeowners, small businesses and community and State officials. My conclusion is that the Federal Government's relief assistance is blocked by redtape, and that more Federal assistance should be made available as fast as possible.

This legislation is an important step toward rectifying the existing situation at FEMA.

The mentality of FEMA in recent years has seemingly been to limit its role wherever possible rather than to extend a fully sufficient level of assistance. By seeking to reverse this direction, H.R. 2707 will make overdue corrections to improve the partnership among Federal, State, and local officials when a severe disaster strikes.

I particularly support provisions in this bill which raise and broaden Individual and Family Grant Program funding, improve hazard mitigation procedures and incentives, accelerate the availability of temporary housing, and expand Federal cost-sharing requirements for public and private assistance.

In addition, I welcome the direction this legislation takes to cut the bureaucracy involved with decisions over eligibility and the arbitrary use of formulas in favor of a more common-sense approach to assistance.

Mr. Chairman, experience has shown that we need to put relief foremost in our disaster relief programs, and I urge my colleagues to support this legislation.0

Mr. CLINGER. Mr. Chairman, let me begin by offering my sincere gratitude to the efforts of my good friend and colleague, TOM RIDGE, for his unwavering efforts to bring about long-overdue reform to our Nation's disaster relief programs. Had it not been for his efforts, and those of Chairman JIM HOWARD, ranking Republican JOHN PAUL HAMMERSCHMIDT, HENRY NOWAK, JIM OBERSTAR, and ARLAN STANGELAND, we would not have been able to overcome the many obstacles that presented themselves in the course of drafting legislation reforming assistance programs administered by the Federal Emergency Management Agency.

My interest in FEMA was instigated by a serious natural disaster that occurred in my congressional district on May 31, 1985. On that date, a series of devastating tornados struck northwestern Pennsylvania, eastern Ohio, and western New York. In a matter of a couple of hours, they cut a wide swath of destruction and in Pennsylvania alone, communities in Congressman RIDGE's district—and my own—suffered a loss of 65 lives and $250 million in damage. It should be recognized, however, that these numbers hardly reflect the human trauma and personal disruption felt by everyone living in and around these areas.

Within a matter of hours, a large segment of the region was declared a disaster area by the President, mobilizing the Federal Emergency Management Agency.

The Agency established three disaster assistance centers in northwestern Pennsylvania. FEMA personnel visited individual homes and business centers throughout the region, assessing the damage and playing an instrumental role providing quick assistance to our citizens. FEMA ultimately spent about $4.7 million in financial aid in our communities.

Some months following this disaster, Congressman RIDGE and I hosted a town meeting to discuss the adequacy of FEMA's response and to seek recommendations for improvement. The results of our meeting were—to be kind—mixed.

We came away from the meeting with a desire to make improvements to FEMA's authorizing legislation; improvements we felt were necessary to overcome many of the complaints heard. But frankly, what initiated our efforts was an ill-timed, determined effort by FEMA to drastically limit their role in future disasters. On April 18, 1968, FEMA published a number of proposed changes in the Federal Register that, if implemented, would have made 61 of the then previous ill disaster declarations ineligible for assistance. None of the five disasters that occurred in Pennsylvania—including the 1985 tornadoes—would have qualified. And worse, had an area been eligible under the new formula, FEMA's disaster assistance would have been reduced.

To me, FEMA's action totally lacked any logic, and though I have rarely taken public exception with administration budget-cutting efforts, this rulemaking clearly went beyond the pale of reasonableness.

Subsequently JIM OBERSTAR, chairman of the Public Works Subcommittee on Investigations and Oversight, convened a hearing to explore the current FEMA Program and the impact of the proposed changes. The hearing went into the early evening hours due to strong interest by a number of Members who sought to appear before the subcommittee. Their testimony offered ample evidence of program shortcomings and all Members, on a strictly nonpartisan basis, vehemently opposed reductions in FEMA's assistance.

This morning's markup of H.R. 2707 is testament to the hard work and dedication of many Members and staff, and a great number of State and local officials, to ensure that the Federal Emergency Management Agency continues to be an effective, compassionate source of assistance to communities in need. This bill is the synthesis of untold hours of work and review to insure that future disaster assistance programs will be better responsive to those unfortunate communities visited by calamity. More importantly, this legislation will put into statute many of the features we believe are so essential to an effective program.

I heartily endorse this legislation and encourage all Members to support it. In the relative scope of Federal programs, the Federal Emergency Management Agency is a very small operation, but during times of need, FEMA has a major presence. We need to preserve and enhance their role for the future.

Mr. BOSCO. Mr. Chairman, I rise in support of H.R. 2707, the Major Disaster Relief and Emergency Assistance Amendments Act of 1988, and I urge my colleagues to join me in making the Federal Government more effective in alleviating the suffering and damage caused by disasters such as floods and storms. Federal authorities must continue to play a leading role in easing the financial strain on municipal and State governments in the event of unforeseen tragedies.

Since the passage of the Disaster Relief Act of 1974, Congress has clarified and expanded the Federal Government's role in responding to major disasters and emergencies which cannot be dealt with properly at the State and local levels. In the past few years we have unfortunately run into increasing unwillingness from the administration to aid municipalities in their times of need.

With the passage of this legislation today we will bring the Government's responsibilities more in line with the requirements of the areas of this Nation that are plagued with natural and other disasters.

In the 99th Congress we assured that the Reagan administration would not be able to change the disaster declaration process by requiring states to meet certain economic capability indicators to determine their eligibility for Federal assistance, or by simply shifting a greater share of the disaster cost burden to the States. Today we continue our defense of the interests of already-overburdened State and local governments.

The legislation we are considering today will make many significant improvements in existing Federal procedures. First of all, this legislation changes the Government's definition of a "major disaster" to include any natural catastrophe, and, regardless of origin, any fire, flood, or explosion. Second, this act expands the operative definition of an "emergency." These changes will make Federal aid available in a broader range of situations.

The Disaster Relief Act Amendments of 1988 requires that the Federal share of costs in the event of an emergency total 100 percent, and in the event of disasters the Federal share shall be not less than 75 percent.

Furthermore, this legislation will prohibit the use of a sliding scale or other arithmetic formulas to deny relief to certain areas of the country, and it will allow the President to advance the non-Federal share of funds in those circumstances where local governments are unable to come up with their share immediately. The Government will also be given greater latitude when it comes to paying for measures that reduce the risk of further damage.

Mr. Chairman, my district has been hit many times with major storms and floods. Two years ago northern California was struck by one of the worst storms in its history, and even the 75 percent Federal contribution proved insufficient in combatting the resulting flooding and mudslides. I have therefore always supported maintaining a high Federal share of disaster relief assistance, since I know from experience how strapped for funds municipal governments can become when disaster strikes.

I urge my colleagues to join me in approving this critical piece of legislation.

Mr. DREIER of California. Mr. Chairman, I rise today in strong support of H.R. 2707, the Disaster Relief Act amendments. This legislation is needed to help streamline the Federal Government's role in Presidential declared disasters.

As a recent firsthand observer of a declared disaster site, I feel that I am qualified to speak out in support of H.R. 2707. As most of my colleagues are aware, the city of Whittier, CA, which is located in my district, was the epicenter of an earthquake last October registering 6.1 on the Richter scale.

That city was significantly damaged in this earthquake. Needless to say, prompt Federal attention was needed. However, it was not until 6 days after the initial quake and subsequent aftershocks struck, that Federal assistance was initiated. During the time span between the quake and the disaster declaration, and even after that declaration, the victims were forced to manage their own affairs in what was truly a crisis situation.

Some very serious issues needed to be addressed. Not in 2 weeks, not in 1 week, but in the quickest manner possible. It was apparent, however, that the existing mechanisms were not in place to facilitate prompt action on the part of the Federal Emergency Management Agency [FEMA] or the Federal Government.

Following the quake, I met with officials from FEMA demanding to know what caused the delays in providing assistance to the earthquake victims. To this day, I am convinced that these delays were caused by an abundance of unnecessary, bureaucratic redtape. I must say that I was pleased to see how quickly my colleagues worked to bring to the floor this important measure to improve Federal disaster response mechanisms. In particular, I want to commend Mr. RIDGE for his hard work and efforts in developing this legislation and obtaining committee approval so that we may consider it today.

Specifically, what needs special attention is the point at which an individual, or businessman, is eligible for Federal disaster assistance. Under this bill, eligibility for Federal assistance would begin either on the date of occurrence of the disaster or when eligibility qualifying costs are incurred, whichever is earlier. Earthquake victims were forced to wait 11 days before being notified that they were even eligible for Federal assistance. In fact, the disaster application centers [DAC's] did not open until 10 days after the 6.1 quake hit. These bureaucratic and mechanical failures are totally unacceptable.

Another important provision of H.R. 2707 deals with the problem of delays in forthcoming Federal funds. Under this legislation, the Federal Government may advance funds that the victim is anticipating in insurance benefits when those benefits, through no fault of the victim are delayed. Upon receiving those insurance benefits, the victim shall reimburse the Federal Government. In our case, some businesses experienced a severe capital crunch as they were forced to wait 2 and sometimes 3 months before they saw their first Federal relief checks.

Also, FEMA will be required to develop fair and consistent standards for reviewing disasters. Those standards will be available to any interested parties. In the first several days after the Whittier quake hit, local officials needed information on the various Federal programs available to the disaster victims and the standard operating procedures of FEMA. Unfortunately, my office, as well as local government offices, encountered tremendous difficulty in obtaining even the most rudimentary information about loan interest rates, or the operation of the DAC's.

Again, I urge my colleagues to support H.R. 2707. Obviously, this bill is not going to ensure that Federal disaster assistance will be executed flawlessly. But hopefully, this legislation will facilitate a more effective and timely Federal assistance program.

Mr. STANGELAND. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. HOWARD. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute, now printed in the reported bill, shall be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate title I.

The text of title I is as follows:

H.R. 2707

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DISASTER RELIEF AND EMERGENCY ASSISTANCE AMENDMENTS

SEC. 101. SHORT TITLE; AMENDMENTS TO DISASTER RELIEF ACT OF 1974.

(a) Short Title.—This title may be cited as the "Disaster Relief and Emergency Assistance Amendments of 1988".

(b) Amendments to Disaster Relief Act of 1974.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Disaster Relief Act of 1974 (42 U.S.C. 5121-5202).

SEC. 102. AMENDMENT TO SHORT TITLE.

(a) Amendment to Short Title.—The first section is amended by striking out "Disaster Relief Act of 1974" and inserting in lieu thereof "Disaster Relief and Emergency Assistance Act".

(b) References.—Whenever any reference is made in any law (other than this Act), regulation, document, rule, record, or other paper of the United States to a section or provision of the Disaster Relief Act of 1974, such reference shall be deemed to be a reference to such section or provision of the Disaster Relief and Emergency Assistance Act.

SEC. 103. AMENDMENTS TO TITLE I.

(a) Definition of Emergency.—Section 102(1) is amended to read as follows:

"(1) Emergency.—'Emergency' means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe in any part of the United States.".

(b) Definition of Major Disaster.—Section 102(2) is amended to read as follows:

"(2) Major disaster.—'Major disaster' means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.".

(c) Technical Amendments.—Paragraphs (3) and (4) of section 102 are each amended by striking out "the Canal Zone,".

(d) Definition of Local Government.—Section 102(6) is amended—

(1) by striking out "(A)"; and

(2) by striking out ", and (B) includes" and inserting in lieu thereof "and includes (A) such special purpose local governments as levee districts, irrigation districts, and reclamation districts, and (B)".

(e) Definitions of Public and Private Nonprofit Facilities.—Section 102 is amended by adding at the end thereof the following new paragraphs:

"(8) Public facility.—'Public facility' means the following facilities owned by a State or local government:

"(A) Any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility.

"(B) Any non-Federal-aid street, road, or highway.

"(C) Any other public building, structure, or system, including those used for educational, recreational, or cultural purposes.

"(D) Any park.

"(9) Private nonprofit facility.—'Private nonprofit facility' means private nonprofit educational, utility, emergency, medical, and custodial care facilities (including those for the aged and disabled), other private nonprofit facilities which provide to the general public services of a governmental nature, and facilities on Indian reservations as defined by the President.".

SEC. 104. DISASTER PREPAREDNESS ASSISTANCE.

(a) Maximum Amount of State Disaster Assistance Planning Grants.—Section 201(d) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(b) Technical Amendments.—Section 201 is amended—

(1) in subsection (a) by striking out "(including the Defense Civil Preparedness Agency)"; and

(2) in subsection (d) by inserting "including evaluations of natural hazards and development of the programs and actions re-

quired to mitigate such hazards;" after "plans,".

SEC. 105. DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION.

(a) Waiver of Conditions.—Title III is amended—

(1) by striking out the heading for such title and inserting in lieu thereof

"TITLE III—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION"; and

(2) by striking out sections 301 and 302 and inserting in lieu thereof the following new section:

"SEC. 301. WAIVER OF ADMINISTRATIVE CONDITIONS.

"Any Federal agency charged with the administration of a Federal assistance program may, if so requested by the applicant State or local authorities, modify or waive, for a major disaster, such administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster.".

(b) Coordinating Officers.—

(1) Redesignation.—Section 303, and any reference thereto, is redesignated as section 302.

(2) Inclusion of emergencies.—Such section is amended in subsection (a) by inserting "or emergency" after "major disaster".

(c) Redesignation of Section 304.—Section 304, and any reference thereto, is redesignated as section 303.

(d) Removal of Emergency Assistance and Cooperation Provisions From Title III; Redesignation of Sections 307, 308, and 309.—Title III is further amended by striking out sections 305 and 306 and by redesignating sections 307, 308, and 309, and any references thereto, as sections 304, 305, and 306, respectively.

(e) Use of Local Firms and Individuals.—

(1) Redesignation.—Section 310, and any reference thereto, is redesignated as section 307.

(2) Inclusion of emergencies.—Such section is amended—

(A) by inserting "or emergency" after "major disaster" each place it appears; and

(B) by striking out "may be" and inserting in lieu thereof "are".

(f) Redesignation of Sections 311 and 312; Conforming Amendment.—Sections 311 and 312, and any references thereto, are redesignated as sections 308 and 309, respectively. Such section 308, relating to nondiscrimination in disaster assistance, is amended by striking out "section 402 or 404 of" in subsection (b).

(g) Priority to Certain Applications for Public Facility and Public Housing Assistance.—Title III is amended by striking out section 313 and inserting in lieu thereof the following new section:

"SEC. 310. PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND PUBLIC HOUSING ASSISTANCE.

"(a) Priority.—In the processing of applications for assistance, priority and immediate consideration shall be given by the head of the appropriate Federal agency, during such period as the President shall prescribe, to applications from public bodies situated in areas affected by major disasters under the following Acts:

"(1) The United States Housing Act of 1937 for the provision of low-income housing.

"(2) Section 702 of the Housing Act of 1954 for assistance in public works planning.

"(3) The Community Development Block Grant Program under title I of the Housing and Community Development Act of 1974.

"(4) Section 306 of the Consolidated Farm and Rural Development Act.

"(5) The Public Works and Economic Development Act of 1965.

"(6) The Appalachian Regional Development Act of 1965.

"(7) The Federal Water Pollution Control Act.

"(b) Obligation of Certain Discretionary Funds.—In the obligation of discretionary funds or funds which are not allocated among the States or political subdivisions of a State, the Secretary of Housing and Urban Development and the Secretary of Commerce shall give priority to applications for projects for major disaster areas in which a Recovery Planning Council has been designated pursuant to title VIII of the Public Works and Economic Development Act of 1965.".

(h) Insurance.—Title III is further amended by striking out section 314 and inserting in lieu thereof the following new section:

"SEC. 311. INSURANCE.

"(a) Applicants for Replacement of Damaged Facilities.—

"(1) Compliance with certain regulations.—An applicant for assistance under section 406 of this Act (relating to repair, restoration, and replacement of damaged facilities), section 422 of this Act (relating to simplified procedure) or section 803 of the Public Works and Economic Development Act of 1965 shall comply with regulations prescribed by the President to assure that, with respect to any property to be replaced, restored, repaired, or constructed with such assistance, such types and extent of insurance will be obtained and maintained as may be reasonably available, adequate, and necessary, to protect against future loss to such property.

"(2) Determination.—In making a determination with respect to availability, adequacy, and necessity under paragraph (1), the President shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner responsible for regulation of such insurance.

"(b) Maintenance of Insurance.—No applicant for assistance under section 406 of this Act (relating to repair, restoration, and replacement of damaged facilities), section 422 of this Act (relating to simplified procedure), or section 803 of the Public Works and Economic Development Act of 1965 may receive such assistance for any property or part thereof for which the applicant has previously received assistance under this Act unless all insurance required pursuant to this section has been obtained and maintained with respect to such property.

"(c) State Acting as Self-Insurer.—A State may elect to act as a self-insurer with respect to any or all of the facilities owned by the State. Such an election, if declared in writing at the time of acceptance of assistance under section 406 or 422 of this Act or section 803 of the Public Works and Economic Development Act of 1965 or subsequently and accompanied by a plan for self-insurance which is satisfactory to the President, shall be deemed compliance with subsection (a). No such self-insurer may receive assistance under section 406 or 422 of this Act for any property or part thereof for which it has previously received assistance under this Act, to the extent that insurance for such property or part thereof would have been reasonably available.".

(i) Duplication of Benefits.—Title III is further amended by striking out section 315 and inserting in lieu thereof the following new section:

"SEC. 312. DUPLICATION OF BENEFITS.

"(a) General Prohibition.—The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.

"(b) Special Rules.—

"(1) Limitation.—This section shall not prohibit the provision of Federal assistance to a person who is or may be entitled to receive benefits for the same purposes from another source if such person has not received such other benefits by the time of application for Federal assistance and if such person agrees to repay all duplicative assistance to the agency providing the Federal assistance.

"(2) Procedures.—The President shall establish such procedures as the President considers necessary to ensure uniformity in preventing duplication of benefits.

"(3) Effect of partial benefits.—Receipt of partial benefits for a major disaster or emergency shall not preclude provision of additional Federal assistance for any part of a loss or need for which benefits have not been provided.

"(c) Recovery of Duplicative Benefits.—A person receiving Federal assistance for a major disaster or emergency shall be liable to the United States to the extent that such assistance duplicates benefits available to the person for the same purpose from another source. The agency which provided the duplicative assistance shall collect such duplicative assistance from the recipient in accordance with the Debt Collection Act of 1982 (5 U.S.C. 552a et seq.) when the head of such agency considers it to be in the best interest of the Federal Government.

"(d) Assistance Not Income.—Federal major disaster and emergency assistance provided to individuals and families under this Act, and comparable disaster assistance provided by States, local governments, and disaster assistance organizations, shall not be considered as income or a resource when determining eligibility for or benefit levels under federally funded income assistance or resource-tested benefit programs.".

(j) Reviews and Reports.—Title III is further amended by striking out section 316 and inserting in lieu thereof the following new section:

"SEC. 313. STANDARDS AND REVIEWS.

"The President shall establish comprehensive standards which shall be used to assess the efficiency and effectiveness of Federal major disaster and emergency assistance programs administered under this Act. The President shall conduct annual reviews of the activities of Federal agencies and State and local governments in major disaster and emergency preparedness and in providing major disaster and emergency assistance in order to assure maximum coordination and effectiveness of such programs and consistency in policies for reimbursement of States under this Act.".

(k) Penalties.—Title III is further amended by striking out section 317 and inserting in lieu thereof the following new section:

"SEC. 314. PENALTIES.".

(l) Redesignation of Section 318.—Section 318, and any reference thereto, is redesignated as section 315.

(m) PROTECTION OF ENVIRONMENT; RECOVERY OF ASSISTANCE; AUDITS AND INVESTIGATIONS.—

(1) ADDITIONS TO TITLE III.—Title III is further amended by adding at the end thereof the following new sections:

"SEC. 316. PROTECTION OF ENVIRONMENT.

"SEC. 317. RECOVERY OF ASSISTANCE.

"(a) PARTY LIABLE.—Any person who negligently or intentionally causes or contributes to a condition for which Federal assistance is provided under this Act or under any other Federal law as a result of a declaration of a major disaster or emergency under this Act shall be liable to the United States for the reasonable costs incurred by the United States in responding to such disaster or emergency to the extent that such costs are attributable to the negligent or intentional act or omission of such person which caused or contributed to such condition.

"(b) RENDERING OF CARE.—A person shall not be liable under this section for costs incurred by the United States as a result of actions taken or omitted by such person in the course of rendering care or assistance in response to a major disaster or emergency.

"SEC. 318. AUDITS AND INVESTIGATIONS.

"(a) IN GENERAL.—Subject to the provisions of chapter 75 of title 31, United States Code, relating to requirements for single audits, the President shall conduct audits and investigations as necessary to assure compliance with this Act, and in connection therewith may question such persons as may be necessary to carry out such audits and investigations.

"(b) ACCESS TO RECORDS.—For purposes of audits and investigations under this section, the President and Comptroller General may inspect any books, documents, papers, and records of any person relating to any activity undertaken or funded under this Act.".

(2) CONFORMING AMENDMENT TO TITLE IV.—Title IV is amended by striking out section 405, relating to protection of the environment.

SEC. 106. MAJOR DISASTER ASSISTANCE PROGRAMS.

(a) PROCEDURE FOR DECLARATION; GENERAL FEDERAL ASSISTANCE; ESSENTIAL ASSISTANCE; AND HAZARD MITIGATION.—Title IV is amended—

(1) by striking out the heading for such title and inserting in lieu thereof

"TITLE IV—MAJOR DISASTER ASSISTANCE PROGRAMS";

(2) by redesignating section 401 (relating to Federal facilities), and any reference thereto, as section 405; and

(3) by inserting before such section 405 the following new sections:

"SEC. 401. PROCEDURE FOR DECLARATION.

"All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As part of such request, and as a prerequisite to major disaster assistance under this Act, the Governor shall take appropriate response action under State law. The Governor shall furnish information on the nature and amount of State and local resources which have been or will be committed to alleviating the results of the disaster. Based on the request of a Governor under this section, the President may declare under this Act that a major disaster or emergency exists.

"SEC. 402. GENERAL FEDERAL ASSISTANCE.

"In any major disaster, the President may—

"(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts;

"(2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;

"(3) provide technical and advisory assistance to affected State and local governments for—

"(A) the performance of essential community services;

"(B) issuance of warnings of risks and hazards;

"(C) public health and safety information, including dissemination of such information;

"(D) provision of health and safety measures; and

"(E) management, control, and reduction of immediate threats to public health and safety; and

"(4) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance.

"SEC. 403. ESSENTIAL ASSISTANCE.

"(a) IN GENERAL.—Federal agencies may on the direction of the President, provide assistance essential to meeting immediate threats to life and property resulting from a major disaster, as follows:

"(1) FEDERAL RESOURCES, GENERALLY.—Utilizing, lending, or donating to State and local governments Federal equipment, supplies, facilities, personnel, and other resources, other than the extension of credit, for use or distribution by such governments in accordance with the purposes of this Act.

"(2) MEDICINE, FOOD, AND OTHER CONSUMABLES.—Distributing or rendering through State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations medicine, food, and other consumable supplies, and other services and assistance to disaster victims.

"(3) WORK AND SERVICES TO SAVE LIVES AND PROTECT PROPERTY.—Performing on public or private lands or waters any work or services essential to saving lives and protecting and preserving property or public health and safety, including—

"(A) debris removal;

"(B) search and rescue, emergency medical care, emergency mass care, emergency shelter, and provision of food, water, medicine, and other essential needs, including movement of supplies or persons;

"(C) clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services;

"(D) provision of temporary facilities for schools and other essential community services;

"(E) demolition of unsafe structures which endanger the public;

"(F) warning of further risks and hazards;

"(G) dissemination of public information and assistance regarding health and safety measures;

"(H) provision of technical advice to State and local governments on disaster management and control; and

"(I) reduction of immediate threats to life, property, and public health and safety.

"(4) CONTRIBUTIONS.—Making contributions to State or local governments or owners or operators of private nonprofit facilities for the purpose of carrying out the provisions of this subsection.

"(b) FEDERAL SHARE.—The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of such assistance.

"SEC. 404. HAZARD MITIGATION.

"The President may contribute up to 50 percent of the cost of hazard mitigation measures which substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster. Such measures shall be identified following the evaluation of natural hazards under section 409 and shall be subject to approval by the President. The total of contributions under this section for a major disaster shall not exceed—

"(1) 10 percent of the estimated aggregate amounts of grants to be made under section 406 with respect to such major disaster, or

"(2) $1,000,000,

whichever is greater.".

(b) REPAIR AND RESTORATION OF DAMAGED FACILITIES.—Title IV is further amended by striking out section 402, relating to repair and restoration of damaged facilities, and inserting in lieu thereof the following new section:

"SEC. 406. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES.

"(a) CONTRIBUTIONS.—The President may make contributions—

"(1) to a State or local government for the repair, restoration, reconstruction, or replacement of a public facility which is damaged or destroyed by a major disaster and for associated expenses incurred by such government; and

"(2) to a person who owns or operates a private nonprofit facility damaged or destroyed by a major disaster for the repair, restoration, reconstruction, or replacement of such facility and for associated expenses incurred by such person.

"(b) MINIMUM FEDERAL SHARE.—The Federal share of assistance under this section shall be not less than—

"(1) 75 percent of the net eligible cost of repair, restoration, reconstruction, or replacement carried out under this section;

"(2) 100 percent of associated expenses described in subsections (f)(1) and (f)(2); and

"(3) 75 percent of associated expenses described in subsections (f)(3), (f)(4), and (f)(5).

"(c) LARGE IN LIEU CONTRIBUTIONS.—

"(1) FOR PUBLIC FACILITIES.—In any case where a State or local government determines that the public welfare would not be best served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by such State or local government, it may elect to receive, in lieu of a contribution under subsection (a)(1), a contribution of not to exceed 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing such facility and of associated expenses. Funds contributed under this subsection may be used to repair, restore, or expand other selected public facilities, to construct new facilities, or to fund hazard mitigation measures which the State or local government determines to be necessary to meet a need for governmental services and functions in the area affected by the major disaster.

"(2) FOR PRIVATE NONPROFIT FACILITIES.—In any case where a person who owns or oper-

ates a private nonprofit facility determines that the public welfare would not be best served by repairing, restoring, reconstructing, or replacing such facility, such person may elect to receive, in lieu of a contribution under subsection (a)(2), a contribution of not to exceed 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing such facility and of associated expenses. Funds contributed under this subsection may be used to repair, restore, or expand other selected private nonprofit facilities owned or operated by such person, to construct new private nonprofit facilities to be owned or operated by such person, or to fund hazard mitigation measures which such person determines to be necessary to meet a need for its services and functions in the area affected by the major disaster.

"(d) FLOOD INSURANCE.—

"(1) REDUCTION OF FEDERAL ASSISTANCE.—If a public facility or private nonprofit facility located in a special flood hazard area identified for more than 1 year by the Director pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is damaged or destroyed, after the 180th day following the date of the enactment of the Disaster Relief and Emergency Assistance Amendments of 1988, by flooding in a major disaster and such facility is not covered on the date of such flooding by flood insurance, the Federal assistance which would otherwise be available under this section with respect to repair, restoration, reconstruction, and replacement of such facility and associated expenses shall be reduced in accordance with paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount of a reduction in Federal assistance under this section with respect to a facility shall be the lesser of—

"(A) the value of such facility on the date of the flood damage or destruction, or

"(B) the maximum amount of insurance proceeds which would have been payable with respect to such facility if such facility had been covered by flood insurance under the National Flood Insurance Act of 1968 on such date.

"(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply to a private nonprofit facility which is not covered by flood insurance solely because of the local government's failure to participate in the flood insurance program established by the National Flood Insurance Act.

"(4) DISSEMINATION OF INFORMATION.—The President shall disseminate information regarding the reduction in Federal assistance provided for by this subsection to State and local governments and the owners and operators of private nonprofit facilities who may be affected by such a reduction.

"(e) NET ELIGIBLE COST.—

"(1) GENERAL RULE.—For purposes of this section, the cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility on the basis of the design of such facility as it existed immediately prior to the major disaster and in conformity with current applicable codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or by the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)) shall, at a minimum, be treated as the net eligible cost of such repair, restoration, reconstruction, or replacement.

"(2) SPECIAL RULE.—In any case in which the facility being repaired, restored, reconstructed, or replaced under this section was under construction on the date of the major disaster, the cost of repairing, restoring, reconstructing, or replacing such facility shall include, for purposes of this section, only those costs which, under the contract for such construction, are the owner's responsibility and not the contractor's responsibility.

"(f) ASSOCIATED EXPENSES.—For purposes of this section, associated expenses include the following:

"(1) Necessary costs of requesting, obtaining, and administering Federal assistance based on a percentage of assistance provided as follows:

"(A) For an applicant whose net eligible costs equal less than $100,000, 3 percent of such net eligible costs.

"(B) For an applicant whose net eligible costs equal $100,000 or more but less than $1,000,000, $3,000 plus 2 percent of such net eligible costs in excess of $100,000.

"(C) For an applicant whose net eligible costs equal $1,000,000 or more but less than $5,000,000, $21,000 plus 1 percent of such net eligible costs in excess of $1,000,000.

"(D) For an applicant whose net eligible costs equal $5,000,000 or more, $61,000 plus ½ percent of such net eligible costs in excess of $5,000,000.

"(2) Extraordinary costs incurred by a State for preparation of damage survey reports, final inspection reports, project applications, final audits, and related field inspections by State employees, including overtime pay and per diem and travel expenses of such employees, but not including pay for regular time of such employees, based on the total amount of assistance provided under sections 403, 404, 406, 407, 502, and 503 in such State in connection with the major disaster as follows:

"(A) If such total amount is less than $100,000, 3 percent of such total amount.

"(B) If such total amount is $100,000 or more but less than $1,000,000, $3,000 plus 2 percent of such total amount in excess of $100,000.

"(C) If such total amount is $1,000,000 or more but less than $5,000,000, $21,000 plus 1 percent of such total amount in excess of $1,000,000.

"(D) If such total amount is $5,000,000 or more, $61,000 plus ½ percent of such total amount in excess of $5,000,000.

"(3) The costs of mobilizing and employing the National Guard for performance of eligible work.

"(4) The costs of using prison labor to perform eligible work, including wages actually paid, transportation to a worksite, and extraordinary costs of guards, food, and lodging.

"(5) Base and overtime wages for an applicant's employees and extra hires performing eligible work plus fringe benefits on such wages to the extent that such benefits were being paid before the disaster.".

(c) DEBRIS REMOVAL.—

(1) REDESIGNATION.—Section 403 (relating to debris removal) and any reference thereto, is redesignated as section 407.

(2) INCLUSION OF NONPROFIT FACILITIES.—Subsection (a)(2) of such section 407 is amended by inserting after "local government" the following: "or owner or operator of a private nonprofit facility".

(3) RULES RELATING TO LARGE LOTS; FEDERAL SHARE.—Such section 407 is further amended by adding at the end thereof the following new subsections:

"(c) RULES RELATING TO LARGE LOTS.—The President shall issue rules which provide for recognition of differences existing among urban, suburban, and rural lands in implementation of this section so as to facilitate adequate removal of debris and wreckage from large lots.

"(d) FEDERAL SHARE.—The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of debris and wreckage removal carried out under this section.".

(d) TEMPORARY HOUSING ASSISTANCE.—Title IV is further amended by striking out section 404, relating to temporary housing assistance, and inserting in lieu thereof the following new section:

"SEC. 408. TEMPORARY HOUSING ASSISTANCE.

"(a) PROVISION OF TEMPORARY HOUSING.—

"(1) IN GENERAL.—The President may—

"(A) provide, by purchase or lease, temporary housing (including unoccupied habitable dwellings), suitable rental housing, mobile homes, or other readily fabricated dwellings to persons who, as a result of a major disaster, require temporary housing; and

"(B) reimburse State and local governments in accordance with paragraph (4) for the cost of sites provided under paragraph (2).

"(2) MOBILE HOME SITE.—

"(A) IN GENERAL.—Any mobile home or other readily fabricated dwelling provided under this section shall whenever possible be located on a site which—

"(i) is provided by the State or local government; and

"(ii) has utilities provided by the State or local government, by the owner of the site, or by the occupant who was displaced by the major disaster.

"(B) OTHER SITES.—Mobile homes and other readily fabricated dwellings may be located on sites provided by the President if the President determines that such sites would be more economical or accessible than sites described in subparagraph (A).

"(3) PERIOD.—Federal financial and operational assistance under this section shall continue for not longer than 18 months after the date of the major disaster declaration by the President, unless the President determines that due to extraordinary circumstances it would be in the public interest to extend such 18-month period.

"(4) FEDERAL SHARE.—The Federal share of assistance under this section shall be 100 percent; except that the Federal share of assistance under this section for construction and site development costs (including installation of utilities) at a mobile home site shall be 90 percent of the eligible cost of such assistance. The State or local government receiving assistance under this section shall pay any cost which is not paid for from the Federal share.

"(b) TEMPORARY MORTGAGE AND RENTAL PAYMENTS.—The President is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of a foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to such disaster. Such assistance shall be provided for the duration of the period of financial hardship but not to exceed 18 months.

"(c) IN LIEU EXPENDITURES.—In lieu of providing other types of temporary housing after a major disaster, the President is authorized to make expenditures for the purpose of repairing or restoring to a habitable condition owner-occupied private residential structures made uninhabitable by a major disaster which are capable of being restored quickly to a habitable condition.

"(d) TRANSFER OF TEMPORARY HOUSING.—

"(1) DIRECT SALE TO OCCUPANTS.—Notwithstanding any other provision of law, any temporary housing acquired by purchase may be sold directly to individuals and families who are occupants of temporary housing at prices that are fair and equitable, as determined by the President.

"(2) TRANSFERS TO STATES, LOCAL GOVERNMENTS, AND VOLUNTARY ORGANIZATIONS.—The President may sell or otherwise make available temporary housing units directly to States, other governmental entities, and voluntary organizations. The President shall impose as a condition of transfer under this paragraph a covenant to comply with the provisions of section 308 requiring nondiscrimination in occupancy of such temporary housing units. Such disposition shall be limited to units purchased under the provisions of subsection (a) and to the purposes of providing temporary housing for disaster victims in major disasters or emergencies.

"(e) NOTIFICATION.—

"(1) IN GENERAL.—Each person who applies for assistance under this section shall be notified regarding the type and amount of any assistance for which such person qualifies. Whenever practicable, such notice shall be provided within 7 days after the date of submission of such application.

"(2) INFORMATION.—Notification under this subsection shall provide information regarding—

"(A) all forms of such assistance available;

"(B) any specific criteria which must be met to qualify for each type of assistance that is available;

"(C) any limitations which apply to each type of assistance; and

"(D) the address and telephone number of offices responsible for responding to—

"(i) appeals of determinations of eligibility for assistance; and

"(ii) requests for changes in the type or amount of assistance provided.

"(f) LOCATION.—In providing assistance under this section, consideration shall be given to the location of and travel time to—

"(1) the applicant's place of business;

"(2) schools which the applicant or members of the applicant's family who reside with the applicant attend;

"(3) any home or place of business whose destruction or damage is the result of the major disaster which created the applicant's need for assistance under this section; and

"(4) crops or livestock which the applicant tends in the course of any involvement in farming which provides 25 percent or more of the applicant's annual income.".

(e) REDESIGNATION OF SECTIONS 406 AND 407.—Sections 406 (relating to minimum standards for public and private structures) and 407 (relating to unemployment assistance), and any references thereto, are redesignated as sections 409 and 410, respectively.

(f) INDIVIDUAL AND FAMILY GRANT PROGRAMS.—Title IV is amended by striking out section 408 (relating to individual and family grant programs) and inserting in lieu thereof the following new section:

"SEC. 411. INDIVIDUAL AND FAMILY GRANT PROGRAMS.

"(a) IN GENERAL.—The President is authorized to make a grant to a State for the purpose of making grants to individuals or families adversely affected by a major disaster—

"(1) for land use and construction projects designed to mitigate future major disaster-related losses, and

"(2) for meeting disaster-related necessary expenses or serious needs of such individuals or families in those cases where such individuals or families are unable to meet such expenses or needs through assistance under other provisions of this Act or through other means.

"(b) COST SHARING.—

"(1) FEDERAL SHARE.—The Federal share of a grant to an individual or a family under this section shall be equal to 75 percent of the actual cost incurred.

"(2) STATE CONTRIBUTION.—The Federal share of a grant under this section shall be paid only on condition that the remaining 25 percent of the cost is paid to an individual or family from funds made available by a State.

"(c) REGULATIONS.—The President shall promulgate regulations to carry out this section and such regulations shall include national criteria, standards, and procedures for the determination of eligibility for grants and the administration of grants under this section.

"(d) ADMINISTRATIVE EXPENSES.—A State may expend not to exceed 5 percent of any grant made by the President to it under subsection (a) for expenses of administering grants to individuals and families under this section.

"(e) ADMINISTRATION THROUGH GOVERNOR.—The Governor of a State shall administer the grant program authorized by this section in the State.

"(f) LIMIT ON GRANTS TO INDIVIDUAL.—No individual or family shall receive grants under this section aggregating more than $10,000 with respect to any single major disaster. Such $10,000 limit shall annually be adjusted to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.".

(g) REDESIGNATION OF SECTIONS 409 THROUGH 412.—Sections 409 (relating to food coupons and distribution), 410 (relating to food commodities), 411 (relating to relocation assistance), and 412 (relating to legal services), and any references thereto, are redesignated as sections 412, 413, 414, and 415, respectively.

(h) CRISIS COUNSELING.—Section 413 (relating to crisis counseling assistance and training), and any reference thereto, is redesignated as section 416. Such section is amended by striking out "(through the National Institute of Mental Health)".

(i) REDESIGNATION OF SECTIONS 414 THROUGH 418.—Sections 414 (relating to community disaster loans), 415 (relating to emergency communications), 416 (relating to emergency public transportation), 417 (relating to fire suppression grants), and section 418 (relating to timber sale contracts), and any references thereto, are redesignated as sections 417, 418, 419, 420, and 421, respectively.

(j) SIMPLIFIED PROCEDURE.—Title IV is further amended by striking out section 419 (relating to in-lieu contribution) and inserting in lieu thereof the following new section:

"SEC. 422. SIMPLIFIED PROCEDURE.

"If the Federal estimate of the cost of—

"(1) repairing, restoring, reconstructing, or replacing under section 406 any damaged or destroyed public facility or private nonprofit facility,

"(2) emergency assistance under section 403 or 502, or

"(3) debris removed under section 407,

is less than $35,000, the President (on application of the State or local government or the owner or operator of the private nonprofit facility) may make the contribution to such State or local government or owner or operator under section 403, 406, 407, or 502, as the case may be, on the basis of such Federal estimate. Such $35,000 amount shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.".

(k) APPEALS; DATE OF ELIGIBILITY; EXPENSES INCURRED BEFORE DATE OF DISASTER; ADVANCE OF NON-FEDERAL SHARE; LIMITATION ON USE OF SLIDING SCALES.—Title IV is further amended by adding at the end thereof the following new sections:

"SEC. 423. APPEALS OF ASSISTANCE DECISIONS.

"(a) RIGHT OF APPEAL.—Any decision regarding eligibility for, form, or amount of assistance under this title may be appealed within 60 days after the date on which the applicant for such assistance is notified of the award or denial of award of such assistance.

"(b) PERIOD FOR DECISION.—A decision regarding an appeal under subsection (a) shall be rendered within 60 days after the date on which the Federal official designated to administer such appeals receives notice of such appeal.

"(c) RULES.—The President shall issue rules which provide for the fair and impartial consideration of appeals under this section.

"SEC. 424. DATE OF ELIGIBILITY; EXPENSES INCURRED BEFORE DATE OF DISASTER.

"Eligibility for Federal assistance under this title shall begin on the date of the occurrence of the event which results in a declaration by the President that a major disaster exists; except that expenses which are incurred in anticipation of such event may be eligible for Federal assistance under this Act.

"SEC. 425. ADVANCE OF NON-FEDERAL SHARE.

"(a) IN GENERAL.—If an eligible applicant is unable to immediately assume its financial responsibility under cost sharing provisions of this title, the President may advance an amount not to exceed such applicant's share. An advance under this section shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current market yields on outstanding marketable obligations of the United States with periods remaining to maturity comparable to the reimbursement period of the advance.

"(b) RULES.—The President shall issue rules describing the terms and conditions under which advances under this section may be made and repayment of such advances (or portions thereof) may be forgiven. Such rules shall provide that—

"(1) the request for forgiveness must be made within 3 years after the date of the major disaster declaration; and

"(2) repayment of an advance (or portion thereof) under this section may be forgiven only when the damages and destruction caused by the major disaster are so severe that it is not possible for the recipient of such advance to repay the amount advanced (or portion thereof) without unreasonably straining its available fiscal ability.

"SEC. 426. LIMITATION ON USE OF SLIDING SCALES.

"No geographic area shall be precluded from receiving assistance under this Act solely by virtue of an arithmetic formula or sliding scale based on income or population.".

SEC. 107. FEDERAL EMERGENCY ASSISTANCE PROGRAMS.

(a) FEDERAL EMERGENCY ASSISTANCE PROGRAMS.—Title V is amended to read as follows:

"TITLE V—EMERGENCY ASSISTANCE PROGRAMS

"SEC. 501. PROCEDURE FOR DECLARATION.

"(a) REQUEST AND DECLARATION.—All requests for a declaration by the President that an emergency exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of such request, and as a prerequisite to emergency assistance under this Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. The Governor shall furnish information describing the State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. Based upon such Governor's request, the President may declare that an emergency exists.

"(b) CERTAIN EMERGENCIES INVOLVING FEDERAL PRIMARY RESPONSIBILITY.—The President may exercise any authority vested in him by section 502 or section 503 with respect to an emergency when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or preeminent responsibility and authority. In determining whether or not such an emergency exists, the President shall consult the Governor of any affected State to the extent practicable. The President's determination may be made without regard to subsection (a).

"SEC. 502. FEDERAL EMERGENCY ASSISTANCE.

"(a) SPECIFIED.—In any emergency, the President may—

"(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical and advisory services) in support of State and local emergency assistance efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe;

"(2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;

"(3) provide technical and advisory assistance to affected State and local governments for—

"(A) the performance of essential community services;

"(B) issuance of warnings of risks or hazards;

"(C) public health and safety information, including dissemination of such information;

"(D) provision of health and safety measures; and

"(E) management, control, and reduction of immediate threats to public health and safety;

"(4) provide emergency assistance through Federal agencies without cost to affected State or local governments;

"(5) remove debris in accordance with the terms and conditions (other than cost sharing provisions) of section 407;

"(6) provide temporary housing assistance under section 408; and

"(7) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance.

"(b) GENERAL.—Whenever the Federal assistance provided under subsection (a) with respect to an emergency is inadequate, the President may also provide assistance with respect to efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe.

"SEC. 503. AMOUNT OF ASSISTANCE.

"(a) FEDERAL SHARE.—The Federal share for assistance provided under this title shall be equal to 100 percent of the eligible costs.

"(b) LIMIT ON AMOUNT OF ASSISTANCE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), total assistance provided under this section for a single emergency shall not exceed $5,000,000.

"(2) ADDITIONAL ASSISTANCE.—The limitation described in paragraph (1) may be exceeded when the President determines that—

"(A) continued emergency assistance is immediately required;

"(B) there is a continuing and immediate risk to lives, property, public health or safety; and

"(C) necessary assistance will not otherwise be provided on a timely basis.

"(3) REPORT.—Whenever the limitation described in paragraph (1) is exceeded, the President shall report to the Congress on the nature and extent of emergency assistance requirements and shall propose additional legislation if necessary.".

(b) SAVINGS CLAUSE.—The amendment made by subsection (a) shall not be construed as having any effect on title VIII of the Public Works and Economic Development Act of 1965 which was added to such Act by section 501 of the Disaster Relief Act of 1974 on May 22, 1974.

SEC. 108. AMENDMENTS TO TITLE VI.

(a) RULES.—Section 601(a) is amended—

(1) by inserting "(1)" after "SEC. 601. (a)"; and

(2) by adding at the end the following new paragraph:

"(2) DEADLINE FOR PAYMENT OF ASSISTANCE.—Rules and regulations authorized by paragraph (1) shall provide that payment of any assistance under this Act to a State shall be completed within 60 days after the date of approval of such assistance.".

(b) EFFECTIVE DATE.—Section 605 is repealed.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 606 is repealed.

SEC. 109. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) AGRICULTURAL ACT OF 1949.—(1) Section 401(c) of the Agricultural Act of 1949 (7 U.S.C. 1421(c)) is amended by striking out "Public Law 875, Eighty-first Congress" and inserting in lieu thereof "the Disaster Relief and Emergency Assistance Act".

(2) Section 407 of such Act (7 U.S.C. 1427) is amended by striking out "Public Law 875, Eighty-first Congress, as amended (42 U.S.C. 1855)" and inserting in lieu thereof "the Disaster Relief and Emergency Assistance Act".

(b) AGRICULTURAL ACT OF 1970.—Section 813(d) of the Agricultural Act of 1970 (7 U.S.C. 1427a(d)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(c) CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—(1) Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended by striking out "Act of 1974" each place it appears and inserting in lieu thereof "and Emergency Assistance Act".

(2) Section 324(d) of such Act (7 U.S.C. 1964(d)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(d) FOOD STAMP ACT OF 1977.—Section 5(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(h)(1)) is amended by striking out "section 302(a) of the Disaster Relief Act of 1974" and inserting in lieu thereof "sections 402 and 502 of the Disaster Relief and Emergency Assistance Act".

(e) NATIONAL HOUSING ACT.—(1) Section 8(b)(2) of the National Housing Act (12 U.S.C. 1706c(b)(2) is amended by striking out "102(2) and 301 of the Disaster Relief Act of 1974" and inserting in lieu thereof "102(2) and 401 of the Disaster Relief and Emergency Assistance Act".

(2) Section 203(h) of such Act (12 U.S.C. 1709(h)) is amended—

(A) by striking out "riot or civil disorder,"; and

(B) by striking out "102(2) and 301 of the Disaster Relief Act of 1974" and inserting in lieu thereof "102(2) and 401 of the Disaster Relief and Emergency Assistance Act".

(3) Section 221(f) of such Act (12 U.S.C. 1715l(f)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(f) SMALL BUSINESS ACT.—(1) Section 7(b)(2)(A) of the Small Business Act (15 U.S.C. 636(b)(2)(A)) is amended by striking out "the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes', approved September 30, 1950, as amended (42 U.S.C. 1855-1855g)" and inserting in lieu thereof "the Disaster Relief and Emergency Assistance Act".

(2) Section 7(b)(E) of such Act (15 U.S.C. 636(b)(E)) is amended by striking out "subsection (b) of section 315 of Public Law 93-288 (42 U.S.C. 5155)" and inserting in lieu thereof "section 312(a) of the Disaster Relief and Emergency Assistance Act".

(3) Section 7(f) of such Act (15 U.S.C. 636(f)) is amended by striking out "section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))" and inserting in lieu thereof "section 102(2) of the Disaster Relief and Emergency Assistance Act".

(i) IMPACT AID ACT.—Section 7(a)(1)(A) of the Act of September 30, 1950, commonly known as the Impact Aid Act (Public Law 874, 81st Congress; 20 U.S.C. 241-1(a)(1)(A)), is amended by striking out "102(2) and 301 of the Disaster Relief Act of 1974" and inserting in lieu thereof "102(2) and 401 of the Disaster Relief and Emergency Assistance Act".

(j) PUBLIC LAW 815 OF THE 81ST CONGRESS.—Section 16(a)(1)(A) of the Act of September 23, 1950 (Public Law 815, 81st Congress; 20 U.S.C. 646(a)(1)(A)), is amended by striking out "102(2) and 301 of the Disaster Relief Act of 1974" and inserting in lieu thereof "102(2) and 401 of the Disaster Relief and Emergency Assistance Act".

(k) TITLE 23.—Section 125(b) of title 23, United States Code, is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(l) INTERNAL REVENUE CODE OF 1986.—Sections 165(i)(1), 165(k), 5064(b)(3), and 5708(a) of the Internal Revenue Code of 1986 (26 U.S.C. 165(i)(1), 165(k), 5064(b)(3), and 5708(a)) are each amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(m) ACT OF AUGUST 18, 1941.—Section 5(a) of the Act entitled "An Act authorizing the *construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (33 U.S.C. 701n), is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".*

(n) Title 38.—Section 1820(f) of title 38, United States Code, is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(o) National Flood Insurance Act of 1968.—Section 1306(c)(5) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(5)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(p) Social Security Act.—Subsections (a)(2)(A) and (b)(11) of section 1612 of the Social Security Act (42 U.S.C. 1382a(a)(2)(A) and (b)(11)) are each amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(q) Older Americans Act of 1965.—Section 310(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3030(a)(1)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(r) Public Works and Economic Development Act of 1965.—(1) Section 801(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3231(b)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(2) Section 802(b) of such Act (42 U.S.C. 3232(b)) is amended by striking out "402(f) of the Disaster Relief Act of 1974" and inserting in lieu thereof "406(c) of the Disaster Relief and Emergency Assistance Act".

(s) Department of Housing and Urban Development; Space, Science, Veterans, and Certain Other Independent Agencies Appropriation Act, 1973.—Section 406 of the Department of Housing and Urban Development; Space, Science, Veterans, and Certain Other Independent Agencies Appropriation Act, 1973 is amended by striking out "Act of 1970 (84 Stat. 1744)" and inserting in lieu thereof "and Emergency Assistance Act".

(t) Flood Disaster Protection Act of 1973.—Section 3(a)(4) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4003(a)(4)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(u) Earthquake Hazards Reduction Act of 1977.—Subsections (g) and (i) of section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) are each amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(v) CERCLA.—Section 101(23) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(23)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(w) Act of June 30, 1954.—Section 3 of the Act of June 30, 1954 (68 Stat. 330; 48 U.S.C. 1681 note) is amended by striking out "102(2) and 301 of the Disaster Relief Act of 1974" and inserting in lieu thereof "102(2) and 401 of the Disaster Relief and Emergency Assistance Act".

SEC. 110. RECOMMENDATIONS CONCERNING IMPROVEMENT OF RELATIONSHIPS AMONG DISASTER MANAGEMENT OFFICIALS.

Not later than 1 year after the date of the enactment of this Act, the President shall recommend to the Congress proposals to improve the operational and fiscal relationships that exist among Federal, State, and local major disaster and emergency management officials. Such proposals should include provisions which—

(1) decrease the amount of time for processing requests for major disaster and emergency declarations and providing Federal assistance for major disasters and emergencies;

(2) provide for more effective utilization of State and local resources in major disaster and emergency relief efforts; and

(3) improve the timeliness of reimbursement of State and local governments after the submission of necessary documentation.

SEC. 111. EFFECTIVE DATE; DEADLINE FOR ISSUANCE OF REGULATIONS.

(a) Effective Date.—This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) Deadline for Issuance of Regulations.—Regulations necessary to carry out this title and the amendments made by this title shall be issued no later than the 90th day following the date of the enactment of this Act.

AMENDMENTS EN BLOC OFFERED BY MR. HOWARD

Mr. HOWARD. Mr. Chairman, I offer the amendments en bloc made in order under the rule.

The Clerk read as follows:

Amendments offered by Mr. Howard:

Page 8, after line 6, insert the following new paragraph:

(3) Use of department of defense resources.—Such section is further amended by adding at the end thereof the following new sentence: "This section shall not be consideration to restrict the use of Department of Defense resources in the provision of major disaster assistance under this Act.".

Page 14, strike out line 20 and insert in lieu thereof the following:

SEC. 314. PENALTIES.

(a) Misuse of Funds.—Any person who knowingly misapplies the proceeds of a loan or other cash benefit obtained under this Act shall be fined an amount equal to one and one-half times the misapplied amount of the proceeds or cash benefit.

(b) Civil Enforcement.—Whenever it appears that any person has violated or is about to violate any provision of this Act, including any civil penalty imposed under this Act, the Attorney General may bring a civil action for such relief as may be appropriate. Such action may be brought in the United States district court having jurisdiction over the place where the violation occurred or, on the agreement of the parties, in the United States District Court for the District of Columbia.

(c) Referral to Attorney General.—The President shall expeditiously refer to the Attorney General for appropriate action any evidence developed in the performance of functions under this Act that may warrant consideration for criminal prosecution.

(d) Civil Penalty.—Any individual who knowingly violates any order or regulation issued under this Act shall be subject to a civil penalty of not more than $5,000 for each violation.

Page, 15, strike out line 4 and insert in lieu thereof the following:

SEC. 316. PROTECTION OF ENVIRONMENT.

An action which is taken or assistance which is provided under title IV or V to save lives, to protect property or public health and safety, or to remove debris and which has the effect of restoring a facility substantially to its condition prior to the disaster or emergency, shall not be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852). Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 to other Federal actions taken under this Act or under any other provisions of law.

Page 15, after line 20, insert the following:

(c) Institution of Action.—The Attorney General may institute an action in any United States district court for a district in which assistance is provided under this Act, or in such district as otherwise provided by law, against any party who may be liable under this section.

Page 20, after line 20, insert the following:

(c) Utilization of DOD Resources.—

(1) General rule.—During the immediate aftermath of an incident which may ultimately qualify for assistance under this title or title V of this Act, the Governor of the State in which such incident occurred may request the President to direct the Secretary of Defense to utilize the resources of the Department of Defense for the purpose of performing on public and private lands any emergency work which is made necessary by such incident and which is essential for the preservation of life and property. If the President determines that such work is essential for the presevation of life and property, the President shall grant such request to the extent the President determines practicable. Such emergency work may only be carried out for a period not to exceed 10 days.

(2) Rules applicable to debris removal.—Any removal of debris and wreckage carried out under this subsection shall be subject to section 407(b), relating to unconditional authorization and indemnification for debris removal.

(3) Expenditures out of disaster relief funds.—The cost of any assistance provided pursuant to this subsection shall be reimbursed out of funds made available to carry out this Act.

(4) Federal share.—The Federal share of assistance under this subsection shall be 100 percent.

(5) Definitions.—For purposes of this section—

(A) Department of defense.—The term "Department of Defense" has the meaning the term "department" has under section 101 of title 10, United States Code.

(B) Emergency work.—The term "emergency work" includes clearance and removal of debris and wreckage and temporary restoration of essential public facilities and services.

Page 47, after line 10, insert the following new subsections:

(g) Endangered Species Act of 1973.—Section 7(p) of the Endangered Species Act of 1973 (16 U.S.C. 1536(p)) is amended—

(1) by striking out "Disaster Relief Act of 1974" each place it appears and inserting in lieu thereof "Disaster Relief and Emergency Assistance Act"; and

(2) by striking out "401 or 402" and inserting in lieu thereof "405 or 406".

(h) Coastal Barrier Resources Act.—Section 6(a)(6)(E) of the Coastal Barrier Resources Act (16 U.S.C. 3505(a)(6)(E)) is amended by striking out "305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146)" and inserting in lieu thereof "402, 403, and 502 of the Disaster Relief and Emergency Assistance Act.

Mr. HOWARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MODIFICATIONS TO AMENDMENTS EN BLOC OFFERED BY MR. HOWARD

Mr. HOWARD. Mr. Chairman, I ask unanimous consent for modifications of the amendments en bloc which are at the desk.

The CHAIRMAN. The Clerk will report the modifications.

The Clerk proceeded to read the modifications.

Mr. HOWARD (during the reading). Mr. Chairman, I ask unanimous consent that the modifications to the amendments en bloc be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The text of the amendment, as modified, offered by Mr. HOWARD, is as follows:

Amendments as modified, offered by Mr. HOWARD:

Page 8, after line 6, insert the following new paragraph:

(3) USE OF DEPARTMENT OF DEFENSE RESOURCES.—Such section is further amended by adding at the end thereof the following new sentence: "This section shall not be considered to restrict the use of Department of Defense resources in the provision of major disaster assistance under this Act.".

Page 13, strike out line 17 and insert in lieu thereof the following: chapter 37 of title 31, United States Code, relating to debt collection.

Page 14, strike out line 20 and insert in lieu thereof the following:

"SEC. 314. PENALTIES.

"(a) MISUSE OF FUNDS.—Any person who knowingly misapplies the proceeds of a loan or other cash benefit obtained under this Act shall be fined an amount equal to one and one-half times the misapplied amount of the proceeds or cash benefit.

"(b) CIVIL ENFORCEMENT.—Whenever it appears that any person has violated or is about to violate any provision of this Act, including any civil penalty imposed under this Act, the Attorney General may bring a civil action for such relief as may be appropriate. Such action may be brought in an appropriate United States district court.

"(c) REFERRAL TO ATTORNEY GENERAL.—The President shall expeditiously refer to the Attorney General for appropriate action any evidence developed in the performance of functions under this Act that may warrant consideration for criminal prosecution.

"(d) CIVIL PENALTY.—Any individual who knowingly violates any order or regulation issued under this Act shall be subject to a civil penalty of not more than $5,000 for each violation.".

Page 15, strike out line 4 and insert in lieu thereof the following:

"SEC. 316. PROTECTION OF ENVIRONMENT.

"An action which is taken or assistance which is provided under title IV or V to save lives, to protect property or public health and safety, or to remove debris and which has the effect of restoring a facility substantially to its condition prior to the disaster or emergency, shall not be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852). Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 to other Federal actions taken under this Act or under any other provisions of law.

Page 15, line 6, strike out "negligently or".

Page 15, line 7, strike out "or contributes to".

Page 15, line 14 and 15, strike out "or contributed to".

Page 15, line 15, after the period insert the following: Such action for reasonable costs shall be brought in an appropriate United States district court.

Page 20, after line 20, insert the following:

"(c) UTILIZATION OF DOD RESOURCES.—

"(1) GENERAL RULE.—During the immediate aftermath of an incident which may ultimately qualify for assistance under this title or title V of this Act, the Governor of the State in which such incident occurred may request the President to direct the Secretary of Defense to utilize the resources of the Department of Defense for the purpose of performing on public and private lands any emergency work which is made necessary by such incident and which is essential for the preservation of life and property. If the President determines that such work is essential for the preservation of life and property, the President shall grant such request to the extent the President determines practicable. Such emergency work may only be carried out for a period not to exceed 10 days.

"(2) RULES APPLICABLE TO DEBRIS REMOVAL.—Any removal of debris and wreckage carried out under this subsection shall be subject to section 407(b), relating to unconditional authorization and indemnification for debris removal.

"(3) EXPENDITURES OUT OF DISASTER RELIEF FUNDS.—The cost of any assistance provided pursuant to this subsection shall be reimbursed out of funds made available to carry out this Act.

"(4) FEDERAL SHARE.—The Federal share of assistance under this subsection shall be 100 percent.

"(5) DEFINITIONS.—For purposes of this section—

"(A) DEPARTMENT OF DEFENSE.—The term 'Department of Defense' has the meaning the term 'department' has under section 101 of title 10, United States Code.

"(B) EMERGENCY WORK.—The term 'emergency work' includes clearance and removal of debris and wreckage and temporary restoration of essential public facilities and services.

Page 47, after line 10, insert the following new subsections:

(g) ENDANGERED SPECIES ACT OF 1973.—Section 7(p) of the Endangered Species Act of 1973 (16 U.S.C. 1536(p)) is amended—

(1) by striking out "Disaster Relief Act of 1974" each place it appears and inserting in lieu thereof "Disaster Relief and Emergency Assistance Act"; and

(2) by striking out "401 or 402" and inserting in lieu thereof "405 or 406".

(h) COASTAL BARRIER RESOURCES ACT.—Section 6(a)(6)(E) of the Coastal Barrier Resources Act (16 U.S.C. 3505(a)(6)(E)) is amended by striking out "305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146)" and inserting in lieu thereof "402, 403, and 502 of the Disaster Relief and Emergency Assistance Act".

The CHAIRMAN. Is there objection to the modifications to the amendments en bloc offered by the gentleman from New Jersey [Mr. HOWARD]?

There was no objection.

The CHAIRMAN. Under the rule, the amendments offered en bloc with modifications by the gentleman from New Jersey [Mr. HOWARD] are not subject to a demand for a division of the question.

The gentleman from New Jersey [Mr. HOWARD] is recognized for 5 minutes in support of his amendments.

Mr. HOWARD. Mr. Chairman, these agreements offered today have some bearing on other committees in the House. These arrangements have been made with those other committees, and there is no objection to them by anyone on either committee. Therefore, I urge the adoption of the amendments.

Mr. NOWAK. Mr. Chairman, the first amendment provides that the emphasis in the law on using local organizations, firms, and individuals in providing disaster or emergency assistance is not to be construed to restrict the use of available Department of Defense resources in providing major disaster in the affected area.

The second amendment provides for penalties against any person who knowingly misapplies the proceeds of a loan or other cash benefit received under the act. It also requires the President to expeditiously refer to the Attorney General any evidence developed in the performance of functions that may warrant consideration for criminal prosecution and provides a civil penalty of not more than $5,000 against any individual who knowingly violates any order or regulation issued under the act.

The third amendment rewrites a provision in current law relating to the National Environmental Policy Act of 1969 to reflect changes made to the organization of the Disaster Relief Act. There is no substantive change to existing law.

The fourth amendment provides for the use of Department of Defense resources during the immediate aftermath of an incident which may ultimately qualify for assistance and upon the request of the Governor of an affected State. Assistance is limited to 10 days.

The fifth amendment consists of technical amendments to other laws to reflect changes in section numbers and the name of the Disaster Relief Act.

Since H.R. 2707 was reported from the Committee on Public Works, we have worked with the House Judiciary Committee on aspects of the legislation falling within that committee's jurisdiction and long-standing expertise. As a result of these discussions, we have made the following changes in two sections of the bill's language now before the House.

The first change concerns the appropriate forum for actions to be brought for any violation of the act. Unless there is an express reason for specifying a particular venue or forum for the bringing of remedial actions created by acts of Congress, the preferred approach is to allow suits to be brought in accordance with the existing Federal Rules of Civil Procedure and interpretive case law. To facilitate this rule of uniform application, both sections 314 and 317 of the bill, as amended, are now further amended to provide that actions under these respective sections shall be brought in an appropriate U.S. district court.

A second change has been made to the standard of liability set out in section 317. As now amended, that section permits a suit to be brought by the United States for reasonable costs incurred in responding to a major disaster or emergency under the act against any person who intentionally causes a condition for which Federal assistance is provided under this act or under any other Federal law. This standard of liability is consistent with the record testimony supporting the need for corrective legislation, and will also preserve existing jurisprudence in evaluating the requisite causation necessary to show intentional acts of harm. It is intended that all procedural rules governing the proceedings of such an action, including the availability of a jury trial, will be consistent with the general rules applicable in suits seeking compensation for intentional acts of harm.

Finally, section 312(c) of the bill needs a technical correction as to the citation for the Debt Collection Act.

Mr. STANGELAND. Mr. Chairman, I rise in strong support of the amendments offered by the gentleman from New Jersey [Mr. HOWARD].

I think the chairman of the committee has adequately explained what we are intending to do. It has been clearly explained with regard to the concern with other matters. I urge support of the amendments.

The CHAIRMAN. The question is on the amendments en bloc, as modified, offered by the gentleman from New Jersey [Mr. HOWARD].

The amendments en bloc, as modified, were agreed to.

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The CHAIRMAN. Are there any other amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—GREAT LAKES EROSION DAMAGE ASSISTANCE AND PREVENTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Great Lakes Erosion Damage Assistance and Prevention Act of 1988".

SEC. 202. GRANTS TO STATES.

(a) GENERAL AUTHORITY.—Subject to the provisions of this title, the Director shall make a grant to each Great Lakes State for each fiscal year for which funds are appropriated pursuant to section 207 for the purpose of enabling such State to provide assistance—

(1) to owners of homes, and

(2) to local governments having within their jurisdictions public facilities,

which have been damaged, or are threatened to be damaged, by erosion or flooding attributable to high water levels in the Great Lakes.

(b) AMOUNT OF GRANT.—The amount of a grant to a State under this title for any fiscal year shall equal the amount of funds allotted to such State under this title for such fiscal year plus such additional amounts as the Director grants to such State under section 208(a).

SEC. 203. GENERAL GRANT REQUIREMENTS.

(a) APPLICATION.—To receive a grant under this title in a fiscal year, a Great Lakes State shall submit to the Director an application for such grant. Such application shall contain at least the following:

(1) A description of the State's plan for providing assistance to homeowners and local governments under this title.

(2) A description of State and local government assistance (whether under this title or any other provision of Federal, State, or local law) which has been or will be provided to reduce or prevent damage to homes and public facilities from erosion or flooding attributable to high water levels in the Great Lakes.

(3) Such information as the Director may require to determine the need of the State for discretionary funds under section 208(a).

(b) MAINTENANCE OF EFFORT.—To receive a grant under this title in a fiscal year, a Great Lakes State shall enter into an agreement with the Director for such fiscal year and the succeeding fiscal year which ensures that the State will maintain its aggregate expenditures from all other sources for providing assistance to owners of homes, and to local governments having within their jurisdictions public facilities, damaged by erosion or flooding attributable to high water levels in the Great Lakes at or above the average level of such expenditures in the 2 fiscal years of the State preceding the date of the enactment of this title.

(c) STATE MATCHING FUNDS.—To receive a grant under this title in a fiscal year, a Great Lakes State shall enter into an agreement with the Director which ensures that such State will expend for providing assistance described in section 205 at least $3 of non-Federal funds for every $7 of Federal funds made available to such State under such grant.

SEC. 204. ACTION ON APPLICATIONS.

An application submitted under section 203(a) shall be approved or denied by the Director within 90 days after the date of its submission. If such application is not approved or denied during such 90-day period, such application shall be deemed to be approved. If an application is denied, the Director shall notify the applicant in writing of the reasons for such denial within 10 days after the date of such denial.

SEC. 205. LIMITATIONS ON USE OF FEDERAL AND STATE MATCHING FUNDS.

(a) PURPOSES FOR WHICH FUNDS MAY BE USED.—A Great Lakes State may only use Federal funds granted under this title to such State and State funds which such State has agreed to expend under section 203(c) for the following purposes:

(1) INTEREST SUBSIDIES TO HOMEOWNERS.—Making a payment to reduce interest by not more than 5 percentage points on a loan of not more than $25,000 (or on the first $25,000 of a loan in excess of $25,000) to an owner of a home described in section 202(a) for one or more of the following purposes:

(A) Raising the elevation of the lowest habitable floor of the home to a height at which such floor would not be subject to damage or destruction from flooding attributable to high water levels in the Great Lakes and having a 1 percent or greater chance of occurrence in any year.

(B) Moving the home, including associated septic systems and utility connections, to a site (i) which is beyond the line for the area concerned at which erosion attributable to high water levels in the Great Lakes is expected during the 30-year period beginning on the date of such loan, and (ii) at which such home would not be subject to damage or destruction from flooding attributable to high water levels in the Great Lakes and having a 1 percent or greater chance of occurrence in any year.

(C) Floodproofing of the home which meets such minimum standards as the Director may establish.

(D) Bluff and bank stabilization (including planting of vegetation cover) in the vicinity of the home which meets such minimum standards as the Director may establish and which will not have an adverse impact on adjoining properties.

(2) INTEREST SUBSIDIES TO LOCAL GOVERNMENTS.—Making a payment to reduce interest by not more than 5 percentage points on a loan of not more than $300,000 (or on the first $300,000 of a loan in excess of $300,000) to a local government having within its jurisdiction a public facility described in section 202(a) for one or more of the following purposes:

(A) Repair of such facility.

(B) Restoration of such facility.

(C) Replacement of such facility.

(D) Relocation of such facility.

(E) Protection from erosion or flooding of such facility.

(3) GRANTS TO LOCAL GOVERNMENTS.—Making a grant of not to exceed $200,000 to a local government having within its jurisdiction a public facility described in section 202(a) for one or more of the following purposes:

(A) Repair of such facility.

(B) Restoration of such facility.

(C) Replacement of such facility.

(D) Relocation of such facility.

(E) Protection from erosion or flooding of such facility.

(b) LIMITATION ON INTEREST SUBSIDIES AND GRANTS TO LOCAL GOVERNMENTS.—A payment to reduce interest on a loan to a local government, and a grant to a local government, may be made under this title only if, after the date of completion of the repair, restoration, replacement, relocation, or protection from erosion of the public facility, the facility (1) will not be subject to serious damage or destruction from erosion attributable to high water levels in the Great Lakes for a period of 30 years, and (2) will not be subject to damage or destruction from flooding attributable to high water levels in the Great Lakes and having a 1 percent or greater chance of occurrence in any year.

(c) STATE OR LOCAL SETBACK LAW.—Federal funds granted under this title to a State and State funds which such State has agreed to expend under section 203(c) shall not be utilized in any area unless, during the period for which such funds will be provided, there will be in effect and enforced in such area a State or local law or regulation which prohibits construction of structures which (1) will be subject to serious damage or destruction, during the 30-year period occurring after the date of completion of such construction, from erosion attributable to high water levels in the Great Lakes, or (2) will be subject to damage or destruction from flooding attributable to high water levels in the Great Lakes and having a 1 percent or greater chance of occurrence in any year. The Director shall promulgate regulations and guidelines to implement this subsection

in accordance with procedures and requirements comparable to those set forth in section 1306(c)(6) of the National Flood Insurance Act of 1968.

(d) Nonstructural Stabilization Measures.—In providing assistance under subsections (a)(1)(D), (a)(2)(E), and (a)(3)(E), the Director shall encourage the use of nonstructural stabilization measures.

SEC. 206. ADMINISTRATIVE PROVISIONS.

(a) State Reports.—Each Great Lakes State shall annually submit a full and complete report to the Director concerning the use of Federal funds granted to such State under this title and of State matching funds provided pursuant to section 203(c) in such manner as the Director shall prescribe.

(b) Annual Audits.—The Director shall, at least on an annual basis, conduct or require each Great Lakes State to have independently conducted reviews and audits as may be necessary or appropriate by the Director to carry out the objectives of this title. Audits shall be conducted in accordance with the auditing procedures of the General Accounting Office.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title (other than section 210) not to exceed $20,000,000 per fiscal year for each of fiscal years 1988, 1989, 1990, 1991, and 1992.

SEC. 208. ALLOCATION OF FUNDS.

(a) Discretionary Funds.—25 percent of the funds appropriated to carry out this title (other than section 210) for each fiscal year shall be available to the Director for making grants to the Great Lakes States under this title on the basis of the relative needs of such States for assistance under this title.

(b) Allotment Funds.—75 percent of the funds appropriated to carry out this title (other than section 210) shall be allotted by the Director not later than the 10th day following the date of such appropriation among the Great Lakes States in accordance with the following table:

Great Lakes States	*Percentage*
Illinois	*.2081*
Indiana	*.0853*
Michigan	*.1866*
Minnesota	*.0723*
New York	*.1315*
Ohio	*.1348*
Pennsylvania	*.0676*
Wisconsin	*.1138.*

(c) Reallotment.—Sums allotted to a State under subsection (b) for a fiscal year shall remain available for a grant to such State under this title for the fiscal year for which authorized and for the following fiscal year. Any funds remaining after the last day of such second fiscal year shall be reallotted among the other Great Lakes States for the next fiscal year. Any funds so reallotted remaining after the last day of such third fiscal year shall be available for use by the Director in accordance with subsection (a).

SEC. 209. ANNUAL REPORT.

The Director shall submit to Congress an annual report on the activities carried out under this title (other than section 210).

SEC. 210. CORPS OF ENGINEERS.

(a) Technical and Other Assistance.—The Secretary of the Army may—

(1) provide emergency assistance to prevent or reduce damage caused by erosion or flooding attributable to high water levels in the Great Lakes, including provision of sandbags, sheeting, and stones and other armoring devices (taking account of flooding and erosion of other property which may be caused by such activity) but not including construction of permanent structures;

(2) provide technical assistance to individuals and local governments, including engineering and design, with respect to measures to prevent or reduce such damage;

(3) compile and disseminate information on—

(A) water levels of the Great Lakes,

(B) weather forecasts for the Great Lakes States,

(C) techniques for prevention or reduction of such damage,

(D) projected shoreline erosion rates for the Great Lakes, and

(E) emergency relief available to persons who suffer economic injury as a result of erosion or flooding attributable to high water levels in the Great Lakes; and

(4) undertake a demonstration program to develop low-cost methods of preventing such damage.

(b) Issuance of Permits.—

(1) Consideration of flooding and erosion.—Issuing a permit under—

(A) section 10 of the Act of March 3, 1899 (33 U.S.C. 403); or

(B) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

for any activity carried out with assistance under this title, the Secretary of the Army shall take account of flooding and errosion of other property which may be caused by such activity.

(2) Bank stabilization.—

(A) General rule.—In issuing permits under sections 10 of the Act of March 3, 1899 (33 U.S.C. 403) and 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) for a project involving dredging of any portion of the Great Lakes, the Secretary of the Army shall, if feasible, encourage for bank stabilization purposes the disposal of nonhazardous compatible sand from such project on shorelines affected by eroision.

(B) Consultation.—In carrying out subparagraph (A), the Secretary of the Army shall consult affected State and local governments.

SEC. 211. DEFINITIONS.

For purposes of this title—

(1) Director.—The term "Director" means the Director of the Federal Emergency Management Agency.

(2) High water levels.—The term "high water levels" means water levels above the long-term average of water levels from 1900.

(3) Local government.—The term "local government" means a county, city, village, town, district, or other political subdivision of a Great Lakes State and an Indian tribe or authorized tribal organization.

(4) Great lakes state.—The term "Great Lakes State" means Minnesota, Wisconsin, Illinois, Ohio, Michigan, Indiana, Pennsylvania, and New York.

The CHAIRMAN. Are there any amendments to title II?

AMENDMENT OFFERED BY MR. DAVIS OF MICHIGAN

Mr. DAVIS of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Davis of Michigan: Page 62, after line 20, insert the following new section:

SEC. 211. GREAT LAKES COASTAL BARRIERS STUDY.

(a) Recommendations of the Secretary of the Interior.—

(1) For inclusion in resources system.—

(A) Deadline.—Except as provided in subparagraph (B), within 6 months after the date of the enactment of this Act, the Secretary of the Interior (hereinafter in this section referred to as the "Secretary") shall recommend to Congress, and prepare maps identifying, the boundaries of those undeveloped coastal barriers along the shore areas of the Great Lakes that the Secretary considers appropriate for inclusion in the Coastal Barrier Resources System authorized under the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.).

(B) Limitation.—The Secretary may not recommend for inclusion as an undeveloped coastal barrier any area that is publicly owned and protected by Federal, State, or local law, or is held by a qualified organization defined in section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)), primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes.

(2) Consultation; consideration of updated maps.—Before recommending undeveloped coastal barriers under paragraph (1), the Secretary shall—

(A) consult with and provide an opportunity for comment by appropriate United States agencies, State agencies (including the coastal zone management agencies) of the Great Lakes States, and the public; and

(B) update on the basis of aerial photographs and consider the draft coastal barrier inventory maps prepared by the Secretary in January 1985 for the States of Michigan, Wisconsin, Ohio, New York (Great Lakes), and Minnesota.

(3) Provision of maps.—As soon as practicable after the revision of the maps referred to in paragraph (2)(B) is completed, the Secretary shall provide copies of the maps to—

(A) each appropriate State and county or equivalent jurisdiction in which shore areas recommended and identified by the Secretary under this section are located;

(B) the coastal zone management agency in each appropriate Great Lakes State that has a coasal zone management program approved under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455);

(C) each appropriate United States agency; and

(D) Congress.

(4) Public inspection of maps.—The Director of the United States Fish and Wildlife Service shall make available for public inspection all maps prepared under this section.

(b) Exceptions.—The limitations on the use of Federal expenditures or financial assistance within the Coastal Barrier Resources System under section 6(a)(3) of the Coastal Barrier Resources Act (16 U.S.C. 3505(a)(3)) shall not apply to public highways located within the State of Michigan if Congress adds by law new units to the Coastal Barrier Resources System and these units include portions of public highways in the State of Michigan.

Page 62, line 21, strike out "Sec. 211." and insert in lieu thereof "Sec. 212.".

Mr. DAVIS of Michigan (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DAVIS of Michigan. Mr. Chairman, this amendment would direct the

Secretary of the Interior to recommend appropriate areas along the Great Lakes shore for future inclusion by act of Congress in the coastal barrier resources system [CBRS]. The purpose of CBRS is to place the risk of building in high hazard flood and erosion areas on those who choose to build there, not the general taxpayer. The Federal Government spends billions of dollars each year settling flood insurance claims, building flood and erosion control structures, and replacing poorly located public facilities. Thus, if parts of the Great Lakes shores are later included by act of Congress in the CBRS, they will no longer be eligible for certain types of Federal financial assistance promoting ill-conceived development.

I want to reemphasize that inclusion in the CBRS is a two-step process. This amendment is only the first step, the gathering of information. Congress will have to review the recommendations of the Secretary and later legislate any additions of new areas into the existing system.

Only those areas which meet the definition of "coastal barrier" in the Coastal Barrier Resources Act; that is, privately owned, undeveloped, unprotected, and subject to wave and wind action, are eligible for inclusion in the system. These land areas are generally unsuited for development because they are vulnerable to storm damage and because natural shoreline recession and movement of unstable sediment undermine manmade structures. Excluded from this study are publicly owned areas which are already sufficiently shielded from development and a public work which is in progress. While only a few areas of the Great Lakes—approximately 140 shoreline miles in Michigan, Minnesota, New York, Ohio, and Wisconsin—will be suitable for inclusion, these are areas which we will not have to rebuild come the next winter storm.

Last October the Oceanography Subcommittee of the Merchant Marine and Fisheries held a hearing on H.R. 2810, a bill I introduced from which this amendment is taken. The response that we received from the Interior Department, Great Lakes States and environmental groups was very positive. It is with their support I offer this amendment now.

My amendment will ensure that the Secretary consults with affected State, local, and public interests, and that his recommendations for the Great Lakes are accurate and complete. This amendment is a useful complement to the Great Lakes relief measurements already contained in this H.R. 2707, as well as recent amendments to the National Flood Insurance Act which encourage responsible redevelopment in flood and erosion-prone areas. My amendment also augments two bills I introduced last summer to aid the Great Lakes, H.R. 2808—reauthorizing the National Sea Grant Program—and H.R. 2809—Great Lakes Mapping—which are now public law.

Although the devastating high waters of the lakes have ebbed, they are still considerably higher than the 20th century average. The National Weather Service predicts a greater than average snowmelt this spring, resulting in more flood and erosion damage to our shores. I hope my fellow Members will support this provision, which could eventually prevent costly damage to an important national resource and save us all a few tax dollars.

Finally, I would like to thank the gentlemen from New York and New Jersey and the gentlemen from Minnesota and Arkansas and their staffs for their cooperation in working with me on this amendment. I am also looking forward to working with other Members of the House in the fall on the actual expansion of the coastal barrier resources system after we receive recommendations from the Secretary authorized by this amendment.

Mr. NOWAK. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am pleased to speak in support of the amendment offered by Mr. DAVIS. This amendment directs the Secretary of the Interior to identify areas along the shores of the Great Lakes which are eligible to be included in the coastal barrier resources system. These areas would be undeveloped, unprotected privately owned areas which are subject to a very high risk of erosion and flooding from wind and waves.

It is important to note that this amendment does not place any new areas into the coastal barrier resources system. But rather, it requires that the Interior Department identify areas for congressional consideration at a later date.

The amendment is agreeable to the leadership of the Public Works Committee and I urge my colleagues to support it.

Mr. STANGELAND. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Michigan. It is consistent with the intent of the Great Lakes title; it makes good environmental policy; and it may actually save some Federal dollars in the future.

The gentleman's amendment adds a new section to title II. It directs the Secretary of Interior to identify Great Lakes shorelines which may be eligible for inclusion into the coastal barrier resources system. Only privately owned, unprotected, and undeveloped areas could be recommended for inclusion; Congress would then have to approve the recommendation.

This legislation is consistent with our bill, because it will discourage unwise development in areas with high risk of erosion or flooding. It makes sense not to use Federal money to build in flood zones at the same time we are imposing setback and flood plain requirements and paying subsidized insurance.

This study also makes good environmental sense. It may lead to the inclusion of certain Great Lakes areas into the coastal barriers resource system. We need to protect these barrier islands.

We also need to protect the Federal Treasury. The coastal barriers resource system does that by banning the use of Federal dollars for development along shorelines. Existing public works projects would not be affected.

Mr. Chairman, I thank the gentleman for his contribution and urge my colleagues to support his amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. DAVIS].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer two amendments.

The Clerk read as follows:

Amendments offered by Mr. WALKER: Beginning on page 52, strike all of Title II.

On page 63, strike all of Title III.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. MR. Chairman, I am going to try to save a little money here. I do not know whether I will be successful or not, but I think it might be worth the effort.

The bill we have before us is estimated by the CBO to cost between $50 million a year and $150 million a year for the next 5 years.

Now, of that amount of money, based upon what we heard in the debate a little earlier, about $25 million a year is going to go for title II and title III, so if you assume that the low figure of CBO is right, that the bill is going to cost $50 million a year, half of all the money that is in this bill has absolutely nothing to do with disaster relief assistance.

Now, as I pointed out earlier in the debate, I am a cosponsor of the Disaster Relief bill. I think it is a modification to our Disaster Relief Program to make it more efficient and more effective and is in fact justified; so therefore I will swallow hard and support a bill to make those kinds of changes.

What I have got real problems with is that we are using that as a pretext to add $125 million worth of additional spending. That is where I have a problem with what we are doing in this budget.

Now, it is $125 million that will be spent in segments of about $25 million a year, or half of all the cost of this bill if it is fully funded.

Now, I think that goes a little far. I think it goes a little far to bring a Disaster Relief bill to the floor and then up the cost by one-half with extraneous provisions that are added to it. I would suggest that there is no way that we can provide the kind of confidence in the financial communities of this country that we are going to live up to our budget agreement if this is the way we start the year, if this is what we are going to do with regard to our budget agreements.

We say that they will have support on Capitol Hill and then we bring out new spending.

The problem with title II is that it is a brand new program. There is no way that it could have been included under the budget agreement of last year. It is a brand new program, a brand new $100 million program the we are putting into place in this bill.

I do not think, given the budget agreement, that we ought to be doing that.

Title III is a doubling of the present program. Presently we have a $30 million program. We are going to make it into a $55 million program, nearly the doubling of a program; once again not contemplated under the budget agreement of last year.

So my hope would be that this Congress will decide that our budget commitments do mean something and that what we should do is stop adding expensive items to bills that have real merit.

My amendment would do absolutely nothing, I would say to those who want to support the Disaster Relief Program, it does absolutely nothing to change the disaster relief portions of this bill. What it does is strike out title II, saves $100 million there; strikes out title III, saves $25 million there and does so in a way that brings us at least somewhat closer to the commitments that were made last year when we all decided to get together with the administration and have a bipartisan conformance to our budget, to reduce the deficit of this country.

Mr. Chairman, I would ask support for the attempt to save a little money.

Mr. HOWARD. Mr. Chairman, I rise in opposition to the amendment.

The Committee on Public Works and Transportation passed this legislation out with title II and title III in the legislation by voice vote, bipartisan, unanimous.

What the amendment would do would be, first of all, to eliminate the amendment of the gentleman from Michigan [Mr. DAVIS] which the committee here has just accepted.

Second, it would prevent what we have in the legislation, for the first time permitting those areas around all the Great Lakes, the largest single inland body of water in the world, from being eligible should there be a disaster in that area, leaving those people with little or no resources.

It would also eliminate the continuation of a program of trying to clean up the waters around the New York Harbor, of eliminating and picking up the debris that has caused so much difficulty.

This is an on-going program. It is not a new program. It is a continuation of one and it is one that has a very rare benefit cost ratio of about 6 to 1, and even with that 6-to-1 ratio, has the Federal share less than 50 percent; 42 percent in this legislation and the other 52 percent being paid by the non-Federal entities involved.

It eliminates a very dangerous situation that we do have along the coast of all of New York, New Jersey, and all the areas that receive any waters from the New York Harbor area.

So, Mr. Chairman, I would hope we would be able to defeat this amendment and then pass the legislation.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I appreciate the gentleman yielding, because I think maybe he misspoke himself or I misunderstood.

The gentleman said a few minutes ago that if we eliminated title II that we would eliminate all the States along the Great Lakes from their ability to participate in the rest of the Disaster Assistance Program.

Mr. HOWARD. Oh, no.

Mr. WALKER. I do not think that is right.

Mr. HOWARD. The gentleman is correct and I stand corrected on that, but it would eliminate this program that takes care of it now for this new program, which is a 5-year program for that total amount, not per year.

Mr. WALKER. That is right. I agree with that.

Mr. HOWARD. I still do not think that it makes the amendment valid.

Mr. WALKER. I understand. I just want to make certain we know exactly what we are doing.

Mr. DAVIS of Michigan. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I certainly do oppose this amendment.

First of all, if it passed, it would nullify the amendment that we just adopted that I introduced.

Also, one has to recognize that in the 1985-86 timeframe, the Great Lakes suffered a loss from the high waters on the Great Lakes of approximately $1½ billion. We think those people deserve some special relief program which this bill now offers under title II of the bill.

I think it would be a drastic mistake to undo all of the good done in a bipartisan manner that the committees that have worked on in this bill and have put together.

I just think we ought to vote this amendment down, because it is certainly not the right way to go.

We have to understand that in the appropriations process, and I am sure the gentleman from Pennsylvania understands this, that in the appropriations process he and the rest of us will have an opportunity to decide how much money we are going to spend.

Now, the CBO has given us an estimate, but that does not mean that we are tied to that amount. The appropriations process, and we will all have a chance to vote on it, will make that determination; so I strongly urge defeat of the amendment.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. DAVID of Michigan. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for his viewpoint, but I think the gentleman will agree with me that the bipartisan budget agreement was also arrived at bipartisanly, all with good faith on all sides, and part of the premise of that was that we were not going to add new programs.

The gentleman does, I think, agree that this is a new program. The reason I thought the gentleman's amendment deserved to be considered ahead of mine was if in fact we are going to move ahead with this, it seems to me that his amendment ought to be permitted. I certainly did not prejudice my own amendment by allowing him to go ahead to have his.

I think we have some bipartisanship in terms of trying to comply with the budget.

One other point is that the problem is we play that old shell game that this is an authorization and we will wait for the appropriation later on, all the time around here. Once you get the authorization, then the appropriators come to the floor and they say, "Well, you authorized it. Why shouldn't we appropriate the money for it?"

So we also have the shell game moving around that suggests that there is no place where we really ought to act on reducing spending.

I would simply say to the gentleman that the one place where we can act, understanding that his State is affected, the State of Pennsylvania is affected, we are a Great Lakes State; but I would suggest that maybe it is time we do the fiscally responsible thing, rather than the popular thing, on some of these programs.

I thank the gentleman for yielding.

□ 1315

Mr. STANGELAND. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong opposition to the amendments. I would just like to point out a few facts for the Members of this body.

First of all, let me say that this disaster portion of H.R. 2707 to which the Great Lakes initiative and the New York Harbor additional authorization are added is only an upgrade of the current FEMA Disaster Program. The current FEMA Disaster Program extends up to $330 million this year. It has expended in the case of Mount St. Helens, $1 billion. So when my colleagues look at disaster relief we are just adding a disaster program that better clarifies and covers disasters and provides a better response action.

To say that the Great Lakes and the New York Harbor initiatives are one-half of the bill is not exactly correct. In the first year they are the bulk of the bill. They make up $25 million in fiscal year 1988 and there is nothing in disaster relief during fiscal year 1988. As we go to 1989 they are one-third of the bill and less than one-third of the expenditures in 1990, 1991, and 1992.

This is strictly a 5-year authorization, a maximum of $20 million per year, and no more can be authorized.

The New York Harbor, I think, has been adequately explained by the gentleman from New Jersey [Mr. HOWARD] as having a cost/benefit ratio of 6 to 1.

In the case of the Great Lakes initiative this is not a direct grant to anyone to expend moneys. This money has to be raised and it is a 70/30 match but it has to be raised and this goes to pay subsidy on the interest for local entities to borrow the money to do the work themselves.

I think it is a modest beginning on a problem that has been around for a long time.

Mr. Chairman, I urge my colleagues to defeat the amendment.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. STANGELAND. Mr. Chairman, I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I appreciate the gentleman yielding me this time. I would say first of all that title II gives away the fact that it is a little more than an extension of the Disaster Program when we read the title. It says it is the Great Lakes Erosion Prevention Act of 1988. In fact it is more than what the present title says.

Mr. STANGELAND. Mr. Chairman, reclaiming my time, let me answer my friend, the gentleman from Pennsylvania [Mr. WALKER] in this manner. We are not intending to hide the Great Lakes portion under a disaster guise. As I said in the format of the debate here, this Great Lakes initiative comes about through extensive hearings held in the Subcommittee on Water Resources, and in hearing from the Governors of the various Great Lakes States, from citizens, from homeowners, and from organizations bordering the Great Lakes. We deemed that a program should be started and this was the appropriate vehicle. So we are not attempting to hide the Great Lakes in calling this a disaster program.

Mr. WALKER. Mr Chairman, if the gentleman will yield further, I thank him for his explanation. Also I would say to the gentleman from Minnesota [Mr. STANGELAND] that the budget bill, the budget agreement only goes to this next year. Therefore, characterizing this as being half of the problem in the next year, it seems to me, is a fair kind of analysis because as the gentleman from Minnesota himself said, it could be half of the program in this next year. That is the only year that the budget agreement speaks to. We only have a 2-year agreement.

So what we are doing is we are really in this particular bill adding in a brandnew program that adds half the cost of this bill, a bill which the administration says is indeed a problem in terms of the bipartisan budget agreement.

Mr. ROTH. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendments.

Mr. Chairman, there is no one in this body that I have a higher regard for than my friend the gentleman from Pennsylvania [Mr. WALKER], and I think most of us feel that way. While I agree with the gentleman from Pennsylvania at least 99 percent of the time, this is one time when I am compelled to be opposed to these particular amendments.

The reason I say that is this: we have been fighting for this legislation for eons. I want to thank the gentleman from New Jersey [Mr. HOWARD], the chairman of the Committee on Public Works and Transportation, and the gentleman from Minnesota [Mr. STANGELAND], the ranking member, and other members of the Committee on Public Works and Transportation for the fine work they have done on this legislation.

I have had a chance to go through the Great Lakes area, through the Great Lakes basin, and I represent some of the finest land along the Great Lakes located in northeast Wisconsin. I have had a chance to visit some of the people who have suffered because of the rising lake levels. Mr. Chairman, our Government, this Congress, we in this Congress have always been a day late and a dollar short, and this is a time when we are going to address the issue that has to be addressed. I am in strong support of this legislation.

Mr. Chairman, title II of H.R. 2707 would establish a 5-year assistance program under the guidance of the Federal Emergency Management Agency to help the eight Great Lakes States prevent further damage caused by erosion along the shoreline.

With over 355 miles of shoreline on the Great Lakes in my particular district alone, this grant assistance will provide vital relief to the local communities and the lakefront homeowners.

Under title II, the title that this particular amendment before us addresses, the Army Corps of Engineers would have the authority to administer temporary nonstructural emergency assistance to shoreline residents in order to prevent flooding damage. That is precisely what we want to do. We want to prevent future erosion damage from taking place. That is why I am in favor of this legislation.

The Army Corps of Engineers would also provide technical assistance and disseminate information to lakefront residences on water levels, weather forecasts and projected erosion rates. If we adopt this amendment, the Army Corps of Engineers will be unable to do any of these beneficial services. And these are just the changes that we have been fighting for.

This provision is similar to legislation that I introduced 1½ years ago to address the high water level problem. So I am delighted that we are finally addressing this issue. Last year at this time, the water levels on Lake Michigan were 3 feet higher than the long-term average. Incidences of homes and property being consumed by the rising lake levels were an everyday occurrence. My constituents lived in constant fear of a major storm on the Great Lakes. This year we are fortunate because the lake levels are down but that is not to say that this will be the case next year, the year after, or 10 years from now.

Basically that is why I am in favor of this legislation, because it is going to address a problem that we have just been giving lip service to for a long time and now we are finally going to do something concrete about it.

Therefore, I commend the members of the Committee on Public Works and Transportation and the people who have addressed this particular issue because I think it is long overdue. I am asking my colleagues to join me in supporting this legislation so that we can do something positive about the erosion that has taken place on the Great Lakes.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. ROTH. Mr. Chairman, I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I want to thank the gentleman from

Wisconsin [Mr. ROTH] for yielding me this time and for his nice words at the beginning of his remarks. Somehow they would ring a little bit clearer if he would support my amendments, but I appreciate his words where he makes a persuasive case on behalf of his land along the Great Lakes.

Maybe what I ought to do is withdraw my amendments on the guarantee from the folks on the other side that we could simply add language in here that would make it the Great Lakes Erosion Damage Assistance and Prevention Act of 1988 and also the Susquehanna River, because that flows down by my constituents, and we have those problems along the Susquehanna River as well. If we added every little place along every river that has flooding on it, we would have a very expensive bill.

Mr. ROTH. Mr. Chairman, we are not talking about every river, and every lake on the entire continent. What we are talking about is just the Great Lakes Basin. That is what we are addressing here.

Mr. Chairman, it is important to recognize that while we cannot always agree, if we agree 9 out of 10 times on the floor, I think that is a good rate.

Mr. RIDGE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendments.

Mr. Chairman, I say to my colleagues that I will not take the entire 5 minutes but I have a couple of observations that I would like to share. This is particularly true with regard to the budget concerns expressed by my friend and colleague, the gentleman from Pennsylvania [Mr. WALKER].

First of all, we know that this directly affects two specific line items in the budget allocation, lines 300 and 450. We understand that if we go beyond the budget summit agreement, we run into the problem that the gentleman from Pennsylvania [Mr. WALKER] has been discussing with us.

What I am saying is to this point there is nothing in this agreement and nothing in this legislation that says we are going outside the aggregate, that we are going to exceed the total dollars available in those two budget lines.

Second, I would say to my colleague from Pennsylvania that what we are dealing with in title I and title II and title III are circumstances beyond the individual control of families and communities. We are talking about families and communities that are affected directly by the weather. These are elements over which they have absolutely no control, be it a hurricane, a flood, or a tornado and the like. In title I we are dealing solely with losses that are not insured.

In title II we are dealing with losses that the homeowner or the Government is called upon to defray the primary cost of. All we are dealing with this $20 million per year is helping them to reduce the interest rate. They as individuals or they as local communities bear the major brunt of the cost of responding to damage and injury that have resulted because of Mother Nature's activities.

So I would again say that I understand the concern of the gentleman from Pennsylvania [Mr. WALKER] about those two budget functions, line item 300 and line item 450, and we can push the balloon in at this point but it will not displace the total volume. The total function will not change, the allocation that goes to those two line items.

Mr. Chairman, I ask my colleagues not only to reject the amendments but to support the bill.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 41, noes 340, not voting 51, as follows:

[Roll No. 35]

AYES—41

Archer
Armey
Bartlett
Bates
Bilirakis
Brown (CO)
Buechner
Burton
Craig
Daub
DeLay
Dreier
Fields
Frenzel
Gekas
Gregg
Hansen
Herger
Holloway
Hunter
Jeffords
Kolbe
Kyl
Lungren
Marlenee
McCandless
McCollum
Meyers
Moorhead
Nielson
Rhodes
Ritter
Shumway
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stump
Swindall
Vucanovich
Walker

NOES—340

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
Ballenger
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clement
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Crane
Crockett
Darden
Davis (IL)
Davis (MI)
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Ford (MI)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lukens, Donald
MacKay
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Murtha
Myers
Nagle
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Richardson
Ridge
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Studds
Sundquist
Sweeney
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—51

AuCoin
Badham
Baker
Barnard
Berman
Biaggi
Bonker
Boulter
Boxer
Campbell
Cheney
Clarke
Clay
Clinger
Conyers
Dannemeyer
DeFazio
Dixon
Dymally
Foley
Ford (TN)
Gephardt
Gibbons
Gilman
Gray (IL)
Hawkins
Ireland

Jones (TN)
Kemp
Kolter
Konnyu
Latta
Lewis (FL)
Lightfoot
Lipinski
Lujan
Mack
Mica
Molinari
Mrazek
Murphy
Nelson
Price (IL)
Ravenel
Savage
Sharp
Slattery
Stratton
Swift
Waxman
Wortley

□ 1345

Messrs. PERKINS, ROYBAL, BEREUTER, HORTON, COBLE, Ms. KAPTUR, and Mr. WALGREN changed their votes from "aye" to "no."

Mr. GREGG changed his vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

□ 1346

Mr. BONIOR of Michigan. Mr. Chairman, I move to strike the last word, and I rise in support of the legislation.

Mr. BONIOR of Michigan. Mr. Chairman, I rise in strong support of the legislation before us today. Before I go further, I would like to commend the gentleman from New York [Mr. NOWAK] for his leadership as chairman of the Water Resources Subcommittee in bringing this legislation to the floor. H.R. 2707 is a reaffirmation of our Nation's commitment to helping communities in need during emergencies and disasters. The gentleman from New York has shown extraordinary concern and compassion in crafting legislation to meet that commitment.

Mr. Chairman, I have the great privilege of representing the 12th Congressional District of Michigan in this body. The entire eastern flank of my district is bordered by either Lake Huron, the St. Clair River or Lake St. Clair. While this proximity to the water offers my constituents unrivaled enjoyment and access to the Great Lakes, it also subjects them to the dramatic hydrological and meteorological fluctuations of these inland seas.

Beginning in 1985, lake levels on the Great Lakes began to reach historic levels. Unusually high levels of percipitation in preceding years coupled with cool summers brought lake levels up between 25 to 35 inches above normal levels. This caused much destruction to many communities in my district and around the Great Lakes. In looking for Federal relief, however, no Federal program adequately covered the needs of afflicted communities.

The Disaster Relief Act of 1974, which we are improving in title I of this legislation, was not designed to respond to the unique problems associated with high water levels, nor could it provide an effective program to protect communities threatened with high water.

I am particularly pleased that a program concept for relief from high water levels for homeowners and communities which I have long supported provides the major thrust of title II of H.R. 2707. Title II creates a new program to make grants and loan subsidies available through the eight States of the Great Lakes Basin. Funds raised through a 70 percent Federal—30 percent State match would be used to pay for floodproofing and repair of homes and public facilities like roads and sewer systems damaged by erosion from high water levels. This legislation contains requirements to make certain that scarce Federal and State resources are used for projects which will be safe from damage or destruction.

The Great Lakes, Mr. Chairman, are a tremendous resource and a national treasure. But, for those of us who live along their shores, they are capable of being very destructive. I urge my colleagues to support this legislation. It not only accommodates the Great Lakes region but contains important reforms to the Disaster Relief Act which will assist Americans everywhere in times of emergency and disaster.

Mr. LOTT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, these proposed Disaster Relief Act amendments are the culmination of years of frustration our State and local emergency management professionals have faced when our home people needed help the most—in the devastating and unavoidable event of major natural catastrophe.

I want to thank my colleagues, Mr. RIDGE, Mr. HOWARD, Mr. HAMMERSCHMIDT, and many others for their leadership in producing this truly bipartisan legislation. As I testified last year, national security is the primary function of the Federal Government, but after that, a top priority should be preparedness and immediate assistance in the aftermath of a natural disaster. Again, I ask my colleagues—when, in any time or situation, is the Federal Government more needed and more responsible than after a natural disaster?

Too long have our communities struggled with the undue burden of trying to cut through the obstacles of redtape and bureaucracy that typically follow the wrenching force of earthquakes, major flooding, hurricanes, and tornados.

In 1985, I listened to the outrage of victims of Hurricane Elena in Mississippi. They were outraged with the lack of response of the Federal Emergency Management Agency, who in the face of suddenly devasted neighborhoods, adopted the mindset of offer the least assistance for the least possible cost. That outrage grew with proposed regulations that would reduce Federal reimbursement to State and local governments for eligible costs to 50 percent.

In one of the situations when my constituents needed Federal help the most, airmen at an Air Force base and seabees at a Navy construction battalion center, both on site, were not free to utilize their resources to aid their neighbors. At my request, and echoed by many of my colleagues, H.R. 2707 could allow Governors to request that the President of the United States use his discretion to authorize the Department of Defense to make its resources available to devasted areas for a period of 10 days.

Only in time of war should the Department of Defense have a higher responsibility than this basic protection of American life and communities as a whole. I urge my colleagues to vote for H.R. 2707, so that our fellow citizens may properly be prepared for natural disaster if it strikes, and so that they might have the proper tools to fight back and to reclaim the communities they have built and strive to maintain.

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Chairman, I rise in support of this legislation.

Mr. Chairman, apart from the necessary amendments to the Federal Disaster Relief Program, the bill would provide a new program to assist Great Lakes homeowners whose property has been damaged by the record high water levels of the lakes.

Although the lake levels have come down more than 2 feet from their records highs of October 1986, they remain well over a foot higher than normal and the potential for disastrous damage remains.

When we held hearings in the Water Resources Subcommittee last spring, the need for some kind of assistance to homeowners and communities was expressed in testimony from groups like Save Our Shores and others. Title II of this measure before us is a commonsense approach to the problem. It will reduce the potential cost of Federal disaster assistance by helping move existing structures out of the danger area and by preventing new construction in the erosion or flood-prone areas.

The Federal Emergency Management Agency—or FEMA—will be able to assist homeowners and communities whose homes and public facilities have been damaged or are threatened by erosion or flooding attributable to high water levels in the Great Lakes.

FEMA could make payments to reduce interest by as much as 5 percent on loans of up to $25,000 for individuals and $300,000 for communities. Grants will also be available for repairing, restoring, and relocating public facilities.

I am pleased to see such quick action on this measure. I urge my colleagues to support it.

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Ohio.

Mr. ECKART. Mr. Chairman, I am delighted to rise in support of the legislation. I thank my colleague, the gentleman from New York [Mr. NOWAK] and my colleague and neighbor, the gentleman from Pennsylvania [Mr. RIDGE] for their work on this bill, and I rise in support of the Great Lakes Erosion Control Act in H.R. 2707.

Mr. Chairman, unlike the swift and dramatic devastation brough about by tornadoes, severe storm flooding, or earthquakes, shoreline erosion disasters strike silently, under the cover of time measured in days, months, and years. The damage and need for assistance, however, are no less urgent.

The planning commission for one county in my district predicted the loss within its borders alone of more than 250 residential structures in the 3-year period. Many of these homes are built within 40 feet of the bluff line in an area where the erosion rate is 10-12 feet per year.

The economic devastation is equaled by the personal trauma brought about by this critical erosion problem, and the toll on communities is no less great. As the shoreline erodes, so does the tax base which keeps our communities thriving. A study on the relationship between shoreline erosion and the market value of lakefront homes indicates that when the bluff moves to within 100 feet of a structure, its value drops by an average of 30 percent. Another cost to cities and counties which should not be overlooked arises from erosion damage to the utility infrastructure.

That is why I am pleased to see included the disaster relief amendments in my bill that will bring relief to Great Lakes residents and communities whose homes or public facilities have been damaged or threatened by erosion or flooding attributable to high water levels. Over the past 3 years, the unpredictable and fluctuating lake levels have caused more than $200 million in damages to shoreline residences and communities in the eight-State Great Lakes region.

Twice in the past three decades lake levels approached the 1986 high and scientists predict that the lakes could go up as much as 5 feet in the years to come.

The modest package before us today provides assistance to homeowners and communities to prevent and reduce recurring shoreline property damage. Federal grants would enable States to make payments to reduce interest on the first $25,000 of loans for homeowners to elevate, relocate, floodproof, or protect their homes. Communities would receive similar assistance on the first $300,000 of loans to repair, relocate, or protect public facilities. A grant program of up to $200,000 is also available to communities.

The plan is a solid one arrived at after extensive consultation with and recommendations from our region's Governors, scientists, and environmentalists. I believe the guidelines in the bill which require compliance with 30-year erosion and 100-year flood setback requirements are sound. This will allow relocation and new construction in these fragile areas to go forward in a sensible and environmentally sensitive manner.

I urge my colleagues to support the Great Lakes assistance provisions and the disaster relief amendments and thank subcommittee chairman, the gentleman from New York [Mr. NOWAK] and his staff for his support, guidance and hard work.

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this legislation and particularly commend my colleague [Mr. RIDGE] and my chairman [Mr. NOWAK] for their diligence and perseverance in amending this legislation.

Mr. LOTT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Are there additional amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

The last sentence of section 91 of the Water Resources Development Act of 1974 (88 Stat. 39), relating to authorization of appropriations for the New York Harbor collection and removal of drift project, is amended by striking out "$30,500,000" and inserting in lieu thereof "$55,000,000".

The CHAIRMAN. Are there amendments to title III?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. MURTHA] having assumed the chair, Mr. MCCURDY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 2707) to amend the Disaster Relief Act of 1974 to provide for more effective assistance in response to major disasters and emergencies, and for other purposes, pursuant to House Resolution 403, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. NOWAK. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 368, nays 13, not voting 51, as follows:

[Roll No. 36]

YEAS—368

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clement
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Crockett
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lungren
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Murtha
Myers
Nagle
Natcher
Neal
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sawyer
Saxton
Schaefer
Scheuer
Schneider

Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Studds
Sundquist
Sweeney
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—13

Brown (CO)
Burton
Craig
Crane
Frenzel
Gekas
Hunter
Lukens, Donald
Shumway
Solomon
Stump
Swindall
Walker

NOT VOTING—51

AuCoin
Badham
Baker
Barnard
Berman
Biaggi
Bonker
Boulter
Boxer
Campbell
Cheney
Clarke
Clay
Clinger
Conyers
Dannemeyer
DeFazio
DeLay
Dicks
Dixon
Dymally
Ford (TN)
Gephardt
Gibbons
Gilman
Gray (IL)
Ireland
Jones (TN)
Kemp
Kolter
Konnyu
Latta
Lewis (FL)
Lightfoot
Lipinski
Lujan
Mack
Mica
Miller (CA)
Molinari
Mrazek
Murphy
Nelson
Price (IL)
Ravenel
Savage
Sharp
Slattery
Stratton
Waxman
Wortley

☐ 1408

Mr. HUNTER changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

GENERAL LEAVE

Mr. NOWAK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from New York?

There was no objection.

NATIONAL KNOW YOUR CHOLESTEROL MONTH

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 244) to designate the month of April 1988, as "National Know Your Cholesterol Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mrs. MORELLA. Mr. Speaker, reserving the right to object the minority has no objection to this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 244

Whereas heart attacks struck an estimated 1,500,000 Americans in 1987, a third of whom died immediately;

Whereas scientific data indicates that effective measures to lower serum cholesterol are capable of decreasing occurrences of heart disease;

Whereas only 8 per centum of Americans know their cholesterol level; and

Whereas as many as 250,000 lives could be saved each year if Americans were tested for and took action to reduce high levels of cholesterol: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of April, 1988, is designated as "National Know Your Cholesterol Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid upon the table.

NATIONAL BLACK AMERICAN INVENTORS DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 377) designating March 27, 1988, as "National Black American Inventors Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 377

Whereas inventions by black Americans range from items of household convenience to items of vital importance to business and industry;

Whereas these inventions include the third rail system used in subways (1892), the radiator and steam furnace (1884), the traffic light (1923), the shoe lasting machine (1883), the gas mask (1914), the electric light bulb with a carbon filament (1881), the first practical refrigeration system for longhaul trucks (1839), the sychronous multiplex railway telegraph (1887), the lunar surface ultraviolet camera/spectograph (1972), and the first working clock made in America (1753);

Whereas these inventions also include laborsaving devices such as the corn planter (1834), the cotton planter (1836), the hand corn shelling device (1884), the lawn mower (1899), the automatic lubricator for heavy machinery and trains (1872), and the railroad car coupler (1897);

Whereas many of these inventions revolutionized their respective industries;

Whereas, prior to the Civil War, many black Americans did not receive credit for their inventions because slaves could not receive patents and because masters often claimed credit for the inventions of their slaves;

Whereas the number of inventions that are indeed credited to black Americans is in the thousands;

Whereas the contributions of black American inventors have not received the national attention that they deserve: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 27, 1988, is designated as "National Black American Inventors Day" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL AGRICULTURE DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 265) to designate March 20, 1988, as "National Agriculture Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation.

Mr. DE LA GARZA. Mr. Speaker, I rise today in support of Senate Joint Resolution 265, to designate March 20, 1988, as "National Agriculture Day."

The Honorable EDWARD R. MADIGAN, the distinguished ranking member of the House Committee on Agriculture, and I introduced

House Joint Resolution 466, to make all Americans conscious of the importance of agriculture to their lives and well-being.

This observance, which has been in effect for more than a decade, is traditionally celebrated on the first day of spring, a season of rebirth and growth after the chill days of winter.

With the help of the Agriculture Council of America, it has been our goal to educate Americans about the importance, both historically and culturally, of those whose means of livelihood have provided the very fiber of America's existence, and have led to the growth of our great land.

The proclamation of this observance, which has bipartisan support in both Houses of this Congress and the full support of the executive branch, has always been a useful way of adding to the importance of National Agriculture Day, and helps to promote an understanding of agriculture and those that have dedicated their lives to it.

This understanding goes beyond just those Americans that live in our rural areas, and provides an education to Americans in urban areas that may not have had the benefit of knowledge regarding rural communities and areas that have helped to feed America and the world.

I urge my colleagues in the House to pass this resolution as a show of support for America's farmers and ranchers and as a declaration of faith in agriculture's importance to America's health and well-being.

Ms. SLAUGHTER of New York. Mr. Speaker, Sunday, March 20, we will celebrate National Agriculture Day. I am proud to be a cosponsor of this observance to help make all Americans conscious of the importance of agriculture to their lives and well-being.

From the very beginning of our Nation, agriculture has been the basic force behind America's growth and economic power. Today, agriculture and its associated production, processing, and marketing segments continue to provide more jobs than any other single industry.

In my home State of New York, not usually thought of as a farm State, agriculture is the No. 1 industry. New York ranks in the top five States for production of corn for silage, apples, cauliflower, green peas, milk, tart cherries, celery, snap beans, cheese, pears, lettuce, ice cream, grapes, strawberries, and sweet corn.

The 30th District of New York which I represent contains some of the most diverse, productive, and efficient farming operations in the Nation. With over 58,000 cows, dairy farming is preeminent, with grain and hay production second in sales. The Genesee Valley is also famous for its vegetables: onions, cabbage, beets, sweet corn, peas, and beans. Closer to Lake Ontario are the apple and cherry orchards. Adding to the diversity are important nurseries, greenhouses, and producers of berries, grapes, and wine.

National Agriculture Day is a day of celebration and recognition. I hope the farmers and those who help in marketing, production, and processing farm products take time from their never-ceasing efforts to celebrate their achievement in making American agriculture the most efficient and productive in the world. The rest of us should stop to recognize and thank the agriculture community for providing us with food and fiber of increasing quality and value. The low cost of food for the American family is not only our greatest bargain, but plays a significant role in perserving our high standard of living. We also must recognize the key role agriculture has played and continues to play as an engine of the American economy and as our strongest exporter to world markets.

Mr. Speaker, I ask my colleagues and all Americans to join me in saluting the tremendous efforts of farmers and the entire agriculture industry on March 20, National Agriculture Day.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 265

Whereas agriculture is the Nation's largest and most basic industry, and its associated production, processing, and marketing segments together provide more jobs than any other single industry;

Whereas agriculture serves all Americans by providing food, fiber, and other basic necessities of life;

Whereas the performance of the agricultural economy is vital to maintaining the strength of our national economy, the standard of living of our citizens, and our presence in world trade markets;

Whereas it is important that all Americans should understand the role that agriculture plays in their lives and well-being, whether they live in urban or rural areas; and

Whereas, since 1973, the first day of spring has been celebrated as National Agriculture Day by farmers and ranchers, commodity and farm organizations, cooperatives and agribusiness organizations, nonprofit and community organizations, and Federal, State, and local governments: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 20, 1988, is hereby proclaimed "National Agriculture Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities during the week of March 20 through March 26, 1988.

The Senate joint resolution was ordered to be read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

ADJOURNMENT TO MONDAY, MARCH 21, 1988

Mr. COELHO. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California.

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. COELHO. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California.

There was no objection.

NATIONAL FORMER PRISONERS OF WAR RECOGNITION DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 253), designating April 9, 1988, as "National Former Prisoners of War Recognition Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation.

Mr. Speaker, it is an honor for me to rise in support of Senate Joint Resolution 253 and its House counterpart House Joint Resolution 388, a bill to designate April 9, 1988, as "National Former Prisoner of War Recognition Day."

Throughout all eras, nations have engaged in wars and from these wars have emerged heroes—those who have performed heroic deeds and lived to tell about them; those who died for their country and their convictions; those who were disabled when they left the battle front; those who bore no physical wounds but came back scarred mentally; and, those who were held against their wishes in the enemy camp and were physically and mentally abused by their captors.

Most of these prisoners were kept alive only because of their hope for freedom, because of the dreams of being united with their loved ones and because they had faith that their country would not forget them. We remember these people because of the great sacrifice they made for their country; we remember their families because of the suffering they endured and we remember their communities for the support they gave.

Mr. Speaker, I represent a district with over 72,000 veterans. I do not know how many of these valiant citizens were prisoners of war, but I do know that they are veterans of World War I, World War II, Korea, Vietnam, Grenada and other military undertakings.

I want to mention a very special person who lives in my district, Everett Alvarez, Jr. Everett was a young 26-year-old Navy pilot when he was captured in Vietnam in August 1964. He was held in and near Hanoi for 8½ years, until February 1973, the longest period of imprisonment of any person in the service of our country during the Vietnam war. When one talks to Everett, it is noticeable that he does not speak of "his" experience as a prisoner of war, but the collective experience of all prisoners of war. In his own words, he said:

> During this experience we endured severe hardship in the hands of our captors, both physically and mentally. We had to exist under inhumane conditions for extraordinarily long periods of time. However, throughout the whole ordeal, we never wavered in our dedication to our duty as American fighting men and constantly maintained our spiritual and ethical values, and our religious beliefs. We were the products of growing up in a free and democratic society. We had to be constantly aware of the enemy's efforts to undermine our basic beliefs and loyalty to our Government. I think, as individuals, we all recognized the value of maintaining our unity—our organizational unity—and structure, for it was in this way that the individual gathered strength.

Everett epitomizes discipline, bravery, will power, faith and hope which was endured by the American prisoners throughout the various wars that were fought by our country. It is only fitting that we remember our prisoners of war and their families by the passage of the bill before us.

Mr. Speaker, I urge all our colleagues to support this legislation which designates "National Former Prisoner of War Recognition Day."

Mr. GILMAN. Mr. Speaker, I rise in strong support of Senate Joint Resolution 253 designating April 9, 1988 as "National Former Prisoner of War Recognition Day." This resolution is identical to House Joint Resolution 388, of which I am proud to have supported. I would like to commend my distinguished colleague from Ohio [Mr. APPLEGATE] for his work on this fine resolution and for his tireless efforts to honor those who were held as prisoners of war and to resolve the fate of American servicemen who are currently held as captives of war in hostile nations.

A great deal of evidence exists that the Governments of Vietnam and Laos hold information which could resolve the status of many unaccounted for Americans. Despite the difficulties involved, we are deeply committed to resolving the POW/MIA issue. This issue is a humanitarian matter of such great importance that it is pursued without linkage to any other issue which separates the United States and Indochinese governments.

By support Senate Joint Resolution 253, we will be taking one of the most important steps in honoring Americans who have served in the Armed Forces, particularly those who were formally held as prisoners of war as well as those who are still held today in hostile nations as prisoners of war. Let us observe April 9 as a day to commemorate their courage and determination in upholding the principles of freedom and democracy. We must do all that we can to support our Government's efforts to reunite all Americans with their families and loved ones, for former and present prisoners of war who gave so much and can do no less.

Accordingly, I urge my colleagues to support this resolution.

Mr. APPLEGATE. Mr. Speaker, I want to thank the gentlewoman from Maryland for yielding. I also want to extend my appreciation to her, to Representative MERVYN DYMALLY, chairman of the Census and Population Subcommittee, and to the chairman of the Post Office and Civil Service Committee, Representative BILL FORD, for agreeing to bring this important resolution before the Chamber today.

Mr. Speaker, Senate Joint Resolution 253, passed by the Senate last month, is similar to my resolution, House Joint Resolution 388, which I introduced in the House last October. Over 160 House Members have agreed to cosponsor this resolution which would designate April 9, 1988, as "National Former Prisoner of War Recognition Day," similar to what was enacted last year.

Let me just say that I am highly pleased that the Senate acted with such diligence in passing Senate Joint Resolution 253, introduced by the very able chairman of the Senate Veterans' Affairs Committee, Senator ALAN CRANSTON of California. Not only has the support for my resolution been very strong in the House, but Senate Joint Resolution 253 had 69 cosponsors when it was passed on February 26, clearly indicating the overwhelming support for this measure. I hope the Members of the House will see fit to match the Senate's unanimous approval of this measure.

Let me just say that, with passage of this measure, we will once again recognize the approximately 80,000 former prisoners of war throughout our Nation today and pay tribute to them upon the 46th anniversary of that day when American soldiers holding out on the Bataan Peninsula in the Philippines were captured by enemy forces, eventually leading to the infamous Bataan "death march" and the deaths of thousands of Americans.

The experiences of former prisoners of war is something that, I'm sure, most Americans can hardly imagine. The brutality and hardship endured by Americans in captivity in World War II, the Korean war, and the war in Vietnam, is widely known. I feel that all Americans who owe their freedom and liberty to the sacrifices that were made by all servicemen, and especially by former prisoners of war, should reserve some time on April 9 to think of all of America's former prisoners of war.

Mr. Speaker, I would like to extend my thanks to the members of the American ex-prisoners of war who worked for the passage of this resolution: National Commander Al Bland of Maryland; senior national director Curtis Musten; executive director Charles Williams; and, Dr. Charles Prigmore, national legislative officer.

Most of all, I want to thank my good friend and colleague from Ohio, the vice chairman of the Veterans Affairs' Subcommittee on Compensation, Pension and Insurance, BOB MCEWEN, for his unyielding support and assistance in making "National Former Prisoner of War Recognition Day" a reality. I want to thank him and everyone who joined in cosponsoring House Joint Resolution 388.

Mr. Speaker, I strongly support passage by the House of Senate Joint Resolution 253.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 253

Whereas the United States has fought in many wars;

Whereas thousands of members of the Armed Forces of the United States who served in such wars were captured by the enemy and held as prisoners of war;

Whereas many such prisoners of war subjected to brutal and inhumane treatment by their captors in violation of international codes and customs for the treatment of prisoners of war and died, or were disabled, as a result of such treatment;

Whereas in 1985, the United States Congress (in Public Law 99-145) directed the Department of Defense to issue a medal to former prisoners of war in recognition and commemoration of their great sacrifices in service to our Nation; and

Whereas these great sacrifices of former prisoners of war and their families deserve national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of American in Congress assembled, That April 9, 1988, is designated as "National Former Prisoners of War Recognition Day" in honor of the members of the Armed Forces of the United States who have been held as prisoners of war, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate such days with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1415

EDUCATION DAY, U.S.A.

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 470) to designate March 29, 1988, as "Education Day, U.S.A.", and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mrs. MORELLA. Reserving the right to object, Mr. Speaker, the minority has no objection to this legislation.

It is a great pleasure for me to speak today in support of the House joint resolution designating March 29, 1988, as "Education Day, U.S.A." By sponsoring this resolution, we call to the attention of the American people once again the importance of education for our Nation. Our quality of life, our national security, and our ability to meet the wants of the age are all dependent on the soundness of our educational system.

In this resolution, we also remember a great educator and leader of the Lubavitch movement, Rabbi Menachem Mendel Schneerson, who is celebrating his 86th birthday. He exemplifies the statement of Henry Brooks Adams, "a teacher affects eternity; he can never tell where his influence stops." In addition to its other programs, the Lubavitch movement has begun to expand its educational endeavors into the field of drug-abuse prevention, with the beginning of project pride—prevention resources: information and drug education.

It gives me great pleasure to send best wishes to Rabbi Schneerson on the occasion of his birthday and to congratulate the Lubavitchers at Chabad House in Rockville, MD, for their innovative approach to the educational needs of our time.

I urge passage of this resolution which brings attention to our Nation's educational commitment and to the love of learning found in the Lubavitch movement and its leader, Rabbi Schneerson.

Mr. MICHEL. Mr. Speaker, I welcome this opportunity to say a few words about House Joint Resolution 470, requesting the President to designate March 29, 1988, as "Education Day, U.S.A."

Along with the distinguished majority leader, TOM FOLEY, I am sponsoring this resolution. We joined forces last year and I'm happy to be part of this worthy venture today.

As I said last year, I think it is fitting that the majority and the minority leaders, should cosponsor such a resolution. It deals with a subject that transcends partisan consideration.

We are seeing a rebirth of the old American idea of progress through education for all Americans. That's still a great idea.

March 29 also happens to be the 86th birthday of a remarkable religious leader, Rabbi Menachem Mendel Schneerson.

He is the internationally renowned and respected leader of the Lubavitch movement which actively promotes education programs at more than 80 centers in 34 States.

The Lubavitch movement, founded in the 18th century, has as its philosophical foundation three basic elements—wisdom, understanding, and knowledge.

It is, therefore, appropriate that the movement, under the inspired leader of the man called the rebbe, has been so active in promoting education.

Looking over my remarks from last year, I came upon a fact I want to share with you today.

The movement which the rebbe heads takes its name from the Russian city, Lubavitch, which, translated into English means, city of love.

In the final analysis it is love of one's religious heritage, love of learning—that is at the heart of the Lubavitch movement and at the heart of our resolution.

I'm pleased once again to honor a great man and to support such a fine idea.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. (Mr. MFUME). Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 470

Whereas Congress recognizes the historical tradition of ethical values and principles which are the basis of civilized society and upon which our great Nation was founded;

Whereas these ethical values and principles have been the bedrock of society from the dawn of civilization, when they were known as the Seven Noahide Laws;

Whereas Without these ethical values and principles the edifice of civilization stands in serious peril of returning to choas;

Whereas society is profoundly concerned with the recent weakening of these principles that has resulted in crises that beleaguer and threaten the fabric of civilized society;

Whereas the justified preoccupation with these crises must not let the citizens of this Nation lose sight of their responsibility to transmit these historical ethical values from our distinguished past to the generations of the future;

Whereas the Lubavitch movement has fostered and promoted these ethical values and principles throughout the world;

Whereas Rabbi Menachem Mendel Schneerson, leader of the Lubavitch movement, is universally respected and revered and his eighty-sixth year will be seen as the year of continued "turn and return", the year in which we continue to turn to an education which will return the world to the moral and ethical values contained in the Seven Noahide Laws; and

Whereas this is reflected in the "international scroll of honor" which has been signed by the President of the United States and other heads of state: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 29, 1988, the birthday of Rabbi Menachem Mendel Schneerson, leader and head of the worldwide Lubavitch movement, is designated as "Education Day, U.S.A.". The President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities. We also call on heads of state of the world to join our President in this tribute by signing the international scroll of honor which will be presented in their respective countries this year of completing "celebration 85".

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RUN TO DAYLIGHT DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 229) to designate the day of April 1, 1988, as "Run to Daylight Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation.

Mr. Chairman, it gives me great pleasure to yield to my colleague, the gentleman from Virginia [Mr. WOLF], the chief sponsor of House Joint Resolution 415, to designate the day of April 1, 1988, as "Run to Daylight Day."

Mr. WOLF. Mr. Speaker, I would like to thank my colleagues on the Post Office and Civil Service Committee for promptly bringing House Joint Resolution 415 to the floor for consideration.

Today the House will consider House Joint Resolution 415, which will designate April 1, 1988, as "Run to Daylight Day." Run to Daylight is a 3,600-mile cross country run from San Francisco to Boston to bring national attention to the special needs of head injury survivors and their families, and to raise money for the National Head Injury Foundation [NHIF].

Doug Walker, an outstanding young constituent of mine, decided to make a difference in the lives of head injured persons by running across the country to spread the message about head injury. Doug will run an average of 40 miles per day in over 350 cities nationwide. His run will raise $3.6 million to support the NHIF, the only organization in the country exclusively dedicated to overcoming the crisis of head injury.

Most people in the United States are unaware of the enormity of the need of head injury victims and their families. Each year between 1 to 1.8 million people suffer head injuries, most of which are sustained in motor vehicle or sporting accidents. Between 50,000 and 70,000 of those who survive experience long-term physical and mental difficulties. They face years of struggle and extreme financial burdens as they strive to regain normal brain-centered capabilities, such as bathing, dressing, cooking and reading. As a result of their accidents, many head injured persons have persistent memory problems and changes in personality.

I am pleased that the Congress is recognizing the tremendous commitment of Doug Walker by designating April 1, 1988, as "Run to Daylight Day," and I wish Doug all the best in his endeavors.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 229

Whereas between one million and one million eight hundred thousand people in the United States suffer head injuries each year;

Whereas twenty years ago 90 per centum of the people who suffered severe head injuries died as a result of such injuries, but currently the survival rate for such injuries is 50 per centum;

Whereas most people who suffer head injuries are under thirty years of age and will survive such injuries for at least forty years;

Whereas more than fifty thousand of the people who survive head injuries annually are unable to resume their normal lifestyles without intensive physical and psychological therapy;

Whereas the long term rehabilitation that is available for survivors of head injuries has not improved at the same rate as the medical treatment of such injuries;

Whereas Run to Daylight, a nonprofit corporation concerned with improving the rehabilitation that is available for survivors of head injuries, is sponsoring a three-thousand-six-hundred-mile run across the United States called the "Run to Daylight";

Whereas the purpose of the "Run to Daylight" is to raise the awareness of the people of the United States about the rehabilitation needs of survivors of head injuries and to raise funds to support the National Head Injury Foundation, an organization dedicated to improving the quality of life for survivors of such injuries and their families and to developing and supporting programs to prevent such injuries; and

Whereas the "Run to Daylight" will begin in San Francisco, California, on April 1, 1988, and will end in Boston, Massachusetts, on June 30, 1988: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 1, 1988, is designated as "Run to Daylight Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ACTIONS RELATED TO THE PANAMA PIPELINE

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute.)

Mr. YOUNG of Alaska. Mr. Speaker, in the confusion and chaos that surrounded this body's reaction to yesterday's Nicaraguan invasion of Honduras a very important event went practically unnoticed; yesterday Mr. Speaker the electrical workers operating the Trans-Isthmus Oil Pipeline walked off the job shutting down the pump station at Caldera. This has had the effect of shutting down the entire pipeline. This action was carried out in an attempt to show their solidarity with the rest the decent working people of Panama. These people are risking life and limb to protest the illegal actions of General Noriega. While I, and the rest of this body, can certainly appreciate the electrical workers desire to rid their country of this drug smuggling thug, their actions have only served to harm the legitimate government of President Duvalle. I am hopeful that these Panamanian patriots can be persuaded to return to work in the very near future.

Mr. Speaker, I am sure that everyone in this House is aware that 10 percent of this Nation's oil supply transits the Trans-Isthmus Pipeline. Today's actions demonstrate, in the most graphic terms, the need for stable domestic transportation systems for Alaskan North Slope crude oil. Mr. Speaker I call on my colleagues to address the all possible alternatives—including support for a temporary barrel for barrel foreign oil exchange—in the event of a long-term shutdown.

Yesterday's events have driven home the pressing need for this Nation to develop its own oil supplies as well as the vulnerability of our current system. It's high time for this body to seriously address this Nation's total oil policy including a transportation system which does not leave this Nation as vulnerable as we are now.

THE POLITICS OF UNILATERAL DISARMAMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. RITTER] is recognized for 5 minutes.

Mr. RITTER. Mr. Speaker, yesterday House Democrats took to the floor to blame the Sandinista Communist invasion of Contra base camps on Republicans. Their theory went like this: Because we did not support their bill for some beans and boots—we were seeking bullets—we are at fault for this invasion of Contra base camps. What hypocrisy. As if beans and boots could, repel tanks and helicopter gunships.

Today, Democrats took to the floor to criticize the administration for sending troops to Honduras well behind the lines of conflict.

When will the Democrats in the House realize that it is their policy which is pushing the use of U.S. troops closer to this conflict, that in the Bonior language of the "beans and boots" bill, the Democrats said that if there was an invasion of a neighboring country or if there was a direct threat to U.S. security, we would use American troops.

It is the Democratic policy which has pulled the rug out from the under the freedom fighters, the Contras, which has led to the invasion by the Communists and our need at least to "show the flag." Their policy of weakening the freedom fighters has resulted in a tremendous vacuum of power sucking the Sandinista Communists—backed by the Soviets and the Cubans into the Contra base camps to deliver a knockout blow. It's as if they were invited by circumstance on resulting from House Democratic policy.

It is the Democratic policy which has led to the breakdown of the Arias peace plan. When they took away the strength of the opposition to the Communists in Nicaragua, when they took away the force from those democratic freedom fighters who were opposing the Soviet-Cuban takeover of Central America, when they took that away, they gutted the peace process. They reduced the peace process to a very one-sided negotiation where one side, the Communist Sandinistas, had the guns and the other side, the Democratic Resistance, did not. So like good Communists seeking to ever consolidate power, they attacked.

I find it unbelievable that the Democrats have the audacity to come to the floor of the House and blame the Republicans for the attacks against Contra base camps, after it was their policy that weakened the Contras. How can they criticize the administration for showing the flag far from the lines of conflict after they have so weakened the Contras, the anti-Communist forces in Central America?

□ 1430

When will House Democrats come to the House floor and denounce Soviet-Cuban assistance to the Communists in Nicaragua? They only denounce our assistance to the Contras.

When will they call for disarming the Communists in Nicaragua as they have called for disarming the Contras?

We have not heard in 2 days of this debate one Democrat take to the floor and denounce the Sandinistas for the invasion, or denounce the Soviets and the Cubans for their continuing militarization of Nicaragua. The Soviets and their proxies have sent the Sandinistas vast amounts of equipment, over $600 million last year, for a total of over $2.5 billion over the last several years. And, with the full knowledge of this military buildup they still did not allow $3.6 million to be sent to the Contras, which would have even been held in escrow, pending progress toward democratization. This is unilateral disarmament. We are dealing with the politics of unilateral disarmament.

No one accepts unilateral disarmament except House Democrats. This year is the 50th anniversary of Neville Chamberlain's famous "peace in our time" statement made in 1938. After returning from his infamous deal with Hitler to sell out Czechoslovakia. This is the 50th anniversary of a historic effort at appeasement. But, this time it is right here, south of our border. We are dealing with the appeasement of the Soviets, the Cubans, and their Nicaraguan puppets. And, they are close to home, near the Panama Canal, in the midst of fledgling democracies, in our backyard.

Mr. Speaker, appeasement did not work in 1938. The world went through a rending and tearing period. Appeasement will not work 50 years later, in 1988.

FUNERAL TRAGEDY IN NORTHERN IRELAND

The SPEAKER pro tempore (Mr. MFUME). Under a previous order of the House, the gentleman from Massachusetts [Mr. BOLAND] is recognized for 5 minutes.

Mr. BOLAND. Mr. Speaker, like many around the world with an interest in seeing peace brought to the people of Northern Ireland, I was saddened by the news of the tragedy at the Milltown Cemetery in Belfast yesterday.

Today the Prime Minister of the Republic of Ireland, An Taoiseach, Charles J. Haughey, T.D. addressed yesterday's tragic event in a statement released by the Irish Embassy. It is, I believe, a reasoned response to what I hope is an isolated occurrence.

I here include those remarks for the consideration of my colleagues:

STATEMENT BY AN TAOISEACH, CHARLES J. HAUGHEY, T.D.

I strongly condemn the horrific attack on mourners attending the interments at Milltown Cemetery in Belfast today. I extend my sincere sympathy to the families of those who have died and to those who have been injured.

I have no doubt that this desecration of funeral ceremonies will appall all decent Irish men and women of every political belief. The anger which this savage attack will cause should not lead to further violence and I appeal to the nationalist people of Belfast and to all the people of Northern Ireland to respond with calm to this outrage and to take no action which might heighten tension or lead to further loss of life.

THE CRISIS IN CENTRAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes.

Mr. GINGRICH. Mr. Speaker, as we debate the crisis in Central America brought on by the Nicaraguan Communist invasion of Honduras and the effort to kill the pro-American freedom fighters and eliminate their base camp, I am taking the floor this afternoon to call on the Speaker of the House to release the transcript of his conversation or conversations yesterday with Nicaraguan Communists. I am deeply troubled that at a time when Nicaraguan Communists are invading an American ally, and are killing the friends of America, that there are apparently conversations in which no member of the executive branch, no one from the National Security Council, no one from the State Department, is involved.

We have no idea what reassurances were made by the Nicaraguan Communists nor have we any idea what reassurances were made by the Speaker. We are now in a situation where the leftwing Democrats have succeeded in forcing the Central Intelligence Agency to pull its personnel out of the base camps. Then because we had to take our agents out, we do not know what is going on so we are now blamed by the same Democratic leaders for not having our facts together.

The arrogance of that is beyond belief. There is a principle being established in this city that there can be no covert operations, that the executive branch can do nothing covertly, that it has to brief the Committee on Intelligence.

Let me suggest if there are going to be no covert operations in the executive branch that there should be no covert conversations in the legislative branch and the question has to be, "What is the public's right to know if in the middle of an invasion of an American ally, the invading Communists call and chat with the Speaker of the House?"

To what extent does the Speaker of the House owe the House some message, some transcript, some information about his relationship with the Communist invaders?

People have asked me why did the President send troops to Honduras? The answer is very simple. The Hondurans are very frightened. They have watched the House Democrats. They recognize the power of the forces of appeasement. They see the power of the forces of unilateral disarmament. They know how deep is the desire to desert America's friends. They look at this House and they know that there are secret conversations between the Nicaraguan Communists and the Democratic leader, and they say to themselves, "Should we rely on America or will America desert us as they deserted Saigon, as they deserted Cambodia, and as they deserted Laos?"

So President Reagan, knowing that the whole balance of power in Central America and in Panama and Honduras and Nicaragua sways in the balance, knowing that he is dealing with a Democratic leadership which seems to believe the Communists more than it believes the Government of the United States, decided to act to reassure our friends.

Let me suggest that every American should look at the historical record. There was a secret meeting between the Speaker and Nicaraguan Communist, Dictator Ortega on Veterans Day. There have been secret conversations. The leftwing Democrats have done everything they needed to do to reassure the Nicaraguan Communists and what is the result? Is there a ceasefire? No. The result is that today young men and women who love freedom and who are friends of America, young men and women who came to the side of the cause of freedom because they believed America would stand with them, those young men and women are being killed by Nicaraguan Communists who have in effect been protected by the leftwing Democrats in the House.

I call on the Speaker today to release a transcript of his conversations with the Nicaraguan Communists, and I call on the Speaker today to promise this House and the American people that in the future when he talks with Communists in the process of invading America's allies, he will at least ensure that the Department of State and the National Security Council are informed of his conversations and are informed of precisely what went on and that the transcript will be made available. The public has a right to know that its officials are not dealing with Communists in a way which is inappropriate and which risks America's future.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. Mr. Speaker, I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, since Mr. Ortega has entered the attack phase of his peace plan, I recall the Speaker ending his exhortation to cut off aid to our side to deprive them of ammunition and weapons and blankets and food, his last words were "Give peace a chance."

I was thinking that Neville Chamberlain arrived back in London having met with Adolf Hitler in Munich and announced that he had achieved "peace in our time."

When Hitler's tanks rolled across western Europe shortly thereafter, Mr. Chamberlain handed in his resignation to the British Government, and the new government under Mr. Churchill was formed.

Since the Speaker has now become in his own judgment, I think, Secretary of State, would it not be appropriate for him to take the same action Mr. Chamberlain took?

Mr. GINGRICH. I say to the gentleman from California, I believe I am out of time.

Mr. HUNTER. We will leave that for another special order.

A TRIBUTE TO ERNEST L. CUNEO

The SPEAKER pro tempore (Mr. MFUME). Under a previous order of the House, the gentleman from New Jersey [Mr. RODINO] is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, on Monday, March 14, 1988, a great American patriot, Ernest L. Cuneo, was interred at Arlington National Cemetery. I had the privilege of knowing Ernest Cuneo for a number of years, and was one of his many admirers. Mr. Cuneo's remarkable life, which spanned over 82 years, encompassed a number of different professions and pursuits. His life was marked by his belief in the greatness of this country, its legal system and its people.

Ernest Cuneo was a lawyer, writer and former owner of the North American Newspaper Alliance. He was also an advisor and friend of Presidents from Franklin Roosevelt to Lyndon Johnson, and of Members of Congress on both sides of the aisle.

After graduation from law school and a brief stint as a professional football player, his introduction to politics began when Mr. Cuneo became the law secretary of Fiorello H. LaGuardia, then a Republican Congressman and later mayor of New York. When LaGuardia was defeated, Mr. Cuneo became a member of a small group of attorneys advising President Roosevelt, and helped pave the way for public acceptance of Roosevelt's election to a third term. From 1936 to 1940, Mr. Cuneo served as associate general counsel to the Democratic National Committee. During World War II, he was a member of the Office of Strategic Services, the predecessor of the CIA, serving as the personal liaison officer of Gen. William O. Donovan to Sir William Stephenson, British Security, the White House, State Department, and FBI.

After World War II, his law practice included advising Walter Winchell and Drew Pearson. In the mid-1950's, he acquired the North American Newspaper Alliance [NANA], which he ran until 1963. Thereafter, never forsaking his interest in the printed word and military affairs, he himself became a syndicated columnist for NANA and a military analyst, while continuing to practice law as counsel to the Washington firm of Corcoran, Youngman & Rowe. He was also a director of Freedom House and the Woodrow Wilson Institute for International Scholars.

Ernest Cuneo's prolific creative mind has left us many manifestations of his spirit, ideals, and visions for our country and its people. Besides his columns, he authored three remarkable books, "The Dynamics of World History," "Life with Fiorello," and "Science and History," as well as many thoughtful and prophetic articles on subjects ranging from world affairs to military intelligence to professional football that have appeared in magazines and newspapers as diverse as the American Legion, the Saturday Evening Post, and the American Scholar. His writing will enrich our holdings for history, just as his life and visions for America enriched so many of our lives.

DOLLAR NOTE PREFERABLE TO DOLLAR COIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the American public has made it very clear that it is not interested in a circulating dollar coin. The article from Coin World which I inserted into the CONGRESSIONAL RECORD yesterday revealed the view that I believe most Americans hold—that a dollar bill is more desirable than a dollar coin. The recent history of currency in this country proves this to be true.

Americans have participated in two experiments involving the circulation of dollar coins during the past 17 years. The Eisenhower dollar, minted from 1971 through 1978, was large and easily identifiable but cumbersome for daily use. The Susan B. Anthony dollar, minted in 1979 and 1980, was easily confused with a quarter and was very unpopular. In fact, 465 million of the 800 million Anthony dollars are collecting dust in Government vaults.

During the time that the Anthony dollar was in circulation, the mint conducted an opinion poll to find out what the public thought of the coin. When asked if the participants would like the coin better if it were brasscolored, 42 percent said they would still be dissatisfied with it. When asked if making the edge smooth to help differentiate it from the quarter would improve their opinion of the coin, 70 percent said they would still be dissatisfied with it. These seemingly practical changes are being considered to help the proposed coin, even though Americans have said that such changes would not significantly change their attitude about the coins.

With this knowledge, why push on the public yet another coin which, as has already been demonstrated with the Eisenhower and Anthony dollars, will not be desirable for circulation? This is a misuse of taxpayer's money, a waste which we have already seen with the embarrassing Anthony coin experiment. Americans have shown that they do not want a dollar coin, and we should honor that rather than squander more money on the issue.

The potential cost savings proclaimed by the supporters of the dollar coin are, at best, a misconception, and possibly an outright misrepresentation. In 1979, I directed the staff of the Subcommittee on Consumer Affairs and Coinage to investigate the cost savings which the mint projected for the Anthony dollar. The mint claimed that the estimated life of a dollar bill is 18 months, and proponents of a dollar coin still use that figure today. Indeed, most of the cost savings figures cited for a dollar coin today have been lifted without revision from figures cited in support of the Anthony dollar. However, the Treasury released a study at the same time the mint made these statements in the late 1970's, which estimated a 22-month life for dollar bills. This difference, in 1979, reduced the cost figure for each dollar bill from 1.3 cents to one cent. This, in turn, altered the mint's projection of $50 million for issuing dollar bills to $40.7 million, nearly 20 percent less.

Further, there is already talk that a $2 note would eventually accompany the dollar coin. Such a note was well established when Canada and Australia instituted their versions of the dollar coin. And now there is talk that Australia is planning to do away with the $2 note—and replace it with a $2 coin. If we are going to begin to issue $2 notes for circulation, then we will not save money by not issuing the $1 bill. This would result in replacing the $1 bill with two new items of currency—the $1 coin and the $2 note. This does not seem cost-efficient to me.

For these reasons, I oppose abolishing the $1 note. We have a working, satisfactory currency system. Without a compelling reason to abolish the note and replace it with a coin, and a careful and well considered study of the ramifications of such a change, I see no justification for change.

A SPECIAL TRIBUTE TO JAMIE L. WHITTEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 30 minutes.

Mr. MONTGOMERY. Mr. Speaker, I am proud to call to the attention of my colleagues the honor paid to the gentleman from Mississippi, JAMIE WHITTEN, on February 23, 1988. The University of Mississippi sponsored a program in support of the chair of law and government in his honor at the University Law School.

The event was held at the ICC Departmental Auditorium in front of a crowd of more than 800 and was jointly hosted by a majority of his colleagues.

I want to share with you a portion of that program, as well as two newspaper articles printed in the Oxford Eagle and written by Eagle Publisher Jessie P. Phillips. Oxford is the home of the University of Mississippi.

CONGRESSMAN JAMIE L. WHITTEN

On November 4, 1987, Jamie Whitten completed 46 years of service in Congress. On November 4, 1986, he was elected to his 24th term. Throughout the history of the United States, only seven members of Congress have served longer on a continuous basis, although, as Congressman Whitten says, "It's not how long you have served, but how well."

On September 20, 1984, ranking members of Congress—Democrats and Republicans alike gathered to make a rare mutual tribute to one of their number. It was the official unveiling of a portrait of Congressman Whitten, whose lengthy tenure in the U.S. House of Representatives—eight years as Chairman of the vital Committee on Appropriations—has earned him unique bipartisan acclaim as an exemplary statesman.

The ceremony took place in prestigious Statuary Hall. Then Speaker of the House Thomas P. O'Neill, Jr., in accepting the portrait on behalf of the House of Representatives, said: "I know of no man for whom I have more respect and affection. Jamie enjoys the unanimous respect of the House and its members for his legislative ability, his character, and his principles. So on behalf of the House of Representatives, I am both honored and extremely pleased to accept this portrait to be hung here in the United States Capitol of one of the giants of the Congress, the Honorable Jamie Whitten, Chairman of the Committee on Appropriations."

The glowing tributes of the day were just one more capstone in the remarkable career of Congressman Jamie Lloyd Whitten of Mississippi. He was first elected to the Mississippi State Legislature at the age of 21, barely old enough to vote. At 23 he was elected District Attorney of the 17th District, a circuit of eight courts. After being reelected twice, he began a string of 34 straight election victories for the United States Congress.

Not only has his political career been uncommonly long and successful, he has earned the kind of bipartisan respect accorded only to true statesmen. As one example, in 1982, his colleagues voted him, "the most effective Chairman in the U.S. Congress."

A member of the Committee on Appropriations since 1943, Mr. Whitten was named the youngest person in history to chair the Appropriations Subcommittee on Agriculture after only five years' experience. He was elected overall Committee Chairman by his colleagues in 1979. He serves on all 13 appropriations subcommittees.

As Chairman he has the reputation of getting things done. His comprehensive national viewpoint has resulted in legislation that has protected and developed the nation's real wealth—its natural resources. He initiated establishment of the National Watershed and Flood Prevention Program. He has supported major highway and navigation projects.

In 1959, Chairman Whitten's motion overrode the President's veto of the public works appropriations for fiscal 1960—re-establishing the right of the Congress to initiate public works projects.

While a respected national leader, Mr. Whitten has never forgotten, nor failed to represent forcefully, the needs of his own people in his district and in Mississippi, not only through Congress but in his expert grasp of the law.

Even as a 23-year-old District Attorney, Mr. Whitten was influential, successfully prosecuting a number of cases prominent in Mississippi legal history. During two terms he had only one case reversed, and that for reasons beyond his control.

As a second-year Congressman, Mr. Whitten succeeded in having the Department of Justice set aside the sale of the Elk Hill Oil Reserve on grounds that it was unconstitutional for the government to enter into a contract with a private corporation in perpetuity. During World War II, he saved billions of dollars by leading an effort to require the Navy to use vacated Army facilities. He has been vital to the survival and completion of the Tenn-Tom Waterway, the most ambitious navigational project in history and an economic boon to Mississippi and the Mid-South.

The Tenn-Tom project, at a cost less than half that of single nuclear carrier, provides a slackwater route from the Tennessee River to the Gulf of Mexico and is a great example of the Congressman's know-how.

When first authorized in 1946, the plan called for a 150-foot-wide canal. For 20 years, funding has been denied because the cost exceeded the benefits. In 1966, when the project became part of Congressman Whitten's district, he led efforts which resulted in funding authorization for a 300-foot-wide, 9-foot-deep canal, which made the project economically feasible.

Among hundreds of awards received during his career, Mr. Whitten has been accorded the Mississpppi American Legion Distinguished Service Award, the American Vocational Award for Outstanding Service, the Watchdog of the Treasury Award from the National Association of Businessmen, the Minuteman Hall of Fame Award from the Reserve Officers Association, the U.S. Corps of Engineers' Honorary Mississippi Navigator Award, the 4-H Alumni Recognition Award from the Cooperative Extension Service, and the 50th Anniversary Medal for outstanding contributions to American agriculture from the nation's Federal Land Banks.

Mr. Whitten is the author of "That We May Live," a best-selling volume on the nation's natural resources, which received 72 reviews and sold more than 50,000 copies. Translations have been made in Spanish and German. A much-in-demand speaker, the Congressman has addressed many national organizations, colleges and universities.

A native of Cascilla, Tallahatchie County, Mississippi, Mr. Whitten studied literature and law at The University of Mississippi. While at Ole Miss, his outstanding academic record earned him membership in Omicron Delta Kappa leadership honorary and Phi Alpha Delta law fraternity. He was a member of the debate team and Beta Theta Pi social fraternity and was active in University Theatre productions. In 1932, he had the highest grade average of those admitted from The University of Mississippi to the State Bar.

Prior to his political career, Mr. Whitten became a partner in the law practice of Denman, Breland and Whitten in Greenwood, Sumner, and Charleston.

Through his long and distinguished career in Congress, Mr. Whitten has served during the administrations of nine presidents—Franklin Roosevelt, Harry Truman, Dwight Eisenhower, John Kennedy, Lyndon Johnson, Richard Nixon, Gerald Ford, Jimmy Carter, and Ronald Reagan.

"I have tried to cooperate, so far as I could, with each," said Congressman Whitten, "for under our system of government of three equal coordinate branches, like the ancient troika with three horses, we must pull in the same direction or we get nowhere. Presidents have signed 96 percent of our appropriations bills," he added, "and we have worked out the others."

WHITTEN TRIBUTE DRAWS MORE THAN 800

(By Jesse P. Phillips)

WASHINGTON.—Tuesday night, Feb. 23, was a night of glory for Congressman Jamie Lloyd Whitten, the State of Mississippi and the University of Mississippi.

On this night more than 825 persons packed the Departmental Auditorium on Constitution Ave. to pay honor and tribute to one of America's greatest Statesmen, Jamie L. Whitten. Of this number it is estimated that more than 300 persons from Mississippi shared in the occasion, which took note of his 46 years of service in the U.S. Congress.

Mississippians came from the Gulf Coast, the plains on the east, the Mississippi Delta and from North Mississippi to say, "Thank you, Jamie, for an unparalleled Congressional career."

Frederick W. Smith, chairman of the dinner committee and of Federal Express Corporation and a native of Marks, added excitement to the aire of the evening in the banquet hall, with the announcement that the $1 million goal to establish the Chair of Law and Government at the Ole Mis Law Center, had been exceeded with the gifts totaling more than the $1.1 million.

Native Mississippians, who enjoy their Mississippi-raised cat fish, had their taste buds awakened with the serving of the broiled Norwegian salmon as an appetizer. The rest of the meal was just delicious.

"Initially we had hoped for a crowd of 500 for the dinner, but this number topped at over 825 plus, when the space in the banquet hall was fully exhausted," commented Chancellor Gerald Turner.

Many of Whitten's colleagues, i.e. former Speaker of the House Thomas (Tip) P. O'Neill, Jr. and present Speaker, the Honorable Jim Wright, Sen. John Stennis and other members of the Mississippi congressional delegation, were in attendance.

The Dean of the House of Representatives was honored earlier on Sept. 20, 1984, when ranking members—Democrats and Republicans—of Congress gathered to make a rare mutual tribute, the unveiling of a portrait of the Cascilla-born statesman.

The ceremony took place in the Statuary Hall, where the Speaker of the House, "Tip" O'Neill, Jr., in accepting the portrait on behalf of the House of Representatives, said, "I know of no man for whom I have more respect and affection. Jamie enjoys the unanimous respect of the House and its members for his legislative ability, his character and his principles. So on behalf of the House of Representatives, I am both honored and extremely pleased to accept this portrait to be hung here in the United States Capitol of one of the giants of the Congress, the Honorable Jamie Whitten, chairman of the Committee on Appropriations."

In appreciation of his many contributions to the nation, the State of Mississippi, and particularly District 1, the University of Mississippi has established the Jamie Lloyd Whitten Chair of Law and Government.

The principal of the endowment will be managed and invested by the University of Mississippi Foundation with the annual accruals being used to fund the Chair. The Chair will be filled by nationally recognized legal scholars and practitioners whose teaching will perpetuate the high standards of scholarship and integrity so forcefully exemplified by the life of Congressman Whitten.

The honoree's remarkable career began when he was first elected to the Mississippi House of Representatives at the young age of 21. At 23, he was elected District Attorney of the 17th District of eight courts. He was re-elected twice to this office and then put together a string of 34 straight election victories to the U.S. Congress.

A member of the Committee on Appropriations since 1943, Whitten was named the youngest person in history to chair the Appropriation Sub-committee on Agriculture after only five years of experience. He was elected overall Committee Chairman by his colleagues in 1979—he serves on all 13 appropriation subcommittees.

In 1982 his colleagues voted him, "the most effective chairman in the U.S. Congress."

One of his most notable feats came in 1966, with the funding authorization for a 300-ft. wide, 9-foot-deep canal for the Tenn-Tom Waterway.

Through his long, and distinguished career in Congress Whitten has served during the administration of nine presidents—Franklin Roosevelt, Harry Truman, Dwight Eisenhower, John Kennedy, Lyndon Johnson, Richard Nixon, Gerald Ford, Jimmy Carter and Ronald Reagan.

Congressman Whitten, it was stated during the evening, shares the philosophy in the distribution of federal monies, "Give me half for the State of Mississippi and all the other states can divide the other half." However, his colleagues acknowledge that Whitten has taken care of other states as well—not just the First Dist. of Mississippi.

At the ground-breaking for the $11 million National Acoustics Center at Ole Miss, Whitten stated, "There was never a doubt for a minute where this center would be built."

A look at Oxford and the University community is living evidence of his effectiveness as Dean of the House.

After Mississippi's distinguished statesman is no longer "On the Hill," there will be the Federal Building in Oxford, the Soil Sedimentation Laboratory, the U.S. Hydrology Lab, National Acoustics Center at Ole Miss and many other projects brought about by his strong leadership, that will be a living testimony to the life of Jamie Lloyd Whitten.

Potpourri From the Jamie Whitten Dinner

Washington, DC.—Sharing in this dinner, which was inspired by the establishment of the Chair of Law and Government at the Ole Miss Law Center, was an opportunity of a lifetime.

The "beginning" of the reason for this celebration took place some 46 years ago as a Delta-born Mississippian won his first bid to the U.S. Congress. His arrival in Washington was just one month removed from the tragedy of Pearl Harbor.

Since 1941, it would literally take volumes to record the many accomplishments of his distinguished career, Whitten has already been recognized on several occasions as one of the most outstanding Statesmen who has ever served in the U.S. Congress—serving not only Mississippi, but all 50 of the states.

Mississippi's youthful governor, the Honorable Ray Mabus, received many positive reviews as he spoke briefly at the beginning. It was apparent Mabus "had done his homework."

Ole Miss's and Mississippi's Miss America, Miss Mary Ann Mobley, brought all the graciousness and charm that a southern lady can possess. The beautiful Californian was quick to acknowledge her love for Ole Miss and her native state. She was kind in her remarks to Congressman Whitten as she stated. "We all share in your reflected glory."

Miss Mobley, shared with her audience that Miss Mississippi Toni Seawright finished in the "top 10" of the Miss America pageant. "She was '10' all over."

Miss Seawright was spectacular with her performance of two songs, "Mississippi, I'm Glad You're My Home" and "America the Beautiful." She received a standing ovation from the crowd of more than 800.

Vice-Chancellor Doyle Russel, who was seated at my table, and I had very similar reactions. We were proud of Toni Seawright and the fact that she is a Mississippian and Miss Mississippi. Moreover, we are proud of Mississippi and Ole Miss—both which have come a long way since the Meredith incident in 1962.

A sidebar to this took place Wednesday morning, as I was having breakfast in the Atrium of Embassy Suites Hotel. Seated to my side was one of the three Black representatives of the Board of Trustees of Institutions of Higher Learning. We were reminiscing about the dinner and program of the evening before. The spouse of the board member said, "I'm proud to say I'm a Mississippian; however, there was a time when this was not true.".

The Honorable William F. Winter, former governor of Mississippi, shared that in 1854 the Board of Trustees petitioned the Mississippi Legislature to establish the Chair of Law and Governmental Science at the University of Mississippi. Winter was paralleling what took place 134 years ago with what is being done in honor of Congressman Whitten, now.

Winter heralded the success of the Law Center at Ole Miss with its ability to take "a raw, green country boy (Whitten) from Cascilla, Ms. and to help him to realize the full powers of his potential.

He shared with the distinguished audience that the Law Center has 21 full-time professors and a student population of 500.

"It is so timely that we are gathered in this Capitol tonight to establish the Chair of Law and Government, which will make generations in the future better because of it," commented Winter.

Former governor Winter shared with the friends of Whitten, that Whitten attributes the study of law at Ole Miss as the basis of his success.

Oxford attorney Will Hickman, one of Whitten's closest friends, chided Chancellor Turner and said, "With your past two introductions, i.e. Winter and Hickman, you have moved from the 40 and under year old crowd."

"I'm honored to participate. We all know that Jamie is a modest man . . . he seeks no credits, just results."

One of the many accomplishments mentioned by Hickman was the recognition given Whitten by the "Washingtonian" as naming him the best Congressman who takes care of the needs of his constituents.

Hickman concluded his remarks in saying, "Tonight, we honor a national statesman, a legend—one who has never forgotten the people he serves—the Dean of the House."

Ten of the 13 members of the Board of Trustees of Institutions of Higher Learning were in attendance for the dinner.

Republicans as well as Democrats love and appreciate Jamie Whitten. This was evidenced by the remarks of the Honorable Bob Michel, Republican leader, U.S. House of Representatives.

"For me Jamie put a lot of things in perspective. We've come a long way together."

In joking about Jamie's golf game, Michel said, "Only man I know who plays golf with a complete set of woods."

"Jamie and I are the 'odd couple' with my hearing impairment and I am not sure what language he speaks (referring to Whitten's Southern drawl). Jamie feels that what is misunderstood with the ambiguity can always be corrected with an amendment," he continued.

Michel said that one of his aides came to the cloak room one day and excitedly said, "Jamie is giving 'em hell . . . he's been at it for about 30 minutes." Michel quipped. "What about?" The aide retorted, "I don't know, he hasn't said yet."

His Republican friend shared, "Whitten never has been inattentive to the people of Mississippi. No one knows the rhythms of the House better than Jamie. If there is a melody of love for his country, Jamie will be playing this tune."

The Honorable Jim Wright, Speaker, U.S. House of Representatives, had the last opportunity to pay tribute to this great son of Mississippi.

"Even though you can't understand him, there is no doubt where he stands. In the 47 years he has served this country the net worth of this nation has multiplied 36 times. He will soon be instructing the 10th president under which he will serve that the President doesn't spend anything unless the Appropriations Committee 'says so'."

Chancellor Gerald Turner who spoke eloquently and presided masterly over the black tie dinner, had orchestrated the timing for the dinner to conclude at 10 p.m., but this hour had barely passed when the honored guest, Mr. Whitten, had an opportunity to respond.

"What would you say about all of that?" he quipped.

"I can't afford to call all of you liars, but there has been a lot of exaggeration, tonight.

"I'm glad that I didn't live when Lincoln lived, because I would have been dead for a long time. If I had, there sure would not have been a Civil War.

"I've been accused of doing more for Mississippi than some of the other states. This is really not the truth. I finally got Mississippi in on what all the other states had been enjoying all the time.

"I appreciate all the great support that I have had back home," he stated.

In commenting about the special Chair of Law and Government being created at Ole Miss, "I'm glad they added my name to it, they didn't have to do it, but it sure was nice."

To climax the evening the Centennial Alumnus award was presented by Chancellor Turner to Congressman Whitten.—J.P. Phillips.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. Gray of Illinois (at the request of Mr. Foley), for March 16 and 17, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Gingrich) to revise and extend their remarks and include extraneous material:)

Mr. Dornan of California, for 60 minutes, today.

Mr. McEwen, for 60 minutes, today.

Mr. Ritter, for 5 minutes today.

Mr. Gingrich, for 5 minutes today.

(The following Members (at the request of Mr. Garcia) to revise and extend their remarks and include extraneous material:)

Mr. Boland, for 5 minutes, today.

Mr. Rodino, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Montgomery, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Gingrich) and to include extraneous matter:)

Mr. Pursell in two instances.

Mr. Clinger.

Mr. Gekas.

Mr. Ritter.

Mr. Lott in two instances.

Mr. Crane.

Mr. Armey.

Mr. Solomon.

(The following Members (at the request of Mr. Garcia) and to include extraneous matter:)

Mr. Bonker.

Mr. Lipinski.

Mr. Hochbrueckner.

Mr. Mrazek.

Mr. Glickman.

Mr. Kanjorski.

Mr. Biaggi.

Mr. Rangel.

Mr. Schumer.

Mr. Clement.

Ms. Slaughter of New York.

Mr. Atkins.

Mr. Dyson.

Mr. Grant.

Mr. Hoyer.

Mr. Fauntroy.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 854. An act entitled the "Nevada-Florida Land Exchange Authorization Act of 1988."

ADJOURNMENT

Mr. HUNTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 40 minutes p.m.), under its previous order, the House adjourned until Monday, March 21, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3159. A communication from the President of the United States, transmitting proposed transfers and mandatory supplemental appropriations request for fiscal year 1988 pursuant to the bipartisan budget agreement, pursuant to 31 U.S.C. 1107 (H. Doc. No. 100-176); to the Committee on Appropriations and ordered to be printed.

3160. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting a copy of Presidential Determination No. 88-11 that it is in the national interst that the Export-Import Bank extend credit in the amount of $151 million to the People's Republic of China in connection with the purchase of equipment and services for the construction of the Shidongkou coal-fired powerplant, pursuant to 12 U.S.C. 635(b)(2)(D)(iv); to the Committee on Banking, Finance and Urban Affairs.

3161. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to extend the authorization of appropriations under the Runaway and Homeless Youth Act, pursuant to 31 U.S.C. 1110; to the Committee on Education and Labor.

3162. A letter from the Director, Office of Legislative Affairs, Agency for International Development, transmitting the report of economic conditions prevailing in Turkey which may affect its ability to meet international debt obligations and stabilize its economy, pursuant to 22 U.S.C. 2346 note; to the Committee on Foreign Affairs.

3163. A letter from the Director, Office of Legislative Affairs, Agency for International Development, transmitting a report of the agency's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3164. A letter from the Associate Director, Office of Management and Budget, ACTION, transmitting a report of the agency's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3165. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552(o); to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ACKERMAN: Committee on Post Office and Civil Service. H.R. 3757. A bill to amend title 5, United States Code, to permit voluntary transfers of leave by Federal employees where needed because of a medical or other emergency situation; with an amendment (Rept. 100-519). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PURSELL (for himself and Mr. Dingell):

H.R. 4190. A bill to amend the Public Health Service Act to require the Secretary of Health and Human Services to construct or improve facilities for the conduct of nursing research by institutions of higher education; to the Committee on Energy and Commerce.

By Mr. JACOBS:

H.R. 4191. A bill to amend the Internal Revenue Code of 1986 to provide that the gross income exclusion with respect to personal injury liability assignments shall apply where the plaintiff becomes a secured creditor of the assignee; to the Committee on Ways and Means.

By Mr. ANDREWS (for himself, Mr. Chandler, Mr. Pickle, Mr. Donnelly, Mr. Anthony, Mr. Matsui, Mr. Flippo, Mr. Archer, Mr. Jenkins, Mr. Thomas of California, Mr. Frenzel, Mr. Daub, Mr. Duncan, Mr. Brown of Colorado, Mr. Coyne, Mrs. Kennelly, Mr. Bryant, Mr. Hatcher, and Mr. Bevill):

H.R. 4192. A bill to amend the Internal Revenue Code of 1986 to provide that persons who could purchase diesel fuel tax free under the diesel fuel tax as in effect before its revision by the Revenue Act of 1987 may purchase diesel fuel tax free under the revised tax; to the Committee on Ways and Means.

By Mr. BONKER (for himself, Mr. Dicks, Mr. Lowry of Washington, Mr. Miller of Washington, and Mr. DeFazio):

H.R. 4193. A bill to create a Federal facility nuclear cleanup trust fund, to require the Secretary of Energy and the Administrator of the Environmental Protection Agency to enter into compliance agreements for environmental cleanup of Federal nuclear facilities, to create a special environmental counsel, to provide for research and development for Federal nuclear facilities, and for other purposes; jointly, to the Committees on Energy and Commerce; Interior and Insular Affairs; Armed Services; Science, Space, and Technology; Public Works and Transportation; and the Judiciary.

By Mr. CRAIG (for himself, Mr. Pursell, and Mr. Lagomarsino):

H.R. 4194. A bill to repeal the provisions of the Revenue Act of 1987 which imposed the diesel fuel and aviation fuel taxes at the wholesale level; to the Committee on Ways and Means.

By Mr. CRANE (for himself and Mr. Jacobs):

H.R. 4195. A bill to amend part A of title IV of the Social Security Act to deny Federal payment of administrative costs under the AFDC program to States providing for State or local taxation of Social Security benefits; to the Committee on Ways and Means.

By Mr. DUNCAN:

H.R. 4196. A bill to provide a military survivor annunity for widows of certain retirement-eligible Reserve members of the uniformed services who died during the period between the establishment of the military survivor benefit plan and the creation of the Reserve-component annunity under that plan; to the Committee on Armed Services.

By Mr. GOODLING:

H.R. 4197. A bill relating to the treatment of certain State plans under section 72(e) of the Internal Revenue Code of 1986; to the Committee on Ways and Means.

By Mr. GRANT:

H.R. 4198. A bill to direct the Board of Regents of the Smithsonian Institution to develop a master plan for expanding the National Air and Space Musuem at an airport and construct facilities necessary for housing such expansion; jointly, to the Committees on Public Works and Transportation and House Administration.

By Mr. JACOBS:

H.R. 4199. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to require a 20-percent reduction in certain assistance under such act to a law enforcement agency unless such agency has in effect a binding law enforcement officers' bill of rights; to the Committee on the Judiciary.

By Mr. JONES of North Carolina (for himself, Mr. Biaggi, Mr. Anderson, Mr. Davis of Michigan, and Mr. Lent):

H.R. 4200. A bill to authorize appropriations for fiscal year 1989 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission; to the Committee on Merchant Marine and Fisheries.

By Mrs. MORELLA:

H.R. 4201. A bill to allow a deduction for the amount of premiums paid on a life insurance contract the beneficiary of which is a trust established for the benefit of a disabled individual, and for other purposes; to the Committee on Ways and Means.

By Mr. MORRISON of Washington:

H.R. 4202. A bill to declare that certain costs incurred for emergency repairs and modifications to preserve the safety of the Conconully Dam are nonreimbursable and nonreturnable; to the Committee on Interior and Insular Affairs.

By Mr. SENSENBRENNER (by request):

H.R. 4203. A bill to protect the civil rights of Americans and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964; jointly, to the Committees on Education and Labor and the Judiciary.

By Mr. DERRICK:

H.J. Res. 506. Joint resolution to express gratitude for law enforcement personnnel; to the Committee on Post Office and Civil Service.

By Mr. LEVINE of California (for himself, Mr. Wolpe, Mr. Bonker, Mr. Smith of New Jersey, Mr. Miller of Washington, and Mr. Hunter):

H.J. Res. 507. Joint resolution to disapprove the proposed agreement for cooperation between the United States and Japan concerning peaceful uses of nuclear energy; to the Committee on Foreign Affairs.

By Mr. McCOLLUM:

H.J. Res. 508. Joint resolution designating May 1988 as "Older Americans Month"; to the Committee on Post Office and Civil Service.

By Mr. MICA:

H.J. Res. 509. Joint resolution designating August 4, 1988, as "National Legion of Valor Day"; to the Committee on Post Office and Civil Service.

By Mr. MORRISON of Connecticut (for himself, Mr. Biaggi, Mr. Murphy, Mr. Owens of New York, Mr. Roe, Mr. Conyers, Mr. Feighan, Mr. Dellums, and Mr. Manton):

H.J. Res. 510. Joint resolution to designate January 26, 1988, as "Sean MacBride Day"; to the Committee on Post Office and Civil Service.

By Mr. PURSELL (for himself, Mr. Murtha, Mr. Montgomery, Mr. Penny, Mr. Upton, Mr. Henry, Mr. Slattery, Mr. Miller of Washington, Mr. Wilson, Mr. Petri, Mr. Rowland of Connecticut, Mrs. Martin of Illinois, Mr. Cheney, Mr. MacKay, Mr. Watkins, Mr. Weber, Mr. Grandy, Mr. Glickman, Mr. Boehlert, and Mr. McCurdy):

H. Con. Res. 266. Concurrent resolution calling for the reestablishment of the National Bipartisan Commission on Central America to study the nature of the U.S. interests in the Central American region and the threats now posed to those interests; to the Committee on Foreign Affairs.

By Mrs. MARTIN of Illinois:

H. Res. 406. Resolution raising a question of the privileges of the House; considered and agreed to.

By Mr. RODINO (for himself, Mr. Edwards of California, Mr. Fish, and Mr. Sensenbrenner):

H. Res. 407. Resolution impeaching Walter L. Nixon, Jr., judge of the U.S. District Court for the Southern District of Mississippi for high crimes and misdemeanors; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. SMITH of Texas introduced a bill (H.R. 4204) for the relief of Alice M. Rector; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 22: Mr. Johnson of South Dakota, Mr. Murphy, Mr. Berman, Mr. Boehlert, Ms. Slaughter of New York, Mr. Bereuter, Mr. Huckaby, Mr. Owens of Utah, Mrs. Lloyd, Mr. Lewis of Florida, and Ms. Pelosi.

H.R. 80: Mr. Pepper.

H.R. 382: Mr. Callahan and Mr. Nichols.

H.R. 387: Mr. Bonker.

H.R. 1076; Mr. Donnelly.

H.R. 1095: Mr. Gallegly.

H.R. 1242: Mr. Feighan.

H.R. 1583: Mr. St Germain, Mr. Moorhead, and Mr. Ireland.

H.R. 1957: Mr. Cheney, Mr. Smith of Texas, Mr. Campbell, Ms. Snowe, Mr. Pursell, Mr. Hyde, Ms. Oakar, Mr. Owens of Utah, Mr. Skaggs, Mr. MacKay, Mr. Sikorski, Mr. Rose, Mr. Thomas of Georgia, and Mr. Lewis of Georigia

H.R. 2251: Mr. Wolpe and Mr. Lewis of Georgia.

H.R. 2260: Mr. Ritter, Mr. Hefner, Mr. Bruce, and Mr. Mack.

H.R. 2393: Mr. Donald E. Lukens.

H.R. 2532: Mr. Hubbard and Mr. McGrath.

H.R. 2625: Mr. Lowry of Washington.

H.R. 2640: Mr. Markey, Mr. Cooper, Mr. Gray of Pennsylvania, Mr. Mrazek, Mr. Dickinson, Mr. Buechner, Mr. Gaydos, Mr. Rahall, Mrs. Patterson, and Mr. Ritter.

H.R. 2667: Mr. Gordon, Mr. Coelho, Mr. Richardson, Mr. Mrazek, Mr. Nelson of Florida, Mr. Waxman, Mr. Anthony, Mr. Staggers, Mr. Borski, Mr. McMillen of Maryland, Mr. Hayes of Illinois, Mr. Solomon, and Mr. Donald E. Lukens.

H.R. 2762: Mr. Lancaster, Mr. McMillen of Maryland, Mr. Richardson, and Mr. Walgren.

H.R. 2854: Mr. Bennett, Mr. Brown of California, Mr. Neal, Mr. Howard, and Mr. Rodino.

H.R. 2883: Mr. Wolf, Mr. Andrews, Mr. Burton of Indiana, and Mr. Lewis of Florida.

H.R. 2943: Mr. Mfume and Mr. Dwyer of New Jersey.

H.R. 2944: Mr. Mfume, Mr. Dwyer of New Jersey, and Mr. Matsui.

H.R. 2999: Mr. Green.

H.R. 3565: Mr. Frenzel, Mr. Hastert, and Mr. Hefley.

H.R. 3614: Mr. Foley.

H.R. 3698: Mr. Edwards of Oklahoma and Mr. Hughes.

H.R. 3703: Mr. Nielson of Utah, Miss Schneider, and Mr. Jeffords.

H.R. 3757: Mr. Schaefer, Mr. Borski, and Mr. McGrath.

H.R. 3816: Mr. Bruce, Mr. Yates, Mr. Crockett, Mr. Conyers, Mr. Cardin, Mr. Ortiz, Mr. Matsui, and Mr. Towns.

H.R. 3834: Mr. Young of Alaska and Mr. Murphy.

H.R. 3844: Mr. Price of Illinois, Mr. Huckaby, Mr. Smith of New Jersey, Mr. Morrison of Washington, and Mr. Ritter.

H.R. 3889: Mr. Harris, Mr. Ridge, Mr. Rogers, Mr. Jones of North Carolina, Mr. Parris, Mr. Dannemeyer, and Mr. Denny Smith.

H.R. 3900: Mr. Upton.

H.R. 3919: Mr. Badham, Mr. Barnard, Mr. Bevill, Mr. Borski, Mr. Bosco, Mrs. Boxer, Mr. Bruce, Mr. Davis of Michigan, Mr. de la Garza, Mr. Dingell, Mr. Dornan of California, Mr. Dyson, Mr. Eckart, Mr. Fascell, Mr. Fuster, Mr. Garcia, Mr. Gray of Illinois, Mr. Hochbrueckner, Mr. Hoyer, Mr. Inhofe, Mr. Jenkins, Mr. Lagomarsino, Mr. Donald E. Lukens, Mr. McDade, Mr. Manton, Mr. Martinez, Mr. Moakley, Mr. Neal, Mr. Owens of New York, Mr. Roe, Mr. Schulze, Mr. Schumer, Mr. Solomon, Mr. Thomas of Georgia, Mr. Wolf, Mr. Wortley, and Mr. Young of Alaska.

H.R. 3953: Mrs. Collins, Mr. de la Garza, Ms. Pelosi, Mr. Foglietta, and Mr. Evans.

H.R. 3975: Ms. Pelosi, Mr. Bustamante, Mr. Towns, and Mr. Martinez.

H.R. 4037: Mr. Annunzio, Mrs. Patterson, Mr. Fauntroy, Mr. Ackerman, Mr. Vento, Mr. Borski, and Mrs. Bentley.

H.R. 4042: Mr. Jacobs, Mr. Mrazek, Mr. Solarz, Mr. Owens of New York, and Mrs. Boxer.

H.R. 4049: Ms. Snowe, Miss Schneider, Mr. Hall of Ohio, Mr. Gilman, Mr. Fazio, Mrs. Boxer, Mr. Morrison of Connecticut, Mr. Owens of New York, Mr. Edwards of California, Mr. Studds, Mr. Weiss, Mr. Towns, Mr. Matsui, Mr. Evans, Mr. Mfume, Mr. Fuster, Mr. Fauntroy, Mrs. Johnson of Connecticut, Mrs. Boggs, Ms. Pelosi, Mr. Ackerman, Mr. de Lugo, Mr. Wilson, and Mr. Garcia.

H.R. 4060: Mr. Dixon, Mr. de Lugo, Mrs. Boxer, Ms. Oakar, Mr. Kastenmeier, Mr. Coelho, and Ms. Kaptur.

H.R. 4075: Mr. Rinaldo, Mr. Gallo, Mr. Florio, Mr. Fauntroy, Mr. Borski, Mr. Rodino, and Mr. Conte.

H.R. 4078: Mr. Wilson.

H.R. 4153: Mr. Stangeland, Mrs. Roukema, and Mr. Shaw.

H.R. 4155: Mr. Darden, Mr. Skelton, Mr. Sisisky, and Mr. Hochbrueckner.

H.J. Res. 50: Mr. Davis of Michigan, Mr. Mollohan, Mr. Hopkins, Mr. Rahall, and Mr. Bunning.

H.J. Res. 192: Mr. Boehlert.

H.J. Res. 333: Mr. Brennan and Mr. DeFazio.

H.J. Res. 380: Mr. Smith of Texas, Mr. Brown of California, Mr. DeLay, Mr. Dellums, and Mr. Mollohan.

H.J. Res. 445: Mr. Conyers, Mr. Evans, Mr. Grant, Mr. Bates, Mr. Dwyer of New Jersey, Mr. Coleman of Texas, Mr. Dingell, Mr. Dyson, Mr. Feighan, Mr. Dowdy of Mississippi, Mr. Coyne, Mr. Torres, Ms. Slaughter of New York, Mr. St Germain, Mr. Olin, Mr. Packard, Mr. Sabo, Mr. Vento, Mr. Lott, Mr. Yates, Mr. Owens of Utah, Mr. Hoyer, Mr. Hawkins, Mr. Montgomery, Mrs. Byron, Mr. Leland, Mr. Carper, Mr. Hertel, Mr. Brennan, Mr. Sharp, and Mr. Bunning.

H.J. Res. 452: Mr. Shuster.

H.J. Res. 460: Mr. Bosco, Mr. Bryant, Mr. Campbell, Mr. Coyne, Mr. de la Garza, Mr. Dowdy of Mississippi, Mr. Dreier of California, Mr. English, Mr. Ford of Tennessee, Mr. Frost, Mr. Grandy, Mr. Jones of Tennessee, Mr. Lewis of Georgia, Mr. Mfume, Mrs. Morella, Mr. Nielson of Utah, Mr. Ritter, Ms. Slaughter of New York, Mr. Smith of Texas, Mr. Robert F. Smith, and Mr. Vento.

H.J. Res. 470: Mr. Hyde and Mr. Mfume.

H. Con. Res. 19: Mr. Dornan of California, Mr. Rodino, Mr. DeFazio, Mr. Lantos, Mr. Ackerman, Mr. Roe, Mr. Smith of Florida, Mr. Owens of New York, Mr. Martinez, and Mr. Biaggi.

H. Con. Res. 261: Mr. Lightfoot, Mr. Roberts, Mr. Jontz, and Mr. Hopkins.

H. Res. 395: Mr. Schulze, Mr. Boulter, Mr. Owens of New York, Mr. Wilson, Mr. Lipinski, Mr. Manton, Mr. Visclosky, Mr. Nielson of Utah, Mrs. Lloyd, and Mr. Gray of Illinois.

H. Res. 396: Mr. Stratton, Mr. Badham, Mr. Swindall, Mr. Wolf, Mr. Huckaby, Mr. Oxley, Mr. Denny Smith, Mr. Andrews, Mr. McGrath, Mr. Wilson, Mr. Konnyu, Mr. Emerson, Mr. Inhofe, Mr. Dornan of California, Mr. Hiler, and Mr. Matsui.

H. Res. 400: Mr. Boehlert, Mr. Brown of California, Mr. Coyne, Mr. Gallo, Mr. Jacobs, Mr. Jones of Tennessee, Mr. Kanjorski, Mr. Kolter, Mr. Lewis of California, Mr. McEwen, Mr. Moorhead, Ms. Oakar, Mr. Rahall, Mr. Sikorski, Mr. Visclosky, and Mr. Walgren.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 390: Mr. Daub.

PETITIONS, ETC.

Under clause 1 of rule XXII:

140. The Speaker presented a petition of the American Studies Foundation, Alcalde, NM, relative to a proposal for the preservation of the Ranch at Los Luceros, Alcalde, NM; which was referred to the Committee on Education and Labor.

SENATE—*Thursday, March 17, 1988*

(Legislative day of Monday, March 14, 1988)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable TOM HARKIN, a Senator from the State of Iowa.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The love of God is greater far than tongue or pen can ever tell. It goes beyond the highest star and reaches to the lowest hell.

God of peace and justice, on this St. Patrick's Day, we remember a man who came bringing peace and God's love. Help this to be real to us today as all hell seems to break loose in Ireland, Panama, profound crisis in the Middle East and Central America. Grant to our leadership humility to acknowledge their need of You, grace to yield to You for wisdom and direction. And whatever else, Lord, unite us, unite us in Your love and Your peace and Your wisdom. In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 17, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM HARKIN, a Senator from the State of Iowa, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. Harkin thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished majority leader is recognized.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I yield my 5 minutes under the order to Senator PROXMIRE.

Mr. PROXMIRE. Mr. President, I thank my good friend, the majority leader, for his graciousness and generosity.

TIME FOR THE ADMINISTRATION TO CUT THE DREAMS AND TALK STRAIGHT

Mr. PROXMIRE. Mr. President, consider the kind of dream stuff and fairy tales—and this being St. Patrick's Day, the Irish blarney—the administration has been telling to the country while our country has been sinking under the worst economic policies in our history. It will take a great deal to destroy this great economy of ours. But the administration's policies are making a tremendous "college try" in exactly that direction. Here is the way the administration's justification of its policies goes.

How serious is debt in America? The administration's report: Sure, we have a $2.4 trillion national debt. Yes, indeed, our households owe an enormous $2.9 trillion. We admit that American nonfinancial business is more than $3 trillion in debt. And sure, all these figures are the highest on record, and they are rising very fast. But we are doing fine. Put all those figures in perspective. Our GNP now exceeds $4 trillion. It is moving on toward $5 trillion. Our country is not only more productive than ever, it is growing at a steady rate. Sure, debt happens to be growing faster than the economy is growing. So what?

At this moment, with debt rising, unemployment continues to fall and is, right now, down to 5.7 percent. When we break down the components of debt, there is little to be concerned about. Net interest paid by the Federal Government is at $145 billion, only about 14 percent of outlays. Sure, it was only about half that proportion of outlays in the fifties and sixties but it is still controllable. It is about half of our defense outlays and about one-sixth of our nonmilitary spending. OMB expects that interest to decline as a percent of total outlays in coming years. OMB also expects outlays to decline as a percent of outlays until the budget is in balance in 1993.

In the judgment of this Senator, this kind of administration talk is dream stuff. It is nonsense. All of us know that these wishes will not come true. For the past 8 years, OMB has underestimated the deficit in every year without exception. Its initial estimate of the deficit has not only been wrong every year, the administration always, inevitably, time after time, predicted a lower deficit than we have had. Now the Congressional Budget Office tells us the administration is wrong again. CBO tells us that the deficit will not decline in 1988 as OMB projects. CBO tells us the deficit will climb to $180 billion this year and this assumes a continued recovery—no recession.

By forecasting a declining deficit and falling interest rates, OMB estimates that while the interest cost of servicing the national debt will continue to grow, it will grow less than GNP. This also is deceptive dream stuff. It is nonsense. No one can predict with any precision what our economy will do in the future. But on the basis of experience—year in and year out, we can be sure that the deficit is far more likely to grow than to decline. We can also be sure that come the next recession the deficit will shoot into the stratosphere. We can be confident that this kind of fiscal policy this country has pursued for the past 8 years will be inflationary. We also know that as prices rise interest rates will rise. And as interest rates rise, and the national debt rises, the cost of servicing that national debt will shoot out of sight.

It is true that any predictions by the administration of recession or rising prices or rising interest rates or growing unemployment could have an adverse psychological effect on important decisionmakers in the economy. But this administration sounds like Voltaire's Dr. Pangloss: everything is always jim-dandy, rosy. The administration has lost its credibility. Would the American people respect and respond maturely to some straight-from-the-shoulder realism? Why not try it? How can we expect the American public to support the kind of tough, painful economic measures we need if the administration—the President of the United States and the Secretary of the Treasury tell us month after month—even when they are leaving office that we do not need those measures?

I am not calling for a crepe-hanging, sour, discouraged, we-can't-make-it line from the administration. I am calling for some straight, tough talk that tells the American people we are living beyond our means which we are, that running continuous mammoth deficits in periods of recovery is their fault as well as Congress' fault and that this policy will hurt this country in the future. Tell the country the truth. Tell the country that there are no gains without paying. Until we

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

have an administration that has the courage to do that, this country is going to continue to be in serious economic trouble.

Mr. President, I yield the floor and I thank my good friend, the majority leader.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The acting Republican leader is recognized.

U.S. TROOPS IN HONDURAS

Mr. McCAIN. Mr. President, I rise to make a few remarks concerning the situation in Central America today. I would like to point out to start with that this is a time for us to consult together and work together as this crisis—and indeed, I think it can be described as a crisis—unfolds in the next few hours and days.

Mr. President, the President of the United States chose yesterday to send 3,200 troops to Palmerola Air Base, which is 120 miles from the Nicaraguan border. This action in my view clearly does not indicate that young American men are going to be involved in combat in Central America. It does show some support to the Honduran Government, which I think has ample reason to question the United States commitment in the region. But, Mr. President, I want to make it perfectly clear that neither I, nor do I believe the American people, nor Members on both sides of the aisle, would in any way endorse U.S. troops involved in combat in Central America unless there was some dramatic escalation, something greater than the present incursion carried out by the Sandinista government.

I also think it is important that the administration, as soon as possible, conduct consultations with our leadership, our majority leader in particular, and others so that they and the American people can clearly understand what is taking place.

Now, in my view, Mr. President, what the Sandinistas have done is a clear reaction to what the Central Americans view as an abandonment of the Contras. Instead of a commitment to the peace process, instead of a commitment to the negotiation of a ceasefire, which we were supposed to be getting next week, the Sandinistas decided to deal what Mr. Ortega described as a knockout blow to the Contras, with an incursion which, from the information I have, is well supported by helicopter gunships and other modern Soviet-supplied equipment.

Whether this incursion will be successful or not is unclear at this time. I think that the view most Central Americans have of this incursion, including President Arias, is one of condemnation. All of the Central American leadership have condemned this action on the part of the Sandinistas, and I think it deserves condemnation. And the best thing that the Sandinistas can do is withdraw as soon as possible, and let the peace process continue.

For the Congress of the United States, in my view, it is certainly a compelling requirement for us to at least review the entire issue of aid to the Contras. There is a new factor in the entire scenario, and I believe that we should view this situation both from the viewpoint of renewed humanitarian aid or even renewed military aid if possible.

Let me point out that the difference of opinion that exists between the Republicans in the other body and the leadership in the other body rests primarily on one single issue, and that is whether the President at some future date should have the ability which he has had for years—a vote for expedited procedures for continued lethal aid to the Contras in case of a total breakdown of the peace process—something which appears to be happening today.

Mr. President, I think it is important in this time of crisis that we reassure the American people, one, that we are not sending American boys into combat. We will not agree to such a thing, nor would we support such a thing. We are indeed showing the Honduran Government that we have not abandoned them in the region. But it is time for us to help the American people understand exactly what is going on, to clarify the facts involving the so-called incursion and clarify the facts as to the United States role in the region.

I would also in closing say it is time for us, the Republicans and Democrats, conservative and liberal, to sit down together, reason together, and regain some semblance of bipartisan in addressing this issue so we can send a message to the Sandinistas, to the Contras, and to the world that we can unite behind a foreign policy to preserve or regain peace in the region—in a most vital part of the world, Latin America. In that way, I believe we can proceed toward a peaceful resolution of this very difficult and dangerous issue.

I yield the balance of my time.

CIVIL RIGHTS RESTORATION ACT (GROVE CITY)—VETO

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate the President's veto message on S. 557, which the clerk will read and which will be spread in full upon the record.

The assistant legislative clerk read as follows:

To the Senate of the United States:

I am returning unsigned with my objections S. 557 and transmitting for your prompt consideration the Civil Rights Protection Act of 1988. The Congress should enact legislation designed to eliminate invidious discrimination and to ensure equality of opportunity for all Americans while preserving their basic freedoms from governmental interference and control. Regrettably, the bill presented to me fails to achieve that objective.

There is no matter of greater concern to me than ensuring that our Nation is free of discrimination. Our country has paid a heavy price in the past for prejudices, whether based upon race, gender, ethnic background, religion or handicap. Such attitudes have no place in our society.

It was with this commitment in mind that in the wake of the Supreme Court's 1984 *Grove City College* decision, I voiced my support for legislation that would strengthen the civil rights coverage of educational institutions that existed prior to that decision. I have repeatedly endorsed legislation to do just that. Today I am sending to Congress a bill that goes further than the legislation previously endorsed. This proposed bill is intended to accommodate other concerns raised during Congressional consideration of the *Grove City* issue.

Our bill advances the protection of civil rights. It would:

Prohibit discrimination against women, minorities, persons with disabilities, and the elderly *across the board* in public school districts, public systems of higher education, systems of vocational education, and private educational institutions which receive *any* Federal aid.

Extend the application of the civil rights statutes to *entire* businesses which receive Federal aid as a whole and to the *entire* plant or facility receiving Federal aid in *every* other instance.

Prohibit discrimination in *all* of the federally funded programs of departments and agencies of State and local governments.

Our bill complements well our body of existing Federal civil rights laws. But even more remains to be done. For example, I have urged the Congress to enact responsible legislation to deal with some obvious failures of the Fair Housing Act of 1968, including the need to protect persons with disabilities.

Congress, on the other hand, has sent me a bill that would vastly and unjustifiably expand the power of the Federal government over the decisions and affairs of private organizations, such as churches and synagogues, farms, businesses, and State and local governments. In the process, it would place at risk such cherished values as religious liberty.

The bill presented to me would diminish substantially the freedom and independence of religious institutions in our society. The bill would seriously impinge upon religious liberty because of its unprecedented and pervasive coverage of churches and synagogues based on receipt of even a small amount of Federal aid for just one activity; its unprecedented coverage of entire religious elementary and secondary school systems when only a single school in such a system receives Federal aid; and its failure to protect, under Title IX of the Education Amendments of 1972, the religious freedom of private schools that are closely identified with the religious tenets of, but not controlled by, a religious organization.

Businesses participating in Federal programs, such as job training programs, would be subject to comprehensive Federal regulation. While some proponents of S. 557 have claimed that it would not apply to farmers who receive Federal crop subsidies or food supplies who accept food stamps, the ambiguity in the statute and its legislative history indicates that these exemptions should be made explicit.

A significant portion of the private sector—entities principally engaged in the business of providing education, health care, housing, social services, or parks and recreation—would for the first time be covered nationwide in all of their activities, including those wholly unrelated activities of their subsidiaries or other divisions, even if those subsidiaries or divisions receive no Federal aid. Again, there was no demonstrated need for such sweeping coverage.

Further, this bill would be beyond pre-Grove City law and expand the scope of coverage of State and local government agencies. Under S. 557, any agency of such a government that receives or distributes such assistance would be subject in all of its operations to a wide-ranging regime of Federal regulation, contrary to the sound principles of federalism.

The cost and burdens of compliance with S. 557 would be substantial. The bill would bring to those it covers—which is most of America—an intrusive Federal regulatory regime; random on-site compliance checks by Federal officials; and increased exposure to lawsuits, which are costly to defend even when you win.

Moreover, such legislation would likely have the unintended consequences of harming many of the same people it is supposed to protect. For example, persons with disabilities seeking to enhance their job skills are not helped if businesses withdraw from Federal job-training programs because of their unwillingness to accept vastly expanded bureaucratic intrusions under S. 557. Business groups have indicated many of their members may do just that.

The Civil Rights Protection Act that I am proposing today addresses the many shortcomings of S. 557. The Civil Rights Protection Act would protect civil rights and at the same time preserve the independence of State and local governments, the freedom of religion, and the right of America's citizens to order their lives and businesses without extensive Federal intrusion.

The Civil Rights Protection Act contains important changes from S. 557 designed to avoid unnecessary Federal intrusion into the lives and businesses of Americans, while ensuring that Federal aid is properly monitored under the civil rights statutes it amends. The bill would:

Protect religious liberty by limiting coverage to that part of a church or synagogue which participates in a Federal program; by protecting under Title IX, the religious tenets of private institutions closely identified with religious organizations on the same basis as institutions directly controlled by religious organizations; and by providing that when a religious secondary or elementary school receives Federal assistance, only that school, and not the entire religious school system, becomes subject to the Federal regulation.

Ensure that the reach of Federal regulation into private businesses extends only to the facility that participates in Federally funded programs, unless the business, as a whole, receives Federal aid, in which case it is covered in its entirety. The bill also states explicitly that farmers will not become subject to Federal regulation by virtue of their acceptance of Federal price support payments, and that grocers and supermarkets will not become subject to such regulations by virtue of accepting food stamps from customers.

Preserve the independence of State and local government from Federal control by limiting Federal regulation to the part of a State or local entity that receives or distributes Federal assistance.

In all other respects, my proposal is identical to S. 557, including the provisions to ensure that this legislation does not impair protection for the lives of unborn children.

I urge that upon reconsidering S. 557 in light of my objections, you reject the bill and enact promptly in its place the Civil Rights Protection Act of 1988.

RONALD REAGAN.

THE WHITE HOUSE, *March 16, 1988.*

The ACTING PRESIDENT pro tempore. The question before the Senate is, shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

The distinguished majority leader is recognized.

Mr. BYRD. Mr. President, the managers on the other side are not in the Chamber as yet. The manager on our side, Mr. KENNEDY, is here.

I ask unanimous consent that I may proceed for not to exceed 3 minutes, out of order.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

UNITED STATES TROOPS IN HONDURAS

Mr. BYRD. Mr. President, I did not respond earlier to the comments that were made by the able Senator from Arizona [Mr. MCCAIN] because of the order that has been entered. While awaiting the arrival of the managers on the other side of this vetoed legislation, I simply want to compliment the distinguished Senator from Arizona [Mr. MCCAIN] and join with him in expressing the hope that American troops are not going to be involved in fighting in Central America.

I join in condemning any incursions into Honduras by the Sandinistas. But I also want to express the hope that what we have seen take place—that being, I suppose, a training exercise, a no-advance-notice training exercise, in which we probably engage in many instances, and in connection with which I find no fault—I want to express the hope that this exercise, what appears to be a overrection at the wrong time, what appears to be and may be an overreaction, does not prove to be counterproductive.

While the Sandinistas are to be condemned for their actions, and so far as I know they may be out of Honduran territory by now—they may or may not be; I do not have up-to-date information on that—I hope that the reaction that our country has had does not prove to be counterproductive, does not derail the peace process which was set forth in the Guatemala accords. I can only hope that the peace process goes forward and that there will be a cessation of hostilities. Out of the meetings that are supposed to occur in the early part of next week, I hope there will be actions that will follow on that will ultimately lead to a cease fire.

CIVIL RIGHTS RESTORATION ACT—(GROVE CITY—VETO

The Senate continued with the consideration of the veto message of the President on S. 557.

Mr. BYRD. Mr. President, on the veto message, I want to take a few remaining moments to express the hope that the Senate can reach a vote on overriding this veto today.

I think the President has been unwise in vetoing this measure. Many people in his own party, I understand, have advised him to do otherwise. Nevertheless, he has exercised his authority under the Constitution to veto a bill, and he has done that in this instance—unjustifiably, I think.

It having been done, however, I think it is the Senate's duty to reach a decision, certainly within a reasonable length of time. There can be debate. I hope it will not be strung out, delayed. There is no point in carrying this matter over until next Monday or Tuesday in this body.

It is my understanding—I have not heard it directly—that the House will not vote to override until next Tuesday, if the Senate does override. That being the case, it seems to me that at least the Senate ought to be allowed to reach a decision on this matter today. We have other work to do.

I have not had an opportunity to discuss this with the distinguished assistant Republican leader, Mr. SIMPSON, as yet; but I hope the debate will begin and that after a reasonable length of time, the Senate can work its will on the override.

Mr. President, I yield the floor.

Mr. MCCAIN. Mr. President, the distinguished manager has arrived.

I ask unanimous consent to speak for 2 minutes, out of order, to respond to the very important statement of the majority leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HONDURAS

Mr. MCCAIN. Mr. President, I should like to express my appreciation for the comments just made by the distinguished majority leader. He obviously shows a concern and a bipartisan attitude toward this issue which I think is crucial to its resolution.

In addition, however, I should like to comment that this incursion on the part of the Sandinistas, in the view of many of us, is a cynical abrogation of their commitments to the peace process.

I also am convinced that if there is a derailing of the peace process, it is not because of the sending of 3,200 American troops to Palmerola Base.

I think it is also very important to point out that the American people will not support U.S. combat involvement under present circumstances in Central America. At the same time, it is important for us to send a signal to our allies and friends in Central America that we are not abandoning the region.

This movement, although I think laudable in that respect, is in one way regrettable, in that the focus has now shifted from the Sandinista incursion to the understandable and deep and abiding concern on the part of the American people as to whether those young men who have been sent are going to be involved in combat.

I think we need to first assure the American people that that is not the case, and then address the implications of what I view as a cynical undermining and torpedoing of the Central American peace process—the attempt by Mr. Ortega to deal a so-called knockout blow to the Contra effort.

Again, Mr. President, I thank the majority leader for his continuing commitment to finding a peaceful resolution to the regional conflict. I believe he has displayed an enormous degree of bipartisanship and understanding, under sometimes very difficult circumstances. I am convinced that, as in the past, he will play a key role, and perhaps the key role, in any agreement we come to in trying to resolve this issue on a bipartisan basis.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

CIVIL RIGHTS RESTORATION ACT (GROVE CITY)—VETO

The Senate continued with the consideration of the veto message of the President on S. 557.

Mr. KENNEDY. Mr. President, I urge the Senate to override President Reagan's unjustified veto of the Civil Rights Restoration Act. The bill is identical to the measure that passed the Senate by an overwhelming bipartisan vote of 75 to 14, 6 weeks ago. The identical measure was adopted by the House of Representatives with a 315 to 9 margin 2 weeks ago.

This is a critical moment for civil rights and for the Nation. For 4 years since the Supreme Court's unfortunate decision in the Grove City College case, minorities, women, the disabled and the elderly have endured federally subsidized discrimination that they were powerless to stop.

For 4 years, Congress has worked to craft legislation to overturn the Grove City deicision and restore the four basic civil rights laws to their former strength. We developed legislation that does just that—nothing more and nothing less.

In addition to broad bipartisan support in Congress, the Civil Rights Restoration Act is supported by the more than 200 national organizations represented by the Leadership Conference on Civil Rights, numerous religious organizations, including the U.S. Catholic Conference, the American Baptist Churches, the Evangelical Lutheran Church in America, the Union of American Hewbrew Congregations, and the United Methodist Church. The bill has also been endorsed by the National Association of Independent Colleges and Universities, which represents 814 institutions of higher education in the United States.

The Civil Rights Restoration Act is limited legislation in the sense that it affects only the scope of coverage of those who receive Federal financial assistance.

Like every civil rights measure ever enacted, this bill has been the target of an irresponsible misinformation campaign. We have heard it all before.

Opponents of the Civil Rights Act of 1964 claimed that "in truth and in fact, the bill, under the cloak of protecting the civil rights of certain minorities, will destroy civil rights of all citizens of the United States who fall within its scope." Those opposed to civil rights called the 1964 act "the greatest grasp for executive power conceived in the 20th century."

Our 20 years experience under the civil rights laws demonstrates no such dire results: To the contrary, we have made great strides toward equality in our society, thanks to the 1964 act and subsequent measures building on it. This progress was halted by the Grove City College decision. The Civil Rights Restoration Act would do nothing more than return us to the pre-Grove City situation.

Let me set the record straight on what the act does and does not do:

Fact: The Civil Rights Restoration Act restores the broad prohibition against discrimination based on race, sex, disability and age by those who accept Federal financial aid.

Fact: The Civil Rights Restoration Act does not change in any way the definition of Federal financial assistance or who is a recipient of such assistance. The four civil rights laws apply only to such recipients. For example, farmers receiving crop subsidies are ultimate beneficiaries. They have been and will continue to be exempt from these laws.

Fact: With the exception of abortion, the Civil Rights Restoration Act makes no change in the substantive requirements of the four civil rights laws. If a practice is prohibited discrimination now, it will be prohibited discrimination under the Civil Rights Restoration Act.

Fact: The Civil Rights Restoration Act makes no change in the persons protected under the four civil rights laws. These laws have never been interpreted to protect homosexuals. The act does nothing to change those interpretations.

In a desperate effort to salvage this veto, the administration is proposing a third alternative to the Civil Rights Restoration Act. Its first two proposals were rejected soundly by Congress this year. As we examine the administration alternative, it is important to remember that, for the past 4 years, this administration has vigorously opposed any meaningful reversal of the Grove City decision.

The so-called administration alternative is a combination of the amendments offered and rejected in committee or on the Senate and House floors, plus a few additions that are unnecessary or are so lacking in merit that they were not even proposed as amendments to the bill.

The administration proposal would expand the religious tenet exemption in title IX to include institutions closely identified with the tenets of a religious organization as well as those controlled by a religious organization. That amendment to the bill was rejected by the Senate 59 to 36.

The expanded exemption is unwarranted and would seriously undermine title IX protection in thousands of private schools throughout the country. No change in title IX is needed. More than 150 religious exemptions have been granted to colleges and universities since title IX was enacted. No request for an exemption has ever been denied. No administration has ever required any institution to change a practice that it claimed was required by its religious beliefs, and no enforcement action has ever been brought against a religious institution because of a practice it claimed was dictated by its beliefs.

Expanding the religious tenet exemption would create a giant loophole in title IX by opening the door to sex discrimination by hundreds of schools. It is important to reiterate that the National Association of Independent Colleges and Universities, with over 800 members, supports the bill as is.

The administration proposal would also limit corporate coverage, by restricting it to the single plant that receives Federal aid, even if the corporation provides quasi-governmental services like housing and health care. This amendment was rejected by a vote of 11 to 5 in the Senate Labor Committee. In fact, in pre-Grove City practice coverage was corporatewide for all corporations. In the present bill, we have limited corporatewide coverage to areas of public service, where it is most important.

The administration proposal would also limit coverage of religious institutions to the specific program receiving Federal funds. In other words, it would leave the Grove City decision in place for religious institutions. The Senate rejected this amendment 56 to 36.

The civil rights laws never have contained a different scope of coverage for religious and nonreligious recipients of Federal aid. There have been no problems in the two decades since these law were passed. Most religious organizations, including the U.S. Catholic Conference, are not seeking this change.

Finally, the administration proposal would allow schools that are part of a private school system to discriminate while taking Federal money by eliminating the act's requirement that if any school in a private school system receives Federal aid, the entire school system is covered.

This amendment was rejected by the Senate 70 to 16. If any school in a system receives Federal aid, the system must not be permitted to use creative bookkeeping to discriminate in its other schools.

What is being called an administration alternative to the Civil Rights Restoration Act is really the Federal Subsidy for Discrimination Act. Instead of restoring pre-Grove City protections from discrimination, it opens new loopholes in our laws to permit federally financed discrimination.

The Civil Rights Restoration Act has been fully debated in the Senate and approved overwhelmingly. I urge my colleagues to override the President's misguided veto.

Mr. HATCH. Mr. President, this is still a very important debate, still a very important issue and certainly deserves every consideration. Whenever a President vetoes something like this, especially a bill that is labeled as a civil rights bill, you have to be concerned that maybe he has some legitimate reasons for doing so.

Now, what I would like to do, I say to the distinguished majority leader and those on his side, is to suggest that we are willing to go to a direct vote at a time certain. I have a particularly difficult schedule at this time and I do not want to be pushed into a major debate on this today, but I would be willing to set a time certain for a vote. I would prefer to do it sometime next week, with maybe an hour equally divided beforehand. And we can certainly take some time today.

But I think it is fair to say that on the majority of the bills that have come to the floor I have had to be over here. We all have strong commitments and difficulties. I have more than my share right now and I would prefer that courtesy to me to allow this to go over until, say, next Tuesday or Wednesday, set a date, set a time certain. There will be a 1-hour debate beforehand so that everybody can have their last shot at this and we will be happy to take a few hours here today. I will be happy to chat for a few hours or better because I have a lot to say about this bill today.

I would just like to suggest that this is the way to resolve it. I do not think it is going to make any difference. I do not think it is going to change a lot of votes in the Senate. The House, as I understand it, is scheduled to vote next week. As I understand it, they are going to vote Tuesday. We could vote the same day they vote.

I am suggesting a time certain and a definite vote and no real problems with it other than we do want to make some final points at least to back up why the President feels so strongly about this issue that he has even taken the extraordinary step of vetoing this bill.

Mr. KENNEDY. Mr. President, I always want to accommodate my good friend from Utah and certainly would make every effort to do so. But I sincerely hope that the Senate can address this measure soon. This issue has been before this body, been before our committee now for 4 years. The President has taken the full range of time right up to the deadline in order to exercise his constitutional right for a veto.

We have debated this issue, We have discussed these matters. The basic conclusions in the President's veto are matters that have, by and large, been offered as amendments where we have had full and complete debate and votes.

The veto message is primarily the sum and substance of amendments that were offered to the Civil Rights Restoration Act. So the Members know these issues, the Members know these questions. There are really no new items in the President's veto measure.

I want to accommodate the Senator from Utah and I want to try to work out a process but it baffles me why we ought to go on 1 more day, quite frankly, with the existing law on the books.

We are talking about the stain of discrimination. The Senate ought to speak on this issue. It is Thursday morning. I do not see why we cannot find the time, either later today or certainly at the latest tomorrow, to move ahead and to get a determination and get a final judgment.

I have not had the opportunity to talk to the leader. I want to, certainly, accommodate the interests of the Senate. But I would hope and urge on him, at least to move ahead on this. I would urge the leader if we could make some time certain tomorrow, work out at least in terms of the debate today the speaking program with my colleague from Utah, so people that have differing views can present them. But I find it difficult to understand why we could not at least determine now that we would be able to vote on this certainly tomorrow.

The Senator from Utah can arrange a series of speakers so that we cannot vote on it, but I think that sends a message as well to the country. People are entitled to know where this institution stands and where the Senate stands. I would hope that we could at least make a determination, Mr. Leader, that we would vote sometime tomorrow. I would urge those who feel so strongly about it that we try and commit to the leader and the Senate to go on to some other business. But I cannot for the life of me see why we ought to wait until next week.

Mr. HATCH. I guess the reason I raised this is that I would like to have it put off until next week because of inconvenient schedules, because of my own inconvenient schedules; and everybody knows I have to be here. There is no desire on anybody's part to filibuster this unless we are pushed into doing it. I do not want to do that.

It is safe to say that I have been here on the floor on seven major issues since the first of the year. I am not complaining. I have been here when I have been needed. I have participated strongly and fully. The good Senator knows that I have participated under some difficulty on the Polygraph Protection Act. The fact is I am saying we could have a date certain. We could get rid of the debate today, except for, say, the last hour. I will be happy to get rid of the debate, you can go back to Price-Anderson, get rid of that and then, I suspect, tomorrow the distinguished majority leader, as he indicated, wants to bring up another bill from our committee. So we go right from this one to another one. I would prefer to do it in a more orderly and more respectful way.

I would be happy to go for a couple of hours today and to, basically, get into the RECORD all the things that I would care to get into the RECORD. I do not think it is an untoward request. The House has indicated that they are going to vote on this next Tuesday. I do not see why we cannot.

I frankly do not think it is going to change any votes in the Senate and I suspect that nobody is risking anything by granting this courtesy. But I have to be prepared, also, for the next bill that is coming up and it is going to be a very hotly contested issue, and that is high-risk occupational notification. I do not want to get shoved around on Grove City when I have that coming up the next day.

So, of the bills that have come up since the first of the year, that means eight of them will have been bills that I have either an intense interest in or manage on our side of the floor. I do not think that has happened to any Senator around here in many, many years.

I think it is a reasonable request. I know my colleague wants to accommodate me. I think I am trying to accommodate him. I am trying to make it clear, make his tenure on the floor relatively short and to make the debate a reasoned one, without any divisiveness, without any rancor or any ill will. But I am a U.S. Senator. I am happy to accommodate the Senate. If that is what they want to do, then do not blame us for taking a little bit extra time to do it.

I do not want to do that. I would like to have a reasoned, orderly debate that probably would not take much more than 2 hours today. It will take an hour before the vote on either next Tuesday or Wednesday. It would accommodate me and my schedule and I think the schedules of many other Senators. I think I have made a pretty good case; that I have been here every time I needed to be here and I certainly will in the future.

Of course, if the majority feels otherwise, I will be here for this one, but I would like that accommodation and it would mean a lot to me. But I am not going to argue anymore beyond that. If that is the way it is, then that is the way it is. But we will have to see because all I can say is the gauntlet is going to be down on everything else this year.

I want everybody to know that. It has never happened to me. People have always tried to accommodate me and I have tried to accommodate them. But if that is the way the floor is going to be run, maybe we had better know it today and if that is the way it is that is OK. I am used to some of it. But I think I have more than accommodated my colleagues and I will certainly try to do so in the future but I am not going to do it on many bills in the future, I will tell you that. And I think we will have a little difficult time around here from this point on and I am not the only one who feels that way.

You know, I am asking for this courtesy. The House is not going to vote until Tuesday. There is no reason why we have to vote before then, especially if we could limit the debate, save the time of the Senate, proceed with other business, have a time certain, make sure everybody understands it, let everybody think about it over the weekend and then have the vote.

If the distinguished Senators are afraid that they might not win on the veto override on this issue, then I can understand why they would press so hard on this but I do not see why they should be so afraid of it.

That is the concession I would like to have. If we do not have it, well, then, so be it.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would remind the Senate, we passed this bill, 75 to 14. Seventy-five to fourteen. Of those that were absent, there were seven cosponsors. That is 82 Members of this body, in one way or the other, who reflected support for this bill. Eighty-two Members of this body reflected support for it.

We would like to accommodate, but we are talking about discrimination. Why can we not have a vote on this? This is a matter that has been debated. It has been discussed.

I, too, have had what I consider the fortunate opportunity to be on the floor during the course of these past bills which the Senator has described. A good many of them have come from our committee. I welcomed that opportunity and I look forward to being on the floor a good deal more during the remainder of this session because this is the Nation's business. I would hope, given the fact that 82 Members of this body have indicated support, that we could move ahead.

If we are not going to move ahead, as far as I am concerned, then the burden ought to be on those that desire not to move ahead. I cannot for the life of me understand why we cannot vote on this matter; if not ready, then on tomorrow. What issue is there that has not been fully ventilated? What item in the President's veto measure has not been fully examined? All of us have busy schedules.

This is a very celebrated holiday, St. Patrick's Day. And we have seen over the history of that beautiful little island, tragically in the last few days, the stain of discrimination. This would be a wonderful St. Patrick's Day present to the country, if we were able to override that veto today. So I would hope we would get a little accommodation, a little understanding from the good friend from Utah.

Mr. HATCH. Well, you have two Irishmen here arguing with each other.

Let me just say this. I asked for this accommodation. I presume it can be granted and if that is the case, so be it. Nobody wants to filibuster this bill, but I think we need until next Tuesday to resolve the issue and I would like to take a minimum of the Senate's time so we can go to other business. That being the case, if we cannot resolve it then perhaps we will have to talk about it for a lengthy period of time anyway. I do not think anybody wants to put up with one item of discrimination in this country.

But, I think when a President vetoes a bill, especially a bill that is called a civil rights bill, and it certainly does have aspects of civil rights with which I think everybody agrees, then I think it is a serious issue. I have made an accommodative offer that we take about 2 or maybe 3 hours today. That will probably be the extent of the debate, and we can consider this issue at a later date which I would prefer to be next Tuesday or Wednesday.

Mr. President, I rise today to urge my colleagues to sustain the President's veto of the so-called Civil Rights Restoration Act.

We all oppose discrimination. There is no one in this body who opposes discrimination more than I do. I think we all favor vigorous civil rights enforcement. I certainly favor that.

But the debate on the Grove City legislation is not about discrimination, nor is it about women's rights, which has been the facade behind which many who have supported this legislation have positioned themselves.

S. 557 is not a simple piece of legislation that restores the law to what it was the day before the Supreme Court issued its decision on Grove City College versus Bell. Instead, this legislationj trammels the first amendment's guarantee of freedom of religion by forcing churches and synagogues to bow under the heavy hand of Federal regulations, just because they run a social service program in their basement that receives but $1 of Federal money.

The bill goes on and tells religious schools and universities that if one of their religious beliefs runs afoul of a single Federal regulation, then that religious belief must always be compromised in favor of the Federal regulation.

We do not have to assault religious beliefs in order to have an effective civil rights policy. We need not trade off our religious rights to ensure effective civil rights enforcement. Nor do we have to vote today to get this bill passed, in my opinion.

If the flaws in this bill were of a different nature, perhaps the veto would not have occurred. But Congress should not be allowed to chip away our constitutional rights and protections. Once the Federal Government is allowed to dominate synagogues, once Federal bureaucrats can control religious schools and universities, we no longer have freedom of religion.

The President has suggested that, if we can solve that problem and six others, he would sign the bill, because he, too, wants civil rights enforced and protected in this country. But that is a significant problem.

When you stop to think about it, the first amendment talks about various rights and freedoms. The first one really mentioned in the very sense of that term happens to be religious freedom and this bill trammels on religious freedom. I, for one, find a great deal of difficulty with it. So does the President, and he should. I am surprised that my colleagues on the other side of the issue do not. Nevertheless, they do not. So you can say maybe there is room to disagree. I do not think so. I think we are giving the Federal Government inordinate control over synagogues and churches in our country when they disagree with particular religious tenets of those particular religions.

Mr. President, let me reiterate that, for me, the principal flaw of S. 557 is the manner in which the bill extends Federal regulatory jurisdiction over churches and synagogues. Under the bill, once a church or synagogue accepts one dime of Federal money to assist their communities with programs such as shelters for the homeless or hot meal programs for the elderly, all of the programs and activities of that particular church or that particular synagogue are covered. That is right. All activities of that church or synagogue are covered.

This coverage results from paragraph 3(B) of sections 3 through 6. Paragraph 3(B) subjects to coverage "all of the operations of * * * the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended * * * any part of which is extended" such assistance.

In the case of a church or synagogue operating a meals for the elderly program in its community room, the church or synagogue is a geographically separate facility under this bill. Moreover, because the meals program would constitute Federal aid, the entire church or synagogue, including its prayer rooms or other purely religious elements, would be subject to the range of Federal regulations and the accompanying burdens and restrictions, including paperwork, onsite compliance reviews by Federal regulators and law enforcement people, the need to accommodate persons with contagious diseases—and we all know what that means, or at least we have a pretty good idea—expensive accessibility rules that they will have to meet in all these churches and synagogues, affirmative action requirements.

Can you imagine the impact of telling a church what it can or cannot do from an affirmative action standpoint? And much more.

This is one of the reasons why the President is against this bill. In fact, he cites it as the first reason and he has a list of seven amendments that, if they were put into the bill, would allow him to accept the bill and sign it into law and, of course enforce it with all the vigor of his ability.

I want to point out the coverage of these institutions goes even further. A number of churches and synagogues operate housing for elderly in the locality where the church is located. The housing is often built with Federal aid. Often tenants receive Federal subsidies.

Under this bill, not only would the housing project be covered, but also all the activities of the church or synagogue, even if the church or synagogue itself receives no Federal aid.

That has to concern everybody. It certainly concerns me.

This is true for two reasons:

First, the housing project is an operation of the church and, under the language of this bill, whenever any part of the church's operations receive any Federal aid, all of the operations are covered.

Second, according to the committee report, the term "geographically separate facility" does not mean just the one building where the Federal aid is received. It means all other buildings related in any way to that building in the same locality or region.

There are even more ramifications for religious institutions under this measure.

According to the plain language of this bill, when the church or synagogue receives Federal social welfare aid for a noneducational program, and the church or synagogue also conducts an educational program, such religious classes and instruction could be subject to title IX. This expands title IX way beyond where it was one day before the Grove City decision was made back in 1984.

We have waited 4 years and it seems to me a request for 3 more days should not be that significant.

In fact, S. 557 could be interpreted to require that, if the church or synagogue operates an educational program and Federal aid goes to any part of the church or synagogue, the entire religious institution is subject to title IX, which addresses gender discrimination.

Once again, it is important to note that the coverage of churches and synagogues under S. 557 is not a "restoration" of laws.

In fact, no evidence whatsoever was presented to our committee that such broad coverage of our most basic religious institutions existed prior to the Supreme Court ruling in Grove City College versus Bell.

Proponents of S. 557 were quite vocal in committee in their defense of this pervasive coverage of religious institutions. However, there is a fundamental difference between a church or synagogue on the one hand and a manufacturer of socks and a general defense contractor on the other, a distinction which the majority on this bill cavalierly ignores, but the President does not.

The President has raised an effective issue which, it seems to me, ought to be given consideration.

In the past, Congress has recognized this difference and tried most cautiously to avoid interfering with the constitutionally—acknowledged activities of religious institutions. The proponents of this bill would have us discard such caution and expand the law to impose the Federal Government directly into the operations of the church.

That statement: They are going to impose the Federal Government directly into the operations of the churches and synagogues of this country, that is the first time this has ever happened. It makes you wonder if we have a Constitution any more. I believe this bill, if it is stricken down, will be because of that provision, and the President believes it, and I think, rightly so.

The Federal Government would be imposed directy into the operations of the churches and synagogues of this country despite a lack of any allegation of discrimination which would warrant such action. That is what really caused the uprising by Grove City in the first place. A small Presbyterian college, never accused of discrimination, does not discriminate and, yet, they find themselves in this costly litigation all the way up to the Supreme Court. Of course, they won and lost in the Supreme Court. They lost, on the one hand, where the Supreme Court said: Yes, indirect funding, like Pell grants, do trigger liability under title IX, not under the three additional statutes that are now covered by this bill. But then the Court went on to say, and I might add this is one of the few times in recent history where the Court has really followed the strict legislative language of the legislation and literally used that language to basically decide in favor of Grove City.

I will go back to that point again. They would impose the Federal Government directly into the operations of the church, and they would do so despite a lack of allegation of discrimination that would warrant such action. That is an important point.

Grove City won the case when the Supreme Court said, yes, direct funding does apply, but only as to that particular "program or activity" to which the moneys go. That is what the bill said. The other side said: "Well, the bill was expanded much beyond that before Grove City and, therefore, they needed this change." I agree with that. The President agreed with that. We both agreed that we want title IX to apply institutionwide to all educational institutions which receive Federal funds on the college level and even beyond that, if that were the case.

There never has been an issue about whether or not title IX should apply institutionwide. We agreed with that within a day after the decision came down. The issue has been these unjust intrusions of the Federal Government into churches and synagogues in our society. I am going to mention the other issues as well that the President raised, and he raises them rightly.

I have been through this now for 7 years with this President, and I do not think people realize how deeply committed he is to civil rights. You get into a phony issue like this, and it looks like or some try to portray him as though he is not when, in fact, he is. He is raising important constitutional issues, and so am I.

I think I am fairly well known for that around the Senate of the United States, sometimes to the point where the Court actually sustains what I have argued right here on the floor. Like one of the recent bills this year where the Circuit Court of Appeals for the District of Columbia overruled the Congress of the United States on the independent counsel statute. I came out here and told them that is what they were going to do and asked them to delay the bill. I said: "Please, let us wait until after the decision comes down in a month or so." And it came down within a very short period of time afterward, and it overruled what they were trying to do.

Let me continue on this bill. Certainly, the threat of such regulation provides a tremendous disincentive to churches and synagogues who are currently serving their communities by providing these needed and valued services. Contrary to the views of the proponents of S. 557, I believe the Government should be encouraging religious institutions to assist it in the provision of social services to their communities. This bill discourages them, like so many things that happened back here.

Sometimes churches and synagogues are the very best informed about the problems of the needy and are generally in the best location to deliver services to them.

But even more important are the constitutional implications of the coverage of churches and synagogues under S. 557.

Let me quote the first amendment:

> Congress shall make no law respecting an establishment of religion—

Do you notice which ones are first in those protected rights and freedoms? Establishment of religion.

> or prohibiting the free exercise thereof.

The two basic tenets of the first amendment go right to this issue, and yet those who are arguing that the President is against civil rights just blithely shield these rights by and trample all over them in the process of this bill. Wait until some of these churches, who think they are supporting a civil rights bill find out how heavyhanded the Federal Government can be even in religious institutions.

They will find that out all through the long trial and appellate process right to the Supreme Court where they will win there, which I think they will do on the language of this bill.

Let us go back to the first amendment:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

Then it goes on:

> —or abridging the freedom of speech—

What about the freedom of speech of churches and synagogues? Here are three issues already; the first three of the first amendment:

> —or of the press; or the right of the people peacefully to assemble and to petition the Government for a redress of grievances.

I am a great supporter of the press with regard to the doctrine of prior restraint. But where is the press when it comes to explaining this very important issue that the President of the United States feels strongly enough about to veto a bill that is called a civil rights bill? He does not do that lightly. He does not do it because he is against the civil rights. He does it because this is an important constitutional point, and nobody knows that better than I do. I do not think anybody knows it better than he does.

We have to remember that of the rights protected in the first amendment, religion is recognized first before speech, press, assembly, and petition.

These rights may be overridden only where their exercise poses a specific and immediate threat, not avoidable by other means, to some supreme public interest.

I am citing the cases of Thomas versus Collins and Wisconsin versus Yoder, which is one of the important cases of all time. And as William Bentley Ball, who argued that case and who is a great constitutional lawyer, the greatest arguer in this country for religious rights and freedoms, stated during the committee hearings on S. 557, and he is the top authority on constitutional rights with regard to religious freedom:

> One of the great reasons for strong protective language in statutes potentially affecting religion is the intolerable burden which may be visited upon a religious body of limited resources while in the toils of an agency blind to all but its own narrow area of "expertise" and before the First Amendment claim can be aired in court.

William Bentley Ball made a pretty good statement there. Most churches and synagogues do not have exhaustive amounts of money, any more than Oliver North and John Poindexter and General Secord have exhaustive amounts of money, and yet the Federal Government has inexhaustible funds, 30 full-time lawyers, and 50 full-time investigators on that particular case. Can you imagine what it would be like to have that type of an onslaught, or even just one assistant U.S. attorney who gets a bug in his ear and decides to intimidate some church or synagogue in this country? By the time that church or synagogue is through, it is going to cost it hundreds of thousands, if not millions, of dollars to go all the way through the trial process and on up to the Supreme Court of the United States through the appellate process. I do not want to see that happen, and this bill allows it.

It is unbelievable, it really is, that it is allowed to come through the Congress.

Certainly, the free exercise clause of the first amendment is threatened by the board coverage of churches and synagogues found in S. 557. As the Supreme Court explained in *Abington School District* v. *Schempp*, 374 U.S. 203, 222-223 (1963), "The Free Exercise Clause * * * withdraws from legislative power, State and Federal, the exertion of any restraint on the free exercise of religion. Its purpose is to secure religious liberty in the individual by prohibiting any invasions thereof by civil authority." Moreover, in Wisconsin versus Yoder, the case I cited earlier, the Court explained, "A regulation neutral on its face may, in its application, nonetheless offend the constitutional requirement for governmental neutrality if it unduly burdens the free exercise of religion."

This bill unduly burdens the free exercise of religion, and may even burden the free right to establish a religion.

That is not unimportant, and that is why the President has vetoed this bill in part. It is just reason No. 1 and it has to concern everybody in America, and it has basically nothing to do with general civil rights, but it does have a lot to do with the civil rights of religious institutions.

The area of Government regulation that burdens the free exercise of religion has been a difficult and less than clear area of law for the Supreme Court. However, the Court has consistently made clear that religious beliefs are absolutely protected from governmental interference. Moreover, recent cases indicate that the High Court is developing a standard of review in the area of Government regulation of religiously based conduct that is highly protective of free exercise claims. For example, in *Sherbert* v. *Verner*, 374 U.S. 398 (1963), the Court held that the free exercise clause compels exemption for a Seventh Day Adventist from a requirement of a State unemployment compensation statute. The statute required beneficiaries to be ready to accept suitable employment at anytime. However, Sherbert stated that she could not accept employment involving work on Saturday because Saturday was recognized by her religion as the Sabbath. The Court held that the statutory requirement could be applied to her only if it served "a compelling state interest." Similarly, in Wisconsin versus Yoder, the Court held the free exercise clause to compel an exemption from a State compulsory education requirement for Amish children whose religiously based way of life could be threatened by the required 2 years of high school education. The Court found that "only those interests of the highest order and those not otherwise served can overbalance legitimate claims to the free exercise of religion."

More recently, in *Corporation of Presiding Bishop* v. *Amos,* 107 S.Ct. 2862 (1987), the Supreme Court upheld the broadening of the exemption in title VII for religious organizations from the ban on religious discrimination to include not only employees engaged in religious activities but also those who perform "work connected with the carrying on by such corporation, association, educational institution, or society of its activities." The case involved three employees who worked for church-owned enterprises and who were fired because they failed to meet certain religious requirements. Justice White, writing for the Court found that "it is a permissible legislative purpose to alleviate significant governmental interference with the ability of religious organizations to define and carry out their religious missions." The Court noted that the free exercise clause required only an exemption for the religious activities of religious organizations. However, the Court recognized that the extension of the exemption to the organizations' secular activities served a legitimate function. As the Court stated:

> It is a significant burden on a religious organization to require it, on pain of substantial liability, to predict which of its activities a secular court will consider religious. The line is hardly a bright one and an organization might understandably be concerned that a judge would not understand its religious tenets and sense of mission. Fear of potential liability might affect the way an organization carried out what it understood to be its religious mission.

This concern, expressed by Justice White, is very applicable here. Regulation of even the ministerial functions of a church or synagogue, as required by S. 557, and the resulting fear of potential liability might well affect the way an organization carries out what it understands to be its religious mission. Such regulation might well be found by the Court to be an interference with belief and thereby a violation of the free exercise clause.

In any case, regulation of the religious activities of a church or synagogue would surely constitute an unacceptable entanglement of church and State that interferes with the ability of religious organizations to carry out their religious missions.

This body need not and must not sacrifice religious freedoms in an attempt to strengthen civil rights protection.

Now some will argue that with regard to churches and synagogues, coverage is only program specific. But that is not the case. I think you will have a difficult time finding any language in the bill that would provide an exemption from religious institutions. Where is it? I do not see it there. The truth is there is no exemption.

We tried to add such an exemption, but it was voted down by the supporters of this bill. I hope my colleagues will not be misled. The simple fact is that unlike today, unlike prior to Grover City, if this bill becomes law, if a church runs a hot meal program in its basement, the whole church and all of its activities are subject to Federal regulation. What a disappointing policy for this august body to adopt.

RELIGIOUS TENENTS

Let me talk about religious tenents because it just does not go to this one issue concerning churches and synagogues.

As I noted before, new religious tenets language is also needed in title IX to protect a covered institution's policy which is based upon tenets of a religious organization where the institution is controlled by, or closely identified with the tenets of, the religious organization. Because S. 557 does not contain this language, the vast majority of church-related educational institutions could be denied a religious tenets exemption because they are not literally controlled by the tenets of a religious organization.

In 1972, when Congress enacted title IX, Congress included several exceptions to its coverage, including: "This section shall not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such organization;" (20 U.S.C. sec. 1681(a)(3)).

At that time, many educational institutions were controlled outright by religious entities. Even then, from 1972 to 1984, a hostile Federal bureaucracy granted only about 5 of 220 exemption requests. Since 1985, another 145 or so have been granted.

Some of these institutions today, while retaining their identification with religious tenets, are controlled by lay boards and thus may be outside the scope of the religious tenets exception of current law. Accordingly, the "control" test for application of the exemption no longer affords adequate protection for religious tenets under title IX.

Language should have been included in the Grove City bill to protect a policy of an educational institution under title IX based on religious tenets when the institution is not controlled by a religious organization. This same protection should also be afforded to other institutions, such as hospitals, covered under title IX by Grove City legislation when they have such a close identification with the tenets of a religious organization.

Because S. 557 does not contain this language, a subsequent administration may revoke the exemptions already granted. Or, advocacy groups hostile to the exemption may sue to have existing exemptions revoked once they have safely seen S. 557 become law.

THESE LAWS WERE INTENDED TO BE PROGRAM-SPECIFIC

Now Mr. President, with respect to the scope of S. 557, I want to point out again that the plain language of these civil rights statutes, together with their legislative histories, demonstrates that Congress always intended the scope of these statutes to be "program-specific," as the Supreme Court correctly determined in the Grove City decision. They all use a phrase "program or activity" which on its face denotes something less than an entire entity or institution.

Frankly, the term "program or activity" would appear by common sense to mean something less than an entire institution. Congress is often criticized for its ambiguity, or its mistakes in legislative drafting, but I do not think it made such a wholesale mistake as to expect the entire country to think that the term "program or activity" was a synonym for an entire school, a school system, or a State.

Title IX itself makes reference to "an educational institution" and defines the term "educational institution" as broader than a program (20 U.S.C. 1681(c)). In all honesty we have to admit that Congress knew how to cover an entire institution whenever one part of it received Federal aid, but declined to do so in the antidiscrimination provision of these laws.

Moreover, in section 904 of title IX, Congress prohibited discrimination on the basis of blindness or vision-impairment "in any course of study by a recipient of Federal financial assistance for any education program or activity." (10 U.S.C. 1684). Here, Congress clearly banned discrimination on the basis of blindness throughout the institution by using the word "recipient" in the statute itself—in stark contrast to the more discrete term "program or activity" used in the antisex discrimination provision of title IX and in the other three statutes. Congress clearly knew how to provide institution-wide coverage under these statutes and declined to do so.

Thus, it is important to recognize that references by the proponents of S. 557 to the "longstanding" interpretation of these laws are inaccurate. Indeed, while some lower courts did rule that these statutes covered an entire institution whenever any part of the institution received assistance, most Federal courts ruled, as the Supreme Court did, that the statutes were program-specific. And the trend in the lower courts leading to the Grove City decision by the Supreme Court was certainly in that direction. For instance, in Simpson versus Reynolds Metals Co., 629 F.2d 1226 (7th Cir. 1980), a case brought under section 504 of the Rehabilitation Act and decided 4 years before Grove City, the Court said:

> The statute does not, as plaintiff seems to contend, generally forbid discrimination against the handicapped by recipients of Federal assistance. Instead, its terms apparently require that the discrimination must have some direct or indirect effect on the handicapped persons in the program or activity receiving Federal financial assistance. To be actionable, the discrimination must come in the operation of the program or manifest itself in a handicapped individual's exclusion from the program or a diminution of the benefits he would otherwise receive from the program. (629 F. 2d at 1232).

Similarly, in Bachman versus American Society of Clinical Pathologists (577 F. Supp. 1257 (D. N.J. 1983)), the Court made a program-specific interpretation in a section 504 action:

> It is not enough . . . to show that a person has been discriminated against by a recipient to Federal funds. Plaintiff must also show that she was subject to discrimination under the program or activity for which those funds were received . . . section 504 of the Rehabilitation Act imposes a program-specific requirement limiting claims brought pursuant to this section to those programs or activities which are federally funded. (577 F. Supp. 1262–1263).

In Bachman, a nonprofit professional medical association received about $50,000 in Federal funds to conduct and publish the proceedings of three seminars on alcohol abuse. The Court ruled that such Federal funding does not subject to coverage the association's board of registry, which develops standards and procedures for entry and promotion in medical laboratories and certifies and registers those who meet competency requirements, including the use of an examination.

Now Mr. President, if this veto is not sustained, a court will have no choice but to rule differently than it did in Bachman. And what that will lead to is forcing "equal results" rather than assuring equal opportunity. If S. 557 is adopted, all of the professional standards of such an organization receiving such Federal aid will be subject to "equality of results" regulations that could invalidate the existing standards, just because they fall with a disproportionate impact on certain groups, even though they are clearly not established with that intent. That will be a sad day for this country.

The list of program specific holdings is long. I invite my colleagues to read *Rice* v. *President and Fellows of Harvard College,* 663 F. 2d 336 (1st Cir. 1981), cert. denied, 456 U.S. 928 (1928); *Hillsdale College* v. *Department of Health, Education and Welfare,* 696 F.2d 418 (6th Cir. 1982) Federal scholarship and loan aid to a college subjects only the college's student aid program to title IX coverage, vacated and remanded in light of *Grove City College* v. *Bell; Dougherty County School System* v. *Bell,* 694 F.2d 78 (5th Cir. 1982) (reaffirming earlier decision holding that title IX is program-specific); *University of Richmond* v. *Bell,* 543 F. Supp. 321 (E.D. VA. 1982) (university's intercollegiate athletic program not subject to title IX coverage because it did not receive Federal financial assistance).

GROVE CITY HAS NOT IMPAIRED EXECUTIVE BRANCH ENFORCEMENT EXCEPT IN EDUCATION

Mr. President, let me repeat that we recognize that harm has been documented in the area of education, and all of us have been willing since 1984 to address this harm. Institutions of higher education, private elementary and secondary institutions, and public school districts receiving any Federal aid should be covered throughout. Federally assisted education programs in noneducational entities are also covered.

However, it is important for my colleagues to be aware that, outside of the Department of Education, most, if not all, other agencies enforced the statutes properly as program-specific, and have not seen their enforcement activities diminished by the Grove City decision.

And I agree that needs to be corrected and this bill would correct that, but it goes so much farther than that.

For example, the Department of Labor reported that all 47 of its complaint investigations initiated since March 26, 1985, were unaffected by the Grove City decision. No investigation was narrowed in scope as a result of Grove City, and no investigation was found to be beyond the Department's jurisdiction as a result of Grove City. Indeed, Secretary of Labor William Brock advised Senator KENNEDY on April 2, 1987, that no Department of Labor enforcement on investigative activity has been curtailed as a result of the Grove City decision, adding:

> The Department has traditionally interpreted the phrase "program or activity" consistently with the interpretation set forth by the Supreme Court in Grove City.

The Veterans' Administration reported that its complaint investigation process had not been affected by Grove City, no compliance reviews were dropped, narrowed, or "put on hold" as a result of Grove City, and the agency's procedures for handling complaints and compliance reviews had not been changed. Thus with respect to the vast bulk of Federal agency activity, not only has there been no showing by sponsors of S. 557 that the effectiveness and vitality of these four crosscutting civil rights statutes has been impaired, reports from a number of agencies demonstrate to the contrary.

Even for the Department of Education, of the 674 complaints closed in whole or in part, or suspended, during fiscal years 1984 through 1986, 468 of them concerned abortion rights and were filed by one person. Moreover, if this substitute language had been adopted when it was first offered 3 years ago, all of these cases could have been resolved.

INSUFFICIENT EVIDENCE TO WARRANT S. 557 BROAD SWEEP

Let me emphasize, Mr. President, that no case has been made for the radical expansion of Federal jurisdiction represented by S. 557. Everyone in this body knows that Federal regulations, and the private right of action under at least three of these statutes, are not without significant costs. They should not be imposed without a basis in the record of harm. When we expand Federal authority, we expand the burdens that go with it.

Justice Lewis Powell, joined by Chief Justice Warren Burger, and Justice Sandra Day O'Connor neatly captured the point in a nutshell in a concurrence in this very Grove City case:

> With acceptance of Federal financial assistance one surrenders a certain measure of the freedom that Americans have always cherished. (465 U.S. at 577).

As Judge Abraham Sofaer, now the State Department's legal advisor, said in a title VI case, a Federal agency's power is very significant and threatening, even at the investigation phase:

> The power to inquire, and to demand explanation, provides leverage that will inevitably delay or discourage many nondiscriminatory and essential decisions, *Bryan* v. *Koch,* 492 F. Supp. 212, 235 (S.D., N.Y.), aff'd, 62/F.,2d, 612 (2nd Cir. 1980).

In other words, Mr. President, we must recognize that when we expand Federal jurisdiction under these laws, we expand the burdens accompanying them—paperwork, on-site compliance reviews, affirmative action requirements, and much more.

Grocery stores, for example, will be covered under S. 557 for the first time, even if their only contact with Federal assistance is acceptance of food stamps, even though not one word of testimony in 4 years of debate on Grove City has suggested that there is any problem with grocery stores. The National Grocers Association testified on March 27, 1985, before a joint committee hearing in the U.S. House of Representatives, that their Members' profit margin is about one penny on the dollar. Absent a demonstrated need to expand these laws and the burdens that go with them, why should grocery stores have to spend a portion of their penny-on-the-dollar profits on compliance costs?

No record has been made demonstrating a need for the sweeping reach of S. 557. If there are demonstrated problems, let's address them.

The tailored approach is the way we handled the issue of discrimination by airlines against persons with handicaps. Advocacy groups argued that section 504 covered an airline which used an airport which received Federal aid. Now, that reading of section 504 would mean businesses using federally aided highways would be covered and there would be no end to coverage. The Supreme Court rejected this interpretation.

Congress responded by enacting a law which banned discrimination by an airline against persons with handicaps, the Air Carrier Access Act of 1986. Now, Mr. President, that's the way to fix a problem: identify a problem, not with slogans, rhetoric, and catchy titles, but with fact, and then craft legislation addressing it. S. 557, in stark contrast, covers the country with a blanket of Federal jurisdiction, regardless of whether there is a problem in a given area or not. Have any of my colleagues heard complaints about farmers, grocers, churches, and synagogues? As I mentioned, except for the Department of Education, Grove City has had either no impact or virtually no impact at any agency in 4 years.

Mr. President, S. 557 is not a simple piece of legislation designed to restore the status quo. We all know that. It is new law. It creates new coverage and gives the ever ominous Federal Government new powers.

It would have us say as a matter of policy that we want the Federal Government to regulate churches. We want religious schools to always compromise their religious tenets when some bureaucrat decides a Federal regulation is being abridged.

The simple fact is that we do not need to mug our religious institutions in order to have an effective civil rights policy in this country. Mr. President, I hope my colleagues will have the courage to stand up and be counted. I hope they will have the courage to vote for religious freedom. I hope they will vote to sustain the President's veto.

If they vote to sustain this veto, they will be voting for that.

Mr. President, let us make a few more points clear. First, S. 557 is not legislation that restores the law to what it was the day before the Supreme Court decision in Grove City versus Bell.

(Mr. GRAHAM assumed the chair.)

S. 2184—CIVIL RIGHTS PROTECTION ACT OF 1988

Mr. HATCH. Mr. President, the President has sent a bill to us which shows his good intent to accept virtually everything in this bill except for an additional seven amendments. I ask unanimous consent that the bill be printed in the RECORD at this point.

As a matter of fact, let me ask unanimous consent that I introduce the bill at this point into the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the bill follows:

S. 2184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Rights Protection Act of 1988".

FINDINGS OF CONGRESS

SEC. 2. The Congress finds that—

(1) certain aspects of recent decisions and opinions of the Supreme Court have unduly narrowed or cast doubt upon the broad application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964; and

(2) legislative action is necessary to restore the prior consistent and long-standing executive branch interpretation and broad, institution-wide application of those laws as previously administered.

EDUCATION AMENDMENTS AMENDMENT

SEC. 3. (a) Title IX of the Education Amendments of 1972 is amended by adding at the end the following new sections:

"INTERPRETATION OF 'PROGRAM OR ACTIVITY'

"SEC. 908. For the purposes of this title, the term 'program or activity' and 'program' mean all of the operations of—

"(1)(A) the part of a department, agency, special purpose district, or other instrumentality of a State or of a local government to which the assistance is extended; or

"(B) the part of the entity of such State or local government that distributes such assistance;

"(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

"(B) a local educational agency (as defined in section 198(a)(10) of the elementary and Secondary Education Act of 1965), system of vocational education, or other elementary or secondary school;

"(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

"(B) the entire single plant or other comparable, geographically separate single facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

"(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance, except that such term does not include any operation of an entity which is controlled by, or which is closely identified with the tenets of, a religious organization if the application of section 901 to such operation would not be consistent with the religious tenets of such organization.".

(b) Notwithstanding any provision of this Act or any amendment adopted thereto:

"NEUTRALITY WITH RESPECT TO ABORTION

"SEC. 909. Nothing in this title shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion. Nothing in this section shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion.".

REHABILITATION ACT AMENDMENT

SEC. 4. Section 504 of the Rehabilitation Act of 1973 is amended—

(1) by inserting "(a)" after "Sec. 504."; and

(2) by adding at the end the following new subsections:

"(b) For the purposes of this section, the term 'program or activity' means all of the operations of—

"(1)(A) the part of a department, agency, special purpose district, or other instrumentality of a State or of a local government to which the assistance is extended; or

"(B) the part of the entity of such State or local government that distributes such assistance;

"(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

"(B) a local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other elementary or secondary school;

"(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

"(B) the entire single plant or other comparable, geographically separate single facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

"(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance.

"(c) Small providers are not required by subsection (a) to make significant structural alterations to their existing facilities for the purpose of assuring program accessibility, if alternative means of providing the services are available. The terms used in this subsection shall be construed with reference to the regulations existing on the date of the enactment of this subsection.".

AGE DISCRIMINATION ACT AMENDMENT

SEC. 5. Section 309 of the Age Discrimination Act of 1975 is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting "; and" in lieu thereof; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) the term 'program or activity' means all of the operations of—

"(A)(i) the part of a department, agency, special purpose district, or other instrumentality of a State or of a local government to which the assistance is extended; or

"(ii) the part of the entity of such State or local government that distributes such assistance;

"(B)(i) a college, university, or other postsecondary institution, or a public system of higher education; or

"(ii) a local educational agency (as defined in section 198(a)(10), of the Elementary and Secondary Education Act of 1965), system of vocational education, or other elementary or secondary school;

"(C)(i) an entire corporation, partnership, or other private organization, or an entire sole proprietorship if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

"(ii) the entire single plant or other comparable, geographically separate single facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

"(D) any other entity which is established by two or more of the entities described in subparagraph (A), (B), or (C);

any part of which is extended Federal financial assistance.".

CIVIL RIGHTS ACT AMENDMENT

SEC. 6. Title VI of the Civil Rights Act of 1964 is amended by adding at the end the following new section:

"Sec. 606. For the purposes of this title, the term 'program or activity' and the term 'program' mean all of the operations of—

"(1)(A) the part of a department, agency, special purpose district, or other instrumentality of a State or of a local government to which the assistance is extended; or

"(B) the part of the entity of such State or local government that distributes such assistance;

"(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or "(B) a local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other elementary or secondary school;

"(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

"(B) the entire single plant or other comparable geographically separate single facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

"(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance.".

RULE OF CONSTRUCTION

SEC. 7. Nothing in the amendments made by this Act shall be construed to extend the application of the Acts so amended to—

(1) ultimate beneficiaries of Federal financial assistance excluded from coverage before the enactment of this Act;

(2) any part of a church or synagogue, if such part does not receive federal financial assistance;

(3) any grocery store, supermarket, or other similar business entity based upon participation in the Federal Food Stamp Program; or

(4) any farm, farmer, ranch, or rancher based upon participation in any Federal agricultural program, including without limitation a program providing price support payments or crop subsidies.

ABORTION NEUTRALITY

SEC. 8. No provision of this Act or any amendment made by this Act shall be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal Funds to perform or pay for an abortion.

CLARIFICATION OF INDIVIDUALS WITH HANDICAPS IN THE EMPLOYMENT CONTEXT

SEC. 9. Section 7(8) of the Rehabilitation Act of 1973 is amended by adding after subparagraph (B) the following:

"(C) For the purpose of sections 503 and 504, as such sections relate to employment, such term does not include an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job.".

Mr. HATCH. Yesterday, as we all know, the President vetoed the so-called Civil Rights Restoration Act of 1986. At the same time, the President submitted to Congress a compromise proposal which is an effective response to the Grove City decision but which does not trammel all religious rights and freedoms protected under the first amendment.

At the President's request I am, today, introducing his proposal and I hope my colleagues will give it serious consideration. While it is based on S. 557, it avoids the key problems that really arise with that legislation.

First, the President's bill protects religious liberties. The proposal provides that a church or synagogue will not be covered beyond the part of the church or synagogue that receives the Federal assistance. In conformity with Federal regulations already on the books, it provides that a private or religious elementary or secondary school that receives Federal aid will be covered, but not the entire system, if only one school receives aid. And the proposal will assure that, under title IX, the policies of institutions closely identified with religious tenets of a religious organization are protected.

In addition, under the President's proposal, coverage in the private sector would be plantwide where assistance is received for only one program, and would cover the whole private sector entity where assistance is received as a whole. In the public sector, the compromise bill provides coverage to the part of the State or local government that receives or distributes Federal assistance.

The proposal retains S. 557's coverage of entire systems of public education—post-secondary, elementary and secondary. It likewise retains coverage of entire systems of private post-secondary educational institutions, and entire systems of vocational education.

Finally, the proposal retains the abortion-neutral amendment adopted by the House and Senate. This measure provides effective civil rights protection and enforcement without trammeling religious freedom.

I hope my colleagues will give this proposal serious consideration.

Mr. President, I would like to just read from the factsheet sent up by the White House.

The President today transmitted to the Congress a legislative initiative to improve protection for the civil rights of Americans entitled the "Civil Rights Protection Act of 1988." Enactment of the initiative would advance equality of opportunity and nondiscrimination while protecting the freedom of Americans from unnecessary Federal intrusion. The initiative would extend protection for civil rights well beyond the proposed extension introduced as H.R. 1881 which the Administration previously endorsed.

The proposed legislation would strengthen four civil rights statutes that prohibit discrimination in programs or activities receiving Federal financial assistance:

Title VI of the Civil Rights Act of 1964, prohibiting discrimination on the basis of race, color, or national origin;

Title IX of the Education Amendments of 1972, prohibiting discrimination on the basis of gender in education;

Section 504 of the Rehabilitation Act of 1973, prohibiting discrimination on the basis of handicap; and

The Age Discrimination Act of 1975, prohibiting discrimination on the basis of age.

The President's proposal advances the protection of civil rights. It would:

Prohibit discrimination against women, minorities, persons with disabilities, and the elderly across the board in public school districts, public systems of higher education, systems of vocational education, and private educational institutions which receive any Federal aid.

Extend the application of the civil rights statutes to entire businesses which receive Federal aid as a whole and to the entire plant or facility receiving Federal aid in every other instance.

Prohibit discrimination in all of the Federally-funded programs of departments and agencies of State and local governments.

The President's proposal accompanies his message returning S. 557 to the Senate for reconsideration with his objections. In contrast to the vetoed S. 557, the President's proposal would provide specific protections for important liberties. The bill would:

Protect religious liberty by limiting coverage to that part of a church or synagogue which participates in a Federal program; by protecting under Title IX the religious tenets of private institutions closely identified with religious organizations on the same basis as institutions directly controlled by religious organizations; and by providing that when a religious secondary or elementary school receives Federal assistance, only that school, and not the entire religious school system, becomes subject to the Federal regulation.

Ensure that the reach of Federal regulation into private businesses extends only to the facility that participates in Federally funded programs, unless the business as a whole receives Federal aid, in which case it is covered in its entirety. The bill also states explicitly that farmers will not become subject to Federal regulation by virtue of their acceptance of Federal price support payments, and that grocers and supermarkets will not become subject to such regulations by virtue of accepting food stamps from customers.

Preserves the independence of State and local government from Federal control by limiting Federal regulation to the part of a State or local entity that receives or distributes Federal assistance.

In other respects President's proposal is identical to S. 557, including provisions to ensure that the legislation does not impair protection for the lives of unborn children.

Coverage under the civil rights statutes entails compliance with extensive Federal regulations and paperwork, potential costly lawsuits, and random on-site inspections by Federal officials.

The President's proposal takes particular care to avoid unnecessary Federal intrusion into religious institutions. The proposal extends Federal regulation into a church-run program that accepts Federal funds. In contrast, S. 557 subjects the entire church to such regulation if a single church program accepts Federal funds. Also, the President's proposal extends Federal regulation to a private elementary or secondary religious school which accepts Federal funds, but, unlike S. 557, does not further extend it to the entire school system of which that school is a part, if the rest of the system does not receive Federal aid. Finally, the President's proposal protects the religious tenets of private organizations that are closely identified with religious institutions on the same basis as it protects the religious tenets of private organizations that are directly controlled by religious institutions. In contrast, S. 557 extends protection only to organizations under such direct control.

The President's proposal exercises similar care in extending Federal regulations of businesses. Under the proposal, if a business as a whole receives Federal aid, it is covered in its entirety. In all other cases, if a business of any kind accepts Federal aid in a single activity, then only the plant or facility in which that activity takes place becomes subject to Federal regulation. In contrast, under S. 557, businesses engaged in providing education, health care, housing, social services, and parks and recreation are treated as if they were government agencies—acceptance of aid for a single program would subject the entire business to Federal regulation.

The President's proposal carefully tailors the reach of the Federal Government into State and local government to the extent of Federal financial assistance, to safeguard the principles of federalism. Under the President's proposal only the programs of a State or local agency which receives Federal funds will become subject to the regime of Federal regulation. In contrast, under S. 557, if any program of an agency of a State or local government receives any Federal aid, all operations of that agency become subject to the regime of Federal regulation.

The President's proposal also makes clear that farms and ranches participating in Federal agricultural programs, and grocery stores accepting Food Stamps, are not considered subject to Federal regulation by virtue of that participation. In contrast, the language of S. 557 lends itself to the interpretation that receipt of crop subsidies and Food Stamps may be treated as Federal aid subjecting the recipient to Federal regulation.

Mr. President, that is the factsheet pertaining to the Civil Rights Restoration Act of 1988. As you can see, there are seven basic approaches that he has stated, and I think they are quite reasonable. They should be accepted, and I think then the President would sign the bill, and I would support the bill.

Mr. President, I understand that the distinguished Senator from Kansas would like to make a short statement. So I ask unanimous consent that I may yield the floor to him without losing my right to the floor or any statement hereafter being considered a second speech under the rules.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent that I may speak out of order for 3 or 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. And I thank the distinguished Senator from Utah and the distinguished Senator from Massachusetts.

DOES IT MAKE SENSE?

Mr. DOLE. Mr. President, this morning, the light of freedom flickers more dimly in Central America.

Thousands of Sandinista soldiers—emboldened by the tragic decision of House liberals to pull the plug on Nicaragua's freedom fighters, and supported by the full-might of Soviet supplied armaments—have smashed the Contra's border camps; killed hundreds; scooped up tons of supplies; and pushed across the Honduras border.

The bloodbath may render moot next week's scheduled "ceasefire" talks. As Daniel Ortega knows well, dead men, and dispersed armies, can't fire back, anyway.

Now, troops of the 82d Airborne are moving to Honduras, at the request of President Azcona. I support President Reagan's decision to respond decisively to the Honduran request for those troops. It is the right thing to do—and considering that House liberals have eliminated aid to the Contras as a viable option, one of the few ways left to demonstate American resolve.

But as American forces go into Central America—we have an obligation, and perhaps a last chance, to think about a few things.

Does it make sense to cut off military aid to the freedom fighters, in the face of this massive Sandinista offensive, and the hundreds of millions of dollars of Soviet military aid which continues to flow to Managua?

Does it make sense to see the only real leverage we have on Ortega wiped out, leaving us more and more with only two options—rollover and play dead, or use American troops?

Does it make sense to give up on young men and women willing to fight and die—not only for their own freedom, but for legitimate U.S. interests in Central America?

And does it make sense even as thousands of Communist troops cross the border of a free country in this hemisphere, for Members of the Congress to make excuses for Ortega's aggression, while accusing the President of the United States of "fueling the war in Central America?"

Does any of this make sense?

Mr. President, this may be our last chance—our last chance to make sense; to do what is right, and in America's interest; to stand up for freedom.

I hope the President will put the decision squarely before us. I hope he will send up a package of humanitarian and military aid for the Contras today, and demand immediate congressional action on it.

The freedom fighters are being slaughtered. The Sandinista Communists have crossed the border into Honduras. American troops are on their way to that country.

We have run out of time. We have run out of options.

We must decide now, once and for all, whether we are on the side of freedom; whether we are capable any longer of doing what makes sense at this time.

CIVIL RIGHTS RESTORATION ACT (GROVE CITY)—VETO

The Senate continued with the consideration of the veto message of the President on S. 557.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas has yielded the floor. The Senator from Utah.

Mr. HATCH. I would yield to the distinguished Senator from North Carolina under the same terms and conditions as previously stated.

The PRESIDING OFFICER. Under the same terms and conditions as previously stated when the floor was yielded to the Senator from Kansas under the unanimous-consent request of the Senator from Utah, without objection, it is so ordered. The Senator from North Carolina.

Mr. HELMS. Mr. President, today we have what I would call a fortuitous opportunity to revisit the so-called Civil Rights Restoration Act, and this Senator at least hopes it will not become law. In all seriousness, I do not think any Member of the Senate truly believes that this bill merely reverses the decision made in 1984 when the Supreme Court decided the Grove City College versus Bell case.

This bill goes far beyond that and would expand the scope of Federal jurisdiction over State and local governments and a wide range of businesses and private institutions.

If this Grove City bill becomes law, businesses and other private and public institutions will face overlapping enforcement structures, duplicative and overly-burdensome Federal recordkeeping and reporting requirements, and new and extensive on-site compliance investigations. The bottom line being that this bill represents a dramatic and unwarranted expansion of Federal intrusion into the the private sector of this country.

Our business community already faces an explosive growth in litigation. Court dockets are jammed. But what does this legislation propose to do? It proposes to unnecessarily exacerbate that problem by creating new classes of plaintiffs and new private causes of action.

Let me cite an example of what many businesses, religious and other private institutions, and local governments have to look forward to if this legislation is enacted.

The Rehabilitation Act bars discrimination against any otherwise qualified person solely by reason of his handicap.

Certainly nobody can oppose such a compassionate and well-intended provision. But when you peel off the veneer and examine how the definition of handicapped is being distorted, it becomes clear how this language may cause enormous problems for religious organizations and other private institutions that will be swept within the purview of this act if this legislation, in fact, does become law.

In the fall of 1986, in the case of Blackwell versus U.S. Department of the Treasury, the Federal District Court for the District of Columbia found that a transvestite is a handicapped person, within the meaning of section 504 of the Rehabilitation Act.

In the Blackwell case, the plaintiff was an admitted homosexual and a transvestite. He had previously worked at the Treasury Department, but he lost his job through a reduction in force. He applied and was interviewed for a subsequent opening at the Treasury Department under their priority replacement program for rehiring those who had been RIF'd; that is to say, under the reduction in force process.

According to the district judge, the plaintiff attended the interview dressed as a woman, the same type of dress he had worn during his previous 8 years of employment with the Department of the Treasury.

The judge also pointed out that the plaintiff had foam implanted in his breasts, and had effected other changes in his physical appearance.

That is what the judge said.

The district court opinion on the merits states that "as a matter of statutory analysis, while homosexuals are not handicapped it is clear that transvestites are because many experience strong social rejection in the workplace as a result of their mental ailment made blatantly apparent by their cross-dressing lifestyle."

Fortunately, the Treasury Department won that case in the district court, but the Federal Government won it on a technicality. The court found that the plaintiff had failed to inform his prospective employer of his so-called handicap, a prerequisite under the Protection of the Rehabilitation Act, according to the court, since it was not readily apparent.

The opinion was later vacated by the court of appeals, but only because the appeals court disagreed with the district court's conclusion that relief under the Rehabilitation Act is dependent on a person's giving a prospective employee notice of a handicap that is not "automatically apparent." The appeals court did not even address the district court's conclusion that a transvestite is protected from discrimination under the act. I have no doubt that the courts will be asked to revisit that issue.

In any case, Mr. President, I certainly hope Senators will not rush to judgment on this vote to override the President's veto. I think we should carefully consider what this one particular aspect of the bill, that is, the extension of the Rehabilitation Act, portends across the board. It neither starts nor ends with this transvestite case. It is across the board.

We already have Federal involvement in child care through Head Start programs. We already have Federal involvement in social service block grants, and many other programs. We have in the making proposals to institutionalize and greatly expand Federal control over child care in this country. And if those proposals are successful, these child care facilities in their entirety will necessarily come under the coverage of the four civil rights statutes amended by the Grove City bill. This raises a host of disturbing questions.

Mr. President, do we really want private institutions, particularly schools and day care centers, to be prohibited from refusing to hire a transvestite because some Federal court may find that this violates the transvestite's civil rights to wear a dress and to wear foam, that sort of thing? Do we really want to prohibit these private institutions from making employment decisions based on moral qualifications?

Mr. President, in School Board of Nassau County versus Arline, the Supreme Court concluded that a teacher with a contagious disease—in this case it was tuberculosis—was handicapped within the meaning of the Rehabilitation Act. It did not matter about the potential for infecting the children in the classroom. And the Federal courts have already taken the next step and decided that a person with AIDS is handicapped, and therefore protected by the Rehabilitation Act. In fact, in Local 1812, American Federal Government Employees versus the Department of State, the plaintiffs argued that any person testing positive for the AIDS virus is perceived as handicapped, even if there was no manifestation of AIDS itself, and therefore they contend that such a person should come under the protection of the act.

I offer these examples to illustrate the Pandora's Box of problems and litigation that will be imposed upon our schools, our churches, private businesses, and State and local governments if we fail to uphold the President's veto of this bill.

As has been demonstrated by several Senators, this legislation represents a radical departure from the law prior to the Grove City decision. So it is not accurate to say that we just restore the law prior to Grove City versus Bell. This bill is totally inconsistent with the intended scope of both title IX and title VI as indicated by their legislative histories.

In the judgment of this Senator, this bill unjustifiably expands the coverage of these statutes and extends Federal jurisdiction over religious organizations and private institutions that have no significant connection with Federal funds whatsoever.

I asked for and received an analysis of this bill. It is very interesting. I think it is worth considering by the Senate.

First of all, as I have already said, the act does not restore the law prior to Grove City College versus Bell.

One of the most persistent misrepresentations in this entire debate, reflected in the very title of the act as well as the frequent statements of its supporters, is the claim that the Supreme Court in 1984, in an act of judicial usurpation, somehow overthrew an existing legal status quo favoring the broad jurisdiction over private and religious institutions that will be imposed by the act.

The legislative histories of both title VI of the Civil Rights Act of 1964—the grandfather of all antidiscrimination legislation—and the title IX sex discrimination amendments of 1972 clearly show that Congress explicitly considered and rejected proposals that would have imposed institution-wide coverage in the manner of the current act. What is now called the "program specific" language of each of those laws was carefully considered and adopted instead of the institution-wide language. This was so clear that as early as 1969 the fifth circuit held that title VI was, and was intended to be, program specific.

After the Department of Health, Education and Welfare in the mid-1970's promulgated and began attempting to enforce regulations which as interpreted by the Department imposed institution-wide coverage, numerous lower Federal courts almost invariably struck down the regulations as going beyond the clear program-specific language of title IX. During the period 1979-82, at least 10 Federal courts, in cases involving either these regulations or the title IX statute itself, ruled that the entire regulatory structure was premised on being program-specific, not institutional. The Supreme Court in *North Haven Board of Education* v. *Bell.* 456 U.S. 512 (1982), upheld the HEW regulations struck down by many of the courts, but expressly rejected HEW's institution-wide interpretation of the scope of the regulations. The Court made quite clear that program-specificity was a cornerstone of these anti-discrimination statutes.

> Title IX's legislative history corroborates its general program-specificity. Congress failed to adopt proposals that would have prohibited *all* discriminatory practices of an institution that receives Federal funds.

I am quoting directly from 456 U.S. at 537, and that is the Court's emphasis.

The Supreme Court's 1984 decision in the Grove City case has been widely misunderstood because the central point of it was not the program specificity issue—as to which there was no real doubt—but rather the question of whether there could be any coverage at all of a private educational institution whose only link to the vast web of Federal financial assistance was the fact that some of its students directly received certain Federal grants and loans, then used those moneys to attend the college. The college was not receiving and disbursing the funds through any financial aid program, but was only the indirect recipient of funds that went directly to the students. The Supreme Court held for coverage of the private college even though it claimed to operate no financial aid program. This is the real holding in Grove City, a victory for proponents of extending the scope of the civil rights statutes, and not a defeat or reversal as the act's proponents today maintain.

The Supreme Court then considered the extent of the coverage now to be imposed on the private college. The college's opponents wanted to turn its denial of having a financial aid program upside down by arguing that since there was no such program, therefore the entire college was the statutory program and should be covered. The Court rejected this argument and stated, consistent with North Haven, that to call the entire college the program would be to ignore the clear program-specific legislative history and the Court's own decision in the North Haven case.

In short, the status quo prior to the Grove City decision was the exact opposite of what the act's proponents maintain. The Court in that case simply applied existing law on the issue of program-specificity. Although HEW regulators had been struggling for years prior to Grove City to establish the alleged institution-wide status quo, they had suffered defeat at almost every turn from the courts.

The combination of this act and the expanding definition of handicap is a potential legal time bomb.

This expansion of Federal control is especially troubling in light of the rapidly evolving judicial definition of handicapped persons under the Rehabilitation Act, which includes any person who has a substantial physical or mental impairment, a history of such impairment or who is regarded as impaired. Courts have already construed this broad language to include communicable diseases, including AIDS and infection with the AIDS virus, as well as behavioral patterns, such as transvestism and other compulsions or additions, which churches or religious schools might once have felt comfortable in regarding as moral problems, not medical handicaps.

That is out of the window now. Forget the morality of it. The churches and the schools under the terms of this act have no judgments to make. They are under the Federal thumb, like it or not.

Since the Supreme Court has suggested that the purpose of the Rehabilitation Act is to replace action based on "myths and fears" with "reasoned and medically sound judgments"—see *School Board of Nassau County* v. *Arline,* 107 S. Ct. 1123, 1129 (1987)—this bill opens the way for private institutions all over the country to find themselves forced to justify exclusion of various behaviorally handicapped persons from benefits by evidence from medical doctors and other experts, but not from morals or theology. They are trying to tell us this is not intruding upon the rights and responsibilities of the churches and the religious educational institutions.

This danger has not been appreciated, we think, because the Rehabilitation Act has not previously covered so many private institutions, because many of the judicial decisions defining handicap are very recent, and perhaps most of all because the Rehabilitation Act appears so compassionate and uncontroversial on its face. It is one of these cases where you had better look at the fine print and examine the implications.

When people, including the average Congressman, think of handicaps, what first comes to mind are diseases which have no conceivable moral content and yet have been associated in the past with irrational fears—such as epilepsy—or else physical impairments such as those of the distinguished minority leader, the Republican leader in the Senate, Mr. Dole, which bespeak valor and heroism. I have often said that Bob Dole has paid his dues to this country. I have great admiration for him because he lay in the hospital for years, endured pain because he served his country. No problem about the consideration of that as far as this Senator is concerned. But now we propose, or it is proposed under this act, to open for the courts the opportunity to eliminate the entire concept of a moral qualification for any job, position, or privilege—in any private institution in this country that can even indirectly be tied to the Federal financial assistance structure—by referrring to the strong trend in psychiatry to classify almost all compulsive or destructive behavior patterns as discrete and medically treatable diseases.

The combination of the rehabilitation law and this new bill poses the serious threat that religious organizations would be forced to accommodate many activities and behaviors completely offensive to their basic religious doctrines which heretofore had been protected by the first amendment free exercise clause. Moreover, unlike the sex discrimination law which provides an exemption for some religious organizations, there is no exemption whatsoever in the Rehabilitation Act.

The exemption in the sex discrimination law needs updating.

The viability of religious institutions' exemption from the most radical judicial interpretations of required sex equity is threatened by the rapid development in governance and control of religious institutions since the exemption was enacted in 1972. Since the "control" language might narrowly be viewed as no longer including many religious institutions whose basic mission and purpose are unchanged but which have altered their formal governance structure, an amendment expanding the exemption to include groups "closely identified with the tenets of a particular religious organization" was proposed, but defeated, right here in the Senate.

But let me say this: If there is no real threat to religious liberty anyway, the bill's proponents should not particularly object to clarifying language which does nothing more than ensure that no truly religious school or institution would be denied the exemption merely because of some legal formality as to its governance structure. Congress should and must be especially careful to see that the laws and exemptions adequately protect the basic right of the free exercise of religion which leads me to this conclusion.

Conclusion: This misnamed legislation does not reestablish any past legal status quo that ever actually existed, but instead contains the seeds of a potential explosion of overreaching Government regulation of, and novel and even outrageous claims against, heretofore private religious and other organizations. This potential is not evident on the face of the seemingly innocuous language, but is, like an iceberg, nine-tenths submerged from immediate view. Without a strong religious exemption added to the Rehabilitation Act and an updating of the sex discrimination exemption, this bill in its current form is totally unacceptable and must be defeated.

Mr. President, this so-called civil rights bill would have greatly disturbed the Nation's Founding Fathers. None of us can speak with certainty, except our study of what they said and what they stood for. But I believe that the Founding Fathers would be aghast if such a piece of legislation or such a proposal had been made at the time of the creation of this country.

It threatens the ability of religious organizations to enforce moral standards—and I cannot emphasize that too much—flowing from their religious beliefs, within organizations closely affiliated with them such as their religious schools. We have a duty to the Nation and to the American people to tread carefully when we attempt to regulate areas that implicate the very first amendment interests which motivated our forefathers to cross the Atlantic, in the first place.

It is important to grant as much protection as possible against instrusive and unwarranted governmental intervention requiring actions many religions would find inconsistent with their religious tenets. This legislation would allow Federal courts to apply their own, often unique interpretations of the civil rights statutes to many organizations with religious purposes—but which nevertheless fail to qualify for the narrowly interpreted religious exemptions contained in the statutes.

I believe Senator HATFIELD, the distinguished Senator from Oregon, said in debate on this act in January (Cong. Rec. S-207 *et seq.,* Jan. 28, 1988) that a large number of religious schools have changed their manner of governance over the last decade. Overzealous administrators or judges could characterize these changes as no longer constituting sufficient control to enable the schools to qualify for the religious exemption, despite the fact the religious nature of the schools has not changed.

More ominously, this legislation will subject churches and synagogues to the civil rights laws in some circumstances. As was pointed out in our prior debate this year, a church conducting a food program for the elderly in its basement will cause that particular church to become liable to the rules and regulations of this bill if the church receives even one Federal dollar as part of the feeding program.

Such churches will be faced in the long run with lawsuits, compliance reviews, redtape, and bureaucratic intrusions. They will also be subject to the ridiculous interpretations the Federal courts have given the Rehabilitation Act, as I discussed earlier.

Mr. President, we have a duty to be aware of the erosion of religious liberties occurring in America today. This so-called Civil Rights Restoration Act in its current form threatens to encourage the ever-increasing reach of the Federal Government into matters of religion and free enterprise.

Mr. President, I hope that all Senators will vote to sustain the President's veto of this very unwise bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah, under the previous unanimous-consent agreement, continues to retain the floor.

Mr. HATCH. Mr. President, lets make a few points clear. First, S. 557 is not legislation that restores the law to what it was the day before the Supreme Court's decision in Grove City versus Bell. The supporters pretend that prior to the Supreme Court's decision there was total uniformity on the whether receipt of Federal aid triggered program specific coverage or institution-wide coverage.

The truth is that the courts were split on this issue, with the majority of the lower courts siding with the Supreme Court that these statutes should be applied on a program specific basis. If we really wanted to return the law to what it was, then we would need to do nothing. We could simply leave the Grove City decision intact.

Most of us in this Chamber have been ready since 1984 to resolve the problems caused by the Supreme Court's decision, but we feel we can do it without attacking religious institutions. Why do we have to regulate churches and synagogues to have an effective civil rights policy?

S. 557 extends regulatory coverage to an entire church or synagogue. It is simply a lie to say that under S. 557 if a church runs a hot meal program in its basement, only that program is subject to Federal regulation. There is no such limitation in the bill. There is no such exemption. In fact, when I tried to include such an exemption, the sponsors of the bill led the fight against it.

The threat of such regulation provides a tremendous disincentive to churches and synagogues who are currently serving their communities by providing important social services.

Unless S. 557 is changed, many religious schools and institutions will be placed in jeopardy. Under current law, only a school or institution controlled by a religious organization can be exempt from a specific Federal regulation under title IX that conflicts with one of its religious tenets. Strictly applied, only two institutions in this country, BYU and Catholic University, qualify. Fortunately, the Reagan administration has seen the wisdom of applying this standard more loosely, but this interpretation could disappear overnight with one stroke of a bureaucratic pen.

The simple fact is that we can have an effective civil rights policy without jeopardizing religious freedom. We can enforce equality without mugging churches. We can protect the freedoms promised all citizens without regulating synagogues. Why do we have to choose between regulating churches and eliminating discrimination?

At this point, I should like to read into the RECORD a letter dated March 9, 1988, to the Honorable James C. Miller III, Director of the Office of Management and Budget, from John R. Bolton, Assistant Attorney General for Legislative Affairs. In this letter, he states the reason why the Justice Department has so much difficulty with this bill that the President has vetoed. He says:

> DEAR MR. MILLER: The enclosed analysis of S. 557, the "Civil Rights Restoration Act" of 1987, sets forth the views of the Department of Justice on this proposal. This bill would significantly amend four civil rights statutes which ban discrimination on various bases in programs and activities receiving Federal financial assistance: title VI of the Civil Rights Act of 1964 (race, color, national origin); title IX of the Education Amendments of 1972 (sex) (limited to education); section 504 of the Rehabilitation Act of 1973 (handicap); and the Age Discrimination Act of 1975 (age).
>
> S. 557 is one of the most sweeping expansions of federal jurisdiction in the post World War II era. We strongly recommend that the President veto this bill.
>
> This letter will summarize the salient portions of the attached bill comment:
>
> Prior to Grove City, under their plain language and legislative histories, these statutes were program-specific in scope.
>
> No case has been made for the sweeping expansion of federal authority represented by S. 557.
>
> Grove City has barely had any impact outside of education; most agencies, except for the Department of Education, have indicated to us that their civil rights programs are not at all impeded by Grove City. The Administration's alternative bill fully addressed concerns in the education area.
>
> There are two reasons why Grove City has had such little impact outside of education: (1) there have been numerous federal, state, and local civil rights laws enacted in the last 25 years that provide protection and (2) there is far more federal aid dispensed today than 25 years ago, giving rise to significant jurisdiction under these four statutes, as construed in Grove City.
>
> Among the burdens that result from expanded federal jurisdiction are:
>
> Increased Federal paperwork;
>
> A requirement to consult with disabled persons or disability rights groups and to make and maintain a record of such consultations;
>
> The requirement of adopting "grievance procedures that incorporate appropriate due process standards";

Exposure to Federal bureaucratic compliance reviews and on-site reviews even in the absence of an allegation of discrimination;

A cumbersome and overly intrusive Federal regulatory regime;

Subjection not to an equality-of-opportunity standard, but to an equality-of-result standard under Federal regulations which forbid conduct (including admission standards not adopted for a discriminatory purpose) just because it falls with a disproportionate impact on particular groups;

The prospect of having to meet costly accessibility requirments, including structural modification, job restructuring, alteration of work schedules, and the provision of auxiliary aids;

The requirement to attempt to accommodate persons with infectious diseases such as tuberculosis and AIDS;

Increased exposure to costly private lawsuits.

As Justice Powell, joined by Chief Justice Burger and Justice O'Connor, stated in an opinion concurring in the result in Grove City, "[W]ith acceptance of [Federal financial] assistance one surrenders a certain measure of freedom that Americans always have cherished." 465 U.S. at 577.

Thus, if there is no demonstrated, compelling need for Federal regulation—and the concomitant exposure to expensive private litigation under these statutes—it ill behooves Congress to impose the costs and burdens of such regulation and litigation on new sectors of the American economy not covered prior to the Grove City decision. The expansion of Federal jurisdiction in any field, including civil rights, is not without costs—costs which should not be imposed unless shown to be necessary.

Some Examples of S. 557's Expansions of Pre-Grove City Coverage:

An entire church or synagogue will be covered under title VI, section 504, and the Age Discrimination Act, if it operates one federally-assisted program or activity, as well as under title IX if the church or synagogue conducts an educational program or activity (with exceptions under title IX in those circumstances where title IX requirements conflict with religious tenets).

Every school in a private or religious elementary or secondary school system will be covered in its entirety if any one school within the school system receives even one dollar of Federal financial assistance.

Grocery stores and supermarkets participating in the food stamp program will be subject to coverage in their entirety solely by virtue of their participation in that program.

Every division, plant, subsidiary, store, and facility of a corporation, partnership, or other private organization or an entire sole proprietorship principally engaged in the business of providing education, health care, housing, social services, or parks and recreation will be covered in its entirety whenever one portion of one division, plant, subsidiary, store, or facility receives any Federal financial assistance.

If one program at one nursing home or hospital in a chain receives Federal aid, not only is the entire nursing home or hospital covered, but all other nursing homes or hospitals in the chain are automatically covered in their entirety even if they don't receive Federal aid.

If the tenant of one unit in one apartment building owned by an entity principally engaged in providing housing receives Federal housing aid, not only is the entire apartment building covered, but all other apartment buildings, all other housing operations, and all other non-housing activities of the owner are covered even though they receive no direct or even indirect Federal aid.

Similarly, if a private organization principally engaged in home building or development constructs one housing project with any direct or indirect Federal aid, all of the builder's housing projects and other activities, including non-housing activities, would be covered in their entirety even if they receive no direct or indirect Federal aid.

If a private organization principally engaged in one of these five broad activities employs part-time a student receiving Federal work-study aid in one program at one facility, not only is that facility covered in its entirety, all aspects of the entire organization—all of its plants, facilities, local offices and all of its activities unrelated to its principal business—are covered.

Further, if an entity conducting one or more educational programs receives Federal financial assistance to any part of the entity, whether or not that part is educational, then all four statutes, including title IX's ban on sex discrimination, apply to the entire entity, including noneducational activities.

Under the expanded coverage established by subparagraph (3)(A)(ii), contracting activities of covered entities will be covered in all cases—contracting is an "operation" of the covered entity.

A private, national social service organization will be covered in its entirety, together with all of its local chapters, councils, or lodges, if one local chapter, council, or lodge receives any Federal financial assistance.

(a) All of the operations of the entire plant or geographically separate facility of businesses and other private entities not principally engaged in education, health care, housing, social services, or parks and recreation would be covered if one portion of, or one program at, the plant or facility receives any Federal financial assistance. (b) Further, all other plants and facilities associated with, and in the same locality or region as, the one receiving any Federal aid are covered even if they receive no direct or indirect Federal aid.

If a research hospital receiving Federal aid establishes a research laboratory jointly with a pharmaceutical company, and the research laboratory does not receive Federal aid, it is covered because it is an "operation of" the hospital.

Similarly, if a private business contributes its own funds or equipment informally to a federally-assisted school district, private school, or private social service program, the business itself is covered.

Farmers receiving crop subsidies and price supports will be subject to coverage.

A State, county, or local government department or agency will be covered in its entirety, whenever one of its programs receives Federal aid. Thus, if a State health clinic is built with Federal funds in San Diego, California, not only is the clinic covered, but all activities of the State's health department in all parts of the State are also covered.

And I would like to comment on each of these and I will after I get through reading the letter.

The zoning function of local government will likely be covered by these laws in ways never before achieved.

Every college or university in a public system of higher education will be covered in its entirety if just one department at one school in that system receives Federal financial assistance.

A school, college, or university investment policy and management of endowment will be covered if the institution receives even one dollar of Federal education assistance.

The commercial, non-educational activities of a school, college, or university, including rental of commercial office space and housing to those other than students or faculty, and other commercial ventures will be covered if the institution receives even one dollar of Federal education assistance.

A new, vague catch-all provision provides additional coverage in potentially limitless ways.

S. 557 does not adequately protect the religious tenents of institutions it covers; Congress should adopt the religious tenets language it has already enacted in the Higher Education Amendments of 1986. There, a ban on religious discrimination in the construction loan insurance program used the phrase: "controlled by, or closely identifies with the tenets of," a religious organization. We support the same language for title IX.

This bill runs a risk that the traditional, and universally agreed upon, pinpoint scope of an agency's authority to terminate federal aid is greatly expanded.

For all of these reasons, we strongly recommend against enactment of S. 557.

(Mr. BREAUX assumed the chair.)

Mr. HATCH. Mr. President, I read this letter from the Justice Department and I think that it makes some pretty important points about burdens. I agree there are some groups, and at least one of my colleagues has brought this is my attention, that are trying to, I think, exaggerate some of the problems that may arise under this bill. I do not countenance that. But let me just say this. You do not have to exaggerate. There are enough problems under this bill the way it is presently written that, unless we accept the President's seven points you do not need to exaggerate.

We talked about the burdens that really are going to be placed upon institutions that receive $1 of Federal funding. The entire institution becomes covered. There is increased paperwork. Anybody who does not understand that is not in the real world.

The reason Jimmy Carter was elected President, we all remember that, because he was was tired of Federal Government oppression. He was tired of all the paperwork small business was saddled with. Now you are going to saddle churches and synagogues with paperwork, and every other institution in society, because one segment of that institution does something with a Federal dollar, even indirectly.

Do we want to saddle grocery stores with increased paperwork? The fact of the matter is that grocery stores that take food stamps are going to be saddled with it. You are going to have increased paperwork. I can go through all the illustrations, but we do not want to bore you with that.

The fact is it is not boring because those people are going to be screaming at Congress when some of these intrusive bureaucrats back here start to increase their Federal paperwork. We are almost inundated with paperwork in this country as it is.

They list a requirement to consult with disabled persons or disability rights groups and to make and maintain records of each consultation. Keep in mind, that is no small obligation. Let us go back to the grocery stores again. If they become subject under this act, because they have taken Federal dollars, they are going to have to not only consult with disabled persons or disability rights groups, they are going to have to keep records on that and they are going to find themselves sued time after time after time, which would not happen under present law, for things that really are not their fault and things that are really not violations of civil rights.

Look at the third, requirement of adopting a grievance procedure that incorporates appropriate due process statements. Well, I do not see any problem with that. I think businesses could do that, colleges could do that, churches also probably could. But why? Why do they need a grievance procedure? Nevertheless, that would be a requirement.

They are going to be exposed to Federal bureaucratic compliance reviews. Any time some bureaucrat in Washington becomes irritated with a religious institution, some synagogue, a college or university, some small business, some farmer, some grocery store that qualifies under this bill, and many will, they can drive them into the ground with bureaucratic compliance reviews.

It is being done all over this country today under present law. Can you imagine what it is going to be like under this one? And this law really puts some teeth into it. It is not because they violated civil rights. It is because some bureaucrat here thinks he wants to shove it to them and he is going to be able to do it.

You are going to have an expensive and cumbersome Federal regulatory regime. Every day of our lives.

You talk about a bill that puts the Federal Government on everybody's back, this is it, with the accompaniment of increased costs and inflation that results from things like this. Then you are going to be subjecting all these institutions, not to an equality of opportunity standard but to an equality of result standard. If the results do not turn out to be the same for everybody, there is going to be litigation, lawsuits, compliance reviews, paperwork, bureaucratic interference meddling and I might add, all kinds of pain.

If this bill passes in its present form, many institutions that do not have to meet those accessibility requirements right now will have to meet them. And they will be forced to meet them at their own cost. The Government is not going to pay for it. They might have to have structural modifications in their buildings, job restructuring to meet the employment demands of the EEOC and the OFCC, the Office of Federal Contract Compliance.

Of course, there is the requirement to attempt to accommodate persons with infectious diseases, such as tuberculosis and AIDS.

There are those here in this body who would make total equality of rights regardless of the contagious disease that a person has.

I do not know about you; I want equality of rights but I want to take into consideration the equality of rights for those who do not want to be infected with contagious diseases.

And, of course, increased exposure to private lawsuits. My gosh, we are an overlitigated society now and it is primarily because of Federal laws and the broad interpretations of Federal laws that many of these very liberal courts have provided in our society.

Some would argue that it is the cost of having civil rights. Well, if this just involved civil rights, I would have to say that is right. But sometimes it involves outrageous interpretations by bureaucrats here in Washington that have nothing to do with civil rights.

They went through some really interesting examples of S. 557's expansion of pre-Grove City coverage and they make the point again that an entire church or synagogue will be covered under all four statutes provided here. They are broad-based statutes, if they operate one federally assisted program or activity. They will be covered. When churches and synagogues start to realize how abusive this law is going to be and how it is going to bring Federal bureaucrats down onto their backs, many will not participate in any Federal function or program. The reason they will not is because it will not be worth it to them. Many of the best programs will go by the board without the involvement of some of the best institutions in our society.

I want to encourage religious institutions to participate. In the Hatch-Johnston child care bill, unlike the ADC child care bill, we believe religious institutions should be involved in providing child care services. We want them involved. That is where you will get some of the best child care. The other bill provides they cannot be involved.

There is an increasing hostility to religion in this body and in the House of Representatives as well, less so than this body. It is not a neutral position like the Constitution provides, it is a hostility to religion. Churches and synagogues, if $1, even indirectly—you would not believe it would happen—comes to that church through some sponsored Federal program, that church becomes responsible for a whole panoply of obligations you could never dream possible. They can even overrule that church's personal religious beliefs.

Every school would be covered in its entirety if one school makes a mistake under this law. They can withhold their funds if they want to. Bureaucrats can sit back here and give that school a rough time and that whole school district a rough time if they happen to disagree with the way the school district happens to operate.

Some of the school districts are operated in parochial ways by the Catholic Church. If the Federal bureaucrats do not like what that school district does because there is some sort of a textbook provided to that district with Federal funds or indirectly with Federal funds, bureaucrats can start dictating to Catholic schools what they can or cannot do in their curriculum.

It can be very instrusive. It may not be but I can see it will be.

You can count on bureaucrats in Washington to make life miserable for everybody in this country.

Grocery stores: How many want to saddle grocery stores with the range of requirements that these bills could saddle them with? If they participate in the food stamp program, they become subject to all these onerous burdens we got through discussing and be subjected in their entirety.

One Safeway store accepts food stamps and all of them are subject to everything the Federal Government wants them to do.

Every facility of a corporation, partnership, or other private organization or an entire sole proprietorship, principally engaged in providing health care, social services, parks and recreation will be covered in their entirety.

Whenever one portion, one facility, one subsidiary or one store receives any Federal financial assistance they are covered.

That is a burdensome imposition to be placed upon them with the bureaucratic compliance review, the additional attorneys, counsel, and all of those things.

If one nursing home receives Federal aid not only is the entire nursing home or hospital covered, but every other nursing home or hospital in the chain is covered in their entirety, even if they do not receive Federal aid. You cannot help but be concerned about that.

If one-tenth of an apartment building receives some sort of a Federal rent subsidy, that whole apartment building becomes subject to this. Even though the individual owner does not receive Federal aid not only the apartment building, but everything the apartment owner owns, is covered because one person receives a subsidy.

I can see when apartment owners will not want rent subsidy tenants in their apartments. I can see the day when apartments dry up because no one wants the onerous burden of the Federal Government's heel on their backs and necks.

This will apply if a private organization principally engaged in homebuilding or development constructs one housing project with any direct or indirect Federal aid. It is hard to do anything in this society today without some Federal aid coming into it. In fact, I am sure innovative attorneys are going to find ways of insisting that there is Federal aid even when there is not under this indirect theory of Federal aid.

Everything in that builder's inventory, all of his housing projects, all of his affiliated organizations, all of his contractors, all of his real estate agencies, or anything else that he has connected with that one particular project that might receive an indirect dollar in Federal aid becomes subject to all these rules, regulations, bureaucratic ensnarlments, compliance reviews, audits, IRS checks, and a hundred other things that would not have occurred under present law and would not have occurred under the law as it existed 1 day before the Grove City decision.

If any private organization principally engaged in one of the five broad activities employs part-time students in a Federal work-study program in one program in one facility, then everything that particular organization does is covered in its entirety, everything. All aspects of the entire organization, all of its plants and facilities, local offices, activities unrelated to its principal business, are covered. Everything. It is unbelievable.

It is unbelievable, but that is what this bill does.

The thing that bothers me is I have had some of my colleagues come up and say, "I do not know what is in that bill. I am just for civil rights."

Being for civil rights is one thing and all of us should be, but we as Senators representing 230 million people ought to be aware of what is in a bill like this. We had a President, I think a poor President but nevertheless a nice man, elected President on the argument that the Federal Government is on everybody's backs too much. I have to say that I was elected in 1976 because I was tired of it. I had gone to court to represent little, average, common citizens in Federal court who had been indicted because some bureaucrat thought they had violated some obscure law.

I cannot begin to tell you the pain some of those people went through. I will never forget one little dry cleaner in Roosevelt, UT, who never made more than about $6,000 or $7,000 a year in his life, working 17 hours every day. He lived on the premises. Like I say, he never made more than $6,000 or $7,000 a year, working like a dog, supporting his family. He was accused of income tax fraud and evasion, willful filing of false returns, as I recall, because he, an immigrant, did not understand that when he bought new dry cleaning machines that that was not an expense to be written off in the single year in which he bought it. It was something that had to be depreciated.

They put him through this tremendouly difficult, complex criminal trial that lasted days. He could not afford my services. I donated them to him, I felt so sorry for him.

We went through this trial for days because some idiot bureaucrat wanted to pound him into the ground. I cannot tell you what a relief it was when our great system of justice, at the end of those many days in court, acquitted him on all charges. That little guy stood about this tall next to me, white haired, bowed shoulders, had worked all of his life trying to do what was right, and he stood there a real man and cried right in open court. The jury cried; I cried. I was so moved by it all. That is just one of millions of cases brought against the people. Sometimes people are just plain run into the ground.

While I am talking about it, why not spend a minute or two on the Iran-Contra issue? I do not think anybody watching who has any kind of a heart or any kind of feeling or any kind of intelligence or any kind of sense of justice failed to note that before they brought Oliver North on the stand to answer his own questions, that members of our illustrious committee, which I sat on, were smirking and joking and making fun because they had this big list brought into evidence. This big list of so-called traveler's checks that he had supposedly taken to himself and used for his own purposes. They were alleging by that lost, doing it with hearsay evidence, with no direct evidence, embarrassing him in front of millions of people in the country, that he was a crook.

The same smug, smirking Members of Congress who sat on that committee, and there were some who did this, believe it or not, when he finally testified and explained where every nickel of that money went. How he was fighting 18, 20 hours a day to try and help the Contras and to try and get the hostages out, yes, I have to say in a mistaken way, but, nevertheless, fighting for this country, he used every nickel of that money in the correct way.

Yet, that is one of the counts against him because some bunch of bureaucrats under a bill established by this wonderful, illustrious Congress of the past bring indictments on ridiculous things like that.

You could not sit and listen to him without realizing that the man was telling the truth. When he went into those Vietnamese jungles to take his squad in and came out all alone with just one other guy, decorated with a Silver Star, he was a hero then, and he is a hero today. Because of a ridiculous law imposed in a ridiculous way, we see him being indicted down here on 23 ridiculous counts.

If you think that is not real, look at that hero who offered up his life for us, and look where he is today.

I will tell you, there was not any smirking by my colleagues on that committee when he answered the questions and was given an opportunity to do it. In fact, they were afraid to take him on, the very ones who were so pompous in the back rooms, the very ones who put the charts up, the very ones who made the jokes about him.

And look at Secord, too. Yes, Secord is a tough guy. Yes, he came in without any immunity, and he testified forthright. He lost his business. I think Secord would be a rich man today, having been a general in our Air Force, having known about intelligence the way he did. He is a broken man today because he tried to help this country, albeit in a poor way. Today he is indicted with all these counts by the smirking people right here in Washington, sometimes the most unreal city in this world.

If you want to saddle the American people with bureaucracy and compliance reviews, audits, attorneys and accountants, this bill does it in spades. It is almost as well written as the Boland amendments that caused all these problems to begin with.

Today we have the freedom fighters being hammered down there by the Sandinistas, and those up here who are refusing to give them money are running around scurrying for cover.

John Poindexter. I look at him. You cannot know Poindexter without knowing the man's integrity. Yes, there were mistakes made here. Yes, he has been criticized from pillar to post. He has lost his job, he lost a star, and now he is indicted.

Each one of these people have to raise a million bucks apiece for their defense, or better.

What is a little corner grocer going to do if they start applying bureaucratic principles like that here? Sure, that does not rise to the dignity of the Iran-Contra affair, but I think of that poor little dry cleaner from Roosevelt, UT, who never thought for a minute in this free land that he would be accused of dishonesty because he did not understand the intricacies of the Internal Revenue Code.

If you think that is intricate, you ought to see some of the things that will come from this bill. When you think how they covered churches and synagogues, it makes one blanch. It is pathetic, and there is no desire here to do anything about it because they are afraid that they will be accused of not being for civil rights if they are for churches and synagogues. It boggles my mind, I tell you.

Another little guy out there, eight counts of willful failure to file income tax returns and tax fraud. Eight counts. He ran an art gallery out there. You cannot believe what he went through. Again, he went as far as he could paying for legal fees and, finally, I did it for him for free because I felt so badly about his case.

We had to go through this charade of a trial, and at the end, the jury threw out all eight counts. All of them. This tough, little art dealer from Holland, an immigrant from Holland.

These two people never read the Internal Revenue Code. They did not know. They were honest people trying to do their work, trying to make a living in a new country.

They threw out all eight counts. He stood there and cried, and his wife, his father, and mother, the jury, and I stood there and cried. How many people are going to find a lawyer who is going to do it for free for them? Those days are pretty well gone forever.

I have been there. That is one reason why I ran for the Senate, because of the oppression of these people back there. This little 10-square-mile city enclave. George Will described it as a 10-square-mile city enclave surrounded on all four sides by reality dictating to everybody in America exactly what they can and cannot be.

When is it going to end? It is not going to end with this bill. I guarantee you that.

I stand here and tell you all day that I am for civil rights in every way, but this is not civil rights. This is oppression of people. These people will not even look into the religious tenets problem or the churches and synagogues' problem. That first amendment is important, and religious freedom is mentioned first in our protected first amendment rights and freedom.

I notice the distinguished Senator from Nebraska is here. So under the same terms and conditions of my prior unanimous consent, no second speech and return of the floor, I will yield to him.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Reserving the right to object, what are the same terms and conditions?

Mr. HATCH. Second speech and return of the floor.

Mr. WEICKER. I have no objection.

Mr. HATCH. Mr. President, I yield to him under the same terms. I did not realize the distinguished Senator from Connecticut was here. As soon as the distinguished Senator from Nebraska is finished, I will be delighted to yield to the distinguished Senator from Connecticut.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska.

Mr. KARNES. Mr. President, first I wish to acknowledge the outstanding statement and comments of my distinguished colleague from the State of Utah. He made a very clear statement as to the concerns many of us have about this very important piece of legislation.

Mr. President, as one of the Members of this Senate who voted against passage of S. 557 in January, I am pleased to have this opportunity to readdress my concerns with this measure. I would hope that my concerns, along with those of my other distinguished colleagues who joined me in January in opposing S. 557, will be listened to with a careful ear by the Members of this Senate who cast their vote on this bill only after what some describe as a tortuous personal deliberation.

Let me begin by saying that my decision to vote against S. 557 was by no means an easy one to come to. This bill was supposed to be "the civil rights bill" of the year, a bill that was supposed to protect the civil rights of American citizens by "clarifying" language in existing civil rights laws.

What we ended up with, however, was not a bill that protected these rights of citizens but, rather, a bill that interfered with these inalienable rights. Mr. President, many of the provisions in S. 557 represent a distinct intrusion, in this Senator's mind, into the private lives and practices of American citizens. This was why I eventually opposed the measure in January, and this is why I now strongly support the alternative measure that my honorable and distinguished colleague from Utah has introduced on behalf of the administration.

Let me make it very clear that this Senator is strongly for civil rights, he is strongly for equality of opportunity, and he is strongly for fairness and the fair application of the laws of this country.

Mr. President, the Hatch substitute, the Civil Rights Protection Act, is an extremely appropriate alternative to S. 557. In fact, by reading the title alone it is clear that this substitute should be "the civil rights bill" of the year. Its definition begins as "a bill to protect the civil rights of Americans," as compared to S. 557 which is defined initially as "a bill to restore the broad scope of coverage" of existing civil rights laws.

The problem is, Mr. President, S. 557 is just too broad. As other Members of this Senate have already pointed out, the Hatch substitute narrows the scope of S. 557 so that we have a bill that protects but does not intrude on the civil rights of American citizens.

Mr. President, the first point I would like to address in the President's bill is the exemption he has provided for farmers and ranchers from these broad regulations. This is important to me as a farmer myself and as an individual who comes from the State of Nebraska where agriculture is our most important industry. When S. 557 was being considered on the Senate floor this past January, I offered an amendment to settle the concern that this legislation would extend the scope of the civil rights laws beyond that which existed before the Grove City decision. My amendment dealt specifically with farmers and ranchers to the degree that they would be brought under the civil rights laws by virtue of their participation in Federal farm programs. That is not what farmers would like.

Under S. 557, farmers who receive loan guarantees, commodity loans, deficiency payments, disaster payments, price supports, and so on, would be forced to comply with the entire range of civil rights statutes. This would lay a whole new set of Federal regulations at the doorstep of farmers and ranchers across the land. Mr. President, the producers of our Nation's food supply are having a difficult enough time trying to cope with the Federal regulations to which they are already subject.

In fact, just yesterday I found myself obligated to testify before the Finance Committee about an ill-advised piece of legislation on the diesel fuel tax. This tax requires not only additional payments by the American farmers but also much paperwork, and individuals on the Finance Committee and in the Ways and Means Committee stated this was not the intention.

Again we have before us a piece of legislation that many people said is not intended to deal with American agriculture, it is not intended to put the burdens that I perceive on American agriculture, but yesterday I saw a classic example with the diesel fuel tax of a piece of legislation that was not intended to have the effect that it is now having.

So we must always be aware of passing legislation that is too broad.

Farmers have enough problems without being included under this bill. They should not have to work under the gun, knowing that a court may later rule that S. 557 does include farmers and ranchers, triggering unnecessary, but nonetheless mandatory regulations for them to study and adhere to—additional paperwork, clearly they have neither the time, money, nor personnel to attempt to comply with requirements of bureaucrats who may demand volumes of proof of nondiscrimination even when no complaint has been received. Soon, agribusinessmen are going to feel as if they have to call their lawyer before they go out to work in the fields. I think many of my colleagues would agree that this is not the intent of Congress under this measure. We should never legislate in such a fashion that would hamper the ability of the American farmer to complete.

Mr. President, this exemption does not imply that farmers are opposed to civil rights in any way, or that they may want to turn back the clock to the times and the events that necessitated the enactment of civil rights laws in this country. In this case, the issue is not discrimination. The issue is unnecessary Federal interference. As a farmer and a lawyer, I personally have never heard of any complaints or any record that has been established showing that there are civil rights problems on the American farm that would warrant the inclusion of farmers, as a group, in this legislation. I addressed this fact in January, when I offered my amendment, and I urged then to have anyone who felt that farmers should be subject to these civil rights regulations to contact me and discuss their reasoning. I have since heard of no such concerns—not one phone call.

Mr. President, for the purposes of further clarification, I will reiterate that my concern with S. 557 as it pertains to farmers is that it creates an ambiguity in our civil rights laws which would ultimately lead to litigation to resolve any dispute under the law.

We have the good fortune of having a President of the United States who recognizes the unfairness of this provision for farmers, as evidenced through the explicit exemption for farmers and ranchers that he included in his alternative measure. I commend the President for including this provision in his bill, and I thank the President on behalf of farmers and ranchers across the Nation.

I urge every Member of this Senate who supported S. 557 in January, especially those who represent the farm States of our country, to reread section 7 of that bill. It states that none of its provisions shall be construed to extend the application of the civil rights laws to ultimate beneficiaries of Federal financial assistance excluded from coverage before enactment. It is asserted by some that this language is sufficient to lay the farm and ranch issue to rest. I disagree. It does not. It does not make clear which ultimate beneficiaries are now excluded, nor does it address the issue of exclusion of those persons receiving benefits from programs that may be enacted in the future. Comments in the committee report on S. 557 are not adequate to address these concerns because the bill substantially rewrites the statutes and adds a new definition of programs and activities covered by this law.

President Reagan added the exemption for farmers and ranchers because there was nothing in S. 557 that specifically assured farmers that they will not be covered by the wide range of civil rights coverage in this provision S. 557 leaves open the possibility that a court would construe the law to include farmers and ranchers against our intent. The possibilities are mind-boggling and they are of great concern to agricultural America.

To point out just a few, I ask whether, under S. 557, farmers would have to hire persons with infectious diseases as TB or AIDS? Perhaps they could be required to restructure jobs, modify facilities or install equipment for handicapped persons.

I am sure they have no problems in providing amble opportunity to handicapped or disabled persons but in a farm environment, many times people with handicaps are not suited to work in this sometimes very dangerous profession. Farmers may have to establish grievance procedures whereby a hearing may have to be held before letting a worker go simply because he does not do the job.

Mr. President, I have overstated my case in defense of farmers and ranchers in the hope that other Members of this Senate will recognize this one of many shortfalls of S. 557, and take a look at section 7 and make a determination themselves. I learned this morning from the president of the Nebraska Farm Bureau that the farmers of Nebraska have become increasingly concerned about the effects on their businesses from this bill. This bill could make farming a whole new ball game.

Anyone familiar with farming knows that regulations like these on farms in many instances are already numerous. Farmers are already overburdened with low commodity prices, excess surplus stocks, and the lack of affordable financing. We have addressed some of these this year in Congress. But let's not add more to that burden. To be faced with the additional statutory and regulatory requirements could jeopardize their continued existence of many of my farm colleagues.

Of course, farmers and ranchers would not be the only citizens that are adversely and unfairly affected by the provisions in S. 557. The rights of all private sector organizations that receive Federal financial assistance, including corporations, partnerships, private organizations and sole proprietorships, are seriously called into question under S. 557.

The President's proposal protects these rights by requiring that only the plant or facility that receives and applies the Federal aid be subject to the corporate coverage provision under S. 557. This is especially appropriate in light of the fact that Federal assistance to corporations is provided to promote, in almost all instances, and not hurt a business. The time and paperwork involved with complying with S. 557 is completely absurd and intrusive if it applies to an entity other than the direct recipient of funds. President Reagan's proposal assures that this will not be the case, and clarifies this very important point for many people in this country in small business.

The coverage of food stamp recipients is yet another example of how S. 557 represents an unwarranted intrusion into the rights of private citizens. A business entity's participation in the Federal Food Stamp Program, participation which is aimed at benefiting the less fortunate people in our population, should not be further restricted and limit the participation of potential recipients of the Food Stamp Program.

The intrusion into the operations and policies of these business entities reflects a misunderstanding of the principles which such Federal aid programs are founded upon.

Finally, Mr. President, the concerns of the infringement of S. 557 on religious institutions cannot be overlooked by any Member of this Senate. S. 557 opens the door for broad Federal intrusion into some of our most personal and cherished rights, like the free exercise of religion. This challenges one of the great foundations of our country, the separation of church and state, in the mind of this Senator. The consequences of this legislation could conflict with the devotional activities of citizens across the country, and how they practice their religion. Subjecting bona fide churches and their congregations to lawsuits under the bill could affect this vital aspect of family life in America.

This expansion of Government power may jeopardize one of the cornerstones of freedom in our county—the independence of our churches from governmental influence.

Mr. President, in summary, I strongly believe that President Reagan's proposal would provide the basic civil rights protections and give better assurances against unnecessary instrusions of religion and businesses simply because they are recipients in some way of Federal funds.

I am concerned about this because the supporters of this legislation say that this would not happen and simply because you are a recipient of Federal funds you would not be subject to the overly broad parameters of this legislation. I disagree. We must recognize that we are living in an era of less government, not more government, which is considered to be the best medicine for the woes of our society. When we vote on this alternative package I urge my colleagues who have not done so to vote in favor of protecting the civil rights of citizens and not encouraging additional intrusion on their rights.

Let me conclude by citing an editorial that appeared on the 4th of March in the Omaha World Herald. The caption of this editorial is "Federal Power To Grow if Grove City Veto Fails."

> Majorities in both houses of Congress brushed aside serious concerns when they passed the Grove City College bill. The charge that the bill could extend federal control over colleges and other public and private agencies to unreasonable, perhaps dangerous, lengths has never been effectively rebutted.
>
> The term "civil rights restoration bill" evokes a favorable response from many Americans. Understandably so. Who would want to be known as an opponent of restoring civil rights? Supporters of the Grove City bill got a lot of mileage out of describing it as a vehicle to repair civil rights laws that were damaged by the U.S. Supreme Court's 1984 decision in the Grove City College case. But the description isn't accurate.
>
> The 1984 decision didn't weaken the civil rights laws. It merely clarified that the laws didn't cover all of a college's programs and divisions if only a few of the programs and divisions received federal aid.
>
> The new bill, which President Reagan says he will veto, would overturn the 1984 decision and extend federal power in civil rights matters to some non-federally funded programs and operations. It would apply not only to colleges but also to other public and private organizations that might receive funds directly or indirectly from the federal Treasury.
>
> It is not, consequently, simply a civil rights issue. It also involves the question of how much more control the government should assume over non-government matters. As William T. James, a Grove City College vice president, wrote recently for The Washington Post, the legislation "is not a bill about civil rights. At its very core lies the assumption that our citizens are unable to govern themselves with justice and equality."
>
> To be against a substantial expansion in federal control is not to support discrimination. Grove City College got in trouble with the government for reasons that had little to do with discrimination. It was hauled into court for refusing to sign anti-discrimination paper work.
>
> Although the college, James said, "considers discrimination of any kind to be repugnant and inconsistent with its conscience as a Christian institution," Grove City didn't feel obliged to sign the statement because of its policy of refusing all federal aid. The government argued that the college was required to fill out the form if its tie to the federal Treasury consisted of federal student aid.
>
> Opponents said the bill would mean excessive government control and paper work for colleges and universities and private-sector organizations. It could be used to try to force colleges to have identical athletic programs for men and women—regardless of the demand for such programs or the public's willingness to supply the resources through taxes or gate admissions.
>
> Considering what happened in an Omaha courtroom recently, the bill might even be used to force colleges to let women compete on the men's wrestling team—perhaps as a condition of keeping a research grant in the physics department.
>
> Many of the U.S. civil rights laws have been of enormous benefit since they were passed in the 1960s. They should be maintained and preserved. What Congress has done in the Grove City College bill, however, went beyond maintenance and preservation. The proper words for what it did are "expansion of federal control." Those words weren't used often enough in the debate.

I agree with this editorial, that we should have discussed more specifically during the debate, initially, and that is what we are doing now, the dramatic expansion of Federal control in our lives.

I believe this bill should not be called the Civil Rights Restoration Act but should be entitled "The Expansion of Government in Our Lives Act," because that is what I believe it does.

Mr. President, I urge my colleagues to seriously consider their first votes and to give strong consideration to supporting the President's initiative and the Hatch alternative and to sustain the veto of the President.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. KARNES. I yield the floor to the distinguished Senator from Idaho.

The PRESIDING OFFICER. Under the unanimous consent agreement, the Senator from Utah requested that the Senator from Connecticut be recognized.

Mr. SYMMS. Mr. President, I ask unanimous consent that I may be recognized under the same agreement that the Senator from Nebraska was recognized.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Mr. President, reserving the right to object—and I will not object—I would be delighted to yield under the same terms and conditions as were set forth by the Senator from Utah. I am delighted to yield the floor to the distinguished Senator from Idaho.

The PRESIDING OFFICER. Without objection, the Senator from Idaho is recognized.

Mr. SYMMS. I thank my friend and colleague from Connecticut.

Mr. President, I compliment the Senator from Nebraska for a very important statement that speaks to the problems we have in my State and that he has in his State with this legislation.

This young Senator has certainly done an outstanding and able job of representing the people of Nebraska in the short term he has been here. He is to be commended for the depth of his understanding of this issue as revealed in his speech. I thank him for it. I think the farmers, agribusinessmen, and support industries to agriculture in my State also thank him for a very outstanding statement. It speaks directly to the problem.

Mr. President, Senator KARNES said it better than I could. This should be called the Expansion of Government Act or the Intrusion Act, if you will and I commend my good friend from Nebraska for that statement.

HONDURAS

Mr. SYMMS. Mr. President, I rise to speak today on the proposed bill that the President has correctly, in my judgment, vetoed. But before I speak about the Civil Rights Act, I wish to say a few words about the civil rights of some people who are very near the United States of America. Yesterday and today, the Communist dictatorship of Nicaragua invaded the borders of nearby Honduras.

Mr. President, in my judgment, the chickens are finally coming home to roost, from the action taken in the House of Representatives recently, when they voted to not give aid to the freedom fighters in Nicaragua. That vote only encouraged Daniel Ortega and his Marxist-Leninists friends. It emboldened them to think that the United States would be paralyzed and would do nothing. The Sandinistas believe they were free to invade Honduras to go after those valiant freedom fighters who have been trying to wage a popular war that has been supported by over 80 to 85 percent of the people in Nicaragua.

I used the term "85 percent of the people support it." That is not my term. In my visits last fall with Cardinal Obando y Bravo, I asked him that question; and he said that he estimated that at least 85 percent of the people in Nicaragua supported the Contras.

Now, whatever has happened, whatever votes took place, however it was handled by administration, there have been signals sent from this Government—that we are washing our hands of the Contras. Therefore, the Communist Government of Nicaragua thinks they can run across the border into Honduras and go after some of the support bases of the Contras.

Mr. President, I have to think back to when we listened to the debate on the floor about whether or not we should aid our freedom fighters in Nicaragua. It was interesting to me that 2 weeks ago Monday, we are able in this body to get a 77-to-0 vote in support of those brave freedom fighters in Afghanistan. Yet, we were not able to get the same kind of vote for the freedom fighters in Nicaragua.

In many ways, the situation is the same. There are not as many Soviet troops, I must admit, in Nicaragua, but we do have the Cubanization of Nicaragua taking place. We have Soviet helicopters. We have Soviet personnel carriers. We have Soviet-built tanks. We have Cuban and East German and PLO and North Korean troops in here, training these people. There certainly is the Sovietization, the Cubanization, the communication of Nicaragua taking place in our own time zone. We can support the freedom fighters in Angola and Afghanistan. Those are 10-time zones away. We seem to get Congress to help in those areas, and they are winning the wars against oppression. Yet, in our own hemisphere, we have been unable to get the help.

It reminds me of some 13 or 15 years ago, when I was in the House of Representatives, at the time we had the big debates about whether or not we should give aid to Cambodia. We had the famous Paris Peace accords, and Dr. Kissinger and Le Duc Tho got the Nobel Peace Prize. The only problem was that Dr. Kissinger's prescription for how the Paris Peace accords were to be enforced, anytime there was a violation of the Paris Peace accords, was that American airpower would intervene and enforce the Paris Peace accords.

Then Congress spoke to that issue and removed the threat of American airpower. We had a President resign under duress under the Watergate situation. We had a President who took power and made a pledge that he would comply with what he thought Congress wanted to do.

It emboldened the Communists to move in hard in Cambodia and in Vietnam, and there was no American response, and we all know the end of that.

The same arguments were used: Let us give peace a chance. One of my colleagues who was in the House with me then made that statement. He said, "Let's give peace a chance in Cambodia." He is making the same argument on the Senate floor today: Let us give peace a chance in Nicaragua.

Of course, we all know what the result was in Cambodia. We gave peace a chance, and 2 million Cambodians were murdered.

Mr. Arias, from Costa Rica, gets a Nobel Peace Prize, and the battle cry in Congress is, "Let's give peace a chance." Thank heavens, 2 million people have not been killed, but the response is that the Nicaraguan Government is now emboldened, now that they have shut off aid to the Contras; emboldened to invade Honduras, thinking the United States will do nothing and make no response.

It is interesting to note that at the same day the invasion takes place from Nicaragua into Honduras we have a special prosecutor handing out indictments to great patriots like Oliver North and John Poindexter and others who were doing what they thought the Commander in Chief had wanted done. And that is only my opinion. In my view, they were doing what it was that they believed was in the best interest of the United States as well as what the administration wanted done.

In fact, today I have sent a letter to the President urging him to pardon Lieutenant Colonel North and Admiral Poindexter. I ask unanimous consent it be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 17, 1988.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: On March 16, under the direction of independent counsel Lawrence E. Walsh, a federal grand jury indicted former National Security Advisor John M. Poindexter and former White House Aide, Lt. Colonel Oliver L. North for their role in the so-called "Iran-Contra Affair."

Mr. President, it deeply saddens me that two "American Heroes are being prosecuted for their attempts to promote democracy in the oppressive and tyrannical country of Nicaragua. Moreover, it is extremely ironic that a grand jury indicated these individuals the same day the Marxist-Leninist Sandinistas launched their largest offensive against the Contra freedom fighters. This offensive seeks to extinguish the last bastion of hope to bring about a more civilized, democratic government.

Mr. President, I urge you to demonstrate your commitment to the freedom fighters and to those who strive to promote democracy by immediately pardoning Admiral John M. Poindexter and Lt. Colonel Oliver North.

While Congress' policy towards the Contra freedom fighters has been erratic at best, the courage, patriotism, and commitment of Admiral Poindexter and Colonel North are to be commended and admired by all freedom-loving Americans. They have suffered publicly through months of investigations and hearings, and their private lives have been shattered by the media. And why—because they tried to assist Nicaraguan citizens who long for the rights and liberties we Americans enjoy but so often take for granted, and they tried to implement your policy to stop the expansion of the communist empire.

Mr. President, I believe it would be a tragic mistake to allow these individuals to undergo prosecution, and I strongly urge you to grant a full and immediate pardon. If the independent counsel is allowed to continue this injustice, the ideals of free men will be abused and those who fight for freedom, here and around the world, will suffer a symbolic and substantive defeat.

Sincerely,

STEVE SYMMS,
U.S. Senator.

Mr. SYMMS. Mr. President, Colonel North believed in fighting the Communists in Nicaragua instead of on the Rio Grande River or the Snake River, wherever it happens to be. And I have had this discussion in my own State, I would say to the distinguished Presiding Officer, with some of my constituents who have a different point of view than me. I have asked them the question "Where do you want to fight these people? Do you want to wait until they cross the Snake River? Do you want to wait until they cross the Rio Grande River or the Missouri River? Just where is it that we should have the line drawn?"

In my judgment, it has been very, very clear that Daniel Ortega never, never intended to abide by the Arias peace plan. I said so on December 10 on the Senate floor. I made the point that it was absolute farce; that they had no intention of ever complying with that peace accord. I think that today's and yesterday's action and the buildup that has taken place is enough evidence. Our intelligence people have known that there was a buildup, that there were preparations being made for an invasion and now it has taken place.

So at this point I think that the President, because he has not been able to get the support out of the Congress, must act as Commander in Chief and clearly define what the issues are in this instance. The President must clearly state the position of the United States Government that our goal is to overthrow the Communist dictatorship of Nicaragua and help the freedom fighters in Nicaragua replace that government with one that will allow the people an opportunity to govern themselves and to have free elections, to own property, to have the right to assemble, to have freedom of religion, freedom of the press, and the other freedoms that we take for granted.

Mr. President, I think the only way the President will be able to do that is he must use his authority as Commander in Chief of our Armed Forces and Commander in Chief of our diplomatic corps and break diplomatic relations with the Nicaraguan Government. I have urged the President to do that for the last 5 years to no avail. But I still would say it again, that we should have a clear understanding so the people in this country know which side we are on.

They always say that if no one will sound the bugle, there will be very few people who will follow. I think in this case it is going to demand Presidential leadership. It is very obvious that he is not going to get the support and the leadership from the Speaker of the House and the more liberal point of view that they have in the other body. They seem to see no threat from the left. They seem to see no threat from anyplace where there happens to be a Marxist-Leninist govenment; that it is all some kind of a love-in.

I think what the President is going to have to do is break diplomatic relations, and he should do it now. I sent this same message to the White House. It is high time we break diplomatic relations with the Nicaraguan Government and we recognize the Contras as a legitimate Government of Nicaragua and give them the support that is necessary so that we can see freedom prevail in this hemisphere in Central America. The sooner we get on with this the better it will be. The longer we put it off, the more likely it will be that American troops, U.S. troops, will be involved.

We have brave young Nicaraguans fighting down there now. They are running short of ammunitions. They are short of medical supplies. They do not have air support that they badly need in this situation. It is high time that the United States of America gets them the necessary support—and I think it has already gotten to the point that probably American naval and air power will be necessary to secure freedom in Central America—and avoid a great problem in the future.

Mr. President, I would appeal to this administration that they get on with it and stop trying to have it both ways. That is why I think that we lost those votes in the Congress in the first place. The administration never made it clear. If you go back through the history when the Boland amendment was passed in the first place, it should have been vetoed. We should have had a political confrontation over it. Then we would not have had all the problems that brought on the Iran-Contra issue. We would not have had those problems because the people such as the late great William Casey, Colonel North, Poindexter, McFarlane, those people certainly would not have been put in a position to try to raise private funds or get moneys from other sources to help the freedom fighters in an effort that they believed their Commander in Chief wanted.

No, Mr. President, it is no surprise to this Senator that the actions that are taking place in Central America are actually taking place. I have been saying it on this floor for the past 6 years. In fact, starting back in 1981, when I first offered the Cuban amendment which would allow use of military force if necessary to stop the revolution from spreading from Cuba to the mainland of the Americas. That was what that resolution said. We voted for it. The House of Representatives voted for it. But the administration would never take that issue and use it as a lever. I felt that they should have used the Cuban resolution to have the Congress we recognize that the communization of Central America was threatening the security of the United States of America and the free people all over the world.

Now what we have are riots in Panama. We have drug dealers running Panama. We have Communist dictators running Nicaragua. We have them invading their neighboring country of Honduras where they have a much, much stronger military power than Honduras or any of the surrounding countries.

Ultimately, the responsibility to protect the freedom in this hemisphere, since we will not provide the Nicaraguan people the meager support that they have asked for, will probably end up falling on the shoulders of young United States troops. However, I think could be avoided and still can be avoided if we move now in a bold, decisive action.

So I would appeal to my colleagues to encourage the White House to declare themselves clearly that they are not going to tolerate this kind of behavior in this hemisphere. We will not be able to tolerate this invasion into the neighboring Honduras, and that we cannot in fact go on and allow the drug dealers and the thugs to run Panama at the expense of civil rights for people in Panama. So I think that the administration is moving to do the right thing in Panama now but very soon that situation will be out of hand also.

Mr. President, I do not take this floor to sound like an alarmist, but I think the facts are the facts. If we do not move decisively and take very bold action and take the responsibility that a superpower has in our own back yard, we will rue the day that we did not do it. We will rue the day that we are using and committing American troops to do something that could have been done by people native to the area, that want to fight for their own freedom. I think that the President could solve this problem very rapidly by simply recognizing a government that was supportive of us in Nicaragua and not recognizing the dictatorship that is now in power.

If he would do this, we could give them what support was necessary and see a culmination of this very fast, and run Daniel Ortega and his cronies out of Nicaragua in a hurry. And, as far as I am concerned, that can be worked out by Nicaraguans, whether they stay there and become civilized again or whether they go to Cuba with their friend Fidel Castro and want to stay there in exile from Nicaragua or they want to go on to the Soviet Union and to live there.

But we do not need to have them continue to be barbarians in this hemisphere by violating the civil rights and the trust of their neighbors.

CIVIL RIGHTS RESTORATION ACT (GROVE CITY)—VETO

The Senate continued with the consideration of the veto message of the President on S. 557.

Mr. SYMMS. Today, Mr. President, the Senate has started consideration of the President's veto of S. 557, the so-called Civil Rights Restoration Act of 1987. I think more properly named by the distinguished Senator from Nebraska, the "Government Intrusion Act of 1987," the latest version of legislation to address the Supreme Court decision in the case of Grove City versus Bell decided in 1984. For more than 3 years now, we have heard the clamor from House and Senate Members and the civil rights community demanding reversal of this decision.

"Restore the law to its pre-Grove City state", has been the cry. However, if anything has become clear in the last 3 years, it is that there is wide disagreement on what the state of the law was in this area before that decision.

The sponsors of S. 557 state that they want to restore the broad, institutionwide coverage of title IX and the other statutes addressed in their bill. However, there is strong evidence that coverage prior to Grove City was not institutionwide, but program-specific, as the language of the statutes appears to mandate.

Mr. President, the controversy surrounding Grove City-related legislation has been improperly focused from the start. In my opinion, the question is not whether Federal financial assistance should be allowed to fund discriminatory activities. Indeed, I believe that Americans support the continued prohibition of such use of Federal funds. I have heard no one argue otherwise.

However, the sponsors of S. 557 have chosen to distort this debate by posing the question of simplistic terms under which one is either for their bill or for Federal subsidized discrimination. I do not believe that to be the case but that is the way it has been framed. It is a tactic that has served them well on this and other legislation which, regardless of merit, has been touted as critical to the future of civil liberty in our Nation.

The true controversy underlying this legislation is based upon complex, yet subtle questions which arise in the implementation of the accepted policy goal that Federal dollars should not subsidize discrimination. It is here that a number of significant disagreements exist: What breadth of coverage should be invoked as the result of receipt of Federal funds by a particular entity? For example should the entire multisited corporation be covered under the civil rights statutes when only one part of one of its plants receives Federal assistance? Should certain types of organizations be singled out for especially expansive coverage for no apparent reason—as they are under S. 557?

It is appropriate that we expand coverage under the civil rights statutes to cover, as S. 557 would, all the operations of a church or synagogue merely because it assists the elderly or the needy with the use of Federal dollars? I do not think that should be the case. Coverage prior to Grove City would have extended only to the federally assisted program within the church or synagogue. Although the sponsors of S. 557 have argued vigorously in defense of the expansive coverage of churches which would result under the bill, they have presented no evidence of discrimination to warrant such new coverage. Should we not at least have a reason for discarding first amendment religious freedoms?

I think we should have a reason before we do that, Mr. President, and I do not believe that the proper reason has been presented. There is no evidence of discrimination to warrant such new coverage. Yet, it is in this bill. As the distinguished Senator from Nebraska pointed out, this bill should be called the Government Intervention Act of 1987, the Government Intrusion Act of 1987, the Excuse for Bigger and More Government Act of 1987. This will be an absolute lawyer's dream, and I do not believe that is what the U.S. Senate or the Congress of the United States is set up to do.

I believe that our purpose should be to try to legislate fairly, equitably, and protect the freedoms and civil rights of all people in this country, certainly, but not to set up intrusive measures that interfere with the simple operations, such as food distribution or church programs, that will completely disrupt and be a disincentive, as a matter of fact, for private entities to carry out programs that might in some way have some Federal funds available.

Mr. President, like several of my colleagues, I have serious problems with the proposed legislation.

The bill insufficiently protects religious values under title IX. As well, this legislation represents a massive expansion of Federal power. This massive Federal expansion into State and local governments; businesses, including small businesses such as grocery stores; farming; and private education has many consequences.

The phones have been ringing off the hook in my office ever since the President first started talking of vetoing this bill because small businesses, private schools, public schools, churches, county commissioners, mayors, everyone that in any way has anything to do with the Federal Government in my State are very concerned about this.

The farmers are upset about it. As the distinguished Senator from Nebraska pointed out many of these farmers will be under some kind of requirement to fill out great numbers of forms if they in any way have anything to do with the Federal Government, whether it is Federal loans, Federal farm payments, Farm Credit System—it is so intrusive, and I think it is unnecessary that we have legislation that goes that far.

In addition, if this bill becomes law, more sectors of American society, both public and private, will be subject to: increased Federal paperwork burdens; random, onsite, and costly Federal compliance reviews even in the absence of an allegation of discrimination; numerous and burdensome Federal regulations containing thousands of words, including expensive accessibility requirements under section 504 that can require structural and equipment modifications, job restructuring, modifications of work schedules, and provision of auxiliary aids.

Mr. President, I might just comment on that as a small businessman myself before I came to the Congress.

People in Washington, DC, often forget how much it costs for small businesses to fill out all these forms for the Federal Government. It costs them a great deal of time, effort, money, wages, and causes inefficiencies in production. Then we wonder why we have a hard time competing with some of our competitors from West German, from Britain, from France, from Japan, and the Pacific rim.

We pass laws like this, Mr. President. It makes this country less competitive. Then what is the answer to that? Then Congress comes up with an idea and says: "Let's pass another law. We will have a protectionist law and we will keep all the foreign goods out of the country because we cannot compete with them." Maybe if we will pay attention to what it is we are passing and imposing on people, we will find out we would be more competitive and that our businesses would be able to be more efficient and think about spending their time and their efforts on producing better products at a lower price rather than filling out all these forms to comply with some law that Congress passed because Congress wants to be for civil rights.

We all want to be for civil rights. I do not think there is a Member of this Senate that does not think that we should be against discrimination and in favor of equality and opportunity for all people, no matter what their background. I certainly favor that. But I do not favor imposing on the American people an unnecessary burden of paperwork requirements and so forth.

The equality-of-result rather than equality-of-opportunity standards can lead to quotas and proportionality requirements; the need to attempt to accommodate infectious persons; increased exposure to costly private lawsuits; and increased exposure to the judgment of Federal courts.

The Civil Rights Restoration Act represents a vast expansion of Federal power over State and local governments and the private sector, including churches and synagogues, farmers, businesses, voluntary associations, and private and religious schools. This expansion goes well beyond the scope of power exercised by the Federal Government before Grove City. Without being exhaustive, some examples are:

An entire church or synagogue will be covered under at least three of these statutes if it operates one federally assisted program or activity.

Every school in a religious school system will be covered in its entirety if one school within the school system receives even one dollar of Federal financial assistance.

Grocery stores and supermarkets participating in the Food Stamp Program could be subject to coverage solely by virtue of their participation in that program.

Mr. President, think about this for a minute. I do not believe there is a single Senator who would want people who are of the lower income category, who are disadvantaged for one reason or another and are on Federal food stamps, to find out that there were some stores who just did not want to put up with the paperwork so they say, "We will refuse to take food stamps because we do not want to have to go through all of the red tape."

I do not know that that would happen, but there would certainly be an incentive for that to happen, and that would be another kind of discrimination.

Farmers receiving crop subsidies, price supports, or similar Federal support may be subject to coverage.

Every division, plant, facility, store and subsidiary of a corporation or other private organization principally engaged in the business or providing education, health care, housing, social services, or parks or recreation will be covered in their entirety whenever one portion of one division, plant, facility, store, or subsidiary, receives any Federal aid.

Thus, if one program at one nursing home or hospital in a chain receives Federal aid, not only is the entire nursing home or hospital covered, but all other nursing homes or hospitals in the chain are automatically covered in their entirety even if they don't receive Federal aid.

Further, if the tenant of one unit in one apartment building owned by an entity principally engaged in providing housing receives Federal housing aid, not only is the entire apartment building covered, but all other apartment buildings, all other housing operations, and all other nonhousing businesses of the owner are covered even though they receive no direct or even indirect Federal aid.

If a home developer or builder constructs one project with Federal aid, all other homebuilding activities and nonhousing activities of the developer or builder are covered.

The entire plant or separate facility of all other corporations and private organizations not principally engaged in one of the five specified activities would be covered if one portion of, or one program at, the plant or facility receives any Federal aid. This includes all other plants or facilities in the same locality as the facility which receives Federal aid for one of its programs.

A private, national social service organization will be covered in its entirety, together with all of its local chapters, councils, or lodges, as well as its national headquarters if one local chapter, council, or lodge receives any Federal financial assistance. Conversely, if one program at the national headquarters of such an organization received Federal aid, not only is everything done by the national headquarters completely covered, so are all of the activities of all State and local units.

A State, county, or local government department or agency will be covered in its entirety, whenever one of its programs receives Federal aid. Thus, if a State health clinic is built with Federal funds in one town, not only is the clinic covered, but all activities of the State's health department in all parts of the State are also covered.

I would appeal to my colleagues, think about that one. Think about your States and think about the repercussions that you are going to have in your States when the bureaucracy recognizes how much additional work is necessary to dispense health services and how much it will interfere with the delivery of public health services to people in your States.

I say to my colleagues, that, in itself, is enough reason for the President to have vetoed this legislation.

All of the commercial, noneducational activities of a school, college, or university, including rental of commercial office space and housing to those other than students or faculty, as well as investment and endowment policies, will be covered if the institution receives even $1 of Federal education assistance.

A vague, catch-all provision creates additional coverage.

I have mentioned, in general, the burdens of Federal regulations. Specifically, let me note that the requirements under just section 504 of Department of Agriculture regulations alone for covered entities are significant. The regulations cover all entities deemed recipients, even ones with fewer than 15 employees. The regulations, however, provide for slightly reduced compliance burdens in just a few instances for a recipient with fewer than 15 employees. Therefore, if the Civil Rights Restoration Act is enacted, the Government Intrusion Act, as renamed this afternoon, all grocers, for example, including small ones, will have to comply with all but a few of the Department of Agriculture's extensive section 504 regulations. Among the regulations applicable even to the smallest grocery store are:

A requirement to consult with disabled persons or disability rights groups and to make a record of such consultation;

Extensive employment regulations, including equipment modifications, job restructuring and modifications of work schedules.

Mr. President, that is going to mean that groceries are going to cost your constituents more. Someone has to pay for this added burden of paperwork. What it will amount to is that the consumers out there, the very people we say we are trying to help with the passage of this legislation, will end up paying more money to buy their groceries if the grocer has to comply with all this redtape and interference.

The need to attempt to accommodate persons, including employees, with infectious diseases, such as tuberculosis and AIDS, under the review of Federal bureaucrats and Federal courts;

Regulations applicable to new construction or alteration of an existing building;

A requirement to "take appropriate steps" to guarantee that communications with hearing-impaired and vision-impaired applicants, employees, and customers can be understood;

A requirement to undertake home deliveries or install wheelchair ramps;

A requirement to make significant structural alterations if alternative means are not available to provide services.

Moreover, grocers or supermarkets with 15 or more employees—which include numerous small businesses—have added burdens under the regulations, such as:

The requirement of adopting grievance procedures that incorporate appropriate due process standards;

The requirement of providing auxiliary aids for hearing-impaired and vision-impaired persons if necessary for them to work or shop at the store.

Mr. President, these are some of the issues which make the proposed act that the President, in my opinion correctly, vetoed unacceptable.

They do not center on the question of whether Federal funds should be allowed to subsidize discrimination. That is a moot question. No one is arguing that point. I think that all Senators agree that Federal funds should not be allowed to subsidize discrimination.

They center on the need for a careful balancing of constitutionally guaranteed freedoms and rights and the relationship to important public policy objectives.

Mr. President, I would urge my colleagues to sustain the President's veto.

Mr. President, I would also at this point like to insert into the Record the Wall Street Journal editorial entitled "Above the Law," which was in the Wall Street Journal of February 8, 1988.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

ABOVE THE LAW

A major fight is brewing over legislation to overturn the Supreme Court's *Grove City* decision, which limited the reach of federal laws on discrimination against women, the handicaped and the elderly. The court ruled that such laws apply only to specific programs receiving federal aid, not to whole institutions such as schools, companies, hospitals or state and local governments. A bill to overturn the decision breezed through the Senate by a 75-14 vote, and now goes to the House, though private and public employers fear increased disruption, and the Reagan administration threatens a veto.

No one seems to notice that one major institution has managed to avoid the impact of the laws in question. A Fortune 500-size employer, with a payroll of 38,000 and an annual budget of $1.75 billion, has successfully lobbied itself an exemption, putting itself above the law. Dear reader, quiz: The name of this miscreant civil-rights evader is (a) Octopus Industries Inc. (b) The Ku Klux Klan (c) the CIA (d) the University of Texas Athletic Department (e) the United States Congress?

Anyone miss that one? In fact, Congress routinely excludes itself from all the regulatory laws it passes. Indeed, back in 1984 the House defeated an amendment to extend the civil-rights laws to Congress by a vote of 277-125. The nearby box lists some of the landmark laws everyone in America must obey—except Congress. Congressional employees are denied many of the rights—health and safety protections, anti-discrimination laws, collective-bargaining rights—that Congress has mandated for workers in both the private sector and the executive branch.

Not that Congress doesn't consider itself above the law even without benefit of specific exemptions. By oversight, it neglected to exempt itself from the Clean Air Act it passed in 1970. Several years ago an air-quality inspector tried to serve Congress's Capitol power plant with a violation notice. The manager of the plant sent the inspector packing, asserting—incorrectly but understandably—that Congress was exempt from the Clean Air Act anyway.

Members defend such exemptions by arguing that Congress has the right to manage its internal affairs and that they must be given complete freedom in hiring and firing employees. No one questions that a Member has to be able to hire a staff that is both loyal and compatible. But why should voters have to accept the blanket hypocrisy of a legislative body saddling private citizens and businesses with burdensome regulations it itself is exempted from?

By now, of course, congressional highhandedness is taken for granted, as the divine right of kings once was. Congressmen feel free to write their whims into continuing resolutions, or to pass an Ethics in Government Act that sets up special prosecutors to try executive-branch officials such as Michael Deaver and Lyn Nofziger for the dread offense of lobbying. But heaven forbid that the procedures and standards Congress legislates for others ever be applied to Congress or its Members.

Republican Senator Strom Thurmond and Democratic Rep. Howard Wolpe of Michigan have sponsored bills that would place lobbying restrictions on former Members of Congress. Hearings on the Wolpe bill are due this month, but a recent survey by the Center for Responsive Politics found that 63% of the 114 responding Members opposed lobbying restrictions on former Members. "There's a set of unstated rules that ex-members live by," former GOP Rep. W. Henson Moore recently told Roll Call magazine. "We watch the rules, even if no one's watching us. The rules I stand by go beyond what Senator Thurmond is trying to do." Imagine some private-sector or executive-branch figure telling that to a congressional investigating committee.

In the Federalist Papers, James Madison answered those who worried about how Congress could be restrained. Congressmen voting on oppressive measures would know, he argued, "There can be no law which will not have its full operation on themselves and their friends, as well as on the great mass of society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together." In writing itself exemptions Madison never imagined, Congress has undermined its moral authority to legislate rules for the rest of society.

Mr. SYMMS. Mr. President, I will read a few paragraphs from this editorial because I think it is so significant to the discussion that we are having here today.

A major fight is brewing over the legislation to overturn the Supreme Court's Grove City decision which limited the reach of Federal laws on discrimination against women, the handicapped, and the elderly.

The Court ruled that such laws apply only to specific programs receiving Federal aid, not to whole institutions such as schools, companies, hospitals or State and local governments.

This is exactly the point I have been trying to make. I want to repeat that: "the Court ruled that such laws apply only to specific programs receiving Federal aid, not to whole institutions such as schools, companies, hospitals, or State and local government. A bill to overturn the decision breezed through the Senate by a 75-to-14 vote."

Someone asked me off the floor earlier, "Why did the bill pass by a 75-to-14 vote?" It is simple. Who wants to be cast as being against civil rights? No one wants to be against civil rights. No one likes to be labeled as being against civil rights.

This bill, as a matter of fact, speaks to hearing-impaired people. I have two fine young people in my office who both have hearing impairments. They are both graduates of Gallaudet College, and they do an excellent job: Jim and Chas Grant. I do not want to be cast in the position of somehow I am not in favor of them having every opportunity.

That is why the bill passed by a vote of 75 to 14. It is reported in the news you are either for civil rights or against civil rights, with no room in between. President Reagan does not like to be criticized and called as being against civil rights. To call him against civil rights is an injustice to fairness.

Certainly, I think he is right by vetoing this bill because this bill goes way beyond what it is we are supposed to be correcting with respect to the Grove City decision.

* * * and now goes to the House, though private and public employees fear increased disruption, and the Reagan administration threatens a veto.

No one seems to notice that one major institution has managed to avoid the impact of the laws in question. A Fortune 500-size employer, with a payroll of 38,000 and an annual budget of $1.75 billion, has successfully lobbied itself an exemption to put itself above the law. Dear Reader, quiz: The name of this miscreant civil rights evader is (a) the Klu Klux Klan, (c) the CIA, (d) the University of Texas Athletic Department, (e) the United States Congress?

What is the answer, Mr. President? Guess who got it done?

Anyone miss that one? In fact, Congress routinely excludes itself from all the regulatory laws it passes. Indeed, back in 1984, the House defeated an attempt to extend the civil rights laws to Congress by a vote of 277 to 125. Here is a list of some of the landmark laws everyone in America must obey—except Congress.

The Civil Rights Act, Equal Employment Opportunity Act, the Equal Pay Act, the Fair Labor Standards Act, the National Labor Relations Act, the Occupational Safety and Health Act, Freedom of Information Act, and the Privacy Act, Congress is excluded from all of those. Most Americans do not realize that, but your constituents will call today, because people in America recognize that this bill is going to be very intrusive into their lives. When they do get the message, they are going to be very pleased with President Reagan's veto and very frustrated if his veto is not sustained. They are going to be very upset if his veto is overridden, because then they will be forced to do more and more paperwork and answer more and more questions.

Not that Congress doesn't consider itself above the law even without the benefit of specific exemptions. By oversight it neglected to exempt itself from the Clean Air Act it passed in 1970. Several years ago, an air-quality inspector tried to serve Congress' Capitol power plant with a violation notice. The manager of the plant sent the inspector packing, asserting—incorrectly but understandably—that Congress was exempt from the Clean Air Act anyway.

Members defend such exemptions by arguing that Congress has the right to manage its internal affairs and they must be given complete freedom in hiring and firing employees. No one questions that a Member has to be able to hire a staff that is both loyal and compatible. But why should voters have to accept the blanket hypocrisy of a legislative body saddling private citizens and businesses with burdensome regulations itself is exempted from?

By now, of course, congressional high-handedness is taken for granted, as the divine right of kings once was. Congressmen feel free to write their names into continuing resolutions, or to pass an Ethics in Government Act that sets up special prosecutors to try executive branch officials, such as Michael Deaver and Lyn Nofziger, for the dread offense of lobbying. But Heaven forbid that the procedures and standards Congress legislates for others ever be applied to Congress or its Members.

Mr. President, I will not read the rest of this editorial, but I do think there is one point that needs to be mentioned as the Wall Street Journal correctly mentions. That in the Federalist Papers, James Madison answered those who worried about how Congress could be restrained.

Congressmen voting on oppressive measures would know,

He argued,

that there can be no law which will not have its full operation on themselves and their friends as well as on the great mass of society.

James Madison really expected, though, that the Congressmen would come to Washington and spend about 3 or 4 months here and then return back home to their business, and they would make their living doing something else. What has happened, as Government has become bigger and bigger over the years, becoming a Member of Congress has become a full-time occupation.

It still comes back to the point that this legislation, which the President correctly vetoed, is one of the most intrustive pieces of legislation to pass this body in many years, and one of these battles has reached us; it is here before us. It is an issue which we absolutely must recognize is before us, and we have to make a decision on it.

I have a few letters here, and I would like to read into the RECORD one of those. This is just one of hundreds of letters of opposition which have come in from my State. This is from Gail B. Thomas, in Filer, ID:

Dear Senator Symms, in my opinion, the Civil Rights Restoration Act would have disasterous repercussions. As I understand it, this act would not allow private school systems, private corporations, or hospitals to discriminate against alcoholics, drug addicts, and persons with contagious diseases.

The Danforth amendment handles the abortion issue well enough, and the Hatch amendment protects religious organizations. What about all the other hospitals and private corporations?

How can anyone support an act that opens the door for such far-reaching and irresponsible levels of Federal control? I strongly request that you send this one back to the drawing board. Please do not support this act.

This is typical of the letters I have received from my State with respect to this, and I think it is important that we recognize the Grove City case only dealt explicitly with sex discrimination provisions in title IX. Three other civil rights statutes contain comparable language: Title VI of the Civil Rights Act of 1964 prohibits discrimination with respect to race, color, or national origin under any program or activity receiving Federal financial assistance. Section 504 of the Rehabilitation Act of 1973 outlaws discrimination on the basis of handicap under any program or any activity receiving Federal financial assistance. And finally, the Age Discrimination Act of 1978 bans discrimination on the basis of age in connection with any program or activity receiving Federal financial assistance.

Fearing that these three statutes would be interpreted in the same limited way as title IX, the Congress has introduced companion legislation to broaden the coverage of the four underlying statutes to bring the entire institution receiving indirect assistance within Federal purview. This is exactly the point I have been trying to make that this is so intrusive. If one part of any entity is involved, it will certainly be intrusive into the lives of people.

So I urge my colleagues to support the veto of the President. Moreover, I hope then that the President's substitute legislation that has been sent down and introduced by Senator Hatch, could then be addressed by the committee, then come back with a piece of legislation that the American people would support.

So I think it is important that this veto is sustained. The Supreme Court decision of Grove City College versus Bell placed limitations on the applications of civil rights statutes to educational institutions receiving Federal funds. The legislative proposals to overturn this decision have been much broader in scope and impact and significantly would affect the business community, State and local governments and private schools by subjecting these institutions to new Federal civil rights jurisdictions and requirements.

Mr. President, I ask unanimous consent to have printed in the Record a letter dated March 1987, by Michael E. Hammond.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Washington, DC, *March, 1987.*

Grove City

(By Michael E. Hammond)

One of the central battles of the 100th Congress is almost sure to be over an esoteric piece of legislation known as the "Grove City Bill." Although its provisions are a bit arcane, this legislation would fundamentally enhance the reach of the federal government.

The basic issue is this: Federal law currently prohibits any "program or activity" which is a recipient of federal funds from engaging in discrimination against any person on the basis of race, sex, age, or handicap.

In 1984, the Supreme Court held that a college or university is a "recipient" of federal funds if it enrolls students receiving financial aid from the federal government, either through federal grants or federally guaranteed student loans. At the same time, the court narrowly defined the term "program or activity," holding that an entire college or university was not a "program or activity" receiving federal funds merely as a result of enrolling students receiving federal assistance. Rather, it was the financial aid department of the college or university which constituted the "program or activity" receiving federal funds.

In the 98th and 99th Congress, and now in the 100th Congress, legislation has been proposed to define "program or activity" to include an entire institution (such as a university, corporation, or local governmental department), if any person or segment of that institution received either direct or indirect assistance from the federal government.

The implications of such legislation are far-reaching. If a university is a federal "recipient" because one of its students receives financial aid, it would appear to be the case that a grocery store is a "recipient" if it accepts food stamps, a nursing home or hospital if it treats Medicare patients, or a bank if it deposits a Social Security check.

This would be less controversial if federal anti-discrimination laws had not been judicially and administratively interpreted in such expansive and unusual ways. Regulations governing sex discrimination laws, for example, require colleges to fund abortion to the same extent as other "medical procedures." The Federal District Court for the District of Columbia has held that transvestitism is a "handicap" for the purpose of the Rehabilitation Act, making discrimination against a transvestite unlawful. And, in a number of jurisdictions, AIDS patients are also being defined as "handicapped," thereby requiring that they also be employed on a non-discriminatory basis, even if that employment may raise some questions of health and safety.

It is against this background that Congress will "face off" within the next six months to determine whether this major expansion of federal jurisdiction will be expedited or stymied.

BACKGROUND

Grove City College is a small coeducational college in Pennsylvania. Although it has never discriminated on the basis of race, religion, sex, or handicap, Grove City's fierce independence has led it to refuse all federal funding, thereby exempting itself from the types of regulations which would accompany such monies. Because it did not deem itself to be a recipient of federal funds, Grove City refused to sign a statement required of federal recipients, verifying that it would not discriminate on the basis of sex. In 1977, the Carter Administration's Department of Health, Education and Welfare initiated proceedings against Grove City College on the grounds that although it did not receive any federal funds directly, it did admit students who received federal grants and federally guaranteed student loans and was therefore an indirect "recipient" of federal funds and subject to federal regulation.

The particular statute in question was Title IX of the Education Amendments of 1972, which provides:

> No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. . . .

Title IX specifically excludes:

(1) Admissions policies of elementary and secondary schools;

(2) Practices contrary to the religious tenets of colleges "controlled by" religious organizations;

(3) Admissions practices of private undergraduate schools and traditionally sex-segregated public undergraduate schools;

(4) Fraternities, sororities, the YMCA, the YWCA, the Boy Scouts, the Girl Scouts, the Camp Fire Girls, and similar youth service organizations and boys' and girls' conferences;

(5) Father-son and mother-daughter activities; and

(6) Beauty pageants.

Title IV does, however, apply to such controversial areas as

(1) College sports, even when men's sports produce millions of dollars of revenue and women's sports produce none;

(2) Practices contrary to the religious tenets of colleges which are affiliated with, but not necessarily "controlled by" religious organizations; and

(3) Abortion.

With respect to abortion, federal regulations promulgated in 1975 to implement Title IX specifically provide that abortion must be treated on the same basis as other "temporary disabilities" with respect to "any medical or hospital benefit, service, plan or policy [available to students]" and with respect to "all job-related purposes [applicable to employees]." This raises the specter of federally mandated abortions in university hospitals and federally required abortion coverage by college employee and student health plans.

Against this backdrop, the Supreme Court handed down its decision in Grove City College v. Bell on February 28, 1984. That decision had two prongs:

The first prong held that Grove City College did "receiv[e] Federal financial assistance" by virtue of its acceptance of students receiving federal grants and federally guaranteed student loans. Although it tried to distinguish comparable cases in a footnote, it is hard to understand how the court can avoid the conclusion in future cases that other indirect recipients are also federal funding "recipients." This means that any person or business who receives money from the federal government runs the risk of being classified as a recipient of federal funds.

Before this decision, few people would have considered grocery stores accepting food stamps, hospitals and nursing homes treating Medicare patients, or banks depositing Social Security checks as recipients of federal financial assistance. Notwithstanding the far-reaching implications of such coverage, it was not the grocery stores, hospitals, nursing homes, and banks which raised the primary objections to the Supreme Court's holding in the Grove City case. Rather, those outcries arose from groups concerned that the court's coverage was *not* sufficiently board.

This is because, while the first prong of the decision extended civil rights coverage to indirect recipients of federal funds, the second prong limited that coverage to the specific "program or activity" within the university or other institutions which actually benefited from the funds. It would not shock most observers to learn that a statute which, on its face, applied only to the "program or activity receiving Federal financial assistance" was interpreted as applying only to a particular "program of activity," rather than an entire institution, which proceeded to make reversal of the second prong of the Grove City decision its primary legislative goal in the 98th Congress.

LEGISLATIVE ARMAGEDDON

Although the Grove City case only dealt explicitly with the sex discrimination provisions in Title IX, three other civil rights statutes contained comparable language.

Title VI of the Civil Rights Act of 1964 prohibits discrimination with respect to race, color, or national origin "under any program or activity receiving Federal financial assistance."

Section 504 of the Rehabilitation Act of 1973 outlaws discrimination on the basis of handicap "under any program or activity receiving Federal financial assistance."

And, finally, the Age Discrimination Act of 1978 bans discrimination on the basis of age in connection with any "program or activity receiving Federal financial assistance."

Fearing that these three statutes would be interpreted in the same limited way as Title IX, congressional liberals, led by Senators Edward M. Kennedy (D.-Mass.) and Robert Packwood (R.-Ore.) in the Senate and Congressman Paul Simon (D.-Ill.) in the House, introduced companion legislation (H.R. 5490 and S. 2568) to broaden the coverage of the four underlying statutes to bring the entire institution receiving indirect assistance within federal purview.

Although S. 2568 had 62 Senate cosponsors and 92 senators voted to shut off a conservative filibuster of that legislation, it was ultimately tabled by its own sponsors when the procedural tactics employed to achieve its passage backfired.

The Grove City agenda was reintroduced in a slightly different form in the 99th Congress as "The Civil Rights Restoration Act." But this bill suffered a similar fate—this time in the House—when its supporters proved unwilling to accept an amendment preventing institutions from being required to perform abortions and provide abortion insurance coverage.

Now comes the so-called "Civil Rights Restoration Act of 1987," slated to be one of the two or three major items on the feminist agenda this year. Introduced on February 19, 1987 with 51 Senate cosponsors, this bill, S. 557, would broaden federal jurisdiction to cover an entire institution if a single part of that institution receives direct or indirect funding from the federal government, including federally insured student loans or federal student grants. S. 557 specifically mentions institution-wide coverage for state and municipal departments and agencies; institutions and systems of elementary, secondary, and higher education; corporations, partnerships, and "other private organization[s]"; and any combination of these institutions. Introduction of an almost identical House counterpart is expected soon.

With rapid action promised on this legislation in both the House and the Senate, the bill could be on the Senate floor later this spring. If the House counterpart, as expected, again gets hung up on the question of abortion, Senate sponsors may attempt to circumvent the House entirely by appending the Senate version to a House-passed bill, such as the Fair Housing Bill.

SO WHAT'S WRONG WITH THAT?

The desirability of bringing an entire educational institution within federal jurisdiction—and risking institution-wide coverage for cities, states, corporations, and other indirect recipients of federal benefits—depends on what sort of impositions the federal government intends to make on the institution.

There is close to a consensus in the United States that discrimination against persons merely because of their race, religion, sex, age, or handicapped status is improper and should be prohibited by federal law. The problem is that statutes purporting to achieve non-discrimination have been judicially and bureaucratically interpreted to go far beyond their original purposes. Among some of the more far-reaching implications are the following:

Non-discrimination against drug addicts and alcoholics. Shortly after the adoption of section 504, the Department of Health, Education and Welfare promulgated regulations to extend the definition of the term "handicapped" to alcoholics and drug addicts. What this meant was that employers receiving any form of assistance from the federal government were forbidden, as a matter of federal law, from refusing to hire persons because of their use of or addiction to alcohol or dangerous drugs. Following two highly celebrated cases on these issues (*Whitaker* v. *Board of Higher Education of the City of New York*, 461 F.Supp. 99 (E.D.N.Y., 1978) [alcoholics], and *Davis v. Bucher*, 451 F.Supp. 791 (E.D.Pa., 1978) [drug addicts], Congress amended the law to allow an employer to refuse to hire an alcoholic or drug addict if and only if "current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to the property or safety of others." Note, however, what this amendment would not do:

It would not prevent the federal government from forcing a school to admit an alcoholic or drug addict, since the amendment applies only to employment practices.

It would not prevent the federal govenment from forcing a school to hire an alcoholic or drug addict unless the school could demonstrate that the alcoholism or drug addiction interfered with the performance of the job.

Non-discrimination against AIDS patients. On March 3 of this year the United States Supreme Court, in the case of *School Board of Nassau County* v. *Arline*, U.S. (1987), ruled that a communicable disease is a "handicap" within the meaning of that term in Section 504 of the Rehabilitation Act. Persons with such a "handicap" may not be discriminated against in employment. While the specific case dealt with a teacher who had tuberculosis, the principle the Court invoked would presumably also apply to persons with AIDS. In states with handicap provisions comparable to section 504, there has been a decided tendency for courts and administrative agencies to extend the law to prohibit discrimination against AIDS patients. Although most, if not all cases of AIDS in the United States have been attributed to the transmission of bodily fluids through sexual intercourse, the sharing of needles by intravenous drug users, and the like, our knowledge of mechanisms for transmitting the disease is hardly complete enough to make us sanguine about the prospect of federally forced hiring of AIDS patients by university cafeterias and hospitals.

Non-discrimination against transvestites. Moving from the sublime to the rediculous, a large amount of recent litigation attempting to extend federal sex and handicap non-discrimination provisions to homosexuals and transvestites has sidetracked the lofty purposes of these statutes. Although these suits have generally been unsuccessful, the United States District Court for the District of Columbia held, in *Blackwell* v. *United States Department of the Treasury*, 639 F.Supp. 289 (D.C. 1986), that a transvestite who was not rehired by the Treasury Department because of his/her condition had a cause of action under the Rehabilitation Act.

Non-discrimination against non-revenue raising sports. Among the more controversial aspects of the regulations published by HEW to implement Title IX was the requirement that a college or university with a football and basketball team which produced large amounts of income for that college spend a comparable per capita amount of money on women's athletic activities which did not produce comparable amounts of revenue.

Non-discrimination on account of danger. Except in the case of alcoholics and drug addicts, there is no guarantee that the federal government will not use section 504 to force handicapped persons into situations where they present a danger to themselves and others. When the Supreme Court found in 1986, for example, that airlines were not required by federal law to allow blind persons to sit by airplane emergency exits, Congress explicitly reversed its decision. In another cse, the federal government used section 504 to force a construction company to hire an epileptic whose condition was in remission, with the result that an epileptic relapse caused the death of that individual.

Non-discrimination on account of cost. There is also no provision in federal law to limit the amount of money which a university or other institution may be forced to pay in order to make its facilities accessible to the handicapped. In the Northeast, the tab for "retrofitting" urban mass transit systems is expected to run well over $10 billion. In at least some cases, it would have been cheaper to provide all handicapped persons desiring to use the system with chauffeur-driven limousines. Furthermore, in the case of retrofitting of facilities in small towns, the government has frequently required extensive expenditures, even when there were no actual handicapped persons desiring to use the facilities.

In most of these cases, including those prohibiting discrimination against drug addicts, alcoholics, AIDS carriers, and transvestites, the cause of action is under section 504 ("handicap" discrimination), rather than Title IX (sex discrimination). What this means is that the "religious tenets exemption" proposed for Title IX would not be applicable to these cases at all. A church or a church school or a small private school receiving indirect federal assistance might find itself with little recourse against these interpretations.

CONCLUSION

For organizations receiving their funds from a combination of direct federal aid, indirect federal aid, and private sources, the question "What part is federal assistance and what part is private money?" represents perhaps the central question of their existence. For example, Planned Parenthood receives a substantial proportion of its funds from the federal government ($29 million per year); it is illegal to use federal funds for abortion; Planned Parenthood is the nation's largest abortion provider. The ability, therefore, of Planned Parenthood to continue its operations rests on its ability to segregate conceptually its direct federal funds from its other sources of revenue. Similarly, the ability of Legal Services grantees to lobby, Federal Combined Campaign beneficiaries to propagandize, and foreign aid recipients to perform forced abortions and sterilizations depends on their ability to say "We are receiving this money—and only this money—from the United States government, and so our other activities are beyond federal jurisdiction."

The Grove City Bill will break down this distinction between federal funding and non-federal funding, but with respect to only one purpose. It gives to the principle of non-discrimination, very broadly interpreted, a position paramount to any other consideration. Yet other types of proscription on the use of federal funds will remain limited to a program-specific interpretation, rather than binding non-federally funded activities.

Even if foolish consistency may be called the hobgoblin of little minds, a complete lack of consistency is a deficiency as well. Under the Grove City Bill, even a small amount of indirect federal funding will bring entire universities, churches and other organizations within the scope of federal anti-discrimination regulations. Yet it will leave other large recipients of direct federal funding free to escape such oversight, with respect to a wide range of regulatory provisions, through casuistical distinctions between federal and non-federal funds.

Mr. SYMMS. Mr. President, I yield to the distinguished Senator from Utah.

The PRESIDING OFFICER. (Mr. Boren). The Senator from Utah.

Mr. HATCH. Mr. President, the Department of Justice strongly recommends the veto that the President has given to this bill, S. 557, the Civil Rights Restoration Act of 1987.

Now, they feel that this bill will significantly amend four civil rights statutes which may ban discrimination on various bases in programs or activities receiving Federal financial assistance: Title VI of the Civil Rights Act of 1964 regarding race, color, national origin; title IX of the Education Amendments of 1972, sex, limited to education; section 504 of the Rehabilitation Act of 1973, for the handicapped; and the Age Discrimination Act of 1975 regarding age.

After passage by the Senate, the House of Representatives took up consideration of S. 557 under a modified closed rule. Now, I deplore this action because they called this the most important civil rights bill in many, many years, and yet, under their modified closed rule, they permitted only one Republican alternative bill to be considered with a total of 2 hours for debate on the whole bill. There have been no committee hearings, and no committee markup of the bill, as I understand it, in the House.

The two House committees with jurisdiction over the bill were the Education and Labor Committee and the Judiciary Committee. They held no hearings on the legislation in the 100th Congress, nor did they undertake any previous consideration of this measure in this Congress.

Now, as the Justice Department has consistently made clear in testimony and written analyses, S. 557 really does remain one of the most sweeping expansions of Federal jurisdiction in the post-World War II era. Neither the Senate nor the House saw fit to address a single concern raised by the administration concerning the scope of this legislation and its particular assault on religious liberty

In labeling this measure the Civil Rights Restoration Act of 1987, proponents of S. 557 seek to create the impression that this bill does no more than return the referenced civil rights statutes to the institutionwide status they enjoyed prior to the Grove City decision by the Supreme Court.

The Justice Department goes on to say that there is no truth to this assertion. As the Supreme Court's majority opinion spelled out, the plain language and legislative histories of the four statutes amended by S. 557 reflect congressional intent that they have a program-specific scope. Federal court of appeals' decisions prior to Grove City reached a similar conclusion. You could find that in Hillsdale College versus Department of Health, Education and Welfare, Grove City College versus Bell, Dougherty County High School System versus Bell, Rice versus President and Fellows of Harvard College, Brown versus Sibley, Simpson versus Reynolds Metal Co., Bachman versus American Society of Clinical Pathologists, and University of Richmond versus Bell, all of which are very important cases.

Nonetheless, S. 557 moved through Congress under the false label of a "restoration" measure only, and for the first time engrafted institutionwide coverage onto the four statutes in a manner calculated to cause far more confusion than clarification. For example, the Senate committee report states that S. 557 defines the term "program or activity," rather than replacing it with the term "recipient." That is found at page 4 of the Senate committee report. Yet, S. 557 effectively defines the concept of "recipient" as well as the term "program or activity," and it does so in the most sweeping and imprecise terms.

No case has been made for the extravagant enlargement of Federal authority over State and local governments and the private sector represented by S. 557.

The Grove City decision has not even remotely the dire impact suggested by the proponents of S. 557. The Senate committee report cites hardly any examples of curtailment of civil rights outside of the education context. Except for the Department of Education, no agency has indicated to us that Gove City has had much, if any, impact on it. Outside of education, the Senate Committee on Labor and Human Resource's hearings produced hardly any evidence to support the dire predictions of civil rights retrenchment that followed the Grove City decision. This is due in part to agency practice comporting with the scope of these laws prior to Grove City, and the significant jurisdiction that exists today in light of the vast outlay of Federal financial assistance.

For example, the Department of Labor reported that all 47 of its complaint investigations initiated since March 26, 1985 were unaffected by the Grove City decision. No investigation was narrowed in scope as a result of Grove City, and no investigation was found to be beyond the Department's jurisdiction as a result of Grove City. That in a letter from William J. Harris, Director, Directorate of Civil Rights, U.S. Department of Labor, to Susan J. Prado, Acting Staff Director, U.S. Commission on Civil Rights, December 9, 1986. Indeed, former Secretary of Labor Brock advised Senator Kennedy on April 2, 1987, that no Department of Labor enforcement or investigative activity has been curtailed as a result of the Grove City decision, adding:

> The Department has traditionally interpreted the phrase "program or activity" consistently with the interpretation set forth by the Supreme Court in Grove City.

That is a letter from Secretary of Labor William E. Brock to Senator Edward M. Kennedy, April 2, 1987.

The Veterans' Administration reported that its complaint investigation process had not been affected by Grove City, no compliance reviews were dropped, narrowed, or "put on hold" as a result of Grove City, and the Department's procedures for handling complaints and compliance reviews had not been changed. This is found in a letter from James R. Yancey, Director, Office of Equal Opportunity, Veterans' Administration, to Susan J. Prado, Acting Staff Director, U.S. Commission on Civil Rights, February 27, 1987.

Thus, with respect to the vast bulk of Federal agency activity, there has been no showing by sponsors of S. 557 that the effectiveness and vitality of these four cross-cutting civil rights statutes has been impaired, and reports from a number of agencies demonstrate to the contrary. Moreover, of the 674 complaints closed in whole or in part or suspended by the Department of Education in fiscal years 1984 through 1986, 468 concern abortion and were filed by one individual.

It is not surprising that Grove City has not had a greater impact: First there are many more Federal and State laws in existence today than in 1964 when the first of these four civil rights statutes was enacted, and second much more Federal aid is dispensed today than in 1964. In fiscal year 1963, less than $11 billion of Federal aid was dispensed through less than 200 programs in contrast to more than $200 billion in Federal aid dispensed under nearly 1,400 programs in fiscal year 1985, thus yielding significant coverage today under the program-specific language of these four statutes.

To the extent complaints have not been satisfactorily addressed in the education context, the administration-supported measure, the "Civil Rights Act of 1987," H.R. 1881, adequately deals with that concern. If there are discrete areas outside of education where civil rights problems exist, they ought to be addressed by appropriately tailored legislation. For example, we supported the Air Carrier Access Act of 1986—Public Law 99-435—which prohibits discrimination by airlines against qualified handicapped individuals, but avoids the overbroad and unnecessarily intrusive approach of S. 557.

I stated before that it is not surprising that Grove City has not had greater impact because there are many more Federal and State laws in existence today than in 1964, when the first of these civil rights statutes was enacted.

For example, title II of the Civil Rights Act of 1964 forbids discrimination in public accommodations. Title IV of that act authorizes the United States to bring a school desegregation case where private parties are unable to do so. Title VII forbids discrimination in employment. The Fair Housing Act of 1968 forbids discrimination in housing. The Age Discrimination in Employment Act of 1967 forbids discrimination on the basis of age in employment. Section 503 of the Rehabilitation Act of 1973 requires affirmative action in employment by Federal contractors for persons with handicaps. Executive Order 11246 forbids discrimination by Federal contractors on the basis of race, color, national origin, sex, or religion. The Voting Rights Act of 1965 prohibits discrimination in the exercise of the franchise. Other Federal protections exist. Sections 1981 and 1983 of title 42 of the United States Code provide, in part, that all persons in the United States have the same rights as whites to make and enforce contracts, and that civil rights violations that occur under color of State law are prohibited under Federal law. The fifth amendment's due process clause requires the Federal Government to treat citizens equally under the law. The 14th amendment compels State governments and local governments to adhere to the principle of equal protection of the laws.

Among the burdens that result from expanded Federal jurisdiction under these four statutes are:

Increased Federal paperwork;

Exposure to Federal bureaucratic compliance reviews and onsite reviews even in the absence of an allegation of discrimination;

Thousands of words of Federal regulations;

The need to adhere, not to an equality-of-opportunity standard, but an equality-of-result standard under Federal regulations which forbid conduct—including admission standards not adopted for a discriminatory purpose—just because it falls with a disportionate impact on particular groups;

The need to adhere to accessibility requirements under section 504, including structural requirements, and the need for job restructuring, modification of work schedules, and provision of auxiliary aids;

The requirement to attempt to accommodate persons with infectious diseases such as tuberculosis and AIDS;

Increased exposure to costly private lawsuits.

As Justice Powell, joined by Chief Justice Burger and Justice O'Connor, stated in an opinion concurring in the result in Grove City,

> [W]ith acceptance of [Federal financial] assistance one surrenders a certain measure of freedom that Americans always have cherished. 465 U.S. at 577.

Thus, if there is no demonstrated, compelling need for Federal regulation—and the concomitant exposure to expensive private litigation under these statutes—it ill behooves Congress to impose the costs and burdens of such regulation and litigation on new sectors of the American economy not covered prior to the Grove City decision. The expansion of Federal jurisdiction in any field, including civil rights, is not without costs—costs which should not be imposed unless shown to be necessary.

One example illustrates the importance of this concern. As explained below, S. 557, for the first time, will subject grocery stores and supermarkets participating in the Food Stamp Program to coverage under at least three of these four statutes. Yet, in nearly 4 years of hearings on Grove City legislation, no evidence of a discrimination problem in the Nation's food stores has been presented to Congress. The National Grocers Association testified before Congress on March 27, 1985, that its members' profit margin is one penny on the dollar. Civil Rights Restoration Act of 1985: Joint hearings on H.R. 700 before the House Committee on Education and Labor and the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary, 99th Congress, 1st session—March 27, 1985—statement of Thomas F. Wenning. Under S. 557, grocers will be required to spend a portion of their penny-on-the-dollar profit to comply with new Federal requirements when no basis for the imposition of such requirements has been shown to exist.

What are some of the expansions of pre-Grove City coverage?

I mention just in this regard the Grove City College is a little Presbyterian college. It is very ironic that they had to fight this matter all the way to the Supreme Court and win, only then to lose. Now they will lose completely if this bill passes because they have not discriminated, they have never discriminated against anyone. They deplore discrimination of any form. They have fought for every public citizen, every private citizen, every business, every corporation, every nonprofit corporation, every church, every synagogue to have some rights under the law.

It is amazing to me and somewhat ironic that they are going to lose their rights after they had litigated for so many years, costing probably hundreds of thousands of dollars, and in the process were vindicated at least in one respect by losing on the point of indirect Federal funding but winning on the point that it applies only to that program or activity toward which the funding goes.

Let's talk about some of the concessions here. We have had so much rhetoric now for 4 years that this is just a simple overrule, that it was the pre-Grove City condition of the laws that existed 1 day before the Grove City decision came down. The fact of the matter is that was back in 1984 when we defeated what was then even more heinous legislation than this legislation. It is hard to believe it could be more heinous but nevertheless it was. It was sold. Everybody said just buy it because it had the words "civil rights" on it. It was sold as a mere overrule of the Grove City case, as a mere reaffirmation of the laws that existed 1 day prior to Grove City.

Well, if that was so, why did they have to amend it to make at least some of the concessions that they have made in this bill today? There are a number of concessions that were made to show that they really had gone way beyond where they should have been.

I am telling you right here and now, this bill goes way beyond where it should go. It is an intrusive Federal Government oppression, and will be an intrusive Federal Government oppression to the American people as it is litigated in the courts, as it is imposed upon various groups and organizations by Federal Government bureaucrats and, of course, as it is constantly applied in all of our lives in almost every degree possible in future years, if it is enacted even with the President's suggested seven amendments.

Here we have a President who says:

> OK, you have won. I still think it is a precedent, but I will support it, and I will sign it into law if you will add these seven amendments. All you have to do is give me that little courtesy.

The key provisions of what he is stating in this proposal are as follows: First, he wants language which guarantees that if a church or a synagogue operated a federally assisted program in its basement, only that program is subject to Federal regulation. That is going quite a way, because, if there is a food program in the basement of the local Catholic, Bapist, or Lutheran Church or Jewish synagogue, literally, that whole program becomes subject to all four of these laws, rules, and regulations. It really does. But he does not think every other aspect of that church should become regulated, such as prayer rooms, church facilities, and other congregations that do not participate in that single food program.

I agree with that. I think that is only right. I think that is protecting the rights of churchs and synagogues to be free of Federal Government intrusion and violation of the first amendment of the Constitution, where these religious freedoms are first and foremost mentioned.

Second, the President would like to have language which ensures that religious schools that are closely identified with the religious organizations—such as Notre Dame, such as Georgetown—are protected where specific Federal regulation under title IX conflicts with one of that particular church's religious tenents.

What is so wrong with that? Why should we let Federal workers in Washington start dictating to Notre Dame that they have to meet Federal standards in all ways, some of which are unnecessarily ridiculous? Why can we not protect the religious beliefs of various churches that exist in this land, regardless of the denomination?

Third, he would like language which states that, when a religious secondary or elementary school receives aid, only that particular school is covered, not the entire system to which it belongs, if, in fact, that school or that organization commits acts that are discriminatory to another person.

I agree with that. I would probably go broader than the President on that and apply it to the whole system. It is not an unreasonable request. It is one that would stamp out violations of civil rights. It is good, It is a reasonable request.

This is the President of the United States. This is our coequal branch of Government. This is the man who has taken the time to veto this because these provisons are throttled by this bill.

Fourth, he would like language to preserve the independence of State and local governments by limiting Federal regulation to the particular part of the State and local entity that receives or distributes Federal assistance.

That is not an untoward request. This is the President. It is not an unreasonable request. He says: "If you do these four plus three others, I will sign the bill into law." It is a reasonable request.

It is one that our Chief Executive has asked this body to do. He said he will sign it into law, and I will lead the fight to sign it into law.

Fifth, he would like language to make clear that Federal regulation covers only the facility that participates in the federally funded program when a corporation is involved. In other words, if a particular corporation gets that funding, it should be subject. If it discriminates, it should pay the consequences. Why have every other subsidiary and every other aspect of the corporation have to come under the onerous hand of the Federal Government?

Sixth, he would like language to make clear that farmers who receive Federal aid, such as crop supports, are not covered.

I do not care what anybody says, you read the language of this bill, and they are covered by this bill. I hate to tell these farm State Senators who have voted for this bill, but when the heavy hand of the Federal Government starts coming down on them because farmers have accepted farm subsidies, farmers will find themselves in Federal courts, like the two immigrants I had to defend, at my own expense, to win their cases for them. They were oppressed by the Federal Government, by bureaucrats who thought they should be yanked into court and made to pay the price. Wait until farmers start getting yanked in, under this bill.

The President wants to make it clear. If it were clear, the language would be clear. As a matter of fact, I think the language lends credence and great authority to the fact that farmers will be covered. They are going to find themselves in court, when they should be out planting crops and helping our country in that way.

Seventh, the President would like language that says that groceries and supermarkets that receive or accept food stamps will not be subject to Federal regulation by virtue of accepting food stamps. What is so bad about that?

Those are seven simple requests by the President, who is concerned about constitutional issues. Who is with us on civil rights in every way, but who wants to clarify these matters to make sure that there will be no Federal Government oppression as a result of this bill.

I do not think that is out of line, and I think it is something we ought to consider doing. However, as you know, those who think they have an advantage now will pursue it in every way they possibly can.

Let us talk about the expansions of the pre-Grove City coverage. I might say that what I am going to talk about represents just a partial list of the areas in which S. 557 expands coverage under the civil rights statutes it amends.

First, an entire church or synagogue will be covered under title VI, section 504, in the Age Discrimination Act, if that church or synagogue operates one federally assisted program or activity. They will also be covered under title IX if the church or synagogue conducts an educational program or activity, with exceptions under title IX in those instances where title IX requirements conflict with religious tenets, as long as that church or synagogue is owned by the church or synagogue. But if it is a university not owned or run by the church, with a lay board of directors, that church becomes subject to bureaucratic whims in Washington, even if they conflict with the tenets of that organization's beliefs.

Why do you think people voted for the abortion amendment in this bill? Because they were afraid of having abortion imposed upon the religious institutions of this country. If we were afraid of having abortion imposed, can you imagine the fear of these church-related schools that do not have a complete church ownership, and their fear with regard to a whole raft of other issues that the Federal Government can impose upon them, ranging from educational issues to health issues—things that they may totally disagree with and which may totally conflict with their religious beliefs, and which they will have to be subjected to? It is pathetic.

We have had people say:

> It really won't be used that way. It really won't apply.
>
> Subparagraph (3)(B) of the bill's operative sections cover "*all* of the operations of . . . [a] private organization" which is a "geographically separate facility" comparable to a plant and not otherwise covered by subparagraph (3)(A), "*any* part of which is extended Federal financial assistance . . ." (italic added). Churches and synagogues obviously are such private organizations. Accordingly, any federally-assisted program at a church or synagogue would render the entire synagogue or church covered.

I cannot begin to tell you what that means.

Sponsors acknowledged such coverage of religious institutions at the committee markup. They acknowledged it and now we have people who want to vote for that particular amendment here, people who blithely think there is no problem.

Look at the committee report on pages 19 and 20 implicitly acknowledging such church coverage under subparagraph 3(B).

No one should be misled by comments in the Senate Committee Report regarding coverage of religious organizations under other provisions of S. 557. In discussing the separate coverage of the private sector when aid is provided to an entity "as a whole" under subparagraph (3)A(i) of the bill's operative sections, the Senate Committee Report notes: "A grant to a religious organization to enable it to extend assistance to refugees would not be assistance to the religious organization as a whole if that is only one among a number of activities of the organization." Senate Committee Report at 17. Similarly, the Senate Committee Report disclaims coverage of entire churches or synagogues under subparagraph (3)A(ii) because these entities are engaged in religious activities, rather than any of the activities listed in subparagraph (3)A(ii). Senate Committee Report at 18.

Of course, the coverage of entire churches and synagogues occurs as a result of subparagraph (3)(B), as mentioned in the text of this letter: it is subparagraph (3)(B)'s coverage of an entire geographically separate private facility (including several facilities in the same city or even region), any part of which receives Federal financial assistance, that triggers coverage of the entire church or synagogue in these examples cited in the Senate Committee Report.

The Senate rejected an amendment to limit coverage of churches and synagogues to their federally assisted programs, 56-36.

Now, that is something you have to think about.

Thus, if a church or synagogue operates a federally assisted surplus food program, or a federally assisted program for the homeless or to help illegal immigrants apply for amnesty, not only are those assisted programs covered as before Grove City, all of the activities of the church or synagogue will be covered, including their religious components and prayer rooms.

I do not know about others in this body, but that horrifies me as somebody who stands up for religious rights and freedoms in this body. I think they are certainly equal in importance since they are mentioned specifically in the famous first amendment of the Constitution and mentioned first in any and all civil rights.

Since "all of the operations" of a facility, any part of which receives Federal aid, are covered under subparagraph (3)(B), if a church or group of churches operates a summer camp in a different locality open to youngsters of all faiths, and the camp receives free use of surplus Federal property, not only is the camp covered, but so is the church or group of churches.

Moreover, if the church or synagogue operating one federally assisted activity also operates educational classes or a school, those classes or school, at a minimum, will also be covered not only under title VI, section 504, and the Age Discrimination Act, but also under title IX, even when the educational classes receive no Federal aid.

(Mr. FOWLER assumed the chair.)

Mr. HATCH. I do not know if the people really understand what that means. But it means the Federal imposition of Federal rules and regulations with regard to education on that church, against its own doctrinal beliefs and tenets.

Indeed, title IX will cover the entire church or synagogue in this instance, contrary to pre-Grove City coverage. Conversely, if a church school or synagogue school alone receives any Federal aid, not only is the entire school covered, the church or synagogue itself will be covered in its entirety under all four statutes, even if the school is in a separate building and the church or synagogue itself receives no Federal aid.

The Senate committee report creates another expanded avenue of coverage under this section. The Senate committee report makes clear that:

A "geographically separate facility" includes more than one building: the phrase "refers to facilities located in *different localities or regions.* Two facilities that are part of a complex or that are proximate to each other in the same city would *not* be considered geographically separate." Senate Committee Report at 18 (emphasis added).

A number of churches and synagogues operate housing projects for elderly persons, low-income persons, and persons with handicaps. The church or synagogue may receive HUD development financing for the project or tenants in the project may receive Federal housing aid. Under subparagraph (3)(B), if the church or synagogue receives Federal development financing for the project or just one tenant at such a project receives Federal housing aid, not only is the entire housing project covered, but so is the church or synagogue. This result occurs under the bill in two ways. First, the housing project, like the summer camp mentioned earlier, is one "of the operations of" the "facility," *i.e.,* the church or synagogue. This alone triggers coverage of the church or synagogue. Second, if the church or synagogue operates such a housing project or complex in the same neighborhood, locality, or region as the church or synagogue itself, the entire church or synagogue is also covered under this bill's unprecedented scope since the church or synagogue is not considered "geographically separate" from the housing project. Senate Committee Report at 18. This is a version of the old "trickle-around" theory of the bill's predecessor in the 98th Congress, more cleverly camouflaged in this version. Indeed, some churches and synagogues operate nursing homes and hospitals and they will be covered in their entirety if those health facilities receive any federal aid, even if the church or synagogue does not receive such federal aid.

It is also clear that an entire Catholic diocese risks coverage under subparagraph (3)(B). A diocese is a private organization—identified as such by the Committee Report at 18. If a particular Catholic diocese receives Federal financial assistance for just one program operated or administered out of its headquarters, the language and logic of sweeping coverage under this bill would subject to coverage all other diocesan programs operated or administered out of this "geographically separate facility"—even if they are conducted outside of the headquarters. That is, as mentioned earlier, subparagraph (3)(B) covers "all of the operations of" the covered facility even when not conducted in the facility.

Indeed, if the diocese has more than one building in a city, Federal aid to one program in one building will result not only in coverage of all programs conducted from that building, but also in coverage of all programs in the other buildings under the Committee Report's interpretation that "geographically separate facility" really means all facilities of the entity in the same city or even region. Senate Committee Report at 18.[5] Further, a Catholic diocese, or at least its activities in a particular locality or region, might be covered if one program at one church in the diocese receives Federal aid, since separate churches in the same locality are not regarded as geographically separate under subparagraph (3)(B).[6] Senate Committee Report at 18.

Sponsors of S. 557 have provided no evidence that any of this coverage existed prior to *Grove City* under the language of these statutes and case law construing coverage thereunder in the private sector. Nor have they demonstrated a present need for such distrustful treatment of our Nation's religious institutions. The costs of Federal regulation may deter some churches and synagogues from further participation in social welfare programs if receipt of Federal aid triggers such broad, new coverage, as reflected in S. 557. Such pervasive coverage of religious institutions, based on federal aid going directly or indirectly to a discrete activity of a religious institution, raises grave First Amendment concerns.

2. *Every school in a private or religious elementary or secondary school system will be covered in its entirety if any one school within the school system receives even one dollar of Federal financial assistance.*

Explanation.—This coverage results under subparagraph (2)(B) of the bill. Subparagraph (2)(B) of the operative provisions of S. 557 covers "all of the operations of . . . a local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, *or other school system* . . . any part of which is extended Federal financial assistance . . . ." (emphasis added).

A local educational agency as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965 is a public school system. Once all public school systems and systems of vocational education are identified as covered, the only school systems left to be covered by the bill's phrase "other school system" are private elementary and secondary school systems, including religious school systems. Thus, for example, if one elementary school in a diocesan school system or system of Jewish Yeshivas receives any Federal financial assistance, not only is the entire school covered, but so is every other school in the diocesan or Yeshiva school system.

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[5] The Senate Committee Report at 19-20 asserts that paragraph (4) of the operative provisions of the bill, *i.e.,* the vague, new catch-all provision discussed at pages 33-36, *infra,* does not cover an entire diocese where three parishes receive Federal aid. Whatever the validity of this assertion regarding paragraph (4) may be, it has no relevance to the scope of subparagraph (3)(B). Moreover, the Senate Committee Report's example does not cover a circumstance in which the *diocese* itself receives Federal aid for a program or receives a part of a Federal grant given to a parish.

[6] *See* note 5.

In contrast to this expansion of pre-*Grove City* coverage, compare the Department of Education's definition of "educational institution" in its title IX regulation, which does not include private elementary or secondary school systems:

"Educational institution" means a local educational agency (LEA) as defined by section 1001(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381), a preschool, *a private elementary or secondary school,* or an applicant or recipient of the type defined by paragraph (k), (l), (m), or (n) of this section. 34 C.F.R. § 106.2(j) (emphasis added).

The local educational agency described in this definition is a public school system. The institutions referred to in paragraphs (k), (l), (m), or (n) are individual schools or institutions. Nowhere in this definition is a private or religious elementary or secondary school *system* covered. Indeed, while an entire individual private elementary or secondary school receiving some Federal aid may be covered under this definition, the phrase "other school system" or "private school system" or "religious school system" is conspicuously absent. No evidence of broader coverage was ever presented in hearings before the 100th Congress.

The Senate Committee Report's cryptic reference to four Catholic dioceses in Louisiana submitting system-wides desegregation plans to HEW in 1969 is not to the contrary. Senate Committee Report at 26. No mention of this "example" was made during hearings on the bill. The facts pertaining to this "example" are nowhere discussed—it may well be that every school in these systems received Federal aid or that the example is otherwise inapt. In any event, this example, whatever its source or validity, predates by six years the Department of Education's title IX regulation mentioned earlier, which clearly defines "education institution" as not including an entire private or religious elementary or secondary school system, and which had been followed by that Department.

Moreover, the Senate Committee Report's statement that an amendment providing for coverage of just private elementary and secondary educational institutions "would have established, for the first time, a different standard of civil rights protection for public and private schools," *id.* at 26, is belied not only by the long-standing regulatory definition, but by S. 557 itself: the bill establishes coverage of entire *public systems* of higher education but only covers *individual private institutions* of higher education (subparagraph (2)(A)). Thus, this allegedly "unprecedented" distinction between the public and private education sectors actually occurs in S. 557. We believe the same treatment of private education institutions should also be applied in the elementary and secondary contexts. We also note that S. 557 itself also creates a double-standard of coverage in the private sector generally. See pages 18-26, *infra.*

3. *Grocery stores and supermarkets participating in the food stamp program will be subject to coverage solely by virtue of their participation in that program.*

Explanation.—The operative provisions of S. 557 cover: all of the operations of—

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation, or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship . . . any part of which is extended Federal financial assistance. . . .

The language of paragraph (3) of the operative provisions of the bill supports our conclusion that grocers and supermarkets participating in the Food Stamp program are covered.

Such a grocery store or supermarket can readily be subsumed within the definition of "entire corporation, partnership . . . or an entire sole proprietorship" receiving Federal financial assistance extended to it "as a whole." Subparagraph (3)(A)(i). It is also covered as a geographically separate facility comparable to a plant. Subparagraph (3)(B). Further, since grocery stores and supermarkets provide food for the needy under the Food Stamp program, they might also be covered in their entirety as businesses, partnerships, other private organizations or sole proprietorships principally engaged in the business of providing "social services." Subparagraph (3)(A)(ii).

Indeed, the Senate Committee Report tacitly admits that grocers are subject to coverage under this bill. Senate Committee Report at 23, 24. Coverage of grocery stores participating in the Food Stamp program has been acknowledged by a principal cosponsor of this bill's predecessor in the 98th Congress (H.R. 5490. 130 Cong. Rec. H7038 (dailey ed. June 26, 1984) (Statement of Rep. Simon).

Despite these theories of coverage delineated under S. 557, coverage of grocery stores participating in the Food Stamp Program did not exist prior to *Grove City.* As stated by Daniel Oliver, General Counsel, Department of Agriculture, in a July 1984 letter to Senator Jesse Helms:

The Department does not currently treat food stores which redeem food stamps as recipients of Federal financial assistance which are subject to the requirements of Federal anti-discrimination laws. There are no regulations or instructions that define these stores as recipients and the agreement between the Department and the stores concerning their participation in the food stamp program does not contain any reference to the requirements of the anti-discrimination laws.

This has been the practice of the Department since 1964 when the original legislation creating a food stamp program and the Civil Rights Act of 1964 were both enacted. Although a review of the Department's records has disclosed no program instruction or legal opinion confirming this position, it is clear from a review of the Department's records concerning enforcement of the Federal anti-discrimination laws and from discussions with numerous program officials that the Department does not treat food stores which redeem food stamps as recipients of Federal financial assistance for purposes of the Federal anti-discrimination laws. It is also clear that it has consistently adhered to this position over the last twenty years.

There is a reference to "small providers" in the Department's regulations concerning nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance (7 C.F.R. 15b. 18(c)). That regulation has not been interpreted as referring to grocery stores, but only to the agencies and organizations that distribute food stamps to the ultimate beneficiaries. (Emphasis added.)

The bill's provision in subparagraph (4)(c) of the portion of the bill amending section 504 does not exempt any entity from coverage which is otherwise subject to S. 557.[7] Subparagraph (4)(C) states:

Small providers are not required by subsection (a) to make significant structural alterations to their existing facilities for the purpose of assuring program accessibility, if alternative means of providing the services are available. The terms used in this subsection shall be construed with reference to the regulations existing on the date of the enactment of this subsection.

This language in the bill only applies under section 504 (discrimination against persons with handicaps), and does not reduce any compliance burdens under the other statutes amended by S. 557. Even under section 504, only some grocers and supermarkets will benefit from this exemption. Department of Agriculture section 504 regulations (which are referenced by the provision) define "small providers" as entities "with fewer than 15 employees." 7 C.F.R. § 15b.18(c). Many grocers and supermarkets employ more than 14 persons.

Moreover, these small providers are only exempted from the most onerous of section 504 regulatory burdens: the requirement "to make significant structural alterations to their existing facilities. . . ."—and *only* "if alternative means of providing the services are available." Subparagraph (4)(c) (emphasis added). A significant structural alteration includes such changes as knocking out a wall. These small providers will still be subject to many requirements including, among others, the following:

Paperwork and notice requirements (7 C.F.R. § 15b.7);

A requirement to consult with disabled persons or disability rights groups and to make and retain a record of such consultations (*Id.* at § 15b.8(c));

Extensive employment regulations, including the need to create part-time or modified work schedules, restructure jobs, and acquire or modify equipment or devices (*Id.* at §§ 15b.11-.15);

Regulations applicable to new construction or alteration of an existing building (*Id.* at § 15b.19);

A requirement to "take appropriate steps" to guarantee that communications with hearing-impaired and vision-impaired applicants, employees, and customers can be understood (*Id.* at § 15b.4(d)).

For those grocers and supermarkets with 15 or more employees, additional burdens are applicable, including:

The requirement of adopting "grievance procedures that incorporate appropriate due process standards" (*Id.* at § 15b.6(b));

The requirement of providing auxiliary aids for hearing-impaired and vision-impaired persons if necessary for them to participate in the entities' activities (*Id.* at § 15b.37).

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[7] Indeed, the Senate Committee Report twice states that grocery stores are among those entities that can take advantage of this limited exception, (Committee Report at 23, 24) which suggests they are covered in the first place.

4. *Every division, plant, subsidiary, store, and facility of a corporation, partnership, or other private organization or an entire sole proprietorship principally engaged in the business of providing education, health care, housing, social services, or parks and recreation will be covered in its entirety whenever one portion of one division, plant, subsidiary, store, or facility receives any Federal financial assistance.*

Explanation.—Subparagraph (3)(A)(ii) subjects the entire organization principally engaged in these activities to coverage whenever "any part" of it "is extended Federal financial assistance." This special coverage, singling out the private entities identified in subparagraph (3)(A)(ii) for especially overbroad treatment, did not exist prior to *Grove City.*

It should be emphasized that these five categories themselves—education, health care, housing, social services, and parks and recreation—are very broad. They include not only the obvious entities such as hospitals, nursing homes, private schools, campgrounds, and apartment owners, but also, among others, manufacturers of health products, sellers of health products, visiting nurse associations, doctors, surgeons, and dentists, textbook producers, real estate companies, home builders, amusement parks, chains of bowling alleys, private adoption services, social welfare organizations, and charitable organizations and everything they do, wherever located, and however remote from direct or even indirect Federal aid.

Other private entities not falling within these five categories are covered somewhat more narrowly, in theory, creating two-tier coverage of the private sector. Subparagraph (3)(B). Even this latter, somewhat narrower coverage for certain private entities, discussed infra at pages 24-25, exceeds pre-*Grove City* coverage.

The sponsors admit that S. 557's two-tier coverage of the private sector has no basis in pre-*Grove City* practice, and erroneously suggest that coverage of corporations was corporatewide prior to *Grove City.* Senate Committee Report at 18. On the contrary, coverage in the private sector was program-specific before *Grove City. Simpson* v. *Reynolds Metals Co.,* 629 F.2d 1226 (7th Cir. 1980); *Bachman* v. *American Society of Clinical Pathologists,* 577 F. Supp. 1257 (D. N.J. 1983); *see Brown* v. *Sibley,* 650 F.2d 760 (5th Cir. 1981). All three of these cases pre-date *Grove City.*

In *Simpson,* for example, involving a multi-plant business, the Court of Appeals for the Seventh Circuit, in construing the scope of section 504, said:

The statute does not, as plaintiff seems to contend, generally forbid discrimination against the handicapped by *recipients* of federal assistance. Instead, its terms apparently require that the discrimination must have some direct or indirect effect on the handicapped persons *in the program or activity* receiving federal financial assistance. To be actionable, the discrimination must come *in the operation of the program* or manifest itself in a handicapped individual's exclusion *from the program* or a diminution of the benefits he would otherwise receive *from the program.* 629 F.2d at 1232 (emphasis added). The court went on the note that it could find nothing in other parts of the Act to show "an intent by Congress that section 504 impose a general requirement upon *recipients* of federal grants not to discriminate against handicapped employees *who are not involved in a program or activity receiving such assistance.*" *Id.* at 1233 (emphasis added). Thus, in *Simpson,* the court ruled that an employee at one of the defendant's plants could not assert a section 504 claim by virtue of a federally-assisted job-training program at the plant because the employee was not a participant in *that* job training program. Thus, the court did not even deem the entire plant, let alone the entire company, as covered.

Likewise, in *Bachman* v. *American Society of Clinical Pathologists,* the court made an identical finding in a section 504 action:

It is not enough . . . to show that a person has been discriminated against by a *recipient* of federal funds. Plaintiff must also show that she was subject to discrimination *under the program or activity* for which those funds were received. . . . Section 504 of the Rehabilitation Act imposes a *program-specific* requirement limiting claims brought pursuant to this section to those programs or activities which are federally funded. 577 F. Supp. 1262-63 (emphasis added). Here, a nonprofit medical association received approximately $50,000 in Federal aid to conduct three seminars on alcohol abuse and to publish the proceedings of the seminars. The court ruled that such Federal aid does not subject to coverage the association's Board of Registry, which develops standards and procedures for entry and promotion in medical laboratories and certifies and registers those who meet competency requirements, including the use of an examination. Had the court ruled otherwise, as it would be compelled to do under S. 557, the standards for certifying clinical pathologists would have been subjected to an equality-of-result rather than equality-of-opportunity analysis by Federal agencies and courts and the likely debasement of these certifying standards under such an analysis.

In *Brown* v. *Sibley,* a case involving a business operated by the State, the Court of Appeals for the Fifth Circuit held:

[O]n the basis of the language of section 504 and its legislative history, and on the strength of *analogies to Title VI and Title IX,* we hold that it is not sufficient, for purposes of bringing a discrimination claim under section 504, simply to show that some aspect of the relevant overall entity or enterprise receives or has received some form of input from the federal fisc. A private plaintiff in a section 504 case must show that the *program or activity* with which he or she was involved, or from which he or she was excluded, *itself* received or was directly benefited by federal financial assistance. 650 f.2d at 769 (footnote omitted) (emphasis added). The court's footnote at the conclusion of the foregoing passage is highly enlightening and particularly relevant to the *Grove City* issue. The court noted:

This burden should be slight. *Contrary to popular belief in certain quarters,* federal financial assistance does not materialize out of thin air. Requests in writing must be submitted by the applicant entity to some federal funding authority with respect to a proposed program or activity. If federal financial assistance is approved for the particular program or activity, it cannot be gainsaid that recordkeeping requirements will be imposed on the entity responsible for the expediture of the federal funds. *Discovery of the receipt and utilization of those funds with respect to particular programs and activities will be the least of plaintiffs' burdens. Id.* at 769 n. 14 (emphasis added). In *Brown,* the Mississippi Industries for the Blind received Federal aid for its social services program and for its day care center, but not for its production departments. The court held, therefore, that the production departments were not covered by section 504.[8]

Why does the bill provide such extremely overbroad coverage for some private entities and slightly less overbroad coverage for others? The sponsors' reply is yet further indication of the aggrandizing designs of S. 557 and the true "big government" vision of the bill: private entities principally engaged in the business of providing education, health care, housing, social services, or parks and recreation, are treated so harshly, according to the Senate Committee Report, because they provide "a *public* service." Senate Committee Report at 4 (emphasis added). Indeed, the activities listed in subparagraph (3)(A)(ii) "are traditionally regarded as within the *public* sector." *Id.* at 18 (emphasis added). In short, in the words of the Senate Committee Report, "[e]ven private corporations are covered in their entirety under [paragraph] (3) *if they perform governmental functions,* i.e., are 'principally engaged in the business of providing education, health care, housing, social services, or parks and recreation.' " *Id.* at 20 (emphasis added).

Thus, certain activities in the private sector are really public activities according to the rationale of S. 557. A hospital operated by the Catholic church; private and religious elementary and secondary schools; private nursing homes; private social welfare groups; private operators of amusement parks and recreational facilities; textbook publishers; doctors; dentists; housing builders; apartment owners and so much more, are regarded as essentially public and subjected to the most wide-ranging and unprecedented coverage ever contemplated under these statutes. Under S. 557, what is regarded as "governmental" and subject to Federal regulation grows; what is regarded as private and independent dramatically shrinks.

Indeed, this provision of the bill, subparagraph (e)(A)(ii), also has the following unprecedented results:

5. *If one program at one nursing home or hospital in a chain receives Federal aid, not only is the entire nursing home or hospital covered, but all other nursing homes or hospitals in the chain are automatically covered in their entirety even if they don't receive Federal aid.*

Explanation.—The Senate Committee Report at page 18 acknowledges this sweeping coverage. It is an obvious extension even beyond the *institution itself* where the federally-funded program is. Indeed, it is a subtle resurrection of the old, discredited "trickle-up, trickle-down" and "trickle around" theories of this bill's predecessor in the 98th Congress.

It should be reiterated that coverage is not limited to a health institution's health activities, but all other activities, subsidiaries, and investments.

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[8] I should note that two cases, *Marable* v. *Alabama Mental health Board,* 297 F. Supp. 291 (M.D. Ala. 1969), and *Organization of Minority Vendors* v. *Illinois Central Gulf Railroad,* 579 F. Supp. 574 (N.D. Ill. 1983), cited by a witness supporting S. 557, are not to the contrary. The *Marable* case involves neither the private sector nor the business operations of a recipient. The court in the *Illinois Central Railroad* case did not consider the "program or activity" issue.

6. *If one apartment building owned by an entity principally engaged in providing housing is built with Federal housing aid, not only is the entire apartment building covered, but all other apartment buildings, all other housing operations, and all other non-housing activities of the owner are covered even though they receive no direct or even indirect Federal aid.*

Explanation.—It is clear from the language of subparagraph (3)(A)(ii) that all housing activities of such an entity would be covered. But subparagraph (3)(A)(ii)'s coverage of "all of the operations of . . . an entire corporation, partnership, or other private organization, or an entire sole proprietorship . . . which is principally engaged in the business of providing . . . housing . . . any part of which is extended Federal financial assistance . . ." clearly means that all of the non-housing activities are covered as well. Thus, a private entity 51% of whose activities, income, or expenditures are in housing would have the other 49% of its operations, however unrelated to housing, covered as well. A separate company that manages the apartment building where this tenant lives will also be covered in its entirety, including its management of housing complexes where there is no receipt of any Federal aid. Further, if this private entity owns or operates an office building, it too is covered and the businesses renting space in the office building run the risk of coverage as well.[9]

7. *Similarly, if a private organization principally engaged in home building or development constructs one housing project with any direct or indirect Federal aid, all of the builder's housing projects and other activities, including non-housing activities, would be covered in their entirety even if they receive no direct or indirect Federal aid.*

Explanation.—This coverage results from subparagraph (3)(A)(ii) as described in the previous example.

All of this coverage under subparagraph (3)(A)(ii) is a vast expansion from pre-*Grove City* coverage.

8. *If a private organization principally engaged in one of these five broad activities employs part-time a student receiving Federal work-study aid in one program at one facility, not only is that facility covered in its entirety, all aspects of the entire organization—all of its plants, facilities, local offices and all of its activities unrelated to its principal business—are covered.*

Explanation.—Such expansive coverage occurs for entities principally engaged in *any* of these five activities when they use such students. This was not pre-*Grove City* practice. *See also Rice* v. *President and Fellows of Harvard College,* 663 F.2d 336 (1st Cir. 1981), *cert. denied,* 456 U.S. 928 (1982) (grading system at Harvard Law School not subject to title IX merely because students at the law school participate in the federally-assisted work study program).

9. *Further, if an entity conducting one or more educational programs received Federal financial assistance to any part of the entity, whether or not that part is educational, then all four statutes, including title IX's ban on sex discrimination, apply to the entire entity, including non-educational activities.*

Explanation.—This represents another dramatic expansion of coverage under S. 557. Prior to *Grove City,* title IX applied only to educational activities—and only when such activities were federally-assisted themselves.[10] This expansion results from the definition of " 'program or activity' and 'program' " as including "all of the operations of" entities covered by S. 557's amendment to title IX. Thus, once a covered entity receives Federal aid anywhere and conducts an educational program, title IX applies for the first time to the entire entity. This expansion is a significant departure from Congress' explicit limitation of title IX only to federally-assisted education activities.

10. *Under the expanded coverge established by subparagraph (3)(A)(ii), contracting activities of covered entities will be covered in all cases—contracting is an "operation" of the covered entity.*

Explanation.—The failure to provide a particular share of contract opportunities to minority-owned businesses, for example, could lead Federal agencies to undertake enforcement action asserting that the failure to provide more contracts to minority-owned firms, standing alone, is discriminatory under agency disparate impact regulations implementing Title VI. If title IX is applicable, the same action could be taken with respect to women-owned firms. Of course, advocacy groups will be able to bring private lawsuits making the same allegations before federal judges. This coverage is applicable to covered state, county, and local agencies and covered private entities. Before *Grove City,* contracting was covered only if that activity received federal aid or was part of the particular program receiving federal aid.

11. *A private, national social service organization will be covered in its entirety, together with all of its local chapters, councils, or lodges, if one local chapter, council, or lodge receives any Federal financial assistance.*

Explanation.—Subparagraph (3)(A)(ii) makes clear that an entire private organization, or entire corporation, is covered in its entirety whenever any part of it is extended Federal financial assistance if it is "principally engaged in the business of providing . . . social services . . . ." Thus, entire national charitable, social welfare, and social service organizations, including all of their State and local units, will be covered for the first time if just one of their State or local units operates just one federally-aided program. Conversely, if just one activity at the headquarters of such an organization receives Federal aid, not only is every activity operated from the headquarters covered, so is every activity of every activity of every State and local unit of the organization.

12. *(a) All of the operations of the entire plant or geographically separate facility of businesses and other private entities not principally engaged in education, health care, housing, social services, or parks and recreation would be covered if one portion of, or one program at, the plant or facility receives any Federal financial assistance. (b) Further, all other plants and facilities associated with, and in the same locality or region as, the one receiving any Federal aid are covered even if they receive no direct or indirect Federal aid.*

Explanation.—Subparagraph (3)(B) of the operative provisions of the bill delineates this scope of coverage for these private profit and non-profit businesses and other private organizations not otherwise covered in subparagraph (3)(A). As mentioned earlier, page 11, *supra,* under S. 557, a geographically separate facility includes all facilities in the same site, locality, or region of the facility with a federally-assisted activity. *See* Senate Committee Report at 18.

Thus, if a plant or facility of such a private business or organization not already covered under subparagraph (3)(A), such as a fast food restaurant or department store, employed a part-time student receiving Federal work-study aid, the entire plant or facility would be covered, and not just the hiring of work-study students. Moreover, if this fast food restaurant is part of a chain or the department store is part of a multi-store chain in a locality or metropolitan area, all of the operators of *all* of the other stores and other facilities in the locality or metropolitan area would be covered. (*See also* pages 11-12, *supra,* for the impact of this provision on religious institutions.)

As also mentioned earlier, such facility-wide or plant-wide coverage, let alone multi-facility coverage within a locality, did not exist prior to *Grove City. Simpson* v. *Reynolds Metals Co.,* 629 F.2d 1226 (7th Cir. 1980); *Bachman* v. *American Society of Clinical Pathologists,* 577 F. Supp. 1257 (D. N.J. 1983); *see Brown* v. *Sibley,* 650 F.2d 760 (5th Cir. 1981). All of these decisions would be reversed by the adoption of S. 557. *See also Rice* v. *President and Fellows of Harvard College,* 663 F.2d 336 (1st Cir. 1981), *cert. denied,* 456 U.S. 928 (1982).

Title IX coverage of the nonfederally-assisted education parts of these facilities would also occur for the first time.

It should also be stressed that, while proponents of S. 557 may describe this coverage as slightly more limited than the extremely overbroad coverage for private businesses and organizations principally engaged in the business of providing education, health care, housing, social services, or parks or recreation, in practical terms it is hardly more limited at all. Many private businesses and private organizations, which receive direct or indirect Federal aid for one discrete activity, consist of just one facility, or of facilities in one locality or region, and thus would be covered just as broadly as if they were principally engaged in the business of, say, health care.

In testimony on this bill and its predecessors, witnesses from the business community indicated that expanding the scope of these statutes will discourage businesses from participating in federal programs, such as job-training programs.

13. *If a research hospital receiving Federal aid establishes a research laboratory jointly with a pharmaceutical company, and the research laboratory does not receive Federal*

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[9] A principal House co-sponsor of this measure acknowledged this type of coverage exists under S. 557:

Mr. GORDON. Mr. Chairman, in the situation of a hypothetical of corporation A receives (sic) Federal funds to construct and operate a low- and moderate-income apartment complex. Corporation A also owns and operates a luxury apartment rental complex and a candy company. Which components of corporation A are subject to the nondiscrimination laws?

Mr. HAWKINS. The housing project being constructed using Federal financial assistance is clearly covered. The luxury apartment rental complex would also be covered under subsection (3)(A)(ii) if, as appears to be the case, the corporation is principally engaged in the business of providing housing. In that circumstance, the entire corporation, including the Candy Co., would be under an obligation to comply with the several laws amended by S. 557. 134 Cong. Rec. H. 558 (Daily ed. March 2, 1988).

[10] Moreover, Federal aid to non-educational components of an entity did not trigger coverage of the entity's educational components under any of these statutes.

aid, it is covered because it is an "operation of" the hospital.

Explanation.—If a private organization receives any direct or indirect Federal aid for one activity, and creates another entity, business, or other private organization, such as a joint venture, with another private entity, then the newly created entity is also covered, even if it receives no Federal aid. Once "all of the operations of" a private entity such as one listed in paragraph (3) are covered, if that covered entity's operation includes an entirely new entity, even one created in conjunction with another entity, the plain language of S. 557 covers the newly created entity even if it receives no direct or indirect federal aid.

The same result occurs if the private entity joins with a public entity to create a joint venture or if two public entities join to create a third entity (*i.e.*, "all of the operations" of entities listed in paragraphs (1) and (2) are also covered). Such "operations" include subsidiaries and newly established entities, even if created with other organizations. Such coverage did not exist before *Grove City*.

Indeed, the sweep of paragraphs (1) through (3) is so broad—much broader than its proponents care to admit—that paragraph (4), the vague catch-all provision, is superfluous if its purpose is only to reach these so-called third entities created by other entities.

For example, if six localities form a water district, and the water district receives Federal aid, it is covered as a "special purpose district" listed in subparagraph (1)(A) as well as an operation of the agency of the city government, also covered in subparagraph (1)(A), most responsible for that locality's contribution to the water district.

As another example, if a public-private partnership (PPP) is formed by a school district and a company to provide help to students at risk of school failure, and the PPP receives Federal aid, it is already covered as an operation of two other entities already described in the bill without need of coverage under paragraph (4).

In addition, contrary to pre-*Grove City* coverage, Federal aid to the PPP would sweep the school district and the company into coverage as well. This occurs because "all of the operations of" the school district would be covered, *i.e.*, not just the new entity which receives Federal aid, but "all of the operations" of the school district itself under subparagraph (2)(B); and the same analysis applies to coverage of the company itself under subparagraph (3).

14. *Similarly, if a private business contributes its own funds or equipment informally to a federally-assisted school district, private school, or private social service program, the business itself is covered.*

Explanation.—Even if a private business informally contributes to a public or private school or school system or social service program receiving federal aid, in an effort to enhance education or increase delivery of social services, the business will be covered, under paragraph (3) of the operative provisions of the bill, for the first time. This result occurs because the federally-assisted program, in effect, becomes one "of the operations" of the business, as well as being an operation of the other entity. Thus, "all of the operations of" the business are covered, pursuant to paragraph (3), because one part of the business's operations—its help to another program—in effect receives federal aid. This is a consequence, perhaps unintended, of the very broad language of S. 557. Even the risk of such coverage will likely discourage private businesses from participating in such programs.

15. *Farmers receiving crop subsidies and price supports will be subject to coverage.*

Explanation.—The operative provisions of S. 557 state: the term "program or activity" means all of the operations of—

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship . . . any part of which is extended Federal financial assistance. . . .

Farms fall within this provision in several ways:

Crop subsidy programs and combinations of such programs, and similar Federal farm aid, can be said to provide assistance to the farm as a whole.

Moreover, a farm consisting of contiguous fields—or fields in the same general geographic area—could readily be deemed a "geographically separate facility" comparable to a plant, and thus covered in its entirety.

Farming may be regarded as a form of "social service" because it provides food not only for consumers but for those who receive food stamps and other welfare assistance.

A farmer employing part-time a student receiving Federal work-study aid would have his or her entire farming operation covered merely by employing such student.

Proponents of the bill argue that the bill's section 7 provides a "Rule of Construction" which exempts farmers as "ultimate beneficiaries" of Federal aid: "Nothing in the amendments made by this Act shall be construed to extend the application of the Acts so amended to ultimate beneficiaries of Federal financial assistance excluded from coverage before the enactment of this Act." The Senate Committee Report suggests that this section excludes farmers from coverage in certain circumstances along with persons receiving social security benefits, Medicare and Medicaid benefits, and food stamps. Senate Committee Report at 24-25. *See also* 134 Cong. Rec. S259-260 (daily ed. January 28, 1988) (colloquy between Senator Karnes and Senator Kennedy); 134 Cong. Rec. H569 (daily ed. March 2, 1988) (colloquy between Congressmen Dorgan and Hawkins).

While sponsors may have intended Section 7 to have retained satisfactorily the exemption of farmers existing prior to *Grove City*, we believe Section 7 fails to achieve such a result because there is no indication in the *bill* itself as to which persons or entities are considered to be "ultimate beneficiaries" and under which federal aid programs. Section 7 may be construed by courts to refer only to persons receiving Social Security, Medicare, and Medicaid. Unlike such traditional "ultimate beneficiaries," farmers also operate businesses—their farms. Farms appear to be clearly covered by paragraph (3) of each of the bill's operative sections, as mentioned earlier, because farms are readily identified as business entities or private organizations or both. Thus, we do not believe Section 7 retains the pre-*Grove City* exemption of farmers. The four cross-cutting civil rights statutes have been so completely rewritten by S. 557, and S. 557 contains language so clearly covering farms, that language in legislative history is inadequate to exclude farmers from coverage.

As an additional problem, even if farmers are regarded as ultimate beneficiaries of crop subsidies and similar Federal funds, and thus are exempt from coverage under section 7, the section only applies to those ultimate beneficiaries "excluded from coverage *before the enactment of* [S. 557]" (emphasis added). Thus, even under this interpretation, ultimate beneficiaries of farm programs adopted after S. 557's enactment are not excluded from coverage. The Senate Committee Report's suggestion that, "[n]othing in S. 557 would prohibit recipients to new forms of federal financial assistance created after enactment of the bill from being exempted from coverage as 'ultimate beneficiaries', where the type of aid and the nature of the recipient is analogous to the existing categories of 'ultimate beneficiaries'," Senate Committee Report at 25, is completely at odds with the plain language of the bill and is utterly unpersuasive.[11]

Coverage of farmers receiving crop subsidies or price supports did not exist before *Grove City*. Senator Hubert Humphrey stated, during consideration of title VI in 1964: "It will not affect direct Federal programs, such as CCC price support operations, crop insurance, and acreage allotment payments. It will not affect loans to farmers, except to make sure that the lending agencies follow nondiscriminatory policies. It will not require any farmer to change his employment policies." 110 Cong. Rec. 6545 (statement of Sen. Humphrey) (1964).

16. *A State, county, or local government department or agency will be covered in its entirety, whenever one of its programs receives Federal aid. Thus, if a State health clinic is built with Federal funds in San Diego, California, not only is the clinic covered, but all activities of the State's health department in all parts of the State are also covered.*

Explanation.—Subparagraph 1(A) covers "all of the operations of . . . a department [or] agency . . . of a State or local government . . . any part of which is extended Federal financial assistance." *See also* subparagraph (1)(B), which covers "all of the operations of" a State agency to which Federal aid is extended through another State "entity".

This coverage beyond the federally-aided program exceeds pre-*Grove City* coverage. *See Brown* v. *Sibley*, 650 F.2d 760, 769 (5th Cir. 1981) (plaintiff must show that program or activity itself received or was directly benefited by Federal financial assistance; not sufficient to show that some aspect of relevant overall entity or enterprise receives or has received some form of input from Federal fisc).

Indeed, the Senate Committee Report makes clear how sweeping subparagraph 1(B) is: "If the office of a mayor receives federal financial assistance and distributes it to local departments or agencies, all of the operations or agencies which actually get the aid." Senate Committee Report at 16. This raises a number of serious concerns.

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[11] Thus, even for individuals receiving direct social welfare aid such as persons on welfare, who may be exempt under the bill, if a new Federal welfare program was enacted following enactment of S. 557 in its current form, exemption from coverage for individuals beneficiaries would not exist in light of the language of the bill.

First, only that portion of the mayor's office funneling the Federal financial assistance through to another program was covered before *Grove City*, not the entire mayor's office.

Moreover, what do sponsors mean by "all of the operations of the mayor's office"? A mayor's or governor's office is not hermetically sealed and is involved in a myriad of local or State government activities. This ambiguous but expansive gloss on the bill's broad language raises the likelihood that if a mayor's office "funnels" a health grant to the municipal health department, or merely is reimbursed overhead expenses from the grant, and the mayor's office is also overseeing social welfare programs, parks programs, police, fire, and sanitation functions, all of these latter activities, totally unconnected to the grant and not covered before *Grove City* under this scenario, will be covered under S. 557. This is a version of the "trickle-down" approach of the bill's predecessor.

Further, only that part of a State or local agency receiving Federal aid was covered under these laws, not the entire agency, regardless of whether the Federal aid was received directly from the Federal Government or through another entity.

If a State health agency received Federal aid to assist private businesses in first aid training and provided such assistance to an automobile plant, then that program of the State agency, as well as the first aid program at the automobile plant where the federally-assisted training occurred were covered before *Grove City* by these statutes, not the entire State health agency and the entire plant itself. Yet, S. 557 explicitly provides for the latter, expansive coverage. *See* Senate Committee Report at 18.

17. *The zoning function of local government will likely be covered by these laws in ways never before achieved.*

Explanation.—Given the language of paragraph (1) of the operative provisions of the bill and the Committee Report's discussion of coverage of the mayor's office, see discussion of item 16 *supra*, it will be difficult, if not impossible, for localities and states to escape total coverage under the bill, including a locality's zoning function. A mayor's office, which usually plays some role in obtaining federal aid, is usually involved in most, if not all, of the locality's activities, such as building and planning activity, selecting zoning commissioners, and the like.

This would mean that a federal agency's equality-of-result, rather than equality-of-opportunity, disproportionate impact rules implementing these statutes would be applied to local zoning requirements. Thus, for example, zoning requirements falling with a disproportionate impact on a particular minority group can be struck down, even if they were not adopted for a discriminatory purpose.

18. *Every college or university in a public system of higher education will be covered in its entirety if just one department at one school in that system receives Federal financial assistance.*

Explanation.—Subparagraph (2)(A) covers "all of the operations of . . . a college, university, or other postsecondary institution, or a public *system* of higher education . . . any part of which is extended Federal financial assistance. . . ." (emphasis added). Thus, if one department at one university in a public system of universities receives Federal aid, not only is that college covered in its entirety, every other college in that system is also covered in its entirety.

Yet, Secretary of Education T.H. Bell stated that, prior to the *Grove City* decision, coverage of one postsecondary institution did not result in coverage of the entire system of higher education: "Under our postsecondary programs will aid to a particular campus of a multi-campus university result in coverage of the entire university system, including all of its campuses? If so, the bill expands pre-*Grove City* coverage." Civil Rights Act of 1984: Hearings on S. 2568, Before the Subcomm. on the Constitution of the Senate Comm. on the Judiciary, 98th Cong., 2d Sess. 227-228 (1984) (statement of T.H. Bell).

Ironically, when this bill's immediate predecessor was introduced in the 99th Congress (S. 431, H.R. 700), it covered both private and public systems of higher education. While this bill drops system-wide coverage in private higher education, it declines to do so for public higher education.

19. *A school, college, or university investment policy and management of endowment will be covered if the institution receives even one dollar of Federal education assistance.*

Explanation.—See explanation for item 20, *infra*.

20. *The commercial, non-educational activities of a school, college, or university, including rental of commerical office space and housing to those other than students or faculty, and other commercial ventures will be covered if the institution receives even one dollar of Federal education assistance.*

Explanation.—S. 557 covers "*all* of the operations of . . . a college, university, or other postsecondary institution, or a public system of higher education . . . any part of which is extended Federal financial assistance. . . ." Subparagraph (2)(A) (emphasis added). Investment policy and management of endowment obviously fall within "all of the operations of" these entities. Subparagraph (2)(A) also subjects the commercial, non-educational activities of an educational institution to coverage because they too fall within the scope of "all of the operations of" an educational institution described in subparagraph (2)(A). This is acknowledged in the Senate Committee Report at 17.

Such coverage did not exist prior to *Grove City*. Harry M. Singleton, the Department of Education's Assistant Secretary for Civil Rights, testified:

"[Under the bill] financial assistance flowing to only one part of the university, one department, building, college or graduate school, would create jurisdiction in all departments, buildings, colleges, and graduate schools of that university, wherever geographically located, as well as in noneducational operations in which the university might be engaged such as broadcasting, rental of nonstudent housing, or even the management of its endowment fund. *In declaring that all such operations of a college or university, even those absolutely unrelated to educational activities, are to be within the jurisdiction of the Federal Government, [the bill] goes well beyond its announced purpose, of merely restoring that jurisdiction, previously exercised.*"

Testimony of Harry M. Singleton, Civil Rights Restoration Act of 1985: Joint Hearings on H.R. 700, Before the Comm. on Education and Labor and the Subcomm. on Civil and Constitution Rights of the House Comm. on the Judiciary, 99th Cong., 1st Sess. 299-300 (March 7, 1985) (emphasis added).

21. *A new, vague catch-all provision provides additional coverage in potentially limitless ways.*

Explanation.—Paragraph (4) states that "'program or activity' means all of the operations of . . . any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3); *any part of which* is extended Federal financial assistance." (emphasis added). While this language reflects a Senate Committee amendment which marginally improves the clause, it remains a potent vehicle for a significant expansion of Federal jurisdiction.

"Entity" is nowhere defined in the bill. If sponsors of the bill have particular types of "entities" in mind not otherwise covered in the first three already broad paragraphs of the bill's operative provisions, they should clearly delineate them rather than use unclear concepts and vague language. It is Congress' task to be precise, particularly on the part of those who believe the Supreme Court misconstrued earlier legislation in the same field.

This section, on its face, would appear to include coverage of two separate entities, such as a public school district and a private university, as well as the third entity created by the former two entities, even when only the third entity receives Federal aid. While the Senate Committee Report at 20 disclaims this result and asserts that only the third entity is covered if only it receives Federal aid, the section is at best ambiguous on this point. Similarly, on its face, the section would appear to cover the third entity and one of the two separate entities when the other separate entity receives Federal aid.[12]

Moreover, the Senate Committee Report's description of the substance and rationale for this section is strikingly inaccurate, occasionally incoherent, and reflects the same attribution of "public" status to private entities as it does for paragraph (3)—but even more broadly. The Senate Committee Report gives an example of paragraph (4)'s operation:

Example: A school district and a corporation establish the PPP company—a public-private partnership whose purpose is to provide remediation, training and employment for high school students who are at risk of school failure. The PPP company applies for and is extended federal financial assistance. All of the operations of the PPP company would be covered even if the federal financial assistance was only to one division or component of the company.

This is appropriate because an entity which is established by two or more of the entities described in (1), (2), or (3) is inevitably a public venture of some kind, i.e., either a government-business effort (1 and 3), a public education-business venture (2 and 3) or a wholly government effort (1 and 2). It cannot be a wholly private venture under which limited coverage is the general rule. The governmental or public character helps to determine institution-wide coverage. For example, in a Catholic diocese where 3 parishes receive federal aid, the parishes are geographically separate facilities which receive federal aid, and the diocese is a corporation or private organization of which the parishes are a part. Only the three parishes which receive federal aid are covered by the antidiscrimination laws. Both the parishes and the diocese are entities described in paragraph (23), therefore paragraph (4) would not apply.

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[12] As mentioned earlier, pages 25-26, *supra*, all three entities are already covered in this circumstance by the overbroad provisions of subparagraph (3)(A) or (3)(B).

The governmental or public character of entities covered by paragraph (4) helps to determine institution-wide coverage. Even private corporations are covered in their entirety under (3) if they perform governmental functions, i.e., are "principally engaged in the business of providing education, health care, housing social services, or parks and recreation." Senate committee Report at 19-20.

First, this passage falsely implies that paragraph (4) only covers entities created by an entity in one of the three preceding paragraphs and an entity in a different preceding paragraph (i.e, between entities in paragraphs (1) and (2); (1) and (3); and (2) and (3)). The language of paragraph (4) clearly covers entities created by two entities described in paragraph (1); two entities described in paragraph (2); or two entities described in paragraph (3). For example, two businesses covered under subparagraph (3)(A) can form a joint venture. That in this instance the entity formed can be covered under paragraph (3) itself as a private business or other private organization hardly precludes duplicative coverage under the language of paragraph (4).

Second, the Senate Committee Report's assertion that an entity otherwise within the description of paragraphs (1), (2), or (3) is, therefore, not covered by paragraph (4), Committee Report at 19-20, simply is not supported by the language of paragraph (4). Paragraph (4) covers entities established by entities described in paragraphs (1), (2), or (3) regardless of whether the "new" entity itself falls within those first three paragraphs.[13]

Indeed, ironically, this very example of the PPP Company used in the Senate Committee Report to illustrate the operation of paragraph (4) vindicates this criticism—and illustrates instead the "overkill" of this catch-all provision. The PPP Company, created as a partnership by a school district and a corporation, *is* already separately covered under paragraphs (2) *and* (3) if it receives Federal financial assistance. The PPP Company is clearly an "operation" of the school district—regardless of its joint nature—and since the PPP Company receives Federal financial assistance, it is covered under subparagraphs (2)(B), along with the school district itself. As an operation of a school district, the PPP Company is a "part" of the school district "which is extended Federal financial assistance," thus covering all of the operations of the school district as well as the PPP Company. A similar analysis results in coverage of the PPP Company under paragraph (3), as an operation of the corporation, as well as coverage of the corporation itself under paragraph (3). Indeed, as indicated earlier, pages 25-26, *supra*, the PPP Company would be covered in its entirety if either the school district or the corporation receives one dollar of direct or indirect Federal aid, even if the PPP Company itself receives no Federal aid.

It should be noted that, in light of this transparently inaccurate description of paragraph (4), the Committee Report's suggestion that Federal aid to a few Catholic parishes does not yield coverage of the Diocese of which they are a part, which rests on this clearly erroneous reading of paragraph (4), is not necessarily going to be persuasive to future administrative enforcers of this bill if enacted, or to reviewing Federal judges.[14]

Third, corporate-wide coverage of the new entity established by the two separate entities described in paragraphs (1), (2), or (3) exists *regardless* of its principal business, in contrast to subparagraph (3)(B)'s slightly more limited "facility" coverage for at least some businesses.

Fourth, once again the bill's sponsors reveal their motivation in rendering "public" wholly private entities. They claim coverage of an entire corporation established by two other entities, regardless of its principal activity "because an entity which is established by two or more of the entities described in (1), (2), or (3) *is inevitably a public venture of some kind, i.e.*, either a government-private effort (1 and 3), a public education-business venture (2 and 3) or a wholly government effort (1 and 2)." Senate Committee Report at 19 (emphasis added).

Of course, this Senate Committee "analysis" flagrantly misreads its own bill and is patently inaccurate: Paragraph (2) covers private colleges, universities and other postsecondary institutions ((2)(A)), as well as private and religious elementary and secondary school systems ((2)(B)). Thus, a venture between an entity in paragraph (2) and an entity in paragraph (3) can readily be entirely private,[15] in contradiction to the sponsors' inaccurate assertion. Yet, a rationale of S. 557 is that what is regarded as private continues to shrink. The bill imbues with a "public character" wholly private entities simply because they are the creation of two other private entities—and regardless of the nature of those latter entities. This is even a significant step beyond the startling expression of this principle in subparagraph (3)(A)(ii), which, as novel and drastic as it is, at least was somewhat limited in theory to five very broad categories. Here, even that minor limit is removed.

RELIGIOUS TENETS

Religious tenets language is needed in title IX as a necessary part of *Grove City* legislation in order to protect an institution's policy which is based upon tenets of a religious organization where the institution is controlled by, or closely identifies with the tenets of, the religious organization.

In 1972, when Congress enacted title IX, Congress included several exemptions to its coverage, including: "[T]this section shall not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such organization. . . ." 20 U.S.C. § 1681(a)(3).

At that time, many educational institutions were controlled outright by religious entities. Some of these institutions today, while retaining their identity with religious tenets, are controlled by lay boards and have fewer financial ties to religious organizations and thus are outside the scope of the religious tenets exemption of current law. Accordingly, the "control" test for application of the exemption no longer affords adequate protection for religious values under title IX.

Indeed from 1972 through 1984, according to the Department of Education, only 5 out of 220 requests for exemptions under the current "control" test were granted. Most applications received no response. While more exemptions have been granted since 1985, there is no guarantee that a subsequent Administration will treat future legitimate exemption requests favorably. Further, some proponents of S. 557 assert that a number of exemptions granted in the last two years are invalid under the "control" test. A subsequent Administration might well revoke current exemptions. Moreover, it is highly likely that advocacy groups hostile to the religious tenets exemption will initiate litigation to overturn existing exemptions if this bill is enacted unless title IX's current language is amended to reflect the changing nature of religiously oriented institutions today.

Thus, language must be included under title IX in any *Grove City* bill to protect a policy of an educational institution based on religious tenets not only when the institution is controlled by a religious organization, but also when an educational institution "closely identifies with the tenets of" such a religious organization. This same protection should also be afforded to other institutions covered under title IX by *Grove City* legislation, such as hospitals, when they have a close identification with the tenets of a religious organization. Indeed, S. 557 itself makes a grudging acknowledgement of the need to protect such other institutions covered by title IX by substituting the word "entity" for educational institution in the current exemption, but unfortunately does not alter the rigid "control" test itself. With the language we support, the exemption under title IX would read:

Except that such term ["program or activity" and "program"] does not include any operation of an entity which is controlled by, *or which is closely identified with the tenets of*, a particular religious organization if the application of [Title IX] to such operation would not be consistent with the religious tenets of such organization. (Emphasis added.)

An institution cannot claim protection under this language for differentiation on the basis of race, handicap, or age. The exemption exists *only* under title IX, which addresses gender distinctions. The exemption recognizes that the tenets of some religious organizations differentiate in some ways between the sexes. In the spirit of diversity and pluralism in education and other parts of the private sector covered by title IX under *Grove City* legislation, the exemption respects the independence of an institution's conduct in carefully delineated circumstances when that institution is controlled by, or closely identified with the religious tenets of, a religious organization.

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[13] The term "other entity" in paragraph (4) not only includes those entities not described in paragraphs (1), (2), and (3), but also includes entities described in those sections which "are established by two or more of the entities described in" those three paragraphs. For example, while a federally-assisted summer recreation camp in the mountains for youngsters established by a private group is covered by subparagraph (3)(A)(ii), if it is established instead by three synagogues, *i.e.*, all four entities described in paragraph (3), the camp is not only covered by paragraph (3), it is also covered by virtue of paragraph (4).

[14] Aside from whether Catholic dioceses are covered in their entirety under paragraph (4), the risk of coverage of entire Catholic dioceses arises under subparagraph 3(B). See pages 9-12, *supra*.

[15] Further, as mentioned earlier, paragraph (4) readily covers entities established by two or more entities within each of the preceding paragraphs, which would include many wholly private "third" entities.

A covered institution is not exempt in its entirety from title IX if just one or some of its policies is based on religious tenets and conflicts with title IX. The exemption applies *only* to the specific policy or policies, based on religious tenets at those institutions able to avail themselves of the exemption, when title IX would conflict with such policy or policies.

This exemption has no application in public schools or other public institutions. The first amendment, as applied to State and localities, effectively prohibits public schools or other public institutions from basing any policies or conduct squarely on the religious tenets of a religious organization. This exemption applies only to private institutions, where students are in attendance because they have freely chosen to attend the institution.

This language originated from concerns expressed during consideration of *Grove City* legislation in the 99th Congress. In May 1985, in response to concerns about the protection of religious liberty under title IX, the House Education and Labor Committee Report first strengthened the current religious tenets exemption when considering *Grove City* legislation.

The particular language set forth in this letter is virtually identical to language in the Higher Education Amendments of 1986, adopted by Congress and signed into law in October 1986. There, a prohibition against religious discrimination in the construction loan insurance program was enacted with an exception using virtually the same language now recommended for title IX. This provision, in short, is modeled on language used by the 99th Congress and should not be controversial.

While some proponents of S. 557 oppose this language as an "unacceptable" change to the exemption, as mentioned earlier, S. 557 itself changes the standard to try to take into account the extreme broadening of coverage represented by the bill. The current exemption applies to educational institutions. Yet, S. 557 broadens the exemption by replacing the term "educational institution" with the word "entity." This change, however, does not sufficiently address the problem posed by the "control" test. The "closely identifies with" language is needed to address this situation.

FUND TERMINATION

The language addressing the scope of the fund termination remedy, whereby an agency cuts off Federal financial assistance to a program or activity, is unchanged by S. 557. It is universally agreed that Congress intended the scope of an agency's authority to use the draconian remedy of fund cut-off to be pinpointed to the discrete area where discrimination occurred.[16] The termination clause of these civil rights statutes currently states that termination of Federal financial assistance "shall be limited . . . to the particular program, or part thereof, in which such noncompliance has been . . . found." *E.g.*, 42 U.S.C. § 2000d-1. Since S. 557 defines "program" so expansively, the continuation of the program-specific scope of the fund termination power under S. 557 rests on the "or part thereof" language. The Committee Report apparently seeks to note that this program-specific scope is so retained by mentioning that S. 557 "leaves intact the 'or part thereof' pinpointing language." Senate Committee Report at 20.

Unfortunately, the Senate Committee Report then goes on to misstate the scope of fund termination in the one example it lists: "In the case of Grove City College, for example, if there is discrimination in the math department, a fund termination remedy would be available because the funds from BEOG's flow throughout the institution and support all of its programs." *Id.* This is wrong. If there is discrimination in a math department which received no Federal funds in an educational institution covered in its entirety because of receipt of Federal student aid funds, the agency's remedial recourse after a failure of conciliation would be a referral for litigation to the Department of Justice, not a fund cut-off to the student aid program. In this example, only when the discrimination is in the student aid program can the agency terminate the Federal student aid money.

Ironically, it is the very *Grove City* decision that sponsors of S. 557 wish to overturn with respect to regulatory jurisdiction (but *not* in the scope of fund termination) that delineates the student aid program as the program-specific parameter when Federal student aid is involved. Thus, in light of this startling misstatement concerning the scope of the fund termination remedy in the Committee Report, there is a risk that the scope of the fund termination remedy is being expanded by S. 557.

As another example, if a State highway department receives Federal aid for a safe-driving program and part of that Federal aid is spent on overhead expenses at the highway department's headquarters, will discrimination in the safe-driving program lead to a Federal funds cut-off of highway construction money as well under S. 557? Further, since a Federal block grant in, for example, social services can be spent in a number of state programs, it seems that the interpretation in the Committee Report could mean that discrimination in just one program receiving block grant funds could lead to a cut-off of all block grants funds. This, of course, far exceeds the scope of fund termination authority before *Grove City*.

Section 9 of the bill includes language amending the Rehabilitation Act of 1973, by stating:

For the purpose of sections 503 and 504, as such sections relate to employment, such term does not include an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job.

The Administration had unsuccessfully argued in *School Board of Nassau County* v. *Arline*, —— U.S. ——, No. 85-1277 (March 3, 1987), that contagiousness is not a handicap within the meaning of Section 504.[17]

For all of the reasons stated herein, we strongly recommend that the President veto S. 557.

John R. Bolton, Assistant Attorney General for Legislative Affairs.

To illustrate what a striking venture into substance this provision represents, we note that some agencies do not have small provider exceptions for structural alterations in their section 504 regulations, *e.g.*, the Department of Defense (32 C.F.R. pt. 56), and the Department of Transportation (49 C.F.R. pt. 27). Even those agencies that do have such provisions use different language. For example, the Department of Health and Human Services' section 504 regulation contains a provision relating to entities with fewer than fifteen employees. 45 C.F.R. § 84.22(c). The Department of Commerce's section 504 regulation at 15 C.F.R. § 8b.17(c) contains a provision relating to "a small recipient," which is defined as "a recipient *who serves fewer than 15 beneficiaries* and who employs fewer than 15 employees." 15 C.F.R. § 8b.3(1) (emphasis added).

This exception, of course, does not remove jurisdiction under section 504, but only exempts the entity, in certain circumstances, from the most onerous of section 504 requirements. A key point about this section is that it belies the sponsors' claim that this bill does not address substantive issues.

Mr. HATCH. Mr. President, I note that the distinguished Senator from Connecticut is here and wants to speak on this bill.

I ask unanimous consent that I may yield to him at this time, without losing my right to the floor, without it being considered as a second speech, and with my speech being continued from the beginning when I resume speaking.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Connecticut [Mr. WEICKER] is recognized.

Mr. WEICKER. Mr. President, I would urge my colleagues to support the legislation which is the subject of the Presidential veto and override the President's veto of S. 557, the Civil Rights Restoration Act.

Really at issue here is the dedication of this Nation to civil rights. What is at issue here is whether we are going to talk civil rights or whether we are going to have civil rights.

When the Grove City decision was handed down, it placed civil rights in the United States in the position of being talked about but not acted upon. In effect, what was involved were four groups of our citizens. I might add, in the course of adding up those four groups, just about all of us fall into at least one category—minorities, the handicapped, the elderly, and women.

Up to that point, the civil rights policy of this Nation was such that if that institution discriminated, then Federal financial assistance to that institution was placed in jeopardy and, if discrimination was proven, the funds that supported that discrimination were cut off. In the Grove City decision, the Court interpreted Congress' intent as only to require the unit of the institution that received Federal assistance not to discriminate. For example, if indeed there were no Federal funding for a women's basketball team in a university, then although Federal funds could go to elsewhere in the university, the athletic department or, I suppose, following the reasoning more particularly, the basketball program within the athletic department, would not be subject to coverage under the statutes.

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[16] Indeed, the Supreme Court relied on this pinpoint termination authority to conclude, in *North Haven Board of Education* v. *Bell*, 456 U.S. 512 (1982), that title IX's ban on discrimination is program-specific.

[17] Although proponents of S. 557 sometimes assert that the bill addresses only the scope, and not the substance, of the statutes it amends, this is untrue.

In addition to the substantive amendment to the Rehabilitation Act concerning contagiousness, the bill addresses the substantive meaning of section 504 by stating in subparagraph (4)(c):

Small providers are not required by subsection (a) to make significant structural alterations to their existing facilities for the purpose of assuring program accessibility, if alternative means of providing the services are available. The terms used in this subsection shall be construed with reference to the regulations existing on the date of the enactment of this subsection.

That decision really gutted civil rights enforcement in this Nation. I wish I could say that the progression of civil rights in the United States of America need only depend on the good will of each one of us. But you know and I know that that just is not the case, either historically or at present.

For the Nation as a whole, enforcement is absolutely necessary to reverse the consciousness of discrimination. There is no question in my mind that succeeding generations of Americans will not hold the same attitudes that we were taught—I am talking about those of my age—and that is all to the good. But there is still a long way to go. And there is no question in my mind that in the last decade or so, we have paid less and less attention to the matter of civil rights, due to a feeling that we had a major catharsis in the 1950's and 1960's, and enough is enough; we can now let things be.

Let me cite an example that relates to my own State of Connecticut, and it is of very recent vintage. Recently, the commissioner of education of the State of Connecticut issued a report showing that there was substantial segregation in our public school system. This was not guesswork on his part. He had it all factually established. And he suggested that the time had come for the locales, and for the State itself, to take care of this segregation and discrimination. For those efforts he was roundly derided by all manner, shape and form of individuals within the State, but most particularly by the State legislators, even before they met in session, because his pronouncements had a very unsettling effect politically on their careers.

Nobody disputed the facts that he had presented to the people of Connecticut, but when he suggested bussing and other remedies and the moneys that would be required to remedy the injustice, it was then that one by one the politicians found their sticking points.

Indeed, in writing about the situation, several of the reporters in the State confronted State legislators and asked them for their comment. And their comment was, we will never have to handle this hot potato. It will go to the courts and the courts can handle it.

Well, believe me, if the courts do handle it, you are really going to hear the yelling and screaming and then you will find the legislators getting into the act; trying to clobber the courts with a vehemence that apparently they are reluctant to feel when clobbering discrimination.

So, yes, many years after Brown versus the Board of Education, and various efforts by the Federal Government and by its courts, and within a progressive State like Connecticut, discrimination continues. The fight goes on. And I particularly use this example so that we do not start getting into a finger-pointing exercise here on the floor of the Senate as to where discrimination exists. It is in the North as much as the South; the West as much as the East. It applies to women as much as it applies to blacks. It applies to the disabled as much as to the elderly. It is our problem. And the question is: Do we want to see it eliminated within our lifetimes or does each generation just do a little bit to salve their consciences, but so little as it relates to those who are being discriminated against?

That is why the teeth are necessary, if we are to move forward. That is why there has to be a penalty for an American to discriminate. Whether the American is an individual or whether it is an institution, he, she, or it should be made to stop and think as to the consequences of their act.

Now, is there anybody who would deny that the lot of a woman, or the lot of of a minority, or the lot of a handicapped person or an old person is far better today than it was decades ago? Not, mind you, is that lot perfect. But is it better? And the answer, clearly, is yes.

Constantly in the minds of this Nation are, How do we impact upon our neighbor? Is the opportunity the same for all? Can there be a quality of life that is equal among us? This is what we strive for. This is the objective. And yet that objective has receded further, further, and further back in the national conscience during the past decade or so.

We do not have, except possibly in the context of a political campaign, those who take the floor of this Chamber or the Chamber across the way or those who take over the offices of the White House—we do not have those giants any longer standing up and calling this Nation to the attention required to address its needs, its problems, its tragedies, its opportunities. This, after all, in the year 1988, is when we address the betterment of each one of us; not our neighbor. There is no more political capital to be had, in terms of civil rights. The capital is to be found in "me" rights.

Here is an opportunity for one of the great moments of the U.S. Senate and of this Government. I am sorry this moment is not being shared by its Chief Executive, because, indeed, regardless of specific points that are raised or the rhetoric that is marshalled on behalf of the veto, the fact is there is nothing within this legislation to be afraid of; there is no further incursion of the Federal Government into anybody's life. It is merely, probably, the last statement of disinterest in civil rights by this administration before it leaves office; a disinterest, I might add, which has been shared by the Democratic Congress also, individual Members notwithstanding. A disinterest in civil rights is not something that can be achieved by one man or one political party. It is a governmental neglect; it is a bipartisan neglect that has been the rule rather than the exception during the past several years.

When Grove City was handed down there were individual men and women of courage who said: This is not to be the policy of the United States. Rather, we want to reaffirm our commitment to knock down the barriers wherever they exist.

Senator KENNEDY was one of those individuals. Others who will be speaking here on the floor have long persisted in trying to bring redress to the wrong committed in the Grove City decision.

But now our time has come. So often we have tried to pass the ball to the courts. Now the ball is in our court. The question is as to whether or not we are going to accept responsibility that should have been ours long ago, before anything even went to the courts.

Do you remember how this whole Nation became incensed just a few months ago during the nomination vote of Justice Bork, blaming Justice Bork for his deficiencies on civil rights and human rights issues?

But there was one statement that Bork made that was absolutely correct, which is that the primary responsibility sits in the hands of the legislative and the executive branches of government, not the courts. The courts are the last refuge, the last defense for the rights of all Americans. They are not the first. But we have put the courts in that position by refusing to deal with the issues of this Nation ourselves.

And the most difficult situation of all is that which relates to discrimination.

It is not just a matter of black and white. It is the discrimination that occurs in so many other areas of our national life.

To give you a simple example, let us take the disabled. When we passed Public Law 91-142, some 40 percent of the cost of educating handicapped children was to be borne by the Federal Government. We were going to give to the handicapped equal opportunities so far as education was concerned. We were going to take care of 40 percent of the cost.

Never since that has become the law have we done more than 12 percent. So we love to talk about equality of opportunity for the disabled while making it impossible to achieve that equality by virtue of the money.

We set the standard, we told the States what to do, and we also told them we would contribute 40 percent of the funding. But once having established ourselves as being for opportunity for all handicapped children when it came time to pay the price we were unwilling to toe the mark.

And now what we are saying here, if we agree with the President, is we are unwilling to pay the price to achieve equality for women, the handicapped, the elderly, and the minorities of this Nation. We like to say, "We are for you" so we achieve a political point. But we are unwilling to come up and pay the price to achieve that equality.

The same people, for example, who are against discrimination of minorities are against busing. You turn to them and say, "All right. Busing is not a good solution. How about if we build the schools and hire the personnel and establish the programs which, in effect, draw people into the educational institution?"

"Well, that costs money and that means taxes," and the answer is, "That is right."

If you want to achieve equality of education for all our young people, right. You cannot have your wallets and your prejudices intact. Something has to give.

The issues are very simple on the floor of this Senate today.

No. 1, are we going to pay the price to eliminate discrimination in this Nation? You cannot go ahead, for example, and say to this university that discriminates, "I want to keep you all as my friends and we are only going to go ahead and penalize that unit of the university which has been doing the discriminating."

That is a great solution because, No. 1, it shows you are for equality and you do not lose too many votes. The same would hold true of any particular institution—State governments, corporations, you name it. What we are trying to do is to achieve that equality and not pay a price. In our case, the price probably is votes. In the case of the constituencies, it is probably their feelings, their sensibilities, or their wallet.

There is a price to be paid. But to me it is worth it from both sides in the sense that, No. 1, it brings the day so much closer when we eliminate all discrimination in this country; and, No. 2, I am uneasy with the fact that we should be subsidizing discrimination in any way today. And we are.

The penalty for any institution that permits discrimination should be that they not get one nickel, not one nickel.

But we saw when the Grove City decision was handed down a magnificent opportunity to keep our friends while at the same time to keep our national charade of being against discrimination.

This legislation calls that bluff. We might lose some friends with passage of the legislation, but it will be firmly established both in law and in fact, No. 1, you do not discriminate in this country at all, and No. 2, you certainly do not do it with the taxpayers' money.

Much has been made of the religious argument, that this bill somehow intrudes on freedom of religion.

It is not so at all. Not so. For all the institutions where exemptions have been requested, exemptions have been granted. No exemptions have been denied at all.

But to go ahead and move from control by a religious organization to those closely identified with the tenets of a religious organization creates an enormous loophole, a loophole which, in effect, would make this legislation meaningless.

I might add to affirm that fact, and I am sure these matters have been put into the record already by my colleagues, that it is important to note that the major Catholic, Protestant, and Jewish organizations are supporting the Restoration Act. Supporters include:

U.S. Catholic Conference of Bishops, National Council of Churches, American Jewish Congress, American Baptist Churches, Evangelical Lutheran Church of America, Union of American Hebrew Congregations, AntiDefamation League of B'nai B'rith, American Jewish Committee, Church of the Brethren, Presbyterian Church USA, Church Women United, Newwork-National Catholic Justice Lobby, United Methodist Church, and the Episcopal Church.

Nobody feels that their religious freedoms are being intruded upon.

Now, in the narrowest sense, as I said, even those that are controlled by a particular religious faith can apply for an exemption and those exemptions have been granted. Closely identified with? No. That obviously broadens the situation, permitting discrimination under the flimsiest of pretexts, even maybe just a name and a title, never mind a practice.

Nobody has stood on this floor longer and argued for the preciousness of religious freedom in this Nation than this Senator.

I find it amazing that some who now raise the religious issues are the very ones who want Government-organized prayer in schools. They want the Government to organize prayer, and yet they express shock and amazement relative to a bill that uses the force of the Federal Government to eliminate discrimination among the various groups I have already identified as being an incursion on religious freedom.

Mr. HATCH. Will the Senator yield on that point? He and I debated that issue.

Mr. WEICKER. Of course I yield.

Mr. HATCH. I appreciate that. He and I have debated that before, and I think the Senator knows I was forced to bring the vocal prayer amendment to the floor, but I have always been for a constitutional amendment that would end this divisive debate that would provide for silent prayer or reflection, so the person has a free choice, not a Government-organized prayer.

I just want to make that distinction clear because although I think the distinguished Senator was very eloquent, and I give him credit for defeating the vocal school prayer amendment, in his arguments against that amendment, I do not think he has a chance in the world, if we can get to the floor a silent prayer reflection amendment. But even so, I know he would be eloquent on that, also.

That is a far cry from Government-organized prayer. All that would do is allow a period of time, every morning in those school districts who choose to do it, to have silent prayer reflection. I want to make sure the RECORD is clear on that.

If I could make one other point, we have made point after point as to why churches and synagogues deserve protections from onerous bureaucratic provisions under this bill. I have not heard rebuttal, and the committee report hears them out. That is the point I am making on the churches and synagogues, and I think the religious tenets points are well taken.

I have not heard one argument from the distinguished Senator from Connecticut that rebuts any of those particular points. I want to make that clear, and I thank the Senator for allowing me to do that.

Mr. WEICKER. I do not want to get into an ancillary debate here with my good friend from Utah.

Mr. HATCH. Neither do I.

Mr. WEICKER. But I want the RECORD to show, just so we do not use this as an occasion to continue to mislead the American public, that, No. 1, anybody is free to pray in the schools of this Nation today as an individual. Anybody can pray as an individual in the schools of the United States today. But what I have consistently argued against is not whether it is silent or vocal, but whether it is organized. That is the key word. If Government can organize silent prayer, Government can organize vocal prayer, and if Government can organize the content of vocal prayer, then we are off to the races.

So, please, we are not going to get into a debate on this, but I want to make clear that the Senator's observations are what they always have been. He has led the fight, but I cannot let it go unchallenged as to what the substance of his comments are.

The only point I am trying to make is that I am trying to establish the fact that those of us, the principal drafters of this legislation, have a meticulous concern and care for the sanctity of one's faith and the manifestation of that faith. This legislation in no way impedes upon that.

What it does do, it does not permit you to use in a frivolous way an association with religion in order to discriminate. Now that is it. It does not allow you in a frivolous way to use an association with religion so that you can discriminate against women, so you can discriminate against the handicapped, so you can discriminate against minorities and discriminate against the elderly. That is all it does, and that attaches to each one of us personally.

There is nothing in this legislation, absolutely nothing, which curtails the freedom which we now have under the Constitution as Americans.

The distinguished Senator from Illinois did ask me to yield for a few seconds, and knowing his schedule, that is probably all he has. So I would like to go ahead and yield to him.

I would also like to use this as an occasion to say that, as you know, I always like an underdog. I always like somebody who has all the odds stacked against him and just comes out there as a winner. I want to give to you my personal congratulations on your achievement of a few days ago.

Mr. SIMON. I thank my distinguished colleague from Connecticut, and I am pleased to be identified with his views.

Mr. WEICKER. Mr. President, I am about ready to bring to an end my remarks on this bill today. I gather we will be talking on it further in the days ahead. Probably the vote will not take place, as I understand it, until next week.

I just do not want the Nation to get bogged down in the minutiae of what is involved here. It has been a long time since we have been called upon to put our beliefs on the line and to incur a price for establishing those beliefs into the fabric of this Nation. There is a price to be paid for it here. We not only say we are for the minorities of this Nation, that we are for the elderly of this Nation, that we are for the handicapped of this Nation, that we are for the women of this Nation. We not only say these things, but we give the power to this great constitutional Government to say that these matters of which we speak will be the reality of America. That our generation has a fight just as tough as that of 10, 20 years ago, and it is not enough for us that we celebrate Martin Luther King's birthday, but rather that we give new meaning to it as the power sits in our hands. We are alive; we have the power.

Do we have the courage to use it? That is the question which confronts this generation. How many in this Nation know that the gentleman who just spoke here, Senator Simon had the courage to make sure that the handicapped would have an equal opportunity for education? He was one of the authors of Public Law 91-142, and we celebrated the 10th anniversary a few years ago. It seems to me we are engaged in all sorts of celebrations around here—Martin Luther King, Public Law 91-142, and all of it was done a long time ago.

Now is our chance. Now is our chance to stand up and get counted, to understand that our institutions, should they even harbor a thought of discrimination and put it into effect in the smallest way, are going to get clobbered with that realization. If that becomes the law, not even a whit of an evil thought would cross a man's mind, but the way the situation stands now, it is well worth it to try and break the law.

The purpose of the legislation is to make it very expensive so that people do not try.

I yield the floor to my distinguished colleague from Utah and I look forward in the hours ahead to more debate. I want to say this also of him, that we clearly have very sharp differences over many matters, and he very articulately represents a point of view. I never fear that the debates on the subject at hand will be anything but instructive and valuable as long as they are presented in the fashion that has always been the hallmark of my colleague from Utah.

Mr. HATCH. I thank my distinguished colleague for his kindness to me and I agree that he is a very formidable adversary. I just wish he were more right on some of these issues. But he is a very fine person and I enjoy debating with him.

I have to say this, and then I would like to yield to the distinguished Senator from New Hampshire. Here we have the President of the United States willing to accept this bill, something he was unwilling to do ever since 1984, if he would protect religious liberty by limiting coverage to that part of the church or synagogue which participates in the Federal program instead of covering the whole church because one congregation makes a mistake in civil rights. You can correct that mistake. There is every right to under the law, under the President's proposal, without oppressing the rest of the institution, including prayer rooms and other aspects of the institution.

And he would protect, under title IX, the religious tenets closely identified with religious organizations on the same basis as institutions directly controlled by religious organizations and by providing that when a religious secondary or elementary school receives Federal assistance, only that school and not the entire religious school system becomes subject to Federal regulation. He would agree with all that.

He also would ask that we ensure that the reach of Federal regulation into private businesses extend only to the facility that participates in federally funded programs, unless the business as a whole receives Federal aid, in which case it is covered in its entirety.

His bill also states explicitly that the farmers will not become subject to Federal regulation by virtue of their acceptance of Federal price support payments, or Federal subsidies, in other words. He wants to protect the farmers from an onerous intrusion of the Federal Government, and ensure that the groceries and supermarkets will not become subject to such regulations by virtue of accepting food stamps from customers. I do not see where that is so inordinate.

He also wants to preserve the independence of State and local governments from Federal control by limiting Federal regulations to the part of the State or local entity that receives or distributes Federal assistance.

Now, here is the President of the United States who has come way off of what he thought was a much better bill to having this bill with those seven additions, none of which appear to me to be onerous or burdensome or improper, all of which would help to bring civil rights enforcement to the appropriate level, where it should be, and to the appropriate body or entity, where it should be.

One thing the distinguished Senator from Connecticut is right on, the price is going to be very stiff once this bill passes, even with the President's suggestions. It is going to cost a lot of money to enforce it, and it is going to be a tremendous, costly imposition upon many, many people in our society when it should be on those who violate the civil rights of others in our society. But it should not be where those civil rights are not violated and it certainly should not be used to oppress churches and synagogues, which it will be, and it certainly should not fly in the face of sincerely held religious beliefs of religious institutions, which it certainly is going to do, unless we adopt what the President says here. It is a pretty good faith offer. It is something he says he will support, and I think we should as well.

Now, I would like to yield to the distinguished Senator from New Hampshire on the same basis that I have been yielding, without losing my right to the floor and then also, thereafter, to the distinguished Senator from Massachusetts on the same basis as long as I do not lose my right to the floor and it will not be considered a second speech, under the same terms and conditions, and that my speech will continue on.

The PRESIDING OFFICER. The Chair would prefer that the Senator from Utah yield outright to the Senator from New Hampshire.

Mr. HATCH. I prefer to do it this way.

The PRESIDING OFFICER. And not to pass the floor, in the interest not only of the rules of the body but so that any other Senator who wishes to speak on the other side can do so.

Mr. HATCH. I will be glad to yield to them when they come, but I am just trying to save the Chair and save me the onus of getting up and saying it each time. What I would like to do is yield under those terms to the distinguished Senator from New Hampshire and immediately followed by my friend and colleague, who has asked me for 5 minutes right afterward.

The PRESIDING OFFICER. Hearing no objection, that will be the order. If there was an objection, the Chair would enforce the rules.

Mr. HATCH. Sure.

The PRESIDING OFFICER. The Senator from Utah yields to the Senator from New Hampshire, retaining his rights to the floor.

Mr. HUMPHREY. Mr. President, I commend President Reagan for vetoing S. 557. That certainly was not an easy decision for him, any more than it was an easy decision for those of us who opposed the bill in committee and on the floor before it was passed. The President was right, as I believe we were right.

Nonetheless, it is worth considering the anguish the President must endure for vetoing something called the Civil Rights Restoration Act, very cleverly titled, I think all parties will agree. Since we do not have any truth-in-labeling rules in this body, it is always worth looking beyond the title, especially when titles are alluring and sound like apple pie and motherhood, like the Civil Rights Restoration Act. It is almost automatic, unfortunately, that anyone who ever opposes anything with those two magic words, "civil rights," contained in the title or in commentary about it is automatically suspected at the very least, and perhaps branded at the worst, as being a racist, or someone who is callous about the rights of others, irrespective of color.

That is unfortunate, but that is where we are in the historical evolution of our society.

So President Reagan by vetoing the bill is automatically suspected by those who perhaps do not fully understand the ramifications of the bill of being a racist, or at least being callous toward the rights of certain citizens.

Well, this bill is not simply a restoration of civil rights as they existed prior to the 1984 Grove City decision. If what the proponents, who have been trying for years to enact such a bill to deal with the fallout of Grove City, had in mind was simply a restoration of the status quo, then we would not be here fooling around with this thing in 1988, 4 years later. They would have succeeded practically by unanimous vote years ago. And so why have they not succeeded? It is either because this bill is not what it is claimed to be or there are Senators in the body whose enlightenment is somewhat behind the times, shall I say.

If this bill were a simple restoration, this Senator would support it.

But from my understanding of the bill as a member of the Judiciary Committee in this body, it is far more than that. It represents as many commentators have stated, including the Wall Street Journal, not a newspaper given to racist opinion, the most massive Federal power grab, the most massive grab for power in Washington in years. If it becomes law, it will result in heretofore unexperienced and unanticipated invasion of our lives and of the lives of our citizens, their churches, synagogues, schools, and institutions of every kind—hospitals, you name it, commercial institutions right down to the little corner grocery stores, little mom and pop operations however financially shaky or marginally profitable. It will expose citizens numbering probably in the millions at least potentially to lawsuits, to charges of discrimination under Federal statute, expose them to lawsuits, expose them to the necessity of familiarizing themselves with complicated and extensive Federal regulations, expose them to surprise inspections, expose them to the cost of unreasonable modifications of their property.

So this is more than just a restoration of the status quo. It is in fact, and will be if enacted, a massive increase in Federal power and a massive increase in Federal intrusiveness in the lives of our citizens and in society in general.

We are all for civil rights. There is not a man or a woman in this body who knowingly would deny his fellow citizen his constitutional and his ethical rights. What we are talking about are reasonable standards. There has to be a reasonable standard in the application of the law. This law will result in highly unreasonable application of standards. And that is the problem.

The proponents deny it. They say that all of these concerns we have are groundless. Yet those concerns are very widely shared, and not only by Members of this body but many Americans across this land, well-educated Americans, people who understand the bill and what it will lead to. But unfortunately, at least in the view of this Senator, the fear of being suspected of being insensitive to the rights of others, indeed the fear of being branded a racist, added a great deal of momentum to this bill while it was considered.

So the President at the last stop, if you will, along this railway has found himself in the position of stopping the buck. And he has, and more power to him.

Senators obviously should not vote on the basis of labels or fears of what might be thought of them by those who do not understand the bill, but on the substance and likewise should be voting on the substance with respect to this veto override.

There are many serious problems raised by this bill which were in no way resolved or addressed in the legislative history or through the amendments which were adopted during its consideration. Among those problems, the serious problems, are these. It will expand burdensome Federal regulation in compliance in the private sectors of society, the economy, even religion to an unprecedented and unwarranted degree. It will interject the heavy hand of Federal regulation to the routine, the every day programs and functions of churches, synagogues, and nonpublic educational systems. It will impose unprecedented regulatory burdens on small businesses such as the corner grocery store mentioned a moment ago, on drug stores, for example, merely because those businesses accept Federal food stamps or Medicare vouchers in payment for groceries or prescriptions.

(Mr. LAUTENBERG assumed the chair.)

If I were a merchant, I suppose I would find it a lot more convenient to deal in cash than to deal in food stamps. But merchants accept food stamps as a courtesy to their customers, those customers who are obviously not as well off perhaps as most Americans, who do not have as many options. So many merchants accept food stamps. And yet under this legislation and regulations, accepting food stamps constitutes a benefit and therefore every Federal law that deals with discrimination then attaches to that so-called beneficiary of Federal assistance, the owner of the business.

Another serious problem is this: Although a limited amendment was adopted to address certain aspects of the problem applying the Rehabilitation Act to contagious diseases like

AIDS and tuberculosis, that amendment did not begin to resolve many of the broader and more complicated issues of liability which many institutions and employers will now face as a direct result of this bill.

The combination of two things, the extraordinary scope of the Rehabilitation Act coverage generated by this bill coupled with the increasing complexity of the AIDS problem, poses the prospect of an enormous legal disaster for those exposed to the unlimited liabilities created by S. 557. These concerns have been raised and many others besides by a wide variety of religious, educational and business organizations, the latest of which is the National Chamber of Commerce, hardly an irresponsible organization of yahoos I think it is fair to say, which has begun a vigorous effort to defeat this, that is, to sustain the veto.

Such concerns have been raised by the Department of Justice and by the Secretary of the Department of Education, and they have been raised by legal scholars and other authorities who expressed fundamental concerns regarding the wisdom and constitutionality of S. 557 in its present form.

So it is obvious. There is a marked difference of opinion between the proponents and the opponents of this bill. And I hope that the opponents will not be dismissed as lacking the merits of their arguments by any windy or loud-volumed speeches on this floor or elsewhere in our society.

I have been in this body 10 years and many Senators have been here longer than this Senator. But I have noticed that often, not always, there is a direct relationship, correlation, between the windiness and the volume of speeches and the soundness of the case that is being argued.

Let me dwell further on this so-called theme of restoration.

The proponents say that the bill merely restores coverage of the four affected civil rights statutes to what it was before the Supreme Court's 1983 decision in the Grove City case. They claim that the law was settled and consistent before that decision, in holding that institutions receiving Federal assistance in any form were regulated in all their operations, not merely the programs and activities receiving the assistance.

This premise is the key to their claim that there is no grounds for concern as to extended and more inclusive coverage arising out of this bill. Unfortunately, this premise is false. It is not true. This bill not only expands the originally stated limits in the Civil Rights Act bills themselves, but also, it goes beyond the many Federal court decisions issued before the Grove City decision, which held that regulatory coverage of entities receiving Federal assistance was program specific.

Mr. President, I have a great deal more to say about this matter, but I was yielded the floor by the Senator from Utah. I did not wish to have the floor outright, and I was agreeable to the unanimous-consent request.

I think the Senator from Utah now desires the floor, and I am more than happy to yield it to him at this point, on condition that any further remarks on my part would not count as a second speech. I ask unanimous consent to that effect.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. KENNEDY. Mr. President, I know that we are going to have a unanimous-consent request in a brief time, and I know it is the desire of the majority leader to move on to other matters. But at this point in the RECORD I want to address some of the points that have been made, principally the ones that were raised in the President's veto message on this legislation and that were included in a letter distributed by the moral majority. I will not take much time of the Senate, and I will include a more complete response as part of the RECORD. But I do want to take this time to respond to some of these issues.

The administration's proposal would expand the religious tenet exemption in title IX to include institutions "closely identified with the tenets of" a religious organization as well as those "controlled by" a religious organization, and that amendment to the bill was rejected by the Senate, 39 to 56.

This provision is unwarranted and would seriously undermine the title IX protection in thousands of private schools throughout the country. This change in title IX is not needed, because more than 150 religious institutions have received exemptions since title IX was enacted, and no request for an exemption has been denied.

I think that is important. The fact is that when there was a request for a religious tenet exemption, not one has been denied, and there is not one pending today. It is basically a phony issue. We debated the need to expand the religious tenet exemption on the floor of the U.S. Senate, and the Senate spoke on that, and the Senate rejected an expanded exemption.

I think it is important, when we listen to the various arguments made in support of some of the proposals put forth by the President that we remember that what we are talking about here is American taxpayers' funds going to institutions that want to discriminate. There is nothing that requires them to take the taxpayers' funds. If they do not want the taxpayers' funds, there is nothing in this legislation that is going to reach them. For all those who are so troubled and bothered about the red tape and the long arm of the Federal Government—if they do not want the money, they do not have to take it; and there is nothing in this legislation that is going to affect them.

We are talking about discrimination against women, against minorities, against the elderly, and against the disabled. All we are saying with this legislation is that if you are going to take American taxpayers' money, do not be selective on the basis of race or age or sex or disability. That is all. That is what this legislation is and has been about, right from the beginning.

Title IX includes an exemption from that basic policy. If you get Federal aid and are controlled by a religious organization and if for some reason the tenets of your particular religion are in conflict with the requirements of title IX, you can get an exemption from those requirements of title IX. That is, the religious tenet exemption—and it has worked. There has not been a single instance pre-Grove City when you had the long arm of the Federal Government interfering in terms of religion. None. So it is important that we address that issue.

Expanding the religious tenet exemption would create a giant loophole in title IX by opening the door to sex discrimination by hundreds of schools. It is important to reiterate that the National Association of Independent Colleges and Universities, with over 800 members, supports S. 557.

Second, the administration proposal would limit corporate coverage to the single plant that receives Federal aid, even if the corporation provides quasi-governmental services like housing and health care. This amendment was rejected in committee, 5 to 11. Pre-Grove City practice was corporation-wide coverage for all corporations. We limited corporatewide coverage to those areas of public service where it is most important.

Coverage is only corporatewide when there is a principle business of the corporation involves in some form of public service, not for example, a major manufacturing corporation in which one plant is doing job training. If its primary purpose is to manufacture cars and it receives Federal aid to provide training at the Framingham plant, the whole corporation is not covered. The language of the bill and the legislative history is very clear.

However, if the entity is principally engaged in education, health care, housing, social services, parks, or recreation, all of the activities in each of its plants must comply with these laws. If that is their primary purpose, then all of the corporation is covered. But if the Federal aid goes to a particular plant of a corporation that is primarily producing cars, it is only that plant that is covered.

Mr. President, the administration proposal would limit coverage of religious institutions to the specific program receiving Federal funds. In other words, it would leave the Grove City decision in place for a religious institution. The Senate rejected that amendment by a vote of 36 to 56.

What do we do under this legislation? If Federal aid goes to a particular program operated by St. Brigid's parish in South Boston, it is only St. Brigid's that is covered.

If St. Brigid's gets Federal aid for a refugee assistance program, St. Brigid's cannot discriminate in its meals-on-wheels program, either. I do not think that is so dramatic, Mr. President. They cannot discriminate in that particular church or in that particular synagogue. But if the Federal aid is only directed to that particular parish church, coverage does not extend to the whole diocese. And it misrepresents both the legislative history and the language of the bill to suggest that to be so.

We debated that issue, Mr. President, and the Senate rejected an amendment to limit coverage only to the particular federally funded program by 36 to 56.

These civil rights laws never have contained a different scope of coverage for religious and nonreligious recipients of federal aid. There have been no problems in the two decades since these laws were passed. Most religious organizations, including the U.S. Catholic Conference, are not seeking this change.

They are not asking for the change. The leading Catholic, Protestant, and Jewish groups are not asking for change. They are not sufficiently concerned about the intrusiveness of the Federal Government to support a change in coverage from our bill. On the contrary, they support our proposal.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of various religious groups, Catholic, Protestant, and Jewish, and a letter from the U.S. Catholic Conference that support S. 557.

I also ask unanimous consent that a letter from the National Association of Independent Colleges and the National Association of Counties be printed in the RECORD. The National Association of Counties is concerned about what is going to happen out in those small rural counties that we have heard some talk about. The National Association of Counties support overriding the veto.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPRESENTATIVE SAMPLING OF RELIGIOUS ORGANIZATIONS SUPPORTING THE CIVIL RIGHTS RESTORATION ACT

U.S. Catholic Conference of Bishops.
National Council of Churches.
American Jewish Congress.
American Baptist Churches.
Evangelical Lutheran Church of America.
Union of American Hebrew Congregations.
Anti-Defamation League of B'nai B'rith.
American Jewish Committee.
Church of the Brethren.
Presbyterian Church USA.
Church Women United.
Network-National Catholic Justice Lobby.
United Methodist Church.
Episcopal Church.

U.S. CATHOLIC CONFERENCE,
Washington, DC, March 14, 1988.

DEAR SENATOR: I write on behalf of the nation's Roman Catholic bishops to urge you to vote to override the veto of the Civil Rights Restoration Act. We strongly support this legislation which recently passed the House and Senate by overwhelming margins. We believe that it does much to strengthen federal civil rights protections while safeguarding vital concerns about human life and religious liberty.

This important legislation will strengthen the federal commitment to combat discrimination based on race, gender, age, national origin and handicapping condition. We believe government has a fundamental duty to protect the life, dignity and rights of the human person. This is why we supported the goals of the Civil Rights Restoration Act, successfully urged its modification in several important respects, strongly urged final passage in this amended form in both the House and Senate and urged the President to sign it.

As you know, the United States Catholic Conference expressed some serious reservations about the original bill. In the bill vetoed by the President, Congress made several essential improvements, inlcuding the "abortion neutral" amendment. This amendment, which we strongly supported, ensures that no institution will be required to provide abortion services or benefits as a condition of receiving federal funds. If this bill does not become law, we fear these important guarantees will be lost and the existing regulations under Title IX could once again threaten to force institutional cooperation with abortion. We also believe this legislation as interpreted by the committee report and floor debate adequately accommodates our legitimate concerns in the area of religious liberty.

No piece of legislation is perfect and people of good-will can disagree over these matters. However, we believe the Civil Rights Restoration Act with the important improvements made by the Congress is a significant victory for civil rights and an important step forward in insuring that our nation's civil rights laws do not require any institution to violate fundamental convictions on human life.

We are pleased by the overwhelming bipartisan support of this vital legislation. We hope you will join in this broad based effort to help our nation live up to its pledge of "liberty and justice for all" and vote to override the veto of the Civil Rights Restoration Act.

Sincerely yours,
Rev. Msgr. DANIEL F. HOYE,
General Secretary.

NATIONAL ASSOCIATION OF INDEPENDENT COLLEGES AND UNIVERSITIES,
Washington, DC, March 10, 1988.

Hon. RONALD REAGAN,
President,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I write as president of the largest association of independent colleges and universities in the country to strongly urge you to sign S. 557, the Civil Rights Restoration Act of 1988. The provisions of this legislation are very important to the continuance of equal opportunity at the nation's independent colleges and universities, including those institutions that are church-related.

The National Association of Independent Colleges and Universities represents more then 800 independent colleges and universities, from the small church-related college to the large research university. For the last four years of deliberations on this civil rights legislation, we have sought to protect the rights of our church-related institutions; unfortunately, a religious tenet amendment was not included in the legislation passed by the Congress.

The amendment we sought was defeated on the Senate floor. Despite our belief that the religious tenet amendment might have been successful in the House, there was never a separate vote on this issue. Instead, House members voted on the Republican substitute, offered by Rep. Sensenbrenner. The substitute combined the religious tenet amendment with a corporate coverage amendment, an amendment package we were unable to support.

Being unable to have a separate vote on religious tenets, we then moved to support a colloquy on the House floor between Congressman Tauke and Congressman Hawkins, also agreed to by Congressman Jeffords. The colloquy clarifies that it is the legislative intent of current law to give deferential treatment to requests for religious exemption under Title IX.

As the lead organization seeking passage of a religious tenet amendment to the legislation, we hope that the religious liberty concerns we articulated can be addressed by the Congress at a future time. As you are aware, S. 557, as passed, received overwhelming Congressional support; pursuit of the religious tenet amendment as a part of this civil rights legislation would be counterproductive.

Once again, although we would have preferred passage of a religious tenet amendment, we want to reiterate our unqualified support for this legislation. We strongly urge you to sign the Civil Rights Restoration Act of 1988.

Sincerely,
RICHARD F. ROSSER,
President.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, March 17, 1988.

DEAR SENATOR: We commend you in your efforts to pass the Civil Rights Restoration Act (H.R. 1214/S. 557), more commonly known as the "Grove City" bill. It is our view that this legislation is needed to restore institution wide coverage and force of the civil rights laws. The Supreme Court's 1984 decision in Grove City v. Bell restricted the application of these laws.

The pending legislation would restore institution wide protection against discrimination without expanding federal compliance guidelines for local governments that receive federal assistance. We urge you to move quickly to override the President's veto and finally approve this badly needed legislation.

Sincerely,

John Thomas,
Executive Director.

Mr. KENNEDY. Now, the next issue. The administration proposal would allow schools that are part of a private school system to discriminate while taking Federal money by eliminating the act's requirement that if any school in a private school system receives Federal aid, the entire school system is covered. This amendment was rejected by the Senate 16 to 70. If any school in any system receives Federal aid, the system must not be permitted to use creative bookkeeping to discriminate in other schools in the system.

The administration proposal would insert into all four statutes an exemption for farmers and ranchers from the nondiscrimination requirements of all four statutes unless Congress specifically requires that farmers and ranchers be covered.

Farmers already are exempt from obligation in crop or price support programs because they are ultimate beneficiaries. This is made clear both by the legislative history of title VI and by the regulations. So in this respect, the administration proposal is unnecessary.

There have not been examples prior to the Grove City decision where farmers were subject to these laws because they received crop subsidies. "Ain't" there. You cannot make that record, Mr. President.

In other respects, however, the amendment would be very harmful because it would authorize discrimination by farmers regardless of the type of Federal assistance they receive. So, a farmer who receives Federal assistance to open up his lands for public recreation purposes would be allowed to exclude blacks from his property. A farmer who received a Federal research grant would be allowed to discriminate against handicapped people in employing people for research projects. Such discrimination is not permitted now and there is no reason why it should be. Absolutely none.

Finally, if farmers are to be specified as exempt in the statute, what implication does this have for other groups? Students, Social Security recipients, and others are also not covered because they are ultimate beneficiaries. Should they all be listed in the statute? What if someone is left out inadvertently?

There is no evidence that the law has been misapplied or that this bill, which does not deal with the issue of who is a "recipient" would create any problem for farmers. The administration proposal would not solve a problem. It would create one.

The administration proposal would not reverse Grove City for State and local agencies. That means that if a city fire department gets Federal money for a community relations program, that program is covered. The fire department is free to discriminate elsewhere.

If you accept the President's proposal, you say that if the fire department gets money in the community relations program, it does not make any difference that it discriminates in some other aspect of the fire department. As long as there is no discrimination in that community relations program, it does not make any difference if there is discrimination anyplace else in the department.

Listen to what the circumstances were that we were faced with in our committee.

We had witnesses that testified before the Senate Labor Committee explaining how important departmentwide coverage is for the protection of civil rights. For example, Richard Foss, a Chicago firefighter for 18 years when he was put on medical leave after a fainting spell. He was not permitted to return to work, despite certification from his doctors that he was ready to return to work.

Mr. Foss brought a section 504 action and was thrown out of court. The judge found that the Chicago Fire Department received Federal money. But, citing the Grove City decision, the court found that because the Federal aid did not go to a program in which Mr. Foss participated, he could not maintain a claim against the fire department. Under S. 557, Mr. Foss would get his day in court. Under the administration proposal, the courthouse door would remain closed to Mr. Foss and other disabled people that may be discriminated against by that particular agency.

The administration calls its proposal a reversal of the Grove City decision. It is not. For all State and local government agencies and for all religious organizations, the proposal leaves the extremely narrow coverage mandated by the Grove City decision in place. For corporations and private schools systems as well, it would greatly narrow coverage from what existed prior to the Grove City decision.

This so-called alternative would create new loopholes in our antidiscrimination laws. Most of its provisions have been rejected already by Congress. The Senate has passed a carefully crafted bill to overturn the Grove City decision. It is time to override the veto and at long last restore the much needed protection from federally subsidized discrimination to women, minorities, the elderly and the disabled.

Finally, Mr. President, there have been references here to the moral majority letters that have been sent to Senators all around this country. They have five different statements.

The first one deals with the expansion of the religious tenet exemption. I have just addressed that and the reasons for it. The Senate is familiar with that. I think the response of the Senate is correct.

Second is the intent of Congress with regard to the coverage of religious school systems. I mentioned just precisely how narrow that is under our law. I think that is why we have been able, quite frankly, to gain the support of basic religious groups. They understand it. They do not feel it is going to be intrusive. They are not asking for the kind of change or alterations that are suggested by the Moral Majority.

Third is the intent of Congress with regard to inclusion of homosexuality as a protected classification under present law. That is absolutely, flagrantly untrue.

They continue, the intent of Congress with regard to the alcohol and drug addicts who would obtain sweeping protections under this law.

Mr. President, our bill does not change existing law with respect to alcohol and drug addicts.

The points which have been raised in the President's veto message are basically issues that we have debated and the Senate has responded to by overwhelming votes. I really do not see a new reason in the whole veto message, not one reason which had not actually been debated and examined both in committee and on the floor and which have been responded to overwhelmingly against the President's position.

So I hope, Mr. President, that we could get a time set for this vote. I would be glad to debate these issues. We have debated them here on the floor and in the committee and elsewhere. But there comes a time when we have to take action. And every moment and every day that we fail to take action, discrimination continues.

That overwhelming vote in favor of passage of this bill by the Senate says that we want action and we want it now. The issue is discrimination. The issue is Federal taxpayers' funds. If you are not going to discriminate, there is no reason in the world why you have to be concerned. That is the basic issue. After all is said and done, that is the bottom line.

I am hopeful that we could at least establish a time so that we can have a final judgment on this issue.

Mr. HATCH. Mr. President, as usual, the distinguished Senator from Massachusetts is very eloquent and makes his points in a very forceful fashion. It is too bad he is wrong on a number of them.

The fact of the matter is that the issue of civil rights is not an issue. I disagree with him. He thinks it is. It is not.

The issue of Federal money is not an issue, except insofar as it trammels on the rights of others.

Since I know my colleagues want to move on, I will only respond to two points. No. 1, the statement by the distinguished Senator from Massachusetts that no request for a religious tenet exemption has ever been denied. Now, that is a very, very inaccurate statement. Let us make the record clear here. If one wanted to accurately describe what has happened with the current exemption during the period involved——

Mr. KENNEDY. Will the Senator yield on that point?

Mr. HATCH. Let me just make my point and I will be happy to yield. There were 220 requests during the period involved. Five exemptions were granted out of 220. And 215 what we might call failures to act by the bureaucracy. They did not formally send a letter back and say, "We deny your exemption." They just failed to act.

That constitutes a denial of those exemptions, 215 out of 220; so it is sophistry to stand here on the floor and say that there has never been an exemption denied. I do not see how the distinguished Senator could do that. Technically, I guess, you can say it is true, one can say that the Department did not deny any requests, but such a description, certainly, leaves a false impression when you look at reality.

In fact, more than 95 percent of the religious requests for religious tenet exemptions were simply ignored. I call that denied. And so would anybody else looking at it.

Obviously for the schools involved, there is no real difference between a denial and a failure to act. The result is the same. The schools were forced to bend their religious beliefs to accommodate the regulatory demands of the Department of Education. That is what it comes down to. That is a denial.

Since 1985 when this issue became a subject of congressional debate and public attention, about 145 of the requested exemptions have been granted. Current law provides no guarantee, however, that a different administration will not revert to the practice of the past or revoke the exemptions already granted. It is that cavalier, and I think it ought to be made clear in this bill. If we do not make it clear, we are going to have repeats of the past; there is no question about it. We now have a different administration so they are granting religious tenet exemptions. But they were surely denied in prior administrations and in the early part of this administration.

Moreover, since there is a private right of action under title IX, there is also the very real possibility that practices will be found to deny these schools these exemptions once this bill is finally passed into law. That is why the President makes a reasonable request here to take care of this problem. It is not a question of discrimination; it is not a question of civil rights; it is the right of a religious institution to follow the tenets of its beliefs. That is pretty important. You cannot just cavalierly throw it away saying: Well, they should not take Federal money and violate people's civil rights. It is not a matter of violation of civil rights. It is a matter of practicing religious beliefs that have been accepted from time immemorial as valid beliefs.

Now, with regard to coverage of religious organizations, let me just make a couple of points. The distinguished Senator from Massachusetts in his characteristic forceful way has made some points that I think are totally wrong. Let us just take his organization, the one that backs him on this bill, the Leadership Conference on Civil Rights, with regard to coverage of religious organizations. This is their statement, the statement of those who support the distinguished Senator from Massachusetts.

> *Question.* A religious organization, a church or diocese or synagogue receives Federal financial assistance to aid refugees. Under the Civil Rights Restoration Act will that assistance result in coverage of the religious organization in its entirety, so that it would be under an obligation not to discriminate in any of its operations?
>
> Answer. No. Complete coverage of the corporation, partnership or other private organization occurs in only two circumstances. The first is where assistance is extended to the private organization "as a whole." "As a whole" refers to situations where the corporation received general assistance that is not designated for a particular purpose. A grant to a religious organization to enable it to extend assistance to refugees would not be assistance to the religious organization as a whole if that is only one among a number of activities of the organization.

This explanation is totally misleading and a deliberate attempt to fool Senators. This explanation only discusses coverage of a church or synagogue under paragraphs 3(a)(1) and 3(a)(2). It totally ignores the impact on churches and synagogues under subparagraph (3)(B). A church or a synagogue is a private organization, which exists in its own "geographically separate facility." That is the language of the bill. So, again: sophistry. Again, they choose to only quote that section of the bill that seemingly makes the case while ignoring the section that ruins their case.

A church or synagogue is a private organization which exists in its own geographically separate facility, therefore, even if an entire church or synagogue is not covered under paragraphs 3(a)(1) or 3(a)(2), the church or synagogue is clearly covered in all of its operations whenever any part of the church or synagogue receives Federal aid. Paragraph (3)(B) cannot be plainer. That is the language they have written into this bill. It is the way they oppress churches and synagogues. It totally is different from what this very misleading report says, by the Leadership Conference on Civil Rights. So it is a smoke screen to argue that different paragraphs of S. 557 do not cover the entire church or synagogue receiving Federal aid for one activity. It is a flagrant misrepresentation by omission.

In fact, according to the Senate's committee report a geographically separate facility actually includes all facilities. All of them. In the same locality or even regional. You can look it up on page 18 of the report. So I do not know how anybody can come in and make the arguments that have been made here today. Just take their own language, take the language of the bill. You cannot ignore it. You cannot ignore the language of the report. You talk about a fraud—that is what this bill is with regard to churches and synagogues.

They should have some rights. After all, the first amendment of the Constitution protects the rights of churches and synagogues, the rights of religious freedom are civil rights, too, in my opinion. Why trample on them in the zeal to get a victory here when the President has a reasonable request? Why can we not march arm in arm against civil rights violations? Why can we not stand up and say: The President is right when he is. He is right on this issue. I can see arguing on some of the others. I do not see any argument that is valid on the churches and synagogues. Why are we trampling on their rights? Why do we have (3)(B) in there when it does not mean what it says? Why can we not follow the President's leadership and agree that there is a way of resolving this dilemma and having everybody happy and all of us march arm in arm on this civil rights issue?

I would love to support this bill if we could solve these problems. It is not a question of being against civil rights. There is nobody in this body more committed to civil rights than I am. But there are important other rights as well that fall within the civil rights umbrella and religious rights and freedoms cannot be ignored in our zeal to do something called civil rights.

The bill refutes what the distinguished Senator from Massachusetts is saying. The record on the bureaucratic denial of requests on religious tenets refutes what the distinguished Senator from Massachusetts has been saying. The record, the facts——

Mr. KENNEDY. Will the Senator yield?

Mr. HATCH. I will yield. I will be happy to.

Mr. KENNEDY. Mr. President, I would quote the testimony of the Reagan administration's spokesperson for the Office of Civil Rights. And there it is, as clear as can be, rather then reading the whole paragraph, in the report——

Mr. HATCH. Where are you reading from?

Mr. KENNEDY. This is on page 22. OCR; that is, Office of Civil Rights,

> * * * has never denied a request for religious exemption. No requests for religious exemptions are pending at this time.

That is what I said before. And that is what the administration's own testimony is.

Further, Mr. President, when we are talking about coverage of the entire plant that the Senator from Utah is talking about, you are talking about St. Brigid's Church. That is the entire plant. When he says you are talking about the whole church—I mean, I can see Members thinking, "Well, it is the whole archidocese," of Boston. The entire plant is the local church. They cannot discriminate. If they get Federal money to feed senior citizens, they cannot discriminate against the disabled downstairs in a training program. It is as simple as that.

The Senator is talking about my distortions and misrepresentations. Just read what exactly the administration has said on religious tenets. The way I have described the coverage in terms of the churches is the way the bill applies and that is why the basic religious organizations support it.

If you have the kind of interpretation that the Senator from Utah had, would you think all of the basic and fundamental religions would support it? Of course they would not. Of course they would not. But they are supporting it because it is the way I have described it.

I would be glad to continue the debate.

Mr. HATCH. I will finish with just a few comments.

It is not the way the distinguished Senator describes it. It is the way the President describes it. I might also say that when the Office of Civil Rights said no religious tenet request has been denied, that is technically true, except that justice delayed is justice denied. When 220 religious tenet exception requests are made and 215 of them are not acted upon, they are denied. Anybody who looks at it fairly has to admit that. Do not quote that to me.

Mr. KENNEDY. Let me ask just a question on that point.

Mr. HATCH. Sure.

Mr. KENNEDY. Can the Senator from Utah mention a single instance where there has been any grant to a particular church organization where the Federal Government has interfered?

Mr. HATCH. I have 215 of them that were denied, 215 requests.

Mr. KENNEDY. I think the answer satisfies.

Mr. HATCH. I think 215 requests delayed or denied.

Mr. KENNEDY. Do you know any enforcement action by the Federal Government that has been taken to require changes in the policies of institutions controlled by religious organizations? That is the question.

Mr. HATCH. I think many of them, if this law is passed.

Mr. KENNEDY. The answer is none.

Mr. HATCH. We do have instances where churches have been forced to change their policy—I will be glad to go into it—forced to change their policy in violations of their religious tenets by none other than the almighty Federal Government which this Senator just alluded to, not me but the Senator from Massachusetts.

I made the point from 1972 until 1985, 227 applications for religious tenet exemptions were filed with the Office of Civil Rights of the U.S. Department of Education. Only six were acted upon prior to 1985. During fiscal year 1986, 283 applications were received and only 3 acted upon. Of considerable importance, however, is that since 1985 the Office of Civil Rights has acted on all pending applications under this administration. But will all administrations be as fair as this administration and recognize the rights of churches? The answer to that is "No".

Since 1985, in that period 150 applications were granted, 44 withdrawn and 34 went out of existence or did not respond to repeated requests for additional information. There is nothing in this law preventing any administration from moving to rescind the exemptions now held by the 150 colleges and schools in America.

If an administration believed that the standard used to grant the exemptions did not meet the statutory test that a school was "controlled by a religious organization" it could act to rescind exemptions that had been in place in most instances for 3 years.

That is what this bill does. That is what it allows. The President has a reasonable request to resolve that dilemma once and for all so there will be no more fighting about it, so that future administrations are not trammeling on churches, either by denial or actually refusing to act on religious exemption requests.

It is not enough to say here that there have not been formal denials. Like I say, justice delayed is justice denied. That is what is happening to religious churches and synagogues. I predict if this bill passes in its present form it is going to happen time after time.

There are some mainstream churches that support this bill. They never read it. They could not have read it and support it. But there are a lot of mainstream churches that do not and they are starting to rise, and more and more every day. There is no question about it. They have to be alarmed and concerned about this type of Federal intrusion and control over their lives and over their doctrines and over their beliefs.

You cannot read this bill without coming to that conclusion.

We have spent enough time debating today. I think we are ready to move on.

Mr. THURMOND. Mr. President, I urge my colleagues to vote to sustain the veto by the President.

The issue surrounding Grove City-related legislation has been improperly focused from the beginning. Federal financial assistance should not be allowed to fund discriminatory activities. No one could rationally argue otherwise. However, the sponsors of S. 557 have chosen to distort this debate by posing the question in simplistic terms under which one is either for their bill or for federally subsidized discrimination.

Many have argued during this and earlier debate that they want to restore civil rights coverage to what it was before the Grove City decision. There is considerable ambiguity regarding the scope of coverage prior to the Supreme Court ruling. However, substantial evidence shows that coverage prior to Grove City was program specific, not institutionwide. However, this bill goes well beyond not only program specific coverage, but institutionwide coverage as well. It does not restore the reach of the four civil rights laws to their pre-Grove status, but vastly expands Federal authority. The broad extention of these four laws goes well beyond what is justifiable.

Briefly, I would like to discuss a number of significant instances where the breadth of coverage is simply too broad because one small part of a particular entity receives Federal funds.

I believe strongly that there must be an exception to the institutionwide scheme of coverage—that is when the institution is a church or religious organization. Many churches participate in federally assisted programs which serve communities across the country. All the federally assisted programs operated by a church should be covered under the statutes addressed by S. 557. However, extension of Federal regulations throughout the whole church as a result of such assistance treads all over first amendment rights. I do not believe that the Federal Government should be interjected into the operation of our churches.

Additionally, this legislation will provide for coverage of entire religious school systems when only one school, or part of one school, in a system receives Federal financial assistance. Prior to Grove City, only the particular school that received assistance would have been covered. S. 557 would expand coverage to the entire religious school system instead of just the particular school that receives the Federal funds. This coverage threatens religious liberty by placing the religious goals of those schools in a secondary position to the vast regulatory requirements of S. 557.

As the Constitution guarantees religious freedom, we must tread lightly when it comes to asserting Federal regulation of religion or its institutions.

Additional provisions of S. 557 are ambiguous and unnecessary. For example, certain sections mandate blanket coverge by the four statutes of any corporation, partnership, other private organization, or a sole proprietorship, which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation. I can think of no justification for the blanket coverage. Stated simply, there is no reason to treat these so-called special purpose businesses any different from other businesses. Coverage for all corporations should be uniform.

In closing, these are major concerns which make the proposed Civil Rights Restoration Act of 1987 unacceptable. The question of whether or not Federal funds should be allowed to subsidize discrimination is not the issue. Clearly, Federal funds should not be used to subsidize discrimination. The major issue is the need to carefully balance and protect constitutionally guaranteed freedoms and rights against the reach of the Federal Government. A fundamental right—the freedom of religion—is a guaranteed constitutional right. The Federal Government must not get into the regulation of religion. This bill simply goes too far. It represents a significant increase in Federal jurisdiction over churches and synagogues, private and religious schools, and the private sector.

For these reasons, I will vote to sustain the veto of S. 557 and urge my colleagues to do likewise.

The President has sent down another bill. That proposal will resolve the concerns raised by the Grove City decision. It takes care of the issues proponents of this bill have raised.

The President's bill, in essence, would accomplish what S. 557 would accomplish. However, it would omit those provisions that allow unwarranted regulation of religion and the private sector, areas where the Federal Government should not be entering. These issues are important.

Sometimes you can put the words "civil rights" on a bill, and Members think they are voting on civil rights, but that is not necessarily true. Because "civil rights" is on this bill, it will not necessarily mean that it is only about civil rights and should be adopted without appropriate scrutiny.

The view the President has taken in this case is a reasonable view. He is not in favor of discrimination. I do not favor discrimination. No rational thinking person favors discrimination. But when a bill goes too far and injects the Federal Government into the regulation of religion and private business, then it goes too far. I hope Senators will understand that when they vote on this veto by the President.

Finally, the President has taken the proper view here. It is a reasonable view. His bill will accomplish what the proponents of this legislation want to accomplish, but it is not as broad as the current legislation—which is too broad.

Mr. President, I hope that the President's veto will be sustained.

Mr. HATCH. Mr. President, I thank the distinguished Senator from South Carolina for his remarks. They are very cogent and very important in this debate.

Mr. BOSCHWITZ. Mr. President, I rise today in support of the vote to override the President's veto of the Civil Rights Restoration Act.

This Senator has voted in the past to sustain Presidential vetoes. But on this bill, however, I find myself on opposite sides from the President. In the past week, I have called upon him, forcefully and publicly, to not veto this legislation. Because he has chosen to veto this bill, I call on my colleagues today to override his veto.

The unfortunate fact is that minorities, women, the elderly, and the disabled still face discrimination. Despite the great strides this country has made in civil rights discrimination still exists. Clearly, we cannot legislate what is in people's minds and hearts, but we can require basic fairness from those who receive Federal funding. We can ensure that Federal funds are not used to subsidize discrimination.

Since the Supreme Court decision in 1984, I have consistently supported legislation to reestablish the proper scope of Federal civil rights laws. The principle of the four civil rights statutes covered in this bill is simple: If an institution receives Federal assistance, it cannot discriminate. As a member of the other body put it, "Those who dip their hand in the public till should not object if a little democracy sticks to their fingers."

This bill is the result of four years of deliberation following the Supreme Court's decision in Grove City College versus Bell. Through these years, a number of different versions have been proposed and considered. The version adopted by the Senate this year and sent to the President is a balanced, bipartisan approach. It reestablishes the proper scope of the civil rights laws without changing the underlying definitions regarding discrimination.

Unfortunately, there are a lot of misconceptions about this bill. Some of these matters have already been cited on the floor today, I have received hundreds indeed thousands of phone calls expressing those concerns. Let me respond to questions regarding the bill's scope by emphasizing that this bill applies to institutions that receive Federal assistance. The legislative history has made unequivocally clear that farmers, for instance, who receive crop subsidies are ultimate beneficiaries of Federal assistance and are not covered. The same is true of those who receive Social Security benefits, Medicare and Medicaid benefits, and individual recipients of food stamps.

We are not in any way altering the definition of discrimination. Simply put, if someone hasn't been discriminating up to this point, they will face no problems. The standard for discrimination remains absolutely the same.

As I have pointed out, this bill has had broad bipartisan support. I respectfully say to the President that on this bill I believe he has taken the wrong position for the party of Lincoln. Our party was born on the principles of equal rights and equal opportunity for all people and we led this country through a terrible war to establish those rights as part of our national fibre and they are at the root of our party as well. As a Republican Senator, I have worked to see that those principles are extended to all of society, and I am proud to support this bill, which works to further that goal.

I call on my colleagues today to join me in voting to override the President's veto. We need to reestablish again and again this country's commitment to civil rights for all of society, for all minorities, for the aged, for women, for the handicapped. We need to make clear that the Federal Government will never participate in subsidizing discrimination. We need to complete our 4-year effort to reestablish the proper scope of the Federal civil rights laws.

Mr. HARKIN. On January 28, 1988, the Senate overwhelmingly passed S. 557, the Civil Rights Restoration Act. On March 2, 1988, the House also passed S. 557 by an overwhelming vote. Last night the President vetoed this important piece of civil rights legislation. It is my expectation that this body will move quickly to overturn the veto and once again send a message to the President and the American people that those entities that accept Federal aid must ensure that minorities, women, persons with handicaps, and older Americans are not subjected to discrimination.

I am optimistic that we will override the veto because of two obvious factors. First, this bill is of critical importance to millions of Americans and codifies a basic tenet of our Nation—the right to equal opportunity. The second obvious factor is that nothing in the bill has changed since it passed the Senate and the House just a few weeks ago.

The purpose of the bill is still to restore the institutionwide coverage that existed before the Grove City and Darrone cases. The bill still does not change in any way the determination of which entities are covered by the civil rights statutes. Currently, crop subsidies to farmers is not considered Federal aid and thus farmers are not subject to the civil rights statutes amended by this bill. After this bill becomes law these farmers still will not be covered.

The bill still does not change—other than in the case of abortion because of the Danforth amendment—what constitutes discrimination under the civil rights laws. Thus, for example, the rules governing program accessibility for persons with disabilities under section 504 of the Rehabilitation Act of 1973 are not changed one iota by this legislation.

Under normal circumstances, I would end my statement at this point. But unfortunately, the events of the last few days are not typical. My office and I am told virtually every office in the Senate and in the other body has been inundated with calls about this bill, many of which may have been generated by the Moral Majority. I have reviewed a letter from the Moral Majority dated March 10, 1988. This letter is filled with falsehoods, innuendos, and gross distortions of the provisions of S. 557.

This august body debated S. 557 for hours and hours. The debate was often heated but always respectful and honest. The debate made me proud to be a U.S. Senator. I hope that the Senate will show the same class when it overhelmingly rejects the baseless distortions put forth by the Moral Majority.

An override of the President's veto of this bill will not only send the message that the Civil Rights Restoration Act is critical and must be enacted into law; but it will also send the message that this body will not be swayed by falsehoods and innuendos.

The Moral Majority asserts that this bill will result in a massive number of lawsuits by "radical elements intent upon the destruction of traditional values." What radical elements are they referring to—deaf persons demanding equal opportunity in this society? Disabled American veterans? Women who want equal opportunity for a job or to participate in career training? Blacks who want to choose which college to attend? What are they talking about?

I say to the Members of this body, "No," the Moral Majority is factually incorrect when it says that homosexuals are included as a protected classification. This bill provides no civil rights protections for homosexuals. Period; no ifs, ands, or buts. This bill does not, I repeat does not, preclude an entity from discriminating against an individual solely on the basis of the fact that the individual is homosexual. Thus, if an entity's religious practices require it to take disciplinary action against any individual who is homosexual and it takes such action solely because of that person's homosexuality, nothing in section 504, title IX of the Education Amendments of 1972 or the other civil rights statutes amended by S. 557 would offer protection to such an individual.

I defy any Member of this body to refute this fact.

I say to the Members of this body that this bill does not, I repeat does not, give sweeping protection under the law to alcoholics and drug addicts. In fact, this bill does absolutely nothing with respect to drug addicts. Since 1973, section 504 of the Rehabilitation Act of 1973 has been interpreted to enable employers to refuse to hire or fire alcoholics and drug addicts from a particular job if it is determined that he or she poses a direct threat to the health or safety of others or cannot perform the essential functions of the job and no reasonable accommodation can remove the safety threat or enable the person to perform the essential duties of the job.

In 1978 the Congress made this limitation explicit in the Rehabilitation Act to allay the fears of employers even though it was consistent with current law for drug addicts and alcoholics and for every other person with a disability covered by section 504.

I say to this body this bill does not I repeat does not require an employer to hire or retain in employment all persons with contagious diseases. An employer is free to refuse to hire or fire any employee who poses a direct threat to the health or safety of others who cannot perform the essential functions of the job if no reasonable accommodation can remove the threat to the safety of others or enable the person to perform the essential functions of the job. This determination must be made on an individualized basis and be based on facts and sound medical judgment.

This has been the law of the land since 1973. Recently, in the Arline decision the Supreme Court reaffirmed this policy. S. 557 includes the Harkin/Humphrey amendment which is consistent with the Arline decision. The language is modeled after the language used in 1978 to allay the fears of employers who were concerned about how section 504 was interpreted with respect to alcoholics and drug addicts. A complete explanation of this amendment is set out on page S 1738 of the CONGRESSIONAL RECORD, which I am incorporating by reference herein.

Let me make one related point at this time which is significant. The Harkin/Humphrey amendment was included in the Sensenbrenner substitute to S. 557 when it was considered on the House side. The Sensenbrenner substitute, including the Harkin/Humphrey amendment was endorsed by the Reagan administration through a letter from no other than Secretary of Education William Bennett to minority leader MICHEL.

I might also add that the President's bill which he also sent up as a substitute, if the Senate did not override, also includes this provision. So there is no dispute on this one way or the other, and I am hopeful, as the debate goes on on this veto override, that that is made clear in both the President's bill and in this bill; the Harkin/Humphrey amendment reaffirms the decision of the Arline case.

I say to this body that some religious groups have had the courage to speak out about AIDS. In a recent publication entitled, "The Many Faces of AIDS—the Gospel Response" The administrative board of the U.S. Catholic Conference stated: "Discrimination directed against persons with AIDS is unjust and immoral."

In closing, I urge my colleagues to send a message to this Nation that no recipient of Federal aid will be free to discriminate on the basis of race, color, nation origin, sex, handicap or age. Further, I urge my colleagues to send a clear message that this body will not be swayed by innuendo and falsehoods and campaigns of misinformation recently part out by the so-called Moral Majority.

Mr. SIMON. Mr. President, on March 16, 1988, the President vetoed S. 557, the Civil Rights Restoration Act of 1987. The Civil Rights Restoration Act is clearly the most important civil rights bill to come before the U.S. Congress in many years. President Reagan's veto is a great disappointment to myself and my fellow colleagues who have worked so hard to prevent discrimination against American citizens based on gender, age, disability, race and national origin. I will not, however, let this veto discourage me. This bill is too important. Each day its passage is delayed is one more day we are forced to live with blatant, unbridled discrimination against our handicapped children, the elderly who are our parents, grandparents and friends who work hard, pay taxes and take pride in this country.

I was the floor manager in the House of Representatives for this bill's predecessor, H.R. 5490, the Civil Rights Act of 1984. I am a cosponsor of S. 557 the Civil Rights Restoration Act of 1987, and I have been and remain completely committed to eliminating discrimination in federally-assisted programs and to the passage of this bill.

My commitment rests on several issues. I cannot justify allowing institutions which receive Federal aid to discriminate on the basis of race, age, disability or gender. I find no piece of mind in telling a person with a handicap, who is a minority, woman or an older American that despite their efforts and their contributions to society and to this Nation, the doors of our great institutions of learning can deny tenure to a minority or fail to provide equal access to athletic programs for female students.

Our failure to override President Reagan's veto will send the wrong message to the people of this great Nation. The message will say: "don't bother working hard, don't hope for the future, because in America, it isn't who you are or what you have done that matters; it is what you look like, where you were born, whether you are able bodied and how old you are." And what is worse—the Federal Government will let those who prefer to judge based on color and gender, rather than character and quality to go right ahead and discriminate using Federal money.

I have received many phone calls from constituents who have objections to certain parts of the bill. After listening to these objections, I realized that there is great misunderstanding regarding the intention and impact of S. 557. There is a belief circulating that this bill will take away rights by forcing employers to hire unqualified applicants merely because they fit into a minority category. This is simply not true. S. 557 does not require an employer to hire any person who they do not consider qualified, regardless of gender, disability, age or race. In response to the misinformed assertions that the bill's restoration of the four civil rights statutes extends civil rights protection to include sexual orientation, may I emphasize that the Civil Rights Restoration Act restores the four civil rights statutes which are limited to gender, age, disability and race. This bill does not extend civil rights protection to include gays or lesbians.

Furthermore, this bill would not force an institution to hire a candidate who poses a public health or safety risk. If I may use an illustration: If a blind man applied to be a truckdriver, the employer would not be forced to hire that man merely because he was disabled. Clearly a blind man driving a truck would pose a threat to public safety, but refusal of employment could not be based on the fact that the man was disabled, but rather on the basis that the man was not adequately qualified for the job, sight being a necessary qualification for a truckdriver. The need to clarify why a blind man cannot be a truckdriver may seem unnecessary to some, but I feel it is critical to prevent discrimination purely on the basis of his blindness. It is necessary to show why his blindness prevents him from being a qualified truckdriver, rather than just assuming that his handicap prevents him from doing the job.

The impact of the 1984 Grove City versus Bell decision has been substantial. According to the Department of Education's Office of Civil Rights own account, 834 cases in the administrative enforcement process have been affected. These include complaints closed in whole or in part due to Grove City, as well as compliance reviews dropped or narrowed. Take for example the New Jersey High School student, ranked fifth in her class, who contended that she was excluded from her school's National Honor Society because she is black. The Education Department closed the case because it found that the alleged discrimination did not occur in the program or activity that directly received Federal aid. Or what about an undergraduate who was sexually harassed. Title IX prohibits sexual discrimination in a college which receives Federal tax dollars, which this college did, however the Government refused to investigate the case. The reason: the building in which the harassment occurred had been constructed with Federal funds. If the student had been harassed in the dorm recently restored with Federal funds she would have had a case. These examples illustrate the arbitrary and selective nature of current civil rights protection, or lack thereof, since Grove City versus Bell. What we need in our civil rights laws is consistency. S. 557, the Civil Rights Restoration Act, offers that consistency.

I am forced to call to question President Reagan's intent in offering a last minute alternative to S. 557. We have been debating this bill for 4 years now. The administration's proposal is somewhat late for thorough debate, yet it appears to be very timely as a delay tactic to slow the progress of S. 557 and the progress of civil rights legislation in the United States.

Mr. President, S. 557, the Civil Rights Restoration Act is vital to ensure civil rights for all Americans. I urge my colleagues to join me in an effort to override President Reagan's veto and restore the four civil rights statutes to prohibit discrimination on the basis of disability, age, gender or race.

Mr. President, I ask unanimous consent to include in its entirety the Wednesday, March 16, 1988 Washington Post article titled "No Reason to Veto."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 16, 1988]

NO REASON TO VETO

The President is about to make a mistake. Some time, today he is expected to veto the Grove City bill, which is designed to overturn a Supreme Court decision that severely restricted the effectiveness of the civil rights laws. The measure passed both houses of Congress by overwhelming margins—315 to 98 in the House and 75 to 14 in the Senate—so it is almost a certainty that the veto will be overridden. Some Republicans have attempted to dissuade the president. None of them, it seems, has been able to get through.

What terrible consequences does Mr. Reagan suppose will follow if this bill becomes law? It will enable the government to move against institutions that accept federal money and then discriminate, on grounds of race, sex, age or handicap, in using that money. Opponents of the bill, however, have conjured up an array of horribles in attacking the measure. It will interfere with Mom and Pop grocery stores that accept food stamps, they say, or farmers receiving crop subsidies. Not so, as the language of the bill and the committee report make clear. Well then, goes the argument, it's an attack on churches, for it will allow the government to require religious groups to bend their beliefs in order to achieve social policy goals. Nonsense, as national church leaders from the Catholic bishops to the Evangelical Lutherans and the American Hebrew Congregations will attest. No hospital will be forced to perform abortions, no church will be required to ordain women, no college controlled by a religious group will be made to accept policies in conflict with religious beliefs. In recent weeks, some opponents have been circulating a new argument. The bill, they warn, is really a gay rights measure because it provides that AIDS victims shall be treated as disabled persons except in situations in which they might present a danger to others. The courts have already made this finding with regard to communicable diseases, so this provision regarding AIDS really adds nothing new. As for specific rights sought by homosexuals, the bill neither creates nor expands any of them.

A presidential veto of the Grove City bill will be very difficult to explain to citizens who assume their taxes won't be spent in aid of discrimination. And it cannot be sold to Congress—which, after four years of debate, compromise and study, has strongly endorsed the legislation. Mr. Reagan ought to sign the bill.

Mr. METZENBAUM. Mr. President, I regret that the President of the United States has vetoed the Civil Rights Restoration Act. I am confident that the Senate will act swiftly to override this veto. We cannot delay the restoration of these important civil rights guarantees 1 more day.

There is overwhelming support in both Houses of Congress for this bill. The Senate voted 75 to 14 in January to enact this bill and the House passed the bill this month by a wide margin, 315 to 98. We have struggled with this issue for 4 years. There is no reason to delay passage any longer.

Since 1964, when we passed the historic Civil Rights Act of 1964, our Government has had a commitment to equality in federally assisted programs. This commitment has become more and more important with the increase in Federal programs. It is not enough for the Federal Government to fund Federal programs. We must ensure that all Americans receive the benefits of these programs and that no Federal aid is given to discrimination. These are simple principles. Surely, there can be no disagreement with these principles at this late date.

This is not a partisan vote.

It's not an anti-Reagan vote.

It's not a vote against religion.

It's not a vote against liberty.

This is a vote in favor of equality.

It's a vote against discrimination.

It's a vote which says no Federal money will go to institutions which discriminate against minorities.

It's a vote which says that no Federal money will go to institutions which discriminate against women.

It's a vote which says that no Federal money will go to institutions which discriminate against older Americans.

It's a vote which says that no Federal money will go to institutions which discriminate against the handicapped.

It's time to clearly establish these principles now, without further delay. Let's vote to override the veto and make the Civil Rights Restoration Act law now.

Mr. HATCH. I understand that the leaders are prepared to propound a unanimous-consent request on this matter. If it goes the way planned, I think both the distinguished Senator from Massachusetts and I would be very grateful that we can resolve this and go to a final vote on a date certain and a time certain, and let the chips fall.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, our hopes had been we might get to vote on the override of the President's veto today or tomorrow. But it has become pretty clear that that is not going to happen and that that vote will not occur in the Senate before next Tuesday. That being the case, and the distinguished Republican leader and I and the managers of the measure having had our discussions, have come to the conclusion that we should attempt to reach an agreement setting a time for the vote on the veto override, and in the meantime, the Senate would thus be able to go back to Price-Anderson and hopefully to take up some other legislation as well.

I have talked with the Speaker of the House, and he has indicated to me that the House would be ready to vote on Tuesday of next week on the override and, of course, would not be ready to vote before then at this hour on Thursday.

So, Mr. President, I will outline the agreement. I will be very brief, and the distinguished assistant Republican leader is here. I ask unanimous consent that the vote on overriding the President's veto on the Grove City legislation, occur at 12 noon on Tuesday next. That beginning at 10:30 a.m. on Tuesday next there be 1½ hours of debate to be equally divided and controlled by Mr. KENNEDY and Mr. HATCH. The agreement being in the usual form as to the division and control of time. That once the agreement is entered into, if it is entered into, the Senate resume consideration of the pending business, H.R. 1414, the Price-Anderson legislation.

Provided further, Mr. President, that upon the disposition of the Price-Anderson legislation, the Senate proceed to consideration of Calendar Order 324, S. 79, the high risk legislation.

The PRESIDING OFFICER. Is there objection to the request?

Mr. HATCH. Reserving the right to object, as I understand it, that is with the understanding that there will be no votes on amendments on S. 79 on Friday?

Mr. BYRD. Yes, Mr. President, it would be understood that there be no votes on amendments or otherwise on the high risk legislation on Friday.

Mr. HATCH. With that understanding, I have no objection.

Mr. BYRD. With the understanding that the Senate go to that upon the disposition of the Price-Anderson legislation and no later than close of business tomorrow.

Mr. HUMPHREY. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. I will not object, but I think it is time to say something that has been on my mind. It may be that some Senators on both sides of the aisle will wish to speak at considerable length on the Price-Anderson bill as a result of something we regard as unfair having transpired yesterday during its consideration. An amendment was dealt with, a very important amendment was dealt with in the space of 3 minutes or less, in which amendment a dozen or so Senators on both sides of the aisle who had an interest did not have time to reach the floor such that they could debate or try to defeat the amendment, which was their wish.

I hope we are not now in a situation where Senators have to spend the entire pendency of a bill on the floor to protect their rights. I thought that we could operate under more gentlemenly arrangements than that. The Senators I refer to had distributed to their colleagues a Dear Colleague letter indicating their intent to try to defeat any such amendment. I am speaking, of course, of the amendment that extended the reauthorization period contained in the bill from 10 years to 20 years. This is a bill of enormous implications, Price-Anderson, and to pass an amendment to double the reauthorization period in the space of 3 minutes or less when Senators who were known to be opposed did not even have a chance to come to the floor can hardly be regarded as doing business in the usual and fair way that we do deal with these kinds of things.

Mr. McCLURE. Will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. McCLURE. Will the distinguished majority leader permit us to extend the discussion on this for just a few minutes?

Mr. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from New Hampshire, who has reserved the right to object, and the distinguished Senator from Idaho be allowed to have a colloquy under that reservation.

The PRESIDING OFFICER (Mr. PROXMIRE). Is there objection? Without objection, it is so ordered.

Mr. McCLURE. I thank the majority leader, and I thank the Senator from New Hampshire for yielding because the matter to which he refers is the amendment which I offered. Now, the Senator from New Hampshire has indicated that somehow he has been treated unfairly. I am sincerely sorry if he feels that way. I do not think that is true, but he has communicated to me his feeling. I am going to try to find a way to accommodate that feeling. Certainly, the right of the Senator from New Hampshire was protected to offer an amendment, as was the right of the Senator from Massachusetts [Mr. KERRY] and the Senator from Arizona [Mr. MCCAIN] all of whom have interest in that subject matter but from different perspectives, I believe.

Certainly, the Senator has told me that he circulated a Dear Colleague, and I hesitate to say, but it is a fact I did not know that. Perhaps I should have been aware, but I was not aware, just as the Senator from New Hampshire was not aware that we were going to offer the amendment. I had no reason to notify him from my perspective; I did not know of his interest, and certainly had we heard, while the amendment was pending, of the desire of the Senator from New Hampshire to come to the floor to speak on that subject matter, we would have accommodated that desire. But that was not communicated to us until after the amendment had been adopted. I still hope that in some fashion the interests of the Senator from New Hampshire to present this issue to the Senate for a vote will be accommodated in a manner that is satisfactory to all the parties.

Mr. JOHNSTON. Will the Senator yield?

Mr. HUMPHREY. Let me first respond to the Senator from Idaho. He has pointed out that the Senator from New Hampshire and Senator KERRY, one of the other interested parties under the unanimous-consent agreement that was reached, are protected in their rights. Well, fine, we are protected in our rights, but that is no beneficence extended by the floor managers, that we have our rights under the rules and we are protected.

But that is not the point at all. If anything, that is a red herring. I return to my original proposition. The amendment was rushed through in a space of 2 or 3 minutes. It was an amendment of enormous import. My gosh, doubling the reauthorization period from 10 to 20 years under Price-Anderson with no debate except between the two floor managers, who happened to agree on the point, is hardly a fair consideration of an important issue.

I am greatly wounded by the unfairness and, frankly, it is not enough for the Senator from Idaho to say that I am protected, that I can seek to undo the damage by amendment. I hope that the Senator would sense the unfairness of the situation and agree to vitiate the vote. If the Senators are confident in their support, they can bring up the amendment again and allow reasonable time for debate and then go to a vote. Then all Senators will have had a chance to participate. That is what we are asking—fairness. I think the only way to undo the damage, frankly, is to vitiate the action.

Mr. JOHNSTON. Will the Senator yield?

Mr. HUMPHREY. Of course.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I certainly want to be fair, and I am bordering on the edge of resenting the charge of unfairness because, let me tell you, not one Senator said one peep to me about wanting to be heard or wanting a chance to speak on this amendment. Every bulletin we sent out referenced this.

I am like the Senator from Idaho. Maybe I should be aware of every Dear Colleague that comes around, and I was not. I am not going to be, and we are not supposed to be aware of all of these things. There is a time to consider a bill on the floor and that is when the bill is up on the floor. Now, if the Senator had been caught unawares of something, I am sorry for that, but there is a way to be protected. All you have to say is, "Can I be protected?" And the answer is, "Of course."

But to say that you are not protected, you can bring up your amendment and we can vote on it; we can debate it. It really makes no difference. What the Senator is asking us is to vitiate and, therefore, admit unfairness, and I am just not willing to admit that because we were not unfair. If you want to sit here and keep the Senate in on Friday, you can do that because we were not unfair and I do not admit it. And you can just do whatever you are big enough to do.

Mr. HUMPHREY. Mr. President, it was not only this Senator who was treated unfairly. It was a dozen other Senators, most of whom I would point out are on that side of the aisle. I think the facts speak for themselves. An amendment of that kind should not be rushed through in the space of 3 minutes with the only debate between the two floor managers who do not even disagree on the point. The unfairness is self-evident. But if the Senator is offended by my remarks, I withdraw the charges of unfairness and he can vitiate it then without accepting the charge.

Mr. JOHNSTON. I accept the Senator's statement, and I am glad he said that.

Mr. HUMPHREY. Is the Senator willing to vitiate? I will certainly be more then happy to withdraw the charge of unfairness if the Senator is willing to vitiate, and then he may without admitting to any charges.

Mr. JOHNSTON. We will talk about that as consideration of the bill continues.

Mr. HUMPHREY. I apologize for intruding. The majority leader is anxious to proceed. This is a matter of very great import not only to these Senators but to a great many groups who have been working for weeks in anticipation of that very kind of amendment and rallying support in opposition. We and they did not have any opportunity to be heard, and I hope that we have not arrived at the point where Senators have to spend all day on the floor in order to avoid a sneak play.

Mr. McCLURE. Will the Senator yield?

Mr. HUMPHREY. Be happy to.

Mr. McCLURE. I assume that the emotions are running a little high, and I share with my friend from Louisiana resentment that somehow you were dealt with unfairly. I was prepared to accept your withdrawal of that charge until you said, as you did just now, there was some kind of sneak play.

Senator, I resent that. This matter was noticed to everyone, the bill was on the floor, and if you were not paying attention to that, that is your fault. That is not our fault.

Mr. BYRD. Mr. President, I ask for regular order, that Senators address others in the third person.

Mr. McCLURE. I understand what the Senator is saying. If the distinguished Senator from New Hampshire was not paying attention, it is the fault of the Senator from New Hampshire.

Mr. BYRD. Well said.

Mr. McCLURE. I apologize for the necessity of saying that but there was no sneak play and there was nothing unfair about it. And I told the Senator at the outset, I will try to work it out if it is possible to work it out. But it is not going to be worked out if, as a matter of fact, you continue to make those kind of personal insinuations, I would say to the Senator from New Hampshire.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I repeat that the situation is self-evident. I need not state any more on the point, and I will not at this juncture.

The PRESIDING OFFICER. The majority leader has a unanimous consent pending. Is there objection?

Mr. GLENN. Reserving the right to object, I was not on the floor when that was propounded very briefly on the proposal. As far as my amendment goes, I do not want to delay the action of the Senate with my amendment any more than is necessary but I think at this time without knowing what intervening amendments there might be, I would not agree to a time agreement.

I do not want to delay things. But I would not want to guarantee a final vote by a certain time tomorrow and find out we did not have everybody express themselves or have adequate time to lay out their views on this.

I have to reserve the right to object.

Mr. BYRD. This agreement does not set a time for a vote.

Mr. METZENBAUM. Mr. President, reserving the right to object——

Mr. KENNEDY. Could I offer a suggestion? I had about a 2-minute speech. Perhaps the Senator from Ohio could look at the unanimous consent.

Mr. GLENN. Can I have a restatement on the unanimous-consent agreement?

Mr. KENNEDY. Could I speak on another subject?

Mr. BYRD. Mr. President, I yield the floor. I withdraw the request temporarily.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I renew my request in a modified form. May we have order in the Senate and may we have Senators on the floor and at their desks and in their chairs?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. I will speak loud enough so hopefully everybody will be able to hear.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on the veto message occur at 12 o'clock noon on Tuesday next; that beginning at 10:30 a.m. on Tuesday next, debate ensue on the veto message; that the debate be 1 hour and a half equally divided and controlled by Mr. KENNEDY and Mr. HATCH, in accordance with the usual form; that the Senate upon the entering of the order that I am propounding return to the stated pending business, which on the calendar is shown as H.R. 1414, the Price-Anderson bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GLENN. Reserving the right to object.

[Laughter.]

The PRESIDING OFFICER. Reservation is heard.

Mr. BYRD. Mr. President, I want to state this agreement for the attention of the distinguished Senator from Ohio, Mr. GLENN.

Mr. GLENN. I am listening.

Mr. BYRD. I ask unanimous consent that the vote on the veto message occur at 12 noon on Tuesday next; that beginning at 10:30 a.m. on Tuesday next, there be 1 hour and a half of debate on the veto message, time to be equally divided and controlled by Messrs. KENNEDY and HATCH in accordance with the usual form; that upon the entering of this order—that means when no Senator objects and the Chair puts the question, the Chair says "It is so ordered"—the Senate go over the veto message and return to what is now shown as the pending business on the Calendar of Business, H.R. 1414, the Price-Anderson Act, et cetera.

That is it, in totality.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators.

PRICE-ANDERSON ACT AMENDMENTS

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (H.R. 1414) to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents.

The PRESIDING OFFICER. The assistant Republican leader is recognized.

Mr. SIMPSON. Mr. President, I will yield in a moment to the floor managers, Senator JOHNSTON and Senator MCCLURE.

Thank the majority leader for his willingness to handle this contentious matter of the veto message in this way. It is obviously debatable and could continue far into the night and tomorrow. It was obvious that people felt strongly about it, and we could not continue to do business if we did not make this accommodation.

Therefore, I assure the majority leader that we will go forward here. I believe that when we conclude this, things will fall into line better tomorrow, and we perhaps will get a time agreement on amendments.

My people have been notified about the next item of business, which is the high-risk notification legislation. That has been part of the discussion. I think we can put the boilerplate around that arrangement tomorrow.

Mr. BYRD. Mr. President, I thank the distinguished assistant Republican leader for his cooperation and for the statement he has just made.

I hope we can have further action on this pending measure today. There are amendments. The agreement has already been entered into, stating those amendments which are in order on this bill, excluding any others.

We will stay in as long as the managers wish this evening, as long as they feel they are making progress. I hope we can finish action on this bill. I express the hope that we can finish action on this bill no later than 3 o'clock tomorrow, or 4 at the very latest. I hope it will be earlier than that.

That is about all I can contribute at this moment. I thank the assistant Republican leader and all Senators again.

Mr. JOHNSTON. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. JOHNSTON. Mr. President, with a little luck, I think we can finish before 3 o'clock tomorrow.

If my distinguished colleague, Senator MCCLURE, would agree, I would hope that we could dispose of the Glenn amendment tonight, which is the principal amendment in terms of time it would take to do this matter.

With respect to the issue of the time extension, I think we will be able to work that out. I hope we can work that out with a time agreement. We have not talked to Senator KERRY yet. He is a Senator in interest, as well as Senator MCCAIN. We have not talked to them, but we expect that we could work that out with an hour time agreement and probably do that tomorrow.

I think these other amendments will go away or at least be quickly disposed of.

So, if we can get through with the Glenn amendment tonight, I would think we should be able to finish before noon tomorrow, with any luck at all.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. JOHNSTON. I yield

Mr. METZENBAUM. The Senator from Louisiana knows that the Senator from New Hampshire, the Senator from Ohio, and the Senator from Massachusetts were concerned about the adoption of the amendment yesterday extending the time of the bill from 10 to 20 years. We have had some private discussions with reference to vitiating that amendment, but it is made clear that if it were to be vitiated, the Senator from Louisiana would offer the amendment and that those of us opposed to it would be agreeable to a time limit. Can we get that agreement set in place at this moment?

Mr. JOHNSTON. No, we cannot. That is what I just mentioned. Senator KERRY is a Senator at interest, as well as Senator MCCAIN, and they are not here.

I hope we can work out the whole arrangement to have whatever votes we want to have and do it within an hour, because the issue is simple. It is important, but simple.

Mr. METZENBAUM. It is a time limit, 10, 20, 30. The Senator from Louisiana, as I understand, is amenable to getting that matter to a vote.

Mr. JOHNSTON. I am amenable to getting that worked out because of the concern of the Senator from Ohio, who told me yesterday, "Watch out for any amendments that I might be concerned about." I did not know he was concerned about that, but I should have realized that the Senator from Ohio is concerned about all matters.

Mr. METZENBAUM. I appreciate the courtesy of the Senator from Louisiana.

I would be happy if it were 20 or 30 years, if that were the decision of the Senate.

Is it the intention of the Senator from Louisiana to deal with that tomorrow?

Mr. JOHNSTON. It depends on what we can get done tonight. If we can wrap up the bill tonight, that would be a consummation devoutly to be wished.

Mr. METZENBAUM. I have no desire to delay.

Mr. BYRD. Mr. President, whose amendment is going to be called up next?

Mr. JOHNSTON. I think we are ready for third reading, are we?

What is the pending business?

The PRESIDING OFFICER. The pending business is the bill. There is no pending amendment.

Mr. JOHNSTON. Mr. President, we are just having a discussion here on the question of the Glenn amendment, and my friend from Ohio says he is not ready to bring up the amendment. If we can have a time agreement, we certainly want to accommodate Senators who want to get out of town tomorrow. That is fine. But I do not think we should have to stay here late tomorrow afternoon in order to—in order to what? We are ready to do business. We have been around all afternoon, ready to go on.

Mr. GLENN. There are four or five other amendments.

Mr. JOHNSTON. There is really one amendment, and that has to do with the length of time, and there are several Senators who want to deal with that.

Mr. McCLURE. The others will not take much time.

SOLE-SOURCE AMENDMENT

Mr. McCLURE. Mr. President, on yesterday I had offered an amendment with respect to the source of funds for payment, the so-called sole-source amendment. The distinguished junior Senator from Louisiana had requested that I withhold that amendment until we could do some further checking on its effect. I have done that overnight. I have a letter from the Department of Energy, dated March 17, 1988, addressed to me, signed by Theodore J. Gerrish, Assistant Secretary for Nuclear Energy, stating their position with respect to the payment of claims. I ask unanimous consent that that letter be printed in the RECORD

Mr. BREAUX. Mr. President, reserving the right to object, and I will not object, but just to point out that the Senator from Idaho has discussed the situation with me. I think that the letter from the Department of Energy clarifies the commitment of the administration and the Government to pay these claims out. I think that an amendment which would change that structure would not be in the best interest of the bill. I think that the Senator from Idaho has made a real contribution by his actions.

Mr. McCLURE. With that explanation from the Department and the legislative history that has been made, it will not be my intention to offer the amendment again.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENERGY,
Washington, DC, March 17, 1988.

Hon. JAMES A. MCCLURE,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCLURE: In response to your request for our views on the necessity of your proposed "sole source of funds" amendment to H.R. 1414, we do not object to the amendment, but believe it to be superfluous.

In the event that valid claims arise from an accident at a contractor-operated facility, the Department would undertake to expedite payment of these claims from available funds under its indemnification agreement with the contractor. The obligation of the Federal government to make these payments is clear under the terms of existing law, and would not be affected in any way by H.R. 1414. The plain object of the Price-Anderson Act and the renewal legislation is to ensure expeditious compensation to claimants for all valid claims. I can assure you that the Administration would take all necessary and appropriate actions to ensure that funds were available to carry out this object.

The Office of Management and Budget advises that there is no objection to the presentation of these views to the Congress.

Sincerely,

THEODORE J. GARRISH,
Assistant Secretary
for Nuclear Energy.

The PRESIDING OFFICER. Is there further business?

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

Mr. BYRD. Mr. President, I seek recognition to ask the distinguished manager of the bill as to what the outlook is for the rest of the day on this bill as he sees it at this point.

Mr. JOHNSTON. Mr. President, I would say that there will probably be another vote or two. It should not be a late night. If we can find the Senators interested in these amendments, I think we can dispose of the pending matter; then, perhaps, get started on the Glenn amendment.

We are trying to finish the bill by early tomorrow, and that takes a little. We will have to have a vote or two tonight in order to get that done.

I think it is entirely possible to finish early tomorrow, I would hope before noon. But we will need to dispose of this time extension amendment, which should all take place within an hour. I think everybody is agreeable, that I know about.

So that would probably mean the vote would take place around 7 o'clock.

Mr. BYRD. This evening. I thank the Senator.

Mr. JOHNSTON. This evening.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NICARAGUA

Mr. ARMSTRONG. Mr. President, it is clear, because of the developments over the last 36 hours, that Congress has made a tragic mistake by denying aid to the freedom fighters in Nicaragua. Even I would think the most naive Members of this body and of the other body must be rethinking their positions if they voted against the President's request to send some $30 million to the freedom fighters. The reports that we are getting from Central America remain somewhat fragmentary, but the broad outline is pretty clear on yesterday. The Communist Government of Nicaragua sent a fairly large force—there have been variations in the estimate—but a fairly large fighting force across the borders to Honduras with the evident intent of destroying a supply depot of various supplies used by the freedom fighters.

If this does not show conclusively once and for all the true intentions, the true colors of the Communist regime in Nicaragua, it would be hard for me to imagine what would finally put that issue to rest.

For the past 6 or 7 months, much to the frustration of some of us in this Chamber, we have been following the policy which has loosely been called, give peace a chance. In fact, we have not been giving peace a chance. What we have been giving a chance is for the Communists to consolidate their hold on Nicaragua and to gather up their strength to impose their will on neighboring nations.

But nonetheless, under the banner of "give peace a chance," under the Arias plan, we were told that the Sandinistas would be forced to make democratic reform, that they would be forced to come to the bargaining table by the power of world opinion, and somehow the moral suasion involved would convince them to keep the promises they have been breaking for the last 8 years.

Beginning in 1979, the then insurgent regime, the now government in power, promised free elections, freedom of worship, free union movement, freedom of the press, a mixed economy and a nonaligned foreign policy. They have broken every one of these promises, and yet as recently as the last few weeks, we have been assured in this Chamber, and our colleagues in the other body regrettably were persuaded by a narrow margin on the argument, that if we withdrew aid from the freedom fighters, from the democratic resistance, that the inevitable result would be a peace conference, that everybody would come to the table, and somehow we would work out or compromise out the differences of opinion.

A lot of us were skeptical of that. Many of us in this Chamber believed if we withdrew aid, it would be exactly what Adolfo Calero subsequently said it was, a sellout, a withdrawal of support from brave men and women risking their lives, many giving their lives in order to bring freedom to that troubled region of the world.

I believe it is a sellout. I believe it is exactly what the Senator from Arizona [Mr. McCAIN] said, an act of dishonor. That has come and gone. We have tested, albeit briefly, the general theory of what might happen if the Communists got their way if we cut off the aid to the freedom fighters in the field.

When we say we have cut off the aid to the freedom fighters in the field, that means these men and women who are out there in the jungles and the highlands are, in essence, defenseless before their enemies who have been supplied with hundreds of millions of dollars of weapons by the Soviet Union.

The result which occurred yesterday, I think, was inevitable. But whether one believes, as I do, that it was entirely predictable and perhaps even inevitable or whether it was an open question before, surely the issue is now set. As a result of the failure of nerve and will by the U.S. House of Representatives, the message has gone out that Congress has pulled the plug, that we are no longer ready to support the freedom fighters in Central America. And as a result, Commandante Ortega, and those around him in the Communist directorate, decided the time was right to send their expeditionary force into Honduras to destroy the supplies of these brave men and women.

So much for the slogan, "give peace a chance."

It appears to me that we should have learned a lesson. The Communist government had been put to the test. We now know the results.

On February 20, Daniel Ortega announced that he had a plan to crush the Contras. What he is doing now is making good on that promise. The Wall Street Journal put it so well that the Sandinista plan is called "triumph or death," citing State Department sources that the offensive includes 12 combat battalions, 6,000 troops, and 10 Soviet helicopters.

The Washington Times quotes a Government spokesman, this is on yesterday, to the effect that this is a knockout blow aimed at the Contras now that they have been left dangling by the United States. Meanwhile, military aid to the Communist regime continues unabated as the democratic resistance withers, with the Communists getting, according to the latest unclassified figures released by the State Department and Defense Department and quoted in the Washington newspapers within the last week, deliveries constituting 3,100 metric tons of weaponry worth $100 million just in the first 2 months of 1988. One hundred million in the first 60 days of this year. It is important to keep that number in mind when one recalls that the aid which was declined by the House of Representatives a few days ago was for $30 million more or less, of which about $3 million was in military aid, coming on top, I might point out, Mr. President, of several hundred million dollars of military aid by the Soviet Union to the Communist regime.

The relative strength of the Sandinistas, the Communist government in Nicaragua, because of the inaction of Congress, has been openly cheered by the Communists and lamented by the democratic resistance.

Has our cutoff to the democratic resistance helped democratization and civil rights in Nicaragua? We know the answer to that, too, because about the first thing that happened was an internal crackdown by the Communist regime. The possibilities that any sort of meaningful democratization of that country are looking increasingly dim.

Increased popular discontent over the miserable state of the economy in Nicaragua and other ills has been met by force, reported in the Miami Herald, the Washington Post, the Washington Times, and elsewhere.

Mr. President, I ask unanimous consent to insert in the RECORD a number of newspaper articles and wire dispatches, including an account by the Associated Press, of what is transpiring there.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Feb. 22, 1988]

ORTEGA THREATENS TO CRUSH CONTRAS

(By John McCaslin)

Nicaraguan President Daniel Ortega told hundreds of Marxist government officials if the Central America peace process fails, he has a plan that will "crush" the Nicaraguan Resistance.

"We have already prepared a strategy which will lead to the crushing of the Contras," Mr. Ortega said in a speech Saturday in Managua, announcing a new Sandinista campaign against so-called "counterrevolutionary speculators."

The Nicaraguan commandante provided no other details of what that strategy might be, but his harsh rhetoric came one day after a second round of cease-fire negotiations between the warring sides broke down Friday in Guatemala City.

The mediator in the cease-fire talks, Catholic Cardinal Miguel Obando y Bravo blamed the latest failure on the Sandinista regime for its lack of sincerity in approaching the negotiations.

Intelligence sources in Managua said earlier this month the Sandinistas were preparing a "final offensive" against the rebels, code-named Operation Monimbo. The offensive reportedly was focused on the provinces of Zelaya, Bocao, Chontales, Matagalpa and Jenotaya.

It was still too early to tell what impact Mr. Ortega's harsh words of Saturday might have on any congressional aid vote this week. Supporters of Mr. Ortega on Capitol Hill, including House Speaker Jim Wright who is guiding the development of a "humanitarian-aid-only" package for the Resistance, have cautioned him against using such militant language.

The current aid package for the Resistance, passed by Congress in 1986, expires at the end of this month.

Mr. Ortega in his Managua address also leveled a warning to the opposition La Prensa, which only recently resumed publication, saying its editors had better watch the newspaper's content.

La Prensa "thinks the people are about to rebel against us, but they should be careful because with their attitude they can provoke an insurrection that would raze them," he said.

Other "counterrevolutionary speculators" receiving warnings from Mr. Ortega Saturday included Managua's merchants who refuse to sell their products at prices regulated by the government.

In Washington yesterday, Resistance representative Ernesto Palazio voiced optimism that a new round of cease-fire talks would resume this week, but he also was fearful the Sandinistas would continue their policy of "stalling."

"Why should the Sandinistas be that eager for a cease-fire when in the long run, because of the Feb. 3 vote in Congress, they're going to get a de facto cease-fire anyway?" Mr. Palazio said in a telephone interview.

He was referring to this month's vote in which the House narrowly rejected an administration proposal to provide the rebel forces with both military and humanitarian aid. Without ammunition and other lethal assistance, the rebels say they cannot remain a viable fighting force.

Later this week Congress is scheduled to vote on the scaled-down aid package crafted by the House Democratic leadership. House Republicans are also preparing to introduce a larger package similar to the one rejected three weeks ago.

During the weekend, both Resistance and Sandinista officials said they were willing to resume the sporadic peace dialogue this week, but would first await agreement from the mediation team.

"We hope to resume them this week, but we're not sure when," Mr. Palazio said, echoing the words of a Sandinista official who took part in Friday's failed round of negotiations.

In his speech Saturday, Mr. Ortega charged the Resistance delegation had intended from the beginning to "boycott" the negotiations in an attempt to win support on Capitol Hill for additional military aid.

In a related development, Resistance field commanders reported over the weekend that the Sandinista Army helicopter the Nicaraguan government said had crashed Feb. 15 due to mechanical failure was actually shot down by its rebel forces with a shoulder-fired "Red Eye" missile.

And while the Sandinistas reported last week that seven of its officers had perished as a result of the accident, the rebels claimed that 15 bodies were actually recovered from the crash site.

The helicopter, a Soviet-built MI-17, crashed in the Chontales province near the town of Santo Tomas.

"Although it is true that the Sandinista Air Force has serious difficulties of maintenance and even sabotage, we were capable of confirming that this helicopter crashed due to damage caused by the 'Red Eye' missile," the Resistance said.

[From The Washington Times, Mar. 16, 1988]

MANAGUA ATTEMPTS A "KNOCKOUT BLOW"

Nicaragua President Daniel Ortega said yesterday that the Sandinista army is inflicting heavy casualties in a major offensive that the U.S.-supported rebels say could make their situation "extremely serious."

U.S. and rebel officials said Sandinista troops, supported by artillery and aerial bombardment, have entered neighboring Honduras. The U.S. Embassy in Honduras, though, said it could not confirm an incursion.

One State Department official, speaking on condition he not be identified, said initial reports suggested the Sandinistas hoped to deliver a "knockout blow."

In a telephone interview with The Washington Times, resistance spokesman Bosco Matamoros said: "Our situation is difficult and could become extremely serious."

He said the resistance was having severe difficulties in aerial resupply and evacuating its wounded. The Sandinista goal, he said, appeared to be cutting off rebels in the north from their operational areas in the interior of Nicaragua.

The intention, he said, was to deal the insurgents a heavy battlefield setback to put the Sandinistas in a position of strength at cease-fire talks scheduled to begin Monday near Nicaragua's southern border.

Other resistance officials in Costa Rica and Miami told The Times that the talks were still on.

"They launched this offensive at a time when we are without aid, just before the cease-fire talks are scheduled to begin," one said. "They want to further weaken our position . . . It does present problems for us politically at the next talks."

Mr. Ortega gave few details about the fighting except to say that Sandinista troops were "dealing serious blows" to the resistance.

In Washington, State Department spokesman Charles Redman described the offensive as a Soviet-backed bid to finally crush the resistance.

"Based on what we know, this would appear to be the largest offensive we have seen the Sandinistas undertake," he said.

Mr. Matamoros said about 1,000 insurgents based in Nicaragua's Jinotega province had been pushed into Honduras where they were being hit by high-altitude Antonov bombers, long-range artillery and rocket launchers.

He said the Sandinistas, with their battle headquarters at Bonanza and forward command at El Cuartelon, were bringing up troops and materiel in 13 Mi-17 helicopters.

A new factor in the Sandinistas' favor is a new "extremely sophisticated communications system" that made it difficult for the insurgents to intercept enemy radio messages, he said. This is something the rebels have never faced before, he added.

Resistance officials said the offensive involves 4,500 Sandinista troops.

Mr. Redman said 6,000 troops could be involved. He said the offensive shows that the Sandinistas are not seriously interested in a ceasefire.

The rebel officials said the Sandinistas are using helicopters for transportation—but, apparently worried about anti-aircraft missiles, are not using them as gunships.

"It is very serious. The situation is critical," an offical said. "Not only do we have to look at the immediate results of the combat, but we have to worry about the supply situation of our troops after this operation."

The attack also follows a renewed push by President Reagan for U.S. aid to the resistance.

Since U.S. aid to the rebels expired Feb. 29 and the House voted narrowly on March 3 against a new humanitarian aid package, the rebels have fallen back toward border areas to defend supply caches, Mr. Redman said.

[From the New York Times, Mar. 12, 1988]

ORTEGA SAYS CONGRESS HURT THE CONTRAS

(By Stephen Kinzer)

MANAGUA, NICARAGUA, March 11.—President Daniel Ortega Saavedra says he thinks contra leaders will come to the negotiating table this month in "a position of weakness" because of the recent Congressional vote cutting off aid to their government.

Mr. Ortega said the contras had agreed to three days of talks beginning March 21. The Government, he said, is willing to remain at the negotiating table indefinitely if substantial progress is being made.

In an interview Thursday night, Mr. Ortega said he expected the contras to be conciliatory to "accommodate themselves to a new situation." He said Sandinista military pressure was taking a toll on contra units, which he said were in retreat and "conserving their bullets."

"The Reagan Presidency is coming to a close," Mr. Ortega said. "If contras don't reach a negotiated solution, they face the prospect of total military and political defeat."

"AFFECTING US MORE EVERY DAY"

The principal contra leader, Adolfo Calero, said Thursday that the Congressional vote March 3 against a Democratic plan for contra aid showed that the United States was an unreliable ally.

"It is sad that the Soviet Union can be a more consistent ally, and that the United States is an inconsistent ally, not as it should be," Mr. Calero said in a statement broadcast over the clandestine rebel radio station. "The cutoff of aid to the Nicaraguan Resistance is affecting us more every day, because without resources it is very difficult to maintain a war against an ally that has full Soviet support."

"In the long run, the cutoff of aid from allies could be fatal for the Nicaraguan Resistance," Mr. Calero said.

Government radio stations were planning to transmit portions of the Calero statement, Mr. Ortega said.

"This is the statement of a defeated leader," Mr. Ortega said several hours after Mr. Calero spoke. "The morale of a contra in the mountains is not going to be improved by hearing this statement on the radio."

SUSPICION ON CONTRA MOTIVES

Mr. Ortega expressed concern over the possibility that the contras are coming to the talks only as part of a strategy to win new aid from Congress.

"The contras are interested in pressuring Congress to get a little aid by seeming to want negotiations," he said.

Several obstacles that had held up the cease-fire talks were resolved this week. The contras accepted the Government's suggestion that the talks be held in the southern border village of Sapoá, and that both delegations be headed by senior officials. Mr. Calero is expected to head the contra negotiating team. The Sandinistas will be represented by Defense Minister Humberto Ortega Saaveda, brother of the President.

The Government had sought to remove Miguel Cardinal Obando y Bravo, the Roman Catholic Primate, from the mediation role he has been playing since November. But agreement has now been reached to invite the Cardinal to Sapoá as a witness. The other witness is to be João Baena Soares, secretary general of the Organization of American States.

Mr. Ortega said Thursday that Cardinal Obando and Mr. Baena have agreed to come to the Sapoá talks on March 21.

Debate over the agenda was the final obstacle. The contras had asked for a preliminary meeting to set topics for discussion, and said they wanted to talk about press freedom and other political questions. The Sandinistas refused, saying they would discuss only the mechanisms by which contras would disarm and resume civilian life.

The contras finally dropped their insistence that topics be decided in advance. Mr. Ortega said that fixing an agenda would probably be the first order of business in Sapoá.

An American lawyer who represents the Sandinistas, Paul Reichler, said this week that the Sandinista proposal in Sapoá would not require the contras to surrender unconditionally.

"They would be able to keep their arms and ammunition after entering cease-fire zones," Mr. Reichler said in an interview in Managua. "This could be for as long as six months. It would be a kind of test period.

"As changes are made, they would gain the confidence to lay down their arms and reintegrate themselves into the country. They could conduct military training, as long as they don't shoot anyone, and they could receive humanitarian aid from the United States or anyone else."

ACCUSATIONS OF A CRACKDOWN

Leaders of opposition political parties in Nicaragua have charged that the Government is conducting a crackdown on their activities. Several times in recent weeks, crowds of Sandinista demonstrators, some of them violent, have clashed with anti-Government protesters.

[From the Miami Herald, Feb. 8, 1988]

5,000 NICARAGUANS PROTEST CONDITIONS WITH RALLY IN STREETS

(By June Carolyn Erlick)

MANAGUA, NICARAGUA.—About 5,000 workers marched Sunday through the streets of Managua to protest lack of food and Sandinista labor policies.

Observers said the demonstration was the largest opposition labor march in the nearly nine years of Sandinista government.

Workers from a coalition of conservative and Communist labor unions marched peacefully for two hours through the working class neighborhood of Ciudad Jardin and past the sprawling Eastern market.

They carried signs reading "Enough Already!" and denouncing the government for "Hunger, Misery, Unemployment and Repression." Some carried elaborate cartoon posters, some of which were copied from the opposition newspaper La Prensa.

One carton showed President Daniel Ortega confessing to Cardinal Miguel Obando y Bravo: "Father, forgive me, we lied about everything we said about the Central American peace plan." In the cartoon, Obando replies, "No one believed you in the first place."

But most observers attributed the large turnout and peaceful march to the political space created for the domestic opposition under the peace agreement made last August by Central American leaders.

"There ought to be even more people here," said Fanor Avedano, a Social Christian youth leader. "After eight years of repression, people are only beginning to lose their fear." She said the march would not have been possible before the peace agreement.

Workers apparently were catalyzed by the closing of 21 factories because of the country's energy crisis. The Sandinistas said Saturday that six more factories, including two beer factories, would be shut temporarily to conserve electricity. The 15 factories shut last week include soft drink, chemical and textile factories.

The government has said that workers will continue to be paid, but that they have been encouraged to pick coffee or participate in communal projects.

"Reagan's war has damaged the economy, but the comandantes share the blame," Roberto Moreno of the Communist Party Union, known as CAUS, told the crowd. "There are millions for mansions but no money for factories."

Four opposition union coalitions participated in the march. They are believed to have about 100,000 workers, including some peasant cooperatives.

The Sandinista Workers' Union, which was not in the march, has the majority of Sandinista workers.

"The march is a response to social inconformity because of the eocnomic crisis," said Mauricio Diaz, president of the popular Social Christian Party. "It is an answer to the government's lack of answers."

Diaz, who is the opposition party delegate to the National Reconciliation Commission created under the peace plan said the march was the largest opposition labor march in the history of the Sandinista revolution.

[From the Washington Post, March 5, 1988]

NEW PLAN PARALYZES NICARAGUAN ECONOMY

(By Julia Preston)

MANAGUA, NICARAGUA, March 4.—Rice and beans, Nicaragua's most basic daily fare, are gone from the markets of Managua. For two weeks there has been no corn for tortillas, no oil for frying. Eggs, though, are on sale by the thousands putrifying in stacked cartons that clog hot market walkways.

On Feb. 14, the leftist government, seeking to rein in runaway inflation, enacted an economic program that has brought the most jarring changes in living conditions since the nationwide agrarian reform of 1979, just after the Sandinistas rose to power. The new measures rewrite the rules for production and trade in both the state and private sectors.

The lack of rice and excess of eggs are signs of the extraordinary chaos that these latest changes have unleashed, leaving the economy nearly paralyzed.

Economists say the measures, in principle, were the right ones to curb a wild inflationary spiral that came close to doubling the cost of living each month. But in practice, the government set several key rates—including the exchange for the dollar—at levels so unrealistic that they rendered many farms and factories unprofitable overnight. Scores of the abruptly bankrupted businesses belong to the government.

The results of the changes are expected to have a major political impact here. In adopting them, the nine-member Marxist leadership turned sharply from the path of socialist-style state control of the economy, economists said.

The rulers opted instead for policies promoted by a small group of government officials known as "the technocrats," who are not part of the Sandinista party leadership and who drew on a mix of monetarist tenets of Latin American capitalism.

"This is a reaffirmation of the view that socialist central planning is not viable in this country. The logic of these measures is a greater reliance on market signals," said U.S.-trained Nicaraguan economist Mario Arana, head of research at a progovernment think tank here. About three-quarters of Nicaragua's economy remains in private hands, mainly small- and medium-sized property owners, Arana noted.

If the measures ultimately fail, Sandinista leaders could respond by swinging leftward once again.

The changes, sprung by surprise on Nicaraguans for maximum shock effect, began in mid-February when the government issued a new cordoba and withdrew the old currency that was practically worthless. The new cordoba drops three zeros from its predecessor's face value.

The Sandinistas handled the currency switch like a military campaign, mobilizing 60,000 party followers to help with the transactions in rural areas.

The government also quintupled wages, increased the price of 46 basic goods by as much as 250 percent and froze them there, raised sales taxes and eliminated gas and transportation subsidies. The price of a gallon of gasoline went in one day from the equivalent of 15 cents to $1.50.

A knotty tangle of different dollar exchanges was made into one rate, 10 new cordobas to $1. Until then, the rate had varied ludicrously from the lowest official fixing of 70 cordobas for $1 to the black-market 50,000 to $1.

President Daniel Ortega ordered all ministries to slash their budgets by 10 percent and combined several agencies into one Ministry of the Economy under Luis Carrion, one of the nine top Sandinista comandantes.

The government hopes the package will ease inflation by cutting back the money supply and reducing its big fiscal deficit, while also simplifying economic management and forcing all businesses, including its own, to operate more efficiently.

In fact, the changes seemed so similar to those advocated by fiscally conservative institutions such as the International Monetary Fund that one economist at the U.S. Embassy was asked jokingly by several Nicaraguans if he had had a hand in crafting them.

By most accounts, the program quickly went awry. Last week the Central American Business Administration Institute, a Managua business school, convened managers from private and state-owned companies for an assessment. One manager after another announced that his or her enterprise could no longer function.

One problem is the new dollar cost. Many Nicaraguan firms, including dozens of private ones that regularly lambasted the Sandinistas for their Marxist bent, owed their survival during recent years to a government subsidy that provided them with dollars at the giveaway rate of 70 cordobas. For them, a dollar to purchase needed imports is suddenly 143 times more expensive.

"I've looked through the recent history books, and I can't find another example anywhere in the world of a devaluation of that magnitude. I guess we can say it is an audacious move," said Nicaraguan economist Francisco Mayorga, who holds a doctorate from Yale.

Within a week a black market reemerged, with the dollar trading at six times its legal value. Even some desperate government agencies were among the buyers.

Faced with soaring labor costs, fixed prices and a mood of uncertainty, many farmers and manufacturers just ground to a halt.

"Nobody can start to produce anything. There is general bankruptcy in both the private and public sector," said Mario Hanon, president of the national rice growers' association. But Hanon rejected the idea that the measures are a disguised Sandinista attack on private business.

"This is just based on a big dose of ignorance," he charged.

As for the markets, prices of some basic goods—such as meat and the rotting eggs—were fixed so high that few shoppers can afford them. But the prices for rice and beans are so low that vendors are holding their stocks off the market, creating severe shortages.

In a renewed campaign against the black market, police and gangs of pro-Sandinista factory workers broke up market stalls in nighttime raids, emptied unlicensed warehouses and arrested several dozen vendors. If they resisted, the police used clubs and a blinding mace-like spray.

Despite widespread confusion over prices, Managua police also summarily confiscated more than 30 taxis and trucks of drivers caught charging more than the legal price for their services.

"The battle is against the speculators, anyone who tries to raise prices, whether because they are enemies of our revolution or are supported by the American Embassy. Among them, there are no big or small fish," said Bayardo Arce, who runs the Sandinista National Liberation Front, in an interview with the party daily Barricada. President Ortega said the government hopes to force black marketeers to return to the countryside to work as farm laborers.

At the headquarters of the opposition Labor Unity Confederation, the hallways teem with vendors, drivers, waiters and other workers seeking help.

"I want them to let go of my mother," said 8-year-old Yesena Altamirano, holding her year-old brother, Eduardo. She came to the union because their parents were jailed after a scuffle with police at their stall in Managua's main Eastern Market.

The decision to take the measures, under consideration since 1982, put new strains on the nine Sandinista leaders. According to a government consultant familiar with the deliberations, Ortega supported the move on the counsel of two dozen advisers, but Agrarian Reform Minister Jaime Wheelock was skeptical but finally agreed.

In December, Wheelock signed a pact with private rice growers to control rice marketing. The idea was a joint effort to raise the farmers' income and lower prices to the consumer by eliminating black-market intermediaries. The pact was to be a model for other deals between the state and private agribusiness.

Now Wheelock finds himself with his pact shattered and dozens of state farms whose books suddenly do not balance.

[From the Washington Times, Feb. 10, 1988]

NICARAGUA MOMS RIOT AGAINST MILITARY DRAFT

(By Glenn Garvin)

MASAYA, NICARAGUA.—An angry mob of 1,000 mothers attacked a police station and a Sandinista party headquarters here, burning vehicles and breaking windows to protest the military draft, witnesses said.

No injuries were reported during the Monday night riot, but two government vehicles were burned and police reportedly arrested about 20 people. Both supporters and opponents of the Sandinistas scheduled rallies and marches for late yesterday, and many residents were predicting more violence last night.

"The security forces have a hot coal on their hands, and they don't know how to handle it," said one resident who witnessed the violence.

Sandinista officials, evidently agreeing that new disturbances were likely, sealed off a several-square-block area around the police station and flooded the city with policemen and plainclothes security officers.

"I can't tell you anything," said police Lt. Roberto de Jesus Parra. "We have a very difficult situation here."

Sandinista officials said the riot was touched off by "provocateurs," including members of the country's old National Guard who have recently been released from prison under provisions of the Central American regional peace plan.

But most winnesses said Monday night's rioting broke out spontaneously after security forces swept through three neighborhoods, grabbing teen-agers suspected of dodging the draft.

Witnesses said the security forces—from the so-called "preventive police" of the Ministry of the Interior —kicked in doors of homes and dragged away young boys during the sweep, though some of them were obviously under the minimum draft age of 17.

One witness described it as "a hunt for children."

"They were not taking young men," he said. "These were boys. These were children."

Several of the suspects were beaten after they were arrested, witnesses said, and others fled in obvious terror.

"I saw one boy pedaling as fast as he could on his bicycle, while the police were chasing him on foot," one local resident said. "Finally he threw the bicycle down and ran and hid in a church school as they ran by."

Sandinista officials confirmed the police sweep. They said police picked up about 150 young men and released all but 29. The others, the officials said, presented proof that they were either too young for the draft or had already served.

Anti-draft demonstrations began Monday afternoon in each of the three neighborhoods. Around 8 p.m., all the demonstrators marched to the police station downtown, where they began throwing rocks and screaming anti-Sandinista slogans.

"They were all women," said farm worker Luis Sanchez, who lives a few hundred feet from the police station. "All kinds of women—little ones, big ones, old ones, young ones."

"The women stretched for four blocks," said watch repairman Francisco Alejo, who lives nearby. "They were screaming, 'We don't want our children to be taken to the slaughterhouse!'"

According to the witnesses, the women also attacked the local headquarters of the Sandinista Youth Organization, breaking windows and rolling a car out of the garage into the street, where they burned it.

The first security policeman called to the scene jumped from his Soviet-made jeep and drew a gun on the mob. But when the demonstrators rushed him he fled, and the crowd burned the jeep, too.

Soon afterward, several jeeploads of police arrived, firing their weapons into the air, over the heads of the crowd. But sporadic violence continued until 1 a.m., area residents said.

Interior Minister Tomas Borge, head of the vast Sandinista security apparatus, was called to the scene of the rioting Monday night. Witnesses heard him tell reporters from the pro-government press not to report his presence.

Sandinista police refused to say how many people they arrested in connection with the riot. But witnesses said that more than 20 were picked up—some at the scene, and some yesterday morning. Among those arrested were two opposition political leaders, Juan Jose Cerda of the liberal Independent Party, and Humberto Urbina, of the Social Democrats.

Friends and political associates of the two men said they were not at the riot, and the Sandinistas were using it as a pretext to imprison opposition leaders.

Yesterday, as Sandinista supporters circulated through the streets here urging people to attend their rally later, the anger that touched off Monday's violence was still apparent.

"It's easy for you to talk," several housewives shouted at the pro-government forces. "You've got soap! You can eat!"

"The children belong to us," one of the housewives said to a reporter. "They're our babies. They were in our stomachs for nine months, and no one helped us to give birth. Now the government wants to take them away."

Pro-government citizens were just as vehement. "It's the reactionaries and the right-wingers who don't want peace," said Josefa Jose, who sells clothing in Masaya's central market. "They have been infiltrated by the criminals pardoned under the peace plan. . . . There's a war going on, and we all have to help."

Mrs. Jose said she would be attending the pro-Sandinista rally late yesterday. Other market women said they would go, too—but not always willingly. Several said the government had threatened to cut off their supplies and revoke their business permits if they didn't.

The disturbance here was the worst anti-draft violence since a riot in the north-central town of Nagarote in 1985, when mothers attacked police with machetes to protect their children.

But there has been a steady stream of anti-draft incidents during the last year, as anti-Sandinista rebels, backed with new American aid, have upped the ante in Nicaragua's 6-year-old civil war.

Several mothers scuffled with police looking for draft-dodgers in a Managua neighborhood last week. And the official Sandinista newspaper, Barricada, reported recently that 500 soldiers had to be deployed in the city of Sebaco to "explain" the draft to local residents.

The draft applies to men aged 17 to 25. They enter the so-called Patriotic Military Service (SMP), a militia force that lacks the sophisticated weapons and training available to the regular army.

Many critics of the Sandinistas say the government uses the SMP troops as cannon fodder, sending them out to draw ambushes from the rebels. The regular army is committed only afterward, the critics say, when commanders know the exact location and strength of the rebels.

Even more alarming to the government than the venom of Monday's violence may be the place where it broke out. Masaya was one of the Sandinistas' toughest strongholds during the 1978-79 revolution against the old Somoza dynasty.

Many of Monday's rioters came from the Masaya neighborhood of Monimbo, an Indian enclave where the original anti-Somoza riots broke out in January 1978. Camilo Ortega, the youngest brother of Nicaraguan President Daniel Ortega, was killed by the Somoza troops during the rioting, and Monimbo became a sort of national catch-phrase for the revolution.

The reputation of Masaya residents—particularly Monimbo residents—for not putting up with much guff sent a ripple of fear through the city yesterday.

"People here don't have much patience, and when they explode, someone will pay," said one resident yesterday. "Tonight, I think there will be real trouble." Some people were packing bags and heading 20 miles north to Managua to spend the night.

[From the Washington Post, March 7, 1988]

SANDINISTA SUPPORTERS DISRUPT OPPOSITION RALLY

(By Julia Preston)

MASAYA, NICARAGUA, March 6.—Gangs of club-wielding Sandinista party followers broke up an opposition women's march today, driving antigovernment demonstrators off the streets, hurling rocks, threatening them and then rampaging across the city for two hours.

It was the most aggressive use of Sandinista mob violence against the opposition in years and appeared to indicate a new government policy of using civilians to confront its political opponents.

Thursday, about 150 Sandinista party rabblerousers, called *turbas*, which loosely translates as "mob," disrupted a peaceful opposition union meeting in Managua. The *turbas* are drawn from Sandinista unions, block committees and other grass-roots groups.

Today's trouble in Masaya began with two outdoor rallies in honor of International Womens' Day next Tuesday, which took place this morning in Masaya. One was led by the Democratic Coordinating Group, an opposition coalition, and another by the Sandinista National Liberation Front (FSLN), the ruling party. It was unclear which demonstration was scheduled first, but Sandinista police issued the required permits to both and established different parade routes for each march, organizers for both sides said.

Tensions have been running high in Masaya, where there is strong popular sentiment against the military draft. On Feb. 8, an opposition protest against the draft in Masaya turned into an antigovernment riot.

Today's rallies were located about 50 yards apart on opposite sides of the central park of Masaya, 20 miles south of Managua. At the center of the opposition march was a protest against the draft by about 100 women and girls, mostly from poor rural families, who wore black dresses and veils.

As the opposition speeches continued, scores of men carrying wooden clubs and metal bars and wearing the red-and-black kerchiefs of the Sandinista party, crossed over from their rally, taking up positions surrounding the opposition rally.

As the Democratic Coordinating Group sympathizers filed into the street to begin their march, hundreds of the club-wielding Sandinistas dashed across the park to block part of the street where the marchers were to pass.

One Sandinista man, Juan Ramon, who identified himself in an inteview as a 27-year-old bricklayer, repeatedly taunted opposition marchers, tearing their placards out of their hands to rip them up. He confronted an opposition woman carrying a tiny infant and screamed insults in her face.

As the tension mounted, someone threw a rock, and quickly rocks were flying on all sides. At the same moment, a Sandinista demonstrator bashed a boy in the back of the head with his club.

Most opposition protesters appeared to be unarmed, but one opposition man was seen carrying a club with nails protruding from one end.

The Democratic Coordinating Group president, trade unionist Carlos Huembes, acknowledged that his followers had engaged in fighting. "That's our response. We have to defend ourselves," he said.

The rock-throwing continued for several minutes, but finally the outnumbered opposition demonstrators fled. For the next two hours, Sandinista gangs roamed the streets hunting for them.

"Either you respect the Sandinista Front or we'll make you respect us," was the slogan some chanted repeatedly.

Sandinista mobs burned one parked jeep on a rumor that it belonged to Erick Ramirez, a leader of the opposition Social Christian Party. At least three other vehicles were damaged by stoning. They ripped out, broke up, and urinated on chairs in the movie theatre where the opposition event started.

Reporters and Sandinista police watched as a Sandinista crowd approached Edda Bonilla de Gaudamuz, identified as an opposition member because she was still wearing her black veil. Bonilla dropped to her knees, but the Sandinistas ripped off the veil and slapped her repeatedly. Then a woman dragged her behind a police line and beat her.

One opposition man was cut in the face with a knife. A Sandinista man was severely beaten, apparently after his colleagues mistook him for an opposition member.

Huembes, the Coordinating Group leader, said, "It seems clear the Sandinista Front does not want to comply with the peace process in Central America. They want to substitute it with the terrorism of the turbas." He was referring to a peace pact signed last Aug. 7 by the five regional presidents, including Nicaraguan President Daniel Ortega.

Federico Lopez, the FSLN party delegate for the Masaya region, said of the opposition, "Those were just some perfumed people paid by the American Embassy . . . It's a minority group. They offended our people, and our people won't accept it."

Asked if the day's violence might have a negative effect on Nicaragua's position in the peace process, which calls for broader Democratic freedoms, Lopen said: "What violence? There was no violence here."

Lopez, unshaven and wearing a T-shirt and sneakers, was seen throughout the morning leading gangs of Sandinistas through the streets. When asked if the opposition would be allowed to demonstrate in the future in Masaya, Lopez said, "That's their problem now."

Police subcommander Marcelino Rivas, explaining why the police did not intervene, said, "There were no crimes here. It's just a demonstration."

[From the Washington Post, Mar. 8, 1988]

Nicaragua Revives Gang Tactics To Block Opposition

(By Julia Preston)

Managua, Nicaragua, March 7.—The Sandinista party newspaper Barricada today described yesterday's street clashes in the city of Masaya between progovernment and opposition followers as "a true popular uprising against the right wing."

But many Masaya citizens put it differently. "The turbas are back," one said.

The turbas, Spanish for "mob," are the civilian shock troops of the eight-year-old Sandinista revolution. Drawn from the most dedicated ranks of the ruling Sandinista National Liberation Front (FSLN), the club-carrying gangs include schoolboys, Army veterans, feminists, factory workers, even elderly mothers who have lost sons in the war against the contra rebels. They were out in force in Masaya yesterday.

The Sandinista party sends turbas to harass, intimidate and overwhelm its numerically smaller political opposition by painting progovernment graffiti, shouting slogans, throwing stones and swinging sticks. Though Nicaraguans are rarely killed in turba attacks, many have been hurt.

The turbas emerged in late 1980. For four years they acted frequently against right-of-center political parties and churches associated with the conservative Roman Catholic leader, Cardinal Miguel Obando y Bravo. After the 1984 elections in which Sandinista President Daniel Ortega was elected, strict state-of-emergency laws were enforced, and activity by the turbas subsided.

Ortega lifted the emergency in January to comply with a regional peace plan, but since then the FSLN has begun mobilizing its militants again to maintain a measure of political control.

Masaya, located 20 miles south of Managua, strongly supported the Sandinistas in their 1978-79 armed insurrection against dictator Anastasio Somoza Debayle. Now, Masaya is known for its strong opposition to the Sandinista military draft and its economic programs.

The opposition, particularly in Masaya, has street fighters as well, and opposition protesters also threw rocks yesterday.

The FSLN is the only party with trained, disciplined gangs who follow orders from higher officials. The turbas usually do not act without approval from some official at the highest level of the party and government.

Normally the party recruits its gangs from unions, block committees and Sandinista youth groups the day before an event and issues precise instructions about the slogans to be used and actions to be taken, rank-and-file Sandinistas said in interviews.

They are often advised not to say that they are closely affiliated with the FSLN, but to describe themselves as spontaneous demonstrators from "the people."

In Masaya, Federico Lopez, the FSLN party chief and in practice the governor of the Masaya region, led several hundred Sandinistas on a chase after about 800 opposition demonstrators, who had gathered for a Women's Day march.

In a midday speech to about 3,000 excited Sandinistas, Lopez first invited them to "confiscate" a movie theatre where the opposition rally had started. The crowd began breaking chairs in the theater, but Lopez changed his mind, and the crowd quickly obeyed his orders to stop.

Several hundred Sandinista men arrived at their party's rally yesterday with wooden clubs that had been issued beforehand, some bearing Sandinista flags.

At one point, one group of turbas discovered some opposition demonstrators hiding in a Catholic church on a sidestreet and banged on the door with their sticks.

Their leader, a Sandinista youth member, spoke briefly with a priest who had come to a window. The leader issued an order to leave the church alone, and the banging quickly ceased.

Recently two American diplomats got a small taste of turba-style tactics.

Sent by The U.S. Embassy to observe a major Sandinista rally Feb. 26 in Managua, they were watching an Interior Ministry contingent file into a plaza when one official in the ranks spotted them and shouted. "Those men are from the American embassy!"

Moments later, the Interior Ministry group broke ranks, surrounded the diplomats and lifted one of them bodily off the ground, knocking off his glasses and roughing him up slightly while chanting anti-American slogans. Then they suddenly put him down, fell back in line and marched on.

The Interior Ministry is in charge of political security and is believed to be, along with the Sandinista party, in charge of the turbas.

Nicaraguans who turn out for turba actions are dedicated to the FSLN. Many are from the poorest families and have been close to the Marxist party since the mid-1970s, when young, bearded Sandinista revolutionaries were widely regarded as heroes in the fight against the unpopular Somoza.

Yesterday, Ramon Gomez, a 36-year-old shoemaker and Sandinista loyalist, was carrying a poster of a widely distributed photograph taken of him in Masaya in 1978 wearing a mask and clutching a contact bomb, fighting alongside the Sandinista. "This is why I'm here today, repudiating the right-wing," Gomez said proudly, pointing at the picture. But their devotion has also bred intolerance and frequently spawns blanket condemnation of the opposition as being CIA-backed.

Opposition leaders said today that 27 persons were injured yesterday and 11 have not returned to their homes. A prominent leader of the moderate Social Christian Party, Erick Ramirez, was dragged into the street from a house where he was hiding by Sandinista who tore off his shirt and hit him, his party said.

[From the Washington Times, Mar. 8, 1988]

Two Protesters Slain by Sandinista Troops

(From Combined Dispatches)

Managua, Nicaragua.—Nicaraguan soldiers shot and killed two protesters during a clash with anti-government demonstrators

Sunday in northern Nicaragua, the Interior Ministry said yesterday.

According to accounts from the area, demonstrators in El Tuma in Matagalpa province about 125 miles north of here, threw rocks at government soldiers who responded with gunfire. A man and a woman were reported killed.

The sources did not say what sparked the protest, which occurred the same day as a protest in Masaya opposing military conscription and new economic strictures. That protest was broken up by a pro-government mob and at least seven persons were injured.

The ministry confirmed the two deaths in El Tuma. It said the incident was a "provocation" by "counter-revolutionaries" among the demonstrators.

Still, the ministry said it would appoint a special commission to investigate.

Also yesterday, a presidential communique said Cardinal Miguel Obando y Bravo and the secretary-general of the Organization of American States have agreed to be witnesses at talks between the government and resistance leaders.

The agreement by Joao Baena Soares, the OAS official, and Cardinal Obando, Roman Catholic archbishop of Managua, appeared to start this week in Sapoa, on the border with Costa Rica.

The cardinal was the intermediary in cease-fire talks between the Marxist government and the U.S. supported resistance until President Daniel Ortega dismissed him last week. The rebels insisted that he attend the talks.

Adolfo Calero, one of five directors of the Nicaraguan Resistance umbrella group, said earlier that the rebels have received no word from the government about security arrangements or an agenda.

The government daily Barricada had praise yesterday for the club-wielding youths, some masked and others in military garb, who broke up the Masaya march.

"What happened yesterday in Masaya was a real uprising, a popular insurrection, alive and in color . . . against the right, against the local agents of imperialism,' it said.

An opposition leader vowed to continue the protests.

Also yesterday, a source at the U.S. Embassy in Managua said the government withheld nearly $20,000 belonging to the embassy and its employees when they turned in their money in last month's currency exchange.

The money, withheld under a government-set exchange limit, should have been placed in a bank account. But neither the embassy nor the Central Bank could say whether that had happened.

The source, who spoke on condition he not be further identified, said the embassy turned in 208 million old cordobas in exchange for new ones, in accordance with last month's economic measures.

The total, which included private money and embassy funds, was worth about $20,800. The government last month created a new cordoba worth 1,000 times more than the old one and pegged it at 10 to the U.S. dollar.

The government set an exchange limit of 10 million in cordobas per person or institution, or the equivalent of $1,000. the U.S. Embassy was given $1,000, and the rest was withheld. A Central Bank spokeswoman confired that the new law requires that the remainder be placed in a bank account but said she had no information on the U.S. account.

[From the Washington Times, Mar. 16, 1988]

SANDINISTAS HAMMER REBELS, ORTEGA BOASTS—REAGAN PLEADS WITH LAWMAKERS

(By Jeremiah O'Leary and Jennifer Spevacek)

President Reagan asked congressional leaders yesterday to allow quick action on a new aid package for the Nicaraguan resistance, as the administration warned that the Sandinistas are about to "launch an all-out death blow to the Contras."

Mr. Reagan made the request for a new vote during an "intense and straightforward" 95-minute meeting with House Speaker Jim Wright and other lawmakers, said White House spokesman Marlin Fitzwater.

"I think the general feeling of the group was that it's time to clean the slate and start over," Mr. Fitzwater said. "Fights and arguments of the past should be left there."

But he emphasized that the two sides reached no agreement on how to proceed.

Mr. Fitzwater said National Security Adviser Colin Powell told the lawmakers that the rebels battling Nicaragua's Marxist Sandinista regime are on the verge of collapse.

"It's only a matter of weeks," Gen. Powell told the leaders.

"Sandinista forces appear to be preparing to launch an all-out death blow to the Contras by destroying supplies now in major Contra camps," Mr. Fitzwater said. "Everyone in that session agreed a cease-fire is what we're going after."

Speaking to reporters after the White House meeting, Mr. Wright said he would be willing to revive the Democratic leadership's $30 million rebel aid bill, defeated in the House earlier this month.

But he said it would be virtually impossible to get the House to suspend its rules to allow a vote this week. "That's the only way it can be done in a big hurry," Mr. Wright said.

The House has voted down two rebel aid bills already this year. On Feb. 3, the House voted 219-211 to reject the president's $36 million rebel aid bill—which included $3.6 million for lethal aid.

Earlier this month, a coalition of Republicans and liberal Democrats joined forces to defeat the House Democratic leadership's $30 million humanitarian aid bill 216-208.

Mr. Fitzwater said a new bill similar to the Democrats' defeated package is one of several options being considered, but he refused to give details.

Mr. Wright said he would insist on guaranteed GOP support before scheduling a second vote on the Democratic leadership's bill.

Mr. Wright and other Democratic leaders were scheduled to meet with House Republican leaders today to discuss further action.

Since a $100 million package of lethal and non-lethal aid to the rebels expired in September, the rebels have received three short-term installments of humanitarian aid, the last of which expired Feb. 29.

Privately, administration officials believe the new Sandinista offensive—plus the Nicaraguan government's ouster of Cardinal Miguel Obando y Bravo as mediator for the cease-fire talks—will boost prospects for passage of a rebel aid bill.

Cease-fire talks between the Sandinista government and the rebels are scheduled to resume on Monday in the town of Sapoa, Nicaragua, 90 miles south of Managua near the Costa Rican border.

Earlier yesterday, Mr. Wright said he did not know the extent of any Sandinista military preparations, but said he has "earnestly implored" the Managua government to act in good faith in view of a resumption of cease-fire negotiations.

A few minutes later, in an apparent reference to Mr. Wright and the House Democratic leadership, Mr. Reagan pounded the table and said: "There are some people around this table who don't seem to know who the bad guys are down there," congressional sources told The Associated Press.

In a speech to Jewish leaders yesterday, Mr. Reagan also criticized the Sandinista regime as blatantly anti-Semitic.

[From the Wall Street Journal, Mar. 17, 1988]

WHITE HOUSE ORDERS TROOPS INTO HONDURAS

(By Ellen Hume and John E. Yang)

WASHINGTON.—President Reagan ordered 3,200 U.S. troops to Honduras in a "training exercise" spurred by what the administration called an invasion of the country by Nicaraguan government forces.

White House spokesman Marlin Fitzwater said the deployment of four battalions from Fort Bragg, N.C., and Fort Ord, Calif., was a "measured response designed to show our strong support" for the Hondurans, following the reported raid against Contra rebels, who maintain bases inside the Honduran border.

The U.S. troops, who are scheduled to leave their bases sometime this morning, will engage in an "emergency deployment readiness exercise," rather than enter actual combat, officials said. They will be deployed to an airforce base about 125 miles from where fighting between the Contras and Sandinistas has been intense in recent days, according to Mr. Fitzwater.

Under current U.S. law, the administration is faced with limited options of what it can do with its forces. Because Congress has ordered that American troops must stay at least 20 miles from the Nicaraguan border and has barred them from any active conflict, officials said U.S. soldiers probably could do little more than mount a show of strength. Attempts by the administration to encourage Honduras to move against Nicaragua, with U.S. support, haven't met with much success.

None of the Democratic leadership in * * * Sandinistas) to get a cease-fire and stop the killing."

House Majority Whip Tony Coelho (D., Calif.) last night added: "Nothing that we heard today justifies the sending of young men into the jungles of Central America. It appears they want to create a situation to prevent the cease-fire talks from going forward next week and for getting military aid from the Congress.

"We have been notified by the press every inch of the way. The White House hasn't had the decency to call the leadership of the House or the Senate."

House leaders had met with Secretary of State George Shultz, National Security Adviser Colin Powell and White House Chief of Staff Howard Baker late yesterday afternoon for nearly two hours.

The Reagan administration's eagerness to confront the Sandinistas was clear. U.S. troops were mobilized some time before what Mr. Fitzwater called a formal request for assistance was made by Honduran President Jose Azcona. Mr. Fitzwater said that the U.S. ambassador in Honduras telephoned the request at 7:45 p.m. to Assistant Secretary of State Elliott Abrams, and that President Reagan was notified of it at about

8 p.m. and made his decision. A cable letter formally requesting the aid was sent to Mr. Reagan at 8:45 p.m. by Mr. Azcona.

CONFLICTING REPORTS

The administration's decision came despite conflicting reports about the nature or scope of an incursion by the Sandinistas. Mr. Wright said yesterday afternoon that Nicaraguan Foreign Minister Miguel D'Escoto had telephoned to tell him that the Sandinista troops that had crossed over into Honduras during heavy fighting in the Bocay Valley border area had been ordered to return to Nicaraguan territory.

Mr. D'Escoto told the Texas Democrat that Nicaraguan President Daniel Ortega had been in contact with Honduran government officials to assure them that his government had no intention of invading, Mr. Wright told reporters in the afternoon. The speaker added there would be no reason to consider additional Contra aid as long as the incursion was inadvertent and the Nicaraguan troops are quickly withdrawn.

The Associated Press earlier reported that Mr. Ortega had said Sandinista troops pushed back Contra rebels into Honduran territory and that fighting was raging along the border. The AP said Mr. Ortega neither confirmed nor denied the Reagan administration's claims that Nicaraguan soldiers crossed into Honduras.

The administration's move to send troops coincided with the indictments yesterday of four key figures in the Iran-Contra affair, which involved the diversion to the Contras of funds raised by covert arms sales to Iran.

Noting that Nicaraguan forces have crossed the Honduras border before while pursuing the rebels, some lawmakers yesterday afternoon suggested that the administration may be exaggerating the situation to increase political pressure for a resumption of aid to the Contras, which has been rejected twice by the House in recent weeks. They also pointed out that direct peace talks between the Contras and Sandinistas are scheduled to begin Monday in Nicaragua.

"I am still in doubt as to what the real actions are in Central America," said Mr. Coelho. "There is questionable trust with regards to the actions of the White House and the State Department" in that region. "I'm highly suspicious," said Sen. Christopher Dodd (D., Conn.) "We've seen it all too often in the past."

Legislators broadly challenged the credibility of the Reagan administration, beyond the confused reports on the scope of the Sandinista incursion, in part because the administration has exaggerated the seriousness of similar situations in the past.

Congressional Iran-Contra investigating committees concluded that the administration "misrepresented" intelligence on a Sandinista incursion into Honduras in March 1986, when the late Central Intelligence Agency Director William Casey portrayed a short-lived incursion as a major effort in an attempt to muster congressional support for the Contras.

HOW TO ASSIST CONTRAS

The administration has been in a quandary about how to assist the Contra rebels since Congress cut off U.S. assistance as of Feb. 29. U.S. intelligence and military officials were saying yesterday that it may already be too late to save the Contras, who, they said, have sustained "severe damage" from 2,000 Nicaraguan troops equipped with Mi-24 helicopter gunships and artillery.

The Democratic House leaders raised questions about the administration's report that between 1,500 and 2,000 Nicaraguan troops had entered Honduras.

Among the options the administration considered yesterday was the possibility of the U.S. airlifting Honduran troops closer to the fighting, as it did in 1986. However, the Hondurans have so far shown little interest in attacking the Sandinistas, Pentagon officials said. Administration sources said the U.S. has been urging the Hondurans to mount air strikes against Sandinista base camps in northern Nicaragua and the Hondurans have demurred.

Mr. Fitzwater countered Mr. Wright's contention that Sandinista troops were withdrawing: "As far as I know they're still engaged. No pull-back."

[From the Washington Post, Mar. 17, 1988]

Troop Order Takes Pentagon Chiefs by Surprise—White House Waited Until Honduras Made Formal Request; Defense Officials Miffed

(By Molly Moore)

The White House orders late last night to send more than 3,200 U.S. combat troops to Honduras caught top Pentagon leaders by surprise and left several officials angry that they were not informed of the decision.

It was a stormy conclusion to a long day of confusion and consternation.

Although the decision to dispatch U.S. troops to Honduras was made during an afternoon meeting at the White House, the orders to deploy the troops weren't issued until the United States government received a formal request from the Honduran government, according to Pentagon officials.

That request was received at about 7 p.m., after top Pentagon spokesmen went home with assurances from the White House that the final orders wouldn't come until Thursday morning.

The orders to deploy two battalions of the Army's 82nd Airborne Division and two battalions of the 7th Infantry Light Division came about 9 p.m. But no one at the White House called key Pentagon officials. When reporters called for their reaction, Defense Department officials were left sputtering and fuming.

Pentagon spokesman Fred S. Hoffman late last night began hastily assembling his staff to alert the media pool that was to accompany the units to Honduras.

The entire decision-making process had agitated officials at several levels of the Pentagon throughout the day. Some military leaders opposed sending any troops to Honduras, fearing a Vietnam syndrome of negative public backlash.

"The military does not like going in without specific orders and objectives," said one military official.

The airborne units will fly into Honduras near the Palmerola Air Base, headquarters for the 3,150 U.S. troops already stationed in Honduras. The light infantry units and support groups will land at the base. Most of the troops will then disperse into the countryside with Honduran troops "on exercises," according to one Pentagon official.

Hoffman said the troops will "not enter harm's way" and would not go within 20 miles of the Nicaraguan border.

Yesterday's rounds of White House, Defense, State and National Security Council meetings came with the Pentagon's two highest ranking leaders out of town. Defense Secretary Frank C. Carlucci was in Bern, Switzerland, meeting with Soviet defense officials and Joint Chiefs of Staff Chairman William J. Crowe, Jr. was on leave. Although both men were in telephone contact with administration leaders, the face-to-face discussions were left to their deputies.

U.S. intelligence reports first revealed plans for the Sandinista incursion last week, according to another Pentagon official.

Pentagon sources said military officials then submitted several possible military options to the White House.

"This is a political decision, not a military decision," said one ranking Pentagon official.

Of the 3,150 active duty, national guard and reserve troops based in Honduras, Pentagon officials said about 1,100 active troops are based at the Palmerola headquarters in a command, control and logistics unit known as Joint Task Force Bravo. An additional 1,100 troops, primarily engineers, are in engineering field training and 850 guard, reserve and active troops are in a road-building exercise in the Yora District in north central Honduras.

Military officials in Honduras say U.S. troops, with a few exceptions, have remained at safe distances from combat along the borders. They add, however, that the CIA has operated extensively in the border areas with resupply operations.

For Fort Ord, Timely Practice

Fort Ord, Calif., March 16.—Fort Ord was in the midst of an emergency deployment readiness exercise today when word came that two of its battalions, consisting of about 1,500 soldiers from the 7th Light Infantry Division, would be sent to Honduras.

Paul Boyce, a spokesman at Fort Ord, said the emergency deployment exercise was routine and had started early in the day.

All 11,400 members of Fort Ord's Rapid Deployment Force participated in the exercise, in which troops were recalled to the base to check weapons, vehicles, identifications and other equipment, he said.

The Rapid Deployment Force is trained to respond at a moment's notice to assignments worldwide.

[From the Washington Post, Mar. 17, 1988]

Deployment Alarms Democrats

(By Tom Kenworthy)

Democratic congressional leaders reacted with dismay last night to the White House announcement that it will send 3,200 combat troops to Honduras, charging that they had been misled earlier by senior administration officials and that the action could herald a dangerous escalation of U.S. involvement in Central America.

"There's been no justification yet for this type of action," said House Majority Whip Tony Coelho (D-Calif.). "What you have to ask is why? What is the American interest here? And you have to ask the president, are we really headed into another Vietnam?"

Coelho and other Democratic leaders said Secretary of State George P. Shultz, national security adviser Colin L. Powell and White House chief of staff Howard H. Baker, Jr. had assured lawmakers during an afternoon briefing on Capitol Hill that the White House would not be dispatching troops in response to the Sandinista incursion into neighboring Honduras.

"There was a denial that any such decision was made or under way," said House Majority Leader Thomas S. Foley (D-Wash.) as he attended a Democratic fund-raising dinner at the Washington Hilton. "They gave the opposite indication, that the president was considering various options, but that the president was considering various options, but that the president had made no decision."

Foley said he expected Congress to show "concern about what the mission of the troops will have in Honduras. . . . I'd hope every effort will be made to avoid U.S. troops getting involved in hostilities."

Some Democratic lawmakers said they fear the White House is attempting to create a crisis atmosphere in order to force Congress to renew deliveries of military aid to the rebels fighting the Sandinista regime, assistance that was cut off by a House vote Feb. 3. One month later, the House rejected a Democratic plan to provide $30.8 million in humanitarian aid when the White House and nearly all House Republicans opposed the proposal as inadequate.

"This administration has been desperate to create a situation in Central America to justify military aid," said Coelho, the most outspoken administration critic in the House Democratic leadership. "You have to question whether it is aimed at the cease fire talks and you have to be somewhat cynical and wonder whether the [Iran-contra] indictments today are part of it."

Other Democrats were considerably more cautious. Rep. David E. Bonior (D-Mich.), chairman of his party's task force on Nicaragua, said, "It's not unusual—they have maneuvers every six months."

Bonior said Congress' response would be cautious unless the troops violated a congressional edict that U.S. troops stay at least 20 miles from the Nicaraguan border.

Rep. Jim Slattery (D-Kan.), a member of a key moderate bloc of Democrats that is likely to be critical to any future vote on contra aid, predicted that there "would be broad congressional support for the president taking any action necessary to prevent the Nicaraguan intrusion into Honduras."

More liberal Democrats expressed outrage at the White House action.

"This is not the first time the president has made use of his military authority after he lost a vote on the contras," said Rep. Edward J. Markey (D-Mass.). ". . . It is an irresponsible involvement of American troops in the conflict in Central America and an unwise escalation of tensions in that region."

HOUSE ERUPTS OVER ACCUSATION ON CONTRA AID

(By Tom Kenworthy)

A partisan verbal donnybrook erupted on the House floor yesterday afternoon after a Democratic leader accused Republicans of abandoning the Nicaraguan contras, and a conservative Republican's microphone was cut off as he angrily responded to the charge.

The skirmish—hours before the White House announced it was sending troops to Honduras—was the latest flareup in the severely strained relations between the two parties in the House, and demonstrated how polarized the issue of providing assistance to the Nicaraguan rebels has become.

House Majority Whip Tony Coelho (D-Calif.) touched off the dispute during a speech at the start of yesterday's session, during the time reserved for one-minute remarks by members on any subject.

Referring to the March 3 vote on a Democratic plan to send humanitarian aid to the rebels, which was defeated when almost all Republicans voted against it, Coelho said: "After all the pius and sanctimonious talk about surrender and appeasement, charges leveled by Republicans, we now know the truth: Republicans abandoned the contras to the politics . . . of cynicism."

Coelho's remarks drew cries of "Shame! Shame!" from GOP lawmakers and a denunciation from Rep. Robert K. Dornan (R-Calif.).

"In 10 years, I have never heard on this floor so obnoxious a statement as I heard from Mr. Coelho, which means rabbit in Portuguese, as ugly a statement as he just delivered that we sold out the contras," Dornan said.

"Thanks to the radical and liberal leadership in this House, the communists are winning a major victory," Dornan added in a reference to the Sandinista offensive under way in Central America.

After Dornan had exceeded his minute by about 30 seconds, the presiding officer, Rep. Gary L. Ackerman (D-N.Y.), began to gavel him down, saying his time had expired.

But Dornan persisted, screaming a demand for more time and pounding the lectern as Ackerman attempted to drown him out with his gavel.

At Ackerman's request, Dornan's microphone was cut off so his remarks could no longer be heard over the House television system. That brought charges from Republican lawmakers that Democrats were trying to stifle members' speech.

After Ackerman said he was merely enforcing a rule on decorum, Rep. Lynn M. Martin (R-Ill.) responded: "We are talking about speaking on the floor, not about a member throwing things at the speaker, as tempting as that might be."

Though Republicans attempted to introduce a resolution barring the Democratic leadership from cutting off microphones in the future, it was declared out of order and the ruling was supported on a 237-to-167 party-line vote.

[From the Washington Post, Mar. 17, 1988]

REAGAN ORDERS U.S. TROOPS TO HONDURAS

(By Julia Preston)

MANAGUA, NICARAGUA, March 16.—President Daniel Ortega, responding to accusations from Washington that his forces have invaded Honduras, acknowledged today that the troops are "exchanging fire" with contra rebels across the northern border but did not say the Sandinistas entered Honduran territory.

Ortega also issued a nationwide alert against the possibility of a direct U.S. military action against Nicaragua. He spoke at an emergency afternoon meeting with his Cabinet and about 100 more top members of the Sandinista National Liberation Front, the ruling party.

Ortega's account conformed with reports from the Nicaraguan Resistance, the contra alliance, that its fighters have suffered severe setbacks during an 11-day Sandinista offensive in virtually inaccessible mountains along the Bocay River, only a few miles south of the Honduran border. Contra spokesman Bosco Matamoros said in a telephone interview that El Cuartelon, the contras' main command center inside Nicaragua, had been overrun.

[The United States has been pressing the Honduran armed forces for air strikes and ground troops in support of the contras in Honduras, who are in danger of "losing everything" without such aid, according to a diplomatic source in the Honduran capital quoted by special correspondent Wilson Ring. "If they don't get the air strikes by tomorrow afternoon (Thursday) it will be too late," the source said.]

Nicaragua called on the United Nations and the Organization of American States to send an observer team to monitor the fighting and clarify the situation at the border. Ortega accused Honduras of failing to comply with a seven-month-old regional peace plan by continuing to allow contra bases and airfields in its territory.

The Sandinistas' massive operation "completely dislodged" an estimated 3,000 contras from positions near the meeting point of the Bocay and Coco rivers and forced them back into Honduras, according to Ortega.

"This has given rise to returned fire against our forces from Honduran territory. Our forces are repelling the attack from the mercenaries, who have retreated into Honduras," Ortega said. Sandinista officials routinely refer to the contras as mercenaries.

Sandinista troops recovered the bodies of 92 contra guerrillas and estimated overall contra casualties at about 400 dead or wounded, Ortega said, adding that 34 Sandinista soldiers were killed and 68 wounded. Contra leaders confirmed that their losses were high.

The objective of the offensive, Ortega asserted, is to "defend our territorial integrity" by driving the contras into Honduras. Top contra and government representatives are to meet for cease-fire talks Monday in the southern Nicaraguan town of Sapoa.

Ortega said he talked by telephone twice today with Honduran President Jose Azcona Hoyo to advise him that "Sandinista Army operations are under way to recover contra positions in Nicaraguan territory." Ortega quoted the Honduran president as assuring him that he had not called for any deployment of U.S. troops in the tense border area and would not allow U.S. troops to attack Sandinista forces from Honduran territory.

Ortega said he talked with Guatemalan President Vinicio Cerezo, Costa Rican President Oscar Arias and Salvadoran President Jose Napoleon Duarte to propose an urgent regional summit to discuss the crisis.

[Nicaragua also announced that it was pulling back its forces in the border area in view of the tensions, the Nicaraguan Embassy said in Washington.]

The fighting is in forests northwest of the mining centers of Bonanza and Siuna, where the contras, in coordinated Christmastime attacks, carried out their most successful operation of the six-year-old war. The area can be reached only by helicopter, canoe or on foot.

For months, the contras moved freely in the mountains around the Bocay River, sending their supplies downriver in canoes to guerrillas deeper inside Nicaragua. The contras continued to maintain airstrips and sophisticated communications equipment provided by the CIA at bases on the Honduran side.

After U.S. aid expired Feb. 29, CIA-run air resupply flights from Honduras deep into Nicaragua stopped, leaving several months' worth of undelivered supplies in the pipeline on Honduras' Swan Island, a logistics center, contra sources said.

Hundreds of contras walked to several large, secret stockpiles in the Bocay River region to re-equip themselves. They were caught there when the Sandinista offensive started, contra and U.S. officials said.

[The diplomatic source in Tegucigalpa said the contras were in imminent danger of losing the supplies, about 3,000 metric tons worth, to the Sandinistas, correspondent Ring reported. Loss of such a large quantity of supplies would effectively end the contras' war, the source added.]

Ortega charged that U.S. servicemen and helicopters have been deployed in the border area on the Honduran side to run supplies and evacuate the contra wounded. Matamoros, the contra spokesman, said the contras have only one helicopter of their own in operation because they lack equipment to repair the other aircraft.

The unusual gathering of top-level Sandinista government and party officials was an indication that they were taking Washington's invasion charges seriously and regarded them as a Reagan administration attempt to establish a pretext for direct U.S. military action.

"We are ready to go to the peace talks in Sapoa but we are also ready to resist with all the force of the Nicaraguan people any action the U.S. dares to try against us," Ortega said.

Sandinista officials announced mobilization plans across Nicaragua to prepare for the feared U.S. military attack. In Managua, 15,000 Army veterans were called up and five battalions of reservists were summoned, according to Sandinista official Jose David Zuniga.

Correspondent Ring added from Tegucigalpa:

The United States is prepared to use combat troops from the 82d Airborne Division to back up Honduran ground troops, who would be flown to the area to help the contras, said the diplomatic source here, who is in close touch with the Honduran military.

The United States tried all day to persuade the Honduran Air Force to undertake air strikes, but the Air Force was prevented from doing so by bad weather, the source added.

A second diplomatic source said he did not know if the Hondurans would launch air strikes Thursday, but said the Hondurans appeared ready to cooperate and help the contras. "They have their own reasons for helping the contras," the diplomat said.

"It's put-up-or-shut-up time for the Hondurans," the first source said.

[From the New York Times, March 17, 1988]

U.S. SAID TO WEIGH SENDING AIRBORNE FORCE TO HONDURAS

(By Steven V. Roberts)

WASHINGTON, March 16.—The Reagan Administration placed a battalion of airborne troops on alert today and is considering a plan to send them to Honduras in a show of support for the Government there, according to diplomatic and military officials.

The move came as the Reagan Administration charged that Nicaraguan troops had invaded Honduras and attacked a major base camp for the Nicaraguan rebels just across the border. President Daniel Ortega Saavedra of Nicaragua, in a speech to his nation today, denied his troops had crossed into Honduras. The Honduran military spokesman said there was no solid information that Nicaraguan troops had crossed into Honduras. [Page A12.]

But American military and civilian intelligence officials here insisted Nicaraguan troops had done so, and high Administration officials have been briefing Congress with the same information.

Marlin Fitzwater, the White House spokesman, said earlier that Honduras had asked for American help, and an Administration official said tonight that the United States had responded with an offer to Honduras to send the airborne troops. He said a decision was expected on Thursday. About 1,000 troops would be sent.

Secretary of State George P. Shultz briefed the Speaker of the House, Jim Wright, and other Congressional leaders, and said the meeting had been held "to describe to them a set of events we believe poses a genuine national security problem for the United States."

Mr. Reagan's chief of staff, Howard H. Baker Jr., and his national security adviser, Lieut. Gen. Colin L. Powell, also briefed Congressional leaders.

DEMOCRATS EXPRESS SKEPTICISM

Democrats expressed caution and skepticism as they waited for more information about the military situation along the Nicaragua-Honduras border.

Senator Christopher J. Dodd of Connecticut said the Administration might be "creating a little hype" to pressure the Congress into passing new aid to the contras.

The flurry of activity on Nicaragua coincided with indictments being handed up in Washington on four key figures in the Iran-contra affair over the funneling of money to the Nicaraguan rebels from the sale of arms to Iran. Congress has been reluctant to approve new financing for the contras, and it was unclear whether the developments today will change this.

As reports circulated in the capital tonight about plans to move troops from the 82d Airborne Division, Mr. Baker told reporters: "The President has made no decisions. He's identifying his options. We are keeping very close touch on the situation."

The troops, based in Fort Bragg, N.C., would not be introduced into combat, the officials said, but would be used to demonstrate United States support for the Honduran Government.

"It would be a very tangible sign of U.S. support for Honduras, so Honduras doesn't feel like it's out on a limb at this point," a senior Administration official said.

If the troops are sent, the official added, they "would have to cause the Sandinistas to think" about continuing their attacks on the rebels.

From time to time, National Guard units go to Honduras to do engineering work, primarily to build roads. Members of the National Guard from Florida and Puerto Rico are in Honduras, working on roads, a Pentagon spokesman said tonight.

"DON'T KNOW WHAT TO BELIEVE"

The situation in the capital was clouded by sketchy information and confusing accounts of the activities along the Nicaragua-Honduras border. After a briefing this evening with top Administration officials, a Democratic leader said: "We don't know what to believe. How do you make heads or tails out of this?"

In Managua, President Ortega denied that Sandinista troops had crossed the border, and invited foreign observers to visit the region.

Honduran officials in Washington said that about 1,000 Sandinista troops had crossed the border. Francisco Zepeda, a military attaché in the Honduran Embassy, called the operation an "incursion" and added, "We cannot allow our territory to be violated by Sandinista troops."

A possible explanation for the confusion would be if Sandinista troops had crossed the border briefly and then withdrew. A senior official from a Central American nation said that President José Azcona Hoya of Honduras telephoned the other heads of state in the region Tuesday night to tell them that Nicaraguan troops had crossed into his country and that he wanted to talk quietly with President Ortega by phone to have them withdrawn.

ADMINISTRATION PRESSES AID ISSUE

Administration officials have seized on the situation to try to persuade Congress to resume military aid to the contras. Democratic leaders in Congress have opposed all military aid to the rebels, and proposals for aid like food and clothing were defeated by the House on March 3.

Mr. Fitzwater called the reported Sandinista attack an "invasion in force," and added: "We consider this a very serious breach of regional borders and an offensive act that threatens the stability of all the countries in the region."

He described it as an "intrusion into the sovereign territory of Honduras," and said it "makes a mockery" of Sandinista promises about a peace plan for the region with other Central American countries.

A senior Democrat who attended the briefing with Administration leaders said the Democrats did not want to criticize the White House directly in case the reports of an invasion turned out to be true. "We'd look like fools if we're doubting Thomases," the Democrat said.

But he added that the Administration's "history is not good" in such matters. "The last time they told us there was an invasion of Honduras it wasn't true," he said.

In March 1986 the Administration reported an invasion of Honduras and used American helicopters to ferry Honduran troops to the border region. A Government official in Honduras said later that the American assertions had been exaggerated.

Representative David R. Obey of Wisconsin, a leading critic of the Central American policy, said, "Right now, members are trying to ascertain the facts before we respond to Chicken Little."

"The tragedy you have is that Congress has been lied to and balonied so many times that you have to have St. Paul on the television before you're willing to believe them."

Senator Dodd raised the possibility that the Administration was focusing on the Honduran situation to "divert attention" from the indictments in the Iran-contra affair.

But the Administration's primary effort today was aimed at Congress. Mr. Shultz, after meeting with Congressional leaders, said there were 1,500 to 2,000 Sandinista troops in Honduras and said their mission was "to damage critically the ability of the freedom fighters to represent themselves."

CONTRA ISSUE PROVOKES DISORDER IN THE HOUSE

WASHINGTON, March 16.—Shouts and insults erupted on the floor of the House of Representatives today over whether the Republicans or the Democrats were at fault in the reported weakening of the contra forces in Nicaragua.

Gary L. Ackerman, Democrat of Queens, sitting in for the absent House Speaker, Jim Wright, sought to rein in one Republican who had exceeded his one-minute time limit by ordering his microphone shut off.

That only made things worse.

"Under what rule does the Speaker gag a member of the House?" Thomas D. DeLay, Republican of Texas, asked.

Mr. Ackerman, handed a book of procedure by a parliamentary aide, read of the

Speaker's duties, "He shall preserve order and decorum."

That led Lynn Martin, Republican of Illinois, to say, "It is difficult to hear the rather strange ruling of the chair."

Mr. Ackerman repeated the statement and Miss Martin said: "This is an incredible right that is being abrogated and abridged. I don't mean to throw things at the Speaker, as tempting as that might be."

At that, Lawrence J. Smith, Democrat of Florida, leaped to his feet and declared: "I believe the lady's words are inciteful and spiteful."

Miss Martin laughed and Mr. Smith said, referring to a procedure that could result in a reprimand, "I demand that they be taken down."

[From the Washington Times, Mar. 17, 1988]

REAGAN SENDS 3,200 TROOPS TO HONDURAS—AZCONA ASKS HELP AGAINST SANDINISTAS

(By Jeremiah O'Leary and Peter Almond)

The White House announced late last night that it was sending four U.S. Army battalions to Honduras to counter an offensive by Marxist Sandinista forces against Nicaraguan resistance camps there at the request of Honduran President Jose Azcona.

The 3,200 troops were scheduled to be at the Palmerola Honduran Air Base by today in response to what Mr. Azcona characterized in a letter to Mr. Reagan as "a clear-cut case of aggression" by the Sandinistas, a senior administration official said.

Despite assertions to the contrary by the Sandinista foreign minister as quoted yesterday afternoon by House Speaker Jim Wright, the official said heavy fighting was continuing in Honduras. The Nicaraguan forces were attempting to knock out resistance supply bases on the eve of cease-fire talks between the two sides.

White House spokesman Marlin Fitzwater, who described the mission as an Emergency Deployment Readiness Exercise, would not comment on what the troops—from the 504th Parachute Regiment of the 82nd Airborne Division at Fort Bragg, N.C., and the 7th Infantry Division at Fort Ord, Calif.—will do once they arrive in Honduras. He said the U.S. troops would not be sent to combat zones.

In his letter received by the White House yesterday afternoon, Mr. Azcona also said he was ready to use the Honduran air force against Sandinista forces fighting in his country, the official said.

The president acted after consultations at the highest level of government over the past 48 hours and with the governments of Honduras, El Salvador, Guatemala and Costa Rica, the White House said.

Meanwhile, lawmakers including Rep. Mickey Edwards, Oklahoma Republican, the Contra's chief supporter in the House, and Rep. Dick Cheney, Wyoming Republican, met with administration officials at the White House late yesterday to discuss an aid package for the Contras.

A spokesman for Mr. Edwards said the lawmaker may announce details of a plan as early as today. A House source involved in the talks yesterday said Mr. Cheney and other Contra supporters "made it clear . . . they felt now military aid is essential."

The option of sending U.S. troops to Honduras was among several outlined to senior members of Congress yesterday afternoon by Secretary of State George Shultz, National Security Adviser Gen. Colin Powell and White House Chief of Staff Howard Baker in a meeting on Capitol Hill.

Mr. Shultz said, emerging from that meeting, that it was requested "to describe to them a set of events we believe poses a genuine national security problem for the United States of America."

Mr. Wright said Gen. Powell and Mr. Shultz "expressed apprehension" that the Nicaraguans were trying to "deliver a knockout blow to the forces of the resistance."

But several members of Congress, including Mr. Wright, Rep. Tony Coelho, California Democrat, and Rep. David Bonior, Michigan Democrat, questioned Mr. Shultz' assessment of the situation in Nicaragua and said cease-fire talks between the Sandinistas and the Resistance were still on schedule for Monday.

During the 90-minute meeting, the administration officials also sought input from the House leaders on a new aid package for the Contras, congressional sources said.

"Powell discussed what kind of a plan would be acceptable to the House," one source said. The House rejected a White House aid package which provided for military assistance on Feb. 3 and a Democratic "humanitarian" aid package two weeks ago.

Gen. Powell is trying to craft a plan with Mr. Wright and Mr. Coelho, who is House majority whip, to provide "straight humanitarian aid," said a Senate source informed of the negotiations.

"They've tried and lost lethal aid," he said, discounting reports that the administration is planning to seek $100 million in military aid.

Mr. Wright said in a press conference following the meeting that he had been assured by Miguel D'Escoto, the Nicaraguan foreign minister, that the Sandinista troops had been ordered to "withdraw well into Nicaraguan territory."

Mr. Wright said Mr. D'Escoto called him shortly after 3 p.m. yesterday.

Mr. D'Escoto said Nicaraguan President Daniel Ortega had been in contact with the Honduran president several times yesterday and was seeking a direct meeting either yesterday or today, the speaker said.

"I could question the judgment of Ortega in launching this offensive at this time," Mr. Wright said. "If the armed forces of any country cross the border of any other country in the region, that's a serious situation."

But Mr. Wright said he still does not believe there is support on Congress for any kind of new lethal aid for the Nicaraguan Resistance.

In light of yesterday's events, House Republican Leader Robert Michel of Illinois told reporters that military aid is "essential," adding: "I don't think we can just sit idly by . . . It's a foreign policy issue and we ought to work on a bipartisan way to solve it."

On the House floor yesterday as news continued to unfold from Honduras, near-pandemonium erupted as Democrats and Republicans exchanged angry charges about which side should be held responsible for the plight of the rebels.

The Sandinistas launched their attack over the Honduran border on Tuesday morning, at a point where the Rio Bocay River enters the Rio Coco River in northern Jinotega province of Nicaragua.

The target, apparently, was Resistance supply and transit points six to 10 miles inside the border, some distance to the north of the major Contra bases and in an area the Sandinistas had not visited in force for many months.

All day yesterday there was confusion as to what exactly had happened. U.S. intelligence officials conceded their information was sketchy, and heavily dependent on Contra reports. The area is mountainous, sparsely populated.

On Tuesday night, State Department spokesman Charles Redman said U.S. intelligence officials estimated that 6,000 Nicaraguan troops, backed by Soviet-supplied helicopters, had moved into the Bocay River valley.

By last night the official estimate had dropped to 2,000, but in spite of Sandinista vows to Mr. Wright that he had ordered his men back into Nicaragua, Contra and administration officials said that fighting continued.

"There's no indication that they are pulling back," said one congressional aide with access to U.S. intelligence reporting. "In fact, intelligence officials characterized the fighting as approaching a bloodbath."

Resistance casualties were, however, initially described as relatively light, five killed and 11 wounded, against 40 dead and 80 wounded Sandinistas, according to Bosco Matamoros, political-military coordinator for the Resistance in Washington.

Several reports said the relatively few Contras guarding the bases were in no position to stand and fight against the heavily-armed, Cuban-trained Sandinista light infantry battalion special forces.

Mr. Matamoros said the battle situation was "very serious" and "could become a grave situation." The Sandinistas, he said, were trying to divide and isolate the resistance forces.

"The Resistance," Mr. Matamoros said, "was having difficulty evacuating their wounded." The Contras reportedly have only one helicopter.

White House spokesman Marlin Fitzwater said before the Capitol Hill meeting yesterday that Mr. Reagan had received a series of options from his senior advisers. These recommendations, according to administration sources, included:

Sending the 82nd Airborne Division to Honduras as a backup for the Honduran armed forces.

Sending U.S. fighter planes and helicopters to support the Honduras on a standby basis.

Encouraging the Hondurans to bomb the Sandinista invasion force where it has crossed the border into Honduras.

Asking Congress to act immediately to pass a bill providing military assistance to the hard-pressed freedom fighters.

The Organization of American States has been asked to consider the emergency. And the presidents of Honduras, El Salvador and Guatemala will be asked to present their views on what should be done under the Rio Mutual Defense treaty.

The administration presented the Sandinista incursion into Honduran territory in stark terms yesterday. Mr. Fitzwater said, "The invasion in force began yesterday and continues at this time. More than 1,500 Sandinista troops are now inside Honduras attacking freedom fighter camps in an effort to destroy their remaining supplies.

[From the Washington Post, Mar. 17, 1988]

NICARAGUA ACCUSED OF VIOLATING TERRITORY

(By Lou Cannon and Don Oberdorfer)

President Reagan last night ordered that 3,200 U.S. combat troops be sent to Honduras in what White House spokesman Marlin Fitzwater called "a signal to the governments and people of Central America."

Fitzwater said Reagan was responding to a request for aid made earlier in the evening by Honduran President Jose Azcona.

The spokesman called the action "a measured response designed to show our staunch support for the democratic government of Honduras at a time when its territorial integrity is being violated by the Cuban and Soviet-supported Sandinista Army."

The Nicaraguan troops apparently entered Honduran territory in an attempt to destroy the major supply depot maintained by anti-Sandinista Nicaraguan rebels near the Nicaraguan town of Bocay.

The late-night announcement caught Pentagon and congressional leaders by surprise. Democratic leaders reacted cautiously but said they felt they had been misled by administration officials earlier in the day. [Related stories, Pages A30 and A31].

Fitzwater said the United States would send two battalions of the Army's 82nd Airborne Division, stationed at Fort Bragg, N.C., and two battalions of the 7th Infantry Division, based in Fort Ord, Calif. They will leave Friday morning. Pentagon sources said another 300 support troops would be sent.

The units will be located at Palmerola Air Base near the Honduran capital of Tegucigalpa as part of an "emergency deployment readiness exercise" and would not be involved in hostilities, Fitzwater said. There are already more than 3,000 U.S. National Guard and Army Reserve troops operating in Honduras.

Skeptical reporters repeatedly asked Fitzwater how the deployment of troops on a training exercise 125 miles from the border could affect the military situation. He replied the deployment would be an important show of solidarity and an important show of strength."

Administration sources said that Reagan is also likely within the next few days to ask Congress to approve a new package of U.S. military aid to assist the contras opposing the Marxist Sandinista government. The amount has yet to be determined.

Aid to the contras has been among the most controversial Reagan administration policies and Congress recently rejected providing any military assistance.

The president's decision to send troops came after a day of conflicting statements by administration officials and rumors about prospective U.S. military intervention in the Central American conflict. As late as 5 p.m., the president assured Republican Senate and House leaders at a White House reception that he had made no decision on providing military aid to Honduras.

At the White House last night Fitzwater gave this account of the events leading to the announcement:

U.S. Ambassador Everett Briggs met Azcona "late this afternoon to discuss the Nicaraguan invasion of Honduran territory."

About the same time, which Fitzwater said was between 5:30 p.m. and 7 p.m., the interagency Policy Review Group met in the White House situation room to consider options "in support of a possible request" from Azcona.

Briggs spoke by telephone to Assistant Secretary of State Elliot Abrams, who called national security adviser Colin L. Powell at 7:45 p.m. to say that Azcona was "officially requesting the assistance of the U.S. government in this matter."

Powell and White House chief of staff Howard H. Baker Jr. briefed Reagan in the family quarters of the White House at about 8 p.m. "The president made the decision and steps were taken to put it into effect," Fitzwater said.

A cable from Azcona confirming his conversation with Briggs arrived about 8:45 p.m., shortly after the presidential decision.

Azcona asked for "our effective and immediate assistance to maintain the sovereignty and territorial integrity of his country," Fitzwater said.

Secretary of State George P. Shultz, Baker and Powell went to Capitol Hill late yesterday afternoon to brief House leaders about the situation along the Nicaraguan-Honduran border. They received a mixed reaction from Republicans about the need for U.S. military aid for the contras and skepticism from Democratic leaders.

House Speaker Jim Wright (D-Tex.) said after the meeting that he had talked by telephone with Nicaraguan Foreign Minister Miguel D'Escoto who told him "the government has ordered the Nicaraguan troops to withdraw well into Nicaragua."

Wright said he told D'Escoto that "we would regard an invasion as a very serious matter and it is most important that the troops be returned immediately." But Wright and other Democrats gave no sign they would favor any military aid request for the contras. The House speaker told Reagan Tuesday that he would be willing to bring up a $30.8 million humanitarian aid package, similar to the one the House defeated two weeks ago, if the White House could persuade Republicans to vote for it.

Fitzwater said that as of 10 p.m. yesterday there was no evidence of Nicaraguan withdrawal from the remote battle area in the Bocay River valley.

Rep. Dick Cheney (R-Wyo.), who was present at the briefing, said that new military aid for the contras may be necessary because the Sandinistas, in driving the contras into Honduras, may have overrun stored supplies of ammunition and equipment.

"It doesn't make any sense to provide humanitarian assistance alone, when the contras are faced with Soviet-supplied helicopters," Cheney said. "The package has to have some military assistance to have any meaning. We've got an obligation to either pitch in and support the contras, which would be my preference, or be honest enough with them to pull them out."

Pentagon officials said the Sandinista incursion could cripple the contras' military efforts by seizing the rebels' primary supply depot near the border town of Bocay.

"If the supply base is overrun, the contras will vaporize," said a Pentagon official monitoring the situation. "This is the death knell for the contras." Most of the contras' ammunition, supplies and other materials are concentrated at the Bocay post.

On Capitol Hill, Sen. Christopher J. Dodd (D-Conn.), saying he is "highly suspicious of the administration's motives" in characterizing the military action as an invasion, recalled that in March 1986 the administration used very similar reports of a Nicaraguan cross-border attack—and a request from Azcona—to justify sending to Honduras $20 million in emergency U.S. military assistance and an emergency airlift.

In 1986, Honduras first denied that there was any incursion and then, after intensive discussions and much controversy, confirmed it along with the aid request.

Nearly a year later, John Fetch, who had been U.S. ambassador to Honduras at the time of the aid request, was quoted as saying he exerted pressure on Azcona, under instructions from Washington, to make a written request for the aid. "You've got to get a letter [requesting U.S. aid] up there right now. They're going bonkers. . . . This is absurd but you've got to do it," Fetch was quoted by Knight-Ridder newspapers as having told Azcona.

William LeoGrande, an American University professor who specializes on Central America and has worked for Democrats on Capitol Hill, said he was disturbed by the reports that the administration was considering sending U.S. troops to Honduras. "With the contras in big trouble and the administration coming to an end, if they're ever going to try to knock the Sandinistas off, this may be the last excuse they get," he said.

Shultz said the meeting with congressional leaders was called to describe events that "we believe pose a genuine national security problem for the United States of America and that is the movement of Nicaraguan troops into Honduras." Shultz said the administration estimates that 1,500 to 2,000 troops are involved in an exercise he described as "trying to the extent they can to damage critically the ability of the freedom fighters to represent themselves."

According to an administration official, the situation that prompted last night's decisions began to develop in February, when the contra forces began to move substantial amounts of weaponry, ammunition and supplies to several caches inside Honduras near the Nicaraguan border in anticipation of a cutoff of U.S. assistance on Feb. 29.

"The supplies had to be accessible to the troops, especially without any expectation of an air transport capacity," the official said.

Sandinista intelligence learned of the supply caches, according to his account, and began "probing actions" of company-sized units against them as early as March 2. Air strikes against the supply areas just inside Honduras were reported from March 2-4, the official added.

Signs of major Sandinista troop movements were detected by U.S. intelligence by March 9, according to the administration source, and by March 11 a heavy buildup was noted. "The evidence was strong by that point this was more than a probing action," the official said.

By Tuesday, the threat to contra supplies and contra troops and morale had become serious enough that the administration announced through State Department spokesman Charles E. Redman that the Nicaragua army was preparing "the largest offensive we have seen the Sandinistas undertake" in an effort "destroy military the weakened Nicaraguan freedom fighters."

Yesterday, Redman's statements and those of White House spokesman Fitzwater became even stronger. Fitzwater said the "intrusion into the sovereign territory of Honduras . . . makes a mockery of the Sandinista pledge to comply with the Guatemalan peace plan."

Redman called the situation "dangerous" and said the Sandinistas' "primary objective appears to be to destroy resistance supplies" which represent "a large portion of the military equipment remaining in the hands of the resistance, and their loss would be a very serious blow to——the resistance."

[From the New York Times, Mar. 17, 1988]

CONTRA BASES CALLED TARGET OF MANAGUA

(By Bernard E. Trainor)

WASHINGTON, March 16.—The Nicaraguan attack along the Honduran border appears primarily aimed against rebel supply bases in Honduras that support anti-Government operations in northern Nicaragua, according to United States military officials.

Although the Nicaraguan Government denied today that its troops had crossed the border into Honduras, the White House called the move an "invasion and placed a battalion of the Army's 82d Airborne Division on alert. The Hondurans have acknowledged the border region, but have not accused the Nicaraguans of a border violation.

TROOPS POSSIBLE ROLE UNCLEAR

The United States supports the rebels known as contras, but it is not clear what the missions of the American paratroopers will be if they are sent. The United States has a task force headquarters at Palmerola air base, which is near Comayagua in central Honduras, about 160 miles from the current fighting. American military aircraft has used the airfield during maneuvers with Honduras, and the United States keeps about two dozen helicopers there.

The Sandinista offensive is taking place along the Honduran border in a remote area of Nicaragus's Jinotega Province. A major supply and shipping base for the contras is known to exist in the vicinty of San Andres de Bocay just inside the Honduran border.

An American official said that half the remaining American supplies in Honduras that are destined for the contras are in this area. The jungle terrain along the border is very rough, and it is unlikely that the supplies could be moved or defended without help from either Honduras or the United States.

U.S. AIRLIFT IN 1986

In March 1986, the United States provided helicopters to airlift Honduran troops into the border area when the Nicaraguans crossed it then.

The Hondurans now have their own helicopters, but those at Palmerola could be used by the American paratroopers if Washington and Tegucigalpa decided to move American forces toward the border.

The Managua Government has confirmed that it had launched an offensive in Jinotega Province while denying any invasion into Honduras. The Coco River marks the border in the area and must be crossed to enter Honduras. In the past Sandinista troops have often crossed the border to attack contra forces on the Honduran side, but the raids were short.

The Hondurans usually ignored the border crossing, but at the urging of the United States they took military action twice in 1986. In March 1986, they moved troops to the border and in December of that year they bombed the Sandinistas along the border.

PUZZLED BY TIMING OF ATTACK

An American official said the Sandinistas would probably withdraw to their own side once they have disrupted contra supply lines. But the official said he was puzzled by the timing and size of the Sandinista attack. He said it could backfire on the Sandinistas if Congress reacts by approving renewed aid to the contras.

The official did not rule out the possibility that the White House could use the Sandinista offensive as a justification for taking some form of direct American action in the region.

According to United States and contra officials, it appears that a well-planned Sandinista offensive was launched in Jinotega and in other contra areas in Nicaragua a week ago and that the contras have been unable to stop it. The main attack is said to be the one along the Honduran border.

Contra official say their forces are harassing the Sandinistas with ambushes rather than fighting pitched battles. Casualties do not appear to be very high on either side as a result of these tactics. However, there are reports of Sandinista soldiers being wounded by unmarked mines they themselves planted the area last spring.

MARSHY TERRAIN

Although the marshy and heavily forested terrain around the border reduces the effectiveness of high explosives, some contra casualties are coming from Sandinista artillery fire and rockets, the officials said.

The Sandinistas have virtually no air force, but have converted Soviet made Antonov transports into makeshift bombers. They have been bombing the contra base in Honduras since the weekend, but the amount of damage done is not likely to be extensive, because of the jury-rigged bombing system and the need for the planes to fly at high altitudes to avoid American-made Redeye anti-aircraft missiles in the hands of the contras.

The Sandinistas reportedly started their offensive by infiltrating reconnaissance units into the Bocay River area to determine the location and activity of the contras and to screen the buildup of Sandinista forces around the mining town of Bonanza 175 miles northeast of Managua. Bonanza was the scene of a successful contra attack last December.

PINCER MOVEMENT

The Sandinista then launched specially trained counterinsurgency battalions in a pincer movement to encircle the contras and to close in on San Andrés de Bocay from opposite directions. Troops in the northern pincer were flown in helicopters to a landing zone inside Nicaragua along the border. This force is said to be now advancing south inside Honduras. The other unit advanced to the border on foot and crossed it from the south.

There are conflicting reports on the number of Sandinista soldiers involved in the operation. Some estimates put the number as high as 7,500 while others are as low as 2,500.

[From the New York Times, Mar. 17, 1988]

ORTEGA DENIES THAT HIS TROOPS CROSSED INTO HONDURAS

(By Stephen Kinzer)

MANAGUA, NICARAGUA, March 16.—President Daniel Ortega Saavedra today rejected Reagan Administration charges that Nicaraguan forces are fighting inside Honduras, and he invited foreign observers to visit the border area to verify his statement.

Mr. Ortega said that since the beginning of the month, Sandinista troops have been engaged in a major military campaign aimed at pushing the contras out of an 85-square-mile area along the northern border. He said contra forces had established bases and built an airstrip there.

He said the campaign had succeeded in destroying the bases and asserted that the fighting had taken place "always inside Nicaragua."

"There has not been a single combat, not a single confrontation with Honduran troops," Mr. Ortega said in a statement broadcast nationally this afternoon. He appealed to the United Nations and to the Organization of American States to send a mission to the border to carry out an on-site inspection.

Diplomats and military officers in Managua today described the latest Sandinista military offensive as significant but no larger than the campaigns of past years. They were skeptical of the Reagan Administration's assertion that the offensive was a new threat to regional security.

NO HONDURAN CONFIRMATION

In Honduras, officials said they could not confirm charges made in Washington that their territory had been violated by the Sandinista Army.

"We have no concrete information that Sandinista troops have crossed our border," said Col. Manuel Suárez Benavides, a spokesman from the Honduran Army, in a telephone interview from Tegucigalpa. "What I can say for certain is that no Honduran military units are engaged in any combat in that area or anywhere else."

Nonetheless, the White House reported that President José Azcona Hoyo of Honduras had appealed for American help to repel hostile forces. Mr. Ortega appealed to all Nicaraguans to be "ready for combat" and said that the statements from Washington represented "the greatest threat of all these years."

Mr. Ortega said Sandinista troops had exchanged mortar fire with contra units inside Honduras. He also charged that United States Army helicopters had carried supplies to the contras and had evacuated wounded guerrillas from areas close to the border. "This exposes American helicopters to being shot down by our fighters if they become involved in combat in Nicaraguan territory," Mr. Ortega said.

U.S. COPTERS IN REGION

Charles Barclay, a spokesman for the United States Embassy in Honduras, said American helicopters have been operating in the border area on engineering missions but that they have not provided any form of support for the contras.

According to figures announced by Mr. Ortega, 34 Sandinista soldiers have died in the two-week offensive and 68 have been wounded. He said that contra casualties have totaled about 400 including at least 92 dead.

Mr. Ortega said Administration charges that Nicaragua was invading Honduras were calculated to influence Congress. He said they were also aimed at undermining cease-fire talks with the contras, which were scheduled to begin on Monday.

Sandinista military officers said helicopters and fixed-wing aircraft were being used in support of ground troops. The clandestine contra radio station said the planes were bombing civilian areas. The radio station also charged that Sandinista units were planting mines along routes that they expected the contras to use.

After a vote March 3 defeating a Democratic plan for providing such aid as food, medicine and clothing to the contras, the nature of the civil conflict here changed. Washington suspended the clandestine Central Intelligence Agency supply flights that had dropped ammunition, food and other supplies to contra units. Those flights had become the contras' lifeline, and without them many contras have been forced to retreat to bases inside Honduras.

CONTRAS SEEKING REFUGE

In Costa Rica last Friday, a senior contra leader, Alfredo Ceasar, said that about 20 percent of the contra force was making its way out of Nicaragua toward Honduran camps along the northern border with Nicaragua. He said Sandinista troops were responding by reinforcing their units along "exfiltration routes" in an effort to ambush contras moving toward Honduras.

A contra spokesman in Washington, Bosco Matamoros, estimated that the Government might have deployed as many as 7,500 soldiers, many of them reservists, in the northern part of the country. Diplomats with access to Western intelligence reports said this figure could be accurate, but they said that even with large numbers of troops sealing off the rugged and unpopulated border would be difficult.

Nicaraguan radio stations were required to join a national network for several hours today, broadcasting only official information. "The United States is trying to create a confrontation between the people of Nicaragua and Honduras," one announcer said.

Throughout the day, the radio network repeated warnings that the United States was planning aggressive acts against Nicaragua. Announcers said unidentified planes flew over the Miskito Indian town of Puerto Cabezas "in a threatening way," and asserted that American forces in Honduras were moving close to the border.

NICARAGUAN SEES U.S. RUSE

Carlos Tunnerman, Nicaragua's Ambassador in Washington, told the radio audience that the new allegations against Nicaragua were aimed at "pressuring the Congress of this country to approve new aid for the counter-revolution." He said the American assertions could be a prelude to further action against Nicaragua.

Both in 1986 and 1987, Sandinista troops mounted major offensives at this time of year, which is the height of the dry season. Rivers are now lower than at any other time, giving Government troops greater mobility. Mountains and hillsides that will soon be covered with vegetation are now sparse providing little cover for the rebels.

In the Central American peace accord signed last August, all countries pledged to close camps used by foreign guerrillas. Nonetheless, Honduras, which is closely allied with the United States, has not moved against contra camps in its territory.

Nicaraguan troops have frequently pursued contras across the Honduran border. In northern Nicaragua, it is not unusual to meet Sandinista infantrymen who tell of entering Honduras either to chase contras or to attack contra installations.

[From the Washington Times, Mar. 17, 1988]

U.S. FLIERS AIDING CONTRAS—ORTEGA

(By Glenn Garvin)

SAN JOSE, COSTA RICA.—President Daniel Ortega of Nicaragua charged yesterday that American fliers already were in action in "direct support" of the Nicaraguan resistance and threatened to shoot down their helicopters.

U.S. Chinook helicopters were carrying logistical supplies and moving wounded in the fighting on the Honduran border, the leader of the Marxist Sandinista government said in a radio address monitored here.

A senior administration official in Washington said the charge was absolutely untrue. Mr. Ortega "has been throwing out about seven lies a minute," he said.

"This activity exposes these American-manned helicopters to being shot down by Nicaraguan military forces," Mr. Ortega said.

He charged the United States with "seeking to escalate the war in Nicaragua by involving U.S. troops in order to save the Contras," as the rebels are known. There has been no fighting between Honduran and Nicaraguan troops, he said.

Mr. Ortega did not directly confirm or deny U.S. statements that his troops had entered Honduras, though the Defense Ministry said there had been no invasion. He called on the United Nations and the Organization of American States to investigate the situation on the border.

Mr. Ortega acknowledges heavy fighting in the border region. He said government forces in the Bocay Valley were being fired on by resistance fighters from positions inside Honduras.

Government casualties in the Sandinistas offensive thus far are 34 dead and 68 wounded and the rebels have suffered over 400 dead and wounded, he said.

A spokeman said the rebels still were planning to attend cease-fire talks scheduled to begin Monday at Sapoa, just inside the Nicaraguan border with Costa Rica. The resistance said it was upgrading its negotiating team to include Adolfo Calero, Alfredo Cesar and Aristides Sanchez, three of the five directors of the resistance umbrella group.

If the talks take place, they will be the first on Nicaraguan soil and the first direct talks between the two sides without a mediator. Cardinal Miguel Obando y Bravo, who has served as mediator in past sessions, is to be an observer at next week's talks.

Some analysts here have suggested that both the Sandinista government's Bocay Valley offensive and the tough talk emanating from the White House in Washington were undertaken with next week's negotiations in mind.

"What did they expect? That we were going to send the Contras, bonbons?" said an announcer on Radio Sandino, the official Sandinista radio station, after reading a wire service story from Washington on the White House threats.

Three resistance directors flew to Honduras to confer with rebel military commander Enrique Bermudez about the situation on the border. Although concerned about the fighting, they also appeared disturbed by the severity of the language coming from the White House.

"Although we are very concerned about the military situation, it is more of a political message that [the Sandinistas] are sending," one said. "They are trying to make us feel impotent next week at Sapoa." He asked to remain anonymous.

Resistance officials here were aware the Ortega government was planning an offensive but were caught off guard both by the size of the government force and its ability to maintain radio silence, they said.

Mr. Ortega said the offensive began March 6.

As a result, the fighting was well under way by the time news of it reached Costa Rica. After aerial bombardment of the region, Sandinista ground troops already had captured a strategic position known as El Cuartelon by Saturday, a rebel official said.

El Cuartelon is two to three miles from the border on the Nicaraguan side of the Bocay River and has been fought over freqently in the past three years. The Sandinistas now are operating an advanced command post there, the official said. Another command post has been established at Wina, on the river about 12 to 15 miles south of El Cuartelon, he said.

The command and control center for the entire offensive is believed to be in the mining community of Bonanza, which the rebels themselves overran in an offensive in mid-December.

The Sandinista force, estimated by rebel sources to number at least 4,500 men, was said to be armed with heavy weapons and operating with precise timing.

The weapons included new aircraft weapons—SA-7 shoulder-held anti-aircraft missiles and a Soviet anti-aircraft gun mounted on a half-track, diplomatic and resistance sources said.

The radio silence maintained by government forces deprived the rebels of one of their main sources of intelligence.

"The total radio silence is the same way that we were able to achieve the elements of surprise in our December offensive at Bonanza," one official said. "They have copied our style very well."

There is a rebel military field hospital on the Honduran side of the border, a rebel official said, across the river from the small settlement of San Andres de Bocay. It was started as a clinic for the civilian population in the area but converted into a facility for wounded rebels after they moved a substantial portion of their opertions into Nicaragua last fall.

It would not be surprising if that hospital has been captured by the Sandinistas, he said.

The Nicaraguan government took control of privately owned radio stations yesterday and linked them into a national network, a move traditionally reserved for a time of emergency. Virtually nothing was broadcast but news of the crisis.

The broadcasts made extensive use of quotations from White House and State Department officials in Washington, allowing the harsh American rhetoric to stand without comment.

During the day, Capt. Rosa Pasos, speaking for the Sandinista military, declared that no Nicaraguan troops had set foot on Honduran soil. Other commentators urged people to be alert for "provocations and aggressions" in the workplace and at home.

In his speech, President Ortega called the Washington statements "the gravest threat ever from the United States."

"The United States government is saying the Nicaraguan government does not have a right to defend its territorial integrity and fight the mercenary forces, but that the mercenary forces have a right to kill women and children and to attack schools and to burn buildings and even to kidnap U.S. citizens," Mr. Ortega said.

He said he had been in contact once Tuesday night and twice yesterday with President Jose Azcona of Honduras and with all other Central American presidents in the course of the day.

He called for a meeting of the presidents or foreign ministers as quickly as possible to discuss the crisis. He also suggested that the head of Nicaraguan military forces meet with the head of Honduran forces.

Mr. Ortega called for a U.N. and OAS technical commission to inspect the border and oversee the "dismantling of mercenary base camps and disarming of mercenary forces," which he said were on Honduran soil in violation of peace agreements.

In Honduras, the Foreign Ministry issued a communique confirming that Mr. Ortega and Mr. Azcona had talked by telephone. The Nicaraguan president was told that if any of his troops had crossed the Honduran border, he should immediately order their return to Nicaraguan territory, the communique said.

The Honduran Armed Forces, in a separate communique, said they were aware of a large concentration of Nicaraguan troops in the border area but that poor weather was blocking aerial reconnaissance, making it difficult to know the exact situation.

Costa Rican President Oscar Arias warned that any bilateral conflict in Central America could "degenerate into a war which would drag in all countries of the region, including Panama." Mr. Arias said he was trying to arrange a meeting of Central American foreign ministers.

A diplomatic source familiar with the situation on the frontier said there was sustained fighting on both sides of the border.

[From the Washington Times, Mar. 17, 1988]

TRIUMPH OR DEATH?

As House Speaker Jim Wright stalls administration efforts to get an up-or-down vote on military aid to the Nicaraguan freedom fighters, Sandinista ruler Daniel Ortega has instigated a military offensive under the revealing code name, "Triumph or Death." This Sandinista "peace plan" seeks to produce peace by first killing the Nicaraguan resistance. Thus, even if Congress belatedly sends the resistance a check, there will be no one left alive to cash it.

"Triumph or Death" flows directly from the Arias peace plan of last August. Under that harebrained scheme, regional powers would achieve peace in Central America by disarming the Nicaraguan freedom fighters while the Soviets and Cubans continued sending tremendous shipments of arms to the Sandinistas. Ludicrous as this concept may seem, the House Democratic leadership remains committed to it, as do Democratic presidential front-runners Michael Dukakis and Jesse Jackson.

Americans who insist that Nicaragua become a democracy—the terms by which the Sandinistas were installed in 1979—and who want Contra aid to continue until democracy arrives have been blasted as right-wing warmongers, even if they are labor leaders, human rights activists or life-long Democrats.

For their part, President Reagan and Vice President Bush have yet to say out loud that the Arias plan has totally failed. Instead the White House, with mantra-like repetition, pledges its continued commitment to the "peace process," while begging for passage of non-lethal aid. The administration, incredibly, has not even set a now-or-never Sandinista compliance date for the never-ending, phony "peace process" that more certainly than Bulgarian bullets, Vietnamese mortars or Soviet gunships guarantees the death of the freedom fighters.

This may change. Administration officials urged the president yesterday to propose immediately a $100 million package, including some lethal aid, for the resistance, which has been battered in the three weeks since American support dried up. Other sources reported that the government of Honduras had agreed to provide air support for the freedom fighters, and that White House officials were encouraging the president to send air forces to the region immediately.

Certainly, the United States has received fair warning from former Sandinistas, such as Maj. Roger Miranda Bengoechea, and current Sandinistas, such as the Ortega brothers, that Nicaragua's Marxist-Leninist regime wants to eliminate the freedom fighters and communize its neighbors. If the United States does not stop the Sandinista's war of subversion in Central America, a few years from now there will be little we can do to stop the destabilization of Mexico, the next target.

Some White House naifs, who learned nothing from the Wright-Reagan plan fiasco, still talk of humanitarian aid, a cease-fire and giving peace a chance, even though the Arias plan is now a dead letter as Sandinista mobs attack the unarmed internal opposition and Mr. Ortega's army marches into Honduras. But the United States has reached decision time. We must either give the freedom fighters the means to fight for themselves—and for us—or, failing that, we must invade Nicaragua and fight for ourselves. The president must declare that the peace process is dead and demand an aid vote now. If he is refused, he has the power under Article II, section 3 of the Constitution to "convene both Houses, or either of them," which he should do this weekend, laying out the threat to our national security and demanding that Congress act unless it wants war.

The Sandinistas have demanded "Triumph or Death." Now we must choose which.

[From the Washington Times, Mar. 17, 1988]

CASTING CALL ON AID TO CONTRAS

(By William Pascoe)

Supporters of U.S. military assistance to the Nicaraguan Resistance were encouraged two weeks ago when House Speaker Jim Wright's watered-down plan for humanitarian aid failed to pass his own Democrat-controlled Congress.

They were further buoyed earlier this week, amidst reports that the White House was seeking a quick vote on a new aid package: Democrats, they believed, stripped of the political cover afforded by the Wright plan, would virtually have to vote for assistance, or be blamed for the loss of Nicaragua.

But recent history has demonstrated clearly that such a sanction is an empty threat. After all, Nicaragua was already lost once, during 1979-81, when the Sandinistas' failure to live up to their promises to create real democracy in Nicaragua were overlooked by the only external power capable of enforcing them—the United States. Nothing happened to the liberals in Congress who fought efforts to force Sandinista compliance then.

Worse, many key officials of the Carter administration—which had helped bring the Sandinista-led regime to power in the first place—went on from the Carter administration to accept new positions in the Reagan administration, without any questions being raised over their subsequent failure to assure real democracy in Nicaragua.

But that will not happen again. This time, supporters of aid to the resistance are watching closely, to see who makes real efforts to assure continued U.S. assistance, and who merely pays lip service to the idea or, worse, opposes it outright.

For instance, Secretary of Defense Frank Carlucci should use his formidable Capitol Hill contact network, built up over a lifetime of public service, to ensure an expanded aid program for the resistance.

Mr. Carlucci, who served as deputy director of Central Intelligence in the Carter administration, is one of those officials who has witnessed for a decade the Sandinistas' actions to communize Nicaragua and to export subversion.

Given the threat posed to our allies by the continued aggression of the Sandinista regime, Mr. Carlucci's feeble efforts on behalf of the president's last aid request (when Mr. Carlucci managed to find time to sign a letter to congressmen asking their support for the package just one day before the vote) are inexcusable.

Mr. Carlucci is only the most visible of the former Carter administration officials who shared responsibility for Nicaragua in 1979 who now inhabit the upper reaches of the Reagan administration. Others include Michael Armacost, currently serving as undersecretary of state for political affairs, who served in the Carter regime as the Pentagon's top expert on Latin America and Asia; Lt. Gen. William Odom, director of the National Security Agency, responsible for communications intelligence, who served as Carter National Security Adviser Zbigniew Brzezinski's chief military aide; and current CIA Director William Webster, who as Mr. Carter's appointee to head the FBI was responsible for domestic counterterrorism, and most likely sat in on Cabinet meetings discussing the terrorist activities of communist groups from Central America.

One person with no experience in the Carter administration also will be watched: Secretary of State George P. Shultz. Time after time, Mr. Shultz has pulled the Reagan administration position away from full funding of military aid for the Nicaraguan Resistance and toward minimal nonlethal assistance. Often he has done so even when Daniel Ortega's own political gaffes had given the administration a golden opportunity to win increased funding for the resistance.

For instance, just last August, following the riveting congressional testimony of Lt. Col. Oliver North, the door was open for a major request for military assistance. Public opinion pools at the time showed the strongest-ever support from the American electorate for U.S. military assistance to the resistance.

But instead of taking advantage of the improved public climate in support of aid to the resistance, Mr. Shultz, working with White House chief of staff Howard Baker, cut a deal with House Speaker Jim Wright, postponing a vote on military aid to the resistance in exchange for Democratic support for a vaguely worded congressional agreement to permit a vote on Sept. 30, 1987.

Mr. Shultz failed to warn Mr. Reagan that Central American leaders likely would perceive this as the end of U.S. support for the resistance. Nor did Mr. Shultz or Mr. Carlucci, then National Security Council adviser, assure that this major foreign policy issue was discussed in a full meeting of the NSC.

There the president could have heard about the risk that the Jim Wright proposal would likely lead to the defective "Arias Plan" being adopted at the Central American summit of Aug. 6-7, 1987.

New York Republican Rep. Jack Kemp tried to warn Mr. Reagan about this, but White House officials would not let his telephone call to the president through.

After the defective Arias Plan was adopted on Aug. 7, Speaker Wright unceremoniously and unilaterally abrogated his Aug. 5 agreement with Mr. Reagan, and lauded the Arias Plan. Despite Mr. Wright's abandonment of the agreement, Mr. Shultz continued to advise Mr. Reagan not to ask the Congress for full military funding for the resistance.

The administration was given a second chance when congressional leaders like Mr. Kemp and Republican Sen. Jesse Helms of

North Carolina introduced legislation calling for $310 million in U.S. assistance to the resistance, the vast majority to be lethal. But again Mr. Shultz prevailed, and the administration—which initially expressed support for the large amount of military assistance—gradually reduced the figure over time, until it announced in late January that it would formally request only $36 million, with only $3.6 million of it to be lethal.

Hopefully, the administration has now learned its lesson. It makes no sense whatsoever for the president to argue that the Sandinista regime presents a direct threat to security of the United States, and then to ask for paltry $36 million in mostly nonlethal assistance.

Instead, the administration should demand full funding of military assistance for the Nicaraguan Resistance, and the president should tell any misguided congressmen who oppose aid to the Nicaraguan Resistance that he will hold them politically accountable in the fall elections for the serious negative consequences of their actions.

Conservatives, to be sure, have learned their lesson from the assorted Contra-aid efforts over the years. They will be watching closely to see not only how the liberals vote, but which key administration officials support full aid to the resistance in the days leading up to the next vote.

[From the Washington Times, Feb. 22, 1988]

Ortega Threatens to Crush Contras

(By John McCasin)

Nicaraguan President Daniel Ortega told hundreds of Marxist government officials if the Central America peace process fails, he has a plan that will "crush" the Nicaraguan Resistance.

"We have already prepared a strategy which will lead to the crushing of the Contras," Mr. Ortega said in a speech Saturday in Managua, announcing a new Sandinista campaign against so-called "counterrevolutionary speculators."

The Nicaraguan comandante provided no other details of what that strategy might be, but his harsh rhetoric came one day after a second round of cease-fire negotiations between the warring sides broke down Friday in Guatemala City.

The mediator in the cease-fire talks, Catholic Cardinal Miguel Obando y Bravo, blamed the latest failure on the Sandinista regime for its lack of sincerity in approaching the negotiations.

Intelligence sources in Managua said earlier this month the Sandinistas were preparing a "final offensive" against the rebels, code-named Operation Monimbo. The offensive reportedly was focused on the provinces of Zelaya, Bocao, Chontales, Matagalpa and Jenotaya.

It was still too early to tell what impact Mr. Ortega's harsh words of Saturday might have on any congressional aid vote this week. Supporters of Mr. Ortega on Capitol Hill, including House Speaker Jim Wright who is guiding the development of a "humanitarian-aid-only" package for the Resistance, have cautioned him against using such militant language.

The current aid package for the Resistance, passed by Congress in 1986, expires at the end of this month.

Mr. Ortega in his Managua address also leveled a warning to the opposition La Prensa, which only recently resumed publication, saying its editors had better watch the newspaper's content.

La Prensa "thinks the people are about to rebel against us. But they should be careful because with their attitude they can provoke an insurrection that would raze them," he said.

Other "counterrevolutionary speculators" receiving warnings from Mr. Ortega Saturday included Managua's merchants who refuse to sell their products at prices regulated by the government.

In Washington yesterday, Resistance representative Ernesto Palazio voiced optimism that a new round of cease-fire talks would resume this week, but he also was fearful the Sandinistas would continue their policy of "stalling."

"Why should the Sandinistas be that eager for a cease-fire when in the long run, because of the Feb. 3 vote in Congress, they're going to get a de facto cease-fire anyway?" Mr. Palazio said in a telephone interview.

He was referring to this month's vote in which the House narrowly rejected an administration proposal to provide the rebel forces with both military and humanitarian aid. Without ammunition and other lethal assistance, the rebels say they cannot remain a viable fighting force.

Later this week Congress is scheduled to vote on the scaled-down aid package crafted by the House Democratic leadership. House Republicans are also preparing to introduce a larger package similar to the one rejected three weeks ago.

During the weekend, both Resistance and Sandinista officials said they were willing to resume the sporadic peace dialogue this week, but would first await agreement from the mediation team.

"We hope to resume them this week, but we're not sure when," Mr. Palazio said, echoing the words of a Sandinista official who took part in Friday's failed round of negotiations.

In his speech Saturday, Mr. Ortega charged the Resistance delegation had intended from the beginning to "boycott" the negotiations in an attempt to win support on Capitol Hill for additional military aid.

In a related development, Resistance field commanders reported over the weekend that the Sandinista Army helicopter the Nicraguan government said had crashed Feb. 15 due to mechanical failure was actually shot down by its rebel forces with a shoulder-fired "Red Eye" missile.

And while the Sandinistas reported last week that seven of its officers had perished as a result of the accident, the rebels claimed that 15 bodies were actually recovered from the crash site.

The helicopter, a Soviet-built MI-17, crashed in the Chontales province near the town of Santo Tomas.

"Although it is true the Sandinista Air Force has serious difficulties of maintenance and even sabotage, we are capable of confirming that this helicopter crashed due to damage caused by the 'Red Eye' missile," the Resistance said.

[From the Wall Street Journal, Mar. 16, 1988]

Jim Wright's Vietnam

It took more than a decade for three Presidents to lose Vietnam. It may take less than a year for one Speaker of the House to lose Nicaragua.

On Feb. 3, House Speaker Jim Wright engineered a dramatic defeat of President Reagan's aid request for the Nicaraguan Contras, and effectively took U.S. policy in Central America away from the executive branch and lodged it squarely in the legislature. Less than two months later, the U.S. has no policy whatsoever.

Yesterday, the Sandinistas made it clear that the road to "peace" runs along two tracks. Daniel Ortega announced in Managua that the Nicaraguan army has undertaken a large-scale military operation against the recently defunded Contras, code-naming the assault, "Triumph or Death." According to a State Department briefer, this offensive includes 12 combat battalions with some 6,000 troops and about 10 Soviet MI/17 helicopters.

How this is possible in an economy that is reportedly flat on its back was indicated late last week by an Associated Press story, reporting that according to a Pentagon estimate the Soviet Union in the first eight weeks of this year has sent Nicaragua 3,100 metric tons of weapons and war materiel worth about $100 million. So at the same time that Jim Wright is killing aid to the Contras, the Russians are sending the Sandinistas aid to kill the Contras.

Do the Democrats care? Not likely.

On Feb. 26, the House Democratic Study Group sent an extraordinarily revealing letter to the Central American Working Group, a collection of anti-Contra organizations. "Nothing will bring peace faster," the letter says, "than destroying Contra hopes for more military aid." The Democrats wanted to reassure their outside allies that they wished to "send a strong message to the Contras that our support of the war has ended. The sooner the Contras understand that fact, the sooner the fighting will end in Nicaragua and the sooner we can begin addressing the real problems in Central America of poverty and the maldistribution of wealth."

This, then, is what the foreign policy of the United States looks like when Congress expropriates a constitutional responsibility from the presidency. It looks like the Flying Dutchman—tattered, adrift, pathetic. Yesterday, trying to regain control of the rudder, President Reagan met with the congressional leadership. He is trying to design a Contra aid plan on which the Senate could vote sometime this week. There most likely will be "humanitarian" aid (largely medicine and the like to treat Contras who've already been shot) and possibly something vaguely "military" (spare helicopter parts). Much debate will go into whether this stuff would be delivered by the CIA (denounced as a kind of evil empire by House Democrats) or the Pentagon (which says it doesn't want to get involved).

While the country's foreign policy is floating in the Beltway void, the people of Nicaragua who aren't Contras are getting belted. Two Sundays ago, a peaceful demonstration by Nicaragua's political opposition was set upon with remarkable savagery by Sandinista gangs swinging clubs and metal bars. Women protesting the military draft were beaten up. A Washington Post reporter who had watched one Sandinista lead the gangs asked him if these violent attacks would affect Nicaragua's position in the peace talks. "What violence?" he replied. "There was no violence here." Tass, the Soviet news agency, also reported a version of Sunday's demonstration: "The attempt of Nicaraguan reactionary ultra-rightists . . . ended in a failure." Indeed it did.

These Sandinista mob attacks on other Nicaraguans have occurred for several weeks now, and to our knowledge the congressional Democratic leadership, normally vigilant for human-rights abuse, hasn't said a word to defend the Sandinistas' opposition. Instead, various of Speaker Wright's congressional associates keep babbling about "giving the peace process a chance."

Surely it should be perfectly clear to any serious person what is going on in Nicaragua. The Sandinistas, financed by the Russians, are running their version of North Vietnam's victory strategy—sign onto an endless negotiation, let Congress defund its own ally, import Communist-bloc war materiel and roll over the weakened opposition.

Asked about a new presidential aid request, Jim Wright talked about morality. "If I schedule it, the President would have some moral responsibility to help pass it," he said. "I don't want to run it out there and be defeated again." Mr. Wright should be less timid in his convictions. After all, he isn't the one who has to risk getting hit over the head with a metal pipe.

[From the Washington Times, Mar. 16, 1988]

MANAGUA ATTEMPTS A "KNOCKOUT BLOW"

Nicaraguan President Daniel Ortega said yesterday that the Sandinista army is inflicting heavy casualties in a major offensive that the U.S.-supported rebels say could make their situation "extremely serious."

U.S. and rebel officials said Sandinista troops, supported by artillery and aerial bombardment, have entered neighboring Honduras. The U.S. Embassy in Honduras, though, said it could not confirm an incursion.

One State Department official, speaking on condition he not be identified, said initial reports suggested the Sandinistas hoped to deliver a "knockout blow."

In a telephone interview with The Washington Times, resistance spokesman Bosco Matamoros said: "Our situation is difficult and could become extremely serious."

He said the resistance was having severe difficulties in aerial resupply and evacuating its wounded. The Sandinista goal, he said, appeared to be cutting off rebels in the north from their operational areas in the interior of Nicaragua.

The intention, he said, was to deal the insurgents a heavy battlefield setback to put the Sandinistas in a position of strength at cease-fire talks scheduled to begin Monday near Nicaragua's southern border.

Other resistance officials in Costa Rica and Miami told The Times that the talks were still on.

"They launched this offensive at a time when we are without aid, just before the cease-fire talks are scheduled to begin," one said. "They want to further weaken our position. . . . It does present problems for us politically at the next talks."

Mr. Ortega gave few details about the fighting except to say that Sandinista troops were "dealing serious blows" to the resistance.

In Washington, State Department spokesman Charles Redman described the offensive as a Soviet-backed bid to finally crush the resistance.

"Based on what we know, this would appear to be the largest offensive we have seen the Sandinistas undertake," he said.

Mr. Matamoros said about 1,000 insurgents based in Nicaragua's Jinotega province had been pushed into Honduras where they were being hit by high-altitude Antonov bombers, long-range artillery and rocket launchers.

He said the Sandinistas, with their battle headquarters at Bonanza and forward command at El Cuartelon, were bringing up troops and materiel in 13 Mi-17 helicopters.

A new factor in the Sandinistas' favor is a new "extremely sophisticated communications system" that made it difficult for the insurgents to intercept enemy radio messages, he said. This is something the rebels have never faced before, he added.

Resistance officials said the offensive involves 4,500 Sandinista troops.

Mr. Redman said 6,000 troops could be involved. He said the offensive shows that the Sandinistas are not seriously interested in a cease-fire.

The rebel officials said the Sandinistas are using helicopters for transportation—but, apparently worried about anti-aircraft missiles, are not using them as gunships.

"It is very serious. The situation is critical," an official said, "Not only do we have to look at the immediate results of the combat, but we have to worry about the supply situation of our troops after this operation."

The attack also follows a renewed push by President Reagan for U.S. aid to the resistance.

Since U.S. aid to the rebels expired Feb. 29 and the House voted narrowly on March 3 against a new humanitarian aid package, the rebels have fallen back toward border areas to defend supply caches, Mr. Redman said.

NICARAGUA—THE MILITARY BUILDUP, AUGUST 1979 TO MAR. 1, 1988 (U)

[Unofficial State Department tally of Soviet-bloc aid]

Yearly military supply activity			Status of forces							
During	No. arms shipments/per thousands metric tons	Million U.S. dollars	As of	Total force [1]	Tanks	Other armored vehicles [2]	Fixed/wing aircraft helicopters [2]	Airfields	ADA guns/Msl Lchrs	Radars
			July 19, 1979	6,000	3	31	30/8	4	2/0	0
1979	–/–		Jan. 1, 1980	16,000	3	31	38/8	4	2/0	0
1980	–/1.6	10	Jan. 1, 1981	24,000	3	25	40/8	4	39/6	0
1981	2/9.4	160	Jan. 1, 1982	39,000	30	45	40/10	4	100/6	0
1982	6/11.2	140	Jan. 1, 1983	41,000	50	45	40/15	4	150/30	0
1983	25/13.9	250	Jan. 1, 1984	46,000	50	90	44/15	4	150/30	(5)
1984	37/20	370	Jan. 1, 1985	67,000	150	200	45/20	5	200/300	(5)
1985	35/20.8	280	Jan. 1, 1986	74,850	150	199	45/25	5	200/300	(5)
1986	50/22	600	Jan. 1, 1987	74,850	150	220	44/57	5	300/300	(6)
1987	62/21.7	505	Jan. 1, 1988	80,000	150	250	35/52	[3] 5	400+/400+	(6)
Thru Mar. 1, 1988	10/3.1	100	Jan. 1, 1988	80,000	150	250	35/51	5	[4] 700+/ 500+	(6)

[1] Active Duty and mobilized milita/reserves. Figures since 1 January 1985 have been revised upward to reflect newly declassified figures.

[2] Losses (combat and otherwise) may result in no net gain or a lower figure than prior year estimates.

[3] Construction at Punta Hueta continues with approximately 3,000 meters of the runway paved.

[4] Increase in 1988 ADA Guns/Msl Lchrs is based on EPS weapons inventory listings from Nicaraguan defector Major Roger Miranda. Most of the increase is for smaller caliber AA guns never previously verified, which were delivered to Nicaragua during the early 1980's.

[5] Some.

[6] 4 sites.

[From the Washington Times, Mar. 11, 1988]

SOVIET ARMS SUPPLIES TO SANDINISTAS CONTINUE UNABATED

(By Peter LaBarbera)

The Pentagon says the Soviet Union delivered $100 million in arms to Nicaragua's Marxist government during January and February.

Meanwhile, Nicaraguan Resistance leaders yesterday accused the United States of abandoning them.

During January and February, the Sandinistas received 3,100 metric tons—or 3,400 regular tons—of weaponry and other war material according to Pentagon figures released yesterday.

The supplies were delivered in 10 shipments, the Pentagon said.

The value of Soviet bloc arms deliveries expected this year, if the pace is sustained, would be $600 million, up from $505 million worth of weapons last year.

"The very minute that the Soviets are increasing aid to the Sandinistas the United States is shutting off aid to the Resistance," said Resistance Director Adolfo Calero in a telephone interview yesterday.

"This demonstrates once again that the Soviets are reliable and determined allies, while the United States leaves a lot to be desired."

Mr. Calero said in a Miami press conference yesterday that the Resistance will accept an open agenda for talks in Sapoa, Nicaragua, as the Sandinistas have proposed. The Resistance earlier had demanded that the talks center on the issues proposed by Cardinal Miguel Obando y Bravo in Guatemala.

The cardinal, who has been dismissed as mediator by the Sandinistas but will act as a "witness" in the upcoming talks, had called for a 30-day truce, political amnesty, press freedom, an end to the draft, and a dialogue with the opposition.

"We are ready to go to Sapoa," said Mr. Calero, who will head the Resistance peace delegation.

He and fellow director Aristides Sanchez proposed that the talks begin March 16 and that Managua's internal opposition be allowed to participate in them.

The two Resistance leaders called the United States "an inconsistent" ally for once again cutting off supplies to the anti-Sandinista forces.

The Defense Department figures for Soviet bloc aid to the Sandinistas reflect a pace just below that of 1987, despite the movement in the region toward a regional peace accord.

If the pace is sustained, the Sandinista army will receive at least 18,600 metric tons of weaponry this calendar year, compared to about 21,700 metric tons delivered last year.

Including the latest estimates, the Sandinista regime has received more than $2.4 billion in Soviet bloc aid since calendar year 1980, the Pentagon said.

The Pentagon did not indicate the number of new tanks, armored vehicles, helicopters and other weapons sent to the Sandinistas in the two-month period, but said the numbers remain roughly at the 1987 levels. Some of the new deliveries could be replacements for the Sandinista army, it said.

Rubin Robles, minister-counselor for the Costa Rican Embassy in Washington, said Soviet military aid to Nicaragua is an obstacle to the Central American peace negotiations.

"We as democratic countries reject any military aid, since we want a political solution to the problems in Central America," Mr. Robles said.

Costa Rican President Oscar Arias, architect of the Central American peace plan, has called on the Soviets and Cubans to halt their weapons deliveries to Nicaragua.

Mr. Calero, while criticizing the U.S. aid cut-off to the Resistance, said rebel morale remains high. "We will never surrender," he said.

"We will have the strength of our convictions and the inspiration of our fighting men," he said in an interview after his Miami press conference. He said the Resistance will go into the negotiations with "no U.S. support, no U.S. backing."

Focusing on the contrast between U.S. and Soviet support for their allies, he said, "It reminds me of a Mexican saying, 'The Americans are weak enemies and dangerous allies'."

[From the New York Times, Mar. 12, 1988]

ORTEGA SAYS CONGRESS HURT THE CONTRAS

(By Stephen Kinzer)

MANAGUA, NICARAGUA, March 11.—President Daniel Ortega Saavedra says he thinks contra leaders will come to the negotiating table this month in "a position of weakness" because of the recent Congressional vote cutting off aid to their movement.

Mr. Ortega said the contras had agreed to three days of talks beginning March 21. The Government, he said, is willing to remain at the negotiating table indefinitely if substantial progress is being made.

In an interview Thursday night, Mr. Ortega said he expected the contras to be conciliatory to "accommodate themselves to a new situation." He said Sandinista military pressure was taking a toll on contra units, which he said were in retreat and "conserving their bullets."

"The Reagan Presidency is coming to a close," Mr. Ortega said. "If contras don't reach a negotiated solution, they face the prospect of total military and political defeat."

AFFECTING US MORE EVERY DAY

The principal contra leader, Adolfo Calero, said Thursday that the Congressional vote March 3 against a Democratic plan for contra aid showed that the United States was an unreliable ally.

"It is sad that the Soviet Union can be a more consistent ally, and that the United States is an inconsistent ally, not as it should be," Mr. Calero said in a statement broadcast over the clandestine rebel radio station. "The cutoff of aid to the Nicaraguan Resistance is affecting us more every day, because without resources it is very difficult to maintain a war against an ally that has full Soviet support."

"In the long run, the cutoff of aid from allies could be fatal for the Nicaraguan Resistance," Mr. Calero said.

Government radio stations were planning to transmit portions of the Calero statement, Mr. Ortega said.

"This is the statement of a defeated leader," Mr. Ortega said several hours after Mr. Calero spoke. "The morale of a contra in the mountains is not going to be improved by hearing this statement on the radio."

SUSPICION ON CONTRA MOTIVES

Mr. Ortega expressed concern over the possibility that the contras are coming to the talks only as part of a strategy to win new aid from Congress.

"The contras are interested in pressuring Congress to get a little aid by seeming to want negotiations," he said.

Several obstacles that had held up the cease-fire talks were resolved this week. The contras accepted the Government's suggestion that the talks be held in the southern border village of Sapoá, and that both delegations be headed by senior officials. Mr. Calero is expected to head the contra negotiating team. The Sandinistas will be represented by Defense Minister Humbarto Ortega Saaveda, brother of the President.

The Government had sought to remove Miguel Cardinal Obando y Bravo, the Roman Catholic Primate, from the mediation role he has been playing since November. But agreement has now been reached to invite the Cardinal to Sapoá as a witness. The other witness is to be Joåo Baena Soares, secretary general of the Organization of American States.

Mr. Ortega said Thursday that Cardinal Obando and Mr. Baena have agreed to come to the Sapoá talks on March 21.

Debate over the agenda was the final obstacle. The contras had asked for a preliminary meeting to set topics for discussion, and said they wanted to talk about press freedom and other political questions. The Sandinistas refused, saying they would discuss only the mechanisms by which contras would disarm and resume civilian life.

The contras finally dropped their insistence that topics be decided in advance. Mr. Ortega said that fixing an agenda would probably be the first order of business in Sapoá.

An American lawyer who represents the Sandinistas, Paul Reichler, said this week that the Sandinista proposal in Sapoá would not require the contras to surrender unconditionally.

"They would be able to keep their arms and ammunition after entering cease-fire zones," Mr. Reichler said in an interview in Managua. "This could be for as long as six months. It would be a kind of test period.

"As changes are made, they would gain the confidence to lay down their arms and reintegrate themselves into the country. They could conduct military training, as long as they don't shoot anyone, and they could receive humanitarian aid from the United States or anyone else."

ACCUSATIONS OF A CRACKDOWN

Leaders of opposition political parties in Nicaragua have charged that the Government is conducting a crackdown on their activities. Several times in recent weeks, crowds of Sandinista demonstrators, some of them violent, have clashed with anti-Government protesters.

[From the Miami Herald, Feb. 8, 1988]

5,000 NICARAGUANS PROTEST CONDITIONS WITH RALLY IN STREETS

(By June Carolyn Erlick)

MANAGUA, NICARAGUA.—About 5,000 workers marched Sunday through the streets of Managua to protest lack of food and Sandinista labor policies.

Observers said the demonstration was the largest opposition labor march in the nearly nine years of Sandinista government.

Workers from a coalition of conservative and Communist labor unions marched peacefully for two hours through the working class neighborhood of Ciudad Jardin and past the sprawing Eastern market.

They carried signs reading "Enough Already!" and denouncing the government for "Hunger, Misery, Unemployment and Repression." Some carried elaborate cartoon posters, some of which were copied from the opposition newspaper La Prensa.

One cartoon showed President Daniel Ortega confessing to Cardinal Miguel Obando y Bravo: "Father, forgive me, we lied about everything we said about the Central America peace plan." In the cartoon. Obando replies, "No one believed you in the first place."

But most observers attributed the large turnout and peaceful march to the political space created for the domestic opposition under the peace agreement made last August by Central American leaders.

"There ought to be even more people here," said Fanor Avedano, a Social Christian youth leader. "After eight years of repression, people are only beginning to lose their fear." She said the march would not have been possible before the peace agreement.

Workers apparently were catalyzed by the closing of 21 factories because of the country's energy crisis. The Sandinistas said Saturday that six more factories, including two beer factories, would be shut temporarily to conserve electricity. The 15 factories shut last week include soft drink, chemical and textile factories.

The government has said that workers will continue to be paid, but that they have been encouraged to pick coffee or participate in communal projects.

"Reagan's war has damaged the economy, but the comandantes share the blame," Roberto Moreno of the Communist Party Union, known as CAUS, told the crowd. "There are millions for mansions but no money for factories."

Four opposition union coalitions participated in the march. They are believed to have about 100,000 workers, including some peasant cooperatives.

The Sandinista Workers' Union, which was not in the march, has the majority of Sandinista workers.

"The march is a response to social inconformity because of the economic crisis," said Mauricio Diaz, president of the Popular Social Christian Party. "It is an answer to the government's lack of answers."

Diaz, who is the opposition party delegate to the National Reconciliation Commission created under the peace plan, said the march was the largest opposition labor march in the history of the Sandinista revolution.

[From the Washington Post, Mar. 5, 1988]

New Plan Paralyzes Nicaraguan Economy—Plenty of Rotten Eggs but No Rice, No Beans

(By Julia Preston)

Managua, Nicaragua, March 4.—Rice and beans, Nicaragua's most basic daily fare, are gone from the markets of Managua. For two weeks there has been no corn for tortillas, no oil for frying. Eggs, though, are on sale by the thousands, putrifying in stacked cartons that clog hot market walkways.

On Feb. 14, the leftist government, seeking to rein in runaway inflation, enacted an economic program that has brought the most jarring changes in living conditions since the nationwide agrarian reform of 1979, just after the Sandinistas rose to power. The new measures rewrite the rules for production and trade in both the state and private sectors.

The lack of rice and excess of eggs are signs of the extraordinary chaos that these latest changes have unleashed, leaving the economy nearly paralyzed.

Economists say the measures, in principle, were the right ones to curb a wild inflationary spiral that came close to doubling the cost of living each month. But in practice, the government set several key rates—including the exchange for the dollar—at levels so unrealistic that they rendered many farms and factories unprofitable overnight. Scores of the abruptly bankrupted businesses belong to the government.

The results of the changes are expected to have a major political impact here. In adopting them, the nine-member Marxist leadership turned sharply from the path of socialist-style state control of the economy, economists said.

The rulers opted instead for policies promoted by a small group of government officials, known as "the technocrats," who are not part of the Sandinista party leadership and who drew on a mix of monetarist tenets of Latin American capitalism.

"This is a reaffirmation of the view the socialist central planning is not viable in this country. The logic of these measures is a greater reliance on market signals," said U.S.-trained Nicaraguan economist Mario Arana, head of research at a progovernment think tank here. About three-quarters of Nicaragua's economy remains in private hands, mainly small-and medium-sized property owners, Arana noted.

If the measures ultimately fail, Sandinista leaders could respond by swinging leftward once again.

The changes, sprung by surprise on Nicaraguans for maximum shock effect, began in mid-February when the government issued a new cordoba and withdrew the old currency that was practically worthless. The new cordoba drops three zeros from its predecessor's face value.

The Sandinistas handled the currency with like a military campaign, mobilizing 60,000 party followers to help with the transactions in rural areas.

The government also quintupled wages, increased the prices of 46 basic goods by as much as 250 percent and froze them there, raised sales taxes and eliminated gas and transportation subsidies. The price of a gallon of gasoline went in one day from the equivalent of 15 cents to $1.50.

A knotty tangle of different dollar exchanges was made into one rate, 10 new cordobas to $1. Until then, the rate had varied ludicrously from the lowest official fixing of 70 cordobas for $1 to the black-market 50,000 to $1.

President Daniel Ortega ordered all ministries to slash their budgets by 10 percent and combined several agencies into one Ministry of the Economy under Luis Carrion, one of the nine top Sandinista comandantes.

The government hopes the package will ease inflation by cutting back the money supply and reducing its big fiscal deficit, while also simplifying economic management and forcing all businesses, including its own, to operate more efficiently.

In fact, the changes seemed so similar to those advocated by fiscally conservative institutions such as the International Monetary Fund that one economist at the U.S. Embassy was asked jokingly by several Nicaraguans if he had had a hand in crafting them.

By most accounts, the program quickly went awry. Last week the Central American Business Administration Institue, a Managua business school, convened managers from private and state-owned companies for an assessment. One manager after another announced that his or her enterprise could no longer function.

One problem is the new dollar cost. Many Nicaraguan firms, including dozens of private ones that regularly lambasted the Sandinistas for their Marxist bent, owed their survival during recent years to a government subsidy that provided them with dollars at the giveaway rate of 70 cordobas. For them, a dollar to purchase needed imports is suddenly 143 times more expensive.

"I've looked through the recent history books, and I can't find an other example anywhere in the world of a devaluation of that magnitude. I guess we can say it is an audacious move," said Nicaraguan economist Francisco Mayorga, who holds a doctorate from Yale.

Within a week, a black market reemerged, with the dollar trading at six times its legal value. Even some desperate government agencies were among the buyers.

Faced with soaring labor costs, fixed prices and a mood of uncertainty many farmers and manufacturers just ground to a halt.

"Nobody can start to produce anything. There is general bankruptcy in both the private and public sector," said Mario Hanon, president of the national rice growers' association. But Hanon rejected the idea that the measures are a disguised Sandinista attack on private business.

"This is just based on a big dose of ignorance," he charged.

As for the markets, prices of some basic goods—such as meat and the rotting eggs—were fixed so high that few shoppers can afford them. But the prices for rice and beans are so low that vendors are holding their stocks off the market, creating severe shortages.

In a renewed campaign against the black market, police and gangs of pro-Sandinista factory workers broke up market stalls in nighttime raids, emptied unlicensed warehouses and arrested several dozen vendors. If they resisted, the police used clubs and a blinding mace-like spray.

Despite widespread confusion over prices, Managua police also summarily confiscated more than 30 taxis and trucks of drivers caught charging more than the legal price for their services.

"The battle is against the speculators, anyone who tries to raise prices, whether because they are enemies of our revolution or are supported by the American Embassy. Among them, there are no big or small fish," said Bayardo Arce, who runs the Sandinista National Liberation Front, in an interview with the party daily Barricada. President Ortega said the government hopes to force black marketeers to return to the countryside to work as farm laborers.

At the headquarters of the opposition Labor Unity Confederation, the hallways teem with vendors, drivers, waiters and other workers seeking help.

"I want them to let go of my mother," said 8-year-old Yesena Altamirano, holding her year-old brother, Eduardo. She came to the union because their parents were jailed after a scuffle with police at their stall in Managua's main Eastern Market.

The decision to take the measures under consideration since 1982, put new strains on the nine Sandinista leaders. According to a government consultant familiar with the deliberations, Ortega supported the move on the counsel of two dozen advisers, but Agrarian Reform Minister Jaime Wheelock was skeptical but finally agreed.

In December, Wheelock signed a pact with private rice growers to control rice marketing. The idea was a joint effort to raise the farmers' income and lower prices to the consumer by eliminating black-market intermediaries. The pact was to be a model for other deals between the state and private agribusiness.

Now Wheelock finds himself with his pact shattered and dozens of state farms whose books suddenly do not balance.

[From the Washington Times, Feb. 10, 1988]

Nicaragua Moms Riot Against Military Draft

(By Glenn Garvin)

Masaya, Nicaragua.—An angry mob of 1,000 mothers attacked a police station and a Sandinista party headquarters here, burning vehicles and breaking windows to protest the military draft, witnesses said.

No injuries were reported during the Monday night riot, but two government vehicles were burned and police reportedly arrested about 20 people. Both supporters and opponents of the Sandinistas scheduled rallies and marches for late yesterday, and many residents were predicting more violence last night.

"The security forces have a hot coal on their hands, and they don't know how to handle it," said one resident who witnessed the violence.

Sandinista officials, evidently agreeing that new disturbances were likely, sealed off a several-square-block area around the police station and flooded the city with policemen and plainclothes security officers.

"I can't tell you anything," said police Lt. Roberto de Jesus Parra. "We have a very difficult situation here."

Sandinista officials said the riot was touched off by "provocateurs," including members of the country's old National Guard who have recently been released from prison under provisions of the Central American regional peace plan.

But most witnesses said Monday night's rioting broke out spontaneously after security forces swept through three neighborhoods, grabbing teen-agers suspected of dodging the draft.

Witnesses said the security forces—from the so-called "preventive police" of the Ministry of the Interior—kicked in doors of homes and dragged away young boys during the sweep, though some of them were obviously under the minimum draft age of 17.

One witness described it as "a hunt for children."

"They were not taking young men," he said. "These were boys. These were children."

Several of the suspects were beaten after they were arrested, witnesses said, and others fled in obvious terror.

"I saw one boy pedaling as fast as he could on his bicycle, while the police were chasing him on foot," one local resident said. "Finally he threw the bicycle down and ran and hid in a church school as they ran by."

Sandinista officials confirmed the police sweep. They said police picked up about 150 young men and released all but 29. The others, the officials said, presented proof that they were either too young for the draft or had already served.

Anti-draft demonstrations began Monday afternoon in each of the three neighborhoods. Around 8 p.m., all the demonstrators marched to the police station downtown, where they began throwing rocks and screaming anti-Sandinista slogans.

"They were all women," said farm worker Luis Sanchez, who lives a few hundred feet from the police station. "All kinds of women—little ones, big ones, old ones, young ones."

"The women stretched for four blocks," said watch repairman Francisco Alejo, who lives nearby. "They were screaming, 'We don't want our children to be taken to the slaughterhouse!' "

According to the witnesses, the women also attacked the local headquarters of the Sandinista Youth Organization, breaking windows and rolling a car out of the garage into the street, where they burned it.

The first security policeman called to the scene jumped from his Soviet-made jeep and drew a gun on the mob. But when the demonstrators rushed him he fled, and the crowd burned the jeep too.

Soon afterward, several jeeploads of police arrived, firing their weapons into the air, over the heads of the crowd. But sporadic violence continued until 1 a.m., area residents said.

Interior Minister Tomas Borge, head of the vast Sandinista security apparatus, was called to the scene of the rioting Monday night. Witnesses heard him tell reporters from the pro-government press not to report his presence.

Sandinista police refused to say how many people they arrested in connection with the riot. But witnesses said that more than 20 were picked up—some at the scene, and some yesterday morning. Among those arrested were two opposition political leaders, Juan Jose Cerda of the liberal Independent Party, and Humberto Urbina of the Social Democrats.

Friends and political associates of the two men said they were not at the riot, and the Sandinistas were using it as a pretext to imprison opposition leaders.

Yesterday, as Sandinista supporters circulated through the streets here urging people to attend their rally later, the anger that touched off Monday's violence was still apparent.

"It's easy for you to talk," several housewives shouted at the pro-government forces. "You've got soap! You can eat!"

"The children belong to us," one of the housewives said to a reporter. "They're our babies. They were in our stomachs for nine months, and no one helped us to give birth. Now the government wants to take them away."

Pro-government citizens were just as vehement. "It's the reactionaries and the right-wingers who don't want peace," said Josefa Jose, who sells clothing in Masaya's central market. "They have been infiltrated by the criminals pardoned under the peace plan. * * * There's a war going on, and we all have to help."

Mrs. Jose said she would be attending the pro-Sandinista rally late yesterday. Other market women said they would go, too—but not always willingly. Several said the government had threatened to cut off their supplies and revoke their business permits if they didn't.

The disturbance here was the worst anti-draft violence since a riot in the north-central town of Nagarote in 1985, when mothers attacked police with machetes to protect their children.

But there has been a steady stream of anti-draft incidents during the last year, as anti-Sandinista rebels, backed with new American aid, have upped the ante in Nicaragua's 6-year-old civil war.

Several mothers scuffled with police looking for draft-dodgers in a Managua neighborhood last week. And the official Sandinista newspaper, Barricade, reported recently that 500 soldiers had to be deployed in the city of Sebaco to "explain" the draft to local residents.

The draft applies to men aged 17 to 25. They enter the so-called Patriotic Military Service (SMP), a militia force that lacks the sophisticated weapons and training available to the regular army.

Many critics of the Sandinistas say the government uses the SMP troops as cannon fodder, sending them out to draw ambushes from the rebels. The regular army is committed only afterward, the critics say, when commanders know the exact location and strength of the rebels.

Even more alarming to the government than the venom of Monday's violence may be the place where it broke out. Masaya was one of the Sandinistas' toughest strongholds during the 1978–79 revolution against the old Somoza dynasty.

Many of Monday's rioters came from the Masaya neighborhood of Monimbo, an Indian enclave where the original anti-Somoza riots broke out in January 1978. Camilo Ortega, the youngest brother of Nicaraguan President Daniel Ortega, was killed by the Somoza troops during the rioting, and Monimbo became a sort of national catch-phrase for the revolution.

The reputation of Masaya residents—particularly Monimbo residents—for not putting up with much guff sent a ripple of fear through the city yesterday.

"People here don't have much patience, and when they explode, someone will pay," said one resident yesterday. "Tonight, I think there will be real trouble." Some people were packing bags and heading 20 miles north to Managua to spend the night.

[From the Washington Post, Mar. 7, 1988]

SANDINISTA SUPPORTERS DISRUPT OPPOSITION RALLY—POLICE WATCH AS CIVILIAN MOB CONFRONTS MARCHERS

(By Julia Preston)

MASAYA, NICARAGUA, March 6.—Gangs of club-wielding Sandinista party followers broke up an opposition women's march today, driving antigovernment demonstrators off the streets, hurling rocks, threatening them and then rampaging across the city for two hours.

It was the most aggressive use of Sandinista mob violence against the opposition in years and appeared to indicate a new government policy of using civilians to confront its political opponents.

Thursday, about 150 Sandinista party rabblerousers, called turbas, which loosely translates as "mob," disrupted a peaceful oppositon union meeting in Managua. The turbas are drawn from Sandinista unions, block committees and other grass-roots groups.

Today's trouble in Masaya began with two outdoor rallies in honor of International Womens' Day next Tuesday, which took place this morning in Masaya. One was led by the Democratic Coordinating Group, an opposition coalition, and another by the Sandinista National Liberation Front (FSLN), the ruling party. It was unclear which demonstration was scheduled first, but Sandinista police issued the required permits to both and established different parade routes for each march, organizers for both sides said.

Tensions have been running high in Masaya, where there is strong popular sentiment against the military draft. On Feb. 8, an opposition protest against the draft in Massaya turned into an antigovernment riot.

Today's rallies were located about 50 yards apart on opposite sides of the central park of Masaya, 20 miles south of Managua. At the center of the opposition march was a protest against the draft by about 100 women and girls, mostly from poor rural families, who wore blackdresses and veils.

As the opposition speeches continued, scores of men carrying wooden clubs and metal bars and wearing the red-and-black kerchiefs of the Sandinista party, crossed over from their rally, taking up positions surrounding the opposition rally.

As the Democratic Coordinating Group sympathizers filed into the street to begin their march, hundreds of the club-wielding Sandinistas dashed across the park to block part of the street where the marchers were to pass.

One Sandinista man, Juan Ramon, who identified himself in an interview as a 27-year-old bricklayer, repeatedly taunted opposition marchers, tearing their placards out of their hands to rip them up. He confronted an opposition woman carrying a tiny infant and screamed insults in her face.

As the tension mounted, someone threw a rock, and quickly rocks were flying on all sides. At the same moment, a Sandinista demonstrator bashed a boy in the back of the head with his club.

Most opposition protesters appeared to be unarmed, but one opposition man was seen carrying a club with nails protruding from one end.

The Democratic Coordinating Group president, trade unionist Carlos Huembes, acknowledged that his followers had engaged in fighting. "That's our response. We have to defend ourselves," he said.

The rock-throwing continued for several minutes, but finally the outnumbered opposition demonstrators fled. For the next two hours, Sandinista gangs roamed the streets hunting for them.

"Either you respect the Sandinista Front or we'll make you respect us," was the slogan some chanted repeatedly.

Sandinista mobs burned one parked jeep based on a rumor that it belonged to Erick Ramirez, a leader of the opposition Social Christian Party. At least three other vehicles were damaged by stoning. They ripped out, broke up and urinated on chairs in the movie theatre where the opposition event started.

Reporters and Sandinista police watched as a Sandinista crowd approached Edda Bonilla de Gaudamuz, identified as an opposition member because she was still wearing her black veil. Bonilla dropped to her knees, but the Sandinistas ripped off the veil and slapped her repeatedly. Then a woman dragged her behind a police line and beat her.

One opposition man was cut in the face with a knife. A Sandinista man was severely beaten, apparently after his colleagues mistook him for an opposition member.

Huembes, the Coordinating Group leader, said, "It seems clear the Sandinista Front does not want to comply with the peace process in Central America. They want to substitute it with the terrorism of the turbas." He was referring to a peace pact signed last Aug. 7 by the five regional presidents, including Nicaraguan President Daniel Ortega.

Federico Lopez, the FSLN party delegate for the Masaya region, said of the opposition, "Those were just some perfumed people paid by the American Embassy. * * * It's a minority group. They offended our people, and our people won't accept it."

Asked if the day's violence might have a negative effect on Nicaragua's position in the peace process, which calls for broader democratic freedoms, Lopez said: "What violence? There was no violence here."

Lopez, unshaven and wearing a T-shirt and sneakers, was seen throughout the morning leading gangs of Sandinistas through the streets. When asked if the opposition would be allowed to demonstrate in the future in Masaya, Lopez said, "That's their problem now."

Police subcommander Marcelino Rivas, explaining why the police did not intervene, said, "There were no crimes here. It's just a demonstration."

[From the Washington Post, Mar. 8, 1988]

NICARAGUA REVIVES GANG TACTICS TO BLOCK OPPOSITION

(By Julia Preston)

MANAGUA, NICARAGUA, March 7.—The Sandinista party newspaper Barricada today described yesterday's street clashes in the city of Masaya between progovernment and opposition followers as "a true popular uprising against the right wing."

But many Masaya citizens put it differently. "The turbas are back," one said.

The turbas, Spanish for "mob," are the civilian shock troops of the eight-year-old Sandinista revolution. Drawn from the most dedicated ranks of the ruling Sandinista National Liberation Front (FSLN), the club-carrying gangs include schoolboys, Army veterans, feminists, factory workers, even elderly mothers who have lost sons in the war against the contra rebels. They were put in force in Masaya yesterday.

The Sandinista party sends turbas to harass, intimidate and overwhelm its numerically smaller political opposition by painting progovernment graffiti, shouting slogans, throwing stones and swinging sticks. though Nicaraguans are rarely killed in turba attacks, many have been hurt.

The turbas emerged in late 1980. For four years they acted frequently against right-of-center political parties and churches associated with the conservative Roman Catholic leader, Cardinal Miguel Obando y Bravo. After the 1984 elections in which Sandinista President Daniel Ortega was elected, strict state-of-emergency laws were enforced, and activity by the turbas subsided.

Ortega lifted the emergency in January to comply with a regional peace plan, but since then the FSLN has begun mobilizing its militants again to maintain a measure of political control.

Masaya, located 20 miles south of Managua, strongly supported the Sandinistas in their 1978-79 armed insurrection against dictator Anastasio Somoze Debayle. Now, Masaya is known for its strong opposition to the Sandinista military draft and its economic programs.

The opposition, particularly in Masaya, has street fighters as well, and opposition protesters also threw rocks yesterday.

The FSLN is the only party with trained, disciplined gangs who follow orders from higher officials. The turbas usually do not act without approval from some official at the highest level of the party and government.

Normally the party recruits its gangs from unions, block committees and Sandinista youth groups the day before an event and issues precise instructions about the slogans to be used and actions to be taken, rank-and-file Sandinistas said in interviews.

They are often advised not to say that they are closely affiliated with the FSLN, but to describe themselves as spontaneous demonstrators from "the people."

In Masaya, Federico Lopez, the FSLN party chief and in practice the governor of the Masaya region, led several hundred Sandinistas on a chase after about 800 opposition demonstrators, who had gathered for a Women's Day march.

In a midday speech to about 3,000 excited Sandinistas, Lopez first invited them to "confiscate" a movie theatre where the opposition rally had started. The crowd began breaking chairs in the theater, but Lopez changed his mind, and the crowd quickly obeyed his orders to stop.

Several hundred Sandinista men arrived at their party's rally yesterday with wooden clubs that had been issued beforehand, some bearing Sandinista flags.

At one point, one group of turbas discovered some opposition demonstrators hiding in a Catholic church on a sidestreet and banged on the door with their sticks.

Their leader, a Sandinista youth member, spoke briefly with a priest who had come to a window. The leader issued an order to leave the church alone, and the banging quickly ceased.

Recently two American diplomats got a small taste of turba-style tactics.

Sent by the U.S. Embassy to observe a major Sandinista rally Feb. 26 in Managua, they were watching an Interior Ministry contingent file into a plaza when one official in the ranks spotted them and shouted, "Those men are from the American embassy!"

Moments later, the Interior Ministry group broke ranks, surrounded the diplomats and lifted one of them bodily off the ground, knocking off his glasses and roughing him up slightly while chanting anti-American slogans. Then they suddenly put him down, fell back in line and marched on.

The Interior Ministry is in charge of political security and is believed to be, along with the Sandinista party, in charge of the turbas.

Nicaraguans who turn out for turba actions are dedicated to the FSLN. Many are from the poorest families and have been close to the Marxist party since the mid-1970s, when young, bearded Sandinista revolutionaries were widely regarded as heroes in the fight against the unpopular Somoza.

Yesterday, Ramon Gomez, a 36-year-old shoemaker and Sandinista loyalist, was carrying a poster of a widely distributed photograph taken of him in Masaya in 1978 wearing a mask and clutching a contact bomb, fighting alongside the Sandinistas. "This is why I'm here today, repudiating the right-wing," Gomez said proudly, pointing at the picture. But their devotion has also bred intolerance and frequently spawns blanket condemnation of the opposition as being CIA-backed.

Opposition leaders said today that 27 persons were injured yesterday and 11 have not returned to their homes. A prominent leader of the moderate Social Christian Party Erick Ramirez, was dragged into the street from a house where he was hiding by Sandinistas who tore off his shirt and hit him, his party said.

[From the Washington Times, Mar. 8, 1988]

TWO PROTESTERS SLAIN BY SANDINISTA TROOPS

(From combined dispatches)

MANAGUA, NICARAGUA.—Nicaraguan soldiers shot and killed two protesters during a clash with anti-government demonstrators Sunday in northern Nicaragua, the Interior Ministry said yesterday.

According to accounts from the area, demonstrators in El Tuma in Matagalpa province, about 125 miles north of here, threw rocks at government soldiers who responded with gunfire. A man and a woman were reported killed.

The sources did not say what sparked the protest, which occurred the same day as a protest in Masaya opposing military conscription and new economic strictures. That protest was broken up by a pro-government mob and at least seven persons were injured.

The ministry confirmed the two deaths in El Tuma. It said the incident was a "provocation" by "counter-revolutionaries" among the demonstrators.

Still, the ministry said it would appoint a special commission to investigate.

Also yesterday, a presidential communique said Cardinal Miguel Obando y Bravo and the secretary-general of the Organization of American States have agreed to be witnesses at talks between the government and resistance leaders.

The agreement by Joao Baena Soares, the OAS official, and Cardinal Obando, Roman Catholic archbishop of Managua, appeared to ease the way for negotiations to start this week in Sapoa, on the border with Costa Rica.

The cardinal was the intermediary in cease-fire talks between the Marxist government and the U.S. supported resistance until President Daniel Ortega dismissed him last week. The rebels insisted that he attend the talks.

Adolfo Calero, one of five directors of the Nicaraguan Resistance umbrella group, said earlier that the rebels have received no word from the government about security arrangements or an agenda.

The government daily Barricada had praise yesterday for the club-wielding youths, some masked and others in military garb, who broke up the Masaya march.

What happened yesterday in Masaya was a real uprising, a popular insurrection, alive, and in color * * * against the right, against the local agents of imperialism," it said.

An opposition leader vowed to continue the protests.

Also yesterday, a source at the U.S. Embassy in Managua said the government withheld nearly $20,000 belonging to the embassy and its employees when they turned in their money in last month's currency exchange.

The money withheld under a government-set exchange limit, should have been placed in a bank account. But neither the embassy nor the Central Bank could say whether that had happened.

The source, who spoke on condition he not be further identified, said the embassy turned in 208 million old cordobas in exchange for new ones, in accordance with last month's economic measures.

The total, which included private money and embassy funds, was worth about $20,800. The government last month created a new cordoba worth 1,000 times more than the old one and pegged it at 10 to the U.S. dollars.

The government set an exchange limit of 10 million in cordobas per person or institution, or the equivalent of $1,000. The U.S. Embassy was given $1,000, and the rest was withheld. A Central Bank spokeswoman confirmed that the new law requires that the remainder be placed in a bank account but said she had no information on the U.S. account.

[From the Washington Post, Mar. 6, 1988]

CONTRA AID OFFENSIVE FIZZLES AMID CONTRADICTIONS

BRIEFINGS AT STATE DEPARTMENT VARY SHARPLY ON SCOPE OF SANDINISTA ARMY'S BATTLE PLANS

(By Lou Cannon and Tom Kenworthy)

The Reagan administration yesterday mounted a major public information offensive against the leftist Sandinista government of Nicaragua, but by nightfall it had turned into a small and inconclusive skirmish.

Trying to build support for a new package of U.S. aid to the Nicaraguan contras, State Department spokesman Charles E. Redman said at a morning briefing for reporters that the Nicaraguan army was preparing "the largest offensive we have seen the Sandinistas undertake" in an effort to "destroy militarily the weakened Nicaraguan freedom fighters."

But a briefing later in the day at the State Department by two senior Army officers undermined the administration assertion that the Sandinistas were preparing a final offensive to crush the rebels in the Bocay River valley.

Redman said the Sandinistas were massing 12 combat battalions totaling 6,000 troops supported by 10 Soviet Mi17 helicopters and had "diverted a significant portion of their scarce gasoline supplies to fuel the helicopter sorties required to support this force." But the Army officers, speaking on condition they not be identified, placed Sandinista strength in the valley at between 1,000 and 1,500 troops and contra forces at 1,000.

President Reagan has often said that the Sandinistas need a 10-to-1 advantage to prevail over the rebels in any battle.

In what one White House official described as "a very frank discussion," Reagan yesterday appealed for a new contra aid package to replace one voted down March 3 in the House. The President was quoted as saying to House Speaker Jim Wright (D-Tex.) and other congressional leaders in a private session at the White House that it was no longer possible for the contras "to fight bullets with Band-Aids." Lt. Gen. Colin L. Powell, the national security adviser, told the congressional leaders that the contras are "entering the end game" and that their plight is "desperate."

But Democratic leaders, who clearly feel they hold the upper hand, told Reagan they would be willing to schedule another vote on the $30.8 million package of humanitarian aid for the rebels only if the administration can help deliver votes of two-thirds of House Republicans.

"The fact of the matter is if Republicans hadn't voted 97 percent against our package, the kind of aid they are talking about would be on the way," said House Majority Leader Thomas S. Foley (D-Wash.).

Despite the deep differences between the administration and the Democratic leadership, a White House official said late in the day that another effort would be made today to see if a compromise can be found.

"There's a lot of political pressure on everybody to do something," the official said. "Nobody is comfortable with where it's sitting."

Reagan has repeatedly vowed to continue to seek contra aid, a pledge he made again yesterday in a speech to a group of Jewish leaders in which he also accused the Sandinistas of anti-Semitism and of co-operating with the Palestine Liberation Organization and "other terrorist groups." But the administration's persistent effort to aid the contras appeared to be showing signs of strain, sowing contradictions as yesterday wore on.

This was particularly evident in the two briefings at the State Department. The briefing by the two Army officers was intended to underscore Redman's claims that the Sandinistas were poised for a conclusive offensive, but instead it cast doubt on this assertion.

The officers said there has been "scattered" fighting and "there are indications that it could conceivably be" a decisive battle. But they said this would require the Sandinistas to do what they had been unwilling to do previously and commit helicopters to sending many more troops to the remote border area, a maneuver that would take many days.

Told they were being more cautious than Redman, one officer cited the "sporadic and fragmentary" nature of intelligence reports from the area and said: "That's why we're hesitant; that's why we caveat the things we're saying because we don't want to say things that we don't know for sure."

If the Sandinistas do commit to a major battle with the contras it will be important, the officer said, because "they haven't done it before; that's what's significant about it."

The Democratic congressional leaders said that in their meeting with Reagan, even Republicans made the point that a military aid proposal for the contras cannot pass. Wright said that while Democrats are willing to explore "a mutually acceptable formula," the measure "has to be humanitarian aid."

Democrats said that administration statements about an impending Sandinista offensive are part of a campaign to build support for military aid.

"They are trying . . . to create an atmosphere of crisis," said House Majority Whip Tony Coelho (D-Calif.), "But their credibility on this issue is a little bankrupt."

Correspondent Julia Preston reported from Miami:

Contra spokesman Bosco Matamoros, citing information he said was compiled from field reports by the contras' top military command, said that as many as 7,500 Sandinista combat and support troops are involved in the Bocay operation.

Since March 7, Sandinista Soviet-made fixed-wing Antonov aircraft have been pounding the Bocay River region with 500- and 1,000-pound bombs, Matamoros said, while the Sandinistas also are using heavy artillery and Soviet BM21 multiple rocket-launchers. Contra fighters have detected at least eight Sandinista battalions and 13 helicopters in the fighting.

"I have reports that some of our positions are overrun, and we have had to retreat. Some fighters are short of food. We are concerned about the ammunition supply," Matamoros said.

[In Managua, a Nicaraguan Defense Ministry spokesman said Sandinista troops were launching a major offensive against the contras, but denied reports that the government troops had penetrated into Honduras, the Associated Press reported.]

[From the Washington Times, Mar. 16, 1988]

SANDINISTAS HAMMER REBELS, ORTEGA BOASTS

(By Jeremiah O'Leary and Jennifer Spevacek)

President Reagan asked congressional leaders yesterday to allow quick action on a new aid package for the Nicaraguan resistance, as the administration warned that the Sandinistas are about to "launch an all-out death blow to the Contras."

Mr. Reagan made the request for a new vote during an "intense and straightforward" 95-minute meeting with House Speaker Jim Wright and other lawmakers, said White House spokesman Marlin Fitzwater.

"I think the general feeling of the group was that it's time to clean the slate and start over," Mr. Fitzwater said. "Fights and arguments of the past should be left there."

But he emphasized that the two sides reached no agreement on how to proceed.

Mr. Fitzwater said National Security Adviser Colin Powell told the lawmakers that the rebels battling Nicaragua's Marxist Sandinista regime are on the verge of collapse.

"It's only a matter of weeks," Gen. Powell told the leaders.

"Sandinista forces appear to be preparing to launch an all-out death blow to the Contras by destroying supplies, now in major Contra camps," Mr. Fitzwater said. "Everyone in that session agreed a cease-fire is what we're going after."

Speaking to reporters after the White House meeting, Mr. Wright said he would be willing to revive the Democratic leadership's $30 million rebel aid bill, defeated in the House earlier this month.

But he said it would be virtually impossible to get the House to suspend its rules to allow a vote this week. "That's the only way it can be done in a big hurry," Mr. Wright said.

The House has voted down two rebel aid bills already this year. On Feb. 3, the House voted 219–211 to reject the President's $36 million rebel aid bill—which included $3.6 million for lethal aid.

Earlier this month, a coalition of Republicans and liberal Democrats joined forces to defeat the House Democratic leadership's $30 million humanitarian aid bill 216–208.

Mr. Fitzwater said a new bill similar to the Democrats' defeated package is one of several options being considered, but he refused to give details.

Mr. Wright said he would insist on guaranteed GOP support before scheduling a second vote on the Democratic leadership's bill.

Mr. Wright and other Democratic leaders were scheduled to meet with House Republican leaders today to discuss further action.

Since a $100 million package of lethal and non-lethal aid to the rebels expired in September, the rebels have received three short-term installments of humanitarian aid, the last of which expired Feb. 29.

Privately, administration officials believe the new Sandinista offensive—plus the Nicaraguan government's ouster of Cardinal Miguel Obando y Bravo as mediator for the cease-fire talks—will boost prospects for passage of a rebel aid bill.

Cease-fire talks between the Sandinista government and the rebels are scheduled to resume on Monday in the town of Sapoa, Nicaragua, 90 miles south of Managua near the Costa Rican border.

Earlier yesterday, Mr. Wright said he did not know the extent of any Sandinista military preparations, but said he has "earnestly implored" the Managua government to act in good faith in view of a resumption of cease-fire negotiations.

A few minutes later, in an apparent reference to Mr. Wright and the House Democratic leadership, Mr. Reagan pounded the table and said: "There are some people around this table who don't seem to know who the bad guys are down there," congressional sources told The Associated Press.

In a speech to Jewish leaders yesterday, Mr. Reagan also criticized the Sandinista regime as blatantly anti-Semitic.

UNITED STATES-NICARAGUA

WASHINGTON.—The White House said today it was considering "everything * * * short of invasion" after National Security Officials met to discuss a Nicaraguan attack on Contra rebel positions in neighboring Honduras.

Presidential spokesman Marlin Fitzwater said the Nicaraguan moves amounted to a "very serious breach of regional borders."

He said that 1,500 Nicaraguan troops were already inside Honduras and that an additional 4,500 appeared to be in a staging area to cross the border.

Fitzwater said that a series of National Security meetings has been held over the last 24 hours, and that "all options are under consideration, at this moment, everything is being considered short of (U.S.) invasion."

Fitzwater met with reporters one day after President Reagan met with Democratic and Republican Congressional leaders to discuss a new humanitarian aid package for the Contra rebels.

Today, he said, "the situation has changed."

The spokesman indicated the administration no longer is thinking in terms of working with Congress on an aid package that would simply provide the resistance forces with food, medicine, and other supplies.

"More than 1,500 Sandinista troops are now inside Honduras, attacking freedom fighter camps in an effort to destroy their remaining supplies," Fitzwater said, adding:

"There are nearly 4,500 Sandinista forces with strong helicopter support moving into the Rocay Valley, which is just below the Honduran border. They've established a new base for this operation. * * *

"In the last several hours, the United States Government has been in contact with the Presidents of the other three Democratic Governments in the region," he said. "We've had discussions concerning their response to this incursion and its meaning for the Guatemala Peace Plan."

"The United States Government today is examining its options," he said.

When word of the Sandinista operation came Monday night, Democratic sources in Congress portrayed it as a Nicaraguan attempt to strengthen their position in advance of cease-fire talks with the Contras, scheduled to begin Monday.

House Majority Leader Thomas Foley, D-Wash., acknowledged that "there is some military activity" under way but he declined to elaborate.

A Democratic congressional source said, "we don't know their intentions and they (the administration) don't know their intentions."

Today, one senior administration official, speaking on the condition of anonymity, said the Sandinista drive appeared to be aimed at a Contra camp complex and supply depot.

If the depot is knocked out, "there will be nothing left" of the Contra war effort, the source said.

That official said that Contra Commander Enrique Bermudez is in the Rocky region and may be in "serious trouble" because he and his forces are surrounded by Sandinista troops.

Officials of both the Nicaraguan and Honduran Governments denied that Nicaraguan troops had crossed the border.

Nicaragua did not report the offensive until Tuesday evening, when a defense ministry spokesman said it was under way but denied Contra claims that Sandinista troops crossed into Honduras, when the rebels have bases.

"The army has undertaken major offensive operations, reports that the army has penetrated Honduras are not true," the spokesman told the Associated Press in a telephone interview. He cannot be identified for security reasons.

The Honduran Defense Ministry said that 43 people had been killed in the Sandinista initiative, but denied that any of the fighting had taken place in his country.

Heavy fighting was reported throughout Nicaragua's 5th military region, which includes Roaco, Chontales, Rio San Juan and Zelaya South. The Contras said Sandinista troops had overrun some rebel positions.

MANAGUA, NICARAGUA.—About 6,000 Nicaraguan soldiers used helicopters and heavy artillery in a major offensive against Contra rebel forces. The defense ministry said today it was checking U.S. allegations that soldiers attacked positions in Honduras.

In Washington, White House spokesman Marlin Fitzwater said today the Reagan administration was considering "everything * * * short of invasion" after National Security officials met to discuss what is said was a Nicaraguan attack on Contra rebel positions in Honduras.

But the defense ministry refused to confirm or deny its troops entered Honduran territory.

"We're looking into the reports," an officer said on condition of anonymity. "It's serious and that's why I can't say yes or no."

On Tuesday, Nicaraguan and Honduran officials had denied that Nicaraguan troops fighting in northern Nicaragua had crossed the border into Honduras.

Fitzwater said the Nicaraguan moves amounted to a "very serious breach of regional borders." He said 1,500 Nicaraguan troops were already inside Honduras and that 4,500 more appeared to be in a staging area to cross the border.

Heavy fighting was reported throughout Nicaragua's 5th military region, which includes Boaco, Chontales, Rio San Juan and Zelaya South. The Contras said Sandinista troops had overrun some rebel positions.

The defense ministry said 35 Contra fighters, seven Sandinista soldiers and one civilian had been killed in the fighting.

A State Department official in Washington, speaking on condition of anonymity, said on Tuesday that initial reports suggested the Sandinistas hoped to deliver a "knockout blow" to the Contras.

The defense ministry announced Tuesday that the offensive was launched last Friday and intensified Monday and Tuesday.

The drive occurred a week before the leftist Sandinistas were to negotiate with the U.S.-supported rebels about a cease-fire in their six-year war. Three days of talks scheduled to begin next Monday in the small southern town of Sapoa, near the border with Costa Rica.

The U.S. House of Representatives defeated a $30 million aid package for food and clothing for the rebels two weeks ago, just after U.S. aid ran out. President Reagan opposed the package because it did not contain military aid.

In a White House meeting Tuesday, Reagan pleaded with congressional leaders for a renewal of Contra aid, but met an icy reception from Democrats.

Congressional sources, declining to be identified, said Reagan pounded the table and said, "there are some people around this table who don't seem to know who the bad guys are down there."

Nicaragua did not report the offensive until Tuesday evening, when a defense ministry spokesman said it was under way but denied Contra claims that Sandinista troops crossed into Honduras, where the rebels have bases.

"The army has undertaken major offensive operations * * * reports that the army has penetrated Honduras are not true," the spokesman told the Associated Press in a telephone interview. He cannot be identified for security reasons.

MANAGUA, NICARAGUA.—About 6,000 Nicaraguan soldiers used helicopters and heavy artillery in a major offensive against Contra rebel forces, but the Government denied reports its troops had crossed the border into Honduras.

Honduran officials also denied Contra claims that Sandinista troops fighting in northen Nicaragua on Tuesday had entered Honduran territory.

Heavy fighting was reported throughout Nicaragua's 5th military region, which includes Roaco, Chontales, Rio San Juan and Zelaya South. The Contras said Sandinista troops had overrun some rebel positions.

The defense ministry said 35 Contra fighters, seven Sandinista soldiers and one civilian had been killed in the fighting.

A State Department official in Washington, speaking on condition of anonymity, said on Tuesday that initial reports suggested that Sandinistas hoped to deliver a "knockout blow" to the Contras.

The defense ministry announced Tuesday that the offensive was launched last Friday and intensified Monday and Tuesday.

The drive occurred a week before the leftist Sandinistas were to negotiate with the U.S.-supported rebels about a cease-fire in their six-year war. Three days of talks scheduled to begin next Monday in the small southern town of Sapoa, near the border with Costa Rica.

The U.S. House of Representatives defeated a $30 million aid package for food and clothing for the rebels two weeks ago, just after U.S. aid ran out. President Reagan opposed the package because it did not contain military aid.

In a White House meeting Tuesday, Reagan pleaded with congressional leaders for a renewal of Contra aid, but met an icy reception from Democrats.

Congressional sources, declining to be identified, said Reagan pounded the table and said, "there are some people around this table who don't seem to know who the bad guys are down there."

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[From the Wall Street Journal, Mar. 16, 1988]

JIM WRIGHT'S VIETNAM

It took more than a decade for three Presidents to lose Vietnam. It may take less than a year for one Speaker of the House to lose Nicaragua.

On Feb. 3, House Speaker Jim Wright engineered a dramatic defeat of President Reagan's aid request for the Nicaraguan Contras, and effectively took U.S. policy in Central America away from the executive branch and lodged it squarely in the legislature. Less than two months later, the U.S. has no policy whatsoever.

Yesterday, the Sandinistas made it clear that the road to "peace" runs along two tracks. Daniel Ortega announced in Managua that the Nicaraguan army has undertaken a large-scale military operation against the recently defunded Contras, code-named the assault "Triumph or Death." According to a State Department briefer, this offensive includes 12 combat battalions with some 6,000 troops and about 10 Soviet MI-17 helicopters.

How this is possible in an economy that is reportedly flat on its back was indicated late last week by an Associated Press story, reporting that according to a Pentagon estimate the Soviet Union in the first eight weeks of this year has sent Nicaragua 3,100 metric tons of weapons and war materiel worth about $100 million. So at the same time that Jim Wright is killing aid to the Contras, the Russians are sending the Sandinistas aid to kill the Contras.

Do the Democrats care? Not likely.

On Feb. 26 the House Democratic Study Group sent an extraordinarily revealing letter to the Central American Working Group, a collection of anti-Contra organizations. "Nothing will bring peace faster," the letter says, "than destroying Contra hopes for more military aid." The Democrats wanted to reassure their outside allies that they wished to "send a strong message to the Contras that our support of their war has ended. The sooner the Contras understand that fact, the sooner the fighting will end in Nicaragua and the sooner we can begin addressing the real problems in Central America of poverty and the maldistribution of wealth."

This, then, is what the foreign policy of the United States looks like when Congress expropriates a constitutional responsibility from the presidency. It looks like the Flying Dutchman—tattered, adrift, pathetic. Yesterday, trying to regain control of the rudder, President Reagan met with the congressional leadership. He is trying to design a Contra aid plan on which the Senate could vote sometime this week. There most likely will be "humanitarian" aid (largely medicine and the like to treat Contras who've already been shot) and possibly something vaguely "military" (spare helicopter parts). Much debate will go into whether this stuff would be delivered by the CIA (denounced as a kind of evil empire by House Democrats) or the Pentagon (which says it doesn't want to get involved).

While the country's foreign policy is floating in the Beltway void, the people of Nicaragua who aren't Contras are getting belted. Two Sundays ago, a peaceful demonstration by Nicaragua's political opposition was set upon with remarkable savagery by Sandinista gangs swinging clubs and metal bars. Women protesting the military draft were beaten up. A Washington Post reporter who had watched one Sandinista lead the gangs asked him if these violent attacks would affect Nicaragua's position in the peace talks. "What violence?" he replied. "There was no violence here." Tass, the Soviet news agency, also reported a version of Sunday's demonstration: "The attempt of Nicaraguan reactionary ultra-rightists * * * ended in a failure." Indeed it did.

These Sandinista mob attacks on other Nicaraguans have occurred for several weeks now, and to our knowledge the congressional Democratic leadership, normally vigilant for human-rights abuse, hasn't said a word to defend the Sandinists' opposition. Instead, various of Speaker Wright's congressional associates keep babbling about "giving the peace process a chance."

Surely it should be perfectly clear to any serious person what is going on in Nicaragua. The Sandinistas, financed by the Russians, are running their version of North Vietnam's victory strategy—sign onto an endless negotiation, let Congress defund its own ally, import Communist-bloc war materiel and roll over the weakened opposition.

Asked about a new presidential aid request, Jim Wright talked about morality. "If I schedule it, the President would have some moral responsibility to help pass it," he said. "I don't want to run it out there and be defeated again." Mr. Wright should be less timid in his convictions. After all, he isn't the one who has to risk getting hit over the head with a metal pipe.

Mr. ARMSTRONG. I do so, Mr. President, because whenever the issue of Central America comes up, someone says, "Well, it is all administration propaganda. It is all the Defense Department," or, "it is the White House," or, "it is the CIA passing on this information," which is exaggerated, which is wrong, which is prejudicial, which in some way is cut to the cloth of some preconceived notion of an administration that is bent on perpetuating the conflict.

Nothing can be further from the truth. But it does seem to me that since that is always what comes up every time you start to talk about the abuses of the Ortega regime, about the promises that they have broken, you always hear, "Well, that is just State Department stuff, that is just the CIA."

Mr. President, I have put in the RECORD, with permission of the body, quite a number of articles which I hope my colleagues will take the time to read, and there is not a one of them that was prepared by any Government source, so far as I know, except for the fact that they were compiled, that is to say, they were clipped out of the newspaper and duplicated by the Republican Policy Committee of the United States.

I hope my colleagues will reflect well upon what is happening and upon the responsibility which we have for the outcome in that troubled region of the world.

I do not know what the next step will be. I hope that as a consequence of the tragic developments in Central America during the last 36 hours, that many of my colleagues had a sleepless night last night, as well they should have. I hope many of them are thinking again of their role in turning down the President's request, and that even now they are preparing themselves to change their minds. I do not know what the President's action will be, but I have urged the President to send up a renewed aid request, and I made two additional suggestions.

I spent about an hour with the President yesterday, in part discussing this matter, and I said, first, "Mr. President, don't send up another request for $30 million." I hope he will send up a request for at least $100 million. I want to make it clear I am not speaking for the President. I am just telling my colleagues what I have recommended to him. The request for $30 million was minimal. I think in view of the damage to the credibility of U.S. policy that has already resulted, we ought to ask for enough to make it clear that we are in for the long haul, that we do not intend to turn the support on for the democratic resistance and then withdraw it again.

So I think we ought to ask for enough to sustain the freedom fighters in the field for some time.

Second, I have recommended to the President that he not be too accommodating with those who really are not in favor of supporting the freedom fighters.

To his credit, I suppose, the President and those around him have at every step of the way tried to slice the issue thinner and thinner and thinner and to somehow find a formulation that would be broadly satisfying to every Member of the Senate and every Member of the House of Representatives. In the process of doing so—and this is the legislative process, but in the process of doing so, the whole issue has become so diffused that it is very difficult for people at home to know what is going on.

I do not think the issues are that complicated but when one gets trigger mechanisms, fenced appropriations, contingency plans, when the very words that are used to describe what is transpiring in the legislation that is introduced become so fuzzy, the inevitable result is that people at home do not know what the issue is.

Mr. President, I hope Senators know what the issue is. It is whether we are for communism in Central America or whether we are prepared to support people who are fighting bravely for their freedom and to oppose the permanent imposition of a Communist dictatorship in Nicaragua, a hazard not only to the freedom of people there but to security of other nations in the region and to our own country.

It really is just that. Are we prepared to back people who are fighting bravely for their own freedom?

Mr. President, there are other issues, and I would be the last one to deny that human rights are an issue, the Monroe Doctrine is an issue, banana republic is an issue, whether we are handling everything just right is an issue, whether all the people in the democratic resistance are of our choosing, and so on and so forth. There is a lot of collateral issues but they are not the main issue.

Someone has said, and I have forgotten who it was—I used to know—that there is a difference between foxes and hedgehogs, that foxes know many things, hedgehogs only know one great thing. Well, the one great thing to know about this is the issue is communism or freedom. The rest of these matters are fundamentally intellectual cul-de-sacs, not unworthy but far removed from the main issue.

And so, Mr. President, while I make no predictions I express the hope that in very short order the President will send up a renewed request for aid to the democratic resistance in Central America and that the Congress will act promptly to approve it.

Mr. President, I thank the Chair and I thank my colleagues. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

PRICE-ANDERSON ACT AMENDMENTS

The Senate continued with the consideration of the bill (H.R. 1414).

Mr. JOHNSTON. Mr. President, to inform the Senate what we have in mind here, Senator GLENN will soon lay down his amendment which we would then expect, after he speaks for a couple of minutes on that, temporarily to lay that aside, then to seek a time agreement on the issue of the amount of time by which the Price-Anderson bill will be extended. That would be a 1-hour time agreement total, actually with a first-degree amendment on a 30-year extension, 30 minutes equally divided, and then a 30-minute time agreement on a second-degree amendment for a 20-year extension. So it could be a total of 1 hour of debate with perhaps two votes. And we will place that unanimous consent very shortly. But that would mean we probably will have a vote occurring at around 7:30, I would think.

I yield the floor.

AMENDMENT NO. 1677

(Purpose: To create an independent oversight board to ensure the safety of Department of Energy nuclear facilities, to apply the provisions of OSHA to certain Department of Energy nuclear facilities, to ensure independent research on the effects of radiation on human beings, and for other purposes)

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN] proposes an amendment numbered 1677.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, between lines 2 and 3, insert the following:

"TITLE I—PRICE-ANDERSON ACT AMENDMENTS ACT OF 1987"

On page 1, line 4, strike "Act" and insert "title".

At the end of the bill, add the following titles:

TITLE II—INDEPENDENT NUCLEAR SAFETY BOARD OVERSIGHT OVER DEPARTMENT OF ENERGY NUCLEAR FACILITIES

SHORT TITLE

SEC. 201. This title may be cited as the "Defense Nuclear Safety Board Oversight Act of 1987".

FINDINGS AND PURPOSE

SEC. 202. (a) The Congress finds that—

(1) there is a need for independent oversight of safety operations at nuclear facilities controlled by the Department of Energy;

(2) continual review and assessment by expert outside authorities would be of assistance in identifying actual or potential safety problems, research requirements, and needed standards at these nuclear facilities; and

(3) there will continue to be a requirement for an assured source of critical nuclear materials as long as the United States continues to rely on nuclear weapons for national security.

(b) The purpose of this title is to establish a Defense Nuclear Safety Board that will help to ensure the protection of public health and safety in activities at Department of Energy nuclear facilities by—

(1) reviewing and evaluating the implementation of health and safety standards, as well as applicable Department of Energy Orders at each nuclear facility;

(2) conducting independent investigations of the safety of operations at Department of Energy nuclear facilities;

(3) recommending to the Department of Energy improvements in its nuclear facilities, operations, and health and safety standards, including suggestions for areas of needed research; and

(4) informing the Congress of its findings and recommendations.

ESTABLISHMENT OF DEFENSE NUCLEAR SAFETY BOARD

SEC. 203. (a)(1) The Atomic Energy Act of 1954 (68 Stat. 919; 42 U.S.C. 2011 et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER 21. NUCLEAR SAFETY BOARD

"SEC. 311. ESTABLISHMENT.—(a) There is established as an independent establishment in the executive branch a Defense Nuclear Safety Board (hereafter in this chapter referred to as the 'Board').

"(b)(1) The Board shall be composed of 5 members appointed by the President, by and with the advice and consent of the Senate, from among respected experts in the field of nuclear safety with a demonstrated competence and knowledge relevant to the independent investigative and oversight functions of the Board. No more than 3 members of the Board shall be of the same political party. Not later than 90 days after the date of the enactment of the Defense Nuclear Safety Board Oversight Act of 1987, the President shall submit such nominations for appointment to the Board.

"(2) Any vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

"(3) No member of the Board may have any significant financial relationship with the Department of Energy or with any firm, company, corporation, or other entity engaged in activities under contract with the Department of Energy.

"(c)(1) The Chairman and Vice Chairman of the Board shall be designated by the President. The Chairman and Vice Chairman and other Board members may be reappointed to such offices.

"(2) The Chairman shall be the chief executive officer of the Board and, subject to such policies as the Board may establish, shall exercise the functions of the Board with respect to—

"(A) the appointment and supervision of employees of the Board;

"(B) the organization of any administrative units established by the Board; and

"(C) the use and expenditure of funds.

The Chairman may delegate any of the functions under this paragraph to any other member or to any appropriate officer of the Board.

"(3) The Vice Chairman shall act as Chairman in the event of the absence or incapacity of the Chairman or in case of a vacancy in the office of Chairman.

"(d)(1) Except as provided under paragraph (2), the members of the Board shall serve for terms of 6 years. Members of the Board may be reappointed.

"(2) Of the members first appointed—

"(A) one shall be appointed for a term of 2 years;

"(B) two shall be appointed for a term of 4 years; and

"(C) two shall be appointed for a term of 6 years,

as designated by the President at the time of appointment.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term of office for which such member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office.

"(4) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(e) Three members of the Board shall constitute a quorum, but a lesser number may hold hearings.

"(f) The Board may, for the purpose of performing its responsibilities under this chapter—

"(1) employ such personnel as it considers necessary to perform administrative, clerical, technical, and other duties, but not more than the equivalent of 100 full-time employees;

"(2) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5, United States Code, at rates the Board determines to be reasonable; and

"(3) prescribe regulations to carry out the responsibilities of the Board under this chapter.

"SEC. 312. FUNCTIONS AND POWERS OF THE BOARD; RESPONSIBILITIES OF THE SECRETARY OF ENERGY.—(a) The Board shall have the following functions and powers:

"(1) The Board shall review and evaluate the implementation of the health and safety standards of the Department of Energy, including all applicable Department of Energy Orders, at each Department of Energy nuclear facility. The Board shall recommend to the Secretary of Energy those specific measures that should be adopted to ensure that public health and safety are adequately protected at Department of Energy nuclear facilities. The Board shall recommend necessary changes in the content and implementation of such Orders, and recommend matters on which research or additional research is needed.

"(2)(A) The Board shall investigate actual or potential nuclear incidents, if any, at a Department of Energy nuclear facility.

"(B) The purpose of any Board investigation under subparagraph (A) shall be—

"(i) to determine whether the Secretary of Energy is adequately implementing the health and safety standards of the Department of Energy, including all applicable Department of Energy Orders, at Department of Energy nuclear facilities;

"(ii) to ascertain information concerning the circumstances of any actual or potential nuclear incident, and its implications for public health and safety;

"(iii) to determine whether such actual or potential nuclear incident is related to other actual or potential nuclear incidents at other Department of Energy nuclear facilities; and

"(iv) to provide to the Secretary of Energy such recommendations for changes in Department of Energy Orders and safety regulations and requirements, and such recommendations relating to research needs, as may be prudent or necessary.

"(3) The Board shall have access to and may systematically analyze design and operational data, including safety analysis reports, from any Department of Energy nuclear facility.

"(4) The Board may conduct special studies pertaining to safety at any Department of Energy nuclear facility.

"(5) The Board may evaluate information received from the scientific and industrial communities, and from the interested public, with respect to—

"(A) actual or potential nuclear incidents at any Department of Energy nuclear facility; or

"(B) suggestions for specific measures to improve health and safety standards, the implementation of health and safety standards, or research relating to health and safety standards at Department of Energy nuclear facilities.

"(6)(A) The Board shall recommend to the Secretary of Energy those specific measures that should be adopted to reduce substantially the likelihood that actual or potential nuclear incidents which would adversely affect public health or safety will occur at any Department of Energy nuclear facility. In making its recommendations pursuant to this section the Board shall consider the technical and economic feasibility of implementing the recommended measures.

"(B) If the Secretary of Energy determines that any action recommended by the Board or any action proposed to be taken by the Secretary in response to the Board's recommendation might affect the ability of the Department of Energy to meet the annual nuclear weapons stockpile requirements established pursuant to section 91 of this Act, the Secretary shall inform the President, the Secretary of Defense, and the Committees on Armed Services and Appropriations of the Senate and House of Representatives of such recommendation and his determination and shall consult with the Secretary of Defense on such action.

"(7)(A) The Board may establish reporting requirements which shall be binding upon the Secretary of Energy.

"(B) The information which the Board may require to be reported under this paragraph may include any materials designated as classified material pursuant to any other provision of this Act, or any materials designated as safeguards information and protected from disclosure under section 147 or 148 of this Act.

"(C) The Board may, for the purpose of carrying out its responsibilities under this chapter use any facility, contractor, or employee of any other department or agency of the Federal Government with the consent of and under appropriate support arrangements with the head of such department or agency and, in the case of a contractor, with the consent of the contractor.

"(D) The Secretary of Energy shall fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information as the Board considers necessary to carry out its responsibilities under this chapter. Each contractor operating a Department of Energy nuclear facility under a contract awarded by the Secretary shall, to the extent provided in such contract or otherwise with the contractor's consent, fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information of the contractor as the Board considers necessary to carry out its responsibilities under this chapter.

"(E) The Secretary of Energy may deny access to information provided to the Board to any person who—

"(i) has not been granted an appropriate security clearance or access authorization by the Secretary of Energy; or

"(ii) does not need such access in connection with the duties of such person.

"(8) Before beginning construction of a new Department of Energy nuclear facility the Secretary of Energy shall give the Board the opportunity to review the design of such facility and to recommend to the Secretary, within a reasonable time, such modifications of the design as the Board considers necessary to ensure adequate protection of public health and safety. During the construction of any such facility, the Secretary shall give the Board the opportunity periodically to review and monitor the construction and to submit to the Secretary, within a reasonable time, such recommendations relating to the construction of that facility as the Board considers necessary to ensure adequate protection of public health and safety.

"(b)(1) The Board or, on the authorization of the Board, any member thereof, may, for the purpose of carrying out this section, hold such hearings and sit and act at such times and places, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such evidence as the Board or an authorized member may find advisable.

"(2)(A) Subpoenas may be issued only under the signature of the Chairman or any member of the Board designated by him and shall be served by any person designated by the Chairman or any member. The attendance of witnesses and the production of evidence may be required from any place in the United States at any designated place of hearing in the United States.

"(B) Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

"(C) Any person who willfully neglects or refuses to qualify as a witness, or to testify, or to produce any evidence in obedience to any subpoena duly issued under the authority of this paragraph shall be fined not more than $500, or imprisoned for not more than 6 months, or both. Upon certification by the Chairman of the Board of the facts concerning any willful disobedience by any person to the United States Attorney for any judicial district in which the person resides or is found, the United States Attorney may proceed by information for the prosecution of the person for the offense.

"SEC. 313. BOARD RECOMMENDATIONS.—(a) Subject to subsection (h), the Board shall make all recommendations submitted to the Secretary of Energy by the Board under this chapter available to the public in the Department of Energy's regional public reading rooms and shall publish in the Federal Register such recommendations and a request for the submission of public comments on such recommendations to the Board. Interested persons shall have 30 days after the date of the publication of such notice in which to submit comments, data, views, or arguments to the Board concerning the recommendations.

"(b)(1) The Secretary of Energy shall transmit to the Board, in writing, a statement as to whether he accepts or rejects, in whole or in part, the recommendations submitted to him by the Board under this section, a description of the actions to be taken in response to the recommendations, and his views on such recommendations. The Secretary of Energy shall transmit his response to the Board within 45 days after the date of the publication, under subsection (a), of the notice with respect to such recommendations or within such additional period, not to exceed 45 days, as the Board may grant.

"(2) At the same time as the Secretary of Energy transmits his response to the Board under paragraph (1), the Secretary, subject to subsection (h), shall publish such response, together with a request for public comment on his response, in the Federal Register.

"(3) Interested persons shall have 30 days after the date of the publication of the Secretary of Energy's response in which to submit comments, data, views, or arguments to the Board concerning the recommendations.

"(4) The Board may hold hearings for the purpose of obtaining public comments on its recommendations and the Secretary of Energy's response.

"(c) The Board shall furnish the Secretary of Energy with copies of all comments, data, views, and arguments submitted to it under subsection (a) or (b).

"(d) If the Secretary of Energy, in a response under subsection (b)(1), rejects any recommendation made by the Board under section 312(a)(6)(A), the Board shall either reaffirm its original recommendation or make a revised recommendation and shall notify the Secretary of its action. Within 30 days after receiving the notice of the Board's action under this subsection, the Secretary shall consider the Board's action and make a final decision whether to implement all or part of the Board's recommendations. Subject to subsection (h), the Secretary shall publish the final decision and the reasoning for such decision in the Federal Register and shall transmit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report, in writing, containing that decision and reasoning.

"(e) The Secretary of Energy shall prepare a plan for the implementation of each recommendation submitted by the Board under section 312(a)(6)(A) that is accepted by the Secretary. The Secretary shall transmit the implementation plan to the Board within 90 days after the date of the publication of the Secretary's final decision on such recommendation in the Federal Register. The Board may extend, by not more than 45 days, the time for the Secretary to transmit the plan. The Secretary may implement any such recommendation before, on, or after the date on which the Secretary transmits the implementation plan to the Board under this subsection.

"(f) In any case in which the Board determines that a recommendation submitted to the Secretary of Energy under section 312(a)(6)(A) relates to an imminent or severe threat to public health and safety the Board, in addition to taking the actions required by subsection (a), shall transmit that recommendation to the President, the Secretary of Defense, and the Committees on Armed Services and Appropriations of the Senate and the House of Representatives at the same time that the Board transmits the recommendation to the Secretary of Energy. If the Secretary of Energy rejects the recommendation after considering the Board's action on the recommendation under subsection (d), then, notwithstanding that subsection, the Secretary shall submit the recommendation to the President. The President shall review the Secretary of Energy's response to the recommendation, the Board's action on such response, and the Secretary's determination under subsection (d) and shall make the final decision concerning acceptance or rejection of the recommendation.

"(g)(1)) Subject to paragraphs (2) and (3), not later than one year after the date on which the Secretary of Energy receives a recommendation from the Board under section 312(a)(6)(A), the Secretary shall implement that recommendation if accepted by the Secretary.

"(2) If the Secretary of Energy determines that the implementation of a recommendation referred to in paragraph (1) is impracticable because of budgetary considerations, the Secretary shall submit to the President a report containing the recommendation and the Secretary's determination. The President shall determine whether to request Congress to appropriate funds for the implementation of the recommendation. If the President does not provide for the implementation of such recommendation in the next budget submitted to Congress under section 1105(a) of title 31, United States Code, after the date on which the President receives the report from the Secretary and, before the date of the submission of such budget to Congress, has not submitted a request to Congress for the appropriation of funds for the implementation of such recommendation for any fiscal year ending before the fiscal year for which such budget is submitted, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report containing the recommendation and a discussion of the budgetary consequences, safety consequences, national security consequences, and other implications of implementing or not implementing the recommendation.

"(3) If the Secretary of Energy determines that the implementation of a recommendation referred to in paragraph (1) would affect the Secretary's ability to meet the annual nuclear weapons stockpile requirements established pursuant to section 91 of this Act, the Secretary shall submit to the President a report containing the recommendation and the Secretary's determination. The President, in consultation with the Secretaries of Defense and of Energy, shall review the determination of the Secretary of Energy. If the President determines that, for reasons of national security, the recommendation should not be implemented, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report containing the recommendation and a discussion of the reasons for his determination.

"(h) Notwithstanding any other provision of this section, the requirements to make information available to the public under this section shall be subject to the orders and regulations issued by the Secretary of Energy under sections 147 and 148 of this Act to prohibit dissemination of certain information.

"SEC. 314. REPORTS.—(a)(1) The Board shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives each year, at the same time that the President submits the budget to Congress pursuant to section 1105(a) of title 31, United States Code, a written report concerning its activities under this chapter, including all recommendations made by the Board, during the year preceding the year in which the report is submitted. The Board may also issue periodic unclassified reports on matters within the Board's responsibilities.

"(2) The annual report under paragraph (1) shall include an assessment of—

"(A) the improvements in the safety of the Department of Energy nuclear facilities during the period covered by the report;

"(B) the improvements in the safety of the Department of Energy nuclear facilities resulting from actions taken by the Board or taken on the basis of the activities of the Board; and

"(C) the outstanding safety problems, if any, within or in the operation of the Department of Energy's nuclear facilities.

"(b) The Secretary of Energy shall submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives each year, at the same time that the President submits the budget to Congress pursuant to section 1105(a) of title 31, United States Code, a written report concerning the activities of the Department of Energy under this chapter during the year preceding the year in which the report is submitted.

"SEC. 315. ASSISTANCE FROM CERTAIN AGENCIES OF THE FEDERAL GOVERNMENT.—(a) With the consent of and under appropriate support arrangements with the Nuclear Regulatory Commission, the Board may obtain the advice and recommendations of the staff of the Commission on matters relating to the Board's responsibilities and may obtain the advice and recommendations of the Advisory Committee on Reactor Safeguards on such matters.

"(b) The Director of the Naval Nuclear Propulsion Program may provide to the Board assistance and advice on matters relating to the Board's responsibilities.

"SEC. 316. ASSISTANCE FROM ORGANIZATIONS OUTSIDE THE FEDERAL GOVERNMENT.—The Board may enter into an agreement with the National Research Council of the National Academy of Sciences or any other appropriate group or organization of experts outside the Federal Government chosen by the Board to evaluate and interpret the differences between Nuclear Regulatory Commission regulations and Department of Energy Orders governing nuclear facilities, including the implications for public health and safety. The agreement should provide for the council, group, or organization to transmit to the Board any recommendation for issuance of a new safety standard by the Department of Energy or for amendment of a Department of Energy safety standard as such council, group, or organization considers appropriate.

"SEC. 317. JUDICIAL REVIEW.—Chapter 7 of title 5, United States Code, shall apply to activities of the Board under this chapter.

"SEC. 318. DEFINITION.—As used in this chapter, the term 'Department of Energy nuclear facility' means—

"(1) a production facility or utilization facility under the control or jurisdiction of the Secretary of Energy, but does not include any facility or activity covered by Executive Order numbered 12344, dated February 1, 1982, pertaining to the Naval nuclear propulsion program, or facilities or activities involved with the testing or transportation of nuclear explosives or nuclear material; and

"(2) a nuclear waste storage facility under the control or jurisdiction of the Secretary of Energy, but does not include a facility developed pursuant to the Nuclear Waste Policy Act of 1982 (96 Stat. 2201; 42 U.S.C. 10101 et seq.) and licensed by the Nuclear Regulatory Commission.

"SEC. 319. TERMINATION.—(a) The Board shall terminate upon the expiration of the 6-year period beginning on the date of the enactment of the Defense Nuclear Safety Board Oversight Act of 1987.

"(b) This chapter shall not be effective after the date on which the Board terminates under subsection (a).".

(2) The table of contents at the beginning of the Atomic Energy Act of 1954 is amended by adding at the end the following:

"CHAPTER 21—DEFENSE NUCLEAR SAFETY BOARD

"Sec. 311. Establishment.
"Sec. 312. Functions and powers of the Board; responsibilities of the Secretary of Energy.
"Sec. 313. Board recommendations.
"Sec. 314. Reports.
"Sec. 315. Assistance from certain agencies of the Federal Government.
"Sec. 316. Assistance by organizations outside the Federal Government.
"Sec. 317. Judicial review.
"Sec. 318. Definition.
"Sec. 319. Termination.".

(b) The fifth annual report submitted by the Defense Nuclear Safety Board to the Committees on Armed Services of the Senate and House of Representatives under section 314 of the Atomic Energy Act of 1954 (as added by subsection (a)) shall include—

(1) an assessment of the degree to which the overall administration of the Board's activities are believed to meet the objectives of the Congress in establishing the Board;

(2) recommendations for continuation, termination, or modification of the Board's functions and programs, including recommendations for transition to some other independent oversight arrangement if it is advisable; and

(3) recommendations for appropriate transition requirements in the event that modifications are recommended.

SALARY LEVEL FOR BOARD MEMBERS

SEC. 204. Section 5314 of title 5, United States Code, is amended by inserting after "Members, Nuclear Regulatory Commission." the following:

"Members, Defense Nuclear Safety Board.".

TRANSFER

SEC. 205. The Secretary of Energy shall transfer to the Nuclear Safety Board established by section 311 of the Atomic Energy Act of 1954 (as added by section 203 of this Act) $7,000,000 to be derived from funds appropriated or otherwise available to the Department of Energy for fiscal year 1988. The amount transferred under this section shall be available to such board to carry out its responsibilities under chapter 21 of the Atomic Energy Act of 1954 (as added by section 203 of this Act) and shall remain available until expended.

TITLE III—APPLICATION OF OSHA AND NIOSH TO DOE NUCLEAR FACILITIES

SEC. 301. (a) Congress finds that—

(1) worker health and safety at Department of Energy nuclear facilities could be made substantially safer by applying the standards developed by experts in the field of occupational health and safety;

(2) the Secretary of Labor has a longstanding responsibility for the health and safety of workers (including the enforcement of occupational health and safety standards and other protective labor standards programs) and could provide substantial assistance in developing, improving, and enforcing the standards at Department of Energy nuclear facilities; and

(3) the Secretary of Health and Human Services has a continuing responsibility for evaluating health and safety needs related to radiation and toxic substances standards and could provide substantial assistance in improving and enforcing the standards at Department of Energy nuclear facilities.

(b) The purpose of this title is to improve and enforce standards for employee health and safety at Department of Energy nuclear facilities.

APPLICATION OF OSHA TO DOE NUCLEAR FACILITIES

SEC. 302. (a) Section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)) is amended—

(1) by striking out "Nothing" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), nothing"; and

(2) by adding at the end thereof the following new subparagraph:

"(B)(i) Notwithstanding any other provision of this Act, this Act shall apply with respect to employment performed in—

"(I) a production facility or utilization facility (as defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014)) under the control or jurisdiction of the Secretary of Energy;

"(II) a facility subject to such Act (42 U.S.C. 2011 et seq.) under the control or jurisdiction of the Secretary of Energy; and

"(III) a waste storage facility under the control of or jurisdiction of the Secretary of Energy.

"(ii) This subparagraph shall not apply to a facility or activity covered under Executive Order 12344 (42 U.S.C. 7158 note).".

(b)(1) All regulations and standards relating to occupational health and safety applicable to Department of Energy nuclear facilities described in section 4(b)(1)(B)(i) of the Occupational Safety and Health Act of 1970 (as amended by subsection (a)) that are in effect on the date of enactment of this Act shall remain in effect until superseded by regulations and standards promulgated by the Secretary of Labor in accordance with paragraph (2).

(2) The Secretary of Labor shall promulgate specific regulations to govern the application of such Act to such Department of Energy nuclear facilities. The regulations shall include—

(A) the occupational health and safety standards to be applied to such facilities; and

(B) the manner and process for enforcement of the standards, which shall include provisions for—

(i) the safeguarding of information, consistent with the needs of employees of the Occupational Safety and Health Administration;

(ii) mechanisms and processes for enforcement, including the right of entry for unannounced inspections without probable cause;

(iii) receipt of complaints from individuals and protection of the individuals from retribution for making the complaints;

(iv) procedures for inspection at such facilities not less than once each year; and

(v) such other regulations as are necessary to carry out this title and the amendments made by this title.

PERFORMANCE OF NIOSH FUNCTIONS AT DOE NUCLEAR FACILITIES

SEC. 303. Section 22 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 671) is amended by adding at the end thereof the following new subsection:

"(g)(1) Notwithstanding any other provision of this Act, the Director and the Institute shall perform functions authorized by this Act at Department of Energy nuclear facilities described in section 4(b)(1)(B)(i).

"(2) The Institute shall conduct hazard evaluations at such facilities, including ionizing radiation evaluations.".

COOPERATION WITH INSPECTIONS AND INVESTIGATIONS

SEC. 304. Section 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657) is amended by adding at the end thereof the following new subsection:

"(h)(1) Except as provided in paragraph (2), the Secretary of Energy and each contractor operating a nuclear facility described in section 4(b)(1) shall—

"(A) cooperate with the Secretary of Labor and the Secretary of Health and Human Services in the conduct of an inspection or investigation under this Act at such facility;

"(B) grant access to such facility to enable the conduct of such inspection or investigation; and

"(C) provide all information that is necessary to conduct such inspection or investigation.

"(2) To protect the confidentiality of information, the Secretary of Energy may deny access to any person who—

"(A) has not been granted a security clearance or access authorization by the Secretary; or

"(B) does not require such access in connection with the duties of such person to enforce this Act.".

TITLE IV—RADIATION STUDY ADVISORY BOARD ACT OF 1987

SHORT TITLE

SEC. 401. This title may be cited as the "Radiation Study Advisory Board Act of 1987".

FINDINGS

SEC. 402. The Congress makes the following findings:

(1) After many years of study there remain unresolved questions about the health effects of radiation exposure from many sources, including nuclear weapons manufacturing and testing, nuclear reac-

tors, radioactive wastes, and the medical uses of nuclear materials.

(2) Radiation-caused injury and disease, including cancer, birth defects, and genetic damage, must be further examined and better understood.

(3) Public health authorities must be able to direct research efforts on the health effects of radiation so that effective means of protecting the public against dangerous exposure to radiation can be developed and achieved.

(4) The Secretary of Energy is primarily responsible for the production of nuclear materials and nuclear weapons. In addition, the Secretary is required to study the health impact of activities of the Department of Energy. These dual responsibilities have the potential to create public concern as to the integrity and value of the health studies conducted by the Secretary of Energy.

ADVISORY BOARD

SEC. 403. (a)(1) To advise and assist the Secretary of Energy in conducting studies of the effects of radiation under section 103 of the Energy Reorganization Act of 1974 (42 U.S.C. 5813), and any other law, the Secretary of Health and Human Services shall establish an advisory board known as the Radiation Research Board (hereafter referred to as the "Board").

(2)(A) The Board shall consist of 8 members appointed by the Secretary of Health and Human Services, 1 member appointed by the Secretary of Energy, and 2 members appointed by the Secretary of Labor. The Secretary of Health and Human Services shall make appointments to the Board so that the membership of the Board includes individuals who are expert in the health effects of radiation, epidemiology, or toxicology, and public health officials who are concerned with such health effects.

(B) The Secretary of Health and Human Services shall consult with the Director of the Centers for Disease Control, the Director for the National Institute for Occupational Safety and Health, the Director of the National Cancer Institute, the Director of the Center for Devices and Radiological Health, the Director of the National Institute of Environmental Health Sciences, and others in formulating the membership of the Board.

(b)(1) Prior to any authorization or expenditure of funds in an amount greater than $250,000 by the Secretary of Energy for studies of the health effects of radiation, the Secretary of Energy shall provide the Board with all proposals concerning such studies.

(2) The Board shall review the proposals provided under paragraph (1) and make appropriate recommendations to the Secretary of Energy in writing if the Board believes the proposal should be modified or not funded.

(3) The Secretary of Energy shall periodically report to the Congress concerning the implementation of the recommendations of the Board. Such reports shall include specific reasons for each decision by the Secretary not to implement a recommendation made by the Board.

(4) The Board shall annually review the studies conducted pursuant to this title, and advise the Secretary of Energy as to the suggested scope and direction of future studies needed.

(5) The Secretary of Energy, with the assistance of the Board, shall—

(A) insure that all studies undertaken under this title shall be subject to peer review; and

(B) promulgate guidelines for the provision of data from such studies to qualified researchers who are not associated with the Department of Energy in order to implement subparagraph (A).

(c) The Secretary of Health and Human Services shall provide such funds, facilities, and staff as are necessary for the Board.

Mr. GLENN. Mr. President, some years ago I was contacted by the people from the Feed Materials Production Center in Fernald, OH. It is a Department of Energy plant and is the one of the first steps in the production process for our nuclear weapons. It is where the first uranium ingots are put together and sent for radiation in the production reactors. It starts the whole process as far as our production of nuclear weapons fissile material: They were having some problems at that plant with public health and safety.

They had difficulties at that particular time with what they called the bag house. The bag house is a very commonplace name for something that was very, very important. It is literally the filter system, the filter bags, that filter out the uranium oxide dust that is used in that plant and prevents it from going out and being spread over the community.

Mr. President, we found when we went out there that there had been rips in the filters, in the bag house. Uranium oxide dust as a result had been pumped out over not only the site, the Department of Energy's nuclear plant site at Fernald, but uranium oxide had been coming down all over that community. We did not know what effect that may have. But that led to some other investigations out there. We found there was ground water contamination. We found eventually that some 300,000 pounds of uranium oxide dust had sprayed down or filtered down over that community over a number of years. Drinking water wells in the nearby areas on farms were contaminated with uranium from the plant, from Fernald. This whetted our interest in this particular subject.

We did some things with regard to Fernald toward getting that cleaned up, and progress has been made in that area. But it led us to look into the whole DOE system, and over the past 7 or 8 years myself and others have commissioned, a series of reports by the GAO on this issue. We now have 21 reports over the past several years that go into the safety and health difficulties in the whole production process that we use for producing nuclear explosive material for our nuclear weapons.

The basic problem has been this: production of fissile material has been emphasized far beyond the emphasis placed on health and safety matters at these plants. And that is true, I can say without any fear of refutation, throughout Department of Energy complex, from coast to coast.

What happened was back in the days when those plants were first established, everything was secret, very secret around those plants. It still is for many of the processes being used, but much more is now known about those plants. And what we have found is that during those years when the secret nature of what was going on at those plants was emphasized to the extent that it was, and production was paramount, that we let some horrible things happen around those plants as far as safety and health matters go. DOE allowed contamination of the plants, contamination of the individuals who worked there, contamination of the ground water, of filter systems—in other words, we did not pay the same attention to safety around those plants as we have for civilian plants, civilian nuclear electrical generating plants around this country. For those plants, NRC has oversight responsibility as far as safety and health matters go.

Here is one example. OSHA rules apply in these plants only when DOE agrees to them. DOE says yes, they have complied with OSHA regulations in these plants. But we find evidence that DOE perhaps has not been nearly as stringent as OSHA has with regard to other manufacturing processes in this country. So safety and health matters, to summarize, have taken short shrift. They have taken a deep second place to production.

I am the last one in this country who is going to say that we should shut down production if production is needed. So I am not proposing we shut down production. What I am proposing is that we tighten up tremendously on safety and health concerns around these plants.

Through the years as we have pointed out difficulties around these plants, DOE has responded by saying, well, we have a new study, we have a new committee, we have a new advisory group, we have a new division we are putting in within the Department of Energy, or a new agency or a new group. They formed an Office of ESH, Environment, Safety, and Health. So they have done some things. But the problem has always been that it lacked the emphasis that the production side of the House has had. This will continue to be the case as long as DOE has sole responsibility for health and safety.

We have had testimony before the Governmental Affairs Committee from experts that not one single Department of Energy fissile material manufacturing plant could pass an NRC muster, the same safety standards that we give as an every day exception in our nuclear electrical generating capacities.

When environment, safety, and health recommendations have been made over at DOE, DOE has often found some reasons why they could not do anything to implement them.

Mr. JOHNSTON. Mr. President, would the Senator yield?

Mr. GLENN. Certainly.

Mr. JOHNSTON. I do not want to interrupt the Senator's debate, and I would be glad to debate the amendment at this time. But we had told Senators the vote on the other, if we could get a unanimous consent, would occur about 7:30. So if we are going to go that, I think perhaps——

Mr. GLENN. No. I would be happy to pick up tomorrow where I left off and set this aside. I did not realize we were waiting for this. I thought we were still waiting for them to prepare. I would be happy make the motion to set this aside.

Mr. President, I ask that my amendment, the pending amendment, be set aside temporarily for consideration of a unanimous-consent request by the majority leader.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

Mr. BYRD. Mr. President, I believe this request has been agreed to by all of the principals involved, including the two managers.

I ask unanimous consent that the action on the McClure amendment numbered 1674 be vitiated; provided further that the rights to offer an amendment by Messrs. McCAIN, HUMPHREY, and KERRY be vitiated; provided further that Mr. McCLURE may offer an amendment to extend the Price-Anderson indemnity authority to 30 years; that Mr. BREAUX be authorized to offer an amendment in the second degree to the McClure amendment to extend the indemnity authority to 20 years.

Provided that there be 30 minutes of debate on each amendment—the amendment by Mr. McCLURE, the amendment by Mr. BREAUX; that no tabling motion be in order with respect to either amendment; that the time in opposition on each amendment be divided as follows: 5 minutes to Mr. KERRY, 5 minutes to Mr. HUMPHREY, 5 minutes to Mr. METZENBAUM.

Ordered, further, that no other amendments on this subject matter be in order, which would leave then the amendment by Mr. GLENN pending following the disposition of the McClure amendment and the Breaux amendment, and would also leave in order the three amendments that were ordered as being eligible under the order entered on March 16—namely, a Johnston amendment, a McClure amendment, a Murkowski amendment.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Mr. President, reserving the right to object, there is reserved, also, an Exon amendment to the Glenn amendment.

Mr. BYRD. That is correct.

Mr. EXON. That is what I was rising to protect.

Mr. JOHNSTON. Further reserving the right to object, the action that the majority leader asked to vitiate was the action of yesterday which adopted a 20-year extension to the Price-Anderson Act.

Mr. BYRD. Yes.

Mr. JOHNSTON. So, with the vitiation of that action, we would be back to the present act, which is for 10 years.

Mr. BYRD. Yes.

Mr. JOHNSTON. So that these amendments would be to extend that 10 years to 30 years on the first-degree amendment, and to 20 years on the second-degree amendment?

Mr. BYRD. Yes.

Mr. JOHNSTON. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators.

As I understand it, before I yield the floor, the managers expect at least one rollcall vote yet today.

Mr. McCLURE. Mr. President, will the distinguished majority leader yield?

Mr. BYRD. I yield.

Mr. McCLURE. It is my understanding that the Glenn amendment will be temporarily laid aside now, so that we may deal with the amendments that are in order under this unanimous-consent agreement, and then we will return to the Glenn amendment, after the disposal of this time extension amendment.

Mr. BYRD. Yes. It is my understanding that the vote would not occur on the Glenn amendment today.

Mr. JOHNSTON. That is correct.

Mr. BYRD. So the vote would occur on the amendment by Mr. BREAUX. Would there be a vote on the amendment by Mr. McCLURE in the event the Breaux amendment were to be adopted?

Mr. JOHNSTON. We would hope not. I think that will be the will of the body, and a vote then on the McClure amendment would probably be redundant; but it would be the right of Senators to ask for that vote if they wish.

Mr. BYRD. So Senators should be on notice that there will be at least one rollcall vote today.

Mr. McCLURE. It would be my expectation that if the Breaux amendment were adopted, there would be no need for a rollcall vote with respect to the McClure amendment, as amended. So I hope there would be a rollcall vote; and if the Breaux amendment is adopted, the remaining action could be done by voice vote.

Mr. BYRD. In the alternative, there would be another rollcall vote, that being on the McClure amendment.

Mr. McCLURE. That is correct.

Mr. BYRD. Should Senators order the yeas and nays now on the Breaux amendment?

Mr. BREAUX. Yes.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the Breaux amendment, even though it is not before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I thank all Senators.

Our respective cloakrooms should notify Senators that there will be at least one rollcall vote yet today. It will be a 15-minute rollcall vote, and I hope that Senators will be present during the 15-minutes, so that they will not miss the vote.

The text of the agreement follows:

Ordered, That at 10:30 a.m. on Tuesday, March 22, 1988, there be 1½ hours of debate on the President's veto message on S. 557, a bill to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964, with the time to be equally divided and controlled in the usual form by the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Utah [Mr. HATCH].

Ordered further, That at 12:00 noon on Tuesday, March 22, 1988, the Senate vote on overriding the President's veto of S. 557.

AMENDMENT NO. 1678

(Purpose: To extend the indemnification authority under the Price-Anderson Act for 30 years, until August 1, 2017; and to require the Nuclear Regulatory Commission to report to Congress by August 1, 2013, and the Secretary of Energy by August 1, 1997, and every 10 years thereafter, on the need for modifications to the Price-Anderson Act provisions)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 1678.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 5, strike the date "1997" and insert the date "2017".

On page 7, line 16, strike the date "1999" and insert the date "2017".

On page 19, line 9, strike "1997" and insert in lieu thereof "2017".

On page 30, lines 18 and 19, strike " "and the Secretary shall submit to the Congress by August 1, 1993, detailed reports";" and insert ""shall submit to the Congress by August 1, 2013, and the Secretary shall submit to the Congress by August 1, 1997, and every ten years thereafter, detailed reports";"

Mr. McCLURE. Mr. President, this is the amendment I offered yesterday, which would extend the time period for the extension of the Price-Anderson Act from the bill's 10-year extension to 30 years. That amendment was in discussion then and modified to 20 years, which was then adopted. That has now been set aside by the unanimous-consent agreement.

The bill already provides for inflation indexing, so that the $7 billion will be inflation proof over time. This would assure the public that there will be no lapse in coverage when waste begins to be accepted in the waste repository around the year 2000 and well into the period of full operation, around 2010.

In any event, where Congress identifies the problem, it can also amend the act before the end of the 30-year period. The reports provided by NRC annually and by DOE every 10 years will help Congress identify any problems and keep Congress adequately informed.

Mr. President, it seems to me that it is wise, in view of the pacing of the program, as well as the difficulty of obtaining an extension, that we ought not have simply a 10-year extension of time. I think our experience has indicated that it takes us about 5 years to act, and we are behind already on the last cycle. It does not seem to me, in view of that experience, that it is wise to limit the extension to a 10-year period and then 5 years from now have to start the process of extension in order to avoid a lapse at the end of that time.

Mr. President, I reserve the remainder of my time.

Mr. BREAUX. Mr. President, I should like to make a couple of comments on the amendment offered by the Senator from Idaho.

The issue before the Senate at this point in the debate is whether we are going to extend the Price-Anderson insurance program for 10 years or for 20 years or for 30 years.

The Senator from Idaho makes the argument that we should do it for 30 years because it provides stability. It does provide stability, but what is even more important is what it does not provide. A 30-year extension does not provide the money that is needed in case of an accident, which we hope will never occur.

The PRESIDING OFFICER. The Chair interrupts the Senator to ask who has yielded time to the Senator from Louisiana.

Mr. JOHNSTON. Who is in control of the time?

The PRESIDING OFFICER. The Senator from Idaho is in control of 15 minutes. On this amendment, Senator KERRY, Senator HUMPHREY, and Senator METZENBAUM have 5 minutes each, in opposition.

Mr. McCLURE. How much time does the Senator require?

Mr. BREAUX. Three minutes.

Mr. McCLURE. I yield 3 minutes to the Senator.

Mr. BREAUX. I thank the author of the amendment for allowing me to speak in opposition to his amendment, on his time.

The only point I make about the amendment is that after 30 years, if something happened, we would not have enough money to pay out the claims. The amount of money in the fund is based on the number of reactors, because the reactors make contributions in case of an accident.

The projection is that there will be very few, if any, new reactors. Therefore, after these reactors live through their useful life and are closed, less money will be available to pay out in claims.

So, 30 years, I suggest, is too long a period. After 30 years, the amount that is projected to be available would be only $3.75 billion. We are talking about having a fund that has at least $7 billion in it. Therefore, this is a very clear argument as to why the 30-year period should be rejected, and I will offer an amendment to modify the amendment offered by Senator McCLURE,, to make it a 20-year payment period. I think that is an appropriate period.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator is advised that he controls 5 minutes.

Mr. HUMPHREY. Five minutes have been reserved to this Senator?

The PRESIDING OFFICER. Yes, and 5 minutes to Senator METZENBAUM and 5 minutes to Senator KERRY.

Mr. HUMPHREY. I thank the Chair for the clarification.

Mr. President, if anything, 10 years is too long a reauthorization period, and I will explain why. But to propose 30 years or even 20 years is preposterous.

If anything is the hallmark of the nuclear industry at this point, it is uncertainty. There is great uncertainty in the industry these days, for a number of reasons, fair or unfair.

The events at Three Mile Island and Chernobyl have shaken the confidence of the American people in the safety of nuclear power. Whether that shaking of confidence is justified or not, it has occurred and the American people are worried about nuclear power. They are no longer willing to support it in the way that they did a decade ago. And for that reason and others, economics, fewer and fewer plants are now projected in the future.

Instead, the Nuclear Regulatory Commission projects that the number of operating plants is going to decline, not increase, in the years to come. What that means in economic terms is that the mutual assistance program which the nuclear utilities have created, in which they mutually insure each other, since there are going to be fewer and fewer plants in the years ahead, according to the Nuclear Regulatory Commission estimates, the dollar amount of this insurance is going to decline. This mutual insurance is going to decline in the future years and, as that declines, the liability of the public will increase commensurately. That is the basic problem.

There is a great deal of uncertainty out there about the industry. We ought not to be reauthorizing Price-Anderson for 30 years. That is preposterous. Twenty years, that is preposterous. Frankly, I think 10 years, given the uncertainty in the nuclear power industry, is itself unreasonable. Five years might be more reasonable.

I urge my colleagues, on that basis, to oppose 30 years or 20 years and to support the 10-year authorization that is in the bill as it now stands unamended, inasmuch as the Senator from Idaho and the Senator from Louisiana have graciously vitiated the vote on the previous amendment that was adopted last night. As the bill now stands, reauthorization is for 10 years.

The amendment before us is for 30 years—30 years—before this authorization would come before us once again. On the face of it, it is unwise and imprudent. I think that is self-evident. So is a reauthorization of 20 years.

I would urge my colleagues to support a reauthorization of 10 years, as is in the bill; in other words, to defeat these amendments that are coming before us in this debate.

Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. KERRY. Mr. President, how is the time allocated?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. KERRY. And I take it this will not be taken out of my time, I understand, but we have a subsequent 5 minutes on the second one?

The PRESIDING OFFICER. Yes.

Mr. KERRY. Thank you, Mr. President.

Mr. President, I join my colleague from New Hampshire in opposing the concept of a 30-year reauthorization. I am not going to go at great length into reiterating his argument in its entirety, but for years now—the 1966 reauthorization and the 1975 reauthorization—we have had an acceptance of a 10-year reauthorization.

The danger in the 30 years is twofold. First, the financial danger. Because of the proportional payment program by which existing reactors or plants pay into the liability fund. In a 30-year period, at the current projection of the Commission's own statements, we would be at a level where we would be some $4 billion below the required amount for compensation. That is a danger, Mr. President. We simply would not have the money available that we need for compensation.

The second set of arguments I think are equally as important and they apply not only to the question of 30 years, but they apply to the question of 20 years, and they go to the heart of the matter of why we are today at 10 years. This reauthorization process, just as each reauthorization process before it, has produced significant advancements in the liability process itself. It has produced greater accountability.

All of us know that there are dangers which have developed in the nuclear industry over the years. And to say that we as a Congress are going to abdicate our responsibility to review that nuclear liability process by agreeing to a period of 30 years, all of a sudden, is wrong. Particularly at a moment when, issues of waste as well as the whole question of nuclear power itself are issues that are uncertain and heightened and are as important to the public as they have ever been. To not review them for a 30-year period of time, I think would be an extraordinary abdication of the accountability process which we have accepted for all these years.

Mr. President, we have had reports from the GAO and others on drug use and the safety problems at nuclear facilities. It is our responsibility to guarantee that down the road we are going to review issues that are necessary to guarantee that the citizens of this country are adequately protected.

Mr. President, the industry claims that 30 years or 20 years will provide stability. I would like to point out that if Price-Anderson expires in 10 years, those reactors that have licenses will still be covered by this act. Even the lapse of Price-Anderson last August saw us extend contracts under another law to three new entities. So we are not going to hamper the ability of the industry to move forward.

What we are going to do is provide the citizens of this country and the Congress with the mechanism necessary to be able to understand where we are going.

Mr. President, I thank the distinguished Senator from Louisiana and the Senator from Idaho for their courtesy in rescinding the order of last night. I think they have given us an opportunity to air this issue on the floor and to have a vote. I applaud the process by which they have done that and their generosity in doing so.

I reserve my additional time.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, will the Senator yield to me?

Mr. McCLURE. How much time do I have?

The PRESIDING OFFICER. The Senator has 11 minutes.

Mr. McCLURE. I yield 5 minutes to the distinguished Senator from Louisiana.

Mr. JOHNSTON. I thank my distinguished friend.

Mr. President, we seem to have lost sight, in the consideration of Price-Anderson, of whose benefit this bill is passed for. This is not for the protection of the nuclear industry so much as for a prospective possible injured party or parties. That is what this bill is about.

Without a Price-Anderson bill, then people injured in a nuclear catastrophe would be limited to suing the one utility or the one party at fault, and then they would have to prove fault. They would have to prove their own lack of contributory negligence or assumption of the risk. All of the common law defenses would be available to the defendent.

So what this bill is really doing is giving to injured parties tremendous amounts of rights which they do not have. What this particular bill does, in terms of the extension of Price-Anderson, is to increase many times over, by a factor of over 12, the amount of protection available for individual parties. In other words, if we did not pass this bill, then each utility would have to put up only $5 million in the event of catastrophic accident; with the passage of this bill, it is $63 million.

Now actually, Mr. President, the question of whether we extend for 10 or 20 or 30 years with respect to electric utilities is irrelevant. It is irrelevant because in the next 10 years all plants that can be licensed will be licensed. And once licensed they are subject to Price-Anderson and its limits to the full extent as if it were extended for the life of that license. And these licenses are typically 30-year licenses.

In that respect, a 10- or 20- or 30-year extension is irrelevant. Where it is important, where it is essential is with respect to nuclear contractors, those who manage, for example, the L reactor at Savannah River, the Pantex plant down in Texas that makes nuclear munitions, and the new waste depository will be covered under this. It is very important, Mr. President, that we have a policy in place so that when you get a contractor, hopefully you can get the best contractor in the country and he can have long-term protection. That is the reason for a 30-year extension.

It is demonstrably in the interest of the people, those who might conceivably be hurt by an accident, that you have this big pool, a $7.846 billion pool, of protection for potential injured parties.

It is important with respect to those contractors that we have that protection as long as we can.

As far as the nuclear utilities are concerned, as I say, it is irrelevant. So I would hope we could go along with the McClure amendment at 30 years; if not at 30 years, then surely at 20 years. For one thing, Mr. President, it takes about 3 or 4 years to get one of these extensions passed. It produces more heat than light. We have been working on this thing for 3 or 4 years and, if we follow the suggestion of my friend from New Hampshire and had it every 5 years, that is all we would be doing in the Energy Committee.

I plead with my colleagues, give us something else to do rather than extend Price-Anderson. I hope that we can go along with the McClure amendment; and if not the McClure amendment, the Breaux amendment. Frankly, we were willing to agree to the Breaux amendment yesterday as a compromise and did agree as a compromise yesterday. While I think McClure is better, Breaux is good. In any event, one of the two ought to be passed.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Who yields time?

Mr. HUMPHREY. Parliamentary inquiry, Mr. President. Which of the parties on the agreement as to this amendment have time?

The PRESIDING OFFICER. Senator METZENBAUM has 5 minutes. Senator KERRY has 1 minute left. You have 2 minutes left. And Senator MCCLURE has 6 minutes left.

Mr. HUMPHREY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I yield myself 3 minutes, reserving 2 minutes.

Mr. President, bad enough that we are passing this renewal of Price-Anderson without placing any responsibility on the individual contractors, as far as the civil obligation is concerned. We do not know what is going to happen in the nuclear industry 1 year from now or 5 years from now or 10 years from now. But for us to be talking about extending this for 30 years, or 20 years, is just sort of unbelievable to me.

When it was originally enacted, it was enacted for a 10-year period, and then it was enacted for another 10-year period. It just is not logical, no matter how strongly you feel about the rightness of the legislation. Let the Congress have an opportunity to review the issue 10 years down the road. To suggest, at this point, that we give them a 20-year or 30-year renewal is beyond this Senator's understanding.

I appreciate the fact that the original amendment was vitiated. That came about last night when some of us were not aware of it. But now the Senate has an opportunity to deal with the issue this evening. In that opportunity we ought to say whether we believe that nuclear plants should or should not have liability. We are not revisiting that issue.

What we are really saying is, Should this Congress, in an industry that is so fraught with danger, that has such an exposure to harm, that may cause so many thousands or possibly even hundreds of thousands of people to be exposed to loss, should we, some time in 1988, lock in the law for the next 20 or 30 years?

My own feeling is that if we had this law renewed every 5 years, we would be doing far better. Maybe that is an amendment that should be considered. Maybe we ought to cut it down to 5 years. But I think that 10 years is a reasonable enough compromise and I hope the Members of this body will not see fit to extend the 10-year provision that was in the original legislation. I believe that is the time period that is in the House bill and I would hope that none of the Members of this body would see fit to extend it to 20 or 30 years.

I reserve the balance of my time.

Mr. McCLURE. Mr. President, I have not much to add and then if others are ready, to yield back the time, I would, too, to get on the Breaux amendment.

I just want to remind Members that as we are talking about compromise here, the bill that was reported by the Energy and Natural Resources Committee last year had in it a 30-year extension and the bill that was reported to the Senate by the Committee on the Environment and Public Works had in it a 30-year extension.

So, to talk about a compromise, we ought to be talking about the Senate committee provisions, two different committees with two different approaches to the problem; but both the Senate committees agreed on a 30-year extension.

The reason we are here with this amendment now is that for other reasons the two committees that are involved here elected to use the House bill as the vehicle by which we would legislate, rather than using either of the two committee measures that I have referred to. But both committees in the Senate, after full debate and deliberation, voted to have the 30-year extension.

Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, if all Senators are ready to yield back time on this amendment, we can save our arguments until the next one. I am willing to under those circumstances.

Mr. McCLURE. I am prepared to yield back the balance of my time if the other parties to this amendment do the same.

Mr. METZENBAUM. Parliamentary inquiry. The Senator from Ohio had 5 minutes available on the Breaux amendment?

The PRESIDING OFFICER. That is correct.

Mr. METZENBAUM. I yield back the balance of my time.

Mr. KERRY. Mr. President, just to answer the Senator from Idaho, it is my understanding that Senator MOYNIHAN was prepared to offer a 10-year reauthorization in committee and I understand he had the votes. I am not certain why he did not at the time. But I think we all know that the difficulties in bringing this to the floor is surrounded by the question of 10 years. I think we ought to understand, the House of Representatives agreed to 10 years. Jumping to 30 years is not necessarily the position from which to begin to find a compromise.

Mr. President, I yield back the rest of my time on this amendment.

Mr. McCLURE. Mr. President, I am prepared to yield back the balance of my time.

The PRESIDING OFFICER. All time having been yielded back—the Senator from Louisiana.

AMENDMENT NO. 1679

(Purpose: To extend the indemnification authority under the Price-Anderson Act for 20 years, until August 1, 2007, and to require the reports to Congress by the Secretary of Energy by August 1, 1993, and August 1, 2003, on the need for modifications to the Price-Anderson Act provisions.)

Mr. BREAUX. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] proposes an amendment numbered 1679 to Amendment No. 1678.

Mr. BREAUX. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of McClure amendment substitute the following:

On page 7, line 5, strike the date "1997" and insert the date "2007".

On page 7, line 16, strike the date "1999" and insert the date "2007".

On page 30, lines 18 and 19, strike "and the Secretary shall submit to the Congress by August 1, 1993, detailed reports"; and insert "and the Secretary shall submit to the Congress by August 1, 1993, and by August 1, 2003, detailed reports".

On page 19, line 9, strike "1997" and insert in lieu thereof "2007".

Mr. BREAUX. Mr. President, our colleagues and anybody who may be listening through television, the issue before the Senate is very clear. We are deciding whether Price-Anderson should be extended for 10 years or whether it should be extended for 20 years, as my amendment provides, or whether it should be extended for 30 years.

The problem with the 30-year extension is it is simply too long to provide the money in case of a major accident in the out-years. As we have fewer reactors, we have fewer contributions to the fund. In the out-years, the fund drops dramatically down to just a little over $3 billion. Therefore, if they have an accident that is a $7 billion accident, you simply would not have enough money to meet the commitment of this Congress to the victims of an accident.

The reason why our Environment and Public Works Committee had agreed to a 30-year amendment is because we had a third tier. We had a third tier that protected that drop in funds. Without that third tier, which we do not now have, it points out the obvious fact that without that third tier, 30 years is far too long because you will not have enough money to meet any potential catastrophic accident. That is why 30 years is completely and totally unacceptable.

Let me address the 10-year proposition. Other Senators have pointed out that when we initiated the Price-Anderson bill, that we authorized it for 10 years. There were at least two good reasons why we did it for 10 years at that time which are no longer present today.

No. 1, it was the hope that after 10 years we would have private insurance available so we wanted to make it a very short extension so that, if in the event that insurance became available, that we would go to a private insurance system instead of having the Government or the utilities bear the brunt of any cost to the victims. We extended it one other time for 10 years with the hope insurance would be available. It is not available.

It is clear beyond any doubt that insurance from the private sector will not be available at any time in the future to insure nuclear activities in this country. Therefore, that reason for a 10-year, short-term extension is no longer there.

The second reason is because, when it was first started, this was a very immature industry, in the sense of a developing industry.

In 1954, 34 years ago, it was deemed appropriate to keep the insurance program at a short period of time to see what this industry was going to do, how it was going to develop, would it in fact survive. There was no sense in having a longer period if we did not know what the industry was going to look like down the road.

That argument is no longer valid. We now have an industry that has been with us for over 34 years. It is functioning, not as well as we would like to have it function in many cases but it is functioning. It is part of our society. Therefore, the 10-year short-term extension is no longer justifiable.

One thing that is absolutely critical for this industry to have, with all of the problems that it has, and there are many, one thing that is critically needed is some predictability, some ability to say that 20 years from now we are going to know that there is in fact an insurance program available. If we make it more uncertain we create additional problems for an industry which is struggling to overcome their problems.

Therefore, by amendment, I think for very logical reasons, Mr. President, splits the difference, but it splits the difference not just because it is an easy number to come up with between 30 and 10. It splits the difference because there are some very logical reasons I think why 20 is an appropriate, proper, reasonable, and rational compromise. Mr. President, I reserve the remainder of my time.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, do I have 5 minutes?

The PRESIDING OFFICER. That is correct.

Mr. HUMPHREY. Mr. President, the Senator from Louisiana has pointed out an important additional fact. That is that the insurance companies are unwilling to insure each powerplant for more than $100 million. It is obvious that an accident that would inflict damage to property and persons in the surrounding areas is going to be billions of dollars. If they are only willing to insure $160 million per plant, that presents quite a problem.

What does the insurance industry, which is experienced in weighing risks, tell us? They tell us that they are not willing to insure above $160 million per plant, or as I read it maybe it is not all as safe as the industry cracks it up to be.

What is the upshot? The upshot is that the taxpayers, the Federal Government, becomes the insurer of last resort and will be stuck with all damges exceeding the $160 million per plant, plus a contribution from each of the other operating plants of $63 billion, which, with 112 plants now operating, comes to $7 billion.

In the case of damages exceeding $7 billion, and they could easily and likely go way above that, the Federal Government would pick up the difference. So we are making the taxpayers the insurer of last resort. That is why this bill is of such great importance.

And not only that, but by frequent review and fairly short authorizations and reauthorizations of Price-Anderson, we hold accountable the nuclear power industry. That is what short periods of reauthorization are all about, accountability. Shall we lock this away for 30 years or even 20 years? That would be absurd. We need to look at this frequently. Ten years is a long enough span between the reauthorizations, in my view. That seems to be the best we could do.

I would urge my colleagues to reject the Breaux amendment and also the McClure amendment and stick with the 10-year reauthorization which is in the bill, a figure of 10 years, which is the span of time we have allowed to pass between the previous two reauthorization bills.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. DASCHLE). Who yields time?

Mr. KERRY. Mr. President, I yield myself 4 minutes.

Mr. President, I understand exactly what the Senator from Louisiana is saying, and I respect his position here. But I respectfully submit that there is something more than just the financial picture to which he refers.

He is right, in 20 years there will be more money, somewhere over $7 billion. So we are closer to the amount. But with 20 years we lose what we have had in each reauthorization up to this date. We lose what the House of Representatives has passed. A 10-year period offers us the adequate time to restate and assert the obligation of the U.S. Congress to protect people, to guarantee that the hysteria and concerns created by a Chernobyl or Three Mile Island are adequately addressed by the U.S. Senate.

Mr. President, we have learned through a number of alarming reports, and through the committee's extensive testimony that there has been a consistent lack of concern to address unsafe standards in DOE nuclear facilities. We continue to hear of drug and alcohol abuse in some nuclear facilities. GAO has issued roughly 20 reports documenting unresolved safety and environmental problems in DOE nuclear facilities. The National Academy of Science has sharply criticized DOE's programs at defense production reactors.

As we are debating this here today, DOE operates an estimated 280 facilities which pose nuclear risks significant enough to warrant special indemnity coverage under Price-Anderson, and there are 112 nuclear powerplants that are currently covered under Price-Anderson. That is not a small number, Mr. President. To sit by for 20 years without being able to review these matters, with the uncertainty that we have seen in the industry where plants have increased their costs to billions of dollars, where literally more than 100 plants have been canceled, where we have seen enormous changes in the technology—to sit by for a 20-year period and not review that it would be to reneg on the responsibility that we have to countless people in this country.

Mr. President, the 20-year period is opposed by many people: the League of Conservation Voters, the National Consumers League, the Environmental Policy Institute, the National Resources Defense Council, the Union of Concerned Scientists, the National Taxpayers Union, Friends of the Earth, the National Insurance Council, the Consumer Coalition, public citizens, and many others. I think we ought to heed these people who speak for consumers and not abdicate our responsibilities.

I reserve the remainder of my time.

Mr. HECHT. Mr. President, I am strongly in favor of Price-Anderson legislation, but I am opposed to extending the reauthorization period for this legislation beyond 10 years, or 12 years for Department of Energy contractors.

Sometime about the turn of the century the Energy Department may, despite my strong opposition, begin construction of a high level nuclear waste repository in the State of Nevada. I think that the Congress ought to reexamine Price-Anderson before the Energy Department starts pouring concrete for a repository.

We have never built a repository in this country. Indeed, no nation in the world has ever built or operated a repository. A repository is therefore a completely unknown quantity. I think it would be very unwise for us not to have a meaningful opportunity to revise Price-Anderson prior to construction or operation of a repository.

We may find that the coverage in the current bill is inadequate in the context of a repository program. We may find that there is some type of accident or event that is not covered by this legislation, but that could result from the construction or operation of a repository.

Mr. President, the legislation before us has worked for several decades. It has protected the people of America, and allowed us to develop nuclear energy in a safe and proper manner for the benefit of our entire society. I support this bill, but I also believe that as far as the Nuclear Waste Program is concerned, we need to make sure that the Congress revisits Price-Anderson before a repository is constructed or begins operation. I therefore oppose a 20-year reauthorization.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, will the Senator yield me 30 seconds?

Mr. BREAUX. Certainly. I will yield whatever time the Senator wishes.

Mr. JOHNSTON. Mr. President, I think my colleague from Louisiana [Mr. BREAUX] makes a very persuasive case for 20 years. While I would mildly perfer the McClure amendment for 30 years, I am prepared to support the 20-year amendment. We agreed on that yesterday. But because some Senators did not feel they had had adequate notice, we expunged that action so we could give Senators the chance to debate it again. But I think the action was correct yesterday at 20 years.

I hope we will pass the Breaux amendment. As an extra added bonus, if we adopt the Breaux amendment, I believe that will be the last vote today.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield myself 2 minutes.

Mr. President, if you are opposed to extending the law for 10 years or any period beyond that date, do you vote no on the Breaux amendment and then no on the McClure amendment?

I would guess that you do, but I am afraid that some will be voting yes on the Breaux amendment as an indication that they do not want the McClure amendment. It is obvious, as Senator JOHNSTON has already indicated, that they are prepared to accept the Breaux amendment at 20 years, which is where they were last night.

I just want to say to my colleagues in the Senate, it probably ought to be even a lesser period than 10 years. There is not any logical reason under the Sun to extend it 1 day beyond 10 years, and I think that we ought to vote down the Breaux amendment. I think we ought to then vote down the McClure amendment for 30 years.

If you believe there is an exposure the people of this country have if they live near a nuclear plant, then you cannot very well in good conscience vote to extend this law for more than the 10 years presently in effect.

In every previous instance that this law has been dealt with, it was on a 10-year basis.

So I urge my colleagues to vote down the Breaux amendment and, in turn, vote down the McClure amendment. I do not believe we ought to go beyond the 10 years that has been the law for a number of years in the past. There is no rhyme nor reason to doing so.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I yield myself 5 minutes. I probably will not take it all.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BREAUX. Mr. President, I would only take this time to address concerns expressed by the Senator from Massachusetts with regard to the idea of a concept that we need to keep the heat on this industry because there are a lot of problems, and we should not extend it 20 years. Bear in mind what we are talking about is an insurance program. Price-Anderson does not address issues of safety, standards, licensing, or the things which make nuclear powerplants work better or prevent them from not working at all. Price-Anderson is only the issurance plan.

The insurance plan we have in place after 20 years will take care of the commitment that we are telling the American people we are going to make. That is 7 billion dollars' worth of coverage.

Another way we address safety issues is through the Nuclear Regulatory Commission's authorization process. That is where we tell the Commission the type of standards we want. That is where we tell the Commission the inspections they have to do. That is where we direct the Commission on how to handle the revoking of licenses for licensees who are not doing what they should do. This is only the insurance plan.

My argument is that we have an insurance plan that is good for 20 years. If you have a plan that is workable for 20 years, you do not need to make it for only 10. The statistics tell us that if we made it for 30, that would be too long because fewer plants would have fewer contributions and would have less than $7 billion.

Utility companies should be petrified of a 30-year extension because I guarantee you, if we showed everybody that after 30 years the coverage, because of fewer plants, dropped down to $3.75 billion, Congress would assess each plant left a lot more money.

I suggest 20 years is a reasonable compromise for an insurance plan. It has nothing to do with addressing safety standards for nuclear powerplants. This is an insurance policy, an insurance plan, and every indication is 20 years is acceptable. It guarantees our $7 billion plus commitment and is workable and should be accepted.

Mr. McCLURE. Will the Senator yield me 1 minute?

Mr. BREAUX. I will be happy to.

Mr. McCLURE. I agree with everything the distinguished Senator has said, and I particularly want to strongly agree with the fact that this is an insurance program. This is not the regulatory program.

The distinguished Senator from Massachusetts a moment ago said we would have no opportunity to look at the nuclear industry if we extend this. Obviously, we will. There are annual reports to Congress required by NRC. There is a 10-year requirement for review of this program by DOE.

I just want to take this time to say while I prefer 30 years, and I do indeed and I am serious about that, and I prefer the figure that was fixed in the Environment and Public Works Committee bill and in the bill reported by the Committee on Energy and Natural Resources, most of which were 30-year programs, that I am willing to accept, as a compromise, the 20-year figure that the Senator from Louisiana has suggested.

I urge all of those persons who are in favor of the extension of Price-Anderson to vote yes on the Breaux amendment when the roll is called.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, how much time do I have?.

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. METZENBAUM. Will the Senator from Louisiana——

Mr. HUMPHREY. Mr. President, who has the floor?

Mr. METZENBAUM. I am sorry. I yield to the Senator.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, the Senator from Louisiana speaks correctly when he says Price-Anderson is an insurance program. It is an insurance program. One of the difficulties in operating an insurance program is not being able to see accurately into the future.

The statistics that have been used to project the number of operating plants have not been that accurate. I think it would be most unwise and unfortunate for the Senate to lock away this insurance program for 20 years.

Let me cite one developing problem in the industry. The NRC is beginning to grow concerned about the embrittlement of structural steel components of plants that are well along in their operating cycle, 25, 30 years. More and more plants are going to fall into that category. There is more and more uncertainty in this insurance program where the public is held liable for most of the damages, most of the dollar amount of damages that most likely would ensue in the event of an accident. These accidents, thank goodness we have not had a severe one, can be very expensive.

The General Accounting Office, in studying the Indian Point plant in New York, found that damages could well exceed the $7 billion, which would now be covered by the mutual insurance fund and could get as high as $15 billion or more, depending upon weather conditions at the time of the accident. So there are great uncertainties.

If we are going to play insurance company to America's nuclear power industry, let us limit our liabilities by reauthorizing this insurance program for 10 years, have another look, then after 10 years, at the conditions and the statistics and the amount of risk, and then reauthorize it at that point.

To lock it away for 20 years, it seems to this Senator, is highly irresponsible and unwise. Mr. President, I ask unanimous consent that an article from the Wall Street Journal dealing with this subject be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 22, 1988]

NUCLEAR REGULATORS, SCIENTIFIC ADVISERS ARGUE OVER REACTORS' STRUCTURAL SAFETY

(By Bill Paul)

A study suggesting that nuclear reactor supports may grow brittle much faster than expected has started a fight between the Nuclear Regulatory Commission and its scientific advisers over nuclear plant safety.

The study, by the federal Department of Energy's Oak Ridge National Laboratory, also raises questions about the NRC's relationship with the nuclear industry, and about NRC plans to extend the life of existing commercial reactors.

The study found that, in a test of the steel to be used in structural supports for the reactor vessel containing the Oak Ridge laboratory's test reactor, the steel was turning brittle at a much faster rate than predicted. A vessel houses a power plant's nuclear fuel and sits on steel supports that can be long or short columns or other designs. The steel becomes brittle over time because it's exposed to a constant neutron bombardment.

If very brittle supports were to fail, cooling-water pipes would rupture, releasing radioactivity into the containment building, which regulators have indicated could fail during the early stages of a severe accident.

In a recent letter to William Kerr, chairman of the NRC's Advisory Committee on Reactor Safeguards, Victor Stello, the NRC's executive director of operations, acknowledged that the "embrittlement" problem "is not a welcome situation." However, Mr. Stello said the problem does "not appear to pose any safety problems."

Mr. Kerr disagreed, telling Mr. Stello by return mail that he was "concerned and perplexed" by Mr. Stello's letter. "It is not clear that we know . . . with any certainty" that all reactors are safe, Mr. Kerr wrote. While he doubted that any supports were yet fully brittle, Mr. Kerr urged the NRC to launch an immediate investigation, rather than fit the problem into longer-term research, as Mr. Stello proposed.

A spokesman for Mr. Kerr said his letter speaks for itself. An NRC spokesman said only that a response to Mr. Kerr's letter is being prepared. James Asselstine, a former NRC commissioner and now a Wall Street utility analyst, said Mr. Kerr's letter was "much more critical" than the usual letter from a scientific adviser.

Richard Cheverton, a senior engineer at Oak Ridge, said Mr. Stello misrepresented Oak Ridge's position when he told Mr. Kerr that the Oak Ridge study backs up NRC's assessment that support-structure brittleness isn't a safety problem. "My letter (to the NRC) said there might be a problem" in "some" plants, Mr. Cheverton said, adding that some designs "look suspicious."

Mr. Cheverton thought this misrepresentation might have stemmed from a "misunderstanding." But he also said Mr. Stello's letter reflected the nuclear power industry's position that there isn't a problem in such structures. Last month, a House subcommittee charged the NRC with showing "an unhealthy empathy for the needs of the nuclear industry to the detriment of the safety of the American people." The NRC denied it.

Mr. Cheverton also said the Oak Ridge study is "very significant" for NRC's plans to extend the life of existing commercial reactors beyond their 40-year license. Noting that the "embrittlement" problem wasn't predicted by anyone, Mr. Cheverton said Oak Ridge has recommended that a number of nuclear power plants be studied to determine the full extent of the problem, adding, "We believe it's a real problem, that our data are good."

But a spokesman for the Electric Power Research Institute, the electric utility industry's research unit, said the Oak Ridge findings have limited significance for the NRC's plant-extension plans. The study "could have some potential impact (but) on a relatively few number of plants," the spokesman said.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. KERRY. Mr. President, let me just say quickly, my colleagues are correct, this is an insurance program, but it is an insurance program which is structured in a way which by virtue of its liability requirements helps to police the industry, and helps to create accountability.

Just in this particular go-round in reauthorization, we have increased the statute of limitations, we have had a significant increase in the limit on liability, and we have created accountability. Plus we have even added exemptions. There are whole segments of the industry exempted by virtue of what we have done here.

To say that we will not revise it, whether some of them should lose that exemption or whether the kind of strict liability we have should be maintained, increased, or diminished is irresponsible.

Furthermore, we do not even know as we stand here what the life, the true life of some of our nuclear facilities is. We hear of cases where nuclear machinery is obsolete and where some DOE facilities are unable to get parts to upgrade them.

Ten years is a long time. It is an appropriate period of time for us to come back and guarantee that as an insurance program, it is maintaining the accountability of the industry that we need, that it is covering the people who ought to be covered, that it is exempting the people who ought to be exempted.

Given the changes this industry will see in the next years, I hope our colleagues will do as we have done for years past in both reauthorizations up until now, and as the House of Representatives has done, which is keep 10 years. There has been no compelling reason shown here as to why the 10 years should change, and I hope we will not change it.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. BREAUX. Mr. President, I yield 2 minutes to the ranking member of the subcommittee, Senator SIMPSON.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I rise to speak in behalf of the Breaux second-degree amendment.

Mr. President, I have just a few brief points that I would like to make in support of the amendment offered by my good colleague and subcommittee chairman, Senator BREAUX, to extend the Price-Anderson Act for 20 years.

Before I get to the merits of the pending amendment, though, Mr. President, I think it is important to note that both committees that considered the Price-Anderson issue—the Environment and Public Works Committee and the Energy and Natural Resources Committee—voted to extend the act for 30 years. And we did so for what was a very sound reason—Price-Anderson have proven to be an effective, equitable, and efficient mechanism for compensating victims in the unlikely event of a nuclear accident. Indeed, it proved to be remarkably effective and fair when it was applied during and following the Three Mile Island accident. And I think we in the committees all felt that Price-Anderson has withstood the test of time and should be extended for a longer period than that authorized in previous extensions.

Having said that, I think the amendment offered by my good friend from Louisiana is a sound compromise, in view of the concerns that have been expressed by some about the proposed 30-year extension. In fact, this amendment has a number of advantages that I want to discuss just briefly.

First, based upon the information that the Nuclear Regulatory Commission, has provided to the subcommittee on the expected operating life of the nuclear plants currently in operation and under construction, it becomes evident that the number of plants operating at the end of 20 years—and therefore, the amount of funds available to compensate victims—is virtually identical to the number of plants operating at the end of 20 years. The NRC estimates that there will be 122 reactors operating in

1997 and 120 reactors operating in 2007. As a result, the amount of coverage available at the end of 20 years does not diminish in any significant degree below that available at the end of 10 years—and this does not account for the fact that this bill includes an inflation index for the limit on liability, a further assurance that the amount of funds available to compensate victims will continue to be quite generous.

Second, this amendment will ensure that the benefits of Price-Anderson—benefits that I think we all agree are significant—will be available at the time that we open up nuclear waste disposal and storage facilities under the Nuclear Waste Policy Act—currently scheduled to come on line roughly around the year 2003. In fact, this amendment—as opposed to the 10 year extension—will ensure that we need not reopen the contentious issue of liability just prior to the opening of these facilities.

For these reasons, Mr. President, I join with my subcommittee chairman and urge my colleagues to support this amendment.

I cannot help think as we grapple with this thing, we talk about it as an insurance program, but what we forget to say is that it works. It is time to extend it. Twenty years is alright. I prefer 30, but if anyone wants to go back to another system, there is a good place to look for an example.

Try the Bhopal case in India. The attorneys have not figured out where the money is yet, and the claimants have not got anything. Everything we have done so far under Price-Anderson, has resulted in immediate, swift payment to the people who were injured and needed the compensation.

So as we keep going here. I hope the people who resist this and want to go to 10 years will help us when we get to the issue of what are we going to do with the high-level nuclear waste and the spent fuel rods. I never hear them in the debate helping us figure out what to do with 15,000 metric tons of high-level nuclear waste sitting in demineralized water at 110 reactors. And are they going to help us with that or just kind of go into the romanced fear with what we are doing here. We are going to have a real problem in this country, and we cannot move it and nobody will let us do anything with it.

It is a fascinating adventure when you get to talking about nuclear waste. Price-Anderson is an insurance policy that works. It pays the victims. There have not been too many, but there are going to be a lot more when we do not do something with 43,000 metric tons of high-level spent fuel that we will have at the end of the century.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. KERRY. Mr. President, has all time in opposition been yielded back?

The PRESIDING OFFICER. The Senator from Ohio retains 3 minutes of time.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, there has been some question, and I just want to clarify it with the distinguished manager so that colleagues understand what——

The PRESIDING OFFICER. The Chair will inform the Senator from Massachusetts he does not retain the time, so the Chair cannot recognize him.

Mr. KERRY. Mr. President, I ask unanimous consent that I be granted 2 minutes to pose a question.

Mr. METZENBAUM. I yield the Senator from Massachusetts 1 minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. KERRY. Mr. President, is it accurate that we are voting now on the Breaux amendment which is a 20-year time period? The Breaux amendment would be voted on up or down. If the Breaux amendment carries, that will be the last vote of the evening and there will not be a vote on the 30 years. If, on the other hand, the Breaux amendment is defeated, that will also be the last vote of the evening, there will not be a vote on 30 years; is that accurate?

Mr. JOHNSTON. If the Senator will yield, if the Breaux amendment carries at 20 years, then a further vote would be redundant, but any Senator would have the right to ask for a second vote, in effect, a vote on the 20 years again.

I hope no Senator would ask for that. I hope they would accept the results of it, but they would have a right to do that.

Mr. McCLURE. Will the Senator yield? The technical situation would be if the Breaux amendment is adopted, that amends the McClure amendment and there would technically have to be a vote on the adoption of the McClure amendment, as amended by the Breaux amendment.

Mr. KERRY. I understand.

Mr. McCLURE. That would be a repetitious, redundant vote. If, however, the Breaux amendment is not adopted, then indeed there would have to be a vote on the McClure amendment.

Mr. BYRD. Mr. President, will the Senator yield? What about those Senators who may prefer neither the 20 nor 30? They may want a rollcall vote. I am saying we may need a second rollcall vote.

Mr. KERRY. It is my understanding, Mr. President, if the Breaux amendment is defeated, we are at 10 years; is that correct?

Mr. JOHNSTON. Mr. President, if the Senator will yield——

Mr. KERRY. Then we are at the 30-year.

Mr. JOHNSTON. If the Breaux amendment is defeated, then we would vote on the McClure amendment at 30 years.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has 4 minutes remaining. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, I would conclude that we have come up with an agreement I think a majority of Senators would respect and find is the proper course of action. The issue, for Senators who may have just arrived, is whether we extend Price-Anderson for 30 years or 20 years or 10 years. I think the case has clearly been made that everybody is protected at 20 years.

I would ask a yea vote on my amendment which would set it at 20 years to ensure everybody is adequately protected.

Mr. JOHNSTON. Will the Senator yield?

Mr. BREAUX. I will be happy to yield.

Mr. JOHNSTON. The Senator's position is supported by the Committee on Environment and Public Works as well as the Committee on Natural Resources; is that correct?

Mr. BREAUX. I thank the Senator for his comment and agree with him. So we are asking for a yea vote on 20 years. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered.

Mr. BYRD. Mr. President, I ask for unanimous consent to proceed for 30 seconds.

I see that Senators are lined up to vote and maybe anticipating that this is the last rollcall vote. It may not be. There may be those who vote for the 20 years, it may carry, and then instead of having a voice vote on the McClure amendment, as amended, they may prefer the 10 years that are in the bill to the McClure amendment, and they may want a rollcall vote on the McClure amendment, as amended. I am just holding that out as a possibility, so I hope Senators will not leave prematurely.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Florida [Mr. CHILES], the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from Arkansas [Mr. PRYOR], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Hawaii [Mr. MATSUNAGA] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Nevada [Mr. HECHT], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. STAFFORD], and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina [Mr. THURMOND] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 50, nays 34, as follows:

[Rollcall Vote No. 57 Leg.]

YEAS—50

Armstrong
Bentsen
Bingaman
Boren
Breaux
Bumpers
Burdick
Byrd
Chafee
Cochran
D'Amato
Danforth
DeConcini
Dixon
Dole
Domenici
Evans
Exon
Ford
Fowler
Graham
Gramm
Hatch
Heflin
Heinz
Johnston
Karnes
Lugar
McCain
McClure
McConnell
Melcher
Moynihan
Murkowski
Nickles
Nunn
Pressler
Quayle
Reid
Sanford
Sasser
Shelby
Simpson
Specter
Stevens
Symms
Trible
Wallop
Warner
Wirth

NAYS—34

Baucus
Bond
Boschwitz
Bradley
Cohen
Conrad
Cranston
Daschle
Dodd
Durenberger
Glenn
Grassley
Hatfield
Humphrey
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Metzenbaum
Mikulski
Mitchell
Packwood
Pell
Proxmire
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Weicker
Wilson

NOT VOTING—16

Adams
Biden
Chiles
Garn
Gore
Harkin
Hecht
Helms
Hollings
Inouye
Matsunaga
Pryor
Simon
Stafford
Stennis
Thurmond

So the amendment (No. 1679) was agreed to.

Mr. METZENBAUM. Mr. President, I ask for the yeas and the nays on the McClure amendment, as amended.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays have been requested on the amendment offered by the Senator from Idaho.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BREAUX. Mr. President, I ask the Chair, what has been ordered?

The PRESIDING OFFICER. The Senate will be in order. The Senate is not in order.

The Senator from Louisiana.

Mr. BREAUX. Mr. President, my question is this: We have just adopted the Breaux amendment, and the seconds have been ordered on what amendment?

The PRESIDING OFFICER. The McClure amendment, as amended.

Mr. BREAUX. Has that amendment been offered?

The PRESIDING OFFICER. The amendment has been offered.

Mr. BREAUX. A parliamentary inquiry, Mr. President. The seconds have been ordered on the McClure amendment?

The PRESIDING OFFICER. The McClure amendment, as amended.

Mr. BREAUX. As amended by the Breaux amendment, which is really the same vote we just had.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I may be allowed 1 minute——

Mr. WEICKER. Regular order. I object.

The PRESIDING OFFICER. Objection is heard.

The yeas and nays have been ordered. No debate is in order.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Florida [Mr. CHILES], the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from South Carolina [Mr. HOLLINGS,], the Senator from Hawaii [Mr. INOUYE], the Senator from Georgia [Mr. NUNN], the Senator from Arkansas [Mr. PRYOR], the Senator from Illinois [Mr. SIMON], the Senator from Mississippi [Mr. STENNIS], and the Senator from Colorado [Mr. WIRTH], are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Hawaii [Mr. MATSUNAGA], are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Nevada [Mr. HECHT], the Senator from North Carolina [Mr. HELMS], the Senator from Indiana [Mr. QUAYLE], the Senator from Vermont [Mr. STAFFORD], and the Senator from South Carolina [Mr. THURMOND], are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina [Mr. THURMOND], would vote yea.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 45, nays 36, as follows:

[Rollcall Vote No. 58 Leg.]

YEAS—45

Armstrong
Baucus
Bentsen
Bingaman
Boren
Breaux
Bumpers
Burdick
Cochran
D'Amato
Danforth
DeConcini
Dixon
Dole
Domenici
Evans
Exon
Ford
Fowler
Graham
Gramm
Grassley
Hatch
Heflin
Heinz
Johnston
Karnes
McCain
McClure
McConnell
Melcher
Murkowski
Nickles
Pressler
Reid
Sanford
Sasser
Shelby
Simpson
Specter
Stevens
Symms
Trible
Wallop
Warner

NAYS—36

Bond
Boschwitz
Bradley
Byrd
Chafee
Cohen
Conrad
Cranston
Daschle
Dodd
Durenberger
Glenn
Hatfield
Humphrey
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Proxmire
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Weicker
Wilson

NOT VOTING—19

Adams
Biden
Chiles
Garn
Gore
Harkin
Hecht
Helms
Hollings
Inouye
Matsunaga
Nunn
Pryor
Quayle
Simon
Stafford
Stennis
Thurmond
Wirth

So the amendment (No. 1678), as amended, was agreed to.

Mr. BREAUX. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, that will be the last vote, rollcall vote for today. The Senate will begin discussing the amendment tomorrow morning at 9:30. There will be one or more rollcall votes tomorrow.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for morning business not to extend beyond 20 minutes, that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ADMINISTRATION'S RASH ACTION IN CENTRAL AMERICA

Mr. PELL. Mr. President, I am startled by the administration's decision to dispatch army units to Honduras, particularly as there was no prior consultation with the Congress on such a momentous act of escalation of the conflict in Central America. To call hot pursuit an incursion or invasion is an exaggeration.

This creates a crisis atmosphere which some may have thought would squeeze more money out of the Congress for the Contras. Then, too, it almost looks like an attempt to destroy the peace process, which had been gaining momentum by virtue of the agreement between the Sandinistas and the Contras to conduct direct, high-level cease-fire negotiations on Nicaraguan soil this coming Monday. I am not convinced that any of the events on the ground in the Nicaraguan-Honduran border area warranted this action.

In the end, the United States may well be a greater threat to Honduran sovereignty and political stability by constraining that country's freedom of action and reducing that nation to client status in furtherance of the administration's Contra policy than would any border incursion by Nicaraguan forces. The actual request for assistance from President Azcona is reminiscent of the somewhat vague circumstances surrounding the Honduran President's request 2 years ago in response to similar circumstances.

At the same time, bad Sandinista judgment in Managua invited this rash action. This so-called final offensive against the Contras may have made sense militarily, but it was bad politics. Even without an incursion across the Honduran border, the concentration of Nicaraguan forces in the Contra areas in and near Honduras provided all the ammunition necessary for the administration to raise the specter of a Nicaraguan invasion as well as to charge bad faith in the cease-fire negotiations.

Now is the time for cool heads to prevail. President Ortega has announced that the troops are being withdrawn from the border area and has offered to open up the border area to monitors from the OAS. If we are serious about defusing this situation rather than inflaming it, let us address the issue through the established Inter-American security mechanism.

CALENDAR

Mr. BYRD. Mr. President, I seek recognition to ask the distinguished acting Republican leader, Mr. WILSON, if the three following measures have been cleared on that side of the aisle: Calendar Order Nos. 582, 584, 588?

Mr. WILSON. I am advised by the senior Senator from Idaho that he wishes to make remarks on Calendar No. 584. These items have been cleared but he does make that request.

Mr. BYRD. 584. Very well.

They have been cleared?

Mr. President, I ask unanimous consent, then, that the Senate proceed to the aforementioned items seriatim.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGE DISCRIMINATION CLAIMS ASSISTANCE ACT

The PRESIDING OFFICER. The clerk will report the first bill.

The legislative clerk read as follows:

A bill (S. 2117) to extend the statute of limitations applicable to certain claims under the Age Discrimination in Employment Act of 1967 that were filed with the Equal Employment Opportunity Commission before the date of enactment of this Act.

The Senate proceeded to consider the bill.

Mr. MELCHER. Mr. President, on March 2, I was joined by 24 colleagues in introducing the Age Discrimination Claims Assistance Act of 1988. I introduced S. 2117 because an investigation by the Special Committee on Aging, and subsequent admissions by the Equal Employment Opportunity Commission, revealed that the EEOC allowed at least 900 age discrimination charges to exceed the Age Discrimination in Employment Act's statute of limitations. Without congressional action, many of the people who filed those charges, and others like them, never could look forward to their day in court.

The Age Discrimination Claims Assistance Act waives the statutes of limitation for a period of 18 months for all those people who filed a timely charge with the EEOC after December 31, 1983, and saw it stagnate and expire without resolution. It provides a fair and pragmatic solution to a difficult problem.

The rights of hundreds of older Americans have been ignored by the EEOC bureaucracy, and only Congress may provide a remedy. I am very pleased to see that my colleagues in the Senate agree with me and are prepared to act promptly and responsibly to restore the rights of these working men and women.

At a time when Congress so often is criticized as being ineffective, it is heartening to know that when a real injustice is committed, the Senate is both willing and able to make a speedy correction. I introduced the Age Discrimination Claims Assistance Act only 2 weeks ago, and today it is being acted on by the full Senate.

Because of the swift action by this body, and I hope the other body as well, hundreds of working men and women again will be entitled to full legal redress. I commend my colleagues for recognizing that an injustice has occurred at the EEOC, and for working with me to provide an immediate and effective remedy.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 2117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Age Discrimination Claims Assistance Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Equal Employment Opportunity Commission (hereafter in this Act referred to as the "Commission") has failed to process an undetermined number of charges filed under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621-634) before the running of the statute of limitations applicable to bringing civil actions in the Federal courts under such Act, and

(2) many persons who filed such charges with the Commission have lost the right to bring private civil actions with respect to the unlawful practices alleged in such charges.

SEC. 3. EXTENSION OF STATUTE OF LIMITATIONS.

Notwithstanding section 7(e) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(e)), a civil action may be brought under section 7 of such Act by the Commission or an aggrieved person, during the 540-day period beginning on the date of enactment of this Act if—

(1) with respect to the alleged unlawful practice on which the claim in such civil action is based, a charge was timely filed under such Act with the Commission after December 31, 1983,

(2) the Commission did not, within the applicable period set forth in section 7(e) either—

(A) eliminate such alleged unlawful practice by informal methods of conciliation, conference, and persuasion, or

(B) notify such person, in writing, of the disposition of such charge and of the right of such person to bring a civil action on such claim,

(3) the statute of limitations applicable under such section 7(e) to such claim ran before the date of enactment of this Act, and

(4) a civil action on such claim was not brought by the Commission or such person before the running of the statute of limitations.

SEC. 4. NOTICE OF STATUTE OF LIMITATIONS.

(a) NOTICE REGARDING CLAIMS FOR WHICH STATUTE OF LIMITATIONS IS EXTENDED.—Not later than 60 days after the date of enactment of this Act, the Commission shall provide the notice specified in subsection (b) to each person who has filed a charge to which section 3 applies.

(b) CONTENTS OF NOTICE.—The notice required to be provided under subsection (a) to a person shall be in writing and shall include the following information:

(1) The rights and benefits to which such person is entitled under the Age Discrimination in Employment Act of 1967.

(2) The date (which is 540 days after the date of the enactment of this Act) on which the statute of limitations applicable to such person's claim will run.

(3) That such person may bring a civil action on such claim before the date specified in paragraph (2).

SEC. 5. REPORTS.

(a) CONTENTS OF REPORTS.—For each 180-day period in the 540-day period beginning on the date of enactment of this Act, the Commission shall submit a written report that includes all of the following information:

(1) The number of persons who have claims to which section 3 applies and the dates charges based on such claims were filed with the Commission.

(2) The number of persons to whom notice was provided in accordance with section 4(a) and the date the notice was provided.

(3) With respect to alleged unlawful practices on which claims affected by section 3 are based, the number of such alleged unlawful practices that the Commission has attempted to eliminate by informal methods of conciliation, conference, and persuasion in the 180-day period for which the report is submitted.

(4) The number of alleged unlawful practices referred to in paragraph (3) that were so eliminated in such period.

(5) The number of civil actions filed by the Commission on behalf of persons to whom notice was sent under section 4.

(b) SUBMISSION OF REPORTS.—Each report required by subsection (a) shall be submitted by the Commission to—

(1) the Committee on Education and Labor, and the Select Committee on Aging, of the House of Representatives, and

(2) the Committee on Labor and Human Resources, and the Special Committee on Aging, of the Senate,

not later than 30 days after the expiration of the 180-day period for which such report is required.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELIEF OF JAMES P. PURVIS

The PRESIDING OFFICER. The clerk will report the second bill.

The legislative clerk read as follows:

A bill (S. 1609) for the relief of James P. Purvis.

The Senate proceeded to consider the bill.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, today marks the end of a 25-year-old journey for an American who wanted to contribute to his country and ended up losing almost everything because of it.

Twenty-five years ago, James "Pat" Purvis won the contract to build the U.S. Science Pavilion at the Seattle World's Fair. As the son of an Irish immigrant, Pat was an American success story and was thrilled to think his country offered so many opportunities to its citizens. Little did he know when he won the contract that almost immediately the General Services Administration would start changing the pavilion's building plan and issue stop work orders so numerous that Pat ended up spending $600,000 out of his pocket in order to bring the building in on time for the opening of the fair. To his bewilderment, after the building was complete, GSA refused to reimburse Pat for the money he had spent because of the Government's actions. Mr. President, Pat Purvis lost his construction company, lost his livelihood, and spent the next 25 years in litigation and bureaucratic redtape.

What he did not lose was his hope. Pat has said all along that he never doubted the U.S. Government would do the right thing and eventually reimburse him. Well, I am afraid Pat has a lot more faith in the Federal Government than I do, but I am very pleased to say to him today, "You are finally seeing justice done."

The bill the Senate is considering will reimburse Pat for the interest due him on a forthcoming payment he received word of 10 years ago today. I might add that Pat never saw a dime of that payment as it all went to a bonding company. Ten years ago, the Court of Claims said that Pat Purvis was entitled to interest and that he should petition Congress for a private relief bill. That is the bill before the Senate now that I introduced with Senators ADAMS, EVANS, and SYMMS. President Reagan has already committed to signing this bill into law as soon as it reaches his desk.

Today is a big day for Pat Purvis. It is his 70th birthday. The Government is finally righting this unbelievable wrong. I hope it will be a St. Patrick's Day he will never forget.

Ten years ago to the day, the Court of Claims said he was entitled to this payment. Seventy years ago on St. Patrick's Day, this son of an Irish immigrant was born. It is fitting that we pass this bill today.

Mr. ADAMS. Mr. President, I am pleased to join my friend from Idaho, Senator McCLURE, in celebrating a special day. We all know it is St. Patrick's Day. But it is a special day for two other reasons. Today we will pass S. 1609, a private relief bill that will correct a wrong committed by the U.S. Government to a dedicated individual, Mr. James "Pat" Purvis. And, today is a special day because it is Pat Purvis' 70th birthday.

So, the first thing I would like to say is: Happy 70th birthday, Pat Purvis.

Mr. Purvis' story is unique, if not unbelievable. Mr. Purvis was a proprietor of a successful construction company—Purvis Construction—based in Spokane, WA. In 1961, Purvis Construction was awarded a contract to build the Federal exhibit buildings for the Seattle World's Fair. To this day, the buildings constructed by Mr. Purvis continue to provide enjoyment to many visitors to and residents of the Pacific Northwest area.

From the beginning of the project, the General Services Administration demanded numerous changes and issued many stop work orders. In order to bring the project in on time, Mr. Purvis was forced to use his own money to finance these changes. After 25 years, he has yet to receive full reimbursement for his work. As a result, Mr. Purvis' company and Mr. Purvis himself have experienced financial ruin.

In 1981, the Court of Claims decided in Mr. Purvis' favor but could not legally award him any interest on the money owed to him. They did, however, keep open the option of a private relief bill to accomplish that objective. Since 1981, Senators Henry Jackson and Slade Gorton each introduced private relief legislation. Unfortunately, neither bill made it through the legislative process. That is why Senator McCLURE, Senator EVANS, Senator SYMMS, and I have introduced legislation and that is why I am happy to be here today. It looks like Mr. Purvis, finally, is going to get the compensation for his hard work and dedication to our country.

I am pleased that this legislation has strong support. The Justice Department recognized the merits of this legislation and President Reagan has stated that he will promptly sign the legislation as soon as it passes Congress.

I would like to thank my good friend, Senator HOWELL HEFLIN, chairman of the Subcommittee on Courts and Administrative Practice, and his staff for their assistance with this legislation. The full Judiciary Committee members are to be congratulated for their recognition of the necessity of getting this legislation passed.

I would like to make one final point. I want to thank Mr. Purvis for his patience and his faith in the ultimate fairness of the U.S. Government. The same patriotism which led him to risk his own capital to complete the U.S. project at the World's Fair, has sustained him during his 25-year search for justice. While we, in Congress, do not have the ability to take away the pain suffered by Mr. Purvis and his family all these years, I hope this legislation providing compensation will help to alleviate some of the financial hardship they have suffered.

Mr. EVANS. Mr. President, today we are coming to the end of a long and sad tale in the annals of the Federal Government. Finally, after nearly 25 years, it appears that Pat Purvis, a former resident of Spokane, WA will get paid for work he did on behalf of his country.

Pat Purvis made a major contribution to the successful 1962 World's Fair in Seattle, WA by completing under a very short deadline a considerable amount of high quality construction work. Yet, because of a wholly avoidable set of circumstances, Mr. Purvis was paid for his efforts with delays and excuses, and not the money he was owed.

I will not detail here the story of the many injustices Mr. Purvis has suffered at the hands of officious Federal bureaucrats. Instead, I would like to call attention to the excellent efforts of the many people both inside and outside of Congress who would not let the Federal Government get away with denying Mr. Purvis what was his due.

Certainly it is appropriate that we pass this bill on March 17—Pat Purvis' birthday. President Reagan already has indicated he will sign the Purvis relief legislation when it crosses his desk. If the House is able to move quickly to pass the companion bill, Pat Purvis will get a slightly belated birthday gift, a much delayed payment for his efforts, and a satisfaction that his Government is not above correcting its mistakes.

Mr. SYMMS. Mr. President, I am very pleased the Senate is taking a few minutes today to adopt S. 1609, a bill granting relief to James P. Purvis of Coeur d'Alene, ID. I am pleased, not only because passage of this bill will bring to a close 25 years of injustices suffered by Mr. Purvis at the hands of the Federal Government, but also because today is his 70th birthday and, of course, St. Patrick's Day, a celebration dear to Mr. Purvis' Irish heart. I want to thank the majority leader and all Senators for allowing us to call up the bill and pass it on this important date.

For more than 25 years now, Pat Purvis has waited to be paid for the construction work he did, and the litigation costs incurred pursuing his claim, under a General Services Administration contract at the 1961 World's Fair in Spokane, WA. The U.S. claims court has reviewed Mr. Purvis's case and reported to the Senate that he has an equitable claim against the United States of $700,000, representing interest on the judgment in his favor and reasonable attorneys fees. S. 1609 authorizes that $700,000 payment, and I hope the House of Representatives will consider and approve this bill or the House companion measure very soon.

In a letter sent last Christmas Eve, President Reagan praised Mr. Purvis for his rare and remarkable patience and promised to sign this bill promptly once it is approved by Congress. I want to publicly thank the President for recognizing the injustices suffered by Mr. Purvis and promising to sign this important bill. I hope the President will soon have an opportunity to fulfill that important commitment.

Mr. President, I want to express my sincere best wishes to Pat Purvis and his wife, Dorothy, on what I am sure must be a joyous day in their lives. I hope the bill will shortly be sent to the President's desk for his signature and their long struggle for justice will be ended. Godspeed, Pat and Dorothy.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1609) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1609

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SATISFACTION OF CLAIM AGAINST THE UNITED STATES.

Pursuant to the report of the United States Claim Court in Congressional Reference Numbered 1-84 (filed on March 7, 1986), the Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $700,000 to James P. Purvis of Coeur d'Alene, Idaho. The payment of this sum shall be in full satisfaction of any claim of such person, and of Purvis Construction Company, against the United States arising out of a compact between Purvis Construction Company and the United States for construction of the Federal Exhibit Buildings for the Century 21 Exposition at the World's Fair in Seattle, Washington, in 1962.

SEC. 2. LIMITATION ON ATTORNEYS AND AGENTS' FEES.

It shall be unlawful for more than 33.3 per centum of the sum appropriated in section 1 to be paid to or received by any agent or attorney for any service rendered in connection with enactment of this Act. Any person who violates this section shall be fined not more than $1,000.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEDICAL BENEFITS FOR CERTAIN FORMER SPOUSES

The PRESIDING OFFICER. The clerk will report the next measure.

The legislative clerk read as follows:

A bill (H.R. 3967) to amend the Department of Defense Authorization Act, 1985, to extend medical benefits for certain former spouses.

The Senate proceeded to consider the bill.

Mr. GLENN. Mr. President, H.R. 3967 amends the Department of Defense Authorization Act of 1985 to continue military medical benefits for a small group of long term former spouses of military retirees.

This group of former spouses was provided 2 years of continuing transitional coverage under the military medical system while the Department of Defense developed a conversion plan with a private insuror.

This coverage is due to expire on April 1, 1988. The Department of Defense is close to finalizing such a plan but details will not be completed by the April 1 date. This bill simply extends this transitional coverage through December 1988 to allow time for implementation of the conversion plan.

The Department of Defense has worked hard to come up with a promising plan which will provide an opportunity to participate in a health care program for a number of persons who lose their eligibility under the military medical system. This innovative approach will provide the opportunity for participation to this deserving group of beneficiaries, including long term former spouses, service members leaving before retirement and dependents reaching adulthood.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3967) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL INDEFINITELY POSTPONED—H.R. 4063

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Order 583, H.R. 4063, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

FRIENDS OF IRELAND ST. PATRICK'S DAY STATEMENT 1988

Mr. KENNEDY. Mr. President, for the past 7 years, the Friends of Ireland in Congress have joined together in an annual St. Patrick's Day statement on Northern Ireland.

Formed in 1981, the Friends of Ireland is a bipartisan group of Senators and Representatives dedicated to maintaining the close historical ties between the United States and Ireland, and developing a United States policy that promotes a just, lasting and peaceful settlement of the conflict in Northern Ireland.

The events of recent months pose a serious threat to peace and stability in

Northern Ireland and have added a new sense of urgency to the search for a peaceful settlement. The Friends of Ireland statement this year urges all sides to the conflict to reject the path of violence and work for a negotiated settlement that addresses the concerns and needs of both communities in Northern Ireland.

Mr. President, I believe that all our colleagues will be interested in this statement, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ST. PATRICK'S DAY STATEMENT—FRIENDS OF IRELAND—U.S. SENATE AND HOUSE OF REPRESENTATIVES

As Friends of Ireland in the United States Congress, we join again on this St. Patrick's Day to honor the people of Ireland and renew our calls for peace, justice, fair employment and reconciliation in Northern Ireland.

We believe the United States has a vital interest in the conflict in Northern Ireland. Our nation has a unique relationship with both Ireland and Great Britain, and we must do more than we have done so far to assist both of these friends in their efforts to achieve a lasting peace.

We continue to believe that the historic Anglo-Irish Agreement, signed in November 1985, offers the best means of achieving an end to the violence in Northern Ireland. We commend the Irish and the British Governments for their determination in maintaining and implementing the Agreement in the face of strong opposition from extremists in both communities in Northern Ireland, and we urge both governments to maintain and strengthen the structures established in the Agreement.

We remain deeply concerned about the inadequate administration of justice in Northern Ireland and the continuing sense of mistrust and alienation fostered by this system in the Nationalist community. The absence of jury trials combined with the use of single judge "Diplock Courts" is a major obstacle to progress, as is the emergency legislation used to administer the system of justice in Northern Ireland. We urge the British and Irish Governments to accelerate their search for new ways to address these serious problems undermining the trust of the Nationalist community.

We share the dismay of the Government of Ireland, of many in Great Britain and of many Americans over the recent decision by the British Attorney General—on so-called "national security" grounds—not to proceed with the prosecution of the crimes revealed by the Stalker-Sampson investigation of the "shoot-to-kill" policy by British security forces in Northern Ireland. While we recognize the sensitive nature of this investigation, it is intolerable not to pursue and bring to justice individuals known to have perverted justice. If left unchanged, it undermines the Anglo-Irish Agreement. It erodes public confidence in the ability to achieve a negotiated settlement to the crisis. We call on the British Government to prosecute any member of the security forces who has engaged in criminal conduct in Northern Ireland.

We are outraged by the decision to return a British soldier convicted of murder in Belfast in 1983 to active duty service following his early release from prison. Additionally, the Friends of Ireland call for a thorough investigation with Irish Government consultation on the recent killing of a civilian attending a Gaelic football match at Aughnacloy, Northern Ireland by a British soldier. These incidents have created the perception that the British security forces are above the law.

In the two years since the signing of the Agreement, there has been some progress in other areas. Most notably, the Intergovernmental Conference has provided an important forum in which British and Irish Ministers have met regularly to address the problems and grievances at the heart of the Northern Ireland crisis. In addition, the Joint Secretariat in Belfast serves as a useful channel for communication between the two governments on the day-to-day affairs of Northern Ireland.

We understand that progress has been made in addressing longstanding grievances of the Nationalist community, including advances toward a more balanced representation within the judiciary, improved procedures for addressing police complaints, and repeal of legislation restricting the display of Irish flags and emblems. The Agreement has also brought about improvements in housing, voting rights, and the rules governing parades and marches.

Despite these achievements, there remain numerous areas which require increased attention and faster and more positive results. Employment discrimination in Northern Ireland on the basis of religious belief remains widespread and deep-rooted. Although there has been a slight decline in unemployment since the Agreement was signed, the overall jobless rate of Catholics in Northern Ireland remains twice as high as the rate for Protestants—and in some areas, the Catholic unemployment rate reaches sixty percent.

We welcome the British Government's commitment to propose fair employment legislation to alleviate this critical situation. The Friends of Ireland recognize the need for strong legislation with specific implementation goals and time frames. Major reforms in the current system are essential, including strong, new statutory obligations to end the current ingrained system of job discrimination, and stiff civil and criminal penalties for employers who defy the law. We believe that such legislation is overdue, and we look forward to its early adoption by the British Parliament.

We also recognize the importance of new job-creating investment in ending such discrimination. We urge the British Government to use its powers to guide new public investment into areas of highest unemployment.

An important part of the Anglo-Irish Agreement is the International Fund created to promote economic recovery in Northern Ireland. The role of the Fund will be indispensable in the critical years ahead and deserves broad international support.

In addition, we urge the British Government to inform and consult with the Irish Government fully on these and any future issues relating to Northern Ireland, as required by the Anglo-Irish Agreement.

We also note the deep and widespread concern in Britain, Ireland and the United States regarding the recent British Appeals Court decision in the case of the so-called "Birmingham Six." We urge the British Government at the highest levels to take additional steps to resolve this controversy in a fair and just manner.

As Friends of Ireland, we once again affirm our abhorrence of violence inany form or by any means. We deplore the barbaric bombing in Enniskillen in November 1987, and we condemn absolutely and unequivocally the efforts of all who attempt to achieve political progress in Northern Ireland through such violence. We condemn those in Ireland and in the United States who lend support to this terrorism, and we call on them to cease any such political or financial support.

Today marks Ronald Reagan's last St. Patrick's Day as President. We join in paying a special tribute to him and his Administration for their generous, committed and lasting support for the land of his ancestors.

Finally, we renew our commitment to the goal of Irish unity. Let us build on the foundation of recent years to achieve progress toward meaningful reconciliation of the rich traditions of all the people of Ireland, South and North, Catholic and Protestant. As Friends of Ireland, we welcome and encourage all who share our cause and who are working to achieve it.

FRIENDS OF IRELAND 1988 ST. PATRICK'S DAY STATEMENT SIGNATORIES

U.S. Senate (37)

Edward M. Kennedy, Daniel Patrick Moynihan, Brock Adams, Max Baucus, Jeff Bingaman, Bill Bradley, Kent Conrad, Alan Cranston, Thomas A. Daschle, Alan J. Dixon, Christopher J. Dodd, and Pete Domenici.

David Durenberger, John H. Glenn, Jr., Albert Gore, Tom Harkin, Orrin G. Hatch, John Heinz, Ernest F. Hollings, John F. Kerry, Patrick J. Leahy, Carl Levin, Spark M. Matsunaga, and John Melcher.

Barbara Mikulski, George J. Mitchell, Claiborne Pell, William Proxmire, Donald W. Riegle, Jr., Terry Sanford, Paul S. Sarbanes, Richard Shelby, Paul Simon, Robert T. Stafford, Ted Stevens, Lowell P. Weicker, and Timothy Wirth.

House of Representatives (115)

Jim Wright, Thomas S. Foley, Robert H. Michel, Joe McDade, Brian J. Donnelly, Edward R. Madigan, Pat Williams, Bernard J. Dwyer, Bill Lowery, Dante B. Fascell, Daniel K. Akaka, Beryl Anthony, Jr., Chester G. Atkins, and Herbert H. Bateman.

Edward P. Boland, George E. Brown, Terry L. Bruce, Benjamin L. Cardin, Jim Chapman, Tony Coelho, Silvio O. Conte, E. Thomas Coleman, William J. Coyne, George W. Crockett, E de la Garza, Ronald V. Dellums, Butler Derrick, and Byron L. Dorgan.

Wayne Dowdy, Richard J. Durbin, Bernard J. Dwyer, Joseph D. Early, Dennis E. Eckart, Bill Emerson, Vic Fazio, Edward F. Feighan, Thomas Foglietta, Harold E. Ford, Robert Garcia, Joseph M. Gaydos, Sam Gejdenson, Henry B. Gonzalez, and Bill Grant.

Tony P. Hall, J. Dennis Hastert, James A. Hayes, Dennis M. Hertel, James J. Howard, Steny H. Hoyer, William J. Hughes, Ed Jenkins, Ed Jones, Walter B. Jones, Paul E. Kanjorski, Joseph P. Kennedy, Dale E. Kildee, Gerald D. Kleczka, Joe Kilter, and Peter H. Kostmayer.

H. Martin Lancaster, William Lehman, Mickey Leland, Jerry Lewis, Mike Lowry, Frank McCloskey, Raymond J. McGrath, Matthew F. McHugh, J. Alex McMillan, Thomas J. Manton, Edward J. Markey, George Miller, and Joe Moakley.

Jim Moody, Constance Morella, Robert J. Mrazek, John P. Murtha, Henry J. Nowak, Mary Rose Oakar, James L. Oberstar, Major R. Owens, Leon E. Panetta, Charles Pashayan, Nancy Pelosi, Claude Pepper, Carl C. Perkins, J.J. Pickle, and Melvin Price.

Nick Joe Rahall, Charles B. Rangel, Arthur Ravenel, Bill Richardson, Peter W. Rodino, Robert A. Roe, Charles Rose, Marty Russo, James H. Scheuer, Bill Schuette, Charles E. Schumer, Norman Sisisky, Lawrence J. Smith, Gerald Solomon, and Fortney H. Stark.

Samuel S. Stratton, Gerry E. Studds, James A. Traficant, Bob Traxler, Bruce F. Vento, Wes Watkins, Henry A. Waxman, Ted Weiss, Charles Wilson, Ron Wyden, Curt Weldon, Jim Jontz, and Martin Frost.

SENATOR JOE BIDEN

Mr. KENNEDY. Mr. President, as you are aware, the distinguished senior Senator from Delaware, Senator BIDEN, is recovering from recent surgery and therefore was unable to sign this year's St. Patrick's Day statement. Over the years, he has joined the Friends of Ireland in signing the statement and I know that he would certainly have done so this year if he were present. Senator BIDEN, has been a steadfast supporter of the Anglo-Irish Agreement of 1985 and shares our hopes for peace and reconciliation in Northern Ireland. On this day, when Irishmen unite to celebrate their common heritage, I know that Senator BIDEN, would want to renew his call for an end to the terrorism and violence that plague Northern Ireland.

ST. PATRICK'S DAY

Mr. LAUTENBERG. Mr. President there's an old proverb that says, "Everyone is Irish on St. Patrick's Day." I am proud to be an honorary Irishman today, especially since I recently returned from a trip to the Republic of Ireland and Northern Ireland.

It's a great tribute to the Irish people that men and women of all backgrounds enjoy and participate in St. Patrick's Day festivities every year. And well they should. America owes a great debt to the isle of saints and scholars. Irishmen have made remarkable contributions to our history and our culture. They played a key role in building our country.

Our Nation was strengthened and enriched by the anonymous millions who found refuge on our shores during some of the darkest days of Irish history. They courageously provided the labor, and the intellectual and spiritual nourishment to a growing nation.

The first Irish immigrants built railroads and worked in our mines and their children gave this Nation some of its finest talent. Today some 13 to 16 million Irish Americans continue to contribute to our Nation. I'm proud that many of them live in New Jersey, the third largest Irish American population in the Nation.

In politics, too, the Irish have made our Nation a more progressive, and a more prosperous country. On St. Patrick's Day, it is impossible not to recall perhaps the one man who personified Irish success in the United States, our late President, John F. Kennedy. The legacy of President John Kennedy reminds Americans that our goal as a nation should always be a more just society. One that is committed to equal rights and opportunities for every citizen.

Mr. President, as we celebrate St. Patrick's Day, it is appropriate to remember the thousands of people in Northern Ireland who must endure the continuing heartbreak and sorrow of a country racked by terror, violence, and civil unrest. People like the able-bodied youth I visited on my recent trip to Northern Ireland who watch television in the middle of the afternoon because they simply cannot find gainful employment. Like the people I visited who told me of their frustration at finding jobs only to be forced to quit due to harassment in the workplace. And like the people who, despite the deprivation and despair, remain optimistic that they ultimately have a chance to live in peace and harmony.

It is also fitting to think about what America can do to help bring about an end to the conflict and strife in Northern Ireland, and what our role should be in helping to move Northern Ireland down the road to reconciliation and economic recovery.

Having recently returned from Northern Ireland, I am convinced that at least one positive step we can take is to ensure that the $120 million that Congress has provided for the international fund for Ireland is being spent wisely and appropriately. Established in 1986 to give tangible form to the goals of economic growth and reconciliation that are the basis of the Anglo-Irish Agreement, the International Fund holds the promise of bolstering growth and fostering real change in Northern Ireland. However, while I was in that country, I heard serious concerns about the way the money is being spent.

From community workers in west Belfast I heard concerns that the money from the fund was not going to areas of greatest need such as west Belfast but that it has been going to places such as Antrim, which has been an area of high employment favored by government growth plans. Questions were raised about whether project applications from the nationalist community, and west Belfast in particular, are being given a fair evaluation. I heard it said that some enterprises in west Belfast which had applied for money from the fund were dismissed without a fair review and that funds had been given to places such as Queens University in Belfast, which critics contend is itself under investigation for discrimination. And I also heard questions about the propriety of using International Fund money to send people overseas to centers for construction industry trainees.

I've met with and have asked Britain's Ambassador to the United States, Sir Antony Acland, to address the serious concerns I heard about the fund while I was in Northern Ireland. I plan to ask similar questions of the chairman of the board of the fund, Mr. Charles Brett, when he visits the United States. And I intended to question the Agency for International Development and the State Department in upcoming hearings in the Appropriations Committee about the criticism I heard as well.

The ongoing violence in Northern Ireland reminds us that a peaceful solution to the bloodshed and violence and hatred must be found. Just yesterday a grenade was hurled into a crowd of mourners attending the funeral of three members of the Irish Republican Army who were killed by British undercover agents in Gibraltar. Three more lives were lost in the incident and more violence has followed. It is clear that we need to redouble our efforts to press for an end to the madness in Northern Ireland.

Mr. President, certainly there could be no more fitting tribute to the memory of Ireland's patron saint than the restoration of peace and justice in Northern Ireland. I hope that peace and stability will prevail in Northern Ireland next St. Patrick's Day.

Mr. PRESSLER. Mr. President, on April 2, I plan to return to Vietnam for a firsthand look at that country's economic situation 15 years after the Paris peace settlement of 1973. As a member of the Senate Foreign Relations Committee and a Vietnam veteran, I plan to press Vietnam's leaders for information on Americans still unaccounted for in Vietnam, including eight from my home State of South Dakota.

Fifteen years after Americans ended our combat role in Vietnam there continues to be a bond between our two countries. Close to 3 million Americans served in Vietnam during the war years—50,000 died, some 700 were POW's who returned, and some 1,350 were listed as missing in action.

On the other side, hundreds of thousands—possibly millions—of Vietnamese were killed—the exact numbers may never be known. Since the war, close to 1 million Vietnamese with their families have come to the United States. Whether we like it or not, these sheer numbers have forged a common bond between our two countries.

Two issues currently prevent improved relations—the Vietnamese occupation of Cambodia and the still festering MIA problem. One purpose of my trip is to tell Vietnam's leaders of the united support in the United

States Congress for a swift, satisfactory resolution to both of these issues.

At the same time, we should be looking ahead. After World War II the United States and its allies occupied the vanquished enemy countries—Germany and Japan. By 1960, 15 years later, both former enemies had become active members of the international community. Today they are our valued friends and allies.

Mr. President, we should be prepared to hold out the same hand of friendship to the people of Vietnam. With effective action to remove Vietnamese troops from Cambodia and a satisfactory accounting for MIA's, there could be movement on a range of subjects:

A common approach to dealing with injuries and illness resulting from the war, such as the lingering effects of dioxin, or agent orange, the herbicide believed to cause cancer and other ailments in Americans who served in Vietnam, and in the Vietnamese themselves. I support the program to provide prosthetic devices to injured Vietnamese that has been initiated by General John Vessey, the President's special emissary to Vietnam on the MIA issue. I would like to see General Vessey's mission broadened to deal with other humanitarian issues as well.

A systematic program is needed to speed the movement of Vietnamese-American children to the United States. Legislation approved by the Congress in December 1987 creates a special program for Amerasians outside refugee channels. These children will come to the United States eventually, and there is nothing to be gained by waiting. I plan to raise the subject with concerned officials while in Vietnam.

As Americans we also have a special obligation to the remaining re-education camp prisoners, religious leaders, civic officials, and former military from South Vietnam long held in oppressive prison camps. Vietnam has promised to release these people, and arrangements should be made to bring them to the United States to join their families. As with the Amerasians, these are a small number of people who deserve our special concern 15 years after the war.

I look forward to the day when Americans who served in Vietnam and the families and loved ones of those who died or are missing will be able to visit that country. As I stated before, I myself served in Vietnam and look forward to returning on this humanitarian mission.

If Vietnam will cooperate in resolving the MIA issue and complete its announced plan to withdraw from Cambodia by 1990, I foresee the common bond of past adversity evolving into a special relationship between our countries based on future mutual interest.

Mr. President, America has a long established record of friendly relations with past adversaries. If the issues that divide us can be solved step-by-step, then the fundamental good will of the American people will extend a friendly and if necessary a helping hand to Vietnam as well.

TERENCE C. GOLDEN

Mr. MOYNIHAN. Mr. President the Honorable Terence C. Golden, Administrator of the General Services Administration, is leaving his post after almost 3 years of exemplary service.

During his tenure Mr. Golden has directed an agency of over 22,000 employees with an annual budget of over $7 billion.

In October 1986 Mr. Golden launched an ambitious set of initiatives known as new agenda for a quality workplace, designed to enhance productivity and save money. This program emphasizes the consolidation of Federal agencies from a multiplicity of leased buildings to Government-owned facilities, served by mass transit, with child care and physical fitness facilities.

The Department GSA Administrator's policies will make Federal buildings more attractive, safer places to work. He directed the agency to make Federal art available for display in Government buildings and implemented stringent smoking regulations.

As a member of the Environment and Public Works Committee, I have for a long time had a deep personal interest in the quality of our Nation's public buildings. It has been my pleasure to work with someone of Mr. Golden's experience and dedication. Probably one of Mr. Golden's finest accomplishments was the authorization for construction of an international cultural and trade center to be located on the Federal triangle in our Nation's Capital. Under the innovative financing mechanism Mr. Golden recommended, our Government will lease this building for 30 years but will own it at the end of the lease term. A similar funding scheme is under consideration for a building for the Federal judiciary to be constructed on Capital grounds.

The departing Administrator was highly qualified for his position, having previously served as Assistant Secretary for Administration at the Treasury Department and having extensive career management experience in the private sector as well.

Mr. Golden held management positions in the nuclear industry in the United States and Germany and in real estate development in the United States and Puerto Rico. Before joining the Reagan administration, he was managing partner for Trammell Crow residential companies in Dallas.

Terry Golden graduated with honors from the University of Notre Dame in 1966, with a degree in mechanical engineering. He also holds a master's in nuclear engineering from MIT and an M.B.A. from Harvard.

I regret that Mr. Golden will be leaving his post and wish him and Mrs. Golden well on their return to private life.

TOSHIBA/KONGSBERG: "CRIMES AGAINST THE ALLIANCE"

Mr. HELMS. Mr. President, next month the Heritage Foundation Quarterly Journal, Policy Review, will publish a staff report to the Foreign Relations Committee about the Toshiba/Kongsberg export case. Written by Foreign Relations Committee professional staff member Bill Triplett, the report represents 15 months of investigatory work. Officials in Japan, Norway, France, Germany, and Italy were interviewed. The Japanese businessman who blew the whistle on this case was also interviewed.

The conclusions of the report are as follows:

First, the Toshiba/Kongsberg case is far larger than has been previously reported. Kongsberg alone engaged in at least 142 major export control violations.

Second, the entire affair was a KGB operation and every one of the participants involved knew it.

Third, even the case we know as Toshiba One, the propeller grinders, is more complex than we imagined. Before the Toshiba/Kongsberg betrayal, allied antisubmarine warfare experts could hear Soviet subs out 200 miles; now it is 10 miles, a 20 to 1 gift to Moscow. There is also reason to believe that the Toshiba machine tools are being used to grind the propellers of a new fleet of Soviet nuclear-powered aircraft carriers. There is evidence to indicate that the machine tools are probably also being used to further a supersecret Soviet breakthrough in submarine propulsion systems.

Fourth, if the allegations against Toshiba Corp., allegations known as Toshiba 2, 3, and 4 are correct, Toshiba may have given the Soviets a critical technology which will enable them to have secure communications on the nuclear battlefields.

Fifth, if the allegations against the West German firm Schiess are correct, then Western businessmen may have made the crucial difference in the entire Soviet nuclear warfare cycle—weapons production, delivery and battlefield command, control and communications.

Quite simply, for a relatively small amount of corrupt profit, Western businessmen have sold out the free world and made nuclear war a more attractive option to Moscow's war planners. Western businessmen sold the Soviets the machines to make their nuclear weapons. They sold the Soviets the machines to make their nuclear weapons. They sold the Soviets the machines to make the delivery system, the submarine-launched ballistic missiles effective. Finally, they made certain the command signal could be sent and received on the battlefield.

Mr. President, the report outlines a lapse of truly mammoth proportions. Last June 30, we voted 92 to 5 to impose import sanctions on Toshiba and Kongsberg for 2 to 5 years. On the basis of this report to the committee I believe we ought to impose import sanctions on these companies without time limit.

The costs of this perfidious subversion to the free world are going to be astronomical. The U.S. Navy has just estimated that it will cost $33 billion just to counter the silent submarine propellers. That does not count the need for faster aircraft carriers, the submarine propulsion breakthrough, the nuclear weapons or the radiation hardened communications. A defensive strategy against these weapons systems will cost not tens of billions but hundreds of billions of dollars over many years

Who will pay for this, Mr. President? The bills are already coming in. As I informed the Senate on March 4, the U.S. Navy has already committed over a billion dollars just to upgrade one type of patrol plane. Real, not theoretical damage, has been done to the national security of the Free World. A real, not a theoretical price, must be paid by the guilty parties.

H.R. 3 is now in conference with amendments sponsored by the distinguished chairman of the Banking Committee, Senator PROXMIRE, the distinguished ranking member, Senator GARN, and myself. If these amendments become law, the perpetrators may be forced to pay at least a small recompense toward the damage they have caused. I have been told that our Senate colleagues are holding firmly to the Senate position in conference. The American people undoubtedly will be pleased.

Mr. President, I ask unanimous consent that the report by Mr. Triplett be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

CRIMES AGAINST THE ALLIANCE—THE TOSHIBA-KONGSBERG EXPORT VIOLATIONS

(By William C. Triplett II)

During the early 1980s, at the instigation and under the guidance of the KGB, businessmen from Japan and Norway illegally exported to the Soviet Union computer-controlled industrial robots that have enabled the Soviets to mass-produce quieter submarine propellers. As a result of these sales, Soviet submarines are now able to elude American detection much more easily, posing a serious threat to Western control of the sea-lanes to Europe and the north Pacific. The Department of Defense has estimated that to reestablish our former capability in tracking Soviet submarines will cost American taxpayers a minimum of $8 billion over the next 10 years.

Recent information, the significance of which is still in dispute within the U.S. government, suggests that the sale of submarine propeller-making equipment to the Soviets may be just a tip of the iceberg. Senator Jake Garn has alleged that the Japanese machine tools and their Norwegian numerical controllers have increased the speed of Soviet aircraft carriers. The Japanese businessman who alerted authorities to the illegal sale has suggested that the machine tools have probably made a critical contribution to secret Soviet naval propulsion research. Norwegian officials have told me that a police investigation of the Norwegian perpetrator alleges 142 major export control violations with firms from Japan, France, Germany, and Italy; and a senior administration offical has said he believes these violations may include assistance to Soviet nuclear weapons production. According to press reports, a senior CIA analyst told a House subcommittee that the Japanese perpetrator's parent company may also have illegally sold vitally sensitive microelectronics equipment to the East Bloc, which some speculate would enable Soviet battlefield communications systems to operate during a nuclear war.

Putting all the pieces together suggests that Western businessmen may have made a difference in the entire Soviet nuclear warfare cycle—weapons production; delivery; battlefield command, control, and communications. The magnitude of the damages incurred by these technology transfers raises serious questions about how much Japan, Norway, and other European countries should compensate the United States for their failure to enforce their own export control laws.

The technology transfers also raise an even more fundamental question about whether it is possible to control the export of vital technology in the midst of regular East-West trade ties. The Japanese and Norwegians received approximately $17 million for their service and equipment. Total Soviet imports from developed countries in 1985 equaled $23 billion or less than 2 percent of the developed countries' $1.3 trillion worth of worldwide exports in 1985.

CONSPIRACY OF SILENCE

On April 24, 1981, in the Moscow office of Japan's largest trading firm, C. Itoh, Japanese businessmen signed a contract with the Soviet Technological Machinery Corporation. The contract was signed by C. Itoh's Moscow branch manager and the Soviet corporation's senior vice president. Also present were Igor Oshipov and Anatole Troitsky, both identified as KGB officers in John Barron's book KGB. Troitsky had been expelled from Britain in 1971. KGB officer Vyacheslav Sedov could not attend the ceremony as he had recently been promoted to head the Soviet high technology acquisition office in East Berlin. Sedov had made the initial contacts with the Japanese. His KGB colleagues were the guiding hand throughout the contract negotiations and subsequent illegal deliveries.

What the Western businessmen did was to sell eight giant computer-operated milling machines to the Soviet Union. Four of the machines provided by Toshiba Corporation's machine tool subsidiary, Toshiba Machine, were state-of-the-art nine-axis machines and four were five-axis machines. Kongsberg Vaapenfabrikk, a wholly owned subsidiary of the Norwegian Ministry of Industries, provided the numerical controllers to operate the nine-axis machines. Toshiba Machine provided its own numerical controllers to run the smaller machines.

The machines themselves are industrial robots. Weighing over 250 metric tons each, they stand three stories tall and grind metal in each direction of axis. A nine-axis machine can grind in nine different directions to make very complex shapes such as turbine blades and naval propellers.

One special advantage of a multi-axis machine is its ability to grind on both sides of a piece of metal at the same time. The pressure of grinding deforms metal that is ground on only one side. Simultaneously grinding both sides allows metal objects to be ground thinner without deformation. The machines combine the complexity of the human hand with the computer's ability to repeat the operation over and over.

C. Itoh's role was to take charge of the procedures for the export and shipment of the machines. Under Japanese law no numerically controlled machine tool with more than two simultaneous axis of motion may be shipped to the Soviet Union. Any machine tool exported to the Soviet Union must have an export license. Export licenses and inspections are under the control of the Japanese Ministry of International Trade and Industry (MITI). The export license applications filed by C. Itoh were for two-axis machines to be delivered to a power plant in Leningrad. In fact, the machines shipped were highly sophisticated nine-axis and five-axis machines. Their actual destination was a Soviet munitions plant, the Baltic Naval Shipyard in Leningrad, where they are being used to grind Soviet naval propellers.

The assigned role of the Japanese specialist trading firm Wako Koeki was to take charge of liaison and interpreting work with the Soviet side. Wako Koeki, according to its Moscow manager at the time of the deal, had collaborated with the KGB in the past and it was the initial point of contact by the KGB on this case.

The Soviets paid Toshiba Machine, Wako Koeki, C. Itoh, and Kongsberg on the order of $17 million for the nine-axis machines. This is substantially more than what a legal deal would have received in the soft international machine tool market then prevailing.

Toshiba Machine has a history of questionable dealings with the Soviets predating the 1981 sale. Japanese engineers who installed nine-axis and five-axis machines in the propeller shop at the Baltic Naval Shipyard in 1983-84 put them in the same room with three other five-axis machines sold by Toshiba Machine in 1974. Toshiba Machine claims that these machines, though of admitted five-axis capability, were wired for only two axis. Pentagon officials have told the press, however, that they believe that these modifications were only temporary and easily reversible once the equipment was on Soviet soil.

It was then and is now a crime in their home countries for Japanese and Norwegian businessmen to participate knowingly in a scheme to export numerically controlled machine tools with more than two axis to the Soviet Union.

UNDER THE NORTH ATLANTIC

In the January 1987 issue of the Institute of Naval Proceedings the Chief of Naval Operations declared that antisubmarine warfare (ASW) is the Number 1 mission of the United States Navy. Tom Clancy's Hunt for Red October provides an excellent description of just what ASW is like in the North Atlantic. Undersea cables stretch from the mainland of North America to Greenland, Greenland to Iceland, and Iceland to the United Kingdom. Backing up this system are sonar buoys, search aircraft, and attack (hunter-killer) submarines. The object of this immense undertaking is to listen for Soviet submarines.

Until the 1970s, Soviet naval strategists did not seem to make quietness a high priority for submarine design. They preferred to rely on speed and the ability to dive deeper than the Allied submarines tracking them. As a result, they were constantly losing the cat-and-mouse game with Allied ASW specialists.

Sometime in this period the Walker family spy ring informed the Soviets of how we were tracking them—propeller noise. By the time of the 1981 Toshiba sale, the Soviets had expended the effort to reduce the other sources of noise in their submarines. Propeller sounds were approximately 90 percent of the submarine noise we were picking up.

Modern submarine propellers are as complex as the turbine blades of jet engines. Usually an odd number of blades, seven or so, are mounted on each shaft. Each blade must be perfectly identical to the others on the shaft. If the submarine is a twin shaft machine, then each set must match perfectly. The blades are set at an angle to the shaft and twisted into very complex shapes.

In order to meet the required sound reduction goal manufacturing tolerances must be less than 0.01 mm. Propeller blades can be shaped by hand but the rejection rate is over 50 percent and the rate of production is low. On a propeller that measures more than 35 feet across, automated equipment makes a critical difference.

Although the Soviets have a sufficient science and technology base to make impressive advances in space research and other enterprises that depend heavily on handcrafted, one-of-a-kind experimental equipment, Soviet manufactured goods have a deserved reputation for low quality. Indeed, the manufacturing side is generally the choke point for Soviet weapons production. Western engineer who have serviced equipment in the Baltic Naval Shipyard also found Soviet machine tools in place to grind propellers but they were idled by a lack of spare parts and by technical incompetence. In 1981, the Soviet economy simply could not produce a state-of-the-art multi-axis computer-controlled industrial robot capable of reaching a 0.01 mm tolerance level. But Toshiba Machine and Kongsberg could.

The result of the Toshiba equipment's effect on Soviet submarine quieting are quite impressive. According to the June 27, 1987, issue of the Economist of London, before the Toshiba Machine sale, we could hear Soviet submarines 200 miles away; after the sale it was down to 10 miles.

A FASTER BREZHNEV

"Where are the aircraft carriers?" According to former Secretary of State Henry Kissinger, that was his first thought in times of crisis. For power projection, large, fast aircraft carriers are hard to beat.

"Fast" is the key word. Carrier battle groups depend upon speed to get their aircraft within range of the target and to be quickly out of harm's way themselves. Extracting that extra knot of speed out of a 65,000-ton ship the size of three football fields matters.

The Soviets currently have deployed four light aircraft carriers of about 37,000 tons, called the Kiev class. While certainly formidable vessels, their fixed-wing aircraft are limited to the FORGER. What the FORGER gains in its short takeoff and landing capabilities it loses in speed, range, and other operational capabilities. To match the American F-14 Tomcat, they would have to go upscale.

The Soviets are completing the first of a fleet of nuclear-powered attack aircraft carriers. At 65,000 metric tons displacement (about equal to the USS Forrestal), the Brezhnev, first named the Kremlin but renamed the Leonid Brezhnev after his death, and its three sister ships would be a major threat to Allied control of the sea-lanes in time of conflict. We anticipate that the Soviets will follow the Western practice of creating battle groups centered on the Brezhnev and including Kirov-class nuclear guided-missile cruisers. The Brezhnev is afloat and fitting out. The keel of a second ship has been spotted and all four should be at sea in the late '90s.

Soviet planners face the same problems with the Brezhnev that they must confront with submarines: how to mass-produce modern-design propellers? The Toshiba machines at the Baltic Naval Shipyard provide the answer. American officials have told the press that the four nine-axis machines and the four five-axis machines are grinding submarine propellers, but the nine-axis machines have the added capability of grinding large propellers—up to 11 meters (35 feet) in diameter. Senator Jake Garn has said on the Senate floor that this propeller equipment has helped increase the speed of Soviet aircraft carriers.

A JAPANESE HERO

The Toshiba-Kongsberg affair began to break in December 1985, when the Moscow manager of Wako Koeki at the time of the deal, Hitori Kumagai, posted a letter to the chairman of the Coordinating Committee for Export Controls (COCOM) in Paris. Kumagai named names and dates, identified equipment by model number and destination, and described the intended Soviet use. He signed the letter, included his address and even his telephone number. His letter included copies of all the secret contracts and an inch-thick technical attachment of engineering drawings.

COCOM turned the letter over to the Japanese Ministry of International Trade and Industry (MITI). In April 1986, a MITI director-general informed COCOM that Kumagai's accusations were without foundation. Kumagai reports that at that time he was not interviewed nor even contacted by the Japanese government.

That is not the way the system is supposed to work. COCOM is composed of 16 countries—NATO minus Iceland, but plus Japan. Member countries meet to discuss technology limitations on exports to Communist countries. In theory, each nation should be policing its own exports based on the agreed limitations.

In practice, it's a mixed bag. Some countries such as the United States, the United Kingdom, and Canada have fairly tight export-control regimes. Others are there in name only. Until the Toshiba Machine case fell on MITI's head, it had only 20 bureaucrats to handle more than 200,000 export license applications per year. Under such a caseload the MITI bureaucrats could not devote their full consideration to each application. They had to rely on the reputation of the applicant. Norway was no better than Japan.

National legislation in COCOM countries is also a mixed bag. Since 1981, the United States has treated illegal technology transfers with severity. Other COCOM countries are quite lenient. German and Italian export control officials have informed me that no one has ever been jailed in those countries for illegal technology transfers. Japan does not even have an anti-espionage law, a situation North Korean terrorist rings have use to advantage. A major obstacle to prosecution has been the short statutes of limitations—two years in Norway and three in Japan at the time of this case.

WEINBERGER'S PERSONAL APPEAL

In actual practice, the COCOM system depends heavily upon the United States for enforcement of export-control violations, both in member countries and in the high-tech neutrals such as Switzerland, Austria, and Sweden. The American intelligence community, Department of Defense, Department of State, Department of Commerce, and the Customs Service share the duties. If the enforcement officials of any member country or major neutral ever broke a significant case of high-tech diversion to the Soviet Union or the East Bloc without United States assistance, such a case has not come to light. They don't have the resources and in some cases their hearts are not in the fight.

In a typical case, the United States will approach the country from which the violation originates or transits and bring the violation to its attention. In theory, enforcement officials of the country notified should spring into action. All too often, however, the American approach triggers the normal human protectiveness of foreign officials. Compounding the problem is the reluctance of American officials to provide all the information available for fear of jeopardizing sources and methods of intelligence collection.

Sometime in 1986, U.S. enforcement officials and Kumagai crossed paths. In June of that year, the United States broached the issue in Tokyo. Again MITI issued an immediate denial. In December, 1986, Undersecretary of Defense Fred Ikle and Deputy Undersecretary of Defense Stephen Bryen held stormy sessions in Tokyo with Japanese MITI and Foreign Ministry officials only to be met with more denials. In March, 1987, Undersecretary of State Edward Derwinski demarched Japanese embassy officials on the Toshiba Machine case only to receive yet another denial. In the meantime, Norwegian officials had been informed of the Kongsberg connection but they were having momentary confusion about its significance.

In April, 1987, Secretary of Defense Caspar Weinberger sent a personal appeal to his Japanese counterpart, which was timed to arrive the weekend before Prime Minister Yasuhiro Nakasone left for Washington on a state visit. (A similar letter was sent to Norway.) John Peterson of the Detroit News wrote the first extensive news article on the Toshiba/Kongsberg story on April 28. Every major Japanese daily picked up the Detroit News story on April 29; and before dawn on April 30, Japanese police had raided Toshiba Machine, C. Itoh, and Wako Koeki in 14 locations across Japan.

CAPITOL HILL CAVALRY

It is hard to name an issue in recent years that has provoked such an immediate, visceral reaction on Capitol Hill as the Toshiba/Kongsberg affair. Members who wouldn't ordinarily agree on lunch have banded together to denounce Toshiba and Kongsberg. The chairman of the Senate Commitee with responsibility for export controls, Senator William Proxmire, told a House-Senate conference on October 3, 1987, that in 30 years of Senate service he had never seen his colleagues so united. By a vote of 415 to 1, the House passed an amendment sponsored by Representative Duncan Hunter that instructed the Secretary of State to begin discussions with Japan and Norway over compensation for the loss to national security. An amendment sponsored by Representative Charles Wilson excluded Toshiba and Kongsberg from contracting with the federal government for most of Fiscal Year 1988. Toshiba alone has probably lost $200 million in postential government contracts for lap-top computers and consumer goods sales to U.S. military post exchanges worldwide.

Pending in early 1988 were the Proxmire-Garn-Helms-Heinz amendments to the trade bill H.R. 3. The amendments passed on June 30, 1987, as floor amendments in the Senate by a vote of 92 to 5. At least three of the five senators voting "no" indicated they voted against them because they were not strong enough. Proxmire-Garn-Helms-Heinz would ban Toshiba and Kongsberg from exporting to the United States or contracting with the U.S. government for two to five years. They would apply the same penalty to foreign firms that violated COCOM regulations in the future. Finally, the amendments would allow the Department of Justice to seek indemnification for American taxpayers due to losses to national security caused by export control violations. Some financial writers estimated that if Proxmire-Garn-Helms-Heinz should become law as passed by the Senate, it would cost Toshiba billions of dollars in lost revenues and it might bankrupt Kongsberg.

JAPAN'S RESPONSE

On July 1, 1987, the morning following Senate passage of the Proxmire-Garn-Helms-Heinz legislation, Toshiba Corporation Chairman Shoichi Saba and President Sugiichiro Watari resigned, taking responsibility for their errant subsidiary. The new Toshiba President Joichi Aoi hired Price Waterhouse to find out what had happened and what could be done to ensure that nothing similar ever happens at Toshiba again. Toshiba apologized to the American people in full-page advertisements in 60 U.S. newspapers.

The Japanese government also began for the first time to take the technology transfer scandal seriously. As far back as his April visit to Washington, Prime Minister Nakasone had told Senator Jesse Helms that the Toshiba problem was "serious" and he intended to clean it up. On July 18, the Prime Minister told the Diet that Toshiba Machine had perpetrated "a crime of betrayal against the Japanese people."

Under the able leadership of Japanese Dietman Motoo Shiina, the Liberal Democratic Party established a committee to make changes in Japan's export control law. For the first time, "national security" was given as a reason for export denial. The statute of limitations was increased from three to five years. Punishments were made more severe and "attempts" to violate the law were made a crime. Two minor executives from Toshiba Machine were arrested and the company itself was indicted. Toshiba Machine has been forbidden to export to Communist countries for a year. C. Itoh received administrative punishment for three months and Wako Koeki got a reprimand, though MITI's 18 months of denials allowed a number of potential defendants to escape via the three-year statute of limitations.

The Japanese also pledged to assign 100 people to export control licensing and enforcement, up from 20. By contrast, the United States assigns approximately 800 people to the same task, and U.S. trade with the East Bloc and the Soviets in manufactured goods is far smaller.

THE BALTIC NAVAL SHIPYARD

The Baltic Naval Shipyard's propeller shop is surrounded by a high-voltage electric fence. Powerful searchlights are located strategically. The guard controls a dead man's gate: If the guard is killed by an intruder, the gate is automatically raised, blocking entrance.

Because Leningrad was constructed on a swamp, it was very difficult for the Japanese and Norwegian engineers to install the enormously heavy machines. But they got the job done. They were helped by the fact that they only had to install half the machines they sold. Two nine-axis machines and two five-axis machines were installed next to the older Toshiba machines and one French machine. The Japanese engineers installed the machines under the watchful eyes of Soviet engineers who took copious notes.

For some time Western analysts puzzled over the location of the other two nine-axis machines and the two five-axis machines. Recent information strongly suggests that these other four machines were installed by very tired Soviet engineers working at night from the notes they took during the day. Across the street from the propeller shop is a mystery building, which is similarly protected by electric fencing. The other four machines are probably there.

What are the Soviets doing in the mystery building? They never hid from Western engineers that the equipment they were installing in the propeller shop was for military use.

In September, 1987, Hitori Kumagai wrote in the Japanese monthly Bungei Shunju that the Soviets may be using the mystery building to push a new breakthrough propulsion system for Soviet submarines. This may be the "tunnel drive" about which Tom Clancy speculated in Red October. We already know, from the caterpillar tracks that have been found in the sea bottom off a major Swedish naval base, that the Soviets are experimenting with radically new submarine propulsion systems. The Swedish naval base is within easy reach of Soviet submarines stationed next to the Baltic Naval Shipyard.

WHO'S GOING TO PAY FOR THIS MESS?

The Western Alliance has been grievously injured by Toshiba and Kongsberg. To regain our technological lead in antisubmarine warfare, assuming it is not lost forever, will be expensive. There are no credible estimates of less than multiple billions of dollars for antisubmarine warfare alone. On July 29, 1987, the New York Times reported, "A classified Defense Department study estimates that developing new technology to reestablish America's edge in tracking Soviet submarines will cost at least $8 billion over 10 years." If Allied scientists cannot upgrade the existing system of underwater detection devices—and the technology does not yet exist—it may require 60 additional nuclear attack submarines at $1 billion per copy to achieve the same antisubmarine capability we had before the Toshiba-Kongsberg crime.

Assuming that the other alleged major violations of Kongsberg, along with those of French, German, and Italian firms, are comparable to the Toshiba Machine betrayal, the bills for these illegal exports will be astronomical.

The question then, is quite simple, Who is going to pay? Will it be the companies that caused the damage? Or, as a practical matter, will it be the American taxpayer? The Senate answered that with the Helms amendment: Business firms that cause damage, in this case damage to the national security of the West, must pay to clean it up.

Meanwhile, enormous strategic damage has been inflicted on the Free World. The United States maintains neither the manpower nor the material overseas to defend Europe or Japan for any length of time. Both would have to be reinforced and resupplied from the United States. While some limited airlift capability is available, the bulk of reinforcements and resupplies would have to move to Japan and Europe by sea. Toshiba, Kongsberg, and related conspirators have given the Soviets the tools to make sealane interdiction a very real possibility.

Given the ease with which export controls in Western countries can be violated, it is worth asking whether trade with the East Bloc and Soviets makes a positive contribution to the West. Trade with the East is really quite small. According to unclassified CIA statistics, in no COCOM country is it above 1 percent of GNP. Given the shape of socialist economies, it is unlikely that they will have the money for any expanded purchases of western goods. As we have seen in the Toshiba/Kongsberg affair, the costs to Free World taxpayers from just one bad deal can be enormous. The United States will now have to spend at least $8 billion to repair its antisubmarine defenses, as a result of a sale that netted Japanese and Norwegian companies approximately $17 million.

In an August, 1987, private interview in Tokyo, former Moscow manager for Wako Koeki, Hitori Kumagai, was asked where authorities should look for export control violations. He responded, "Any enterprise which comes to Moscow to deal with the Soviet Union."

SENATOR JOHN S. McCAIN

Mr. DOLE. Mr. President, today marks yet another important anniversary in the life of our good friend and colleague from Arizona, JOHN McCAIN. Last year, we paused to remember the 20th anniversary of JOHN's dramatic capture in Hanoi. Today, we celebrate the 15th anniversary of his return to freedom in the United States.

JOHN has come a long way in the past 20 years. And his strong convictions, dedication to public service and compassion for his fellow man have characterized his every step. Even after being repeatedly tortured, beaten, and interrogated in his Hanoi prison cell, JOHN never lost hope. He had the courage and conviction to hang on to his beliefs, and at the same time, encourage his fellow POW's to keep fighting throughout their ordeal.

Even at the risk of physical harm, starvation, and solitary confinement, John established primitive communication with his fellow POW's to keep up morale.

Just as these character traits allowed him to survive the living hell of his captivity, they have been directly responsible for his remarkable achievements since his arrival home on March 17, 1973. In an incredibly short period of time, John McCain, former POW, became John McCain, U.S. Senator from Arizona.

Mr. President, if anyone knows the true meaning of freedom, it is John McCain. As a young fighter pilot, he fought for it. In a small cell in the main prison of Hanoi, he kept his faith and held on to his strong conviction to regain his personal freedom and that of his fellow POW's. And finally, as a U.S. Senator, he is a leader in the fight for freedom—exemplified again the leadership role he has taken in support of the freedom fighters in Nicaragua.

Last October, I recounted that an important goal in John's life "is to make some contribution to his country." Well, John McCain—lieutenant commander and U.S. Senator—has done much more than that. He has demonstrated that freedom is always worth fighting for and must never be taken for granted.

I'm sure I can speak for all others in the Chamber in congratulating a true patriot and freedom fighter, my friend, John McCain.

BICENTENNIAL MINUTE

MARCH 9, 1909: FIRST SENATE SUBWAY OPENS

Mr. DOLE. Mr. President, this month a venerable Senate institution is celebrating its 79th birthday. It is a service that assists us so often that we may take it for granted, but it deserves a day of commemoration. I speak of the Senate subway system, which opened on March 9, 1909.

As Senators know all to well, our attendance may be required on the floor for a vote at all hours. This keeps Members rushing between the Capitol and the Senate Office Buildings. Given only 15 minutes to cast our votes, we rely heavily on the subway to facilitate passage back and forth.

The need for the first subway occurred as the Senate constructed its first office building, now known as the Richard Russell Building. When it opened in March 1909, the building provided at least two rooms for every Senator, along with the small Senate staff.

A tunnel, through which the first subway ran, connected the office building with the Capitol. However, this subway was not a railroad, but a pair of lemon-yellow, storage-battery-powered buses, made by Studebaker. These high, four-wheeled coaches carried eight passengers—whose heads bobbed just inches from the tunnel's ceiling. The old Washington Evening Star announced the first run with a headline: "All Aboard for the Capitol! Car Leaves at Once. Through Express." And the New York Evening Journal added a little doggerel:

"A subway for our Senators is running every day:

There's no 'step lively!' 'hurry up!' and best of all, no pay."

However, the electric buses proved too slow, and in 1912 they were replaced by electrically powered cars operating on a single-rail track. Our current subway system was installed in 1960, to extend to the Dirksen Building, and more recently to the Hart Building. We salute the subways for the nearly 80 years that they have kept the Senate on the move.

NICARAGUA

Mr. McCLURE. Mr. President, I thank the Senator from Utah for yielding. I will not burden the time of the Senate very long, but I do believe that it is important for those of us who are more than observers of the process in Central America to deal very carefully with what is happening there today.

Mr. President, they told us to give peace a chance. And we gave peace a chance. And now we see the results.

The Sandinista commandantes saw the Contras weakened and dispirited at their abandonment by the U.S. Congress. The Sandinistas, on the other hand, are well-stocked and well-armed because the Arias plan did nothing to stop the flow of Soviet weapons into Nicaragua. So they struck, because they know that a death blow to the Contras now means they won't have to pay any more attention to the "peace process." With the Contras out of the picture, they know they can return to their old ways of repression and subversion and nothing can stop them. Not moral suasion. Not President Arias' Nobel Peace Prize. Not world opinion or political pressure.

There is an unfortunate sense of deja vu here. Let me remind my colleagues what happened the last time we gave peace a chance. It was in Vietnam. And we know the results: reeducation camps, boat people, Pol Pot, and the "killing fields."

Mr. President, I think it is time we declared the Arias peace process dead. And we know who killed it. Not the United States. Not the Contras or the democratic nations of Central America. But the Sandinista commandantes.

And let me point out to my colleagues that Daniel Ortega is not stupid. There is a tendency in Washington to write off some of the Sandinistas' actions, such as the infamous trip to Moscow or the closing of La Prensa, as stupidity or lack of political sophistication. What people do not understand is that the Sandinistas are not playing the same game we are. What appears irrational to us makes pefect sense to them because they are following a different logic, a logic of Marxist realpolitik. They do not care about world opinion. They do not care about offending anyone. Their goal is and always has been the consolidation of their Marxist state. And they are willing to take any step they see as necessary in achieving that goal.

The situation is also rife with irony. The Sandinistas move to wipe out the Contras on the same day that those who tried to keep the Contras alive are being indicted. The Nicaraguan Foreign Minister, Miguel D'Escoto, like an accused criminal, makes his one phone call. And who does he call? The Speaker of the House of Representatives.

Mr. President, I commend the administration for its firm response to the Sandinista incursion into Honduras. The 3,200 U.S. troops are not being sent into the battle zone. But their presence makes it perfectly clear that we regard the Sandinista move as a threat to our democratic ally, Honduras, and to our own national security.

Even more important, I urge the administration to send up a request for military and other aid that is dictated not solely by perceived political constraints, but by what the Contras need to remain a viable fighting force. Because United States troops in Honduras cannot bring democracy and peace to Nicaragua. Only Nicaraguans fighting inside Nicaragua can do that. If the Contras, in fighting their own battles, succeed in protecting our interests we will not be faced with any discussion of U.S. troops—the last thing we want. But if they fail we will then be faced with that choice!

STUDENT LOAN DEFAULTS

Mr. SIMON. Mr. President, I rise to call to the attention of all Senators an article which appeared in Tuesday's Wall Street Journal—regarding student loan defaults. The March 15, 1988 article "Troubling Statistics on Student Loan Defaults Yield No Agreement on Explanation or Solution" includes an extraordinary quote from the Deputy Undersecretary of Education for Management and Budget. In describing the impact of Secretary Bennett's loan default initiative on various sectors within the higher education community, Bruce Carnes is quoted as having said:

> The sector that will be hit hardest by this will be black colleges. It's possible that their student bodies contain a high level of thieves.

Mr. Carnes' language, in reference to black students, is totally objectionable, racist in its implication, and unfortunate given its source. Mr. Carnes' remarks should be publicly repudiated by the Secretary. I am however, troubled by both the statement and the Department's underlying policy of attributing student defaults to postsecondary institutions and using inaccurate default data to remove certain schools and colleges from participation in the Guaranteed Student Loan [GSL] Program.

I do not know whether or not the quote is accurate. Mr. Carnes appears to deny it in his March 15 letter to the editor. I do know that this is not the first time that Mr. Carnes has made a statement similar to the one quoted in the Wall Street Journal. At a recent briefing on the Secretary of Education's GSL loan default initiative, in response to a question about providing leeway from the proposed institutional default thresholds, Mr. Carnes commented—"just because you are poor or black or hispanic or female doesn't mean you have a right to steal."

Apparently Mr. Carnes has a tendency to accuse loan defaulters of thievery. He is simply wrong on his facts and incorrect in his assessment of Federal policy. Were this an isolated circumstance, I would be inclined to forgive and forget. It is not.

During the 1986 reauthorization of the Higher Education Act, the Congress added a new program to the trio programs under title IV of the act, which Senator THURMOND and I worked on together.

This new program, the Ronald McNair Post-Baccalaureate Achievement Program, allows academically able, minority, handicapped, low income and first-generation college students to pursue graduate studies through a summer enrichment partnership program between undergraduate and graduate institutions. This program represents a logical nexus between trio, the student aid programs, and the Patricia Roberts Harris Fellowship Program. Although the law requires the Secretary to implement this important program and Congress has appropriated funds to do so—I have been informed that Mr. Carnes decided that the Department would not do so. Dr. Arnold Mitchem, of the National Council of Educational Opportunity Association, has said of Mr. Carnes' decision not to implement this program "as a black man, I'm very insulted by the education department's decision."

I share Dr. Mitchem's feeling of insult about the decision not to implement the only program in the Department honoring a black man. His open disregard of the Congress and contempt for the legislative process is equally regrettable. Representative AUGUSTUS F. HAWKINS, who chairs the House Education and Labor Committee, has called for Mr. Carnes resignation. I think Mr. Carnes should heed this sound advice.

Mr. President, I ask unanimous consent that the Wall Street Journal article and Mr. Carnes letter to the editor be included in the RECORD at this point.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 15, 1988]

TROUBLING STATISTICS ON STUDENT-LOAN DEFAULTS YIELDS NO AGREEMENT ON EXPLANATION OR SOLUTION

(By Gary Putka)

Ann Calvin, the federal government says, is a deadbeat. Unable to afford the costs of going to school, she borrowed $4,000 in the late 1970s for graduate study at Morgan State University, a mainly black college in Baltimore.

After dropping out in 1981, she could only find part-time work, paying $2,500 a year. So she defaulted on her loan. With a better-paying job as a teacher's aide in Annapolis, Md., she has resumed payments—but still doesn't know when she'll pay it off. "I'm sorry I took the loan out," says Miss Calvin, who is 33. "I still have never found a job that pays more than $10,000."

Miss Calvin and millions of other former students are at the center of a growing controversy over defaults and costs in the government's student loan program. Education Secretary William Bennett wants to rein in the program, which supplies loans totaling $10 billion a year, half of all college financial aid. Some Democrats in Congress want to block him and replace the loans with outright grants. The outcome of the debate could decide who will be able to afford school in the future.

The main problem, contends Bruce Carnes, a top official in the Education Department, is that "all too many kids feel they don't have to pay this money back because nothing will happen to them." In addition, the Education Department says the program is rife with fraud—how much isn't known—especially at for-profit trade schools that are supposed to teach everything from hairdressing to computer programming.

All told, $6 billion is in default. Of 8,284 schools that have been in the program, nearly 1,100—including Morgan State—have cumulative student default rates over 40% and another 1,100 have default rates over 20%. Mr. Bennett's solution: cut all federal aid to schools that can't get below 20% by 1989.

But many educators and lenders say this will result in overkill—restricting college access for the honest and the dishonest alike. Reform is needed, they agree, but they say the Bennett plan would hurt those who need help the most.

Contrary to popular belief, the majority of defaulters aren't spoiled spawn of the Ivy League turned doctors or lawyers. They're low-income people who borrowed modestly but don't earn enough to repay the loans. Pennsylvania's loan-guaranty agency, for example, says 25% of its defaulters are unemployed. Another 45% earn under $8,000 a year. "They're not deadbeats," says Jerry Davis, the agency's research head. "They don't have the money."

Mr. Bennett says his initiative is aimed at "hustlers and rip-off artists" in the system. And he dismisses as "nonsense" the idea that his real agenda is to make further cuts in student-aid programs. "We're adding more money for education; student aid will be just fine," he says.

Recent studies have disclosed troubling statistics. The Education Department, for example, found all the students at 115 schools defaulted on loans due for a first payment in 1986. One branch of Superior Training Services, an Indianapolis-based career-school claim, showed $24 million in defaults, or 44% of the money lent to its students, in a state governments' study. Wilfred American Education Corp., a New York-based chain, had five outlets above a 40% default rate. Fourteen other schools in New York state also topped 40% and $5 million in defaults, including five City University of New York branches. Harvard and other Ivy League schools, whose graduates get better jobs, generally came in below 7%.

Mr. Carnes, who leads the department's efforts to clamp down, acknowledges that the default initiative would have an imbalanced effect. "The sector that will be hit hardest by this will be black colleges. It's possible that their student bodies contain a high level of thieves."

Black colleges say this is typical of a misinformed government stance. "I don't accept that—it's not thieves," says James Brown, financial aid director at Pennsylvania's predominantly black Cheyney State University. "If a kid comes out with $12,000 of debt and a B.A. in psychology, he makes $12,000 a year. Then he gets an apartment, and the first thing you know, he misses a payment."

Mr. Brown and other educators agree that the default rate is too high, but they favor other answers, like more federal grant money to replace loans. The government predicts defaults of $1.6 billion this year, about 16% of annual loan volume. Total federal costs, including interest subsidies, will be an estimated $3.4 billion.

Mr. Bennett's initiative "would be horrendous" for Morgan State, adds Earle Richardson, president of the college, which has a default rate of over 40%. The school would face a big enrollment drop under the Bennett proposal, since 85% of its 3,500 students receive federal aid. Says Mr. Richardson. "You don't hold future generations accountable for the sins of the past."

Still, lack of ability to repay clearly isn't the only problem. Disclosures of fraud and alleged abuse in the program are spreading. In one of the biggest cases yet, Florida Federal Savings & Loan said last month that if falsified claims to get federal repayment of up to $44 million in defaulted loans. Some of the largest for-profit career schools in the country have admitted or been accused of fraud in other cases involving the recruitment of unqualified students who default after dropping out.

But in many cases, the student is victim, not perpetrator. Harry Jackson enrolled in the Brook-Wein Business Institute in Washington, D.C. in July 1985, hoping to leave a $9,000-a-year job as a night watchman for an accounting career. At Brook-Wein's urging, Mr. Jackson says he took out a $2,500 guaranteed student loan signed over to the school. He dropped out two months later after leading a strike against conditions at the schools, which he called "lousy."

Brook-Wein has since been sold to another chain. To settle a lawsuit by Mr. Jackson, Brook-Wein's former owners agreed to repay his and other student loans. But Mr. Jackson's attorney says the checks have bounced. Brook-Wein's former owners' attorneys say the checks were stopped because other plaintiffs continued to press their claims in court.

Some analysts say the Education Department polices the lenders and state guaranty agencies weakly. Under the rules, the agencies pay off the lenders on defaults, then get federal reimbursement. Last August, the U.S. General Accounting Office found big gaps in collection efforts, and faulted the department for lax enforcement.

Spurred partly by the GAO, the department adopted tough new collection standards last year, requiring 19 phone calls or letters to a student before a default claim could be made by a lender. Since last September, up to $500 million in claims have been denied, touching off a furor from bankers who feared they would be confronting losses. Florida Federal faces up to $100 million in losses because of the new standards, while Citibank and Chase Manhattan also have had claims rejected.

Despite its recent tough talk on defaults, the department is backing off on collection rules after intense industry lobbying. A new ruling will allow many of the denied claims to be resubmitted and paid.

U.S. DEPARTMENT OF EDUCATION
March 15, 1988.

LETTER TO THE EDITOR
The Wall Street Journal,
New York, NY.

DEAR EDITOR: I am deeply distressed that the Journal article on guaranteed student loan defaults (March 15, 1988) has grievously misrepresented my views concerning black colleges and their students. In fact, it ascribes to me a view that is precisely the opposite of the one I hold and have repeatedly stated.

My view is that black colleges should be held to the same standards on student loan defaults as other institutions because their students are as capable as others of meeting their commitments. I have consistently stated before Congress and on many other occasions that the default problem is, in large part, an issue that all institutions of higher education must confront. To help historically black colleges in this task, the Department will conduct workshops and seminars to assist those with high default rates in managing student loans. We believe that the default problem that exists at some black colleges will thus be greatly alleviated.

Sincerely,

BRUCE CARNES,
Deputy Under Secretary.

NATIONAL ASSOCIATION FOR EQUAL OPPORTUNITY

Mr. SIMON. Mr. President, the National Association for Equal Opportunity in Higher Education will hold its 16th Annual Conference on Blacks in Higher Education in Washington on March 23-27, 1988. NAFEO's annual conference is probably the most important meeting each year for the discussion of issues related to blacks in higher education—especially as it relates to assessing black progress in achieving access and equal opportunity in higher education. There are a number of critical issues facing us today. They include: First, the need to improve the educational status and fiscal solvency of the historically black colleges and universities; second, the declining numbers of black Americans entering postsecondary education in the face of increasing numbers of black students graduating from high school; third, the increasing concentration of college age black students in the Nation's community colleges and those entering, but not completing traditional institutions; and fourth, the failure of our colleges and universities to produce an adequate number of minority teachers for elementary and secondary instruction, as well as for the collegiate professoriate.

NAFEO, which represents 117 historically and predominantly black colleges, also takes this opportunity to recognize distinguished graduates of its member institutions. This year one of Illinois' outstanding citizens, State Representative Jesse White, will be honored as a distinguished alumnus of Alabama State University. Representative White is a public school teacher in Chicago and a physical education instructor for the Chicago Park District. He devotes considerable amounts of his personal time to training young black boys and girls, from the Cabrini-Green housing project in Chicago, in gymnastics. A native of Alton, IL, he has served as a YMCA director and is an active member of the Chicago Federation of Teachers and the Association of Professional Baseball Players. He was named Father of the Year by the city of Chicago in 1984 and State Legislator of the Year in 1987.

Mr. President, I hope all of my colleagues will join me in commending Jesse White for his contribution to the youth of the city of Chicago and the State of Illinois. I urge all of my colleagues to meet with black college presidents and chancellors who come to discuss with them the important issues facing black America and black higher education.

TREAT PUERTO RICO LIKE A STATE ON MINIMUM WAGE LEGISLATION

Mr. SIMON. Mr. President, the Education and Labor Committee reported H.R. 1834 on Wednesday, March 16, 1988. Contrary to previous policy, and action by the Congress in 1977, the House bill does not treat Puerto Rico as a State—and thus excludes them from the minimum wage increase. Puerto Rican workers as American citizens, have been and should continue to be treated like everyone else. From 1978 to 1981 Puerto Rico gained, not lost, 32,000 jobs. There simply is no substance to the charge that raising the minimum wage will cost low wage workers their jobs.

Puerto Rican workers should receive the same minimum wage as those in the United States. Puerto Ricans pay taxes, serve in the United States military in time of war and have all the rights of American citizens. If all American workers deserve an increase in the minimum wage to $3.35 an hour—or up $5.05 by 1992 as provided in the Education and Labor Committee reported bill, then every American worker should receive the same benefit.

I have been assured by the mayor of San Juan and the former resident commissioner to the Congress from Puerto Rico, Hon. Baltasar Corrada that Puerto Rico can sustain the minimum wage increases. In March 1986 out of 152,382 manufacturing employees 83 percent were receiving wages over $3.85 per hour and 63 percent were receiving wages over $4.60 per hour. According to commonwealth government statistics Puerto Rican workers have a productivity index higher than United States mainland workers and only second to Japan.

I intend to support an amendment to include Puerto Rico as a State when the Committee on Labor and Human Resources marks up S. 837 in the near future.

VETO MESSAGE ON S. 557, THE CIVIL RIGHTS RESTORATION ACT—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 122

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on March 16, 1988, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers:

To the Senate of the United States:

I am returning unsigned with my objections S. 557 and transmitting for your prompt consideration the Civil Rights Protection Act of 1988. The Congress should enact legislation designed to eliminate invidious discrimination and to ensure equality of opportunity for all Americans while preserving their basic freedoms from governmental interference and control. Regrettably, the bill presented to me fails to achieve that objective.

There is no matter of greater concern to me than ensuring that our Nation is free of discrimination. Our country has paid a heavy price in the past for prejudices, whether based upon race, gender, ethnic background, religion or handicap. Such attitudes have no place in our society.

It was with this commitment in mind that in the wake of the Supreme Court's 1984 *Grove City College* decision, I voiced my support for legislation that would strengthen the civil rights coverage of educational institutions that existed prior to that decision. I have repeatedly endorsed legislation to do just that. Today I am sending to Congress a bill that goes further than the legislation previously endorsed. This proposed bill is intended to accommodate other concerns raised during Congressional consideration of the *Grove City* issue.

Our bill advances the protection of civil rights. It would:

—prohibit discrimination against women, minorities, persons with disabilities, and the elderly *across the board* in public school districts, public systems of higher education, systems of vocational education, and private educational institutions which receive *any* Federal aid.

—extend the application of the civil rights statutes to *entire* businesses which receive Federal aid as a whole and to the *entire* plant or facility receiving Federal aid in *every* other instance.

—prohibit discrimination in *all* of the federally funded programs of departments and agencies of State and local governments.

Our bill complements well our body of existing Federal civil rights laws. But even more remains to be done. For example, I have urged the Congress to enact responsible legislation to deal with some obvious failures of the Fair Housing Act of 1968, including the need to protect persons with disabilities.

Congress, on the other hand, has sent me a bill that would vastly and unjustifiably expand the power of the Federal Government over the decisions and affairs of private organizations, such as churches and synagogues, farms, businesses, and State and local governments. In the process, it would place at risk such cherished values as religious liberty.

The bill presented to me would diminish substantially the freedom and independence of religious institutions in our society. The bill would seriously impinge upon religious liberty because of its unprecedented and pervasive coverage of churches and synagogues based on receipt of even a small amount of Federal aid for just one activity; its unprecedented coverage of entire religious elementary and secondary school systems when only a single school in such a system receives Federal aid; and its failure to protect, under Title IX of the Education Amendments of 1972, the religious freedom of private schools that are closely identified with the religious tenets of, but not controlled by, a religious organization.

Businesses participating in Federal programs, such as job training programs, would be subject to comprehensive Federal regulation. While some proponents of S. 557 have claimed that it would not apply to farmers who receive Federal crop subsidies or food suppliers who accept food stamps, the ambiguity in the statute and its legislative history indicates that these exemptions should be made explicit.

A significant portion of the private sector—entities principally engaged in the business of providing education, health care, housing, social services, or parks and recreation—would for the first time be covered nationwide in all of their activities, including those wholly unrelated activities of their subsidiaries or other divisions, even if those subsidiaries or divisions receive no Federal aid. Again, there was no demonstrated need for such sweeping coverage.

Further, this bill would be beyond pre-Grove City law and expand the scope of coverage of State and local government agencies. Under S. 557, any agency of such a government that receives or distributes such assistance would be subject in all of its operations to a wide-ranging regime of Federal regulation, contrary to the sound principles of federalism.

The cost and burdens of compliance with S. 557 would be substantial. The bill would bring to those it covers—which is most of America—an intrusive Federal regulatory regime; random on-site compliance checks by Federal officials; and increased exposure to lawsuits, which are costly to defend even when you win.

Moreover, such legislation would likely have the unintended consequences of harming many of the same people it is supposed to protect. For example, persons with disabilities seeking to enhance their job skills are not helped if businesses withdraw from Federal job-training programs because of their unwillingness to accept vastly expanded bureaucratic intrusions under S. 557. Business groups have indicated many of their members may do just that.

The Civil Rights Protection Act that I am proposing today addresses the many shortcomings of S. 557. The Civil Rights Protection Act would protect civil rights and at the same time preserve the independence of State and local governments, the freedom of religion, and the right of America's citizens to order their lives and businesses without extensive Federal intrusion.

The Civil Rights Protection Act contains important changes from S. 557 designed to avoid unnecessary Federal intrusion into the lives and businesses of Americans, while ensuring that Federal aid is properly monitored under the civil rights statutes it amends. The bill would:

—Protect religious liberty by limiting coverage to that part of a church or synagogue which participates in a Federal program; by protecting under Title IX, the religious tenets of private institutions closely identified with religious organizations on the same basis as institutions directly controlled by religious organizations; and by providing that when a religious secondary or elementary school receives Federal assistance, only that school, and not the entire religious school system, becomes subject to the Federal regulation.

—Ensure that the reach of Federal regulation into private businesses extends only to the facility that participates in Federally funded programs, unless the business, as a whole, receives Federal aid, in which case it is covered in its entirety. The bill also states explicitly that farmers will not become subject to Federal regulation by virtue of their acceptance of Federal price support payments, and that grocers and supermarkets will not become subject to such regulations by virtue of accepting food stamps from customers.

—Preserve the independence of State and local government from Federal control by limiting Federal regulation to the part of a State or local entity that receives or distributes Federal assistance.

In all other respects, my proposal is identical to S. 557, including the provisions to ensure that this legislation does not impair protection for the lives of unborn children.

I urge that upon reconsidering S. 557 in light of my objections, you reject the bill and enact promptly in its place the Civil Rights Protection Act of 1988.

RONALD REAGAN.

THE WHITE HOUSE, *March 16, 1988.*

CIVIL RIGHTS PROTECTION ACT OF 1988—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 123

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on March 16, 1988, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In returning to the Senate without my approval S. 557, the "Grove City" bill, I urge the Congress to enact promptly, in lieu of S. 557, my alternative proposal, the "Civil Rights Protection Act of 1988."

My proposal, which is enclosed, would address the many serious shortcomings of S. 557, as explained in the attached copy of the veto message on the bill.

I pledge my wholehearted support in working with the Congress to enact promptly this carefully crafted and effective alternative to S. 557.

RONALD REAGAN.

THE WHITE HOUSE, *March 16, 1988.*

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 2:38 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 854. An act entitled the "Nevada-Florida Land Exchange Authorization Act of 1988".

The enrolled bill was subsequently signed by the Deputy President pro tempore (Mr. MITCHELL).

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, March 17, 1988, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 125. Joint resolution to designate the period commencing on May 9, 1988, and ending on May 15, 1988, as "National Stuttering Awareness Week";

S.J. Res. 216. Joint resolution approving the location of the Black Revolutionary War Patriots Memorial;

S.J. Res. 218. Joint resolution to designate March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; and

S.J. Res. 252. Joint resolution designating June 5 to 11, 1988, as "National NHS Neighbor Works Week."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2752. A communication from the Assistant Secretary of the Interior (Water and Science), transmitting, pursuant to law, a report on the approval of a deferment of the 1986 construction repayment installment due the United States from Webster Irrigation District No. 4, Pick-Sloan Missouri Basin Program, Kansas; to the Committee on Energy and Natural Resources.

EC-2753. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report on local agreements negotiated between the Corps of Engineers and local sponsors and the status of performance; to the Committee on Environment and Public Works.

EC-2754. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on the extent of the danger to human health posed by asbestos in public and commercial buildings; to the Committee on Environment and Public Works.

EC-2755. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting a draft of proposed legislation to authorize appropriations for the Nuclear Regulatory Commission for fiscal year 1989, and for other purposes; to the Committee on Environment and Public Works.

EC-2756. A communication from the Assistant Secretary of the Army (Civil Works), transmitting a draft of proposed legislation to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Environment and Public Works.

EC-2757. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the annual report on activities and programs implemented under section 319 of the Clean Water Act for fiscal year 1987; to the Committee on Environment and Public Works.

EC-2758. A communication from the United States Trade Representative, transmitting a draft of proposed legislation to provide authorization for the Office of the United States Trade Representative for fiscal year 1989; to the Committee on Finance.

EC-2759. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to March 3, 1988; to the Committee on Foreign Relations.

EC-2760. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on an incident in El Salvador involving United States personnel; to the Committee on Foreign Relations.

EC-2761. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the overall results of the examination of the effectiveness of the international narcotics control assistance provided by the Foreign Assistance Act; to the Committee on Foreign Relations.

EC-2762. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the effectiveness of the international narcotics control assistance provided under the Foreign Assistance Act; to the Committee on Foreign Relations.

EC-2763. A communication from the Administrator of the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2764. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, the annual report on competition advocacy for fiscal year 1987; to the Committee on Governmental Affairs.

EC-2765. A communication from the Competition Advocate General and from the Assistant Secretary of the Air Force (Acquisition), transmitting jointly, pursuant to law, the annual report on competition advocacy for fiscal year 1987; to the Committee on Governmental Affairs.

EC-2766. A communication from the Defense Logistics Agency Competition Advocate, transmitting, pursuant to law, the annual report of the Agency on competition advocacy for fiscal year 1987; to the Committee on Governmental Affairs.

EC-2767. A communication from the Under Secretary of Defense (Acquisition), transmitting, pursuant to law, the annual report of the Department on competition advocacy for fiscal year 1987; to the Committee on Governmental Affairs.

EC-2768. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the annual report of the Corporation on competition advocacy for fiscal year 1987; to the Committee on Governmental Affairs.

EC-2769. A communication from the Senior Assistant Postmaster General (Finance and Planning Group), transmitting, pursuant to law, the annual report of the Postal Service under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2770. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, the annual report of the Agency under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2771. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the annual report of the Peace Corps under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2772. A communication from the Secretary of the American Battle Monuments Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2773. A communication from the Executive Director of the National Mediation Board, transmitting, pursuant to law, the annual report of the Board under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2774. A communication from the Deputy Freedom of Information Officer, Federal Home Loan Mortgage Corporation, transmitting, pursuant to law, the annual report of the Corporation under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2775. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report and recommendations concerning the claim of Mr. William D. Morger; to the Committee on the Judiciary.

EC-2776. A communication from the Executive Secretary, Office of the Secretary of Defense, transmitting, pursuant to law, the annual Freedom of Information report of the Department for calendar year 1987; to the Committee on the Judiciary.

EC-2777. A communication from the Secretary to the Railroad Retirement Board, transmitting, pursuant to law, the annual report of the Board under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2778. A communication from the Acting Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2779. A communication from the Freedom of Information Act Officer, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the annual report of the Board under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2780. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the annual report of NASA under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2781. A communication from the Executive Director of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the annual report of the Corporation under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2782. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual report of the Board under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2783. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the annual report of the Corporation under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2784. A communication from the Federal Inspector, Alaska Natural Gas Transportation System, transmitting, pursuant to law, the annual report of the System under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2785. A communication from the Director of the Office of Legislative and Public Affairs, National Science Foundation, transmitting, pursuant to law, the annual report of the Foundation under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2786. A communication from the Acting Assistant Secretary of the Treasury (Management), transmitting, pursuant to law, the annual report of the Department under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2787. A communication from the Vice President and general counsel of the Overseas Private Investment Corporation, transmitting, pursuant to law, the annual report of the Corporation under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2788. A communication from the general counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to provide penalties for certain false statements regarding bombs or other explosives, and for other purposes; to the Committee on the Judiciary.

EC-2789. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final funding priorities for Technology, Educational Media, and Materials for Handicapped Program; to the Committee on Labor and Human Resources.

EC-2790. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for Technology, Educational Media, and Materials for the Handicapped Program; to the Committee on Labor and Human Resources.

EC-2791. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final funding priorities for research in education of the handicapped; to the Committee on Labor and Human Resources.

EC-2792. A communication from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, the annual report on competition advocacy for fiscal year 1987; to the Committee on the Judiciary.

EC-2793. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations—assistance for local educational agencies in areas affected by Federal activities and arrangements for education of children where local educational agencies cannot provide suitable free public education; to the Committee on Labor and Human Resources.

EC-2794. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final priority for the Fund for the Improvement of Postsecondary Education [FIPSE] Lectures Program for fiscal year 1988; to the Committee on Labor and Human Resources.

EC-2795. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit: Veterans' Administration's Financial Statements for Fiscal Year 1986"; to the Committee on Veterans' Affairs.

EC-2796. A communication from the Assistant Secretary (Science and Education), Department of Agriculture, transmitting, pursuant to law, the fifth progress report on the human nutrition research and information management [HNRIM] system; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2797. A communication from the Deputy Secretary, Department of Agriculture, transmitting, a draft of proposed legislation "To amend the United States Grain Standards Act to extend through September 30, 1993, the authority contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 and Public Law 98-469 to charge and collect inspection and weighing fees, and for other purposes;" to the Committee on Labor and Human Resources.

EC-2798. A communication from the Director, Office of Management and Budget, transmitting, pursuant to law, a cumulative report on rescissions and deferrals; pursuant to the order of January 13, 1975, to the Committee on Appropriations and the Committee on the Budget.

EC-2799. A communication from the Assistant Secretary of the Army (Research, Development and Acquisition), transmitting, a draft of proposed legislation "To authorize the use of annual Department of Defense appropriations for payments under equipment operation and equipment maintenance contracts which cross fiscal years;" to the Committee on Armed Services.

EC-2800. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on the determination and findings indicating the necessity to exclude the clause concerning examination of records by the Comptroller General from a proposed contract with the United Kingdom; to the Committee on Armed Services.

EC-2801. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a report on extraordinary contractual actions to facilitate the national defense; to the Committee on Armed Services.

EC-2802. A communication from the President of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on tied-aid credit; to the Committee on Banking, Housing, and Urban Affairs.

EC-2803. A communication from the Secretary of Housing and Urban Development, transmitting, a draft of proposed legislation to amend the Fair Housing Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-2804. A communication from the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the annual report of the Comptroller of the Currency; to the Committee on Commerce, Science, and Transportation.

EC-2805. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Thirteenth Annual Report of Activities of the Department of Transportation related to administering the Deepwater Port Act of 1974; pursuant to title 33, United States Code, section 1502, to the Committee on Commerce, Science and Transportation, the Committee on Environment and Public Works, and the Committee on Energy and Natural Resources.

EC-2806. A communication from the Secretary of Energy, transmitting, pursuant to law, the Eleventh Annual Report of the Department of Energy relative to the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976; to the Committee on Commerce, Science, and Transportation.

EC-2807. A communication from the Deputy Associate Director (Collection and Disbursement) Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2808. A communication from the Deputy Associate Director (Collection and Disbursement), Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2809. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the 1988 update to the national plan for research in mining and mineral resources; to the Committee on Energy and Natural Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH (by request):

S. 2184. A bill to protect the civil rights of Americans and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964; to the Committee on Labor and Human Resources.

By Ms. MIKULSKI:

S. 2185. A bill to extend the deadline for destruction of lethal chemical agents and munitions, and for other purposes; to the Committee on Armed Services.

By Mr. MOYNIHAN:

S. 2186. A bill to improve the efficiency and effectiveness of management of public buildings; to the Committee on Environment and Public Works.

By Mr. WALLOP:

S. 2187. A bill to amend the Internal Revenue Code of 1986 to allow refundable credit against tax to taxpayers for dependents who have not attained the age of compulsory school attendance as prescribed by the law of the State in which the taxpayer resides, and to repeal the credit for expenses for child care services necessary for gainful employment for expenses with respect to such dependents.

By Mr. PRYOR:

S. 2188. A bill to amend section 307 of the Federal Employees' Retirement System Act of 1986; to the Committee on Governmental Affairs.

By Mr. ADAMS:

S. 2189. A bill to create a Federal facility nuclear cleanup trust fund, to require the Secretary of Energy and the Administrator of the Environmental Protection Agency to enter into compliance agreements for environmental cleanup of Federal nuclear facilities, to create a special environmental counsel, to provide for research and development for Federal nuclear facilities, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GRAMM:

S. 2190. A bill to amend the Act of September 13, 1961, relating to the destruction or injury of property moving in interstate or foreign commerce, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY:

S.J. Res. 274. A joint resolution to prohibit the introduction of U.S. combat troops into Honduras or Nicaragua; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD (for himself, Mr. BYRD, Mr. DOLE, and Mr. STEVENS):

S. Con. Res. 104. A concurrent resolution to provide for a Joint Congressional Committee on Inaugural Ceremonies; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (by request):

S. 2184. A bill to protect the civil rights of Americans and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964; to the Committee on Labor and Human Resources.

(The remarks of Mr. HATCH and the text of the legislation appear earlier in today's RECORD.)

By Ms. MIKULSKI:

S. 2185. A bill to extend the deadline for destruction of lethal chemical agents and munitions, and for other purposes; to the Committee on Armed Services.

EXTENSION OF DEADLINE FOR DESTRUCTION OF CERTAIN CHEMICAL AGENTS AND MUNITIONS

● Ms. MIKULSKI. Mr. President, today I am introducing legislation to extend the deadline for destruction of the U.S. Army's mustard gas stockpile at Aberdeen Proving Ground and seven other sites around the country by 3 years, from 1994 to 1997.

The Army has just reported to Congress that they will need until 1997 to dispose of these dangerous chemical weapons safely. If that's the case, then let's take the time to do the job right. The stakes are too important to rush the disposal of this toxic stockpile.

Current law gives the Army until September 30, 1994 to dispose of the chemical weapon stockpile at Aberdeen Proving Ground. My bill will extend that deadline until September 30, 1997.

The citizens near the Aberdeen Proving Grounds and the other gas storage sites have a right to be heard, a right to be protected, and a right to know what's going on. In order to protect those rights, we should give the Army the additional 3 years necessary to do the job right. The very last thing I want to see is this dangerous and difficult process hampered by unreasonable deadlines.

During this time, the Army must continue to keep the lines of communication open to the citizens and local governments around Aberdeen and the other sites with stored toxic gas.

In particular, I look forward to the development of a comprehensive emergency response plan for both the military and civilian areas in Harford County and the other storage sites.

The report released by the Army yesterday was issued in response to a congressional directive in the 1988 continuing resolution.●

By Mr. MOYNIHAN:

S. 2186. A bill to improve the efficiency and effectiveness of management of public buildings; to the Committee on Environment and Public Works.

PUBLIC BUILDINGS AMENDMENTS

● Mr. MOYNIHAN. Mr. President, today I am introducing legislation to improve the efficiency and effectiveness of the management of the General Services Administration's Public Buildings Program. This measure contains a series of modest amendments to the relevant statutes, which I do not expect to be controversial. However, the bill's enactment will effect a significant improvement in the management of our Nation's Public Buildings Program.

The reforms in this bill include:

First, raising from $500,000 to $2 million the threshold level at which GSA must submit to Congress a prospectus for a major alteration or acquisition of space;

Second, granting GSA statutory authority to relinquish legislative jurisdiction over areas under its control, so that where it is appropriate local law enforcement authorities may protect Federal properties;

Third, expanding the statutory authority for GSA's security and law enforcement functions to all buildings and areas owned or occupied by the Federal Government that are leased by and under the control of the agency; and

Fourth, eliminating the cap on alterations to leased space to a cost of no more than 25 percent of the amount to be paid during the initial year of the lease.

Almost exactly 1 year ago, the administration submitted to Congress a draft bill on public buildings reform. That measure was significantly amended and passed by the House last year. My bill incorporates several provisions of the House legislation, with some refinements, and omits two provisions which are controversial and thus may impede passage of these needed reforms.

The House added a provision to its bill which would authorize time financing for the acquisition of public buildings. Although I favor the concept of time-financing, the administration is strongly opposed to the inclusion of this provision.

My bill also does not include the requirement, as does the House bill, that Federal buildings be constructed in compliance with nationally recognized building codes and local zoning laws. GSA is opposed to this provision, which also was not included in the original administration proposal. The Agency claims that this provision will unduly delay projects and cause lengthy discussions between Federal and local authorities over even minor alterations to Federal buildings.

The Environment and Public Works Committee's Subcommittee on Water Resources, Transportation, and Infrastructure, which I chair, recently heard testimony regarding these reform proposals. I hope that the full Committee on Environment and Public Works will report this bill before the end of the month, so that we may soon begin conference with the House.

I urge my colleagues to join me in sponsoring this legislation and supporting its expeditious enactment.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Buildings Amendments of 1988".

SEC. 2. INCREASED THRESHOLD FOR APPROVAL PROCESS.

Sections 4(b) and 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 603(b) and 606(a)) are amended by striking out "$500,000" each place it appears and inserting in lieu thereof $2,000,000.

SEC. 3. LIMITATIONS ON LEASING AUTHORITY.

Section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606) is amended by adding at the end thereof the following new subsection:

"(e) Limitation on Leasing Certain Space.—Notwithstanding any other provision of this Act, with respect to any lease subject to section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606), the Administrator may not lease any space to accommodate—

"(1) major computer operations;

"(2) secure or sensitive activities related to the national defense or security, except in any case in which it would be inappropriate to locate such activities in a public building or other facility identified with the United States Government;

"(3) offices which would require major alterations in the structure or mechanical system of the building to be leased; or

"(4) a permanent courtroom, judicial chamber, or administrative office for any United States court;

except that the Administrator may lease such space if the Administrator first determines, for reasons set forth in writing, that leasing such space is necessary to meet requirements which cannot be met in public buildings and submits such reasons to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.".

SEC. 4. DOLLAR AMOUNT ADJUSTMENT.

Section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606) is further amended by adding at the end the following new subsection:

"(g) Dollar Amount Adjustment.—Any dollar amount referred to in this section and section 4(b) of this Act may be adjusted by the Administrator annually to reflect a percentage increase or decrease in construction costs during the preceding calendar year, as determined by the composite index of construction costs of the Department of Commerce. Any such adjustment shall be expeditiously reported to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.".

SEC. 5. STATE ADMINISTRATION; SPECIAL RULES FOR LEASED BUILDINGS.

The Public Buildings Act of 1959 (40 U.S.C. 601-606) is amended by adding at the end thereof the following new sections:

"SEC. 19. STATE ADMINISTRATION.

"(a) Notwithstanding any other provision of law, the Administrator may, whenever the Administrator considers it desirable, relinquish to a State, or to a commonwealth, territory, or possession of the United States, all or part of the legislative jurisdiction of the United States over land or interests under the control of the Administrator in such State, commonwealth, territory, or possession. Relinquishment of legislative jurisdiction under this section may be accomplished by filing with the Governor (or if none exists, with the chief executive officer) of such State, commonwealth, territory, or possession a notice of relinquishment to take effort upon acceptance thereof, or in such other manner as may be prescribed by the laws of the State, commonwealth, territory, or possession where such lands are situated. The authority granted by this section is in addition to and not instead of that granted by any other provision of law. Nothing herein shall be construed to authorize the Administrator to dispose of any land or interest in property to a State, commonwealth, territory or possession.".

"SEC. 20. SPECIAL RULES FOR LEASED BUILDINGS.

"(a) Specifications.—Notwithstanding the provisions of section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, the Administrator shall not make any agreement or undertake any commitment which will result in the construction of any building which is to be constructed for lease to, and for predominant use by, the United States until the Administrator has established specifications for such building.

"(b) Competitive Bids.—The Administrator may acquire a leasehold interest in any building which is being constructed for lease to, and for predominant use by, the United States only by the use of competitive procedures required by section 2711 of the Competition in Contracting Act of 1984, amending section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253).

"(c) Inspections.—The Administrator shall inspect every building to be constructed for lease to, and for predominant use by, the United States during the construction of such building in order to determine that the specifications established for such building are complied with.

"(d) Enforcement.—

"(1) Post-construction evaluation.—Upon completion of a building constructed for lease to, and for predominant use by, the United States, the Administrator shall evaluate such building for the purpose of determining the extent, if any, of failure to comply with the specifications referred to in this section.

"(2) Contract clause.—The Administrator shall ensure that any contract entered into for a building described in paragraph (1) shall contain provisions permitting a reduction of rent during any period when such building is not in compliance with such specifications.".

SEC. 6. LIMITATION ON MAXIMUM RENTAL RATE.

Section 322 of the Act of June 20, 1932 (47 Stat. 412; 40 U.S.C. 278a) is repealed

SEC. 7. PROTECTION OF FEDERAL PROPERTY.

(a) Reference to GSA.—The Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318-3128d) is amended—

(1) by striking out "Federal works Agency" each place it appears and inserting in lieu thereof "General Services Administration"; and

(2) by striking out "Federal Works Administrator" each place it appears and inserting in lieu thereof "Administrator of General Services".

(b) Inclusion of Leased Property.—Section 1 of such Act is amended to read as follows:

"SECTION 1. SPECIAL POLICE.

"(a) Appointment.—The Administrator of General Services, or officials of the General Services Administration duly authorized by the Administrator, may appoint uniformed guards of such Administration as special policemen without additional compensation for duty in connection with the policing of all buildings and areas owned or occupied by the United States and under the charge and control of the Administrator.

"(b) Powers.—Special policemen appointed under this section shall have the same powers as sheriffs and constables upon such property to enforce the laws enacted for the protection of persons and property, and to prevent breaches of the peace, to suppress affrays or unlawful asemblies, and to enforce any rules and regulations promulgated by the Administrator or such duly authorized officials of the Administration for the property under their jurisdiction; except that the jurisdiction and policing powers of such special policemen shall not extend to the service of civil process.".

(c) Conforming Amendments.—

(1) Section 2.—Section 2 of such Act is amended by striking out "Federal property" each place it appears and inserting in lieu thereof "property".

(2) Section 3.—Section 3 of such Act is amended by striking out "and over which the United States has acquired exclusive or concurrent criminal jurisdiction".

SEC. 8. TECHNICAL AMENDMENT.

The Act entitled "An Act to designate the United States Post Office and Courthouse in Pendleton, Oregon, as the 'John F. Kilkenny United States Post Office and Courthouse'" (Public Law 98-492; 98 Stat. 271) is amended by striking out "Dorian" and inserting in lieu thereof "Dorion".●

By Mr. WALLOP:

S. 2187. A bill to amend the Internal Revenue Code of 1986 to allow refundable credit against tax to taxpayers for dependents who have not attained the age of compulsory school attendance as prescribed by the law of the State in which the taxpayer resides, and to repeal the credit for expenses for child care services necessary for gainful employment for expenses with respect to such dependents; to the Committee on Finance.

EXPANSION OF CHILD CARE TAX CREDIT

● Mr. WALLOP. Mr. President, I cannot claim pride of authorship for this bill which I am introducing today. It is the brainchild of Congressman Clyde Holloway. The bill is a sensible approach to providing parents relief from the economic burdens of child care expenses. I am introducing the bill as a free-standing proposal, and also intend to incorporate this concept in a broader package to assist working families.

One of the strongest points about this bill is that it does not require a new, expensive, cumbersome Federal program. No one would be faced with onerous Federal standards or regulations in order to utilize this credit. The solution proposed in this bill demonstrates that we can assist families with the twin demands of work and family without starting new Federal programs with their inherent and self-perpetuating bureaucracy. The bill is statement in support of the traditional nuclear family and gets the Federal Government out of the business of rearing our Nation's young.

The bill is a simple and direct response to the need for child care. It reforms the existing tax incentives. The Tax Code accommodates the need for child care to a limited extent. The dependent care tax credit allows families to claim credit for child care expenses for two children if both parents work. The credit can be taken for children up to age 15. It is determined by a per-

centage of money spent on child care and by family income. But, it is not adequate for child care needs, and has a built-in bias against traditional family life.

The proposal would reform the dependent care credit to enable families to make more and better choices about how to care for their children. The bill removes the two child limit for the credit to allow large families to claim as many children as needed as well as lower the age of children eligible for the credit to the compulsory school age. The credit would focus on the youngest children, those most in need of care and supervision. It would also break the link between cash payments for child care and the amount of the credit claimed. A fixed dollar amount per child would be used. Parents could use their credit for child care expenses in any way they deem appropriate. It also allows the use of the credit when one parent remains at home. For the first time, we are giving families a choice between home and work as opposed to the current mandate that both parents work to be able to obtain the credit.

In the 1986 Tax Reform Act, the Congress streamlined the Tax Code, freeing it of outmoded provisions. While the final draft had many problems with it, the act did make it clear that there is a broad base of support for retention of certain family provisions, such as the dependent care credit. This reflects the belief that children are, after all, our future. We do not want child care to become another bottomless money pit. We must look for creative ways to give families meaningful options for the care of their youngsters. This is the goal of this tax credit reform bill.

Our national policy is not that our children should grow up in State-run and funded child care centers. Most of the pending legislation supports this idea of institutionalization. Some of the regulations and minimum requirements under discussion make the phenomena of neighborhood friends or grandmothers taking a few children into their homes a difficult proposition at best.

If we follow the path of the most popular child care bills, then Federal funding for child care services by religious organizations would be precluded. This is the primary source of child care for many Americans. In fact, if the vetoed version of the Grove City bill becomes law, no church basement child care program will ever be able to qualify for Federal child care dollars no matter how they are delivered. My bill avoids this problem by letting parents use their credit at any facility they choose, be it religiously facilitated or not.

Certainly, all of these options should be preserved and enhanced, not discouraged. Let's not sound the death knell for the hearth and home.

Reform of the dependent care credit is a solid and simple Federal answer to the child care problem. This is a very important issue, and we need to proceed carefully. We all agree that care of our Nation's youngsters must be priority, but the family must not be overlooked as the first and last place where our children flourish.

Mr. President, I would ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered printed in the RECORD, as follows:

S. 2187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOWANCE OF CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by inserting after section 34 the following new section:

"SEC. 34. YOUNG DEPENDENT CREDIT.

"(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the applicable amount.

"(b) MAXIMUM AMOUNT OF CREDIT.—The amount allowable as a credit under subsection (a) to an individual for any taxable year shall not exceed the amount of tax collected from the taxpayer under section 3102 (relating to deduction of tax from wages) during the taxable year.

"(c) APPLICABLE AMOUNT DEFINED.—For purposes of subsection (a), the term 'applicable amount', with respect to a taxable year, means—

"(1) the number of dependents of the taxpayer as of the close of the taxable year, who have not attained the age of compulsory school attendance as prescribed by the law of the State in which the taxpayer resides, multiplied by

"(2) an amount determined in accordance with the following table:

If the adjusted gross income of the taxpayer is:	The amount is:
Not more than $5,326.23	The amount of tax collected from the taxpayer under section 3102 during the taxable year
More than $5,326.23 but not more than $18,000	$400
More than $18,000 but not more than $21,000	$350
More than $21,000 but not more than $24,000	$300
More than $24,000 but not more than $27,000	$250
More than $27,000 but not more than $30,000	$200
More than $30,000	$150."

(b) TERMINATION OF DEPENDENT CARE CREDIT WITH RESPECT TO EXPENSES FOR DEPENDENTS PHYSICALLY AND MENTALLY CAPABLE OF CARING FOR THEMSELVES.—Section 21 of such Code (allowing credit for dependent care services necessary for gainful employment) is amended by adding at the end the following new subsection:

"(g) TERMINATION OF CREDIT WITH RESPECT TO EXPENSES FOR DEPENDENTS PHYSICALLY AND MENTALLY CAPABLE OF CARING FOR THEMSELVES.—The term 'qualifying individual' shall not include any individual described in subsection (b)(1)(A)."

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 129(e) of such Code (defining dependent care assistance) is amended by inserting "(but for section 21(g))" before "be considered".

(d) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 34 the following new item:

"Sec. 34A. Young dependent credit.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to taxable years beginning after the close of the calendar year in which this Act is enacted.●

By Mr. PRYOR:

S. 2188. A bill to amend section 307 of the Federal Employees' Retirement System Act of 1986; to the Committee on Governmental Affairs.

COST COMPARISON EQUITY LEGISLATION

● Mr. PRYOR. Mr. President, today I am introducing a bill that will correct a definitional problem in the Federal Employees' Retirement System Act of 1986 [FERSA]. The provision in question has no impact on retirement benefits, rather it involves the definition of what constitutes the "normal-cost percentage" for the purposes of an A-76 contracting out studies. The definition excluded Thrift Savings Plan contributions and Social Security tax from use in computing the retirement costs of Federal employees.

A General Accounting Office [GAO] study, performed at the request of Representative WILLIAM FORD, found that "the October 1986 revision operates in such a way that the resultant A-76 cost comparisons unduly favor contractors over agencies' in-house operations." In fact, the GAO examined a contracting out cost comparison at Fort Sill, OK, and found that the contractors costs were understated by $1.6 million due to the definition of retirement costs.

The Office of Management and Budget [OMB] recognized this problem and, in a letter to the President of the Senate, stated that "(t)his limitation makes analytical studies and accurate cost comparisons more complex and difficult and causes confusion for both the Government and the private sector." OMB recommended that Congress amend the definition in FERSA so that all retirement costs for both Federal employees and contractors will be taken into account.

I believe that this legislation is necessary to "level the playing field" of the A-76 process. My bill would not give anyone an advantage, it simply ensures that all retirement costs for both Federal employees and contractors will be taken into consideration in cost comparisons. I urge my colleagues to cosponsor this legislation and I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 307 of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 607) is amended to read as follows:

"SEC. 307. USE OF 'NORMAL-COST PERCENTAGE'.

"Notwithstanding any other provision of law, the normal-cost percentage (as defined by section 8401(23) of title 5, United States Code, as added by this Act) of the Federal Employees' Retirement System shall be used to value the cost of such System to the Civil Service Retirement and Disability Fund for all purposes in which the cost of the System is required to be determined by the Federal Government. For any comparisons between the cost of performing commercial activities under the contract with commercial sources and the cost of performing such activities using Government facilities and personnel, the cost of the System shall include the cost of such System to the Civil Service Retirement and Disability Fund as specified in the preceding sentence, the cost of the thrift savings plan under subchapter III of chapter 84 of title 5, United States Code, and the cost of social security.".●

By Mr. ADAMS:

S. 2189. A bill to create a Federal facility nuclear cleanup trust fund, to require the Secretary of Energy and the Administrator of the Environmental Protection Agency to enter into compliance agreements for environmental cleanup of Federal nuclear facilities, to create a special environmental counsel, to provide for research and development for Federal nuclear facilities, and for other purposes; to the Committee on Environment and Public Works.

FEDERAL NUCLEAR FACILITIES ENVIRONMENTAL RESTORATION AND MANAGEMENT ACT

Mr. ADAMS. Mr. President, I am introducing legislation today which deals with one of the major environmental problems in the United States; the cleanup of the Federal Government's own facilities. The U.S. Department of Energy has, by some estimates, upwards of 1,700 sites that qualify as Superfund cleanup sites. The General Accounting Office estimates that there are thousands more at other Federal Government facilities. The General Accounting Office reports that there has been substantial contamination of ground water at many of the Department of Energy sites as well as releases of mercury and other contaminants to surface water.

Simply put, the Federal Government is one of the worst polluters. If a private firm acted the way the Government has, we would all conclude that the public interest had been violated. Well, the public interest is just as violated when a public agency pollutes the environment and threatens public health and safety. And let there be no mistake about it: we have polluted the environment and threatened public health and safety. While Congress has established a $10-billion fund for the cleanup of non-Federal waste sites, the preliminary estimates of the cost of cleanup of the U.S. Department of Energy sites alone are estimated at tens of billions of dollars.

Certainly, the Department of Energy is not the only culprit and I suspect that virtually every Senator in this body is aware of environmental problems at Federal facilities in his, or her, State.

The legislation I am introducing today in the Senate, and my colleague, Mr. BONKER, is introducing in the House of Representatives, represents our effort to put forward a comprehensive proposal to bring the U.S. Department of Energy and other Federal agencies into compliance with the environmental laws and goals that the Congress has established for every other business, laboratory, chemical plant, and commercial nuclear facility in the United States.

Mr. President, the cleanup of the Federal Government's nuclear facilities certainly present some unique challenges compared to other types of facilities. They have both toxic and radioactive hazards and sometimes the two in combination. Second, they are often one-of-a-kind facilities. They are also unique in that they now, or will, require decontamination and decommissioning to deal with the radioactive contamination and irradiation of the facilities themselves. In some cases, long-term monitoring will be required of the Department's facilities and of facilities, such as commercial low-level waste disposal facilities, which Congress has provided be transferred to the Department for long-term custody.

Nonetheless, Congress has adopted a series of environmental laws to protect the public health and safety and to protect and restore the environment and the Federal Government cannot and should not be above the law. We can't hold the private sector accountable unless we are willing to hold ourselves responsible. Our national environmental laws and standards unequivocally apply to Federal facilities. This legislation will require that those facilities, and the agencies that are responsible for them, the U.S. Department of Energy in particular, to comply with the law.

Our legislation does not create new environmental requirements, rather it establishes a strict, legally enforceable mechanism to assure that the U.S. Department of Energy meets those requirements. We would require the Department to enter into two types of site-specific compliance agreements with the U.S. Environmental Protection Agency and individual States, where those States have been delegated regulatory authority, to implement Federal environmental laws.

The first type of agreement covers the application of the Resource Conservation and Recovery Act [RCRA] and Superfund or CERCLA. The second type covers other environmental laws such as the Clean Air Act. This second agreement would be based upon environmental surveys of each site conducted by DOE; many of which are already under way. According to the General Accounting Office, DOE has completed preliminary survey reports for 29 of its 36 sites and has completed environmental sampling and analysis at 12 of the 36. Our legislation would require these surveys to be completed within a year of enactment.

The compliance mechanism in the bill is backed up by a special environmental counsel with authority to enforce the Nation's environmental laws at every Federal facility and site, by every Federal contractor under every Federal agency.

Our legislation also recognizes that bringing these facilities into compliance and cleaning up more than 40 years of hazardous and radioactive waste is going to be expensive and it creates a permanent trust fund to finance this multibillion-dollar effort. Revenues to the trust fund would come from the Department of Energy budget as well as from the other Federal agencies and private firms which purchase services, such as uranium enrichment. Fines, fees, and penalties levied against the Department of Energy and its contractors will also go into the trust fund.

The principle of the fund is that the cost of environmental compliance, clean-up, and decommissioning should be spread across all of the parties, whether they are Department of Energy activities or customers of the Department, that have directly or indirectly contributed to the problem. This allocation is to be made on a strictly proportional basis so that uranium enrichment customers will pay for the cost of environmental compliance and decommissioning of a portion of the enrichment complex but not for high-level waste at defense reprocessing facilities.

The trust fund is intended to cover the full range of costs that DOE will incur in the clean up, decommissioning, and long-term care of its sites and facilities including the costs of characterization and treatment of high-level and transuranic wastes. The fund would not cover the permanent disposal of high-level wastes which are the subject of the Nuclear Waste Policy Act and the Nuclear Waste Fund established under that act.

Finally, our legislation recognizes that some of these problems require additional research and development of cleanup, environmental control, and decommissioning technologies. The legislation requires the U.S. Environmental Protection Agency and the U.S. Department of Energy to develop a joint R&D program and to coordinate their research activities with regard to the problems of Federal nuclear facilities. Research would be funded out of the trust fund and both agencies would be required to establish a program to transfer new technologies to the private sector.

While a number of the problems presented by the cleanup and decommissioning of Federal nuclear facilities are in many ways unique, many undoubtedly are not; for example, the decontamination and decommissioning of nuclear reactors. We can, and should, look at the cleanup of these Federal facilities as an opportunity to develop new solutions which can reduce the cost of this program and will provide valuable answers to similar problems in the commercial sector.

The Department of Energy and its national laboratories are already devoting a significant amount of effort which can be brought to bear. For instance, a great deal of work has already been done on decommissioning and on new technologies for hazardous waste immobilization at the Pacific Northwest Laboratory at the Hanford Reservation. The R&D program created in this legislation will allow those efforts to be expanded.

Mr. President, the need to bring the Department of Energy's facilities and sites into compliance with Federal environmental laws and goals is not just a problem in my State of Washington. It is a national problem. It affects hundreds of facilities at some 36 sites in a dozen States. The problems of compliance, or should I say noncompliance, of Federal facilities affects all of us. I look forward to working on this problem with my colleagues from other States which host Department of Energy and other Federal facilities and others concerned with protecting our environment.

By Mr. GRAMM:

S. 2190. A bill to amend the act of September 13, 1961, relating to the destruction or injury of property moving in interstate or foreign commerce, and for other purposes; referred to the Committee on Finance.

ANTI-TERRORISM SANCTIONS ACT

● Mr. GRAMM. Mr. President, today I am introducing legislation that will put one more weapon in our arsenal against international terrorism. This legislation, the Anti-Terrorism Sanctions Act of 1988, would deny most-favored nation tariff treatment to any country that the Secretary of State has determined has repeatedly provided support for acts of international terrorism.

There is no reason why the United States should treat these countries on a business-as-usual basis. These are countries whose governments are supporting terrorism, that are actively endangering the lives of American citizens. They are supporting people who are blowing up airplanes, planting bombs in public places, kidnaping innocent civilians, and doing a thousand other things offensive to peace-loving, law-abiding people everywhere. To conduct our relations with these countries as if they were not participating in these terrorist acts would be an outrage to the innocent victims of their terrorism.

Certainly terrorism requires a response. That response, however, must not be the one that the terrorist seeks. The response must be a clear demonstration that there is a price to pay for terror, an unacceptable price. The price must be that countries that are going to conduct their affairs outside of the standards for civilized nations cannot consider themselves entitled to the benefits accorded to civilized nations. One of those benefits is most-favored nation trade status.

This bill does not prohibit trade with these nations. We already have legislation on the books that can be used for that purpose. This bill merely states that a country giving support to terrorism will not be allowed to benefit from the lowest tariff levels placed by the United States on imports. It says that terrorist nations cannot qualify either for MFN status or for any other benefits of reduced tariffs.

Mr. President, Rumania recently lost its MFN status because of its human rights abuses. This bill would apply that same penalty to those countries identified by the Secretary of State as supporting international terrorism.

This legislation is identical to legislation introduced in the House of Representatives by Congressman JOE BARTON and 92 of his colleagues. It deserves our consideration and the support of the Members of the Senate.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Anti-Terrorism Sanctions Act of 1988".

SEC. 2. The Act entitled "An Act to prohibit the destruction of, or injury to, certain property moving in interstate or foreign commerce, and for other purposes", approved September 13, 1961 (15 U.S.C. 1281 and 1282), is amended by adding at the end thereof the following new section:

"SEC. (a) Notwithstanding any other provision of law, with respect to any foreign country while it is listed pursuant to section 6(j) of the Export Administration Act of 1979 as a country that repeatedly provides support for international terrorism—

"(1) the President shall terminate, withdraw or suspend any portion of any trade agreement or treaty that relates to the provision of nondiscriminatory (most-favored-nation) trade treatment to such country;

"(2) such country shall be denied nondiscriminatory (most-favored-nation) trade treatment by the United States and the products of such country shall be subject to the rates and duty set forth in column number 2 of the Tariff Schedules of the United States;

"(3) the provisions of title V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.) shall not apply with respect to the products of such country;

"(4) the provisions of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.) shall not apply with respect to the products of such country, during the period in which such identification is in effect; and

"(5) the Secretary of Commerce may not consult with the government of that country under section 3(a)(9) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(9)) regarding international travel and tourism.

"(b)(1) The President may waive all, or any portion of, the provisions of subsection (a) with respect to any foreign country if the President determines that such a waiver would be in the best interests of the United States. The President shall submit to the Congress written notice of any waiver granted under this paragraph.

"(2) Any waiver granted under paragraph (1) may be revoked by the President at any time.

"(3)(A) Any waiver granted under paragraph (1) shall take effect only after the close of the thirty-day period that begins on the date on which the President submits to the Congress written notice of such waiver.

"(B) The following days shall be excluded in determining the thirty-day period described in subparagraph (A)—

"(i) the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain or an adjournment of the Congress sine die; and

"(ii) any Saturday and Sunday, not excluded under clause (i), when either House of Congress is not in session.".●

By Mr. KENNEDY:

S.J. Res. 274. Joint resolution to prohibit the introduction of United States combat troops into Honduras or Nicaragua; to the Committee on Foreign Relations.

PROHIBITING UNITED STATES COMBAT TROOPS IN HONDURAS OR NICARAGUA

Mr. KENNEDY. Mr. President, today I am introducing a resolution that, if it is enacted, would require the President to obtain the approval of Congress before sending combat troops to Central America.

The Sandinistas' incursion into Honduras is a clear violation of Honduran sovereignty and should be condemned in the strongest possible terms. No one defends the actions of the Nicaraguan military, and no one accepts President Ortega's claim that his soldiers are not in Honduras.

But the administration's reaction raises serious concerns as well.

President Reagan's decision to send thousands of American combat troops to Honduras is a reckless escalation of his failed policy of military aid to the Contras. It is the most irresponsible step the administration has taken so far to undermine the Arias peace plan.

The President's decision raises serious unanswered questions about the administration's plans, intentions and motivations that Congress should explore and address as soon as possible:

What has President Azcona of Honduras asked our troops to do?

What is the military objective our troops are supposed to achieve?

What will our troops be doing in Honduras, and how long will they be there?

Does the administration have plans to send any more American troops to Central America?

This administration has always put the military cart before the diplomatic horse in Central America, and the American people are rightly skeptical about his rash and hasty decision to send American boys into a war zone.

We have seen it all before. Is it only a coincidence that American troops are sent to Central America on the same day that the administration launches a new campaign of pro-Contra lobbying in Congress?

Is it only a coincidence that when scores of incursions into Honduras have taken place in recent years, the administration singles out this one at this time for this inflammatory response?

That this administration is spoiling for a fight with Nicaragua is no secret. Time and again, they have resorted to desperate means—legal and illegal—to aid the Contras.

As recent history has shown, the administration has not hesitated to bribe, lie, divert, distort and shred—all for the sake of more aid for the Contras. This would not be the first time that this administration has sounded the alarm of invasion for the purpose of mobilizing support for the Contras.

Every year since 1984, I have introduced legislation requiring the President to obtain the approval of Congress before sending combat troops to Central America. This most recent action underscores the need for this legislation to be enacted, and I offer it again today.

I urge my fellow Senators to ask themselves one simple question. The Constitution declares that Congress has the power and the authority to declare war.

Should not Congress be consulted before the President sends American combat troops to Central America?

Congress has a solemn duty to participate in the most important issue that can ever face this country—the issue of war and peace. Before President Reagan yields to the impulse in the waning months of his administration to take us into wider war with Nicaragua, Congress should act to stop him.

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. Moynihan, the name of the Senator from West Virginia [Mr. Rockefeller] was added as a cosponsor of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 58

At the request of Mr. Danforth, the names of the Senator from Connecticut [Mr. Weicker] and the Senator from New Hampshire [Mr. Rudman] were added as cosponsors of S. 58, a bill to amend the Internal Revenue Code of 1986 to make the credit for increasing research activities permanent and to increase the amount of such credit.

S. 222

At the request of Mr. Riegle, the name of the Senator from New Mexico [Mr. Bingaman] was added as a cosponsor of S. 222, a bill to strengthen the program for grants to States for dependent care programs, and for other purposes.

S. 533

At the request of Mr. D'Amato, his name was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 612

At the request of Mr. Simon, the names of the Senator from Nebraska [Mr. Karnes], the Senator from Nevada [Mr. Hecht], the Senator from Maryland [Ms. Mikulski], and the Senator from Iowa [Mr. Harkin] were added as cosponsors of S. 612, a bill to repeal a provision of Federal tort liability law relating to the civil liability of Government contractors for certain injuries, losses of property, and deaths and for other purposes.

S. 1220

At the request of Mr. Kennedy, the name of the Senator from North Dakota [Mr. Conrad] was added as a cosponsor of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1340

At the request of Mr. Pryor, the name of the Senator from North Carolina [Mr. Sanford] was added as a cosponsor of S. 1340, a bill to provide for computing the amount of the deductions allowed to rural mail carriers for use of their automobiles.

S. 1522

At the request of Mr. Riegle, the name of the Senator from Iowa [Mr. Grassley] was added as a cosponsor of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1594

At the request of Mr. Graham, the names of the Senator from Illinois [Mr. Dixon], and the Senator from California [Mr. Wilson] were added as cosponsors of S. 1594, a bill to improve the operation of the Caribbean Basin Economic Recovery Act.

S. 1727

At the request of Mr. Harkin, the names of the Senator from Alabama [Mr. Shelby], and the Senator from Arkansas [Mr. Pryor] were added as cosponsors of S. 1727, a bill to amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communication Disorders.

S. 1776

At the request of Mr. Armstrong, the names of the Senator from Indiana [Mr. Lugar], the Senator from Mississippi [Mr. Stennis], the Senator from New Mexico [Mr. Domenici], and the Senator from Massachusetts [Mr. Kerry] were added as cosponsors of S. 1776, a bill to modernize United States circulating coin designs, of which one reverse will have a theme of the Bicentennial of the Constitution.

S. 1817

At the request of Mr. Kennedy, the names of the Senator from Missouri [Mr. Danforth], the Senator from South Dakota [Mr. Daschle], and the Senator from West Virginia [Mr. Rockefeller] were added as cosponsors of S. 1817, a bill to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from United States savings bonds which are transferred to an educational institution as payment for tuition and fees.

At the request of Mr. Karnes, his name was added as a cosponsor of S. 1817, supra.

S. 2042

At the request of Mr. D'Amato, his name was added as a cosponsor of S. 2042, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

S. 2051

At the request of Mr. McClure, the names of the Senator from Montana [Mr. Melcher] and the Senator from Wisconsin [Mr. Kasten] were added as cosponsors of S. 2051, a bill entitled the "Prohibition of Undetectable Firearms Act".

S. 2062

At the request of Mr. NICKLES, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 2062, a bill to amend the Internal Revenue Code of 1986 to restore to State and local governments the right to purchase gasoline without payment of the Federal gasoline excise tax.

S. 2106

At the request of Mr. BOND, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2106, a bill to amend the Food Security Act of 1985 to require the Secretary of Agriculture to use multiyear set-asides to establish wildlife habitats and feeding areas.

S. 2117

At the request of Mr. MELCHER, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2117, a bill to extend the statute of limitations applicable to certain claims under the Age Discrimination in Employment Act of 1967 that were filed with the Equal Employment Opportunity Commission before the date of enactment of this act.

S. 2129

At the request of Mr. BAUCUS, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2129, a bill to amend the Internal Revenue Code of 1986 to repeal the application of the uniform capitalization rules with respect to animals produced in a farming business.

S. 2175

At the request of Mr. RIEGLE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2175, a bill to provide for an additional, optional indicator for making available extended unemployment compensation benefits under the Federal-State Extended Unemployment Compensation Act of 1970.

SENATE JOINT RESOLUTION 258

At the request of Mr. THURMOND, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of Senate Joint Resolution 258, a joint resolution expressing the sense of the Congress that the people of the United States should purchase products made in the United States and services provided in the United States, whenever possible, instead of products made or services performed outside the United States.

SENATE RESOLUTION 383

At the request Mr. LAUTENBERG, the name of the Senator from Montana [Mr. MELCHER] was added as a cosponsor of Senate Resolution 383, a resolution to express the sense of the Senate regarding future funding of Amtrak.

SENATE CONCURRENT RESOLUTION 104—PROVIDING FOR A JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

Mr. FORD (for himself, Mr. BYRD, Mr. DOLE, and Mr. STEVENS) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 104

Resolved by the Senate (the House of Representatives concurring), That a Joint Congressional Committee on Inaugural Ceremonies consisting of three Senators and three Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice-President-elect of the United States on the 20th day of January 1989.

AMENDMENTS SUBMITTED

INTEGRITY IN POST EMPLOYMENT ACT

THURMOND (AND OTHERS) AMENDMENT NO. 1676

(Ordered to lie on the table)

Mr. THURMOND (for himself, Mr. METZENBAUM, Mr. LEVIN, and Mr. SPECTER) submitted an amendment intended to be proposed by them to the bill (S. 237) to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of the U.S. Government from attempting to influence the U.S. Government or from representing or advising a foreign entity for a proscribed period after such officer or employee leaves Government service, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

That this Act may be cited as the "Integrity in Post Employment Act of 1988".

SEC. 2. STRENGTHENING AND CLARIFYING THE CURRENT PROVISIONS OF SECTION 207 OF TITLE 18.

(a) OFFENSE.—Section 207 of title 18, United States Code, is amended to read as follows:

"§ 207. Disqualification of former executive and legislative branch employees

"(a) LIFETIME PROHIBITION ON EXECUTIVE BRANCH EMPLOYEES.—It shall be unlawful for any former officer or employee, including a special Government employee, of the executive branch of the United States, including any independent agency, or of the District of Columbia—

"(1) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(2) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any department, agency, court, or commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with a particular matter involving specific parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while so employed.

"(b) TWO-YEAR PROHIBITION ON EXECUTIVE BRANCH EMPLOYEES.—It shall be unlawful for any former officer or employee described in subsection (a), within 2 years after that former officer's or former employee's employment has ceased—

"(1) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States, by physical presence in a formal or informal appearance before, or

"(2) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any department, agency, court, or commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with a particular matter involving specific parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and which was actually pending under the former officer's or former employee's official responsibility within 1 year prior to the date that former officer or employee ceased employment.

"(c) PROHIBITIONS ON EXECUTIVE AND LEGISLATIVE BRANCH EMPLOYEES.—It shall be unlawful for any person, other than a special Government employee who has served no more than 60 days in the immediately preceding 365 consecutive days—

"(1) having been employed as a senior official, within 1 year after such employment has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any department, agency, commission, or legislative entity (or any member, officer, or employee thereof) in which the person served during the 1 year prior to the termination of such employment as an officer or employee;

"(2) having been employed as a high level official, within 1 year after such employment has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any department, agency, or commission of the executive branch, including any independent agency of the United States, or any officer or employee thereof;

"(3) having been employed as a top level official, within 1 year after such employment has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any entity of the executive, legislative, or judicial branch of the United States, including any independent agency of the United States, or any member, officer, or employee thereof; or

"(4) having been employed as a senior, high level, or top level official, within 18 months after such employment has ceased, to be employed by, represent, or advise a foreign entity for compensation, financial gain, or other remuneration.

For the purposes of paragraph (1), the legislative entity in which a person served is the Senate, if the person was employed by the Senate, or the House of Representatives, if the person was employed by the House of Representatives.

"(d) Agents Communicating on Behalf of a Former Officer or Employee.—It shall be unlawful for any person knowingly, in the course of representing any other person other than the United States, by any oral or written communication to any department, agency, commission, court, or legislative entity of the United States (or any member, officer, or employee thereof) to communicate to such department, agency, commission, court, or legislative entity that such communication is on behalf of a former member, officer, or employee covered under subsection (a), (b), or (c) of this section if such a communication by the former member, officer, or employee is prohibited by subsection (a), (b), or (c).

"(e) Coverage.—

"(1) Individuals covered.—For purposes of the coverage of subsections (a), (b), and (c) of this section—

"(A) the term 'senior official' means any officer or employee of the United States other than those of the judicial branch who is not a high level or top level official (including officers and employees of the legislative branch and officers and employees, including special Government employees, of the executive branch, including any independent agency, commissions, Government corporations, independent establishments as defined in section 104 of title 5, the Postal Service, the Postal Rate Commission, and the District of Columbia), who is—

"(i) compensated at the basic rate of pay for GS-16 of the General Schedule as prescribed in section 5332 of title 5, or at a comparable or greater rate of pay under other authority, including positions listed under sections 105(a)(2)(C) and (D) and 106(a)(1)(C) and (D) of title 3; or

"(ii) on active duty as a commissioned officer of a uniformed service and assigned to a pay grade of 0-7 or above as prescribed in section 201 of title 37;

"(B) the term 'high level official' means any officer or employee of the executive branch of the United States, including any independent agency, who is not a senior or top level official and who holds a position listed in section 5314 of title 5 or under sections 105(a)(2)(B) and 106(a)(1)(B) of title 3, or who is paid at a comparable rate of pay under other authority;

"(C) the term 'top level official' means—

"(i) any officer or employee of the executive branch of the United States, including any independent agency, who holds a position listed in section 5312 or 5313 of title 5 or under sections 105(a)(2)(A) and 106(a)(1)(A) of title 3, or is paid at a comparable rate of pay under other authority; or

"(ii) any Member of Congress, including Delegates and Resident Commissioners.

"(2) Exceptions.—(A) The prohibitions of subsections (a), (b), and (c) shall not apply to any person—

"(i) who is an elected official of a State or local government and whose actions are on behalf of such government;

"(ii) who is engaging solely in the solicitation or collection of funds and contributions within the United States to be used only for medical assistance, food or clothing to relieve human suffering, in accordance with subchapter II of chapter 9 of title 22, and any rules and regulations prescribed thereunder;

"(iii) whose actions are solely for the purpose of furnishing scientific or technological information if the head of the agency concerned with the particular matter, in consultation with the Office of Government Ethics, or the head of the legislative entity concerned with the particular matter, certifies that the person has outstanding qualifications in a technical discipline regarding the particular matter and that the national interest is served by the participation of such person, and publishes such certification in the Federal Register or, in the case of a legislative entity, in the Congressional Record; or

"(iv) who is providing a statement which is based on that person's special knowledge, provided that no compensation is received for such statement other than that regularly provided by law or regulation for witnesses.

"(B) The prohibitions of subsection (c) shall not apply to any person—

"(i) who is employed by—

"(I) an agency or instrumentality of a State or local government;

"(II) an accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965; or

"(III) a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1954,

and whose actions are on behalf of such agency, instrumentality, institution, hospital, or organization;

"(ii) who is appearing as an attorney or representative in a judicial proceeding before a court of the United States, provided that the department, agency, commission, or legislative entity having employed such person in the 12 months preceding the person's initial appearance in such proceeding, is not a party to, or otherwise involved in, such proceeding; or

"(iii) representing an international organization of which the United States is a member.

For the purposes of clause (ii), appearing in a judicial proceeding shall mean, in a civil case, participating in the case following the filing of a complaint; and, in a criminal case, participating in a matter on behalf of a person who has been the subject of an arrest, warrant, information, indictment, or grand jury investigation by the United States.

"(3) Special rules for detailees.—For purposes of this section, a person covered by this section who is detailed from one department, agency, or other entity to another department, agency or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies or such entities.

"(f) Penalties and Remedies for Violations.—

"(1) Criminal sanction.—Any person who engages in conduct prohibited by subsection (a), (b), or (c) shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both. Any person who corruptly engages in such prohibited conduct shall be fined not more than $250,000 or imprisoned for not more than 5 years, or both.

"(2) Civil recovery.—The United States may bring in addition to or in lieu of subsection (f)(1) above, a civil action in any United States district court against any person who engages in conduct prohibited by subsection (a), (b), (c), or (d) and may recover twice the amount of any proceeds obtained by that person due to such conduct. Such civil action shall be barred unless the action is commenced within 6 years of the later of (A) the date on which the prohibited conduct occurred, and (B) the date on which the United States became or reasonably should have become aware that the prohibited conduct had occurred.

"(3) Administrative action.—Upon finding, after notice and opportunity for a hearing, that a person has engaged in conduct prohibited by subsection (a), (b), (c), or (d) the head of the department, agency, or commission of the executive branch, including any independent agency, before which the prohibited conduct occurred, may prohibit that person from representing anyone other than the United States before such department, agency, or commission, for a period not to exceed 5 years, or may take other appropriate disciplinary action. Any such disciplinary action shall be subject to review in a United States district court. Departments, agencies, or commissions shall, in consultation with the Director of the Office of Government Ethics, establish procedures and issue regulations to carry out this subsection.

"(4) Injunctive relief.—Upon a showing that a person has engaged or will engage in conduct prohibited by subsections (a), (b), (c), or (d) of this section, the United States may obtain an injunction to stop or prevent such conduct.

"(g) Partners of an Officer or Employee.—Whoever, being a partner of an officer or employee, including a special Government employee, of the executive branch of the United States, including any independent agency, or of the District of Columbia, knowingly acts as an agent or attorney for, or otherwise represents, any other person other than the United States by physical presence in a formal or informal appearance before, or with the intent to influence makes any oral or written communication on behalf of any other person other than the United States to, any department, agency, court, or commission of the United States or the District of Columbia in connection with a particular matter in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which such officer or employee or special Government employee participates or has participated personally and substantially as an officer or employee, shall be fined not more than $10,000, or imprisoned for not more than one year, or both.

"(h) Testimony.—Nothing in this section shall prevent a person from giving testimony under oath, or from making statements required to be made under penalty of perjury.

"(i) Definitions.—For purposes of this section—

"(1) The term 'foreign entity' includes—

"(A) the government of a foreign country as defined in section 611(e) of title 22;

"(B) a foreign political party as defined in section 611(f) of title 22; and

"(C) a foreign organization substantially controlled by a foreign country or foreign political party.

"(2) The term 'particular matter' includes, but is not limited to, any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, judicial or other proceeding.

"(3) The term 'participated personally and substantially' means an action taken as an officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation or other such action.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by striking out the item relating to section 207 and inserting in lieu thereof the following:

"207. Disqualification of former executive and legislative branch employees.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall—

(1) be effective nine months after the date of enactment of this Act; and

(2) apply to any Member or employee of Congress or employee or officer of the Federal Government, other than those of the judicial branch, employed by any agency, department, or entity of the Federal Government on or after nine months after the date of enactment of this Act.

SEC. 4. SEVERABILITY.

If any provision of this Act, including the amendments made by this Act, or the application of any such provision to any circumstance or person is held invalid, the remainder of this Act, or the application of such provision to any other circumstance or person is not affected thereby.

Mr. THURMOND. Mr. President, shortly, the Senate will consider the Integrity in Post-Employment Act of 1987. This legislation strengthens the current law on postemployment activity by former Federal officials.

Regarding the history of this bill, I originally introduced the Integrity in Post-Employment Act in the 99th Congress. The distinguished Senator from Ohio, Senator METZENBAUM, immediately joined in this effort. His commitment to this legislation has been substantial from the start. After some revision, the legislation was voice voted out of the Judiciary Committee in June 1986. As no floor action occurred before adjournment, the bill was reintroduced in the 100th Congress. In May 1987, the legislation was again voice voted out of committee without opposition. Recently, the distinguished Senator from Michigan, Senator LEVIN, made several recommendations regarding this legislation. Senator METZENBAUM and I have agreed to some of Senator LEVIN's proposals and we intend to offer a substitute for S. 237 when it is considered for Senate action.

Major provisions of this substitute will:

Provide for an 18-month moratorium on all Government employees with a civil service rating of GS-16 or greater, commissioned officers of a uniform service assigned to a pay grade of O-7 or above, and the Government's highest ranking officials—which includes Cabinet members and most of their principal deputies, Members of Congress, and top White House aides—from lobbying or working for a foreign entity after leaving Government service.

Create a three-tiered prohibition on domestic lobbying by former Government employees. Under this provision, those designated high-ranking officials, which include Cabinet members and most of their principal deputies, Members of Congress, and top White House aides, could not lobby any branch of the Federal Government for 1 year after leaving office. Executive level three officials could not lobby the executive branch for 1 year after leaving Government service. Individuals holding jobs with a civil service rating of GS-16 and above or commissioned officers of a uniform service assigned to a pay grade of O-7 or above, could not lobby their former agency or department for 1 year on behalf of a domestic entity.

This substitute is substantially similar to the one appearing in the RECORD on February 3, 1988. Technical changes have been made in response to suggestions which will further refine this legislation.

I look forward to prompt consideration of this legislation.

PRICE-ANDERSON AMENDMENTS ACT

GLENN (AND ROTH) AMENDMENT NO. 1677

Mr. GLENN (for himself and Mr. ROTH) proposed an amendment to the bill (H.R. 1414) to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents; as follows:

On page 1, between lines 2 and 3, insert the following:

"TITLE I—PRICE-ANDERSON ACT AMENDMENTS ACT OF 1987".

On page 1, line 4, strike "Act" and insert "title".

At the end of the bill, add the following titles:

TITLE II—INDEPENDENT NUCLEAR SAFETY BOARD OVERSIGHT OVER DEPARTMENT OF ENERGY NUCLEAR FACILITIES

SHORT TITLE

SEC. 201. This title may be cited as the "Defense Nuclear Safety Board Oversight Act of 1987".

FINDINGS AND PURPOSE

SEC. 202. (a) The Congress finds that—

(1) there is a need for independent oversight of safety operations at nuclear facilities controlled by the Department of Energy;

(2) continual review and assessment by expert outside authorities would be of assistance in identifying actual or potential safety problems, research requirements, and needed standards at these nuclear facilities; and

(3) there will continue to be a requirement for an assured source of critical nuclear materials as long as the United States continues to rely on nuclear weapons for national security.

(b) The purpose of this title is to establish a Defense Nuclear Safety Board that will help to ensure the protection of public health and safety in activities at Department of Energy nuclear facilities by—

(1) reviewing and evaluating the implementation of health and safety standards, as well as applicable Department of Energy Orders at each nuclear facility;

(2) conducting independent investigations of the safety of operations at Department of Energy nuclear facilities;

(3) recommending to the Department of Energy improvements in its nuclear facilities, operations, and health and safety standards, including suggestions for areas of needed research; and

(4) informing the Congress of its findings and recommendations.

ESTABLISHMENT OF DEFENSE NUCLEAR SAFETY BOARD

SEC. 203. (a)(1) The Atomic Energy Act of 1954 (68 Stat. 919; 42 U.S.C. 2011 et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER 21. NUCLEAR SAFETY BOARD

"SEC. 311. ESTABLISHMENT.—(a) There is established as an independent establishment in the executive branch a Defense Nuclear Safety Board (hereafter in this chapter referred to as the 'Board').

"(b)(1) The Board shall be composed of 5 members appointed by the President, by and with the advice and consent of the Senate, from among respected experts in the field of nuclear safety with a demonstrated competence and knowledge relevant to the independent investigative and oversight functions of the Board. No more than 3 members of the Board shall be of the same political party. Not later than 90 days after the date of the enactment of the Defense Nuclear Safety Board Oversight Act of 1987, the President shall submit such nominations for appointment to the Board.

"(2) Any vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

"(3) No member of the Board may have any significant financial relationship with the Department of Energy or with any firm, company, corporation, or other entity engaged in activities under contract with the Department of Energy.

"(c)(1) The Chairman and Vice Chairman of the Board shall be designated by the President. The Chairman and Vice Chairman and other Board members may be reappointed to such offices.

"(2) The Chairman shall be the chief executive officer of the Board and, subject to such policies as the Board may establish, shall exercise the functions of the Board with respect to—

"(A) the appointment and supervision of employees of the Board;

"(B) the organization of any administrative units established by the Board; and

"(C) the use and expenditure of funds.

The Chairman may delegate any of the functions under this paragraph to any other member or to any appropriate officer of the Board.

"(3) The Vice Chairman shall act as Chairman in the event of the absence or incapacity of the Chairman or in case of a vacancy in the office of Chairman.

"(d)(1) Except as provided under paragraph (2), the members of the Board shall serve for terms of 6 years. Members of the Board may be reappointed.

"(2) Of the members first appointed—

"(A) one shall be appointed for a term of 2 years;

"(B) two shall be appointed for a term of 4 years; and

"(C) two shall be appointed for a term of 6 years,

as designated by the President at the time of appointment.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term of office for which such member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office.

"(4) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(e) Three members of the Board shall constitute a quorum, but a lesser number may hold hearings.

"(f) The Board may, for the purpose of performing its responsibilities under this chapter—

"(1) employ such personnel as it considers necessary to perform administrative, clerical, technical, and other duties, but not more than the equivalent of 100 full-time employees;

"(2) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5, United States Code, at rates the Board determines to be reasonable; and

"(3) prescribe regulations to carry out the responsibilities of the Board under this chapter.

"SEC. 312. FUNCTIONS AND POWERS OF THE BOARD; RESPONSIBILITIES OF THE SECRETARY OF ENERGY.—(a) The Board shall have the following functions and powers:

"(1) The Board shall review and evaluate the implementation of the health and safety standards of the Department of Energy, including all applicable Department of Energy Orders, at each Department of Energy nuclear facility. The Board shall recommend to the Secretary of Energy those specific measures that should be adopted to ensure that public health and safety are adequately protected at Department of Energy nuclear facilities. The Board shall recommend necessary changes in the content and implementation of such Orders, and recommend matters on which research or additional research is needed.

"(2)(A) The Board shall investigate actual or potential nuclear incidents, if any, at a Department of Energy nuclear facility.

"(B) The purpose of any Board investigation under subparagraph (A) shall be—

"(i) to determine whether the Secretary of Energy is adequately implementing the health and safety standards of the Department of Energy, including all applicable Department of Energy Orders, at Department of Energy nuclear facilities;

"(ii) to ascertain information concerning the circumstances of any actual or potential nuclear incident, and its implications for public health and safety;

"(iii) to determine whether such actual or potential nuclear incident is related to other actual or potential nuclear incidents at other Department of Energy nuclear facilities; and

"(iv) to provide to the Secretary of Energy such recommendations for changes in Department of Energy Orders and safety regulations and requirements, and such recommendations relating to research needs, as may be prudent or necessary.

"(3) The Board shall have access to and may systematically analyze design and operational data, including safety analysis reports, from any Department of Energy nuclear facility.

"(4) The Board may conduct special studies pertaining to safety at any Department of Energy nuclear facility.

"(5) The Board may evaluate information received from the scientific and industrial communities, and from the interested public, with respect to—

"(A) actual or potential nuclear incidents at any Department of Energy nuclear facility; or

"(B) suggestions for specific measures to improve health and safety standards, the implementation of health and safety standards, or research relating to health and safety standards at Department of Energy nuclear facilities.

"(6)(A) The Board shall recommend to the Secretary of Energy those specific measures that should be adopted to reduce substantially the likelihood that actual or potential nuclear incidents which would adversely affect public health or safety will occur at any Department of Energy nuclear facility. In making its recommendations pursuant to this section the Board shall consider the technical and economic feasibility of implementing the recommended measures.

"(B) If the Secretary of Energy determines that any action recommended by the Board or any action proposed to be taken by the Secretary in response to the Board's recommendation might affect the ability of the Department of Energy to meet the annual nuclear weapons stockpile requirements established pursuant to section 91 of this Act, the Secretary shall inform the President, the Secretary of Defense, and the Committees on Armed Services and Appropriations of the Senate and House of Representatives of such recommendation and his determination and shall consult with the Secretary of Defense on such action.

"(7)(A) The Board may establish reporting requirements which shall be binding upon the Secretary of Energy.

"(B) The information which the Board may require to be reported under this paragraph may include any materials designated as classified material pursuant to any other provision of this Act, or any materials designated as safeguards information and protected from disclosure under section 147 or 148 of this Act.

"(C) The Board may, for the purpose of carrying out its responsibilities under this chapter use any facility, contractor, or employee of any other department or agency of the Federal Government with the consent of and under appropriate support arrangements with the head of such department or agency and, in the case of a contractor, with the consent of the contractor.

"(D) The Secretary of Energy shall fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information as the Board considers necessary to carry out its responsibilities under this chapter. Each contractor operating a Department of Energy nuclear facility under a contract awarded by the Secretary shall, to the extent provided in such contract or otherwise with the contractor's consent, fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information of the contractor as the Board considers necessary to carry out its responsibilities under this chapter.

"(E) The Secretary of Energy may deny access to information provided to the Board to any person who—

"(i) has not been granted an appropriate security clearance or access authorization by the Secretary of Energy; or

"(ii) does not need such access in connection with the duties of such person.

"(8) Before beginning construction of a new Department of Energy nuclear facility the Secretary of Energy shall give the Board the opportunity to review the design of such facility and to recommend to the Secretary, within a reasonable time, such modifications of the design as the Board considers necessary to ensure adequate protection of public health and safety. During the construction of any such facility, the Secretary shall give the Board the opportunity periodically to review and monitor the construction and to submit to the Secretary, within a reasonable time, such recommendations relating to the construction of that facility as the Board considers necessary to ensure adequate protection of public health and safety.

"(b)(1) The Board or, on the authorization of the Board, any member thereof, may, for the purpose of carrying out this section, hold such hearings and sit and act at such times and places, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such evidence as the Board or an authorized member may find advisable.

"(2)(A) Subpoenas may be issued only under the signature of the Chairman or any member of the Board designated by him and shall be served by any person designated by the Chairman or any member. The attendance of witnesses and the production of evidence may be required from any place in the United States at any designated place of hearing in the United States.

"(B) Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

"(C) Any person who willfully neglects or refuses to qualify as a witness, or to testify, or to produce any evidence in obedience to any subpoena duly issued under the authority of this paragraph shall be fined not more than $500, or imprisoned for not more than 6 months, or both. Upon certification by the Chairman of the Board of the facts concerning any willful disobedience by any person to the United States Attorney for any judicial district in which the person resides or is found, the United States Attorney may proceed by information for the prosecution of the person for the offense.

"SEC. 313. BOARD RECOMMENDATIONS.—(a) Subject to subsection (h), the Board shall make all recommendations submitted to the Secretary of Energy by the Board under this chapter available to the public in the Department of Energy's regional public reading rooms and shall publish in the Federal Register such recommendations and a request for the submission of public comments on such recommendations to the Board. Interested persons shall have 30 days after the date of the publication of such notice in which to submit comments, data, views, or arguments to the Board concerning the recommendations.

"(b)(1) The Secretary of Energy shall transmit to the Board, in writing, a statement as to whether he accepts or rejects, in whole or in part, the recommendations submitted to him by the Board under this section, a description of the actions to be taken in response to the recommendations, and his views on such recommendations. The Secretary of Energy shall transmit his response to the Board within 45 days after the date of the publication, under subsection (a), of the notice with respect to such recommendations or within such additional period, not to exceed 45 days, as the Board may grant.

"(2) At the same time as the Secretary of Energy transmits his response to the Board under paragraph (1), the Secretary, subject to subsection (h), shall publish such response, together with a request for public comment on his response, in the Federal Register.

"(3) Interested persons shall have 30 days after the date of the publication of the Secretary of Energy's response in which to submit comments, data, views, or arguments to the Board concerning the recommendations.

"(4) The Board may hold hearings for the purpose of obtaining public comments on its recommendations and the Secretary of Energy's response.

"(c) The Board shall furnish the Secretary of Energy with copies of all comments, data, views, and arguments submitted to it under subsection (a) or (b).

"(d) If the Secretary of Energy, in a response under subsection (b)(1), rejects any recommendation made by the Board under section 312(a)(6)(A), the Board shall either reaffirm its original recommendation or make a revised recommendation and shall notify the Secretary of its action. Within 30 days after receiving the notice of the Board's action under this subsection, the Secretary shall consider the Board's action and make a final decision whether to implement all or part of the Board's recommendations. Subject to subsection (h), the Secretary shall publish the final decision and the reasoning for such decision in the Federal Register and shall transmit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report, in writing, containing that decision and reasoning.

"(e) The Secretary of Energy shall prepare a plan for the implementation of each recommendation submitted by the Board under section 312(a)(6)(A) that is accepted by the Secretary. The Secretary shall transmit the implementation plan to the Board within 90 days after the date of the publication of the Secretary's final decision on such recommendation in the Federal Register. The Board may extend, by not more than 45 days, the time for the Secretary to transmit the plan. The Secretary may implement any such recommendation before, on, or after the date on which the Secretary transmits the implementation plan to the Board under this subsection.

"(f) In any case in which the Board determines that a recommendation submitted to the Secretary of Energy under section 312(a)(6)(A) relates to an imminent or severe threat to public health and safety the Board, in addition to taking the actions required by subsection (a), shall transmit that recommendation to the President, the Secretary of Defense, and the Committees on Armed Services and Appropriations of the Senate and the House of Representatives at the same time that the Board transmits the recommendation to the Secretary of Energy. If the Secretary of Energy rejects the recommendation after considering the Board's action on the recommendation under subsection (d), then, notwithstanding that subsection, the Secretary shall submit the recommendation to the President. The President shall review the Secretary of Energy's response to the recommendation, the Board's action on such response, and the Secretary's determination under subsection (d) and shall make the final decision concerning acceptance or rejection of the recommendation.

"(g)(1)) Subject to paragraphs (2) and (3), not later than one year after the date on which the Secretary of Energy receives a recommendation from the Board under section 312(a)(6)(A), the Secretary shall implement that recommendation if accepted by the Secretary.

"(2) If the Secretary of Energy determines that the implementation of a recommendation referred to in paragraph (1) is impracticable because of budgetary considerations, the Secretary shall submit to the President a report containing the recommendation and the Secretary's determination. The President shall determine whether to request Congress to appropriate funds for the implementation of the recommendation. If the President does not provide for the implementation of such recommendation in the next budget submitted to Congress under section 1105(a) of title 31, United States Code, after the date on which the President receives the report from the Secretary and, before the date of the submission of such budget to Congress, has not submitted a request to Congress for the appropriation of funds for the implementation of such recommendation for any fiscal year ending before the fiscal year for which such budget is submitted, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report containing the recommendation and a discussion of the budgetary consequences, safety consequences, national security consequences, and other implications of implementing or not implementing the recommendation.

"(3) If the Secretary of Energy determines that the implementation of a recommendation referred to in paragraph (1) would affect the Secretary's ability to meet the annual nuclear weapons stockpile requirements established pursuant to section 91 of this Act, the Secretary shall submit to the President a report containing the recommendation and the Secretary's determination. The President, in consultation with the Secretaries of Defense and of Energy, shall review the determination of the Secretary of Energy. If the President determines that, for reasons of national security, the recommendation should not be implemented, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report containing the recommendation and a discussion of the reasons for his determination.

"(h) Notwithstanding any other provision of this section, the requirements to make information available to the public under this section shall be subject to the orders and regulations issued by the Secretary of Energy under sections 147 and 148 of this Act to prohibit dissemination of certain information.

"SEC. 314. REPORTS.—(a)(1) The Board shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives each year, at the same time that the President submits the budget to Congress pursuant to section 1105(a) of title 31, United States Code, a written report concerning its activities under this chapter, including all recommendations made by the Board, during the year preceding the year in which the report is submitted. The Board may also issue periodic unclassified reports on matters within the Board's responsibilities.

"(2) The annual report under paragraph (1) shall include an assessment of—

"(A) the improvements in the safety of the Department of Energy nuclear facilities during the period covered by the report;

"(B) the improvements in the safety of the Department of Energy nuclear facilities resulting from actions taken by the Board or taken on the basis of the activities of the Board; and

"(C) the outstanding safety problems, if any, within or in the operation of the Department of Energy's nuclear facilities.

"(b) The Secretary of Energy shall submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives each year, at the same time that the President submits the budget to Congress pursuant to section 1105(a) of title 31, United States Code, a written report concerning the activities of the Department of Energy under this chapter during the year preceding the year in which the report is submitted.

"SEC. 315. ASSISTANCE FROM CERTAIN AGENCIES OF THE FEDERAL GOVERNMENT.—(a) With the consent of and under appropriate support arrangements with the Nuclear Regulatory Commission, the Board may obtain the advice and recommendations of the staff of the Commission on matters relating to the Board's responsibilities and may obtain the advice and recommendations of the Advisory Committee on Reactor Safeguards on such matters.

"(b) The Director of the Naval Nuclear Propulsion Program may provide to the Board assistance and advice on matters relating to the Board's responsibilities.

"SEC. 316. ASSISTANCE FROM ORGANIZATIONS OUTSIDE THE FEDERAL GOVERNMENT.—The Board may enter into an agreement with the National Research Council of the National Academy of Sciences or any other appropriate group or organization of experts outside the Federal Government chosen by the Board to evaluate and interpret the differences between Nuclear Regulatory Commission regulations and Department of Energy Orders governing nuclear facilities, including the implications for public health and safety. The agreement should provide for the council, group, or organization to transmit to the Board any recommendation for issuance of a new safety standard by the Department of Energy or for amendment of a Department of Energy safety standard as such council, group, or organization considers appropriate.

"SEC. 317. JUDICIAL REVIEW.—Chapter 7 of title 5, United States Code, shall apply to activities of the Board under this chapter.

"SEC. 318. DEFINITION.—As used in this chapter, the term 'Department of Energy nuclear facility' means—

"(1) a production facility or utilization facility under the control or jurisdiction of the Secretary of Energy, but does not include any facility or activity covered by Executive Order numbered 12344, dated February 1, 1982, pertaining to the Naval nuclear propulsion program, or facilities or activities involved with the testing or transportation of nuclear explosives or nuclear material; and

"(2) a nuclear waste storage facility under the control or jurisdiction of the Secretary of Energy, but does not include a facility developed pursuant to the Nuclear Waste Policy Act of 1982 (96 Stat. 2201; 42 U.S.C. 10101 et seq.) and licensed by the Nuclear Regulatory Commission.

"SEC. 319. TERMINATION.—(a) The Board shall terminate upon the expiration of the 6-year period beginning on the date of the enactment of the Defense Nuclear Safety Board Oversight Act of 1987.

"(b) This chapter shall not be effective after the date on which the Board terminates under subsection (a).".

(2) The table of contents at the beginning of the Atomic Energy Act of 1954 is amended by adding at the end the following:

"CHAPTER 21—DEFENSE NUCLEAR SAFETY BOARD

"Sec. 311. Establishment.
"Sec. 312. Functions and powers of the Board; responsibilities of the Secretary of Energy.
"Sec. 313. Board recommendations.
"Sec. 314. Reports.
"Sec. 315. Assistance from certain agencies of the Federal Government.
"Sec. 316. Assistance by organizations outside the Federal Government.
"Sec. 317. Judicial review.
"Sec. 318. Definition.
"Sec. 319. Termination.".

(b) The fifth annual report submitted by the Defense Nuclear Safety Board to the Committees on Armed Services of the Senate and House of Representatives under section 314 of the Atomic Energy Act of 1954 (as added by subsection (a)) shall include—

(1) an assessment of the degree to which the overall administration of the Board's activities are believed to meet the objectives of the Congress in establishing the Board;

(2) recommendations for continuation, termination, or modification of the Board's functions and programs, including recommendations for transition to some other independent oversight arrangement if it is advisable; and

(3) recommendations for appropriate transition requirements in the event that modifications are recommended.

SALARY LEVEL FOR BOARD MEMBERS

SEC. 204. Section 5314 of title 5, United States Code, is amended by inserting after "Members, Nuclear Regulatory Commission." the following:

"Members, Defense Nuclear Safety Board.".

TRANSFER

SEC. 205. The Secretary of Energy shall transfer to the Nuclear Safety Board established by section 311 of the Atomic Energy Act of 1954 (as added by section 203 of this Act) $7,000,000 to be derived from funds appropriated or otherwise available to the Department of Energy for fiscal year 1988. The amount transferred under this section shall be available to such board to carry out its responsibilities under chapter 21 of the Atomic Energy Act of 1954 (as added by section 203 of this Act) and shall remain available until expended.

TITLE III—APPLICATION OF OSHA AND NIOSH TO DOE NUCLEAR FACILITIES

SEC. 301. (a) Congress finds that—

(1) worker health and safety at Department of Energy nuclear facilities could be made substantially safer by applying the standards developed by experts in the field of occupational health and safety;

(2) the Secretary of Labor has a longstanding responsibility for the health and safety of workers (including the enforcement of occupational health and safety standards and other protective labor standard programs) and could provide substantial assistance in developing, improving, and enforcing the standards at Department of Energy nuclear facilities; and

(3) the Secretary of Health and Human Services has a continuing responsibility for evaluating health and safety needs related to radiation and toxic substances standards and could provide substantial assistance in improving and enforcing the standards at Department of Energy nuclear facilities.

(b) The purpose of this title is to improve and enforce standards for employee health and safety at Department of Energy nuclear facilities.

APPLICATION OF OSHA TO DOE NUCLEAR FACILITIES

SEC. 302. (a) Section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)) is amended—

(1) by striking out "Nothing" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), nothing"; and

(2) by adding at the end thereof the following new subparagraph:

"(B)(i) Notwithstanding any other provision of this Act, this Act shall apply with respect to employment performed in—

"(I) a production facility or utilization facility (as defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014)) under the control or jurisdiction of the Secretary of Energy;

"(II) a facility subject to such Act (42 U.S.C. 2011 et seq.) under the control or jurisdiction of the Secretary of Energy; and

"(III) a waste storage facility under the control of or jurisdiction of the Secretary of Energy.

"(ii) This subparagraph shall not apply to a facility or activity covered under Executive Order 12344 (42 U.S.C. 7158 note).".

(b)(1) All regulations and standards relating to occupational health and safety applicable to Department of Energy nuclear facilities described in section 4(b)(1)(B)(i) of the Occupational Safety and Health Act of 1970 (as amended by subsection (a)) that are in effect on the date of enactment of this Act shall remain in effect until superseded by regulations and standards promulgated by the Secretary of Labor in accordance with paragraph (2).

(2) The Secretary of Labor shall promulgate specific regulations to govern the application of such Act to such Department of Energy nuclear facilities. The regulations shall include—

(A) the occupational health and safety standards to be applied to such facilities; and

(B) the manner and process for enforcement of the standards, which shall include provisions for—

(i) the safeguarding of information, consistent with the needs of employees of the Occupational Safety and Health Administration;

(ii) mechanisms and processes for enforcement, including the right of entry for unannounced inspections without probable cause;

(iii) receipt of complaints from individuals and protection of the individuals from retribution for making the complaints;

(iv) procedures for inspection at such facilities not less than once each year; and

(v) such other regulations as are necessary to carry out this title and the amendments made by this title.

PERFORMANCE OF NIOSH FUNCTIONS AT DOE NUCLEAR FACILITIES

SEC. 303. Section 22 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 671) is amended by adding at the end thereof the following new subsection:

"(g)(1) Notwithstanding any other provision of this Act, the Director and the Institute shall perform functions authorized by this Act at Department of Energy nuclear facilities described in section 4(b)(1)(B)(i).

"(2) The Institute shall conduct hazard evaluations at such facilities, including ionizing radiation evaluations.".

COOPERATION WITH INSPECTIONS AND INVESTIGATIONS

SEC. 304. Section 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657) is amended by adding at the end thereof the following new subsection:

"(h)(1) Except as provided in paragraph (2), the Secretary of Energy and each contractor operating a nuclear facility described in section 4(b)(1) shall—

"(A) cooperate with the Secretary of Labor and the Secretary of Health and Human Services in the conduct of an inspection or investigation under this Act at such facility;

"(B) grant access to such facility to enable the conduct of such inspection or investigation; and

"(C) provide all information that is necessary to conduct such inspection or investigation.

"(2) To protect the confidentiality of information, the Secretary of Energy may deny access to any person who—

"(A) has not been granted a security clearance or access authorization by the Secretary; or

"(B) does not require such access in connection with the duties of such person to enforce this Act.".

TITLE IV—RADIATION STUDY ADVISORY BOARD ACT OF 1987

SHORT TITLE

SEC. 401. This title may be cited as the "Radiation Study Advisory Board Act of 1987".

FINDINGS

SEC. 402. The Congress makes the following findings:

(1) After many years of study there remain unresolved questions about the health effects of radiation exposure from many sources, including nuclear weapons manufacturing and testing, nuclear reactors, radioactive wastes, and the medical uses of nuclear materials.

(2) Radiation-caused injury and disease, including cancer, birth defects, and genetic damage, must be further examined and better understood.

(3) Public health authorities must be able to direct research efforts on the health effects of radiation so that effective means of protecting the public against dangerous ex-

posure to radiation can be developed and achieved.

(4) The Secretary of Energy is primarily responsible for the production of nuclear materials and nuclear weapons. In addition, the Secretary is required to study the health impact of activities of the Department of Energy. These dual responsibilities have the potential to create public concern as to the integrity and value of the health studies conducted by the Secretary of Energy.

ADVISORY BOARD

SEC. 403. (a)(1) To advise and assist the Secretary of Energy in conducting studies of the effects of radiation under section 103 of the Energy Reorganization Act of 1974 (42 U.S.C. 5813), and any other law, the Secretary of Health and Human Services shall establish an advisory board known as the Radiation Research Board (hereafter referred to as the "Board").

(2)(A) The Board shall consist of 8 members appointed by the Secretary of Health and Human Services, 1 member appointed by the Secretary of Energy, and 2 members appointed by the Secretary of Labor. The Secretary of Health and Human Services shall make appointments to the Board so that the membership of the Board includes individuals who are expert in the health effects of radiation, epidemiology, or toxicology, and public health officials who are concerned with such health effects.

(B) The Secretary of Health and Human Services shall consult with the Director of the Centers for Disease Control, the Director for the National Institute for Occupational Safety and Health, the Director of the National Cancer Institute, the Director of the Center for Devices and Radiological Health, the Director of the National Institute of Environmental Health Sciences, and others in formulating the membership of the Board.

(b)(1) Prior to any authorization or expenditure of funds in an amount greater than $250,000 by the Secretary of Energy for studies of the health effects of radiation, the Secretary of Energy shall provide the Board with all proposals concerning such studies.

(2) The Board shall review the proposals provided under paragraph (1) and make appropriate recommendations to the Secretary of Energy in writing if the Board believes the proposal should be modified or not funded.

(3) The Secretary of Energy shall periodically report to the Congress concerning the implementation of the recommendations of the Board. Such reports shall include specific reasons for each decision by the Secretary not to implement a recommendation made by the Board.

(4) The Board shall annually review the studies conducted pursuant to this title, and advise the Secretary of Energy as to the suggested scope and direction of future studies needed.

(5) The Secretary of Energy, with the assistance of the Board, shall—

(A) insure that all studies undertaken under this title shall be subject to peer review; and

(B) promulgate guidelines for the provision of data from such studies to qualified researchers who are not associated with the Department of Energy in order to implement subparagraph (A).

(c) The Secretary of Health and Human Services shall provide such funds, facilities, and staff as are necessary for the Board.

McCLURE AMENDMENT NO. 1678

Mr. McCLURE proposed an amendment to the bill (H.R. 1414) supra; as follows:

On page 7, line 5, strike the date "1997" and insert the date "2017".

On page 7, line 16, strike the date "1999" and insert the date "2017".

On page 30, line 18 and 19, strike "and the Secretary shall submit to the Congress by August 1, 1993, detailed reports"; and insert "shall submit to the Congress by August 1, 2013, and the Secretary shall submit to the Congress by August 1, 1997, and every ten years thereafter, detailed reports";

On page 19, line 9, strike "1997" and insert in lieu thereof "2017".

BREAUX AMENDMENT NO. 1679

Mr. BREAUX proposed an amendment to the amendment No. 1678 to the bill (H.R. 1414) supra; as follows:

In lieu of McClure Amendment substitute the following:

On page 7, line 5, strike the date "1997" and insert the date "2007".

On page 7, line 16, strike the date "1999" and insert the date "2007".

On page 30, line 18 and 19, strike "and the Secretary shall submit to the Congress by August 1, 1993, detailed reports"; and insert "and the Secretary shall submit to the Congress by August 1, 1993, and by August 1, 2003, detailed reports";

On page 19, line 9, strike "1997" and insert in lieu thereof "2007".

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that at the hearing the Committee on Rules and Administration will be holding on Wednesday, March 30, 1988, in SR-301, Russell Senate Office Building, the committee will be receiving testimony on S. 2061, rather than S. 1888, as previously announced. S. 2061 was introduced by Senator CRANSTON and would establish national standards for voter registration for elections for Federal office, and for other purposes.

Individuals and organizations interested in testifying or submitting a statement for the hearing record are requested to contact Jack Sousa, chief counsel of the Rules Committee, on 202-224-5648.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that the hearing on March 24, before the Subcommittee on Public Lands, National Parks and Forests, will include two additional measures.

The two additional measures to be considered at the hearing are:

S. 2157, a bill to authorize three feasibility studies to be conducted in New Mexico dealing with the San Gabriel Historic Landmark, the significance of the Los Luceros Hacienda, and the establishment of an interpretive center to highlight the first colonization of the interior of the United States in New Mexico; and

S. 2162, a bill to provide for the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico, and for other purposes.

Furthermore, the hearing is now scheduled to begin at 1 p.m., and that portion of the hearing regarding S. 2162 will be a joint hearing with the Select Committee on Indian Affairs.

If you have any questions, please feel free to contact Beth Norcross, of the committee staff, at 224-7933.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Thursday, March 17, 1988, to conduct oversight hearings on whether legislation should be adopted that would require corporate issuers to have a one share/one vote standard in order to be listed on the national exchanges.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 17, 1988, to hold hearings on the reauthorization of the National Railroad Passenger Corporation [Amtrak].

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Energy and Natural Resources Subcommittee on Public Lands, National Parks and Forests be authorized to meet during the session of the Senate on Thursday, March 17, 1988, to receive testimony concerning S. 1508, a bill to withdraw and reserve for the Department of the Air Force certain Federal lands within Lincoln County, NV, and for other purposes; S. 1570, a bill to withdraw and reserve for the Department of the Navy certain Federal lands within Inyo, Kern, San Bernardino, and Imperial Counties, CA, and for other purposes; and H.R. 1548, a bill to withdraw certain Federal lands in the State of California for military purposes, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, March 17, to conduct a hearing on the Water Resources Act of 1988 and related issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution of the Committee on the Judiciary be authorized to meet during the session of the Senate on March 17, 1988, to hold a hearing on Senate Joint Resolution 21, Senate Joint Resolution 130, Senate Joint Resolution 166, campaign finance.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, MONOPOLIES AND BUSINESS RIGHTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Monopolies and Business Rights of the Committee on the Judiciary, be authorized to meet during the session of the Senate on March 17, 1988, to hold a hearing on competitive issues in the cable television industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 17, 1988, in open session to receive testimony in review of the amended fiscal year 1989 defense authorization request and the 5-year defense plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Manpower and Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 17, 1988, in open session to receive testimony on manpower requirements for the total force in review of the fiscal year 1989 Department of Defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 17, 1988, to hold a hearing on legislation needed to implement the United States-Canada free trade agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, March 17, 1988, to consider matters relating to the October 19 market break.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TAL DUVALL'S SERVICE TO GEORGIA

● Mr. FOWLER. Mr. President, Tal Duvall is retiring after a lifetime devoted to service to the people of Georgia.

During his career with the Georgia Cooperative Extension Service, Duvall worked to remedy the disparities in economic development throughout our State, and to focus efforts on the rural counties that are not sharing in the prosperity of our metropolitan centers.

I thank him for his long-range vision, and his comprehension of the strength of our State and our Nation in all its dimension. That strength includes a strong rural economy that can support a stable agricultural base. It includes a recognition that the ability to feed ourselves, to clothe ourselves, and to provide the raw materials with which we build and fashion our society, are essential elements of our national security.

Mr. Duvall directed the Georgia 2000 study that pinpointed the areas in which we need to work to extend the promise of our great State, and this great country, to all its citizens. As the respected head of the extension service, he worked to promote economic development and bring new industry into our State.

These efforts show a commitment derived from years of involvement with people literally throughout the State of Georgia. A native of Greensboro, GA, educated at the University of Georgia, Tal Duvall began his career with the extension service 31 years ago as assistant county agent in Carroll County. He followed that with service as county agent for Clarke County, district agent for northeast Georgia, district agent for northwest Georgia, and assistant director of field operations throughout the State. He rose through the ranks to become State director 10 years ago, and served in that position with distinction.

Mr. Duvall has served as the chairman of the Athens-Clarke County Planning Commission, and as a member of the board of deacons of the Athens First Baptist Church.

He has won the Governor's Conservation Award for Outstanding County Agent, as well as the distinguished service award from the National County Agents Association. He was named Georgia Adult Educator of the Year in 1980, and received the National Distinguished Service Ruby Award from Epsilon Sigma Pi in 1984.

Mr. Duvall was named this year's Progressive Farmer Man of the Year. I can think of no more appropriate tribute to a man who has fought for a progressive vision for his State, and dedicated his career to the advancement of its people. I speak for all those Georgians when I say we are grateful for the many fine years of service Tal Duvall has given us.

I extend my sincerest congratulations to Tal, his wife Carole and their family, for his successful career in public service. And I wish them all the best for the future.●

SAFETY THROUGH SONGS

● Mr. McCAIN. Mr. President, it has been said that our children are our future. I fully agree with this, and I would like to recognize today a program that I feel is an important investment in that future.

The program, called "Safety Through Songs," originated in my State of Arizona. As it often seems with successful programs, Mr. President, this was a grassroots effort. An enterprising Mesa housewife, Janis Prall, believed that young children needed to be educated about common, everyday situations that could threaten their safety. She approached the Mesa-Chandler-Tempe Board of Realtors with her idea. These public-spirited citizens, to their great credit, agreed with her that young children are too often the victims of preventable accidents or crime. The board decided to conduct a program that would educate kindergarten and first grade children about the causes of common accidents and crimes so they would be less likely to become victims.

This local board of realtors, 1 of 23 such boards in Arizona, enlisted the support of the Arizona Association of Realtors, and an idea became a reality. Using an illustrated songbook prepared by Mrs. Prall and her graphic artist husband Kenneth, the association prepared educational kits about some of the safety hazards young children most frequently encounter. The association worked with the Arizona Department of Education, which assists in distributing the kits, and the Arizona Department of Public Safety, which conducts a statewide crime prevention program for schoolchildren.

The program was introduced in the Mesa, Tempe, and Chandler school districts in 1981. The basic educational kit was then, and is today, an entertaining, easy-to-understand record and combination coloring book/song book for each child. The songbooks and records, supplemented by filmstrips and videotapes, teach the children about crosswalk rules and safety, proper seat belt use, the danger of getting in cars with strangers, bicycle safety, water safety, and the danger of poisons. The messages encourage the children to follow safety rules "at home, outside, or at school."

The program was, to no one's surprise, an immediate success. In 1982, it was expanded statewide, as the remaining 22 boards of realtors in Arizona began sponsoring the program within their school districts.

But I believe there is another, more telling statistic that underscores the dramatic success of this program, Mr. President. That statistic is that, today, the program is used not only throughout Arizona, but in at least 7,500 elementary schools in 42 of this Nation's 50 States. An estimated 1.1 million children have participated in the program at school. In addition, realtors boards in the remaining States, and in Canada, are working with the Arizona Association of Realtors to introduce the program to their schools.

There are two additional points I would like to make about this program, Mr. President.

First, the program is conducted entirely without public funds. All program costs, from producing to distributing the materials, are borne by either the State realtors associations, or by individual boards of realtors. The materials are free to the schools.

Second, this effort also has secondary benefits. When the children take the safety information home, their siblings are also exposed to it. I don't doubt for a second that, in many instances, the information also makes many parents consciously aware, perhaps for the first time, of everyday safety hazards they and their children face.

Mr. President, I am very proud of the Pralls and the Arizona Association of Realtors and their member boards. This dedicated group of private citizens, working hand in glove with equally dedicated professionals in State education departments and public safety agencies, has made the "Safety Through Songs" Program one of the most successful, far-reaching child safety efforts in the Nation. As a Senator, I commend them all for caring enough about our children to sponsor a program that will help them grow up safely and become important contributors to our Nation's future. As a father, I would like to extend to them, from me and from all parents with small children, a heartfelt thank you for a job well done.●

NATIONAL MARS COMMISSION

● Mr. HARKIN. Mr. President, on March 4, 1988, I introduced a bill (S. 2142) with Senator INOUYE to establish a temporary National Mars Commission. This Commission would establish the strategy for a series of joint United States/Soviet manned and unmanned space missions to the planet Mars. This bill is identical to House bill H.R. 3858 introduced by Mr. TORRICELLI on January 25, 1988.

The National Aeronautics and Space Administration needs a set of clear goals for the next century. Several studies have concluded that a manned mission to Mars would be a worthy goal over the next few decades, to reestablish NASA's role in science and space exploration.

In April of 1987, the United States and the Soviet Union signed an agreement regarding cooperation in space. Currently both nations have plans for exploring Mars. The Soviet Union Phobos mission will launch two space probes to study a Mars moon. Soviet plans also call for a possible 1994 launch to test the surface and atmosphere of Mars as a prelude to a manned landing. NASA also has plans for a Mars observer to be launched in 1992 to map possible landing sites.

We could each go our separate ways, duplicating much of the effort to explore outer space. Or we could combine forces, utilizing the best of both country's scientific and engineering capabilities. For example, we might exploit the current Soviet advantage in space launch capacity and long-term habitation in space, and the United States achievements in large boosters and remote sensing devices for unmanned exploratory missions. The cost to both nations could be reduced substantially by joining together.

A series of joint American/Soviet Mars missions could further improve relations, building on the momentum generated by recent summit meetings and by the INF Treaty. Working together on space exploration could help establish relationships that make enduring peace possible.

Joint space missions are not without risk, however. We must assure ourselves that technology critical to our national defense is not compromised. We hope for the best in future relations but should prepare for the worst: We must be able to carry on alone should international relations sour after the joint program begins.

The National Mars Commission would be responsible for developing the strategy to protect our national interests while maximizing the economic and political benefits of a joint program.●

ONE RESPONSE TO INTERNATIONAL CHILD ABDUCTION

● Mr. SIMON. Mr. President, the ordeal of losing a child to the noncustodial parent who then flees the United States is a terrible one. In the 99th Congress, the Senate gave its advice and consent to the ratification of the Hague Convention Treaty, an international agreement that member nations would discourage parental kidnaping by respecting another nation's court orders on child custody. Currently, S. 1347, my legislation to implement the Hague Convention, is pending in the Judiciary Committee.

We can offer hope to desperate parents who lose their children abroad in violation of our laws and international law. Just this past Saturday, the Philadelphia Inquirer described the case of a 7-year-old girl named Lauren who was taken away from her mother's apartment in Dallas and abducted to Jordan.

Lauren's mother, according to the article, hired a group of former Army commandos, "soldiers of fortune" if you will, to rescue her daughter. The seizure was successful but came at the price of putting many people in danger, including Lauren. Extra legal efforts of this kind can lead to retaliation both in other countries and here at home.

We must provide Lauren's mother, and those like her in such a desperate situation, a much better alternative. It is estimated that there are at least 22 cases of American children living with their fathers in violation of U.S. court custody orders in Jordan alone and over 1,000 cases worldwide.

The Hague Convention Treaty will enable member nations to responsibly deal with these difficult situations and protect the integrity and vitality of court custody decisions on foreign shores. S. 1347, the International Child Abduction Act, will alleviate the need for other parents to take such drastic action. I urge its quick passage.

I ask that the article appearing in the Philadelphia Inquirer entitled "A Mother Teams With Commandos to Retrieve a Child," may be printed in the RECORD.

The article follows:

[From the Philadelphia Inquirer, Mar. 12, 1988]

A MOTHER TEAMS WITH COMMANDOS TO RETRIEVE A CHILD

(By Frank Greve)

WASHINGTON.—It began and ended with the abduction of a girl named Lauren.

In between, a team of retired U.S. Army commandos engineered the seizure of a school bus the child was on in Jordan, a bold mother carried off her daughter, a border was crossed to safety, and somebody sent roses.

Today, the mother is in hiding with her 7-year-old. The commandos who rescued the child deny they had anything to do with it. And the State Department is sheepishly fielding protests from Jordan about what was, at bottom, an international custody dispute.

Kathy Mahoon of Dallas wanted to bring her daughter home. In September, violating a court order granting custody of the girl to Mahoon, her former husband had abducted

Lauren from Mahoon's apartment and taken her to Jordan.

Mahoon then hired a firm of former Army commandos to rescue her daughter, Lauren Mohammed Ali Bayyan.

The rescue attempt began at 8:30 a.m. Jan. 28 in the town of Jerash, north of Amman, according to sources close to the participants.

J.D. Roberts, a one-time Army Delta Force hostage rescue specialist, hailed and stopped a school bus by waiving a note in Arabic that he could not read.

While Roberts pinned the shocked driver to his seat, the mother embraced her child and swept her off the bus, smacking a teacher who tried to block their escape.

They fled in a white Datsun. At the King Hussein Bridge, a border crossing to the Israeli-occupied Gaza strip, the Datsun was stopped by Jordanian authorities.

But it held only a Jordanian driver. Minutes before, the fleeing entourage had switched cars and escaped into the Gaza strip.

When Lauren and her mother threw open the door to their hotel room in Israel, a bouquet of red roses sat on a bedside table, source unknown.

Two hours after seizing Lauren, Mahoon called Lauren's Jordanian father from Tel Aviv, according to authorities in Amman. The father's family initially planned a counterseizure, but police in Jerash cooled their ardor.

The successful, bloodless coup has provoked crowing in the small community of soldiers of fortune, but has left the U.S. Embassy in Amman awash in embarrassment. Officials there, tipped off in advance, initially threatened to turn the commandos over to Jordanian authorities. Because they did not, Jordanian authorities are upset.

"We do have responsibility not to assist Americans in breaking local laws," said Donna Sherman of the State Department.

Corporate Training Unlimited, a firm in Fayetteville, N.C., specializing in "hostage rescue training," according to a brochure, plotted and carried out the seizure for expenses and a hefty, undisclosed fee, well-placed sources said.

The company consists entirely of "Delta Force and Special Operations qualified personnel," its brochure states. Its founders left the military in 1983 amid allegations that they had claimed expenses from both the State Department, and the Army for guarding VIPs at U.S. embassies in Central America.

State Department investigators now want to know whether credentials issued to the company's founders while in the military were used in the Jordanian incident.

"I can't help you. It wasn't us," company president Donald Feeney said in a telephone interview.

Three sources close to the company disagreed. They said Feeney and two other former Delta Force personnel, identified as J.D. Roberts and Jim Hatfield, spent nearly a month in Jordan and Israel before executing their plan.

Its essence was to detain the bus unarmed, using Mahoon to reassure her daughter and impress anyone inclined to resist that they meant the daughter no harm. Mahoon flew to the Middle East three days before the school-bus assualt.

"Kathy called me after Christmas and said she was going underground," said Holly Planells, an Albany, N.Y., reporter for United Press International, in a telephone interview. "She said she was going to Jordan to get Lauren out."

"Kathy gives us all hope," said Planells, whose son, Huey, 4, is one of 22 Jordanian-American children still living in Jordan with Jordanian fathers in defiance of U.S. court custody orders.

Planells heads American Children Held Hostage, a support and lobbying group for parents of more than 1,000 children caught in international custody disputes.

"I know the State Department and the Jordanians say we're throwing international law out the window," Planells said, "but I say Kathy corrected a wrong."

Planells said she had urged Mahoon to do what she has done herself: copyright her story and sell movie rights. "I have a movie contract signed and everything." Planells said. "It just needs an ending."●

VIETNAM WOMEN'S MEMORIAL PROJECT

● Mr. D'AMATO. Mr. President, I rise today in support of legislation, introduced by my distinguished colleague, Senator DURENBERGER, authorizing the Vietnam Women's Memorial Project [VWMP] to establish a statue of a woman Vietnam veteran on the site of the Vietnam Veterans Memorial in Washington, DC. I believe this statue would appropriately honor the many women who served so valiantly and selflessly in the Armed Forces during the Vietnam conflict. I am pleased to be part of an effort to recognize and pay tribute to these dedicated individuals.

Erection of a statue in honor of women Vietnam veterans has received widespread public support. The VWMP project has been endorsed by virtually every major veterans organization. In addition, Secretary of the Interior, Donald Hodel, demonstrated his support for the project by recommending its approval to the Commission of Fine Arts. Unfortunately, the Commission ignored the Secretary's recommendation, and on October 22, 1987, rejected the project.

The Commission's decision generated a swift wave of public protest, followed by the introduction of legislation in the House and the Senate. The bill I am cosponsoring today, S. 2042, expresses the strong sense of the Senate that the statue should go forward. In addition, S. 2042 establishes an approval process in which the Fine Arts and National Capital Planning Commissions would have 90 days to approve or reject the statue. If this deadline is not met, it would be deemed that approval is given for construction of the statue.

Mr. President, I believe we owe it to the women who served in Vietnam to honor their dedication, steadfastness, and determination. Construction of the VWMP statue would be a fitting tribute to these courageous women.

I encourage my collegues who have not done so to join me in cosponsoring this legislation, and I urge its prompt consideration.●

ST. PATRICK'S DAY

● Mr. SIMON. Mr. President, St. Patrick's Day should be a time to celebrate and honor our friendship with the people of Ireland and the contributions made by Americans of Irish descent in all areas of our national life. The horror we witnessed in Belfast yesterday reminds us, however, that on this St. Patrick's Day we must rededicate ourselves to the cause of peace, justice, and reconciliation for all the people of Ireland.

I joined my colleagues in both Houses of Congress in a statement by the Friends of Ireland marking St. Patrick's Day. This detailed statement reviewed developments in Northern Ireland and expressed concern with British policies and actions which are at variance with the Anglo-Irish accord and which depart from Great Britain's traditions of equal justice and respect for the law. I want to repeat my concern and my hope that all parties involved in Northern Ireland will act in good faith to defuse tension and end the spiral of violence.

The recent violence could undermine the genuine progress which has been made in the past 2½ years on fair employment, antidiscrimination, and closer ties between Northern Ireland and the Irish Republic. On this St. Patrick's Day, it is my hope that a new, peaceful beginning can be made by all the people of Ireland.●

A TRIBUTE TO JACK McCARTHY UPON HOSTING HIS 40TH ST. PATRICK'S DAY PARADE

● Mr. D'AMATO. Mr. President, there are generations of New York's Irishmen who would not dream of celebrating a St. Patrick's Day without a toast to Jack McCarthy. For 40 years Jack's exciting commentary has brought the St. Patrick's Day Parade into America's homes with a rich sense of the cultural history and significance of the event. It is this dedication to such a beloved tradition that we commend here today.

John Joseph McCarthy's Irish-born parents instilled in him a love for their homeland, a love that is shared with us every year through his warm-hearted commentary of the parade. This year we celebrate with him his 40th year covering the parade for WPIX television, and his 55th in the broadcasting industry.

In high school, Jack excelled in track, baseball and football; he enrolled in New York University because they had the best football team in the area; and 55 years ago he took a job as a page at the National Broadcasting Co. [NBC] because he heard they had the best baseball team in the corporate league. At NBC, his love and knowledge of sports made him a natural choice for sportscaster; at the age of 21 he became the youngest staff announcer at the network.

Advancing from staff announcer to a boxing blow-by-blow sports commentator and then to turf announcer at horse racing events, Jack's resonant voice became familiar to New York sports fans. Then came television. In 1948 Jack became the first telecaster for the infant channel 11, New York's local station operated by the New York Daily News.

Ironically enough it was in the interest of improving the baseball broadcasts which convinced WPIX executives to first cover the St. Patrick's Day Parade in 1949. What began as a 45 minute test of the new baseball cameras ended up as a 40-year-old tradition. Assigned to do color commentary for this "test" was a young Jack McCarthy who spun such an impressive "lore of the leprechaun" that the WPIX executives decided to extend the broadcast to 5 hours. Such is the beginning of his full career.

Jack McCarthy, the broadcaster, the sports enthusiast, the community activist—the Irishman. His achievements and efforts on behalf of the Irish community; his love of the culture and heritage; his never-ending knowledge of Irish history, literature and people ensure his place in our history.

We commend Jack McCarthy for sharing with us his depth of love and appreciation for all that is Celtic. Erin go bragh.

Thank you, Mr. President.●

ST. PATRICK'S DAY

● Mr. PELL. Mr. President, on this St. Patrick's Day, I join with all the Friends of Ireland in the U.S. Congress to honor the people of Ireland and renew our calls for peace and justice in Northern Ireland. The United States has a unique relationship with both Ireland and Great Britain. Our Nation has become the new home for many people from both those lands. These bonds endow us with a special responsibility to help both of these friends in their efforts to achieve a lasting peace.

The most significant step toward peace in Northern Ireland has been the Anglo-Irish Agreement of 1985. That agreement remains the best hope for ending the violence in Northern Ireland. Political progress cannot be won through the bullet and the bomb. Yesterday's barbaric killings at the IRA funeral in Belfast reveal the pointless horror of violence. Violence only breeds more violence. We must find a way to break that vicious cycle. I therefore commend the Irish and the British Governments for their determination to implement the agreement despite opposition from extremists on both sides in Northern Ireland.

In the 2 years since the signing of the agreement, there has been some progress. Members of both governments have met together on a regular basis to address the grievances that lie at the heart of the unrest. And the agreement has brought about improvements in housing, voting rights, and law enforcement procedures in Northern Ireland.

Despite these achievements, there are many areas which require increased attention. The absence of jury trials combined with the use of single judge "diplock courts" continues to foster mistrust and alienation in the nationalist community. Like many others, I am also disturbed by the recent decision not to proceed with the prosecution of the crimes revealed by the Stalker-Sampson investigation of the shoot-to-kill policy employed by British security forces in Northern Ireland. The continued integrity of the judicial system requires that individuals be held accountable for their actions. That is why I also share the concern of others over the decision to return a British soldier convicted of murder to active duty service following his early release from prison. Decisions such as these lead many to question the fairness of other decisions that involve Northern Ireland.

These problems leave much room for progress. But certain steps are already being taken. I welcome the British Government's proposed legislation to address the alarming unemployment situation among Catholics in Northern Ireland and hope it will be quickly adopted by the British Parliament. Major reforms in the current system are essential to end the long history of job discrimination.

In addition to these long overdue reforms, the International Fund To Promote Economic Recovery is a source of hope in Northern Ireland. I have worked hard in the Foreign Relations Committee to see that the United States makes a healthy contribution to the Fund. The Fund will be critical to progress in the years ahead and deserves broad international support.

The British Government's proposed legislation and the projects made possible by the Fund are cause for hope in Northern Ireland. But much remains to be done. The vicious cycle of terror must be broken. We must build on the foundation established by the Anglo-Irish Agreement to achieve peace and reconciliation in Northern Ireland. With good will on all sides we can bring together all the people of Ireland—North and South, Catholic and Protestant. Let us unite in that effort in the days ahead.●

THE EDUCATION SAVINGS BOND ACT OF 1987

● Mr. KARNES. Mr. President, I rise today to announce my cosponsorship of S. 1817, the Education Savings Bond Act of 1987. As a nation, it is imperative that we recognize the importance of higher education. Unfortunately, the cost of higher education in this country continues to soar; giving rise to a situation whereby all students who wish to attend college, are not able to do so.

Although for the last 30 years there has been a commitment between higher education institutions and the Government to expand educational opportunities, the needs of many students are not being met.

Originally, the Guaranteed Student Loan Program was tailored to assist middle-income families who often find it difficult to meet the added financial burdens associated with the cost of a college education. However, today we are finding it is increasingly difficult for middle-income families to qualify for the programs and indeed the majority of the GSL Program recipients are from lower income families. Because few alternatives exist, children from middle-income families are limited in their source of financial assistance.

Though many concepts for financing higher education are being proposed which could help overcome the present situation, most are costly and difficult to administer. However, my research has convinced me that S. 1817 offers an effective and fiscally responsible way of giving families a way to plan the financing of higher education.

The program approaches the problem from an age old perspective—one of planning and saving. Specifically, parents would invest in U.S. savings bonds for the purpose of ensuring the future of their childrens' education.

As an incentive, interest on these bonds would remain tax-free provided they are applied to higher education. Thus, as you can see this legislation will not only promote higher education, but it will also encourage citizens to invest in the Federal Government.

We have an obligation to ensure that every child, of every race, creed, and socio-economic background is afforded the same educational opportunity.

Mr. President, the investment our Nation makes in education now, will directly affect our future position in the international economy. On matters of education we must recognize that America's competitive position in this ever changing world is based on the skills and knowledge of our people which comes not by chance, through education. This legislation will help protect that investment in our future.●

THE DEATH OF TOM PRICE

● Mr. DECONCINI. Mr. President, the flags flew at half mast on February 4, in Tucson. Tom Price, "un amigo de todos"—everyone's friend—had passed away. Tom, a community activist and 32-year city employee, headed the operations department of the city of Tucson since its inception in 1972. He was dignosed with leukemia in May 1987 and was able to return to work 2 months later. Everyone knew he was ill, yet his death took people by surprise, especially for someone described as "larger than life." Released from the hospital just a week before his death, Tom had begun to drop by the office to see how things were going. He was only 57.

He was born on the south side of Tucson in 1930. In the late 1940's at Tucson High school, Tom joined the Marine Corps Reserve, a popular trend among Tucson's Hispanic youth at the time. When Tom was just 2 months out of high school, the Tucson Marine Reserves were called to active duty and shipped to Korea with limited training—the Reserve unit did not go through boot camp. Tom came home 1 year later with five battle stars. He served with distinction and valor with the 1st Marine Division at Inchon, Chosin Reservoir and the first and second Chinese spring offenses.

The University of Arizona was next on Tom's agenda and he attended for 4 years, leaving when his wife Cathy gave birth to their first child. To support his growing family, Tom took a part-time job with the city's sanitation division. By 1972 he was named to head the department. Tom respected and admired his employees and always treated them fairly and with fondness. They responded in kind.

His work was exemplary. Former mayor Lew Murphy remembered Tom as "probably the single most professional, productive administrator in the history of the city." When Tom advocated an idea, plan or project, he was hard to resist. It was a given that his motives were based on fairness and benefit to the community. Others recalled the influence he had through his many community connections. This isn't to say that Tom threw his weight around. He didn't have to and anyway, Tom wasn't that type; people were just naturally drawn to this quietly strong man.

And he was drawn to people. His record of community service is outstanding. Tom had been a member of the board of directors of Tucson Medical Center since 1977. He was the board chairman in 1984-85 and in January began a new term as chairman. He was on the board of the Casa de los Ninos crisis nursery and the advisory board of station KUAT. At various times, Tom was president of many organizations, including the Palo Verde Mental Health Foundation, Tucson Festival Society and the Arizona chapter of the American Public Works Association. He was a board member of Una Noche Plateada. Always proud of his Marine service, he was founder of the local chapter of the Marine Corps League and served as its commandant at one time.

A list of Tom's accomplishments, impressive as it is, cannot by itself do justice to Tom's remarkable life of achievement. There is something more. He was an important helper, role model and inspiration to many in and out of the Hispanic community. He strove to improve people's lives and he succeeded. His leadership was extraordinary, but perhaps more important was his willingness to serve as mentor. We are thankful for people such as Tom who dedicate their lives to others. I feel enriched for having known and worked with Tom. Tucson celebrates Tom's life and deeply mourns its loss. I would like to express my condolences to Tom's wife Cathy; his son Thomas Jr.; his daughters, Judith Ann Mundlin and Janice Mary Price; his mother Rose Price; brothers Arthur, Marlin and William; and his aunt Marilyn Melendez.●

ALEXANDER YAMPOLSKY

● Mr. SIMON. Mr. President, today is a special day. Today, the people from a community outside of Chicago, IL, are raising their voices in order to fight the injustice that has befallen a single man in the Soviet Union. Twenty Senators and Representatives are joining these dedicated people in their efforts. Today, a flurry of letters and telegrams are being sent to General Secretary Mikhail Gorbachev and Ambassador Yuriy Dubinin on behalf of Alexander Yampolsky.

Alexander Yampolsky lives alone in Leningrad. He no longer has any relatives in the Soviet Union; his older brother died of cancer 3 years ago. Nor does he have any relatives lobbying the Halls of Congress or the Israeli Knesset on his behalf. He is not a highly visible refusenik who has gained international attention. In many ways, he is symbolic of the plight of most of the thousands of refuseniks who struggle on in relative anonymity.

Alexander first applied to emigrate to Israel in 1972. He lost his job as an electronics engineer after applying for permission to leave the U.S.S.R. He then began working as a janitor in the Kirov Sports Stadium, but he was forced to leave prior to the Moscow Olympics. He now works at an ice skating rink as an equipment repairman. Since his first application, Alexander has repeatedly been denied an exit visa on the unfounded grounds that he was exposed to secrets in his former employment as an engineer some 16 years ago.

Last year a group of Illinoisians formed the Freedom for Alexander Yampolsky Committee. Since that time the group has worked tirelessly on his behalf. In spite of their efforts, combined with the efforts of numerous public officials, on December 4, 1987, Alexander was once again refused permission to emigrate to Israel.

I want to take this opportunity to thank my colleague in the House of Representatives, Congressman JOHN PORTER, for being an active leader, not only on behalf of Alexander Yampolsky and other refuseniks, but in the arena of human rights for all peoples.

I also want to thank my colleagues in the Senate, Senators ALAN DIXON, MITCH MCCONNELL, BROCK ADAMS, CARL LEVIN, TOM DASCHLE, TIM WIRTH, DAVE DURENBERGER, PETE WILSON, DENNIS DECONCINI, and HOWARD METZENBAUM, for continuing to speak out on behalf of all refuseniks. Today, we have all written separate letters to Ambassador Dubinin and to Secretary Gorbachev to express our concern about Alexander.

I realize that these efforts are not enough. We must all continue to honor and remember those who live with persecution every day of their lives merely because of their religious faith. We must continue to speak out. We must remain vigilant.●

BUDGET SCOREKEEPING REPORT

● Mr. CHILES. Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $900 million in budget authority, and by $2.9 billion in outlays. Current level is under the revenue ceiling by $10.6 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE
Washington, DC, March 16, 1988.

Hon. LAWTON CHILES,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of congressional action on the budget for fiscal year 1988 and is current through March 15, 1988. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution (H. Con. Res. 93). This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32.

This my first report on the second session of the 100th Congress. Since my last report the President has signed the Rescission of

Refugee Education Funds (Public Law 100-251), and the Veterans Home Loan Program Emergency Amendments (Public Law 100-253). These actions have resulted in changed estimates of budget authority and outlays.

Sincerely,

JAMES L. BLUM,
Acting Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE (100TH CONG. 2D SESS., AS OF MAR. 15, 1988)

[Fiscal year 1988—in billions of dollars]

	Current level [1]	Budget resolution H. Con. Res. 93 [2]	Current level resolution
Budget authority	1,145.1	1,146.0	−.9
Outlays	1,031.7	1,034.7	−3.0
Revenues	922.2	932.8	−10.6
Debt Subject to Limit	2,466.9	[3] 2,565.1	−98.2
Direct loan obligations	34.4	34.6	−.2
Guaranteed loan commitments	155.1	156.7	−1.6

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] In accordance with sec. 5(a)(1)(b) the budget authority and outlays include an adjustment that reflects the amount reserved for subsequent allocation under section 302(a) of the Congressional Budget Act.

[3] The permanent statutory debt limit is $2,800.0 billion.

PARLIAMENTARIAN STATUS REPORT (100TH CONG., 2D SESS.) SENATE SUPPORTING DETAIL, FISCAL YEAR 1988, AS CLOSE OF BUSINESS MAR. 15, 1988

[In million of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			911,050
Permanent appropriations and trust funds	792,035	674,291	
Other appropriations	569,646	574,400	
Offsetting receipts	−202,566	−202,566	
Total enacted in previous sessions	1,159,115	1,046,125	911,050
II. Enacted this session:			
Rescission of Jewish Education Centers Abroad (Public Law 100–251)	−8	−5	
Veterans Home Loan Program Emergency Amendments (Public Law 100–253)		1	
Total enacted this session	−8	−4	
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Disaster relief	142	85	
Special milk	5	1	
Special benefits	83	83	
Special benefits for disabled coal miners	7		
Medicaid	51	51	
Social Services block grants	50	48	
Veterans readjustment benefits	16		
Veterans compensation	282		
Payment to air carriers	8	2	
Coast Guard retired pay	6	6	
National wildlife refuge fund	1	1	
Total entitlement authority	650	276	
VI. Adjustment for Economic and Technical Reestimates	−14,650	−14,650	11,200
Total current level as of Mar. 15, 1988	1,145,107	1,031,746	922,250
1988 budget resolution (H. Con. Res. 93)	1,146,000	1,034,700	932,800
Amount remaining:			
Over budget resolution			
Under budget resolution	893	2,954	10,550

Note.—Numbers may not add due to rounding.

ADDRESS BY WILLIAM W. TREAT

● Mr. HUMPHREY. Mr. President, we will soon be celebrating the 200th anniversary of the Constitution of the United States of America. Our Constitution embodies the sacred belief that the legitimacy of government flows from the consent of the governed. And there is no more visible means of extending that consent than free elections.

The consent of the governed was a standard worth holding up to the world in 1789 and it remains so today. Unfortunately, the people of many nations are denied the precious right to elect their government.

President Reagan has sought to embody self-determination in the foreign policy of this administration. We have helped to remove corrupt dictators in the Philippines and Haiti. We have worked to promote democracy in South Korea and in Central America. In South Africa we have tried to bring a peaceful end to the evil system of apartheid. As the situation in South Africa demonstrates, establishing democracy is a lengthy and delicate process that often does not yield immediate results. But we have tried, nonetheless. In pursuit of this objective, President Reagan has sought to support freedom fighters around the world.

Self-determination remains an unachieved goal for millions of men and women around the world. Dictators, henchmen, and even holy men sit atop repressive regimes from Panama to Iran. In South Africa, which professes commitment to democracy, the reality falls far short. In too many Third World nations, self determination is a mirage.

Of course, the world's Communist totalitarian regimes stand as the most ubiquitous symbols of the systematic denial of human rights.

Indeed, the opposite of the American commitment to self-determination is the Communist preference for subjugation. Communist movements do not work to install anything other than brutal tyranny. Does anyone think for a minute that the Communist regimes in Afghanistan, Nicaragua, Angola, Vietnam or North Korea are working toward self-determination for their people? I certainly do not.

These Communist governments stay in power only through the overt or covert threat of military force. Would the Communist regime in Angola exist without thousands of Cuban troops? Would the Governments in Warsaw, East Berlin, and Prague exist without Soviet support for their regimes. I think not. And I know for certain that the puppet regime in Afghanistan would collapse without the support of the Kremlin. It is impossible to find a single Communist state that is actively working toward establishing self-determination for its people.

The Reagan administration's alternate representative to the United Nations, the Honorable William W. Treat, recently spoke eloquently on the topic of self-determination in an address before the United Nations. Mr. Treat, who I am proud to say is a New Hampshire native, stresses the importance of self determination, not just as an abstract concept but as a goal that each country in the United Nations should work toward.

I ask that Mr. Treat's address be entered in the CONGRESSIONAL RECORD.

The address follows:

STATEMENT BY HON. WILLIAM W. TREAT

Mr. Chairman, in my initial appearance effort this committee, it gives me great pleasure to congratulate you on your election and express the good wishes of my government in the discharge of your duties. I also extend felicitations to the Secretary and Under Secretary-General and your other colleagues who will be directing the proceedings of the Third Committee during its current session.

Once again, we revisit the topic of self-determination, a fundamental human right proclaimed in the United Nations Charter forty-two years age. One might think that the right of self-determination is so obvious and universally well recognized that prolonged discussion would be unnecessary and wasteful of the committee's time. Without self-determination, man is denied the fruits of human rights. Individual freedom is to a large measure defined by man's ability to exercise self-determination—the right to participate in the determination of who will represent him in government, the right to determine where and when he may travel, the right to determine when he may speak and assemble. These and other rights are fundamental human rights and have long been recognized as such.

And yet, Mr. Chairman, as we observe the practices in each of our member states, we find that fidelity to these principles is often honored in the breach. This committee need devote little time to seeking a commitment to the idea of self-determination. Every speaker has expressed allegiance to this principle. Our task, quite simply, is rather to define and establish standards of self-determination so that future violations will be unmistakably clear to all.

You must forgive me, Mr. Chairman, if I fail to express my views in the phraseology of diplomatic rhetoric. As a non-professional public delegate, I must state my government's position in language most familiar to me.

This year marks the bicentennial of the anniversary of the United States Constitution. Much debate by the finest minds in the American states went into the preparation of this document. Even so, it has been an envolving Constitution with major amendments, including the Bill of Rights, added at a later time. The delegates to our Constitutional Convention in Philadelphia during the summer of 1787 had before them the Declaration of Independence, adopted eleven years previously, which set forth the principles by which we declared our independence. Our forebears, including Thomas Jefferson, James Madison, George Mason, and Robert Treat Paine, helped to draft this remarkable document which has remained since that day as a guiding light for the human rights by which we in America live.

Americans recognize, as do many other peoples, that a written constitution is no guarantee in itself that principles which it describes will be followed by those in power. As the American jurist Learned Hand once said: "Liberty is not guaranteed by any written document. It prevails only to the extent that it exists in the hearts and minds of the people." Many governments have constitutions which espouse freedom of the press, freedom of speech, and self-determination, and yet these rights are consistently denied the people.

Self-determination is not a single event. It is an evolving and developing process. We have all seen nations who have finally after years of rebellion won the right to free election with one vote per person, only to find later that one vote was indeed their last vote and they were saddled with a dictatorship with no further rights of free and open elections.

The United States is in many ways a one-nation United Nations. Our unique experiment has been to welcome people of all faiths, all nationalities, to a pluralistic society. As people of all colors and races become citizens of our country, we seek to keep alive the novel promise of our Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness."

To achieve both an egalitarian and pluralistic society, we have learned, is a demanding and continuing effort. Our people have suffered the tragedies of a civil war in our long struggle to enlarge the freedom of all of our citizens. In spite of occasional setbacks, our progress has been assured by the deep and abiding commitment of our people to human rights. Foreigners often fail to understand the constant debate that ensues at all levels of government and the tension that exists among our three branches of government. Somehow from all of this turmoil—letters to the editor, television talk shows, public demonstrations—there emerges a consensus. Indeed, the great strength of our society is its ability to arrive at a consensus after all voices have been heard. And when our security is challenged, internally or externally, our people unite and meet the challenge. Time and again, our young men have journeyed across the oceans to defend the sovereignty of nations being threatened by avaricious plunderers.

As proud as we are of our heritage, we have no illusions that the American way is well suited to all nations Cultural and demographic backgrounds differ widely from nation to nation. Yet, the principle of self-determination is a fundamental human right and must not be abridge if a nation and its people are to achieve a truly free society.

As I stated at the beginning, the tragedy of our times is not a failure to proclaim allegiance to self-determination. It is rather the hypocritical denial of self-determination through the use of obfuscations and ambiguities. One sees the obvious hypocrisy of totalitarian states professing allegiance to self-determination and other human rights while openly flouting the United Nations and its principles. Let there be no doubt among the autocrats of the world that the indulgence of these hypocrisies by free nations does not mean that we have succumbed to cynicism and forgotten our obligations. To the contrary, we renew our pledge to these principles and as an original signatory to the United Nations Charter we recommit ourselves to its noble aspirations.

It is not necessary for me to replicate the litany of self-determination profanations in the world today. One need only mention a few examples to realize that there is much work to be done.

No review of self-determination would be complete without a statement on the reprehensible policy of apartheid in South Africa. My colleague, Ambassador Byrne, on October 7th delivered an eloquent comment on the American position with respect to South Africa. Endless repetition of the obvious being an endemic illness of this chamber, I will mercifully spare you a replication of my government's position. As you well know, the United States finds apartheid abhorrent and in violation of the United Nations Declaration of Human Rights. I would only emphasize that my government believes that the time is long overdue for action assuring for all the people of South Africa the constitutional guarantees of a democratic electoral system and an economic system based on a free and open market.

The presence of foreign troops on the territories of other nations is a shameful violation of the United Nations Charter and a denial of self-determination. The United States joins with other member states in condemning this practice and demanding the withdrawal of Cuban troops from Nicaragua and Angola, South African forces from Namibia, Soviet troops from Afghanistan, and Vietnamese forces from Cambodia.

The forceful subjugation of independent sovereign nations is repugnant to all free societies. While our attention is drawn to the more recent violations of sovereignty in Afghanistan, Namibia, Nicaragua, Angola, and Chad, we must not ignore the long-standing subjugation of the formerly free states of the Baltic, Estonia, Latvia, and Lithuania. It is a tactic of totalitarian regimes to continue their occupation until apathy and habit "normalize" the oppression. Forty-two years of enslavement cannot extinguish the proud heritage of these nations. The free nations of the world will not permit time and indifference to provide a counterfeit legitimacy to the forceful occupation of these oppressed nations.

Our government opposes the terrorism and perfidy sponsored by the current government of Iran and the suppression of liberty by the leaders of Nicaragua. The recent announcement by President Ortega that he intends to permit La Presna to publish only so long as it does not take exception to his regime is proof that his liberation of the press is phony and temporary.

It is my belief that it is time for this committee to take positive steps to avoid the repeated emasculation of language. In my country we have an expression—"Let's call a spade a spade". Let us now face up to the profanations of a few who bring this organization to shame. Let us set forth precisely what we mean so that there will be little misunderstanding of our principles.

My government was pleased when our Under Secretary-General for Human Rights, the Honorable Jan Martenson, stated in his remarks on October 5th: "I profoundly believe then that the organization's objectives in all spheres are inextricably bound to its quest for safeguarding and promoting human rights." And he further stated: "People must be aware of their rights. They must know that there are universally agreed standards to which they can appeal and by which national legislation may be measured. And they must know that international machinery exists to help them in realizing those rights."

For the past three weeks we have listened to Heads of State and Foreign Ministers from all over the world speak in noble phrases about goals of the United Nations. Only last Friday one distinguished speaker in Plenary stated in language similar to that used by others: "The principles enshrined in the Charter and embodied in regional instruments, like the Helsinki Final Act, the non-use of force or threat of force, non-interference and non-intervention, equal rights and fundamental freedoms, are still being flagrantly violated in different parts of the world, thus protracting dangerous and explosive situations and contributing to the breakdown of legal order and security in the respective regions. It no longer should be tolerated, that millions of people in the world suffer daily from gross violations of their human rights, despite the existence of internationally accepted legal principles. Such instruments, concluded during the United Nations era, embody the moral conscience of mankind and represent the humanitarian standards that should guide the behavior of all members of the international community in the field of human rights and fundamental freedoms."

My government shares these sentiments, and we deplore the hypocrisy of the totalitarian governments that make a mockery out of mankind's deepest convictions. We believe that their hypocrisy debases the United Nations and threatens its credibility. Perhaps the greatest danger that pervades the United Nations today is the tendency of some otherwise intelligent people to endure silently the savaging of our freedoms. Because such distortions have become routine, we run the risk of becoming ultimately irrelevant in world affairs.

In conclusion, Mr. Chairman, let me state that in spite of deep misgivings about the course that the United Nations has been following for the past several years, my government remains strongly committed to this organization. As one of the original architects of the United Nations, we retain our faith in the desirability of an international organization founded on the basis of universal human rights. We recognize the validity of multilateral approaches to international problems and continue to seek efficacious solutions to the conflicts and tensions of our societies.

We urge all nations to join with us in breathing new life into the United Nations. We remain optimistic that man will free himself from the chains that enslave him in many parts of the world, that the proud people of Cambodia, Afghanistan, Nicaragua, and Libya, to name a few, will some day escape from their chains and join the free world. We believe that if the freedom-loving people will join together in common understanding the United Nations will become the temple of freedom that it was meant to be. Thank you, Mr. Chairman.●

IN SUPPORT OF LEGISLATION TO BAN UNDETECTABLE FIREARMS

● Mr. SIMON. Mr. President, I would like to take this opportunity to express my support for S. 2180, compromise legislation to ban undetectable firearms.

In this time of increased terrorist threats, this issue has attracted a great deal of attention. At a July 28 hearing before the Constitution Subcommittee, which I chair, representatives from the Secret Service, the Law Enforcement Steering Committee, the Air Transport Association, and the Airline Pilots Association underscored the serious security threat posed by undetectable firearms. They also testified that if these weapons were to become widely available in the United States each airline passenger or visitor to certain Government buildings would have to be individually searched, and some buildings, such as the White House, may have to be closed to the public altogether.

I am pleased to be an original cosponsor of S. 2180, which makes useful adjustments to S. 465, Senator METZENBAUM's original plastic gun legislation. I would like to commend Senators METZENBAUM, THURMOND, and the other sponsors of S. 2180 for their dedication to this matter and willingness to compromise.

Many constituents have expressed to me their fears about terrorism and a desire for greater security. I have also been made aware of the concerns of gun owners with regard to undetectable firearm legislation. S. 2180 meets the concerns of all interested parties by providing greater security while respecting their rights of the legitimate gun owner. The bill clarifies certain provisions of S. 465 and addresses law enforcement, airport security, and gun owners' concerns in several ways.

First, it makes clear the limits of the Secretary of the Interior in declaring a gun "undetectable" and therefore illegal. The Secretary is bound by an objective standard which is laid out in the bill.

Second, the FAA is required to increase efforts to develop more effective security systems and implement the more effective systems in airports and Federal facilities within 2 years.

Third, the bill now clearly states that guns owned at the time of enactment of the legislation are not affected.

Finally, the Secretary of the Treasury is required to submit to Congress correcting legislation when the standard of detectability under this statute no longer reflects current technology.

I am not suggesting that we can end terrorism by enacting this legislation. I realize that we must improve our efforts in several areas to achieve that goal. However, the fact is that weapons technology is currently exceeding detection technology, and we should not wait for the first undetectable firearm-related hijacking or assassination before banning these weapons.

Earlier this year, we scheduled a subcommittee markup for S. 465, which was canceled due to an objection from the Senate floor. Now that we have broad support for this bipartisan measure, I hope that we can schedule another markup soon. I look forward to discussing these bills and moving ahead on this important issue.●

RECOGNITION FOR THE INSTITUTE OF ENERGY CONVERSION

● Mr. ROTH. Mr. President, I rise today to share with my colleagues the recent accomplishments of the Institute of Energy Conversion [IEC] at the University of Delaware. It is a source of personal satisfaction that we recognize the institute's efforts which have recently received national recognition. IEC was the first university photovoltaic research institution in the United States to develop an amorphous silicon technology capable of depositing thin film cells with a sunlight-to-electricity efficiency of 10 percent. I ask that a letter from the Solar Energy Research Institute, recognizing this accomplishment be published in the RECORD in its entirety.

The Institute of Energy Conversion was established by the University of Delaware in May 1972. It was one of the first laboratories in the United States to initiate a thin film photovoltaic research effort. It did so before the oil embargo and the formation of either the Department of Energy or the Solar Energy Research Institute.

The success of the IEC Program is due in no small part to it's director, Dr. T.W. Fraser Russell. Under Dr. Russell's guidance IEC's efforts have been directed to ensure that solar cells developed at the laboratory scale can be manufactured in commercial quantities. In this quest IEC has become the major university laboratory doing photovoltaic research in the United States.

Dr. Russell has an impressive background in chemical engineering, including process design, fundamental laboratory research, and direction of multidisciplinary university research teams. He has an exceptional ability to work effectively with professionals and students from different sciences, and he understands much better than most the role of research and how it affects our Nation.

I have always been a strong supporter of the photovoltaic program undertaken at the University of Delaware, and was pleased to give the keynote address when the institute moved to its new 40,000 square-foot laboratory in 1982. Since that time we have made significant progress in the understanding of photovoltaic devices, materials and systems. Thanks to a strong partnership between DOE, industry and universities, which has produced increased conversion efficiencies and reliability, photovoltaics are now a promising source of electricity in the United States and many other domestic and industrial applications.

I concur with those that say that the Government has an important role to play in the development of this technology. The pursuit of basic research, and continuing Government support is required before photovoltaics can compete with other energy sources. We must maintain sufficient funding for our research and education programs. However, the Government's contribution has steadily declined to the point that we are now below a basic level of support.

Although I do support the need to curtail spending, I cannot support the elimination of programs that are an investment in our future. Without continued Government and industry support, we are faced with losing our leadership role in photovoltaic technology. In addition, we face scientists leaving the research field, and an inability to educate the future students and researchers that would fill the ranks in private and public photovoltaic research laboratories.

Mr. President, I also wish to share with my colleagues an article written by Charles P. Wilson. This article appeared in the Delaware Business Review of February 12–18, 1988. The article describes some of the past and more recent activities in which IEC was involved. I ask that this article also appear in the RECORD.

The material follows:

SOLAR ENERGY RESEARCH INSTITUTE,
Golden, CO., October 13, 1987.

BILL BARON,
Institute of Energy Conversion, University of Delaware, Newark, DE.

DEAR BILL: Congratulations on being the first university institution in the U.S. to develop an amorphous silicon technology capable of depositing cells with efficiencies of 10%. In addition to your distinction as the first U.S. university, your achievement is also notable in that you developed a new photochemical deposition process as compared to the more mature plasma deposition processes. The Amorphous Silicon Research Project at SERI regularly updates a table of worldwide instituions reporting a-Si:H cells over 10% efficiencies. I have included an updated table listing the Institute of Energy Conversion.

Again, congratulations on meeting your subcontract milestone of a 10% photo-CVD cell one month ahead of schedule (due 11/15). The official SERI measurement (10/7/87) on an all photo-CVD cell deposited at IEC will be reported as 9.9% (V_{oc}=0.865 V, J_{sc}=17.4 mA/cm^2, FF=0.656, and area=0.284 cm^2). Four measurements were taken on the same cell and the efficiency values varied from 10.0 to 9.8% due to measurement uncertainties. SERI took the average of the values for reporting, but within the measurement uncertainties IEC has met their 10% milestone. I have enclosed copies of the four I-V curves.

Also, thank you for hosting the CVD workshop on October 8. The presentations were well received and without hesitation I can state that everyone was impressed by

IEC's accomplishments in photo-CVD. Keep up the good research.

Sincerely,

Byron Stafford,
PV Program Branch.

Let the Sun Shine in, Researchers Say

(By Charles P. Wilson)

The solar energy harnessing research at the University of Delaware has become the leading edge of the nation's efforts to save the atmosphere from fossil fuel pollutants.

Operating from a new 40,000 square-foot laboratory on the outskirts of Newark, the University's Institute of Energy Conversion is moving inexorably toward producing a more cost-effective solar cell.

The solar cell is a solid state device for producing electric power from the rays of the sun.

For more than a decade the Institute of Energy Conversion has been focusing its efforts exclusively on developing what is known as the thin film photovoltaic, or solar cell made from amorphous silicon and other materials.

"We are now the major laboratory for doing photovoltaic research in the United States," says Dr. T.W. Fraser Russell, chairman of the University's Chemical Engineering Department and director of the institute.

Because of its relatively high cost in relation to conventional forms of producing energy—primarily through the use of fossil fuels—the use of solar cells for this purpose has not come anywhere near its potential for helping meet the nation's energy needs, Dr. Russell notes.

PROBLEMS MOUNTING WITH CONVENTIONAL WAYS

Huge generators powered by burning oil, or sometimes coal; water power from dams, and nuclear plants are now the primary sources of producing electricity in the nation. Problems from some of these sources are steadily mounting, however, he says.

The burning of fossil fuels such as petroleum products and coal is raising the carbon dioxide, sulfur and other potentially dangerous gasses to alarmingly high levels in the atmosphere, Dr. Russell notes. At the same time, there is a generally held fear among the population about the dangers posed by nuclear plants, he adds.

And, of course, hydro-electric plants need huge volumes of water to produce electricity.

The problems associated with the increasing amount of carbon dioxide in the atmosphere, acid rain and other related phenomenon "still have to be adequately addressed by the scientific community," Dr. Russell says. "But interest is beginning to rise dramatically" among many scientists, he adds.

Therefore, the Institute is conducting "a continuing project to help American industry solve its problems," which in turn will decrease the threat to everyone, he says.

The Institute was established by the University in May of 1972, and became one of the first laboratories in the United States to initiate a thin film photovoltaic research program.

INSTITUTE IS NOW TOP RESEARCHER

Since then, it has become the top solar energy research arm of the federal government—primarily the U.S. Department of Energy—which has poured $15 million in the effort there.

It is also a major resource for American industry in that regard. In addition, more than $4 million in funding has come to the Institute through such firms as Chevron Research, Shell Oil, Standard Oil of Ohio, Stauffer Chemical, Johnson Matthey, Union Carbide and numerous public utilities.

Probably the most visible aspect of the Institute's operations in years past was Solar One, a house constructed along South Chapel Street in Newark and operated entirely from solar energy. This research project used solar panels on the roof to supply the house's heat and electricity needs.

Solar One outlived its usefulness as a research tool around 1981, and the project was then phased out.

In the meantime, the Institute has become the first group of American university researchers to produce a solar cell with a sunlight-to-electricity conversion efficiency of 10 percent—a fete which had formerly been accomplished by only a few large private corporation research operations.

Institute researchers have also recently developed a new photochemical vapor disposition reactor which promises to make electronic components for such things as solar cells, microchips and infra-red sensors even more efficiently.

INSTITUTE BOASTS STRONG STAFF

Today the Institute employs about 30 scientists and technicians, backed up by a cadre of graduate and undergraduate students form the University's science departments.

Working with more than $2 million in state-of-the-art scientific equipment, the researchers at the institute believe they are closing in on the technology and know-how to make their solar cells more inexpensive to produce, and therefore more competitive with conventional means of producing power.

"The solar cell needs no water power, and it produces absolutely no pollution," Dr. Russell notes.

The goal is to develop solar cell technology capable of producing electricity for between 10 and 15 cents per kilowatt hour. Conventional ways of generating electricity cost between five and 15 cents per kilowatt hour generally, at present, Dr. Russell says.

He does not see a time, at least in the near future, when solar-produced power will replace all dams, nuclear facilities and conventional generating plants, however.

The most optimistic projection for the use of solar-produced energy right now is between 20 to 30 percent of the total output, he says. But this would go a long way in helping ease the pouring of pollutants into the atmosphere.

SOLAR POWER MAKING INROADS

Right now, Dr. Russell explains, there is probably a lot more solar-produced power being used in the United States than is realized by the general public, he adds.

For instance, he notes, there is a particular need for solar energy in places which are not served by the large power companies' grids. As an example, there are now between 6,000 to 8,000 homes dependent on solar power in an area where there is no grid, he notes.

In fact, he says, there is extensive market right now for a wide variety of solar-generated products such as watches, calculators and small radios. U.S. Coast Guard ships are using solar cells for their navigational aides, and the auto industry is beginning to use them in devices that remove hot air from the interior of an auto, Dr. Russell notes.

General Motors has even developed a solar-powered demonstration car which recently traveled the length of Australia, he notes.

As of now, solar cells can compete with diesel fuel generation in such things as pumping water in places where there is no power grid, he adds.

Since the Institute has been in operation, he says, it has spun off two other private industry operations to date. Shell Oil spent $50 million to open a solar cell production plant here to take advantage of the Institute's research, but this closed when the price of oil dropped suddenly a few years back, Dr. Russell says.

Also, a colleague at the Institute opened a solar cell manufacturing plant at Newark, known as Astropower, and that is now in operation, he adds.

As it stands, the solar cell industry in the United States is $300 to $500 million operation, and it is growing at the rate of 20 percent a year, Dr. Russell says.

One problem, however, has been the drop in world oil prices in recent years, which is posing problems for the Institute, Dr. Russell says.

Grants for photovoltaic research, which had stood at about $150 million in 1980, dropped to about $35 million this past year, he explains.●

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended an additional 10 minutes, and I ask unanimous consent that at the conclusion of the remarks by the distinguished Senator from California [Mr. Wilson], if there is no other Senator seeking recognition at that time, that the Chair adjourn the Senate under the order previously entered.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. BYRD. Mr. President, I thank the Chair. I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 9 a.m. on tomorrow.

The PRESIDING OFFICER. Is there any objection? Hearing none, it is so ordered.

CONSIDERATION OF THE GLENN AMENDMENT TO THE PRICE-ANDERSON BILL AT 9:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that at 9:30 a.m. tomorrow the Senate resume the consideration of the Price-Anderson bill, at which time the pending question will be on the adoption of the amendment by Mr. Glenn.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow the call of the calendar be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO RESOLUTIONS AND MOTIONS OVER, UNDER THE RULE, TO COME OVER

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow, no resolutions and motions over, under the rule, to come over.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders or their designees on tomorrow, there be a period for morning business not to extend beyond 9:30 a.m. and that Senators may speak during that period for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, at 9:30 a.m. the Senate will resume consideration of the Price-Anderson bill, at which time the pending question will be on the amendment by Mr. GLENN. Am I correct?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. There will be rollcall votes tomorrow. I hope and expect that the Senate will complete action on the Price-Anderson bill tomorrow. There will certainly be a vote in relation to the Glenn amendment, and there will be a vote on final passage. So there will be a number of rollcall votes tomorrow.

I thank the distinguished Senator from California. I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Thank you, Mr. President. And I thank the distinguished majority leader.

UNITED STATES-MEXICAN RELATIONS

Mr. WILSON. Mr. President, I rise today to begin a series of statements in which I will take little pleasure, but I feel that they are necessary and it is time that they were done.

Mr. President, it was the great Yankee poet Robert Frost who first declared that good fences make good neighbors. The United States and Mexico have been neighbors, and good ones, for over 200 years. We share nearly two-thirds of the North American Continent and a richly interwoven culture. Unfortunately, we also share a 1,900-mile border that in recent years has become anything but a good fence. As a result, neighborly feelings have been strained. The special relationship that has boned our two nations as we share values of faith, work, family, and love of country on both sides of the Rio Grande has been put in jeopardy.

Over the next several days, I will address that special relationship and the factors that currently endanger it.

Mr. President, my interest in United States-Mexican relations goes back a very long way. Being mayor of San Diego for 11 years gave me a special opportunity for a kind of over-the-fence intimacy with my counterparts in nearby Baja, CA. I was privileged to work closely with three different mayors of Tijuana and two different governors of Baja, CA. Together we supervised the busiest international border crossing in the world. At the same time, Mr. President, we felt, perhaps as no one else, the devastating impact of the international drug traffic practiced by smugglers who have turned that border between our two countries into a deadly sieve. On both sides of that border lives are being ruined and indeed, lost while fortunes are being made, ugly fortunes, Mr. President. And so it would be a false friendship that would attempt to cover up problems, for if friendship is to be real and enduring it must rest on honesty. And there are times when friends, especially good friends, must be brutally honest with one another. This is such a time.

While Mexico most certainly did not create the American appetite for illegal drugs, it is feeding that appetite. It has become the portal through which pass at least one-third of the marijuana, the heroin, the cocaine entering the United States. There are any number of statistics by which we might measure the impact of that deadly traffic.

We could talk about the number of police officers increased by cities in my State and in virtually every State in the Nation. We could talk about the number of new judgeships that have been created at both the State and Federal level. We could talk about the impact of this drug traffic in terms of the tax dollars it has cost to finance not only those new police officers and new judges but the new probation officers, the new penal authorities, who have had to respond to the increase in criminal activity occasioned by this drug traffic.

(Mr. SHELBY assumed the chair.)

Mr. WILSON. Recently, Mr. President a survey taken by an organization concerned with criminal justice standards ascertained that in 12 of the major cities of the United States, including Los Angeles and San Diego, that male felons convicted for felonies that were not directly drug related tested positive for a drug other than marijuana. The relationship between the habit, burglary, robbery, and crimes of violence in order to support that habit, is undeniable. In fact, it is a fact that we can take virtually judicial notice of. But perhaps the most compelling statistic, Mr. President, is that having to do with the number of deaths from drug overdose. Add to that, Mr. President, the special sense of outrage that we have all felt as courageous young agents of the Drug Enforcement Administration have been brutalized and indeed kidnaped, tortured and murdered by what were nominally law enforcement officers within Mexico in the pay of Mexican drug kingpins.

Mr. President, is we are to send out these young men and women and ask them to engage in the undercover work that for the money is perhaps the most dangerous undertaking imaginable, we at the very least owe them the kind of protection in the law that our law can give them, the kind of resources which will make real and not merely an empty phrase "the war on drugs." You cannot win that war unless we committed adequate resources to it. We have not done so, Mr. President.

We have not done an adequate job of educating our young people to the tragic peril and waste of drug abuse. We must do far more than we have to curb demand. But it is no adequate response from our Mexican friends to say that they did not create the appetite. Indeed, they are suffering in much the same fashion that we are. Their youths are dying. Their courageous law-enforcement officers have been victims of the violence that is prompted by the incredible profit in this deadly and poisonous trade.

We must say that together there must be a much better effort because there is simply too great a risk. Indeed, as I look at my friend, the President, with whom I spend a great deal of time in the Armed Services Committee concerned about other threats to the security of the United States, it seems to me that there is really no greater threat than that posed by this drug traffic to our future, to our health, to the vitality of this Nation, and indeed to its very security.

The kind of thing that has been happening, Mr. President, is the result of a pervasive corruption of a kind that the U.S. Commissioner of Customs, William von Robb, has said precludes the effective cooperation between United States and Mexican officers.

I will only say, Mr. President, that we cannot simply turn a blind eye. We cannot look the other way when our children and Mexican children are being lost to the scourge of drugs, when the enormous profits of that trade have permitted the corruption of law enforcement officers on both sides of the border, by the wholesale corruption that has permitted a virtual government within a government to exist within certain regions of Mexico. That cannot be viewed as purely an internal concern of the Government of

Mexico, not, Mr. President, when it has inescapably the impact which it has upon the health and indeed the safety of Americans, young and old, whether they be directly involved themselves as users of dangerous drugs or simply the victims of violence on our streets by someone seeking to support a habit.

It is true that there have been some efforts made, that improvement has taken place, but the effort is by no means adequate. Candid exchanges between the governments of our two countries have led to efforts to attempt to eliminate some of that corruption, to crack down on drug smuggling, but not nearly enough has yet been done.

I must say that it is our friendship for the people of Mexico, but ever more, I will admit, out of concern for the people of the United States, that we must view honestly and unflinchingly the responsibilities which neither nation has yet undertaken sufficiently so that we can honestly say that we are waging a war against drugs.

Mr. President, in the days that follow, I will detail some of the efforts that must be made and, unhappily, how far short existing efforts have fallen. We cannot say that full cooperation has been given to the United States in what should be an international cooperation of the kind that is required to deal with an international menace.

The United States and Mexico share a future as well as a border. For ourselves and for our children, let us make that future what it can and should be, and not see what has been a true friendship deteriorate into a loveless juxtaposition in which the two partners sharing that border are divided by distrust.

But before there can be trust, there must be honesty in word and in deed. If we are honest with ourselves and with our friends, then I think there is hope of rebuilding that special relationship that should exist between Americans; and Mexicans and, more to the point, we owe it to our children to make that effort. If we fail to do so, our shared future is one of tragic peril and waste, and I do not find that acceptable.

Instead, let us live together in dignity and in mutual respect as valued neighbors and cherished friends. But in order for us to do that, we must come to grips with a problem that has thus far eluded our best efforts, because those best efforts are not really good enough—not on this side of the border, not on their side.

Mr. President, in the days that follow, I will be compelled to say painful things. I will take joy in the fact that one day we will have addressed them sufficiently so that we will no longer be compelled, as I am today, to look across that border and say: "My friends, it is not enough, not nearly enough. We must do much, much better."

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9 a.m., Friday, March 18, 1988.

Thereupon, at 8:28 p.m., the Senate adjourned until tomorrow, Friday, March 18, 1988, at 9 a.m.

EXTENSIONS OF REMARKS

VITAL NEED FOR NATION TO BUILD AIR AND SPACE MUSEUM ANNEX FACILITY

HON. BILL GRANT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. GRANT. Mr. Speaker, building a new air and space museum to preserve the priceless artifacts of a vital part of our national heritage is an idea whose time has come.

The National Air and Space Museum of the Smithsonian Institution is one of the most visited attractions in the world. It is a priceless natural treasure.

Today I am introducing a bill to construct an annex or new facility to house those treasures which are too large for any conceivable place which could be built on the Mall. A prime example is the Space Shuttle Enterprise.

I would like to take this opportunity to reprint the remarks which the Secretary of the Smithsonian Institution, Dr. Robert McC. Adams made to the Board of Regents at their meeting last month. Dr. Adams makes his case very clearly and concisely as to the need and the opportunity which I feel this bill presents for the American people.

Dr. Adams said:

NATIONAL AIR AND SPACE MUSEUM EXTENSION PLANNING

The National Museum Amendments Act of 1965 directs the National Air and Space Museum to "* * * collect, preserve, and display aeronautical and space flight equipment of historical interest and significance; * * *" In keeping with its general mandate to increase and diffuse knowledge, the Smithsonian interprets this as conveying a broad responsibility not simply to assemble and exhibit historical air and space artifacts but to conduct related research and to synthesize and interpret the significance of the mass of new scientific discoveries and successive waves of technological advance that are associated with human-directed flight.

With the recent appointment of Dr. Martin Harwit as the Director of NASM, the Museum has entered upon a significant new phase of activity. An astrophysicist who has long been involved in NASA programs and related international research activities, Dr. Harwit brings to the Museum an opportunity for the substantial programs of the Smithsonian Astrophysical Observatory to find their first public outlet. He has a longstanding commitment to the public communication of scientific understanding, as well as a deep concern for developing new and more effective ways to link research findings to education and outreach.

Prominent among the new directions that NASM's programs should now begin to take is a heightened emphasis on international complementaries and cooperation that have contributed to the enormous success and rapidity with which our frontiers of knowledge have advanced. This is reflected in the multinational character of much of the progress that has occurred in aerospace. Frequently the innovations have been highly competitive and subordinated to military requirements, but on the other hand the extraordinary advances in astronomy and astrophysics have consistently been the product of a very high order of international collaboration. Current probes of interplanetary space, demanding more and more advanced technology and facing worldwide resource constraints, are also assuming a prevailingly cooperative, international character.

Global interdependency is another theme that needs much fuller elucidation and heightened emphasis. Communications satellites link continents as well as nations ever more closely together, permitting dissemination of information at rates that were almost unimaginable until a very few years ago. Advances in remote sensing capabilities that have accompanied our leap into space offer unprecedented possibilities for looking back at our earth as a single giant ecosystem. Large-scale, ongoing processes that other bureaus of the Smithsonian have long been engaged in studying and monitoring, such as atmospheric and oceanic pollution, desertification, and the decline of bio-diversity as particularly reflected in tropical deforestation, can be understood and followed with strikingly enhanced clarity with radar imagery from shuttles and satellites. The picture of this as an endangered planet is so strikingly transformed when seen from space that the Smithsonian's communication to its public of a unified vision of the intersecting human and natural processes that are at work needs to become a prime responsibility of the National Air and Space Museum.

At the same time that the possibility of these important new vistas of understanding emerges, NASM is confronted by a critical shortage of exhibit and other facilities that threatens to cripple even its basic collecting program. Having brought together the most significant collection of air and space craft in the world during the forty-one years of its existence, it already lacks space to make significant further additions to its collections unless they are subjected to the highly destructive effects of indefinite external storage. Making matters still more critical is the fact that the large size and difficulty of disassembly of current air and space craft make it virtually impossible to move them from the airfield to which they are delivered to the present Museum building on the Mall or to the Museum storage facility at Silver Hill, Maryland. This absolute shortage of space exists even though the Museum has taken deliberate steps to limit the growth of the collection by carefully screening offers of donation, through deaccession of marginal items collected in the past, and through an extensive program of lending air and space aircraft to other museums in the U.S. and abroad.

Despite these efforts, the collection has continued to grow. At this time there are already a number of air and space craft that meet every criterion for inclusion in the collection but that cannot be viewed at NASM. For some, this is a simple matter of size. Aircraft that belong in the collection but are not now being sought due to storage limitations include the Lockheed Super Constellation, MiG 15, Lockheed SR-71, Vickers Viscount, and Boeing B-47. Air and space craft now in the collection that cannot be exhibited included the Boeing 367-80 (protype for the 707), Vought XF8U Crusader, Saturn V launch vehicle, Boeing Flying Fortress, Sikorsky S-43 Flying Boat, and B-29 Enola Gay. These are not simply oversized air or space craft. Each has ushered in a new era, a new system of transportation. While these craft can readily be seen in many places today, in fifty to one hundred years they will be seen only in museums where they will generate the same interest as the Ford Tri-Motor and DC-3 do today.

It is a concededly legitimate question whether these large craft might be adequately represented for future generations by merely recording their passing by means of photographs, drawings, and models. No museum, after all, can collect everything. No museum has undertaken to collect steel mills or ocean liners. But unlike these latter examples, it is well within the capability of our technology to store and exhibit airplanes and spacecraft of any size known or contemplated today. Without a continuing flow of newer artifacts the present collection becomes truncated at an arbitrary point in time and will gradually lose a considerable part of its present, unique significance.

The NASA/Smithsonian Transfer Agreement establishes the Air and Space Museum as the repository and guardian of the historic material objects of America's civilian space program. The Museum is thus responsible to this and future generations as the sole source of actual space age artifacts the public can view. By remaining the sole authorized guardians of these objects (while maintaining a fair and effective loan program) the Museum prevents commercial or other destructive exploitation of this material heritage and assures the dissemination of that heritage to the public.

But beyond the considerations just mentioned is an even weightier one: the transcendent importance of the field of human endeavor represented at the National Air and Space Museum. It can well be argued that the unquestioned leadership this country has given to the conquest of air and space is likely to stand in the light of history as our most profound and enduring scientific or technological contribution to mankind. For this reason, it would be tragically shortsighted to foreclose further collection efforts on the purely expedient grounds that further housing for collections is not available. We have an obligation, in other words, to take deliberate steps directed toward overcoming this shortage as soon as conditions permit.

Only an extension, as now proposed, will allow the Museum to proceed with its mission of collecting and exhibiting air and space equipment of historical significance without an artificial restriction on size. But while the need for an extension from this viewpoint alone is great, the ability to store and exhibit large artifacts is only one of the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

supportive considerations. The new facility also will need to display a character of its own, to be attractive and important in its own right.

For the new themes suggested earlier to be properly treated an extended effort at planning that takes a museum-wide approach needs to begin soon. This planning process should comprehensively consider the location and scheduling of construction of new facilities, the utilization or disposal of facilities whose present contents or activities will be relocated, the magnitude and sources of the funds that will be needed for their operation and maintenance as well as construction, and projections of the flows of visitors to be anticipated.

Fundamental to such a planning effort is a detailed, substantive consideration of the new configuration of Museum programs that will result. This must embrace future allocation of activities in the present Museum as well as in the extension. Suitable accommodations need to be found for an enhanced program of scholarly research. Allowance needs to be made, too, for the use of clearly understandable evidence for objects and discoveries that are likely to become increasingly complex. This might take the form of restored artifacts, illustrative models, clearly labeled text or drawings, and works of art that convey images of the ways in which all of the phenomena associated with the conquest of air and space are conceived and communicated. Without any doubt, the project will need to take advantage of recent advances in the use of interactive displays and other learning aids. These enormously increase the quality of the learning experience and enable the Institution better to meet the differentiated interests of individual visitors. But they do so by arresting a visitor's attention, seriously impeding traffic flows that are already excessively heavy in our existing Museum.

Beyond these essential requirements, it should be a planning objective to try to meet the persistent, widespread expressions of visitor interest in being able to view the restoration of aircraft as this is carried on today by the Museum's specialists in inaccessible facilities at Silver Hill. To the extent possible, space might also be provided for in the new Extension to help in housing the Museum's staff in more efficient ways. Most are now located at the Museum on the Mall, but others are at Silver Hill and still others will shortly need to be placed in detached rental space. The present crowding is so extreme that the Museum is no longer able to avail itself of additional volunteers, even though there is great need for their services, nor to accept new fellows even though they would readily come bringing their own support.

There is, in other words, an urgent need for additional space in a new, airport-adjacent extension if the Museum is to continue to fulfill its vital role in the Smithsonian complex of activities. The precise scale and configuration of activities that will result should not be specified prior to a planning effort. Without a comprehensive study it is also not possible to project costs or timing. But it is a matter of importance to the Institution as a whole to avoid delay in clarifying these features. No aspect of the promising new approach outlined above can be developed in realistic detail, let alone implemented, unless plans are undertaken that explicitly envision a Museum extension as a solution to the Museum's critical space shortage.

To initiate the planning process, the Secretary proposes to establish a small working group of staff from various units within the Institution to assist in the development of a scope of work for a study of program requirements.

The study also must consider its spatial requirements, the form of a facility in which to house such a program, and investigate sites for its location. Costs of the program, the facility, and its operations then must be estimated and a strategy for funding those costs must be outlined. The body of work that results should provide a sound basis for articulating future needs for authorization.

A funding requirement of $100,000 for the initial phase of the study is estimated. It is believed that this amount can be identified within fiscal year 1988 financial resources.

To ensure that the foregoing reflects the interests of the Board of Regents, the following motion is proposed:

VOTED that the Board of Regents encourages the Secretary to proceed with a planning study for an extension of the National Air and Space Museum consistent with the program outlined.

My good friend, Walter Boyne, the immediate past director of the Air and Space Museum infused me with enthusiasm for this project. When it is built, it will be a testiment to his vision.

Seldom have I met an individual for whom I have more respect and regard than the new Director of the Museum, Dr. Martin Harwit. He is ably assisted by Don Lopez whom I came to know because of his relationship to one of my closest friends in the Florida State Senate.

This year presents a unique opportunity.

We have men and women in place to make this a reality. We have groups who are dedicated to raising funds to make this dream come true for the American people.

I would urge you, my colleagues, to join with me in this great venture. Future generations will look back on your vision in the same fashion we pay tribute to the generosity and vision of James Smithson and his gift to the American people.

THE NURSING RESEARCH FACILITIES ACT OF 1988

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. PURSELL. Mr. Speaker, today my Michigan colleague, Mr. DINGELL, and I are introducing the Nursing Research Facilities Act of 1988. This bill establishes extramural construction authority for the National Center for Nursing Research at the National Institutes of Health.

Since its establishment 2 years ago, the National Center for Nursing Research has become the focal point within the Federal Government and the nursing community for the conduct, support, and dissemination of basic and applied clinical research, training and related programs in nursing. In just a short time, the center's support for nursing research has led to a number of significant scientific achievements which will enable nurses to provide better care to patients and their families.

Nursing research is growing as members of the profession become aware of the opportunities available to them and how these opportunities can affect their future. This growth is particularly important today because of the severe shortage of nurses across the country. By supporting nursing research, the Federal Government through the NCNR plays a major role in the ongoing national effort to attract and retain nurses to the profession.

But recent advances for nursing research have been slowed by the severe shortage of research facilities at the academic institutions which facilitate and support nursing science. Few schools of nursing have the physical plants and laboratories needed for the conduct and continued expansion of patient-care research. Nurse researchers have had to resort to borrowing research space from other departments or other institutions. The lack of laboratories, observation rooms, and conference and study space has hindered the productivity and progress of nurse scientists.

The Nursing Research Facilities Act is designed to increase the capacity of academic institutions to support nursing research. The bill authorizes the NCNR to make grants for the acquisition, construction, improvement, and repair of laboratories and other research facilities. Grants will be subject to NIH peer review and the recipient institution will be required to match the Federal contribution dollar for dollar. To ensure that all colleges and universities have an equal opportunity to compete, the bill sets aside 15 percent of the authorization for smaller institutions.

I know that this Congress shares our commitment to nursing and the growth of nursing research and I would urge my colleagues to cosponsor this legislation which is vital to the progress of nursing science.

HOUSE PREROGATIVES

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. LOTT. Mr. Speaker, I am inserting at this point in the RECORD a letter which the distinguished Republican leader [Mr. MICHEL] and I have sent to you relating to the constitutional prerogatives of the House in originating appropriations measures.

The letter follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, March 15, 1988.

The SPEAKER,
House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: We read with concern a statement attributed to you in the March 8, 1988, Washington Post regarding the prospect of the Senate passing a new contra aid bill. Quoting from the Lou Cannon article: "The Constitution provides that appropriations bills originate in the House, and Wright said the Senate 'ought to be mindful' of this if it seeks to originate a bill for the contras."

We fully defend and support the constitutional prerogatives of the House to originate general appropriations bills, a proposition long established under our precedents. To quote from Cannon's Procedure, § 834:

"Under immemorial custom the general appropriations bills, providing for a number of subjects as distinguished from special bills appropriating for single, specific purposes, originate in the House of Representatives and there has been no deviation from that practice since the establishment of the Constitution.

However, we must take exception to the implication of the article, attributed to you, that this principle could somehow be extended to a contra assistance bill which involves only transfers of already appropriated funds. As a ruling on a point of order established on the most recent House contra aid bill (H.J. Res. 484), the measure "is not a general appropriations bill. It only transfers unobligated funds and does not appropriate new budget authority." (Chairman Hughes, Committee of the Whole, Congressional Record, March 3, 1988, pp. H 675-76.)

We are hopeful that you were either misquoted or misinformed as to what the precedents actually establish in this regard. Our concern extends beyond the immediate issue of contra aid to the larger institutional imperatives of comity and an effective working relationship between the Houses. If you should mistakenly open the door to such an expanded application of the appropriations origination clause, it would be possible for any Member to force a House vote on a resolution to return to the Senate any bill which contains even the most miniscule transfer or reappropriation provision. This in turn could throw a giant monkey wrench into our legislative machinery.

We would therefore respectfully request that you reexamine the precedents, as we have, with a view to clarifying any misunderstandings which may have been created by the statement attributed to you in the Post article. We think such a clarification would be useful to House and Senate Members alike.

Thank you for taking the time to consider our views and the larger institutional issues and precedents involved.

With warm regards, we are

Sincerely yours,

ROBERT H. MICHEL,
Republican Leader.
TRENT LOTT,
Republican Whip.

TRIBUTE TO SPRINGFIELD, MA, FIRE CHIEF RAYMOND M. SULLIVAN—AN IRISH SON

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. BOLAND. Mr. Speaker, I would like to pay tribute to Raymond M. Sullivan, who will be the grand marshal of the Springfield delegation to the St. Patrick's Day Parade in Holyoke, MA, this Sunday, March 20.

I cannot think of anyone more deserving of the honor of representing Springfield than Ray Sullivan. He is a lifelong resident of my home city of Springfield, MA, where he has served the fire department for the last 37 years. Since 1984 he has been chief of the 500-member unit, and more recently, he was appointed by Governor Dukakis to serve on a nine-member board to implement the new Massachusetts fire sprinkler law.

Ray's life has been a testimony to the proud Irish heritage which he will be representing in Sunday's parade. The oldest son of the six children of Patrick and Catherine Sullivan, immigrants of County Kerry in Ireland, Ray joined the U.S. Navy at age 17 and served in the South Pacific in World War II. He married Mary McCarthy in 1949 and together they have raised four children: Mary Louise, Garrett, Brian, and Gerald. Ray is a longstanding member of the Elk's Club and he and Mary are members of Sacred Heart Church in Springfield.

Mr. Speaker, sons and daughters of Irish immigrants are celebrating today with family and friends all across the country. Ray Sullivan and his family are no exception. I have no doubt that Catherine Fitzgerald Sullivan, Ray's 87-year-old mother, will be beaming a proud Irish smile and crooning an Irish ballad when her son marches in the green fields of the Holyoke St. Patrick's Day Parade.

CONGRATULATIONS TO ANTOINETTE TIGHE

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. BONKER. Mr. Speaker, it gives me great pleasure to share with my colleagues the accomplishment of one of my constituents, Antoinette Tighe of Montesano, WA. Tuesday was an eventful day because her longstanding dream of becoming a U.S. citizen was realized.

A native of Lebanon, Antoinette traveled to the United States in 1963 where she established her family and became a prominent resident of several communities, most recently in the Pacific Northwest. Her life in the United States has been one of hard work, generosity, and great pride in and, dedication to her adopted country. Antoinette's indomitable spirit and concern for others have endeared her to the countless friends she has made over the years.

A wife, mother of four children, and successful businesswoman, this energetic person is involved in many aspects of community life and charitable activities. She is a familiar and respected person wherever she goes, with a friendliness that is appreciated by all. The communities where she has resided have benefited from her enormous generosity. People like her.

Antoinette is a relentless participant in political affairs. For a good reason—she wants political leaders, and the government they serve to be just and responsive. She strives to make her adopted country a better place to live.

She has known hardship, yet Antoinette is a fighter and has overcome many obstacles including the painful and debilitating disease, lupus.

I am proud of this opportunity to publicly congratulate Antoinette on this special achievement and look forward to officially representing her and her husband, Dan.

GEORGE F. KENNAN HONORED

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. MOODY. Mr. Speaker, George F. Kennan has championed the cause of peace with wisdom, dedication, and eloquence. Time and again he has called for greater understanding between the United States and the Soviet Union. He has called on the leaders of both nations to recognize that, in the age of nuclear weapons that can destroy us all, their security is inevitably entwined.

On March 5, 1988, Physicians for Social Responsibility honored Professor Kennan for his years of public service. I would like to include here his remarks on that occasion. Once again, he challenges our most fundamental assumptions about the Soviet Union and calls on the superpowers to reconsider their tremendous reliance on weapons that can destroy us all.

I insert Mr. Kennan's remarks:

REMARKS MADE BY GEORGE F. KENNAN

I am naturally deeply moved by the entirety of this evening.

I cannot deny that it was pleasant to hear so many nice things said about me by so many friends and relations. It was Adlai Stevenson, I seem to recall, who once said that flattery doesn't necessarily hurt you, as long as you don't believe it. I shall rely on my Calvinist up-bringing to reduce all these extravagant statements to their proper size, and to balance them out with my awareness of the many faults of character that people kindly refrained from mentioning.

More important, of course, is the deep appreciation I would like to express to our hosts, the Physicians for Social Responsibility, for the honor they are doing me and for the hospitality we are all enjoying. I know of no body of professional people, here or elsewhere, who have spoken out more courageously or to better effect than they have on the dangers inherent in nuclear weaponry. And not just to better effect but also with greater competence; because their professional commitment to the preservation of life, and their familiarity with the tragedy of the dying and with the follies of the living, as illustrated in their patients, must give them an insight second to none into all that is at stake in the nuclear problem.

There could, therefore, be no set of hands from which this sort of award could have meant more to me. I accept it, I hope, with due humility, as a form of encouragement to myself and to many others not to waver in the commitment that brings us here together tonight.

There are one or two reflections that have been much on my mind in this recent period; and I would like to present them to you very briefly.

The first relates to the concept of "deterrence." This concept, as you know, has lain at the heart of our entire national discussion of the nuclear weapons race for years and decades in the past. It has infused tens of thousands of statements and calculations. In its name, and in no other, have many tens of billions of dollars been expended, and vast, unnecessary arsenals of highly dangerous explosives created. And on all these millions of occasions when the term has been used, it has carried with it the implication that there were fearful things the Russians wanted to do—attacks on Western Europe, first nuclear strikes, or what you will—and would assuredly have gone ahead and done, had they not been "deterred" by the threat of our nuclear retaliation.

Well and good; but suppose there had never been any reality to this assumption in the first place. Suppose the Soviet leaders never had either the desire or the intention or the incentive to do any of these things. I ask you to consider this, because I, as one who has been involved in the observation of Soviet-American relations longer, I believe, than anyone now in public life on either side, have never seen any evidence of any desire, intention or incentive on the Soviet side to do any of those things. And if this is true, has it not then been a tremendous abuse of popular understanding to reiterate on thousands and thousands of occasions a word that carries the opposite implications?

So compelling, to my mind, is this question that I am coming to feel that until we can wean ourselves of this seriously misleading assumption and abandon the use of the word that purveys it—until we can learn to recognize that the danger lies not in anything anyone seriously wants to do to anyone else but in the nature of the weapon itself, and that we and the Russians, as the principal creators and cultivators of this weapon, are in a common predicament—until we can contrive to understand this, to convey it to others, and to behave accordingly, the chances of our working ourselves out of this terrible bind, regardless of the INF treaty, regardless of what goes on in Geneva, are going to continue to be discouragingly slight.

The second point I have to make is related to that first one, and goes even deeper. For many years we have encouraged ourselves and others to believe that we deplored the existence of nuclear weapons; that our ultimate aim was to get rid of them entirely, that our cultivation of them was only a response to their continued cultivation by the Russians; and that to the extent the latter could be brought to reduce their own arsenals and to permit verification of that reduction we would be only too glad to reduce our own.

The service Mr. Gorbachev has recently rendered us is to make it evident that for many highly placed people here and in Paris and London and Bonn this is simply not true at all. These people, to judge by their reactions to recent Soviet initiatives, do not really want denuclearization on any terms. What the Russians are doing has little or nothing to do with their approach to this problem. They have taken the nuclear weapon to their hearts. They cannot picture life without it. And this, regardless of all the dangers its continued cultivation holds—proliferation, inadvertent release, computer failure, mixed signals, what you will. In the name of this anxious preoccupation with the imagined danger of a Soviet attack, these people are prepared to hold humanity hostage, now and indefinitely into the future, to all the very real dangers inherent in the retention and continued cultivation of the weapons of mass destruction—as though the preservation of the skins of this single generation now alive were more important, in any case, that the continuity of a civilization, in which this generation is only a tiny and not very impressive link.

So wildly overdrawn is this view—so great is here the gap between image and reality—that I can see it only as the product of some mass neurosis, and a highly morbid one at that—a neurosis I can only assume to be rooted in the effort to repress some sort of inner insecurity by the unreal image of an external danger.

My friends: if half of what I have just said is true, then our problem is deeper than we have commonly supposed; for it is one that will have to be tackled not in the statistics of nuclear competition but in the states of mind that underlie much of our participation in that competition. And this is where you, my hosts, the doctors come in. For every doctor worth his salt has to be, if I am not mistaken, something of a psychiatrist; and of all the professional elements involved in the anti-nuclear movement you are the best qualified to understand the problem I have been talking about and to point the way to its overcoming. I cannot myself suggest the solution. But if, as so often happens in life, the understanding of a problem is already half of its solution, then my attempt to suggest the nature of this one will not have been entirely in vain.

BROOKLYN IRISH AMERICAN PARADE COMMITTEE

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. SCHUMER. Mr. Speaker, I would like to take this opportunity to recognize the Brooklyn Irish American Parade Committee, which is holding its 13th annual parade on Sunday, March 27.

The Irish American community in Brooklyn is one of the oldest and most active groups in the borough. The annual parade highlights the cultural, educational and historical accomplishments the community has made to Brooklyn

The parade takes place on the historic site of the Battle of Brooklyn, in which many Irish freedom fighters gave their lives during the American Revolution.

This year's parade is dedicated to "Erin's Daughters," Brooklyn's Irish American women who made an impact in education, nursing, the trade union movement, and the struggle for economic and social justice.

Some of those honored include Mary Harris Jones, known more familiarly as Mother Jones, who aroused the public conscience about the dangerous conditions under which many people, including children, worked; Agnes Nestor, the president of the International Gloveworkers Union; Mary Kenney O'Sullivan, the first woman organizer for the American Federation of Labor; and Ellen O'Grady, the first woman deputy police commissioner in New York and the founder of the Friend in Need Day Nursery for Irish working women.

The grand marshal for the parade this year is Ann S. Healion, the New York State president of the Ladies Ancient Order of Hibernians. I would like to wish her, the parade committee, and all of the participants the best of luck for this year.

PRUDENT ARCTIC NATIONAL WILDLIFE REFUGE DEVELOPMENT CAN BOLSTER AMERICA'S ENERGY SECURITY

HON. RICHARD K. ARMEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. ARMEY. Mr. Speaker, America is in search of a comprehensive, national energy policy, one that is a product of rational and coordinated tax, regulatory, and environmental guidelines. Too often, and for all the wrong reasons, Congress has imposed such things as the windfall profits tax and the incremental pricing provisions of the Natural Gas Policy Act that are counterproductive and convoluted, and have had a destabilizing effect on America's oil and gas industry.

In my view, Congress must not only revisit these issues, but implement policies that will reinvigorate the Nation's oil and gas economy. One such policy ought to promote the prudent development of the Arctic National Wildlife Refuge [ANWR].

Numerous geologic surveys suggest that ANWR exhibits the best potential for a huge oil and gas finding, perhaps one as extensive as what petroleum geologists discovered at Prudhoe Bay several years ago. Furthermore, industry's arctic experience, particularly at Prudhoe Bay, clearly demonstrates its ability to conduct oil and gas operations in this fragile ecosystem without hindering existing environmental conditions.

I commend to my colleagues the views of Charles Krauthammer in "Wildlife or Oil," an article that appeared a few months ago in the Washington Post. I readily concur with Mr. Krauthammer's conclusions, and believe that Congress should approve legislation that provides for the discretionary leasing of ANWR for oil and gas production.

WILDLIFE OR OIL?

(By Charles Krauthammer)

The choice is easy.

While 3,000 American sailors steamed up and down the Persian Gulf last month, 10 congressmen headed for a cooler August on the Arctic tundra. Both missions had to do with securing oil supplies. The congressmen's task was to check out the Arctic National Wildlife Refuge. The administration wants to explore it for oil. According to current estimates, there is a 20 percent chance of finding an oil field there as huge as the one at Prudhoe Bay, 60 miles to the west, which now provides Americans with one out of every five domestically produced barrels of oil.

Ecologists, however, worry about the damage that oil exploration might do to the wildlife refuge. Their fears have been heard before. When Prudhoe was discovered, environmentalists protested that the pumping and the pipeline would shatter the delicate "ecosystem."

They were wrong. Even the foremost congressional opponent of Arctic exploration, Rep. Morris Udall, admits it. "We've had 15 years or so with Prudhoe and we came out pretty good," Udall concedes. "The people who talked about ecological disaster have been proven wrong." So? "But 15 years isn't very long in terms of something as fragile and precious as this Northern Slope."

How many years do we wait? Fifty? The question is important and the issue pressing because, even after a decision to explore is taken, it will be between 10 and 15 years before any oil starts to flow. During a future oil shortage we will not be able just to turn an Alaskan spigot. That capacity has to be built now.

The main concern of environmentalists is the Porcupine caribou herd, which numbers about 180,000 and migrates to the coastal plain for calving. But caribou concern was raised about Prudhoe 15 years ago. And it turns out that the caribou did very well, thank you. Their numbers have tripled since the pipeline was installed. It is a paradox of the ecology movement that its central theme is the astonishing creative adaptability of an interdependent Nature, yet its central task is to prevent man from disturbing the current natural balance lest Nature collapse from the strain.

One obvious way to reconcile national security with environmental concerns is strictly to regulate development. No drilling during caribou calving season, if you like. One proponent of the environmental view, writing in The New York Times, warns against such compromises, citing "precautions gone for nought" at the Arctic National Wildlife Refuge.

One incident, it seems, "occurred in March 1986. Glenn Elison, manager of the wildlife refuge, reported that a female polar bear had been routed from and abandoned her den when an oil company crew inadvertently transported equipment through the restricted area. Again, elaborate precautions proved faulty."

What to say to those who rank energy independence with polar-bear housing on the national agenda? Ultimately, sentimental environmentalists are concerned less about the real environment than about the environment of the imagination. People want to know that pristine places exist—somewhere—even if they will never see them. No doubt, such inaccessible preserves are a soothing social asset.

But Alaska consists of 375,296,000 acres. The Arctic National Wildlife Refuge contains 19,000,000 acres. The area proposed for exploration is 15,000 acres, or less than 1 percent of that. It is hard to see how the lower-48 urban dweller's idea of the Great North is noticeably damaged by the existence of gravel pits and oil rigs in this dot in the wilderness. Has our idea of the Great North been diminshed by the fact that some 5,000 acres of Prudhoe Bay have been given over to industry?

Environmentalists correctly point out that the Reagan administration, now touting Arctic exploration in the name of energy independence, has prevented other steps toward that goal. It resisted energy-efficiency standards in electrical appliances. It slackened fuel-efficiency standards in cars. It steadfastly opposes oil-import fees and gas taxes. And as part of its budget balancing flimflam last year, it proposed slowing down filling the Strategic Petroleum Reserve.

But the fact that the administration has been lax on conservation does not refute the argument for development. Administration sincerity is irrelevant to the case for exploration. The facts remain: American energy dependence has grown dramatically during the 1980s oil glut lull. Almost half of American oil (45.6 percent in July) is now imported. There may soon be dead Americans in the Persian Gulf. And in the final analysis, when Americans die there, they die for oil. Domestic American oil production is declining. The Prudhoe reserves will be gone within 10 to 20 years. The Arctic National Wildlife Refuge holds the promise of replacing that flow.

Apocalyptic predictions about the caribou were wrong before. The weight of the evidence is that they are wrong again. But even if they are right and one has to choose between caribou and country, it is hard to see how there is a choice.

THE 1988 BREAKFAST OF CHAMPIONS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. HOYER. Mr. Speaker, on Saturday, March 26, 1988 the Prince Georges County Champions Association will celebrate its 15th annual "Breakfast of Champions."

The association, made up of community leaders and civic and business groups, has chosen the breakfast as a means to recognize the outstanding achievements of our county's youth. Over the years, hundreds of young people have been honored for their accomplishments in athletics, academics, career/vocational pursuits, and the arts.

Since its inception, the association has heralded from among our county's youth such outstanding award recipients as Sugar Ray Leonard, Stacy Alford, and Joseph Sheppard. Winners have included not only sports stars but high achievers who are mathematicians, pianists, special olympians, and artists.

This year there is another impressive list of notable young athletes, artists, and scholars:

Individual Award Winners—Athletics—Jennifer L. Payton, 1987 All-Met Swim Team; Scott R. Goff, 1987 All-Met Baseball Team; Daniel Edelen, 1987 All-Met Football Team; Garland Hawkins, 1987 All-Met Football Team; James Chroniger, 1987 WMAC Wrestling Champion; Philandieus Bryant, 1987 Wrestling Champion; John Gwynn, 1987 All-Met Basketball Team; Christopher Mercier, 1987 All-Met Soccer Team; David Ross, 1987 All-Met Soccer Team; Jennifer Athey, 1987 State Cross-Country Champion; April Pish; 1987 State Swimming Champion; Elena Tomelden, 1987 Ladies Figure Skating Champion; Rick Stevens, 1987 All-Met Basketball Team; Christine Kellibrew, 1987 State Shot Put Champion; Sheree Bearden, 1987 State Long Jump & Triple Jump Champion; Kellie Roberts, 1987 State Indoor & Outdoor Hurdles Champion; Elbert Ouzts, 1987 All-Met Football and 1987 All-Met Wrestling; Christopher E. Harwood, 1987 1st Place Regional Duckpin Champion; Stacey Martin, 1st Place Mid-Atlantic USTA Champion; John Ceruzzi, 1987 All-Met Soccer Team; Sharmba Mitchell, 1987 1st Place Golden Gloves & USA-ABF Champion; Erik Imler, 1987 Parade All-American Soccer Team; Nevin Paige, 1987 State Shot Put Champion; Alfred Jordan, 1987 1st Place Penn & State Relays; Clinton Venables, 1987 All-Met Boys Basketball Team; Karen Nelson, 1987 State Gymnast Champion.

Athletics—Teams: Regina High School Varsity Softball Team, 1987 CGAA Softball Champion; Bowie High School Soccer Team, 1987 State Champions; DeMatha High School Varsity Basketball Team, 1987 WMAC Champions; DeMatha High School Varsity Soccer Team, 1987 WMAC Champions; Gwynn Park High School Basketball Team, 1987 State Champions; Elizabeth Seton High School Roadrunners, 1987 CGAA Basketball Champions; Laurel High School Football Team, 1987 State Champions; Bowie Boys' & Girls' Club 13-AAA Baseball Team, 1987 Prince Georges County Champions; Bowie Soccer Association Titans, 1987 Maryland Cup; Central High School Girls Track Team, 1987 State Track Champions; Oxon Hill Boys' & Girls' 110 lb Football Team, National Junior Superbowl Champions; Pallotti High School Girls Soccer Team, 1987 CGAA & PVAA Champions; Pallotti High School Boys Football Team, 1987 Tri State Champions; Pallotti High School Boys Soccer Team, 1987 PVAC Champions; Pallotti High School Girls Softball Team, 1987 CGAA Champions; Pallotti High School Girls Softball Team TSAC Champions; Pallotti High School Girls Volleyball Team, 1987 CGAA Champions; Suitland High School Boys' Track Team, 1987 State 4 x 800 Champions, High Point High School Boys' Track Team, 1987 Penn & State Relay Champions; Northwestern High School Boys Basketball Team, 1987 State Champions; Northwestern High School Girls Track Team, 1987 Indoor Track Champions; Clinton Boys' & Girls' Club 95 lb Football Team, 1987 Metro Superbowl Champions; Riverdale Baptist Baseball Team, 1987 Tri-State League and Tournament Champions.

Special Category—Ronnie McKeevie, Gold Medal-Swimming, 1987 Maryland State Special Olympics; Byron Breeze, Gold Medal-Weightlifting, 1987 Maryland State Special Olympics; Maryland Wildcats Boys Basketball Team, Silver Medal, 1987 International Special Olympics.

Arts—John Holyfield, Finalist, Corcoran Scholastic Regional Art Show; Jamie L. Sugg, 1st Place, Statewide Poster Contest; Jodi L. Sugg, 1st Place Statewide Poster Contest, Mon Tonya Jackson, National Officer, FHA: Laura E. Kelly, Number 1 Rating, State Solo & Ensemble Festival; Donnese M. Upson, Best National Interpretive Teen Dancer; Janet A. Pittman, Number 1 Rating, State Solo & Ensemble Festival; Mark Curtis, 1st Place, International Student Media Festival; Marlysse Simmons, Critics Circle Rating, 1987 National Piano Playing Auditions; Chandra Fortune, 1st Place, State & Regional Piano Soloist; Michelle Dorsey, Maryland All State Chorus.

Academics: Peter R. Myers, 1st Honors, Regional Math & Verbal Talent Search; Steven J. Harmeyer, National Merit Scholarship Finalist; William Wirt Middle School Future Homemakers of America—Maryland, Chapter of Excellence.

The list of names will grow as more of the country's youth are honored each year at the breakfast. This unique event is thought to be the only one of its kind in the country. The association brings together the newest nominees, their families, and friends to bestow recognition in the form of a medallion or plaque upon the champions. In the past, guest speakers, such as Joe Theismann, Jo Jo Starbuck, and Congressman TOM MCMILLEN have told their own success stories at the breakfast, and this year the guest speaker will be Morgan Wootten, head coach of the nationally recognized DeMatha Catholic High School Basketball Team.

It was a small group of citizens in 1974 who began the special "Breakfast of Champions" but the number of lives their work has touched has grown to thousands. This year's steering committee includes: John L. Brunner, president; Jeannette Ferguson, vice president; Pat Boyd, treasurer; Dawn Schulze, secretary; Ron Schiff, immediate past president; John Moylan; Marilyn Cinicola; and Rev. William Sullivan.

Mr. Speaker, I know all my colleagues will join with me in congratulating the 1988 Prince Georges County "Breakfast of Champions" winners who will be honored later this week. Every one of them is undoubtedly an example of the high level of achievement of which American youth are capable.

REESTABLISH A BIPARTISAN COMMISSION ON CENTRAL AMERICA

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. PURSELL. Mr. Speaker, during the debate on the most recent Contra aid proposal, I spoke about the need for a bipartisan United States foreign policy for Central America. A key element of that policy would be to reestablish the National Bipartisan Commission on Central America, created in 1983 by President Reagan and chaired by former Secretary of State Henry Kissinger.

The Kissinger Commission's membership, which was chosen from the ranks of Federal, State, and local government, academia, business, labor, and the legal profession, was truly bipartisan. Its diverse political membership included Nicholas F. Brady, former U.S. Senator from New Jersey; Henry Cisneros, mayor of San Antonio; William Clements, Governor of Texas; Wilson Sunday Johnson, president of the National Federation of Independent Business; Lane Kirkland, president of the AFL-CIO; John Silber, president of Boston University; and Robert Strauss, former chairman of the National Democratic Party.

The Kissinger Commission's mandate was to develop a long-term United States policy for Central America that addressed social, economic, and democratic development in the region and responded to threats to its security and stability. In keeping with these goals, the commisson identified and made recommendations regarding several key challenges that needed to be addressed in order to ameliorate the crisis in Central America. These included the economic challenge of poverty, social injustice, and declining economic growth and the political-security challenge of insurgencies threatening the legitimacy and stability of governments in the region. To a great extent, these challenges remain unresolved.

The United States will have ongoing economic, cultural, and strategic ties to Central America. Instead of continuing the narrowly focused, piecemeal debate over military versus humanitarian aid for the Contras, we must explore and develop a comprehensive, long-term policy for the region as a whole. Expansion and improvement of efforts such as the Caribbean Basin Initiative, the United States college scholarship program for Central American students, economic assistance and human development programs should be the focus of United States policy.

Today, my Democratic colleague from Pennsylvania, Mr. MURTHA and I are introducing a resolution calling on the President to reestablish an independent, bipartisan advisory body modeled after the Kissinger Commission that will assist Congress and the administration to sustain a long-term, consistent United States policy for Central America. I would urge my colleagues on both sides of the aisle to cosponsor this resolution.

BUDGET ACT WAIVERS

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. LOTT. Mr. Speaker, the Rules Committee's Subcommittee on the Legislative Process, of which I am the ranking minority member, often gets inquiries about the number of times we waive the Budget Act in rules reported from the Rules Committee. I think it is important in responding to this question that we also include those instances in which all House rules have been waived, since, in so doing, we are also waiving the entire Budget Act.

I have therefore asked my subcommittee counsel to prepare a table comparing budget and blanket waivers over the past five Congresses, through March 1, 1988, of this 100th Congress. The conclusion reached from this analysis is that today we are waiving the Budget Act or all House rules in one out of every two rules we grant—roughly 50 percent of the time.

While this is the same as it was in the 96th Congress, and lower than in the past three Congresses, when such waivers comprised 67 percent, 72.1 percent, and 81.7 percent of order of business resolutions, there is a variable in this which should be removed for a more accurate picture. That is the former section 402(a) point of order against authorizing measures reported after May 15. That point of order was repealed in Gramm-Rudman I in December 1985. If we consider this same data without the section 402(a) waivers, we find that total budget/blanket waivers totaled 50 in the 96th Congress or 19.3 percent of rules reported; 60 in the 97th Congress or 39.5 percent of rules reported; 83 in the 98th Congress or 43.7 percent; and 107 in the 99th Congress or 65.2 percent. Therefore, the 49.5 percent level thus far in this Congress is the second highest in the five Congresses studied. The table follows:

BUDGET ACT WAIVERS REPORTED IN HOUSE, 96TH-100TH CONGRESSES

Budget Act section waived	96th Cong.	97th Cong.	98th Cong.	99th Cong.	100th Cong.
302(a)					1
302(c)				2	3
302(f)				19	7
303(a)	9	12	48	25	4
305(a)		1	1	1	
311	5	15	12	21	4
401(a)	23	21	6	5	1
401(b)	13	7	10	6	3
402(a)	77	42	54	27	
Subtotal: Budget Act waivers	127	98	133	106	23
Blanket waivers of all House Rules (includes Budget Act)	0	4	4	28	23
Total budget/blanket waivers	127	102	137	134	46
Total rules reported	259	152	190	164	93
Total budget/blanket waivers as percentage of rules reported	49	67	72.1	81.7	49.5

Sources: Legislative Calendar, Committee on Rules 96th-99th Congresses; Survey of Activities, Committee on Rules, 96th-99th Congresses; "Notices of Action Taken", Committee on Rules, 100th Congress: Jan. 27, 1987-March 1, 1988.

COMMENTARY AND EXPLANATION OF BUDGET ACT WAIVERS TABLE

The table is based on waivers contained in order of business resolutions or "rules" reported from the House Rules Committee providing for the consideration of legislation or conference reports. This table not only includes instances in which the rules waived specific sections of the budget act against provisions in a measure, but also instances in which all points of order were waived against the consideration of a measure of a substitute made in order as original text for amendment purposes. This is because a waiver of all points of order (all House rules) includes a waiver of Budget Act provisions which have the standing as House rules.

The Budget Act sections which have been waived, together with an explanation, are listed below:

Section and Explanation

302(a).—Requires that the joint explanatory statement on a budget resolution conference report include an allocation by committee of outlays, and new budget-, entitlement-, and credit authority.

302(c).—Prohibits the consideration of any legislation reported from a committee which has not filed its section 302(b) suballocations.

302(f).—Prohibits the consideration of legislation which exceeds a committee's sec. 302(b) suballocation for discretionary new budget authority, new entitlement authority, or new credit authority.

303(a).—Prohibits the consideration of legislation providing new budget authority, new entitlement authority, new credit authority, or a change in revenues or public debt before the budget resolution for that year is adopted.

305(a).—Prohibits consideration of a budget resolution prior to the sixth day after it is reported.

311.—Prohibits consideration of any legislation which would exceed the outlay ceiling or revenue floor contained in the most recent budget resolution.

401(a).—Prohibits consideration of legislation providing new contract or borrowing authority not provided for in appropriations acts.

401(b).—Prohibits the consideration of legislation providing new entitlement authority which becomes effective during the fiscal year which ends in the calendar year in which the bill is reported.

402(a).—Prohibits the consideration of any bill authorizing new budget authority for a fiscal year if not reported on or before May 15th preceding the beginning of such fiscal year. [Note: This provision was repealed with the enactment of Gramm-Rudman I on Dec. 15, 1985).

ST. PATRICK'S DAY 1988 ADDRESS BY THE HONORABLE PADRAIC FLYNN, THE MINISTER OF ENVIRONMENT FOR THE REPUBLIC OF IRELAND

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. BOLAND. Mr. Speaker, I was honored to be invited to your annual St. Patrick's Day luncheon today. The Honorable Padraic Flynn, the Minister of Environment for the Republic of Ireland made some fine remarks about the meaning of St. Patrick's Day and the contributions of Irish-Americans to this country. President Ronald Reagan was joined by many Members of the House and Senate in enjoying this occasion. Also on hand was the United States Ambassador to Ireland, Margaret Heckler and the Irish Ambassador to the United States, Padraic McKernan. Mr. Flynn started his remarks by saying, "I suspect there's no better place in the world to spend St. Patrick's Day than the United States."

I certainly agree and am happy to here include the full text of Mr. Flynn's remarks for my colleagues to enjoy.

ST. PATRICK'S DAY 1988 ADDRESS BY THE HONORABLE PADRAIC FLYNN, THE MINISTER OF ENVIRONMENT FOR THE REPUBLIC OF IRELAND

Mr. President, Friends of Ireland, distinguished guests.

Even though today is Ireland's day, I suspect there's no better place in the world to spend St. Patrick's Day than the United States.

The reason is simple.

Ireland and the United States have so much in common, that wherever the Irish go in the United States they find themselves among friends.

Likewise, wherever Americans go in Ireland, they find "cead mile failte"—a hundred thousand welcomes.

It's a great pleasure and a great honour for me to be here today.

Mr. President, it's a long time since you last paid us a visit. I hope you'll give us an opportunity in the near future to remind you and your colleagues of the special—the unique—nature of Irish hospitality.

The Irish take great pride in the contribution emigrants from our small country have made to the shaping of your great nation.

The presence of so many Irish names at a distinguished gathering like this is testimony to that contribution.

Testimony, too, to the respected place successive generations of Irish people have carved out for themselves in American society.

The Irish came.

They saw.

They contributed.

They're still seeking to do that.

Young people especially.

Highly qualified young people.

Highly motivated young people.

Young people with a lot to offer the United States.

Many of them, unfortunately, prevented from playing their full part in life here because of uncertainty about their legal status.

Congress is currently considering legislative proposals to reform the system for legal immigration.

It is our hope that the legislation eventually adopted is going to expand the range of opportunities available to Irish people who, like their forefathers, see this country as offering unique possibilities for them to use their talents—their very considerable talents. It's surely in the interest of the United States that those people with skills in demand here should have a means of legal access.

But let me make it clear.

Since coming to office, my government's priority has been to create a different Ireland, so that young Irish people won't think it necessary to look beyond their own country for their future, or part of their future.

That kind of thing never happens by accident.

It is beginning to happen in Ireland because we have a decisive Government.

A Government determined to make Ireland internationally competitive.

A Government determined to offer our highly educated young people better options for the future.

A Government determined to create international confidence in Ireland as a focus for investment and development.

A Government determined to change things.

We're not talking here about Celtic twilight. We're talking about the creation of a strong, lean economy with someting to offer investors, industrialists and our young workforce.

American investment has played a major part in helping to build Ireland's industrial base. It was never an investment in Celtic twilight, and we don't expect Americans, today, to invest in Ireland for sentimental reasons.

Not at all.

When they invest, they do so because we offer a package of incentives and advantages second to none in Europe.

We're second to none as an industrial location.

Second to none, too, when it comes to what we can offer visitors.

In 1988, our capital city, Dublin, is a thousand years old. A thousand years of history, of beauty, of passion and pride and pulsing life, alive and vibrant—and waiting to give American visitors a welcome like they've never had before.

It is most important that I register the fact, here today, that the area where American involvement in Ireland has been most positive and most significant has been in relation to Northern Ireland.

It is no secret that the relationship between Ireland and Britain has gone through a difficult period in the last few months.

It is no secret, but now is not the time to deal with the individual incidents which, in aggregate, have caused tension. Those incidents, individually and severally, have been met with strength, dignity and resolution on the part of the Irish Government.

That Government is determined to protect and advance the interests of the nationalist community in Northern Ireland while seeking a wider political solution which would accommodate Irishmen and Irishwomen of all tradition.

We will build on the Anglo Irish process begun by the Taoiseach Mr. Haughey in 1980 and continued through the 1985 Anglo Irish Agreement. We have stuck by the spirit and the letter of that agreement.

It is imperative that we take this approach. It is imperative, too, that I place on record our gratitude for the understanding and sympathy that has been shown for our position by our friends on this side of the Atlantic.

We are grateful, also, for the practical support the United States is giving to the Anglo Irish process. Over the past three years, the United States has contributed a total of one hundred and twenty million dollars to the International Fund for Ireland.

That money is breathing life into areas of the North and the border regions of the South, most devastated by the troubles of two decades. The Fund is working hard to stimulate investment, encourage enterprise and bring new jobs—jobs shorn of discrimination—to communities which up to now were bereft of hope.

I know that you face difficult budgetary constraints at the present time. However, I would ask you, not only on behalf of the Irish Government, but also on behalf of the vast majority of ordinary people, North and South, to maintain the lifeline you've been providing.

Mr. President, as you know it's customary on St Patrick's Day to offer a gift of Shamrock.

In keeping with that tradition, it's my very pleasant task to present you with a gift of Irish shamrock in an Irish crystal bowl which was made in Dublin in honour of its millennium year.

I wish you and all here a happy and convivial St. Patrick's Day.

TRADE FIGURES SIGNAL NEED FOR H.R. 3

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. BONKER. Mr. Speaker, for 2 days Congress has received reports which give us little cause for optimism about the health of our economy. Today, the Commerce Department revealed that our country's trade deficit for January totaled $12.4 billion, an increase of $200 million over the previous month's figures. Coupled with yesterday's report that the 1987 trade deficit rose to a record $160.7 billion, the message is clear: We must reduce this Nation's trade deficit if we want the United States to remain the world's strongest economy.

We in Congress have realized the threat this deficit is for our future and have begun work on its reduction. H.R. 3, the omnibus trade bill, develops a comprehensive trade policy for our Nation and is now pending in conference. While there have been setbacks in the scheduling of the conferee's efforts, the subconferences are all actively working towards conference completion by April 1.

Long hours have gone in to making H.R. 3 a better piece of trade legislation and to address some of the administration's objections in hopes that the President will sign the bill into law when it arrives on his desk in late April. Major elements of the bill have been deleted in this effort, such as the scofflaw penalties and the private right of action provision.

The figures released by the Commerce Department today fly in the face of the administration's claim the falling dollar will solve our Nation's trade problems. The President continues to attack the trade bill as protectionist without extending his comments to include the positive features of the bill, such as its numerous export promotion provisions. While I cannot fault the President for his objection to the Gephardt amendment, he is well aware that his controversial provisions are unlikely to be in the final legislation.

Instead of attacking congressional work on comprehensive trade policy, I would like to hear what the administration is doing to resolve our trade crisis. The only recent initiative on trade my office has seen in recent weeks is the Commerce Department and OMB proposal to cut branch offices of the U.S. and Foreign Commercial Trade Service within the International Trade Administration. While this budget shuffle may save the country a few thousand dollars in adminstrative work, it could cost the Nation millions in lost export sales. It is incomprehensible to many Members of Congress how the administration can cut assistance to our exporters and expect to reduce our trade deficit. Our trade balance will only improve when exports rise relative to imports.

Mr. Speaker, I urge the administration to join the Congress in making America competitive again. Help us pass H.R. 3.

OVERCROWDED YOUTH CORRECTIONAL FACILITIES TOP STATE AGENDAS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. MILLER of California. Mr. Speaker, new evidence from the States suggests that the time has come to rethink how we deliver services to troubled youth. According to a just-released survey by the National Conference on State Legislatures [NCSL], overcrowding in juvenile correctional facilities is reaching crisis proportions in over half of the States. NCSL's report, "Current Juvenile Justice Issues Facing State Legislatures," found that:

Overcrowding is a significant problem in 26 of the 39 responding States;

Nine States are currently involved in litigation, are under court order or are running juvenile facilities under a judicial consent decree because of overcrowding problems;

Six States foresee overcrowding of detention facilities as a major problem in the next few years.

NCSL's findings are just one more indictment of our juvenile justice system. The only good news in this report is that overcrowding is forcing several States to reexamine how and where they treat delinquent youth. More than one-third—18—of the States are exploring community-based programs and other alternative treatment strategies to incarceration, including specialized educational programs, therapeutic foster care, vocational rehabilitation services and restitution programs. Twenty-three States reported that they expect alternative treatment and dispositional options to top their legislative agendas in the next 3 years. Some States mentioned that funding pressures, a change in treatment philosophy, as well as overcrowding, were motivating them to examine such alternatives.

Other States noted the need to focus on special youth populations. Missouri and Pennsylvania, for example, expect to address the needs of youthful offenders with AIDS; while Oregon and Pennsylvania expect to look at the problems experienced by substance abusing youth and juvenile offenders with emotional problems, respectively.

The upcoming reauthorization of the Juvenile Justice and Delinquency Prevention Act provides us with the opportunity to mitigate this crisis by strengthening community-based programs and other alternative treatment approaches for delinquent youth, particularly for nonviolent offenders. I urge my colleagues to take note of the problems States are facing in dealing with deliquent youth as we consider new approaches to serving all children in State care.

ARABS SHOULD TAKE GAZA REFUGEES

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. GREEN. Mr. Speaker, I would like to bring to my colleagues' attention on op ed piece in the March 16th Wall Street Journal which adds some important historical perspective to the current situation in the Middle East. It has been of great concern to me that the raging debate on how to achieve Mideast peace usually leaves out the main point: that peace in the Mideast depends on the Arabs doing for their refugees what Israel did for Jewish refugees from the Arab countries. I am reprinting Max Fisher's article below which makes this point eloquently.

The article follows:

ARABS SHOULD TAKE GAZA REFUGEES

(By Max Singer)

The sad plight of Palestinian Arab refugees living in Gaza and elsewhere has been brought forcefully to the attention of the world. By their willingness to risk Israeli bullets and clubs to protest, the people in the dismal refugee camps who have been forced to live their whole lives under alien rule demonstrated the strength of their anger and unhappiness. Fortunately there is something that can be done to relieve their suffering.

But it will not be possible to help without distinguishing among three different issues: how Israel should be dealing with the demonstrations right now; how ultimately to resolve the Palestinian problem; and how to reduce the suffering by the refugees that presumably caused the demonstrations.

Whether the Israeli army is using more force than necessary to restore order in the short run is being much debated. No doubt there have been many examples of excessive and wrongful force. But no army ever copes with such challenge without such examples. And no one has argued convincingly that the Israeli army is doing a worse job of controlling itself than a U.S. or British or Swedish or any other army would do in the face of such attacks. It is not a meaningful moral standard to call on an army to do better than any army can do—although even the best should try to do better.

There is even more debate about the long run question of how to resolve the overall issue between Israel and the Palestinians and between Israel and the Arab states that are at war with Israel. The Palestinians presumably are the most eager to get things settled, because they don't have any state or or territory. The Israelis also have a deep desire for peace, because they have been in a state of war for 40 years, with a draft and regular casualties between periods of active fighting, and because even their existence as a state is still not accepted.

Unfortunately, the Arab states have much less reason to end the war they began in 1948 than either the Israelis or the Palestinian Arabs. Perhaps this is why none of them has even said that it would be willing for Israel to keep the traditional Jewish Quarter of the Old City of Jerusalem, which Jordan held for 19 years after expelling the Jews in 1948. Working out peace between Israel and the Palestinians would be difficult even if they were the only two parties involved. But so long as there is no peace between Israel and the Arab states the problem is even more difficult. Not only are there more stringent security requirements, but it is hard to see how Palestinian parties of peace would be able to prevail over Palestinian extremists encouraged and supported by the Arab states that are unready to make peace.

To provide medium-term help to those people whose anguish has been so forcefully brought to our attention by the scenes of violence, we need to go beyond short-term questions about the methods used to restore order—which is a difficult and dirty business at best. But we can't wait until the long-term question of how to resolve the two wars—Palestinian-Israeli and Arab-Israel—is settled.

In the medium term the biggest thing that can be done for the refugees in Gaza is to give them the freedom to decide whether to continue to live there or to live in some other Arab country.

In 1948, as a result of Israel's war of independence with the Arab states, about 600,000 Arabs became refugees from Israel. Within the next few years about 600,000 Jews became refugees from the Arab countries and were resettled in Israel. Both population movements were a drop in the bucket when compared with some 50 million refugees of all religions resettled in the world turmoil of the 1940s. Nearly one-third of the Arab refugees ended up in the tiny piece of Palestine called Gaza, which for nearly 20 years was occupied by Egypt, its neighbor to the West.

For 40 years almost all of the Arab refugees—in Gaza and elsewhere—have been compelled by the Arab states to live in refugee camps because the Arab states understood that the suffering of the refugees kept on Israel's border would be a political weapon against Israel. Perhaps this cruel policy was acceptable at first, when it was not known how long it would take to achieve peace (or, as the Arab states intended, to eliminate Israel). But the horror of the past three months demonstrates that this Arab policy is no longer tolerable. Arabs are forcing fellow Arabs to pay too high a price for too long.

Of course, the refugees may prefer to stay in camps in Gaza, instead of settling in other Arab countries, to be nearer to their original homes, and to maximize their pressure on Israel. They never have been given a choice. Now they should be. (Some may stay—even if it means living under Israeli rule until peace comes—because living conditions and economic opportunities in the territories are better than those of most of the people of most Arab countries.)

Israel could also contribute to helping the refugees by improving living conditions. But the demonstrations were not a response to poor living conditions. This is clear both from what the demonstrators say and from the fact that living conditions are very much better than they were when Israel took over from Egypt and Jordan.

Of course, getting the Arab countries finally to act decently to the Arab refugees would not be nearly a complete answer to the problem brought into our homes by recent events. Full justice cannot be brought to either Palestinians or Israelis until there is peace.

But if the Arab states gave their fellow Arabs the freedom to choose, at least the most desperately unhappy could choose to leave the territories. This would reduce the overcrowding for those who choose to stay—at least in Gaza—and give relief to those who feel most anguished about living under Israeli rule.

JACK WALLACE IS FRIENDLY SONS OF ST. PATRICK MAN OF THE YEAR

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. KANJORSKI. Mr. Speaker, on this St. Patrick's Day, 1988, it is most appropriate that I bring your attention to the Friendly Sons of St. Patrick of Greater Wilkes-Barre Man of the Year, Jack Wallace. Jack has been a friend of mine for more than 20 years, and I am proud to join his many friends in the Friendly Sons in congratulating him for this honor.

The Greater Wilkes-Barre newspaper, the Citizens' Voice wrote a warm editorial to congratulate Jack, who also happens to be their courthouse reporter. Because the sentiments expressed in this article so closely reflect my own, I would like to take this opportunity to reprint the Citizens Voice article.

[From The Wilkes-Barre, (PA), Citizens' Voice, Mar. 14, 1988]

SONS' HONOR TO WALLACE MAKES US PROUD TOO

The Friendly Sons' 1988 "Man of the Year" is a member of the Citizens' Voice family—and we're proud to say so.

Jack Wallace, courthouse reporter for the Citizens' Voice, will be honored this coming Friday at a dinner at Gas Geneti's Inn.

"Jack" definitely fits the "Friendly Sons of St. Patrick of Greater Wilkes-Barre" bill. He's the epitome of Irish outgoing good will and wit (with just a touch of temper). Not a morning goes by in the offices of this newspaper when Jack doesn't either have an Army story to tell, have a wrong to right, or have a hand ready to help. "Is everything well?" is his traditional greeting. "Need anything?"

Jack richly deserves the honor "Man of the Year" for this same reason. His good will, wit and work are of and for this community. King's College is his alma mater. Twenty seven solid years in Wilkes-Barre newspapering, and a preeminent presence in the courthouse on behalf of the public, are his career contributions. Army service in Korea, 26 terms as president of the local Newspaper Guild, 15 years with the St. Therese Little League are the public services of this man who does even more for others privately.

In addition—we've got to get a light touch in here somewhere—he may well also have the nicest head of hair of all the Friendly Sons.

Seriously, the Citizens' Voice is proud to say Jack Wallace is the "Man of the Year" because be is what we think we are—sons and daughters of Wyoming Valley who are working hard at newspapering and community service because we sincerely care about this community and all the people we are associated with within it.

So we hope you will join us as we say to one of ours who's also one of yours, "Congratulations Friendly Sons of St. Patrick of Greater Wilkes-Barre Man of the Year, Jack Wallace.

THE COAST GUARD BUDGET: SOME COMMON SENSE AND SIMPLE ELOQUENCE

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. DAVIS of Michigan. I want to make a few remarks in protest of the serious budget cuts being faced by the U.S. Coast Guard. When the continuing resolution was passed by this Congress just before Christmas last year, few of us knew what was in store for the Coast Guard. It was not until the cold light of January that we discovered further cuts had been made.

The response from around the country objecting to the damage inflicted on the Coast Guard by this cut has been united in its appeal—"Please save the U.S. Coast Guard." I would like to have included in today's RECORD just one letter from among the hundreds I have received about the Coast Guard's predicament. I choose this particular letter from Mr. Robert A. Woods of Posen, MI, because of its common sense and simple eloquence. I sincerely hope this session of Congress will take his message to heart when it begins deliberation on the appropriations for fiscal year 1989.

TRANSCRIPTION OF WOODS LETTER

JANUARY 29, 1988.

Congressman BOB DAVIS,
Washington, DC.

SIR: I am writing this letter to let you know that I protest the cut in the U.S. Coast Guard budget. I have called your office in Alpena, Mich., and also informed them of protest. It is hard for me to believe that you lawmakers in Washington, who we see on T.V. and making big talk about fighting drugs and how drugs are killing our young people, and then you turn around and cut the budget of the service that is on the front line trying to stop drugs and other contraband from coming into the Country. It is my feeling that by cutting said budget, you are telling drug runners and other illegal businesses come on in, the Coastlines to the United States is wide open to all. I know that I am only one vote, and one taxpayer, but I am a 62 year old born American.

And I think that if we are going to make all these big cuts, then we should make them in the billions of dollars we send all over the world, and stop selling our services down the river. I feel that I am wasting my time writing this letter, but I had to let you know how I feel.

Yours Truly,
ROBERT A. WOODS.

POSEN, MI.

CHARLES COUNTY IS MY HOME

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. DYSON. Mr. Speaker, I rise in recognition of "Charles County Is My Home," which was designated the official song for Charles County on December 15, 1987, by the county commissioners. The piece, composed by Kate U. Shiffer, was orginally proclaimed the county's official song during the U.S. bicentennial celebration in 1976.

The song has been performed sporadically over the past 12 years at such occasions as the coronation of Queen Nicotina at the county fairgrounds and during the ceremony for the descendants of Matthew Henson at the county courthouse.

The commissioners said they plan to distribute copies of the song to all public libraries and the public schools.

The composition is as follows:

CHARLES COUNTY IS MY HOME

(Words and Music by Kate U. Shiffer)

Charles County is my home, There's no place I'd rather be, she has a quiet grace, And is rich in history!
Her shores are bound by rivers, Farms deck the country side, Her people toil from dawn 'til dusk, and they have an innate pride!
Charles County is my home, There's no place I'd rather be, She has a beauty all her own, and sure looks good to me!
Her people are such gentle folk, who will greet you as their own, There is no place I'd rather be, Charles County I call home!
Charles County is my home, There's no place I'd rather be, Her people have a biding faith, and versatility!
Though I may travel far and wide, and other places see, Maryland is my home state, But Charles County's home to me!
Charles County's home to me!

ALEXANDER YAMPOLSKY DAY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. PORTER. Mr. Speaker, today, many of my colleagues and I join citizens in Chicago, IL, Portland, OR, London, England and elsewhere around the world to celebrate "Alexander Yampolsky Day." Numerous members of the House and the Senate, along with hundreds of members of the Freedom for Alexander Yampolsky Committee, which is based in Wilmette, IL, sent telegrams and letters to Secretary Gorbachev urging him to grant an exit visa to refusenik Alexander Yampolsky.

Soviet authorities have repeatedly denied Alexander an exit visa since 1972 on the grounds that he knows state secrets. Although he has not worked in his professional capacity for 16 years, Alexander received another refusal in May 1987. Secretary Gorbachev himself has stated that "state secrets" become obsolete after a maximum of 10 years. Surely, any secrets Alexander may have had access to can no longer be legitimately labeled state secrets.

I tried unsuccessfully to call Alexander this morning. I wanted him to know that the U.S. Congress continues to closely monitor his case, and that we look forward to the day, sometime soon, when he and the rest of the refuseniks are able to live as they choose. I also wanted Alexander to know of the unrelenting work performed by the Freedom for Alexander Yampolsky Committee, organized by Bernice Bloom and Dolly Skoble, with the tireless support of Rabbi William Frankel and Temple Am Yisrael in Northfield, IL.

On December 6, when over 100,000 people gathered in Washington, DC for the mobilization rally for Soviet Jews, my colleague, SID YATES, and I accompanied members of the Freedom for Alexander Yampolsky Committee to the Soviet Embassy to deliver 6,000 petition signatures to Soviet officials. In January, we tried to call Alexander in Lenigrad. Although our call was not received, Bernice and Dolly have talked to him and relayed our message of support and good wishes.

As cochairman of the Congressional Human Rights Caucus and an active supporter of Soviet Jewry, Alexander's situation is all too familiar. His case exemplifies the plight of numerous Jews, Christians, and other religious minorities denied their basic human rights because of their desire to emigrate or to practice their religious beliefs.

Mr. Speaker, despite recent improvements, we must not forget Alexander Yampolsky, the thousands of other Soviet Jews who remain in the Soviet Union against their will, and the hundreds of religious prisoners who currently reside in prisons, psychiatric hospitals and labor camps. I would like to share with my colleagues some of the letters and telegrams sent today to Secretary Gorbachev requesting permission for Alexander to emigrate, and to commend them for their efforts on his behalf.

MIKHAIL GORBACHEV
General Secretary of the Central Committee of the CPSU, Moscow, U.S.S.R.

In the spirit of renewed openness and cooperation between our two countries, we urge you to grant an exit visa to Alexander Yampolsky of Leningrad, who has repeatedly been denied permission to emigrate since 1972.

Cordially,

TOM LANTOS,
JOHN PORTER,
Cochairmen,
Congressional Human Rights Caucus.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 16, 1988.

His Excellency MIKHAIL GORBACHEV,
General Secretary of the Communist Party,
The Kremlin, Moscow 103009 U.S.S.R.

DEAR MR. GORBACHEV: I am writing to you on behalf of Alexander Yampolsky, a Soviet citizen who has been trying to emigrate to Israel for the past fifteen years.

As you know, your country once again has denied permission for Alexander to emigrate, on grounds that he was exposed to state secrets in his previous job. Although more than 15 years have passed since Alexander's exposure to such secrets, and even though Yampolsky has not been allowed to work in his chosen profession since 1972, the Soviet Union has consistently denied him permission to leave the country.

Since his older brother died of cancer three years ago, Alexander is now alone—with no remaining family in the country. Only you, Mr. Secretary, can prevent Alexander Yampolsky from being alone forever. In the interest of glasnost and in accordance with the spirit and intent of the Helsinki Accords, I respectfully urge you to reconsider your decision to keep Alexander Yampolsky from emigrating from the Soviet Union.

Sincerely,

LANE EVANS,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 15, 1988.

His Excellency MIKHAIL GORBACHEV,
Secretary General of the Communist Party,
The Kremlin, Moscow, U.S.S.R.

DEAR MR. SECRETARY: As a member of the Congressional Human Rights Caucus (CHRC), I am writing to express my deep concern for the plight of Alexander Yampolsky.

As you know, the CHRC is a bipartisan organization in the U.S. Congress which focuses attention on behalf of individuals being denied their internationally recognized human rights and fundamental freedoms. Although your country has made significant steps toward improving human rights, which are positively recognized by myself and the 155 other members of the CHRC, Alexander Yampolsky is one of the many Soviet refuseniks still waiting to emigrate.

According to reliable sources, Alexander first applied for an exit visa in 1975. He has been repeatedly refused on the grounds of access to "state secrets," although Alexander has not been exposed to "state secrets" since he left his professional work in 1972. His older brother died three years ago and Alexander remains alone in the Soviet Union.

Alexander has many friends in the Chicago, IL area who are closely monitoring Alexander's application to receive an exit visa. I respectfully urge you, Mr. Secretary, to intercede on behalf of Alexander and allow him to emigrate. I feel this action will clearly demonstrate your commitment to improving relations between our countries and the human rights situation for Soviets Jews.

I look forward to receiving a reply to my request.

Sincerely,

LYNN MARTIN,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 16, 1988.

SSSR, RSFSR
103132 Moskva, Staraya ploshchad, 4, Generalnomu Sekretaryu TsK KPSS, Gorbachovu M.S.

DEAR MR. GORBACHEV: I am writing on behalf of Alexander Yampolsky, who has been attempting to emigrate to Israel for the last fifteen years. His most recent denial came in May of 1987 on the grounds that he was exposed to "state secrets" in his previous employment. However he has not worked at this employment since 1972—16 years ago.

Mr. Gorbachev, you have stated that denial for reasons of "state secrets" should last for a maximum of ten years. Mr. Yampolsky lives all alone in Leningrad, his older brother died of cancer three years ago and he has no other relatives in the Soviet Union. His only wish is to emigrate to Israel. In the spirit of glasnost, I hope that you can personally look into this case and that it will be resolved quickly.

Thank you for your time and attention to this matter.

Yours truly,

JOHN MILLER,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 15, 1988.

MIKHAIL S. GORBACHEV,
General Secretary of the Communist Party of the U.S.S.R., The Kremlin, Moscow 103132, RSFSR, U.S.S.R.

DEAR MR. SECRETARY: I join in solidarity with Alexander Yampolsky of Leningrad who has been seeking to emigrate to Israel for sixteen years!

Mr. Yampolsky has repeatedly been denied an exit visa since 1972 when he first applied to emigrate. At that time he lost his job and has not worked in that field since that time. Nonetheless, he continues to be refused permission to emigrate on the grounds that he was exposed to "state secrets" during his former employment. Security is not a genuine issue after sixteen years!

Mr. Yampolsky has no family in the Soviet Union and he wants to go to Israel. Mr. Gorbachev, please allow Mr. Yampolsky his right to leave the Soviet Union and grant him an exit visa.

I appreciate your attention to this specific case, and look forward to your favorable response to his request.

Sincerely,

CHRISTOPHER H. SMITH,
Member of Congress.

Congress of the United States,
House of Representatives,
Washington, DC, March 16, 1988.
Hon. Mikhail Gorbachev,
General Secretary, The CPSU Central Committee, The Kremlin, Moscow 103132, RSFSR, U.S.S.R.

Dear Mr. General Secretary: I am writing to ask that in the spirit of glasnost you allow Alexander Yampolsky of Leningrad to emigrate to Israel.

He first petitioned for a visa 15 years ago but has been refused on the grounds he was exposed to state secrets in his former employment.

His case was last reviewed by your officials in May 1987 and a request for a reconsideration was refused in December.

Many of us remain concerned over issues of human rights and religious rights as they affect your nation. I would welcome news that Mr. Yampolsky has been allowed to leave Russia to live with friends in Israel.

Sincerely,
Dennis Hastert,
Member of Congress.

Mikhail Gorbachev,
General Secretary of the CP, Kremlin, Moscow, RSFSR

Dear Mr. Secretary: I wish to add my name to all of those who ask that Mr. Alexander Yampolsky be given an exit visa and be permitted to emigrate to Israel. This man has no information or experience that can be considered state secrets. Please give him the opportunity to live in Israel.

Sincerely yours,
Sidney R. Yates,
Member of Congress.

Congress of the United States,
House of Representatives,
Washington, DC, March 15, 1988.
Mikhail Gorbachev,
General Secretary of the CPSU, Kremlin, Moscow, U.S.S.R.

Dear Mr. Gorbachev: I am writing to express my concern over the situation of Alexander Yampolsky. Mr. Yampolsky has been trying to emigrate to Israel for fifteen years, and has consistently been denied.

The initial reasons given for refusing Mr. Yampolsky center on the claim that he had access to state secrets during the course of his employment. Yet, since first applying for permission to emigrate in 1972, Mr. Yampolsky has been forbidden to work in his profession. Surely, whatever secrets Mr. Yampolsky may have had access to are no longer relevant after fifteen years.

Mr. Yampolsky has no family left in the Soviet Union. His older brother died three years ago. All he wishes is to emigrate to Israel.

Relations between our two countries have improved dramatically in recent months. Nevertheless, they can never be completely satisfactory until people like Alexander Yampolsky can live where they choose in peace and freedom.

Thank you for your immediate attention to this important matter.

Sincerely yours,
Chester G. Atkins,
Member of Congress.

CONGRATULATIONS AND GOOD LUCK TO LEHIGH CAGERS

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. RITTER. Mr. Speaker, it is a pleasure to take this opportunity to convey congratulations to Lehigh University's Coach Fran McCaffery, who at 28 is the youngest NCAA Division I head coach, and to point with pride to the accomplishments of his team. Lehigh, is that fine university in the city of Bethlehem including beautiful South Mountain and the new mountaintop campus extending to lands in the valley called Saucon.

As a graduate—class of 1961—and former Lehigh faculty member and administrator prior to running for Congress, I'd like to commend Lehigh for being the 1987–88 winner of the East Coast Conference [ECC] Basketball Tournament. With this season's record of 21 victories against only 9 defeats, they will go against the Nation's No. 1 team, Temple, also of Pennsylvania, in the first round of the NCAA playoffs Friday in Hartford. On behalf of the citizens of the Lehigh Valley, I wish them good luck and Godspeed. Given Temple's No. 1 ranking in the Nation, it promises to be a very tough contest.

The Engineers earned their second NCAA bid in 4 years as Lehigh's Daren Queenan, the Nation's second leading scorer, became only the ninth collegiate player ever to score 2,600 points and collect 1,000 rebounds in a career. Queenan's teammate Mike Polaha was voted the tournament's "most valuable player." Both graduated from Allentown's Central Catholic High School where they were "stars" and provide the Engineers with their first two 20-point-plus-average scorers on the same team. Also, this is the first Lehigh team to boast three 1,000 point scorers as 6'7" Bill Cheslock joins Queenan and Polaha in this group.

Mr. Speaker, over the years, Lehigh has been known more for two other sports having won many a Lambert Cup and "Eastern's" for preeminance in wrestling and football, respectively. But now Coach McCaffery has changed all that and Lehigh alumni and fans are rejoicing. Usually, it was rival Lafayette, sitting atop College Hill in lovely Easton, PA, which reigned supreme in Lehigh Valley College basketball. Indeed, the shoot-out in the county in the semifinals of the ECC Tournament determined the winner. Lehigh won that game 67–65, avenging an earlier loss to the valiant but out-gunned Leopards. Thus this championship was doubly sweet.

Fran McCaffery has compiled a 49–38 record over three seasons and looks forward to a bright and exciting future with the Engineers. All Lehigh players can share in the impressive statistics and records accomplished by this season's team which carries the best wishes of all their fans in the Lehigh Valley and around the Nation as they look forward to the NCAA Tournament. Mr. Speaker, at this point I include the team roster.

1987–88 LEHIGH UNIVERSITY ROSTERS

[Alphabetical]

No. and Name	Class	Position	Height	Weight	Secondary school	Hometown
23 Greg Berliner	Freshman	Forward	6–5	190	East Brunswick High School	East Brunswick, NJ.
42 Chris Block	Senior	Forward	6–5	206	Pennsbury High school	Yardley, PA.
22 Bruce Breder (1) [1]	Senior	Guard	6–3	170	Peddie School	Dresher, PA.
32 Leon Caldwell	Freshman	Guard	6–0	170	Penn Charter School	Philadelphia, PA.
25 Bill Cheslock (3) [1]	Senior	Center	6–7	210	Hicksville High School	Hicksville, NY.
11 Scott Layer (1) [1]	Sophomore	Guard	5–11	166	Upper Moreland High School	Harboro, PA.
44 Tom Martin (1) [1]	Sophomore	Center-Forward	6–7	216	Archbishop Wood High School	Holland, PA.
20 Mike O'Hara	Freshman	Guard	6–4	170	Cardinal O'Hara High School	Springfield, PA.
24 Mike Polaha (3) [1]	Senior	Guard	6–3	170	Central Catholic High School	Allentown, PA.
12 Daren Queenan (3) [1]	Senior	Forward	6–5	193	Norristown High School	Norristown, PA.
45 Derek Rogers	Sophomore	Forward-Center	6–8	220	Bensalem High School	Bersalem, PA.
14 Peter Rudman (1) [1]	Sophomore	Guard	6–2	190	Highland Park High School	Highland Park, IL.
30 Tim Russell (3) [1]	Senior	Forward	6–6	200	St. Anthony's High School	East Patchogue, NY.

[1] Letters won.

Head Coach: Fran McCaffery (Pennsylvania 1982).
Asst. Coaches: David Duke (Villanova 1974, Al Keglovirs (Stroudsburg 1974).
Volunteer Coach: Paul Hanks (Lehigh 1981).
Graduate Asst. Coach: Mike Androlewicz (Lehigh 1986).
Captains: Mike Polaha and Daren Queenan.

A TRIBUTE TO MARTHA PHELPS

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to Ms. Martha A. Phelps, the chairperson of the Pennsylvania Service Delivery Area Association [PSDAA] and the executive director of the Lehigh Valley Private Industry Council, who is resigning soon to join her husband in Australia.

Ms. Phelps' tenure in these important leadership positions in Pennsylvania has been marked with high achievement.

The Pennsylvania SDA Association is comprised of the 28 Job Training Partnership Act Service Delivery Area Administrators in the Commonwealth of Pennsylvania dedicated to assisting unemployed, displaced, and disadvantaged people. Ms. Phelps has served as the chairperson of this group since July 1984, and has gained the respect, admiration, and friendship of her associates for the exemplary manner in which she has fostered cooperation, communication and cohesion among the SDA administrators.

Over the past year, Pennsylvania's SDA Association has exceeded the national averages for its unemployed and displaced worker participants with a 71-percent job placement rate and an average hourly wage of $5.48. In fact, Pennsylvania's SDA Association is now a standard bearer by which other States coordinate their associations.

Under Ms. Phelps' leadership, the Pennsylvania SDA Association now works closely with the National Association of Counties, the Departments of Welfare, Transportation, and Labor and Industry to improve services for unemployed and displaced workers. Recognized by Governor Casey as a leader in Pennsylvania's job training efforts, Ms. Phelps was invited last November to join the group that established Pennsylvania's Job Centers Program.

Undoubtedly, Ms. Phelps will be missed by her colleagues and friends in the Pennsylvania SDA Association. However, the legacy of her tenure and service to unemployed and displaced workers, and the improvements she has made to the organization, will remain far after she departs for Australia.

CONSCIENCE VIGIL

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. ATKINS. Mr. Speaker, I am addressing the House today as part of the congressional call to conscience vigil for Soviet Jews. I would like to talk about a refusenik family of particular interest to me, the Schwarzman family of Moscow.

Anatoly and Eugenia Schwarzman and their son Dimitri have been trying to leave the Soviet Union since 1975. They have been refused 12 times. The reason given is Anatoly's supposed possession of state secrets learned in a job he left in 1973, 15 years ago. General Secretary Gorbachev has stated that secrecy refusals should not last longer than 10 years. By this rationale, the Schwarzmans should have been released long ago.

But one need not subscribe to the rationale of Mr. Gorbachev to understand that the Schwarzmans should be free. Under the Helsinki accords, every Soviet citizen has the right to practice their religion as they see fit and the right to emigrate to wherever they please. However, the Soviet authorities treat religious expression as a crime. The Schwarzmans hold picnics and celebrations of Jewish holidays in parks outside of Moscow. For this they seem to have been sentenced to life in the Soviet Union.

Their applications to emigrate to a place where they can live in freedom have been denied by the Soviet authorities in a variety of arbitrary and cynical ways.

For example, Dimitri Schwarzman recently married Anna Lurie, of another Moscow refusenik family. Naturally, it was assumed that Anna would be automatically included in the family's application for emigration. But the Ovir, the Soviet agency that controls emigration, insisted that the family submit their entire application again. This was obviously a cruel delaying tactic.

In another delaying maneuver, the Schwarzman's case was sent to a special commission in the Presidium of the Supreme Soviet for consideration, suggesting the existence of an appeals process. However, the Schwarzmans were not allowed to present their side of the story to the commission. As it turned out, the commission sent the case back to the Ovir without decision, which then sent it back to the Moscow regional Ovir office without decision. The Moscow office simply issued another refusal. So much for the appeals process.

These are only a few examples of the ways in which the Soviet Union frustrates attempts by its Jewish citizens to emigrate. It is true that at the end of the last year we saw a rapid increase in the number of Jews allowed to emigrate. The increase has been attributed to the summit here in Washington, and the new atmosphere of glasnost. However, from the Schwarzmans' perspective, glasnost has not changed a thing.

We in the Congress can take an active role in helping them by publicizing their case. I would like to thank all 104 of my colleagues who joined me in writing to Mikhail Gorbachev on the Schwarzman's behalf. The tremendous response to my letter showed me that many Members of Congress agree that we should not be blinded by glasnost, and that we must keep up the vigil for Soviet Jews until they are allowed to live in peace and freedom. Whenever we are tempted to think that everything is fine in the Soviet Union, let us remember Anatoly, Eugenia, Dimitri, and Anna Schwarzman.

DIESEL TAX COLLECTION

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. ANDREWS. Mr. Speaker, today, Mr. Speaker, I introduce legislation with Representative ROD CHANDLER, Representative JAKE PICKLE, Representative BRIAN DONNELLY, and 12 other members of the House to improve the diesel tax collection provision of the 1987 reconciliation bill. This provision, included at the urging of the Treasury Department, changed the collection point for the diesel tax. This change has caused severe cash flow problems for drilling contractors, waterway operators, farmers, general contractors, and other off-highway diesel fuel users.

Off-highway users remain exempt from the tax under the Omnibus Reconciliation Act of 1987. The act, however, requires some industries—such as oil drillers, oilwell servicing contractors, geophysical contractors, waterway operators, fishermen, general contractors, and farmers—to pay the excise tax at the time of purchase and then file for a refund from the Internal Revenue Service. They will not earn any interest from this loan to the Federal Government.

While these businesses are required to pay the 15.1 cents per gallon Federal tax and then file for a refund of the tax, State and local governments, aviation companies, railroads, and industrial users, will have the ability to gain an exemption from the Treasury Department.

Most will not have the money to pay the tax. Many times, the tax will far exceed the profit earned. For oil drillers, this tax could cost each company between $100,000 and $2,000,000 annually. For example, one contractor, having a fleet of 20 offshore drilling rigs could use approximately 500,000 gallons of diesel fuel per month. With the tax of 15.1 cents per gallon, this additional tax cost will be $906,000 per year.

Waterway operators will have to pay approximately $240 million annually, interest free, in tax to the Federal Government. Other groups will be similarly affected.

My bill will add off-highway users to the list of groups which will be exempt from the 1987 act provisions. It will change the wording of the 1987 act so that it is mandatory, not discretionary, for IRS to issue these guidelines within 90 days of enactment of the bill. The groups listed would also be permitted to file for an immediate refund of amounts already paid prior to the issuance of guidelines, providing a method by which they can recoup their initial loss quickly. Interest will accrue on amounts already paid.

In addition to the reporting requirements set out by Treasury under the authority of the 1987 provisions, my bill would also require the purchasers and sellers of diesel to report the number of gallons sold or bought at the end of the year—on their tax return—and to report their tax identification numbers. This enables the IRS to use computer matching to assure increased compliance.

I look forward to working with colleagues on the House Ways and Means Committee, as well as those Members who have introduced similar bills in the House, to resolve this dilemma. To prevent a further increase in our Federal budget deficit, I believe we must find a way to make up whatever revenue loss that may occur as a result of a legislative solution to this problem. I have asked the Joint Tax Committee for a revenue estimate of my bill as well as for suggestions for ways to make it revenue neutral.

In a related matter, I would like to make clear my support for a proposal to allow the independent marketers to remit Federal gasoline tax directly to the Internal Revenue Service. This proposal also allows State and local governments to purchase gasoline tax free from their distributors. It was passed last year as part of technical corrections in the House Ways and Means Committee, and by the full House, but was dropped along with other technical corrections legislation from the budget conference. This proposal will cure the problems presented by the 1986 act provisions changing the collection of the gasoline excise tax.

In conclusion, I encourage my colleagues to review this bill closely and to lend their support to these improvements to the diesel tax collection provision of the 1987 reconciliation bill.

A CONGRESSIONAL SALUTE TO CHRISTIAN WOMEN OF FAITH AND SERVICE

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. FAUNTROY. Mr. Speaker, I am privileged today to bring to the attention of my colleagues that on Sunday, March 20, 1988, the Israel Metropolitan Christian Methodist Episcopal Church will honor 15 women who have devoted their lives to Christian and community service.

At their annual Women's Day celebration, Pastor Wardell Bonner and the officers and members of the Israel Metropolitan Church have chosen to recognize and congratulate these outstanding women who have demonstrated their devotion to God and their faithfulness to His teachings.

These words from Proverbs 31:31 speak to this special occasion in their honor:

"Give her of the fruit of her hands; and let her own works praise her in the gates."

I invite my colleagues to join me in saluting these 15 women of honor, courage, faith, and service:

Janava Carter—District of Columbia government worker.

Bertha R. Chatman—Retired Federal Government employee.

Gloria Frazier—Social worker.

Laura Hardy—retired Federal Government employee.

Louellen Hodge—retired educator.

Dorothy Kent—retired registered nurse.

Bessie Jordan—retired Federal Government worker.

Sandra McCane—educator, District of Columbia schools.

Cynthia R. Mason—retired Federal Government worker.

Annie Minter—retired Federal Government employee.

Juanita S. Searles—educator, District of Columbia public schools.

Ruben Tabor—retired Federal Government employee.

Dabra Young—social worker.

Carole E. Richardson—manager, stations and branches, U.S. Postal operations.

Emmna L. Hamilton—director, patient transport, Prince George General Hospital Center.

NORIEGA MUST GO

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. HERGER. Mr. Speaker, I was unable to be here last Thursday to participate in the debate and vote on the situtation in Panama. I had an important committment in California that I could not avoid. I could not, however, let this pass without expressing my wholehearted support for House Resolution 399, and for the Panamanian people.

Few would argue with the assertion that the regime of General Noriega has become one of the most corrupt in the hemisphere. Noriega, a former member of the Panamanian secret police, has been commander in chief of the armed forces since 1983. His government is believed to have murdered a number of individuals who opposed his oppressive policies, and is rumored to have directed funds and intelligence information to both the Communist Sandinista Government in Nicaragua, and the Marxist FMLN guerrillas in El Salvador.

If Noriega was in charge of any other Nation I would still be concerned. The fact that he rules the country that is home to the Panama Canal, which offers a vital and unique link between the Pacific and Atlantic Oceans and is crucial to U.S. national security, magnifies the importance of the crisis and the need for a lasting solution.

Many of us were hopeful in 1984 that the canal would be in stable hands as a result of the Presidential election that was promised by the military government. The election, the first since 1968, was won by more than 509,000 votes by the opposition candidate. Unfortunately, Noriega, who was fearful of loosing power, demanded a recount of the votes, and declared that his candidate had been the real winner.

Since that time, things have steadily grown worse. Noriega's involvement in the international drug trade has increased exponentially since 1983, culminating in his indictment in Miami last month. Court documents suggest that Noriega may have received more than $350 million in payoffs from the Medellin drug cartel; money that provided for Noriega's cooperation with efforts to funnel massive quantities of narcotics through the Canal Zone.

I was concerned in 1977 that the instability of the Panamanian Government could endanger the canal. The current situation only serves to reinforce those perceptions. With the military in control of everything from the Panama Canal railroad, to the ports, to the civil aviation, there is certainly reason for concern. There is growing discontent among the people of Panama, and growing opposition to the Noreiga regime.

Those of us who opposed the Panama Canal Treaty did so precisely because of the dangers inherent in an unstable or corrupt regime controlling such a vital and strategic chokepoint as the Panama Canal. Let us hope that our worst fears from that time are not realized.

We now have a golden opportunity to take decisive action to secure a more stable Panama. United States support for President Delvalle could lead to democracy for Panama and secruity for the canal. I believe that this resolution is an important first step toward that end, and am pleased that my colleagues in the House agree.

THE TRAGIC SLAYING OF EDWARD BYRNE

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. MRAZEK. Mr. Speaker, it is an unfortunate fact of life in a society with a myriad of concerns that we must be shocked into recognition of the depth of a particular problem.

One such trauma occurred recently in New York City. A New York Police Department rookie, 22-year-old Edward Byrne, literally was executed by the foot soldiers of the narcotics underworld as he guarded the home of a Queens man who had courageously complained about narcotics trafficking in his neighborhood.

This tragic slaying was significant on several counts. First, and most importantly, the life of a young man who had pledged his career to the public welfare was cruelly snuffed out. This callous act was not lost upon the people of New York City, New York State or the Nation. More than 10,000 of Edward Byrne's colleagues from around the country turned out for his funeral procession, both to morn the loss of a comrade in arms and to show solidarity in a time of strife against the evil forces which would commit such an act.

But the murder of Edward Byrne is also symbolic of a more frightening reality. It is clear that the sordid nature of the narcotics trade in our cities has resulted in a virtual open season on society's protectors. The rules of the game, which once dictated that deliberate attacks on police officers by the denizens of the underworld would not occur, seem to have changed.

The murder of Edward Byrne has also brought the scope of the drug trade in this country into sharp focus. Drug lords threaten to become the masters of all they survey. The level of lawlessness which this reality has spawned is a chilling development even in a society where murder and mayhem have become the norm, not the exception.

How do we respond to the killing of Edward Byrne, and to the epidemic of drugs in our society? Catchy slogans and media public relations campaigns are fine up to a point, but they are not the final answer. Only by giving our unqualified support to the fight that Officer Byrne himself was waging at the time of his death will we turn back this basic and unavoidable threat.

Now more than ever, we must reaffirm our support for the funding of aid to State and local drug enforcement efforts. The Reagan administration has proposed the cessation of this support. To this myopic gesture, we must just say no.

Just as surely as we must recognize the seriousness of continued deficit spending in this country, we must also recognize that priorities must be assigned for our Federal resources. If the war on drugs is not worthy of serious levels of support, it is difficult to imagine where our priorities are taking us.

Mr. Speaker, I join with my colleagues from New York and around the Nation in offering sympathy to the family of Edward Byrne for their loss. But along with our condolences, we must also produce a reaffirmed commitment to the Anti-Drug Abuse Act of 1986 and the legislation's support for State and local drug-enforcement programs. By so doing, we can demonstrate that Edward Byrne did not die in a vain struggle against a bloodthirsty enemy.

The killing of Edward Byrne has brought a human dimension to a situation so staggering and dangerous that our first collective impulse may be to turn away from the brunt of the problem. If we can be sure of anything in this world, however, it is the knowledge that the drug epidemic won't simply go away.

Today, there are more Edward Byrne out on the front lines in this battle. These brave individuals deserve our support. To turn away from them now would be an act of cowardice and neglect in the midst of a terrible siege.

IN HONOR OF POLICE OFFICER EDWARD BYRNE

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to join my colleauges in the New York delegation to speak about two injustices against the people of America.

The first of these injustices was the cold-blooded murder of New York City Police Officer Edward Byrne on February 26. Officer Byrne was shot in the head while he was guarding a key witness in an important drug trial. New York City police are currently investigating whether the order for the murder of this officer came from two of New York's drug kingpins who are currently in jail, one facing drug and weapons charges, and the other awaiting trial for murder.

The murder of Officer Byrne was tragic, and I congratulate the New York Police Department's prompt actions in investigating this crime. Officer Byrne is one of the many victims of the effects of drugs on our society. Daily, people are robbed, attacked, and killed as a result of drugs. According to a study prepared for the Justice Department, from half to three-fourths of the men arrested for serious crimes in major cities test positive for the use of illegal drugs.

The fight against drugs must be made a top priority of the Nation. Drugs are not just a New York City problem, or just a Miami problem, or even just an east coast problem. This is a national problem which requires national support. And this brings me to the second injustice which needs to be discussed. After getting a few big headlines enunciating the need to fight the war against drugs the President, for a second year, has "just said no" to Federal support for State and local efforts to fight drugs. Statements and commercials alone cannot control the flow of drugs into our country or the sale of drugs on our streets. Our police need more resources and support to be effective in this war.

Along with increased support for State and local police forces to combat drugs, I believe that we must use our resources to stop illegal drugs from ever entering the United States. I am confident that this objective can be realized using a strategy which I have advocated since before I was elected to Congress. We can stop drug smugglers at our Nation's borders using airbone detection technology. I have proposed an agreement between the Navy and the Coast Guard to use Navy E2C Hawkeye radar planes to stop drug smugglers in the Southeastern United States. The Coast Guard currently uses two of these planes quite effectively. In hearings before the Merchant Marine and Fisheries Subcommittee on the Coast Guard and Navigation, they have stated that with six to eight E2C's, the Coast Guard might be able to prevent all drugs from entering the east coast of the United States. Unfortunately, this effective weapon may be prevented from use due to the drastic cuts the President has proposed in the Coast Guard's fiscal year 1989 budget.

Mr. Speaker, I hope that the President will recognize and support measures which could correct these two injustices, and I hope that Congress will take the proper steps to ensure that Officer Byrne, killed in the line of duty, did not die in vain.

TRIBUTE TO MARIACHI VARGAS

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. ORTIZ. Mr. Speaker, I rise today to commend and pay tribute to the world renowned musical group known as Mariachi Vargas de Tecalitlan, Mexico.

Since 1908 when the group was founded in Tecalitlan, Mexico, the musicians have been dedicated to playing and singing songs related to their Mexican heritage. Through the years, Mariachi Vargas has appeared in cinema, in radio, worked with full orchestras, and professional songwriters to communicate the stories of their ballads. Even though music has changed styles over the years, the ballads and musical style of Mariachi Vargas has remained the same traditional folk music as its forefathers had intended for it to be.

One of the reasons, perhaps, that the music has come through the years uncorrupted may be due to the fact that the ownership of the band still remains in the hands of Mariachi truly dedicated to the style of the original Vargas family. The group has grown in number from one guitarron player (a round backed hardshell bass guitar, with five strings) and one vihuela player (a small version of the same instrument) to four violin players, a harp, a guitarron, a viheula, and a guitarra de golpe. Together these players appear in their familiar oversized hats, and decorative vests and pants to sing about love, poverty, death, separation, joy and anguish.

Currently, Mariachi Vargas is touring the country with Linda Ronstadt to pay tribute to the unheralded Mexican folk singers and songwriters of the 19th century. The current mariachis on tour with Linda Ronstadt are, Jose Martinez, Mario A. de Santiago, Juan Biurquiz, Daniel Martinez, Ildefonso Moya, Francisco Gonzalez, Rigoberto Mercado, Federico Torres, Arturo Mendoza, Nati Santiago, Victor Cardenas, Rafael Palomar, and Gilberto Puente.

I ask my colleagues to join me in extending congratulations to the members of Mariachi Vargas for their efforts in sharing with us musical treasures of their Mexican heritage.

THE INDICTMENTS

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. FAZIO. Mr. Speaker, I rise today to draw my colleagues attention to a news story which is quickly being overshadowed here today by the President's decision to dispatch troops to Honduras—that is the indictments handed down by the Federal grand jury yesterday in the Iran-Contra scandal.

The 23-count indictment represents the most sweeping account of law-breaking at the White House since Watergate.

The 100-page indictment describes a sordid tale of the efforts by the White House to evade a 2-year statutory ban on military aid to the Nicaragua rebels.

It reveals an administration so obsessed with supporting the Nicaraguan Contras that it would covertly sell military arms and sophisticated missiles to one of America's most notorious enemies—the ayatollah in Iran—in order to finance its illegal and undeclared war in Central America.

Poindexter, North, Secord and Hakim all appear to have blatantly broken the law. And if the laws of the land are not upheld, our constitutional system begins to break down.

Clearly, the Iran-Contra affair represented a breakdown in the system of shared power and shared control over the Federal purse-strings envisioned by the Founding Fathers in Philadelphia.

But justice is being done. The system is prevailing. And the indictments and trial should proceed. Any consideration of pardons is entirely premature.

EDUCATION VOLUNTEERS COMMENDED IN AMERICAN SAMOA

HON. FOFO I.F. SUNIA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. SUNIA. Mr. Speaker, as you and my colleagues know, my congressional district lies 8,000 miles away from these halls on Capitol Hill. Although fully belonging to the United States, American Samoa seems to many who visit its islands so far distant from the ordinary appurtenances and usual aspects of mainland American life. To a certain extent they are corrent.

Some earnest mainland Americans, however, try to bring to my islands the best of stateside ways, especially in the field of education. It is a group of these dedicated volunteers whom I wish to commend warmly.

Parallel to the four secondary schools which the American Samoa Government runs exists a system which is under the jurisdiction of the bishop of Samoa-Pago Pago. Within the Bishop's system Marist Brothers High School for boys educates approximately 250 students in grades 9 through 12. Without the participation of eight Americans this school would not exist. These volunteers teach the classes, they coach the athletic teams, they counsel the students, they maintain the grounds and the buildings, including their own residence.

During this academic year Marist High School enjoys the services of alumni of Saint Joseph's University in Philadelphia, PA: Mr. Mario R. Brunetta III, of Vineland, NJ; Mr. Timothy Cunniff, of Plainfield, NJ; Mr. Joseph Laufer, of Richboro, PA; Mr. Joseph G. Lunanuova, of Lincroft, NJ; Mr. Edward Paulsen, of Pittsford, NY; and Mr. Raymond P. Robinson, of Bethlehem, PA; an alumnus of the University of Pennsylvania; Mr. William Gallagher, of Chadds Ford, PA; and an alumnus of Fordham University in the Bronx, New York: Mr. Michael Kelly, of Philadelphia, PA.

I have met these men on several occasions, both here on the east coast and in American Samoa, where I have spoken to their classes on the application of our work on Capitol Hill to those who live in the territory. By committing their time and energy to improving the standard of learning in American Samoa, they have richly honored my constituents. Their work adds so much to the good of the territory. I congratulate them most heartily and wish them all possible success in their years to come. They have earned it.

THE AMERICAN ASSOCIATION FOR COUNSELING AND DEVELOPMENT

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. GLICKMAN. Mr. Speaker, I rise today in hopes that my colleagues will join me in congratulating the American Association for Counseling and Development [AACD] as they convene their national convention, March 20-23. AACD is an organization comprised of more than 57,000 counselors, counselor educators, and related human development professionals who work with our Nation's most valuable resource, its people.

The theme of the AACD National Convention is "Human Responsibility: Facing the Challenge." AACD members have assumed responsibility to improve the lives of the homeless, the mentally ill, the economically disenfranchised, the educationally disadvantaged, the unemployed, the disabled, and those who are discriminated against because of race, color, gender, religious affiliation, or age. They have also helped heighten congressional awareness of these concerns and have focused attention on constructive steps to address them.

These professionals have embraced their responsibility to work in the public policy arena, not just to enhance their profession, but to work on behalf of those whom they serve: their students and their clients. AACD has been active in providing data to the Congress and to the executive branch which has helped us make informed, compassionate and cost-effective decisions in ragard to education and human service programs.

AACD members can be found working in various settings, such as educational institutions, human service agencies, community mental health centers, business and private practice, rehabilitational facilities and hospitals, Government agencies, and correctional institutions. From those backgrounds, they provide us insights that are unique and particularly beneficial.

Mr. Speaker, this association is on the front line of various social issues like AIDS, substance abuse prevention, job retraining, dropout and youth suicide prevention, mental health and rehabilitational services. They also work for such global issues as civil rights, human rights, hunger and world peace.

Let me also note with pride that this year's AACD president hails from my hometown of Wichita, KS. Dr. Brooke Collison is a professor in the counseling and school psychology unit of the department of personnel services at Wichita State University. Brooke's ascension to the AACD presidency is one of many honors to a man who is both compassionate and dedicated toward making this a better and more peaceful world.

Again, Mr. Speaker, I hope that my colleagues will join me in thanking the American Association for Counseling and Development for their efforts in working to improve people's lives and on the occasion of their national convention.

LETTER FROM DR. HENRY KING STANFORD

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. RAY. Mr. Speaker, I recently received a letter from Dr. Henry King Stanford, regarding the Nicaraguan democratic resistance. Dr. Stanford has been president of three colleges and two universities in a career spanning more than four decades. For 19 years he was the president of the University of Miami, and he recently completed a year as interim president at the University of Georgia. Dr. Stanford now resides in the third district of Georgia, and I am fortunate to have the benefit of his advice on a variety of issues.

Dr. Stanford possesses a tremendous amount of knowledge and insight about developments in Central America. For this reason, I want to share with my colleagues the text of a letter I received from Dr. Stanford regarding the Nicaraguan democratic resistance. I insert the text of this letter in the RECORD:

DEAR RICHARD: It was a great pleasure to see you again at the dedication of the Plains depot as an historic site.

At that time I told you how much I appreciated your voting to support continuing military aid to the Contras. Ortega never would have agreed to any kind of a peace plan, in my opinion, if it had not been for the continuing pressure applied to him by the Contras.

I do not know why it is that wishful-thinking Americans will not believe what dictators say about their future intentions. Adolf Hitler laid out a good blueprint in Mein Kampf, but the Western World, particularly Great Britain and France did not want to believe him. I arrived in Nazi Germany for a year's graduate study six months after Hitler had remilitarized the Rhineland in violation of the Treaty of Locarno. His generals had strongly argued against the move. He decided to order the German troops in anyway. He was so nervous the night before he had to be administered hypodermics. His order to the generals was to withdraw in the face of any opposition from Britain and France. So overcome were these two nations with the pacifism of the times that no one, except Winston Churchill, who was out of office, wished to oppose Hitler. He could have been toppled at that time.

I was president of the University of Miami when President Kennedy wavered about providing assistance to the Bay of Pigs invaders. The result was the entrenchment of a Marxist dictator 90 miles across the Florida straits from Key West.

Ortega had announced that his revolution is one "without borders." The meaning of that is readily apparent: the installation of Marxist regimes throughout Central America.

I know why it is that representative government cannot conduct foreign policy consistently over a long period of years. De Toqueville explained it so fittingly in his Democracy in America, published in France about 1837 after his visit to the United States. National opinion in our form of government zigzags, our foreign policy following the swerves. I earnestly hope that Gorbachev will be successful in his policies of glasnost and perestroika, but my hope is tethered by the realization that whenever Marxists are in control, they do not voluntarily give up political power. Gorbachev could well suffer the same fate as Khrushchev when he, Khrushchev, criticized the past too forcefully to suit the majority opinion of the Communist Party Presidium.

Thank you again for your vote in favor of military assistance to the Contras.

Sincerely,

HENRY KING STANFORD.

SEAN MACBRIDE DAY

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. MORRISON of Connecticut. Mr. Speaker, today I am introducing a resolution to honor the memory of the late Sean MacBride by making January 26, 1989, Sean MacBride Day.

Mr. MacBride, an Irish statesman and a crusade for human rights, died in January 1988. January 26, 1989, will be the 85th anniversary of his birth. Mr. MacBride was one of the founders of Amnesty International in 1961 and shared in the Nobel Peace Prize awarded the group in 1977 for its campaign on behalf of political prisoners throughout the world.

Mr. MacBride was the chief sponsor of the MacBride Principles. I hope this resolution will help promote an understanding of the importance of the MacBride Principles in promoting equal employment opportunities for Catholics in the 6 counties. The MacBride Principles call for American companies that operate in Northern Ireland to ensure equal employment opportunities for Roman Catholics.

My visit last summer to Belfast and Derry made me even more aware of the high employment and impoverished conditions imposed on Catholics by employment determination. U.S. investment must not be used in support of such discrimination.

It is appropriate that I introduce this resolution on the day that we pay tribute to the people of Ireland and the 40 million American citizens of Irish descent. Sean MacBride worked all of his life for peace and human rights in Ireland and elsewhere in the world. It is fitting that we spend a day to celebrate peace and the man who worked for it.

LEGISLATION TO BENEFIT THE DISABLED AND THEIR FAMILIES

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mrs. MORELLA. Mr. Speaker, I am introducing legislation today which would provide a tax deduction for the amount of premiums paid on a life insurance contract established as a trust for the benefit of a disabled individual.

This bill is intended to encourage family members to establish a trust for disabled members of that family to ensure their financial well-being after the death of the parents or other family members responsible for their support. I believe this approach will assist families in planning ahead for the care of disabled family members, thereby preventing the disabled family member from becoming dependent on SSI, Medicaid, or other Government assistance.

Mr. Speaker, this legislation will benefit the disabled and their families, and I urge my colleagues to join me as cosponsors of the bill.

FRANK FRONHOFER REPEATS AS NEW YORK STATE WRESTLING CHAMP

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. SOLOMON. Mr. Speaker, I'm sure everyone in the House will join me in saluting Frank Fronhofer, of West Herbron, NY, who has proven, not once, but twice, that pound-for-pound he is one of the best wrestlers in the State of New York.

Mr. Speaker, like many Members of Congress I am also a parent, in this case the father of sons who wrestled in high school. I know how hard they worked, the sacrifices they made to participate in this oldest and most demanding of sports, and the price they paid to excell. I, therefore, understand what it takes to be a State champion. New York is a strong wrestling State, so competitive, in fact, that only a few dozen boys have ever been two-time State champions.

Frank Fronhofer, a junior 98-pounder at Salem Central School, recently joined that select body of two-time champions. Everything indicates that next year, he stands an excellent chance of joining an even more select club, that of three-time champions. Last year he earned a reputation for his mastery of wrestling technique, to which he has added this year greater strength and physical maturity.

Frank Fronhofer was not only one of the smaller wrestlers in a small weight class, but he represented one of the smaller schools of section II of New York. Under coach Mike Poplaski, this small school in rural, upstate New York has long been synonymous with wrestling excellence, winning league, and section class title year after year.

Frank Fronhofer is the son of an assistant coach. He is a credit to his parents, his coach, his teammates, his sport, his school, and his community. Pleace join me in paying tribute to a young man who is an All-American in more ways than one.

GIRL SCOUTS HONOR LORETTA WARREN

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. LIPINSKI. Mr. Speaker, it is my privilege to bring to the attention of this Congress an outstanding constituent of mine who is the very model of dedication and generosity.

For more than 30 years, Loretta Warren has given of her time and of herself to countless young ladies as a troop leader of the Girl Scouts of Chicago. She has been a positive influence on many young women through the years.

The Girl Scouts of Chicago recently paid tribute to this fine woman, as did the Chicago City Council. I think it is appropriate that we in this Congress also recognize Mrs. Warren for what she has given to young people. Now more than ever, people like Loretta Warren are needed to help guide America's youth away from drugs and away from crime and back toward a more wholesome lifestyle—the kind that many of us remember.

I'm sure all of my colleagues join me in applauding Mrs. Warren for her unselfish commitment to America's young women.

POSSIBLE NICARAGUAN INCURSION INTO HONDURAN TERRITORY

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Ms. PELOSI. Mr. Speaker, the White House reports that there has been an invasion of Honduras by Nicaraguan forces. The facts are still unclear.

Based on the administration's version of events, the President is committing American troops to the region. The President says that an American show of force is needed and has sent United States troops to Honduras. Such a military response will have a negative impact on the Central American peace process and is indicative of the President's continued preference for a military solution.

The President's decision reflects the chaotic decisionmaking process which has characterized the administration's entire Central American policy. What is needed now is restraint. The Nicaraguan Government has called on the United Nations and the OAS. President Reagan has called in troops. Instead of sending troops, he should be sending Secretary of State Shultz. The presence of U.S troops is unnecessary and is certain to aggravate an already tense situation.

Cease-fire talks between the Sandinistas and Contra leaders are scheduled to resume next week. The United States should redouble efforts to encourage negotiations in accordance with the Central American peace plan, not send troops, which is a clear sign of hostility. Thank you.

CONGRESSIONAL ST. PATRICK'S DAY MESSAGE OF PEACE AND JUSTICE FOR NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 17, 1988

Mr. BIAGGI. Mr. Speaker, it is my honor to place into the RECORD today on behalf of the 41 of my colleagues who joined as cosigners the 1988 St. Patrick's Day message of peace and justice for Northern Ireland. It is a message which focuses on the very real and serious problems which affect Ireland and Northern Ireland in particular.

We celebrate St. Patricks's Day today all across this Nation and around the world. Yet once again this celebration is marred by the ongoing tragedies in the six northeast counties of Ireland. Yesterday was one of the most grievous days of shame in the entire history of the conflict. Yesterday at a funeral mass for three Irish civilians murdered by British soldiers in Gibralter, a horrible scene of violence erupted when a grenade was tossed into the crowd of mourners and shots were fired on the crowd as well. Reports indicate that at least three persons were killed and more than 50 injured. As of this writing it is not clear that those responsible have either been identified or apprehended. However, it is obvious to those of us who watched this tragedy on television that the so called security forces who were there to maintain order in fact due to their indifference really are accomplices to the murders that occurred. How could a funeral service be so casually protected as to allow a person with live grenades to penetrate the solemnity of this funeral. That is a question that deserves an answer.

The issue we must recognize is that the dual evils of violence and discrimination pose the greatest threats to Ireland and Northern Ireland. The United States must play a constructive role in seeking to end discrimination and violence—all violence civilian or official and should make it as a commitment on St. Patrick's Day and everyday. I, also, thank those of my colleagues who joined on this message.

At this point in the RECORD I wish to insert the full text of the message and those who signed it:

ST. PATRICK'S DAY MESSAGE

Peace, justice and freedom for all the people of Ireland is our hope on St. Patrick's Day and every day. Our commitment to help achieve this goal is constant throughout the years.

Our foremost concern continues to be the deep-rooted economic discrimination which affects all the people of Northern Ireland but especially victimizes the Catholic minority population. Unemployment in the North continues to be the highest in all of western Europe and the rate in some large Catholic cities exceeds 60 percent. We support those policies and initiatives which will alleviate if not eliminate the problem. We believe it is time for major improvements of the existing government-sponsored programs in Northern Ireland which are aimed at fighting discrimination. We specifically call for wholesale reforms in the Fair Employment Agency of Northern Ireland, especially in the area of enforcement of anti-discrimination laws.

We also recognize the important role of American businesses which provide more than 11 percent of the employment in Northern Ireland. To that end we strongly support legislation that would require American companies to adopt the MacBride Principles of Fair Employment and Non-Discrimination as a new code of corporate conduct in Northern Ireland. We call for the convening of hearings in the House and Senate on the respective bills to accomplish this important goal. We urge that special efforts be made this year as a tribute to the late Sean MacBride whose recent passing we mourn.

We support the continuation of United States economic aid to Northern Ireland. We believe this aid, if distributed to benefit both communities without discrimination and to promote human rights as proscribed by the authorizing legislation, can be a tangible investment in Northern Ireland's peaceful future. However, we have concerns over reports about the initial distribution of aid by the International Fund. We call for thorough Congressional oversight to ensure that the letter and spirit of the authorizing law is followed.

We note the progress made last year toward reform of our visa policies as they relate to political figures from Ireland seeking to visit the United States. We believe the one year moratorium on visa denials based solely on political views is a key first step. However, we reiterate our support for more permanent reforms to end those policies which have promoted censorship against segments of the Irish American community.

We restate with emphasis our absolute opposition to all forms of violence in Northern Ireland, civilian or official. We strongly disagree with actions taken in recent months by the British government which undermine confidence in the rule of law in Northern Ireland. Especially noted was the decision to drop their investigation into reports that the main security force in Northern Ireland, employed a "shoot to kill" policy against certain civilians. We specifically call for a new, independent and public probe into these allegations against the Royal Ulster Constabulary. The security forces in Northern Ireland must respect the law not represent themselves as being above it.

We must also note with deep concern the refusal by the Court of Appeals of Great Britain to free the Birmingham Six. We also regret the decision by the British government to continue certain repressive legislation aimed at the Irish people.

Finally, in this an important election year in the United States, we call upon all the Presidential candidates, Democrats and Republicans, to subscribe to the position that peace and justice in Northern Ireland is an American issue. We call on each political party to adopt a specific statement on Northern Ireland which will serve as a blueprint for a future Administration policy.

Sincerely,

MARIO BIAGGI.

LIST OF COSPONSORS

Senator Dennis DeConcini and Representatives Hamilton Fish; Frank Annunzio, Thomas Downey, Matthew G. Martinez, Robert Mrazek, Barney Frank, Thomas Foglietta, Benjamin Gilman, Gary Ackerman, Raymond McGrath, James Traficant, Paul Kanjorski, Robert Dornan, Ronald Dellums, James Jeffords, Nicholas Mavroules, William Coyne, Major R. Owens, Norman Lent, Joseph DioGuardi, Charles Rangel, Robert Roe, Lane Evans, Mary Rose Oakar, Floyd Flake, Robert Borski, Matthew Rinaldo, Thomas Manton, Edward Feighan, Walter Fauntroy, Curt Weldon, Austin Murphy, Doug Walgren, Albert Bustamante, Thomas Carper, Joseph Moakley, Louise Slaughter, Bruce Morrison, Nick Joe Rahall, and Patricia Schroeder.

SENATE—*Friday, March 18, 1988*

The Senate met at 9 a.m. and was called to order by the Honorable KENT CONRAD, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

** * * fathers, provoke not your children to wrath, but bring them up in the nurture and admonition of the Lord.*—Ephesians 6:4.

*And he shall turn the hearts of the fathers to the children, and the hearts of the children to their fathers * * *.*—Malachi 4:6.

O Lord our God, Father of us all, our Nation suffers from the disintegration of the family and our children are the tragic casualties. Where else can the people look for models of family life, if not to national leadership?

Turn the hearts of the fathers to their children. Though a Senator's work is never done, help each father in the Senate find time—take time—to be with his children this weekend. Bind father and children together, with unbreakable cords of love and affection. May this weekend be a time of family renewal and strengthening of family ties. Bind us together, Lord, bind us together Lord, with cords that cannot be broken. In His name who is infinite love. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 18, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KENT CONRAD, a Senator from the State of North Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. CONRAD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRESIDENT NIXON ON GORBACHEV

Mr. BYRD. Mr. President, we are in the midst of fresh movement and fluidity on the international political scene, particularly because of the ascendancy of Mr. Gorbachev to power in the Soviet Union. The time has come for us to regain our composure after witnessing this new style leadership, which has, in many respects, captivated the West and temporarily rendered us somewhat flat-footed.

So we have to refresh our perspective and coldly evaluate and assess the dangers and the opportunities the new Soviet leadership presents to the United States. Such a perspective was offered by former President Richard Nixon in a cogent piece printed in the magazine section of the New York Times this past Sunday, March 13, 1988. In this piece, Mr. Nixon, who has always been given high marks for his shrewdness in handling foreign policy, warns us that the Gorbachev era "represents the beginning of a dangerous, challenging new stage of the struggle" and rivalry between the superpowers. Mr. Nixon is worried, and so am I, about the effect that the Gorbachev charm offensive may have on Western public opinion, and, perhaps, on political leadership in the West. He sees Gorbachev from the seasoned perspective of a leader who dealt with Stalin, with Khrushchev, and with Brezhnev. He evaluates Gorbachev as the most formidable of them all. During the February recess, I led a Senate delegation—composed of Mr. NUNN, Mr. PELL, Mr. BOREN, and Mr. WARNER, to five NATO capitals and met with the leaders of our key European allies, and I came away with the feeling that they appreciate the difficult challenge that we now confront, particularly in educating Western publics about the nature of the Soviet regime, and its goals. Many of our European allies realistically feel that it may be necessary to articulate a view which may be at variance with the conventional wisdom among Western publics about the character, the objectives, and the goals of the current Soviet regime.

Mr. Nixon evaluates Gorbachev as highly adroit in the management of foreign policy, and with the advantage of a unified Politburo behind him in his strategies. Mr. Nixon says that we "need to develop the capacity to craft proposals that both achieve our goals and create political pressures on the Soviet Union to accept our terms. Then, if Kremlin leaders turn us down, we gain in the political competition; if they accept our offer, we gain our objectives." In other words, we have to know what we are about, lay out our objectives, our strategies, and, most particularly, keep our alliances healthy and unified.

Mr. Nixon asks: "How can we put political pressure on Soviet leaders to make the deals we want at the price we want to pay? This requires that American policymakers understand Soviet motivations and vulnerabilities. It also requires a keen sense of gamesmanship. Most importantly, it requires an ability to package proposals with a sense for public reactions. We cannot negotiate successfully unless the peoples of the West support our initiatives. A united front of Western power—which a politically attuned proposal can galvanize—places maximum pressure on the Soviet Union to negotiate on our terms."

One present example of excellent Soviet gamesmanship, and Mr. Gorbachev's ability to make the best out of a very bad deal, is his strategy toward Afghanistan. He is playing an adroit diplomatic game and has been holding out the bait of a Soviet withdrawal for such an enticingly long period that he tempts the world to reward him for such action. Now he claims that Western footdragging on giving him the most favorable terms for such a withdrawal has put obstacles in the way of it. We in the United States must be very careful not to fall prey to his game. The supreme irony would be that Soviet withdrawal occurs at the expense of American credibility. We cannot put our commitment to the freedom fighters, the Mujahidin, in limbo, in order to entice the Soviets to go home. Mr. Nixon sees this very clearly, and here is what he says:

> One of the Soviet Union's biggest problems has been Afghanistan, which Gorbachev has described as "a bleeding wound." He wants to cut his losses there, and we should help him do so, but not at the expense of the millions of anti-Communist Afghans who have put their faith in us. Therefore, all Soviet troops must leave Afghanistan before United States aid is cut off to the guerrillas. At the same time the United States stops supporting the anti-Communists, all Soviet military aid to the Communist government in Kabul must be cut. Any

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

agreement that does not conform to these two conditions would amount to a sellout.

We should also insist on establishment of a neutral government that will guarantee the safety of the 3 million Afghan refugees in Pakistan and the 2 million in Iran as they return to their homes. And demands for a non-Communist interim government in Kabul by Pakistan President Mohammad Zia Ul-Haq should not be brushed aside for the sake of delivering a deal in time for the next United States-Soviet summit meeting.

Mr. Nixon's philosophy on this matter is in complete agreement with my sentiments, certainly, and with the overwhelming sentiment of the Senate, expressed on February 29, 1988, by a vote of 77 to 0 which is consistent with longstanding Senate policy not to suspend, cease, diminish, or otherwise affect our aid program so long as Soviet troops occupy Afghanistan—so long as the Soviets continue to provide military assistance to their puppet proxies in Afghanistan, or so long as Soviet advisors remain in that country. There are very disturbing indications that our policymakers are toying with various recipes for American suspension of aid to the Mujahidin in return for the beginnings of a Soviet pullout.

I recommend the thoughtful piece by ex-President Nixon to my colleagues for their reading. I ask unanimous consent it be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times magazine, Mar. 13, 1988]

DEALING WITH GORBACHEV

(By Richard Nixon)

Since coming to power three years ago as General Secretary of the Communist Party of the Soviet Union, Mikhail S. Gorbachev has captured the imagination of many in the West with a personal style that is refreshingly different from that of his predecessors. If we mistake a change in style of leadership for a change in Soviet international goals, Gorbachev may capture the rest of the West as well.

The beginning of the Gorbachev era does not represent the end of the rivalry between the two superpowers. Rather, it represents the beginning of a dangerous, challenging new stage of the struggle. Under Gorbachev, the Soviet Union's foreign policy has been more skillful and subtle than ever. But it has been more aggressive, not less. If his dramatic domestic reforms are successful, we will confront a more productive—and more formidable—Soviet Union.

In the last 40 years, I have met a number of great leaders—Churchill, de Gaulle, Adenauer, de Gasperi, Yoshida, Mao Zedong and Chou Enlai. Gorbachev is in that league.

I have met with three of the principal postwar leaders of the Soviet Union—Nikita S. Khrushchev in 1959 and 1960, Leonid I. Brezhnev in 1972, 1973, and 1974, and Gorbachev in 1986. Gorbachev is by far the ablest of the three. And, at age 57—much younger than the others when they became General Secretary—he can expect to rule the Soviet Union for over a generation.

Gorbachev's neatly tailored suits, refined manners, beautiful wife and smooth touch with reporters have made him a star with the press and the diplomatic corps. An American official who met him was impressed by the fact that he had "good eye contact, a firm handshake and a deep, melodious voice." A British politician even remarked that Gorbachev was the man he most admired in the world. A disarmament activist took this a step further, saying: "Gorbachev is like Jesus. He just keeps giving out good things like arms-control proposals. . . ."

All of that is fatuous nonsense. After meeting Joseph Stalin, an American diplomat commented: "His brown eyes are exceedingly wise and gentle. A child would like to sit on his lap, and a dog would sidle up to him." When Khrushchev rose to power, some pundits wrote him off as a buffoon because he wore ill-fitting clothes, was poorly educated, spoke bad Russian, drank too much and had crude manners. Brezhnev received higher marks—he wore silk shirts with French cuffs—but was ridiculed for his earthiness and his awkward public manner. Feature stories on Yuri Andropov, Brezhnev's successor, pointed out his fondness for tennis, jazz, Scotch whisky and abstract art.

Stalin's "gentle" eyes belied his brutal mind. Khrushchev's peasant manners did not stop him from building the Berlin Wall, and Brezhnev's clumsy speech did not prevent him from undertaking the greatest military buildup in world history. Andropov's "with in" style could not conceal the fact that he had been the ruthless head of the world's most repressive police force.

Whoever reaches the pinnacle of powers in the Kremlin has learned his politics in the toughest school in the world. If we accept the views of Gorbachev propounded by his admirers, we would be leaving ourselves psychologically disarmed before the man who controls the most powerful armed forces in the world.

We have and always will have profound differences with Gorbachev and other Soviet leaders. One reason is that we believe in our system and the Soviet Union rejects it. That is easy for most Americans to grasp. But some Americans have more difficulty with the other side of the coin—that the Russians believe their system is superior to ours. No matter how critical we are of the Russians and their actions in the world, we should never be contemptuous of them. We must respect the Soviet Union as a strong and worthy adversary. Respect is important between friends; it is indispensable between potential enemies in the nuclear age.

Gorbachev himself is a powerful reminder that we underestimate the Soviet Union at our peril. He is a highly intelligent, sophisticated man of the world, and a great communicator—the antithesis of the common perception of a bearded Bolshevik intent on blowing up the world.

In July 1986, I met with Gorbachev for an hour and 45 minutes in the Kremlin. He received me in a more richly decorated room than those in which I had met Khrushchev in 1959 or Brezhnev in 1972 and 1974. Earlier in the week I had had highly detailed, two-hour meetings with Soviet President Andrei A. Gromyko and the foreign-affairs adviser Anatoly F. Dobrynin about arms control and a wide range of other issues. Even though Gorbachev had spent the entire previous day with the Politburo, it was clear from his questions and comments that he had acquainted himself with everything that had been said in my earlier meetings. This permitted him to use his own time to refine nuances or to cover new ground. All in all, it was the most impressive performance I have witnessed in nearly 40 years of meetings with world leaders.

Gorbachev has supreme self-confidence and iron self-control. He is not as quick as Khrushchev was, but is therefore not as prone to mistakes. He thinks before he speaks. He is good at small talk but prefers to get on with the business at hand. He seldom indulges in humor, preferring to concentrate on the serious issues he has prepared so well to discuss. Some say he has a quick temper, but I disagree. He uses his temper, he seldom loses it. On the rare occasions he does lose it, he quickly recovers and continues his relentless drive to dominate the dialogue. He may digress from time to time, but only to make his point. He never loses his train of thought. He has an exquisitely disciplined mind.

Khrushchev fulminated about the rightness of Soviet policies, but in my meetings with him he never stepped beyond the most recent Soviet propaganda line. Brezhnev read prepared statements and then deferred all discussion to his subordinates. When I saw Gorbachev, he did the talking for the Soviet side, without notes, and he exhibited a thorough understanding of all the intricacies of arms control and other issues. He understands power and knows how to use it.

Like his predecessors, Gorbachev seeks to expand the influence and power of the Soviet Union. Regardless of the refinements he has introduced into Moscow's public-relations techniques, he has preserved the long-term objective of pushing for global predominance. But he is the first Soviet leader who has faced the fact that his country suffers from fundamental internal problems that threaten its status as a superpower. He is a dedicated Communist, but when he looks at the Soviet position in the world, he wears no ideological blinders.

In the last 15 years the Soviet Union has increased its superiority in conventional military power. It has expanded its coastal navies into a bluewater navy—the second-largest in the world in terms of tonnage. Most disturbing, it has acquired decisive superiority in the most powerful and accurate nuclear weapons—landbased intercontinental ballistic missiles. It has projected its power into Southwest Asia and its proxies have tallied victories in Southeast Asia, southern Africa and Central America. Its sustained political and propaganda offensive in Western Europe has prompted major political parties to adopt essentially neutralist platforms, which, if implemented, would lead to the dissolution of the North Atlantic Treaty Organization alliance.

Communism has proved to be an effective means for winning and keeping power. That experience serves to confirm Gorbachev's ideological beliefs. He knows that the Soviet Union must address great problems, but he still believes it represents the wave of the future.

Yet, as he surveys the international scene, Gorbachev cannot be encouraged. To the west, he sees signs of political unrest in virtually every country of the Soviet bloc, fromPoland through Bulgaria. With these uncertain allies at its side, the Soviet Union confronts an alliance that has lasted longer than any other in history. NATO, whose European nations outspent the United States in defense from 1972 to 1982, has significantly strengthened its forces in the field. While the Soviet Union has undermined the international resolve of the

Labor Party in Britain and the Social Democratic Party in West Germany, their drift toward neutralism has in turn undercut their electoral appeal. Chancellor Helmut Kohl has been reelected to another four-year term. Prime Minister Margaret Thatcher routed her divided opposition at the polls. Under President François Mitterrand and Prime Minister Jacques Chirac, France has bolstered its military forces and increased its cooperation with NATO.

As Gorbachev looks to the east he sees the enormous challenges posed by China and Japan. China, still a potential enemy of the Soviet Union, does not today represent a military threat, but its huge population and enormous natural resources create an awesome danger for the future. Beijing's economic reforms compound the threat. If the Soviet Union's growth rate continues to lag behind China's as much as it has over the last five years, China will surpass Russia in gross national product by the middle of the next century.

Japan, with few energy resources and less than half the population and one-sixtieth the territory of the Soviet Union, has a per capita income more than twice as high. With its growth far outpacing Moscow's, Japan will leave the Soviet Union hopelessly behind in the next century. More ominous from the Kremlin's point of view, the Japanese Government has recently rescinded the formal limitation keeping defense spending under 1 percent of G.N.P. and has undertaken a significant, though still modest, program to upgrade its defenses.

Beyond its immediate frontiers, Russia's clients in the third world are queuing up for handouts. They are not allies of Moscow, but dependencies: none could survive without massive economic subsidies or military assistance. Lenin wrote that capitalist countries to imperialism as a profit-making venture. If that was true, the Communist Revolution in Russia certainly did usher in a new era, because Moscow's empire impoverishes rather than enriches the Kremlin. Vietnam costs the Soviet Union more than $3.5 billion a year; Cuba over $4.9 billion; Angola, Mozambique and Ethiopia a total of more than $3 billion, and Nicaragua nearly $1 billion. Its imperial domain costs the Kremlin over $35 million a day.

In the battle of ideas, the Communist ideology has lost its appeal. In the 1950's, many noncommunists in the third world admired the Soviet model of economic development. Today, no developing nation's government aspires to become a bureaucratic nightmare like that in the Soviet Union, with its jungles of red tape and its stagnant swamp of an economy. In the 1930's, Americans who spied for Moscow acted out of ideological conviction. Today, Americans who have been convicted of spying for the Russians did it for cash.

Moscow's military power is its only asset. Great as that may be, it cannot be sustained over the long term without matching economic power. The Russians' dilemma is that their assets are ill-suited to solving their problems, and their problems are undermining their assets.

One of the Soviet Union's biggest problems has been Afghanistan, which Gorbachev has described as "a bleeding wound." He wants to cut his losses there, and we should help him do so, but not at the expense of the millions of anti-Communist Afghans who have put their faith in us.

Therefore, all Soviet troops must leave Afghanistan before United States aid is cut off to the guerrillas. At the same time the United States stops supporting the anti-Communists, all Soviet military aid to the Communist Government in Kabul must be cut. Any agreement that does not conform to these two conditions would amount to a sellout. The abandonment of South Vietnam by the United States Congress in the years 1973 to 1975, when our aid to Saigon was cut to a trickle even as the Russian massively stepped up their aid to Hanoi, was a dark page in our history. We must not write another such page in our dealings with the Afghan freedom fighters, who also depend on us for survival.

We should also insist on establishment of a neutral government that will guarantee the safety of the three million Afghan refugees in Pakistan and the two million in Iran as they return to their homes. And demands for a non-Communist interim government in Kabul by Pakistan President Mohammad Zia ul-Haq should not be brushed aside for the sake of delivering a deal in time for the next United States-Soviet summit meeting.

Gorbachev does not underestimate the Soviet quandary. Nor do his Communist neighbors to the east. A Chinese leader, after explaining why China's current economic reforms were essential if it intended to step into the front rank of nations, once told me that if the Soviet Union did not adopt similar changes Russia would "disappear" as a great power in the next century. That is true, and Gorbachev knows it.

The growth rate of the Soviet economy is virtually zero. Productivity is dropping. Absenteeism, corruption, malingering and drunkenness are rife. The standard of living is sinking—the life expectancy of Russian men is actually going down. A worker in the Soviet Union must spend more than seven times as many hours as a West European to earn enough money to buy a car. The advanced West European countries have at least 15 times more industrial computers than the Soviet Union; the United States has 45 times more.

Western economists used to undertake esoteric extrapolations to gauge the depths of Moscow's economic crisis. Today, they have only to read Gorbachev's speeches. In 1961, Khrushchev claimed the Soviet Union would catch up and surpass the United States economically in a decade. Brezhnev swept economic problems under the rug. Andropov thought more discipline among the workers was the solution.

In Gorbachev, the Soviet Union finally has a leader who understands that without a growing economy the country's international position will erode and its military power atrophy. Without economic growth, he cannot afford the current level of Soviet military spending, provide even a marginal improvement in the standard of living, or hold the Soviet system out as a paragon for developing nations.

Gorbachev faces the classic dilemma of Communist totalitarian systems: to have progress he must allow more freedom. But allowing more freedom threatens his power. Excessive centralization is the principal problem of the Soviet economy. But decentralizing economic decision-making carries the risk of prompting demands for political decentralization. And political decentralization would mean the dissolution of the Communist system.

Moscow has put itself into a unique historical position: It does not have a single ally among the major powers of the world. The Kremlin faces potential adversaries in Western Europe, China, Japan, Canada and the United States, whose combined gross national products account for more than 60 percent of the world economy.

Moreover, in not one of the 19 nations in which they rule did the Communists gain power by free democratic election, and none of them dares to have one. If the Soviet Union's strength wanes, its satellites will certainly try to break out of the Kremlin's orbit.

Gorbachev has responded with a far-reaching campaign of reform, but he faces monumental obstacles. Some have even argued that he has only a 50-50 chance of remaining in power for five years. They point out that in every speech he makes he refers to the opposition to his reforms. They recall that when the last great Soviet reformer, Khrushchev, tried to revitalize the system his colleagues in the Politburo promptly gave him the boot.

I do not believe a similar fate awaits Gorbachev. He has shown great skill in consolidating his power. Unlike Stalin, he does not have his rivals killed. Unlike Khrushchev, he does not leave them in positions in which they can threaten his power (Brezhnev stood near Khrushchev during our Kitchen Debate in 1959). Instead, Gorbachev ferrets them out and replaces them with his supporters. In just two years, he has replaced all but one of the members of the party Secretariat, the key body that runs the party apparatus. Of the 13 members of the all-powerful Politburo, which runs the country's day-to-day affairs, only two are holdovers from the Brezhnev era. Gorbachev has also replaced two-thirds of the provincial party secretaries and more than 60 percent of the Government ministers. His ruthless discharge of Boris N. Yeltsin, one of the strongest supporters of reform, was a shot across the bow to anyone—friend or foe—who is tempted to challenge his authority.

It is a mistake to accept the idea that Gorbachev is a foreign-policy moderate beset by conservative rivals. He may have his internal foes, but the entire leadership forms a united front to confront the external world. Creating the impression of a battle between "hawks" and "doves" within the Kremlin is a common Soviet ploy. Some of Franklin D. Roosevelt's advisers were conned into believing that Stalin was fending off hard-liners. In meetings with Henry Kissinger and me, Brezhnev made a great show of stepping out to consult with his "hawks," in the hope that we would make concessions to help him out with his domestic opposition. We must not be fooled by this shopworn tactic. Gorbachev's rivals oppose him not because he is a moderate, but because they want his power.

Under no circumstances should the United States allow its foreign policy to be affected by changes in Soviet domestic policy.

It would also be utter folly to make concessions in arms-control negotiations to help Gorbachev succeed at home. His reforms will rise and fall on their own merits. Nothing this country does can affect what happens within the Kremlin. If we reward Moscow every time the Soviet press publishes exposes of problems in the Soviet Union, Moscow will collect strategic gains while we collect newspaper clippings.

The United States and the Soviet Union have one overriding common interest; to avoid nuclear war over our differences. Though the two superpowers can never be friends, they cannot afford to be enemies. This common interest in survival makes peace possible despite the political differences that make continued conflict inevitable.

If we are to live with our differences instead of dying over them, we must devise a process for dealing with them short of war. We should seek to create rules of engagement for an ideological conflict that will last until well into the next century.

Americans tend to view arms control as an end in itself, but the Russians consider it a means to an end. Moscow is right. Arms control alone cannot produce peace or insure our security. But properly negotiated arms-control agreements can help to produce the stability that could reduce the chances of a crisis escalating into a war.

Our focus should be on how to negotiate in a way that serves our interests. We need to develop the capacity to craft proposals that both achieve our goals and create political pressures on the Soviet Union to accept our terms. Then, if Kremlin leaders turn us down, we gain in the political competition; if they accept our offer, we gain our objectives.

Gorbachev has proved to be a master at this maneuver. When the United States proposed, in November 1981, the zero-option—which called for no American or Soviet intermediate-range missiles in Europe—it did so not because policy makers thought that such a solution served Western interests but because it expected the Russians to reject the idea and suffer politically for doing so. It was assumed that the proposal would score political points in Europe and enable the United States to station intermediate-range nuclear forces in NATO countries. That tactic worked as long as the Soviet Union remained obstinate at the negotiating table.

But Gorbachev soon figured out that a zero-zero solution ultimately favored Moscow, eliminating American capabilities to retaliate from Europe without affecting Soviet capabilities to strike. When Gorbachev accepted the American offer, the Reagan Administration felt it had no choice but to proceed with the agreement, despite serious reservations in parts of the Department of Defense, by the former NATO commander Bernard Rogers and allies in Europe. One of the principal reasons reluctant supporters of the accord, such as Henry Kissinger and myself, used to rationalize our position was that for the United States to refuse its own offer would be too costly in terms of public opinion in Western Europe.

How can we put political pressure on Soviet leaders to make the deals we want at the price we want to pay? This requires that American policy makers understand Soviet motivations and vulnerabilities. It also requires a keen sense of gamesmanship. Most importantly, it requires an ability to package proposals with a sense for public relations. We cannot negotiate successfully unless the peoples of the West support our initiatives. A united front of Western powers—which a politically attuned proposal can galvanize—places maximum pressure for the Soviet Union to negotiate on our terms.

Before entering negotiations, we should have a thorough understanding of what the two superpowers can agree about and what we cannot agree about, and we need to define in very specific terms what we want to achieve.

We can agree on measures to reduce the likelihood of accidental nuclear war; on ways to reduce and stabilize the strategic nuclear balance; on the means to prevent the proliferation of nuclear weapons; on ways to resolve some—but not all—conflicts in contentious regions of the world, and on ways to structure mutually beneficial relations, such as trade and cultural exchange.

The United States and the Soviet Union will not be able to agree on total disarmament.

In talks on strategic weapons, it makes no sense to pursue an across-the-board reduction of 50 percent in the arsenals of the two superpowers. Such a reduction would codify the decisive Soviet superiority in landbased first-strike nuclear weapons. Our primary goal should be to achieve a large cutback in Soviet first-strike weapons, so that Moscow does not ever have enough for a credible first-strike capability. None of the current Administration proposals that have surfaced in the press meets that test. Also, we must not risk overlooking this issue by permitting verification to dominate the debate. Just because a bad agreement can be verified does not make it a good agreement.

It also makes no sense to try to convince the Russians that both countries should pursue an abstract concept, such as strategic stability. Gorbachev is not interested in what we think is "good"—but rather in what he thinks he will get. To achieve the zero-zero INF deal he wanted, he was willing to give up several times as many warheads as we did. Kremlin leaders will strike deals, but they will never give up something for nothing. Neither should we.

The United States should give Gorbachev what he wants—a relaxation of tensions with the West and an expansion of economic ties—only if he gives us what we want; the elimination of Soviet superiority in first-strike land-based nuclear missiles; a reduction in Soviet repression at home as called for by the Helsinki accords, and a halt to Soviet aggression abroad.

Moscow has made arms control its first priority in United States-Soviet negotiations in part to distract attention from the vital political issues. We must not allow the Russians to achieve this objective by treating the questions of Soviet expansionism and repression as unfortunate obstacles to progress in arms control. We must force the Kremlin to address our concerns, and linkage is the only means of doing so. If they are to benefit the cause of real peace, arms deals should not be concluded unless the Soviet Union cooperates in a reduction of the political tensions that are the root cause of the conflict between the superpowers.

As the British journalist Brian Crozier has written, "What the Soviets or their surrogates do in Central America or southern Africa is the substance; the arms deal is the shadow." If the Reagan Administration goes forward on arms control without linkage it risks creating a dangerous euphoria in which anyone who dares raise the issue of Soviet aggression around the world will stand accused of poisoning the atmosphere of superpower relations.

Americans tend to believe that conflict is unnatural, that people from all nations are basically alike, that differences are products of misunderstanding, and that permanent and perfect peace is a reachable goal.

But what moves the world for good or ill is power, and no sovereign nation will give up any of its power—not now and not ever. This is an immutable aspect of national character.

André Malraux once told me, "The United States is the first nation in history to become a world power without trying to do so." Whether we like it or not, the task of leadership has devolved upon us. The sooner we face it—and the sooner the people of great nations, especially those in the West, stop feeling guilty about being powerful—the sooner a genuine international order, based on a stable balance of national power, will be achieved.

It is often said today that Americans' pride in their nation has been restored. It would be more accurate to say that after several years of steady economic growth, and because most of the bad news from abroad—at least as far as Americans are involved—has been of relatively isolated incidents, many of us have the sense that things are better than they were eight years ago.

But national pride not tempered by adversity is sterile. National pride that lacks awareness of our international responsibilities is empty. National pride without the impulse to share that of which we are so proud is selfish. Too often, what we have called a restoration of national pride has been no more than complacent, comfortable smugness. Real pride comes not from avoiding the fray but from being in the middle of it, fighting for our principles, our interests and our friends.

It will take more than a few successful but relatively minor military missions like the invasion of Grenada and the raid on Libya to build lasting new confidence in the United States. Almost nowhere else on earth are people as secure and as prosperous as in the United States. Both our power and our blessings challenge us to adopt policies whose ultimate goal is to make the world safer and better. The stakes in this struggle for peace and freedom are far higher than they were in any of history's armed struggles.

Those who ask whether Mikhail Gorbachev is sincere in his desire for peace beg the question. He sincerely does not want war. But he just as sincerely wants victory. The Soviet Union seeks victory without war. If we seek peace without victory we are doomed to defeat.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the Republican leader be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business to not extend beyond the hour of 9:30 p.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin.

THE WORLD CALLS ON US TO NEGOTIATE A COMPREHENSIVE NUCLEAR TEST BAN

Mr. PROXMIRE. Mr. President, what is the fundamental basis of the nuclear arms race? It is the fierce technological competition between the United States and the Soviet Union to build ever more swift and devastating nuclear weapons. Sadly for the future of this world both superpowers are making genuine progress in building this devastating technology of destruction. If and when either superpower succeeds in wedding the immense lethal power of nuclear explosion to the speed of light transmission of lasers and particle beams the world will stand on the brink of instant, total destruction. Here is why an agreement to stop all nuclear weapons testing is so critical. We are now assured that our present technology permits the detection of nuclear weapons tests that exceed a single kiloton. Weaker explosions would have little if any military significance. This means both sides have the power to fully verify compliance with a test ban treaty. As far back as 1963 both the United States and the Soviet Union agreed in a limited test ban treaty ratified by this United States Senate that the two superpowers would negotiate a comprehensive test ban treaty. To our Nation's embarrassment the Soviet Union has repeatedly pushed for these negotiations.

Now we have the most emphatic expression by the United Nations that we should enter such negotiations. The General Assembly considered three resolutions on November 30, 1987, calling for multilateral action leading to negotiations of a total test ban. The United Nations adopted the resolutions by an overwhelming vote. One of the resolutions provides for early resumption of test ban negotiations with a procedure that could not be blocked by any nuclear nation. The resolution uses the provisions of the partial test ban treaty. This treaty provides that any party may propose amendments and if these are supported by one-third—39 of the 116 parties, the depository governments—the U.S.S.R., the United Kingdom and the United States—must call a conference to consider the amendment. Mr. President, consider the vote on that resolution: 128 countries voted in favor of the resolution. Only three countries, France, Britain, and the United States voted against it so the score was 128 to 3. Twenty-two others abstained. Obviously the countries repesenting the great bulk of mankind want the superpowers to stop this feverish technological arms race to world destruction.

The supreme irony of our time is that the Reagan administration has repeatedly argued that it wants to eliminate nuclear weapons from the face of the Earth. But the same Reagan administration has repudiated this country's solemn promise to negotiate an agreement with the Soviet Union to end nuclear testing. Is it not clear that nuclear weapons tests will bring on nuclear weapons that are increasingly more powerful, more devastating and more difficult to defend against? So the Reagan administration would pursue this chimera of abolishing nuclear weapons by spending uncounted billions to develop a strategic defense initiative or SDI—a defense against offensive nuclear attack. Our most distinguished scientific experts in the National Academy of Science, the American Physical Society, and elsewhere have overwhelmingly agreed that an SDI cannot and will not work in the foreseeable future. They also contend that whatever progress our Government makes in perfecting a defense can be offset at a far lower cost by applying the very scientific breakthroughs that would feature SDI to offensive purposes.

Furthermore even if SDI were to succeed, its No. 1 victim would be the nuclear deterrent of the two superpowers which is precisely the force that has kept the peace for the past 42 years and promises to keep the peace for many decades—perhaps for centuries in the future. We cannot be reminded too often that President Reagan has said that nuclear war can never be won and must never be fought. Soviet leader Gorbachev has said precisely the same thing. Both are right. A nuclear war between the superpowers would utterly destroy both countries. We know it. They know it. So what would be the supreme result of an SDI system with a technology that protected either or both countries from nuclear attack? What would this do? I will tell you what it would do. Obviously it would make the world safe for conventional war. If the day ever comes that both sides have developed their SDI, if the day comes that both sides have confidence that their SDI will work, on that day, deterrence will be ended. On that day, the long historical experience of a war every generation—an experience that has haunted mankind throughout recorded history, will resume.

There is no way that the technological nuclear arms race can advance the prospects of peace. We now have a nuclear weapons standoff. Both sides fully understand the utter and insane folly of a superpower war. No sane person can want to alter that standoff that has given us peace in the past and offers far and away our best prospect of peace in the future. But an end to this standoff is precisely what the onrushing nuclear testing arms race will do as time goes by. So there is no more critical action the United States and the Soviet Union could take to promise peace than to accept the resolution so overwhelmingly supported by nations throughout the world. That means that we keep the promise this nation made in 1963 and negotiate a comprehensive nuclear test ban treaty with the Soviet Union now.

Mr. President, I ask unanimous consent that an article by William Epstein in the Bulletin of the Atomic Scientist entitled "U.N. Presses Super Powers on Test Ban" be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.N. PRESSES SUPERPOWERS ON TEST BAN

(By William Epstein)

Hopes for a nuclear test ban suffered a severe setback last fall, although it was obscured in the subsequent euphoria over the signing of the Intermediate Nuclear Forces Treaty. A few weeks later, however, these hopes were revived by an unusual development in the United Nations General Assembly.

From the time the United States withdrew from the negotiations for a total test ban in 1981 until last September, Washington had been the chief obstacle to a total test ban. For seven years the Soviet Union had strongly supported the insistent demand of the world community for such negotiations, which are required by the 1963 Partial Test Ban Treaty and the 1968 Nuclear Non-Proliferation Treaty. In 1985-87 Moscow also observed a 19-month unilateral moratorium on testing in an effort to induce the United States to do likewise and to resume negotiations. But the Reagan administration rejected all appeals, wishing instead to develop new and modernized "third generation" nuclear weapons and defensive weapons for the Strategic Defense Initiative, all of which demand continued testing.

But last September 17 Soviet Foreign Minister Eduard Shevardnadze, surprisingly, joined Secretary of State George Shultz in issuing a statement that provides for negotiations to limit, but not ban, nuclear tests. The program, proposed by the Americans and accepted in its entirety by the Soviets, calls for a step-by-step process which could delay a total test ban for decades.

The first step calls for joint verification experiments in order to agree on measures that the United States claims it needs to ratify the 1974 Threshold Test Ban Treaty and the 1976 Peaceful Nuclear Explosions Treaty. Both of those bilateral treaties, which permit testing up to a limit of 150 kilotons in yield, are now outdated: the threshold is excessively high, and new techniques are fully adequate to verify a ban on underground tests. The experiments and subsequent ratification of the two treaties could result in years of delay.

Thereafter, the two parties would negotiate "intermediate" limits on nuclear testing. According to the joint statement, the ultimate objective would be a complete ban on testing, but only "as part of an effective disarmament process." The first priority of that process would be "the reduction of nuclear weapons and, ultimately, their elimination." That could delay a test ban until well into the next century.

Some U.S. officials have insisted that the United States sincerely wishes to end testing, even though a ban, if achieved, would not come before the twenty-first century. But an October 18 *New York Times* report quoted Bernard Halloran, a spokesman for the U.S. Arms Control and Disarmament Agency: "The official government position is that a complete test ban will occur only when there is no longer a need . . . for deterrence." And Robert Barker, as assistant to the secretary of defense, had testified to Congress in March 1987 that neither the United States nor the Soviet Union would ever be finished testing, because of the need to create new arms. Barker is now head of the U.S. delegation in Geneva for the bilateral negotiations on nuclear testing, which began on November 10.

According to the October 18 *Times* story, the current U.S. nuclear testing agenda is for 14-22 tests per year for a variety of purposes, but that number could greatly increase if Star Wars is seriously pursued. On October 12 Soviet Deputy Foreign Minister Vladimir Petrovsky told the General Assembly that Moscow had proposed to Washington, as a first step, limiting each of the superpowers to four tests per year of one kiloton each. Thus the deadlock over even limiting testing is likely to continue indefinitely.

Many countries were shocked by the joint statement. Their shock was compounded when one American representative said, at the recent session of the General Assembly: "At this time we're looking strictly at a bilateral approach," and that he saw no multilateral role in negotiating a test ban.

But the non-nuclear nations persisted. Three resolutions were proposed at the session, calling for multilateral action leading to negotiations for a total test ban. The United States voted against them, explaining that they were "in fundamental conflict" with U.S. policy. The Soviet Union voted in favor of all three resolutions and appeared to be somewhat on the defensive for having agreed to the joint statement. It renewed its offer to the United States for a mutual moratorium on testing for the period of the negotiations. The Soviets also let it be known that they had joined the statement because they saw it as the only way to get the United States to agree to any negotiations at all related to a test ban. The General Assembly adopted the three resolutions by overwhelming majorities.

One of the resolutions provides the surest means to date for early resumption of comprehensive test ban negotiations, since the procedure could not be blocked by the veto of any nuclear power. The resolution, initiated by Mexico and five other nonaligned countries, takes advantage of the amendment procedure of the Partial Test Ban Treaty. The treaty provides that any party may propose amendments and, if these are supported by one-third (39) of the 116 current parties, the depositary governments (the Soviet Union, Great Britain, and the United States) must convene a conference to consider the amendment.

The amendment route has been considered before. In 1985 the General Assembly asked the parties to consult about how to use the procedure, and in 1986 it requested them to take "practical steps" toward convening an amendment conference to convert the partial treaty into a comprehensive one. The 1987 resolution goes considerably further, recommending that the parties "formally submit an amendment proposal to the depositary governments" in order to convene such a conference "at the earliest possible date."

The resolution was adopted on November 30, with 128 votes in favor. Only France, Britain, and the United States voted against, and 22 others abstained. The resolution's supporters were heartened by the Soviet vote in favor of the resolution, despite the joint statement, as well as by the fact that a number of members of the U.S. Congress have written to Shultz in support of the amendment approach.

Those favoring the resolution felt that the amendment conference was their only recourse, since the United States has repeatedly refused to agree to either bilateral or multilateral negotiations for a comprehensive test ban. Besides insuring that the conference would be held, the amendment procedure would provide for effective multilateral participation.

Another great concern was the priority given by the joint statement to the reduction of nuclear weapons. Repeated General Assembly resolutions, as well as the Non-Proliferation Treaty and the final document of that threaty's 1985 review conference, assign priority instead to the cessation of nuclear testing, and thus of the nuclear arms race, at an early date. Non-Nuclear nations feared that if nuclear testing continues, the qualitative arms race would be pursued with little or no restraint, even if the quantitative race might be halted or even reversed. Moreover, if the nuclear powers persist in testing and producing new generations of weapons, some non-nuclear states might use that as an excuse to "go nuclear" and thus undermine the Non-Proliferation Treaty.

Although Great Britain, the United States, and the Soviet Union cannot prevent the holding of the amendment conference they do still have a veto over its results. No amendment would enter into force until ratified by the three powers. But the conference is envisioned as continuing process, like the Geneva Conference on Disarmament or the START negotiations, and would continue until consensus is achieved. The work carried on there could parallel, complement, and stimulate that of the Conference on Disarmament and the bilateral negotiations.

The attendant publicity could raise public consciousness of the test ban issue and could mobilize public pressures on the nuclear powers to finally agree to a comprehensive ban, eventually including even those—China and France—that are not parties to the Partial Test Ban Treaty or the Non-Proliferation Treaty. The supporters of the amendment process feel that current trends in international affairs are on their side and that focusing attention on a comprehensive test ban could strengthen those trends. They also hope that a new U.S. administration will be more willing to negotiate an end to nuclear testing.

The non-nuclear nations are encouraged now that they have been given the mandate to pursue the amendment initiative as a specific U.N. objective. They have begun a process that they strongly believe will finally launch multilateral negotiations for a total test ban, and that will help generate the political determination to achieve it.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

(The remarks of Mr. Reid pertaining to the introduction of legislation are printed later in today's Record under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, has morning business been closed?

The ACTING PRESIDENT pro tempore. Morning business is closed.

Mr. BYRD. I thank the Chair.

PRICE-ANDERSON ACT AMENDMENTS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 1414, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1414) to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents.

The Senate resumed consideration of the bill.

Pending: Glenn-Roth Amendment No. 1677, to create an independent oversight board to ensure the safety of Department of Energy nuclear facilities, to apply the provisions of OSHA to certain Department of Energy nuclear facilities, and to ensure independent research on the effects of radiation on human beings.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, am I correct that, under the unanimous-consent agreement, the Glenn amendment is now pending?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. JOHNSTON. What other amendments are possible to be brought up today?

The ACTING PRESIDENT pro tempore. The Exon amendment to the Glenn amendment, an amendment by Senator Johnston, an amendment by Senator McClure, and an amendment by Senator Murkowski.

Mr. JOHNSTON. Mr. President, I will say for the benefit of my colleagues that we do not expect the Exon second-degree amendment to be brought up, nor the Johnston or McClure amendments to be brought up. We think it is doubtful that the Murkowski amendment will be brought up. So the pending Glenn amendment will probably be, and we hopefully will say, our last amendment before we go to third reading.

I simply say that for the benefit of my colleagues so that they may know what is pending.

Mr. President, I yield the floor.

AMENDMENT NO. 1677

Mr. GLENN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. GLENN. Mr. President, as I understand the parliamentary situation, my amendment is the pending business; is that correct?

The ACTING PRESIDENT pro tempore. The Senator from Ohio is correct.

Mr. GLENN. Mr President, this amendment involves one thing and one thing only, and it is so important. That is, nuclear safety. It is safety at our Department of Energy plants around this country which make the fissile material for our nuclear weapons.

That is all that is involved here. As far as I am concerned, the issue is not committee jurisdiction. It is not anything else except trying to provide the best in nuclear safety. So I hope we do not get bogged down in a lot of additional items which might be brought into this. We will address those later.

We have two kinds of nuclear plants in this country. One kind is our civilian electrical generating plants, such as Three Mile Island. The other kind is those plants that are involved in the system that produces nuclear material which is used in our nuclear weapons program.

We have different ways set up to make sure we have safety in each of those programs. We saw that, even in spite of all the safety precautions we have taken on the civilian side, we came closer than we ever thought was possible at Three Mile Island to having a meltdown, an uncontrolled situation that could have been dangerous to hundreds of thousands and perhaps even millions of people in the country.

That civilian program is run about as follows, as far as safety goes: Anyone who wants to build one of those plants can apply. They can build the plant under licenses and direction from the Nuclear Regulatory Commission. The NRC is independent. They are not connected to the civilian nuclear industry.

The NRC, the Nuclear Regulatory Commission, of course, is a Government agency with a very clear mission, and that clear mission is to provide independent oversight of matters involving nuclear safety.

There are five Commissioners with this responsibility. They are all experts. They all know what they are doing with regard to nuclear matters. But even with that kind of expertise involved on the Commission, they still see fit to have the ACRS, Advisory Committee on Reactor Safeguards, as a second check, a second opinion, if you will, to make certain that the ultimate in safety is adhered to without fear or favor.

Even with those safety nets in place, we still came closer at Three Mile Island than anyone would have imagined could happen.

Chernobyl in the Soviet Union we know was an absolute disaster. Several hundred square miles of area contaminated. We will not know for generations, literally, the long-term effect of Chernobyl.

I do not know what kind of safety concerns they have in place over there, but I know we have to take every precaution we can to avoid any similar thing ever happening here.

It is the civilian side I have been addressing so far. How about the other network of nuclear facilities we have in this country? It is quite an extensive network, as a matter of fact. Little is known about it by people in the country even to this day because it was started back in the days when everything to do with nuclear weapons production was absolutely top secret, highest order of secrecy. Some of them remain that way to this day, and for good reason. That is because of their unique mission: the production of material for our nuclear weapons that are so essential to our safety.

The emphasis since the early days of these facilities has been on production because they were set up at a time when we needed production and we needed it badly. We were getting behind the Soviet Union.

So that kind of production demand meant that some of the corners were cut, as far as safety goes, and that has been documented over and over again.

Here we are some 30 years. We know a lot more now about some of these dangers and about how to take care of them. The point is this: Everything has been done to protect the public has been internal to the Department of Energy, which is the Department charged with this fissile material production. Everything. Everything about their monitoring, everything about the safety boards, everything they do is done internally under the direction of the Secretary of Energy. He decides whether he wants or does not want safety improvement, to be done, and whether the production goals are or are not preeminent at that particular time.

We know a lot more now than we did 30 years ago about how to measure what the dangers of production are. We know a lot more of what has happened at some of these plants where hazardous materials have crept into acquifers, ground water, soil, and offsite drinking water wells and farms. We know more how to monitor these things now than we did 30 years ago.

So I am not trying just to castigate the Department of Energy or its predecessors in saying they should have known better 30 years ago. I do believe they should have had more emphasis on safety all the way through this whole program. But it was a secret program, and it was easy when production goals ran up against safety concerns, production goals took precedence.

This has all been internal to DOE. We know now that all is not well in this whole system. The issue, I would repeat once again, is pure and simple: The issue is nuclear safety.

Why should we address it on Price-Anderson? Well, Price-Anderson has to do with how we compensate people after a nuclear accident, after something has happened, after they have been hurt and deserve some help.

What my amendment seeks to do is to prevent the accident in the first place. I just do not think anything is more important or germane than trying to prevent the accident to begin with.

Mr. President, in voting to secure funds under Price-Anderson to compensate victims of a nuclear accident, the Senate, as I said, has a commitment and duty to make sure an accident never happens that requires use of these funds. This nexus was recognized more than 30 years ago by Congressman PRICE and by Senator ANDERSON.

In a joint statement read on the House and Senate floor in 1957, Price and Anderson voiced their intention, not only "to afford financial protection to the public" against a nuclear accident but "to see that everything reasonable is put in the statute to assure that the situation does not arise."

So even the original authors of Price-Anderson saw fit to take action to see that everything reasonable is put in their legislation to assure that a nuclear accident does not arise.

My amendment is exactly such a preventive measure.

Since the passage of the Atomic Energy Act, the Department of Energy, and its predecessor agencies, has been responsible both for producing nuclear weapons material and for protecting workers and the public against the hazards of this production.

My amendment would alleviate this dangerous conflict of interest in three ways: First, the amendment would create an independent nuclear safety board—and I stress independent—to oversee DOE health and safety standards, to investigate incidents at DOE facilities that may adversely affect the public and recommend improvements to reduce the likelihood of such incidents in the future. That is No. 1: Creation of a board.

Second, it would eliminate DOE's exemption from the Occupational Safety and Health Act, OSHA, opening the door for frequent inspections of DOE nuclear facilities to ensure worker safety.

And third, it would establish a radiation study advisory board to review DOE funded studies on the health effects of ionizing radiation and recommend future research.

These three measures correspond to titles I, II, and IV of the Nuclear Protections and Safety Act of 1987, which was unanimously reported by the

Senate Governmental Affairs Committee last September. Title I of the act was subsequently referred to the Armed Services Committee, where it was modified and reported—again unanimously—in November. It is the Armed Services version of title I that is included in my amendment.

So that part of it, title I, has had the unanimous agreement of both the Governmental Affairs Committee and the Senate Armed Services Committee.

Let me address why I think the amendment is needed.

Mr. President, as long as DOE remains solely responsible both for producing nuclear-weapon material and ensuring health and safety at its production facilities, workers, the public, and ultimately our national security will remain at risk.

I state this conclusion reluctantly, but with conviction. Three years ago I conducted an investigation into the management and operation of the Feed Materials Production Center [FMPC] in Fernald, OH. The Fernald site is used by DOE to, among other things, manufacture uranium metal ingots, which are then irradiated in DOE production reactors to produce plutonium.

What we discovered at Fernald was shocking: During the 35 years of the plant's operation, more than 300,000 pounds of radioactive uranium had been released into the surrounding air and water, contaminating offsite wells and seriously jeopardizing the health of plant workers and nearby residents. This is both a safety and an environmental problem. Despite this record of neglect, DOE consistently evaluated the contractor's performance as "excellent" and awarded substantial bonus fees to the contractor based on production.

GAO Assistant Comptroller J. Dexter Peach described the situation at Fernald this way:

> During the 1970's, DOE considered closing this plant. As a result, it did not make capital improvements, and equipment became obsolete. In the early 1980's, DOE production goals increased, putting a strain on the plant's resources. According to DOE's own documents, Fernald management emphasized production over worker safety and health concerns.

I might add that, even when contractors operating DOE nuclear facilities take a more responsible approach, their requests for funds to upgrade these facilities and alleviate dangers are often denied. And the situation continues unabated.

If Fernald were a civilian nuclear facility, the Nuclear Regulatory Commission—whose sole mission is to make sure that nuclear powerplants are operated in a safe and healthy manner—might have shut it down long ago. However, because Fernald is part of the DOE bomb complex, the owner is also the safety authority. It is this conflict of interest that must be tempered by the creation of an outside oversight board that can require DOE management to focus on safety and health problems including environmental protection.

GENERAL ACCOUNTING OFFICE INVESTIGATIONS

The Fernald situation suggested to me that the operation of facilities in other States might be equally flawed, so we started looking into that. Subsequent studies and hearings confirmed that Fernald was not an isolated case, but indicative of a nationwide problem including almost every DOE production and utilization facility.

For example, in testimony last March before my committee, GAO Assistant Comptroller General J. Dexter Peach had this to say about DOE's Rocky Flats Plant, which is used to fabricate and assemble the nuclear explosive core of atomic weapons:

> At Rocky Flats, a new building was to be built to lower workers's radiation exposure levels and reduce the danger to the public in the event of an earthquake and/or high winds. Because of technical and design problems, this new building never became fully operational. As a result, DOE is continuing to process plutonium in the old buildings, which the new one was to replace for safety and health reasons. This situation has raised safety concerns about Rocky Flats.

To get a more complete understanding of the problem, I asked GAO to survey safety and health practices at a wide range of DOE facilities. In June 1986, GAO released a report examining DOE's safety analysis reviews. These safety reviews are needed to demonstrate that DOE facilities are safety designed and constructed. According to GAO:

> Our review showed that some safety reviews have not been approved by DOE, some provided little or no comparison with safety design criteria, and different assumptions were used in analyzing serious accidents. We also noted that DOE's safety review process is an internal DOE function carried out primarily by DOE field offices. Because an effective and well-accepted safety review process is the key to demonstrating that a nuclear facility can be safety operated, we made a number of recommendations to ensure that DOE has a credible safety review process.

Then in September of that year, GAO surveyed environmental conditions at nine important DOE nuclear facilities and reported that:

> At eight of the nine facilities we reviewed, the groundwater is contaminated as a result of DOE activities. At most of the facilities, the groundwater is contaminated with both hazardous waste and radioactive material. Although not as widespread, our review also showed that soil, outside of restricted burial grounds or disposal facilities, was also contaminated with radioactive and/or hazardous waste at six of the facilities we reviewed.

GAO Associate Director Keith Fultz backed up this report at a hearing last March. Mr. Fultz testified that "DOE has not given sufficient emphasis to environmental protection." This would seem to be quite an understatement, considering the illustrations offered by Mr. Fultz:

> At the Savannah River site in South Carolina, radioactive contamination in one stream was found by GAO to be 750 times greater than drinking water standards;
>
> At DOE sites in Colorado and Tennessee, groundwater contamination was measured at as much as 1,000 times above drinking water standards;
>
> And at the Hanford site in Washington, GAO found that 25 million gallons of contaminated waste had been placed in an unlined disposal site without proper groundwater monitoring.

So we have the presumption that as of this date we still have 25 million gallons of contaminated waste in the unlined disposal site slowly dripping down into whatever aquifer level runs under that area.

DOE's systemic disregard for safety and the environment in the name of production at its nuclear facilities is certainly well documented. GAO's J. Dexter Peach testified last March before the Governmental Affairs Committee that when it comes to DOE's management of the production complex:

> Self-regulation provides only a minimum level of public assurance that these facilities can safely operate. This minimum level, I believe, is becoming more unacceptable to the public and Congress as more problems and issues surface in the DOE nuclear defense complex. In view of the foregoing, I believe outside, independent oversight is critical if DOE wants to provide a high degree of public assurance that its operations are safe and conducted in an environmentally acceptable manner.

I can assure you that GAO has done its homework when it comes to safety and environmental issues at DOE nuclear facilities.

I have here this morning 21 different GAO reports, just so we know we are not talking off the top of our heads, going back 8 or 9 years that deal with this whole thing.

These are GAO reports, have been prepared by experts who looked at these different areas. These reports go back year after year after year. I will read in just a moment just the titles of these reports.

You would think any one report would have galvanized DOE into action, and I do not have any question that the people there are concerned about safety and health. But the problem is that through the years they have not done enough to address safety and health even while report after report after report has come out to indicate that there are deep and serious problems.

Let me just read some of these. "Nuclear Waste, Unresolved Issues Concerning Hanford's Waste Management Practice." Another one: "Nuclear Energy, Environmental Issues at DOE's Nuclear Defense Facilities." Another one: "Nuclear Safety, Comparison of DOE's Hanford N Reactor with the Chernobyl Reactor."

I might say that as a result of the concerns about the N reactor, along with reduced production demands, it has been shut down; indefinite status; closed down; DOE does not know whether it will operate again or not.

"Nuclear Waste, Impact of Savannah River Plant's Radioactive Waste Management Practices."

"Nuclear Energy, A Compendium of Relevant GAO Products on Regulation, Health and Safety."

"Nuclear Safety, Safety Analyses Reviews for DOE's Defense Facilities Can Be Improved."

Virtually all of these conclude that there are very serious deficiencies in the safety and health matters at these DOE plants.

"Environment Safety and Health, Status of Department of Energy's Implementation of 1985 Initiatives."

Another: "Nuclear Waste, Department of Energy's Transwaste Disposal Plant Needs Revision."

Another one: "Environment Safety and Health, Environment Workers Could Be Better Protected at Ohio Defense Plants."

Another one: "Environment Safety and Health, Environment Workers Could Be Better Protected at Ohio Defense Plants."

Another one: "Environment Safety and Health, Information on Three Ohio Defense Facilities."

"Department of Energy Acting To Control Hazardous Waste at Its Savannah River Nuclear Facilities."

"DOE's Safety and Health Oversight Program at Nuclear Facilities Could Be Strengthened."

These go way back. That one is in November of 1983. That is 5 years ago.

"Decommissioning Retired Nuclear Reactors at Hanford Reservation."

"Cleaning Up Nuclear Facilities, an Aggressive and Unified Federal Program Is Needed."

That goes back to 1982. I repeat that one: "Cleaning Up Nuclear Facilities, an Aggressive and Unified Federal Program Is Needed."

We do not have it to this very day.

Another one: "GAO's Response to DOE on a Report Number AMK10108, Weather Oversight Needed for Safety and Health Facilities at DOE's Nuclear Facilities, January 1982."

Another one: "Congress Should Increase Financial Protection to the Public From Accidents at DOE's Nuclear Operations."

That is what we are addressing here today, Price-Anderson.

Another one going back to August 1981: "Better Oversight Needed for Safety and Health Activities at DOE's Nuclear Facilities."

Another one back in 1980: "DOE's Analysis of Alleged Health and Safety Violations at the Navy's Power Training Unit, Windsor, Connecticut."

"Department of Energy Safety and Health Programs for Enrichment Plant Workers Is Not Adequately Implemented," goes clear back to 1980. And the problems indicated by some of these titles exist to this very day. It is not that we have not realized there is a problem. It is that DOE has not moved aggressively to correct these problems.

These safety and health concerns have taken short shrift. DOE has formed some advisory councils in the past to advise them on safety. They have formed an environmental safety and health group within DOE, but not funded to really do the cleanup job and not with sufficient people to really monitor the whole DOE complex. That is the point.

In addition to these GAO reports and congressional hearings, the National Research Council of the National Academy of Sciences [NAS] has reviewed safety issues at the defense production reactors at the request of Energy Secretary Herrington. These reactors, located at the Hanford site in Washington and the Savannah River site in South Carolina, produce the plutonium and tritium used in our Nation's nuclear arsenal. The Academy's results, released last fall, show that DOE's production reactors are not exempt from the risk-taking that pervades the Department's management of the bomb complex.

Safe and effective management of the production and research complex requires a clearly defined safety objective, a comprehensive set of directives for implementing this objective, and a rigorous program of inspections and audits to verify that these directives are being observed.

Yet the NAS panel concluded that "the Department"—this is the National Research Council that is saying this, referring to DOE—"has not clearly articulated, documented or implemented any specific safety objective for its reactors."

DOE contractors do not even know what the Department's safety goal is much less what actions are required of them to meet this objective. If this problem sounds very abstract, consider some of the technical findings contained in the NASA report. These are direct quotes out of the National Academy of Sciences report.

> The production reactors all display symptoms of acute aging that could affect safety and are likely to limit the useful lives of these reactors.
>
> The increasing needs for maintenance and plant modernization brought on by the aging of the production reactors are not being met by existing programs.
>
> Adequate resources have only recently been devoted to developing a thoroughly documented understanding of the behavior of the reactors in a loss-of-coolant accident.

That is the most serious kind of accident we can possibly face with a nuclear plant.

> The risks associated with operation of the defense production reactors are currently inadequately understood.

Another one from the National Academy of Sciences:

> The existing level of understanding of severe accident behavior for the production reactors is inadequate to permit a realistic assessment of the effectiveness of these designs in mitigating the consequences of severe accidents.
>
> There are significant uncertainties in the abilities of production reactor confinements to mitigate radionuclide releases that would be expected to occur during severe accidents.
>
> Discharge of radionuclide-contaminated liquids from the production reactor confinements into open basins, as occurs during normal operation of the N reactor and as could occur during accidents at both sites, poses a safety hazard. It is also an environmentally unsound practice.

Mr. President, these are not abstract concerns. Savannah River that is referred to by the NAS, sits some 20 miles from downtown Augusta, GA. Just as an example, what if there is a prevailing wind blowing toward Augusta? What if something does happen? We have been lucky. We have been very fortunate.

These are not abstract concerns. They are matters that directly affect public health and safety. To remedy this egregious situation the report concluded:

> In light of the conflicting responsibilities of the Department to meet production requirements and assure safety * * * the committee recommends that an independent external safety oversight committee, advisory to the Secretary of Energy, be established.

That is from the National Academy of Sciences.

Mr. President, that is one of the things that my amendment would do.

In reaction to the NAS report DOE admitted for the first time that margins of safety at its production reactors are not comparable—that is their word, "comparable"—to those of the commercial sector. Despite this recent candor, which is a good if belated sign of recognition, there is little indication that conditions at the production reactors have improved enough to vitiate the recommendations made by the National Research Council or the General Accounting Office.

Following the Chernobyl accident, Secretary Herrington asked an expert panel chaired by former utility president, Lewis Roddis, to review the safety of the N reactor.

The Roddis panel was not the first advisory group to assess the dangers of the N reactor. Indeed, Roddis cited a 1966 report by the NRC's Advisory Committee on Reactor Safeguards warning that:

> Potential hazards associated with the Hanford reactors (as they are now confined) exceed those of licensed reactors. Radiological consequences in the unlikely event of a severe reactor accident at the N reactor during operation would exceed the dose

> guidelines now used for licensed power reactors.

"Licensed" means those in the civilian sector.

Two decades later, the Roddis panel concluded that "this situation is unchanged."

How could DOE have continued to run its Hanford reactors and failed to address this grave concern for over 20 years? The answer is as simple as it is unsettling. Throughout this period, sole responsibility for monitoring the safety of the N-reactor resided in the same offices that were charged with making sure that the reactor met plutonium production goals.

I have supported the necessity for plutonium production all during that time period, but we have been far too lax in making safety a paramount item.

While DOE did seek outside safety expertise during this period, it chose to ignore this advice when it conflicted with production demands.

In seeking the proper mechanism to reduce this conflict, the Roddis panel observed that "the entire process would be more credible if a permanent system of outside overview were established." My amendment would meet this need.

The need for independent oversight was underscored a week after the Roddis report was released, when the Washington Post reported that human errors had created a risk of setting off an uncontrolled nuclear chain reaction. The incident occurred when plutonium-laden liquid was accidently routed to an already full storage tank, raising the possibility that the nuclear material would reach critical mass. When fallable human beings and machines work with these deadly materials, such accidents can only be prevented by vigilance and continuous thoughtful review. My amendment would encourage such caution.

In December 1986, DOE finally shutdown the Hanford plant for extensive repairs, and last February the Department announced that all plans to restart the N-reactor in the near future had been scrapped. Such caution, however belated, has not always characterized the Department's handling of safety problems at the other production reactors.

SAVANNAH RIVER

The Savannah River site in Aiken, SC, is the home of three operating DOE production reactors: The L-reactor which produces plutonium, and the K- and P-reactors which produce tritium. With the N-reactor at Hanford shutdown indefinitely, these three reactors at Savannah River are the only source of weapon-grade nuclear material.

As early as 1981, Du Pont scientists determined that they could not rule out the possibility of core melting during a severe loss-of-coolant accident as long as the reactors continued to operate at existing power levels. Nonetheless, no action was taken to reduce the power until November 1986—well after the Chernobyl accident had awakened the slumbering public to the importance of nuclear safety.

Then, in March 1987, the chairman of the NAS review panel wrote Secretary Herrington to say that DOE had not gone far enough. Chairman Richard Meserve wrote that:

> We are not able to conclude with confidence that significant core damage would be avoided if there were a severe loss of coolant accident while the reactors are operating at the currently established reduced power limits. In our view, the reactors should only be operated at power levels at which it can be convincingly demonstrated that there will be adequate cooling of the fuel over the entire duration of the transient.

As a result of that letter, DOE reduced power at the reactors to half of their original operating levels.

In other words, during those 7 years, the reactors had been operating well beyond the capacity of the coolant system to control what they refer to as a transient, which means an accident that is in its early stages. The reactors were operating beyond the capacity to control an accident. That is the opinion of the National Academy of Sciences. So DOE reduced power at the reactors to half of their original operating levels.

It is chilling to consider that for decades the potential for a catastrophic accident went undetected and then ignored at Savannah River. A report in the Washington Post last month suggests that DOE may still not have learned the lessons of this harrowing experience.

On February 22, the Post reported that the L-reactor at Savannah River has been allowed to continue to operate at power levels beyond the proven capacity of its emergency core cooling system. In effect, the scientists found that, at existing power levels, a catastrophe might not have been preventable in the event of a serious accident.

Even after contractor scientists uncovered the problem, DOE reportedly resisted a reduction in power. According to the report:

> DOE's initial reluctance to take that step infuriated Dupont scientists and has raised new questions about the Department's commitment to safety. According to several sources, DOE managers at Savannah River resisted the latest cutback because they did not want to admit a mistake and risk kindling public pressure to close the South Carolina reactors.

Mr. President, the amendment I am proposing would establish a panel composed of experts in nuclear safety to review and investigate precisely these types of problems, and the panel would be given the authority to have its disagreements with the Secretary of Energy bucked to the President when public safety hangs in the balance.

That is the most important part of this amendment. It would set up an independent group that would make their recommendations to the Secretary. But where the Secretary said, "No, I choose to ignore this because of production demands," even though the independent group had prioritized them.

Issues that related to an imminent or severe threat to public health and safety, the recommendations have to be sent to the President. The President then would be the person to make the decision as to whether public health and safety or production was more important, whatever the national situation might be. He could decide that production was more important.

Or he could say: "Mr. Secretary, I am not going to go with you. I overrule you on this."

We are not going to buck up every little nut and bolt to the President. It will never be our intention to do that.

It will only be where an outside review panel of experts have said, "We have an imminent or severe threat to public safety on our hands."

And I cannot think of anything more important to buck to the President than that kind of decision.

We would have the review done independently, not under the direction of the DOE, not with people who could be fired by the Secretary of Energy. And where they found that there were such situations that the public safety and health was in danger, then they could say if the Secretary does not want to go along with the recommendation then let's buck it to the President for his decision.

Only the President has the mandate and the resources to determine what safety risks are tolerable in the interest of national security. Without such an eminent and autonomous safety board, insulated from operational responsibilities, there can be no effective check on DOE's handling of its dual-production and safety roles.

We do that on the civilian side. That is the reason we have not had a serious accident. We almost had one with Three Mile Island, of course. We do not have those layers of protection at DOE. DOE runs all of its own program internally.

Mr. President, I ask unanimous consent that recent articles on the Hanford reactor, the Savannah River plants, and DOE's reaction to the NAS report be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. Mr. President, I would, however, like to take a moment now to read to my colleagues a March 2 editorial from the Atlanta Constitution, just a couple weeks ago. The Atlanta Constitution editorial has this to say. The title of it is "Everyone Has Stake in SRP Safety Board," Wednesday, March 2, 1988, and reads as follows:

> Should we laugh or cry? In another round of hearings Department of Energy administrators have hung their heads and mumbled apologies for health and safety troubles at the Savannah River plant, SRP. This week an Energy official admitted the agency has no "valid excuses" for its failure to act on problems recently created there. Last fall a department Under Secretary confessed to Congress that the agency had a dismal safety record at weapons plants nationwide. Unfortunately, this contribution does not reflect a willingness to remedy the mess. The Department stubbornly opposes a bill that would establish firm outside oversight of its weapons facilities. Proposed by Senator Glenn, the measure would set up a three-member nuclear safety board to handle policing chores. The panel would be able to order new procedures and close dangerous plants. What gives Energy folks the cold sweats, though, is the provision that allows the President not the Department to resolve any disputes. Without this component the bill means little. Just look at DOE's record. At the SRP's plant near Augusta problems have been documented for years. Hazardous wastes contaminate many sites on its grounds. Safety questions keep the plant's aging reactors operating at reduced levels. Years of self-policing allowed the situation to become urgent, but even as Energy fights the Glenn plan its enforcement of safety standards remains slack. Hope that the Department is better with scientific equations than it is with logic. Its position doesn't add up. Stern independent oversight not only would give neighbors of the plant peace of mind, tough policing would save the Department from temptations to cut corners. Problems then could be corrected before they become critical and defense reactors could run safely at capacity. Energy Department bureaucrats who view safety as the enemy of efficiency are wrong. How efficient is it to, one, gamble with the health and environment of Americans or, two, close weapons installations that were allowed to deteriorate. Too often Energy faces that ugly choice today. Glenn offers a nicer option for all of us.

That is out of the Atlanta Constitution just a couple of weeks ago. I appreciate their support for this. I appreciate even more the fact that they recognize the danger that is imminent in their area of the country.

DOE'S ADVISORY COMMITTEE ON NUCLEAR FACILITY SAFETY

I am fully cognizant of DOE's recent establishment of a committee to advise the Secretary of Energy on health and safety. The differences between that committee and the one I am proposing are simple but very fundamental. The committee created by the Secretary can be ignored or can be disbanded. It can be ignored as past advisory groups have been ignored. It can be ignored as these 21 GAO reports going clear back into the late 1970's have been ignored.

The DOE committee would have very few resources. The one created by my amendment would issue public recommendations, the most important of which would be evaluated by the President if the Board and Secretary disagree. In addition my Board would be guaranteed a 6-year trial period and would be given adequate resources to accomplish its crucial oversight role.

The members of the new DOE Advisory Committee were announced by Energy Secretary Herrington on February 24—2 days after the most recent Washington Post report on problems at Savannah River. While I hope this was just coincidential, I have noted in the past that such announcements often follow on the heels of embarrassing matters like the Post article. In any event, the DOE committee, while composed of distinguished members, falls short of what is needed to overcome DOE's legacy or risk-taking and environmental neglect at its defense production facilities.

The chairman of the DOE Advisory Committee—former NRC Commissioner John Ahearne—recognized its limitations in testimony last year. In comparing the DOE committee with the independent, outside review board I proposed in S. 1085, Mr. Ahearne had the following comments:

> A key question is the relation between the independent board identified in H.R. 2047 and S. 1085 and my committee. I only speak for myself here. My committee has not discussed this issue. The board and the committee are separate. The analogy really would be my committee is like the ACRS (the NRC's advisory committee on reactor safeguards); the independent boards are like the Nuclear Regulatory Commission * * * from testimony I gave last year on S. 1085, I believe that having oversight by the NRC would be desirable. But that is an issue up to the Congress.

I continue to quote from Mr. Ahearne:

> My committee certainly does not have the staff to perform the tasks that S. 1085 laid out and that I believe are embedded within H.R. 2047.

These are the basic principles I have in this amendment. I add that.

Mr. Ahearne continues:

> I estimated last year this would take approximately 200 people. With regard to my committee, the charter states that DOE will provide 8 person-years and $2 million in fiscal year 1988—although the staff may need to be expanded in future years, I see no possibility of it approaching that of the ACRS—we are not the independent organization that is going to oversee all the operations, investigate all incidents, establish standards, and regulate facilities. We are an advisory committee.

Clearly Mr. Ahearne does not share the view that the DOE committee—with its restricted scope and resources—is a viable substitute for a more comprehensive and autonomous oversight board. In testimony before the Governmental Affairs Committee, he had this to say about the original proposal, S. 1085:

> Fundamentally, I believe this act takes a step in a necessary direction. That direction is to provide independent safety review for the nuclear facilities operated by the Department of Energy. These facilities, which range from small research reactors through reprocessing plants and a very large production reactor, the N-reactor at Hanford, have been a source of concern among many in the nuclear community for years. A series of GAO reports has reflected these concerns. In addition, DOE studies have also expressed considerable reservations about the quality of operation of these facilities.
>
> I believe the DOE finds itself in a difficult situation. Operators of technology frequently have difficulty standing back and objectively analyzing what should be done to improve the safety of their operations—the act currently under discussion (S. 1085) provides the fundamentally sound step of requesting independent oversight and recommendations, and attempts to provide a forcing mechanism to ensure that the Energy Department will take the steps necessary for safe operation of its nuclear facilities.
>
> Adequate resources must be supplied. It is not sufficient to charge an independent group with oversight responsibilities and assume those responsibilities can then be carried out in the absence of adequate resources. I believe that to do the review and the necessary followup exercises (which I believe must include some level of inspection) will require several hundred people. I believe the organization should be funded accordingly. Finally, I would like to add that, as I said in the beginning, this act is a necessary and good step in the right direction.

Mr. Ahearne remarks echo those of the General Accounting Office, the Roddis panel, the National Research Council of the National Academy of Sciences, and dozens of expert witnesses that have testified before congressional committees on these issues. All have recognized the need for rigorous, independent oversight of DOE's bomb complex. My amendment would meet this need in a way that DOE alone cannot.

WHAT THE GLENN AMENDMENT DOES

The Glenn amendment, simply put, would promote worker and public health and safety at Department of Energy nuclear defense facilities. Since the beginning of the nuclear age, DOE and its predecessor agencies have had sole responsibility both for producing nuclear weapon materials and for protecting against the dangers of this production. The Glenn amendment would alleviate this dangerous conflict of interest by providing independent, outside oversight of DOE's bomb complex and related research facilities.

That is exactly what we do over on the civilian side. We have the experts at the NRC and they, in turn, have a double-check opinion, if you will, from the ACRS. We do not have that in DOE, and that type of protection is what I am trying to establish.

COMMITTEE ACTION

There can be no quick fix for the 35-year history of risk taking and environmental neglect at the defense production complex.

Let me say this: I support DOE. I have supported, I think, every DOE budget since I came here some 13 years ago. I supported all of their requests for safety improvements and requests for refurbishing plants that were outdated. The newest plant in the whole defense complex is 25 years old—the newest plant is 25 years old. So I come here—and they may not see it right now—but I come here as a friend of DOE. We have worked for years and years and years to try to get them the funding to do the things we felt had to be done.

What is needed is a careful and sustained policy designed to eliminate these safety problems without jeopardizing DOE's national defense mission.

That is why the Governmental Affairs Committee held four lengthy hearings to closely examine this legislation. GAO, DOE, NRC, EPA and numerous other public and private witnesses were given ample opportunity to make their views known to the committee. That kind of thoroughness at the Governmental Affairs Committee was matched by the Armed Services Committee, which held no less than five hearings to review and amend title I of the act. The Armed Services Committee concluded that the proposed safety review board could "provide critical expertise, technical vigor, and a sense of vigilance within the Department at all levels."

As a member of both committees, I can assure you that the bill has been intensely scrutinized and is ripe for consideration by the full Senate.

And on the Price-Anderson Act, which deals with compensating victims after an accident, is the ideal place for it to address the problems that are concerned with preventing an accident.

DEFENSE NUCLEAR SAFETY BOARD

Title I of my amendment would create a Defense Nuclear Safety Board to oversee DOE health and safety practices in the manner unanimously agreed to by the Senate Armed Services Committee. The Board would consist of five nuclear safety experts, appointed by the President with the advice and consent of the Senate, and would be charged with:

First, reviewing the content and application of health and safety standards at DOE defense nuclear facilities;

Second, recommending improvements in DOE health and safety standards so that they are comparable to standards for commercial nuclear facilities.

We do not have that same kind of protection now. That is the difference between civilian plants and the DOE side.

Third, investigating actual or potential "nuclear incidents" at DOE facilities—nuclear incidents are defined as nuclear events that result in bodily injury, sickness disease or death, or loss of or damage to property; and

Fourth, recommending specific measures to reduce substantially the likelihood that nuclear incidents will occur at DOE facilities in the future. And that is the most important of all.

The Board's recommendations could be accepted or rejected by the Secretary of Energy. If the Secretary favored a recommendation but was unable to implement it due to budgetary or production requirements, then the matter would be bucked to the President for resolution. If the Secretary opposed a recommendation, and the Board determined that its recommendation related to an imminent or severe threat to public health and safety, again the President would have the final say on implementation, as he should have.

Only the President has the mandate to make the critical choices between producing nuclear weapon materials and taking steps to prevent a severe nuclear accident. And only the President, not the Secretary of Energy, is in a position to consider the full range of national security concerns that must enter into such a decision.

The Secretary of Energy does not know what is going on in all aspects of the international situation, in arms control negotiations with the Soviets, for instance. Only the President has the full scope of everything that is going on to make a decision which may take precedence over a severe safety threat.

Mr. President, I can assure you that the Board cannot interfere with DOE activities judged by the President to be vital to U.S. national security. The Board has no power to close down facilities, nor can it override the President if he objects to a Board recommendation on national security grounds. To the contrary, the Board would advance national security on two fronts.

Before I cite these, let me say the Board is strictly advisory. Nothing in this makes it binding on the President.

First, by reviewing safety standards and investigating nuclear incidents, the Board would serve to identify potentially crippling problems at DOE's production facilities. And by issuing public recommendations that must be responded to by the Secretary of Energy within 45 days, the Board would make it more difficult for DOE to defer action once these safety problems were identified. This early warning and the system for obtaining a prompt response is crucial if the aging production complex is to operate with technical reliability and public confidence until more modern facilities come on line.

Second, by forcing DOE to address safety concerns, the Board would reduce the chances of public exposure to lethal doses of radiation. As Chernobyl so vividly illustrated, foreign aggression is only one element of the nuclear threat to national security. Another would be the inevitable pressures to shut down the entire weapons complex in the event of an accident. The Safety Board in my amendment is an insurance policy to allow us to keep our national security options open. The continuation of DOE's self-regulation poses a real threat to our ability to keep production going in the future.

Beyond all this is a stark moral issue, too. DOE's conflict of interest means that if we do not vote for independent, outside oversight of the bomb complex, we are telling the American people that we value production over their health and safety. And this we should not do.

APPLICATION OF OSHA AND NIOSH TO DOE FACILITIES

Title II of my amendment would remove DOE's exemption from the Occupational Safety and Health Act of 1970, allowing the Occupational Safety and Health Administration [OSHA] to regulate and inspect worker conditions at DOE nuclear facilities. In addition, Title II would allow health hazard evaluations to be conducted by the National Institute for Occupational Safety and Health [NIOSH], an investigatory agency within the Department of Health and Human Services.

GAO has termed the defense production complex "one of the most hazardous industries in the world." And, indeed, it is. In addition to the risks of working closely with radioactive materials, workers at the DOE facilities are exposed to a wide range of other toxic and hazardous substances, exposure to which in comparable workplaces is carefully regulated by OSHA.

Before anyone says, "Well, we couldn't let them do this because of security concerns," let me assure you that these inspectors can be fully cleared just as well as they are in other plants where there are security concerns. They go in and monitor at other defense plants with no problem.

Nonetheless, DOE contractor employees are completely excluded from our Nation's first line of defense against unsafe and unhealthy working conditions—the Occupational Safety and Health Act. DOE has the statutory authority for the safety and health of contractor employees at its Government-owned, contractor-operated facilities. While contractors are required to comply with applicable OSHA standards that DOE has elected to adopt, this is a far cry from requiring DOE to meet all OSHA standards, with inspection by OSHA and enforcement by OSHA.

Mr. President, there is ample evidence that DOE is not adequately protecting workers at its nuclear facilities. A 1984 epidemiological project summary of studies funded by DOE reveals that DOE nuclear workers at 8 out of 12 locations studied were experiencing elevated levels of malignant cancers and certain nonmalignant diseases. Elevated levels of leukemia, Hodgkin's disease, and lung, brain, digestive tract, and prostate disorders were found among workers exposed to uranium dust and/or radiation from other internal and external sources.

Back in the 96th Congress, I chaired a hearing examining worker safety and health at DOE's nuclear facility in Portsmouth, OR. The Portsmouth plant employs gaseous diffusion to increase the isotopic content of uranium. This "enriched uranium" can be used for fueling reactors—at high levels of enrichment—directly in nuclear weapons.

That hearing, and a subsequent GAO report, revealed that DOE was not adequately monitoring and enforcing its occupational safety standards. GAO concluded that—

> DOE oversight efforts are not sufficient to guarantee that a contractor will continue to operate the facilities in a manner which provides safe and healthful working conditions.

Since that time, increased production goals and aging equipment has exacerbated the threat to worker health and safety. Rather than acknowledge this increased threat, DOE and its contractors have sought to shut the door on outside oversight of the workplace.

Mr. President, I am not finished yet. I understand Senator ROTH has another commitment. He would like to speak now and I would be happy to yield if I could have unanimous consent that I would retain the right to the floor.

Mr. EXON. I object, Mr. President. The Senator from Ohio does not have the right to assign.

The PRESIDING OFFICER. Objection is heard.

Mr. GLENN. I asked unanimous consent and an objection was heard. I stand by that. I thank you.

This was evident last June, when several experts testified on my proposal before the Governmental Affairs Committee. Listen to what Dr. Philip Landrigan, former Director of the Surveillance Division of NIOSH, had to say about inspecting DOE's enrichment plant in Piketon, OH:

> First, we received a request for a health hazard evaluation. We attempted to get in touch with the DOE contractor, who at that time was Goodyear Atomic. They refused even to reply to us, but we received a phone call a week or two later from a DOE attorney who told us that the Piketon plant was owned by DOE and that such facilities are exempt from the provisions of the OSHA Act.
>
> There was then a series of fruitless interchanges, and it was not until after you intervened in late November of 1979, virtually 6 months after we had received the original request, that we finally got in to the Piketon plant to do the walk through.
>
> The clear lesson to be learned from this array of episodes is that the present legislative and administrative arrangement whereby DOE facilities are granted an exception from the OSHA Act is ill advised. It should not be allowed to continue.

Members of the labor community backed up the scientific assessment put forth at the hearing. Mr. Joseph Misbrener, who testified on behalf of the AFL-CIO, stated that:

> For us, OSHA is the state of the art in worker protection. The existing system administered by DOE is the product of another era . . . under existing procedures with DOE there is no feedback to workers. Complaints are not handled well, if at all. Enforcement of regulations is handled by negotiation between DOE and its contractors and workers must rely on the collective bargaining process to participate in such health and safety programs that do exist . . . we fully support your approach as set out in the titles of the bill.

Mr. President, I ask unanimous consent that a March 14 letter from the AFL-CIO supporting my amendment be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 2.]

Mr. GLENN. Mr. President, I can see no justification whatsoever for continuing DOE's exemptions from laws governing worker health and safety. I believe it was a mistake to give DOE this exemption in the first place. Moreover, DOE has asserted that all of its facilities already meet OSHA standards.

I would just say that in that case there is no reason, then, to continue an exemption if that exemption is no longer needed; they say they are already complying with everything.

RADIATION STUDY ADVISORY BOARD

Finally, the last provision of my amendment would establish a radiation study advisory board to advise and assist the Secretary of Energy in researching the health effects of ionizing radiation.

As both producer of nuclear weapon materials and researcher of the health effects of that production, DOE radiation research has been tainted by a perceived conflict of interest. The need to remove this perception was acknowledged by DOE Under Secretary Salgado at a hearing I chaired last June. He stated that:

> DOE believes that its radiation epidemiology studies have been and continue to be carried out in a scientifically sound and objective manner with adequate outside peer review. However, if public confidence in these studies could be improved by an independent advisory panel, DOE has no objections.

The Advisory Board would consist of 11 members: eight appointed by the Secretary of Health and Human Services, two appointed by the Secretary of Labor, and one appointed by the Secretary of Energy. The Board would review major research proposals and ongoing studies, and would issue nonbinding recommendations as to the scope and direction of future radiation research.

WHY THE GLENN AMENDMENT BELONGS ON PRICE-ANDERSON

Mr. President, the Price-Anderson Amendments Act before the Senate today updates and extends a nuclear liability system that ensures swift and reliable compensation for victims of a nuclear accident. Without such a system, our civilian and defense-related nuclear facilities could not operate, since commercial insurers and the nuclear industry are unable to bear full responsibility for a potential nuclear accident. I am a strong proponent of updating Price-Anderson.

But even as I vote to secure funds for accident victims, I believe the Senate must work to make sure these funds need never be spent. The Price-Anderson system is useful in mitigating the consequences of a nuclear accident, but it is no substitute for prudent steps to reduce the risk of such a disaster.

I would cite the old adage that "an ounce of prevention is worth a pound of cure," but in this case the only cure is no failures. Many of the damages incurred in a nuclear accident—such as loss of family and friends—can never be recovered, but can only be prevented. My amendment is designed to help us achieve this prevention through outside, expert oversight of DOE, like we have in the civilian nuclear industry. It has worked and has worked well. Some people would like to deny this over on the DOE side, even though such denial is dangerous.

I quoted earlier from a joint statement delivered by Congressman PRICE and Senator ANDERSON delivered on the House and Senate floors some 30 years ago. As you recall, PRICE and ANDERSON voiced their desire "to see that everything reasonable is put in the statute to assure that the situation—a severe nuclear accident—does not arise. My proposal is consistent with the "original intent" of these legislators from decades ago. Let me read in greater depth from the statement of the Founding Fathers of this bill:

> In addition to scientific safeguards, which are known, this bill also provides some legal safeguards. One of the basic assumptions of the insurance industry, in putting together their large pools for the insuring of reactors, has been that there will be a reactor safeguards committee within the (Atomic Energy) Commission. By this bill, the joint committee seeks to make that committee a statutory committee and to have it pass on safety of reactors as they are proposed and constructed. By making it a statutory committee, the joint committee hopes to give this reactor safeguards committee permanent standing and prestige. The legislation,

at the same time, would make the reports of the Reactor Safeguards Committee public and would require that there be hearings on the reactor applications, which would either be commercial, or those looking toward the demonstration and practical value, or testing reactor. Thus the joint committee has tried to see that there are all reasonable statutory provisions necessary to insure the safety of reactors.

Mr. President, it would seem to me that the Reactor Safeguards Committee discussed here sets a clear precedent for legislating nuclear safety within the framework of Price-Anderson. This precedent was apparently followed by the Senate Energy Committee when it marked up Price-Anderson last year.

The Energy Committee bill (S. 748) contains at least two provisions geared toward preventing a nuclear accident. First, the bill would establish an Office of Inspector General within DOE to promote "health, safety and sound environmental management in the administration of the nuclear program of the Department." As chairman of the Governmental Affairs Committee which has jurisdiction over inspector generals, I would strongly oppose any departure from the system of departmentwide IG's with responsibility for efficiency and fighting fraud, waste and abuse. Second, the bill would create a panel to examine the need for increased oversight of DOE nuclear activities in order to provide for "reasonable assurance of public health and safety."

Although I believe my amendment would be a more effective measure, I commend my colleagues on the Energy Committee for having recognized the vital linkage between victim compensation and victim avoidance. The objectives of my amendment are precisely those embraced by the Energy Committee. Our means, however, differ in one crucial respect: my amendment would provide for outside, independent oversight of DOE nuclear activities, and would make the President the final arbiter in cases where production of nuclear weapon materials poses a severe or imminent threat to public health and safety.

Mr. President, my amendment is needed. I believe it is needed now.

CONCLUSION

It should be clear to my colleagues, that my amendment is not antinuclear but pro-safety. As long as our Nation's security rests on nuclear deterrence, DOE has a responsibility to produce nuclear materials to serve our defense needs. I support that entirely. But it is a terrible irony that, in seeking to deter a nuclear attack, large numbers of Americans are being put increasingly at risk of being poisoned or irradiated in peacetime.

For more than four decades, the nuclear weapons complex of DOE and its predecessor agencies has been shrouded in secrecy. This insulation, while perhaps necessary at the beginning of the nuclear age, has allowed the truth to be hidden about potentially unsafe reactor designs, deteriorating processing plants, sloppy operations, and disregard of internal reports documenting safety and environmental deficiencies.

My amendment would lift the veil on health and safety problems at DOE nuclear facilities, without compromising security. I certainly do not want anything that will compromise security. The intent is not to discredit the department; to the contrary, through independent oversight my amendment would allow DOE to regain the public confidence and technical reliability needed for continued safe operation of its defense production complex. Only then will our Nation truly be secure against the nuclear threat.

Mr. President, let there be no mistake about it: a vote for my amendment is a vote for nuclear safety. It is pure and simple no amount of procedural manuvering can obscure this basic fact. For 40 years safety has taken a back seat to production at the Nation's bomb factories; that is more than long enough. I urge my colleagues to vote today for health and safety at the defense production complex.

I will yield the floor now. I will have more to say a little later, Mr. President.

I will summarize by saying that we have 21 reports going back over nearly a decade indicating the problem. It has not been addressed. Some of these things listed in these reports are vital to safety and health and address issues of danger to this country, danger to people who live in Augusta, GA, for instance, 20 miles away from Savannah River in downtown Augusta. They are of concern to people in Ohio near a uranium processing plant, which triggered off some of my interest in this, which we now have documented. By the contractors' own statements some 300,000 pounds of uranium oxide dust over the years has come down on that surrounding community. When a warning went out that some of this was escaping through the filter system, at one time their solution to it was to turn off the warning system. We have issue after issue, time after time where the approach to safety has been one primarily of not interfering with the production of fissionable material.

No longer should that material be produced without any serious concern for the safety of the people and the workers around the plants.

Mr. President, I think this is a critical item. I hope my colleagues will see fit to support this amendment. I think this is exactly the right place for it, on this particular piece of legislation.

Exhibit 1

[From the Washington Post, Oct. 30, 1987]

Aging Bomb-Grade Plants Are Seen as Safety Risk

(By Cass Peterson)

The nation's bomb-production nuclear reactors are rapidly becoming too old to be operated safely and may have to be shut down before the government has new reactors in place, a National Research Council panel reported yesterday.

Hours after the panel released its report, E.I. du Pont de Nemours & Co. announced that it intends to relinquish its 37-year-old contract to operate the government's three reactors at the Savannah River Plant in South Carolina. The company said it fears it will be asked to assume liability for the plant and is "not willing to put our shareholders' assets ar risk."

The report, prepared by the investigating arm of the National Academics of Sciences and Engineering, contained the sharpest criticism to date of Energy Department management of the four U.S. defense reactors. The reactors, one in Washington state in addition to the three in South Carolina, are the only source of plutonium and tritium for nuclear weapons.

But the panel avoided the question of whether the reactors, which have been under intense scrutiny since a disastrous accident destroyed a Soviet reactor last year, are safe to run now.

"We are not in a position to make that determination," said Chairman Richard Meserve, a physicist and Washington attorney. "The term 'safe' does not lend itself to easy definition."

The report and du Pont's announcement came as twin blows for the Energy Department, which has been struggling to persuade a skeptical Congress and public that the aging reactors can be operated without compromising public safety.

The report "is critical of the department, but the important point to remember is that we invited this criticism," said Undersecretary Joseph Salgado.

The DOE reactors are not subject to the rules that govern commerical power plants, but department officials have maintained that they are designed for "comparable" safety margins.

Asked yesterday whether he was persuaded that the reactors provided "comparable" margins of safety, Salgado responded: "No, I'm not."

Energy Secretary John S. Herrington, who requested the academy study in May 1986, said the department will adopt immediately the panel's recommendation for an independent board to advise DOE on safety issues.

The report criticized DOE safety programs as inadequate and concluded that the department had relied for too long on its contractors to identify safety concerns.

"On occasion, the contractors have pressed for safety upgrades that DOE has then rejected for budgetary reasons," it said.

The report also said there are "uncetainties" about whether the reactors' backup safety systems could handle a severe accident without allowing dangerous amounts of radioactivity to escape.

The report suggested, however, that problems with the defense reactors have gone beyond management concerns. The Savannah River reactors, built in the 1950s, and the 25-year-old N Reactor at the Hanford Nuclear Reservation near Richland, Wash.

"are beginning to experience life-limiting material aging caused by irradiation and corrosion," it said.

"We concluded that the remaining useful life of the production reactors is likely to be equal to or shorter than the time needed to authorize, fund, design and build new facilities to produce plutonium and tritium," Meserve said.

DOE has stockpiled plutonium for defense purposes. Tritium, however, decays rapidly and must be replenished to maintain the current nuclear arsenal and build new weapons.

Of particular concern, the report said, is the N Reactor's 1,700-ton graphite core, which is used to slow neutrons during operations. Years of radioactive bombardment has caused the graphite to expand, putting stress on cooling and process tubes. The expansion also is distorting the channels that are used to insert control rods to shut the reactor down.

The N Reactor was shut down last January for $50 million of safety modifications, but the department hopes to restart it by Dec. 1.

The report said that the reactors at Savannah River are vulnerable to stress cracks in welded pipes and reactor tanks. A fourth reactor there was retired last year when efforts failed to repair a cracked tank.

"Unless a repair technology is developed, all the Savannah River reactors may eventually have to be retired from service because of cracking problems," Meserve said.

U.S. Admits Safety Faults At Reactors for Bomb Fuel

(By Matthew L. Wald)

Washington, October 29.—The Under Secretary of Energy acknowledged today that safety mechanisms in the reactors for making bomb fuel were not as good as those in commercial reactors, and he indicated that the Reagan Administration would soon take the first step toward building a new reactor.

The Under Secretary, Joseph F. Salgado, said that the department would move as quickly as possible to carry out some recommendations of a report released today by the National Academy of Sciences.

In addition to that highly critical report, another blow to the Government's fuel-producing reactors came today with an announcement by the Du Pont Company that it would not seek renewal of its management contract at a plant in South Carolina.

The company cited "the increasingly controversial nature of the assignment and the escalating criticism of all companies who are involved in this work."

"NOT PART OF BUSINESS MISSION"

"The increasingly contentious environment in which we operate Savannah River is consuming more and more management time in an activity that is not for profit and not part of our business mission," said the statement by R. E. Heckert, the chairman of E. I. du Pont de Nemours & Company.

The board's action, voted Wednesday at its Wilmington Headquarters, will end Du Pont's involvement in nuclear weapons, which dates from the earliest days in the United States effort in World War II to beat the Nazis to the development of the atomic bomb.

Du Pont built the Savannah River Plant complex of reactors and other bomb-fuel processing facilities at the request of President Truman in 1950. It undertook the management contract for $1 over costs, which are currently $1.2 billion annually, including a $374 million payroll.

Du Pont's contract expires on Sept. 30, 1988.

Under Secretary Salgado said this afternoon that his agency was sorry to lose such an experienced contractor.

He spoke at a news conference arranged for responding to the National Academy of Sciences report, which criticized the Energy Department's management of its production reactors and faulted the monitoring of safety at the aging facilities.

NEED FOR IMPROVEMENT

When asked whether safety systems at the department's reactors were comparable to those of civilian plants—an argument that critics have made for years—Mr. Salgado acknowledged that they were not and that "there is need for improvement."

John S. Herrington, the Secretary of Energy, said in a brief statement, "The challenge that we face is to get the fullest possible benefit from this report."

He left Mr. Salgado to answer the questions.

The study also said that the time required to build a new production reactor was probably equal to or longer than the remaining lifetime of the four existing plants, and that work should start now if a new one was needed. Mr. Salgado said today that Mr. Herrington had talked to President Reagan a month ago on the question and that within a week Mr. Herrington would decide on a procedure to choose the technology that would be employed in a new production reactor.

The Energy Department requested the Academy's study shortly after the accident at the Chernobyl reactor in the Soviet Union in April 1986.

A key focus of the report was that not enough work has been done to determine how well several important systems would function in a severe accident, including the equipment designed to prevent the escape of radioactivity.

"The Department of Energy has a large measure of experience and knowledge, but we think they need more," said Richard A. Meserve, who headed the study. Some of the questions would take three to five years to answer, he said, but the group did not recommend keeping the reactors closed until then. One rationale for continued operation, he said, is the "existence theorem," that if the plants have run without accident so far, that they are equal to the challenges of everyday operation.

[From the Washington Post, Apr. 30, 1987]

Weapons Reactor Should Stay Closed, Senate Panel Votes

(By Michael Weisskopf)

The Senate Armed Services Committee, citing safety concerns, voted yesterday to keep the nation's most powerful weapons-production reactor shut down except during a national security crisis, according to Senate aides.

The decision marks a setback for the Reagan administration, which sought $128 million in fiscal 1988 for operation of the N reactor at the Hanford Nuclear Reservation near Richland, Wash.

The reactor, which produced one-third of U.S. weapons-grade plutonium, was closed in January for safety improvements.

Senate aides said the decision to place the N reactor "on standby" represents a compromise, balancing defense needs against safety fears aroused by the plant, which is similar in design to the doomed Soviet reactor at Chernobyl. The committee voted in closed session.

A spokesman for the Energy Department, which runs Hanford and other plutonium-producing reactors at the Savannah River Plant in South Carolina, had no immediate response to the vote.

Earlier in the day, Energy Secretary John S. Herrington sent a letter to the committee in which he called the N reactor's plutonium output "essential to meet the material requirements" of President Reagan's defense modernization program.

"Without this production capacity, improvements in the quality of these forces, which are critical to our strategic deterrent, would be severely compromised," he wrote.

Herrington said a new weapons-production reactor is a "matter of urgent priority." Cost estimates for such a plant range from $8 billion to $10 billion.

Yesterday's decision came during the committee's markup of the defense authorization bill for next fiscal year.

Last week, the strategic forces and nuclear deterrence subcommittee voted for a permanent shutdown of the N reactor, which has come under intense scrutiny since last year's Chernobyl accident because it lacks massive containment facilities required of U.S. commercial reactors to prevent release of radioactivity.

When the DOE announced a six month shutdown starting in January, a panel of experts agreed that safety improvements planned for the 23-year-old plant would not be enough to enable it to operate safely beyond 1990.

The panel also said the DOE's $50 million safety overhaul would leave the plant vulnerable to a potentially catastrophic hydrogen explosion.

The experts said an accident similar to the one that destroyed the Soviet plant last April is "not plausible" at the N reactor. But they expressed concern about the possibility of a hydrogen explosion at Hanford more severe than the accident at the Three Mile Island reactor near Harrisburg, Pa., seven years ago.

According to DOE analysis, hydrogen buildup is not a danger at the N reactor. But the department's analyses have not been updated since the TMI accident altered assumptions about such releases during accidents.

A DOE spokesman said yesterday that the N reactor would not be restarted until all concerns about the hydrogen problem are resolved.

Senate aides said the full committee rejected the subcommittee permanent-shutdown plan to maintain defense flexibility, but decided that new funds to operate and improve the plant would be wasteful because of its outmoded design.

[From the New York Times, Dec. 13, 1986]

Hanford Reactor Is Troubled Link in Aging Production Chain

(By Matthew L. Wald)

The plutonium production reactor at Richland, Wash., whose temporary shutdown was announced yesterday, is one of the most troubled links in an aging chain of facilities used by the United States Government to make the raw material for nuclear weapons and fuel for submarines.

In early October, the Department of Energy closed some chemical processing operations at the Hanford nuclear reservation at Richland, which take the spent fuel from the reactor and remove from it the plutonium and uranium that can be used in bombs and other nuclear reactors. That action was taken because of repeated violations of the rules meant to prevent accidental nuclear reaction. An internal audit by an Energy Department contractor, Rockwell International, cited severe engineering design problems and other failings at the plant.

But even before the October shutdown, the safety questions in the operation of the Hanford reactor and its associated facilities stretched back for years. And because of environmental contamination, mostly resulting from inadequate storage of waste materials that will be radioactive or chemically toxic for millenia, and the escape of those materials into the environment during processing, the problems seem certain to last far into the future.

PROBLEMS ELSEWHERE, TOO

The problems are not limited to Hanford, a vast Government reservation of sand, sagebrush and nuclear plants. The Savannah River plant in South Carolina does much the same work and faces many of the same difficulties, and the facility that provides most of the raw materials for Hanford and Savannah River, in Fernald, Ohio, which has released large amounts of uranium to the surrounding air, water and soil, is now the subject of a major improvement effort.

The Westinghouse Materials Company of Ohio, which operates the Fernald plant, said Wednesday that it was shutting down a vital part of the operation there indefinitely, because of small spills of radioactive materials on Tuesday and Wednesday. The company closed at the part of the plant that receives raw materials and ships waste for disposal, until procedures and training could be evaluated and, if necessary, changed, the company said.

Government bomb plants in Rocky Flats, Colo., and elsewhere that use the plutonium from the Hanford and Savannah River plants also appear to have serious pollution problems.

The most acute problems in the production system, however, may be at the reactor shut down yesterday, code-named the N Reactor with wartime-style secrecy and opened 23 years ago with a life expectancy of 20 years.

SIMILARITIES TO CHERNOBYL

The plant, producing more steam than any other nuclear reactor in the country, is described by the Energy Department as a "major contributor" to plutonium production, although for security reasons it will not disclose the production levels.

The reactor has drawn new attention since the April 26 explosion of a nuclear power plant in the Ukraine. Both the Soviet plant at Chernobyl and the N Reactor use graphite in their cores, unlike commercial reactors in this country, which use water.

The Atomic Energy Commission chose a graphite design because it maximizes the production of plutonium, while commercial reactors use water because it is the most efficient way to turn uranium into steam for electricity. The Soviet choice may have been influenced by the relative ease of fabrication of such reactors, and by the familiarity they presumably gained with the design from early plutonium producers.

While the N Reactor has important design differences that reduce the likelihood of an accident like that at Chernobyl, it also lacks a surrounding concrete-and-steel structure designed to contain radiation in case of accidents. These containment buildings are standard features of nuclear power plants in the United States.

DEPARTMENT SAYS IT'S ADEQUATE

Chernobyl also lacks a full-scale containment building. Its surrounding structure was designed to withstand 26 pounds per square inch above atmospheric pressure, a General Accounting Office study noted in August, as against about 50 pounds for the stronger of the commercial reactor containments in American plants. But the figure for Hanford is just 5 pounds, the G.A.O. pointed out.

The Department of Energy, while maintaining that Hanford's protection against accidents was adequate, began to re-examine the possibilities in light of the Chernobyl disaster, resulting in the move announced yesterday.

The accident plan for the N Reactor has been for the initial burst of steam that an accident would presumably generate to be vented to the atmosphere, on the theory that at least in the early moments, the nuclear fuel that holds the bulk of the radioactivity would not have had time to rupture or melt, and that the steam would therefore be relatively clean. After the initial burst the steam vents would close.

The design presumed that no accident could produce multiple bursts of steam, which could overpressurize the building.

The reactor is beset with problems of aging, and operating it beyond the end of the next decade would require $1.2 billion in improvements, according to a report earlier this year by the General Accounting Office, a Congressional investigative agency. Among the problems have been that some of the equipment for taking samples of water in the plant to test for radioactivity levels is inoperable, requiring manual sampling of high-pressure and high-temperature streams and creating a delay in the results.

The primary coolant pumps, designed to go five years between major overhauls, are so old that the work must be done every two years, according to the G.A.O. study. Sometimes pump failure has required reduced levels of operation, the audit found, and electrical wiring has failed, causing reactor outages. Motors used to run valves have burned out, and they are no longer produced.

GRAPHITE IS EXPANDING

In a recent intreview at Hanford, Paul R. Bonin, manager of reactor administration for UNC Nuclear Industries, which runs the reactor under contract with the Department of Energy, said that the N Reactor experiences 20 to 25 "trips," or unplanned outages, each year. In the civilian sector the average is about seven, and the Nuclear Regulatory Commission is anxious to drive that number lower as a way to reduce wear and tear on operating parts and safety equipment.

Even routine operation would become more difficult as the years go by, however. The neutrons released in the nuclear reaction are loosening the structure of the graphite blocks that form the heart of the reactor's structure, and as a result the pile of blocks has been growing vertically. According to UNC Nuclear Industries, it will grow another five inches by 1995, and will contact the overhead shielding and cause structural damage.

Radiation is also causing growth in the metal tubes that hold the fuel inside the reactor, and the G.A.O. said it was unclear how much more the tubes can expand before causing parts of the reactor to rupture.

Other details at the N Reactor have been viewed as pressing problems, and illustrate the difference between the way that the Government regulates private nuclear operations, through the Nuclear Regulatory Commission, and the way it runs its own show through the Department of Energy.

DIFFERENT EMERGENCY PLAN

In case of accident at a civilian plant, the emergency core cooling system is suppose to dump water on the core and spray it into the reactor building, to hold down steam. When the tank of emergency water is empty, the emergency core cooling system starts drawing water out of the reactor building's basement and reusing it. The process may result in contaminating the reactor sump with radiation, as occurred at Three Mile Island, but it keeps the radiation in the building.

At the N Reactor, in case of major malfunction the plan is to pump water from the Columbia River through the reactor core and then into a hole or trench behind the reactor. The hole and trench have concrete sides and a concrete roof, and a dirt bottom. The idea is to use the land itself as a sponge to soak up contamination and hold it indefinitely.

Even in routine operation, the contaminated water the plant produces is dumped in this fashion. But Hanford officials have said that this did not present a danger.

"It's not just opening a faucet and letting it run over the desert," insisted Keith R. Price, the manager of environmental monitoring at Hanford and an employee of Battelle Pacific Northwest Laboratories, another contractor there. "These are engineered facilities," he said in a recent interview, adding that calculations had been made about how much water could be added before the water underground was contaminated.

WASTE DISPOSAL A CHALLENGE

In one spot on the 570-square-mile nuclear reservation, in fact, there are springs whose radiation content exceeds the Environmental Protection Agency's standards for drinking water. But the Energy Department's position is that the springs are not drinking water, because no one drinks there. In fact, no one drinks any of the water on the reservation, except for workers at a breeder reactor research station, and that water is carefully monitored, officials say.

"There are plans to end these waste streams," said Dr. Price. "But it takes time to get the money to do that."

Leaving aside disposal of the wastes now being produced in the nation's military nuclear operation, those that have accumulated over the past 40 years pose formidable technical and financial challenges. At Hanford, which has the largest volume of wastes, about a million gallons of radioactive liquids are stored in each of 149 single-walled tanks, of which 29 have been shown to leak and 31 others are suspected of leaking. An effort began in 1978 to "stabilize" them, and is now about two thirds complete.

But this is an interim solution for wastes that must be isolated from the environment for tens of thousands of years. The Department of Energy expects to issue an environmental impact statement next summer on methods for disposing of the wastes. It is exploring possible disposal solutions, ranging in price from $1.9 billion to $11.3 billion, depending on where the wastes are eventually put, and how much processing is done on them first.

Even the smaller figure for this single site would dwarf the bill anticipated by the "superfund" toxic waste cleanup program, which calls for only $9 billion for 357 sites.

There are no plans at Hanford to cleanup most of the material that has leaked into the soil, which is described as being largely "immobilized."

In addition, while Hanford has to the biggest volume of wastes the majority of the radioactivity in the Federal bomb production system is contained in more concentrated form at a different site, the Savannah River plant, near Aiken, S.C. which has 27 million gallons of wastes. That facility, whose the reactors and reprocessing plants also produce plutonium, dumps millions of gallons of "mixed wastes" including radioactive materials and chemical pollutants, into the soil. The area is far more vulnerable to earthquakes than Hanford, and more densely populated.

[From the Los Angeles Times, May 2, 1986]

Reports Cite Problems in Washington's 23-Year-Old Hanford Reactor

(By Larry B. Stammer)

Richland, Wash.—The federal government's nuclear reactor here may experience severe cooling problems and possibly even a meltdown unless measures are taken to upgrade safety features and critical parts that are wearing out at the 23-year-old, weapons-producing plant, according to two Department of Energy reports.

The warnings of potential problems at the Hanford Government Reservation facility surfaced Thursday as concern grew over the safety of several U.S. nuclear plants that, like the Chernobyl facility in the Soviet Union, do not have containment structures to prevent the release of radioactivity.

The Hanford plant, about 35 miles from here, is further similar to the Chernobyl plant in that it also uses graphite as a moderating agent to control the race of nuclear reaction. The so-called "N reactor," owned by the Energy Department, also generates electricity. It is operated by United Nuclear Industries Inc.

As recently as Wednesday, Energy Department officials were assuring reporters that the reactor is safe.

One of the reports, by United Nuclear Industries and dated April 26, 1985, said that "serious deterioration" of the valve discs in the reactor's primary cooling system could impair the flow of coolant because of difficulty in opening and closing them.

A breakdown in any reactor's cooling system can be a precursor to a serious nuclear accident. Indeed, many Western nuclear experts have surmised that it was a failure in the coolant system that triggered the Chernobyl accident.

The United Nuclear Industries report also said that valves could break off and partially obstruct the cooling pipes. "The implications of partial flow channel blockage due to disc failure have been assessed and found to include some possible fuel damage," the report said.

"Disc failure is, therefore, a risk which must be avoided to assure nuclear safety and reactor production continuity," the report said. Larry P. Leach, vice president of United Nuclear's operaton division, said Thursday that the disc valves will be replaced beginning in fiscal year 1988, at a cost of $17 million, even though the valves are not expected to become seriously eroded until 1990.

The second document, this one warning of a possible meltdown in the event of a major earthquake, was in the Energy Department's 1987 budget request. A meltdown occurs when the reactor's temperature runs out of control, causing the fuel to melt and resulting in release of radioactivity.

A notation in an item requesting $800,000 to add braces to pipes used in the Hanford plant's graphite cooling system said, "This project will assure emergency core cooling," particularly in the event of an earthquake in which cooling water may not be available, thus "increasing the potential for core meltdown."

But Energy Department officials here released a statement Thursday declaring that the $800,000 has been deleted from the department's 1988 budget request and that earthquake safety improvements to the graphite cooling system are no longer under consideration.

They pointed out that the Hanford plant has two other systems which cool the reactor core and that both are designed to withstand an earthquake registering 8 on the Richter scale.

"There's nothing wrong with the safety systems in N reactor as it is . . . ," said Rodney Nelson, chief of the Energy Department's reactor operating branch.

"I think the wording in the budget backup submittal may have been a little bit too graphic, to put it bluntly," Nelson said in an interview.

Earlier this week, Michael J. Lawrence, manager of all Energy Department operations in the Hanford reservation area, noted that the facility has an unblemished record for all 23 years, and added. "We're going to continue to operate just the way we have."

Also on Wednesday, the Department of Energy announced that it is changing the dates of a detailed inspection of the reactor. The inspection, originally scheduled for next September, will begin as early as next week. Meanwhile, Rep. James Weaver (D-Oregon) said Thursday that his House subcommittee would hold hearings on the safety of the Hanford plant beginning May 16 in Portland. Weaver is chairman of a House Interior oversight subcommittee which held hearings after the accident at the Three Mile Island nuclear power plant in 1979.

Dan Meek, a consultant to the subcommittee, noted that the Department of Energy's nuclear reactors are not regulated by the Nuclear Regulatory Commission, as are commercial power reactors.

"We don't know if they are concerned about safety as opposed to having it done cheaply and quickly," Meek said.

[From the Washington Post, Oct. 10, 1986]

DOE Orders 2 Hanford Plutonium Plants Shut

(By Cass Peterson)

The Energy Department has ordered an indefinite shutdown of two plants that produce most of the nation's weapons-grade plutonium, citing a "lack of appropriate controls" to prevent an uncontrolled chain reaction.

DOE officials said the shutdown, the first ordered at a government nuclear facility, was prompted by a Sept. 29 incident at the Hanford nuclear reservation near Richland, Wash., in which workmen violated procedures intended to prevent the accidental mixing of enough plutonium to reach "criticality."

Criticality is the level at which a spontaneous chain reaction can begin. Depending on the plutonium concentration, such a reaction can release radioactivity and intense heat or cause a nuclear explosion.

"It's a very serious problem," said Hanford spokesman Mike Talbott. "The potential [for a chain reaction] was there. There was a violation." DOE ranked the incident at 4 on a scale of 1 to 5 for such violations, with 5 the most serious.

The immediate shutdown was ordered by site manager Mike Lawrence, who said it will remain in effect until DOE's contractor, Rockwell Hanford Operations, submits a plan to correct the problem, which might take as long as a month.

The shutdown is the latest crisis to beset the reservation, which attracted attention earlier this year because of its N Reactor, a graphite-moderated nuclear reactor with some similarities to the Soviet reactor that exploded and burned in Chernobyl. DOE conducted two safety reviews of the N Reactor and gave it a clean bill of health. The shutdown does not affect it.

The closing also follows a spate of publicity about a series of inhouse audits by a Rockwell employe who found serious safety problems at the two plutonium facilities. The employe, Carl Rudd, was behind closed doors on Capitol Hill yesterday, briefing Reps. Ron Wyden (D-Ore.) and Al Swift (D-Wash.), two critics of the Hanford operation.

The plutonium plants are part of a complex operation that converts uranium ore into plutonium metal for use in nuclear weapons. Uranium, which arrives at Hanford in the form of yellowcake, or purified ore, is first made into fuel rods for the N Reactor.

After being irradiated, the rods go to the Plutonium-Uranium Extraction Plant (known as Purex), which dissolves fissionable material from them. The plutonium goes in liquid form to the Plutonium Finishing Plant, where it is separated from the liquid and emerges as metal cakes.

According to DOE and Washington state officials, the Sept. 29 incident occurred as workers were attempting to route plutonium-bearing liquid from the Purex plant to a storage tank at the finishing plant.

The danger existed because a transfer line to another storage tank, already filled with plutonium liquid, was not blocked. Had the workmen pumped more plutonium liquid into that tank, a chain reaction could have followed.

Talbott said workmen halted the operation and there was no danger of a chain reaction. "We never had the movement of the liquid," he said.

However, state officials said they were told that enough plutonium was mixed to exceed DOE's safety level and that the tank "approached criticality."

"You can never let too much of this stuff get too close," said Curt Eschels, an energy adviser to Gov. Booth Gardner (I). "There is a conservative safety standard, but they violated that."

Gardner, who has expressed misgivings about Hanford in the past, is supporting a call by Swift and Sen. Daniel J. Evans (R-Wash.) for an independent review of Rockwell's operations. "Rockwell has lost all credibility with the people of this state," Gardner spokesman Dick Milne said.

Rockwell, a division of Rockwell International Corp., is bidding on an $800 million contract that would consolidate Hanford's operations under a single contractor. The firm is also DOE's main contractor examining Hanford as a potential site for the nation's first high-level nuclear waste dump.

The plutonium plant shutdown affects about 750 of Hanford's 4,000 workers. Talbott said none will be laid off but will be assigned to routine maintenance and inventory tasks.

[From the New York Times, Oct. 23, 1986]

SAFETY LAPSES PARALYZE NUCLEAR BOMB COMPLEX

(By Matthew L. Wald)

RICHLAND, WASH., OCT. 17—The potentially lethal mistake that prompted the Department of Energy to indefinitely shut key links in the nation's production line for nuclear bombs started with a flexible plastic tube a little smaller than a garden hose. Workers on the graveyard shift at a chemical plant here were using the tube to transfer some liquid waste laced with plutonium from one 50-gallon tank to another.

The first tank was cylindrical, and so was the second. But the workers had not noticed that the second tank was connected by piping to a third tank, which was round, and therefore much more conducive to a spontaneous nuclear chain reaction in which the same fuel that powers an atomic bomb releases a flash of radiation and heat that can kill those nearby and cause extensive damage.

No one was hurt because valves between the second and third tanks were in a closed position when the pumping started. But it was the 54th time in two years that personnel here, employees of Rockwell Hanford Operations, had violated rules designed to prevent such a reaction. The ensuing shutdown for re-evaluation of operations, which began Oct. 8, nine days after the incident, may become the longest in years, interrupting production of fuel for nuclear bombs at a time of a major weapons buildup.

"There are supposed to be a number of inspections, checks and management approvals before a transfer is made," said Michael J. Zamorski, chief of the Nuclear Processing Branch of the Department of Energy." It demonstrates a serious loss of control in the ability to handle nuclear material."

A House subcommittee has joined in the investigation, hearing reports from a Rockwell auditor that engineering work at the facility, which is owned by the Government, was "out of control," that important inspections were skipped and engineering code requirements were ignored.

The auditor also reported that some welding was done by unqualified welders or inspectors, the documentation of plutonium handling was sloppy and some plutonium was stored in barrels in hallways instead of in locked rooms. That practice led to more violations of rules to prevent chain reaction, when finished pieces of plutonium, each put in its own rectangular wagon to keep adequate separation, were pulled in a train down the hallway.

"There is a serious problem with the degree to which nuclear materials custodians either understand their duties and responsibilities, or choose to comply with them," wrote the auditor, Casey O. Ruud.

Since plutonium production was reestablished herein 1983, Hanford, a complex of reactors, chemical plants and waste dumps spread over an area of remote desert steppe half the size of Rhode Island, has been plagued by repeated reports of missing material. The Department of Energy and its contractors, however, have concluded that these resulted from failure to take account of material left in pipes, and bookkeeping errors, and that no plutonium has been diverted for the illicit production of nuclear weapons.

PROBLEMS DISCUSSED AT SESSION

Mr. Ruud, whose audits called for some operations to be changed immediately or to be close, was called to Washington, D.C. to meet on Oct. 9 with two members of Congress, Ron Wyden, Democrat of Oregon, and Al Swift, Democrat of Washington, and the staff of the House Energy and Commerce Committee's Oversight and Investigations Subcommittee. "I found him enormously persuasive and very credible," said Mr. Wyden in a telephone interview.

The content of the session was confidential. However, declassified but heavily censored transcripts of earlier hearings indicate that the panel is especially concerned about the security of plutonium. Mr. Wyden, while refusing to say what was discussed, said "Nothing that I heard in the session with Mr. Ruud gives me much confidence that we're doing all we can to safeguard these materials."

At the Department of Energy office here Michael J. Lawrence, the manager of operations, said that an initial review of Mr. Ruud's assertions, which were prepared as internal audits not meant to go beyond Rockwell, showed that Mr. Ruud's audits were factual and that "he is a thorough, dedicated quality assurance inspector."

At civilian facilities, the Nuclear Regulator Commission has levied stiff fines for such failings. Officials of the Energy Department said Rockwell would suffer financially because its payments were based in part on production, but they would not estimate how great an effect the shutdown would have. They were also uncertin about when the plant would resume operations, although some said it seemed likely that it would repond next month.

In an interview, Mr. Ruud declined to go beyond the audits, which were first published in The Seattle Times. He said, however: "I respect my bosses. I respect plutonium more."

Rockwell at first denied some of Mr. Ruud's assertions and contended that he had never called for a shutdown of any of the operations. More recently, however, company spokesmen here and at the corporate office in El Segundo, Calif., said they could not comment because of the Department of Energy investigation. But a spokesman for the department, Tom Bauman, said the contractor was free to talk.

3 MANAGERS DISMISSED

The company has dismissed three managers, demoted two and reassigned one as a result of the safety violations.

Hanford's problems do not end with the audits and the violations of rules on chain reactions, however. Elected officiasl are increasingly critical of management by the Department of Energy, which is both the owner and regulator of the site. Mr. Wyden and others say they believe the department has withheld information.

When Gov. Booth Gardner of Washington toured the site last year, signs warning of radioactive contamination of the soil were removed from his route and later replaced, according to Curt Eschels, his special assistant for nuclear waste.

"The fact that the civilian plants have an independent regulator provides more assurance that they are safe, said Mr. Eschels, referring to the Nuclear Reglatory Commission, which licenses reactors owned by utilities but not those owned by the Department of Energy. With those plants, he said "All we're left with is the Department of Energy's requesting that we trust them. The record doesn't support giving them that trust."

Residents of the Pacific Northwest have also been upset by recent disclosures that Hanford released huge amounts of radioactive iodine in the 1940's, although support for the plant remains strong in the surrounding towns, whose economies are strongly dependent on the military expenditures.

Various plants at the billion-dollar-a-year operation here engage in practices that are unheard of in the civilian nuclear industry, including dumping liquids contaminated with radioisotopes into the ground.

[From the Washington Post, Jan. 10, 1987]

HANFORD REPAIRS WON'T BE ENOUGH, CONSULTANTS SAY

(By Cass Peterson)

The Energy Department's $50 million safety overhaul of its largest weapons-production nuclear reactor will still leave the plant vulnerable to a potentially catastrophic hydrogen explosion, according to several nuclear experts appointed to recommend improvements at the 23-year-old reactor.

After receiving the experts' reports, the department said it would close the N reactor at the Hanford nuclear reservation near Richland, Wash., for six months of repairs to "ensure its continued safe operation." The shutdown began this week.

But the department apparently has rejected appeals from its panel of six consultants to install systems similar to those in commercial reactors to prevent hydrogen gases from building up to explosive levels in the event of an accident. Instead, the department has opted for less elaborate controls that some of the consultants consider of questionable value.

"It's quite clear that they aren't going to do what I recommended," said Louis M. Roddis Jr., a former president of Consolidated Edison Co. of New York who headed the panel appointed last year by Energy Secretary John S. Herrington. "I still think the smartest thing to do is replace the reactor," he said.

The N reactor drew attention last year because of its similarities to the Chernobyl reactor in the Soviet Union. Like Chernobyl, the N reactor "moderates" its nuclear reaction with a graphite core and lacks a containment dome to prevent the escape of radioactivity.

In their separate reports, Roddis and his five colleagues agreed that an accident similar to the one that destroyed the Soviet reactor last April is "not plausible" at the N reactor. All, however, expressed concern that the aging reactor was vulnerable to a hydrogen explosion more severe than the one that disabled the Three Mile Island reactor (TMI) in Pennsylvania seven years ago.

According to Roddis' calculations, the N reactor is capable of producing 20 times more hydrogen gas than TMI and nearly twice as much hydrogen as Chernobyl. Because the N reactor has no containment dome, a massive hydrogen explosion there would likely result in major radioactive releases.

DOE safety analyses indicate that hydrogen buildup is not a hazard at the N reactor, but they have not been updated since the TMI accident changed some assumptions about hydrogen releases during accidents.

"In light of TMI, people are more cautious about hydrogen these days," said Gerald F. Tape, a Washington-based nuclear consultant who also served on the panel. "All of us feel it should be looked at again."

After TMI, the Nuclear Regulatory Commission stiffened its requirements for hydrogen control at commercial plants. Most pressurized-water plants are equipped with an ignited system designed to burn off hydrogen before it can build to explosive levels. Boiling-water plants surround the reactor with an inert gas, such as nitrogen, that will not sustain an explosion, and sometimes have ignition systems as well.

The N reactor has neither a hydrogen control system nor a monitoring system to detect excess hydrogen levels.

DOE and UNC Nuclear Industries Inc., which operates the reactor for the government, said a monitoring system will be installed during the N reactor shutdown. According to DOE reactor official Delbert F. Bunch, the department plans to tighten seals on the reactor's ventilation system and install additional fog-spray nozzles.

With improved ventilation, he said, excess hydrogren can be pulled out of the reactor before it reaches dangerous levels. Spraying water in the reactor, he said, will cool certain areas and create a circulation pattern that will draw hydrogen into the ventilation system.

Roddis and other members of the panel said they are skeptical of the plans. "What's that got to do with it?" Roddis asked regarding the fog-spray improvements.

"I am familiar with fog sprays," said University of California professor Thomas A. Pigford, another member of the panel. "I cannot explain how it mitigates hydrogen."

According to Pigford, increasing moisture content of the air can decrease the explosive potential of hydrogen, but water sprays can also have a reverse effect. If water condenses too much steam from the air, he said, the explosive potential can increase.

In his report to Herrington, panel chairman Roddis recommended that the reactor be surrounded with an inert gas "as a matter of high priority."

"I made it very clear," he said, "Commercial reactors do it. I know damn well that in an inerted atmosphere you won't have a hydrogen explosion."

Another member, California consultant Miles C. Leverett, favored an ignition system. And other members said they urged hydrogen controls without being specific on the type.

"In all honesty, I don't know what they are going to do," said panel member Harold W. Lewis of the University of California. "Their position is that you can't get hydrogen into an explosive mixture [at the N reactor]. It's a technically fallacious position."

Lewis said, however, that he thinks that DOE officials are committed to improving the reactor's safety.

"The question is: Can $50 million save the baby?" he said. "It's hard to know. If I had to spend money on that reactor, I would not give any guarantees."

[From the Washington Post, Feb. 17, 1988]

N REACTOR WON'T REOPEN, DOE SAYS

(By Cass Peterson)

The Energy Department announced yesterday that it will not restart its main plutonium-producing reactor at the Hanford Nuclear Reservation in Washington state, saying other sources can meet the military's plutonium requirements.

The Hanford reactor, called the N reactor, was shut down more than a year ago after a special review commission concluded that it needed extensive safety modifications.

The Energy Department has since spent more than $50 million in repairs on the 25-year-old reactor, but efforts to restart it have been opposed by Northwest officials and environmental groups who contend that it still represents a major safety hazard.

In a statement, DOE said it expects to meet plutonium requirements through its reactors at the Savannah River Plant in South Carolina, one of which produces plutonium, and by recycling "retired nuclear weapons and residue material."

According to Hanford officials, the action will cost the Richland, Wash., area about 2,600 jobs over the next two years and could eventually put nearly half of Hanford's 14,000 employees out of work.

DOE spokesman Ken Morgan said that about 3,300 people are employed at the N reactor but that the shutdown "eventually will impact other activities because the N reactor is at the head of the plutonium production system."

More than 3,000 additional employees work in various extraction and finishing plants that turn the reactor's irradiated fuel rods into plutonium for nuclear weapons.

The auxiliary plants have been processing stockpiled fuel rods and other materials during the N reactor's shutdown.

The N reactor, completed in 1963, is the last of nine that once dotted the 475-square-mile reservation in eastern Washington. The aging reactor came under fire in 1986 after the nuclear accident at Chernobyl in the Soviet Union because of its similar design.

"We have always maintained that the reactor was safe," Morgan said. "The work that was done here was good work, and the reactor is good."

However, DOE officials have acknowledged that the reactor's days were numbered because of deformations in its graphite core that were expected to force it out of operation by the early 1990s.

"This decision confirms what many of us have been saying for some time," Sen. Brock Adams (D-Wash.) said. "The continued operation of the N reactor is not necessary for our national security, nor would it have been safe to restart the N reactor without extensive repairs."

DOE said it intends to complete scheduled repairs to preserve the option of restarting the plant if plutonium requirements increase and new production facilities are not available.

[From The Washington Post, Mar. 21, 1987]

NUCLEAR ARMS PLANT ORDERED TO REDUCE POWER FOR SAFETY

(By Cass Peterson)

The Energy Department ordered its three weapons-production reactors in South Carolina yesterday reduced to half power after a National Academy of Sciences panel warned that the plants were operating beyond the capacity of their cooling systems, threatening a catastrophic core melt in event of an accident.

The decision was made in an emergency meeting to consider an unusual warning issued last week about the department's Savannah River reactors. Energy Secretary John S. Herrington asked the academy to review plant safety in the aftermath of the Chernobyl nuclear disaster in the Soviet Union.

In a letter signed by chairman Richard A. Meserve, the panel told Herrington that it could not "conclude with confidence" that the Savannah River plants would withstand a severe loss-of-coolant accident.

The panel said it decided to send the warning before its full report because of DOE's request that "we bring any matters of immediate concern promptly to the department's attention."

The decision means that DOE capacity to produce weapons material has been cut by more than 60 percent in less than three months because of safety questions. The department shut down the N reactor in Washington state, its largest plutonium-production reactor, earlier this year after another panel of experts found a host of safety problems there.

The federal Savannah River plant, near Aiken, S.C., produces plutonium and tritium for nuclear weapons in three reactors that, like the Chernobyl reactor, lack containment structures to prevent radioactive releases in the event of an accident.

A General Accounting Office report last week disclosed that reactor power levels were cut 26 percent late last year after Savannah River technicians raised questions about the adequacy of emergency cooling systems.

Reducing the power level curbs production of radioactive materials, and thus reduces the heat that cooling water must remove. The amount of decay heat that must be removed would be critical in an accident, even if the reactor were immediately shut down.

DOE and its contractor, the E.I. du Pont de Nemours Co., contended that the reactors were operating at "a conservative level" after the power reductions.

But Meserve told Herrington that neither DOE nor du Pont could demonstrate that the reductions would be enough to avoid significant core damage in a serious accident.

"We looked at the justification and we were still uncomfortable," Meserve said in an interview yesterday.

Meserve's letter is dated March 9, three days before DOE officials testified at a Senate oversight hearing that the Savannah River safety design is "fundamentally sound."

Assistant Secretary Mary L. Walker did not mention the academy's warning, although several members of the Governmental Affairs Committee questioned her on the panel's findings.

"This borders on an emergency situation," said Chairman Sen. John Glenn (D-Ohio), who was unaware of the letter until he received a copy from the Natural Resources Defense Council, a Washington-based environmental group.

A severe loss-of-coolant accident is considered the most dangerous type of accident that can occur at a nuclear reactor, because it can leave the reactor's core without water needed to prevent steam from building up to explosive levels or fuel rods from melting.

Commercial reactors are required to have backup cooling systems to guard against such accidents. The Savannah River plant also has a backup cooling system, but Meserve's panel said it was not clear that the system could move enough water through the reactor to prevent core melt in a severe accident.

The panel urged Herrington to move "immediately" to ensure safety of the reactors. While the letter did not call for a shutdown of the plants, it said, "In our view, the reactors should only be operated at power levels at which it can be convincingly demonstrated that there will be adequate cooling of the fuel" in the event of an accident.

DOE officials and outside nuclear experts said there are no analyses demonstrating that the backup systems at Savannah River are adequate at any power level.

"It is clear that for many years, the plant has been operating with a limited base of knowledge about the performance of the cooling system," said Gordon Thompson, a nuclear analyst with the Institute for Resource and Security Studies in Cambridge, Mass.

According to Thompson, any cooling difficulties could be compounded by the design of the Savannah River reactors.

Unlike commercial pressurized reactors, the federal reactors operate at low pressure, a factor that is generally regarded as a safety advantage. In the event of an accident, however, low pressures become a disadvantage because water pumped into the reactor will boil at far lower temperatures, potentially choking off the flow of additional cooling water.

"That doesn't occur in commercial reactors," Thompson said.

Delbert F. Bunch, a DOE reactor safety official, said the new power cutbacks are designed to keep decay heat in the reactor below the boiling point of water. The lower levels will remain in effect "until the contractor has enough data to show we've got adequate margins of safety at higher power," he said.

According to Bunch, DOE officials did not discuss the academy's warning at last week's Senate hearing because the department's testimony had been drafted before the letter was received. "In retrospect, it might have been better to deal with it," he said.

[From the Washington Post, July 24, 1986]

South Carolina Plant's Nuclear Waste Tanks Unsafe, Group Says

(By Cass Peterson)

More than 27 million gallons of highly radioactive waste are stored at the federal Savannah River Plant in South Carolina in "obsolete and dangerous" tanks that are vulnerable to explosions and earthquakes, an environmental research group said yesterday.

The Environmental Policy Institute, releasing the results of a five-year study of the Energy Department bomb-production facility, warned that a major accident or natural calamity there would release enough radioactivity to kill thousands of people and permanently contaminate thousands of acres.

The report said the consequences could be as severe as those experienced 30 years ago in the Soviet Union when hundreds of square miles in the Ural Mountains were turned into a radioactive wasteland by what some scientists believe was an explosion of chemical and nuclear wastes.

"A potential for similar explosive accidents or loss of containment from earthquakes also exists at the Savannah River Plant site," the report said.

A DOE spokesman said the report revealed "no evidence of unsafe practices or procedures in the way waste is managed at Savannah River."

"The waste is now being stored in a safe and environmentally responsible way," spokesman Dave Devan said.

The Savannah River Plant, near Aiken, S.C., has produced weapons-grade plutonium since the early 1950s, storing its high-level nuclear waste in 51 underground tanks. According to institute researchers, the accumulated waste contains more than 800 million curies of radioactivity, or more than three-quarters of the radioactivity of all high-level U.S. military waste.

The report contends that hydrogen gas can build to explosive levels within the tanks, posing the threat of a blast "severe enough to destroy the tank and send millions of curies of radioactive waste spewing into the air and onto the land."

A 1978 safety analysis prepared by Du Pont which operates the plant, said that such an accident was possible but was not likely to happen more than once every 25,000 years.

Documents obtained by the institute indicate that a hydrogen blast took place 20 years ago in one of the plant's tanks after the gas built up to only 15 percent of the amount thought to be required for an explosion. The incident was not mentioned in Du Pont's 1978 safety analysis, and Devan said plant officials deny that such an accident occurred.

Researchers "misinterpreted the data," he said.

The report also questioned the ability of the tanks to withstand a severe earthquake. The U.S. Geological Survey has assessed the area as a "level 3" earthquake zone, meaning that major damage could be expected in the event of a quake.

"I think it is a matter of speculation whether the tanks could withstand even the moderate earthquake for which they were designed," said Arjun Makhijani, one of the report's authors. He cited documents indicating that some of the tanks have corroded or developed cracks and brittle areas.

Robert Alvarez, another author, said that leaks, spills and mishandling of high- and low-level nuclear wastes at the plant had already heavily contaminated the 300-square-mile reservation and underground water supplies.

In 1983 the Environmental Protection Agency warned that contamination at Savannah River posed an "imminent threat" to the Tuscaloosa aquifer, which underlies the plant and supplies drinking water to the south-central Atlantic Coast.

The plant "has been used more or less as a giant sponge," Alvarez said.

[From the New York Times, Sept. 18, 1987]

Explosion Risk at Nuclear Site Is Reported High

(By Matthew L. Wald)

WASHINGTON, Sept. 17.—Tanks containing millions of gallons of deadly radioactive wastes at a nuclear weapon facility in South Carolina are at substantial risk of exploding and contaminating the surrounding area, according to a report released today by an environmental group.

The report, by the Washington-based Environmental Policy Institute, said the probability of an explosion each year at the facility, the Savannah River Plant, may be as high as one in 50. The plant produces plutonium for nuclear weapons.

The group also said that figures provided by the private contractor that runs the plant for the Federal Department of Energy shows a large increase in the amount of plutonium in the plant's wastes from 1978 to 1986. This means, the group said, either that the aging facility is becoming much "dirtier" in its operations or that operators are not keeping track of the production of plutonium, an extremely toxic substance.

DU PONT DISPUTES IT

Officials of the E.I. du Pont de Nemours & Company, which runs the facility, disputed the claims. The Du Pont officials said, however, that some of the evidence to support their position was classified or in draft form.

The environmental group specializes in nuclear matters involving the military. This report, their second on Savannah plant, is entitled "Evading the Deadly Issues: Corporate Mismanagement of America's Nuclear Weapons Production." It continues a growing debate about the safety of Government-owned, contractor-operated military nuclear plants.

Savannah River, a 300-square-mile complex of reactors, reprocessing plants and chemicals and radioactive wastes southeast of Augusta, Ga., has been plagued by continuing problems. For example, two of its reactors are now shut by cracks and other flaws. Others are running at less than 50 percent power, after a study found that they had been operated for years at what may be unsafe temperatures.

A MEASURE OF WASTE

The liquid wastes remain after the fuel from the reactors is stripped of its plutonium. More than three quarters of the radioactivity from the nation's military waste is held in 51 tanks here, each of which holds 750,000 to 1.3 million gallons of waste.

A 1978 safety analysis by the Department of Energy quoted by the environmental group said there was a 1 in 10,000 chance of a hydrogen explosion. The company and the Department of Energy say that the probability of explosion from organic vapors was 10 times higher, or 1 in 1,000 according to Arjun Makhijani, a researcher with the environmental group who has a doctorate in nuclear fusion.

Taking into account the number and individual vulnerability of tanks, he said, the chance of any one of them suffering an explosion was one in fifty each year.

In a telephone interview, Harry Harmon, Du Pont's research manager for the tanks, said that a new safety analysis puts the probability of a hydrogen explosion at one in 23,000. He also said that the new study showed only one of the tanks had organic vapors, and that it was protected by redundant safety systems. He would not describe the report in detail however, saying it was still in draft form.

Robert Alvarez, director of the institute's Nuclear Project, said, "Their method is in draft form, available for them to juggle in secret. There is some lack of scientific integrity to release the results and not release the method."

[From the Washington Post, Feb. 22, 1988]

Weapon Reactor's Power Level Cut at Scientists' Insistence—Ability to Withstand Accident Challenged

(By Cass Peterson)

The Department of Energy has reduced power levels at its last remaining plutonium-production reactor by more than 10 percent, the third cutback in 14 months, after a stormy confrontation with scientists who warned that the reactor was still operating beyond the demonstrated capacity of its emergency cooling system.

DOE officials confirmed that power levels at the L reactor, one of three government reactors at the Savannah River Plant in South Carolina were reduced Feb. 12. Savannah River managers called it a "routine" action reflecting a change in the way reactor temperatures are measured.

But other sources said the reduction was ordered only at the insistence of scientists working for the E.I. du Pont de Nemours & Co., DOE's contractor at Savannah River, who had discovered a fundamental error in the calculations that have been used for decades to justify reactor operating levels.

According to several sources, the issue erupted in an acrimonious meeting Feb. 8 at which a top Du Pont scientist threw his security badge on the table in front of Savannah River manager Robert L. Morgan and threatened to "go public" unless DOE reduced power levels.

"Morgan blinked," one source said.

All three of the weapons-production reactors there were cut to 50 percent power last March after a National Academy of Sciences panel warned that a severe accident could overpower emergency cooling systems. The action reduced L reactor's operating level for 2,200 megawatts thermal to 1,100 megawatts.

Du Pont's new calculations, however, showed that the reactor needed to be cut back even more—to 960 megawatts—to ensure a "conservative" safety margin while scientists complete a formal assessment of the reactor's ability to withstand accidents.

DOE's initial reluctance to take that step infuriated Du Pont scientists and has raised new questions about the department's commitment to safety. According to several sources, DOE managers at Savannah River resisted the latest cutback because they did not want to admit a mistake and risk kindling public pressure to close the South Carolina reactors.

The L reactor became the last plutonium producer in the nation's aging bomb complex last week, when the department announced that it would not restart the N reactor in Washington state.

"The scientists redid the calculations and they said, 'Whoops, we made a mistake,'" said one source. "DOE wanted to hide the error and the fact that they didn't know what they were doing."

A DOE official acknowledged that the department did not want to "raise the specter of continuing problems at Savannah River. Morgan's view is that it was not a significant change and why bother?"

The incident demonstrates an increasingly knotty problem for the DOE, which is caught in a vise between its weapons-production mission and safety concerns that have mounted since the Chernobyl nuclear accident two years ago in the Soviet Union.

The N reactor became an immediate focus of attention because its nuclear reaction is controlled by graphite, like the Chernobyl reactor. Its retirement leaves the government with only the three Savannah River reactors, which are of a different design.

The Savannah River reactors—designated by the letters L, P and K—operate at lower temperatures and pressures than commerical power reactors, which is considered a significant safety advantage. But they lack the concrete containment structures that commercial reactors must have to prevent the release of radioactivity in the event of a major accident, and they are showing signs of corrosion caused by age.

Of the three, the L reactor has generated the most concern because it uses uranium fuel to produce plutonium, a process that results in greater internal heat. The K and P reactors use lithium fuel to produce tritium, a component of nuclear weapons that must be replenished frequently because it decays rapidly.

Seeking to defend its nuclear program against accusations of slipshod science and the subversion of safety to production goals, DOE has since opened many of its highly guarded plants to outside review.

It was one such review, by the academy, that led to last year's 50 percent power reduction at Savannah River. The academy said that reactor operators could not "convincingly demonstrate" that backup cooling systems would cope with a severe accident.

The problem is that the Savannah River reactors, built in the 1950s and initially designed to operate at about 350 megawatts thermal power, have been upgraded repeatedly to increase output. Additional safety equipment was added, but the department has never done the intricate calculations needed to prove that the equipment could protect against a disastrous accident at power levels that have ranged up to nearly 3,000 megawatts.

The power reduction last March was intended to keep decay heat in the reactor below the boiling point of water, a standard that both DOE and the academy panel believed was conservative enough to assure safety until additional research was done. At the time, DOE officials said that the reactors would remain at the lower levels "until the contractor has enough data to show we've got adequate margins of safety at higher power."

Instead, Du Pont scientists discovered that even a 50 percent cutback in power was not sufficient to keep decay heat below the boiling point. The reason is that reducing power in low-pressure reactors, such as those at Savannah River, does not proportionately reduce heat within the reactor.

One source likened the phenomenon to what happens inside an electric coffee pot as the water begins to boil. "When it is boiling actively, heat transfer is very good and the electric coil will actually begin to cool down," he said.

The Du Pont scientists discovered, however, that the phenomenon was not taken into account in the mathematical formula used to set power levels at Savannah River. "They found that they had been running the fuel elements hotter than they thought they had," said one source, who said the formula had been used at Savannah River for decades.

The new calculations showed that the L reactor, which was running at 1,100 megawatts of thermal power, needed to be reduced to 960 megawatts to assure the safety margin agreed upon by DOE and the academy.

According to sources, the Du Pont scientists told DOE managers late last year that they could not defend the higher power level and urged an immediate reduction. After weeks of intensifying conflict, the issue came to a head in the Feb. 8 meeting, when Joseph Spencer, head of the Du Pont laboratory, threw his security badge on the table and, in the words of one source, "dared Morgan to pick it up."

"It was a question of scientific integrity," one source said. "The technical people were pretty stung by the academy's report," which questioned the scientific basis for reactor safety margins that DOE has claimed since the 1950s.

Spencer could not be reached for comment, and calls to Morgan's office were referred to the DOE press office at Savannah River.

Roger Rollins, reactor branch chief at Savannah River, denied that the meeting was acrimonious and explained the cutback as a procedural change.

"It had nothing to do with methodology," he said. "The primary factor was the way we incorporate our cooling water temperature into the limits calculations."

Rollins acknowledged that DOE officials were reluctant to announce the cutback, which was officially confirmed last week after repeated press inquiries. "We are sensitive to the way the rest of the world is sensitive to changes in power levels," he said. "Our concern was: How are we going to be able to explain this?"

Officials at the National Academy of Sciences say they have not been notified of the latest power cutback or the reasons for it, despite what they thought was an understanding with DOE that they would be kept informed.

"This is the first I've heard of it," said Steve Blush, who directed the panel that recommended last year's cutbacks. "This is directly in line with the kind of thing we asked them to do, although it took them awhile to do it."

DOE spokesman C. Anson Franklin said the department had no such understanding with the academy. "We had a policy of notifying them of any finding that would have a bearing on their review," he said. "Their review is over."

[From the New York Times, Mar. 3, 1988]

NUCLEAR PLANT RELEASE

AIKEN S.C., March 2.—A "puff" of tritium escaped from the Department of Energy's Savannah River plant Tuesday, officials said. They said the release from the plant that makes materials used in the production of nuclear weapons did not pose a hazard to the public. The release of 20,000 curies of tritium, a radioactive isotope of hydrogen, was described as a puff that lasted less than a minute.

SAFETY PROBLEMS AT REACTOR IMPERIL DEFENSE GOALS

(By Cass Peterson)

Safety problems forced the Energy Department to curtail operations at its weapons-production reactors in South Carolina and may make it impossible for the government to meet defense production requirements, the General Accounting Office told Congress yesterday.

GAO nuclear expert Keith Fultz told the Senate Governmental Affairs Committee that operating power levels were cut 26 percent late last year at three reactors at the Savannah River Plant near Aiken after studies indicated that emergency cooling systems were inadequate to handle an accident at maximum power. The finding, Fultz said, means that the reactors operated for six years "at a higher power level than may have been safe for the emergency cooling system in the event of an accident."

Assistant Comptroller General J. Dexter Peach said the problem, coupled with uncertainties about continued operation of DOE's plutonium-producing reactor in Washington state, "raise questions about the ability of DOE to meet future production requirements for our national defense."

"The overall complex can be described as costly, diverse, potentially dangerous and aging," Peach said.

Sen. John Glenn (D-Ohio), panel chairman, said the GAO report also suggests that DOE has not done enough to assure the safety of its reactors, which have been under intense scrutiny since a Soviet nuclear accident last April. Like the Chernobyl reactor in the Ukraine, the DOE reactors lack a concrete containment dome to prevent radiation releases.

"Chernobyl has taught us what can happen as a result of a nuclear accident," he said. "We cannot let that happen here."

One of Savannah River's five reactors has been inactive since 1964 and a second was shut down in 1985 after cracks developed in its steel reactor wall.

Fultz said two operating reactors may have cracks as well, but Savannah River operators have declined to inspect the walls with an ultrasonic method that is common in the commercial nuclear industry.

"A crack in the tank wall is of particular concern because, if it goes through the wall, radioactive water would leak from the tank and release radiation into the atmosphere," Fultz said. "In a worst case situation, a large crack could eventually split the tank in half."

[From the New York Times, Dec. 27, 1986]

THE BOMB MAKERS' COMPLACENCY

Facilities for producing America's nuclear warheads are decrepit, safety procedures lax and management complacent. The Reagan Administration did not create these problems but it has made them worse.

It doubled production of nuclear warheads since 1980, mostly for new weapons ordered by the Carter Administration, but spent little to modernize the aging plant. Now, maybe just in time to avert a serious accident, the Department of Energy has placed some plants under new management and ordered others shut down. It's a step toward protecting health, and national security, but too small and too aimless.

Nuclear warhead production is a huge industrial enterprise with 90,000 employees and assets worth $25 billion. The 18 major sites in its assembly line stretch from Hanford, Wash., to Savannah River, S.C. Given the importance to security and the dangerous materials involved, it's astonishing that, as Matthew Wald has reported in The Times, the industry seems to be "frozen in time, operating year after year with the equipment of the 1950's and 1960's." Thousands of workers are at risk from antiquated machines and safety procedures more appropriate to World War II.

The Department of Energy's major task is to oversee the plutonium complex, to which it devotes two-thirds of its budget. Yet it took the disaster at Chernobyl to force the department to pay attention to its similarly designed plutonium production reactor at Hanford. One consultant who was asked to assess the Hanford reactor noted the widespread complacency at Chernobyl, adding that "I have found the same problem here." Two of the four consultants recommended the plant be closed permanently unless urgently required by the national defense. The department says it is so required, and this month ordered the reactor closed temporarily to upgrade safety features.

Complacency in handling plutonium is rife at another part of the vast Hanford complex, the plutonium finishing plant. Capping a long record of safety violations, workers almost caused a lethal accident in October by transferring plutonium in a way that risked inducing a nuclear chain reaction. That close shave moved the department to shut the plant indefinitely.

Worker and environmental safety are neglected throughout the nuclear warhead industrial complex. At the ingot-making plant in Fernald, Ohio, a blanket of uranium dust used to cover the plant. Common practice throughout the complex is to dump hazardous and radioactive materials nearby; so that the soil and ground water often are seriously contaminated.

The reason for the neglect is that the Department of Energy is oriented toward production, not safety, and can write its own rules free of the Nuclear Regulatory Commission oversight. Of the $7.5 billion the department received this year for military activities, only 9 percent was allocated for managing nuclear waste and byproducts.

The department is taking belated remedial steps, like hiring a new contractor, Westinghouse, to run the whole Hanford plant. That doesn't go far enough. There is no reason that warhead production plants should not conform to the same safety standards as those of the civilian nuclear power program. Congress should appoint the Nuclear Regulatory Commission the arbiter of safety. If national security is a real consideration, just think how much it would be set back by a radiation release or other serious accident.

EXHIBIT 2

WASHINGTON, DC,
March 14, 1988.

DEAR SENATOR: The Industrial Union Department and the Metal Trades Department of the AFL-CIO are in complete support of S. 1085, the Nuclear Protections and Safety Act of 1987 and urge its speedy passage by the Senate.

The hearings before the Senate Committee on Governmental Affairs demonstrated that the Department of Energy (DOE) has not done an adequate job in maintaining the nuclear facilities that it controls and has not properly protected the health and safety of the workers employed at those facilities. The testimony showed a constant lack of concern by DOE for the welfare of the workers in these plants and the need to have the provisions of OSHA apply to them. Repeated General Accounting Office (GAO) reports made clear the conflict:

"The present structure and operation of the Operations Office combines production with safety and health to interface with the contractor as one entity. While conscious trade-offs of safety and health concerns for production goals have not been detected, the oneness of the organization, at a minimum, detracts from the status and perceived authority of the safety and health program. The closeness on the safety and health program to all phases of contractor relations may have also led to situations where DOE relies on the contractor to carry out DOE's safety and health program without adequate DOE monitoring or oversight."

Witnesses from the Oil, Chemical and Atomic Workers International Union and the International Association of Machinists and Aerospace Workers provided testimony, which according to the Committee report, "is replete with examples of DOE's failure to adequately address problems of safety and health at the facilities." Moreover, as these witnesses explained, "the problems are recurring." We agreed with the Committee statement, "The Committee believes that there is no justification for continuing DOE exemptions to federal laws regulating health and safety."

In addition to the OSHA provisions, we also support the provisions of Title I of the bill to create a Nuclear Safety Board; Title III of the bill to clarify the applicability of RCRA to the DOE facilities; and Title IV of the bill to create a Radiation Study Advisory Board. We are especially in support of Title IV as it reflects our increasing concern with the effects of radiation on workers and the public.

Sincerely,

PAUL BURNSKY,
President,
Metal Trades Department (AFL-CIO).
DAVID MALLINO,
Director of Legislation,
Industrial Union Department (AFL-CIO).

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I rise today to support the amendment offered by my distinguished colleague from Ohio, Senator GLENN. This amendment creates an independent board to oversee safety and environmental conditions at Department of Energy nuclear facilities. While Congress considers reauthorization of the Price-Anderson Act, many safety concerns are left unanswered. Senator GLENN has worked diligently to improve the safety standards at DOE nuclear facilities, and I urge support of his amendment.

Establishment of an independent oversight board was first proposed by Senator GLENN and approved by the Committee on Governmental Affairs in S. 1085, the Nuclear Protections and Safety Act. While this bill could stand on its own, I believe the Senate should add it to Price-Anderson because the two bills address similar concerns—providing assurances to the American people that the Nation's nuclear facilities will operate safely. Before discussing why I support the amendment, I would like to take a moment to talk about the Department of Energy nuclear facilities and the environmental and safety hazards these facilities pose.

The Nation's nuclear complex develops, produces, and tests both weapons materials and nondefense nuclear materials. It includes 127 facilities in 23 States and employs more than 120,000 people. Many of the facilities, however, are old. The last production reactor was constructed in 1963. The aging of these facilities has highlighted the need to maintain safety. During 4 days of hearings, the Governmental Affairs Committee heard a number of examples where environmental hazards exist and reactor safety issues were raised.

The GAO has documented extensive soil and ground water contamination at many DOE sites. And within the past 2 months, the DOE permanently shut down the N-reactor in Hanford, WA, for safety reasons.

The issue of nuclear safety and environmental protection stir very strong emotions and raise important concerns. Nuclear materials, such as those produced and stored at DOE nuclear facilities, must always be treated with the utmost care, security, and safety.

I support this amendment because it provides a strong foundation for needed safety review and oversight of DOE nuclear facilities. After extensive hearings in the Committee on Governmental Affairs—detailing many of the safety and environmental hazards which currently exist at DOE nuclear facilities—I am completely convinced that independent oversight is needed. The DOE has acknowledged this. We owe it to the American people that the Government's facilities meet the high standards of reactor and environmental safety and pose no threat to the American public.

A critical element of maintaining safe facilities is maintaining a sound system of checks and reviews. The DOE Office of Environment, Safety, and Health is a vital component of this system. In an effort to further meet these concerns, I applaud the efforts of Secretary Herrington in creating a 13-member Nuclear Safety Advisory Committee. But we must go beyond this. The Congress must ensure that this board has a long lasting role to play in maintaining the highest safety and environmental standards for the Nation's nuclear facilities.

I urge support for this amendment. What better way to try and prevent accidents from happening in the first place than to establish this independent board.

Mr. President, I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I rise today to voice my strong opposition to the inclusion of the oversight legislation for the Department of Energy nuclear weapons protection complex on this bill. This bill is the wrong vehicle for this legislation, as it is the Armed Services Committee which has primary jurisdiction for the nuclear weapons production complex.

While I have heard a great deal of concerns raised here this morning, and generally I share those concerns, I simply want to say, unfortunately, we do not live in a risk-free world. The extensive hearings that the Strategic Subcommittee has held in this area indicate that we need some changes; we need some new facilities; we need some cleanup. But this is the wrong vehicle with which to get the job done.

Let me repeat what I said just a moment ago. The legislation affecting the production of our nuclear weapons is the responsibility primarily of the Armed Services Committee and, in particular, the Subcommittee on Strategic Forces and Nuclear Deterrence. This is the extent of my disagreement with my friend and colleague from Ohio.

Indeed, my opposition focuses only on title I of the bill which he has presented here in the form of an amendment which he is offering as an amendment to the bill before us.

Title I is the only title in the bill dealing with the Department of Energy's defense programs. Given the clear and unambiguous national security nature of this title, it was referred to the Senate Armed Services Committee for action last fall. My Strategic Subcommittee subsequently held five extensive hearings on this bill, and I am pleased to see the ranking member, the distinguished Senator from South Carolina, Senator THURMOND, who was with us on each one of these in depth hearings.

In these in-depth hearings, we went into not only the needs for nuclear materials for the national defense of the United States of America, but we also went extensively into the matter of safety and what has to be done to make necessary improvements.

Also in all of these hearings was the Senator from Ohio and his staff from the Governmental Affairs Committee. Our subcommittee, in conjunction with Senator GLENN and in conjunction with Senator THURMOND, unanimously reported out legislation to better address the oversight of the nuclear weapons production complex. We are not ignoring it.

This legislation before us now, therefore, I support in its general tone, but I emphasize once again, this is the wrong vehicle to carry this proposition. It would implement and shred responsibilities between several different committees and, I suggest, is not the way to move in this area.

Last year, I proposed including this exact legislation—I am talking about title I—on the Defense Department authorization bill for fiscal year 1989. Regardless of what happens here today, we will do that. I have since expressed this commitment over and over again to the Senator from Ohio.

On February 3, 1988, the chairman and ranking minority member of the Armed Services Committee, the Energy Committee, and the Strategic Forces Subcommittee all expressed the commitment to finding a more appropriate vehicle for this legislation. On numberous occasions, I have restated my commitment to use the Defense Department authorization bill as a vehicle for the oversight legislation word for word, exactly like title I which is a part of the amendment offered by the Senator from Ohio.

I like and support the legislation the Senator from Ohio is offering in title I. But let us place it in the correct committee of jurisdiction where the national security expertise resides, and that committee is the Armed Services Committee on which the Senator from Ohio serves with distinction.

I think the Senator from Ohio would agree that the hearings held on his legislation by the Strategic Subcommittee were quite an educational experience for all involved. We learned critical things from the national security perspective that we could not have learned in another forum. Among them were the military requirements for nuclear weapons material production, one of our Nation's most highly guarded secrets. Surely this must be an essential factor in the consideration of any oversight legislation.

We also learned several other important things that were not addressed in the report accompanying the original legislation. For example, we all know that the aging of our critical nuclear production facilities does increase the risk of a nuclear accident or incident. But what exactly is the Energy Department's record in the safety area? Let me quote from the subcommittee's report:

> However, one chooses to examine the record—reactor incidents, day-to-day operation, worker radiation exposure, or worker injury rates—DOE's safety record has been excellent.

Witnesses from the National Academy of Sciences and OSHA all testified that the Energy Department's record is as good or, in most cases, substantially better than comparable commercial sector figures and well above minimum safety requirements.

This is good news. However, I do agree with the Senator from Ohio that risk always exists and we dare not become complacent. I am especially worried that the Department has allowed its facilities to age to the point that concerns about both safety and production to meet defense needs have grown to major proportions.

Compounding the problem is the frequent confusion between the issue of safety production and the very serious environmental waste problem.

I have been disappointed with the lack of progress made toward replacing these aging facilities and the cleanup of contaminated sites. I have been pressing for new facilities as soon as possible so that our security needs will continue to be met. I have also pressed for action to clean up sites. But production safety and cleanup are two distinct issues.

The environmental restoration is relevant to the safety production one in this one respect. It is an issue, like facilities modernization, that has been ignored for too long.

Until this modernization occurs, we are going to have to watch our existing facilities very carefully. And I tell all my colleagues this is going to be very expensive—much more than DOE can afford from its current budget levels. I have been monitoring the nuclear weapons production base and will continue to do this. Last month, we learned about a major dispute between the Energy Department and the contractor at the Savannah River plant's L-reactor.

Supposedly, a contractor threatened to quit over DOE's opposition to taking necessary safety actions. I immediately held a hearing of the Strategic Subcommittee to look into this matter. What we learned from both the contractor and the Energy Department laid to rest the alleged irresponsibility on the Department's behalf. Through the Subcommittee on Strategic Forces and Nuclear Deterrence, I intend to continue my monitoring of this particular matter and the nuclear production complex.

Accordingly, I again express my commitment to include title I of his bill, as reported out by the Strategic Subcommittee, in the Department of Defense authorization bill.

The Armed Services Committee has never failed to produce a Defense authorization bill and I see nothing to preclude passage of one again this year. In fact, the Armed Services Committee has already completed much of its work on this particular bill and we should see its passage soon.

Indeed, regardless of what happens here today, I intend to have legislation regarding oversight of the nuclear weapons complex included in the Defense authorization bill. I will certainly fight for inclusion of such legislation in conference with the House should that be necessary.

Mr. President, all Members of this body should be grateful for the hard work the Senator from Ohio has put into this legislation. His interest in this issue goes back many years.

I sincerely hope that the Senator from Ohio will agree to continue to handle this matter in the Armed Services Committee, the committee with the greatest knowledge of and responsibility for the nuclear weapons production complex and a committee on which he serves. As well intentioned as his efforts are this is the wrong vehicle to carry possible remedies and I urge its rejection.

Mr. President, there is one other matter that I must touch on briefly. I must correct what I regard as a serious misimpression that the distinguished Senator from Ohio inevitably leaves behind when he addresses the GAO studies of the Department of Energy's supposed sins in this area.

The senior Senator from Ohio has made a point by bringing a stack of GAO reports with him to all of our Armed Services Committee meetings on DOE oversight. I can almost cite the color of the page because I have seen them so very often.

But let me make it clear, the Senator is to be commended for his diligence in examining the issue where DOE's prior performance has been less than stellar and for his use of the GAO as an investigating tool.

What he omits to do as he waves his stack of GAO reports at us and talks about the dangers of Chernobyl, which are real, what he overlooks is to give the Department of Energy any credit for having reviewed and implemented most or all of the GAO recommendations.

So earlier this month, I asked the Department of Energy to review every one of these 21 reports to dig out every major recommendation in them and report to me what the Department of Energy has done or is doing to implement these recommendations.

I also asked them to highlight any GAO recommendations with which they do not agree. The box score makes interesting reading.

Let me tell you about GAO's response to those 21 GAO reports, those reports we have seen so often. Reports, by the way, which date way back to January 1979. Some of them nearly 10 years old.

Of the 21 GAO reports that the Senator waves in evidence, 7 of them or one-third of the total are merely reports on various subjects which contain no major recommendation for DOE action.

One additional report contained only recommendations for congressional action, not recommendation by DOE or action necessary by DOE. Of the remaining 13 GAO reports that the Senator has stacked before him, 9 of those reports contain recommendations with which the Department is concerned, has acted on and implemented and for which the Department should be given some credit for constructive action.

In other words, nine reports, nine of those reports are history. They identified problems and made recommendations and DOE has completed corrective action. Thus, there are only two major recommendations that are outstanding, for which the Department of Energy cannot forecast a timetable for implementation even though it concurred in those GAO recommendations as well.

In clarifying this record, I wish to again make clear that both GAO and the Senator from Ohio have performed a useful service in highlighting major problems of health, safety and environment at DOE facilities. I also wish to be clear that I do not intend my remarks to absolve DOE of blame or responsibility for permitting the conditions that GAO found in their reports to develop in the first place. But I do believe DOE has made a major effort to be both diligent and responsive when problems have been identified, and the distinguished Senator from Ohio gives them no credit whatsoever for that diligence and responsiveness. Instead, he brandishes that huge stack of GAO reports as though they constitute a set of current-day horror stories that DOE is unwilling to address, unless we in the Congress whip them into line. I submit that that is not the case at DOE and has not been for some years. Many of the problems DOE faces are inherited problems that date from the days when "safe disposal" meant digging a hole in the ground somewhere well away from the plant and dumping stuff into it. Obviously, DOE doesn't operate that way any longer, but those old problems are still there. And the only thing that will fix those problems is money, money, and more money—not oversight, oversight, and more oversight.

In closing, Mr. President, let me simply say that we cannot characterize DOE as willing to sacrifice health, safety and environment to the god of production, as my friend from Ohio sometimes seems to suggest when his evangelical streak takes hold. If the Secretary of Energy cannot be counted to balance environmental health and safety issues against production needs, then neither can the secretary of any other department be trusted to balance diverse and conflicting objectives. Worse yet, we could not count on inspectors general—which this Congress has created in abundance—to do their jobs, since they report to departmental secretaries. We could not expect the Defense Contract Audit Service to reliably uncover contract fraud and abuse, since that might jeopardize the production of military hardware, and so forth. So, Mr. President, let us give credit where credit is due, and in this case, substantial credit is due the Department of Energy for responding vigorously and forthrightly to GAO recommendations, to the point where only a handful of recommendations are outstanding. Let us stop waiving old reports as though nothing has happened since the reports were issued.

In conclusion, Mr. President, let me say that including this matter on this bill is opposed by the Armed Services Committee. Senator NUNN, the chairman, I speak for him; Senator WARNER, the ranking member, I speak for him; the Senator from South Carolina, Senator THURMOND is here to speak for himself, but I also know that what I have said today he concurs with. I simply say that I hope that we would not include this measure on the bill as suggested by the Senator from Ohio.

I ask unanimous consent that the GAO report and a copy of the letter to myself, chairman of the subcommittee, dated March 12, 1988, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENERGY,
Washington, DC, March 12, 1988.
Hon. J. JAMES EXON,
Chairman, Subcommittee on Strategic Forces and Nuclear Deterrence, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter of March 4, 1988 regarding 21 of the General Accounting Office (GAO) reports on environmental, safety and health issues at Department of Energy facilities.

The Department has moved ahead aggressively and has made a good faith effort over the past three years to address the deficiencies that have been identified by the GAO. The majority of the GAO reports were issued prior to 1985 and do not reflect the improvements which have resulted from the numerous environment, safety and health initiatives implemented in recent years by the Department. More specifically, the Department has undertaken numerous actions to address the organizational and management deficiencies identified by the GAO. For example, the Department's environment, safety and health oversight program has been reorganized and strengthened, even beyond GAO recommendations. I have attached a summary of our responses to the GAO reports and more detailed report by report explanation.

The Department is in the process of taking corrective action to address other shortcomings identified by the GAO. Concrete progress has been made in the areas of waste management handling and disposal; decommissioning procedures; and standards and requirements for preparation of Safety Analysis Reports. The Department is updating its radiological monitoring guides; developing a soil and groundwater protection plan; and implemented a new mixed waste regulation rule that provides maximum protection for the public and the environment. In addition, the Department has committed to provide to the Congress by July 1, 1988, a comprehensive report addressing its environment, safety and health compliance activities and general funding requirements for environmental remedial actions and safety improvements for all defense-related facilities.

The Department's environment, safety and health activities have not been limited to issues raised by the GAO. In response to the recommendations contained in the October 1987 National Academy of Sciences and National Academy of Engineering report, the Department has voluntarily initiated a series of steps to implement safety improvements. These steps include the establishment of an independent Advisory Committee on Nuclear Facility Safety Composed of recognized experts with broad technical experience and affiliations, as well as an agreement with the Institute for Nuclear Power Operations (INPO) that will provide access to current industry data and to INPO technical assistance. To assure clearer and more timely safety policies and standards, the process by which environment, safety and health orders are developed, coordinated and issued is in the process of being completely revamped. In addition, an environment, safety and health headquarters on-site presence is being established at selected sites to provide timely oversight monitoring and inspection of operations.

Clearly, significant progress is being made in addressing GAO and National Academy recommendations. Deficiencies have either been corrected or are in the process of being remedied, in many cases well beyond what was recommended. The enclosed assessment summarizes specific corrective actions completed by the Department and the status of those in process. Please let me know if you require additional information on any of these actions.

The safe operation of our facilities is a matter of the highest priority to the Secretary, to me, and to the Department. We intend to continue to work with the Congress to assure effective oversight of the Department's facilities.

Yours truly,

JOSEPH F. SALGADO,
Under Secretary.

Enclosure.

1. NINE REPORTS FOR WHICH THE DEPARTMENT HAS COMPLETED CORRECTIVE ACTION

Nuclear Waste: Unresolved Issues Concerning Hanford's Waste Management Practices (GAO/RCED-87-30; November 1986)

Nuclear Waste: Department of Energy's Transuranic Waste Disposal Plan Needs Revision (GAO/RCED-86-90; March 1986)

DOE's Safety and Health Oversight Program at Nuclear Facilities Could Be Strengthened (GAO/RCED-84-50; November 1983)

Decommissioning Retired Nuclear Reactors at Hanford Reservation (GAO/RCED 83-104; April 1983)

Cleaning Up Nuclear Facilities—An Aggressive Unified Federal Program Is Needed (GAO/RCED 82-40; May 1982)

GAO's Response to DOE on EMD-81-108, "Better Oversight Needed for Safety and Health Activities at DOE's Nuclear Facilities" (EMD 82-36; January 1982)

Better Oversight Needed for Safety and Health Activities At DOE's Nuclear Facilities (EMD 81-108; August 1981)

Department of Energy's Safety and Health Program For Enrichment Plant Workers Is Not Adequately Implemented (EMD 80-78; July 1980)

Decommissioning Hanford Reactor (EMD-79-20; January 1979)

2. FOUR REPORTS FOR WHICH THE DEPARTMENT IS TAKING CORRECTIVE ACTION

Nuclear Energy: Environmental Issues at DOE's Nuclear Defense Facilities (GAO/RCED-86-192; September 1986)

Environment, Safety and Health: Environment and Workers Could Be Better Protected at Ohio Defense Plants (GAO/RCED-86-61; December 1985)

Environment, Safety and Health: Information on Three Ohio Defense Facilities (GAO/RCED-86-51FS, November 1985)

Nuclear Safety: Safety Analysis Reviews for DOE's Defense Facilities Can Be Improved (GAO/RCED-86-175; June 1986)

3. SEVEN REPORTS WHICH REQUIRED NO CORRECTIVE ACTION

DOE's Plutonium Facility (GAO/RCED-85-3; September 1985)

Nuclear Safety: Comparison of DOE's Hanford N-Reactor With the Chernobyl Reactor (GAO/RCED-86-213 BR; August 1986)

Nuclear Waste: Impact of Savannah River Plant's Radioactive Waste Management Practices (GAO/RCED-86-143; July 1986)

Nuclear Energy: A Compendium of Relevant GAO Products on Regulation, Health, and Safety (GAO/RCED-86-132; June 1986)

Environment, Safety and Health: Status of Department of Energy's Implementation of 1985 Initiatives (GAO/RCED-86-68FS, March 1986)

Department of Energy Acting To Control Hazardous Waste At It's Savannah River Nuclear Facility (GAO/RCED-85-23; November 1984)

GAO's Analysis of Alleged Health and Safety Violations at the Navy's Power Training Unit at Windsor, Connecticut (EMD-81-19, November 1980)

4. ONE REPORT WHICH RECOMMENDED CORRECTIVE ACTION BY THE CONGRESS

Congress Should Increase Financial Protection to the Public From Accidents at DOE Nuclear Operations (EMD-81-11; September 1981)

GAO REPORT NO. RCED-87-30; NOVEMBER 1986

Title. Nuclear Waste: Unresolved Issues Concerning Hanford's Waste Management Practices.

Summary. GAO was requested to review DOE's management and disposal of defense waste at its Hanford facility, and determine how the Department complies with the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) in conducting these activities.

Recommendation. DOE require Hanford to report to EPA and Washington State all sites and units previously and currently used to treat, store, and dispose of waste, including those considered to be byproduct and those contaminated by unplanned releases; and the regulatory authority that controls the management, dispoal, and/or corrective actions for all sites and units identified.

Action Planned. Concur. Recommendation implemented and completed.

Current status of action. Closed. On May 15, 1987, Richland Operations Office transmitted copies of the Hanford Site Waste Management Units Report to EPA region X and the GAO in Portland, Oregon. The report documents all sites and units previously and currently used to treat, store, and dispose of waste and identifies the regulatory authority controlling those sites and units. The action is complete.

GAO REPORT NO. RCED-86-90; ISSUED 03/21/86

Title. Nuclear Waste: Department of Energy's Transuranic Waste Disposal Plan Needs Revision.

Summary.

Recommendation. DOE revise the Defense Waste Management Plan (DWMP) and submit it to all legislative, authorization, appropriations, and oversight committees.

Action Planned. Concur.

Current status of action. Closed. The plan was completed and submitted to the Congress on July 16, 1987.

GAO REPORT NO. RCED-84-50; NOVEMBER 1983

Title. DOE's Safety and Health Oversight Program at Nuclear Facilities Could Be Strengthened.

Summary. GAO was requested to review the adequacy of DOE's safety and health oversight programs.

Recommendation. DOE's safety and health program should undergo a major reorganization to provide it with the authority and independence necessary for an effective safety and health program at its facilities.

Action Planned. Concur.

Current status of action. Closed. The Department's 1985 environment, safety and health initiatives satisfy the GAO recommendation.

GAO Report No. RCED-83-104; April 1983

Title. Decommissioning Retired Nuclear Reactors at Hanford Reservation.

Summary. GAO was requested to review DOE's strategy for decommissioning eight retired plutonium production reactors at it's Hanford Reservation in Washington State. This was a followup to a previous GAO report, "Decommissioning Hanford Reactor", (EMD-79-20; January 1979).

Recommendation. The report contained no recommendations, but did identify some concerns and suggestions for DOE consideration in the development of a decommissioning strategy. The Department agreed to address these issues.

GAO Report No. EMD-82-40; Issued 05/25/82

Title. Cleaning Up Nuclear Facilities—An Aggressive and Unified Federal Program is Needed.

Summary. GAO was requested to review Federal efforts and activities directed at cleaning up nuclear facilities and sites once they are no longer needed. The review was made as part of GAO's continuing effort to identify issues in the nuclear area which will provide increased public health and safety through better Federal program administration. Four federal agencies were discussed—DOE, DOD, NRC and EPA.

Recommendation 1. DOE establish a decommissioning program that specifies criteria for selecting tentative decommissioning methods during the facility planning phase.

Action planned. Concur.

Current status of action. Closed. DOE Order 5100.5 (OMB Budget Process) and DOE Order 5100.6 (Congressional Budget Process) were revised to include the requirement to identify a tentative method of decommissioning and associated cost. These orders were issued in July 1983 and October 1983, respectively. This action is consistent with the GAO recommendation.

Recommendation 2. Resubmit DOE's proposed legislation to provide the necessary authority which it currently lacks to proceed with remedial cleanup of all sites under the Formerly Utilized Sites Remedial Action Program.

Action planned. Concur.

Current status of action. Closed. DOE submitted proposed legislation to the Office of Management and Budget (OMB) on May 11, 1982, that would provide DOE with the necessary authority to proceed with remedial cleanup of all sites under the Formerly Utilized Sites Remedial Action Program.

GAO Report No. EMD-82-108; Issued 08/04/81

Title. Better Oversight Needed for Safety and Health Activities at DOE's Nuclear Facilities.

GAO Report No. EMD-82-36; January 1982

Title. GAO's Response to DOE on EMD-81-108, "Better Oversight Needed for Safety and Health Activities at DOE's Nuclear Facilities".

Summary. GAO was requested to determine if the Nuclear Regulatory Commission or some other form of regulation, would be preferable to the DOE oversight program in existence (in 1981) for safety and health matters at DOE facilities. GAO produced a second report, in response to DOE's comments on its first report, and recommended that DOE reconsider its position. As stated more specifically below, the ES&H initiatives begun in 1985 satisfy the GAO recommendations contained in these reports.

Recommendation 1. The Secretary of Energy should consider a major reorganization of DOE's safety and health program to correct what GAO felt were underlying organizational problems—a lack of headquarters authority and the decentralized nature of the program.

Action planned. DOE disagreed in 1981 with the GAO recommendation. The Department in its October 7, 1981 response to Congresswoman Schroeder on this GAO report, sought to address the shortcomings identified by: (1) explaining DOE's basic approach to safety and health oversight, (2) explaining the reasons for DOE's reliance upon that approach, (3) emphasizing the favorable results which the DOE approach had produced up to that time, and (4) responding to specific points raised in the report itself. A second GAO report was issued as a supplement, in January 1982, in response to the DOE comments. The Department, at that time, continued to disagree with the GAO recommendation to reconsider its position relative to oversight and cited further improvements made to the safety and health program.

Current status of action. Closed. Since coming to the Department of Energy in May 1985, Secretary Herrington's commitment to a strengthened environment, safety and health program has led to dramatic improvements in how DOE conducts its internal oversight program. In September 1985, the Secretary announced a series of ES&H initiatives, including consolidation of oversight responsibility for the environment, safety and health function. DOE established a new Office of Environment, Safety and Health in 1985, and consolidated and upgraded oversight responsibility for ES&H functions under an Assistant Secretary for Environment, Safety and Health. The independence and authority of this Office has been greatly expanded to include actively overseeing the environmental and safety aspects of the Department's ongoing operations, and the Assistant Secretary for Environment, Safety and Health has been given authority to curtail or suspend operations. These actions satisfy the intent of the GAO recommendation.

Recommendation 2. DOE take steps to correct deficiencies in technical reviews of Safety Analysis Reports. Noting that DOE staff lacked the technical expertise, GAO suggested that DOE consider a cooperative agreement with the NRC, and that Congress consider legislation to require NRC to review and evaluate a number and variety of DOE's nuclear facilities and processes, including detailed review of plant operations, the contractor's safety analysis methodology and report, and actions taken to mitigate hazards.

Action planned. In 1981, the Department did not agree with GAO's recommendation stating that NRC lacked expertise in the technology associated with DOE production nuclear reactors and operations. Given this limited NRC expertise, DOE did not feel that NRC involvement would improve the safety of DOE's nuclear facilities.

Current status of action. Closed. In response to a subsequent GAO Report, "Nuclear Waste: Unresolved Issues Concerning Hanford's Waste Management Practices" RCED-87-80 issued 11/4/86, the Department agreed to GAO's recommendations and has taken significant steps to improve SARs reviews.

With respect to GAO's suggestion that DOE consider a cooperative agreement with NRC, the Department has taken actions that more than satisfy the intent of this suggestion. Secretary Herrington has endorsed outside oversight as an additional means to provide assurance that our nuclear facilities will be operated under a safety regime that protects DOE's workers, minimizes risks of accidents, and is recognized as effective by the public. Outside experts have been used both in the Department's internal appraisal program and in a number of external reviews requested by the Secretary. An Advisory Committee on Nuclear Facility Safety has been established. This independent, external oversight committee, reporting directly to the Secretary, is comprised of recognized experts from outside DOE. The Committee has broad authority to review Departmental activities at the production reactors and will provide technical advice to assist the Secretary in carrying out his statutory responsibility for safe operation of DOE facilities. Also, DOE has executed an agreement with the Institute of Nuclear Power Operations (INPO) that will provide DOE and its contractors access to current industry data and to INPO technical assistance.

GAO Report No. EMD-80-78; Issued 07/11/80

Title. Department of Energy's Safety and Health Program for Enrichment Plant Workers Is Not Adequately Implemented.

Summary: GAO was requested to evaluate the Department's program for ensuring the safety and health of workers at the Department's three uranium enrichment plants.

Recommendation 1. DOE should ensure that inspections and appraisals are performed as DOE procedures require, and all employee complaints from these facilities should be investigated and followed-up on by DOE's Oak Ridge Operations Office.

Action planned. Concur.

Current status of action. Closed. Oak Ridge Operations Office assigned additional personnel to its Safety and Health Control Division, established safety offices at each of the enrichment plant sites, and strengthened existing procedures.

Recommendation 2. DOE should take action to provide increased independence and objectivity in the Oak Ridge Operations Office safety and health program.

Action planned. Concur.

Current status of action. Closed. Oak Ridge Operations Office established the position of Assistant Manager for Safety and Environment reporting directly to the Manager. The Assistant Manager for Safety and Environment is responsible for all health, safety and environment programs for the Oak Ridge Operations Office and has no responsibility for production goals and objectives, or any plant operations.

GAO Report No. EMD-79-20; January 1979

Title. Decommissioning Hanford Reactor.

Summary. GAO was requested to review the Department of Energy's long and short-term disposition plans for dealing with its highly contaminated nuclear sites. GAO's report focused on a project involving the decontamination, decommissioning, and dismantling of a shutdown reactor and related facilities at the Hanford site.

Recommendation 1. That the project be delayed until: studies are completed and decisions are made on the future of Hanford either as a site for a nuclear waste repository or a site that will forever be dedicated to nuclear activities; criteria are developed for the cleanup and return of nuclear sites for unrestricted use; and the environmental impact of the 100-F project has been adequately assessed.

Action planned. Concur with the intent of GAO's recommendation.

Current status of action. Closed. The Department agreed that a long-range plan for decommissioning the Hanford rector should be developed prior to project implementation, and agreed that the long-range plan would evaluate alternative approaches to decontamination and decommissioning these inactive reactors and would include an environmental impact statement, with public comment, prior to finalizing the long-range plan.

GAO Report No. RCED-86-192; September 1986

Title. Nuclear Energy: Environmental Issues at DOE's Nuclear Defense Facilities.

Summary. GAO was requested to identify key environmental issues at DOE defense facilities and evaluate the status of DOE's efforts to stengthen its environmental, safety and health oversight programs. GAO focused its review on nine diverse DOE defense facilities located at seven sites within the jurisdictions of four DOE operations offices.

Recommendation 1. DOE establish a groundwater and soil protection strategy. Such a strategy should reflect DOE policy on the extent groundwater and soil can become contaminated and include specific guidelines, to the extent practical, to protect groundwater and soil around DOE facilities.

Action planned. Concur.

Current status of action. Open. A groundwater policy that encompasses groundwater and soil protection is under development. Target date for issuance of the policy statement is 8/1/88.

Recommendation 2. DOE provide to the Congress a comprehensive report setting forth DOE's plans, milestones, and cost estimates for bringing DOE defense facilities into compliance with all applicable environmental laws.

Action planned. Concur.

Current status of action. Open. The DOE Environmental Survey, presently underway, will provide this information. It is proceeding on schedule with an FY 1989 completion date. Additionally, at the June 17, 1987, hearing with Senator Glenn, the Under Secretary committed to providing a plan, based on available data, by July 1, 1988. Development of the plan has been initiated.

Recommendation 3. DOE provide for independent inspections of DOE operations in regard to the treatment and disposal of any mixed-waste that may be exempt from RCRA regulation.

Current status of action. Closed. As a result of the policy review of the byproduct rulemaking, the Department issued a final rule on May 1, 1987 that subjects all DOE radioactive waste which also contains chemically hazardous components ("mixed-waste") to EPA and state regulation under RCRA. Thus, mixed-waste will not be exempt from RCRA coverage and additional independent inspections will not be needed given EPA and state jurisdiction over such materials. No further action is necessary in response to this recommendation.

Recommendation 4. DOE revise DOE Order 5480.2 governing hazardous and mixed-waste to reflect how waste operations will be managed in the future.

Action planned. Concur.

Current status of action. Open. A DOE Notice has been issued which cancelled the existing order. A replacement Order is being drafted which will outline the current DOE position that all radioactive and hazardous wastes are regulated respectively by the Atomic Energy Act (AEA) and the Resource Conservation and Recovery Act (RCRA) as to their radiological and hazardous components. Until a replacement Order is published, DOE facilities have been advised to consult DOE HQ on policy matters concerning the management of hazardous and radioactive mixed waste.

GAO Report No. RCED-86-51FS; Issued 11/85

Title. Environment, Safety and Health: Information on Three Ohio Defense Facilities.

GAO Report No. RCED-86-61; Issued 12/13/85

Title. Environment, Safety and Health: Environment and Workers Could be Better Protected at Ohio Defense Plants.

Summary. As a result of radioactive air releases between September and December 1984 from the Feed Materials Production Center, GAO was requested to examine DOE's environment, safety and health programs at the three Ohio facilities. GAO produced the above two reports in response to this request.

Recommendation 1. The Secretary of Energy should require that radiological monitoring guides be mandatory for all DOE facilities.

Action planned. Concur. DOE will review and update the existing guides, determine those provisions that can be adopted as mandatory requirements, and those that are more appropriate to retain as guidance.

Current status of action. Open. A DOE Order on Radiation Protection of the Public and the Environment is being developed that will include DOE's environmental monitoring requirements. The target date for issuance of the new order is July 1988.

Recommendation 2. A coordinated DOE/State/Contractor system should be developed to verify independently contractor reported environmental monitoring data.

Action planned. Concur. Recommendation is being implemented.

Current status of action. Open. A DOE Order on General Environmental Protection Program Requirements is being developed that will include DOE's environmental monitoring requirements. The new Order will require each DOE environmental monitoring program to contain an independent data verification element that provides evaluations by outside groups. The target date for issuance of the new order is July 1988.

GAO Report No. RCED-86-175; June 1986

Title. Nuclear Safety: Safety Analysis Reviews for DOE's Defense Facilities Can Be Improved.

Summary. GAO was requested to review the adequacy of DOE's safety analysis reviews for its existing nuclear defense facilities. GAO reviewed the SARs for eight nuclear defense facilities.

Recommendation 1. Complete and approve SARs for all high hazard facilities in a timely fashion.

Action planned. Concur. DOE committed to have all SARs for existing high hazard facilities reviewed and approved by the end of FY 1987.

Current status of action. Closed. All existing high hazard facilities have approved SARs. Action complete.

Recommendation 2. Require that SARs include a detailed comparison of the plant against current DOE design criteria, highlighting and explaining any deviations.

Action planned. Concur. DOE committed to requiring that such evaluations be incorporated into the SARs either through revisions of appropriate sections of the SAR or as an appendix. For existing SARs, this evaluation would be added to the SAR at the time of the next normal update. DOE will incorporate this requirement into the DOE Orders.

Current status of action. Closed. Page changes to Order DOE 5481.1B, "Safety Analysis and Review System," incorporating the above recommendations into that Order were issued on May 19, 1987. Action completed.

Recommendation 3. Develop more consistent requirements to be followed in preparing SARs, outlining appropriate methodologies and assumptions to be used in analyzing accidents and their consequences.

Action planned. Concur. With regard to consistency in approaches used in accident analysis, two actions are being taken: first, updated and improved DOE Headquarters guidance will be provided; and second, EH will review select SARs of DOE nuclear facilities.

Current status of action. Open. Additional guidance has been provided including:

"Guide to Radiological Accident Considerations for Siting and Design of DOE Nonreactor Nuclear Facilities" dated January 1986.

"Nonreactor Nuclear Facilities Standards and Criteria Guide" dated September 1986.

DOE Order 6430, "General Design Criteria", revised February 1988.

Additional actions being taken include:

General guidance for the preparation of SARs has been drafted and is undergoing internal review.

Guidance for analyzing natural phenomena hazards is being prepared.

The Nuclear Air Cleaning Handbook is being updated.

GAO Report No. RCED-85-3; September 1985

Title: DOE's Plutonium Facility.

Summary. GAO was requested to identify the extent and causes of the problems associated with the building, and evaluate the implications of those problems in terms of costs and worker health and safety.

Recommendation. The report did not contain any recommendations; it did, however, identify several issues requiring resolution. The Department is addressing these issues as part of its overall study on the modernization of the defense complex.

GAO Report No. RCED-86-213BR; August 1986

Title. Nuclear Safety: Comparison of DOE's Hanford N-Reactor With the Chernobyl Reactor.

Summary. GAO was requested to provide to the Congress information on the similarities and differences in design and safety features of N-Reactor and the Soviet's reactor near Chernobyl, DOE's program to extend the life of N-Reactor, and emergency preparedness plans for N-Reactor.

Recommendation. The report contained no recommendations.

GAO REPORT No. RCED-86-143; JULY 1986

Title. Nuclear Waste: Impact of Savannah River Plant's Radioactive Waste Management Practices.

Summary. GAO was requested to review the radioactive waste management practices at the Department's Savannah River Plant to determine if these practices have adverse environmental impacts.

GAO found that:

Radioactivity contained in the environment outside the SRP boundary was well within applicable standards.

Within the plant boundary, some of the surface streams contained elevated levels of radioactivity, and the soil and groundwater at several waste storage and disposal sites were highly contaminated with radioactivity.

SRP has taken several actions and has other actions underway to reduce radioactive releases into the environment.

GAO recognized that SRP is preparing the EIS to evaluate the impact of its waste management practices on groundwater quality and to assess remedial actions that may be needed.

Recommendation. The report contained no recommendation.

GAO REPORT No. RCED-86-132; JUNE 1986

Title. Nuclear Energy: A Compendium of Relevant GAO Products on Regulation, Health, and Safety.

Summary. As a result of the Chernobyl accident, there has been heightened interest in environment, safety and health issues pertaining to nuclear power. GAO received numerous requests for audits/evaluations. The subject report was prepared to give Congress a compendium of GAO's past work in the nuclear area.

Recommendation. The report contained no recommendations.

GAO REPORT No. RCED-86-68FS; MARCH 1986

Title. Environment, Safety and Health: Status of Department of Energy's Implementation of 1985 Initiatives.

Summary: GAO was requested to monitor the Department of Energy's overall effectiveness in implementing the Secretary's ES&H initiatives, and to provide periodic briefings to his staff. GAO provided a briefing to Glenn's staff on February 10, 1986, and the subject "fact sheet" report in March 1986.

Recommendation. The report contained no recommendations.

GAO REPORT No. RCED-85-23; NOVEMBER 1984

Title. Department of Energy Acting To Control Hazardous Waste At Its Savannah River Nuclear Facility.

Summary: GAO was requested to evaluate the Department's efforts to control and cleanup groundwater contamination from hazardous wastes at the Savannah River Plant.

GAO found that:

While wastes discarded in the past in that part of the plant known as the M-Area (the fuel fabrication plant) have contaminated groundwater in the immediate vicinity, to date they have had no impact outside of the Savannah River Plant boundaries.

DOE and DuPont have taken actions to cleanup the M-Area.

Since 1981, DOE and DuPont have acted to identify and monitor other sites at the Savannah River plant where wastes were disposed of, and have prepared an environmental action plan that prioritizes work needed to prevent further environmental damage.

DOE has also established formal agreements to improve coordination with EPA and South Carolina officials in dealing with hazardous waste disposal.

Recommendation. The report contained no recommendations.

GAO REPORT No. RCED-81-19; NOVEMBER 1980

Title. GAO's Analysis of Alleged Health and Safety Violations at the Navy's Power Training Unit at Windsor, Connecticut.

Summary: GAO was requested to investigate allegations of radiation and industrial health and safety violations at the Windsor facility. In GAO's opinion, none of the events forming the bases for the allegations were indicative of basic health and safety-related weaknesses in the facility's operations.

Recommendation. The report contained no recommendations.

GAO REPORT No. EMD-81-11; SEPTEMBER 1981

Title. Congress Should Increase Financial Protection to the Public From Accidents at DOE Nuclear Operations.

Summary: In the event of a nuclear accident at a Department of Energy (DOE) facility, liability protection for public injury would be covered by the Price-Anderson Act. The act establishes the sources and amount of funds to cover public injury and provides a basis for relatively speedy compensation. The act also limits the amount of funds that are readily available for compensation.

GAO believes that since it is the Nation's policy to foster the continued development of nuclear power, the protection provided DOE contractors by the Price-Anderson Act is needed, especially since alternative methods for insuring the public against the potential hazards of a catastrophic nuclear accident do not provide as much financial protection as does the Price-Anderson Act.

In GAO's opinion, public protection under the Price-Anderson Act should be increased for DOE contractor operations. Certain provisions in the Price-Anderson Act and its implementation (1) serve to provide less public financial protection from accidents occurring at DOE contractor-operated facilities than at licensed commercial facilities and (2) may not adequately protect the public from the financial consequences of a catastrophic nuclear accident. Finally, the act does not clearly establish whether evacuation costs in all cases would be covered.

Recommendation. GAO recommended that Congress correct the above-noted problems.

THE GLENN AMENDMENT

Mr. JOHNSTON. Mr. President, the Glenn amendment would add the provisions of titles I, II, and IV of S. 1085 dealing with outside oversight of Department of Energy nuclear facilities and subjecting DOE facilities to regulation by the Occupational Safety and Health Act.

I oppose this amendment.

The Price-Anderson Act is the wrong vehicle for this amendment, and I believe there are several significant problems with this amendment.

This amendment is also opposed by the administration. The Department of Energy, the Department of Justice, and the Department of Labor have all indicated that they will recommend that the President veto this legislation if this amendment is adopted.

I have received several pieces of correspondence from the administration concerning this amendment. I believe these letters address the major problems with this amendment. Accordingly, I ask unanimous consent that the text of these letters be included in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, March 16, 1988.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Over the past year, a great deal of attention has focused in the Congress on the issue of outside oversight as it relates to DOE's nuclear facilities. I understand that an amendment may be offered to Price-Anderson that would establish an independent entity to regulate all of the Department of Energy's nuclear activities. I believe that such new legislation would disrupt an interrelated set of initiatives directed to assuring safety of these facilities, and accordingly the Department would oppose enactment of any legislation establishing such a scheme of regulation.

The Department wholeheartedly supports the concept of outside oversight as an important source of independent advice on the operation of DOE's nuclear facilities. At the same time, we believe there is much at stake in how outside oversight is implemented. It is imperative that we meet our safety and health obligations and also guarantee that the Department's ability to meet its national security objectives is not impaired.

In September, 1985, we began an intense effort toward addressing the long deferred issue of safety and health by strengthening the Department's Environmental, Safety and Health (ES&H) activities. We created a new organization, headed by an Assistant Secretary, to coordinate all DOE ES&H activities with significantly increased staffing and funding levels. Since 1985, the ES&H budget has increased from $38 to $68 million, while staffing levels have grown from 100 FTEs to 172 FTEs for FY 88.

While major improvements were being made to the Department's safety and environmental program, we recognized that these internal actions might not always be enough.

In January, 1988, an independent outside oversight group was created, the Advisory Committee for Nuclear Facility Safety (ACNFS). The ACNFS will provide the Department with independent expert advice on the operation of its nuclear facilities. No restrictions have been placed on this Committee—it has the power to set its own agenda. Provisions have also been included for public participation to ensure frank and open discussion of safety issues.

We think the steps we have taken since 1985 to strengthen DOE's internal ES&H organization, in conjunction with the establishment of an independent advisory committee of outside experts, provide the necessary foundation to ensure the safe operation of our unique facilities. I am enclosing for your information a summary of initiatives that we have undertaken since 1985.

I believe we have shown our commitment to enhance the way the Department conducts safety oversight and addresses needed improvements to this Department's national defense complex. Addition to another layer of regulation by new legislation would impede the safety improvements brought about by the Department's actions and would create a rigid bureaucracy that lacks the necessary flexibility to act promptly to tailor safeguards and address safety concerns at this unique and aging defense complex.

In conclusion, I would point out that S. 1085 proposes an approach to oversight similar to regulations by the Nuclear Regulatory Commission, at a time when there is a growing opinion, perhaps approaching a consensus, that the NRC itself needs to be restructured to reduce bureaucratic rigidities.

For these reasons, we believe the adoption of any regulative remedies at this time would be most imprudent and would result in my recommendation to the President that he disapprove such legislation.

Yours truly,

JOHN S. HERRINGTON.

U.S. DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, DC, March 16, 1988.

Hon. JOHN GLENN,
U.S. Senate,
Washington, DC.

DEAR SENATOR GLENN: The Senate may soon consider S. 1085, the "Nuclear Protections and Safety Act of 1987" as part of consideration of the Price-Anderson Amendments. The Department of Labor wishes to express its strong opposition to enactment of Title II of S. 1085: "Application of OSHA . . . to DOE Nuclear Facilities." We believe that a transfer of authority from DOE to OSHA for worker safety and health at nuclear defense facilities is unwarranted for the following reasons:

First: The need for such a dramatic step has yet to be convincingly demonstrated. To our knowledge, no evidence has been presented of serious or systemic flaws in DOE's program that could be corrected only by such a transfer of responsibilities. DOE has adopted, and enforces, OSHA's standards. Moreover, DOE apparently has the capacity to perform at least one complete inspection a year at each nuclear defense site, in addition to investigating complaints and accidents. The DOE facilities have a lost workday injury rate substantially below the national average. OSHA could not hope to duplicate or even significantly supplement the effort of DOE's expert and experienced safety and health personnel with respect to these facilities. Any deficiencies that may exist in DOE's program can be remedied in more effective ways than by transferring authority to OSHA.

Second: Assumption of authority by OSHA, as envisioned in Title II of this bill would result in both OSHA and DOE enforcing the same standards in nuclear facilities. Enactment of Title II would thus foster precisely the duplication and conflict between federal agencies that section 4(b)(1) of the Occupational Safety and Health Act was specifically designed by the Congress to avoid.

Third: Assumption of a specialized enforcement program of the nature contemplated in this legislation would detract materially from OSHA's overall mission. If Title II were enacted, agency resources would have to be diverted from other activities for several years as OSHA's DOE inspection program was being developed. Any diminution of OSHA's ability to respond to workers' complaints of serious hazards or to investigate serious accidents at the nearly 6 million workplaces covered by the agency, would affect working conditions for all workers in this country.

Enactment of this legislation in its present form would be disruptive to OSHA's operations and would result, at least temporarily, in a lessening of the protection that the agency is now able to afford to all workers.

Finally, I would like to emphasize that in addition to my Department's strong opposition to Title II of S. 1085, the Administration opposes the entire bill. I am advised that the Secretary of Energy has recently established a continuing oversight organization, which should be given an opportunity to fulfill its responsibilities. Further, the Department of Justice has advised Senator Exon that the bill contains serious constitutional problems which would lead that Department to recommend a veto.

The Office of Management has informed us that it has no objection to the submission of this report, and that enactment of S. 1085 would not be in accord with the program of the President.

Sincerely,

ANN MCLAUGHLIN.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC, January 15, 1988.

Hon. J. JAMES EXON,
Chairman, Subcommittee on Strategic Forces and Nuclear Deterrence, Senate Armed Services Committee, Washington, DC.

DEAR MR. CHAIRMAN: The Department of Justice has reviewed the revised version of S. 1085, the "Nuclear Protections and Safety Act of 1987." We continue to believe that certain of the bill's features raise serious constitutional problems. Accordingly, if the bill were presented to the President in its present form, we would recommend disapproval.

A. DESCRIPTION OF THE BOARD'S OVERSIGHT FUNCTIONS

The fundamental purpose of this bill is to establish an Independent Department of Energy Nuclear Safety Board (the "Board"), to oversee the health and safety standards of the Department of Energy (the "Department") at Department nuclear facilities. The Board is said to be an "independent establishment in the executive branch," section 311(a), and its members are removable by the President for "inefficiency, neglect of duty, or malfeasance in office," section 311(d)(4).

The Board is required to make recommendations as to changes to the Department of Energy's regulations it deems advisable. Section 312(a)(1). In addition, the bill requires that the Board investigate any "actual or potential nuclear incident" at a Department nuclear facility, section 312(a)(2)(A), and make recommendations based on that investigation. Section 312(a)(6)(A). These recommendations must be made public. Section 313(a). The Secretary of Energy (the "Secretary"), must publicly respond to the Board's recommendations and, within 45 days, notify the Board which recommendations it will adopt. Section 313. The Board then has a chance to respond. If the Secretary has rejected a Board recommendation, the Board can reaffirm it or revise it. Section 313(d). The Secretary must then publish a final decision and report that decision to Congress. Section 313(d).

If any of the recommendations relate to "an immiment or severe threat to public health and safety," the Board must also send the recommendation to Congress at the same time it sends it to the Secretary. Section 313(f).

If the Secretary accepts any Board recommendations, he must submit an "implementation plan" for such recommendation within 90 days, section 312(e), and implement the recommendation within one year from the date of receiving it from the Board, section 312(g)(1). However, if the Secretary decides that implementation of a recomendation is "impracticable because of budgetary considerations" or would affect the Secretary's ability to meet the annual nuclear weapons stockpile requirements, he must submit a report to the President describing the recommendation and his determination. The President must then decide whether to ask Congress for the appropriate funds or, "in consultation with the Secretaries of Defense and of Energy," whether to implement the recommendation. If the President does not provide for implementation of the recommendation of the next budget, or agrees that a recommendation should not be implemented for reasons of national security, he must submit a report to Congress explaining his decision. Section 313(g)(2) & (3).

B. CONSTITUTIONAL OBJECTIONS

1. The limitation on the President's power to remove the members of the Board imposed by section 311(d)(4) unconstitutionally infringes upon the President's constitutional responsibility to "take Care that the laws be faithfully executed." U.S. Const., Art. II, section 3.[1] The functions of this Board are purely executive. The Board investigates activities of an executive agency, and its decisions relate to change in executive agency policy and procedures. Its functions involve "[i]nterpreting a law enacted by Congress to implement the legislative mandate," which "plainly entails[s] execution of the law in constitutional terms." *Bowsher* v. *Synar,* 106 S. Ct. 3181, 3192 (1986). The Board does not adjudicate cases concerning individual rights or grant or deny claims of individuals. Its functions do not "require absolute freedom from Executive interference," *Wiener* v. *United States,* 357 U.S. 349, 353 (1958),[2] nor is the Board a

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[1] The language of section 311(d)(4) limiting removal of Board members to "inefficiency, neglect of duty, or malfeasance in office" in section 311(d)(4) makes the constitutional problem unavoidable, as the phrase is precisely the same one used in *Humphrey's Executor* v. *United States,* 295 U.S. 602, 619 (1935). It must therefore be assumed that Congress intends to make the Board, like the Federal Trade Commission or the Interstate Commerce Commission, a so-called "independent agency."

[2] Unlike the War Claims Commission at issue in *Wiener,* the Board is not "established as an adjudicating body with all the paraphernalia by which legal questions are put to the test of proof." Id. at 354.

"quasi-legislative or quasi-judicial" agency, such as the one at issue in *Humphrey's Executor,* 295 U.S. 602, 630 (1935). The bill states that the Board is "an independent establishment within the executive branch." As such, its members must be subject to removal by the President.

2. The bill impermissibly interferes with the President's control over those executing the laws. The bill strongly implies that the President can reject the Board's recommendations only on the grounds that the Secretary cannot meet the annual nuclear stockpile requirements or because of budgetary considerations. Such a restriction would unconstitutionally interfere with the authority of the President to "supervise and guide" subordinate officers in their construction of the statutes under which they act in order to "secure that unitary and uniform execution of the laws which Article II of the Constitution evidently contemplated in vesting general executive power in the President alone." *Myers* v. *United States,* 272 U.S. 52, 135 (1926).[3]

3. This bill also impermissibly interferes with the President's control over the deliberative processes of the Executive branch by requiring recommendations of the Board to be made public before the Secretary of Energy and the President make decisions relating to the recommendations. Such a requirement of disclosure is designed to reveal opposing views with respect to the decisions at issue. It thus chills the deliberative process and creates public divisions within the executive branch. Accordingly, this requirement offends the President's authority, as head of a unitary executive, to coordinate and supervise the public dissemination of his subordinate's views. See generally *Myers* v. *United States, supra,* at 163-64 (1926); *Congress Construction Corp.* v. *United States,* 314 F.2d 527, 530-32 (Ct. Cl. 1963).

4. Section 313(f) of the bill, among other provisions, requiring that the Board transmit its recommendations to Congress raises substantial constitutional concerns, as does section 314(a)(1) requiring direct reporting by the Board to Congress. We are concerned that provisions requiring executive branch officials to report to the President and Congress concurrently, or directly to Congress without mention of the President, could possibly be construed to require those officials to report to Congress prior to any opportunity for review or analysis within the executive branch. This Department has consistenly maintained that such reporting requirements raise substantial constitutional concerns, because they intrude into the President's constitutional prerogatives to control the decision-making process within the executive branch and could possibly impair the confidentiality and usefulness of candid, full discussions within the executive branch.

5. Finally, we object as a matter of policy to the clause requiring that no more than three of the five Board members be members of the same political party. Section 311(b)(1). In our view, this requirement inappropriately constrains the discretion of the President in appointing the individuals he deems best qualified to carry out the Board's responsibilities.

The Office of Management and Budget has informed us that it has no objection to the submission of this report.

Sincerely,

JOHN R. BOLTON,
Assistant Attorney General.

Mr. SIMPSON. Mr. President, the arguments with regard to this amendment have been laid out in some detail—and I will not repeat them. I should say, though, Mr. President, that I am puzzled as to why we are considering this amendment on this bill. The amendment itself has nothing to do with the liability mechanism for compensating accident claims arising out of an accident at a DOE nuclear contractor.

In addition, it is my understanding that the bill addressing this issue, S. 1085, is now on the Senate Calendar and I know of no reason why these issues could not be addressed by taking that bill up directly.

Loading this baggage onto the Price-Anderson bill will only delay our consideration—for an act that expired in August 1987—and may well result in the entire bill being vetoed by the President.

For that reason, Mr. President, I urge my good friend from Ohio to consider addressing this issue either as a free-standing bill by taking up S. 1085 from the Senate Calendar or, as some have suggested, as an amendment to the Department of Defense authorization bill—either of which would be much more appropriate than a Price-Anderson liability bill that we have been working on for nearly 3 years. Short of that, Mr. President, I intend to support a motion to table this amendment and would urge my colleagues to do likewise.

Mr. WIRTH. Mr. President, I strongly support the amendment offered by my colleague, Senator GLENN, to promote worker and public safety at Department of Energy [DOE] nuclear facilities such as the Rocky Flats Plant in my home State of Colorado, the Fernald Plant in Ohio, the Savannah River Plant in South Carolina and the many other nuclear weapons production and research facilities located across the country.

The amendment before us consists of titles 1, 2 and 4 of the Nuclear Protections and Safety Act of 1987 (S. 1085), of which I am a cosponsor. As an advocate of S. 1085, I believe it is unfortunate that consideration of this legislation as an amendment today has become entangled in a dispute over whether Price-Anderson is an appropriate vehicle. The debate on procedure stands to displace the far more important debate on the significant merits of this nuclear safety oversight amendment.

The cornerstone of the amendment is title 1, which would take the long overdue and much needed step of establishing an independent nuclear safety board to oversee health and safety issues at DOE's aging nuclear weapons facilities. Title 1 has been reported unanimously by both the Governmental Affairs Committee and Armed Services Committee.

Approval of this amendment by the Senate today would ensure for the first time that a strong, independent oversight board will be looking over DOE's shoulder and making recommendations for improvements in health and safety. The Department of Energy nuclear weapons complex has long been responsible for both meeting the nuclear component of our national defense and ensuring the health and safety of its workers and the public living near its facilities. The independent nuclear safety board would have as its sole responsibility investigating the health and safety implications of DOE activities.

Title 1 would direct the five-member board to make recommendations to DOE that would "substantially reduce the likelihood that an actual or potential nuclear incident adversely affecting the public health or safety will occur at a DOE nuclear facility." The board's recommendations would be published in the Federal Register, and the Secretary of Energy would be rquired to respond to the recommendations, in writing, within 45 days. Should the Secretary decline to implement a recommendation, the board would have an opportunity to reaffirm or revise the recommendation and return it to the Secretary. A public comment period would follow each stage of the recommendation process.

The board, while advisory in nature, would have the powers to delve into any and all DOE activities. Moreover, by directing the board to conduct most of its business in the public eye—and requiring the Secretary to also respond in public—the bill would remove health and safety issues from behind DOE's closed doors and locked security gates and put them in a public forum where they belong.

Energy Secretary John S. Herrington has responded to a recent National Academy of Sciences recommendation and growing public and congressional concern about deficiencies in health and safety at DOE's facilities by creating an advisory committee similar in some respects to the oversight board proposed in this amendment. However, DOE's new advisory committee has no recourse should the Secretary ignore its recommendations, no matter how dangerous the threat or urgent the remedial action required. Title 1 would require the President, rather than the DOE Secretary, to intervene and make a decision in instances when: First, the Secretary accepts a recommendation but determines he cannot implement it due to lack of funds; second, a recommendation would prevent DOE from meeting its nuclear weapons stockpile requirements; or third, the Secretary rejects a recommendation that the board intended to remove an imminent or severe threat to the public health or safety.

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[3] Moreover, the President is required to act upon the Board's findings, or to report to Congress as to the reasons for his decision not to implement the Board's recommendations. This requirement, in our view, severely restricts the President's ability to alter or reject recommendations made by the Board, and would substantially undercut his ability to supervise and direct executive branch agencies.

Removing these requirements and restrictions would probably eliminate the constitutional problem discussed in paragraph 1 above, as the Board's functions would then be purely advisory. And, given our view that requiring the President to take action based upon the Board's recommendations and restricting his reasons for rejecting the Board's recommendations are impermissible, we may in any event construe the Board's functions as advisory only.

During markup of title 1 of S. 1085 by the Senate Armed Services Subcommittee on Strategic Forces and Nuclear Deterrence last November, I worked with Senator GLENN and Senator EXON, chairman of the Strategic Subcommittee, to ensure that the bill contains a strong judicial review provision. I feel strongly that citizen groups and other outside parties ought to retain the right to appeal to the courts should the DOE Secretary act unlawfully or irresponsibly in dealing with the oversight board's recommendations.

The second two titles of the amendment before us would address the health and safety of the tens of thousands of Americans who report to work every day at DOE's nuclear weapons production and research facilities. These dedicated individuals, employed by the Department of Energy [DOE] or one of the several private contractors hired by DOE to operate its facilities, are a vital link in our national security chain.

In fulfilling their indispensable mission, these workers are required to work with some of the most dangerous substances known to humankind: plutonium, uranium, beryllium, and others. While extensive precautions are taken to ensure their safety, many questions remain unanswered about how these substances affect their health, and how we can better protect them.

Title 2 of the Glenn amendment would involve the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health [NIOSH] in overseeing the health and safety of the workers at these facilities. Specifically, it would eliminate DOE's exemption from the Occupational Safety and Health Act of 1970 and provide for health hazard evaluations at DOE facilities by NIOSH. These provisions would ensure that our nuclear workers benefit from the same oversight and protections as do workers in virtually every other manufacturing industry.

Lastly, title 4 would establish a radiation study advisory board to provide interagency oversight of epidemiological research, conducted by DOE, into the effects of radiation exposure. This would be a positive, initial action to correct a serious problem. We have a responsibility to vigorously seek the answers to questions about the dangerous effects of exposure to radiation, in a manner which gains the confidence and trust of the weapons facilities work force. Yet the Department in charge of seeking these answers, DOE, is the very Department that is responsible for meeting production and budgetary goals.

A number of factors have contributed over the years to undermining worker confidence in DOE research and underscoring a strong perception of conflict of interest. When DOE-sponsored researchers Thomas Mancuso, Alice Stewart, and George Kneale found an association between cancer and exposure to low-level radiation in 1977, DOE abruptly severed the contract. DOE contracts primarily with Government-owned and operated nuclear laboratories, and denies independent researchers direct access to the raw or source data, making it impossible for a non-government-employed researcher to replicate or verify a DOE-sponsored study. Even though 8 of 12 studies of radiation-exposed populations contracted at Government laboratories by DOE found significant excess deaths, DOE and its researchers have insisted that its results are "preliminary and inconclusive." And DOE has refused to allow labor representation on its health research advisory and peer review committees.

Creating an interagency advisory panel to review and make recommendations on the conduct and substance of DOE's health research program is an improvement over the status quo. However, I believe we should go further, and shift the authority for conducting radiation health research to a Department which counts health research as a primary responsibility, the Department of Health and Human Services [HHS].

I hope we will have a future opportunity to strengthen this provision by shifting the authorization from DOE to HHS. Under such a proposal, the primary responsibility for conducting this essential research would go to the Centers for Disease Control, with the National Center Institute, the National Institute of Environmental Health Sciences, the National Institute for Occupational Safety and Health, and the Center for Devices and Radiological Health providing support and advice. These agencies have studied extensively the health effects of radiation, and maintain high credibility among the public, research community and the nuclear facilities workforce.

The need for this legislation was identified in 1979 by an Interagency Task Force on the Health Effects of Ionizing Radiation, established by then-HEW Secretary Joseph Califano, and was echoed by the Rocky Flats Blue Ribbon Citizens' Committee convened by myself and then-Governor Richard Lamm in 1983.

In testimony before Congress in 1986, Dr. William Nicholson, of the Mount Sinai School of Medicine, succinctly stated why we should go beyond a simple advisory panel: "The health effects of radiation can be an emotional issue to many affected people, and it is important that radiation research, in addition to being objective, be perceived to be as objective as possible. This perception is much better achieved with HHS-supported research than with DOE research."

Mr. President, public safety and worker health can—and often do—compete with production goals for DOE resources, time, and attention. I hope my colleagues will join in strengthening our ability to prevent a serious accident at one of our nuclear weapons production facilities and better protect the lives of the workers who maintain that vital component of our national security, by supporting Senator GLENN's amendment today.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the 1927 New York Yankees were perhaps the most formidable array of baseball players ever assembled by one club. They had a lineup that they called Murderers' Row. It included Tony Lazzeri, Bob Meusel, Earle Combs, the famous Babe Ruth, and Lou Gehrig, and it was the fear of the entire baseball world because teams knew when they faced Murderers' Row more than likely they were going to lose.

Now, Mr. President, my distinguished colleague from Ohio, Senator GLENN, is a brave marine. He has proved that in battle. He has shown his resolve, his intelligence, his dedication to the national will here on this floor, and throughout his career. Nobody argues with that. But this brave marine, this great Senator, has come up against Murderers' Row as far as the legislative process is concerned because he is bringing up the wrong amendment at the wrong time on the wrong piece of legislation, and he cannot win.

Now, Mr. President, he has been invited, indeed implored, to bring this amendment up as part of the armed services authorization bill. Senator NUNN has said, "We will include it." He is the chairman of the full committee. Senator EXON, who is chairman of the subcommittee, said, "We will include it." They say, "That is where the jurisdiction is; we will consider it." There is still time to do that, because Senator NUNN says we will have an armed services authorization bill.

But on this piece of legislation there is Murderers' Row ready to go. There is Senator NUNN, whose opposition has already been alluded to. Senator EXON delivered the short version of his speech but he has a lot more to say. There is Senator THURMOND, whose power on this floor is unequaled, and I might say that he still holds the unequaled filibuster record. I know he would not filibuster but his natural inclination is to explore fully all of the aspects of legislation. There is Senator WARNER, respected, articulate, and fully aware of all the aspects of this. There is my colleague, Senator MCCLURE, who has never been known for lack of knowledge. My colleague, Senator BREAUX, can examine this matter from the standpoint of the Environment and Public Works Committee fully and thoroughly, and I might add with indisputable logic. And I might also have a word to say as well.

Not only are the committees of the Congress lined up solidly—Armed Services, Energy and Natural Resources, and Senator BREAUX, of course, represents Environment and Public Works—not only are committees lined up, not only are individual Senators lined up in opposition to this, but the administration is strongly opposed.

Here is a letter from the Secretary of Labor, and it goes on in some exquisite detail. I hope it is not necessary to examine the detail of why they are against it. But they talk about:

> Title II would foster precisely the duplication and conflict between Federal agencies that OSHA was specifically designed to avoid; detract materially from OSHA's overall mission * * *. I would like to emphasize in addition to my Department's strong opposition to title II, the administration opposes the entire bill.

That is the Department of Labor. You get over here to the Department of Energy, and they go on in somewhat painful detail, but they talk about "creating a rigid bureaucracy that lacks the necessary flexibility to act promptly to tailor safeguards and address safety concerns at this unique and aging defense complex." Skipping down:

> For this reason, we believe the adoption of any regulative remedies at this time would be most imprudent and would result in my recommendation to the President that he disapprove such legislation.

That is a John Herrington letter. By the way, these two letters just referred to from the Department of Labor and from the Department of Energy and also this one from the Department of Justice have been put in the RECORD. Justice says, "The bill raises serious constitutional problems." They go on to talk about its conflict with the recently decided Bowsher versus Synar decision. They have a whole list of problems that they say render the bill unconstitutional, and for that reason they say, "We would recommend disapproval" of the bill. Those have been put into the RECORD.

When you have three separate Departments that point out serious problems with the bill, when you have a threatened veto, when you have the committees of Congress lined up, when you have all of these individual Senators lined up, then I think it really is prudent for this matter not to go on Price-Anderson. Price-Anderson is a discrete bill designed to protect the public from nuclear accidents, and it is not germane to this question of oversight of DOE facilities, which is a different concern altogether. It would make a reasonably straightforward bill into the most complicated jurisdictional conflict.

If you bring the committees that are interested in this matter into the conference, you would have Energy, you would have Armed Services, Environment and Public Works, Labor, and Governmental Affairs involved in this simple conference on Price-Anderson. That is on the Senate side. Over on the House side you would have House Armed Services, Interior, Energy and Commerce, Science and Technology, Governmental Affairs, Education and Labor.

Why, Mr. President, you would have to assemble on the House floor to get that crowd a place to meet, and we would probably be meeting at this time next year just to resolve the jurisdictional conflicts.

If this were the only time that we had to address this question of nuclear safety, then I would say let us do it. Let us overrule these objections from the administration. Let us accept their veto threats. Let us put up with all the delay and all the problems that they would create. But it is not the last bite at the apple. It is not the only chance, thank goodness. Thank goodness, Mr. President, that this brave marine, this learned colleague, this esteemed Senator from Ohio will have his chance on the Senate Armed Services Committee authorization bill to have this matter considered. I have heard from the lips of none other than Senator NUNN that it will be part of that bill.

So rather than hear from Murderer's Row, unless my colleague wants to prolong the discussion, I thought it time to make a motion to table.

Mr. President, I see at least three Senators standing. We have been on this bill now for almost 2 hours. We can debate it all afternoon. But I think the die is cast. If Senators do not object can we get a time agreement?

Mr. GLENN. No. I would not be willing to enter into a time agreement now. I would certainly say to my colleague and friend that I certainly do not expect to go into the afternoon in any way, shape, or form. But there are some things that have been said here since I have made my remarks that I do have to respond to. I would not want to enter into a time agreement yet. There were some other people who indicated they wished to also speak on this and have not come to the floor yet. I do not know whether they plan to or have gone home today. I would not want to enter into a time agreement yet.

Mr. JOHNSTON. I do not want to cut my colleagues off. I submit there have been good, long speeches on this matter. There is an awful lot more to say. I do not want to cut my colleagues off. Five minutes begets five minutes begets into the afternoon. I know colleagues are waiting to catch planes. We are here to do business. But I really think the result is preordained with this kind of murderers' row. I would be glad to enter into a time agreement to divide the time equally between now and 12 noon.

Mr. GLENN. No. I cannot foreclose others who may want to speak because I do not know whether there will be points made by speakers on the other side that I may wish to respond to. Maybe we will be able to make a time agreement later on. But I could not do it right now.

Mr. JOHNSTON. Mr. President, I am sorry that I have to move to table. But I move to take and ask for the yeas and nays.

Mr. GLENN. Will the Senator withhold? There are some things here that have been said that I think deserve a reply.

Mr. JOHNSTON. Mr. President, I will offer the Senator——

The PRESIDING OFFICER. (Mr. FOWLER). The Senator from Louisiana has the floor.

Mr. JOHNSTON. I will offer the Senator any reasonable time agreement. But if we cannot get a time agreement, I move to table. That is not unreasonable.

Mr. GLENN. That is pretty unreasonable I think, and I do not like that way of operating. We do not usually do that here on the floor. The Senator has made a number of remarks and I see other Senators waiting to speak. I do think there are some points on this jurisdictional matter that should be aired. I want to discuss the jurisdictional situation because it is not what was described as on the floor at all. I can give the Senator the RECORD where the bill was originally referred to the Governmental Affairs Committee. So I think I deserve the right to at least explain that.

Mr. JOHNSTON. Mr. President, I am not saying the Senator does not have a right to reply if he will give us a time agreement. It is Friday, close to Friday afternoon. I think the result is preordained. This is not the last bite at the apple.

Mr. GLENN. It is the Senator's judgment it is preordained. It certainly is not mine because I think if people have been listening back in their offices I make a very strong case for this. I do want to address the additional points that have been brought up since I completed my remarks. That kind of comity or kind of an accommodation is usually afforded Senators on the floor here. Obviously anybody can move to table at any time here and that cuts off all debate. I would hate to see the Senator resort to that kind of pressure tactic here on the floor. We do not usually do that.

The PRESIDING OFFICER. Does the Senator yield for a question?

Mr. THURMOND. Will the Senator yield?

Mr. JOHNSTON. I yield for a question.

Mr. THURMOND. Mr. President, I had about 5 minutes but if he is going to make a motion, to table, I will put it in the RECORD unless we get a reasonable time agreement which then I would like to have 5 minutes.

Mr. EXON. Would the Senator yield for a question?

Mr. JOHNSTON. Yes.

Mr. EXON. Would the Senator consider, and would the Senator from Ohio consider what I think would be a very generous offer, that we would have a 45-minute time limit with 15 minutes assigned to the Senator from Louisiana under his control, and half an hour assigned to the Senator from Ohio under his control? Would that be a way so that everyone can have a right to speak?

Mr. JOHNSTON. I thank the Senator from Nebraska for his suggestion. I would certainly go along with that if the Senator from Ohio would. I do not want to cut off the Senator from Ohio. Name what is reasonable, and we will go along with it.

Mr. GLENN. I think this is an extremely important piece of legislation. We are talking about nuclear safety. It has been too long delayed already, and the jurisdictional situation is not what it was described as a while ago. I think that is important for people to know. I was only told yesterday for instance that we were sure there was even going to be a defense authorization bill this year. Before that, it had been in some doubt. Last year, we know it was delayed for some 6 months or so just on the fact of the ABM considerations. I do not know what may come up.

Price-Anderson is a natural vehicle for my amendment. That is the reason I was pushing for it. I know people want to catch planes. I do not want to delay anybody, but we were ready to come to the floor all day yesterday, too, and other things intervened. It is not my fault we are in a bind with people catching airplanes.

UNANIMOUS-CONSENT AGREEMENT

Mr. JOHNSTON. Mr. President, I ask unanimous-consent that I be allowed to yield the floor, that I be recognized at 12 o'clock noon, at which time I might say parenthetically that I will move to table at 12 o'clock noon. That will give 45 minutes without asking for a time agreement.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. GLENN. Reserving the right to object, I once again express that I do not like that way of doing business on the Senate floor. I think it is very unusual. I do not think we do this to each other in the normal course of events around here. I do not like being treated that way. I will say that publicly right here and now.

But if that is what the Senator intends to do, then will he accept the proposal made by Senator EXON so I am at least guaranteed some time to reply to this: 15 minutes on his side and half an hour on my side?

Mr. JOHNSTON. Absolutely. Mr. President, I withdraw that unanimous-consent request.

I ask unanimous consent there be 45 minutes of debate on the pending amendment, that the time be divided 30 minutes to the Senator from Ohio, and 15 minutes to the Senator from Nebraska, Senator EXON; and that all debate end at 5 minutes after noon.

The PRESIDING OFFICER. Is there objection to that request? Hearing none, it is so ordered.

Mr. JOHNSTON. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, I yield 5 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina, Mr. THURMOND.

Mr. THURMOND. Mr. President, the issue now before the Senate is one in which I have taken a deep personal interest. I represent most of the people who work at the Savannah River Nuclear Plant, or at least half of them, which would be covered by the safety oversight board created by Senator GLENN's amendment, and my family lives in the nearby town of Aiken. No one is more conscious of the need for nuclear safety than this Senator, nor more supportive of steps that must be taken to enhance safety.

At the same time, as a member of the Senate Armed Services Committee, and as the ranking member of the Strategic Forces and Nuclear Deterrence Subcommittee, I am also very conscious of the critical dependence of our deterrence strategy on the availability of nuclear material. Any oversight legislation that would have a direct impact on the nuclear weapons production complex must carefully weigh the balance between the dual imperatives of safety and national security considerations.

That is exactly what the Armed Services Committee has done in unanimously passing an amended version of title I of S. 1085 when it was referred to the committee late last year. Certain elements of the original bill, in my judgment, did not strike a proper balance, and I think it was a tribute to Senator GLENN that he worked with the committee in fashioning a title that enjoyed the unanimous support of every member of the committee.

Mr. President, I joined with many of my colleagues on the Energy Committee and on the Armed Services Committee in their efforts to take up the renewal of Price-Anderson without amendments, and in particular, without the Glenn amendment that is now before us. I take the position that Senator GLENN's amendment is primarily directed at the large production reactors and facilities that constitute the nuclear weapons production complex, and as such, should be considered in the context of legislation that permits us to deal with the national security implications. I have joined my colleagues on the Armed Services Committee in committing to support the inclusion of title I of S. 1085 on the defense authorization bill for fiscal year 1989, which the committee will begin marking up next month.

Mr. President, I strongly urge my colleagues to support the renewal of Price-Anderson without the Glenn amendment. This is important legislation. At the same time, I urge my colleagues, who share as I do, a strong commitment to nuclear safety and to an assured supply of nuclear material to support our national security, to defer consideration of title I of S. 1085 until the defense authorization bill is considered, and this will be before the Senate in just a few months; and reject titles II and IV for which no clear need has been established.

My distinguished friend Senator GLENN has argued that for 7 years the Savannah River plant operated at unsafe power levels given that power levels have been reduced by about 50 percent over the last 2 years.

We have received testimony in the Armed Services Committee that the Savannah River reactors have never operated at unsafe power levels. The reductions in power levels were taken upon discovery of inaccurate calculations in the ability of the emergency core cooling system to handle a worst-case accident.

The reductions were taken to provide an additional margin of safety until additional research could be done. This research will not be completed until 1989. Only then will we really know what a "safe" power level is. When these studies are completed, the new "safe" power level may be lower than the former "full power" level, but it may also be higher. If the latter, then the SRP reactors probably never were operated at "unsafe" power levels.

Senator GLENN has also argued that recent changes in power levels at the

Savannah River reactors indicate that they were operated at unsafe power levels.

Again there is testimony in the Armed Services Committee that although power was reduced slightly at the L reactor, power was increased at the two other SRP reactors, K and P reactors. The change in power levels at these three reactors was taken by unanimous decision of the contractors and DOE, contrary to a Washington Post article, whose statements about a "stormy confrontation between DOE and the contractor was found to be "absolutely untrue" in an Armed Services hearing on February 29.

This hearing established that there were valid reasons for adjustments in the power levels of the reactors and that DOE acted expeditiously to bring them into compliance with information from recently completed analyses.

Mr. President, the Armed Services Committee has already committed itself to include title I in the Armed Services bill. The Armed Services Committee had jurisdiction of this matter. Why now have a split jurisdiction and pass it on to the Governmental Affairs Committee? It does not make sense. Titles II and IV should be rejected.

I commend the managers of this bill, Senator JOHNSTON and Senator McCLURE, for the fine manner in which they have handled it.

We should table the Glenn amendment. It is important to do this. The Price-Anderson Act is very important, and it certainly concerns many parts of the country. The Presiding Officer [Mr. FOWLER] is from Georgia. He takes the same position as I do on this matter. South Carolina and Georgia are deeply affected by this, as are other parts of the country.

I hope the Glenn amendment will be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. I yield myself such time as I may require.

Mr. President, let me respond to these jurisdictional things that the Senator from Nebraska brought up.

I was the author of this amendment. I think I am fully justified in moving this on Price-Anderson, for the reasons I read into the RECORD earlier.

I am trying to prevent a nuclear accident, not wait and compensate someone after it has happened. That was the intent of the original producers of the Price-Anderson legislation.

I have met my colleagues on the Armed Services Committee, of which I am also a member, much more than halfway.

I say to the distinguished Senator from Nebraska that it was not anybody except the Parliamentarian of the Senate who determined that this bill be referred to the Governmental Affairs Committee, not the Armed Services Committee.

The fact is that when the Senate Armed Services Committee requested that they be permitted to hold hearings on this, I was the one who acquiesced. I made that decision, not the Parliamentarian of the Senate. It was in no way an official action of the Senate.

I could have fought that referral and kept jurisdiction of this bill in the committee and ignored the Armed Services Committee. I chose not to do that because I know of the interest in that committee on nuclear weapon matters. So I agree to sequential referral on title I, which is the one that we are concerned about, the Defense Nuclear Safety Board.

We had five hearings in Armed Services, and we worked out a agreement. I agreed to a compromise on title I. It was not something I fought. We discussed it; the staffs worked together on it. That title was unanimously reported by the Armed Services Committee.

So, substantively, there can be no disagreement with this title. The whole bill was voted unanimously out of the Governmental Affairs Committee; and title I, the major part of the bill, was voted out unanimously by the Armed Services Committee. So there was no disagreement on that title.

Senator EXON and Senator THURMOND both voted for title I, out of the Armed Services Committee, and I agreed with them. I told them informally that whatever I brought to the floor would be that agreed-upon version of title I, and that is exactly what I have done, nothing less.

In reply to the distinguished floor manager of the bill, I offered to sit down with the distinguished chairman of the Committee on Energy and Natural Resources and interested members of the Armed Services Committee to work out a mutually acceptable list of Price-Anderson conferees on this matter. Jurisdiction is not the issue. The issue is nuclear safety for this country.

The distinguished Senator from Louisiana has said that I am a great marine and all that. Maybe that means I am supposed to bump my head up against the wall sometimes. I am not sure what the implications of this are. He likened this to a ball game, and murderers' row was up. If I have to face murderers' row, I will have to face murderers' row. That is the way it goes. I have faced a few of those before. Sometimes you have to bite the apple where you think it is right.

But let us not confuse this situation with a ball game. It is life and death for thousands, perhaps even millions, of Americans. Safety at the DOE nuclear complex has been too long ignored.

Let me go back to the matter of jurisdiction. The history of this amendment is most instructive. Over 3 years ago I led a Governmental Affairs Committee investigation into the management and operation of the Feed Materials Production Center in Fernald, OH. The Fernald site is used by DOE to among things, manufacture uranium metal ingots, which are then irradiated in DOE production reactors to produce plutonium.

What I discovered at Fernald was shocking: During the 35 years of the plant's operation, more than 300,000 pounds of radioactive uranium had been released into the surrounding air and water, contaminating offsite wells and seriously jeopardizing the health of plant workers and nearby residents. The Fernald situation suggested to me that the operation of DOE facilities in other States might be equally flawed. Dozens of hearings, a study by the National Research Council of the National Academy of Sciences, and no less than 21 GAO reports have confirmed that safety and health at DOE nuclear facilities is indeed a nationwide problem of critical proportions.

I say to the distinguished Senator from Nebraska, with respect to the report by GAO, that my concern is that all things in there have not been addressed. He cannot say that the majority of things have been addressed.

I have a statement by GAO, who my staff spoke to a little while ago and I will relate some of the remarks.

Some of the suggestions they have made either have been rejected or not yet been fully implemented. They give examples:

First, development of a health and safety strategy for the entire weapons complex.

Second, disposal of 81 percent of transuranic waste.

Third, establishment of an outside, independent safety board.

They say:

> Where recommendations have been accepted by DOE, GAO has generally not had sufficient time to determine if these recommendations have been successfully implemented.

So these items are not considered to be closed yet by GAO.

Let me reiterate that this was a Governmental Affairs Committee investigation from the start. No other committee was looking into this. And I have been looking into this matter for about the last 5 or 6 years. No other committee took any cognizance of this. So I took action on it.

And when the Senate Armed Services Committee of which I am a member requested sequential referral, I gave it. I did not fight that. The distinguished Senator from Nebraska knows that I did not bring the issue to the floor and say "We will not grant a referral." It was the Governmental Affairs Committee investigation from the start but that did not make any difference. I was concerned about the substance of the bill I introduced last April to counter DOE's neglect to safety and health. This bill was referred to the Governmental Affairs Committee by the Parliamentarian. It was marked up by the Governmental Affairs Committee, and it was reported out unanimously by the Governmental Affairs Committee. It is titles II and IV of the bill along with title I as modified by the Armed Services Committee that are now before the Senate in the form of an amendment to Price-Anderson.

I am a member, as I said, of the Armed Services Committee, and I have nothing but respect for that committee's expertise when it comes to matters affecting our nuclear weapon stockpile. That is why I consented to the sequential referral requested by Armed Services of title I of the bill—the title creating a Nuclear Safety Board to oversee safety and health at DOE production and utilization facilities.

The Armed Services Committee held a series of hearings on this one title alone. Five hearings, I believe, were held, and I attended all of those. It was a review that the committee report describes as "comprehensive." So we cannot say that Armed Services did not get their inning.

In the end, the Armed Services Committee unanimously agreed to report out my bill with a favorable recommendation. There were some changes made in title I, and I expressed some reservations about these changes in the committee report. But I went along with it and have assured the leadership of the Armed Services Committee in writing—and I will assure them again now—that I am willing to accept the committee's changes because I am convinced that they do not fundamentally alter the structure or purpose of title I. That purpose is very straightforward: To alleviate DOE's conflict of interest between materials production and protection of worker and public safety through outside, expert oversight.

I would think they would want that. If I was head of DOE I would not only form a committee, I would want the committee to say where there is this doubt about whether we are safe, whether we are going to have a meltdown at one of these plants. I would want that to go to the President. I would ask the President to make that final judgment. I would be stupid if I did not. And yet the Secretary of Energy fights this and has gotten his fellow Secretaries to bring up all these specious objections that I will not have time this morning to go through item by item. I have read those letters and there are plenty of things in there. What it is is a gang up on the other side. Murderer's row from the administration is what it is.

If I were Secretary, I would want the President of the United States saying whether we need that production at the expense of safety. And there might be such times that we would want that. But to say we do not even give an outside group the authority to raise issues with the President is preposterous with the track record that DOE has established over the past couple of decades.

In the end the Armed Services Committee unanimously agreed to report out my bill, as I said.

I assure them I am willing to accept their changes. I stress that I would and I have. This is because the main purpose of title I would be preserved. That purpose is to alleviate DOE's conflict of interest between production and safety.

Let me reiterate that this was a Governmental Affairs Committee investigation from the start. And the bill I introduced last April to counter DOE's neglect of safety and health is a Governmental Affairs Committee bill. It was referred to the Governmental Affairs Committee, marked up by the Governmental Affairs Committee, and reported out unanimously by the Governmental Affairs Committee. It is titles II and IV of this bill, along with title I as modified by the Armed Services have offered the following assurances to my Armed Services colleagues prior to coming to the floor today: I repeat here:

First, I would use the Armed Services version of title I.

Second, once affirmatively passed by the Senate, I would oppose any effort to exceed the scope of the conference on my amendment.

Third, I would sit down with members of the Armed Services and Energy Committees to work out an agreeable manner for conducting the conference.

Some of my colleagues on the Armed Services Committee have expressed their desire that I withdraw my amendment and offer title I later on the defense authorization bill. As much as I had hoped to avoid a discussion of this kind on the floor, I cannot go along with my Armed Services colleagues. Let me give three examples of how nuclear safety would be compromised if I were to wait and offer title I on DOD authorization.

First, waiting for DOD authorization would mean yet another delay in addressing DOE's legacy of safety and environmental neglect at its nuclear facilities. Since the passage of the Atomic Energy Act, plantworkers, nearby residents, and the public have been increasingly at risk of being poisoned or irradiated by the peacetime operation of the bomb complex. Last April I introduced the measure now before the Senate to provide some long-overdue protection against the hazards of nuclear weapon materials production. This bill has now been considered by the Senate for close to a year. If the DOD authorization bill were on the floor today, I would be offering my amendment on that vehicle rather than on the Price-Anderson Act.

But are we really prepared to tell our consitituents that nuclear safety must remain on hold once again after all the years and all the reports, 21 GAO reports, hearing after hearing after hearing, five on the Armed Services Committee, four this year on this particular legislation on the Governmental Affairs Committee, and I do not even know how many hearings back through the years going back 6 or 7 years that I have been involved with this. Are we going to tell the people of this country to put safety on hold again because we have a little jurisdictional fuss between the committees of the Senate? What a big deal for the people of this country to know we are more concerned about jurisdiction of the committees than we are the health and safety of the people in this country. I think that is atrocious because that is not the way it is. It was not jurisdiction. I agreed to give the Armed Services Committee jurisdiction at my own volition when requested.

It was not something done by the Parliamentarian of the Senate.

Let me repeat an offer I made in writing to my colleagues on Armed Services: If they will support me in attaching title I to Price-Anderson, and the conference gets held up I will offer an identical amendment to defense authorization when that bill reaches the floor. That way, the public will be assured that oversight of DOE nuclear facilities will be established as soon as either bill is signed into law by the President. Why on earth would we wait?

Second, while Armed Services has offered to accept title I on DOD authorization, no similar pledge has been forthcoming for the remainder of my amendment. Apart from title I, the other titles involve OSHA and provision of outside review of DOE-funded research on the health effects of radiation. We could not get agreement that these titles would be accepted on the DOD authorization. If I had that, perhaps we could have made a deal and avoided a confrontation on the floor. These provisions are strongly supported by the labor community because they would guarantee workers a minimum level of protection in what GAO has called one of the most hazardous industries in the world. These provisions are an integral part of the overall package I have put together to improve worker and public safety.

Mr. President, I believe that I have gone the extra mile to satisfy the jurisdictional concerns of the Armed Services Committee. The fundamental issue here is not jurisdiction; it is nuclear safety. I cannot emphasize this strongly enough. Our Nation's security—both in terms of the reliability of the production complex and the protection of the public from a nuclear catastrophe—requires that we act swiftly and comprehensively to promote nuclear safety.

This has been going on for some 35 years and it is time we took action on this. For more than 35 years, DOE and its predecessor agencies have disregarded safety and health in the name of nuclear-weapon materials production. Behind the veil of secrecy, the DOE bomb complex is rife with potentially unsafe reactor designs, deteriorating processing plants, sloppy operations, and disregard of internal reports documenting safety and environmental deficiences. The workers at these plants, nearby residents, and the general public have waited long enough for protection from this threat. We cannot keep them on hold for jurisdictional disputes that should have been long resolved.

Let me address one other thing while I have the floor.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Ohio has 16 minutes remaining.

Mr. GLENN. I want to talk just a moment about the constitutionality which was mentioned a little while ago. I have reviewed the Justice Department letter and these other letters.

REFUTATION OF JUSTICE DEPARTMENT LETTER AND CONCERNS ABOUT THE BOARD'S CONSTITUTIONALITY

I have reviewed the Justice Department letter you speak of. The letter is premised on a specific view of what the Constitution requires that is not the law today: I believe it constitutes advocacy on the part of the current Justice Department as to how they would like the Constitution to be interpreted, but it does not represent a sound constitutional analysis.

Let me give you an example. The gist of the Department's letter is that this amendment would impermissibly invade the prerogatives of the President. For example, it is claimed that the appointment and removal powers of the Board unconstitutionally impinge upon the powers of the President. One particular aspect the Department objects to on constitutional and policy grounds is the requirement that no more than three of five Board members should be from the same political party to ensure some balance to the Board. This claim is absolutely flat-out wrong. It is specious, inasmuch as 22 other agencies have just such a requirement, that you have a split between the political parties. The following list of multimember agencies operate under statutes that limit the number of members they may have from the same political party:

Commodity Futures Trading Commission.
Consumer Product Safety Commission.
Equal Employment Opportunity Commission.
Export-Import Bank.
Farm Credit Administration.
Federal Communications Commission.
Federal Election Commission.
Federal Energy Regulatory Commission.
Federal Home Loan Bank Board.
Federal Labor Relations Authority.
Federal Maritime Commission.
Federal Trade Commission.
Interstate Commerce Commission.
Merit Systems Protection Board.
National Credit Union Administration.
National Mediation Board.
National Transportation Safety Board.
Nuclear Regulatory Commission.
Postal Rate Commission.
Securities and Exchange Commission.
United States International Trade Commission.

Twenty-two of them already have that kind of requirement in them and yet the Justice Department, the vaunted Justice Department over there says this invades the President's prerogatives—balderdash!

Second, the Justice Department claims that the phrase in the bill allowing removal of Board members from their fixed terms for "inefficiency, neglect of duty or malfeasance" unconstitutionally impinges upon the President's ability to remove the Board members. Presumably the current Justice Department seeks to reduce the Board members positions to just another political job that can be put in the "plumb book" and turned over when a new administration comes to office, what ever that administration may be. That is not sound constitutionally nor as a matter of policy. Many other agencies conducting investigative and evaluative work have exactly the clause used in this bill or one that is even more restrictive.

I would think that the Justice Department would have done more research before objecting to my amendment. These agencies are:

Consumer Product Safety Commission.
Federal Energy Regulatory Commission.
Federal Labor Relations Authority.
National Transportation Safety Board.
National Mine Safety Health Commission.
Merit Systems Protection Board.

So much for the clause that the inefficiency, neglect, malfeasance standard unconstitutionally impinges on the President's ability to remove board members. He has already done it for all of those.

The third objection the Department raised was the issue of requiring the Board and Secretary to place their respective positions in the FEDERAL REGISTER, and the transmission of these views to the Congress. This was done, of course, to facilitate the ability of the public and interested parties to comment, a right specifically addressed in the bill. While it may be uncomfortable in terms of substance for DOE to do this, it certainly is not unconstitutional. There are a whole host of agencies with provisions in statute which are required to report to both the President and the Congress at the same time. These agencies include:

Commodity Futures Trading Commission.
Consumer Product Safety Commission.
Federal Election Commission.
Interstate Commerce Commission.
Merit Systems Protection Board.

Finally, this Board simply does not exercise executive power in the Government. The Executive power over the bomb complex remains with the Secretary. The Board has no mandatory powers. The Board is advisory. However, what the Board can require is that under certain circumstances where the Board and the Secretary disagree on issues of imminent or severe threat to public health and safety, the President must review the matters and make a final decision concerning the issue. Because the outcome President's review is not mandated by the Board, this Board does not assume Executive authority. Therefore, all these claims that the Board impermissibly treads on the powers of the Presidency is balder dash.

For all these reasons, I believe the Board not only is constitutional, but sound public policy.

So every single one of the points of objection sent over here by whoever the great scholar was over at the Attorney General's office or the Department of Justice was flat wrong. They better go back to the drawing board.

Mr. President, the safety board setup by my amendment does not exercise executive power in Government. It is advisory. So much for the constitutionality concerns of this.

I know my distinguished colleague, Senator ADAMS, is waiting to speak here. How much times does the Senator want?

Mr. ADAMS. Five minutes.

Mr. GLENN. I yield 5 minutes to the distinguished Senator.

The PRESIDING OFFICER. The Senator from Washington, Mr. ADAMS, is recognized.

Mr. ADAMS. I thank the Senator from Ohio very much. I want to pay my great respects to him for having placed this amendment before us. I rise in strong support of it.

I also want to say to my good friend from Nebraska, Senator EXON, and to Senator NUNN, that I am hopeful that we can arrive at an agreeement and pass the amendment. I have great respect for them. I understand it has come out of both committees. It is of great importance to people such as myself that have these nuclear facilities within our States.

During the course of many years, we have watched this bill to where we are now faced in the State of Washington, for example—and I know the chairman of the committee, Senator JOHNSTON, knows this very well, and he has been very helpful in approaching it—we have the largest nuclear waste dump in the world. We have had a very difficult experience with the Department of Energy over many years.

I wish to thank Senator GLENN for allowing me to participate in some of the hearings that he has had because the Department of Energy's very poor record on environmental protection and occupational safety is something that we simply have to address. We, unfortunately, put into the same department both production and environmental safety and health protection. What Senator GLENN is attempting to do in this amendment, which I strongly support and which the Armed Services Committee supports and which the Governmental Affairs Committee supports, is to create a mechanism whereby we can deal with these problems throughout the United States.

The 1940's decision to build a series of plants throughout the United States was simply an historical fact based upon World War II strategy. But what it has left us with is a series of plants throughout the United States with incredibly serious environmental problems.

Mr. President, I believe that Senator GLENN has devoted more time and attention to the problems of the Department of Energy's poor record of environmental protection and occupational safety than anyone else in the Congress. He has not only diligently pursued problems that have arisen at DOE facilities in Ohio, at Portsmouth and Fernald, but has taken a leadership role in examining problems throughout the country including those in my own State of Washington. Because of his leadership and his foresight, we have a solid body of objective evidence to turn to as we debate this issue. In particular, we have the investigative work of the U.S. General Accounting Office—literally dozens of reports—on the problems of regulatory compliance, environmental protection and occupational safety of the Department of Energy.

We have dealt with criticality factors. For example, the fact that we have had contractors on that base where we have plutonium stored who drive trucks so close to already existing amounts of plutonium that a criticality factor arrived within one digit of reaching a critical mass. Now much of this is because they have dealt with it for so many years and they do not have the feeling of concern that many of us have.

If DOE had spent as much time over the years on this issue as GAO and Senator GLENN have, we would not have the problems we have today.

Senator GLENN, in his capacity first as chairman of the Subcommittee on Nuclear Proliferation, Energy and Federal Services of the Committee on Governmental Affairs and now as chairman of the full Committee on Governmental Affairs has developed an extensive hearing record on the problems at DOE facilities. Again I wish to thank the Senator from Ohio for his courtesy in allowing me to participate in hearings of the Governmental Affairs Committee last year concerning the safety of the Department's production reactors including the N-reactor which is located at the Hanford Reservation in Washington State.

Mr. President, the distinguished chairman of the Governmental Affairs Committee has done his homework on this issue. The amendment he has offered is not some last minute proposal, but stems from years of investigation and deliberation. The amendment he has offered is not only the product of the Government Affairs Committee, which reported it unanimously, but which has also approved by the Senate Armed Services Committee to which it was sequentially referred. The unanimous support from these two committees surely indicates that this proposal has been carefully considered and professionally crafted.

Now we should acknowledge, and I know that Senator GLENN would agree, that this amendment will not deal with all of the Department of Energy's problems. In response to the persistent pressure from the Senator from Ohio, DOE is finally preparing a estimate of the costs to clean up 45 years of hazardous and radioactive wastes that have been dumped at DOE facilities. I suspect that the costs of this clearnup will be in the tens of billions of dollars. And I look forward to working with the distinguished Senator from Ohio on developing ways to address that problem. The entire DOE weapons production complex is aging and much of it is past its original design life. Both Congress and the General Accounting Office have called upon DOE to develop a comprehensive evaluation of the DOE complex. And I look forward to working with the Senate Armed Services Committee on this problem.

Despite the facts that gaps in our knowledge still exists, we do know there is an immediate need to provide independent oversight of the Department of Energy. I believe that the record is clear: The Nation has been ill-served by the self-regulatory system that has operated at DOE. We have found ourselves with billions of dollars of cleanup costs, with aging facilities which cannot be operated safely without major improvements, and for which additional risk assesments and safety reviews are needed before any clear determination can be made of their safety. I do not believe that this situation would have occurred had there been an independent regulatory system in effect for DOE facilities.

Whenever an outside review has been conducted of DOE's nuclear operations—by the General Accounting Office, by the National Academy of Sciences, by independent experts such as the Roddis Panel which reviewed the N-reactor—they invariably conclude that there needs to be an independent safety oversight capability.

For example, the National Academy of Sciences concluded that:

> The Department of Energy's safety oversight of the production reactors is ingrown and largely outside of the scrutiny of the public. Weakness in management of defense production reactors have led to a loose-knit system of largely self-regulated contractors operating within budgetary constraints imposed by and on the Department of Energy.

Consequently, the Academy recommended the creation of an independent external safety oversight committee.

But aside from the formal recommendations that Congress has received, the circumstantial evidence is even more persuasive to this Senator. We have billions of dollars in cleanup costs at these facilities. In the past 18 months we have seen all four production reactors forced to shutdown or to dramatically reduce output because of safety concerns.

The independent reviews of the N-reactor, which in my opinion ultimately led to its closure, were not the result of DOE's own regulatory system at work, but imposed by an entirely external event—the Chernobyl accident in the Soviet Union. Similarly, it was the National Academy of Sciences review of the DOE production reactors, also triggered by Chernobyl, that led to a major power reduction at the Savannah River plant just 1 year ago.

While one can debate whether or not a 40-percent power level or a 50-percent power level at the SRP reactors is necessary to meet the specific interim concerns—the so-called no bulk boiling criterion—raised by the National Academy, there is no doubt that without the Academy's intervention this dramatic reduction would not have taken place.

Now some may argue that DOE has already taken care of the problem by creating the Advisory Committee on Nuclear Facility Safety last November. While I have the highest respect for former Nuclear Regulatory Commission chairman, John F. Ahearne, who has been appointed chairman of this new panel, this new committee cannot solve the problem for several reasons. First, it's charter only extends it's direct responsibility to production and utilization facilities. It exempts DOE's Naval Reactor Program. It would not cover nuclear waste and other hazards. Second, the committee is solely advisory and is charged with reviewing significant safety concerns and providing advice. The Secretary can completely ignore the advice of this panel without evan an acknowledgement that he has received it. Third, the members of the panel are selected by the Secretary of Energy for 2-year terms and serve at the pleasure of the Secretary.

The Nuclear Safety Board created by the pending amendment is appointed by the President with the advice and consent of the Senate. The Nuclear Safety Board would be responsible for the review of the full range of DOE health and safety activities including the adequacy of the DOE's regulations. The Secretary is also obligated to respond to the Board's recommendations.

While one can debate the exact form that such an independent oversight authority should have, there can be no debate about the immediacy of the need to establish independent oversight nor the need to assure that it is an effective, independent check on the Department. What Senator GLENN's amendment will do is take this first crucial step—and take it now.

To those who wish to debate whether or not a bill reauthorizing the Price-Anderson Act is the appropriate vehicle, I want to point out that even though DOE has taken dramatic and drastic steps to reduce the safety risk from its production reactors this is not the only safety threat posed by DOE facilities. We still have DOE chemical reprocessing plants operating. We still have DOE high-level waste management. We still have DOE transportation of highly radioactive materials across the country. We still have smaller nonproduction reactors that the National Academy is still reviewing. And all of these activities are still self-regulated and have not been subject to the unprecedented degree of scrutiny that has been applied to the production reactors.

My point, Mr. President, is that we should act now to establish this independent panel and to impose the other regulatory requirements in the pending amendment. The Price-Anderson bill, to which this amendment is being offered, deals specifically with Department of Energy facilities and DOE contractors and is a timely vehicle for this amendment.

The Senate Energy Committee, in its own version of this Price-Anderson renewal legislation—S. 748—recognized that there needed to be an immediate improvement in the manner in which DOE facilities were regulated. The Energy Committee proposed a system of civil and criminal penalties for violations of safety regulations by DOE contractors and created a new Office of Inspector General for Nuclear Programs to identify and investigate health and safety problems at DOE nuclear facilities.

The Energy Committee proposal obviously differs in substance from the Glenn amendment, but it speaks to exactly the same need to dramatically and immediately improve the regulatory system at DOE nuclear facilities. And I sincerely hope that with three authorizing committees having acted on some form of legislation in this area—Energy, Armed Services, and Government Affairs—the Senate will have the opportunity to act, and will act, to adopt this amendment now. On this bill.

Finally, Mr. President, let me say to my colleagues from the Armed Services Committee, in particular the chairman of the Subcommittee on Strategic Forces and Nuclear Deterrence—the Senator from Nebraska [Mr. EXON]—and the chairman of the full committee, Senator NUNN—that I hold their opinions on matters of our Nation's national security in the highest regard. And, Mr. President, I assure them that it is not my intention today to question their prerogatives to assert their committee's jurisdictional interest. But it is my view that we need to enact Senator GLENN's amendment without delay.

The Senator from Nebraska chaired some hearings on nuclear materials transportation in the Commerce Committee last year. He has long been both a student of, and a leader on, this issue. So he understands that the Department of Energy is self-regulating in almost every area of its nuclear materials activities including transportation. The Senator from Ohio has made a most modest proposal to bring badly needed independent oversight to the Department. It has been approved in principle by both the Armed Services Committee and the Government Affairs Committee. As a Senator representing a State which continues to host these Department of Energy facilities, I sincerely hope that the Armed Services Committee will drop its opposition to the adoption of this amendment to this vehicle; a vehicle which we know will be enacted into law this year.

I commend the Senator from Ohio, the distinguished chairman of the Governmental Affairs Committee, for his amendment. I am privileged to be a cosponsor of the amendment and urge my colleagues to adopt it.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ADAMS. Will the Senator yield me 1 more minute?

Mr. GLENN. Yes.

Mr. ADAMS. Mr. President, I will close by saying to the Senator from Ohio and to the other Members who are watching and participating in this debate that we suspect now that this cleanup is going to cost tens of billions of dollars. We are trying to figure a mechanism to get a process in place. I have suggested one like the trust fund that we drafted years ago for the airport and airways trust fund and for the highway trust fund so we have a process of approaching it. We know the problems with appropriations. But we also need the regulatory approach.

I hope that all the Members will support Senator GLENN's amendment. I hope that my good friend from Nebraska will also understand why it is that many of us feel so strongly about it. We have had and continue to have a series of what are reported as minor mishaps. For example, on one of the new reactors over there, we find bolts on the floor where something is blown off because somebody had put the fuses in backwards.

I agree with the Senator from Ohio. We are not going to send every one of these to the President, but there has to be an overall strategy and there has to be a way of enforcing it and it has got to be in the hands of people who are not involved indirectly in the production capacity of the United States.

I thank the Senator from Ohio for yielding. I yield back the time that I may have left to the Senator from Ohio. I appreciate his courtesy.

Mr. GLENN. I thank the distinguished Senator very much. I reserve the balance of my time.

(Mr. ADAMS assumed the chair.)

Mr. EXON. Mr. President, I yield myself 2 minutes.

Mr. President, I would like to try and explain the position of the Armed Services Committee. The Senator from Washington, my good friend, who is now occupying the chair, should understand that months ago, hours ago, minutes ago, I have committed to the Senator from Ohio that we would include title I, which is the responsibility of the Armed Services Committee, in the armed services authorization bill. I took from the remarks of the Senator from Washington: Why did I not cooperate and include title II and title IV of the bill? That is the crux of the problem. I cannot, as chairman of the subcommittee, representing the Armed Services Committee here, agree to include title II and title IV in the defense authorization bill when they have nothing to do with defense authorization. And that is the point.

What the Congress should understand is that Senator GLENN is trying to throw out or throw in the baby with the dishwater. He has got this all mixed up. I am only saying that the Armed Services Committee, recognized by the Energy Committee, is going to protect the national security interest of the United States as best we can and keep title I, which I have agreed to include in the defense authorization.

I cannot include titles II and IV. No. 1, we have not held any hearings on them. No. 2, it is not in our jurisdiction. It is in the jurisdiction of the Energy Committee. Title II has to do primarily with OSHA regulations. Certainly that is not Armed Services. Title IV has to do basically with the radiation levels. It is an environmental consideration, either the Energy or the Environmental Committee.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. EXON. I yield myself 1 additional minute.

The Senator from Washington should understand that it is not that I do not want to cooperate, but I cannot accept this to put something in the bill that our committee has not held hearings on. If we did include that, we would be inviting into the defense authorization conference the full Energy Committee and maybe the full Environment Committee, as the floor manager of the bill has earlier explained.

I wanted to straighten that out.

I yield 3 minutes to my colleague from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana [Mr. BREAUX], is recognized for 3 minutes at this time.

Mr. BREAUX. Thank you, Mr. President. I thank the Senator for yielding the time. I rise in support of an expected motion to table that is going to be offered by my distinguished senior colleague from Louisiana on this amendment. But I also take this time to congratulate the Senator from Ohio for bringing this matter to our attention. I think it is obvious that it is important. I think it is obvious that it has some support. It had already been adopted by the Governmental Affairs Committee of the Senate, I understand without dissent, indicating their strong support for his proposal by a committee that has carefully considered this legislation.

We have commitments from the Armed Services Committee that they would include his measure in their legislation. Again, indicating the support for this approach.

I think it is very important that we consider now we handle these matters on the civilian side. The utilities who hire contractors on the utility side are not involved in approving their work. An outside institution, the NRC, looks at that arrangement and approves the contract work if it meets the standards that the NRC, an independent agency, has set for that type of work.

What we have on the civilian side is not a utility approving the work. There is a conflict there. I think that is what the Senator is trying to address.

With DOE, on the other hand, we have DOE approving their own hired contractors' work that they do for them. There is a conflict of interest there. It is in their own interest to say that the work is fine becausew they want to move on to the work that they have to do as a DOE and Department of Defense contractor. So there is a conflict and I think what the Senator has raised is an important way of addressing it.

I got a letter the other day from the Secretary of Energy that I found very interesting, in addressing this particular problem. I also found it very disturbing because the Secretary of Energy, when he is speaking of the relationship of these contractors, says something that I found really almost astounding. He says:

> This legislation would possibly compromise the working relationship between the Department and its contractors. These contractors engage in special working relationships with the Department to operate Government-owned failities that are vital to our national security.

I have no problem with it up to that point. The next sentence, however continues:

> These relationships, however, are founded on an understanding that the interests of the Department and its contractors are largely inseparable.

I would submit they are not inseparable. They are not the same. DOE has a mission, Department of Defense has a mission, and contractors have another mission. And that is to make a profit. To do a good job, hopefully, but to make a profit.

The interests of the Department of Energy and their contractors are not inseparable. So I would commend the Senator for raising these issues but I would also support the motion to table because I think that we ought to handle it in the proper committees. It is not just a jurisdiction question, it is a question of who we deal with on the House side. It is a question of having the committees that have done the analysis of the work in their committees over here meeting with those committees on the House side that have done the same thing.

The bill, as I understand it from the Governmental Affairs Committee is ready to go to the floor. It is currently at the desk, as I understand it, pending. I think that is the procedure that we ought to use and I encourage that action to be taken.

The PRESIDING OFFICER. The time of the Senator from Louisiana [Mr. BREAUX] has expired.

Who yields time?

The Senator from Ohio.

Mr. GLENN. Mr. President, I yield myself such time as I might require.

The letter from Secretary Herrington was mentioned earlier, and in his letter he says S. 1085, which is my basic proposal here, proposes an approach to oversight similar to regulation by the NRC. If any of the Secretary's people happen to be watching this on television, tell the Secretary, I invite him to read the bill because that is just not true. We do not use the same approach at all.

For instance, the Defense Nuclear Safety Board that I am proposing cannot force DOE to accept its recommendations, while the NRC can force a utility to accept NRC regulations.

Second, the Defense Nuclear Safety Board I propose cannot shut down a DOE facility. NRC can. They can shut down any nuclear powerplant. This board I am proposing could not. It is advisory in nature only.

Third, the Nuclear Safety Board cannot impose any penalties on DOE, while NRC has full authority to impose fines on a utility as a means of enforcing what they want to do.

Fourth, the Nuclear Safety Board is not required to hold public hearings and has no power of licensing over new facilities like the NRC.

Mr. President, I am surprised at the Secretary's claim. It shows desperation. They want to operate without any outside access to what they are doing and I think it is time that we had that access.

Secretary Herrington's letter, I would submit, with all due respect to him—and I like Secretary Herrington—is rather insulting to what we are trying to do here.

I do not say that advisedly; I say it full out; Mr. Secretary, you are wrong on this. It is an insult to the intelligence of this body that you liken my safety board to the NRC, because we take a whole different approach to it.

I wonder if he has even read my amendment.

Mr. President, I ask unanimous consent that a statement by Senator COHEN in support of the amendment be printed in the RECORD. His is a very good, strong statement. I would like to read it because it is a very good one, but we will not have the time left.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. He says that my amendment is an important matter that should be addressed as soon as possible. He concludes: "I hope my colleagues will support the Senator from Ohio."

Mr. COHEN. Mr. President, I want to indicate my support for the amendment offered by the Senator from Ohio [Mr. GLENN]. He has taken on a very difficult but important issue and has persevered in bringing it before the Senate. The issue of the safety of this Nation's nuclear defense facilities is a very important one which deserves our attention and careful review.

As members of the Governmental Affairs Committee, Senator GLENN and I share a concern about the safe and efficient operation of all Federal facilities. And as members of the Armed Services Committee, he and I also share an interest in maintaining a stable national defense. The two concerns have merged as issues have been raised regarding the safety of our nuclear defense facilities operating under the Department of Energy. As safety concerns have been raised, questions have arisen as to the ability of our defense production facilities, some of which are entering old age, to continue to meet the national security needs of this Nation.

The balance between fulfilling our defense production needs and protecting our citizens and our environment from devastating nuclear accidents is a difficult one to maintain. It is at the crux of the debate surrounding this amendment, which establishes an independent advisory board to oversee the safe operations of DOE's defense facilities. Any time production goals override legitimate safety considerations, we have lost our perspective. At the same time, we should not be so overzealous and burdensome in our effort to protect our citizens that our national security is compromised.

Testimony before both the Governmental Affairs and Armed Services Committees demonstrated that there are serious safety concerns at some of our older production facilities that must be addressed. The record also shows that the Department of Energy has not always made adherence to safety standards a high priority. It has dedicated itself to meeting our defense needs, which I believe is a worthy goal, but it cannot come at the expense of some kind of safety standard.

A serious accident at one of our defense production facilities will have a very detrimental impact on both the environment and the ability of the DOE to fulfill production goals, and its ramifications will be expensive and long-term. So it is important that we take some kind of action now to rectify the current difficulties our facilities face.

The central question raised in hearings before both the Governmental Affairs and Armed Services Committees was how best to achieve some level of safety without reducing our capability to provide the defense of this Nation.

I support the approach advocated in the amendment of the Senator from Ohio, which simply reflects the provisions approved by the Governmental Affairs and Armed Services Committees. While providing the kind of independent oversight that has been lacking in the past, these provisions continue to give the Secretary of Energy sufficient flexibility so that defense production needs are not compromised.

I believe this is an important matter that should be addressed as soon as possible, and I hope my colleagues will support the Senator from Ohio.

Mr. GLENN. So I think that takes care of some of the references to jurisdictional disputes and also a reference to Mr. Herrington's letter. We covered another item a moment ago here, too.

Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, if no one is prepared to speak—how much time do I have left?

The PRESIDING OFFICER. The Senator has 2 minutes and 44 seconds.

Mr. GLENN. Thank you.

Mr. President, this matter is a matter of nuclear safety. It is not a matter of jurisdiction between committees. That is a specious argument.

We have waited too long. We have waited too long for this day to get something on the books that starts correcting inadequacies in our defense complex.

I would say this: We are going to need tens upon tens upon tens of billions of dollars when we get into cleaning up the situation that has been created over the past 30 years around nuclear complexes. We have not even addressed that yet.

It took me 3 years with the DOE to get their guarantee that by July 1 of this year they will give me the first estimate of how much it is going to cost to clean these things up. We pushed and pushed and pushed for 3 years and finally badgered them into an agreement that would give us at least a first estimate. They will need more time to study it after 3 years.

That is what we have run into. All we are saying, with this Board that I propose, is that they look at safety and health problems with their outside experts; they look at this weapons fabricating complex. Where there are things that they see that are absolutely dangerous, that those items can be prioritized, they can be submitted to the Secretary of Energy for his consideration and, hopefully, he will agree with them. They are outside experts. It is like asking a doctor's second opinion.

If the Secretary does not agree, though, and the Board thinks that these things are not being addressed and are important, those items of that importance would then be bucked to the President for the President's yea or nay; does he agree with the Secretary or not?

But it would be a Presidential decision as to what was the most important at that time. I would submit the President and the President only can make that final decision because he is the only person in this country that knows the exact situation with regard to negotiations going on with the Soviets and other national security considerations. It is a natural Presidential decision. The buck stops there.

It would not be on nuts and bolts items. It would be on the major items of nuclear safety and I would think that the Secretary of Energy, instead of fighting this, would be welcoming this kind of help for his program.

This approach has been considered for a number of years. I hope we do not get bogged down in jurisdictional disputes. The matter here is not that. This is a vote for nuclear safety now. That is what it is. We must not put it off.

The PRESIDING OFFICER. The time of the Senator from Ohio has expired.

Mr. GLENN. Thank you. I urge a vote against the motion to table which I anticipate will be made.

The PRESIDING OFFICER. The Senator from Nebraska has 4 minutes remaining.

Mr. EXON. Mr. President, I yield 30 seconds to the Senator from Louisiana. I am advised that I have 4 minutes remaining. Senator WARNER and Senator NUNN are on their way over to the floor. They want to make brief statements. I am not prepared to yield back my time.

Does the Senator need more than 30 seconds?

Mr. JOHNSTON. Mr. President, I will use the 30 seconds now.

I simply wanted to say that this matter can and should be considered in the armed services authorization bill. That is where it belongs. I would be terribly mischievous to put it on this bill. It might either delay or defeat or otherwise muddy up this bill. It has no business here.

While there is a lot about this amendment that is very good, and I hope will find its way into law, it should not be as part of the Price-Anderson Act. For that reason, at the appropriate time I will move to table.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

The Senator from Nebraska.

Mr. EXON. How much time have I remaining?

The PRESIDING OFFICER. Three minutes.

Mr. EXON. I yield a minute and a half to the Senator from Georgia and a minute and a half to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I agree completely with the position of the Senator from Nebraska and the Senator from South Carolina as expressed here on the principal question.

My friend, Senator GLENN, has done an enormous amount of work in this area. I think the substance of what he is proposing, so far as I know about it, is very sound, particularly on title I, which was in our committee on a sequential referral basis. So I am in agreement with a large part of his title I approach.

I believe on the defense authorization bill for 1989, which we will be marking up in probably late April or early May, there is a very good chance this kind of an approach will be part of our bill if it is offered by the Senator from Ohio.

But I agree that it should not be on this bill.

The Senator from Nebraska has made that point. He has worked on this a long time. The Senator from Louisiana has also made that point. I think it would be a mistake to put it on this bill.

I thank the Senator from Ohio for his good work, and I will tell him whatever the result of this vote is I look forward to working with him on this matter on the committee and on other matters.

I thank the Senator from Nebraska for his leadership in looking at the substantive matters and seeing that the jurisdiction is properly handled.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I associate myself with my distinguished chairman. We have covered this issue in the Armed Services Committee, together with our colleague from Nebraska and our colleague from South Carolina. We are indeed of the opinion that this pending piece of legislation is not the vehicle but the amendment should be included on the forthcoming defense authorization bill.

Mr. EXON. I yield the remaining time to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, is there any time remaining?

The PRESIDING OFFICER (Mr. Dodd). There are 45 seconds remaining.

Mr. JOHNSTON. I yield back the 45 seconds and I move to lay the amendment on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, Senators have been notified by the respective cloakrooms that a vote has been imminent. They have been notified in plenty of time. This is a 15-minute rollcall. I urge Senators not to wait until the last 30 seconds to come to the Chamber.

I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Illinois [Mr. Simon] and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

I also announce that the Senator from Hawaii [Mr. Matsunaga] and the Senator from Delaware [Mr. Biden] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. Garn], the Senator from Nevada [Mr. Hecht], the Senator from Nebraska [Mr. Karnes] and the Senator from Vermont [Mr. Stafford] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 44, nays 47, as follows:

[Rollcall Vote No. 59 Leg.]

YEAS—44

Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Burdick
Cochran
Danforth
Dixon
Dodd
Dole
Domenici
Evans
Exon
Ford
Fowler
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Inouye
Kassebaum
Kasten
McClure
McConnell
Melcher
Murkowski
Nickles
Nunn
Pressler
Quayle
Shelby
Simpson
Specter
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NAYS—47

Adams
Armstrong
Bradley
Bumpers
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Durenberger
Glenn
Graham
Harkin
Hatfield
Heinz
Humphrey
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Stevens
Weicker
Wirth

NOT VOTING—9

Biden
Garn
Gore
Hecht
Karnes
Matsunaga
Simon
Stafford
Stennis

So the motion to lay on the table amendment No. 1677 was rejected.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. GLENN. I move to lay that motion on the table.

Mr. JOHNSTON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I annouce that the Senator from Tennessee [Mr. Gore], the Senator from Illinois [Mr. Simon], and the Senator from Mississippi [Mr. Stennis], are necessarily absent.

I also announce that the Senator from Hawaii [Mr. Matsunaga] and the Senator from Delaware [Mr. Biden], are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. Garn], the Senator from Nevada [Mr. Hecht], the Senator from Nebraska [Mr. Karnes], and the Senator from Vermont [Mr. Stafford], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 43, nays 48, as follows:

[Rollcall Vote No. 60 Leg.]

YEAS—43

Adams
Armstrong
Bradley
Bumpers
Byrd
Chafee
Chiles
Cohen
Cranston
D'Amato
Daschle
DeConcini
Durenberger
Glenn
Graham
Harkin
Heinz
Humphrey
Kennedy
Kerry
Lautenberg
Leahy
Levin
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Stevens
Weicker
Wirth

NAYS—48

Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Burdick
Cochran
Conrad
Danforth
Dixon
Dodd
Dole
Domenici
Evans
Exon
Ford
Fowler
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
Lugar
McClure
McConnell
Melcher
Murkowski
Nickles
Nunn
Pressler
Quayle
Shelby
Simpson
Specter
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—9

Biden
Garn
Gore
Hecht
Karnes
Matsunaga
Simon
Stafford
Stennis

So the motion to lay on the table the motion to reconsider was rejected.

The PRESIDING OFFICER. The question occurs on the motion to reconsider the vote.

Mr. GLENN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the motion to table the amendment was rejected. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Illinois [Mr. Simon], and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] and the Senator from Hawaii [Mr. Matsunaga] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. Domenici], the Senator from Utah [Mr. Garn], the Senator from Nevada [Mr. Hecht], the Senator from Nebraska [Mr. Karnes], and the Senator from Vermont [Mr. Stafford] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 46, nays 44, as follows:

[Rollcall Vote No. 61 Leg.]

YEAS—46

Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Burdick
Cochran
Conrad
Danforth
Dixon
Dodd
Dole
Evans
Exon
Ford
Fowler
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
Lugar
McClure
McConnell
Melcher
Murkowski
Nickles
Nunn
Pressler
Quayle
Shelby
Simpson
Specter
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NAYS—44

Adams
Armstrong
Bradley
Bumpers
Byrd
Chafee
Chiles
Cohen
Cranston
D'Amato
Daschle
DeConcini
Durenberger
Glenn
Graham
Harkin
Hatfield
Heinz
Humphrey
Kennedy
Kerry
Lautenberg
Leahy
Levin
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Stevens
Weicker
Wirth

NOT VOTING—10

Biden
Domenici
Garn
Gore
Hecht
Karnes
Matsunaga
Simon
Stafford
Stennis

So the motion to reconsider the vote was agreed to.

The PRESIDING OFFICER. The question recurs on the motion to table the Glenn amendment.

Mr. GLENN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been previously ordered and are automatic under the precedents.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. Biden], the Senator from Illinois [Mr. Simon], and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] and the Senator from Hawaii [Mr. Matsunaga] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. Garn], the Senator from Nevada [Mr. Hecht], the Senator from Nebraska [Mr. Karnes], and the Senator from Vermont [Mr. Stafford] are necessarily absent.

The PRESIDING OFFICER (Mr. Wirth). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 48, nays 43, as follows:

[Rollcall Vote No. 62 Leg.]

YEAS—48

Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Burdick
Cochran
Conrad
D'Amato
Danforth
Dixon
Dodd
Dole
Domenici
Evans
Exon
Ford
Fowler
Glenn
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
McClure
McConnell
Melcher
Murkowski
Nickles
Nunn
Pressler
Quayle
Shelby
Simpson
Specter
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NAYS—43

Adams
Armstrong
Bradley
Bumpers
Byrd
Chafee
Chiles
Cohen
Cranston
Daschle
DeConcini
Durenberger
Graham
Harkin
Hatfield
Heinz
Humphrey
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Stevens
Weicker
Wirth

NOT VOTING—9

Biden
Garn
Gore
Hecht
Karnes
Matsunaga
Simon
Stafford
Stennis

So the motion was agreed to.

Mr. GLENN. Mr. President, I ask to reconsider and ask for the yeas and nays.

Mr. JOHNSTON. Mr. President, I move to lay that on the table, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Illinois [Mr. Simon], and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden], and the Senator from Hawaii [Mr. Matsunaga] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. Garn], the Senator from Nevada [Mr. Hecht], the Senator from Nebraska [Mr. Karnes], and the Senator from Vermont [Mr. Stafford] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 42, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—49

Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Bumpers
Burdick
Cochran
Conrad
D'Amato
Danforth
Dixon
Dodd
Dole
Domenici
Evans
Exon
Ford
Fowler
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
Lugar
McClure
McConnell
Melcher
Murkowski
Nickles
Nunn
Pressler
Quayle
Shelby
Simpson
Specter
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NAYS—42

Adams
Armstrong
Bradley
Byrd
Chafee
Chiles
Cohen
Cranston
Daschle
DeConcini
Durenberger
Glenn
Graham
Harkin
Hatfield
Heinz
Humphrey
Kennedy
Kerry
Lautenberg
Leahy
Levin
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Stevens
Weicker
Wirth

NOT VOTING—9

Biden
Garn
Gore
Hecht
Karnes
Matsunaga
Simon
Stafford
Stennis

The PRESIDING OFFICER. On this vote, the question before the Senate was on the motion to table the motion to reconsider the vote by which the motion to table the Glenn amendment was, upon reconsideration, agreed to, the motion having failed on its initial vote.

On this vote, the yeas are 49, the nays are 42. The motion to table is agreed to.

Since the motion to table has been agreed to, the Glenn amendment is disposed of.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, under the unanimous-consent agreement, as I understand it, the only amendments now in order are a Johnston amendment, a McClure amendment, and a Murkowski amendment; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. JOHNSTON. Mr. President, I think all three of these amendments have gone away.

Mr. McCLURE. Mr. President, the Senator is correct.

ON THE SECTION 13, THE LIMITATION ON LIABILITY OF LESSORS

Mr. DOMENICI. Will the distinguished senior Senator from Louisiana yield for a question?

Mr. JOHNSTON. Yes. I yield to the senior Senator from New Mexico for a question.

Mr. DOMENICI. I thank the Senator. My question deals with section 13 of the House-passed bill that is now before us.

Section 13, which deals with lessor liability, adds to the Atomic Energy Act a new subsection 170r relating to sales and leasebacks of interests in nuclear facilities. This provision is identical to section 113 of the Price-Anderson bill passed by the Senate Committee on Environment and Public Works.

Sale and leaseback transactions represent an additional source of financing for existing nuclear facilities. They can provide significant benefits both to the utility and to its ratepayers. Such benefits arise from the lower cost of capital inherent in such transactions and from the leveling of utility revenue requirements.

The continuation of these benefits warrants the inclusion of section 13 so that existing and prospective investors providing equity for such transactions may do so free from concern that they may thereby become subject to legal liability arising from nuclear incidents.

Section 13 will protect any person who acquires an interest in a nuclear facility and leases such interest as a part of a lease transaction. Where such lessor is a trust, the beneficiaries of the trust and the trustees, as well as the trust, will not be subject to any legal liability.

Similarly, where the lessor is a partnership or other entity, the members of or interest holders in such partnership or other entity, as well as such partnership or other entity, will not be subject to any legal laibility.

In order for section 13 to apply, the lease must be "bona fide." In other words, section 13 will not protect any NRC licensee who enters into a lease transaction as lessor solely for the purpose of avoiding its obligations in respect to nuclear incidents.

Under current law, the lessor of a facility is not required to be licensed by the NRC and is, therefore, not subject to the obligations of NRC licensees. Section 13 further clarifies that lessors are not liable for such licensees' obligations and provides that lessors are not liable for any other liabilities under Federal or State law relating to a nuclear incident.

My question is this: Is it the intent of section 13 to confirm that the "channelling" effect of current law—that is, public library for a nuclear incident is channelled to the person with whom an indemnity agreement is executed or who is required to maintain financial protection—is not affected by sale-and-leaseback financing?

Mr. JOHNSTON. Yes. That is the intent of section 13.

Mr. McCLURE. That is my understanding as well.

Mr. DOMENICI. I thank the Senators I yield the floor.

Mr. McCAIN. Mr. President, I would like to express my strong support for the reauthorization of the Price-Anderson. I believe this law is vital to the preservation of an important energy option, that of nuclear power. I also believe it important to the continued operation of nuclear facilities needed for our national defense.

Under Price-Anderson, all utilities operating nuclear power plants join together to pay damages caused by an accident at any single plant. The present law provides reimbursement of up to $640 million. I believe this amount is far too low and should be increased dramatically. $7 billion is such an increase. In addition, this is just what would be available immediately. Any damages in excess of this amount would be addressed by Congress subsequent to the exhaustion of the $7 billion pool.

Many opponents of this legislation claim Price-Anderson is an unwarranted subsidy for the utility industry. I believe this not to be the case for two reasons. First, by accepting coverage under this scheme, utilities agree to waive their legal defenses. This greatly increases the ability of injured parties to achieve a rapid recovery. Second, the utility industry agrees to be responsible for their brethren. There is little doubt that any utility misfortunate enough to have an accident of the severity level to trigger Price-Anderson would have great difficulty making good on damage claims in a timely fashion. This mechanism would protect potential claimants against this probability.

Let me add that I also believe we must pass this measure without any contractor liability amendments. While it may sound reasonable to hold DOE contractors liable for gross negligence, the result of this would be an exodus of competent personnel from this field. It would only be prudent, in my view, for contractors to withdrew from these operations given today's tort climate. No competent corporate manager would expose his stockholders assets to this kind of uncertaintly.

Mr. President, it is my hope that the Senate will expeditiously pass this measure so that we may consider further steps necessary to the preservation of this Nation's nuclear energy option.

Mr. DOMENICI. Mr. President, in 1954, Congress enacted the Atomic Energy Act and eliminated the Federal Government's monopoly over the ownership of nuclear materials and facilities.

However, the private sector was reluctant to risk significant financial resources on the new and untested atomic power industry, given the potential for catastrophic accidents involving nuclear materials and the unavailability of private insurance to cover public liability arising out of such a catastrophic accident.

Congress enacted the Price-Anderson Act in 1957 to:

First, ensure that adequate funds would be available to compensate the public for injuries resulting from nuclear activities; and

Second, remove the threat of unlimited liability for a nuclear accident that was deterring private industry from participating in nuclear activities.

The Price-Anderson system is a comprehensive, compensation-oriented system of liability insurance for Department of Energy contractors and Nuclear Regulatory Commission licensees operating nuclear facilities.

Until it expired last August, Price-Anderson required nuclear contractors to carry a primary layer of private liability insurance of $160 million per reactor.

If damages exceeded this limit, then each licensed reactor was required to contribute up to $5 million more in "retrospective premiums." Thus, industry liability for any single accident was capped at approximately $700 million—$160 in private insurance plus $5 million from each of approximately 112 licensees.

In return for this liability cap, nuclear utilities accepted sole responsibility for nuclear accidents and waived their legal defenses.

Price-Anderson also allowed DOE to indemnify nuclear contractors from damage claims and required them to pay up to $500 million in damages to victims of accidents. If public damages exceeded the liability cap, any compensation above that level would have to be appropriated by Congress.

The only major test of the Price-Anderson system to date involved the Three Mile Island accident in March 1979. Insured losses and related expenses have totalled about $50 million, all of which has been covered by the primary layer of insurance.

Insured losses and related expenses arising from all other civilian activities have totalled about $7 million.

Payments for claims resulting from activities conducted under contract with DOE or the Atomic Energy Commission have totalled $1.5 million.

Regarding DOE contractors, Price-Anderson saves the Federal Government money because it is self-insuring, and it enables the Government to find private-sector companies willing to help in the operation of DOE's nuclear facilities.

Without Price-Anderson insurance coverage, contractors might refuse to continue doing business with the Federal Government, and universities and others might shut down their research reactors.

Most importantly, Price-Anderson provides a no-fault system for equitable, efficient, reliable, and comprehensive compensation to the public in the event of an accident. The channelling of liability to a single entity and the waiver of defenses insures that protracted litigation will be avoided.

Price-Anderson is a model for bringing order and predictability to a situation where high potential liabilities exist.

The difficulties encountered in determining and ultimately paying the damages associated with the Bhopal accident demonstrate the value of a Price-Anderson system for dealing with mass tort disasters.

Price-Anderson has been fulfilling its intended purpose of providing prompt financial protection to the public and removing a deterrent to private sector participation in the nuclear energy field.

Unfortunately, the Price-Anderson Act expired last August. Although, DOE contractors and NRC licensees under existing contracts remain covered, NRC no longer has the authority to indemnify new licensees and DOE has lost its ability to enter into new indemnity agreements.

The failure to reauthorize Price-Anderson could be disastrous.

The need for Price-Anderson today is essentially the same as in 1957. The amount of private insurance available is inadequate to cover the potential damage and personal injury claims that would result from a catastrophic nuclear accident.

In the absence of Price-Anderson, compensation to victims of a nuclear accident would likely be seriously limited.

In the event of a nuclear accident at a facility licensed after last August, liability would have to be established without the act's waiver of defenses. The public's ability to obtain compensation could be limited to the amount of insurance and assets of the individual licensee having the accident. This could prevent the public from receiving full compensation.

Regarding contractors, there is a serious question about the adequacy of compensation for victims of a nuclear accident at a DOE facility in the absence of Price-Anderson.

Although DOE has other authority under Public Law 85-804 to indemnify contractors, this authority is intended to protect contractors from liability. It does not provide the public with as much protection as Price-Anderson.

Under Public Law 85-804, victims can sue for damages under State tort law, but contractors retain all their traditional defenses. The waiver of defenses and the omnibus coverage of subcontractors would not apply. In addition, under Public Law 85-804, compensation to the public is available only through the congressional appropriations process.

If an accident occurred at a facility indemnified under Public Law 85-804, numerous lawsuits, protracted litigation, increased legal expenses, unpredictable verdicts, and delayed and inadequate compensation is likely to result.

Already five DOE facilities have lost Price-Anderson coverage because their contracts came up for renewal after Price-Anderson expired.

In general, the failure to reauthorize Price-Anderson will result in substantially less protection for the public in the event of a nuclear accident.

In the absence of the act, compensation for victims of a nuclear accident would be less predictable, less timely, and potentially inadequate compared to the compensation that would be available under Price-Anderson.

The Department of Energy has concluded that the reauthorization of Price-Anderson is essential for private contractors to be willing to perform work on the Department's nuclear weapons, production, and research and development programs.

The bill now before us, H.R. 1414, extends the Price-Anderson insurance program for 20 years.

It raises the nuclear power industry and DOE contractor liability for nuclear accidents to approximately $7 billion. These liability limits will be adjusted for inflation every 5 years.

Each reactor is responsible for $160 million in primary layer private insurance plus $63 million in retrospective premiums after an accident, to be assessed at a rate not to exceed $10 million per year.

The liability of the DOE contractors would continue to be borne by the Federal Government under the indemnification contracts.

Where claims exceed the amount of funds in the liability account at the time of an accident, NRC would be permitted to borrow funds from the Treasury, to be paid back when retrospective premiums are collected.

The President would be required to submit an additional compensation plan to Congress within 90 days when a court determines that damages from an accident might exceed the liability limit.

H.R. 1414 extends Federal indemnity to all contracts with a risk of public liability. Currently, this authority is discretionary.

DOE contractors who violate DOE safety rules would be subject to civil and criminal penalties.

Finally, the bill has been amended to include a provision that I proposed that will provide Price-Anderson coverage when the Secretary of Energy or DOE employees undertake work involving nuclear waste. It will treat DOE employees involved in nuclear waste work as if they were contractors for the purposes of Price-Anderson.

My amendment allows claims involving the waste activities of DOE employees to be compensated according to the same procedures and from the same sources of funds as other claims arising from nuclear waste activities of the Department of Energy.

Mr. President, in order to continue to provide adequate protection to the public, Price-Anderson needs to be reauthorized. H.R. 1414 provides a sound framework for the reauthorization of Price-Anderson. I hope that the Senate will approve this legislation.

Mr. JOHNSTON. Mr. President, I think we are ready for third reading.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 1414), as amended, was passed.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I have a technical correction. I ask unanimous consent that the Breaux amendment, No. 1669, adopted March 16 be modified to reflect the vote of March 17 extending the act for 20 years.

Specifically, in amendment No. 1669, the phrase "August 1, 1997" must be replaced by "August 1, 2007" everywhere it appears in amendment No. 1669.

This technical correction was brought to our attention by the enrolling clerk.

The PRESIDING OFFICER. without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the bill be printed as passed. That is, H.R. 1414.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I appreciate the majority leader's statements, and I would like to commend the staff on the Energy and Natural Resources Committee on both sides of the aisle, and the Environment and Public Works Committee staff on both sides of the aisle. I thank the Defense Committee, who has also been involved, and I would like to commend their staff as well.

As usual, this staff has done the work.

Mr. BYRD. Mr. President, I wish to thank the members for their excellent work that they did in bringing this bill to a final passage. They labored long and hard and spent many hours in the hearing process. They did a great deal of work on the floor.

I also want to commend Mr. BREAUX and Mr. SIMPSON for the work they did on their part of the legislation. All Senators are entitled to a great deal of credit.

I thank the Senators for their patience today.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I join with the distinguished Senator from Louisiana because it has been an extraordinarily long legislative schedule to bring this to a conclusion. I also congratulate the chairman of the committee, Mr. JOHNSTON, for the tenacity to get this job done. But I do believe staff was extraordinarily helpful and diligent. I do commend staff on both sides.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to extend beyond 20 minutes. Senators may speak therein for not to exceed 5 minutes.

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 324, S. 79.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 79) to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "High Risk Occupational Disease Notification and Prevention Act of 1987".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Definitions.
Sec. 4. Risk Assessment Board.
Sec. 5. Employee notification and counseling.
Sec. 6. Means of employee notification.
Sec. 7. Occupational and environmental health centers.
Sec. 8. Research, training, and education.
Sec. 9. Employee medical monitoring; discrimination against employees; confidentiality.
Sec. 10. Enforcement authority.
Sec. 11. Reports to Congress.
Sec. 12. Subjects of Federal agency studies.
Sec. 13. Regulations.
Sec. 14. Authorization of appropriations.
Sec. 15. Effective date.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) during the past two decades, considerable scientific progress has been made in—

(A) the identification of hazardous substances, agents, and processes;

(B) the identification of medical problems associated with exposure to such substances, agents, and processes; and

(C) the diagnosis and treatment of diseases related to such exposure;

(2) progress also has been made in controlling the exposure of individuals to such substances, agents, and processes;

(3) despite the progress described in paragraphs (1) and (2), there are significant gaps in efforts to promote the health and safety of individuals exposed to such substances, agents, and processes;

(4) potentially harmful substances, physical agents, and processes are in wide industrial and commercial use in the United States;

(5) a significant number of workers suffer disability or death or both wholly or partially as a result of being exposed to occupational health hazards;

(6) diseases caused by exposure to occupational health hazards constitute a substantial burden on interstate commerce and have an adverse effect on the public welfare;

(7) workers have a basic and fundamental right to know that they have been exposed to an occupational health hazard and are at risk of contracting an occupational disease;

(8) there is a period of time between exposure and the onset of disease when it often is possible to intervene medically in the biological process of disease either to prevent or, by early detection, successfully treat many disease conditions;

(9) social and family services that reinforce health-promoting behavior can reduce the risk of contracting an occupational disease;

(10) by means of established epidemiological, clinical, and toxicological studies, it is possible to define and identify specific worker populations at risk of contracting occupational diseases;

(11) there is no established national program for identifying, notifying, counseling, and medically monitoring worker populations at risk of occupational diseases;

(12) there is a lack of adequately trained professionals, as well as appropriately staffed and equipped health facilities to recognize and diagnose occupational diseases;

(13) there is a need for increased research to identify and monitor worker populations at risk of occupational diseases; and

(14) through prevention and early detection of occupational disease the staggering costs of medical treatment and care in the United States can be substantially reduced.

(b) PURPOSE.—It is the purpose of this Act—

(1) to establish a Federal program to notify individual employees within populations at risk of occupationally induced disease that they are at risk because of exposure to an occupational health hazard, and to counsel them appropriately;

(2) to authorize and direct the certification of health facilities that have a primary purpose of educating, training, and advising physicians, nurses, and other professionals in local communities throughout the United States to recognize, diagnose, and treat occupational disease;

(3) to expand Federal research and education efforts to improve means of identifying and monitoring worker populations at risk of occupational disease; and

(4) to establish a set of protections prohibiting discrimination against employees on the basis of identification and notification of occupational disease risk.

SEC. 3. DEFINITIONS.

For the purpose of this Act;

(1) BOARD.—The term "Board" means the Risk Assessment Board established under this Act.

(2) COMMERCE.—The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between a State and any place outside thereof, or within the District of Columbia, or a possession of the United States (other than the Trust Territory of the Pacific Islands), or between points in the same State but through a point outside thereof.

(3) EMPLOYEE.—The term "employee" means—

(A) an employee of an employer who is employed in a business of the employer that affects commerce; or

(B) a former employee who—

(i) was formerly employed by an employer in a business of the employer that at the time of employment affected commerce; and

(ii) as to whom any Federal agency maintains records pertaining to work history, or the employer maintains personnel records, medical records, or exposure records.

(4) EMPLOYER.—The term "employer" means a person engaged in a business affecting commerce who has employees, including the United States or any State or political subdivision of a State.

(5) HAZARD COMMUNICATION STANDARD.—The term "hazard communication standard" means the standard contained in section 1910.1200 of title 29 of the Code of Federal Regulations in effect on January 1, 1987.

(6) INSTITUTE.—The term "Institute" means the National Institute for Occupational Safety and Health.

(7) MEDICAL MONITORING.—The term "medical monitoring" means periodic examinations or laboratory tests to diagnose or aid in the diagnosis of a disease that has been the subject of a notice.

(8) OCCUPATIONAL HEALTH HAZARD.—The term "occupational health hazard" means a chemical, a physical, or a biological agent, generated by or integral to the work process

and found in the workplace, or an industrial or commercial process found in the workplace, for which there is statistically significant evidence (based on clinical or epidemiologic study conducted in accordance with established scientific principles) that chronic health effects have occurred in persons exposed to such agent or process. The term includes chemicals that are carcinogens, toxic or highly toxic agents, reproductive toxins, including agents that may cause miscarriages and birth defects, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents that act on the hematopoietic system, and agents that damage the lungs, skin, eyes, or mucous membranes.

(9) PERSON.—The term "person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

(10) POPULATION AT RISK OF DISEASE.—The term "population at risk of disease" means a class or category of employees—

(A) exposed to an occupational health hazard under working conditions (such as concentrations of exposure, or durations of exposure, or both) comparable to the clinical or epidemiologic data referred to in paragraph (8); and

(B) identified and designated as a population at risk of disease by the Board pursuant to section 4(c).

(11) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 4. RISK ASSESSMENT BOARD.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Department of Health and Human Services, the Risk Assessment Board.

(2) MEMBERSHIP.—The Board shall consist of 7 members. Each member shall be appointed by the Secretary from a list of 3 nominees provided by the National Academy of Sciences. In making appointments under this paragraph, the Secretary may request additional lists. Four members of the Board shall be career or commissioned Public Health Service employees. Three members of the Board shall be appointed from among individuals who are not career or commissioned Public Health Service employees. The Board shall include two physicians specializing in occupational medicine, an epidemiologist, a toxicologist, an industrial hygienist, an occupational health nurse, and an occupational biostatistician.

(3) TERM OF OFFICE.—

(A) PUBLIC HEALTH SERVICE MEMBERS.—The terms of members appointed under the fourth sentence of paragraph (2) of this subsection shall be 5 years, except that of the members first appointed—

(i) 1 member shall be appointed for 2 years,

(ii) 1 member shall be appointed for 3 years,

(iii) 1 member shall be appointed for 4 years, and

(iv) 1 member shall be appointed for 5 years,

(B) OTHER MEMBERS.—The terms of members appointed under the fifth sentence of paragraph (2) of this subsection shall be 5 years, except that of the members first appointed—

(i) 1 member shall be appointed for 1 year,

(ii) 1 member shall be appointed for 3 years, and

(iii) 1 member shall be appointed for 5 years.

(4) CHAIRMAN.—The Secretary shall designate 1 member to serve as Chairman of the Board.

(5) VACANCIES.—Any member appointed to fill a vacancy in the Board that occurs prior to the expiration of a term shall be appointed to serve for the remainder of that term.

(6) REPORTING.—The Board shall report to the Secretary through the Director of the Institute.

(7) STAFF.—The Secretary shall provide full-time staff personnel necessary to carry out the functions of the Board.

(8) COMPENSATION.—Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"Members, Risk Assessment Board, Department of Health and Human Services (7).".

(b) INDEPENDENCE OF BOARD.—In the exercise of its functions, powers, and duties, the Board shall be independent of the Secretary and the other offices and officers of the Department unless otherwise specifically provided in this Act.

(c) FUNCTIONS OF BOARD.—

(1) IN GENERAL.—

(A) DUTIES.—The Board shall—

(i) review pertinent medical and other scientific studies and reports concerning the incidence of disease associated with exposure to occupational health hazards;

(ii) identify and designate from the review, and from field assessments where appropriate, those populations at risk of disease that should receive notification pursuant to this Act, including the size, nature, and composition of the populations to be notified;

(iii) develop an appropriate form and method of notification that will be used by the Secretary, or agents of the Secretary described under section 6, to notify the designated populations at risk of disease; and

(iv) determine the appropriate type (if any) of medical monitoring or beneficial health counseling, or both, for the disease associated with the risk, which shall be described in the notification under section 5(b)(6).

(B) PANEL OF EXPERTS.—The Board may appoint an expert or a panel of experts on the particular disease that is the subject of the notice and the report of such expert or panel on the Board's recommendation shall be included in the hearing record.

(C) INFORMATION REQUESTS.—The Board, consistent with section 552a of title 5, United States Code (relating to privacy), may request information from any Federal agency or other government or private organization for the purpose of obtaining studies and reports conducted or initiated with respect to actual or potential occupational health hazards. The information shall be furnished consistent with provisions for Federal access set forth under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), and regulations promulgated pursuant to such Acts.

(2) IDENTIFICATION OF POPULATIONS AT RISK OF DISEASE.—In identifying populations at risk of disease, the Board shall consider the following factors based on the best available scientific evidence—

(A) the extent of clinical and epidemiologic evidence that specific substances, agents, or processes may be a causal factor in the etiology of chronic illnesses or long-latency diseases among employees exposed to such substances, agents, or processes in specific working conditions (such as concentration of exposure, or durations of exposure, or both);

(B) the extent of supporting evidence from clinical, epidemiologic, or toxicologic studies that specific substances, agents, or processes may be a causal factor in the etiology of chronic illnesses or long-latency diseases among individuals exposed to such substances, agents, or processes;

(C) the employees involved in particular industrial classifications and job categories who are or have been exposed to such substances, agents, or processes under working conditions (such as concentrations, or durations, or both) that may be a causal factor in the etiology of the illnesses or diseases;

(D) the extent of the increased risk of illness or disease created by occupational health hazards alone or in combination with such factors as smoking and diet; and

(E) other medical, health, and epidemiological factors, including consistency of association, specificity of association, strength of association, dose-response relationships, biological plausibility, temporal relationships, statistical significance, and the health consequences of notifying or failing to notify a population at risk.

(3) DESIGNATION OF IDENTIFIED POPULATIONS FOR NOTIFICATION.—

(A) DESIGNATION.—In designating populations at risk of disease for notification, the Board shall consider the extent to which particular populations may derive health benefits from receipt of notification. The Board shall undertake as its first priority to designate populations likely to benefit from medical monitoring or health counseling.

(B) POSSIBLE FACTORS.—In making the designation required by this paragraph, the Board may consider—

(i) exposures for which there exists a permanent standard promulgated under section 6(b)(5) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)(5));

(ii) the extent of medical monitoring already available to employee populations covered by the permanent standards;

(iii) the need to notify former employees as well as current employees; and

(iv) the extent to which notification may prevent miscarriages and birth defects.

(C) NOTIFICATION.—The Board, in making determinations, and the Institute, in giving or coordinating notification, shall notify as many employees at risk of disease as the appropriations and the best available scientific evidence permit. The Secretary shall include a detailed explanation of the reasons for the notification determinations in the report submitted pursuant to section 11(b) of this Act.

(4) DETERMINATION.—If the Board determines that a class or category of employees is a population at risk of disease to be notified pursuant to this Act, the Board shall—

(A) make such a determination pursuant to subsection (d); and

(B) within 10 days of making such a determination, transmit to the Secretary the classes or categories of employees to be notified under section 5.

(d) PROCEDURES.—

(1) NOTICE OF PROPOSED DETERMINATION.—For each population designated for notification, the Board shall issue a notice of proposed determination.

(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall—

(A) be published in the Federal Register,

(B) set forth which classes or categories of employees are being considered for inclusion as an employee population to be notified,

and a concise statement of the basis for their inclusion and the contents of the proposed notice as specified in section 5(b) (other than paragraphs (6)(C) and (F) of such subsection);

(C) provide for the public to submit written views on the proposed determination within 60 days of the notice; and

(D) provide for a hearing within 45 days of the notice at which the public may express views on the proposed determination of the Board.

(3) FINAL DETERMINATION.—The Board shall issue a final determination within 60 days after the hearing based on the record developed pursuant to paragraph (2). The final determination shall be deemed to be a final agency action.

(4) EXTENSION.—The Board may, in exceptional circumstances and for good cause shown, extend the time between the issuance of the notice described in paragraph (2), and the issuance of a final determination under paragraph (3), except that the extension may not exceed 150 days for the total period of time beginning with the issuance of the notice.

(5) ACTION.—Any aggrieved person may bring a civil action for mandamus in the appropriate United States district court if the final agency action is not completed within 105 days or 150 days, as the case may be.

(e) BOARD AGENDA.—Within 6 months after the Board is appointed and every 6 months thereafter, the Board shall publish in the Federal Register an agenda listing the chemical, physical, or biological agents and industrial or commercial processes which are under review by the Board or which the Board anticipates may, within the ensuing 6 months, be reviewed by the Board to decide whether to issue a notice of proposed determination. For each item on the agenda, the Board shall, if available, identify (A) the population to be evaluated with respect to the agent or process and (B) the name and telephone number of a knowledgeable agency official. The Board may at any time publish a supplement to an agenda adding agents or processes which the Board anticipates will be subject to review prior to the next regularly scheduled publication of an agenda.

(f) BOARD REVIEW.—With respect to a final determination by the Board, not later than 5 years after the initial issuance of notification and not later than each 5 years thereafter, the Board shall review—

(1) new scientific data relevant to the determination in order to assess the appropriateness and accuracy of the notice; and

(2) the appropriateness of medical monitoring practices under section 9.

SEC. 5. EMPLOYEE NOTIFICATION AND COUNSELING.

(a) NOTIFICATION OF POPULATION AT RISK.—On a determination by the Board that a given class or category of employee is a population at risk of disease to be notified pursuant to this Act, the Secretary shall make every reasonable effort to ensure that each individual within such population is notified of the risk. The Secretary, through the Institute, shall direct the notification required by this section.

(b) CONTENTS OF NOTIFICATION.—The notification shall include:

(1) HAZARD.—An identification of the occupational health hazard, including the name, composition, and properties of known chemical agents.

(2) DISEASES.—The disease or diseases associated with exposure to the occupational health hazard, and the fact that such association pertains to classes or categories of employees.

(3) EXTENT OF THE RISK.—The extent of the risk of such disease or diseases for the population at risk compared to the population at large.

(4) LATENCY PERIODS.—Any known latency periods from the time of exposure to time of the clinical manifestation of a disease.

(5) POSSIBLE CONTRIBUTING FACTORS.—Any known information concerning the extent of increased risk of illness or disease associated with exposure to the occupational health hazard in combination with exposure to nonoccupational factors.

(6) COUNSELING.—Counseling information appropriate to the nature of the risk, including but not limited to—

(A) the advisability of initiating a personal medical monitoring program;

(B) the most appropriate type or types of medical monitoring or beneficial health counseling or both for the disease associated with the risk;

(C) the name and address of the nearest occupational and environmental health center certified under this Act;

(D) the protections for notified employees, as established under section 9;

(E) employer responsibilities with respect to medical monitoring for notified employees, as established under section 9; and

(F) the telephone number of the hot line established under subsection (c).

(c) TELEPHONE INFORMATION.—The Institute shall establish a toll-free long distance telephone "hot line" for employees notified under this section or their personal physicians, for the purpose of providing additional medical and scientific information concerning the nature of the risk and its associated disease.

(d) DISSEMINATION OF INFORMATION.—The Institute, after consultation with the Board, shall prepare and distribute other medical and health promotion material and information on any risk subject to notification under this section and its associated disease as the Institute and the Board consider appropriate.

(e) ACCESS TO INFORMATION.—In carrying out the notification responsibilities under this section, the Secretary, consistent with section 552a of title 5, United States Code, (relating to privacy) may request information from—

(1) any Federal agency, or State or political subdivision of a State, solely for the purpose of obtaining names, addresses and work histories of employees subject to notification under this section;

(2) any employer insofar as Federal access already is provided for under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), and regulations promulgated pursuant to such Acts; and

(3) any employer insofar as such information is maintained by such employer under a State or Federal law concerning occupational safety and health matters.

(f) LIABILITY.—The United States or any agency or employee thereof (including any employer or government acting pursuant to section 6) shall not be subjected to suit or judicial or nonjudicial proceedings of any kind that seek monetary damages with respect to or arising out of any act or omission performed pursuant to this Act, including the failure to perform any act or omission pursuant to this Act. This subsection shall not apply to—

(1) an employee of the United States for any act or omission that is a knowing and deliberate violation of a provision of the Act to the extent that Federal law otherwise authorizes suit against that individual for monetary damages; and

(2) an employer or government acting pursuant to section 6, for any act or omission that is a knowing or reckless violation of a provision of the Act.

(g) JUDICIAL REVIEW.—

(1) PETITION.—Any person adversely affected or aggrieved by a determination of the Board under this Act is entitled to judicial review of the determination in the United States Court of Appeals wherein such person resides or has the principal place of business or in the United States Court of Appeals for the District of Columbia circuit on a petition filed in such court. A person may be adversely affected or aggrieved by one or more of the following Board determinations:

(A) The determination that an agent or process is or is not an occupational health hazard.

(B) The determination of the class or category of employees that is a population at risk of disease.

(C) The determination as to what constitutes appropriate medical monitoring or beneficial counseling for the designated population at risk.

Any petition filed pursuant to this section shall be filed within 30 days after such determination by the Board. On the filing of a petition, the Secretary shall certify the hearing record.

(2) REVIEW.—The court shall review the determination of the Board based on the hearing record.

(3) JUDICIAL ACTION.—The court shall set aside the determination of the Board if the determination is found to be—

(A) arbitrary, capricious, or an abuse of discretion;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations;

(D) without observance of procedure required by law; or

(E) unsupported by substantial evidence on the record.

(4) STAY.—The commencement of proceedings under this subsection shall not operate as a stay of the requirement on the Secretary to notify employees unless the court specifically orders a stay based on a determination by the court that the complaining party is highly likely to succeed on the merits.

SEC. 6. MEANS OF EMPLOYEE NOTIFICATION.

(a) RESPONSIBILITY OF SECRETARY.—Except as otherwise provided in this section, the Secretary shall be responsible for notifying employees at risk of disease, as determined by the Board.

(b) COOPERATION WITH PRIVATE EMPLOYERS AND STATE AND LOCAL GOVERNMENTS.—

(1) IN GENERAL.—In carrying out notification responsibilities under subsection (a), the Secretary is encouraged to cooperate to the extent practicable with private employers and State and local governments.

(2) CERTIFICATION OF PRIVATE EMPLOYERS OR STATE OR LOCAL GOVERNMENTS.—

(A) IN GENERAL.—Upon request by a private employer in a State or local government, the Secretary may certify a private employer or a State or local government to conduct notification of its current or former employees, or both, who are members of populations determined to be at risk. Such certification shall require inclusion in the notification of the information described in section 5(b)

and shall be in accordance with regulations issued by the Secretary.

(B) Administration.—No private employer or State or local government certified under this paragraph may receive payment for the cost of such notification from the United States, or have a right of access to Federal records for the purposes of carrying out the notification.

(C) Form of notification.—The form of notification adopted by a private employer or State or local government shall conform, to the maximum extent practicable, to a model notification form issued by the Board under section 4(c).

(c) Employees Not Currently Exposed.—

(1) In general.—In the case of former employees and employees for whom no exposure to the occupational health hazard occurred in the course of employment with their current employer as of the time the notice was issued, the notification shall be transmitted to each employee in the designated population at risk of disease who was exposed to the occupational health hazard within 30 years prior to the date of notification.

(2) Individual notification.—Notification shall be on an individual basis, except that if individual notification is not reasonably possible, the notifying entity shall make use of public service announcements and other means of notification appropriate to reach the population at risk.

(d) Employees Currently Exposed.—

(1) In general.—In the case of employees for whom any exposure to the occupational health hazard occurred in the course of current employment, notification shall be transmitted to individual employees wherever reasonably possible.

(2) Limiting rule.—If individual notification is not reasonably possible, the notifying entity shall make use of public service announcements and other means of notification appropriate to reach the population at risk. Such means may include working with employers to post prominently notices as specified in section 5(b).

(e) Variances.—

(1) Application for variance.—Within 30 days after the Board issues a final determination identifying a population at risk of disease for notification, an employer who employs or has employed employees within that population may apply to the Institute for a determination exempting the employer's employees from the population at risk, if the employer believes that, as a result of significant mitigating factors, the employer's employees are not members of a population at risk of disease. The application of the employer shall describe in detail the basis for the application.

(2) Hearing.—If the Institute concludes that any application raises an issue of material fact which is subject to reasonable dispute, the Institute, within 30 days after the receipt of an application, shall—

(A) publish a notice so stating in the Federal Register, and

(B) schedule a hearing on the disputed issues.

All applications for a variance with respect to any one population at risk shall be consolidated in a single hearing.

(3) Exemption.—During the pendency of any application before the Institute, the Secretary shall be exempted from the notification requirements of the final determination adopted by the Board with respect to any parties seeking a variance. Each such hearing before the Institute shall be completed within 60 days of the notice of hearing.

(4) Decision on variance.—Within 30 days after the close of the hearing, or, where no hearing is held, within 30 days of the receipt of an application, the Institute shall issue a decision granting a variance to any employer who has demonstrated by a preponderance of the evidence that the employees of the employer should not be included within the population at risk of disease. The Institute shall deny a variance to all other employers. In determining whether a variance should be granted as to any specific employee or group of employees to be notified, the Institute shall evaluate whether there are significant mitigating factors for such employee or employees, including work practices, health and safety programs, engineering controls, or other factors that are fundamentally different from the factors evidenced by the data relied upon by the Board, that substantially eliminate the risk of developing the occupational disease under examination.

(5) Limitation.—No employer who has not applied for a variance may avail itself of any decision by the Institute granting a variance to some other employer. Determinations by the Board may not be challenged in any action brought pursuant to this subsection.

SEC. 7. OCCUPATIONAL AND ENVIRONMENTAL HEALTH CENTERS.

(a) Selection From Among Existing Facilities.—

(1) Establishment and certification.—Within 90 days after the effective date of this Act, the Secretary shall establish and certify 10 health centers. The Secretary shall select the 10 health centers from among the educational resource centers of the National Institute for Occupational Safety and Health and similar facilities of the National Institute for Environmental Health Sciences, the National Cancer Institute, and other private or governmental organizations designated by the Secretary. At a later date, the Secretary may establish and certify additional health centers from among the health care facilities described in this paragraph.

(2) Basis for selection.—In carrying out paragraph (1), the Secretary shall base selection on ability and experience in the recognition, diagnosis, and treatment of occupationally related diseases, capacity to offer training to physicians, nurses, and other professionals, and geographical proximity for designated populations.

(b) Functions of Centers.—The centers shall—

(1) provide education, training, and technical assistance to personal physicians and other professionals who serve employees notified under section 5; and

(2) be capable, in the event that adequate facilities are not otherwise reasonably available, of providing diagnosis, treatment, and medical monitoring for employees notified under section 5.

SEC. 8. RESEARCH, TRAINING, AND EDUCATION.

(a) In General.—

(1) Improved methods of monitoring and identification.—The Institute shall conduct or provide for research, training, and education designed to improve the means of identifying employees exposed to occupational health hazards and improve medical assistance to such employees. The research, training, and education shall include but not be limited to—

(A) studying the etiology, and development of occupationally related diseases, and the development of disabilities resulting from such diseases;

(B) developing means of medical monitoring of employees exposed to occupational health hazards;

(C) examining the types of medical treatment of workers exposed to occupational health hazards, and means of medical intervention to prevent the deterioration of the health and functional capacity of employees disabled by occupational diseases;

(D) studying and developing medical treatment and allied health services to be made available to employees exposed to occupational health hazards; and

(E) sponsoring epidemiological, clinical, and laboratory research to identify and define additional employee populations at risk of disease.

(2) Authority to employ experts and consultants.—In carrying out activities under this section, the Institute is authorized to engage the services of experts and consultants, as the Institute considers necessary.

(b) Education.—Part F of title VII of the Public Health Service Act is amended by inserting after section 788 the following new section:

"GRANTS AND CONTRACTS FOR TRAINING AND CURRICULUM DEVELOPMENT IN OCCUPATIONAL MEDICINE

"Sec. 788A. (a)(1) The Secretary may make grants to, and enter into contracts with, schools of medicine and schools of nursing in which occupational medicine or occupational health programs exist on the date of enactment of this section to assist such programs in meeting the costs of carrying out projects to—

"(A) provide continuing education for faculty in departments of internal medicine and family medicine or in schools of nursing in order to enable such faculty to provide instruction in the diagnosis and treatment of occupational diseases;

"(B) develop, publish, and disseminate curricula and training materials concerning occupational medicine or health for use in undergraduate medical or nursing training; or

"(C) establish, for residents in graduate medical education programs in internal medicine, family medicine, and other specialties with a primary care focus, or in graduate nursing programs in schools of nursing, training programs in occupational medicine or health consisting of clinical training, for periods of between 1 and 4 months, in settings such as medical facilities, union offices, and industrial worksites.

"(2) In making grants and entering into contracts under this subsection, the Secretary shall give preference to applicants which demonstrate—

"(A) the ability to recruit a significant number of participants to participate in the project to be carried out under the grant or contract (in the case of a project described in subparagraph (A) or (C) of paragraph (1); and

"(B) expertise and experience in the provision of continuing education in occupational medicine or health (in the case of a project described in subparagraph (A) of such paragraph) or the provision of residency training in occupational medicine or health (in the case of a project described in subparagraph (C) of such paragraph).

"(b)(1) The Secretary may make grants to, and enter into contracts with, schools of medicine and schools of nursing in which, on the date of enactment of this section, there do not exist training programs in occupational medicine or health. The purpose of grants and contracts under this subsec-

tion is to provide support for projects to provide training in occupational medicine or health for faculty who are certified in internal medicine or family medicine by the appropriate national medical specialty board or faculty who have similar qualifications in professional nursing.

"(2) Each project for which a grant or contract is made under this subsection shall—

"(A) be based in a graduate medical education program in internal medicine or family medicine or in graduate programs in a school of nursing;

"(B) have an arrangement with an accredited training program in occupational medicine or health for the provision of training in occupational medicine or health to the faculty selected by the recipient of the grant or contract under this subsection; and

"(C) have a plan for the use of the faculty receiving training with a grant or contract under this section to provide education and training in occupational medicine or health to other individuals.

"(c) The Secretary shall, during the period October 1, 1987, through September 30, 1990, make grants and contracts to not less than 10 schools of medicine or schools of nursing under subsections (a) and (b).

"(d) Amounts described in section 14(b)(2) of the High Risk Occupational Disease Notification and Prevention Act of 1987 shall be available to carry out this section.

"(e) For the purpose of this section—

"(1) the term 'graduate medical education program' has the same meaning as in section 788(e)(4)(A); and

"(2) the term 'school of nursing' has the same meaning as in section 853(2).".

SEC. 9. EMPLOYEE MEDICAL MONITORING; DISCRIMINATION AGAINST EMPLOYEES; CONFIDENTIALITY.

(a) Employee Medical Monitoring.—For any employee who is a member of a population that is determined by the Board to be at risk of disease, the medical monitoring recommended by the Board as a result of exposure to the occupational health hazard shall be provided or made available by the current employer at no additional cost to the employee if any part of such exposure occurred in the course of the employee's employment by that employer. If the benefits are made available through an existing employer health plan, the employee may be required to meet deductibles or copayments generally required under the existing employer health plan. Any such current employer shall be required to provide monitoring only for employees who—

(1) are notified individually under section 5; or

(2) the employer knows or has reason to know are members of the population at risk as determined by the Board.

(b) Discrimination Prohibited.—

(1) In general.—No employer or other person shall discharge or in any manner discriminate against any employee, or applicant for employment, on the basis that the employee or applicant is or has been a member of a population that has been determined by the Board to be at risk of disease. The subsection shall not apply if the position which the applicant seeks requires exposure to the occupational health hazard which is the subject of the notice. If it is medically determined pursuant to subsection (c) that an employee should be removed to a less hazardous or nonexposed job, an employer may effect such a removal without violating this subsection so long as the employee maintains the earnings, seniority, and other employment rights and benefits, as though the employee had not been removed from the former job.

(2) Special provision.—An employer with 10 or fewer employees may transfer an employee who is or has been a member of a population at risk to another job without violating this subsection so long as the new job has earnings, seniority and other employment rights and benefits as comparable as possible to the job from which the employee has been removed. In providing such alternative job assignment, the employer shall not violate the terms of any applicable collective bargaining agreement.

(c) Benefit Reduction Prohibited.—

(1) General.—If, following a determination by the Board under this Act, the employee's physician medically determines that an employee who is a member of a population at risk shows evidence of the development of the disease described in the notice or other symptoms or conditions increasing the likelihood of incidence of such disease, the employee shall have the option of being transferred to a less hazardous or nonexposed job. If within 10 working days after the employee has exercised the option and transmitted to the employer a copy of the initial determination, the employer's medical representative has not requested independent reconsideration of such determination, the employee shall be removed to a less hazardous or nonexposed job and shall maintain earnings, seniority, and other employment rights and benefits as though the employee had not been removed from the former job. In providing such alternative job assignment, the employer shall not be required to violate the terms of any applicable collective bargaining agreement, and shall not be required to displace, lay off, or terminate any other employee.

(2) Independent reconsideration.—If the employer's medical representative requests independent reconsideration of the initial medical determination under paragraph (1), the employee's physician and the employer's medical representative shall, within 14 working days of the transmittal of the initial determination, submit the matter to another mutually acceptable physician for a final medical determination, which shall be made within 21 working days of the transmittal of the initial determination unless otherwise agreed by the parties. If the two medical representatives have been unable to agree upon another physician within 14 working days, the Secretary or the Secretary's local designee for such purpose shall immediately, at the request of the employee or the employee's physician, appoint a qualified independent physician who shall make a final medical determination within the 21 working day period specified in this paragraph, unless otherwise agreed by the parties. The employer shall bear all costs related to the procedure set forth in this paragraph.

(3) Employees subject to medical removal.—An employer shall be required to provide medical removal protection only for employees who—

(A) are notified individually under section 5, or

(B) the employer knows or has reason to know are members of the population at risk as determined by the Board.

(4) Special rules for medical removal.—An employer shall be required to provide such protection only if any part of the employee's exposure to the occupational health hazard occurred in the course of the employee's employment by that employer. The medical removal protection described in this subsection shall be provided for as long as a less hazardous or nonexposed job is available. The availability of such a job shall depend upon the employee's skills, qualifications, and aptitudes and the job's requirements. Where such job is not available, the medical removal protection shall be provided for a period not to exceed 12 months. The employer may condition the provision of medical removal protection upon the employee's participation in followup medical surveillance for the occupational health effects in question based on the procedure set forth in this subsection. The employer's obligation to provide medical removal protection shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal, or receives income from employment with another employer made possible by virtue of the employee's removal.

(5) Special limitation.—An employer is not required to provide medical removal protection for employees if the employer—

(A) has 10 or fewer full-time employees at the time medical removal protection is requested, and

(B) made or is in the process of making a reasonable good faith effort to eliminate the occupational health hazard that is the basis for the medical removal decision.

(d) Confidentiality.—The records of the identity, diagnosis, prognosis, or treatment of any individual employee which are maintained in connection with the performance of any function authorized by this Act shall be confidential and may not be disclosed unless—

(1) authorized by another provision of this Act and necessary to carry out such provision; or

(2) upon the written consent of such employee or the personally designated representative of the employee.

SEC. 10. ENFORCEMENT AUTHORITY.

(a) Recordkeeping.—The Secretary shall require recordkeeping by the Institute or by employers acting pursuant to section 6 necessary to monitor the numbers, types and results of notification under this Act.

(b) Actions by the Secretary.—

(1) Injunctive relief.—Whenever the Secretary determines that an employer has engaged, is engaged, or is about to engage in an act or practice constituting a violation of this Act or any rule or regulation promulgated under this Act, other than a violation of section 9, the Secretary may bring an action in the appropriate United States district court to enjoin such acts or practices. On a proper showing, an injunction or permanent or temporary restraining order shall be granted without bond.

(2) Civil penalty.—The Secretary may bring an action in the appropriate United States District Court against an employer acting pursuant to section 6 for any act or omission that is a knowing or reckless violation of a provision of this Act or any rule or regulation promulgated under this Act. Any employer who violates this Act (or a rule or regulation promulgated under this Act) as set forth in the preceding sentence shall be assessed a civil penalty of not more than $10,000 for each violation.

(c) Review of Employee Complaints.—

(1) In general.—

(A) Application for review.—Any employee who is aggrieved by a violation of section 9 may, within 6 months after such violation occurs, apply to the Secretary of Labor for a review of such alleged violation.

(B) INVESTIGATION.—On receipt of such application, the Secretary of Labor shall cause such investigation to be made as the Secretary of Labor considers appropriate.

(C) ACTION.—If, after such investigation, the Secretary of Labor determines that a reasonable cause exists to believe that a violation has occurred, the Secretary of Labor shall bring an action in any appropriate United States district court. In any such action, the United States district courts shall have jurisdiction for cause shown to restrain violations of section 9, and to order all appropriate relief under subsection (d) or (e). In any action brought by the Secretary of Labor pursuant to this subsection, an employer shall be given a reasonable opportunity to prove by a preponderance of the evidence that an individual who received notification pursuant to section 5 is not a member of a population at risk, provided that determinations by the Board which have not been set aside under section 5(g) may not be challenged in any such action.

(D) DEFENSE.—It shall be a defense to any action brought to enforce rights under section 9(a) that—

(i) an employee who received individual notification failed to assert the rights of the employee under section 9(a) within 1 year after receiving such notification, except for good cause shown; or

(ii) an employee who did not receive individual notification but had reason to know that the employee was a member of a population at risk who is entitled to rights under section 9(a) neglected or omitted to assert the rights based on the lapse of at least 1 year, and circumstances are sufficient to cause prejudice to the adverse party.

(2) DETERMINATION BY SECRETARY.—Within 90 days of the receipt of the application filed under this subsection, the Secretary of Labor shall notify the complainant of the determination of the Secretary of Labor under paragraph (1). If the Secretary of Labor finds that there was not reasonable cause to believe that a violation occurred, the Secretary shall issue an order denying the application and informing the applicant of the rights of the applicant under paragraph (3).

(3) APPEAL.—

(A) DENIAL OF APPLICATION.—Any person adversely affected or aggrieved by a determination of the Secretary of Labor under paragraph (2) is entitled to judicial review of the determination in the appropriate United States District Court on a petition filed in such court within 30 days after such determination by the Secretary of Labor. The court may set aside the determination by the Secretary of Labor under paragraph (2) only if the determination is found to be—

(i) arbitrary, capricious, or an abuse of discretion;

(ii) contrary to constitutional right, power, privilege, or immunity;

(iii) in excess of statutory jurisdiction, authority, or limitations;

(iv) without observance of procedure required by law; or

(v) unsupported by substantial evidence on the record.

If the court sets aside the determination of the Secretary of Labor under paragraph (2), the employee may bring an action of the type authorized by paragraph (1)(C).

(B) MEMBER OF THE POPULATION AT RISK RULE.—In any action brought by an aggrieved person under subparagraph (A), the aggrieved person shall be given a reasonable opportunity to prove, by a preponderance of the evidence, that an individual who did not receive notification is a member of a population at risk, except that determinations by the Board which have not been set aside under section 5(g) may not be challenged in any such action.

(C) FAILURE TO ACT WITHIN 90 DAYS.—If the Secretary of Labor has not acted within 90 days pursuant to paragraph (2), an applicant may bring a civil action for mandamus in the appropriate United States District Court.

(d) REINSTATEMENT AND OTHER RELIEF.—Any employee who is injured in violation of section 9 shall be restored to his or her employment and shall be compensated for—

(1) any lost wages (including fringe benefits and seniority);

(2) costs associated with medical monitoring that are incurred up to the time when the discrimination is fully remedied; and

(3) costs associated with bringing the allegation of violation.

(e) CIVIL PENALTIES.—Any person that violates section 9 shall be liable for a civil penalty of not more than $10,000 for each violation.

(f) EXCLUSIVITY OF REMEDY.—Except as otherwise expressly provided in this Act, remedies provided in this Act shall be exclusive remedies with respect to any acts or omissions taken pursuant to or alleged to be in violation of this Act.

(g) EFFECT ON OTHER LAWS.—

(1) GENERAL RULE; PROHIBITION ON THE USE OF BOARD DETERMINATIONS UNDER THIS ACT.—Whenever there is—

(A) a finding or determination by the Board that an employee or an employee population is or is not a member of or is or is not a population at risk of disease as determined under this Act;

(B) evidence that an employee or employee population is or is not to receive (or has or has not received) notification under this Act; or

(C) evidence that medical evaluation or monitoring is or is not to be initiated (or has or has not been initiated) under this Act,

the finding, determination, or evidence may not serve as a legal basis for or be introduced as evidence in connection with any claim for compensation, loss, or damage brought under State or Federal law, other than a claim brought pursuant to section 5(f), 5(g), 10(b), or 10(c) of this Act.

(2) CONSTRUCTION RULE.—Nothing in this Act shall preclude the admission into evidence of—

(A) the results of any medical evaluation or monitoring;

(B) any medical and other scientific studies and reports concerning the incidence of disease associated with exposure to occupational health hazards; or

(C) any data related to exposure to occupational health hazards for individual employees,

in connection with any claim for compensation, loss or damage brought under State or Federal law. Notification pursuant to this Act shall not be relevant in determining whether such a claim is timely under any applicable statute of limitations.

(h) PROHIBITION ON ACTIONS AGAINST PHYSICIANS FOR GOOD FAITH DETERMINATIONS UNDER SECTION 9(c).—No action may be brought for any claim based on a good faith determination made by a physician under section 9(c).

SEC. 11. REPORTS TO CONGRESS.

(a) HAZARD COMMUNICATION STANDARD REPORT.—The Secretary of Labor shall report to Congress annually, not later than January 15 of each year, regarding implementation and enforcement of the hazard communication standard. The report shall include detailed information on—

(1) MONITORING AND ENFORCEMENT.—Monitoring and enforcement; significant areas of noncompliance; and penalties assessed and steps taken to correct the noncompliance.

(2) ENFORCEMENT.—Efforts to evaluate the hazard communication standard.

(3) EMPLOYER ASSISTANCE.—Efforts to assist employers to comply with the hazard communication standard.

(4) EMPLOYEE EDUCATION.—Efforts to educate employees to their rights under the hazard communication standard.

(5) FEDERAL COURT DECISIONS.—Efforts to comply with Federal court decisions requiring or encouraging an expanded scope for the hazard communication standard.

(b) OCCUPATIONAL DISEASE NOTIFICATION REPORT.—The Secretary shall report to Congress annually, not later than January 15 of each year, regarding implementation and enforcement of notification under this Act. The report shall include detailed information on—

(1) NOTIFICATIONS.—Numbers, types and results of notifications carried out pursuant to sections 5 and 6 of this Act.

(2) RESEARCH.—Research efforts carried out pursuant to section 8 of this Act.

(3) TRAINING AND EDUCATION.—Training and education efforts for employees, personal physicians, nurses, and other professionals carried out pursuant to sections 7 and 8 of this Act.

(4) ENFORCEMENT.—Enforcement efforts carried out pursuant to section 10 of this Act.

(5) ASSISTANCE.—Efforts to assist employers under this Act.

SEC. 12. SUBJECTS OF FEDERAL AGENCY STUDIES.

(a) NOTIFICATION REQUIRED.—Each Federal agency that conducts epidemiologic studies on occupational disease initiated after the effective date of this act shall establish procedures for notifying the subjects of such studies of the findings of such study. If the findings are that the subjects are at risk of disease, the notification shall include the information specified in section 5(b), except that required by subparagraphs (D), (E), and (F) of paragraph (6) of such subsection. No notice under this section shall impose any liabilities or create any rights under section 9.

(b) METHOD OF NOTICE.—All occupational epidemiologic studies conducted by a Federal agency initiated after the effective date of this Act shall include in the study design specific methods for notifying living subjects or their immediate family members that they are part of a population at risk of disease.

SEC. 13. REGULATIONS.

The Secretary shall prescribe such regulations as may be necessary to carry out this Act.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $25,000,000 for each of the fiscal years 1988, 1989, and 1990 to carry out this Act and section 788A of the Public Health Service Act.

(b) SET-ASIDE.—(1) Of the total amount appropriated under subsection (a) for a fiscal year, at least $4,000,000 shall be available to carry out section 8 of this Act and section 788A of the Public Health Service Act.

(2) Of the total amount available under paragraph (1) for a fiscal year, at least $1,000,000 shall be available to carry out section 788A of the Public Health Service Act.

SEC. 15. EFFECTIVE DATE.

Except as may be otherwise provided in this Act, this Act shall become effective January 1, 1988, or 6 months after the date of enactment of this Act, whichever occurs first. The Board shall be appointed within 60 days after the effective date. The Secretary shall issue regulations necessary to administer the Act within 120 days after the effective date.

Mr. BYRD. Mr. President, this is in accordance with the general understanding. I do not intend to offer a cloture motion today on this measure, and I do not intend to have any action on it today. The Senate should be going out shortly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, indeed the proposal and the action of the majority leader is in accordance with an understanding under previous agreement that we would go forward with that measure.

All should be alerted, indeed, that this is a contentious matter. It is Friday. We now have time to prepare with our staffs and the activity they need to address this bill, and we will be on this bill Monday and Tuesday, indeed, in accordance with the previous understanding.

I, too, want to thank the managers of the bill, Senators BENNETT JOHNSTON, JIM MCCLURE, and Senator BREAUX. My participation was minimal as the ranking member of the Subcommittee on Nuclear Regulation. I think they did a splendid job with their staff.

We had a good piece of work in the form of working with the House bill, and I hope it will be swiftly resolved with any kind of activity, conferencing, whatever may be required to have the law on the books to replace one which expired in August 1987.

I relinquish the floor.

Mr. BYRD. Mr. President, while the distinguished Senator has the floor, will he yield?

Mr. SIMPSON. Mr. President, I certainly do yield to the majority leader.

Mr. BYRD. Mr. President, on Monday, the Senate will resume consideration of the high-risk legislation. Also, there is a joint resolution on the calendar, Calendar Order No. 581, Senate Joint Resolution 241, a joint resolution to disapprove the proposed agreement for cooperation between the Government of the United States and the Government of Japan concerning peaceful uses of nuclear energy, and so forth.

Any Senator can move to take up that resolution at any time. There is a built-in time agreement on the resolution. I think I should alert Senators to the possibility of my going to that on Monday. In view of the fact that any Senator can do it at any time, and I would just as soon it would not be done by a Senator at a time that would not be of my own choosing, taking into consideration the mix of legislation and the full set of circumstances that may confront us from day to day, I feel that I should give that tentative notice, may I say to the distinguished Republican leader. I am not saying that I will, but if not Monday, certainly at some point fairly early next week I would guess we ought to dispose of that one way or the other so it is not hanging around on the calendar.

Mr. SIMPSON. Mr. President, indeed it is certainly the right of the majority leader or any Member to do that. So we should leave it as a notice item for those who are interested in that measure to be aware that that is very possible next week.

Mr. BYRD. Yes. There may be other matters, and hopefully there will be, on which the distinguished Republican leader and I can work together and possibly call up which would either be adopted by unanimous consent or on which unanimous-consent agreements could be reached, so I would suggest to all Senators that they be prepared for rollcall votes on Monday.

I thank the distinguished Senator for yielding.

Mr. SIMPSON. Mr. President, I yield the floor.

COMPARISON OF THE FOOD SECURITY ACT OF 1985 AND THE FAMILY FARM ACT

Mr. COCHRAN. Mr. President, last year when we were having hearings in the Committee on Appropriations, I asked the Economic Research Service of the Department of Agriculture to give us a comparison of the costs and benefits of the Food Security Act of 1985 with the Family Farm Act which had been proposed and introduced by the distinguished Senator from Iowa, Mr. HARKIN, and the Congressman from Missouri, Mr. GEPHARDT.

As Senators know, there has been a great deal of controversy about whether or not we are on the right track in agriculture and whether or not the farm bill of 1985 is really working to increase profitability on the farm, stabilize land values, and create a better opportunity for increasing the international market share for our farmers and ranchers and commodity producers.

I have received the analysis prepared by the Economic Research Service, and this morning during hearings of the Committee on Agriculture a copy was placed in the record. At this time, Mr. President, I ask unanimous consent that a copy of the letter of transmittal to me from the Assistant Secretary for Economics, together with a summary of the comparison of impacts and objectives, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, DC.

Hon. THAD COCHRAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR COCHRAN: At last year's appropriation hearings for the Economic Research Service (ERS) you asked for an analysis of the Family Farm Act provisions as specified in H.R. 1425 and S. 658 which were introduced in Congress last March. After a lengthy review process, ERS has completed their analysis.

I am enclosing a report that evaluates the effects of the Family Farm Act in comparison with the Food Security Act of 1985 (FSA). There are sharp contrasts between the two program approaches. The Family Farm Act reduces domestic and export use, increases crop supluses, lowers agribusiness economic activity, and raises farm program costs. The differences go beyond the agricultural sector as there are long-run implications for taxpayers, domestic and foreign consumers and for competing foreign producers. The enclosed report covers those aspects.

I hope you will find the analysis and evaluations to be useful.

Sincerely,

EWEN M. WILSON,
Assistant Secretary for Economics.

A COMPARISON OF IMPACTS AND OBJECTIVES

SUMMARY

This report has been prepared in response to a request from Senator Thad Cochran (R-MS), ranking minority member of the Senate Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies. The Food Security Act of 1985 (FSA) which is the current law authorizing government farm commodity programs is compared with a Family Farm Act bill which was introduced in Congress in March 1987 as an alternative to the FSA. Both policies have similar overall objectives to assure an economically viable farm production sector while minimizing taxpayer costs. But, the program provisions designed to achieve these objectives are very different as are the overall effects across the agricultural sector and the total economy.

With the current situation as a starting point, the two policies are compared as if the Family Farm Act was adopted in 1988 in contrast to a continuation of the FSA. The beginning situation is characterized by high government outlays, by near record acreages of idled land, by a low point on the cattle inventory cycle, and by an emerging turnaround in agricultural exports as quantities and values are increasing.

Under a continuation of the FSA, the export market continues to rebound, the cattle inventory begins a slow upward trend, gross cash income increases and upstream and downstream businesses experience increases in their level of business. Government outlays, idled acreages and surplus stocks all decline.

If the Family Farm Act provisions were introduced starting in 1988, export quantities would either be below FSA export levels or else brought up to FSA levels only through substantial export subsidies. In the short run, the value of exports under the Family Farm Act would be greater than under the FSA, but this advantage would erode because unsubsidized export levels under the Family Farm Act would fall further and further behind the export levels under the FSA.

Government outlays would increase under the Family Farm Act because excess production would either have to be stored or subsidized into the export market. Production, particularly of corn, would continually exceed use because high price supports would make producing profitable and the maximum set-aside percentage would prevent program officials from being able to increase the amount of idle land enough to control production. Even with the acreage of idle land at maximum levels, corn stocks would continue to grow. Under the Family Farm Act provisions, the supply-demand imbalance would worsen rather than be solved.

Liquidation of the cattle herd would resume under the Family Farm Act. In general, upstream and downstream businesses would suffer from reduced input sales or reduced volumes to handle.

Both policies transfer income to program crop producers and to dairy producers. Under the Family Farm Act, the transfers are made from consumers through higher prices that have to be paid for raw products and from taxpayers through storage costs and export subsidy costs. Under the FSA, the transfers are made from taxpayers through direct payments to grain and cotton producers and for loan outlays and storage.

Consumers benefit under the FSA because handlers and processors pay a lower market price for raw commodities. Under the Family Farm Act, consumers pay a higher price for less food. They also buy less of everything else because they spend more on food. The income transfer made through higher domestic food prices would not be allocated among consumers based on their ability to pay. The income transfer world become a regressive food tax because the share of income spent for food increases more for lower income families than higher income families.

The Family Farm Act includes provisions to increase food assistance benefits for lower income families who are participants in Federal food assistance programs to offset any increases in food prices experienced as a result of program commodity price increases. However, this would not wholly mitigate the effects of higher food prices on low income families because food assistance program benefits do not fully replace household food expenditures. Furthermore, current year benefits are based on the previous year's price increases. So, of the total increase in food expenditures likely to face the poor, only 75 percent would be compensated by food stamp benefit increases. The working poor who do not qualify for food assistance would bear the full brunt of food price increases.

Gross cash income is higher under the Family Farm Act because program crop receipts and milk are supported at a percentage of parity that rises from 70 to 80 percent. However, surplus stocks of crops and government outlays increase because the maximum percentage of set-aside prevents further acreage reductions. Thus receipts are greater than they would be if mandatory controls actually brought production in line with demand at the fixed price support levels. Surplus stocks and government outlays decrease under the FSA.

Although net farm income would be higher under the Family Farm Act throughout the study period, the income advantage is not realized by all farmers because of distortions created in the farm sector. Producers of unsupported commodities, particularly livestock and poultry, face lower returns because higher grain and oilseed prices result in higher production costs for them. And, aggregate net farm income does not reflect the effect that capitalization of higher returns into asset values has on returns to assets of subsequent entrants to farming. New entrants have to pay a higher price for assets, especially land, which means they accept a lower return to their equity. Tenants face immediate and sustained increases in rent so they do not share in the income increases that current land owners realize when price supports are increased.

There is a taxpayer burden under both policies. This burden can be expected to decline under the FSA given projections for supply and demand but would increase under the Family Farm Act. Mandatory control programs reduce budget exposure only if production is reduced enough to prevent stock accumulation and if export subsidies are reduced or eliminated. At parity-based prices, surplus stocks are costly to hold. If exports are subsidized, some relief from the cost of stockholding is realized, but the study shows the cost of subsidizing exports exceeds the combined deficiency, diversion, and storage payments under the FSA. As currently written, the Family Farm Act is more expensive than the FSA.

The agribusiness sector is highly dependent on the quantity of commodities that are produced and marketed. For the long run the quantities produced and moving through the marketing system are larger under the FSA. The analysis shows that compared with 1987, input sales under the FSA would increase 2 to 14 percent depending on the particular input. By comparison, even with export subsidies, input sales under the Family Farm Act would decrease 3 to 14 percent over the study period.

The Family Farm Act would require a significant resource adjustment, as unemployed persons sought other employment and adjustments occurred in the use of capital and other resources. Because of reduced product flows, the loss of sales and reduced activity would have multiplier effects. By the mid-1990's the analysis shows 290 thousand to 600 thousand fewer jobs and a reduction in GNP ranging from $15 billion to $38 billion. About three-fourths of the reduction in GNP and employment would take place in metropolitan centers of the United States and one-fourth in rural areas. Thus, rural communities would be faced with offsetting forces—improved farm returns, but lower nonfarm economic activity. If a paid land diversion were to be used to reduce stocks by idling more land, the job and GNP losses would be greater.

Strict enforcement measures would be needed to assure the integrity of the Family Farm Act programs. Production would have to be controlled on every individual farm. Stringent import controls would be required. Import controls would have to extend beyond the raw products because there would be incentives to import processed products and substitute products. A cartel among exporting nations which the Family Farm Act puts forth as a means of allocating export market shares would require strict international enforcement and cooperation to work.

Neither a cartel nor export subsidy arrangements would improve trade relations. A cartel would hurt relations with developing country importers, and additional export subsidies would strain relations with competitors.

As technology or demand changes, farm production must adjust to accommodate the changes. If such adjustments are prevented by government programs, then either program costs increase greatly or the benefits of technology are denied to producers and consumers. In the past, pressures to accommodate demand or technology have led to abandonment of mandatory control programs.

Mr. COCHRAN. Mr. President, the short answer to the question concerning benefits of the so-called Family Farm Act is that it would result in the loss of from 290,000 to 600,000 American jobs in less than 10 years. One-fourth of the jobs lost would be in rural towns. The cost to the taxpayer would increase. Poultry and cattle farmers would pay more for grain.

Government costs for storing or subsidizing the export of higher priced excess corn would increase. And the gross national product of our Nation would be reduced by anywhere from $15 billion to $38 billion.

I think the report makes it pretty clear that we ought to stay the course with the 1985 bill, work to enhance its effectiveness, but under no circumstance adopt the alternative that has been suggested.

I thank the Chair. I yield the floor.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE ALZHEIMER'S ACT

Mr. PRESSLER. Mr. President, I rise today to discuss legislation which would provide comprehensive care and assistance for the 3 million middle-age and elderly Alzheimer's victims in our Nation. This bill is identical to H.R. 3130 which was introduced by our distinguished colleague Edward R. Roybal in the House of Representatives last August.

I remember the day I returned to the States after finishing my tour in Vietnam. At home, my father warmly embraced me. That was a special moment in my life. It never crossed my mind that 20 years later he would not recognize my face or remember my name. My father has Alzheimer's disease. At 72 years of age, he now resides in a nursing home in Salem, SD.

I am afraid to say that this personal tragedy is not my own to carry. Tens of thousands of families across this Nation must cope with caring for a loved one with Alzheimer's disease—

the same way my family coped with caring for my father.

Personal correspondence from my constituents and newspaper articles from South Dakota and across the country continue to make me aware of the tragic impact of Alzheimer's disease and other dementias on families across the Nation. Wives, husbands, and children who must care for their loved ones quickly become aware that community resources are fragmented and often nonexistent. It is difficult for them to find needed services. As I personally know, the burden of caring for those afflicted with Alzheimer's disease becomes what some consider a 36-hour day.

Taking care of individuals afflicted with Alzheimer's disease was a topic at many of the 30 public forums I recently held across the State of South Dakota. Many individuals spoke of their problems in taking care of family members with Alzheimer's disease. They feared financial bankruptcy due to paying for costly nursing home care—costs ranging from $750 per month to over $3,000. They knew that such an expense would quickly wipe out their life savings.

The impact of Alzheimer's disease goes beyond paying for costly nursing home care. Caregivers must sacrifice both wages and salaries when they must choose not to work in order to stay at home to provide informal care. Small businesses and large corporations alike lose. Experienced workers leave the work force to take care of relatives or friends. Lost productivity is a result.

We must not forget the human side of the equation. Caregiver burnout can result when individuals become physically and mentally depleted, and they become more susceptible to illness.

Let us not fool ourselves. The problem of Alzheimer's disease will not go away. America is growing older. As its population ages, the number of its citizens afflicted with Alzheimer's disease will increase: One percent of the population up to the age of 75 has Alzheimer's disease. The number significantly increases—up to 10 percent—from age 75 to 85. Within the age group of 85 and older, it again doubles to 20 percent.

Even though most dementing illnesses do not strike until after age 65, it is estimated that 5 to 10 percent of persons with dementia develop the disease in middle age. The exact number of cases that begin during the middle years is not known—but some experts estimate that 75,000 under 65 have severe dementia.

I can foresee the future impact of this demographic time bomb. We must act quickly and decisively. More money must be spent on research to either slow the advent of Alzheimer's disease or cure it. Currently, research is being conducted at 17 sites around the United States testing the experimental drug THA to find a cure for Alzheimer's disease. Testing of experimental drugs such as THA is more tightly regulated in the United States, to prevent harm to the participants. We must continue to adequately fund research on THA and other experimental drugs to increase our momentum toward finding a cure. It is amazing to me that only $67 million is spent on Alzheimer's related research when the cost of care to the victims of Alzheimer's disease is more than $50 billion annually.

I think this is a significant fact. We spend more than $50 billion to care for victims. We spend only $67 million on research.

I have actively sponsored legislation to alleviate the impact of Alzheimer's disease on Alzheimer's patients and caregivers. During the last Congress, I sponsored the Comprehensive Alzheimer's Research and Education Act [CARE] to provide funding and resources to assist researchers, providers, and caregivers. The bill's objective was to promote research and improve access to and delivery of care. Unfortunately, this bill was not enacted.

In order to continue the long fight against the catastrophic effects of Alzheimer's disease, I am calling for a major initiative similar to the one launched in the 1950's to conquer polio. As we then committed our resources to develop the ultimate weapon of polio vaccine, so must we take similar action during the 100th Congress against Alzheimer's disease.

I think the analogy is a good one. We made it a national project to cure polio, and we succeeded. We need to do the same thing with Alzheimer's disease. We could actually save money, because people would be staying in their own homes longer, rather than in nursing homes, where frequently the public ends up with the bill.

Through a major research initiative and commitment of resources to reduce the burden that millions of care-givers shoulder, we must move quickly toward finding a cure for Alzheimer's disease. Our Nation must make a total commitment to provide relief to ease the pain and suffering of those afflicted with the disease.

The legislation I am offering today authorizes: First, a serious commitment to increase research funding—including five additional Alzheimer's research centers; second, the creation of State Alzheimer's programs—with 25 to 50 percent of the funds for respite care; third, the formal establishment of the national Alzheimer's education program; and fourth, new Medicare and Medicaid research and demonstrations.

Mr. President, now is the time to act. I have not forgotten that the statistics we so routinely quote when we discuss Alzheimer's disease represent human beings. I hope that our colleagues here in the Senate will recognize this fact and support passage of this legislation.

We shall be sending this legislation around for cosponsorship, and we shall be in touch with various Alzheimer's support groups in my State of South Dakota and elsewhere in the United States.

It is an important piece of legislation. It is important that we address getting proper research, properly coordinated research, so that we can save not only money but also human resources. We can save money, first of all, by keeping people healthy longer and keeping them in their own homes, where they can care for themselves. Needless to mention is the human resources side of this equation, not only of the victims but also of their families, friends, and relatives.

A STRATEGIC DEFENSE AGAINST ACCIDENTAL LAUNCH

Mr. WALLOP. Mr. President, I rise today to bring to the attention of the Senate a significant speech delivered last month by my friend from Georgia, the Honorable Senator SAM NUNN, chairman of the Senate Armed Services Committee.

The speech was delivered at a special meeting of the Arms Control Association at which Senator NUNN was honored with the William Foster award for his dedication to arms control.

It struck this Senator as more than ironic that the Arms Control Association would choose to bestow this honor on Senator NUNN in the same year that the President of the United States has achieved what many consider to be the most far-reaching arms control agreement yet signed.

I have no doubt that the Senator from Georgia was deserving of the honor, I only remark that maybe this says something about the politics of the arms control process that we in the Senate would do well to heed as we examine the INF Treaty and its negotiating record.

Mr. President, the speech from the Senator from Georgia is important in its own right, given his position as chairman of the Armed Services Committee.

While there is much I disagree with in the speech, there are several aspects of it which I believe represent an opportunity for a bipartisan consensus on solving one of the strategic defense missions critical to U.S. national security.

I commend the Senator from Georgia for his speech, not only for its substantive contribution to the debate over SDI, but for his political courage to say some things that are doubtless unpopular within his party.

Before elaborating on that contribution, I will set out where I differ with the Senator from Georgia.

Mr. President, I cannot agree with the Senators recommendation that we negotiate with the Soviet Union over how advanced technologies will be treated in the AMB Treaty.

This Government must make up its own mind as to what interpretation of the ABM Treaty is legally correct and binding, and it continues to be my view that this is the President's constitutional prerogative. Treaties are relations between states not their parliamentary bodies.

I also do not share this view that we ought to negotiate a list of permitted and prohibited tests. While this may be a pet project of Ambassador Nitze, this approach was rejected by the administration overall, including the President himself, and Mr. Nitze who works for the President ought to abide by the wishes and directions of his own President.

It would not be wise at this moment to restrict our testing on this crucial program, particularly in light of extant and as yet unresolved Soviet violations of the AMB Treaty.

Incidentally, I do agree with the Senator's analysis that the debate over the interpretation of the ABM Treaty is both arcane and wrong headed. As he clearly points out, the real question is, "Is the ABM Treaty in the national security interest of the United States?" The Senate has not yet had that debate.

I personally would welcome it, and I urge the Senator from Georgia, in cooperation with the Foreign Relations Committee, to hold hearings on this topic before the year is out. This year we must complete, before October, the third review conference of the ABM Treaty.

The startling progress in SDI, the treaty-mandated review, and the fast track the administration is taking in START make it timely for the Senate urgently to revisit this issue. Indeed, Mr. President, it makes it urgent.

The Senator from Georgia also argues that we ought to eschew the development of nearer term, comprehensive defenses based on kinetic interceptors in space and on the ground in favor of a research program into very advanced technology. I strongly disagree with the Senator's view on this.

The phase 1 architecture recently selected by SDIO and validated by the Defense Acquisition Review Board shows great promise. The five elements that make up the strategic defense system, as it is being called, are light-years ahead of the kinds of kinetic energy programs this country was researching in the 1960's.

Given the threat that these systems would be arrayed against in the 1990's and early 21st century, it is my judgment that they can provide significant protection of the United States, both the population and, in particular, critical military assets.

Protecting both our military assets and our urban/industrial areas strengthens deterrence greatly by making a successful first-strike—whether in a "bolt from the blue" or in a crisis situation—very unattractive to Soviet planners.

Mr. President, there is also much that I agree with in the speech of the Senator from Georgia. He recommends that we should continue work on both the small ICBM and the rail-garrison MX.

I partially agree, but I do not believe that the small missile and hard mobile launcher currently under development are the answers we seek to the vulnerability problem. The Midgetman should be sent back into development and reconfigured to be the ICBM for the 21st century.

That means the missile must be small and must be adaptable to a variety of basing modes. It must be capable of totally dormant operations—a capability just not compatible with the AIRS guidance system—so that it will not only survive, but be able to endure over long periods to provide a true intra- and post-war deterrent.

It must have the ability to penetrate increasingly capable Soviet defenses with good accuracy. A penetrating MARV warhead would be ideal for this requirement.

Above all, it must be able to be produced and based as cheaply as possible so that a sufficient number can be deployed to give the United States meaningful trans- and post-SIOP targeting options. Two hundred fifty to five hundred warheads are not enough.

MX rail garrison, on the other hand, promises to provide us a much needed step toward solving the vulnerability problem while at the same time adding some 500 additional, and badly needed, hard target warheads to the force.

Finally, Mr. President, let me turn to what I believe is the most significant aspect of the speech of the Senator from Georgia. In it he calls for the development of an accidental launch protection system, which he dubbed ALPS, to protest against an accidental or inadvertent launch of a ballistic missile.

Such a system would also give the United States protection against some plausible third-country attacks. Senator Nunn also correctly pointed out that it might require modification to the ABM Treaty to be effective.

Mr. President, I congratulate Senator Nunn on this policy recommendation. I think it is sound strategically. It represents a recognition that there exist military missions for strategic defense far short of an astrodome defense against a full-scale Soviet attack.

He recognizes that the effectiveness of any deployed system must be measured first against the mission requirement, not against some arbitrary standard of cost-effectiveness.

Obviously, a system designed to counter a single or a few ballistic missiles cannot be held up to the same criteria as one designed to prevent a single Soviet weapon, after a massive launch, from landing on U.S. territory.

Similarly, I would point out, a first phase strategic defense deployment, like that envisioned in the strategic defense system, also must not be held up to this criteria. It too has a specific military mission by which it must be judged.

The important questions are: "How important is the fulfillment of that mission?" and "How well does the proposed system accomplish the mission?"

The mission profile validated by the Joint Chiefs for the phase 1 SDI system requires the destruction of at least 50 percent of the Soviet SS-18 force launched in an attack on United States strategic forces.

A system that could destroy the SS-18 force at this level of effectiveness would wreck havoc with Soviet war-planners who count on that weapon as the leading edge of any successful counterforce attack on the United States.

Mr. President, the Senator from Georgia's recommendation also represents an opportunity for both Democrats and Republicans to work together to do now what we can agree on in the area of strategic defense. The issue of strategic defense has too long been a partisan one.

While we can respectfully disagree on where we ought to be headed in the SDI Program in the future, we can agree now on the need to develop and begin deployment in the next 5 years of a system to defend against accidental launch.

The military requirement for such a system exists wholly independent of the question of what the orientation of the SDI Program should be.

Indeed, the deployment of an ALPS system would complement either strategy: moving forward with the phase 1 strategic defense system or restructuring the program to a more long-term research effort.

Certainly it would be imprudent to hold hostage a system that we all agree is needed, like the ALPS, to a specific set of policy prerogatives that we cannot agree on today and that do not mitigate against the need for protection against accidental launch.

The military requirement that Senator Nunn has pointed out exists no matter what we decide to do with SDI in the future.

Mr. President, I have sent a letter to Senator Nunn asking that we work together to formulate and propose legislation that would make into reality his idea of an accidental launch system. As chairman of the Armed Services Committee alluded to in his speech, there has been far too much studying and restudying of the problem.

It is time that we move together to provide that level of protection for the American people that is feasible at this time. Such legislation would at a minimum:

First, require the Secretary of Defense to submit a plan for the reactivation of Grand Forks as a site for the ALPS system;

Second, require the Secretary of Defense to place an order for the interceptors missiles and make the requisite upgrades to U.S. radars and early warning systems.

Third, assign command of the mission for the ALPS to an existing command or create a new one dedicated to strategic defense.

Mr. President, I have no illusions that such legislation would be enough to forge a truly bipartisan consensus on strategic defense. But it would represent a first step, and one that I would hope the administration, in concert with Democrats and Republicans in both Houses of Congress, would seize on as the Reagan era comes to a close.

This Senator, at least, is willing to do all in his power to assist the Senator from Georgia in realizing his recommendation to develop a defense against accidental attack.

Mr. President, I ask unanimous consent that the speech delivered by the Senator from Georgia before the Arms Control Association, the letter to Senator NUNN I alluded to in this statement, and two newspaper articles on the speech be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARMS CONTROL IN THE LAST YEAR OF THE REAGAN ADMINISTRATION

Thank you Ambassador Smith. Ladies and gentlemen, I am greatly honored to receive the "William C. Foster Award" from your prestigious association.

You are very kind to recognize my activities last year related to the interpretation of the ABM Treaty and the role of the Senate in the ratification process. There are, however, several other individuals whose tireless efforts were essential to our success in this undertaking. Ambassador Smith, you would be at the top of the list, accompanied by senior members of your SALT I Delegation, including Ray Garthoff, John Rhinelander, Sid Graybeal, Royal Allison, and Harold Brown. I also believe that several of my colleagues in the Congress deserve a large portion of this award. In particular, I want to pay tribute to Carl Levin, Bill Cohen, Les Aspin and Joe Biden, whose roles were crucial in the final outcome of this arms control and constitutional debate.

As the Reagan Administration begins its last year in office, the United States stands at a crossroads. Rarely in the post-war era has the dividing line between historic breakthrough and missed opportunity been so finely drawn. Rarely has such a window of opportunity been presented for accomplishing historic improvements in the superpower relationship. Accomplishments that seemed beyond reach during the Administration's first term no longer seem so farfetched.

Indeed, it is conceivable that during 1988, the Senate could have five major arms control agreements placed on its calendar. In addition to the INF Treaty, the Senate could, prior to adjournment next fall, be presented with a START treaty, a new accord on strategic defenses, and new protocols on verification of nuclear testing which could clear the way for ratification of the long-pending Threshold Test Ban and Peaceful Nuclear Explosions Treaties.

Should these extraordinary events come to pass, you might well find yourself—much to your own amazement—presenting the next "William C. Foster Award" to Ronald Reagan. I hasten to add, however, that the odds that such a new dawn could break during the last year of the Reagan Administration are no more than 50/50.

Whether 1988 is the occasion for such dramatic arms control agreements will depend, of course, on unprecedented Soviet cooperation. Under Gorbachev, the Soviets have voiced an apparent willingness to embrace arms control concepts which just a few years ago would have seemed unattainable. These include disproportionate Soviet reductions, on-site inspection, cooperative measures for enhancing national technical means of verification, detailed data exchanges, high-level military meetings, discussions on doctrine and force postures, and important nuclear risk reduction measures. A word of caution is in order:

It is too soon to determine how many of these concepts can be translated into reality. The West must predicate its positions on Soviet deeds, not words. In areas such as conventional arms control, we must put Soviet rhetoric to the test with bold and innovative proposals of our own. The Soviet Union's disregard of fundamental human rights and unresolved violations of existing arms control agreements, especially the Krasnoyarsk radar, will continue as large impediments. There is no greater obstacle to improved U.S./Soviet relations than the Soviet Union's continued occupation of Afghanistan.

Nevertheless, the advent of Gorbachev, glasnost and perestroika have undeniably improved the overall climate for the conduct of superpower relations. Whether this opportunity will be realized will in large measure depend on whether the Reagan Administration takes what I will call this evening a "cold shower of reality." I believe the Administration must recognize, and act decisively upon, several realities that define the parameters of the current strategic environment.

REALITY ONE: CONGRESS IS NOT PERSUADED BY THE ADMINISTRATION'S ABM REINTERPRETATION

Reflecting on the acrimonious journey of the Levin-Nunn provision from a committee amendment to enacted law, it is clear that the Administration has failed to make a persuasive case for reinterpreting the ABM Treaty. The ABM battle of 1987, in which your association played such an important role, demonstrated that at this time the Administration does not enjoy majority support in either the House or the Senate for the United States to breach the ABM Treaty as it was approved by the Senate.

Last year's vote on Levin-Nunn was not, however, an explicit referendum on the "broad vs. narrow" interpretation that settled this question for all time. What last year's Levin-Nunn battle does suggest is that the Administration reluctantly recognized that the Congress does have the Constitutional power of the purse and that its explicit approval must be secured before funds could be spent inconsistent with the ABM Treaty as presented to the Senate in 1972.

To me, this debate went far beyond the arcane world Article V, Agreed Statement "D", and such phrases as other physical principles and tested in an ABM mode. We must never forget that the ABM Treaty, like all treaties, is the supreme law of the land under our Constitution.

If we decide the ABM Treaty jeopardizes our national interest, then the honorable course is to serve notice under the terms of the Treaty and withdraw. When we are confronted with Soviet violations of the Treaty, we are entitled to take proportionate responses if the Soviets fail to correct their non-compliance.

Let me emphasize, however, that manipulating and distorting the law of the land is simply not acceptable. If we are going to have a safer and saner world, the United States must stand for the rule of law. It is not out-moded for America to keep our word of honor—even in dealing with the Soviet Union.

REALITY TWO: OUR GENEVA ARMS CONTROL POSTURE AND OUR ICBM MODERNIZATION POLICIES ARE NOT IN SYNCH

Clearly, our goal should be a START agreement with sub-limits which, when combined with sensible U.S. strategic force developments, would significantly reduce Soviet first strike incentives. Such an agreement would be in the mutual interests of both sides, since both nations are under growing pressure to allocate less of their GNP to defense and each is nervous about the growing counterforce capability of the other side.

If, however, our ICBMs are to be based only in vulnerable, fixed solos—or deployed in basing modes that require strategic warning—then I believe the degree of stability afforded under our own START proposal would be in serious question. I was pleased to note that on the eve of the Washington summit, Secretary Shultz emphasized the importance of mobile missiles to survivability. He declared that we are prepared to allow mobile ICBMs under START if the Soviets will help us draw up effective verification provisions.

It would be a supreme irony, however, if the United States and the Soviet Union resolved their differences over START, worked out an effective mobile ICBM verification regime, and produced an historic and potentially stabilizing treaty—only to discover that both the Midgetman and the Rail Mobile MX had been killed in an act of domestic political fratricide. If the Administration terminates the Midgetman program, then I think there is a good chance that the House of Representatives will kill the Rail Mobile MX program. If we have no survivable mobile ICBMs to deploy under the START ceilings, then our options for taking advantage of the opportunities for stability afforded by this prospective treaty are greatly reduced. A more stabilizing nuclear environment requires not only a sound arms control regime, it requires our Nation to make sensible strategic deployments.

REALITY THREE: START CANNOT BE CONSIDERED IN ISOLATION

The Reagan Administration must recognize that START and SDI are in completely different time frames. The opportunity to achieve historic reductions in offensive forces is now. Realistic deployment options for SDI systems which could satisfy the Nitze criteria—or even scientifically necessary testing that would require breaching the ABM Treaty—remain years in the future. In addition, the number of Soviet warheads which would remain after all the START reductions were accomplished would still be more than double the number it had deployed at the time the ABM Treaty was signed.

For these reasons, we logically should be able to implement deep cuts in each side's strategic offensive forces while relying on the ABM Treaty to provide predictability as to defensive developments. Unfortunately, the logic of the Administration's approach to SDI is in question.

The current political reality is that some in this Administration have been ardently searching for near-term SDI tests in space that could only be conducted under the broad interpretation and which, if conducted, could trigger a Soviet reaction which could destroy the ABM Treaty. In my view, the motivation for such tests has been driven by ideology, not by scientific judgments.

As long as this attitude prevails then it is impossible to be relaxed about the possibility of a START agreement which is tied to an ABM Treaty whose application to advanced defensive technologies has not been clarified.

In some respects, this could represent the worst case for the United States. The Soviet Union would be relatively free by the Administration's definition to pursue its defensive testing program while in the United States each proposed test would become subject to a raging controversy as to whether it violated the ABM Treaty and whether it would result in termination by the Soviet Union of offensive reductions under START.

I could not be comfortable with an outcome that resulted in the United States eliminating half its strategic deterrent while deep concerns remain as to whether the Administration's policy on SDI may lead to the removal of all restraints on Soviet strategic defenses, an area in which they have current operational experience and near-term technical advantages. I was encouraged by Secretary Shultz's statement during a November TV interview:

"Predictability and stability . . . is just as important for us as it is for them, because probably right at the moment their ability to field what we think of as an inferior form of strategic defense is greater than ours. So we don't want to reduce our offensive system unless we have some notions of stability, just as they don't."

REALITY FOUR: A SOUND SDI POLICY CANNOT BE BASED ON SIMPLISTIC AND MISLEADING SLOGANS

In the five years since SDI was launched, the Reagan Administration has consistently substituted slogans for objective and technically sound explanations. Too often, SDI has been treated as a theology rather than a scientific research program. Reasonable questions have been met by the political and strategic equivalent of the locker room battle cry, you gotta believe.

President Reagan's latest applause line on SDI—"we will research it, we will test it, and when it's ready, we will deploy it"—raises several SDI questions. First question: what is the "it" we will research, test and deploy? Is "it" the President's vision of "a shield that could protect us from nuclear missiles just as a roof protects a family from rain"? Or is "it" the Joint Chief's goal of a defensive system designed to destroy 50% of the Soviet SS-18 force should they launch an all-out first-strike on our land-based systems. Is "it" intended to replace deterrence, or enhance it?

Second question: assuming the Administration could agree on what "it" is, when can we reasonably expect to arrive at the point at which we could make a well-informed decision to deploy "it"? A year ago, some SDI advocates were insisting that we already knew enough to commit to deployment. This prompted the Chairman of the Joint Chiefs, Admiral Crowe, to complain at a January, 1987 hearing that, "I hear so much said and written about it, as if it is out there in the parking lot, and we just do not know where to put it." Admiral Crowe went on to say, "we have not answered all the research questions yet, as a technical proposition, what the cost of them will be, or whether they can be translated into a weapons system."

Third question: how much would "it" realistically cost? Is the cost in the range of $40-60 billion as estimated by General Abrahamson last spring? Or is it the $100 billion estimated by the Marshall Institute and now supported by General Abrahamson? Or is this projection too low by 300-400%, as estimated by highly reputable research organizations?

The wide gap in these cost projections reflects radically different assessments of the Soviet Union's capacity and willingness to respond to a U.S. SDI deployment by proliferating decoys, switching to faster-burn boosters, and improving its ASAT weapons. Ironically, many of those who have traditionally faulted the U.S. Government for underestimating the pace and scope of Soviet strategic nuclear developments are now implicitly arguing that the Soviet response to SDI deployments would be modest and limited. Some fervent SDI cheerleaders, in their effort to sell early deployment, are trying to convince us that we are in a contest with the Little Sisters of Mercy, rather than the Evil Empire.

Fourth SDI question: what are the implications for U.S. military capabilities across the board if, as part of its effort to sell SDI, the Administration grossly underestimates its true costs? Are we prepared to pursue SDI deployments even if it means we have to seriously erode our present conventional defense capability in a post-INF NATO environment?

Fifth SDI question: how do you decide whether "it" warrants deployment? The so-called Nitze criteria of technical feasibility, survivability and cost-effectiveness at the margin have been endorsed by the President and written into law by the Congress. Most objective and independent analysts agree that a phase-one system based primarily on space-based kinetic-kill vehicles could not satisfy the Nitze criteria. Is the Administration willing to confront the reality that SDI will likely have to go through another generation of development, focusing on directed energy systems, before highly effective defense deployment options become technically feasible?

Final SDI questions: if and when credible SDI deployment options are available, how do we conduct a mutual transition toward a defense-dominant regime in a manner that increases crisis stability? What are the implications for NATO's flexible response strategy if both superpowers are capable of highly effective ballistic missile defenses? How vulnerable would such defenses be to technological breakthroughs by the other side? Would high-performance defenses on both sides give each side an incentive to use their limited penetration capability for the most lucrative targets? Ironically, some analysts have concluded that if both sides have highly-effective defenses it could move us in circular fashion back to explicitly targeting population centers.

Suffice it to say, these are serious questions about SDI which will have to be answered by serious thinkers.

Despite the record of the last five years, I believe it is still possible to bring a coherent national policy out of the stew of politics, physics and metaphysics in which SDI is now deeply immersed. There is still time to make SDI stand for "Sensible Defense Initiative". This will not be easy. Above all, we need to agree that neither offensive nor defensive weapons are inherently more moral than the other. What is moral is that which works to preserve peace and human freedom.

REALITY FIVE: SDI MUST BE PLACED IN A BROADER CONTEXT OF NATIONAL PRIORITIES AND NATIONAL VULNERABILITIES

As we continue research and development on longer-term comprehensive defense options, we must bear in mind that this goal is not the Holy Grail in and of itself. It is fundamentally wrong to believe that only SDI is designed to protect the U.S. population. Every dollar of our military expenditures must be weighed as to its contribution to protection of our population and that of our allies.

If one looks to our inadequate conventional forces, our vulnerable command and control facilities, our virtually non-existent strategic air defenses, and the fragile infrastructure of our civilian society, one can find a number of vulnerabilities far easier and safer for the Soviets to exploit than an attack by Soviet ICBMs. The Soviets are able chess players, and good chess players rarely gamble their queen when they can wreak havoc with a pawn.

We are increasingly a society of networks—electricity grids, water systems, oil and gas pipelines, telecommunications links—with highly vulnerable nodes to which we have given virtually no thought of protection, even against the simplest efforts to knock them out. One need look no further than Chernobyl, Bhopal and the recent oil spill in Pittsburgh to appreciate the reality of modern society's vulnerability to catastrophic disruption.

If we have a finite amount of money to spend and want to spend it in the wisest ways to protect ourselves, our children and our grandchildren, we must seriously assess whether devoting a very large share of it to deploy comprehensive defenses against ballistic missile attack is the most rational way to proceed.

As one witness before the Armed Services Committee noted wryly, "The Soviets could just put nuclear weapons inside bales of marijuana, since they know we can't prevent that from entering the country."

Or, as a top Soviet official said during the Washington Summit:

"We won't copy you anymore, making planes to catch up with your planes, missiles to catch up with your missiles. We'll take asymmetrical means with new scientific principles available to us. Genetic engineering could be a hypothetical example. Things can be done for which neither side could find defenses or countermeasures, with very dangerous results. If you develop something in space, we could develop something on earth. These are not just words. I know what I'm saying."

My point is this: there is no rule of science that says ballistic missiles will remain the most severe threat to population destruction. There is no reason why our adversaries could not shift the rules of the game from physics to biology. There is no reason Third World countries and terrorist groups cannot participate in the biological warfare arena. The superpowers have a mutual interest in preventing this development. Our challenge is to identify areas of clear mutual interest between the superpowers to limit potential new threats of the 1990s.

The reality of our society's vulnerability to such threats does not, however, mean that there are no valid goals for defenses. An effective U.S. research program in strategic defense technologies is necessary both to assess their practical potential (including conventional applications) and as a hedge against a Soviet decision to break out of the ABM Treaty.

In addition, I can envision certain defensive deployments which could be in the interest of both our Nation and the Soviet Union. If carefully redirected, our research efforts could produce options for limited deployments to deal with the frightening possibility of an accidental or unauthorized missile launch. Such defensive deployments might be possible within the terms of the ABM Treaty or, at most, require a modest amendment. If properly designed, such a system would not combine with offensive forces, either with or without a START treaty, to pose a first-strike threat. It could be designed so that it would not be destabilizing or prompt the Soviets to avoid or abrogate START.

In Washington, you cannot begin discussing an idea until it has been given an acronym. I might, therefore, suggest that we call this defensive system the "Accidental Launch Protection System"—or "ALPS". Such a limited defense would of course have to be proved both technically feasible and affordable. We would also have to carefully consider the extent to which the other elements of the Nitze criteria would apply.

I believe both superpowers might find common interest in taking out such an "insurance policy". This concept is a logical follow-on to the recent U.S./Soviet agreement on Nuclear Risk Reduction Centers and could be coupled with other imaginative steps to help reduce the risk of accidental or inadvertent nuclear war. For example, President Reagan and General Secretary Gorbachev could agree to make a simple but potentially very important pledge to conduct unilateral comprehensive reviews of each nation's fail-safe mechanisms guarding against accidental or unauthorized launches. This is an area in which I believe far too little attention has been devoted over the last several administrations.

RECOMMENDATIONS

If the Executive Branch is prepared to recognize and act upon these realities, then I believe certain policy prescriptions logically follow.

First, even under the best arms control regime we can now envision, stability will require both continued strategic force modernization and effective investments in research on defensive systems.

Second, we should continue development of both the Midgetman and the Rail Mobile MX ICBM systems until a rational choice can be made based on survivability, stability and cost effectiveness.

Third, we should withdraw our proposal in Geneva for a ban on all mobile ICBMs contingent on agreement on an effective verification regime.

Fourth, we should settle the dispute with the Soviets both over the duration of the ABM non-withdrawal period and on how advanced technologies will be treated during this period for purposes of complying with the Treaty. I believe the Administration should heed Ambassador Nitze's counsel and negotiate with the Soviets on a specific enumeration of what types of SDI devices can and cannot be tested in space during the non-withdrawal period.

Fifth, while maintaining an effective research program, we should set two separate but compatible goals for a redirected strategic defensive effort:

For the near term, we should seriously explore the development of a limited system for protecting against accidental and unauthorized launches. This should be coupled with a rigorous unilateral review by both sides of their respective fail-safe procedures and safeguards.

For the longer-term, our goal should be to pursue research on advanced defensive technologies, principally in the directed energy area, that offer the best prospects for a possible comprehensive defense. This should include much greater emphasis on battle management and system-wide command and control.

However, the United States should not commit any deployment of comprehensive ballistic missile defenses unless: (a) technical feasibility issues are settled; (b) cost/effectiveness at the margin appears attractive; (c) we have a reasonable assurance that highly effective deployments could be maintained in the face of plausible Soviet countermeasures; (d) the transition to such defenses would not undermine stability; and (e) economic and political support for the long haul is assured.

General Omar Bradley once said: "Ours is a world of nuclear giants and ethical infants. We know more about war than we know about peace, more about killing than we know about living. If we continue to develop our technology without wisdom or prudence our servant may prove to be our executioner." In my introduction, I made reference to General George Marshall. General Marshall said: "If man does find a solution to world peace, it will be the most revolutionary reversal of his record we have ever known." Our task remains clear but awesome. We must reverse the record of history.

NUNN SEEKS SHIELD FOR MISSILES FIRED IN ERROR

(By Michael R. Gordon)

WASHINGTON, Jan. 19.—Senator Sam Nunn said today that the United States should consider developing a limited anti-missile defense system to protect American territory from accidental missile launchings by other nations.

Mr. Nunn, the influential chairman of the Senate Armed Services Committee, repeated his often-stated criticism of President Reagan's plan for a space-based shield against missiles. But in a surprise suggestion he urged that serious consideration be given to a limited defensive system, apparently one based on land.

"For the near term, we should seriously explore the development of a limited system for protecting against accidental and unauthorized missile launches," Mr. Nunn said in a speech to the Arms Control Association, a private group that has often criticized Administration policy.

He said the deployment of such a system might be possible under the terms of the 1972 antiballistic missile treaty, which sharply restricts the development and deployment of anti-missile defense systems. But he added that it could also require a "modest amendment" to the treaty.

Mr. Nunn did not say what sort of defensive system he had in mind. But he appeared to be referring to the possible development of ground-based interceptors. He said the United States would have to determine the technical feasibility of such a defensive system.

Senator Nunn, a conservative Democrat from Georgia, is an influential figure in Democratic thinking on military issues. His speech today caught some arms control experts by surprise.

President Reagan's proposal to test and develop a space-based anti-missile defense is confronting budgetary constraints, and the prospect for the stepped-up deployment of such a system in the early 1990's has faded.

Some critics of the Mr. Reagan's program, formally the Strategic Defense Initiative but known as "Star Wars," said today they feared that Mr. Nunn's speech would reinvigorate the program as well as the debate over the need for such a defensive shield.

Most of the Democratic candidates for President have been strongly skeptical of the development of anti-missile systems, and none has urged that the United States seriously consider deploying a limited anti-missile system.

An aide to the Senator said Mr. Nunn had developed his position over the last few months. The aide said Mr. Nunn had concluded that an extensive space-based system was unfeasible in the near future, and that he wanted to take steps to reduce the accident risk of nuclear war.

Many supporters of arms control have argued that limited anti-missile defenses, are costly and could provide momentum for bigger ones.

'EXTREMELY EXPENSIVE' DEFENSE

"A limited defense would be extremely expensive for very limited capability," said Spurgeon M. Kenny Jr., head of the Arms Control Association. He said the deployment of such a defense "could easily be a slippery slope to a dangerous and counterproductive space race that Senator Nunn warns against."

The Reagan Administration and some conservative supporters of the "Star Wars" program have argued that a missile shield in space would provide some measure of protection against accidental missile launchings.

In his broad arms control address, Senator Nunn raised serious questions about proposals for an extensive space-based defense to protect the American population. He asserted that adversaries could attack with bombers and biological weapons.

He urged that "Star Wars" be "redirected" so that the United States would have "options for limited deployment to deal with the frightening possibility of an accidental or unauthorized missile launch."

OFFER TO SOVIET

Mr. Nunn said that such a system, which he called the Accidental Launch Protection

System, need not be viewed by Moscow as a destabilizing development that would prompt it to avoid reductions in long-range arms.

"I believe both superpowers might find common interest in taking out such an 'insurance policy,'" Mr. Nunn said. His proposed defensive system, he said, could be "logical follow-on" to the recent American-Soviet agreement to establish Nuclear Risk Reduction Centers to lower the risk of an accidental nuclear war.

In suggesting a system against accidental attack, Mr. Nunn, in effect repeated arguments that were used to justify work on antiballistic missile defenses in the 1960's. At the time some proponents argued that a limited defensive system could deter any possible attack by China.

The ABM treaty, signed between the United States and the Soviet Union in 1972 and amended in 1973, allows each side to deploy 100 ground-based interceptors at a single site. The Soviet Union has deployed interceptors around Moscow. The United States briefly placed interceptors in North Dakota to defend missile fields there but abandoned them as ineffective.

Among other major points, Mr. Nunn urged the Reagan Administration to negotiate with Moscow over testing that is permitted by the ABM treaty. He suggested he might oppose the ratification of a future treaty reducing long-range arms if the United States and the Soviet Union did not clarify what restrictions apply to the Soviet and American anti-missile research programs.

[From the Washington Times, Jan. 20, 1988]

NUNN CALLS FOR SDI PROGRAM TO STEER TOWARD MORE LONG-TERM TECHNOLOGIES

(By Warren Strobel)

Sen. Sam Nunn called yesterday for radically redirecting the Strategic Defense Initiative anti-missile program toward more promising long-term technologies while considering deployment of a limited defense against accidentally launched nuclear missiles.

The current SDI program is "a stew of politics, physics and metaphysics," Mr. Nunn said.

Pentagon plans to push a first-phase missile defense violate the administration's own criteria for such a system and are an unnecessary obstacle to superpower arms talks, he said.

"If carefully redirected, our research efforts could produce options for limited deployments to deal with the frightening possibility of an accidental or unauthorized missile launch," the Armed Services Committee chairman said in prepared remarks to the Arms Control Association, a private group often critical of President Reagan's arms policies.

Aides pegged the speech as a major pronouncement on armaments and arms control in the Reagan administration's final year.

Mr. Nunn said such a limited system, presumably consisting of ground-based missile interceptors, would largely comply with the 1972 anti-ballistic missile treaty and would not threaten the prospective U.S.-Soviet strategic arms treaty. The Soviets have said they would abandon any such treaty if America moves toward deployment of a full-blown missile defense.

"In Washington, you cannot begin discussing an idea until it has been given an acronym," the Georgia Democrat said, "I might, therefore, suggest that we call this defensive system the 'Accidental Launch Protection System'—or 'ALPS.'"

Aides to Mr. Nunn said that his call for studying a small-scale anti-missile system is new, but consistent with his promotion of nuclear-risk reduction centers and other methods to avoid an unintended nuclear exchange.

The senator said that current plans for a "star wars" system, hinging on spacebased interceptors that smash into enemy missiles, should give way to longer-term research on lasers and other beam weapons that hold greater promise.

"The Reagan administration must recognize that START [strategic arms reduction talks] and SDI are in completely different time frames," Mr. Nunn said. "The opportunity to achieve historic reductions in offensive forces is now."

The Soviets have made an agreement with Washington to halve their land-, air- and sea-based strategic nuclear weapons contingent on curbing SDI.

Mr. Nunn endorsed proposals for an agreed list of missile defense devices that can be tested in space, a move bitterly opposed by conservatives. Before signing a START accord, he said, the superpowers should resolve their dispute over whether the ABM treaty's limits on such tests should be interpreted broadly or narrowly.

Otherwise, he said, the United States would reduce its nuclear deterrent at the same time the Soviets, if they took advantage of the United States' "broad" ABM interpretation, would be positioned to rapidly develop and deploy missile defenses.

He took a swipe at conservatives for downplaying possible Soviet responses to an American SDI deployment, saying, "Some fervent SDI cheerleaders, in their effort to sell early deployment, are trying to convince us that we are in a contest with the Little Sisters of Mercy, rather than the Evil Empire."

In Geneva, the United States should withdraw its proposed ban on mobile ICBMS while continuing development of the mobile MX and Midgetman missiles to ensure stability under a START treaty, Mr. Nunn said.

"As the Reagan administration begins its last year in office, the United States stands at a crossroads," Mr. Nunn said. "Rarely in the postwar era has the dividing line between breakthrough and missed opportunity been so finely drawn."

While the Soviet Union under Mikhail Gorbachev is showing welcome signs of change, "a word of caution is in order," he said. "It is too soon to determine how many of these concepts can be translated into reality. The West must predicate its positions on Soviet deeds, not words."

U.S. SENATE,
Washington, DC, January 26, 1988.

Hon. SAM NUNN,
U.S. Senate, Washington, DC.

DEAR SAM: I was intrigued by your speech before the Arms Control Association in which you called for the development of an Accidental Launch Protection System (ALPS) for protection against this kind of attack. I completely agree that this is a strategic defense mission area that needs to and can be filled. While I am sure you know we disagree on where the SDI program in general ought to be headed, I think it is important for the security of the nation that we set those particular differences aside and work together to see this idea through. I believe there is the potential for genuine bipartisan support.

I propose that we jointly sponsor legislation that would bring this system into existence in a timely manner. Clearly the technology to deploy such a system in the next few years exists. I am sure that you or your staff are familiar with the Lockheed proposal to deploy ERIS FTV in four years from a go date. While I would not want prematurely to limit deployment options, I believe that the sooner this can be accomplished the better. Another obvious candidate for deployment is the HEDI missile or perhaps a mix of both.

Legislation designed to implement an ALPS in a timely manner would have to cut through the red tape and obfuscation that you so rightly point to in the Administration's SDI approach. Such legislation might include:

1. A requirement that the Secretary of Defense submit a plan for the reactivation of Grand Forks as a site for the ALPS system;

2. A requirement that the Secretary of Defense place an order for the interceptors missiles and make the requisite upgrades to U.S. radars and early warning systems.

3. The assignment of the mission for the ALPS to an existing command or the creation of a new one dedicated to strategic defense.

We might begin by writing a letter to the Secretary of Defense asking him to report within 60 days on how he thinks such a system should be configured.

I look forward to hearing from you about this proposal and hope that we can work together in a bipartisan spirit toward achieving the deployment of an accidental launch system.

Sincerely,

MALCOLM WALLOP,
U.S. Senator.

Mr. BYRD. Mr. President, is the Senate still in morning business?

The PRESIDING OFFICER. The time for morning business has expired.

CIVIL RIGHTS RESTORATION ACT VETO OVERRIDE

Mr. DURENBERGER. Mr. President, I rise today to express to my colleagues, and to many of my constituents who feel this issue deeply, my reasons for what will be my vote to pass S. 557, the Civil Rights Restoration Act, over the President's veto. I believe this is an important decision the Senate makes. I believe we should not pass up this opportunity to say what this bill in fact will do.

I recall today the debate on Judge Robert Bork, whom I supported for a seat on the highest court in the land. The battle at that time, from the perspective of the participants, was really whether an incredibly inordinate amount of hype or substance would carry the day. I concluded that the black and white of Judge Bork's record was the only standard by which I could evaluate him or, in my opinion, he should be evaluated, not the fears or the suspicions of what kind of a justice he might be. And it was on that basis that I reached my conclusion.

I have much the same concern today as this matter comes before the Senate. Over the last several years the Senate has considered and thoroughly debated this legislation. Throughout its consideration there has been a wide gulf between the interpretation of its sponsors and the administration. While both the sponsors and the President say they simply want to overturn the Grove City decision, there has been violent disagreement over how that should be accomplished.

The Grove City decision of the Supreme Court which began this controversy in 1984, in the minds of Members of Congress present and past, misinterpreted what the Congress intended in the four major civil rights acts. When the Congress prohibited discrimination against the elderly, the handicapped, women and minorities with strong support in both parties and from presidents of both parties, it stated that no "program or activity" which receives Federal funds can so discriminate. It was that "program or activity" language which the Court attacked in Grove City. It narrowed its definition to the smallest organizational unit receiving the funds.

Mr. President, that interpretation is wrong. This body and the House have both, by large majorities, reached that conclusion. It flies in the face of both legislative history and the way these antidiscrimination statutes were being enforced by the various administrations over many, many years.

The only expansion which occurs in this bill is simply a correction of the interpretation of the four civil rights statutes, from the level the Supreme Court cut them down to, back to where the Congress intended.

That is why the bill is entitled "The Civil Rights Restoration Act". That is why S. 557 describes its purpose in section 2 as follows:

> Legislative action is necessary to restore prior consistent and long-standing executive branch interpretation and broad, institution-wide application of those laws as previously administered.

Both as to stated intent and clear legislative purpose, the Civil Rights Restoration Act was introduced and passed to overturn a misguided Supreme Court decision and not to make new civil rights policy.

In my view, the only new policy this bill makes is a section enthusiastically supported by the bill's opponents and by the President. The Danforth amendment, of which I was an original cosponsor, amends title IX of the Education amendments and cures a long-standing problem. It overturns pernicious regulations which equate failure to provide abortion services with sex discrimination. That is an important step forward that needs to become law.

Mr. President, I want to take a few moments to address some of the objections which have been raised by the administration to this legislation. In addition, I would observe that a large number of my constituents, and others from around the country who have called my office, are frightened by what this bill may do. Careful examination indicates their fears are not borne out by the facts. This week, these people are responding to characterizations of this legislation which they have heard and seen in the public media.

Here is the reality.

First, this bill has absolutely nothing to do with expanding the definition of "sex discrimination" to include "sexual preference." There is no basis for the claim that a church running a federally funded day care center would be forced to hire a homosexual there or in any other part of the church.

Second, this bill does not expose institutions to coverage under the civil rights acts when a person receives a Social Security check, a guaranteed student loan, a farm payment or a rent subsidy. They are called ultimate beneficiaries under the act, and they have never triggered coverage where they spent that benefit.

Third, this bill does not open up churches to Federal regulation. Only Federal assistance to a religious organization as a whole would subject the whole organization to coverage. The U.S. Catholic Conference has endorsed this bill, because of the way it is constructed to prevent coverage of entire diocese when one part of a parish is involved in a Federal homeless program, for example.

Fourth, the bill is not antiprivate schools. Most elementary private schools receive no Federal funds, and would in no way be affected by this bill. If they were, a religious tenet exemption was built into the sex discrimination statute to protect religious institutions. The National Association of Independent Colleges and Universities is satisfied with the bill and its interpretation, and urged the President to sign, rather than veto, this bill. As a product of parochial schools myself, I would not have supported legislation that would affect the integrity of private institutions.

We live in a time of rapid social change in this country. AIDS and drug abuse and the decay of the family unit indeed threaten the fabric of our society. These are vital issues which our national leaders are required to address. This legislation is designed to strengthen, not weaken the social fabric.

S. 557 protects the opportunities of seniors, people with disabilities, minorities and women to fully participate in the challenges and obligations of our society.

S. 557 restores this protection to the statutes that it held prior to the Grove City decision in 1984.

The history of America has been ever greater achievement by giving every one of our citizens a stake in our future. The history of America has been to break down barriers which create tensions between members of our society, and weaken our ability to work together as a Nation. The Grove City decision created barriers of doubt and not tension. S. 557 has taken down those barriers. It does not create new ones and it should not create the tensions which its interpreters have alleged and attributed to it during the course of this week.

That, Mr. President, is why I believe it needs to become law as soon as possible and I urge my colleagues to join in overriding the veto.

The **PRESIDING OFFICER**. The Senator from California.

MEXIDRUGS I

Mr. **WILSON**. Mr. President, yesterday I began a painful duty that will require that I make several statements addressing the problem of drug use and drug traffic operating from its Mexican base of operations.

Any investigation, Mr. President, of the United States-Mexican drug problem must begin by focusing on the sheer volume of narcotics that flow across our southern border. To say that drug trafficking continues to flourish from its Mexican base does not really adequately give dimensions to that problem. From March of last year to the present time, of over 40 drug-producing nations studied by the State Department's Bureau of International Narcotics Matters, Mexico was the largest exporter of heroin and marijuana to the United States. While all of the Southeast Asian countries combined exported three metric tons of heroin to the United States, Mexico alone exported two to four metric tons of this drug. The DEA estimates that 40 percent of the heroin consumed in the United States comes from Mexico.

Marijuana cultivation also exists on a large scale and is found in every state. Last year, drug runners exported approximately 5,000 metric tons of marijuana to the United States—a sharp increase from 1985. Mexico now supplies almost one-third of the marijuana available on American streets.

In addition, Mr. President, nearly 35 percent of the cocaine consumed in the United States passes through Mexico from South American fields and refineries. While most of the cocaine is not manufactured in Mexico, ineffective law enforcement makes the country the primary crossover route into our Nation.

This enormous volume of illegal narcotics that crosses our borders intensifies America's drug problem even further. As the supply of drugs increases, the price goes down. Moreover this greater supply has been accompanied by the availability of increasingly potent forms of heroin and cocaine. This year, the low prices and higher potency have led to an increasing number of addicts and addiction-related injuries across the Nation.

Mr. President, these facts and statistics are more than depressing. They are truly alarming because they tell the story of a generation that will come of age before the end of the century. In this light, the drug use of our Nation's youth is both a present and a future problem. It is a leadership gap waiting to happen. Right now, many users are students at a weekend party or junior executives on a cocaine break. But later on, Americans will ask for their wisdom and leadership as parents, community leaders, corporate presidents, and U.S. Senators. And at this point, an even more tragic chapter of this chilling story of drug abuse will begin to unfold. Physical and psychological addictions will cause these men and women to take refuge from their society rather than lead it. America cannot afford the waste. Narcotics, because they lock the individual in a jail of apathy and illusion, could erode any sense of obligation and bury the instinct for service that our political, commercial, and religious institutions require.

Next week, Mr. President, I will talk about what has perhaps become the most frightening indication of this withering of individual responsibility. The violent crime that is both a symptom and inescapable fact of life of the trade and sale of illicit narcotics.

Mr. President, I believe the Senator from Oregon wishes to make a statement. I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

(The remarks of Mr. Hatfield pertaining to the introduction of legislation is printed later in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

SENATOR PRESSLER TO RETURN TO VIETNAM

Mr. PRESSLER. Mr. President, soon I shall return to Vietnam on an official trip. I served in the Army there from December 1966 to June 1968. In preparing for this trip I have been going over several economic research papers I wrote in Vietnam. Vietnam today suffers from more economic problems under its Communist regime then it did in those days. I will be looking into the missing-in-action problem; the Amerasian situation; and the current Laos-Cambodia turmoil. One of those accompanying me will be Pho Ba Long, now a distinguished U.S. citizen, whom I met in Vietnam.

Mr. President, I wish to insert a Sunday, January 14, 1968, article from the Sioux Falls Argus-Leader describing some of my previous economic research activities in South Vietnam. We have been reviewing some of these economic reports I prepared at that time in preparation for my return to Vietnam.

There being no objection, the article is ordered to be printed in the RECORD, as follows:

[From the Sioux Falls Argus-Leader, Jan. 14, 1968]

HUMBOLDT MAN'S BACKGROUND IN 4-H IS USED IN VIETNAM

SAIGON, VIETNAM.—"I feel I can do more here than elsewhere," says 1st Lt. Larry Pressler, who is using his South Dakota farm experience and degrees from Harvard and Oxford to perform a unique function in South Vietnam.

Pressler, 25, illustrates the growing emphasis within the armed forces to utilize persons with special talents in economic development or pacification tasks in Vietnam. "I know the army has a history of putting trained people in the wrong places," he says, "but in my case that isn't true." Pressler likes the job so much that he has extended his service obligation by six months.

The lieutenant, whose parents, Mr. and Mrs. Antonne Pressler, farm near Humboldt, S.D., is scheduled to be home from about Tuesday through Jan. 19. He will return to Vietnam at the end of his home leave.

Pressler is assigned to the U.S. Agency for International Development's Economic Study Group. The group has just completed a major study of the economic potential of South Vietnam which was presented to President Nguyen Van Thieu.

Pressler's part in the study has been on economic research on the country's substantial vegetable market system and suggesting ways to improve them.

BACKGROUND IN 4-H

His interest in agricultural economics goes back to his days as a member of 4-H in South Dakota. Pressler was an active member of 4-H (Humbult Hustlers 4-H Club) for eight years, and his livestock exhibits won a total of 35 blue and purple ribbons at state and county fairs. He was twice an award winner at the National 4-H Club Congress and in 1961 was selected as one of four "all-American" 4-H club members to represent American 4-H at the World's Agricultural Fair in Cairo, Egypt.

In 1963 he was one of two 4-H club members selected from across the nation to present the annual "4-H Report to the President," to the late John F. Kennedy.

"I don't think I'll ever be able to forget the President's deep and sincere interest in 4-H and the impressive personal manner in which he expressed it," Pressler said.

Pressler graduated in 1964 from the University of South Dakota where he was elected to Phi Beta Kappa. His academic excellence also earned him a coveted Rhodes Scholarship and he went on to earn degrees in economics and administration from both Oxford University in England and Harvard University.

In 1966 he entered the Army to fulfill a two-year obligation and was assigned to Vietnam.

WORKS WITH STUDENTS

Pressler's duties with the economic study group has included working with a group of Vietnamese graduate students from Saigon University, conducting extensive interviews throughout South Vietnam. He and the students have questioned farmers, truckers, merchants, roadside vendors and government officials to find out in detail the many commercial steps involved in marketing vegetables in Vietnam.

Pressler and the students issued a number of reports and recommendations to improve the system to both the American Mission and to the government of Vietnam.

"One of the interesting facts we learned was that farmers who transport their vegetables to market must pay two sets of taxes—one to the government and one to the Viet Cong." Pressler said, "and we found that very often, the taxes of the governments are less consistently applied than are the taxes of the Viet Cong," he added.

WOMEN DO MARKETING

Pressler's group also found that most of the commercial marketing of vegetables, including large scale bidding and buying, is conducted by Vietnamese women.

"This is due in part to the shortage of men because of the war," Pressler said, "but I think it is mostly due to the fact that Vietnamese women have traditionally played an extensive role in business."

"We also found that well-organized private syndicates in the cities have such tight control over the market places and prices, that farmers always receive about one-third to one-half of what the vegetables sell for in urban markets," he added.

"We found some interesting parallels between the political views of Vietnamese farmers and their American counterparts. In both cases there is a spirit of independence and a dislike of government interference.

"And in both cases, the farmers are cynical about a series of central government programs supposedly designed to help them but which in reality have not had much effect.

"But it's dangerous to draw too many parallels between the farmers of the two countries, since conditions are so different."

Pressler also has made a fact-finding tour of South Korea and Taiwan to investigate marketing ideas that might be applied to South Vietnam. Impressed by how U.S. advisers were encouraging small and medium-sized businesses engaged in marketing there, Pressler recommended in a report that the U.S. Mission here seek advisers on business operations from other Asian countries to advise the Vietnamese.

"When things aren't going well, we tend to believe the solution is to simply bring in more Americans to advise the Vietnamese," Pressler said.

SHOULD INVOLVE ASIANS

"In keeping with the Manila Conference and what many U.S. senators have been demanding, I think we should involve more Asians if we are to involve more outsiders in Vietnam.

"The success of small commercial enterprises in Korea, Japan and Taiwan in recent years is an excellent example of what Vietnam could do."

The lieutenant also is involved in getting the defunct Vietnamese Economics Journal back into publication. The quarterly journal ceased publication in 1963 due to lack of funds and political trouble. The first issue is due in March, Pressler says.

In addition to all this, Pressler has engaged in a project to translate two basic economics textbooks from English into Vietnamese.

"We must use trained Vietnamese economists to do the translating," he said, "since the nature of the Vietnamese language prevents it from being translated literally or directly. A translator must understand the subject matter in order to translate accurately.

"We also have to change the American economic examples in the books with Vietnamese ones."

(Lt. Larry Pressler, Humboldt, is shown as he discussed a six-month study on vegetable marketing procedures in Vietnam with Pho Ba Long, Vietnamese minister of labor and economics. Pressler presented the report in December.)

WHO IS CONNING THE ALLIANCE?

Mr. WIRTH. Mr. President, today I wish to share with my colleagues another in the series of articles on the question of the conventional military balance in Europe and ask unanimous consent that the article be printed in the RECORD.

Mr. William Kaufman, a lecturer at Harvard, consultant to Brookings and the Defense Department, has written "Who Is Conning the Alliance," in The Brookings Review, fall, 1987.

William Kaufman, a consultant to the Brookings Foreign Policy Studies Program and a lecturer at the Kennedy School of Government, Harvard University, contends that NATO is doing itself a considerable disservice by relying almost completely on standard force comparisons which utilize overly pessimistic military analyses of its current capabilities. By recognizing certain flaws in the Atlantic Alliance's worst case scenarios of attack by Warsaw Pact forces, a more effective effort can be made to provide NATO with a vigorous conventional defense well within its budgetary means.

Western strategic planners, Kaufman believes, base their thinking on unrealistic notions of Soviet speed and efficiency in mobilizing vast numbers of troops and equipment, and also overestimate the prowess of often outdated Soviet equipment. At the same time, NATO is never seen as mobilizing quickly enough, and the French, likely to come to the defense of NATO forces under attack from the East, are rarely considered in assessing the conventional balance. It is also assumed that non-Soviet Warsaw Pact forces, 35 percent of pact combat power in any surprise attack, will perform as well as Soviet forces. Moreover, NATO advantages in communication, mobility, and intelligence are often overlooked, as is the advantage of superior NATO tactical air support to embattled ground forces.

A more realistic assessment of NATO's fighting capabilities will lead to a stronger NATO. Instead of focusing solely on a surprise pact attack, NATO planners would do well to be more concerned with a potential overt and drawn out Warsaw Pact mobilization, which would allow the Soviets to field a much greater percentage of their own fully prepared troops. Given the importance of maintaining a formidable conventional defense in Europe to forestall and hopefully prevent nuclear escalation, a reorientation of military spending away from inefficient strategic nuclear and naval programs could result in the robust conventional defense so desperately needed and so close at hand.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHO IS CONNING THE ALLIANCE?

(By William W. Kaufman)

The issue of how much NATO can or should rely on its conventional capabilities to deter or defeat a nonnuclear attack by the Warsaw Pact in Central Europe is obfuscated by what Winston Churchill once called terminological inexactitudes. A descriptive convenience—namely to characterize a complex relationship as a balance of forces—quickly leads to a literal interpretation of equilibrium and disequilibrium. Orders of battle are studied and compared by categories of weapons, costs, and primitive scoring methods that purport to measure the combat power of each side (see table 1). These efforts to see in which direction the military scales will tilt inevitably lead Western defense planners to pessimistic conclusions about the state of the balance, because the Pact has more divisions, tanks, infantry fighting vehicles, artillery, and combat aircraft than the alliance does.

Despite this pessimism, the relative peace that has enveloped Central Europe since 1945 seems to support the proposition that an equilibrium of sorts does indeed exist. Some observers of this postwar stability have even argued that the addition of more conventional capability to NATO's arsenal would actually weaken its nuclear deterrent and thereby tempt the Pact to attack. However, no one seriously claims that the existence of a large Red Army or the Kremlin's declaration of no first use has undermined the Soviet nuclear deterrent.

Be that as it may, the distinct possibility remains that the stability exists simply because the Soviet Union has had no serious intention of trying to capture Western Europe by overt military means. That the nuclear threat would be executed under the pressure of a major Russian mobilization and deployment followed by, say, a probe into West Berlin or North Norway is uncertain, to say the least. What seems entirely plausible, however, is that if a major attack should occur despite current nuclear capabilities and declarations, NATO would take a considerable amount of time to bring itself to the use of nuclear weapons, assuming always that the USSR had not been the first to leap into the abyss.

Several propositions follow from this prospect. One is that NATO would do well to have more survivable nuclear capabilities than the ones that are currently deployed in and around Europe. Another is that the alliance had better have enough conventional forces, at a minimum, to buy the time necessary to wrestle with the nuclear decision. Exactly how much time these forces would have to buy cannot be stated with confidence. However, despite the assertion by former Supreme Allied Commander, Europe, General Bernard Rogers that he would have to request the use of nuclear weapons after three days of nonnuclear combat in Central Europe, the likelier eventuality is that the allied leaders would want and need a good deal more time to consider whether to take this apocalyptic step. Consequently, NATO's conventional capabilities would have to be rather robust in combat power and effectiveness and be capable of sustaining themselves under attack for more than the three days allowed by General Rogers. Thus one of the key issues facing NATO is whether it now has the conventional forces to prevent an early breakthrough by the Pact. A major prerequisite to the resolution of this issue is the choice of assumptions that should go into any assessment of NATO and Pact capabilities. As Madame du Deffand said when told that St. Denis had walked 10 kilometers with his head in his hands, the first step must have been the hardest.

REVIEWING THE ASSUMPTIONS

Suppose that NATO aims at a reasonable chance of maintaining a conventional forward defense for at least a month. Do the planners have to work with such a wide range of assumptions that they must adopt the most unfavorable estimates of NATO and Warsaw Pact capabilities in order to be on the safe side? Or does close examination suggest that the more extreme assumptions about those capabilities miss the current realities of the situation in Central Europe?

As might be expected, these questions have no definitive answers. But enough unclassified evidence exists to challenge the results of the standard force comparisons and the more pessimistic military analyses of NATO's current capabilities.

THE SCENARIOS

One of the most important reasons why NATO always does so poorly in the more pessimistic assessments has to do with the assumed speed and size of the Pact attack. Customarily planners tend to give only modest attention to the motives for and the objectives of the attack. Their concern is to design attacks that, while not violating any physical laws or standards of plausibility, will constitute severe tests of allied capabilities. The classic example of this kind of design is in the strategic nuclear arena. There the critical test of U.S. capabilities is a surprise attack by the USSR that involves large and diverse forces, is flawlessly executed, and gives U.S. alert forces less than half an hour of tactical warning.

Try as they might, NATO planners have never found a plausible way to duplicate this particular kind of attack. The best that SHAPE (Supreme Headquarters Allied Powers Europe) and other military headquarters could do, given the problems that attend the mobilization and deployment of conventional forces (few of which maintain high states of alert), was to compress dramatically the number of days it would take the Pact to prepare for an attack. Several stressful scenarios have resulted. In the first, the Pact attacks after only 4 days of mobilization (M+4) with a deployment of 30 or more divisions drawn from the Group of Soviet Forces in Germany (the GSFG), East Germany itself, and Czechoslovakia. In the second, the Pact launches its aggression after 9 days of preparation with 57 divisions (of which 26 are Soviet and 31 are East

German, Czechoslovak, and Polish). In other words, all the Pact forces in East Germany, Czechoslovakia, and Poland (what NATO calls the guidelines area) are thrown at the allied defense line after a remarkably short period of mobilization and deployment. Even worse, the third scenario allows the Pact only 14 days of preparations but postulates an attack consisting of 90 or more divisions drawn from the 3 western military districts of the USSR as well as the guidelines area. Because of its scale—involving more than 1.3 million combat and support troops and as many as 3,500 combat aircraft—and the speed with which it is prepared and launched, this attack has become the dominant test case for NATO planners. It has also had a great deal to do with the U.S. efforts of the past decade to develop the capability to deploy a total of at least 10 divisions (actually closer to 12 standard U.S. divisions) and 60 fighter-attack squadrons to the Federal Republic of Germany within 10 days to several weeks.

Parts of the U.S. intelligence and analytical communities doubt whether the Pact can prepare such an attack in two weeks or less. They point to the Soviet mobilization and deployment for Czechoslovakia in 1968, Afghanistan in 1979, and Poland in 1980, all of which seemed to take 90 or more days. They also suggest that because the Pact's forces are currently dispersed for peacetime training and garrison duty, the task of deploying the combat-ready divisions (of which, as estimated in table 2, there are not that many); filing out, training, and deploying the reduced-strength and cadre divisions; putting wartime communications in place; and establishing forward stocks of supplies would take more than 14 days. Otherwise the Pact would have to attack with a mob rather than with the coherent and combat-ready forces that are generally assumed. Some critics go still farther and argue that NATO should dispense with these allegedly artificial scenarios and substitute two other possibilities. The first supposes that a Soviet military suppression of an uprising in East Germany leads to a NATO alert (together with some reinforcements from the United States) and a preemptive attack on the Federal Republic by the GSFG, followed by the deployment of Pact reinforcements from the guidelines area and the USSR. The second postulates that a major international crisis leads the USSR to launch a more gradual but massive mobilization and deployment than is customarily assumed, taking as many as 120 days to train and deploy 110 divisions, and then attacking NATO.

ALLIED RESPONSES

Despite these challenges and the proposed substitutions, the older scenarios continue as the main basis from which NATO's assessments and force planning proceed. Because warning is so short and the enemy is so large, as well as combat-ready, NATO is left with little time to counteract the threat, regardless of the force at its disposal in the United States and other national territories.

Two other equally pessimistic assumptions compound this difficulty. The Supreme Allied Commander, Europe, does not count those forces that do not come under his command upon alert. As a consequence, French forces and other national components that are not committed, however likely their deployment in a crisis, are not included among the possible reinforcements for the Central Region; they are simply absent from the SHAPE order of battle.

This self-imposed handicap, so characteristic of theater commanders, is made more severe by a legalistic attitude toward boundaries between commands. Thus, Danish ground forces are considered a part of AF NORTH (Allied Forces North) and not counted in the AFCENT (Allied Forces Central) order of battle, even though the threat to AFCENT includes Polish units that would almost certainly be allocated to operations against Denmark.

More seriously, and more legitimately, SHAPE and other military headquarters tend to assume that NATO civilian leaders will prove reluctant to respond to signs of a Pact mobilization and deployment until they have overwhelming evidence that an attack on Central Europe is intended. Indeed, it can be argued that the artificial scenarios with their short warning times reflect not so much what the planners believe about the enterprise, skill, and elan of the Pact but their doubts about the willingness of NATO's leadership to act decisively in the face of uncertainty.

These reservations are understandable. However, there is no evidence that these leaders have been advised about the costs of their expected foot-dragging. Not only do the expectations of delay lead to alarmist scenarios; they also create strong incentives for costly and risky measures to ensure the rapid deployment of U.S. forces. More realistic scenarios combined with better informed leaders could well result in larger reinforcements and lower costs.

PACT COMBAT POWER

The assumption about the preliminaries to war are not the only handicaps that the alliance imposes on itself. NATO planners also credit Warsaw Pact forces with an extraordinary amount of combat power compared with that of whatever NATO forces manage to straggle to the front. It has become customary to believe, for example, that a Soviet division force (whether tank or motorized rifle) contains at least 80 percent of the combat power of its U.S. equivalent, even though the U.S. force is two to three times larger and probably costs at least three times as much. The East European divisions, while not considered on a par with those of the USSR, are still assumed to generate more combat power than most allied equivalents. The upshot is that the Pact, in every scenario, is assumed to have superiority in mobility, firepower, and armored protection as well as in numbers. Such a combination inevitably leaves NATO with only a small chance of being able to prevent a rapid conquest of Western Europe by conventional means.

Whether such a pessimism is justified, even when NATO is assumed to be severely constrained in its own mobilization and deployment, is open to doubt. Skepticism grows stronger still when NATO responds promptly to warning and is given credit for all the forces that its members, including France, could deploy before a Pact attack. The reasons for these doubts are not hard to find. The Pact is supposed to have an overwhelming superiority in tanks, the so-called infantry fighting vehicles, and artillery. Yet, given the production rates for these items during the past decade, there is no way that all of them can be of relatively modern vintage. Beyond that, the structure of Pact divisions indicates that they are short of the accompanying transport and maintenance that characterize first-line U.S. and other NATO units. Whether, therefore, all the equipment credited to the Pact would or could be in operation at the same time is unclear. The likelier eventuality is that a significant fraction of it would be held in reserve to replace combat-damaged or broken-down equipment that could not be repaired at the division level. Moreover, considering the U.S. Army's estimates of the amounts of ammunition and petroleum products the Pact would consume, it seems fairly evident that NATO units would offset some of their alleged inferiority in numbers with greater rates of fire and movement.

Much better understood but not seriously factored into most standard analyses of relative capabilities is the small number of combat-ready (or Category I) divisions on which the Pact could rely in a rapid mobilization and deployment. In fact, of the standard contingencies, only the surprise attack at M+4 would be made up entirely of Category I divisions (see table 3). At M+9 and M+14, a substantial number of Category II and III divisions would have to be rushed into the field, presumably with older sets of equipment and in some instances without full complements of weapons and vehicles. By contrast, the United States would be loath to commit most of its National Guard and Reserve combat units into the line before M+90 (or later) even though they were better manned and equipped than many Category II and all Category III divisions (which are mostly divisions in name only). In short, a strong case can be made that NATO could have more forces deployed than the pessimistic assumptions allow, and that these forces would have more firepower and mobility relative to the Pact capabilities than is generally supposed.

PACT COMBAT EFFECTIVENESS

Perhaps even more important, the effectiveness of Pact forces has probably been overrated. Although the Pact would have the advantage of the initiative in choosing the time and places of its attacks—an advantage that could cause NATO delays and misallocations in the commitment of its reserves—the alliance would defend prepared positions (which could be greatly strengthened at relatively low cost). If historical data still are valid, the defense on this score alone should obtain twice the effectiveness of the offense from its firepower. Furthermore, NATO's great mobility with vehicles and helicopters, together with its substantial intelligence and communications capabilities—for which it receives little or no credit in the usual comparisons—make it less prone to misallocations and more able to recover from them than is granted by the more pessimistic assumptions.

Quite apart from these considerations, Pact forces, no matter what the scenario, are likely to be less effective during the first weeks of a campaign than is generally supposed. Category I units keep their newest equipment in storage and train on older weapons and vehicles. Moreover, a good deal of the training time is spent on giving instructions to new conscripts who arrive from their draft centers every six months or less as other conscripts, having completed their terms of service, leave for home. The upshot is that individual units suffer from considerable turbulence and spend less time on unit training and large-scale exercises than their NATO counterparts. The effectiveness of Category II and III units is likely to be still lower.

The effectiveness expected of non-Soviet Warsaw Pact (NSWP) forces is at least as important as that attributed to Soviet units. Indeed, the NSWP divisions could be vital to the success of an attack since in the standard analyses they contribute more than 35 percent of the Pact combat power at M+4, more than 51 percent at M+9, and at least 32 percent at M+14. Only at M+120 would they constitute less than 30 percent of the attacking force. Thus, in all four scenarios, the standard and most pessimistic analyses give them a critical role in Soviet plans.

Standard analyses credit NSWP forces with an effectiveness equivalent to that of their Soviet counterparts. Obviously, if the NSWP forces perform less well than that, cannot be counted upon at all, or require a diversion of Soviet units to monitor them and guard essential lines of communication through Poland and East Germany, NATO's prospects would look a great deal better. In the circumstances, while prudence may dictate keeping the NSWP forces in the Pact order of battle, there are good grounds for downgrading their contribution to a Pact attack and for looking less pessimistically than is customary both at NATO's chances of holding a forward defense and at the costs of removing any deficit in allied capabilities.

On a less encouraging note, as Soviet divisions become the dominant element in the attack force, which is the case at M+14 and still more so at M+120, the effects of downgrading the NSWP units (or removing them entirely from the Pact order of battle) becomes less damaging to the enemy cause. Indeed, what this obvious point suggests is that NATO planners may have focused their attention and highest-priority efforts on the wrong contingencies. The M+4 and M+9 attacks, assuming they are even feasible, look far less dangerous than is generally asserted. And the M+14 invasion, while seemingly unstoppable, demands a more heroic amount of speed and efficiency than the members of the Pact are likely to attain. The assumption that the worst case from the standpoint of NATO is one in which the Pact risks the effectiveness of its forces in a pell-mell mobilization and deployment cannot be disproved. But it holds true only when everything works magically right for the Pact and when NATO's leaders react sluggishly to these preparations. That the conservative military leaders of the Pact would agree to take such a risk, especially since the NATO record does not consist of unblemished sluggishness, is problematic to say the least.

Attacks that occur after a protracted period of mobilization, deployment, and shakedown run the risk that NATO will deploy more of its assets in Germany. But they give the Pact certain advantages as well. All Soviet divisions could probably reach an acceptable level of combat effectiveness at M+120; dependence on NSWP forces would become less critical; and a major weakness of NATO would be exploited, namely an inability to generate more than 49 combat-ready divisions, even over a period as extended as 120 days. NATO cannot ignore the dangers of strategic and tactical surprise, but there is much to be said for paying more attention to large-scale and deliberate attacks.

THE ROLE OF TACTICAL AIR

Most standard analyses draw their pessimistic conclusions from what is generally conceded to be Pact superiority on the ground. Lip service is paid, at least in public, to the role of air defenses and tactical fighters. But their impact is not usually reflected in any specific way on the outcome of the ground battle—largely on the assumption that dense Pact air defenses and an increased offensive capability in fighter and attack helicopters will nullify NATO's technical superiority in tactical fighters.

Not only is this supposition an overly impressionistic and casual attitude toward what amounts to a large investment by NATO, it also overlooks opportunities to reduce significantly whatever superiority the Pact now has on the ground. A quite explicit case can be made that allied airpower already reduces the odds in the Pact's favor, particularly in a surprise attack. Air defense continues to be the dominant component of Pact airpower. Despite this emphasis, military planners generally assume that the Pact would use its offensive aircraft to conduct a concentrated attack on NATO's nuclear launchers, airfields, and lines of communication. If that should indeed be the case, and the allies commit their fighter/attack aircraft to an air superiority battle, there is reasonable confidence that NATO would gain command of the air over Eastern Europe. At a minimum, therefore, allied airpower should be able to obtain relative immunity for NATO's rear areas and especially for its logistical system.

Allied air commanders have indicated that in the event of an early crisis in the ground battle, they would commit a number of their longer-range aircraft such as the F-111 and the F-16 to close air support. Since these aircraft are not particularly suited to this role because of their high speeds, difficulty in acquiring targets of opportunity, and vulnerability to the heavy antiaircraft fire contained in Pact divisions, how well they would do, even if armed with modern munitions, is difficult to estimate.

There is, in any event, a question whether the aircraft would be committed soon enough. Independent air forces do not particularly relish playing handmaiden to the ground forces, however pivotal the campaign on the ground might be. Their preference is to fight the air superiority battle and then go on to attack the enemy's lines of communication and war production base so as to bring enemy ground forces to their knees without much help from allied armies. Consequently, air commanders will be likely to commit the bulk of their aircraft to air superiority and interdiction, although the transportation system in Eastern Europe may prove fairly immune to collapse.

In recognition of this propensity, the U.S. Army has invested heavily in attack helicopters for close air support. However, helicopters tend to be vulnerable to ground fire especially while taking aim at their targets, and provide a second-best solution to the problem of augmenting the combat power of the ground forces. Fortunately, as a substitute, NATO can deploy perhaps 684 or more close air support aircraft. Not only are these aircraft superior to attack helicopters in speed, payload, and armor; they also outweigh their Pact counterparts in these characteristics and in numbers. Indeed, when they are included in the NATO defense, are committed against the heaviest enemy ground concentrations, and fly multiple sorties a day during the first days of the war, they help to lower the probability of a Pact breakthrough. The decline is most dramatic in the M+4 contingency, when the odds actually shift in NATO's favor. The odds still favor a Pact breakthrough in the other three contingencies. But an increased emphasis on close air support aircraft would improve allied chances, despite the larger scale of the Pact ground attacks.

In short, analyses that go beyond bean counts and questionable comparisons of ground combat power strongly suggest that NATO, rather than expand its deep air superiority and interdiction capability, should increase its commitment to close air support aircraft specifically designed for the mission. Since the U.S. Air Force would find such a change in priorities distasteful, the most palatable way of obtaining the increases would come from giving the Air National Guard and Reserve a larger share of the mission. Those who might consider this solution less than perfect should recall that the best reserve squadrons regularly outperform the best active-duty units. They should also remember that air reserve units can move into Europe almost as rapidly as active-duty units.

Ground forces supposedly can operate night and day and in all kinds of weather; close air support aircraft are more limited. But once a strong enough screen of ground forces exists to prevent infiltration on a large scale and to force the enemy to concentrate its units for a breakthrough, close air support aircraft can substitute for additional ground forces in a roughly calculable way. Morever, unlike the air superiority/interdiction mission, which is likely to be slow in its payoffs, close air support can make a contribution from the outset of an attack. After physical barriers to ground attack, which are cheap and highly effective in forcing larger Pact concentrations and thus buying time, close air support aircraft are probably the most efficient way to reduce any NATO deficit.

LOGISTICS

Whether the two belligerents could sustain the kind of intense combat anticipated by most NATO planners is not an issue on which published analyses and the standard comparisons have much to say. The general assumption seems to be, however, that both sides will have available the logistical systems necessary to keep the combat forces supplied, but that NATO is likely to run out of war reserve stocks—particularly ammunition and spare parts—well before the Pact. A common outcome is one in which the allies collapse, not for lack of combat power but because of shortages in supplies.

Such pessimistic assumptions may seem the most prudent ones to make. But the available evidence suggests that none of them should be taken for granted. Perhaps the weakest part of the NATO logistical system lies at sea, especially as the U.S. Navy continues to be more intrigued with the power projection capabilities of carrier battle groups and amphibious forces than with protecting the sea lines of communication. As a result, losses of shipping to Soviet submarines could prove severe during the first month of a conflict in Central Europe. However, with modest increases in frigates and destroyers, U.S. and allied navies should be capable of escorting essential convoys safely across the Atlantic.

In Western Europe itself, the transportation system is sufficiently diverse and dense so that it should be able to support the combat forces despite any Soviet efforts to interdict it. Problems could arise in the distribution of supplies at corps and division levels because truck capacities may not match expected consumption rates. Rationing of ammunition and fuel might therefore become necessary, and combat effectiveness might decline as a consequence.

The prospects on the Pact side are even less certain. Trains and trucks moving from the interior of the Soviet Union to the Polish border would presumably enjoy an uninterrupted journey because NATO would probably not permit its fighter/attack aircraft to bomb inside the USSR, at least during the early stages of a conflict. But troubles for the transportation system would begin at the frontier. Train cargoes would somehow have to be shifted from freight cars built for wide-gauged railway tracks used in the USSR to the narrower gauges employed by the railways of Poland and the rest of Europe. Such transfer points would constitute logical targets for allied attack. From then on, the transportation system and its contents would presumably come under intense bombing, with bridges, tunnels, marshaling yards, locomotives, and truck convoys the targets of modern munitions credited with high single-shot probabilities of kill.

No one can say with confidence to what extent the Pact could repair the logistical system under these conditions and maintain good control over its traffic. The U.S. Air Force seems to expect that the whole system would collapse in a few days under this kind of pressure. In such a case the Pact would have to rely exclusively on its forward stocks, which would be vulnerable to attack by close air support aircraft. But such a bonus is almost certainly too much to expect. Leakages in the blockade are likely to occur.

Other types of breakdown are possible. The Pact as a matter of practice and NATO as a matter of expediency have largely dispensed with their combat service support forces in peacetime. Both sides would have to mobilize truck drivers, military police, engineers, and medical personnel from their reserves and civilian economy. Neither could have much confidence that these forces would operate at maximum effiency in the early stages of a war, particularly if the conflict were the product of a short mobilization followed quickly by a Pact attack. The supplies might be on hand, but the systems could be dangerously slow in delivering them.

Suppose, however, that both systems worked well, that the transportation was at the right places at the right times, and that essential supplies could be delivered as needed. Would NATO not run out of these essentials well before the Pact? The possibility cannot be ruled out, but it is by no means the certainty that the pessimists accept. Theater commanders admittedly complain bitterly, as is their wont, about the shortfalls in their stocks of combat consumables. But none of them explains satisfactorily why the shortfalls remain constant when both the United States and its allies have spent nontrivial amounts on building up precisely those stocks.

Fortunately, a possible explanation exists. Even though theater commanders are gloomy about their chances of withstanding a Pact attack for more than a few days, they are sufficiently optimistic to want enough war reserve stocks to last for six months, or the time traditionally estimated to be needed before their forces can be supported directly from expanded production lines. At the same time, estimated daily consumption rates keep rising. The brief Arab-Israeli war of 1973 increased these rates beyond the averages for World War II and Korea. They have gone higher still as weapons within the combat structure have proliferated and rapid reloading has been built into delivery systems such as the M-1 tank and the multiple launch rocket system. Finally, smary munition cost at least 20 times more than dumb ordnance, yet the services for the most part continue to assume that they will fire the smart weapons at the same rates as the dumb ones. Therefore a great deal of money can be spent without seeming to add much to the number of days of supply, even though—if the smart munitions work the way they are supposed to do—NATO may well run out of targets before it runs out of munitions. It is quite feasible, in sum, to have increased stocks, added costs, and constant supply deficits.

Whether the Pact has got itself into the same peculiar situation cannot be easily determined. But several points are worth making about the ability of its forces to fight an extended campaign. First, consumption rates for Pact ground and tactical air forces are estimated to be less than half those of their NATO counterparts, which raises still further questions about the effectiveness of Pact forces. Second, Pact divisions, whether out of preference or necessity, are built without much sustaining capability. Third, while estimates of Soviet war reserve stocks sound impressively large, when the alleged stocks are divided among all the divisions the Soviet Union is supposed to have in its inventory (209 in 1987), these units probably could not operate for more than a few weeks in relatively intensive offensive warfare. Fourth, considering the cost of modern munitions, the size of Soviet conventional forces, and the constraints on the defense budget of the USSR, it seems likely that the Soviet war reserve stocks consist mostly of fairly traditional munitions. Thus, if NATO sensibly controls the consumption of its more expensive stocks, not only is there likely to be enough to go around, the alliance should also be in a good position to equal the Pack in sustainability.

DESIGNING FOR STABILITY

In sum, NATO's prospects for a robust conventional defense are probably not as dim as is generally supposed. Unfortunately, however, that conclusion does not tell the whole story. More detailed analyses, even when using less pessimistic assumptions than is customary, suggest that NATO still lacks reasonable confidence of being able to withstand a nonnuclear attack by the Warsaw Pact. That said, those same analyses indicate that, considering the investment the alliance has already made, a vigorous conventional defense is well within NATO's grasp and that the costs are well within its means.

The necessary improvements, listed in table 4, would require the commitment of nearly $107 billion (in constant 1987 dollars), necessarily spread over at least 7 years. As table 4 also suggests, the United States could readily assume responsibility for 75 percent of this total. That is the case, in part, because the $80.1 billion charged to the United States need not result in any real increase in the U.S. defense budget. Cancellation of inefficient strategic nuclear and naval programs would more than cover that amount over the next seven years.

The United States, admittedly, provides a major part of allied nuclear and maritime capabilities. It must also cope with other problems and responsibilities. Still, it can well afford to reallocate existing defense resources and increase from 46 percent to 48 percent its share of the total investment in the defense of Central Europe. At that rate, the U.S. contribution would still be smaller as a percentage of gross national product than that of other allies in the region. Given the stakes, it is hard to argue that the U.S. share of the NATO burden now is or would become too large.

TABLE 1.—*The Warsaw Pact-NATO Balance: A Standard View*

Capability	*Ratio Pact: NATO*
Main battle tanks	>2:1
Combat aircraft	~2:1
Artillery	>3:1
Surface-to-air missiles	~2:1
Combat helicopters	~2:1
Infantry fighting vehicles	3.1
Ground force combat power [1]	>2.2:1
Tactical air powers [2]	~1.7:1

[1] By this measure, the Pact led NATO by 1.5:1 in 1965 and 1.9:1 in 1970. Interestingly enough, the average annual rate of growth in Soviet combat power is 4 percent, which is the annual rate of growth formerly attributed to Soviet defense outlays.

[2] The Pact allegedly led NATO by less than 1.5:1 in 1965.

Source: U.S. Department of Defense Annual Report, Fiscal Year 1988, pp. 29–30.

TABLE 2.—WARSAW PACT DIVISIONS BY LOCATION AND CATEGORY OF READINESS

Location	Category of Readiness			
	I	II	III	Total
East Germany:				
Soviet	19			19
East German	6			6
Czechoslovakia:				
Soviet	5			5
Czechoslovak	7		3	10
Poland:				
Soviet	2			2
Polish	6	5	4	15
U.S.S.R:				
Western military districts	1	8	24	33
Strategic reserve	1	9	10	20
Total	47	22	41	110

Sources: The International Institute for Strategic Studies, "The Military Balance," 1986–87; author's estimates.

TABLE 3.—CATEGORIES AND NUMBER OF WARSAW PACT DIVISIONS BY CONTINGENCY

Contingency	Category			
	I	II	III	Total
M+4	30			30
M+9	45	5	7	57
M+14	46	13	31	90
M+120	110			110

Sources: U.S. Department of Defense, "Soviet Military Power, 1983," pp. 6–7; author's estimates.

TABLE 4.—INCREMENTAL COST OF A ROBUST NATO DEFENSE IN U.S. PRICES

[In billions of 1986 dollars]

Program	Total	U.S. share	Non-U.S. share
20 fast sealift ships	4.1	4.1	
14 divisions	67.8	46.1	21.7
Defense barrier	2.0	2.0	
8 wings of close air support aircraft	18.0	18.0	
30 days of supplies for additional forces	12.7	8.6	4.1
Airfields for additional close air support	0.3	0.3	
French line of communications	2.0	1.0	1.0
Total	106.9	80.1	26.8

Source: Author's estimates.

NATIONAL AGRICULTURE DAY

Mr. EXON. Mr. President, this coming Sunday has been designated by Congress as National Agriculture Day and I rise to applaud that designation. I hasten to add that, given the importance of agriculture to the Nebraska I represent, virtually every day is agriculture day for this U.S. Senator.

It is entirely fitting that Americans set aside a day to pay tribute to our largest industry. The productivity of America's farmers and ranchers is a critical ingredient in the quality of life we enjoy.

As an elected official who has served during both good times and bad in our agricultural economy, I think it is important that consumers be reminded of the impact agriculture has on their everyday lives.

The ability of a nation to feed itself is one of its best defenses. Thanks to the success of U.S. farmers and ranchers, Americans have never had to worry about the type of food shortages common in many nations.

Others envy the ability of America's food producers because agriculture is vital to the economic health and security of the Nation. Agriculture drives our economy by directly employing at least 4 million people and many more in agricutlure-related jobs.

Farmers and ranchers are independent business people with a wide variety of skills. To survive in today's world, farmers must be skilled in accounting, commodity trading, animal sciences, economics, plant physiology, conservation, mechanics, and more.

I think it is also important on this occasion to expand on the traditional image many Americans have of farmers and ranchers.

Agriculture is not the exclusive domain of men. For years, women have played an important role in American agriculture. They were ignoring age-old gender barriers long before the rest of the country had even begun to focus on the role of women in the work place. Women play an increasingly important role in modern farms and ranches and we must not forget them on National Agriculture Day.

Mr. President, this Sunday is also the first day of spring. It is entirely fitting that National Agriculture Day coincides with the start of this season. As the days grow longer, many Midwestern farmers will be gearing up for a new season of activity.

Let us remember every day, and especially on National Agriculture Day, the importance of America's farmers and ranchers.

BICENTENNIAL MINUTE

MARCH 18, 1800: SENATE CITES NEWSPAPER EDITOR FOR CONTEMPT

Mr. DOLE. Mr. President, it was 188 years ago today, on March 18, 1800, that the Senate, meeting in Philadelphia, issued its first contempt of Congress citation. The citation went to a Philadelphia newspaper editor, William Duane, who had failed to appear to explain how he had obtained the text of a bill that had been debated in secret.

The secret bill was a scheme by the Federalist majority in the Senate to change the method of settling disputes over Presidential electors. Supporters of Thomas Jefferson, leader of the Democratic-Republican Party, feared that this move was designed to deny Jefferson the Presidency in the forthcoming election. Jefferson's allies in the Senate leaked a copy of the bill to William Duane, who published the story in his paper, the Philadelphia Aurora. Offended Federalists demanded an investigation of Duane and his illicit sources.

At that time, Thomas Jefferson presided over the Senate as Vice President. The Federalists therefore called Duane into the Senate Chamber, and directed the Vice President to read him a list of prepared questions about who had given him the bill. Duane, who had been carefully coached by the Democratic-Republicans, asked that he be given additional time to seek counsel, and Jefferson gladly ruled in favor of the request.

That was the last that the Senate saw of Willam Duane. When he failed to reappear, the Senate issued a contempt citation in his name. However, Duane hid out through the remainder of the congressional session. Not only did Duane escape prosecution, but that fall Thomas Jefferson was elected President and the Democratic-Republicans took the majority in both Houses of Congress. Needless to say, the new Senate majority had no intention of pursuing charges of contempt against William Duane.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:32 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2151. An act to amend section 416 of the Agricultural Act of 1949, and for other purposes.

The message also announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 225. Joint resolution approving the location of the Korean War Memorial;

S.J. Res. 229. Joint resolution to designate the day of April 1, 1988, as "Run to Daylight Day";

S.J. Res. 244. Joint resolution to designate the month of April 1988, as "National Know Your Cholesterol Month";

S.J. Res. 253. Joint resolution designating April 9, 1988, as "National Former Prisoners of War Recognition Day"; and

S.J. 265. Joint resolution to designate March 20, 1988 as "National Agriculture Day".

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, March 18, 1988, he had presented to the President of the United States the following enrolled bill:

S. 854. An act entitled the "Nevada-Florida Land Exchange authorization Act of 1988".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2629. A bill to amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the conveyance and ownership of submerged lands by Alaska Natives, Native Corporations and the State of Alaska (Rept. No. 100-302).

By Mr. BENTSEN, from the Committee on Finance, without amendment:

H.R. 1207. A bill to amend the Federal Food, Drug, and Cosmetic Act to ban the reimportation of drugs produced in the United States, to place restrictions on the distribution of drug samples, to ban certain resales of drugs by hospitals and other health care facilities, and for other purposes (Rept. No. 100-303).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. REID:

S. 2191. A bill to authorize a Western Center for Nuclear and Groundwater Research; to the Committee on Environment and Public Works.

By Mr. INOUYE:

S. 2192. A bill to amend titles XVIII and XIX of the Social Security Act to clarify that psychologists are included within the definition of licensed health professional; to the Committee on Finance.

S. 2193. A bill to amend title XVIII of the Social Security Act to increase the independence of psychologists with respect to services furnished at a comprehensive outpatient rehabilitation facility; to the Committee on Finance.

By Mr. NICKLES (for himself, Mr. Boren, Mr. Ford, Mr. Wirth, and Mr. Armstrong):

S. 2194. A bill to amend section 307 of the Federal Employees Retirement System Act of 1986; to the Committee on Governmental Affairs.

By Mr. HARKIN (for himself, Mr. Rockefeller, and Mr. Pressler):

S. 2195. A bill to authorize the rail service assistance program under the Department of Transportation Act through fiscal year 1991; to the Committee on Commerce, Science, and Transportation.

By Mr. WALLOP:

S. 2196. A bill to amend the Fair Labor Standards Act of 1938 to permit an employee to take compensatory time off in lieu of compensation for overtime hours, and for other purposes; to the Committee on Labor and Human Resources.

S. 2197. A bill to prohibit age discrimination in apprenticeship programs; to the Committee on Labor and Human Resources.

By Mr. HATFIELD:

S. 2198. A bill to limit the introduction of United States Armed Forces into or over Honduras or Nicaragua; to the Committee on Foreign Relations.

By Mr. CHAFEE (for himself, Mr. Fowler, Mr. Baucus, and Mr. Graham):

S. 2199. A bill to amend the Land and Water Conservation Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and recreational heritage, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WEICKER (for himself, Mr. Inouye, Mr. Warner, and Mr. Roth):

S.J. Res. 275. Joint resolution to designate August 1-8, 1988, as "National Harness Horse Week"; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself, Mr. Boren, Mr. Lugar, Mrs. Kassebaum, Mr. Evans, Mr. McCain, Mr. Bentsen, Mr. Nunn, Mr. Chiles, Mr. Murkowski, Mr. McConnell, Mr. Gramm, and Mr. Hollings):

S.J. Res. 276. Joint resolution providing emergency assistance for the Nicaraguan democratic resistance; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for Mr. Stevens) (for himself, Mr. Hollings, Mr. Breaux, Mr. Evans, and Mr. Dole):

S. Res. 396. Resolution to express the sense of the Senate on the need to stop uncontrolled fishing in the international waters of the Bering Sea.

By Mr. BYRD (for Mr. Ford):

S. Con. Res. 105. Concurrent resolution to provide for a Joint Congressional Committee on Inaugural Ceremonies; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 2191. A bill to authorize a Western Center for Nuclear and Groundwater Research; to the Committee on Environment and Public Works.

WESTERN CENTER FOR NUCLEAR AND GROUNDWATER RESEARCH

Mr. REID. Mr. President, I am introducing today a bill to strengthen and coordinate ground water research. Several bills have already been introduced in this Congress to increase coordination of regulations and research in ground water. My bill emphasizes the need for coordination of research at the working level where scientists in different Federal agencies and State institutions can be brought together to help solve critical national problems.

My bill would establish the Western Center for Nuclear and Groundwater Research. The Center would consolidate existing research within Nevada to help solve the national problems of protecting our ground water from hazardous and nuclear wastes and ensuring that high-quality, readily available ground water can be identified and properly managed in our arid Western States.

We have in Nevada an impressive foundation for environmental research. This base will surely grow as increased attention is devoted to the study of ground water and the isolation of hazardous and nuclear wastes from the environment.

A number of Federal and State institutions are conducting impressive research in southern Nevada. The Environmental Protection Agency has a national laboratory in Las Vegas with a charter of monitoring radioactivity releases from the Nevada Test Site and developing new methods for monitoring ground water quality. The Environmental Research Center at the University of Nevada—Las Vegas has nationally recognized analytical capabilities for the detection of trace amounts of contaminants in water. The Bureau of Reclamation's regional office in Boulder City has focused on our surface water resources, but the future focus of that agency may be expanded to include ground water. My bill assures the Bureau of having a role in a regional research program and encourages the Bureau to utilize their existing resources in ground water research. The Desert Research Institute's Water Resources Center is studying the possible utilization of a deep carbonate aquifer for the future utilization of water in that area. The University of Nevada's DRI is cooperating with the EPA laboratory in developing new methods and approaches to the monitoring of ground water quality. The U.S. Geological Survey is conducting research throughout the State; however, increased emphasis will be placed on Yucca Mountain in southern Nevada for the possible storage of high-level nuclear wastes. The Department of Energy has been directed to focus research at this site to determine whether nuclear wastes can be isolated from the environment for periods as long as 10,000 years. Ground water studies will be emphasized in the studies of Yucca Mountain, and I believe southern Nevada's existing research base can play an important role in those ground water investigations.

Mr. President, important research capabilities exist in northern Nevada as well. The University of Nevada—Reno has the Mackay School of Mines. The Desert Research Institute has a major facility in Reno, and this institute is presently designated by the USGS as Nevada's Water Resources Institute under the Water Resource Research Act of 1984. My bill ensures that all of the research capabilities within Nevada are focused on significant regional and national issues—hazardous wastes, nuclear wastes, and ground water.

My bill creates a nine-member board of directors to coordinate and develop research in those three areas. One member from each of the institutions I have named would serve on the board. The board would work with the chairman, designated by the Government of Nevada, to ensure that the research conducted independently at the various Nevada-based institutions is coordinated and strengthened to address the serious environmental issues in our rapidly growing State. My bill would help create the working environment to foster this coordination by authorizing the acquisition and construction of new and larger facilities where scientists from the various institutions can work side by side and share common resources.

Mr. President, I can think of no better way to coordinate research in ground water than to start with the scientists and ground water professionals. The Western Center for Nuclear and Groundwater Research builds upon existing resources in Nevada to address problems of national concern. The bill addresses the growing pains in southern Nevada by authorizing the acquisition of additional space. The bill permits the participating institutions to continue all of their existing activities, but encourages those institutions to pool their resources and talents. Funding for the Center could come from a variety of sources including appropriations from the participating Federal and State institutions.

At a time when this Congress recognizes the need for increased coordination in ground water with emphasis on research, my bill seeks to achieve that goal in a simple and straightforward manner.

I urge my colleagues to support this essential legislation.

By Mr. INOUYE:

S. 2192. A bill to amend titles XVIII and XIX of the Social Security Act to clarify that psychologists are included within the definition of licensed health professional; to the Committee on Finance.

S. 2193. A bill to amend title XVIII of the Social Security Act to increase the independence of psychologists with respect to services furnished at comprehensive outpatient rehabilitation facility; to the Committee on Finance.

ACCESS TO PSYCHOLOGISTS FOR MEDICARE BENEFICIARIES

● Mr. INOUYE. Mr. President, I am introducing legislation today to ensure that our Nation's Medicare beneficiaries have greater access to the services of professional psychologists.

The first bill would modify the current definition of "licensed healthcare professionals" for our Nation's nursing homes to include psychologists.

The second bill would amend the comprehensive outpatient rehabilitation facility provision of Medicare to ensure that professional psychologists would be able to function to the fullest extent of their State licensing act in these facilities.

This bill would ensure that our Nation's citizens who are disabled would be able to receive the highest quality care possible pursuant to applicable laws of the several States.

I ask unanimous consent that these bills be printed in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 2192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCLUSION OF PSYCHOLOGISTS UNDER DEFINITION OF LICENSED HEALTH PROFESSIONAL.

(a) In General.—

(1) Home health quality.—Section 1891(a)(3)(F) of the Social Security Act, as added by section 4021(b) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "practical nurse," and inserting "practical nurse, psychologist,".

(2) Nursing home quality.—

(A) Medicare.—Section 1819(b)(5)(G) of the Social Security Act, as added by section 4201(a)(3) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "practical nurse," and inserting "practical nurse, psychologist,".

(B) Medicaid.—Section 1919(b)(5)(G) of the Social Security Act, as added by section 4211(a)(3) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "practical nurse," and inserting "practical nurse, psychologist,".

(b) Effective Date.—The amendments made by subsection (a) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

S. 2193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAYMENT FOR CERTAIN PSYCHOLOGICAL SERVICES FURNISHED AT COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES.

(a) In General.—

(1) Coverage.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(A) in subsection (s)(2)—

(i) by striking "and" at the end of subparagraph (L),

(ii) by adding "and" at the end of subparagraph (M), and

(iii) by adding at the end the following new subparagraph:

"(N) rehabilitative psychological services;"; and

(B) in subsection (cc)(1)(D), by inserting "(other than services for which payment is made under this part by reason of section 1861(s)(2)(N))" before the semicolon.

(2) Payment.—Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (iii);

(B) by striking "; and" in clause (iv), as added by section 4073(b)(1)(C) of the Omnibus Budget Reconciliation Act of 1987, and inserting a comma;

(C) by striking the semicolon in clause (iv), as added by section 4077(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1987, and inserting a comma and redesignating such clause as clause (v); and

(D) by adding at the end the following new clause:

"(vi) rehabilitative psychological services;".

(3) Definition.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"REHABILITATIVE PSYCHOLOGICAL SERVICES

"(jj)(1) The term 'rehabilitative psychological services' means the services described in paragraph (2) furnished by a psychologist (as defined in regulations by the Secretary) to an individual who is an outpatient of a comprehensive outpatient rehabilitation facility (as defined in section 1861(cc)(2)) under the plan described in section 1861(cc)(1).

"(2) The services described in this paragraph are—

"(A) assessment, diagnosis and treatment of an individual's mental and emotional functioning as it relates to the individual's rehabilitation,

"(B) psychological evaluations of the individual's response to and rate of progress under such plan,

"(C) assessment of those aspects of an individual's family and home situation that affect the individual's rehabilitation treatment, and

"(D) such other services as the Secretary may by regulation provide;

excluding, however, any service if it would not be included under subsection (b) if furnished to an inpatient of a hospital."

(b) Conforming Amendments.—Section 1861 of such Act is further amended—

(1) by redesignating subsection (ff), as added by section 4073(c) of the Omnibus Budget Reconciliation Act of 1987, as subsection (gg);

(2) in subsection (s)(2)(H)(ii), as amended by section 4074(a)(1) of the Omnibus Budget Reconciliation Act of 1987, by striking "subsection (ff)" and inserting "subsection (hh)";

(3) by redesignating subsection (ff), as added by section 4074(b) of the Omnibus Budget Reconciliation Act of 1987, as subsection (hh); and

(4) by redesignating subsection (gg), as added by section 4077(b)(5) of the Omnibus Budget Reconciliation Act of 1987, as subsection (ii).

(c) Effective Date.—(1) The amendments made by subsection (a) shall apply with respect to services performed on or after the first day of the first month which begins more than sixty days after the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall become effective on the date of enactment of this Act.

SEC. 2. ELIMINATION OF FEDERAL PHYSICIAN CARE REQUIREMENT IN COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES.

(a) In General.—Section 1861(cc)(2)(E) of the Social Security Act (42 U.S.C. 1395x(cc)(2)(E)) is amended to read as follows:

"(E) has a requirement that a patient be under the care of a physician to the extent required by State law,".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.●

By Mr. NICKLES (for himself, Mr. Boren, Mr. Ford, Mr. Wirth, and Mr. Armstrong):

S. 2194. A bill to amend section 307 of the Federal Employees Retirement System Act of 1986; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEES RETIREMENT SYSTEM ACT AMENDMENTS

● Mr. NICKLES. Mr. President, today I am joined by my colleagues, Mr. Boren, Mr. Ford, Mr. Armstrong, and Mr. Wirth in introducing legislation to amend the "Federal Employees Retirement System Act of 1986." I developed an interest in this matter because of inequities discovered during a recent A-76 cost comparison study at Fort Sill in Oklahoma. This legislation will allow Government workers and private contractors to compare "apples-to-apples" when competing for Government contracts.

The General Accounting Office says "enactment of this legislation will, in our view, eliminate the disparate treatment of retirement costs * * *." This legislation is supported by the Federal employees groups and the Office of Management and Budget. Everyone will benefit from more accurate cost comparisons.

During the review of the Fort Sill contract, the GAO identified the understatement of retirement costs as one of three inequities which skewed the bids. While the passage of legislation such as this will not overturn any previous decision on contracting-out, it will rectify the retirement cost inequity in future A-76 studies.

The retirement provision of the FERS Act has made thorough and accurate cost comparisons under Circular A-76 needlessly difficult. The Government is required to contribute to each of the three parts of the Federal employee retirement system—that is, the retirement fund, the thrift plan, and Social Security. Section 307 of the act, however, allows only the use of retirement fund costs, and explicitly prohibits the inclusion of thrift plan and Social Security costs, in making cost comparisons under Circular No. A-76.

This limitation makes analytical studies and accurate cost comparisons more complex and difficult and causes confusion for both the Government and the private sector. Because contractors must contribute to Social Security for all employees and the Government contributes to Social Security only for those employees covered by the new retirement system, Circular No. A-76 cost comparisons under the act are misleading and incorrect.

Our legislation will allow all retirement costs to be included when conducting studies and cost comparisons under Circular No. A-76. The cost of Social Security will be based on the old age survivor and disability insurance tax rate then in effect. The cost of the thrift savings plan will be based on the actual participation rate of the activity under study. This change will ensure consistency of comparison and make the process more equitable resulting in greater efficiencies and economies for the Government.

My cosponsors and I would appreciate your support of this legislation and will welcome your cosponsorship.●

● Mr. BOREN. Mr. President, I am pleased to join my colleagues from Oklahoma in cosponsoring this legislation to amend the FERS Act to correct an inequity to the Federal employees in the contracting out process under circular No. A-76. This problem surfaced during an inquiry by the Oklahoma delegation into a particular contract announcement at Fort Sill in Oklahoma.

Public Law 99-335, the Federal Employees Retirement System Act of 1986, prohibits the inclusion of contributions to Social Security/thrift savings plans by the Federal employees in commercial activity cost comparisons. As a result, regulations also prohibit the inclusion of these contributions by the contractor. The inequity to the Federal employees stems from the fact that the contractor pays Social Security contributions for all its employees and the Government pays only for those under the new FERS plan.

The Office of Management and Budget has recognized this problem and has notified Congress that amending legislation should be enacted.

Mr. President, contracting out of Government services if it proves to be less costly has been a policy of the U.S. Government for 30 years. There has been a substantial increase in the process recently including a new Executive order from the President in November 1987, which dictates "annual studies of not less than 3 percent of the department or agency's total civilian population, until all identified potential commercial activities have been studies."

It is the responsibility of the Congress to make certain that contracting out actually saves the taxpayers money. I have concerns about real savings for many reasons, some of which are: Increased early retirements; separation pay; retained pay which occurs when an employee at a higher grade "bumps" someone from a lower grade but retains the higher salary; the increased funding impact on the installation necessary for the transition; outdated Department of Labor wage scales which cause a renegotiation at the end of the first contract year to cover those increased costs. I urge the appropriate congressional committees to exercise their jurisdiction to conduct a comprehensive review of contracting out activities.

In the interim, I hope that the Senate will quickly enact this bill that corrects this recognized inequity concerning the inclusion of Social Security contributions in the contracting out process.●

By Mr. HARKIN (for himself, Mr. ROCKEFELLER, and Mr. PRESSLER):

S. 2195. A bill to authorize the Rail Service Assistance Program under the Department of Transportation Act through fiscal year 1991; to the Committee on Commerce, Science, and Transportation.

REAUTHORIZATION OF RAIL SERVICE ASSISTANCE PROGRAM

● Mr. HARKIN. Mr. President, on behalf of myself, Senator ROCKEFELLER and Senator PRESSLER, I am introducing a bill to reauthorize the Local Rail Service Assistance Act which expires on September 30.

The Local Rail Service Assistance Program has played a very important role in the rehabilitation of many of our Nation's branchlines since its creation in 1973.

Without railroad branchlines, farmers would have to move their grain by truck which is more costly. In Iowa, the grain and feed association estimates that it costs farmers 3 to 12 cents per bushel more when grain is shipped by truck instead of by rail. Small coal companies and many small manufacturers face the same problem. For many of them, the loss of rail service can mean the loss of their ability to operate economically.

In addition to the higher costs to business, Government also pays higher costs to greater truck use of the highway system. For every 100 railroad cars filled with corn that we take out of commission, our deteriorating roads will have to endure 387 more trucks.

Some say that railroads are not a Federal responsibility. They say that if a railline is not profitable it will be abandoned and if it is profitable, it will be maintained. That simply is not true. The real world is more complex. A railroad may make money on a line. But, it may not be making as much of a profit as it could make elsewhere. Or, a railroad may be in such poor financial shape that it cannot maintain its lines, allowing them to fall into disrepair and become more costly to use. Or, poor railroad management can leave shippers without cars, forcing them to use trucks which means there is less revenue earned on the branchline.

Economic systems are not perfect. The value of a branchline to local shippers may be so great that the shippers themselves may want to purchase the line if a railroad chooses to abandon it. But the shippers may not have the resources to put the deal together. The value of a line to grain elevators and farmers may be far more than the salvage value of the track and the land. But it is often difficult to get enough people together who recognize their long-term interest who can afford to buy the line.

In addition to the interests of the parties directly involved, it is important to remember that the overall efficiency of our transportation system has a direct effect on our national competitiveness. The more it costs us to move our goods, the less competitive we are.

America's strong transportation system has been one of its greatest strengths. But, today, we see evidence all around us of highways and railroads that are poorly maintained or simply inadequate to meet the needs of commerce.

I believe that one of the most important steps our Nation has taken to stimulate the economy has been the establishment of first class transportation systems. The Federal Government provided the incentives, mainly through grants of land, for the building of our major railroads in the last century. In this century, we invested in the Interstate Highway System. Both investments have had a tremendous positive impact on our Nation's productivity.

But, in the last few decades, our railroads have been deteriorating. We have borne this cost as a nation. Some of the wealth generated by those land grants have been siphoned off.

We can talk about who is at fault for this development. But that will not be productive. The fact is, we do not have the Federal resources to create a massive program to restore all of the lines that should be saved. And this bill we are introducing today does not contemplate such an effort. But, I do believe that we can provide for a modest sum to be used to help preserve useful branchlines with significant traffic loads that would not remain viable without assistance. We can provide enough funds to help avoid the worst tragedies in this area.

The bill which we are introducing provides a modest $35 million per year for the Local Rail Assistance Program over each of the coming 3 years. I am told that the American Association of State Highway and Transportation officials have identified a need for $1.2 billion in 46 States. And recent events in the rail industry are likely to considereably increase that need. The funds being authorized by this legislation will find many worthy projects. With proper administration, these funds can be used to make the difference on a number of very significant lines where the loss of service would be most damaging.

This program is designed to give maximum flexibility to the States in the selection of the lines to be benefited and the structure of the assistance to be provided. Normally, the State applies to the Federal Railroad Administration with its most viable proposals and the FRA allocates the available funds to be administered by the State authorities.

However, in some cases, grants are provided. In others, low interest loans are used. In my home State of Iowa, our State rail division has developed a program which provides for a considerable leveraging of the Federal funds with the State matching the Federal contribution and often acquiring a 60 percent match of the Government funds from the railroad or the shippers. In some cases, that is not feasible. When loans are issued, the repaid funds go back to the States to be used for new railroad assistance.

This is a program that really works. Lines are saved and our entire economy benefits. It deserves to be continued.●

● Mr. PRESSLER. Mr. President, I am pleased to join with the Senator from Iowa in sponsoring legislation to continue the Local Rail Service Assistance [LRSA] Program through fiscal year 1991.

I have long been a strong supporter of the LRSA Program. In September of 1985, I offered a successful amendment during debate on the Commerce Committee's budget reconciliation provisions which reinstated this program for 3 years. The time has now come to reauthorize the LRSA Program.

LRSA is a Federal-State matching grant program to help the States pay for purchasing and rehabilitation of low-volume railroad lines, which might otherwise be adandoned. This program continues to be extremely important to the very existance of rail service in large portions of many States, particularly rural State such as South Dakota. This rail service, in turn, is essential to the agricultural economy of these area. This is not the time, when the agricultural economy is only beginning to show signs of stability, to abandon local rail service assistance. The need for this program is just as strong now as it ever has been.

This is a relatively low-cost, high-impact program which has been of benefit to nearly every State in the Nation. I strongly urge the passage of this important legislation.●

By Mr. WALLOP:

S. 2196. A bill to amend the Fair Labor Standards Act of 1938 to permit an employee to take compensatory time off in lieu of compensation for overtime hours, and for other purposes; referred to the Committee on Labor and Human Resources.

LEGISLATION TO AMEND THE FAIR LABOR STANDARDS ACT

● Mr. WALLOP. Mr. President, the bill I am introducing today is similar to legislation I had proposed in the 99th Congress regarding the treatment of overtime under the Fair Labor Standards Act. My bill would allow voluntary agreements between employers and employees to substitute compensatory time for overtime pay whenever the employee works more than 40 hours a week. This was a proposal suggested by one of my constituents. However, it is also a sensible solution to the problem local governments faced when they were prohibited by a court decision from utilizing the compensatory time approach to overtime. I look forward to further discussing this issue when the Senate considers legislation amending the Fair Labor Standards Act.

I would ask that the bill be printed in the Record following my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2196

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new subsection: "(o) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of the maximum workweek applicable to such employment under subsection (a) if, pursuant to a contract made between the employer and the employee individually or an agreement made as a result of collective bargaining by representatives of employees entered into prior to the performance of the work, the employer at a written request of the employee grants the employee compensatory time off with pay in a subsequent workweek in lieu of payment of the number or hours worked in such current workweek in excess of the maximum workweek applicable to such employee under subsection (a). For purposes of determining the maximum workweek applicable to such employee under subsection (a), and the rate of pay due to the employee, compensatory time used by the employee shall be considered hours actually worked during the subsequent workweek in which actually used.".●

By Mr. WALLOP:

S. 2197. A bill to prohibit age discrimination in apprenticeship programs; referred to the Committee on Labor and Human Resources.

AGE DISCRIMINATION IN APPRENTICESHIP PROGRAMS ACT

● Mr. WALLOP. Mr. President, I have a second bill related to labor law reform which I had introduced in the 99th Congress. This bill was also suggested by a constituent. A young worker in Wyoming had sought to enter an apprenticeship training program to improve his labor market skills. However, he was refused entry because he was several months over the age limit for the program. This is a ridiculous policy. The modern work force must be able to up-grade job skills in order to compete in the high tech world marketplace. Limiting access to training should be prohibited. The bill I am introducing basically removes the age restraint for apprenticeship programs.

I would ask that the bill be printed in the Record at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Age Discrimination in Apprenticeship Programs Act".

Sec. 2. The first section of the Act of August 16, 1937 (29 U.S.C. 50), popularly known as the National Apprenticeship Act, is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection: "(b)(1) In promoting labor standards for the welfare of apprentices under subsection (a) of this section the Secretary shall assure that no program of apprenticeship discriminates against any individual because of his age in admission to, or employment in, any such program of apprenticeship. "(2) For the purpose of this subsection, the prohibition contained in paragraph (1) of this subsection shall be limited to individuals who are at least eighteen years of age but less than forty-five years of age.".●

By Mr. HATFIELD:

S. 2198. A bill to limit the introduction of U.S. Armed Forces into or over Honduras or Nicaragua; referred to the Committee on Foreign Relations.

NONINTERVENTION ACT

Mr. HATFIELD. Mr. President, we have talked a lot on this floor since the Central American Peace Accords were signed last August. We were supposed to be "giving peace a chance." I think there are few of us here who are convinced that Nicaragua is committed to giving peace a chance. In fact, I am sure that there are those in Nicaragua who are actively working against it. And this recent incursion by Nicaraguan troops into Honduran territory—coming at the very moment that military aid to the Contras looked dead—underscores that unfortunate reality.

But giving peace a chance is more than matching stupidity with more stupidity. The high ground here is not found in matching force with force, but rather in working with the other countries of the region to denounce the incursion. Everyone in this Chamber knows what the Central American Peace Accords are all about—regional dialogue, regional negotiation, regional cooperation. Obviously, yesterday's action by the United States has nothing to do with any of that.

Even though the spirit of the Central American Peace Accords have been broken by Nicaragua, the other nations of Central America ought to have something to say about what should be done. But it is abundantly clear that we aren't interested in their views. Instead of working with our allies, we have placed ourselves in the spotlight, pulling the Peace Accords further apart and sinking to the level of those in Nicaragua who have no interest in peace.

"We have a problem in making our power credible," a President of this country said almost 30 years ago, "and Vietnam is the place to do it." There were 3,200 U.S. troops in Southeast Asia that year.

Less than 5 years after that, there were more than 300,000 U.S. troops fighting in Vietnam. And only 3 years after that 540,000 U.S. troops were in those distant jungles. Hundreds of thousands of U.S. troops and more than 55,000 American deaths later, our power was less credible than it had been before it all began. I do not make the reference to Vietnam lightly, Mr. President, but the desire to prove ourselves that propelled us into the jungles of Southeast Asia is clearly a part of administration policy in Central America today.

I rise today to introduce legislation to apply some brakes to this compulsive attempt to prove ourselves. The purpose of the legislation is simple: to insure that this temporary "show of solidarity" does not get out of control.

Let me read the main clause: "None of the funds available to any department or agency * * * may be obligated or expended for the purpose of introducing U.S. Armed Forces into or over the territory or waters of Honduras or Nicaragua for combat." But the word "unless" follows that clause—unless there is a clear and present danger to U.S. citizens or territory, unless Congress has declared war, or unless Congress authorizes the deployment.

There is a lot of speculation going on in this city, Mr. President, about administration intentions and about the potential for escalation. But we in the Congress have a responsibility to set some parameters for the decisions made in the White House tomorrow and next week and next month. And we have a responsibility to set those parameters now, not after the first American bodies come home in those flag-draped coffins we remember all too well.

But actual combat is not all we have to be concerned about, Mr. President. This legislation goes a step further than prohibiting a potential unauthorized escalation of U.S. troops in Honduras or Nicaragua for the purpose of combat—it permits U.S. military exercises in Honduras only if Congress has been notified a month in advance and it prohibits the increase of our permanent military presence in that country.

Mr. President, we must set the parameters—and this legislation will do that.

How vividly I recall, as I know many Americans do, the words of President Lyndon Johnson: "They call upon us to supply American boys to do the job that Asian boys should do." When he said those words during the Presidential campaign of 1964, he told us he rejected that notion. But when he assumed the Presidency, he began pursuing the opposite course of action.

Mr. President, it is critically important that we remember those words and the context in which they were uttered because the architects of our current policies in Central America certainly remember them. In fact, they have discovered a dangerous new application for the visceral response those words evoke in 1988. Because Mr. President, you can be sure the administration has read the polls. Those polls show two things clearly—first, that the American people overwhelmingly oppose the establishment of a Communist beachhead in Central America as do we all, and second, that the American people overwhelmingly oppose the introduction of American combat troops into Central America. Now that clearly poses a problem for the administration.

So the essence of the message the administration is trying to convey to the American people is this: "We are going to get the job done one way or another in Nicaragua."

So you have a choice, America—you can give these Nicaraguan Contra boys the resources they need to do the job for us, or American boys will have to do it for them." That's the message this "emergency deployment readiness exercise" was designed to send to the Congress and to the American people.

We all know, Mr. President, that this exercise could have been held at any time if it were just another exercise. But it is not just another exercise—it is a carefully crafted stage prop in the hands of an administration that has demonstrated unparalleled skill in the manipulation of the media. The picture on television screens all over America is of soldiers disembarking from aircraft and mobilizing in the field while the Pentagon issues lame assurances that the soldiers will not engage in combat—will not be exposed to hostilities—will not become embroiled in another Vietnam. This administration knows full well that the picture is a frightening one and it is intended to be just that.

So the legislation I am introducing today says simply this: the Congress can argue over Contra aid for the next 10 years—that's fine. We can vote it up and we can vote it down—but under the terms of this legislation we will not allow and will not tolerate sending American military personnel into combat in Central America. It is not an option. It is not an alternative. It is not a choice. We will not permit our young people to be used as pawns in this political game. And we will not push them down the slippery slope of intervention as we pushed their fathers and brothers down that slope into Vietnam.

In short, I am saying no to this insidious suggestion that if you don't support Contra aid you are going to get something worse. This is one Senator who refuses to play that game, and I invite every Senator who shares that conviction to sponsor the Nonintervention Act of 1988 with me.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nonintervention Act of 1988"

SEC. 2. LIMITATIONS ON THE INTRODUCTION OF UNITED STATES ARMED FORCES FOR COMBAT.

(a) None of the funds available to any department or agency may be obligated or expended forthe purpose of introducing United States Armed Forces into or over the territory or waters of Honduras or Nicaragua for combat unless—

(1) the Congress has declared war or enacted specific authorization for such introduction; or

(2) such introduction is necessary—

(A) to meet a clear and present danger of hostile attack upon the United States, its territories or possessions; or

(B) to meet a clear and present danger to, and to provide necessary protection for the United States Embassy; or

(C) to meet a clear and present danger to, and to provide necessary protection for and to evacuate, United States citizens.

SEC. 3. NOTIFICATION REQUIREMENT FOR THE INVOLVEMENT OF UNITED STATES ARMED FORCES IN MILITARY EXERCISES IN HONDURAS.

None of the funds available to any department or agency may be obligated or expended for the purpose of the involvement of United States Armed Forces in a military exercise in Honduras unless Congress has been notified in writing at least 30 days in advance of such an exercise.

SEC. 4. LIMITATION ON THE PRESENCE OF UNITED STATES ARMED FORCES IN HONDURAS FOR PURPOSES OTHER THAN COMBAT.

None of the funds available to any department or agency may be obligated or expended for the purpose of introducing United States Armed Forces for purposes other than military exercises in a number which would exceed the total number of United States Armed Forces in Honduras as of March 15, 1988, unless one or more of the conditions listed in section 2(a)(1) or 2(a)(2) have been met.

SEC. 5. DEFINITION.

For purposes of this Act:

(1) The term "combat" means delivering weapons fire upon an enemy.

SEC. 6. SPECIAL PROCEDURES FOR CONSIDERING LEGISLATION AUTHORIZING THE INTRODUCTION OF UNITED STATES ARMED FORCES FOR COMBAT.

(a) Any joint resolution or bill introduced pursuant to section 2(a)(1) shall become the pending business of the House in which it was introduced within 3 calendar days thereafter, unless such House shall otherwise determine by the yeas and nays.

(b) Such a joint resolution or bill passed by one House shall become the pending business of the other House and shall be voted on within three calendar days after it has been received, unless such House shall otherwise determine by yeas and nays.

(c) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the Committee of Conference shall make and file a report with respect to such resolution or bill not later than 2 calendar days after the appointment of the Committee of Conference. In the event the Conferees are unable to agree within 48 hours, they shall report back to the respective Houses in disagreement. Notwithstanding any rule in either House concerning the printing of Conference Reports in the Record or concerning any delay in the consideration of such reports, such reports shall be acted on by both Houses not later than 1 calendar day after the Conferees report back to the respective Houses.

SEC. 7.

This legislation is in addition to and should not be construed to suspend or amend the War Powers Resolution (Public Law 93-148).

SEC. 8.

Nothing in this legislation is intended to alter the constitutional authority of the Congress or of the President or the provisions of existing treaties.

By Mr. CHAFEE (for himself, Mr. FOWLER, Mr. BAUCUS, and Mr. GRAHAM):

S. 2199. A bill to amend the Land and Water Conservation Fund Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and outdoor recreational heritage, and for other purposes; to the Committee on Energy and Natural Resources.

AMERICAN HERITAGE TRUST ACT

● Mr. CHAFEE. Mr. President, last June, I introduced the Outdoor America Conservation Fund Act, S. 1338, a bill to implement many of the recommendations that were made by the President's Commission on Americans Outdoors.

As recommended by the President's Commission, the key feature of my bill is the proposal to establish a permanent, dedicated Federal fund that will produce $1 billion each year to help State and local communities purchase open space. The idea is to begin a national campaign to renew and improve the Land and Water Conservation Fund.

A number of my colleagues have expressed a sincere interest in my proposal to preserve open space. The problem is that a significant source of funding under S. 1338 is a real estate transfer tax. Even though the tax would be limited to major real estate transactions, those involving property worth over $5 million, even though the proposal was designed to exempt virtually all homeowners and small businesses, that portion of the bill made many people nervous.

To overcome this problem, I have been working with many outside groups to develop a second option to finance the new fund. I am pleased to report that, after several false starts, we have come up with an approach that works and should be acceptable to many of us in this body.

Today, I am introducing a bill to establish the American Heritage Trust. This bill is a companion to a measure that was introduced in the House of Representatives last week by my good friend and chairman of the House Interior Committee, Congressman Mo UDALL. His bill has been assigned the number H.R. 4127.

I have a summary of the bill and ask unanimous consent that it and the bill itself be printed in the RECORD at the conclusion of my statement.

In short, this bill will convert the current Land and Water Conservation Fund into a real trust fund. We do that by taking the current unappropriated balance of the fund, estimated to be $6 billion, together with the existing flow of revenues $900 million each year from, primarily, revenues generated by offshore oil and gas leases—and invest this money in Government securities that generate interest each year.

Once funds have been added to the corpus of the trust, they stay there to earn interest. Once the corpus of the trust is large enough to yield $1 billion per year in interest, the flow of revenues into the fund would stop. In the meantime and in perpetuity, the interest from the fund would be automatically appropriated. The bill will do the same for the Historic Preservation Fund. After several years, the funds become self financing and no new Government revenues are needed.

I am excited about this new proposal and hope that it will start the ball rolling at the Federal level. Most of the key elements of my earlier bill are included in this one: First, a focus on open space and recreation, we are concerned about inner city parks as well as beautiful rolling hills and forests; second, a significant role for local governments and land trusts; and third, an assured source of funding.

Some ideas, such as a new National Endowment for the Preservation of Open Space, are not included here. But my first bill is still out there and as time goes on, we will have the chance to combine the best of both proposals.

Mr. President, this is a bold but responsible idea whose time has come. People care about preserving open space. They care deeply. If you need proof, look at the results of last fall's elections.

For example, last November, every one of Rhode Island's 39 cities and towns approved a $65-million bond issue for the preservation of open space. The proposal received a statewide approval rate of almost 80 percent, an almost 4-to-1 margin.

And that's not all. At the local level, voters in all 34 communities that had local referenda to raise matching funds said "yes" by equally large margins. All together, the voters of Rhode Island approved $126 million for open space, a $65-million State fund and an additional $61 million for local funds.

Just imagine how much more we could do if State and local governments knew they could rely on a substantial level of matching Federal grants to buy land, to develop recreation facilities, or to preserve historic buildings. That is what this bill is about.

Mr. President, the time has come to spark what Gov. Lamar Alexander of Tennessee, chairman of the President's Commission on Americans Outdoors, called a prairie fire of local creativity and activism to conserve the open space they care about and to develop the facilities they need. In an attempt to ignite that prairie fire, I am proud to offer this legislation and I urge all of my collegaues to join this important movement as cosponsors of this bill.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 2199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Heritage Trust Act of 1988".

SEC. 2. FINDINGS, PURPOSE, AND POLICY.

(a) FINDINGS.—The Congress finds that:

(1) The United States is a world leader in the protection of natural, historic, cultural, and outdoor recreational heritage and needs

to continue to set an example of progressive stewardship of these resources.

(2) The natural, historic, cultural, and outdoor recreational resources of the United States represent the great and diverse character of the Nation, and these resources must be guarded, preserved, and wisely managed so they may be passed on to future generations.

(3) The continuing growth of population, especially in suburban and new urban areas, and advances in technology frequently combine to undermine the quantity and quality of natural, cultural, and historic resources. These areas are in need of open space acquisition to enhance the quality of life.

(4) The United States needs to demonstrate by its own policies and actions the pressing need to assure the global sustainability of species diversity and healthful functioning of natural systems which support all life on the planet.

(5) As we liquidate our nonrenewable resource capital assets, we should commit the proceeds to investment in other enduring capital assets to sustain the quality of life and economic opportunity for future generations.

(6) There is great need and opportunity for all levels of government and the private sector to rededicate themselves to the preservation of our resources heritage, in order to provide heightened long term economic viability and to enhance the quality of life for all our Nation's citizens of present and future generations.

(b) Purpose.—It is the purpose of this Act to strengthen existing mechanisms for, and provide a renewed dedication to, ensuring significantly enhanced protection and public enjoyment of our Nation's heritage, in perpetuity.

(c) Policy.—It is hereby declared to be the policy of the United States to be a world exemplar of national heritage stewardship. To advance the achievement of such objective, the President shall submit to the Congress on October 1 of 1989, 1993, and 1997, a comprehensive program to be pursued in support of this policy.

TITLE I—AMERICAN HERITAGE TRUST

SEC. 101. CREATION OF TRUST.

There is hereby established the American Heritage Trust, to be comprised of the Land and Water Conservation Fund and the Historic Preservation Fund. The trust shall constitute a principal mechanism for funding the safeguarding of important elements of America's natural, historical, cultural, and outdoor recreational heritage, and providing for its use and enjoyment by the public.

TITLE II—LAND AND WATER CONSERVATION FUND

SEC. 201. AMENDMENT OF ACT.

The Land and Water Conservation Fund Act (16 U.S.C. 4601-44 and following) is amended as provided in this title.

SEC. 202. FUND INCOME.

Section 2 is amended by striking out the proviso at the end of subsection (c)(2) and by adding the following new subsection at the end thereof:

"(d) Termination of Transfers to Fund.—When the balance of the fund reaches 4 times the balance existing in the fund as of the date of enactment of the American Heritage Trust Act of 1988, no additional amount shall be covered into the fund annually under subsection (a), (b), or (c) of this section except to the extent determined by the Secretary of the Treasury to be necessary to offset the fund's annual loss in value due to inflation.".

SEC. 203. INTEREST.

Section 2 is amended by adding the following new subsection at the end thereof:

"(e) Interest.—Effective on the date of enactment of the American Heritage Trust Act of 1988, it shall be the duty of the Secretary of the Treasury to invest such portion of the fund as is not required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of such fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to, and form a part of, such fund.".

SEC. 204. EXPENDITURES FROM FUND.

Section 3 is amended to read as follows:

"SEC. 3. APPROPRIATIONS.

"(a) Fund Receipts and Interest.—(1) Amounts covered into the fund as provided in subsections (a), (b), and (c) of section 2 in any fiscal year are authorized to be appropriated in the following fiscal year to carry out the purposes of this Act.

"(2) In addition to the amounts made available under paragraph (1), interest accruing to the fund as provided in section 2(e) in any fiscal year shall be available for obligation for expenditure in the following fiscal year, without further appropriation, to carry out the purposes of this Act. From amounts available under this paragraph not more than the following sums may be obligated in fiscal years 1989 and thereafter:

Obligation Limitation	Fiscal Year
$500,000,000	1989
$600,000,000	1990
$700,000,000	1991
$800,000,000	1992
$900,000,000	1993
$1,000,000,000	After 1993

"(b) Permanent Fund.—Amounts credited to the fund in fiscal years beginning before the enactment of the American Heritage Trust Act of 1988 but not expended before the end of the first fiscal year beginning after the enactment of that Act shall remain permanently in the fund and may not be obligated or expended for any purpose. If any portion of the total amount annually covered into the fund in any fiscal year beginning after the enactment of such Act under subsection (a), (b), or (c) of section 2 or from any other source is not appropriated in the following fiscal year (in the case of amounts referred to in subsection (a)(1)) or obligated in such following fiscal year (in the case of funds made available under subsection (a)(2)), that portion shall also remain permanently in the fund and may not be obligated or expended for any purpose.".

SEC. 206. ALLOCATION OF FUNDS.

The second sentence of section 5 is amended to read as follows: "Amounts available for obligation or expenditure from the fund in any fiscal year pursuant to paragraph (1) and (2) of section 3(a) shall be allocated in that year as follows: at least 30 percent for Federal purposes, at least 30 percent for State purposes (other than State trusts under section 207(j)), at least 10 percent for Urban Park and Recreation Recovery Act purposes (title X of Public Law 95-625), and, during the 10-fiscal year period beginning October 1, 1990, at least 10 percent for State trusts under section 207(j). The remainder shall be allocated for any of such purposes or any combination thereof.".

SEC. 207. FINANCIAL ASSISTANCE TO STATES.

(a) Pass Through to Local Entities.—In section 6(a), at the end of the first sentence, add the following: "Absent some compelling and annually documented reason to the contrary acceptable to the Secretary, each State (other than an area treated as a State under section 6(b)(5)) shall transfer directly to local governments and other qualifying recipients, not less than 50 percent of the annual State apportionment, or an equivalent amount made available from other sources.".

(b) Maximum Potential Apportionment and Project Lists.—Section 6(b) is amended by adding the following new paragraphs at the end thereof:

"(6) Annually on April 1, the Secretary shall notify each State of a potential apportionment (calculated as the average of the last 3 years of apportionments) it could receive for the fiscal year beginning on October 1 of the following year. In order to receive any apportionment for the fiscal year concerned, the Governor of each State must submit to the Secretary a statewide listing of potential projects likely to be funded based on no less than 150 percent of such potential apportionment. The statewide listing shall be submitted not later than January 1 following the April 1 date of such notification by the Secretary. Such listing shall not indicate priorities. It shall be comprised of specific named projects, by county of location, with associated estimated dollar totals by county. The development of such county lists must incorporate ample opportunity for public participation in accordance with the provisions of subsection (d). The Governor of each State shall simultaneously transmit by no later than January 1 such annual listing for that State to each member of that State's congressional delegation, and the Secretary shall in turn transmit by no later than February 1 a compilation of such annual lists for all States to the authorizing and appropriation committees of the United States House of Representatives and the United States Senate which have jurisdiction over the fund.

"(7) Contributions by private or nonprofit organizations or sources.—5 percent of the funds apportioned to each State for each fiscal year shall be used only for purposes of projects in which not less than 10 percent of the State or local share of the project cost is provided by private or nonprofit organizations or sources. Any portion of such 5 percent not paid or obligated in such fiscal year shall be reapportioned in the same manner as provided in paragraph (4) of this subsection.".

(c) Matching Requirements.—In the first sentence of section 6(c), change the period to a comma and add the following: "except as otherwise provided in this subsection and subsection (h). Payments to States may cover not more than 75 percent of the cost of acquisition of lands, waters, and interests therein which (1) are within the boundaries of units of the Wild and Scenic Rivers System or, (2) are within designated corridors of scenic or historic trail components of the National Trails System, or (3) have been designated by the Secretary of the Interior as national historic landmarks or national natural landmarks.".

(d) Resource Inventories.—In section 6(d)(2) before the semicolon insert ", based on the development of detailed, comprehensive, and continually updated resource inventories".

(e) Private Nonprofit Organizations.—Paragraph (2) of section 6(f) is amended by striking out the period at the end thereof and inserting the following: ", including private, nonprofit organizations, and funds may also be transferred from political subdivisions or other appropriate public agencies to private nonprofit organizations, if such private nonprofit organizations (1) meet and comply with such guidelines for the receipt and use of such funds as may be prescribed by the Secretary, including providing full accountability for the use of such funds, and (2) utilize such funds only in association with the acquisition of lands, the development of facilities, or for programs related to planning and coordination functions, all as approved in writing by the funds grantor. No such funds may be used by a private nonprofit organization for administrative expenses. In the case of the utilization of such funds for acquisition, the recipient organization shall itself hold, or shall convey in perpetuity in a timely manner, such interest as it may have to an appropriate recipient, as determined to be appropriate by the funds grantor, for public benefit. It is the intent of Congress that such grants received and utilized by private nonprofit organizations will result in a greater public benefit from such expenditure than would the utilization of those same funds by governmental entities. For purposes of this paragraph, the term 'private nonprofit organization' means an organization qualified for exemption from income taxes under section 501(c)(3) of the Internal Revenue Code of 1986 which includes among its purposes the conservation of open space or the providing of, or enhancement or protection of, outdoor recreation opportunities.".

(f) Additional Provisions.—Section 6 is amended by adding the following new subsections at the end thereof:

"(h) Local Planning Assistance.—Notwithstanding the provisions of subsection (c), any county or other political subdivision of a State which is qualified to be a recipient of funds from this Act for acquisition purposes, may receive for a period terminating 3 years after the enactment of the American Heritage Trust Act of 1988, planning funds to cover not more than 50 percent of the cost of developing a local plan, or revising an existing plan, to retain land for recreation and conservation purposes. Such plan shall be developed or revised by providing ample opportunity for public participation in accordance with the provisions of subsection (d). Following official adoption of such plan and through September 30, 1996, such county or other governmental entity may receive funds to cover not more than 60 percent of the cost of the acquisition of lands, waters or interests therein in accordance with the provisions of such officially adopted plan. The Secretary of the Interior shall promulgate regulations specifying what characteristics shall qualify a plan as eligible for assistance under this subsection.

"(i) Urban Park and Recreation Recovery Program.—Such funds as are indicated in section 5 for allocation to the Urban Park and Recreation Recovery program shall be made available to the Secretary for utilization in accordance with the provisions of the Urban Park and Recreation Recovery Act of 1978 (title X of Public Law 95-625).

"(j) State Trusts.—

"(1) Use of funds.—During the 10-fiscal year period beginning October 1, 1990, amounts made available under section 5 for State trusts shall be used for the sole purpose of incorporation into a State legislatively established trust corpus. Such corpus shall be permanently unavailable to appropriation or expenditure for any purpose and must be prudently invested. The interest derived from such investment may be utilized by the State only for projects similar to those for which Land and Water Conservation Fund moneys are eligible to be used. No part of such interest may be used to satisfy any other matching funds requirement contained in this or any other Act. The Secretary shall promulgate regulations to govern the administration of the provisions of this subsection. Violation by a State recipient of any part of this subsection or of the governing regulations promulgated by the Secretary shall constitute reason for disqualification for any future receipt of matching funds provided pursuant to this subsection.

"(2) Allocation among states.—Amounts made available under section 5 for State trusts shall be allocated among the States in the same ratio as the apportionment of funds under subsection (b) of this section.

"(3) Matching funds requirement.—Amounts made available under section 5 for State trusts shall be available to each State, only to the extent annually matched dollar for dollar with nonfederal funds. Amounts available to the States under section 5 for State trusts which are not so matched in any year shall remain permanently in the fund in accordance with section 3(b).".

SEC. 208. ALLOCATION OF MONEYS FOR FEDERAL PURPOSES.

Section 7 is amended by adding the following new subsections at the end thereof:

"(d) Acquisition Priorities.—The head of each agency having jurisdiction over public lands which are eligible to receive funds from this Act shall develop and transmit to the relevant authorizing and appropriation committees of the United States House of Representatives and the United States Senate by October 1 of each year, a detailed and comprehensive land acquisition priority list, by indicated management units or programs or both. Each agency priority list shall comprise a funding level of not less than 300 percent of the average of the 3 previous years' appropriations for such agency. Priorities shall be based on such factors as important or special attributes of the resource, threat to resource integrity, timely availability, owner hardship, cost escalation, public recreation use values and similar considerations. An explanation of the criteria utilized for the development of such list shall be included.".

SEC. 209. REPEAL OF PUBLICITY AND SIGNING PROVISIONS.

Section 8 is repealed.

TITLE III—HISTORIC PRESERVATION FUND

SEC. 301. AMENDMENT OF NATIONAL HISTORIC PRESERVATION ACT.

The National Historic Preservation Act (16 U.S.C. 4501-4 and following) is amended as provided in this title.

SEC. 302. EXTENSION OF HISTORIC PRESERVATION FUND.

Section 108 is amended by inserting "(a)" after "Sec. 108." and changing "1992" to "2015".

SEC. 303. INCOME AND EXPENDITURES.

Section 108 is amended by striking out the last sentence thereof and by adding the following new subsections:

"(b) When the balance of the fund reaches an amount equal to 5 times the balance existing in the fund as of the enactment of the American Heritage Trust Act of 1988, no additional amount shall be covered into the fund annually under subsection (a) of this section except to the extent determined by the Secretary of the Treasury to be necessary to offset the fund's annual loss in value due to inflation.

"(c) Effective on the enactment of the American Heritage Trust Act of 1988, it shall be the duty of the Secretary of the Treasury to invest such portion of the fund as is not required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of such fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income of such investments shall be credited to, and form a part of, such fund.

"(d)(1) Amounts covered into the fund as provided in subsection (a) in any fiscal year are authorized to be appropriated in the following fiscal year to carry out the purposes of this Act.

"(2) Interest accruing to the fund as provided in subsection (c) in any fiscal year shall be available for obligation or expenditure in the following fiscal year without further appropriation, subject to obligation limitations, to carry out the purposes of this Act.

"(e) Amounts covered into the fund in fiscal years beginning before the enactment of the American Heritage Trust Act of 1988 but not expended before the end of the first fiscal year beginning after such enactment shall remain permanently in the fund and may not be obligated or expended for any purpose. If any portion of the total amount annually covered into the fund under subsection (a) or from any other source in any fiscal year beginning after the enactment of such Act is not appropriated in the following fiscal year (in the case of amounts referred to in subsection (d)(1)) or obligated in such following fiscal year (in the case of amounts referred to in subsection (d)(2)), that portion shall also remain permanently in the fund and may not be obligated or expended for any purpose.".

SEC. 304. ALLOCATION OF GRANTS.

Section 101(d) is amended by adding new paragraphs as follows:

"(4) In addition to any other purposes set forth in this subsection not more than 10 percent of the amounts made available to States under this subsection pursuant to section 108(d)(2) may also be used, to the extent annually matched dollar for dollar, for the sole purpose of incorporation into a State legislatively established trust corpus. Such corpus shall be permanently unavailable to appropriation or expenditure for any purpose and must be prudently invested. The interest derived from such investment may be utilized by the State only for projects similar to those for which Historic Preservation Fund moneys are eligible to be used. No part of any such interest may be used to satisfy any matching requirement under this or any other Act. The Secretary shall promulgate regulations to govern the administration of the provisions of this subsection. Violation by a State recipient of any part of this subsection or of the governing regulations promulgated by the Secretary shall constitute reason for disqualification for any future receipt of matching funds provided pursuant to this subsection. Any portion of the 10 percent made available in any fiscal year for purposes of this paragraph which is not used in that fiscal year for such purposes shall be available in subsequent fiscal years for purposes of assistance to States under this subsection.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 402. SIGNING.

The administrator or owner of any site benefiting from moneys derived from the American Heritage Trust shall install at or near an appropriate entrance or public use focal point, permanent standardized signing indicating that the site's existence or development, or both, is a product of funding derived from the American Heritage Trust. If additional moneys from the trust are thereafter expended on the same site or project, temporary signing shall be added to the permanent signing to indicate the amount and nature of the additional assistance. The Secretary of the Interior shall provide for the design of standardized signs and shall prescribe standards and guidelines for the application of such signing.

SUMMARY OF THE AMERICAN HERITAGE TRUST ACT OF 1988

Purpose—To strengthen the existing Land and Water Conservation Fund and the Historic Preservation Fund to protect and enhance public enjoyment of our Nation's heritage, in perpetuity.

Creation of the American heritage trust—Creates a dedicated trust fund to provide annual appropriations from the Land and Water Conservation Fund and the Historic Preservation Fund. The unappropriated balance of the existing funds are transferred into the new trust and, together with revenues to be received under current authorities, are to be invested by the Secretary of the Treasury in interest bearing government securities.

Receipt of additional revenues under current authorities shall cease when the balance of the Land and Water Conservation Fund reaches four times the balance existing on the date of enactment of this bill and the balance of the Historic Preservation Fund reaches five times the balance existing on the date of enactment of this bill.

Land and water conservation fund amendments—Appropriation of funds: Amounts covered into the fund on an annual basis under existing law are authorized to be appropriated. Such amounts that are not appropriated are added to the corpus of the trust.

In addition, interest accruing to the fund shall be available for obligation or expenditure, without further appropriation, to carry out the purposes of the Act. Increasing obligation limitations are included for fiscal year 1989 and each fiscal year thereafter. If the Congress determines that overriding reasons exist so that the full amount of interest should not be spent in any given year, it may place a different obligation limitation on that year's appropriation. Any difference between the two amounts will remain in the trust as an addition to the corpus of the trust.

Expenditure of funds to acquire national parks, national wildlife refuges, and national forests remain subject to Congressional control.

Allocation of funds: Each year, funds shall be allocated as follows: not less than 30 percent for Federal purposes; not less than 30 percent for State purposes (of which not less than 50 percent shall be transferred directly to local governments and qualifying private nonprofit organizations); not less than 10 percent for Urban Park and Recreation Recovery Act purposes; and not less than 10 percent for State trusts modeled after the American Heritage Trust. The remainder shall be allocated at the discretion of the Congress.●

By Mr. WEICKER (for himself, Mr. INOUYE, Mr. WARNER, and Mr. ROTH):

S.J. Res. 275. Joint resolution to designate August 1-8, 1988, as "National Harness Horse Week"; to the Committee on the Judiciary.

NATIONAL HARNESS HORSE WEEK

● Mr. WEICKER. Mr. President, I rise today to introduce a joint resolution which will designate the week beginning August 1, 1988 as "National Harness Horse Week."

The harness horse, or Standardbred, is indigenous to America. The breed name dates back 108 years but trotters and pacers—which comprise the breed—are older than the country itself. Before the revolution, George Washington raced pacers at Accotink near his home in Mount Vernon.

Other prominent people have been associated with the horse. President Grant often "held the watch" on trotters who were going for new records and even drove the world champion trotter, Dexter, in Buffalo and New York City's Central Park. John D. Rockefeller, William H. Vanderbilt, and E.H. Harriman owned and drove trotting horses.

The harness horse has long been popular with Americans of all walks of life. Indeed, the sport evolved from spur-of-the-moment matches on dusty country roads. The Nation's first sports heroes were trotters or trotting horsemen, some of whom were featured in the famous lithographs by Currier and Ives. Champion driver Hiram Woodruff, whose likeness appeared in many such 19th century prints, was said to have rivaled President Grant in popularity.

The harness horse is as much a part of America today as of its past. Twenty million fans attended harness racing at events last year. It is a $2 billion business that furnishes $100 million in tax revenue and tens of thousands of jobs to grooms, drivers, trainers, veterinarians, and the like.

Two of the oldest and best known races, the Breeders Crown and the Hambeltonian, held in Saratoga Springs and the Meadowlands respectively, traditionally take place in the first week of August. It is therefore fitting that the Congress of the United States designate this week "National Harness Racing Week."●

By Mr. GRAHAM (for himself, Mr. BOREN, Mr. LUGAR, Mrs. KASSEBAUM, Mr. EVANS, Mr. MCCAIN, Mr. BENTSEN, Mr. NUNN, Mr. CHILES, Mr. MURKOWSKI and Mr. HOLLINGS):

S.J. Res. 276. Joint resolution providing emergency assistance for the Nicaraguan democratic resistance; to the Committee on Foreign Relations.

EMERGENCY ASSISTANCE TO THE NICARAGUAN DEMOCRATIC RESISTANCE

Mr. GRAHAM. Mr. President, I send to the desk a bill and request that it be appropriately referred.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. GRAHAM. Mr. President, this legislation, which is sponsored by a number of colleagues on both sides of the aisle, relates to the extension of United States aid to the democratic resistance in Nicaragua.

While this legislation is cognizant of what is transpiring this week in Nicaragua and Honduras, it was not precipitated specifically by this emergency, but it represents an ongoing process by both Democratic and Republican Members of this body, as well as counterparts in the House of Representatives, in an attempt to arrive at a bipartisan and broadly understood and supported position relative to aid to the democratic resistance in Nicaragua.

Mr. President, this legislation calls for an extension of humanitarian aid March 31 of next year. Three million dollars of the forty-eight million dollars in humanitarian aid can be spent for communications assistance.

It provides authorization for the delivery of currently stockpiled resources, an issue which may be especially critical if the Contras face a loss of their existing supplies; and, finally, it provides for expedited procedures, whereby the President could initiate a request for further assistance as events are deemed appropriate and require it.

Mr. President, what is critical in this area is for the United States to determine what its objectives are in Nicaragua, in Central America, and in this hemisphere.

Those objectives I believe are appropriately placed at the top of the priority list because there can be no democracy, there can be no economic growth unless there is peace.

It is the position of those of us who are sponsoring this legislation that having a credible military pressure on the one nondemocratic regime in Central America, the Sandinista regime in Nicaragua, is a crucial element in accomplishing that objective of peace.

So we submit this legislation, Mr. President, in hopes of its early consideration in the context not only of the emergency which exists today but within the framework of longer term opportunities that are available for the United States when peace, democracy, economic growth and resumption of people-to-people cultural relations between those of us who live in this benighted Western Hemisphere, New

World, will have an opportunity to build a future together.

Mr. President, I appreciate this opportunity and I wish to particularly thank my colleague, Senator WALLOP for his courtesies.

Mr. WALLOP. Mr. President, I thank the Senator from Florida. I certainly wish him well with that legislation. There is no question in the mind of the Senator from Wyoming that what is being played out before us is the almost certain death knell of the democratic resistance in Nicaragua, unless this Congress finds itself ready to act in their behalf. It is absurd in the extreme for some in the press and some on the other side of the aisle, such as the Speaker of the House and others who maintain somehow or another that this was a coordinated effort between Ortega and the special prosecutor, that somehow or another they timed the invasion to coincide with the indictments against Colonel North and others.

Today the United States is seen as walking out on a friend. We have an opportunity to change that before that walkout is final. There can be no peace process unless there is a challenge to the Communist government of Nicaragua.

Mr. BOREN. Mr. President, in February of this year, even as cease-fire negotiations were pending with the Contras, the Sandinistas were planning a massive cross-border incursion into Honduras. We have seen in the past week the results of that Sandinista planning, involving massive numbers of troops and a sophisticated supply system. The exact numbers of troops involved cannot be determined with absolute certainty, but it appears at this time, from all of our intelligence sources, that this be the largest incursion ever conducted by the Sandinistas.

The evidence we have of long-term planning of this operation gives the lie to the Sandinista claim that this operation was conducted in "hot pursuit" of Contra forces moving into Honduras. This was no spur of the moment, heat of combat crossing of the Honduran border. This was a carefully calculated, carefully planned military operation which has put a large number of Contras in imminent danger. It is evidence to me that the Sandinistas are not interested in resolving the Nicaraguan conflict by peaceful means, but prefer to deliver a knockout blow against the Contra leadership.

This is also evidence to me that now is the time to show congressional support of the Contras. I believe that this operation was predicated on the assumption that Congress would reject additional assistance to the Contras—which was done earlier this month—and that the operation was not begun until that Sandinista prediction came true.

The latest information I have is that there is diminished fighting inside Honduras and there are indications that there has been some withdrawal of Sandinista troops. Whether this means that the attack is over and that the Sandinistas are really withdrawing all of their forces from Honduras is not clear. It may just be a lull in the fighting while the Sandinistas determine what our response will be. What is clear is that the Contras expended a great amount of their supplies in fighting off this attack and that they are in need of resupply. Our bill is designed to meet these needs and to demonstrate to the Sandinistas that we will not allow them to win through force what they cannot achieve through negotiation. It is evident that the pressure of the Contras is the only reason there has been any movement toward democratization in Nicaragua, and if the Contras are not given the support they need at this time, the promise of peace in Nicaragua will be nothing more than a cruel hoax.

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. MOYNIHAN, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 39, A bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 1817

At the request of Mr. KENNEDY, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1817, A bill to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from United States savings bonds which are transferred to an educational institution as payment for tuition and fees.

S. 2015

At the request of Mr. KENNEDY, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 2015, A bill to amend the Immigration and Nationality Act to extend for 1 year the application period under the legalization program.

S. 2178

At the request of Mr. JOHNSTON, the names of the Senator from Alabama [Mr. HEFLIN], and the Senator from Nebraska [Mr. EXON] were added as a cosponsor of S. 2178, A bill to establish a Commonwealth of Guam, and for other purposes.

SENATE CONCURRENT RESOLUTION 105—PROVIDING FOR A JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

Mr. BYRD (for Mr. FORD) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 105

Resolved by the Senate (the House of Representatives concurring), That a Joint Congressional Committee on Inaugural Ceremonies consisting of three Senators and three Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice-President-elect of the United States on the 20th day of January 1989.

SENATE RESOLUTION 396—RELATING TO UNCONTROLLED FISHING IN THE INTERNATIONAL WATERS OF THE BERING SEA

Mr. DOLE (for Mr. STEVENS, for himself, Mr. HOLLINGS, Mr. BREAUX, Mr. EVANS, and Mr. DOLE) submitted the following resolution; which was placed on the calendar:

S. RES. 396

Whereas, the fishery resources of the Bering Sea constitute one of the largest and most productive mixed stock fishery resources in the world;

Whereas, the international waters of the Bering Sea, known as the "Hole in the Doughnut" or the "Doughnut," are entirely surrounded by the Exclusive Economic Zones of the United States and the Soviet Union;

Whereas, historically, fishing within the "Doughnut" has been limited to the high seas Japanese mothership salmon fleet, which is scheduled to be phased out by 1994;

Whereas, in recent years, there has been a massive increase in the level of fishing activity in the "Doughnut," from a reported level of fifteen thousand metric tons of pollock harvested in 1980 to one million metric tons of pollock harvested in 1986;

Whereas, photographic evidence obtained by the U.S. Coast Guard and American citizens has documented that vessels of foreign nations are using the "Doughnut" area as a staging ground for raids into the U.S. EEZ for the purpose of illegally fishing U.S. stocks;

Whereas, the fishery stocks managed by the United States and the Soviet Union within their respective EEZ's are believed to be interrelated with those in the "Doughnut";

Whereas, continuation of unregulated fishing in and around the "Doughnut" could precipitate a collapse of the Bering Sea fishery stocks, threatening one of the world's largest renewable food resources;

Whereas, nations currently operating high seas fishing fleets have failed both to institute effective enforcement measures to ensure compliance with existing international conservation regimes and to provide accurate data concerning harvest levels, catch composition, and location of fishing effort in the Bering Sea;

Whereas, immediate action to protect Bering Sea fishery resources is needed, and the lack of cooperation and enforcement effort by high seas fishing nations under existing agreements make negotiation of an effective multilateral fishery management regime impossible in the near future; and

Whereas, the United States and the Soviet Union will presently discuss the problem of unregulated fishing in the "Doughnut," and the world's fishing nations have imposed moratoriums in the past to protect harvestable resources until such time as sufficient scientific evidence exists upon which to base a sound management regime: Now, therefore, be it

Resolved, It is the sense of the Senate that—

(1) the Secretary of State should—

(A) immediately initiate negotiations with the Soviet Union for the purpose of concluding a bilateral agreement that—

(i) establishes a moratorium on all fishing in the "Doughnut,"

(ii) calls upon all fishing nations to observe such a moratorium,

(iii) sets forth the measures that will be taken by the United States and the Soviet Union against other nations that do not abide by such a moratorium, and

(iv) ensures such a moratorium will remain in effect until such time as the United States and the Soviet Union have entered into an agreement with a majority of other interested nations for the conservation and management of fishery resources in the "Doughnut";

(B) following the establishment of the moratorium, initiate negotiations for the purpose of concluding a multilateral agreement that—

(i) establishes an international fishery management regime for the "Doughnut";

(ii) provides for the collection and use of sufficiently reliable scientific information on the nature, origin, migratory patterns, life cycle, composition, abundance of fish stocks in the "Doughnut," and any other information which is needed to ensure effective conservation of Bering Sea fishery resources;

(iii) protects the long term viability of the fishery resources of the entire Bering Sea; and

(C) report to the Commtitee on Commerce, Science, and Transportation the results of the interagency task force investigation into enforcement options for fishery management in the Bering Sea; and

(2) both agreements negotiated by the Secretary should include language that clearly recognizes that the agreements were executed solely for the purpose of fishery conservation and in no way impose any unlawful restrictions on the internationally recognized rights and freedoms of vessels transit.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary be authorized to meet during the session of the Senate on March 18, 1988, at 10:30 a.m., to hold a hearing on S. 1482, oversight hearing omnibus court reform proposal.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, March 18, 1988 at 9:30 a.m. in closed/open session to continue to receive testimony on the Intermediate-Range Nuclear Forces [INF] Treaty, including issues related to the negotiating record.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Defense Industry and Technology of the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, March 18, 1988 at 2 p.m. in open session to review management of the Nation's defense technology base.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, March 18, 1988 at 2 p.m. in closed session to receive testimony on the state of U.S. strategic deterrence in review of the fiscal year 1989 defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION AND STABILIZATION OF PRICES AND THE SUBCOMMITTEE ON DOMESTIC AND FOREIGN MARKETING AND PRODUCTION PROMOTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Production and Stabilization of Prices and the Subcommittee on Domestic and Foreign Marketing and Product Promotion of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Friday, March 18, 1988, at 9:30 a.m., to hold a joint hearing on soybeans and the world market.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE AND CIVIL SERVICE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Friday, March 18, 1988, at 2 p.m., in room SD-342 Dirksen Building, to hold a hearing on the Federal Employee Leave Sharing Proposal.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 18, 1988, at 9:30 a.m., to hold a markup on the taxpayer bill of rights, collection of the excise tax on diesel fuel and extension of the IRS Refund Offset Program under which the IRS collects debts owed to Federal agencies.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE BUDGET ACT IMPLICATIONS OF THE PRICE-ANDERSON AMENDMENTS OF 1987

● Mr. CHILES. Mr. President, I rise to congratulate my colleagues on a job well done and to thank them for their efforts and hard work on the budget issues associated with this bill.

I particularly wish to express my thanks to the Senator from Louisiana, Mr. BREAUX. His responsiveness to the concerns raised by the Budget Committee have certainly facilitated this process.

Mr. President, I would also like to recognize the fine work of the managers of this bill—Senators JOHNSTON and McCLURE from the Energy Committee and Senators BURDICK and STAFFORD from the Environment Committee.

When the Budget Committee examined the three versions of Price-Anderson, one issue became clear. In one way or another, versions of these bills provided unlimited liability on the part of the Federal Government. From a budget standpoint, unlimited Federal liability was unacceptable.

Mr. President, I am pleased to note that those problems with unlimited liability have been fixed. Members on both sides of the aisle and from both authorizing committees joined together to ensure a limit on Federal Government liability. Again, my thanks and congratulations to everyone involved in this endeavor.●

PRICE-ANDERSON AMENDMENTS OF 1987

● Mr. DOMENICI. Mr. President, I want to associate myself with the remarks of the distinguished chairman of the Budget Committee. Before this bill came to the floor, there were a host of meetings and negotiations concerning the potential budget impact of this bill. The efforts of the chairman and ranking member of the Senate Energy and Natural Resources Committee and the cooperation of the chairman and ranking member of the Environment Subcommittee on Nuclear Regulation were crucial to addressing the Government's potential financial liability under this legislation. I also want to thank the chairman of the Budget Committee for his efforts to assure that the Federal Government's potential financial liability is limited in this legislation.●

CALIFORNIA STATE WORLD TRADE COMMISSION SUPPORTS SENATE REVISIONS TO FOREIGN CORRUPT PRACTICES ACT

Mr. HEINZ. Mr. President, we are all very much aware of efforts to revise the Foreign Corrupt Practices Act [FCPA]. Indeed, the Senate has passed major changes in both 1981 and 1987 and has reported them on two other occasions in 1983 and 1986. Action on this matter is long overdue.

Now, however, as we continue work on major trade legislation, the issues of the FCPA and improving the trading position of American businesses increasingly focuses on both our internal ability to improve export performance and the various measures already in place to ensure a level playing field for all competitors. The burden of the U.S. trade deficit has enormous negative effects on the American economy, and it is clear we have to do a better job of clearing away the obstacles to export performance improvements, including the ambiguities in the FCPA that discourage our exporters.

Several States have already mobilized to develop "policies and programs to enhance the export competitiveness" of firms located within their State. For example, the California State World Trade Commission [CSWTC], which is composed of advisors and consultants from major experienced exporters, identifies the proposed FCPA revisions as a vehicle to clarify some troublesome confusion, which has retarded the increase in American exports. The Commission recently wrote the Congress regarding proposed improvements in the FCPA included in the omnibus trade bill now in conference, and I think it is a letter Senators should review carefully. For the most part the Commission lines up squarely behind the Senate version of the revisions.

Mr. President, I hope the trade bill conferees will agree to further clarification of the Foreign Corrupt Practices Act along the Senate model in order to further improve our export competitiveness and enhance our economic growth over the long run. Providing the trading world with a clearer American standard would also augment international efforts to control improper business transactions. Mr. President, I ask that the text of the Commission letter be printed in the RECORD.

The letter follows:

CALIFORNIA STATE
WORLD TRADE COMMISSION,
Sacramento, CA, March 10, 1988.

Hon. JOHN DINGELL,
House of Representatives,
Washington, DC.

DEAR CHAIRMAN DINGELL: I am writing to you on an issue of great interest and concern to the international business community. That issue is the pending revision to the Foreign Corrupt Practices Act, which will be taken up by Subconference 7 in the very near future. I am writing on behalf of the California World Trade Commission, the state agency responsible for developing policies and programs that enhance the export competitiveness of California firms. We seek clarification of the Act in order to provide a climate of certainty within which the U.S. business community may compete effectively without violating the basic tenets of the 1977 Act.

In recent visits in Washington with several members of the conference, it became apparent that the House and Senate are still looking for a workable compromise on FCPA. As you make your final decisions, please consider our views on the following provisions.

Overall, the California World Trade Commission hopes the amendments will clarify the responsibility for acts of third parties and the "reason to know" standard; provide a clearer definition of permissive or facilitating payments, based on the purpose rather than the position of its recipient; revise and simplify the FCPA accounting and recordkeeping requirements; provide for uniformity of jurisdiction over enforcement of antibribery provisions; and mandate multilateral negotiations for an international agreement against bribery. In addition to these general concerns, we would like to comment on some specific issues.

1. ACCOUNTING REQUIREMENTS

The Senate version contains some very helpful improvements to this part of the law, including the restriction of criminal liability for violations of the accounting requirements to knowing falsifications or knowing circumventions. Additionally, the Senate version constructively defines the terms "reasonable detail" and "reasonable assurances" and restricts a 1934 Act issuer's responsibility for its subsidiaries' non-compliance with the standards to those instances in which the issuer fails to use good faith efforts to cause such compliance to an extent reasonable under all of the circumstances.

The House version does not contain amendments to the accounting requirements. The Senate changes are viewed by our business community as very helpful and much-needed. We urge, therefore, that the House recede to the Senate on this point.

2. ANTI-BRIBERY PROVISIONS

The House version of the bill expands the scope of anti-bribery provisions to include payments made to assist in the procurement of legislative, judicial, regulatory, or other action in seeking "more favorable treatment" by a foreign government. It is unclear what constitutes "more favorable treatment", especially in light of the lack of a demonstrable need for additional language on this subject. Since the goal of any changes should be to clarify the original Act, we urge that this language be dropped.

The House bill also excludes from the anti-bribery provision payments that are "expressly permitted" under the laws or regulations of the host country. The Senate amendments on this issue would exclude payments which are "lawful" under host country law. The difference is significant; the Senate version would at least afford the U.S. company an opportunity to demonstrate that it had done nothing more than was generally accepted as lawful in a given country. We urge this version be adopted as the more reasonable standard.

3. THIRD PARTY PAYMENTS

Current law prohibits payments made while knowing or having reason to know that the payment would be used for purposes barred under the direct payment provisions. The House amendment would substitute a scienter standard for criminal liability and a "reckless disregard" standard for civil liability. We have no problem with the proposed standard for criminal liability, but we are concerned about the definitional problems inherent in the new civil liability standard. It would be preferable to replace current law with the Senate amendment which covers not only knowing conduct, but also provides a course of conduct standard which has worked well in dealing with domestic bribery cases.

4. VICARIOUS LIABILITY

The Senate addresses this issue by limiting vicarious liability as discussed in paragraph 3 above. If the Senate approach is unacceptable to the House on this point, the "due diligence" defense provisions in the House bill on vicarious liability would appear to offer an improvement over current law. The "due diligence" defense, however, is not flawless. Although the term is not defined, it would appear that the adoption by a company of an internal review program that will elicit affirmative assurances from officers and employees of domestic concerns and their subsidiaries should suffice to establish due diligence. One area that could be troublesome is where such affirmative assurances are solicited from officers and employees of foreign subsidiaries located in countries where the making of such responses might be deemed to be illegal. Another area of concern is the possible definitional conflict between "due diligence" used in an accounting sense and the "due diligence" used here.

These are the issues of greatest concern to the California business community. We appreciate your efforts on this issue and hope that you will consider our views as you make the decisions on this important section of the trade bill.

Sincerely,

JOHN R. LIEBMAN,
Commissioner.●

RECOGNITION OF SULLIVAN AWARD WINNER JIM ABBOTT

● Mr. LEVIN. Mr. President, I am proud to acknowledge that Jim Abbott of Flint, MI, has been named by the Amateur Athletic Union as the 58th winner of the Sullivan Award as the Nation's top amateur athlete. This award is given to the athlete that best represents good character, sportsmanship, and leadership combined with outstanding accomplishments in amateur sports. Jim was chosen for this honor by amateur sports officials, past Sullivan Award winners, and the sports media from an extremely distinguished list of finalists.

Mr. President, the AAU could not have chosen a more deserving recipient for this award. It is appropriate to recognize people like Jim so that they can serve as role models for our Nation's young people and serve as reminders to all Americans of the limitlessness of human potential.

Jim is an exceptional athlete. Last year while pitching for the University of Michigan Baseball Team, he was named third team All-American on the strength of his 11 and 3 record and his 2.08 earned run average. He represented his country proudly, pitching his way to an 8 and 1 record and a 1.70 earned run average with team USA. He became the first American pitcher to defeat the Cuban national team in 25 years and won the silver-medal-clinching game in the Pan American Games, a victory which assured the United States a berth in the 1988 summer Olympics in Seoul.

Jim possesses exceptional character. His determination and courage are an inspiration. Like all athletes, and all people, Jim has been faced with adversity many times and in many ways. Instead of focusing on what his limitations would not let him do, he sought ways to surpass the obstacles and reach higher. His tenacity and drive are poignant reminders of what we can achieve if we work hard and hold onto our dreams.

The fact that Jim won this award becomes more impressive when you examine the accomplishments of the other finalists. David Robinson was college basketball's player of the year and the National Basketball Association's first draft pick. Greg Foster set the world record in the 60-meter indoor hurdles. Gymnast Scott Johnson won eight medals at the Pan American Games, four of them gold. Janet Evans broke the three oldest world records in women's swimming. Kelcie Banks won the only U.S. boxing gold medal in the Pan American Games. Karch Kiraly has led the U.S. Volleyball Team to be the top rated volleyball team in the world. All of the finalists should be recognized for their accomplishments and should share our Nation's admiration and thanks.

But Mr. President, Jim is special. Although he was born with no right hand, to call Jim handicapped would be a mistake. Just call him a winner.●

GLOBAL POSITIONING SYSTEM

● Mr. GRASSLEY. Mr. President, over the course of my career I have spoken of the need to keep the cost of operating the Federal Government under control. Today, as in the past several years, we are faced with tight budget restrictions at all levels of government and in every agency. We must continue to find ways to lower the cost of doing business in the Federal Government.

I am pleased to announce today that the Rockwell-Collins Government Avionics Division in Cedar Rapids, IA, is lowering the unit cost of its Global Positioning System [GPS] Navstar receivers to the Department of Defense. When operational in 1990, this 18 satellite space system will provide 24-hour a day worldwide navigation information to both military and civilian users.

With tight Department of Defense budgets, we must support joint service programs where cost-effectiveness can be realized. It is my understanding that the GPS joint service program now going into low rate production is yielding fully qualified initial production user equipment at 40 to 60 percent below DOD's pre-award. We must continue to encourage this type of activity. The Joint Program Office's recently awarded contracts to two additional companies in order to secure competition for full rate production starting in 1990. As a result, the Department of Defense will procure fully tested and qualified GPS user equipment at competitive costs, while retaining a common integrated logistics support base. The equipment has also been designed to take advantage of evolutionary technology upgrades.

This joint service program is at a key transitional point from development to initial production and field test. GPS user equipment is being built and delivered from Rockwell's highly automated factory in Coralville, IA. All of the services have field integration and test actions underway for this equipment on such platforms as the F-15, F-16, Sh-60 B, and UH-60.

In 1986, I went on record stating that I regard the first DOD management of Global Positioning System [GPS] Joint User Equipment Program as essential. Program fragmentation can only lead to a hodge-podge of dissimilar units with greatly increased O&M life cycle costs. It is essential that we secure the success realized with the current GPS User Equipment Program. We must be careful so that the service-unique requirements not lead to fragmentation of the joint program and result in proliferation of GPS user equipment with the attendant multiplication of support cost. We must also be careful not to succumb to the promise of technology that is years away from being production ready. We would not only jeopardize the joint program and the GPS user equipment funding requirements, but we will also see a delay in the introduction into our armed services of this revolutionary, precise navigation capability.●

CONGRESSIONAL CALL TO CONSCIENCE VIGIL ON BEHALF OF SOVIET JEWRY

● Mr. RIEGLE. Mr. President, I rise today, as a participant in the Congressional Call to Conscience Vigil on behalf of Soviet Jewry. I am pleased that I am able to lend my voice to this important appeal.

Since Chairman Gorbachev has introduced his new policies of glasnost and peristroika a new era of United States-Soviet relations has emerged. A major agreement eliminating an entire class of nuclear weapons has been concluded and awaits Senate ratification; our two leaders have held several face-to-face meetings, with another expected soon; and, United States and Soviet citizens have opportunities as never before to explore each others countries cultures and traditions.

Despite these positive developments we must not ignore the harsh realities of life for those citizens of the Soviet Union, who are denied the freedom to practice their religion, the freedom to express themselves openly, and the right to emigrate. These Soviet citizens are unaffected by Gorbachev's "new" policies. In fact, for those seeking to emigrate, glasnost has erected new barriers to freedom, rather than removing old ones.

Although Chairman Gorbachev's policies of glasnost and peristroika have brought some changes to Soviet society, such as the recent release of some 300 prisoners of conscience, including some well-known refuseniks, for many Soviet citizens, human rights remains little more than a dream.

And, although the 8,155 individuals permitted to emigrate in 1987 was nine times greater than the previous year, these figures do not nearly approach those levels of the 1970's, when the Soviets doubled and even quadrupled this annual level. In 1979 alone, 51,320 Soviet Jews were permitted to emigrate.

Current Soviet policies make it increasingly difficult for people to emigrate. Applicants are now required to have a first-degree relative—a parent, child, or sibling—in the country to which they wish to emigrate. Applicants face obstacles if they ever had access to state secrets through their work or if they served in the army and were exposed to classified information. The Soviet Government has also denied visas to emigrants who are accused of owing money to Soviet relatives.

One of these individuals, and the one I am personally sponsoring during this vigil is Yulian Khasin. In 1980, when Mr. Khasin first applied for emigration, he was the head of his computer programming department. Since that time he has been demoted to the position of a regular engineer, although he holds the Soviet equivalent of a Ph.D. in computer science. In the ensuing years Mr. Khasin has been repeatedly denied a visa to emigrate, most recently in September of last year.

Yulina Khasin is a devout man. He has studied Judaism under Ilya Essas, a recent emigre. He is also a teacher of Jewish culture and fluent in Hebrew. And for this, he has been persecuted. In November 1986, under threats of arrest, Mr. Khasin was cruelly forced to testify against the religious community which he serves.

Yulina Khasin is not alone in his attempts to leave the Soviet Union in order to freely practice his religious beliefs. In addition, to his own suffering, Mr. Khasin's wife, Victoria Gorelikova, his children, Irina and Alexander and his mother-in-law, Dina Gorelikova, have also been denied the right to emigrate.

I take this opportunity to call upon the Soviet Union to comply with its obligations under the Helsinki accords and allow individuals such as Mr. Yulian Khasin and his family the right to emigrate, and to ensure that those who do remain in the Soviet Union are not subjected to political and economic repression because of their efforts to emigrate.●

NICARAGUA

● Mr. McCONNELL. Mr. President, after several years of opposing aid to the Contras, on March 9, the Louisville Courier-Journal ran an editorial reversing this position. The opening line of that editorial read: "Nicaragua's Sandinista regime seems determined to prove Ronald Reagan right." The Sandinistas' aggression over the past week against both the Contras and the Government of Honduras reinforces that position.

Mr. President, I would like to submit a second Courier-Journal editorial. This one, which appeared in this morning's edition, reaffirms that paper's belief that the cutoff of aid to the Contras has been a mistake. It is my hope that all of my colleagues will read this editorial carefully as it is a thoughtful perspective on the situation in Central America.

The article follows:

THE EYES HAVE IT

Daniel Ortega and Adolfo Calero don't often see eye to eye. But they're agreed on this much. The cutoff of U.S. aid has been devastating to the Nicaraguan contras.

Mr. Ortega, of course, is the president of Nicaragua and the most prominent member of the ruling Sandinista front. Mr. Calero is the contras top political leader.

Under the Central American peace plan signed in Guatemala City last August these mortal enemies—or their delegates—are supposed to be negotiating a ceasefire. But Mr. Ortega's Soviet-supplied army has the contras on the ropes, and he's going for a knockout not a parley.

That has upset Costa Rican President Oscar Arias, main architect of the Central American accord and winner of the 1987 Nobel Peace Prize. It has also upset Honduran President Jose Azcona, since Nicaraguan troops crossed into Honduras while pursuing the contras. And it has upset President Reagan, who sent four battalions of U.S. troops to Honduras to deter further Nicaraguan incursions—and to remind Mr. Ortega that, contra aid or no contral aid, Washington has a strong, legitimate interest in what happens in Central America.

Congressional Democrats claim to share that interest, but most of them are following the lead of House Speaker Jim Wright. He's against giving the contras more guns and bullets because it would disrupt the "peace process."

But the peace process hasn't discouraged the Soviet Union from pouring arms and ammunition into Nicaragua. It hasn't stopped Mr. Ortega from ordering his big offensive against the contras. And it hasn't discouraged Sandinista mobs from beating up unarmed political opponents inside Nicaragua.

In an interview last week with *The New York Times*, Mr. Ortega was surprisingly candid about the situation. Because Congress cut off U.S. aid, he said, the contras are in "a position of weakness" as they come to the negotiating table. "The Reagan presidency is coming to a close," he said. "If the *contras* don't reach a negotiated solution, they face . . . total military and political defeat."

Under those circumstances, what's to negotiate? The *contras* might as well run up the white flag and look for a new home. Maybe Jim Wright can find a place for them in his Texas congressional district. More likely, some of his young constituents will one day find themselves in Nicaragua, in uniform, continuing the fight the contras lost in 1988.●

A DISASTROUS WEEK

● Mr. ADAMS. Mr. President, this past week has been a disaster. Let me review just a couple of the low points:

The President of the United States said that he could not understand why a grand jury had indicted some of his former aides on more than 30 separate counts since "no laws were broken" during the entire Iran-Contra affair. The President's inability or unwillingness to understand that the law prohibits destruction of evidence and obstruction of justice by lying to Congress may help explain why the rest of the week turned out so badly.

American forces were sent to Honduras in order to participate in a training mission which appears to be designed to show our support for Honduras in its efforts to support the Contras who are prohibited from receiving any financial support from the United States. The incomprehensible incongruity of all this appears to have escaped the administration.

The President decided to send 3,000 more American troops to Honduras. That decision appears to have been made before any request from Honduras was received. When the request did come, it was ambiguous at best and coerced at worst. But at least the Honduran Government knew we wanted to send troops to their aid—our own congressional leaders were not informed. Despite the fact that a tentative decision to deploy our forces had been made early on Wednesday, no hint, no rumor, no whisper of such a decision was given to the congressional leadership when they were briefed on the situation by the administration on Wednesday afternoon.

The deployment of our forces appears to have been justified by the threat to the territorial integrity of Honduras created by an incursion by the Sandinista forces—even though previous incursions were treated as minor border skirmishes.

Our soldiers have no mission, no mandate, and no military role in the border conflict now taking place; they appear to have been deployed so that we could "send a message" to someone—using Western Union would have been cheaper and probably clearer.

Finally, while we edge closer to conflict in Honduras or Nicaragua or Panama, the Congress is flooded by phone calls, inspired by and based on misleading information supplied to them by the Moral Majority, opposing a bill designed to protect the civil rights of American citizens. That bill was vetoed earlier this week by the President.

Mr. President, none of this makes sense. It just does not make any sense.

Look, here is the bottom line: The President of the United States of America believes that aiding the Contras is critical to American foreign policy interests. The Congress of the United States of America disagrees. Now the President can probably continue to find a pretext for acting in ways which are inconsistent with the law and with congressional intent. That is not going to advance the interests of America or the concept of democracy or create a bipartisan foreign policy.

This has been a bad week. I fear there will be even worse weeks to come as long as we pursue an unbalanced foreign policy. It is about time that the administration accepted the fact that the executive branch cannot create and conduct foreign policy unilaterally. It is also about time that the administration came to understand that the executive branch is not the exclusive repository of either wisdom or patriotism in this country.●

CAPITAL GAINS REFORM: A CAPITAL IDEA

● Mr. BOSCHWITZ. Mr. President, I rise today to share with my colleagues an editorial that appeared in the Wall Street Journal on March 8, 1988. The editorial, entitled "A Capital Idea", makes a compelling point about the need for capital gains reform. It also considers the effect the changes in the capital gains tax have on Federal revenues and U.S. competitiveness.

As I have said before, I think that the decision to increase the capital gains tax was a mistake. Under the 1986 Tax Reform Act, the top marginal rate for capital gains was raised from 20 percent to as high as 33 percent. That is a 65-percent increase. When the tax on capital gains is too high, venture capital, new businesses, employment, and technological innovation are all reduced. Obviously, that is detrimental to our economy.

Ironically, history has shown that every reduction in the capital gains tax resulted in higher, not lower tax receipts. On the other hand, increasing the capital gains tax rate actually is a revenue loser for the Government. Higher rates lead investors to hold on to their assets rather than sell them and realize capital gains. The editorial cites the experience in 1969: When the maximum rate on long-term gains was doubled, Federal revenues took a nose dive.

In addition, as the editorial notes, the United States' ability to compete in world markets is at stake. Capital gains rates in other countries are much lower and some countries don't tax capital gains at all. The table that accompanies the editorial reveals that our East Asian competitors—including Japan, Hong Kong, Taiwan, and South Korea—all agree about the importance of preferential treatment for capital gains. In fact the tax treatment of capital gains in these countries might be a cause of the current trade deficit between the United States and much of East Asia. It is a competitiveness issue and the high U.S. capital gains rate places us at a competitive disadvantage with our trading partners.

I have introduced legislation, S. 444, to provide a two-tiered capital gains exclusion for individuals. In the case of assets held more than 1 year but less than 3 years, the exclusion would be 40 percent; an effective rate of 16.8 percent. For assets held 3 or more years, the exclusion would be 60 percent; an effective rate of 11.2 percent. Investors would have an incentive to invest in long term, high risk ventures. Such investment would generate new businesses, new jobs, and new tax revenues. Most important, our competitive position relative to other industrialized nations would be improved.

Mr. President, as the Wall Street Journal editorial substantiates, lower capital gains rates are a "capital idea".

I ask that the article be printed in the Record.

The article follows:

A Capital Idea

If the presidential-primary season has established anything it is that the 1980s' lowered tax rates are untouchable. But prior to passage of the 1986 tax act, there was a lot of rhetoric about how these efforts were a "giveaway to the rich." To counter this tax demagogy, the lawmakers raised the 20% tax rate on capital gains to match the new personal rate of 28% on highest incomes.

That was surely a mistake. Past experience with capital-gains rates suggests that running them up not only hobbles growth industries but also causes the rich to pay a smaller, not larger, share of the Treasury's tax revenue.

President Reagan has asked Congress to reduce capital-gains taxes. He pointed out that the higher rates encourage investors to hold on to stocks and other assets rather than sell them and realize taxable gains. The result is likely to be a decline in federal revenue.

The historical evidence that higher capital-gains taxes yield lower revenues is compelling. The maximum rate on long-term gains was doubled in 1969. Revenues plummeted. Five years later they were still below their 1969 levels.

In the face of this kind of historical experience, Congress's Joint Committee on Taxation now calculates that a cut in capital-gains rates would cost the Treasury money. Under the "static revenue" models still in use by the committee, revenue supposedly moves up or down in virtual lock step with rising or falling tax rates; affected taxpayers presumably make no effort to modify the tax status of their income.

In fact, everyone knows that people notice changes in tax incentives and respond accordingly. Back during the 1978 debate over reducing maximum effective capital-gains taxes to 28% from 49%, the Treasury Department, using static analysis, predicted "the measure would cost more than $2 billion annually." The actual result: Revenues from capital gains jumped from $8.1 billion to $11.7 billion between 1977 and 1979. And the bulk of those new revenues was paid by the rich.

The nearby table offers a thought-provoking look at how other industrialized nations tax capital gains. They have either lowered capital-gains taxes in the past few years or they never imposed tham at all. The U.S. is the sole exception. Indeed, recent data suggest that U.S. venture-capital firms already are redirecting investments away from new ventures and into mature firms.

There is bipartisan support for changing the capital-gains tax. At least five Democrats on the House Ways and Means Committee want to cut the maximum rate to 15%. They observe that five recent academic and government studies indicate that with the higher capital-gains rates now in effect, the Treasury will lose between $27 billion and $105 billion in revenue between fiscal 1987 and 1991. All but one study implies that the tax rate that would maximize revenue falls somewhere between 9% and 21%.

CAPITAL GAINS TAX RATES

[In percent]

	Maximum long-term rate	Maximum short-term rate
United States	33	33
United Kingdom	30	30
Sweden	18	45
Canada	17.51	17.51
France	16	16
West Germany	Exempt	56
Belgium	Exempt	Exempt.
Italy	Exempt	Exempt.
Japan	Exempt	Exempt.
Netherlands	Exempt	Exempt.
Hong Kong	Exempt	Exempt.
Singapore	Exempt	Exempt.
South Korea	Exempt	Exempt.
Taiwan	Exempt	Exempt.
Malaysia	Exempt	Exempt.

Source: Arthur Andersen and Company.

Senator Bill Bradley believes that any attempt to reduce capital-gains taxes could "unravel" the coalition that passed tax reform, and lead a revenue-hungry Congress to consider a third, higher income-tax bracket. We recognize that danger. We also recognize that Congress's treatment of tax matters is barely rational and mostly political.

By what economic logic, for instance, do you raise taxes on capital gains but disallow deductions for capital losses? And surely Senator Bradley recognizes that the greatest threat to the new tax law will be Congress's compulsion to create new revenue enhancements. The tax-increase crowd should understand that if it wants to start that game, a proven revenue-raiser, the capital-gains cut, also will be on the table.●

SOVIET JEWRY ADOPTION PROGRAM

● Mr. SASSER. Mr. President, today I rise to share some good news with my colleagues. Last spring, I participated in the student coalition for Soviet Jewry Adoption Program. This program was part of a nationwide coordinated effort on behalf of Soviet refuseniks to keep up the pressure on the Soviet Union to liberalize their emigration laws and recognize Soviet citizens, universal human right to emigrate.

I adopted the Alber family—Solomon and Evangelina Alber and their two children Mark and Ilya. Solomon Alber, a 56-year-old mathematician and physicist, was director of the Mathematics Lab Institute of Chemical Physics in the Academy of Science and his wife was employed as a pathologist before he applied for a visa to emigrate in 1974. After applying, Mr. Alber was demoted to technician at the institute and Mrs. Alber lost her job. Their son Mark, a 25-year-old computer programmer, also suffered harassment. In 1976, the New York Times reported that he had become the victim of a campaign of threats and violence. Once, when he was 15, he was beaten unconscious by schoolmates. Like his parents, he has experienced career setbacks since being refused.

But the nightmare that inevitably follows for Soviet emigration visa applicants is over for the Albers. After 13 long years of enduring the Soviet Government's particular brand of bureaucratic stalling, threats, intimidation and violent harassment, the Alber family has been granted permission to emigrate.

Last March, I wrote an appeal to Soviet leader Mikhail Gorbachev on behalf of the Alber family. I asked that they be granted permission to emigrate. I continued to focus attention on the plight of the Albers through a number of means—floor statements and correspondence with both the Soviet and the American diplomatic community. Finally, earlier this year, I was informed by Mr. J. Edward Fox, Assistant Secretary, Legislative Affairs, Department of State, that the Alber family would be allowed to emigrate.

Mr. President, I know that my colleagues rejoice with me in this important victory. The Alber family is now free to start life in a country where they can establish a home, where they can pursue their chosen careers and where they are free to practice their religion. I know that other Senators and Members of the House have worked—and continue to work tirelessly on behalf of Soviet refuseniks and others who are denied the right to emigrate. Members of Congress have made many trips to the Soviet Union, written many letters urging administration officials to bring up the emigration issue in discussions with Soviet officials, circulated many "Dear Colleagues" asking for signatures on letters to Soviet leaders asking that emigration policy be liberalized and asking that individuals and families be allowed to emigrate for medical or humanitarian reasons. This ongoing letter writing campaign has had proven success over the years.

The letter I received from Mr. Fox of the State Department offers encouragement for those of us who continue our efforts in this regard. I want to share an excerpt from that letter with you.

> While the Soviets do not always acknowledge the letters they receive on human rights topics, we believe that expressions of concern from Members of Congress, sent directly to Soviet officials, can be helpful in bringing about a favorable resolution of individual cases. Such letters underscore the deep commitment Americans feel towards the cause of human rights in the Soviet Union and around the world.

Mr. President, we must continue to pressure the Soviets to live up to their claim of glasnost.

Mr. President, I said I had good news—and I do: The Alber family has been granted permission to emigrate. This is indeed a great and important victory. But it is a single victory. We, as a body, must continue our efforts. We must continue to press the Soviets to live up to their human rights commitments and to allow freedom of movement and freedom of religion.

I am pleased to continue my cooperation with the student coalition for Soviet Jewry. This year, during the SCSJ annual Washington lobby on February 24 and 25, I was invited to join several other Members of Congress in working on behalf of 50-year-old Yulian Khasin, his wife Victoria Gorelikova, her mother, and the Khasin's two children. Theirs is a painfully familiar story. The family's application to emigrate was first refused in 1980. Yulian Khasin speaks Hebrew and teaches Jewish culture. He studied Judaism with Ilya Essas, who recently emigrated from the Soviet Union. He holds the Soviet equivalent of a Ph.D. in computer science. He was head of his computer programming department until his request to emigrate was refused; then he was demoted to the position of a regular engineer. Victoria, according to the latest information I have, still holds her job as a psychiatrist. Victoria's 65-year-old mother is permitted to work only part time.

Mr. President, I intend to work diligently on behalf of the Khasin family. The rights to freedom of movement and to religious and cultural expression are basic. We enjoy them every day here in the United States. We must continue our efforts to secure those rights for those who are not as fortunate as we. We must continually renew our pledge of commitment to this goal. I invite my colleagues to join me in these efforts.●

FORRESTAL MEMORIAL AWARD DINNER

● Mr. HATFIELD. Mr. President, last evening, at the invitation of Gen. and Mrs. Wallace Robinson—my friends Robbie and Renee—Antoinette and I had the privilege of attending the Forrestal Memorial Award Dinner hosted by the National Security Industrial Association.

Mr. President, frankly, after a series of record votes here in the Senate that went late into the evening, I was less than enthusiastic about arriving late, and in the middle of dinner, at a black tie awards ceremony. Some private time with my family held more appeal. But whatever personal effort or sacrifice seemed to be required was fully rewarded as the evening progressed. In fact, I was literally energized and renewed by the words that were delivered and by the example of the man who was honored.

The recipient of the James Forrestal Memorial Award for outstanding service to the Nation in 1987 was Norman Augustine, vice chairman and CEO of the Martin Marietta Corp. Mr. Augustine was introduced by the awards committee chairman, John Rittenhouse, senior vice president of the General Electric Co. Between them, these two men spoke in moving terms of the key role in the preservation of our freedoms that is played by three frequently maligned sectors of the defense establishment: Our military forces, our civil servants, and our defense industries.

I ask that both the remarks of Mr. Rittenhouse and Mr. Augustine be printed in the RECORD.

The remarks follow:

REMARKS BY JOHN D. RITTENHOUSE, FORRESTAL MEMORIAL AWARD DINNER, NATIONAL SECURITY INDUSTRIAL ASSOCIATION, WASHINGTON, DC, MARCH 17, 1988

Chairman Corderman, President Robinson, officers and members of the NSIA, distinguished guests, ladies and gentlemen:

As Chairman of the 1987 James Forrestal Memorial Award Committee, I have the distinct honor of introducing to you this evening a man whose stature in this city and throughout industry renders the task of introduction almost a matter of mere formality.

Rarely have one man's achievements in business, and contributions to government and the nation, been so fully documented as those of Norman R. Augustine. And even a cursory review of his professional and personal credits provides abundant evidence that the Committee's choice of a recipient this year is truly an outstanding one.

Over the past decade, Norm Augustine has risen through the ranks of the management hierarchy at Martin Marietta, marshaling resources and shaping growth strategies for what has become a preeminent company in the fields of aerospace and information technology. Today, as Vice Chairman and Chief Executive Officer of the Corporation, he has the company poised for even greater success and prosperity.

Prior to joining Martin Marietta, Norm Augustine served our nation as Under Secretary of the Army from 1975 through 1977, and in 1973 and 1974 was Assistant Secretary of the Army for Research and Development.

His earlier experiences in industry—as vice president of advanced programs for the Vought Missiles & Space Company from 1970 to 1973, and as an engineering executive with the Douglas Aircraft Company from 1958 to 1965—were separated by a five-year tour in the research and engineering organization of the Office of the Secretary of Defense.

More importantly, he has taken the expertise developed in the course of these pursuits and used it to further the best interests of the country and of our industry.

In that context, he has chaired or served on advisory boards to the White House, the Congress, the Department of Defense, NASA and other government agencies, and to a variety of professional societies, business associations and institutions of higher learning.

Personally, I have had the opportunity to serve alongside Norm in some of these endeavors, most recently on the Defense Industry Advisory Group to the Senate Subcommittee on the Defense Industry & Technology.

I have had the firsthand benefit of his keen business insight and common sense approach to the concerns which confront our industry today, and his thoughtful contributions to the group's work are major reasons why our input has been so well received on Capitol Hill.

Fortunately for the business universe, he has gone to still greater lengths to share that insight. His book, "Augustine's Laws," is comprised of 52 axioms which illuminate the best and the worst practices at work in American business today. It has been praised in the business arena for its substance and honesty, and in the literary world for its witty and articulate style. In my view, it is must reading for the young engineer or MBA looking for a first foothold in that minefield we call "corporate management."

We are not the first to honor Norm Augustine for his numerous accomplishments—among other distinctions, he is a four-time recipient of the Distinguished Service Medal, the DOD's highest civilian award—and I am confident we will not be the last.

But this honor is a special achievement. His selection as the recipient of the 1987 Forrestal Award indicates he is a leader in tune with the times.

All of American industry, and particularly the defense industry, stands at a crossroads today. In this era of the global marketplace, we must turn in a new direction, changing the way we manage, the way we work, the way we compete. Those changes require the brand of leadership Norm Augustine has brought to government and industry.

And to effect those changes, we must rededicate ourselves to the ideals espoused by Secretary Forrestal and the principles of which this Award is emblematic—that a harmonious working relationship between government and industry is crucial to meeting the demands of our national security mission.

In a very real sense then, it is most appropriate that we honor this man with this medal tonight, for both the man and the medal reflect commitment to these ideals.

Mr. Augustine, will you please join me at the lectern, so that I may read the citation accompanying the James Forrestal Memorial Award.

NORMAN R. AUGUSTINE, PATRIOT AND INDUSTRIALIST

A renowned leader of industry who in the great Forrestal tradition has recognized and practiced open and effective communications and a close working relationship between government and industry in the national interest.

A dynamic patriot and articulate champion of the American system with far-ranging vision who served with distinction in high offices in both government and industry, working tirelessly to vitalize a continuing national commitment to ever higher quality and productivity in American industry.

An esteemed and innovative manager, thinker and talented engineer who has demonstrated a deep and abiding appreciation for the importance of an efficient and competitive defense industrial base to the strength of the nation and the freedom of its people.

A public-spirited citizen of superior character who, through devotion of his time and talents, has unselfishly contributed to many humanitarian causes, especially in areas of education, citizenship and community welfare.

Above all, a distinguished American who exemplifies the highest qualities of personal honor, integrity, patriotism and devotion to duty—dedicated to the well-being and security of his country, the United States of America.

Ladies and gentlemen, it is my privilege to present the 1987 James Forrestal Memorial Award to Norman R. Augustine.

PREPARED FOR DELIVERY BY NORMAN R. AUGUSTINE

WHEN THE GUNS BEGIN TO SHOOT

Thank you for those very, very generous words. I assume some of them were about somebody else and I do hope he was listening.

I truly am awed by this honor. Many are the times when Meg and I have come to this annual dinner over the last quarter-century and sat where you are sitting tonight. These evenings have had a somewhat special meaning for me because my first professional job as an engineer was at the James Forrestal Research Center at Princeton University—which was quite a step up from my previous employment waiting tables at Howard Johnson's. You can imagine my chagrin upon learning that university research assistants are paid less than waiters.

Never, however, in my wildest dreams did I expect to find myself standing up here before you. The only imperfection is that my wife, Meg, who has stood by me through the years, could not be here to share in this evening due to a long stay in the hospital but, happily, she is now on the road to recovery as is my father, a World War I infantryman who also is in the hospital. But my family is represented tonight by my son, a "Fightin' Texas Aggie," of whom I'm enormously proud.

When I say I am in "awe," it is not only by the roll call of truly distinguished citizens who have occupied this podium in the past—but also by the unswerving sense of purpose the National Security Industrial Association has exhibited throughout the years in support of our nation's defense. Underlying NSIA is the abiding concept of peace through strength expressed at the dawn of the republic by George Washington in the words, "To be prepared for war is one of the most effectual means of preserving the peace," or, as John F. Kennedy put it in our own time, "It is an unfortunate fact that we can secure peace only by preparing for war."

In accepting the James Forrestal Memorial Award, I do so with a very real sense that I am accepting it less on behalf of myself than on behalf of the more than 1 million men and women who comprise America's defense industry, who serve this country and its military services with dedication, skill, and deep personal honor, even in times of trial. Truly, for these people, recent years could well be described by the opening words of Dickens' "Tale of Two Cities," it was the best of times, it was the worst of times.

I am proud to be among these people, just as I was enormously proud to be counted among our Nation's public servants for several terms in that edifice across the Potomac sometimes known as the palace of perspicacity.

Having so many good and long-time friends here this evening makes this occasion all the more meaningful. When you are invited to speak, it always is encouraging to have an audience. It is even more encouraging when you realize much of that audience has heard you before.

Not so long ago, I received an invitation to speak at the Air Force space division in Los Angeles, only a few weeks after I had addressed another Air Force group in San Diego. To assure that there would not be undue repetition between my remarks before the two audiences, I asked my secretary to call the commanding general's office at the space division and inquire whether there might be much overlap between the audiences on the two occasions. Shortly thereafter, a 3-by-5 card appeared in my inbasket which duly reported, "Gen. McCartney indicates it is high unlikely that anyone would be present for your speech tomorrow night who heard you in San Diego."

I would like to talk this evening of the key element, and for some inexplicable reason too often seemingly the secret element, underpinning our Nation's defense . . . namely the people—as seen from my vantage point of having served alongside those people for a third of a century. You may not recognize much of what I have to say because it simply does not comport with much of what our media would have us believe.

When I see some of the material produced about those who toil on behalf of the cause of national defense and I then observe the satisfaction which these same people nonetheless derive from the opportunity to serve, I cannot help but be reminded of a small notice I observed last fall nailed to a post at a ranch in Wyoming. It went something like this: "Lost Dog. Left Ear Missing; Broken Right Leg; Tip of Tail Gone; Recently Castrated. Answers to the name 'Lucky'."
to be so lucky as to serve as part of the military-industrial complex today certainly entails a not inconsiderable degree of personal risk to reputation, if not to life and limb. But the matter of taking necessary risks is all a part of the job. The risks faced by the military are self-evident. Those faced by civilians can also be very real indeed if one cherishes reputation as much as life itself.

On this matter of taking risks, I am reminded of another true story, this from the days when I was serving with the government and was participating in a symposium dealing in part with the subject of risktaking. During one such session the speaker had asked the participants to imagine that he had placed a large I-Beam about 40 feet long on the floor in front of the podium. He then selected an individual from the audience and asked this gentleman, "If I gave you $20, would you walk across that I-Beam?" The man in the audience enthusiastically assured the speaker that he would.

The speaker then continued, saying, "Suppose I took the same I-Beam and placed it between two buildings, suspended 50 stories above the street. Now would you walk across the I-Beam for $20?" This time the fellow in the audience promptly answered, "No, I wouldn't."

The speaker should have quit at this point, but he didn't.

"Now suppose I'm up on the top of one building and I'm dangling one of your kids out over the edge," the speaker continued. "You're on the other building, and I say to you, 'If you don't walk across that I-Beam and get your kid, I'm going to drop him.' Would you then walk across the I-Beam?"

The fellow in the audience hesitated ever-so-slightly, then replied, "which kid have you got?"

As I say, that's a true story. It of course made a shambles of the decorum of the class, but it does provide some important insight into the need for people with the courage to take prudent risks. It also suggests the futility of increasing those risks for one another by accommodating the desire of parts of the media that would have us form the firing squad into a circle.

In a more serious vein, I often am reminded, especially on occasions like this, of Rudyard Kipling's poignant ode to "Tommy." That's the one that includes the passage: "For it's Tommy this, An' Tommy that, An' Chuck 'Im out, the brute!—but it's savior of 'is country when the guns begin to shoot."

Metaphorically, Tommy is with us in the defense establishment today no matter which of its three components one represents—military, Civilian Public Servants, or industrial participants. We all seemingly take our turns in the barrel, occasionally all of us at the same time—until, that is, the guns begin to shoot. Nonetheless, through good times and bad, we share the powerful common motivation that upon our performance, the very future of our nation might one day depend.

When I think of the people who serve our country in uniform, I think of service above and beyond. I think of the soldier I met one evening standing guard at a lonely outpost near the demilitarized zone of Korea who quietly but with deep conviction assured me that "This is where I am prepared to die." I think of the occasions when I called the Pentagon Command Center on Thanksgiving or Christmas Eve and the duty stations were always staffed. I think of the commander of a cavalry regiment looking across the border in Europe at fully two Warsaw pact divisions, a commander who was distinguished by his service as a fellow at Harvard, and seven purple hearts. Or of the medical officer in Vietnam who removed a live rocket grenade lodged in a soldier's back. Or my pilot friend who rode his Mach 3 test aircraft almost to the ground before managing to restart the engine and save his plane. Or the Naval Academy graduate—who became one of America's most admired and most successful businessmen, telling a group of young officers that the greatest mistake of his life was leaving the Navy.

I have had the privilege of seeing these extraordinary people with my own eyes, jumping from Aircraft over Alaska at 35 degrees below zero, undergoing survival training in the tropical jungles of Panama—keeping the peace at Panmunjom in Korea—serving in infantry units in Vietnam—in Berlin, surrounded by a virtual sea of Communist forces—at research stations above the Arctic Circle—diving deep below the surface of the ocean—landing high-performance aircraft on the pitching deck of a carrier—guarding embassies on every continent—filling demanding diplomatic posts—and even preparing to travel to the Moon carrying America's hopes, prestige, and flag. We've heard a lot over the years about "pay comparability" for these people who wear our Nation's military uniforms; a concept whereby those who serve would be remunerated commensurately with people in civilian walks of life who ostensibly have similar skills and perform equivalent functions. The problem I've always had with this concept is in determining the functional civilian equivalents for most military tasks.

In the business I am privileged to oversee, for example, we have 70,000 highly capable and dedicated employees performing a variety of very important assignments. But I can't quite imagine having recruited any of them by saying, "Now this job I'd like you to take will place you under enormous and continual pressure and will require your being on call 24 hours a day, 365 days a year. If you make a mistake, you and your closest friends may be killed. You will be expected to pick up and move every 3 years to anywhere in the world you are told, and frequently you will be unable to take your family with you. Occasionally, your family will be required to live in substandard 40-year-old temporary housing. And, by the way, I can almost guarantee that if you spend your entire career with us, you will at some point be shot at by people intent on terminating your life prematurely. And incidentally, unless I agree, you can't quit.

Now, my question is, what would one consider to be "comparable" civilian pay for a job like that? And how, in industry, would we hire anyone to take such a position? The role played by our citizens in uniform, in my view, is truly unique. And today as a testimony to the greatness of these people, we have a military force whose members, on the average, are better educated and possess higher IQ's than our nation's civilian populace.

Public servants, who comprise the second element of the triumvirate which serves our Nation's defense also play a role of towering importance alongside their compatriots in uniform. I am thinking of the invaluable range of contributions by our government's civilian employees, including Presidential appointees, who, with a quiet pride, somehow have survived waves of professional bureaucrat bashers. I think, for example, of the Nobel Prize winners in Federal employ over the years, most recently the chief scientist at the naval research laboratory. I think of the researchers at the Army Medical Laboratory in Panama seeking, at substantial personal risk to themselves, the cure for a dreadful and deadly tropical disease of which until recently the cause was barely understood and the cure altogether unknown. I think of the civilian air controller who recently talked an Air Force F-16 to a safe landing at Glenview Naval Air Station after the pilot reported no power, no electronics, no instruments, and not much sky, and then added for good measure, "I've got one chance, make it good."

For civil servants, the good news is that so far nobody is seriously flogging them in this election year, at least not yet. I have been amazed in the past at Presidential candidates and members of incoming administrations demeaning public employees, who of course are always called "bureaucrats" when they're under assault.

Can you imagine the CEO of a corporation traveling the country giving speeches about how lazy and incompetent and overly numerous his employees are, and then depending upon these very same employees for his own success? Yet that is precisely what has happened all too often in the rhetoric of political campaigns.

For my part, as a former public servant, I can say that I served with great pride alongside some of the finest, most competent, and dedicated people I have ever known. Never have I worked harder than I did as a public servant or, if you prefer, a "bureaucrat." It is interesting to note that surveys of cabinet members and other responsible officials of the past two administrations revealed these same conclusions even by those who had been the harshest critics, from a safe distance, some years earlier.

We would be well advised to heed the warnings about the imperatives of public respect, decent pay, and latitude to perform for our public employees. And we should not let well meaning but overly zealous conflict-of-interest legislation deny our government some of the Nation's ablest, most experienced people, in the legislative equivalent of banning automobiles because a few reckless drivers have been spotted.

When I turn to the people of industry, the third component of the defense community, I think of a research, development, and manufacturing team that is unmatched in the world, but like our military forces, not altogether unthreatened. I think of the unsung heroes whose daily commitment to quality mirrors the dedication of their uniformed and public service counterparts. I think of the skilled welder, assigned to a missile program at one of our plants, whom I discovered voluntarily working late at night throughout the Christmas holidays to complete a critical flight test article. I learned that he had been determined to get the job done . . . even though he was spending most of his days at the hospital where his wife was suffering from cancer. This is admittedly not the type of story one reads in the newspaper. It is merely the sort of thing I have seen time and again with my own eyes.

In fact, little of this comports with the contrary picture of the defense industry that is often painted. I was chagrined just a few months ago in reading a magazine article commenting on a potential takeover of the justifiably proud and superbly led Boeing Company by a gentleman named Boone Pickens. He was quoted as saying that some defense contactors are "established crooks." The story further reported that a high Defense Department official once suggested that he, Mr. Pickens, "acquire a defense contractor for patriotic reasons." I did not find that passage one of the highlights of my literary experience.

The people of the defense establishment, the armed forces, our public servants, and the defense industry, are more often than not the worker at the Navy laboratory, the civil servant in Panama, and the welder working late at night over Christmas. These are the people I believe Secretary Forrestal had in mind when he wrote toward the end of World War II, at the time NSIA was formed: "If we all pull together we can do in peace the tremendous job we have done in war." His message is as valid today for all the "Tommies" of the nation as it was then.

There were others at that time who also understood the need for continued teamwork in the face of the emerging perils of the postwar world. General Eisenhower, who was of course the first recipient of the James Forrestal Memorial Award, stated in a War Department memorandum that:

> The armed forces could not have won the war alone. Scientists and businessmen contributed techniques and weapons which enabled us to outwit and overwhelm the enemy. Their understanding of the Army's needs made possible the highest degree of cooperation."

Some of the figures from that largest effort by the arsenal of democracy are worth recalling. At the height of World War II, U.S. industry demonstrated its potential by producing a military aircraft every 10 minutes day and night, a tank every 25 minutes, an artillery piece every 6 minutes, and a truck each and every minute. The Nation's shipyards were building liberty ships in 50 days, and more than 5,000 large oceangoing vessels were produced by the war's end.

It is equally useful, however, to note that the strength of our industrial base has not always been, nor will it ever be, an inalienable right. In the first world war, for example, the U.S. experience was very different indeed.

The majority of troops in the American expeditionary force reached Europe in British transports, fought with French and British artillery pieces, fired French-manufactured ammunition, flew allied planes, and manned French tanks. Of the 23 thousand U.S. tanks on order, only 80 had been delivered by the time of the armistice.

Mindful of the lessons of history, I believe there are several points to be made here tonight.

First, we live in a world at least as perilous and uncertain as it was in the early postwar years. Peace never has broken out completely, although Europe, shielded by NATO forces including those of the United States, has enjoyed an unprecedented period of peace and prosperity. In our justifiable and commendable enthusiasm to reduce the danger of nuclear war, we must nonetheless be mindful that we do not, inadvertently, merely make the World Safer for Conventional War.

Second, while communism as an economic system appears to be nearly bankrupt, Soviet and Warsaw pact military forces are as powerful as ever, in conventional as well as nuclear and chemical capability. Whether this menace will recede as a result of political and economic developments is something to be hoped . . . but remains to be seen. It has been said that when the bear shows his teeth, he is not necessarily smiling. Perhaps, when the bear seems to be smiling, it would be wise for us to remember that he still has teeth.

Third, as many of our leaders have pointed out, including some in this room, we can afford the defense we need even at this time of budgetary strain. As a matter of perspective, it is useful to recall that if we got rid of the defense budget altogether, every last soldier, sailor, airman, marine, civil servant, and industrial worker, every last ship, airplane, and rifle, the savings would not be sufficient to pay for the growth in nondefense spending so far in this decade.

And, finally, we must return as always to people. In today's changing but still challenging environment, it is as important as ever that all of us in the diverse components of the defense establishment "pull together," with mutual respect and a genuine sense of shared effort for the common good. We together are privileged to serve the welfare and well-being of our marvelous country and its friends around the world. I can think of no greater honor and no greater responsibility. We must earnestly seek out and remove those among us who would violate this trust—and with equal vigor avoid unfounded charges against one another.

Today, I am saddened that we all too often, in both these regards, emulate the pathetic Bird of Aeschylus' Lines, which read:

"So in the Libyan fable it is told that once an eagle, stricken with a dart, said, when he saw the fashion of the shaft, 'with our own feathers, not by others' hands, are we now smitten.'"

Let me conclude my remarks with two other quotations from the past which summarize eloquently the role of the three groups of people I have discussed, each admittedly imperfect, each admittedly having responsibilities deserving perfection, people who nonetheless must step into the arena and strive to provide for our nation's defense, sometimes in spite of a fusillade of criticism from bystanders.

One of these quotes, by President Theodore Roosevelt, appears highly pertinent to those who persist in finding fault with seemingly everything America does. In TR's words:

"It is not the critic who counts, not the man who points out how the strong man stumbled, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena; whose face is marred by dust and sweat and blood; who strives valiantly; who errs and comes short again and again; who knows the great enthusiasms, the great devotions, and spends himself in a worthy cause; who, at best, knows in the end the triumph of high achievement; and who, at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat."

The second quote goes back somewhat further in history. The Roman consul Lucius Aemilius Paulus, who was about to lead a victorious campaign against the Macedonians some twenty centuries ago, addressed the following commentary to the professional critics of his age:

"I am not one of those who think that commanders ought at no time to receive advice . . . on the contrary, I should deem that man more proud than wise who regulated every proceeding by the standard of his own single judgment. What then is my opinion?" asked Paulus—"that commanders should be counseled, chiefly, by persons of known talent; by those who have made the art of war their particular study, and whose knowledge is derived from experience; from those who are present at the scene of action, who see the country, who see the enemy, who see the advantages that occasions offer, and who, like people embarked in the same ship, are sharers of the danger.

"If, therefore, anyone thinks himself qualified to give advice respecting the war which I am to conduct, which may prove advantageous to the public, let him not refuse his assistance to the state, but let him come with me into Macedonia."

"LET HIM COME WITH ME INTO MACEDONIA"

Ladies and gentleman, it has been a great pleasure being with you tonight. I thank the association for this memorable opportunity to stand in for the men and women across America who make up our nation's industrial arsenal of democracy. I also wish a happy St. Patrick's Day to those of you wearing a touch of the green tonight. Thank you.●

NM LEGISLATURE MEMORIALS COMMEMORATING DENNIS CHAVEZ

● Mr. BINGAMAN. Mr. President, I rise today to invite the attention of my colleagues to two joint memorials introduced in the New Mexico State Legislature. These memorials commemorate the 100th anniversary of the birth of the late Senator Dennis Chavez, and declare April 8, 1988 as "Dennis Chavez Day" throughout New Mexico. A resolution to designate that date nationally, Senate Joint Resolution 206, recently passed the Senate. I am proud to be a cosponsor of this legislation honoring Dennis Chavez. His accomplishments through hard work and diligence are an inspiration to all Americans.

At this time, I ask that the joint memorials of the New Mexico State Legislature honoring the late Senator Chavez, be inserted into the RECORD.

The material follows:

HOUSE JOINT MEMORIAL 11

Whereas, Senator Dennis Chavez was born on April 8, 1888, the son of David Chavez and Paz Sanchez Chavez in Los Chavez, New Mexico, on land granted to his ancestors by King Phillip II of Spain in 1597, and Dennis Chavez was married to Imelda Espinoza Chavez in 1911; and

Whereas, April 8, 1988 marks the centenary of the birth of Senator Chavez; and

Whereas, Senator Chavez was too poor to attend high school, but later passed a special entrance examination to attend Georgetown university law school where he obtained his law degree; and

Whereas, Senator Chavez began his law practice in New Mexico and from the beginning had an open-door policy welcoming into his office all those who needed help, whether or not they could afford to pay; and

Whereas, Senator Chavez served in the New Mexico house of representatives where he became a leader, and while in that office sponsored legislation providing free text books to the school children of New Mexico; and

Whereas, in 1930 Senator Chavez was elected to the United States congress, where he served five years until he was appointed to the United States senate in 1935, elected in 1936 and re-elected in 1940, 1946, 1952 and 1958 where he served until his death on November 18, 1962, and, while in United States senate, served the state of New Mexico and his country in a most distinguished manner as chairman of the United States senate committee on public works, as a fourth ranking member of the powerful United States senate committee on appropriations, as the designated chairman of the senate defense appropriations committee, which handled the entire defense budget for the nation, and in various other committees and subcommittees of the United States senate whose work was so vital to New Mexico and the country; and

Whereas, Senator Chavez openly opposed Senator Joseph McCarthy during the height of the communist witch hunt when many others in congress were afraid to speak out against McCarthyism in congress; and

Whereas, Senator Chavez, throughout his career as a United States senator, championed the civil rights of minorities to bring about equality of treatment, worked toward eliminating job and other forms of racial discrimination and often undertook the cause of the underdogs to insure their participation in various federal and state programs, and he consistently introduced and supported human rights legislation in the congress; and

Whereas, Senator Chavez introduced, sponsored and passed legislation to benefit native American Indians in their quest to obtain better housing, education and improved economic conditions and, throughout this career, championed the cause of the American Indian and provided to them a high degree of constituent services; and

Whereas, Senator Chavez was vitally concerned with the plight of American veterans, and, in his official capacity, he undertook and supported legislation to establish an eduction bill of rights, better housing, increased medical and hospital benefits and provided for the establishment and building of hospital facilities to improve the care of American veterans; and

Whereas, Senator Chavez led and supported the first food stamp program inaugurated in this country to provide expeditious and meaningful help for the poor of this country; and

Whereas, Senator Chavez, as chairman of the United States senate defense subcommittee on appropriations, undertook, on behalf of United States presidents and the United States senate, missions abroad in Latin America, Asia and other European countries where he met with such leaders as Chiang Kai Shek of China, Rhee of Korea, Ghandi of India and leaders of Latin American countries where he was instrumental in formulating the United States Latin American policy toward the United States' Latin American neighbors and supported the "good neighbor" policy of President Franklin D. Roosevelt; and

Whereas, Senator Chavez brought great honor to this state and nation when several Latin American nations bestowed upon him, during his lifetime, their highest medal of honor for the greatness of his services and in recognition of his contributions to world peace and for bringing about improved relations between the countries; and

Whereas, Senator Chavez was a staunch advocate of a strong defense as a deterrent to war and advocated a strong national guard and army reserves and the United States defense appropriations committee, of which he was chairman, reported legislation to the senate to strengthen the marine corps, army, army reserves and the national guard, which was later enacted by congress and he introduced and passed legislation to equalize the pay of army nurses with that of male officers of equal grade at a time when there was a critical shortage of nurses; and

Whereas, Senator Chavez supported the north Atlantic treaty organization and was instrumental in formulating treaties with Spain and Portugal for the establishment of United States military bases as a first line of defense for the United States and its European allies at a time when some of the nation's European allies were opposed to establishment of United States military bases on their homelands; and

Whereas, Senator Chavez as chairman of the United States senate committee on defense appropraitions, supported funding of the nation's present missile and space programs which have had a tremendous impact on the defense posture of this nation; and

Whereas, Senator Chavez initiated and supported the development and improvement of the inter-American highway linking together the nations of central America to improve the economic conditions and transportation of the people of central America from Panama to Mexico; and

Whereas, Senator Chavez, as chairman of the United States senate public works committee, introduced and passed legislation to authorize the funding of various flood control and irrigation projects in New Mexico, such as the Cochiti dam, the Abiqui dam, the Santa Rosa Los Esteros project, the San Juan irrigation project and various other legislation that improved the retention of water supplies, flood control and improved irrigation for the farmers of New Mexico; and

Whereas, Senator Chavez introduced legislation and, through his efforts, obtained funding for the rural electric cooperatives and telephone projects, which were of immeasurable benefit to rural families of New Mexico and this country; and

Whereas, Senator Chavez, as member of the United States senate public works committee, was instrumental in passing legislation to facilitate the construction of post office buildings, making postal service more accessible to rural areas, and the construction of federal buildings throughout the country including the federal building in Albuquerque, New Mexico, which fittingly is named the Dennis A. Chavez federal building; and

Whereas, Senator Chavez was a moving force in establishing an interstate highway system in this country which greatly increased the transportation capabilities and which resulted in greater cohesiveness and closeness in this nation as a whole; and

Whereas, Senator Chavez, because of his service to New Mexico and the nation, was named as one of the only two allowable selections of deserving citizens that each state can make to be placed in "lasting commemoration" in the statuary hall in the United States capitol, where his bigger-than-life-size bronze statue now stands in historical immortality for present and future generations to gaze upon, admire and honor; and

Whereas, Senator Chavez' accomplishments demonstrate that he was a public servant in the truest sense; and

Whereas, Senator Chavez was a courageous individual, an honorable man and a patriotic citizen; and

Whereas, Senator Chavez was a man of compassion and a champion of the poor, the underprivileged and the minorities; and

Whereas, Senator Chavez expressed genuine concern for the rights, privileges and freedoms of the individual; and

Whereas, Senator Chavez recognized that a national government has certain fundamental responsibilities to fulfill for its citizens and, at the same time, acknowledged and perceived that the same government should have self-imposed limits of its power over individuals; and

Whereas, Senator Chavez was experienced in the business of government without being a bureaucrat, and he was actively engaged in politics and political affairs without being a mere politician; and

Whereas, Senator Chavez, a man of humble origins, had the character and ability to meet with world leaders without thereafter assuming airs of self-importance; and

Whereas, Senator Chavez was able to exercise the considerable power which he possessed as senator without adopting an arrogance of power and by remaining absolutely incorruptible to power; and

Whereas, Senator Chavez was able, principled and visionary in the conduct of public affairs; and

Whereas, Senator Chavez was a person who showed great capacity, skill and wisdom in conducting national affairs and in addressing and treating public issues; and

Whereas, Senator Chavez was a leader, who, in his own words, wanted "to be remembered as the man who raised a voice . . . and I devoutly hope not a voice in the wilderness . . ." in the defense of individual freedom, and he should so be remembered; and

Whereas, Senator Chavez was a daring spokesman who fearlessly stood up on the floor of the Senate at a critical time in the nation's history and contributed to restoring and preserving the American heritage; and

Whereas, Senator Chavez was a statesman whose memory can serve as a model for the present leaders in government; and

Whereas, Senator Dennis Chavez provides a shining example of excellence, not only for the Hispanic population of which he was so proudly a part, but also for the entire citizenry of the state and of the nation of which he was just as proudly a member: Now, therefore, be it

Resolved by the Legislature of the State of New Mexico, That April 8, 1988 be and is hereby designated as Dennis Chavez Day in New Mexico and that the week, April 8, 1988 through April 15, 1988, be and is hereby designated as Dennis Chavez Week in New Mexico, and that state government agencies, private and public institutions and all the people of the great state of New Mexico be called upon to voluntarily observe Dennis Chavez Day and Dennis Chavez Week with appropriate programs, ceremonies, activities and festivities, so that the accomplishments of the man we praise shall long endure, so that the memory of the man we honor shall last forever; and be it further

Resolved, That this resolution be read and recited by the leaders of the house of representatives and the senate at ceremonies to be conducted at the State Capitol rotunda on April 8, 1988, and that a copy of this resolution be furnished to the New Mexico congressional delegation for introduction and inclusion in the United States congressional record.

HOUSE JOINT MEMORIAL 12

Whereas, 1988 marks the one hundredth birthday of Dennis Chavez and is an especially appropriate time to note and honor his special contributions to New Mexico; and

Whereas, Dennis Chavez was born on April 8, 1888 in Valencia county to David and Paz Sanchez Chavez and during his seventy-four year life always showed the human touch and served as a true friend and defender of the poor; and

Whereas, he demonstrated his strong commitment to education as he bootstrapped himself up through careers as a grocery store employee, deputy game warden, newspaper editor, engineer and attorney; and

Whereas, Dennis Chavez turned to politics as early as 1916 and later served four years in the United States house of representatives and twenty-seven years in the United States senate having held the powerful chairmanships of the committee on public works and the subcommittee on defense appropriations; and

Whereas, while he fought and won many tough political fights in his thirty-one years as a congressman including hard fought elections in 1940, 1946, 1952 and 1958 his individualism, strength and persevering character will remain his outstanding characteristic; and

Whereas, in his thirty-one years as a United States congressman he exerted an enormous influence on both public work and national defense projects of which many directly benefited New Mexico: Now, therefore, be it

Resolved by the legislature of the State of New Mexico, That April 8, 1988, the one hundredth birthday of Dennis Chavez, be declared Dennis Chavez Day throughout the state of New Mexico and that all citizens are encouraged to participate in public and private ceremonies celebrating his birthday.●

THE EXPORT OF U.S.-BUILT HONDAS FROM OREGON TO JAPAN

● Mr. PACKWOOD. Mr. President, Honda's choice of Oregon as its point of export is particularly appropriate because Oregon is the home of many imaginative, resourceful, and successful exporters. Today, Honda North America follows the path taken by these companies.

Honda's initiative is an important example of what can be done under an open international trading system. I am convinced America's trade competitiveness depends on keeping our doorways open.

American companies are performing better in the international marketplace, not merely due to the lower value of the dollar, but also because of the improvements in the quality of our products. For the last 10 months that statistics have been available—March through December 1987—U.S. exports have exceeded $20 billion per month. This is a clear sign that U.S. exports are competitive. And today's action by Honda is further proof that American-made goods can be sold anywhere in the world—even in the most competitive markets.

As our trade figures improve, we must fight any effort to restrict trade. Protectionist trade legislation, with provisions such as the Gephardt amendment, would do irreparable damage to the United States. For example:

We would surely be subject to retaliation from our trading partners, which would deprive U.S. businesses of export markets. Here in Oregon, our ecomonic future depends on open international markets for our wheat, lumber, computers, potatoes, and our other exports;

Import-related jobs would be hurt as import levels fell due to restrictions;

Consumers would have fewer choices available and competition, which promotes improved quality among domestic producers, would be greatly reduced on many products; and

Commodities not readily available in the United States would become even more difficult to acquire. America cannot afford protectionism.

As a Senate negotiator on the omnibus trade bill pending in Congress, I have been working to craft a reasonable bill which the President can sign. I am hopeful that we will continue working in that direction.

I hope Honda's action today will be a sign to those who want to close our markets that America's future is tied to an open international trading system.●

GROVE CITY

● Mr. BUMPERS. Mr. President, most of us are being bombarded by letters and phone calls who are concerned about the Civil Rights Restoration Act. Let me make clear that the callers and writers seem genuinely concerned about the bill, and I do not question their sincerity at all.

I do regret the kinds of misinformation many of these people have been given. If the bill would actually do what those who have called my office have been told it would do, then I would be opposed to it, too. I ask that there be printed a fact sheet prepared by the Baptist Joint Committee on Public Affairs.

Mr. President, the bill does not, as some callers fear, force anybody to hire homosexuals, much less churches.

The bill won't require anyone to hire or retain any employee who can't do the job because he is an alcoholic or who because he has a contagious disease poses a threat to the health or safety of any other employee. The bill simply does not do that.

The bill won't require Baptist Churches to ordain women if they don't want to, and it won't force Methodist Churches to hire anyone who isn't a Methodist.

Also, for colleges and universities that take students who get student aid, the bill and its legislative history make crystal clear that those that are closely affiliated with churches can get an exemption from the law. In the 16 years that this so-called religious tenets exemption has been in effect, not one religious institution has been denied an exemption and over 200 have been granted. Mr. President, I want to say to all religiously affiliated colleges and universities in Arkansas, if any of you should make a legitimate request for such a title IX exemption in the future and it is denied, come and see me, and I promise to do all in my power to see that you get such an exemption. But I don't think that will happen.

With respect to abortion, the bill contains a specific provision that nothing in the bill may be construed to require any hospital or other person or institution to provide or pay for an abortion. Further, the bill overturns some existing abortion-related regulations.

Finally, the bill makes clear that ultimate beneficiaries of Federal aid are not covered. For example, farmers who merely receive price and income supports and loans, Social Security recipients, and food stamp recipients are not forced to do anything by the bill.

Mr. President, I think those who have concerns about the bill ought to know the facts.

The material follows:

CIVIL RIGHTS RESTORATION ACT OF 1988

1. The Civil Rights Restoration Act applies only to organizations that receive federal funds, thus Baptist churches should not be affected.

2. The Civil Rights Restoration Act has nothing to do with gay rights.

3. For colleges and universities that receive direct or indirect federal funding such as student loans, etc., there is an exemption for entities "controlled by" a religious organization.

This exemption has been interpreted broadly to include institutions indirectly controlled by the church. Thus, separately incorporated Baptist colleges that have their trustees appointed or approved by the state convention have received exemptions. In fact, in the 16 years that the religious tenets exemption has been in existence, not a single religious institution has been denied an exemption.

Despite the favorable interpretation that has been given to this exemption, the BJCPA supported a broadening of the statutory language to include all institutions "closely identified with the tenets of a religious organization." The effort failed largely because no institution has yet been denied an exemption. If a legitimate request for an exemption is denied in the future, the BJCPA has laid the groundwork for corrective legislation.

4. Baptist hospitals will not be forced to perform abortions.

The Danforth Amendment (supported by the Christian Life Commission and the BJCPA) overrules the Title IX regulations that had placed abortion on an equal footing with other medical disabilities and, thus, guarantees that no institution will be forced to provide abortion-related services simply because it receives federal funding.

5. The Act will enable the victims of discrimination—blacks, the elderly, the handicapped, women—to seek redress in the same manner as before the *Grove City* decision of 1984.

Prior to *Grove City*, three presidential administrations (two Republican and one Democrat) had interpreted civil rights laws as applying to all the programs and activities of an institution that receives federal funding. The Civil Rights Restoration Act will restore that interpretation.●

THE SHARPEVILLE SIX

● Mr. SIMON. Mr. President, I want today to express my appreciation and deep gratitude to President Reagan, to his Chief of Staff Howard Baker, and to his Assistant Secretary of State, Chester Crocker for their help, for their personal concern and action in the case of the Sharpeville Six, six people on death row in South Africa. Our allies, including the United Kingdom, West Germany, France, and Japan joined our Government and President Reagan in asking for clemency for these six young people.

Today we have just learned that the March 18 execution date has been stayed until April 18, pending a new court review of the case. The Pretoria Supreme Court's decison is a very positive sign, and I want to publicly express my support of the Court's willingness to reconsider the case.

These six young people were convicted of the murder of a black town councilor in Sharpeville in 1984. Black township councils, established under the new constitution, were charged with providing public services in the townships, but no government funds were made available. Rent increases, therefore, were levied to raise funds. The town councilor was the target of a crowd of Sharpeville residents protesting rent increases.

As you know, since the six were convicted almost 4 months ago, some of my colleagues and I, as well as interested individuals, organizations, and governments, have worked hard in support of a clemency plea for the six. Among those, the Lawyers' Committee for Civil Rights Under Law, and Amnesty International have worked hard to make the case of the six to the American people.

We are coming upon the March 21 anniversary of the 1960 Sharpeville uprisings. I am pleased that as a result of effective cooperation, both on a bipartisan basis within the United States and together with our allies in the world, we have all spoken with one, strong voice in the case of the Sharpeville Six.

Mr. President, I recommend to my colleagues the following materials related to the Sharpeville Six case, which include background information on the facts and legal questions.

The material follows:

The Sharpeville Six and Political Executions in South Africa

I. FACTS—THE SHARPEVILLE SIX CASE

On December 1, 1987, the highest court in South Africa, the Appellate Division of the South African Supreme Court in Bloemfontein, denied the appeal of six (6) South African political activists who were convicted of murder and subversion, on December 10, 1985. All six have been sentenced to death. The six condemned people are Mojalefa Sefatsa, aged 33, Oupa Moses Diniso, aged 31, Reid Malebo Mokoena, aged 25, Theresa Ramashamola, aged 27, Duma Joshua Khumalo, aged 27, and Francis Don Mokhesi, aged 31. They have been commonly referred to as "The Sharpeville Six",[1] citing the location of the incident which led to their arrest and conviction.

The arrest of The Sharpeville Six took place in a context of widespread civil unrest which erupted in the Vaal Triangle townships south of Johannesburg in early September 1984 and eventually spread through South Africa. It was the imposition, a month earlier, of a revised Constitution that touched off this new level of resistance. Popular opposition was spontaneous to the constitutional changes which continued to deny political participation to the 73% black majority and offered only limited participation to the Colored and Asian population groups. In addition, the government appointed "township councils" to implement the established Nationalist Party policies in the townships. These new township councils were also authorized to manage public services, but were given no new revenue sources to accomplish that. In an effort to create sufficient revenues, local authorities levied rent and tax increases on endemically impoverished residents already hard-pressed by rising prices and high unemployment. The new financial demands on township residents coupled with the bitterness over the new Constitution sparked the worst outbreak of violence since the Soweto protests of 1976.

Thousands of angry township residents demonstrated en masse their opposition. Mass meetings were held throughout the area. Boycotts of work and school were launched. Protest marches against the rent increases followed, as crowds of demonstrators—thousands strong—marched on local government offices and converged on the residences of local township councillors who became live targets of rage.

Human rights groups monitoring the trial of The Sharpeville Six, report that the trial Court accepted the following sequence of events: On September 3, 1984, a crowd of protesters marched to the home of the local township councillor, Khuzwayo Jacob Dlamini. Police used teargas and rubber bullets to disperse the people but were unable to persuade Dlamini to leave the house to seek safety. Instead, he preferred to stay and confront the protesters. He shot into the crowd and injured at least one person. The attack on him was instigated by his shooting at the demonstrators. Councillor Dlamini died at the hands of the crowd.[2]

The Sharpeville Six were tried in connection with Dlamini's death and convicted both of the common law offense of murder and the statutory offense of subversion. This combination of statutory and common law charges is becoming characteristic of political trials in South Africa.

The trial itself was marked by glaring irregularities. The public was barred from the courtroom during critical parts of the trial. The conviction was based largely on evidence given by two secret state witnesses identified only as Mr. X and Mr. Y. The Court denied defense counsel the right to cross-examine Mr. X with respect to certain key statements made by him. Defense cross-examination of state witness Y revealed evidence of police brutality used to obtain "satisfactory evidence". Doubt was cast on the possibility of accurately isolating the actions of six particular individuals in a crowd that was reported to be of several thousand.

Three of the accused testified that they had been tortured and assaulted. At the time of his arrest at his home, Mojalefa Sefatsa was so severely assaulted that his jaw bone was broken. He testified that later, at the police station, he was tortured with electric shocks. The District Surgeon from Bloemfontein, a government employee who in 1984 examined Sefatsa at Groenpunt Prison, confirmed the extent and seriousness of the injuries on his arms and chest, cheek, left leg. He also noted that Sefatsa's vision was affected and his hearing impaired by the ill-treatment.

Defendant Malebo Reid Mokoena challenged the admissibility of a confession he had made, citing his torture during detention. He told the Court how, after some days in custody with his injuries still fresh, he was forced to write a letter to the Minister of Law and Order describing how Dlamini had been killed. In addition, he said that a statement, which the police alleged that he had made voluntarily to a magistrate, had actually been dictated to him under duress by a Warrant Officer. Again, a District Surgeon who examined Mokoena confirmed his injuries: "Pain in the chest and neck could have been consistent with electric shocks having been applied to his body". Evidence was submitted that defendant Theresa Ramashamola was also tortured by electric shocks to her breasts.

The trial court based most of its findings on the evidence of a single state witness. Evidence given by the six accused was rejected along with the expert evidence concerning their torture.

To find the defendants responsible for Dlamini's death, the trial Court relied on an unusual theory of common purpose. The Appellate Court noted:

> . . . it has not been proved in the case of any of the six accused convicted of murder that their conduct had contributed causally to the death of the deceased . . . In the present case I am dealing with the position of the six accused *who have been convicted of murder solely on the basis of common purpose.* (Emphasis ours.)

The Court found that none of the six had actually caused the death of the deceased, nor had they in a premeditated fashion entered into a compact to kill Dlamini. For example, Theresa Ramashamola, according to the facts accepted by the Court, had at no time come into physical contact with the deceased, nor was she causally linked to the means of his death. The Court found that the malfeasance on her part was to shout out, after Dlamini had fired into the crowd, statements that may have contributed to inciting the crowd. The specific act for which Reid Malebo Mokoena was inculpated was the throwing of a stone at the deceased, a stone which the Court accepted was not casually responsible for his death. Nevertheless, because they were part of the crowd that killed the township councillor, through an expansive application of the notion of common purpose, the acts of the crowd were imputed to each of the six. They were judged, therefore, to be guilty of murder and sentenced to the maximum penalty: execution by hanging.

II. SOUTH AFRICA AND POLITICAL EXECUTIONS

South Africa has one of the highest per capita execution rates in the world, averaging more than 100 executions annually. In recent years, an increasing number of political activists involved in resistance activities have been sentenced to death.[3] Trials on charges of "high treason", a capital offense, often with alternative common law charges, are increasing as authorities attempt to demonstrate that any form of popular mobilization and organization—be it a boycott, stay-away, street committee or "people's court"—constitutes a treasonous activity. In July 1987, when the number of people under sentence of death for political offenses grew to at least 32, the South African Youth Congress (SAYCO) spearheaded a campaign to save their lives. Since then, the number has increased to over 40.

Despite the growing outcry of protest from the international community, direct appeals for clemency for people on Death Row by the United Nations Security Council and numerous governments and non-governmental organizations, the executions have continued. The authorities have also resorted to hasty and sometimes secret executions as a tactic to circumvent public pressure. In September 1987, two men, Mlamli Wellington Mielies, aged 22, and Moses Mnyanda Jantjies, aged 27, sentenced to death for their alleged involvement in the killing of a township councillor, received only a week's notice of their executions. No official notification was sent to their families. They had not even received a response to their petitions for clemency lodged with the State President. One week later on September 9th, 1987, an anti-apartheid delegation visiting the Foreign and Commonwealth Offices in Britain learned that three other Death Row prisoners, Solomon Maowasha, Alex Matsepane and Elili Webushe, believed to be awaiting execution, had in fact been hung secretly months earlier.

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[1] There were originally eight defendants. Two of them, Motsiri Gideon Mokone and Motseki Christian Mokubury, were acquitted of the charge of murder and convicted of public violence and subversion. Each of them was sentenced to eight years imprisonment. Hereinafter, "defendants" or "accused" will refer exclusively to the six other defendants who were convicted of murder and subversion and sentenced to death.

[2] "Save the Sharpeville Six," London: SATIS (Southern Africa the Imprisoned Society), April 1986.

[3] Solomon Mahlangu was executed in May 1979. The Amnesty International 1980 Report notes that his execution constituted the first since the mid-1960's and probably signalled South Africa's move toward a greater use of the death penalty in political cases. The following persons have been executed since then: Thelle Simon Moqoerance, June 1983; Jerry Semano Mosololi, June 1983; Marcus Thabo Motaung, June 1983; Malisela Benjamin Moloise, October 1985; Clarence "Lucky" Payi, September 1986; Andrew Zondo, September 1986; Andrew Zondo, September 1986; Sipho Bridget Zulu, September 1986; Solomon Maowasha, December 1986; Alex Matshapa Matsepane, December 1986; Elili Webushe (Raymond Gwebishe), August 1987; Moses Mnyanda Jantijes, September 1987; Mlambi Wellington Mielies, September 1987.

III. THE CONTEXT OF POLITICAL OFFENSES IN SOUTH AFRICA

To re-establish its control shaken by the nationwide rebellion that is now over three years old, the South African Government has engaged in a coordinated violent assault on all forms of opposition in the country. The June 12, 1986 declaration of a State of Emergency set the stage for unprecedented State violence to be unleashed against anti-apartheid activists and even against entire black communities. Since then, over 30,000 people have been detained without charge or trial. More than 10,000 have been children. Torture, ill-treatment, disappearances, deaths in detention, extra-judicial killings as well as an upsurge in judicial executions have become common features of life for South Africa's black township residents.

It is this picture of apartheid violence that forms the backdrop for the acts of those condemned political prisoners on Death Row in South Africa. Their actions cannot be judged nor evaluated in artificial isolation from their social and political context. In South Africa, that context is apartheid, a system which violates the most fundamental norms of international law. Whatever our view may be of their tactics, the acts of political activists are inspired by their legitimate opposition to apartheid and thus should they be judged.

Further, The Sharpeville Six and all other political prisoners in South Africa have been tried and convicted by a flawed legal system, subverted to enforce apartheid laws and practices. As with the trial of The Sharpeville Six, breaches of international standards of due process, of both a procedural and substantive nature, are common features of political trials in South Africa. Such breaches cast doubt on the Court's ability to make credible findings as to guilt or innocence.

To continue to execute political prisoners in the politically charged context that is South Africa today will further exacerbate a rapidly deteriorating situation. It will be counterproductive as a means to end violence and will reduce drastically the possibility of achieving viable non-racial political structures in South Africa. Rather than quelling unrest, the execution of political activists creates new martyrs, which in turn solidifies resistance.

The International Community must urge the South African Government to take a wiser path:

1. Forego as a matter of policy the imposition of the death sentence on political prisoners, and

2. Commute the death sentence for The Sharpeville Six and those other political prisoners presently on Death Row.

For further information please contact: Southern Africa Project, Esmeralda Thornhill, Gay McDougall (202) 371-1212.

The facts and figures cited in this memorandum were drawn from the following sources: The Weekly Mail (Johannesburg); various reports of Amnesty International; Focus on Political Repression in Southern Africa; "Save The Sharpeville Six: No to Apartheid Executions", by the London-based Southern Africa The Imprisoned Society; and publications and reports of the UN Centre Against Apartheid.

[From the Economist, Dec. 26, 1987]

YEAR OF THE NOOSE

In 1987 South Africa's hangmen had a busier year than usual. By Christmas they had hanged 164 men, nearly all of them black: at one point towards the end 21 hangings had to be compressed into three days. Even before this, the annual total had climbed higher than in any year since the Act of Union in 1910.

In 1910 21 people were executed in South Africa. By the mid-1960s the annual toll had reached an average of 70. After a brief dip in the early 1970s it climbed to 90 in 1979 and to 137 in 1985. The 1987 record attracted little attention. December's hanging of 21 men on three successive days occupied three brief sentences in the biggest daily newspaper.

The death penalty has never attracted much controversy among white South Africans. The white parliament declined to vote on a call for its abolition in 1969. Of the 164 men hanged in 1987, only nine were white. But in executions, if in little else, there have lately been faint signs of a shift towards colour-blindness. It was the boast of one former minister of justice in South Africa that no black man sentenced to death for raping a white woman had ever escaped the noose. Yet two of the white youths executed in 1987 were hanged for raping and murdering black women. No whites had previously been hanged for raping a black.

South Africa's hangings excite more controversy when politics are involved. The appeal court in December confirmed the death sentences imposed by a lower court on the "Sharpeville Six", five men and a woman convicted for their part in the murder by a mob of Khuzwayo Dlamini, a black town councillor, at the start of the black township rebellion in September 1984. A campaign to save the lives of the six has been launched, and western embassies have asked President Botha to show clemency.

Campaigners for the six argue that the killing was not an ordinary murder but the product of the political turmoil of the black townships. "Were it not for apartheid," complained the United Democratic Front, one of the main anti-apartheid organisations, "the six South Africans would not now be sitting on death row." There are precedents for reprieving political prisoners. A Nazi spy, Robey Leibrant, was sentenced to death during the second world war but never executed. Freeing him was one of the National party's first acts when it won power in 1948. "If blood is spilled we make the future difficult," said the party leader, Daniel Malan.

This precept has not been followed in 1987. Six out of the 44 people condemned to death for the murder of "collaborators" during the black township riots of 1985 and 1986 have already been hanged. The government has given no hint of wanting to treat the Sharpeville Six any differently. If Teresa Ramashamola, a 24-year-old waitress, is hanged along with the five male prisoners, she will become the country's first woman to die for what many black South Africans see as an act that should not be punished by execution.

[From the Weekly Mail, Apr. 10, 1987]

SHARPEVILLE SIX: APPEALS FOR CLEMENCY AS COURT BID FAILS

(By Mono Badela)

For three years, Julia Ramashamola has known her daughter Theresa was going to die.

It was in 1984 that Theresa Ramashamola was swept up in what is now known as the Vaal uprising.

"I knew then that things were going to end like this," her distraught mother said, hours after hearing that the appeal launched by her daughter and the other members of the Sharpeville Six had been turned down.

Theresa's mother, a health worker at Sebokeng Hospital, said she was not keen on talking to the press. She added: "She is not the first to go through this. There were others, like Benjamin Moloise."

Her daughter, a restaurant attendant at the time of her arrest, is the only woman on Death Row for a politically motivated offence.

Mabel Sefatsa—Ramashamola's neighbour and the mother of Mojalefa Reginald Sefatsa, due to hang with Theresa Ramashamola—could only say "I just can't believe they can hang my son. I know he is innocent. He can't even kill a fly."

Her son is one of the Sharpeville Six on Pretoria Central Prison's Death Row. Others are Reid Malebo Mokoena, Oupa Moses Diniso, Duma Joshua Khumalo and Francis Don Mokgesi.

The appeals of six Sharpeville residents against their convictions and death sentences for the murder of Lekoa town councillor and deputy mayor Khuzwao Jacob Dlamini were dismissed this week by the Appeal Court in Bloemfontein. Dlamini was killed on September 3, 1984, the first day of the Vaal uprising, as he fled from his house which had been set alight by a mob.

Sefatsa's mother told *Weekly Mail* that Mojalefa, eldest of her six children, was the family's sole breadwinner. "He was like a father to us. I now have to look after the other five children. He knew what to do for them. I do not believe that his life and those of others cannot be spared."

Sefatsa's wife Regina visited him on Wednesday. "Already he knew the outcome of the appeal. He is still very strong and asked that we do not give up, that we should keep on praying until the last."

Her dauther, Masefatsa, now three years old, was born two months after her father was detained.

A spokesman for the office of Johannesburg attorney Ismail Ayob said yesterday the firm was still trying to stop the six from being hanged. "We are pulling out all the stops to save the six. We are now drafting the petition to be presented to the state president for clemency. Until we get fresh evidence it is the next immediate steps we can take."

Dismay has been voiced at the failure of the appeal in a number of quarters, from the Detainees' Parents Support Committee to the United Nations General Assembly.

The general secretary of the South African Council of Churches, the Rev. Frank Chikane, Albertina Sisula, copresident of the United Democratic Front, and Archbishop Trevor Huddleston, president of the Anti-Apartheid Movement in Great Britain, are among those calling on the state president to show clemency.

Several public meetings have been planned in centres around the country to support the six.

AMNESTY INTERNATIONAL URGENT ACTION ALERT 9 FEBRUARY 1988.

South Africa: Mojalefa Reginald Sefatsa, aged 33; Oupa Moses Diniso, aged 31; Reid Malebo Mokoena, aged 25; Theresa Ramashamola, aged 27; Duma Joshua Khumalo, aged 27; Francis Don Mokgesi, aged 31—known as the "Sharpeville Six."

Amnesty International has been informed that the defence lawyers lodged the appeal for clemency on behalf of the six condemned with the Ministry of Justice on 21 January 1988. The appeal may be reviewed by the Ministry and decided upon by the State President at any time this month. (February).

Amnesty International has received the details of the decision by the Appeal Court in Bloemfontein, on 1 December 1987, to uphold the convictions for murder and the sentences of death against the six accused. The decision was based on the judges' interpretation of the legal doctrine or "common purpose". The Court acknowledged in its judgment that "it has not been proved in the case of any of the six accused (who have been) convicted of murder that their conduct had contributed causally to the death of the deceased". However, the Appeal Court concluded that it was "appropriate to deal with the liability on those accused for murder on the basis of what is called in (South African legal) practice common purpose".

Acknowledging that "much uncertainty" has arisen in recent years as to whether it is "competent for a participant in the common purpose to be found guilty of murder in the absence of proof that his conduct individually caused or contributed causally to the death of the deceased" the Court saw it as "imperative that a clear answer be given to the question". The Court concluded, after a review of other cases, that "it would constitute a drastic departure from a firmly established practice to hold now that a party to a common purpose cannot be convicted of murder unless a causal connection is proved between his conduct and the death of the deceased".

In its judgment, the Appeal Court saw it as at least "implicit in the findings of the trial court", but in any event quite clear on the evidence that each of these accused shared a common purpose, to kill the deceased with the mob as a whole, the members of which were intent upon killing the deceased".

In their appeal for clemency, the defence lawyers argued that the alleged acts of the accused were not sufficient to warrant conviction for murder and the imposition of the death penalty. The prosecution alleged that the accused had been involved in various different ways during the events leading up to the councillor's murder. The defence lawyers argued that if the allegations were correct, they required, at most, conviction on lesser charges.

Defense lawyers argued in particular that Reid M Mokoena, who was implicated solely on the basis of his confession made to a magistrate while in incommunicado detention, had made his confession under duress, after being assaulted by the police—a district surgeon testified that he had found injuries consistent with Mokoena's claims. In the case of Theresa Ramashamola, who was alleged to have shouted, when the deceased fired into the crowd, "he is shooting us, let's kill him," defense lawyers argued that if she had shouted the alleged words, the State had failed to prove that she had incited the actual perpetrators. (Ramashamola denied that she remained with the crowd at the time the murder was committed, as she had been shot in the head with a rubber bullet earlier on.)

In the cases of Duma J Khumalo and Francis D Mokgesi, defense lawyer argued that the two had been implicated by one state witness. The trial court refused leave to defence counsel to cross-examine this witness about a statement he had made some time before, in which he apparently alleged that he had been subjected to police abuses while he himself had been in detention and had been told by the police to incriminate Khumalo and Mokgesi. The trial court refused the cross-examination on the grounds that the statement was a confidential one made to a lawyer. The Appeal Court upheld the lower court's decision.

TEXT OF UNITED NATIONS SECURITY COUNCIL PRESIDENT'S STATEMENT ON CLEMENCY FOR THE SHARPEVILLE 6

The members of the Security Council have learned with grave concern of the South African authorities intention to implement the death sentences imposed on Mojalefa Reginald Sefatsa, Oupa Moses Diniso, Francis Don Mokhesi, Reid Malebo Mokoena, Duma Joshua Khumalo, and Theresa Ramashamola.

The members of the Security Council strongly urge the Government of South Africa to commute these death sentences in order to avoid further aggravating the situation in South Africa.

(This statement was approved by consensus in the Security Council, December 18, 1987.)

STATEMENT BY JOYCE T. MOKHESI TO THE U.N. SPECIAL COMMITTEE AGAINST APARTHEID ON THE TENTH ANNIVERSARY COMMEMORATION OF THE DEATH OF THE PAC FOUNDING PRESIDENT, MANGALISO ROBERT SOBUKWE, FEBRUARY 26, 1988

ROUGH JUSTICE IN A SOUTH AFRICAN HIGH COURT

Five men and a girl are waiting in a South African death cell to be executed in what would be the gravest miscarriage of justice since the crucifixion. The six were tried together with two other men on a charge of murder and other counts following the disturbances which broke out at Sharpeville on the 3rd September 1984 and spread throughout the country. Since then they came to be known as The Sharpeville Six, and their fate came to symbolise the struggle for freedom of Black people in South Africa, the symbol of a tragedy.

They were convicted for murder and sentenced to death in the Transvaal Provincial Division of the Supreme Court on the 12th December 1985. Since then their appeal against both conviction and sentence was heard and rejected by the Appellate Division of the South African Supreme Court, which sat in Bloemfontein in November and handed down its judgment on the last 1st December 1987. The appeal was rejected on grounds which, even for a lay person, were obviously and gravely flawed, as will amply be demonstrated in due course.

The Appellate Division (Appeal Court) is the highest court in the land, and therefore it is now only the State President who can save the lives of the six by exercising his prerogative for clemency. By doing so, as will be shown, he will have averted a gross miscarriage of justice. The six who are now awaiting execution in Pretoria are Mojalefa Reginald Sefatsa, Reid Malebo Mokoena, Oupa Moses Diniso, Theresa Ramashamola, Duma Joshua Khumalo, and Francis Don Mokgesi. The two others, whose appeal against conviction for public violence and sentence of eight years' imprisonment was upheld, are Motseki Christiaan Mokubung and Motsidi Gideon Mokone.

The judgment of the Appeal Court was delivered by Mr. Justice A.S. Botha, sitting with four other judges of appeal. It was in two main parts, dealing with two different grounds of appeal. By dealing first with the second ground of appeal, the judgment accentuated the fact that the entire case depended on the outcome of argument on it. This crucial argument concerned the flawed evidence of a State witness named Joseph Manete, evidence which was hotly disputed by Defence counsel in the trial court. Acknowledging the crucial nature of argument on Manete's evidence, Mr. Justice Botha said in the judgment:

"In these circumstances it was clear that if this Court were to decide that the trial judge had erred in disallowing Manete's cross-examination a re-appraisal of the entire case would be called for. . . ."

The trial judge had disallowed cross-examination of Manete concerning a statement he had made privately to the instructing attorney (solicitor) for the Defence, alleging that he had been coerced by the police to give false evidence implicating two of the accused. The two accused men in question were Duma Joshua Khumalo and Francis Don Mokgesi, numbered seven and eight respectively at the trial, convicted and sentenced to death partly on the basis of evidence given by Manete.

The trial judge, Mr. Acting Justice W.J. Human, had disallowed cross-examination of Manete on the ground that Manete refused to relax the privilege attaching to the statement as a confidential document, claiming that he had no power to compel Manete to answer questions about the privileged statement. By cross-examination of Manete on the statement Mr. Unterhalter, the Defence counsel, sought to show that Manete had not voluntarily given evidence for the State implicating the two accused men.

Citing various authorities, Mr. Unterhalter argued for relaxation of the privilege attaching to Manete's statement. He showed that in certain special circumstances exceptions were made of otherwise privileged documents which contained evidence that, if produced, would help establish the innocence of an accused person. One of the authorities cited was a case heard in 1972 before Mr. Justice Caulfield in the Crown Court at Lincoln in Britain. In the course of his ruling regarding a privileged document the British judge said:

"If there are documents in the possession or control of a solicitor which, on production, help to further the defence of an accused man, then in my judgment no privilege attaches. I cannot conceive that our law would permit a solicitor or other person to screen from a jury information which, if disclosed to the jury, would perhaps enable a man either to establish his innocence or to resist an allegation made by the crown. I think that is the principle to be followed.

"I am not going to express in any detail what documents should or should not be in evidence in this case. Of course, those documents, when they are produced in this case, will have to contain evidence that is both relevant and admissible. Those two points will have to be satisfied, and no doubt the Crown will be alerted to object if there is any evidence in the documents which is neither relevant nor admissible, but where there is evidence in the possession of the solicitor that is relevant and admissible to a contention by the accused either pointing to his innocence or resisting his guilt, that document in my opinion is not privileged and the solicitor must obey the subpoena and notice to produce that has been served on him. . . ."

In the case of Manete the trial judge contented himself with merely asking Manete whether he was willing to answer questions on the statement he admitted to have made to the attorney, thus waiving its status as a privileged document. Manete replied that he was unwilling to do this, and Mr. Acting Justice Human thereupon disallowed Manete's cross-examination on it.

Defence counsel's argument at the Appeal Court's hearing was to the effect that the trial judge had erred in disallowing cross-examination of Manete or in failing to use his discretion to compel Manete to answer questions on the statement in question. In fact, a perusal of the record shows that the judge in the trial court had not even bothered to order that the document should be brought to him for perusal before making his ruling. Since Manete's statement was a privileged document, Defence counsel could not have produced it on his own without leave to do so being granted by the trial judge. The following record shows what happened in the trial court when the issue was debated:

"*Court:* My difficulty is I do not know how this statement will assist, even if I adopt that principle, how will this statement assist the accused to prove their innocence? How can I make a ruling before I know that?

"*Counsel:* Well, My Lord, without going into the matter in any detail . . .

"*Court:* Well, I must know.

"*Counsel:* Yes. Well, if I may, with Your Lordship's permission to do so, the contents of this statement are to the effect that the implication of accused no. 7 and accused no. 8 is not a voluntary implication, but an implication that was dictated to this witness and because of that . . .

"*Court:* I beg your pardon? It was not a voluntary what?

"*Counsel:* It was not a voluntary implication of accused nos. 7 and 8, but he was told to implicate them. In other words he is not giving the evidence absolutely untrammelled, he did it because he was told by the police to do it."

After further argument the trial judge asked counsel for the State what his attitude in the matter was, whereupon the State counsel replied that he was unaware of what was contained in Manete's statement, and that in any case he objected to the disclosure of its contents on the ground that it was a privileged document. At this stage Manete, who had been sent out while argument on the matter proceeded, was recalled to the witness stand. The trial judge told him that the statement he had made to the attorney was privileged, and that he could claim privilege or waive it. He also told him that he was entitled to seek legal advice on the matter if he wished to do so. At this point the record from the trial court reads:

"*Court:* Now you see, you cannot be questioned about that statement because it is a privileged statement.

"*Manete:* Yes, I understand.

"*Court:* Unless I order you to answer questions about that statement. Now, in order for me to determine what to do I must enquire from you whether you claim privilege, in other words you refuse to answer questions about that statement.

"*Manete:* Yes, I refuse.

"*Court:* Pardon?

"*Manete:* Yes, I do not want to answser questions about that statement."

In the absence of the court record proper, we have relied on excerpts from it which are contained in the judgment of the Appeal Court. This judgment makes heavy weather about the failure of Defence counsel to specifically ask the trial judge to exercise his discretion and compel Manete to answer questions on the statement he had made to the attorney. In fact, as he told the Appeal Court, Defence counsel had implicitly done so by arguing at great length, citing various authorities, that the judge in the trial court had the power to compel the witness to answer questions on the statement. However, according to the Appeal Court judgment, Mr. Justice Botha perceived a difference between a judge's power to relax a privilege attaching to a statement and the exercise of a discretion in the matter, which is in fact virtually non-existent. In consequence the Appeal Court judge went to some lengths defending the trial judge's failure to exercise his discretion in the matter. First, Mr. Justice Botha argued that the trial judge was not asked to exercise his discretion. Having promoted this claim to the status of fact, Mr. Justice Botha argued that in any case the trial judge could not have exercised his discretion without having had the opportunity to peruse Manete's statement or without being furnished with all relevant information in the matter. This approach is so incredible we need to reproduce a sizeable part of the judgment, which reads:

"I have no doubt that the question of the relaxation of the rule can only arise in the context of the exercise of a discretion by the trial judge, based on a consideration of all the information relevant to the question. The mere allegation on behalf of the accused that cross-examination on the statement may enure to their benefit, without more, cannot, I conceive, be sufficient to enable the discretion of the trial judge to come into play. Minimum requirements, in my view, would include information as to how the statement came to be in the possession of the legal representatives of the accused; whether the legal advice sought (by the witness from the attorney) related to the trial itself, and if so in what way; what the contents of the statement were (the statement could be handed up to the trial judge for his perusal); and perhaps most importantly, in what manner and with what prospects of success the cross-examination could avail the accused in countering the charges against them. I do not see how the trial Judge can be called upon to assess the relative weight of the relevant conflicting principles of public policy without being supplied with information of the kind I have mentioned."

When the trial judge told Manete that he could not be questioned about his statement because it was a privileged document, "unless I order you to answer questions about that statement," he at once admitted both that he had power to relax the privilege attaching to it and that he could exercise his discretion to do so. Further, it was obviously within the power of the trial judge to requisition all the relevant information in the matter. Indeed, as presiding judge, his was the responsibility for the efficacious conduct of the trial. Conversely, Defence counsel operated under severe constraints imposed by a principle of public policy which prohibited unauthorised disclosure of the contents of a privileged statement. However, upon the hectoring questions of a trial judge who had made up his mind negatively already, Defence counsel did divulge enough of the contents of the statement to transform the court atmosphere into one of tension between judge and counsel, as even the few excerpts from the trial record clearly show.

A grave allegation had been made. Labouring under the constraints alluded to, Defence counsel had said the contents of Manete's privileged statement were to the effect that the police had coerced him to implicate two of the accused. In other words, Manete had alleged that, while he was in police custody, the police had forced him to become a State witness and to implicate two men who as far as he knew were innocent. Having capitulated to the pressure and signed a statement dictated to him by the police implicating the two men, he was released from detention and then seized this opportunity to seek legal advice about his predicament. He went to see an attorney and made a statement to him, which was now the subject of argument in the trial court.

Before we consider the question of a privilege attaching to statements made by clients to lawyers in their professional capacity, it is necessary to remind ourselves of the fact that South African police are notorious for abusing the power they wield over those they are empowered by law to detain for long periods without trial. Political detainees are known to have died in police custody, and they include such widely-publicised cases as the tragic death in 1977 of Bantu Stephen Biko, a leader of the Black Consciousness Movement. Men, women and children are picked up for third-degree interrogation and held in indefinite detention—until they answer questions to the satisfaction of the political police or die from a multiplicity of mysterious causes while in police custody. Many tearful stories of brutal treatment and various forms of mind-breaking torture are told by ex-detainees. In this atmosphere of almost irresistible pressure some of the detainees turn into State witnesses. But the courts are very touchy when given accounts of police brutality by those who have the courage to complain about these matters.

In Manete's case the trial court had an extraordinarily strong reason to be touchy. As we have noted, the judgment of the Appeal Court admitted that the entire case of the State against the accused would have to be reappraised if Manete's evidence were discredited. As it is, despite the fact that the witness had been protected from a crucial cross-examination, many aspects of his evidence were unacceptable even to the court itself, which accepted only those aspects of it that coincided with the otherwise uncorroborated evidence of a key State witness.

Those two witnesses were identified only as X and Y in the trial court. In the Appeal Court's judgment witness Y is identified as a man named Jantjie Mabuti. He was the State's key witness, and from his evidence he emerges as both a police informer and a professional witness—that is, a man who had to have something to tell the police and the trial court. The trial arose from disturbances which broke out at Sharpeville and surrounding areas on the 3rd September 1984, in which a crowd attacked the home of a local councillor named Khuzwayo Jacob Dlamini, who was described as the deputy mayor of the town council of Lekoa, a region which includes Sharpeville. Dlamini was killed in the disturbances, which broke out outside his house in Sharpeville.

According to careful analysis of the events of the day as described in the Appeal Court's judgment, the crowd which collected outside Dlamini's house at 7 a.m. did so in a peaceful demonstration protesting against steep increases in house rentals. However, it was alleged at the trial that "they pelted the deceased's house with stones". It is a singularly odd allegation, in that no damage to the windows or the door was claimed to have been caused by the demonstrators at this stage. The police were called, apparently by Dlamini using the telephone. When they arrived the police used teargas and fired rubber bullets to disperse the crowd. This was an unusual mode of crowd dispersal by South African police when dealing with a riotous mob. The fact that they used this method rather than firing live bullets and baton-charging the crowd is itself testimony to the peaceful behaviour of the demonstrators. The only plausible "allegation" concerning the demonstrators' behaviour up to the arrival of the police was that they were singing freedom songs, which for the repressive police of the land of apartheid is provocative conduct. Hence, no doubt, the allegation made at the trial that the crowd was "rowdy". Further testimony to the demonstrators' peaceful conduct was the fact that the Dlamini family remained unperturbed, and that Dlamini declined a police offer to take him away to a place of safety. The judgment says:

"After the crowd had scattered, the police spoke to the deceased in front of his house and tried to persuade him to leave. He refused to do so. He was armed with a pistol. The police left the scene."

Following the departure of the police the demonstrators regrouped and continued to sing freedom songs. But now they behaved oddly, if an allegation made at the trial is to be believed. According to this allegation, some of them went into the yard of a nearby house belonging to a private mechanic named Radebe. Without orders or instructions from anyone, these demonstrators simply moved into Radebe's yard and "siphoned off petrol from the vehicles parked there into containers which they took with them," as the judgment puts it. No evidence was led identifying anyone giving orders to the crowd at this stage of the day's events. So that the picture which emerges is of many different people each acting on his or her own volition all at once for a common purpose—without a concerted plan having been announced in advance or instructions given by anyone on the spot, which is most improbable. On the contrary, in evidence for the Defence, the mechanic Radebe denied any loss of petrol from the cars parked in his yard on that or any other day, and said he had not seen anybody fiddling with them. The false allegation was made by the key State witness Mr. Y, alias Jantjie Mabuti. Mabuti claimed that he was observing some of these events while hiding inside a shack located in the yard of a nearby house belonging to Mrs. Emily Moeketsi. But the claim was indirectly refuted by Mrs. Moeketsi when giving evidence for the Defence subsequently, saying that she kept the shack locked because it contained her valuable possessions.

Mabuti had claimed that, after the police departure, the demonstrators had regrouped in Zwane Street, nearer Radebe's house than Dlamini's. Some of them, having siphoned off petrol from the cars in Radebe's yard, ran off towards Dlamini's house, all of which suggested the behaviour of a mob. Yet oddly, the petrol bombs thus allegedly carried off from the yard were not used at once when the crowd regrouped outside Dlamini's house. And this restraint by the crowd was oddly maintained despite the demonstrators being egged on by the voices of unidentified persons who were alleged to have repeatedly shouted the words: *"Laat ons breek, laat ons breek, die huis breek en aan die brand steek."* The original words, translated into Afrikaans at the trial, were presumably uttered in some other language. The English translation is: "Let us break, let us break, let us break the house and set it alight." Yet there was no evidence that any attempt was made at this stage by the crowd to smash the house and set it alight. However, there was an allegation that, after arming themselves with petrol bombs in Radebe's yard, "the vanguard ran towards the deceased's house and hurled stones at it, breaking the windows," in the words of the Appeal Court's judgment. But, despite all this, Dlamini and his wife are said to have opened the door and went outside to confront the crowd—a most unlikely sequence of events. The judgment says:

"The mob moved along Zwane Street and turned into Nhlapo Street. The vanguard ran towards the deceased's house and hurled stones at it, breaking the windows. The deceased was in the house, together with Mrs. Dlamini. Members of the crowd shouted repeatedly (here the unlikely refrain rendered in Afrikaans above is reproduced). The deceased and Mrs. Dlamini opened the door of the house and went outside to confront the mob."

Sheer common sense, and the overwhelming balance of probabilities, point to this "confrontation" as the real beginning of trouble. The purpose of the demonstration was proclaimed on placards, one of which bore the words "Arena Shelete" ("We have no money"), meaning no money to pay the increased rentals. Some members of the crowd are said to have remonstrated with Dlamini and insulted him, calling him a "sell-out". The Afrikaans version of the remonstration given at the trial was to the effect that Dlamini was habitually dined by Whites, with whom he treacherously schemed against the interests of the people. It was probably the first such confrontation that Dlamini ever encountered (elections for local councillors are boycotted by more than 90 per cent of the residents). His immediate reaction shows that he felt extremely humiliated, fuming with fury as he went back into the house. The judgment says:

"The deceased and Mrs. Dlamini went back into the house and closed the door. The deceased (then went to the window and) fired a shot into the crowd, hitting one of them (in the leg). This angered the mob, which became extremely aggressive. A woman in the crowd, who was standing in front of the house, shouted repeatedly: "Hy skiet op ons, laat ons oom doodmaak" ("He is shooting at us, let us kill him")."

Except for the words which implied that the woman had separated herself from the rest of the demonstrators to go to the front of the house, all of a sudden assuming leadership, the sequence of events described in the foregoing paragraph from the judgment is most persuasive. Without separating the girl from the rest, Mabuti would have had difficulty trying to convince anyone that he was able to identify her as the speaker of the words quoted in the paragraph, because he was supposed to have observed the incident from a distant vantage point. The girl he dubiously identified in this way was Theresa Ramashmola, then aged 24, and now one of those on Death Row. The plausibility of his evidence is not helped by the claim that the allegedly-shouted words were repeated several times, which does not accord with a normal person's sense of reality. No one else came forward to claim having heard the cry. Mabuti also claimed, without corroborative evidence, that Ramashamola had slapped the face of a woman who had protested when Dlamini's unconscious body was dragged to his burning car, saying the mob must not burn him. Curiously, however, Dlamini's would-be saviour was not produced in court to bear witness to her trouble. Such flaws were typical of much of the evidence given by Mabuti, and he and Manete contradicted each other in some aspects of their accounts.

The five learned judges who heard the appeal in Bloemfontein were either too insulated from the tensions that prevail in South Africa or racially so partisan that they could not see the wood for the trees. It is quite clear that the bullet fired by Dlamini from his window was the cause of all the trouble. It was then that for the first time the crowd became violent and behaved like an incensed mob. All other versions add up to a cock and bull story cooked up in a spirit of vengeance by those who for political reasons wanted to avenge the killing of Dlamini and other "sell-out" councillors attacked in the disturbances which ensued.

Most disturbingly, in their approach to the dispute which had taken place in the trial court over the pivotal case of Manete's flawed evidence, the appeal judges displayed a degree of partisanship which blinded them to the great question of humanity involved. The question that posed itself starkly before Their Lordships was whether they were prepared to sacrifice human life on the altar of an abstract principle of judicial procedure. This question centered on a point where "two public policies are in conflict", stated in the judgment as a conflict between "the public policy underlying the protection generally afforded against the disclosure of communications subject to legal professional privilege, and the public policy that no innocent man should be convicted of a crime." Citing various authorities, Defence counsel submitted that in such a conflict the public policy that no innocent man should be convicted of a crime was "paramount and must prevail".

Although argument ranges far and wide in the written judgment of the Appeal Court, the crux of the matter is that, in rejecting Defence counsel's submission, Mr. Justice Botha contended that the trial judge had not been specifically asked to exercise his discretion in the matter—a question of mere judicial procedure. The judgment then goes on at great length in defence of the principle on which privileged communications are made between lawyers and their clients, citing among others a judgment handed down in an Australian case where judges were split four to three but all "appear to have recognized, in regard to legal professional privilege, that this privilege is a mere manifestation of a fundamental principle upon which our judicial system is based."

Mr. Justice Botha added that in his view "the same holds true for our own judicial system". By way of amplification of this "fundamental principle", the Appeal Court's judgment reproduces five sizeable excerpts from the judgment of Dawson J (at 442-5), but at the end one is left wondering why the five learned judges took so much trouble elucidating a principle that neither Defence counsel in the case before them nor any of the various authorities cited by him had disputed. The principle on which privileged communications are made between lawyers and clients was not in dispute in the case. What Defence counsel argued was that exceptions should be made where proof of a man's innocence depended on disclosure of the contents of an otherwise privileged document, and in this case the lives of two men or indeed of all six condemned persons could have depended on such a disclosure. The following is typical of the five excerpts reproduced from Dawson in the Appeal Court's judgment:

"The conflict between the principle that all relevant evidence should be disclosed and the principle that communications between lawyer and client should be confidential has been resolved in favour of the confidentiality of those communications. It has been determined that in this way the public interest is better served because the operation of the adversary system, upon which we depend for the attainment of justice in our society, would otherwise be impaired. . . ."

The reason for this superfluous and prolonged defence of a principle that was neither challenged nor under attack becomes clear when the Appeal Court's judgment comes to deal with the first ground of appeal, which was apparently also the reason why Their Lordships had decided first to deal with the second ground of appeal and dismiss it. To uphold the trial judge's verdict of guilt the Appeal Court had first to endorse his refusal to allow cross-examination of Manete on his statement to the attorney, and therefore also his acceptance of those aspects of Manete's evidence which coincided with the otherwise uncorroborated evidence of Mabuti. Even this, however, did not quite dispose of Their Lordships' difficulties. They still couldn't find proof of the part played individually by some or all of the accused in the murder of Dlamini. In the absence of such proof, Their Lordships resorted to "what is called in our practice 'common purpose'." The judgment says:

"It is more usual and, in my view, with respect, more appropriate to deal with the liability of these accused for murder on the basis of what is called in our practice "common purpose", and it is on that basis that I proceed to discuss the matter. It is implicit in the findings of the trial Court, I think, but in any event quite clear on the evidence, that each of these accused shared a common purpose, to kill the deceased, with the mob as a whole, the members of which were intent upon killing the deceased and in fact succeeded in doing so. And, as I have pointed out, all these accused by their conduct actively associated themselves with the achievement of the common purpose and each of them had the requisite *mens rea* for murder.

"This is the setting in which consideration must be given to the argument on behalf of these accused that their convictions of murder were wrong because the State had failed to prove that their conduct caused or contributed causally to the death of the deceased. In the case of some of these accused it is perhaps debatable whether a causal connection between the conduct of each, individually, and the death of the deceased had indeed not been proved, but in the case of others it must be accepted without doubt, in my opinion, that no such causal connection can be found to have been proved. This is particularly obvious in the case of accused Nos 2 and 4, as will appear from what has been said earlier in regard to their conduct. I shall therefore assume, for the purpose of my judgment, that it has not been proved in the case of any of the six accused convicted of murder that their conduct had contributed causally to the death of the deceased."

By describing various precedents in great detail, the judgment made it clear that the doctrine known as "common purpose", which had its origins in Britain, was an established practice in South Africa. First, the judgment assumes that the trial court's convictions of the six accused on the murder charge was "solely on the basis of common purpose", saying that this verdict is "implicit in the findings of the trial Court". For a judgment which has attached so much importance to the notion of specificity, as against implicity, in argument concerning the Manete case, the switch to the notion of implicity is glaringly inconsistent. It exposes Their Lordships to the grave charge that they were prepared to bend the rules of procedure to suit hidden purposes, the apparent application of double standards for political or racist reasons. The inevitable conclusion is that they were determined to uphold those convictions at all costs.

If to accept Manete's account of the day's events as corroborative evidence was necessary for establishing common purpose on the part of the accused, then this doctrine could not be invoked in relation to those stages in the course of the day's occurrences where only Mabuti's uncorroborated—and indeed discredited—evidence was available. This part of Mabuti's evidence refers to all the early stages prior to the shot that was fired by the deceased. In relation to these early stages, the only common purpose that was proved on the part of the crowd was their intention to protest against the recent increase in house rentals. The judgment attaches great importance to a man's "active association" with a crowd as evidence of his share in its common purpose, which in this case is alleged by the judgment to have been "to kill the deceased". Yes, it is no more than an allegation, for there was absolutely no evidence that the demonstrators had set out to kill Dlamini, either as a group or individually. The judgment gives several instances where in criminal cases the accused had been convicted on the basis of a common purpose. To my mind, one of the most instructive is the following:

"The case is S v Malinga and others 1963 (1) SA 692 (A). Five accused had set out in a motor car to commit the crime of housebreaking with intent to steal and theft. Accused No 4 was armed, to the knowledge of the others. On leaving the scene, the car in which the accused were traveling was overtaken by a police car which tried to stop the car of the accused. Accused No 4 fired a shot and killed a policeman. An appeal against the convictions for murder of the other four accused was dismissed. HOLMES JA (with STEYN CJ and WILLIAMSON JA concurring) pointed out at 694 that '. . . the liability of a *socius criminis* is not vicarious but is based on his own *mens rea*", and went on to say at 695 A–B: "In the present case all the accused knew that they were going on a housebreaking expedition in the car, and that one of them was armed with a revolver which had been obtained and loaded for the occasion. It is clear that their common purpose embraced not only housebreaking with intent to steal and theft, but also what may be termed the get-away. And they must have foreseen, and therefore by inference did foresee, the possibility that the loaded fire-arm would be used against the contingency of resistance, pursuit or attempted capture. Hence, as far as individual *mens rea* is concerned, *the shot fired by accused No. 4 was, in effect, also the shot of each of the appellants.*' " (My emphasis).

Needless to add, in the above case the question of common purpose was established beyond doubt. Not so in the case of the six condemned in the Sharpeville trial. On the contrary, with regard to the killing of Dlamini, the State's own evidence, accepted by the trial judge, established the absence of a common purpose both before and even after the shot fired by the deceased which caused all the trouble. The most poignant piece of such evidence is in the claim that a woman protested and was slapped in the face when the unconscious body of the deceased was about to be burnt. Whether this claim was true or not is immaterial, for it shows that the State witness who made it believed that there was no common purpose on the part of the crowd to kill Dlamini. Moreover, as we have already established, the people had come together for an altogether different purpose, which was to protest against rent increases, and this was common cause between the State and the Defence, accepted by the trial judge, though apparently not by the Appeal Court. Thus the Appeal Court, by upholding the convictions for murder on the new basis of common purpose, has not only clearly rejected the basis of the trial court's verdict but thrown the whole case into judicial chaos.

The claim by the Appeal Court that "common purpose" was implicit in the trial judge's findings is clearly false, as will be shown presently. It is also clear that this claim was made to camouflage an irregular departure from the findings of the trial court. Their Lordships were well aware of the fact that the trial court's judgment was based on the individual acts attributed to each of the accused, and criticized the judgment on that account. For purposes of conviction and sentence in the trial court, Mr. Acting Justice Human had separated two of the accused from the six, although all of them were originally charged with murder as well as on other counts. The judge did this precisely because he had found no common purpose on the part of the accused to kill Dlamini. And so he acquitted Motseki Christiaan Mokubung and Motsidi Gideon Mokone of the charge of murder and convicted them on the alternative charge of public violence. This conviction was set aside by the Appeal Court, which upheld their appeal against it on grounds which its judgment has curiously refrained from specifying. All the judgment does is criticise the State for bringing charges for both subversion and public violence against the two accused, instead of only one of the charges, because the basis on which both charges were preferred against them were found to be the same. Presumably, for that reason the Appeal Court found that their trial on both charges were bad in law, but its judgment does not specify this point, though it is partly implicit in its argument. The judgment also regretted that the two men were not convicted on the basis of common purpose. Of them the judgment revealingly says:

"Accused Nos. 5 and 6, it will be recalled, were given leave to appeal against their conviction for public violence. It can be assumed that the leave (granted) was based on the ground that there were no direct evidence that either of these accused had actually thrown any stones themselves. On the facts of this case, however, it was not necessary for the State to prove that these accused had themselves thrown stones, for the evidence against them established clearly that they were in the forefront of the stone-throwing mob, and thus that they associated themselves with, and so were parties to, the execution of a common purpose to commit a riotous and violent disturbance of the public peace and security and invasion of the rights of others. . . ."

Thus the judgment of the Appeal Court indirectly aknowledged that the trial court had convicted all eight accused on a completely different basis, the basis of the individual acts attributed to each of them, and not on the basis of common purpose. As Their Lordships well knew, they had no right to convert the Appellate Division of the South African Supreme Court into a trial court, which was exactly what they did when they upheld the convictions and sentences of the six accused on a basis other than that on which they had been secured, which was the basis on which an appeal had been lodged against them. The most that they had a right to do in the circumstances was to order a retrial in a competent court, but they have now blown it. Their action reeks of a vicious streak of vindictiveness, born on the obnoxious plant of South African racism.

In the circumstances, not only has the State President a duty to exercise his prerogative for clemency but the Government is legally, morally and politically obligated to intervene and quash the convictions of the Sharpeville six.

U.S. SENATE,
Washington, DC, March 14, 1988.

RONALD REAGAN,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I have just learned that on Friday, March 18, the six young people in South Africa popularly known as the Sharpeville Six are scheduled to be executed.

Those of us in Congress and the American public who have worked hard to advance their plea for clemency are grateful to the State Department, and particularly to Assistant Secretary of State Chester Crocker, for the active steps our government has taken in supporting the clemency petition for these six young people.

But we are now facing a desperate situation which calls for a far greater influence than has thus far been mounted. Despite our efforts, and the unprecedented international support for the Sharpeville Six, the South African government appears to be intent on executing these young people.

I ask on behalf of the Sharpeville Six and their families for your personal intervention with State President Botha. And if, through your strong personal relationship with Prime Minister Margaret Thatcher, you can convince her to do the same, we will demonstrate our deep commitment to justice and to working together for an end to apartheid.

Many have died for the hope of a better South Africa. Six young people have now put their lives in your hands. Mr. President, I appeal to you to communicate personally with President Botha on their behalf. You are our last and greatest hope.

Cordially,

PAUL SIMON,
U.S. Senator.

U.S. SENATE,
Washington, DC, January 13, 1988.

P.W. BOTHA,
President, Republic of South Africa,
Pretoria, South Africa.

DEAR MR. PRESIDENT: We are writing about the imminent execution of six South Africans, popularly know as the Sharpeville 6. They have been on trial for the 1984 deaths of two local officials during the Vaal uprising. Their appeal was denied on December 1, 1987.

We are concerned about the growing trend in South Africa to sentence political prisoners to death, to deny them clemency, and to execute them. South Africa reportedly leads the world in executions. We do not believe that this is the answer to political and social unrest driven by anti-apartheid protest; neither will it derail the underlying fundamental push for change. Moreover, the execution of political prisoners will be, in our view, counter-productive. Those who die will be the martyrs and idols of those who seek further violence.

We ask that you grant clemency to these six individuals: Theresa Ramashamula, Oupa Moses Diniso, Reid Malebo Mokoena, Duma Joshua Khumalo, Francis Don Mokhesi, and Mojalefa Reginald Sefatsa. Many in your country, as well as the United Nations, and concerned human rights and religious organizations throughout the world are asking for your humanitarian consideration in this case. Many South Africans have died for the hope of a better South Africa. We hope that you will save the lives of these six young people.

Sincerely,

Senators Paul Simon, Nancy L. Kassebaum, Carl M. Levin, Paul S. Sarbanes, Lowell P. Weicker, Jr., Edward M. Kennedy, John F. Kerry, Barbara A. Mikulski, Tom Harkin, Alan Cranston, and Patrick Leahy.

Representatives Howard Wolpe, William H. Gray III, Ronald V. Dellums, Thomas J. Downey, Mike Lowry, Howard L. Berman, Mervyn M. Dymally, George W. Crockett, Jr., Sam Gejdenson, Ted Weiss, and Patricia Schroeder.

THE LINE-ITEM VETO

● Mr. HATFIELD. Mr. President, the Washington Post carried a brief article yesterday morning by David Broder on the line-item veto which is well worth a careful reading.

Mr. Broder outlines several of the dangers involved in conferring this legislative power to the executive branch, a shift of accountability guaranteed to cause more confusion and acrimony in resolving budgetary problems than already exists. Proponents of the line-item veto tout it as an improvement to the budget process, but given the extreme difficulties we experience every year over the budget, that's not saving much. The budget process needs a great deal of rethinking and streamlining, but that work is ours to do, not ours to give away.

Mr. President, I ask that Mr. Broder's article be printed in the RECORD.

The article follows:

[From the Washington Post, Mar. 16, 1988]

AN ITEM-VETO MEANS TROUBLE

(By David S. Broder)

CHICAGO.—In a campaign generally devoid of specifics, Vice President George Bush has been strikingly clear on one thing. He will make the quest for presidential item-veto authority a central part of his drive for the White House.

Like many of Bush's other thoughts, this is a hand-me-down from Ronald Reagan, who has argued for eight years that if he had the same authority to veto individual items in appropriation bills in Washington that he had as governor of California, he could slash the budget deficit. "Why not give the President of the United States the same power 43 states give their governors to cut down on wasteful spending?" Reagan has asked.

Well, why not? It's not a partisan issue. Sen. Robert Dole of Kansas, Bush's main competitor for the GOP nomination, has endorsed the item-veto, but the idea has strong Democratic antecedents. It first appeared in the constitution of the Confederate States of America. In his 1952 presidential campaign, Adlai Stevenson asked, "Is it too much to hope that our federal government may soon adopt this priceless invention of southern statesmanship?"

Although he has not made much of the point, Massachusetts Gov. Michael Dukakis, the leading Democratic contender, supports the item-veto, and so does Sen. Paul Simon of Illinois.

All of which makes extremely pertinent the skeptical study, "Prospects for the Item-Veto," by Ronald C. Moe of the Congressional Research Service, just published by the National Academy of Public Administration. After analyzing the experience with the item-veto in the states, he concludes that its adoption at the federal level would have dubious effects as an economy measure but radical consequences for our system of government.

Among other things, Moe says, an item-veto would "profoundly alter the relationship of the Congress and the President, to the advantage of the latter . . . increase the number of formal confrontations between the branches . . . [and] precipitate a whole new field of litigation between the legislative and executive branches."

Proponents say the item-veto would allow a president to eliminate wasteful, pork-barrel spending projects now buried in catchall appropriations bills, which he cannot veto without jeopardizing vital functions or, at the extreme, shutting down the federal government.

That sounds plausible, but the state experience is equivocal, Moe says. A 1985 study he cites concluded that spending in states without an item-veto "is no higher, and may be lower, than in states with some form of item-veto."

What is clear is that the item-veto changes relationships between the executive and the legislative branches of government. In his Sacramento days, Moe says, Reagan found it "a major bargaining tool" in making his own deals with individual legislators, often undercutting the Democratic leadership of the legislature in the bargain.

"As governor," he writes, "Reagan was able to accumulate political capital with individual legislators through not using the item-veto. In one-on-one meetings with the governor, they would find themselves mortgaged in the future by the governor's not so subtle indication that he had decided not to item-veto a favorite project of the member as something of a favor. They often left the meeting with the feeling that they 'owed him one.'"

The fear that an aggressive president could use an item-veto to threaten or lure individual congressmen into giving him his way is the main reason most congressional Democrats have opposed Reagan's entreaties on the issue. But such conservatives as Rep. Mickey Edwards (R-Okla.) also oppose it as an unwarranted extension of executive power. Moe's study will deepen their doubts.

Item-vetoes mean increased confrontations between the branches, Moe points out. Now, presidents choose the occasions for vetoes with care, and Congress "goes to considerable length to avoid [provoking] them," because both sides recognize that the stakes in such showdowns are very large.

This leads to a great deal of formal and informal negotiating before a bill takes its final form. Once the item-veto power is available, the negotiation is likely to be postponed until after the bill has been enacted, and the president sits down with individual legislators or groups of legislators to dicker over specific items.

And that leads Moe to the conclusion that political conflicts are more likely to be exacerbated than resolved by the item-veto. "The item-veto, billed as an instrument for accountability, may actually serve to diffuse and confuse accountability by constantly shifting the onus of action to another body; from the executive to the legislature; from the legislature to the executive; and from both political branches to the courts."

That fear may be exaggerated. But it is hard to challenge Moe's conclusion: "Whatever else may be said about an item-veto amendment to the Constitution, it cannot be described as simple cosmetic surgery to correct a flaw made visible by institutional age. However limited in impact the item-veto might prove to be in the financial realm, its potential to alter permanently the political relationship between the President and Congress is enormous."●

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the Republican leader as to whether or not Calendar Order No. 586 has been cleared on his side.

Mr. SIMPSON. Mr. President, I inform the distinguished majority leader that has been cleared and is ready to be processed on our side.

Mr. BYRD. I thank the distinguished leader.

DISCRETION IN SELECTION OF CASES BY THE SUPREME COURT

The Senate proceeded to consider the bill (S. 952) to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review, and for other purposes, which had been reported from the Committee on the Judiciary, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 952

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 1252 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 81 of such title, are repealed.

REVIEW OF DECISIONS INVALIDATING STATE STATUTES

SEC. 2. (a) Section 1254 of title 28, United States Code, is amended by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2).

(b) The section heading for section 1254 of such title is amended by striking out "appeal;".

(c) The item relating to section 1254 in the section analysis of chapter 81 of title 28, United States Code, is amended by striking out "appeal;".

REVIEW OF STATE COURT DECISIONS INVOLVING VALIDITY OF STATUTES

SEC. 3. Section 1257 of title 28, United States Code, is amended to read as follows:

"§ 1257. State courts; certiorari

"(a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

"(b) For the purposes of this section, the term 'highest court of a State' includes the District of Columbia Court of Appeals.".

REVIEW OF DECISIONS FROM SUPREME COURT OF PUERTO RICO

SEC. 4. Section 1258 of title 28, United States Code, is amended to read as follows:

"§ 1258. Supreme Court of Puerto Rico; certiorari

"Final judgments or decrees rendered by the Supreme Court of the Commonwealth of Puerto Rico may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of the Commonwealth of Puerto Rico is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.".

CONFORMING AMENDMENTS

SEC. 5. (a) The items relating to sections 1257 and 1258 in the section analysis of chapter 81 of title 28, United States Code, are amended to read as follows:

"1257. State courts; certiorari.
"1258. Supreme Court of Puerto Rico; certiorari.".

(b) Section 2101(a) of title 28, United States Code, is amended by striking out "sections 1252, 1253 and 2282" and inserting in lieu thereof "section 1253".

(c) Section 2103 of title 28, United States Code, and the item relating to such section in the table of sections for chapter 133 of such title are repealed.

[(c)**]** *(d)*(1) Section 2104 of title 28, United States Code, is amended to read as follows:

"§ 2104. Reviews of State court decisions

"A review by the Supreme Court of a judgment or decree of a State court shall be conducted in the same manner and under the same regulations, and shall have the same effect, as if the judgment or decree reviewed had been rendered in a court of the United States.".

(2) The item relating to section 2104 in the section analysis of chapter 133 of title 28, United States Code, is amended to read as follows:

"2104. Reviews of State court decisions.".

[(d)**]** *(e)* Section 2350(b) of title 28, United States Code, is amended by striking out "1254(3)" and inserting in lieu thereof "1254(2)".

AMENDMENTS TO OTHER LAWS

SEC. 6. (a) Section 310 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437h) is amended by repealing subsection (b).-, *and by striking out "(a)" before "The Commission".*

(b) Section 2 of the Act of May 18, 1928 (25 U.S.C. 652), is amended by striking out ", with the right of either party to appeal to the United States Court of Appeals for the Federal Circuit".

(c) The last sentence of section 203(d) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is amended to read as follows: "An interlocutory or final judgment, decree, or order of such district court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.".

(d) Section 209(e)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719(e)(3)) is amended—

(1) in the first sentence by striking out ", except that" and all that follows through the end of the sentence and inserting in lieu thereof a period; and

(2) in the second sentence by striking out "petition or appeal shall be filed" and inserting in lieu thereof "such petition shall be filed in the Supreme Court".

(e) Section 303(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(d)) is amended to read as follows:

"(d) REVIEW.—A finding or determination entered by the special court pursuant to subsection (c) of this section or section 306 of this title shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States. Such review is exclusive and any such petition shall be filed in the Supreme Court not more than 20 days after entry of such finding or determination.".

(f) Section 1152(b) of the Omnibus Budget Reconciliation Act of 1981 (45 U.S.C. 1105(b)) is amended—

(1) in the first sentence by striking out ", except that" and all that follows through the end of the sentence and inserting in lieu thereof a period; and

(2) in the second sentence by striking out "petition or appeal shall be filed" and inserting in lieu thereof "such petition shall be filed in the Supreme Court".

[(g) Section 206 of the International Claims Settlement Act of 1949 (22 U.S.C. 1631e) is amended by striking out "1252, 1254,".**]**

(g) Section 206 of the International Claims Settlement Act of 1949 (22 U.S.C. 1631e) is amended by striking out "sections 1252, 1254, 1291, and 1292" and inserting in lieu thereof "chapter 83".

(h) Section 12(a) of the Act of May 13, 1954, commonly known as the Saint Lawrence Seaway Act (33 U.S.C. 988(a)), is amended by striking out "1254(3)" and inserting in lieu thereof "1254(2)".

(i) Section 25(a)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w(a)(4)) is amended by repealing clause (ii) of subparagraph (E) and redesignating clause (iii) as (ii).

EFFECTIVE DATE

SEC. 7. The amendments made by this title shall take effect ninety days after the date of the enactment of this title, except that such amendments shall not apply to cases pending in the Supreme Court on the effective date of such amendments or affect the right to review or the manner of reviewing the judgment or decree of a court which was entered before such effective date.

Mr. HEFLIN. Mr. President, I rise today to urge my colleagues to enact legislation which will provide the Supreme Court with greater discretion in deciding the cases it will review. I introduced this legislation on April 8, 1987, along with my colleague Senator GRASSLEY. The Subcommittee on Courts and Administrative Practice held a markup of this legislation on November 18, 1987, and the Judiciary Committee reported the legislation favorably, as amended, on December 3, 1987.

Many of my colleagues have, at one time or another, been responsible for introducing this legislation and for urging its passage. I know of no opposition. In fact, it is strongly supported by the Chief Justice of the Supreme Court, the Judicial Conference of the United States, the Department of Justice and the American Bar Association.

This bill will substantially eliminate the mandatory or obligatory jurisdiction of the Supreme Court which under current law allows certain cases to be appealed directly to the Supreme Court. Currently the majority of these cases are found in the following statutes: 28 U.S.C. 1252, where a lower Federal court invalidates an act of Congress in proceedings in which the United States is a party; 28 U.S.C. 1254, where a court of appeals holds a State statute invalid because it violates the Constitution, treaties, or laws of the United States; and 28 U.S.C. 1257 (1) and (2) where the highest court of a State has either held a treaty or statute of the United States invalid, or has upheld the validity of a State statute in the face of a constitutional challenge.

This bill also amends several other statutes.

It is important to consider that this legislation does not preclude Supreme Court review of these cases and the other statutes outlined in the bill, but provides for review by certiorari.

Under current law, the Supreme Court devotes an inordinate amount of time deciding these cases on the merits—not because these decisions will have a significant national impact, but because of the statutory requirements.

In 1982 all nine Justices sent a letter to both the Senate and House Judiciary Committees indicating the problems associated with mandatory appeals:

> The present mandatory jurisdiction provisions permit litigants to require cases to be decided by the Supreme Court of the United States without regard to the importance of the issues presented or their impact on the general public. Unfortunately, there is no correlation between the difficulty of the legal issues presented in a case and the importance of the issue to the general public. For this reason, the Court must often call for full briefing and oral argument in difficult issues which are of little significance. At present, the Court must devote a great deal of its limited time and resources on cases which do not, in Chief Justice Taft's words, "involve principles, the application of which are of wide public importance or governmental interest, and which should be authoritatively declared by the final court." (Letter dated June 17, 1982, from the members of the Supreme Court to Representative Kastenmeier.)

Chief Justice Rehnquist has reiterated the support for this legislation by the Supreme Court in a letter dated November 17, 1987 to the Subcommittee on Courts and Administrative Practice. Chief Justice Rehnquist stated:

> Thank you for your invitation to comment on the principle embodied by your bill, S. 952. . . . a unanimous Court has reiterated its support for this type of bill on several occasions during the past decade including letters to congressional leaders in 1984, 1982, and 1978. I am authorized and pleased to again transmit the unanimous view of the Supreme Court endorsing elimination of the Court's mandatory jurisdiction.

This legislation has been before Congress for almost 10 years. It is a relatively simple change but it will have definite results. I think a statement made by Prof. Maurice Rosenberg during a past hearing on this subject best summarizes the frustration of those of us who have worked to enact this legislation:

> The removal of the Supreme Court's obligatory jurisdiction is so clearly needed, long overdue, and widely supported that the failure to accomplish it before now is a tribute to nothing so much as gross inertia.

I hope today will mark the end of our inertia.

The amendments were agreed to.

The bill (S. 952) was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

Mr. BYRD. Mr. President, on behalf of Senator FORD, I send a concurrent resolution to the desk and ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 105) to provide for a joint congressional committee for inaugural ceremonies.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 105) was agreed to, as follows:

S. CON. RES. 105

> *Resolved by the Senate (the House of Representatives concurring),* That a Joint Congressional Committee on Inaugural Ceremonies consisting of three Senators and three Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice-President-elect of the United States on the 20th day of January 1989.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

S. 748 AND S. 1865 PLACED UNDER SUBJECTS ON THE TABLE

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 166, S. 748, and Calendar Order No. 435, S. 1865, be transferred to the Subjects on the Table Section of the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Mark Sullivan III, of Maryland, to be General Counsel for the Department of the Treasury.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF THE TREASURY

The assistant legislative clerk read the nomination of Mark Sullivan III, of Maryland, to be General Counsel for the Department of the Treasury.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. BYRD. Mr. President, I ask unanimous consent that a motion to reconsider be laid on the table, that the President be immediately notified of the confirmation of the nominee, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate, at 2:43 p.m., recessed subject to the call of the Chair.

Whereupon, at 2:47 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. ROCKEFELLER).

The PRESIDING OFFICER. The Senate will come to order. The Republican leader is recognized.

HONDURAS

Mr. DOLE. Mr. President, I spoke yesterday briefly on Nicaragua, and I would like to say again today I know it is a very sensitive issue, but I am having a little difficulty understanding some of the critics of the President.

I know it is a controversial issue, but thousands of Communist Sandinistan troops have crossed the border of a free country in this hemisphere on the eve of cease-fire talks that fans of the Arias plan have been trumpeting, and those troops have tried to slaughter and disperse the freedom fighters. They are making lavish use of Soviet-supplied helicopter gunships and the 3,100 metric tons of weaponry and other aid they have received from the Soviet Union in just the first 2 months of 1988—this year—and this is not propaganda; these are facts presented to many of us in briefings over the past couple of days, facts which have convinced some Members of both parties that the President is following the right course.

I certainly do not agree that the President in any way is trying to fuel a war in Central America. I do not know what we can have the President do. The vote in the House, in effect, cut the legislation out from under American policy in the region, and it makes it very difficult, particularly when the President is going to ask for our help, and, it seems to me, his action in sending his own bombers to respond to the Sandinista attacks pretty much answers the question of whether he believes this is real and serious.

This is an issue that troubles Americans everywhere I go, but, keep in mind, that in this case, the President of Honduras asked for our aid and asked for our help. I believe the President of the United States, President Reagan, did the right thing by helping a friend.

Mr. President, we have already lost our best hope of making the peace process in Central America work. Let us not lose what little leverage we have left on events there by Monday-morning quarterbacking, back-seat driving, partisan potshooting at this absolutely justified, absolutely necessary action of the President of the United States in defense of the national security of the United States.

When freedom is on the line, it is time to trust our President, and if we find, as some have suggested, that this may be a political relations stunt, or if we find some other motive that may be expressed, may be discovered or may be some evidence of, then I think we can say, well, it was twice said, in the first place.

It seems to me when we are asked for our help by a friendly nation that has been invaded by the Sandinista Communists, and we respond, then I believe that is appropriate action to take. Our troops are still 125 miles from the fighting area. They are not involved in any direct action, and I hope, as I have said before, that we can have some peaceful resolution, as many others have said, on this floor on problems in that part of the world.

But it does seem to me that we were making more progress when we had some leverage, when Daniel Ortega knew that the Congress in a bipartisan vote was prepared to provide not only humanitarian aid but military aid in the event he failed to live up to the agreement he signed on August 7, the Arias Peace Plan. So I would suggest at this time of rather considerable tension that we trust the President of the United States to do the right thing, and in this case I believe he has.

I thank the Chair, and I certainly thank the distinguished majority leader for waiting.

Mr. BYRD. Mr. President, the distinguished Republican leader is always welcome to any courtesy that I can afford.

HOUSE VOTE ON CONTRA AID

Mr. BYRD. Mr. President, reference has been made to the vote that took place in the House recently on the Contra aid legislation. I think the record should show that the administration opposed that legislation. The administration said, in essence, we want it our way or we want nothing. There were only 5 Republican votes in the House in support of that legislation. The administration made a mistake then and there, because, if the House had passed the legislation, if it could have had some support from the administration, the Contra aid bill would have come to the Senate; it would have been open then to amendment in the Senate and Senators who would like to have offered amendments to add moneys for military supplies, lethal weapons, or whatever, would have had the opportunity to at least offer the amendments on which they could have gotten a vote.

So the administration could have had a second shot right here in this forum, but what did the administration do? The administration said, "No, if we can't have it done our way, we will take our ball and go home." As a result, there was no legislation passed. As a result, there is no horse in this Chamber right at the moment that can carry that rider, and so we are presently waiting until the House acts, if it does, on another piece of legislation.

The other day, when Speaker WRIGHT, and I, Senator SIMPSON and others were at the White House discussing this very matter, I tried to make it clear to the President and to others in the administration that any measure which appropriates money is going to have to begin at the other end of the Capitol, and therefore the Senate would simply have to wait.

So the administration lost its chance when it knowingly, willfully—I will not use the word "maliciously"—conspired to defeat the package that was up before the House for passage. That was its chance. It not only muffed that chance; it deliberately opposed that opportunity and killed that bill.

So I hope the record will show that the administration does not come into court with clean hands when it continues to point the finger at the House as having killed that Contra aid. The Speaker did everything he could to get that package through the House. He sought Republican votes. But it was not a bipartisan show of support for that package. Only five Republicans out of the House Republican membership supported that package.

So I suppose there is enough blame to go around. I do not care to speak further on the matter. I ask the distinguished Republican leader if he has anything further.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate, at 2:56 p.m., recessed subject to the call of the Chair.

Whereupon, at 2:59, the Senate reassembled when called to order by the Presiding Officer (Mr. DASCHLE).

The PRESIDING OFFICER. The Republican leader.

UNCONTROLLED FISHING IN THE BERING SEA

Mr. DOLE. Mr. President, I sent to the desk a resolution in behalf of Senator STEVENS, Senator HOLLINGS, Senator BREAUX, and Senator EVANS, and I ask that it be placed on the calendar.

The PRESIDING OFFICER. Is there objection to the request? Hearing none, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order at any time on Monday for the majority leader, after consultation with the Republican leader or his designee, to proceed to the consideration of the resolution (S. Res. 396) which has just been placed on the calendar; and that there be a time limitation of not to exceed 20 minutes to be equally divided on the debate on that resolution; that no amendments thereto be in order; no motion to recommit or no motion to commit with instructions be in order; provided, further, that there be no time for debate on the motion to reconsider; provided, further, that it be in order at this time to order the yeas and nays on the adoption of the resolution.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader.

The text of the agreement follows:

Ordered, That at any time on Monday, March 21, 1988, the Majority Leader, after consultation with the Minority Leader, is authorized to call up S. Res. 396, a resolution expressing the sense of the Senate on the need to stop uncontrolled fishing in international waters of the Bering Sea, and that there be 20 minutes debate, to be equally divided and controlled in the usual form, with no amendments in order.

Ordered further, That no motion to commit with instructions be in order.

Ordered further, That there be no time for debate on a motion to reconsider.

Mr. STEVENS. Mr. President, Senator HOLLINGS, Senator BREAUX, Senator EVANS, and I submit this resolution expressing the sense of the Senate that uncontrolled fishing in the international waters of the Bering Sea must be stopped.

The international waters of the Bering Sea, which are known as the Hole in the Doughnut, or Doughnut, are entirely surrounded by the exclusive economic zones of the United States and the Soviet Union. Recently it has come to our attention that foreign fishing vessels are using this area as a staging ground for stealing fish from within our economic zone.

For the past 10 years we have limited the fishing within our economic zone to conserve the rich fishery resource we enjoy in the Bering Sea. Fishing historically had occurred within the 200-mile zones, and not in the Doughnut. Now, with full utilization of the fish stocks within our zone by American fishermen, the combination of illegal fishing in our zone and increased fishing on the high seas within the Doughnut may prove catastrophic for the long-term health of one of the world's largest mixed stock fisheries.

We believe the fishery resources of the Bering Sea are closely interrelated, but it will take years to find out the information needed to effectively conserve and manage these intermingled stocks. We do not have years. The current uncontrolled level of fishing has got to be stopped, or we could face a disastrous collapse of the resource.

The only prudent course of action is to make the Doughnut a temporary sanctuary from fishing. The United States and the Soviet Union share a common concern in the preservation of the long-term renewable fishery in the Bering Sea. We must now join together in expressing our sense that a moratorium on all fishing by all nations in the Doughnut must be established.

This resolution directs the Secretary of State to negotiate with the Soviet Union to establish a moratorium on all fishing in the Doughnut and reach agreement on joint action to penalize those who refuse to join in such a moratorium. Once a moratorium is in place to protect the fishery resource, then, and only then, will it be possible for us to sit down and enter the lengthy negotiations involved in establishing a multilateral fishery management regime for the Doughnut.

I urge support of this resolution.

Mr. DOLE. Mr. President, I ask unanimous consent that I be added as a cosponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I thank the majority leader.

Mr. BYRD. I thank the distinguished Republican leader.

Mr. President, has morning business been closed?

The PRESIDING OFFICER. Morning business has not been closed.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. If there is no further morning business, morning business is now closed.

Mr. BYRD. Mr. President, I thank the Chair.

ORDERS FOR MONDAY

ADJOURNMENT UNTIL 10:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10:30 a.m., on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of morning business not to exceed 30 minutes, and that Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR BOB DOLE

Mr. BYRD. Mr. President, may I say to the distinguished Republican leader that I am happy he is remaining hale and hearty, and maintains his usual good humor and high spirits. We watch him as he travels around.

I wish to personally express my good wishes to Mrs. Dole and to our leader as he continues his travels.

Mr. DOLE. Thank you.

WAIVER OF CALL OF THE CALENDAR ON MONDAY

Mr. BYRD. Mr. President, I ask unanimous consent that the call of the calendar be waived on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTIONS OR RESOLUTIONS OVER UNDER THE RULE

Mr. BYRD. Mr. President, I ask unanimous consent that no motions or resolutions over under the rule come over on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECORD TO REMAIN OPEN UNTIL 4 P.M. TODAY

Mr. BYRD. Mr. President, I ask unanimous consent that the RECORD remain open today until 4 o'clock p.m. for statements, for the introduction of legislation, and reports from committees.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10:30 A.M. ON MONDAY, MARCH 21, 1988

Mr. BYRD. Mr. President, unless the distinguished Republican leader has something further to say——

Mr. DOLE. I cannot think of a thing.

Mr. BYRD. I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 10:30 a.m. on Monday next.

The motion was agreed to, and at 3:04 p.m. the Senate adjourned until Monday, March 21, 1988, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 18, 1988:

DEPARTMENT OF TRANSPORTATION

BARBARA MCCONNELL BARRETT, OF AZ, TO BE DEPUTY ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION, VICE RICHARD H. JONES, RESIGNED.

DEPARTMENT OF EDUCATION

SUSAN S. SUTER, OF ILLINOIS, TO BE COMMISSIONER OF THE REHABILITATION SERVICES ADMINISTRATION, VICE JUSTIN W. DART, JR., RESIGNED.

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE:

JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant colonel

PAUL B. ANDERSON, xxx-xx-xxxx
TERRY E. BATHEN, xxx-xx-xxxx
JAMES A. BRAGA, xxx-xx-xxxx
REXFORD BRAGAW, xxx-xx-xxxx
FRANK G. BRUNSON, xxx-xx-xxxx
THOMAS L. BRYANT, xxx-xx-xxxx
KERRY A. BUCKEY, xxx-xx-xxxx
WILBERT BYRD, xxx-xx-xxxx
CLARENCE CUNNINGHAM, xxx-xx-xxxx
BURIS C. DALE, xxx-xx-xxxx
PATRICK FINNEGAN, xxx-xx-xxxx
KEVIN FLANAGAN, xxx-xx-xxxx
WARREN P. FLIGG, xxx-xx-xxxx
NOLAN GOUDEAUX, xxx-xx-xxxx
ALAN K. HAHN, xxx-xx-xxxx
CHARLES HEMINGWAY, xxx-xx-xxxx
KEITH H. HODGES, xxx-xx-xxxx
LARRY E. KINDER, xxx-xx-xxxx
WARD D. KING, xxx-xx-xxxx
THOMAS LECLAIR, xxx-xx-xxxx
THOMAS R. LUJAN, xxx-xx-xxxx
MICHAEL MORGAN, xxx-xx-xxxx
RANDALL PARKER, xxx-xx-xxxx
GREGORY PARSONS, xxx-xx-xxxx
JOSEPH E. ROSS, xxx-xx-xxxx
JAMES S. RUSSELL, xxx-xx-xxxx
GERARD STAMAND, xxx-xx-xxxx
MARK STEINBECK, xxx-xx-xxxx
TERRY THOMASON, xxx-xx-xxxx
WILLIAM TRIVETTE, xxx-xx-xxxx
WILLIAM WALLIS, xxx-xx-xxxx
MICHAEL WAMSTED, xxx-xx-xxxx
JAMES K. WOLSKI, xxx-xx-xxxx

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADES INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE:

CHAPLAIN

To be major

JOHNNY W. FERGUSON, xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be major

THOMAS M. BRENNAND, xxx-xx-xxxx
MARK S. LUND, xxx-xx-xxxx

VETERINARY CORPS

To be major

WILLIAM W. BRINKLEY, xxx-xx-xxxx

ARMY NURSE CORPS

To be major

STEVEN W. BOHANNON, xxx-xx-xxxx

IN THE NAVY

THE FOLLOWING NAMED COMMANDERS OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF CAPTAIN IN THE LINE, IN THE COMPETITIVE CATEGORY AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICERS

To be captain

RICHARD SANFORD ABELE
JAMES RALPH ADAMS
JOHN RICHARD CHAR ALBRIGHT
NORMAN WILLIAM ANDERSON
GREGG BOWMAN ARCHER
PAUL KESLER BALLEW, JR.
GEORGE RICHARD BARGMAN
JON WAYNE BARKER
JOHN KENNETH BARNETT
WILLIAM HARVEY BARTLETT
RONALD KEITH BAYER
RICHARD FRANK BEACHAM
JAY RIVERS BEASLEY, JR.
DARVIN ELNO BEEDLE, II
KENNETH CHARLES BELISLE
JAMES DOUGLAS BELL
WILLIAM RUSSELL BELTZ
HENRY FRED BERCK, JR.
PETER FRANCIS BERDZAR
TERRY JO BERGENER
PARKER BEVERAGE
GARY BERNARD BJORNSON
WILLIAM HAROLD BLACK
WILLIAM RAYMOND BLACKARD, JR.
THOMAS ALLEN BOGOTT
RONALD ALLEN BOHLMAN
KATHLEEN RILEY BORCIK
DAVID EDWIN BOYD
JOHN KENNETH BRAY
JOHN JOSEPH BRECKA
JAMES KENNETH BRENGLE
ELAINE LESLIE BROGDEN
STEPHEN MARION BROWN, JR.
RICHARD LOUIS BUCKO
BENJAMIN F. BURGESS, III
WILLIAM CAMPBELL BURGESS
MICHAEL T. BURKHARDT
MAX SANDERLIN BUSBY
OSCAR PERRY BUTLER, JR.
ROBERT MYLES BUTLER
WILLIAM HENRY BUTLER
JEFFERSON CAREY, JR.
RICHARD ALLAN CARLSON
CARL KIRK CARMEAN
HAROLD FRANCIS CARPENTER
JAMES CHESTER CARROLL
EDWARD BRUCE CARTER
CHARLES WELCH CAVENEY, JR.
CHARLES C. CHADBOURN, III
ALBERT RAYMOND CHALLIS
JAMES LAWRENCE CHAPMAN
JAMES LEE CHRISTENSEN
JOHN GERARD CIBELLI
CARL ORIN CLAUSEN
JAMES HERMAN COOK
JOHN S. COOLEY
JAMES JOHN JAY CORBIN
THEODORE WILLIAM CORNFORTH
RICHARD WILLARD COST
JOHN CAREY COUCH
EDWARD CARL COULTER
MICHAEL BRUCE COVINGTON
MICHAEL CALVIN CRABTREE
DUNCAN VENABLE CRAWFORD
PHILIP DOUGLAS CREER, JR.
HENRY TOWLES CRIGLER, III
JAMES ROBERT CROWLEY
EDGAR ATHERTON CURTIS, III
ROBERT EVANS CUTHRIELL
LEE ALAN DALE
RICHARD JAMES DAVIDSON
JOHN PERDUE DAVIS
THOMAS R. DEBYL
ERNEST FRANKLIN DICKSON
ROBERT LOUIS DINKELSPIEL
MICHAEL LAMAR DOWLING
JOHN STUART DOYLE, JR.
MARIANNE BLACKBURN DREW
JAMES RAYMOND DUNWELL
OTIS KEENER EARLE
ROBERT WILLIAM EBERTH
LUTHER JEROME ELLINGSON
WILLIAM GLENN ELLIS
JOSEPH EUGENE ELLSWORTH
JOHN CHRISTIAN ERIKSON
GEORGE FELGATE
BOBBY RAY FIELDS
PETER MARTIN FIETTA
DALE ALLEN FINK
WENDELL GENE FIOCK
JOHN ELLSWORTH FLEMMING
WILLIAM KERN FOGERTY
PETER WAYNE FORD
ANTON PHILLIP FOSSUM
ROGER ALAN FRANCIS
DOUGLAS JOHN FREESWICK
ALAN ROY FRIDKIN
JOHN ROBERT FRONDORF
RICHARD JOHN GALLAGHER
JOHN CHARLES GANNON
JERRY LLOYD GANTT
WILLIAM SILAS GARRETT, JR.
NICHOLAS JAMES GARRICK
CHARLES M. GARRISON, JR.
DICK RAY GEHRS
ALBERT HARLEY GEIS
STEPHEN MICHAEL GENSTIL
LIONEL F. GILCHRIST, II
REX CRAIG GOLD
GEORGE MINOT GORDON
RICHARD BARRY GRABOWSKI
PATRICK SKELTON GRANT
DAVID JUDSON GRAY
MICHAEL EDWARD GRAY
MICHAEL A. GRECO
ROBERT EDWARD GRIFFIN, JR.
KENNETH RAYMOND GRZYB
JOHN POLLARD GUINN, III
JAMES MARTIN GUNN
JACK EDWARD GUSTAFSON
JOHN MONTGOMERY GUSTIN
JOHN RICHARD HADEN
PETER FRANCIS HAILER
DAVID HOWARD HALL
RICHARD CARROLL HALLERAN
ALFRED THOMPSON HAMILTON, JR.
JOHN DENNIS HANRAHAN
DAVID R. HARTSHORN
DANIEL GEORGE HARVEY, JR.
ERIC ROBERT HAUPT
BARBARA CHERLYNN HAVENS
DONALD ROSS HAY
WILLIAM ARTHUR HEADLEY
STEPHEN HECTUS
ERNEST ARNOLD HEGI, JR.
STEVEN PHILIP HEINRICH
PATRICK CLYDE HELFRICH
DALE WAYNE HENDRICKS
LARRY DONALD HENSON
THOMAS EDWARD HILL
TOLIN WESLEY HODGELL
STEVEN BARNARD HOLLWARTH
LAWRENCE ROGER HONE
JAMES OTTO HONIGSCHMIDT
RALPH ANDREW HOTTON
THOMAS CHRISTOPHER HOUGHTON
JOHN JOSEPH HOURIGAN
DONALD FRANCIS HOUSER, JR.
PHILIP JOSEPH HUGHES
JOHN JOSEPH IMPARATO, JR.
PHILIP JERMAIN IRISH
FRANCIS THEODORE JACOBS
JAMES DALY JAGGERS
JOSEPH ELWOOD JOHNSON, II
PETER HERBERT JOHNSON
ROBERT STEPHEN JOHNSON
WILLIAM DALE JOHNSON
FONDA LOU JOHNSTONE
EDWARD MARTIN JONES
JOHN HERBERT JONES
STEPHEN JAMES JONES
GEORGE KALMAN
JOSEPH EDWARD KANE, II
ALBERT SCOTT KAYE
CHARLES JOSEPH KEEFER
MELVIN FRANK KELSO
ALGER HUGH KENDALL, JR.
BRUCE ALASTAIR KENNEDY
GLENN ROLAND KILLAM
BERNARD JOHN KILONSKY
CHARLES GEORGE KLAPHEKE, III
JAMES JOHN KLAUSER
RUSSELL LEE KOYM
RICHARD FREDERICK KREBS
CHARLES F. KREINER, JR.
JOSEPH KRIGBAUM
FRED EARNEST KRUGER, JR.
WILLIAM GERSTNER KUESTER
PAUL RAYMOND KUNTZ
ROBERT EDWIN LAWRENCE, JR.
PETER WUNTUH LEE
JOHN FRANCIS LEHMAN, JR.
RAYMOND DOUGLAS LEONARD, JR.
WILLIAM DOUGLAS LEONARD
JAMES EARL LESHER
JERRY HOWARD LEWIS
JOHN SLATON LEWIS
WALLACE LEON LEWIS, JR.
BURTON COOK LILLIS, III
ROBERT WARREN LIND
GEORGE HUNTER LINDSAY
PAUL ALLEN LINTON
HANFORD NICHOLS LOCKWOOD, JR.
JOHN IRVING LOVING, JR.
JEROLD RICHARD LOWDER
THOMAS FRANCIS LYONS
SAM MILLION MAUCK
CARL CRISS MAYFIELD, III
LAWRENCE BOYCE MCARTHUR, JR.
THOMAS OTIS MCCULLOCH
WILLIAM LEE MCDOWELL, III
WILLIAM CHARLES MCELROY, JR.
CLAUDE SMITH MCGEHEE, JR.
WILLIAM JOSEPH MCLAUGHLIN
DUNCAN MCPHERSON, IV
ARTHUR JOHN MEINHOLD
PETER MICHAEL MILCOVICH
JOSEPH ANDREW MILLEN
JAMES GERALD MILLER
JOHN PATRICK MITCHELL
JOHN EDWARD MONROE
ROBERT SABIN MONTJOY
JERRY WAYNE MOORE
PAUL LEROY MORELL
BENJAMIN WILLIAM MOREY
KENNETH JOHN MORGAN
ROBERT CULTON MORRISON, JR.
GERALD PATRICK MOTL
JAN MOZELESKI
WILLIAM HARRY MUNYON, JR.
DAVID GEORGE MYRICK
HAROLD DOUGLAS NAYLOR
HARRY HEDLEY NESS
THOMAS FRANCIS NEVILLE
WILLIAM JOSIAH NEVILLE, JR.
SAMUEL LAMBIE NEWTON
RICHARD F. NIELSEN, JR.
JOHN MALCOLM NISBET, JR.
VERNER CHRISTIAN NYGAARD, JR.
WILLIAM TAYLOR OBER
CHARLES JOHN OBST, JR.
ROBERT EDWARD OHARE
JOHN FRANKLIN OLSEN
ROBERT JOSEPH ONEAL
JAMES K. ORZECH
PAUL HENRY OSTIEN, JR.
KNOX FREDERICK PARKER
ROBERT BOWMAN PARKER, JR.
SAMMY PARRINO
WILLIAM JAMES PAWLAK
ROGER REED PECK
CALVIN JON PEDERSEN
WILLIAM STANWOOD PERRY
THOMAS DANIEL PESTORIUS
DAVID IRVING PETERSON
REED M. PHILLIPS
JEFFREY ROSS PIER
TERRANCE MICHAEL PORTER
THOMAS NORMAN PRESECAN
ROBERT WAYNE PRICE
CHARLES SANFORD PROUTY
JAMES EDWARD PRUSKE
JEFFREY NEWTON PUNCHES
HOLLIS THOMAS PUTNAM
RICHARD RAY PYATT
THOMAS JOSEPH RAFTERY
RICHARD EUGENE RALEIGH
DAVID CHARLES RECKER
ROBERT MAURICE REED, JR.
SEATON ARMSTRONG REED, JR.
WILLIAM TRAVIS REEVES
WILLIAM HENRY REINING
SHARON FERNANDO REINKE
WARREN FREDERICK RHYNER, JR.
LARRY WAYNE RINNE
GARY GENE ROBERTS
ROBERT DANIEL ROCKEY, JR.
JOSEPH WYETH RODEHAVER, III
LARRY WAYNE ROY
WILLIAM THOMAS RUSSELL
JAMES EDWIN RYAN
STEPHEN JAMES SALATTI
NELSON CHARLES SALEZ
PETER FRANCIS SANDROCK, JR.
DENNIS JAY SAPP
J. HENRY SCATTERGOOD
ROGER LEE SCHENKEL
JOHN ALLAN SCHILTZ
EDWARD JOHN SCHMIDT
KEITH LARUE SCHULTZ
GERALD JAMES SCHUMACHER
ROBERT SCHWEITZER
BETH MARIE SEARCH
CHARLES WILLIAM SEARCY
JOHN FRANKLIN SELF
TERRY RUSSELL SHAFFER
JAMES WILLIAM SHANE
JAMES ROBERT SHARP
JOSEPH WILLIAM SHAW, JR.
JON FRIEDOLF SILVERBERG
WILLIAM JAMES SIMON
RAYMOND ALBERT SIUTA, JR.
BRYAN ANTHONY SKOKAN
CARL JAMES SMITH
HARRISON YORK SMITH
MELVIN ROBERT SNEAD, III
WILLIAM STUART SORG
MARTIN HARVEY SOURS
JAMES FREDERICK SPAGNOLE
ROGER POWELL, JR. STAIGER
THOMAS STEPHEN STANDER
ALBERT LARRY STAUDMEISTER

ALAN KING STEINBRACHER
THOMAS GORTON STONE
JOHN WILLIAM STRASSBERGER
RONALD DEAN STROH
HAROLD FRANCIS STURM, JR.
EDWARD AUGUST SUNDBERG
GARY DONALD TABBERT
WILLIAM LEONARD TALLEY, JR.
KENT DAVID TAYLOR
JOHN JULIAN TCHINSKI, JR.
ROBERT JOHNSON TERHUNE
ARNE RICHARD THEMMEN
JAMES HENRY THOMFORDE
JAMES MAGRUDER THOMPSON
JOHN CHATFIELD TUCK
VICTOR ROBERT UTSEY
RICHARD DEIMEL VANN
MICHAEL WOODALL VAUGHAN
WILLIAM EDWARD VERESPY, JR.
ROLLAND CLINTON VETTERICK
NIKOLAUS A. VONBAILLOU
FREDERICK STEVEN WACHOWICZ
CHARLES ROBERT WALKER
JAMES ALBERT WALL, JR.
WILLIAM JOSEPH WALSH
THOMAS VICTOR WECKWORTH
PETER ROLLINS WELLS
ROBERT WILLIAM WENDT
HENRY ALLEN WESTERHOF
PETER WESTON
HENRY FRANCIS WHITE, JR.
ESTUS DANIEL WHITFIELD
JAMES WALTER WIEHAGE
DAVID STEVENS WILDER, III
WILLIAM STANIAR WILDRICK
DOUGLAS BOWNE WILLIAMS
GEORGE FRANK WILLIAMS
NATHAN CLARK WILLIAMS
DEXTER LEE WINN
FREDERICK ALBERT WITT
MICHAEL JAMES WOLFE
STEPHEN BRADLEY WOLFE
JAMES ANDERSON WOODARD
RICHARD RANDALL ZAHNER
KENNETH WILLARD ZEHNER
STEPHEN ARTHUR ZIMMERMAN

UNRESTRICTED LINE OFFICERS (TAR)

To be captain

NORMAN WILLIAM BLATT
RUDOLPH C. BRANDT
JOHN F. DICKINSON
FRANK DIRAMIO
WILLIAM JOSEPH DONNELLY
LARRY LEE DUNCAN
MICHAEL O. DYER
KEITH E. FALT
EDDIE LEE JENKINS
EDWARD GAINES KING
ROYCE RUNAR MATTSON
ROBERT WARREN MICKEN
DANA FONTAINE MILLER
KARL W. MILLER
PHILLIP KAY NORRIS
WILLIAM GAINES PFEIFFER
TOM LESLIE SANDERSON
ARTHUR NEWTON TANK
WALTER FRED THRELKELD, JR.
ROBERT HENRY WHITLOCK
JOHANNES WYTSMA
PAUL LAWSON ZIEMER, JR.

ENGINEERING DUTY OFFICERS

To be captain

LAWRENCE ROBERT BURR
THOMAS CHARLES CANTER
WILLIAM MARTIN DUBBS, JR.
ARNOLD PRESTON MOORE
WALTER LANE MORRISON
SCOTT ROBERT PENFIELD, JR.
LEONARD CARL SJOSTROM

AERONAUTICAL ENGINEERING DUTY OFFICERS (AERONAUTICAL ENGINEERING)

To be captain

TERRY J. ALLEN
JAMES LOREN CONN
THOMAS CHRISTOPHER RULAND

AERONAUTICAL ENGINEERING DUTY OFFICERS (AVIATION MAINTENANCE)

To be captain

DARYL LEE GOETZ
JOHN DWIGHT JAMGOCHIAN
TERRY CARSON TAYLOR

SPECIAL DUTY OFFICERS (MERCHANT MARINE)

To be captain

WILLIAM HUNTER ADAMS
ALFRED ANDREW MAGILL

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be captain

JAMES MICHAEL CONROY
GREGORY TROY STELLRECHT

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be captain

LESTER ANTHONY ALFORTISH, JR.
RONALD S. BARDEN
LARRY RONALD BARNES
LARRY ALLEN BAYLOR
GREGORY STUART BODENHORN
CHESTER WINSTON BOWIE
DENNIS ADRIAN BROWN
RICHARD BROWN
JOHN CHRISTOPHER CANBY
ROBERT WHITLOW CLARK, JR.
WALTER GERALD CLEVELAND
JAMES NATHAN COLE
JAMES EMMETT CRADOCK
RICHARD MARK CURTIS
TIMOTHY LEE DEBORD
CHARLES F. DELEOT, III
ROBERT DOBBS DILLMAN
CHARLES PATRICK DUECY
ERIC JOHN ERICKSON
JEAN JEFFORDS FARVER
CARL RAYMOND FERENCE
EMILE JOSEPH FOURCADE, JR.
JAMES YATES FRASER
JOSEPH FRANCIS FRY
ALTON DEMPSEY FRYER, III
RICHARD CROMWELL FULLER
EVERETT BLAIR GASTON
WILLIAM PATRICK GUYTON
THOMAS LESLIE HARROW, JR.
EVERETT THOMAS HART
JAMES ARTHUR HELLICKSON
JAMES EDGAR HOLMES
JAMES RAYMOND JOHNSON
JERRY WINFRED KEATHLEY
JOHN CHARLES KENNERLY
EDWARD JAMES LAMBERT
RAYMOND JOSEPH LAMBERT, JR.
DAVID LEROY LARSON
EDWARD GERARD LOHLEIN
ROBERT STACY MARTIN
JAMES RICHARD MEDITZ
RONALD MERCHANT
JOSEF DAVIS MOOREHEAD
MEL DARRELL MOSS
ROBERT MICHEELS NELSON
WILLIAM NEAL NELSON
ALEXANDER ALFRED NEWTON, JR.
KENNETH LEROY PETERSON
VANCE TULLIN PETERSON
KENNETH SCOTT PICKLE
RALPH FARNSWORTH RAPPUHN
TIMOTHY FRANCIS READY, JR.
DONALD RICHARD RENTSCHLER
THOMAS NATHAN RUSSELL, JR.
WILLIAM K. RUTLEDGE, JR.
DAVID HENRY RYLAARSDAM
NICHOLAS JAMES SCHAUS
JOHN EUGENE SCHMIDT
HARRY R. SEGARRA
HERBERT TRUXTON SIMMONS, JR.
HUGH ALBERT STREHLE
ROBERT LEE SUMMERS, JR.
CARL WILLIAM SUNDSTROM, JR.
THOMAS JOHN TAYLOR
JOHN LOBDELL TUTTLE, JR.
GRAHAM PAUL WELLINGTON
LOUIS RAY WILLIAMS
DAVID ERIC YATES

SPECIAL DUTY OFFICERS (INTELLIGENCE) (TAR)

To be captain

RODERICK DONALD MCLEOD
JONATHAN PETER YOUNCE

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be captain

GEAN BROOK ATKINSON
DAVID HASTINGS BUSWELL
CHARLES LANGMAID CRAGIN
FREDERICK GEOFFREY SHAW
JOSEPH FRANCIS STREBEL
RICHARD HARRY WELLS

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be captain

LARRY ROGER ALFRED

CONFIRMATION

Executive nomination confirmed by the Senate March 18, 1988:

DEPARTMENT OF THE TREASURY

MARK SULLIVAN III, OF MARYLAND, TO BE GENERAL COUNSEL FOR THE DEPARTMENT OF THE TREASURY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Monday, March 21, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, gracious God, that Your message of calm and peace will pervade every heart and cause each person to experience the new day with hope and joy. We admit our weaknesses, but we also profess Your power; we tell You of our doubts, but we still place our faith in You and Your love to us. Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House this approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 3967. An act to amend the Department of Defense Authorization Act, 1985, to extend medical benefits for certain former spouses.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1609. An act for the relief of James P. Purvis;

S. 2104. An act to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes; and

S. 2117. An act to extend the statute of limitations applicable to certain claims under the Age Discrimination in Employment Act of 1967 that were filed with the Equal Employment Opportunity Commission before the date of enactment of this act.

CENTRAL AMERICA NEAR EXPLOSION

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, Central America is near explosion and appears to be collapsing like a house of cards.

The latest worrisome trouble spot is El Salvador where President Duarte has been dealt a serious electoral blow by the rightists led by terrorist Roberto D'Aubisson. Duarte is now besieged on the right by D'Aubisson and on the left by the Marxist rebels trying to topple him by force. It is uncertain how long Duarte, our staunch ally, can survive.

With the war and tension in Nicaragua and Honduras and the pending explosion with General Noriega in Panama, the situation in El Salvador points to the need for bipartisanship in our foreign policy.

Instead, President Reagan in his radio address again blamed the Democrats for the Sandinista invasion, even though 97 percent of Republicans voted against the humanitarian aid package to the Contras.

Against this backdrop, the White House announces it will veto the 48-hour notification of covert activity, despite strong congressional support. And it announces it will veto Grove City despite congressional support.

Is it going to be like this all year? We have enough problems at home, Mr. President.

NOW IS THE TIME TO COME TO THE AID OF THE CONTRAS

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, now is the time for every Member to come to the aid of the Contras. How many more times do we have to be, as a nation, humiliated by Ortega, the leader of the Sandinistas, the governing body in Nicaragua? How many fail to recall the time when the Congress was debating for the first time aid to the Contras, and it was rejected, and a celebration was held in Moscow by Ortega, who traveled there and raised a toast to the Congress of the United States for rejecting Contra aid? How many will forget that just a few weeks ago, as we were deliberating another issue on aid to the Contras, Ortega was in the business of expelling the clerical leaders, the church leaders of his nation, from a peace plan initiative and throwing out the press and repressing other forms of so-called democratization in Nicaragua?

At the instant when they are about to embark on peace talks with the Contras, they invade Honduras. Now is the time to come to the aid of the Contras.

REPEAL DIESEL EXCISE TAX APPLICABLE TO FARMERS

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, I want to make you and my colleagues aware of a problem that we have created for America's farmers that needs to be corrected.

The Budget Reconciliation Act of 1987 contained a little-known provision requiring farmers to pay excise taxes when purchasing diesel fuel of 15.1 cents per gallon. Then they could apply for a refund or a credit at a future date for taxes paid. Under the previous system they were never required to pay this tax in the first place.

If we do not act by April 1, farmers will have to pay this excise tax every time they purchase diesel fuel for tractors and other farm equipment, and the money involved is not slight. Many farms have a thousand-gallon tank, and the excise tax that would be paid on this quantity of fuel would total over $150 every time such a tank is filled.

This amounts to an interest-free loan by farmers to the American Government which would have the use of its money until such time as a refund is taken out. I have talked with the gentleman from Illinois [Mr. ROSTENKOWSKI], who has sympathy for this measure, and I want to encourage my colleagues to contact their friends on the Ways and Means Committee to make sure this terrible inequity for the farmers in this country is remedied.

FUNDING FOR THE COAST GUARD

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, the lack of adequate funding for the Coast Guard for the last several years has reached a critical point where we are now faced with station closings and reductions in services, as well as a general slowdown in Coast Guard operations.

The fiscal year 1988 continuing resolution approved by Congress last Christmas provided a funding level for Coast Guard operating expenses that is $100 million below the administration's request. I'm not certain that

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

many people realized the impact that the conferees' decision would have on the dedicated men and women in the Coast Guard. For example, all routine search and rescue patrols have been eliminated and routine law enforcement patrols have been cut by 55 percent. The administration has now submitted a request to reprogram $60 million in order to restore some of these most basic of Coast Guard missions.

I must admit to some frustration at this point. Last summer, when the transportation appropriations bill was being debated on the floor of the House, a number of us pointed out that the Coast Guard funding levels for fiscal year 1988 recommended by the Appropriations Committee were substantially less than needed. However, amendments offered to try to restore some of that funding were defeated. Even worse, more than half of the House Members affected by the recently announced Coast Guard cuts either did not vote at all or voted to approve an across-the-board cut in transportation appropriations, including funding for the Coast Guard. Had those few Members voted against the overall reduction in the transportation bill, the amendment would have been defeated.

That action by itself probably would not have precluded the situation we face today. However, it is a good example of the problem that has brought us here. The Congress as a whole—and the Appropriations Committee in particular—must wake up to the fact that the Coast Guard cannot continue to absorb cuts in its budget if they are going to perform the many missions we have assigned to them.

Mr. Speaker, if we want to avoid even more drastic cuts in Coast Guard activities, Congress must quickly approve the administration's request to reprogram $60 million for the Coast Guard's use in fiscal year 1988—and even more importantly, Congress must remember this lesson when we are considering the Coast Guard's fiscal year 1989 budget request.

FISCAL 1989 DEFENSE BUDGET

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCURDY. Mr. Speaker, as the House Armed Services Committee begins the markup process for the fiscal year 1989 budget this week, we need to be reminded of a provision in the 1986 Defense Reorganization Act requiring a net assessment of U.S. military capabilities worldwide.

Last month the House Armed Services Committee received its first net assessment briefing from the Joint Chiefs of Staff. Although much of the assessment is classified, it is clear that the United States maintains high readiness in many categories. However, there are four areas of defense needing improvement: field artillery, air defense, airlift and sealift, and a viable deterrent to chemical and biological warfare.

Unfortunately, when Secretary Carlucci presented his defense budget before the Armed Services Committee, he admitted that the net assessment played no role in this year's budget formulation.

Mr. Speaker, the need for net assessment is clear, if we are to spend our defense dollars wisely. I urge the Defense Department to fully utilize net assessment as an essential tool as we plot our defense policy for years to come.

AFGHANISTAN DAY

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, a great deal has appeared in the media over the last several hours about the fact that this is the 28th anniversary of the very tragic Sharpeville massacre in South Africa. But there is a very important item that should be focused on today, and that is the fact that March 21 a proclamation will be signed by the President in a little more than an hour as Afghanistan Day.

We all know that on December 27 of 1979 the Soviets launched their invasion into Afghanistan and have unfortunately, tragically killed 1.5 million people and displaced in excess of 5 million of them.

We know full well we are attempting right now to have negotiations brought together which will see the Soviets totally extricate themselves from Afghanistan. Today is designated as Afghanistan Day. There are going to be a number of programs around the Capitol, and I hope very much that our colleagues join in this recognition of this very important day.

PEACE IN ISRAEL

(Mr. NELSON of Florida asked and was given permission to address the House for 1 minute.)

Mr. NELSON of Florida. Mr. Speaker, I have just returned from Israel, and I want to report to the Congress that the situation is pretty tense on the West Bank. An Israeli soldier was shot to death yesterday in a little square outside the Church of the Nativity in Bethlehem, the very location that a party with whom I was there was in that same location the day before yesterday. We met with several representatives of the Government, of the military. It is very interesting how the politics in Israel is split on the way that they should approach peace.

I am firmly convinced that that country that has known war for so long so greatly wants peace, and it is important that the United States stand by Israel in this very tough time.

GET OUR BOYS OUT OF HONDURAS

(Mr. MARKEY asked and was given permission to address the House for 1 minute.)

Mr. MARKEY. Mr. Speaker, first the White House said that they were not sending any troops to Central America. Then they said our troops were going to Palmerola, over 100 miles from the fighting on the Nicaraguan border. Then Elliott Abrams said they were going to be within 60 miles of the Nicaraguan border.

All along they assured us that they were going to stay at least 20 miles from the Nicaraguan border. But yesterday they told us that they were going to Jamastran, which is 17 miles from the Nicaraguan border and within the 20-mile border area that we have tried to establish to stay out of any conflict. Now we hear that they are going within 10 miles of the Nicaraguan border.

Mr. President, what are our boys doing in Central America? If they are on training exercises, why are they carrying live ammunition? If they are training, why are they closer than 20 miles from the Nicaraguan border? Mr. President, get our boys out of that war zone. Mr. President, get our boys out of that border battle zone before some of them get killed.

UNITED STATES TROOPS IN HONDURAS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I have just returned with eight members of our House Armed Services Committee from the Honduran area. Mainly we did visit troops in Honduras.

Mr. Speaker, I think the troops are perfectly safe in spite of what my colleague from Massachusetts said. I do not believe they would let Members of Congress wander around Honduras if this was a dangerous area.

As far as carrying ammunition, quite frankly, the only ones who are carrying ammunition in their pouches, not in their weapons, are the National Guardsmen who are from West Virginia, who are building a road and a bridge that is up in the northern part of Honduras. But they have a good policy on ammunition. In some cases the ammunition is kept by the first sergeant of our troops, and in other cases they have it in their pouches. So there is no danger of us getting involved.

Mr. Speaker, this is an excellent operation. I would recommend to my colleague that he go down there. This is the finest Army we have ever had, doing a splendid job. If my colleagues will go on the ground there, they will see what is taking place.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GLICKMAN). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken tomorrow, Tuesday, March 22, 1988.

□ 1215

CONSENT OF CONGRESS TO AMENDMENTS TO THE WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT

Mr. FRANK. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 480) granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact.

The Clerk read as follows:

H.J. RES. 480

Whereas the State of Maryland, the Commonwealth of Virginia, and the District of Columbia have adopted amendments to the Washington Metropolitan Area Transit Regulation Compact relating to public hearing requirements, investment flexibility, procurement, and public safety; and

Whereas the Congress has reviewed such amendments and is willing to consent to such amendments: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSENT OF CONGRESS TO AMENDMENTS TO COMPACT.

The Congress consents to the amendments of the State of Maryland (chapters 674 and 675, 1984 Acts of the Maryland General Assembly), the amendments of the Commonwealth of Virginia (chapter 610, 1984 Acts of Assembly of Virginia; chapter 112, 1987 Acts of Assembly of Virginia), and the amendments of the District of Columbia (D.C. Law 5-122) to sections 62(a), 69(a), 69(b), 73, 76(a), and 76(c) of the Washington Metropolitan Area Transit Regulation Compact. Such amendments are substantially as follows:

(1) Section 62(a) is amended to read as follows:

"62.(a) The Board shall not make or change any fare or rate, nor establish or abandon any service except after holding a public hearing with respect thereto, except for service changes required by an emergency; minor service changes as defined by regulations promulgated by the Board; experimental service established to test the effect of such service, and in effect for not more than six months; and fare and service changes established for special events.".

(2) Subsection (a) and (b) of section 69 are amended to read as follows:

"69.(a) The Board may provide for the creation and administration of such funds as may be required. The funds shall be disbursed in accordance with rules established by the Board and all payments from any fund shall be reported to the Board. Moneys in such funds and other moneys of the Authority shall be deposited, as directed by the Board, in any branch or subsidiary of any state or national bank which has operations within the Zone, and having a total paid-in capital of at least one million dollars ($1,000,000). The trust department of any state or national bank may be designated as a depositary to receive any securities acquired or owned by the Authority. The restriction with respect to paid-in capital may be waived for any such bank which agrees to pledge federal securities to protect the funds and securities of the Authority in such amounts and pursuant to such arrangement as may be acceptable to the Board.

"(b) Any moneys of the Authority may, in the discretion of the Board and subject to any agreement or covenant between the Authority and the holders of any of its obligations limiting or restricting classes of investments, be invested in:

"(1) Direct obligations of or obligations guaranteed by the United States of America;

"(2) Bonds, debentures, notes or other evidences of indebtedness issued by agencies of the United States of America, including but not limited to the following: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Federal National Mortgage Association; Student Loan Marketing Association; Government National Mortgage Association; Tennessee Valley Authority; or United States Postal Service;

"(3) Securities that qualify as lawful investments and may be accepted as security for fiduciary, trust and public funds under the control of the United States or any officer or officers thereof, or securities eligible as collateral for deposits of moneys of the United States, including United States Treasury tax and loan accounts;

"(4) Domestic and Eurodollar certificates of deposits; and

"(5) Bonds, debentures, notes or other evidences of indebtedness issued by a domestic corporation, such as a corporation organized under the laws of one of the States of the United States, provided that such obligations are nonconvertible and at the time of their purchase are rated in the highest rating categories by a nationally recognized bond rating agency.".

(3) Section 73 is amended to read as follows:

"73. Contracts for the construction, reconstruction or improvement of any facility when the expenditure required exceeds twenty-five thousand dollars ($25,000) and contracts for the purchase of supplies, equipment and materials when the expenditure required exceeds ten thousand dollars ($10,000) shall be advertised and let upon sealed bids to the lowest responsible bidder. Notice requesting such bids shall be published in a manner reasonably likely to attract prospective bidders, which publication shall be made at least ten days before bids are received and in at least two newspapers of general circulation in the Zone. The Board may reject any and all bids and readvertise in its discretion. If after rejecting bids the Board determines and resolves that, in its opinion, the supplies, equipment and materials may be purchased at a lower price in the open market, the Board may give each responsible bidder an opportunity to negotiate a price and may proceed to purchase the supplies, equipment and materials in the open market at a negotiated price which is lower than the lowest bid of a responsible bidder, without further observance of the provisions requiring bids or notice. The Board shall adopt rules and regulations to provide for purchasing from the lowest responsible bidder when sealed bids, notice and publication are not required by this section. The Board may suspend and waive the provisions of this section requiring competitive bids whenever:

"(a) the purchase is to be made from or the contract is to be made with the Federal or any State government or any agency or political subdivision thereof or pursuant to any open-end bulk-purchase contract of any of them;

"(b) the public exigency requires the immediate delivery of the articles;

"(c) only one source of supply is available; or

"(d) the equipment to be purchased is of a technical nature and the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts in the public interest.".

(4) Section 76(a) is amended to read as follows:

"76.(a) The Authority is authorized to establish and maintain a regular police force, to be known as the Metro Transit Police, to provide protection for its patrons, personnel, and transit facilities. The Metro Transit Police shall have the powers and duties and shall be subject to the limitations set forth in this section. It shall be composed of both uniformed and plainclothes personnel and shall be charged with the duty of enforcing the laws of the signatories, and the laws, ordinances and regulations of the political subdivisions thereof in the Transit Zone, and the rules and regulations of the Authority. The jurisdiction of the Metro Transit Police shall be limited to all the transit facilities (including bus stops) owned, controlled or operated by the Authority, but this restriction shall not limit the power of the Metro Transit Police to make arrests in the Transit Zone for violations committed upon, to or against such transit facilities committed from within or outside such transit facilities, while in hot or close pursuit or to execute traffic citations and criminal process in accordance with subsection (c) below. The members of the Metro Transit Police shall have concurrent jurisdiction in the performance of their duties with the duly constituted law enforcement agencies of the signatories and of the political subdivisions thereof in which any transit facility of the Authority is located or in which the Authority operates any transit service. Nothing contained in this section shall either relieve any signatory or political subdivision or agency thereof from its duty to provide police, fire and other public safety service and protection, or limit, restrict or interfere with the jurisdiction of or the performance of duties by the existing police, fire and other public safety agencies. For purposes of this section, 'bus stop' means that area within 150 feet of a metrobus bus stop sign, excluding the interior of any building not owned, controlled, or operated by the Washington Metropolitan Area Transit Authority.".

(5) Section 76(c) is amended to read as follows:

"(c) Members of the Metro Transit Police shall have power to execute on the transit facilities owned, controlled, or operated by the Authority any traffic citation or any criminal process issued by any court of any signatory or of any political subdivision of a signatory, for any felony, misdemeanor, or other offense against the laws, ordinances, rules, or regulations specified in subsection (a). However, with respect to offenses committed upon, to, or against the transit facilities owned, controlled, or operated by the Authority, the Metro Transit Police shall have power to execute criminal process within the Transit Zone.".

SEC. 2. RESERVATION BY THE CONGRESS.

The right of Congress to alter, amend, or repeal this joint resolution is hereby expressly reserved.

The SPEAKER pro tempore (Mr. GLICKMAN). Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as all the Members of the House know but some may have temporarily forgotten, under the Constitution of the United States, compacts between and among the States are subject to ratification here. A compact some time ago established the Washington Metropolitan Area Transit Authority involving the District of Columbia, Maryland, and Virginia. We have before us today some relatively minor technical amendments which will enhance the ability of the Metro to function, as to its police powers and others.

I should note that it was through the very diligent efforts of our colleague on the Judiciary Committee, the gentleman from Virginia to whom I will yield shortly that the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary focused on this compact. It had been passed and was languishing. Obviously Metro was continuing to function but it would function better if we approved this compact and the Senate also does.

I say that without in any way intending to put any pressure on the Senate. They may, of course, do whatever they wish in their wisdom. But I simply note that if the compact is ratified it will be better for the Metro.

With that, Mr. Speaker, I am going to reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Massachusetts has adequately explained the content of the legislation we are about to approve and I do approve and do endorse it and support it. As the gentleman has stated, every single Member of the Congress of the United States wherever he or she may be located is in an area where somehow, somewhere a compact between two states or among more than two States is in force, having to do with rivers, having to do with forests, transportation and all the other elements of our society.

It is a proper set of circumstances that brings the final approval to the Congress of the United States under the Constitution and I am happy to join in the approval of this particular compact which, of course, consolidates the transportation efforts of our local governmental areas in the Washington, DC, area.

Mr. Speaker, I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, one of my staff, Miss Ihlo, reminded me that I should have mentioned, quite correctly, that there were in committee with the full approval of all parties, some amendments adopted to the compact but they will in no way undermine the approval that we are granting here.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. BOUCHER] who was the one who called to our attention the need for action here.

Mr. BOUCHER. I thank the gentleman for yielding time to me.

Mr. Speaker, today the House is considering House Joint Resolution 480 which will provide consent to amendments of the Washington Metropolitan Area Transit Authority's interstate compact.

These amendments have been approved by Virginia, Maryland, and the District of Columbia. They represent a regional consensus on modifications that should be made to the interstate compact to permit the transit authority to conduct its everyday activities in a safer, more efficient and cost-effective manner.

The bill consents to five amendments to the compact concerning public hearing requirements for minor service changes, metro's financial investment flexibility, its procurement requirements, improvements in public safety, and consistency in law enforcement.

Regarding the public hearing requirements, the amendments permit WMATA to make minor or experimental bus service changes, provide for emergency situations, and experiment with particular bus lines without holding a public hearing. For example, if Virginia planners detect a market for a particular line, they can provide the service for a couple of months without having to go through an extended public hearing process. That change allows a more efficient method of sampling transit markets. A public hearing would still be required to make bus service changes permanent.

With the advent of banking deregulation, WMATA needs the flexibility to invest in a broader range of financial instruments and to deposit funds in a branch or subsidiary of any bank which operates within the transit zone. The present compact now states that WMATA can only deposit funds in the headquarters bank. These amendments will enable WMATA to engage in more efficient cash management practices in order to obtain a higher rate of return on investment funds.

Another amendment would raise the threshold for advertising contracts for supplies and equipment from $2,500 to $10,000 and for construction from $10,000 to $25,000. Raising the procurement thresholds will increase efficiency and reduce staff time and associated costs. This change will also make WMATA's procurement policies more consistent with those of the Federal Government, other transit agencies and many local governments. The current dollar limits the WMATA compact, established in 1966, have become obsolete through 22 years of inflation.

Finally, the public safety amendments permit the transit authority police to have jurisdiction at Metrobus stops and to serve process in Maryland. Currently, Metro has no official authority to interfere with criminal acts at its bus stops and therefore cannot adequately protect its patrons or employees. All local police departments favor giving Metro jurisdiction at its bus stops.

The amendments allow Metro transit police to serve process in Maryland on the same basis they now serve process in Virginia and the District of Columbia. The amendment would permit more cost-effective law enforcement in Maryland and more consistency between Maryland, Virginia, and the District of Columbia.

I want to thank the distinguished chairman of the subcommittee, Mr. FRANK, for reporting this legislation expeditiously. My colleague from Maryland on the Judiciary Committee, Mr. CARDIN, also deserves recognition for his valuable support and efforts on WMATA's behalf in committee.

These amendments clarify and simplify the enforcement of transit authority rules. They address routine, daily administrative and management activities. Once enacted, they will enhance Metro's ability to provide safe and efficient Metrorail and Metrobus service to its ridership in Maryland, Virginia, and the District of Columbia, and all who visit the Nation's Capital. I urge approval of House Joint Resolution 480, a noncontroversial, but important item of legislation.

Mr. FRANK. Mr. Speaker, I am glad that my colleague mentioned the good work done by the gentleman from Maryland on the subcommittee. He was in the interesting position of having been the Speaker of the House of Delegates in Maryland when they approved the compact. So he has had two bites at this and he deserves recognition.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the joint resolution, H.J. Res. 480.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

RECOGNITION OF NATIONAL ASSOCIATION OF STATE DIRECTORS OF VETERANS' AFFAIRS, INC.

Mr. FRANK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1259) to recognize the organization known as the National Association of State Directors of Veterans' Affairs, Inc., as amended.

The Clerk read as follows:

H.R. 1259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARTER.

The National Association of State Directors of Veterans Affairs, Incorporated, a nonprofit corporation organized under the laws of the District of Columbia, hereby is recognized as such and is granted a Federal charter.

SEC. 2. POWERS.

The corporation shall have only the powers granted to it through its articles of incorporation and bylaws filed in the States in which it is incorporated and subject to the laws of such States.

SEC. 3. PURPOSES.

The purposes of the corporation are those provided in its articles of incorporation and shall include—

(1) providing a medium for the exchange of ideas and information between veterans and veterans organizations;

(2) fostering a better understanding of the problems of the veterans of the Nation;

(3) promoting uniformity and equality of service to veterans in all States;

(4) maintaining an interest in all matters that concern veterans;

(5) disseminating advice and information to all veterans and their dependents;

(6) cooperating with, and participating in the national conventions of, veterans organizations chartered by the Congress and service organizations recognized by the Veterans' Administration; and

(7) maintaining close liaisons with all branches of the armed services of the United States.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and the States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Eligibility for membership in the corporation, and the rights and privileges of such membership, shall be as provided in the articles of incorporation and bylaws of the corporation.

SEC. 6. BOARD OF DIRECTORS.

The composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation and bylaws of the corporation and shall be in conformity with the laws of the States in which it is incorporated.

SEC. 7. OFFICERS.

The officers of the corporation and the election of such officers shall be as provided in the articles of incorporation and bylaws of the corporation and shall be in conformity with the laws of the States in which it is incorporated.

SEC. 8. RESTRICTIONS.

(a) USE OF INCOME AND ASSETS.—No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection may be construed to prevent the payment of reasonable compensation to the officers and employees of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The corporation may not make any loan to any member, officer, director, or employee of the corporation.

(c) POLITICAL ACTIVITY.—The corporation, and any officer or director of the corporation acting as such officer or director, may not contribute to, support, or otherwise participate in any political activity or attempt in any manner to influence legislation.

(d) ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.—The corporation may not issue any shares of stock or declare or pay any dividend.

(e) CLAIMS OF FEDERAL APPROVAL.—The corporation may not claim the approval of the Congress or the authorization of the Federal Government for any of its activities.

(f) CORPORATE STATUS.—The corporation shall maintain its status as a corporation organized and incorporated under the laws of the District of Columbia.

(g) CORPORATE FUNCTION.—The corporation shall function as an educational, patriotic, civic, historical, and research organization under the laws of the States in which it is incorporated.

SEC. 9. LIABILITY.

The corporation shall be liable for the acts of its officers, directors, employees, and agents whenever such officers, directors, employees, and agents act within the scope of their authority.

SEC. 10. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.

(a) BOOKS AND RECORDS OF ACCOUNT AND MINUTES OF PROCEEDINGS.—The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) NAMES AND ADDRESSES OF MEMBERS.—The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the corporation.

(c) RIGHT TO INSPECT BOOKS AND RECORDS.—All books and records of the corporation may be inspected by any member having the right to vote in any proceeding of the corporation, or by any agent or attorney of such member, for any proper purpose and at any reasonable time.

(d) APPLICATION OF STATE LAW.—This subsection may not be construed to contravene any applicable State law.

SEC. 11. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"National Association of State Directors of Veterans Affairs, Incorporated."

SEC. 12. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted on the same date as the report of the audit of the corporation required by reason of the amendment made in section 11. Such annual report may not be printed as a public document.

SEC. 13. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to amend or repeal this Act is expressly reserved to the Congress.

SEC. 14. DEFINITIONS.

For purposes of this Act—

(1) the term "corporation" means the National Association of State Directors of Veterans Affairs, Incorporated; and

(2) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

SEC. 15. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

SEC. 16. TERMINATION.

The charter granted in this Act shall expire if the corporation fails to comply with any of the provisions of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. GEKAS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr.

Frank] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. Gekas] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Frank].

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a difficult subject in general but not in particular. It is difficult in general because the whole matter of Federal charters is a more troublesome one than people might think. The notion is that the Congress grants recognition to worthwhile organizations and we do that willingly.

There is a problem because we are not institutionally well-geared to monitor and follow up. But I would not want that general problem which the subcommittee has been addressing in a bipartisan way to interfere with this or the following bill today because there are organizations that have been in the pipeline in which they have been seeking the kind of approval that other organizations have gotten. And because it is a Federal charter granted by the U.S. Government, there has been an understandable clustering of veterans' organizations to get a Federal charter; given the very special role the veterans play in defending and preserving this Nation, it is totally logical that they should be among those who most often ask for Federal charters.

This organization meets all the qualifications for an organization to get a Federal charter. It is very actively sponsored by our colleagues who have been most active on behalf of veterans affairs, the gentleman from Texas [Mr. Leath] and the gentleman from Mississippi [Mr. Montgomery] who will address us shortly as I have said, and while we on the subcommittee, the ranking minority member, the gentleman from Florida [Mr. Shaw], and myself will continue to study how to deal with these, we do not want our concern about the process in general in any way adversely to reflect on any of the particular organizations. It is possible to believe as we do that there may not be a lot of activity left in some of the organizations from the Civil War and even World War I, and see how we can best deal with the problem of their charters which are still extant without in any way detracting from this organization.

There was no dissent at either subcommittee or the committee level and I hope that we will adopt this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I too suffer from our reluctance to get into the business of having the Congress be involved in the approval of Federal charters. But that reluctance is swiftly put aside on two counts: One, I am one who, like many of us, knows very well and personally the work of the various directors in the various States in veterans affairs.

The second reason is that I would not dare challenge the gentleman from Mississippi [Mr. Montgomery] in any veteran's problem in which he finds himself involved or anything that he wishes to espouse in favor of veterans.

So I endorse the present legislation and I do look to the day when we can find the business of approving charters and the overseeing of same be conducted perhaps in the executive branch or in some way that we would not have to every single day it seems worry about whether or not to grant a charter.

Mr. Speaker, I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I yield such time as he may consume to my very able colleague, the gentleman from Mississippi [Mr. Montgmery], of the Committee on Veterans' Affairs, who works so hard on behalf of veterans and who is a main sponsor of this bill.

Mr. MONTGOMERY. Mr. Speaker, I do rise in support of H.R. 1259. I want to thank the members of the Committee on the Judiciary as well as its Subcommittee on Administrative Law and Governmental Relations. Particularly, I want to thank my close friend, Barney Frank, who is chairman of that subcommittee. He told me he would bring these bills out and I certainly publicly want to say thanks from the veterans and from the State Directors of Veterans' Affairs to whom this legislation means so much, and to Clay Shaw who is the ranking minority member of that subcommittee, the gentleman from Florida, my thanks also go to him and to George Gekas who is handling the bill today. Thank you very much for that support of our veterans. You have always been a great supporter of veterans affairs. This does mean a lot to the veterans.

Let me say also that Chairman Rodino told me several days ago that if the bill came out of the subcommittee that he would certainly take these two charter bills up before the full committee. He has done exactly what he told me he would do, the chairman of the full committee, Mr. Rodino. He has always done that; what he tells you he will do, he will do in the Committee on the Judiciary.

Mr. Speaker, for more than 40 years the National Association of State Directors of Veterans Affairs has overseen the delivery of benefits and services to the veterans and their families in a timely and compassionate manner. Therefore, I am pleased to be an original cosponsor of H.R. 1259 which would grant a Federal charter to the organization.

If I may, I would like to commend my distinguished colleague from Texas, Marvin Leath, for spearheading the effort to secure this charter. The veterans of the Nation have a very good friend in Marvin Leath. He has authored programs to serve veterans and their dependents and has been a staunch protector of the VA budget.

The Veterans' Affairs Committee which I am proud to chair has for some time worked closely with the State Directors of Veterans Affairs so I know firsthand of the excellent work they do at the community and State levels in counseling veterans and handling claims, and it is certainly worthy of congressional and public appreciation and support.

Comprised of directors from 49 States, the District of Columbia, American Samoa, the Virgin Islands, Puerto Rico, and Guam, the association is a vital network through which we can better administer those programs developed in gratitude by a Nation proud and protective of its defenders. Our Federal and State programs, working in tandem, enable us to effectiviely serve the Nation's 27.5 million veterans.

Mr. Speaker, I urge passage of H.R. 1259 in recognition of the tremendous public service long provided by the State Directors of Veterans Affairs.

Mr. FRANK. Mr. Speaker, I thank the gentleman from Mississippi for his words and his diligence on behalf of our veterans.

Mr. LEATH of Texas. Mr. Speaker, I rise today in support of H.R. 1259, which provides a Federal charter for the National Association of State Directors of Veterans Affairs.

First, I would like to thank Chairman Rodino and the ranking minority member, Congressman Fish, as well as the chairman of the Administrative Law and Governmental Relations Subcommittee, Congressman Frank, and ranking minority member, Congressman Shaw, for their assistance and expeditious manner in considering and favorably reporting this bill.

The National Association of State Directors of Veterans Affairs, Inc., has for over 40 years, successfully dedicated itself to the delivery of benefits and services to our veterans and their families. Thousands of individuals work out of the various offices assisting veterans with their claims for benefits and services, and have long been a leading contributor to the effective implementation of veteran service programs provided by both Federal and State law.

The purposes of the NASDVA are to foster the effective representation of persons claiming entitlements on account of honorable military service of any person as defined in 38 U.S.C. 101; to provide a medium for exchange of ideas and information, to foster a better understanding of veterans problems and to maintain an interest in all veterans legislation. They operate for charitable, educational, and patriotic purposes, providing direct delivery of services to those veterans and families of veterans who need assistance.

The association has demonstrated over the years that they serve a vital link in serving and caring of our Nation's veterans. I believe the time has come to recognize the work carried out in the State offices, and I urge my colleagues to join me in supporting the National Association of State Directors of Veterans Affairs.

Mr. SOLOMON. Mr. Speaker, I rise in strong support of H.R. 1259, introduced by Congressman LEATH to grant a Federal charter to the National Association of State Directors of Veterans Affairs.

Mr. Speaker, earlier this year, I was proud to receive the Man of the Year Award from this important veteran service organization and I am sincerely grateful for this distinct honor.

The National Association of State Directors of Veterans Affairs is truly a remarkable national organization that has been assisting veterans of the United States for over 40 years. They help veterans across this country obtain the benefits they are entitled to receive. This organization also provides a valuable service by promoting the uniform treatment of veterans throughout the United States.

The organization was founded after World War II to encourage State governments to provide valuable and much needed services to veterans returning from the war. Its current membership includes State Directors of Veterans Affairs and approximately 300 associates. I respectfully request the support of all of my colleagues in favor of H.R. 1259.

Mr. FRANK. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 1259, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1259, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

RECOGNITION OF THE NON COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA

Mr. FRANK. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1397) to recognize the organization known as the Non Commissioned Officers Association of the United States of America, as amended.

The Clerk read as follows:

S. 1397

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. The Non Commissioned Officers Association of the United States of America, Incorporated, a nonprofit corporation organized under the laws of the State of Texas, is recognized as such and is granted a Federal charter.

POWERS

SEC. 2. The Non Commissioned Officers Association of the United States of America, Incorporated, (hereinafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its bylaws and articles of incorporation and shall include—

(1) upholding and defending the Constitution of the United States;

(2) promoting health, prosperity, and scholarship among its members and their dependents and survivors through benevolent programs;

(3) assisting veterans and their dependents and survivors through a service program established for that purpose;

(4) improving conditions for service members, veterans and their dependents and survivors; and

(5) fostering fraternal and social activities among its members in recognition that cooperative action is required for the furtherance of their common interests.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. Except as provided in section 8, eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. Except as provided in section 8, the composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. Except as provided in section 8, the positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

NONDISCRIMINATION

SEC. 8. In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

RESTRICTIONS

SEC. 9. (a) No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this chapter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(d) The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities by virtue of this Act.

LIABILITY

SEC. 10. The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 11. The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 12. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"The Non Commissioned Officers Association of the United States of America, Incorporated.".

ANNUAL REPORT

SEC. 13. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 2 of the Act referred to in section 12 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 14. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

SEC. 15. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

Sec. 16. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this Act shall expire.

EXCLUSIVE RIGHT TO NAMES

Sec. 17. The corporation shall have the sole and exclusive right to use the names "The Non Commissioned Officers Association of the United States of America", "Non Commissioned Officers Association of the United States of America", "Non Commissioned Officers Association", and "NCOA", and such seals, emblems, and badges as the corporation may lawfully adopt. Nothing in this section may be construed to conflict or interfere with established or vested rights.

TERMINATION

Sec. 18. If the corporation shall fail to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

The SPEAKER pro tempore. Is a second demanded?

Mr. GEKAS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. Frank] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. Gekas] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Frank].

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the prefatory remarks that I made with regard to the last item apply equally to this item. I will set precedent for this body by referring to the fact that I have already made remarks that are applicable and I will not repeat them.

Mr. Speaker, I would like to acknowledge the noncommissioned officers as the best witnesses who have ever appeared before a committee since I have been in Congress because when they came before us I told them that the gentleman from Mississippi, who is a great friend of the veterans, had been before us advocating this bill and that it seemed to me that they had the votes. And the entire testimony was, "Thank you, sir."

I think that they should give courses in how to be a witness and not waste people's time, which is the worst problem we have in Washington.

So, Mr. Speaker, I think this is a very important and worthwhile organization and they should get a charter.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, when I go to veterans affairs, I always introduce myself as "Corporal Gekas, retired." Therefore, I feel especially qualified to stand here and support the current legislation.

□ 1245

Mr. Speaker, I, too, enter a large ditto on the remarks for this particular bill as were stated on the previous bill.

Mr. Speaker, I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, as I did with the previous bill, I yield to the gentleman from Mississippi [Mr. Montgomery] who, in his capacity as chairman of the Committee on Veterans' Affairs, worked hard on this bill as well.

Mr. MONTGOMERY. Mr. Speaker, I should be quiet now and go on my way, but this gives us kind of a comparison of accents between those of the gentleman from Massachusetts, the gentleman in the well, the gentleman from Pennsylvania, and the gentleman in the chair. So I want to slow down a little and move ahead with my brief remarks.

Mr. Speaker, I rise in strong support of S. 1397. It was my privilege to introduce the companion bill, H.R. 2248, and to testify on that bill before the Subcommittee on Administrative Law and Governmental Relations, which is chaired by the distinguished gentleman from Massachusetts, Barney Frank. I would also like to thank Clay Shaw, of Florida, the ranking minority member of the subcommittee for the time and attention both he and Mr. Frank have given this matter.

I also want to thank the chairman, Pete Rodino, of New Jersey, and the ranking minority member, Hamilton Fish, of New York, of the full Committee on the Judiciary for allowing this bill to come to the floor for consideration.

The Non Commissioned Officers Association which was founded in 1960 has more than 170,000 noncommissioned and petty officers who are serving, or have served, in Regular or Reserve elements of the Army, Marine Corps, Navy, Air Force, Coast Guard, and National Guard. The NCOA has 300 chapters throughout the world.

The association is quite active as a veterans' organization through its network of more than 300 accredited veterans service officers. NCOA assists thousands of veterans each year in obtaining benefits and services from the Veterans' Administration and other Federal and State agencies. In addition, members of the Non Commissioned Officers Association staff have been appointed to serve on the VA advisory Committees on Women Veterans and Cemeteries and Memorials; the Commission on Veterans Education, the Council of National Resource Organizations; and the President's Committee on the Employment of the Handicapped.

Furthermore, NCOA representatives appear regularly before the Armed Services and Veterans' Affairs Committees, and the organization's views on legislation carry great weight on both committees. As an example, the organization's support of the new peacetime GI bill was an important factor in the program's enactment.

The association is widely known for its Veterans Employment Assistance Program. In this calendar year, it will host more than 20 job fairs across the United States and in Europe. The organization has been conducting these job fairs since the early 1970's without cost to the veterans who participate, and without regard to membership in NCOA. Through its scholarship program, NCOA will award nearly $50,000 this year to the children of noncommissioned and petty officers. The organization also has a medical trust fund to assist service members in paying medical bills not covered by CHAMPUS or direct care in military facilities.

Mr. Speaker, many organizations have been granted Federal charters. Few, if any, are more deserving of a charter than the Non Commissioned Officers Association of the USA. I am proud to give my strong support to the bill that will afford the organization this long overdue recognition.

Mr. SOLOMON. Mr. Speaker, I wish to strongly endorse legislation we are taking up today in the House which grants a Federal charter to the Non Commissioned Officers Association. A Federal charter will allow the Non Commissioned Officers Association to operate as a tax-exempt corporation under its bylaws and articles of incorporation.

As the ranking member of the House Veterans' Affairs Committee, I know from firsthand experience the important veteran services and employment programs the Non Commissioned Officers Association provides for our Nation's veterans.

The Non Commissioned Officers Association includes members from all military services, with branches across the United States. It is one of the finest veteran service organizations in the country and I am proud to support this important Federal charter legislation.

Mr. FRANK. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Glickman). The question is on the motion offered by the gentleman from Massachusetts [Mr. Frank] that the House suspend the rules and pass the Senate bill, S. 1397, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

THE MILAGRO BEANFIELD WAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico [Mr. Richardson] is recognized for 5 minutes.

Mr. RICHARDSON. Mr. Speaker, it is with a great source of pride that I wish to highlight to my colleagues a happening that took place in Santa Fe, NM, in my State, this past weekend. That happening was the premier of a movie, "The Milagro Beanfield War."

Mr. Speaker, the reason I raise this to my colleagues and to those that are here in this Chamber is not because I am interested in selling tickets or commercialize a movie that obviously highlights my State, but mainly to urge as many of my colleagues and as many around the country to recognize the spirit behind this movie, "The Milagro Beanfield War."

On many occasions I am sure Representatives from New Mexico have to battle with the rest of the country and the rest of the Congress to demonstrate that New Mexico is in fact a State. We sometimes have many different jokes on us that we need a passport to come into our State. Our name identification is not that strong. But those that know New Mexico know it to be a land of beauty and know the strength of its people and the land.

Mr. Speaker, the reason I raise this is because "The Milagro Beanfield War," for those colleagues of mine that are constantly kidding us about changing legislation so that northern New Mexico, when it comes to small farmer issues, irrigation ditches or water issues, water disputes, that they, too, recognize the importance that northern New Mexico and its residents place on their land, and their culture and their water.

"The Milagro Beanfield War" is directed by Robert Redford. It has many stars in it that have done an excellent job of portraying life in northern New Mexico. The film is about this classic struggle, a struggle that occurs a lot in the West between those that want to preserve their land and the heritage and those that want to build, and develop and bring additional changes in lifestyle to many communities. The film is about the struggle of a farmer, Joe Mondragon, who is basically trying to keep his way of life intact. A huge developer is trying to build a golf course in a small rural village, Milagro, NM, but really Truchas, NM. The film talks about how there is a fight to keep the developers out and how this Joe Mondragon plants a bean field irrigated with water, which in essence signals the determination of the townspeople to keep the developers out or at least to have a voice in the decision. The film shows the strong family traditions of northern New Mexico. It shows the beauty of the land. It shows the importance of water, of preserving a way of life that for many may not be the most modern, the most plush, but a way of life where culture is preserved, where tradition is preserved.

John Nichols wrote "The Milagro Beanfield War" in 1972. What we have then is a celebration of spirit of a State that for many years, perhaps on the scale of being per capita, is one of the poorest of the country and is a State that has a tremendous strength in its people. The potential for human involvement and development is evident. You will see men and women from northern New Mexico that have pride in their work, pride in their traditions.

So, Mr. Speaker, I raise this with my colleagues not, once again, to urge that everyone attend the premier of this film or see it on the movie screens around the country. But, if they should choose to see it, to recognize that it is a celebration of spirit, a celebration of the land of culture, of the American dream, of northern New Mexicans that came to this country 300 years ago, descendents from Spain, and are determined to preserve the rural lifestyle.

I want my colleagues to know that the preservation of culture is so important in my State that Sante Fe, NM, is the only capital in this country that does not allow an airport. You cannot fly in there unless you have a small plane. That is because there is a strength in wanting to preserve what we have.

So, Mr. Speaker, in raising this issue with my colleagues I just want them to recognize that when they hear a Representative from New Mexico asking for certain things for their district, for their State, that you try to see this movie and see how important it is that we deal with these problems that are mostly of preservation and strengthening of family, of religion, of culture, but most importantly of land and a way of life.

Mr. Speaker, I include at the end of my remarks newspaper articles as follows:

The Milagro Beanfield War

(By Dan Guerrero)

John Nichols wrote *The Milagro Beanfield War* in 1972. It took just five weeks to create the story of Joe Mondragón, a Chicano handyman in the tiny, fictitious town of Milagro, New Mexico, who starts a political revolution by illegally irrigating his parched beanfield with water earmarked for a housing development.

The novel was published in 1974 to—in the author's words—"a resounding clunk."

Miracles, however, do happen. Fifteen years after Joe first came to life on paper, he leaps to the big screen in a $10 million-plus feature from Universal Pictures starring Rubén Blades and Sonia Braga and directed by Robert Redford, in his first directing chore since the 1980 Oscar-winning *Ordinary People.*

Scheduled for release this month in English, Spanish-dubbed and Spanish-subtitled versions, *Milagro* is Universal's heavyweight entry in Hollywood's push to top the growing Hispanic market with films that have crossover appeal.

The feisty Mondragón's journey to the screen is a story as complex and colorful as Nichols' original creation. The real-life account features a much-honored Chicano filmmaker, a movie star-turned-director, dropped options, grabbed options, big studios, big bucks, casting controversies, lawsuits, angry townspeople and an angrier Mother Nature.

As Mondragón himself might say—"Ay, Chihuahua!"

Los Angeles producer Moctesuma Esparza *(The Ballad of Gregorio Cortez)* was among the book's early fans.

The filmmaker and Chicano activist recalls that, when he read the novel, "I fell in love with it. It was one of the few experiences where I read something that presented social and political issues simultaneously. I would fall off my chair, laughing at its tremendous humor."

Esparza—a man with a 1973 Emmy Award for the documentary *Cinco Vidas* and an Oscar nomination for the 1977 documentary short *Aqueda Martínez*—was not the only filmmaker to admire *Milagro* and its colorful cast of characters. Other producers acquired temporary rights to the novel.

But in 1978, Esparza met with author Nichols in New Mexico to discuss rights to the book, should they become available.

During the meeting, Esparza discovered "we had a mutual empathy, in terms of our histories and our visions." He acquired the rights in December of 1979, on the very day the other producers dropped their option.

However, another reader of *Milagro* thought the story of interwoven social, cultural and political issues would make a stunning movie.

Blond, all-American screen star Robert Redford represented mainstream funding and clout when he phoned Esparza shortly after the Latino had won the rights. Redford was in post-production with *Ordinary People,* his directorial debut, when he learned Esparza has beaten him to *Milagro* by only days.

It has been widely reported that Redford intended to buy the option outright and produce the film himself. "Not true," Esparza says. "To Redford's credit, he never proposed I sell the rights. He never sought to buy me out. We discussed the film, he interviewed me and I interviewed him.

"When Redford told me he wanted to direct the piece, not act in it, I said 'Bob, I admire your work as an actor and as a producer, but I don't know who you are as a director.' I was not inclined to give him the project just because he said he wanted to direct it."

Redford, however, persuaded Esparza to see a rough cut of *Ordinary People.* "I was blown over, speechless," recalls Esparza. "The next day, I went over and said, 'Bob, what do you want?' "

The cornerstone for the bicultural project had been set. The Chicano producer and the mainstream movie star would co-produce, with Redford directing the venture. The arduous task of transferring the 630-page book to a 120-page screenplay began.

Much of the film's early work was done by the producing duo at Redford's Sundance Institute, beginning in 1980. High in the mountains outside Provo, Utah, the institute is dedicated to the development of American film with a special eye to U.S. cultures.

According to Redford, "the institute is a way of putting back into an industry that has been good to me. More importantly, it's an opportunity for stories to be told by groups in this country that have historical roots."

The *Milagro* story did not come easy. It wasn't until 1985 that David S. Ward came up with a workable script after several failed attempts by other writers, including author Nichols. Ward had penned Redford's 1973 hit, *The Sting,* and had a long association with the actor.

The rest of the creative staff began to assemble with many who were, like Ward, part of Redford's professional family. That included longtime partners Gary Hendler and Andy Meyer, brought on as executive producers.

This triggered talk within Hollywood's Latino community that the long-awaited "Chicano project" was fast becoming a "Redford project," with little participation from Hispanics.

Esparza responded that he never envisioned the film as an "all-Chicano production," but as "a bridge between Latino filmmakers and the Hollywood mainstream." He pointed out that production designer Joe Aubel, construction coordinator Bill Maldonado and production manager David Wisnievitz are all Latinos.

Fanning that controversy were the protracted casting process and the final choice of a "marginal Latino" in a leading role.

"We had open calls," Esparza says of the year-long auditions. (Open calls allow anyone to walk in and be seen for a film.) "I must have seen 2,000 people in Los Angeles and Redford must have seen several hundred in New York."

Esparza insists that the use of "names" in leading roles for box-office appeal was unimportant in casting the 53 available roles. "In fact, Rubén Blades went to an open casting call in New York, and I was predisposed against him when I first heard about it. A salsa singer? But, when I saw the audition tape, I agreed with Redford. Blades was wonderful."

The actors ultimately cast reflect the broad spectrum of the Latino acting community—Panama's Rubén Blades, Brazil's Sonia Braga, Mexico's great comic actor Carlos Riquelme in his English-language film debut, Mexican Americans Freddy Fender, Trinidad Silva and Mike Gómez, and the "very mixed" Julie Carmen as Mondragón's hot-tempered wife. ("My ethnic background makes for a long list," Carmen states, flatly.)

At the very center of the casting storm was Chick Vennera, in the pivotal role of Joe Mondragón. "My family came from Italy, via South America," he says. "They settled in Argentina and Brazil." To some critics, that was not Hispanic enough.

Vennera disagrees. "This is a Latino film, so it should be a mix, a real mix. I don't think there's any controversy within the community; if there is, I'm surprised to hear it. And there *were* Chicano actors."

Mike Gómez (*Zoot Suit, Heartbreak Ridge*), who plays an auto shop worker in the film, admits that "there was, obviously, discussion in actors' circles about it. My understanding is that Vennera's got Spanish in his background. The casting decision was Redford's and his alone. he went with the man he felt fit the role."

Julie Carmen has stronger words. "There's been all kinds of jealous remarks in the press about, 'Well, there's a Panamanian, a Brazilian and a Cuban.' That's not the point. We are actors playing out this tiny, sociological thing that has a bunch of funny, colorful characters."

"The people of *Milagro* are direct descendants of the Spaniards who settled in new Mexico in the small towns between Santa Fe and Truchas. Some of their culture and accents and family names go directly back to Spain and then mix with the Indians.

"They are a different group than the ones who went to Mexico and then came to the States, like—what we call in L.A.—the Chicanos. So, historically, everything is unique, even the way the people speak."

Vennera calls *Milagro* "a people film. It's about the way people are trying to keep a certain way of life. The way we all are throughout the country with the pollution problems and land development problems and the disregard for the environment. You see these people, these farmers, fighting together. They had a cause and they rose and went for it."

The setting for the film was as important as the cast, which includes James Gammon, Melanie Griffith, Daniel Stern and Christopher Walken in the major non-Latino roles. There was never a question that the cameras would roll on the book's original New Mexico locations.

But, again, controversy.

Tiny, picturesque Chimayo, 20 miles north of Santa Fe, with a town square dating to the 1730's, was Redford's first choice. The townspeople, however, were strongly divided between those eager for big bucks and excitement and those anxious to retain their tranquil way of life.

Lengthy negotiations delayed the start of production. Finally, the film company pulled out, building its own "historic" town square in nearby Truchas.

Principal photography began, at long last, on August 6, 1986, without a finished script. The shoot was to end in late October, but record rainfall and snowstorms caused costly delays and stretched the shoot until late December.

Just *how* costly is still no one's favorite subject. Esparza will only say that "the film went modestly over budget and still within the realm of standard, typical Hollywood films."

This particular Hollywood film, however, returned to its location nearly a year after the original shoot and after months in the editing room. Following rumors that the film was in trouble, Redford—a reputed perfectionist—returned his crew to New Mexico last October, a month short of the film's original release date.

Actor Mike Gómez found Redford "open to any suggestions we had about anything Hispanic. I felt he was very open toward our culture. He was familiar with it and appreciated it very much. It seemed a natural thing for him."

Redford, it should be noted, grew up in a Mexican American neighborhood in the Sawtelle section of Santa Monica, California. Those close to the production report that—while his Spanish might not rival Ricardo Montalbán's—his longtime affection for the culture colors every frame of the film.

Even as controversies waned and Mother Nature regained her composure, another storm commenced in the form of a Federal lawsuit brought by one Reies López Tijerina.

The former New Mexico resident filed the suit in Los Angeles, claiming his story belonged to producer Robert Cano and that Nichols based his book on that story. Lóez Tijerina spent 30 months in prison for the attempted 1966 takeover of Government-owned land he said belonged to the descendants of 16th-century Spanish settlers.

Nichols has said the genesis of his book dates to his days with *The New Mexico Review,* when he wrote investigative articles about land and water problems. Later, he says, he incorporated all he learned in *The Milagro Beanfield War.*

"There is no relationship between López Tijerina's life story and this book. None," Esparza says of the lawsuit.

Milagro will be closely watched. Big studios anticipate big profits in the Hispanic market, especially after the success of *La Bamba* and *Born in East L.A.* Right now, there is a parade of Hispanic-theme projects in varying stages of production.

Edward James Olmos stars in *Stand and Deliver,* for both theatrical and TV release. *Moon Over Parador* will star Raúl Juliá and Sonia Braga. *The Penitent* teams Juliá with Julie Carmen. Jane Fonda is busy filming Mexican novelist Carlos Fuentes' *The Old Gringo.*

Television, meanwhile, is offering the situation comedy *Trial and Error,* with Eddie Vélex and Paul Rodriguez.

"It's rare to have so many Latino projects at the same time," smiles Gómez. "Producers realize we have a lot of money as a community. We spend a lot and are loyal consumers. It's the same thing with television programs."

Carmen expresses some concern with the trend. "*Milagro* is a whole new level of looking at the Hispanic in a much less exploitative way. What frightens me is that, if too much political heat comes at Redford because of this film, we'll be cutting our own throats.

"Remember what happened with the 'black exploitation' genre? After *Shaft,* there were a lot of 'black exploitation' films, and there was a lot of heat over how blacks were being represented in cinema.

"If people begin jumping up and complaining 'this detail or that detail isn't perfect' and if Redford gets a lot of flak, the studios may feel the Hispanic culture has become untouchable. That could really damage us."

The film, she predicts, "is going to be bounced around like a political Ping-Pong ball, with jealousy and accusations. However, she has seen "99.9 percent support and love for the project from everyone involved with the film."

To Carmen and the rest of Hollywood's Hispanic community, the artistic and financial success of a true cross-ethnic film is a *milagro* long overdue.

HISTORY SETS CHICANO PRODUCER'S PATH

(By Dan Guerrero)

Los Angeles-born Moctesuma Esparza has a clear picture of what he expects from *The Milagro Beanfield War* and from himself—"to be a professional producer in Hollywood and to develop those projects that motivate and inspire me."

It's a path familiar to Esparza, who produced bilingual films for TV's *Sesame Street* while still a graduate student at the University of California in Los Angeles. His Master's thesis, *Cinco Vidas*—a 1973 documentary about people living in the barrios of East Los Angeles—earned him an Emmy Award.

Later, Esparza produced the PBS children's series *Villa Alegre* and won the John F. Kennedy Journalism Award for a series of documentaries for the McGraw-Hill series *La Raza*. His first feature, *Only Once in a Lifetime*, was made in 1977. A documentary portrait of an old woman in northern New Mexico, *Aqueda Martinez*, brought him an Oscar nomination that same year.

Through many of those years, especially during the Chicano movement of the late 1960's, the politically aware Esparza was involved in antiwar and civil rights activities.

"Many of us made a great many sacrifices 20 years ago," he says. "We were arrested and went to jail often. I was indicted twice by a grand jury for organizing strikes."

The Ballad of Gregorio Cortez, with Edward James Olmos in 1982, was Esparza's big screen break. *The Milagro Beanfield War* may confirm his place in mainstream moviemaking.

"*Milagro* is part of a series of films I was developing with the National Council of La Raza," Esparza explains. *Ballad* was the first in the series, developed in co-sponsorship with the National Council, via a grant from the Endowment for the Humanities.

Several other projects were picked at that time, "important in presenting to a mass audience our historical contribution to this country in a new light. We present ourselves as part of the American fabric, not as immigrants—which, of course, we are—but as a part of the population that has founded and developed this country.

"After all, the United States *came to us* in the Southwest. As Hispanics, we had been part of the Southwest long before the United States existed."

With longtime partner Robert Katz, Esparza has formed a new production company that will not necessarily focus on Hispanic projects.

Their East Los Angeles-based Saints and Sinners Productions is currently developing a documentary about the Chicano movement of 20 years ago, a subject close to Esparza. "It will look at why 10,000 students walked out of East L.A. high schools and how there has been relatively no change since in the education system. The dropout rate is worse today."

Esparza is also working on a film on Tomás Rivera, the late Chancellor of the University of California at Riverside. "I will continue to work in education-oriented documentaries," says the producer, "but this is not the main thrust of my career right now.

"I think the myth that Latino or Chicano themes can't be successes has already been exploded by *La Bamba* and I'm very happy we are following in its footsteps. What I'm hoping for is to further cement our reality as part of the American cultural landscape."

[From the New Mexican, Santa Fe, NM, Mar. 20, 1988]

POPULIST TALE NEVER FOCUSES ON WHAT MAIN FIGHT IS ABOUT

(By Vincent Canby)

The Milagro Beanfield War, Robert Redford's first film as a director since Ordinary People, is a populist fable set in some beautiful New Mexican landscapes about one stubborn Chicano's battle against an uncaring system. It's as full of good intentions as a campaign to get out the vote.

For reasons not entirely clear, the decent, picturesque Chicanos of the Milagro Valley have been denied the right to irrigate their farms with water now being channeled to a huge development called the Miracle Valley Recreation Area. Instead of farms, the valley will soon be dotted with condominiums, golf courses, tennis courts and swimming pools.

When, by accident, an irrigation canal begins to drain onto his property, Joe, a handyman, comes to a fateful decision. He decides to borrow some of the water that once was his (and his father's, and his father's father's), to plant a small patch of beans in his side yard. Says Ruby Archuleta, who runs the local garage, "I always knew Joe couldn't go through life without attemping one great thing."

The word spreads through the Chicano community like wildfire, as gringos say. Ladd Devine, the head of the Miracle Valley project, is outraged. He imports a hired gun to restore order. Charlie Bloom, once active as a lawyer for political activists, knows that the Miracle Vally development will bring higher taxes, which will force the Chicanos to leave their homesteads. He throws in with Joe, Ruby and the others to protect their rights.

If the Milagro Beanfield War were more sharply focused, it might have had some of the primitive appeal of an old cattleman-versus-the railroad western. However, the movie can't quite bring itself to be so crude and, in avoiding cliches, it avoids telling any particular story whatsoever.

The screenplay, by David Ward and John Nichols, based on Nichols' novel, is jammed with underdeveloped, would-be colorful characters, including a philosophical Chicano angel, who face a succession of fearful confrontations with the law that come to nothing. The narrative is a veritable fiesta of anticlimaxes, from the time the sun sets at the beginning of the film until it sets, yet again, behind the closing credits.

The film is very big on sunsets and sunrises. It also has a touristy appreciation for all manner of things folkloric. What it doesn't have is dramatic coherence or backbone. Even the villains are spineless.

The more prominent members of the cast include Chick Vennera as Joe, Sonia Braga of Brazil as Ruby, John Heard as Charlie Bloom, Christopher Walken as the hired gun, Daniel Stern as a New York University sociology student, Ruben Blades as the Chicano sheriff, Richard Bradford as Ladd Devine and Melanie Griffith as his wife. None of them have a great deal to do except look the part. The most riveting creature in the movie is a great white pig that does tricks on cue that would tax Lassie.

The Milagro Beanfield War is not Redford's finest hour.

[From the New Mexican, Santa Fe, NM, Mar. 20, 1988]

ROBUST, ORIGINAL FILM WORKS AS A MIRACLE OF STORYTELLING

(By Jon Bowman)

As everyone in northern New Mexico should know by now, milagro is Spanish for miracle. After Saturday's premiere screenings of The Milagro Beanfield War in Santa Fe, it can be safely said that director Robert Redford has pulled off a miracle.

Despite advance reports that his film was in trouble, The Milagro Beanfield War triumphantly stands as the most thoughtful and entertaining movie ever shot in this area. It's not only true to the spirit of John Nichols' sprawling novel, it's passionate, funny and moving celebration of Hispanic traditions that continue to flourish, against great odds, in the mountain villages dotting the Sangre de Cristos.

Redford originally wanted to base his production in Chimayo. His forced move to Truchas has proven a blessing in disguise. The sun-bathed, uncluttered vistas around Truchas provide an awe-inspiring backdrop for this contemporary fable. New Mexico never has looked more beautiful and inviting.

For those unfamiliar with the story, it concerns a bean hill that grows into a battlefield, becoming a symbol of one village's determination to hold onto its land and culture.

Roustabout mechanic Jose Mondragon (Chick Vennera) initiates the conflict by diverting irrigation water into an abandoned field once farmed by his father. This small act of defiance turns Mondragon into a folk hero as the townspeople rally in his support. Chief among them are Ruby Archuleta (Sonia Braga), the outspoken owner of a body shop, and Charlie Bloom (John Heard), a lawyer and newspaper reporter lying low after acquiring a reputation as a hell-raiser.

The 'bad guys' in this classic Western showdown are modern-day developers who want to drive out the villagers of Milagro and build a posh resort known as Miracle Valley. They have tried to corral all of the area's water to supply a planned golf course and recreation complex. They count the governor among their allies and can call on a gang of henchmen to do their evil bidding.

Perhaps the biggest problem faced by Redford was how to translate the complex water struggles of the West into simple terms that the rest of the country could grasp. On top of this, he had to introduce rural Hispanic customs that remain widely misunderstood or ignored outside of New Mexico.

The film accomplishes both of these ends, effectively and joyously using ethnic humor without resorting to the gross stereotypes that have marred so many accounts of life here. All kinds of picturesque characters figure into the drama. Most are imaginatively drawn, no matter how fleeting their roles.

Especially touching is Carlos Riquelme who, as Amarante Cordova, leads an elderly gang called the Senile Brigade that serves as the conscience of Milagro. Riquelme is a wonder to behold, easily stealing every scene in which he appears.

Daniel Stern scores as Nichols' alter ego, a naive college student from New York who comes to study the folkways of the villagers. Ruben Blades, the Panamanian pop star, also gets laughs as Milagro's easy-going sheriff reluctantly pressed into duty as a peacemaker.

The Milagro Beanfield War shifts fluidly from comedy to tragedy, from a quirky political statement to a metaphysical allegory, complete with talking angels. It is, indeed, a miracle that co-screenwriters Nichols and David Ward pack in so much without defusing the drama.

Some of the nuances found in the novel have been sacrificed in the interest of keeping the film a manageable length. A few characters are too one-dimensional, notably Ruby Archuleta, who with Braga's fiery disposition, deserved a more full-blown treatment.

Other nagging complaints can be lodged against the movie. Not all the performers' accents ring true. Continuity lapses on occasion, as when extras aligned with the Miracle Valley forces suddenly show up in Jose Mondragon's camp.

Still, these are minor flaws measured against the film's broad scope and impact. Many feared Redford and company would produce a travesty at the expense of the people of New Mexico. Instead, he has honored us with a robust and original work loaded with humor, capturing not only the flavor, but the sweet essence of life in these parts.

[From the New Mexican, Santa Fe, NM, Mar. 20, 1988]

EBULLIENT VILLAGERS WELCOME REDFORD "HOME"

(By Cheryl Wittenauer)

Truchas villagers welcomed Robert Redford home Saturday in a scene that more closely resembled a family reunion than the world premiere of "The Milagro Beanfield War."

Little kids with bit parts in the film played outside the Lensic Theater while parents mingled noisily with relatives, the press and extras from other northern New Mexico towns.

A bus carrying 50 villagers arrived at 9 a.m., an hour before the special screening for cast, crew and the townspeople of Truchas. Most of the 650 residents drove in carpools.

"The state police are guarding the town," said Susie Romero, who came with her four sisters and mother.

"I'm so excited. I wish something like this would happen all the time in Truchas," said Cordelia Cordova, who installed a new bathroom with money she earned as an extra in the film.

The screening was a freeform party, New Mexico style, that made a handful of stuffy national reporters look a little out of place.

Ruby Marchant, 58, of Santa Cruz, described a scene in which she is chased by Lupita the pig. She called Milagro the best of the seven films she has played in since 1951.

"I have one speaking part," said Marchant, who retired from a job in state government.

Eloy Vigil, 70, arrived at the Lensic, sporting sunglasses, a long white beard and a Milagro sweatshirt he says "Robert sent me."

Vigil, a retired teacher from Las Vegas, N.M., plays Sparky Pacheco, a member of the film's Senile Brigade.

In real life, the ebullient Vigil works with Las Vegas senior citizens, assuring them "that life is not over," he said.

"I dance quite a bit too."

Vigil said making the film was the highlight of his life. "Robert was tops with me."

Raves about Redford was a sentiment that echoed throughout the Lensic, as everyone told his story about him.

"Seeing Bob bring out the best in an actor—politely—is a magical thing," said Waldo Cantu of Taos, who won a bit part in the film.

Cordelia Cordova's daughter, Christine, said Redford agreed to have his picture taken with her and a cousin in front of his Porsche in the last week of filming. Redford even ate homemade tortillas in the Alfredo Cordova home, according to one report.

"I think he liked Truchas so well because the people left him alone," Susie Romero said. "Nobody bothered him."

However, they screamed and whistled in approval when Redford appeared unexpectedly at the 10 a.m. screening. Dressed in jeans, blue shirt and leather jacket, Redford emerged laughing from a 1967 Chevy Impala low rider.

The car was driven by owner Leonard Coriz of Chimayo, at the request of the Chimayo Valley Cruisers and the Los Amigos Car Club. Redford was picked up at the New Mexico Museum of Fine Arts and taken to the Lensic via Burro Alley.

"He really freaked out when we did the hydraulics," Coriz said. "He thought it was great."

When Redford arrived, the audience jumped from their seats in a long standing ovation.

"It's been a long haul," Redford said when the theater finally grew silent. "We opened this week in New York, Toronto and Los Angeles, but *this* feels like coming home."

Then the director gave the *Milagro* cast one last instruction.

"Don't look at yourself on the screen too critically. Sit back and go with the experience. There's no real star in this movie. The star is the people of New Mexico."

When the lights went out, and their town came to life on the screen, the audience applauded themselves wildly.

"It came out better than I expected. I give it thumbs up," said Rudy "Froggy" Fernandez of Santa Fe.

Fernandez, a stand-in for Mexican actor Carlos Riquelme, is seen in the film holding a dead rabbit during a posse search for Joe Mondragon.

"When I watched the scene where Amarante (Riquelme's character) gets shot, the tears came to my eyes."

Before he got away, Redford received a gift from the Carmelita T. Romero family of Truchas—a quilted wall hanging of Amarante Cordova and his beloved pig, Lupita.

Outside the Lensic Theater, a crowd formed around Producer Moctesuma Esparza and John Nichols, whose book is the basis for the film.

"Thank you for the book," someone yelled from the movie line.

Smiling; Nichols looked up from a copy he was signing for Maria Ramos, who used Milagro in a sociology class she teaches in Denver.

"It's a marvelous history of the Southwest," Ramos said.

Nichols, who saw the film for the first time Saturday, said he was touched by how beautifully it portrays northern New Mexico.

"It was touching and magical," he said. "There was a sense of humor and compassion but it wasn't overplayed. It's nice to see a film that dares to have that tone and quality in an age as sick as ours."

Redford has said his single greatest frustration was reducing the 600-plus page book to a screenplay without having it go flat. Redford loved the characters so much he preferred to make a four-hour movie to capture their zany adventures.

Nichols was pleased that no one character stood out in the film.

"There's really only one character in my book—that's the town of Milagro," he said. "I was more interested in that than any single individual character development."

Two years after the initial filming, Truchas has settled into the tranquil village Redford found so alluring. Now and then, a handful of weekend tourists will ask for directions to the beanfield.

They are surprised to find only a general store, four churches, a bar and an art gallery.

"Business boomed a little," said Ruben Tafoya, who owns the general store. "The tourists buy Cokes and ask to use the bathroom. That's all the tourists ever want.

"Has it changed? Not really. We're sort of a depressed area. Only 80 families have telephones. All we have here is beautiful land, landscapes, the mountains. That's the only thing."

THE ADMINISTRATION'S FAILED POLICY IN CENTRAL AMERICA

Mr. FRANK. Mr. Speaker, I take the floor today sadly because I cannot remember the last time I have disagreed more profoundly with an action of the President of the United States than I disagree with—what seems to me—the President's effort to manipulate the situation in Central America to rescue a failing policy. The President faces a situation in which consistently a significant majority of the American people have disagreed with his idea that we should pay people to kill each other in Nicaragua. He has been unable to get the majority in this body that is wanted for that policy. He has from time to time gotten that majority over my objection, and other times he has not. He has done better consistently in this House than he has done in this country, which is legitimate.

Mr. Speaker, people are not here to be automatons. People do not register the way public opinion policies are, but it certainly ought to prevent any argument that somehow this House has been frustrating the popular will on those occasions when we have wisely, in my judgment, refused to continue subsidizing killing in Nicaragua.

After a complicated series of events on March 3 in which some of us who are opposed to aid voted for a package not because, frankly, a lot of us thought it was the right thing to do, but, working with some of our colleagues who were in the middle on this, we believed that it was a way to avoid lethal aid; we believed that it had some reasonable safeguards. That, too, failed. I think what happened was that the President and his allies believe that they might have miscalculated on March 3. They were embarrassed and frustrated by a situation in which the House, having voted down the President's lethal aid package and having voted down the package of nonlethal aid, although I do not myself believe it is consistent to send nonlethal aid where the people are lethal, but with nothing on the table the President was terribly frustrated.

Mr. Speaker, what happened was the Nicaraguan Government crossed the border into Honduras with troops, not to invade Honduras in the sense of the word "invasion." What we have are Contras funded irregularly, but still funded by American tax dollars and by private funds that the administration has helped shake down and by third-country funds over the years which the administration has shaken down.

They are based across the Nicaraguan border in Honduras.

When a nation has armed people just across its border who use that base as a staging ground for Congress into the country and killing people, no one ought to be surprised that the armed forces of the nation being attacked retaliate.

Now people can differ as to the wisdom politically of the Nicaraguan decision to cross that border at that time, but to pretend moral indignation because the Nicaraguan Government, whose people are being attacked by the Contras in Honduras in the course of a military struggle cross that border, which the Contras cross all the time, is preposterous. To pretend that the efforts by the Sandinistas to deal with the Contras in Honduras is an invasion, is an insult to the political process because it is a conscious misrepresentation of basic facts, and to compound that by sending American troops into that general area and to pretend that it is simply a training exercise is a debasement of the political process.

Mr. Speaker, what the President is doing in his frustration, apparently his desperation over his inability to pressure Congress into voting more money for people to kill each other there, what he is doing is using the Armed Forces of the United States for political purposes. No one seriously believes that it was the military security of the United States that required the troops being sent there. No one believed there was any threat to the Government of Honduras from those troops from Nicaragua which were aiming to deal with the Contras in the immediate border area. The President was not using those troops to impress foreign governments. The President was not using those troops to show the flag overseas. He was using them to try to create an atmosphere of crisis in which he can resuscitate the failed policies that he has been presiding over in Nicaragua. It must not be allowed to succeed.

Mr. Speaker, I urge those of my colleagues who have been honestly undecided about the best course of action in Nicaragua to resist those policies at this point, because the precedent that will be set will be enormously dangerous. If the President is successful in manipulating the Congress by the use of American Armed Forces, we will not only see a mistaken policy with regard to Central America, we will not only see more people killed when that is unnecessary, when it serves no valid purpose of national security or any other purpose, we will see a weakening of our ability to function as a democracy. It must not be accepted calmly that the President can use the Army in this political fashion. And that is what we have because no one believes that there was an effort by Nicaragua to invade Honduras. Indeed we got the request for aid from Honduras very late.

□ 1245

The evidence is clear to me that the Honduran Government was pressured by this administration into asking for that dispatch of troops. The administration seized on the effort by the Sandinistas, and as I said, people can debate the wisdom of that.

The right of the Sandinista government to cross the border would seem to me to be reciprocal to the right of the Contras to be there and I would note that the Honduran Government would seem to be in a little bit of a weak position having the Contras on their territory, which they deny, I am told, to complain too much about the invasion. I think that is why they did not make a big issue of it. I think that is why the Honduran Government, left to their own devices, would not have complained very loudly, and certainly would not have asked for American troops simply because there was one more border crossing in a series of border crossings. They were pressured to do it by an administration that is seeking to revive the policies.

They are trying to revive the policy because it fails of its own weight in this country, because the public does not buy the erroneous arguments of the Reagan administration.

It ought to be reiterated, when Ronald Reagan argues again and again that he is so appalled by the lack of full democracy in Nicaragua, that that is one of the reasons he is paying people to kill each other there, it has absolutely no credibility.

This is a President whose record in the human rights area is checkered at its best. He is a President who had to be pressured into even the mildest of sanctions against the Government of South Africa.

How can you plausibly argue on the one hand that you do not think we should even have any sanctions at all against South Africa, as he did until he was forced to change by the threat of action by this Congress, and then say but in Nicaragua where by any measure the human rights situation is infinitely less repressive than for the blacks in South Africa?

How can you then say we are going to send people to make war on the Government of Nicaragua? It is wholly implausible.

No one believes that this man who was Ferdinand Marcos' last best friend in the world is so unhappy about repression there.

The President just met—he talks about religious freedom—he just met with the Prime Minister of the People's Republic of China. Now, many of us in this House have been unhappy at the continued repression in the People's Republic of China of Tibet, of the attack on the followers of the Dalai Lama.

President Reagan is very proud of his friendship with the People's Republic of China. He met with them and never mentioned the question of Tibet, in spite having been asked it by many Members of this Congress.

There is simply nothing in Ronald Reagan's record that lends any support to the argument that he is so unhappy with the closing of La Prensa or the censorship of Radio Catolica, that that led him to send people down there, and that is what we are talking about. We are not talking about economic sanctions, as we are in South Africa. We are not talking about diplomatic pressure. We are talking about subsidizing people who kill and are killed, and for this Nation to run a war by proxy in which innocent people on both sides will inevitably be killed, that is the nature of war, to do that without a strong moral purpose is itself immoral and I believe that is the effect of our policy.

Now, the President also argues, "But we have to do this, see, Nicaragua is a threat to its neighbors." He is seizing on this border crossing to make that point.

One thing is indisputable. The reason the Nicaraguans were in Honduras is because the Contras were there. To argue that we have to keep the Contras in Honduras to keep the Nicaraguans out is utterly bizarre.

Lewis Carroll did not include that analysis in Alice in Wonderland because it was too strange.

The fact is the Contras are there making war on Nicaragua, so the Nicaraguan Army goes back and forth across the border and the President announces that that is why we need the Contras there in the first place.

Lawyers have a phrase called "bootstrapping," which means picking yourself up by your own bootstraps. Bootstrapping hardly covers it. There are hip boots, panty hose. I mean, it is a body cast that we have here, not just a pair of boots.

You pay these people to go next door to Nicaragua. They keep crossing the border to Nicaragua to kill people and the Nicaraguans come back and try to kill them and then we say, "See, we told you the Nicaraguans wanted to go into Honduras. That is why we have to have those people there in the first place."

This is the arsonist on the fire department who joins the fire department because he likes fires, and therefore sets them so he can go put them out.

It is an insult to the democratic process to have the President trying to do this.

So the argument that the Nicaraguans are somehow a threat that he seizes on now gets no credibility from the ranks of decent men.

To the extent that there was Nicaraguan involvement and armed insurgencies elsewhere, and there was some evidence of that, this Congress is virtually unanimous in one thing to ban that.

The original Boland amendment of years ago says that American money can be used to help the interdiction of arms from Nicaraguan to El Salvador or to any place else. That was virtually unanimous, but that was not what the President had in mind. He wants to overthrow the Government of Nicaragua. That he has said on many, many occasions. So he is flatly wrong when he suggests that his policy is necessary to prevent Nicaraguan incursions elsewhere. There would be virtual unanimity in this body of a policy saying that we will aid any Central American country that is invaded by another, or there would be, except for the inconsistency of many of my friends who think it is perfectly legitimate for there to be a force in Honduras that periodically ignores the international border between Nicaragua and Honduras and attacks the Sandinistas.

The notion that the United States national security itself is threatened by this poor small country of 3 million people in Nicaragua has no plausibility, neither does the notion that Ronald Reagan is the enforcer for Amnesty International and is so unhappy at a lack of full free speech that he is going to send troops in there; neither is the notion that Nicaragua crossing the border in its immediate area to go after people who were fighting in Nicaragua threatens an invasion of Honduras.

There is no plausible rationale for the President's policy, so he has taken what seems to me the frightening and unjustifiable course of manipulating the U.S. Army to try to breathe support back into a dying policy.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to my colleague, the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, I thank my distinguished colleague for yielding and also for what he is saying.

I just wanted to ask the gentleman, you know, we have had several of our colleagues mention that Texas is in the path of a potential invasion. We had the President about 3 years ago significantly pointing to Harlingen, TX, as being very vulnerable.

Mr. FRANK. May I ask the gentleman, is Harlingen still in American hands? I have not heard of it lately. Has it fallen?

Mr. GONZALEZ. As far as I know, it is still there. Not only that, it is the site of a Confederate Air Force. I thought that in itself was something that would minimize any danger.

However, the question I have, some of our colleagues, and some from Texas, are still saying that Texas is sort of on the front line; but I have it on very reliable authority, as I have in the past concerning Mexico, and that is that the Sandinistas will not take Texas unless and until Texas repeals the sales tax. I just wanted to advise the gentleman of that. I have it from good sources.

Mr. FRANK. Well, I was afraid the gentleman was going to tell me that the Sandinistas were aiming at Massachusetts. I thought perhaps they were following the Pat Robertson precedent when he commanded the hurricane to leave Virginia and it hit New Hampshire instead, he being the only adult I know who thinks "Rain, rain, go away," is a serious statement.

I think the gentleman makes a very valid point when he points to the silliness, as he does, of fearing that the Nicaraguans are going to invade or capture or attack Texas, and when the President points to the distance between Nicaragua and Harlingen, TX, the President's arguments here are implausible.

I want to stress again, the one argument that has made that has some plausibility is accepted here. We had an overwhelming vote, I believe 400 votes for the first amendment offered by the dean of my delegation, the gentleman from Massachusetts, to say that if there were any activity by Nicaragua to fund or help armed insurgencies elsewhere, we would be prepared to stop that by the use of funds to help the Contras to interdict that. That was not controversial. That is not the issue. The issue is that the President is offended by the nature of the Nicaraguan Government, and wholly inconsistent with his approach elsewhere in the world has decided that he is going to overthrow it.

The man who was very proud of his relations with the People's Republic of China and had nothing to say about the renewed oppression in Tibet, the man who had to be dragged kicking and screaming from the bedside of the dying regime of Marcos, the man who was probably the last holdout of the Federal Government against sanctions to South Africa, and the man who has never seemed distressed by repression in Chile or many other rightwing governments, or in some cases, Communist governments, wants people to believe that he is moved to military reaction by what goes on in Nicaragua. No one thinks that is accurate, and no one thinks that Nicaragua is a threat to the security of the United States. If Nicaragua was a threat to the security of its neighbors, then those neighbors would be fully supported by the United States.

So what the President has done has been I believe to mislead people about the nature of the threat because it was nonexistent.

The Nicaraguans went into Honduras for a period and they are coming back out again, as they have before, because the Contras in Honduras go into Nicaragua. There is an international border there that has been regularly ignored by the Contras, whom we fund.

To pretend that when the Nicaraguans also do that, go after the people who have been killing people in Nicaragua, to try to attack them, that that is somehow the precursor of an invasion, as I said, is a deception that the people in this administration know is a deception.

The irony, I suppose, is even made clearer by the fact that the major advocate of this viewpoint is Assistant Secretary Elliott Abrams, who admitted that he lied to Congress. He explained that he was not authorized to tell the truth, a new concept for me.

There was a king in the dim recesses of English history, known as Ethelred the Unready. We now have his nomenclature equal, Elliott the Unauthorized, an Assistant Secretary who apparently does not as a matter of course tell Congress the truth, but has to be authorized for not telling us the truth in this instance, not telling the American people the truth in this instance. They know there was no effort by Nicaragua to invade Honduras. They know there was no effort by Nicaragua to invade Honduras. They know that the Honduran Government had to be pressured into asking for the American troops. They know that the American troops are down there to try to create a crisis atmosphere to persuade the small number of Members of Congress who have resisted the pressure for lethal aid to switch their positions.

I hope my colleagues will not do that; one, because I think the policy is flawed, but over and above that, it would be a very grave error for Members of this body, democratically elected Members of the Congress, to allow the manipulation by the President of the United States of the American Armed Forces, an illegitimate effort by him to do that, to sway their votes.

The President is flatly wrong in what he is doing. It would be a grave, erroneous precedent, for people to allow that influence them.

THE PRESIDENT'S FAILED POLICY IN CENTRAL AMERICA

The SPEAKER pro tempore (Mr. FRANK). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, today I have introduced House Joint Resolution 511, which in effect calls for the removal of the United States Armed

Forces from Honduras. The joint resolution calls for the removal of the troops by stating the clauses given the predicate for this request.

Basically, what this represents is an allegation that the President of the United States is in violation of the War Powers Limitation Act of 1973. I was here at the time. I had an integral part, not only in the drafting but in the joinder of consideration; a former illustrious colleague from Texas, Mr. Bob Eckhardt, was one of the prime movers; so I know fully well the congressional intent as finally reflected in the final version adopted by the conference committee which reconciled the House and the Senate versions.

There is no question that the President has been in heedless disregard of this law. Earlier, that is, last year, before Secretary Weinberger left office, when it was pointed out that the circumstances under which our Armed Forces were being deployed to protect certain shipping in the so-called Persian Gulf and that it was alleged at the time that the President was in violation of the War Powers Limitation Act, forgotten had been the death of 37 of our sailors; the fact that those sailors had been, like the 241 Marines in Beirut, unnecessarily killed because of a willful, a callously indifferent President and Commander in Chief which our Constitution vests both titles in the occupant of the Office of the Presidency.

□ 1300

At the time I did not submit a resolution, because I felt that certainly since the men out on the seas had no clear mission and never have even to this day, the mission has never been clearly delineated to our servicemen, in this case mostly members of the Department of the Navy personnel, but not necessarily exclusively reserved to them, and so that if there is no clear mission, the military man who is not a politician, who is not a diplomat any more than the Marines were in Beirut, must, in order to understand, have a clearly outlined and defined purpose for their mission.

What is their mission? For 14 months I asked the President of the United States constantly pointing out that the Marines were in very serious danger of bodily harm or death. I happen to have known that the Joint Chiefs of Staff, and these are our main experts with military expertise, and we have invested tremendous sums of money for the training and the development of that expertise, yet the Commander in Chief callously, willfully, and calculatingly over a course of not 1 week but more than 14 months ignored this unanimous advice not to deploy Marines under the circumstances under which and for which they were being deployed. Of course, the Irish have a saying that it is easy to sleep on another man's wounds.

Who remembers the 241 Marines? Who is cognizant of their parents in this case, because the average were young? Probably nobody. Who in the Congress, except this lonely voice, raised the issue that when those Marines died, as over 23 members of our armed services have died thus far under environment of hostile action that is in Central America, are being classified not as having died in action but died in an accident?

There was a pitiful cry I heard from the father of the youngest Marine in Beirut, living in Philadelphia, calling all the way to Texas to this far away Congressman to find out. He said, "I just received a notice from the Secretary of the Navy and the Secretary of Defense saying that my son had died in an accident." I submitted a bill providing that in those conflicts where a member of our armed services was compelled to serve in a so-called twilight war or undeclared war, which I have been alleging since I came to the Congress, and before I dreamed I would come to the Congress, was unconstitutional; I have been saying since Korea when I never dreamed I would be in the Congress or in politics, for that matter, that a President of the United States could not conscript and mandate an unwilling American to serve outside of the Continental United States in an undeclared war, that is, unless a declaration of war or expressly provided so by Congress.

Up to then, Congress had never violated that precedent, ironically, until 1981 in December when, to my shocked amazement, this House approved a resolution where, for the first time in the history of the House of Representatives and of course, the Congress, because it became law. We mandated the deployment of armed services personnel, combat equipment, that is, to a certain point like the Marines in Beirut.

No matter how much a Marine is a warrior and a fighter, there are certain things under which he cannot fight successfully, and those were all present in the conditions under which the Marines were exposed in Beirut.

The President's explanation which I asked 3 days after he had deployed the 2,000 in 1982 and for which I am still expecting a response, and this is the first President of 6 that I have served with that does not reply to a Congressman's letter; however, a few weeks later, maybe a month and a half, in response to a reporter's request, the President said that he was sending the Marines for two reasons: First, the request by Gemayel; and second, as peacekeepers, as a result of accepting the invitation, further, that Italy and France were sending some contingent.

The point is that the Marines, however, were destined to serve near the airport, and also you cannot be a peacekeeper if you are intervening in a four-way fight.

Bashir Gemayel then, as today, cannot even control the city. His faction cannot control the city of Beirut much less what we call Lebanon today which, incidentally, is a sort of a jerry-built identified area as a country.

The whole history of it is quite complex, and also the point that I want to make is that these misperceptions on the part of our leaders may in the past have led us to some fateful and costly, costly in blood, costly in treasure, errors.

However, this is the first time, and I think history will bear me out and confirm, that a President in his capacity as Commander in Chief completely, whole stock, disregards the unanimous advice of the military chiefs of our country.

I have introduced a resolution, waiting for some 6 weeks for some kind of a reply even from some flunky over in the White House, that the President, in effect, in his failure not to consult with Congress, not after 60 days to report to Congress, was in violation of the Wars Powers Limitation Act of 1973–74.

Today I have introduced this resolution, and I recite, "Whereas there has been an internal struggle within Nicaragua for 7 years between the Sandinista government of Nicaragua and the so-called Contra rebels; Whereas the Contra force was created by the United States in violation of the Rio Treaty," and I go on and recite other specifics and recite all of the facts, and I include in the RECORD at this point the text of House Joint Resolution 511.

H.J. RES. 511

Whereas there has been an internal struggle within Nicaragua for seven years between the Sandinista government of Nicaragua and the contra rebels;

Whereas the contra force was created by the United States in violation of the Rio treaty;

Whereas through the intervention of the United States the Honduran government has permitted the contra rebels to use certain areas in Honduras that border on Nicaragua as supply depots and camps from which to attack into Nicaragua;

Whereas the Nicaragua government has attacked the contra supply depots along the border of Honduras;

Whereas the Honduran government has responded to the attacks by bombing Nicaraguan positions both inside Honduras and Nicaragua;

Whereas the United States has maintained a force of 3200 troops in Honduras and on March 18, 1988, introduced an additional 3200 troops into Honduras; and

Whereas the United States has promised to intervene in any war between Honduras and Nicaragua and to act to maintain the sovereignty of Honduras: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America *in Congress assembled,* That the Congress hereby determines that the requirements of sections 4(a)(1) and 5(b) of the War Powers Resolution have become operative. Hence, the President of the United States is hereby directed to remove United States Armed Forces from Honduras within sixty days after the enactment of this resolution unless Congress declares war, or extends the period by law.

I have spoken out, certainly since the advent of the Reagan administration, but even before that, as I said a week before last, my first discussion having to do generally with what we call loosely Latin America, more specifically, Central America, was April 1980, and I appeal to my colleagues if they are even slightly interested to get the document room or the Library of Congress, or drop me a note or give me a phone call, and I will send them a copy of the remarks I made on April 1, 1980, and see if what I was so much apprehensive about, fearful of, has unfortunately been a reality, a sorry and a sordid reality.

The President of the United States in the person of Ronald Reagan is the first ideologue President that we have in our history. If we look at every single President, particularly since World War I, because to World War I, with the exception of perhaps Theodore Roosevelt, the Presidents literally interpreted the Constitution that way; that is, that they were to faithfully execute the laws of the land.

Even after Woodrow Wilson, with exception of the basic 1917 Espionage Act, which incidentally this President triggered when he asked for and declared an embargo of Nicaragua in 1985 on May 1 and has renewed it each year, including last year, because the length of validity of such a pronunciamento is one a year. In order for him to declare that, he had to allege that a state of emergency exists between Nicaragua and the United States and that Nicaragua is a clear and present danger to our national security and well-being before that triggers off or could possibly trigger off his authority to declare an embargo.

This is part of the powers that Congress delegated during war in 1917 known as the Espionage Act of 1917.

The most atrocious things have happened and continue to happen by virtue of the imprimatur of that act. For example, this President has issued such documents that are considered highly secure as National Security Advisories which provide for such things as concentration camps in our country, provides for the wholesale arrest of civilians by Armed Forces, ordered to do so by a civilian agency known as FEMA, or the Federal Emergency Management Agency.

How many Americans realize that? How many of my colleagues realize that the precedent for this, as Col. Ollie North was trying in his own crude way to advise the congressional committee, is a precedent going back to 1974, right before the departure of President Nixon under conditions less than honorable?

Very fine blueprints had been drawn up calling for what in any other country we would say was martial law, in the event the election processes of 1974 would become tumultuous, disorderly, and disruptive. You do have a backup legislative framework of reference.

Is our country different from any other? Do we presume to be more virtuous? Do we say that we are keeper of our own traditions, our own American well-established principles that have been the lamp of light for generations to struggling people throughout the world seeking freedom?

I think history is going to be very severe in showing that we have abdicated these principles, and all being done in the name of our people.

There have been no less than 200,000 of our brothers and sisters south of the border, particularly south of Mexico and down to the peninsula and to the isthmus, to Panama, but particularly concentrated in the countries of El Salvador, Honduras, Nicaragua, 200,000. My colleagues, I do not think, realize why after decades, more than 100 years, almost 200 years of internecine quarrels, rivalries, jealousies between these countries, even as tiny as some might be, why in defiance of the United States, in defiance of the threats that our Secretary of State made and through the apparatchik in the State Department and ambassadors in such countries as Costa Rica which is the most democratic country in all of the Western Hemisphere, believe it or not. We like to think of ourselves as being shining examples.

□ 1315

Let me assure you that they have a lot freer, open elections in Honduras than we do, for other factors; and yet what was our response when after all of this murderous killing, this spilling of blood? That is what compels the seven Presidents to come together, nothing else. They reached the point where they were going to defy us; they have defied us and the United States has lost, irrevocably, what I feared on April 1, 1980, and predicted to President Carter would begin to happen within 3 months unless the course was reversed even then.

Now who remembers April 1, 1980? If I had gone out and asked my colleagues where El Salvador was, where Honduras was, I will bet you the overwhelming preponderance would not really know how to tell me at that time or today.

Just like in the case back in May 1963 when this little airman came back to San Antonio and he was going to be honored by the 433d Air Reserve Unit in San Antonio. For what? Incredibly, that Sunday afternoon they tell me—and I am invited because he is the son of a long-time buddy of mine since we were children who himself had been a hero during the Battle of the Bulge—and they tell me "Well, we are recognizing him for 300 missions." Where? Well, in southeast Asia. Well, where? Well, it turns out to be South Vietnam.

And I said, "But there is no war. I did not know that we were authorizing anything." And they said, "No, no, no; he is one of the advisers."

So I took him aside and I said, "What are you talking about?" And he said, "Mr. Gonzalez, did my dad write to you asking to see how you could have sent me or my father a 45?" I said, "No, your father never did." And he overheard and he said, "I couldn't figure out what the boy was talking about." And then he said, "Well, you know, we are not allowed to carry any guns, even side arms. And yet the reason I am here is that on the last trip I was a cargo master on a helicopter. We were flying low, we received hostile fire. I didn't want to get shot down. So I ordered the ARVN who did have the gun. He refused. So I pushed him, grabbed the gun and fired back. When we landed my CO threatened because we had been told there would be a complaint filed that I had violated my advisory status."

I said, "What do you mean 300 missions? And what do you mean hostile fire? If you are an advisor that is part of the 'no-no' of an adviser." I said, "Are you in uniform?" He said, "Oh, yes."

I could not believe it. I came back up. But at that time the one big difference was President Kennedy. He was accessible and the first chance I had to meet with him I asked him about the situation and he did not seem to be too impressed.

So I got hold of his personal secretary, Mr. O'Donnell. A few weeks later in the summer I still had not had an explanation.

So then I made an inquiry to find out how many advisors were in South Vietnam. The answer I got in midsummer was that there were no more than 57. Ironically, this was the same number they told me in the summer of 1982 that we had in El Salvador. Again, I had a little soldier from my district, one of the first to be detailed to El Salvador, calling his wife, calling me—and since I know that the National Security agents tap the phones if we get a call like that I suggested to his wife that he write her, telling me the same thing that that airman told me in 1963. He said, "Listen, hey look, when we walk around here at night people throw bombs. The American Embassy is under very serious trouble and shadow of a lot of harm. We walk; the only reason we haven't been hurt is we assure the people that don't like us have made up their mind to leave us alone, leave the American soldier alone. But we are vulnerable. I can walk down the street and there is nothing to keep anybody from shooting me. I am not allowed to carry a sidearm."

I said, "Well, that sounds familiar." But that was 20 years ago; 1963 to 1982, almost 20 years. I could not believe it.

Then sure enought the newspapers reported that the American Embassy had been gunned in San Salvador, the capital of El Salvador.

Then I had another frantic plea. He said, "Hey, listen. The Embassy officials get hazardous duty pay, 40 percent more; we don't. They have now safeguarded the Embassy where it is like a fortress and none of the Embassy employees rides in anything but an armored car. But what about us?" Well it was shortly after that that the newspapers had a story about a colonel down there, I guess the unit commander, who was shipped back. It seemed he decided to get an M-16 and some other armament and therefore violated the advisory status.

Now I say, as I told President Kennedy, I said, "Mr. President, this is Alice in Wonderland. If a constituent of mine is in the service and wearing the uniform of our country and he is ordered to go somewhere and he is going to face serious bodily harm or death, I think no nation in the world can be so great, so powerful that it can wantonly abandon one of its citizens without even the elemental ability of self-preservation."

Well, I thought the President had not listened until the last ride down to Texas. I was on Air Force One. There were just three Congressmen on Air Force One. I have always been intrigued; no historian as far as I know has wondered to ask, "Well, why were these on Air Force One and the rest, a dozen or so, on Air Force Two, the-backup plane, with Vice President Lyndon Johnson?"

Well, there was a good reason. One of the reasons happened almost as if I did not understand the President—he walked into this cabin, sat down and he began to chat with then "Tiger" Teague, this great Texas colleague of mine, and with me. I was kidding him because he was spending, in San Antonio, only about 3½ hours and that was the only city that had given John Kennedy a real vote in Texas.

He said, "Well, in January/February we will start the campaign. You tell me when and how long, and we will go." And he shook hands.

In the meanwhile, he was kidding me because I had given Pierre, the PR man, a hard time because the press in San Antonio was complaining to me the night before at 11 p.m. that they had not gotten their credentials. One of the reporters for one of the newspapers up here was saying that she had called the press secretary for the President and that he had insulted her.

So I picked up the phone and I called and he laughed and he said, "Listen, everybody had the credentials that they all ought to have. What San Antonio wants is to have a flatbed truck ride in front of the Presidential car with cameras and reporters sitting there." He said, "we are not going to allow that."

So the whole thing was mixed up, as you can see from this brief description. But as we were talking there, Larry O'Brien, the President's special assistant came in and whispered something. So he got up and said, "Well, I have to leave." As he was turning around to go into the short passageway to the little corridor where obviously Mrs. Kennedy was resting because they had a little tot; he turned around and looked at me an he said, "By the way, I have ordered all of those helicopters and men out of there by the end of the year." And for a while, since it was so irrelevant to anything we had discussed, that it took me a little while to try to put it together. I came to the conclusion he was talking about what I had been pestering him and his press secretary Kenny O'Donnell about for sometime. It was not until 3 years ago that the historian, Schlesinger, brought out that indeed the President had issued a directive that by December 31, 1963, personnel and equipment would have been out. What he did tell me was, "The moment we get back I am going to CINCPAC in the Pacific to review this whole Southeast Asia situation." And that is what he did, or he was going to do.

In fact, the Secretary of State and other high dignitaries were on their way to Honolulu when the notice of the assassination went out throughout the world.

So what I am saying is that all of these Presidents, Franklin Roosevelt, for instance, if we read the speeches he made while he was running, they sounded like Reagan's and Carter's and even Lyndon Johnson's, about how they were going to cut back the Federal Government, how taxes were too high and they were going to cut taxes.

The difference was that every President up to Ronald W. Reagan was an American pragmatist more than he was an ideologue.

With President Reagan everything is ideological. And his ideological capacity and profoundity is shallow. This is the reason why any experienced legislator cringed when he was advocating a constitutional amendment to balance the budget, a constitutional amendment to prohibit abortion. These are things that we always associated—those who have had some experience in what is within the constitutional limits to legislate—realize are demagogic.

Well, I am afraid history is going to show that the entrance fee to watch this actor act out the Presidency has yet to be paid.

There is an old saying that, "The triumphs of a demagogue are fleeting, but the ruins are eternal."

I hope for one that among those ruins will not be our cherished liberties, our cherished Constitution, because that is what has been at stake. The basic reason North, Poindexter and, before them, 37 of the highest executive branch officials, a President, a Vice President, what happened? Our country has suffered as a result of those. Oh, some said the system worked. Did it? For the first time in our history we ended up with an unelected President, with two unelected Vice Presidents. This was the most vile of the core areas of debate during the Constitutional Conventions. But ironically it takes historians to bring us to our perspective. And since before Vietnam, I guess coming events should have cast their shadows. In the postwar sequelae, that is if we can say postwar, World War II, there is no peace treaty of World War II, we still have over 300,000 men in West Germany alone. In Korea, is it over? Well, we have over 45,000 troops in South Korea, all of them highly, highly tenuous and explosive.

And now Central America where for more than 6 years this administration has had constantly in the air, on the sea, on land, over 30,000 of our Armed Forces personnel every day.

□ 1330

We will recall, as my distinguished colleague, the gentleman from Massachusetts, was pointing out so inimitably in his way, that we are living in a full Orwellian age. The President uses words as Orwell used them in "1984"—"Peace is war, war is peace."

But what I want my colleagues to know is that every penny that they ever voted for the so-called Contras was in violation of our basic statutes, with three treaties that, according to our Constitution, form the integral corpus as a part of our law. We violated three treaties, we are violating them now, and all with the supreme hyprocrisy of having a duly empowered ambassador with portfolio in Managua, Nicaragua. To the world, that is the civilized world, that means that we recognize the Sandinista regime as the legitimate regime, and that we are at peace with it. Therefore, when we, as the President did, publically solicit private citizens like ex-General Singlaub, like the multimillionaires in Austin, TX, like Ross Perot, the billionaire in Texas, we are violating three of the basic statutes that comprise the basic laws surrounding these activities. So the rest is just something that we should have expected.

As America moves down this road, as I have feared now, since 1981 particularly, toward a very grave national disaster—and as I have said repeatedly, we will have Europeanized the Old World in the New World with its hatreds, its wars, and its bloodletting—for the first time we will really have American soldiers fighting Latin Americans, except it will not be like Calvin Coolidge sending Marines to Nicaragua in 1929. Those were the halcyon days for that kind of endeavor. Today we will not be able to limit it to Nicaragua. Certainly, with the events just in the last 3 weeks in Panama, we can anticipate what is going to happen. How are we going to approach the coming tragedy in Guatemala which has been underway for some time?

How can we morally condemn the Soviet Socialist Republics when we are doing the same thing in Central America? It is no different. The only difference is that Afghanistan is right next to Russia. Mexico is right next to us. If Russia were to send money and armaments to Mexico, to a so-called revolutionary group that happened to be Marxists, what would we do? Would we not invade? Of course we would.

In El Salvador, what are we doing now? Here we are, after over 5 billion dollars' worth and spending today $1.5 million a day in El Salvador, setting up the elections for which we paid, with all the 100 advisers we paid for and all the mechanisms of the elections in El Salvador, and we got the man we insisted we have. Yet we are no closer to any kind of so-called solution today. In fact, we are worse off, in my opinion, that we were in 1981, 7 years ago.

Why just a year ago this month, in brigade size, after Duarte and all of the conservative rightwing death squad leaders who gloried in what happened, they were not ashamed that they were the ones who assassinated the archbishop in El Salvador, and they are the ones who assassinated five American nuns and five Scandinavian journalists.

We might think that only we are involved, but the world has shrunk. That is why I am saying we are not confined. Where is our thinking, as I have asked? Let us assume for the moment that the so-called rebels or Contras could physically take over with or without our assistance, but let us say they could without our assistance. Is there anybody among my colleagues who seriously thinks they will be able to govern? They will not. We are talking about a revolution that is indigenous. It was not imposed from Cuba or Russia or anyplace else. It grew out of the people after 50 years of struggle to try to throw off the yoke of the tyranny and oppression, the worst of its kind that we had put in and that we had sustained.

When I hear these theologians and high priests of patriotism tell me that there is something suspect when I say something like this because it gives aid and comfort to the Marxists and the Leninists, I say if that be treason, make the most of it. But the truth of the matter is that it is you who should inspect your souls and your accountability. You will not be down there fighting the fight; you will be sending somebody else's kid. And that is fine if the national interest mandates such a thing. I do not know of anybody here that would not give his life in defense of his country. So we are not talking about degrees of patriotism, high, superior, medium, or lower, or degree of loyalty. We are talking about basic issues that have to do with whether or not we will leave an inheritance to our children, our grandchildren, and our great-grandchildren of a hatred-spewn continent.

Never in the history of this part of the world of which I speak has there been such military presence and overwhelming armament as what we have put there for 7 years. We have put it there. It is not Russian-made. If we will remember the reason for going into Honduras to begin with, it was to interdict the so-called supply of arms the Sandinistas were supposed to be providing the Salvadoran rebels. Not one single shipment has ever been indicted. When that brigade attacked the garrison, the biggest garrison in the northeast province of El Salvador, killing quite a number of soldiers and an American soldier adviser—let us not forget this—1 year ago, without any perception on our part here that I could see or in our press, an American soldier died in action in Central America.

Will that be the way he is listed? No, he will have died in an accident. Now, when that brigade-sized, ragtail, motley crew of rebels in El Salvador attacked, what armament did they have? They had American-made arms that some of the soldiers in the other provinces had that we had given to them. We had given them to the rebels. That is how much in sympathy the whole thing is down there with our presence. They have put others together themselves. One of the leading army officials of El Salvador of 2 years ago is out in the hills with the rebels as of 1 year ago. So we are not talking about going in to defend America against a Russian or a Cuban.

As a matter of fact, we have given Fidel Castro the status that he has. The Salvadoran rebellion consists of five different groups.

Up to now the least in number and the least in influence is the so-called Communist Marxist-Leninists. The Faribundo Marti national liberation front, is powered, and engineered by Salvadorans who have for over 50 years been struggling to get away from the oppressive control of some 11 or 12 families who today are safely ensconced in Miami with good Swiss accounts safe and far away. They, of course, are willing to have us give our last marine to bring them back into power.

But will we govern? As in the case of Cuba and the Bay of Pigs, the only way would be for the United States to go in and occupy, and then, my colleagues, let me tell you that it will be an endless occupation with endless guerrilla warfare.

Have we learned nothing? The great British historian, Trevelyan said—and mind you, our revolution sprung from that historical contest—quoting from George Macaulay Trevelyan,

> By 1770 George the Third had triumphed over his enemies, over the Whig connection and over Chatham, whom he detested as he did all save the second-rate statesmen who were willing to serve him without a policy of their own.

To criticize the royal policy was sedition in the eyes of George III who judged the merits of all statesmen by their attitude toward himself.

King Ronny the First, this is a good description by an historian writing many decades ago of what is happening to us under this benighted and obtuse leadership.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. GEKAS) to revise and extend his remarks and include extraneous material:)

Mr. MCEWEN, for 60 minutes, today.

(The following Members (at the request of Mr. FRANK) to revise and extend their remarks and include extraneous material:)

Mr. RICHARDSON, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. OWENS of New York, for 5 minutes, today.

Mr. OWENS of New York, for 5 minutes, on March 22.

Mr. OWENS of New York, for 5 minutes, on March 23.

Mr. OWENS of New York, for 5 minutes, on March 24.

Mr. FRANK, for 60 minutes, today.

Mr. GAYDOS, for 60 minutes, today.

Mr. GAYDOS, for 60 minutes, on March 22.

Mr. ENGLISH, for 30 minutes, on March 22.

Mr. EDWARDS of California, for 60 minutes, on March 23.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Gekas) and to include extraneous matter:)

Mr. McEwen.

Mr. Broomfield.

(The following Members (at the request of Mr. Frank) and to include extraneous matter:)

Mr. Anderson in 10 instances.

Mr. Gonzalez in 10 instances.

Mr. Hamilton in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Leland.

Mr. LaFalce.

Mr. Nelson of Florida in two instances.

Mr. Solarz.

Mr. Hutton.

Mr. Stokes.

Mr. Rangel.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1609. An act for the relief of James P. Purvis; to the Committee on the Judiciary.

S. 2104. An act to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes; to the Committee on the Judiciary.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3967. An act to amend the Department of Defense Authorization Act, 1985, to extend medical benefits for certain former spouses.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following titles:

S.J. Res. 225. Joint resolution approving the location of the Korean War Memorial;

S.J. Res. 229. Joint resolution to designate the day of April 1, 1988, as "Run to Daylight Day";

S.J. Res. 244. Joint resolution to designate the month of April 1988, as "National Know Your Cholesterol Month";

S.J. Res. 253. Joint resolution designating April 9, 1988, as "National Former Prisoners of War Recognition Day"; and

S.J. Res. 265. Joint resolution to designate March 20, 1988, as "National Agriculture Day."

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 44 minutes p.m.), the House adjourned until 12 noon, Tuesday, March 22, 1988.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3166. A letter from the Deputy Assistant Secretary of the Air Force (Logistics), transmitting notification of the decision to convert the technical training equipment maintenance function at Lowry Air Force Base, CO to contractor performance as the most cost-effective method of accomplishment, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); Public Law 100-202, section 8074; to the Committee on Appropriations.

3167. A letter from the Acting Director, National Institute on Disability and Rehabilitation Research, Office of the Assistant Secretary of Education, transmitting a report on policy recommendations for the establishment by Congress of an agency to develop, market, and distribute technological devices to disabled persons, pursuant to 29 U.S.C. 761a; to the Committee on Education and Labor.

3168. A letter from the Secretary of Eduction, transmitting a copy of notice of final annual funding priorities for new direct grant awards, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3169. A letter from the Administrator, Energy Information Administration, transmitting the agency's 1987 annual report of its activities, pursuant to 15 U.S.C. 790f(a)(2); to the Committee on Energy and Commerce.

3170. A letter from the Secretary of Health and Human Services, transmitting the 1987 report of Health, United States, compiled by the National Center for Health Statistics, and the Centers for Disease Control, pursuant to 42 U.S.C. 242m(a)(2)(D); 42 U.S.C. 242m(a)(1); 42 U.S.C. 242m(a) (2)(A); 42 U.S.C. 242m(a)(2)(B); to the Committee on Energy and Commerce.

3171. A letter from the Acting General Counsel, Department of Energy, transmitting a draft of proposed legislation to extend the expiration date of title II of the Energy Policy and Conservation Act; to the Committee on Energy and Commerce.

3172. A letter from the Deputy Secretary of Agriculture, transmitting the Department's annual report on its hazardous waste management activities for calendar year 1987, pursuant to Public Law 99-499, section 120(e)(5) (100 Stat. 1669); to the Committee on Energy and Commerce.

3173. A letter from the Secretary, Interstate Commerce Commission, transmitting notification that the Commission in Docket No. 40073, *South-West Railroad Car Parts* v. *Missouri Pacific Railroad Company* has extended the time period for serving a final decision by an additional 90 days to June 5, 1988, nunc pro tunc, pursuant to 49 U.S.C. 10327(k)(2); to the Committee on Energy and Commerce.

3174. A letter from the Administrator, Agency for International Development, transmitting for the President, the annual report for 1986-87 on the implementation of section 620(s) of the Foreign Assistance Act of 1961, as amended, pursuant to 22 U.S.C. 2370(s)(2); to the Committee on Foreign Affairs.

3175. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed license for the export to Saudi Arabia of 210 Model KD2R-5 pilotless target drones, 150 Chukar II/Model MQM-74C target drones, and 150 Chukar III target drones, along with spare parts, and technical information necessary for training and maintenance (Transmittal No. MC-15-88), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3176. A communication from the President of the United States, transmitting a bimonthly report on progress toward a negotiated settlement of the Cyprus question, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

3177. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of reports of political contributions by George Arthur Trail III, Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Malawi, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3178. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3179. A letter from the U.S. Permanent Representative, North Atlantic Council, transmitting a report of his impressions of national and alliance security issues as they appear at the NATO headquarters in Brussels, following the recent NATO summit, together with two summit documents for review; to the Committee on Foreign Affairs.

3180. A letter from the Chairman, U.S. International Trade Commission, transmitting a report of the Commission's activities under the Government in the Sunshine Act during calendar year 1987, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3181. A letter from the Assistant Secretary for Administration, Department of Commerce, transmitting the annual report of the Department's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3182. A letter from the Secretary of Housing and Urban Development, transmitting the 12th annual report of the Department's activities under the Freedom of Information Act, 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3183. A letter from the Executive Secretary, Board of Regents, Uniformed Services University of the Health Sciences, Department of Defense, transmitting a report of the agency's activities under the Government in the Sunshine Act covering the period March 12, 1987 to March 11, 1988, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3184. A letter from the Secretary of Energy, transmitting the 1987 annual report of the Bonneville Power Administration, pursuant to 16 U.S.C. 839(h)(12)(B); to the Committee on Interior and Insular Affairs.

3185. A letter from the Attorney General of the United States, transmitting the annual report on the administration of the Foreign Agents Registration Act of 1938, as amended for calendar year 1986, pursuant to 22 U.S.C. 621; to the Committee on the Judiciary.

3186. A letter from the Chairman, U.S. Commission on Civil Rights, transmitting a resolution, approved by the Commission, calling upon the Congress to enact legislation requiring that the Attorney General collect data about hate crimes and publish such data on a yearly basis; to the Committee on the Judicary.

3187. A letter from the Administrator, General Services Administration, transmitting informational copies of reports and building project surveys for Atlantic County, NJ, American Samoa, and Altoona, PA, pursuant to 40 U.S.C. 610(b); to the Committee on Public Works and Transportation.

3188. A letter from the Secretary of Energy, transmitting the Department's seventh annual report on the Methane Transportation Research, Development and Demonstration Program for fiscal year 1987, pursuant to 15 U.S.C. 3808; to the Committee on Science, Space, and Technology.

3189. A letter from the Director, National Science Foundation, transmitting a draft of proposed legislation to authorize appropriations for the National Science Foundation for fiscal years 1989 through 1993 and make amendments to the National Science Foundation Act of 1950 and related laws, pursuant to 31 U.S.C. 1110; to the Committee on Science, Space, and Technology.

3190. A letter from the Secretaries of the Army and Agriculture, transmitting notification of the intention of Departments of the Army and Agriculture to interchange jurisdiction of civil works and Forest Service acquired lands at the Corps of Engineers project at Lucky Peak Lake, ID, pursuant to 16 U.S.C. 505a; jointly, to the Committee on Agriculture and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on Mar. 17, 1988, the following reports were filed on Mar. 18, 1988]

Mr. FRANK: Committee on the Judiciary. H.R. 1259. A bill to recognize the organization known as the National Association of State Directors of Veterans Affairs, Inc. with amendments (Rept. 100-520). Referred to the House Calendar.

Mr. FRANK: Committee on the Judiciary. House Joint Resolution 480. Resolution granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact (Rept. 100-521). Referred to the House Calendar.

Mr. FRANK: Committee on the Judiciary S. 1397. An act to recognize the organization known as the Non Commissioned Officers Association of the United States of America; with amendments (Rept. 100-522). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[Submitted Mar. 21, 1988]

By Mr. DINGELL (for himself, Mr. Waxman, Mr. Wyden, Mr. Panetta, Mr. Horton, Mr. Scheuer, Mr. Florio, Mr. Markey, Mr. Walgren, Mr. Leland, Mrs. Collins, Mr. Synar, Mr. Eckart, Mr. Richardson, Mr. Sikorski, Mr. Cooper, Mr. Coelho, Mr. Brown of California, Mr. Schuette, Mr. Durbin, Mr. Traxler, Mr. Smith of Florida, and Mr. Weiss):

H.R. 4205. A bill to require the Secretary of Health and Human Services to make improvements in the management systems available and in the activities carried out to review food products for compliance with the pesticide tolerance requirements of the Federal Food, Drug, and Cosmetic Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DYMALLY (for himself and Mr. Dornan of California):

H.R. 4206. A bill to amend the Department of Defense Appropriations Act, 1988, to clarify and restate the intent of Congress with respect to the performance of certain Navy ship overhaul work for fiscal year 1988; jointly, to the Committees on Appropriations and Armed Services.

By Mr. LaFALCE:

H.R. 4207. A bill to modernize and reform the regulation of financial services, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

By Mr. LOWRY of Washington (for himself, Mr. Jones of North Carolina, Mr. Studds, Mr. Fascell, Mr. Alexander, and Mr. Hughes):

H.R. 4208. A bill to authorize appropriations to carry out title III of the Marine Protection, Research, and Sanctuaries Act of 1972 during fiscal years 1989, 1990, 1991, and 1992; to the Committee on Merchant Marine and Fisheries.

By Mr. LOWRY of Washington (for himself, Mr. Jones of North Carolina, Mr. Hughes, Mr. Davis of Michigan, and Mr. Saxton):

H.R. 4209. A bill to authorize appropriations to carry out title I of the Marine Protection, Research, and Sanctuaries Act of 1972 during fiscal years 1989, 1990, and 1991, to the Committee on Merchant Marine and Fisheries.

By Mr. LOWRY of Washington (for himself Mr. Jones of North Carolina, Mr. Studds, Mr. Saxton, Mr. Hughes, and Mr. Davis of Michigan):

H.R. 4210. A bill to reauthorize title II of the Marine Protection, Research, and Sanctuaries Act of 1972, for fiscal years 1989 and 1990, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Science, Space, and Technology.

H.R. 4211. A bill to reauthorize the National Ocean Pollution Planning Act of 1978 for fiscal years 1989 and 1990, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Science, Space, and Technology.

By Mr. RANGEL:

H.R. 4212. A bill to amend the joint resolution of April 27, 1962, to permit the Secretary of the Interior to establish the former home of Alexander Hamilton as a national memorial at its present location in New York, NY; to the Committee on Interior and Insular Affairs.

By Mr. GONZALEZ:

H.J. Res. 511. Joint resolution to call for the removal of United States Armed Forces from Honduras; to the Committee on Foreign Affairs.

By Mr. PORTER (for himself and Mr. Frenzel):

H. Con. Res. 267. Concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1989, 1990, and 1991; to the Committee on the Budget.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 115: Ms. Kaptur.

H.R. 245: Mr. Solarz, Mr. Kasich, and Mr. Nelson of Florida.

H.R. 920: Mr. Atkins, and Mr. Edwards of California.

H.R. 1635: Mr. Wylie, Mr. Chandler, Mr. Ford of Tennessee, Mr. Eckart, and Mr. Weldon.

H.R. 1832: Mr. Crane.

H.R. 2248: Mr. Howard.

H.R. 2508: Mr. Rodino and Mr. Levine of California.

H.R. 2976: Mr. Thomas of California and Mr. Whittaker.

H.R. 3054: Mr. St Germain and Mr. Morrison of Connecticut.

H.R. 3130: Mr. Traxler.

H.R. 3146: Mr. Denny Smith and Mr. Sikorski.

H.R. 3193: Mr. Thomas A. Luken.

H.R. 3250: Mr. Spratt, Mr. Hoyer, Mr. Callahan, and Mrs. Patterson.

H.R. 3340: Mr. Kennedy, and Mr. Ravenel.

H.R. 3455: Ms. Pelosi, Mr. Pepper, Mr. Kildee, Mr. Bustamante, and Mrs. Byron.

H.R. 3553: Mr. Coleman of Texas, Mr. Gibbons, and Mr. Dellums.

H.R. 3593: Mr. Garcia, Mr. Levine of California, Mr. Edwards of California, Mr. Atkins, Mr. Owens of Utah, Mr. Manton, Mr. Martinez, and Mr. Howard.

H.R. 3699: Mr. Roth.

H.R. 3791: Mr. Fauntroy, Mr. Henry, Mr. Bunning, Mr. Frenzel, Mr. Leath of Texas, Mr. de la Garza, Mr. Lewis of Georgia, and Mr. Boehlert.

H.R. 3840: Mr. Jeffords, Mr. Hastert, and Mr. Leland.

H.R. 3868: Mr. Bates, Mr. Blaz, Mr. Clay, Mrs. Collins, Mr. de la Garza, Mr. de Lugo, Mr. Dymally, Mr. Espy, Mr. Evans, Mr. Fauntroy, Mr. Fuster, Mr. Hawkins, Ms. Kaptur, Mr. Mfume, Mr. Owens of New York, Ms. Pelosi, Mrs. Schroeder, Mr. Torres, Mr. Towns, and Mr. Wolpe.

H.R. 3883: Miss. Schneider, Mr. Frank, and Mr. Shays.

H.R. 3892: Mr. Gallo, Ms. Pelosi, and Mr. Callahan.

H.R. 3918: Mr. Towns, Mr. Gray of Illinois, Mr. Horton, Mr. Anderson, Mr. Nichols, Mr. Bennett, Mr. Vander Jagt, Mr. Carper, Mr. Bonker, Mr. Bevill, Mr. Oberstar, Mr. Fuster, Mr. Dyson, Mr. Pickett, Mr. Solomon, Mr. Hayes of Louisiana, Mr. Wortley, Mr. Robinson, Mr. Kastenmeier, Mr. Wilson, Mr. Manton, Mr. Owens of Utah, Mr. Borski, Mr. Madigan, Mr. Morrison of Connecticut, Mr. Tallon, Mr. Neal, Mr. Parris, Mr. Barnard, Mr. Thomas of

Georgia, Mr. FOGLIETTA, Mr. LOWRY of Washington, Mr. ECKART, Mr. BOSCO, Ms. PELOSI, Mr. HOCHBRUECKNER, Mr. LENT, Mr. HERTEL, Mr. DAVIS of Illinois, and Mr. MARTINEZ.

H.R. 3968: Mrs. BENTLEY.

H.R. 3969: Mr. MINETA, Mrs. BENTLEY, and Mr. KOLTER.

H.R. 4018: Mr. ACKERMAN, Mr. BRYANT, Mr. EVANS, Mr. KILDEE, and Ms. PELOSI.

H.R. 4036: Mr. DOWNEY of New York, Mr. BROWN of California, Mr. STUDDS, Mr. BERMAN, Mr. HAMILTON, Ms. PELOSI, and Mr. BUSTAMANTE.

H.R. 4040: Mr. LOWRY of Washington, Mr. LEWIS of Georgia, Mr. LEHMAN of Florida, Mr. LANTOS, Mr. YATES, Mr. DEFAZIO, Mr. BEILENSON, Mr. SOLARZ, Mr. DOWNEY of New York, Mr. SMITH of Florida, Mr. RODINO, Mr. HAWKINS, Mr. BERMAN, Mr. LEVIN of Michigan, Mr. FRANK, Mr. MORRISON of Connecticut, Mr. WEISS, Mrs. BOXER, Mr. MILLER of California, Mr. FAUNTROY, Mr. FAZIO, Mr. DIXON, and Mr. HOWARD.

H.R. 4066: Mr. MINETA, Mr. LANCASTER, Mr. MCHUGH, Mr. WELDON, Mr. HOCHBRUECKNER, Mr. WORTLEY, Mr. STUDDS, Mr. OWENS of New York, Mr. SCHUETTE, Mr. FAUNTROY, Mr. DORNAN of California, Mr. HASTERT, and Mr. DYSON.

H.R. 4088: Mr. FORD of Michigan.

H.J. Res. 374: Mr. JACOBS, Mr. MORRISON of Connecticut, Mr. MACKAY, and Mr. GARCIA.

H.J. Res. 391: Mr. MARTIN of New York, Mr. CHAPMAN, Mr. DAVIS of Michigan, Mr. LEWIS of Florida, Mr. GORDON, Mr. PURSELL, and Ms. OAKAR.

H.J. Res. 415: Mr. MCCOLLUM, Mr. RINALDO, Mr. DONALD E. LUKENS, Mr. NOWAK, Mr. HILER, Mr. MINETA, and Mr. GREGG.

H.J. Res. 453: Mr. JEFFORDS, Mr. LEACH of Iowa, Mr. SHUSTER, Mr. SOLOMON, Mr. SLATTERY, Mrs. PATTERSON, and Mr. EARLY.

H.J. Res. 463: Mr. SUNDQUIST, Mr. PASHAYAN, Mr. GRAY of Illinois, Mr. COELHO, Mr. CONTE, Mr. FIELDS, Mr. SHUMWAY, Mr. PANETTA, Mr. TORRICELLI, Mr. DE LUGO, Mr. HOWARD, Mr. STAGGERS, Ms. PELOSI, Mr. GALLEGLY, Mr. EVANS, Mr. LEVIN of Michigan, and Mr. GOODLING.

H.J. Res. 464: Mr. LIVINGSTON, Ms. KAPTUR, Mr. FEIGHAN, Mr. MOAKLEY, Mr. GORDON, and Mr. KASICH.

H. Con. Res. 28: Mr. SLATTERY.

H. Con. Res. 260: Mr. KYL, Mr. ROE, Mr. RHODES, Mr. DORNAN of California, Mr. RINALDO, Mr. FLORIO, Mr. BARTLETT, Mr. BORSKI, Mr. SMITH of New Hampshire, Mr. CONYERS, Mr. BURTON of Indiana, Mr. GREEN, Mr. HAWKINS, Mr. MILLER of Washington, Mr. ESPY, Mr. DONALD E. LUKENS, Mr. COOPER, Mr. FISH, Mr. LOWERY of California, Mr. DREIER of California, Mrs. PATTERSON, Mr. LUNGREN, Mr. LENT, Mr. INHOFE, Mr. WELDON, Mr. LANTOS, Mr. GORDON, Mr. ACKERMAN, Mr. MOORHEAD, Mr. TOWNS, Mr. TORRICELLI, Mr. SHAW, Mr. ENGLISH, Mr. LANCASTER, Mr. BIAGGI, Mr. BLILEY, Mr. LIPINSKI, Mr. FAWELL, Mr. FEIGHAN, Mr. GALLO, Mr. BADHAM, Mr. MOLINARI, Mr. HUTTO, Mr. SWINDALL, Mr. HYDE, Mr. GUNDERSON, Mr. LEWIS of California, Mr. NEAL, Mr. HUNTER, Mr. DYMALLY, Mr. RODINO, Mr. RITTER, Mr. MARLENEE, Mr. SMITH of New Jersey, Mr. GUARINI, Mr. WEBER, Mr. PACKARD, Mr. RAVENEL, Mr. ROSE, Mr. MICA, Mr. BUSTAMANTE, Mr. SOLOMON, Mr. GALLEGLY, Mr. LEWIS of Georgia, Mr. LEVIN of Michigan, Mr. RIDGE, Mr. SAXTON, Miss SCHNEIDER, Mr. STALLINGS, Mr. WILSON, Mr. MCCURDY, Mrs. LLOYD, Mr. SKELTON, and Mr. JEFFORDS.

H. Res. 258: Mr. SMITH of New Hampshire, Mr. JEFFORDS, Mr. ARCHER, Mr. BARTLETT, Mr. MCGRATH, and Mr. SCHUETTE.

H. Res. 379: Mr. BORSKI, Mr. DONALD E. LUKENS, and Mr. SOLOMON.

SENATE—*Monday, March 21, 1988*

The Senate met at 10:30 a.m., and was called to order by the Honorable Quentin N. Burdick, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray together:

* * * *they that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run, and not be weary; and they shall walk and not faint.*—Isaiah 40:31.

Gracious God, our Father in heaven, the words of Isaiah sound unrealistic and impractical in this place where pragmatism dictates much of the process. Especially when controversy raises the heat and the pressure cooker environment prevails. Yet waiting on the Lord, as Isaiah suggests is filled with promise. No time is lost—no energy wasted—waiting on the Lord. Deliverance from the tyranny of the urgent is guaranteed. And pressure becomes constructive. We remember that diamonds are just rocks under pressure * * * pearls are grains of sand under pressure and darkness. Tension is essential if strings are to make music. Grant to Your servants wisdom to take God seriously and profit from Your providence and promise. In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, March 21, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Quentin N. Burdick, a Senator from the State of North Dakota, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. **BURDICK** thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADERSHIP TIME

The **ACTING PRESIDENT** pro tempore. Under the standing order, the majority leader is recognized.

Mr. **PROXMIRE.** Mr. President, I ask unanimous consent that the time of the majority leader and the Republican leader be reserved for their use later today.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

POPE JOHN PAUL HAS THE SUPERPOWERS PEGGED

Mr. **PROXMIRE.** Mr. President, Pope John Paul has called on the developed nations and especially the superpowers to stop exploiting the underdeveloped world for their own selfish superpower ends. The Pope calls on the superpowers to provide genuine assistance. What's the Pope's problem? He sees the developed countries driven by what he calls power and profit. Result: We are hurting these poor countries. How right he is. Nicaragua and Afghanistan are most prominent but this is true throughout Central and South America. It is true in Africa. It is true in the Middle East. The Soviet imposition of puppet governments in eastern Europe is another conspicuous example. The imposition by the Soviet Government of a Communist system that depresses the economies of these eastern European countries certainly hurts even these relatively developed countries. The Soviets have aggravated the situation by forcing a commitment of resources and people to military support of their Communist objectives.

The Soviets have seriously weakened the economies of Nicaragua and Cuba in our own backyard by pouring military equipment into those poor countries. Why? This the Soviets say is to enable those countries to maintain their independence. The world knows, the people of those countries know they have lost their independence to the U.S.S.R. And just the maintenance and manning of the equipment has absorbed much of the limited skills of these countries. It has diverted them from building a better life.

In Central America the United States has aggravated the situation by meeting the Soviet infiltration of weapons and ideology with weapons and ideology from our side. Result. Nicaragua has become involved in an impoverishing and life taking civil war. The Pope is right. The superpowers have, indeed, selfishly and cruelly imposed a debilitating civil war in Nicaragua. Even from a strictly United States standpoint our policies in Nicaragua are losers.

Consider what we have done. we have supported a rag-tag band of Contras for years and at a cost of hundreds of millions of dollars. They have not achieved a single military objective. They hold no significant territory in Nicaragua. They have won no support from the Nicaraguan people. Indeed, they have deeply alienated the people of Nicaragua by burning their homes, destroying their livestock, and indiscriminately killing thousands of Nicaraguan civilians including women and children. Does anyone really believe that if Nicaragua did have a democratic election that the Contras who have perpetrated these widespread activities on Nicaragua would win?

Now consider what we could do. We could use our enormous economic advantage—or total domination of Western Hemisphere trade to win gradual, steady economic support for free institutions in Nicaragua. Why not? Haven't we done exactly this in other Central and South America countries? Instead of lethal aid for Nicaragua why not promote a vigorous program of Peace Corps type assistance? Indeed, one State, Wisconsin, with less than 2 percent of our American population has provided precisely the kind of skills and training that Nicaragua needs. Doctors, nurses, agricultural experts, sanitation engineers, housing specialists have traveled from Wisconsin to Nicaragua for a number of years. In fact, Wisconsin has adopted Nicaragua as a kind of sister State. This explains why Wisconsin people so strongly oppose the Contra devastation of the Nicaragua economy. It's why this Wisconsin Senator understands that there is another way for democracy and freedom to win in Nicaragua. The answer is not lethal aid. It is not military assistance, thinly disguised as "humanitarian aid". It is direct people to people assistance. It is using our remarkable skills, our great medical, environmental, agricultural skills and technology to bring a better life to Nicaragua. Forget military assistance. Bring life giving assistance. We do that and ideology will take care of itself.

MORNING BUSINESS

The **ACTING PRESIDENT** pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to exceed 30 minutes with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. **BYRD.** Mr. President, the distinguished Senator from Wisconsin, I believe, has reserved the time of the two leaders; is that correct?

The ACTING PRESIDENT pro tempore. Yes.

Mr. BYRD. I shall claim my time at this point.

CENTRAL AMERICAN POLICY

Mr. BYRD. Mr. President, the events of the last few days are cause for serious reflection by all who bear the responsibility of shaping and directing this Nation's foreign policy.

The Reagan administration's attempt to blame Democrats in the Congress for the latest Sandinista offensive, although predictable, is inaccurate. It may be true that the Sandinistas were emboldened by the severing of humanitarian aid for the Contras. But the reason for the rejection of the Democratic effort to keep the Contra force viable during cease-fire talks was Republican opposition in the House of Representatives. At the direction of the White House, 98 percent of the Republican Members of the other body voted against the Democratic leadership package to sustain the Contras. That fact cannot be disputed or distorted. The vote is there in the record for all to see. So, we can continue to argue over "who killed Cock Robin;" but the instrument by which Cock Robin was killed is there in the vote tally for anyone who cares to check.

Only five Republicans in the House of Representatives voted for that package of Contra aid. It was a calculated effort to oppose and defeat that package, and so the package was rejected, it was defeated, and so today we do not have any vehicle in either body that will provide this aid. Appropriations measures are required to begin in the other body.

Much more important than continuing to point fingers now is what happens next. There is a need for a hard look at where we are heading in Central America. The Reagan administration has no consistent policy for dealing with Central America. Rather, there seems to be an ideology, without clear goals, which has produced little in the way of constructive results. The debacle we have seen in Nicaragua for over 6 years has been responsible for the biggest scandal of the Reagan administration, the largest damage to the foreign policy credibility of the United States in recent history, and now has resulted in the presence of 3,500 American boys near the Nicaraguan/Honduran border in a "show of force," even though we hear that they are going to be withdrawn shortly.

The United States after all of this, not to mention several hundred million dollars, has achieved virtually nothing positive in Central America.

The major significant progress in stopping the conflict and moving Nicaragua toward some democratization has come from the Arias peace proposal and the cooperation of the Presidents of five Central American countries in calling for a cessation of the fighting and negotiations for peace.

The stark differences between the administration's fixation on the one hand, with the Contras, and more fighting as a solution, and on the other hand, the approach of President Arias—in other words, stop fighting and negotiate—should be clear.

This administration has chosen to make the Contras the issue. The Contras are not the issue. The national security of the United States and the encouragement of peace and democracy in Central America are the issues.

The Contras should have been part of a two-track strategy which included bilateral negotiations with the Sandinistas to end Soviet military aid to that country and to eliminate Soviet and Cuban advisers. In fact, Ortega has offered several times to negotiate with the United States on these matters, but the administration has refused, believing instead that the Contras could do it alone. This administration has trusted the national security interests of the United States to the Contras instead of doing its utmost to try to eliminate the Soviet influence from Nicaragua through negotiations with the full authority of the President, the Congress and the people of the United States behind that diplomatic effort.

The Democratic leadership has attempted to cooperate with this administration in shaping a general policy that supports the Arias peace plan, but maintains the Contras as a continuing pressure point to encourage the Sandinistas to negotiate. Instead the administration has opted for more military aid and ignored the negotiation track.

And what has the Contra policy produced? Is there less aid from the Soviets? Is there less aid from the Cubans? Are the people of Nicaragua enjoying the freedoms of democracy?

The story of the administration's backing for the Contras is a classic example of ideology run wild—of achievable goals obscured, of opportunities lost, of real solutions discarded, or arms for hostages deals, of indictments.

This administration has had to resort to partisanship and fingerpointing and arms-for-hostages deals because it failed to build a consensus behind its Contra solution to the problems of Central America.

The action in sending 3,500 Americans to a point near the border of Nicaragua has alarmed the American people, conjured up the ghost of Beirut, and puzzled our Allies. I hope that the United States does not, through accident of fate or faulty judgment, get drawn into the combat. We have no right to ask Americans to risk their sons and daughters when there are other solutions we have not yet tried.

I further hope that the show of force has not damaged prospects for a cessation of hostilities under the Guatemala accords.

If we can stop the fighting, then there may be a chance for Democratic reform and freedom for the people of Nicaragua. If we will negotiate with the Sandinistas we may make progress on getting the Soviets and their proxies out of the region.

At least we ought to give it a try. The Sandinistas have said that they would enter into bilateral discussions to eliminate Soviet influence and Cuban influence, Soviet and Cuban advisers. Why can we not at least challenge them on this point? Why do we not at least try?

We are willing to sit down with the Soviets and negotiate treaties, are we not? Then why can we not sit down with Ortega and his little outfit?

We can do those things with bipartisian support or the administration can continue to have partisan shouting matches and argue over who killed Cock Robin, while we watch Central America's chance for peace go up in smoke.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quroum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXPORT PROMOTION AND THE PRESIDENT'S BUDGET

Mr. BINGAMAN. Mr. President, one of the first pieces of legislation I was involved in when I came to the Senate was a plan to strengthen America's trade policy and export promotion activities. At that time, the trade deficit was running over $60 billion. That plan, Senator ROTH's Trade Reorganization Act of 1983, was not enacted, partly because of lack of support from the Reagan administration.

The next year, I introduced the International Trade and Export Policy Commission Act of 1984. This legislation would have set up a bipartisan national commission to study and make recommendations concerning the international trade and export policies of the United States. It was an attempt to have this commission recommend solutions to the problem before it reached crisis stage, not after. The administration ignored this bill. The merchandise trade deficit in 1984 grew to a then record $112 billion.

Last year America posted the largest merchandise trade deficit of its history—over $170 billion. The third quarter of last year also saw the disappearance of our trade surplus investment income, although it recovered in the fourth quarter. And the United States is now the world's largest debtor nation.

In a forthcoming book, Clyde Pretowitz, former Deputy Assistant Secretary of Commerce and key trade negotiator with Japan, describes the administration's lack of attention to trade as our deficit ballooned to historic proportions—lack of attention, that is until pressure from the Congress forced at least a political and rhetorical response. Mr. President, I ask unanimous consent that an article by Stuart Auerbach in Friday's Washington Post about Mr. Pestowitz' book be included in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

[See exhibit 1.]

Mr. BINGAMAN. With their new found enthusiasm, administration officials are now saying the United States has an export-driven economy. I must say that an economy with record trade deficits does not seem like and export-driven economy to me. In fact, the trade figures released last Thursday show that our trade deficit grew in January and that our so-called export drive has stalled—exports in January declined by $2.2 billion from December and are running below last year's monthly average. And recent increases in industrial capacity utilization suggest that key American exporting businesses, such as chemicals, are having a hard enough time in meeting domestic demand let alone expanding exports.

The administration is right, however, that export growth is key to America's current and future economic development. It is, in fact, a matter of some urgency. In the short run, for example, some economist believe that only rapid growth in exports will prevent the United States from entering a recession this year or next.

In the long run, we must sooner or later begin to run a merchandise trade surplus to pay for our growing foreign debt. As our current account balance shifted from a surplus in 1981 to a huge deficit in 1987, we rapidly increased our net foreign debt to the point where we are now the world's largest debtor nation. As this debt has grown, our current account deficit has worsened because of the need to pay out to foreigners the interest income on their investments in this country—that is, on our foreign debt. Clearly, we have gotten ourselves into an insidious debt trap, digging ourselves deeper and deeper in debt every month. To get ourselves out of this trap, we must not only export more than we import, but we must export even more to pay for the debt.

But, if we are to have a growth in exports, it will be in spite of help from this administration, rather than because of it. For all the administration's talk of the importance of exports, their latest budget either cuts or inadequately funds the export promotion activities of the Federal Government.

Four agencies and programs constituted the heart of the Federal Government's export promotion efforts: The International Trade Administration [ITA] of the Department of Commerce, which includes the United States and Foreign Commercial Service; the Foreign Agriculture Service [FAS] of the Department of Agriculture; the Export-Import Bank of the United States [Exim]; and the Trade and Development Program [TDP] of the U.S. International Development Cooperation Agency.

Some of these programs have received increases in the President's proposed fiscal year 1989 budget. For example, the administration is asking for an increase of almost $14 million for the United States and Foreign Commercial Service. However, much of that increase is needed to offset the extra costs of maintaining commercial officers overseas to help deal with the fall in the value of the dollar. The United States continues to maintain far fewer export promotion staff in foreign countries than many of our economic competitors. And a number of United States and FCS positions remain vacant. For example, in my home State of New Mexico, the position of director of the Albuquerque office has remained vacant for over a year and a half.

The proposed fiscal year 1989 budget for direct credits for the Export-Import Bank also shows a slight increase, from $693 million to $705 million. But this increase is less than the rate of inflation, thus constituting a real decline in Exim's ability to provide export financing. More importantly, the heart of Exim's programs, its authority to guarantee the loans American businesses need from the private sector to finance their exports, has been cut by almost 30 percent. After directing the Exim over the past 7 years to move from direct credits to loan guarantees, the administration is now proposing to cut even that program.

The proposed fiscal year 1989 budget also cuts the Agriculture Department's Foreign Agricultural Service by over $3 million. This 3-percent cut comes at a time when American farmers are struggling to regain export markets lost in previous years.

Finally, the administration's proposed fiscal year 1989 budget cuts funding for the Trade and Development Program by over 18 percent. TDP has been one of this Nation's most successful export promotion programs. The program provides financing for U.S. firms to undertake feasibility and engineering studies on overseas development projects. Not only does this program help U.S. engineering firms win overseas contracts by providing financing, it stimulates exports of U.S. goods and machinery. Since U.S. engineers design the project, they specify U.S. construction techniques and U.S. goods. According to evaluation studies, $29 million of TDP financing between 1980 and 1983 had resulted in $516 million of U.S. exports by 1986.

Mr. President, in conclusion, we must look past the administration's rhetoric to the reality as shown in its proposed budget. That reality is a cut in export promotion funding and a downgrading of the importance of Federal assistance to businesses seeking to expand their exports. In a time of record trade deficits, we need to be upgrading, not downgrading, our export promotion activities.

EXHIBIT 1

[From the Washington Post, Mar. 18, 1988]

EX-AIDE HITS U.S. TRADE STANCE—NEGOTIATOR SAYS ADMINISTRATION IGNORED EARLY PROBLEMS

(By Stuart Auerbach)

A former senior U.S. trade negotiator says that key officials in the Reagan administration, including the president, were "unconcerned" about growing trade problems with Japan and other countries until Congress forced action in 1985.

In a book to be published next month, the former negotiator, Clyde V. Prestowitz, provides the first insider's look at a crucial period in the United States's economic relationship with Japan, describing how efforts to deal with a growing American trade deficit were frustrated by indifference and political concerns.

President Reagan, he said, apparently fell asleep during a 1982 White House briefing on how Japan's growing dominance over high technology harms the political, military and economic power of the United States.

"Ronald Reagan's head was down on his chest and he appeared to be asleep," wrote Prestowitz, who from 1981 to 1986 was deputy assistant secretary of commerce and special counselor on Japan to Commerce Secretary Malcolm Baldrige. "Most of the key administration figures were not engaged. In the eyes of most of the Cabinet this was a long way from arms control and 'Star Wars'."

Prestowitz joined the administration after a career in business in the United States and Japan. He was one of the few ranking administration officials who spoke and read Japanese, and was a key player in negotiations dealing with semiconductors, machine tools and telecommunications.

After five years of shuttling between Washington and Tokyo on grueling trade negotiations, Prestowitz quit the government in frustration to become a fellow at the Woodrow Wilson Center of the Smithsonian Institution and to write his book.

The Prestowitz book, "Trading Places," describes how the administration dealt with one of the most damaging economic reverses in the postwar period: five straight years of record trade deficits, which reached $171.2 billion last year, that transformed the United States from the world's largest creditor nation as recently as 1981 into the country that owes the most to the rest of the world, an estimated $400 billion at the end of 1987.

The book is going on sale at a vital time for the Reagan administration, which is in the midst of delicate negotiations with Congress over a major trade bill. It also is coming out at a time of mounting trade frictions with Japan, as the threat of new sanctions hangs over the United States' closest Pacific ally.

In the book, Prestowitz said that trade negotiators were handcuffed in their efforts to break down barriers to U.S. products by other agencies of the government, including the State and Defense departments, which would not allow them to use the threat of trade retaliation as a tactic against Japan out of concerns that such a threat might harm the strategic relationship.

"The consensus was that, while it was appropriate to request better market access, asking for a specific market share or sales volume would violate free-trade doctrine and hence be unacceptable," he wrote about a series of 1982 negotiations with Japan about its barriers to U.S. high-technology products.

Prestowitz wrote that the agreement, reached in November 1982, "was a monument to clever drafting more than anything else. The only concrete result was the system for collecting statistics on chip shipments."

Nonetheless, he continued, "The agreement was greeted enthusiastically by Washington. Agreements with Japan always are by all administrations. . . . In fact, we had been handled. While we were debating whether to 'ensure' or to 'seek to ensure' [increased market access for the United States], Japan's industry continued its economic conquest. Nothing had changed, and within three months further threats of congressional action along with the possibility of private unfair trade suits drive the U.S. delegation to a second round of negotiations."

Even when the administration decided to act on trade, Prestowitz said the moves often were more cosmetic than real. For instance, he wrote that the highly publicized strike force to deal with other country's unfair trade practices, instituted in September 1985 after intensified congressional pressure for action on the growing trade deficits, "was only a speech writer's rhetorical flourish."

"It was a wholly political move. There had been no prior planning. No one knew what this strike force should do, and most officials didn't want it. But when a president establishes a strike force with much public fanfare, it must strike," Prestowitz continued.

Baldrige, who is considered tougher on trade issues than most members of the Reagan Cabinet, was named head of the strike force. He used that position to initiate the Reagan administration's most aggressive attack on Japanese trading practices in the critical area of semi-conductors, where U.S. companies were being driven out of business by what they called "predatory" pricing by Japan.

This led to an agreement in which Japan pledged to stop dumping semiconductors at less than their fair market value and to purchase more American-made memory chips, and later to the first U.S. trade sanctions against Japan since World War II to punish them for not keeping the pact.

But deciding whether to initiate the trade complaints involved intensive negotiations within the administration, Prestowitz said, and warding off the influence of high-priced lobbyists for the Japanese government and industry. He said these lobbyists—former deputy U.S. trade representative William Walker and Republican Party fund raiser Stanton Anderson—got to key White House and National Security Council staff members, some of whom "owed their positions to the political influence of men close to" the lobbyists.

In his unusually frank account of the shaping of Reagan administration trade policies, Prestowitz detailed the positions taken by various agencies of government at a 1985 Cabinet meeting to decide whether to go ahead with the complaints:

The Office of the U.S. Trade Representative, afraid that Commerce was invading its turf as chief trade negotiator, wanted to go slow because of ongoing behind-the-scenes talks that it said could settle the problem. The National Security Council was concerned that any trade actions would undermine Japan's endorsement of the president's Star Wars program (to place defense systems in space) and the State Department said U.S. high technology companies were to blame for their problems.

Some Treasury officials backed Baldrige, but others said "dumping benefits the society that receives" the cheap goods and warned that any action meant an industrial policy—a banned concept in this administration.

Prestowitz is critical of the State Department and the NSC for shielding Japan, a friend and an ally, from unfair trade charges. Japan, he said, "knew they could count on the State Department and NSC to stop any action against them."

"State sees itself as the primary defender of the overall relationship with Japan," said Prestowitz. "It knows nothing of industry and little of economics, and believes these issues are secondary to political and military concerns . . . The U.S. Embassy in Tokyo is even more supportive of Japanese positions" than the State Department.

He called the Pentagon "schizophrenic" since, he said, it wants "to maintain a harmonious military relationship" with Japan, "but increasingly fears the loss of U.S. technological leadership." The Treasury "tends to take a highly theoretical view of trade relations with Japan," while the Council of Economic Advisors is "totally doctrinaire" and "always wants to negotiate for free trade, but is never prepared to react when it cannot be obtained."

"Never once," Prestowitz wrote, "did I hear an economist or a representative of any economic agency speak in favor of granting relief or of taking action to aid a U.S. industry. They sometimes bowed to political necessity, but never willingly."

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

THE VETO OF THE CIVIL RIGHTS RESTORATION ACT

Mr. BOREN. Mr. President, I will vote to override the President's veto of S. 557, the Civil Rights Restoration Act of 1987.

For nearly 4 years, the Congress has tried to correct the Supreme Court's decision in the Grove City College case which legitimized Federal funds going to an institution which practices discrimination.

There are four basic civil rights statutes which have been the law of the land for over 12 years, to keep Federal funds from being used to discriminate on the basis of age, race, sex, or religion. There is no new expansion of those laws that we've lived with since 1964 when the Civil Rights Act declared that no Federal funds can be used in any way to discriminate on the basis of race. This legislation is very simple as it only clarifies what has been existing law.

The simple point it makes is that when someone takes taxpayer's dollars, they can't use that money to discriminate against a person because of their religion, race, age, or because they are a man or a woman. That is a fundamental American principle worth defending. Those who don't take taxpayer funds are, of course, not covered.

This legislation has been considered for almost 4 years, had numerous public hearings spanning three sessions of Congress, and was the subject to amendments and several days of national debate. Surprisingly however, only after it passed both Houses of Congress and was presented to the President did it begin to receive so much attention through radio and TV broadcasts, as well as call-in campaigns based on misinformation. If this bill were written to "force schools to hire homosexuals with AIDS," to force "church hospitals to perform abortions," or "to force farmers who receive crop subsidies to hire quadriplegics," as some have been lead to believe, I would certainly not support this legislation.

When the Senate considered the bill earlier this year, I supported the amendment which was adopted that says that no hospital "which may receive Federal funds can require or prohibit a person or entity to provide or pay for (an) abortion."

Further, the issue of a religious tenants exemption has also sparked a great deal of interest. Some have claimed that private schools or churches would be "forced to hire homosexuals, transvestites, or victims of AIDS." This is just not true. There is legislative language in both the bill and the committee report which clarifies that educational institutions which are "controlled by a religious organization" are exempt from these requirements if they "would not be consistent with the religious tenents" the church or school. School boards also clearly have the right to set policies to protect public health and moral standards.

Also, some have argued that because farmers are recipients of certain Federal subsidies, they would be forced to hire handicapped individuals not capable of working with farm equipment. The legislation and committee report spells out no new requirement or coverage of farmers. In fact, since the first civil rights statute was enacted in 1964, farmers receiving crop subsidies have been excluded from coverage because they are the "ultimate beneficiaries." The committee report specifically reconfirms that the bill "would not authorize imposition of any requirements with respect to farm employment, since farm employees are not beneficiaries of" the farm subsidy. In the same sense, a "small provider" exception was added to specify that "small providers such as pharmacies or grocery stores, are not required to make significant structural alterations to their existing facilities to ensure accessibility to handicapped persons."

Unfortunately, disinformation has been put out recently that is more destructive and ill-conceived than the kind of campaign waged against Supreme Court nominee Judge Robert Bork only a few months ago. I firmly believe that this clarifying legislation will not result in a rash of fallacious lawsuits, that could not have occurred before or after the Grove City case.

I don't blame people for being concerned that the Congress could write legislation that would intrude into the rights of the majority while purportedly protecting a minority. However, this legislation does not do that. It is balanced, bipartisan, and was written and revised in the same spirit of fairness as the original civil rights legislation from the early 1960's.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, has morning business been closed?

The PRESIDING OFFICER. Morning business is closed.

UNCONTROLLED FISHING IN THE BERING SEA

Mr. BYRD. Mr. President, there is a resolution to express the sense of the Senate on the need to stop uncontrolled fishing in the international waters of the Bering Sea. Under the agreement as entered, I believe that the majority leader is authorized to call that resolution off the calendar after consultation with the Republican leader.

There is a 20-minute time limitation on the resolution, and I ask this question: Was not a rollcall vote ordered on the resolution?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BYRD. I thank the Chair.

Mr. President, I understand that some of the Senators who are the principals in regard to this resolution are tied up in committee hearings at the moment. I am going to ask that the Senate stand in recess until 12 o'clock. This will give Senators an opportunity to be available at noon, to proceed with debate on the resolution, and a vote will occur around 12:20 or 12:30.

That being the case, Senators will be on notice that such vote is going to occur, and that will be a 15-minute rollcall vote.

Mr. President, I ask unanimous consent that the rollcall vote, when it occurs, be a 15-minute rollcall vote and call for the regular order be automatic.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 12 NOON TODAY

There being no objection, the Senate, at 11:16 a.m. recessed until 12 noon; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. DASCHLE].

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNCONTROLLED FISHING IN INTERNATIONAL WATERS OF THE BERING SEA

Mr. BYRD. Mr. President, in accordance with the order that was previously entered in the agreement on Friday, I now ask that the Chair lay before the Senate Senate Resolution 396. It is a sense of the Senate resolution that expresses the sense of the Senate on the need to stop uncontrolled fishing in the international waters of the Bering Sea.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 396) to express the sense of the Senate on the need to stop uncontrolled fishing in the international waters of the Bering Sea.

The PRESIDING OFFICER. Under the previous order, debate on the resolution is limited to 20 minutes equally divided in the usual form, with no amendments in order.

The Senator from Rhode Island.

Mr. PELL. Mr. President, today the full Senate is considering Senate Resolution 396—a nonbinding resolution relating to uncontrolled fishing in the Bering Sea. While I intend to vote for this resolution, I want to express some reservations which I have concerning it.

In the first place, through an honest error this resolution was not referred to or cleared for consideration by the Foreign Relations Committee on Friday. The Committee on Foreign Relations should have been consulted in view of the fact that the resolved clause specifically directs the Secretary of State to take certain actions, which clearly places this matter within jurisdiction of the Foreign Relations Committee.

Having said that, I appreciate fully the concerns that the Senators from the Northwest are attempting to address in this resolution. I fully understand the importance of preserving the health and vitality of the fishing industry.

It would have been preferable if this resolution had been referred to the committee for proper action so that full consideration could be given to it. I would hope in the future, and I understand in the future, that such resolutions will be so referred to the committee.

This resolution is specifically crafted to deal with a unique problem confronting fishing in an area of the Bering Sea. The sponsors have developed a proposal which calls upon the Secretary of State to undertake multilateral negotiations to solve the problem. A multilateral arrangement to deal with the problem of overfishing is certainly consistent with other efforts in the past to negotiate specific international plans for various specific species of fish in international waters. A multilateral arrangement to deal with the Bering Sea problem is far preferable to unilateral action by the United States.

Mr. President, I would have opposed any effort which attempted unilaterally to extend the exclusive economic zone of the United States beyond the current 200-mile limit. This would clearly be a violation of customary international law. The implications of such action would be serious and detrimental to U.S. interests.

Others would quickly follow, with serious ramifications for the fishing industry of many States, including my own State of Rhode Island. The fishing industry nationwide would be adversely affected.

It would also have serious implications on U.S. national security, namely; the protection of the U.S. freedom of navigation, which is always threatened by creeping jurisdictional claims of coastal States.

I am confident it is not the intention of the sponsors of this resolution to unilaterally extend the exclusive economic zone. I believe it is their intention to develop the multilateral solution to the unique problem that is confronting an area of the Bering Sea, the so-called Doughnut area. The solution does not extend American jurisdiction over the international waters, and is intended to be consistent with international law.

On that basis, I intend to support the resolution.

Finally, I would emphasize that two objections have been raised with me concerning the resolution. First, it should not be conceived of as extending the 200-mile zone, and second, it should not be detrimental to U.S. efforts to open up foreign markets to U.S. fish products. I would not support this resolution if either were the case.

I yield the floor.

Mr. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, let me begin by thanking my good friend, the chairman of the Foreign Relations Committee, Senator PELL, of Rhode Island, for his most gracious comments concerning this resolution.

There is no question that it does transcend the boundary of the Commerce Committee's jurisdiction and, in fact, is related to the jurisdiction of the Foreign Relations Committee. However, due to the timing of the circumstances we face right now, with the Soviet Foreign Minister in town, with negotiations going on between the Soviet Union and our country on the very subject of the nonmilitary relationship between our two countries, we felt it an urgent matter for this resolution to be brought before the Senate.

I did not request the vote, but I am happy that there will be a vote so there will be a strong showing of support—at least I hope there will be a strong showing of support—for the concept that Senators HOLLINGS, EVANS, BREAUX, DOLE, and I are presenting to the Senate today.

In the North Pacific and Bering Sea, we have an interesting situation created by the 200-mile area off of the Soviet Union on the west and the 200-mile area under our jurisdiction on the east. There is at one point in the North Pacific-Bering Sea where there is what we call the "hole in the Doughnut." Some people just call it the "Doughnut," but it is really the "hole in the Doughnut." It is 4,500 square miles. This area, completely surrounded by the 200-mile limits of the Soviet Union and the United States, is an area that is not subject to the domestic law of either nation, although we do claim the right to pursue jurisdiction over those species of fish and marine life that originate under our jurisdiction. And so do the Soviets.

We have now, I think, established that there are foreign fishing vessels that use the "Doughnut" as a sanctuary, and that they actually fish in our waters and the waters of the Soviet Union. I have had some discussions with the Soviets on this matter, and I believe they have the same feeling.

The interesting thing is that in terms of bottom-fishing within our 200-mile limit, the size of which is staggering compared to the "Doughnut." All fishermen logged a catch of about 200 million metric tons in 1986. In the "Doughnut," which is only 4,500 square miles, 1 million metric tons of fish were reported caught in 1986. Our fishermen, when they fish in the waters of the "Doughnut" are not successful. They are not catching fish. Certainly, they are not catching anything like the amount of fish they catch as they get back up on the continental shelf in the great fishing grounds of the State of Alaska.

The difficulty is that we really do not have the statistics that are necessary to prove where the fish are. We believe we can get the information we need if we can declare this area a sanctuary, not for fishermen, but for the fish themselves. We are asking our fishermen and the Soviet fishermen to agree that this area be closed to fishermen, that it become a sanctuary, because if the current uncontrolled level of fishing continues this area will become like the Sea of Japan. It will become a barren area. Even though it may not produce the fish that our 200-mile limit and the Soviet 200-mile area produce through the harvesting processes of the fishermen, it is an area where the fish intermingle. We think this is an area of substantial importance to the foodchain of the North Pacific. The only prudent course in our area is to make this area a temporary sanctuary for fish. This resolution asks our Secretary of State to negotiate with the Soviet Union to reach an agreement to declare a moratorium on all fishing within the "Doughnut" and to find a way through joint action to penalize the fishermen from those countries who will not join us in that moratorium.

The world has seen moratoriums in international waters that protected marine life, and we have uniformly joined those actions. I hope that all of the nations in the world that have fishing vessels operating in this area will join us. But in any event, the very least we can do is establish a moratorium now on all fishing and seek a multilateral agreement to protect the fish.

If there is to be fishing in "Doughnut," it should only be done in a manner that regulates the fishing, as it is regulated in the Soviet 200-mile zone and in ours.

Here in the center of these two zones that have probably the world's greatest supply of protein left is a hole which is a haven for bandits, and that is what this resolution is all about.

I am pleased to yield such time as my friend from Washington might have on this matter.

The PRESIDING OFFICER. The Senator from Alaska has 3 minutes and 40 seconds remaining. The Senator from Washington.

Mr. EVANS. Mr. President, I will be brief. I am pleased to join with the senior Senator from Alaska in support of this resolution. We on the Pacific coast, as well as fishermen on the Atlantic coast, have worked hard to protect and manage the fisheries resource within the economic zone of the United States, the so-called 200-mile limit. Those efforts have resulted in the establishment of the Pacific Fishery Council and a North Pacific Fishery Council.

We have some very serious past experiences that teach us that we have simply got to do a better and more comprehensive job of controlling fishing in these areas. We have, for all practical purposes, lost a major crab fishery because we overfished. We have had serious problems in the past with our salmon fishery because we have occasionally overfished that stock.

These councils and fisheries leaders in the past have carefully attempted to build this big, extremely important economic resource of bottom fishing to what it is today. Not too many years ago, almost all bottom fishing inside the American economic zone in the North Pacific was carried on by foreign fishermen. Gradually, we have developed our own American boats, with American fishermen, and the shore and at sea processing to go along with it.

Now, virtually all fishing within that economic zone is by American fishermen, primarily Alaskans and Washingtonians.

In the State of Washington, for instance, last year, bottom fishing, as an economic resource, exceeded salmon fishing in terms of dollar return to Washington fishermen.

It is terribly important that we do recognize and understand the difference between our economic zone and international waters. We are in a peculiar position here with the international waters in the center of the Bering Sea surrounded by the national waters off Alaska, of the United States, and the Soviet Union.

Unfortunately, the fish do not understand international boundaries, and they easily move back and forth from international waters to the economic zone of the United States. The problems we now face are twofold: First, there is fishing without any control or without any taking of information into consideration of the allowable catch to foreign vessels within that international zone. But perhaps more important, the fact simply is irrefutable that the prize fishing is within the American economic zone and foreign fishing vessels are encroaching regularly into American waters, fishing illegaly, and catching for too large a share of the total catch. If we are to maintain the resource, regulation is necessary in order to ensure that that resource will always be there.

I do support strongly the resolution of my colleagues from Alaska.

Senate Resolution 396 expresses the sense of the Senate on the need to stop uncontrolled fishing in the international waters of the Bering Sea. This resolution requests that the Secretary of State conclude both a bilateral, and multilateral agreement.

For the purposes of the bilateral agreement, the State Department is to begin negotiations with the Soviet Union to conclude an agreement establishing a moratorium on all fishing in the Doughnut. Also to ensure that such a moratorium remain in effect until an agreement with other interested nations is reached addressing the need for conservation and management of the resources in the Doughnut.

Following establishment of the moratorium, negotiations are to be initiated for the purpose of concluding a multilateral agreement. The multilateral agreement should establish an international fishery management regime for the Doughnut, provide for the gathering of appropriate scientific data. This agreement would aim to protect the long-term viability of the fishery resources within the Bering Sea.

It must be clear that these agreements deal solely with the conservation of fishery resources and will not, in any manner, impose unlawful restrictions on the internationally recognized freedoms of navigation.

The resolution that is being introduced today, is a first step in our continuing work to find solutions to resolve a problem that has serious economic and international ramifications. The problem is illegal foreign fishing in the United States exclusive zone [EEZ] off Alaska, particularly in and around the so-called Doughnut areas. The U.S. fishing industry has long been convinced that there has been substantial unauthorized and illegal foreign fishing in the EEZ. It is only now, after our fishermen took it upon themselves to obtain hard evidence, that the issue is receiving the attention it deserves. And, it has our attention and the administration's. This is a problem not only of fishery conservation but also one of international affairs. And, unfortunately, this is a problem that lacks a clear mechanism affording a solution.

Our concerns are based on several factors. First, fish that are indigenous to United States waters are showing up in large quantities for sale in Japanese markets. There is evidence that recorded shipments of processed products from the U.S. zone may exceed legal catches from both the U.S. EEZ and doughnut area. Second, U.S. fishermen have observed foreign vessels within U.S. waters in areas where no joint ventures occurred and where no foreign fishing was authorized. Large numbers of foreign vessels have been sighted in the U.S. zone in areas where no foreign trawling is authorized. There is no reason for these boats to be there other than fishing. Additionally, in our efforts to completely Americanize the fishing industry, foreign countries previously permitted to fish in our zone are no longer receiving fish allocations. Some of these foreign fishing efforts have simply moved to the international waters of the Doughnut region. Due to this displacement, there is the obvious concern that with the decrease and elimination of foreign fish allocations in the EEZ, the incentive for illegal fishing has increased.

As it developed, these concerns were clearly justified. This past January, the Alaska Factory Trawler Association chartered a plane to search for illegal fishing. This expedition sighted seven vessels fishing illegally and noted other vessels in the area which may have been involved in similar illegal activities. Four of the seven vessels were identified as Japanese by their vessel identification numbers. We do not claim this problem lies solely with the Japanese—there are other nations actively fishing in and around the Doughnut area. The point is that the vessels sighted were fishing illegally in the U.S. EEZ. This industry initiative served to prove what a good share of the U.S. industry already believed. The results of these efforts raised the attention of many—generating this hearing today.

As I mentioned earlier, this is not solely a matter of illegal fishing. There is also an important management principal at stake as well. I believe it makes sense not to harvest fish in the Doughnut area, until we have better information on the status of stocks in that area. We need a clearer definition of the actual impact of fishing in the Doughnut area on the stocks from the U.S. EEZ. We need more information on the actual stocks harvested in the Doughnut and we need to know their origin. These questions and others should be answered before decisions concerning appropriate resource management can take place within the U.S. EEZ. These questions also require answers before we can assess which management regime, if any, will be most beneficial to the conservation and sustainability of the Bering Sea resources. Should we find that few stocks inhabit the Doughnut, then we can only conclude that substantial illegal fishing is occurring in our zone and we should concentrate our efforts on surveillance and enforcement.

We need a balanced approach to solving the problem of illegal foreign fishing. This resolution will not and cannot be the complete solution. There are many questions yet to be answered. This resolution, however, does offer a short-term answer—protecting a resource that requires more information and thought so that we continue to sustain the Bering Sea fishery resources. It also looks toward a long-term solution by requesting that a multilateral agreement be concluded. And, this approach is reasonable because our resolution recognizes that inherent in all potential solutions is the effect and impact upon U.S. international relations. A thorough assessment of all possibilities is critical to the existence of our fishery resource.

I urge my colleagues to join in our efforts to stop illegal fishing in the U.S. EEZ.

The PRESIDING OFFICER. The Chair informs the Senator from Alaska technically the amount of time he had allocated under the order has expired. There is 5 minutes and 57 seconds remaining on the other side.

Mr. STEVENS. Mr. President, it is my understandng it was to be equally divided. There is no Member on the other side wishing to speak on it. They have cosponsored it, and we are happy to have their support. If it is our prerogative to use that time, and I believe it is, I hope my colleague from Alaska could use the remainder of the time.

The PRESIDING OFFICER. The Chair would interpret it as such, and under those conditions recognize the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I would like to commend Senator STEVENS for the resolution being considered today. It is clearly time to face up to the realities associated with unregulated fishing in the Bering Sea.

The senior Senator, in moving this legislative action, proposes immediate action with the Soviet Union to close the so-called Doughnut Hole by bilateral agreement.

I have submitted a similar resolution. It slightly differs from that of my senior colleague with regard to the manner in which action is to be initiated. Specifically, my resolution suggests a multilateral effort with the other nations involved, under a strict time deadline calling for agreement prior to June of this year.

If the affected nations did not agree to taking corrective action with regard to the closure of the Doughnut Hole, then we would initiate bilateral action between the United States and the Soviet Union.

The resolution is a sense of the Senate resolution. It also has the sponsorship of the senior Senator from Washington, Senator EVANS, and I want to thank him for his willingness to work with me on this important matter.

Mr. President, I would like the entire text of my resolution printed in the RECORD at this time.

S. RES. 397

Whereas the Bering Sea contains fisheries resources considered to represent the single largest and most productive concentration of mixed species in the world;

Whereas the perimeter of the Bering Sea consists entirely of waters within the exclusive economic zones of either the United States or the Soviet Union, wherein fisheries harvests are regulated to provide for appropriate levels of fishing consistent with good conservation practices;

Whereas the central Bering Sea contains an area of international waters generally known as the "Doughnut Hole," which is subject to unregulated and largely unmonitored fishing by a variety of nations;

Whereas the precise extent and composition of the resources of the Doughnut Hole are unknown, but are believed by most scientists to include salmon, herring and Alaska pollock, and other species either originating in or closely linked to populations observed within the exclusive economic zones of the United States or the Soviet Union;

Whereas the only species historically fished in the Doughnut Hole are salmon, which are anadromous species solely under the jurisdiction of their country of origin;

Whereas harvests for Alaska pollock were only recently established but have increased dramatically over a very short period of time, from approximately 15,000 metric tons in 1980 to approximately one million metric tons in 1986;

Whereas the types of fishing gear in use in the Doughnut Hole take a variety of species in addition to those targeted by the fishing vessel;

Whereas fishing activity in the Doughnut Hole may affect stocks under the jurisdiction and management of the United States or the Soviet Union, or both;

Whereas discussions between the United States and the Soviet Union are being initiated for the purpose of conferring on mutual concerns involving fisheries in the Doughnut Hole;

Whereas the continuation of unregulated fishing in the Doughnut Hole may pose a serious threat to the stability of the fishery resources of the Bering Sea, and could cause a disastrous decline in globally important fish populations;

Whereas there is evidence that the Doughnut Hole is being used as a staging area and refuge for vessels fishing in defiance of United States law and international principles on stocks within the United States exclusive economic zone;

Whereas principles of international law obligate fishing nations to cooperate with coastal nations on conservation measures undertaken to protect the rights of coastal nations with regard to stocks which may be affected by fishing activities in international waters;

Whereas nations having fishing fleets operating in the Doughnut Hole have repeatedly failed to respond to requests for accurate and complete data on fishing effort and harvest levels for both targeted and incidentally caught species, and other information critical to the conservation of the fishery resources of the Bering Sea;

Whereas these fishing nations have failed to implement enforcement measures adequate to ensure that vessels operated by their nationals are in compliance with international fishery agreements with those nations;

Whereas there is a need to develop effective fishery research, management, and enforcement measures to guide and regulate fisheries in the Doughnut Hole;

Whereas action must immediately be taken to prevent unregulated fishing activity from jeopardizing the continued health of Bering Sea fishery resources in the absence of such measures: Now, therefore, be it

Resolved, it is the sense of the Senate that: (1) unregulated fisheries in the international waters of the Bering Sea should be halted pending the completion of a comprehensive international agreement providing for appropriate and necessary fisheries research, management and enforcement efforts;

(2) the President should seek the immediate consent of all nations having fishing fleets operating in the Bering Sea to—

(a) cease all fisheries in the international waters of the Bering Sea beginning on June 1, 1988, and extending until such time as a comprehensive agreement has been reached among the interested coastal and fishing nations;

(b) allow any nation observing the moratorium to enforce the moratorium with respect to fishing vessels operating under its own flag or the flag of any other nation;

(3) it is appropriate to proceed with scheduled discussions with the Soviet Union on the Doughnut Hole issue in consideration of mutual concerns for the welfare of continental shelf and anadromous resources affected by fisheries occurring in the international waters of the Bering Sea;

(4) in the event any nation having a fishing fleet operating in the Bering Sea fails to agree to the conditions set out under Sec. 2 (a) and (b) of this resolution, the President should then seek the concurrence of the Soviet Union to a bilateral agreement providing for—

(a) the declaration of an immediate moratorium on all fishing in the international waters of the Bering Sea until such time as agreement has been reached among interested coastal and fishing nations on research, management and enforcement regimes sufficient to ensure the continued well-being and productivity of Bering Sea resources;

(b) such joint and separate measures as may be necessary to ensure the effectiveness of the agreement in the event fishing vessels of any nation are found to be fishing in the international waters of the Bering Sea after the bilateral agreement becomes effective; and

(c) recognition that such action is undertaken solely for the purpose of conservation of the resources of the Bering Sea, and has no effect on any other issue regarding the rights of nations on the high seas;

(5) immediately upon the cessation of fishing in the international waters of the Bering Sea under Sec. (2) or (4) of this resolution, the Secretary of State should request interested nations to participate in multilateral negotiations for the purpose of developing an agreement providing for research, management and enforcement measures necessary to allow fisheries in those waters to resume in a manner consistent with the conservation and continued productivity of the affected fishery and other resources;

(6) the Secretary of State, in cooperation with the heads of other concerned agencies of the United States, should develop and present to Congress no later than June 1, 1988, a plan providing for effective fisheries enforcement in the Bering Sea, the elements of which may include, but are not limited to—

(a) port-call check-in and check-out requirements for all foreign vessels entering the U.S. exclusive economic zone for any fishery-related purpose;

(b) bonding requirements for nations and/or companies with fishery vessels operating in the Bering Sea;

(c) transponder requirements for vessels entering the U.S. exclusive economic zone for any fishery related purpose;

(d) accelerated deployment of advanced vessel detection systems such as long-range surface-search radars.

Mr. MURKOWSKI. Mr. President, I thank the Chair, and I thank my senior colleague for his willingness in accommodating me. I thank the majority side as well.

Mr. President, we are facing the possibility of a disaster of global proportions in the Bering Sea.

The Bering Sea contains the world's largest and most productive concentration of species used for human food, but at present fisheries in the international waters of the Bering Sea are exploiting these resources in a completely uncontrolled fashion. Pollock harvests from this area, for example, have gone from just 15,000 metric tons in 1980, to approximately 1 million metric tons in 1986. A collapse of these resources due to overfishing would be a disaster of global proportions.

I applaud the efforts of my colleague, Senator STEVENS, and commend the Members of this body for the swift passage today of a resolution condemning these uncontrolled fisheries. Fisheries in the international waters of the Bering Sea must be halted immediately, and remain halted until the successful conclusion of a comprehensive fisheries agreement among interested nations. I want all to know, Mr. President, that we are in complete agreement on that point.

I am concerned, however, about the reaction of our own State Department may have to a call to move directly into bilateral negotiations with the Soviet Union to declare and enforce a moratorium. It is my belief that it is preferable to see if a multilateral approach to a closure is possible, and if not, to seek a bilateral at that time.

For that reason, I am offering a second resolution which presents an alternative, but equally strong approach. The main difference is procedural, in that the first step taken would be a call for an immediate multilateral agreement on closure and enforcement. If other nations did not agree to this appeal to reason within a short time, we would take the necessary steps.

My resolution sets forth a three-step procedure.

First, we should call upon all nations to establish and observe a fishing closure, and to agree that any nation observing the closure may enforce it with respect to the vessels of any other nation. It is critical to the continued welfare of the fishery resources of the Bering Sea that such a closure be in place quickly, and for that reason we should also assert that agreement on these points must be reached within a specific period of time. The dealine contained in this resolution is June 1, 1988, which provides ample time for the nations concerned to make this simple yes or no decision.

Second, in the event any nation fails to agree to these points, we should seek a bilateral agreement with the Soviet Union declaring a fisheries moratorium in these waters and establishing procedures whereby the moratorium may be enforced.

Third, after a closure is in effect, we should seek a comprehensive multilateral agreement among the United States and nations with vessels which now fish in these waters. This final step would establish the specific fisheries research, management, and enforcement measures necessary to allow the interested nations to resume fishing under controlled conditions consistent with principles of resource conservation and the rights of concerned nations.

This approach has been carefully crafted to recognize the obligations of all concerned nations to participate in decisions made so that fisheries in international waters will be conducted in a responsible manner, while at the same time maintaining the strength of purpose necessary to resolve the situation we face today.

Should there be any hesitation on the part of the administration to move forward as Senator STEVENS has suggested, this approach offers a reasonable and acceptable solution, and I urge my colleagues' support for it.

Mr. ADAMS. Mr. President, I would like to say a few words about the resolution being offered by my good friend from Alaska, Senator STEVENS. Just last week, at my request, the Commerce Committee held hearings on the Doughnut Hole issue. Those hearings confirmed what many of us already knew: Our fishing resources in the Bering Sea are in jeopardy. The hearings also demonstrated just how complicated it will be to fashion a practical and effective remedy which realistically addresses the problems we face.

The resolution now before us puts the Senate on record as favoring negotiations with the Soviet Union on a bilateral agreement establishing a moratorium on fishing in the Doughnut, to be followed by initiation of multilateral negotiations on an international fisheries management regime for the Doughnut.

I support this resolution as a statement by the U.S. Senate that something must be done about this situation. While I support this resolution as a moral mandate, as a call to action, I believe that the hearing record demonstrates that there are some real problems with this plan in terms of its consistency with existing international law. I am, therefore, introducing later on today an alternative resolution which I believe presents the administration with actions that can be realistically and pragmatically carried out in the immediate future. I hope to work with my colleagues in an effort to develop additional solutions to this pressing problem. In the meantime, I support this resolution as the symbolic statement it is rather than as a definitive statement of where we ought to be going.

Mr. MITCHELL. Mr. President, I wish to express reservations concerning Senate action on Senate Resolution 396, which would express the sense of the Senate concerning unregulated fisheries in international waters of the Bering Sea.

The resolution calls on the Secretary of State to initiate negotiations immediately with the Soviet Union to establish a moratorium on all fishing in the area known as the Doughnut Hole, lying beyond both United States and Soviet fisheries jurisdiction. It also calls for unspecified measures to be taken against all nations which do not abide by such a moratorium. All of this would occur prior to negotiation of a multilateral, international fisheries management agreement for the area.

I am troubled by implications of this resolution. It is open to debate whether the course of action it urges would represent a functional extension of United States and Soviet fisheries jurisdiction beyond 200 miles. There has been no careful consideration of its language by the Commerce Committee or the Foreign Relations Committee. The resolution was introduced on March 18, 1988, only 3 days ago, before the weekend, and it has come directly to the full Senate for a vote.

I am not unsympathetic to the interests of Alaskan fishermen which are reflected in this resolution. However, I am concerned about setting any precedent relative to fisheries jurisdiction, which might adversely affect American interests in other regions, such as New England. I am very much troubled by the lack of consideration given to the broader implications of this resolution.

I cannot believe that the Senate would take a position on a specific issue, such as the Bering Sea, which would set an adverse precedent relative to broader United States interests. Therefore, I strongly believe that this resolution should be construed only narrowly. It should not be interpreted as establishing any new precedent, nor as urging any action which conflicts with well-established principles of international law.

Mr. STEVENS. Mr. President, we yield back the remainder of the time.

The PRESIDING OFFICER. All time have been yielded back, the question is on the resolution. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON: I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Arkansas [Mr. BUMPERS], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Massachusetts [Mr. KERRY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Michigan [Mr. RIEGLE], the Senator from North Carolina [Mr. SANFORD], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN], is absent because of illness.

Mr. SIMPSON: I announce that the Senator from Missouri [Mr. BOND], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Nebraska [Mr. KARNES], the Senator from Indiana [Mr. LUGAR], the Senator from Arizona [Mr. MCCAIN], the Senator from Virginia [Mr. TRIBLE], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. DURENBERGER] and the Senator from California [Mr. WILSON] would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 78, nays 0, as follows:

[Rollcall Vote No. 64 Leg.]

YEAS—78

Adams
Armstrong
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Bradley
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Domenici
Evans
Exon
Ford
Fowler
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Kassebaum
Kasten
Kennedy
Leahy
Levin
Matsunaga
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Wallop
Warner
Weicker
Wirth

NOT VOTING—22

Biden
Bond
Breaux
Bumpers
Dodd
Dole
Durenberger
Garn
Gore
Humphrey
Inouye
Johnston
Karnes
Kerry
Lautenberg
Lugar
McCain
Riegle
Sanford
Stennis
Trible
Wilson

So the resolution (S. Res. 396) was agreed to, as follows:

S. RES. 396

Whereas, the fishery resources of the Bering Sea constitute one of the largest and most productive mixed stock fishery resources in the world;

Whereas, the international waters of the Bering Sea, known as the "Hole in the Doughnut" or the "Doughnut," are entirely surrounded by the Exclusive Economic Zones of the United States and the Soviet Union;

Whereas, historically, fishing within the "Doughnut" has been limited to the high seas Japanese mothership salmon fleet, which is scheduled to be phased out by 1994;

Whereas, in recent years, there has been a massive increase in the level of fishing activity in the "Doughnut," from a reported level of fifteen thousand metric tons of pollock harvested in 1980 to one million metric tons of pollock harvested in 1986;

Whereas, photographic evidence obtained by the U.S. Coast Guard and American citizens has documented that vessels of foreign nations are using the "Doughnut" areas as a staging ground for raids into the U.S. EEZ for the purpose of illegally fishing U.S. stocks;

Whereas, the fishery stocks managed by the United States and the Soviet Union within their respective EEZ's are believed to be interrelated with those in the "Doughnut";

Whereas, continuation of unregulated fishing in and around the "Doughnut" could precipitate a collapse of the Bering Sea fishery stocks, threatening one of the world's largest renewable food resources;

Whereas, nations currently operating high seas fishing fleets have failed both to institute effective enforcement measures to ensure compliance with existing international conservation regimes and to provide accurate data concerning harvest levels, catch composition, and location of fishing effort in the Bering Sea;

Whereas, immediate action to protect Bering Sea fishery resources is needed, and the lack of cooperation and enforcement effort by high seas fishing nations under existing agreements make negotiation of an effective multilateral fishery management regime impossible in the near future; and

Whereas, the United States and the Soviet Union will presently discuss the problem of unregulated fishing in the "Doughnut," and the world's fishing nations have imposed moratoriums in the past to protect harvestable resources until such time as sufficient scientific evidence exists upon which to base a sound management regime: Now, therefore, be it

Resolved, It is the sense of the Senate that—

(1) the Secretary of State should—

(A) immediately initiate negotiations with the Soviet Union for the purpose of concluding a bilateral agreement that—

(i) establishes a moratorium on all fishing in the "Doughnut,"

(ii) calls upon all fishing nations to observe such a moratorium,

(iii) sets forth the measures that will be taken by the United States and the Soviet Union against other nations that do not abide by such a moratorium, and

(iv) ensures such a moratorium will remain in effect until such time as the United States and the Soviet Union have entered into an agreement with a majority of other interested nations for the conservation and management of fishery resources in the "Doughnut";

(B) following the establishment of the moratorium, initiate negotiations for the purpose of concluding a multilateral agreement that—

(i) establishes an international fishery management regime for the "Doughnut";

(ii) provides for the collection and use of sufficiently reliable scientific information on the nature, origin, migratory patterns, life cycle, composition, abundance of fish stocks in the "Doughnut," and any other information which is needed to ensure effective conservation of Bering Sea fishery resources;

(iii) protects the long term viability of the fishery resources of the entire Bering Sea; and

(C) report to the Committee on Commerce, Science, and Transportation the results of the interagency task force investigation into enforcement options for fishery management in the Bering Sea; and

(2) both agreements negotiated by the Secretary should include language that clearly recognizes that the agreements were executed solely for the purpose of fishery conservation and in no way impose any unlawful restrictions on the internationally recognized rights and freedoms of vessel transit.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, there is a concurrent resolution on the calendar to express the sense of the Congress on the proposed revisions of the United States agreement for nuclear cooperation with Japan.

Mr. President, my attention has been called to the joint resolution which was introduced by the two leaders, and that resolution is on the calendar. Under the built-in time agreement, any Senator may call up that resolution at any time. And there is a time limitation of 10 hours on the resolution. That time can be reduced by a nondebatable motion. I had indicated that I would probably call this up today because otherwise any Senator may do so, as I already indicated, at any time.

In order to maintain the control of the program as best I can, I intend to go to that resolution at this time so that it will be disposed of, and will not be sitting on the calendar as a possible candidate for a motion by another Senator at another time.

Mr. McCLURE. Would the distinguished majority leader yield?

Mr. BYRD. Yes. I am happy to yield.

Mr. McCLURE. Of course, as the Senator has indicated, those items on the calendar can be brought up by any Senator at any time but customarily they are not brought up without the support of the leadership. Is that not correct?

Mr. BYRD. Customarily, they are not. This is one of those expedited procedure items. Senators are being treated to a diet of these more and more these days. I hope that the Senate will not avail itself of this type of approach too often, but it is becoming the approach all too often.

Mr. McCLURE. Would the Senator yield?

Mr. BYRD. Yes, I would be happy to yield.

Mr. McCLURE. The only reason that I mention that is I do not want to pass up noting that indeed if the leader were opposed to it being brought up it either would not be brought up, or the majority leader is inviting that other items on the calendar in similar position would similarly be brought up upon the motion of any individual Senator which many in this body may desire. But I suspect the leadership does not.

Mr. BYRD. Yes. The problem with this item is that unlike other calendar items—which if motioned up by any Senator would in all likelihood except in some very narrow circumstances be subject to debate—if called up would be subject to unlimited debate. This item is not subject to unlimited debate. It is a highly privileged motion. I just thought we might as well dispose of this possibility today.

Mr. HATCH. Would the Senator yield?

Mr. BYRD. Yes. I would be happy to yield.

Mr. HATCH. As I understand the pending business, if this does not displace it—and I have no objection to it displacing it—it is S. 79; is that correct?

(Mr. SHELBY assumed the Chair.)

Mr. BYRD. That is the unfinished business.

Mr. HATCH. Can the Senator give us some idea when we will be on that bill, so that those of us who have to manage it can come at the appropriate time?

Mr. BYRD. The Senator has a good question. Inasmuch as he is managing the bill and is having some physical difficulties, I appreciate his question all the more.

I do not know how much time would be taken for debate on the proposed agreement.

Mr. HATCH. I have one more question of the distinguished majority leader, and I notice that the distinguished Senator from Ohio has a question.

Is the Senator going to file cloture on S. 79 today? If he is, that is fine. Does he intend to file cloture on S. 79 today?

Mr. BYRD. I did not file it on Friday because it was laid down that day. I indicated to the distinguished acting Republican leader, Mr. SIMPSON, that I would not file it that day. I could file it today; I might file it today. I have not really decided.

Mr. McCLURE. Mr. President, will the Senator yield on that point?

Mr. BYRD. I yield.

Mr. McCLURE. There are a growing number of people who are concerned about the practice of filing cloture on a bill even before the debate has barely started, because, for many of us, that becomes a germaneness question, a means to require germaneness, rather than it having any relevance to the question of whether or not there will be any attempt to forestall the consideration of the bill as a result of extended debate.

I would hope that the distinguished majority leader would not file cloture on a matter that nobody is threatening to filibuster, when the debate has merely started.

Mr. BYRD. One of the objectives, as the distinguished Senator has pointed out, of cloture is to eliminate nongermane amendments. It seems to me that that is a fair objective at any time, particularly in a situation where we do not have too much time before the next break. If we could, I would like for the Senate to dispose of that high-risk bill and get on to some other matters before the break.

I have to say, in fairness to the Senators who have inquired, that it is my present intention to file a cloture motion on that measure today.

Mr. GLENN. Mr. President, will the majority leader yield for a question?

Mr. BYRD. I have to say that the primary objective lies in the hope that cloture could be invoked, so as to eliminate nongermane amendments. That was one of the legitimate purposes of cloture, and that was one of the legitimate hopes of those of us who are attempting to move the legislation along.

Mr. HATCH. The Senator has that right, and I have no objection. I just want to know if he is going to do that.

Mr. McCLURE. Certainly, the majority leader or any other Member of the Senate has a right to file a cloture motion on any matter pending before the Senate, and I do not question that right; but I certainly do question whether or not cloture is intended as one of its objectives to apply the germaneness rule. It certainly has that effect. But, as one Member of the Senate, I do not believe that is its objective. Its objective is to be applied when there is a threat on the part of one or several in the Senate to unduly delay the consideration of a piece of legislation and where, in effect, it is thwarting the will of the majority of the Senate who wish to get on with the subject matter, and it is to cut off that delay. It is a very unusual practice in this body, which distinguishes this body of unlimited debate, to cut off debate; and it is usually applied only in unusual circumstances. I do not believe it has ever been used as a matter of practice in order to establish a germaneness requirement.

Mr. BYRD. Oh, yes. I have seen our former colleague Russell Long offer cloture motions for that very purpose, and I have offered them, myself, for that purpose.

Mr. McCLURE. I say to the distinguished majority leader that it may well be done for that purpose, but my personal view is that it is an inappropriate use of the rule; and I, for one, would hope that the majority of the Senate would resist that.

Mr. BYRD. I think Senator Long, if I am wrong in my recollection, when he had a tax bill up before the Senate and wanted to keep it from becoming a Christmas tree bill—or it may have been some other bill—would offer a cloture motion, hoping to get cloture so as to rule out nongermane amendments.

Mr. KENNEDY. Mr. President, will the Senator yield for a question?

Mr. BYRD. I yield.

Mr. KENNEDY. I indicate to the majority leader, as one who is a cosponsor with my friend from Ohio, that it has been quite clear to those of us who are members of the committee that every effort was going to be made, both from the procedural point of view and the amendment point of view, to either delay this or to make sure this legislation is not passed. It is not any real question to those of us on the committee who have been a part of the markup process. I do not want to go into the motivations of those who have a different view of this legislation.

The leader should know that there have been those suggestions, that this would be passed over and the last dead body of the members of that committee.

So it is no real mystery. I think we might as well put this on table now, as we begin the discussion.

I would be glad to see that we consider some of these amendments before we get to the filing of cloture. I know that is the intention of the floor manager, the Senator from Ohio. I do not think we should be under any illusions. This is a very important piece of legislation, and it is going to be a very hard-fought battle.

So, whatever the reasons are for the action, I know that the majority leader wants to, in a timely fashion, bring this to a resolution.

Whatever decision is made, I hope we may at least get some reasonable indication of when we might conclude this legislation or that we would follow the possibility of filing cloture sometime later today.

Mr. BYRD. I thank the distinguished Senator.

Mr. GLENN. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. GLENN. I believe the majority leader was discussing, also, whether to bring up the Japan nuclear agreement.

Mr. BYRD. Yes.

Mr. GLENN. I was not aware that it was going to come up this afternoon. I have a full schedule of meetings this afternoon with Pentagon officials in my office, and it is important.

I probably have done as much work in that area as anyone else in the Senate, and I hope it might be put off until a later time. Other people can discuss it. I had planned to be part of that discussion when it came up.

If the majority leader decides to bring it up, so be it. I hope it might be convenient to leave it for a later time, if possible.

Mr. BYRD. I thank the distinguished Senator. I certainly do not want to inconvenience the Senator if I can avoid it.

As I indicated earlier, this is one of those items that comes along from time to time under an expedited procedure mode. Any Senator, at any time, can move to take up this matter. It is highly privileged, and the Senate would have to go to it unless it voted by a majority against the motion. Once we are on it, there is a built-in time limitation of 10 hours, which can be reduced by a nondebatable motion. Rather than leaving something on the calendar like that, that could be called up by any Senator at a time that would prove to be mischievous insofar as the joint leadership is concerned or even the leadership on this side is concerned, I do not think I want to leave the matter in that kind of a status.

Mr. GLENN. I understand that completely. I do not want to interfere with the smooth working of the Senate or anything. I believe this is the one, though, where we have until April 23 to complete action on it before our mandate or our time period in the Senate runs out. I believe this is the one. So it is not something that is going to get beyond the Senate's action in the next few days.

Mr. BYRD. That is true, but if any Senator comes on this floor this afternoon or tomorrow or the next day and decides, regardless of what the majority leader has planned for the day, he is going to throw a monkey wrench into the works, there is not a thing the majority leader can do except to move to table his motion if he moves to proceed to that measure. I think it is the better part, if not of valor, certainly the better part of wisdom for the majority leader to control that situation himself.

Mr. SIMPSON. Mr. President, will the majority leader yield?

Mr. BYRD. I am happy to yield.

Mr. SIMPSON. In connection with what the Senator from Ohio is asking and the majority leader has expressed as well, the fact that anyone could bring that up, but it also has a curious boilerplate in it which I think all of us should be wary of on both sides of the aisle in the future. It says there can be a nondebatable motion to reduce the time. So you may have 10 people on both sides of the aisle who are really active in that and they will effectively be closed off by 80 or 90 who want to get on with the business and have no interest in the measure. I think that is even worse than anything else that has been discussed at this point, and we are doing more and more of that. It is called just expediting language or locking things in. I do not know where it comes from. It comes from apparently the 1978 Nuclear Policy Act, but it is boilerplate. That could be destructive of our work, not destructive of the minority, not the partisan minority, but the position of the minority on that measure, because I know people on both sides of the aisle are very interested in this. But I think we best watch that very carefully, too, and since that is in there, if it did come up things could be dispatched rather swiftly, even if it did come up an appropriate time but as the leader says mischievous time.

So I just caution our colleagues on that, and I wanted to share that with my colleagues.

Mr. BYRD. I thank the distinguished Republican leader.

Mr. QUAYLE. Mr. President, will the majority leader yield for a question?

Mr. BYRD. I am happy to yield.

Mr. QUAYLE. It is my understanding that the majority leader has announced his intention to file cloture for the reason to deflect potential nongermane amendments to the high-risk notification bill; is that correct?

Mr. BYRD. That would certainly be one of my objectives. That is one of them.

Mr. QUAYLE. Not the sole objective?

Mr. BYRD. I do not know. I have not really thought about it that much. I will try to determine what my sole objective is.

Mr. QUAYLE. I guess what I am trying to figure out is if we are trying to use cloture to invoke a nongermaneness situation, as he cited I think former Senator Russell Long. It is somewhat my understanding that in that kind of situation that in fact the post-cloture time restrictions were removed and therefore we did adopt a germaneness rule by cloture, but we did not have any time limitations on postcloture.

Would the majority leader be interested in that kind of a situation to have no time limit on a postclosure situation if his objective is to get a nongermane situation for this bill?

Mr. BYRD. No, I do not think so.

Mr. QUAYLE. So it is not just germaneness. Germaneness is one of the things. It is actually germaneness and to cut off debate.

Mr. BYRD. That is one of the important objectives that is achieved when cloture is invoked.

Mr. QUAYLE. I would just add to what the Senator from Idaho I think said, that we are getting into a situation where we call up bills and file cloture right away before we even get into debate for the purpose of not only germaneness but also shutting off debate. I think it is a rather unusual precedent that in fact the Senate has gone along with in the past and I hope the Senate would want to think before it continues the precedent.

Mr. BYRD. There is no precedent.

Mr. QUAYLE. Practice and precedent. I think it is in fact, because we have in fact filed cloture. The polygraph bill is a good example. The Senator from Oklahoma brought it up, I believe, before we even got any debate. Cloture was filed.

Mr. BYRD. I would suggest that both of us study the precedents, and I have a feeling we will find that it is not something that is unusual, something that is unique to this leader or to the situation.

Mr. QUAYLE. At least in my viewpoint I think it is a rather unique situation we are getting into, the practice of filing cloture almost immediately when we bring legislation before the Senate. I think that is rather unique.

Mr. BYRD. I think the Senator will find it was done under the previous leadership of Mr. DOLE. I believe the Senator will find that happened. It is not something that is unique under Democratic leadership. And to me that makes no difference, whether it was done before or not. I know we are not setting a new precedent.

I would also say that I have not made it a practice of mine to follow to file cloture on the first day that the Senate has gone to a bill. I do not advocate that policy.

I promised the distinguished assistant Republican leader I would not file it on Friday, and he allowed me to go to it on that. I had to assure him I would not file cloture on Friday and I did not. I am still maintaining my options to file it today and probably will which does not mean it will not have to be filed the second time or third perhaps.

Mr. President, does any other Senator wish to speak?

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

Mr. BYRD. Mr. President, will the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 79) to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.

The Senate resumed consideration of the bill.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute for S. 79, a bill to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes:

Senators Bob Graham, Claiborne Pell, Edward M. Kennedy, Barbara A. Mikulski, Alan Cranston, Paul Sarbanes, Harry Reid, Tom Harkin, Spark Matsunaga, John Glenn, Tom Daschle, Wendell Ford, Patrick Leahy, Paul Simon, Howard Metzenbaum, and Timothy E. Wirth.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, at the moment, I can proceed to take up the joint resolution by Mr. BYRD and Mr. DOLE on the cooperation between the two governments of the United States and Japan. But at the same time, I do not want to eliminate the opportunity of some Senators who wish to debate the high-risk legislation to do so.

I ask unanimous consent that even though the Senate may be discussing Calendar Order No. 581, the joint resolution today, that I may be permitted to go to and from the unfinished business during the day, also.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. SIMPSON. Mr. President, reserving the right to object, and I may not, the unfinished business being then high-risk notification?

Mr. BYRD. Yes.

Mr. SIMPSON. In other words, that being the only unfinished business, I ask the majority leader, then he would be going to the Japan-United States agreement, and I would hope that if I might inquire and make part of that request or respectfully suggest the there be no agreement to limit the hours of debate within the Japan-United States trade agreement resolution. In other words, it has that boilerplate in it.

Mr. BYRD. Yes.

Mr. SIMPSON. And for the purpose of the calendar today, moving between that agreement and high risk to this Senator, and we can clear that with those on our side, does not seem inappropriate, but I think it would be inaproriate if a nondebatable motion were presented to cut the debate from the 10 hours down to a lower figure. I do not think that will be appropriate even though there is nothing I can do about that. But I share that in a spirit of comity.

Mr. BYRD. Well, I hope we could dispose of this Japanese-American disapproval resolution today. I do not anticipate that much debate on this resolution.

Mr. McCLURE. Reserving the right to object, and I do not intend to object, I just wanted to understand the import of the proposed unanimous consent agreement.

I understand, under the agreement, that if we moved away from debate on the United States-Japan agreement and entertained debate on S. 79 or with relation to S. 79 that the time consumed by the debate on S. 79 would not be charged to the time limit on the United States-Japan agreement.

Mr. BYRD. Yes, that was my intention.

The distinguished assistant Republican leader, though, has reminded me that with 10 hours on the joint resolution it could go over until tomorrow. I hope that we could complete action on that today. I do not believe that there is 10 hours of debate here in the Senate on that resolution. Consequently, I think I will withdraw my request.

Mr. EVANS. If the leader will yield, it seems to me that there may well not be extensive debate, but the United States-Japan agreement is a very complex agreement. I think there have been some misunderstandings about its consequences. It is something that ought not to be voted on by Members of this Senate without some substantial explanation, and I think that requires debate. I hope that there would not be too speedy a move toward a final vote before the Members of the Senate really have an opportunity to understand what, in this Senator's belief, at least, is a very complex and potentially far-reaching movement for us to make. If, in fact, a motion of disapproval is carried by the Senate it could have some very serious repercussions in terms of our relationships with Japan and how we carry out our own foreign policy. So I hope there would not be too speedy of a move toward a vote prior to the time we had that actual opportunity for a debate.

Mr. BYRD. Mr. President, the distinguished Senator makes a valid point and a cogent argument in support of his point. I will not make any hasty move to reduce the time, but I do think we ought to get on the resolution.

The Senate came in at 10:30 today and it is 3 hours later and I have had problems getting down to business today. I do not assign these problems to any particular Senator. There is nobody attempting to delay the situation. I think there is a situation right now, though, in which there is a hesitancy to go one way or the other.

I guess, Mr. President, I will just resolve that by moving that the Senate proceed to the consideration of Calendar Order No. 581. I assure the Senator that I am not going to make any hasty move and I assure the acting Republican leader that I will certainly not make any hasty move. As far as I am concerned, I hope we could dispose of this resolution by 6 or 7 o'clock today. I will not make any move in the meantime.

Mr. SIMPSON. Mr. President, will the majority leader yield?

Mr. BYRD. Yes.

Mr. SIMPSON. We have about four persons on this side of the aisle who, as Senator EVANS has indicated, feel very strongly about this issue. It has to do with basing rights, flight schedules, movement of cast nuclear energy, some very serious things which I think deserve a good, thorough debate. It may be the time will be yielded back, and I certainly think that is possible. But I would respectfully suggest that perhaps those who must carry the day with regard to the high-risk notification legislation might participate and join in the debate today and present us with the arguments on both sides, and I think we await that. That is what we do in the Senate.

The cloture motion has been filed and we will deal with that Wednesday—and we have business to do, this business with the 10 hours duration which I hope can be done perhaps sooner than that. But there is certainly no delay that is of a mischievous value; it is just very serious. Then we could be at our business on high risk, and I think we are all ready to do that.

So we remain in this minority ready to do business and are here for that purpose.

Mr. BYRD. Mr. President, I thank the assistant Republican leader. I can certainly expect no better cooperation than he has given. Have I made the motion yet?

The PRESIDING OFFICER. The Chair would inquire, has the majority leader made the motion?

DISAPPROVAL AGREEMENT FOR PEACEFUL USES OF NUCLEAR ENERGY BETWEEN THE UNITED STATES AND JAPAN

Mr. BYRD. Mr. President, I move that the Senate proceed to the consideration of Calendar Order No. 581.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. QUAYLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to determine the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion of the Senator from West Virginia to proceed to consideration of Senate Joint Resolution 241. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from California [Mr. BREAUX], the Senator from Arkansas [Mr. BUMPERS], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Massachusetts [Mr.

KERRY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Maryland [Ms. MIKULSKI], the Senator from Maine [Mr. MITCHELL], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting the Senator from Maryland [Ms. MIKULSKI] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Michigan [Mr. BOND], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Nebraska [Mr. KARNES], the Senator from Indiana [Mr. LUGAR], the Senator from Virginia [Mr. TRIBLE], and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER (Mr. FOWLER). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 41, nays 40, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—41

Adams
Baucus
Bentsen
Bingaman
Boren
Bradley
Burdick
Byrd
Chiles
Conrad
Cranston
Daschle
DeConcini
Dixon
Exon
Fowler
Graham
Harkin
Hatfield
Heflin
Hollings
Kennedy
Leahy
Levin
Matsunaga
Metzenbaum
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Warner
Weicker
Wirth

NAYS—40

Armstrong
Boschwitz
Chafee
Cochran
Cohen
D'Amato
Danforth
Domenici
Evans
Ford
Garn
Glenn
Gramm
Grassley
Hatch
Hecht
Heinz
Helms
Humphrey
Kassebaum
Kasten
McCain
McClure
McConnell
Melcher
Murkowski
Nickles
Packwood
Pressler
Quayle
Roth
Rudman
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Wallop

NOT VOTING—19

Biden
Bond
Breaux
Bumpers
Dodd
Dole
Durenberger
Gore
Inouye
Johnston
Karnes
Kerry
Lautenberg
Lugar
Mikulski
Mitchell
Stennis
Trible
Wilson

So the motion to proceed to the consideration of Senate Joint Resolution 241 was agreed to.

The PRESIDING OFFICER. The clerk will report the joint resolution.

The assistant clerk read as follows:

A joint resolution (S.J. Res. 241) to disapprove the proposed Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Peaceful Uses of Nuclear Energy, transmitted to the Congress by the President on November 9, 1987.

The Senate proceeded to the consideration of the joint resolution.

The PRESIDING OFFICER. Who yields time?

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island, MR. PELL.

Mr. PELL. Mr. President, how much time do I have?

The PRESIDING OFFICER. I advise the Senator that the majority leader has 5 hours under his control, and the Republican leader has 5 hours under his control.

Mr. PELL. I thank the Chair. Mr. President, I rise in opposition to the proposed United States-Japan nuclear cooperation agreement.

The PRESIDING OFFICER. The Senate will be in order. Who yields time to the Senator from Rhode Island?

Mr. BYRD. Mr. President, who has control of the time?

The PRESIDING OFFICER. The majority leader has the time

Mr. BYRD. Mr. President, I yield the time on this side to Mr. PELL.

Mr. CHAFEE addressed the Chair.

I wonder if I might ask a question of the majority leader quickly while he is here. I am infringing, I know. It will be brief.

The PRESIDING OFFICER. The majority leader has the time.

Mr. CHAFEE. If I might ask the majority leader, do I understand on the worker notification provision there has been a cloture petition filed?

Mr. BYRD. Yes.

Mr. CHAFEE. Do I further understand that by taking up this measure, that counts toward and this will consume time on the 2 days prior to the cloture petition being voted upon?

Mr. BYRD. The rule is operating as it is written. Yes.

Mr. CHAFEE. So therefore the time prior to the cloture petition obviously would be reduced.

Mr. BYRD. In accordance with the rule. Yes.

Mr. CHAFEE. I am not sure I understand the rationale for doing that. Does that take up time that might normally be used for amendments to be debated or even voted upon to the bill? I missed the explanation, I apologize, if the majority leader gave that earlier.

Mr. BYRD. There was some colloquy on this earlier. I explained at that time my reasons for proceeding in this way. It would be my intention to offer another cloture motion tomorrow. So if cloture is not invoked on Wednesday, the Senate will have an additional day and vote on Thursday on high risk.

Mr. CHAFEE. But if it is invoked then of course the time for debate on the issue will be reduced obviously or the time for what you might call extraneous nongermane amendments would obviously be gone.

Mr. BYRD. It would be reduced to that extent in accordance with the rule. Yes.

Mr. CHAFEE. The only time we would have would be the difference between the 10 hours on this measure and let us assume cloture were invoked.

Mr. BYRD. Yes. The Senator is correct.

Mr. CHAFEE. I see. I want to thank the majority leader. I thank the Chair.

Mr. BYRD. I thank the distinguished Senator.

Mr. CHAFEE. I want to thank my colleague from Rhode Island.

The PRESIDING OFFICER. The majority leader has yielded his time to the Senator from Rhode Island [Mr. PELL].

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I rise in opposition to the proposed United States-Japan nuclear cooperation agreement. The Senate Foreign Relations Committee has carefully reviewed the agreement and concludes that it is not consistent with U.S. law. On December 17, 1987, the committee voted 15 to 3—in other words 5 to 1—to return the agreement to the administration, and in January 1988 filed a report expressing its opposition to the present draft of the agreement.

Committee opposition was based on a number of factors. First, this agreement is a radical departure from U.S. policy dating to the administration of President Ford, who warned that "the accumulation of plutonium under national control, especially in separated form, is a primary proliferation risk." Second, it does not meet the nonproliferation requirements of section 123 of the Atomic Energy Act of 1954, as amended. The committee concerns in this area are clearly set forth in its letter of December 17. Third, the committee expressed its reservations about long-term advance consent to reprocess and use plutonium. This agreement provides for 30-year programmatic approval for the shipment and use of many tons of plutonium by Japan. It includes plants not yet built or even designed, and routes not yet specified. Fourth, the committee is concerned about the physical security and safety of plutonium shipments. The proposed agreement, which was opposed by former Secretary of Defense Caspar Weinberger, assumes an ability to predict and protect against terrorist activity 30 years from now, while the fact of the matter is that acts of international terrorism have increased 10-fold over the past 20 years.

This proposed agreement has prompted strong reservations both in the administration and the Congress. The Nuclear Regulatory Commission, the Department of Defense, legal experts here in the Congress, the House Foreign Affairs Committee and the Senate Foreign Relations Committee have all joined in expressing their concerns. I oppose the Agreement in its present form and urge my colleagues to do the same.

(The following proceedings occurred later:)

Mr. HELMS. Mr. President, may I inquire about this time situation?

The PRESIDING OFFICER. The Senator from Washington controls the time of the minority with ample time remaining.

The Senator from Washington has 4 hours and 20 minutes.

Mr. EVANS. Mr. President, the Senator from Washington's control of time, or the minority control is of time of those in opposition to the Presidential disapproval?

The PRESIDING OFFICER. The Chair stands corrected. The Senator from Washington stated it correctly.

Mr. EVANS. So the Senator from Rhode Island controls the time of those in favor of the motion of disapproval?

Mr. HELMS. I think that is correct.

The PRESIDING OFFICER. I say to the Senator from Washington that originally the time was controlled by the two leaders.

Mr. EVANS. I understand that.

The PRESIDING OFFICER. Or their designees. Without any further interpretation under the rule, the majority leader designated the Senator from Rhode Island to control his time and the acting minority leader designated the Senator from Washington to control his time.

Beyond that, the Chair will not seek to interpret the pros and cons.

The Senator from Washington has 4 hours and 20 minutes remaining and may yield to whomever he wishes.

Does the Senator from Washington yield time to the Senator from North Carolina?

Mr. EVANS. Well, I would not presume to know which side the Senator from North Carolina is on, but I would suggest it might be more appropriate for him to gain time from those who are in favor of the resolution of disapproval.

Mr. HELMS. Let me ask the Chair once more. The Senator from Washington controls the time for the supporters of the resolution of disapproval or is it the opposite?

Mr. EVANS. No. In opposition to the resolution of disapproval.

The PRESIDING OFFICER. The Chair will state it one more time. He thought he had stated it before, but will state it one more time.

The time under the rule is controlled by the leaders of the two parties. The majority leader controls 5 hours. The minority leader controls 5 hours.

That time has been given, under designation, to the Senator from Rhode Island on behalf of the majority leader; to the Senator from Washington on behalf of the minority leader. Beyond that: the rule saith not.

Mr. HELMS. Mr. President, I would say my English teacher in high school, Miss Annie Lee, was exactly right when she said, "Be wary of double negatives." Here we are talking about pro and con resolution of disapproval.

Would you hold just a moment?

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I think under the rules—it is a unique situation. Since I agree with Senator PELL, he would have to yield time to me because I share his view rather than that of the Senator from Washington.

Would the Senator yield me some time?

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I yield whatever time the Senator desires of the Senator from Rhode Island.

Mr. HELMS. I guarantee the distinguished chairman that it will not be long.

The PRESIDING OFFICER. The Senator from North Carolina [Mr. HELMS] is recognized.

Mr. HELMS. I thank the distinguished chairman of the Foreign Relations Committee and I thank the Chair.

Inasmuch as this resolution of disapproval came from the Foreign Relations Committee of which Senator PELL is chairman and of which I am ranking member, I ask unanimous consent that my statement appear in the RECORD following that of Senator PELL, earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. President, we have had a long and fruitful relationship with Japan. This relationship has been based on trust and mutual respect.

However, this agreement for nuclear cooperation between the United States and Japan is seriously flawed. How can the Japanese expect us to give them blanket prior approval for retransfer and reprocessing of plutonium for 30 years?

We have a duty to maintain some control over this highly perilous and important substance. There are several concerns that I must address.

First, this agreement is a radical departure from U.S. policy. In 1976, President Ford warned that "the accumulation of plutonium under national control, especially in separated form, is a primary proliferation risk." This is the basis of America's policy of requiring prior, case-by-case U.S. approval for the reprocessing or transfer of U.S.-origin nuclear material. This approach has allowed the United States to carefully review the security conditions for each such "subsequent arrangement." The Foreign Relations Committee believes that this process is vital to the national security of the United States.

The proposed agreement would break with this tradition. This agreement would permit Japan to transfer and reprocess United States-controlled spent fuel and to use the recovered plutonium for the next 30 years without requiring further United States approval. This "programmatic prior consent" encompasses transport casks not yet certified, shipping routes not yet identified, and nuclear facilities not yet even designed. The Nuclear Regulatory Commission [NRC] has estimated that 200 to 300 kilograms of plutonium—enough for roughly 50 nuclear weapons—could remain unaccounted for each year at Japan's planned reprocessing facilities. Furthermore, large discrepancies would occur at Japanese bulk handling facilities, according to the NRC. The risks of proliferation and terrorism posed by this agreement are as great as they are unpredictable.

Second, this agreement provides long-term advance consent or blanket authorization to reprocess and use plutonium. All other U.S. agreements for nuclear cooperation—with the exception of the current U.S.-Euratom agreement—require U.S. consent for subsequent use of U.S.-supplied nuclear materials and equipment or materials deriving therefrom. Specifically, spent fuel containing uranium enriched in the United States or from U.S.-supplied reactors cannot be reprocessed either abroad or within the country without authorization by the United States. Likewise, plutonium recovered from such spent fuel cannot be transferred without United States case-by-case permission. However, the proposed agreement with Japan contains a long-term approval that permits Japan to reprocess and transfer United States-controlled spent fuel and use the recovered plutonium for 30 years without any further United States approval.

It is against U.S. national security interests to take such a leap of faith.

Third, this agreement is inconsistent with U.S. law. On December 17, 1987, in a letter to the President, the Foreign Relations Committee stated that the proposed agreement does not meet the requirements of the Atomic Energy Act of 1954. The letter observes that "Section 123 of the act unqualifiedly requires that the United States retain prior approval rights in its agreements for cooperation over the transfer and reprocessing of nuclear material." The committee found that the 30-year prior approval was incompatible with this section. Under this agreement, the United States would give up its right to prior approval. This is contrary to the Atomic Energy Act.

I must point out that the Foreign Relations Committee's view is shared by others. The Department of Defense and the Nuclear Regulatory Commission have opposed the agreement in writing on national security grounds.

Furthermore, the General Accounting Office concluded that "the proposed agreement does not meet the requirements of the Atomic Energy Act."

Fourth, this agreement does not meet the requirements of "timely warning" as set forth in the Atomic Energy Act. The act requires that consideration must be given to whether the United States will receive warning of a diversion "well in advance of the time at which the non-nuclear-weapon state could transform the diverted material into a nuclear explosive device." The "timely warning" mechanism is supposed to be based on technical matters such as the effectiveness of safeguards and the ease of converting diverted material into a nuclear explosive device. It is not supposed to be political. By giving 30-year blanket approval, the administration replaces technical factors with political factors. We have no idea what the Japanese political situation will be in 30 years. The agreement presumes Japan will maintain its nonproliferation stance.

Fifth, there are concerns regarding the terms for suspending the agreement. While the proposed agreement could be suspended by the United States unilaterally, there is concern that the terms of this suspension right are such that it can never be exercised. Suspension of the agreement is to occur only "in the most extreme circumstances of exceptional concern from a nonproliferation or national security point of view." "Furthermore, the administration would have to consider the economic effects of such suspension." I agree with the Nuclear Regulatory Commission's statement that "Japan's economic issues or impacts should be subordinate to consideration of United States national security and nonproliferation issues."

Finally, Mr. President, Japan has a problem: international terrorists are taking advantage of the fact that Japan does not have an espionage law. Last month North Korean terrorists using forged Japanese passports placed a bomb on a civilian airliner and sent 115 people to their deaths. Without an espionage law, Japanese police are severely handicapped in their efforts to capture and control international terrorists.

Weapons grade plutonium in the hands of terrorists may be the ultimate horror. It is therefore incumbent upon us to ensure that they do not get their hands on such materials. The Foreign Relations Committee report, which I endorse, notes that the proposed agreement presents "a dangerous invitation to nuclear terrorism." The current agreement contains case-by-case authority for nuclear reprocessing and does not expire until the year 2003. Given the very real problems of North Korean terrorists operating from Japan, the current agreement should remain in force until Japanese authorities can show, through the passage of an espionage law, that Japan has some means of dealing effectively with spies and terrorists.

(Conclusion of later proceedings.)

Mr. PELL. I suggest the absence of a quorum and ask that the time be divided equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, under the time agreement the entire amount of time has been allocated to me in the capacity of acting minority leader. I now allocate the time to Senator EVANS of Washington for his distribution and disposition.

The PRESIDING OFFICER. The Senator has that right.

Who yields time?

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EVANS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EVANS. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator controls the time.

Mr. EVANS. Mr. President, let me begin this opening statement with a review of some of the activities which have gone on up to now in regard to this proposed United States-Japan nuclear energy agreement.

First, the agreement was submitted by the President of the United States to Congress on November 9, 1987. A hearing was not scheduled in the Foreign Relations Committee until the afternoon of December 15.

Furthermore, the full committee had less than 1 hour to consider and debate the provisions of the agreement during a markup session. A motion by the committee to approve sending a letter to the President disapproving the agreement is unusual in itself. Even more unusual and troublesome was the committee's decision to send an original concurrent resolution to the full Senate which had not been written, had not been placed on the agenda, and had not been reviewed by any member of the committee or staff.

This is an extremely important agreement that has been painstakingly negotiated with the Government of Japan for about 6 years. This is the most comprehensive agreement for nuclear cooperation with any foreign government that has been negotiated since Congress passed the Nuclear Non-Proliferation Act of 1978 containing more stringent requirements for safeguards, and for the rights of retransfer and reprocessing.

Ambassador Richard Kennedy, in his testimony before the committee, described in detail how the administration believes that this agreement conforms with the statutory requirements of the law. Unfortunately, his words fell upon deaf ears in the committee. Clearly, each of the consent rights and guarantees called for by section 123(a) are contained in the agreement, a fact which the committee should have recognized. The only point at issue is the manner in which these rights are carried out in the accompanying implementing agreement. The President's decision to offer advance, long-term consent to Japan for activities relating to the plutonium fuel economy has been the focus of much discussion over the past 6 years. I believe that the administration has made a solid, well-founded case for the basis in law of this proposal. The reasoning of the administration is contained in a reply to an inquiry from the General Accounting Office, dated December 3, 1985.

In brief, the arguments for advance, long-term consent are: First, the Atomic Energy Act expressly contemplates approvals long in advance of an activity; second, such approvals may be contained in an agreement for cooperation; third, three agreements for cooperation have already been concluded containing this feature, Norway, Finland, and Sweden; fourth, the specific approvals provided for in the agreement with Japan satisfy all applicable procedural and substantive requirements and will enjoy greater congressional review than if provided outside of the agreement; and fifth, the timely warning factor has been fully and properly considered in arriving at the judgment that the agreement will not create a significant increase in the risk of proliferation.

Mr. President, we do not live in the same world we lived in 15 or 20 years ago. We certainly do not live in the same world as in 1968, when the current agreement was signed.

Since that time, we have seen one nation after another move toward advanced techniques in the nuclear business, many of them deliberately working toward nuclear weapons status, others working to get a more efficient and second-generation development of civilian nuclear power.

Some of these nations have decided to move toward the conception and utilization of breeder reactors which require plutonium for fuel. Other nations, France, particularly, are now mixing plutonium from their reprocessing facilities with uranium and putting it back through the civilian fuel cycle.

Mr. President, our ability to unilaterally control what goes on simply is not the same as it was in 1968.

I am strongly of the opinion that this agreement will give us more, not less, control over what happens in Japan than if we disapprove this agreement, continue with the current one, and watch the Japanese simply seek out alternative ways of handling their own nuclear affairs.

Opponents have countered by claiming that current law requires "case-by-case" or "shipment-by-shipment" approval for all of the activities—reprocessing; retransfers; safeguards of facilities—contemplated by Japanese entities using plutonium or highly-enriched uranium. This is simply not true since there is no provision in current law that requires "case-by-case" consideration. What the law does require is that U.S. approval satisfy specific, substantive nonproliferation and national security standards in any agreement or subsequent arrangement with a foreign country. I believe the administration has amply demonstrated to the committee the manner in which it does satisfy these requirements and therefore the purpose of the 30-day period has been fulfilled.

The basic rationale of opponents to this agreement appears to be that they do not wish to see the soverign nation of Japan establish a large-scale, comprehensive nuclear fuel cycle with plutonium fuel recycled in fast breeder reactors. While I respect the advocacy of such a position within the United States, such a rationale for opposition to this agreement is certainly not a legal objection and is one that doesn't recognize the realities of energy policies in Japan, or for that matter, other countries as well.

We are not going to prevent Japan or France or many other nations from proceeding if they choose to do so into breeder reactors with all that that connotes. They have the technology, the capacity and have made national decisions to do so.

This agreement does, however, establish an overall framework, a sort of a box, if you will, within which the United States and Japan are obligated to cooperate on determining the proper safeguards and physical protection and security for the use of plutonium in Japan, recovered from United States-origin material. When these discussions began in 1982, the Japanese side understandably wanted greater predictability and certainty from the United States Government as Japan develops and builds the necessary facilities to close the "back-end" of its nuclear fuel cycle.

Mr. President, there is simply no question that the Japanese are developing and will construct all of the elements necessary to close that back end of their fuel cycle.

The United States side, recognizing Japan's ambitious nuclear program and its vital role in Japan's overall, long-range energy policy, wanted to enhance our ability to require enhanced safeguards on plutonium-handling facilities and stricter physical protection and security. The proposed agreement reasonably satisfies the goals of both parties.

The law requires the Arms Control and Disarmament Agency Director to review the proposed agreement's terms and conditions in light of the NNPA's enhanced requirements and submit an unclassified report to the Congress along with the President's submission of the agreement—House Document 100-128. Incidently, the submission of an unclassified nuclear proliferation assessment statement [NPAS] is not required under the 15-day period of review for "subsequent arrangements" governing the existing United States-Japan Cooperation Agreement.

What does all that mean, that technical language? Simply that disapproval of this agreement by Congress would mean that such assessments from ACDA, as well as mandatory congressional hearings and direct Presidential involvement, would not be required under current law in the future for such Japanese activity.

For instance, one should note that the Foreign Relations Committee has never formally objected to the annual extensions—originally, a 3-year determination following passage of NNPA in 1978—of the determination concerning the safeguard ability of the existing Tokai reprocessing plant.

In the conclusion of the ACDA assessment, submitted by Director Adelman to the President on October 1, 1987, he states:

> ACDA believes that the new agreement, including the long-term consent agreement, is in U.S. nonproliferation interests.

ACDA fully acknowledges that the proposed agreement for cooperation for Japan is "unprecedented in the nature and scope of the advance, long-term consents and approvals which it constrains." Yet "unprecedentedness" by itself does not provide sufficient grounds, in the view of ACDA, to recommend disapproval of the agreement to the President. It cites the following reasons which I think are important because they come from the agency charged with arms control and disarmament:

> First, the new agreement for cooperation contains the expanded controls required by the NNPA.
>
> Second, it involves a country that is a close ally of the United States and which has an advanced nuclear program and excellent nonproliferation credentials.
>
> Third, the agreement and implementing arrangement contains significant improvements—let me emphasise that—significant improvements in safeguards and physical protection measures.
>
> Fourth, the United States reserves the right to suspend the advance consent arrangement if circumstances develop which result in a risk to U.S. national security or nonproliferation interests.
>
> Finally, the entire agreement and implementing arrangement place U.S.-Japan nuclear relations on a solid and stable footing for the foreseeable future, which we believe will significantly strengthen the nonproliferation regime.

Their report goes on to conclude:

> 1. The safeguards and other control mechanisms and the peaceful use assurances contained in the proposed Agreement are adequate to ensure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose.
>
> 2. The proposed Agreement meets all the legal requirements of the Atomic Energy Act and the NNPA. (emphasis added)
>
> 3. Execution of the proposed Agreement would be compatible with the nonproliferation program, policy, and objectives of the United States.
>
> 4. It is recommended that the President determine that the performance of the proposed Agreement will promote, and will not constitute an unreasonable risk to, the common defense and security; and that the President approve and authorize the execution of the proposed Agreement. (Views of the Director of ACDA; pp. 255-6 of House Doc. 100-128).

All of those are from the Director of the Arms Control and Disarmament Agency.

The administration also carefully considered the question of "timely warning" of diversions of plutonium from civilian to military uses—in the proposed agreement. It concludes that the proposed agreement, along with the implementing agreement and subsequent arrangements, will not result in a significant increase in the risk of proliferation. The administration's approach is to rely on a broad range of factors, including political and attitudinal, as well as the usual "technical means." I believe the administration's approach is sensible and well-founded in law. It recognizes the peculiar and unusual problems of detecting in a timely fashion potential diversions, and attempts to deal comprehensively with the issue in this agreement. As Ambassador Kennedy stated in his testimony:

> We took into account a broad range of technical, political and economic factors. We considered the nature of the effort that would be required if Japan were to decide to develop a nuclear explosive device, together with the technical, industrial, material and human resources available to Japan were it

> to implement a diversion decision. We considered the indicators that might be expected to provide timely warning, including the application of IAEA safeguards, and the probability of changes in such indicators as Japan's adherence to the NPT—nonproliferation treaty, its status as a U.S. ally, its stable and democratic government, and the transparency of its nuclear program.

I might add that each of those elements does not exist in the nuclear programs of many other countries on Earth, including, as I said before, many of our friends and sometime allies.

> These factors all provide evidence that the United States would have timely warning as envisioned in section 131(b)(2) in the case of Japan . . . (pp. 18-19 of Kennedy testimony to Senate Foreign Relations Committee; December 15, 1987).

Certainly, if the world changes and Japan decides to renounce the NPT and its adherence to IAEA safeguards, the United States would have to reassess its position. That fact is self-evident. Throughout the 30-year duration of the agreement, the United States retains the unilateral right to suspend its consents embodied in the Implementing Agreement, pursuant to article 3 of the agreement. This article was included on the insistence of U.S. negotiators and adequately protects the nonproliferation interests of the United States should circumstances in Japan change sufficiently to warrant suspension. Opponents have asserted that the unilateral suspension right is excessively conditioned on "economic" and other mitigating factors. I suspect they have not carefully read article 3 of the implementing agreement. As ACDA states:

> ACDA believes that this unilateral suspension right is clear and unequivocal, thus ensuring that our supreme national interests are protected. (p. 245 of House Doc. 100-128).

I believe the 30-year duration of the agreement is in the long-term, nonproliferation interests of the United States and should be viewed as a substantial achievement for U.S. negotiators. The proposed agreement ensures that the United States will remain an important player in Japan's nuclear program for a long period of time. The alternative is to reject this proposed agreement and allow Japan to proceed on its own with decreasing United States participation and leverage. In other words, we could, if we adopted this resolution of disapproval, simply once again show that we know how to shoot overselves in the foot. It is absolutely clear that Japan intends to achieve an independent nuclear fuel cycle by the end of this century. The development of a commercial reprocessing facility, planned for Rokkasho in Aomori of northern Japan, is already underway. The operation of a commercial-size enrichment facility is scheduled to begin within a decade, a protoype facility has already been built and is operating in Ningyo-toge. Hence, Japan is already well on the road to establishing an independent fuel cycle within the next decade or two. It will no longer need to contract with authorities in Great Britain, France, and eventually perhaps the United States, for the majority of those services.

I believe the question is a very simple one: Do we wish to be an active, meaningful player in Japan's nuclear fuel program, or do we wish to withdraw from such participation? We must face reality and try to separate our views about the desirability of a plutonium fuel economy from U.S. obligations under the law.

We made a choice in this country to not move toward a breeder reactor and a plutonium fuel economy. That is a perfectly appropriate decision for the United States to make. It has not been made, however, by other nations—not by France, not by Japan, not by others. And we have little to say about those independent decisions.

We do have an opportunity, however, in this case, to play a continuing important role in making sure that that new breeder reactor concept in Japan is well guided, that our interests are well protected, and that nonproliferation does not become the kind of problem it likely will be in other nations that we do not control quite so easily.

I am inclined to support the former proposition and believe that the proposed agreement does indeed conform with the statutory requirements in the NNPA.

Later, Mr. President, I intend to review more carefully certain provisions of the agreement, its implementing agreement, as well as the many minutes and side letters in considering their effect on our broader national security interests. I think that is what Congress intended to do during this 60-day period. I do believe that the current agreement meets with the statutory requirements of law. In any case, the Senate, obviously, must fully consider such a joint resolution within the 90-day period which is now running.

Mr. President, I said that I would respond. I do not intend to now. I see that others are on the floor.

Some suggest that this is a radical departure from past practice. I think that we can clearly show it neither is a radical departure nor a withdrawal but rather a recognition of new circumstances which exist in 1988 that did not exist in 1968 when the current agreement was signed. And these new elements, together with the progress made in other nations, mean that we should sign an agreement that is clearly in our best interests in 1988.

Others will suggest that there are not enough safeguards. Some will bring up a GAO study. Others will talk about the Nuclear Regulatory Commission and its attitude. Others will refer to a letter from two members representing the Department of Defense. Others will talk about the role of Congress.

Mr. President, I intend to listen carefully to each of these arguments and believe that there are not only adequate but ample responses to each of them. And I would be happy to respond when the time is appropriate to each of these claims by those who would seek disapproval.

Mr. President, before I sit down, I would like to quote briefly from a letter by Myron Kratzer.

I ask unanimous consent that his entire letter be printed in the RECORD after my opening statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EVANS. Mr. President, Kratzer starts by saying he has participated in the development and implementation of U.S. nonproliferation policy for 20 years, most recently as Deputy Assistant Secretary of State for Nuclear Energy in the Ford administration. He says that he has followed the congressional consideration of the proposed new United States-Japan proliferation agreement with considerable interst. He also says that he was the former Atomic Energy Commission's assistant general manager for international activities and during that time he was the principal negotiator for the United States in the 1968 agreement.

He goes on to say that, while this agreement met or exceeded the statutory nonproliferation criteria in effect at that time, it lacked many of the safeguards and controls over sensitive materials and facilities which are incorporated in the new agreement.

He goes on to detail the differences between the two agreements, the current and the proposed, and does it, I think, precisely, concisely, and with the experience of one who has dealt in depth with negotiations with Japan and with the current agreement.

Let me just point out two or three of them, and then hope that all Members of this body will have the opportunity to read his record which will be in the RECORD.

He starts out by saying:

> The quantities of plutonium subject to U.S. consent rights under the current agreement are likely to be considerably smaller than under the new agreement. Under the current agreement, only nuclear material supplied by the United States is subject to our right of prior approval over reprocessing. Under the new agreement, nuclear fuel irradiated in any Japanese nuclear power plant containing major U.S.-manufactured components (currently numbering fourteen) is subject to this consent right, even if the fuel is not supplied by the United States.

This is a considerable broadening of our potential influence.

One of the other things that is important, he says:

> Under the new agreement, safeguards on nuclear materials and equipment supplied by the U.S. will continue as long as U.S.-origin nuclear material or facilities are present in Japan. The current agreement, which expires in 2003, has no such provision. (Safeguards might continue under the Nonproliferation Treaty, but the duration of any extension of this treaty after 1995 will be decided by majority vote of its parties, and is therefore uncertain).

We do not have the unilateral authority, then, to make that determination.

The new agreement, he goes on to say:

> The new agreement requires Japan to maintain tight physical security measures over U.S. supplied nuclear material and equipment. There is no physical security requirement in the current agreement.

I will not read any further from the letter of Mr. Kratzer. I will be prepared to, a little later on, go into a series of assertions and responses dealing with virtually every aspect of this agreement; and, as I say, ones which I believe will effectively respond to the major charges of the opponents, which I believe will be brought forward very shortly.

I yield the floor.

EXHIBIT 1

MYRON B. KRATZER,
Annapolis, MD, March 12, 1988.

Hon. DANIEL J. EVANS,
U.S. Senate, Washington, DC.

DEAR SENATOR EVANS: Having participated in the development and implementation of United States nonproliferation policy for some 20 years, most recently as Deputy Assistant Secretary of State for Nuclear Energy in the Ford Administration, I have followed the Congressional consideration of the proposed new United States-Japan nonproliferation agreement with considerable interest.

A key fact which has received very little notice in the debate is that the new agreement does not open new nuclear cooperation with Japan. Rather it establishes new nonproliferation standards for cooperation which has been in progress for many years under an agreement which was negotiated in 1968 and which does not expire until 2003. If the Congress rejects the new agreement, the 1968 agreement, based on much less strict nonproliferation standards, will remain in effect.

As the former Atomic Energy Commission's Assistant General Manager for International Activities, I was the principal U.S. negotiator of the 1968 agreement. While this agreement met or exceeded the statutory nonproliferation criteria in effect at that time, it lacks many of the safeguards and controls over sensitive materials and facilities incorporated in the new agreement. I am confident, therefore, that the Congress, once it recognizes that the consequence of rejecting the new agreement is to keep the present looser accord in force, will favor the new agreement.

The difference between the two agreements are too numerous to review in their entirety in this letter, but a few of the more important ones deserve mention:

The quantities of plutonium subject to U.S. consent rights under the current agreement are likely to be considerably smaller than under the new agreement. Under the current agreement, only nuclear material supplied by the United States is subject to our right of prior approval over reprocessing. Under the new agreement, nuclear fuel irradiated in any Japanese nuclear power plant containing major U.S.-manufactured components (currently numbering fourteen) is subject to this consent right, even if the fuel is not supplied by the United States.

The scope of the consent rights in the current agreement is far narrower than in the new agreement. Under the current agreement, the United States has an explicit right of prior approval only for reprocessing, and a limited right to approve storage of exess plutonium. The right to approve Japan's use of the recovered plutonium can at best be inferred from the right of reprocessing approval and there is no right of approval over Japan's enrichment of U.S. supplied uranium. Under the new agreement, the U.S. has explicit rights to approve reprocessing, the use of plutonium, the storage of all plutonium and highly enriched uranium, and the enrichment of U.S. uranium to weapons-level.

The criteria of the current agreement governing the U.S. right of approval over reprocessing in Japan are much narrower than the criteria governing the broad consent rights of the new agreement. Under the current agreement, we are obliged to grant approval for reprocessing in Japan if the reprocessing facility can be effectively safeguarded. Under the new agreement, the U.S. can withhold its approvals of plutonium recovery and use in Japan, or withdraw them if already granted, for a much wider range of reasons than at present, including significant change in Japan's dedication to nonproliferation, unlikely as that is, or in case of a threat to our national security.

Under the new agreement, safeguards on nuclear materials and equipment supplies by the U.S. will continue as long as U.S.-origin nuclear material or facilities are present in Japan. The current agreement, which expires in 2003, has no such provision. (Safeguards might continue under the Nonproliferation Treaty, but the duration of any extension of this treaty after 1995 will be decided by majority vote of its parties, and is therefore uncertain).

The new agreement requires Japan to maintain tight physical security measures over U.S. supplied nuclear material and equipment. There is no physical security requirement in the current agreement.

Japan, understandably, initially refused to replace the current agreement with one containing these and other new restrictions. To encourage it to do so, the U.S., beginning under the Carter Administration, proposed an approach which would give Japan reasonable assurance of U.S. consent to certain specified activities on a long-term basis, provided nonproliferation conditions acceptable to the U.S. are maintained. It is the inclusion of these assurances, commonly referred to as "programmatic approval," that is primarily responsible for the objections to the new agreement.

Critics argue that the programmatic approval feature makes the tougher standards of the new agreement ineffective, but this conclusion is based on misunderstanding both of the very limited prior consent provisions of the current agreement and of the programmatic approval feature of the new agreement. Although approvals under the current agreement have generally been granted in recent years on a case-by-case basis, there is no requirement to this effect in the agreement, and approvals extending for considerable periods of time have in fact been granted both by the previous and present administrations. Moreover, there is no provision in the current agreement for the revocation of approvals once given. In contrast, the programmatic approvals extended by the new agreement can be revoked unilaterally by the U.S. for a wide range of reasons, including the exact standard specified by the Nonproliferation Act: a significant increase in the risk of nuclear proliferation. It is no secret that U.S. insistence on the right to revoke the programmatic approvals was strongly resisted by Japan and accounted for much of the delay in negotiating the new agreement.

In short, under the current agreement, U.S. approvals are customarily granted on a case-by-case basis, with a strong presumption that they will be forthcoming, while under the new agreement, some U.S. approvals are extended on a long-term basis, with a broad right of unilateral revocation. This is not a distinction without a difference; it is intended to and does provide Japan, for good reasons, an improved assurance of the predictability of U.S. consent. But it is a difference in degree and not in kind and, as such, a dubious basis for an unprecedented rejection of an agreement of this type.

While the new agreement poses important issues, these do not include an increased risk of proliferation by Japan, or even Japanese access to plutonium. As even critics of this agreement acknowledge, Japan's commitment to nonproliferation, arising out of its wartime experience, is deep and abiding. It is not likely to be abandoned by anything short of the withdrawal or failure of our mutual security guarantees. Moreover, Japan already possesses substantial amounts of plutonium derived from non-U.S. sources which is outside of our control under either the current or the new agreement. This amount is increasing steadily, reaching an estimated 10,000 kilograms by 2000.

In the final analysis, the argument against approval of this agreement is that it sets a bad precedent for hypothetical agreements yet to be negotiated with other countries with less reliable nonproliferation credentials than Japan, but discrimination based on differing circumstances and our own national interest is the rule rather than the exception in foreign and national security policy. In keeping with this, our nuclear agreements have never been uniform, and the administration has stressed that the policy of programmatic approval is a limited one that will not be extended to other countries where it makes no sense. Even if this or a future administration were to attempt such an extension, the Congress has ample authority to reject any such agreement. To disapprove this agreement with Japan on the speculative basis that similar provisions might someday be extended to an inappropriate party will simply accelerate the process, already well advanced in Japan and elsewhere, of switching to sources of nuclear supply independent of the United States, as occurred when a previous attempt at uniformity was pursued in the late 1970's.

But the importance of the new agreement must be seen in a broader context than bilateral relations or even of overall nonproliferation policy. Rejection of the new agreement following five years of negotiation on a basis of which the Congress was informed at the outset will be viewed as a further example of U.S. unpredictability and unreliability. Such actions severely undermine U.S. credibility not only as a nuclear supplier and nonproliferation policy partner, but in other areas as well, including trade and our vital mutual security commitments. Their net effect is to reduce rather than enhance the effectiveness of our nonproliferation policies.

Sincerely,

Myron B. Kratzer.

The **PRESIDING OFFICER.** Who yields time?

Mr. **PELL.** I suggest the absence of a quorum, the time to be equally divided.

The **PRESIDING OFFICER.** Is there objection to the request?

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **GLENN.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

MR. GLENN. Mr. President, the distinguished floor manager of the bill had to leave. I will be acting floor manager until he returns. I yield myself such time as I may require.

Mr. President, Congress has now had 5 months to review the administration's proposals for revising our Nuclear Cooperation Agreement with Japan. This agreement does not expire until the year 2003. There is little reason to see why this whole thing came up at this time when it was working quite well on a case-by-case basis. It leaves us no choice here. The time has come for Congress to make its choice.

The question is, do we accept a seriously flawed agreement that has received strong bipartisan opposition in both Houses—I stress bipartisan opposition in both Houses—or do we return it to the Executive with instructions to bring it into conformity with U.S. laws?

I will have something to say about that later. I consulted with my good friend DANTE FASCELL in the House a few moments ago. They have a GAO study that they commissioned over there and which was being held for later release. But he has given us permission to use whatever information we need out of that report, which indicates that this agreement does not agree with U.S. laws. I will bring that up a little bit later.

My view is, however, we do not have a choice. We have heard the Executive's case for the agreement, and we have seen the unwillingness of the State Department to consider serious remedies to the problems that Congress has discovered. The time has come for Congress to reject this proposed agreement.

I hate to say that. I truly do, because I consider myself a good friend of Japan. I have been there many, many times. I have dealt with them on a number of different issues. Anything I say in this regard is not a slap at Japan now, but what we are talking about is a 30-year prior approval for shipping fuel out, plutonium back, plutonium shipments back and forth, in either direction. We have never done that with any other nation, not to that extent. We have 30-year agreements that cover more limited items but nothing that ever has said we are going to give a 30-year approval in advance.

That does not mean to say that I am suspicious of Japan or their motives. Nothing whatsoever should be construed as meaning that. I do not want to set a precedent that other nations, perhaps less reliable nations than Japan, are going to insist on the same thing or consider us unfriendly. I think the time has come to reject this agreement.

The House Foreign Affairs and Senate Foreign Relations Committees have demonstrated both their leadership and good judgment in scheduling a variety of hearings on this important subject. They have been held. These committees deserve a lot of credit for ganting this issue the time and attention that it so richly deserves.

In testimony before the Senate Foreign Relations Committee last December, I called this proposed agreement "perhaps the most significant nuclear cooperation agreement in history."

If anyone thinks I am exaggerating, consider the implications of the following, not just for our relations with Japan but for our global role in the international nuclear regime.

I already mentioned the first. It is a 30-year prior approval, a 30-year prior approval for their transfers, 30 years in advance. We have not done that with other nations; no other agreements permit that to the same extent this agreement does.

So that is the No. 1 item and, by far, the most important objection to this treaty.

Let us go to another one. The agreement will promote, and certainly at least permit and probably promote, massive international commerce in weapon-usable plutonium of U.S. origin well before international environmental and security controls can handle such traffic.

Another one: The agreement will relinquish the right of the executive branch, of Congress and the U.S. public to review the individual circumstances surrounding Japanese requests to make specific uses of weapon-usable nuclear materials of U.S. origin.

Another: In exchange for this unprecedented concession, we have failed to get Japan to acquire full-scope safeguards over its own nuclear exports, and the agreement would only encourage Japan to accelerate its pursuit of technologies, which would reduce imports of nuclear material components and services from the United States.

The agreement, if approved by Congress in its present flawed form, will create an international precedent that will be applied to the corrections in the Euratom Atomic Energy agreement, including some whose nonproliferation credentials are far less impressive than Japan's record has been, and Japan's record, I will add, has been excellent.

The agreement also attempts to legislate de facto amendments of our atomic energy laws, including dubious legal interpretations of the notions of timely warning, prior consent, prior approval. Such amendments would not stand a chance if introduced for a vote here on the floor of the U.S. Senate on their merits incorporated into this.

I urge all Members of Congress to reject these reinterpretations of laws that have served us well over the last decade. Congress does, after all, still make the laws.

I do not plan to take up my colleagues' time today with a point-by-point reiteration of all the arguments against this agreement. I have neither heard nor seen any information that seriously addresses the concerns I identified in my testimony of last December before the Senate Foreign Relations Committee.

I ask unanimous consent, Mr. President, to enter that statement into the RECORD at the end of my remarks.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 1.)

Mr. **GLENN.** Instead, I would like to move to another issue: The responses the executive branch has provided directly or indirectly to the outpouring of criticism, not just from me, not just my criticisms, but from the House Foreign Affairs Committee, from the Foreign Relations Committee of the Senate, the independent Nuclear Regulatory Commission, and even from Secretary of Defense Weinberger.

I have examined all these materials and I am saddened by the Executive's lack of seriousness about the scope and intensity of Congress' concerns with this draft agreement. I combed through this material, and I would like to identify some of the items I guess we would probably term red herring, things that we just flat disagree with and we think are not true.

For instance, number one of these red herrings: The unilateral U.S. right to suspend its concept. They make considerable out of this. They have said we have that right to suspend if we see something going on that we do not like. Defenders of the agreement cite this so-called unilateral right to suspend any consent given under the agreement of U.S. security interests, therefore, it is argued, are therefore preserved. But this is very misleading.

In fact, the agreement suspension provisions are so loaded down with conditional adjectives that it is anyone's guess whatever might or would genuinely trigger a suspension. It would have to be nothing short of a blatant breach of the whole nuclear nonproliferation treaty, and that is an event whose occurrence would terminate the agreement anyway.

These responses have taken the form of a letter from President Reagan summarily dismissing the formal objections of the House Foreign Affairs Committee and the Senate Foreign Relations Committee. It also encompasses a friendly interagency legal assessment reaffirming the prevailing policy that the agreement is statutorily sufficient. It also has a so-called fact sheet purporting to dispell various misconceptions of the agreement; partial congressional access to selected classified Defense Department and NRC criticisms of the agreement, and, I might say, it is accompanied by rather feeble interagency rebuttal, and the usual number of "Dear Colleague" opinion editorials, and form letters, primarily from the nuclear industry.

Here is a sampling of the kind of limitations of the language that appear in our proposed rights to suspend terms of the agreement, if we wanted to suspend terms of it. We read such words as: "Exceptional cases." Another one: "The most extreme circumstances of exceptional concern," a requirement for decisions at the "highest levels" of government. And with a suspension taking place, "only to the minimum extent and for the minimum period of time necessary to deal in a manner acceptable to the parties with the exceptional case." Those are the words right out of the agreement itself.

How can you possibly interpret that in any way and still know when or if we would ever cut off this agreement and say that we reserve our right to stop and consider this thing on a case-by-case basis again?

But that is not all. No suspension shall take place prior to mutual government consultations considering whether the suspension is necessary, and the suspending party must "carefully consider the economic effects" of such a suspension and must seek, "to the maximum extent possible to avoid the disruption of international trade and fuel cycle operations." That is in the agreement. There is no parallel in the history of U.S. nuclear cooperation agreements that I am aware of for such a limitation on our right to suspend a consent for a foreign nuclear activity, especially with regard to activities involving ton quantities of nuclear weapons-usable material in a nonnuclear weapons state. Ton quantities of this plutonium, I am talking about, that will be transferred.

Do you know how much it takes to make a nuclear weapon with plutonium if you know what you are doing? Somewhere under 5 kilograms. So we are talking about ton quantities of this. We are talking about the capability of making hundreds and hundreds of weapons if you use this all at one time.

I know that is highly unlikely, but it indicates we are not dealing with some little dribble of this stuff that may get out someplace. We are dealing with ton quantities.

The administration cites the Australian-Japan nuclear agreement and recent United States agreements for nuclear cooperation with three Scandinavian countries as precedents justifying the terms of the proposed agreement. I invite any Member to compare the suspension rights under those agreements with the rights we would have under the one now before us. The constrast is a real eye-opener.

Let us look at Australia's suspension right the administration has referred to. Under the Australian agreement, if Japan fails, after a reasonable time, to respond to an Australian written request to take corrective steps in the event of a failure to carry out the obligations of the agreement "all technology or materials transferred under the agreement shall be returned upon request."

I see no reference in that agreement to any evaluation of economic effect or all the other things I read that are in this U.S. agreement or to the necessity to avoid disrupting commercial activities.

Heaven forbid that we would ever let somebody put a dollar bill or a yen ahead of shipments of plutonium that might be taken by terrorists and used for whatever purpose.

Under the three United States nuclear agreements with Sweden, Norway, and Finland, the circumstances justifying a United States suspension are not limited to extreme national security threats or the imminent risk of nuclear proliferation.

Though the U.S. is obligated in the Scandinavian agreements to consult prior to a suspension, this consultation shall only occur " to the extent time and circumstances permit." In other words, we basically retain our rights.

Under our law, section 131 of the Atomic Energy Act—a law that I helped write—U.S. consent for retransfers or reprocessing of U.S.-supplied fuel can only be granted if these activities "would not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested." That last phrase is particularly important, because it highlights the necessity for U.S. approvals to be limited to circumstances where we have timely information about actual threats and controls that would exist during the sensitive operations involving U.S.-origin materials. The scope of these threats, and the adequacy of those controls, simply cannot be estimated 30 years ahead of time.

Who on Earth or anywhere else knows what the situation will be 30 years down the road with any nation? And I do not aim that at Japan, as I said a little while ago. I do not know what the situation will be in Europe or the Soviet Union or Japan or even in our own country 30 years down the road, and yet we are giving 30-year advance approval of whatever plutonium shipments Japan wants to make out of country or back into country.

Well, that just does not make much sense to me.

That is why the law was written to require the Secretary of Energy in issuing the approvals as we give them now to give foremost consideration, in other words, to the existence of timely warning of any illicit use of that material, and this standard is far more stringent than the proposed agreement's "exceptional event," as they call it, formulation justifying a suspension of the consent.

What is another one of these red herrings? No. 2 would be "the need for more predictable and stable nuclear relationship with Japan."

Seven years ago, the Washington Post ran a front-page story concerning the Reagan administration's preparations to implement a new program to deal with nuclear proliferation.

I ask unanimous consent to enter this article into the RECORD at the end of my remarks, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. GLENN. This article, appropriately titled "Administration Moving To Loosen Laws on Curbs for Nuclear Weapons Abroad," outlined a series of steps designed to restore the U.S. role as a reliable nuclear partner. And these steps amount to a nuclear version of the policy of "constructive engagement," I guess.

Let me go back just a little bit and explain in a couple of minutes how we got ourselves into some of this. Back when this administration came into office, in the transition team they had people proposing that we knock down what had just been passed a couple years before in the Nuclear Nonproliferation Act and our policy which we had debated in the Senate, the House, and with the administration for about a year and a half as to whether the best way to control the spread of nuclear weaponry around the world was to encourage American business, American industry, just to get out there and sell wherever they could, get involved, sell those plans, get that technology out there so we could do American business abroad and by being that involved with it we would in effect know what was going on and we could then be in a position to semicontrol what was going on with regard to nuclear matters all over the world—that was one approach—or the other approach was that we were telling the rest of the world please sign up on the nonproliferation treaty. If you do that, we guarantee we will do our level best to negotiate with the Soviet Union to try and get those nuclear stockpiles down over here and at the same time we will cooperate with those nations that foreswear the nuclear options over here that want to develop nuclear weapons, and we will guarantee that we will work with you.

Now, what did we do? Well, after much debate for about 1½ years, we decided that the government-to-government route was the best, that that gave us the best chance to control the spread of nuclear weapons to other countries. We passed the Nuclear Nonproliferation Act pursuant to that debate.

When this administration came into office, the first effort that was made from the transition team was to back off from that commitment. It was to go back to the private industry approach basically and dump the government-to-government route that we had embarked upon just a short time before.

I think that was the wrong approach to take and to me this proposed agreement with Japan is one more step along that line, where they have tried to do away with the effort to get our business involved more and more.

Now, I grant you this is a government-to-government relationship but it certainly fails in its outcome more along the line of permitting far more international commerce in the world's most dangerous material, and that is plutonium. That is the reason I feel so strongly about this.

Figuring prominently in many speeches, prepared testimonies, and articles by administration spokesmen since the articles in the Washington Post was published are repeated appeals for a more "predictable," "reliable," "timely," and "consistent" relationship with our nuclear trading partners, particularly concerning the issuance of nuclear export licenses and authorizations, the so-called subsequent arrangements, to make special uses of U.S.-origin nuclear materials.

Now, indeed, the whole foundation of this new policy of "programmatic prior consent"—that means we give up all rights to do anything and they have the right to do whatever they want to do for the next 30 years. And that is not a contested definition. That is agreed upon. Everybody agrees that is what it means—"programmatic prior consent" rests on the assumption that our export licenses are somehow being issued arbitrarily, are being irrationally delayed or not being issued promptly or predictably.

Let me examine that argument just a moment.

First, there have been 150 subsequent arrangements that have been issued on Japan's behalf since this administration came into office. Each one of these appeared for 15 days in the Federal Register where it could be reviewed by the general public and by Congress. And through these approvals Japan has sent to Europe through these years over 57,000 pounds of plutonium contained in United States-origin nuclear fuel. That is enough for over 4,000 nuclear weapons. And it was transformed legally, case by case, with American approval. No problem. In other words, Japan's batting average in obtaining approvals for such requests is 1,000. Not a single request has been denied.

Does that sound like the U.S. has been fickle in issuing such approvals, there has been big delays? I think most people would conclude that the interagency case-by-case review process has in fact generated predictable approvals while at the same time conducting responsible case-by-case security reviews.

The practice of issuing such approvals one by one for each shipment has long given way to "batch processing," where we were happy with the arrangements being made, where large numbers of approvals are being issued at once to expedite this process even further.

Let me give you a recent example. On February 5, just a few weeks ago, the Department of Energy issued a single approval to retransfer to Europe over 16,000 pounds of plutonium in United States-controlled fuel from a variety of Japanese reactors. This approval, which clustered 14 separate transactions all into one, sailed right through the interagency review process. And such a quantity, by the way, exceeded in just 1 day the total approval for Japan in any single previous year.

We were curious about this.

My staff examined each one of those 150 approvals and found that the 10 largest spent-fuel retransfer cases accounted for over 87 percent of all the plutonium contained in spent fuel that we have authorized Japan to send to Europe. Once again it has taken us just 10 days to authorize virtually all of Japan's spent-fuel shipments to Europe.

Now, that hardly sounds unreasonable given the quantity of plutonium involved.

By far the largest number of subsequent arrangements, as they are called, over half of all the cases were for milligram or gram quantities of nuclear materials that are to be retransferred for research or other experimental purposes.

The United States I feel has absolutely no apologies to make for this record in terms of demonstrating the predictability of the interagency review process. We have shown that we can process individual nuclear export licenses and consent requests on a timely basis while retaining our right to examine the facts of each transaction before granting those licenses and consents, and why not?

Why would we plan to give that up when it is working well? And if the current agreement runs out to 2003 and somehow displace that with a whole new agreement that goes out for 30 years, we do not know what the situation will be out there 30 years into the future.

The administration and its few supporters here in Congress have utterly failed to back up their claims that the case-by-case review process has performed in an arbitrary or capricious fashion. quite the opposite from the figures that I just gave.

Although there have been some very rare cases involving some processing delays—such as the very first large-scale shipment of separated plutonium from France back to Japan back in 1984—we should not rush to judgment that the whole process is therefore an arbitrary one. Once again, let's look at some facts.

The security that Japan proposed for that first shipment of plutonium back in 1984 was described in disturbing detail by Leonard Spector in his book "The New Nuclear Nations," who wrote as follows:

> An episode that culminated in late 1984 illustrates the great difficulties encountered in maintaining adequate security over plutonium in civilian use as commerce in the commodity grows. In September 1982, Japan sought to arrange for the return of 231 pounds of plutonium—enough for a dozen bombs—from France. The material was to have been shipped above-deck, accompanied by one unarmed guard, on a freighter going through the Suez Canal, the Red Sea, and the Straits of Malacca; in the last, repeated acts of piracy were then taking place, including cases in which supertankers were boarded and their crews held at gunpoint.

Mr. Spector added:

> Only after intervention by the United States, whose approval was needed for the transfer, were security provisions upgraded.

Well, the case serves as a good reminder. I have in my hand here an original story. I ask unanimous consent that this be printed at the end of my comments.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 3.)

Mr. **GLENN.** The case serves as a good reminder of the value of our case-by-case review system and how it can, when managed efficiently and effectively, serve both our commercial and—above all—our national security interests. I challenge any one to tell me how the extended review of that first shipment was not in the national interests of the United States.

A word should be said about the detailed interagency procedures for issuing U.S. consents to such transfers. These are, of course, drafted not by Congress but by an interagency effort, and are periodically updated to expedite the review process—the last update was in May 1984. Part E of these guidelines—which the public can read in the Federal Register of May 16, 1984—deals with "subsequent arrangements" and spells out fixed deadlines for each agency to provide its reviews.

To the extent that there have been delays due to inefficiency or mismanagement—such as lost paperwork, computer errors, or poor followup—it seems far more reasonable to reform the interagency review process rather than eliminate it to advance the dubious policy of programmatic prior consent.

But to the extent that a few rare delays are due to documented agency assessments of national security threats, such as the 1984 plutonium shipment I've just discussed, why is this delay bad? When you're dealing with the world's most dangerous substance, it is just common sense to review all the facts that are available in each specific approval request.

Thus, a strong case can be made that the much maligned case-by-case process has actually served us rather well: the evidence shows approvals for Japan have been as timely and predictable as our national security will permit. I have not yet heard a convincing argument this review process is in any way incompatible with Japan's legitimate, long-term energy planning needs. Just ask anyone who disagrees with that to come to the floor and prove it. To those who argue that this review process is arbitrary and capricious, I say, "prove it."

We should also not forget that the reliability of the United States as a nuclear trading partner depends on an awful lot more than the mere operation of an export case review process. Eliminating our case-by-case reviews won't necessarily dispell whatever Japanese utility concerns there are about the long-term availability of enrichment services or uranium from the United States. It's just not that simple. We can hardly be a reliable supplier when our uranium enrichment industry is in continual turmoil with reorganizations, lawsuits, financial crises, and uncertain pricing schemes. And these, I submit, bear very little relation to the proposed agreement with Japan.

It should now be clear that this programmatic prior consent concept is just not the cure-all that it's often made out to be: It is not the magic wand that will eliminate foreign doubts about the reliability of the United States as a nuclear supplier. And given the rights we would be surrendering under the proposed agreement, the cure it purports to offer is clearly worse than the disease.

Third, "The proposed agreement neither requires nor authorizes Japan to transport plutonium over or through United States territory."

Mr. President, it is clear that the United States and Japan simply have not yet worked out a specific transportation plan for the shipment of large quantities of plutonium from Europe back to Japan. The President stated in his letter to Congress on January 29 that "any decision on a particular transportation route will be made later." I think the American people deserve something more precise than a promise that such details will be worked out sometime in the future.

I know the distinguished Senator from Alaska, Senator MURKOWSKI, was very concerned about this. And I do not know whether he is going to address this issue on the floor or not. But I think he has some arrangement worked out that perhaps is a little different than what we have been given so far. I am not quite sure what that agreement is.

It is apparent in the President's letter that our military has had scant opportunity to review the national security aspects of the draft agreement, particularly with regard to the physical security of plutonium that would be sent back to Japan from nuclear reprocessing plants in Europe. The President cites a "preliminary analysis" that was prepared by the Defense Department early this year which evaluates the various alternative modes of transportation in terms of cost and implications for U.S. military readiness. The commissioning of such a study in January 1988, considering that the United States-Japan negotiations began back in 1982, only testifies to the shallow analytic basis for the administration's assertion that the agreement "will promote, and will not constitute an unreasonable risk to, the common defense and security."

Well, you know what happened in that first agreement for a case-by-case analysis where they were going to send it back on the deck of a freighter going through all the areas of the Mideast with one armed guard on board.

Early this month, I received a copy of the Defense Department's technical evaluation of alternate routes of transporting large quantities of plutonium from Europe to Japan. An accompanying letter told me that "this report is not intended as a final transportation plan," which is further evidence that no concrete, rigorously defined transportation plan has been devised.

The administration appears to be putting high hopes that the Boeing Aircraft Co. will be able to introduce a long-range 747 that could carry the plutonium from Europe all the way to Japan nonstop. Some spokesmen say that the plane would not even need to fly through US airspace. It is flying through somebody's airspace. They have high hopes that Japanese and American scientists will someday be able to develop a cask that will be able to transport commercial quantities of plutonium while also being able to withstand an air crash. They also have high hopes that 21st century terrorist groups will never have the capability to hijack or bring down such an aircraft with surface-to-air missiles or air attack.

The citizens of Canada, Alaska, Japan, and other concerned countries have legitimate questions to ask about the loosely defined transportation plan that the administration characterizes as an "integral part" of the United States-Japan Agreement. In my judgment, it is far better for the United States to retain its case-by-case approval rights over such transfers of plutonium, than to base our approvals on high hopes in technology to solve these problems.

Given the absence of a concrete, rigorously defined transportation plan, the nonexistence of a crashworthy large plutonium transport cask, and the voluminous quantities of weapon-usable nuclear material involved, I strongly believe that it would be irresponsible for the Congress to permit the draft agreement, in its current form, from coming into force.

Fourth, another item that has been tossed about: "If Congress does not let this draft agreement come into force, Japan will take it's nuclear business elsewhere."

Some State Department spokesmen have gone so far as saying that Japan will just take its uranium enrichment business to the Soviets if we do not approve this draft agreement. The prospect of Japan taking such a step, given the unpleasant consequences of the Toshiba affair, are quite remote on both political and economic grounds.

As for Japan's market, the administration is indicating that potential United States nuclear exports could reach as high as $1 billion per year, but only, of course, if the new agreement is approved. Who in Japan will be buying all of these nuclear products? Let us look at some facts.

Right now, the United States accounts for about 2 percent of Japan's uranium yellowcake commitments to the year 2000. A comprehensive MIT study, "The International Uranium Market," concluded that Japan already has an abundance of stockpiled uranium ore and ore contracts well into the 1990's. The study reached the following conclusions in 1984 about Japan's demand for foreign uranium and enrichment services into the next decade.

On uranium:

> Contract levels and stocks will be sufficient to allow leisure in making new uranium procurement decisions * * * The stock accumulated by 1990 would be enough to fuel the 25 or so GWe now committed for an additional twenty years. It thus seems likely that Japanese utilities will wait for significant new reactor demand to materialize before committing to new uranium supplies.

On enriched uranium:

> Japan has built substantial stocks of both enriched and unenriched uranium * * * there will be an excess supply under either growth scenario—present or moderate—and enriched inventories will continue to grow. Japan's contracted uranium supply greatly exceeds its enrichment feed requirement, which in turn greatly exceeds prospective reactor requirements.

Given that Japan is already awash in uranium ore and enrichment commitments—and is likely to stay that way late into the 1990's—and given that Japan's recently announced atomic energy development plan has scaled down by almost 50 percent its 1982 plans for nuclear power generation by the year 2000, what is the basis for the administration's optimism that the United States will get $1 billion in nuclear sales each year? Who will be buying what? The DOE's well-intentioned nuclear material marketing effort in Japan is looking close to an effort to carry coals to Newcastle.

And if Japanese nuclear utilities decide to sever all of their contracts with the United States enrichment industry, where exactly would they go for such services? The CRS recently undertook a study for Senator HUMPHREY about the ability of European uranium enrichment consortia to displace the United States as a supplier of enrichment services. Here is what CRS found.

The French enterprise Cogema's—

> Commitments are estimated as about 11 million SWU in 1989 and 11.5 million SWU in 1990. Thereafter, its commitments fall to the 7 million SWU/year range, but the sum of commitments and options remain between 10 and 11 million SWU/year through the year 2000. The stated capacity of the Eurodif enrichment plant is 10.8 million SWU per year.
>
> Cogema's commitments exceed Eurodif capacity in 1989 and 1990. Thereafter, its total commitments and options are roughly in balance with its expected production capacity through 1994. From 1995 through 2000 the expected capacity of the Eurodif plant exceeds Cogema's commitments and options by about 0.3 million SWU/year.

As for the other European consortium, Urenco, the study found that "its uncommittee capacity might be estimated at about 0.3 million SWU/year beyond 1990."

The main point to be made in this study is that—in the unlikely event that Japan would cancel its United States enrichment contracts—spare European enrichment capacity simply is not sufficient to replace enrichment contracts that Japan has in the United States until into the next century. Besides, why would Japan exchange its foreign dependence on United States enrichment services for a foreign dependence on European services? Such a policy would violate its long-standing national strategy of diversifying its suppliers of enrichment services.

Let us remember that the close nuclear partnership we now have with Japan was built on the basis of the 1968 nuclear agreement, which expires in 2003. We do not need to update this agreement to incorporate new nonproliferation controls, but under no circumstances should either our policies or our laws be held hostage to vague promises of lucrative foreign markets. When the day comes when our nonproliferation laws are up for sale, we will surely not be alone in that deadly market, and international security will pay the price.

Fifth, another item that was brought up concerning this: "Congress's oversight role would be preserved under programmatic prior consent." That is what the administration says.

A vote for this draft agreement is a vote for Congress—and the public—to give up its ability to review case-by-case the Federal Government's most sensitive foreign nuclear transfer decisions. There would be no more case-specific congressional reviews. If Japan wanted to add a new plutonium facility to the consent agreement, all it would have to do is notify the United States—Congress would have no say in reviewing such an action. If Japan wanted to modify today's generalized "safeguards concepts" at a specific facility, Congress and the American people would again have no say in the matter.

The administration is quite candid about the extent to which Congress and the public would be denied information about Japan's future uses of United States-origin nuclear material. The Departments of State and Energy stated in briefing materials on this agreement that,

> The requirement for public notice of proposed subsequent arrangements through publication in the Federal Register . . . will be satisfied by publication in the CONGRESSIONAL RECORD of the Presidential transmittal of the proposed Agreement for Cooperation and by the publication as a House Document of the Agreement along with all related documents.

What that says is that to take care of the law, to take care of our requirements that this be published in the Register, they are just going to say that publication in the CONGRESSIONAL RECORD will then take care of all the prior consent requirements into the indefinite future.

In short, Members of Congress and the public had better read House Document 100-128—because if they do not and the agreement comes into effect, they will have forfeited for 30 years their right to know and review the details of the most dangerous global commerce in world history.

Sixth, another administration statement: "Safeguards and physical security are adequate."

The NRC has concluded that even at a safeguarded large nuclear reprocessing plant—such as the one Japan is planning—annual plutonium accounting losses would number in the hundreds of kilograms; moreover, safeguards over these facilities are only in the conceptual stage of development. Like the transport casks, the transport plan, and the Boeing 747 SP long-range aircraft, the safeguards concepts themselves are only under development.

In other words, we are giving up for 30 years our rights to case-by-case approval and the actual safeguards over the facilities have not been drawn up yet. There is not a plan for what is going into those plans yet. We have not seen a draft. We have not seen a single blueprint of what the safeguards will be. We do not have the transportation worked out. These are under development and we are going to give up rights of transport of plutonium both ways, something we have never done before, and we are to give it up, replace the current system that has worked well and is due to expire in 2003, to be renegotiated. By that time perhaps Japan may have some of their plans a little better worked out.

But as for the administration's claim of physical security, Japan's physical security standards are essentially those minimal standards now recommended by the International Atomic Energy Agency. In a report submitted last year to Congress pursuant to the Antiterrorism Act, the U.S. Defense Department found these standards were "less specific, comprehensive and prescriptive than the domestic U.S. standards." The report also found that "Opportunities for terrorist acts, including attempts to steal civil plutonium, will increase substantially as a result of the increased commercial use of plutonium."

The administration has provided absolutely no serious analysis of the terrorist threat in Japan or other places, back and forth in the transportation scenes through which this material might pass, either now or over the 30-year period of the agreement. It is not possible to assert in 1988 that physical security will be adequate to deter, or defend against, the threat that will be posed from now until the year 2018 to Japan's nuclear facilities, especially those that have not even yet been constructed.

We do not know what system there will be. We do not know what protective systems will be in those plans. In such an environment, where the capabilities and motivations of terrorist groups can only be guessed at, the most prudent course would be to continue with a detailed U.S. examination of the specific circumstances facing each facility and each nuclear material retransfer. Our decisions must be based on specific facts, not unsubstantiated assumptions.

Another administration statement: Japan is inevitably going forward with its plutonium economy—they will go forward with us or without us.

Japan is a sovereign nation—its energy policies are not for the United states to determine, that is Japan's business. Before we rush to the conclusion, however, that Japan has irreversibly committed itself to the plutonium economy, we should consider several arguments to the contrary.

First, no amount of posturing can mask the poor economics of using plutonium as a commercial nuclear fuel. A CRS study completed last week on the economics of plutonium use in Japan reached some deeply pessimistic conclusions. On the general economic question of whether plutonium use makes sense in today's nuclear power plants, here is what the study found:

> Reprocessing of spent nuclear fuel with recycling of uranium and plutonium in light water reactors is expected to remain more expensive than the uranium once-through fuel cycle well into the next century.

Some would argue that even if reprocessing is uneconomical, Japan would stand to gain extra energy security from the widespread commercial use of plutonium to generate electricity in Japan, given that Japan has almost no domestic energy resources.

The CRS study, however, reached the following conclusion:

> If Japan begins its large scale light-water reactor recycle program in 1997, it would cut its cumulative uranium consumption to the year 2000 by about 1 percent.

If Japan truly wished to pursue a course of energy security—in terms of reducing its vulnerability to foreign influence, the study argues, Japan should take the money it is proposing to spend on reprocessing and recycling of plutonium and put it instead into purchasing and stockpiling low-enriched uranium. The United States surely has the capacity to meet whatever needs Japan might have in this area into the indefinite future.

The study noted that if Japan took the $5.5 billion it is planning to spend to develop a large nuclear reprocessing plant, and instead used that money to buy uranium, that money,

> Could purchase 92,000 tons of U3O8 (at $30/lb), which, assuming availability of sufficient enrichment services, could insure against a complete cutoff of uranium imports for 7 to 10 years with the nuclear plant capacity Japan plans to have in operation in the year 2000.

If the economics of plutonium recycle do not look good, neither do its politics in Japan. Opposition to Japan's planned reprocessing plant has been significant. Japan's largest labor union opposes the facility, as has Japan's Federation of Bar Associations—the Japanese equivalent of the American Bar Association—on the grounds that safety, safeguards, physical security, and environmental controls are inadequate. One public interest group in Japan is now circulating a petition that its sponsors believe will get over a million signatures. Farmers and fishermen associations, scientific groups and academics have come out against the plant, as have most of the minority political parties in the Japanese diet. That is not up to us to determine.

But in addition to that, local residents near the site of the planned reprocessing plant have protested the selection of its construction site, which is adjacent to a military shooting range and a major U.S. airbase with a long history of air crashes, accidental drops of hardware, and emergency landings or whatever. The site is also located in an unstable geological area called the Ring of Fire, which is noted for earthquakes, including some of the worst in Japan's history.

In short, I dispute the claims of some that Congress' rejection of the proposed agreement would in some way be perceived in Japan as a hostile act. The evidence shows that there is significant public opinion in Japan in favor of postponing widespread commercial use of plutonium as a nuclear fuel. It is thus by no means the inevitability that some have claimed.

RECOMMENDATION

In light of these concerns, we must now turn to legislative remedies. I fully support the positions that have been taken by the majorities of the foreign affairs committees last December: The President should either withdraw this proposed agreement for further negotiation to alleviate the committee's concerns, or resubmit the agreement with a waiver of the relevant requirements of the Atomic Energy Act, in which case the agreement would come into effect only upon an affirmative congressional vote.

This is the procedure that Congress intended to be implemented when it amended the Atomic Energy Act in 1985, and it should be followed.

My deepest opposition is to: First, the draft agreement's extension of programmatic consents to future fuel cycle facilities in Japan, and to do that for a 30-year period in advance; second, the blanket authorization of retransfers of separated plutonium back to Japan from Europe; third, the stockpiling of separated plutonium in Japan prior to its irradiation; fourth, any safeguard arrangements that fail to satisfy our strict standards—including "timely warning"; fifth, inadequate physical security standards, and finally; any weakening of the congressional oversight role. This is too important.

Because the President continues to show no willingness to respond to Congress' concerns, I now strongly support a joint resolution of disapproval. I hate to do that. If such a resolution passes and a veto is overriden, United States-Japan nuclear cooperation would continue, as it is which has been on a satisfactory basis, under the 1968 agreement as both sides continue their dialog—with luck, this time involving a wider range of players.

Let me summarize what I have said through this rather lengthy statement. I know it has been lengthy. But I think there are 10 fundamental problems with this agreement in its current form.

First, a 30-year generic approval of reprocessing and return of plutonium, as opposed to the case-by-case approvals Congress intended under the NNPA, the Nuclear Nonproliferation Act of 1978.

Second, long-term programmatic prior consents that will frustrate the congressional oversight mandated under the Atomic Energy Act.

Third, approval of reprocessing in a large projected Japanese reprocessing plant without assurance of effective safeguards, which have yet to be developed for such plants.

Fourth, the large throughput of the proposed reprocessing plant, representing unaccounted-for plutonium sufficient for more than 100 nuclear weapons. A target for terrorists.

Fifth, inadequate analysis of the NNPA's "timely warning" criterion as applied to this agreement. That has been key to all our nuclear agreements.

Indeed, the timely warning criterion will not be met under the agreement's terms.

Sixth, failure of the administration to get Japan's commitment to require full-scope safeguards over its nuclear exports, third party exports. They will not come under full-scope safeguards.

Seventh, an unbalanced reciprocal rights provision allowing Japan to claim, under certain conditions, all plutonium produced in United States nuclear reactors containing components or equipment manufactured in Japan.

Eighth, suspension rights that require the United States to evaluate economic impact instead of solely U.S. nonproliferation national security issues. In other words, one of the major considerations written into this is what is going to happen economically. If there is a real hazard, a real danger, there is a danger some shipment of plutonium might be hijacked or whatever and we want to stop it, we have to take the economic impact into consideration first instead of solely U.S. nonproliferation national security issues.

Ninth, lack of a sufficient information base to determine and evaluate physical threats at large fuel cycle facilities that may not be built for some years to come. We do not even know what the plants are going to be, we do not even know what the blueprint of the plants are.

Tenth, failure of the agreement to meet the requirements of law on U.S. assent rights as mandated by the Nuclear Nonproliferation Act.

Mr. President, that summarizes my basic views of what this agreement with Japan does. I would only say, in closing, once again, I do not do this because I dislike the Japanese. I do not do this because I think the Japanese are unreliable nuclear partners. Of all the nations in the world, they may well be, more than any other nation, against things nuclear, against nuclear weaponry. And we all know the reasons why.

They are trying to provide for their energy needs and I want to help them in that. But, at the same time, I do not want to see us take a chance on the transfer of plutonium in giving 30-year options into the future to any nation, not just Japan. But I do not want to set a precedent where any nation can transfer plutonium out of a country and back into the country on a 30-year prior consent without us having no case-by-case call on it as we do now.

To me, the current arrangement has worked very, very well. I think we should continue under this agreement.

EXHIBIT 1

STATEMENT BY SENATOR GLENN ON JAPAN NUCLEAR AGREEMENT

Before I begin my brief remarks, I would like to thank the committee for inviting me to discuss the proposed revision of our agreement for nuclear cooperation with Japan. I congratulate the committee for its decision to hold this hearing, and for its appreciation of the profound implications that this agreement—in its current form—will have for America's ability to regulate international traffic in the kind of nuclear materials that devastated Hiroshima and Nagasaki in 1945.

Mr. Chairman, I do not mean to suggest I am in any way suspect of Japan's intentions in signing this agreement. Japan is party to the nonproliferation treaty, a charter member of the nuclear suppliers group, and has accepted IAEA safeguards over all its nuclear facilities. Indeed, it is Japan's impeccable nonproliferation credentials that have allowed the administration to submit an agreement that would not even be considered in other cases. Nonetheless, I am deeply concerned about the risks raised by this agreement and the precedent it sets for future nuclear cooperation.

The problem we are facing today is not a new one. A few months after the sudden end of World War II, Secretary of State Acheson summoned a group of experts to review possible measures to control these materials. The resulting Acheson-Lilienthal report reached the following finding about prospects for international control over plutonium: "Assume an international agreement barring the use of plutonium in a bomb, but permitting use of the pile for heat or power. No system of inspection, we have concluded, could afford any reasonable security against the diversion of such materials to the purposes of war."

Forty years after these words were written, Assistant Secretary of Defense Richard Perle—then the top spokesman of the Reagan administration on strategic arms control issues—told a European arms control conference: "There is no place for the spread of plutonium around the world in any sensible policy aimed at restricting the proliferation of nuclear weapons and I think that traffic in plutonium ought to be halted and halted absolutely."

Mr. Chairman, these quotes reflect some refreshing continuity in U.S. foreign policy. Indeed, throughout the entire postwar period there has been substantial agreement between Presidents and Congresses, Republicans and Democrats, and House and Senate that international trafficking in bomb-grade nuclear materials would be contrary to United States and international security interests.

The agreement now before this committee represents a radical departure from this stable and sensible tradition. By loosening U.S. control for 30 years over international commerce in plutonium, the agreement would condone the widespread use of this deadly material. The risks of nuclear proliferation, nuclear terrorism and environmental destruction that would result from this agreement require that Congress undertake a thorough and sober examination of its terms.

I hope that during the committee's review of this agreement, the focus will be less on narrow bilateral issues and more on the implications of the agreement for our ability to sustain this continuity of policy. To put it bluntly, Mr. Chairman, we must not let our passion to become a reliable supplier of nuclear materials overcome our duty to remain a responsible supplier of such materials. In the dangerous nuclear territory now before us, if conflicts arise between commercial expediency and the integrity of our national and international controls, our commercial goals must yield.

President Ford addressed this very issue back in 1976: "We must be sure that all nations recognize that the United States believes that nonproliferation objectives must take precedence over economic and energy benefits if a choice must be made."

Yet there is evidence throughtout this agreement of a reversal of these priorities. Let me cite just two examples:

The agreement would subject future Japanese plutonium facilities to safeguards concepts that are only in the early stages of development. If difficulties arise in applying these concepts at a particular site, "the parties shall make every effort to ensure that this does not delay the operation of the facility." I am not being satirical here, these are actual words from the text of the implementing agreement.

Even in the event that the United States was faced with suspending the agreement due to a material violation of these admittedly imperfect safeguards, the agreement would require the United States to "carefully consider the economic effects of this suspension and * * * seek to the maximum extent possible to avoid the disruption of international nuclear trade and fuel cycle operations." Again, I am quoting directly from the agreement.

As I read these excerpts, I am struck by how far this agreement would stray from past policy and set a dangerous precedent for other nations. If the agreement is allowed to stand, Congress may soon be hearing requests to relinquish U.S. rights over plutonium produced from U.S.-origin materials in other countries with advanced nuclear programs. Where are we to draw the line?

The Reagan administration has worked quite hard to revise our entire historical approach to the regulation of bomb-grade nuclear materials in international commerce. Under a novel legalism called "advance programmatic prior consent", a concept that I have not been able to find anywhere in our laws, the administration would relinquish case-by-case physical security reviews over what other countries do with the nuclear materials that we export.

As a result of this policy, the quantity of U.S.-origin plutonium that would appear in international commerce would no longer be measured in pounds or kilograms, but in ton quantities that would by comparison rival our current nuclear stockpile.

I have often heard the administration argue that the United States no longer has a monopoly in the world's nuclear business, and that we must yield to the civilian use of plutonium or be excluded from international nuclear developments. Yet according to the data I have seen in the case of Japan, the United States exercises case-by-case prior consent rights over more than 80 percent of Japan's nuclear materials. Yes, that is not a U.S. monopoly. But it is still a rather significant margin of influence that the draft agreement would relinquish.

Given the growing capabilities of other nations to produce and export weapon-usable material, we should be encouraging these nations to follow our example of responsible, case-by-case reviews of nuclear materials exports, rather than leading them to adopt their own versions of these so-called "programmatic prior consents."

The agreement that is before this committee is perhaps the most significant nuclear cooperation agreement in history. But its significance stems less from the benefits it will produce for Nuclear nonproliferation—indeed, the administration has evidently failed to elicit a Japanese commitment to require full scope safeguards over its own nuclear exports. Its significance lies more in the procedures it creates for accelerating and legitimizing widespread commercial uses of plutonium before international society has devised the means to protect humans and the environment from its hazardous consequences.

Mr. Chairman, I have many concerns about this agreement.

I am concerned about the fact that the administration can say that it is fully confident about the ability of the IAEA to safeguard large reprocessing and plutonium storage facilities, when in fact such safeguards are only in the research and development stage. Evidently, my concerns are shared elsewhere in our Government.

The Nuclear Regulatory Commission has expressed strong opposition to this agreement. The Commission's technical experts concluded that Japan could be expected to lose track of hundreds of kilograms of weapon-usable material at each of the large plutonium facilities it plans to build. Using the IAEA's number of eight kilograms per bomb, one can easily see that this represents enough nuclear material to create dozens if not hundreds of nuclear weapons. On what basis can our "timely warning" criterion be maintained in such an environment?

The Department of Defense has also opposed this agreement. In its recent report of the inadequacies of existing standards for the physical protection of plutonium, Defense concluded that "opportunities for terrorist acts, including attempts to steal civil plutonium, will increase substantially as a result of the increased commercial use of plutonium."

In hearings before my committee last March on "nuclear non-proliferation and U.S. national security", Assistant Secretary Perle discussed his Department's frustrations in dealing with officials in other agencies who apparently regarded these national security concerns as rocking the boat. When I asked Mr. Perle about DOD's involvement in the negotiating process that led to this agreement, his response was "We crashed the party, Senator, on a number of occasions * * * we invited ourselves to meetings * * * we made a general nuisance of ourselves." He added: "I am afraid that much of the negotiation between the United States and Japan had taken place without being reported to us."

I would like to submit for the committee's review the full text of Mr. Perle's remarks, along with some recent press reports about the serious interagency disagreements about the wisdom of this draft agreement.

Mr. Chairman, it would be grossly irresponsible for Congress to approve this agreement without a close examination of the precise reasons why NRC and DOD opposed this agreement on national security grounds. I have written to both agencies to request full documentation of their views on why they oppose this agreement, and I would strongly urge your committee to require both NRC and DOD to fulfill their responsibilities under section 123 of the Atomic Energy Act to "promptly furnish" your committee with these views.

I am concerned that the administration estimates that over the course of this agreement air shipments of ton quantities of plutonium will pass through United States and Canadian airspace, despite the fact that large plutonium transport casks are also only in the early stages of research and development. I have been pleased to join Senator MURKOWSKI in requiring that, before any such shipments may occur, these casks be certified as capable to withstand actual crash and drop tests, under worst-case circumstances.

I am concerned about the administration's claim to clairvoyance in being able to estimate future threats of terrorism and sabotage at large plutonium facilities, some of which have not yet even been built. How can one reasonably estimate the capabilities and intentions of terrorist groups that may exist in Japan in the year 2017, when we know so little about today's terrorist groups in Japan? In reviewing the materials that the administration has presented Congress, I have found no in-depth analysis of the precise physical security threats that would exist, especially for these future facilities.

I am concerned about the way this agreement was negotiated, with Congress, the NRC and the Defense Department being kept in the dark until the time for approval had arisen. And if the agreement's so-called "programmatic prior consent" language comes into force, there would be a crippling of the congressional oversight mechanism for scrutinizing such future uses of our sensitive nuclear materials.

I am concerned that the administration's desire to accommodate Japan's long-term energy planning has led it to reinterpret our basic atomic energy laws—such as the concepts of "prior consent" and "timely warning"—rather than to pursue the more reasonable course of addressing Japan's concerns by facilitating the timely processing of Japan's subsequent arrangement requests. During Senate floor discussions prior to enactment of the Nuclear Non-Proliferation Act [NNPA], Senators MCCLURE, PERCY, and myself all agreed that case-by-case approvals of subsequent arrangements should continue on a highly expedited basis as a way of addressing such concerns.

To clarify the meaning of "timely warning" as intended by the authors of the NNPA, I would like to submit a detailed analysis of that concept for the RECORD.

Mr. Chairman, Japan has often expressed its desire to use plutonium as a fuel for its commercial breeder reactor program. I have noticed that Japan has just announced new energy plans indicating that it does not expect to have such a reactor in commercial operation until as late as they year 2030. Given the extremely long-term nature of Japan's commitment to such a program, I think that it would be reasonable for the United States—in accordance with our anti-terrorism and atomic energy laws—to seek to encourage other nations to defer the production of large stockpiles of separated plutonium for programs that may not come into existence for generations.

President Ford put it well in his 1976 statement: "We must develop means to establish international restraints over the accumulation of plutonium itself, whether in separated form or in unprocessed spent fuel. The accumulation of plutonium under national control, especially in separated form, is a primary proliferation risk."

The present draft agreement, Mr. Chairman, does not negate the hard fact that nationally controlled stockpiles of plutonium and highly enriched uranium are primary proliferation risks. And this is certainly true here in the United States, as well as abroad among our friendliest of allies. We should at the very least maintain our ability—indeed our responsibility—to perform case-by-case reviews of the specific physical security measures taken by foreign governments to handle U.S.-origin sensitive nuclear materials. There is no reason why such reviews cannot coexist with long-range energy plans of those governments.

When we wrote the NNPA back in 1978, every effort was made to accommodate the needs of foreign energy planners while protecting U.S. security and environmental concerns. Yet from what I have seen, this agreement achieves less of a reconciliation of these objectives, than a simple trade-off—our physical security priorities are being weakened despite the ever-growing threat of nuclear terrorism, while the administration shows an unbounded willingness to alter our laws and policies to conform to the needs of foreign nuclear programs. I am especially doubtful that the current agreement, applying as it does to large plutonium facilities to be built over the next thirty years, is based on sufficient information to satisfy the Atomic Energy Act's requirement that "adequate physical security" be maintained.

I hope that the committee will examine this agreement in the proper context not just of United States/Japan relations, but in the broader historical context of America's commitment to reducing the risk of nuclear proliferation and terrorism.

To summarize what I have said, I think there are ten fundamental problems with this agreement in its current form:

1. A 30-year generic approval of reprocessing and return of plutonium, as opposed to the case-by-case approvals Congress intended under the NNPA.

2. Long-term programmatic prior consents that will frustrate the congressional oversight mandated under the Atomic Energy Act.

3. Approval of reprocessing in a large projected Japanese reprocessing plant without assurance of effective safeguards, which have yet to be developed for such plants.

4. The large throughput of the proposed reprocessing plant, representing unaccounted-for plutonium sufficient for more than 100 nuclear weapons. A target for terrorists.

5. Inadequate analysis of the NNPA's "timely warning" criterion as applied to this agreement. Indeed, the "timely warning" criterion will not be met under the agreement's terms.

6. Failure of the administration to get Japan's commitment to require full-scope safeguards over its nuclear exports.

7. An unbalanced "reciprocal rights" provision allowing Japan to claim under certain conditions all plutonium produced in United States nuclear reactors containing components or equipment manufactured in Japan.

8. Suspension rights that require the United States to evaluate economic impact instead of solely U.S. nonproliferation and national security issues.

9. Lack of a sufficient information base to determine and evaluate physical threats at large fuel cycle facilities that may not be built for some years to come.

10. A provision for overflights of U.S. territory by aircraft containing hundreds of kilograms of plutonium, despite the non-existence of a large cask that can withstand worst-case air crashes.

For all these reasons, and some I have not cited, I am opposed to this agreement in its current form and recommend that your committee return the agreement to the President for renegotiation, or resubmission with a waiver, to reflect the committee's concerns. If the agreement remains in its current form, and if the administration refuses to provide Congress with the information it needs and has requested to evaluate the national security implications of the agreement, then I would urge the committee to consider a joint resolution of disapproval.

[From the Washington Post, Oct. 11, 1981]

EXHIBIT NO. 2

ADMINISTRATION MOVING TO LOOSEN LAWS ON CURBS FOR NUCLEAR WEAPONS ABROAD

(By Don Oberdorfer)

The Reagan administration is moving toward adoption of a highly controversial program to sweep away the most binding aspects of current laws on retarding the spread of nuclear weapons abroad, according to documents circulated to senior officials.

Among other things to be considered in an Oct. 19 meeting of nuclear control policy makers, according to the papers prepared for the session, are:

Transferring to the State Department all the export licensing functions of the Nuclear Regulatory Commission, an independent agency established by Congress as a check on executive decisions in this field.

Repealing the current provisions of law that cut off U.S. nuclear exports as well as military and economic assistance to nations moving toward producing atomic weapons for the first time.

Weakening current laws requiring countries without atomic weapons to permit international inspection of all their nuclear facilities in order to continue buying nuclear materials from the United States.

Together with other announced or impending decisions in the nuclear field, acceptance of such proposals would represent a full-scale turnabout in government policy. The increased strictness with U.S. nuclear exports that followed the global shock waves of India's 1974 atomic test would give way to a much greater official permissiveness, with reliance instead on American standing as a "reliable supplier" for leverage to discourage the spread of atomic weapons.

Meanwhile, the United States' own expanding nuclear weapons program will mean a dramatic increase in domestic production of weapons-grade plutonium, according to government sources. And the Reagan administration followed up its recent policy announcements in favor of the nuclear power industry by saying it would pick up a share of the cleanup costs at the disabled Three Mile Island plant in Pennsylvania.

Assistant Secretary of State James L. Malone, chairman of the interagency group considering the policy changes, wrote in an Oct. 2 memorandum that "preliminary and informal" consultations with Congress are to follow the Oct. 19 discussions. A final decision paper will then be drafted for more executive discussions and, ultimately, President Reagan's signature.

The documents circulated by Malone, partly in the form of "pro" and "con" discussion of the major proposals under consideration, explicitly state that powerful congressional opposition can be expected. This likely opposition, and the major legislative effort which would be needed to overcome it, are the main factors cited in the "con" column for the most sweeping proposals.

Several outspoken backers of current antiproliferation laws and policies were cited in the interagency document as probable opponents of the proposals for change. When contacted yesterday by The Washington Post, some of them made clear that a battle royal will erupt if Reagan adopts the proposals now under discussion.

Sen. John Glenn (D-Ohio) said the repeal of the current sanctions against nations moving toward a nuclear weapons capability would leave "a toothless policy" and would tend to treat nuclear matters abroad as "just another business development, like selling automobiles or washing machines."

Among the sanctions that are being considered for elimination are those sponsored by Glenn and by former senator Stuart Symington, which bear their names, and sanctions provisions of the Nuclear Non-Proliferation Act of 1978. Glenn said he believes that such changes would go "further than Congress will want to go."

Sen. Alan Cranston (D-Calif.) said the administration papers as reported to him by The Post, are "right about two things: there will be strong opposition, and particularly from me."

Glenn and Cranston, along with Reps. Jonathan B. Bingham (D-N.Y.) and Clement J. Zablocki (D-Wis.), were mentioned in the administration documents as the likely source of "particularly strong opposition" in Congress to some of the proposals. Bingham and Zablocki could not be reached.

Commissioner Victor Gilinsky of the Nuclear Regulatory Commission "is likely to testify against" a transfer of the functions of the NRC to the State Department, according to the administration papers. Gilinsky said he would oppose such a move "vigorously" in congressional testimony because "the NRC has served a very valuable function in being an independent check on the way the laws on nuclear exports are carried out."

Gilinsky said the State Department has always wanted to take complete control of nuclear exports but "I would be surprised if this goes forward" because of the extensive opposition it would generate in Congress and elsewhere.

Paul Leventhal, president of the Nuclear Club Inc., a Washington-based group opposing the spread of nuclear weapons, said the proposals as reported "demonstrates the Reagan administration's dangerous insensitivity to the proliferation problem" and amount to "nuclear know-nothingism."

Leventhal, who testified before a House subcommittee last week on nuclear policies, said that placing the State Department in sole control of nuclear exports would be "like putting the fox in charge of the chicken coop."

The deliberations in the policy-making committee follow an announcement by Reagan July 16 of broad guidelines under which U.S. standing as "a reliable supplier" of nuclear materials would be emphasized as a tool against the spread of nuclear weapons. At that time, it was announced that proposed laws and regulations to implement this policy would be forthcoming.

The proposals under discussion are similar to those recommended by Malone last Dec. 18 as chairman of the Non-Proliferation Coordinating Committee of the Reagan transition. This report became highly controversial, both because of its substance and because Malone in private life was a lawyer representing nuclear industry clients, including some in Taiwan and Japan.

Neither Malone nor members of his staff could be reached for comment yesterday.

The documents circulated to the administration policy makers said that "a proposed reorganization plan" to encompass all the controversial changes is under consideration. If this is not possible, the changes "will be transformed into bill provisions," according to the papers.

The documents argue that the changes under discussion would eliminate existing and future complications for American foreign policy, simplify policy making and enhance the U.S. standing as a "reliable supplier" of nuclear materials.

At the same time, the documents acknowledge that some of the changes will be seen as "a major weakening of U.S. non-proliferation policy and resolve" and could reinforce "congressional fears" about the direction of administration policy. If the changes are rejected by Congress, the papers point out, they could adversely affect "foreign preceptions of the United States as a nuclear supplier."

EXHIBIT NO. 3

THE CONCEPT OF "TIMELY WARNING" IN THE NUCLEAR NONPROLIFERATION ACT OF 1978

(By Leonard Weiss)

INTRODUCTION

In 1984, the first major shipment was made of plutonium separated from U.S.-origin spent fuel to a non-weapon state (Japan) since passage of the Nuclear Nonproliferation Act of 1978 (NNPA) (1). Approval of the shipment had been given by the Secretary of Energy, with the concurrence of the Secretary of State, who was required by the NNPA to determine whether the retransfer of this plutonium from France (where the reprocessing of spent fuel took place) to Japan would result in a "significant increase of the risk of proliferation . . ." in which the "foremost" factor was whether the United States would receive "timely warning" of a diversion of the material.

In accordance with procedures adopted pursuant to the NNPA, the interagency discussions of the Japanese request for approval of the shipment involved the Nuclear Regulatory Commission (NRC). Although the NRC concurred with the finding that the shipment would not result in a "significant increase fo the risk of proliferation", the Commission questioned whether the Departments of Energy (DOE) and State had followed Congressional intent in arriving at their conclusion that the "timely warning" test had been met. The NRC's position was summarized by NRC Chairman Nunzio J. Palladino as follows (2):

"(T)he Commission's disagreement with DOE's position is focused on whether or not non-technical factors are permitted to be considered in connection with reaching any conclusions on the existence of timely warning. In the Commission's view, the legislative history of the Nuclear Non-proliferation Act of 1978 (NNPA) indicates that Congress intended timely warning to be essentially a technical matter involving such factors as safeguards measures applied to the material and the technical ease of incorporation the material into a nuclear explosive device. Other, non-technical factors were to be considered relevant only in connection with making the overall statutory finding of no significant increase in the risk of proliferation. A close reading of the statutory language in Section 131 b. of the Atomic Energy Act would seem to support the Commission's interpretation regarding timely warning, particularly since otherwise it would be necessary to consider the same non-technical factors both in connection with the timely warning analysis and in connection with the overall "increase in the risk of proliferation" finding. The attachment to this letter lists the more significant technical factors that the Commission believes affect timely warning, and that should be addressed in a classified supplement to future DOE analyses of subsequent arrangements."

The resolution of this issue will set a precedent with possibly profound future implications for U.S. national security and foreign relations.

The DOE/State conclusion on "timely warning" was not accompanied by a detailed supporting analysis. Rather, as indicated in the NRC letter, the conclusion was claimed to result from the presence of certain favorable political factors surrounding the U.S./Japan relationship. Subsequent inquiry (3) has revealed that DOE and State interpret the NNPA as saying that political factors, such as the nature and condition of the governmental system and nonproliferation policies in a recipient country, independently of the techncial capabilities of that country, could be determining factors in judging whether the U.S. would receive "timely warning" of a diversion. Therefore, according to this view, some political factors, which determine the "inherent risk of proliferation" (4) in a country, could determine that "timely warning" was available, and these and other political factors could be used to determine that there was "no significant increase in the risk of proliferation" stemming from a proposed retransfer for reprocessing or return of plutonium. Further, it is claimed that there was no stated or implied legislative requirement for a supporting analysis of the DOE/State "timely warning" conclusion or the weight given to the latter in relation to other factors in determining proliferation risk.

It is the purpose of this paper to show that the DOE/State position is not in keeping with the legislative history of the NNPA or any other indication of Congressional intent. Rather, we shall show that; (a) the Congressional intent was to separate and independently weigh the "timely warning" test from the set of possibly counterbalancing political factors listed in the NNPA as being pertinent to an overall judgment as to whether a proposed retransfer would result in a significant increase of the risk of proliferation; and, (b) that Congress meant the "timely warning" test to compare the time needed by the U.S. to effectively react to a diversion of nuclear material to the time needed by the diverting country to produce an explosive device, the latter time being estimated by technical assessments only. By this view, a political assessment based on specific political factors could result in approval of a retransfer request even if the "timely warning" test fails, but then the burden is on the political assessment to show that such political factors override "foremost" consideration of the technical capabilities of the recipient country to make a nuclear explosive device quickly from diverted materials.

I. The Language of the Act

The key paragraph, Section 131b(2) of the Atomic Energy Act of 1954 (Section 303a of the NNPA of 1978) states that,

". . . the Secretary of Energy may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power reactor fuel assemblies or been the subject of a subsequent arrangement therefor prior to the date of enactment of the Nuclear Non-Proliferation Act of 1978 or for subsequent retransfer to a non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing, unless in his judgment, and that of the Secretary of State, such reprocessing or retransfer will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested. Among all the factors in making this judgment, foremost consideration will be given to whether or not the reprocessing or retransfer will take place under conditions that will ensure timely warning to the United States of any diversion well in advance of the time at which the non-nuclear-weapon state could transform the diverted material into a nuclear explosive device. . . ."

This language was originally offered by Senator Glenn to the Administration during negotiations prior to the beginning of markup of the NNPA by the Subcommittee on Arms Control, Oceans, and International Environment of the Senate Foreign Relations Committee on September 14, 1977. It was a substitute for proposed language by the Administration that would have replaced the "timely warning" criterion with consideration of "the probability of timely warning" as one (not "foremost") factor among many in determining whether to approve a retransfer request. We shall examine this markup in more detail later on. For now it suffices to note that the Subcommittee approved the Glenn language and ignored the Administration's proposal.

Following the markup by the full Committee (there were two earlier markups by the Committees on Governmental Affairs and Energy and Natural Resources), the legislation was reported out and a report filed which contained the following statement on the meaning of "timely warning" (5):

". . . the standard of 'timely warning' . . . is strictly a measure of whether *warning of a diversion* (emphasis added) will be received far enough in advance of the time when the recipient could transform the diverted material into an explosive device to permit an adequate diplomatic response."

The Senate bill language was accepted by the House on the grounds that there were no substantive differences between the Senate bill and one passed by the House some months earlier. Representative Zablocki (D-Wisconsin), the floor manager for the House bill, while offering a resolution on February 23, 1978, directing the Clerk of the House to make certain technical corrections in the NNPA, made the following observation about the Senate amendments [6]: "The House reviewed these and found the amended Senate version to be, in all essential respects, consistent with (the House Bill). Upon reaching this judgment, the House, by unanimous consent then moved to recede and accept (the House Bill) as amended." Indeed, on February 9, 1978, when Representative Zablocki received unanimous consent to bring up the Senate bill and successfully proposed its passage by voice vote, he stated [7]:

"All of the central elements of the House bill—including the important "timely warning" criterion—were faithfully preserved. . . . On the critical issue of timely warning, I am pleased to say that the Senate's legislative history was indeed consistent with our own."

The concept of "timely warning" was explained in the House report as follows [8]:

" 'Timely warning' has to do with that interval of time that exists between the detection of a diversion and the subsequent transformation of diverted material into an explosive device."

Despite Representative Zablocki's clear statement, the Senate Report's phrase "warning of a diversion" as opposed to the House Report's "detection of a diversion", along with some additional Senate report language has been used by some in State/DOE to bolster a claim that the intent of the Senate on the meaning of "timely warning" was substantially different from that of the House.

We shall show that such a claim is logically unsupportable.

II. A PRECISE REFORMULATION OF THE TIMELY WARNING ISSUE

There are four time intervals associated with the notion of "timely warning" to the U.S. of a diversion by country "X". For purposes of explanation, we define them as follows:

Reaction Time: The amount of time needed to fashion an appropriate and effective diplomatic response to prevent diverted material from being converted by country "X" into an explosive device. Reaction time is a function of bilateral and multilateral relationships and, therefore, involves a political assessment.

Conversion Time: The time needed by country "X" to convert diverted material into an explosive device. (Note: Conversion time is a function of the industrial and bomb-making infrastructure in country "X", the nature of the diverted material, and the availability of any technology needed to process the diverted material into weapons-usable form. A technical assessment of country "X" 's capabilities would yield an estimate of conversion time, and no political factors are involved.)

Detection Time: The time between diversion of material and either the later detection of the diversion by the safeguards system or the earlier prediction of diversion through intelligence information. (In the latter case, detection time is a negative quantity, and may depend upon observations of political changes in country "X". Note that if we tacitly assume that the safeguards system works as designed, no political factors enter into an estimate of positive detection time. Quality of safeguards is then measured by the value of, positive detection time, with smaller values indicating better safeguards.)

Warning Time: The interval between the time when the U.S. learns a diversion has occurred or may occur and the time at which country "X" is capable of producing a nuclear explosive device following the aforementioned diversion of material. (Thus, warning time=conversion time−detection time. It is important to note that warning time involves political as opposed to technical assessments only when detection time is negative.)

In terms of the above definitions, the concept of "timely warning" in the NNPA becomes as follows:

Definition: The U.S. has received "timely warning" of a diversion by country "X" when warning time is greater than reaction time.

The only thing remaining in order to show equivalence with the statutory concept is to make the connection between some auxiliary concepts in the Senate report with the terminology in this paper.

The phrase "warning time required" in the Senate report as in, "The amount of warning time required will vary (and cannot be defined in terms of a certain number of weeks or months) . . .", (9) refers to what is here called "reaction time". Thus, if a multinational response is needed for effective diplomacy, a quicker reaction time can be expected in the event that the diverted material was multinationally owned or came from a multinational plant, since all the parties in that venture would have reason to feel aggrieved by the diversion.

The phrase "time . . . available" as in ". . . it will be necessary to determine how much time be actually (sic) available under any specific circumstances," (10) refers to what we are calling here "warning time".

The State/DOE position boils down to the claim that Congress did not intend the "timely warning " criterion to involve, on either side of the inequality in the above definition, a quantity estimated only on the basis of a technical assessment.

Since "reaction time" clearly involves political factors, and "warning time" *can* involve political factors, there appears, superficially at least, to be some merit to the State/DOE argument. On closer examination, however, the apparent merit vanishes.

We reiterate that "warning time" may involve political factors *only* when "detection time" is negative. The key observation to make is to note that detection time can be negative only in two situations: (1) Either the U.S. has learned of plans for (or suspects) diversion at a time prior to the time of actual retransfer (in which case the approval of retransfer is denied or revoked and there is no problem), or (2) There is a significant interval of time after the retransfer occurs before a diversion is achieved. In this case it can be argued that the clock marking off warning time could be triggered by observed changes in the political character of the government of country "X". *But there is nothing in the Senate or House floor debate or report language or in the statute langauage that suggests making an assumption of existence of a significant time interval between retransfer and diversion,* or equivalently, to assume that a significant change had occurred on the meaning of timely warning by the time the final version of the NNPA was passed by the Senate on February 7, 1978, and by the House two days later without further amendment.

To show this, we provide a detailed history of the Congress' consideration of the timely warning issue during its deliberations on the NNPA.

III. The Senate Legislative Markup Record on Timely Warning

Committee markup records, which are uncorrected and not publicly filed, and therefore not readily available to the rest of the Congress, are usually given little or no weight in legal determinations of congressional intent on legislation. Nonetheless, they may, in conjunction with the committee report on the legislation and the floor debate, give some clue as to the meaning of certain legislative provisions when such meaning is otherwise obscure.

The DOE/State defense of its position on "timely warning" in the NNPA apparently includes a claim that the Congressional interpretation of the statutory language at the time of passage reflected the Carter Administration's view as expressed in a formal communication from the State Department to the Senate Foreign Relations Committee (see (4)). Since the only place in the legislative history of the NNPA where the Administration's position on "timely warning" is substantively discussed by Senators occurs in the Senate Foreign Relations Committee markups (11), (12), (13) of the legislation, we consider these (uncorrected) markup records in examining the DOE/State claim.

On September 14, 1977, at the Foreign Relations Subcommittee markup (see (11)) Senator GLENN introduced the language on approvals of retransfer for reprocessing or return of plutonium, including the "timely warning" test, that subsequently was adopted as the statute language. This language was a substitute for a previous formulation identical to that contained in the House bill, H.R. 8638, which passed with a dissenting vote on September 28, 1977, the same day the Senate Foreign Relations Committee reported out the NNPA. As indicated earlier, Senator Glenn offered this new language following discussions with and in response to objections by the Executive Branch that the previous formulation on approvals of retransfers was too "restrictive in scope" (14).

It is important to note the motivation as well as substance of the Administration's position at this point. The Administration was facing a serious problem in that the House and Senate bills had virtually identical provisions that subjected decisions on retransfers for reprocessing or return of plutonium to consideration of a single factor, the timely warning criterion. The Administration was concerned that this single test could be used to block U.S. approvals of any such retransfers and disrupt trade relations with our allies. Accordingly, the Administration had to either try to get the Congress to alter the definition of "timely warning" or broaden the test for approvals of retransfers to include other factors besides timely warning. Thus, in its comments on the marked up version of the NNPA reported by the Governmental Affairs Committee, the Administration said this about the proposed test for retransfer (15):

"First, it would jeopardize negotiation of new, strict nuclear cooperation agreements since an overly strict interpretation of the "timely warning" standard could rule out all forms of fuel processing necessary for future fuel cycle activities. Second, timely warning should not be the sole basis for making determinations concerning the acceptability of subsequent arrangements, taking into account the existence of other factors which must be evaluated. Additional factors of importance include the nonproliferation policies of the countries concerned, and the size and scope of the activities involved."

Now, it is interesting that the language actually proposed by the Administration by way of compromise, language that was arrived at following negotiations with Senator Glenn, clearly takes the path of broadening the test for approvals for retransfers, and does not change the definition of "timely warning" but merely attempts to make the determination fuzzy by referring only to the probability of time warning being available. The proposed language was as follows (16).

"The Administrator may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power fuel assemblies or been the subject of a subsequent arrangement therefore prior to the date of enactment of the Act or for subsequent retransfer to a non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing unless in his view such reprocessing to retransfer shall take place under conditions that will safely secure the materials and that are designed to ensure reliable and timely detection of diversion. In making this judgment, the Administrator will take into account such factors as the size and scope of the activities involved, the non-proliferation policies of the countries concerned and the probabilities that the arrangements will provide timely warning to the United States of diversions well in advance of the time at which the non-nuclear-weapon state could transform the diverted material into a nuclear explosive device; and"

Senator Glenn's explanation of the amendment he offered at the Foreign Relations Subcommittee markup left no doubt that it was not his intention to change the meaning of timely warning, but rather to broaden the test for approvals of certain retransfers. To see this, we note that in his statement, Senator Glenn referred approvingly to recent congressional testimony by then NRC Commissioner, Victor Gilinsky, defending the timely warning standard against Administration criticism that it was "unnecessary, unworkable, rigid, and unrealistic" (17). Senator Glenn went on to say, (18).

"The idea of timely warning is the explicitly stated objective of the so-called blue book safeguards of the IAEA, which policies the Non-Proliferation."

Mr. GLENN. Mr. President, I reserve the balance of our time. I see the distinguished floor manager has returned here. I yield back to the floor manager.

Mr. PELL. Mr. President, I thank the Senator from Ohio very much indeed for having taken the floor the way he did and for the very informative debate and points he made.

Mr. President, I suggest the absence of a quorum, the time to be equally divided.

The PRESIDING OFFICER (Mr. REID). Is there objection to the request? Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it so ordered.

Mr. GLENN. Mr. President, I have another statement I would like to make. Will the distinguished manager yield me 20 minutes?

Mr. PELL. Mr. President, I am very glad to yield 20 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 20 minutes.

Mr. GLENN. I thank the distinguished Senator from Rhode Island.

Mr. President, in 1985 the Proxmire amendment to the Atomic Energy Act was enacted which provided that if the President sends up a nuclear agreement that does not meet all the requirements of law, then the agreement is not supposed to go into effect unless both Houses of Congress approve the agreement.

Let me repeat that. The Proxmire amendment to the Atomic Energy Act, it was enacted, it is the law now, and it says if the President sends up a nuclear agreement that does not meet all the requirements of law, existing law, then the agreement will not go into effect unless both Houses of Congress approve the agreement.

Now, if the agreement meets the statutory requirements, both Houses must disapprove the agreement or else it goes into effect 90 days after being submitted to Congress.

Mr. President, the administration is claiming that this agreement does meet the requirements of law in order to escape the Proxmire amendment. But the administration's claim in this regard is false. It does not meet the requirements of law and I repeat: The Proxmire amendment is not something that is being proposed, it is an existing law right now.

There are at least two provisions of law which this agreement violates. Both deal with the U.S. consent rights; first, over the retransfer of spent fuel for reprocessing, and, second, over the retransfer and/or use of the plutonium obtained from reprocessing.

Is this just my opinion? I am not a lawyer. I am not really qualified to read all the fine print in some of these things and say what is or is not legal. I suppose in some of these treaties I am just as qualified as anybody else, but the legal background necessary to go into some of this is not something I possess.

So let me give you somebody else's opinion. It is not just my opinion. It is the opinion of the General Accounting Office, the investigative arm of Congress, and I can assure you they have plenty of people over there who have been through all of these things with a fine-tooth comb, are accustomed to looking into these things. The GAO did a legal analysis of the agreement for Congressman DANTE FASCELL over in the House, chairman of the House Foreign Affairs Committee.

Let me give full credit here to DANTE FASCELL; because he had this study done by GAO. They did an excellent job. They brought it back to him—but a copy of this somehow got out before its official release. Chairman FASCELL was the one that commissioned the report, and he was supposed to have it for 30 days.

I do not know what happened and I know it was not my staff that released this. We certainly did not; did not have any contact with it. But since the report had been prematurely, released, I called him a while ago from the Cloakroom here and DANTE FASCELL, being the gentleman that he is and being interested in this subject as he is, gave me permission to go ahead and use whatever information out of this report I wished to use.

That is a comity that I certainly do appreciate. I want to speak publicly and let him know how much I appreciate his willingness to do that because it does bear very directly on our debate here that will run out either this evening or some time early tomorrow. It bears very directly on it because the Proxmire amendment, as I said, says that there can be no violation of law without it coming before the Congress here and so the GAO has done this analysis for Chairman FASCELL. I wish he could be over here right now because I would like him to be here to take full credit for having commissioned this report and also for giving me permission to use it here this afternoon, which, as I said, I very much appreciate.

This is about a 4-page single-space letter but I think it is important enough that I read this whole thing into the RECORD and I will do so now. It is from the Office of the Comptroller General. It is signed by the Deputy Comptroller. But it is back to Hon. DANTE B. FASCELL, chairman, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: This is in response to your January 29, 1988, letter requesting our analysis of the proposed Agreement for Cooperation between the Government of the United States and the Government of Japan Concerning Peaceful Uses of Nuclear Energy (Agreement).

In subsequent conversations with your staff, it was agreed that our review of the proposed Agreement would focus on whether the advance approvals for the reprocessing and retransfer of United States-origin nuclear material would meet the requirements of the Atomic Energy Act of 1954 (Act), as amended. In particular, you wanted our views on whether the requirements provided in Section 123 of the Act that the Agreement contain guaranties of United States consent and prior approval for retransfer and reprocessing activities are satisfied by the proposed Agreement and if the standard of timely warning provided in Section 131 of the Act would be met under the terms of the proposed Agreement.

As you are aware, the Agreement is the most fundamental legal mechanism by which nuclear cooperation is regulated between the United States and other nations. It includes the general "terms, conditions, duration, nature and scope of the cooperation." 42 U.S.C. § 2153. Section 123 of the Atomic Energy Act of 1954, as amended, addresses the substantive and procedural requirements of the Agreement. Subsection 123(a) prescribes nine requirements that must be included in the Agreement. Of concern here are (1) a guaranty by the cooperating party that any material transferred pursuant to the Agreement will not be transferred to unauthorized persons or beyond the jurisdiction or control of the cooperating party without the consent of the United States, and (2) a guaranty by the cooperating party that no material transferred pursuant to the Agreement will be reprocessed without the prior approval of the United States. 42 U.S.C. § 2153(a)(5), and (7).

On the other hand, subsequent arrangements are specific contracts, approvals, authorizations and other arrangements required to implement an Agreement. See 42 U.S.C. § 2160; S. Rep. No. 467, 95th Cong., 1st Sess. 10 (1977). Section 131 of the Act regulates subsequent arrangements. The subsequent arrangement provision provides the test the executive branch must apply in evaluating (1) whether to approve a request for reprocessing of spent nuclear fuel that had originally been exported or produced through the use of any nuclear materials and equipment or sensitive nuclear technology exported from the United States; or (2) whether to approve the transfer back of the plutonium in quantities greater than 500 grams resulting from the reprocessing for use in another nuclear reactor. The Act mandates that United States authorization for such reprocessing or retransfers not result in a significant increase of the risk of proliferation of weapons beyond that which exists at the time the approval is requested. In addition, the statute requires that:

"* * *Among all the factors in making this judgment, foremost consideration will be given to whether or not the reprocessing or retransfer will take place under conditions that will ensure *timely warning* to the United States of any diversion well in advance of the time at which the non-nuclear-weapon state could transform the diverted material into a nuclear explosive device." (Italic added.)

The Act explicitly ties the timely warning standard to non-nuclear-weapon states. This is because a non-nuclear-weapon state has not previously been known to have detonated a nuclear explosive device. Accordingly, there is a heightened risk of proliferation when reprocessing or the return of plutonium involves a non-nuclear-weapon state.

Japan is a non-nuclear weapon state. In the past, Japanese requests for approvals for reprocessing or the retransfer back of plutonium from a third country have been provided on a request-by-request basis under the subsequent arrangement process. The proposed Agreement in the accompanying Implementing Agreement, however, provides blanket authority to Japan to reprocess and store United States-origin nuclear material within Japan, as well as the authority to transfer spent fuel to designated facilities in England and France for reprocessing and have the resulting plutonium subsequently returned. The consents and prior approvals for these activities would last the life of the Agreement and apply to facilities within Japan not yet in existence.

We conclude that the proposed Agreement does not meet the requirements of subsections 123(a) (5) and (7) of the Act or the timely warning standard of Section 131. Although the Act does not explicitly require that consent or advance approvals only be granted under the subsequent arrangement process or on a request-by-request basis, it is clear from the structure of the Act and its legislative history that it was anticipated that the guaranties of consent and prior approval over retransfer and reprocessing activities would provide the United States with the opportunity to apply the substantive standards of the subsequent arrangement process, including timely warning, in a systematic and effective manner. This is particularly true when the reprocessing or retransfer of plutonium involves a non-nuclear-weapon state.

The Implementing Agreement that accompanies the proposed Agreement for Cooperation provides blanket approval for reprocessing within Japan and the return of plutonium from third countries to Japan that would leave the United States with no effective control over the life of the proposed Agreement for these activities. The United States would have to rely solely on the monitoring of these activities by the executive branch, as opposed to before-the-fact determinations made through the subsequent arrangement process. The United States would also have to rely on its ability in the extreme case to terminate the proposed Agreement or suspend the Implementing Agreement to ensure that the reprocessing within Japan and the return of plutonium to Japan, does not, over the 30-year Agreement, create increased risks of proliferation. Further, advance approval deprives the Congress of its oversight function.

We do not believe the Act intended that the subsequent decision-making or oversight of the United States would be based only on the executive branch's assessment of the implementation of the activities authorized by a one-time blanket approval for reprocessing activities and the subsequent return of plutonium to a non-nuclear-weapon state such as Japan. Nor did the Congress anticipate that United States oversight would be limited to its ability to terminate or suspend an agreement under certain extreme conditions.

Rather, we think that by providing for a separate section in the Act on subsequent arrangements and requirements for consent and prior approval over retransfer and reprocessing activities, that the Congress sought to ensure the United States would maintain effective control over these activities through application of the standards of the subsequent arrangement process in a meaningful way.

We think that it is particularly difficult to apply the timely warning standard to advance approvals that involve reprocessing in or the transfer of plutonium to a non-nuclear-weapon state. In our view, it cannot be asserted with any degree of confidence that over the succeeding 30-year period the technical capabilities of the cooperating party,[1] anticipated conversion times, safeguards capabilities, United States political relationships with the cooperating party, etc. would all be such as to assure the existence of timely warning at all times or even ensure there would be no increase in proliferation risks over the life of the agreement. Accordingly, we do not think that the timely warning standard can be applied in a systematic and effective way to the blanket approvals at issue here.

Finally, we recognize that Japan is an advanced nuclear nation that is seeking nuclear cooperation on a long-term, predictable, reliable basis. However, the Act does not differentiate between advanced nuclear countries that have not detonated nuclear weapons and those that have. Rather, the Act applies heightened scrutiny to non-nuclear-weapon states, whatever their state of advancement. Since Japan is a non-nuclear-weapon state, the timely warning standard must be applied as intended by the Act.

There is, however, flexibility in the Act. The Act provides for a type of generic or programmatic approval process, that we believe would provide Japan with the long-term, predictable terms it needs while still allowing the United States to maintain effective oversight. Under Subsection 131(a)(3), the terms and conditions necessary for the approvals associated with reprocessing can be included in the Agreement. However, the actual approval is still provided under the subsequent arrangement process, but in an expedited manner.

Our more detailed analyses are included in the enclosed legal memorandum.

Sincerely yours,

And it is signed.

Mr. President, I want to repeat that I do not question Japan in this regard. What I do question is setting a precedent for this agreement with Japan that could be used with other nations.

Mr. President, the message of this GAO legal memorandum is that the agreement does not meet the requirements of law. The GAO memorandum, I repeat, states unequivocally that the agreement does not meet the requirements of existing law.

If the administration were straightforward on this issue, they would take the agreement back and either renegotiate it so it meets the provisions of law, or they would send it back here with a waiver, thus triggering the Proxmire amendment that requires positive approval of the agreement by both Houses.

The truth is the administration does not want to do this. It does not want to do it because it knows I think, that they entered into a bad agreement with the Japanese nuclear industry, a bad agreement that takes Congress out of the loop of oversight of the shipments of plutonium to Japan. It takes us out whether we like or not without changing any law. This agreement will effectively alter U.S. law.

I think it is a bad agreement that removes U.S. consent rights that have served us well over the past years. What has not worked well with Japan? Can anyone tell me? The agreement is there until the year 2003. Let us see how it works. Maybe we can negotiate a different agreement by the year 2003. This agreement has worked well in past years. No one has quarreled with that.

This is a bad agreement also because it creates a precedent for other countries to seek plutonium on the same basis as Japan. It is a bad agreement that contains the seeds for a future disaster for U.S. national security.

I do not know why our negotiators seem to have been beaten down. Maybe that is too strong a term. But certainly they were worn down by the Japanese negotiators. In other words, we gave the Japanese the advantage of special treatment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GLENN. Will the Senator yield an additional 2 minutes?

Mr. PELL. I yield 2 additional minutes.

Mr. GLENN. There is no reason that we have to provide this special treatment. Japan has done well under the existing agreement. I have no quarrel with Japan on the way this agreement has been administered. There is no reason to scrap it for a new agreement that undermines our antiproliferation laws, our commitment to strengthen controls over nuclear weapons and useable nuclear materials. In doing so, it undermines our national security.

So I urge this new and unneeded agreement be rejected.

Mr. President, once again, let me give my appreciation to Chairman DANTE FASCELL, chairman of the Committee on Foreign Affairs. He had this report back from the Comptroller General. He had requested it. But today in the interest of making certain that all material was out, he gave me permission to use this. I was happy to read it into the RECORD fully.

The report is more complete than that. This is the summary record of it, but I believe it states all the major points. The report documents that this agreement breaks our laws.

So thanks again to my good friend, DANTE FASCELL, over in the House. We are all trying to work together so we make sure our nuclear future is weapons-free in this world. Mr. President, I ask unanimous consent that various related materials be printed in the RECORD, and I yield back my time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 11, 1981]

ADMINISTRATION MOVING TO LOOSEN LAWS ON CURBS FOR NUCLEAR WEAPONS ABROAD

(By Don Oberdorfer)

The Reagan administration is moving toward adoption of a highly controversial program to sweep away the most binding aspects of current laws on retarding the spread of nuclear weapons abroad, according to documents circulated to senior officials.

Among other things to be considered in an October 19 meeting of nuclear control policy makers, according to the papers prepared for the session, are:

Transferring to the State Department all the export licensing functions of the Nuclear Regulatory Commission, an independent agency established by Congress as a check on executive decisions in this field.

Repealing the current provisions of law that cut off U.S. nuclear exports as well as military and economic assistance to nations moving toward producing atomic weapons for the first time.

Weakening current laws requiring countries without atomic weapons to permit international inspection of all their nuclear facilities in order to continue buying nuclear materials from the United States.

Together with other announced or impending decisions in the nuclear field, acceptance of such proposals would represent a full-scale turnabout in governmental policy. The increased strictness with U.S. nuclear exports that followed the global shock waves of India's 1974 atomic test would give way to a much greater official permissiveness, with reliance instead on American standing as a "reliable supplier" for leverage to discourage the spread of atomic weapons.

Meanwhile, the United States' own expanding nuclear weapons program will mean a dramatic increase in domestic production of weapons-grade plutonium, according to government sources. And the Reagan administration followed up its recent policy announcements in favor of the nuclear power industry by saying it would pick up a share of the cleanup costs at the disabled Three Mile Island plant in Pennsylvania.

Assistant Secretary of State James L. Malone, chairman of the interagency group considering the policy changes, wrote in an October 2 memorandum that "preliminary and informal" consultations with Congress are to follow the October 19 discussions. A final decision paper will then be drafted for more executive discussions and, ultimately, President Reagan's signature.

The documents circulated by Malone, partly in the form of "pro" and "con" discussion of the major proposals under consideration, explicitly state that powerful congressional opposition can be expected. This likely opposition and the major legislative effort which would be needed to overcome it, are the main factors cited in the "con" column for the most sweeping proposals.

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[1] We recognize that from a strictly technological base, Japan can hardly be distinguished from a nuclear-weapon state in that it has the scientific expertise and nuclear material necessary to construct a nuclear explosive device. However, as the Departments of State and Energy make clear in their analysis, should Japan choose to build a nuclear explosive device, it would need to acquire unique equipment and production facilities not presently available domestically in Japan.

Several outspoken backers of current anti-proliferation laws and policies were cited in the interagency document as probable opponents of the proposals for change. When contacted yesterday by The Washington Post, some of them made clear that a battle royal will erupt if Reagan adopts the proposals now under discussion.

Senator John Glenn (D-Ohio) said the repeal of the current sanctions against nations moving toward a nuclear weapons capability would leave "a toothless policy" and would tend to treat nuclear matters abroad as "just another business development like selling automobiles or washing machines."

Among the sanctions that are being considered for elimination are those sponsored by Glenn and by former senator Stuart Symington, which bear their names, and sanctions provisions of the Nuclear Non-Proliferation Act of 1978. Glenn said he believes that such changes would go "further than Congress will want to go."

Sen. Alan Cranston (D-Calif.) said the administration papers as reported to him by The Post, are "right about two things: there will be strong opposition, and particularly from me."

Glenn and Cranston, along with Reps. Jonathan B. Bingham (D-N.Y.) and Clement J. Zablocki (D.-Wis.), were mentioned in the administration documents as the likely source of "particularly strong opposition" in Congress to some of the proposals. Bingham and Zablocki could not be reached.

Commissioner Victor Gilinsky of the Nuclear Regulatory Commission "is likely to testify against" a transfer of the functions of the NRC to the State Department, according to the administration papers. Gilinksy said he would oppose such a move "vigorously" in congressional testimony because "the NRC has served a very valuable function in being an independent check on the way the laws on nuclear exports are carried out."

Gilinsky said the State Department has always wanted to take complete control of nuclear exports but "I would be surprised if this goes forward" because of the extensive opposition it would generate in Congress and elsewhere.

Paul Leventhal, president of the Nuclear Club Inc., a Washington-based group opposing the spread of nuclear weapons, said the proposals as reported "demonstrate the Reagan administration's dangerous insensitivity to the proliferation problem" and amount to "nuclear know-nothingism."

Leventhal, who testified before a House subcommittee last week on nuclear policies, said that placing the State Department in sole control of nuclear exports would be "like putting the fox in charge of the chicken coop."

The deliberations in the policy-making committee follow an annoucement by Reagan July 16 of broad guidelines under which U.S. standing as "a reliable supplier" of nuclear materials would be emphasized as a tool against the spread of nuclear weapons. At that time, it was announced that proposed laws and regulations to implement this policy would be forthcoming.

The proposals under discussions are similar to those recommended by Malone last December 18 as chairman of the Non-Proliferation Coordinating Committee of the Reagan transition. This report became highly controversial, both because of its substance and because Malone in private life was a lawyer representing nuclear industry clients, including some in Taiwan and Japan.

Neither Malone nor members of his staff could be reached for comment yesterday.

The documents circulated to the administration policy makers said that "a proposed reorganization plan" to encompass all the controversial changes is under consideration. If this is not possible, the changes "will be transformed into bill provisions," according to the papers.

The documents argue that the changes under discussion would eliminate existing and future complications for American foreign policy, simplify policy making and enhance the U.S. standing as a "reliable supplier" of nuclear materials.

At the same time, the documents acknowledge that some of the changes will be seen as "a major weakening of U.S. non-proliferation policy and resolve" and could reinforce "congressional fears" about the direction of administration policy. If the changes are rejected by Congress, the papers point out, this could adversely affect "foreign perceptions of the United States as a nuclear supplier."

STATEMENT BY SENATOR GLENN ON JAPAN NUCLEAR AGREEMENT

Before I begin my brief remarks, I would like to thank the committee for inviting me to discuss the proposed revision of our agreement for nuclear cooperation with Japan. I congratulate the committee for its decision to hold this hearing, and for its appreciation of the profound implications that this agreement—in its current form—will have for America's ability to regulate international traffic in the kind of nuclear materials that devastated Hiroshima and Nagasaki in 1945.

Mr. Chairman, I do not mean to suggest I am in any way suspect of Japan's intentions in signing this agreement. Japan is party to the Nonproliferation Treaty, a charter member of the Nuclear Suppliers Group, and has accepted IAEA safeguards over all its nuclear facilities. Indeed, it is Japan's impeccable nonproliferation credentials that have allowed the administration to submit an agreement that would not even be considered in other cases. Nonetheless, I am deeply concerned about the risks raised by this agreement and the precedent it sets for future nuclear cooperation.

The problem we are facing today is not a new one. A few months after the sudden end of World War II, Secretary of State Acheson summoned a group of experts to review possible measures to control these materials. The resulting Acheson-Lilienthal report reached the following finding about prospects for international control over plutonium:

". . . Assume an international agreement barring the use of plutonium in a bomb, but permitting use of the pile for heat or power. No system of inspection, we have concluded, could afford any reasonable security against the diversion of such materials to the purposes of war."

Forty years after these words were written, Assistant Secretary of Defense Richard Perle—then the top spokesman of the Reagan administration on strategic arms control issues—told a European Arms Control Conference:

"There is no place for the spread of plutonium around the world in any sensible policy aimed at restricting the proliferation of nuclear weapons and I think that traffic in plutonium ought to be halted and halted absolutely."

Mr. Chairman, these quotes reflect some refreshing continuity in U.S. foreign policy. Indeed, throughout the entire postwar period there has been substantial agreement between Presidents and Congresses, Republicans and Democrats, and House and Senate that international trafficking in bomb-grade nuclear materials would be contrary to U.S. and international security interests.

The agreement now before this committee represents a radical departure from this stable and sensible tradition. By loosening U.S. control for 30 years over international commerce in plutonium, the agreement would condone the widespread use of this deadly material. The risks of nuclear proliferation, nuclear terrorism and environmental destruction that would result from this agreement require that Congress undertake a thorough and sober examination of its terms.

I hope that during the committee's review of this agreement, the focus will be less on narrow bilateral issues and more on the implications of the agreement for our ability to sustain this continuity of policy. To put it bluntly, Mr. Chairman, we must not let our passion to become a reliable supplier of nuclear materials overcome our duty to remain a responsible supplier of such materials. In the dangerous nuclear territory now before us, if conflicts arise between commercial expediency and the integrity of our national and international controls, our commercial goals must yield.

President Ford addressed this very issue back in 1976: "We must be sure that all nations recognize that the U.S. believes that nonproliferation objectives must take precedence over economic and energy benefits if a choice must be made."

Yet there is evidence throughout this agreement of a reversal of these priorities. Let me cite just two examples:

The agreement would subject future Japanese plutonium facilities to safeguards concepts that are only in the early stages of development. If difficulties arise in applying these concepts at a particular site, "The parties shall make every effort to ensure that this does not delay the operation of the facility." I am not being satirical here, these are actual words from the text of the implementing agreement.

Even in the event that the U.S. was faced with suspending the agreement due to a material violation of these admittedly imperfect safeguards, the agreement would require the U.S. to "Carefully consider the economic effects of this suspension and . . . seek to the maximum extent possible to avoid the disruption of international nuclear trade and fuel cycle operations." Again, I am quoting directly from the agreement.

As I read these excerpts, I am struck by how far this agreement would stray from past policy and set a dangerous precedent for other nations. If the agreement is allowed to stand, Congress may soon be hearing requests to relinquish U.S. rights over plutonium produced from U.S.-origin materials in other countries with advanced nuclear programs. Where are we to draw the line?

The Reagan administration has worked quite hard to revise our entire historical approach to the regulation of bomb-grade nuclear materials in international commerce. Under a novel legalism called "advance programmatic prior consent", a concept that I have not been able to find anywhere in our laws, the administration would relinquish case-by-case physical security reviews over what other countries do with the nuclear materials that we export.

As a result of this policy, the quantity of U.S.-origin plutonium that would appear in international commerce would no longer be measured in pounds or kilograms, but in ton quantities that would by comparison rival our current nuclear stockpile.

I have often heard the administration argue that the U.S. no longer has a monopoly in the world's nuclear business, and that we must yield to the civilian use of plutonium or be excluded from international nuclear developments. Yet according to the data I have seen in the case of Japan, the United States exercises case-by-case prior consent rights over more than 80 percent of Japan's nuclear materials. Yes, that is not a U.S. monopoly. But it is still a rather significant margin of influence that the draft agreement would relinquish.

Given the growth capabilities of other nations to produce and export weapon-usable material, we should be encouraging these nations to follow our example of responsible case-by-case reviews of nuclear material exports, rather than leading them to adopt their own versions of these so-called "programmatic prior consents."

The agreement that is before this committee is perhaps the most significant nuclear cooperation agreement in history. But its significance stems from the benefits it will produce for nuclear nonproliferation—indeed, the administration has evidently failed to elicit a Japanese commitment to require full scope safeguards over its own nuclear exports. Its significance lies more in the procedures it creates for accelerating and legitimizing widespread commercial uses of plutonium before international society has devised the means to protect humans and the environment from its hazardous consequences.

Mr. Chairman, I have many concerns about this agreement.

I am concerned about the fact that the administration can say that it is fully confident about the ability of the IAEA to safeguard large reprocessing and plutonium storage facilities, when in fact such safeguards are only in the research and development stage. Evidently, my concerns are shared elsewhere in our government.

The Nuclear Regulatory Commission has expressed strong opposition to this agreement. The Commission's technical experts concluded that Japan could be expected to lose track of hundreds of kilograms of weapon-usable material at each of the large plutonium facilities it plans to build. Using the IAEA's number of 8 kilograms per bomb, one can easily see that this represents enough nuclear material to create dozens if not hundreds of nuclear weapons. On what basis can our "timely warning" criterion be maintained in such an environment?

The Department of Defense has also opposed this agreement. In its recent report on the inadequacies of existing standards for the physical protection of plutonium, Defense concluded that "Opportunities for terrorist acts, including attempts to steal civil plutonium, will increase substantially as a result of the increased commercial use of plutonium."

In hearings before my committee last March on "Nuclear Non-Proliferation and U.S. National Security", Assistant Secretary Perle discussed his Department's frustrations in dealing with officials in other agencies who apparently regarded these national security concerns as rocking the boat. When I asked Mr. Perle about DOD's involvement in the negotiating process that led to this agreement, his response was, "We crashed the party, Senator, on a number of occasions . . . we invited ourselves to meetings . . . we made a general nuisance of ourselves." He added: "I am afraid that much of the negotiation between the U.S. and Japan had taken place without being reported to us."

I would like to submit for the committee's review the full text of Mr. Perle's remarks, along with some recent press reports about the serious interagency disagreements about the wisdom of this draft agreement.

Mr. Chairman, it would be grossly irresponsible for Congress to approve this agreement without a close examination of the precise reasons why NRC and DOD opposed this agreement on national security grounds. I have written to both agencies to request full documentation of their views on why they opposed this agreement, and I would strongly urge your committee to require both NRC and DOD to fulfill their responsibilities under section 123 of the Atomic Energy Act to "promptly furnish" your committee with these views.

I am concerned that the administration estimates that over the course of this agreement air shipments of ton quantities of plutonium will pass through U.S. and Canadian airspace, despite the fact that large plutonium transport casks are also only in the early stages of research and development. I have been pleased to join Senator Murkowski in requiring that, before any such shipments may occur, these casks be certified as capable to withstand actual crash and drop tests, under worst-case circumstances.

I am concerned about the administration's claim to clairvoyance in being able to estimate future threats of terrorism and sabotage at large plutonium facilities, some of which have not yet even been built. How can one reasonably estimate the capabilities and intentions of terrorist groups that may exist in Japan in the year 2017, when we know so little about today's terrorist groups in Japan? In reviewing the materials that the administration has presented Congress, I have found no in-depth analysis of the precise physical security threats that would exist, especially for these future facilities.

I am concerned about the way this agreement was negotiated, with Congress, the NRC and the Defense Department being kept in the dark until the time for approval had arisen. And if the agreement's so-called "programmatic prior consent" language comes into force, there would be a crippling of the congressional oversight mechanism for scrutinizing such future uses of our sensitive nuclear materials.

I am concerned that the administration's desire to accommodate Japan's long-term energy planning has led it to reinterpret our basic atomic energy laws—such as the concepts of "prior consent" and "timely warning"—rather than to pursue the more reasonable course of addressing Japan's concerns by facilitating the timely processing of Japan's subsequent arrangement requests. During Senate floor discussions prior to enactment of the Nuclear Non-Proliferation Act (NNPA), Senators McClure, Percy, and myself all agreed that case-by-case approvals of subsequent arrangements should continue on a highly expedited basis as a way of addressing such concerns.

To clarify the meaning of "timely warning" as intended by the authors of the NNPA, I would like to submit a detailed analysis of that concept for the record.

Mr. Chairman, Japan has often expressed its desire to use plutonium as a fuel for its commercial breeder reactor program. I have noticed that Japan has just announced new energy plans indicating that it does not expect to have such a reactor in commercial operation until as late as the year 2030. Given the extremely long-term nature of Japan's commitment to such a program, I think that it would be reasonable for the U.S.—in accordance with our antiterrorism and atomic energy laws—to seek to encourage other nations to defer the production of large stockpiles of separated plutonium for programs that may not come into existence for generations.

President Ford put it well in his 1976 statement: "* * * we must develop means to establish international restraints over the accumulation of plutonium itself, whether in separated form or in unprocessed spent fuel. The accumulation of plutonium under national control, especially in separated form, is a primary proliferation risk."

The present draft agreement, Mr. Chairman, does not negate the hard fact that nationally controlled stockpiles of plutonium and highly enriched uranium are primary proliferation risks. And this is certainly true here in the United States, as well as abroad among our friendliest of allies. We should at the very least maintain our ability—indeed our responsibility—to perform case-by-case reviews of the specific physical security measures taken by foreign governments to handle U.S.-origin sensitive nuclear materials. There is no reason why such reviews cannot coexist with long-range energy plans of those governments.

When we wrote the NNPA back in 1978, every effort was made to accommodate the needs of foreign energy planners while protecting U.S. security and environmental concerns. Yet from what I have seen, this agreement achieves less of a reconciliation of these objectives, than a simple trade-off—our physical security priorities are being weakened despite the ever-growing threat of nuclear terrorism, while the administration shows an unbounded willingness to alter our laws and policies to conform to the needs of foreign nuclear programs. I am especially doubtful that the current agreement, applying as it does to large plutonium facilities to be built over the next 30 years, is based on sufficient information to satisfy the atomic energy act's requirement that "adequate physical security" be maintained.

I hope that the committee will examine this agreement in the proper context not just of U.S./Japan relations, but in the broader historical context of America's commitment to reducing the risk of nuclear proliferation and terrorism.

To summarize what I have said, I think there are ten fundamental problems with this agreement in its current form:

1. A 30-year generic approval of reprocessing and return of plutonium, as opposed to the case-by-case approvals Congress intended under the NNPA.

2. Long-term programmatic prior consents that will frustrate the Congressional oversight mandated under the Atomic Energy Act.

3. Approval of reprocessing in a large projected Japanese reprocessing plant without assurance of effective safeguards, which have yet to be developed for such plants.

4. The large throughput of the proposed reprocessing plant, representing unaccounted-for plutonium sufficient for more than 100 nuclear weapons. A target for terrorists.

5. Inadequate analysis of the NNPA's "timely warning" criterion as applied to this agreement. Indeed, the timely warning cri-

terion will not be met under the agreement's terms.

6. Failure of the administration to get Japan's commitment to require full-scope safeguards over its nuclear exports.

7. An unbalanced "reciprocal rights" provision allowing Japan to claim under certain conditions all plutonium produced in U.S. nuclear reactors containing components or equipment manufactured in Japan.

8. Suspension rights that require the U.S. to evaluate economic impact instead of solely U.S. nonproliferation and national security issues.

9. Lack of a sufficient information base to determine and evaluate physical threats at large fuel cycle facilities that may not be built for some years to come.

10. A provision for overflights of U.S. territory by aircraft containing hundreds of kilograms of plutonium, despite the nonexistence of a large cask that can withstand worst-case air crashes.

For all these reasons, and some I have not cited, I am opposed to this agreement in its current form and recommend that your committee return the agreement to the President for renegotiation, or resubmission with a waiver, to reflect the committee's concerns. If the agreement remains in its current form, and if the administration refuses to provide Congress with the information it needs and has requested to evaluate the national security implications of the agreement, then I would urge the committee to consider a joint resolution of disapproval.

THE CONCEPT OF "TIMELY WARNING" IN THE NUCLEAR NONPROLIFERATION ACT OF 1978

(By Leonard Weiss)

INTRODUCTION

In 1984, the first major shipment was made of plutonium separated from U.S.-origin spent fuel to a non-weapon state (Japan) since passage of the Nuclear Nonproliferation Act of 1978 (NNPA) [1]. Approval of the shipment had been given by the Secretary of Energy, with the concurrence of the Secretary of State, who was required by the NNPA to determine whether the retransfer of this plutonium from France (where the reprocessing of spent fuel took place) to Japan would result in a "significant increase of the risk of proliferation . . ." in which the "foremost" factor was whether the United States would receive "timely warning" of a diversion of the material.

In accordance with procedures adopted pursuant to the NNPA, the interagency discussions of the Japanese request for approval of the shipment involved the Nuclear Regulatory Commission (NRC). Although the NRC concurred with the finding that the shipment would not result in a "significant increase of the risk of proliferation", the Commission questioned whether the Departments of Energy (DOE) and State had followed Congressional intent in arriving at their conclusion that the "timely warning" test had been met. The NRC's position was summarized by NRC Chairman Nunzio J. Palladino as follows [2]:

"(T)he Commision's disagreement with DOE's position is focused on whether or not non-technical factors are permitted to be considered in connection with reaching any conclusions on the existence of timely warning. In the Commission's view, the legislative history of the Nuclear Non-proliferation Act of 1978 (NNPA) indicates that Congress intended timely warning to be essentially a technical matter involving such factors as safeguards measures applied to the material and the technical ease of incorporating the material into a nuclear explosive device. Other, non-technical factors were to be considered relevant only in connection with making the overall statutory finding of no significant increase in the risk of proliferation. A close reading of the statutory language in Section 131 b. of the Atomic Energy Act would seem to support the Commission's interpretation regarding timely warning, particularly since otherwise it would be necessary to consider the same non-technical factors both in connection with the timely warning analysis and in connection with the overall "increase in the risk of proliferation" finding. The attachment to this letter lists the more significant technical factors that the Commission believes affect timely warning, and that should be addressed in a classified supplement to future DOE analyses of subsequent arrangements."

The resolution of this issue will set a precedent with possibly profound future implications for U.S. national security and foreign relations.

The DOE/State conclusion on "timely warning" was not accompanied by a detailed supporting analysis. Rather, as indicated in the NRC letter, the conclusion was claimed to result from the presence of certain favorable political factors surrounding the U.S./Japan relationship. Subsequent inquiry [3] has revealed that DOE and State interpret the NNPA as saying that political factors, such as the nature and condition of the governmental system and nonproliferation policies in a recipient country, independently of the technical capabilities of that country, could be determined factors in judging whether the U.S. would receive "timely warning" of a diversion. Therefore, according to this view, some political factors, which determine the "inherent risk of proliferation" [4] in a country, could determine that "timely warning" was available, and these and other political factors could be used to determine that there was "no significant increase in the risk of proliferation" stemming from a proposed retransfer for reprocessing or return of plutonium. Further, it is claimed that there was no stated or implied legislative requirement for a supporting analysis of the DOE/State "timely warning" conclusion or the weight given to the latter in relation to other factors in determining proliferation risk.

It is the purpose of this paper to show that the DOE/State position is not in keeping with the legislative history of the NNPA or any other indication of Congressional intent. Rather, we shall show that; (a) the Congressional intent was to separate and independantly weigh the "timely warning" test from the set of possibly counterbalancing political factors listed in the NNPA as being pertinent to an overall judgment as to whether a proposed retransfer would result in a significant increase of the risk of proliferation; and, (b) that Congress meant the "timely warning" test to compare the time needed by the U.S. to effectively react to a diversion of nuclear material to the time needed by the diverting country to produce an explosive device, the latter time being estimated by technical assessments only. By this view, a political assessment based on specific political factors could result in approval of a retransfer request even if the "timely warning" test fails, but then the burden is on the political assessment to show that such political factors override "foremost" consideration of the technical capabilities of the recipient country to make a nuclear explosive device quickly from diverted materials.

I. THE LANGUAGE OF THE ACT

The key paragraph, Section 131b (2) of the Atomic Energy Act of 1954 (Section 303a of the NNPA of 1978) states that,

". . . the Secretary of Energy may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power reactor fuel assemblies or been the subject of a subsequent arrangement therefor prior to the date of enactment of the Nuclear Non-Proliferation Act of 1978 or for subsequent retransfer to a non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing, unless in his judgment, and that of the Secretary of State, such reprocessing or retransfer will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested. Among all the factors in making this judgment, foremost consideration will be given to whether or not the reprocessing or retransfer will take place under conditions that will ensure retransfer will take place under conditions that will ensure timely warning to the United States of any diversion well in advance of the time at which the non-nuclear-weapon state could transform the diverted material into a nuclear explosive device . . . ."

This language was originally offered by Senator Glenn to the Administration during negotiations prior to the beginning of markup of the NNPA by the Subcommittee on Arms Control, Oceans, and International Environment of the Senate Foreign Relations Committee on September 14, 1977. It was a substitute for proposed language by the Administration that would have replaced the "timely warning" criterion with consideration of "the probability of timely warning" as one (not "foremost") factor among many in determining whether to approve a retransfer request. We shall examine this markup in more detail later on. For now it suffices to note that the Subcommittee approved the Glenn language and ignored the Administration's proposal.

Following the markup by the full Committee (there were two earlier markups by the Committee on Governmental Affairs and Energy and Natural Resources), the legislation was reported out and a report filed which contained the following statement on the meaning of "timely warning" [5]:

". . . the standard of 'timely warning' . . . is strictly a measure of whether *warning of a diversion* (emphasis added) will be received far enough in advance of the time when the recipient could transform the diverted material into an explosive device to permit an adequate diplomatic response."

The Senate bill language was accepted by the House on the grounds that there were no substantive differences between the Senate bill and one passed by the House some months earlier. Representative Zablocki (D-Wisconsin), the floor manager for the House bill, while offering a resolution on February 23, 1978, directing the Clerk of the House to make certain technical corrections in the NNPA, made the following observation about the Senate amendments [6]: "The House reviewed these and found the amended Senate version to be, in all essential respects, consistent with (the House Bill). Upon reaching this judgment, the House, by unanimous consent then moved to recede and accept (the House Bill) as amended." Indeed, on February 9, 1978, when Representative Zablocki received unanimous consent to bring up the Senate bill and successfully proposed its passage by voice vote, he stated [7]:

"All of the central elements of the House bill—including the important 'timely warning' criterion—were faithfully preserved. . . . On the critical issue of timely warning, I am pleased to say that the Senate's legislative history was indeed consistent with our own."

The concept of "timely warning" was explained in the House report as follows [8]:

"'Timely warning' has to do with that interval of time that exists between the detection of a diversion and the subsequent transformation of diverted material into an explosive device."

Despite Representative Zablocki's clear statement, the Senate Report's phrase "warning of a diversion" as opposed to the House Report's "detection of a diversion", along with some additional Senate report language has been used by some in State/DOE to bolster a claim that the intent of the Senate on the meaning of "timely warning" was substantially different from that of the House.

We shall show that such a claim is logically unsupportable.

II. A PRECISE REFORMULATION OF THE TIMELY WARNING ISSUE

There are four time intervals associated with the notion of "timely warning" to the U.S. of a diversion by country "X". For purposes of explanation, we define them as follows:

Reaction Time.—The amount of time needed to fashion an appropriate and effective diplomatic response to prevent diverted material from being converted by country "X" into an explosive device. Reaction time is a function of bilateral and multilateral relationships and, therefore, involves a political assessment.

Conversion Time.—The time needed by country "X" to convert diverted material into an explosive device. (Note: Conversion time is a function of the industrial and bombmaking infrastructure in country "X", the nature of the diverted material, and the availability of any technology needed to process the diverted material into weapons-usable form. A technical assessment of country "X's" capabilities would yield an estimate of conversion time, and no political factors are involved.)

Detection Time.—The time between diversion of material and either the later detection of the diversion by the safeguards system or the earlier prediction of diversion through intelligence information. (In the latter case, detection time is a negative quantity, and may depend upon observations of political changes in country "X". Note that if we tacitly assume that the safeguards system works as designed, no political factors enter into an estimate of positive detection time. Quality of safeguards is then measured by the value of positive detection time, with smaller values indicating better safeguards.)

Warning Time.—The interval between the time when the U.S. learns a diversion has occurred or may occur and the time at which country "X" is capable of producing a nuclear explosive device following the aforementioned diversion of material. (Thus, warning time = conversion time − detection time. It is important to note that warning time involves political as opposed to technical assessments only when detection time is negative.)

In terms of the above definitions, the concept of "timely warning" in the NNPA becomes as follows:

Definition.—The U.S. has received "timely warning" of a diversion by country "X" when warning time is greater than reaction time.

The only thing remaining in order to show equivalence with statutory concept is to make the connection between some auxiliary concepts in the Senate report with the terminology in this paper.

The phrase "warning time required" in the Senate report as in, "The amount of warning time required will vary (and cannot be defined in terms of a certain number of weeks or months) . . .", [9] refers to what is here called "reaction time". Thus, if a multinational response is needed for effective diplomacy, a quicker reaction time can be expected in the event that the diverted material was multinationally owned or came from a multinational plant, since all the parties in that venture would have reason to feel aggrieved by the diversion.

The phrase "time . . . available" as in ". . . it will be necessary to determine how much time be actually (sic) available under any specific circumstances," [10] refers to what we are calling here "warning time".

The State/DOE position boils down to the claim that Congress did not intend the "timely warning" criterion to involve, on either side of the inequality in the above definition, a quantity estimated only on the basis of a technical assessment.

Since "reaction time" clearly involves political factors, and "warning time" can involve political factors, there appears, superficially at least, to be some merit to the State/DOE argument. On closer examination, however, the apparent merit vanishes.

We reiterate that "warning time" may involve political factors only when "detection time" is negative. The key observation to make is to note that detection time can be negative only in two situations: (1) Either the U.S. has learned of plans for (or suspects) diversion at a time prior to the time of actual retransfer (in which case the approval of retransfer is denied or revoked and there is no problem), or (2) There is a significant interval of time after the retransfer occurs before a diversion is achieved. In this case it can be argued that the clock marking off warning time could be triggered by observed changes in the political character of the government of country "X". But there is nothing in the Senate or House floor debate or report language or in the statute language that suggests making an assumption of existence of a significant time interval between retransfer and diversion, or equivalently, to assume that a significant change had occurred on the meaning of timely warning by the time the final version of the NNPA was passed by the Senate on February 7, 1978, and by the House two days later without further amendment.

To show this, we provide a detailed history of the Congress' consideration of the timely warning issue during its deliberations on the NNPA.

III. THE SENATE LEGISLATIVE MARKUP RECORD ON TIMELY WARNING

Committee markup records, which are uncorrected and not publicly filed, and therefore not readily available to the rest of the Congress, are usually given little or no weight in legal determinations of congressional intent on legislation. Nonetheless, they may, in conjunction with the committee report on the legislation and the floor debate, give some clue as to the meaning of certain legislative provisions when such meaning is otherwise obscure.

The DOE/State defense of its position on "timely warning" in the NNPA apparently includes a claim that the Congressional interpretation of the statutory language at the time of passage reflected the Carter Administration's view as expressed in a formal communication from the State Department to the Senate Foreign Relations Committee (see [4]). Since the only place in the legislative history of the NNPA where the Administration's position on "timely warning" is substantively discussed by Senators occurs in the Senate Foreign Relations Committee markups [11], [12], [13] of the legislation, we consider these (uncorrected) markup records in examining the DOE/State claim.

On September 14, 1977, at the Foreign Relations Subcommittee markup (see [11]), Senator Glenn introduced the language on approvals of retransfers for reprocessing or return of plutonium, including the "timely warning" test, that subsequently was adopted as the statute language. This language was a substitute for a previous formulation identical to that contained in the House bill, H.R. 8638, which passed with a dissenting vote on September 28, 1977, the same day the Senate Foreign Relations Committee reported out the NNPA. As indicated earlier, Senator Glenn offered this new language following discussions with and in response to objections by the Executive Branch that the previous formulation on approvals of retransfers was too "restrictive in scope" [14].

It is important to note the motivation as well as substance of the Administration's position at this point. The Administration was facing a serious problem in that the House and Senate bills had virtually identical provisions that subjected decisions on retransfers for reprocessing or return of plutonium to consideration of a single factor, the timely warning criterion. The Administration was concerned that this single test could be used to block U.S. approvals of any such retransfers and disrupt trade relations with our allies. Accordingly, the Administration had to either try to get the Congress to alter the definition of "timely warning" or broaden the test for approvals of retransfers to include other factors besides timely warning. Thus, in its comments on the marked up version of the NNPA reported by the Governmental Affairs Committee, the Administration said this about the proposed test for retransfer [15]:

"First, it would jeopardize negotiation of new, strict nuclear cooperation agreements since an overly strict interpretation of the "timely warning" standard could rule out all forms of fuel processing necessary for future fuel cycle activities. Second, timely warning should not be the sole basis for making determinations concerning the acceptability of subsequent arrangements, taking into account the existence of other factors which must be evaluated. Additional factors of importance include the nonproliferation policies of the countries concerned, and the size and scope of the activities involved."

Now, it is interesting that the language actually proposed by the Administration by way of compromise, language that was arrived at following negotiations with Senator Glenn, clearly takes the path of broadening the test for approvals for retransfers, and does not change the definition of "timely warning" but merely attempts to make the determination fuzzy by referring only to the probability of timely warning being available. The proposed language was as follows [16].

"The Administrator may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power fuel assemblies or been the subject of a subsequent arrangement therefore prior to the date of enactment of the Act or for subsequent retransfer to a non-nuclear weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing unless in his view such reprocessing to retransfer shall take place under conditions that will safely secure the materials and that are designed to ensure reliable and timely detection of diversion. In making this judgment, the Administrator will take into account such factors as the size and scope of the activities involved, the non-proliferation policies of the countries concerned and the probabilities that the arrangements will provide timely warning to the United States of diversions well in advance of the time at which the non-nuclear-weapon state could transform the diverted material into a nuclear explosive device; and".

Senator Glenn's explanation of the amendment he offered at the Foreign Relations Subcommittee markup left no doubt that it was not his intention to change the meaning of timely warning, but rather to broaden the test for approvals of certain retransfers. To see this, we note that in his statement, Senator Glenn referred approvingly to recent congressional testimony by then NRC Commissioner, Victor Gilinsky, defending the timely warning standard against Administration criticism that it was "unnecessary, unworkable, rigid, and unrealistic" [17]. Senator Glenn went on to say, [18]

"The idea of timely warning is the explicitly stated objective of the so-called blue book safeguards of the IAEA, which polices the Non-Proliferation."

Mr. ADAMS. Mr. President, will the Senator from Rhode Island yield?

Mr. PELL. Mr. President, I yield as much time as the Senator from Washington may need.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President. I rise in strong support of this disapproval resolution. At the same time, I really am dismayed that we should debate it at all. I would have preferred if the administration had followed the law and gone back to the negotiating table when it became clear that this agreement was inconsistent with the Atomic Energy Act. Back in December, the Senate Foreign Relations Committee voted overwhelmingly to send the negotiators back to the table. But, the administration has refused to negotiate changes, or to have meaningful discussions with the Congress to outline the perimeters of an acceptable agreement.

This is a dangerous agreement. It has the potential to result in accelerated global nuclear weapons proliferation. It provides a first time ever, long-term blanket approval for the foreign reprocessing of U.S. supplied spent fuel and use of plutonium. Until now, the plutonium recovered from U.S supplied spent fuel could not be transferred without first having undergone a case-by-case review.

In addition, this agreement permits the air transport of large amounts of plutonium, probably as much as a ton of plutonium per month. This is from Europe to Japan. Such transport has a safety and national security implication for our Nation. It particularly applies to the States of Washington and Alaska.

It is proposed at this point that it be landed in Alaska. This has been opposed by the Senators from Alaska. Its alternative place of landing would be the State of Washington, and this Senator from the State of Washington opposes that.

A ton of plutonium per month is an awesome amount of a very dangerous material being transported by air in casks that have not as yet been certified for safety by the Nuclear Regulatory Commisssion. This is a weapons-grade fuel.

The fact that we are transporting this through the air from France to Japan represents an appalling, an absolutely appalling, increase in the risk of transportation accidents, transportation takeovers, terrorist activities, all of which are involved when you have weapons-grade material that is in very limited supply transferred throughout the world.

I am not the only one who is concerned. The Nuclear Regulatory Commission has expressed concern, and the General Accounting Office, as was indicated by the Senator from Ohio, has said it violates the Atomic Energy Act and will leave the United States without effective control over the reprocessing of nuclear materials.

Richard Perle and his former associate while at the Defense Department, Frank Gaffney, have labeled the agreement as "seriously flawed."

Opposition to this agreement reaches across the entire political spectrum, from left to right, encompassing the Federal agencies from the same administration that negotiated the agreement. No matter what your philosophy may be, it is a bad agreement and it must be changed.

If we disapprove this agreement today by passing this resolution, we will not be abandoning Japan. The existing United States-Japan bilateral agreement on nuclear transport and use does not expire until the year 2003.

I have worked with the Japanese during all of my public life, and I want to do all that is reasonable to help, particularly to help them meet their energy needs. I have been involved in a series of different proposals during the years, including at one point, the use of United States coal to supply the 10 major facilities that supply electrical needs to the islands of Japan.

This agreement is far different. It is an unreasonable transfer of authority over United States nuclear materials to the Japanese. If this agreement is allowed to stand, within 30 years Japan will accumulate 225 tons of plutonium, which is more than the plutonium which is in the current United States and Soviet arsenals combined. It takes only 15 pounds of this plutonium to make a bomb. Simple arithmetic will indicate the number of bomb-type units which would be contained in 225 tons of uranium. As I stated before, this would be moving at a rate of approximately 1 ton per month by air.

Tomorrow the Senate Foreign Relations Committee will begin the markup of the INF Treaty. This treaty represents real progress toward reducing the amount of nuclear weapons between the superpowers. If this treaty is ratified by the Senate, and I hope it will be within a month, for the first time in history, we will be eliminating a whole class of nuclear weapons. As we do, let us not at the same time take a step which has the potential for increasing nuclear weapons throughout the world, as this agreement as presently drafted does, and it does so for a 30-year period. We have time to renegotiate parts of this agreement so that we do not damage our efforts to control nuclear proliferation.

I urge the adoption of this disapproval resolution. In conclusion, I would like to state, Mr. President, that it is not simply a distrust of what the Japanese might do. We will be placing into Japanese nuclear powerplants a weapons grade plutonium produced through reprocessing of uranium of the type we use in our system and that has been used in all of our allies' systems.

As weapons grade plutonium fuel goes on to Japan, there will be a series of dispersal points within Japan. Japan has had within very recent memory both airport trouble and trouble at its nuclear facilities from groups within Japan that not only oppose this type of operation, but are tied to other terrorist groups throughout the world.

One of the reasons we reduced the capability of the United States to produce weapons-grade fuel was to reduce the risk of terrorists taking this material which can then be used in other nations, which do not have nuclear weapons at the present time, to proliferate nuclear weapons throughout the world.

Senator GLENN and I have, during the course of the last 2 years and indeed much before that, done everything possible to prevent the spread of nuclear weapons material and the nonproliferation of nuclear materials generally.

We have now, throughout many places in this world, a number of nations with very unstable governments and a number of nations involved in or potentially involved in border disputes of increasing magnitude.

I have always opposed increasing the degree to which armaments should be placed in the hands of those who are either engaged in or very potentially engaged in, particularly in the Third World, armed conflicts.

As we increase from machetes to single rifle shots to machine guns to mortars, we increase the killing in those areas. If we allow this weapons material to flow into those parts of the world, we will have escalated a horror beyond all belief. One need not go to a great deal of imagination to determine what would happen with an unstable government fighting another unstable government having access to weapons grade material.

It was recently demonstrated that a high school student, using library references, could develop an atomic weapon—maybe not as sophisticated as we and the other superpower use but certainly an atomic weapon that would on detonation be an extremely dirty weapon and would kill enumerable people within the area.

Therefore, Mr. President, I hope the Senators who are here and those who are listening will vote for the disapproved resolution. In December, the Foreign Relations Committee, on which I sit, voted to disapprove this agreement by a substantial majority. I hope that we will continue to negotiate with the Japanese so that they can have supplies, but not increase nuclear nonproliferation risks by having a 30-year agreement with a ton a month being transferred by air through our territories. Its final destination, Mr. President, is dangerous enough, but those of us who live by the intermediate destination have great fear also. So I would plead with the Members of the Senate that we pass the motion to disapprove so that the administration can continue to negotiate. Under the treaty we have now, which goes to the year 2003, plutonium shipments are wisely handled on a case-by-case basis.

I thank very much the chairman of the committee for yielding me this time, and I hope that when we vote on this tonight there will be a very strong vote in support of disapproval and a chance for life on this planet. I thank the chairman.

Mr. EVANS and Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Thank you, Mr. President.

Mr. President, it is hard sometimes to write fast enough to keep up with some of the rather misleading arguments which have been used here this afternoon. Let me begin with the most recent—somehow the belief that by signing this agreement there will suddenly be authorization for Japan to fly tons of plutonium over American territory and landing at American airports. That simply is not the case, will not be the case, and should not be the case. In the first place, any transportation plan under the new agreement requires approval of both parties. It must be negotiated quite explicitly, and we have full and absolute authority to make any determinations and put any requirements we choose to in that transportation arrangement.

In addition to that, the State Department has sent a letter to Japan on behalf of the United States making that very explicit kind of determination. And we have no fears whatsoever that somehow under this agreement there will be the landing of any amounts of plutonium in Washington, Alaska, or anywhere else in the United States. Transportation plans have yet to be determined, and once they are determined they have to be approved by both parties. The United States has full and absolutely unilateral authority to say no to a plan with which it does not agree.

It has been suggested that it will be flying in casks that are not yet certified. Under this agreement no plutonium would be carried in casks that are not certified. They must meet NRC regulations today. If the Nuclear Regulatory Commission establishes stronger requirements for casks in the future, all casks must meet NRC regulations as well as Japanese regulations, but we have the authority unilaterally to say, "These are the regulations that you must live up to." And if at some time in the future this Congress decides that it, by law, wishes to further extend requirements for casks, it can do that, and that becomes the minimum requirement.

Mr. President, some of the talk here today has been as if suddenly we are back in 1968; that nothing has changed in 20 years; we would all wish that the world had not changed in 20 years, but it has. We are now in 1988. And the question is, What do we do now that is best for ourselves, our security, our future, and our relationship with Japan? It is not to simply stagger along under the old agreement which has much less coverage than the new agreement, much less opportunity to give guidance to other nations, and to have anything to say about what they choose to do in the future.

France, Japan, the United Kingdom, three of our closest friends and allies, all have chosen to move in a way that will create breeder reactor programs which would use plutonium or reprocessed fuel, and that has been their choice. They are there. We are not going to convince them to go in a different direction.

In this relationship with Japan, we have to deal with a nation that has made some decisions, that is moving toward breeder technology, has all of the sophistication and the scientific backing to do it on their own if they choose, and the worst thing in the world that could happen would be for us to abandon any kind of agreement with Japan and let them be set adrift to hook up with whomever they chose and to gain their necessary materials from whatever source they chose. They do not want to do that. We should not encourage them to do that.

Now, the Senator from Ohio has mentioned a GAO report, a legal analysis, as if it were the gospel coming from the Supreme Court. Mr. President, that GAO analysis, even by this nonlawyer Senator's review, is one that at best is a tentative analysis. It says, "We believe," and uses terms of that nature rather than explicitly and in detail setting forth the citations and the background and the analysis from which a real legal opinion ought to come.

Chairman Fascell was good enough to share the material he received from the GAO not only with Senator Cranston and Senator Glenn but with others as well, and I have here two legal analyses which have been made of the GAO report. Let me read from one of them, and then I will ask that both of them be included in the Record. In the introduction of a rebuttal of GAO legal analysis made by Mark Rowden, former NRC Commissioner, he ends his introduction by saying, "Careful analysis demonstrates, however, that those conclusions"—the conclusions of the GAO—"are unsupported by the cited provisions of that act or any other basis set forth in the subject GAO documents."

They very carefully go through the analysis and show in each and every element of the GAO analysis where they are either incomplete or have chosen the wrong analysis, or simply misunderstood current law. It is not one of the best analyses that has come out of the GAO, normally a fine organization.

Let me talk about just one of them. The question of timely warning, and the problems of increasing the risk of nuclear proliferation, the NRC document:

> * * * contests the validity and adequacy of the one-time, long-term advance approval contained in the Agreement and the absence of Congressional oversight on a case-by-case basis. Finally, it concludes that the "timely warning" evaluation cannot be made in an effective and systematic manner for a 30-year period into the future.
>
> The key to understanding why the substantive requirements of § 131(b)(2) are met lies in the provision for suspending the advance approvals and consents in the Implementing Agreement, which provides, in pertinent part: * * *.

Then he goes through the wording, the precise wording read by the Senator from Ohio when he talked about all of the provisos, and the requirements, and the definitions that would keep us from having any effective way to ensure that there was timely warning.

The Senator from Ohio said:

> Any decision on such suspension would only be taken in the most extreme circumstances of exceptional concern from a nonproliferation or national security point of view * * *.

Of course, that is what ought to happen. Those are precisely the times we ought to be concerned. But the guiding part of this whole thing is either party may suspend the agreement that has been given in article I of this implementing agreement in whole or in part to prevent—and then underline "a significant increase" in the risk of nuclear proliferation.

The Senator from Ohio talked about that being an extraordinarily difficult task.

Mr. President, this analysis goes on to point out that:

> What is most important to note in the foregoing provision is that one of the reasons for suspension of the consents is identical to the determination which the Secretaries of State and Energy must make to prove a subsequent arrangement under § 131(b)(2)—no "significant increase in the risk of proliferation."

Those are identical words in the existing law and in the new agreement.

It goes on to say:

> This identity of standards is crucial, because it means that the consent may be withdrawn (in whole or part, as required) in the very same circumstances which would have caused the Secretaries to deny approval on a request-by-request basis.

Mr. President, I ask unanimous consent that the legal analyses from the Department of State and the rebuttal of the GAO legal analysis of Mark Rowden, former NRC Commissioner, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMENTS ON FEBRUARY 29, 1988 LETTER FROM COMPTROLLER GENERAL TO DANTE FASCELL—WITH AN ENCLOSED LEGAL MEMORANDUM—CONCERNING PROPOSED AGREEMENT FOR COOPERATION WITH JAPAN

The letter and enclosed analysis are fundamentally flawed in two ways: (1) errors of fact or in characterization of the proposed agreement; and (2) errors in analysis. The legal conclusions reached—that the proposed Agreement does not meet the requirements of subsections 123(a) (5) and (7) of the Atomic Energy Act or the timely warning standard of Section 131—are not supported by the analysis presented and are contrary to the views of all of the responsible Executive branch agencies, as well as the President, the Nuclear Regulatory Commission, the American Law Division of the Library of Congress, and past precedent.

I. ERRORS OF FACT OR IN CHARACTERIZATION OF THE PROPOSED AGREEMENT

1. Assertion: Past Japanese requests for approvals for reprocessing have been provided on a "request-by-request" basis. (page 2 of letter). The practice prior to the NNPA was to provide approvals on "request-by-request" basis. (p. 11 of analysis).

Japan has one reprocessing facility at Tokai-Mura. Under the existing Agreement for Cooperation, reprocessing of U.S.-origin material there requires "a joint determination of the Parties that the provisions of Article XI [relating to safeguards] may be effectively applied" (Article VIII C.). This determination was made prior to enactment of the NNPA in 1977 and covered a two-year period. T.I.A.S. 8734. After extensions, a new determination was made in 1981 that covered a three-year period. T.I.A.S. 10294. That determination has been renewed on an annual basis in anticipation of new, longer-term arrangements. E.g., 51 Fed. Reg. No. 181 at 33107 (Sept. 18, 1986). Thus, the impression that past practice was limited to "request-by-request" approvals is either highly misleading or erroneous. Rather, for Tokai-Mura the U.S. has made the requisite determinations for multi-year periods to permit the facility to perform its role in Japan's nuclear program. It also bears noting that unlike the proposed Agreement, these determinations were not subject to a U.S. suspension right, requirements concerning the specific locations of the recovered plutonium or formal reporting procedures.

2. Assertion: The new agreement provides Japan with "blanket authority" to reprocess, store and transfer nuclear material (pp. 2-3 of letter; p. 13 of analysis).

The approvals contained in the Implementing Agreement do not apply indiscriminately to U.S.-origin material, as the assertion suggests. U.S. consent rights are only exercised for a defined Japanese program, which consists of facilities for which the United States has the necessary information to make the requisite statutory judgments. Thus, for example, reprocessing may only take place at facilities for which the safeguards and physical protection measures meet the standards established by the U.S. in the agreement. Similarly, plutonium recovered through reprocessing may only be further processed or used at facilities accepted by the United States on the basis of their safeguards and physical protection. Finally, retransfers are limited to specific countries and specific purposes, and in some cases they may only involve defined nuclear materials in designated quantities. In short, the impression that the U.S. consent rights required by Sections 123a. (5) and (7) have been fully exercised or exercised without limitation or reference to actual Japanese needs is false.

The letter and analysis also suggest that any future facility may be included in the Japanese program and benefit from U.S. consent without any U.S. role. (e.g., p. 20 of analysis) In fact, only facilities for which the U.S. has established the requisite safeguards may be included in the approved program and only advance notification and confirmation to the U.S. that the required safeguards will be implemented by the IAEA. In all other cases, whether modifications of the approved safeguards or the creation of new safeguard arrangements for existing or future facilities, the U.S. must specifically agree before a facility may use U.S.-origin material. Such U.S. approvals will be subject to the subsequent arrangement process.

3. Assertion: In the event of a problem, U.S. recourse is limited to terminating the Agreement for Cooperation or suspending the Implementing Agreement (p. 3 of letter) and this is only possible if the approvals are not being properly implemented (p. 14 of analysis).

This assertion misstates both the purposes and effect of U.S. suspension rights. Under the international law of treaties, a material breach or a significant change in circumstances can, in appropriate cases, give rise to a right to suspend performance under a treaty. The purpose of the suspension clause in the Implementing Agreement is to expand greatly upon this rule so that the United States will be in a position to revoke its consent whenever any activities would give rise to a significant increase in the risk of proliferation or in the threat to U.S. national security. Thus, the suspension right may be exercised at any time, may be used to suspend only some or all the U.S. consents in whole or in part, and is available even if Japan is in full compliance with the Implementing Agreement. For example, the Implementing Agreement and its Agreed Minutes make clear that actions of third parties may provide the basis for a U.S. decision to suspend its consent.

4. Assertion: The President has failed to respond to the concerns of the cognizant congressional committees (p. 6 of analysis).

On January 29, 1988, the President sent a three page letter to the SFRC and members of the HFAC addressing the points raised in letters they had sent him. He attached a nine page "Review of Congressional Legal Concerns About Agreement for Peaceful Nuclear Cooperation with Japan" which under his orders had been prepared by the legal offices of the Departments of States, Defense, and Energy and the Arms Control and Disarmament Agency after receipt of the Congressional letters. Attached to that new analysis were twelve additional pages of analysis prepared by these agencies in 1985 in response to questions posed by the General Accounting Office.

Moreover, prior to the President's letter, witnesses had appeared on behalf of the Administration at hearings held by the SFRC and HFAC to address any Congressional concerns and Administration representative have also been meeting with and briefing all interested members and staff since the Agreement was submitted for Congressional review.

5. Assertion: The NRC expressed concerns over the provisions for advance approval for plutonium use in future Japanese facilities (p. 8 of analysis).

This statement is correct but highly misleading since it is cited a way that suggests the NRC questioned the legality of these advance consents. The NRC, in fact, testified before the HFAC that it did not disagree with the Executive branch judgment that the proposed Agreement meets all requirements of law.

6. Assertion: The Secretary of Defense has opposed the proposed Agreement (p. 10 of analysis).

This statement is also correct but highly misleading since it is cited without reference to the nature of the Secretary of Defense's opposition or the evolution of those views. The details remain classified. However, Secretary Carlucci has written an unclassified letter to both the SFRC and HFAC stating that the Department of Defense fully supports the proposed agreement, its earlier concerns having been fully satisfied.

7. Assertion: The Agreement must lie before the HFAC and SFRC for 60 days (p. 9 of Analysis).

The Agreement must lie before the Congress for that period. At the outset of the 60 day period The Agreement was referred to the Committees, and they must act on the Agreement within 45 days or they are automatically discharged. The Committees are required during the 60 days to hold hearings on the Agreement; a hearing for that purpose is scheduled in the HFAC, but SFRC staff indicate that their Committee will not be carrying out its statutory obligation.

8. Assertion: The cognizant Congressional committees have expressed their belief that the proposed Agreement is outside the parameters of the requirements of Section 123 (p. 9 of analysis).

The HFAC did not present a view of the Committee to the Executive branch. A majority of its members individually indicated their concurrence in the view expressed by the SFRC.

9. Assertion: Congressional review of an agreement for cooperation is "up to a total of 15 days" (p. 15 of analysis).

As stated in the NPAS language quoted on the same page, the period of Congressional review is 90 continuous session days, which in this case will encompass some six calendar months.

10. Assertion: Non-nuclear weapon states are countries which have not previously been known to detonate a nuclear explosive device (p. 17 of analysis).

In view of the definition of non-nuclear weapon state contained in the NPT and Section 670 of the Foreign Assistance Act, the executive branch interprets this phrase to apply to states which had not detonated a nuclear explosive device by 1967 (i.e., all states other than the U.S., UK, France, China, and the USSR). Thus, India, which detonated a nuclear explosive device in 1974, is treated as a non-nuclear weapon state for purposes of the Atomic Energy Act, as would any other states that should test the device for the first time.

11. Assertion: In assessing timely warning, political and economic factors may only be relied upon to the extent they contribute to intelligence information that would enable the executive branch to become aware of plans for a possible diversion for nuclear materials prior to the diversion occurring or to the extent they could affect the timeliness of an adequate diplomatic response. (p. 18-19 of analysis).

The reference to "intelligence information" is misleading because it suggests that demonstrably public actions—such as a revision of Japan's constitution to permit acquisition or development of nuclear weapons or withdrawal from the NPT—could not give timely warning. Further, the restriction to information received in advance of a diversion is erroneous since the timeliness of warning depends upon its receipt prior to final fabrication of a device and not whether warning is received prior to the initial diversion of material for that purpose.

12. Assertion: Over a 30 year period it cannot be asserted with any degree of confidence that factors would be such "to assure the existence of timely warning at all times or even ensure there would be no increase in proliferation risks over the 30-year period." (p. 19 of analysis).

This assertion assumes that the Executive branch statutory determination rests entirely upon "a projection of future events" (p. 19 of analaysis). That is incorrect. The judgment underlying the Implementing Agreement is grounded upon the current U.S. political, economic and security relationship with Japan, Japan's superlative non-proliferation credentials, and the advanced, entirely peaceful nature of Japan's nuclear program. However, the statutory judgment does not rest on the artificial assumption that these or any other circumstances necessarily will remain the case. First, the Agreement imposes stringent conditions in order for the Japanese to make use of the U.S. approvals. These conditions are far greater than what is necessary to assure that Japan will not divert nuclear materials subject to the Agreement. Second, it is the purpose of the suspension clause, along with the Agreement's numerous provisions for consultation and revision, to ensure the United States will be able to address a serious degradation in the non-proliferation situation or a significantly increased threat to U.S. national security. The U.S. insisted upon a broad, unilateral suspension right specifically because it would have been difficult if not impossible otherwise to make the requisite statutory judgments over extended periods.

The analysis also seems to suggest that timely warning must be present as a precondition of U.S. approvals of reprocessing or plutonium transfers involving non-nuclear weapon states. In fact, the statutory standard is whether the activities proposed would create a significant increase in proliferation risk, not whether timely warning would exist. Timely warning is only one factor to be assessed and even in the absence of timely warning, both the statute and its legislative history recognize that the requisite proliferation risk determination can still be made in appropriate circumstances.

13. Assertion: The transfer of plutonium from Europe to Japan would be over a yet undecided route and in casks that have not been designed (p. 20 of analysis).

These assertions are made in the context of the contention that the U.S. approvals are "open-ended." In fact, Annex 5 of the Implementing Agreement confines routing to a polar route or another route selected to avoid areas of natural disaster or civil disorder, i.e., routes which will maximize the physical protection of the material while in transit. The Executive branch has informed Congress and the Government of Japan of our preference for an all over-water route, and under the terms of Annex 5 U.S. cooperation and assistance must be secured by the Japanese before any shipment may take place. Thus, although a specific route has not been established, the U.S. approvals are not "open-ended" but are confined to circumstances compatible with the Agreement standards and in which the U.S. is willing to lend its assistance.

The material in transit must also be in casks which meet the Annex 5 standards ("designed and certified to maintain their integrity even in a crash of the aircraft"). Two such casks have already been certified by the NRC (PAT-1 and PAT-2). The Japanese have designed a third cask which is currently undergoing testing prior to certification. Since no casks may be used unless they meet the strict standard of crashworthiness there is no "open-endedness" to the U.S. approvals in this respect.

14. Assertion: The Secretary of Energy does not plan to publish a notice in the Federal Register of his determinations regarding the consents and approvals in connection with the proposed Agreement (p. 21 of analysis)

The Secretary of Energy has always planned to give notice in the Federal Register of the subsequent arrangements associated with the Implementing Agreement—the arrangements with EURATOM and Norway for the return of nuclear material to Japan. The question of whether these notices should include a detailed description of the other features of the Implementing Agreement has not been finally resolved since their text has not been drafted.

15. Assertion: The Congress and the public will not receive notice of how activities are being carried out under the Implementing Agreement once it enters into force (p. 22 of analysis).

Current law requires the Executive Branch to keep both the Congress and the public informed of all activities of other nations of potential proliferation concern. Under Section 601 of the NNPA, the President must submit an annual report to Congress on a broad range of developments pertaining to the behavior of cooperating partners and Executive branch efforts to ensure that adequate non-proliferation controls are being adhered to. Under Section 602(c) of the NNPA, the Departments of State, Commerce, Energy and Defense and the Arms Control and Disarmament Agency and the Nuclear Regulatory Commission must keep three Congressional Committees "fully and currently informed" with respect to their activities to prevent proliferation and "with respect to the current activities of foreign nations which are of significance from a proliferation standpoint." Finally, the proposed Agreement with Japan will not obviate the need for the Nuclear Regulatory Commission to conduct analyses prior to authorizing exports under Section 126 of the Atomic Energy Act. Under that provision, the Executive branch must inform the Commission of "the extent to which the cooperating party has adhered to the provisions of the applicable agreement for cooperation." Relatedly, under Section 129 of the Atomic Energy Act the Executive Branch is charged with determining, at any time, whether a potential recipient of NRC licensed export has "materially violated an agreement for cooperation with the United States" or engaged in other activities of proliferation concern. Through all of these mechanisms, as well as responses to additional inquiries that may arise from the Congress or the public extensive information on the course of Japanese activities under the Implementing Agreement will be provided by the Executive branch.

II. ERRORS OF ANALYSIS

The letter and the analysis reach several legal conclusions supportive of the Executive branch position that the Agreement satisfies applicable legal requirements:

(1) The Atomic Energy Act does not require approvals to be limited to subsequent arrangements (p. 11-12 of analysis).

(2) The Atomic Energy Act permits approvals to be contained in an agreement for cooperation (p. 11-12).

(3) The Atomic Energy Act does not require a "request-by-request" review of each retransfer or instance of reprocessing and permits advance, long-term approvals for these activities.

(4) The Atomic Energy Act does not confine the analysis of "timely warning" under Section 131 to a technical assessment, and political and economic factors may be relied upon to the extent they can provide evidence of an intent to divert or can affect the timeliness of an adequate diplomatic response (p. 18-19 of analysis).

The letter and analysis nevertheless reach two legal conclusions at odds with those of the Executive branch:

(1) That the proposed Agreement does not meet the requirements of subsections 123a.(5) and (7) of the Atomic Energy Act; and

(2) That the proposed Agreement does not meet the timely warning standard of Section 131 of the Atomic Energy Act (p. 3 of letter; p. 15 and 20 of analysis).

The arguments offered in support for these conclusions can be expressed as three separate assertions, although the letter and analysis do not proceed under these headings: (1) that the Executive branch judgment that the Agreement furthers U.S. non-proliferation and national security interests is unsupportable as a matter of law and therefore illegal; (2) that providing programmatic approvals to a non-nuclear-weapon state for the transfer and reprocessing of nuclear material is forbidden by the Atomic Energy Act and therefore illegal; or (3) that the Executive branch did not comply with statutory procedures in making the determinations underlying the Agreement and therefore those determinations are invalid. These assertions will be evaluated in turn.

1. Assertion: The Executive branch non-proliferation and national security judgments were illegal. The analysis provided with the letter states:

"[A] although approvals associated with reprocessing may be included in the agreement for cooperation rather than as subsequent arrangements, to achieve the Act's purpose if such approvals are included in an agreement for cooperation, the statutory requirements of both section 123 (dealing with agreements for cooperation) and section 131 (dealing with subsequent arrangements), [stet] must be satisfied." (p. 12 of analysis).

This is the same framework through which the Executive branch approached the Agreement, as the analysis acknowledges (p. 16 of analysis). The applicable standards, therefore, are as follows:

Section 123b. of the Atomic Energy Act requires the President to determine that the performance of new or amended agreements for cooperation "will promote, and will not constitute an unreasonable risk to, the common defense and security." The President made this determination on October 28, 1987 (H. Doc. 100-128 at 201).

Section 131a. of the Atomic Energy Act requires the Secretary of Energy, with the concurrence of the Secretary of State, to determine that a subsequent arrangement will "will not be inimical to the common defense and security." This determination was made and reported to the President prior to his consideration of the Agreement (H. Doc. 100-128 at 259).

Section 131b. (2) of the Atomic Energy Act requires the Secretary of Energy, with the concurrence of the Secretary of State, to determine that a subsequent arrangement involving reprocessing or transfer of more than 500 grams of plutonium to a non-nuclear-weapon state "will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested. Among all the factors in making this judgment, foremost consideration will be given to whether or not the reprocessing or retransfer will take place under conditions that will ensure timely warning to the United States of any diversion well in advance of the time at which the non-nuclear-weapon state could transform the diverted material into a nuclear explosive device." This determination was made and reported to the President prior to his review of the Agreement (H. Doc. 100-128) at 259).

The letter and analysis can be read to question whether the designated officials exceeded their authority in making these statutory determinations. Its authors argue that the Agreement does not provide for effective controls, or does not provide for these controls to be applied in a systematic and effective manner and, therefore, implicitly they may be arguing that the Agreement falls short of the statutory standards for protecting U.S. national security and non-proliferation interests (p. 3 of letter, p. 15 of the analysis) More directly, the authors assert that because it is "particularly difficult" to apply the substantive statutory standards to advance approvals for plutonium use by a non-nuclear-weapon state, they "do not think that the substantive standards can be applied to the blanket approvals at issue here." (p. 20 of analysis)

The question of whether the President and the Secretaries of Energy and State exceeded their statutory authority does not depend upon whether one agrees with their national security and non-proliferation judgments. Perhaps in no other area are the President and his senior Cabinet officials to be accorded greater flexibility than in deciding how best to further these profound national interests. The Atomic Energy Act recognizes this by establishing a decision-making procedure rather than a detailed explication of the meaning of the statutory goals or the best means for achieving them. Thus, in this case the President and his two cabinet officers were called upon to determine whether the proposed Agreement with Japan, one of this country's closest allies and one with perhaps the best non-proliferation credentials of any country, would further the pertinent national interests. In making this judgment, they were applying general legal standards to particular facts, in light of the terms and conditions of the proposed Agreement. Even if some were to argue that a different judgment should have been made in this case, there clearly was an adequate basis for this decision.

The letter and analysis seem to question the Executive branch judgments primarily because of the supposed "open-ended, blanket" character of the approvals contained in the Implementing Agreement and their thirty year duration (e.g., p. 19 of analysis). The assertion that the Agreement conveys "blanket" approvals is erroneous and is addressed above in section I(1). In brief, the most rigorous international safeguards, physical protection and reporting procedures ever established in a U.S. agreement for cooperation will apply to the specified facilities on the Japanese nuclear program encompassed within the Implementing Agreement. Otherwise, individual U.S. consents will be required for any activities or facilities which have not been approved in advance.

As to the duration of the U.S. approvals, the assertion that the Executive branch judgments rest entirely upon "a projection of future events" is addressed above in Section I(12). The President and the Secretaries of State and Energy recognized that over extended periods circumstances can change in unanticipated ways. For that reason, the U.S. included in the Implementing Agreement a unilateral right of suspension as one of the conditions under which United States approval is given for thirty years. The basis for suspension is identical to that for giving the approvals in the first instance—U.S. national security and non-proliferation interests.

Of course, with a cooperating partner like Japan it is extremely unlikely such a right would ever need to be exercised. But the Implementing Agreement, including its Agreed Minutes, recognizes that developments which are not attributable to the Japanese Government could pose risks to the United States and that the United States needs the ability to withdraw its consent to obviate those risks. Thus, should continuation of activities under the Implementing Agreement ever give rise to a significant increase in the risk to U.S. national security or non-proliferation interests—whether or not caused by Japan—the U.S. may withdraw its consent, in whole or in part, temporarily or permanently, to the extent required. Such determinations may take into account whether because of changed circumstances the U.S. would have less warning of a possible diversion of nuclear material, as well as any other developments pertinent to question of proliferation risk.

These are only some of the features which underlie the Executive branch determinations that the proposed Agreement satisfies the applicable statutory standards. In any event, this is a judgment for the President and the Secretaries of State and Energy to make, and their determinations were not illegal simply because others may not share their assessments.

2. Assertion: The provision of programmatic consent to a non-nuclear-weapon state for the transfer and reprocessing of nuclear material is forbidden by the Atomic Energy Act and is therefore illegal. The letter and analysis assert that Japan's status as a non-nuclear-weapon state and the fact that the approvals in the Implementing Agreement relate to the use of plutonium are central to the conclusion that the proposed Agreement is legally defective. (pp. 2, 3 and 4 of letter; pp. 3, 15, 19, and 20 of analysis). This suggests that the basis for the conclusion is that the Atomic Energy Act specifically prohibits programmatic consent for plutonium use in a non-nuclear-weapon state. This interpretation is strengthened by the fact that the analysis accompanying the letter concludes that advance, long-term approvals may be contained in an agreement for cooperation (p. 12) and appears to endorse the legality of the approvals contained in the agreements with Sweden, Norway and Finland as well as certain of the approvals contained in the proposed Agreement with Japan because they do not involve reprocessing or plutonium transfers to non-nuclear-weapon states (p. 13).

Assuming this assertion was intended, there would appear to be three threads of an argument cited in support. First, at times the analysis seems to say that Congress decreed in the Atomic Energy Act that it would be impossible for the President and the Secretaries of State and Energy to make the requisite national security and non-proliferation judgments in this situation. (pp. 19-20 of analysis). No specific support is offered for this proposition, however, and the conclusion in the analysis that long-term approvals are not per se precluded from agreements for cooperation means that Congress did not intend to deprive the Executive branch of the flexibility to devise long-term international arrangements so long as they satisfied the statutory standards.

In fact, long-term (e.g., three year) approvals have been granted to Japan for in-country reprocessing under the existing U.S.-Japan agreement for cooperation. The letter and analysis do not suggest this was incompatible with a Congressional finding. Further, Section 131a(3) of the Atomic Energy Act, a portion of which is cited in the letter and analysis, expressly authorizes approvals for reprocessing in non-nuclear-weapon states for material "proposed to be exported". Since in the normal course of reactor operation material exported from the United States may not be reprocessed for as long as nine years, this evidences an affirmative Congressional intent that the requisite statutory judgments could be made long in advance, notwithstanding the non-nuclear-weapon status of the recipient and the plutonium that would become accessible as a result of the reprocessing. In sum, therefore, in the absence of any evidence of specific Congressional intent that the requisite statutory judgments could not be made, and specific precedent and statutory language to the contrary, one must conclude that the Atomic Energy Act does not forbid, a priority, advance long-term consents for reprocessing or plutonium use in non-nuclear-weapon states.

A second thread of argument in support of the conclusion that the approvals in the Japan agreement are precluded by law derives from the assertion that Section 123 of the Atomic Energy Act "requires 'unqualified and unambiguous' guaranties of consent and prior approval over retransfer and reprocessing activities required by subsections 123(a) (5) and (7)." (p. 15 of analysis). It is asserted that such approval rights are not contained in the proposed Agreement.

It is difficult to understand the basis for this assertion. The analysis recognizes that Articles 3 and 5 of the proposed Agreement provide the requisite consent rights (p. 13 of analysis). It then states:

> The problem is that the agreement of the parties referenced in these two articles is provided in advance, by means of the Implementing Agreement submitted as part of the Agreement for Cooperation itself. (id.)

The analysis fails to explain why this is, per se, a "problem", since elsewhere its authors conclude that the Atomic Energy Act permits advance, long-term approvals to be contained in an agreement for cooperation. The fact that approvals are given in an agreement cannot, under the analysis' own reasoning, be a legal basis for concluding that the requisite consent rights do not exist. Otherwise, the three agreements in existence with this feature would have been impermissible.

Perhaps what is meant is that because the statutory judgments for exercising these particular consent rights are difficult to make over long periods of time, the Atomic Energy Act forbids arrangements in an agreement that would purport to establish the necessary conditions for making these judgments. If so, this argument is no different than arguments already considered—either that the Executive branch non-proliferation and national security judgments were illegal (II(1)), or that Congress has decreed in the statute that such judgments are impossible (II(1)). However, as has been shown, there is no basis for either conclusion.

The third thread of an argument for concluding that the approvals in the Agreement are illegal is the possible claim that the Atomic Energy Act specifically mandates the use of another procedure for providing programmatic reprocessing consents. Although the letter and analysis do not go this far, they do point out that Section 131a.(3) of the Atomic Energy Act sets forth one possible procedure for granting such approvals, and seem to suggest that the availability of this procedure supports the conclusion that the arrangements in the proposed Agreement are barred as a matter of law (p. 4 of letter; p. 22 of analysis).

Section 131a.(3) provides as follows:

> The United States will give timely consideration to all requests for prior approval, when required by this Act, for the reprocessing of material proposed to be exported, previously exported and subject to the applicable agreement for cooperation, special nuclear material produced through the use of such material or a production or utilization facility transferred pursuant to such agreement for cooperation, and additionally, to the maximum extent feasible, will attempt to expedite such consideration when the terms and conditions for such actions are set forth in such agreement for cooperation or in some other international agreement executed by the United States and subject to congressional review procedures comparable to those set forth in section 123 of this Act.

The analysis contends that this provision would permit the terms and conditions necessary for approvals associated with reprocessing to be included in an agreement for cooperation but that "the actual approval is still provided under the subsequent arrangement process, but on an expedited basis." (p. 22 of analysis).

Section 131a.(3) does not support the conclusion that the approvals in the proposed agreement are "illegal." First, as the analysis concedes, the Executive branch evaluated the Implementing Agreement under both Section 123 and Section 131 of the Atomic Energy Act. Thus, even were the proposed agreement considered to be one subject to Section 131a.(3), the Executive branch has carried out its requirements: terms and conditions were set forth in the Agreement for Cooperation and U.S. approvals were provided in the Implementing Agreement in accordance with the requirements of Section 131. The reference to carrying out a Section 131 review on an "expedited" basis does not determine when that review must be conducted. It is to be in response to a "request for prior approval." During the negotiations of the Agreement for Cooperation, the Japanese government did present such requests, and they have been addressed in the Implementing Agreement.

Moreover, the terms of the Implementing Agreement are more consistent with the intent of Section 131a.(a) than under the apparent reading given this section by authors of the letter and analysis. They suggest that this section authorizes the United States to obligate itself to provide consent at a later time so long as the terms and conditions of the agreement are met. Thus, the statutory findings required by Section 131a. ("not inimical to the common defense and security") and Section 131b.(2) ("will not result in a significant increase of the risk of proliferation") will have to be made on a one-time, advance basis in reliance upon the determination that those terms and conditions will be sufficient to protect U.S. interests throughout the agreement's life. Review under Section 131 at the later, unspecified time would be confined to whether the terms and conditions are in fact fulfilled in a particular situation.

The Senate Report on Section 131a.(3) evidences a different Congressional intent. It states:

> Although the U.S. may enter into an agreement at any time with a recipient nation setting forth conditions that would be required to obtain U.S. approval for reprocessing, any such agreement should include sufficient flexibility to enable the U.S. to respond to changed circumstances, as such shifts could drastically alter U.S. expectations concerning the intentions of the recipient. S. Rep. No. 95-467, 95th Cong., 1st Sess. at 10-11 (1977). A similar intent is expressed with respect to Section 402(a) of the NNPA, which acknowledges that enrichment of material subject to an agreement for cooperation may be permitted by the terms of the agreement itself. S. Rep. No. 95-467 at 24.

The proposed Agreement carries out this statutory intent. The Implementing Agreement sets forth the terms and conditions that must be fulfilled for an activity to be subject to U.S. approval. However, the suspension clause permits the United States to respond to changed circumstances, either because the terms and conditions are no longer deemed sufficient, or because the United States disagrees that those terms and conditions are being carried out properly. Whenever the United States judges that an activity would pose a proliferation or national security risk, approval for that activity may be revoked.

No matter how Section 131a.(3) is interpreted, however, it does not state that it is the exclusive mechanism for providing consent to reprocessing, and since it does not even apply to retransfers, storage, or alteration in form or content, it cannot be the basis for the advance, long-term approvals which the letter and analysis concede is permitted by the Atomic Energy Act. The contention that the Act did not "intend" the structure established through the proposed Agreement thus seems in the end to rest not on an alleged conflict between the Agreement and a statutory provision, but because of the authors' judgment that it falls outside the range of possibilities envisioned by Congress. The letter and analysis present no evidence for that proposition, and instead simply state the following:

> We do not believe the Act intended that the subsequent decision-making or oversight of the United States would be based only on the executive branch's assessment of the implementation of the activities authorized by a one-time blanket approval for reprocessing activities and the subsequent return of plutonium to a non-nuclear-weapon state such as Japan. Nor did the Congress anticipate that United States oversight would be limited to its ability to terminate or suspend agreement under certain extreme conditions. (p. 3 of letter; p. 15 of analysis).

This is not an accurate characterization of the Agreement, either as to the nature of the consents provided or the basis for suspending those consents, points addressed above (I(2); I(3); and I(12)). But in any event, the letter and analysis affirm that advance consents may be contained in an agreement, affirm that the statutory standards for approving those consents are contained in Sections 123 and 131, and acknowledge that the Executive branch applied those standards in determining that the proposed Agreement would comport with U.S. national security and non-proliferation interests. Unless the letter and analysis are contesting the substantive judgments on these points, they provide no basis for concluding that the Agreement fails to satisfy Section 123's requirement for reprocessing and retransfer consent rights to be contained in new agreements for cooperation.

3. Assertion: The Executive branch did not comply with statutory procedures in making the determinations underlying the agreement. A final claim is that the Agreement is illegal because of procedural de-

fects. These could be either in the processing of the Agreement prior to its presentation to Congress, or in the way the Agreement will be administered during its lifetime.

The letter and analysis provide scant support for the claim that the Agreement is being processed improperly. The analysis takes issue with the statement in a Department of Energy/Department of State analysis that publication in the CONGRESSIONAL RECORD will satisfy Section 131's requirement for public notice through Federal Register notices for subsequent arrangements (p. 21 of analysis), even though this was the procedure used for earlier agreements containing programmatic approvals. As described above (I(14)), the Secretary of Energy will be publishing Federal Register notices for the subsequent arrangements with EURATOM and Norway and regardless of the specific language used these notices will certainly inform the public of the Implementing Agreement and the approvals it contains. The analysis also discusses the question of whether the Agreement should have been withdrawn by the President upon receipt of the advice of the Senate Foreign Relations Committee that it required an exemption from statutory requirements. However, the analysis appears to conclude that the President was not legally bound by this advice, and thus the failure to withdraw the Agreement cannot be considered a procedural defect. (p. 9 of analysis).

Greater emphasis is given in the letter and analysis to whether the Agreement is procedurally defective because it will not provide for invocation of the Section 131 subsequent arrangement procedure after the Agreement enters into force to evaluate Japanese activities which are governed by the Agreement's long-term approvals. The authors contend that "advance approval deprives the Congress of its oversight function" (p. 3 of letter) and that "the Act anticipated effective United States control over reprocessing and retransfer activities that include an oversight role for both the Congress and the public" (p. 20 of analysis).

These assertions appear to be flatly inconsistent with the authors' own conclusion that the Atomic Energy Act permits advance, long-term approvals to be contained in agreements for cooperation. One consequence of providing approvals over longer periods of time or for larger quantities of material is that the review process must address larger questions than through the "request-by-request" procedure. That is why it furthers the fundamental policies of the Act for such approvals to be included in an agreement for cooperation, rather than being provided for through a simple subsequent arrangement on a one-time basis or serially. Section 123 requires: a heightened Presidential finding that the approvals will "promote, and will not constitute an unreasonable risk to, the common defense and security;" the submittal of the approvals to Congress for 90 continuous session days of review; mandatory Congressional hearings; automatic and expedited consideration of Congressional resolutions of disapproval; and the mandatory preparation by the Director of the Arms Control and Disarmament Agency of a Nuclear Proliferation Assessment Statement and by the Nuclear Regulatory Commission of a statement of views and recommendations to the President. This form of public ventilation of the policy issues at stake ensures that the important commitments that programmatic approvals entail will be thoroughly considered before the United States commits itself on the international plane. In this case, the Agreement will have been before the Congress for some six calendar months before the President is authorized to bring it into force.

The letter and analysis also express concern that the administration of the Agreement will consist largely of Executive branch monitoring of Japanese activities to determine whether it is necessary to invoke the U.S. right of suspension. As described above, through a number of existing statutory requirements the Congress and public will be kept fully apprised of any developments of proliferation significance (I(15)). Moreover, any changes in the terms and conditions for the Japanese activities, such as a revision in the safeguards or physical measures which are required, will continue to be subject to the subsequent arrangement procedure under Section 131 (see I(2)). Finally, it best serves the purposes for continuing United States supervision of foreign activities for the United States to retain a suspension right when broad approvals are provided for in advance. In that case, it must be the Executive branch which in the first instance has responsibility for monitoring the foreign activities, since the implementation of international agreements is an Executive branch function. Through regular consultations with the Congress, however, both branches of government, and the public, can be assured that continuation of the approvals serves basic U.S. national security and non-proliferation interests.

CONCLUSION

In sum, the contention that the proposed Agreement does not provide the requisite degree of "effective control" over the Japanese program (p. 4 of letter; p. 20 of analysis) assumes the conclusion that the letter and analysis set out to prove. The President and the Secretaries of State and Energy have determined that the Agreement will provide precisely the kinds of guaranties and controls necessary to promote the national security and protect against a significant increase in the risk of proliferation. They have done so on the basis that providing programmatic approvals to a close ally, subject to a right of suspension, will give the United States greater influence over the Japanese program and ensure that it is carried out in a way that will set a model for all advanced countries. In the absence of the Agreement, the United States will sacrifice its existing controls over Japanese activities because Japan will be forced in the future to shift to more reliable nuclear cooperation partners. At the same time, the United States will lose the opportunity to enhance the guaranties and assurances in the existing agreement as called for in Section 404(a) of the NNPA.

There is no reason to interpret the Atomic Energy Act to compel these outcomes. The Act does not erect a prior bar to programmatic arrangements for plutonium use with a non-nuclear-weapon state such as Japan. What is required to ensure the protection of U.S. interests is for the Executive branch to comply with the procedural and substantive standards of both Sections 123 and 131 of the Atomic Energy Act, and, importantly, for the Congress to have the opportunity to choose whether to exercise its statutory prerogative to prevent entry into an Agreement through a joint resolution of disapproval. The question posed by the proposed Agreement for Cooperation with Japan is one of policy; the Atomic Energy Act nowhere prohibits the President from presenting that issue to the Congress for its review.

REBUTTAL OF GAO LEGAL ANALYSIS

INTRODUCTION

This paper reviews and comments upon a draft report (No. B-230201, February 29, 1988) and accompanying Legal Memorandum from the Comptroller General of the United States to Chairman Fascell of the House Committee on Foreign Affairs containing an analysis of the proposed nuclear cooperation agreement between the U.S. and Japan. These GAO documents conclude that "the proposed Agreement does not meet the requirements of subsections 123(a) (5) and (7) of the [Atomic Energy] Act [of 1954, as amended] or the timely warning standard of Section 131." Careful analysis demonstrates, however, that those conclusions are unsupported by the cited provisions of that Act or any other basis set forth in the subject GAO documents.

ANALYSIS

I. The Requirements Set Forth in Subsections 123(a) (5) and (7) of the Atomic Energy Act of 1954, as Amended ("the Act") Are Clearly Met

When seeking to determine whether the requirements of a statute have been met, the inquiry necessarily begins with a careful reading of the pertinent provisions of the statute itself. For the reasons set forth immediately below, had the GAO lawyers first engaged in such an examination of the governing statute in this instance, they would have focused.

* * * * *

The President may exempt a proposed agreement for cooperation from any of the nine requirements (after making a prescribed finding that inclusion of such requirement "would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security.") However, if he does so, the proposed agreement must secure the affirmative approval of the Congress in order to go into effect. § 123(d); second proviso.

In the proposed Agreement with Japan, Article 4 [1] contains a bilateral guarantee, coextensive with the requirement in § 123(a)(5),[2] to permit retransfer "only to persons authorized by a receiving party or, *if the parties agree*, beyond the territorial jurisdiction of the receiving party." (Emphasis supplied.) Likewise, Articles 5-1 and 5-2 of the Agreement contain bilateral guarantees, coextensive with the requirement in § 123(a)(7), to permit reprocessing and alteration,[3] respectively, *"if the parties agree."* (Emphasis supplied).

As a legal matter, it is clear that the express provisions of the Agreement provide the guarantees required by §§ 123(a) (5) and (7). "*The problem*," according to the draft GAO Legal Memorandum, at p. 13, *"is that the agreement of the parties* referenced in [Article 4 and 5 of the Agreement] *is provided in advance*, by means of the Implementing Agreement submitted as part of the Agreement for Cooperation itself." [4]

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[1] The GAO Legal Memorandum's reference, at p. 13, to Article 3 is in error.

[2] Restricted Data is not covered by Article 4 because the Agreement expressly excludes the transfer of Restricted Data. Art. 2-1.(b).

[3] Enrichment of transferred materials is covered by Article 6 of the Agreement.

[4] The draft GAO Legal Memorandum concedes, however, at p. 11, that there is nothing in the Act

(Emphasis supplied.) The draft GAO Legal Memorandum then goes on to state, at p. 13:

"Basically, under the terms of the proposed Agreement, the United States would agree to allow Japan to use United States-supplied nuclear material within the territory of Japan without any further approvals by the United States required. *We believe* this is directly at odds with the requirements of Section 123(a) (5) and (7)." (Emphasis supplied.)

However, there is no citation of authority or other basis of support for this GAO "belief."

Nothing in Section 123, or any other provision of the Act for that matter, conditions or restricts the nature of the "consent" or "prior approval" of the United States which must be obtained before retransfer or reprocessing by the cooperating party. Indeed, the GAO Legal Memorandum concedes (at pp. 11-12) that such consents *may* be given in the agreement for cooperation itself rather than on a request-by-request basis. But the nature and validity of the U.S. consent is a separate and discrete question—one which is not relevant to whether a proposed agreement for cooperation meets the nine requirements of subsection 123(a) as a matter of law.[5] In this instance, the Government of Japan has unquestionably agreed not to allow the retransfer or reprocessing of certain equipment and materials without U.S. consent. That is *all* §§ 123(a) (5) and (7) require.

It is no answer to the plain language of § 123(a) to note that 1985 amendments[6] to the Act gave special significance in the Congressional review process to whether the President exempts a proposed agreement for cooperation from one or more of the § 123(a) requirements. The 1985 amendments did not change the nine requirements themselves, but were principally concerned with conforming the Act to the invalidity of the legislative veto, as found by the Supreme Court in *INS* v *Chadha*, 462 U.S. 491 (1983). Congress selected the President's determination whether an exemption from the nine § 123(a) requirements is necessary[7] as the factor determinative of whether affirmative Congressional approval must be given for the proposed agreement to become effective. However, the importance accorded the President's exemption determination did not change the substance of those requirements. The sole question is, "Are the § 123(a) guarantees concerning U.S. consents and prior approvals contained in the Agreement?" The answer here is, "Yes, they are." The fact that such U.S. consents and approvals are simultaneously given is neither prohibited by the Act nor is it relevant to the question of whether the subject § 123(a) requirements are met.[8]

Reduced to its essentials, the concerns identified by the draft GAO Legal Memorandum are not that there is no requirement for U.S. consent or approval prior to retransfer or reprocessing by the Japanese, but the manner in which that consent and approval has been given and the conditions under which it may be withdrawn. This concern does not, therefore, lie within the scope of § 123(a), which addresses what must be in the Agreement, but within the scope of § 131, which sets forth the procedures and standards for the granting of the U.S. consents and approvals referred to in § 123(a). Accordingly, this analysis now turns its attention to § 131.

II. The Agreement Satisfies the Requirements of Section 131 in Granting Approvals for Subsequent Arrangements by Japan

The draft GAO Legal Memorandum asks the question, at p.7, "Can an Advance Approval Be Legal?" In the pages which follow that question, the draft Legal Memorandum concedes that there is not sufficient basis to conclude that an advance approval, even one set forth in the agreement for cooperation, is illegal. See Legal Memorandum, at p. 12.[9] The Legal Memorandum goes on to assert that, when consent is given simultaneously with, or within, the very agreement for cooperation by which such consent is required, the consent must satisfy the statutory requirements of section 131. That assertion is clearly correct. It would be an evasion of the Congressional intent underlying the Nuclear Non-Proliferation Act of 1978, which incorporated section 131 into the Atomic Energy Act, to assert that U.S. consent could be given upon entry into an agreement for cooperation, but deny that the section 131 procedure and standards for consent must be met. Where the draft GAO Legal Memorandum goes astray is in its analysis and conclusion that the Agreement package fails to meet those procedures and standards.

The relevant statutory provisions of section 131 of the Act and the relevant provisions of the Implementing Agreement are set forth in the Appendices to the draft GAO Memorandum and no useful purpose would be served by replicating them here. Instead, this paper will review the provisions of section 131 and indicate why, contrary to the assertions of the draft GAO Legal Memorandum, they *are* complied with.

A. Consultation and Concurrence

Section 131(a)(1) provides that, before entering into any subsequent arrangement, the Secretary of Energy will obtain the concurrence of the Secretary of State and consult with the Director of the Arms Control and Disarmament Agency (ACDA), the Nuclear Regulatory Commission and the Secretary of Defense. It is uncontested that all of the foregoing has been done. Contrary to the statement in the draft GAO Legal Memorandum (at p. 10, n.13), however, the Secretary of Defense has notified Chairman Fascell, by letter of January 29, 1988, that "the Department of Defense fully supports the proposed Agreement" and that "the Agreement fully protects U.S. interests."

B. Federal Register Notice

There is also a requirement that notice of any proposed subsequent arrangement, along with the Energy Secretary's non-inimicality determination, be published in the Federal Register at least 15 days before the subsequent arrangement is to take effect. The Administration has stated that, with respect to the exchange of Notes Verbale with EURATOM and Norway governing the retransfer to Japan of certain materials covered by the Agreement (in former instance, including separated plutonium), the subject Federal Register notice will be published.[10] The draft GAO Legal Memorandum concedes the validity of the long-term advance approvals in the agreements for cooperation with Sweden, Norway and Finland, for which no separate Federal Register notices were published, but seeks to distinguish them from the present Agreement because they do not cover as well the retransfer of separated plutonium back from reprocessing facilities in the EURATOM countries. It is significant, in that context, that the Administration's position respecting such retransfers under the proposed Agreement is that they do constitute subsequent arrangements for which Federal Register notices of the advance approvals must (and will) be published.

For the remaining long-term consents and approvals under the new Agreement, including materials transfers to EURATOM for reprocessing there and reprocessing in Japanese facilities, it is the Administration's position that its approval, contained in the Implementing Agreement, does not require separate Federal Register notice in addition to the notice contained in the Congressional Record in November 1987—a notice published much more than 15 days before the effective date of those approvals. The Administration is clearly correct that the public has received more notice of the pendency of the U.S.-Japan Agreement than of any previous subsequent arrangement.

"which expressly limits approvals associated with reprocessing or retransfers to the subsequent arrangements process or which specifically precludes the inclusion of advance, long-term approvals for these activities in the agreements for cooperation." The draft GAO Legal Memorandum then concludes (at p. 12) that, "as a matter of law," there is insufficient evidence to show that such approvals "cannot be included in an agreement for cooperation." These legal conclusions are inconsistent with the existence of "the problem" noted on the very next page of the draft document. If consents and approvals can lawfully be included in an agreement for cooperation, such inclusion cannot constitute a "problem" under § 123(a).

[5] Of course, if the Congress is not satisfied, as a matter of policy, with the way in which these requirements have been met, it may choose to disapprove the proposed agreement for cooperation or to condition the continued validity of the U.S. consent by legislative action (e.g., action by joint resolution).

[6] Pub. L. 99-64, § 301 (b), (c).

[7] The draft GAO Legal Memorandum concedes that a Presidential determination to grant an exemption from one or more of the nine requirements is, in any event, "not mandatory" regardless of the views expressed by the cognizant Congressional committees concerning a proposed agreement's consistency with those requirements. See, draft GAO Legal Memorandum, at p. 9 (n. 12). The President may, as he did in this instance, review the matter and reaffirm his initial position that no exemption is required.

[8] One might contend that the consent may not be so unconditional and irrevocable that its practical effect is to waive the required U.S. right of consent. In Part II, however, it is made clear that such is not the case with the U.S. approvals given as part of the Agreement.

[9] Indeed, one would be hard pressed to conclude otherwise in light of the precedents set by the recent agreements for cooperation with Sweden, Norway and Finland, all of which contain long-term U.S. consents for retransfer for reprocessing. Each of these agreements was subject to the Congressional approval process and none of them was objected to by either house of Congress or any cognizant Congressional committee. Moreover, section 131(a)(3) of the Act speaks of prior approval for, inter alia, "the reprocessing of material proposed to be exported . . .," a situation which must have contemplated advance approvals. (Since, when section 131 was enacted in 1978, it was already U.S. policy to forego reprocessing for domestic spent fuel, the provision could only relate to fresh fuel to be exported, irradiated, cooled, stored, and finally reprocessed several years after the export.)

[10] See "Analysis of Consents and Approvals Agreed Upon in Conjunction with the Proposed New Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Peaceful Uses of Nuclear Energy," August 1987 ("Analysis of Consents and Approvals"), at p. 15.

Moreover, it seems most unlikely that the failure to provide Federal Register notice would be deemed by a court to be a "material" shortcoming under the Act.

C. Secretarial Determinations—Significant Increase in the Risk of Proliferation and Timely Warning

Certain subsequent arrangements, including those for retransfer of materials for reprocessing and for reprocessing itself, are subject to the additional requirements set forth in section 131(b) (1) and (2).[11] For these activities (which do *not* include, for example, the transfers of material between Norway and Japan), the Secretary of Energy may not give his approval to a subsequent arrangement until he and the Secretary of State conclude that "such reprocessing or retransfer will not result *in a significant increase in the risk of proliferation beyond* that which exists at the time that approval is requested." (Emphasis supplied.) section 131(b)(2). In reaching this conclusion, foremost consideration will be given to:

"Whether or not the reprocessing or retransfer will take place under conditions that will ensure *timely warning* to the United States of any diversion well in advance of the time at which the non-nuclear-weapon state could transform the diverted material into a nuclear explosive device; . . ." (Emphasis supplied.)

The draft GAO Legal Memorandum contests the vailidity and adequacy of the one-time, long-term advance approval contained in the Agreement and the absence of Congressional oversight on a case-by-case basis. It expresses concern as to the adequacy and efficacy of the suspension of such long-term approvals as a substitute for request-by-request review. Finally, it concludes that the "timely warning" evaluation cannot be made in an effective and systematic manner for a 30-year period into the future.

The key to understanding why the substantive requirements of section 131(b)(2) *are met* lies in the provision for suspending the advance approvals and consents in the Implementing Agreement, which provides, in pertinent part:

"Either party may suspend the agreement it has given in Article 1 of this Implementing Agreement in whole or in part to prevent *a significant increase in the risk of nuclear proliferation* or in the threat to its national security caused by exceptional cases such as a material breach by the other party of the Treaty on the Non-Proliferation of Nuclear Weapons or withdrawal therefrom, or a material breach by the other party of its safeguards agreement with the Agency, of this Implementing Agreement or of the Agreement for Cooperation. Any decision on such suspension would only be taken in the most extreme circumstances of exceptional concern from a non-proliferation or national security point of view, would be taken at the highest levels of government, and would be applied only to the minimum extent and for the minimum period of time necessary to deal in a manner acceptable to the parties with the exceptional case." (Emphasis supplied.) Implementing Agreement, Article 3-2.

What is most important to note in the foregoing provision is that one of the reasons for suspension of the consents is identical to the determination which the Secretaries of State and Energy must make to approve a subsequent arrangement under section 131(b)(2)—no "significant increase in the risk of proliferation." This identity of standards is crucial, because it means that the consent may be withdrawn (in whole or part, as required) in the very same circumstances which would have caused the Secretaries to deny approval on a request-by-request basis. It is quite correct, as the draft GAO Legal Memorandum emphasizes, that the Implementing Agreement provides that suspension of a consent, even suspension only in part, is not a step to be taken lightly by the suspending party. But can anyone seriously doubt that the conditions and considerations with respect to suspension listed in Article 3 of the Implementing Agreement are those which a prudent U.S. administration would follow—regardless of whether they were set forth in the Agreement—before taking an action of such major foreign relations implications?

The point is that, while the U.S. may not lightly elect to suspend an approval (something no foreseeable U.S. Administration would likely do in any event), a suspension (especially a temporary, partial suspension pending the receipt of further information) is not so burdensome a step that its exercise ceases to be credible. As ACDA has pointed out in its Nuclear Proliferation Assessment Statement (at p. II-16): "The Agreement . . . provides a unilateral right of suspension should [Japanese] activities create a significant increase in the risk of nuclear proliferation or in the threat to U.S. national security."

Moreover, pursuant to Paragraph 8 of the Agreed Minutes to the Agreement, Paragraph 1(a) to the Agreed Minutes to the Implementing Agreement, and provisions in the Notes Verbale, among other means, the U.S. Government is assured of receiving the information necessary to make the determinations concerning "increased risk of proliferation" and "threat to the national security" on a continuing basis.

The draft GAO Legal Memorandum contends that the "timely warning" standard is more difficult to meet when reprocessing is done in, or plutonium sent to, a non-nuclear-weapon state such as Japan than in the more limited circumstances for which advance U.S. approval was given in the Sweden, Finland and Norway agreements. In fact, of course, as long as the separated plutonium never reaches a non-nuclear-weapon state, the timely warning standard does not come into play at all. The draft GAO Legal Memorandum also concedes that the "timely warning" test is not limited to a technical assessment, although a "technical assessment of conversion time is crucial to the timely warning determination." Then, without any substantive analysis, the draft Legal Memorandum concludes that "it cannot be asserted with any degree of confidence that, over a 30-year period" the factors which make up timely warning would at all times be such as to assure its existence.

The foregoing conclusion, drawn without citation to either factual or legal authority, flies in the face of the contrary determination in the Analysis of Consents and Approvals prepared by the Administration (pp. 79-96) based on such diverse factors as Japan's industrial capability, scientific and technical capabilities, safeguards, political and economic indicators, and nuclear-explosives related indicators. In sum, the Executive Branch agencies with expertise in this matter have concluded that these indicators, taken together, "give evidence that the United States would have timely warning. . . ." (Id., at pp. 95-96.) The GAO lawyers never say why they reach a conclusion different from the Administration's—apparently they decided that projecting timely warning over 30-years was inherently incredible. One must ask what is the expertise of those lawyers not only to distinguish, as they do (at p. 19), between timely warning for 30 years in advance in the agreements with Sweden, Norway and Finland on the one hand and Japan on the other, but to go on to conclude that timely warning is possible in the former instances but not in the latter. Surely, in any court of law, deference would be given to the expertise of the Executive Branch agencies charged with non-proliferation and national security responsibilities and entrusted with administering the Agreement and the Act.

Two additional points are also worth noting. First, the Administration's timely warning conclusions do not have to look 30 years into the future with 20/20 accuracy. Many of the factors on which the Administration's timely warning conclusions rely consist of items, such as safeguards and reporting requirements, which are conditions of continued cooperation under the Agreement (i.e., if Japan acted with respect to those factors so as to reduce the warning time, the very fact it had done so would provide the U.S. the basis for a suspension of its consents under the Implementing Agreement).

The other point worth remembering is that, while "timely warning" is the foremost factor in the "significant increase in the risk of proliferation" determination, it is not the only factor nor even necessarily the predominant one. The other factors considered by the Administration are set forth at pp. 96-103 of the Analysis of Consents and Approvals. Even without a high degree of confidence with respect to "timely warning," these other factors provide considerable assurance that Japan is, and will remain, an extremely low source of nuclear proliferation risk for the foreseeable future. These are the types of judgments which the Act assigns to the Department of State, ACDA and the Department of Energy. They have made them. It seems quite unlikely that the courts would be disposed to second-guess those judgments, nor is there anything in the analysis/conclusions of the draft GAO Legal Memorandum which increases that likelihood.

D. Congressional Oversight and Public Information

Lastly, it is worthwhile to focus on the concern, repeatedly referred to in the GAO Legal Memorandum, that a long-term advance approval would preclude effective Congressional oversight of Japanese activites under the Agreement. Subsection 131(b)(1) provides for a 15-day "lie in wait" period for Congressional review before approval for certain subsequent arrangements becomes effective. As a purely legal matter, with respect to the Agreement itself and the companion arrangements with EURATOM and Norway, the Congress has already had much more than the requisite 15 days of continuous session. In the regard, one cannot assert a reduction of the oversight authority.

The GAO's point, however, seems to be that Congress is not given assurance by anything in the Agreement that it will have the opportunity to review, in a timely manner, whether the Administrations in office over the next 30 years are exercising the suspension rights of the U.S. in a manner consistent with the substantive standards of § 131(b)(2). It bears emphasis, however, that Congress has no power under section 131 to block Executive Branch approval of a proposed subsequent arrangement. If Congress concludes that a proposed subsequent arrangement should not occur, its only recourse is to adopt (with the prospect of a Presidential veto) legislation prohibiting the Secretary of Energy from giving his approval. During the term of the proposed Agreement with Japan, Congress would have that same remedy as respects U.S. continuation of the long-term consents—it could enact legislation compelling the Administration to suspend the consent (s), in whole or part. Nor will the Congress be without adequate information bases on which to exercise its oversight responsibilities. The President has declared, in his letter to Senate Foreign Relations Committee Chairman Pell on January 29, 1988, that the Congress will receive the functional equivalent of the "lie-in-wait" notice:

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[11] For the purposes of this analysis, it has been assumed that the less stringent standards of section 131(b)(3) are not applicable, even though, in some instances, they, rather than the more stringent requirements of section 31(b)(2), would apply.

"As for future congressional oversight, the proposed agreement requires Japan to provide us with a complete, detailed accounting of its activities under the agreement. I will ensure that Executive branch agencies in turn keep the Congress fully and currently informed of these activities."

So Congress, in fact, will retain its capacity to provide effective and timely oversight for activities under the Agreement.

CONCLUSION

The draft GAO Legal Memorandum is a highly conclusory decument, largely unsupportred by either fact or law. This is manifest in the document's repeated use of "we do not believe" and "we think" rather than references to statutory provisions, legislative history, and judicial decisions. An analysis which restricts itself to those authoritative bases for drawing legal conclusions—rather than attempting to speculate as to what the Congress intended in 1978 with respect to factual situations not addressed by the legislative history—comes to a far different conclusion from that reached by the draft GAO Legal Memorandum. (By contrast, for example, the Administration's conclusions that the requirements in §§ 123(a) (5) and (7) and 131 are met are well supported by applicable law, fact and expert opinion.) In sum, the misgivings stated in that draft Memorandum about the adequacy of long-term advance approvals are grounded not on considerations of law but on matters of policy judgment. Judgments as to sound legislative policy are the province of the Congress in carrying out its review of the proposed Agreement and should not be made by others, especially not in the guise of legal conclusions.

Mr. EVANS. Mr. President, I think it would be appropriate now, so it is in the RECORD and so people will have an opportunity to read it—and I might say that I hope we will continue this debate such as it is this afternoon laying some very important and complex information in the RECORD—to give the Members overnight an opportunity to read the RECORD tomorrow morning before we take a final vote on this very important agreement. To do any less than that would mean that many Members will be forced to vote on this issue without having had the time for the careful analysis which ought to be offered to them.

Let me respond here with a series of questions and answers that I believe will get to the heart of this agreement and some of the problems which have been brought forward by the opposition.

The first question:

Question. How do you respond to the argument that the agreement does not satisfy all requirements of U.S law?

Answer. It was a basic premise of the negotiations that the agreement would have to meet all U.S. legal requirements. The Japanese accepted this, and the proposed agreement does meet all U.S. statutory requirements.

Section 123 of the Atomic Energy Act, as amended, sets forth the conditions and U.S. consent rights that must be provided for in new agreements for cooperation.

These include requirements for perpetual safeguards, full-scope safeguards, a peaceful uses guarantee and adequate physical security; consent rights over retransfers, reprocessing, enrichment and alteration of nuclear material; the right to approve storage arrangements; and the right to demand the return of nuclear material and equipment in certain circumstances.

The agreement contains the necessary provisions to establish every one of these required conditions and U.S. consent rights.

Question. But don't the advance, long-term consent provisions in effect relinquish the U.S. consent rights?

Answer. The agreement does not give away U.S. consent rights. In fact it increases and expands those rights to incude all the requirements of the NNPA for new and amended agreements for peaceful nuclear cooperation.

There is an obvious distinction between the exercise of a right and the relinquishment of a right.

In the implementing agreement, the U.S. exercises some of the consent rights on the basis of a carefully defined program subject to all the necessary non-proliferation controls and conditions to ensure that all U.S. statutory requirements are met and continue to be met.

At no time are U.S. rights forfeited or waived. Moreover, we have the unilateral right to suspend our consent if we determine that its continuance would result in a significant increase of the risk of proliferation or a threat to the national security.

And as an aside, Mr. President, those words "significant increase in the risk of proliferation" are the identical words used in the current agreement.

Question. But is the long-term, advance consent arrangement itself legal? The terms "long term, advance consent" and "programmatic consent" do not appear in the Atomic Energy Act or the NNPA. Doesn't the law in fact require case-by-case approvals?

Answer. The Atomic Energy Act expressly contemplates approvals long in advance of an activity (section 131a(3)).

There are clear precedents for agreements for cooperation to include such approvals. The President has submitted three agreements with such provisions—with Norway, Sweden and Finland—and Congress, after reviewing them, did not exercise its prerogative to block their entry into force.

It should be noted that the term "case-by-case" also does not appear in the statute and begs the question of how to implement the substantive standards of the statute.

No provision of U.S. law preclude's the United States from granting approvals in advance or for a specified duration or limits the scope of such approvals.

Question. How does the agreement satisfy the "timely warning" requirement?

Answer. It is important to understand what the law (section 131(b) (2) and (3) of the AEA) actually says about "timely warning".

The law does not require a specific judgment that the United States will have "timely warning" of any diversion of nuclear material well in advance of the time at which Japan, in this case, could transform it into a nuclear explosive device.

Rather, in considering an approval for the reprocessing or retransfer of plutonium, a judgment must be made that the action will not result in a significant increase in the risk of proliferation beyond that which exists at the time that approval is requested.

The statute goes on to require that, in making this determination, foremost consideration be given to "whether or not the reprocessing or retransfer will take place under conditions that will ensure timely warning. . . ."

This was in fact done.

Question. Doesn't the law require that the consideration of timely warning be based exclusively on technical factors, such as safeguards?

Answer. No. Neither the legislative history of the NNPA nor the language of the Act itself specifies that the consideration of timely warning must be limited to technical factors only.

In connection with subsequent arrangements for the reprocessing and retransfer of plutonium, the Department of Energy has been submitting lengthy analyses of its consideration of timely warning for a number of years. It has made quite clear that its consideration has been based on a range of factors, technical and non-technical. In no case has Congress ever rejected the proposed subsequent arrangement.

The analysis prepared in connection with Japanese activities under the proposed agreement discusses a number of indicators of possible diversion.

These include safeguards, nuclear-explosives-related indicators, political indicators, and economic and trade indicators.

The analysis indicates that all these factors give evidence that the United States would have timely warning as envisioned in U.S. law.

Question. Even assuming that the agreement meets all legal requirements, is it sound policy? Doesn't it really give Japan carte blanche to do what it likes with U.S. plutonium for the next 30 years or more?

Answer. U.S. consent is not given carte blanche or without the constraints and controls required by U.S. law.

U.S. consent is given only under carefully specified conditions and only in a program that stays within a framework agreed upon by the United States and Japan.

The safeguards on the facilities in this program must be deemed adequate by the U.S. and the physical protection standards required by the agreement must be applied.

Japan must provide the U.S. with a regular flow of information concerning activities covered by U.S. consent, permitting effective oversight on a continuing basis.

If the U.S. believes at any time that any activity covered by U.S. consent will pose a significant increase in the risk of nuclear proliferation or in the threat to U.S. national security, the U.S. has the unilateral right to suspend its consent in whole or in part.

Question. Wasn't the NNPA meant to foreclose the civil plutonium economy? The use of plutonium is not necessary to produce nuclear power. Why then do we countenance it and even facilitate it in this agreement?

Answer. The NNPA does not foreclose the civil use of plutonium.

It enacted more stringent conditions to govern activities involving U.S.-origin plutonium.

The proposed agreement with Japan contains all the conditions required by the NNPA.

Japan has an advanced civil nuclear program and regards the use of plutonium as essential to assuring its future energy security.

It is U.S. policy not to inhibit or set back civil reprocessing and breeder reactor development in countries such as Japan with advanced nuclear programs where such activities pose no proliferation risk.

Even if we wished to prevent Japan from using plutonium in its civil nuclear program we could not: by the year 2000 Japan will have accumulated, by one conservative estimate, about 11.3 metric tons of plutonium not subject to U.S. control.

Under the agreement we will be able to work with Japan to ensure that the most advanced safeguards and physical protection measures are applied throughout the sensitive portions of Japan's nuclear program, not just where material subject to the agreement is present.

Question. Doesn't the agreement sacrifice non-proliferation—a vital U.S. national security interest—to lesser interests such as trade or good relations with Japan?

Answer. Absolutely not.

This agreement contains the most stringent and detailed non-proliferation conditions and controls ever required in an agreement for cooperation, including all consent rights and guarantees required by U.S. law.

The advance, long-term consent arrangement in particular is carefully circumscribed, and may be suspended by the U.S. unilaterally and at any time, in whole or in part, to prevent a significant increase in the risk of nuclear proliferation or in the threat to U.S. national security.

The economic and trade advantage of this agreement are not negligible: it will help ensure continued U.S. nuclear exports to Japan whose value could exceed $1 billion a year in the coming decade.

But it is absolutely wrong to suggest that the agreement owes its existence to economic or trade considerations.

Let me add to that, Mr. President, that we may very well not have a strong economic future with Japan in this field if we choose to reject this agreement. Japan is perfectly capable of moving to others, perfectly capable of designing and building on its own behalf the necessary facilities to enrich and to reprocess and to develop the entire nuclear cycle, including the breeder cycle.

So trade considerations are not the important element here, but it seems to me rather foolish for us to throw them away when it is unnecessary to do so.

Question. The agreement seems to permit Japan, simply by notifying the U.S., to add to the list of approved facilities that in some cases haven't even been built yet. Doesn't this provision for the "automatic" addition of facilities in effect negate any U.S. right of consent?

Answer. To suggest that the addition of future facilities is automatic misrepresents the text of the implementing agreement.

Japan may include facilities in the advance consent arrangement if and only if:

(1) Japan provides a detailed description of the proposed activity at the facility;

(2) the facility will be under safeguards arrangements that are acceptable to the U.S.; this means either (a) we already know what the safeguards arrangements are for a particular type of facility or (b) we have agreed in advance on the kind of safeguards to be applied or (c) when there is no advance agreement, then only when the U.S. and Japan are satisfied that adequate safeguards will be applied;

(3) Japan provides us with a detailed description of the safeguards arrangements in order to verify that they are in accordance with the safeguards concept;

(4) the facility and its nuclear material will be subject to adequate physical protection;

(5) there will be a continuous flow of information to the U.S. about the stocks and flows of plutonium at the facility; and

(6) the addition of a facility will not, in the view of the U.S., result in a significant increase in the risk of proliferation or a threat to the national security.

If at any time we believe that continuation of a given activity would result in a significant increase in the risk of proliferation or a threat to the U.S. national security, we have the unilateral right to suspend our consent.

Question. In the case of future facilities how can the United States know precisely what types of safeguards must be applied in order for the safeguards to be adequate?

Answer. The safeguards arrangements must either be the same as safeguards arrangements acceptable to the U.S. at existing facilities of the same type, or they must accord with a "safeguards concept" acceptable to the U.S.

The safeguards concepts require, among other things, that safeguards be applied in a manner enabling attainment of IAEA safeguards objectives and inspection goals.

They also require that the facility design take into account the application of safeguards and call for extensive consultations between the U.S. and Japan and Japan and the IAEA in order to implement effective safeguards on facilities.

The concepts set forth criteria that must be satisfied; they are not mere expressions of what would be desirable.

They are deliberately kept flexible in order to allow for the principles and measures they require to be adapted to plant-specific features that are not now known.

I can assure you that this flexibility is meant to provide for greater stringency in the actual application of safeguards, not less.

The safeguards concepts will guarantee that actual safeguards measures will provide an effective level of safeguards when implemented.

The documentation provided to the Congress with the agreement (pp. 97-145) contains four exchanges of notes signifying agreement on safeguards concepts containing specific safeguards criteria for a number of Japanese facilities.

Question. You state that U.S. advance, long-term consent remains valid only as long as U.S. statutory criteria, including criteria regarding adequate safeguards and physical security, continue to be met. What mechanism is there for assuring that adequate safeguards and physical protection are in fact maintained over 30 years or more?

Answer. Japan is required to provide the United States with a continuous, detailed flow of information that will provide the basis for assuring ourselves concerning the adequacy of safeguards and physical protection.

Question. Isn't U.S. security potentially undermined by the provision that would require the U.S., in the event of a breach leading to termination of the agreement, to return to Japan plutonium produced in U.S. reactors using Japanese components?

Answer. Congress has mandated under section 123 of the Act that the right of return be in all new or amended agreements with non-nuclear weapon states.

That is current law.

Such a right has been included in all post-NNPA agreements with non-nuclear weapon states. To secure this right with Japan it was necessary to agree that it be reciprocal.

How are we ever going to have any agreement with any nation when we insist on a provision on the one hand and then not allow it to be applied reciprocally by the other nation?

It should be recognized, first, that Japan could exercise its right of return only if the U.S. breached the agreement, which we do not intend to do.

Second, the United States need not receive component exports from Japan under the agreement. We could receive them outside the agreement, in which case no right of return would apply to material produced through them.

Third, the United States does not reprocess spent fuel in its civil nuclear power program. In the highly unlikely event that Japan might have grounds for invoking its right of return, any plutonium returned to Japan would be contained in unreprocessed spent fuel. It is most unlikely that Japan would want it back or would be willing, as the agreement would require, to pay for it. And, it does not carry any national security implications.

Finally, it should be clearly understood that U.S. suspension of its advance, long-term consent would not be a breach of the agreement and would not be grounds for Japan to invoke its right of return.

Question. Why was 30 years settled on as the initial term for the agreement? Isn't that too long considering the advance consent provisions contained in it?

Answer. We have traditionally used a term of about 30 years in agreements concluded since the 1950's.

We and our cooperating partners have generally regarded 30 years as an appropriate term given the large lead times required for planning and realizing major projects in the civil nuclear area.

The term of the agreement should not be a cause for concern in connection with the advance consent provisions, since, as indicated, U.S. requirements, including safeguards and physical protection requirements, must continue to be met at all times, and we will have a continuous flow of information to assure ourselves on this point.

Question. Doesn't the advance, long-term consent arrangement deprive the Congress of any meaningful oversight role?

Answer. Inclusion of the advance, long-term consent in the agreement for cooperation affords Congress 90 days of continuous session for review. This contrasts with only 15 days of Congressional review for subsequent arrangements.

Further, Congress will have a continuing role in overseeing the implementation of the agreement.

If circumstances change to the point where an amendment to the agreement is required, the amendment will be submitted to the Congress for 90 days of continuous session under section 123.

If other changes of significance are made, e.g., in the safeguards concepts or the physical protection guildelines for the international transport of plutonium, these would be submitted to Congress as subsequent arrangements for its review in accordance with section 131 of the Atomic Energy Act.

Both amendments and subsequent arrangement reviews would be subject to public notice, as is the initial agreement.

Japan will be providing us with the most complete accounting of their activities of any cooperating partner. The Administration intends to keep Congress fully and currently informed of activities pursuant to the agreement.

Question. What would be the consequences for Japan if Congress rejected the agreement? for the U.S.?

Answer. For Japan, its nuclear program would suffer a setback.

There is no doubt, however, that Japan has the capability and determination to persevere in developing a plutonium fuel cycle to help ensure its future energy security.

For the U.S., rejection will diminish the prospects for cooperation with Japan and other industrialized countries in pursuit of non-proliferation objectives.

The reputation of the United States as a reliable nuclear supplier under adequate safeguards and controls would suffer a serious blow, with damaging repercussions for the U.S. balance of payments.

The U.S. ability to persuade EURATOM to renegotiate its agreement with us would be damaged, perhaps fatally. (It should be noted that the U.S.-EURATOM agreement, unlike the existing 1968 U.S.-Japan agreement, contains no U.S. consent right over reprocessing. If, because of rejection of the proposed Japan agreement, we are unable to provide EUROTAM a similar long-term, advance consent arrangement, the chances of obtaining such a right are pretty close to zero.)

Finally, the ability of the U.S. to influence the conditions under which plutonium is used and transported in other nations, and to minimize the proliferation risk of such activities, would be greatly reduced.

Question. It is claimed that Japan has impeccable non-proliferation credentials, yet Japan does not require full-scope safeguards on its nuclear exports. Why didn't the U.S. insist that Japan adopt such a policy as a condition for entering into the agreement?

Answer. The Atomic Energy Act does not require U.S. cooperating partners to adopt a policy of requiring full-scope safeguards as a condition for their nuclear exports. (Full-scope safeguards are safeguards on all nuclear activities in a country, not just on the nuclear item being exported to that country. More than 130 non-nuclear weapon states party to the Non-Proliferation Treaty, including Japan, have accepted full-scope safeguards.)

Japan, like other subscribers to the London Nuclear Supplier Guidelines, does require IAEA safeguards on significant nuclear items it exports to non-nuclear-weapon states.

Japan has also gone further than some other major nuclear exporters in endorsing the general proposition that suppliers should use their export policies as a means of promoting full-scope safeguards.

Question. Isn't the U.S. right to suspend its advance, long-term consent unduly restricted?

Answer. The U.S. has the right—an unambiguous unilateral right—to suspend its advance, long-term consent in whole or in part to prevent a significant increase in the risk of nuclear proliferation or in the threat to U.S. national security.

The provision that decisions would be taken in the most extreme circumstances of exceptional concern from a non-proliferation or national security point of view and would be taken at the highest levels of government appropriately reflects the seriousness with which the U.S. should approach any invocation of its suspension rights. The decision on what constitutes "the most extreme circumstances of exceptional concern" nonetheless remains a purely unilateral one.

The provision stating that the parties will implement their consent rights to avoid hampering, delay or undue interference in the nuclear activities in the two countries is reasonable, is found in international safeguards agreements and is fully reciprocal. It in no way diminishes our right to suspend consent for non-proliferation or national security reasons.

The language that we will carefully consider the economic effect of suspension in no way inhibits our right to suspend consent. It is only intended to highlight the seriousness of this step and to ensure that it is not undertaken with gratuitous damage to another nation's economy. But if the U.S. determined that the consent arrangement was going to result in a significant increase in the risk of proliferation or a threat to U.S. national security, it is inconceivable that the economic effects of suspension would in any way inhibit our decision.

There would not be a single vote in this Senate or in the House or in the administration for that procedure.

Question. Doesn't this agreement set a precedent for other countries to seek the same treatment?

Answer. We do not regard the advance, long-term consent arrangement accorded to Japan in this agreement as establishing a precedent.

It is the policy of the United States not to seek to inhibit or set back civil reprocessing and civil plutonium use, but only in countries such as Japan and the EURATOM countries, which have advanced nuclear programs where such activities do not constitute a proliferation risk, and provided that strict conditions and controls such as those embodied in the proposed new agreement with Japan are maintained.

The U.S. cannot unilaterally prevent reprocessing and plutonium use from taking place in Japan and other advanced countries.

We can, however, work cooperatively with countries such as Japan to create strict conditions to minimize any risk from such activities.

This agreement permits an unprecedented degree of U.S. influence over Japan's nuclear program, permitting us to ensure that Japan is applying the most stringent possible safeguards and physical protection standards.

Mr. President, I suppose I could add one more question to that long and rather detailed list, and the question could be whether those arguing in opposition to this agreement are really arguing from the position of the United States in the year 1988 or whether they are simply wishing for the United States and world in the year 1968.

I think the answer has to be, yes; that we do live in a different world. It is a world in which, whether we like it or not, other nations have chosen to embark on a civil nuclear program that include breeder technology and the use of plutonium as a partial fuel. We are not going to change that. We are not going to eliminate it.

We can, however, attempt, through the most appropriate agreements we can reach with other nations on a long-term basis, to try to have maximum United States influence on what those nations do. And this agreement, unlike the current agreement—unlike the current agreement—gives us a much more broadened involvement in what happens in Japan in the years to come.

No longer will we be confined to just those elements of Japan's operation that use fuel which has been developed in the United States. Under this agreement, we will now have an opportunity to broaden extraordinarily our influence in Japan over fuel that has come from other nations, fuel that is not United States in origin and never has been. I think that is a very pretty darn good step forward, a very important step forward. We ought not to wait until the year 2003 or the year 1995 when the nuclear proliferation treaty has to be reviewed and hopefully renewed, but no one can tell precisely.

If it is not renewed under very difficult circumstances, what are we left with in terms of relationships with Japan? Nothing. Nothing, really, unless we have in place an agreement of the scope and the size and the length in terms of this agreement.

Mr. President, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. ADAMS). Who yields time?

Mr. EVANS. I yield such time as the Senator from New Mexico requires.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I thank my good friend, Senator EVANS, for yielding as much time as I desire, but let me, for purposes of keeping the debate under control tonight, yield myself 10 minutes so that the Chair will advise me when I have exceeded my 10 minutes.

The PRESIDING OFFICER. The Chair will advise the Senator.

Mr. DOMENICI. Mr. President, Members of the Senate, I first congratulate Senator EVANS, the distinguished senior Senator from Washington, for what he is doing here on the floor and urge that Senators give serious consideration to the resolution that is before us. I hope that nobody assumes that because the statements of the members of the Foreign Relations Committee or members of the Government Operations Committee of the U.S. Senate, all of whom are very decent Senators, well-intentioned, very knowledgeable in nuclear proliferation activities, that this is a trivial matter. I hope that they understand the consequences of a resolution of disapproval winding its way all the way through the U.S. Senate and the U.S. House and ultimately being signed by the President.

First, I am very hopeful that will never happen. I am hopeful that we will come to our senses and enough Senators will oppose this resolution of disapproval to send a very clear signal to the President that if this gets through the House that he ought to veto it and that we would sustain it so that it would never become law.

But for those who are taken up with the argument that we ought to start over, that there is really something inherently wrong with this negotiation, that there is something we ought to be terribly frightened about, let me share just a couple of things again with Members of the Senate.

First of all, I am certain that there are many Senators who are totally familiar with the marvelous reputation that a former majority leader of the U.S. Senate, Senator Mike Mansfield, had with this institution. His credibility, when he was majority leader, on matters of this type was impeccable.

Now, frankly, we who are opposed to the resolution of disapproval have tried valiently in the last 3 or 4 weeks to get the attention of Senators on this issue. Let me now repeat a few of the things we have asked Senators to just take a few moments to read.

A letter dated February 1, 1988—and I am absolutely positive that the distinguished former majority leader of the U.S. Senate, now U.S. Ambassador to Japan, has not changed his mind. He is an American first and an Ambassador and friend of Japan second. He has written us, through the good offices of the senior Senator from Washington, a very simple letter, dated February 1. I do not want to read it all again, even though it is very short. Suffice it to say, in three very simple paragraphs and a closing paragraph, he urges that we support the new agreement, stating that it is essential and that we give it careful consideration.

I am not going to read the letter, but it answers every question that has been raised.

One question is why do we not start over, as if this negotiation started yesterday, Mr. President. The negotiations between the United States State Department and a confirmed agency of this Government charged with entering new agreements under our most modern 1978 nonproliferation agreement have been going on between the countries of Japan and the United States since 1982. They have just recently been completed and the agreement has been ratified and approved by those in the executive branch.

So, for starters, I say to Senators, this has been a multiyear negotiating process—not a week, not a month, but literally years. That is point No. 1 and it is contained in a very summary manner in the letter from our friend, the Ambassador, who states this agreement has been given very detailed and lengthy considerations.

It is important to the Japanese people. Many are saying that here on the floor and saying they are going to want something from us bad enough that we just ought to make them do what we want and forget about a 6-year negotiation and agreement. I say to Senators, let me remind you, it is not only important to the Japanese, it is important to us. It is important that we remain in the nuclear loop with the Japanese and that they remain our customer, that they buy enriched uranium from the United States, and that they buy our technology as they move toward energy independence with a game plan, Mr. President, and Members of the Senate, that is not as off-again, on-again as ours. They are going to have nuclear energy in their country and they know it is good. They are moving ahead with extremely high goals.

For anybody that would leave the implication to the U.S. Senate that they are some kind of backwater country, they are a high technology country with safeguards in the nuclear industry second to none in the world. We do not do as well as they do. They are refined in their safety concerns and, yes; they are extremely advanced in their research.

So, point No. 2, this is not only important to them, it is important to us.

Point No. 3, for those who do not want this new agreement and would really like us to turn it down and the House to turn it down and then the President to concur in turning it down—which I hope never occurs—for those who want that, let me ask a simple question as my third point:

Do you want the old agreement that is in place? Is there anyone that can come to the floor of the U.S. Senate with a serious concern about proliferation and the reality of Japanese involvement in the production of nuclear energy and research now with plutonium and say the old agreement that will, we think, remain in effect, is better than this one? I do not believe the strongest opponent to this agreement would come to this floor and tell Senators we think the old agreement is better than this one.

Point No. 4. If you turn this one down what do you have? You have the old one; case by case. Clearly the Japanese Government is not going to sit by and be part of the United States supervising and overseeing nonproliferation safety. They are going elsewhere.

There are those who will come to the floor and say they cannot. Well, for the part of the research and technology of the future, they cannot go anywhere next week. But, Mr. President, the Japanese Government has made a decision that they are going to have nuclear energy in their country to a very significant degree. They are not going to sit by without doing research in the next generation of nuclear reactors because the U.S. Senate says we will not approve this agreement. That is not going to happen.

We have seen it in every aspect of their economic evolution. They are safe, they are safety conscious, they are careful, but they are exquisitely practical and they are not going to get out of the nuclear research loop. No way.

Europe will soon be ready to take more of their enrichment business, and we know that. They are now one-third of our total enrichment business, as I understand it, somewhere between 25 percent and 33⅓ percent. They would like to remain there and perhaps even be a bigger customer. For those that think they will, even if we turn this down, I regret to tell you that is an absurdity.

If we are not prepared after 6 years of negotiation under an agreement that almost every expert agency around save one has said is substantially better than anything we have had in the past, as good as agreements we have entered into with Finland and Sweden and others if not better, and if we think the Japanese are going to say: Well, we remain so dependent on the United States for her technology, for uranium enrichment, which we had better revitalize or we are going to lose in any event, and they are going to sit by and say, "You do not want us doing any research with plutonium, even under this"—may I have 5 additional minutes, Mr. President?

The PRESIDING OFFICER. The Senator from Washington has the time.

Mr. DOMENICI. May I have 5 additional minutes?

Mr. EVANS. I am glad to yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Let me finish this thought, Mr. President, and then I will introduce a few documents, and I will yield the floor.

Mr. President, let me repeat: Research in the fuel cycle and the next generation of nuclear powerplant is in the mill in the world. It is on the move. And the Japanese are already doing research with plutonium under an old agreement, and it has much less by way of American involvement in overseeing what they do and protecting against proliferation than this agreement. And there are some saying: Defeat this agreement, because it is not good enough.

Mr. President, the Japanese know that in Europe the French Government is making advances in nuclear technology by leaps and bounds. They have energy goals which have already moved them past the position that 55, 60 percent of their energy in France will be nuclear.

Japan has various goals and various objectives. If we really believe that the Japanese Government, under an agreement where from time to time, rather than case by case, we in an overseer capacity under our nonproliferation statues, not theirs—we can, indeed, pull the chain if they are not doing things right; we can, indeed cancel out and unilaterally affect their conduct—if we believe that they are going to sit by and let us deny this treaty's effect and they are going to sit over there with their kind of science, their kind of technology, and a free world clamoring for nuclear business and nuclear research in a safe manner and they are going to say, "We are waiting around for the United States of America," we just have to be kidding. It is not going to happen.

Why are those who negotiated this agreement, why is the Ambassador, why is Mr. Smith who negotiated this for us—an expert who in his article in the Washington Post is telling us when we started this approach under President Carter we did not even think the Japanese would be interested in such onerous restrictions upon their future technology—now writing that he was surprised that the Japanese were willing to sit down, that they did? This administration, the Reagan administration, the current one in Washington, did not think this nonproliferation agreement was much their business until 2 or 3 years ago and they, too, came to the understanding that it was important. Here Gerard Smith is saying: both this White House and the private sector in government in Japan found common grounds to enter into a multiyear agreement that protects us, protects the world, lets the Japanese move ahead, and yet permits us to unilaterally supervise and oversee by having our rights to get out of the loop and to cancel out if they are not doing things right.

I suspect that they are going to do things better than any other country around because they are frightened about anything that has to do with nuclear. They are overly cautious. They are tremendously concerned about science and technology being done right in their little island country which is full of people and dynamic in its growth.

Frankly, I do not understand how all of a sudden, after 6 years of negotiation, we have come to the Senate floor with some kind of idea that we just ought to tell the Japanese what they ought to do in this respect. They are not being reasonable, people are saying. We have got to just dictate to them because they are not to be trusted.

Mr. President, I will ask that the Smith article in the Washington Post be made a part of the RECORD; the Mansfield letter, and all of the rest that has been gone into this case today, including a letter that we have sent to our colleagues, signed by Senator EVANS and myself, which incorporated the Mansfield letter. I ask unanimous consent that they be made a part of the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOMENICI. If we do not vote tonight, I hope that Senators who are casual about this, who think that perhaps we ought to teach the Japanese a lesson because we are having trade problems with them, that this would be a nice one to sort of pound the nail in, I hope they will read the RECORD.

I am firmly convinced that the good judgment of the U.S. Senate is going to prevail; the good judgment of the collective House, Senate, and President of the United States is ultimately going to prevail. But I am very hopeful that Senators will not confuse this issue and think that this is one of these trade issues where we ought to punish the Japanese. As a matter of fact, we punish ourselves more than the Japanese by negating this agreement because we stand to gain. They stand to gain. The world stands to move ahead, and the United States, as the leader in nuclear nonproliferation, has a rare opportunity with an economic superpower that does not need us in the next decade. They will not need us in this area either. We have a rare opportunity to maintain our leadership, to stay on top of this issue, and, if we cancel that out, we will be asking 5 or 6 or 7 years down the line, what happened to America's relationship with the Japanese?

Why have they gone elsewhere? Why are we out of the loop?

I hope that does not happen.

Mr. President, I yield the floor.

EXHIBIT 1

U.S. SENATE,
Washington, DC, March 3, 1988.

DEAR COLLEAGUE: Earlier we sent a Dear Colleague letter on the proposed agreement for nuclear cooperation between Japan and our Government (House Doc. 100-128). This proposed agreement was submitted to the Congress on November 9, 1987, and will become effective in April or May unless Congress enacts a joint resolution of disapproval. We believe that this agreement is in our long-term nonproliferation, national security, and economic interests and urge your support of it. We wish to make several additional points and attach three documents.

First, Japan and the United States, working closely with the IAEA, are developing sophisticated safeguards capabilities that can be applied to large, bulk reprocessing facilities. Both countries have been hard at work to develop near real-time accounting capabilities for the separation of material such as plutonium as it is being processed in plants. The agreement describes the elements of that system, and a safeguards concept that must be satisfactory to the United States. In addition, Japan must negotiate a safeguards agreement for a specific facility with the IAEA that will meet the requirements of that concept.

Second, this agreement assures that the United States will continue to be an important partner in the ambitious Japanese nuclear program. The advantages to the United States do not stem only from the sales of enriched uranium to Japan. The continued joint research between our governments and companies to develop advanced nuclear systems and technologies is clearly in the long-term United States interest. Japan has become a leader in forging ahead with research into all phases of advanced nuclear technologies. If this agreement doesn't go forward, we are convinced that Japan will likely go elsewhere in search of a reliable nuclear partner. There are certainly other countries in Europe anxious to fill our present role.

Finally, we would like to share with you the following information: an article by the former chief United States nonproliferation negotiator, Gerard Smith, in the Washington Post in support of the proposed agreement; a letter from Ambassador Mansfield to Senator Evans; and a side-by-side analysis that illustrates how the proposed agreement enhances the United States controls and consent rights in the present agreement. If you have any further questions about the agreement, please call Phil Jones [EVANS] at 4-3271 or Paul Gilman [DOMENICI] at 4-7094.

Sincerely,

DANIEL J. EVANS,
U.S. Senator.
PETE DOMENICI,
U.S. Senator.

Attachments.

[From the Washington Post, Feb. 19, 1988]

A SOUND NUCLEAR ACCORD WITH JAPAN

(By Gerard C. Smith)

The struggle to reduce the threat of nuclear weapons has taken two main routes. SALT, INF and START have been travelers on the first, more glamorous avenue. The other, less noticed and traveled but also important, has been the continued effort to avoid further proliferation of nuclear weapons. Catastrophe through their use by smaller powers is more likely than the very remote chance that the superpowers would wage nuclear war against each other, or against anyone else.

Fortunately, there is a broad consensus in the administration, Congress and the public on the importance of nonproliferation for our national security. Some in Congress, however, have used arguments supposedly against proliferation to oppose an agreement recently reached between the United States and Japan to continue their longstanding cooperation in the civilian uses of nuclear power. These arguments are misguided; the agreement should be allowed to enter into force soon.

The new nuclear agreement does two basic things. First, it strengthens American influence over the Japanese nuclear energy program as compared with the existing agreement. This is in compliance with the enactment of our stiff nonproliferation law as approved by President Carter in 1978. Second, the agreement provides greater stability in nuclear commerce between the two countries. It does this by replacing a lengthy and contentious case-by-case review of certain American exports to Japan with a more streamlined and long-term approval.

This agreement is consistent with the policy trends that were developing in the last year of the Carter administration, for which I was the chief negotiator on nonproliferation matters. Originally, the Carter approach had been based largely on denial. Attempts were made, for example, to have these countries not possessing nuclear weapons forgo the use of plutonium in their civilian power reactors. This route proved to be unsuccessful, especially with regard to those states such as Japan and the Federal Republic of Germany, which had both good nonproliferation credentials and advanced civilian programs for nuclear power. These programs involved the eventual use of plutonium for generating electricity.

The Reagan administration has overcome a slow start on nonproliferation. After initially claiming that nuclear proliferation was none of its business, the administration quickly came to its senses and has since done a creditable job on an issue that must remain high on our security agenda.

The new agreement is similar to one I was authorized to explore with Japanese officials in 1980. The Carter term was over before formal negotiations started. It seemed clear, however, that at that time the Japanese had little interest in accepting the additional onerous requirements of the 1978 law. This was so even if they (and we) could obtain the stabilizing advantages of the long-term approvals, especially for reprocessing spent fuel from U.S.-derived material.

I was pleasantly surprised that the Japanese were eventually persuaded by the Reagan administration to accept essentially what was foreseen in 1980 as being desirable. This agreement would for the first time ensure that the United States would be closely involved in all aspects of Japan's growing peaceful nuclear program. It provides a strengthened framework within which the two countries will work together on nonproliferation policy, on improving international safeguards and on increasing the protection of dangerous materials, especially plutonium. The new agreement would extend American influence over the considerable amount of plutonium not covered by the old agreement.

In any event, allowing Japan to use its plutonium is not a binding precedent for other countries. The Reagan policy is clear: that we will allow long-term approval for the processing and use of plutonium only for those importing countries having advanced nuclear programs and which pose no risk of proliferation. There is no better example of such a country than Japan.

The new agreement is not perfect. For example, it is not clear why shipment of Japanese plutonium from reprocessing centers in Europe to Japan would not be done more safely by sea than air as specified in the agreement. Sea shipment would also relieve some environmental concerns. However, even as is, the agreement is a good one. It is consistent with our nonproliferation laws and with sound policy. Congress should see to it that it is soon brought into effect. Then, together with Japan and other nations, we should press on with efforts against the spread of nuclear weapons.

DEPARTMENT OF STATE,
Washington, DC, February 1, 1988.

Hon. DANIEL J. EVANS,
U.S. Senate.

DEAR DAN: In November, I had the privilege of signing in Tokyo, on behalf of the United States Government, the United States-Japan Agreement on Peaceful Nuclear Cooperation. On that occasion, I said the Agreement will serve both nations well for many years to come.

Congress is now engaged in its statutory review of the Agreement. I am concerned that some in the Congress have claimed that the agreement is flawed and that the United States has given up too much. This is simply not the case. In fact, the Japanese have consented to many far-reaching constraints on their nuclear program, making the agreement the strongest ever negotiated by the United States from a non-proliferation standpoint. In all respects, the Agreement meets or exceeds our non-proliferation and national security requirements, and is fully consistent with United States law. It also substantially advances our commercial and foreign policy interests.

For Japan the agreement is important because it provides a predictable framework for long-term cooperation with the United States on the peaceful use of nuclear energy. I know of no nation that is more scrupulous in its adherence to nuclear nonproliferation than Japan. We can be confident in Japan as a most reliable nuclear partner.

I believe your support for the new agreement is essential and hope you will give it careful consideration.

Sincerely,

MICHAEL J. MANSFIELD,
U.S. Ambassador to Japan.

The PRESIDING OFFICER. Who yields time?

Mr. EVANS. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I yield such time as he may desire to the Senator from Wisconsin [Mr. PROXMIRE].

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, today the Senate is considering whether it should disapprove the proposed United States-Japan Nuclear Cooperation Agreement. This agreement was negotiated by the Reagan administration and has been criticized and condemned by a wide variety of experts including present and former members of the President's administration. These former members include former Secretary of Defense Caspar Weinberger and his assistants Richard Perle and Frank Gaffney. To use the term that these former advisers to the President made famous when criticizing the SALT II Treaty, the United States-Japan agreement is "fatally flawed."

Let me cite some of the serious problems that exist with this agreement:

This 30-year agreement will provide to Japan long-term United States consent to reprocess and store United States-origin nuclear materials within Japan. As well, it provides to Japan the authority to transfer spent fuel to designated facilities in England and France for reprocessing and have the resulting plutonium subsequently returned for their use. The consents and prior approvals from the United States to carry out these activities would last the life of the agreement and apply to facilities not yet in existence. Under the current agreement the United States provides case-by-case consent for these activities.

It permits monthly flights of this bomb-grade material around the globe for commercial use in Japan. To date Japan has been considered a non-nuclear weapon state. This is a threat to the existing non-proliferation regime.

The agreement does not meet the requirements of sections 123 and 131 of the 1954 Atomic Energy Act [AEA], as amended. Section 123(a) lays out nine non-proliferation criteria that must be met by the agreement, and section 131 addresses the timely warning standard. The General Accounting Office [GAO] has recently issued a report stating that the agreement does not meet the requirements of subsection 123(a) (5) and (7) of the AEA, or the timely warning standard of section 131. The GAO conclusions should come as no surprise, all of these problems have been well documented by the Senate Foreign Relations Committee.

The United States oversight of this agreement would be limited to terminating or suspending the agreement only under extreme conditions. It provides only for Executive branch monitoring of Japan's activities, and deprives Congress of its oversight function.

In 1985 I offered an amendment, the purpose of which was to restore adequate congressional authority over nuclear export agreements. This "Proxmire amendment", as it has come to be known, states that a nuclear cooperation agreement must lie before the Congress for 90 days of continuous session from the date it was submitted. During the first 30 days the President must submit in writing whether the agreement meets the requirements of section 123(a) of the AEA. His representatives must consult with the House Foreign Affairs Committee and Senate Foreign Relations Committee on the same issue. After this period, the Foreign Affairs Committees advise the President on whether they agree that his analysis of the consistancy with section 123(a). If the President determines that the agreement meets all the requirements of AEA section 123(a) the agreement automatically takes effect in 90 days, unless both Houses pass a joint resolution of disapproval. If the President submits the agreement with waiver of any requirements the agreement cannot take effect unless both Houses pass resolutions of approval.

At the time this amendment was being debated, the floor managers stated that if either the House Foreign Affairs Committee or the Senate Foreign Relations Committee believed that the proposed agreement is not consistent with any of the nine section 123(a) criteria, "the Congress expects that the President will submit an exemption." The amendment, however, was watered down before it was accepted, and does not force the President to renegotiate the agreement or submit it with a waiver for approval.

I recognized the potential for trouble with the President on this issue and fought for my original, stronger amendment. At the time the amendment was being debated I stated, "It is clear that this provision does not require the President to act in good faith for if he overrides Congress' recommendation during the 30-day review period, we cannot force him to comply. You can be sure, however, that if the President does not act in good faith, the Congress will find ways to make sure its views are heeded. * * *"

Well, Mr. President, it is clear that the President has not acted in good faith. The Senate Foreign Relations Committee has written to the President and told him flat out that this agreement does not meet the requirements of section 123. The result was that the President responded that the agreement was consistent with the requirements of section 123. He did not submit the agreement with a waiver and he did not offer to renegotiate it. Unfortunately, the Congress cannot force him to take either action. The only weapon the Congress has at its disposal is to pass a joint resolution of disapproval. We must make use of this opportunity to tell the executive branch that the intent of Congress is clear—this agreement is flawed, it is not in the U.S. national interest, and the President must renegotiate it or resubmit it with a waiver. I plan to vote for this joint resolution of disapproval and urge my colleagues to do the same.

I want to thank the distinguished chairman of the Foreign Relations Committee for yielding me the time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the call for the quorum be rescinded.

The DEPUTY PRESIDENT pro tempore (Mr. MITCHELL). Without objection, it is so ordered.

Mr. PELL. Mr. President, I yield myself 2 minutes.

In September 1987 the Japan Federation of Bar Associations concluded that the construction plan for the nuclear reprocessing facility at Rokkasho-Mura should be stopped for the following reasons:

First, the new United States-Japan Nuclear Agreement gives Japan United States' 30-year prior blanket consent to plutonium separation, transporting, and transferring.

Second, plutonium is planned to be flown to Misawa Air Base, the largest U.S. military air base in the Far East.

Third, Misawa Air Base has 50 F-16's, 9 P3C's and 36 F-1's stationed and engaged in firing/bombing practice and scrambling.

Fourth, the proposed site for the world's largest nuclear fuel cycle facility is 17 miles from Misawa Air Base.

Fifth, the proposed site—Rokkasho Village—is situated within Misawa positive control airspace.

Sixth, in 1987 only, four military aircraft crash accidents were reported within Misawa positive control airspace.

Mr. BOSCHWITZ. Mr. President, I rise today in support of the resolution of disapproval concerning the agreement for nuclear cooperation with Japan. Very frankly, this agreement sets a very bad precedent in our longstanding bipartisan nonproliferation policy. We would lose the very heart of our controls: the right to case-by-case review in the sale of U.S. nuclear material. In so doing, we dramatically increase nuclear threats from possible loss, theft, terrorist attack, or illicit diversion of enriched plutonium. We thus undermine decades of work aimed at preventing the possible spread of nuclear weapons.

We already have a nuclear cooperation agreement with the Japanese. Signed in 1968, it runs until the year 2003. Nevertheless, the Non-Proliferation Act of 1978 instructed the President to renegotiate existing agreements with a view to tightening up nuclear controls. While there are some features in this new agreement that do precisely that—the notification requirements concerning the movements of nuclear material represent a real advance—we have lost much more.

The Japanese asked for, and we agreed to, a 30-year programmatic approval for both nuclear facilities and for Japanese requests to use United States nuclear material. That means essentially that for the next 30 years, the Japanese have carte blanche to do as they will in their nuclear program. Compare that to the existing situation. We now have the right to evaluate Japanese requests on a case-by-case basis, with our approval based on an evaluation of security controls at the time of the request.

The Japanese argue that this case-by-case approach prevents the long-term stability in nuclear cooperation that they need to go forward with a major expansion in their nuclear program. It is instructive to note, however, that throughout the history of our nuclear cooperation, their requests have never been denied. Not once. In my judgment, that represents real stability in our nuclear relations. But we are asked to sacrifice a cornerstone of nonproliferation policy: case-by-case determination. What's worse, we are asked to approve, in advance, nuclear facilities that have not yet even been designed, and then to give blanket approval to the operations of those facilities until the year 2018.

Mr. President, one thing should be made absolutely clear. The objections I and others have raised about this agreement should not in any way be interpreted as anti-Japanese. I do not doubt for a minute the commitment of the current Japanese Government not to produce nuclear weapons. The history of our approvals of Japanese requests for United States nuclear material indicates the high regard that our Government has for the approach the Japanese have taken toward the use of nuclear energy.

But a 30-year blanket approval? Frankly, Mr. President, no one has the ability to see into so distant a future. Moreover, during the life of this proposed agreement, Japan will increase its stockpile of plutonium—one of the most deadly substances known to man—to the point where it would far exceed the current stockpile of the United States nuclear arsenal.

This agreement would dramatically increase threats from loss, theft, terrorist attack, or illicit diversion of nuclear material. And we would have no recourse until after such an event occurred. Mr. President, very frankly, I believe that this agreement should be shelved and new negotiations opened with the Japanese. They currently have long-term contracts to purchase nuclear material from the United States, so that we have the time to fix this agreement. That would be time well spent, indeed. The issue is too grave, the consequences too severe to expect or to do less.

Mr. KERRY. Mr. President, at the outset let me note that I was unavoidably absent for the vote earlier today regarding the motion to proceed on this resolution of disapproval, because I was in Boston attending a Mass for the mother of Mayor Flynn of Boston. Mayor Flynn is close friend, and I felt strongly that it was important for me to be there for the Mass. If I had been present, I would have voted to proceed with consideration of this resolution, which is required to stop the Japanese-United States nuclear agreement from going into effect this year, and for the next 30 years.

There are few greater risks to the people of the United States than that posed by the accumulation of plutonium outside our borders and our control. If you get enough plutonium together with a little expertise, you can make a nuclear bomb, and engage in nuclear blackmail. That's a grave threat, and U.S. policy should be designed to do everything possible to combat that threat.

Unfortunately, this agreement is a big step in the wrong direction. In the past, the United States has insisted on requiring case-by-case approval for the reprocesssing or transfer of nuclear material under our control. This approach has allowed us to review carefully the physical security and safeguards for any subsequent transfer of the material. As the Foreign Relations Committee determined in reporting out this resolution of disapproval, that process is vital to the national security of the United States.

This agreement eliminates the process of case-by-case approval, providing Japan instead with "programmatic prior consent," by which the United States agrees to whatever materials, means, and shippings routes are developed by Japan to ship this material—for 30 years.

Plutonium is about as dangerous a substance as has ever been developed by man. Yet this agreement gives a kind of blanket approval to the Japanese to air shipment of several hundred kilograms of weapons-usable plutonium each month over and through United States territory.

Now I can understand why Japan wanted this agreement. It has a rapidly growing nuclear industry. That industry relies on the United States for much of its basic technology, and for much of its materials. Today, Japan's nuclear powerplants use enriched uranium for fuel. But in the next 15 years, Japan will use mixed uranium and plutonium oxide for fuel. Being natural resource poor, Japan is relying on nuclear power for its energy future.

The question remains whether it is in the interests of the United States for Japan to move in that direction, when to do so will be to move ever greater quantities of plutonium across the Atlantic from France or Britain, through the United States and Canada, to Japan. The risk of terrorists obtaining the plutonium for nuclear blackmail, and the risk that an airplane carrying the plutonium might crash, each powerfully suggest reasons why this agreement must be disapproved.

We already have an arrangement with Japan which permits us to retain case-by-case approval. This agreement unwisely moves beyond that to provide blanket approval for reprocessing and use of plutonium. It would sanction the commercial use of plutonium on a large scale, increasing the potential risks of accidental discharge and terrorist seizure. Its 30-year term, which allows for the suspension of the agreement only under "extreme circumstances," locks us into a position of approving plutonium shipments for a period nearly as long as the period in which plutonium has been used by man to date. Regardless of the best intentions of the Japanese, the physical security over the plutonium over that long period of time may not be adequate to insure that the plutonium is never used. Regardless of the best intentions of those charged with shipping the plutonium, the safety of its flights across the United States can never be guaranteed. We have seen too many technological glitches result in disasters already with Chernobyl, with Bhopal, with the *Challenger* shuttle, to forget that even the best technologies sometimes fail, with disastrous results. Plutonium is not a substance over which we should lightly give up control. This agreement goes too far. It should be disapproved.

UNITED STATES-JAPAN AGREEMENT FOR NUCLEAR COOPERATION SHOULD BE REJECTED

Mr. CRANSTON. Mr. President, late last year a deeply divided Reagan administration asked the Senate to approve a new agreement to govern United States nuclear cooperation with Japan.

This proposed new agreement, which would supplant an existing accord that runs through the year 2003, would give away completely the United States right to approve commercial use of several metric tons of nuclear bomb-grade plutonium each year by a Japan.

The agreement anticipates two to three shipments from Europe to Japan of hundreds of pounds of plutonium each month for at least the next 30 years.

The agreement proposes to abandon the bipartisan policy of our Government, first enunicated by President Gerald Ford, which discourages widespread commercial use of plutonium.

It will therefore not surprise my colleagues to learn that this proposal to depart radically from past U.S. policy was opposed by Secretary of Defense Caspar Weinberger on urgent national security grounds.

The Department of Defense opposed this agreement in writing.

So did the independent Nuclear Regulatory Commission.

So have strong majorities of the Senate Foreign Relations Committee and the House Foreign Affairs Committee.

And so has the GAO, which has found the agreement to be illegal.

It should thus be clear that opposition to this accord in its present form unites critics in the executive and legislative branches, liberals and conservatives, Democrats and Republicans, nuclear enthusiasts and skeptics.

It is a bad agreement. It deserves rejection.

At issue is not nuclear power per se. The issue here is the national security interests of the United States, which are inadequately protected by the new draft accord.

The Senate Foreign Relations Committee took testimony on this question in two December sessions. We found that the State Department negotiators propose to give away completely the United States right to approve commercial plutonium shipments, shipments which will move each month in casks that have not been created and tested, to be used in Japanese facilities that have not yet been designed, to be protected by safeguards that have not yet been invented.

The proposal, the committee concluded, is an extreme environmental hazard, a proliferation peril and a would-be terrorists's dream come true.

The senior Senator from North Carolina, Jesse Helms, and I do not often agree on international security issues. But we both agree that the proposed new United States-Japan agreement is flawed. We both raised a number of questions about this scheme, as did Senator Adams, who termed the scheme outrageous, as did Senator Murkowski, who had deep concern about it in his home State, as did Senator Glenn and others. We have been joined in opposing this agreement by Senators on both sides of aisle: Dan Quayle, Bill Proxmire, Rudy Boschwitz, and many others.

The Foreign Relations Committee voted 15-3 that the draft agreement was not in compliance with the key provisions of the Atomic Energy Act, and must therefore be returned to the President for renegotiation, or resubmission with a waiver of these key provisions. The committee, in a December 19, 1987 letter asked for prompt consultations with senior administration officials, with a reply requested by January 11. A majority of the House Foreign Affairs Committee took similar action.

What has been the administration's response?

It has given this body the back of its hand.

It has ignored the Senate committee action.

It has ignored the House.

It has ignored the law.

No response whatsoever was received by January 11, though there were press leaks about an aggressive lobbying strategy to mislead Senators and to try to pull off a procedural end run on the Congress of the United States. And they have rejected offers to compromise our differences.

Mr. President, I was eager to work with this administration to resolve this issue. There are men and women of good will downtown who understand—indeed, who share the legitimate concerns the Congress has expressed about flying tons of United States source plutonium round about the globe with the Federal Government having no right of prior approval for these Japanese shipments.

But I want to make clear here and now that there are many of us in Congress who will not allow this agreement to move forward until its defects are remedied.

We will not tolerate procedural games and parliamentary end runs by the State Department negotiators.

And while we await the beginning of a serious dialog with administration officials, we will do all in our power to block the entry into force of this new accord. That is why we must vote to adopt a resolution blocking the new agreement's entry into force.

We will seek to ensure that the law is upheld. We will seek to protect the rights and the responsibilities of Congress to approve any new nuclear agreement which does not satisfy basic national security safeguards contained in the Atomic Energy Act. Our purpose is simply to uphold the position of the Senate as expressed in our December 19 letter to the President.

Mr. President, the case against the proposed new agreement with Japan is clearly stated in a bipartisan "Dear Colleague" letter delivered to Senators on Friday. This letter, signed by Senators GLENN, BOSCHWITZ, ADAMS, PELL, HELMS, and myself, reads as follows:

U.S. SENATE,
Washington, DC, March 18, 1988.

DEAR COLLEAGUE: In the next few days, the full Senate will vote on a Byrd-Dole resolution disapproving the proposed new nuclear agreement for cooperation with Japan. We strongly urge you to support this bipartisan resolution of disapproval, which will protect crucial U.S. national security interests while permitting the existing agreement for nuclear trade with Japan—which runs through the year 2003—to continue in force.

The proposed agreement with Japan forfeits U.S. controls over up to forty-five tons of weapons usable plutonium. It permits monthly flights of this bomb-grade materiel around the globe for commercial use in Japan, heretofore considered a non-nuclear weapons state. And it gives blanket approval for use of U.S.-source plutonium in Japan for the thirty year life of the agreement—even in facilities which do not yet exist, for which anti-terrorism safeguards have yet to be designed!

Secretary of Defense Caspar Weinberger opposed this agreement in the strongest terms, filing detailed written objections. So did the independent Nuclear Regulatory Commission. So have a majority of members of both the Senate and House foreign relations committees. The chairman of both the Senate and House Judiciary Committees have joined efforts to block the new agreement, noting that it violates both the procedures and substance of basic U.S. nonproliferation law. And last week, the General Accounting Office issued a definitive report confirming that the new Agreement is illegal because it "would leave the United States with no effective control (over U.S.-origin plutonium) over the life of the proposed agreement." The GAO warned: "we conclude that the proposed agreement does not meet the requirements of the (Atomic Energy) Act".

Since the Senate Foreign Relations Committee voted 15-3 last December 17 to reject the proposed new agreement, we have sought to work with the Administration on a bipartisan basis to remedy the glaring defects in this agreement. We proposed modest changes under which conditional approval of the agreement might go forward so as to remove this issue as an irritant in relations between the U.S. and Japan, between the State Department and Congress. Our bipartisan offers to compromise have not been reciprocated in good faith. Indeed, the Administration has not even complied with the basic procedural requirements of law—which provide that this extraordinary agreement must await Congressional approval before it enters into force. With the days for Congressional review before the agreement enters into force fast dwindling, we now believe the wisest course is to put the full Senate on record against the agreement in its current form. This would allow the existing agreement with Japan to continue in force while discussions on any modification of this accord continue.

The proposed new agreement with Japan is the most significant departure in U.S. nuclear nonproliferation policy since the advent of Atoms For Peace in 1954. It represents the first time the U.S. has ever granted blanket approval for commerical use of pure, U.S.-source weapons grade plutonium. It reverses a bipartisan policy, most effectively articulated by President Gerald Ford, which discourages commercial use of plutonium as a uranium substitute. Over the lifetime of this proposed new accord, Japan would accumulate more weapons-grade plutonium than exists in the entire U.S. arsenal today. And this material—which would be shipped to Europe for reprocessing, then back to Japan for use—would be circualting throughout the globe on a monthly basis. We believe this imprudent scheme represents an extraordinary environmental hazard, a nonproliferation nightmare, and a would-be terrorist's dream come true.

We are joined in our concerns by key independent nonproliferation experts, including former Assistant Secretary of Defense Richard Perle and his former deputy, Frank Gaffney, who note in the attached letter that: "approval of the accord will abandon . . . the reasonable and prudent protection of the case-by-case approach required by our law, our past policy, and the humble recognition that we cannot see with confidence thirty months, much less thirty years into future. We hope that the Congress will address this issue squarely by rejecting the new agreement."

In the attached Los Angeles Times article, Gaffney describes the origins of this sloppy accord: "Using the pretext of a Congressional directive to strengthen existing nuclear agreements, the Reagan Administration and the Japanese government have fashioned a new accord which sharply degrades the preeminent means of controlling the proliferation of plutonium for weapons purposes—our right to approve on a case-by-case basis what others do with U.S.-provided plutonium."

A review of the interagency memoranda on this pact shows that State Department negotiators were well aware of the fact that the concessions they were making were highly dubious and subject to challenge by Congress and the courts. We are now in the unfortunate position of realizing this self-fulfilling prophecy by urging a vote for a resolution of disapproval. We need to place the new accord on hold until its glaring defects can be remedied and a compromise solution can be considered. If you have any questions, or if you wish to join us in this effort, please have a member of your staff contact Brad Gordon of Senator Boschwitz' staff at x45641 or Gerry Warburg of Senator Cranston's staff at x48114.

Sincerely,

RUDY BOSCHWITZ,
JOHN GLENN,
ALAN CRANSTON,
CLAIBORNE PELL,
JESSE HELMS,
BROCK ADAMS.

Mr. PELL. Mr. President, I suggest the absence of a quorum, the time to be evenly divided.

The DEPUTY PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, will the Senator from Washington yield some time to the Senator from Idaho?

The PRESIDING OFFICER. Senators EVANS controls the time.

Mr. EVANS. Mr. President, I yield to the Senator from Idaho as much time as he may desire.

Mr. McCLURE. I thank the Senator for yielding.

Those people who are watching may be a little puzzled as to what has been happening.

Mr. PELL. Will the Senator yield 1 minute without losing his right to the floor?

Mr. McCLURE. With the time to be charged to the Senator, I would be happy to.

Mr. PELL. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 hours and 44 minutes remaining.

Mr. PELL. Mr. President, I yield back 2 hours and 42 minutes.

The PRESIDING OFFICER. The time is yielded back.

Mr. McCLURE. Mr. President, as I was saying, there are people watching who may be wondering what it is we have been doing.

Mr. BYRD. Mr. President, would the distinguished Senator yield so I might make a parliamentary inquiry without its coming out of time on his side?

Mr. McCLURE. I would be happy to. I ask unanimous consent that I may do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, if all of the time that remains to both sides is taken, at what hour would that be?

The PRESIDING OFFICER. In that event, the vote would occur at approximately 9:30.

Mr. BYRD. I thank the Chair. I thank the distinguished Senator for yielding.

Mr. McCLURE. As I was attempting to explain, the managers of the bill have been consulting with the leadership on both sides as to whether or not we should proceed to attempt to dispose of this matter this evening and whether some kind of arrangement could be made for a vote at an agreed time under agreed circumstances on tomorrow.

Apparently, it is the desire of the majority to go ahead and complete action on this tonight. Therefore, I do believe that some time later this evening we will probably vote on this measure.

But I think it is important for us as we look at this measure to look as dispassionately as we can. And I say that advisedly because this subject raises passions on all sides. And I confess that some of the arguments which have been raised in opposition to the agreement between the United States and Japan have evoked some emotional response on the part of the Senator from Idaho. But I think it is important when our emotions are present that we ought to try to set those aside if we can and look at the issues as coldly as we can devoid of those emotions.

There is something about the term "nonproliferation" or perhaps it is the term "plutonium" that seems to cause the minds of some to turn to jelly. And we cannot any longer bring rational discussion to the issues that really are before us. And I want to take just a little bit of time to go back and touch on some of the factual bases, and some of what I view to be the factual analyses rather than the emotional debate that so often characterizes what it is we are doing.

I have heard in the debate here today that some are really very much concerned about the fact that this agreement has a long-term, 30-year advanced United States consent for Japanese reprocessing or retransfer of plutonium, and that is somehow not consistent with the AEA.

I will get later to what we can do to protect our interests within that 30-year time period, but I also want people to understand that that 30-year time period is not unprecedented, either in terms of international trade or in terms of our actions that we take.

There are a lot of licenses on various kinds of activities, licenses by the Federal Government, that are for 30 years or 50 years. The licenses on power dams on rivers, the licenses on projects that affect the flow of rivers over which the Federal Energy Regulatory Commission has jurisdiction, are typically from 30 to 50 years.

I have heard some talk here that no one can anticipate what will happen in the next 30 years. That is true. Yet, we take a lot of actions that project themselves for that long rather routinely, and we do not seem to be so concerned about it.

I will get back to the fact that under this agreement there are a lot of actions that we can take short of the expiration of 30 years to protect ourselves.

Advance consent is consistent with the AEA. The AEA expressly contemplates approvals long in advance of any activity, and such approvals may be contained in an agreement. That is specifically provided for, and I refer to sections 123, 127, and 131 of the AEA.

Advance consent is a natural consequence of the long leadtimes between purchase of United States material and Japanese reprocessing the material—leadtime as long as 9 years. Indeed, the leadtime can be much longer than that under some circumstances. But we are talking about a commerce that has typically in it very long time periods.

The purchase of a fuel assembly may in itself consume something like 9 years before it is ready to move into reprocessing. But the commitment to build the plant and the contract for a fuel supply will precede that assembly being inserted and used in a powerplant. So that on plans made today to build a powerplant in the future, the contracts may be let to provide fuel for that plant, and the plant will not be built for another 5 years, and the fuel will not be supplied, in the first instance, perhaps for the first fueling, 5 or 6 years from now. The second fueling may be another 7, 8, or 9 years after that. So you are out some 14 or 16 years, and that fuel assembly would not be removed for 8 or 9 years after that, and you have had over 20 years before you get around to the question of whether or not the reprocessing of that supply of fuel would be covered by this agreement.

So it is not unusual, not precedented, and certainly not out of the ordinary to talk about time frames of that kind in this kind of business. There are precedents in other agreements.

I think it has already been mentioned by other speakers that we have other agreements like that, with time frames like that, with Sweden, Norway, and Finland. I suspect that our friends in Japan may well ask, "Why us? Why is it you trust us less than the Finns, the Swedes, or the Norwegians?"

Besides that, we have a precedent with Japan, itself, and that is the advance approval for the Tokai-Mura reprocessing facility, which has already been reviewed by Congress and entered into force. We did not see any reason at that time to withhold our consent because of the time period.

Beyond that, this nuclear material involved must be subject to international safeguards satisfactory to the United States at all times. It is not as though we grant consent and then withdraw. It is that we grant consent to a course of action in which we will be involved continuously during all those years.

If a facility is to be added to the program to which advance, long-term consent applies, the safeguards arrangement for the facility must accord with safeguards acceptable to the United States; and, where necessary, this means that the United States and Japan will need to develop new safeguards concepts beyond those already contained in the agreement.

The result is an unprecedented opportunity for the United States to contribute to the process of insuring the highest possible standards for safeguards on sensitive nuclear facilities. The United States may suspend its advance consent at any time in order to prevent a significant risk with respect to nonproliferation or national security goals.

I want to repeat that, because if I have understood the arguments they have been used against this agreement today in support of this resolution of disapproval, it is somehow the idea that if we approve the agreement, we have lost all capacity to deal with safeguards issues for 30 years, and that is nonsense. The United States may suspend its advance consent at any time in order to prevent a significant risk with respect to nonproliferation or national security goals. That is explicit.

That is beyond any rational disagreement.

I have heard the concern expressed about the basis for the Presidential determination that the agreement will promote common defense and security. I guess that, for some people, saying "Reagan administration" has become some kind of political buzz word, as though that automatically qualifies it for disqualification. I would remind a few people who want to kind of hang their hat on that somewhat mobile hook that the Reagan administration seems to be durable in some respect. At least, if I read correctly what is being said about the primaries across the South in Super Tuesday, it is widely suspected the GEORGE BUSH did as well as he did across the Super Tuesday spectrum on the coattails of the popularity of the Reagan administration.

I am not sure that just saying "Reagan administration" automatically says that something ought to be turned down in this body or elsewhere across this country.

However, it was not just the President's determination. It was after consultation and after detailed studies and review that the Arms Control and Disarmament Agency went through and made a nuclear proliferation assessment statement. That was not prepared by the President. That was prepared by ACDA. The recommendations incorporate the comments from the Secretaries of State, Energy, and Defense—all independent views—and certainly they are part of the administration. They were not just Ronald Reagan's views. Those were the considered views of the departments involved. The NRC looked at the agreement and made suggestions which were incorporated into the agreement.

So all concerns raised by the agencies, particularly DOD and NRC, were addressed and resolved satisfactorily prior to finalizing the agreement provisions.

I want to restate that: Their concerns were reviewed and resolved prior to the agreement being finalized.

All agencies fully support the proposed agreement and believe it protects U.S. security interests.

Now, I will get back in a moment to some comments from the Department of Defense in that regard.

I have heard some comments that timely warning should be limited to technical criteria but that somehow it is wrong that the administration has also included other nontechnical criteria. I suspect if indeed they had not included the nontechnical criteria, they would even be more severly criticized for having failed to look at such questions as political shifts, changes in economic or trade relationships and particularly with respect to nuclear issues, Japan's position on nuclear weapons and the stability of United States-Japan security relationship at the time the activity is undertaken.

It does not seem to this Senator that it is unreasonable to consider those and include those factors within the nontechnical criteria that is now being criticized by some who would have us scuttle the agreement. The U.S. approval of specific Japanese activities under the agreement can be withdrawn in any situation where timely warning is no longer considered adequate.

So it is not true that timely warning is now cast in stone and cannot be changed. It can indeed. U.S. interests can indeed be continually reviewed, updated, and new judgments made during the life of the agreement.

It is suggested that safeguards and physical security requirements as required in section 123 of AEA are not met. That argument has been made, but the fact is that the ACDA Nuclear Proliferation Assessment Statement concludes that the agreement meets the statutory requirements of section 123 of the AEA. There is no executive department or agency that has disagreed with that evaluation.

The controls and guarantees required in section 123 of the AEA include IAEA safeguards in article 2(2)(a), a peaceful, nonexplosive use guarantee, and article 8(2) issue a U.S. right of return expressed in article 12(1); U.S. consent rights over retransfer covered in article 4; guarantee of physical security covered in article 7; U.S. consent rights over reprocessing, alteration, and enrichment. I refer you to the provisions of articles 5 and 6. U.S. approval of storage arrangements for sensitive materials covered in article 3 of the agreement.

There has been expressed here on the floor today and elsewhere concern over plutonium overflights over the United States primarily Alaska and concerns about environmental impact.

I would remind my colleagues that any decision with respect to plutonium transport is contingent upon U.S. approval of the transportation plan. That is covered by the agreement and explicitly provided for.

The DOE's environmental assessment of plutonium overflights concludes that the agreement has no significant environmental impact.

All plutonium shipment casks must be certified by the NRC to be secure in severe accidents.

There is no loophole here. That is covered.

The State Department has agreed to pursue a nonstop polar route for air shipments. Alternatively, sea shipments will be reconsidered, and I think our colleague, the Senator from Alaska [Mr. MURKOWSKI], has been very diligent in making certain that those facts are facts not just speculations.

But aside from answering the questions that have been asked here on the floor and otherwise, there are significant reasons to support the United States nuclear agreement with Japan for the benefits to the United States. Here I would hope that we have some understanding, as has been stated by both Senator EVANS and Senator DOMENICI in particular, that indeed if you want to have any influence over what happens, you have to be a player in the game.

We have consistent long-term disapproval by some of the actions of the International Atomic Energy Agency, and yet whenever we get right down to the decision as to whether to continue to participate or to pull out, we have always agreed to participate because there is a recognition that indeed that whatever the faults of that agency may be, whatever the faults of that arrangement may be that they supervise, that we are better off in that agency participating in it in its deliberations, working to improve the safeguards, than we are to be on the outside looking in with no stake in the game except the hazards to us with no opportunity to influence the outcome of any of the discussions, with no opportunity really to persuade others to cooperate with us in the decisions that are made.

Working together with Japan is essential to our safeguards. I am not going to say that the Japanese will do something foolish if they are not trading with us but if you believe that we will insist on them doing something wise rather than foolish you better want us trading with them rather than being completely outside the loop, having them dealing with third parties, third countries without any respect to what the United States wishes.

We can by being involved in this transaction in this commerce strengthen the international nonproliferation regime. It is to our advantage to do so.

It would strengthen United States legal controls over nuclear activities with Japan to have this agreement approved, not disapproved. It cannot strengthen our ability to strengthen legal controls over nuclear activities with Japan by passing a resolution of disapproval. It is counterproductive at best.

It will ensure United States involvement in safeguards and physical protection measures with respect to the Japanese nuclear program.

It provides economic benefits, and I put this deliberately at the end because some have charged all you want to do is get involved in the bucks, you do not really care about the safety, and I put this at the end because I want us to understand that while, yes, there are financial and economic reasons to be involved, the other reasons are also important to us and need to be arrayed ahead of just the sheer economic benefits to the United States.

If you want us to have an opportunity, and I suppose there are some who do not want us to have the opportunity to be involved in this trade with Japan, particularly for United States enrichment services and future purchase of United States uranium. They would like to have this agreement scuttled. But if anybody really is concerned about the economic health and strength of this country and if anybody is concerned about the health and vitality of this industry in this country, they should vote against this resolution of disapproval.

There is the possibility of further help with and further involvement with the Japanese in support of funding for United States "AVLIS" enrichment technology development. They have cooperated with us in other such developments and, as the senior Senator from Idaho can attest on a personal basis, indeed they have been at atomic energy installations in the United States, including those at the Idaho National Energy Laboratory and they have participated financially and technically in some of those programs to our benefit as well as theirs.

But I think fundamentally one of the anomalies of this entire exercise is the implicit assumption that rises out of a kind of an unstated American arrogance that somehow we have the right and the capacity to control what other people do and that all we have to do is threaten or bluster and indeed they will have to give in.

The matter of fact is that Japan does not have to deal with the United States. Japan can very well go on its own in this field without dealing with the United States and we will lose all opportunity to have cooperative arrangements with them on any of these programs or any of this commerce, which I would think would be the last thing in the world the United States would wish.

Now there has been a great deal of reference, and the distinguished Senator from Ohio has referred repeatedly this afternoon at great length with respect to GAO analysis. I am not going to take as much time to go into some of the GAO findings or assertions as the distinguished Senator did in presenting them.

But I want to at least look at several of these assertions so that I can give you some idea of the flavor of that report and why you should not be misled by it.

The assertions made by the GAO that past Japanese requests for approval for reprocessing have been provided on a request-by-request basis.

That leaves the impression that past practices were limited to request-by-request approvals, and that is highly misleading or erroneous. For the Tokai-Mura reprocessing facility the United States has made the requisite determinations for multiyear periods to permit the facility to perform its role in Japan's nuclear program. It also bears noting that unlike the proposed agreement, these determinations were not subject to a U.S. suspension right, requirements concerning the specific locations of the recovered plutonium, or formal reporting procedures.

It is asserted in the report that the new agreement provides Japan with blanket authority to reprocess, store and transport nuclear material.

Now, Mr. President, I do not know what agreement they read or what interpretation they placed on it because that assertion is flat false.

The United States consent rights are only exercised for a defined Japanese program, which consists of facilities for which the United States has the necessary information to make the requisite statutory judgments. Finally, retransfers are limited to specific countries and specific purposes, and in some cases they may only involve defined nuclear materials in designated quantities. The letter and analysis also suggest that any future facility may be included in the Japanese program. In fact, only facilities for which the United States has established the requisite safeguards may be included in the approved program and only upon advance notification and confirmation to the United States that the required safeguards will be implemented by the IAEA.

Mr. President, there are a number of other assertions made in the GAO report that are flat false. They are not arguably false, they are demonstrably false. I am afraid some people hearing the discussion on the floor today may be misled by the assertions of what the GAO study and letter said when, as a matter of fact, they did not make those assertions based upon fact and they are misleading.

I ask unanimous consent that further rebuttal to the GAO analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GAO Assertion. In the event of a problem, U.S. recourse is limited to terminating the Agreement for Cooperation or suspending the Implementing Agreement and this is only possible if the approvals are not being properly implemented.

Rebuttal. The suspension right may be exercised at any time, may be used to suspend only some or all the U.S. consents in whole or in part, and is available even if Japan is in full compliance with the Implementing Agreement.

GAO Assertion. The President has failed to respond to the concerns of the cognizant congressional committees.

Rebuttal. On January 29, 1988, the President sent a three page letter to the SERC and members of the HFAC addressing the points raised in letters they had sent him.

GAO Assertion. The NRC expressed concerns over the provisions for advance approval for plutonium use in future Japanese facilities.

Rebuttal. The NRC, in fact, testified before the HFAC that it did not disagree with the Executive branch judgment that the proposed Agreement meets all requirements of law.

GAO Assertion. The Secretary of Defense has opposd the proposed Agreement.

Rebuttal. Secretary Carlucci has written an unclassified letter to both the SFRC and HFAC stating that the Department of Defense fully supports the proposed agreement, its earlier concerns having been fully satisfied.

GAO Assertion. Over a 30-year period it cannot be asserted with any degree of confidence that factors would be such "to assure the existence of timely warning at all times or even ensure there would be no increase in proliferation risks over the 30-year period."

Rebuttal. It is the purpose of the suspension clause, along with the Agreement's numerous provisions for consultation and revision, to ensure the United States will be able to address a serious degradation in the non-proliferation situation or a significantly increased threat to U.S. national security. The U.S. insisted upon a broad, unilateral suspension right specifically because it would have been difficult if not impossible otherwise to make the requisite statutory judgments over extended periods. In fact, the statutory standard is whether the activities proposed would create a significant increase in proliferation risk, not whether "timely warning" would exist. Timely warning is only one factor to be assessed and even in the absence of timely warning, both the requisite proliferation risk determination can still be made in appropriate circumstances.

GAO Assertion. The Congress and the public will not receive notice of how activities are being carried out under the Implementing Agreement once it enters into force.

Rebuttal. Current law requires the Executive Branch to keep both the Congress and the public informed of all activities of other nations of potential proliferation concern. Under Section 601 of the NNPA, the President must submit an annual report to Congress on a broad range of developments pertaining to the behavior of cooperating partners and Executive Branch efforts to ensure that adequate non-proliferation controls are being adhered to. Finally, the proposed Agreement with Japan will not obviate the need for the Nuclear Regulatory Commission to conduct analyses prior to authorizing exports under Section 126 of the Atomic Energy Act.

II. ERRORS OF ANALYSIS IN GAO REPORT

1. GAO Assertion. The Executive Branch non-proliferation and national security judgments were illegal.

Rebuttal. The applicable standards are as follows:

Section 123b. of the Atomic Energy Act requires the President to determine that the performance of new or amended agreements for cooperation "will promote, and will not constitute an unreasonable risk to, the common defense and security." The President made this determination on October 28, 1987.

Section 131a. of the Atomic Energy Act requires the Secretary of Energy, with the concurrence of the Secretary of State, to determine that a subsequent arrangement "will not be inimical to the common defense and security." This determination was made was reported to the President prior to his consideration of the Agreement.

Section 131b. (2) of the Atomic Energy Act requires the Secretary of Energy, with the concurrence of the Secretary of State, to determine that a subsequent arrangement involving reprocessing or transfer or more than 500 grams of plutonium to a non-nuclear-weapon state "will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested. This determination was made and reported to the President prior to his review of the Agreement.

In making these judgments, the Administration was applying general legal standards to particular facts, in light of the terms and conditions of the proposed Agreement. Even if some were to argue that a different judgment should have been made in the case, there clearly was an adequate basis for this decision.

The letter and analysis seem to question the Executive Branch judgments primarily because of the supposed "open-ended, blanket" character of the approvals. The assertion that the Agreement conveys "blanket" approvals is erroneous and is addressed above in section I(1). In brief, the most rigorous international safeguards, physical protection and reporting procedures ever established in a U.S. agreement for cooperation will apply to the specified facilities on the Japanese nuclear program encompassed within the Implementing Agreement.

Finally, should continuation of activities under the Implementing Agreement ever give rise to a significant increase in the risk to U.S. national security or non-proliferation interests—whether or not caused by Japan—the U.S. may withdraw its consent, in whole or in part, temporarily or permanently. In any event, this is a judgment for the President and the Secretaries of State and Energy to make, and their determinations were not illegal simply because others may not share their assessments.

2. GAO Assertion. The provision of programmatic consent to a non-nuclear-weapon state for the transfer and reprocessing of nuclear material is forbidden by the Atomic Energy Act and is therefore illegal.

Rebuttal. In fact, long-term (e.g., three year) approvals have been granted to Japan for in-country reprocessing under the existing U.S.-Japan agreement for cooperation. The letter and analysis do not suggest this was incompatible with a Congressional finding.

In the absence of any evidence of specific Congressional intent that the requisite statutory judgments could not be made, and specific precedent and statutory language to the contrary, one must conclude that the Atomic Energy Act does not forbid, a priori, advance long-term consents for reprocessing or plutonium use in the non-nuclear-weapon states.

3. GAO Assertion. The Executive Branch did not comply with statutory procedures in making the determinations underlying the agreement. (Procedural defects)

Rebuttal. The analysis takes issue with the statement in a Department of Energy/Department of State analysis that publication in the Congressional Record will satisfy Section 131's requirement for public notice through Federal Register notices for subsequent arrangements even though this was the procedure used for earlier agreements containing programmatic approvals.

The letter and analysis also express concern that the administration of the Agreement will consist largely of Executive branch monitoring of Japanese activities to determine whether it is necessary to invoke the U.S. right of suspension. As described above, through a number of existing statutory requirements the Congress and public will be kept fully apprised of any developments of proliferation significance.

CONCLUSION

Providing programmatic approvals to a close ally, subject to a right of suspension, will give the United States greater influence over the Japanese program and ensure that it is carried out in a way that will set a model for all advanced countries. In the absence of the Agreement, the United States will sacrifice its existing controls over Japanese activities because Japan will be forced in the future to shift to more reliable nuclear cooperation partners. At the same time, the United States will lose the opportunity to enhance the guaranties and assurances in the existing agreement as called for in Section 404(a) of the NNPA.

Mr. McCLURE. Mr. President, I ask unanimous consent that a letter dated January 29, 1988, from the White House be printed in the RECORD.

There being no objection the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, January 29, 1988.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to the Committee's letter of December 17 concerning the proposed Agreement of Cooperation Between the United States and Japan Concerning the Peaceful Uses of Nuclear Energy that I submitted to the Congress for its review on November 9.

In my letter of transmittal I stated that the proposed agreement meets with all applicable requirements of the Atomic Energy Act for peaceful nuclear cooperation. For this reason, I submitted it to the Congress without exempting it from any requirement contained in Section 123a. of that Act.

Upon receipt of the Committee's letter advising me of the Committee's view that the agreement is not consistent with Section 123 of the Atomic Energy Act, and recommending that it either be renegotiated or resubmitted with an exemption, I directed the legal offices of the responsible Executive branch agencies to examine thoroughly the Committee's views and concerns. These agencies have now completed their review and have advised me of their unanimous conclusion that the proposed agreement meets all statutory requirements. I am enclosing for your information an interagency paper analyzing the legal issues and setting forth the basis for this conclusion. (Tab 1)

Prior to submitting the proposed agreement to the Congress, I determined that its performance would promote and not be inimical to the common defense and security. I continue to believe that to be the case.

I understand that some Members of the Congress may have additional concerns that international transport of plutonium pursuant to the proposed agreement could have an adverse impact on the U.S. environment, or that the agreement would decrease the ability of the Congress to monitor U.S. nuclear cooperation with Japan.

I would like to assure the Committee that the proposed agreement neither requires nor authorizes Japan to transport plutonium over or through U.S. territory. Any decision on a particular transport route will be made later, when a transportation plan, which the agreement requires prior to each shipment, is prepared. The United States must be a willing participant in each such plan; without U.S. participation, no transportation of plutonium involving U.S. territory will be possible.

The agreement contemplated that a polar route (not necessarily passing over the Alaskan mainland) using a dedicated cargo aircraft would have obvious advantages from a safety and physical protection standpoint. Nevertheless, I have asked the Department of Defense to study the feasibility of a number of alternative transportation modes, including military air-lift and sea transport, as well as alternative routes. Based on its preliminary analysis, the Department of Defense has determined that there are possible routes utilizing U.S. military facilities in the Aleutians for refueling that would not require overflights of mainland Alaska, Canada, or any other country between the country of origin and Japan. With regard to shipment by sea, its review has determined that civilian shipment, given a military escort, would provide a level of physical security equivalent to that afforded by civilian air transport with ground refueling or civilian air transport with midair refueling. It is recognized, of course, if a U.S. military escort is used, there could be added costs and a detraction from readiness. The results of this study will be made available to the Congress.

As the Committee is aware, the Department of Energy has prepared and made public an Environmental Assessment, taking account of the National Environmental Policy Act (NEPA), concerning the potential for environmental impacts arising from possible air transport under the agreement and the associated "subsequent arrangement" with the European Atomic Energy Community. Based on the results of this Environmental Assessment, and in view of the fact that no such shipments could transmit the United States except in casks certified by the Nuclear Regulatory Commission to be secure even in severe accidents, the Departments of Energy and State have each made findings that the agreement would not have a significant environmental impact. Nevertheless, the Executive branch will undertake additional environmental review in connection with later stages in the process leading to actual plutonium shipment. Specifically, Executive branch agencies that are to provide cooperation or assistance in plutonium transportation activities under any transportation plan established pursuant to the agreement will ensure that such cooperation or assistance is undertaken in full compliance with NEPA and with the Murkowski Amendment. In addition, we are prepared to assist the Nuclear Regulatory Commission in the preparation of any Environmental Impact Statement it may prepare pursuant to the Murkowski Amendment in connection with the certification of a plutonium transport cask.

As for future congressional oversight, the proposed agreement requires Japan to provide us with a complete, detailed accounting of its activities under the agreement. I will ensure that Executive branch agencies in turn keep the Congress fully and currently informed of these activities.

I appreciate the serious nature of the Committee's concerns. I am convinced, however, that a close reading of the proposed agreement will serve to put any legal or national security concerns to rest, and that other concerns can be resolved by steps that will not require changes in the agreement itself.

I have declared many times that nuclear non-proliferation is a fundamental national security and foreign policy goal of the United States. The proposed agreement with Japan substantially improves U.S. non-proliferation controls as compared with those in the existing agreement. Indeed, it sets a new standard for rigorous non-proliferation conditions and controls in U.S. agreements for cooperation. At the same time, by affirming the U.S. intention to be a reliable nuclear trading partner under these enhanced conditions and controls, it will help to ensure the continuation and growth of U.S. nuclear exports to Japan—exports that could amount to $1 billion or more each year in the coming decade.

I believe that this agreement is critical to the U.S. national interest, and I again urge that the Congress give it favorable consideration.

Sincerely,

RONALD REAGAN.

REVIEW OF CONGRESSIONAL LEGAL CONCERNS ABOUT AGREEMENT FOR PEACEFUL NUCLEAR COOPERATION WITH JAPAN

SUMMARY

The legal offices of the Departments of State, Defense, and Energy and of the Arms Control and Disarmament Agency have reviewed the Proposed Agreement Between the United States and Japan Concerning Peaceful Uses of Nuclear Energy in light of the views of the Senate Foreign Relations Committee, reflected in a letter of December 17, 1987, to the President, and the views of some members of the House Foreign Affairs Committee, reflected in a letter of December 21, 1987, to the President. It is our unanimous conclusion that the proposed Agreement meets all statutory requirements. No agency advises that the Agreement needs to be submitted to Congress with an exemption or requires renegotiation to conform with legal requirements. (The Chairman of the Nuclear Regulatory Commission (NRC) testified before the House Foreign Affairs Committee that he did not disagree with the Executive branch judgment that the proposed Agreement meets all requirements of law.)

ANALYSIS

Letters have been received from the Senate Foreign Relations Committee (SFRC) and 23 members of the House Foreign Affairs Committee (HFAC) advising the President that the Proposed Agreement Between the United States and Japan Concerning Peaceful Uses of Nuclear Energy (the Japan Agreement) does not meet United States statutory requirements and therefore must be either renegotiated or resubmitted to Congress with a presidential exemption requiring a joint resolution of approval. The letters express four concerns: (1) the appropriateness of a long-term exercise of United States consent rights; (2) the adequacy of the basis for the presidential determination that the Agreement will promote the common defense and security; (3) the reliance on non-technical considerations in the Administration's assessment of the "timely warning" factor; and (4) both letters state that the safeguards criteria of Section 123 of the Atomic Energy Act are not met by the Agreement. The SFRC letter, but not the letter from members of the HFAC, also expresses the view that Section 123's physical security criterion is not met.

1. *Programmatic Consent.* The central congressional concern is that the long-term exercise of United States consent rights in an agreement for cooperation is incompatible with Section 123 of the Atomic Energy Act (42 U.S.C. 2153). This view is not shared by any Executive department or agency, as reflected in the attached written responses to an inquiry from the General Accounting Office in 1985. Those responses show that the Atomic Energy Act expressly contemplates approvals long in advance of an activity, and that such approvals may be contained in an agreement for cooperation.

The Atomic Energy act does not use the phrase "case-by-case" nor does it limit the scope or duration of United States approvals, so long as such approvals are based upon the required statutory findings. For example, Section 131a.(3) of the Atomic Energy Act (42 U.S.C. 2160(a)(3)) provides:

"The United States will give timely consideration to all requests for prior approval, when required by this Act, for the reprocessing of material proposed to be exported, . . .".

This subsection allows the United States to consider and grant consent to reprocessing in advance of the export of any material ("material proposed to be exported"). Thus, the provision makes clear that consent to reprocessing (a right that is required as a condition of export under Section 127 of the Atomic Energy Act (42 U.S.C. 2156)) may be granted a considerable time in advance of the time when reprocessing may be necessary. Often, in the normal course of reactor operation, material exported from the United States would not be reprocessed for as long as nine years.

There is clear precedent for such advance long-term consents covering large quantities of material to be contained in agreements for cooperation. The President has submitted to Congress three agreements for cooperation with this feature (Sweden—H. Doc. 98-163; Norway—H. Doc. 98-164; Finland—H. Doc. 99-71). Congress did not exercise its prerogative to block entry into force of any of these agreements, two of which are now binding international obligations of the United States. (The Finnish Agreement awaits completion of certain technical preparations by the Finnish Government.) Included among the United States approvals contained in the two agreements is advance consent to retransfers of unlimited quantities of spent nuclear fuel for reprocessing for 30 years, subject to a United States right of suspension on national security or non-proliferation grounds.

There is also precedent for advance long-term approvals for the specific activity of reprocessing in Japan. Approvals for such programs at the Tokai-Mura facility have been submitted for congressional review and entered into force. These approvals have extended over multiple-year periods and covered large quantities of U.S. origin nuclear material subject to the current U.S.-Japan Agreement. *See, e.g.* T.I.A.S. 10294 (October 30, 1981) (U.S. approval of reprocessing at Tokai-Mura for three years at the facility's design capacity of 210 tonnes per annum); "U.S. Nuclear Fuel Retransfer Policy: Requests by Japan and Switzerland", Hearings Before the Subcommittee on International Economic Policy and Trade of the House Committee on Foreign Affairs, 97th Cong., 1st sess. (Oct. 29 and Nov. 4, 1981). The Tokai-Mura approvals are legally indistinguishable in these respects from the programmatic consents included in the new Japan Agreement, except that they were subject to *less* congressional review since they were not included in an agreement for cooperation.

Each of the consents provided in the new Japan Agreement has been evaluated to ensure it meets all the substantive and procedural requirements for agreements for cooperation under Section 123 of the Atomic Energy Act *and* for subsequent arrangements under Section 131 of the Act. Thus, even if it is assumed that consent rights may only be exercised as "subsequent arrangements," the approvals contained in the Japan Agreement satisfy the requirements for subsequent arrangements. This is described in detail in the "Analysis of Consents and Approvals Agreed Upon in Conjunction with the Proposed New Agreement" submitted to Congress with the Agreement (pp. 304-308, H. Doc. 100-128).

In sum, therefore, we conclude that the law (Sections 123, 127 and 131 of the Atomic Energy Act) authorizes and does not preclude the United States from granting long-term approvals for peaceful nuclear activities by cooperating partners under defined conditions, and that such approvals may be contained in new or amended agreements for cooperation submitted to Congress pursuant to Section 123 without an exemption. Whether the particular approvals contained in an agreement for cooperation satisfy legal requirements depends, as is true for approvals granted outside an agreement, upon the specific features of the agreement and compliance with the requirements for interagency and congressional review. In this case, approvals are given on the basis that, *inter alia,* Japan has made effective and comprehensive non-proliferation comments; reprocessing or plutonium use must take place in facilities subject to safeguards acceptable to the United States, and under adequate physical security; Japan must provide the United states with a complete accounting of all plutonium subject to the Agreement on a regular basis; and, the United States may suspend its consent in whole or in part at any time to prevent a significant increase in risk of nuclear proliferation or in the threat to its national security. In our judgment the inclusion of long-term approvals in the Agreement on this basis is not incompatible with Sections 123 and 131 of the Atomic Energy Act.

2. *National Security.* The President has approved and authorized the execution of the proposed Agreement for Cooperation with Japan and has made the required statutory determinaiton that the performance of the Agreement "will promote, and will not constitute an unreasonable risk to, the common defense and security." *See* Section 123b. of the Atomic Energy Act; p. 201, H. Doc. 100-128. The congressional letters express "serious reservations" about the President's judgment and assert that it "was made arbitrarily."

As the documents provided to Congress demonstrate, the President's judgment was made only after serious examination of all pertinent concerns, including a Nuclear Proliferation Assessment Statement prepared by the Arms Control and Disarmament Agency pursuant to statute (pps. 203-256, H. Doc. 100-128; Section 123a. of the Atomic Energy Act), a recommendation and analysis from the Secretaries of State and Energy pursuant to statute (pps. 257-282, H. Doc. 100-128; Section 123a. of the Atomic Energy Act), and consideration of the views of the NRC which were provided to the President as required by statute (pp. 447-145, H. Doc. 100-128; Section 123a. of the Atomic

Energy Act). The Atomic Energy Act (Section 123b.) requires the President to make a judgment on the national security implications of proposed agreements for peaceful nuclear cooperation. Even if some were to argue that a different judgment should have been made in this case, there clearly was an adequate basis for the President's decision. The President therefore did not exceed his legal authority in determining that the Agreement will promote, and will not constitute an unreasonable risk to, the common defense and security.

The congressional letters state that the President gave insufficient weight to "serious written objections from both the Department of Defense and the Nuclear Regulatory Commission" in making his determination. Insofar as the NRC is concerned, its letter to the President of July 27, 1987 (pp. 447-48, H. Doc. 100-128) stated that the Commission did not believe it to be in the national security interest to agree to a provision in which failure of the United States to implement the Japan Agreement in good faith "may be left to an arbitral tribunal." Prior to the President's decision, the Commission was informed that the Agreement does not commit the United States to arbitration without United States consent (pps. 450-51, H. Doc. 100-128), and the Commission testified before the HFAC on December 16, 1987, that the Executive branch's clarification resolved its concerns on this point. The President also had the benefit of Defense Department views expressed during interagency deliberations regarding the Agreement. The Department of Defense had conveyed these views to the Departments of State and Energy, and they were addressed in-depth. The issues raised by the Department of Defense have been resolved satisfactorily with regard to the U.S.-Japan Agreement. The Department of Defense fully supports the proposed Agreement and believes it protects U.S. security interests.

3. *"Timely Warning"*. The congressional letters state that their signatories find fault with the Administration's assessment of the "timely warning" element in Section 131b.(2) of the Atomic Energy Act and assert that this factor is intended to be exclusively a "technically-based criterion". The SFRC letter states that the criterion is to be judged in light of the "workability of safeguards and physical security measures." The letter from HFAC members refers only to safeguards.

Sections 131b.(2) and (3) of the Atomic Energy Act require that the Secretary of Energy, of subsequent arrangements for reprocessing or retransfer of plutonium, must reach the judgment that the proposed activities will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested. In making such determinations, the statute requires that foremost consideration be given to "whether or not the reprocessing or retransfer will take place under conditions that will ensure timely warning to the United States of any diversion well in advance of the time at which the non-nuclear weapon state could transform the diverted material into a nuclear explosive device."

Neither the legislative history of the Atomic Energy Act nor the language of the Act itself specifies that the consideration of "timely warning" is limited to technical factors, or that the only relevant considerations relate to safeguards and/or physical security. Similarly, neither the Act nor its history requires a specific finding of "timely warning" in the assessment of whether proposed activities would pose a significant increase in the risk of proliferation. Accordingly, it is appropriate when addressing "timely warning" to take into consideration those factors that, in a particular situation, will increase or decrease the interval between the time that the United States receives indications that a diversion has occurred or is intended and the time that the material could be assembled into a nuclear explosive device. Warning may come either before or after diversion, and the United States may become aware of the possibility of a diversion by many means, some technical (such as a safeguards violation) and some non-technical (such as a renunciation of the Nuclear Non-Proliferation Treaty). The view that "timely warning" can be provided by both technical and non-technical factors together was formally conveyed to the General Accounting Office by the Departments of State, Defense, and Energy and the Arms Control and Disarmament Agency in 1985 (see attachment as stated).

On this basis, for a number of years the Department of Energy has been submitting to Congress lengthy analyses of its review of the "timely warning" factor. The subsequent arrangements at issue have included approvals for reprocessing and the retransfer of plutonium similar to those provided for in the Agreement with Japan. As required by statute, the Department of Energy's analyses and determinations have been submitted to Congress for at least fifteen continuous session days before the subsequent arrangements have been entered into. In no case has Congress taken legislative action to preclude entry into such a subsequent arrangement.

For the activities permitted under the Japan Agreement, the Department of Energy has set forth a lengthy review of the "timely warning" factor in the Analysis of the Consents and Approvals in the Agreement (pps. 369-386, H. Doc. 100-128). That analysis discusses a number of indicators that could be expected of a diversion for explosive purposes, based upon safeguards violations, nuclear explosives activities themselves, political shifts, and information available through economic and trade relationships, particularly in the nuclear field. As indicated in the Analysis, these factors all give evidence that the United States would have timely warning as envisioned in Section 131b.(2). The Analysis also evaluates other factors pertinent to proliferation risk, including Japan's over-all position on nuclear weapons, and the close and stable security relationship between the United States and Japan. Taking all these factors into account, the Analysis supports the statutory judgment that the proposed Japanese activities when carried out in accordance with the terms and conditions of the Agreement will not give rise to a significant increase in the risk of proliferation. The inclusion of a unilateral United States right of suspension in Article 3(2) of the Implementing Agreement means that these United States approvals need only apply so long as this judgment about proliferation risk is supported by the facts. We believe, therefore, that "timely warning" has been given appropriate consideration in making the proliferation risk judgment called for by Section 131b. of the Atomic Energy Act.

4. *Safeguards (and Physical Security) Criteria.* The congressional letters finally state that the safeguards criteria of section 123 of the Atomic Energy Act are not met. The SFRC letter, but not the letter from HFAC members, also states that the physical security criteria of the Act are not met. In our judgment, Articles 2 (2)(a), 7, 9, and 16(3) of the Japan Agreement fulfill both those statutory requirements, as discussed in the Arms Control and Disarmament Agency's Nuclear Proliferation Assessment Statement (pps. 214-230, H. Doc. 100-128). No Executive department or agency has disagreed, and at the hearing before the HFAC on the Agreement on December 16, 1987, the Chairman of the NRC testified that he did not disagree with the Executive branch view that the Agreement meets all statutory requirements.

As described in the Arms Control and Disarmament Agency's Nuclear Proliferation Assessment Statement (pp. 214-230, H. Doc. 100-128), the controls and guarantees in the existing agreement with Japan have been expanded in the proposed Agreement to include each of the provisions called for in Section 123a. of the Atomic Energy Act. These controls and guarantees include: safeguards on transferred items and nuclear material derived from their use (Article 9(1)(a) of the Agreement); International Atomic Energy Agency safeguards on all Japan's nuclear activities (Art. 2(2)(a)); a peaceful, non-explosive use guarantee (Art. 8(2)); a United States right of return (Art. 12(1)); United States consent rights over retransfers (Art. 4); a guarantee of adequate physical security (Art. 7); United States consent rights over reprocessing, alteration, and enrichment (Art. 5 and 6); and, a right to approve storage arrangements for sensitive materials (Art. 3). These expanded United States rights will exist in perpetuity (Art. 16(3)) and will apply retroactively to all previous transferred items (Art. 13(2)).

The reference in the two letters to the need for a judgment as to the "workability of safeguards" suggests a specific concern about the Agreement's provisons for inclusion of additional facilities in the approved program after the Agreement enters into force. New facilities may be included in the program for which United States consent is given only after prior notice to the United States (Art. 2(2), Implementing Agreement) and only if:

(1) the activity carried out at the facility is one accepted by the United States as part of the program (Art. 1(a)(i)-(ii) and Annexes 1 and 2, Implementing Agreement);

(2) arrangements have been made with the International Atomic Energy Agency for safeguards to be applied in accordance with safeguards practices or concepts that have been deemed adequate by the United States (Art. 2(2)(b), Art. 2(4)(b) and paragraph 4(c) and 5 of the Agreed Minutes, Implementing Agreement) and in accordance with the safeguards requirements established by the International Atomic Energy Agency (Article 9(1)(a), Agreement for Cooperation);

(3) the physical protection standards required by the Agreement will be applied to the facility (Art. 2(2)(a)(iii), Implementing Agreement; Article 7 and Annex B, Agreement for Cooperation);

(4) any plutonium produced at the facility will be located only at that facility or another facility on the agreed program (Art. 1(4), Implementing Agreement);

(5) the United States will be provided a complete accounting on a regular basis of all plutonium used at or produced at the facility (paragraph 9(a) of Agreed Minutes, Implementing Agreement; Note Verbale No. 329/SCNE of Nov. 4, 1987, pps. 169-185, H. Doc. 100-128); and

(6) the addition of the facility to the program will not, in the judgment of the United States, pose a significant increase in the risk of nuclear proliferation or in the threat to United States national security necessitating invocation of the Agreement's suspension right (Art. 3(2), Implementing Agreement).

The Agreement thus in no way provides blanket permission to unknown or unapproved activities or otherwise abandons the required United States controls.

With respect to safeguards in particular, the International Atomic Energy Agency must undertake to apply the safeguards agreed upon by the United States and Japan to any new facility; otherwise United States consent has not been provided for activities at that facility. The Agreement by its terms therefore ensures that it safeguards are "unworkable" (i.e., if "the Agency cannot administer safeguards in accordance with the safeguards concept that has been agreed upon between the parties with respect to a facility," Art. 2(4)(b), Implementing Agreement), the facility may *not* be included in the approved program. The United States would have to agree to alternative safeguards arrangements before such facilities could benefit from United States consent. This is true even if the facility were only to be added to the program on a provisional basis (Art. 2(4)(b), Implementing Agreement). Accordingly, we believe the Agreement satisfies all relevant safeguards criteria in the Atomic Energy Act, as well as the requirements for physical security.

Conclusion. For the foregoing reasons, we confirm that the proposed Agreement for Cooperation with Japan complies with applicable legal requirements. It is our judgment that it need not be renegotiated or submitted to Congress with an exemption in order to satisfy the Atomic Energy Act.

Mr. McCLURE. Mr. President, that letter, which is rather lengthy, is a detailed response to the committee's letter of December 17, concerning the proposed agreement of cooperation between the United States and Japan concerning the peaceful uses of nuclear energy that the President submitted to Congress for its review on November 9.

Mr. President, in conclusion, let me state what I think may be on the minds of a few. There is not anybody who has been more forceful on the floor of the Senate than has the Senator from Idaho who with regard to the necessity to make certain that our commerce with Japan be on a fair and equal basis.

There are some people around that are very disturbed with the imbalance of payments between the United States and Japan and feel threatened by certain of the trade practices of the Japanese Government and of their businesses. As a result, there is a certain amount of emotional Japanese bashing going on around here and I suspect there may be a few people who believe this is a good time to show those fellows what we think and that somehow, by voting for a resolution of disapproval, we are bashing the Japanese. Nothing could be further from the truth.

This is United States bashing, not Japan bashing. This would hurt us. It does not hurt them. It hurts our ability to deal with them. It hurts our ability to affect what they do. It hurts U.S. businesses. It does not hurt Japanese businesses to have a little bit of Japan bashing going on here. It is U.S. bashing we are engaged in.

For all those reasons and many, many more, I hope that the resolution of disapproval receives a resounding "no" vote when we vote on that, and I hope we can get to that vote soon.

The PRESIDING OFFICER (Mr. Breaux). Who yields time?

Mr. EVANS. Mr. President, I yield such time as the Senator from Wyoming may desire.

The PRESIDING OFFICER. The Senator from Wyoming, Senator Simpson, is recognized.

Mr. SIMPSON. I thank the Senator from Washington. I just have a moment, literally. I wish to speak on behalf of the agreement we have entered into with the Japanese Government. I hope we would reject the resolution of disapproval.

Mr. President, I have just a few brief comments on the issue currently pending before the Senate, the resolution of disapproval for the United States-Japanese agreement for nuclear cooperation.

This is a matter of tremendous importance—both for this country and for the future of nonproliferation in the world, generally.

The agreement that has been negotiated by the administration—and that is the subject of the pending resolution of disapproval—has taken nearly 6 years to negotiate. It is not something that our negotiators have taken lightly. And it reflects the considered judgment of the administration that our nonproliferation objectives will be advanced under this agreement.

There are two specific points, Mr. President, that I think are worth emphasizing about this agreement. First, some would have us believe that rejection of this agreement will, in fact, discourage Japan from moving forward with its civilian Nuclear Power Program—and, specifically, slowing or stopping Japan's plan to move forward with a program that relies on the reprocessing of nuclear fuel. Nothing could be further from the truth. Japan's plans are well known—and they involve the development and use of commercial-scale reprocessing facilities to support an advanced Nuclear Power Program. Nothing that we do with this agreement will change that.

That leads me to my second point, Mr. President: In view of Japan's plans to proceed with an advanced Nuclear Power Program, are we better off with this agreement, or with the current agreement? And the answer to that question is clear and undeniable—this agreement will expand the extent of U.S. control and influence over the use of nuclear materials and the operation of nuclear facilities, and, as a result, will serve our nonproliferation objectives in a much more effective way than the current agreement.

For that reason, Mr. President, I think it is abundantly clear that this agreement is in the best interests of the United States and, accordingly, I urge my colleagues to reject the pending resolution of disapproval.

I would signify to our colleagues that I think it very likely that there well may be a rollcall vote within the next 10 to 15 minutes on this issue; that that would likely come to pass. I just send that out as a very distinct possibility.

I know the Senator from Alaska, Senator Murkowski, wishes to speak on the issue. I believe the Senator from Washington may wish to yield a short period of time to the Senator from Alaska.

The PRESIDING OFFICER. Who yields time?

Mr. EVANS. I yield such time as the Senator from Alaska may require.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank my friend from Washington for yielding time. I appreciate the opportunity to address the Senate, Mr. President, on this matter which I have spent a great deal of time. I think the Senator from Idaho, Senator McClure, is quite correct in his assessment that indeed this is an issue that affects the technological capability of our country to remain prominent in the development of peaceful uses for nuclear energy.

Mr. President, I support the United States-Japan agreement for nuclear cooperation as conditioned by our Nation with respect to the transportation of plutonium. This is an issue of great concern to the junior Senator from Alaska. As a consequence of the administration's successful efforts to address my concerns, I now urge my colleagues to vote against the resolution pending before the Senate.

I wish to take this opportunity to thank members of the administration who worked so diligently to address the concerns of the Senator from Alaska. My concerns were first expressed in my amendment addressing the safety of plutonium air transport, later in the Foreign Relations Committee, and still later in numerous discussions with Ambassador Kennedy, Under Secretary Armacost, and others in the administration.

In order to meet the directives of Congress contained in the Nuclear Non-Proliferation Act, the administration has spent nearly 4 years negotiating with the Japanese Government on this matter. I have always maintained support for the agreement from the standpoint of our Nation's ability to maintain substantial degrees of credibility in nuclear technology. But I did have concerns about the plutonium transport provision.

Make no mistakes about it, Mr. President, the agreement as negotiated with Japan, suggested a route for the transportation of plutonium which could fly over Canada and Alaska and stop for refueling in Alaska on its way to Japan. I am assured, by the administration, Mr. President, that an all-water route has been selected possibly utilizing the advanced Boeing 747-400 having the capability to fly nonstop from France over an all-water route utilizing the North Pole and down along the international dateline and into Japan.

I have had further assurances that, in the case of an aircraft emergency, the Japanese will utilize only military facilities away from heavily populated areas along that particular route. In the meantime, should shipments be needed before nonstop flights are possible, those shipments will probably take place with surface transportation, utilizing commercial cargo carriers with the escort of the U.S. Coast Guard.

During the last session, we included on the budget reconciliation bill an amendment addressing the issue of plutonium transport containers, safety. This amendment ensured that containers used for air transport of foreign plutonium over the United States will be tested to be crash proof. During the Foreign Relations Committee consideration of the United States-Japan agreement, I expressed deep concern about provisions in the agreement allowing air shipments of Japanese plutonium to overfly and refuel in the United States. In response to my concern, the administration has worked closely with me to correct any potential problems created by the broad language of the transportation provisions contained in annex 5 of the agreement.

In order to guard against unacceptable applications of the language contained in annex 5 of the implementing agreement, the State Department is currently sending a note to Japan making the United States position on implementation very clear, thereby expressly conditioning future transportation of plutonium under the agreement. In implementing the agreement, the United States will not allow plutonium air shipments to land in or overfly the United States except in the case of an aircraft emergency, when landings would be planned for military facilities away from heavily populated areas. I expect the Japanese to promptly acknowledge the intent of our Nation and to return its statement of intent to abide by the conditions imposed by the United States on the future air transportation of plutonium.

With transportation aspects of the agreement now carefully and clearly proscribed, this is a good agreement, advancing nonproliferation, national security, foreign policy, economic and energy interests of the United States.

The agreement enhances and broadens nonproliferation controls on the Japanese nuclear program and brings our relationship with Japan into compliance with the Nuclear Nonproliferation Act.

As the Senator from Idaho indicated in his remarks, there are some that have suggested that this is a time to send an unpleasant message to our friends in Japan. Well, Mr. President, that is the wrong kind of message to send.

As Senator McClure indicated, this is not an effort to penalize the Japanese. The Japanese are, indeed, taking advantage of an opportunity that they have calculated to be in their own best interests. They recall the energy shock of the seventies, when the Mideast was holding them hostage by restricting the flow of oil. They are determined never to be in that position again.

As a consequence, they plan to produce about 60 percent of their electric power generation from nuclear energy by the end of this century.

In order to do that, Mr. President, they are going to have to call on the expertise of countries like the United States which has a significant capability and opportunity to market nuclear material and technology to the Japanese. As my friend from New Mexico indicated, the opportunity to provide yellowcake to the Japanese and other potential business opportunities for American firms would be precluded if this agreement is defeated.

Mr. President, I have been one of those who has been criticized, from time to time, for taking after the Japanese on trade matters.

However, my efforts are based upon a simple matter of reciprocity; the opportunity for United States firms to have the same access into the Japanese markets as the Japanese firms have in the United States. I often refer to the example, Mr. President, of a ball game. The Japanese play ball in our ball park, they play by our rules and they are quite successful and quite competitive. I only ask in matters of trade that we have the same opportunity to play in the Japanese ball park by their rules, and the opportunity to be competitive.

Mr. President, it is important that we remain a reliable trading partner with Japan. I think that the substance of the agreement which the administration has worked hard to negotiate with Japan is in the best interests of our Nation.

As a member of the Energy and Natural Resources Committee, I am probably as familiar with the use of reprocessed nuclear fuel in peaceful energy programs as anyone. I believe that in the United States we are totally ignoring the problem of what we will do with our high-level nuclear waste. The Japanese have indicated that they intend to develop the technology to reprocess that waste, generate it into recoverable plutonium that could be used as fuel in their powerplants. I believe that this is something our Nation is going to be forced to look to in the not-too-distant future. We must face reality; we can no longer simply store and ignore our own increasing levels of high-level nuclear waste.

So this is an opportunity, Mr. President, to support the administration on something that has been well thought out and has been well put together. By putting United States-Japan nuclear relations on a solid and stable footing, this agreement promises to result in increased cooperation from Japan to strengthen the nonproliferation regime and therefore is certainly in our national security interests as well as our economic and energy interests.

Mr. President, I support the United States-Japan agreement for nuclear cooperation as conditioned by the United States with respect to transportation of plutonium, and therefore I urge my colleagues to vote against the resolution pending before the Senate.

Mr. President, I have material which represents the type of assurances I have received from the State Department which I ask be printed in the Record at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the Record, as follows:

The type of assurances I have received from the State Department are reflected in the following draft language which I include in the Record herewith:

I have the honor to refer to our exchange of letters of November 4, 1987, concerning Article 11 of the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Peaceful Uses of Nuclear Energy, subparagraph (a)(iii) of paragraph 3 of Article 1 of the Implementing Agreement Between the Government of the United States of America and the Government of Japan Pursuant to Article 11 of Their Agreement for Cooperation Concerning Peaceful Uses of Nuclear Energy, and to Annex 5 of the Implementing Agreement, entitled "Guidelines for the International Transportation of Recovered Plutonium. In particular, I have the honor to refer to the statement in each of our letters of November 4, 1987, confirming that the cooperation and assistance of the United States must be secured prior to each shipment in order to fulfill the Guidelines set forth in Annex 5.

I wish to reconfirm the commitment of the Government of the United States, emphasized during the negotiations of the above mentioned provisions, to cooperate closely and in good faith to facilitate the return of recovered plutonium from EURA-

TOM to Japan on a predictable and reliable basis within the framework of sub-paragraph (a)(iii) of paragraph 3 of Article 1 of th Implementing Agreeemnt and Annex 5 of the Implementing Agreement.

I wish to inform you that in the interest of facilitating implementation of transportation plans for the return of such plutonium to Japan the Government of the United States has recently completed a study of possible air routes that might be undertaken in accordance with Annex 5 of the Implementing Agreement. As a result of this study the Government of the United States has determined that, within the near future, there will be aircraft capable of transporting plutonium from Europe to Japan non-stop, using a polar route that would not require overflights of the United States, Canada or any other country between EURATOM and Japan. My Government believes that such routing will serve the best interests of both the United States and Japan. Accordingly, The Government of the United States has concluded that its cooperation and assistance for transfers of plutonium from EURATOM to Japan pursuant to Annex 5 of the Implementing Agreement will be limited to routes which do not require overflights of or refueling in the United States.

Should the aformentioned polar route be included in a proposed transportation plan I wish to confirm that the United States is prepared to provide navigational assistance from its ground stations in Alaska and to make available contingent landing sites at military bases located away from heavily populated areas in the event of aircraft emergencies. The Government of the United States is also reviewing other potential air routes which would not require overflight or refueling in the United States and is prepared to consult with the Government of Japan, the sender, the recipient and carrier to determine the feasibility of such alternate air routes under adequate physical protection.

I also wish to confirm that in order to facilitate the return of plutonium from EURATOM to Japan, the Government of the United States is prepared to begin consultations with the Government of Japan concerning the feasibility of the alternative of sea shipment on a long term, programmatic basis under adequate physical security.

Accept, Excellency, the renewed assurances of my highest consideration.

EXCELLENCY: I have the honor to acknowledge receipt of your letter of this date concerning our exchange of letters of November 4, 1987 on Article 11 of the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Peaceful Uses of Nuclear Energy, subparagraph (a)(iii) of paragraph 3 of Article 1 of the Implementing Agreement Between the Government of the United States of America and the Government of Japan Pursuant to Article 11 of Their Agreement for Cooperation Concerning Peaceful Uses of Nuclear Energy, and Annex 5 of the Implementing Agreement, entitled "Guidelines for the International Transportation of Recovered Plutonium.

I have further the honor to confirm that the Government of Japan is prepared to work closely with the Government of the United States and the sender, recipient and carrier as appropriate to ensure that transportation plans for future shipments of plutonium in accordance with Annex 5 of the Implementing Agreement will be limited to routes which do not require overflight of or refueling in the United States.

The Government of Japan appreciates your confirmation that the Government of the United States is prepared to provide navigational assistance from its ground stations in Alaska to assist in the transportation of plutonium by a polar route which does not require overflight or landing in the United States and to make available contingent landing sites at military bases located away from heavily populated areas in the event of aircraft emergencies.

I can confirm that the Government of Japan is prepared to consult closely with the Government of the United States and the sender, recipient and carrier to determine the feasibility of alternate air routes under adequate physical protection which would not involve overflight or landing in the United States. I can also confirm that the Government of Japan is also prepared to begin consultations with the Government of the United States concerning the feasibility of sea shipment on a long-term, programmatic basis under adequate physical protection.

Accept, Excellency, the renewed assurances of my highest consideration.

Mr. GLENN. We have only 2 minutes left over here. We would like to reserve that until you are finished.

Mr. EVANS. I would be delighted to give the Senator from Ohio the last word. Let me just take a few minutes and then I will yield back all remaining time.

There have been a lot of words spoken today and a lot of technical jargon used. Let me try to strip through most of it, at least, and tell you what I firmly believe is the case.

First, it has been asserted on numerous occasions that this is a 30-year carte blanche authority for Japan essentially to do anything they want in dealing with plants yet to be built, transportation yet to be devised, casks yet to be designed. Nothing could be further from the truth. That simply is incorrect. It has been incorrect from the beginning and remains incorrect.

In each of those cases, transportation plans must be devised and approved by the United States. Cask design must be designed and approved by the United States. It must meet NRC conditions that we may place upon that.

Certainly, it allows for a long-term framework within which we operate. But that is in the best interests of both countries.

Second, the question of transportation over the United States and United States territories and the potential dangers that that might provide. I think that I have as much interest in that as anyone except my friends from Alaska, since the alternative State might well be the State of Washington.

The United States will have to approve specifically transportation plans and where and under what circumstances anything flies. There is already a note to Japan stating in essence we will not allow that to happen over United States territory.

The idea that somehow this degrades nonproliferation is simply living in the past. We are where we are, in 1988. We have to deal with nations who have sophisticated technologies. Our friends and allies have sophisticated technologies they are using for civilian nuclear purposes. We will have a better, bigger, and more permanent role to play if we adopt this proposal with Japan.

Finally, the GAO has been touted many times as saying that this is flawed in terms of its legal implications. I believe that this quite clearly today has been shown to be incorrect. The GAO report is faulty on its face. It has been answered amply by several legal analyses.

Mr. President, the real question is, then, why vote to disapprove? Why take a final step? Why do something that does not allow us to continue to work with Japan and with the other body in an attempt to arrive at an appropriate agreement? I think we all would hope that we could arrive at an agreement.

We may have the proposal from the House, approval or a approval with conditions. But to vote now whether to send the message or, because we truly believe that we ought to totally walk away from future agreements, a broader, better, more comprehensive agreement with Japan than the one we now have, I simply think is an inappropriate vote. Certainly an inappropriate vote at this time and under these circumstances.

Mr. President, I yield back the remainder of the time on our side.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator yields back the remainder of his time. The Senator from Ohio.

Mr. GLENN. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator on this side controls 1 minute and 40 seconds.

Mr. GLENN. One minute and forty seconds. I will talk fast.

Mr. President, the agreement should be rejected because of the following reasons: Problem one. The agreement provides a 30-year blanket approval of reprocessing and the return of plutonium to Japan, as opposed to the case-by-case approvals Congress intended under the Nuclear Non-Proliferation Act long-term programmatic prior consent. Another problem area: Advance approval of reprocessing in large projected Japanese reprocessing plants without assurance of effective safeguards. Those have not even been developed for such plants.

On and on, one of these after another. The Nuclear Regulatory Commission strongly, opposes this draft agreement.

I ask unanimous consent that several letters from the NRC, including one from Lando Zech, Chairman of the Nuclear Regulatory Commission be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. NUCLEAR REGULATORY COMMISSION,
Washington, DC, July 27, 1988.

Hon. RICHARD T. KENNEDY,
Ambassador at Large, Department of State, Washington, DC.

DEAR AMBASSADOR KENNEDY: Enclosed for transmittal to the President are the comments of the Nuclear Regulatory Commission (NRC) on the proposed Agreement for Nuclear Cooperation Between the United States and Japan Concerning Peaceful Uses of Nuclear Energy.

There is one matter which we would like to draw to your attention. The Commission is concerned about its exclusion from essentially all aspects of the negotiations on this Agreement. Our concern arises particularly in this case where the implementation of key provisions of the proposed Agreement is the direct responsibility of the NRC. We believe that many of the concerns expressed in our letter to the President could have been addressed during the Agreement negotiations. In order to assure that the consultation requirements of Section 123 of the Atomic Energy Act are meaningfully satisfied, NRC must be fully informed during the course of future negotiations with other countries and be consulted prior to formally proposing draft Agreements to other countries.

I look forward to establishing mutually agreeable arrangements for fuller NRC consultation on such proposed Agreements.

Sincerely,

LANDO W. ZECH, Jr.,
Chairman.

Enclosure: As stated.

U.S. NUCLEAR REGULATORY COMMISSION,
Washington DC, July 27, 1987.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The Nuclear Regulatory Commission (NRC) has reviewed the proposed Agreement for: Cooperation Between the United States and Japan Concerning the Peaceful Uses of Nuclear Energy and provides the following comments.

The Commission recognizes the importance attached to the relationship between the United States and Japan and has no reason to question Japan's non-proliferation credentials. Japan is an important ally and a country with which we have had long standing nuclear cooperation with for many years. We are also aware of the need to establish and maintain the United States as a reliable trading partner. However, without modification, the Commission cannot recommend that you approve the new Agreement. In reaching this recommendation the Commission takes note of the fact that the existing Agreement will not expire until the year 2003.

The Commission cannot support the provisions for advance approval for plutonium use in future Japanese plutonium facilities. The proposed safeguards measures for these facilities have not been fully developed or routinely utilized and may not provide an effective level of safeguards when implemented. At the large plutonium plants that Japan plans to operate, this could result in safeguards material accounting uncertainties of hundreds of kilograms of plutonium. As a result, the Commission recommends the inclusion of advance consent provisions similar to those now in the existing Agreement with Japan.

The Commission cannot support the provision which would give Japan the right to require the United States to return any plutonium produced in United States facilities that use Japanese equipment or components. Under the terms of the new Agreement, if the Government of Japan perceives that the United States has failed to implement the terms of agreement in good faith, determination of such failure may be left to an arbitral tribunal. The Commission does not believe it is in the United States national security interest to agree to such a provision. In addition, the suspension rights in the proposed Agreement appear to require more consultation between both parties to the Agreement on matters such as economic impact of suspension than is generally required in similar agreements with other countries, thus creating an unwarranted precedent with a non-nuclear weapons state.

The proposed Agreement provides for the tracking and reporting of Japanese origin components and the plutonium produced using these components. The Commission believes the non-proliferation benefits to be gained from such tracking and reporting may not be sufficient to justify the requirement being placed on the United States nuclear industry and the United States Government, particularly in light of the fact that such component tracking and reporting provisions are not required by the Nuclear Non-Proliferation Act of 1978. In addition, until the Administrative Arrangements for the recordkeeping, tagging and reporting requirements associated with control of component imports into the United States are specified and justified, the Commission will be unable to establish the necessary regulations.

The Commission is concerned over the process that resulted in this Agreement and has sent a letter to the Department of State to express our concerns.

I hope our comments will be helpful in your consideration of the final proposed Agreement.

Sincerely,

LANDO W. ZECH, Jr.,
Chairman.

JOINT STATE/ENERGY/ACDA COMMENTS ON NRC VIEWS

1. The NRC objects that the safeguards measures for future Japanese plutonium facilities are not fully developed. This was intentional to allow, as stated in the introductory paragraphs of the Safeguards Concepts paper, flexibility in adapting the principles and measures to the plant-specific features that are not now known. For the same reason, allowance is made for measures not now routinely utilized by the IAEA. The relevant requirement is that the safeguards be applied, as required in the Safeguards Concepts paper, in a manner enabling attainment of IAEA safeguards objectives and inspection goals. The undertaking by Japan to take the measures necessary to enable the IAEA to attain its inspection goals is repeated in the Japanese Non-Proliferation Policy Statement, which also specifies a number of important steps Japan will take to enable the IAEA to apply safeguards effectively and efficiently at future as well as existing Japanese facilities.

2. The statement in the NRC letter that "The proposed safeguards measures * * * may not provide an effective level of safeguards when implemented" is not supported and ignores all of the provisions in the proposed agreement package that enable attainment of inspection goals. The fact that measurement uncertainties at large plants will lead to proportionally large material accounting uncertainties has been recognized from the beginning of IAEA safeguards and has been taken into account by the IAEA in formulating its inspection goals. Future developments may reduce measurement uncertainties somewhat, but as facilities get bigger these goal values will increase proportionally. Waiting until the facilities have been built and the detailed procedures for implementing safeguards have been worked out will not significantly alter the achievable material accountability uncertainties.

3. In highlighting the fact that the existing U.S.-Japan agreement for peaceful nuclear cooperation will not expire until the year 2003, the NRC letter seems to suggest that there is no real need for a new agreement now. It should be recognized, however, that the Nuclear Non-Proliferation Act of 1978 established more stringent non-proliferation conditions for inclusion in new agreements for cooperation and required the President (section 404(a)) to initiate a program to seek to update all existing agreements to include the stricter standards. The proposed new agreement satisfies all current U.S. statutory requirements, including the requirements of the NNPA. It is therefore responsive to the NNPA's requirement regarding renegotiation of existing agreements. It is unrealistic to expect that Japan would enter into a new agreement with the United States on terms different from those painstakingly negotiated in the proposed new agreement. While cooperation can continue under the existing agreement until 2003, the result would be that the President would not have carried out, with respect to Japan, the objectives of the NNPA regarding the renegotiation of existing agreements. Failure to achieve a new agreement with Japan at this time would also damage on-going efforts to renegotiate other existing agreements, notably with EURATOM where the U.S. currently lacks a reprocessing consent right. Further, it would weaken Administration efforts to re-establish the U.S. as a reliable nuclear supplier and could result in a loss of confidence in the United States as a nuclear cooperating partner.

4. The NRC states that it cannot support the provision in the proposed agreement that would give Japan the right to require the United States to return any plutonium produced in U.S. facilities that use Japanese equipment or components. U.S. law requires that the U.S. secure a right of return for its own exports in new agreements for cooperation and such a right has been included in all post-NNPA agreements for cooperation. Inclusion of such a right of return in the agreement strengthens, at least in the abstract, the agreement's non-proliferation conditions. To secure this right it was necessary to agree that it be reciprocal. The right of return to which the Commission objects would apply only in a situation arising from an extremely unlikely combination of circumstances: (1) import into the U.S. of Japanese components; (2) accepted by the U.S. subject to the Agreement; (3) an action by the U.S. regarded as triggering a right of return; (4) the failure of the parties to take

sufficient steps to rectify the situation satisfactorily; (5) a request by Japan for the return of the produced plutonium.

5. The NRC states that it is not in the U.S. national security interest to agree to a provision in the proposed agreement that would leave it to an arbitral tribunal to determine, if so requested by Japan, whether the U.S. has failed to implement the terms of the agreement in good faith. It should be noted that the provision for arbitration (Article 14) is not mandatory. It reads, "If any dispute arising out of the interpretation or application of this Agreement is not settled by negotiation, mediation, conciliation or other similar procedure, the parties may agree to submit such dispute to an arbitral tribunal * * * [emphasis added]." Since any move to arbitration would require U.S. consent, there can be no question of such a procedure jeopardizing U.S. national security interests. For example, the applicability of the right of return provision could not be submitted to a third party without the agreement of the United States.

6. The NRC states that "the suspension rights in the proposed Agreement appear to require more consultation between both parties to the Agreement on matters such as economic impact of suspension than is generally required in similar agreements with other countries, thus creating an unwarranted precedent with a non-nuclear weapon state." The requirement (Article 12(4)) for consultations prior to either party's taking steps to cease cooperation, terminate the agreement, or require the return of items subject to the agreement is nothing more than an explicit provision for what would take place as a practical matter in any case. It is simply not credible that either party would take such far-reaching actions without some prior consultation with the other. It should be noted that the requirement for consultations in no way derogates from the right of either party unilaterally to cease cooperation, terminate the agreement, and require the return of items subject to it for the causes specified in the agreement. Furthermore, the right of either party to suspend the implementing agreement (containing the advance consent arrangements) to prevent a significant increase in the risk of nuclear proliferation or in the threat to its national security is similarly unilateral. The requirement that consideration be given to the economic effects of termination or suspension merely takes account of the reality that both parties have a very large economic investment in their civil nuclear power programs. No precedent is thereby set for cooperating partners whose investment may be less substantial. Most importantly, the requirement that economc effects be given consideration by no means elevates them to a position where they can be regarded as overriding the unilateral right to terminate or suspend.

7. The NRC objects to the agreement's provisions for the tracking and reporting of Japanese-origin components and plutonium produced using such components on the grounds that the non-proliferation benefits do not justify the burden that would be placed on the U.S. nuclear industry and the U.S. Government. These provisions for tracking and reporting permit effective implementation of the Atomic Energy Act of 1954, as amended, and apply equally to Japan, enabling the U.S. to know both the location and quantity of nuclear material in Japan that is subject to U.S. consent rights and allowing the U.S. to verify compliance with the terms of the agreement. In this respect they have important non-proliferation benefits to the U.S. It should also be recognized that the proposed agreement does not require (but merely permits) components to be transferred pursuant to the agreement. Including potential coverage of components assures flexibility concerning the level of controls the U.S. may require as a condition of export without foreclosing the option of cooperation outside the agreement. In this respect the proposed agreement is just like all other post-NNPA agreements or amended agreements, including those with Australia, Canada, China, Norway and Sweden. Transfer of components to the U.S. outside the agreement remains our clear preference and we will continue to express this preference to the Japanese. However, there has been a growing interest by U.S. cooperating partners to export components under their agreements with the U.S. or at least subject to various conditions such as peaceful non-explosive use guarantees, safeguards, and physical protection and retransfer consent rights. To the extent that they insist on coverage, it will be necessary for the U.S. either to refuse such imports or to establish a regulatory framework to ensure that we are able to abide by our international obligations.

NRC Rebuttal to State/DOE/ACDA Comments on NRC Views

The Commission appreciates the extensive comments provided by State, DOE, and ACDA on the concerns raised in our July 27, 1987 letter to the President. Many of these comments provide new information regarding our stated concerns. Our rebuttal to the State, DOE, and ACDA comments on our views are as follows:

COMMENTS NOS. 1 AND 2: SAFEGUARDS FOR FUTURE JAPANESE PLUTONIUM FACILITIES

State, DOE, and ACDA views support the NRC position that safeguards approaches for future Japanese plutonium facilities are not yet developed, tested or ready for implementation. As such, it is difficult to assure the effective performance of such new approaches. The Commission is not insisting that the safeguards measures for new facilities be fully developed as a condition for granting long term, programmatic approval for use of U.S. controlled plutonium in Japan. NRC's basic operation is that at the present time not enough is known about future IAEA safeguarding capabilities in the large plutonium facilities envisioned by Japan. We recognize that the IAEA will do its best to safeguard these facilities. However, we have concerns that based on current international safeguards as applied to an 800 ton per year reprocessing facility, 200-300 kilograms of plutonium could remain unaccounted for each year. Also we question whether an exchange of notes prior to operation (not construction) of such a facility is all that is needed to give the U.S. confidence that all material under its control remains in peaceful, safeguarded use. The Commission does not presume that a U.S. approval decision should be delayed until after future plants are constructed. Rather, the Commission is suggesting that such decisions should be made on a case-by-case basis, based on the design of the facility and taking into account more timely information on available safeguards technology.

In summary, technical constraints may make it impossible for the IAEA to achieve its current degree of safeguards effectiveness in Japan's proposed new large bulk-handling plutonium facilities. This does not necessarily mean that the new Safeguards measures yet to be developed for these new facilities will be inadequate. However, the Commission believes that the U.S. Government should not commit itself, as the proposed Agreement does, to giving programmatic approval for these facilities when extensive effort is still required to develop acceptable safeguards measures.

COMMENT NO. 3: FURTHER RENEGOTIATION OF THE AGREEMENT

The Commission agrees with the Department of State that entering into a new agreement for cooperation with Japan at an early date is important. Nonetheless, because the current agreement does not expire until 2003, there is time to negotiate an agreement that would satisfy NRC's concerns.

COMMENT NO. 4: RETURN OF PLUTONIUM TO JAPAN

On another matter, the Atomic Energy Act requires that the United States retain the right to require that foreign countries return plutonium produced through the use of U.S. transferred nuclear material or complete nuclear facilities. The proposed agreement appears to go beyond legal requirements contained in the Atomic Energy Act in that it makes this requirement reciprocal and refers not only to nuclear material and complete nuclear facilities, but also to components. The Commission does not support the provision in the agreement giving Japan the right to require the U.S. to return any plutonium produced in U.S. facilities that use Japanese components. The Commission questions the nonproliferation policy rationale of a provision whereby a nuclear weapons state would return plutonium to a non-nuclear weapons state. The Commission believes that this could be unwise, even if the particualr circumstances under which this might take place are extremely unlikely. Accordingly, this proposed agreement, in extending reciprocal return rights to Japan, goes beyond legal requirements and might not be prudent.

COMMENTS NOS. 5 AND 6: SUSPENSION RIGHTS IN AGREEMENT

The Commission welcomes the Executive Branch's additional assurances in their comments that the provision for abritration is not mandatory and that U.S. suspension rights will continue to be subject to a unilateral U.S. determination. This resolves our concerns.

However, when considering bases for suspension of an agreement, the Commission believes consideration of Japan's economic issues or impacts should be subordinate to consideration of U.S. national security and nonproliferation issues. We do not know if this is the intent of the Executive Branch. Additionally, with regard to the possible precedent set by this agreement in tying suspensions to economic considerations, the U.S. may have difficulty arguing that one non-nuclear weapon state's economic interests are appropriate in an agreement, but a second non-nuclear weapon state's are not.

COMMENT NO. 7: TRACKING COMPONENTS

The Executive Branch comments still do not rule out the possibility of placing Japanese component exports to the U.S. under the terms of the proposed Agreement, thereby imposing complicated and expensive regulatory burdens on the U.S. and on the private sector. There is no statutory (NNPA) requirement to place component exports under the terms of an Agreement for Cooperation. The Executive Branch emphasizes in its comments the importance of the nonproliferation benefits with respect to U.S. components exports to Japan, and implies that this justifies the imposition of the reciprocal regulatory burden on the U.S. The Commission questions these judgments, particularly in the absence of any statutory requirement for the imposition of any tracking or reporting burdens with respect to U.S. component exports to Japan.

More generally, the Commission is concerned that the Executive Branch appears to have lost sight of the basic commitment the U.S. made several years ago to forego bilateral "safeguards" inspection and reporting rights in favor of multilateral IAEA safeguards arrangements. Instead, we now have before us an extremely complicated agreement with one of our closest allies which imposes significant and expensive bilateral tracking and reporting requirements vis-a-vis the U.S. and Japan in addition to maintaining the existing IAEA safeguards regime. The Commission questions whether this is a proper allocation of our limited nonproliferation resources.

U.S. NUCLEAR REGULATORY COMMISSION,
Washington, DC, February 24, 1988.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: During the Committee's December 16, 1987 hearing on the U.S./Japan Agreement for Nuclear Cooperation, I agreed to supply some information for the record. That information is contained in the three inserts for the record which are enclosed.

Sincerely,

LANDO W. ZECH, Jr.

NRC CONCERNS WITH THE U.S./JAPAN AGREEMENT FOR NUCLEAR COOPERATION AND THE CHANGES NECESSARY TO MAKE THE AGREEMENT ACCEPTABLE TO THE NRC

As we stated in our prepared statement, our primary concern is the provision granting long-term programmatic approval for the use of U.S.-controlled plutonium in Japanese facilities which do not now exist. Providing such approval for use of U.S.-supplied materials in Japanese reprocessing facilities which have not yet been built and for which proposed safeguards measures have not been fully developed or routinely used by the IAEA does not seem like a prudent action from a nuclear nonproliferation perspective.

The Safeguards Concepts Papers attached to the U.S./Japan Agreement describe a set of general safeguards principles and approaches for plutonium use facilities and some relatively specific requirements for each type of facility. However, the standards for judging the acceptability of individual safeguards measures or the collective system of measures for a facility are generally lacking or ambiguous.

For example, the Concepts Papers state that flexibility is maintained in the concepts to allow for choice among alternative safeguards approaches and to enable attainment of IAEA safeguards objectives and inspection goals. Although NRC agrees with the appropriateness of maintaining flexibility in defining safeguards approaches, we feel that without quantification of the IAEA inspection goals and other pertinent safeguards measures, the risk is increased of drawing improper conclusions as to the effectiveness of the safeguards approaches.

If NRC had been consulted in the formulation of the Agreement, we would have recommended that performance objectives and standards for judging the acceptability of the individual safeguards measures be defined as quantitatively as possible. We believe this could and should have been done. Alternatively, we would have recommended that the U.S. reserve the right to review and approve the safeguards measures on a case-by-case basis.

A second NRC concern is the provision for plutonium return rights in the Agreement. The Atomic Energy Act requires that the United States retain the right to require that foreign countries return plutonium produced through the use of U.S.-transferred nuclear material or complete nuclear facilities. The Proposed Agreement appears to go beyond legal requirements contained in the Atomic Energy Act in that it makes this requirement reciprocal and refers not only to nuclear material and complete nuclear facilities, but also to components. The Commission questions the non-proliferation policy rationale of a provision whereby a nuclear weapons state would return plutonium to a non-nuclear weapons state. The Commission believes that this could be unwise, even if the particular circumstances under which this might take place are extremely unlikely. If NRC had been consulted in the formulation of the Agreement, we would have recommended that the provision in the Agreement which gives Japan the right to require the U.S. to return any plutonium produced in U.S. facilities that use Japanese components be deleted.

Our third concern was that under the proposed agreement it appeared that if the Japanese were to decide the U.S. was not implementing the agreement in "good faith", the dispute might be settled by an arbitral tribunal. The State Department subsequently clarified that use of an arbitral tribunal would require U.S. consent. The State Department's response resolves our concern.

Finally, our fourth concern is that the Proposed Agreement provides for tracking and reporting of Japanese-origin components and the plutonium produced from those components in the United States. The Commission believes that the non-proliferation benefits to be gained by the United States are not sufficient to justify the significant extensive tracking and reporting requirements that would be placed on the United States nuclear industry and the United States Government by this provision. Moreover, there is no statutory requirement to track components and the plutonium produced therefrom. In addition, the Nuclear Regulatory Commission may lack the authority to enact the regulations needed to effectively implement the provisions. Therefore, the provisions in some cases may be difficult to enforce. If NRC had been consulted, we would have recommended that the provision for tracking and reporting Japanese-origin components and the plutonium produced from those components in the U.S. be removed.

As we indicated in our July 27, 1987 letter to the President, the Commission recognizes the importance attached to the relationship between the United States and Japan and has no reason to question Japan's non-proliferation credentials. Japan is an important ally and a country with which we have had long standing nuclear cooperation. We are also aware of the need to establish and maintain the United States as a reliable trading partner. As we previously testified, we agree with the Executive Branch view that the Agreement meets all statutory requirements. Nevertheless, the NRC reaffirms its position as expressed to the President and in testimony before the House Foreign Affairs Committee. The Commission continues to believe that the Agreement should be modified to reflect the concerns stated above.

We now understand that the President has considered the views of the NRC and Executive Branch agencies and determined that the Agreement will promote, and will not constitute an undue risk to, the common defense and security. Despite our concerns, if the U.S./Japan Agreement for Nuclear Cooperation is allowed to take effect, the NRC will do all that it can to implement its responsibilities under the Agreement.

TERMINATION/SUSPENSION CIRCUMSTANCES

The Commission agrees with the Executive Branch that, should circumstances arise where activities authorized by the Agreement for Cooperation could create a significant increase in the risk of nuclear proliferation or in the threat to United States national security, the United States could suspend its authorization for such activities rather than terminate the Agreement. This suspension authority is set forth in Article 3(2) of the Implementing Agreement entered into pursuant to Article 11 of the Agreement for Cooperation.

EXAMPLES OF HOW A FUTURE PLANT COULD BE DEEMED COMPATIBLE WITH THE CONCEPTS BUT UNACCEPTABLE FROM A NON-PROLIFERATION POLICY POINT OF VIEW

NRC's main concern in this regard includes the adequacy of accounting for plutonium at large reprocessing facilities as contemplated in the safeguards concepts for these facilities in the Agreement. The safeguards concepts state that the safeguards approach will enable attainment of IAEA safeguards objectives and inspection goals. However, no standards or performance criteria are specified to bound the objectives or goals. It is NRC's understanding that the inspection goal for large reprocessing facilities, calculated with current international standards, could be over a hundred kilograms of plutonium per year. NRC questions the acceptability of use of such a goal.

Also, the Safeguards Concept Paper includes reference to an unproven safeguards measure, near real time accounting (NRTA). The use of NRTA in the Safeguards Concept Paper is not bounded by performance criteria, and it is yet to be demonstrated that NRTA will provide an acceptable level of accounting. In this example, NRTA could be implemented, but the performance of this approach in detecting diversion may not be acceptable.

Mr. GLENN. It says:

> Without modification, the Commission cannot recommend that you approve the new Agreement.

This is a letter to the President. It goes on:

> (This Commission) cannot support the provisions for advanced approval for plutonium use in future Japanese plutonium facilities.

I would also like to cite a letter from Former Assistant Secretaries of Defense, Richard Perle and Frank Gaffney. They were over in the Pentagon at the time this was being negotiated, and they find major problems with the agreement.

I ask unanimous consent that this letter be printed in the RECORD also.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN ENTERPRISE INSTITUTE
FOR PUBLIC POLICY RESEARCH,
Washington, DC, March 2, 1988.
Senator JOHN GLENN,
Chairman, Senate Committee on Governmental Affairs, Senate House Office Building, Washington, DC.

DEAR SENATOR: As the Congress considers the proposed new U.S.-Japanese Agreement on plutonium, we would like to share our view of that accord and the process by which it was negotiated.

We were the Defense Department officials responsible for non-proliferation matters during the period this agreement was under negotiation and review by the Executive Branch. Our concerns about the agreement were reflected in the Department's official position on the accord, expressed in a memorandum from Secretary Weinberger to the Secretary of State on April 20, 1987. That position reflected our judgment and advice over several years, and nothing that was subsequently done to gloss over our concerns would lead either of us to abandon that position now.

The Defense Department regarded this agreement as seriously flawed. Two aspects were especially troublesome: First, it gives to Japan advance U.S. consent to reprocess and use U.S.-originated plutonium in any Japanese facility it chooses, without restriction as to quantities, purpose or economic justification and for a very long period into the future.

Second, it imposes extraordinary and unprecedented restrictions on the right of the United States to suspend that prior consent should future circumstances warrant such action during the life of the agreement.

In advocating the new accord some proponents have suggested that ill-defined safeguards "concepts" and the right to suspend the agreement are sufficient to protect American interests. As a practical matter, however, the ability to detect a diversion or to respond by withdrawing our approval after it has been abused, cannot substitute for our present right to make a prior determinations of proliferation risks on a case-by-case basis. Such determinations are not only preferable—they are required by the Atomic Energy Act. The new accord's failure to permit us to make them is clearly inconsistent with the letter, spirit and intent of the law.

The point is not that we are particularly concerned that Japan may wish to divert weapons grade material to military purposes. It is, rather, the importance we attach to the case-by-case approach to acting on these matters. We believe that the case-by-case approach is fundamental to a policy of discouraging nuclear proliferation. Abandoning it now, as the new agreement would do, even for a close friend like Japan, will expose the government to other such requests. And we will find ourselves faced with diplomatic and political pressure to accord other friends the same treatment we are about to extend to Japan. The case-by-case standard, which is itself a discouragement to the use of plutonium, will soon give way and existing law will have been undermined.

To argue that we now know enough about the circumstances under which future transfers would take place to consider this agreement a reasonable approximation of the case-by-case approach is ludicrous. It is a little like saying that a physician can now write 30 years worth of prescriptions because he can anticipate future illnesses today.

It should be noted that the Defense Department was not permitted to play a meaningful role in the negotiation of this agreement. Defense was, for all intents and purposes, unrepresented on the interagency team that prepared it and kept uninformed about the policies and instructions which guided that team. In our view, had the Department of Defense been able to participate fully in such activities, the strong position that the Department has taken against nuclear proliferation would have helped to shape the accord differently. That, we are quite sure, is why the Department of State went to such lengths to work around us.

Unfortunately, this procedure is standard practice in the State Department's management of non-proliferation matters, a problem about which one of us has testified extensively. State's petty bureaucratic behavior and secrecy with respect to control of the flow of information between responsible U.S. Government departments has effectively prevented informed interagency consideration and constructive criticism of proliferation-related negotiations and activities. While subsidiary to the immediate question of Congressional approval of the accord so prodouced, this chronic problem merits attention and correction.

In our judgment the issue for the Congress to decide is whether we should dispense with the reasonable and prudent protection against the unexpected that derives from approaching these proliferation issues on a case-by-case basis. Approval of the accord will abandon that approach which is now required by our law, our past policy and by the humble recognition that we cannot see with confidence 30 months, much less thirty years, into the future. We hope the Congress will address this issue squarely by rejecting the new agreement with Japan.

Sincerely,

FRANK J. GAFFNEY, Jr.,
Senior Fellow, The Hudson Institute.
RICHARD PERLE,
Resident Scholar, American Enterprise Institute.

Mr. GLENN. Mr. President, the General Accounting Office, the Comptroller General, sent a very complete letter and analysis of this as far as the legal aspects of it go. I quote:

> We conclude that the proposed Agreement does not meet the requirements of subsections 123(a) (5) and (7) of the Act or the timely warning standard of section 131.

The timely warning standard, Mr. President, is what we have based our nuclear policy on for decades. It has been there for a long, long time.

As we see the terrorist threat increasing around the world, to say that we will let down our guard as far as transfer of plutonium to me does not make any sense. I gave a lengthy statement on this earlier today. Our time is running out.

If this agreement is rejected, that is not the end of our nuclear relationship with Japan. We have an existing agreement that has worked fine and runs until the year 2003, which protects our interests as well as Japan's. It has worked very, very well since 1968.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired.

Mr. GLENN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, earlier there had been some indication that this vote would occur at around 9:30 p.m. tonight. Some Senators may have left the Hill with that understanding. Now, as it turns out, time has been yielded back and the vote could occur at this moment. Several Senators are here wanting to vote. This is going to be the last rollcall vote of the day. Therefore, I am going to ask that it be a 30-minute rollcall vote, which will allow Senators who are here and ready to go to vote. Those who may have been a little late getting to work will have a little longer to get here. I would urge that word go out, though, that at the conclusion of 30 minutes, Senators who are not here by that time will be running a heavy risk of missing the vote.

Mr. President, let me put it in the vernacular. Mr. President, I ask unanimous consent that the disposition of this subject matter will be the last vote today. This means that if we are close and there is a motion to reconsider, there will be more votes today. So with the understanding that this will be the last rollcall vote today, if it disposes of the matter I can say it will be the last rollcall vote of the day. Senators will know if it is close and there is a motion to reconsider, there will be another vote or a tabling motion.

I ask unanimous consent that it be a 30-minute rollcall vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

All time has expired. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass? On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. Bumpers], the Senator from Florida [Mr. Chiles], the Senator from Connecticut [Mr. Dodd], the Senator from Tennessee [Mr. Gore], the Senator from Hawaii [Mr. Inouye], the Senator from Massachusetts [Mr. Kerry], the Senator from New Jersey [Mr. Lautenberg], the Senator from Ohio [Mr. Metzenbaum], the Senator from Michigan [Mr. Riegle], the Senator from North Carolina [Mr. Sanford], and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. Kerry] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. Dole], the Senator from Nebraska [Mr. Karnes], the Senator from South Carolina [Mr. Thurmond], the Senator from Virginia [Mr. Trible], and the Senator from Connecticut [Mr. Weicker] are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina [Mr. Thurmond], would vote "nay."

The PRESIDING OFFICER (Mr. Exon). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 30, nays 53, as follows:

[Rollcall Vote No. 66 Leg.]

YEAS—30

Adams
Boschwitz
Bradley
Byrd
Cohen
Cranston
Durenberger
Glenn
Harkin
Hatfield
Helms
Hollings
Humphrey
Kennedy
Leahy
Levin
Matsunaga
Mikulski
Mitchell
Moynihan
Pell
Proxmire
Pryor
Quayle
Reid
Rudman
Sarbanes
Sasser
Simon
Wirth

NAYS—53

Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Breaux
Burdick
Chafee
Cochran
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Domenici
Evans
Exon
Ford
Fowler
Garn
Graham
Gramm
Grassley
Hatch
Hecht
Heflin
Heinz
Johnston
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Melcher
Murkowski
Nickles
Nunn
Packwood
Pressler
Rockefeller
Roth
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Wallop
Warner
Wilson

NOT VOTING—17

Biden
Bumpers
Chiles
Dodd
Dole
Gore
Inouye
Karnes
Kerry
Lautenberg
Metzenbaum
Riegle
Sanford
Stennis
Thurmond
Trible
Weicker

The PRESIDING OFFICER. On this vote, the yeas are 30, the nays are 53. The joint resolution fails of passage.

Mr. EVANS. Mr. President, I move to reconsider the vote by which the joint resolution was not passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE SCHEDULE

Mr. BYRD. Mr. President, there will not be any more rollcall votes today.

The first rollcall vote on tomorrow will occur at 12 noon. The debate on the override will begin at 10:30. So there will be 1½ hours of debate. Other rollcall votes could very well occur tomorrow.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business, not to exceed 15 minutes, and that Senators may speak therein.

The PRESIDING OFFICER (Mr. Levin). Without objection, it is so ordered.

BAPTISTS OPPOSED TO GROVE CITY BILL

Mr. HELMS. Mr. President, the public affairs committee of the Southern Baptist Convention today sent me a statement of opposition to the so-called Civil Rights Restoration Act and the threat it poses to religious liberties. The committee strongly urges all the Senators and Congressmen to support the President's veto of the "Grove City" bill, as it is known.

The public affairs committee is elected and appointed by the Southern Baptist Convention to represent Southern Baptists. The convention—with 14.6 million members—is the largest protestant denomination in the United States.

Mr. President, I ask unanimous consent that the text of the statement from the Southern Baptist Convention's Public Affairs Committee be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of the Public Affairs Committee of the Southern Baptist Convention Regarding the Civil Rights Restoration Act

The Public Affairs Committee of the Southern Baptist Convention opposes the so-called Civil Rights Restoration Act (S557). While affirming civil rights for all people, we strongly urge Senators and Congressmen to support the Presidential veto. Religious liberty must be protected.

The requirements that a church or church-affiliated institution should have to apply for a religious tenets exemption is a basic fundamental violation of the separation of state from church embodies in the First Amendment of the Constitution. It also places the church or the religiously affiliated institution in the position of having to prove its innocence to the state, instead of the state prosecuting only when it finds evidence of guilt or violation. Thus, such churches or institutions are unconstitutionally "presumed guilty until proven innocent."

We want it spelled out that churches and religiously affiliated institutions are exempt from federal regulations whenever (S557) violates the religious tenets of the particular church, institution or governing body. The requirement that a religious tenet exemption be applied is a clear violation of the non-interference clause of the First Amendment and is thus repugnant to the Public Affairs Committee of the Southern Baptist Convention. Information on (S557) disseminated by the Baptist Joint Committee on Public Affairs should not be construed as representing the position of the public affairs committee of the Southern Baptist Convention. The 18 member public affairs committee is elected and appointed by the Southern Baptist Convention to represent Southern Baptists on the Baptist Joint Committee on Public Affairs in Washington D.C. The 14.6 million member Southern Baptist Convention is the largest non-catholic denomination in the United States.

Of 17 eligible voting members, 14 voted yes, and three abstained. The following members of the Public Affairs Committee of the Southern Baptist Convention voted with the majority.

Dr. Adrian Rogers, president of the Southern Baptist Convention.

Judge Samuel Currin, Chairman of the Public Affairs Committee.

Hon. Albert Lee Smith, Vice-Chairman of Public Affairs Committee.

Mr. Les Csorba, III, Secretary, Public Affairs Committee.

Dr. Harold Bennett, Exec. Secretary of Southern Baptist Convention.

Mr. Roy Gean.
Mr. J.I. Ginnings.
Mrs. Dudley (Robbie) Hughes.
Dr. Richard Land.
Dr. Landrum P. Leavell, II.
Dr. Larry Lewis.
Rev. Tom Pratt.
Rev. William Stone.
Rev. Norris Sydnor.

TRIBUTE TO CHIEF J. PRESTON STROM OF COLUMBIA, SC

Mr. THURMOND. Mr. President, the State of South Carolina suffered a great loss with the death of Chief

Preston Strom who died on Monday, December 14, 1987, at the age of 69. Chief Strom was the head of our South Carolina Law Enforcement Division.

Chief Strom was one of the finest law enforcement officers in the country. He served honorably, capably, and with great professionalism. His career of service to South Carolina spanned half a century.

In 1947, during my first year as Governor of South Carolina, I reorganized the State constabulary, modernized it, and changed it to the South Carolina Law Enforcement Division. Chief Strom came with me that year. He has served under a total of 10 Governors, all of whom held him in high esteem and had great admiration for him.

Chief Strom was mainly responsible for developing SLED into the efficient organization it is today, and he provided excellent advice and counsel to law enforcement agencies throughout the Nation. He singlehandedly led the effort to establish the South Carolina Missing and Exploited Children's Center, and the State's first teletype communication system, criminal history repository, bloodhound tracking system, and uniform crime reporting system. He also led the effort to establish laboratories for chemical and physical examination of evidence, such as fingerprint analysis, ballistics examination, and tool mark analysis. It is fitting that he also created and served as chairman of the first Criminal Justice Academy in South Carolina.

Chief Strom is rightly known as the father of law enforcement in South Carolina. He was one of my most devoted friends whom I have called on often over the years for advice and counsel. I appreciated his friendship and kinship, and I will sorely miss him.

Nancy and I join with my colleagues in extending our deepest sympathy to his lovely wife, Grace, and his fine son, J. Preston Strom, Jr. Mr. President, I ask unanimous consent that the attached articles and editorials from South Carolina newspapers regarding Chief Strom, and a copy of the eulogy from his funeral be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the State, Dec. 15, 1987]

LONGTIME SLED CHIEF STROM DIES

(By Mike Livingston)

J.P. "Pete" Strom, chief of the State Law Enforcement Division for more than 30 years and often called South Carolina's "47th sheriff," died Monday afternoon in Columbia from a heart attack. He was 69.

Services will be held at 2 p.m. Wednesday in St. Andrews Baptist Church, where Strom was a founding member.

Burial will follow in Bush River Memorial Gardens. The family will be at the Devine Street Chapel of Dunbar Funeral Home from 7 p.m. to 9 p.m. today.

The SLED chief was brought to the emergency room of Providence Hospital by car at 2:15 p.m., Providence spokeswoman Dawn Catalano said. Physicians worked to save him until about 5:05 p.m., when he was pronounced dead.

The Richland County coroner's office said Strom died of an "acute myocardial infarction"—a common type of heart attack. The death was ruled as coming from natural causes.

About noon, Strom was at an employee's going-away party at SLED when he felt ill and went home, SLED spokesman Hugh Munn said. About two hours later, he began complaining of chest pains and was taken to the hospital by his wife, Grace.

Col. P.L. Meek, retired Highway Patrol commander, was one of the many people who was shocked by Strom's death.

Meek said the loss of Strom will be a blow to law enforcement.

"Pete Strom was kind of the backbone," Meek said. "We felt like he was the head man. He knew every sheriff and chief of police by his first name. It's going to be a terrible loss to the state."

State Sen. Rembert Dennis, D-Berkeley, called Strom "the patriarch of law enforcement in South Carolina."

Greenville County Sheriff Johnny Mack Brown said, "We always refer to him as the (state's) 47th sheriff."

And longtime civil rights activist Modjeska Simkins said Strom was a "warm and valued acquaintance of many years. To me, he was a grand old man." Ms. Simkins became acquainted with Strom during the 1968 riots at S.C. State College in Orangeburg.

Gov. Carroll Campbell, who said he was deeply saddened by the death, ordered flags on state buildings to be flown at half-staff beginning today.

The duties of running the agency will fall to SLED's second in command, Maj. Robert L. Stewart, who will be interim chief, the governor said Monday.

The SLED chief is appointed by the governor with advice and consent of the Senate.

Strom's hand-picked successor was to have been his protege, Capt. Leon Gasque Jr., a 30-year SLED veteran, but Gasque died last year.

Joseph Preston Strom, who had been chief of SLED since 1956, was considered one of the most innovative lawmen ever to wear a badge and the first real driving force behind professionalism in South Carolina law enforcement, SLED spokesman Munn said.

At SLED, Strom revoluntionized the agency with the use of the polygraph, computerized crime information systems, voice prints and modern communications. He instituted the first statewide telegraph network in the nation and established a first-rate corps of bloodhounds. In fact, he paid for two of the dogs out of his own pocket.

Under his leadership, the first crime laboratory in the state was established, and he initiated a rapid expansion of existing crime labs.

Strom also was responsible for creating the state Criminal Justice Academy to train officers.

Even though he earned just about every state and national award for excellence, he was just as widely known for his raconteurism and his intimate management style. It was once observed of the SLED chief that he never panicked, or if he did, he must have done it privately.

He detested meetings and held briefings only when it was a matter of urgency. Strom once remarked, "You can waste more time and energy in meetings than any other way. I like to think we all know what we're doing or we wouldn't be here in the first place."

As chief of SLED, he was known as a fearless lawman, but always impartial and mindful of the rights of suspects. His credo was, "Make sure he's guilty before you affect his reputation, his freedom or his pocketbook. Make sure that during your investigation you always assure yourself that you are the fairest juror a suspect will ever have."

In a law enforcement career that spanned a half-century. Strom stayed remarkably clear of political turmoil, had few critics and was reappointed terms after term with little objection.

He said once about his beginnings in law enforcement that he had blue lights in his blood, and one thing that set him apart from others was that he was literally brought up in a county jail.

In McCormick County, Strom's father, Walter T. Strom, was sheriff for 12 years, and for all of those years the Stroms—J.P. was the only boy of four children—lived at the jail. At 16, Strom was helping deputies chase bootleggers and, although well-known as a soft-spoken man, he once bragged that he could run faster than any deputy and faster than any two bootleggers.

He officially entered law enforcement in 1938 at age 20 by working for his father as a deputy.

Strom came to work for the new agency in 1947, just after then-Gov. Strom Thurmond organized SLED out of the old state constabulary. Soon, Strom was working in Columbia and started a fairly rapid rise through the ranks. He was appointed chief of SLED in 1956 by then-Gov. George Bell Timmerman.

The 1968 Orangeburg riots were a supreme test of SLED resources. The aftermath of the racial upheaval in which three S.C. State College students were shot to death by highway patrolmen put the patrol and SLED in an unfavorable light. An investigation showed, however, that no SLED agent was involved in the shootings.

It was also Strom who kept a 48-hour vigil during student unrest at the University of South Carolina in 1970. And it was he more than anyone, through his extensive network of informants, who dampened the efforts of the Ku Klux Klan and other racial movements over the years.

Strom was a past president of the Federal Bureau of Investigation's National Academy Associates and was a special adviser to the International Association of Police Chiefs, the largest police-related organization in the world.

He is survived by his wife and son, Pete Jr. He and his wife were married in 1956.

[From the State, Dec. 15, 1987]

EVEN CRIMINALS RESPECTED

(By John Collins)

SLED Chief J.P. Strom was the ultimate law enforcement professional, and even criminals respected him, those who knew him said Monday when they learned of his death from a heart attack.

"I am deeply saddened by Chief Strom's passing," Gov. Carroll Campbell said.

"My wife, Iris, joins me in expressing our deepest sympathies to his family. In SLED, South Carolina today possesses one of the finest law enforcement agencies in the nation, a fact which is directly attributable to Chief Strom's outstanding leadership.

"His legacy shall be felt for years to come by South Carolinians who live, work and raise their families in safety."

U.S. Sen. Strom Thurmond, who hired Strom as an agent when he was governor in 1947, said the SLED chief served "capably, faithfully and with great professionalism. Our state is better off because of his services."

The senator recalled that Strom turned down an offer from him to be SLED chief in 1947 because the two were distantly related and had the same name. He said Strom was afraid it might smack of favoritism.

Former 8th Circuit Solicitor William T. Jones Jr. of Greenwood was one of Strom's closest friends.

"I feel a great personal loss," Jones said. "He was a true friend. All of his public and private life was exemplary."

Jones remembered Strom as a lawman who had an instinct for sizing up delicate and explosive situations and making the right call at the right time.

"During recent turbulent times in this state," Jones said, "this man recognized impending civil strife, and with uncanny ability, he calmed tempers and settled controversy with reason rather than riots. Law enforcement has lost a champion that will never be replaced."

Sam McCuen, who was a reporter for The State during the tense years of the civil rights movement in the '60s, also credits Strom with keeping the fire hoses and police dogs out of South Carolina while other Southern states smoldered.

And "criminals viewed Chief Strom as being straight up and honest with them," McCuen, a former public affairs director for the state Department of Corrections, said.

Col. J.H. "Red" Lanier, commander of the S.C. Highway Patrol, called Strom the "J. Edgar Hoover of the South."

"He knew everything that was going on in just about every circle—politics and law enforcement," Lanier said.

"A legend in law enforcement is gone. He will be remembered by myself and others as a person who established law enforcement as a professional career in South Carolina."

Retired State Highway Patrol chief P.L. Meek had known Strom since about 1948, when Strom was a SLED agent and Meek a patrolman.

"It'll be a blow to law enforcement," Meek said. "Pete Strom was kind of the backbone. We felt like he was the head man. Pete's going to be missed."

Meek said Strom's death probably would be followed by the retirement of "a lot of older agents near retirement age. Pete was so close to them, and they depended on him so much. I'd ask a lot of them, 'When are you going to retire,' and they would say, 'When the chief retires.' "

Former Gov. Robert E. McNair said Strom was an institution.

"He was a friend as well as someone I had great respect for and worked with so closely. He really was an institution in this state. He gave law enforcement an image not surpassed in this nation. He is one of those who will literally leave a legacy."

Former Gov. James B. Edwards said he couldn't remember any other SLED chiefs besides Strom.

"He was a friend of mine, and he served the state well. I've lost a friend; the state's lost a friend."

U.S. Rep. Butler C. Derrick of Edgefield called Strom a close friend. He said he worked closely with Strom on law enforcement issues as a state legislator and as the congressman from the 3rd District.

"I think he is the finest law enforcement official that I've been associated with," Derrick added.

U.S. Rep. Floyd D. Spence of Lexington, a Republican, praised Strom for the non-partisan way he guided SLED.

"SLED is one of those agencies we can be proud of in South Carolina, and it's largely because of Pete Strom's work," Spence said.

State Sen. Rembert Dennis, D-Berkeley, said Strom "had a spotless record as far as I know, and he was recognized all over the state and the United States as a great achiever. He had a host of friends, and I'm proud to be one of them."

Strom had the determination of a bulldog and never stopped pursuing a case, Murdaugh said. "He was one of the best detectives I ever saw."

The former solicitor said Strom made a smooth transition from investigator to SLED chief.

"It's rare that you see a good administrator and a good policeman," he said. "But he filled both positions very ably."

Richland County Sheriff Frank Powell said Strom had more influence on him than any other man in his 32 years in law enforcement.

"There is no way enough accolades could be placed on what he did," Powell said.

"He's been around so long, to me he is law enforcement. It's going to be very hard to get accustomed to his being gone."

Lexington County Sheriff James Metts called Strom "a role model for thousands of law enforcement officers in South Carolina."

"He is the foundation of SLED, having built it from the bottom up and a wise counsel to so many sheriffs and (police) chiefs across South Carolina. I refer to him as the J. Edgar Hoover of South Carolina."

Greenville County Sheriff Johnny Mack Brown said: "When you think of law enforcement in South Carolina, you think of J.P. Strom. He was synonymous with law enforcement, as if it were said in the same breath."

Before he became a sheriff, Brown worked as an investigator in the 13th Circuit Solicitor's Office in Greenville, where he got to know Strom.

"He was a very warm person, very helpful, and he'd go out of his way to help you. He was sort of a father-figure to everyone," Brown said.

Strom devoted his life to law enforcement, and one sign of that commitment, Brown said, was Strom's role in creating the South Carolina Law Enforcement, Hall of Fame.

State Attorney General Travis Medlock said he had lost "both a close friend and trusted and valuable partner."

"More than any other person, he has been responsible for the modernization of South Carolina law enforcement at both the state and local level," Medlock said.

"His professionalism and political impartiality are easily demonstrated by the fact that governors of both parties have repeatedly placed their trust in him by reappointing Chief Strom to the state's highest law enforcement position.

"His brave stand against hate groups such as the Ku Klux Klan and his continuing tenacious fight against the drug trafficking trade in this state are only two examples of the courageous positions Chief Strom has taken during his long career," Medlock said.

Lt. Gov. Nick Theodore said there will be a "void left in law enforcement in South Carolina" with Strom's death.

"He truly is one of the great chiefs of state law enforcement in this nation."

"He was always in the forefront of everything good in law enforcement," I. Byrd Parnell, former Sumter County sheriff, said.

[From the Columbia (SC) Record, Dec. 15, 1987]

"CHIEF" STROM WAS 47TH SHERIFF

(By John Batteiger)

Teletype machines bore the news last night to police stations and sheriff's departments across the state:

"On this date at approximately 5:05 pm Chief J.P. Strom, Chief of South Carolina Law Enforcement Division died of an apparent heart attack at Providence Hospital in Columbia, SC."

The message didn't have to be so wordy: everybody knew where Strom worked. He started at SLED when the state agency was formed in 1947, and he had been its chief for 31 years.

To many in law enforcement, he was SLED itself. To just about everybody, he was known simply as "Chief."

Strom was 69 years old and had been in failing health for several years, but his mind was sharp until the end. He fell ill yesterday at a staff party, and his wife drove him to the hospital after he complained of chest pains.

It's no overstatement to say that Strom was the most influential figure in the history of South Carolina law enforcement. In a state with 46 counties, he was the 47th sheriff.

He also was one of the most enduring figures in public life, perhaps second only to U.S. Sen. Strom Thurmond—a distant relative. He never was elected to public office, yet he was an astute politician and served under eight South Carolina governors.

He started in law enforcement when racial segregation was the rule in South Carolina, yet he has been credited by both blacks and whites for helping ease tensions during the volatile 1960s.

The Rev. I. DeQuincey Newman, the state's first black senator since Reconstruction, developed a working relationship with Strom during those trying times, and he later counted him as a close friend.

Strom was the subject of an ETV television documentary in 1974, and the Rev. Newman, who died two years ago, related that he first become acquainted with Strom in January 1960 when close to 1,000 civil rights marchers staged a protest at the Greenvile airport over segregationist policies.

"Of course, I saw Chief Strom as being an adversary. I also saw in him the determination to uphold and enforce South Carolina's segregation laws, and, of course, this brought us into direct opposition," Newman said.

"But, as time wore on, there evolved for us a growing appreciation for Chief Strom. He could, later on in our movement, understand our aims and objectives, and, then, we had a growing appreciation for his role.

"Once it became established that segregation would no longer be the way of life in South Carolina, and (with) the general acceptance of the federal Civil Rights Act of 1964, Chief Strom was as determined to protect the rights of black people and to defend the civil rights of black people with the same kind of determination and dedication as he exemplified in previous times for upholding and enforcing the erstwhile segregation laws of the state," Newman said.

"My impression is that he is an outstanding lawman, that he is a well-informed and enlightened lawman," Newman said. "He is in step with the times and has contributed to the climate of race relations which now prevail in the state."

Joseph Preston Strom was born July 31, 1918, in McCormick County, and his father, Walter, was sheriff there when Strom began his law career as a deputy sheriff in 1938.

Strom's career was interrupted when World War II broke out. He served 3½ years as a member of the Ninth Army Air Force, stationed in France, England and Austria.

He returned to South Carolina in 1947, the year that Gov. Strom Thurmond organized SLED, and he joined as one of 47 state agents.

He worked his way through the ranks, from agent to sergeant to lieutenant to assistant chief and acting chief. In 1956, Gov George Bell Timmerman appointed him chief.

As chief, Strom had a reputation of being fearless and impartial, but always concerned with the rights of a suspect.

His credo was, "Make sure he's guilty before you affect his reputation, his freedom, or his pocketbook. Make sure that during your investigation you always assure yourself that you are the fairest juror a suspect will ever have."

Friends say he believed crimes are solved with the mind, not with the stick.

Under Strom's leadership, many important changes were made in law enforcement. He was active in formation of the first crime laboratory in the state and initiated a rapid expansion of existing crime labs.

He was also instrumental in making bomb squads and polygraphs available, using firearms identification, and establishing an educational television program to provide officer training statewide.

Strom strived to make SLED the best agency he could by giving of his time and, at times, his money. When the division needed bloodhounds but couldn't afford them, he paid for the two dogs out of his own pocket.

[From the State, Dec. 17, 1987]

PETE STROM HAD KEY ROLE IN STORMY TIMES

Joseph Preston Strom, the most durable figure in the history of South Carolina law enforcement, held the state's top police job in turbulent times. Posterity will record that his leadership eased the state's journey through gnawing and sensitive periods of social and racial unrest.

The folksy cop, who died Monday at age 69 had to combine deft police skills with masterful politicking to survive more than 30 years as chief of the State Law Enforcement Division.

"Pete" Strom became chief only nine years after SLED had replaced the old State Constabulary, known as much as a political football as a law enforcement agency. He carried SLED to a new level of professionalism.

On the way, Chief Strom himself learned the lessons of politics. He was not above endorsing a political favorite for governor and, when the potential election of a hostile chief executive threatened his job, his legislative supporters rallied round and loosened the governor's control over the job.

Chief Strom's down-home jocularity belied a shrewdness that crooks respected almost as much as did his employees. Reporters were enchanted by his soft drawl and the homilies he delivered with drooped eyelids, a bent finger and a benign half-smile.

This low-key reconteur quickly won the respect of police chiefs and sheriffs alike. He knew them and their families intimately. He also seemed to know every bootlegger and petty yegg and their modus operandi. Indeed, he sometimes used them to fashion one of the most heralded "informer" networks in law enforcement.

Chief Strom won many honors. He was past president of the Federal Bureau of Investigation's National Academy Associates and was a special adviser to the International Association of Police Chiefs. He revolutionized his agency by using the polygraph, a computerized crime information system, voice prints and the first statewide telegraph network in the nation. He established a top-notch corps of bloodhounds, paying for two dogs out of his own pocket. He also ramrodded the first crime laboratory in the state and the state Criminal Justice Academy to train officers.

But the rustic lawman will be most remembered for keeping the peace at a time when racial upheaval threatened the state. Mr. Storm presided over the quiet integration of Clemson University with the 1963 enrollment of Harvey Gantt, later mayor of Charlotte. Likewise, he personally oversaw the desegregation of the University of South Carolina several months later. Such low-key integration, without fire hoses or police dogs, contrasted sharply with the violence in other Southern states and belied those doomsayers who predicted disaster.

Although Chief Strom, the son of a McCormick County sheriff, had the kind of small-town Southern background that spawns racism, he neutralized the Ku Klux Klan and other radicals, relying heavily on his informer network.

[From the Columbia Record, Dec. 15, 1987]

J.P. STROM—INNOVATIVE, EVENHANDED LAWMAN

In South Carolina, J.P. "Pete Strom" was law enforcement. When he died of a heart attack yesterday, the chief of the State Law Enforcement Division was remembered for his innovative reforms at the agency and for his evenhandedness in dealing with friend and foe alike.

Strom served as SLED chief for 31 years under eight governors, six Democrats and two Republicans. As South Carolina Attorney General Travis Medlock pointed out, his staying power was a testament to "his professionalism and political impartiality."

"The Chief," as he was known among S.C. law enforcement officials, hated crime as much as any man. But he was quick to come to the rescue of the innocent. Through Strom's detective work in 1958, an innocent man, convicted of murder in Georgia, was saved from the electric chair 11 days before he was scheduled to die.

In the 1968 Orangeburg riots, three S.C. State College students were shot to death, and both the state Highway Patrol and SLED came under fire. But an investigation showed that no SLED agent was involved in the shootings. Two years later at the University of South Carolina, Strom's presence and calming influence helped keep the peace during a volatile student demonstration.

More than any other individual, Strom also kept a lid on Ku Klux Klan activities in the state. Someone said once that Strom either knew everyone or knew someone who did, and his vast network of informants served him well in helping South Carolina avoid some of the terrible racial violence that prevailed in other Southern states during the early years of integration.

In recent years, Strom's agency has been in the forefront of the war on illegal drugs. His ability to work closely with both local law enforcement and federal agencies was a major factor in controlling the drug traffic in South Carolina.

To those who knew him well, Strom will be remembered for his warm, easy manner and his talent as a raconteur. But he leaves a legacy far more important than his engaging personality, for it was he who modernized SLED with such innovations as the use of the polygraph, computerized crime information systems, voice prints and the installation of the first statewide telegraph network in the nation.

Like Teddy Roosevelt, Pete Strom "walked softly and carried a big stick." Gov. Carroll Campbell would do well to seek those qualities in Strom's successor.

SOUTH CAROLINA HAS LOST A ONE-OF-A-KIND LAWMAN

The story of J.P. "Pete" Strom was the story of the growth of professionalism in law enforcement in South Carolina.

For that reason, the accolades now being heaped upon the longtime chief of the State Law Enforcement Division by friends and government leaders are entirely deserved. When U.S. Sen. Strom Thurmond said on Monday that "our state is better off because of (Strom's) service as chief of the law enforcement division of South Carolina," he was not merely praising one of his oldest friends. He was speaking truth.

Thurmond appointed Strom acting chief of SLED in 1950. In 1956, Strom became chief. He died on Monday at the age of 69 after more than 30 years as South Carolina's top law enforcement officer.

Strom was more than a lawman. His tenure as chief of SLED was marked by his determination that law enforcement in South Carolina could be, should be and would be topnotch.

He will be remembered as the creator of the state Criminal Justice Academy to train officers and for instituting the state's telecommunications system for law enforcement. He implemented a central recording division for crimes in the state. He was active in the establishment of the state's first crime laboratory and was also instrumental in making bomb squads and polygraphs available, using firearms identification, and establishing an educational television program to provide officer training statewide.

All of those things were consistent with what friends said was his belief that crimes are solved by using the mind instead of force.

His dedication to the effectiveness of the department he headed was such that he once bought bloodhounds out of his own pocket when SLED needed the dogs but had no money in its budget for them.

And though it was his job to solve crimes and apprehend criminals, he maintained a healthy respect for the rights of those arrested. He believed that law enforcement officers should "make sure (a suspect) is guilty before you affect his reputation, his freedom, or his pocketbook. Make sure that during your investigation you always assure yourself that you are the fairest juror a suspect will ever have."

That's a creed to which all law enforcement officials should adhere.

SLED will continue to be directed by capable, effective leaders. But Strom was one of those one-of-a-kind individuals, and it's a safe bet that South Carolina won't see another like him.

[From the Greenville News]

Strom Leaves Legacy

An era has ended with the passing of State Law Enforcement Division Chief J.P. Strom. He personified law enforcement to many people in this state, and was genuinely revered by many in law enforcement ranks. During 30 years with SLED, the last 24 as its head, he ushered in such fundamental changes as professional officer training, statewide telecommunications, central record keeping and a crime laboratory. He was also quietly political, and maintained an unbending appearance of independence. His successor necessarily will be different. He was unique to his era.

[From the Charleston (SC) Evening Post, Dec. 16, 1987]

The Strom Legacy

J.P. "Pete" Strom once said of his start in law enforcement that he had blue lights in his blood. South Carolinians can be thankful for that. In the last 30 years he did as much as any man to make this state a safer place in which to live.

The son of a McCormick County sheriff, he joined the newly organized State Law Enforcement Division as an agent in 1947. Ten years later he was the chief, beginning a tenure that he would dedicate to SLED's modernization. He was a progressive who recognized the advantages of technological advances, particularly when paired with proven police methods. When SLED had the need but not the money, he bought two bloodhounds and paid for them out of his own pocket. He was the prime mover in establishing the state's crime lab, and in putting computers to work for SLED. His untiring efforts paid off; SLED is widely regarded as one of the better state investigative agencies.

Chief Strom was a big, easy-going man, but tough minded and unflappable when things got tense. Those who worked closely with him over the years said he had a knack for sniffing out crime and getting to the bottom of it. But he had more going for him—and for the state. He had an instinct for sizing up an explosive situation and then defusing it, attributes that proved invaluable during the turbulent '60s. He also had the courage to take a hard stand against extremist groups such as the Ku Klux Klan.

And Pete Strom had something else, something he earned: respect on both sides of the law. Sheriffs and police chiefs admired his style, courage and effectiveness. He was a believer in treating suspects fairly, in according them their rights, and criminals admired him for that—to the point where some fugitives insisted on surrendering only to Chief Strom.

It was a mark of the man—of his professionalism and his political impartiality—that he was appointed and reappointed by eight governors, representing both parties. It was a mark of the man, too, that upon his unexpected death Monday at 69, a longtime black civil rights activist characterized him as "a warm and valued acquaintance—a grand old man."

Pete Strom left his state a legacy of solid law enforcement. It should not be squandered.

Funeral Service for J. Preston Strom, December 16, 1987, St. Andrews Baptist Church. Eulogy by the Reverend George E. Meetze, Chaplain of the South Carolina Senate

In the name of the Father, and of the Son, and of the Holy Ghost, amen. We thank you and remember before you today for giving him, our Brother Pete Strom to us to know and to love and to serve with and as a companion in our pilgrimage on Earth. In your balmless compassion console us who mourn. Give us your aid so we may see in death the gate to eternal life, that we may continue our course on Earth in confidence until by your call we are reunited with those gone before us through your Son, Jesus Christ our Lord, Amen.

Dearly beloved, I stand here today to fulfill a promise that I made in the State house some 20 years ago. Pete Strom and I began our service in the State house and served during the same time period, and how often we spoke to each other as we were observing the great and wonderful events that were taking place. I said, "Pete, there's law and gospel around here you know. We share the gospel of faith. We share the 10 commandments. We share the sermon on the mount, but you have a quiver, an arrow in your quiver, that's more than I have, except the gospel. You have the law of the land," and I said that in all sincerity. Something strong has gone out of our bodies in the passing of Pete Strom. Pete has covered well the details, as our State's chief of law enforcement. Truly he has been called a role model for officers. All those goods things that you've said are right and good. This pastor and I today have only to put that rich life of stewardship within the perimeters of his personal faith. We have only to speak at this time of Pete Strom, the man of faith.

I shall read from the 13th chapter of St. Carl's Epistle to the Romans which sets forth under the mighty hand of Almighty God the right to exercise temporal power which in our beloved State has been exercised by these wonderful men who have blessed this occasion with their presence. But who deep in their very soul be subject under the hands of power, for there is no power better than the power of our ordained God. Whosoever therefore resisted the power resisted the everything of God. And those that resist shall receive to themselves damnation, for rulers are not a terror to good works, but a terror to evil. Will thou then not be afraid of the power, do that which is good, and thou shalt have praise of power.

For he is a minister of God, an avenger to execute dark and evil. We pay tribute to Pete Strom, and do not anything but love one another, he that loveth another hath fulfilled the law. Here endeth the reading of the sacred scriptures.

Pete Strom epitomized and personalized the power of the State as the personal representative of the Governor of our State for the perservation of law and order. He serviced deep and rightly our State, night and day, 24 hours a day, 7 days a week, because he sensed this commission

Eulogy by the Reverend Dr. Fred S. Miller, Jr.

Be seated!

They that wait upon the Lord shall renew their strength.

They shall mount up with wings as eagles.

They shall run and not be weary.

They shall walk and not faint.

Please take your hymnbook! Turn to the back of section 515 and let us join together in the reading of a portion of the scriptures respectfully. Will you please stand?

Bless the Lord my soul, and all that is within me. Bless His holy name.

Who forgiveth all thine inequities.

Who healeth thine diseases.

The Lord is merciful and gracious, slow to anger, and plentiful in mercy.

He hath not delt with us after our sins, nor rewarded us according to our inequities. As far as the east is from the west, so far hath he removed our transgressions from us. Bless the Lord and all His work in every place of his dominion.

It is now of the request of the Strom family that you turn in your hymnbooks to page 165 and sing one of the most cherished hymns of the faith.—"Amazing Grace"

Be seated!

In the name of the Father, and of the Son, and of the Holy Ghost. Amen. We thank Thee, Heavenly Father, and remember before You today, our brother, Pete Strom. We thank you for giving him to us to know, to love and to serve with as a companion in our pilgrimage here on Earth. In your boundless compassion, console us who mourn. Give us your aid so that we may see in depth the gate to eternal life that we may continue our course on Earth in confidence until, by your call, we are united with those who have gone before us. Through Your son, Jesus Christ our Lord, Amen.

Dearly beloved, I stand here today to fulfill a promise that I made in the State House some 20 years ago. J.P. Strom and I began our service in the State House and served during the same period, and how often we spoke the sides to one another as we were observing the great and wonderful events that were taking place. I said, "Pete, we are sort of Law and Gospel around here. We share the Gospel of Faith, the Ten Commandments. We share the Sermon on the Mountain, but you have a quiver, an arrow in your quiver. It is more than I have except the Gospel. You have the Law of the Land." I said that in all sincerity. Something strong has been taken from politics in the passing of Pete Strom.

The press has covered well the details of our State's Chief of Law Enforcement. He was truly called to a role model for officers. All of those good things that you have said are right and good!

This pastor and I here today have only to put that rich life of stewardship within it perimeters of his personal faith. We have only at this time to think of Pete Strom, the man of faith and also to read from the thirteenth chapter of Saint Paul's epistle to the Romans which sets forth under the Almighty Hand of God. The right to exercise temper of power, which in our beloved state has been exercised by these beloved men, who have blessed this occasion by their presence, but who deep within their souls, shared the hopes of Pete Strom as they heard these words. "Let every soul be subject unto the higher powers, for there is no power but of God. Whosoever therefore resisteth the power resisteth the ordinances of God. They that resist shall receive unto themselves damnation! For rulers are not a terror to good works, but a terror to evil will they then not be. A vessel of the power to do that which is good and thou shalt have praise of that power, for he is the minister of God to thee for good, but if he buryeth not the Sword in vain. For his is the minister of God. An avenger to execute wrath upon him that do evil. Wherefore, thee must needs be subject not to my wrath, but also to conscience sake. For this cause pay ye tribute also for they of God's ministers attending continuously to all their dues, tribute to whom tribute is due, custom to whom custom is due, fear to whom fear, honor to whom honor. Owe no man anything, but to love one another, for he that loveth another hath fulfilled the law. Here endith the reading into of the sacred scriptures. Pete Strom optimized and personalized the power of the state as the personal representative of the Governor of our state for the preservation of law and order. He saw thus deep into the very molecules of it. The dying, the living, and the dead, twenty-four hours a day, seven days a week, because he served this commission under the government because he knew that the Governor was dedicated to the power that is under the dome. Whether the dome be in Columbia or the dome be in Washington, DC., his authority, his commission he felt was divine and he said fearlessly but compassionately the fact that he had deservedly the utmost confidence and the total trust of eight governors of this great state of ours. Witness to his loyalty as a citizen under God, as a man of faith.

This is a time for remembering of course, and your memories will be sweet and strong and you will know that the long shadow of influence that has been cast across the state and many other sections of our nation will not die. You do not bury this kind of influence beneath the shadow of the South Carolina Hill, but it lives and it continues to influence. Others will come and be influenced by what has been done in the life of Pete Strom. And as you will recognize if your face days of loneliness and as you miss him dearly, you'll face the promise that's already been given to us. The Word that we've read "Yea, thou I walk through the shadow of the Valley of Death, I will fear no evil for thou art with me." Our good shepherd does not lead his flock into the dark valley to leave us there, but to bring us out into the brightness of the other side. God bless you, and may you know that peace today.

Let us pray!

Eternal and almighty God our Father, in You do we live more, and have our being upon You. We are dependent for the life that now is and the life that is to come. We have gathered here because we want to honor the memory of your sevant. Place his dear ones in his care and rise from this day with a new resolve to live the life of dedication according to your will for us. Let us, oh God, this grace to do so today, and may your presence make peace, comfort, and the full rest of assurance to this dear family, these dear friends may we know the reality of the words of Him who spoke, "I am the resurrection and the life. He that believeth in Me, though he would die, yet shall he live and whosoever liveth and believeth in Me shall never die." Through Jesus Christ our Lord, Amen.

PRESIDENT REAGAN'S UNWISE CIVIL RIGHTS VETO

Mr. KENNEDY. Mr. President, tomorrow the Senate will take up the veto of the Civil Rights Restoration Act, and I urge my colleagues to override that unwise veto by an overwhelming margin. Unfortunately, in recent days, the Moral Majority has mounted a massive campaign of misinformation and disinformation against this legislation. Letters, mailgrams, and telephone calls have been sent to Members of Congress and ministers urging them to oppose the Civil Rights Restoration Act. These materials are filled with distortions and misstatements about the effect of this bill on churches and religious organizations.

I want to set the record straight concerning these irresponsible allegations, and I have prepared an analysis responding to each of these charges.

On the question of the effect of the legislation on religious institutions, I want to emphasize that the Civil Rights Restoration Act has been endorsed by the U.S. Catholic Conference, by major Protestant denominations, and by Jewish organizations. Many of these religious groups held a joint press conference at the Capitol last Friday to reaffirm their support for the act and to urge Congress to override the President's veto. The groups which participated in the press conference included:

U.S. Catholic Conference of Bishops;

Evangelical Lutheran Church of America;

American Baptist Church, U.S.A.;

United Methodist Church;

Presbyterian Church (U.S.A.);

Episcopal Church;

Church of the Brethren;

National Council of the Churches of Christ;

American Jewish Committee;

Union of American Hebrew Congregations;

Jesuit Social Ministries;

Friends Committee on National Legislation;

Church Women United;

Unitarian Universalist Association; and

Baptist Joint Committee on Public Affairs.

The strong support of these groups amply demonstrates that the vast majority of religious leaders in America are committed to civil rights and opposed to discrimination. They want the Civil Rights Restoration Act to become law. In light of this strong support for the legislation, it is unfortunate that religious liberty has become the rallying cry for some who support Federal subsidies for discrimination based on race, sex, disability, and age.

I urge my colleagues to review the materials that follow closely, to ignore the scare tactics of the moral majority, and to vote to override the veto of the Civil Rights Restoration Act. I ask unanimous consent that an analysis of the allegations against the bill and the statements of religious groups supporting the bill may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESPONSE TO MORAL MAJORITY ALLEGATIONS CONCERNING THE CIVIL RIGHTS RESTORATION ACT

In its recent letter to Senators, the Moral Majority has identified five "concerns" with the bill:

"1. The protection this bill would give to institutions which closely identify themselves with the tenets of a particular religion."

Response:

Under Title IX, an institution "controlled by a religious organization" may secure an exemption from Title IX's prohibition on sex discrimination if the application of Title IX "would not be consistent with the religious tenets of such organization."

There has been no showing of any need for a loosened religious tenet provision. The Department of Education has granted religious tenet exceptions to 150 institutions.

No application has ever been denied under any Administration, and no Administration has ever required any institution to change a practice it claimed conflicted with its religious tenets.

An amendment to broaden the religious tenet amendment is not only unwarranted and unprecedented, but would seriously undermine Title IX's protection in thousands of private schools throughout the country.

Such an amendment was defeated by a vote of 56-39 in the Senate on January 28, 1988.

Under this proposed amendment, the exemption would be extended to institutions "closely identified with the tenets of a religious organization." This new and loose definition would allow virtually any private institution to qualify because any such institution could claim a close identification with a religious tenet in order to justify a discriminatory policy it wished to pursue.

Federal law does not allow sex-discrimination, even by religious institutions, in any other context. Title VII's ban on sex discrimination in employment applies to all covered institutions. It allows religious institutions to discriminate only in favor of members of the same religion.

The National Center for Education Statistics reports that 786 of 3,301 higher education institutions consider that they are "religiously affiliated". Even if the proposed loosening of the standard for this exemption applied only to these 786 schools, 559,053 full and part-time women students would be affected. Not counted are any elementary and secondary schools and employees in any of these schools which would also be affected.

"2. The intent of Congress with regard to the coverage of religious school systems."

Response:

The bill provides that if federal aid goes to any school in a school system, the entire system is covered. This is consistent with pre-Grove City practice. For example, prior to Grove City, diocese-wide desegregation plans were filed for Catholic schools which were part of a diocese-wide system. Of course, not all private schools are part of a school system. For two or more schools to be part of a school system, there must be some significant linkage between them.

If any school in a school system receives federal aid, the system must not be permitted to use creative bookkeeping to discriminate in other schools in the system.

An amendment to limit coverage of private school systems to only the individual school in the system which receives federal aid was defeated by the Senate 16-70.

"3. The intent of Congress with regard to the inclusion of homosexuality as a protected classification under the present law."

Response:

Neither Title IX or any of the other statutes amended by S. 557 has ever been interpreted by the courts to provide protection on the basis of sexual preference; none of the regulations have ever so provided; and nothing in the bill creates any such protection. Homosexual groups recognize this lack of protection in seeking new legislation specifically prohibiting discrimination on the basis of a person's sexual preference.

This bill does not preclude an entity from discriminating against an individual solely on the basis of the fact than an individual is homosexual. Thus, if an entity's religious practices require it to take disciplinary action against any individual who is homosexual and it takes such action solely because of that person's homosexuality, nothing in section 504 would offer protection to such an individual.

"4. The intent of Congress with regard to alcoholics and drug addicts, who would obtain sweeping protection under this law in its present form."

Response:

Since 1973, section 504 of the Rehabilitation Act (the civil rights statute for handicapped persons) has been interpreted to enable employers to fire, or refuse to hire, an alcoholic or a drug addict for a particular job if it is determined that he or she poses a direct threat to the health or safety of others or cannot perform the essential function of the job and no reasonable accommodation can remove the safety threat or enable the person to perform the essential function of the job. To allay the fears of some employers about the nature of their responsibilities to such persons, this policy was expressly inserted in to the statute in 1978 (see section 7(8) (B) of the Rehabilitation Act).

The standards for excluding alcoholics and drug addicts in the employment context apply equally in other situtations, such as exclusion from a non-employment program receiving federal financial assistance. As in the employment context, such a person must, with reasonable accommodation meet the essential qualifications for participation.

The Civil Rights Restoration Act does nothing to change this standard, which has been in effect since 1973.

"5. The intent of Congress with regard to the use of the results of AIDS antibodies tests, which may not be usable as the bill is presently written."

Response:

Section 504 of the Rehabiliation Act covers contagious diseases now. This bill does not change that.

Covering contagious diseases, including AIDS, under section 504 does not mean that AIDS testing of individuals would be automatically precluded. Coverage under section 504 simply requires that any action taken on the basis of a test result comport with public health requirements. There is nothing in section 504 coverage of contagious disease that would tie the hands of our institutions or municipalities when public health would require necessary and immediate action.

U.S. CATHOLIC CONFERENCE,
Washington, DC, March 14, 1988.

DEAR SENATOR: I write on behalf of the nation's Roman Catholic bishops to urge you to vote to override the veto of the Civil Rights Restoration Act. We strongly support this legislation which recently passed the House and Senate by overwhelming margins. We believe that it does much to strengthen federal civil rights protections while safeguarding vital concerns about human life and religious liberty.

This important legislation will strengthen the federal commitment to combat discrimination based on race, gender, age, national origin and handicapping condition. We believe government has a fundamental duty to protect the life, dignity and rights of the human person. This is why we supported the goals of the Civil Rights Restoration Act, successfully urged its modification in several important respects, strongly urged final passage in this amended form in both the House and Senate and urged the President to sign it.

As you know, the United States Catholic Conference expressed some serious reservations about the original bill. In the bill vetoed by the President, Congress made several essential improvements, including the "abortion neutral" amendment. This amendment, which we strongly supported, ensures that no institution will be required to provide abortion services or benefits as a condition of receiving federal funds. If this bill does not become law, we fear these important guarantees will be lost and the existing regulations under Title IX could once again threaten to force institutional cooperation with abortion. We also believe this legislation as interpreted by the committee report and floor debate adequately accommodates our legitimate concerns in the area of religious liberty.

No piece of legislation is perfect and people of good-will can disagree over these matters. However, we believe the Civil Rights Restoration Act with the important improvements made by the Congress is a significant victory for civil rights and an important step forward in insuring that our nation's civil rights laws do not require any institution to violate fundamental convictions on human life.

We are pleased by the overwhelming bipartisan support of this vital legislation. We hope you will join in this broad based effort to help our nation live up to its pledge of "liberty and justice for all" and vote to override the veto of the Civil Rights Restoration Act.

Sincerely yours,

Rev. Msgr. DANIEL F. HOYE,
General Secretary.

AMERICAN BAPTIST CHURCHES, USA,
Washington, DC.

STATEMENT ON THE CIVIL RIGHTS RESTORATION ACT, MARCH 18, 1988

The American Baptist Churches, U.S.A. includes persons of many races and ethnic backgrounds as well as others who are members of the protected classes covered by the various federal civil rights statutes. Out of a concern for those within our membership as well as our commitment to justice for all persons, we reaffirm our strong support for the Civil Rights Restoration Act and condemn the attempts by those who would deny the rights of others by lying about the content and intent of this bill.

American Baptists believe that discrimination against any of God's children is sin. However, government does not deal with sin and its reach must be restricted to appropriate boundaries. In this case, we hold that it is entirely proper for the federal government to refuse to subsidize discrimination.

The egregiously irresponsible misrepresentations made about this legislation by representatives of the conservative religious community should not be allowed to deter the Congress from pursuing the course of justice for all who live in this country. Far from jeopardizing religious liberties, this legislation would do much to restore liberties of people threatened by the present climate of intolerance for those who differ from the majority. The Constitution of the United States, in the free exercise clause of the First Amendment, guarantees the absolute right of churches to discriminate on any basis in the hiring of ministerial staff or those who are responsible for the inculcation of religious faith even if federal money is received for other purposes.

Therefore, we reiterate our continued support for this legislation and urge the Congress to override President Reagan's veto. Public money must never support discrimination.

We need the Civil Rights Restoration Act as a tool in the ongoing struggle for a just society. As Benjamin Franklin said in a different context, "We must all hang together or we shall most assuredly hang separately." Too much is at stake in an interdependent world for us to be at war against each other in this country. We must learn to live together in peace. This legislation is a step toward that goal.

CAROL B. FRANKLIN,
Policy Advocate.

JESUIT SOCIAL MINISTRIES,
Washington, DC, March 17, 1988.

Members of the U.S. Senate,
Washington, DC.

DEAR SENATOR: With this letter the National Office of Jesuit Social Ministries strongly urges your support for an override of President Reagan's veto of S. 557, the Civil Rights Restoration Act.

This legislation has been long overdue to restore rights under Title V1, Title 1X, Section 504 and the Age Discrimination Act. We strongly oppose any form of discrimination based on race, color or national origin in a "program or activity" that receives federal aid, which was the original intent of the 1964 Civil rights Act, the most significant civil rights legislation since the Reconstruction Era.

We laud the recent efforts of both the Senate and the House in overwhelmingly enacting this piece of legislation designed to protect, the civil rights of all Americans, but in particular, those of women, disabled persons and older Americans.

The recent study reflecting on the Kerner Commission, twenty years after its pronouncement, indicating that we were two distinct societies because of racial division, clearly indicates that rather than weakening civil rights legislation, we need to strengthen it. We feel that this significant piece of legislation, including its amendments dealing with abortion, as supported by the United States Catholic Conference, is a move in this direction.

Furthermore, we deplore the current efforts of the so-called "Moral Majority" to discredit this legislation based on the issues of government interference and religious liberty.

We urge you to please vote "YES" to override the President's unfortunate veto of S. 557.

Thank you very much for your action on this matter.

Sincerely,

JOSEPH R. HACALA, S.J.,
Director.

Presbyterian Church (U.S.A.),
Washington, DC.

Statement on the Civil Rights Restoration Act

The Presbyterian Church (U.S.A.) commends the U.S. Congress for its passage of the Civil Rights Restoration Act. The 197th General Assembly of the Presbyterian Church (U.S.A.) (1985) supported the act and urged the U.S. Congress to enact it without any weakening amendments. Progress reports were given to the 1986 and 1987 General Asssemblies.

The Civil Rights Restoration Act prohibits discrimination against women, minorities, the elderly and disabled persons. It permits these persons to seek redress in the same manner as before the Grove City decisions of 1984. This Act simply restores the original intent of Congress.

We urge the Congress to protect the rights of all Americans by overriding the President's veto of the Civil Rights Restoration Act.

Washington Office of the
Episcopal Church,
Washington, DC, March 18, 1988.

Dear Senator or Representative: The Most Reverend Edmond L. Browning, Presiding Bishop of the Episcopal Church, urges you to support an override of the President's veto of S557, the Civil Rights Restoration Act. This bill, originally passed by huge bipartisan majorities in both houses of Congress is viewed by us as well as a valuable guarantee of civil rights protections for all Americans.

Our Church has joined with all the major Christian denominations and representatives of the Jewish faith to support this civil rights legislation. By ensuring in law the rights of minorities, women, disabled persons, and the elderly we ensure the rights of all our citizens. Our traditions affirm that these rights follow from the God who created all humanity in his image, with the dignity and worth that is given to each person by God's own gift. Our nation is built on a vision of "liberty and justice for all." We applaud Members of both parties who have voted to articulate that vision more effectively in this law. We regret the misleading statements made by some in the religious community which lack a true understanding of this bill.

Please vote to override the President's veto of S557. It will be a vote for the American vision.

Yours sincerely,
Betty A. Coats, Ph.D.,
Father Robert J. Brooks,
The Presiding Bishop's Staff Officers.

National Council of the Churches of
Christ,
Washington, DC, March 18, 1988.

Statement of the Civil Rights Restoration Act

The passage of the Civil Rights Restoration Act by the U.S. Congress was one of the major legislative achievements of recent years. We are distressed that the President vetoed this important bill, and we urge the House and Senate to override his veto.

Enforcement of laws barring discrimination on the basis of race, sex, age and handicapping conditions has suffered severely since the Supreme Court rendered its decision in the case of *Grove City College* v. *Bell.* Before that time, several Acts of Congress had successfully begun to alleviate the inequality and injustice in our society which discrimination causes. The intent of Congress in passing the original civil rights bills must be reinforced by prompt enactment of the Civil Rights Restoration Act.

The retreat from our nation's commitment to equal treatment for all people embodied in the *Grove City* decision can be reversed. We call upon Congress to resist the scare tactics being employed by some opponents of this bill and to protect the rights of all Americans by overriding the President's veto of the Civil Rights Restoration Act.

Church of the Brethren,
Washington, DC, March 18, 1988.

Dear Member of Congress: The Church of the Brethren has given its full support to the Civil Rights Restoration Act. We were encouraged by the strong votes for its passage by both Houses of Congress.

Since the President has vetoed the bill, we now urge your support for an override of the veto.

There are many outrageously false charges being made about this bill. It seems strange that such irrational opposition would arise from simply restoring basic equity in spending federal tax dollars in a manner that was in place between 1964 and 1984 when the Supreme court issued its Grove City College decision. On the other hand, the years that brought the basic civil rights legislation also had those whose cries appealed to fears and prejudices and racial hatreds. There are those who are now telling our congregations that if this bill is not stopped, congregations will be forced to employ transvestites who are drug addicts infected with A.I.D.S.

As you know from the legislation itself, this is completely untrue.

What is at issue for us in this nation is the question of assuring basic civil rights for all persons—minorities, women, the disabled, and the elderly, in the expenditure of our federal tax monies. We believe that is justice and represents the most basic moral and traditional teachings of our church.

We urge your vote to override!

Sincerely yours.
Leland Wilson,
Director.

The United Methodist Church.

Statement on the Civil Rights Restoration Act

The United Methodist Church affirms all persons as equally valuable in the sight of God and works toward building a society in which each person's value is recognized, maintained and strengthened.

Therefore, the General Board of Church and Society of the United Methodist Church endorses the Civil Rights Restoration Act as passed by the Senate and House in 1988. We have worked, along with others, for its passage for four long years.

We deeply regret that President Reagan has so misunderstood the intent and substance of the bill that he has vetoed it.

We also deeply regret the misinformation that some church leaders, and especially the Reverend Jerry Falwell, have circulated about the Civil Rights Restoration Act. They are doing a disservice to both their congregations and the nation.

Under the Act, institutions that receive federal funds will be expected to act in an equitable way toward minorities, women, persons who are aging, and persons with handicapping conditions. This will restore the civil rights of millions of citizens that were lost in the Supreme Court's 1984 *Grove City* decision.

The Senate and House of the 100th Congress have overwhelmingly passed this important legislation and we urge them to act immediately to override the President's unwarranted veto.

Baptist Joint Committee
on Public Affairs,
Washington, DC.

Civil Rights Restoration Act of 1988

1. The Civil Rights Restoration Act applies *only* to organizations that receive federal funds, thus Baptist churches should not be affected.

2. The Civil Rights Restoration Act has nothing to do with gay rights.

3. For colleges and universities that receive direct or indirect federal funding such as student loans, etc., there is an exemption for entities "controlled by" a religious organization.

This exemption has been interpreted broadly to include institutions indirectly controlled by the church. Thus, separately incorporated Baptist colleges that have their trustees appointed or approved by the state convention have received exemptions. In fact, in the 16 years that the religious tenets exemption has been in existence, not a single religious institution has been denied an exemption.

Despite the favorable interpretation that has been given to this exemption, the BJCPA supported a broadening of the statutory language to include all institutions "closely identified with the tenets of a religious organization." The effect failed largely because no institution has yet been denied an exemption. If a legitimate request for an exemption is denied in the future, the BJCPA has laid the groundwork for corrective legislation.

4. Baptist hospitals will not be forced to perform abortions.

The Danforth Amendment (supported by the Christian Life Commission and the BJCPA) overrules the Title IX regulations that had placed abortion on an equal footing with other medical disabilities and, thus, guarantees that no institution will be forced to provide abortion-related services simply because it receives federal funding.

5. The Act will enable the victims of discrimination—blacks, the elderly, the handicapped, women—to seek redress in the same manner as before the *Grove City* decision of 1984.

Prior to *Grove City,* three presidential administrations (two Republican and one Democrat) had interpreted civil rights laws as applying to all the programs and activities of an institution that receives federal funding. The Civil Rights Restoration Act will restore that interpretation.

Quakers Urge Override of Civil Rights Veto

Joining with many other religious organizations in their support of the Civil Rights Restoration Act, the Friends Committee on National Legislation today urged members of Congress to vote for an override of the President's veto of the bill.

"This bill will make a critical difference to many minorities, women, and disabled and elderly people who have been awaiting its passage," according to Ruth Flower, a legislative secretary for the Quaker organization. "Enforcement of this country's major civil rights laws have been weakened in the aftermath of the Grove City decision," she explained, referring to the 1984 Supreme Court case which narrowed the federal government's civil rights enforcement authority. "Any person who support civil rights will look forward to the restoration of the enforcement powers that have traditionally supported these important laws."

"The Friends Committee is aware of apprehensions recently expressed within some religious networks that this civil rights legislation will somehow adversely affect religious freedoms guaranteed under the Constitution," Ms. Flower acknowledged. "But the bill does not change the rights guaranteed to any group or for any purpose under the Constitution and the law. The civil rights bill merely restores the enforcement powers that are associated with existing civil rights laws."

"There is no contest here between civil rights and religious freedom," Ms. Flower explained. "The strength of our religious freedom in this country is the very experience that teaches us the value of legal protection of civil and constitutional rights. We treasure that constitutional protection for the practice of religion, and we advocate full constitutional protection for the rights of minority groups and others in this country that might otherwise experience unfair discrimination."

The Friends Committee on National Legislation is a lobbying organization supported by 28 regional bodies of Friends (Quakers), which seeks to promote as broad agenda of peace and justice concerns shared by Quakers and like-minded persons.

CHURCH WOMEN UNITED APPALLED BY RIGHT WING ATTACKS ON CIVIL RIGHTS

Church Women United, a movement of over a half million members representing 28 Protestant, Catholic and orthodox denominations, is appalled by the recent attacks by the so-called Moral Majority on the Civil Rights Restoration Act.

The struggle for human rights throughout the world is a fundamental religious tenet held by most faiths. It is ironic that today we see vicious attacks against blacks in South Africa by a so-called 'Christian' government and killing of 'communists' in the name of 'Christianity' in Central America. In our own country, we are seeing the rise of right-wing so-called 'Christian' attacks on people of color, women, the elderly and the disabled by this outlandish propaganda against the Civil Rights Restoration Act.

Our country has come to a consensus that civil rights of all our people is morally right. We have placed in law the protection of racial minorities and all groups who historically have been discriminated against. The CRRA only calls to restore simple justice—not an expansion of any laws already existing in our country.

We are now wondering why the Moral Majority feels compelled at this time to use such totally slanderous attacks against civil rights?

We would like to ask Rev. Falwell what does the religion he preaches call him to do when his has borne false witness?

Is this Administration so weak in credability that they have called on the Moral Majority to fight their battle on civil rights since they know there own Republican party will support civil rights?

Those of us from the Christian tradition believe with the founders of our churches that we are neither Jew nor Gentile, slave nor free, male or female in the eyes of God.

"The fear campaign being waged against the Civil Rights Restoration Act by right wing groups is outrageous," said Sister Nancy Sylvester, IHM, the National Coordinator of NETWORK, a Catholic social justice lobby. "The current legislation, passed overwhelmingly by both Senate and the House, is long over due. What the legislation does is restore adequate protection of civil rights and is no cause of fear."

NETWORK, a nationwide membership organization, supports the Civil Rights Restoration Act as essential legislation to restore the protection of civil rights to minorities, women and the handicapped. This legislation was seriously threatened by the Grove City decision.

Sister Sylvester concluded: "NETWORK members should urge their Congresspersons to stand firm in the face of this initial scare campaign and vote to override the President's veto."

The President's veto of the Civil Rights Restoration Act (S. 557), on March 16, casts a dark cloud on our country's civil rights standards. Today, we call on all Members of Congress to exercise their wisdom and independence of mind by voting to override the veto.

The misinformation campaign being waged by the Moral Majority and other groups has done a serious disservice to sound and thoughtful consideration of this important piece of legislation. We urge Members of Congress not to succumb to the gross distortions being circulated, in an effort to sustain the veto.

S. 557 seeks to restore rights under Title VI, Title IX, Section 504 and the Age Discrimination Act. Charges that Congress by passing S. 557 is "destroying freedom of religion guaranteed in the First Amendment are inaccurate, misleading and must be discarded as false. The Civil Rights Restoration Act contains no threats to religious liberty. We must guard against the erosion of basic civil rights protection for disabled persons, the elderly, minorities and women which will happen if this measure fails to become the law of our land.

At this time the way to sustain our precious civil rights heritage is for both bodies of Congress to give a resounding yes to override the veto.

STATEMENT OF ELWYN EWALD, DIRECTOR, LUTHERAN OFFICE FOR GOVERNMENTAL AFFAIRS

There is no piece of legislation currently being considered by Congress that has had more scrutiny, or more detailed analysis than the Civil Rights Restoration Act. Within our own denomination units of the predecessor churches of the Evangelical Lutheran Church in America enthusiastically endorsed the Restoration Act as long ago as August, 1985 when the Council of College Presidents of the American Lutheran Church endorsed the bill, as well as the strong support expressed for the measure by the Lutheran Church in America's Division for Mission in North America Management Committee in June of 1986. These are now the operative statements for our office's support of this bill.

This legislation will strengthen the federal commitment to combat discrimination based on race, gender, age or disabling conditions. We believe the government has a fundamental duty to protect all people from such discrimination.

Rev. Jerry Falwell and the Moral Majority, we believe, are spreading hysteria on the basis of unfounded interpretations of this Act. He states that: "Your preaching and moral values would be dictated by the government with federal intervention if you didn't obey." We have heard comments on the radio and television from others who share his unfounded concerns that our churches and church schools will be forced to hire practicing gays and lesbians and persons who are sick with AIDS.

However, we know that neither Title IX nor any of the other statutes has ever been interpreted by the courts to provide protection on the basis of sexual preference and nothing in this Act changes this. Religious tenets determine this situation and the Act will continue to allow that. When nondiscrimination requirements are inconsistent with the religious tenets of a religious organization an exemption is available by within this measure.

Hysteria is easy to spread and very hard to refute. But that is what we must try to do between now and Tuesday, the day Congress considers an override of the President's ill-advised veto of this Act. Jerry Falwell warns in his mailings to Pastors of "the Civil Rights Sodom and Gomorrah Act." It is truly unfortunate that such nonsense is spread, and frankly insulting to the intelligence that it warrents a response by any of our religious organizations this afternoon.

If Jerry Falwell and the Moral Majority wish to degrade the hard work and bipartisan effort that went into passing this bill in both the House and the Senate, then let them. If that individual and his organization want to put the civil rights protections of millions of minorities, women, disabled and elderly at risk by this type of misinformation, then let him.

But those of us who stand before you today are unwavering in our support of this bill, and of its great need for our country today. We ask the 75 Senators and 315 Representatives who supported passage of this bill not to be fooled by opponents of civil rights who disguise their true intent in religious rhetoric.

The American Jewish Committee strongly supports the Civil Rights Restoration Act and commends Congress for restoring fundamental civil rights protections. This legislation simply restores to four major civil rights statutes the broad scope of coverage which existed before 1984 and the intent of the original sponsors of the Civil Rights Act of 1964.

We urge the House and Senate to swiftly override the Presidential veto, sending the message in the strongest possible terms that we as a nation support the cause of equal opportunity.

AJC is especially critical of the Moral Majority's distortions of this long overdue legislation. The Moral Majority's charges are not based on fact. Rather, they are an attempt to divide our Nation when we need, more than ever, to stand together and reaffirm our commitment to equal justice under the law. Rather than destroying the civil rights of millions of Americans, as the Moral Majority claims, the Civil Rights Restoration Act protects our rights. Congress should act swiftly and decisively.

MESSAGES FROM THE HOUSE

At 10:25 a.m., a message from the House of Representatives, announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 377. Joint resolution designating March 27, 1988, as "National Black American Inventors Day"; and

H.J. Res. 470. Joint resolution to designate March 29, 1988, as "Education Day, U.S.A.".

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 12:20 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolutions:

H.R. 3967. An act to amend the Department of Defense Authorization Act, 1985, to extend medical benefits for certain former spouses;

S.J. Res. 225. Joint resolution approving the location of the Korean War Memorial;

S.J. Res. 229. Joint resolution to designate the day of April 1, 1988, as "Run to Daylight Day";

S.J. Res. 244. Joint resolution to designate the month of April 1988, as "National Know Your Cholesterol Month";

S.J. Res. 253. Joint resolution designating April 9, 1988, as "National Former Prisoners of War Recognition Day"; and

S.J. Res. 265. Joint resolution to designate March 20, 1988, as "National Agriculture Day".

The enrolled bill and joint resolution were subsequently signed by the Deputy President pro tempore [Mr. MITCHELL].

MEASURES REFERRED

The following joint resolution was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 470. Joint resolution to designate March 29, 1988, as "Education Day, U.S.A."; to the Committee on the Judiciary.

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate announced that on today, March 21, 1988, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 225. Joint resolution approving the location of the Korean War Memorial;

S.J. Res. 229. Joint resolution to designate the day of April 1, 1988, as "Run to Daylight Day";

S.J. Res. 244. Joint resolution to designate the month of April 1988, as "National Know Your Cholesterol Month";

S.J. Res. 253. Joint resolution designating April 9, 1988, as "National Former Prisoners of War Recognition Day"; and

S.J. Res. 265. Joint resolution to designate March 20, 1988 as "National Agriculture Day".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2810. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on Wastes From the Combustion of Coal by Electric Utility Power Plants; to the Committee on Environment and Public Works.

EC-2811. A communication from the Secretary of the U.S. Senate, forwarding, pursuant to law, the third and final report of the National Council on Public Works entitled "Fragile Foundations: A Report on America's Public Works" dated February 1988; to the Committee on Environment and Public Works.

EC-2812. A communication from the Deputy Assistant Secretary of Defense (Systems), transmitting, pursuant to law, a report on the Department of Defense Environmental Restoration Program for fiscal year 1987; to the Committee on Energy and Natural Resources.

EC-2813. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the 1988 Social Security Annual Report; to the Committee on Finance.

EC-2814. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Transborder Trucking Study"; to the Committee on Finance.

EC-2815. A communication from the Acting Director of the U.S. Arms Control and Disarmament Agency, transmitting, pursuant to law, a report entitled "INF Treaty Verification: Our Ability to Assess Compliance Under a Double Global Zero"; to the Committee on Foreign Relations.

EC-2816. A communication from the Under Secretary of Defense (Acquisition), transmitting, pursuant to law, a report on the Environmental Assessment for the Proposed Elimination of Intermediate-Range and Shorter-Range Missiles Pursuant to the INF Treaty; to the Committee on Foreign Relations.

EC-2817. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to waive Foreign Military Sales surcharges on sales to the NATO Maintenance and Supply Organization (NAMSO)—a NATO Subsidiary Body—in support of Weapon System Partnerships and NATO/SHAPE projects; to the Committee on Foreign Relations.

EC-2818. A communication from the President of the Overseas Private Investment Corporation, transmitting, pursuant to law, a Development Report of the Overseas Private Investment Corporation for Fiscal Year 1987; to the Committee on Foreign Relations.

EC-2819. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend sections 5544 and 5546 of title 5, United States Code, relating to Sunday premium pay for Civil Service employees, to accommodate schedules in foreign areas where Sunday is a routine workday and another day of the week is officially recognized as the day of worship; to the Committee on Governmental Affairs.

EC-2820. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the annual report on competition advocacy for calendar year 1987; to the Committee on Governmental Affairs.

EC-2821. A communication from the Assistant Secretary of Transportation (Administration), transmitting, pursuant to law, a report on alterations to a Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2822. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, the annual report on competition advocacy for calendar year 1987; to the Committee on Governmental Affairs.

EC-2823. A communication from the Director of the Office of Personnel Management transmitting a draft of proposed legislation to amend title 5, United States Code, to provide a system of performance-based pay increases for the General Schedule work force, and for other purposes; to the Committee on Governmental Affairs.

EC-2824. A communication from the Special Counsel of the Merit Systems Protection Board, transmitting, pursuant to law, a report on an investigation into allegations of violations of law and regulation, abuse of authority, and creating a substantial and specific danger to public health and safety by officials of EPA Region V, Chicago, Illinois; to the Committee on Governmental Affairs.

EC-2825. A communication from the Executive Assistant to the Personnel Appeals Board, transmitting, pursuant to law, the annual report of the Board for fiscal year 1987; to the Committee on Governmental Affairs.

EC-2826. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Board's annual report covering the implementation of its administrative responsibilities under the Sunshine Act; to the Committee on Governmental Affairs.

EC-2827. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-146, adopted by the Council on February 16, 1988; to the Committee on Governmental Affairs.

EC-2828. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-147, adopted by the Council on February 16, 1988; to the Committee on Governmental Affairs.

EC-2829. A communication from the Executive Secretary, Federal Deposit Insurance Corporation, transmitting, pursuant to law, a report on the Corporation's proposed changes to its system of records; to the Committee on Governmental Affairs.

EC-2830. A communication from the Executive Secretary, Federal Deposit Insurance Corporation, transmitting, pursuant to law, a report on changes to three existing FDIC Privacy Act systems of records; to the Committee on Governmental Affairs.

EC-2831. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report of the Department under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2832. A communication from the Director of the Federal Judicial Center, transmitting, pursuant to law, the annual report of the Federal Judicial Center for 1987; to the Committee on the Judiciary.

EC-2833. A communication from the Chairman of the Council on Environmental Quality, transmitting, pursuant to law, the annual report of the Council under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2834. A communication from the Archivist of the United States, transmitting, pursuant to law, the annual report of the National Archives and Records Administration under the Freedom of information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2835. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2836. A communication from the Assistant Secretary of Energy (Management and Administration), transmitting, pursuant to law, the annual report of the Department under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2837. A communication from the National President and the National Executive Director of the Girl Scouts, transmitting, pursuant to law, the 38th annual report of the Girl Scouts of the United States of America; to the Committee on the Judiciary.

EC-2838. A communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2839. A communication from the Administrator of the Task Force on Environmental Cancer and Heart and Lung Disease, transmitting, pursuant to law, the ninth annual report of the Task Force; to the Committee on Labor and Human Resources.

EC-2840. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for removal of Architectural Barriers to the Handicapped Program; to the Committee on Labor and Human Resources.

EC-2841. A communication from the Secretary of Education, transmitting a draft of proposed legislation to terminate the perpetual trust fund for the American Printing House for the Blind, and for other purposes; to the Committee on Labor and Human Resources.

EC-2842. A communication from the Chief of Staff of the Department of Health and Human Services, transmitting, pursuant to law, notification of progress being made to implement timely submission of reports to Congress and the status of certain reports; to the Committee on Labor and Human Resources.

EC-2843. A communication from the Acting Director of Central Intelligence, transmitting a draft of proposed legislation to authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Cental Intelligence Agency Retirement and Disability System, and for other purposes; to the Select Committee on Intelligence.

EC-2844. A communication from the administrator of Veterans' Affairs and the Secretary of Defense, transmitting jointly, pursuant to law, a report on the sharing of medical resources between the two agencies; to the Committee on Veterans' Affairs.

EC-2845. A communication from the Deputy Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Consolidated Farm and Rural Development Act relating to county committee approvals and appraisal of collateral; to the Committee on Agriculture, Nutrition and Forestry.

EC-2846. A communication from the Assistant Secretary of the Army (Installations and Logistics), transmitting, pursuant to law, a report on the conversion of the industrial operations at Fort Leonard Wood, MO, to performance by contract; to the Committee on Armed Services.

EC-2847. A communication from the Assistant Secretary of the Army (Financial Management), transmitting, pursuant to law, a report on the value of property, supplies, and commodities provided by the Berlin Magistrate for the quarter October 1 through December 31, 1987; to the Committee on Armed Services.

EC-2848. A communication from the Assistant Secretary of the Army (Installations and Logistics), transmitting, pursuant to law, a report on the conversion of the Directorate of Engineering and Housing at Fort Leonard Wood, MO, to performance by contract; to the Committee on Armed Services.

EC-2849. A communication from the Assistant Secretary of the Army (Installations and Logistics), transmitting, pursuant to law, a report on the conversion of the Directorate of Logistics at Fort Sill, OK, to performance by contract; to the Committee on Armed Services.

EC-2850. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the Panama Canal Treaties for the period October 1, 1986 through September 30, 1987; to the Committee on Armed Services.

EC-2851. A communication from the Secretary of the Air Force, transmitting, pursuant to law, a report on the use of certain technology transfer funds; to the Committee on Commerce, Science, and Transportation.

EC-2852. A communication from the Acting General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2853. A communication from the Administrator of General Services, transmitting, pursuant to law, two proposed lease prospectuses; to the Committee on Environment and Public Works.

EC-2854. A communication from the Commissioner of the Public Buildings Service, General Services Administration, transmitting, pursuant to law, a report on the progress of a study to evaluate the possible acquisition of certain land; to the Committee on Environment and Public Works.

EC-2855. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on applicable percentage increases for the prospective payment system; to the Committee on Finance.

EC-2856. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the medical and vocational aspects of disability under titles II and XVI of the Social Security Act; to the Committee on Finance.

EC-2857. A communication from the President of the United States, transmitting, pursuant to law, a report on the activities of countries within the United Nations and its specialized agencies; to the Committee on Foreign Relations.

EC-2858. A communication from the Chairman of the Council on Environmental Quality, transmitting, pursuant to law, the annual report of the Council on the Government in the Sunshine Act for calendar year 1987; to the Committee on Governmental Affairs.

EC-2859. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports issued by the General Accounting Office during February 1988; to the Committee on Governmental Affairs.

EC-2860. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "LaSalle Housing Project"; to the Committee on Governmental Affairs.

EC-2861. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report and recommendation concerning a claim for a Survivor Benefit Plan annuity; to the Committee on the Judiciary.

EC-2862. A communication from the Attorney General of the United States, transmitting, pursuant to law, the annual report on the Department of Justice Assets Forfeiture Fund for fiscal year 1987; to the Committee on the Judiciary.

EC-2863. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, the annual report of the Office and reports of the proceedings of the Judicial Conference of the United States during 1987; to the Committee on the Judiciary.

EC-2864. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, the annual report of the Board for fiscal year 1986; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-422. A concurrent resolution adopted by the Legislature of the State of Indiana; to the Committee on Armed Services.

HOUSE CONCURRENT RESOLUTION NO. 22

"Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

"SECTION 1. That we urge Congress and the United States Department of Defense to refrain from incinerating or otherwise disposing of nerve gas or other lethal chemical agents within Indiana.

"SECTION 2. That the Secretary of the House is requested to transmit copies of this Resolution to the leadership of both houses of Congress, to the United States Secretary of Defense, and to the members of the Congress of the United States from Indiana."

POM-423. A resolution adopted by the Nineteenth Guam Legislature; to the Committee on Energy and Natural Resources:

RESOLUTION NO. 250

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, the late Honorable Tomas Ramirez Santos was born on March 7, 1909 to his parents Francisco Borja Santos and Delores Borja Ramirez Santos and was called to his eternal rest on Tuesday, January 12, 1988; and

"Whereas, Tomas R. Santos earned for himself the respect and admiration of all for his deep convictions and dedication to issues of vital significance to the people of Guam; and

"Whereas, the Honorable Tomas R. Santos, always active in projects for the welfare of the people of Guam, started his distinguished career with the Boy Scouts of America, and through his efforts, made possible the shipment and construction of the Statue of Liberty, situated at the Agana Harbor; and

"Whereas, former Senator Tomas R. Santos was known for his untiring dedication to the sport of baseball, and other sports related activities including tennis; and

"Whereas, aside from a busy community schedule, Tomas R. Santos, served the people of Guam well and faithfully during his tenure as a member of the Eighth and Eleventh Guam Legislatures, serving with Senators Carlos G. Camacho, Kurt S. Moylan, Ricardo J. Bordallo, Paul M. Calvo and Joseph F. Ada, who subsequently became elected Governors and Lieutenant Governors of Guam, and who actively solicited his advice during their tenure as elected leaders of the territory; and

"Whereas, former Senator Santos had been an educator as a coach, teacher, and principal and was also Chairman of the Committee on Education and Labor in the Eighth Guam Legislature; and

"Whereas, former Senator Santos was a strong proponent of Guam's quest for political maturity, and served as the President of the Statehood for Guam Movement; and

"Whereas, the late Senator Santos will be remembered for his unfaltering efforts to improve the Republican Party of Guam's standing with the National Republican Party and its leadership, and during his tenure as State Party Chairman, sojourned to Washington, D.C. to meet with various GOP Officials to convey Guam's message and support on party issues; and

"Whereas, in recognition of his abilities and service to his island and to his country, the Guam National Guard named the late Honorable Tomas R. Santos as Honorary Brigadier General on July 21, 1981; and

"Whereas, former Senator Santos was the first Guamanian to be appointed to the position of first Postmaster of Guam, from 1947 to 1962, and was appointed by President Harry S. Truman and confirmed by the U.S. Congress; and

"Whereas, Senator Santos was the first Guamanian Exalted Ruler of the Agana, Guam Lodge No. 1281 with the U.S. Benevolent and Protective Order of ELKS; and

"Whereas, his community involvement included member of Board of Directors of Rotary Club of Guam, Guam Chamber of Commerce, Guam Chaper of American Red Cross; Territorial Board of Education, Young Men's League of Guam, and the Knights of Columbus; and

"Whereas, he was council member for the Retired Senior Volunteer Program and Project Director for the Servicio Para I Manamko from 1972-1981; and

"Whereas, the Honorable Tomas R. Santos spent the best years of his life in the service of the people of Guam, sacrificing his special personal interests for the more pressing needs of his constituents; and

"Whereas, the loss of Guam Senator and Statesman Tomas Ramirez Santos is indeed a tragic loss to the community and the people of the territory of Guam, which will be sorely felt; now therefore be it

RESOLVED, That the Nineteenth Guam Legislature, on behalf of the people of Guam, extend sincere condolences to the family of the late Honorable Tomas Ramirez Santos, and to all the family, friends and associates of the late Senator and Statesman; and be it further

RESOLVED, That the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the family of the late Honorable Tomas R. Santos; to the State Party Chairman of the Republican Party of Guam; to the National Republican Party Chairperson; to the President and Vice-President of the United States; to Guam Delegate to Congress; to the Lieutenant Governor, and to the Governor of Guam."

POM-424. A resolution adopted by the Nineteenth Guam Legislature; to the Committee on Energy and Natural Resources:

"RESOLUTION No. 122

"Be it Resolved by the Legislature of the Territory of Guam:

"Whereas, on Monday, May 11, 1987, Senator Hirosi Ismael of Kosrae was elected by his colleagues to serve as the third Vice President of the Federated States of Micronesia, succeeding the Honorable Bailey Olter; and

"Whereas, the Honorable Hirosi Ismael served as a member of the Federated States of Micronesia National Congress, and also served as Chairman of the Committee on Judiciary and Government Operations until 1983; and

"Whereas, the Honorable Hirosi Ismael was born on November 30, 1936, in Kosrae, and attended and graduated from the Fiji Medical School and completed post-graduate surgical studies in New Zealand; and

"Whereas, the Honorable Hirosi Ismael was elected to the Kosrae State Constitutional Convention and served as Convention President in 1983, as a member of the Congress of Micronesia and Chairman of the Committee on Government Functions, as a member of the Micronesian Constitutional Convention in 1975, as special assistant to the Governor of Kosrae and medical officer for the Kosrae State Hospital, as Chairman of the Kosrae Political Status Commission to create a separate Trust Territory District from Pohnpei; now, therefore be it

"Resolved, That the members of the Nineteenth Guam Legislature, on behalf of the people of Guam, commend and congratulate the Honorable Hirosi Ismael on his election as the third Vice President of the Federated States of Micronesia; and be it further

"Resolved, That the members of the Nineteenth Guam Legislature extend to the Honorable Hirosi Ismael and his wife, Mitchigo S. Skilling Ismael of Kosrae and their five children the continued support and cooperation of the Guam Legislature on matters of regional concern; and be it further

"Resolved, That the members of the Nineteenth Guam Legislature wish that the administration of President John R. Haglelgam and Vice President Hirosi Ismael proceed to serve all citizens and preserve national unity, the Federated States of Micronesia being one nation and people; and be it further

"Resolved, That the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Honorable Hirosi Ismael, Vice President of the Federated States of Micronesia, and his wife Mitchigo S. Skilling Ismael; to the Honorable John R. Haglelgam, President of the Federated States of Micronesia; to the Honorable Jack Fritz, Speaker, Federated States of Micronesia; to the Honorable Jack Fritz, Speaker, Federated States of Micronesia National Congress; to the Honorable Ronald Reagan, President, United States of America; to the Senate President and Speaker of the House of Representatives of the United States Congress; to Guam's Delegate to Congress, the Honorable Ben G. Blaz; to the Lieutenant Governor and to the Governor of Guam.

POM-425. A resolution adopted by the Nineteenth Guam Legislature; to the Committee on Energy and Natural Resources:

"RESOLUTION No. 119

"Be it Resolved by the Legislature of the Territory of Guam:

"Whereas, with the implementation of the Federated States of Micronesia's constitutional government in May, 1979, Tosiwo Nakayama was unanimously elected by his colleagues to serve as the Federated States of Micronesia's first President; and

"Whereas, prior to serving as President of the Federated States of Micronesia, the Honorable Tosiwo Nakayama served the people of Micronesia in numerous positions, from: Senate President of the Congress of Micronesia since its inception until the implementation of the FSM Constitutional Government; President of the Micronesian Constitutional Convention; Chairman of the Federated States of Micronesia Delegation to the United Nations for Micronesian War Claims; and other numerous positions; and

"Whereas, on November 3, 1986, the Honorable Tosiwo Nakayama presided over the implementation of the Compact of Free Association for the Federated States of Micronesia which ended the United States administration of the Trust Territory of the Pacific Islands; and

"Whereas, in recent months, the Honorable Tosiwo Nakayama led the Federated States of Micronesia Delegation to meet with members of the Republic of China to foster and enhance the future economic development and relationship between the Republic of China and the Federated States of Micronesia; and

"Whereas, during his tenure as President, the Honorable Tosiwo Nakayama held that the interest of the people of the Federated States of Micronesia came first and foremost, without regard for state of partisan politics; and

"Whereas, through the able leadership of President Tosiwo Nakayama, the people of the Federated States of Micronesia attained independence in a peaceful manner, an effort which took sixteen (16) years of negotiations; the leadership style of President Nakayama of the Federated States of Micronesia gained respect from among other Pacific Island leaders, emerging nations and the rest of the world; now, therefore, be it

"Resolved, That the members of the Nineteenth Guam Legislature, on behalf of the people of the territory of Guam, recognizing the numerous contributions of President Tosiwo Nakayama, commend and congratulate him for his outstanding service to the people of Micronesia; and be it further

"Resolved, That the members of the Nineteenth Guam Legislature, on behalf of the people of the territory of Guam, extend to President and Mrs. Tosiwo Nakayama sincere best wishes on their retirement from public office and new venture in private life; and be it further

"Resolved, That the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Honorable Tosiwo Nakayama; to the President and Vice President of the Federated States of Micronesia; to the Speaker of the Federated States of Micronesia National Congress; to the President of the United States of America; to the Senate President and Speaker of

the House of Representatives of the United States Congress; to Congressman Ben G. Blaz; and to the Lieutenant Governor and Governor of Guam."

POM-426. A resolution adopted by the Nineteenth Guam Legislature; to the Committee on Energy and Natural Resources:

Resolution No. 259

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, it has recently come to the attention of the legislature of the U.S. territory of Guam that Mr. Francisco J. Cruz, 67, of Asan village, performed an extraordinary act of courage and heroism during the landing of American liberation forces on Guam on July 22, 1944, the significance, magnitude and effect of which up until the present time has never beeen fully revealed by Mr. Cruz and could not, therefore, be fully appreciated by the people of Guam, the U.S. Armed Forces and the American people as a whole; and

"Whereas, Mr. Francisco J. Cruz worked for a rock processing company as a dynamiter at an Asan rock quarry before the Japanese occupation; and

"Whereas, Mr. Cruz was forewarned by his company foreman of an impending invasion of Guam by the Japanese Imperial Forces shortly after the attack on Pearl Harbor, Hawaii, on December 7, 1941; and

"Whereas, upon being advised by his foreman to hide the company's stockpile of approximately 700 sticks of dynamite, Mr. Cruz did so to prevent the explosives from falling into enemy hands and kept their location secret for over two and one-half years; and

"Whereas, a sympathetic Saipanese Chamorro, Mr. Alberto Tenorio, working on Guam as a Japanese interpreter, informed Mr. Cruz of the expected imminent landing of American liberation forces on Guam and of the existence of machine gun bunkers in the hills of Asan that would surely inflict heavy losses of American lives upon their landing; and

"Whereas, the day after the landing of American forces on Guam, the Third U.S. Marine Division, which landed on Asan and began its advance up the hillside, encountered a heavily fortified enemy and experienced such heavy losses from Japanese firepower that their advance was halted for an indeterminate period of time; and

"Whereas, Mr. Francisco J. Cruz, who was nearby at his Asan property hideout approximately 100 yards away from the scene of celebrating Japanese soldiers who believed they'd repulsed the Americans, observed that the number of enemy celebrants was about 700 to 800 Japanese, many of whom were intoxicated, leaving only one sentry to guard ten machine gun bunkers; and

"Whereas, Mr. Cruz, who had earlier witnessed the heavy casualties experienced by the Third Marine Division, seized this opportunity to deal the Japanese a smashing blow by using the stockpile of dynamite he had hidden before the Japaneses occupation; and

"Whereas, Mr. Cruz overpowered and killed the lone Japanese sentry and then disguised himself as a Japanese soldier by donning the dead soldier's uniform; and

"Whereas, Mr. Cruz then proceeded to plant dynamite charges at each of the ten enemy machine gun bunkers and at the underground cave headquarters adjacent to the celebration site, at a great personal risk to himself; and

"Whereas, within a couple of hours after planting his explosive charges, the Third Marine Division resumed its advance, causing the Japanese to cut short their celebration and to return to their positions in the cave and bunkers; and

"Whereas, after the Japanese returned to their positions, Mr. Cruz set off the explosive charges at each of the locations, effectively annihilating the enemy and its fortified positions, thus saving hundreds of American and Chamorro lives from either death or injury which could have been inflicted on them by this size of force, its superior positon and firepower; and

"Whereas, throughout the "mop-up" operations of the American liberation forces, Mr. Cruz continued to assist in finding and eliminating resisting Japanese forces, especially as a member of the Guam Combat Patrol which was formed in November, 1944; and

"Whereas, although Mr. Cruz was decorated with a Bronze Star Medal for his service as member of the Guam Combat Patrol from then Secretary of the Navy James Forrestal, Mr. Cruz was never decorated for this specific and isolated act of gallantry, which although in great fear for his life, he acted unselfishly above and beyond the call of duty so that many lives would be saved from his heroic action; and

"Whereas, perhaps due to shock at the unbelievable number of enemy he destroyed at once as well as his Catholic belief in the sanctity of life, albeit enemy life, and his personal inner reluctance to accept sole responsibility for such a high number of human lives lost at his hands, Mr. Cruz had kept the truth of this brief battle episode secret from the general public, except for Admiral Chester W. Nimitz and a few close relatives and friends; and

"Whereas, although Mr. Cruz was verbally promised the Medal of Honor by Admiral Nimitz for his heroic feat, it is unknown at this time why such an award was never carried out; and

"Whereas, the people of Guam now knowing with pride the unselfish contribution of Mr. Cruz during World War II which played a significant part in reducing the number of American and Chamorro lives lost during the liberation of Guam; now, therefore, be it

"Resolved, That the people of Guam extend their sincerest gratitude to Mr. Francisco J. Cruz for his devotion to duty through his act of valor in destroying such a large number of enemy soldiers during the World War II liberation of Guam and to further honor and commend him for such an extraordinary act of gallantry for his island and his country by nominating him for inclusion into Guam's Guma Onra; and be it further

"Resolved, That the legislature request the assistance of the Governor of Guam and the Guam's Washington delegate to follow up in attempting to have Mr. Cruz nominated for the Congressional Medal of Honor or Medal of Freedom, whichever is appropriate, after 43 years; and be it further

"Resolved, That the legislature contact the appropriate agency of the federal government about the possibility of excavating the site of the bunkers and cave to retrieve the remains of Japanese war dead for a proper burial ceremony by the government of Japan as an act of goodwill, friendship and cooperation between the two governments; and be it further

"Resolved, That the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to Mr. Francisco J. Cruz in an appropriate ceremony to be determined by the Speaker; to the President of the United States; to the President of the U.S. Senate; to the Speaker of the U.S. House of Representatives; to the Secretary of Defense; to the Secretary of the Navy; to the Guam Veteran organizations; to the Washington Delegate from Guam; and to the Governor of Guam."

POM-427. A resolution adopted by the general Assembly of the State of New Jersey; to the Committee on Environment and Public Works:

"Assembly Resolution No. 21

"*An Assembly resolution* memorializing the United States Environmental Protection Agency, the Food and Drug Administration, the Consumer Products Safety Commission, the National Academy of Sciences, the United Nations Environment Programme, the National Oceanic and Atmospheric Administration, the Council of the European Economic Community, the World Meteorological Organization, the United States Department of Transportation, and the National Aeronautics and Space Administration to take concerted, deliberate and effective action to forestall depletion of the ozone layer.

"Whereas, The ozone layer of the upper stratosphere serves to shield the earth from harmful solar radiation; and

"Whereas, A tenfold increase in the amount of ultraviolet radiation capable of harming human skin, causing crop damage, changing weather patterns, killing larvae of seafood species, destroying microorganisms at the base of marine food chains, and adversely affecting the body's immune system has been recorded reaching the earth; and

"Whereas, Uncertainties in the field of stratospheric chemistry have generated delays in the implementation of programs designed to reduce the levels of chemicals released to the earth's atmoshere which adversely affect the ozone layer; and

"Whereas, The effects of these compounds upon stratospheric ozone transcend national boundaries and the participants in the Vienna Convention for the Protection of the Ozone Layer failed to agree on any appropriate global control measures; and

"Whereas, The Current "wait and see" approach which has characterized the scientific, economic, and political communities with respect to the depletion of the ozone layer may alter the current ecological balance of the planet: Now therefore, be it

"Resolved *by the General Assembly of the State of New Jersey:*

"1. The United States Environmental Protection Agency, the Food and Drug Administration, the Consumer Products Safety Commission, the National Academy of Sciences, the United Nations Environment Programme, the National Oceanic and Atmospheric Administration, the Council of the European Economic Community, the World Meteorological Organization, the United States Department of Transportation, and the National Aeronautics and Space Administration are respectfully memorialized to take concerted, deliberate and effective action to forestall depletion of the ozone layer.

"2. Duly authenticated copies of this resolution, signed by the Speaker and attested by the Clerk, shall be transmitted to the Vice-President of the United States, the Speaker of the United States House of Representatives, the Administrator of the United States Environmental Protection Agency, the Commissioner of the Food and Drug Administration, the Executive Director of the United Nations Environment Programme, the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the National Aeronautics and Space Administration, the Secretary of the United States Department of Transportation, the Acting Chairperson of the Consumer Products Safety Commission, the President of the National Academy of Sciences, the Delegation Head of the Council of the European Economic Community, and the Director of the World Meteorological Organization, and to each of the members of Congress elected from this State.

"STATEMENT

"This resolution memorializes a wide range of national and international organizations to coordinate efforts to forestall depletion of the ozone layer.

"ENVIRONMENT—AIR AND WATER POLLUTION

"Proposes concerted effort to forestall ozone depletion."

POM-428. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Finance:

"RESOLUTION

"Joint resolution memorializing the President of the United States and the Congress of the United States to urge the retention of mortgage revenue bonds as a financial mechanism authorized by the Federal Tax Code to assist in addressing the critical problem of affordable single-family housing.

"We, your Memorialists, the Senate and House of Representatives of the State of Maine in the Second Regular Session of the 113th Legislature, now assembled, most respectfully present and petition the President of the United States and the members of Congress from the several states as follows:

"Whereas, current federal law provides for the elimination of the tax-exempt status for revenue bonds sold by states to provide affordable mortgage capital to first-time home buyers; and

"Whereas, the availability of mortgage revenue bonds is a critical element in the State of Maine's ability to address a continuing problem of lack of affordable mortgage capital for Maine's working families; and

"Whereas, since the sale of its first mortgage revenue bond in 1972, the State of Maine has been able to provide the dream of homeownership to over 16,500 Maine families because of the availability of mortgage revenue bonds; and

"Whereas, the Maine housing market faces a critical problem of increasing disparity between income and home costs, making the necessary monthly payments on a home too high for thousands of Maine families to afford at conventional interest rates; and

"Whereas, the availability of affordable housing is recognized as a critical element in the continued economic health and social strength of the State of Maine; and

"Whereas, the State of Maine has a longstanding financial and programmatic commitment to the provision of affordable housing; and

"Whereas, the availability of mortgage revenue bonds is essential if Maine working families are to be able to afford to purchase a home of their own and the State of Maine remain able to meet its commitment to assist its people in attaining the dream of homeownership: Now, therefore, be it

"*Resolved,* That We, your Memorialists, respectfully urge that legislation introduced into the House of Representatives and Senate of the United States Congress be enacted forthwith to extend for at least another 5 years, the availability of single-family mortgage revenue bonds; and be it further

"*Resolved,* That the Main Legislature respectfully requests that the Representatives of the several states in Congress of the United States and the President of the United States act to make sure that no interruption in the availability of single-family mortgage revenue bonds will occur; and be it further

"*Resolved,* That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable Ronald W. Reagan, President of the United States; to the Honorable George Bush, President of the Senate; to the Honorable James Wright, Speaker of the House of Representatives; and to each member of the Maine Congressional Delegation."

POM-429. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Finance:

"Memorializing the Congress of the United States concerning the imposition of additional welfare requirements upon State governments.

"Whereas, The state government in the United States have repeatedly demonstrated a willingness and ability to initiate welfare reform to provide for the needs of their citizens; and

"Whereas, The process whereby some federal requirements may be waived had allowed state government to create innovative solutions for the reduction of dependency upon welfare; and

"Whereas, It is essential that state governments be given flexibility in order to provide services and hold down welfare program costs and establish accountability procedures for those programs; and

"Whereas, No less than five departments of the federal government have programs designed to encourage welfare applicants and recipients to seek and obtain gainful employment; and

"Whereas, The barriers created by federal requirements which prevent the combining or merging of resources and procedures need to be removed so that state and local governments may have a better-managed welfare system and improve the delivery of services to needy citizens; now, therefore,

"*Be it resolved by the Senate of the Fifty-sixth General Assembly of the State of Colorado, the House of Representatives concurring herein:*

"That the Congress of the United States is hereby memorialized not to impose any additional requirements upon state governments in passing and implementing welfare reform legislation and to allow state governments more flexibility to increase job opportunities and basic skills training programs for welfare applicants and recipients by expanding the waiver process and by reducing mandates.

"*Be it further resolved,* That copies of this Memorial be sent to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of Congress from the State of Colorado."

POM-430. A resolution adopted by the Senate of the State of Michigan; to the Committee on Finance:

SENATE RESOLUTION No. 391.

A resolution to memorialize the Congress of the United States to extend Mortgage Revenue Bonds for housing beyond December 31, 1988.

Whereas, For several years the Michigan State Housing Development Authority (MSHDA) and similar agencies all across the country have been utilizing Mortgage Revenue Bonds (MRBs) to offer low-cost loans for home mortgages and home improvements. Loan money made possible through these bonds has been targeted to assist people of low and modest incomes. Through MSHDA's programs, the money from these bonds has also helped revitalize neighborhoods; and

Whereas, As a provision of the 1986 federal Tax Reform Act, however, Mortgage Revenue Bonds cannot be used for housing after December 31, 1988. This sunset date threatens a uniquely successful public-private vehicle that has encouraged construction and provided highly productive economic activity in communities throughout Michigan; and

Whereas, Mortgage Revenue Bonds have financed homes in every county in Michigan, helping thousands of families realize the dream of home ownership. Of the 24,200 homes for families with average incomes below $22,000 provided through Mortgage Revenue Bonds, ninety percent represented the purchase of a first home. There can be little doubt that the lower interest rates and down payments of mortgages financed through Mortgage Revenue Bonds have enabled a great number of people to purchase a home who would otherwise be unable to become homeowners; and

Whereas, There are two bills presently before Congress (S. 1522 and H.R. 2640) that would extend Mortgage Revenue Bonds until 1992. Given the effectiveness of the programs using these bonds to finance housing, it would seem wise to enact such legislation in order to continue a concept that has clearly worked well: Now, therefore, be it

"*Resolved by the Senate,* That we hereby memorialize the Congress of the United States to enact appropriate legislation to extend the sunset date of Mortgage Revenue Bonds to permit their use for housing beyond December 31, 1988, and until 1992; and be it further

"*Resolved,* That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation."

POM-431. A resolution adopted by the House of Representatives of the State of Arizona; to the Committee on Foreign Relations:

"HOUSE RESOLUTION 2003

"A resolution urging the United States Government to use its powers to precipitate a withdrawal of Soviet and Cuban Military forces from Angola and to encourage peace and national reconciliation in Angola.

"Whereas, the people of Angola have suffered under colonial domination for centuries; and

"Whereas, the Portuguese promise of independence and free elections for Angola embodied in the Alvor Accord of 1975 was nullified when the Marxist Popular Movement for the Liberation of Angola illegally and militarily seized power with the support of Soviet Union and Cuban troops; and

"Whereas, that Marxist regime has continually denied the most basic human rights to the people of Angola since 1975, culminating in one of the worst human rights records reported by the United States Department of State, as described in the report entitled "Country Reports on Human Rights Practices for 1986"; and

"Whereas, the Marxist regime in Angola has allowed the country of Angola to become a Soviet base for aggression and subversion in Southern Africa, including the expansion of a Soviet naval port, the presence of thirty-five thousand Cuban troops and the influx of four billion dollars in Soviet weaponry; and

"Whereas, the naval port facilities in Angola pose serious potential threats to United States naval interests in the Atlantic and around the Cape of Good Hope; and

"Whereas, the Soviets and Cubans have engaged in the most blatant foreign intervention in the post-colonial history of Africa, and the Marxist Popular Movement for the Liberation of Angola is hostage to these foreign forces as evidenced by the fact that the Marxist Popular Movement for the Liberation of Angola had the worst anti-United States voting record in the United Nations last year; and

"Whereas, in March 1987, in an effort to hasten peace and national reconcilation, Dr. Jonas Savimbi, President of the National Union for the Total Independence of Angola, offered to reopen the Benguela Railway, which provides a key transportation link for neighboring Southern African countries; and

"Whereas, in response to this diplomatic gesture the Marxist Popular Movement for the Liberation of Angola on May 14, 1987 began a major military offensive to wipe out all forms of democratic resistance; and

"Whereas, on May 21, 1987 the United States Senate, in a vote of ninety-four to zero, condemned the Soviet-Cuban aggression in Angola and the severe human rights violations by the Marxist Popular Movement for the Liberation of Angola regime; and

"Whereas, the State of Arizona has an obligation to encourage peace, freedom and democracy and to condemn tyranny where it may exist: Now, therefore, be it

"Resolved by the House of Representatives of the State of Arizona:

"1. That the Members of the House of Representatives respectfully urge the United States to use its diplomatic, economic and military powers to precipitate a withdrawal of Soviet and Cuban military forces from Angola and to encourage peace and national reconciliation in Angola through a negotiated settlement to the military conflict and through the holding of free and fair elections.

"2. That the Secretary of State of the State of Arizona transmit a copy of this Resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of the Arizona Congressional Delegation."

POM-432. A resolution adopted by the House of Representatives of the State of New Mexico; to the Committee on the Judiciary:

"SENATE MEMORIAL 23

"A memorial requesting the United States Congress to adopt a constitutional Amendment requiring a balanced Federal budget.

"Whereas, the annual federal budget deficit has been in excess of one hundred billion dollars for several years and the total national debt is now in excess of two trillion dollars; and

"Whereas, this continuing deficit is already beginning to weaken the United States economy domestically and the nation's position internationally as evidenced by the declining dollar and fluctuating interest rates; and

"Whereas, despite efforts such as the Gramm-Rudman-Hollings deficit reduction legislation, the United States congress struggles to reach dubious compromise budget deficit agreements of one hundred fifty billion dollars each year; and

"Whereas, the best alternative to controlling the federal deficit and to bring stability to the national economy and international financial markets is by having the United States Congress enact a constitutional amendment requiring a balanced federal budget; and

"Whereas, thirty-two of the constitutionally required thirty-four states have now requested a constitutional convention to mandate a balanced budget amendment: Now, therefore, be it

Resolved by the Senate of the State of New Mexico, That the United States Congress is requested to pass a constitutional amendment requiring a balanced federal budget so as to stabilize the national and international economies and to assure the citizens of the country that federal deficit spending will stop; and

Be it further resolved, That copies of this memorial be transmitted to the Congressional Delegation of New Mexico, the Speaker of the United States House of Representatives and the President Pro Tempore of the Senate of the United States."

POM-433. A resolution adopted by the House of Representatives of the State of Arizona; to the Committee on the Judiciary:

"HOUSE RESOLUTION 2004

"A resolution designating the month of February as Immigration Awareness Month the urging the Congress of the United States to extend the Federal Legalization Program for Immigrants.

"Whereas, United States citizenship is valued by many and a significant segment of our community aspire to gain that status; and

"Whereas, the United States Immigration Reform and Control Act was enacted in part to allow many qualified undocumented residents to acquire temporary status as a prelude to United States citizenship; and

"Whereas, many individuals and families who qualify for the benefits of the United States Immigration Reform and Control Act have been hesitant to apply because of the fear of apprehension and deportation; and

"Whereas, February, 1988 marks the beginning of the final quarter of the legalization program and potential applicants have only until May 4, 1988 to file; Now, therefore, be it resolved by the House of Representatives of the State of Arizona:

"1. That the month of February has been designated as Immigration Awareness Month to support the intent of the Congress of the United States to offer full benefits to all eligible immigrants.

"2. That all Arizonans are urged to support this effort by encouraging qualified immigrants to participate in the legalization process.

"3. That the Congress of the United States is urged to extend the May 4, 1988 legalization deadline for one year to allow as many eligible persons to apply as possible, in keeping with the original Congressional intent.

"4. That the Secretary of State of the State of Arizona transmit certified copies of this Resolution to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.".

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SIMON (for himself, Mr. CRANSTON, Mr. HATCH, Mr. DECONCINI, Mr. BENTSEN, Mr. KENNEDY, Mr. MOYNIHAN, Mr. CHAFEE, Mr. BRADLEY, Mr. WIRTH, Mr. MCCAIN, Mr. DIXON, Mr. GRAHAM, Mr. DOLE, Mr. DOMENICI, Mr. WILSON, Mr. CHILES, Mr. BINGAMAN, Mr. DODD, and Mr. LAUTENBERG):

S. 2200. A bill to amend Public Law 90-498 to provide for the designation of National Hispanic Heritage Month; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself, Mr. HATCH, Mr. LEAHY, Mr. HEFLIN, Mr. SIMPSON, and Mr. GRASSLEY):

S. 2201. A bill to make certain record rental provisions in title 17, United States Code, the Copyright Act, permanent; to the Committee on the Judiciary.

By Mr. WALLOP (for himself, Mr. HATCH, Mr. SIMPSON, Mr. MCCLURE, and Mr. SYMMS):

S. 2202. A bill to amend section 3 of the Act of June 14, 1926, as amended (43 U.S.C. 869-2), to authorize the issuance of patents with a limited reverter provision for lands devoted to solid waste disposal, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ADAMS:

S.J. Res. 277. A joint resolution to express the sense of the Congress on the need to establish effective management of fishing in the international waters of the Bering Sea; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MURKOWSKI:

S. Res. 397. A resolution expressing the sense of the Senate that unregulated fisheries in the international waters of the Bering Sea must be halted pending the completion of a comprehensive international agreement providing for appropriate and necessary fisheries research, management and enforcement efforts; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMON (for himself, Mr. CRANSTON, Mr. HATCH, Mr. DECONCINI, Mr. BENTSEN, Mr. KENNEDY, Mr. MOYNIHAN, Mr. CHAFEE, Mr. BRADLEY, Mr. WIRTH, Mr. MCCAIN, Mr. DIXON, Mr. GRAHAM, Mr. DOLE, Mr. DOMENICI, Mr. WILSON, Mr. CHILES, Mr. BINGAMAN, Mr. DODD, and Mr. LAUTENBERG):

S. 2200. A bill to amend Public Law 90-498 to provide for the designation of National Hispanic Heritage Month; to the Committee on the Judiciary.

NATIONAL HISPANIC HERITAGE MONTH

● Mr. SIMON. Mr. President, today I am proud to introduce legislation amending Public Law 90-498 to establish Hispanic Heritage Month. Twenty years ago, Congress passed and President Johnson signed into law legislation creating Hispanic Heritage Week. I believe the time has come for 1 month, rather than a week, to be set aside to celebrate and acknowledge the numerous contributions this growing and diverse population makes to American society.

Hispanic influence in our country dates back almost five centuries. Many of our great States were originally settled by the Spanish or were once under Mexican rule. For example, prior to the Jamestown colony, northern New Mexico was settled by Gov. Juan de Onate in the 1500's. The oldest city in the continental United States, St. Augustine, FL, was settled by Spaniards. The oldest capital city under the U.S. flag, San Juan, Puerto Rico, was founded in 1521. The year 1776 was not only the year of American independence, it was also the year of the founding of the city of San Francisco. Many parts of our country today continue to be proud of their Hispanic origins and tradition, preserving Spanish names for their cities, towns, and streets.

It is important that the Nation be educated and made aware of the richness and the significance of the contributions of Hispanics to our society. Hispanics are not just a significant part of our Nation's origins. They are essential to our future. For example, in foreign service and trade, we can do more to fully utilize the Spanish language capabilities of bilingual Hispanics.

The world has always admired this country for its ability to accommodate individuals with different backgrounds. Most of us can trace our families back to other countries. It is time to celebrate the contributions Hispanics make to our country's history and rich, multifaceted culture.●

● Mr. CHAFEE. Mr. President, I am pleased to join with my distinguished colleague Senator SIMON in introducing a bill to designate September 15 through October 15 of each year as "National Hispanic Heritage Month."

The Hispanic population in the United States is made up of almost 20 million people, and that number is growing. Hispanic achievements in every discipline contribute to America's greatness, and the richness of Hispanic culture has become an integral part of American life. Hispanic heritage is American heritage. It is fitting at this juncture to set aside time for all Americans to increase their understanding and appreciation of Hispanic culture and achievement in this country.

For me, this is an especially important undertaking. In my capacity as chairman of the Republican Conference, I joined a few months ago in the formation of a Republican Task Force on Hispanic Affairs, which is chaired by the Senator from Utah. The purpose of this task force is to evaluate and respond to the concerns of the Hispanic community. The task force aims to help Hispanic-Americans make their voices heard by giving them access to policymakers at the national level. Its mission is to assess Hispanic needs in areas such as education, employment, health care, and economic development and to recommend future policy initiatives to Congress and the executive branch.

Our work will be much facilitated by a national focus on the Hispanic-American community and its importance to our social fabric. Increased awareness and appreciation of the Hispanic community and its contributions will lead to increased consideration of Hispanic needs when Federal policy is developed.

I commend the Senator from Illinois for seeking to set aside a month each year for the recognition of our Hispanic heritage, and hope the Senate will waste no time in taking up this worthy legislation.●

By Mr. DECONCINI (for himself, Mr. HATCH, Mr. LEAHY, Mr. HEFLIN, Mr. SIMPSON, and Mr. GRASSLEY):

S. 2201. A bill to make certain record rental provisions in title 17, United States Code, the Copyright Act, permanent; to the Committee on the Judiciary.

RECORD RENTAL ACT

● Mr. DECONCINI. Mr. President, in 1984, the Congress enacted legislation to strengthen our copyright laws by preventing stores from renting records that could be copied. The legislation has insured record merchants, record companies, and artists of compensation for their labors.

This legislation, the record rental amendment, was for an initial 5-year period.

Before this legislation was enacted, the practice of record rental threatened to grow into a massive problem for the American music industry. A number of stores were beginning to rent an album for a small fee and, in addition, selling blank tape on which to copy the album at home. The album would then be returned to the store to be rented and copied again. Record rentals encouraged the unauthorized duplication of a copyrighted product.

When a record was rented, the earnings generated went only to rental shop operators and those who manufactured blank tapes. Rental shops fed off the talent and investment of others, jeopardizing jobs, careers, and music itself. Revenue was thus denied to the legitimate retail distributor and manufacturer who lost opportunities for additional sales as a result of this unfair competition. Consumers were also adversely affected by paying higher record prices, as compensation for those who rented and then taped. Those who rented and taped were causing those who bought their albums to pay more for them.

The record rental amendment expires in 1989. In order to avoid the pressure of an imminent expiration date, I believe this body should acknowledge the threat that record renting poses by giving prompt consideration to the renewal of this legislation. Without this legislation, record rental stores would again spring up, virtually overnight, I suspect. We can be forewarned of the impact of record rental outlets by sobering data from the retail record business in other countries. Surveys in Japan have shown that 97.4 percent of the Japanese rental outlet users admitted that they taped the albums they rented. Not surprisingly, record sales by retail stores located in the vicinity of rental outlets had fallen by 30 percent. These figures are a clear omen of what could happen in the United States if the legislation is not reenacted.

Permanent authorization of the Record Rental Amendment of 1984 will continue to protect legitimate record retailers from the unfair competition represented by record rental stores; and will ensure that creators and copyright owners will be compensated for the commercial exploitation of their creative property. It would prohibit commercial record rentals unless authorized by the copyright owners of the sound records. The law applies only to commercial rentals and provides for the exemption of nonprofit libraries and educational uses.

I am pleased that my distinguished colleague from Utah, Senator HATCH, the ranking member on the Subcommittee on Patents, Copyrights and Trademarks, is joining me in sponsoring this legislation. Also joining us as cosponsors are Senators LEAHY, HEFLIN, SIMPSON, and GRASSLEY.

The 1984 Record Rental Amendment has worked well. There is no indication that it has caused any problems for legitimate record stores or to any other segment of the music industry. I believe it is time for Congress to make this important protection permanent.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(c) of the Record Rental Amendment of 1984 (98 Stat. 1727; 17 U.S.C. 109 note) is repealed.●

By Mr. WALLOP (for himself, Mr. HATCH, Mr. SIMPSON, Mr. MCCLURE, and Mr. SYMMS):

S. 2202. A bill to amend section 3 of the Act of June 14, 1926, as amended (43 U.S.C. 869-2), to authorize the issuance of patents with a limited reverter provision for lands devoted to solid waste disposal, and for other purposes; to the Committee on Energy and Natural Resources.

RECREATION AND PUBLIC PURPOSES AMENDMENT ACT

● Mr. WALLOP. Mr. President, I am introducing legislation today that will help resolve solid waste disposal problems in the Western States. The bill would authorize the Secretary of the Interior to issue certain patents without the usual reverter provision required by section 3 of the act of June 14, 1926, (43 U.S.C. 869-2), commonly known as the Recreation and Public Purposes [R&PP] Act. This authorization to issue patents with a limited reverter would expressly apply to lands that will be used for the purposes of solid waste disposal or lands which will be used for purposes that may result in the release of hazardous substances.

Moreover, in situations where patents have been issued with the usual reverter provision, the Secretary of the Interior would be authorized to release that reverter, without payment of compensation therefor, where lands have been used for solid waste disposal or other purposes which could result in the release of hazardous substances. Such release could only be issued on application of, or with the consent of, the holder of the patent.

Finally, where lands which have been leased pursuant to the R&PP Act have been used for solid waste disposal or for activities which could result in the release of hazardous substances, the Secretary of the Interior would be authorized to issue a patent for such lands without compensation and without any reverter provisions.

Many western communities are completely landlocked by public lands and are therefore dependent on the public lands for functions such as waste disposal. Many of those communities do not have a strong economic base and cannot afford to pay fair market value for public lands in order to provide necessary accommodations and services to their residents. Congress recognized this in enacting the R&PP Act which provides for conveyance of lands for public purposes to State and local governments for less than fair market value.

However, the R&PP Act provides for the possibility of reversion whenever a land patent specifies the uses to which the land may be put. Reversion occurs when the land is used without the consent of the Secretary for a purpose not specified in the patent. All patents issued pursuant to the R&PP Act must contain a clause which retains the reversionary interest in the Government. The residual reversionary clause may impose enormous potential hazardous waste liability on the Bureau of Land Management [BLM] under other statutes.

Under the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901-6987), and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601-9656), the BLM becomes coliable with the local government for expenses involved in the cleanup of hazardous materials resulting from the use of lands as a sanitary landfill. The BLM's liability stems from the residual Federal interest arising from the law and the reversionary clause in patents.

Mr. President, I believe it is appropriate to exempt from the usual reverter provisions of the R&PP Act conveyances of areas that are subject to the Solid Waste Disposal Act, as amended, the Resource Conservation and Recovery Act, as amended, and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 in order to allow local authorities to manage waste sites in their jurisdictions and allow the Environmental Protection Agency and State agencies that have expertise in this matter to supervise these operations.

Maintenance of local waste disposal sites is more properly a function of State and local government and the Environmental Protection Agency. They are the entities that have the staffs with the necessary expertise to handle waste sites that may contain hazardous materials. Moreover, conveying the lands to a local community without a reverter provision allows that community to take primacy. Finally, because of the risk of liability, BLM may be forced to engage in the day-to-day management of landfill sites to protect itself. The BLM presently has very limited capability for handling hazardous wastes. Gearing up its organization to take on that responsibility would be duplicative of functions already performed by other agencies and would be uneconomic and wasteful.

Another provision of the bill would authorize the Secretary of the Interior to issue a document releasing, without payment of compensation therefor, the reverter provision contained in any existing patent for lands for solid waste disposal or for lands used for purposes which may result in the release of hazardous substances, if the Secretary finds that action to be in the public interest. This could be accomplished only on application by the patentee or on the Secretary's motion with the consent of the patentee, so that legal requirements for modification of an agreement would be met.

There are local waste disposal sites which have been patented in the past to State or local governments where title should remain permanently with the patentee for the same reasons that new patents for solid waste disposal sites should remain with those patentees. In these situations there is no longer a need for the reverter, and the public interest would be better served if the patentee had unlimited title to the property. This bill would allow the Secretary to recognize those situations and act accordingly.

Moreover, the bill would also authorize the Secretary of the Interior, at the request of a lessee of lands used for solid waste disposal or for purposes which may result in the release of hazardous wastes, to patent those lands to the lessee without payment of any compensation therefor and without a reverter provision. Issuance of the patent would remove the lands from the reversionary provisions of the R&PP Act.

Finally, the bill contains a provision making clear that nothing in this proposal is intended to affect the applicability of the Comprehensive Environmental Response, Compensation and Liability Act and Resource Conservation and Recovery Act.

I believe that this bill is the best alternative available to assure that much-needed landfill sites are available to small communities and that these communities are given primary responsibility for their operation and maintenance. I also believe that bill gives the Secretary essential authority to remove reverter clauses in patents for lands for solid waste disposal, which no longer serve a public purpose, and for the same reason to convert to patents leases on sanitary landfill sites.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2202

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That this Act may be cited as the "Recreation and Public Purposes Amendment Act of 1987."

SEC. 2. Section 3 of the Act of June 14, 1926, as amended (43 U.S.C. 869-2), is redesignated as subsection 3(a) and new subsections (b), (c) and (d) are added to the section to read as follows:

"(b) Notwithstanding the provisions of subsection (a) of this section, the Secretary is authorized under this Act to convey title with a limited reverter provision to lands to be used for the express purpose of solid waste disposal or to lands to be used for purposes which the Secretary finds may include, or result in the release of, hazardous substances. Such limited reverted provision shall provide that the reverter provisions of subsection (a) of this section shall be effective only if the lands are not used for the stated purposes within 5 years of the date of conveyance of title by the Secretary. Pricing for conveyances of land for purposes identified in this subsection shall be in accordance with the provisions of section 2 of this Act except that no compensation shall be required for the inclusion of only a limited reverter in the patent. Said document shall also include a provision that the lands shall not under any circumstances revert to the United States by operation of law if the lands are used for solid waste disposal or for purposes which the Secretary finds may include or result in the release of hazardous substances. For purposes of this section the term 'hazardous substances' is defined in the same terms as it is defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.)

(c) With regard to patents for lands for solid waste disposal or for purposes which may result in the release of hazardous substances issued pursuant to this Act, the Secretary is authorized, on application of a holder of such a patent or on his own motion with the concurrence of a person authorized to act on behalf of a holder of such a patent, to issue a document releasing the reverter provision contained in such patent, without payment of any compensation therefor, on a finding that those lands have been or are being used for solid waste disposal or for purposes which may result in the release of hazardous substances. A release issued pursuant to this authority shall provide that the lands covered by the patent shall not under any circumstances thereafter revert to the United States by operation of law. On issuance of a document releasing a reverter provision, the lands shall cease to be subject to the provisions of subsection 3(a) of this section.

(d) With regard to lands leased pursuant to this act for solid waste disposal or for purposes which may result in the release of hazardous substances, the Secretary is authorized, on application of the lessee, to issue a patent for such lands to the lessee without payment of any compensation therefor, on finding that the lands have been or are being used for solid waste disposal or for purposes which may result in the release of hazardous substances. Notwithstanding the provisions of subsection (a) of this section, patents issued pursuant to this subsection shall not contain a reverter provision and the lands so patented shall not under any circumstances thereafter revert to the United States by operation of law. On issuance of the patent the lands shall crease to be subject to the provisions of subsection (a) of this section.".

SEC. 3. Nothing in this Act shall be construed to affect the applicability and operation of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.), as amended, and the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), as amended.●

By Mr. ADAMS:

S.J. Res. 277. Joint resolution to express the sense of the Congress on the need to establish effective management of fishing in the international waters of the Bering Sea; to the Committee on Foreign Relations.

MANAGEMENT OF FISHING IN THE INTERNATIONAL WATERS OF THE BERING SEA

● Mr. ADAMS. Mr. President, I rise to introduce a joint resolution expressing the sense of the Congress on unregulated fishing in the Bering Sea. The Senate today earlier passed a joint resolution on this same issue sponsored by Senator STEVENS. I supported that joint resolution, but also indicated that I was concerned about its international legal implications, and intended to introduce an alternative which presented the administration with actions that could be realistically carried out in the near future. I do not believe this joint resolution is inconsistent with the statement the Senate has already made on this subject by passing Senator STEVEN's joint resolution. Indeed, it draws inspiration from both the Stevens resolution and another resolution introduced on this issue by Senator MURKOWSKI. Instead, I believe my joint resolution complements this earlier action by suggesting additional options that the administration can use to resolve this issue.

The fishery resource within the Bering Sea is one of the largest and most productive mixed stock fishery resources in the world. Because of the international jurisdictional configuration of the Bering Sea, management of this resource presents a major challenge. The perimeter of the Bering Sea is entirely within the exclusive economic zones of either the United States or the Soviet Union, but within the interior of the Bering Sea is an area of international waters commonly known as the Doughnut Hole.

Unfortunately fish resources rarely respect international boundary lines as drawn on a map. In a Senate Commerce Committee meeting I chaired last week on this issue, we heard Dr. William Aron, head of the Northwest Alaska Fisheries Science Center in Seattle which does the scientific research on the Bering Sea for the National Marine Fisheries Service, hypothesize that with one exception in Soviet waters, the pollack in the Bering Sea constitute one large, interrelated stock. In addition, other fish species such as salmon regularly cross international boundaries as part of their migratory patterns.

If fish don't know what lines on a map mean, people do. In the last several years, fishing in the Doughnut region has increased from a reported level of 15,000 metric tons of pollack harvested in 1980 to 1 million metric tons of pollack harvested in 1986. This increase has been largely caused by the success of our national policy in Americanizing exploitation of fishery resources within our exclusive economic zone. Accelerated American participation in the North Pacific fishery has meant less fish for foreign fishermen, and they have looked elsewhere.

Clearly, this increased level of effort in the Doughnut region has a probable impact on pollack stocks located in both the United States and Soviet exclusive economic zones. In addition, there is almost certainly a bycatch of U.S. origin salmon involved in the Doughnut fishery. Unless efforts are made to establish an effective management regime in the Doughnut, and for the Bering Sea fishery resource as a whole, both this invaluable resource and the thriving industry involved in its harvest are at serious risk.

The Doughnut region also causes particular problems for U.S. enforcement efforts inside our own exclusive economic zone. Many experienced American fishermen feel that the waters in the Doughnut region cannot support the level of effort claimed by foreign fishermen. They feel instead that foreign fishermen use the Doughnut region as a staging ground for illegal fishing forays into U.S. waters. These concerns were given new credibility early this year when a private U.S. industry group videotaped several foreign vessels fishing illegally in U.S. waters near the Doughnut region. United States fishermen have responded to this incident by calling for improved enforcement efforts in our own waters, and establishment of effective management and conservation measures in the Doughnut region. In response to their concerns, I called for, and chaired hearings by the Senate Commerce Committee on this issue.

At these hearings, we heard many suggestions on how to address this problem. Development of solutions, however, is complicated by the nature of international law. The basic authority for international ocean law is the Convention of the Law of the Sea. The United States did not sign this treaty, but recognizes it as customary international law as regards fisheries and navigation issues. Customary international law is, to a large extent, based on what nations do, and what other nations let them them get away with doing. Because current law on this subject so deeply respects traditional rights of navigation such as the right of innocent passage, and these rights are so important to our national security interests as they affect the rights of our Navy at sea; our Government has been traditionally very cautious about asserting rights that could be imitated to our detriment in other parts of the world.

Therefore, development of methods of establishing management over the fishery resources in the Doughnut region must take into account the sensitivities of our Government on issues affecting navigation in the high seas. The resolution I am introducing today does just that. It requests that our Government take actions that are either consistent with interpretations of international law generally accepted around the world, or based on existing national legal authority.

First, the joint resolution encourages the President to continue existing bilateral discussions with the Soviets on our mutual interests in the Doughnut region. The resolution further encourages the swift development of mutual management and conservation goals, and immediate implementation of those goals as is consistent with recognized principles of international law.

Much attention and hope has been focused on these bilateral negotiations as the source of a possible solution to the problems in the Doughnut. I would like to caution everyone against putting all of our eggs in a Soviet basket. Any change for the worse in our overall relationship with the Soviets, and joint efforts such as this tend to slip into a cold war freeze until overall relationships thaw again. Development of mutual goals for the Doughnut with the Soviets is a positive step, but it should not be our only one.

This joint resolution, therefore, additionally requests that the President ask all nations with fishing vessels operating in the Bering Sea to immediately enter into meaningful and good faith multilateral negotiations regarding development of an international multilateral management regime of the fishery resource within the Doughnut region. This negotiating process should take into consideration the interests of the coastal States, both in terms of mutually developed management goals, and in terms of the interests of coastal State fishermen in extending their harvest into the Doughnut region. It should conversely also consider the interests of fishing States in maintaining their historical level of effort in these waters.

The joint resolution also asks the President to ask all of these nations to also agree to provide an appropriate international organization with accurate and timely information about level of effort in the Bering Sea, and to agree to share scientific data on the nature of the fish resource in the Bering Sea.

Finally, the joint resolution asks the President to exercise existing authority under the Magnuson Act, and ask that all nations that have entered into current Governing International Fishery Agreements with the United States install and maintain in working order appropriate position-fixing identification equipment on all of their fishing boats within U.S. waters or within the Doughnut region. Assertion of the right to require transponders on vessels in the Doughnut is based on the fact that all GIFA's recognize sole U.S. jurisdiction over high-seas salmon of U.S. origin, which are known to migrate through the Doughnut region.

This would serve two purposes. First, it would help us deal with the enforcement problems caused by the proximity of the Doughnut region to some our richest areas. The information gained from transponders would help us more effectively target our enforcement resources. Second, it would send a signal that the United States, while respectful of the limits placed by international law on its ability to impact activities in the Doughnut, intends to utilize all available legal authority in a an effort to address this issue.

Mr. President, I believe this joint resolution presents the administration with a number of things that it can do now to address the Doughnut issue. I believe these proposals are based on accepted interpretations of international law, or on existing national law; and therefore do not represent acts which would set unfortunate precedents in terms of customary international law. Finally, to restate my earlier remarks, this joint resolution is in no way inconsistent with the joint resolution passed earlier today. That joint resolution, which I supported, was a shot across the bows, a statement that the United States intends to protect its interests in the Doughnut region. This joint resolution tells the administration that it already has some of the tools necessary to do the job.●

ADDITIONAL COSPONSORS

S. 533

At the request of Mr. THURMOND, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 542

At the request of Mr. ARMSTRONG, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of S. 542, a bill to recognize the organization known as the "Retired Enlisted Association, Incorporated."

S. 618

At the request of Mr. DURENBERGER, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 618, a bill to amend title XVIII of the Social Security Act to provide coverage under part B of Medicare for therapeutic shoes furnished to individuals with severe diabetic foot disease.

S. 703

At the request of Mr. SPECTER, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 703, a bill to amend title 18, United States Code, including the Child Protection Act, to create remedies for children and other victims of pornography, and for other purposes.

S. 756

At the request of Mr. LAUTENBERG, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 756, a bill to ensure the amounts paid for home improvements to mitigate indoor air contaminants such as radon gas qualify for the tax deduction for medical care expenses.

S. 1081

At the request of Mr. BINGAMAN, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1081, a bill to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the U.S. population and the nutritional quality of the U.S. food supply, with provision for the conduct of scientific research and development in support of such program and plan.

S. 1346

At the request of Mr. MATSUNAGA, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1346, a bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1518

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of S. 1518, a bill to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes.

S. 1673

At the request of Mr. CHAFEE, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1673, a bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes.

S. 1761

At the request of Mr. DURENBERGER, the name of the Senator from Indiana [Mr. QUAYLE] was added as a cosponsor of S. 1761, a bill to amend the Internal Revenue Code of 1986 to provide that a decedent's spouse may enter into a cash lease of farm and other real property with family members and still qualify for the special estate tax valuation of the property.

S. 1776

At the request of Mr. ARMSTRONG, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from South Carolina [Mr. THURMOND], the Senator from Missouri [Mr. DANFORTH], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of S. 1776, a bill to modernize U.S. circulating coin designs, of which one reverse will have a theme of the bicentennial of the Constitution.

S. 1777

At the request of Mr. ARMSTRONG, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1777, a bill to amend title II of the Social Security Act to phase out the earnings test over a 5-year period for individuals who have attained retirement age, and for other purposes.

S. 1825

At the request of Mr. EVANS, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1825, a bill to amend the Internal Revenue Code of 1986 to retain a capital gains tax differential, and for other purposes.

S. 2003

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 2003, a bill to amend the Internal Revenue Code of 1986 to exempt from tax diesel fuel used for farming purposes.

S. 2013

At the request of Mr. SHELBY, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2013, a bill to prevent distortions in the reapportionment of the House of Representatives caused by the use of census population figures which include illegal aliens.

S. 2116

At the request of Mr. KARNES, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 2116, a bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of certain farm and firefighting vehicles.

S. 2120

At the request of Mr. MATSUNAGA, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2120, to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay, without deduction from either.

S. 2123

At the request of Mr. KENNEDY, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2123, a bill to provide hunger relief, and for other purposes.

S. 2129

At the request of Mr. BAUCUS, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 2129, a bill to amend the Internal Revenue Code of 1986 to repeal the application of the uniform capitalization rules with respect to animals produced in a farming business.

S. 2176

At the request of Mr. DIXON, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Ohio [Mr. GLENN], the Senator from Montana [Mr. MELCHER], the Senator from Tennessee [Mr. SASSER], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of S. 2176, a bill to amend the Internal Revenue Code of 1986 to permit the tax-free purchase of motor fuels by individuals who are exempt from paying the motor fuels excise tax, and for other purposes.

SENATE JOINT RESOLUTION 180

At the request of Mr. PRESSLER, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 180, a joint resolution designating the honeybee as the national insect.

SENATE JOINT RESOLUTION 266

At the request of Mr. SYMMS, the names of the Senator from Missouri [Mr. BOND], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Indiana [Mr. LUGAR], the Senator from Connecticut [Mr. DODD], the Senator from Florida [Mr. CHILES], and the Senator from Utah [Mr. GARN] were added as cosponsors of Senate Joint Resolution 266, a joint resolution to designate the week beginning June 12, 1988, as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 272

At the request of Mr. DURENBERGER, the names of the Senator from Ohio [Mr. GLENN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from California [Mr. WILSON], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of Senate Joint Resolution 272, a bill to designate November 1988, as "National Diabetes Month."

SENATE JOINT RESOLUTION 274

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Joint Resolution 274, a joint resolution to prohibit the introduction of U.S. combat troops into Honduras or Nicaragua.

SENATE CONCURRENT RESOLUTION 16

At the request of Mr. QUAYLE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Concurrent Resolution 16, a concurrent resolution establishing procedure for expedited consideration by the Congress of certain bills and joint reolutions submitted by the President.

SENATE RESOLUTION 389

At the request of Mr. LAUTENBERG, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of Senate Resolution 389, a resolution to express the sense of the Senate regarding future funding of the Construction Grants Program of the Clean Water Act.

SENATE RESOLUTION 397—RELATING TO UNREGULATED FISHING OF INTERNATIONAL WATERS OF THE BERING SEA

Mr. MURKOWSKI submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 397

Whereas the Bering Sea contains fisheries resources considered to represent the single largest and most productive concentration of mixed species in the world;

Whereas the perimeter of the Bering Sea consists entirely of waters within the exclusive economic zones of either the United States or the Soviet Union, wherein fisheries harvests are regulated to provide for appropriate levels of fishing consistent with good conservation practices;

Whereas the central Bering Sea contains an area of international waters generally known as the "Doughnut Hole," which is subject to unregulated and largely unmonitored fishing by a variety of nations;

Whereas the precise extent and composition of the resources of the Doughnut Hole are unknown, but are believed by most scientists to include salmon, herring and Alaska pollock, and other species either originating in or closely linked to populations observed within the exclusive economic zones of the United States or the Soviet Union;

Whereas the only species historically fished in the Doughnut Hole are salmon, which are anadromous species solely under the jurisdiction of their country of origin;

Whereas harvests for Alaska pollock were only recently established but have increased dramatically over a very short period of time, from approximately 15,000 metric tons in 1980 to approximately one million metric tons in 1986;

Whereas the types of fishing gear in use in the Doughnut Hole take a variety of species in addition to those targeted by the fishing vessel;

Whereas fishing activity in the Doughnut Hole may affect stocks under the jurisdiciton and management of the United States or the Soviet Union, or both;

Whereas discussions between the United States and the Soviet Union are being initiated for the purpose of conferring on mutual concerns involving fisheries in the Doughnut Hole;

Whereas the continuation of unregulated fishing in the Doughnut Hole may pose a serious threat to the stability of the fishery resources of the Bering Sea, and could cause a disastrous decline in globally important fish populations;

Whereas there is evidence that the Doughnut Hole is being used as a staging area and refuge for vessels fishing in defiance of United States law and international principles on stocks within the United States exclusive economic zone;

Whereas principles of international law obligate fishing nations to cooperate with coastal nations on conservation measures undertaken to protect the rights of coastal nations with regard to stocks which may be affected by fishing activities in international waters;

Whereas nations having fishing fleets operating in the Doughnut Hole have repeatedly failed to respond to requests for accurate and complete data on fishing effort and harvest levels for both targeted and incidentally caught species, and other information critical to the conservation of the fishery resources of the Bering Sea;

Whereas these fishing nations have failed to implement enforcement measures adequate to ensure that vessels operated by their nationals are in compliance with international fishery agreements with those nations;

Whereas there is a need to develop effective fishery research, management, and enforcement measures to guide and regulate fisheries in the Doughnut Hole;

Whereas action must immediately be taken to prevent unregulated fishing activity from jeopardizing the continued health of Bering Sea fishery resources in the absence of such measures:

Now, therefore, be it

Resolved, it is the sense of the Senate that: (1) unregulated fisheries in the international waters of the Bering Sea should be halted pending the completion of a comprehensive international agreement providing for appropriate and necessary fisheries research, management and enforcement efforts;

(2) the President should seek the immediate consent of all nations having fishing fleets operating in the Bering Sea to—

(a) cease all fisheries in the international waters of the Bering Sea beginning on June 1, 1988, and extending until such time as a comprehensive agreement has been reached among the interested coastal and fishing nations;

(b) allow any nation observing the moratorium to enforce the moratorium with respect to fishing vessels operating under its own flag or the flag of any other nation;

(3) it is appropriate to proceed with scheduled discussions with the Soviet Union on the Doughnut Hole issue in consideration of mutual concerns for the welfare of continental shelf and anadromous resources affected by fisheries occurring in the international waters of the Bering Sea;

(4) in the event any nation having a fishing fleet operating in the Bering Sea fails to agree to the conditions set out under Sec. 2 (a) and (b) of this resolution, the President should then seek the concurrence of the Soviet Union to a bilateral agreement providing for—

(a) the declaration of an immediate moratorium on all fishing in the international waters of the Bering Sea until such time as agreement has been reached among interested coastal and fishing nations on research, management and enforcement regimes sufficient to ensure the continued well-being and productivity of Bering Sea resources;

(b) such joint and separate measures as may be necessary to ensure the effectiveness of the agreement in the event fishing vessels of any nation are found to be fishing in the international waters of the Bering Sea after the bilateral agreement becomes effective; and

(c) recognition that such action is undertaken solely for the purpose of conservation of the resources of the Bering Sea, and has no effect on any other issue regarding the rights of nations on the high seas;

(5) immediately upon the cessation of fishing in the international waters of the Bering Sea under Sec. (2) or (4) of this resolution, the Secretary of State should request interested nations to participate in multilateral negotiations for the purpose of developing an agreement providing for research, management and enforcement measures necessary to allow fisheries in those waters to resume in a manner consistent with the conservation and continued productivity of the affected fishery and other resources;

(6) the Secretary of State, in cooperation with the heads of other concerned agencies of the United States, should develop and present to Congress no later than June 1, 1988, a plan providing for effective fisheries enforcement in the Bering Sea, the elements of which may include, but are not limited to—

(a) port-call check-in and check-out requirements for all foreign vessels entering the U.S. exclusive economic zone for any fishery-related purpose;

(b) bonding requirements for nations and/or companies with fishery vessels operating in the Bering Sea;

(c) transponder requirements for vessels entering the U.S. exclusive economic zone for any fishery related purpose;

(d) accelerated deployment of advanced vessel detection systems such as long-range surface-search radars.

AMENDMENTS SUBMITTED

TREATY BETWEEN THE UNITED STATES AND THE SOVIET UNION ON ELIMINATION OF INTERMEDIATE AND SHORTER-RANGE MISSILES

DECONCINI (AND OTHERS) EXECUTIVE AMENDMENT NO. 1680

(Ordered referred to the Committee on Foreign Relations.)

Mr. DECONCINI (for himself, Mr. LAUTENBERG, Mr. GRASSLEY, Mr. D'AMATO Mr. SYMMS, and Mr. WALLOP) submitted an amendment intended to be proposed by them to Treaty Doc. 100-11, Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-Range and Shorter-Range Missiles; as follows:

Before the period at the end of the resolution of ratification, insert a comma and the following: "subject to the following declaration and understandings, which the President shall communicate to the Union of Soviet Socialist Republics, in connection with the exchange of the instruments of ratification of the Treaty:

"(1) the declaration that the Senate strongly believes that respect for human rights and fundamental freedoms is an essential factor to ensure the development of friendly relations and cooperation between the United States and the Soviet Union and calls upon the President to use every opportunity to stress the inherent link between respect for human rights and the achievement of lasting peace;

"(2) the understanding that the President will require sustained and demonstrable progress by the Soviet Union in its implementation of the provisions of—

"(A) the Final Act of the Conference on Security and Cooperation in Europe (hereafter referred to as the 'Helsinki Final Act'),

"(B) the Madrid Concluding Document of the Conference on Security and Cooperation in Europe, done September 9, 1983 (hereafter referred to as the 'Madrid Concluding Document'),

"(C) the Universal Declaration of Human Rights (also known as the 'Universal Declaration'), and

"(D) other international human rights agreements to which the Soviet Union is a signatory or party,

including provisions relating to—

"(i) the freedom of thought, conscience, religion, and belief, without regard to race, sex, language, religion, or national origin,

"(ii) the recognition and respect for the rights of individuals, including those belonging to national minorities, to enjoyment and practice of their cultures, heritage, history, and national consciousness,

"(iii) the right of freedom of movement for individuals within the Soviet Union and the right to leave the Soviet Union, without arbitrary and capricious barriers, and

"(iv) the right of individuals to know and act upon their rights and duties in these agreements; and

"(3) the understanding that the United States, through the Helsinki process, will expect full compliance, as evidenced by specific action, by the Soviet Union with its commitments in the field of human rights and fundamental freedoms and will seek to strengthen these commitments through review meetings and a balanced number of follow-up activities which will advance verifiable implementation of the human rights provisions of the Helsinki Final Act and the Madrid Concluding Document".

Mr. DECONCINI. Mr. President, together with Senators LAUTENBERG, GRASSLEY, D'AMATO, and several of my colleagues, I am submitting today an amendment to the INF Treaty in the form of a declaration and understandings. The purpose of this amendment is to reaffirm to the Soviet Union the paramount importance which we as Americans place on universal respect for human rights and fundamental freedoms in the achievement of lasting peace and security among nations.

I commend the administration and our negotiators for the effort they have made in attempting to bring us closer to this goal. We all recognize that effective arms control agreements are essential to our very survival. But arms control depends on much more than a technical blueprint for disarmament.

Twelve years ago, Mr. President, the United States and Canada along with 33 West and East European countries signed an agreement dedicated to building confidence and understanding among them. This document known as the Helsinki accords reveals a brilliant perception of those elements in human relations which lead to actions of human destruction—namely fear and disregard for individual freedoms.

The central theme of the Helsinki accords is predicated on the belief that peace and security are closely linked and that the path to their realization lies in achieving balanced progress in the fields of both human rights and security. This relationship concerns the depth to which a nation honors its commitments whether these center on arms control agreements with another country or on the respect it professes to accord its own citizens. A government's treatment of its people serves as a measure by which it is judged internationally as well as domestically. This fundamental perception of a state's character is the underlying basis by which nations define the type of relationship they build with one another.

The search for this balance has come to be known as the Helsinki process. It is a process which starts from the premise that the progressive cooperation of the global community ultimately rests on the quality of the relationship which exists between the government and the governed of each individual nation. Thirty-five countries signed an agreement in Helsinki which holds them internationally accountable, irrespective of their system of ideology, to respect and care for the individual rights and freedoms of their citizens. If a nation will not honor this most basic of commitments, with what degree of confidence can we expect them to carry out their international obligations?

The past 12 years have witnessed a greater emphasis by the United States on human rights as a component of our foreign policy. As Co-chairman of the Helsinki Commission, I worked together with Chairman HOYER and our fellow Commissioners especially Senators LAUTENBERG, GRASSLEY, and D'AMATO to ensure that this issue was a topic of discussion at the recent arms control summit between President Reagan and Secretary Gorbachev. Why? Because we know that an unchecked arms race with the Soviets is a prescription for global suicide and a successful arms control agreement must be grounded in something more fundamental than complex disarmanent and verification formulas. President Reagan upon signing the INF Treaty counseled Mr. Gorbachev to remember,

> That genuine international confidence and security are inconceivable without open societies with freedom of information, freedom of conscience, the right to publish and the right to travel.

As the President reiterated,

> Yes we will address human rights and regional conflicts * * * With time, patience and willpower I believe we will resolve these issues. We must if we are to achieve a true, secure and lasting peace.

I submit, Mr. President, that true progress in the field of arms control will not be achieved until the leadership in the Kremlin begins to honor the rights of those it claims to protect, its citizens. The continued violation of their human rights makes a mockery of the Soviet Union's sincerity as an Helsinki participant and a signator to the International Covenants on Human Rights. The historical record of Soviet compliance with international agreements over the years is not a reassuring one. Clearly in the case of the Helsinki accords, the Soviet leadership's treatment of the hundreds of thousands of named and unnamed citizens who simply yearn for the right to do what all of us in America take for granted—pursue our inherent freedom to express our thoughts, practice the religion of our choosing, and to leave and return to our own country—falls far short of their commitments.

United States/Soviet relations are virtually suspended in a moment of history in which the Soviet Union is being judged on the extent to which it implements Mr. Gorbachev's policies of glasnost and perestroika. In the years to come, however, it is we in the United States who must answer to those who will ask, "What did you do to help shape that moment?"

I hope we can respond with confidence that we would not accept a definition of peace which excluded a demonstrated commitment to individual freedom. This amendment which I bring before the Senate today sends a clear statement to the Soviets about our position in this regard. If, as President Kennedy believed, "peace, in the last analysis, is basically a matter of human rights" then we must be unshakeable in our dedication to an arms control policy which does not abandon the fundamental security of human beings—the protection of their individual dignity.

Mr. President, I would like to thank and commend all my colleagues who have already joined in sponsoring this amendment and I urge all Senators to give it their favorable consideration.

Mr. LAUTENBERG. Mr. President, I am pleased to join Senators DECONCINI, GRASSLEY, and D'AMATO in submitting this human rights amendment to the resolution of ratification of the INF Treaty.

The amendment would require the President to communicate to the Soviet Union the Senate's "declaration and understandings" on the issue of human rights. By adopting this amendment, the Senate will be clearly indicating the high priority it places on human rights. At the same time, the amendment will not open the treaty up for renegotiation. This is not a so-called killer amendment.

During the December summit, President Reagan raised a number of human rights issues with General Secretary Gorbachev. As a follow-up to those discussions, this amendment will remind the Soviets about the importance we place on their human rights record. And it will send a strong message about the continued commitment of the American people to encouraging the Soviets to live up to the promises they made to every Soviet citizen when they agreed to the Helsinki accords and other international human rights documents.

By incorporating language from the Helsinki accords and the Universal Declaration of Human Rights, the amendment addresses our concerns about human rights abuses in the Soviet Union. And it does so without jeopardizing the INF Treaty. For these reasons, I believe it deserves the strong support of my colleagues.

While the world has witnessed historic changes under General Secretary Gorbachev's glasnost policy, severe repression still exists in that country. And it is prevalent in all spheres of life: religious political, and cultural.

This amendment would remind the Soviet Union about its obligation to guarantee "freedom of thought, conscience, religion and belief" to all its citizens. To that end, the Soviets have talked about revising their laws on religion. Yet the activities of religious leaders and believers remain severely restricted. For example, religious institutions still cannot exist without state permission, and religious leaders are still prohibited from providing religious instruction to children, or even prayer and study groups for adults.

The amendment would send a signal of hope to the hundreds of believers languishing in Soviet prisions and labor camps for committing religious "crimes", like holding public religious processions or distributing unauthorized bibles.

There are so many other individuals to whom we can give encouragement by adopting this amendment: Exiled Lithuanian Bishop Steponavicius and imprisoned Lithuanian Fathers Svarinskas and Tamkevicius; the members of the newly formed group of Latvian clergymen, "Rebirth and Renewal", who hope to rejuvenate the Lutheran Church in Latvia; the independent pastors of Estonia whom the Soviet authorities try to intimidate; those in the Ukraine pressing for the recognition of the Ukrainian Catholic Church and for balanced celebrations of the

Millenium of Christianity this year; Jews throughout the Soviet Union who continue to teach Hebrew and practice their religion despite threats of harassment and arrest; and the Baptists, Pentecostals, and other religious groups who desire nothing more than the opportunity to freely and openly practice their religion.

Mr. President, the amendment would also reaffirm our belief that the Soviet Union should tolerate political dissent as an integral part of glasnost.

Even the magazine named for this much touted policy has not been wholly tolerated. Glasnost magazine was intended to test the true limits of the policy of glasnost. Every word of the journal is painstakingly typed by a small corps of dedicated volunteers, and distributed by hand. Ever increasing numbers of Soviet citizens are managing to obtain this and other unofficial publications, which openly criticize Government policies and actions.

Instead of fully prohibiting unofficial publications from being distributed, the authorities have used subtler methods, such as detaining and intimidating magazine contributors and confiscating copies before they can reach the public. The Soviet Union, with all its military strength, continues to fear the power of the typewritten word.

While some are openly testing the limits of glasnost, others remain imprisoned for their political activities which were carried on in less "tolerant" times. The amendment would send a message about the need to unconditionally release hundreds of remaining political prisoners. It would remind the Soviets that the United States deplores the arbitrary arrest and detention of Soviet citizens for political purposes, and that we continue to be appalled by the use of psychiatric hospitals for internment.

Mr. President, this amendment also reaffirms America's belief that every Soviet citizen has the right to study and express his or her cultural and national heritage. That means having the opportunity to organize ceremonies celebrating national identity. It means having the opportunity to learn and teach languages other than Russian. And it means allowing the study of the rich and diverse history of ethnic groups in the Soviet Union, as well as the history of people and events in faraway places like Israel.

In the past year, the world has witnessed unprecedented demonstrations of nationalist ferment in the Soviet Union. Last summer, for example, when demonstrations in the Baltic Republics were allowed to proceed, it appeared as though the Soviets were willing to tolerate some amount of national expression among the many ethnic groups who populate the various republics under Soviet control.

But the way the Soviets treated the organizers of those and other public demonstrations said more about the continued lack of tolerance for ethnic diversity than a thousand official proclamations about glasnost. Although the Soviets have sometimes permitted demonstrations to take place, retribution against the organizers has been swift. Those who have dared to organize demonstrations have frequently been intimidated, arrested, detained, dismissed from jobs, drafted into the army, or expelled from the country.

Finally, Mr. President, the amendment addresses another critical issue. It restates America's long held conviction that every desiring Soviet citizen should have the opportunity to emigrate. To families like the Zelichenkos, the Kosharovskys, and countless more like them who have been denied permission for more than 10 years, the amendment says that the United States will continue pressing for your freedom. To the thousands of refuseniks in the Soviet Union, as well as those who may want to emigrate but have not yet applied, the amendment says that America supports your right to leave without restriction.

To the Soviets, this amendment says that America does not consider the emigration of 8,155 Jews in 1 year satisfactory. It says that America will not accept arbitrary excuses such as "state secrets" as justification for breaking promises made in the Helsinki accords and other international human rights agreements. It says that the time has come to open the doors for long-term refuseniks; and that restricting emigration only to those with first-degree relatives abroad is not acceptable.

With respect to emigration, the message of the amendment is clear: America will not be silent until the doors of the Soviet Union are open and all who desire to emigrate have received permission.

Mr. President, this amendment would remind the Soviet Union that, as far as the United States is concerned, their failure to grant basic freedoms stands in clear contradiction to rights guaranteed in the Soviet Constitution itself, in addition to the international human rights agreements they have signed. During Mr. Gorbachev's tenure, there has been some improvement in several of the areas this amendment would address. But progress has been slow and limited. This amendment will remind the Soviet Union that America will continue pressing the issue of human rights on all appropriate occasions. I urge my colleagues to cosponsor this amendment.

Mr. GRASSLEY. Mr. President, I join today with my colleagues, Senators DECONCINI, LAUTENBERG, D'AMATO, and others in submitting an important human rights amendment to the resolution of ratification on the INF Treaty. Let me say at the outset, this amendment is not intended as a reservation, or as any other restriction on treaty ratification. Rather, it is advisory in nature, and it has been drafted to restate and reaffirm the American commitment to the cause of human rights in the Soviet Union.

Human rights and fundamental freedoms are the foundation of our American tradition. We strive to protect freedom of religion, travel, movement, and expression, just to mention several. And we expect that the countries with which we have cooperative relations will respect human rights.

But the fact is—the Soviet Union does not share our commitment to human rights. It denies the right to emigrate. It denies religious freedom. It abuses psychiatric treatment as a way to punish political dissidents. All of this occurs in spite of the Soviet Union being a signatory to the Helsinki accords and other international human rights agreements.

I recognize that General Secretary Gorbachev has made some advances on the human rights front, and they represent a good beginning. But we need to see more progress, and that is why this amendment is important. The amendment is, simply, a declaration of our commitment to human rights and understanding of their importance in the development of cooperative relations with the Soviet Union.

The Soviet Union has not achieved the commitment to human rights we in the United States have. But this does not necessarily mean that we should avoid reaching agreements with the Soviet Union. The dialog we have with the Soviet Union is an important way in which we may be able to move the Soviet Union forward in the human rights arena. The amendment endorses that strategy. I am hopeful that my colleagues here share this view and can offer their support to this advisory amendment to the INF resolution of ratification.

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

DANFORTH AMENDMENT NO. 1681

(Ordered to lie on the table.)

Mr. DANFORTH submitted an amendment intended to be proposed by him to the bill (S. 79) to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes; as follows:

At the end of the bill, add the following new section:

SEC. . MENTAL OR EMOTIONAL DISTRESS CLAIMS.

(a) PROHIBITION.—No person shall bring any tort or workers' compensation claim based on mental or emotional harm, fear or disease, or stress resulting directly or indirectly from any report, finding, notice, medical evaluation decision, or monitoring decision made under this Act, from any other action taken under this Act, or from any failure to take an action required by this Act.

(b) APPLICABILITY.—The prohibition set forth in subsection (a) applies whether the person seeking to bring such a claim—

(1) has been directly subject to such a report, finding, notice, medical evaluation decision, monitoring decision, other action, or failure to take required action; or

(2) has learned about such a report, finding, notice, medical evaluation decision, monitoring decision, other action, or failure to take any required action that directly affected another person.

McCONNELL AMENDMENTS NOS. 1682 THROUGH 1685

(Ordered to lie on the table.)

Mr. McCONNELL submitted four amendments intended to be proposed by him to the bill S. 79, supra; as follows:

AMENDMENT No. 1682

At the end of the bill, add the following new section:

SEC. . LITIGATION IMPACT STATEMENT.

Paragraph 11 of rule XXVI of the Standing Rules of the Senate is amended by—

(1) in subparagraph (c), by striking "paragraphs (a) and (b)" and inserting "paragraphs (a), (b), and (c)";

(2) by redesignating subparagraph (c) as subparagraph (d); and

(3) by adding after subparagraph (b) the following:

"(c) Each such report (except those by the Committee on Appropriations) shall also contain a litigation impact statement prepared by the Department of Justice which shall include—

"(1) an estimate of any increase in litigation which would result from the enactment of the bill or joint resolution;

"(2) an estimate of any increase in private liability which would result from the enactment of the bill or joint resolution; and

"(3) an estimate of any increase in liability insurance costs which would result from the enactment of the bill or joint resolution.".

AMENDMENT No. 1683

On page 30, between lines 10 and 11 insert the following:

"TITLE I—OCCUPATIONAL DISEASE"

On pages 30 through 79, redesignate sections 1 through 15 and all references to such sections as sections 101 through 115, respectively.

On page 30, line 12, strike out "Act" and insert in lieu thereof "title".

On page 33, line 10, strike out "Act" and insert in lieu thereof "title".

On page 34, line 5, strike out "Act" and insert in lieu thereof "title".

On page 34, line 7, strike out "Act" and insert in lieu thereof "title".

On page 39, line 18, strike out "Act" and insert in lieu thereof "title".

On page 40, line 5, strike out "Act" and insert in lieu thereof "title".

On page 44, line 9, strike out "Act" and insert in lieu thereof "title".

On page 44, line 12, strike out "Act" and insert in lieu thereof "title".

On page 47, line 12, strike out "Act" and insert in lieu thereof "title".

On page 48, line 22, strike out "Act" and insert in lieu thereof "title".

On page 50, line 15, strike out "Act" and insert in lieu thereof "title".

On page 50, line 16, strike out "Act" and insert in lieu thereof "title".

On page 50, line 20, strike out "Act" and insert in lieu thereof "title".

On page 50, line 25, strike out "Act" and insert in lieu thereof "title".

On page 51, line 4, strike out "Act" and insert in lieu thereof "title".

On page 57, line 18, strike out "Act" and insert in lieu thereof "title".

On page 65, line 5, strike out "Act" and insert in lieu thereof "title".

On page 68, line 16, strike out "Act" and insert in lieu thereof "title".

On page 68, line 18, strike out "Act" and insert in lieu thereof "title".

On page 69, line 2, strike out "Act" and insert in lieu thereof "title".

On page 69, line 7, strike out "Act" and insert in lieu thereof "title".

On page 69, line 8, strike out "Act" and insert in lieu thereof "title".

On page 69, line 18, strike out "Act" and insert in lieu thereof "title".

On page 69, line 19, strike out "Act" and insert in lieu thereof "title".

On page 69, line 20, strike out "Act" and insert in lieu thereof "title".

On page 69, line 21, strike out "Act" and insert in lieu thereof "title".

On page 74, line 10, strike out "Act" each place it appears and insert in lieu thereof "title".

On page 74, line 13, strike out "Act" and insert in lieu thereof "title".

On page 74, line 16, strike out "Act" and insert in lieu thereof "title".

On page 74, line 21, strike out "Act" and insert in lieu thereof "title".

On page 74, line 24, strike out "Act" and insert in lieu thereof "title".

On page 75, line 3, strike out "Act" and insert in lieu thereof "title".

On page 75, line 9, strike out "Act" and insert in lieu thereof "title".

On page 75, line 10, strike out "Act" and insert in lieu thereof "title".

On page 75, line 22, strike out "Act" and insert in lieu thereof "title".

On page 77, line 6, strike out "Act" and insert in lieu thereof "title".

On page 77, line 10, strike out "Act" and insert in lieu thereof "title".

On page 77, line 12, strike out "Act" and insert in lieu thereof "title".

On page 77, line 16, strike out "Act" and insert in lieu thereof "title".

On page 77, line 18, strike out "Act" and insert in lieu thereof "title".

On page 77, line 20, strike out "Act" and insert in lieu thereof "title".

On page 77, line 24, strike out "Act" and insert in lieu thereof "title".

On page 78, line 9, strike out "Act" and insert in lieu thereof "title".

On page 78, line 15, strike out "Act" and insert in lieu thereof "title".

On page 78, line 19, strike out "Act" and insert in lieu thereof "title".

On page 78, line 23, strike out "Act" and insert in lieu thereof "title".

On page 79, line 5, strike out "Act" and insert in lieu thereof "title".

On page 79, line 6, strike out "Act" and insert in lieu thereof "title".

On page 79, line 7, strike out "Act" and insert in lieu thereof "title".

On page 79, line 10, strike out "Act" and insert in lieu thereof "title".

On page 79, after line 10, add the following new title:

TITLE II—TORT REFORM

SHORT TITLE

SEC. 201. This title may be cited as the "Tort Litigation Reform Act of 1988".

FINDINGS AND PURPOSE

SEC. 202. (a) The Congress finds and declares that—

(1) there are serious flaws in the civil justice system under which tort claims are filed and resolved;

(2) the cost of litigation has risen at a dramatic rate over the past 25 years and threatens to continue to rise at a similar rate for the foreseeable future;

(3) the rising cost of litigation has a direct and undesirable effect on interstate commerce and international competitiveness, and decreases availability of products and services in commerce;

(4) the rising cost of litigation and the lack of predictability of the outcome of suits has greatly contributed to a nationwide crisis in the availability and affordability of insurance;

(5) there is a need for reasonable limits on the potential exposure of individuals and businesses to liability for damages resulting from the sale and use of products, the provision of services, or the ownership and use of property, all of which contribute to the net output of the Nation's economy, and to the general welfare; and

(6) because of the interstate nature of the commerce, the several States are unable to provide and maintain a just system of compensation without threatening to inflict disparate and potentially discriminatory burdens on interstate commerce, thereby diminishing the general welfare of the Nation and of the several States.

(b) It is the purpose of this title to establish uniform rules of tort law, to encourage alternate means of dispute resolution, to provide fair and reasonable compensation for accident or injury, and to promote the free flow of commerce and the availability and affordability of liability insurance.

APPLICABILITY

SEC. 203. (a) Except as provided in subsection (b), (c), or (d), the provisions of this title shall apply to any civil action against any person, in any State or Federal court, based on any cause of action, including, but not limited to, negligence, strict or product liability, breach of implied warranty, or professional malpractice, in which damages are sought for physical injury or for physical or mental pain or suffering or for property damage other than damage to the product itself.

(b) This title shall not apply to—

(1) a civil action for loss or damage to a product itself or for commercial loss which shall be governed by State commercial law; or

(2) a civil action for intentionally committed battery, assault, false imprisonment, trespass, or conversion.

(c) The provisions of this title shall preempt and supersede Federal or State law only to the extent such law is inconsistent with this title. Any issue arising under the provisions of this title that is not governed by the provisions of this title shall be governed by applicable State or Federal law.

(d) Nothing in this title shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of chapter 97 of title 28, United States Code, known as the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

JOINT AND SEVERAL LIABILITY

SEC. 204. (a) Except as provided in subsections (b) and (c), a person found liable for damages in any such action subject to the provisions of this title, shall be liable for damages only to the extent of such person's proportionate responsibility for the injury and shall not be jointly and severally liable.

(b) Notwithstanding the provisions of subsection (a), any person found liable for damages in an action subject to the provisions of this title may be jointly and severally liable therefore if such person's proportionate responsibility for the injury is found by the trier of fact to exceed 50 percent.

(c)(1) This section shall not apply to persons acting in concert where the concerted action caused the injury for which such persons are found liable.

(2) As used in this section, the terms "acting in concert" or "concerted action" shall mean the participation in joint conduct by two or more persons who consciously and deliberately agreed to jointly participate in such conduct.

LIABILITY STANDARDS

SEC. 205. Except as otherwise provided in sections 206 and 207 of this title, no person shall be found liable for any damages in any civil action subject to the provisions of this title unless claimant proves by a preponderance of the evidence that such person was negligent, and such negligence was the proximate cause of the damages sought.

LIABILITY OF PRODUCT MANUFACTURERS

SEC. 206. (a) No manufacturer shall be liable for damages in any civil action subject to the provisions of this title, for harm allegedly caused by a product unless, claimant proves by a preponderance of the evidence that the manufacturer's product was the proximate cause of claimant's harm and was unreasonably dangerous because—

(1) the product deviated in a material way from the manufacturer's own design specifications at the time it left the manufacturer's control, and such deviation was a substantial cause of the harm,

(2) the product would not have been designed or formulated as it was if the manufacturer had been exercising reasonable care for the safety of all foreseeable users,

(3) the manufacturer did not provide warnings or instructions which would have been provided if the manufacturer had been exercising reasonable care for the safety of others, or

(4) the product failed to conform in a material respect to an express warranty of the manufacturer.

(b) A presumption shall arise that a manufacturer exercised reasonable care for the safety of others if the product design, formulation, warning, or instructions conformed, at the time of manufacture, with standards, conditions, or specifications established, adopted, or approved by the Congress or an agency of the Federal Government responsible for the safety of the design, formulation, labeling, or performance of the product.

(c) A manufacturer shall not be liable for damages in a civil action subject to this title for harm allegedly caused by a product if—

(1) in light of existing scientific, technological, or medical information, knowledge of the unsafe aspect of the product was not reasonably available or obtainable, or the ability to eliminate the unsafe aspect of the product was not technologically or practically feasible,

(2) plaintiff's harm would not have occurred but for an unreasonable or unforeseeable use or alteration of the product occurring after it left the manufacturer's control and without the manufacturer's consent, where, for the purposes of this paragraph, unreasonable or unforeseeable use or alteration includes any use or alteration of the product which the manufacturer specifically prohibited or warned against in instructions printed clearly and visibly on the product itself, or on an instruction sheet accompanying the product, or

(3) the unsafe aspect of the product that caused claimant's harm either was an inherent aspect of the product or was necessary to the products' utility: *Provided*, That—

(A) the inherently unsafe aspect of the product was either a matter of common knowledge or the subject of warnings or instructions adequate to permit an informed decision with respect to product use,

(B) the inherently unsafe aspect of the product was not significantly more dangerous than was reasonably to be expected, and

(C) the product resulted in more utility than harm to consumers.

LIABILITY OF PRODUCT SELLERS

SEC. 207. (a) Notwithstanding the provisions of section 206, in any civil action for harm caused by a product, a product seller other than a manufacturer is liable to a claimant, only if the claimant establishes by a preponderance of the evidence that—

(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant;

(B) the product seller failed to exercise reasonable care with respect to the product; and

(C) such failure to exercise reasonable care was a proximate cause of the claimant's harm; or

(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product;

(B) the product failed to conform to the warranty; and

(C) the failure of the product to conform to the warranty caused the claimant's harm.

(b)(1) In determining whether a product seller is subject to liability under subsection (a)(1), the trier of fact may consider how the product seller's conduct affected the safety of the product with respect to the construction, inspection, or condition of the product, and any failure of the product seller to distribute adequate warnings or instructions provided by the product's manufacturer about the dangers and proper use of the product.

(2) A product seller shall not be liable in a civil action subject to this title based upon an alleged failure to provide adequate warnings or instructions unless the claimant establishes that, when the product left the possession and control of the product seller, such seller failed—

(A) to provide to the person to whom the product seller relinquished possession and control of the product, any pamphlets, booklets, labels, inserts, or other written warnings or instructions received while the product was in the product seller's possession and control; or

(B) to make reasonable efforts to provide users with warnings and instructions it received after the product left its possession and control.

(3) A product seller shall not be liable in a civil action subject to this title, except for breach of express warranty by the seller, where there was no reasonable opportunity to inspect the product in a manner which should, in the exercise of reasonable care, have revealed the aspect of the product which allegedly caused the claimant's harm.

(c) A product seller shall be treated as the manufacturer of a product and shall be liable for harm to the claimant caused by a product as if the seller were the manufacturer of the product if—

(1) the manufacturer is not subject to service of process under the laws of any State in which the action might have been brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

SANCTIONS

SEC. 208. (a) In any civil action subject to the provisions of this title, in which the court finds that any attorney or other person admitted to practice before the court has engaged in conduct intended to delay the proceedings or to impede the just, speedy, or inexpensive resolution of the action, then such attorney or other person shall be subject to pecuniary sanctions by the court. Such sanctions shall not be less than the total amount of court costs, fees and expenses, including attorney's fees, reasonably attributable to the conduct.

(b) In any civil action subject to the provisions of this title, in which the court finds that the action was initiated without a good faith belief by the attorney initiating the cause of action that a reasonable basis in law and in fact existed for recovery of the relief requested, or that the action was initiated merely for purposes of achieving a monetary settlement where there was no reasonable prospect for an award of damages, then such attorney shall be liable for the total amount of defendant's court costs, fees, and expenses, including double the attorney fees reasonably incurred to respond to or otherwise resist the action.

(c) In any civil action subject to the provisions of this title in which the court finds that the attorney defending the cause of action denied the substantive averments of the complaint without a good faith belief that there was a reasonable basis in law and in fact for the avoidance of liability for the relief requested, or that the actions taken in defense of the action were intended merely to postpone the imposition of a judgment for damages, then such attorney shall be liable for the total amount of court costs, fees, and expenses, including double the attorney fees reasonably incurred to prosecute the action.

UNIFORM STANDARDS FOR OFFSETTING WORKERS' COMPENSATION BENEFITS

SEC. 209. (a) In any civil action subject to this title in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation, payments, or benefits under any State or Federal workers' compensation or income disability law, or any other program which provides payments or benefits without cost to claimants, any damages awarded shall be reduced by the sum of the amount paid as benefits for such harm and the present value of all benefits to which the injured person is or would be entitled for such harm. The determination of benefits by the trier of fact in a civil action subject to this title shall have no binding effect on and shall not be used as evidence in any other proceeding.

(b) In any civil action subject to this title in which damages are sought for harm for which the person injured is entitled to receive compensation, payments, or benefits under any program as provided in subsection (a), the action shall, on application of the claimant made at claimant's sole discretion, be stayed until such time as the full amount payable as such benefits has been finally determined.

(c) Unless the manufacturer or product seller has expressly agreed to indemnify or hold an employer harmless for harm to an employee caused by a product, neither the employer nor the workers' compensation insurance carrier of the employer shall have a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller, or a lien against the claimant's recovery from the manufacturer or product seller, if the harm is one for which a civil action may be brought pursuant to this title.

(d) In any civil action subject to this title in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third-party tortfeasor may maintain any action for implied indemnity or contribution against the employer, any coemployee, or the exclusive representative of the person who was injured.

(e) Nothing in this title shall be construed to affect any provision of a State or Federal workers' compensation law which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering for harm in any action other than a workers' compensation claim against a present or former employer, the workers' compensation insurer of the employer, a coemployee, or the exclusive representative of the person who was injured. Any action other than such a workers' compensation claim may be prohibited under State or Federal workers' compensation laws, except that nothing in this title shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee, where the claimant's harm was caused by such an intentional tort.

MINIMUM STANDARDS FOR AWARDS OF PUNITIVE DAMAGES

SEC. 210. (a) Punitive damages, to the extent permitted by applicable law, may be awarded in any civil action subject to the provisions of this title to any claimant who at a minimum establishes by clear and convincing evidence that the harm suffered was the result of conduct manifesting a malicious and flagrant disregard for the safety of those persons who might be harmed by that conduct, and constituting an extreme departure from accepted standards. A failure to exercise reasonable care in choosing among alternative product designs, formulations, instructions, or warnings is not of itself such conduct. Except as provided in subsection (b), punitive damages may not be awarded in the absence of a compensatory award for actual damages.

(b) In any civil action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a manufacturer or product seller may be liable for any such damages regardless of whether a claim for compensatory damages is asserted. The recovery of any punitive damages shall not bar any other claim under this section.

(c) The trier of fact shall first determine whether compensatory damages are to be awarded. After such determination has been made, the trier of fact shall then determine whether punitive damages are to be awarded. Evidence relating to the manufacturer's or product seller's financial condition is not admissible in such proceeding and may not be considered by the trier of fact in determining whether or not punitive damages are to be awarded. If the trier of fact determines that punitive damages should be awarded, the bench, and not the jury, shall separately determine the amount of such damages.

ALTERNATIVE DISPUTE RESOLUTION

SEC. 211. (a) Because the traditional litigation process is not always suited to the timely, efficient, and inexpensive resolution of civil actions, it is the policy of the United States to encourage the creation and use of alternative dispute resolution techniques, and to promote the expeditious resolution of such actions.

(b) In any action in which the provisions of this title apply, each attorney who has made an appearance in the case and who represents one or more of the parties to the action shall, with respect to each party separately represented, advise the party of the existence and availability of alternative dispute resolution options, including extrajudicial proceedings such as minitrials, third-party mediation, court supervised arbitration, and summary jury trial proceedings.

(c) Each such attorney shall, simultaneous with the filing of a complaint or a responsive pleading, file notice with the court certifying that the attorney has so advised his client or clients, and indicating whether such client will agree to one or more of the alternative dispute resolution techniques.

(d) If all parties to an action agree to proceed with one or more alternative dispute resolution proceedings, the court shall issue an appropriate order governing the conduct of such proceedings. The issuance of an order governing such further proceedings shall constitute a waiver, by each party subject to the order, of the right to proceed further in court.

DEFINITIONS

SEC. 212. (a) As used in this title, the term—

(1) "claimant" means any person who brings a civil action pursuant to this title, and any person on whose behalf such an action is brought; if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

(2) "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established; the level of proof required to satisfy such standard is more than that required under the standard of a preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

(3) "commercial loss" means economic injury, whether direct, incidental, or consequential, including property damage and damage to the product itself, incurred by persons regularly engaged in business activities consisting of providing goods or services for compensation;

(4) "exercise of reasonable care" means conduct of a person of ordinary prudence and intelligence using the attention, precaution and judgment that society expects of its members for the protection of their own interests and the interests of others;

(5) "harm" means any harm recognized under the law of the State in which the civil action is maintained, other than loss or damage caused to a product itself, or commercial loss, with respect to which recovery is available under the commercial or contract law of the State;

(6) "manufacturer" means (A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product); (B) a product seller with respect to all aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or (C) any product seller not described in clause (B) which holds itself out as a manufacturer to the user of a product;

(7) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(8) "preponderance of the evidence" is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

(9) "product" means any object, substance, mixture, or raw material in a gaseous, liquid or solid state (A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state or as a component part or ingredient; (B) which is produced for introduction into trade or commerce; (C) which has intrinsic economic value; and (D) which is intended for sale or lease to persons for commercial or personal use; the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(10) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(11) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

EFFECTIVE DATE

SEC. 213. (a) This title and the amendments made by this title shall be effective on the date of enactment, and shall apply to all civil actions filed on or after such date, including any civil action in which the harm or the conduct complained of occurred before such effective date.

(b) If any provision of this title would shorten the period during which a person would otherwise be exposed to liability, the plaintiff may, notwithstanding the otherwise applicable time period, bring any civil action pursuant to this title within one year after the effective date of this title.

SEVERABILITY

SEC. 214. If any provision of this title or the application of any such provision to any person or circumstance is held invalid, the remainder of this title and the application of any provision to any other person or circumstance shall not be affected thereby.

AMENDMENT NO. 1684

At the end of the bill, add the following new section:

SEC. . SMALL BUSINESS IMPACT STATEMENT.

Paragraph 11 of rule XXVI of the Standing Rules of the Senate is amended by—

(1) in subparagraph (c), by striking "paragraphs (a) and (b)" and inserting "paragraphs (a), (b), and (c)";

(2) by redesignating subparagraph (c) as subparagraph (d); and

(3) by adding after subparagraph (b) the following:

"(c) Each such report (except those by the Committee on Appropriations) shall also contain a small business impact statement prepared by the Small Business Administration which shall include an estimate of any adverse or positive economic impact the bill or joint resolution will have on small business, including—

"(1) any increased costs to small business;

"(2) the effect on small business formation; and

"(3) the effect on small business employment.".

AMENDMENT NO. 1685

At the end of the pending matter add the following new section:

SEC. FINDINGS AND POLICY.

(a) FINDINGS.—The United States Senate finds that—

(1) the tort and product liability laws of the various States impose added costs and disincentives for American businesses;

(2) such laws deter American innovation and risk-taking in critical growth industries;

(3) such laws threaten vital research and development of new technologies at universities and research institutions throughout the United States;

(4) such laws harm the ability of American businesses to compete with their foreign rivals; and

(5) the harmful consequences of America's tort and product liability laws caused over 80 percent of the delegates to the White House Conference on Small Business to endorse comprehensive Federal reform of these laws.

(b) POLICY.—It is the sense of the Senate that meaningful reform of the country's tort and product liability law should be achieved during the second session of the 100th Congress.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Subcommittee on Energy Research and Development in the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the Department of Energy's fiscal year 1989 budget request for the Uranium Enrichment Program, and the need for restructuring of the enrichment enterprise.

The hearing will take place on March 31, 1988, at 2 p.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to submit written testimony for the printed hearing record please send it to the Subcommittee on Energy Research and Development, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

For further information, please contact Teri Curtin or Cheryl Moss at (202) 224-7569.

Mr. FORD. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Energy Research and Development in the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the Department of Energy's fiscal year 1989 budget request for the superconducting super collider and the basic science budget.

The hearing will take place on Tuesday, April 12, 1988, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Those wishing to submit written testimony for the printed hearing record should send it to the Subcommittee on Energy Research and Development, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

For further information, please contact Teri Curtin or Ben Cooper at (202) 224-7569.

Mr. FORD. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Research and Development of the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the fiscal year 1989 budget request for the Department of Energy's Fossil Energy Research and Development and the Clean Technology Programs.

The hearing will take place on Thursday, April 28, 1988, at 1:30 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Those wishing to submit written testimony for the printed hearing record should send it to the Subcommittee on Research and Development, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

For further information, please contact Teri Curtin or Cheryl Moss at (202) 224-7569.

Mr. FORD. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Subcommittee on Research and Development of the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the Department of Energy's fiscal year 1989 budget request for Renewable Energy and Energy Conservation Programs.

The hearing will take place on May 18, 1988 at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Those wishing to submit written testimony for the printed hearing record should send it to the Subcommittee on Research and Development, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

For further information, please contact Teri Curtin or Ben Cooper at (202) 224-7569.

SUBCOMMITTEE ON NUTRITION AND INVESTIGATIONS

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Nutrition and Investigations of the Committee on Agriculture, Nutrition, and Forestry will hold a third in a series of hearings on Hunger in America and Commodity Distribution Programs. The hearing will be held on Monday, March 28, 1988, at 10 a.m. at the Luther Place Memorial Church, 1226 Vermont Avenue NW., Washington, DC. Senator TOM HARKIN will preside.

For further information, please contact Bob Andros of Senator HARKIN's staff at 224-3254.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on Thursday, March 31, 1988, at 9:30 a.m. The purpose of the hearing is to examine S. 1929, a bill to create the Corporation for Small Business Investment [COSBI]. The hearing will be held in room 428-A of the Russell Senate Office Building. For further information, please call Patty Barker, counsel for the committee, at 224-8495.

COMMITTEE ON FOREIGN RELATIONS

Mr. PELL. Mr. President, on Friday, March 18, legislation was introduced in the Senate to provide additional assistance to the United States-backed Contra forces fighting the Nicaraguan Government—Senate Joint Resolution 276.

This legislation has been referred to the Committee on Foreign Relations. Despite my own opposition to this proposal, I, nevertheless, want to assure the sponsors of it that the committee will give this legislation expeditious consideration. Accordingly, I have tentatively set aside time on Wednesday, March 30, to begin hearings on this legislation.

I invite sponsors of the proposal to appear before the committee at that time. In addition, the committee will want to hear from the administration and to get the views of outside experts and organizations was well.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Monday, March 21, 1988, in open session to consider the nomination of William L. Ball III, to be Secretary of the Navy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONVENTIONAL FORCES AND ALLIANCE DEFENSE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Conventional Forces and Alliance Defense of the Committee on Armed Services be authorized to meet during the session of the Senate on Monday, March 21, 1988, in open session to receive testimony on requirements and plans for close air support modernization.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Monday, March 21, 1988, to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 21, 1988, to continue markup of the excise tax on diesel fuel and extension of the IRS Refund Offset Program under which the IRS collects debts owed to Federal agencies.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Monday, March 21, to hold hearings on the subject of DOD contractor supply system access.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE HANDICAPPED

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on the Handicapped, of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Monday, March 21, 1988, to conduct a hearing on "Commission on the Education of the Deaf's Report to Congress."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Energy and Natural Resources Subcommittee on Public Lands, National Parks and Forests be authorized to meet during the session of the Senate on Monday, March 21, 1988, to receive testimony concerning H.R. 2090 and S. 1478, bills to designate certain National Forest System lands in the State of Montana for release to the forest planning process, protection of recreation value, and inclusion in the National Wilderness Preservation System, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO LISA MACK

● Mr. DURENBERGER. Mr. President, each of us in public office is here, not so much because of the unique talents and abilities we possess, but because of our strong desire to serve those whom we represent.

And, for each of us who are lucky enough to serve in public office, there are thousands of dedicated volunteers who stand behind us and who are largely responsible for the process which gets public officials elected.

One such dedicated volunteer was Lisa Mack, a 24-year-old volunteer for Senator BOB DOLE in Iowa and Minnesota, who died in a tragic highway accident January 24 in a snowstorm in southern Minnesota.

I had known Lisa for many years and her mother, Lois, is a former member of my staff. Lisa brought the kind of fresh idealism that comes with mature youth to everything she did. Her contributions to the Dole campaign were substantial, and her value as a person and as a volunteer were clearly on BOB DOLE's mind February 23 when he dedicated his victory in the Minnesota precinct caucuses to Lisa's memory.

Mr. President, because Lisa Mack was such a special person, and because she so captured the values associated with volunteerism without which this country could not survive, I would ask that the following column on Lisa by Roger Simon of the Baltimore Sun be printed at this point in the RECORD.

The article follows:

VOLUNTEERS BECAUSE THEY BELIEVE

(By Roger Simon)

The chapel out at St. Augustin's Catholic Church in Des Moines filled up quickly and soon people had to stand in the back. The thin winter light picked up the bright colors from the stained-glass windows and cast them onto the faces of the mourners.

Elizabeth Dole, wife of the presidential candidate, one of the last to arrive, sat quietly in a reserved pew behind the parents of Lisa Mack.

Lisa Mack was 24 when she died Jan. 24, her car crushed by a semi-trailer truck in a blinding snowstorm. She was a Bob Dole volunteer and had been spending nearly every free hour trying to assure his victory in the Iowa caucuses Feb. 8. She never made a dime from it. She did it because she believed: in the man, in the message, in the moment.

And when Father Tom Crowley, who celebrated the mass for Lisa this day, said the fine and true things that priests say, he also said his words would not be adequate. They weren't. He could not explain why the good die young.

Lisa Mack was born in Minnesota and had graduated from Iowa State University. She was devoted to her sorority, Alpha Chi Omega, and would return there long after she had left the campus.

She was a food editor at Better Homes and Gardens magazine, and her first bylined story is scheduled for the April issue.

"The first day she was on the job, she put up a Dole sticker on her door," Pat Teberg, 32, senior food editor at the magazine, said. "I couldn't believe it. Until then, I joked that out of the 26 food editors, I was the only Republican."

Teberg was not only a Republican, but also a Dole supporter and volunteer chairman of Polk County, which contains Des Moines and is the largest county in the state. Lisa went to work for her.

"She would work at the magazine during the day and then come and work for Dole at night and on weekends," Teberg said.

Lisa's job was to work the phones, identifying likely Dole voters and also to recruit others into the campaign. It is tedious, often frustrating, and absolutely essential work.

"She was sitting here Thursday night, the last time I saw her alive and she was phoning people," Teberg said sitting at a desk in Dole headquarters. "She was going home to Minnesota to see her sister in a play and then help out with the Dole campaign up there. Her mother worked for Dole up there. The last thing I remember is giving her a Dole button so she could wear it home."

On the way back from that trip, Lisa Mack was involved in a 17-car pile-up and died.

The Doles were hit hard by the news. They called her parents and expressed their condolences. They issued a statement saying they were "stunned."

Because Bob Dole has declined Secret Service protection, volunteers drive him around on his campaign stops. Lisa Mack was one of his drivers.

"That was the most exciting," Pat Teberg said. "It makes you nervous because you're so worried about speeding, but you get to hear the best conversations! Afterwards we would always compare notes and Lisa would say: 'I got to listen to strategy and everything!' It was really something."

"The last time she drove Senator Dole she posed for a picture with him before he got on the plane. That's the picture The Des Moines Register used when they wrote about her accident. It was nice. She was smiling."

Her friends remember that smile. And her passion for clothes and for gourmet cooking. "I never knew there were so many flavors of vinegar until I went shopping with Lisa," one of them said.

But, mostly, her friends remember her being there. At the campaign. On weekends, at night, whenever she was needed to make a call, to stuff an envelope, to knock on a door.

For the candidates, the rewards of campaigning can be vast: They can be elected president. For the professionals on the staffs, there is a paycheck. But for the volunteers, it is different.

"Lisa believed in America," Teberg said. "She believed you can't sit back and wait for things to happen. She believed that each person should try to make a difference."

The front rows of the chapel were filled with Lisa Mack's sorority sisters. Many were still in school and wore their sorority pins over their hearts.

When the mass was over, they rose and walked to the front of the chapel and then turned and faced the rest of us. One read a song Lisa had selected for Rush Week. It contained the line: "I will remember you until the stars fall from the sky; I will remember you until the day I die."

Then they all sang a slow and haunting sorority song and tears began flowing down their soft, unlined cheeks, making silver tracks in the flickering light of the chapel candles.

Why did Lisa Mack spend all that time trying to make one man president? Because she was a true believer. A bearer of the torch. A dreamer of the dream.

And when I drove back to Dole headquarters after the service, the phones were still ringing there; the computers still humming and volunteers were being lectured on how to get out the vote.

Some things never stop.

And some dreams never die.

And Lisa Mack would have wanted it that way.●

CBO STUDY ON CAPITAL GAINS TAXES IS MISLEADING

● Mr. KASTEN. Mr. President, many press accounts are drawing false conclusions about the findings of a recent study by the Congressional Budget Office [CBO] on the capital gains taxes and tax revenues. The CBO study does not—as suggested in several recent press accounts—support the conclusion that lower capital gains tax rates would reduce tax revenues. In fact the CBO report states that:

> The range of uncertainty in the coefficient estimates is large enough that one cannot reject the possibility that a 15 percent rate might increase revenues.

I call to the attention of my colleagues a letter by Richard Rahn, vice president and chief economist of the U.S. Chamber of Commerce to Congressman WILLIAM GRAY regarding the CBO study. Dr. Rahn states that:

> The study is incomplete, and gives a grossly misleading impression of the revenue maximizing capital gains tax rate. The fact is the CBO study does not support such an assertion since it largely concentrated only on changes in capital gains realization and ignored or dismissed without evidence a number of very important factors that determine the amount of capital gains tax revenues.

In his letter, Dr. Rahn points out several shortcomings and errors in the CBO study and calls for CBO to issue a clarifying statement indicating that the report does not conclusively support the assertion that a lower capital gains tax rate will lose revenue.

I believe the CBO study only highlights the fact that no one can yet make a definitive revenue estimate of capital gains taxes. But many congressional tax-writers accept as gospel truth the Joint Committee on Taxation's estimate showing a 15-percent capital gains tax losing $40 billion in revenues over 5 years. I believe the solution to this dilemma is to develop a consensus revenue estimate among CBO, JCT, the Treasury Department and private analysts. A first step should be to require the JCT to set forth the data, assumptions and methodology used in developing their revenue estimate.

Mr. President, in determining the appropriate tax rate on capital gains, the revenue impact—while important—should not be the overriding consideration. There are other important considerations such as the impact on economic growth, international competitiveness, capital formation, entrepreneurship and job creation. I hope my colleagues will keep these factors in mind as we look to reform the capital gains tax. I ask that Dr. Rahn's letter be entered into the RECORD.

The letter follows:

U.S. CHAMBER OF COMMERCE,
Washington, DC, March 17, 1988.

Hon. WILLIAM H. GRAY III,
Chairman, House Budget Committee, U.S. House of Representatives, Cannon House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: We have just reviewed the CBO study released by your office entitled, "How Capital Gains Tax Rates Affect Revenues: The Historical Evidence." At best, the study is very incomplete, and gives a grossly misleading impression of the revenue maximizing capital gains tax rate. As you know, press accounts of the study have claimed that a capital gains tax rate cut would lose revenue. The fact is the CBO study does not support such an assertion since it largely concentrated only on changes in capital gains realization and ignored or dismissed without evidence a number of other very important factors that determine the amount of capital gains tax revenues.

The most obvious problem is the failure of the study to take into account the central argument in favor of a lower capital gains rate: such a rate would promote economic growth, venture capital formation and entrepreneurship. These new ventures give us the new technology, the new opportunities and the new jobs that enable us to improve our standard of living and to compete in the international marketplace. More narrowly, these new ventures and their employees pay taxes. These new taxes should have been accounted for when calculating the revenue impact of lower capital gains tax rates. They were not.

Another important factor the CBO study failed to adequately consider is the fact that lower capital gains rates cause all asset values to appreciate and consequently lead to more capital gains. Lower capital gains taxes mean the present value of the after-tax return on assets will go up. Consequently, the value of an asset upon sale is higher and the revenue from the sale of any particular asset will be more, thus producing more capital gains tax revenue.

As a recent Arthur Andersen study demonstrates, we tax long-term capital gains at a higher rate than all of our major competitors. Ten countries do not tax long-term gains at all. Lower capital gains tax rates in other countries encourage more business investment elsewhere and less in the U.S., costing us both jobs and tax revenues. We are all aware of the trade imbalance we are presently experiencing. The trade imbalance is exacerbated by public policy impediments, to international competitiveness including taxes, that our companies must suffer while their competitors do not. The CBO study ignored this very important factor.

Finally, there are at least three serious problems with the actual econometrics that CBO used. First, the elasticity of capital gains realizations with respect to the tax rate is too low given the evidence from the majority of studies. Second, the equation used to estimate the amount of capital gains is incorrectly specified, given the fact that GNP levels are at least partially a function of the capital gains tax rate rather than the other way around as portrayed. Finally, as amply demonstrated by figure A-1 on page 90, the results are radically affected by the inadequately supported decision to use a logarithmic rather than linear or quadratic equation.

Even CBO places the likely revenue maximizing capital gains tax rate at 25.6 to 32.3 percent (Table 10). Moreover, even the CBO methodology illustrates that the revenue maximizing rate may well be as low as 18 percent (See Table 14). If any of the deficiencies I mention had been taken into account, the revenue maximizing rate would have been lower than that reported. Thus, despite the summary conclusions reached in the study, a careful analysis of the report and of its omissions demonstrate that, at the very worst, capital gains rate reductions will cost no revenue, and are in fact most likely to increase revenue.

Given the misleading press reports, I request that your office issue a clarifying announcement indicating that the CBO report does not support the assertion that a lower capital gain tax rate will lose revenue. I expect that if a clarifying announcement is not made, many will suspect that the report was politically motivated. Also, given the incompleteness of the report, and the importance of the issue, I ask that you request CBO to do a complete analysis, including the factors I mentioned, of the impact of differing capital gains tax rates on revenues.

Thank you for your attention to this important question.

Sincerely,

RICHARD W. RAHN.●

INFORMED CONSENT: CALIFORNIA

● Mr. HUMPHREY. Mr. President, I have introduced S. 272 and S. 273 to require that prior to the performance of an abortion, a woman be fully informed concerning the nature of the risks and alternatives to this serious surgical procedure. It goes without saying that every woman facing this decision is entitled to accurate and complete information concerning the procedure. The hundreds of letters my office has received indicates to me that some if not many physicians are falling short of this important responsibility. It is my hope, by continuing to bring this matter before the U.S. Senate that we will act, and send an important signal to the medical profession that informed consent is not only a matter of right, but a matter of law. I ask unanimous consent that three letters from the State of California be entered into the CONGRESSIONAL RECORD.

The letters follow:

MAY 31, 1987.

DEAR SENATOR HUMPHREY: In April 1979 I was 18 years old and a freshman at the University of California Santa Barbara. I became pregnant and had an abortion. I received my so-called "counseling" from the UCSB student health service and the abortionist they recommended.

The emotional damage I have suffered from this abortion is tremendous. Still, til this day I am affected. To all in Congress I urge you to please support an informed consent law for abortions. If only I had been truly counseled, things may be different today and my son would be alive.

Sincerely,

JULIE LIVELY,
Santa Barbara, CA.

DEAR SENATOR HUMPHREY: I had an abortion in early 1976. It was a popular choice at the time. No one told you what happens in an abortion, but you knew it was wrong. I think mine was a suction type. It was very painful and I know I could never have another. I thought women who had more than one were sick. I guess I didn't realize that I was sick. It took nearly 10 years to really start looking at the issue and realize how truly horrible this monster is.

The pain of knowing what I've done is truly devastating. When I think about it, it is even more painful than the physical pain. The only relief is to give your life to God and try to stop others. I will never forget the abortion or that it could be the cause of my three premature children. Most of all, I will never get to hold my first child in this life on earth. Hope this helps.

Yours in His love,

BONNIE MURPHY,
San Rafael, CA.

MARCH 2, 1987.

DEAR SIR: I underwent an abortion 14 years ago. I was living in Santa Barbara at the time with 2 children, married when I discovered I was pregnant. Our youngest child was 11 months old and we could not afford another child at this time. I was frantic. I went to the Planned Parenthood organization and did not receive any counseling other than where to go to receive an abortion, that it would be $200 cash, and that I was early in my pregnacy under 7 weeks and the fetus was not a baby yet, only a blob of tissue that was not recognizable as a baby. I was given the address of an abortion clinic in Glendale, California.

I was given no counseling at the clinic at all. I was told the procedure would only be uncomfortable. It was very painful physically and mentally. And I could tell no one, so I never had any one to talk to about my feelings.

My husband and I have always regretted doing what we did back then, 14 years ago. God has forgiven us, but we find it hard to forgive ourselves. I recently saw a movie called "The Silent Scream." I was totally shocked to discover after 14 years that my 7 week old fetus (baby) was not a blob of tissue. They lied to me. The baby's heart was already beating and looking like a human baby. Also that child was a human being and had a soul. We are now Christians and I want to help other women who have to make the same decision I had to make, and I want them to be informed and told the facts and the truth.

Sincerely,

DIANA POWELL,
Atascadero, CA.●

NO SUICIDE FOR ISRAEL

● Mr. ARMSTRONG. Mr. President, recent events in the Middle East have resulted in growing demands for Israel to relinquish land in exchange for peace. While well intentioned, these demands ignore the historic realities that have caused the present situation.

It should not be forgotten that this is an Arab-Israeli conflict. And therefore, the only lasting solutions can come from agreement between the Arabs and the Israelis. To force Israel to give up land without the guarantee by the Arabs that Israel has a right to exist is a prescription for Israel's destruction.

A recent article by A.M. Rosenthal in the New York Times is an excellent summary of the causes of the current situation in the Middle East and the likely consequences of forcing Israel into an untenable position. I urge my colleagues to read it carefully.

I ask that the article, "No Suicide for Israel," be inserted in the RECORD.

The article follows:

[From the New York Times, Mar. 8, 1988]

NO SUICIDE FOR ISRAEL

(By A.M. Rosenthal)

It happens to everybody from time to time. We believe certain things about a matter of important controversy and we say them. But when we hear the same points made by others, we become queasy and know something is wrong or missing.

Many of us have been saying the same things about Israel: Israel cannot go on forever being an occupying power. Jews must not break bones. Israeli use of force against young Palestinians is costing her support around the world. Israel must enter negotiations on Gaza and the West Bank.

Right, right. But sometimes when I hear or read these points, which I have made myself, made over and over by others, I find myself deeply uneasy. It is not because there is no validity in them, but because so often they are presented empty of the historic realities that brought about the crisis and must be understood to find a way out.

This is no attempt to set down the political, military and historic truths that raise fears about the road that many American intellectuals, journalists and senators are demanding Israel take.

Causes: The critics' implication is that the cause of the current crisis is Prime Minister Yitzak Shamir's opposition to an international conference and his refusal to agree in advance to cede West Bank territory.

This is not true. The cause is 40 years of Arab refusal to accept the existence of Israel, 40 years of furious hostility and military attempts to destroy her.

You do not have to like Mr. Shamir to realize that if the Arabs had accepted Israel in the beginning or for 20 years thereafter, all of the West Bank and Gaza and other territory would today be part of a Palestinian state.

If you believe that the very existence of Israel is anathema, you are right to see her policies as the root cause of the Mideast ugliness. Otherwise not.

Occupation: Some critics also act as if it were Israel occupation of the West Bank and Gaza in 1967 that led to so many years of unrest and skirmishing there.

This too is a historic distortion. It was the Arab countries that seized Gaza and the West Bank, which were to be part of the Palestinian state under the 1947 U.N. partition plan, and occupied them for 20 years—not in peace but with constant harassment and attack against Israel.

Finally Israel struck back. Her unhappy occupation of the West Bank is a result, not the cause, of aggression—Arab aggression.

Negotiation: With whom and for what? The U.S. proposes an international conference with the Big Five participating. Since Britain and France are cool to Israel and the Soviet Union and China are hostile, the chicken is being invited to negotiate under the sponsorship of four foxes and a lame dove. To think the major powers would not pressure Israel for Arab advantage is not only naive but black comedy.

It is not the Big Five Israel must live with, but the Palestinians, and other Arabs. Which Arab states have promised to negotiate directly with Israel? None. Which Arab leaders are criticizing Palestinians sworn to the elimination of Israel? Where are the "moderate" Palestinians who can swerve the young men of Gaza and the West Bank away from seeking Israel's death?

Stakes: Israel is fighting for survival. The Arab states are fighting out of anti-Israel hatred and fear of the Palestinians. The young Palestinians are fighting for a new Palestinian state because they hate the ruler of a present state with a Palestinian majority: Jordan. They plan to eliminate King Hussein one day and swallow Jordan as part of their own single Palestine.

As things stand, and ceded West Bank territory will become a de facto state run by the P.L.O. and other Palestinians sworn to destroy Israel. Those young Palestinians would not be hurling stones from their territory but rockets.

Solutions: Open pressure on Israel to make concessions must be accomplished by open pressure on the Arabs. Palestinians must accept totally and clearly the right of Israel to live forever, secure and in peace. The U.S. and the Arab leaders can achieve this and guarantee it, if we have the will and they the courage.

Mr. Shamir may not promise in advance to ceded "territory for peace." That is what direct talks are for.

But the definition of peace cannot mean Palestinians continuing war to the death. And they too must feel hard pressure to do some ceding, specifically of their demand for another Palestinian state in a region where one already exists, and to negotiate in peaceful stages for the eventual goal: a single Jordan-Palestine.

Americans have a right to criticize Israel. They have a right to suggest solutions—but not the suggestion of suicide.●

NATIONAL AGRICULTURE DAY

(By request of Mr. Simpson, the following statement was ordered to be printed in the Record:)

● Mr. DOLE. Mr. President, today begins the celebration of National Agriculture Day and National Agriculture Week, a time to honor the contributions that American farmers make to our society.

HONORING AMERICA'S PROVIDERS

Over the years, the number of families making a living directly from the land has steadily declined. However, through the use of improved technologies, better farming practices and new seed varieties, our farmers have become the most productive in the world, assuring American consumers of an abundant supply of wholesome food.

Statistics show the average American farmer produces enough food to feed 114 people including 92 in the United States and 22 overseas. Americans spend only 14 percent of their disposable income on food purchases. American agriculture employs 21 million people and generates 17 percent of the Nation's gross national product. In fiscal year 1987 U.S. farm exports were valued at $28 billion, generating a positive trade balance of over $7 billion.

CONCLUSION

Mr. President, it is obvious that agriculture and related industries are a major cornerstone of a healthy national economy. And public policies that ensure a vibrant and competitive farm economy will lead to higher prices for farmers, more jobs in rural areas and a broader tax base to support State and local services needed to enhance rural communities. I urge my colleagues and all Americans to join in celebration of American agriculture.●

INCENTIVES FOR ALTERNATIVE FUEL VEHICLES

● Mr. ARMSTRONG. Mr. President, reducing air pollution is critical to Colorado's future.

A primary contributor to air pollution in Colorado and elsewhere is carbon monoxide emissions from gasoline-burning automobiles, and today the Senate has the opportunity to reconsider legislation that may result in clearner burning cars.

Carbon monoxide gas is not only odorless, tasteless, and invisible, but also a highly harmful poison. It reduces the capacity of the lungs to exchange oxygen and, thus, affects the respiratory and nervous systems. In Denver alone, smog-related estimated health care costs are $70 million annually.

Carbon monoxide [CO] from car emissions are not unique to Denver, but the area's topography and weather combine with carbon monoxide to produce some of the highest carbon monoxide levels in the country. Denver's temperature inversions trap carbon monoxide at breathing level and prevent its dispersal. Inversions are particularly prevalent during the winter months when car engines operate less efficiently and heating needs mean increased fuel requirements. If this were not enough, Denver lies in a bowl that winds do not reach to help disperse the pollution.

Overcoming challenges imposed by the environment is part of Colorado's heritage, and Coloradans today are equally as adamant in reducing air pollution as their forefathers were in settling the Rockies and High Plains. Already, the number of days Denver exceeds Federal carbon monoxide levels has been reduced from 156 in 1970 to 19 in 1987.

Federal laws requiring new cars to be more efficient in fuel use and emissions control have boosted the clean air effort in Colorado. Since 1981, cars' onboard emissions systems adjust the air/fuel mixture as altitude increases, which reduces the amount of emissions.

Increasing traffic volumes, however, offset many of the technological improvements and aggressive local strategies. As a result, Colorado has enacted tougher vehicle inspection and maintenance standards and required use of oxygenated fuels during critical winter months.

We must start developing vehicles that can operate on cleaner burning fuels.

Promising alternative fuels include methane, natural-gas—liquefied or compressed, methanol, and ethanol. For example, methanol can be manufactured from natural gas, coal, biomass, or municipal waste. It burns more cleanly than gasoline and is used at the Indianapolis 500.

Ethanol also burns more cleanly than gasoline and is derived from grain and other abundant agricultural products. Brazil already requires all its cars to operate on ethanol.

The fuels are there, and it is a matter of developing cars that can run efficiently, dependably, and affordably on the cleaner burning fuels. S. 1518, the Methanol and Alternative Fuels Promotion Act, will provide an incentive for the development of alternative fuel vehicles. Under current law, auto manufacturers must have a corporate average fuel economy [CAFE] standards of 26 miles per gallon average across all lines of production, but there is no distinction between gasoline powered and alternative fuel vehicles. Under S. 1518, CAFE standards for alternative fuel vehicles will be calculated more favorably and, thus, provide an incentive for their manufacture by assisting the manufacturer to meet the fleet CAFE.

Mr. President, this bill will help Colorado and other States in the battle for cleaner air by stimulating the development of cleaner burning automobiles, and I urge its adoption.●

BICENTENNIAL MINUTE

MARCH 20, 1920: SENATOR NEWBERRY FOUND GUILTY

● Mr. DOLE. Mr. President, 68 years ago yesterday, on March 20, 1920, Senator Truman H. Newberry and 16 of his 84 codefendants were found guilty of criminal conspiracy growing out of his 1918 campaign for the Senate. This was yet another startling event in one of the most dramatic Senate elections in our history, one which involved America's most famous automobile manufacturer.

The 1918 Michigan Senate race pitted against each other two industrialists of great personal wealth: Truman Newberry and Henry Ford. After a hard-fought campaign, Newberry won the election. But Ford and many newspapers assailed Newberry for excessive campaign spending and for intimidating voters. The Senate referred Ford's complaint to the Committee on Privileges and Elections. In the meantime, Newberry and 134 others were indicted for violating the Federal Corruption Practices Act, which had set a $3,750 limit on campaign spending in Senate races. By contrast, it was estimated that Newberry had spent the then shocking amount of $195,000 on his election. In 1920 the Senator was convicted.

Newberry appealed to the Supreme Court, arguing that the Federal Government had no authority to control State primaries. In 1921, the Supreme Court unanimously overturned Senator Newberry's conviction, on the grounds that the lower court judge had given erroneous instructions to the jury—but the Justices were divided in opinion over the constitutionality of a Federal statute to control State elections.

In 1922 the Senate's Privileges and Elections Committee agreed that Newberry was the duty elected Senator from Michigan, but declared that his excessive campaign spending had harmed the honor and dignity of the Senate. Since Henry Ford gave no indication of abandoning his own crusade against the Senator, Newberry decided to resign voluntarily from the United States Senate.●

THE LEADERSHIP OF DISABLED AMERICAN VETERANS COMDR. GENE MURPHY

● Mr. DASCHLE. Mr. President, it is with great pride that I bring to the attention of this body testimony presented before the Senate and the House Veterans' Affairs Committees by Gene Murphy, the national commander of the Disabled American Veterans.

As native sons of the State of South Dakota, Gene and I have known each other for years. When Gene was chosen for the position of DAV commander last year, I was enthused not only that a personal friend would be holding that office, but also that a man of Gene's caliber would be spokesman for the over 1.1 million members of the DAV and its Ladies Auxiliary.

For his wartime valor in Vietnam, for his tireless peacetime battle on behalf of our veterans, for the inspiration of his leadership and the broad smile with which he greets life, Gene Murphy is rightfully known and admired from one border of my State to the other. We are proud, now, to introduce him to, and share his great abilities with the Nation.

So I commend Gene Murphy for his outstanding performance as commander of the Disabled American Veterans, and request that his aforementioned testimony appear in full in the CONGRESSIONAL RECORD.

The material follows:

STATEMENT OF GENE A. MURPHY

Messrs. Chairmen and members of the Veterans' Affairs Committees: On behalf of the over 1.1 million members of the Disabled American Veterans and its Ladies' Auxiliary, may I say that it is indeed an honor and a privilege to appear here today in discussion of the major areas of concern to our nation's service-connected disabled veteran population, their dependents and survivors.

At the onset, Messrs. Chairmen, and on behalf of our entire membership, I want to thank you and your Committees for the support that you have given to veterans and their programs during the First Session of the 100th Congress.

It was a year that saw the Congress' agenda prolonged and complicated by "Iran-Scam," controversial Supreme Court nominations and lengthy deliberations on the state of our national economy and budget. Yet your two Committees still managed to address—and push forward—legislative issues of extreme importance to our country's veterans. Several of these are still "hanging fire." That is to say, your Committees were unable to reconcile major and minor differences in time to include them in the Disability Compensation Adjustment Act, which barely managed to clear the Congress last December.

Most notable among these are bills which address:

Last year's administrative discontinuance of VA beneficiary travel payments;

The dilemma facing "atomic veterans" who have developed certain radiogenic conditions as a result of in-service exposure to ionizing radiation; and

Needed improvements in entitlements of former Prisoners of War.

Messrs. Chairmen, the DAV is, of course, disappointed that these important legislative initiatives, the subject of so much scrutiny by your two Committees in 1987, have yet to be enacted into law. As you are well aware, the fickle, unpredictable nature of our legislative process often means that something that is "do-able" today, may well be impossible to attain tomorrow.

And that is why we are heartened that you and your staff's have committed yourselves to a reconciliation of differences and passage of these measures early this Session of Congress. Please accept our appreciation for that commitment.

As you are aware, Messrs. Chairmen, the Annual Legislative Programs and major policy positions of the DAV are derived from resolutions approved by our organizaton's membership during our Annual National Conventions. As an addendum to my oral remarks this morning, I have attached several of these resolutions.

The goals addressed by three of them—beneficiary travel, atomic veterans and POW entitlements—have already been touched upon briefly. But for the balance of my remarks this morning, I want to discuss just one other of our pending National Convention mandates. I want to discuss it not only in terms of the objective itself, its merit and what it would mean to veterans and our country, but also in terms of the reaction it has prompted from certain quarters in our country . . . and what the reaction signifies.

The issue I want to talk about, Messrs. Chairmen, is cabinet-level status for the Veterans Administration.

A long time objective of the major veteran's organizations, cabinet status for the VA has always been sympathetically, if not seriously, considered by the Congress. Bills have been introduced over the years, an impressive number of cosponsors have signed on board, and supportive statements have been made in both the House and the Senate.

Several years ago, in the 98th Congress and on the recommendation of your two Committees, a sense of the Congress sentiment was passed wherein the President was urged to designate the VA Administrator as a member of his cabinet. However, the President did not, and the issue, more or less, was returned to the back burner.

And let me acknowledge that the veterans' service organizations, the DAV included, while certainly supportive of the goal, did not galvanize themselves or their memberships in serious pursuit of this objective.

Perhaps it was because the Committees of jurisdiction over the legislation—House Government Operations and Senate Governmental Affairs—were not as committed and enthusiastic as your own. Perhaps, and I suspect that this is the major reason, there always seems to be more pressing matters that demanded our immediate attention. But, at any rate and for whatever the reason, cabinet-level status for the VA, as an issue, remained in the background.

Until this past Session of Congress.

The turning point, of course, was the decision of Representative Jack Brooks, Chairman of the House Government Operations Committee, to hold hearings on the matter. Let me state here, if it is not already obvious to all, that the lion's share of the credit for securing the cooperation and eventual strong support of Chairman Brooks and his Committee goes to you, Chairman Montgomery, and to you, Mr. Solomon. We know this for a fact and we thank you for it.

Messrs. Chairmen, I want to spend a few moments addressing the merits of this issue. In terms of enlisting your support and enlightening you on the subject, I know I'll be preaching to the choir, but it is relevant to what I have to say a bit later.

Briefly, why should the VA be elevated to an executive level department?

In terms of sheer size and budget alone, the VA is second only to the Department of Defense in number of employees and ranks fifth among all existing departments and agencies in terms of federal expenditures.

In terms of who are served, the 28 million veterans and their 50 million dependents and survivors make up one-third of our nation's entire population.

But the strongest case, Messrs. Chairmen, is made when considering the magnitude and impact of VA programs, not only upon millions of veterans and their families, but upon all of our nation's citizens and their economic and social institutions:

Who has helped train over one-half of our nation's health care professionals? Who leads the federal effort in all forms of medical and prosthetic research? Who nurtures Nobel laureates and has developed lifesaving medical breakthrough's such as the CAT scan? And who stands ready as the only federal entity capable of treating casualties in any major military conflict?

The VA.

Who has educated millions of Americans since World War II, stimulated the growth and expansion of institutions of higher learning and helped to generate billions of dollars in the form of tax revenues from hard working Americans?

The VA.

Who has brought the dream of home ownership to millions of Americans and, in the process, stimulated our nation's housing construction and related industries to the economic benefit of all?

The VA.

In short, what independent agency, presently isolated from the policy-making councils of our government, has expertise and leadership to offer in the areas of health care, education, housing, employment, income maintenance programs and national defense?

The VA, that's who!

Messrs. Chairmen, without any flag waving, in language that liberals, conservatives and those in between can well understand, let me say that it just makes good common sense—it makes good corporate, managerial sense—to fully integrate the leadership of the VA, and the economic and social impact of its programs, into the arena where related policies are formulated and related decisions are made.

And what has been the reaction to this proposal which, as we all know, can be accomplished at practically no cost whatsoever and without adding one additional employee to the federal payroll?

One reaction was a 399 to 17 vote in favor of H.R. 3471 by the House of Representatives. Strong support, indeed, for a proposal that's right for America.

Another was a vicious, hostile attack by a small, but nonetheless influential, number of newspapers throughout the United States.

The former—House passage—we in the DAV can well understand. The latter—the unparalleled attack by major newspaper editorialists—is much less clear.

Let us examine some of the rhetoric of these opinion makers:

Messrs. Chairmen, a major theme running throughout the press commentary was the charge that placing the VA in the cabinet would play havoc with the budget and give untold power and influence to veterans and their organizations.

The VA would . . . "spend increasing amounts", said the Washington Times. "Excessive programs that thrive in their own petri dish" and "so fat" claims the Washington Post. "Raise the cost of serving veterans" states the St. Louis Post Dispatch, while the Austin American Statesmen claims that the "VA budget is already too large."

I have to hand it to the Heritage Foundation, Messrs. Chairmen. For according to them, they know the exact amount it will cost American taxpayers—"$250 million a year without improving services to veterans"!

As to the charge of undue influence, if I had a dollar for each time the word "clout" was used, I could almost fund the modest CBO cost estimate for the bill:

Veterans' groups have "too much clout already" say our friends in the Washington Post, adding that ". . . the 399-17 vote suggests precisely why it is a bad idea". "Clout", "Clout", "Clout", echo the San Antonio Express News, Minneapolis Star Tribune and the Milwaukee Journal.

Two of your own Congressional colleagues were at least a little bit more descriptive: "Congress is gripped in the craven fear of special interests" states Representative Ed Porter, while Representative Tony Beilenson claims that the veteran lobby" . . . is so powerful it gets virtually everything it wants".

In addition to bashing veterans and those in the House of Representatives who voted for the bill—the phrase "a pandering Congress" was used on more than one occasion—these opinion makers also displayed their vast ignorance of the VA and its programs:

"Ninety-nine percent of the work is administrative" says the New York Times. "The chief duty is to write checks, run hospitals and cemeteries" voices the Springfield State Journal Register. The Washington Post agrees, telling us that ". . . a lot of VA health care goes to those who can afford to be expected to pay". Amazingly, the Atlanta Journal would have its readers believe that ". . . VA benefits go to people who become disabled at any time and for any reason, so long as they were in the Armed Forces at sometime in their lives"!

Perhaps we could get these folks to serve on VA rating boards!

Finally, Messrs. Chairmen, fortified by their lack of knowledge, these experts had their own constructive ideas:

Several, including the Washington Post think that the VA should be merged into HHS. The New York Times and others opted for placing it into the Department of Defense. Science and Government Report, bringing up the rear, urged ". . . closing the VA medical system and using the $10 billion to buy medical insurance".

Messrs. Chairmen, I could go on with examples ranging from the idea being characterized as a meaningless "sop," a "trophy" for veterans, to the other extreme of claiming it would lead to the creation of a "super department" and the "establishment of vast new entitlement programs."

What does this media outburst mean? And how is it that institutions with such opposing political and social philosophies as the Washington Post and the Heritage Foundation can find common ground in an effort to defeat this proposal?

I don't know the answer, Messrs. Chairmen. We can speculate, of course. Perhaps the desire to "privatize" federal benefits and services, the desire to reduce the role of government activity and intervention, and the lingering anti-war, anti-anything military, sentiment of the '60's and '70's have found a common, antagonistic focus in the Veterans Administration.

But I do know this. The assertions, assumptions and logic voiced by the opponents to cabinet-level status are specious and ill-advised, and certainly not in the best interest of our country.

At a time when the cost of health care in America is sky rocketing, at a time when entities such as General Motors spend over two and one-half billion dollars per year for the medical coverage of 2.3 million present and former employees, the opponents of cabinet-level status would have us contract out, or merge into HHS, a $10 billion health care system—with all of its human and capital equity—that cost effectively serves the needs of 28 million veterans.

At a time when Pentagon pipelines are clogged with cost overruns, waste and mismanagement, they would hand the entire VA system over to the efficiency experts in the Department of Defense.

And at a time when we as a nation are finally and conscientiously attempting to heal the deep divisions and generational conflicts caused by the Vietnam War, the opponents of cabinet-level status offer the general public an image of an ingrateful, burdensome veteran population, clamoring for more, more, more.

How, does this image square with reality? With, for example, the DAV's offer to forego the recent 4.2% benefit adjustment in the interests of reducing our national deficit?

Or the willingness of our organization to pitch in when beneficiary travel payments were eliminated? An effort that has seen the DAV—in one year's time and at a cost of over $2.7 million—place full time Hospital Services Coordinators in 130 health care facilities, donate 24 vans to the VA, and provide some 890,000 miles worth of transportation to over 16,000 veterans.

No, Messrs. Chairmen, these vocal and highly visible opponents of VA cabinet-level status do not represent the views of the American people. But they can distort and misrepresent those views, both among the public itself and here on Capitol Hill. We must not let that occur.

As mentioned before, the full House of Representatives has given its overwhelming approval to this objective. Senate action is next on the agenda.

And while, S. 533, sponsored by Senator Thurmond, has attracted impressive, bipartisan support—60 cosponsors to date—we cannot become complacent in our efforts.

Senator Glenn's Governmental Affairs Committee has already conducted one hearing on the issue. And his staff has stated their intentions to report a bill to the floor of the Senate by mid-April.

Welcome news. But will these expectations be realized?

A second hearing was scheduled to occur on February 25th. However, it has now been pushed back to March 15th and a third hearing has been set for March 28th.

Messrs. Chairmen, we have no objection to serious Senate consideration of this issue . . . however, neither do we want it to be "considered to death."

Congress will have an extremely tight agenda this year. Already off to a late start on budget considerations, a multitude of issues will have to be handled between normal holidays and recesses, two political conventions, and an early adjournment for the November elections.

Realizing that a Senate-passed bill will require conference deliberations with the House, any foot dragging, any unexpected delays could well prove fatal.

Therefore, Messrs. Chairmen, I urge all members of your two Committees not to cease your efforts on behalf of this legislation. Chairman Cranston, Senators Murkowski and Thurmond, during this crucial period we look to you for your continued leadership and advocacy. With your support, and with the support of the DAV and all other service organizations, we can achieve, indeed, we must achieve, passage of this most important legislation.

Our veterans' benefit system is and always has been a valuable national asset, one of tremendous importance to all Americans and our country. It has the potential to become even more so. Let us confirm, acknowledge and underscore this simple truth by placing the VA where it rightly belongs . . . in the ranks of our Nation's cabinet departments.

Messrs. Chairmen, this completes my statement. I thank you very much for extending me the opportunity to address you this morning. To you and to your most excellent staff's, I offer the deepest appreciation and continued support of the Disabled American Veterans.

Attachments.

RESOLUTION NO. 3 LEGISLATIVE

SUPPORTING LEGISLATION AND ADEQUATE FUNDING FOR THE CREATION OF AN EQUITABLE BENEFICIARY TRAVEL PROGRAM

Whereas, the Veterans Administration has amended their regulations pertaining to the provision of beneficiary travel payments effective April 13, 1987; and

Whereas, the current regulations severely curtail and restrict the eligibility and method by which beneficiary travel is paid; and

Whereas, many veterans otherwise entitled to medical services from the VA may find themselves effectively precluded from receiving such services; and

Whereas, the Disabled American Veterans is committed to insuring that eligible veterans have the availability of transportation services via the creation and operation of the "DAV Transportation Network"; and

Whereas, a situation of fairness must prevail in the Beneficiary Travel Program; now

Therefore, be it resolved that the Disabled American Veterans in National Convention assembled in Atlanta, Georgia, August 16-20, 1987 seek the enactment of legislation mandating the Administrator to provide appropriate beneficiary travel payments to eligible service-connected disabled veterans, as well as other eligible veterans, traveling a reasonable distance to the nearest VA medical facility; and

Be it further resolved that such legislation require the Administrator to cooperate and participate in the operation of the DAV Transportation Network.

Resolution No. 97 Legislative

DISABILITY COMPENSATION INCREASE

Whereas, it is the historical policy of the Disabled American Veterans that this nation's first duty to veterans is to provide for the rehabilitation of its wartime disabled; and

Whereas, the percentage ratings for service-connected disabilities represent, as far as can be practicably determined, the average impairment in earnings capacity resulting from such diseases and injuries in civil occupations; and

Whereas, compensation increases should be based on the loss of earnings capacity; and

Whereas, disabled veterans who are unable to work because of service-connected disabilities should be entitled to compensation payments commensurate with the after tax earnings of their able-bodied contemporaries; now

Therefore, be it resolved that the Disabled American Veterans in National Convention assembled in Atlanta, Georgia, August 16-20, 1987 support the enactment of legislation to provide a realistic increase in VA compensation rates to bring the standard of living of disabled veterans in line with that which they would have enjoyed had they not suffered their service-connected disabilities.

Resolution No. 115 Legislative

IN SUPPORT OF A PRESUMPTION OF SERVICE-CONNECTION FOR CERTAIN CONDITIONS RESULTING FROM EXPOSURE TO IONIZING RADIATION

Whereas, certain veterans of U.S. military service have been exposed to ionizing radiation as a result of serving in the post-World War II occupational forces in the vicinity of Hiroshima and Nagasaki, Japan, and as a result of participating in the testing of atomic nuclear devices; and

Whereas, a causal relationship between exposure to high levels of ionizing radiation and subsequently developing conditions, most prominently leukemia and bone cancer, has long been recognized by the medical community; and

Whereas, after more than 40 years of study and scientific inquiry, definitive evidence has not been established concerning the possible causal relationship between exposure to low levels of ionizing radiation and subsequently developing conditions; and

Whereas, this inconclusive scientific inquiry, combined with incomplete/lost records, faulty data and deficient/nonexistent exposure measurement methodologies have severely inhibited the successful prosecution of disability compensation claims filed by veterans exposed to ionizing radiation; and

Whereas, it is now entirely appropriate for the Congress to intervene in a reasonable and compassionate fashion on behalf of the above cited veterans; now

Therefore, be it resolved that the Disabled American Veterans in National Convention assembled in Atlanta, Georgia, August 16-20, 1987 support legislation in the Congress that would authorize a presumption of service-connection for the conditions of leukemia and bone cancer arising in veterans who were exposed to ionizing radiation as a result of serving in the post-World War II occupational forces in Hiroshima and Nagasaki, Japan, or as a result of participation in the testing of atomic nuclear devices.

Resolution No. 116 Legislative

SUPPORTING OF A PRESUMPTION OF SERVICE-CONNECTION FOR NON-HODGKINS LYMPHOMA RESULTING FROM EXPOSURE TO AGENT ORANGE

Whereas, the Disabled American Veterans has taken the position that service-connection should be extended to any identifiable residual disability or disease scientifically proven to be the result of exposure to the chemical defoliant Agent Orange or any other phenoxy herbicide; and

Whereas, the National Cancer Institute, Bethesda, Maryland, has recently issued a report of a scientific study indicating that Kansas agricultural workers exposed to the phenoxy herbicide 2,4-dichlorophenoxyacetic acid (2,4-D) have a six-fold above normal incidence of non-Hodgkins lymphoma; and

Whereas, indications of a similar causal relationship between exposure to the phnoxy herbicide 2,4-D and the subsequent development of non-Hodgkins lymphoma was evidenced in an epidemiological study reported in Sweden in 1979-1981; and

Whereas, 2,4-D is an active ingredient contained in the chemical defoliant Agent Orange; now

Therefore, be it resolved that the Disabled American Veterans in National Convention assembled in Atlanta, Georgia, August 16-20, 1987 support legislation in the Congress which would authorize a presumption of service-connection for the condition of non-Hodgkins lymphoma arising in veterans who were exposed to the chemical defoliant Agent Orange during service in Vietnam.

Resolution No. 280 Legislative

ELEVATE THE VETERANS ADMINISTRATION TO CABINET LEVEL STATUS

Whereas, the Veterans Administration is now the largest independent agency in the Federal Government; and

Whereas, the VA operates the largest health care system in the world; and

Whereas, the VA implements programs which have the potential to affect over 28 million living veterans and 66 million dependents and survivors of such veterans; now

Therefore, be it resolved that the Disabled American Veterans in National Convention assembled in Atlanta, Georgia, August 16-20, 1987 seek the enactmnt of legislation which would elevate the Veterans Administration from an independent agency to a cabinet level department.

Resolution No. 343 Legislative

IN SUPPORT OF LIBERALIZATIONS BENEFICIAL TO FORMER PRISONERS-OF-WAR

Whereas, Title 38, U.S. Code, presently authorizes that certain diseases and conditions manifested to a compensably disabling degree in former prisoners-of-war shall be presumed to be service-connected for VA disability compensation purposes; and

Whereas, Title 38, U.S. Code, also authorizes that VA dental care shall be provided to former prisoners-of-war who were interned for a period of not less than 180 days; and

Whereas, legislation—S. 9 and H.R. 2945—have been introduced in the 100th Congress which would add the conditions of peripheral neuropathy, spastic colon/irritable bowel syndrome and peptic/duodenal ulcers to the current list of diseases and conditions presumed to be service-connected in former prisoners-of-war; and

Whereas, this same legislation would also reduce the period of internment requirement for authorization of VA dental care for former prisoners-of-war from not less than 180 days to not less than 90 days; and

Whereas, such liberalization of law are most meritorious and would be of benefit to former prisoners-of-war; now

Therefore, be it resolved that the Disabled American Veterans in National Convention assembled in Atlanta, Georgia, August 16-20, 1987 support the enactment into law of the POW liberalization proposed by S. 9 and H.R. 2945.●

EL SALVADOR ELECTION

● Mr. LUGAR. Mr. President, yesterday March 20, 1988, the people of El Salvador went to the polls in large numbers to elect all 60 members of the National Assembly and to choose among candidates for mayor and town council in 262 municipalities. This was the fifth national election in El Salvador since 1982 when the right to vote and the process of democracy were reinstituted. Eight parties contested many of the positions being filled. By all standards, this election has been the most free and fair in that country's experience with electoral politics.

The preliminary results indicate that there has been a transition of power in the National Assembly. It appears that the Nationalist Republican Alliance—the Arena party—will gain a working majority in the Assembly and that the Christian Democratic Party—the PDC—majority will lose about a dozen seats. This would mark the first peaceful transition of power in El Salvador in the past half century.

El Salvador is high on President Reagan's foreign policy priorities. The President expressed his continuing and strong interest in the evolution of democracy in El Salvador by asking Jack Murtha and me to lead a delegation to observe the elections there. He also asked the delegation to report our observations on the elections directly to him at the White House immediately upon our return to the United States. We met with him this afternoon and expressed our view that the process of democracy is alive and well among the Salvadoran people.

I was privileged to have cochaired this distinguished Presidential observor delegation. The delegation was composed of Members from the U.S. Senate, the House of Representatives, the private sector, and from the executive branch. I have included for the record a list of the members of the delegation and a copy of the report summarizing our observations that we released last night in San Salvador. I will have more to say about the results of this important election as the results become clearer over the next few days.

I ask that this list and the report be printed in the Record.

The material follows:

Statement of the U.S. Delegation to the El Salvador Elections, March 20, 1988

I would like to make a few comments on behalf of the U.S. delegation regarding the events of the past few days in El Salvador. Congressman Jack Murtha and I are very proud to have been named by President Reagan to be Co-Chairmen of the nineteen member Presidential Delegation to monitor the nationwide legislative and municipal elections.

The mission of our delegation has been to observe and evaluate the election process. As a delegation, it is not our intent to endorse or criticize the election results. This is the judgement of the Salvadoran people.

We wish to thank President Duarte and the Government of El Salvador for inviting our delegation to witness another important chapter in the evolving history of democracy in El Salvador. It was very heartening to observe the large and enthusiastic voter turnout at so many polling places around the country. Voters went to the polls, despite the violence, despite the intimidation and despite the transportation stoppage by the Marxist guerrilla movement. The American people should emulate the Salvadoran people when it comes to participating in the democratic process. The high voter turnout, under extremely stressful circumstances and at considerable personal risk to many, was very inspiring to witness.

We visited thirteen of the fourteen Departments, over thirty cities throughout the country, some forty-five voting locations and well over a thousand voting tables. Our impression are preliminary because the final tallies on turnout and voting results are not final.

There are, however, a number of observations that we wish to make at this time:

First, the eligible voters of El Salvador have once again turned out in large numbers to exercise their freedom to vote in national and municipal elections;

Once again, the Marxist guerrillas attempted to interrupt these elections, and once again the people of El Salvador have responded by rejecting their threats, their terrorist activities, and their intimidation;

Although we witnessed some minor problems and complications in the administration of the elections, particularly those involving the matching of voter registration cards with computer voting lists, these problems affected a small percentage of the voters;

On the whole, we found the election process to be smooth and professionally conducted.

We are, of course, open to any information that may become available over the next days and weeks concerning the credibility of the election process. But, at this point, our judgment is that the election was free and fair.

This is a time of great ferment and turmoil throughout the Central American region—instability in Panama, the war in Nicaragua, and the guerrilla insurgency in El Salvador. Amidst all this, it is important that democracy continues to grow and mature in the region. This election offers encouragement that, despite the many regional crises, there remains a commitment to freedom and democracy in El Salvador expressed so convincingly at the ballot box today. We in the delegation are moved by this election and all that it confirms about the yearning for freedom.

In conclusion I would like to say on behalf of the entire delegation that we deeply appreciate and admire the eight years of sacrifice the people of El Salvador have made for the cause of freedom, democracy, and human rights. We're proud to have stood by the Salvadoran people during these extremely difficult years of human and natural tragedy, and we will continue to do so. The United States needs to be vigilant and committed to the forces of freedom and democracy throughout the Central American region.

Thank you very much. And now, we would be happy to take any questions.

U.S. Presidential Observers to El Salvador

Co-Chairmen: Senator Richard Lugar, (IND); Representative John Murtha, (PA).

Observers:

Senator Kit Bond, (MO); Representative Mickey Edwards, (OK); Representative Beverly Byron, (MD); Representative John Rowland, (CNN); Representative John Kasich, (OH); Representative Allen Mollohan, (WV); Jim Dyer, Deputy Assistant to the President, White House; Betsy Warren, Principal Deputy Assistant Secretary for Legislative Affairs, Dept of State; Merom Bracham, retired Chairman, Ohio Ethics Commission; Edwin G. Corr, U.S. Ambassador to El Salvador; Fritz Korth, advisory member, International Foundation for Electoral Systems;

Eugenia Kemble, Executive Director, Free Trade Union Institute; Mario Paredes, Executive Director, Northwest Center for Hispanics; Dr. Howard Penniman, elections expert, American Enterprise Institute; W. DeVier Pierson, of Pierson, Semmes, & Finley, (former Counsel to President Johnson); Dr. Susan Kaufman Purcell, Council on Foreign Relations; John C. White, The Coastal Corp. (former Democratic National Chairman).

Accompanying Party:

Andy Semmel, Legislative Assistant for Senator Lugar; John Plashal, Legislative Assistant, House Appropriations; Subcommittee for Defense; Jackie Tillman, NSC Staff; Charles Ingersoll, White House Liaison, State Dept.; Michael W. Donovan, Legislative Affairs (Protocol), State Dept.; Don Gatto, Desk Officer for El Salvador, State Dept.●

TIME TO START OVER?

● Mr. QUAYLE. Mr. President, today Secretary Shultz and Foreign Minister Shevardnadze meet to discuss the upcoming Moscow summit between President Reagan and Prime Minister Gorbachev. Central to their agenda is START and the difficulties our negotiators are having reaching agreement over this agreement's various verification provisions.

These will not be easy matters to resolve. Yet, if recent analysis and commentary are correct, verification matters may be the least of our worries.

In today's Washington Post Jeane Kirkpatrick cites Richard Nixon and his conclusion that the 50 percent cuts we have proposed may actually increase the Soviets' capability to carry out a successful first strike.

Unfortunately, this fear is not unfounded. In a more detailed analysis published earlier this year in Strategic Review entitled "The 'Two-Trak' Dilemma In the START Negotiations," Dr. James L. George, former Acting Director of the Arms Control and Disarmament Agency, explains the hazards of our current START proposal.

The key problem, Dr. George notes, is that we have structured our strategic forces around SALT nuclear delivery vehicle limitations rather than the warhead limits that will be emphasized in START. As a consequence, we have relatively fewer nuclear delivery vehicles with many more warheads each than the Soviets do.

This approach may have made good sense under SALT, but it is bound to cause us real difficulty under START. To cite but one example, Dr. George explains that under current START scheme we are bound to reduce the number of ballistic missile warheads from 8,400 to 4,900, which, in turn, may require us to go from 1,000 ICBMs to as few as 100 in order to meet the lower ballistic missile warhead limits.

If we took this course, the Soviets would have 90 percent fewer U.S. ICBM's that they would have to target. Moreover, because the Soviets have single-warheaded mobile ICBM's already fielded, they could actually increase the number aim points we would have to target and still comply with START.

Mr. President, none of this is likely to improve the prospects for stability, whatever it might mean. Certainly, it's critical that we pay close attention to what we are doing. In hopes that wider distribution of the Jeane Kirkpatrick and Dr. George's articles will focus greater attention on these critical issues, I ask that the full text of both articles be entered into the Record.

The articles follow:

(By Jeane Kirkpatrick)

Nixon the Heavyweight Weighs In

Are Americans invincibly ignorant about foreign policy? A long line of distinguished observers has thought so. Alexis de Tocqueville warmly admired the American "genius in the art of association" and skill in democratic institution-building, but his admiration did not extend to our conduct of foreign affairs, where he said our national virtues were not especially useful.

His judgment has been repeatedly echoed in this century. Walter Lippmann, Hans Morgenthau, George Kennan and Henry Kissinger among others have criticized American tendencies in foreign affairs toward legalism, moralism, sentimentality, volatility, utopianism and, of course, isolationism.

Richard Nixon does not repeat these charges in his new book, "1999: Victory Without War." But his analysis of our situation and his advice concerning how best to manage our affairs communicate a sense of grave concern that we are making and may continue to make serious—possibly irremediable—errors about the nature of the world and how best to deal with it.

Nixon's perspective in the new book is independent and probing, and not likely to please completely any political party or group, especially members of the Reagan administration. While he does not criticize them harshly, he speaks frequently of "some observers" who closely resemble leading figures in the administration and who do not understand that "we are in a war called peace," that "in this conflict, not only our own freedom but that of the rest of the world is at stake."

"Some observers," he says, do not understand that the Gorbachev era represents a "dangerous, challenging new stage of the struggle between the superpowers." Nixon is as impressed as most with Mikhail Gorbachev's intelligence, his "supreme self-confidence," his seriousness, his communications skills. And Nixon worries about the tendency of "some observers" to take Gorbachev's sophistication and breezy style as evidence that he is "like us"—rather than dangerous to our freedom. Gorbachev is a world-class leader, he notes, and "only a heavyweight should get in the ring with him."

In this book, Nixon demonstrates more clearly than ever that in the domain of foreign affairs he is himself a heavyweight who, though driven from power, still understands the way the world works better than almost all of his countrymen.

The book not only analyzes the problems but proposes a comprehensive strategy for the United States and the West. Nixon's analysis and his prescription are supremely realistic, more realistic than those offered by candidates of either party in the current campaign and more realistic than those propounded by the Reagan administration.

Nixon reserves his direct criticism of the incumbent president and his administration for those issues he regards as the most crucial. He sharply disagrees with Ronald Reagan and George Shultz on several major issues of U.S.-Soviet relations. While the president and his secretary of state believe Soviet goals have changed, or are changing, Nixon believes Soviet goals remain unaltered. He thinks the Soviets still seek victory, that our aspirations are in direct conflict. America wants peace, the Soviet Union wants the world.

Despite Gorbachev's charm, Nixon says his foreign policy "has been more aggressive, not less." Gorbachev has not reduced the Soviet defense budget, or withdrawn from Afghanistan, or decreased aid to Soviet clients anywhere in the world, including Nicaragua, Angola and Afghanistan.

The former president also disagrees with Ronald Reagan's strategy for arms negotiations; first, because it treats nuclear weapons as uniquely dangerous, and second, because Reagan focuses on the reduction and elimination of nuclear weapons without regard to the impact on our overall strategic position.

Though a determined and experienced proponent of arms control, Nixon believes the Reagan administration's agreement to remove intermediate-range missiles from Europe was flawed and that the START agreement now being negotiated is downright dangerous. The administration, he says, has focused on reducing the number and kind of nuclear weapons, not on our basic problem: the Soviet advantage in first strike capacity.

To judge whether the proposed START agreement would enhance or diminish our security it is necessary to answer "one simple question: Will the agreement for a 50 percent cut diminish or increase the Soviet capability to launch a successful first strike against the United States' stragetic forces?"

Nixon's answer is that the cuts would greatly increase U.S. vulnerability. In stark language, the architect of détente and master arms negotiator concludes that as currently conceived the START agreement is "not in the interest of the United States."

"Some observers" in and out of the administration will dismiss this judgment as they dismissed the publicly expressed reservations of Nixon and Kissinger concerning the INF accords. "Sour grapes," it has been called. They have been called men who will never be satisfied with an agreement they have not crafted themselves.

The critics of the critics are mistaken. Nixon has long since demonstrated flexibility, pragmatism and ingenuity in the conduct of foreign affairs. Nixon, of all people, is by no means averse to dealing with the Soviets or anyone else on terms that leave us and other indepedent nations more, rather than less, secure. But Nixon also understands our great potential vulnerability to nuclear blackmail. And it worries him a lot.

[Strategic Review]

The "Two-Track" Dilemma in the START Negotiations

(By James L. George)

(The Author: Dr. George was an Assistant Director—and for a time Acting Director—of the U.S. Arms Control and Disarmament Agency from 1982 to 1984. A graduate of the U.S. Naval Academy, he is also a former Public Affairs Fellow at the Hoover Institution, and served in various staff capacities in the U.S. Senate and House of Representatives.)

(In brief: The "two-track" dilemma in the current START negotiations concerns the relationship between the existing inventory—and ongoing programs—in U.S. strategic weapons and the deep cuts that have been accepted as base-lines in the negotiations. Under the warhead-counting rules that have been adopted, and in light of the limits and sublimits that have been set, the United States faces excrutiating choices in adapting viable strategic forces to a START regime. The Soviet Union, by dint of its much more diversified force inventory, does not confront this problem in nearly the same measure. The prospects point not only to dangerous instabilities but, ironically, to a return to the very strategic environment of "massive retaliation" that the United States has sought to escape.)

Most of us are familiar by now with the "two-track" approach adopted by NATO in 1979 to INF (Intermediate-Range Nuclear Forces)—to negotiate the elimination of weapons systems while at the same time developing, building and deploying those very same systems. Less explicit, but potentially more fateful, is a similar "two-track" approach in the arena of strategic arms.

The Strategic Arms Reduction Talks (START) have now lumbered on for over five years, with most of the basic principles guiding the negotiations known from their inception. In his initial address on START, in Eureka, Illinois, in 1982, President Reagan called for major reductions in U.S. and Soviet strategic forces. After some hesitation, the idea of "deep cuts" was accepted by the Soviets in principle. At the 1985 Geneva "fireside summit," the 1986 Reykjavik "mini-summit" and the December 1987 Reagan-Gorbachev meeting in Washington, both sides agreed on 50 per cent reductions in strategic forces and even on some specific numbers: a launcher limit of 1,600, an overall warhead limit of 6,000, a ballistic missile warhead limit of 4,900, as well as an implicit ceiling on bombers and air-launched cruise missiles (ALCMs) of 1,100.

Despite the longevity of the talks and these now well-publicized numbers, there has been virtually no critical analysis of the implications of these limits. There has been no discourse on exactly what a "50 percent" reduction really means—for example, in terms of what 4,900 warheads will be left on which ballistic missiles. Both the U.S. Air Force and Navy are continuing to build strategic weapons as if no limits were looming: the MX ICBM, B-1B Bomber, Trident SSBN and Trident I (C-4) SLBM, as well as two modes of cruise missiles—air and sea. Moreover, additional weapons systems are on the way: a mobile MX, the single-warhead Midgetman (MGM or SICBM) ICBM, the Trident II (D-5) SLBM and a new "stealth" Advanced Technology Bomber (ATB).

In short a series of questions beg answering: First, just what will a START "50 percent" inventory look like? Second, is the United States building the right kinds of weapons systems? Third, what does the U.S.-USSR strategic balance portend to be in the wake of a START agreement? Finally, and most important, what impact is START exerting on nuclear strategy and deterrence?

Obviously, definitive answers to these questions await both the final agreement and the decisions each country will make on its respective weapons systems—since there will be a certain degree of "freedom to mix." Still, enough information exists to explore some inevitable trends. In order fully to appreciate the START "two-track" dilemma, however, it is helpful to begin with a brief review of the changes in the rules of the game from SALT to START.

FROM SALT TO START

Neither the SALT I Agreements nor the (unratified) SALT II Treaty have had a truly profound effect on U.S. and Soviet strategic forces, for one basic reason: both were, in essence, "freezes," especially for the United States. SALT I signed in 1972 (see Table 1) simply placed a "freeze" on the numbers of existing ballistic systems on both sides. One leg of the nuclear Triad, bombers, was not even mentioned. The only limit imposed by SALT I was on launchers or Strategic Nuclear Delivery Vehicles (SNDVs), as they are called in arms control jargon. This rule indirectly encouraged placing as many Multiple Independent Reentry Vehicle (MIRV) warheads per launcher as possible, since there were no restrictions or penalties.

TABLE 1.—SALT I LIMITATIONS

Delivery system	United States	U.S.S.R.
ICBM's	1,054 [1,000]	1,618 [1,408]
SLBM's	656 [710]	740 [950]
Submarines	41 [44]	62 ....

Note.—Bracketed numbers represent allowable limits.

SALT II signed in 1979 (see Table 2) was, at least for the United States, also a "freeze." The Soviet Union would have had to retire some 200 of its older systems, a condition that was undoubtedly the best feature of this accord. Launchers were still the basic counting device, but now some important sublimits were set. MIRV systems were placed in a new sublimit, and bombers were added. Those bombers with air-launched cruise missiles (ALCMs) were placed in the MIRV sublimit. The basic counting device under SALT II was still SNDVs, with MIRVed warheads only indirectly counted in the sublimits. And again, the agreement did little more than "freeze" the status quo.

Table 2.—SALT II limitations

2,400 equal aggregate limit on all delivery systems (includes ICBMs, SLBMs, and bombers).

2,250 final aggregate limit on all delivery systems (within three years).

1,320 equal aggregate limit on MIRV missiles and heavy bombers with cruise missiles.

1,200 sublimit on MIRV ballistic missiles (120 implied limit on heavy bombers with cruise missiles).

820 sublimit on MIRVed ICBMs.

A START accord, however, promises to be quite different—a difference that is already reflected in the name-change from SALT "limitations" to START "reductions"; and these would not just be reductions but very "deep cuts." The second major change is that now both launchers (SNDVs) and warheads would be counted. Thus, the MIRVed warheads that were indirectly encouraged in both SALT I and II (since they did not count) will now incur penalties and, as will be shown below, severe problems.

As has been mentioned, important limits have already been agreed upon in the START negotiations. These include a limit of 1,600 SNDVs, an overall 6,000 limit on warheads, including ballistic missile (ICBM and SLBM) warheads and ALCMs, and a separate ballistic missile warhead sublimit of 4,900. As is shown in Table 3, another sublimit has been set for heavy missiles, but the three important ceilings are the 6,000, 4,900 and 1,600 limits on overall warhead inventories, ballistic missile warheads and SNDVs, respectively.

Table 3.—START limitations

SNDVs: 1,600 ceiling on ICBMs, SLBMs and heavy bombers.

Warheads: 6,000 ceiling to include ICBM and SLBM warheads, long-range ALCMs (heavy bombers carrying gravity bombs and SRAM counting as one warhead).

Sublimits: 4,900 ballistic missile warheads (ICBMs and SLBMs) 1,540 warheads on 154 heavy missiles (1,100 implied sublimit on bombers and ALCMs).

Warhead-counting numbers for ballistic missiles were also set at the Washington Summit. Although these could change, as will be discussed below, any modification of the current verification rules would have to be extremely "intrusive," might encourage cheating and for the long run would have to be very complex.

DIFFICULT CHOICE AMONG MISSILE SYSTEMS

What then, are the short- and long-term implications of START for the strategic forces of the United States? Table 4 shows the current, approximate inventory of the U.S. Strategic Triad. As of this writing, there is still some question about whether more B-52 bombers will be equipped with ALCMs and/or whether a new Trident will join the fleet, either of which would place the United States over the SALT II limits. For purposes of this analysis, however, those numbers are inconsequential. The main point is that scaling down from the approximate 11,000 warheads to only 6,000, and from 2,000-odd SNDVs to 1,600, will cause problems.

TABLE 4.—CURRENT INVENTORY (APPROXIMATE 1988)

System	Launchers (SNDV's)	Number of warheads	Total warheads
ICBM's:			
MX	50	10	500
Minuteman-II	450	1	450
Minuteman-III	500	3	1,500
Subtotal ICBM's	(1,000)	....	(2,450)
SLBM's:			
Trident Submarines (8 x 24) [1]	192	8	1,536
Poseidons with trident (12 x 16) [1]	192	8	1,536
Poseidons (18 x 16) [1]	288	10	2,880
Subtotal SLBMs	(672)	....	(5,952)
Subtotal ballistic missiles	1,672	....	8,402
Bombers:			
B-1B	100	1	100
B-52G (ALCM)	98	12	1,176
B-52H (ALCM)	46	20	920
B-52G	69	1	69
B-52H	50	1	50
Subtotal bombers	(363)	....	(2,315)
Total	[2] 2,035	....	[3] 10,717

[1] First number represents number of submarines; second number is the number of missile tubes per submarine.

[2] SNDV's.

[3] Warheads.

Sources: *Soviet Military Power* (adjusted to 1988).

Offhand, the limit on SNDVs might not be too restrictive from the U.S. vantage-point because of some normal retirements and attrition. By the early 1990s, when any START agreement would take effect, the 450 Minuteman-II missiles, older Poseidon SSBNs and B-52G bombers will all be nearing the end of their normal thirty-year lifecycles. Just retiring the 450 Minuteman-II missiles alone will put the United States below the 1,600 SNDV limit. On the other hand, now that the old Titan missiles have been shelved, the Minuteman-II missiles represent the only "megaton" warheads in the inventory. Although aging and not as accurate as their follow-on systems, they still would be effective in "city-busting" missions associated with "countervalue" deterrence. Nevertheless, the Minuteman-IIs might be considered expendable, and some of the older Poseidons also will be approaching obsolescence. Of course, by the 1990s more Tridents will be joining the fleet. Still, in the light of fairly routine attrition, reaching the 1,600 launcher limit might not be too excruciating a task.

The real problem comes in the associated warhead limits, especially the limit of 4,900 warheads on ballistic missiles. Retiring the 450 Minuteman-IIs illustrates the dilemma of changing the counting device from SNDVs to both SNDVs and warheads. Removal of all the the Minuteman-IIs barely affects the warhead count, inasmuch as the systems are only single-warhead missiles. Although the the Minuteman-II missiles account for 45 per cent of the U.S. ICBM force—and for 27 per cent of the overall ballistic (ICBM and SLBM) SNDV force—they represent only 5.4 per cent of the total inventory of U.S. ballistic warheads.

The numerical problem remains one of cutting down from approximately 8,400 ballistic warheads to only 4,900. Some systems, including the new MXs and Tridents, inevitably would be retained by the United States. Recently modernized systems would also be desired: these include the three-warhead Minuteman-IIIs with the new Mk-12A warhead; starting in 1979, 300 of the systems received the new warhead. Then there are the 12 late-model Poseidon SSBNs of the Benjaming Franklin class that were retrofitted with the Trident-I missile. Besides carrying the C-4 SLBM, these ships are quieter and possess other improvements. As is shown below, these four systems alone have 4,472 warheads:

50 MX (50 x 10 warheads)	500
8 Trident submarines (8 x 24 tubes x 8 warheads)	1,536
300 MM-III w/Mk-12A (300 x 3 warheads)	900
12 Poseidons w/Trident (12 x 16 tubes x 8 warheads)	1,536
Total warheads	4,472

Thus, there are only 428 warhead "slots" left to be divided among 18 Poseidon SSBNs and 200 Minuteman-IIIs. The choice could be between 2 SSBNs or 142 Minuteman-IIIs—not an easy decision. Further complicating the decision would be that by the early 1990s at least two more Trident SSBNs should join the fleet, thereby easily filling those "slots." In order to keep more ICBMs, some Benjamin Franklin SSBNs with the Trident-I SLBM will have to be retired. In short, any decision would require retiring still useful, and in some cases recently modernized, systems.

LIKELY IMPACT ON U.S. BOMBER FORCES

The prospective situation with respect to U.S. bombers may not be as dire, although their full capabilities will not be exploitable under the START limits. Given an overall warhead limit of 6,000 and a sublimit of 4,900 ballistic warheads, there is an implied 1,100 sublimit on bombers and ALCMs. In theory, that number could be increased, but it would have to come at the expense of the ballistic missile force. Since the later must be reduced from 8,400 to 4,900, the bomber force would probably be limited to the implied 1,100.

Under current rules, a non-ALCM-carrying bomber counts as only one warhead, with each ALCM also counting as "one." As was noted above, assuming some normal attrition, such as the retirement of the 450 older Minuteman-IIs, there should be no need to scrap any of the long-range bombers except for reasons of age. The problem comes, again, in the warhead count—reducing from 2,315 to only 1,100.

The dilemma has been further exacerbated by the placement of an additional 8-cylinder capacity ALCM-dispenser in the later model B-52Hs. The older B-52Gs carried ony 12 ALCMs, but the B-52Hs now being converted can carry 20 ALCMs, thus running the numbers up very quickly. Therefore, a final disposition of the long-range bomber force would depend on the mix of the older and modernized versions of the B-52. Yet, one prospect is certain: the ALCM, which was once hailed as the savior of our long-range bomber force, especially for the older planes, cannot be fully exploited in the face of START limitations.

There is still another illustration of the ALCM-limitation dilemma. The B-1B bomber currently entering the force is under severe criticism for being overweight and, worse, lacking adequate electronic countermeasure (ECM) capabilites to penetrate Soviet layered defenses.[1] This problem would be of less concern if the B-1B carried ALCMs and thereby the capability to launch the weapons outside Soviet defense envelopes. However, once the ALCMs are placed on the B-1B, which is capable of carrying 22, the numbers rise dramatically.

There is the additional question of redundancy: why have both the B-52 and B-1B as ALCM-launchers? Many critics of the B-1B suggested that it be delayed in favor of the "stealth" Advanced Technology Bomber (ATB) Yet, the B-1B was sold as an "interim" penetrator until the ATB will join the inventory in the 1990s. A new bomber seems certain to be needed as a replacement for the 1950-vintage B-52s, but the ALCM limitations under START will prove very restrictive in this context.

THE LONGER-RANGE DILEMMA

Thus, in the short term, it appears that under START the SSBN force will decrease by at least 50 percent, the ICBM force could be diminished by 60 percent, and although the bomber force per se should not be affected except through some normal attrition, restrictions on ALCM warheads could render the aircraft increasingly vulnerable.

The long-range implications of START limitations present another set of dilemmas. Table 5 shows the planned inventory for the late 1990s period. Under current plans, there will be 100 MX ICBMs (50 stationary and 50 railmobile), 500 single-warhead, mobile Midgetmobile), 500 single-warhead, mobile Midgetman missiles, some 20 Trident SSBNs (although unofficial, this is the number most often quoted), 100 B-1B bombers and 132 new "stealth" ATBs.

By the late 1990s timeframe, most of the current weapons systems that today serve the United States and the West so well will have reached the end of their normal lifespans: the Minuteman missile series, the Poseidon SSBNs and the B-52s. Modernizations are possible, and there are in fact plans to extend the life of some of these programs. The Air Force has a Minuteman modernization proposal, along with plans to extend the life of the B-52s for conventional missions. Still, with the possible exception of the modernized Minuteman-IIIs equipped with Mk-12A warheads, by the late 1990s most of these systems probably would be retired or at least earmarked as expendable. Keeping any of them, as will be shown below, will simply complicate matters.

As can be seen in Table 5, reaching the SNDV limit of 1,600 would again pose little difficulty: in fact, the planned inventory is some 300 SNDVs below that number. The real challenge, once again, would emerge from the overall warhead, ballistic warhead and ALCM limits of 6,000, 4,900 and 1,100, respectively. As shown in Table 5, the inventory is over 400 ballistic missile warheads above the limit. Or, to put it another way, the choice would seem to be between 2 Trident SSBNs, 44 MX, 440 Midgetman (SICBMs) or some combination.

TABLE 5.—INVENTORY LATE 1990's

System	Launchers (SNDV's)	Number of warheads	Total warheads
ICBM's:			
MX	100	10	1,000
Midgetman	500	1	500
Subtotal ICBM's	(600)		(1,500)
SLBM's: Trident (20 x 24)	480	8	3,840
Subtotal ballistic missiles	1,080		(5,340)
Bombers			
B-1B (ALCM)[1]	41	22	902
B-1B	59	1	59
ATB	132	1	132
Subtotal bombers	(232)		(1,093)
Total	1,312		6,433

[1] Maximum allowable (full load) under proposed START restraints.

All choices have tremendous tradeoffs. Eighteen Tridents would mean that only 11 to 12 SSBNs would be on patrol at one time, as contrasted with the over 20 boats the United States has operated on patrol for years. Forgoing the additional MX missiles, which the Air Force prefers over the SICBMs, would mean sacrificing a more accurate system. The mobile SICBMs, alternatively, would be less vulnerable.

The problem might well resolve itself. Congress seems very reluctant to purchase an additional 50 MX proofmissiles, even in a mobile mode. On the other hand, the price tag on the SICBM is now $45 billion and rising. For the same number of warheads, the MX is approximately one third the cost. At the same time, the Navy's Trident programs—which include the submarine, the C-4 and the new D-5 missile programs—are sailing through Congress relatively unscathed. While some concern exists that the D-5 is a "first-strike" weapon due to its increased accuracy, attempts to halt that program have failed.

Therefore, it appears that the choice may well be between 50 more MX missiles versus 500 SICBMs. As has already been noted, the Air Force prefers the MX and has been very blunt about that preference. The crux of the problem is that if the Air Force had its way and built 50 additional MX, the United States' ICBM inventory could possibly total only 100 missiles, half of them stationary. This would amount to a decrease in SNDVs not merely of 50 percent, but rather of 90 percent in terms of what the United States has maintained for years. It would entail, in short, a most radical change in force structure.

The bomber situation for the long term is once again complicated by ALCM questions. The 232 SNDV bombers are well within any proposed ceilings. As was mentioned above, there would even be SNDV "slots" left over for some conventional-mission B-52s (since they are "heavy," they presumably would still count under START, but only as "one"). Although, again, theoretically the bomber/ALCM limits could be greater than the implied 1,100, due to ballistic warhead restrictions, the limit undoubtedly will be that implied ceiling. According to that calculation, this would allow 41 B1Bs carrying a full load of ALCMs, but the other 59 B-1Bs and all the 132 ATBs would have to carry only gravity bombs or SRAMs. There could possibly be some weapon-load combinations of both ALCMs and gravity bombs, but then all 100 B-1Bs would be put at risk instead of only the 59 penetrators.

Thus, once again the full capabilities of the bomber force will be artifically restrained. Presuming an even better Soviet defense system in the late 1990s, this ALCM limitation will prove to be even more debilitating as the years progress. It will also mean that at least some of the B-1Bs must overcome existing ECM deficiencies for penetrating capabilities.

On the other hand, it does seem appropriate that the bomber leg be the least affected SNDV leg. It takes five years to build a SSBN, two to three years for an ICBM, depending upon the condition of the assembly line, while the time to convert a bomber into an ALCM-carrier can probably be measured in weeks, perhaps even days. In a true emergency, presumably the B-1B and ATB can be converted fairly quickly.

Thus, in the long run, the problems and dilemmas continue. All of the currently planned ballistic missile systems cannot be built, since START ceilings will prevent the construction of over 400 planned warheads. The bomber force—i.e., the SNDVs themselves—will not be greatly affected, but planned ALCM deployments will have to be curtailed by well over 50 percent. Fewer than half the B-1Bs will be able to carry ALCMs, while none of the ATBs could be thus equipped.

VERIFICATION PROBLEMS COMPOUNDED

There have been hints in the American press that the current SALT warhead-counting verification procedures might be changed to allow more SNDVs. For example, some MXs might only have 5 warheads, and some bombers only 10 ALCMs. This would probably require some type of on-site inspection. While on-site inspections might be appropriate to monitor the elimination of systems such as those covered by the INF Treaty, or for periodic checks, the verification of compliance with START would face three enduring problems.

First, on-site inspection of ICBM and SLBM warheads, as well as of ALCMs, would have to be extremely "intrusive." The problem might not be too severe with respect to a fixed-site missile in a stationary silo, but verifying any mobile system would be a nightmare. The missile could be inspected at one place and then be moved to another, in the process being armed with a new warhead.

Second, there would thus be a tremendous incentive to cheat, especially with respect to mobile systems. A mobile missile, whether an ICBM or SLBM, is by definition difficult to locate; it easily could be slipped into some covered shed, where warheads are switched. A constant and comprehensive verification of SLBMs, and especially aircraft carrying ALCMs, would be virtually impossible.

Finally, changing the verification procedures seems to violate that basic principle often known as KISS—"Keep It Simple, Stupid!" As we know from repeated Soviet violations of SALT in masking missile tests by encryption, even the current, relatively simple monitoring system can present problems. Moving to a system requiring constant monitoring would be virtually impossible. Predictions are always risky to make in this turbulent world, but a count-down could almost be started from the day any such agreement was signed before cries of "cheating" would come from many quarters.

Footnotes at end of article.

THE WRONG U.S. WEAPONS MENU?

All of this leads to the question whether the United States has built the right weapons systems in light of the looming START restrictions. The answer seems to be: obviously not. But this should not be too surprising, since every system now being deployed by the United States was conceived under the old SALT I rules, where only the launcher and not the warheads counted. Those systems are the 10-warhead MX ICBM, the 22 ALCM-capable B-1B bomber, the 24-tube Trident SSBN and, to a certain extent, the 8-warhead C-4 and D-5 SLBMs.

By far the worst offender of the emerging new rules is the MX, especially the stationary system. Ten warheads are simply too many per SNDV. As was illustrated above, it could well be that in the late 1990s the land-based ICBM force could consist of only 100 missiles, albeit 1,000 warheads. Those who point out that it is warheads that kill, not launchers, are of course correct. But for vulnerability calculations, it is the launcher that is more important. Considering that the United States would never launch a first strike, a force of only 100 ICBMs, even if half are mobile, is simply too vulnerable to a surprise attack. That could well become a "bay-window" of vulnerability.

The single-warhead Midgetman is under development but, as has been noted, faces opposition within the Air Force because of its expense. The Air Force, rightfully, fears that these costs will cut into other programs; thus, they prefer the MX.

Another option could be to extend the life of the Minuteman-IIIs, 300 of which are modernized with the Mk-12A warhead. Assuming an availability of approximately 500 warhead "slots," that could mean only 50 MX, 500 Midgetman missiles, or 166 Minuteman-IIIs. Only 50 additional MX would mean too few ICBMs; 500 Midgetman missiles are too expensive; but maintaining 166 Minuteman-IIIs would cost literally nothing.

As has already been indicated, the B-1B bomber situation continues to be clouded by controversy. Congress is furious about cost-overruns which, according to one Government report, are reaching 6 billion dollars.[2] But Congress is even more upset at defects in the B-1B program that may cost in the billions to correct. The B-1B was sold as an "interim" penetrator between the older B-52 and the new stealth ATB due to deploy in the early 1990s; once the latter came on line in the mid-1990s, the B-1B would assume the ALCM-carrying role from the B-52. Despite all these problems, considering the flexibility of a large bomber in both conventional and nuclear wars, as well as the added flexibility provided by advanced weaponry, the B-1B or at least some follow-on is needed to replace the 1950-era B-52s.

While the planned "stealth" ATB is still considered a supersecret program, some details have emerged. A book has even been published with a diagram showing the aircraft capable of carrying 9 ALCMs or ACMs.[3] Unfortunately, as was explained earlier, any ATB ALCMs would have to come at the expense of the ALCMs on B-1Bs. Assuming that the B-1B will be limited in penetrating capabilities, the ALCM-carrying role would probably be left to it, with the ATB only carrying gravity bombs and counting as "one" under START rules. The ATB seems needed, therefore, but it will be very expensive—according to some reports, about $300 million per plane.[4]

The strategic submarine situation is a little more complicated. Moreover, the MX and B-1B, which do have follow-ons that comply with START rules, no proposed successor to the Trident system has surfaced. For years, the Trident with 24 launch-tubes (compared with the 16 tubes of the earlier Polaris and Poseidon SSBNs) has been criticized for carrying "too many eggs in one basket." Currently the Navy has approval for 15 Tridents, with plans for at least 20. Given the goal of maintaining 66 per cent of the force-on-station, it would mean that only 13-odd SSBNs would be on station, as compared with the more than 20 SSBNs thus engaged for years.

While no one anticipates a breakthrough in anti-submarine warfare (ASW), there is always that threat. Also, it has recently been disclosed that new Soviet attack submarines are quieter, making detection more problematical. There undoubtedly exists some mathematical model predicting the exact number needed for mission requirements versus detection probability, etc., but perhaps more important will be the unquantifiable pyschology of deterrence. For years, the SSBN force was considered to be the ultimate deterrent that, when all else failed, would be able to respond to any threats. It is difficult to pinpoint where any "numerical-satisfaction curves" would cross, but certainly only 13 deployed would represent a modest, and potentially valunerable force-on-station. This suggests work should be started on a smaller SSBN with fewer tubles.

GREATER ADAPTABILITY OF THE SOVIET INVENTORY

What effect will START have on the Soviet inventory and the balance? Fortunately, the Soviets will also be faced with many difficult decisions and dilemmas. Unfortunately, they might be better prepared to face them for one simple reason: they have considerably more, and different types, of systems.

Soviet ICBM development is often described in terms of "generations," with anywhere from one of three different types per generation. The Soviets deployed their first generation, the SS-6, in the late 1950s, followed by the second generation of SS-7s and SS-8s in the early 1970s. By 1966, deployment of the third generation of SS-9s, SS-11s and SS-13s, was underway. Many of these third-generation ICBMs are still in the force. In the mid-1970s, the Soviets began their fourth generation of MIRVed SS-17s, the huge SS-18 and the SS-19, with 4, up to 10, and 3 warheads, respectively. And the Soviets are starting to deploy a fifth generation; the single-warhead, road-mobile SS-25, and the 10-warhead, rail-mobile SS-24.

Thus, the Soviets have in their inventory everything from single-warhead missiles, both stationary and mobile, to medium-sized missiles with 3 to 6 warheads, to heavy missiles, both mobile and stationary, with up to 10 warheads. This is the strategic equivalent to shopping in a department store offering a vast array of merchandise. For example, the new Soviet 10-warhead SS-24 might be a mistake under START counting rules, but the Soviets also have the single-warhead SS-25. In other words, they already have their "Midgetman," which certainly does conform to a START regime.

The Soviets have similar flexibility in their SSBN and SLBM forces. Much has been made of their huge Typhoon SSBN, which is twice the size of the U.S. Tridents—but the Typhoon has only 20 tubes, not 24. Moreover, the Soviets are also producing a new Delta-IV SSBN with the older 16-tube arrangement. Their newer SLBM, the SS-N-23, has 10 warheads—but they also have the SS-N-18, with from 1 to 7 RVs, as well as the SS-N-20, with from 6 to 9 MIRVs. In bombers, the current Soviet aircraft carry only a few ALCMs, although their new "Blackjack" might carry more.

Too much attention has been paid to restricting Soviet ICBMs, especially their heavy missiles. Not enough attention, however, has been paid to their total nuclear force.

Thus, when one looks at the full array of Soviet nuclear weaponry, one sees immeasurably more flexibility of systems than on the U.S. side. While it is, within limits, fairly easy to predict the future U.S. force, it is virtually impossible to calculate what the Soviet force might look like after a START agreement. One thing seems certain: the Soviets will probably end up with more SNDV platforms than the United States, albeit with the same number of warheads. Thus, there could well be a situation similar to SALT I (Figure 1), but with one major difference: After SALT I, even though the ratio of SNDV's was 1,712 to 2,450 in favor of the Soviet Union, the warhead advantage was about 7,500 to 2,500 in favor of the United States. Under START, both sides will be "equal" in warheads.

A RETURN TO MASSIVE RETALIATION?

The numerical balances and considerations are important, but equally important are the potential effects of START on nuclear strategy and deterrence. Indeed, the real focus of concern should not be just on the "bean-count," but on how START will affect strategy. This could prove to be the deepest dilemma of all. Instead of ridding the world of Mutual Assured Destruction (MAD), as the present Administration had aspired, START could well mean a return to a similar—indeed even more onerous—strategy of Massive Retaliation.

The popular perception of nuclear strategy is often expressed in the simplistic proposition that the United States will, or always can, respond to a Soviet first strike by hitting Soviet cities. President Carter's famous statement about the need for only one SSBN to destroy Soviet cities encouraged that perception. While it may be technically correct, few strategists would endorse that solution.

In fact, U.S. strategy has always been decidedly more intricate. The impression during the Eisenhower Administration was that of a U.S. strategy of Massive Retaliation against Soviet cities. Yet, as we now know from declassified documents, there were tremendous debates behind closed doors in the 1950s, and targeting was seldom clear-cut. Part of the misconception of this early period was that, except for John Foster Dulles' famous Massive Retaliation speech of 1954—where, in fact, he never used that phrase—there were few declaratory statements.[5]

During the Kennedy-Johnson Administration, which coincided with the development and deployment of most ICBMs, SLBMs and SSBNs, there were numerous statements on strategic policy, mostly by Secretary of Defense Robert McNamara. The policy went from Massive Retaliation to "Assured Destruction" and thence to MAD.

In 1970, President Nixon asked: "Should a President . . . be left with the single option of ordering mass destruction of enemy civilians?" [6] In 1974 Secretary of Defense James Schlesinger announced the notion of limited nuclear options (LNOs). As he stated:

"Rather than massive options, we now want to provide the President a wider set of much more selective targeting options." [7]

Secretary Schlesinger's departure and the end of the Ford Administration left this strategic policy in doubt. But "limited options" resurfaced in the Carter Administration's "Countervailing Strategy" formalized in a Presidential Decision, PD-59. Further developed were the notions of SNOs (selective nuclear options) and even RNOs (regional nuclear options). Secretary of Defense Harold Brown presented this as an "evolutionary strategy." The Reagan Administration essentially has affirmed PD-59 with its own National Security Decision Directive, NSDD-13 [8]

One needs to review, however briefly, this history of nuclear strategy in order fully to appreciate the effect of START. Again, the caveat must be given that final numbers and disposition await the treaty and the decision each country will make. Yet, certain trends seem inevitable. For several reasons, it appears that the United States will have to abandon the "Countervailing Strategy" and revert to at least a quasti-Massive Retaliation strategy.

First and foremost are the sheer numbers available. Limited options require more, not fewer weapons. There might or might not be such a thing as "overkill," but there certainly is such a thing as "underkill"—a classic military problem. Whatever one might do with limited resources, one cannot expect to exercise many options.

Second, there is the type of weapons. Again, final dispositions are unknown, but it appears that the land-based ICBM force could take the deepest cuts, perhaps up to 90 per cent. These are the weapons that have the best accuracy and the most timely command, control and communications features. Complicating the problem of sea-based forces is that each time an SSBN launches a missile, it invites detection and retaliation. If all 24 SLBMs are launched, that is not a major concern; but any effort at selective launches of only several missiles risks the detection and thereby the survival of the submarine and its unfired missiles.

A related problem is that, if current trends continue, the U.S. inventory would consist of only MIRVed systems, with the exception of the Navy's nuclear Tomahawk sea-launched cruise missile (SLCM). MIRV missiles are not necessarily the type suited for any limited-options strategy. To make matters worse, at the Washington Summit the United States finally agreed to some restrictions on sea-launched cruise missiles (SLCMs). Since SLCMs are the only system not now being restricted, such limits should be carefully analyzed for their implications; otherwise the U.S. Navy could well find itself in a restrictions dilemma similar to that discussed in connection with the Air Force's ALCMs.

Third, and last, is the problem of susceptibility to a first strike. Assuming that the Soviet Union will have more ICBMs than the United States under START, they could launch a devastating first strike and still have at least their SLBM force available for a third strike. After SALT II, the United States still commanded a substantial advantage over the Soviet Union in warheads; nevertheless, many in the United States were apprehensive of a "window of vulnerability." If Americans were concerned about vulnerability when the United States had warhead superiority, it seems difficult to believe that they will be comfortable in a situation where even that edge will be gone.

Thus, with fewer weapons, possibly less control over those weapons and an abiding concern over vulnerability, U.S. strategy will have to change. The United States would be left with those suitable for retaliation, even massive retaliation, but not any more complex strategy requiring the numbers and sufficient control for exercising options. Finally, we should remember that the conventional wisdom after World War II held that the West, not the East, needed nuclear capacity for overall deterrence.

This new START delemma could raise substantially the importance of the President's Strategic Defense Initiative. If, in fact, the Soviets do end up with more weapons platforms and options, clearly viable U.S. strategic defenses could help to offset that imbalance. Yet, a START Treaty is likely to be concluded in the near future, determining offensive weapons deployments into the late 1990s and beyond. By that time, will SDI have survived the U.S.-Soviet bargaining table and/or domestic politics in the United States? Or, having survived those exigencies, will credible strategic defenses become available in time to relieve the imbalance?

INCOMPATIBLE "TRACKS"

Perhaps the most perplexing aspect of the START two-track dilemma is the "right-hand, left-hand" approach between the weapons-builders and the arms-controllers. From an historical viewpoint, one would have to side with the weapons-builders. After all, the roots of the Trident SSBNs, MX missiles and B-1 bombers go back to the early 1970s, when only launchers, not warheads, counted. In this day, when it takes over a decade to bring a weapons system from the drawing board to deployment, changing weapons systems in midstream is not easy. Thus, the START negotiators should have taken more careful account of the existing and planned U.S. weapons inventory.

On the other hand, now that the arms control details are public, the weapons-builders should adapt, and the U.S. Congress should pay attention. Yet, the Air Force is still pushing hard for the heavy-penalty (under START) 10-warhead MX system and does not want the single-warhead missile. At the Office of the Secretary of Defense level, strong consideration was given, at least for a time, to placing three warheads on the Midgetman for better "cost-effectiveness." A former Pentagon official once in charge of research and development told an audience how the new ATB with advanced ALCMs and ACMs would solve the bomber problem in the 1990s, ignoring the implications of START.[9] The Navy wants more 24-tube SSBNs. In most cases, the weapons-builders are arguing on the strictly military merits of the systems and/or cost-effectiveness, while completely ignoring the implications of START. The MX might be more accurate and most cost-effective than a Midgetman, but does the Air Force really want merely 100 missiles in its inventory?

Meanwhile, the Soviet Union is developing "generations" of different types of systems, giving Moscow the flexibility for any conceivable type of arms control agreement. And discussions of strategy and deterrence have been virtually ignored in the ongoing rush to sign a START accord.

Enough details exist to indicate the START "deep-cut" proposal will prove to be a major mistake. The United States simply is not building the proper weapons compatible with such an agreement, and future systems now proposed that might be more compatible may never be built. Fortunately, the United States still fields some adequate systems such as the Minuteman-III ICBMs with the Mk-12A warhead and later-model 16-tube Poseidon boats that can last well into the 1990s, by which time the weapons track of the START two-track dilemma can be sorted out. And these older but modernized systems can keep up the numbers needed for nuclear strategy.

The Administration should keep in mind that, probably for the first time, there will be another type of "two-track" dilemma when it submits a treaty to the Senate for ratification. In the past, since SALT I and SALT II were really just freezes, the debate was over the details of the agreement. This time, Congress must take a look at the weapons "track" as well. Few trains can run on tracks that are not parallel.

FOOTNOTES

[1] Molly Moore, "Travails of the Centerpiece Weapon: Air Force Unsure When B1 Problems Can Be Fixed," *Washington Post*, August 10, 1987, p.1.

[2] Hugh Lucas, "USAF Confident in Spite of B-1 Report," *Jane's Defense Weekly*, November 7, 1987, p. 1039.

[3] Bill Sweetman, *Stealth Aircraft* (Motorbooks International: Osceola, WI, 1986). Shown in *Defense Electronics*, July 1986, p. 68.

[4] "The Stealth's Soaring Costs," *Time*, July 27, 1987, p. 27.

[5] For an excellent discussion of this early period, see David Alan Rosenberg, "The Origins of Overkill: Nuclear Weapons and American Strategy, 1945-1960," *International Security*, Spring 1983, pp. 3-71.

[6] Cited in Aaron L. Friedberg, "A History of the U.S. Strategic 'Doctrine'—1945 to 1980," *The Journal of Strategic Studies*, Vol. III., No. 3, p. 54.

[7] Cited in Ibid, p.43.

[8] Jeffrey Richelson, "PD-59, NSDD-13 and the Reagan Strategic Modernization Program," *Journal of Strategic Studies*, June 1983, pp. 125-146.

[9] John T. Correll, "The Future of the ICBM," *Air Force Magazine*, July 1987, p. 54.●

NO INF TREATY

● Mr. WIRTH. Mr. President, as we approach the INF vote, we must be careful to understand the implications of the INF Treaty for conventional arms control and nuclear deterrence.

Five years ago Mr. Anthony Cordesman wrote an article on the balance of uncertainty in the NATO central region—his article has stood the test of time and I wish to share it today with my colleagues.

In a 1983 journal article, Anthony Cordesman, a highly respected defense analyst, makes a substantial contribution to our understanding of the myriad elements beyond the bean counts of the conventional balance in NATO's central region, and illuminates the many ways of manipulating these bean counts to prove NATO's inferiority. His basic thesis is that multiple uncertainties exist for each side in its calculations of the European balance of forces, and that with appropriate conventional and nuclear force deployments, NATO can successfully deter a Warsaw Pact conventional attack without having to resort to early use of nuclear weapons.

He contends that there is an essential linkage between the central region and nuclear deterrence in that the

Soviet Union cannot, and must not ever know with certainty at which point NATO would cross the nuclear threshold. He further contends that NATO faces its own balance of uncertainty in not relying too heavily on a threat of nuclear retaliation that it may not be willing to execute, and having adequate conventional forces to fight even theaterwide conflicts for a reasonable period of time, thus closing the gap between "inaction and willingness to use nuclear weapons."

Cordesman devotes the bulk of his article to detailing numerous uncertainties that one must consider in any evaluation of NATO and pact balances. These include, among others, the uncertainties of resources, the reliability and dependability of allies, differences in readiness and buildup capabilities, geographic limitations, sudden or surprise attack capabilities, tank quality and support capabilities, antitank and attack helicopter capabilities, artillery quality, and tactical air systems quality.

Importantly, Cordesman concludes that, despite important trends shifting toward the Warsaw Pact's favor, the various balances of uncertainty do not "support fear or complacency," and that NATO possesses formidable conventional forces in the central region. Cordesman further concludes that NATO has politically and economically feasible force improvement options to correct weaknesses and miscalculations, such that any Warsaw Pact attack on NATO would be unthinkable to the Soviet Union. He forcefully emphasizes, nevertheless, that NATO can never practically or prudently rely exclusively on conventional deterrence or conventional forces equal to pact forces to guarantee its security. For that, he contends, NATO must continue to rely on nuclear deterrence, which can best be strengthened, not by adding prohibitively expensive new divisions or wings of aircraft, but by nuclear force improvements.

The article follows:

ANTHONY CORDESMAN: "THE NATO CENTRAL REGION AND THE BALANCE OF UNCERTAINTY," ARMED FORCES JOURNAL INTERNATIONAL, JULY 1983, PP. 18-58

Western security is dependent on many military balances, and each presents its separate hope of peace and risk of war.

* * * Even within a given balance, much depends on warning and politics. The Soviet Union may or may not deliberately initiate a conflict. The USSR may depend on forces in being, covert buildup, or overt deployment of the maximum forces it can bring to bear. The Soviet Union may use a given balance to put political pressure on the West or divide it without resorting to arms. If a conflict does occur, it may or may not be limited to a single region of NATO or even to a single country.

NATO must have the proper mix of military strength to deal with all these balances. The West's security is dependent on its ability to create a reasonable deterrent in every area where there is a meaningful risk of war.

Two balances, however, are far more critical than the others. NATO can lose many small confrontations or conflicts. It cannot, however, risk more than the most minor loss of territory in the Central Region or engage in more than the most limited use of nuclear weapons without defeating its purpose. To succeed as an alliance, NATO must succeed in deterring a major armored attack on the Central Region, and it must deter escalation to nuclear war. NATO stands or falls on its ability to preserve the central region.

* * * [T]he very importance of the Central Region strengthens NATO in terms of deterrence. It creates an "iron linkage" between the balance of armored forces in the Central Region and NATO theater and strategic nuclear capabilities. The USSR cannot consider the balance of forces in the Central Region without considering the risk that any attack on the Central Region will lead to nuclear conflict.

This linkage is the key uncertainty in the NATO-Warsaw Pact balance. The USSR cannot predict the point at which nuclear escalation will come, and the risk of such escalation increases in direct proportion to the forces the Warsaw Pact commits to an attack and its success.

* * * At the same time, NATO faces its own balance of uncertainty. It cannot afford to rely on the theater nuclear equivalent of minimum assured destruction. NATO must avoid nuclear conflict as long as possible and must void a level of conventional weakness that might allow the USSR to win a limited conventional war in Germany * * *

* * * NATO must be able to fight even theater-wide conflicts for a reasonable period of time. It must be able to impose conventional losses that fill the gap between inaction and willingness to use nuclear weapons.

* * * NATO relies on conventional forces to deny the Warsaw Pact the ability to win a quick conventional victory in the forward area, and to make nuclear escalation seem a rational and inevitable response to any massive and sustained Soviet invasion. This reliance on deterrence rather than war fighting imposes risks, but it also means that NATO does not need forces equal to those of the Warsaw Pact of that can deal with "worst case" war fighting scenarios.

NATO's force improvement problem changes radically when its goal becomes deterrence and preserving the balance of uncertainty. It shifts from a problem of trying to close an impossible gap in conventional and/or nuclear capabilities to one of how best to maintain and strengthen an already effective deterrent.

This, however, still leaves the problem of determining what conventional capabilities are adequate. Even a deterrent alliance must back the balance of uncertainty in nuclear forces with a credible balance of uncertainty in conventional capabilities * * *

The problem becomes one of how to measure NATO's Central Region forces in terms of their relative ability to shape Soviet perceptions and deprive the USSR of any incentive to attack. Uncertainty becomes important as well as capability, and capability is defined in terms of deterring any Soviet armored assault on West Germany rather than fighting the resulting conflict * * *.

NATO is unique in its tendency to underestimate its strengths. The most commonly used numbers on the NATO and Warsaw Pact balance have nothing to do with the Central Region balance or with any other balance that has military or political meaning.

They ignore NATO's reliance on deterrence, they give a false impression of overall weakness, they fail to single out the trends and risks that matter, they fail to identify key uncertainties, and they fail to give NATO's force improvement opportunities proper credibility.

* * * NATO, for example, focused on broad force totals which were deliberately designed to dramatize its weakness when it published its first major public force comparisons in May of 1982.

NATO ignored comparative readiness, deployability, and buildup capabilities. It used geographic categories that made a bad balance impossible and which had nothing to do with either deterrent or war fighting capability.

The NATO land force "bean counts" included the flanks and excluded most units in the USSR and all NATO forces outside Europe. The resulting totals gave NATO 2.6 million men to 4.0 million for the Warsaw Pact.

* * * NATO aircraft counts—which for some strange reason excluded all reinforcements from outside Europe but included all aircraft in Russia's three Western, Volga, and Urals Military Districts—gave the Pact 7,240 combat aircraft to 2,976 for NATO.

The NATO-Pact ratios were 2,288-2,115 fighter bomber or ground attack aircraft, 730-4,370 interceptors, 0-350 bombers, 4,200-11,000 antiaircraft guns, and 2,300-6,000 surface-to-air missile launchers.

These NATO air figures seem a bit thick even for comparisons designed to serve the purposes of political gamesmanship. They include most of the strategic defense forces of the Warsaw Pact—which almost certainly would not be committed in bulk to any attack on NATO even under the worst conditions—and ignore America's impressive ability to deploy tactical air power based in the U.S.

They ignore the fact that both sides would be short of air bases, air base protection, and support during the initial phases of any conflict. The issue is how many sorites can be supported in the forward area. Both sides have more aircraft than they can effectively deploy in the first 30 days of a conflict.

* * * [A]n uncertainty which receives far too little attention and which tends to favor NATO is the uncertainty of resources.

NATO and the Warsaw Pact differ sharply in how they organize military forces. The Warsaw Pact concentrates far more of its resources on combat units and aircraft which would be rapidly consumed in combat and then replaced with new units. NATO emphasizes sustaining capability: keeping combat units intact and providing large amounts of supply, manpower, and equipment replacements.

* * * Roughly half of the Warsaw Pact's peacetime manpower and one-third of its mobilized manpower is East European. The GDR has 113,000 men, Czechoslovakia, has 142,500, and Poland has 207,000. All are conscript armies. All must virtually double their size with reserve civilians to mobilize all the combat and reserve divisions * * * plus this necessary support.

* * * NATO cannot count on East European reluctance to fully support the USSR in estimating its relative war fighting capability—but the USSR can scarcely count upon those "allies" to provide such support. This is significant when one considers that 15 of

the 57-odd divisions in Pact forces are Polish and 10 are Czech. Only nine or 10 of the Polish divisions and five of the Czech divisions are combat ready. The GDR is the only East European state which relies solely on combat ready units where the officers and NCOs are carefully selected in ways which seems likely to provide a high standard of real loyalty.

The Warsaw Pact must consider that the "peace-loving" peoples of Eastern Europe are scarcely the ideal mobilization base for offensive war * * *

The uncertainties imposed by the Warsaw Pact's reliance on East European forces are compounded by those that grow out of the difference between NATO and Warsaw Pact readiness and buildup requirements. These differences are massive and impose certain risks.

* * * NATO units admittedly differ in readiness in many obvious or subtle ways. Different countries impose very different standards in terms of training, ammunition stocks, war reserve equipment, combat and service support, spare parts, unit integrity and turnover, combined arms and land/air training, and a host of other factors.

* * * There is no easy way to summarize these differences. No meaningful net assessment has ever been made of the comparative readiness of each NATO army. NATO can only go so far in raising such sensitive issues and must concentrate on the extent to which nation meets agreed standards and its own national goals.

* * * [F]or all the uncertainties about NATO readiness, such uncertainties in the Warsaw Pact are even greater * * * [E]leven of the 57 Waraw Pact divisions are Category II and III reserve units. Further, all of the 32 Soviet divisions in the Western Military District are Category II or III divisions, and between 30-60 percent of the Pact's noncombat support manpower would have to be mobilized.

The Soviet Union must evaluate its own strength in light of the fact that its own significant combat experience since 1945 has been in Afghanistan and that it no longer has any significant number of combat-trained troops. Quite aside from the issue of the reliability of non-Soviet reserve forces, it also faces the issue of how well its Category II and III units can deploy and fight in a theater-wide conflict.

* * * NATO intelligence estimates have tended to ignore these readiness problems in calculating the threat, as well as the fact that Warsaw Pact divisions of all types are constantly undergoing massive equipment conversions, and are subject to large-scale manpower turbulence because of a reliance on two-year conscripts, almost all of whom must also receive basic training in the unit to which they are sent.

It is difficult, however, to see how the Soviet Union can view the situation in similar terms. The USSR is anything but reckless in military matters, and its readiness assessments are nearly certain to be ultra-consevative. It will know the weakness of each Warsaw Pact unit as well as SACEUR comes to know privately the weakness of each NATO unit under his command. Its calculation of the risks of committing understrength and rapidly mobilized units will give it a very different picture of total buildup capabilities than the one common in NATO.

* * * The Warsaw Pact has a major surprise or sudden attack capability, and enough Category I and II divisions to create a 3-1 superiority from roughly M+9 to M+30. The arrival of Category II divisions would raise the ratio to as high as 7-1 * * *

At the same time, at least some aspects of the balance of uncertainty do favor NATO. Any such Warsaw Pact movements would literally involve the deployment of over one million men, regardless of what assumption is made about readiness. Even under worst case conditions, NATO will find countless opportunities for conventional "deep strikes" against key rail and road links and facilities. Under more favorable assumptions, such NATO strikes could vastly compound the uncertainties the Warsaw Pact faces becasue of nationality and readiness problems.

* * * The Warsaw Pact could conceivably begin an attack and achieve significant limited gains before NATO could move out of its peacetime caserns * * *

At the same time, there is little prospect that Soviet forces will suddenly leave their caserns and arrive at the Rhine or the Weser. No matter what scenario leads to conflict, the Soviet Union will have to carry out major divisional-sized movements. The average Soviet division in the GDR is located 125km away from the inter-German boarder, and two-thirds are located more than 100km from the border even if one draws a line that ignores road lengths and terrain.

The Soviet Union also could not rely on any attack by the forces it has near the boarder. It would almost certainly have to commit all its forces in the GDR, Western Poland, and Czechoslovakia in a matter of days.

This means that unless the Warsaw Pact carries our massive prior movements under the cover of some exercise (and movements close the FRG on this scale would make such a cover thin), it will become vulnerable to NATO air and missile attack * * *

* * * NATO's current deployments put much of its armored strength in the forward area, and . . . NATO's forces are much better distributed to reinforce each other than NATO's national corps zones would indicate.

* * * There are, however, serious problems and uncertainties in NATO's deployments as well as in the deployments the Warsaw Pact would have to carry out to attack * * *

NATO also has serious problems with its reserves. Ideally, the British Army of the Rhine should be reinforced with enough reserves to expand it from 55,000 to 147,000 men. It will take at least ten days to fully deploy French forces from France (if these are in fact committed) and nine days to deploy any meaningful Danish support to the 6th German Division. A French unit would also have to move over 300km to come to the aid of even the northern sector of NATO's Central Army Group (CENTAG).

While NATO is well deployed in broad terms, few NATO units are deployed directly at their wartime positions, and about half the combat battalions in West Germany are 50 to 100km from the border. NATO requires between 24 and 96 hours to occupy forward defense positions of the kind that do most to prevent the loss of any German territory and provide the defender with the most advantage * * *

* * * [C]ounts of tank strength sharply favor the Warsaw Pact regardless of how one counts NATO and Warsaw Pact tank forces. The Pact leads in terms of force trends, numbers, and modernization. The Warsaw Pact has increased its tank strength far more quickly than NATO, and trends favoring the Warsaw Pact have accelerated since the early 1970's.

* * * The USSR restructured its Front in Eastern Europe to provide for better air and mobile infantry and artillery support for armored movements. It corrected some of the weaknesses in its logistic and support forces, and has introduced new concepts of combat unit organization like the Operational Maneuver Groups (OMG's).

The OMG is task-force oriented and provides far greater and more flexible integration of combined arms * * * These OMG's are specially structured and designed to penetrate NATO defense in quick thrusts * * *

The USSR does not * * * face the same kind of uncertainties in tank numbers and armored offensive units that it faces in the previous balance of uncertainty. It is steadily improving its ability to conduct a quick and limited seizure of West German territory and to conduct conventional wars at sufficiently limited levels to raise doubts about the credibility of NATO's escalation to nuclear war.

The Warsaw Pact, however, faces uncertainties in tank quality and support capability * * * [T]he Warsaw Pact is modernizing its tank pool more quickly than NATO, [but] earlier generations of NATO tanks were significantly better than comparable generations of Soviet tanks, and this gives NATO an advantage.

* * * While Soviet tanks have superior cross-country mobility and well-shaped armor and recent models have thicker conventional armor than the armor on NATO tanks, even the most modern types lack advanced range finders and fire control equipment. The newest Soviet tanks also have automatic loaders that require repositioning of the gun and which severely complicate operation of the tank.

Although Warsaw Pact tanks are rugged, they have not proved particularly reliable, quality control of critical parts is poor, and defects are not routinely corrected once tanks enter service * * *

Soviet tanks lack flexibility in using a wide range of ammunition types and carry only 28-40 rounds (vs 63 for an M-60A1). Their guns track slowly, and their turrets rotate at only 17° per second (vs. 24° for an M-60A1 and 40° for an M-60A2). Even the T-72 and T-80 seem to have extremely cramped cabins and poor human engineering, poor "buttoned-down" visibility, and problems while firing in defilade. Soviet tanks cannot shelter behind hills because their guns only depress a maximum of 4° (vs. 11° or more for NATO tanks).

While NATO tanks have many design defects of their own, they are less serious than those of most Soviet tanks * * * The Warsaw Pact, therefore, must regard comparative tank quality as a significant uncertainty in evaluating its own capability.

Further, Warsaw Pact units still lack the tank recovery, repair, and replacement capability of most NATO divisions.

The Warsaw Pact has been far quicker to acquire "force multipliers" like attack helicopters and antitank guided missiles and now has a major lead in both areas.

* * * [T]he Soviet Union has seen the helicopter as a powerful means of disrupting NATO in the rear, halting NATO movements, outflanking NATO armor and air defenses, and supporting its own breakthrough attempts. It has steadily upgraded both the number and firepower of its attack helicopters and built them into a major force in the Central Region.

* * * NATO does seem to retain an advantage in terms of helicopter maneuverability, protection, sensors, and antitank weaponry, but it must make major increases in production to take advantage of this opportunity and offset the Soviet advantage in production.

* * * The balance of uncertainty in artillery also favors the Warsaw Pact * * * The Warsaw Pact has a massive advantage in numbers and in its rate of modernization. There are some compensating uncertainties * * * [M]any Warsaw Pact units still use towed weapons. The Pact is unlikely to fully convert to armored self-propelled artillery like that common in most NATO units * * *

The Warsaw Pact does not have fire computers and targeting aids equal to those in the best NATO units, has fuzing and artillery round reliability problems, and does not have rounds with the same lethality against soft targets—although its fragmentation patterns are generally more lethal against light armored vehicles than those of NATO.

* * * Overcentralization and lack of skilled personnel make it difficult for Soviet artillery to shift fire rapidly or adapt to new tactical conditions. This is compounded by a lack of adequate communications * * *

The Warsaw Pact also has uncertain ability to sustain its theoretical rates of fire and to provide the massive ammunition resupply needed to take full advantage of its numbers of tubes * * *

The Warsaw Pact lead in aircraft numbers * * * is misleading, as noted earlier. The Pact totals include strategic defensive aircraft which are unlikely to be used against NATO in large numbers, and the comparisons exclude large numbers of tactical aircraft which both sides can rapidly deploy from outside the Central Region.

* * * [N]ATO has a distinct advantage in terms of individual aircraft capability, munitions, and numbers of aircraft that can directly support the land battle * * *

NATO also draws major advantages from its superiority in airborne early warning and control, in electronic warfare, and in air-to-air missiles and retains at least some superiority in surface-to-air missile technology. The Improved Hawk, for instance, is probably better than any system yet deployed in Eastern Europe.

WEIGHING THE BALANCE OF UNCERTAINTY

The balance of uncertainty, therefore, does not support either fear or complacency. The complex mix of capabilities and trends that now make up the balance of uncertainty in the Central Region indicate that NATO still has great deterrent strength. While many key trends are shifting in favor of the Warsaw Pact, NATO still has a remarkably strong mix of conventional forces in the Central Region.

It is also clear that NATO has serious weaknesses, but even where it is weak or has miscalculated, it still has major force improvement options. NATO can unquestionably sustain enough conventional capability to make a Warsaw Pact attack virtually unthinkable to the Soviet Union * * *

There is also a point of diminishing returns in the search for conventional options. There is no practical prospect that NATO can ever rely on conventional deterrence or means to fight prolonged theater-wide conflicts or deal with the full military capabilities the USSR can eventually bring to bear.

This must be done through nuclear deterrence. Thus, the priority is for improvements like the ground launched cruise missile and Pershing II and not for more divisions, wings of aircraft, or the other uncredibly costly improvements necessary to raise NATO's present conventional battle fighting capabilities to a level that can deal with another Soviet Shock or Tactical Air Army.

* * * The Soviet Union faces so many risks and uncertainties in the Central Region that it may never test NATO's capabilities as long as NATO remains politically united * * *

Survival, however, is not the same thing as security. NATO needs a new realism about the Central Region balance if it is to create the kind of forces that do most to reduce the risk of any kind of conflict. This, in fact, is NATO's best hope for arms control: not more forces or force reductions, but the right forces to deal with the balance of uncertainty.●

THE SHARPEVILLE UPRISING ANNIVERSARY

● Mr. SIMON. Mr. President, today is the 28th anniversary of the uprising in Sharpeville, South Africa. During this protest of the pass laws, 69 people were killed. In the aftermath, the African National Congress and the Pan African Congress were banned. It was not until the mid-1970's that uprisings of a similar magnitude occurred in Soweto.

During these past 28 years, many in South Africa have given their lives in the battle against apartheid. Today, 17 anti-apartheid organizations and the largest trade union organization have been essentially banned from any political activity.

I want to pay tribute today to all of those who protested in Sharpeville in March 1960, and to all of those since—men, women, and even children—who have been imprisoned and given their lives to make a just and free South Africa for all the people who live in it. These are among the most patient, determined, and courageous people—and they will succeed.●

THE CIVIL RIGHTS RESTORATION ACT

Mr. EXON. Mr. President, I rise to announce my intention to vote to override President Reagan's veto of the Civil Rights Restoration Act.

This bill enjoys broad based bipartisan congressional and public support. It passed the Senate with an overwhelming 75 to 14 vote.

I was delighted that the Civil Rights Restoration Act twice enjoyed the support of my Republican colleagues in Nebraska's delegation in the House of Representatives, including just 2 weeks ago when it passed the House by a 315 to 98 margin.

With this decision, I stand with most of America's best known religious, educational, and civil rights organizations. I am also confident that I stand with the vast majority of Nebraskans who have as their State's motto "Equality Before the Law."

The President's veto is the implementation of Ed Meese and Brad Reynold's plan for "conservative confrontation." This veto and the steps taken to support it go beyond reason and seek to divide our great Nation. Now is a time for reason, understanding, and unity.

The Civil Rights Restoration Act would simply withhold Federal funds from institutions which engage in discrimination. The fundamental principle of the Civil Rights Restoration Act is that with the privilege of receiving Federal funds, goes the responsibility of not discriminating on the basis of race, religion, sex, age, or physical handicap.

If any institution desires to engage in discriminatory practices, they are free to do so, except without the benefit of Federal assistance.

Until the 1984 Grove City College decision of the U.S. Supreme Court, Republican and Democratic administrations alike had interpreted the Nation's civil rights statutes to mean that if one department of an institution received Federal funds, the entire institution was bound not to discriminate. The 1984 Court decision overturned what had been accepted practice and found that the antidiscrimination requirements apply only to the department which received the Federal funds.

In effect the decision freed institutions to accept Federal funds in their chemistry department, for example, but to discriminate in its athletic department.

The Civil Rights Restoration Act simply returns the Nation's civil rights laws to its pre-1984 status where it had always been accepted and performed very well. Furthermore, the bill extends the well tested system of waivers for religious institutions. An institution can be excused from antidiscrimination regulations which are contrary to their religious beliefs. No religious institution which has applied for a waiver has been denied a waiver. Over 140 waivers have been granted.

As for interference with churches, most churches do not receive Federal funds and would not be affected by this legislation. If a church, however, receives Federal funds for some of its social services, the act would not reach into the religious operations of the church or its practices.

Mr. President, our Nation is much better because women, minorities, the aged and handicapped Americans have had the opportunity to share in the American dream. I am proud that my daughters and granddaughters live in an America where they can have an opportunity to succeed.

The Civil Rights Restoration Act will keep our Nation from taking a gian step backward to the days when women were not given equal opportunities and discrimination based on race or religion was commonplace.

Mr. President, Nebraskans love college athletics. The success of women's athletic programs can be placed in large part on the antidiscrimination provisions of the Education Amendments Act. This law has assured that women athletes receive fair treatment and an equal opportunity. Nebraska women's teams have won championships this year in basketball, softball, volleyball, and track.

If this veto is not overriden, we may return to the day when women's athletics and education assume a second class citizen status. We cannot let that happen.

Mr. President, the Civil Rights Restoration Act also includes the Danforth amendment which I was proud to support and cosponsor. This amendment definitively resolves the troubling issue of abortion and the civil rights laws. According to the Danforth amendment included in this bill, nothing in the civil rights law—and I am emphasizing "nothing"—"shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service related to abortion."

I have been shocked by recent efforts of the radical right to rally opposition to the Civil Rights Restoration Act. Their efforts have included a well organized campaign of exaggerations, distortions, deceptions and outright mistruths.

I am confident that when the people review the facts about the Civil Rights Act they will reject the outrageous assertions of these special interest political fund raising groups.

I would like to take this opportunity to refute a few of these scandalous charges. To those who have claimed that the Civil Rights Restoration Act is, and I quote, "anti-religion and anti-family," I point to the fact that this legislation has the support of the United Methodist Church, the U.S. Catholic Conference of Bishops, the Episcopal Church, the Presbyterian Church USA, the American Baptist Churches, the Church of the Brethren, the Evangelical Lutheran Church of America, the Union of Hebrew Congregations, Church Women United and Several other religious organizations. This bill also has the strong support of the Parent Teachers Association, the National Association of Independent Colleges and Universities, and the Paralyzed Veterans of America.

Mr. President, as examples of the religious sentiment for this bill, I ask unanimous consent that letters from Elwyn Ewald, the director of the Lutheran Office for Governmental Affairs of the Evangelical Lutheran Church in America, and from Archbishop John L. May, president of the United States Catholic Conference, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

EVANGELICAL LUTHERAN CHURCH IN AMERICA, LUTHERAN OFFICE FOR GOVERNMENTAL AFFAIRS,
Washington, DC, March 16, 1988.

DEAR SENATOR: This afternoon President Reagan vetoed S. 557, the Civil Rights Restoration Act. I strongly urge your support for an override of this veto.

There has been an abundance of misinformation concerning this measure, none of which is truly pertinent to the subject of a bill that simply seeks a restoration of rights under Title VI, Title IX, Section 504 and the Age Discrimination Act, as S. 557 does.

An example of the type of hysteria being generated by opponents of this bill is a "Special Memorandum To Pastors" from Jerry Falwell and the Moral Majority. This communication claims that Congress is "destroying freedom of religion guaranteed in the First Amendment." It further adds that "Your preaching and moral values would be dictated by the government with federal intervention if you didn't obey." These types of misstatements lack any true understanding of this bill and are far from the truth.

Religious liberty is not at risk by this legislation—what is in jeopardy, however, are basic civil rights protections for minorities, women, disabled persons and the elderly. Republican and Democratic leaders alike realize that an override of the President's veto of S. 557 will preserve these rights for all our citizens.

Vote "yes" to override the President's veto of S. 557.

Respectfully yours,
ELWYN EWALD,
Director.

UNITED STATES CATHOLIC CONFERENCE,
Washington, DC, March 14, 1988.

DEAR SENATOR: I write on behalf of the nation's Roman Catholic bishops to urge you to vote to override the veto of the Civil Rights Restoration Act. We strongly support this legislation which recently passed the House and Senate by overwhelming margins. We believe that it does much to strengthen federal civil rights protections while safeguarding vital concerns about human life and religious liberty.

This important legislation will strengthen the federal commitment to combat discrimination based on race, gender, age, national origin and handicapping condition. We believe government has a fundamental duty to protect the life, dignity and rights of the human person. This is why we supported the goals of the Civil Rights Restoration Act, successfully urged its modification in several important respects, strongly urged final passage in this amended form in both the House and Senate and urged the President to sign it.

As you know, the United States Catholic Conference expressed some serious reservations about the original bill. In the bill vetoed by the President, Congress made several essential improvements, including the "abortion neutral" amendment. This amendment, which we strongly supported, ensures that no institution will be required to provide abortion services or benefits as a condition of receiving federal funds. If this bill does not become law, we fear these important guarantees will be lost and the existing regulations under Title IX could once again threaten to force institutional cooperation with abortion. We also believe this legislation as interpreted by the committee report and floor debate adequately accommodates our legitimate concerns in the area of religious liberty.

No piece of legislation is perfect and people of good-will can disagree over these matters. However, we believe the Civil Rights Restoration Act with the important improvements made by the Congress is a significant victory for civil rights and an important step forward in insuring that our nation's civil rights laws do not require any institution to violate fundamental convictions on human life.

We are pleased by the overwhelming bipartisan support of this vital legislation. We hope you will join in this broad based effort to help our nation live up to its pledge of "liberty and justice for all" and vote to override the veto of the Civil Rights Restoration Act.

Sincerely yours,
Reverend Msgr. DANIEL F. HOYE,
General Secretary.

Mr. EXON. Mr. President, to my utter amazement, some have asserted that the Civil Rights Restoration Act will grant protection to or require people to hire homosexuals. That assertion is a complete unadulterated falsehood. Nothing in the Civil Rights Restoration Act grants any special treatment or protection to homosexuals.

The bill has no mention of homosexuality or sexual preference. The bill leaves businesses, churches, schools, and governments free as they are now to hire or fire homosexuals at will. In this regard, the Senate bill is the same as the President's substitute. Those who are spreading these untruths should hang their head in same!

As for contagious diseases, the bill contains the amendment offered by my conservative Republican friend, Senator HUMPHREY. Senator HUMPHREY's amendment is identical to the contagious disease section contained in the House Republican substitute which was endorsed by the Reagan administration.

This very same language is contained in the President's own substitute bill. This bill will not extend new rights to the victims of contagious diseases such as AIDS. The bill specifically allows individuals to be fired when they threaten public safety or are unable to perform their duties due to a contagious disease.

It is indeed a sad day when opponents of legislation cannot rely on reason or facts to conduct their debate but must delve deep into the public's darkest fears of homosexuals and AIDS.

As for farmers, during the Senate debate, my friend and colleague Senator DAVID KARNES, reestablished the known fact on the floor of the Senate that recipients of Federal crop support payments are absolutely not covered by civil rights regulations, which none thought they were anyway.

As for so-called mom and pop stores, some have asserted that new burdens would be placed on small businesses to accommodate handicapped individuals. Once again, if a business receives no Federal assistance, there is no coverage or requirement, period, exclamation point.

The bill makes it clear that small providers such as drug stores and grocery stores with fewer than 15 employees are not required to make significent alterations to their facilities to ensure accessibility to handicapped persons if alternative means to providing services are available.

During the debate, other myths and fears which have been spread by those who wish to turn back the clock, and cloak their support for discrimination in a pack of untruths, will be fully addressed by my other colleagues. The legislative history will be complete and no court would be able to expand this modest piece of civil rights legislation beyond its clear intent to restore the status of the law to its pre-Grove City condition.

Mr. President, there are times when the Senate has an opportunity to make truth triumph over prejudice. This is one of those times.

I urge my colleagues to vote to override the President's veto, which I am keenly disappointed that he made.

Mr. President, in addition to the material I have had printed in the Record, to demonstrate the means nd ends that some people will go to in spreading untruths, I ask unanimous consent that a letter, dated March 11, 1988, from the Moral Majority and an attached memorandum to that called "a Special Memorandum to Pastors" be printed in the Record.

There being no objection, the letter and memorandum were ordered to be printed in the Record, as follows:

Moral Majority,
March 11, 1988.

Congressman Tommy F. Robinson,
700 W. Capitol,
Little Rock, AR.

Dear Congressman Robinson: The enclosed compugram and fact sheet were sent to hundreds of pastors in your district. Many of the pastors have well over 1,000 members and are gravely concerned about the effect of H.R. 1214 (Civil Rights Restoration Act).

The concerns represented by this large part of your constituency are primarily twofold:

1. This bill, combined with present court cases, suggests that alcoholics, drug addicts and active homosexuals cannot be discriminated against for the same reasons that Blacks (cannot be discriminated against) which simply destroys the civil rights protections that now exist.

2. This bill, combined with present court cases, suggests that government has the right and authority to require religious institutions to employ individuals who are in direct conflict with that institution's tenets of faith. This interferes with the free exercise of religion—a violation of our First Amendment.

Please understand the purpose of the enclosed is for information. As you can see, we have identified your votes for your evangelical constituency.

It is my opinion that H.R. 1214 and the action surrounding it will be the political issue for the conservative evangelical community in 1988.

Please consider the wishes of the majority of your constituency and vote to sustain the President's veto on H.R. 1214.

Sincerely,

Jerry C. Nims,
President.

Moral Majority,
Washington, DC.

Dear Pastor Bondurant: Please read the special memorandum enclosed.

Urgent. Your help needed immediately.

Congressman Robinson voted for passage of HR 1214 which, with present court cases, declares active homosexuals, transvestites, alcoholics and drug addicts among others to be handicapped and therefore protected under civil rights laws.

President Reagan will veto if we can assure him Congress will sustain his veto.

Congressman Robinson voted against the substitution amendment that would exclude churches and religious institutions from this gay rights law.

The voters in this district must rise up and confront Congressman Robinson and urge him to reconsider the effect of this law.

Please call Congressman Robinson at his district office: 1527 Federal Building, 700 W. Capitol, Little Rock, AR 72201, (501) 378-5941.

Urge him to sustain the President's veto! Please encourage and instruct your congregation to do the same. If the Congressman receives hundreds of calls . . . from voters . . . he will listen.

Again, read special memorandum enclosed.

You must act today. Congress could override the Presidential veto within 24 hours of that veto.

Sincerely,

Jerry Falwell.
Jerry Nims.

Special Memorandum to Pastors

Date: March 2, 1988.
From: Moral Majority, Jerry Falwell, Chairman, Jerry Nims, President.
Subject: Gay Rights Legislation.

CONGRESS VOTES HOMOSEXUALITY A RACIAL MINORITY AND A HANDICAP

This is a headline that you will never read in your local newspaper.

But while America was turning her attention to the presidential primary elections, Congress attempted to "railroad." a law giving government more control than any law passed in the past 25 years and destroying freedom of religion guaranteed in the First Amendment.

Because of the pressure brought on by the homosexual movement in this country, Congress has caved in to this pressure and passed a law that, combined with present court cases, would qualify drug addicts, alcoholics, active homosexuals, transvestites, among others, for federal protection as handicapped.

On Wednesday, March 2 the U.S. House of Representatives under a partial suspension of the rules (limiting debate and protective amendments) passed a law known as the "Civil Rights Restoration Act" (HR 1214). This name is a lie! It does not restore any civil rights. It destroys civil rights for tens of millions of people!

This bill is the greatest threat to religious freedom and traditional moral values ever passed.

If this bill becomes law, along with present court cases, it will protect active homosexuals, transvestites, alcoholics and drug addicts, among others, under the government's anti-discrimination laws. These sins will be considered to be diseases or handicaps.

If this bill becomes law it will subject most churches and religious schools to federal control.

What this means to you and me is this: Our churches and religious leaders could be forced to hire a practicing active homosexual drug addict with AIDS to be a teacher or youth pastor, etc. Your preaching and moral values would be dictated by the government with federal intervention if you didn't obey.

Failure to obey this perverted law could result in lawsuits costing millions of dollars being brought against our churches by militant gays, feminists and others who have no respect for God's laws.

The lawsuits are now prepared and waiting for the Civil Rights Sodom and Gomorrah Act.

This is an immediate call to action. I must have your immediate help.

These threats are very real. If you care about religious freedom and traditional moral values, I must have your immediate help. This is the time for all right-thinking Americans to take action.

Dr. James Dobson of Focus on the Family; Dr. D. James Kennedy, Coral Ridge Ministries; Phyllis Schlafly, Eagle Forum; Bev LaHaye, Concerned Women for America; Paul Weyrick, Free Congress Foundation, and many others have agreed to stand with us in this lobbying effort—but we must have your help.

Here is the situation: I am told by high White House officials that President Reagan may veto this bill any day now.

But I am also told that enormous pressure is being put on members of Congress to override the President's veto by the liberal lobbyists representing the militant gays, feminists and others.

Please call your Congressman today and urge him to substain the President's veto and protect our First Amendment rights of free expression of religion.

Mr. EXON. Mr. President, I also ask unanimous consent that editorials from Lincoln newspapers—the Lincoln Star and the Lincoln Journal—be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Lincoln (NE) Star, Mar. 21, 1988]

Reagan Veto a Loss

President Reagan's veto of an anti-discrimination bill is a serious loss for justice and equality. This bill passed both branches of Congress by overwhelming votes.

With the exception of Rep. David Karnes, all Nebraska members of the House and Senate voted for the bill. Those positive votes are commendable. The Karnes vote reflects his continuing prediliction to favor nearly any Reagan position.

What this measure attempts to do is to reestablish civil rights and anti-discrimination laws in four areas. In 1984, the United States Supreme Court ruled in the Grove

City case that the law applied only in specific areas of violation.

The four areas cover sex discrimination by educational institutions; the 1964 Civil Rights Act barring discrimination by race, color or national origin in all federally assisted programs; a 1973 law barring discrimination against the handicapped; and the 1975 Age Discrimination Act barring discrimination based on age in programs receiving federal aid.

The argument advanced by Reagan and his handful of loyalists is the same tired claim that was advanced back in 1964. It is that the bill passed by Congress impinges too heavily upon the lives and affairs of citizens and private businesses.

What that really says is that the nation is dedicated to the elimination of discrimination only up to a certain point, but not more than that. In other words, a little discrimination here and there under covert circumstances is perfectly acceptable.

As we have noted time and time again here, there is no such thing as a little bit of equal justice. Either the country puts an end to discrimination or it doesn't. You can't have it both ways.

Those who argue that there are limits to anti-discrimination laws within the broad framework of society are simply refusing to take a stand for the cause of equal rights. The Reagan veto deserves a resounding override.

[From the Lincoln (NE) Journal, Mar. 18, 1988]

OVERRIDE OF REAGAN CIVIL RIGHTS VETO NOW A CONGRESSIONAL MUST

President Reagan so frequently visits the Land of Fantasy that the far-out nature of his arguments backing his veto of the 100th Congress' most important civil rights law automatically come with reduced shock value. In the end, it's rather like asking, with a combination of resignation and sadness, well, what can you expect?

Ostensibly, the Reagan veto should be easy to override. The Senate approved the civil rights bill in January, 75-14. Earlier this month, the House vote for enactment was 315-98. Roll calls on the coming override should be closer, though.

Now under way is a frantic election year effort by the political and religious far right to frighten members of Congress. Especially targeted are Republicans who hold an override balance of power. (By the way, has Vice President Bush said anything non-slippery on this subject since the Reagan veto?)

Lurid horror stories are being cynically used by friends of bias to panic impressionable people who have never been supplied a comprehensive explanation of the bill—and probably wouldn't sit still if one were offered. They have been told, and they now apparently believe, that a police state government could force all manner of unacceptable association down the throats of churches, schools, hospitals and small businesses under the civil rights law. Which is sheer bunk.

All of Nebraska's three House members backed the bill on March 2. Correctly, in the Journal's opinion. Earlier, Sen. J.J. Exon and David Karnes had split—Karnes being one of the 14 senators in opposition.

Our guess is that Rep. Hal Daub of Omaha, locked in a political life-or-death Republican senatorial primary fight with Karnes, must be under intense pressure from the backers of discrimination. They want Daub to change his position—or risk losing Old Guard votes on May 10.

Drama over the veto override in-fighting may tend to cloak the substance of the bill itself, somewhat akin to the way the ordering of American combat troops to Honduras Wednesday night took away the national news focus from grand jury indictments of four Iran-Contra scandal personalities Wednesday afternoon.

Critical to any understanding is that the bill essentially rolls back the clock on how civil rights law was interpreted and enforced before the U.S. Supreme Court's 6-3 decision in the 1984 Grove City case. An unmistakable congressional will is found in the bill's introductory findings, that "legislative action is necessary to restore the prior consistent and long-standing executive branch interpretation and broad, institution-wide application of those laws as previously administered."

What the Grove City decision permitted was a fall back into the crabbed civil rights environment that existed in this country in the early 1960s and before. That may be what Ronald Reagan and the political and religious fundamentalists would like. But we can't believe it is also what a great American majority also wants. Overriding the Reagan veto is a matter of congressional conscience, and priority.

Mr. EXON. Mr. President, I also ask unanimous consent to have reprinted in the RECORD that portion of the CONGRESSIONAL RECORD of January 28, 1988, when the points were made with regard to the exclusion of farmers that was referred to in my previous remarks and also a report from the committee in this regard and strictly on this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DON'T EXPAND REGULATIONS FOR AGRICULTURE

Mr. KARNES. Mr. President, I have offered an amendment to settle the concern that this legislation will expand the scope of the civil rights laws beyond that which existed before the Grove City decision. I share the concern of many of my colleagues about its potential far-reaching effects on farmers and ranchers throughout the country.

I am concerned about the possibility of farmers being brought under the civil rights laws by virtue of their participation in Federal farm programs. As currently drafted, farmers who received loan guarantees, commodity loans, deficiency payments, disaster payments, price supports, and so, on, might be forced to comply with the entire range of civil rights statutes. If this circumstance were to come about, it would lay a whole new set of Federal regulations at the doorstep of farmers and ranchers across the land.

This does not imply that farmers are opposed to civil rights or want to turn back the clock to the times and the events that necessitated the enactment of these laws. In this case, the issue is not discrimination. The issue is unnecessary Federal interference. If someone feels that complaints have been made or a record has been established showing that there are civil rights problems on the American farm that warrant our attention, I would like to hear those arguments and see that record. I do not feel that any such record exists, nor do I feel that there is any basis for such a record. So let's leave them out of the civil rights discussion altogether.

I do not know that it is the direct intent of any Senator to include farmers and ranchers in the coverage of S. 557. The problem with the bill is that it leaves open the question of whether farmers and ranchers could be included. It creates an ambiguity which could ultimately require litigation to resolve unless we deal specifically with the issue here and now.

Section 7 of the bill states that none of its provisions shall be construed to extend the application of the civil rights laws to ultimate beneficiaries of Federal financial assistance excluded from coverage before enactment. It is asserted by some that this language is sufficient to lay the farm and ranch issue to rest. It does not, however, make clear which ultimate beneficiaries are now excluded, nor does it address the issue of exclusion of those persons receiving benefits from programs that may be enacted in the future. Comments in the committee report are not adequate to address these concerns because the bill substantially rewrites the statutes and adds a new definition of programs and activities covered by the law.

The purpose of section 7 may be to generally exempt a number of activities touched by Government funding. However, I have received an opinion developed by the Justice Department asserting that section 7 is not necessarily sufficient to remove all ambiguities about application to farmers and ranchers. Mr. President, I ask unanimous consent that the Justice Department opinion that I refer to be printed in the RECORD immediately following my statement.

Farmers have enough problems. They should not have to operate under the gun, knowing that a court may later rule that S. 557 does include farmers and ranchers, triggering unnecessary, but nonetheless mandatory regulations for them to study and adhere to. They have neither the time, money, nor personnel to attempt to comply with the requirements of bureaucrats who may demand volumes of proof of nondiscrimination even when no complaint has been received. Soon, agribusinessmen are going to feel like they have to call their lawyer before they go out to work in the fields.

There is nothing in this bill which specifically assures farmers that they will not be covered by the wide range of civil rights laws. What could happen if a court would construe the law to include farmers and ranchers against our intent? Such an occurrence has been known to happen from time to time. The possibilities are mind-boggling and outrageous.

Let's consider some. Would farmers have to hire persons with infectious diseases such as TB or AIDS? Perhaps they could be required to restructure jobs, modify facilities or install equipment for handicapped persons.

They might have to establish grievance procedures whereby a hearing would have to be held before letting a worker go simply because he doesn't do the job.

Even small operations could be subject to increased Federal paperwork requirements, random on-site compliance reviews and other regulatory burdens.

Passage of this bill could make farming a whole new ball game, a game that I know farmers like my Nebraska constituents do not want to play. The potential impact of this legislation on the average farm operation is devastating. Anyone familiar with farming knows that regulations like these on farmers would be utterly ludicrous.

Farmers are experiencing a severe crisis. They are overburdened with low commodity prices, excess surplus stocks, and the lack of affordable financing. To be faced with additional statutory and regulatory requirements could jeopardize their continued existence.

Mr. President, as the owner of my family's farm, I can tell you how farmers and ranchers would react to extending new civil rights regulations to the farm. They would shake their heads in disbelief. They would wonder why in the world the U.S. Congress is slapping on controls that have no rational relationship whatsoever to life on the average family farm. They would sit down in disgust and write to us, pleading "leave us alone!"—and they would be completely justified in doing so.

* * * * *

Mr. EXON. Mr. President, could I inquire of the leader? There was to be a colloquy between Senator KENNEDY and my colleague from Nebraska with regard to farmers' exemptions. Was that included?

Mr. KENNEDY. That has been completed.

So the bill (S. 557), as amended, was passed.

Mr. KARNES. Therefore, to be absolutely certain that farmers and ranchers will not be covered by these statutes, I introduced my amendment to clarify the matter. It does nothing more than settle the issue at hand. It states that nothing contained in the statute shall be construed to extend application of the four titles in question to farms, farmers, ranches, or ranchers, based upon participation in any Federal agricultural program unless application is expressly required. I believe that is the unarticulated intent of the act, but my amendment would remove all uncertainty.

I wish to ask the Senator from Massachusetts, does S. 557 affect the historical exemption of farmers and other persons who receive payments under various agricultural support and marketing programs?

Mr. KENNEDY. No. Farmers and other persons who receive Federal grants, loans, or assistance contracts would be "recipients". A full discussion of this continuation of present policy is contained in the committee report, Senate Report 100-64, at pages 24-24.

Mr. KARNES. With that clarification, I withdraw my amendment at this time. I am not certain whether this action will completely resolve the issue altogether, but I feel we have taken a good step toward establishing a record to protect the interests of farmers and other agricultural interests from onerous and unnecessary added regulation and costs.

I yield the floor.

ULTIMATE BENEFICIARIES

Section 7 of the bill sets forth a rule of construction which provides that "ultimate beneficiaries" that were excluded from coverage prior to the enactment of S. 557 would continue to be excluded from coverage after the enactment of the bill. The "lead agency" regulations interpreting Title VI, section 504, and the Age Discrimination Act currently define who is a "recipient" of federal assistance with a proviso excluding from such term the "ultimate beneficiaries" of such federal assistance.

For example, since the first of these civil rights statutes. Title VI, was enacted, farmers receiving crop subsidies have been excluded from coverage because they are "ultimate beneficiaries." On May 5, 1964, during debate in the Senate on the 1964 Civil Rights Act, Senator John Sherman Cooper introduced into the Congressional Record a letter from Attorney General Robert Kennedy answering several questions about Title VI. One of the issues Attorney General Kennedy addressed was the application of Title VI to farmers.

Mr. Kennedy responded as follows:

Question. Would persons who receive payments under various agricultural support and marketing programs be "recipients" under Title VI? If so, what type of discrimination by these "recipients" under Title VI would be grounds for cutting off their participation in a program? Would it include employment practices?

Answer. Farmers who receive federal grants, loans, or assistance contracts would be "recipients" within the meaning of Title VI. Title IV would protect such farmers, themselves, from being denied the benefits of such programs, or otherwise discriminated against under them, on grounds of race, color, or national origin. But, since such programs are basically commodity programs, and since individual farmers are the ultimate beneficiaries of such programs, Title VI would not authorize imposition of any requirements on individual farmers participating in these programs. And, more particularly, it would not authorize imposition of any requirements with respect to farm employment, since farm employees are not beneficiaries of the program referred to.

So, from the beginning, in the legislative history of Title VI, the model for the other three statutes, we have the unequivocal statement that farmers who receive crop subsidies are not covered.

In testimony before the House on this measure in the 99th Congress, Daniel Marcus, former Deputy General Counsel, HEW and former General Counsel for the Department of Agriculture confirmed that in practice, farmers who receive crop subsidies are not subject to these laws, although those who participate in recreational programs serving the public cannot discriminate in determining who they will allow on their land.

Mr. Marcus stated:

Specifically, it has been charged that H.R. 700 would, by broadly defining "program or activity," subject farmers who receive price support payments or loans, social security beneficiaries, and food stamp and welfare recipients to the anti-discrimination provisions of Title VI, Title IX, Section 504, and the Age Discrimination Act.

I believe there is no valid basis for these concerns. The basic language of Title VI and the other anti-discrimination statutes, barring discrimination in programs or activities receiving federal financial assistance, has never been interpreted to reach the activities or actions of ultimate beneficiaries of federally financed programs, such as farmers, social security beneficiaries or welfare recipients. This understanding, which is embodied in a number of agency regulations (e.g., the Department of Agriculture's Title VI regulations, 7 C.F.R. Section 15.2), reflects the basic purpose of those laws. In enacting these laws, Congress was not concerned with regulating the activities of the tens of millions of Americans who are the ultimate beneficiaries of the federal financial assistance, but who in no sense operate a federally-financed program or activity. Rather, Congress was concerned with the state agencies, the educational institutions and others who operate programs or conduct activities providing services to others and who are in a position to injure ultimate beneficiaries through discrimination. In other words, ultimate beneficiaries are to a large extent the people intended to be protected by Title VI and the other anti-discrimination statutes, not the people subjected to those statutes.

Other examples of ultimate beneficiaries include persons receiving social security benefits, persons that receive Medicare and Medicaid benefits, and individual recipients of food stamps.

Nothing in S. 557 would prohibit recipients of new forms of federal financial assistance created after enactment of the bill from being exempted from coverage as "ultimate beneficiaries," where the type of aid and the nature of the receipient is analogous to the existing categories of "ultimate beneficiaries.

Mr. EXON. Mr. President, I thank the Chair, and I yield the floor.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent the Journal of the proceedings be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY

RECESS UNTIL 9:45 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders have been recognized under the standing order, there be a period for morning business not to extend beyond 10:30 a.m. tomorrow.

Mr. President, I also ask unanimous consent that Senators may speak during the period that has been programmed for morning business tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETO OVERRIDE DEBATE AT 10:30 A.M.

Mr. BYRD. Mr. President, at 10:30 a.m. tomorrow the debate will begin on the override of the President's veto. That is a 1½-hour debate. It will be equally divided and controlled.

VOTE AT 12 NOON

Mr. BYRD. Mr. President, at 12 noon the vote on the override of the President's veto will occur. Am I correct?

The PRESIDING OFFICER. The majority leader is correct.

HIGH-RISK LEGISLATION—S. 79

Mr. BYRD. Mr. President, in the afternoon the Senate will return to the consideration of the high-risk legislation, unless there is other business that we can turn to, and there may be.

The Senate then will resume consideration of high-risk legislation.

ROLLCALL VOTE TOMORROW

Mr. BYRD. Mr. President, there could be rollcall votes on amendments or motions.

RECESS FROM 12:45 P.M. UNTIL 2 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that tomorrow at the hour of 12:45 p.m. the Senate stand in recess until the hour of 2 p.m. to accommodate the two parties' conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE TOMORROW

Mr. BYRD. Mr. President, does the assistant Republican leader have anything he wishes to say or any business he wishes to transact?

Mr. SIMPSON. Mr. President, I would share with the majority leader and certainly to those on our side of the aisle that we should be prepared to do business tomorrow on the high risk notification bill. It is a controversial issue, else the majority leader would not have felt the need to go forward to clarify that with the petition for cloture. I would hope that both sides of the aisle would come forward tomorrow and produce the arguments, begin the intensity of the debate on a very critical issue. We can proceed and hopefully get to votes.

But, certainly, the opening statements, the floor managers' activity on those things could begin tomorrow and we could begin to have the national debate on that issue.

I certainly hope we could do that. I am not prepared to be able to present anything that could be handled tomorrow during the same period of time or doubletrack high-risk with something else. I will visit with the majority leader in the morning and see if we can, perhaps, discuss that.

Mr. BYRD. Mr. President, I thank the Republican leader. We certainly will have the opportunity tomorrow afternoon to have this legislation before us and to offer amendments thereto.

RECESS UNTIL TOMORROW AT 9:45 A.M.

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:45 a.m. tomorrow morning.

The motion was agreed to, and the Senate, at 8 p.m., recessed until Tuesday, March 22, 1988, at 9:45 a.m.

EXTENSIONS OF REMARKS

SDI: THE FIRST 5 YEARS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1988

Mr. BROOMFIELD. Mr. Speaker, the President has offered the American people and our allies a vision of the future which may no longer depend upon the doctrine of mutual assured destruction but on mutual assured survival. I have always believed that we must, through the arms control process, achieve meaningful and effectively verifiable reductions in offensive nuclear forces. In this way we can better transition into a world based upon nonnuclear defensive systems. Such a defensive could not only better prevent accidential nuclear war but also help to deter against any adversary including Third World countries having nuclear missile capabilities.

In this regard, I commend to my colleagues the President's recent speech marking the fifth anniversary of his strategic defense initiative:

REMARKS BY THE PRESIDENT TO INSTITUTE FOR FOREIGN POLICY ANALYSIS CONFERENCE: "SDI: THE FIRST FIVE YEARS"

Thank you very much. (Applause.) Well, Dr. Pfaltzgraff, thank you, and thank you all very much. Let me say it's a great honor to be addressing so many distinguished scientists, business leaders, and academics, so many who live the life of the mind and use their talents for the benefit of mankind.

I want to thank the Institute for Foreign Policy Analysis, a staunch ally when it comes to strategic defenses, for bringing this first class group together on SDI's fifth anniversary. And it's good to see so many other friends here as well: Dr. Teller, who is proof that life begins at 80;—(laughter and applause)—and three of SDI's best friends in the Congress, Senators Wallop and Quayle, Congressman Chappell; and the frontline offense on our strategic defense team, Ambassador Rowny, General Abrahamson, and Bill Graham; and we're all hoping this event will be chronicled in his indubitable fashion by Tom Clancy. (Laughter.)

It hardly seems like five years since we first embarked together on this noble enterprise to find an alternative to nuclear terror. When I addressed the American people on that March, 1983 day, I said it was time to turn the great technological might of our nation, not to inventing ever more deadly weapons of destruction, but instead to creating new instruments of peace, defensive technologies that harm no one. I said it would take years, probably decades of effort. There would be setbacks and failures as well as successes. But we could not ignore this great challenge—to develop the means of rendering ballistic missiles impotent and obsolete.

If anything, we overestimated the technological challenge back then. The technologies of our Strategic Defense Initiative have progressed more rapidly than many of us ever dreamed possible. The creative genius and ingenuity of U.S. and allied scientists and engineers and the steadfast support of so many in this room have helped make the rapid progress possible.

But if we've learned anything in five years, it's that it's sometimes easier to bring into being new technologies than it is to bring about new thinking on some subjects. Breakthroughs in physics are sometimes easier than breakthroughs in psyches.

Perhaps the most astounding reaction to the announcement of our Strategic Defense Initiative was the sudden conversion of many—on a certain side of the political spectrum—to the strategy of Mutual Assured Destruction, whose very appropriate acronym is MAD. I remember that only a few months before the announcement of SDI, I received a letter from 41 academic leaders—presidents and board chairmen of many of our most distinguished colleges and universities.

And in that letter they called upon me to, and I quote, "to make a major investment in planning, negotiating and cooperating to establish civilized, effective and morally acceptable alternatives to nuclear war." We could no longer rely on the notion, they said, that, quote, "No nation with nuclear weapons will 'pull the trigger.'" Well, I couldn't agree more.

In fact, I've been waiting for another letter from that same group supporting SDI—(laughter and applause)—I guess the mails are a bit slow. (Laughter.) I do promise to write back right away.

The philosopher, John Stuart Mill, said—I think aptly—that "no great improvements in the lot of mankind are possible until a great change takes place in the fundamental constitution of their modes of thought." Sometimes, however, it's not so much mankind in general as it is the "experts" who have trouble changing the fundamental constitution of their modes of thought.

The fact is, it would probably stop any inventor dead in his tracks if he listened for too long to the advice of experts in his field. Throughout history, it seems, they have agreed on the one basic principle—progress must stop at the limits of their expertise. (Laughter.) I'm found of quoting Charles Duell, the Commissioner of the U.S. Office of Patents, who advised President McKinley in 1899 to abolish the Patent Office because, he said, "Everything that can be invented, has been invented." (Laughter.)

Of course, presidents aren't immune from such blunders either. There's the story of Rutherford B. Hayes, who said after witnessing a scientific demonstration, "That's an amazing invention, but who would ever want to use one of them?" He was talking about the telephone.

Well, we've had our share of naysayers when it comes to SDI as well. But some of the difficulties they said were insurmountable have already been surmounted—much more rapidly and effectively than anticipated. For example, our Delta 180 and—most recently 181 tests, demonstrating among other things our ability to track fast-moving targets in space and distinguish between dummy warheads from the real thing, showed a technical ability that some scientists, concerned and otherwise, had said could not be achieved so quickly.

But, you know, I don't give up hope for our opponents. It has been estimated that the sum total of human knowledge doubles every eight years—maybe they just need a little bit more time.

Now, for the impressive technological feats that we've recently seen, immense credit goes to the brilliant and hardworking scientists and engineers who made them possible.

And I want them to know, they are not working late into the night to construct a bargaining chip. They are building a better future—(applause)—a better future free from the nuclear terror, and generations to come will thank them. We'll continue to research SDI, to develop and test it. And as it becomes ready—we will deploy it.

There's one serious problem that the SDI program has had a great deal of difficulty with, however. It would probably be listed in the physics textbooks under the heading, "Inertial Resistance of Large Bodies"—(laughter)—in this case, some in the U.S. Congress. In every one of the last four years, Congress has cut back on our requests for SDI funding. And those cuts have already set the program back one to two years. In what can only be described as a self-fulfilling prophesy, they have voted down funding because they say SDI won't work. Well, it won't if we don't develop it and test it.

Congress should realize that it's no longer a question of whether there will be an SDI program or not—the only question will be whether the Soviets are the only ones who have strategic defenses, while the United States remains entirely defenseless. It seems to me that it was a watershed event when General Secretary Gorbachev, after years of concerted Soviet efforts to kill our SDI program and deny their own efforts in this area, stated publicly on T.V. to Tom Brokaw and the American people that when it comes to SDI, "the Soviet Union is doing all that the United States is doing."

Well, everything, one might add, and more. The Soviet defense effort, which some call "Red Shield," is now over 15 years old and they have spent over $200 billion on it—that's 15 times the amount that we have spent on SDI. The Soviets already have the world's only deployed ABM defenses. Congress, in effect, killed our ASAT program. The Soviets already have an operational antisatellite system. While the U.S. Congress cuts back on our SDI, 10,000 top Soviet scientists and engineers work on their military laser program alone.

Even now that the Soviets have acknowledged their own SDI-like program, some in Congress would bind us to an artificially restrictive interpretation of the ABM Treaty that would effectively block development of our SDI program and perpetuate the Soviets' advantages in advanced strategic defenses. This effort makes even less sense when the Soviets aren't even abiding by the ABM Treaty, while we are. (Applause.) Virtually all experts, even some of our biggest critics, agree that the Soviet construction of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the large, phased-array radar at Krasnoyarsk is an out-and-out violation of the ABM Treaty.

A few months ago, I raised a serious specter. I pointed out that it is not only in the development of strategic defenses that the United States could be left behind. A recent report released by the Department of Defense, called "The Soviet Space Challenge," warns that the Soviet space program points in one disturbing direction, and I quote, "the methodical pursuit of a war-fighting capability in space."

Soviet launch capacity far outstrips our own. We should be concerned that, together with the long-standing program and the construction of the Krasnoyarsk radar as part of an updated early warning system, the Soviets may be preparing a nationwide ABM defense of their territory. In other words, they may be preparing to break out of the ABM Treaty. In that eventuality, without SDI, we would be dangerously unprepared.

There has been a tendency by some in Congress to discuss SDI as if its funding could be determined purely by domestic considerations, unconnected to what the Soviets are doing. Well, that is, to put it plainly, irresponsible in the extreme.

The fact is that many Americans are unaware that at this moment the United States has absolutely zero defenses against a ballistic missile attack. If even one missile were to be accidentally fired at the United States, the President would have no way of preventing the wholesale destruction of American lives. All he could do is retaliate—wipe out millions of lives on the other side.

This is the position we find ourselves in—to perpetuate it forever is simply morally untenable. Vengeance is not the American way. It certainly cannot form any plausible long-standing basis for Western strategy, if a better form of deterrence can be established. Flexible response has worked, and we, of course, remain committed to our present strategy, but we remain equally committed to our search for a safer way to deter aggression.

It can be said that the old discredited policy of MAD is like two adversaries holding loaded guns to each other's head. It may work for a while, but you sure better hope you don't make a slip. People who put their trust in MAD must trust it to work 100 percent—forever. No slipups, no madmen, no unmanageable crises, no mistakes—forever.

For those who are not reassured by such a prospect, and I count myself among their number, we must ask—isn't it time we invented a cure for madness? Isn't it time to begin curing the world of this nuclear threat? If we have the medicine, can we in good conscience hold out on the patients?

I believe that given the gravity of the nuclear threat to humanity, any unnecessary delay in the development and deployment of SDI is unconscionable. And that's why we will move forward, when ready, with phased deployments of SDI.

As of last August, the Department of Defense has begun focusing on six specific defensive technologies, and they are now moving ahead with them to the demonstration and validation phase. The development and deployment of an initial phase, when it is ready, will be undertaken in such a way that it provides a solid foundation for a continued evolution toward a fully comprehensive defense system, which is SDI's ultimate goal.

Among the objectives of this first phase will be to strengthen deterrence by denying the Soviet Union confidence in their ability to achieve any objectives through the use of ballistic missiles. It will also protect the population of the United States and its allies against an accidental launch of ballistic missiles. Every extra minute that we leave the population of the West defenseless against ballistic missiles is one minute too long.

Equally important, SDI will continue to prove an irresistible force behind offensive arms reductions. Our SDI program, in fact, already has helped to make this world safer—because, along with NATO's INF deployments, it was one of the major factors that led to the treaty signed by General Secretary Gorbachev and myself that will, for the first time, reduce the nuclear arsenals threatening mankind. It was an historic reversal of the trend of more and more nuclear weapons—and SDI helped make it happen.

At the same time, we must work to strengthen our conventional deterrence. SDI will likely prove instrumental here, too, by providing high-tech spinoffs for NATO's Conventional Defense Initiative—CDI—that could help to address the imbalance of forces in Europe.

And SDI helps to solve what is perhaps the greatest paradox of arms reduction, that reductions, if not carefully managed, could mean greater instability and risk. As arms are reduced to lower and lower levels, each violation could become more and more threatening.

SDI can play a key role in solving this paradox of nuclear arms reductions. We may build an edifice of peace and arms reductions, but just like your homes, it needs an insurance policy against fire and theft. SDI is it—vital insurance against Soviet cheating.

A few days ago when I went to Notre Dame, nostalgia was much the order of the day, but I did bring up an issue, a very serious issue. I spoke about when I was in college and a debate that I remember having in one of my classes in those post-World War I days when the bomber was just being recognized as the potent weapon that it later became. Our class debated whether or not Americans—people who, to our way of thinking, stood for high moral standards would ever drop bombs from a plane on a city. And the class was about evenly divided—half felt it might be necessary, the other felt that bombing civilians would always be beyond the pale of decency—totally unacceptable human conduct, no matter how heinous the enemy. We believed that young men in America would refuse such an order.

But a decade later, during World War II, few, if any, who had been in that room objected to our country's wholesale bombing of cities under the hard pressures of total war. Civilization's standards of acceptable conduct had changed. It's hard to say they changed for the better.

We have the opportunity to reverse this trend—to base the peace of this world on security rather than threats, on defense rather than on retaliation. Those who say it can't be done—who stand in the way of progress and insist that technology stops here—I plead with them to consider what they're saying. For no matter how effective arms reduction negotiations ever are, we can never uninvent the nuclear weapon. We can never erase the knowledge of how to build a ballistic missile. If they were able to succeed in stopping SDI, then we would be left forever with that loaded pistol to our heads—with an insecure and morally tenuous peace, based forever on the threat of retaliation.

But the world is rapidly changing, and technology won't stop here. All we can do is make sure that technology becomes the ally and protector of peace—that we build better shields rather than sharper and more deadly swords. In so doing, maybe we can help to bring an end to the brutal legacy of modern warfare. We can stop the madness from continuing into the next century. We can create a better, more secure, more moral world, where peace goes hand-in-hand with freedom from fear—forever.

Thank you all very much. God bless you all. (Applause.)

INTRODUCTION OF HAMILTON GRANGE NATIONAL MEMORIAL LEGISLATION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1988

Mr. RANGEL. Mr. Speaker, I rise today to introduce legislation to allow the redevelopment of the Hamilton Grange National Memorial at its present location. The country home of Alexander Hamilton, our Nation's first Secretary of Treasury and a Founding Father, is the only official national memorial established in his honor. I am proud to state the Grange is presently located in my district, as it was when Hamilton resided within its walls.

However, the enabling legislation establishing the Hamilton Grange National Memorial (Public Law 87-483) has prevented the restoration of the Grange, for it requires the relocation of the building before rehabilitation can proceed. Present law would relegate the Grange to remain in its present deplorable condition, when we celebrate the 200th anniversary of Hamilton's appointment as Secretary of Treasury, in September 1989.

Therefore, because no suitable site has been acquired to relocate the Grange, I am proposing a bill which would delete the relocation requirement of Public Law 87-483 and authorize the development of the Grange and the acquisition of land on which the Grange is presently located.

I urge my colleagues to support this bill to allow the restoration of the Hamilton Grange National Memorial, the only national memorial of Alexander Hamilton.

BENJAMIN EISENSTADT

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1988

Mr. SCHUMER. Mr. Speaker, I would like to take this opportunity to recognize a truly remarkable gentleman. Benjamin Eisenstadt is retiring as the president of the Board of Trustees of Maimonides Medical Center in Brooklyn. Although he will remain as honorary chairman of the board, the bulk of his work is behind him. However he has left an amazing legacy.

Mr. Eisenstadt became involved with Maimonides through a quite ordinary fashion—he was a patient. He saw the potential of the institution and soon set out to make it a leading medical center in New York.

Through his generous contribution he started the center's research and development foundation. His tireless efforts, and business acumen, led to the vast growth of the foundation. Maimonides now has become a leader in cardiac care and research.

He saw a nursing shortage in Brooklyn and helped start a nursing school in collaboration with Brooklyn College. He has instituted plans to build the Maimonides medical arts building and renovate the Maimonides ancillary service/education complex, and has used some unique techniques to increase participation in the center's blood drive.

Mr. Eisenstadt is a true philanthropist. He has given his time, his skill, and most of all his heart to help build Maimonides into a first-class medical center. I wish to thank him for all of his efforts, and hope that we all preserve his legacy at Maimonides for years to come.

DAVID WILLIAM PALMER, 88, WINS 1987 PEERLESS ADVOCATE AWARD

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1988

Mr. HUTTO. Mr. Speaker, our Nation is proud of the heritage that our forefathers and our senior citizens have handed down to us. Some of our senior citizens are still blazing the way, setting a good example for us to follow. One such individual is David William Palmer, 88, a constituent of mine. Mr. Palmer, a practicing lawyer for more than 60 years, goes the extra mile in trying to help fellow citizens, especially with such problems as Social Security.

Mr. Palmer was recently presented with the 1987 Peerless Advocate Award and at this point, I would like to enter into the RECORD the following article from the Florida Bar News regarding Mr. Palmer's award.

DAVID WILLIAM PALMER, 88, WINS 1987 PEERLESS ADVOCATE AWARD

(By Judson Orkick)

Crestview lawyer David William Palmer, who at age 88 has practiced law for more than 60 years, was selected by the Cotton Wesley & Poche Foundation to receive the 1987 Peerless Advocate Award.

The award is given to a lawyer who demonstrates "unswerving dedication to the defenseless or, oppressed common man in the face of adversity and at the cost of personal sacrifice to his own liberty, reputation and financial security."

Palmer has a long history of service to the poor in Florida's panhandle, according to Michael Gates, president of the Okaloosa-Walton Bar Association.

Most recently, Gates said, Palmer showed his commitment to justice by challenging a rule in the Northern District of Florida requiring members of that court's bar to attend continuing education courses and pass an examination. He continued to file cases on behalf of Social Security claimants while challenging the rule, Gates said.

"He's the type who puts his clients before personal gain," Gates said. "By federal statute you can only make $10 an hour on those Social Security cases, but he keeps taking them."

Palmer's reputation among members of the Bar was evidenced by a resolution unanimously adopted by the Okaloosa-Walton Bar last year supporting the senior advocate in his challenge to the Northern District Rule. The requirement should be waived for lawyers who have reached their 85th birthday, the resolution said.

"We felt he was very competent," Gates commented.

Palmer's oldest son, attorney David Palmer II, said his father is accustomed to hard work under adverse conditions, because "he's been doing it for a long time."

"He was born down here in 1899, when this was still a pretty rough area. He was one of eight children. Four of them died in childhood. He grew up working hard and has kept on working hard," the junior Palmer said. "He works hard and enjoys living, just keeps plugging along."

The Cotton, Wesley & Poche Foundation will set up a $1,000 scholarship in Palmer's name at a Florida law school. The foundation was created by the Shalimar firm of the same name.

CONGRESS, THE CONTRA VOTE AND "FRIENDS OF FREEDOM"

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1988

Mr. McEWEN. Mr. Speaker, I would like to take this opportunity to submit into the RECORD a recent article by Martin Henrichs, president of the Leadership Councils of America, which appeared in the Washington Times on February 29 of this year. Mr. Henrichs brilliantly sums up the tragic consequences of the shortsighted abandonment of the democratic resistance by the 219 "friends of freedom" in Congress.

[From the Washington Times, Feb. 29, 1988]

CONGRESS, THE CONTRA VOTE AND "FRIENDS OF FREEDOM"

"The friends of freedom who do not understand the enemies of freedom are doubtful friends of freedom." These words by Richard Neuhaus, one of America's leading philosophers, should be engraved on the minds of all voters when selecting a new Congress this fall.

By a vote of 219 to 211 on Feb. 3 the House of Representatives turned down aid to the Contras in Nicaragua. Of the 219 who voted for the communist side and against the freedom fighters, 207 were Democrats. That vote, along with their previous voting record, legitimizes the statement made to Secretary of Education William Bennett by two human rights activists in Nicaragua last fall. They said. "Ideas are conceived in Moscow, passed on through Havana, implemented in Managua and defended by Democrats in Washington."

Partisanship on such a vital issue is incomprehensible. We have all heard the weak excuses: "Give peace a chance." "We must negotiate with the communists." "We have to make sure the money is spent wisely." Every delaying tactic imposed by the Democratic Congress give the communists more time to build a powerful base in Central America. As Mr. Neuhaus has also said, "Anti-communism is as essential a component of human decency as it is to be anti-Nazi." What the Democratic Congress did verges on the indecent. A brief look at history and the future will explain why.

In 1979, the Sandinistas, a coalition of Communists and democrats, succeeded in ousting Anastasio Somoza, the unpopular Nicaraguan dictator. With Mr. Somaza gone, the Communists proceeded to purge the democratic members from the coalition. Almost immediately the Soviet Union began to pour millions of dollars worth of aid into its client state. Some of this aid was channeled into El Salvador and Guatemala, fueling communist guerrilla movements there. Cuban and Communist East Bloc advisers flooded into Nicaragua to build a socialist society.

The disaffected democrats among the Sandinistas—the persecuted Miskito Indians, former national guard soldiers, blacks along the east coast and businessmen whose life endeavors had been stolen—coalesced into a counterforce (Contras), properly called the Nicaraguan Democratic Resistance. With modest aid from the Reagan administration, they began to develop an effective guerrilla fighting force. Other Nicaraguans, persecuted for their Christian religion or their refusal to be regimented along communist lines, fled to refugee camps in Costa Rica and Honduras, hoping for aid from the Free World. They wanted to return to Nicaragua, just as the Afghans have returned to their country, to fight and gain back their homes and villages.

The Reagan administration, in the spirit of Marquis de Lafayette, Friedrich Wilhelm von Steuben, and Kazimierz Pulaski—foreigners who helped America gain its freedom—made freedom for Central America its top priority. The policy was working. The Contras were cutting the communist supply lines to El Salvador. They were denying Daniel Ortega, Nicaragua's communist leader, the ability to build a communist state, which he said he would use to spread communism throughout Central America.

Just when the Contras were gaining a tremendous morale boost from the testimony of Lt. Col. Oliver North, and the American people were beginning to understand the stakes involved, Mr. Ortega changed his tactics. He decided to cooperate with the Neville Chamberlain-type peace plans offered by Costa Rican President Oscar Arias and Democratic House Speaker Jim Wright. Mr. Ortega's conciliatory move catered to the appeasement-oriented liberals in the American media, who moved to discredit Col. North. The momentum for freedom quickly faded, as to use a sport term, Coach Reagan was called for a technical foul. During the long Democratic-imposed time-out, the communists regained the initiative. In contrast to American fickleness, the Soviets continued to supply Nicaragua to the tune of $450 million in 1987, according to Bretton Sciaroni, intelligence adviser to the White House.

The betrayal of the Contras is not solely the fault of the Democratic Congress. The major television networks have been guilty of confusing the issues in Central America. For a long time they refused to disclose the communist nature of the Sandinistas. Then, just before the Contra aid vote, they refused Mr. Reagan permission to address the nation. However, they continued to give air time to pro-communist sympathizers demonstrating against Contra aid. Shades of Vietnam! No wonder the American people are confused.

What difference does it make whether America helps the Contras or not? Beside being dishonorable and immoral, failure to help our allies for freedom will lead to either of two scenarios in the next few years.

In the first, the Soviets will use Nicaragua as a base to terrorize the neighboring infant democracies and will find fertile soil for growth in Mexico. The United States will be faced with a horrendous refugee problem which, if it occurs during a recession or depression, will cause severe ethnic and racial turmoil. America could become another Lebanon.

If the second scenario unfolds, Mr. Ortega and his communist Sandinistas will prove once again that they really don't want peace (which we already know) and take over Costs Rica and El Salvador. American public opinion will quickly mobilize behind a strong president and united Congress to send in the Marines. But thousands will die in the vicious jungle fighting.

These two tragedies can be avoided by giving full-fledged support to the Contras, the people who right now have the strongest stake in freedom. Instead of pulling the plug on the Contras, Americans should pull the plug on these congressmen whose shortsightedness undermines freedom and threatens America's future.

This fall, "Remember the 219!"

YEN, PESOS, AND MANIFEST DESTINY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1988

Mr. STOKES. Mr. Speaker, I am pleased to share with my colleagues the following essay entitled, "Yen, Pesos and Manifest Destiny." Authored by assistant Prof. Hugh Carter Donahue and Kevin R. Stoner of the Ohio State University School of Journalism, this essay explores our emotional ties between our neighbor Mexico and our largest trading partner, Japan.

The essay was published in the Columbus Dispatch, the Anniston Star, the Houston Post, the Albuquerque Journal, LaOpinion in the United States, Unamasuno in Mexico and Nihon Keizai Shimbun (Japan Economic Journal).

Mr. Speaker, I am pleased to share this essay with my colleagues. It is worthwhile reading.

YEN, PESOS AND MANIFEST DESTINY

(By Hugh Carter Donahue and Kevin R. Stoner)

Japan's recently elected Prime Minister Noburo Takeshita is visiting President Reagan in Washington this week to talk about trade and picking up more of the cost of U.S. military bases in Japan. In Mexico, Presidential candidate Carlos Salinas de Gortari may have an easier time handling Mexico's troubled economy, following no contest presidential elections later this year, thanks to recent moves by U.S. Treasury Secretary Baker to buy up Mexican debt. Both Takeshita and Salinas will have tremedous impact on the United States. With Japan, we are linked economically and, perhaps more importantly, emotionally; with Mexico, we share a common border and its political, social and economic difficulties. The United States' emotional tie to Japan is crucial to understanding why the American media tells Americans more about Japan than Mexico.

The United States, having created postwar Japan, feels both paternal pride and guilt. After the war, looking across the table at an occupational force, Japan modeled its constitution on America's. The United States rebuilt Japan's ruined economy, based on the best American business minds had to offer. The United States, since the time of General Douglas MacArthur, has retained a significant military force within Japan's boundaries, necessary because the United States forced the country to disarm. The United States dropped a nuclear bomb, not once, but twice, on Japanese cities, making the country a symbol for the world that through the eloquence of silence of its victims screams "Never again."

Unlike Japan, which had little choice but to accept United States control over all sectors of its society, Mexico has retained the independence of its political and social institutions. Like many third-world nations, Mexico doesn't particularly relish adoption. Uncle Sam is not a very welcome relative. Though the debt owned the United States is beyond repayment, it is solely monetary.

The American media reported Takeshita's and Salinas' victories like horseraces, pretty much as it covers American politics. Japan's Takeshita received more attention, though Salinas received more space on page one. Takeshita won control of the Liberal Party the week the U.S. stock market crashed, an event that surely crowded him off page one. Additionally, Takeshita is the beneficiary of a legacy of international media attention left by charasmatic Yasuhiro Nakasone, the outgoing prime minister. ABC reported Salinas' victory; CBS mentioned Takeshita's. National papers such as the New York Times, Wall Street Journal, and Washington Post and regional papers such as the Los Angeles Times and Chicago Tribune covered both elections as did Time, Newsweek, and United States News & World Report.

It is little wonder that Takeshita's ascendancy won attention, given the immense amount of Japanese money invested in American treasury bills, stocks and bonds and U.S. real estate. The Japanese invested $450 billion in the United States over the past years. This year, Japanese interests will invest $12 billion in American real estate, up from $6 billion last year. By 1991, Honda projects a $1.9 billion investment in two Ohio car factories.

Takeshita's aim to extend an urban economy throughout the Japanese archipelago under the rubric of a "hometown" drew major attention because it might be the opening American industry needs to penetrate Japan's domestic market. However, his reputation is for caution and consensus. He seems accommodating enough in his rhetoric, but when passed on specifics, Takeshita has stated categorically that he will not end Japan's ban on rice imports, even though such closed markets in the end cost its own consumers. He is, by the way, from a rice-producing region and tied to large construction interests, which resist opening Japanese markets and construction industries.

He inherits an affluent economy, but one laden with a $1 trillion national debt. Takeshita's course will be basically the same as Nakasone's: to increase domestic consumption but not so quickly as to alienate key interest groups or overheat a white-hot economy whose GNP is growing at the rate of 8 percent annually. This means attempting to pry the traditionally frugal Japanese loose from some of their savings (approximately $50,000 per household). Many Japanese politicians also question Takeshita's competency, considering him more a political operative than an international leader. Therefore, an immediate shift that would open Japan's markets to a significant degree seems unlikely, despite demands from the U.S. and Europe. No doubt, Japan will change, is changing, becoming more a part of the global economy. But this will happen slowly, and with or without Takeshita.

On the other hand, Salinas' success or failure to resurrect Mexico's stagnant economy and maintain political order will immediately affect American interests. The United States purchases Mexican oil, and despite depressed prices, Mexico enjoys a $5 billion trade surplus. Mexico sends the United States hundreds of thousands of illegal immigrants each year and owes the world $100 billion. If Mexico's economy goes belly up, American banks, which hold $25 billion of that debt, would have to absorb the defaults, and America as a whole even more of the country's economic refugees.

Salinas' job is daunting. He must lead Mexico into an export economy producing internationally competitive goods, cut back the public sector, reduce consumer subsidies and maintain an exchange policy that keeps capital in the country.

For his monetary policies to succeed, Salinas must win his country's support. A Harvard-trained economist, he is a consummate Latin technocrat, having held ministry positions but no elected offices. Salinas might not have a constituency. The man who two years ago balked at the austerity demands by Western bankers now insists on following that course, attempting to cut a foreign debt that requires almost $1 billion per month to service. His austerity moves have won him the support of big business, for now. At the same time, Salinas must quiet labor, which is beset by 120 percent annual inflation and a 40 percent drop in purchasing power since 1982. If he tightens the economic vise too much, thousands will lose jobs in a country already facing chronic joblessness and underemployment.

Why then, if Mexico's Salinas is so critical, did he receive less media attention than Japan's Takeshita? The answer is that the coverage had everything to do with an uncle's continuing interest in a favored nephew, and much less to do with dollars.

The United States bears neither pride nor guilt toward Mexico, as it does toward postwar Japan. The United States has, if you will, no sense of ownership—no emotional stake in Mexico's survival. Mexico had the unfortunate fate of having lost a war to the United States in the 19th Century, when extending the country's borders and influence was a matter of manifest destiny. Lacking the luck to have been vanquished in this century of heightened national guilt, Mexico doesn't matter much to Americans. They feel no need to assuage guilt with magnanimous acts nor indulge parental pride because there is no vanquished foe, puppy-dog eager to accept the truths of 20th century manifest destiny.

FEDERAL NUCLEAR FACILITIES CLEANUP ACT

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1988

Mr. BONKER. Mr. Speaker, last Thursday Senator BROCK ADAMS and I introduced legislation, H.R. 4193 and S. 2189, designed to clean up radioactive and chemical contamination at Department of Energy [DOE] nuclear facilities and to require DOE to comply with Federal environmental laws. For over 40 years, DOE and its predecessors produced materials for the Nation's nuclear arsenal under a cloak of secrecy. The result has been a pattern of dumping, spills, and releases that have made these facilities some of the most contaminated areas in the country.

For example, 200 billion gallons of radioactive and chemical wastes—including large quantities of contaminated reactor coolant—have beem dumped into the soils of DOE's Hanford Nuclear Reservation in Washington—that is enough liquid waste to cover Manhattan to a depth of 40 feet. In 1986, EPA estimated there were 332 Superfund sites at Hanford; the GAO now says the number could go as high as 2,000 hazardous waste sites. Similar problems exist at the Savannah River plant in South Carolina, and at more than a dozen other DOE nuclear facilities in Colorado, Texas, New York, Ohio, Tennessee, and other States. Contamination at these sites not only endangers personnel at the facilities, but threatens local groundwater, air, and rivers.

In developing a plan to clean up these Federal nuclear facilities, Congress should be guided by the following principles:

First, the Government should abide by its own environmental laws;

Second, the polluter should pay for the cost of cleanup;

Third, EPA not DOE, should set the pace and standards for cleanup; and

Fourth, the cleanup of DOE facilities must be a high national priority.

Under the Bonker-Adams bill, the Environmental Protection Agency would develop cleanup plans for DOE facilities in the form of "compliance agreements" with DOE which would include: cleanup standards based on Federal environmental laws, CERCLA and RCRA would be amended to include radioactive material; a timetable for action; and an outlay schedule. The bill would establish a cleanup trust fund and allocate costs among DOE, the Department of Defense, and other Federal and private users of DOE nuclear services. In addition, the legislation would establish a special environmental counsel to enforce the compliance agreements and Federal environmental laws at Federal nuclear facilities.

Contamination of Federal nuclear facilities is not an isolated problem. Every region of the Nation is affected. We have identified almost 100 congressional districts that have contaminated DOE facilities in or near them. We will be working with Members from both parties to help develop the national commitment necessary for an aggressive cleanup program.

Although the cleanup of these facilities will be costly, we cannot afford to put off action to deal with this contamination and prevent the further spread of radioactive materials that will remain deadly for millenia. The Federal Government has created this mess under the guise of national security, and it must be cleaned up by the Federal Government for the security of current and future generations of Americans. I urge my colleagues to support this important, comprehensive legislation.

A section-by-section analysis of the legislation follows:

FEDERAL NUCLEAR FACILITIES ENVIRONMENTAL RESTORATION AND MANAGEMENT ACT SECTION-BY-SECTION ANALYSIS

SECTION. 1. SHORT TITLE.

"Federal Nuclear Facilities Environmental Restoration and Management Act."

SEC. 2. PURPOSES.

(1) Provide adequate, assured long-term source of funding for cleanup.

(2) Assure DOE nuclear facilities comply with environmental laws.

(3) Restore environment contaminated by DOE nuclear operations.

(4) Characterize and stabilize high-level and transuranic waste.

(5) Provide timely decontamination and decommissioning of DOE facilities.

(6) Provide for long-term management of DOE facilities and sites.

(7) Establish an R&D program for cleanup technology.

SEC. 3. SAVINGS CLAUSE.

Nothing in the Act shall be construed to limit the application of other applicable federal environmental laws and regulations.

SEC. 4. DEFINITIONS.

(1) Administrator—of the Environmental Protection Agency (EPA).

(2) Affected State or Indian tribe.

(3) Federal environmental law—Atomic Energy Act, Clean Air Act, Superfund (CERCLA), Federal Water Pollution Control Act, Marine Protection, Research, and Sanctuaries Act, Nuclear Waste Policy Act, Safe Drinking Water Act, Solid Disposal Act (RCRA), Toxic Substances Control Act.

(4) Byproduct material, source material, and special nuclear material—defined by Atomic Energy Act.

(5) Federal nuclear facility.

(6) Hazardous substance—defined by CERCLA.

(7) Hazardous waste—defined by RCRA.

(8) Hazardous nuclear material—radioactive and mixed materials.

(9) High-level radioactive waste—defined by NWPA.

(10) Indian tribe—defined by ANCSA.

(11) Secretary—of the Department of Energy (DOE).

(12) Transuranic waste—containing elements with atomic # greater than 92.

TITLE I FEDERAL NUCLEAR FACILITY TRUST FUND

SEC. 101. ESTABLISHMENT OF THE TRUST FUND.

A Trust Fund shall be established in the Treasury and consist of amounts:

(1) Appropriated—direct appropriations are authorized from DOE budget accounts; $1 billion is authorized for each of fiscal years 1989, 1990, and 1991.

(2) Transferred—from federal agencies and commercial entities to meet environmental compliance and cleanup costs associated with nuclear services provided by DOE (e.g., fuel enrichment and nuclear waste disposal), pursuant to section 102. Fines and penalties related to environmental violations at federal nuclear facilities.

(3) Credited—Interest from invested Trust Fund monies.

SEC. 102. ALLOCATION AND RECOVERY OF COSTS.

(1) Within one year, DOE is to develop the methodology for allocating, proportionately among DOE and users of DOE nuclear services, the related costs of complying with CERCLA, RCRA, other federal environmental laws, and for research and development pursuant to section 501.

(2) The proportional share of the cost for each user of DOE nuclear services is to be based on the overall cost of cleanup, compliance, and decommissioning associated with each service, and the level of usage of the service by the entity.

(3) The proportional share of cleanup, compliance, and decomissioning costs are to be recovered from federal agencies (including DOE) through reimbursements to the Trust Fund. In the case of commercial and non-Governmental users of DOE nuclear services, the DOE will assess a user fee to recover the proportional share of costs.

TITLE II COMPLIANCE BY DOE FACILITIES WITH SUPERFUND AND SOLID WASTE DISPOSAL ACT (RCRA)

SEC. 201. COMPLIANCE AGREEMENTS.

(1) Within 180 days, DOE shall enter into an agreement with EPA or a state with delegated authority for each federal nuclear facility to bring that facility into compliance with RCRA and CERCLA.

(2) The compliance agreement is to include an outlay schedule and timetable for carrying out actions described in the agreement.

(3) The agreement is enforceable by the EPA, or a state with delegated RCRA authority. An affected state or any other person may also enforce the agreement to the extent permitted under section 7002 of RCRA.

SEC. 202. INCLUSION OF DOE RADIOACTIVE WASTE UNDER SUPERFUND AND RCRA.

CERCLA's definition of "hazardous substance" is amended to include radioactive material alone or mixed with non-radioactive hazardous substances. RCRA is amended to include mixed waste. This section also clarifies that RCRA prevails over CERCLA in the event of a conflict.

SEC. 203. DOE FEDERAL FACILITIES OPERATED BY CONTRACTORS.

RCRA and CERCLA are amended to make DOE contractors liable for their actions at federal nuclear facilities.

SEC. 204. NOTIFICATION AND PARTICIPATION OF AFFECTED STATE AND INDIAN TRIBES.

DOE and EPA are required to consult with, and ensure the participation of, affected states and Indian tribes in carrying out this title. In addition to a notification requirement, EPA shall make grants from the Trust Fund to each affected state and Indian tribes for the purpose of participating in monitoring the activities of the federal government under this title. The Secretary and EPA must respond to a request for information from a governor of an affected state within 30 days.

TITLE III COMPLIANCE BY DOE FACILITIES WITH OTHER ENVIRONMENTAL LAWS

SEC. 301. ENVIRONMENTAL SURVEYS.

Not later than one year after enactment, DOE shall conduct an environmental survey for each federal nuclear facility. The surveys will inventory hazardous nuclear materials and releases (including high-level waste) at each federal nuclear facility and identify cleanup and compliance activities.

SEC. 302. ENVIRONMENTAL COMPLIANCE PLANS.

Not later than six months after completion of a survey for a federal nuclear facility, the EPA is to review the survey and issue an environmental compliance plan for the facility. The plan is to include a verification of the survey, compliance and enforcement actions required to bring the site into compliance with applicable federal environmental laws, a timetable for compliance activities, and a determination of the costs of cleanup and compliance. EPA must submit an annual report to Congress on the environmental compliance plans, including priorities, compliance actions, timetables and outlay schedules. Six months after the issuance of a compliance plan, DOE must enter into an agreement with EPA or a state with delegated authority to implement the compliance plan. This agreement shall be legally enforceable by EPA.

SEC. 303. SITE MANAGEMENT PLANS.

Within 18 months of enactment, DOE, in consultation with the affected states and Indian tribes, is required to prepare a site management plan for each federal nuclear facility. Site management plans shall provide for decontamination and decommissioning, and long-term management, and shall contain specific plans, requirements, and goals, including schedules, funding needs, risk factors, and priorities.

SEC. 304. NOTIFICATION AND PARTICIPATION OF AFFECTED STATE AND INDIAN TRIBES.

Same as section 204.

TITLE IV—SPECIAL ENVIRONMENTAL COUNSEL

SEC. 401. SPECIAL ENVIRONMENTAL COUNSEL.

The Administrator of EPA shall appoint in independent Special Environmental Counsel within the EPA. The Counsel shall be appointed for a term of 5 years and may be removed only for cause. The Counsel is authorized to appear in any relevant civil action, hire staff, experts and counsultants, obtain necessary information from government agencies, and issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence.

SEC. 402. ENFORCEMENT AT FEDERAL FACILITIES.

EPA is required to notify any federal licensee, and the Special Environmental Counsel, of any violation of a federal environmental law at a federal facility within 45 days. Upon receipt of such a notice, the Counsel is required to investigate the violation. If, within 90 days of notification and after consultation, the noticed federal agency has not promptly corrected the violation or entered into a compliance order, the Counsel may issue an order or commence a civil action to ensure compliance. Failure to comply with the Counsel's order is punishable by a fine of $25,000/day and/or suspension or revocation of any permit issued by the EPA. The Counsel is authorized to take action to prevent a federal activity which may present an imminent and substantial endangerment to health or the environment.

SEC. 403. WAIVER OR SOVEREIGN IMMUNITY WITH RESPECT TO FEDERAL FACILITIES.

This section waives any immunity for federal agencies, officials, or contractors with respect to the violation of federal environmental laws.

TITLE V—RESEARCH AND DEVELOPMENT FOR ENVIRONMENTAL RESTORATION AND MANAGEMENT OF FEDERAL NUCLEAR FACILITIES

SEC. 501. JOINT COORDINATION AGREEMENT.

Within 180 days of enactment, DOE and EPA shall enter a joint agreement for the purpose of coordinating research and development of technologies necessary for cleanup, compliance, and decommissioning at federal nuclear facilities. The agreement shall include the use of DOE and EPA facilities and personnel, creation of a joint coordinating committee, and procedures for peer review, transfer of technology, and budget requests. Site specific coordination agreements are also authorized.

SEC. 502. RESEARCH AND DEVELOPMENT FUNDING.

As part to their annual budget requests, DOE and EPA shall submit to OMB federal nuclear facilities environmental research and development budgets. DOE AND EPA shall make expenditures from the Trust Fund to conduct the R&D program.

SEC. 503. TECHNOLOGY TRANSFER

DOE and EPA shall seek to disseminate such information and transfer such technology as is developed under this title, including commercial applications.

SEC. 504. AUTHORITY TO ENTER INTO CONTRACTS AND PROVIDE RESEARCH GRANTS.

In carrying out this title, DOE and EPA may enter into contracts and cooperative agreements, and make grants (from the Trust Fund) to private, non-profit, and governmental entities.

AID TO THE NICARAGUAN CONTRAS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1988

Mr. RANGEL. Mr. Speaker, I have never voted for aid to the Contras, but today I am going to tarnish my record in order to avoid a greater evil, military aid to the Contras. I am going to vote for the Democratic alternative, although I do so under duress. If it is necessary to give humanitarian aid to the Contras, real humanitarian for the first time in the history of this war, I am willing to do so to end the conflict. Oscar Aris along with the religious and peace groups that have fought with us against Contra aid every inch of the way, now urge us to support the Democratic alternative. It is not an easy or comfortable decision for them, nor is this an easy vote for me, but I do it for peace and in the hopes that we can help rebuild a country that we have tried to destroy for the last 8 years.

I will support the Democratic alternative, because I am profoundly disturbed by the number of civilian deaths that have taken place in Nicaragua. I support the alternative only to avoid our giving military aid.

Everyone that lives in Nicaragua or has visited that country knows that the Contras are not a serious military threat, but that their main purpose is to limit the gains of the revolution, to lay waste to every hospital, school, and crop the people have attempted to build. I am particularly proud that the Democratic alternative seeks to aid those children who have suffered from among other things, Contra attacks. Countless children have been orphaned, but many more have died from TB and diarrhea because government and international health care workers were unable to reach them. This is the real untold story in Nicaragua, the unknown loss. I am pleased we will finally be aiding the people of Nicaragua and that the United States will at least be working for democracy. I urge the passage of the Democratic alternative and I urge my liberal colleagues to join with me.

Last, I would like to submit for the RECORD letters I have received from two American doctors working in northern Nicaragua. I am delighted that they will finally be getting the medicine necessary for their immunization campaigns. I also want to submit for the RECORD a letter from the brother of a woman who lives in my district, also living in Nicaragua. History will prove that they, not the Ollie Norths of this world, are the real American patriots.

TEMPLE EMANU-EL OF CANARSIE'S URAGUAY CELEBRATION

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1988

Mr. SCHUMER. Mr. Speaker, I would like to take this opportunity to recognize an oft-overlooked nation in South America. The nation of Uraguay is one of the few democracies in South America where its citizens enjoy the rights of freedom and liberty that we expect here in the United States.

In particular, the Jewish community of Uraguay has been able to live and worship in peace for 71 years. The 50,000 members of this community have maintained the close ties that are important to any ethnic community.

The congregation of Temple Emanu-El in Canarsie is honoring the people of Uraguay on March 25. I would like to join them in thanking Jorge Cassinelli, the Consul General of Uraguay, for his efforts in promoting peace and harmony both in Uraguay and throughout South America.

IN HONOR OF INSURANCE EXECUTIVE JOHN B. AMOS

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1988

Mr. KOSTMAYER. Mr. Speaker, Forbes magazine in its January 11, 1988, issue presented its 40th Annual Report on American Industry, and highlighted the accomplishments of John B. Amos, chairman and chief executive of the American Family Corp.

American Family, although based in Columbus, GA, is one of the most successful American companies doing business in Japan. Through an innovative marketing approach, John Amos in a mere decade and a half has made American Family Life Assurance Corp. one of the 20 largest insurers in Japan.

To overcome our trade deficit, Mr. Speaker, American business must be bold, and be innovative, characteristics of John B. Amos that have enabled him to penetrate the tough Japanese market.

I would like to share with my colleagues, Mr. Speaker, the Forbes article on John Amos, and ask that it be printed, at this point, in the RECORD:

[From Forbes magazine, Jan. 11, 1988]

PATIENT INSURER

In the lexicon of remarkable innovations, consider the achievement of John Amos. The 63-year-old founder and chief executive of Columbus, Ga.-based American Family Corp. took a product that was controversial in the U.S.—cancer insurance—redesigned it and in 1974 shipped it off to Japan, a country with one of the biggest, most well-entrenched insurance industries anywhere. American Family has now emerged as one of the 20 largest insurers in Japan, covering one of every six families. Last year 66% of the company's revenues and 70% of aftertax earnings came from Japan.

Amos' strategy is simple: "Stick to niche marketing and you're not big enough to scare anyone. Then you've got to be patient as Job and figure out how to do things the Japanese way." Back in the Seventies he came up with an idea guaranteed to win favor with the Japanese Ministry of Finance: Use retired Japanese workers to sell his product to their former colleagues. "Their retirement benefits weren't good enough to last them forever, so American Family became a little like their social security," he recalls. American Family now employs about 10,500 mostly retired Japanese workers.

Tragically, Amos himself is currently grappling with lung cancer. But he remains involved in company affairs and has devoted himself in recent weeks to preparing American Family's listing on the Tokyo Stock Exchange. The firm's 25.5% return on equity last year led the major U.S. life insurers, thanks to favorable currency translations and Amos' decision in late 1986 to sell most of his Japanese stockholdings.

JAMES D. CALOWAY'S VISION

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1988

Mr. LELAND. Mr. Speaker, it is with great pride that I bring to your attention a native Houstonian's dream of a privately constructed and operated space station. After 7 years of diligent work, James D. Caloway's vision will come to its fruition. Mr. Caloway's story is a true American saga with many chapters left to be written. He personifies a pioneering spirit which is direly needed in today's world. What follows is a reprint of a Wall Street Journal article detailing Mr. Caloway's struggle against, and triumph over, what appeared to be insurmountable odds. I know you will find the account inspirational.

LOFTY PROJECT: AGAINST SIZABLE ODDS, A SMALL FIRM IS POISED TO RUN A SPACE STATION

HOUSTON.—James D. Caloway, a newly minted philosophy graduate from Oxford, met two friends for their usual Saturday brunch seven years ago. While wellheeled patrons nearby celebrated the skyrocketed price of oil, the three friends toasted their own lofty business plan: to build and launch their own space station.

"We had two minor problems," recalls Mr. Caloway, than 24 years old and long a space nut. "First, we had no money. Second, we didn't have any technical capability."

Those obstacles would seem ridiculously insurmountable, but they were only the first in Mr. Caloway's effort to get from ground zero to zero gravity. Mr. Caloway and his group (his initial partners dropped out of the project early on) would face a tangle of federal agencies, radical shifts in U.S. space policy and skeptical investment bankers in their effort to become the first capitalists in space.

Yet today, Mr. Caloway's Space Industries Inc. is poised to establish the first forprofit outpost in the final frontier. Last month, the Reagan administration announced a $700 million plan to lease quarters on a private orbiting station. With six years of work behind it, Space Industries is the only real contender for the contract, giving it a lock on the $700 million—plus any revenue paid in by private companies clamoring to do research in space.

OTHER SPACE COMPANIES

The new federal commitment may help launch other companies into space work as well. In addition to Space Industries, Seattle-based Spacehab Inc. hopes to lease space for experiments to customers on pressurized modules inside the space shuttle's cargo bay, and Houston-based Space Services Inc., the first private concern to launch a rocket into space, seeks to begin regular launches soon.

But Space Industries, more than other nascent space companies, dramatizes how a small band of entrepreneurs turned government disarray into opportunity by hiring away disaffected space-agency leaders and by helping fill a need in the wake of the Challenger tragedy. It also illustrates the value of personal connections, including a kindergarten classmate who brokered essential but hard-to-get insurance.

"It's one of those situations where if you knew how high the mountain was, you never would have started," says David H. Langstaff, the chief financial officer of Space Industries.

And despite the White House hoopla about private development of space, the Space Industries story shows that many pioneers don't get far without a big dose of government help—just as Christopher Columbus was backed by Queen Isabella I and the westward expansion of the U.S. railroads was government-subsidized.

"It's an entirely appropriate role for government to play," the effervescent, boyish-looking Mr. Caloway says. "We are starting a business in an industry that doesn't yet exist."

The construction, launching and leasing of Space Industries' Industrial Space Facility still isn't a sure thing. Besides clearing the usual federal bidding and procurement procedures, the company must avoid getting whipsawed by yet another abrupt change in the U.S. space program. McDonnell Douglas Corp., for example, had to write off millions of space-research dollars amid the dearth of launches following the *Challenger* disaster.

No one has suffered from space-policy changes more than the National Aeronautics and Space Administration, whose plans for a much grander, manned space station have been scaled back as a result of eroding congressional support. Many at NASA fear that Space Industries' small, unmanned station will give the budget cutters an excuse to scrap NASA's station.

While the high-tech NASA station, with its extensive life-support and power systems, conjures images of Star Trek, the bus-sized Industrial Space Facility is closer to Jules Verne—"kind of a dirty little workshop where you can do good things, but not many of them," says Charles Walker, a veteran of two shuttle flights and now a scientist at McDonnell Douglas, a major contractor for the proposed NASA station.

The Industrial Space Facility, scheduled for launching in 1991 from the space shuttle's payload bay, would enable visiting workers to conduct research but would support life only when docked to the shuttle. The racks and lockers for experiments would be interchangeable with those of the NASA station, which Space Industries publicly supports.

Back in 1982, when the project was still in the blue-sky stage, Mr. Caloway knew he couldn't launch the company on the strength of his credentials from studying "the vertical migration of man" at Oxford. So he approached Maxime A. Faget—the Henry Ford of space-vehicle design who had worked on the Mercury, Gemini, Apollo and space-shuttle craft. Mr. Faget, now 66, was intrigued by Mr. Caloway's enthusiasm and ideas as well as disenchanted with NASA's bureaucracy.

Mr. Faget, in turn, persuaded Joseph P. Allen, a 50-year-old astronaut who had flown two shuttle missions, to forgo a slew of high-paying job offers from established aerospace companies and take a long shot. After three years as NASA's congressional liaison, Mr. Allen was a lobbyist as well as a scientist, and, together with Robert Gilruth, the retired director of the Manned Spacecraft Center at Johnson Space Center, brought instant credibility to the philosophy graduate's far-out idea.

"They are the greatest men in space in America," Mr. Caloway says.

Messrs. Faget and Allen relished the challenge of becoming businessmen. Initially, each of the principals kicked in $15,000 to study the station. They listed the pros and cons of the project on the black-board in a closet-sized office near Houston. One of the cons: the need to raise huge sums for a venture whose initial risks soared far beyond those of junk bonds.

Space Industries—a name that Mr. Caloway thought had a ring like General Motors—had no firm plan and no customer in sight. But it soon had a money man when Mr. Langstaff, an investment banker at Inverness Securities of Houston, began acting as its chief financial adviser. Messrs. Langstaff and Caloway went to investors who were inured to huge risks, whose bluechip names would provide further credibility—and whose acquaintance with Mr. Caloway's socially and politically prominent family helped him get a foot in the door. Early investors included such Houston civic leaders as James A. Elkins Jr., a former chairman of First City Bancorp., and Walter Mischer Sr., the chairman of Allied Bancshares—huge banks recently forced into mergers.

"In some ways, they were reminded of the wildcatting days of the oil wells," Mr. Allen says, "It was very Texas." Space Industries declines to specify anyone's individual investment but says it equity is widely dispersed. Mr. Caloway's group retained the Big Eight accounting firm of Arthur Andersen & Co.; and Andrews & Kurth, a tony Houston law firm, agreed to represent it for half-price after the exuberant young man talked his way into an interview with its management committee.

On New Year's Eve of 1983, Space Industries celebrated an agreement with Inverness to raise $1 million. W. McComb Dunwoody of Inverness, an early skeptic, told potential investors he was seeking "adventure capital."

"They started early, and they started strong," says Alden M. Richards, vice president of the Space Systems Group of Johnson & Higgins, a leading insurance-brokerage firm that represents Space Industries. Although Space Industries was seeking insurance on its own in a largely untested market, Mr. Richards volunteered his services as a broker after reading that Space Industries had hired from Inverness Mr. Langstaff, an old kindergarten classmate.

Helping win over key players in the financial and insurance communities were Space Industries' efforts to keep abreast of NASA's evolving space-station plan and its willingness to modify its own design to preserve compatibility. The company's engineers designed modular parts for easy repair and replacement and planned for a second, identical station, on the ground and ready for launch—also helping to reassure potential insurers.

The company leveraged each breakthrough in financing into another. In 1985, NASA agreed, in an unusual contract, to launch the station in exchange for a percentage of cash flow two years after it was aloft. On the strength of the launch contract—as well as the merits of the station design—Westinghouse Electric Corp. and Boeing Co. each agreed to invest several million dollars and to act as contractors for certain construction. Shearson Lehman Hutton Group signed on as financial adviser, as well as First Boston Corp.

Ultimately, the company raised $30 million in the private sector—70% from individuals, 20% through venture-capital firms and 10% in corporate investment. Alas, that still fell far short of the estimated $700 million, including interest and insurance costs, needed to build, launch and begin, operating the station.

Meanwhile, searching for customers, Space Industries occasionally charged down the wrong path. More than a year after raising its first $1 million, it found itself all but out of cash because it was chasing McDonnell Douglas to get it to do zero-gravity pharmaceuticals research aboard the station. Even after a dozen meetings, the perfect anchor tenant for the station was refusing to commit itself.

"Quite frankly, we didn't understand the market," Mr. Caloway recalls. With the private sector leery of federal policy changes and continued shuttle delays, the only initial group of potential space-station customers, the company learned, was federal agencies such as NASA and the departments of defense and energy.

Although the principals grieved over the shuttle disaster, they were helped by the resulting congressional impatience with NASA. The NASA station, as planned now, would require $25 billion and at least 19 shuttle flights to build it in space.

Mr. Allen tirelessly marketed the company to Congress as a "bridge" to provide the U.S. a research platform in space until NASA's station was built. He was joined by Mr. Caloway, who opened a Washington office last fall. With proven technology, a five-star staff and NASA's budget on the chopping block, "you really didn't have to be a great lobbyist," Mr. Caloway says.

When the White House last month unveiled a policy committed to commercializing space—and, as part of the package, a plan to lease space on a small, private station—Space Industries finally had its long-sought anchor tenant. Although the government won't make its first rent payment until the station is in orbit, Space Industries feels certain that the promise of the U.S. lease has given it the financial leverage to get its station aloft.

To some space enthusiasts, everything but democracy and apple pie is at stake—just as the New World was up for grabs in the 15th century. "The future of capitalism depends on whether we or the Soviets make best use of this new continent 100 miles up," says Arthur Dula, a space lawyer here. "It's just a shame this didn't happen sooner."

TRIBUTE TO JIM DEVINS

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1988

Mr. TORRICELLI. Mr. Speaker, I rise today in tribute to Jim Devins who has been selected as 1987 Man of the Year by the Bergen Irish Association. Jim, the youngest of three sons, was born and raised in the town of Sligo, Province of Connacht, along Ireland's northwest coast. When he emigrated to the United States in 1958, he brought his love for the Irish language, it's literature and poetry and his deep sense of Irish history and ancestry. He secured a position with the NY Transit Authority and worked as a bus operator and a maintenance mechanic. Exhibiting the ability and willingness to respond to the needs of others, he held the title of shop steward and was also a member of the Holy Name and Emerald Societies.

A devoted family man, Jim and his wife Mary Jo Cawley, have three children of whom they are very proud. Jim is employed by the 3M Co., Kathryn, a secretary in Fort Lee, is a member of the newly formed Bergen Irish Pipe Band and Michael, who is a sophomore at the University of Rhode Island, has performed admirably in the field of Irish football with the St. Joseph Gaelic Football Club.

In 1965, the Devins family relocated to Bogota, NJ, at which time Jim joined the Bergen Irish Association and has been a very dedicated and faithful member ever since. Over the years he has served tirelessly on many committees within the organization and has held various offices including that of secretary and vice president. For the past 2 years he has served in the capacity of president, during which time he was successful in consolidating the improvement of the new cultural center. During his presidency he assisted in the formation of the Bergen Irish Pipe Band, an accomplishment of which he is very proud.

His commitment, good solid judgment, leadership qualities and drive has contributed immeasurably to the success of the Bergen Irish Association.

Jim's greatest aim and goal is the continued promotion and perpetuation of Irish culture, heritage and tradition within Bergen County. I join with Jim's family and friends in wishing him continued success. May he continue to extend his energy, enthusiasm and vitality to the Bergen Irish Association that honors him this evening.

THE 3,000-YEAR STRUGGLE FOR FREEDOM

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1988

Mr. SOLARZ. Mr. Speaker, as the festival of Passover approaches, I rise once again this year to remind my colleagues that the cycles of Jewish history continue to turn. Three thousand years after the miraculous exodus from Egypt, there are Jewish communities in the world that continue to suffer the burdens of discrimination and oppression.

On Erev Shabbat, April 1, Jewish families will sit down at the seder table to celebrate the first night of Passover. During the ceremony, a Hebrew phrase is recited which captures the essence of this holiday: "Z'man Matan Cherutenu"—the time we were given our freedom.

Led by Moses, the children of Israel were freed from Pharaoh's cruel regime and embarked on a 40-year journey which brought them to the Promised Land. But sadly, there are Jews throughout the world that can only whisper the words "Z'man Matan Cherutenu" in the fervent and desperate hope that their dream of freedom will somehow become reality.

For the Jews of the Soviet Union, the past year has been a poignant mixture of hope and disappointment. We certainly rejoiced at the release of several of the refuseniks who have suffered the longest, including the diminutive woman with the heart of a lion—Ida Nudel. And we were heartened by the increasing flow of Soviet Jewish emigration throughout 1987. Last December, many of us proudly joined the quarter of a million people who rallied on behalf of Soviet Jewry in a massive display of solidarity, commitment, and moral strength.

Tragically, the Soviets have hardened their stance since the Reagan-Gorbachev summit. Fewer Jews are now receiving permission to emigrate, and many refuseniks are still routinely subjected to inhumane treatment, including harassment, imprisonment, and forced institutionalization in mental hospitals. Less extreme but equally disturbing practices—such as barring a Jewish professional from his or her field of work—are also common.

Outside the Soviet Union, there are other Jewish communities that crave their freedom and yearn to live in dignity. Perhaps the most oppressed of these groups is the Jewish community of Syria. Although the vicious persecution of Jews that was rampant a few years ago has eased a bit, the 4,000 Jews remaining in Syria must always live with the fear of violent attack. In addition, Jewish immigration from Syria has been cut off completely for 10 years.

Like their brethren in Syria, the beleaguered Jews of Ethiopia cry out to us in this Passover season: "Let my people go." The thousands of Jews who were not fortunate enough to escape to Israel are in grave danger—threatened by the ravages of starvation and the murderous policies of the Ethiopian Government.

Mr. Speaker, 3,000 years ago, the Israelites fought and won the battle for their freedom. As we prepare to celebrate Passover, let all of us be reminded that there are still Jews all over the world who are denied the fundamental human rights to emigrate and to practice the tenets of their faith. This year, as we sit down at the seder table, each and every one of us should take a moment to rededicate ourselves to securing their freedom and also to reflect on the freedom we are privileged to enjoy.

THE FINANCIAL MODERNIZATION ACT OF 1988

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1988

Mr. LaFALCE. Mr. Speaker, today I am introducing the Financial Modernization Act of 1988. This bill is identical to that passed by the Senate Banking Committee earlier this month by an 18 to 2 vote. In my view, that bill's provisions on the expansion of bank powers constitute a reasonable and balanced approach to fashioning the future role of firms in the financial services industry.

As the House Banking Committee moves forward on these important issues in the next few weeks, we will be using a different vehicle as a focal point for our deliberations. I believe that is an appropriate approach for us to take. The Senate bill is by no means perfect and the House has an opportunity to play a vital role.

However, while the Senate bill is not perfect, I believe that such a proposal, which effectively balances the complex and varied concerns we must address, would provide a good benchmark for our own deliberations. It remains my hope that the markup vehicle being prepared by Chairman ST GERMAIN will closely approximate the bipartisan and balanced approach taken in the Senate bill.

While the Senate bill expands the authority of banks to engage in significant areas of securities underwriting activity through separate affiliates, it also contains stringent firewalls designed to preserve the safety and soundness of banking affiliates and to protect the Federal safety net provided by deposit insurance from being placed at risk.

Although the bill would grant immediate authority in regard to those securities activities the banks are best prepared to conduct, it would phase in others within a reasonable timeframe and would require further congressional action before the power to underwrite corporate equity is granted.

Our dual banking system has been an important source of innovation in banking products and services that has worked to the benefit of consumers. That process would continue under the Senate proposal. While the Senate provisions would not usurp the right of the States to grant additional authority to banks as they see fit, it would close loopholes which have permitted some banks to engage in the insurance business without congressional oversight of the implications of that expansion and arguably beyond the reach of congressional intent.

As we move forward, we must pay close attention to ensure that: the safety and soundness of our banking institutions are protected and firewall provisions are sufficiently strong; the principle of functional regulation is advanced; the unique concerns of smaller banks are adequately addressed; overall competition is enhanced rather than inpeded; the concerns of other financial service industries are adequately taken into account; and unnecessary restrictions do not unduly undercut the benefits to be gained by the new powers granted.

Most importantly, we must ensure that banks are living up to their obligation to serve their communities and provide essential consumer services to their patrons.

There are those who believe it is too risky for us to move forward with an expansion of bank powers in the current economic environment. In my view, we should fear the consequences if we do not act.

In a highly competitive world, where the United States continues to lose place to other more aggressive competitors, financial services is still one area where we excel. Yet U.S. bankers are hamstrung by antiquated laws and regulations written a half-century ago for an era long past. We have unwittingly put U.S. commercial banking in what Senator PROXMIRE has correctly termed a "1933 model straitjacket."

With global financial competition, new technology and consumer demand setting the pace and potentially leaving U.S. financial institutions behind, we would be foolhardy indeed not to take this opportunity to move forward.

The Senate bill begins a cautious, orderly, and needed expansion of bank powers. We must make every effort to ensure that a bill of like nature passes in the House.

PERSONAL EXPLANATION

HON. BILL NELSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1988

Mr. NELSON of Florida. Mr. Speaker, I was unable to be present and voting for rollcall Nos. 29-33 on March 16, 1988, and rollcall Nos. 34-36 on March 17, 1988.

Had I been present, I would have voted "aye" on rollcall No. 29; "aye" on rollcall 30; "aye" on rollcall No. 31; "aye" on rollcall No. 32; "aye" on rollcall No. 33; "aye" on rollcall No. 34; "nay" on rollcall No. 35; and, "aye" on rollcall No. 36.

ALTERNATIVE BUDGET THAT BRINGS REAL DEFICIT REDUCTION

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1988

Mr. PORTER. Mr. Speaker, today Mr. FRENZEL and I are introducing an alternative to the budget resolution that the Budget Committee reported on March 17. Our plan, the baseline budget, freezes outlays in all discretionary functions at fiscal year 1988 levels. Costs arising from the increased participation in entitlement programs are provided for, but COLA's are eliminated.

In addition, the baseline budget does not assume the Office of Management and Budget's rosy scenerio. It uses realistic numbers from the Congressional Budget Office while still meeting Gramm-Rudman targets. In 1989 the baseline budget will produce an deficit of only $135.7 billion. The Budget Committee's budget underestimates interest costs by $13 billion compared to the baseline budget and assumes an additional $9 billion in undistributed offsetting receipts. Assuming that the CBO projections are correct, the baseline budget saves an additional $32 billion from the Budget Committee's plan. If OMB's rosy scenario doesn't play out, there will have to be a substantial sequestration under Gramm-Rudman.

The budget deficit and the national debt are the most pressing problems facing our Nation today. Real, rational, and substantial savings must be realized. The baseline budget addresses the budget deficit in a forthright and equitable manner. By freezing spending by function every American is called upon to make sacrifices, while none is treated unfairly. With the pressure from special interests constantly looming over the Budget Committee, a comprehensive freeze is the best way to assume real and equitable deficit reduction.

A comparison of the baseline budget, the Budget Committee's budget and the President's budget follow, as does the text of the baseline budget.

BUDGET FREEZE BY FUNCTION AND THE FEDERAL DEFICIT

[Outlays in billions of dollars]

Function	Fiscal year 1989 President's budget	Baseline budget	Budget Committee
050 National defense	294.0	287.0	294
150 International affairs	13.3	13.9	16.2
250 General science, space and technology	13.1	11.0	12.2
270 Energy	3.0	3.0	4.4
300 Natural resources and environment	16.0	15.0	15.6
350 Agriculture	21.7	21.7	22.4
370 Commerce and housing credit	7.9	6.0	9.4
400 Transportation	27.3	26.4	28
450 Community and regional development	5.9	6.0	6.6
500 Education, training, employment, and social services	37.4	33.6	35.5
550 Health	47.7	47.2	48.7
570 Medicare	84.0	85.8	86.9
600 Income security	135.6	137.2	137.7
650 Social Security	233.8	226.5	233.4
700 Veterans' benefits and services	29.6	28.6	28.3
750 Administration of justice	9.9	8.0	8.6
800 General government	9.9	9.0	9.4
900 Net interest	151.8	164.3	151.95
950 Undistributed offsetting receipts	−41.0	−41.5	−50.7

BUDGET FREEZE BY FUNCTION AND THE FEDERAL DEFICIT—Continued

[Outlays in billions of dollars]

Function	Fiscal year 1989 President's budget	Baseline budget	Budget Committee
Total	1,094.2	1,088.7	1,098.2

H. CON. RES. 267

Concurrent Resolution setting forth the congressional budget for the United States Government for the fiscal years 1989, 1990, and 1991

Resolved by the House of Representatives (the Senate concurring), That the budget for fiscal year 1989 is established, and the appropriate budgetary levels for fiscal years 1990 and 1991 are hereby set forth.

MAXIMUM DEFICIT AMOUNTS

SEC. 2. The following levels and amounts in this section are set forth for purposes of determining, in accordance with section 301(i) of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985, whether the maximum deficit amount for a fiscal year has been exceeded, and as set forth in this concurrent resolution, shall be considered to be mathematically consistent with the other amounts and levels set forth in this concurrent resolution:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1989: $953,000,000,000.00.
Fiscal year 1990: $1,036,000,000,000.00.
Fiscal year 1991: $1,112,000,000,000.00.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1989: $1,232,500,000,000.00.
Fiscal year 1990: $1,293,000,000,000.00.
Fiscal year 1991: $1,377,100,000,000.00.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1989: $1,093,200,000,000.00.
Fiscal year 1990: 1,138,300,000,000.00.
Fiscal year 1991: $1,186,600,000,000.00.

(4) The amounts of the deficits are as follows:

Fiscal year 1989: $140,200,000,000.00.
Fiscal year 1990: $102,300,000,000.00.
Fiscal year 1991: $74,600,000,000.00.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 3. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1989: $953,000,000,000.00;
Fiscal year 1990: $1,036,000,000,000.00;
Fiscal year 1991: $1,112,000,000,000.00;

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1989: $56,000,000,000.00;
Fiscal year 1990: $83,000,000,000.00;
Fiscal year 1991: $76,000,000,000.00;

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1989: $65,000,000,000.00.
Fiscal year 1990: $70,000,000,000.00.
Fiscal year 1991: $75,000,000,000.00.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1989: $1,228,000,000,000.00.
Fiscal year 1990: $1,293,000,000,000.00.
Fiscal year 1991: $1,377,100,000,000.00.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1989: $1,088,700,000,000.00.
Fiscal year 1990: $1,138,300,000,000.00.
Fiscal year 1991: $1,186,600,000,000.00.

(4) The amounts of the deficits are as follows:

Fiscal year 1989: $135,700,000,000.00.
Fiscal year 1990: $102,300,000,000.00.
Fiscal year 1991: $74,600,000,000.00.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1989: $2,176,500,000,000.00.
Fiscal year 1990: $2,278,800,000,000.00.
Fiscal year 1991: $2,353,400,000,000.00.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990, are as follows:

Fiscal year 1989:
(A) New direct loan obligations, $35,000,000,000.00.
(B) New primary loan guarantee commitments, $111,000,000,000.00.

Fiscal year 1990:
(A) New direct loan obligations, $34,000,000,000.00.
(B) New primary loan guarantee commitments, $122,000,000,000.00.

Fiscal year 1991:
(A) New direct loan obligations, $34,000,000,000.00.
(B) New primary loan guarantee commitments, $132,000,000,000.00.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations, and new primary loan guarantee commitments for fiscal years 1989 through 1991 for each major functional category are:

(1) National Defense (050):

Fiscal year 1989:
(A) New budget authority, $291,000,000,000.00.
(B) Outlays, $287,000,000,000.00.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:
(A) New budget authority, $291,000,000,000.00.
(B) Outlays, $287,000,000,000.00.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:
(A) New budget authority, $291,000,000,000.00.
(B) Outlays, $287,000,000,000.00.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1989:
(A) New budget authority, $16,000,000,000.00.
(B) Outlays, $13,900,000,000.00.
(C) New direct loan obligations, $7,000,000,000.00.
(D) New primary loan guarantee commitments, $9,000,000,000.00.

Fiscal year 1990:
(A) New budget authority, $16,000,000,000.00.
(B) Outlays, $13,900,000,000.00.
(C) New direct loan obligations, $7,000,000,000.00.
(D) New primary loan guarantee commitments, $10,000,000,000.00.

Fiscal year 1991:
(A) New budget authority, $16,000,000,000.00.
(B) Outlays, $13,900,000,000.00.
(C) New direct loan obligations, $8,000,000,000.00.
(D) New primary loan guarantee commitments, $10,000,000,000.00.

(3) General Science, Space, and Technology (250):

Fiscal year 1989:
(A) New budget authority, $11,000,000,000.00.
(B) Outlays, $11,000,000,000.00.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:
(A) New budget authority, $11,000,000,000.00.
(B) Outlays, $11,000,000,000.00.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:
(A) New budget authority, $11,000,000,000.00.
(B) Outlays, $11,000,000,000.00.
(C) New direct loan obligations, $0
(D) New primary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1989:
(A) New budget authority, $5,100,000,000.00.
(B) Outlays, $3,000,000,000.00.
(C) New direct loan obligations, $2,000,000,000.00.
(D) New primary loan guarantee commitments, $48,520,000.00.

Fiscal year 1990:
(A) New budget authority, $5,100,000,000.00.
(B) Outlays, $3,000,000,000.00.
(C) New direct loan obligations, $2,000,000,000.00.
(D) New primary loan guarantee commitments, $50,576,000.00.

Fiscal year 1991:
(A) New budget authority, $5,100,000,000.00.
(B) Outlays, $3,000,000,000.00.
(C) New direct loan obligations, $2,000,000,000.00.
(D) New primary loan guarantee commitments, $52,532,000.00.

(5) Natural Resources and Environment (300):

Fiscal year 1989:
(A) New budget authority, $15,000,000,000.00.
(B) Outlays, $15,000,000,000.00.
(C) New direct loan obligations, $50,894,000.00.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:
(A) New budget authority, $15,000,000,000.00.
(B) Outlays, $15,000,000,000.00.
(C) New direct loan obligations, $53,200,000.00.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:
(A) New budget authority, $15,000,000,000.00.
(B) Outlays, $15,000,000,000.00.
(C) New direct loan obligations, $55,111,000.00.
(D) New primary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1989:
(A) New budget authority, $24,000,000,000.00.
(B) Outlays, $21,700,000,000.00.

(C) New direct loan obligations, $16,000,000,000.00.

(D) New primary loan guarantee commitments, $6,000,000,000.00.

Fiscal year 1990:

(A) New budget authority, $24,000,000,000.00.

(B) Outlays, $21,700,000,000.00.

(C) New direct loan obligations, $15,000,000,000.00.

(D) New primary loan guarantee commitments, $6,000,000,000.00.

Fiscal year 1991:

(A) New budget authority, $23,000,000,000.00.

(B) Outlays, $20,700,000,000.00.

(C) New direct loan obligations, $14,000,000,000.00.

(D) New primary loan guarantee commitments, $6,000,000,000.00.

(7) Commerce and Housing Credit (370):

Fiscal year 1989:

(A) New budget authority, $14,000,000,000.00.

(B) Outlays, $6,000,000,000.00.

(C) New direct loan obligations, $4,000,000,000.00.

(D) New primary loan guarantee commitments, $64,000,000,000.00.

Fiscal year 1990:

(A) New budget authority, $14,000,000,000.00.

(B) Outlays, $6,000,000,000.00.

(C) New direct loan obligations, $4,000,000,000.00.

(D) New primary loan guarantee commitments, $67,000,000,000.00.

Fiscal year 1991:

(A) New budget authority, $9,000,000,000.00.

(B) Outlays, $4,000,000,000.00.

(C) New direct loan obligations, $4,000,000,000.00.

(D) New primary loan guarantee commitments, $74,000,000,000.00.

(8) Transportation (400):

Fiscal year 1989:

(A) New budget authority, $28,000,000,000.00.

(B) Outlays, $26,400,000,000.00.

(C) New direct loan obligations, $52,200,000.00.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $28,000,000,000.00.

(B) Outlays, $26,400,000,000.00.

(C) New direct loan obligations, $54,200,000.00.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $28,000,000,000.00.

(B) Outlays, $26,400,000,000.00.

(C) New direct loan obligations, $56,185,000.00.

(D) New primary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1989:

(A) New budget authority, $8,000,000,000.00.

(B) Outlays, $6,000,000,000.00.

(C) New direct loan obligations, $1,000,000,000.00.

(D) New primary loan guarantee commitments, $294,100,000.00.

Fiscal year 1990:

(A) New budget authority, $8,000,000,000.00.

(B) Outlays, $6,000,000,000.00.

(C) New direct loan obligations, $1,000,000,000.00.

(D) New primary loan guarantee commitments, $305,876,000.00.

Fiscal year 1991:

(A) New budget authority, $7,000,000,000.00.

(B) Outlays, $6,000,000,000.00.

(C) New direct loan obligations, $1,000,000,000.00.

(D) New primary loan guarantee commitments, $317,623,000.00.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1989:

(A) New budget authority, $38,100,000,000.00.

(B) Outlays, $33,600,000,000.00.

(C) New direct loan obligations, $2,000,000,000.00.

(D) New primary loan guarantee commitments, $10,000,000,000.00.

Fiscal year 1990:

(A) New budget authority, $38,000,000,000.00.

(B) Outlays, $34,500,000,000.00.

(C) New direct loan obligations, $2,000,000,000.00.

(D) New primary loan guarantee commitments, $10,000,000,000.00.

Fiscal year 1991:

(A) New budget authority, $38,000,000,000.00.

(B) Outlays, $35,500,000,000.00.

(C) New direct loan obligations, $2,000,000,000.00.

(D) New primary loan guarantee commitments, $10,000,000,000.00.

(11) Health (550):

Fiscal year 1989:

(A) New budget authority, $50,000,000,000.00.

(B) Outlays, $47,200,000,000.00.

(C) New direct loan obligations, $957,000.00.

(D) New primary loan guarantee commitments, $380,000,000.00.

Fiscal year 1990:

(A) New budget authority, $54,000,000,000.00.

(B) Outlays, $52,000,000,000.00.

(C) New direct loan obligations, $957,000.00.

(D) New primary loan guarantee commitments, $380,000,000.00.

Fiscal year 1991:

(A) New budget authority, $60,000,000,000.00.

(B) Outlays, $57,000,000,000.00.

(C) New direct loan obligations, $957,000.00.

(D) New primary loan guarantee commitments, $395,000,000.00.

(12) Medicare (570):

Fiscal year 1989:

(A) New budget authority, $104,000,000,000.00.

(B) Outlays, $85,800,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $113,000,000,000.00.

(B) Outlays, $96,000,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $123,000,000,000.00.

(B) Outlays, $108,000,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1989:

(A) New budget authority, $174,000,000,000.00.

(B) Outlays, $137,200,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $179,000,000,000.00.

(B) Outlays, $143,600,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $215,000,000,000.00.

(B) Outlays, $151,500,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(14) Social Security (650):

Fiscal year 1989:

(A) New budget authority, $280,000,000,000.00.

(B) Outlays, $226,500,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $309,000,000,000.00.

(B) Outlays, $235,700,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $339,000,000,000.00.

(B) Outlays, $252,600,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1989:

(A) New budget authority, $29,000,000,000.00.

(B) Outlays, $28,600,000,000.00.

(C) New direct loan obligations, $2,000,000,000.00.

(D) New primary loan guarantee commitments, $20,000,000,000.00.

Fiscal year 1990:

(A) New budget authority, $29,000,000,000.00.

(B) Outlays, $28,600,000,000.00.

(C) New direct loan obligations, $1,000,000,000.00.

(D) New primary loan guarantee commitments, $26,000,000,000.00.

Fiscal year 1991:

(A) New budget authority, $30,000,000,000.00.

(B) Outlays, $29,000,000,000.00.

(C) New direct loan obligations, $1,000,000,000.00.

(D) New primary loan guarantee commitments, $29,000,000,000.00.

(16) Administration of Justice (750):

Fiscal year 1989:

(A) New budget authority, $8,500,000,000.00.

(B) Outlays, $8,000,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $8,500,000,000.00.

(B) Outlays, $8,000,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $8,500,000,000.00.

(B) Outlays, $8,000,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1989:

(A) New budget authority, $9,500,000,000.00.

(B) Outlays, $9,000,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $9,500,000,000.00.

(B) Outlays, $9,000,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $9,500,000,000.00.

(B) Outlays, $9,000,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(19) Net Interest (900):

Fiscal year 1989:

(A) New budget authority, $164,300,000,000.00.

(B) Outlays, $164,300,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $180,000,000,000.00.

(B) Outlays, $180,000,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $190,000,000,000.00.

(B) Outlays, $190,000,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(21) Undistributed Offsetting Receipts (950):

Fiscal year 1989:

(A) New budget authority, $41,500,000,000.00.

(B) Outlays, $41,500,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $39,100,000,000.00.

(B) Outlays, $39,100,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $41,000,000,000.00.

(B) Outlays, $41,000,000,000.00.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, March 22, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 23

9:00 a.m.

Commerce, Science, and Transportation

To hold hearings on the nomination of Barbara M. Barrett, of Arizona, to be Deputy Administrator of the Federal Aviation Administration.

SR-253

9:30 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to resume markup of S. 1516, Federal Insecticide, Fungicide and Rodenticide Act Reform of 1987.

SR-332

Armed Services

Readiness, Sustainability and Support Subcommittee

To hold open and closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on the readiness and sustainability posture of selected unified combatant commands.

SR-222

Commerce, Science, and Transportation

Aviation Subcommittee

To resume hearings on S. 1600, to create an independent Federal Aviation Administration.

SR-253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings to examine Health Care Financing Administration's management of medical laboratories.

SD-342

Judiciary

Constitution Subcommittee

To hold hearings on S.J. Res. 3, S.J. Res. 11, S.J. Res. 112, and S.J. Res. 161, measures proposing amendments to the Constitution of the United States relating to a Federal balanced budget.

SD-226

10:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Minerals Management Service, and the Office of Indian Education.

SD-116

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Landsat and NOAA weather modernization programs.

S-146, Capitol

Banking, Housing, and Urban Affairs

To continue oversight hearings on the implementation of the Community Reinvestment Act.

SD-538

Finance

To hold hearings to review current programs and policies relating to children's health care.

SD-215

Foreign Relations

Business meeting, to continue consideration of the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).

SD-419

Select on Intelligence

To hold closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.

SH-219

10:30 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of the Army.

SD-192

2:00 p.m.

Armed Services

Projection Forces and Regional Defense Subcommittee

To hold hearings regarding possible savings associated with early carrier retirements as contained in the fiscal year 1988/1989 Department of Defense Authorization Act.

SR-222

Foreign Relations

Business meeting, to continue consideration of the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).

SD-419

3:00 p.m.

Conferees

On the Foreign Corrupt Practices Act provisions of H.R. 3, Omnibus Trade and Competitiveness Act.

2123 Rayburn Building

MARCH 24

9:30 a.m.

Agriculture, Nutrition, and Forestry

Conservation and Forestry Subcommittee

To hold oversight hearings to review implementation of conservation programs.

SR-332

Commerce, Science, and Transportation
To hold hearings to review Federal collection of information relating to foreign investment in the United States.
SR-253

Governmental Affairs
Oversight of Government Management Subcommittee
To continue oversight hearings to examine Health Care Financing Administration's management of medical laboratories.
SD-342

Select on Indian Affairs
To hold joint hearings with the House Committee on Interior and Insular Affairs on S. 2153, to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona.
1324 Longworth Building

10:00 a.m.

Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Farm Credit Administration.
SD-138

Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for the National Guard and Reserve programs.
SD-192

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Railroad Administration, and the National Railroad Passenger Corporation (Amtrak).
SD-124

Environment and Public Works
Hazardous Wastes and Toxic Substances Subcommittee
Water Resources, Transportation, and Infrastructure Subcommittee
To resume joint hearings on S. 20, S. 1105, and H.R. 791, bills to provide for the protection of ground water through State standards, planning, and research activities.
SD-406

Finance
To hold hearings on S. 1245, to authorize the issuance by States of tax-exempt bonds for high-speed intercity rail transportation projects under certain circumstances.
SD-215

Foreign Relations
Business meeting, to continue consideration of the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

10:30 a.m.

Armed Services
Manpower and Personnel Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on recruiting, retention, and compensation programs for the total force.
SR-222

11:00 a.m.

Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.
SD-608

1:00 p.m.

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1593, to designate the sight of the Glorieta Battle in the Civil War as a national historic site, S. 1693, to provide for a study of the Coronado Trail, S. 1912, to authorize a study of the feasibility of establishing a National Mimbres Museum in Silver City, New Mexico, S. 2157, to authorize three feasibility studies to be conducted in New Mexico dealing with the San Gabriel Historic Landmark, the significance of the Los Luceros Hacienda, and the establishment of an interpretive center to highlight the first colonization of the interior of the United States in New Mexico, and to hold joint hearings with the Select Committee on Indian Affairs on S. 2162, to provide for the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico.
SD-366

Select on Indian Affairs
To hold joint hearings with the Committee on Energy and Natural Resources' Subcommittee on Public Lands, National Parks and Forests on S. 2162, to provide for the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico.
SD-366

2:00 p.m.

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.
SD-608

Foreign Relations
Business meeting, to continue consideration of the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).
SD-419

Judiciary
To hold hearings on pending nominations.
SD-226

Rules and Administration
To hold hearings on proposed legislation authorizing funds for fiscal year 1989 for the Federal Election Commission.
SR-301

3:00 p.m.

Rules and Administration
To hold hearings on S. Con. Res. 88, to facilitate the convening of a Silver Haired Congress.
SR-301

Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

MARCH 25

9:30 a.m.

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Archives and Records Administration, U.S. Secret Service, and the Administrative Conference of the United States.
SD-124

Armed Services
Readiness, Sustainability and Support Subcommittee
To resume open and closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.
SR-222

Commerce, Science, and Transportation
To hold hearings on the nominations of Frank DeGeorge, of Maryland, to be Inspector General, Robert H. Brumley II, of Virginia, to be General Counsel, and Marc G. Stanley, of Maryland, to be an Assistant Secretary, all of the Department of Commerce.
SR-253

Governmental Affairs
Federal Spending, Budget, and Accounting Subcommittee
To hold hearings on proposed legislation authorizing funds for the Office of Federal Procurement Policy.
SD-342

Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

Special on Aging
To hold hearings to examine adverse drug reactions in the elderly.
SD-628

10:00 a.m.

Appropriations
Energy and Water Development Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1989 for atomic energy defense programs, including nuclear energy, weapons research and development testing and production programs, and a new production reactor program.
SD-116

Foreign Relations
Business meeting, to continue consideration of the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).
SD-419

10:30 a.m.

Finance
Taxation and Debt Management Subcommittee
To hold hearings on the tax treatment of single-premium and other investment-oriented life insurance.
SD-215

2:00 p.m.

Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on the Air Force re-

vised space launch program and policy.
SR-222

Foreign Relations
Business meeting, to continue consideration of the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).
SD-419

MARCH 28

8:30 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Mines, and the Office of Surface Mining.
SD-128

9:30 a.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Management and Budget (OMB), and the Office of Federal Procurement Policy.
SD-116

Finance
Taxation and Debt Management Subcommittee
To hold hearings to review certain tax provisions which have recently expired or will expire this year, focusing on the exempt treatment of mortgage revenue bonds and the targeted jobs tax credit.
SD-215

Governmental Affairs
To resume hearings on proposed legislation relating to the elevation of the Veterans Administration to Cabinet status.
SD-342

10:00 a.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget esimates for fiscal year 1989 for the Power Marketing Administrations, including Bonneville Power Administration.
SD-138

Energy and Natural Resources
To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on civilian nuclear radioactive waste activities and the Department's plans to implement the amendments to the nuclear waste program enacted by P.L. 100-203 (Omnibus Budget Reconciliation Act, 1987).
SD-366

Judiciary
To hold hearings on pending nominations.
SD-226

11:30 a.m.
Conferees
On the education and labor provisions (plant closings) of H.R. 3, Omnibus Trade and Competitiveness Act.
EF-100, Capitol

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Naval Petroleum Reserve, and the Strategic Petroleum Reserve.
SD-116

MARCH 29

9:30 a.m.
Armed Services
Defense Industry and Technology Subcommittee
To hold hearings on Department of Defense policies and international agreements that affect the defense industrial base.
SR-222

Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings on S. 2167, to provide for Federal energy conservation standards for fluorescent lamp ballasts.
SD-366

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for force structure programs.
SD-192

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Aeronautics and Space Administration.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Indian Affairs.
SD-116

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

2:00 p.m.
Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

3:00 p.m.
Select on Indian Affairs
Business meeting, to resume consideration of S. 802, to transfer ownership of certain lands held in trust for the Blackfeet Tribe, and to begin consideration of S. 1236, to authorize funds for fiscal year 1988 for housing relocation under the Navajo-Hopi Relocation Program.
SR-485

MARCH 30

9:00 a.m.
Rules and Administration
To hold hearings on S. 2061, to establish national standards for voter registration for elections for Federal office.
SR-301

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Rural Electrification Administration.
SD-138

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of the Air Force.
SD-192

Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1989 for the National Aeronautics and Space Administration.
S-126, Capitol

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Smithsonian Institute, and the Woodrow Wilson International Center.
SD-116

Appropriations
Military Construction Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for military construction and family housing programs
SD-192

Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Legal Services Corporation.
S-146, Capitol

Environment and Public Works
Environmental Protection Subcommittee
Hazardous Wastes and Toxic Substances Subcommittee
To hold joint hearings on S. 570 and S. 571, bills to reduce atmospheric pollution to protect the stratosphere from ozone depletion.
SD-406

Governmental Affairs
Federal Services, Post Office, and Civil Service Subcommittee
To resume hearings on S. 909, to require government agencies to turn back to the Treasury any savings generated from contracting out.
SD-342

Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

MARCH 31

9:00 a.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To hold hearings on proposed legislation authorizing funds for the Department of Energy, focusing on atomic energy defense activities.
SR-222

Veterans' Affairs

To hold hearings on proposed legislation relating to agent orange and related issues.

SR-418

9:30 a.m.

Small Business

To hold hearings on S. 1929, to create a corporation for small business investment.

SR-428A

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings to review proposed budget estimates for fiscal year 1989 for the Strategic Defense Initiative.

SD-192

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Geological Survey.

SD-116

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Aviation Administration, and the General Accounting Office.

SD-138

Banking, Housing, and Urban Affairs

To hold hearings on proposals for structural and regulatory reform in the securities markets.

SD-538

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on S. 314, to require certain telephones to be hearing aid compatible.

SR-253

Select on Intelligence

To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.

SH-219

2:00 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on the uranium enrichment program, and the need for restructuring of the enrichment enterprise.

SD-366

APRIL 11

8:30 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Forest Service.

SD-116

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Environmental Protection Agency.

SD-124

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

APRIL 12

9:30 a.m.

Energy and Natural Resources

Research and Development Subcommittee

To resume oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on the Super-conducting Super Collider and the basic science budget.

SD-366

Governmental Affairs

Oversight of Government Management Subcommittee

To hold hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.

SD-342

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Environmental Protection Agency, and the Council on Environmental Quality.

SD-124

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy conservation and emergency preparedness programs.

SD-116

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-138

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-138

APRIL 13

9:00 a.m.

Governmental Affairs

Federal Services, Post Office, and Civil Service Subcommittee

To hold joint hearings with the Committee on Rules and Administration on provisions of S. 1947, to provide for the acquisition of the Old City Post Office building in the District of Columbia by the Architect of the Capitol for use as a Senate and House of Representatives office facility.

SR-301

Rules and Administration

To hold joint hearings with the Committee on Governmental Affairs' Subcommittee on Federal Services, Post Office, and Civil Service on provisions of S. 1947, to provide for the acquisition of the Old City Post Office building in the District of Columbia by the Architect of the Capitol for use as a Senate and House of Representatives office facility.

SR-301

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs on the legislative priorities of AMVETS, Vietnam Veterans of America, and the Jewish War Veterans.

SD-106

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Labor.

SD-124

Governmental Affairs

Oversight of Government Management Subcommittee

To continue hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.

SD-342

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Farmers Home Administration, and the Federal Crop Insurance Corporation.

SD-138

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for reserve components' military construction and defense agencies' military construction and family housing programs.

SD-116

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

Commerce, Science, and Transportation

To hold oversight hearings in conjunction with the National Ocean Policy Study on the implementation of the Marine Mammal Protection Act.

SR-253

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

2:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for ACTION, Corporation for Public

Broadcasting, Railroad Retirement Board, Federal Mediation and Conciliation Service, National Mediation Board, National Labor Relations Board, and the Occupational Safety and Health Review Commission.

SD-124

APRIL 14

9:30 a.m.

Environmental and Public Works

Environmental Protection Subcommittee

To hold hearings to review environmental conditions and trends in marine and near shore-coastal waters.

SD-406

10:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Gallery of Art, Commission on Fine Arts, FDR Memorials Commission, and the Advisory Council on Historic Preservation.

SD-138

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Urban Mass Transit Administration, and the Washington Metropolitan Transit Authority.

SD-124

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

APRIL 15

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Prospective Payment Assessment Commission, Physician Payment Review Commission, Federal Mine Safety and Health Review Commission, National Commission on Libraries and Information Science, National Council on the Handicapped, Soldiers' and Airmen's Home, and the U.S. Institute of Peace.

SD-192

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the General Services Administration and the Executive Office of the President (with the exception of OMB).

SD-116

APRIL 18

8:30 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for fossil energy research and development, and clean coal technology programs.

SD-116

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.

SD-124

1:00 p.m.

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Postal Service, and the Office of the Secretary of the Treasury.

SD-116

APRIL 19

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.

SD-138

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.

SD-124

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for drug enforcement and coordination programs.

S-146, Capitol

APRIL 20

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Social Security Administration, and the Health Care Financing Administration, both of the Department of Health and Human Services.

SD-192

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Army military construction and family housing programs.

SD-124

1:30 p.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Territorial Affairs, and territorial governments.

SD-138

2:30 p.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Family Support Administration, and the Human Development Services, both of the Department of Health and Human Services.

SD-192

APRIL 21

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Assistant Secretary for Health, and the Centers for Disease Control, both of the Department of Health and Human Services.

SD-116

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Commodity Futures Trading Commission, and the Food and Drug Administration of the the Department of Health and Human Services.

SD-138

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Transportation, and the General Accounting Office.

SD-124

APRIL 22

9:30 p.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Alcohol, Drug Abuse and Mental Health Administration, and the Health Resources and Services Administration, both of the Department of Health and Human Services.

SD-192

10:00 a.m.

Judiciary

Courts and Administrative Practice Subcommittee

To resume hearings on S. 1482, to make certain improvements with respect to the Federal judiciary.

SD-226

APRIL 25

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Home Loan Bank Board, Neighborhood Reinvestment Corporation, National Institute of Building Sciences, and the Office of Science and Technology Policy.

SD-124

APRIL 26

9:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.

SD-124

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Emergency Management Agency.

SD-126, Capitol

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary, Office of the Solicitor, and the Office of the Inspector General, all of the Department of the Interior, and the Navajo-Hopi Indian Relocation Commission.

SD-116

APRIL 27

9:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health

SD-192

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Navy military construction and family housing programs.

SD-124

APRIL 28

9:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health

SD-116

10:00 a.m.

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for diplomatic security programs.

S-146, Capitol

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Coast Guard.

SD-124

10:30 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on S. 2068, to protect marine and near shore-coastal waters through establishment of regional marine research centers.

SD-406

1:30 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To resume oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on fossil energy research and development and the clean coal technology programs.

SD-366

2:00 p.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Land Managment.

SD-116

APRIL 29

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Health and Human Services.

SD-138

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Personnel Management.

SD-192

MAY 9

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.

SD-124

MAY 10

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Education.

SD-116

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.

SD-124

MAY 11

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Compensatory Education for the Disadvantaged, School Improvement Programs, Impact Aid, Bilingual, Immigrant and Refugee Education, Education for the Handicapped, Rehabilitation Services and Handicapped Research, and Vocational and Adult Education.

SD-192

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Air Force military construction and family housing programs.

SD-124

MAY 12

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Student Financial Assistance, Guaranteed Student Loans, Higher Education, Higher Education Facilities Loans and Insurance, College Housing Loans, Howard University, Special Institutions (includes American Printing House for the Blind, National Technical Institute for the Deaf, and Gallaudet), Education Research and Statistics, and Libraries.

SD-192

10:00 a.m.

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for trade activities of the Department of Commerce and the U.S. Trade Representative.

S-146, Capitol

MAY 17

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

MAY 18

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

2:00 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on renewable energy and energy conservation programs.

SD-366

MAY 19

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

MAY 24

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

MAY 25

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

MAY 26

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-138

JUNE 7

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

JUNE 8

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

JUNE 9

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192